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Vol. 44 No. 90
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federal register

Tuesday
May 8, 1979

Highlights

Telecommunications Device for the Deaf—Office of the Federal Register provides a new service for deaf or speech impaired persons who need information about documents published in the **Federal Register.** See the Reader Aids section for the telephone listing.

26841 **President's Export Council** Executive order establishing

26892 **Mobile Homes** FHLBB proposes amendments to make loans more available and affordable to consumers; comments by 6–8–79

26967 **Family Planning Services** HEW/HSA announces grants availability for research projects in the field of program implementation; apply by 8–1–79

26991 **Friendship and Cooperation with Spain** State announces availability of grants for research activities

26991 State publishes notice of availability of postdoctoral research grants

26979 **Pension Benefits** Labor/P & WBP issues notice permitting certain specially taxable transactions; effective 5–1–79

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Area Code 202–523–5240

Highlights

26887 **Handicapped Persons** NRC proposes an amendment making it unlawful for any recipient of Federal financial assistance to discriminate on the basis of handicap; comments by 7–9–79

26850 **Nuclear Material** NRC sets forth rules governing licensing of carriers and persons who possess formula quantities for the purpose of transport; effective 6–7–79

26855 **Natural Gas Policy** DOE/FERC establishes permanent curtailment rule providing for interstate pipeline protection of deliveries for essential agricultural users; effective 6–7–79

26894 **Alternate Fuel Use** DOE/FERC proposes to establish procedure for determining economic practicability and reasonable availability for agricultural establishments; comments by 5–30–79

26854 **Rate Schedules** DOE/FERC extends deadline for filing of protests to blanket affidavits and interim collection findings; effective 4–30–79

26944 **Common Carriers—Domestic Offshore Trades** FMC proposes to publish guidelines for determining what constitutes a just and reasonable rate of return or profit; comments by 7–9–79

26852 **Interlocking Relationships** CAB exempts persons involved in domestic cargo transportation

26885 **Domestic Relations—Property Rights** OPM proposes compliance to a provision dealing with apportionment of retirement benefits in certain circumstances; comments by 7–9–79

26893 **Currency Exchange Conditions** CAB proposes to terminate rulemaking proceedings and adopt a case-by-case method for handling

27040 **Area Wage Adjustment** Labor/ETA promulgates revised index for Fiscal Year 1979; effective 1–26–79 (Part II of this issue)

26993 **Bonds of 2004–2009** Treasury announces interest rate of 9⅛ percent per annum

26868 **Income Tax** Treasury/IRS provides final rules relating to exchanges under the final system plan for the Consolidated Rail Corporation

26848 **Set-Aside and Marketing Quotas** USDA/ASCS adds, changes and updates rules for its programs; effective 5–8–79

27034 **Sunshine Act Meetings**

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Presidential Documents

Title 3—

The President

Executive Order 12131 of May 4, 1979

The President's Export Council

By the authority vested in me as President by the Constitution and statutes of the United States of America, and in order to expand the membership of the President's Export Council, in accord with the provisions of the Federal Advisory Committee Act (5 U.S.C. App. I), it is hereby ordered as follows:

1–1. *Establishment and Membership.*

1–101. There is established the President's Export Council.

1–102. The membership of the Council shall be as follows:

(a) The heads of the following Executive agencies or their representatives:

(1) Department of State.

(2) Department of the Treasury.

(3) Department of Agriculture.

(4) Department of Commerce.

(5) Department of Labor.

(6) Office of the Special Representative for Trade Negotiations.

(7) Export-Import Bank of the United States.

(b) Three members of the United States Senate, designated by the President of the Senate, and three members of the United States House of Representatives designated by the Speaker of the House.

(c) Not to exceed 28 citizens appointed by the President. These individuals shall be selected from those who are not full-time Federal officers or employees. They shall include representatives of business and industry, agriculture, and labor.

1–103. The President shall designate a Chairman and a Vice Chairman from among the members appointed by the President.

1–104. The Secretary of Commerce, with the concurrence of the Chairman, shall appoint an Executive Director.

1–2. *Functions.*

1–201. The Council shall serve as a national advisory body on matters relating to United States export trade, including advice on the implementation of the President's National Export Policy, which was announced on September 26, 1978. It shall, through the Secretary of Commerce, report to the President on its activities and on its recommendations for expanding United States exports.

1–202. The Council should survey and evaluate the export expansion activities of the communities represented by the membership. It should identify and examine specific problems which business, industrial, and agricultural practices may cause for export trade, and examine the needs of business, industry, and agriculture to expand their efforts. The Council should recommend specific solutions to these problems and needs.

1–203. The Council may act as liaison among the communities represented by the membership; and, may provide a forum for those communities on current and emerging problems and issues in the field of export expansion. The

Council should encourage the business, industrial, and agricultural communities to enter new foreign markets and to expand existing export programs.

1–204. The Council shall provide advice on Federal plans and actions that affect export expansion policies which have an impact on those communities represented by the membership.

1–205. The Council may establish, with the concurrence of the Secretary of Commerce, an executive committee and such other subordinate committees it considers necessary for the performance of its functions. The Chairman of a subordinate committee shall be designated, with the concurrence of the Secretary of Commerce, by the Chairman of the Council from among the membership of the Council. Members of subordinate committees shall be appointed by the Secretary of Commerce.

1–3. *Administrative Provisions.*

1–301. The Secretary of Commerce shall, to the extent permitted by law, provide the Council, including its executive and subordinate committees, with administrative and staff services, support and facilities as may be necessary for the effective performance of its functions.

1–302. Each member of the Council, including its executive and subordinate committees, who is not otherwise paid a salary by the Federal Government, shall receive no compensation from the United States by virtue of their service on the Council, but all members may receive the transportation and travel expenses, including per diem in lieu of subsistence, authorized by law (5 U.S.C. 5702 and 5703).

1–4. *General Provisions.*

1–401. Notwithstanding the provisions of any other Executive order, the functions of the President under the Federal Advisory Committee Act (5 U.S.C. App. I), except that of reporting annually to the Congress, which are applicable to the Council, shall be performed by the Secretary of Commerce in accordance with guidelines and procedures established by the Administrator of General Services.

1–402. Executive Order No. 11753 is revoked; however, nothing in this Order shall be deemed to require new charters for the Council, including its executive and subordinate committees, which were current immediately prior to the issuance of this Order.

1–403. The Council shall terminate on December 31, 1980, unless sooner extended.

THE WHITE HOUSE,
May 4, 1979.

Jimmy Carter

[FR Doc. 79–14501
Filed 5–4–79; 5:03 pm]
Billing code 3195–01–M

Rules and Regulations

Federal Register
Vol. 44, No. 90
Tuesday, May 8, 1979

This section of the FEDERAL REGISTER contains regulatory documents having general applicability and legal effect, most of which are keyed to and codified in the Code of Federal Regulations, which is published under 50 titles pursuant to 44 U.S.C. 1510.
The Code of Federal Regulations is sold by the Superintendent of Documents. Prices of new books are listed in the first FEDERAL REGISTER issue of each month.

OFFICE OF PERSONNEL MANAGEMENT

5 CFR Part 213

Excepted Service; Department of the Air Force

AGENCY: Office of Personnel Management.

ACTION: Final rule.

SUMMARY: This amendment excepts under Schedule A one position of Supervisory Criminal Investigator, GS–14, three positions of Criminal Investigator, GS–12, and eight positions of Criminal Investigator, GS–11, in the Air Force Office of Special Investigations for employment not to exceed April 30, 1984, on projects concerned with security of national defense activities and materials. These positions are excepted under Schedule A because examination for them is impracticable.

EFFECTIVE DATE(S): April 5, 1979.

FOR FURTHER INFORMATION CONTACT: William Bohling, 202–632–4533.

Accordingly, 5 CFR 213.3109 is amended by adding paragraph (f)(1) follows:

§ 213.3109 Department of the Air Force.

* * * * *

(f) *Air Force Office of Special Investigations.*

(1) One position of Supervisory Criminal Investigator, GS–14; three positions of Criminal Investigator, GS–12; and eight positions of Criminal Investigator, GS–11, for employment not to exceed April 30, 1984, on projects concerned with security of national defense activities and materials.

(5 U.S.C. 3301, 3302; E.O. 10577, 3 CFR 1954–1958 Comp., p. 218)

Office of Personnel Management,
Beverly M. Jones,
Issuance Systems Manager.
[FR Doc. 79–14294 Filed 5–7–79; 8:45 am]
BILLING CODE 6325–01–M

5 CFR Part 213

Excepted Service; Department of Defense

AGENCY: Office of Personnel Management.

ACTION: Final rule.

SUMMARY: This amendment modifies the exception under Schedule B to change position title from Net Assessment Coordinator to Net Assessment Analyst by which to reflect more appropriate classification. Further, this amendment excepts under Schedule B one additional Net Assessment Analyst position because it is impracticable to examine competitively for the position.

EFFECTIVE DATE: April 23, 1979.

FOR FURTHER INFORMATION CONTACT: William Bohling, 202–632–4533.

Accordingly, 5 CFR 213.3206(a)(5) is amended as set out below:

§ 213.3206 Department of Defense.

(a) *Office of the Secretary.* * * *

(5) Two Net Assessment Analysts.

(5 U.S.C. 3301, 3302; EO 10577, 3 CFR 1954–1958 Comp., p. 218).

Office of Personnel Management,
Beverly M. Jones,
Issuance System Manager.
[FR Doc. 79–14295 Filed 5–7–79; 8:45 am]
BILLING CODE 6325–01–M

5 CFR Part 213

Excepted Service; National Foundation on the Arts and the Humanities

AGENCY: Office of Personnel Management.

ACTION: Final rule.

SUMMARY: This amendment shows that the Schedule A authorities for one position of Assistant to the Director, Office of Planning and Policy Assessment, GS–14, and one position of Assistant Director, Program Development, Division of Public Programs, GS–14, in the National Endowment for the Humanities (NEH), National foundation on the Arts and the Humanities, are revoked because the positions are no longer filled and exception is no longer needed. This amendment also shows that one position of Assistant Director, Program Development, Division of Special Programs, GS–14, NEH, is excepted under Schedule B because competitive examination is impracticable for this position.

EFFECTIVE DATE(S): April 10, 1979.

FOR FURTHER INFORMATION CONTACT: William Bohling, 202–632–4533.

Accordingly, 5 CFR 213.3182(b)(10) and (17) are revoked and 5 CFR 213.3282(b)(27) is added, as follows:

§ 213.3182 National Foundation on the Arts and the Humanities.

* * * * *

(b) *National Endowment for the Humanities.* * * *

(10) [Revoked]. * * *

(17) [Revoked].

* * * * *

§ 213.3282 National Foundation on the Arts and the Humanities.

* * * * *

(b) *National Endowment for the Humanities.* * * *

(27) Until September 30, 1980, one position of Assistant Director, Program Development, Division of Special Programs, GS–14

(5 U.S.C. 3301, 3302; EO 10577, 3 CFR 1954–1958 Comp., p. 218)

Office of Personnel Management,
Beverly M. Jones,
Issuance System Manager.
[FR. Doc. 79–14293 Filed 5–7–79; 8:45 am]
BILLING CODE 6325–01–M

5 CFR Part 735

Ethics in Government Act; Financial Reporting Requirements

AGENCY: Office of Personnel Management.

ACTION: Interim regulations made immediately effective with comments invited for consideration in final rulemaking.

SUMMARY: The Office of Personnel Management is issuing an interim regulation concerning financial reporting requirements. These interim regulations are issued under Title II of the Ethics in Government Act of 1978 (Pub. L. 95–521). This regulation supplements the

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requirements in the Act. This regulation does not restate the reporting requirements in the Act and is not intended to be comprehensive.

DATE: Effective date: May 8, 1979. Comment date: Written comments will be considered if received no later than September 30, 1979.

ADDRESS: Send written comments to: Office of Government Ethics, Room 5315, 1900 E Street, NW, Washington, D.C. 20415.

FOR FURTHER INFORMATION CONTACT: David Reich at (202) 632-7642.

SUPPLEMENTARY INFORMATION: On October 26, 1978, Congress enacted the Ethics in Government Act of 1978 ("the Act"). Title IV of the Act created a separate statutory Office of Government Ethics (OGE) within the Office of Personnel Management (OPM). It provides that the new office be headed by the Director, Office of Government Ethics ("the Director"), whose responsibilities include developing and recommending to OPM or the President, in consultation with the Attorney General, regulations pertaining to conflict-of-interest and ethics in the executive branch. OPM is promulgating these regulations on the recommendation of the Director of the Office of Government Ethics.

Title II of the Act establishes a comprehensive system of financial reporting for certain employees of the executive branch of the government. These regulations supplement the financial reporting provisions. These are interim, not proposed, regulations. Because annual financial reports are due from employees of the executive branch on May 15, 1979, the Director of OPM, Alan K. Campbell, acting pursuant to 5 U.S.C. 553(b)(B) has found good cause for dispensing with the notice of proposed rulemaking.

All interested persons are invited to submit comments. After OGE evaluates both the comments received and the experience of executive agencies during the forthcoming review of annual financial reports, OPM will promulgate final regulations.

The substance of certain of these interim regulations has been made known in advance to the executive agencies so that the first filing of annual reports required by the Act could go forward without delay.

Part 735 of Title 5 of the Code of Federal Regulations is amended by adding new Subpart E to read as follows:

Subpart E—Regulations Supplementing the Financial Reporting Requirements of the Ethics in Government Act

Sec.
735.501 Purpose.
735.502 Agency regulations.
735.503 Additional instructions regarding certain persons required to file.
735.504 Information required to be reported—reporting forms.
735.505 Custody of and public access to reports.
735.506 Waiver regarding certain personal gifts.
735.507 Review of reports and corrective action.
735.508 Extensions for filing of reports.

Authority: Title II of the Ethics in Government Act of 1978 (Pub. L. 95-521), 5 U.S.C. App.

Subpart E—Regulations Supplementing the Financial Reporting Provisions of the Ethics in Government Act

§ 735.501 Purpose.

This subpart provides interim regulations to supplement Title II of the Ethics in Government Act of 1978 (Pub. L. 95-521), hereinafter referred to as "the Act". These regulations are not intended to state reporting requirements comprehensively, but only to deal with selected problems as a supplement to the reporting requirements of the Act. Comprehensive regulations will be published at a later time.

§ 735.502 Agency regulations.

Each agency may issue regulations implementing this subpart. These regulations:

(a) Shall be consistent with the Act and with this subpart, and

(b) Shall impose no additional reporting requirements on individuals subject to the Act, except as may be specifically authorized by statute or by the Office of Government Ethics.

§ 735.503 Additional instructions regarding certain persons required to file.

(a) Under section 201(f)(3) of the Act a report is required of any person occupying a position which is not classified on the General Schedule, but the rate of pay for which (excluding "step" increases) is equal to, or greater than, the rate of pay fixed for GS-16 (step 1) by the General Schedule.

(b) Under section 201(f)(5) of the Act, a report is required of any person in the executive branch in a position excepted from the competitive service by reason of being of a confidential or policymaking character. However, an exclusion is available, as provided below, for a person in any such position classified below GS-16 (or the rate of basic pay for which is less than the minimum rate of basic pay fixed for GS-16) who has no role in advising or making policy determinations with respect to agency programs or policies. Such persons may include chauffeurs, private secretaries, stenographers and those who hold positions of similar nature where consistent with the basic criterion set forth in the preceding sentence. The foregoing exclusion will be effective as follows:

(1) The exclusion of any person pursuant to this subparagraph will be effective as of the time the employing agency or other governmental entity files with the Office of Government Ethics a list and description of each position for which exclusion is sought, as well as the identity of its current occupant. Such a list must be filed with the Office of Government Ethics on or before the date on which such reports are due under the Act.

(2) In the event that the Office of Government Ethics finds that one or more positions has been improperly excluded, it will so advise the agency or other governmental entity and set a date for the filing of the report.

§ 735.504 Information required to be reported—reporting forms.

Information required to be reported by the Act shall be set forth in the manner specified in, and in accordance with the instructions contained in, Standard Forms issued by the Office of Personnel Management, to be used as follows:

(a) Standard Form 278—for use by an officer or employee filing (1) an annual report pursuant to section 201(d) of the Act; or (2) a departure report upon termination of employment, pursuant to section 201(e) of the Act;

(b) Standard Form 278A— for use by (1) a candidate for nomination or election to the office of President or Vice President pursuant to section 201(c) of the Act; (2) an individual assuming a position for which reporting is required pursuant to section 201(a) of the Act; or (3) and individual whose nomination has been transmitted by the President to the Senate, pursuant to section 201(b) of the Act.

§ 735.505 Custody of and public access to reports.

(a) *Official Position Descriptions.* (i) A copy of the official position description of the Government office or position held by the reporting individual shall, if available, be attached by the designated agency ethics official or by the Secretary concerned to each report filed. If an official position description is not available, but another form of position description is, the latter shall be attached. (ii) The requirements of subparagraph (i) apply to members of the uniformed services, except that such position descriptions need not be attached at the time a list of individuals nominated for appointment to a rank in the uniformed services is transmitted to the Senate, unless otherwise requested by a committee of the Senate considering such nominations.

(b) *Availability for public inspection.* (i) Pursuant to section 205(b) of the Act, each report must be made available for public inspection within 15 days after the report is received by the agency, whether or not the review of the report prescribed by section 206 of the Act has been completed; (ii) An agency may request the name of an individual seeking inspection of, or a copy of, any report filed, but may not state or suggest that the furnishing of such identity is a condition of access to a report.

§ 735.506 Waiver regarding certain personal gifts.

An individual seeking an exemption pursuant to subsection 202(a)(2)(B) of the Act (to exempt one or more gifts from aggregation under the provisions of said subsection) shall file a request with the Office of Government Ethics which sets forth: the identity and occupation of the donor; a statement that the relationship between the donor and the reporting individual is purely personal in nature; and a statement that neither donor nor any person or organization for whom the donor actually works or serves as a representative conducts business with, or is subject to regulation by, or is directly affected by action taken by, the agency by which the reporting individual is employed. In the event that the immediately preceding statement cannot be made without qualification, the reporting individual may indicate such qualifications along with a statement demonstrating that he or she plays no role in any official action which might directly affect the donor or any organization for which such donor works or serves as a representative. Such a request will be made publicly available if, and at the time, it is granted.

§ 735.507 Review of reports and corrective action.

Any corrective action required pursuant to subsection 206(b)(3) of the Act shall ordinarily be completed within 90 days after an individual is notified, pursuant to subsection 206(b)(2)(B), that he or she is not is compliance with applicable laws and regulations.

§ 735.508 Extensions for filing of reports.

A designated agency ethics official may, for good cause, grant to any employee or class of employees:

(a) An extension of up to 20 days, or

(b) In the case of employees located outside the continental United States, an extension of up to 45 days. An additional extension of 15 days may be granted where the employee sets forth in writing reasons showing good cause for an additional extension. Any other extension must have the approval of the Office of Government Ethics.

Office of Personnel Management.
Roderick S. Speer,
Assistant Issuance System Manager.
[FR Doc. 79-14372 Filed 5-7-79; 8:45 am]
BILLING CODE 6325-01-M

DEPARTMENT OF AGRICULTURE

Office of the Secretary

7 CFR Part 17

Regulations Governing the Financing of Commercial Sales of Agricultural Commodities; Supplier Reporting Requirements

AGENCY: Office of the General Sales Manager, USDA.

ACTION: Final rule and interpretation.

SUMMARY: This rule amends the regulations governing the financing of sales of agricultural commodities under Title I, Pub. L. 480, 83d Cong. (hereinafter referred to as the Act), to require the reporting of certain information by (1) suppliers of commodities financed under the Act and (2) suppliers of U.S flag vessels on which such commodities are transported, if ocean freight differential payments are made by Commodity Credit Corporation (CCC) with respect thereto. Such a supplier is required to report any commission, fee or other compensation of any kind that was paid or is to be paid by the supplier, in connection with the supplying of such commodities or vessels, to any agent, broker, or other representative of the importer or importing country. The "Food and Agricultural Act of 1977," Pub. L. 95-113, 91 Stat. 955, amended the Act by adding section 115(b) which requires that suppliers report the information outlined above. This rule establishes procedures for reporting the required information and procedures to be followed should a supplier fail to comply with such requirements.

In addition, this document sets forth certain interpretations, which will appear in the Code of Federal Regulations, with respect to the application of these final regulations.

EFFECTIVE DATE: June 7, 1979. See Supplementary Information.

FOR FURTHER INFORMATION CONTACT: George J. Pope, Room 4085, South Building, U.S. Department of Agriculture, Washington, D.C. 20250, Telephone: (202) 447-5637.

SUPPLEMENTARY INFORMATION:

Effective Date

The provisions of this amendment shall not apply with respect to transactions involving purchase authorizations issued prior to June 7, 1979.

Background

On March 30, 1978, the Office of the General Sales Manager (OGSM) published a proposed rule (43 FR 13385) to amend the regulations governing the financing of the sale and exportation of agricultural commodities made available under the Act. The provisions of this amendment are required by the "Food and Agricultural Act of 1977" (Pub. L. 95-113, 91 Stat. 955).

Eight comments were received on the proposed rule. They were carefully reviewed, and several changes in the regulation were made based on the comments. The changes are explained in detail in the "Discussion of Comments" below.

Supplier Reporting Requirements—3

A number of the comments were submitted in question form,requesting interpretations of provisions of the proposed rule rather than making substantive suggestions or observations on the content of the proposed rule. These questions are also discussed below. However, in order to establish a permanent record of these interpretations, it has been determined that, in appropriate cases, an interpretation will be published with the rule.

Discussion of Comments

Comment: Must a payment to a trading company owned by the government of the importing country be reported? Are such payments "legal"?

Response: Such a payment must be reported. The text of the proposed rule states (§ 17.8(f)(1)) that a payment to "* * * any * * * representative of the * * * importing country, including a corporation owned or controlled by the * * * importing country * * *." must be reported. This clearly indicates that a

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payment to a state-owned trading company must be reported.

Such payments are not "illegal" under the Pub. L. 480 regulations. However, the payment would not be eligible for CCC financing. Existing § 17.8(c)(3) states "No commission paid or to be paid to any agency, including a corporation, owned or controlled by the * * * government of the destination country will be eligible for [CCC] financing." If a payment to such an agency is made, the amount of the payment is deducted from the amount to be financed by CCC in connection with the transaction. The new supplier reporting requirement will assist USDA in enforcing this provision of the existing regulations.

Comment: How is the term "other compensation of any kind" to be construed? Does it include business expenses in connection with the entertainment of representatives of the importer, such as meals, theatre tickets, taxicabs, guided tours, bus, rail and airline tickets, hotel bills, tickets for sporting events, convention expenses, greens fees, etc.? Such expenditures do not consist of any money payments to such representatives but are clearly made for them or on their behalf. The expenditures may not be incurred in connection with or cannot be related to a particular Pub. L. 480 transaction or purchase authorization.

Response: "Compensation" refers to any thing given in return for any consideration, services, or benefits received or to be received by the supplier in connection with the supplying of commodities or vessels financed under the Act. In order to clarify this point, a new paragraph has been added to the regulation (new § 17.8(f)(2)) defining the term in these words. There is no general requirement under this regulation for suppliers to report all business entertainment expenses; however, such expenses must be reported if made to a representative of the importer or importing country in return for any consideration, services, or benefits received by the supplier in connection with a Pub. L. 480 transaction financed under the Act.

If a supplier is uncertain whether a payment is reportable, the supplier should report the payment.

Comment: Will a certification to the commodity supplier by representatives of the supplier that they are not "agents, brokers, or other representatives of the importer or importing country, including a corporation owned or controlled by the importer or the government of the country" satisfy the requirements of the rule?

Response: The commodity supplier may choose to require a certification as described above from the supplier's representatives. However, the existence of such a certification would not relieve the supplier from the responsibility to report payments made to any person known by the supplier to be a representative of the importer or importing country.

The obligation of the supplier, in this regard, has been clarified in the regulations by a new paragraph 17.8(f)(4). It is intended that a supplier will be liable for failure to file a report, or for filing a false report, if under the circumstances it is determined that the supplier knew or should reasonably have known that the recipient of a payment was a representative of the importer or importing country.

Comment: When a broker acts on behalf of the vessel's owner in offering a vessel to an importing country, then acts for the importing country in discharging the vessel under a free out contract, is his commission to be reported?

Response: This comment may be interpreted two ways. First, if it addresses the reportability of the commission received when the broker acts for the importing country in discharging the vessel, such commission need not be reported under this regulation as it is not paid by the supplier of ocean transportation (or of the commodity). Rather, it is paid by the importing government.

Second, the comment may question the reportability of the original commission paid by the vessel owner (supplier of ocean transportation) to the broker for offering the vessel, in light of the broker's acting later in the movement of the cargo as an agent of the importing country in discharging the vessel. In this instance, the commission is reportable if the supplier of ocean transportation (vessel owner) knows, or should reasonably have known, of the relationship between the broker and the importing country. (See new paragraph 17.8(f)(4).) It is important to note, in this regard, that any payment to any representative of the importer or importing country at loading or discharge port must be reported.

Comment: Is the information to be reported at the time the obligation is incurred or when the payment is to be made?

Response: The Act refers to a payment ". . . made or to be made . . . ." We recognize that the language in the proposed rule, which required that the supplier include the "date . . . of each payment" in the information reported, implied that the report could be made only after payment had been made. In response to this comment, therefore, this section has been rewritten to require reporting of the "Date payment made or approximate date when payment is to be made." The required information should be reported as soon as it is available to the supplier.

Comment: When a cotton supplier makes a payment to the importer for quality allowance, is this payment required to be reported under the rule?

Response: A bona fide payment for quality allowance, which is agreed upon between supplier and importer in their sales contract based on the quality of the commodity delivered, is not required to be reported. This is considered a contract price adjustment under this regulation and not a "commission, fee or other compensation."

Comment: The suspension and debarment process is insufficient penalty for failure to report or filing a false report; suggest immediate termination of supplier's participation and imposition of a criminal penalty.

Response: It is felt that the general suspension and debarment process as outlined in the proposed rule is appropriate and should be retained. This process has been designed to provide the supplier with adequate opportunity to present information which may bear on any final determination.

In addition to the five-year debarment provided in the act, the supplier would also be subject to appropriate criminal statutes relative to false statements and concealment of material facts.

The reference to the 30-day suspension has been deleted. It is felt that the term of any suspension should be governed by the provisions of 7 CFR Part 1407 in order to preserve uniformity in the application of 7 CFR Part 1407.

Comment: A number of comments indicated confusion about the application of the proposed rule to selling agents.

Response: Any payment to a representative of the importer or importing country must be reported under the terms of the rule. However, selling agents represent the commodity supplier and may not be "* * * employed by or otherwise connected with the importer or the importing country," under § 17.2(c)(19). Thus, a selling agent meeting the definition in the regulations would not be a representative of the importing country and a payment to such a selling agent would not be subject to this new reporting requirement.

In this connection, it is important to note that payment of a commission to a selling agent to obtain a contract for food commodities is prohibited under § 115(a) of Pub. L. 480, § 17.8(c)(1)(ii) of the Regulations and the Interpretative Rule (43 FR 27981) dated June 28, 1978. Therefore, it is not anticipated that reportable payments will be made to selling agents for food commodities.

Accordingly, 7 CFR Part 17, Subpart A, Regulations Governing the Financing of Commercial Sales of Agricultural Commodities is amended by adding a new paragraph (f) to § 17.8 and accompanying interpretations to read as follows:

§ 17.8 Fees, discounts, commissions, brand names, purchasing agents, shipping agents.

* * * * *

(f) *Reports required from suppliers of commodities and ocean transportation.*

(1) Suppliers of (i) agricultural commodities financed under the Act and (ii) U.S. flag vessels on which such commodities are transported, if ocean freight differential payments are made by CCC with respect thereto, shall report to the General Sales Manager (GSM) any commission, fee or other compensation of any kind (hereinafter referred to as "payment") which, in connection with the supplying of such commodities or vessels, is paid or to be paid by the supplier to any agent, broker, or other representative of the importer or importing country, including a corporation owned or controlled by the importer or importing country, to which he supplies such commodities or vessels.

(2) The term "other compensation of any kind" means anything given in return for any consideration, services, or benefits received or to be received by the supplier in connection with the supplying of commodities or vessels financed under the Act.

(3) The supplier shall report in writing as soon as he knows that a payment as described in paragraph (f)(1) of this section is made or to be made. Reports shall be submitted to the GSM, Office of the General Sales Manager, Room 4073–S, U.S. Department of Agriculture, Washington, D.C. 20250. The supplier shall include in the report the following information with respect to each payment reported pursuant to paragraph (f)(1):

(i) The name and address of the person to whom the payment was made or is to be made, and his relationship to the importer or importing country.

(ii) Date payment made or approximate date when payment is to be made, and amount or approximate amount of payment.

(iii) An explanation of the transaction in connection with which the payment was made or is to be made.

(iv) The number(s) of the purchase authorization(s) providing for the financing under the Act of the sale of agricultural commodities to the importer or importing country to whose agent, broker or other representative the payment was made or is to be made.

(4) Knowledge of any fact material to obligations under paragraph (f) of this section shall be imputed to the supplier if the supplier should reasonably have known that such fact existed.

(5) The information in reports filed hereunder will be available for public inspection by contacting the General Sales Manager, OGSM, USDA, at the address given in paragraph (f)(3) of this section.

(6) Failure to file a required report or the filing of a false report hereunder constitutes a cause for debarment pursuant to 7 CFR 1407.5(c). Whenever the GSM believes, or has reason to believe, that a supplier has failed to file a report as required by this paragraph (f) or has filed a false report thereunder, the GSM is authorized to institute suspension or debarment proceedings against the supplier in accordance with the provisions of 7 CFR Part 1407.

(7) If a final determination has been made under 7 CFR Part 1407 that a supplier has failed to file a report as required by this paragraph (f) or has filed a false report thereunder, the supplier shall be debarred, for a period of five years from the date of such final determination, from furnishing—directly or indirectly—commodities financed under the Act or U.S. flag vessels on which such commodities are to be transported if ocean freight differential payments are to be made by CCC with respect thereto. Such supplier may also be debarred (in accordance with 7 CFR Part 1407) from participating in other programs administered or financed by CCC.

Interpretations

1. Payments to a trading company owned by the government of the importing country.

The text of the applicable regulation (§ 17.8(f)(1)) states that a payment to ". . . any . . . representative of the . . . importing country, including a corporation owned or controlled by the . . . importing country . . . ." must be reported. This clearly indicates that a payment to a state owned trading company must be reported.

2. Business expenses in connection with the entertainment of representatives of the importer, such as meals, theatre tickets, etc.

"Compensation" refers to anything given in return for any consideration, services, or benefits received or to be received by the supplier in connection with the supplying of commodities or vessels financed under the Act. See § 17.8(f)(2). There is no general requirement under this regulation for suppliers to report all business entertainment expenses; however, such expenses must be reported if made to a representative of the importer or importing country in return for any consideration, services, or benefits received or to be received by the supplier in connection with a Pub. L. 480 transaction financed under the Act.

3. Certification to the commodity supplier by representatives of the supplier that they are not "agents, brokers, or other representatives of the importer or importing country, including a corporation owned or controlled by the importer or the government of the country."

The commodity supplier may choose to require a certification as described above from the supplier's representatives. However, the existence of such a certification would not relieve the supplier from the responsibility to report payments made to any person whom the supplier knew, or should reasonably have known to be a representative of the importer or importing country.

4. A broker acting on behalf of the vessel's owner in offering a vessel to an importing country, and also the importing country in discharging the vessel under a free out contract.

The commission paid by the vessel's owner to the broker is reportable if the supplier of ocean transportation (vessel owner) knew, or should reasonably have known at the time of payment, of the relationship between the broker and the importing country.

5. Payments made to any representative of the importer or importing country at a loading or discharge port.

The regulations require that any payment made by a supplier of commodities or ocean transportation to a representative of the importer or importing government be reported. Accordingly, such payments must be reported.

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6. Payments made by a commodity supplier to the importer for a quality allowance, as specified in the sales contract.

Payments for bona fide quality allowances agreed upon between supplier and importer in their sales contract are not required to be reported. This is considered a contract price adjustment under the regulations and not a "commission, fee or other compensation . . ."
(Sec. 1202, 91 Stat. 955, Pub. L. 95–113, 7 U.S.C. 1715(b))

Note.—This rule has been determined not significant under the USDA criteria implementing Executive Order 12044 "Improving Government Regulations." A Final Impact Statement is available from George J. Pope, Room 4085 South Building, U.S. Department of Agriculture, Washington, D.C. 20250, Telephone (202) 447–5637.

Signed at Washington, D.C. on May 1, 1979.

Fred C. Wels,
Acting General Sales Manager, Office of the General Sales Manager.

[FR Doc. 79-14297 Filed 5-7-79; 8:45 am]

BILLING CODE 3410-21-M

Agricultural Stabilization and Conservation Service

7 CFR Part 718

Determination of Acreage and Compliance

AGENCY: Agricultural Stabilization and Conservation Service, Department of Agriculture.

ACTION: Final rule.

SUMMARY: This amendment adds, changes, and updates certain of the rules for determining acreages under the set-aside and marketing quota programs. These changes are required because of changes in the programs most notable the decision of the Secretary of Agriculture to have set-aside programs in 1978 and 1979 for various commodities and to improve the administration of the programs.

EFFECTIVE DATE: May 8, 1979.

FOR FURTHER INFORMATION CONTACT: Samuel T. Brown, Production Adjustment Division, Agricultural Stabilization and Conservation Service, U.S.D.A., P.O. Box 2415, Washington, D.C. 20013, (202) 447–6817.

SUPPLEMENTARY INFORMATION: This rule provides for the application of new rules for measurement variance to marketing quota crops, program crops, and set-aside acreage. This amendment sets forth the definitions for (1) Set-Aside Maintenance Check and (2) Minimum Size and Width Requirements for Set-Aside. These rules were not included in the latest revision of Part 718 since the Secretary had determined for previous years that there would not be a set-aside program.

The rules for sending a Notice of Measured Acreage have been rewritten and the authority for issuance has been given jointly to the county executive director and county committee in the interest of program administration.

This rule provides other changes that will clarify administration procedures in determining crop acreage for 1978 and subsequent years for marketing quota, set-aside, and program crops.

Since producers are planting their 1979 crop acreages, I have determined that compliance with the public rulemaking requirements of 5 U.S.C. 553 is impracticable and contrary to the public interest. I have further determined that it is not possible to publish these regulations in proposed form and allow 60 days for comment in accordance with the provisions of Executive Order 12044. Therefore, these amendments shall become effective upon publication in the **Federal Register**.

Accordingly, 7 CFR Part 718 is amended to read as follows:

Final Rule

1. Section 718.1 is amended to read as follows:

§ 718.1 Applicability.

The provisions of this part apply to compliance determinations for 1978 and subsequent years under the programs administered by the Agricultural Stabilization and Conservation Service through State and county committees, as authorized by the Agricultural Adjustment Act of 1938, as amended.

2. Section 718.2 is amended as follows:

§ 718.2 Definitions [Amended]

* * * * *

(a) By revising paragraph (b)(3) to read as follows:

b * * *

(3) *Director.* The Director, or Acting Director, Production Adjustment Division, Agricultural Stabilization and Conservation Service, Department of Agriculture.

* * * * *

(b) By redesignating paragraphs (b) (15) through (18) as paragraphs (b) (16) through (19) and adding a new paragraph (b) (15) to read as follows:

* * * * *

(b) * * *

(15) *Set-aside maintenance check.* An inspection is to be made in addition to the regular quality control check to determine whether producers are continuing to maintain designated program acreages in accordance with program regulations.

(16) through (19) [Redesignated from (15) through (18)]

* * * * *

3. Paragraph (b) and (d) of § 718.5 are revised to read as follows:

§ 718.5 Producer service

* * * * *

(b) *Types of producer service.* Services include but are not limited to measuring land areas (including staking and referencing), set-aside acreage, measuring quantities of farm-stored commodities, and appraising crop yields.

* * * * *

(d) *Staking and referencing.* The acreage requested to be staked and referenced shall not exceed the effective farm allotment for the program year for marketing quota crops, except for flue-cured tobacco. For flue-cured tobacco, the acreage requested to be staked and referenced shall not exceed 100 percent of the flue-cured farm acreage allotment in effect for the program year. However, 120 percent of the flue-cured farm acreage allotment for flue-cured tobacco may be staked and referenced when the producer agrees to destroy or leave the bottom four leaves: *Provided,* That the producer must agree to pay for a farm visit in order to assure compliance with this requirement. For marketing quota crops, the farm shall be considered to be in compliance with the allotment for the farm if the entire allotment for the program year was staked and referenced and the crop is planted within the staked area. Only the acreage measured (if less than the allotment or program requirement was staked and referenced and the crop or set-aside is planted within such staked area) shall be guaranteed for the current year.

4. Section 718.6 is amended by revising paragraph (c) and adding a new paragraph (h) to read as follows:

§ 718.6 Determining farm operator adherence to program requirements.

* * * * *

(c) *Measurement Variance.* Measurement Variance shall apply except when a producer receives producer service for the entire program crop, for the permitted normal crop acreage (NCA), for some other program requirement, or the producer receives producer service on a marketing quota crop. The crop acreages determined under this section shall be determined to be in compliance when the measured acreages does not exceed the allotment or program requirement for the program year by more than the limits set forth below:

(1) *For marketing quota crops including flue-cured tobacco.* The crop acreage is either:

(i) *The farm allotment acreage.* When the determined acreage *does not exceed* the farm acreage allotment in effect for the program year by more than the larger of 0.1 acre or 2 percent of the allotment, or

(ii) *The determined acreage.* When the determined acreage either:

(A) *Exceeds* the farm acreage allotment in effect for the program year by more than the larger of the amounts specified in paragraph (c)(1)(i) of this section, or

(B) *Is less than* the farm acreage allotment in effect for the program year.

(2) *For flue-cured tobacco agreements in effect for the program year between ASCS and a producer which permit a producer to grow 120 percent of the farm acreage allotment.* The crop acreage is either:

(i) 120 percent of the flue-cured tobacco allotment acreage when the determined acreage *exceeds* 120 percent of the farm acreage allotment in effect for the program year by not more than the larger of 0.1 acre or 2 percent of 120 percent of the allotment, or

(ii) *The determined acreage* when the determined acreage either:

(A) *Exceeds* 120 percent of the farm acreage allotment in effect for the program year for flue-cured tobacco by more than the amounts specified in paragraph (c)(2)(i) of this section, or

(B) *Is less than* 120 percent of the flue-cured tobacco allotment.

(3) *For set-aside acreage.* The set-aside acreage is either:

(i) *The required set-aside* (including voluntary diversion acres) when the determined acreage *is not less than* the required set-aside by more than the larger of 0.1 acre or 5 percent of the required set-aside, but not to exceed 25 acres, or

(ii) *The determined acreage* when the determined acreage either:

(A) *Is less than* the required set-aside (including voluntary diversion acres) by more than the amount specified in paragraph (c)(3)(i) of this section, or

(B) *Is more than* the required set-aside (including voluntary diversion acres).

(4) *For total planted normal crop acreage.* The total planted normal crop acreage is either:

(i) *The permitted normal crop acreage* (normal crop acreage minus required set-aside (including voluntary diversion acres).) when the determined acreage planted to crops designated for the normal crop acreage *does not exceed* the permitted normal crop acreage by more than the larger of 1.0 acre or 5 percent of the permitted normal crop acreage but not to exceed 25 acres, or

(ii) *The determined acreage* when the determined acreage either:

(A) *Exceeds* the permitted normal crop acreage by more than the amount specified in paragarph (c)(4)(i) of this section.

(B) *Is less than* the permitted normal crop acreage.

(5) *For program crops.* The crop acreage is either:

(i) *The reported acreage* when the determined acreage *does not exceed* the reported acreage by more than the larger of 1.0 acre of 5 percent of the reported acreage but not to exceed 25 acres, or

(ii) *The determined acreage* when the determined acreage either:

(A) *Exceed* the reported acreage by more than the amount specified in paragraph (c)(5)(i) of this section, or

(B) *Is less than* the reported acreage for the crop.

(6) *For wheat haying and grazing.* The wheat acreage designated for haying and grazing is either:

(i) The smaller of (*a*) the acreage recorded in column 7 of the ASCS–477 (ASCS–477 acreages), or (*b*) the acreage reported on the ASCS–578 (*1*) when the determined acreage *is not less than* the ASCS–477 acreages, or the reported acreage by more than the larger of 1.0 acre or 5 percent not to exceed 25 acres, or (*2*) when the determined acreage is more than the ASCS–477 acreage, or

(ii) *The determined acreage* when the determined acreage *is less than* the ASCS–477 acreage or reported acreage by more than 1.0 acre or 5 percent not to exceed 25 acres, or when the determined acreage is more than the reported acreage but does not exceed the ASCS–477 acreage.

* * * * *

(h) *Set-aside acres.* Farms participating in any announced set-aside program shall designate set-aside acreage not later than the latest date set by the State committee for acreage reports.

(1) *Minimum size and width requirements for set-aside.* The area offered for designation must meet the following width and size requirements:

(i) Minimum size of 2.0 acres.

(ii) Minimum average width of 1.0 chain (66 feet) wide.

(2) *Exceptions to the minimum size and width requirements for set-aside.* Areas which do not meet the minimum size and width requirements may be accepted when:

(i) The area offered is an entire field (an established stripcropping strip and the area between terrace(s) and other field boundaries meet the definition of a field as provided for in § 718.2 (b) (4)).

(ii) The area offered is:

(A) An area used to promote highway safety or will improve highway scenery.

(B) A small or irregular area of cropland along a stream and a drainage ditch, provided the area is devoted to a vegetative cover (as a filter strip) to reduce the siltation of a stream or ditch.

(iii) The area offered is designated by the producer on ASCS records across the entire width or length of a field (designations across more than one dimension of a field must meet size and width requirements in paragraph (h)(1) of this section) and represents:

(A) The total set-aside requirement, or

(B) The balance of the set-aside requirement after other designations have been made that meet the minimum size and width requirements in paragraph (h)(1) of this section or are otherwise excepted in paragraphs (h)(2) (i) and (ii) of this section.

* * * * *

5. Section 718.9 is revised to read as follows:

§ 718.9 Notice of measured acreage.

Written notice of measured acreage shall be on a form prescribed by the Deputy Administrator and shall constitute notice to all interested producers on the farm. The county committee shall send such notice to the farm operator when:

(a) *For marketing quota crops.* The determined acreage for the crop exceeds the allotment (120 percent of the flue-cured tobacco agreements by more than the measurement variance in those cases where measurement variance is not applicable.

(b) *For upland, cotton, rice, grain sorghum, barley, corn, and wheat.* The determined acreage for the crop exceeds the reported acreage by more than the measurement variance.

(c) *For normal crop acreage.* The determined acreage for the total planted normal crop acreage exceeds the normal crop acreage for the farm minus set-aside by more than the measurement variance.

(d) *For set-aside.* The determined acreage for set-aside is less than the required set-aside by more than the measurement variance.

(e) *For other crops or land uses.* The county executive director or county committee may send a notice of measured acreage when it is in the best interest of program administration.

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(Sec. 314, 373, 375, 52 Stat. 48, as amended, 65, as amended, 66, as amended; (7 U.S.C. 1314, 1373, 1374, 1375)

Note.—The Agricultural Stabilization and Conservation Service has determined that this document does not contain a significant proposal requiring preparation of an Impact Statement.

Signed at Washington, D.C., on April 26, 1979.

Ray Fitzgerald,
Administrator, Agricultural Stabilization and Conservation Service.

[Amdt. 2]

[FR Doc. 79-14040 Filed 5-7-79; 8:45 am]

BILLING CODE 3410-05-M

Animal and Plant Health Inspection Service

9 CFR Part 82

Exotic Newcastle Disease; and Psittacosis or Ornithosis in Poultry; Areas Quarantined and Released

AGENCY: Animal and Plant Health Inspection Service USDA.

ACTION: Final rule.

SUMMARY: The purpose of these amendments is to quarantine a portion of Starr County in Texas because of the existence of exotic Newcastle disease. Exotic Newcastle disease was confirmed in Starr County on April 25, 1979. Therefore, in order to prevent the dissemination of exotic Newcastle disease it is necessary to quarantine a portion of Starr County in Texas.

Also, these amendments release a portion of Los Angeles County, California, and a portion of Dade County, Florida, from areas quarantined because of exotic Newcastle disease. Surveillance activity indicates that exotic Newcastle disease no longer exists in the areas released from quarantine. No areas in the State of Florida remain under quarantine.

EFFECTIVE DATE: May 2, 1979.

FOR FURTHER INFORMATION CONTACT: Dr. M. A. Mixson, USDA, APHIS, VS, Federal Building, Room 748, Hyattsville, MD 20782, 301-436-8073.

SUPPLEMENTARY INFORMATION: These amendments quarantine a portion of Starr County in Texas, because of the existence of exotic Newcastle disease in such area. Therefore, the restrictions pertaining to the interstate movement of poultry, mynah, and psittacine birds, and birds of all other species under any form of confinement, and their carcasses and parts thereof, and certain other articles, from quarantined areas, as contained in 9 CFR Part 82, as amended, will apply to the quarantined area.

Also, these amendments release a portion of Los Angeles County, California, and a portion of Dade County, Florida, from the areas quarantined because of exotic Newcastle disease under the regulations in 9 CFR Part 82, as amended. Therefore, the restrictions pertaining to the interstate movement of poultry, mynah and psittacine birds, and birds of all other species under any form of confinement, and their carcasses and parts thereof, and certain other articles from quarantined areas as contained in 9 CFR Part 82, as amended, will no longer apply to the areas released.

Accordingly, Part 82, Title 9, Code of Federal Regulations, is hereby amended in the following respects:

§ 82.3 [Amended]

1. In § 82.3(a)(8), relating to the State of Texas, a new paragraph (ii) relating to Starr County is added to read:

(a) * * *

(8) *Texas.* * * *

(ii) The premises of Cuauhtemoc Olivarez, 713 E. San Benito Street, Rio Grande City, Starr County.

2. In § 82.3(a)(11), relating to the State of California, paragraph (xi) relating to Los Angeles County, and paragraph (a)(4) relating to the State of Florida are deleted.

(Secs. 4-7, 23 Stat. 32, as amended; secs. 1 and 2, 32 Stat. 791-792, as amended; secs. 1-4, 33 Stat. 1264, 1265, as amended; secs. 3 and 11, 76 Stat. 130, 132 [21 U.S.C. 111-112, 115, 117, 120, 123-126, 134b, 134f]; 37 FR 28464, 28477; 38 FR 19141)

The amendments quarantining the area impose certain restrictions necessary to prevent the interstate spread of exotic Newcastle disease, and, therefore, must be made effective immediately to accomplish their purpose in the public interest.

The amendments releasing areas from quarantine relieve certain restrictions no longer deemed necessary to prevent the spread of exotic Newcastle disease. They should be made effective immediately in order to permit affected persons to move poultry, mynah, psittacine birds, and birds of all other species under any form of confinement, and their carcasses and parts thereof, and certain other articles, interstate from such areas without unnecessary restrictions. It does not appear that public participation in this rulemaking proceeding would make additional relevant information available to the Department.

Therefore, pursuant to the administrative procedure provisions in 5 U.S.C. 553, it is found upon good cause that notice and other public procedure with respect to this final rule are impracticable and contrary to the public interest and good cause is found for making this final rule effective less than 30 days after publication of this document in the **Federal Register.**

Further, this final rule has not been designated as "significant," and is being published in accordance with the emergency procedures in Executive Order 12044 and Secretary's Memorandum 1955. It has been determined by J. K. Atwell, Assistant Deputy Administrator, Animal Health Programs, APHIS, VS, USDA, that the emergency nature of this final rule warrants publication without opportunity for public comment or preparation of an impact analysis statement at this time.

This final rule implements the regulations in Part 82. It will be scheduled for review in conjunction with the periodic review of the regulations in that Part required under the provisions of Executive Order 12044 and Secretary's Memorandum 1955.

Done at Washington, D.C., this 2nd day of May 1979.

M. T. Goff,
Acting Deputy Administrator, Veterinary Services.

[FR Doc. 79-14143 Filed 5-7-79; 8:45 am]

BILLING CODE 3410-34-M

NUCLEAR REGULATORY COMMISSION

10 CFR Part 70

General License Requirements For Any Person Who Possesses Formula Quantities of Strategic Special Nuclear Material (SSNM) In Transit Subject to Certain Requirements

AGENCY: U.S. Nuclear Regulatory Commission.

ACTION: Final rule.

SUMMARY: The U.S. Nuclear Regulatory Commission (NRC) is amending its regulations to remove the exemption to licensing for carriers and other persons who possess or control formula quantities of strategic special nuclear material for the purpose of transport or storage incident to transport. Under the amendment a general license is issued to any person who possesses, or who exercises control over, formula quantities of strategic special nuclear material in transit. The general license will require such persons to be responsible for assuring that the material in their possession is protected against theft and sabotage by a security system which is implemented in accordance with a Transportation Security Plan that has received prior NRC approval. The general license would bring persons who possess or control formula quantities of strategic special nuclear material in transit directly under NRC physical protection regulations.

EFFECTIVE DATE: June 7, 1979.

FOR FURTHER INFORMATION CONTACT: Mr. R. J. Jones, Chief, Safeguards Standards Branch, Division of Siting, Health and Safeguards Standards, Office of Standards Development, U.S. Nuclear Regulatory Commission, Washington, D.C. 20555, 301-443-5907.

SUPPLEMENTARY INFORMATION: On May 24, 1978, the NRC published a proposed amendment to 10 CFR 70, "Domestic Licensing of Special Nuclear Material" (43 FR 22215). The amendment proposed to revise § 70.12 and add a new § 70.20a. Interested persons were invited to submit comments or suggestions in connection with the proposed amendment within 30 days after publication in the **Federal Register.** The comment period expired June 23, 1978. One comment was received from a licensee. The commenter offered the observation that the proposed amendment incorporates many references to other Sections of 10 CFR Part 70 which may be a problem for carriers heretofore not subject to NRC regulations. The commenter suggested that a revision to § 70.12 should provide a self-contained general license setting forth specifically applicable terms and conditions. The commenter offered to submit such a revision to § 70.12 to the NRC by July 21, 1978. However, the proposed revision was not received.

In response to the commnenter's remarks, staff believes that it is not necessary to repeat the details of each applicable paragraph of 10 CFR Parts 70 and 73 in such a detailed general license requirement under a revision to § 70.12. To do so would not necessarily simplify the proposed rule, but would lead to duplication of some sections of 10 CFR Parts 70 and 73. Therefore, staff believes that the method used in the proposed rule, that is, cross-referencing, is a reasonable and prudent method. Thus, the NRC is adopting the proposed amendment with only editorial and clarifying changes.

As initially proposed, paragraph 70.12 will remove the exemption to licensing for carriers and other persons who possess or control formula quantities of strategic special nuclear material for the purpose of transport or storage incident to transport. The new § 70.20a grants a general license to any person who would possess or control formula quantities of strategic special nuclear material in transit. The scope of the general license granted under the proposed amendment would be limited to possession only and will be effective during the course of a shipment. The amendment will not affect the exemption to licensing for carriers and other persons under § 70.12 who transport all other forms of special nuclear material subject to NRC regulations. Also, the amendment will not apply to transient shipments, that is, shipments which originate in a foreign country with destinations in a foreign country and which are not offloaded or transferred within the United States.

The amendment will subject the general licensee to certain enumerated Sections of Parts 70 and 73. The general license requires that a transportation security plan be submitted and receive prior NRC approval before any person could possess formula quantities of strategic special nuclear material for the purpose of transport or storage incident to transport. The plan submitted by a carrier or other person for the purpose of this general license may incorporate by reference the terms of a transportation security plan already approved by the NRC.

The amendment being adopted will codify practices and procedures presently conducted on a voluntary basis by carriers and other persons and will not require the filing of applications with the Commission or the issuing of licensing documents to particular persons by the Commission.

The promulgation of the amendment will not result in any activity that affects the environment. Accordingly, the Commission has determined under the National Environmental Policy Act, the Council of Environmental Quality guidelines, and the criteria of 10 CFR Part 51, that neither an environmental impact statement or environmental impact appraisal to support a negative declaration for the proposed amendment to 10 CFR Part 70 is required.

Pursuant to the Atomic Energy Act of 1954, as amended, the Energy Reorganization Act of 1974, as amended, and sections 552 and 553 of title 5 of the United States Code, the following amendment to Title 10, Chapter I, Code of Federal Regulations, Part 70 is published as a document subject to codification.

1. Section 70.12 is revised to read as follows:

§ 70.12 Carriers.

Common and contract carriers, freight forwarders, warehousemen, and the U.S. Postal Service are exempt from the regulations in this part to the extent that they transport or store special nuclear material in the regular course of carriage for another or storage incident thereto. The exemption in this section applies to shipments of formula quantities of strategic special nuclear material made through the United States from a point of foreign origin to a foreign destination, unless such a shipment or a portion thereof is offloaded for any purpose within the United States, when the general license under § 70.20a of this section shall apply. This exemption does not apply to the transport or storage in transit of formula quantities of strategic special nuclear material subject to the requirements of Part 73 of this chapter.

2. A new § 70.20a is added to read as follows:

§ 70.20a General license to possess special nuclear material for transport.

(a) A general license is hereby issued to any person to possess formula quantities of strategic special nuclear material of the types and quantities subject to the requirements of §§ 73.30 through 73.36 and 73.70(g) of Part 73 of this chapter, in the regular course of carriage for another or storage incident thereto. The general license is subject to the applicable provisions of §§ 70.32 (a) and (b), 70.42, 70.52, 70.55, 70.61, 70.62 and 70.71.

(b) Notwithstanding any other provision of this chapter, the general license issued under this section does not authorize any person to conduct any activity that would be authorized by a license issued pursuant to Parts 30 through 35, 40, 50, 110, or other sections of this part.

(c) Notwithstanding any other provision of this chapter, the duties of a general licenses under this section while in possession of formula quantities of strategic special nuclear material in the regular course of carriage for another or storage incident thereto shall be limited to providing for the physical protection of such material against theft or sabotage. Unless otherwise provided by this section, a general licensee under this section is not subject to the requirements of Parts 19, 20, 70, and 73.

(d) Any person who possesses formula quantities of strategic special nuclear material under this general license:

(1) shall have submitted and received approval of a transportation security plan. The security plan shall outline the procedures that will be used to meet the requirements of §§ 73.30 through 73.36 and 73.70(g) of this chapter including a plan for the selection, qualification, and training of armed escorts, or the

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specification and design of a specially designed truck or trailer as appropriate.

(2) shall assure that the transportation is in accordance with the applicable physical protection requirements of §§ 73.30 through 73.36 and 73.70(g) of Part 73 of this chapter and the applicable approved transportation security plan.

(3) shall be subject to § 73.80 of Part 73 of this chapter.

(Sec. 53, 161i, Pub. L. 83–703, 68 Stat. 930, 948 as amended (42 U.S.C. 2073, 2201))

Dated at Bethesda, Md. this 20th day of April 1979.

For the Nuclear Regulatory Commission.

Lee V. Gossick,

Executive Director for Operations.

[FR Doc. 79–14189 Filed 5–7–79; 8:45 am]

BILLING CODE 7590–01–M

SMALL BUSINESS ADMINISTRATION

13 CFR Part 121

Procedures for Size Determinations

AGENCY: Small Business Administration.

ACTION: Final rule.

SUMMARY: This amendment changes the composition of the SBA Size Appeals Board in connection with a recent SBA reorganization. The Associate Administrator for Minority Small Business and Capital Ownership Development and the Chief Counsel for Advocacy would become members of the Board in lieu of two positions no longer in existence under the reorganization. In accordance with current titles, the Associate Administrator for Policy, Planning and Budgeting is designated as the administering official for certain SBA size functions.

EFFECTIVE DATE: May 8, 1979.

FOR FURTHER INFORMATION CONTACT: Stephen Klein, Office of General Counsel, Small Business Administration, 1441 L Street, NW., Washington, D.C. 20416, 202–653–6762.

SUPPLEMENTARY INFORMATION: Since these amendments are administrative in nature, affecting rules of Agency organization and procedure, and would not adversely affect any person, SBA finds that notice and public procedure are unnecessary and that the rules may be effective immediately.

Accordingly, the Small Business Administration amends Part 121 of its Regulations (13 CFR Part 121) as follows:

§ 121.3–3 [Amended]

1. Section 121.3–3 Organization—Size Functions, is amended by deleting: "Assistant Administrator for Advocacy, Planning and Research" and substituting in lieu thereof "Associate Administrator for Policy, Planning and Budgeting."

2. Section 121.3–6(a) is amended by revising the paragraph setting forth the composition of the Size Appeals Board to read as follows:

§ 121.3–6 Appeals.

(a) * * * The Size Appeals Board shall consist of five members, to wit: The Deputy Administrator (Chairperson); the Associate Administrator for Procurement Assistance (Vice Chairperson); the Associate Administrator for Finance and Investment; the Associate Administrator for Minority Small Business and Capital Ownership Development; and the Chief Counsel for Advocacy. In the event the Vice Chairperson acts as Chairperson in the stead of the Deputy Administrator, the Director of the Office of Procurement and Technical Assistance shall become a member of the Board. Each member shall designate one alternate in writing to act in his stead, and in the event of an emergency, the Chairperson may designate a temporary additional alternate for any member. Each member or his alternate shall have one vote except that the Chairperson or the Vice Chairperson acting in his stead shall vote only in the event of a tie.

Dated: April 26, 1979.

William H. Mauk, Jr.,

Acting Administrator.

[Revision 13, Amendment 27]

[FR Doc. 79–14364 Filed 5–7–79; 8:45 am]

BILLING CODE 8025–01–M

CIVIL AERONAUTICS BOARD

14 CFR Part 291

Domestic Cargo Transportation

Adopted by the Civil Aeronautics Board at its office in Washington, D.C. April 26, 1979.

AGENCY: Civil Aeronautics Board

ACTION: Final rule.

SUMMARY: The CAB is amending, on its own initiative, its regulations exempting persons involved in domestic cargo transportation from section 409 of the Federal Aviation Act relating to interlocking relationships. The initial rule exempted air carriers, but not officers or directors of air carriers, although the latter are also governed by section 409. This rule corrects that error.

DATES: Adopted: April 26, 1979. Effective: April 26, 1979.

FOR FURTHER INFORMATION CONTACT: Richard B. Dyson, Associate General Counsel, Civil Aeronautics Board, 1825 Connecticut Avenue, NW., Washington, D.C. 20428; 202–673–5442.

SUPPLEMENTARY INFORMATION: In ER–1080, effective November 9, 1978 (43 FR 53628, November 16, 1978), the Board issued comprehensive regulations implementing Pub. L. 95–163, which deregulated the domestic all-cargo air transportation industry. The final rule was preceded by a notice of proposed rulemaking, EDR–359 (43 FR 33733, August 1, 1978) and public comments. Section 291.31(f) of the final regulation (redesignated as § 291.31(a)(5) by ER–1103, 44 FR 9590, February 14, 1979, effective March 15, 1979) exempted direct air carriers engaged solely in domestic all-cargo transportation from obtaining prior Board approval of interlocking relationships governed by section 409. The Board granted the exemption to free the domestic industry from mandatory Board approval of interlocking relationships, since it appears that general public antitrust laws are adequate to guard the public interest. As an exemption for air carriers is pointless without an exemption for the officers and directors actually involved, this rulemaking extends the exemption to those individuals.

The exemption for officers and directors is made by adding a new paragraph to § 291.32, *Exemptions from the Act for persons other than direct air carriers.*

This rulemaking raises no substantive issues that were not considered and commented on in the prior rulemaking (EDR–359 and ER–1080). Since the error may be misleading to members of the public, it should be corrected immediately. Therefore, the Board finds for good cause that notice and public procedure on this rule are unnecessary and contrary to the public interest, and that the amendment should be made effective immediately.

Accordingly, the Civil Aeronautics Board amends § 291.32 of 14 CFR Part 291, *Domestic Cargo Transportation,* by designating the existing paragraph as (a) and adding a new paragraph (b), to read as follows:

§ 291.32 Exemptions for the Act for persons other than direct air carriers.

(a) Air freight forwarders * * *

(b) To the extent that any officer or director of any air carrier would otherwise be in violation of section 409(a)(3) or 409(a)(6) of the Act because of any interlocking relationship covered under § 291.31(a)(5), that individual is hereby exempted from section 409 of the Act.

(Secs. 204, 409, 416 of the Federal Aviation Act of 1958, as amended, 72 Stat. 743, 768, 92 Stat. 1731; 49 U.S.C. 1324, 1378, 1386.)

Phyllis T. Kaylor,

Secretary.

[Regulation ER–1118; Amdt. 4]

[FR Doc. 79–14251 Filed 5–7–79; 8:45 am]

BILLING CODE 6320–01–M

14 CFR Part 291

Domestic Cargo Transportation

Adopted by the Civil Aeronautics Board at its office in Washington, D.C. on April 26, 1979.

AGENCY: Civil Aeronautics Board.

ACTION: Final rule.

SUMMARY: The CAB is amending, on its own initiative, its regulations exempting persons involved in domestic cargo transportation from section 409 of the Federal Aviation Act. The initial rule exempted air carriers, but not officers or directors of air carriers, although the latter are also governed by section 409. This rule corrects that error.

DATES: Adopted: April 26, 1979. Effective: April 26, 1979.

FOR FURTHER INFORMATION CONTACT: Richard B. Dyson, Associate General Counsel, Civil Aeronautics Board, 1825 Connecticut Avenue, N.W., Washington, D.C. 20428; 202–673–5442.

SUPPLEMENTARY INFORMATION: In ER–1080, effective November 9, 1978 (43 FR 53628, November 16, 1978), the Board issued comprehensive regulations implementing Public Law 95–163, which deregulated the domestic all-cargo air transportation industry. The final rule was preceded by a notice of proposed rulemaking, EDR–359 (43 FR 33733, August 1, 1978) and public comments. Section 291.31(f) of the final regulation (redesignated as § 291.31(a)(5) by ER–1103, 44 FR 9590, February 14, 1979, effective March 15, 1979) exempted direct air carriers engaged solely in domestic all-cargo transportation from obtaining prior Board approval of interlocking relationships governed by section 409. The Board granted the exemption to free the domestic all-cargo industry from mandatory Board approval of interlocking relationships, since it appears that general public antitrust laws are adequate to guard the public interest. As an exemption for air carriers is pointless without an exemption for the officers and directors actually involved, this rulemaking extends the exemption to those individuals.

The exemption for officers and directors is made by adding a new paragraph to § 291.32, *Exemptions from the Act for persons other than direct air carriers.*

This rulemaking raises no substantive issues that were not considered and commented on in the prior rulemaking (EDR–359 and ER–1080). Since the error may be misleading to members of the public, it should be corrected immediately. Therefore, the Board finds for good cause that notice and public procedure on this rule are unnecessary and contrary to the public interest, and that the amendment should be made effective immediately.

Accordingly, the Civil Aeronautics Board amends § 291.32 of 14 CFR Part 291, *Domestic Cargo Transportation,* by designating the existing paragraph as (a) and adding a new paragraph (b), to read as follows:

§ 291.32 Exemptions for the Act for persons other than direct air carriers.

(a) Air freight forwarders * * *

(b) To the extent that any officer or director of any air carrier would otherwise be in violation of section 409(a)(3) or 409(a)(6) of the Act because of any interlocking relationship covered under § 291.31(a)(5), that individual is hereby exempted from section 409 of the Act.

(Secs. 204, 409, 416 of the Federal Aviation Act of 1958, as amended, 72 Stat. 743, 768, 92 Stat. 1731; 49 U.S.C. 1324, 1378, 1386.)

Phyllis T. Kaylor,

Secretary.

[Regulation ER–1118; Amdt. 4]

[FR. Doc. 79–14313 Filed 5–7–79; 8:45 am]

BILLING CODE 6320–01–M

FEDERAL TRADE COMMISSION

16 CFR Part 13

Prohibited Trade Practices and Affirmative Corrective Actions; Federated Department Stores, Inc.

AGENCY: Federal Trade Commission.

ACTION: Final order.

SUMMARY: In settlement of alleged violations of federal law prohibiting unfair acts and practices and unfair methods of competition, this consent agreement, among other things requires a Cincinnati, Ohio operator of retail department stores to cease entering into or enforcing agreements which grant the firm the right to exclude certain tenants from shopping centers; control tenants' advertising, goods and prices; or otherwise restrict competition.

DATES: Complaint and order issued April 2, 1979.[1]

FOR FURTHER INFORMATION CONTACT: Lois G. Pines, Director, 2R, Boston Regional Office, Federal Trade Commission, 150 Causeway St., Rm 1301, Boston, Mass. 02114. (617) 223–6621.

SUPPLEMENTARY INFORMATION: On Monday, Jan. 22, 1979, these was published in the **Federal Register,** 44 FR 4497, a proposed consent agreement with analysis in the matter of Federated Department Stores, Inc., a corporation, for the purpose of soliciting public comment. Interested parties were given sixty (60) days in which to submit comments, suggestions, or objections regarding the proposed form of order.

No comments having been received, the Commission has ordered the issuance of the complaint in the form contemplated by the agreement, made its jurisdictional findings and entered its order to cease and desist, as set forth in the proposed consent agreement, in disposition of this proceeding.

The prohibited trade practices and/or corrective actions, as codified under 16 CFR 13, are as follows: Subpart—Combining or Conspiring: § 13.395 To control marketing practices and conditions; § 13.430 To enhance, maintain or unify prices; § 13.450 To limit distribution or dealing to regular, established or acceptable channels or classes; § 13.470 To restrain or monopolize trade. Subpart—Controlling, Unfairly, Seller/Suppliers: § 13.530 Controlling, unfairly, seller-suppliers. Subpart—Cutting Off Access To Customers or Market: § 13.560 Interfering with distributive outlets; § 13.565 Interfering with advertising mediums. Subpart—Interfering With Competitors or Their Goods: § 13.1080 Interfering with competitors or their goods.

(Sec. 6, 38 Stat. 721; 15 U.S.C. 46. Interprets or applies sec. 5, 38 Stat. 719, as amended; 15 U.S.C. 45)

Carol M. Thomas,

Secretary.

[Docket C–2958]

[FR Doc. 79–14299 Filed 5–7–79; 8:45 am]

BILLING CODE 6750–01–M

[1] Copies of the Complaint and Decision and Order filed with original document.

16 CFR Part 213

Prohibited Trade Practices and Affirmative Corrective Actions; Louisiana-Pacific Corporation

AGENCY: Federal Trade Commission.

ACTION: Final order.

SUMMARY: In settlement of alleged violations of federal law prohibiting unfair acts and practices and unfair methods of competition, this consent agreement, among other things, requires a Portland, Ore. firm engaged in harvesting and converting timber into various wood products, including medium density fiberboard (MDF) and particleboard, to divest, within two years to a Commission-approved buyer, the Rocklin MDF plant, which firm acquired through its merger with the Fiberboard Corporation; and offer the new buyer the opportunity to purchase from the firm, for five years, a limited amount of the raw materials necessary to manufacture MDF. Additionally, the order prohibits the firm, for ten years, from acquiring without prior agency approval, any entity engaged in the manufacture of particleboard or MDF.

DATES: Complaint and order issued Feb. 27, 1979.[1]

FOR FURTHER INFORMATION CONTACT: FTC/C, Alfred F. Dougherty, Jr., Washington, D.C. 20580. (202) 523–3601.

SUPPLEMENTARY INFORMATION: On Wednesday, September 13, 1978, there was published in the **Federal Register**, 43 FR 40882, a proposed consent agreement with analysis In the Matter of Louisiana-Pacific Corporation, a corporation, for the purpose of soliciting public comment. Interested parties were given sixty (60) days in which to submit comments, suggestions, or objections regarding the proposed form of order.

Comments were filed and considered by the Commission. The Commission has ordered the issuance of the complaint in the form contemplated by the agreement, made its jurisdictional findings and entered its order to cease and desist, as set forth in the proposed consent agreement, in disposition of this proceeding.

The prohibited trade practices and/or corrective actions, as codified under 16 CFR 13, are as follows: Subpart—Acquiring Corporate Stock or Assets: § 13.5 Acquiring corporate stock or assets; 13.5–20 Federal Trade Commission Act.

[1] Copies of the Complaint and Decision and Order filed with the original documents.

(Sec. 6, 38 Stat. 721; 15 U.S.C. 46. Interpret or apply sec. 5, 38 Stat. 719, as amended; sec. 7, 38 Stat. 731, as amended; 15 U.S.C. 45, 18)

Carol M. Thomas,
Secretary.

[Docket C–2956]

[FR Doc. 79–14300 Filed 5–7–79; 8:45 am]

BILLING CODE 6750–01–M

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

18 CFR Part 154

Natural Gas Policy Act of 1978; Order Extending Time To File Protests and Clarifying Prior Order

AGENCY: Federal Energy Regulatory Commission, DOE.

ACTION: Order Extending Time.

SUMMARY: The Federal Energy Regulatory Commission amends its regulations by extending the deadline for the filing of protests to blanket affidavits and interim collection filings. This will enable more time for an interested party to challenge contractual authority to collect a maximum lawful price under the Natural Gas Policy Act of 1978.

EFFECTIVE DATE: April 30, 1979.

ADDRESSES: All filings should reference Docket No. RM79–22 and should be addressed to: Office of the Secretary, Federal Energy Regulatory Commission, 825 North Capitol Street NE., Washington, D.C. 20426.

FOR FURTHER INFORMATION CONTACT: Phil Yates, Federal Energy Regulatory Commission, 825 North Capitol Street NE., Washington, D.C. 20426, (202) 275–4212.

On March 13, 1979, the Commission issued Order No. 23 in Docket No. RM79–22 (44 FR 16895, March 20, 1979). Order No. 23 dealt generally with the question of contractual authority to collect maximum lawful prices under the Natural Gas Policy Act of 1978 (NGPA).[1] Apart from that question was the procedural issue of how an interested party could protest the collection of an NGPA maximum lawful price if that interested party asserted that the applicable contract did not provide the requisite authority to collect the price.

In Order No. 23 we stated:

> [T]he Commission will establish a general protest procedure in which parties in interest can petition the Commission for a specific determination as to whether a particular contractual clause constitutes the requisite authority to charge and collect Natural Gas Policy Act rates. In light of the administrative difficulties, complexities and general practical problems which attend the transitional period, the Commission will amend its protest procedures contained in § 154.94 to allow for filings of protests within the latter of 90 days after filing of an affidavit, or May 1, 1979. Similarly, protest to interim and retroactive collection filings may be filed within the latter of 90 days of the filing of notice to the Commission, or May 1, 1979. The Commission, for practical administrative reasons and in order to give some certainty to these matters, will not entertain protests filed after that date. Of course, parties in interest may still be able to resort to the courts to seek resolution of the question.[2]

Requests for clarification of Order No. 23 were filed by the Associated Gas Distributors (AGD), and by the New York Public Service Commission (NYPSC). Several issues were raised in each request for clarification, but only two require immediate Commission action.

AGD requested that the May 1, 1979, deadlines for filing protests be extended, due to the practical difficulties in complying with that date in light of the large number of natural gas contracts which may be the subject of protests. We agree that the practical difficulties in meeting the May 1, 1979, deadlines are substantial. Accordingly, the Commission finds that good cause exists to amend § 154.94 to extend the date for the filing of protests from May 1, 1979, to June 15, 1979. In light of our extension of the dates for filing protests, we do not consider further AGD's motion for emergency procedural relief or its motion for stay of Order No. 23.[3] The Commission is evaluating the pleadings suggesting that the present protest procedure is inadequate,[4] and will issue a notice requesting comments on possible changes to that procedure. If the Commission has not completed its evaluation in advance of the expiration of the 45 day extension, it will further extend the time for the filing of protests; if the protest procedure is modified, the Commission will allow a reasonable time for the filing of protests under the procedure adopted.

[1] Pub. L. 95–621, 92 Stat. 3350.

[2] Order No. 23, mimeo at 52.

[3] This order does not deny these motions; they remain before the Commission for such further consideration as may be appropriate. Nor shall such motions be deemed denied by the decision to postpone action thereon. *Cf.* 18 CFR 1.12(e) (motion made after hearing commenced deemed denied if Commission does not act within 30 days of filing or referral).

[4] E.g. Application of the Public Service Commission of the State of New York for Rehearing of Order No. 23; Petition of the State of Michigan and the Michigan Public Service Commission for Rehearing of Order No. 23. Both filings were made on May 12, 1979, in Docket No. RM79–22.

The other issue the Commission must address is the request by NYPSC and AGD that Order No. 23 be clarified to indicate that failure to protest a jurisdictional agency determination [5] will not waive an interested party's right to contest an issue of contractual authority. The Commission does not consider a jurisdictional agency determination of a well's NGPA pricing category to have any relevance to the question of contractual authority to collect the maximum lawful price for that category. Thus the Commission agrees that "the procedures for protesting producer claims to contractual authority to charge NGPA ceiling rates are independent of the Commission's review proceedings with respect to determinations by jurisdictional agencies pursuant to Section 503 of the NGPA." [6]

(Natural Gas Act as amended, 15 U.S.C. 717, *et seq.*, Energy Supply and Environmental Coordination Act, 15 U.S.C. 761, *et seq.*, Natural Gas Policy Act of 1978, Pub. L. 95–621, 92 Stat. 3350, Department of Energy Organization Act, Pub. L. 95–91, E.O. 12009, 42 FR 46267.)

In view of the need for prompt Commission action in these circumstances to provide an opportunity to file challenges to contractual authority, and since notice and opportunity for comment are impracticable, unnecessary and contrary to the public interest, the Commission finds that good cause exists to issue these amendments without opportunity for notice and public procedure thereon. For the same reasons, good cause exists to issue these regulations effective immediately.

In consideration of the foregoing, Part 154 of Subchapter E, Chapter I, Title 18, Code of Federal Regulations, is amended as set forth below.

By the Commission.

Kenneth F. Plumb,
Secretary.

§ 154.94 [Amended]

Section 154.94 is amended in paragraph (h)(8) and (i)(3) by changing "May 1, 1979" to "June 15, 1979."

[Docket No. RM79–22]

[FR Doc. 79–14280 Filed 5–7–79; 8:45 am]

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[5] Section 275.201(d) of the Commission's regulations requires a protest to a jurisdictional agency determination to be filed within fifteen days.

[6] NYPSC's Request for Clarification, at page 4.

18 CFR Part 281

Natural Gas Curtailment; Implementation of Section 401 of the Natural Gas Policy Act

AGENCY: Federal Energy Regulatory Commission.

ACTION: Final rule.

SUMMARY: The Federal Energy Regulatory Commission (Commission) completes the Commission's process of establishing rules to carry out its statutory responsibilities under Section 401(a) of the Natural Gas Policy Act of 1978 (NGPA). It establishes a permanent curtailment rule which provides that to the maximum extent practicable curtailment plans of interstate pipelines protect deliveries of natural gas for "essential agricultural users" and for "high-priority users" as these terms are defined in Section 401(f)(2) of the NGPA.

EFFECTIVE DATE: June 7, 1979.

FOR FURTHER INFORMATION CONTACT: Mary Jane Reynolds, Office of the General Counsel, Federal Energy Regulatory Commission, Room 8000, 825 North Capitol Street, N.E., Washington, D.C. 20426, (202) 275–4283.

Background

Section 401 of the Natural Gas Policy Act of 1978 (NGPA) seeks to assure that natural gas required for essential agricultural uses will not be curtailed unless curtailment is required to protect the needs of certain enumerated high priority users. Section 401 of the NGPA establishes a curtailment scheme where the Secretary of Agriculture (USDA) determines the volumetric amounts required by essential agricultural users, the Secretary of Energy establishes curtailment priorities and the Federal Energy Regulatory Commission (Commission) establishes procedures whereby the curtailment plans of interstate pipelines carry out the Congressional policy to provide agricultural users certain protections from curtailment. The rule promulgated herein completes the Commission's process of promulgating rules to carry out its statutory responsibilites under Section 401(a) of the NGPA. A rule proposing procedures for alternate fuel determinations under Section 401(B) is the subject of a separate rulemaking in Docket No. RM79–40.

Specifically, the Commission must implement the USDA and Economic Regulatory Administration (ERA) rules so that, to the maximum extent practicable, no curtailment plan of an interstate pipeline results in curtailment of deliveries of natural gas for any essential agricultural use, below the requirement specified by the USDA unless such curtailment is necessary in order to meet the requirements of high-priority users, as that term is defined in Section 401(f)(2) of the NGPA.

Title IV of the NGPA creates new priority classifications for high-priority uses as defined in the statute. These are "essential agricultural uses", and "essential industrial process and feedstock uses". The ERA of the Department of Energy is studying curtailment priority policy and will likely propose rules to implement Section 402 at some future time. However, it does not appear that ERA will have done so in time to be coordinated with implementation of Section 401.

Section 401(a) provides that not later than 120 days after the date of enactment of the NGPA the Secretary of Energy shall prescribe and make effective a rule which provides that no curtailment plan of an interstate pipeline may provide for curtailment of deliveries of natural gas for essential agricultural use except to meet the requirements of enumerated high-priority users.[1]

Section 401(c) states that the USDA shall certify to the Secretary of Energy and to the Commission the natural gas requirements for essential agricultural uses in order to meet the requirements of full food and fiber production.[2]

Pursuant to Section 403(b) of the NGPA and Section 402(a)(1)(E) of the Department of Energy Organization Act, the Commission is charged with implementing the rules mandated by Section 401 under its authority to establish, review, and enforce curtailments under the Natural Gas Act. By a separate rulemaking the Commission has promulgated an Interim Rule to give effect to section 401 for the period April 1, 1979 to October 31, 1979. The permanent rule will be effective with respect to deliveries of natural gas for the winter heating season of 1979–80 and thereafter.

The interim rule promulgated by the Commission set forth a procedure whereby high-priority users and essential agricultural users can obtain relief from curtailment of the natural gas they use. In response to the interim rule interstate pipelines have filed tariff provisions which provide high-priority users and essential agricultural users relief from curtailment in a manner analagous to the existing life and

[1] 44 FR 1526 (March 1, 1979).

[2] The USDA rule is an interim final rule, and the substantive provisions thereof may be changed in their [its] final rule.

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property provisions that have long been common in pipeline tariffs. In contrast to the approach of having eligible users apply for additional supplies when necessary, the permament rule provides protection by reordering the priority classifications in accordance with the priority system set forth in Section 401 of the NGPA. The reordering places high-priority users, as defined by the statute,[3] and essential agricultural users, as also defined by the statute, in new priority of service classifications 1 and 2, respectively.

In essence, the Commission is retrofitting existing curtailment plans to accommodate the new Congressional mandate in Section 401. In doing so, the Commission is not unmindful of the *State of North Carolina* v. *F.E.R.C.*, 584 F 2d 1003 (D.C. Cir. 1978) where an end-use curtailment plan was found deficient both because the natural gas was allocated using base period data which did not bear relationship to current end-uses of the natural gas, and because the Commission failed to consider the differing impact of the plan on full and partial requirements customers. However, *North Carolina* involved review of a curtailment plan implemented solely under the authority of the Natural Gas Act. In Section 401 Congress mandated that the Commission modify curtailment plans (which have been implemented under the NGA) to protect essential agricultural uses of natural gas, except to the extent the natural gas is necessary for high-priority uses. The Section 401 requirement is superimposed upon the Natural Gas Act standards for a curtailment plan. By Congressional mandate, it must be implemented notwithstanding the standards which have historically controlled determinatioin of lawfulness of curtailment plans under the NGA. Therefore, the Commission does not believe that *North Carolina* controls this rulemaking.

Moreover, in implementing Section 401, Congress has indicated that it does "not intend the reopening of curtailment plans for this limited purpose [of protecting essential agricultural requirements] to result in adoption of a new base year for curtailment purposes". Conf. Report No. 1752, 95th Cong. 2d Sess. 113 (1978). If the Commission were to apply the rule in *North Carolina* to the curtailment plans resulting solely from implementation of Section 401, it would necessarily require the Commission to reopen all existing curtailment plans which have been found just and reasonable. This result is both administratively infeasible and contrary to Congressional intent.

The Secretary of Energy and the USDA have promulgated the statutorily required rules. On March 9, 1979, the ERA promulgated a final rule wherein certain terms are defined, and wherein curtailment priorities as set forth in Section 401 of the NGPA are established. Likewise, the Secretary of Agriculture has promulgated an Interim Final Rule (44 FR 11526, March 1, 1979) which establishes the volumetric requirements for essential agricultural users. (7 CFR 2900.4)

To implement the statutorily mandated upgrading of priorities in accord with the USDA and ERA rule, the Commission issued a Notice of Proposed Rulemaking on January 12, 1979, in this docket. The deadline for filing Comments was March 20, 1979. Public hearings were held in various locations.[4] On the basis of the record established, including the written and oral comments received, the Commission has modified its initial proposal and now promulgates the rule contained herein.

The Commission has had the benefit of consultation with the USDA as contemplated by Section 401. This consultation has been extremely valuable to the Commission in its process of evaluating and determining the method by which to implement Section 401. The Commission is aware, however, that consultation does not imply concurrence by the USDA with all aspects of this rule.

The Rule

Under the permanent rule promulgated today, most customers—both direct customers and local distribution company customers—of interstate pipelines will be required to re-examine the data used to determine base period volumes for curtailment plans in order to identify which volumes meet the ERA's definition of priority 1. Only volumes whose deliveries are protected by the NGPA before deliveries to essential agricultural users will be included in priority 1. The rationale for this treatment stems from the Secretary of Energy's definition of "high-priority use" (Priority 1). In the ERA rule, "high-priority use" is not defined in the same manner as the definition of "high-priority use" in the currently effective curtailment plans of certain interstate pipelines. Schools, hospitals, and large apartment buildings included by ERA in priority 1 generally were not given priority 1 treatment in most interstate pipeline plans. Likewise, some curtailment plans of interstate pipelines may have included in their priority 1 classification end-uses which are not categorized in the priority 1 category by the Department of Energy.

Pipeline curtailment plans will include a new priority 2 which will contain the requirements necessary to serve essential agricultural uses as defined by the Secretary of Agriculture.

The USDA interim rule defines volumetric requirements:

§ 2900.4 *Essential agricultural volume requirements.* (a) For purposes of section 401 of the NGPA, Essential Agricultural columetric Requirements are certified to be:

(1) For each Essential Agricultural Use Establishment which (i) uses natural gas on farm for agricultural production, or (ii) consumes 300 mcf or less of natural gas per peak day (whether such Essential Agricultural Use Establishment is in existence on the effective day of this rule or comes into existence thereafter)—100 percent of the current requriements.

(2) For each Essential Agricultural Use Establishment not inlcuded in paragraph (1) (whether such Essential Agricultural Use Establishment is in existence on the effective date of this rule or comes into existence thereafter)—the higher of:

(i) The actual volume of natural gas used by such Essential Agricultural Use Establishment (corrected to include amounts of process and feedstock gas not used because of curtailment or plant shutdown) during the applicable period of the most recent 3 years (updated annually) which has the highest corrected volume; provided, however, that if any such Essential Agricultural Use Establishment shall have been in existence less than 3 years, the applicable period shall be that having the highest correct volume of such Essential Agricultural Use Establishment's existence; or

(ii) the maximum volume such Essential Agricultural Use Establishment would be entitled to purchase under the interstate pipeline's curtailment plan in effect on the effective date of this rule.

The volumes included in the other priority classifications in an interstate pipeline's plan must be reduced to the extent that those volumes are now placed in new priorities 1 or 2. Uses not included in priorities 1 or 2 would be handled in accord with current curtailment plans, but deliveries of all such volumes would be given a lower preference than delivery of new priority 1 and 2 volumes.

The changes in curtailment plans are to be implemented on November 1, 1979. It will be necessary for the interstate pipelines to revise the volumes of natural gas reflected in each category or service in their curtailment plans in order to affect the changes brought about by the NGPA. Thus, although the rule will not be implemented until November 1, substantial work will be required before that date to prepare for its implementation. End-users, local distribution companies, and interstate pipelines will immediately commence work to modify the curtailment plans of the interstate pipelines in accordance with this rule and the NGPA.

In past curtailment proceedings the parties have often arrived at a settlement of all issues without resort to adjudicatory proceedings before the Commission. This procedure may be appropriate here, and nothing in the rule precludes any interstate pipeline and its customers from proposing, as a settlement, a curtailment plan that differs from that set out in our rule. Such a settlement will be evaluated by the Commission in the light of its responsibility to meet the statutory goal of protecting, to the maximum extent practicable, high priority users and essential agricultural uses.

Summary of Comments and of Revisions of Commission Rule

On January 12, 1979, the Commission issued its Notice of Proposed Rulemaking 44 FR 3725 (January 18, 1979) for development of a curtailment rule to implement Section 401 of the NGPA on a permanent basis. The proposed rule was issued prior to final action of ERA and USDA with respect to issuance of their final rules required by Section 401.[5] The Commission now has the benefit of the final ERA rule and the interim final USDA rule.

The Commission's final rule adopts the ERA rule in its entirety, and the Certification of "Essential Agricultural Use" and Volumetric Requirements of USDA's interim final rule. Interstate pipelines are required to provide gas to supply the certified volumetric requirements for those users designated by the USDA.[6] However, the interstate pipeline is not required to deliver natural gas to any customer in violation of any volumetric limitations set out in the contract between the interstate pipeline and its customer.

The Commission recognizes that incorporation by reference of the USDA rule will result in some expansion in the entitlements over the entitlements contained in current pipeline curtailment plans. In the past, the Commission's policy has not favored load growth; i.e., increasing new customers or base period entitlements. However, the Commission's reading of the NGPA and the many comments and legal analysis provided it in the extensive record in this proceeding leads it to the conclusion that some agricultural load growth was intended by Congress. The Commission has determined it must make the appropriate modifications where necessary to carry out the Congressional mandate. The Commission's reading of Section 401, amply supported by the rulemaking record, indicates that Congress intended to up-grade the priority classification of essential agricultural users while specifically protecting high-priority users. However, Congress did not mandate that high-priority load growth. Thus, to the extent that load growth is required by the USDA rule and the agricultural users (or its local distributor) has the requisite contractual authority, it is the Commission's view that Congress intended that agricultural load growth be permitted. The Commission recognizes that if gas supplies are inadequate this may require some disruption of service to established consumers but the legislative history indicates that Congress was prepared to accept such an impact.

The significance of the Commission's statement in the interim rule that pipelines are not required to serve those certified USDA volumetric requirements if serving them would require providing gas in excess of volumetric specifications in contracts or certificates of public convenience and necessity was a subject of much comment and discussion by the parties to this rulemaking. Some commentors took the position that Section 401 created new natural gas entitlements that override existing certificates or contracts. However, it was pointed out by many other parties that increased service by interstate pipelines is governed by Section 7 of the Natural Gas Act (NGA) dealing with certificates of public convenience and necessity while curtailment plans in contrast deal with reductions in existing service. Most of the speakers questioned at the hearings agreed that Section 401 of the NGPA does not compel an interstate pipeline to serve an essential agricultural user who is not now served by that pipeline. The view expressed was that absent the issuance of a certificate of public convenience and necessity under Section 7 of the NGA interstate pipelines cannot be required to increase service to existing customers or attach new customers. There was no indication that Congress, in enacting the NGPA intended to override the certificate requirements of Section 7 of the NGA. It was pointed out by a number of speakers including representatives of several state Commissions that the policies of local distribution companies regarding the addition of new customers is generally subject to state regulation. The Commission does not believe that Section 401 binds state regulators to order local distribution companies to add new customers, increase deliveries or execute new or modified contracts or service agreements.

In general, it is the Commission's view that contract and certificate limitations would apply whether or not the Commission made a specific reference to them in its regulation. The Federal Power Commission (FPC) in allocating diminished supplies of natural gas to users with existing contracts was required to override certain contract features but it was generally recognized that curtailment plans did not create additional contract entitlements.

In discussing the natural gas shortage and the need for curtailments, the United States Supreme Court stated:

> The shortage is said to require curtailment of contracted natural gas deliveries by Transco to its customers during periods of high demand. The curtailment plans concern methods of allocating the shortfall among the various customers. *FPC* v. *Transcontinental Gas Pipeline Corp.*, 423 U.S. 326, 327–8 (1976).

This statement indicates the Supreme Court's recognition, that curtailments

[3] Section 401(f)(2)(C) defines high-priority use as gas used *inter alia* in a "school, hospital, or similar institution." The Commission has defined schools and hospitals broadly in lieu of defining "similar institution." Section 401(f)(2)(D) provides that high-priority uses also include "natural gas in any other use the curtailment of which the Secretary of Energy determines would endanger life, health, or maintenance of physical property". In accord with this provision, the Secretary of Energy has defined as high-priority use natural gas used "for minimum plant protection, for fire protection, in a sanitation facility, in a correctional facility, or for emergency situations pursuant to 18 CFR 2.78(a)(4)." 10 CFR 581.02(b)(6)(iv). Volumes of natural gas necessary for "minimum plant protection when the plant is shut down" and for "emergency situations pursuant to 18 CFR 278(a)(4)" are not based upon historical requirements for which entitlements can be appropriately calculated. Accordingly the rule requires every pipeline to include an emergency relief clause providing for delivery of such volumes. 18 CFR 281.204(c).

[4] March 6, 1979—California Public Utilities Commission, California State Building, 350 McAllister Street, San Francisco, California

March 9, 1979—Holiday Inn, 1911 I–40E at Ross, Amarillo, Texas

March 13 and 14—Federal Energy Regulatory Commission, 825 North Capitol Street, N.E., Washington, D.C.

March 16, 1979—Wisconsin Public Service Commission, 4802 Sheboygan Avenue, Madison, Wisconsin

March 19, 1979—Arkansas Public Service Commission, Justice Building, Little Rock, Arkansas

[5] ERA's final rule was issued on March 9, 1979, and the Interim Final Rule of USDA was issued to become effective on February 28, 1979, until superseded by a permanent rule expected to be issued on or about April 30, 1979.

[6] The Department of Agriculture certified essential agricultural uses without regard to contract or service limitations.

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are superimposed upon existing contractual relationships.

Similarly, in its initial discussion of the Transco curtailment case the United States Court of Appeals for the District of Columbia stated:

> When a pipeline company's natural gas supplies become inadequate to meet contractual commitments to customers, there must be a provision—through a curtailment plan—for apportioning the diminishing gas supply among the customers. *State of North Carolina* v. *FERC*, No. 76-2102 (D.C. Cir. 1978), slip opinion at 8.

The FPC's later curtailment plans did not recognize the contract distinction between firm and interruptible contracts. The underlying goal in the FPC's curtailment policy was to establish a system of priorities of service based on the end use of the natural gas. The firm interruptible contract distinction does not provide an adequate basis for determining the end use of the gas. In general, however, except where it was necessary to achieve end-use principles, curtailment policy has recognized that entitlement to gas requires both contractual authority as well as recognition in a curtailment plan.

The Commission adopts the USDA's certification of essential agricultural uses, but fully recognizes that increases in service are still subject to applicable state law, to Section 7 of the NGA, and, existing contracts to which the interstate pipeline is a party. Parties are free to amend their contracts and pipelines are free to file applications for new or amended certificates under Section 7.

In all other respects, it is the Commission's intention to preserve the existing base period data and method of implementation of existing interstate pipeline curtailment plans. We are particularly mindful of the Statement of Managers which expresses a clear desire to avoid disruption of existing curtailment plans upon implementation of Section 401.

Alternate Fuel Test

The Commission is authorized by Section 401(b) of the NGPA to exercise its authority to approve or modify certified volumes of all essential agricultural users through application of a statutory alternate fuel test. The Commission, under Docket No. RM79-40, is issuing today as a corollary rule, a Notice of Proposed Rulemaking which notices a rule providing for procedures for making the alternate fuel determination. Accordingly, those principles will not be addressed here.

Data Verification Committees

The concept of using a Data Verification Committee (DVC) in order to deal with data management problems on each pipeline as expressed in the Commission's proposed rule received considerable attention in the comments of the parties. The agricultural community strenuously objected to this use of the DVC. Agricultural representatives argued that the proposed rule would vest too much power in the DVC by virtue of giving them fact-finding authority. They also argued that agricultural representatives were not included as standing members. Many agricultural users stated that, rather than deal with a DVC, they would prefer to come directly before the Commission to resolve data problems.

The Commission in deference to the strong reservations of the agricultural community about DVC procedures, and to questions whether the Commission could lawfully delegate its authority to a DVC, has determined that it will not utilize these committees in a fact-finding mode.

However, the Commission believes that the record indicates that the DVC's would be useful in a more limited capacity than in the proposed rule. There is a need to insure that all data are expressed in a consistent fashion and that data be reviewed for mechanical and reporting errors. There is also a need for a forum which would permit exchanging data and information among the various pipeline customers affected by a pipeline curtailment plan. Finally there is a need to discuss matters in controversy so that all parties and the Commission can understand the issues that the Commission must address. The Commission believes that the DVC's can perform these limited functions in a legally appropriate fashion and in a way that will assist and not prejudice any customer in obtaining its legal entitlements.

Attribution

The rule promulgated provides an attribution mechanism so that agricultural users, local distribution companies, and interstate pipelines that receive gas from more than one source can allocate their priority needs of natural gas among those sources.

The permanent rule re-orders the priority classifications of pipelines' existing curtailment plans. The Commission believes high priority and essential agricultural requirements should be attributed among suppliers based on the underlying curtailment plans of the interstate pipeline suppliers. Accordingly, the requirements will be attributed to a particular direct supplier based on a fraction equal to the entitlements from that supplier divided by total supplies from all sources, including non-pipeline supplies. An essential agricultural user or local distribution company with supply sources which supplemented interstate pipeline supplies, during the base period of the pipeline's curtailment plan would not be attributed to interstate pipeline suppliers.

Storage

The revised curtailment priorities embodied in the ERA rule seeks to protect customer storage injection.

Section-by-Section Summary of the Final Rule

The following is a section-by-section summary of the Commission's final rule.

Purpose (§ 281.201)

This section states that it is the purpose of this subpart to provide effective November 1, 1979, that the curtailment plans of interstate pipelines protect, to the maximum extent practicable, deliveries of natural gas for essential agricultural uses and high priority uses.

Applicability (§ 281.202)

The subpart applies to the following interstate pipelines:

Alabama-Tennessee Pipeline Company
Algonquin Gas Transmission Company.
Arkansas Louisiana Natural Gas Company.
Cities Service Gas Company.
Colorado Interstate Gas Company.
Columbia Gas Transmission Corporation.
Consolidated Gas Supply Corporation.
East Tennessee Natural Gas Company.
Eastern Shore Natural Gas Company.
El Paso Natural Gas Company.
Florida Gas Transmission Company.
Great Lakes Gas Transmission Company.
Inter-City Minnesota Pipelines, Ltd., Inc.
Kansas-Nebraska Natural Gas Company, Inc.
Lawrenceburg Gas Transmission Company.
Michigan-Wisconsin Pipeline Company.
Mid-Louisiana Gas Company.
Midwestern Gas Transmission Company.
Mississippi River Transmission Company.
Montana Dakota Utilities Company.
National Fuel Gas Supply Company.
North Penn Gas Company.
Northern Natural Gas Company.
Northwest Pipeline Corporation.
Panhandle Eastern Pipeline Company.
South Georgia Natural Gas Company.
Southern Natural Gas Company.
Southwest Gas Corporation.
Tennessee Gas Pipeline Company, a Division of Tenneco, Inc.
Tennessee Natural Gas Lines.
Texas Eastern Transmission Corporation.
Texas Gas Transmission Corporation.
The Inland Gas Company.
Transcontinental Gas Pipeline Corporation.
Transwestern Pipeline Company.
Trunkline Gas Company.
United Gas Pipe Line Company.
Western Gas Interstate Company.

Definitions (§ 281.203)

This section defines the following terms as they are used in this subpart:

"Currently effective curtailment plan" means the plan for natural gas curtailment which an interstate pipeline had in effect on March 1, 1979;

"Direct sale customer" means an essential agricultural user that purchases natural gas directly from an interstate pipeline and consumes such natural gas for an essential agricultural use;

"Essential agricultural use" means any use of natural gas, certified by the Secretary of Agriculture as such a use under section 401(c) of the NGPA, as identified in 7 CFR 2900 *et seq.*;

"End-use curtailment plan" means a tariff provision that requires that, if there is a supply shortage, curtailment of natural gas deliveries will be based on end-use factors;

"Indirect sale customer" of an interstate pipeline means an essential agricultural end-user served by a local distribution company which is served directly or indirectly by an interstate pipeline;

"High-priority user" means a person who uses natural gas in a residence, a small commercial establishment, a school or hospital, or for police and fire protection, sanitation or correctional facilities;

"Local distribution company" means a local distribution company served directly by an interstate pipeline.

This section also defines alternate fuel; entitlements; rolling base period; residence; small commercial establishment; hospital; and school.

Section 281.203(b) provides for cross-references which are essential agricultural requirements, and index of entitlements.

Tariff Filing Requirements (§ 281.204)

Paragraph 281.204(a) states that an interstate pipeline must file tariff sheets which provide that natural gas will be delivered in accordance with provisions of this subpart. If the pipeline has no curtailment plan, it must file a tariff which includes one that complies with this subpart by October 1, 1979. If the pipeline has curtailment provisions in its currently effective tariff, it shall file amendments to that tariff reflecting a curtailment plan which complies with this subpart no later than October 1, 1979. The effective date of all such tariffs will be November 1, 1979.

Paragraph 281.204(b) states that the index of entitlements for an interstate pipeline with an end-use curtailment plan shall identify the natural gas entitlements in each priority of service category (determined under § 281.205(a)) for each direct sale customer, each local distribution company, and each interstate pipeline purchaser. The indices of entitlements will be periodically updated. For curtailment plans using a fixed base period, new indices reflecting changes in Priority 2 entitlements are due each October 1st for a proposed effective date of November 1st. For plans now using a rolling base period, annual updates in Priority 2 index of entitlements must be filed when other end-uses are updated in accordance with currently effective tariffs. Other amendments to the indices must be made if the Commission determines, under Subpart C, that essential agricultural user has an alternative fuel availability for Priority 2 entitlements, and removes that essential agricultural use from Priority 2 and places it in the appropriate curtailment category.

Each tariff shall contain provisions that require interstate pipelines to provide for delivery of enough gas to respond to emergency situations during periods of curtailment in order to forestall irreparable injury to life, property or for minimum plant protection during shut-downs (§ 281.204(c)).

The delivery requirements of this subpart will not exceed the volumetric requirements of the contract between a pipeline and its customer.

General Rule (§ 281.205)

Paragraph 281.205(a) requires interstate pipelines to establish a high-priority use category designated as Priority 1 and an essential agricultural use category designated as Priority 2. Priority 1 shall include all high-priority use entitlements of direct and indirect customers and related storage injection volumes. Priority 2 shall include all essential agricultural use entitlements of its direct and indirect customers and related storage injection volumes.

The method of curtailment for end-use curtailment plans requires that deliveries of natural gas be curtailed sequentially beginning with the lowest priority of service category. All categories must be fully curtailed before Priorities 1 and 2 are curtailed. Priority 1 shall be curtailed last (§ 281.205(b)(1)). Subparagraph 281.205(b)(2) requires that all priority categories in existing plans be placed below new categories 1 and 2. Entitlements in existing categories must be reduced to the extent that entitlements have been placed in categories 1 and 2.

Paragraph 281.205(c) requires an interstate pipeline to classify customer storage injection gas in the same manner as in the curtailment plans in effect on March 1, 1979. If gas volumes for storage are classified by end-use, the pipeline must recalculate volumes for each priority category according to the index of entitlements. Otherwise, no storage injection volumes may be recalculated, reclassified or included as Priority 1 or 2 entitlements.

The calculation of entitlements in priority of service categories shall be computed in the following manner: for Priority 1 in accordance with § 281.206; for Priority 2 in accordance with § 281.207. Each interstate pipeline with an end-use curtailment plan shall reduce entitlements to all other categories of service to the extent those entitlements have been placed in Priority 1 or 2.

Classification of Priority 1 Entitlements (§ 281.206)

Paragraph (a) of this section defines "high-priority entitlements" as the volume of gas a person (direct sale customer, local distribution company or interstate pipeline purchaser) is entitled to receive under the current curtailment plans of the particular interstate pipeline on account of its own high-priority uses and also (in the case of a local distribution company or the pipeline itself) those of its customers. A pipeline is entitled to receive gas for its own high-priority uses and the high-priority uses attributed by direct sale customers and local distribution company customers to the pipeline as a source of that gas.

Paragraph 281.206(b) states that local distribution company customers and direct sale customers may request each of its direct interstate pipeline suppliers to classify as Priority 1 entitlements natural gas that either entity is entitled to purchase for its high-priority uses.

The customer must designate the entitlements in each priority of service category in the current curtailment plan for which Priority 1 reclassification is requested and request that these entitlements be removed from categories of service in the currently effective curtailment plan.

An interstate pipeline must reclassify high-priority entitlements as requested and must reduce by an equal amount the entitlements in the priority of service categories designated by the direct sale customer or local distribution company.

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Paragraph 281.206(c) prescribes the same procedure for interstate pipeline purchasers which request reclassification of high-priority entitlements from interstate pipeline suppliers. The interstate pipeline purchaser shall designate these high-priority entitlements and request that those entitlements be removed from other categories of service. These high-priority entitlements are equal to the attributed Priority 1 entitlements calculated under section 281.209.

Classification of Priority 2 Entitlements (§ 281.207)

Paragraph 281.207(a)(1) states that direct sales customers may request Priority 2 classification for their essential agricultural uses (calculated under section 281.208) from direct interstate pipeline suppliers. Under subparagraph (a)(2), the essential agricultural users must designate the entitlements in the priority of service categories of existing plans and request their removal. The pipeline will then reclassify essential agricultural use requirements as Priority 2 entitlements and accordingly reduce entitlements in other priority of service categories as the customer designates.

Under paragraph (b), an indirect sale customer which is an essential agricultural user may request that its local distribution company which supplies the customer directly ask the pipeline supplier to reclassify the customers indirect essential agricultural requirements as Priority 2 entitlements.

Paragraph (c) states that a local distribution company must attribute the indirect essential agricultural requirements for which reclassification is sought by indirect sale customers to direct interstate pipeline suppliers, in accordance with § 281.209. Local distribution companies must request direct interstate pipeline suppliers to classify indirect essential agricultural requirements as Priority 2 entitlements. Under subparagraph (c)(2), the entitlements designated by the local distribution company to reflect attributed indirect essential agricultural requirements are removed from the category of service in which they are found in existing curtailment plans. The interstate pipeline shall reclassify the indirect essential agricultural requirement as a Priority 2 entitlement and reduce the entitlements of the local distribution company in other categories as designated.

An interstate pipeline purchaser, under § 281.207(d) may request each of its direct interstate pipeline suppliers to classify the attributable indirect essential agricultural requirements as Priority 2 entitlements in the currently effective curtailment plan of the supplier.

Under subparagraphs 281.207(d)(2) and (3), the interstate pipeline purchaser will designate the entitlements in the current plan of the supplier and request their removal from the existing priority of service category. The supplier shall then classify the attributed Priority 2 entitlements as Priority 2 entitlements and reduce the current priority of service categories as designated by the purchaser.

Calculation of essential agricultural requirements and attributable Priority 2 entitlements (§ 281.208)

The total essential agricultural requirement of an end-user will be the volumes certified by the Secretary of Agriculture and calculated in acordance with 7 C.F.R. § 2900.4 and reduced to the extent of any alternate fuel determination in accordance with subpart C under Section 401(b) of the NGPA. These volumes shall be calculated on a daily, monthly and seasonal basis. The direct essential agricultural requirement is that part of the total requirement attributable under § 281.209 to the direct interstate pipeline supplier. The indirect essential agricultural requirement is that portion attributable to a direct local distribution company supplier.

Under § 281.208, paragraph (b) prescribes how the essential agricultural user calculates its total, direct and indirect essential agricultural requirements. An essential agricultural user will compute current requirements as they are designated by the Secretary of Agriculture in accordance with Title 7 of the Code of Federal Regulations, § 2900.4, minus any volumes determined by the Commission as replaceable by an alternate fuel. As used in 7 C.F.R. Part 2900, current requirements means the energy used during the most recent 12 months for which there is a record or the maximum volume which a user could consume presently for essential agricultural uses. Paragraph (c) states that the local distribution companies calculate attributable indirect essential agricultural requirements for its end-user customers by dividing their customers' essential agricultural requirements among the companies' direct pipeline suppliers. Interstate pipeline purchasers calculate attributable Priority 2 entitlements under paragraph (d) by attributing Priority 2 entitlements in each purchaser's index of entitlements among that purchaser's direct interstate pipeline suppliers.

Attribution (§ 281.209)

Section 281.209 sets forth the rules for attributing total essential agricultural requirements by an essential agricultural user, indirect essential agricultural requirements of an essential agricultural user by its local distribution company supplier, and Priority 1 and 2 entitlements by an interstate pipeline. This section is inapplicable to any end-user or distribution company which has only one source of gas and to any pipeline which does not receive gas from another pipeline.

Natural gas from all direct sources shall be included in the computations for purposes of attribution.

However, if an essential agricultural user attributes any part of its essential agricultural requirements to a source other than a direct supplier as defined in paragraph (c) (for example, synthetic natural gas facilities or independent producers), the user may not seek reclassification to Priority 2 for that gas. Similarly, a local distributor may not seek Priority 2 for any part of its indirect essential agricultural requirements attributed to a source other than a direct supplier. And an interstate pipeline purchaser may not seek Priority 1 or 2 reclassification for any part of the Priority 1 or 2 volumes to which it is entitled which are attributed to a source other than a direct supplier.

Essential agricultural user

Under paragraph 281.209(d) an essential agricultural user must compute its requirements attributable to one direct supplier by multiplying total essential agricultural requirements by the annual quantity entitlement from said supplier, then dividing the result by the total volume of gas received from all sources during the base period of the direct supplier's current curtailment plan. Operative definitions are found in paragraph (c). If the user lacks entitlement with only one of its suppliers, the requirement attributed to that supplier is that part of the user's total essential agricultural requirements not attributed elsewhere. When a user lacks entitlements with more than one supplier the essential agricultural requirements attributable to any one supplier is found by multiplying the unattributed portion of the total requirements by the volume of gas received in 1972 from that supplier, and dividing the result by total 1972 supplies received.

Local distribution companies

Under paragraph 281.208(e), a local distribution company calculates its indirect essential agricultural requirements attributable to a direct supplier by multiplying those requirements by the annual quantity entitlements from the supplier and dividing the result by the total volume of gas received from all sources during the base period of the fixed period in the current curtailment plan of the supplier used to establish a customer's entitlements.

Interstate pipelines

An interstate pipeline will attribute Priority 1 and 2 entitlements respectively to a direct supplier according to paragraph (e) by multiplying total Priority 1 and 2 entitlements respectively by the annual quantity entitlements from the supplier and dividing the product by the total volume of gas received from all sources during the base period of the supplier's current curtailment plan.

Conflicting Data (§ 281.210)

Under paragraph (a), an interstate pipeline may not include in its index of entitlements under Priorities 1 or 2 any volumes requested to be so classified, if any information in the records of the pipeline differs from request for reclassification of Priority 1 or 2 entitlements. Under paragraph (b) a local distribution company is prohibited from seeking classification of volumes as requested if similar discrepancies arise between its records and the request of an essential agricultural user.

Filing and Documentation (§ 281.211)

Priority 1

Under subparagraph (a)(1), the requests for reclassification of high-priority entitlements to Priority 1 entitlements made by direct sale customers and local distribution companies must be submitted in writing by June 15, 1979, and accompanied by tables showing both high-priority entitlements and the end-users of the gas in the priority of service category being reclassified and the end-use data used to establish high-priority requirements and the designated end-use of the natural gas.

Subparagraph (a)(2) sets July 15, 1979 as the deadline for written requests by interstate pipeline purchasers to request that their pipeline supplier's reclassify high-priority requirements in currently effective curtailment plans as Priority 1 entitlements. Such requests must be accompanied by tables of high-priority entitlements and end-uses in each category of the supplier's plans for which reclassification is requested, copies of end-use data used to establish high-priority requirements, and a table indicating volumes and priority of service categories for which the purchaser's customers sought reclassification.

Priority 2

Under subparagraph (b)(1), essential agricultural users requesting that local distribution companies or direct interstate pipeline suppliers classify essential agricultural requirements to Priority 2 entitlements must do so in writing no later than June 15, 1979 and include a sworn statement which includes the volumes and end-use of gas requested to be made Priority 2, the SIC Code activities of the user, data and calculations used to determine essential agricultural requirements under USDA regulations (7 CFR § 2900.4) and a copy of a users petition for an alternate fuel determination for any boiler fuel facility, if appropriate.

Paragraph (b)(2) establishes June 30, 1979 as the deadline for written requests by local distribution companies to direct interstate pipeline suppliers requesting Priority 2 classification. Such requests must contain appropriate calculations and copies of all requests received from the particular company's essential agricultural user customers.

Interstate pipeline purchasers must request from suppliers classification of attributable Priority 2 entitlements as Priority 2 entitlements no later than July 15, 1979 and in writing, according to subparagraph (3). Appropriate calculations and copies of customer requests must accompany the request.

Subparagraph (4) states that the data required under paragraph (b) must be filed in years after 1979 only if a change in Priority 2 is sought. The deadline dates will continue to be applicable except for any interstate pipeline with a rolling base period.

Draft Tariff Sheets and Index of Entitlements (§ 281.212)

This section requires that each interstate pipeline prepare draft tariff sheets and a draft index of entitlements in accordance with this regulation and serve these documents on all customers and, together with all § 281.210 documents, on the Data Verification Committee no later than August 1, 1979. The same deadline holds true for subsequent years, except for pipelines with a rolling base period which are permitted to prescribe an appropriate date.

Data Verification Committee (§ 281.213)

Paragraph (a) requires, at a minimum, that the Data Verification Committees be composed of a representative of the interstate pipeline, of the Commission staff, both a large and small local distribution company, and an essential agricultural user. State and local regulatory bodies and a representative of the Department of Agriculture may be members at their option.

The Committees will receive all calculations behind the draft tariff sheets and the proposed index of entitlements. Any information requested by the Committee shall be supplied by the interstate pipeline.

Under paragraph (c) any customer of an interstate pipeline may file a written protest concerning the index of entitlements. The protests shall be filed by August 24, 1979.

Paragraph (e) provides that the Committee shall prepare a report concerning the draft tariff sheets and shall, at least, specify arithmetic errors, and prepare an evaluation of all protests. Such report shall be submitted to the interstate pipeline no later than September 23, 1979.

Notice, complaint and remedy (281.214)

Any direct sale customer or local distribution company aggrieved by an alleged violation of this rule shall file complaint in accordance with 18 CFR 1.6 within 45 days of notice.

If a violation is found by the Commission, it shall take whatever action it deems appropriate.

Additional relief (§ 281.215)

Upon rejection of a request for Priority 1 or 2 classification under § 281.206 or otherwise, or the failure of a local distributing company to request reclassification on behalf of an end-user, for any reason, the aggrieved party may file a request for relief from curtailment which conforms with Commission regulations in 18 CFR 1.7. The request shall contain the information required in 18 CFR 2.78(b).

(Natural Gas Act, as amended, 15 U.S.C. 717 *et. seq.*; Public Utility Regulatory Policies Act of 1978, Pub. L. 95–617; Natural Gas Policy Act of 1978, Pub. L. 95–621; 92 Stat. 3350; Department of Energy Organization Act, P.L. 95–91; E.O. 12009, 42 FR 46267)

In consideration of the foregoing Part 281, Subpart B, Subchapter I, Chapter 1, Code of Federal Regulations is amended effective June 7, 1979, as set forth below.

By Order of the Commission.

Kenneth F. Plumb,
Secretary.

PART 281—NATURAL GAS CURTAILMENT

1. Part 281 is amended by adding a new Subpart B including § 281.201 through § 281.215 to read as follows:

Subpart B—Permanent Curtailment Rule

Sec.

281.201 Purpose.
281.202 Applicability.
281.203 Definitions and cross references.
281.204 Tariff filing requirements.
281.205 General rules.
281.206 Priority 1 reclassification.
281.207 Priority 2 classification.
281.208 Calculation of essential agricultural requirements and attributable priority 2 entitlements.
281.209 Attribution.
281.210 Conflicting data.
281.211 Filing and documentation.
281.212 Draft tariff sheets and index of entitlements.
281.213 Data Verification Committee.
281.214 Notice, complaint and remedy.
281.215 Additional Relief.

Authority: Natural Gas Act, as amended, 15 U.S.C. 717 *et seq.*; Public Utility Regulatory Policies Act of 1978, Pub. L. 95–617; Natural Gas Policy Act of 1978, Pub. L. 95–621, 92 Stat. 3350; Department of Energy Organizational Act, Pub. L. 95–91, E.O. 12009, 42 FR 46267.

Subpart B—Permanent Curtailment Rule

§ 281.201 Purpose.

The purpose of this subpart is to implement section 401 of the NGPA in order to provide that effective November 1, 1979, the curtailment plans of interstate pipelines protect, to the maximum extent practicable, deliveries of natural gas for essential agricultural uses and for high-priority uses in accordance with the provisions of this subpart.

§ 281.202 Applicability.

This subpart applies to the following interstate pipe lines:

Alabama-Tennessee Pipeline Company.
Algonquin Gas Transmission Company.
Arkansas Louisiana Natural Gas Company.
Cities Service Gas Company.
Colorado Interstate Gas Company.
Columbia Gas Transmission Corporation.
Consolidated Gas Supply Corporation.
East Tennessee Natural Gas Company.
Eastern Shore Natural Gas Company.
El Paso Natural Gas Company.
Florida Gas Transmission Company.
Great Lakes Gas Transmission Company.
Inter-City Minnesota Pipelines, Ltd., Inc.
Kansas-Nebraska Natural Gas Company, Inc.
Lawrenceburg Gas Transmission Company.
Michigan-Wisconsin Pipeline Company.
Mid-Louisiana Gas Company.
Midwestern Gas Transmission Company.
Mississippi River Transmission Company.
Montana Dakota Utilities Company.
National Fuel Gas Supply Company.
North Penn Gas Company.
Northern Natural Gas Company.
Northwest Pipeline Corporation.
Panhandle Eastern Pipeline Company.
South Georgia Natural Gas Company.
Southern Natural Gas Company.
Southwest Gas Corporation.
Tennessee Gas Pipeline Company, a Division of Tenneco, Inc.
Tennessee Natural Gas Lines.
Texas Eastern Transmission Corporation.
Texas Gas Transmission Corporation.
The Inland Gas Company.
Transcontinental Gas Pipeline Corporation.
Transwestern Pipeline Company.
Trunkline Gas Company.
United Gas Pipe Line Company.
Western Gas Interstate Company.

§ 281.203 Definitions and cross references.

(a) *Definitions.* For purposes of this subpart:

(1) "Direct sale customer" means an essential agricultural user of high priority use which purchases natural gas directly from an interstate pipeline and consumes such natural gas for a high-priority use or an essential agricultural use.

(2) "Essential agricultural use" means any use of natural gas which is certified by the Secretary of Agriculture as an "essential agricultural use" under section 401(c) of the NGPA, as identified in 7 CFR Part 2900, *et seq.*

(3) "Essential agricultural user" means a person who uses natural gas for an essential agricultural use.

(4) "High-priority use" means any use of natural gas which qualifies the user as a high-priority user.

(5) "High-priority user" means any person who uses natural gas:

(i) In a residence;

(ii) In a small commercial establishment;

(iii) In a school or a hospital; or

(iv) For police protection, for fire protection, in a sanitation facility or a correctional facility.

(6) "End-use curtailment plan" means a provision in the tariff of an interstate pipeline that requires that under circumstances of supply shortage natural gas deliveries will be curtailed based at least in part upon factors which consider the end-use of the natural gas.

(7) "Indirect sale customer" of an interstate pipeline means an essential agricultural end-user served by a local distribution company which is served directly by the interstate pipeline.

(8) "Residence" means a dwelling using natural gas predominantly for residential purposes such as space heating, air conditioning, hot water heating, cooking, clothes drying, and other residential uses and includes apartment buildings and other multi-unit buildings.

(9) "Small commercial establishment" means any establishment (including institutions and local, state and Federal Government agencies) engaged primarily in the sale of goods or services where natural gas is used:

(i) In amounts of less than 50 Mcf on a peak day; and

(ii) For purposes other than those involving manufacturing or electric power generation.

(10) "Hospital" means a facility, the primary function of which is delivering medical care to patients who remain at the facility including nursing and convalescent homes. Outpatient clinics or doctors' offices are not included in this definition.

(11) "School" means a facility, the primary function of which is to deliver instruction to regularly enrolled students in attendance at such facility. Facilities used for both educational and noneducational activities are not included under this definition unless the latter activities are merely incidental to the delivery of instruction.

(12) "Local distribution company" means a local distribution company served directly by an interstate pipeline.

(13) "Rolling base period" means a time period in which entitlements of the customers of an interstate pipeline are established pursuant to the pipeline's currently effective curtailment plan and which is periodically updated to reflect recent gas requirements of such customers.

(14) "Entitlements" of a direct sale customer or a local distribution company customer with respect to a particular interstate pipeline means the amount of natural gas that customer is permitted to receive under the interstate pipeline's currently effective curtailment plan.

(15) "Interstate pipeline purchaser" means an interstate pipeline which received deliveries of natural gas from another interstate pipeline.

(16) "Alternate fuel" means any fuel which is:

(i) Economically practicable and reasonably available as an alternate to natural gas for use in a boiler fuel facility; and

(ii) May be burned in the boiler fuel facility without placing the boiler fuel in violation of any applicable Federal,

state or local air pollution control standards.

(17) "Currently effective curtailment plan" of an interstate pipeline means that curtailment plan in effect on March 1, 1979.

(b) *Cross references.* (1) Essential agricultural requirements are calculated in accordance with § 281.208.

(2) "Index of entitlements" is that index of entitlements prepared in accordance in § 281.204(b).

§ 281.204 Tariff filing requirements.

(a) *General rule.* Each interstate pipeline listed in § 281.202 shall file tariff sheets, including an index of entitlements, which provides that if the interstate pipeline is in curtailment, natural gas will be delivered in accordance with the provisions of this subpart. If the interstate pipeline has curtailment provisions in its currently effective tariff, the tariff sheets shall amend the existing curtailment provisions. If the interstate pipeline has no curtailment plan in its currently effective tariff, when it files tariff sheets to amend its currently effective tariff to include a curtailment plan such curtailment plan shall comply with the requirements of this subpart. The tariff sheets shall be filed no later than October 1, 1979, with a proposed effective date of November 1, 1979. The Data Verification Committee report prepared in accordance with § 281.213 shall be filed with the tariff sheets.

(b) *Index of entitlements.* (1) The index of entitlements for an interstate pipeline shall identify the natural gas entitlements in priority of service category 1 and 2 (established in accordance with § 281.205(a)) for each direct sale customer, each local distribution company customer and each interstate pipeline purchaser on a daily, monthly, seasonal or other periodic basis used in the currently effective curtailment plan.

(2) *Periodic update.* Each interstate pipeline shall update its index of entitlements annualy to reflect changes in Priority 2 entitlements. The new index of requirements shall be filed on October 1 of each year with a proposed effective date of November 1, except that if the interstate pipeline uses a rolling base period in its currently effective curtailment plan it shall file its new index of entitlements on the date upon which other end-uses of the customers of the interstate pipeline are updated in accordance with the currently effective tariff.

(3) *Alternate fuel determination.* Immediately upon notification that the Commission has determined (under Subpart C) that an essential agricultural user has alternate fuel for priority 2 entitlements, it shall amend its index of entitlements to remove such volumes from priority 2 and to the extent such volumes were reflected in the curtailment plan in effect on October 31, 1979, shall place such volumes in the priority of service category where they would have been included except for the priority 2 classification.

(c) *Other tariff provisions.* (1) Every tariff filed under this subpart shall contain provisions that will require the interstate pipeline:

(i) To provide for deliveries of sufficient volumes of natural gas to respond to emergency situations (including environmental emergencies) during periods of curtailment where additional supplies are required to forestall irreparable injury to life or to property; and

(ii) To provide for deliveries of sufficient volumes of natural gas to provide for minimum plant protection when the plant is shut down.

(2) *Volumetric delivery requirements.* Notwithstanding any other provisions of this subpart, an interstate pipeline which is delivering natural gas in accordance with this subpart shall not be required to deliver to any customer volumes of natural gas on a daily, monthly, seasonal or other periodic basis which exceed the volumes of natural gas that the interstate pipeline may deliver to such customer without causing the interstate pipeline to violate any daily, monthly, seasonal or other periodic volumetric limitations established in the contract between the interstate pipeline and such customer.

§ 281.205 General rules.

(a) *Priority of service categories.* (1) *Priority 1.* Each interstate pipeline shall establish a new high-priority use category of service designated priority one (1) which shall include all the high-priority entitlements calculated in accordance with § 281.206 and those storage injection volumes calculated in accordance with paragraph (c)(2) of this section.

(2) *Priority 2.* Each interstate pipeline shall establish a new priority of service category designated priority two (2) which shall include all the essential agricultural use requirements calculated in accordance with § 281.207 and those storage injection volumes calculated in accordance with paragraph (c)(2) of this section.

(3) *Other priority of service categories.* Each interstate pipeline may retain the priority of service categories in its currently effective tariff, but such categories shall be placed at priorities below the new priority 1 and 2. Each interstate pipeline shall reduce the entitlements in all other existing categories of service to the extent such entitlements have been placed into the new priority of service categories 1 or 2.

(b) *Method of curtailment.* All deliveries to all customers of the interstate pipeline for all volumes of natural gas not included in priority 1 and 2 shall be fully curtailed by the interstate pipeline before priority 1 and 2 entitlements are curtailed. Deliveries for priority 2 entitlements shall be fully curtailed by the interstate pipelines (in accordance with the currently effective curtailment plan) before priority 1 entitlements are curtailed by the interstate pipelines.

(c) *Storage.* (1) *General rule.* Interstate pipelines shall classify customer storage injection volumes in the same manner as that used in the currently effective curtailment plan.

(2) *Storage sprinkling.* Interstate pipelines which classify customer storage injection volumes on the basis of the actual end-use of the natural gas shall recalculate storage injection volumes placed in each priority of service category based upon the index of entitlements to be filed on October 1.

(3) *Other treatment of storage.* Except as provided in paragraph (c)(2) of this section, no interstate pipeline shall recalculate or reclassify any customer storage injection volumes, and no customer storage injection volumes shall be included as priority 1 or 2 entitlements.

§ 281.206 Priority 1 reclassification.

(a) *Definitions.* For purposes of this section "high-priority entitlements" means, with respect to a particular interstate pipeline,

(1) In the case of a direct sale customer, the volume of natural gas such direct sale customer is entitled to receive for high-priority uses (as defined in § 281.203) under the currently effective curtailment plan of the interstate pipeline;

(2) In the case of a local distribution company, the volume of natural gas which such local distribution company is entitled to receive on account of the high-priority uses (as defined in § 281.203) of its high-priority user customers under the currently effective curtailment plan of the interstate pipeline;

(3) In the case of an interstate pipeline purchaser the volume of natural gas such interstate pipeline purchaser is entitled to receive form an interstate pipeline supplier for the high-priority

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entitlements of its direct sale customers, local distribution company customers and interstate pipeline customers.

(b) *Direct sale customer and local distribution company customers.* (1)(i) Subject to paragraph (b)(2) of this section, and § 281.211 each direct sale customer may request each of its direct interstate pipeline suppliers to reclassify its high-priority entitlements in its currently effective curtailment plan as priority 1 entitlements.

(ii) Subject to paragraph (b)(2) of this section, and § 281.211 each local distribution company must request each of its direct interstate pipeline suppliers to reclassify its high priority entitlements in its currently effective curtailment plan as priority 1 entitlements.

(2) The direct sale customer or local distribution company customer shall designate the entitlements in each priority of service category in the currently effective curtailment plan for which priority 1 reclassification is requested. It shall request that those entitlements for which priority 1 reclassification is requested be excluded from the category of service in which they are included in the currently effective plan.

(3) Subject to § 281.210, the interstate pipeline shall reclassify all such high-priority entitlements as priority 1 entitlements and shall reduce by an equal amount the entitlements in such other priority of service categories as designated by the direct sale customer or local distribution company customer, (in accordance with subparagraph (2)).

(c) *Interstate pipeline.* (1) Subject to paragraph (b)(2) of this section, and § 281.211 an interstate pipeline purchaser may request each of its direct interstate pipeline suppliers to reclassify its high-priority entitlements in its currently effective curtailment plan (equal to the attributed priority 1 entitlements calculated in accordance with § 281.209) as priority 1 entitlements in the currently effective curtailment plan of the interstate pipeline supplier.

(2) The interstate pipeline purchaser shall designate the entitlements in each priority of service category in the currently effective curtailment plan for which priority 1 reclassification is requested. It shall request that those entitlements for which priority 1 classification is requested be excluded from the category of service in which they are included in the currently effective plan.

(3) Subject to § 281.210, the interstate pipeline supplier shall reclassify all such high-priority entitlements as priority 1 entitlements and shall reduce the high-priority entitlements in other priority of service categories as designated by the interstate pipeline customer, (in accordance with subparagraph (2)).

§ 281.207 Priority 2 classification.

(a) *Direct sale customer.* (1) Subject to paragraph (a)(2) of this section, and § 281.211 a direct sale customer may request each of its direct interstate pipeline suppliers to classify its essential agricultural requirements (calculated in accordance with § 281.208) as priority 2 entitlements.

(2) The essential agricultural user shall designate the entitlements in each priority of service category in the currently effective curtailment plan which reflect the essential agricultural requirements. It shall request that entitlements which are reflected in priority of service categories in the currently effective curtailment plan are removed from such priority of service categories.

(3) Subject to § 281.210, the interstate pipeline shall classify all such essential agricultural requirements as priority 2 entitlements and reduce the entitlements in such other priority of service categories as designated by the direct sale customer, (in accordance with subparagraph (2)).

(b) *Indirect sale customer.* Subject to § 281.211 an indirect sale customer which is an essential agricultural user may ask each of its local distribution company direct suppliers to request each interstate pipeline supplier to classify the indirect essential agricultural requirements as priority 2 entitlements.

(c) *Local distribution companies.* (1) The local distribution company shall attribute (in accordance with § 281.209) the indirect essential agricultural requirements for which reclassification is sought under paragraph (b) of this section to its direct interstate pipeline suppliers. Subject to paragraph (b)(2) of this section, and § 281.211 the local distribution company shall request each of its direct interstate pipeline suppliers to classify the attributed indirect essential agricultural requirements as priority 2 entitlements.

(2) The local distribution company shall designate the entitlements in each priority of service in the currently effective curtailment plan which reflect the attributed indirect essential agricultural requirements. It shall request that those entitlements which are reflected in each category in the currently effective curtailment plan are removed from such priority of service category.

(3) Subject to § 281.210, the interstate pipeline shall classify all such attributed indirect essential agricultural requirements as priority 2 entitlements and shall reduce the entitlements of the local distribution company in such other priority of service categories as designated by the local distribution company, (in accordance with subparagraph (b)(2)).

(d) *Interstate pipeline.* (1) Subject to paragraph (d)(2) of this section, and § 281.211 an interstate pipeline purchaser may request each of its direct interstate pipeline suppliers to classify the attributed priority 2 entitlements (calculated under § 281.209) as priority 2 entitlements in the currently effective curtailment plan of the interstate pipeline supplier.

(2) The interstate pipeline purchaser shall designate the entitlements in each priority of service category in the currently effective curtailment plan of the interstate pipeline supplier which reflects the attributed priority 2 entitlements and request that those entitlements which are reflected in such priority of service categories in the currently effective curtailment plan are removed from such priority of service category.

(3) Subject to § 281.210, the interstate pipeline supplier shall classify the attributed priority 2 entitlements as priority 2 entitlements and shall reduce the entitlements of the interstate pipeline purchaser in such other priority of service categories as designated by the interstate pipeline purchaser, (in accorance with subparagraph (2)).

§ 281.208 Calculation of essential agricultural requirements and attributable priority 2 entitlements.

(a) *Scope.* This section sets forth the method by which:

(1) An essential agricultural user calculates total essential agricultural requirements, direct essential agricultural requirements, and indirect essential agricultural requirements;

(2) A local distribution company calculates attributable indirect essential agricultural requirements for its essential agricultural user customers; and

(3) An interstate pipeline purchaser calculates it attributable priority 2 entitlements.

(b) *Calculation by an essential agricultural user.* (1) *Total essential agricultural requirements.* (i) *General Rule.* (A) The essential agricultural requirements of an essential agricultural user are those volumes (expressed in daily, monthly, seasonal or other appropriate periodic volumes)

designated by the Secretary of Agriculture and calculated in accordance with 7 CFR § 2900.4; less

(B) Any volumes for which the Commission determines, in accordance with Section 401(b) of the NGPA, that the essential agricultural user has alternate fuel.

(ii) *Definitions.* Current requirements as used in 7 CFR Part 2900 means the lesser of

(A) The energy consumption from the most recent 12 month period for which actual data is available, with necessary adjustments; or

(B) The maximum volume of natural gas for which the essential agricultural user has installed capability to use for essential agricultural uses.

(2) *Attribution of total essential agricultural requirement and indirect essential agricultural requirements.* (i) The essential agricultural user shall attribute its total essential agricultural requirements among all its sources of supply of natural gas in accordance with § 281.209.

(ii) The direct essential agricultural requirement with respect to a particular interstate pipeline supplier is that part of the total essential agricultural requirements attributed under § 281.209 to the direct interstate pipeline supplier. The indirect essential agricultural requirement with respect to a particular local distribution company supplier is that part of the total essential agricultural requirements attributed under § 281.209 to a direct local distribution company supplier.

(c) *Calculation by local distribution companies.* (1) A local distribution company shall attribute under § 281.209 the indirect essential agricultural requirements of each of its essential agricultural user customers (calculated under paragraph (b)(2) of this section) among all the interstate pipelines which are direct suppliers of the local distribution company.

(2) That part of the indirect essential agricultural requirements which the local distribution company attributes to a particular interstate pipeline supplier is the attributed indirect essential agricultural requirements attributed to that interstate pipeline.

(d) *Interstate pipelines.* (1) An interstate pipeline purchaser may attribute under § 281.209 the priority 2 entitlements it includes in its index of entitlements among its direct interstate pipeline suppliers.

(2) the attributable priority 2 entitlements attributed to a particular interstate pipeline supplier is that part of the priority 2 entitlements of the interstate pipeline purchaser which it attributes to a particular interstate pipeline supplier.

§ 281.209 Attribution.

(a) *Applicability.* (1) This section sets forth the rules for attributing total essential agricultural requirements by an essential agricultural user, indirect essential agricultural requirements of an essential agricultural user by its local distribution company supplier and priority 1 and 2 entitlements by an interstate pipeline purchaser.

(2) This section does not apply to an essential agricultural user or local distribution company which receives all its natural gas supplies from a single source, or an interstate pipeline purchaser which does not receive natural gas from any other interstate pipeline.

(b) *Natural gas supplies included for purposes of attribution.* (1) For purposes of attribution in accordance with this section, natural gas from all direct sources, including but not limited to pipeline production, production by independent producers, production by affiliates, SNG facilities and natural gas purchased from local distribution companies, and interstate pipelines shall be included.

(2)(i) An essential agricultural user, which attributes under paragraph (d) a portion of the volumes which are its total essential agricultural requirements to a direct source of natural gas other than a direct supplier may not seek classification to priority 2 under § 281.207 for such portion of its total essential agricultural requirements.

(ii) A local distribution company which attributes under paragraph (e) a portion of the volumes which are its indirect essential agricultural requirements to a direct source of natural gas other than a direct supplier may not seek classification to priority 2 under § 281.207 for such portion of its indirect essential agricultural requirements.

(iii) An interstate pipeline purchaser which attributes under paragraph (f) a portion of the volumes of its priority 1 or 2 entitlements to a direct source of natural gas other than a direct supplier may not seek reclassification to priority 1 or classification to priority 2, respectively, for such portion of its priority 1 and 2 entitlements.

(c) *Definitions.* For purposes of this section:

(1) "Direct supplier" means, with respect to an essential agricultural user, an interstate pipeline or local distribution company which directly supplies such essential agricultural user, with respect to a local distribution company, an interstate pipeline which directly supplies such local distribution company and, with respect to an interstate pipeline purchaser, and interstate pipeline which directly supplies the interstate pipeline purchaser.

(2) "Base period" of a direct supplier means the fixed historical period in which entitlements of the customer of the direct supplier were established for purposes of the currently effective curtailment plan of such direct supplier.

(3) "Annual quantity entitlements" with respect to a particular direct supplier means the total entitlements an essential agricultural user, local distribution company or interstate pipeline is entitled to purchase from that direct supplier in a calendar year under the currently effective curtailment plan.

(d) *Essential agricultural user.* (1) An essential agricultural user shall calculate its attributable essential agricultural requirements attributable to a particular direct supplier by multiplying its total essential agricultural requirements by the annual quantity entitlements from such direct supplier and dividing the product by the total volume of natural gas received from all sources during the base period of the direct supplier's currently effective curtailment plan.

(2) If an essential agricultural user does not have annual quantity entitlements only with respect to one of its direct suppliers, the attributable essential agricultural requirements attributable to such direct supplier shall be that part of the total essential agricultural requirements not attributed under paragraph (d)(1) of this section.

(3) If an essential agricultural user does not have annual quantity entitlements with respect to more than one of its direct suppliers the attributable essential agricultural requirements attributable to a particular direct supplier shall be calculated by multiplying the portion of total essential agricultural requirements not attributed to direct suppliers under paragraph (d)(1) of this section by the total volume of natural gas received from such supplier in 1972 and dividing the product by the total supplies of natural gas received from all source in 1972.

(e) *Local distribution company.* A local distribution company shall calculate its attributable indirect essential agricultural requirements to a particular direct supplier by multiplying its indirect essential agricultural requirements by the annual quantity entitlements from such direct supplier and dividing the product by the total volume of natural gas received from all

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sources during the base period of the direct supplier's currently effective curtailment plan.

(f) *Interstate pipelines.* An interstate pipeline purchaser shall attribute priority 1 and 2 entitlements respectively to a particular direct supplier by multiplying its total priority 1 and 2 entitlements respectively by the annual quantity entitlements from such direct supplier and dividing the product by the total volume of natural gas received from all sources during the base period of the direct supplier's currently effective curtailment plan.

§ 281.210 Conflicting data.

(a) *Interstate pipelines.* Notwithstanding any other provision of this subpart, if the records of an interstate pipeline contain information which directly conflicts with a request for reclassification of priority 1 entitlements under § 281.206, or classification of priority 2 entitlements under § 281.207, the interstate pipeline may not include such volumes in priority 1 or 2 of its index of entitlements.

(b) *Local distribution companies.* Notwithstanding the provisions of § 281.207(c), if the records of a local distribution company contain information which directly conflicts with a request from an essential agricultural user to have the local distribution company to seek classification of volumes in priority 2, the local distribution company may not seek classification for such volumes.

§ 281.211 Filing and documentation.

(a) *Priority 1.* (1) *Direct sales customers and local distribution companies.* (i) Each request of a direct sale customer and local distribution company customer for reclassification of high-priority entitlements (as defined in § 281.206) to priority 1 entitlements shall be made in writing no later than June 15, 1979, and shall be accompanied by the data described in paragraph (a)(1)(ii) of this section.

(ii)(A) A table indicating high-priority entitlements (as defined in § 281.206) and the end-use of the natural gas in each priority of service category in the currently effective curtailment plan for which priority 1 reclassification is requested.

(B) A copy of the end-use data used to establish the high-priority requirements and designated end-use of the natural gas.

(2) *Interstate pipelines.* (i) Each interstate pipeline purchaser which reclassifies high-priority requirements of its customers as priority 1 entitlements may request that its high-priority requirements in the currently effective curtailment plan of its interstate pipeline suppliers (equal to the attributable priority 1 entitlements) be reclassified as priority 1 entitlements. Such requests shall be made in writing no later than July 15, 1979 and shall be accompanied by the data described in paragraph (a)(2)(ii) of this section.

(ii)(A) A table indicating high-priority entitlements (as defined in § 281.206) and end-use of the natural gas in each priority of service category in the currently effective curtailment plan of the interstate pipeline supplier for which priority 1 reclassification is requested.

(B) A copy of the end-use data used to establish the high-priority requirements and designated end-use of the natural gas.

(C) A table indicating the volumes and priority of service categories for which each of direct sale customers and local distribution company customers sought reclassification to priority 1.

(b) *Priority 2.* (1) *Essential agricultural users.* (i) Each request for classification of essential agricultural requirements as priority 2 entitlements shall be made in writing to the local distribution company supplier or the direct interstate pipeline supplier, as appropriate, no later than June 15, 1979, and shall set forth all calculations made in accordance with this subpart.

(ii) The request shall be accompanied by a statement that;

(A) Indicates the intended end-use(s) and volume(s) of the natural gas for which priority 2 entitlements are requested.

(B) Indicates the SIC Code activities of the essential agricultural user which qualifies it as an essential agricultural user in accordance with 7 CFR 2900.3.

(C) Includes the data and calculations used to determine essential agricultural requirements under 7 CFR 2900.4.

(D) Includes, with respect to any essential agricultural user to which Subpart C applies gas for boiler fuel use in a boiler fuel facility which is capable of using more than 300 Mcf of natural gas on a peak day, a copy of its petition for alternate fuel determination (which is required to be filed with the Commission under Subpart C,) with confidential information deleted.

(iii) The statement under paragraph (b)(1)(ii) shall be signed by a responsible official of the essential agricultural user. Such official shall swear or affirm that the statements are true to the best of his information, knowledge and belief.

(2) *Local distribution companies.* Each request for classification of essential agricultural requirements as priority 2 requirements shall be made in writing to the direct interstate pipeline supplier no later than June 30, 1979, and shall set forth all calculations made in accordance with this subpart and all copies of all requests received from its essential agricultural uses under paragraph (b)(1) of this section.

(3) *Interstate pipelines.* Each request of an interstate pipeline purchaser for classification of attributable priority 2 entitlements as priority 2 entitlements shall be made in writing to the direct interstate pipeline supplier no later than July 15, 1979, and shall set forth all calculations made in accordance with this subpart and shall include copies of all requests of essential agricultural users and local distribution companies under paragraphs (b)(1) and (2) of this section.

(4) *Subsequent request.* For years subsequent to 1979, the data required by this paragraph must be filed only to the extent a change in priority 2 entitlements is sought. The filing dates are those prescribed in this paragraph, except that an interstate pipeline with a rolling base period may prescribe different dates as appropriate.

§ 281.212 Draft tariff sheets and index of entitlements.

(a) Each interstate pipeline shall prepare draft tariff sheets and a draft index of entitlements in accordance with this subpart.

(b) The draft tariff sheets and index of entitlements shall be served on all customers of the interstate pipeline no later than August 1, 1979.

(c) Copies of all documents received by the interstate pipeline under § 281.210, the draft tariff sheets and the draft index of entitlements shall be served on the Data Verification Committee no later than August 1, 1979.

(d) For years subsequent to 1979, the documents required to be served under this section, must be served on August 1, except that an interstate pipeline with a rolling base period may prescribe different dates, as appropriate.

§ 281.213 Data Verification Committee.

(a) Each interstate pipeline shall establish a Data Verification Committee no later than August 1, 1979. It shall include, at a minimum, a representative of the interstate pipeline, Commission staff, a large and small local distribution company, and an essential agricultural user. The appropriate state and local regulatory bodies, and a representative of the United States Department of Agriculture may, at their option, be members.

(b) The Data Verification Committee shall review all calculations behind the draft tariff sheets and the proposed index of entitlements. The Data Verification Committee may request, and the interstate pipeline shall immediately supply, any information requested by the Data Verification Committee.

(c) Any customer of the interstate pipeline may file a written protest concerning the index of entitlements. Such protests shall be filed with the Data Verification Committee no later than August 24, 1979.

(d) The Data Verification Committee shall review the draft tariff sheets and index of entitlements and shall review the underlying data for uniformity in preparation.

(e) The Data Verification Committee shall prepare a report concerning the proposed index of requirements and the draft tariff sheets for the interstate pipeline. It shall, at a minimum, specify all arithmetic errors and contain an evaluation of all protests. It may contain a proposed settlement of contested draft tariff sheets. The report shall be submitted to the interstate pipeline no later than September 23, 1979.

§ 281.214 Notice, complaint and remedy.

(a) *Complaint.* Any direct sale customer or local distribution company aggrieved by any alleged violation of this subpart may file, within 45 days of notice, a complaint pursuant to § 1.6 of this chapter.

(b) *Remedy.* If the Commission determines that a violation of this subpart has occurred, it shall take whatever action it deems appropriate in the circumstances. Such action may include payback, in kind or in dollars, by the person benefitting from the violation.

§ 281.215 Additional relief.

If an interstate pipeline rejects (under § 281.210 or otherwise) a request for reclassification under § 281.206 or classification under § 281.207 or if a local distribution company does not request (for any reason including the provisions of § 281.210) classification under § 281.206 on behalf of its high priority uses or reclassification on behalf of its essential agricultural users, the person aggrieved by such action may file a request for relief from curtailment under § 1.7 of the Commission Regulations. The request shall contain the information required in § 2.78(b) of the Commission Regulations.

[Docket No. RM79-75]
[FR Doc. 79-14365 Filed 5-7-79; 8:45 am]
BILLING CODE 6450-01-M

FEDERAL EMERGENCY MANAGEMENT AGENCY

24 CFR Part 1914

List of Communities Eligible for the Sale of Insurance Under the National Flood Insurance Program

AGENCY: Office of Federal Insurance and Hazard Mitigation, Federal Emergency Management Agency.[1]

ACTION: Final rule

SUMMARY: This rule lists communities participating in the National Flood Insurance Program (NFIP). These communities have applied to the program and have agreed to enact certain flood plain management measures. The communities' participation in the program authorizes the sale of flood insurance to owners of property located in the communities listed.

EFFECTIVE DATES: The date listed in the fifth column of the table.

ADDRESSES: Flood insurance policies for property located in the communities listed can be obtained from any licensed property insurance agent or broker serving the eligible community, or from the National Flood Insurance Program (NFIP) at: P.O. Box 34294, Bethesda, Maryland 20034, Phone: (800) 638-6620.

FOR FURTHER INFORMATION CONTACT: Mr. Richard Krimm, National Flood Insurance Program, Room 5270, 451 Seventh Street, SW., Washington, DC 20410, (202) 755-5581 or Toll Free Line 800-424-8872.

SUPPLEMENTARY INFORMATION: The National Flood Insurance Program (NFIP), enables property owners to purchase flood insurance at rates made reasonable through a Federal subsidy. In return, communities agree to adopt and administer local flood plain management measures aimed at protecting lives and new construction from future flooding. Since the communities on the attached list have recently entered the NFIP, subsidized flood insurance is now available for property in the community.

In addition, the Federal Insurance Administrator has identified the special flood hazard areas in some of these communities by publishing a Flood Hazard Boundary Map. The date of the flood map, if one has been published, is indicated in the sixth column of the table. In the communities listed where a flood map has been published, Section 102 of the Flood Disaster Protection Act of 1973, as amended, requires the purchase of flood insurance as a condition of Federal or federally related financial assistance for acquisition or construction of buildings in the special flood hazard area shown on the map.

The Federal Insurance Administrator finds that delayed effective dates would be contrary to the public interest. The Administrator also finds that notice and public procedure under 5 U.S.C. 553 (b) are impracticable and unnecessary.

In each entry, a complete chronology of effective dates appears for each listed community. The entry reads as follows:

Section 1914.6 is amended by adding in alphabetical sequence new entries to the table.

[1] The functions of the Federal Insurance Administration, U.S. Department of Housing and Urban Development, were transferred to the newly established Federal Emergency Management Agency by Reorganization Plan No. 3 of 1978 (43 FR 41943, September 19, 1978) and Executive Order 12127 (44 FR 19367, April 3, 1979).

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§ 1914.6. List of Eligible Communities.

State	County	Location	Community No.	Effective dates of authorization/ cancellation of sale of flood insurance in community	Special flood hazard area identified
Illinois	Cook	Lincolnwood, village of	171001—New	Apr. 24, 1979, emergency, Apr. 24, 1979, regular.	
Montana	Carbon	Joliet, city of	300006	Apr. 26, 1979, emergency.	Dec. 27, 1974.
Illinois	Rock Island	Silvis, city of	170595–A	Apr. 27, 1979, emergency.	May 31, 1974 and May 21, 1974.
Mississippi	Attala	Unincorporated areas	280301–A	Apr. 23, 1979, emergency.	July 29, 1977.
Do	Newton	Chunky, town of	280240	do	Dec. 20, 1974.
Do	Scott	Lake, town of	280149–A	do	July 19, 1974 and June 25, 1976.
Do	Leake	Unincorporated areas	280293–A	do	May 20, 1977.
Do	Neshoba	do	280274	do	Nov. 4, 1977.
Do	Newton	do	280231	do	Sept. 16, 1977.
Do	Oktibbeha	do	280277	do	Feb. 17, 1978.
Do	Scott	Sebastopol, village of	280151	do	Feb. 7, 1975.
Do	do	Unincorporated areas	280280–A	do	June 17, 1977.
Missouri	do	do	290837	Apr. 24, 1979, emergency.	
Michigan	Berrien	Sodus, township of	260046–B	Jan. 23, 1974, emergency, Apr. 3, 1978, regular, Apr. 3, 1978, suspended, Apr. 26, 1979, reinstated.	Aug. 2, 1974 and June 25, 1976.
Pennsylvania	Jefferson	Barnett, township of	422440	Apr. 25, 1979, emergency.	Dec. 27, 1974.
Do	Washington	Blaine, township of	422141–A	do	Oct. 16, 1974 and Aug. 6, 1976.
Do	Potter	Bingham, township of	421973	do	Nov. 29, 1974.
Do	Lackawanna	Covington, township of	422455	do	Jan. 10, 1975.
Do	Carbon	East Side, borough of	422360	do	Jan. 31, 1975.
Do	Huntingdon	Hopewell, township of	421690	do	Dec. 6, 1974.
Do	Jefferson	Knox, township of	421730	do	Dec. 20, 1974.
Do	Somerset	Middlecreek, township of	422516	do	Jan. 3, 1975.
Do	Jefferson	Portar, township of	422446	do	Feb. 14, 1975.
Do	Somerset	Upper Turkeyfoot, township of	422525	do	Dec. 27, 1974.
Do	Crawford	West Shenango, township of	422402	do	Jan. 17, 1975.
New York	Westchester	Dobbs Ferry, village of	360908–C	Aug. 10, 1976, emergency, Apr. 16, 1979, regular, Apr. 16, 1979, suspended, Apr. 23, 1979, reinstated.	May 17, 1974 and June 11, 1976.
Maine	Hancock	Surry, town of	230296–A	Apr. 30, 1979, emergency.	Sept. 6, 1977.
Minnesota	Washington	Mahtomedi, city of	270698	do	June 24, 1977.
Pennsylvania	Franklin	Letterkenny, township of	422425	do	Dec. 20, 1974.
Do	Columbia	Roaring Creek, township of	421557–A	do	Dec. 13, 1974 and Sept. 3, 1976.
Do	Jefferson	Union, township of	422449	do	Dec. 27, 1974.

(National Flood Insurance Act of 1968 [title XIII of the Housing and Urban Development Act of 1968]; effective Jan. 28, 1969 (33 FR 17804, Nov. 28, 1968), as amended, 42 U.S.C 4001–4128; Executive Order 12127, 44 FR 19367; and delegation of authority to Federal Insurance Administrator, 44 FR 20963.)

Issued: April 26, 1979.

Gloria M. Jimenez,

Federal Insurance Administrator.

[Docket No. FI–5416]

[FR Doc. 79–13917 Filed 5–7–79; 8:45 am]

BILLING CODE 4210–23–M

DEPARTMENT OF THE TREASURY

Internal Revenue Service

26 CFR Part 1

Income Tax; Exchanges Under the Final System Plan for ConRail

AGENCY: Internal Revenue Service, Treasury.

ACTION: Final regulations.

SUMMARY: This document provides final regulations relating to exchanges under the final system plan for the Consolidated Rail Corporation. Changes to the applicable tax law were made by the Act of March 31, 1976. The regulations provide the public with the guidance needed to comply with that Act and affect all persons making exchanges under the final system plan for the Consolidated Rail Corporation.

DATE: The amendments are effective for taxable years ending after March 31, 1976.

FOR FURTHER INFORMATION CONTACT: Jack A. Levine of the Legislation and Regulations Division, Office of the Chief Counsel, Internal Revenue Service, 1111 Constitution Avenue, NW., Washington, D.C. 20224, Attention: CC:LR:T (202–566–3474, not a toll-free call).

SUPPLEMENTARY INFORMATION:

Background

On August 30, 1978, the **Federal Register** published proposed

amendments to the Income Tax Regulations (26 CFR Part 1) under sections 354, 356, 358, 371, 372, 373 and 374 of the Internal Revenue Code of 1954 (43 FR 38727). These amendments were proposed to conform the regulations to the Act of March 31, 1976 (Pub. L. 94–253, 90 Stat. 295) and to the "Deadwood" provisions of section 1901 of the Tax Reform Act of 1976 (90 Stat. 1764). The regulations relate to the treatment of exchanges under the final system plan for ConRail.

One comment was received from the public, and a public hearing was held on December 19, 1978. The substance of the comment and the statement made at the public hearing relates to the allocation of basis among nonrecognition property received in certain exchanges involving ConRail. Under the proposed regulations, the transferor's basis for each "unit" of ConRail Stock and related USRA certificate of value is allocated between the stock and certificate based on their respective fair market values on the date the unit is broken by a transfer of one without the other. The comment and the statement made at the public hearing suggest that the regulations should permit alternative methods of allocation. Specifically, it is suggested that the transferor should be permitted, whenever ConRail stock or USRA certificates are transferred separately, to elect to allocate none, all or any part of the unit's basis to the stock or certificate transferred separately. One of the reasons offered for this suggestion is that, if Congress decides to change the method of payment to the transferor railroads for the rail properties conveyed to ConRail, then the allocation-of-basis rules under these regulations might cause a distortion of income to the transferors.

The legislative history of the ConRail provisions does not indicate that Congress intended to permit the transferor to elect to allocate basis in the manner suggested in the comment and statement made at the public hearing. To the contrary, Congress was specifically concerned with not having an allocation-of-basis rule that might result in the "improper measurement of taxable income or loss on the separate sale of ConRail stock or certificates of value, or on a redemption of a certificate of value." See H.R. Rep. No. 94–940, 94th Cong., 2d Sess. 8–9 (1976). For this reason Congress chose not to have a rule that provided for the allocation of basis at a time (the date of conveyance to the transferors of the ConRail stock and certificates of value) when the respective values of the stock and certificates could not be accurately determined. The allocation of basis at such a time could result in an improper measurement of taxable income or loss upon the sale of the stock or certificates. Obviously, permitting a transferor to allocate the unit's basis to the separately transferred stock or certificates in any manner that the transferor might choose could also result in an improper measurement of income or loss. Further, Congress specifically intended that the regulations providing for allocation of basis take into account the respective fair market values of the stock and certificates at the time that the stock or certificates are separately sold. See H. Rep. No. 94–940, 8–9. Therefore, the proposed amendment of the regulations is adopted without change by this Treasury decision. However, if Congress enacts new legislation with respect to ConRail, then if it is necessary these regulations will be amended.

Drafting Information

The principal author of this regulation is Mr. Jack A. Levine of the Legislation and Regulations Division, Office of the Chief Counsel, Internal Revenue Service. However, personnel from other offices of the Internal Revenue Service and Treasury Department participated in developing the regulation, both on matters of substance and style.

Adoption of Amendments to the Regulations

Accordingly the amendment to 26 CFR Part 1, as proposed, is hereby adopted without change.

This Treasury decision is issued under the authority contained in sections 358(b)(3) and 7805 of the Internal Revenue Code of 1954 (90 Stat. 296 and 68A Stat. 917; 26 U.S.C. 358(b)(3) and 7805).

Jerome Kurtz,

Commissioner of Internal Revenue.

Approved: April 24, 1979.

Donald C. Lubick,

Assistant Secretary of the Treasury.

§ 1.354 [Deleted]

Paragraph 1. Section 1.354 is deleted.

§ 1.354–1 [Amended]

PAR. 2. Section 1.354–1 is amended by deleting the phrase "Except in the case described in subsection (c)" from paragraph (b) and inserting in lieu thereof the phrase "Except as provided in section 354 (c) and (d)".

§ 1.356 [Deleted]

PAR. 3. Section 1.356 is deleted.

§ 1.356–3 [Amended]

PAR. 4. Section 1.356–3 is amended by inserting "or (d)" immediately after "subsection (c)" in the fourth sentence of paragraph (a).

§ 1.358 [Deleted]

PAR. 5. Section 1.358 is deleted.

§ 1.358–1 [Amended]

PAR. 6. Section 1.358–1 is amended by deleting "or 361" in paragraph (a) and inserting in lieu thereof ", 361, or 374" and by deleting "361, or 371(b)" in paragraph (a) and inserting in lieu thereof "361, 371(b), or 374".

PAR. 7. Section 1.358–2 is amended by deleting "or 361" each time it appears in paragraph (b) and inserting in lieu thereof ", 361, or 374" and by adding a new paragraph (d) after paragraph (c). The new provision reads as follows:

§ 1.358–2 Allocation of basis among nonrecognition property.

* * * * *

(d) See § 1.358–5 for rules relating to the allocation of basis in the case of an exchange to which section 354(d) (or so much of section 356 as relates to section 354(d)) or section 374(c) applies.

PAR. 8. Section 1.358–5 is added immediately after § 1.358–4 to read as follows:

§ 1.358–5 Certain exchanges involving ConRail.

(a) *In general.* In applying the allocation of basis rules of § 1.358–2 to an exchange to which section 354(d) (or so much of section 356 as relates to section 354(d)) or 374(c) applies, each certificate of value of the United States Railway Association and the amount of stock of the Consolidated Rail Corporation which relates to each certificate shall, so long as they are held by the same person, be treated as one unit of property.

(b) *Transfer of certificates, stock, or both.* If a certificate of value and the amount of stock related to it (see paragraph (c) of this section) are transferred together by a person who received the property in an exchange to which section 354(d) (or so much of section 356 as relates to section 354(d)) or 374(c) applies, the transferor shall be treated as transferring a single unit of property. If, however, a certificate of value is transferred without the amount of stock related to it or if a share or shares of the stock are transferred without the related certificate of value, the basis allocated to the certificate and shares of stock as a single unit of

property shall be reallocated among each share of stock and the certificate in proportion to the fair market value of each on the date of the transfer.

(c) *Amount of stock related to a certificate of value.* For purposes of this section, the amount of stock of the Consolidated Rail Corporation related to a certificate of value of the United States Railway Association shall be the number of shares of series B preferred stock and common stock applicable to each certificate of value under section 610(b) of the Railroad Revitalization and Regulatory Reform Act of 1976 (45 U.S.C. 746(c)(3)).

(d) *Illustration.* The application of paragraphs (a), (b) and (c) of this section may be illustrated by the following example:

Exomple. (a) In an exchange to which section 374(c)(1) applies corporation X transfers rail properties with an adjusted basis of $9,000 to the Consolidated Rail Corporation in exchange for 10 certificates of value of the United States Railway Association, 10 shares of series B preferred stock of the Consolidated Rail Corporation and 20 shares of common stock of the Consolidated Rail Corporation. Under § 1.358–2(b) the basis of $9,000 in the rail properties transferred by X must be allocated among the nonrecognition properties received by X. X is considered for purposes of allocating basis as having received 10 units of property each consisting of one certificate of value, one share of series B preferred stock and two shares of common stock. The basis to X of each unit of property is $900.

(b) Corporation X sells two certificates of value, three shares of series B preferred stock and six shares of common stock for their respective fair market values in a single transaction. X receives $400 for each certificate, $100 for each share of series B preferred stock and $50 for each share of common stock. For purposes of determining gain or loss, X is considered to have sold two units of property (each consisting of one certificate of value, one share of series B preferred stock and two shares of common stock), plus one share of series B preferred stock and two shares of common stock. The basis of each of the two units of property is $900. The basis of the share of preferred stock is $150, the basis of each share of common stock is $75 and the basis of the certificate of value retained by X is $600 determined by reallocating the basis of $900 in a unit of property (consisting of one certificate of value, one share of series B preferred stock and two shares of common stock) among the shares of stock sold and certificate of value retained in proportion to their fair market values on the date of the transfer.

(e) *Records to be kept.* The taxpayer shall keep records of the basis, as reallocated under paragraph (b) of this section, of each certificate of value or share of stock retained. If the later transfer by the taxpayer of a certificate of value or share of stock is not treated under paragraph (b) of this section as the transfer of a single unit of property (consisting of a certificate of value and stock), the taxpayer shall identify from among the certificates of value and shares of stock that have reallocated bases, the particular certificate of value or share of stock so transferred.

§ 1.371 [Deleted]

PAR. 9. Section 1.371 is deleted.

§ 1.372 [Deleted]

PAR. 10. Section 1.372 is deleted.

§§ 1.373 through 1.373–3 [Deleted]

PAR. 11. Sections 1.373 through 1.373–3 are deleted.

§ 1.374 [Deleted]

PAR. 12. Section 1.374 is deleted.

§ 1.374–2 [Amended]

PAR. 13. Section 1.374–2 is amended as follows:

1. The date "July 31, 1955," is deleted from the heading and body and the date "December 31, 1938," is inserted in lieu thereof.

2. "374(b)" is deleted each time it appears and "374(b)(1)" is inserted in lieu thereof.

PAR. 14. Section 1.374–4 is added immediately after § 1.374–3 to read as follows:

§ 1.374–4 Property acquired by electric railway corporation in corporate reorganization proceeding.

Subject to the limitations and conditions set forth in section 374(b)(2), if the reorganization under section 77 of the Bankruptcy Act (11 U.S.C. 501 and following) of an electric railway corporation results in the acquisition of the property of such corporation by another corporation, the basis of such property in the hands of the acquiring corporation is the same as it would be in the hands of the old corporation. It is requisite to the application of the section that both corporations be street, suburban, or interurban electric railway corporations engaged in the transportation of persons or property in interstate commerce, and that the acquisition is in pursuance of an order of the court and is an integral step in the consummation of a reorganization plan approved by the court having jurisdiction of the proceeding. If section 374(b)(2) applies, section 270 of the Bankruptcy Act (11 U.S.C. 670), relating to the adjustment of basis by reason of the cancellation or reduction of indebtedness in a corporate reorganization proceeding, is inapplicable. Moreover, if the transaction is within the provisions of section 374(b)(2) and may also be considered to be within any other basis provision, then the provisions of section 374(b)(2) only shall apply.

[T.D. 7616]

[FR Doc. 79–14308 Filed 5–7–79; 8:45 am]

BILLING CODE 4830–01–M

DEPARTMENT OF LABOR

Wage and Hour Division

29 CFR Part 786

Deletion of Subpart B, § 786.50

AGENCY: Wage and Hour Division, Labor.

ACTION: Final Rule.

SUMMARY: The Fair Labor Standards Amendments of 1974 repealed the partial overtime exemption provided in section 13(b)(7), effective May 1, 1976. The purpose of this document is to delete from Part 786 the section relating to the application of that exemption.

EFFECTIVE DATE: May 8, 1979.

FOR FURTHER INFORMATION CONTACT: Paul G. Campbell, Director, Division of Minimum Wage and Hour Standards, Wage and Hour Division, U.S. Department of Labor, S–3508, Washington, D.C. 20210; (202) 523–7045.

SUPPLEMENTARY INFORMATION: Section 21 of the Fair Labor Standards Amendments of 1974 repealed the partial overtime exemption provided in section 13(b)(7) for any driver, operator, or conductor employed by an employer engaged in the business of operating a street, suburban or interurban electric railway, or local trolley or motorbus carrier. Therefore, Part 786 of Title 29, Code of Federal Regulations, Subpart B, which sets forth the enforcement policy as to the exemption, is no longer applicable.

This document was prepared under the Direction and control of Herbert J. Cohen, Assistant Administrator, Wage and Hour Division.

Because this deletion effectuates the repeal of an exemption, there is no requirement to publish for comment or delay the effective date.

Subpart B [Deleted and Reserved]

Accordingly, the title and contents of Subpart B, ("Street, Suburban, or Interurban Electric Railways and Local Trolley or Motor Bus Carriers," consisting of § 786.50, Enforcement policy concerning performance of non-exempt work) is hereby deleted, and Subpart B is reserved.

(52 Stat. 1067, as amended; 29 U.S.C. 213(b)(7); Secretary's Order No. 16–75, dated November 25, 1975 (40 FR 55913), and Employment Standards Order No. 76–2, dated February 23, 1976 (41 FR 9016))

Signed at Washington, D.C., this 26th day of April, 1979.

C. Lamar Johnson,

Deputy Administrator, Wage and Hour Division, U.S. Department of Labor.

[FR Doc. 79–14362 Filed 5–7–79; 8:45 am]

BILLING CODE: 4510–27–M

DEPARTMENT OF THE TREASURY

Office of the Secretary

31 CFR Part 103

Financial Recordkeeping and Reporting of Currency and Foreign Transactions; Supervisory Responsibility: Correction

AGENCY: Department of the Treasury.

ACTION: Correction.

SUMMARY: This document corrects a typographical error which appeared in a Federal Register notice citing the legal authority for the Secretary of the Treasury to amend 31 CFR 103.46.

EFFECTIVE DATE: March 5, 1979.

FOR FURTHER INFORMATION CONTACT: Robert J. Stankey, Jr., Adviser to the Deputy Assistant Secretary (Enforcement), Department of the Treasury, Washington, D.C. 20220, (202–566–5630).

SUPPLEMENTARY INFORMATION: On April 25, 1979, the Federal Register published a notice citing the Secretary of the Treasury's authority for amending 31 CFR 103.46. The notice contained a typographical error. The citation included a reference to "64 Stat. 1114"; the reference should have been to "84 Stat. 1114."

Dated: May 2, 1979.

Arthur Sinai,

Deputy Assistant Secretary (Enforcement).

[FR. Doc. 79–14298 Filed 5–7–79; 8:45 am]

BILLING CODE 4810–25–M

DEPARTMENT OF DEFENSE

Department of the Air Force

32 CFR Part 920

Standards of Conduct

AGENCY: Department of the Air Force, Department of Defense.

ACTION: Final rule.

SUMMARY: The Department of the Air Force is revising its rule on Standards of Conduct. A review of the rule by the office responsible revealed a need to improve the regulatory language for better understanding by the public.

EFFECTIVE DATE: December 29, 1978.

FOR FURTHER INFORMATION CONTACT: Mr. Richard Peterson, Headquarters, U.S. Air Force (JACM), Office of the Judge Advocate General, The Pentagon, Washington, D.C. 20330 (Phone: 202–694–4075).

SUPPLEMENTARY INFORMATION: Part 920 of Chapter VII, Title 32 of the Code of Federal Regulations is revised. The revision clarified gambling prohibitions, requirement for briefings, and prohibitions as to retired officers; adds definition of "selling"; states where DD Form 1357 is stocked and gives requirements for consultants filing DD Form 1555.

The revised part will read as follows:

PART 920—STANDARDS OF CONDUCT

Subpart A—General

Sec.
920.1 Purpose.
920.2 Terms explained.
920.3 Applicability.
920.4 Ethical standards of conduct.
920.5 Bribery and graft.
920.6 Gratuities.
920.7 Prohibition of contributions or presents to superiors.
920.8 Using Government facilities, property, and manpower.
920.9 Using civilian and military titles in connection with commercial enterprises.
920.10 Outside employment of Air Force personnel.
920.11 Gambling, betting, and lotteries.
920.12 Indebtedness.
920.13 Information to personnel.
920.14 Confidential statement of affiliations and financial interests (DD Form 1555).
920.15 Reporting suspected violations.

Subpart B—Conflict of Interest Laws

920.16 Full-time officers and employees.
920.17 Special Government employees.
920.18 Reports of Defense related employment.
920.19 Former officers and employees.
920.20 Retired regular officers.
920.21 Officers of the reserve components.

Subpart C—Special Government Employees; Advisers and Consultants; Temporary or Intermittent Employees

Sec.
920.22 General.
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Subpart D—Disposition of Forms

920.24 Disposition of DD Form 1555.

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920.25 Receipt and disposition of honoraria and providing expert testimony before State agencies.
920.26 Laws applicable to all Department of Defense personnel.
920.27 Gratuities additional guidance.
920.28 Confidential statement of affiliations and financial interests (DD Form 1555) additional guidance.
920.29 Special Government employees.
920.30 Special instructions regarding receipt and disposition of honoraria; and providing expert testimony before State agencies.

Authority: Sec. 8012, 70A Stat. 488; 10 U.S.C. 8012.

Note.—This part is derived from Air Force Regulation 30.30, December 29, 1978.

Part 806 of this Chapter states the basic policies and instructions governing the disclosure of records and tells members of the public what they must do to inspect or obtain copies of the material referenced herein.

Subpart A—General

§ 920.1 Purpose.

(a) This part explains Air Force personnel standards of conduct that relate to possible conflict between private interests and official duties, regardless of assignment. Close adherence to these principles will ensure compliance with the high ethical standards demanded of all public servants. Violations of the specific prohibitions and requirements of this part by military personnel may result in prosecution under the Uniform Code of Military Justice (UCMJ). Violations of this part by Air Force civilian employees may result in appropriate disciplinary action without regard to the criminal liabilty issue. Administrative action, such as reprimand, may be taken with regard to military members and civilian employees who violate any requirements of this part even if such violations do not constitute criminal misconduct. This part implements DOD Directive 5500.7, January 15, 1977. It further implements Executive Order 11222, May 8, 1965, prescribing standards of ethical conduct for Government officers and employees and the Civil Service Commission regulations of October 1, 1965. It is in agreement with the Code of Ethics for Government Service in House

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Concurrent Resolution 175, 85th Congress, that applies to all Government personnel. It includes standards of conduct based on the revisions of the conflict of interest laws enacted in 1962 (Pub. L. 87-777 and Pub. L. 87-849), as amended. This part applies to all Air Force personnel and activities.

(b) This part is affected by the Privacy Act of 1974. Each form that is required by this part has a Privacy Act Statement incorporated either in the body of the document or in a separate attachment accompanying each such document.

§ 920.2 Terms explained.

(a) *DOD personnel.* As used in this part unless the context indicates otherwise, all civilian officers and employees, special Government employees, of all the offices, agencies, and departments in the Department of Defense (including nonappropriated fund activities) and all active duty officers and enlisted members of the Army, Navy, Air Force, and Marine Corps (officers includes commissioned and warrant).

(b) *Air Force personnel.* As used in this part, unless the context indicates otherwise, all civilian officers and employees, special Government employees, in the Department of the Air Force (including nonappropriated fund activities) and all active duty officers and enlisted members of the Air Force (officers includes both commissioned and warrant).

(c) *Reserve officers.* Includes both officers of the Air National Guard of the United States and Air Force Reserve.

(d) *Gratuity.* Any gift, favor, entertainment, hospitality, transportation, loan, any other tangible item, and any intangible benefits. For example, discounts, passes, and promotional vendor training, given or extended to or on behalf of Air Force personnel, their immediate families, or households for which fair market value is not paid by the recipient or the US Government.

§ 920.3 Applicability.

All Air Force personnel must be familiar and comply with this part.

§ 920.4 Ethical standards of conduct.

(a) Air Force personnel must not take part in any personal, business, or professional activity, or receive or retain any direct or indirect financial interest, that places them in a position of conflict between their private and public interests of the United States that relate to their responsibilities as Air Force personnel, and to the duties or responsibilities of their Air Force jobs. For the purpose of this prohibition, the private interests of a spouse, or minor child, and any household members are treated as Air Force personnel private interests. Air Force personnel:

(1) Must not use, directly or indirectly, any Air Force information to further a private gain (for themselves or others) if that information is not generally available to the public and was obtained through their Air Force jobs.

(2) Are not allowed to use their Air Force positions to induce, coerce, or to influence a person (including subordinates) in any way to provide any benefits, financial or otherwise, to themselves or others.

(3) May have financial interests or engage in financial transactions to the same extent as private citizens not employed by the Government as long as they are not prohibited by the law or this part.

(b) *Dealing with present and former military and civilian personnel.* Air Force personnel must not knowingly deal with military or civilian personnel or former military or civilian personnel of the Government, if such action violates a statute or a policy in this part.

(c) *Membership in associations.* All Air Force personnel who are members or officers of nongovernmental associations or organizations must avoid activities for such association or organization that are not compatible with their official Government positions. Further, Air Force personnel must not accept an honorary office or an honorary membership in any trade or professional association whose membership includes business entities that are engaged, or are endeavoring to engage, in providing goods or services to a Department of Defense (DOD) component (including any nonappropriated fund activity of the DOD). An honorary office includes any position, whether termed honorary or not, selected on the basis of an official DOD function or assignment (see AFR 30-9, Meetings of Technical, Scientific, Professional or Similar Organizations).

(d) *Commercial soliciting by Air Force personnel.* To eliminate the appearance of coercion, intimidation, or pressure from rank, grade, or position, Air Force personnel (except special Government employees), are prohibited from making personal commercial solicitations or sales to DOD personnel who are junior in rank or grade, at any time, on or off-duty.

(1) This limitation includes, but is not limited to, the soliciting and selling of insurance, stocks, mutual funds, real estate, and any other commodities, goods, or services.

(2) This prohibition does not apply to the one-time sale by an individual of personal property or a privately owned dwelling. Neither does it apply to employing off-duty DOD personnel in retail stores or other situations that do not include solicited sales.

(3) For civilian personnel, the limitation applies only to personnel under their supervision at any level.

(e) Assigning Reserves for training. Air Force personnel who are responsible for assigning Reserves for training must not assign them to duties in which they will get information that could be used by them or their private sector employers to the disadvantage of civilian competitors.

(f) *Conduct prejudicial to the Government.* Air Force personnel must not engage in criminal, infamous, dishonest, immoral, or notoriously disgraceful conduct or other conduct prejudicial to the Government. Moreover, Air Force personnel must avoid any action, whether or not specifically prohibited by this part, that might result in, or create the appearance of:

(i) Using public office for private gain;

(ii) Giving preferential treatment to any person;

(iii) Impeding Government efficiency or economy;

(iv) Losing complete independence or impartiality;

(v) Making a Government decision outside official channels; or

(vi) Affecting adversely the confidence of the public in the intergrity of the Government.

(g) Air Force personnel must scrupulously adhere to the Air Force program of equal opportunity regardless of race, color, religion, sex, age, or national origin, as set out in AFR 30-2, Social Actions Programs.

§ 920.5 Bribery and graft.

In general, Air Force personnel may be subject to criminal penalties if they solicit, accept or agree to accept anything of value in return for performing or refraining from performing an official act (see 18 U.S.C. 201).

§ 920.6 Gratuities.

(a) *Policy basis.* Air Force personnel or their families who accept gratuities, no matter how innocently tendered and received, from those who have or seek business with DOD and from those whose business interests are affected by Department functions may:

(1) Be a source of embarrassment to the Department;

(2) Affect the objective judgment of the DOD personnel involved; and

(3) Impair public confidence in the integrity of the Government.

(b) *General prohibition.* Except as provided in § 920.27, Air Force personnel and their immediate families must not solicit, accept, or agree to accept any gratuity for themselves, members of their families, or others, either directly or indirectly from, or for any source that:

(1) Is engaged in or seeks business or financial relations of any sort with any DOD Component;

(2) Conducts operations or activities that are either regulated by a DOD Component or significantly affected by DOD decisions; or

(3) Has interests that may be substantially affected by the performance or nonperformance of the official duties of DOD personnel.

§ 920.27 sets out limited exceptions, additional guidance on gratuities, and procedures for disposition of unauthorized gratuities and is incorporated here by reference.

(c) Procedures that concern gifts from foreign governments are in Part 826 of this chapter and AFR 900-48, Decorations Service Awards, Unit Awards, Special Badges, Favorable Communications Certificates and Special Devices.

(d) Procedures that concern AFROTC staff members are in AFR 45-5, Benefits offered by Educational Institutions to AFROTC Staff Members.

(e) Procedures for accepting accommodations, subsistence, or services furnished in kind in connection with official travel, from other than Defense contractors, are in § 920.27.

§ 920.7 Prohibition of contributions or presents to superiors.

Air Force personnel must not solicit a contribution from other DOD personnel for a gift to an official superior, make a donation or a gift to an official superior, or accept a gift from other subordinate DOD personnel. However, this section does not prohibit voluntary gifts or contributions of nominal value on special occasions such as marriage, illness, transfer, or retirement, provided any gifts acquired with such contributions shall not exceed a reasonable value.

§ 920.8 Using Government facilities, property, and manpower.

Air Force personnel must not directly or indirectly use, or allow the use of, Government property or resources of any kind, including property leased to the Government for other than officially approved activities. Government facilities, property, and manpower (such as stenographic and typing assistance, mimeograph and chauffeur services) must be used only for official Government business. Air Force personnel have a positive duty to protect and conserve Government property, including equipment, supplies, and other property entrusted to them. This section is not intended to preclude using Government facilities for activities that would further military-community relations provided they do not interfere with military missions.

§ 920.9 Using civilian and military titles in connection with commercial enterprises.

(a) Full time Air Force civilian employees or military persons on active duty are not allowed to use their civilian and military titles or jobs in connection with any commercial enterprise or for endorsing a product. For the purpose of this section, the term "commercial enterprise" is any organization except those that are found in 26 U.S.C. 501(b), subsections (1), (3), (4), (6), (7), (8), (9), (10), (11), (13), or (14). Air Force civilian employees and military personnel on extended active duty must not use their civilian or military title or job in connection with any organization or entity unless they first determine that the organization or entity involved is exempt from the tax laws in one of the above subsections of 26 U.S.C. 501(c). Individuals may use their military or civilian title or job on publications to identify them as author of such books, provided that the material is published according to § 920.10(c) and has been cleared under existing Air Force procedures (see AFR 190-12, Release of Unclassified Information to the Public and AFM 190-9, Information Policies and Procedures).

(b) All retired military personnel and all members of Reserve components, not on active duty, are permitted to use their military titles in connection with commercial enterprises if they indicate their reserve or retired status. Such use of military titles must in no way cast discredit on the Air Force or DOD. Such use is also prohibited in connection with commercial enterprises if such use (with or without the intent to mislead) gives rise to any appearance of sponsorship, sanction, indorsement, or the Air Force or DOD approval. The Air Force may restrict retired personnel and members of Reserve components not on active duty from using their military titles in connection with public appearances in oversea areas.

§ 920.10 Outside employment of Air Force personnel.

(a) Air Force personnel must not engage in outside employment or other outside activity, with or without compensation, that:

(1) Interferes with, or is not compatible with performing their Government duties.

(2) May reasonably be expected to bring discredit on the Government or DOD; or

(3) Is otherwise inconsistent with the requirements of this part. These requirements include avoiding actions and situations that reasonably may appear to create conflicts of interests.

(b) An Air Force enlisted member on active duty may not be ordered or permitted to leave one's post to engage in a civilian pursuit or business, or perform in civil life (for emolument, hire, or otherwise) if the pursuit, business, or performance interferes with the customary or regular employment of local civilians in their art, trade, or profession (10 U.S.C. 974).

(c) Air Force personnel are encouraged to engage in teaching, lecturing, and writing.

(1) However, employees must not, engage in teaching, lecturing or writing (either for or without compensation), if used to prepare a person or a special class for an examination of the Civil Service Commission Board of Examiners for the Foreign Service, or any other Government examination that is dependent on information obtained as a result of their Government employment. Such information may be used if it has been published or is available to the general public or will be made available on request, or when the agency head gives written authorization for the use of nonpublic information on the basis that the use is in the public interest (see § 920.30).

(2) In addition, employees who are civilian Presidential appointees must not receive pay or anything of monetary value for any consultation, lecture, discussion, writing, or appearance, if the subject matter is devoted substantially to the responsibilities, programs, or operation of the employee or draws substantially on official data or ideas that have not become part of the body of public information.

(d) A military member may engage in off-duty employment with an organization involved in a strike if the member was on the payroll of such organization before the strike started and if the employment conforms with the requirements of this part. A military member may not accept employment by an organization at a location where that

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organization is involved in a strike after it starts and during the course of such a strike. Members who are engaged in off-duty civilian employment that does not meet the above policy are required to terminate such employment.

(e) This section does not preclude Air Force personnel from taking part in:

(1) Activities of national or state political parties not prescribed by law or regulation.

(2) Affairs or accepting an award for a meritorious public contribution or achievement given by a charitable, religious, professional, social, fraternal, nonprofit educational, nonprofit recreational, public service or civic organization.

(f) Each major commander and each head of a separate operating agency will insure that local implementing regulations require, at least, that Air Force personnel get local commander approval for any off-duty employment with a firm or other entity that is engaged, or is endeavoring to engage, in business transactions of any kind with a DOD agency. Local commanders must set internal administrative procedures to evaluate each request submitted and notify the applicant whether the proposed off-day employment is in consonance with this part.

§ 920.11 Gambling, betting, and lotteries.

Air Force personnel must not take part in any gambling activity while on Government-owned or leased property, or while on duty for the Government. This includes operating a gambling device, in conducting a lottery or pool, in a game for money or property, or in selling or purchasing a numbers slip or ticket. However, the section does not preclude activities:

(a) Necessitated by an employee's law enforcement duties; or

(b) Under Section 3 of Executive Order 10927, and similar Air Force approved activities, including those indicated in AFR 34–3, Morale, Welfare, and Recreation Basic Responsibilities, Policies and Practices, volume IV, chapter 4 and AFR 215–1, Open Mess Program, volume XI, chapter 8, or as otherwise authorized.

§ 920.12 Indebtedness.

Air Force personnel must pay each just financial obligation in a proper and timely manner, especially one imposed by law, such as Federal, state, or local taxes. For the purpose of this section, a "just financial obligation" means one acknowledged by the employee or reduced to judgment by a court, and "in a proper and timely manner" means in a manner that the agency determines does not, under the circumstances reflect adversely on the Government as the employer. In the event of dispute between Air Force personnel and an alleged creditor, this section does not require the Air Force to determine the validity or amount of the disputed debt.

§ 920.13 Information to personnel.

Commanders must make sure that the standards of conduct are brought to the attention of all Air Force personnel. An oral standards of conduct briefing as herein provided must be given, and a copy of this part be made readily available to all Air Force personnel. Those desiring a copy for personal retention shall be provided one.

(a) For civilian employees and military officers, the oral standards of conduct briefing will be a part of the orientation briefing preceding initial employment with the Air Force (civilians) and first reporting for Air Force duty (officers). Air Force officers and civilian employees receiving such briefings shall indicate in writing that they have read the standards of conduct (§ 920.4 and § 920.6 as a minimum) and that they understand the requirements imposed.

(b) Enlisted personnel also must be given oral standards of conduct briefings and indicate in writing that they attended. This may be accomplished at the same time as the explanations required by 10 U.S.C. 937.

(c) All Air Force personnel must be reminded by appropriate means at least twice a year of their duty to comply with required standards of conduct. In this connection:

(1) The Deputy for Manpower and Personnel (1947 ASG/DMPM) makes sure that these requirements are met within HQ USAF;

(2) The Commander of the Air Force Reserve is responsible for making sure that active status reserve personnel not on active duty as well as all active duty military and civilian personnel under the commander's jurisdiction comply with these requirements;

(3) The Chief of the National Guard Bureau makes sure that all personnel of the Air National Guard of the United States (including technicians and other civilian employees) comply with these requirements.

(d) All Air Force personnel are advised that they may seek additional clarification of the standards of conduct in this part and related statutes from the local legal office that provides legal service to their organization or activity. For this purpose:

(1) Each base and other commander who is responsible for providing legal service to personnel designates the Staff Judge Advocate, and, if necessary, one or more Judge Advocates to be Deputy Standards of Conduct Counselors. The Deputy Counselors are responsible for providing advice and assistance to such personnel on all matters that relate to standards of conduct and conflicts of interest covered by this part. They are also responsible for reviewing DD Forms 1555, "Confidential Statement of Affiliations and Financial Interests."

(2) The Deputy Counselor for Air Force personnel at duty locations not assigned an Air Force Staff Judge Advocate is the Staff Judge Advocate of the Air Force major command nearest to their duty location, unless their US Government superior or higher US Government authority specifically designates another as Deputy Counselor.

(3) The Judge Advocate General, or designee, is the Deputy Counselor responsible for these functions in the Air Staff.

(4) The General Counsel of the Air Force is responsible for these functions in the Office of the Secretary of the Air Force and is the Air Force Standards of Conduct Counselor.

(e) Questions that cannot be resolved by the local legal office are referred, with recommendations, through channels to higher authority. The General Counsel of the Department of the Air Force, Office of the Secretary of the Air Force, is responsible for proper coordination and final disposition of all problems that relate to conflict of interest, including those that relate to reviewing DD Forms 1555.

(f) Except as specifically provided in this part waivers of and exceptions to the requirements of this part may be authorized or approved only by the Secretary of the Air Force. It is emphasized that many of the requirements of this part are based on legal requirements and cannot be waived.

§ 920.14 Confidential statement of affiliations and financial interests (DD Form 1555).

(a) Full-time Air Force personnel in the following categories are required to keep current and submit, a DD Form 1555, according to the instructions contained in § 920.28.

(1) Air Force personnel paid at the Executive Schedule level in 5 U.S.C. 53, subchapter II.

(2) Air Force personnel classified at GS–13 or above under 5 U.S.C. 5332 or at a comparable pay level under another authority; also members of the military in the rank of Lieutenant Colonel or above whose basic duties and responsibilities require the incumbent to exercise judgment in making a Government decision or in taking Government action that concerns administering or monitoring grants or subsidies.

(3) Air Force personnel classified at GS–13 or above under 5 U.S.C. 5332 or at a comparable pay level under another authority; also members of the military in the rank of Lieutenant Colonel or above whose basic duties and responsibilities require the incumbent to exercise judgment in making a Government decision or in taking Government action in regard to:

(i) Contracting or procurement;

(ii) Auditing; or

(iii) other activities in which the final decision or action has a significant economic impact on the interests of any non-Federal enterprise.

(4) Air Force general officers and all civilian officers and employees paid at GS–18 to GS–18 grade-level under 5 U.S.C. 5332.

(5) Commanders and Vice Commanders of Divisions and Wings.

(6) Base Commanders and Deputy Base Commanders of major installations.

(7) Special Government employees who are "advisers" or "consultants" (see § 920.22).

(b) Section 920.28 has additional guidance and instructions that concern this section. All personnel described in § 920.14(a) will read § 920.28 and comply with requirements that apply to them. In addition, each superior, each deputy counselor, and the officer responsible for the central civilian personnel office at each employing activity must read and comply with § 920.28.

(c) Personnel below the grade of Lieutenant Colonel or GS–13 (or comparable pay grade) are not required to submit a DD Form 1555; nor will anyone whose basic duties are not within the provisions of this section and § 920.28 be required to submit a DD Form 1555. The requirement to report financial holdings is limited to a very few key personnel, but this in no way limits the duty of each member of the Air Force to immediately call to the attention of their superior any situation that involves a conflict of personal versus public interests. Members of the Air Force may never make the decision whether a conflicting interest, no matter how insignificant, is or is not sufficient to influence one's own judgment. This decision is the responsibility of and must be made by an official as set out in § 920.16(d).

(d) Reports concerning status of "Statement of Affiliations and Financial Interests" (DD Form 1555) must be submitted no later than November 30, of each year. Each Air Force major commander must notify HQ USAF/JACM, Wash DC that all required statements and annual statements have been filed, reviewed, and any problems resolved or explain the details of outstanding cases.

§ 920.15 Reporting suspected violations.

Air Force personnel who have cause to believe that other DOD personnel have violated a statute or standard of conduct imposed by this part should first bring the matter to their attention. If such persons are supervisors, or the communication is not expected to remedy or does not appear to have remedied the problem, the matter must be discussed with the proper Standards of Conduct Counselor or Deputy Counselor. If appropriate, the matter will then be reported according to Part 953 of this chapter.

Subpart B—Conflict of Interest Laws

§ 920.16 Full-time officers and employees.

(a) *Definition.* The term "full-time officer or employee" includes all civilian officers and employees, and all military officers on active duty, except those who are "special Government employees" (see § 920.17). It does not include enlisted personnel.

(b) *Prohibitions.* In general, a full-time officer or employee is subject to the following major prohibitions:

(1) They may not, except in discharging their official duties, represent anyone else before a court or Government agency in a matter in which the United States is a party or has an interest. This prohibition applies both to paid and unpaid representation of another (see 18 U.S.C. 203 and 205).

(2) They may not receive any salary, or supplementation of their Government salary, from a private source as pay for their services to the Government (see 18 U.S.C. 209).

(3) They may not take part (see Note in this subparagraph) in their governmental capacity in any matter in which they, their spouse, minor child, outside business associate, or person with whom they are negotiating for employment has a financial interest (see 18 U.S.C. 208). Instead of taking part in such a matter, they must disqualify themselves at once in accordance with (d) of this section, except as provided in (c) of this section.

Note.—A person may take part through decision, approval, disapproval, recommendation, giving advice, investigation, or otherwise.

(c) *Nondisqualifying financial interest.* Officers or employees need not disqualify themselves under (b)(3) of this section if the financial holdings are in shares of a widely held diversified mutual fund or regulated investment company. The indirect interests in business entities of these financial holdings come from ownership by the fund or investment company of stocks in business entities. They are hereby exempted from the requirements of 18 U.S.C. 208(a), as set out in 18 U.S.C. 208(b)(2), as too remote or inconsequential to affect the integrity of the Government officers' or employees' services.

(d) *Disqualification.* (1) Unless otherwise expressly authorized by action taken under 18 U.S.C. 208, all Air Force personnel who have affiliations or financial interests which create conflicts (or appearances of conflicts) of interest with their official duties must disqualify themselves from any official activities that are related to those affiliations, interests, or the entities involved. A formal disqualification notice must be sent to an individual's superior and immediate subordinates if it appears reasonably possible that the individual's official duties will affect those affiliations, interests, or entities. If individuals cannot adequately perform official duties after such disqualification, they must divest themselves of such involvement or be removed from those positions.

(2) For exemptions under 18 U.S.C. 208b(1) the "official responsible for the appointment" must be the immediate superior of the individual concerned who is serving in the grade of Colonel or above, GS–15 or above, or such other superior who is a full-time US Government officer or employee serving in the grade of Colonel, GS–15, or higher. All cases that involve determinations under 18 U.S.C. 208b(1) must be coordinated with the appropriate Standards of Conduct Counselor or Deputy Counselor.

(3) In addition, if a superior thinks that a subordinate employee may have a disqualifying interest, the superior must discuss the matter with that person and if the superior finds such an interest does exist, the superior must relieve the person of duty and responsibility in the particular matter or take other appropriate action to resolve the conflict (see § 920.28).

§ 920.17 Special Government employees.

(a) *Definition.* The term "special Government employee" includes an

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officer or employee who is retained, designated, appointed, or employed to perform (with or without pay) for not more than 130 days during any period of 365 consecutive days temporary duties, either on a full-time or intermittent basis (see 18 U.S.C. 202). The term also includes a Reserve officer on active duty solely for training for any length of time, one serving on active duty involuntarily for any length of time, and one serving voluntarily on extended active duty for 130 days or less. It does not include enlisted personnel.

(b) *Major prohibitions.* In general, special Government employees are subject to the following major prohibitions:

(1) They may not, except in discharging their official duties, represent anyone else:

(i) Before a court or Government agency in a matter in which the US is a party or has an interest and in which the employee has at any time participated personally and substantially for the Government (see 18 U.S.C. 203 and 205).

(ii) In a matter pending before the agency they serve unless they have served there no more than 60 days during the past 365 days (see 18 U.S.C. 203 and 205). They are bound by this restraint despite the fact that the matter is not one in which they have ever participated personally and substantially. The restrictions described in (b)(1)(i) of this section and in this subparagraph apply to both paid and unpaid representation of another.

(2) They may not take part in their governmental capacity in any matter in which their spouse, minor child, outside business associate, or person with whom they are negotiating for employment has a financial interest (see 18 U.S.C. 208). Instead of taking part in such a matter they must disqualify themselves at once according to § 920.16(d) except as provided in § 920.16(c).

(3) After their Government employment has ended, they are subject to the prohibitions in § 920.19(b) as a "former employee" (see 18 U.S.C. 207).

§ 920.18 Reports of Defense related employment.

Certain DOD personnel (including special Government employees) paid at a salary rate equal to or greater than the minimum rate for a grade GS–13 and who formerly were employed by a defense prime contractor at a salary rate of $15,000 or more per year are required by Section 410, Pub. L. 91–121, 50 U.S.C. 1436, to file reports of "Defense Related Employment" (DD Form 1787) for a period of 3 years subsequent to the termination of their employment by the contractor. Refer to Part 809d of this chapter for more details concerning this statutory requirement.

§ 920.19 Former officers or employees.

(a) *Definition.* The term "former officer or employee" includes those full-time civilian officers or employees and former military officers who have left Government service, special Government employees who have left Government service, retired Regular officers, and Reserve officers released from active duty. It does not include enlisted personnel.

(b) *Prohibited activities.* In general, former officers or employees are subject to the following major prohibitions:

(1) They may not, at any time after their Government employment has ended, represent anyone other than the US in connection with a matter in which the US is a party or has an interest and in which they took part in a personal and substantial way for the Government (see 18 U.S.C. 207(a)).

(2) They may not, for 1 year after their Government employment has ended, represent anyone other than the US in connection with a matter in which the US is a party or has an interest and which was within the bondaries of their official responsibilities during the last year of their Government service (see 18 U.S.C. 202(b) and 207(b)). This temporary restraint, of course, gives way to the permanent restriction described in (b)(1) of this section, if the matter is one in which they took personal and substantial parts.

(c) *Reports of Defense reloted employment.* Certain former military and civilian officers and employees who work for defense prime contractors at a salary rate of $15,000 or more a year are required by Section 410, Pub. L. 91–121, 50 U.S.C. 1436, to file reports of "Defense Related Employment" (DD Form 1787) subsequent to their retirement, release from active duty, or after their Government employment has ended. Refer to Part 809d of this chapter for more details concerning this statutory requirement.

§ 920.20 Retired Regular officers.

(a) *Prohibitions.* In general, a retired Regular Air Force officer may not:

(1) As an officer whose "employment has ceased," take part in the prohibited activities in § 920.19 (see 18 U.S.C. 207).

(2) At any time, help in prosecuting a claim against the US if the officer worked on that claim while on active duty (see 18 U.S.C. 283).

(3) Within 2 years after retirement, help in prosecuting a claim that involves the Department in whose service the officer holds a retired status (see 18 U.S.C. 283).

(4) At any time, represent any person in the sale of anything to the Department in whose service the officer holds retired status (see 18 U.S.C. 281).

(5) Within 3 years after retirement, sell supplies or war materials to any agency of the DOD, the Cost Guard, the National Oceanic and Atmospheric Administration, or the Public Health Service (see 37 U.S.C. 801(c)), as amended, October 9, 1962, Pub. L. 87–777, (formerly 5 U.S.C 59(c)).

Note.—With regard to the prohibitions in (a)(2), (3), and (4) of this section and although not authorizing such activity, retired officers not on active duty are not subject to the criminal provisions thereof, solely by reason of their retired status. For the purpose of the civil statutes in (a)(5) of this section "selling" means:

(i) Signing a bid, proposal, or contract;

(ii) Negotiating a contract;

(iii) Contracting an officer or employee of any of the foregoing departments or agencies for the purpose of:

(*a*) obtaining or negotiating contracts,

(*b*) negotiating or discussing changes in specifications, price, cost allowances, or other terms of a contract, or

(*c*) settling disputes concerning performance of a contract, or

(iv) any other liaison activity with a view toward the ultimate consummation of a sale although the actual contract therefor is subsequently negotiated by another person. However, it is not the intent of this part to preclude a retired regular officer from accepting employment with private industry solely because the employer is a contractor with the government.

(b) *Required statement of employment.* (1) Each Regular retired Air Force officer is required to file, within 30 days after retirement, a "Statement of Employment," DD Form 1357, with AFAFC/RPT, Denver CO 80279. Whenever the information in this statement is no longer accurate, each such officer must file a new DD form 1357 within 30 days.

(2) The Air Force Accounting and Finance Center reviews the "Statement of Employment" to make sure it complies with applicable statutes and regulations. If it appears that a possible violation of a policy or statute as set forth in this part may be involved, the Retired member may be requested to furnish clarifying information. In those instances where the Commander, Air Force Accounting and Finance Center, is not able to resolve the issues, the matter, with recommendations, if appropriate, is sent to HQ USAF/JACM, Wash DC, for referral to the General Counsel of the Department of the Air

Force, Office of the Secretary of the Air Force.

(3) The retired member may request additional copies of DD Form 1357 from AFAFC/RPT. DD Form 1357 is also stocked and available at base level.

§ 920.21 Officers of the Reserve components.

(a) A Reserve officer who is voluntarily serving a period of extended active duty in excess of 130 days is a full-time Government officer, and § 920.16 applies. EXEMPTION: Any Reserve who, before being ordered to active duty, was receiving compensation from any person may continue receiving compensation from that person while on duty (see 10 U.S.C. 1033).

(b) A Reserve officer who is serving on active duty involuntarily for any length of time, and a Reserve officer who is voluntarily serving on extended active duty for 130 days or less, is a "special Government employee," and § 920.17 applies.

(c) A Reserve officer (unless otherwise a full-time officer or employee of the United States) who is on active duty solely for training for any length of time is a "special Government employee," and § 920.17 applies.

(d) When released from active duty, a Reserve officer described in (a), (b), or (c) of this section, is a "former officer," and § 920.19 applies.

(e) Membership in a Reserve component of the armed forces or in the National Guard does not in itself, prevent a person from practicing a civilian profession or occupation before or in connection with any department (see 5 U.S.C. 502).

(f) An officer of a Reserve component, whether in the Ready, Standby, or Retired Reserve, who is not on active duty is not, solely because of Reserve status, considered to be an officer or employee of the United States for the purpose of the prohibitions summarized in § 920.18, § 920.17 and § 920.19. (see 5 U.S.C. 2105(d)).

(g) Receipt of retired pay by a Reserve or a former Reserve does not, in itself, make the person an officer or employee or a former officer or employee for the purpose of the prohibitions summarized in § 920.18, § 920.17 and § 920.19. § 920.20 does not apply to a retired Reserve.

Subpart C—Special Government Employees; Advisers and Consultants; Temporary or Intermittent Employees

§ 920.22 General.

(a) For purposes of this subpart, "special Government employee" has the meaning given that term in § 920.17(a). § 920.29(a)(1) provides guidance on how to determine whether an individual is a full-time Government employee or a special Government employee, and § 920.29(b) provides guidance on how to determine whether the "60 day" rule (§ 920.17(b)(1)(ii)) applies. All special Government employees must familiarize themselves and comply with this subpart, Subpart A, and those parts of Subpart B and the attachments that apply to them.

(b) "Advisers or consultants" as used in this subpart are those:

(1) Defined in AFRs 40–304, Employment of Experts and Consultants and 160–97, Civilian National Consultants;

(2) Employed under individual personal service contracts of AFM 26–1, Manpower Policies and Procedures; and

(3) Members of Advisory Committees formed or used under AFR 11–36, Air Force Committee Management Program.

(c) Additional policy guidance for use by advisers and consultants and other individuals serving as special Government employees is in § 920.29(c) and guidance on the Air Force use of advisers and consultants is in § 920.29(e).

(d) It is necessary at times to distinguish between advisers and consultants who must be regarded as employees, and persons invited by the Air Force to speak for industry in a representative capacity. This distinction is discussed in § 920.29(d). If there is a doubt whether a person who furnishes information to the Air Force is to be regarded as an employee, or as acting in a representative capacity, the civilian personnel officer should be contacted.

(e) "Other temporary and intermittent employees" are primarily individuals who are appointed under a regular Civil Service appointment procedure.

§ 920.23 Temporary or intermittent employees.

The central civilian personnel officer:

(a) Briefs each individual employed on a temporary or intermittent appointment according to § 920.13.

(b) Makes determinations as set forth in § 920.29 on the basis of personnel records and advises the employee of these determinations.

(c) Records one of the appropriate remarks on the SF 50, as provided in § 920.28(e)(4)(iii).

Subpart D—Disposition of Forms

§ 920.24 Disposition of DD Form 1555.

Destroy DD Form 1555 according to AFM 12–50, Disposition of Air Force Documents.

Subpart E—Miscellaneous

§ 920.25 Receipt and disposition of honoraria and providing expert testimony before State agencies.

Section 920.30 gives circumstances and limitations under which Air Force members may receive and dispose of honoraria in connection with speeches, writings, public appearances, and other similar activities. Section 920.30 also gives procedures concerning expert testimony before state and local governmental bodies.

§ 920.26 Laws applicable to all Department of Defense personnel.

The following activities may subject present and former DOD personnel to penalties:

(a) Aiding, abetting, counseling, commanding, inducing, or procuring another to commit a crime under any criminal statute (see 18 U.S.C. 201).

(b) Concealing or failing to report to proper authorities the commission of a felony under any criminal statute if such personnel knew of the actual commission of the crime (see 18 U.S.C. 4).

(c) Conspiring with one or more persons to commit a crime under any criminal statute or to defraud the United States, if any party to the conspiracy does any act to effect the object of the conspiracy (see 18 U.S.C. 371).

(d) The prohibition against lobbying with appropriated funds (see 18 U.S.C. 1913).

(e) The prohibition against disloyalty and striking (see 5 U.S.C. 7311 and 18 U.S.C. 1918).

(f) The prohibition against the employment of a member of a Communist organization (see 50 U.S.C. 784).

(g) The prohibition against (1) the disclosure of classified information (see 18 U.S.C. 798 and 50 U.S.C. 783); and (2) the disclosure of confidential information (see 18 U.S.C. 1905).

(h) The provision relating to the habitual use of intoxicants to excess (see 5 U.S.C. 7352).

(i) The prohibition against the misuse of a Government vehicle (see 31 U.S.C. 638a(c)(2)).

(j) The prohibition against the misuse of the franking privilege (see 18 U.S.C. 1719).

(k) The prohibition against the use of deceit in an examination or personnel

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action in connection with Government employment (see 18 U.S.C. 1917).

(l) The prohibition against fraud or false statements in a Government matter (see 18 U.S.C. 1001).

(m) The prohibition against mutilating or destroying a public record (see 18 U.S.C. 2071).

(n) The prohibition against counterfeiting and forging transportation requests (see 18 U.S.C. 508).

(o) The prohibitions against (1) embezzlement of Government money or property (18 U.S.C. 641); (2) failing to account for public money (18 U.S.C. 643); and (3) embezzlement of the money or property of another person in the possession of an employee by reason of employment (18 U.S.C. 654).

(p) The prohibition against unauthorized use of documents relating to claims from or by the Government (18 U.S.C. 285).

(q) The prohibitions against political activities in Title 5, U.S.C. chapter 73, subparagraph III (see 5 U.S.C. 7321–7327) and 18 U.S.C. 602, 603, 607, and 608. These statutes apply to civilian employees; regulations govern military personnel (see AFR 110–2).

(r) The prohibitions against an employee (including a special Government employee) who is required to register under the Foreign Agents Registration Act of 1938 (see 18 U.S.C. 219) serving the Government. The criminal penalties of this subpart do not apply to a special Government employee in any case in which the department head sends a certificate to the Attorney General that employment by the United States Government is in the national interest. Requests for such certificates should be forwarded through channels to the Secretary of the Air Force (SAFMR). This subpart does not apply to retired regular officers who are not on active duty, or to reserves who are not on active duty or who are on active duty for training.

§ 920.27 Gratuities.

This section supplements § 920.6.

(a) *General prohibition.* Except as provided in (b) of this section Air Force personnel and their immediate families must not solicit, accept, or agree to accept any gratuity for themselves, members of their families, or others (either directly or indirectly from), or on behalf of, any source that:

(1) Is engaged in or seeks business or financial relations of any sort with any Department of Defense Component;

(2) Conducts operations or activities that are either regulated by a Department of Defense Component or significantly affected by Department of Defense decisions; or

(3) Has interests that may be substantially affected by the performance or nonperformance of the official duties of Department of Defense personnel.

(b) *Limited exceptions.* The general prohibition in (a) of this section does not apply to:

(1) The continued participation in employee welfare or benefit plans of a former employer when permitted by law and approved by the proper Standards of Conduct Counselor or Deputy Counselor.

(2) Accepting unsolicited advertising or promotional items that are less than $5 in retail value.

(3) When consistent with 18 U.S.C. 209, trophies, entertainment, prizes, or awards for public service or achievement or given in games or contests that are clearly open to the public generally or that are officially approved for Air Force personnel participation.

(4) Things available to the public (such as university scholarships covered by AFR 53–18, Fellowship, Scholarships and Grants) and free exhibitions by Defense Contractors at public trade fairs.

(5) Discounts or concessions extended Air Force-wide and realistically available to all Air Force personnel.

(6) Participation by Air Force personnel in civic and community activities when any relationship with Defense contractors is remote: for example, taking part in a Little League or Combined Federal Campaign luncheon that is subsidized by a Defense contractor.

(7) Social activities engaged in by Air Force officials and officers in command, or their representatives, with local civic leaders as part of the Air Force community relations programs in the United States and overseas according to AFM 190–9, Information Policies and Procedures, Chapter 4.

(8) DOD personnel taking part in widely attended gatherings of mutual interest to Government and industry, sponsored or hosted by industrial, technical, and professional associations (not by individual contractors) provided that they have been approved according to DOD Instruction 5410.20.

(9) Situations in which:

(i) Air Force personnel taking part in public ceremonial activities of mutual interest to industry, local communities, and the Air Force serves the interests of the Government; and

(ii) accepting the invitation is approved by the Air Force major commander concerned. Air Force personnel assigned to HQ USAF or its separate operating locations must obtain such approval from their Deputy Chief of Staff, Staff Agency Head or the head of a comparable or higher office. Invitations for Air Force personnel assigned to the office of the Secretary of the Air Force must be approved by the Air Force General Counsel.

(10) Contractor-provided transportation, meals or overnight accommodations in connection with official business if arrangements for Government or commercial transportation, meals, or accommodations are clearly not practical. In any such case, the individual must report, in writing, the circumstances to the supervisor as soon as possible.

(11) Attendance at promotional vendor training sessions if the vendor's products or systems are provided under contract to DOD and the training is to facilitate the use of those products or systems by DOD personnel.

(12) Attendance of Air Force personnel taking part in gatherings, including social events such as receptions, that are hosted by foreign governments or international organizations, provided that the acceptance of the invitation is approved by the General Counsel or designee. This approval is not required if attendance or participation is authorized by other exceptions, such as those in (b)(7) or (14) of this section or if the social event involves a routine or customary social exchange with officials of foreign governments in pursuance of official duties.

(13) Customary exchanges of gratuities between Air Force personnel, and their friends and relatives, as well as the friends and relatives of their spouse, minor children and members of their household. This applies only if the circumstances make it clear that it is that relationship, rather than the business of the persons concerned, that is the motivating factor for the gratuity and if it is clear that the gratuity is not paid for by any source described in (a) of this section.

(14) Situations in which in the sound judgment of the individual concerned or the individual's supervisor, the Government's interest will be served by Air Force personnel taking part in activities otherwise prohibited. In any such case, a written report of circumstances must be made in advance, or if an advance report is not possible, within 48 hours by the individual or the supervisor to the proper Standards of Conduct Counselor or Deputy Counselor.

(c) *Reimbursements:* (1) The acceptance of accommodations, subsistence, furnished in kind, in connection with official travel from other than Defense contractors is authorized only when the individual is to be a speaker, panelist, project officer, or other bona fide participant in the activity attended and when such attendance and acceptance is authorized by the order-issuing authority as being in the overall Government interest.

(2) Except as indicated in (c)(1) of this section, Air Force personnel may not accept personal reimbursement from any source for expenses related to official travel, unless authorized by their supervisor. Reimbursement must be consistent with guidance provided by the proper Standards of Conduct Counselor or Deputy Counselor and according to 5 U.S.C. 4111 or other statutory authority. Reimbursement must be made to the Government by check payable to the Treasurer of the United States. Personnel are reimbursed by the Government according to regulations that relate to reimbursement.

(3) Air Force personnel must not accept, either in kind or for cash reimbursement, benefits that are extravagent or excessive in nature.

(4) If non-US Government sources furnish Air Force personnel accommodations, subsistence, or services in kind according to (c) of this section, appropriate deductions must be reported and made in the travel, per diem, or other allowances payable.

(d) *Gratuity disposition.* After the effective date of this part Air Force personnel who receive gratuities, or have gratuities received for them, in circumstances that do not conform with this section must promptly report the circumstances to the proper Standards of Conduct Counselor or Deputy Counselor for determining disposition.

§ 920.28 Confidential statement of affiliations and financial interests (DD Form 1555) additional guidance.

This section supplements § 920.14.

(a) *Definitions.* (1) "Superior" means the US military officer in grade 0–5 or above, or the US civilian officer or employee in grade GS–14 or above, or such higher grades as the commander concerned may designate, who is the superior of the individual involved. In the Office of the Secretary of the Air Force and the Air Staff, the designation may be made by directors or heads of comparable or higher offices. In the absence of a designation to the contrary, directors or heads of comparable offices in the Office of the Secretary of the Air Force or the Air Staff are "superiors" for personnel under their jurisdiction.

(2) "Deputy Counselor" means the Standards of Conduct Counselor or Deputy Counselor designated in or according to § 920.13(d).

(b) *Review of positions.* Each superior who supervises military personnel in the grade of lieutenant colonel or above, or civilian personnel in the grade of GS–13 or above (or at a comparable pay level) must review the duties of each such position. A job description must be kept for each such position if the incumbent of the position must file a "Confidential Statement of Affiliations and Financial Interests" (DD Form 1555) as required by this part. The superior makes this determination. The job description must be reviewed at least once a year. The review may be done at the time performance, efficiency, or effectiveness ratings are given; or incident to other currently prescribed annual reviews. Incumbents of positions identified as involving any of the functions described in § 920.14(a) are required to comply with the filing requirements of this part. Individuals who believe that they have been improperly required to file may request a review of the decision through the Air Force grievance and complaint procedures.

(c) *Exceptions in individual cases.* Incumbents of positions described in § 920.14 may be excluded from the requirement of filing a DD Form 1555 (and Annual Statements) if the Under Secretary of the Air Force approves a determination from the individual's superior or higher authority that the incumbent's responsibilities are at such a level that filing a DD Form 1555 is not necessary because of the incumbent's duties, the degree of supervision and review over the incumbent's official activities and the remote and inconsequential effect on the integrity of the Government. Request for approval of such determinations must be sent through command channels with the reasons for them. Any intermediate command may disapprove the request and return it to the requester.

(d) *Individual responsibility.* Each officer and employee affected by § 920.14(a) is personally responsible for filing a "Confidential Statement of Affiliations and Financial Interests", DD Form 1555 (and Annual Statements). Each superior concerned must make sure that required DD Forms 1555 are properly completed, sent on time and reviewed.

(e) *Special Government employees.* (1) Each special Government employee not exempted under (e)(2) of this section, must file a "Confidential Statement of Affiliations and Financial Interests", DD Form 1555 before appointment.

(2) The following are exempted categories of special Government employees who are not required to file Statements, unless specifically requested to do so:

(i) Physicians, dentists, and allied medical specialists engaged only in providing service to patients.

(ii) Veterinarians providing only veterinary services.

(iii) Lecturers taking part in educational activities.

(iv) Chaplains who perform only religious services.

(v) Individuals in the motion picture and television fields who are used only as narrators or actors in DOD productions.

(vi) A special Government employee who is not an "adviser" or "consultant" as explained in § 920.22(b).

(3) The Secretary of the Air Force may exempt an appointee from the requirement of filing a statement if it has been determined that such information is not relevant in light of the duties the appointee is to perform.

(4) The Central civilian personnel office of the employing activity:

(i) Determines, in consultation with the proper Standards of Conduct Counselor or Deputy Counselor, whether the adviser or consultant is a special or full-time employee according to the procedure in § 920.29(a). Any service to be rendered with other departments or agencies during the period must be taken into account in making this determination. This determination is based on the statement filed by the individual.

(ii) Before appointment or reappointment, arranges to secure a completed DD Form 1555, and sends it and the job description to the superior concerned for processing according to (h) of this section.

(iii) Records one of the following in the remarks section of the SF 50, "Notification of Personnel Action":

(A) "Subject to conflict of interest laws and regulations as a special Government employee."

(B) "Subject to conflict of interest laws and regulations as a regular Government employee."

(iv) Determines, in consultation with the proper Standards of Conduct Counselor or Deputy Counselor according to § 920.29(b), whether the 60-day rule applies and informs the individual.

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(5) The Directorate of Civilian Personnel, HQ USAF, arranges for furnishing information requested by other agencies that concerns advisers and consultants employed with the Air Force. Requests from other agencies should be directed to HQ USAF/MPK, Wash DC.

(f) *Submission of statements.* (1) Except as provided in (f)(2) of this section, each Air Force officer or employee who is required to file a statement or annual statement files it with his or her superior (see § 920.28(a)(1) for the meaning of "superior").

(2) All Air Force civilian Presidential appointees send their statements to the DOD General Counsel.

(3) All statements must be reviewed and approved by the proper Standards of Conduct Counselor or Deputy Counselor and the proper supervisor before an individual begins service or assumes duties and each year after that as prescribed by (f)(5) of this section. individuals designated for those positions requiring either approval of the Secretary of Defense or the Secretary of the Air Force must execute the statement before nomination so that it may be thoroughly reviewed prior to appointment.

(4) Agreements with other DOD Components and Government agencies that involve detailing Air Force personnel must contain a requirement that the other DOD Component or Government agency will (within 60 days) sent to HQ USAF/JAC Wash DC a copy of the detailed individual's statement, if required, and notice concerning the disposition of any conflict or apparent conflict of interests indicated.

(5) Annual DD Form 1555 statements must be filed by October 31 of each year for all affiliations and financial interests as of September 30 of that year. Even though no changes occur, a complete statement is required.

(6) If required by reason of duty assignment or infirmity a superior may grant an extension of time (excusable delay) with the concurrence of the Standards of Conduct Counselor or Deputy Counselor. Any extension for more than 30 days requires the concurrence of the General Counsel of the Air Force. Any late statement must include a notation of any extension of time granted.

(g) *How to complete DD Form 1555.* (1) Each individual must complete DD Form 1555 according to instructions on the form and the following guidance.

(2) Each DD Form 1555 and each annual statement must be completed in its entirety. "None" will be entered in each Part where applicable.

(3) The following interests need not be reported on DD Form 1555:

(i) Savings and checking accounts in banks;

(ii) Credit union shares;

(iii) Building and loan association shares;

(iv) Accumulated dividends and cash values of life insurance policies.

(4) Officers or employees are not required to report on a DD Form 1555 any information that relates to their connection with, or interest in, a professional society or a charitable, religious, social, fraternal, recreational, public service, civil, or political organization or a similar organization not conducted as a business enterprise. Educational or other institutions doing research and development or related work that involves grants of money from or contracts with the Government are deemed "business enterprises" and are required to be included in the DD Form 1555 of the officer or employee.

(5) The interest of a spouse, minor child, or other member of the individual's immediate household is considered to be an interest of the individual filing a DD Form 1555.

(6) If any information required to be included on a DD Form 1555 (including holdings placed in trust) is not known to the officer or employee who is filing the DD Form 1555, but is known to another person, the officer or employee must request that other person to send to the superior information in that officer's or employee's behalf.

(7) DOD consultants filing DD Form 1555 who are:

(i) Employed as private consultants to private business or other organizations, or

(ii) Who are affiliated with a partnership or corporation that provides consulting service to private firms or other business organizations should show the clients of such partnership or corporation to whom the Department of Defense consultant is rendering consulting service directly or by assisting other consultants.

(h) *Processing of DD Forms 1555.* (1) Each individual required to file DD Form 1555 must send the completed statement to the proper superior. The statement must be delivered personally to the superior concerned or sent in a sealed envelope addressed to the superior and clearly marked "DD Form 1555, To Be Opened By Addressee Only" to preserve its confidentiality. These envelopes are opened only by the superior, and the superior instructs staff members accordingly. When the superior sends the statements to the Deputy Counselor as provided in (h)(2) of this section, they are similarly delivered in person or sent in a sealed envelope addressed and marked as described in this subparagraph. These envelopes are opened only by the Deputy Counselor concerned, and the Deputy Counselor instructs staff members accordingly.

(2) When the superior receives a completed DD Form 1555, the superior must review it in light of the procedures of this part and of the individual's duties and responsibilities. The supervisor's evaluation is completed on the back of the form. Except as provided in (i)(1) of this section, the supervisor then sends the completed form with a copy of the job description directly to the proper Deputy Counselor.

(3) On receipt of the DD Form 1555, the Deputy Counselor reviews it in the light of this part, the individual's job description, and the superior's evaluation. If the Deputy Counselor finds no reason to question the superior's evaluation, the Deputy Counselor files the DD Form 1555 together with the superior's endorsement and the individual's job description. If the Deputy Counselor is not satisfied that there is no conflict of interest or appearance, the Deputy Counselor so informs the individual's superior, either orally or in writing, with a request for further consideration and takes action according to (i) of this section.

(i) Resolution of a conflict or appearance of conflict of interest.

(1) In any case where a real or apparent conflict of interest arises, the superior (in consultation with the Deputy Counselor) discusses the conflict or appearance of conflict of interest with the individual concerned. If the conflict or appearance of conflict of interest persists and is not resolved as a result of discussion, the superior (in consultation with the Deputy Counselor) prepares and gives the individual concerned written notice that there is a conflict or apparent conflict of interest, pointing out the reasons. The notice also informs the individual concerned that he or she is entitled to send to the superior a written endorsement explaining the conflict or appearance of conflict.

(2) When the individual's endorsement is received, the superior sends the entire file to the Deputy Counselor with an endorsement, if the superior concludes that the conflict or appearance of conflict is resolved. The entire correspondence is filed if the Deputy Counselor agrees with the superior's conclusion.

(3) If either the superior or the Deputy Counselor, after reviewing the explanation made by the employee in the endorsement, concludes that the conflict or appearance of conflict is not resolved, the commander reviews the entire matter and, if it is concluded that a conflict or appearance of conflict does exist, the commander resolves it if possible.

(4) In any case arising at any echelon below HQ USAF level in which the commander concludes that there is a conflict or appearance of conflict of interest that is not resolved, the commander sends the entire file, with detailed information and recommendations, through command channels to HQ USAF/JAC, Wash DC, for resolution. Intermediate commanders will attempt to resolve each case without forwarding it to HQ USAF.

(5) The Judge Advocate General, USAF, sends to the General Counsel of the Air Force any case involving a conflict or appearance of a conflict that is not resolved by The Judge Advocate General or at a lower echelon. If the General Counsel is not able to resolve any case, it will be referred with recommendations to the Under Secretary of the Air Force for decision.

(6) Resolving of a conflict or apparent conflict of interest either on review at the local level or after referral to HQ US Air Force, must be effected at once so that the conflict or appearance of conflict is ended. A conflict or appearance of conflict may be resolved by one or more means, such as changes in assigned duties, divesting of the conflicting interest, disqualification for a particular assignment or disciplinary or administrative action. The resolution, whether by disciplinary action or otherwise, must be effected according to laws, Executive Orders, and regulations that apply.

(j) Additional DD Form 1555 requirements for certain general officers. Immediately after reviewing and approving a DD Form 1555 filed by a General Officer in the grade of Major General or above, the Air Force Standards of Conduct Counselor or Deputy Counselor concerned sends HQ USAF/MPG, Wash DC, 20330, a copy of the form and any allied correspondence. Major General Officers or above, who file their DD Forms 1555 with someone other than an Air Force Deputy Counselor (Air Force Staff Judge Advocate) must send HQ USAF/MPG a copy of each DD Form 1555 and any allied correspondence reviewed by such non Air Force Standards of Conduct Counselor or Deputy Counselor. The copies must be sent at once upon review and approval by the counselor concerned.

(k) Effect of filing a DD Form 1555 on other requirements. DD Form 1555 and Annual Statements required by this part are in addition to, and not a substitute for or in derogation of, any similar requirement imposed by law, order, or regulation. The submission of a DD Form 1555 or annual statement by an officer or employee does not permit that officer or employee or any other person to take part in a matter in which the officer, employee, or the other person's participation is prohibited by law, order, or regulation.

(l) Confidentiality of statements. The Air Force holds each "Statement of Affiliations and Financial Interests, and each Annual Statement", including related correspondence, in confidence. The Air Force must not disclose information from a statement except as the Secretary of the Air Force or the Civil Service Commission may determine for good cause. "Good cause" includes a determination that the record or any part of the record must be released under the Freedom of Information Act. Persons designated to obtain or review the statements are responsible for maintaining the statements in confidence and must not allow access to, or allow information to be disclosed from the statement except to carry out the purpose of this part.

§ 920.29 Special Government employees.

(a) Determining if an individual is a special or fulltime Government employee.

(1) At the time of the employee's original appointment and at the time of each appointment thereafter, the department or agency should make its best estimate of the number of days during the following 365 days on which it will require the services of the appointee. A part of a day should be counted as a full day for the purposes of this estimate, and a Saturday, Sunday, or holiday on which duty is to be performed should be counted equally with a regular workday.

(2) Unless otherwise provided by law, an appointment should not extend for more than 365 days. When an appointment extends beyond that period, an estimate, as required by (a)(1) of this section, should be made at the inception of the appointment and a new estimate at the expiration of each 365 days thereafter.

(3) Occasionally, an adviser, consultant or other temporary and intermittent employee is reappointed or reemployed after a break in service but within a 365-day period for which a previous estimate has been made. In those cases, the sum of the employee's prior service and the estimate of the new service which will be performed during the remaining part of the initial 365 days will be used in making the determination. If the reappointment or reemployment exceeds the 365-day period, a new estimate for the next 365-day period will be made under (a)(2) of this section.

(4) If a department or agency estimates, pursuant to (a)(1) or (2) of this section, that an appointee will serve more than 130 days during the ensuing 365 days, the appointee should not be carried on the rolls as a special Government employee and the department or agency should instruct the appointee that the appointee is regarded as subject to the prohibitions of 18 U.S.C. 203 and 205 to the same extent as if the appointee were to serve as a full-time employee. If the estimate is that the appointee will serve no more than 130 days during the following 365 days, the appointee should be carried on the rolls of the department or agency as a special Government employee and instructed that he or she is regarded as subject only to the restrictions of 18 U.S.C. 203 and 205. Even if it becomes apparent, prior to the end of a period of 365 days for which a department or agency has made an estimate on an appointee, that the appointee has not been accurately classified, the appointee should nevertheless continue to be considered a special Government employee or not, as the case may be for the remainder of that 365-day period.

(5) An employee who undertakes service with two departments or agencies shall inform each of his or her arrangements with the other. If both of the employee's appointments are made on the same date, the aggregate of the estimates made by the departments or agencies under (a)(1) or (2) of this section, shall be considered determinative of the employee's classification by each. Notwithstanding anything to the contrary in (a)(1)(2) or (4) of this section, if after being employed by one department or agency, a special Government employee is appointed by a second to serve it in the same capacity, each department or agency should make an estimate of the amount of the employee's service to it for the remaining portion of the 365-day period covered by the original estimate of the first. The sum of the two estimates and of the actual number of days of the employee's service to the first department or agency during the prior portion of such 365-day period shall be considered determinative of the

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classification of the appointee by each during the remaining portion. If an employee undertakes to serve more than two departments or agencies, they shall classify the employee in a manner similar to that prescribed in this subparagraph for two agencies. Each agency which employs special Government employees who serve other agencies shall designate an officer to coordinate the classification of such employees with such other agencies.

(6) When a person is serving as a member of an advisory committee, board or other group, and is by virtue of his or her membership thereon an officer or employee of the United States, the requirements of (a) (1), (2), (4), (5) of this section should be carried out to the same extent as if that person were serving the sponsoring department or agency separately and individually.

(b) *Determining if the "60-day" rule applies.* (1) The 60-day standard affecting a special Government employee's private activities before the employee's department or agency is a standard of actual past service, as contrasted with the 130-day standard of estimated future service discussed in this subparagraph. A special Government employee is barred from representing another person before that department or agency at times when the employee has served it for an aggregate of more than 60 days during the past 365 days. Thus, although once having been in effect, the statutory bar may be lifted later by reason of an intervening period of nonservice. In other words, as a matter of law the bar may fluctuate in its effect during the course of a special Government employee's relationship with the department or agency.

(2) A part of a day should be counted as a full day in connection with the 60-day standard discussed in (b)(1) of this section, and a Saturday, Sunday, or holiday on which duty has been performed should be counted equally with a regular work day. Service performed by a special Government employee in one department or agency should not be counted by another in connection with the 60-day standard.

(c) Additional Guidance for advisers and consultants or other individuals who are special goverment employees concerning 18 U.S.C. 203 and 205.

(1) To a considerable extent the prohibitions of 18 U.S.C. 203 and 205 are aimed at the sale of influence to gain special favors for private businesses and other organizations and at the misuse of governmental position or information. In accordance with these aims, it is desirable that a consultant or adviser or other individual who is a special Government employee, even when not compelled to do so by 18 U.S.C. 203 and 205, should make every effort in that person's private work to avoid any personal contact in negotiations for contracts or grants with the department or agency which the employee is serving if the subject matter is related to the subject matter of the employee's consultancy or other service. It is recognized that this will not always be possible to achieve; for example, in a situation in which a consultant or adviser has an executive position and responsibllity with that person's regular employer which requires the consultant or adviser to participate personally in contract negotiations with the department or agency he or she is advising. When this situation occurs, the consultant or adviser should participate in the negotiations for the regular employer only with the knowledge of a responsible Government official. In other instances an occasional consultant or adviser may have technical knowledge which is indispensable to the regular employer in the consultant's or adviser's efforts to formulate a research and development contract or a research grant and, for the same reason, it is in the interest of the Government that he or she should take part in negotiations for the private employer. Again, the consultant or adviser should participate only with the knowledge of a responsible Government official.

(2) Section 205 of title 18 contains an exemptive provision dealing with a similar situation which may arise after a Government grant or contract has been negotiated. This provision, in certain cases, permits both the Government and the private employer of a special Government employee to benefit from the employee's performance of work under a grant or contract for which the employee otherwise would be disqualified because the employee had participated in the matter for the Government or it is pending in an agency the employee has served for more than 60 days in the past year. More particularly, the provision gives the head of a department or agency the power, notwithstanding any prohibition in either 18 U.S.C. 203 and 205, to allow a special Government employee to represent before such department or agency either the employee's regular employer or another person or organization in the performance of work under a grant or contract. As a basis for this action, the department or agency head must first make a certification in writing, published in the **Federal Register**, that it is required by the national interest.

(d) *Determining if an individual is a Government employee or is serving in a representative capacity.* (1) It is necessary occasionally to distinquish between consultants and advisers who are special Government employees and persons who are invited to appear at a department or agency in a representative capacity to speak for firms or an industry, or for labor or agriculture, or for any other recognizable group of persons, including, on occasion the public at large. A consultant or adviser whose advice is obtained by a department or agency from time to time because of his or her individual qualifications and who serves in an independent capacity is an officer or employee of the Government. On the other hand, one who is requested to appear before a Government department or agency to present the views of a nongovernmental organization or group which the person represents, or for which the person is in a position to speak, does not act as a servant of the Government and is not its officer or employee.

(2) The following principles are useful in arriving at a determination whether an individual is acting before an agency in a representative capacity.

(i) A person who receives compensation from the Government for that person's services as an adviser or consultant is its employee and not a representative of an outside group. The Government's payment of travel expenses and a per diem allowance, however, does not by itself make the recipient an employee.

(ii) It is rare that a consultant or adviser who serves alone is acting in a representative capacity. Those who have representative roles are for the most part persons serving as members of an advisory committee or similar body utilized by a Government agency. It does not follow, however, that the members of every such body are acting as representatives and are therefore outside the range of the conflict of interest laws. This result is limited to the members of committees utilized to obtain the views of nongovernmental groups or organizations.

(iii) The fact that an individual is appointed by an agency to an advisory committee upon the recommendation of an outside group or organization tends to support the conclusion that the individual has a representative function.

(iv) Although members of a governmental advisory body who are expected to bind outside organizations are no doubt serving in a representative capacity, the absence of authority to bind outside groups does not require the conclusion that the members are Government employees. What is important is whether they function as representatives of nongovernmental groups or organizations and not whether they can formally commit them.

(v) When an adviser or consultant is in a position to act as a representative of the United States or a Government agency—as, for example, in an international conference—the adviser or consultant is obviously acting as an officer or employee of the Government.

(e) *Additional guidance on Air Force use of advisers and consultants.* While it would be highly desirable, in order to minimize the occurrence of conflicts of interests, for departments and agencies of the Government to avoid appointing to advisory positions individuals who are employed or consulted by contractors or others having a substantial amount of business with that department or agency, it is recognized that the Government has, of necessity, become increasingly concerned with highly technical areas of specialization and that the number of individuals expert in those areas is frequently very small. Therefore, in many instances it will not be possible for a department or agency to obtain the services of a competent advisor or consultant who is not in fact employed or consulted by such contractors. In addition, an advisory group may of necessity be composed largely or wholly of persons of a common class or group whose employers may benefit from the advice given. An example would be a group of university scientists advising on research grants to universities. Only in such a group can the necessary expertise be found. In all these circumstances, particular care should be exercised to exclude the adviser's or consultant's employer's or clients' contracts or other transactions with the Government from the range of the consultant's or advisor's duties.

§ 920.30 Special instructions regarding receipt and disposition of honoraria; and providing expert testimony before state agencies.

(a) In addition to other related procedures contained in this part, this section provides guidance for Air Force personnel in connection with receiving of honoraria and processing requests from state agencies for expert Department of Defense employee testimony.

(1) Section XD of DOD Directive 5500.7 states:

D. DOD personnel are encouraged to engage in teaching, lecturing and writing. However, an employee shall not, either for or without compensation, engage in teaching, lecturing, or writing, including teaching, lecturing, or writing for the purpose of the special preparation of a person or class of persons for an examination of the Commission or Board of Examiners for the Foreign Service, which is dependent on information obtained as a result of one's government employment, except when that information has been published or is available to the general public or will be made available on request, or when the agency head gives written authorization for the use of nonpublic information on the basis that the use is in the public interest. In addition, an employee who is a civilian Presidential appointee shall not receive compensation or anything of monetary value for any consultation, lecture, discussion, writing, or appearance, the subject matter of which is devoted substantially to the responsibilities, programs or operations of his agency or which draws substantially on official data or ideas which have not become part of the body of public information.

(2) Air Force personnel must not accept an honorarium from any nongovernment source for taking part in activities that are connected with service as an officer or employee of the Government, or otherwise tendered in the officer's or employee's official Government capacity.

(3) Except as provided in (a)(1) of this section, Air Force personnel may accept honoraria tendered for a speech, lecture, writing, or other appearance, from a nongovernmental source other than a defense contractor, when such speech, lecture, writing, etc., is given in a purely private capacity, and done on off-duty time, or in a leave status, and when the subject matter does not involve an official government connection. Honoraria tendered under any other circumstances becomes the property of the United States and must be deposited to the Treasury. Under no circumstances, however, may Air Force personnel accept honoraria from a Department of Defense contractor.

(b) Requests from state agencies for expert testimony from Department of Defense personnel.

(1) This part provides general guidance on how to avoid conflicts of interest and the appearance of conflicts of interest. It cannot be sufficiently detailed to cover all possible factors or situations that may arise. Nevertheless, those officials with the authority to approve the appearance of Department of Defense personnel before state governmental bodies (including their local Government counterparts) must carefully evaluate requests for such appearances in order to avoid situations that may lead to unnecessary criticism of the Department of Defense. Among the factors that should be considered are the following:

(i) Unless there is a clear cut Executive Branch or agency position on the subject of the appearance, it is not appropriate for the expert witness from the Department of Defense to favor or oppose legislative proposals or proposed adminsitrative regulations being sponsored by a state agency.

(ii) Absent a significant agency or Executive Branch interest to be served by the testimony, the expert Department of Defense witness, should, if possible, present views that are personal, and not imply that the views are those of the agency.

(iii) Unless the primary purpose of the appearance of the Department of Defense expert is to further an agency or Executive Branch objective, the cost of such appearance should be borne by the state governmental body requesting the appearance.

(iv) The appearance of a Department of Defense expert before a private organization may be reimbursed by that organization under the standards of this part. Payment of fees by a private organization to a Department of Defense witness for an appearance before a state governmental body is not appropriate. Accordingly, Department of Defense personnel are not authorized to accept such payments.

(v) Any honorarium or fee tendered by a state governmental agency for the appearance of a Department of Defense expert witness may be accepted only on behalf of the United States and endorsed to the Treasury of the United States as reimbursement for the expert's governmental pay while in temporary duty status as a witness.

(2) Air Force personnel assigned to the Office of the Secretary of the Air Force may not provide expert testimony before a state or local agency without prior coordination and approval of the office of the Air Force General Counsel. Requests for such testimony must be sent through channels to the office of the General Counsel for coordination and approval.

(3) All other Air Force personnel may provide expert testimony before a state or local agency only after prior coordination and approval of HQ USAF/JAC has been obtained. Requests for such testimony are sent through major command Staff Judge Advocate channels to HQ USAF/JAC Wash DC for final action.

[FR Doc. 79-14301 Filed 5-7-79; 8:45 am]

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DEPARTMENT OF TRANSPORTATION

National Highway Traffic Safety Administration

49 CFR Part 571

Federal Motor Vehicle Safety Standards; Designated Seating Position

Correction

In FR Doc. 79–11948, published at page 23229, on Thursday, April 19, 1979, after the signature on page 23235, the agency Docket No. was inadvertently left off and should be added to read "[Docket No. 78–13; Notice 2]".

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Proposed Rules

Federal Register
Vol. 44, No. 90
Tuesday, May 8, 1979

This section of the FEDERAL REGISTER contains notices to the public of the proposed issuance of rules and regulations. The purpose of these notices is to give interested persons an opportunity to participate in the rule making prior to the adoption of the final rules.

OFFICE OF PERSONNEL MANAGEMENT

[5 CFR Part 831]

Apportionment From Civil Service Retirement Benefits

AGENCY: Office of Personnel Management.

ACTION: Proposed rulemaking.

SUMMARY: The Office of Personnel Management proposes rules to implement Public Law 95–366, which requires the Office of Personnel Management in certain circumstances, to comply with a provision dealing with apportionment of retirement benefits in a state court order, decree, or community property settlement agreement, in connection with the divorce, annulment of marriage, or legal separation of a Federal employee or retiree.

DATE: Comments must be received on or before July 9, 1979.

ADDRESS: Send Comments to Craig B. Pettibone, Chief, Office of Policy Development and Technical Services, Retirement and Insurance Division, Washington, D.C. 20415.

FOR FURTHER INFORMATION CONTACT: Harold L. Siegelman, Paralegal Specialist, Retirement and Insurance Division, Washington, D.C. 20415, phone (202) 632–4634.

SUPPLEMENTAL INFORMATION: State laws and state courts have traditionally controlled matters of domestic relations and property rights. Questions such as an individual's obligations to a former spouse are determined by the courts on a case-by-case basis taking into consideration many factors such as the financial status of both parties, property settlements, children involved, etc. The courts have also traditionally provided former wives with (1) alimony and (2) child support where warranted. As a result of the enactment of Public Law 93–647, which added section 459 to the Social Security Act (42 U.S.C. 659), for the last four years civil service retirement benefits have been subject to garnishment, attachment, or similar legal process to enforce these obligations.

In recent years, many state courts have ruled that future retirement benefits earned during a marriage should be considered community property and subject to division in the event of a legal separation, divorce, or annulment of marriage. However, the garnishment amendments did not cover community property settlements. Also, 5 U.S.C. 8346(a) specifies that any benefits payable under that law are exempt from legal process, except as provided by other Federal laws. Because of this, community property type settlements were not enforceable by the Commission.

Now, under the provisions of Public Law 95–366, community property obligations, as well as support obligations, will be enforceable when a state court order, decree, or community property settlement agreement determines the appropriate distribution of retirement benefits between a Federal employee (or retiree) and an estranged spouse. The Office of Personnel Management is authorized to make payments directly to the former or separated spouse in compliance with the terms of a court determination expressly providing for apportionment of retirement benefits.

Accordingly, to implement the provisions of Public Law 95–366 and pursuant to sections 553 and 8347(a) of title 5, United States Code, authorizing the Office of Personnel Management to prescribe rules and regulations, require certifications in support of adjudication, and adjudicate claims, the Office of Personnel Management proposes to amend Part 831 by adding a new subpart P as follows:

PART 831—RETIREMENT

* * * * *

Subpart P—Apportionment From Civil Service Retirement Benefits

Sec.
831.1601 Purpose.
831.1602 Definitions.
831.1603 Qualifying court order.
831.1604 Application to apportion retirement benefits.
831.1605 Retirement benefits—amount, when payable.
831.1606 Preliminary review.
831.1607 Notification.
831.1608 Decision.
831.1609 Effective date.
831.1610 Limitations.
831.1611 Liability.

Subpart P—Apportionment from Civil Service Retirement Benefits.

§ 831.1601 Purpose.

The purpose of this subpart is to carry into effect the objectives of Public Law 95–366 which provides that the Office of Personnel Management will comply with a provision dealing with the apportionment of retirement benefits in a state court order, decree, or community property settlement in connection with the divorce, annulment of marriage, or legal separation of a Federal employee or retiree. This subpart prescribes the procedures to be followed by:

(a) A former spouse when applying for apportionment of an individual's retirement benefits pursuant to section 8345(j) of title 5, United State Code.

(b) The Associate Director for Compensation in honoring such apportionment request and making payment to the former spouse.

§ 831.1602 Definitions.

In this subpart:

(a) "Court Order" means any judgment or property settlement issued by or approved by any court of a State or the District of Columbia in connection with, or incident to, the divorce, annulment of marriage, or legal separation of a Federal employee or retiree.

(b) "Former Spouse" includes a person who has been divorced, legally separated, or whose marriage has been annulled.

(c) "Retirement Benefits" include employee annuities and refunds of retirement contributions but does not include survivor annuities or lump sum payments made pursuant to section 8342(c), (d)-(f) of title 5, United States Code.

(d) "Individual" means a separated Federal employee who has filed an application for a refund of retirement contributions or a civil service annuitant.

(e)(1) "Expressly provided for" means a dirction by court order to divide an individual's retirement benefits and

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awarding all or a portion of such benefits to a former spouse.

(2) "Expressly provided for" shall not include court orders which specify that payments shall be made by the individual.

(3) "Expressly provided for" shall not include the division of retirement benefits in which the amount to be divided is not readily ascertainable from normal Office of Personnel Management files or in which present or future payments are based upon contingencies or events not under the control of the Office of Personnel Management or of which the Office of Personnel Management would have no knowledge in the normal operation of its programs.

§ 831.1603 Qualifying Court Order.

The former spouse will be entitled to a portion of the retirement benefits only to the extent that the division of retirement benefits are "expressly provided for" by the court order. The order nust specifically provide that the former spouse is entitled to payments from the retirement benefit.

§ 831.1604 Application to apportion retirement benefits.

To establish the validity of a court order the former spouse must submit to the Associate Director for Compensation:

(a) A recently certified copy of the court order;

(b) A statement that the court order has not been amended, superseded, or set aside; and

(c) Identifying information concerning the employee or retiree such as his/her full name, claim number, date of birth, and social security number, if available.

§ 831.1605 Retirement benefits—amount, when payable.

(a) No apportionment to a former spouse shall exceed the net annuity, computed by excluding from the gross annuity the amounts which are:

(1) Owed by such individual to the United States;

(2) deducted for health benefits premiums pursuant to section 8906 of title 5, United States Code, and §§ 891.401 and 891.402 of this chapter;

(3) Deducted for life insurance premiums pursuant to section 8714a(d) of title 5, United States Code;

(4) Owed due to overpayment of annuity;

(5) Deducted for medicare premiums; or

(6) Properly withheld for Federal income tax purposes if amounts withheld are not greater than would be the case if such individual claimed all dependents to which he or she was entitled.

(b) Monies held by an executive agency or the Office of Personnel Management which may be payable at some future date shall not be considered payable to such individual and subject to apportionment unless and until all of the conditions necessary for payment of the monies to the individual have been met, including, but not limited to:

(1) retirement;

(2) separation from a covered position in the Federal service;

(3) Application for payment of the monies by the individual.

(c) waivers of annuity payments under the terms of section 8345(d) of title 5, United States Code, shall exclude the waived portion of the annuity from apportionment under section 8345(j) of title 5, United States Code, if such waivers are postmarked before the expiration of the 30-day notice period stipulated by § 831.1607 of this subpart.

§ 831.1606 Preliminary review.

(a) Upon receipt of a court order and necessary documentation to apportion retirement benefits, the Associate Director for Compensation will make a determination whether the court order is a qualifying court order pursuant to § 831.1603 of this subpart.

(b) Upon determination that (1) the court order is a qualifying court order, notifications required by § 831.1607 of this subpart shall be given, (2) the court order is not a qualifying court order, the former spouse shall be notified of that determination and the basis therefore.

§ 831.1607 Notification.

(a) The Associate Director for Compensation will notify the individual that a court order has been recieved which requires the apportionment of his/her retirement benefit and provide the individual with a copy of the court order. Such notice will inform the individual:

(1) That the court order will be honored;

(2) What effect it will have on the individual's retirement benefit; and

(3) That while the required apportionment will be made, no payments will be made to the former spouse for a period of 30 days from the date of the notification letter to enable the individual to contest the validity of the court order.

(b) The former spouse will be notified:

(1) That the court order is being honored;

(2) What amount that he/she is entitled to receive, and in cases which require apportionment on a percent basis, how such amount was computed; and

(3) That payment is being delayed for a period of 30 days to give the individual an opportunity to contest the validity of the court order.

§ 831.1608 Decision.

(a)(1) When the individual does not respond within the 30-day notice period provided for by § 831.1607(a)(3) of this subpart, the apportionment will be made in accordance with the notification.

(2) When the individual responds to the notification, the Associate Director for Compensation will consider the response. The former spouse's claim will be denied whenever it is shown that:

(i) The court order is not a qualifying court order; or

(ii) The court order is inconsistent with a contemporaneous or subsequent court order.

(b) If the individual objects to payment based on the validity of the court order and the record contains some support for the objection, he/she will be granted 60 days to initiate legal action to determine the validity of the objection. If evidence is submitted that legal action has been started before the 60 days have expired, money will continue to be withheld, but no payment will be made to the former spouse pending judicial determination of the validity of the court order.

§ 831.1609 Effective date.

(a) The provisions of this subpart apply to any refund payable on or after September 15, 1978, and apply to any employee annuity which commenced before, on, or after September 15, 1978. The Associate Director for Compensation will not increase the amount apportioned from current retirement benefits in order to satisfy an arrearage due the former spouse. However, the Associate Director for Compensation will honor the terms of a new or revised court order which either increases or decreases an apportionment. Such changes will be prospective only.

(b) The provisions of this subpart apply to any court order issued before, on, or after September 15, 1978; however, the former spouse will not be entitled to any payments until.

(1) The individual files a claim for his/her benefit, and

(2) All submissions required by § 831.1604 have been received by the Associate Director for Compensation.

§ 831.1610 Limitations.

(a) Retirement benefits are subject to apportionment by court order only while both the individual and the former spouse are living. Payment or apportioned amounts will be made only to the former spouse and/or the children or the individual. Payment will not be made to any of the following:

(1) The heirs or legatees of the former spouse;

(2) The creditors of either the individual or the former spouse; or

(3) Other assignees of either the individual or the former spouse.

(b) The amount of any apportionment may not be less than one dollar and, in the absence of compelling circumstances shall be in whole dollars.

(c) In honoring and complying with the court order, the Associate Director for Compensation shall not be required to disrupt the scheduled method of accruing retirement benefits or the normal timing for making such payment, despite the existence of a special schedule or accrual or payment or amounts due the former spouse; provided, however, that within the confines of the Associate Director's established accrual and payment schedule, the Associate Director for Compensation shall as nearly as practicable, comply with the terms of the court order.

(d) Payment of the apportionment shall be discontinued when the individual's annuity payments are suspended or terminated. If annuity payments are restored, payment of the apportionment will resume.

(e) In cases where the court order apportions a percentage of the retirement benefit, the Associate Director for Compensation will initially determine the amount of proper payment pursuant to § 831.1605 of this subpart. That amount will only be increased by future cost-of-living increases unless the court directs otherwise.

§ 831.1611 Liability.

(a) The Office of Personnel Management shall not be liable for any payment made from retirement benefits pursuant to a court order regular on its face, if such payment is made in accordance with the provisions of this subpart.

(b) In the event that the Associate Director for Compensation is served with more than one court order with respect to the same retirement benefits, then such retirement benefits shall be available to satisfy such court orders on a first-come, first-served basis.

(c) Because the former spouse is entitled to payments only while the individual is living, the former spouse shall be personally liable for any payments which he/she receives after the death of the individual.

(d) The former spouse may request that an amount be withheld from the retirement benefits which is less than the amount stipulated in the court order; however, such lower amount will be deemed a complete accounting for the period in which the request is in effect.

(5 U.S.C. 8347)

Office of Personnel Management.

Beverly M. Jones,

Issuance System Manager.

[FR Doc. 79-14319 Filed 5-7-79; 8:45 am]

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NUCLEAR REGULATORY COMMISSION

[10 CFR Part 4]

Nondiscrimination in Federally Assisted Commission Programs; Application to the Handicapped

AGENCY: U.S. Nuclear Regulatory Commission.

ACTION: Proposed rule.

SUMMARY: The nuclear Regulatory Commission is considering an amendment to its regulations which would implement the requirements of section 504 of the Rehabilitation Act of 1973, as amended. The proposed amendment would make it unlawful for any recipient of Federal financial assistance assistance to discriminate against a qualified handicapped person, on the basis of handicap, in employment or the receipt of services.

DATES: Comments must be received on or before July 9, 1979.

ADDRESSES: Written comments or suggestions for consideration in connection with the proposed amendments should be submitted to the Secretary of the Commission, U.S. Nuclear Regulatory Commission, Washington, D.C., 20555, Attention: Docketing and Service Branch. Copies of comments received may be examined at the Commission's Public Document Room at 1717 H Street, NW., Washington, D.C.

FOR FURTHER INFORMATION CONTACT: Jay W. Maynard, Office of the Executive Legal Director, U.S. Nuclear Regulatory Commission, Washington, D.C. 20555 (phone: 301–492–8668).

SUPPLEMENTARY INFORMATION: Section 504 of the Rehabilitation Act of 1973, as amended, provides in part that "[n]o otherwise qualified handicapped individual in the United States,* * * shall, solely by reason of his handicap, be excluded from the participation in, be denied the benefits of, or be subjected to discrimination under any program or activity receiving Federal financial assistance* * *."

In Executive Order 11914, "Nondiscrimination with Respect to the Handicapped in Federally Assisted Programs," dated April 28, 1976, the President directed that all Federal agencies empowered to provide Federal financial assistance, issue rules, regulations, and directives consistent with standards and procedures established by the Secretary of Health, Education and Welfare (HEW). The proposed rule is consistent with that directive. Moreover, to assist in ensuring uniformity in Government implementation of section 504, the language of the proposed amendments is very similar to that of the HEW Guidelines published in 43 FR 2131 (January 13, 1978) (to be codified in 45 CFR Part 85). Differences in language between the proposed rule and the HEW Guidelines are merely for the sake of clarity and are not intended to constitute substantive differences. However, the proposed rule includes specifc provisions adapted to the particular programs to which NRC provides Federal financial assistance.

The proposed amendments would restructure 10 CFR Part 4 into two subparts. Section 4.3, "Definitions", and Appendix A, which identifies the NRC programs of financial assistance to which Part 4 applies, would be applicable to both subparts. The regulations previously promulgated by the Commission to implement Title VI of the Civil Rights Act of 1964 and Title IV of the Energy Reorganization Act of 1974, which relate to non-discrimination with respect to sex, race, color, or national origin in any program or activity receiving financial assistance from the Nuclear Regulatory Commission, would be placed in Subpart A.

Changes in the current regulations of Part 4 that appear in the proposed Subpart A are primarily editorial in nature. One change has been made, however, to clarify certain procedures that are applicable should the NRC allege that a recipient is not complying with the provisions of the subpart. The change will delete the last full sentence of § 4.47. The section as it currently reads implies that, except in certain cases, NRC need not continue to provide Federal assistance during the pendency of a hearing to determine whether a recipient has violated the regulations prohibiting discrimination. This implication is misleading since Title VI forbids the suspension or termination of

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Federal financial assistance unless there has been an express finding on the record, after opportunity for a hearing, that a recipient has not complied with Part 4. The deletion of the last sentence of § 4.47 will make it clear that NRC financial assistance to a recipient may not be suspended until a hearing has taken place and there has been an express finding that the recipient is in noncompliance with Part 4.

The current version of § 4.2 is being revised to make it clear that Part 4 does not apply to procurement contracts and, consequently, does not affect NRC contractors. Reference to "contract" or "subcontractor" in § 4.2 refers only to a situation where NRC is providing Federal *financial assistance* to a recipient through a contractor or where the purpose of a contract is to provide financial assistance.

The proposed amendments would add a new Subpart B to implement section 504 of the Rehabilitation Act of 1973, as amended. Subpart B of the proposed rule is devoted exclusively to prohibiting discrimination against the handicapped. The proposed rule defines "handicapped individual" in § 4.101. Proscribed discriminatory practices are enumerated in § 4.121 to assure that qualified handicapped individuals are not denied equal opportunity to participate in Federally assisted programs. Sections 4.122, 4.124 and 4.125 prohibit employment discrimination against the handicapped under a Federally assisted program or activity, and describe employment criteria and preemployment inquiries that are prohibited in Federally assisted activities.

Section 4.126 sets forth the requirement that qualified handicapped persons may not be excluded from a Federally assisted program because the recipient's facilities are inaccessible to such persons. If necessary, a recipient will be required to make reasonable accommodations for these persons, or make certain structural changes in existing facilities as described in § 4.127.

The NRC currently provides financial assistance in the form of training programs for state personnel. The training is performed pursuant to section 274 of the Atomic Energy Act of 1954, as amended, which provides for state assumption of certain areas of NRC regulatory activity. This "Agreement States Program" is designed to improve the state employees' technical and administrative skills as well as develop an understanding and ability to apply regulatory concepts and procedures. The only other Federal financial assistance NRC is currently providing is a program designed to train state and local government personnel to develop or improve their radiological emergency response plans. In light of these very limited circumstances in which NRC provides Federal financial assistance, it is not anticipated that states would have to make significant structural changes to their facilities, as long as the NRC-assisted programs were properly accessible to handicapped persons. For example, § 4.127(b) provides that reassignment of classes or assignment of an aide for a qualified handicapped person would satisfy the requirement of "accessibility" as long as these accommodations rendered the program fully accessible to such person. Furthermore, in most cases it is the NRC and not the states that selects the site of the various training programs.

Section 4.231 requires recipients of NRC financial assistance to sign a written assurance that they are complying with the provisions of Part 4. That section also requires a recipient to conduct a self-evaluation of its compliance with section 504. Should the NRC find that a recipient's Federally assisted program or activity is not accessible to qualified handicapped persons or that the recipient is otherwise in non-compliance with any of the provisions of Subpart B, § 4.232 states that the procedure for enforcement and hearings set forth in Subpart A would be applicable.

The provisions of Subpart B generally follow the content of the Guidelines published by the Department of Health, Education, and Welfare on January 13, 1978. Since the publication of the HEW rule, however, the Rehabilitation Act of 1973 was further amended by Pub. L. 95–602 which modified the definition of "handicapped person" in regard to alcoholics and drug abusers. The language of that amendment has been incorporated into § 4.101(a) of the proposed NRC rule.

Pursuant to the Atomic Energy Act of 1954, as amended, the Energy Reorganization Act of 1974, as amended, and section 553 of Title 5 of the United States Code, notice is hereby given that the adoption of the following amendments to Title 10, Chapter I, Code of Federal Regulations, Part 4, is contemplated.

1. In 10 CFR Part 4 the table of contents and citation of authority are revised to read as follows:

PART 4—NONDISCRIMINATION IN FEDERALLY ASSISTED COMMISSION PROGRAMS

General Provisions

Sec.
4.1 Purpose and scope.
4.1a Subparts.
4.2 Application of this part.
4.3 Definitions.
4.4 Communications and reports.

Subpart A—Regulations Implementing Title VI of the Civil Rights Act of 1964 and Title IV of the Energy Reorganization Act of 1974

Discrimination Prohibited
4.11 General prohibition.
4.12 Specific discriminatory actions prohibited.
4.13 Employment practices.
4.14 Medical emergencies.

Assurances Required
4.21 General requirements.
4.22 Continuing State programs.
4.24 Assurances from institutions.

Compliance Information
4.31 Cooperation and assistance.
4.32 Compliance reports.
4.33 Access to sources of information.
4.34 Information to beneficiaries and participants.

Conduct of Investigations
4.41 Periodic compliance reviews.
4.42 Complaints.
4.43 Investigations.
4.44 Resolution of matters.
4.45 Intimidatory or retaliatory acts prohibited.

Means of Effecting Compliance
4.46 Means available.
4.47 Noncompliance with section 4.21.
4.48 Termination of or refusal to grant or to continue Federal financial assistance.
4.49 Other means authorized by law.

Opportunity for Hearing
4.51 Notice of Opportunity for hearing.

Hearings and Findings
4.61 Presiding officer.
4.62 Right to counsel
4.63 Procedures, evidence, and record.
4.64 Consolidated or joint hearings.

Decisions and Notices
4.71 Initial decision or certification.
4.72 Exceptions and final decision.
4.73 Rulings required.
4.74 Content of orders.
4.75 Post termination proceedings.

Judicial Review
4.81 Judicial review.

Effect on Other Regulations, Forms and Instructions
4.91 Effect on other regulations.
4.92 Forms and instructions.
4.93 Supervision and coordination.

Subpart B—Regulations Implementing Section 504 of the Rehabilitation Act of 1973, as Amended

4.101 Definitions.

Discriminatory Practices
Sec.
4.121 General prohibitions against discrimination.
4.122 General prohibitions against employment discrimination.
4.123 Reasonable accommodation.
4.124 Employment criteria.
4.125 Preemployment inquiries.
4.126 General requirement concerning program accessibility.
4.127 Existing facilities.
4.128 New construction.

Enforcement I
4.231 Responsibility of recipients.
4.232 Enforcement procedures.

Appendix A—Federal Financial Assistance to Which This Part Applies.

Authority: Sec. 161, Pub. L. 83–703, 68 Stat. 948, as amended, (42 U.S.C. 2201); sec. 274, Pub. L. 86–373, 73 Stat. 688, as amended, (42 U.S.C. 2021); section 201, Pub. L. 93–438, 88 Stat. 1242 (42 U.S.C. 5841); Subpart A also issued under sec. 602–605, Pub. L. 88–352, 78 Stat. 252, 253 (42 U.S.C. 2000d–1–2000d–4) and sec. 401, Pub. L. 93–438, 88 Stat. 1254 (42 U.S.C. 5891); Subpart B also issued under sec. 504, Pub. L. 93–112, 87 Stat. 394 (29 U.S.C. 794); sec. 111(a), Pub. L. 93–516, 88 Stat. 1619 (29 U.S.C. 706); sec. 119, Pub. L. 95–602, 92 Stat. 2982 (29 U.S.C. 794); and sec. 122, Pub. L. 95–602, 92 Stat. 2984 (29 U.S.C. 706 (6)).

2. Section 4.1a is added and §§ 4.1 and 4.2 are revised to read as follows:

General Provisions

§ 4.1 Purpose and scope.

The regulations in this part implement: (a) The provisions of Title VI of the Civil Right Act of 1964, Pub. L. 88–352, and Title IV of the Energy Reorganization Act of 1974, Pub. L. 93–438, which relate to nondiscrimination with respect to race, color, national origin or sex in any program or activity receiving Federal financial assistance from NRC; and (b) the provisions of section 504 of the Rehabilitation Act of 1973, as amended, Pub. L. 93–112, Pub. L. 95–602, which relates to non-discrimination with respect to the handicapped in any program or activity receiving Federal financial assistance.

§ 4.1a Subparts.

Subpart A sets forth rules applicable to Title VI of the Civil Rights Act of 1964 and Title IV of the Energy Reorganization Act of 1974. (The Acts are collectively referred to in Subpart A as the "Act"). Subpart B sets forth rules applicable specifically to matters pertaining to section 504 of the Rehabilitation Act of 1973, as amended.

§ 4.2 Application of this part.

This part applies to any program for which Federal financial assistance is authorized under a law administered by NRC. The programs to which this part applies are listed in Appendix A of this part; Appendix A may be revised from time to time by notice published in the Federal Register. This part applies to money paid, property transferred, or other Federal assistance extended under any program or activity, by way of grant, loan, or contract by NRC, or an authorized contractor or subcontractor of NRC, the terms of which require compliance with this part. If any statutes implemented by this part are otherwise applicable, the failure to list a program in Appendix A does not mean the program is not covered by this part. This part does not apply to—

(a) Contracts of insurance or guaranty; or

(b) Procurement contracts; or

(c) Employment practices under any program or activity except as provided in § 4.13 and § 4.122.

3. Immediately following § 4.4, a new center head is added to read as follows:

Subpart A—Regulations Implementing Title VI of the Civil Rights Act of 1964 and Title IV of Energy Reorganization Act of 1974

4. Section 4.47 is revised to read as follows:

§ 4.47 Noncompliance with § 4.21.

If an applicant fails or refuses to furnish an assurance required under §4.21 or otherwise fails or refuses to comply with a requirement imposed by or pursuant to that section, Federal financial assistance may be refused in accordance with the procedures of § 4.48.

§§ 4.11–4.13, 4.21 and 4.22, 4.31–4.34, 4.42–4.46, 4.48 and 4.49, 4.51, 4.63 and 4.64, 4.73–4.75, 4.91–4.93 [Amended]

6. Sections 4.11, 4.12, 4.13, 4.21, 4.22, 4.31, 4.32, 4.33, 4.34, 4.41, 4.42, 4.43, 4.44, 4.45, 4.46, 4.48, 4.49, 4.51, 4.63, 4.64, 4.73, 4.74, 4.75, 4.91, 4.92 and 4.93, are amended by changing "this part", wherever it appears, to "this subpart".

7. Appendix A, which now follows § 4.93, is relocated to follow § 4.232.

8. Immediately following § 4.93, a new Subpart B is added to read as follows:

Subpart B—Regulations Implementing Section 504 of the Rehabilitation Act of 1973, as amended

§ 4.101 Definitions.

As used in this subpart:

(a) "Handicapped person," means any person who has a physical or mental impairment that substantially limits one or more major life activities, has a record of such an impairment, or is regarded as having such an impairment. Such term does not include any individual who is an alcoholic or drug abuser whose current use of alcohol or drugs prevents such individual from performing the duties of the job in question or whose employment, by reason of such current alcohol or drug abuse, would constitute a direct threat to property or the safety of others.

(b) As used in paragraph (a) of this section, the phrase:

(1) "Physical or mental impairment" means (i) any physiological disorder or condition, cosmetic disfigurement, or anatomical loss affecting one or more of the following body systems: Neurological; musculoskeletal; special sense organs; respiratory, including speech organs; cardiovascular; reproductive; digestive, genitourinary; hemic and lymphatic; skin; and endocrine; or (ii) any mental or psychological disorder, such as mental retardation, organic brain syndrome, emotional or mental illness, and specific learning disabilities. The term "physical or mental impairment" includes, but is not limited to, such diseases and conditions as orthopedic, visual, speech, and hearing impairments, cerebral palsy, epilepsy, muscular dystrophy, multiple sclerosis, cancer, heart disease, diabetes, mental retardation, and emotional illness.

(2) "Major life activities" means functions such as caring for one's self, performing manual tasks, walking, seeing, hearing, speaking, breathing, learning, and working.

(3) "Has a record of such an impairment" means has a history of, or has been misclassified as having, a mental or physical impairment that substantially limits one or more major life activities.

(4) "Is regarded as having an impairment" means (i) has a physical or mental impairment that does not substantially limit major life activities but is treated by a recipient as constituting such a limitation; (ii) has a physical or mental impairment that substantially limits major life activities only as a result of the attitudes of others toward such impairment; or (iii) does not have a physical or mental impairment but is treated by a recipient as having such an impairment.

(c) "Section 504" means section 504 of the Rehabilitation Act of 1973, Pub. L. 93–112, as amended by the Rehabilitation, Comprehensive Services, and Developmental Disabilities Amendments of 1978, Pub. L. 95–602 (29 U.S.C. 794).

(d) "Qualified handicapped person" means (1) with respect to employment, a handicapped person who, with

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reasonable accommodation, can perform the essential functions of the job in question and (2) with respect to services, a handicapped persom who meets the essential eligibility requirements for the receipt of such services.

Discriminatory Practices

§ 4.121 General prohibitions against discrimination.

(a) No qualified handicapped person, shall, on the basis of handicap, be excluded from participation in, be denied the benefits of, or otherwise be subjected to discrimination under any program or activity that receives or benefits from Federal financial assistance.

(b)(1) A recipient, in providing any aid, benefit, or service, may not, directly or through contractual, licensing, or other arrangements, on the basis of handicap:

(i) Deny a qualified handicapped person the opportunity to participate in or benefit from the aid, benefit, or service;

(ii) Afford a qualified handicapped person an opportunity to participate in or benefit from the aid, benefit, or service that is not equal to that afforded others;

(iii) Provide a qualified handicapped person with an aid, benefit, or service that is not as effective in affording equal opportunity to obtain the same result, to gain the same benefit, or to reach the same level of achievement as that provided to others;

(iv) Provide different or separate aid, benefits, or services to handicapped persons or to any class of handicapped persons than is provided to others unless such action is necessary to provide qualified handicapped persons with aid, benefits, or services that are as effective as those provided to others;

(v) Aid or perpetuate discrimination against a qualified handicapped person by providing significant assistance to an agency, organization, or person that discriminates on the basis of handicap in providing any aid, benefit, or service to beneficiaries of the recipient's program;

(vi) deny a qualified handicapped person the opportunity to participate as a member of planning or advisory boards; or

(vii) Otherwise limit a qualified handicapped person in the enjoyment of any right, privilege, advantage, or opportunity enjoyed by others receiving the aid, benefit, or service.

(2) A recipient may not deny a qualified handicapped person the opportunity to participate in programs or activities that are not separate or different, despite the existence of permissibly separate or different programs or activities.

(3) A recipient may not directly or through contractual or other arrangements, utilize criteria or methods of administration (i) that have the effect of subjecting qualified handicapped persons to discrimination of the basis of handicap, (ii) that have the purpose or effect of defeating or substantially impairing accomplishment of the objectives of the recipient's program with respect to handicapped persons, or (iii) that perpetuate the discrimination of another recipient if both recipients are subject to common administrative control or are agencies of the same state.

(4) A recipient may not, in determining the site or location of a facility, make selections (i) that have the effect of excluding handicapped persons from, denying them the benefits of, or otherwise subjecting them to discrimination under any program or activity that receives or benefits from Federal financial assistance or (ii) that have the purpose or effect of defeating or substantially impairing the accomplishment of the objectives of the program or activity with respect to handicapped persons.

(c) The exclusion of nonhandicapped persons from the benefits of a program limited by Federal statute or Executive order to handicapped persons or the exclusion of a specific class of handicapped persons from a program limited by Federal statute or Executive order to a different class of handicapped persons is not prohibited by this subpart.

(d) Recipients shall administer programs and activities in the most intergrate setting appropriate to the needs of qualified handicapped persons.

(e) Recipient shall take appropriate steps to ensure that communications with their applicants, employees, and beneficiaries are available to persons with impaired vision and hearing.

§ 4.122 General prohibitions against employment discrimination.

(a) No qualified handicapped person shall, on the basis of handicap, be subjects to discrimination in employment under any program or activity that receives or benefits from Federal financial assistance.

(b) A recipient shall make all decisions concerning employment under any program or activity to which this subpart applies in a manner which ensures that discrimination on the basis of handicap does not occur and may not limit, segregate, or classify applicants or employees in any way that adversely affects their opportunities or status because of handicap.

(c) The prohibition against discrimination in employment applies to the following activities:

(1) Recruitment, advertising, and the processing of applications for employment;

(2) Hiring, upgrading, promotion, award of tenure, demotion, transfer, layoff, termination, right of return from layoff, and rehiring;

(3) Rates of pay or any other form of compensation and changes in compensation;

(4) Job assignments, job classifications, organizational structures, position descriptions, lines of progression, and seniority lists;

(5) Leaves of absence, sick leave, or any other leave;

(6) Fringe benefits available by virtue of employment, whether or not administered by the recipient;

(7) Selection and financial support for training, including apprenticeship, professional meetings, conferences, and other related activities, and selection for leaves of absence to pursue training;

(8) Employer sponsored activities, including social or recreational programs; and

(9) Any other term, condition, or privilege of employment.

(d) A recipient may not participate in a contractual or other relationship that has the effect of subjecting qualified handicapped applicants or employees to discrimination prohibited by this subpart. The relationships referred to in this paragraph include relationships with employment referral agencies, with labor unions, with organizations providing or administering fringe benefits to employees of the recipient, and with organizations providing training and apprenticeship programs.

§ 4.123 Reasonable accommodation.

A recipient shall make reasonable accommodation to the known physical or mental limitations of an otherwise qualified handicapped applicant or employee unless the recipient can demonstrate that the accommodation would impose an undue hardship on the operation of its program.

§ 4.124 Employment criteria.

A recipient may not use employment tests or criteria that discriminate against handicapped persons and shall ensure that employment tests are both job-related and adapted for use by persons who have handicaps that impair sensory, motor, or speaking skills.

§ 4.125 Preemployment inquiries.

(a) Except as provided in paragraphs (b) and (c) of this section, a recipient may not conduct a preemployment medical examination or may not make preemployment inquiry of an applicant as to whether the applicant is a handicapped person or as to the nature or severity of a handicap. A recipient may, however, make preemployment inquiry into an applicant's ability to perform job-related functions.

(b) When a recipient is taking remedial action to correct the effects of past discrimination, or when a recipient is taking voluntary action to overcome the effects of conditions that resulted in limited participation in its federally assisted program or activity, or when a recipient is taking affirmative action pursuant to section 503 of the Rehabilitation Act of 1973, the recipient may invite applicants for employment to indicate whether and to what extent they are handicapped, *Provided*, That:

(1) The recipient states clearly on any written questionnaire used for this purpose or makes clear orally if no written questionnaire is used that the information requested is intended for use solely in connection with its remedial action obligations or its voluntary or affirmative action efforts; and

(2) The recipient states clearly that the information is being requested on a voluntary basis, that it will be kept confidential as provided in paragraph (d) of this section, that refusal to provide it will not subject the applicant or employee to any adverse treatment, and that it will be used only in accordance with this subpart.

(c) Nothing in this section shall prohibit a recipient from conditioning an offer of employment on the results of a medical examination conducted prior to the employee's entrance on duty: *Provided*, That: (1) All entering employees are subjected to such an examination regardless of handicap, and (2) the results of such an examination are used only in accordance with the requirements of this subpart.

(d) Information obtained in accordance with this section as to the medical condition or history of the applicant shall be collected and maintained on separate forms that shall be accorded confidentiality as medical records, except that:

(1) Supervisors and managers may be informed regarding restrictions on the work or duties that may be assigned to handicapped persons and regarding necessary accommodations;

(2) First aid and safety personnel may be informed, where appropriate, if the condition associated with the handicap might require emergency treatment; and

(3) Government officials investigating compliance with the Rehabilitation Act of 1973 shall be provided relevant information upon request.

§ 4.126 General requirement concerning program accessibility.

No qualified handicapped person shall, because a recipient's facilities are inaccessible to or unusable by handicapped persons, be denied the benefits of, be excluded from participation in, or otherwise be subjected to discrimination under any program or activity that receives or benefits from Federal financial assistance.

§ 4.127 Existing facilities.

(a) *Program Accessibility.* A recipient shall operate each program or activity so that the program or activity, when viewed in its entirety, is readily accessible to and usable by handicapped persons. This paragraph does not necessarily require a recipient to make each of its existing facilities or every part of an existing facility accessible to and usable by handicapped persons.

(b) *Methods.* A recipient may comply with the requirements of paragraph (a) of this section through such means as redesign of equipment, reassignment of classes or other services to accessible buildings, assignment of aides to beneficiaries, home visits, delivery of health, welfare, or other social services at alternate accessible sites, alteration of existing facilities and construction of new facilities in conformance with the requirements of § 4.128 or any other methods that result in making its program or activity accessible to handicapped persons. A recipient is not required to make structural changes in existing facilities where other methods are effective in achieving compliance with paragraph (a) of this section. In choosing among available methods for meeting the requirement of paragraph (a) of this section, a recipient shall give priority to those methods that offer programs and activities to handicapped persons in the most integrated setting appropriate.

(c) *Time period.* A recipient shall comply with the requirement of paragraph (a) of this section within 60 days of the effective date of this subpart except that where structural changes in facilities are necessary, the changes are to be made within three years of the effective date of this subpart, but in any event, as expeditiously as possible.

(d) *Transition plan.* In the event that structural changes to facilities are necessary to meet the requirement of paragraph (a) of this section, a recipient shall develop, within 6 months of the effective date of this subpart, a transition plan setting forth the steps necessary to complete the changes. The plan is to be developed with the assistance of interested persons, including handicapped persons or organizations representing handicapped persons, and the plan is to meet with the approval of the NRC. A copy of the transition plan is to be made available for public inspection. At a minimum, the plan is to:

(1) Identify physical obstacles in the recipient's facilities that limit the accessibility of its program or activity to handicapped persons;

(2) Describe in detail the methods that will be used to make the facilities accessible;

(3) Specify the schedule for taking the steps necessary to achieve full program accessibility and, if the time period or the transition plan is longer than 1 year, identify steps that will be taken during each year of the transition period; and

(4) Indicate the person responsible for implementation of the plan.

(e) *Notice.* The recipient shall adopt and implement procedures to ensure that interested persons, including persons with impaired vision or hearing, can obtain information concerning the existence and location of services, activities, and facilities that are accessible to, and usable by, handicapped persons.

§ 4.128 New construction.

New facilities shall be designed and constructed to be readily accessible to and usable by handicapped persons. Alterations to existing facilities shall, to the maximum extent feasible, be designed and constructed to be readily accessible to and usable by handicapped persons.

Enforcement

§ 4.231 Responsibility of recipients.

A recipient will (a) sign an assurance of compliance with section 504, (b) notify employees and beneficaries of their rights under section 504, (c) conduct a self-evaluation of compliance with section 504, with the assistance of interested persons, including handicapped persons, or organizations representing handicapped persons, and (d) otherwise consult with interested persons, including handicapped persons

or organizations representing handicapped persons, to effect compliance with section 504.

§ 4.232 Enforcement procedures.

The enforcement and hearing procedures set forth in §§ 4.41–4.75 of Subpart A with respect to discrimination based on sex, race, color or national origin shall be used for the enforcement of the regulations in Subpart B with respect to discrimination based on handicap.

Dated at Washington, D.C. this 1st day of May, 1979.

For the Nuclear Regulatory Commission.

Samuel J. Chilk,

Secretary of the Commission.

[FR Doc. 79-14170 Filed 5-7-79; 8:45 am]

BILLING CODE 7590-01-M

FEDERAL HOME LOAN BANK BOARD

[12 CFR Part 545]

Federal Savings and Loan System; Mobile Home loans

May 3, 1979.

AGENCY: Federal Home Loan Bank Board.

ACTION: Proposed amendments.

SUMMARY: These proposed amendments, which cover mobile home lending by Federal savings and loans, are intended to make mobile home loans more available and affordable to consumers. Proposed changes to accomplish this purpose include: (1) increasing Federal associations' mobile home lending authority from 10 to 20 percent of their assets; (2) liberalizing the participation interest requirements; (3) permitting mobile home loans for terms up to 20 years and up to 90 percent of the buyer's total costs for the mobile home.

DATE: Comments must be received on or before June 8, 1979.

ADDRESS: Send comments to the Office of the Secretary, Federal Home Loan Bank Board, 1700 G Street, NW., Washington, D.C. 20552. Comments available for public inspection at this address.

FOR FURTHER INFORMATION, CONTACT: Patricia C. Trask, Attorney, Federal Home Loan Bank Board, 1700 G Street, NW., Washington, D.C. 20552. Telephone Number (202) 377–6442.

SUPPLEMENTARY INFORMATION: The Bank Board recognizes that the high cost of home ownership has excluded many families from the housing market for site-built homes. As mobile homes have become an increasingly attractive alternative because of their improved design, construction and durability in recent years, the Bank Board believes that liberalization of its regulations will accommodate the public need for lower cost housing. Therefore, the following amendments are proposed for Part 545 of the Rules and Regulations for the Federal Savings and Loan System (12 CFR Part 545).

Generally, the Bank Board's mobile home lending regulations would be simplified, clarified, and redesignated as necessary to reflect deletions and additions. Commenters are asked to refer to their comments. For example, a comment on the proposed definition of "manufacturer's invoice price" would refer to subparagraph (a)(3). This would greatly aid Bank Board analysis of public comments, thus shortening the time between issuance of this proposal and adoption of final regulations based on it.

Paragraph (a)—Definitions: A new definition would be added. Subparagraph (a)(3) would define "manufacturer's invoice price" as used in other paragraphs of this section.

Paragraph (b)—General: No substantive changes are proposed. However, paragraph (d), *percent of assets limit*, has been incorporated. The percentage limit would be increased from 10 to 20 percent of assets to encourage expanded lending programs for this type of housing.

Paragraph (c)—Sound investment practices. This is a new designation of present paragraph (g), which has been more appropriately placed near the beginning of this section. One substantive change would be made by adding the requirement that the term to maturity of a loan on a used mobile home is based upon an appraisal of the home which substantiates that the home is expected to retain its value as security for the loan over the loan term. Language would also be added reminding associations that they are responsible for current knowledge of FHA and VA regulations and requirements, including portfolio limitations.

Paragraph (d)—Inventory financing: No substantive changes are proposed for subparagraphs (d)(1) and (d)(2). Subparagraph (d)(3)(i) would allow freight to be included in the amount which can be financed, without regard to the location of the dealer. Present paragraph (f), which only allows a percentage of frieght to be financed, would therefore be dropped.

Subparagraph (d)(3)(ii) would permit an association to lend mobile home dealers up to 75 percent of the appraised market value of a used mobile home carried as inventory, as contrasted with the present provision, which requires the loan to be based on wholesale value of the mobile home. This change would permit loans to more fairly reflect local market conditions as well as the condition of the mobile home itself.

Paragraph (e)—Retail financing: This paragraph, which presently addresses all retail financing, would be divided into subparagraphs (1) and (2) for easier reference.

Subparagraphs (e) (1) and (2), as proposed, are substantively identical to present subparagraphs (e) (1) and (2). However, subparagraph (e)(2)(iii) would increase the permissible term to maturity of mobile home loans to 20 years. The Bank Board believes that present regulatory maximums, which differ significantly for new and used mobile homes, are unnecessarily restrictive and may discourage purchase of used mobile homes.

Subparagraph (e)(2)(iv) would replace present subparagraph (e)(3) limits on the loan amount for new and used mobile homes. The new requirements would set a maximum loan of 90 percent of buyers' total costs for both new and used mobile homes.

It should be noted that Federals presently may make real estate loans on mobile homes if the homes are permanently affixed to the borrowers' property, and otherwise would be considered permanent residences.

Section 545.7–2(a)—Participants. Paragraph (a) of this section would be changed to conform to the proposed amendments in § 545.7–1. Basically, this would involve changing the 10 percent-of-assets limit to 20 percent, and changing references to other paragraphs.

Subparagraph (a)(1) would liberalize the purchase and sale of participation interests by permitting Federals to buy such interests from service corporations of FDIC and FSLIC-insured institutions. Subparagraph (a)(2) would also be liberalized so that a seller of a participation interest in mobile home chattel paper would only be required to maintain a 25 percent, rather than a 50%, interest in the chattel paper which is sold. This would, in conjunction with the change described in subparagraph (a)(1), considerably expand the flow of funds to areas where mobile homes are most needed.

Subparagraph (a)(3) would be revised to include reference to service corporations.

New subparagraph (a)(4) would restrict Federals' purchases of participation interests to loans made according to the requirements of § 545.7–1.

Accordingly, the Bank Board proposes to amend 12 CFR Part 545 by revising § 545.7–1 and amending § 545.7–2 as described below.

§ 545.7–1 Mobile home financing.

(a) *Definitions used in this Part—*

(1) "Mobile home"—a movable dwelling (for occupancy on land) made of one or more units, and having minimum width of 10 feet, minimum area of 400 square feet, and year-round living facilities for one family, including permanent provision for cooking, eating, sleeping, and sanitation.

(2) "Mobile home chattel paper"—a document evidencing a loan secured by a first lien on one or more mobile homes and equipment installed or to be installed therein.

(3) "Manufacturer's invoice price"—a manufacturer's itemized charges, shown on its invoice, for a specifically identified mobile home, furnishings, equipment, and accessories installed by the manufacturer, and freight.

(b) *General lending authority.* A Federal association whose board of directors has adopted a mobile home financing plan may invest in mobile home chattel paper by making or buying whole loans or installment sales contracts on mobile homes: *Provided*, that total investment made under this section may not exceed 20 percent of an association's assets.

(c) *Sound investment practices.* Appraisals of used mobile homes shall substantiate the term to maturity of loans made. Chattel paper shall have provisions to protect the association, specifically regarding insurance, taxes, other governmental levies, and maintenance and repairs, and may include any other protection provision which is lawful and appropriate. The association may pay taxes or other governmental levies, and insurance premiums or other similar charges to protect its security interest, and may, when lawful, add such payments to the debt evidenced by the chattel paper. The association shall seasonably perfect its security interest. The association is responsible for current knowledge of regulations and requirements pertaining to Federal insurance and guarantee programs for mobile home loans in which it invests, including portfolio limitations on coverage, and is expected to make underwriting decisions as carefully for such loans as for conventional loans.

(d) *Inventory financing.* An association may invest in mobile home chattel paper which finances a mobile home dealer's acquisition of inventory if:

(1) The inventory is held for sale by the dealer in its ordinary course of business in the association's regular lending area;

(2) The loan evidenced by the chattel paper is the dealer's obligation, and

(3) The loan amount does not exceed the following:

(i) For new mobile homes, 100 percent of manufacturer's invoice price for each mobile home and equipment to be installed by the dealer;

(ii) For used mobile homes, 75 percent of appraised market value of each mobile home, including installed equipment.

(e) *Retail financing.*—(1) *Insured/Guaranteed Loans.* An association may invest in retail mobile home chattel paper which is insured or guaranteed under the National Housing Act or Chapter 37 of Title 38, United States Code, as amended, or which has a commitment for such insurance or guarantee, if satisfactory local servicing of that paper is arranged.

(2) *Conventional Loans.* An association may invest in conventional retail mobile home chattel paper if:

(i) The mobile home is to be maintained as a residence of the owner (or beneficial owner), or an owner's relative;

(ii) The mobile home is located at a mobile home park or other semi-permanent site in the association's regular lending area when the investment is made, or within 90 days thereafter;

(iii) The loan is payable in substantially equal monthly installments over 20 years or less; and

(iv) The loan amount (excluding time-price differential or interest, however computed) does not exceed 90 percent of buyer's total costs, including up to three years' premiums for appropriate insurance to protect the association and the owner (or beneficial owner) of the mobile home; freight; itemized set-up charges; sales or other taxes; and filing or recording fees imposed by law.

§ 545.7–2 Purchase of participation interests in mobile home chattel paper.

(a) *General.* A Federal association may buy, within the 20 percent-of-assets limit in § 545.7–1(b), a participation interest in retail mobile home chattel paper which meets all requirements of § 545.7–1(e)(1) or (2) (except the lending area restriction in paragraph (e)(2)(ii)), if:

(1) The seller of the participation interest is an institution whose accounts or deposits are insured by the Federal Savings and Loan Insurance Corporation or the Federal Deposit Insurance Corporation, or a service corporation thereof, which remains responsible for servicing the chattel paper;

(2) The seller retains at least a 25 percent interest in the chattel paper;

(3) The chattel paper is secured by a mobile home located, or to be located within 90 days thereafter, at a mobile home park or other semi-permanent site within 100 miles of any office of the seller;

(4) The loan secured by the mobile home meets the requirements of § 545.7–1.

(b) * * *

(Sec. 5, 48 Stat. 132, as amended (12 U.S.C. 1464), Reorg. Plan No. 3 of 1947, 12 F.R. 4981, 3 CFR, 1947 Supp.)

By the Federal Home Loan Bank Board.

J. J. Finn,

Secretary.

[No. 79-280]

[FR Doc. 79-14314 Filed 5-7-79; 8:45 am]

BILLING CODE 6720-01-M

CIVIL AERONAUTICS BOARD

[14 CFR Ch. II]

Current Exchange Conditions

Date: April 26, 1979

AGENCY: Civil Aeronautics Board.

ACTION: Termination of rulemaking proceeding.

SUMMARY: The Civil Aeronautics Board is terminating a rulemaking begun in response to a petition by the Air Transport Association, a trade association of various U.S. scheduled air carriers. The petition asked the Civil Aeronautics Board to adopt rules to alleviate currency exchange problems of U.S. flag carriers in foreign countries. The Board has decided that the problem is better handled through case-by-case proceedings than by rulemaking.

FOR FURTHER INFORMATION CONTACT: Mark W. Frisbie, Office of General Counsel, Civil Aeronautics Board, 1825 Connecticut Avenue, Washington, D.C. 20428. 202/673–5442.

SUPPLEMENTARY INFORMATION: In February 1977, The Air Transport Association of America (ATA) [1] filed a petition for rulemaking directed at the problem of certain foreign currency exchange practices affecting U.S. flag carriers in various countries. ATA cited two major problems: restrictions on sales by U.S. carriers in a foreign

[1] ATA acted on behalf of Alaska Airlines, Aloha Airlines, Braniff Airways, Delta Air Lines, Eastern Air Lines, The Flying Tiger Line, National Airlines, Northwest Airlines, Pan American World Airways, Trans World Airlines, Western Air Lines, Wien Air Alaska, and North Central Airlines.

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country, and governmentally-imposed restrictions and delays in converting or remitting foreign currency revenues. ATA proposed that the Board should, subject to presidential approval, require foreign air carriers operating in the United States to establish escrow accounts in dollars in the United States when U.S. carriers encounter foreign currency problems in the home countries of particular carriers. The escrow account would contain funds of the foreign air carrier equivalent to the unremitted funds of U.S. air carriers held by the foreign country. ATA also suggested that escrow funds could be transferred to affected U.S. carriers, in return for which the foreign air carrier would be credited with the U.S. carriers' claims to foreign funds, thereby forcing an informal currency exchange. ATA recommended that the rule include reciprocal restriction on ticket sales by foreign carriers in the United States whenever U.S. carriers are restricted in the foreign land.

On May 31, 1977, in response to ATA's petition, the Board issued an Advance Notice of Proposed Rulemaking (EDR–327, 42 FR 28898, June 6, 1977) asking for more detailed information on the problem and on ATA's proposal. Seaboard World Airways, Mr. Robert T. Murphy, and ATA filed comments favoring some regulatory action by the Board, and Czechoslovak Airlines, VARIG (Brazilian Airlines), and China Airlines opposed any such action.

Comments supporting the ATA petition argued that bilateral negotiations have proven ineffective in practice to cure the currency exchange problems. Mr. Murphy, a former Member of the CAB, stated that diplomatic efforts to solve these problems have been so consistently unproductive that remedial action is warranted. ATA maintained that diplomatic and commercial negotiations are too time-consuming, given the sums of money at stake, to be worthwhile, even if they are ultimately successful. In addition, ATA reiterated its claim that the Board is obligated by the International Air Transportation Fair Competitive Practices Act of 1974 (88 Stat. 2102, 49 U.S.C. 1159) to take action to eliminate the discriminatory and unfair competitive practices alleged. ATA advocated a rulemaking that would allow faster action than under existing case-by-case procedures. It suggested as guidelines for the Board procedures that would take about 1 month in all. Individual permit amendment procedures ordinarily take at least 5 months.

Comments opposing the suggested rulemaking argued that currency exchange problems are best handled on an individual basis, and they questioned the Board's authority to make private foreign air carriers responsible for the actions of their governments. Czechoslovak Airlines argued that no actionable discrimination exists where all foreign carriers are treated the same, if the disparate treatment for domestic carriers is based on established policy or legislation of the home country. It intimated that action directed against those policies, without any further showing of discrimination, could provoke retaliation in turn against air carriers of the country taking the action. VARIG asserted that under the *International Air Transportation Policy of the United States (September 1976)* unilateral action should be used only as a last resort, and that unilateral action in this case would violate a bilateral agreement between the United States and Brazil. It also maintained that the Board has no statutory authority to hold or transfer the funds of one private airline for the benefit of another, and that the suggested escrow arrangement would be a taking of private property without compensation in violation of the Fifth Amendment.

The Board recognizes that foreign currency difficulties are a significant problem for U.S. flag carriers, but we have decided that they are best handled on a case-by-case basis, not by the more summary procedure contemplated in this rulemaking. Any conditions that could be imposed on foreign air carriers under a rule such as proposed by ATA can also be imposed through individual permit amendment proceedings. The conditions could be imposed more quickly under a rule than by permit amendment, but we do not think that quick action is usually necessary or judicious in these matters.

Foreign currency exchange problems for U.S. carriers, while significant, are rarely so acute as to cause complete cessation of operations. A carrier that cannot withdraw money from a foreign country, or that experiences unusual delay in withdrawal, can obtain working capital from financial institutions. A carrier's expenses may temporarily increase pending permit amendment proceedings, or it may suffer from devaluation, but it will not be prevented from operating. Hence, immediate action on behalf of U.S. carriers is not so urgent in currency exchange matters as where actual operating rights have been limited or denied. Moreover, although currency restrictions do not affect the flag carrier of a country as they do other carriers, and thus may be considered discriminatory the carriers representing financially troubled countries are usually in weak financial condition themselves, and therefore do not enjoy a superior competitive position relative to the U.S. carriers.

As we noted in EDR–327, foreign currency exchange practices present complex issues that transcend aviation considerations alone. These problems do not lend themselves to solution through standardized, summary proceedings. The Board has limited expertise in the banking procedures and economic policies prevailing for each country where there are currency exchange problems. Individual permit amendment proceedings would allow thorough investigations, resulting in solutions tailored to the circumstances of each case, and they would allow consultation with agencies having greater expertise.

Because the issues in foreign currency exchange matters are so complicated, but seldom critical to the provision of air transportation, we have decided that a rulemaking is not the right vehicle for dealing with them. The opportunity for thorough study and individually tailored solutions in a case-by-case approach is more important than the ability to act more quickly under a rule. Accordingly, the Civil Aeronautics Board is terminating this rulemaking proceeding.

(Secs. 204 and 402 of the Federal Aviation Act of 1958, as amended, 72 Stat. 743, 757; 49 U.S.C. 1324, 1372.)

By the Civil Aeronautics Board:

Phyllis T. Kaylor,
Secretary.

[EDR–327 B; Economic Regulations Docket 30460]

[FR Doc. 79–14226 Filed 5–7–79; 8:45 am]

BILLING CODE 6320–01–M

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

[18 CFR Part 281]

Procedures for Evaluating the Economic Practicability and Reasonable Availability of Alternate Boiler Fuel for Large Boiler Facilities

AGENCY: Federal Regulatory Commission.

ACTION: Notice of proposed rulemaking.

SUMMARY: The Federal Energy Regulatory Commission (Commission) proposes to establish a procedure for determining the economic practicability and reasonable availability of alternate fuel for essential agricultural use establishments which:

Have the capacity to use more than 300 Mcf of natural gas on a peak day;

Have actually used a fuel other than natural gas as a boiler fuel continuously for 60 days during the 1976–1978 period;

Have requested or intends to request that their natural gas for boiler fuel use be classified as Priority 2 Entitlement in the curtailment plan of their interstate pipeline supplies.

The purpose of the rule is to establish a procedure for determining the economic practicability and reasonable availability of alternate fuel for essential agricultural use establishments which use natural gas as boiler fuel and which seek Priority 2 Entitlements for that gas.

DATE: Written comments by May 30, 1979.

ADDRESS: Office of the Secretary, Federal Energy Regulatory Commission, 825 North Capital Street, NE., Washington, D.C. 20426 (Reference Docket No. RM79–40).

FOR FURTHER INFORMATION CONTACT: Mary Jane Reynolds, Office of the General Counsel, Federal Energy Regulatory Commission, 825 North Capitol Street, N.E., Room 8000, Washington, D.C. 20426, (202) 275–4283.

Background

The Federal Energy Regulatory Commission (Commission) hereby gives notice of its intention to promulgate a rule relating to the procedure for evaluating alternative fuel availability for essential agricultural users which use natural gas in large boilers. Section 401(a) of the Natural Gas Policy Act of 1978 (NGPA), provides that, to the maximum extent practicable, curtailment of supplies to essential agricultural users is proscribed unless such supplies are needed to fulfill the needs of certain high-priority users. Section 401(b) of the NGPA provides, however, that curtailment of the natural gas used by essential agricultural users also may occur if they can use an alternate fuel that is economically practicable and reasonably available. The Commission, in this notice, is proposing procedures whereby the provisions of section 401(b) can be implemented, so that the Commission can determine if certain large boiler fuel users certified by the United States Department of Agriculture (USDA) have access to alternate fuel that is reasonably available and economically practicable.

The Commission believes that its authority pursuant to section 401 of the NGPA is discretionary and it proposes to focus its attention on determinations concerning alternative fuel which may be reasonably available and economically practicable to boiler fuel users using over 300 Mcf of gas per peak day. It has been the Commission's experience in administering natural gas curtailment policies since the early 1970's that it is often difficult to substitute other fuels in place of natural gas in process and feedstock applications. Small boilers usually have difficulty in utilizing fuels other than natural gas unless extensive conversion occurs. Moreover, Commission experience suggests that the economics and logistics of utilizing other fuels in large boilers is often favorable when compared with natural gas. Taking these factors into consideration, as well as taking note of the substantial amount of boiler fuel actually or potentially covered by the proposed USDA volumetric certification rule, the Commission has decided that administrative efficiency of its 401 implementation responsibilities would be best served by concentrating on examination of the economics and logistics of large boiler fuel users.

In particular, the Commission will focus its examination on those boilers that have an alternative fuel capability which has been exercised for substantial periods during recent years. This is not intended to imply a legal assumption that such boilers have the type of economic and praticable capability specified in section 401. However, such boilers appear to be the facilities most likely to have cost and fuel supply conditions that would favor use of fuels other than natural gas. Conversely, facilities which would have to install new capabilities or facilities where only natural gas has been used during the last few years would, *a priori*, appear less likely to have economics and logistics that favor the use of fuels other than natural gas.

There are also technical considerations involved in selecting boilers that use in excess of 300 Mcf on a peak day. Boilers consume fuel in order to generate heat or electricity, while other users need natural gas because the nature of the flame generated is essential to their business purposes, or because the clean burning flame natural gas produces would not contaminate their product. On the other hand, flames necessary to produce heat in boilers never come in contact with the product.

The cost of conversion to an alternate fuel also is a factor in singling out boiler fuel uses for curtailment. The objective of section 401 of the NGPA is to protect supplies of natural gas to essential agricultural users of such natural gas who cannot use other fuels because these alternatives are not reasonably available or economically practicable. The low costs of conversion to other fuels, and the high volume of fuel use by boilers has led certain boiler fuel users to construct facilities which provide them the capability of using alternative energy sources. This factor obviously decreases the alternate fuel cost to those boiler fuel users. Alternatively, permitting boiler fuel users to use natural gas may well mean that during periods of curtailment, large volumes of gas would be diverted from other industrial uses for which substitute fuel is not even technologically feasible, to boiler fuel users.[1] The Commission believes that such a result would contravene the spirit and the letter of section 401 of the NGPA, and would be an improper regulatory approach.

The alternate fuel determination in section 401(b) rests on economic practicability and reasonable availability of alternate fuel. It does not specifically exclude propane and other gaseous fuels. Notwithstanding the historic FPC policy to exclude such fuels from its alternate fuel capability test the Commission proposed not to exclude by definition propane and other gaseous fuels from the new test: alternate fuel availability. As requested, many comments in Docket No. RM79–15, Permanent Rule Implementing Section 401(a) of the NGPA addressed this issue. It was generally asserted that the cost of these fuels made them uneconomic and their supply availability was directly related to the supply of natural gas. On these grounds, many parties advocated a generic exclusion of such fuels from the alternate fuel determination. The Commission finds it premature to adopt a policy on propane and other gaseous fuel at this time. Rather it will address the issue in the rulemakings on alternate fuel determination.

In summary, the Commission has tentatively decided to apply this rule to those boiler fuel users which can use in excess of 300 Mcf of natural gas on a peak day for purposes of triggering the

[1] Under the end-use principles that were used to develop most pipeline curtailment plans boiler fuel for the reasons discussed above received a low priority. Section 401 shifts agricultural curtailment policy and curtailment policy for high-priority users as defined in the statute to at least a partial end product basis. Thus, a substantial amount of boiler fuel might move from the lowest priority category to the highest priorty status.

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procedures of this proposal. The conversion costs to alternate fuel of small boilers (*i.e.*, those using under 300 Mcf on a peak day) is substantially higher than the costs to larger boiler fuel users. The 300 Mcf per peak day use has been selected for several reasons. A 300 Mcf limit helps ensure that almost all small essential agricultural users would receive high-priority treatment, since such user's needs rarely exceed the 300 Mcf standard. Likewise, the number of small essential agricultural users who use under 300 Mcf and over 50 Mcf per day is substantial, and the administrative burdens of this proposal applying to them would be an inefficient use of Commission staff time and resources.

Notwithstanding its tentative conclusion to apply the alternate fuel test to large fuel users, the Commission seeks specific comment on whether it would be advisable to apply the test to all essential agricultural users. Recognizing the vast number of such users, it would clearly strain Commission resources unduly to apply the test to all users simultaneously. Accordingly, if it were applied to all users, the Commission is considering dividing essential agricultural users into three categories and making the determinations sequentially for each category. The first category would be large boiler fuel users as covered by the proposed rule. The second category would be all other essential agricultural users except process and feedstock users. Last, process and feedstock users would be considered.

Procedures for application of the alternate fuel test

Section 401 states that the Commission may by rule or order make a determination regarding alternate fuel capability. There are at least three methods of making an alternate fuel determination. A determination of alternate fuel availability could be made by standards imposed by a generic rulemaking, a case-by-case order procedure, or a case-by-case rulemaking.

The Commission seeks comments on the use of a generic rulemaking which would adopt a rebuttable presumption that any essential agricultural user which has used a fuel other than natural gas continuously for 60 days during the three year period, 1976 through 1978, has alternate fuel which is reasonably available and economically practicable. Any essential agricultural user which sought to rebut the presumption would have the burden of establishing that alternate fuel was not economically practicable. The procedure for making such a rebuttal would be the adjustment procedures promulgated in accordance with such in 502(c) of the NGPA. These procedures are set forth in 18 CFR 1.41.

Another possible procedure is case-by-case orders. Under this method, the Commission would issue a notice in the Federal Register of each user which sought to classify natural gas as essential agricultural requirements. Any person including staff who wished to challenge the classification would file a protest and state the grounds therefor. If no protest were filed or no material questions of fact were raised in the filings, the Commission would issue an order, without a hearing, determining whether the essential agricultural user had alternate fuel which was reasonably available and economically practicable. Where a material question of fact were raised, an on-the-record proceeding would be conducted by an Administrative Law Judge (ALJ). The ALJ decision could be appealed to the Commission. in evaluating this procedure, particular consideration should be given to the cost of the procedure to affected parties, both the essential agricultural user and protestants if the proceeding were before an ALJ. Parties may also wish to comment on whether they see any particular disadvantage to such a lengthy procedure given that the gas would be given Priority 2 treatement until a final decision on alternate fuel were made.

Finally the Commission is considering a case-by-case rulemaking applicable to large boiler users. the procedure is set forth in the proposed rule. This procedure appears to have several advantages over the case-by-case order described heretofore. first, many material questions of fact can be thoroughly reviewed and rebutted in a significantly less time consuming manner than required in an on-the-record proceeding. Thus, the case-by-case rulemaking balances the need for detailed fact finding with the need for expedifion. Moreover, generally the expenses involved in participating in rulemaking proceedings are generally substantially less than the costs incurred by an active participant in an on-the-record proceeding.

A. Summary of the Proposed Rule

The purpose of the proposed rule is to establish a procedure for determining the economic practicability and reasonable availability of alternate fuel for essential agricultural use establishments which use natural gas as boiler fuel and which seek Priority 2 entitlements for that gas. The proposed rule provides that if an establishment meets the following three standards, the Commission will then conduct a rulemaking in order to determine whether the gas should receive Priority 2 treatment. The essential agricultural use establishment will be subject to the rulemaking if the establishment:

(a) Has the capacity to use more than 300 Mcf of natural gas on a peak day;

(b) Has, in fact, used a fuel other than natural gas as boiler fuel continuously for 60 days during the period 1976, through 1978; and

(c) Has requested or intends to request that its natural gas for boiler fuel use be classified as Priority 2 entitlement in the curtailment plan of its interstate pipeline suppplies.

Section-by-section summary of the rule

Purpose (§ 281.301). The rule establishes a procedure by which the Commission may determine alternate fuel availability under section 401(b) of the NGPA for certain establishments using natural gas as boiler fuel and for which Priority 2 entitlements are requested for that gas.

Applicobility (§ 281.302). The proposed procedure would apply to any essential agricultural use establishment, as defined in § 281.303, which:

(a) Has requested or intends to request to have natural gas which will be used as boiler fuel classified by an interstate pipeline as a Priority 2 entitlement;

(b) Has the capacity to burn over 300 Mcf of gas on a peak day; and

(c) Has used a fuel other than natural gas for 60 consecutive days during 1976, 1977, or 1978.

Definitions (§ 281.303). "Alternate fuel" means any fuel, other than natural gas, which is economically practicable and reasonably available as a replacement for natural gas used as boiler fuel in an essential agricultural use establishment provided such fuel can be used without violating any applicable federal, state, or local pollution control standard.

"Boiler fuel" means that fuel used to generate steam or electricity, including electricity generated by gas turbines.

Other terms defined include "SIC Code," "essential agricultural user," "essential agricultural requirements," "Priority 2 entitlements" and "Form MA–100 or SU." "Essential agricultural use establishment" is defined in 7 CFR 2900.2(c).

General rule (§ 281.304). The Commission will conduct a rulemaking proceeding to determine if an essential agricultural establishment subject to this subpart has alternate fuel availability for the use of natural gas in each such establishment. Any such establishment which requests Priority 2 classification for natural gas used as boiler fuel may receive such gas beginning November 1, 1979, unless the Commission finds alternate fuel capabilities. Upon such a finding, the essential agricultural requirement for gas used as boiler fuel must be returned, in amounts equal to the volumes of gas for which there is an alternate fuel, to the priority of service category where it would have been were it not for Priority 2 reclassification under subpart B.

Filing requirements (§ 281.305). Each essential agricultural use establishment subject to this subpart shall file with the Commission by June 15, 1979, a petition for rulemaking. The petition must contain at least the following data: (1) the name and address of the essential agricultural use establishment; (2) the total annual cost of boiler fuel for the establishment in 1976, 1977 and 1978, and the percentage of steam or electricity produced from boiler fuel use to treat essential agricultural products in each of those years; (3) the volume and cost of natural gas purchased for all purposes during 1976, 1977 and 1978 as required in Form MA–100 or SU, item A, line 5, with pertinent contracts and other information (also required, similar information on natural gas used as boiler fuel in those years); (4) the volume and cost of all fuels other than natural gas listed in the same forms for the same years; (5) the percentage of total volume of boiler fuel satisfied by non-purchased fuels as listed in the same forms; (6) the estimated volume, cost, terms, time period and availability of natural gas and the least expensive alternative fuel which could be used as boiler fuel under the applicable air pollution control laws for 1980; (7) the value of all products shipped from the establishment during 1976, 1977, and 1978 as listed in the above forms; (8) the annual payroll, supplemental labor costs, and each of the various costs of materials and services used in the establishment during the three years (as required by the above forms) and the estimated percentage of cost represented by the costs incurred as a result of activities qualifying the facility as an essential agricultural establishment.

An essential agricultural use establishment petitioning for a rulemaking may request confidential treatment of material submitted, according to paragraph (c).

Procedures for determinotion of alternate fuel availability. (§ 281.306). Each petition for rulemaking filed by a boiler fuel facility pursuant to this proposal shall be published as a Notice of Proposed Rulemaking in the Federal Register and a copy of these will be sent to the Secretary of Agriculture. Written comments may be submitted by any interested person within 30 days of publication and copies of all comments will be sent to the petitioner. Copies of all petitions will be available to the public except insofar as any information is requested to be kept confidential. Such information may be released to any person requesting it, if the Commission's Secretary finds good cause to provide it. The material will be provided under a protective order wherein the recipient of the information swears that the material received will only be used in rulemaking. Any material designed confidential will be returned to the petitioner.

Under paragraph (c), each rulemaking will afford an opportunity for oral presentations of data, views and arguments. Any interested person submitting written comments may participate in the hearings by requesting the opportunity from the Commission Secretary. Notice of the hearing shall be published in the Federal Register. Any person submitting confidential information may request that the public hearing be closed except to those who submitted written comments.

Under paragraph (d), the Commission will issue a final rule based on all submitted data and information determining whether any one facility has alternate fuel capability. At the Commission's discretion, a rulemaking proceeding may be replaced with alternate proceedings with respect to a particular establishment.

Written comment procedures. Interested persons are invited to submit written comments, data, views or arguments with respect to this proposal. An original and 14 copies should be filed with the Secretary of the Commission. All comments received prior to May 30, 1979, will be considered by the Commission prior to promulgation of final regulations. All written submissions will be placed in the Commission's public files and will be available for public inspection in the Commission's Office of Public Information, 825 North Capitol Street, N.E., Washington, D.C., during regular business hours. Comments should be submitted to the Federal Energy Regulatory Commission, 825 North Capitol Street, N.E., Washington, D.C. 20426, and should reference Docket No. RM79–40.

Public hearing procedures. A public hearing concerning this proposal will be held in Washington, D.C. on May 23, 1979, beginning at 9:00 a.m. and will continue, if necessary, on the following day. The hearing will be held in Room 3200, 941 N. Capitol St., N.E., Washington, D.C. 20426. Any person interested in this proceeding or representing a group or class of persons interested in this proceeding may make a presentation at the hearing provided a written request to participate is received by the Secretary of the Commission prior to 4:30 p.m., on May 21, 1979.

Requests to participate in the hearing should include a reference to Docket No. RM 79–40 as well as a concise summary of the proposed oral presentation and a number where the person making the request may be reached by telephone. Prior to the hearing each person filing a request to participate will be contacted by the Presiding Officer or his designee for scheduling purposes. At least five copies of the statement shall be submitted to the Secretary of the Commission prior to 4:00 p.m., on May 22, 1979. The Presiding Officer is authorized to limit oral presentation at the public hearing both as to length and as to substance. Persons participating in the public hearing should, if possible, bring 100 copies of their testimony to the hearing.

The hearing will not be a judicial or evidentiary-type hearing. There will be no cross-examination of persons presenting statements. However, the panel may question such persons and any interested person may submit questions to the Presiding Officer to be asked of persons making statements. The Presiding Officer will determine whether the question is relevant and whether the time limitations permit it to be presented. If time permits, at the conclusion of the initial oral statements, persons who have made oral statements will be given the opportunity to make a rebuttal statement. Any further procedural rules will be announced by the Presiding Officer at the hearing. A transcript of the hearing will be made available at the Commission's Office of Public Information.

(Natural Gas Act, as amended, 15 U.S.C. 717 *et seq.*; Public Utility Regulatory Policies Act of 1978, Pub. L. 95–617; Natural Gas Policy Act of 1978, Pub. L. 95–621, 92 stat. 3350; Department of Energy Organization Act, Pub. L. 95–91, E.O. 12009, 42 FR 46267.)

In consideration of the foregoing, it is proposed to amend Part 281, Subchapter

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I, Chapter I of Title 18, Code of Federal Regulations, as set forth below.

By the Commission.

Kenneth F. Plumb,
Secretary.

PART 281—NATURAL GAS CURTAILMENT

1. Part 281 is amended in the table of sections by adding the appropriate numerical order new sections and titles (Subpart C) to read as follows:

Subpart C—Alternate Fuel Determination

Sec.
281.301 Purpose.
281.302 Applicability.
281.303 Definitions.
281.304 General rule.
281.305 Filing requirements.
281.306 Procedures for determination of alternate fuel availability.

Authority: Natural Gas Act, as amended, 15 U.S.C. 717 *et seq.*; Public Utility Regulatory Policies Act of 1978, Pub. L. 95–617; Natural Gas Policy Act of 1978, Pub. L. 95–621, 92 Stat. 3350; Department of Energy Organization Act, Pub. L. 95–91, E.O. 12009, 42 FR 46267.

2. Part 281 is amended to add a new Subpart C including § 281.301 through § 281.306 to read as follows:

Subpart C—Alternate Fuel Determination

§ 281.301 Purpose.

The purpose of this subpart is to establish a procedure for evaluation of the economic practicability and reasonable availability of alternate fuel, as prescribed in section 401(b) of the NGPA, for certain essential agricultural use establishments which seek priority 2 entitlements for natural gas to be used as boiler fuel. The evaluation will provide the basis for determination, by the Commission, of whether an alternate fuel to natural gas is available for boiler fuel use.

§ 281.302 Applicability.

This subpart applies to each essential agricultural use establishment:

(a) Which has requested or intends to request under § 281.207 to have natural gas which will be used for boiler fuel classified as priority 2 entitlements by an interstate pipeline;

(b) Which has capacity to burn in excess of 300 Mcf of natural gas on a peak day; and

(c) Which has actually used a fuel other than natural gas as boiler fuel continuously for 60 days during the period 1976 through 1978.

§ 281.303 Definitions.

For the purpose of this subpart:

(a) "Alternate fuel" means any fuel (1) which is economically practicable and reasonably available as an alternate to natural gas for use as boiler fuel and (2) which may be burned as boiler fuel without placing the essential agricultural use establishment in violation of any applicable Federal, state or local air pollution control standards.

(b) "Boiler fuel" means any fuel used for the generation of steam or electricity, including fuel used in gas turbines used to generate electricity.

(c) "SIC Code" means Standard Industrial Classification Code as set forth in the *Standard Industrial Classification Manual*, 1972 edition.

(d) "Essential agricultural user" means essential agricultural user as defined in § 281.203(b).

(e) "Essential agricultural requirements" means volumes certified by the Secretary of Agriculture and caculated in accordance with 7 CFR 2900.4.

(f) "Priority 2 entitlements" means the essential agricultural requirements of an essential agricultural user which an interstate pipeline classifies as priority 2 in its curtailment plan in accordance with Subpart B.

(g) "Essential agricultural use establishment" means essential agricultural use establishment as defined in 7 CFR 200.2(c).

(h) "Form MA–100 MU or SU" means Form MA–100 MU or SU of the Bureau of the Census for the Annual Survey of Manufacturers.

§ 281.304 General rule.

(a) The Commission shall conduct a separate rulemaking proceeding, of particular applicability, for each essential agricultural use establishment which is subject to this subpart to determine whether an alternate fuel to natural gas would be economically practicable and reasonably available for boiler fuel use by such essential agricultural use establishment.

(b) Any essential agricultural use establishment which has requested priority 2 classification for natural gas for boiler fuel use may receive such natural gas beginning November 1, 1979 in accordance with the provisions of Subpart B unless the Commission determines in accordance with the procedures of this subpart that the essential agricultural use establishment has alternate fuel.

(c) If the Commission determines that an essential agricultural use establishment has alternate fuel, it shall require that the essential agricultural requirements equal to the natural gas volumes for which there is alternate fuel be removed, prospectively, from the priority 2 entitlements of the interstate pipeline and be replaced, prospectively, in the priority of service category of the interstate pipeline where they would have been included but for the reclassification to priority 2 under Subpart B.

§ 281.305 Filing Requirements.

(a) *General Rule.* Each essential agricultural use establishment which is subject to this subpart shall file a petition for rulemaking which shall contain the information specified in paragraph (b). The filling shall be addressed to the Secretary of the Commission and shall be filed by June 15, 1979.

(b) *Data requirement.* The petition for rulemaking shall contain, at the minimum, the following data concerning the essential agricultural use establishment:

(1) Name and address of the essential agricultural use establishment.

(2)(i) Total annual cost of boiler fuel for the essential agricultural use establishment in 1976, 1977 and 1978.

(ii) Percentage of steam or electricity produced from the boiler fuel which was used in the production or treatment of essential agricultural products in calendar years 1976, 1977 or 1978.

(3)(i) Indicate the volume and cost of natural gas purchased for all purposes during the calendar years 1976, 1977, and 1978, as required in Form MA–100 MU or SU, item 11—A, line 5. Indicate the time periods of use of the natural gas and pertinent terms of the contracts, or copies of the contracts.

(ii) Indicate the volume and cost of natural gas used as boiler fuel during calendar years 1976, 1977 and 1978. Indicate the time periods of use of the natural gas and pertinent terms of the contracts, or copies of the contracts.

(4)(i) Indicate the volume and cost of fuels other than natural gas purchased for all purposes, by types, during the calendar years 1976, 1977, and 1978, as required in Form MA–100 MU or SU, item 11—A. Indicate time periods of use of each such fuel and terms of the contracts, or copies of the contracts.

(ii) Indicate the volume and cost of fuels by type other than natural gas used as boiler fuel during calendar years 1976, 1977 and 1978. Indicate the time periods of use of the boiler fuel and pertinent contract terms or copies of the contracts.

(5) Indicate the percentage of the total volume of boiler fuel that is satisfied by non-purchased fuels, as required in Form MA–100 MU or SU, item 11–B part (b).

(6) Indicate the estimated volume, cost, terms, time period and availability of (i) natural gas and (ii) the least expensive fuel other than natural gas which may be used as boiler fuel under applicable Federal, state and local air pollution control standards for the calendar year 1980. The assumption and sources of the data used to develop all estimates should be summarized as necessary for the Commission to evaluate the estimates requested in this subparagraph.

(7) Indicate the value of all products, by SIC code, shipped from this essential agricultural use establishment during the calendar years 1976, 1977 and 1978, as required in form MA–100 MU or SU, item 14–A.

(8)(i) Indicate the annual payroll, supplemental labor costs, and each of the various costs of materials and services and the total of the various costs of materials and services used in this establishment for the calender years 1976, 1977, and 1978, as required in Form MA–100 MU or SU, items 3–A, 3–B and 5(a–f).

(ii) With respect to each cost and the total cost indicated in clause (i) estimate the percentage of such costs incurred because of activities which qualifies the establishment as an essential agricultural use establishment.

(c) If the essential agricultural use establishment wishes to request confidential treatment for information contained in the petition for rulemaking, it shall submit a second copy, with confidential information deleted, with its petition for rulemaking.

§ 281.306 Procedures for determination of alternate fuel availability.

(a) *General rule.* Each petition for rulemaking filed under § 281.304 shall be issued by the Commission as a notice of proposed rulemaking. The notice shall be published in the **Federal Register** and sent to the Secretary of Agriculture.

(b) *Comments.* (1) Any interested person may submit written comments concerning the proposed rule within 30 days of publication of the notice of such rule. A copy of the comments shall also be sent to the essential agricultural use establishment that filed the petition under § 281.304.

(2)(i) Except as provided in paragraph (b)(2)(ii) of this section, any interested person may obtain from the Commission copies of any petition submitted under § 281.304(b).

(ii) Any person who seeks information required under § 281.305(b)(7) and (8) and for which confidential treatment has been requested shall file a petition under § 1.7 establishing the need for such information. If the Secretary of the Commission finds good cause to provide such information to the petitioner, it shall be released to such petitioner only in accordance with a protective order signed by the person receiving the information who swears, under oath, that the information shall be used only in the rulemaking proceeding and that all copies of the information shall be returned to the essential agricultural use establishment at the termination of the rulemaking proceeding.

(c) *Public hearings.* (1) An opportunity for public hearing shall be afforded with respect to each rulemaking, wherein oral presentations of data, views and arguments may be presented for consideration. Any person who has submitted written comments in accordance with paragraph (b) of this section may participate in the hearing by filing a written request to do so with the Commission's Secretary. The Commission shall publish in the **Federal Register** notice of the public hearing and dates by which requests to participate in such hearing must be filed.

(2) At the request of any person who has submitted confidential information, the public hearing for a particular request will be open only to those persons who have submitted written comments on such application.

(d) *Commission determination.* (1) Based upon all data submitted, consultation with the Secretary of Agriculture and other information available to the Commission, the Commission shall issue a final rule concerning each rulemaking for determination of alternate fuel availability.

(2) The Commission, in its discretion, may terminate a rulemaking proceeding and establish alternate procedures for determination of alternate fuel for a particular essential agricultural use establishment.

[Docket No. RM79–40]
[FR Doc. 79–14366 Filed 5–7–79; 8:45 am]
BILLING CODE 6450–01–M

DEPARTMENT OF HEALTH, EDUCATION, AND WELFARE

Food and Drug Administration

[21 CFR Parts 70, 500, 514, 571]

Carcinogenic Residues in Food-Producing Animals; Public Hearing on Criteria and Procedures for Evaluating Assays; Extension of Time

AGENCY: Food and Drug Administration.

ACTION: Extension of Time for Public Hearing and Comments.

SUMMARY: The agency extends to June 21 and 22, 1979, the date of the public hearing on the agency's proposal to establish procedures and minimum criteria to ensure the absence of cancer-causing residues in the edible products of food-producing animals to which drugs, food additives, or color additives have been administered. The agency also extends to September 4, 1979, the time for submitting final comments on the proposal. The Animal Health Institute and the Society of the Plastics Industry, Inc., requested an extension of the public hearing date and the comment period.

DATES: Public hearing will be held June 21 and 22, 1979; written notices of participation by May 25, 1979; final comments by September 4, 1979.

ADDRESS CHANGE: The hearing will be held in the main auditorium, General Services Administration, 7th and D Sts. SW., Washington, DC 20407; written notices of participation should be sent to the Hearing Clerk (HFA–305), Food and Drug Administration, Rm. 4–65, 5600 Fishers Lane, Rockville, MD 20857.

FOR FURTHER INFORMATION CONTACT: Constantine Zervos, Scientific Liaison and Intelligence Staff (HFY–31), Food and Drug Administration, Department of Health, Education, and Welfare, 5600 Fishers Lane, Rockville, MD 20857, 301–443–4490.

SUPPLEMENTARY INFORMATION: In the **Federal Register** of April 20, 1979 (44 FR 23538), the Food and Drug Administration announced a public hearing to discuss the agency's proposed regulations that published March 20, 1979 (44 FR 17070). The proposed regulations establish minimum criteria and procedures to ensure that edible tissues derived from food-producing animals to whom drugs, food additives, or color additives are administered will be free of carcinogenic residues. The notice of public hearing provided that written notices of participation in the hearing and the text of the presentations were to be received no later than May 4, 1979, and that the public hearing would begin June 4, 1979. The notice reiterated that the comment period on the proposed regulations extended through July 18, 1979.

The Animal Health Institute, 1717 K St. NW., Washington, DC 20006, and the Society of the Plastics Industry, Inc., each requested for numerous reasons, most of which related to the complexity of the proposed regulations, an extension of the hearing date to

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September 5, 1979, and an extension of the comment period to November 16, 1979.

The agency recognizes that the informal public hearing as described in the April 20, 1979 notice differs from the traditional public hearing format that may have been expected by industry to be the prototype of the June 4 hearing. The agency agrees with the Animal Health Institute that the 2-week period to select panel members and to submit the texts of their prepared statements presents practical problems to organizations wishing to participate in the hearing. The agency concludes, however, that the length of extension requested by AHI and the Society of Plastics is not justified. The concepts and principles contained in the newly proposed regulations differ significantly in only a few areas from the regulations as published on February 22, 1977 (42 FR 10412, revoked May 26, 1978, 43 FR 22675). The hearing will provide an opportunity to discuss the changes as well as the more familiar aspects of the proposed regulations. The panel discussions are designed to collect useful information and to foster informed dialogue. Although the transcript of the hearing will become an important part of the administrative record of this rulemaking proceeding, a major purpose of the hearing is to provide, early in the comment period, information which will assist in the preparation of substantive comments.

Accordingly, the hearing will be held June 21 and 22, 1979. Proceedings will begin each day at 8:30 a.m. and end promptly at 4:30 p.m. The main auditorium of the Department of Health, Education, and Welfare is not available for June 21 and 22; therefore, the hearing will be held in the main auditorium of the General Services Administration, 7th and D Sts. SW., Washington, DC 20407 (seating in that auditorium is limited to 206 persons). To ensure that all interested parties will have adequate time to prepare substantive comments on the proposal, the comment period has been extended to September 4, 1979. Final verions of written statements (preferably four copies) should be presented to the presiding officer on the day of the hearing or submitted to the Hearing Clerk within 3 weeks after the close of the hearing for inclusion in the administrative record.

Copies of the extension requests are on file with the Hearing Clerk and may be seen in that office between 9 a.m. and 4 p.m., Monday through Friday.

This notice is issued under the Federal Food, Drug, and Cosmetic Act (secs. 512, 701(a), 52 Stat. 1055, 82 Stat. 343–351 (21 U.S.C. 360b, 371(a))) and under authority delegated to the Commissioner of Food and Drugs (21 CFR 5.1).

Dated: May 4, 1979.

Sherwin Gardner,
Acting Commissioner of Food and Drugs.

[Docket No. 77N–0026]
[FR Doc. 79–14441 Filed 5–4–79; 8:45 am]
BILLING CODE 4110–03–M

[21 CFR Parts 455 and 555]

Sterile Chloramphenical, Sterile, Chloramphenical Sodium, Succinate, and Chloramphenical Injection; Deletion of Histamine Test

Correction

In FR Doc. 79–6222, appearing at page 11788, in the issue of Friday, March 2, 1979, on page 11789, make the following corrections:

(1) In the first column, paragraph 2.a. amending § 455.10a, the second line, correct "(B)(5)" to read "(b)(5)" and paragraph "(C)" should be lettered as "c."

(2) In the middle column, under "PART 555—CHLORAMPHENICOL DRUGS FOR ANIMAL USE" correct

"§ 55.210 Chloramphenical injection."

to read

"§ 555.210 Chloramphenical injection".

[21 CFR Part 882]

Classification of Neurological Devices; Development of General Provisions

Correction

In FR Doc. 78–32858, appearing at page 55640 in Re issue of Tuesday, November 28, 1978, make the following changes:

1. On page 55640, middle column, the thirteenth line of the second full paragraph should read, "the premarket notification procedure in section".

2. On page 55643, the second entry in the last column of the table, under the heading "Class" should read, "II".

[Docket No. 78N–1000]
BILLING CODE 1505–01–M

FEDERAL EMERGENCY MANAGEMENT AGENCY

[24 CFR Part 1917]

Proposed Flood Elevation Determinations for the Town of Silverthorne, Summit County, Colo. Under the National Flood Insurance Program

AGENCY: Office of Federal Insurance and Hazard Mitigation, FEMA.[1]

ACTION: Proposed rule.

SUMMARY: Technical information or comments are solicited on the proposed base (100-year) flood elevations listed below for selected locations in the Town of Silverthorne, Summit County, Colorado.

These base (100-year) flood elevations are the basis for the flood plain management measures that the community is required to either adopt or show evidence of being already in effect in order to qualify or remain qualified for participation in the National Flood Insurance Program (NFIP).

DATES: The period for comment will be ninety (90) days following the second publication of this proposed rule in a news paper of local circulation in the above-named community.

ADDRESSES: Maps and other information showing the detailed outlines of the flood-prone areas and the proposed base (100-year) flood elevations are available for review at City Clerk's Office, City Hall, Silverthorne, Colorado. Send comments to: Honorable John Trent, Mayor, Town of Silverthorne, P.O. Box F, Silverthorne, Colorado 80498.

FOR FURTHER INFORMATION CONTACT: Mr. Richard Krimm, National Flood Insurance Program, (202)–755–5581 or toll free line (800)–424–8872, Room 5270 451 Seventh Street, SW., Washington, D.C. 20410.

SUPPLEMENTARY INFORMATION: The Federal Insurance Administrator gives notice of the proposed determinations of base (100-year) flood elevations for the Town of Silverthorne, Colorado, in accordance with section 110 of the Flood Disaster Protection Act of 1973 (Pub. L. 93–234), 87 Stat. 980, which added section 1363 to the National Flood Insurance Act of 1968 (Title XIII of the Housing and Urban Development Act of 1968 (Pub. L. 90–448)), 42 U.S.C. 4001–4128, and 24 CFR 1917.4(a).

These elevations, together with the flood plain management measures required by § 1910.3 of the program regulations, are the minimum that are required. They should not be construed to mean the community must change any existing ordiances that are more stringent in their flood plain management requirements. The community may at any time enact stricter requirements on its own, or pursuant to policies established by other Federal, State, or regional entities. These proposed elevations will also be used to calculate the appropriate flood insurance premium rates for new buildings and their contents and for the second layer of insurance on existing buildings and their contents.

The proposed base (100-year) flood elevations for selected locations are:

Source of flooding	Location	Elevation in feet, national geodetic vertical datum
Blue River	Downstream Corporate Limits—30 feet upstream from crossing.	8695
	State Highway 9 Bridge—70 feet*.	8752
	Interstate Highway 70 Bridge—160 feet*.	8762
	Upstream Corporate Limits	8771
Straight Creek	Confluence with Blue River	8766
	State Highway 9 Bride—40 feet*.	8805
Willow Creek	Downstream Corporate Limits—95 feet upstream from crossing.	8699
	Upstream Corporate Limits—20 feet upstream from crossing.	8728

*Upstream from centerline.

(National Flood Insurance Act of 1968 (Title XIII of Housing and Urban Development Act of 1968), effective January 28, 1969 (33 FR 17804, November 28, 1968), as amended; 42 U.S.C. 4001–4128; Executive Order 12127, 44 FR 19367; and delegation of authority to Federal Insurance Administrator, 44 FR 20963).

Issued: April 18, 1979.

Gloria M. Jimenez,
Federal Insurance Administrator.

[Docket No. FI–5461]
[FR Doc. 79–14055 Filed 5–7–79; 8:45 am]
BILLING CODE 4210–23–M

[24 CFR Part 1917]

Proposed Flood Elevation Determinations for the City of Cape Coral, Lee County, Fla., Under the National Flood Insurance Program

AGENCY: Office of Federal Insurance and Hazard Mitigation, FEMA.[1]

[1] The functions of the Federal Insurance Administration, Department of Housing and Urban Development, were transferred to the newly established Federal Emergency Management Agency by Reorganization Plan No. 3 of 1978 (43 FR 41943, September 19, 1978) and Executive Order 12127 (44 FR 19367, April 3, 1979).

ACTION: Proposed rule.

SUMMARY: Technical information or comments are solicited on the proposed base (100-year) flood elevations listed below for selected locations in City of Cape Coral, Lee County, Florida.

These base (100-year) flood elevations are the basis for the flood plain management measures that the community is required to either adopt or show evidence of being already in effect in order to qualify or remain qualified for participation in the National Flood Insurance Program (NFIP).

DATE: The period for comment will be ninety (90) days following the second publication of this proposed rule in a newspaper of local circulation in the above-named community.

ADDRESSES: Maps and other information showing the detailed outlines of the flood-prone areas and the proposed base (100-year) flood elevations are available for review at City Hall, 815 Nicholas Parkway, Cape Coral, Florida. Send comments to: Honorable Lyman Moore, Mayor, City of Cape Coral, P.O. Box 900, Cape Coral, Florida 33904.

FOR FURTHER INFORMATION CONTACT: Mr. Richard Krimm, National Flood Insurance Program, Room 5270, 451 Seventh Street SW., Washington, D.C. 20410, 202–755–5581 or toll-free line 800–424–8872.

SUPPLEMENTARY INFORMATION: The Federal Insurance Administrator gives notice of the proposed determinations of base (100-year) flood elevations for the City of Cape Coral, Florida, in accordance with section 110 of the Flood Disaster Protection Act of 1973 (Pub. L. 93–234), 87 Stat. 980, which added section 1363 to the National Flood Insurance Act of 1968 (Title XIII of the Housing and Urban Development Act of 1968 (Pub. L. 90–448)), 42 U.S.C. 4001–4128, and 24 CFR 1917.4(a).

These elevations, together with the flood plain management measures required by § 1910.3 of the program regulations, are the minimum that are required. They should not be construed to mean the community must change any existing ordinances that are more stringent in their flood plain management requirements. The community may at any time enact stricter requirements on its own, or pursuant to policies established by other Federal, State, or regional entities. These proposed elevations will also be used to calculate the appropriate flood insurance premium rates for new buildings and their contents and for the second layer of insurance on existing buildings and their contents.

The proposed base (100-year) flood elevations for selected locations are:

Source of flooding	Location	Elevation in feet, national geodetic vertical datum
Gulf of Mexico	Intersection of Durden Parkway West and Northwest 34th Avenue.	11
	Intersection of Pine Island Road and Santa Barbara Boulevard.	11
	Intersection of Chiquita Boulevard and Miracle Parkway.	10
	Intersection of Country Club Boulevard and Retunda Parkway.	11
	Intersection of Pelican Boulevard and Gleason Parkway.	10
	Intersection of Tropicana Parkway and Northwest 36th Avenue.	10
	Intersection of Diplomat Parkway and Chiquita Boulevard.	11
	Intersection of Pine Island Road and Nicholas Parkway.	11
	Intersection of Hancock Bridge Parkway and Del Prado Parkway.	11
	Intersection of Cape Coral Parkway West and South Chiquita Boulevard.	10
	Junction of Sands Boulevard and El Dorado Parkway West.	11
	Intersection of Cape Coral Parkway and Coronado Parkway.	11

(National Flood Insurance Act of 1968 (Title XIII of Housing and Urban Development Act of 1968), effective January 28, 1969 (33 FR 17804, November 28, 1968), as amended; 42 U.S.C. 4001–4128; and Secretary's delegation of authority to Federal Insurance Administrator, 43 FR 7719.)

Issued: April 25, 1979.

Gloria M. Jimenez,
Federal Insurance Administrator.

[Docket No. FI–5421]
[FR Doc. 79–13823 Filed 5–7–79; 8:45 am]
BILLING CODE 4210–23–M

[24 CFR Part 1917]

Revision of Proposed Flood Elevation Determinations for the Village of Brooklyn, St. Clair County, Ill.

AGENCY: Office of Federal Insurance and Hazard Mitigation, FEMA.[1]

ACTION: Proposed rule.

[1] The functions of the Federal Insurance Administration, Department of Housing and Urban Development, were transferred to the newly established Federal Emergency Management Agency by Reorganization Plan No. 3 of 1978 (43 FR 41943, September 19, 1978) and Executive Order 12127 (44 FR 19367, April 3, 1979).

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SUMMARY: Technical information or comments are solicited on the proposed base (100-year) flood elevations listed below for selected locations in the Village of Brooklyn, St. Clair County, Illinois.

Due to recent engineering analysis, this proposed rule revises the proposed determinations of base (100-year) flood elevations published in 44 FR 1392 on January 5, 1979, and in *Metro—East Journal* published on or about January 17, 1979 and January 18, 1979, and hence supersedes those previously published rules.

DATES: The period for comment will be ninety (90) days following the second publication of this notice in a newspaper of local circulation in the above named community.

ADDRESSES: Maps and other information showing the detailed outlines of the flood-prone areas and the proposed flood base (100-year) elevations are available for review at the Brooklyn Village Hall, 310 South Fifth Street, Lovejoy, Illinois. Send comments to: The Honorable Marcelus West, Mayor, Village of Brooklyn, Village Hall, 310 South Fifth Street, Lovejoy, Illinois 62059.

FOR FURTHER INFORMATION CONTACT: Mr. Richard Krimm, National Flood Insurance Program, (202) 755–5581 or Toll Free line (800) 424–8872, Room 5270, 451 Seventh Street SW., Washington, D.C. 20410.

SUPPLEMENTARY INFORMATION: Proposed base (100-year) flood elevations are listed below for selected locations in the Village of Brooklyn, in accordance with section 110 of the Flood Disaster Protection Act of 1973 (Pub. L. 93–234), 87 Stat. 980, which added section 1363 to the National Flood Insurance Act of 1968 (Title XIII of the Housing and Urban Development Act of 1968 (Pub. L. 90–448), 42 U.S.C. 4001–4128, and 24 CFR 1917.4(a)).

These base (100-year) flood elevations are the basis for the flood plain management measures that the community is required to either adopt or show evidence of being already in effect in order to qualify or remain qualified for participation in the national flood insurance program (NFIP).

These modified elevations will also be used to calculate the appropriate flood insurance premium rates for new buildings and their contents and for the second layer of insurance on existing buildings and their contents.

The proposed base (100-year) flood elevations for selected locations are:

Source of flooding	Location	Elevation in feet, national geodetic vertical datum
Rainfall Ponding Within the Community.	At the intersection of the eastern and northern corporate limit.	409
	Corner of Monroe Street and Fifth Street.	411
	400 feet north of the crossing of the Norfolk and Western Railway and the Illinois Terminal Railroad.	411
	600 feet north-northwest of intersection of Madison Street and Second Street.	411
	400 feet north and 400 feet east of the levee at the southern corporate limit.	420
	1,000 feet south of northern corporate limit and 400 feet east of levee.	420
Mississippi River	Downstream corporate limit	429
	Upstream corporate limit	430

(National Flood Insurance Act of 1968 (Title XIII of Housing and Urban Development Act of 1968), effective January 28, 1969 (33 FR 17804, November 28, 1968), as amended; (42 U.S.C. 4001–4128); Executive Order 12127, 44 FR 19367; and of authority to Federal Insurance Administrator, 44 FR 20963.)

Gloria M. Jimenez,
Federal Insurance Administrator.
April 18, 1979.Q02
[Docket No. FI–4843]
[FR Doc. 79–14056 Filed 5–7–79; 8:45 am]
BILLING CODE 4210–23–M

[24 CFR Part 1917]

Proposed Flood Elevation Determinations for the City of South Beloit, Winnebago County, Ill., Under the National Flood Insurance Program

AGENCY: Office of Federal Insurance and Hazard Mitigation, FEMA.[1]

ACTION: Proposed rule.

SUMMARY: Technical information or comments are solicited on the proposed base (100-year) flood elevations listed below for selected locations in the City of South Beloit, Winnebago County, Illinois.

These base (100-year) flood elevations are the basis for the flood plain management measures that the community is required to either adopt or show evidence of being already in effect in order to qualify or remain qualified for participation in the National Flood Insurance Program (NFIP).

DATES: The period for comment will be ninety (90) days following the second publication of this proposed rule in a newspaper of local circulation in the above-named community.

ADDRESSES: Maps and other information showing the detailed outlines of the flood-prone areas and the proposed base (100-year) flood elevations are available for review at 519 Blackhawk Boulevard, South Beloit, Illinois 61080. Send comments to: Honorable Gary Pierce, Mayor of South Beloit, 519 Blackhawk Boulevard, South Beloit, Illinois 61080.

FOR FURTHER INFORMATION CONTACT: Mr. Richard Krimm, National Flood Insurance Program, (202) 755–5581 or toll-free line (800) 424–8872, Room 5270, 451 Seventh Street SW., Washington, D.C. 20410.

SUPPLEMENTARY INFORMATION: The Federal Insurance Administrator gives notice of the proposed determinations of base (100-year) flood elevations for the City of South Beloit, Winnebago County, Illinois in accordance with section 110 of the Flood Disaster Protection Act of 1973 (Pub. L. 93–234), 87 Stat. 980, which added section 1363 to the National Flood Insurance Act of 1968 (Title XIII of the Housing and Urban Development Act of 1968 (Pub. L. 90–448)), 42 U.S.C. 4001–4128, and 24 CFR 1917.4(a).

These elevations, together with the flood plain management measures required by § 1910.3 of the program regulations, are the minimum that are required. They should not be construed to mean the community must change any existing ordinances that are more stringent in their flood plain management requirements. The community may at any time enact stricter requirements on its own, or pursuant to policies established by other Federal, State, or regional entities. These proposed elevations will also be used to calculate the appropriate flood insurance premium rates for new buildings and their contents and for the second layer of insurance on existing buildings and their contents.

The proposed base (100-year) flood elevations for selected locations are:

Source of flooding	Location	Elevation in feet, national geodetic vertical datum
Rock River	Upstream Corporate Limits (State Line).	737
	Confluence of Turtle Creek	737
	Downstream Corporate Limits.	734
Turtle Creek	Upstream Corporate Limits (State Line).	750
	Park Avenue (Upstream)	749
	Wheeler Avenue (Upstream)	746
	Blackhawk Boulevard (Upstream).	744
	Chicago and Northwestern R.R. (Upstream).	744

[1] The functions of the Federal Insurance Administration, Department of Housing and Urban Development, were transferred to the newly established Federal Emergency Management Agency by Reorganization Plan No. 3 of 1978 (43 FR 41943, September 19, 1978) and Executive Order 12127 (44 FR 19367, April 3, 1979).

Source of flooding	Location	Elevation in feet, national geodetic vertical datum
	Chicago, Milwaukee, St. Paul and Pacific Railroad (Upstream).	740
	Confluence with Rock River	737

(National Flood Insurance Act of 1968 (Title XIII of Housing and Urban Development Act of 1968), effective January 28, 1969 (33 FR 17804, November 28, 1968), as amended; 42 U.S.C. 4001–4128; Executive Order 12127, 44 FR 19367; and delegation of authority to Federal Insurance Administrator 44 FR 20936.)

Issued: April 18, 1979.
Gloria M. Jimenez,
Federal Insurance Administrator.
[Docket No. FI–5462]
[FR Doc. 79–14057 Filed 5–7–79; 8:45 am]
BILLING CODE 4210–23–M

[24 CFR Part 1917]

Revision of Proposed Flood Elevation Determinations for the Town of Lynnfield, Essex County, Mass., Under the National Flood Insurance Program

AGENCY: Office of Federal Insurance and Hazard Mitigation, FEMA.[1]

ACTION: Proposed rule.

SUMMARY: Technical information or comments are solicited on the proposed base (100-year) flood elevations listed below for selected locations in the Town of Lynnfield, Essex County, Massachusetts.

Due to recent engineering analysis, this proposed rule revises the proposed determinations of base (100-year) flood elevations published in 44 FR 1166 on January 4, 1979, and in *The Lynnfield Villager* published on or about January 31, 1979 and February 7, 1979 and hence supersedes those previously published rules.

DATES: The period for comment will be ninety (90) days following the second publication of this notice in a newspaper of local circulation in the above-named community.

ADDRESSES: Maps and other information showing the detailed outlines of the flood-prone areas and the proposed flood elevations are available for review at Town Hall, Planning Board Office, Lynnfield, Massachusetts.

SEND COMMENTS TO: Mr. David Miller, Chairman, Board of Selectmen, Town of Lynnfield, Town Hall, Lynnfield, Massachusetts 01940.

FOR FURTHER INFORMATION CONTACT: Mr. Richard Krimm, National Flood Insurance Program, Room 5270, 451 Seventh Street SW., Washington, D.C. 20410, 202–755–5581 or Toll Free Line 800–424–8872.

SUPPLEMENTARY INFORMATION: Proposed base (100-year) flood elevations are listed below for selected locations in the Town of Lynnfield, Massachusetts, in accordance with section 110 of the Flood Disaster Protection Act of 1973 (Pub. L. 93–234), 87 Stat. 980, which added section 1363 to the National Flood Insurance Act of 1968 (Title XIII of the Housing and Urban Development Act of 1968 (Pub. L. 90–448), 42 U.S.C. 4001–4128, and 24 CFR 1917.4(a)).

These base (100-year) flood elevations are the basis for the flood plain management measures that the community is required to either adopt or show evidence of being already in effect in order to qualify or remain qualified for participation in the National Flood Insurance Program (NFIP).

These modified elevations will also be used to calculate the appropriate flood insurance premium rates for new buildings and their contents and for the second layer of insurance or existing buildings and their contents.

The proposed base (100-year) flood elevations are:

Source of flooding	Location	Elevation, in feet, national geodetic vertical datum
Saugus River	Salem Street—at centerline	64
	At confluence with Beaverdam Brook.	74
	Boston and Maine Railroad—100 feet.*	76
	Main Street—100 feet.*	79
Beaverdam Brook	Main Street (downstream crossing)—50 feet.*	75
Ipswich River	At downstream corporate limits.	60
	At upstream corporate limits	63
Bates Brook	Boston and Maine Railroad—20 feet.*	105
	Essex Street—100 feet.*	114
Pillings Pond	At confluence with Bates Brook.	99

*Upstream from centerline

(National Flood Insurance Act of 1968 (Title XIII of Housing and Urban Development Act of 1968), effective January 28, 1969 (33 FR 17804, November 28, 1968), as amended; 42 U.S.C. 4001–4128; Executive Order 12127, 44 FR 19367; and delegation of authority to Federal Insurance Administrator, 44 FR 20963.)

[1] The functions of the Federal Insurance Administration, Department of Housing and Urban Development, were transferred to the newly established Federal Emergency Management Agency by Reorganization Plan No. 3 of 1978 (43 FR 41943, September 19, 1978) and Executive Order 12127 (44 FR 19367, April 3, 1979).

Issued: April 18, 1979.
Gloria M. Jimenez,
Federal Insurance Administrator.
[Docket No. FI–4796]
[FR Doc. 79–14059 Filed 5–7–79; 8:45 am]
BILLING CODE 4210–23–M

[24 CFR Part 1917]

Proposed Flood Elevation Determinations for the Township of Ann Arbor, Washtenaw County, Mich., Under the National Flood Insurance Program

AGENCY: Office OF Federal Insurance and Hazard Mitigation, FEMA [1]

ACTION: Proposed rule.

SUMMARY: Technical information or comments are solicited on the proposed base (100-year) flood elevations listed below for selected locations in the Township of Ann Arbor, Washtenaw County, Michigan.

These base (100-year) flood elevations are the basis for the flood plain managment measures that the community is required to either adopt or show evidence of being already in effect in order to qualify or remain qualified for participation in the National Flood Insurance Program (NFIP).

DATES: The period for comment will be ninety (90) days following the second publication of this proposed rule in a newspaper of local circulation in the above-named community.

ADDRESSES: Maps and other information showing the detailed outlines of the flood-prone areas and the proposed base (100-year) flood elevations are available for review at the Township Hall, 3792 Pontiac Trail, Ann Arbor, Michigan.

SEND COMMENTS TO: Ms. Nancy Davis, Township Supervisor, Township of Ann Arbor, Township Hall, 3792 Pontiac Trail, Ann Arbor, Michigan 48105.

FOR FURTHER INFORMATION CONTACT: Mr. Richard Krimm, National Flood Insurance Program, Room 5270, 451 Seventh Street SW., Washington, D.C. 20410 202–755–5581 or Toll Free Line 800–424–8872.

SUPPLEMENTARY INFORMATION: The Federal Insurance Administrator gives notice of the proposed determinations of base (100-year) flood elevations for the Township of Ann Arbor, in accordance with section 110 of the Flood Disaster Protection Act of 1973 (Pub L. 93–234), 87

[1] The functions of the Federal Insurance Administration, Department of Housing and Urban Development, were transferred to the newly established Federal Emergency Management Agency by Reorganization Plan No. 3 of 1978 (43 FR 41943, September 19, 1978) and Executive Order 12127 (44 FR 19367, April 3, 1979).

Stat. 980, which added section 1363 to the National Flood Insurance Act of 1968 (Title XIII of the Housing and Urban Development Act of 1968 (Pub. L. 90–448), 42 U.S.C. 4001–4128, and 24 CFR Part 1917.4 (a)).

These elevations, together with the flood plain management measures required by § 1910.3 of the program regulations, are the minimum that are required. They should not be construed to mean the community must change any existing ordinances that are more stringent in their flood plain managment requirements. The community may at any time enact stricter requirements on its own, or pursuant to policies established by other Fedral, State or regional entities. These proposed elevations will also be used to calculate the appropriate flood insurance premium rates for new buildings and their contents and for the second layer of insurance on existing buildings and their contents.

The proposed base (100-year) flood elevations for selected locations are:

Source of Flooding	Location	Elevation in feet, national geodetic vertical datum
Huron River	East corporate limit	739
	Just downstream of Dixboro Road.	741
	Just upstream of Dixboro Road.	746
	Just downstream of Geddes Avenue.	750
	Upstream side of Geddes Avenue.	752
	Approximately 4,800 feet upstream of Geddes Avenue.	754
	Upstream side of Fuller Road	762
	Just downstream of State Route 14.	775
	Just downstream of Conrail located 400 feet upstream of State Route 14.	777
	Just downstream of Barton Dam.	779
	Just upstream of Barton Dam	798
	West corporate limit	799

(National Flood Insurance Act of 1968 (Title XIII of Housing and Urban Development Act of 1968), effective January 28, 1969 (33 FR 17804, November 28, 1968), as amended; 42 U.S.C. 4001–4128; Executive Order 12127, 44 FR 19367; and delegation of authority to Federal Insurance Administrator, 44 FR 20963.)

Issued: April 18, 1979.

Gloria M. Jimenez,

Federal Insurance Administrator.

[Docket No. FI–5464]

FR Doc. 79–14060 Filed 5–7–79; 8:45 am]

BILLING CODE 4210–23–M

[24 CFR Part 1917]

Proposed Flood Elevation Determinations for the City of Hastings, Dakota County and Washington County, Minn., Under the National Flood Insurance Program

AGENCY: Office of Federal Insurance and Hazard Mitigation, FEMA.[1]

ACTION: Proposed rule.

SUMMARY: Technical information or comments are solicited on the proposed base (100-year) flood elevations listed below for selected locations in the City of Hastings, Dakota County and Washington County, Minnesota.

These base (100-year) flood elevations are the basis for the flood plain management measures that the community is required to either adopt or show evidence of being already in effect in order to qualify or remain qualified for participation in the National Flood Insurance Program (NFIP).

DATES: The period for comment will be ninety (90) days following the second publication of this proposed rule in a newspaper of local circulation in the above-named community.

ADDRESS: Maps and other information showing the detailed outlines of the flood-prone areas and the proposed base (100-year) flood elevations are available for review at the City Hall, 100 Sibley Street, Hastings, Minnesota. Send comments to: The Honorable, Walter Peterson, Mayor, City of Hastings, City Hall, 100 Sibley Street, Hastings, Minnesota 55033.

FOR FURTHER INFORMATION CONTACT: Mr. Richard Krimm, National Flood Insurance Program, Room 5270, 451 Seventh Street, SW., Washington, D.C. 20410. (202) 755–5581 or Toll Free Line (800) 424–8872,

SUPPLEMENTARY INFORMATION: The Federal Insurance Administrator gives notice of the proposed determinations of base (100-year) flood elevations for the City of Hastings, in accordance with section 110 of the Flood Disaster Protection Act of 1973 (Pub. L. 93–234), 87 Stat. 980, which added section 1363 to the National Flood Insurance Act of 1968 (Title XIII of the Housing and Urban Development Act of 1968 (Pub. L. 90–448), 42 U.S.C. 4001–4128, and 24 CFR Part 1917.4(a)).

These elevations, together with the flood plain management measures required by § 1910.3 of the program regulations, are the minimum that are required. They should not be construed to mean the community must change any existing ordinances that are more stringent in their flood plain management requirements. The community may at any time enact stricter requirements on its own, or pursuant to policies established by other Federal, State or regional entities. These proposed elevations will also be used to calculate the appropriate flood insurance premium rates for new buildings and their contents and for the second layer of insurance on existing buildings and their contents.

The proposed base (100-year) flood elevations for selected locations are:

Source of flooding	Location	Elevation in feet, national geodetic vertical datum
Vermillion River	Just upstream from county Highway 47.	794
	Just downstream from Pleasant Drive.	801
	Western corporate limits	802
Vermillion Slough	Confluence with Vermillion River.	693
	Headwaters at Mississippi River at point of divergence.	694
Mississippi River	Eastern corporate limits	692
	Northwestern corporate limits	694

(National Flood Insurance Act of 1968 (Title XIII of Housing and Urban Development Act of 1968), effective January 28, 1969 (33 FR 17804, November 28, 1968), as amended; 42 U.S.C. 4001–4128; Executive Order 12127, 44 FR 19367; and delegation of authority to Federal Insurance Administrator, 44 FR 20963.)

Issued: April 18, 1979.

Gloria M. Jimenez,

Federal Insurance Administrator.

[Docket No. FI–5465]

[FR Doc. 79–14061 Filed 5–7–79; 8:45 am]

BILLING CODE 4210–23–M

[24 CFR Part 1917]

Proposed Flood Elevation Determinations for the City of Clarksdale, Coahoma County, Miss., Under the National Flood Insurance Program

AGENCY: Office of Federal Insurance and Hazard Mitigation, FEMA.[1]

ACTION: Proposed rule.

SUMMARY: Technical information or comments are solicited on the proposed base (100-year) flood elevations listed below for selected locations in City of Clarksdale, Coahoma County, Mississippi.

These base (100-year) flood elevations are the basis for the flood plain management measures that the community is required to either adopt or show evidence of being already in effect in order to qualify or remain qualified for participation in the National Flood Insurance Program (NFIP).

DATES: The period for comment will be ninety (90) days following the second publication of this proposed rule in a newspaper of local circulation in the above-named community.

ADDRESSES: Maps and other information showing the detailed outlines of the flood-prone areas and the proposed base (100-year) flood elevations are available for review at City Clerks Office, City Hall, P.O. Box 940, Clarksdale, Mississippi 38614. Send comments to: Mayor Webster or Mr. Marvin Carraway, Asst. Superintendent of the Water and Lights Department, P.O. Box 940, Clarksdale, Mississippi 38614.

FOR FURTHER INFORMATION CONTACT: Mr. Richard Krimm, National Flood Insurance Program, Room 5270, 451 Seventh Street SW., Washington, D.C. 20410, 202–755–5581 or toll-free line 800–424–8872.

SUPPLEMENTARY INFORMATION: The Federal Insurance Administrator gives notice of the proposed determinations of base (100-year) flood elevations for the City of Clarksdale, Coahoma County, Mississippi, in accordance with section 110 of the Flood Disaster Protection Act of 1973 (Pub. L. 93–234), 87 Stat. 980, which added section 1363 to the National Flood Insurance Act of 1968 (Title XIII of the Housing and Urban Development Act of 1968 (Pub. L. 90–448)), 42 U.S.C. 4001–4128, and 24 CFR 1917.4(a).

These elevations, together with the flood plain management measures required by section 1910.3 of the program regulations, are the minimum that are required. They should not be construed to mean the community must change any existing ordinances that are more stringent in their flood plain management requirements. The community may at any time enact stricter requirements on its own, or pursuant to policies established by other Federal, State, or regional entities. These proposed elevations will also be used to calculate the appropriate flood insurance premium rates for new buildings and their contents and for the second layer of insurance on existing buildings and their contents.

The proposed base (100-year) flood elevations for selected locations are:

Source of flooding	Location	Elevation in feet, national geodetic vertical datum
Big Sunflower River	Interstate Highway 61	154
	Cheyenne Street extended	155
Little Sunflower River	Maywood Place extended	156

(National Flood Insurance Act of 1968 (Title XIII of Housing and Urban Development Act of 1968), effective January 28, 1969 (33 FR 17804, November 28, 1968), as amended; 42 U.S.C. 4001–4128; Executive Order 12127, 44 FR 19367; and delegation of authority to Federal Insurance Administrator 44 FR 20963.)

Issued: April 24, 1979.

Gloria M. Jimenez,

Federal Insurance Administrator.

[Docket No. FI–5420]

[FR Doc. 79–13921 Filed 5–7–79; 8:45 am]

BILLING CODE 4210–23–M

[24 CFR Part 1917]

Proposed Flood Elevation Determinations for the Town of Holt, Clay County and Clinton County, Mo., Under the National Flood Insurance Program

AGENCY: Office of Federal Insurance and Hazard Mitigation, FEMA.[1]

ACTION: Proposed rule.

SUMMARY: Technical information or comments are solicited on the proposed base (100-year) flood elevations listed below for selected locations in the town of Holt, Clay County and Clinton County, Missouri.

These base (100-year) flood elevations are the basis for the flood plain management measures that the community is required to either adopt or show evidence of being already in effect in order to qualify or remain qualified for participation in the National Flood Insurance Program (NFIP).

DATES: The period for comment will be ninety (90) days following the second publication of this proposed rule in a newspaper of local circulation in the above-named community.

ADDRESSES: Maps and other information showing the detailed outlines of the flood-prone areas and the proposed base (100-year) flood elevations are available for review at the City Hall, Holt, Missouri. Send comments to: The Honorable Charles Gensler, Mayor Town of Holt, City Hall, Holt, Missouri 64048.

FOR FURTHER INFORMATION CONTACT: Mr. Richard Krimm, National Flood Insurance Program, Room 5270, 451 Seventh Street SW., Washington, D.C. 20410, 202–755–5581 or toll-free line 800–424–8872.

SUPPLEMENTARY INFORMATION: The Federal Insurance Administrator gives notice of the proposed determinations of base (100-year) flood elevations for the Town of Holt, in accordance with section 110 of the Flood Disaster Protection Act of 1973 (Pub. L. 93–234), 87 Stat. 980, which added section 1363 to the National Flood Insurance Act of 1968 (Title XIII of the Housing and Urban Development Act of 1968 (Pub. L. 90–448)), 42 U.S.C. 4001–4128, and 24 CFR 1917.4(a)).

These elevations, together with the flood plain management measures required by § 1910.3 of the program regulations, are the minimum that are required. They should not be construed to mean the community must change any existing ordinances that are more stringent in their flood plain management requirements. The community may at any time enact stricter requirements on its own, or pursuant to policies established by other Federal, State, or regional entities. These proposed elevations will also be used to calculate the appropriate flood insurance premium rates for new buildings and their contents and for the second layer of insurance on existing buildings and their contents.

The proposed base (100-year) flood elevations for selected locations are:

Source of flooding	Location	Elevation in feet, national geodetic vertical datum
Holt Creek	950 feet downstream of County Road Bridge.	853
	300 feet upstream of County Road Bridge.	856
	1,100 feet downstream of Elm Street Bridge.	860
	10 feet downstream of Elm Street Bridge at northern corporate limits.	865

(National Flood Insurance Act of 1968 (Title XIII of Housing and Urban Development Act of 1968), effective January 28, 1969 (33 FR 17804, November 28, 1968), as amended; 42 U.S.C. 4001–4128; Executive Order 12127, 44 FR 19367; and delegation of authority to Federal Insurance Administrator 44 FR 20963.)

[1] The functions of the Federal Insurance Administration, Department of Housing and Urban Development, were transferred to the newly established Federal Emergency Management Agency by Reorganization Plan No. 3 of 1978 (43 FR 41943, September 19, 1978) and Executive Order 12127 (44 FR 19367, April 3, 1979).

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Issued: April 18, 1979.

Gloria M. Jimenez,
Federal Insurance Administrator.

[Docket No. FI-5403]

[FR Doc. 79-14058 Filed 5-7-79; 8:45 am]

BILLING CODE 4210-23-M

[24 CFR Part 1917]

Proposed Flood Zone Designation for St. Louis County, Mo., Under the National Flood Insurance Program

AGENCY: Office of Federal Insurance and Hazard Mitigation, FEMA.[1]

ACTION: Proposed rule.

SUMMARY: Technical information or comments are solicited on the proposed zone designation described below. This proposed zone designation is the basis for the flood plain management measures that the community is required to either adopt or show evidence of being already in effect in order to qualify or remain qualified for participation in the National Flood Insurance Program (NFIP).

DATES: The period for comment will be ninety (90) days following the second publication of this proposed rule in the newspapers of local circulation in the above-named community.

ADDRESSES: Maps and other information showing the detailed outlines of the flood-prone areas and the proposed zone designation is available for review at the County Government Center, 41 South Central, Clayton, Missouri. Send comments to: Mr. Gene McNary, County Supervisor of St. Louis County, County Government Center, 41 South Central, Clayton, Missouri 63105.

FOR FURTHER INFORMATION CONTACT: Mr. Richard Krimm, National Flood Insurance Program, (202) 755-5581 or Toll Free Line (800) 424-8872, Room 5270, 451 Seventh Street, SW., Washington, D.C. 20410.

SUPPLEMENTARY INFORMATION: The Federal Insurance Administrator gives notice of the proposed zone designation for St. Louis County, Missouri, in accordance with section 110 of the Flood Disaster Protection Act of 1973 (Pub. L. 93-234), 87 Stat. 980, which added section 1363 to the National Flood Insurance Act of 1968 (Title XIII of the Housing and Urban Development Act of 1968 (Pub. L. 90-448)), 42 U.S.C. 4001-4128, and 24 CFR 1917.4(a).

Zone designations and base (100-year) flood elevations, together with the flood plain management measures required by § 1910.3 of the program regulations, are the minimum that are required. They should not be construed to mean the community must change any existing ordinances that are more stringent in their flood plain management requirements. The community may at any time enact stricter requirements on its own, or pursuant to policies established by other Federal, State, or regional entities. The proposed zone designation will also be used to calculate the appropriate flood insurance premium rates for new buildings and their contents and for the second layer of insurance on existing buildings and their contents.

The proposed zone designation is:

The B zone behind the Chesterfield-Monarch Levee will be changed to an unnumbered A zone.

(National Flood Insurance Act of 1968 (Title XIII of Housing and Urban Development Act of 1968), effective January 28, 1969 (33 FR 17804, November 28, 1968), as amended; 42 U.S.C. 4001-4128; Executive Order 12127, 44 FR 19367; and delegation of authority to Federal Insurance Administrator, 44 FR 20963).

Issued: April 25, 1979.

Gloria M. Jimenez,
Federal Insurance Administrator.

[Docket No. FI-5423]

[FR Doc. 79-13925 Filed 5-7-79; 8:45 am]

BILLING CODE 4210-23-M

[24 CFR Part 1917]

Proposed Flood Elevation Determinations For the Town of Bristol, Grafton County, N.H., Under the National Flood Insurance Program

AGENCY: Office of Federal Insurance and Hazard Mitigation, FEMA.[1]

ACTION: Proposed rule.

SUMMARY: Technical information or comments are solicited on the proposed base (100-year) flood elevations listed below for selected locations in the Town of Bristol, Grafton County, New Hampshire. These base (100-year) flood elevations are the basis for the flood plain management measures that the community is required to either adopt or show evidence of being already in effect in order to qualify or remain qualified for participation in the national flood insurance program (NFIP).

DATES: The period for comment will be ninety (90) days following the second publication of this proposed rule in a newspaper of local circulation in the above-named community.

ADDRESSES: Maps and other information showing the detailed outlines of the flood-prone areas and the proposed base (100-year) flood elevations are available for review at the Town Office, Bristol, New Hampshire. Send comments to: Mr. Charles Greenwood, Chairman of the Board of Selectmen of Bristol, Bristol Town Office, Bristol, New Hampshire 03222.

FOR FURTHER INFORMATION CONTACT: Mr. Richard Krimm, National Flood Insurance Program, Room 5270, 451 Seventh Street SW., Washington, D.C. 20410, (202) 755-5581 or Toll Free Line (800) 424-8872.

SUPPLEMENTARY INFORMATION: The Federal Insurance Administrator gives notice of the proposed determinations of base (100-year) flood elevations for the Town of Bristol, Grafton County, New Hampshire in accordance with section 110 of the Flood Disaster Protection Act of 1973 (Pub. L. 93-234), 87 Stat. 980, which added section 1363 to the National Flood Insurance Act of 1968 (Title XIII of the Housing and Urban Development Act of 1968 (Pub. L. 90-448)), 42 U.S.C. 4001-4128, and 24 CFR 1917.4(a).

These elevations, together with the flood plain management measures required by § 1910.3 of the program regulations, are the minimum that are required. They should not be construed to mean the community must change any existing ordinances that are more stringent in their flood plain management requirements. The community may at any time enact stricter requirements on its own, or pursuant to policies established by other Federal, State, or regional entities. These proposed elevations will also be used to calculate the appropriate flood insurance premium rates for new buildings and their contents and for the second layer of insurance on existing buildings and their contents.

The proposed base (100-year) flood elevations for selected locations are:

Source of flooding	Location	Elevation in feet, national geodetic vertical datum
New Found River	South Main Street	451
	State Route 104 (Pleasant Street).	455
	Willow Street	459
	Lake Street (Lower IPC Dam)	479

[1] The functions of the Federal Insurance Administration, Department of Housing and Urban Development, were transferred to the newly established Federal Emergency Management Agency by Reorganization Plan No. 3 of 1978 (43 FR 41943, September 19, 1978) and Executive Order 12127 (44 FR 19367, April 3, 1979).

(National Flood Insurance Act of 1968 (Title XIII of Housing and Urban Development Act of 1968), effective January 28, 1969 (33 FR 17804, November 28, 1968), as amended; 42 U.S.C. 4001-4128; Executive Order 12127, 44 FR 19367; and delegation of authority to Federal Insurance Administrator, 44 FR 20963.)

Issued: April 24, 1979.

Gloria M. Jimenez,
Federal Insurance Administrator.

[Docket No. FI-5425]

[FR Doc. 79-13808 Filed 5-7-79; 8:45 am]

BILLING CODE 4210-23-M

[24 CFR Part 1917]

Proposed Flood Elevation Determinations for the Borough of Oradell, Bergen County, N.J., Under the National Flood Insurance Program

AGENCY: Office of Federal Insurance and Hazard Mitigation, FEMA.[1]

ACTION: Proposed rule.

SUMMARY: Technical information or comments are solicited on the proposed base (100-year) flood elevations listed below for selected locations in the Borough of Oradell, Bergen County, New Jersey.

These base (100-year) flood elevations are the basis for the flood plain management measures that the community is required to either adopt or show evidence of being already in effect in order to qualify or remain qualified for participation in the National Flood Insurance Program (NFIP).

DATE: The period for comment will be ninety (90) days following the second publication of this proposed rule in a newspaper of local circulation in the above-named community.

ADDRESSES: Maps and other information showing the detailed outlines of the flood-prone areas and the proposed base (100-year) flood elevations are available for review at the Borough Hall in Oradell. Send comments to: Honorable Carl Marggraff, Mayor, Borough of Oradell, Borough Hall, 355 Kinderkamack Road, Oradell, New Jersey 07649.

FOR FURTHER INFORMATION CONTACT: Mr. Richard Krimm, National Flood Insurance Program, Room 5270, 451 Seventh Street SW., Washington, D.C. 20410, 202-755-5581 or toll-free line 800-424-8872.

SUPPLEMENTARY INFORMATION: The Federal Insurance Administrator gives notice of the proposed determinations of base (100-year) flood elevations for the Borough of Oradell, New Jersey, in accordance with section 110 of the Flood Disaster Protection Act of 1973 (Pub. L. 93-234), 87 Stat. 980, which added section 1363 to the National Flood Insurance Act of 1968 (Title XIII of the Housing and Urban Development Act of 1968 (Pub. L. 90-448)), 42 U.S.C. 4001-4128, and 24 CFR 1917.4(a).

These elevations, together with the flood plain management measures required by § 1910.3 of the program regulations, are the minimum that are required. They should not be construed to mean the community must change any existing ordinances that are more stringent in their flood plain management requirements. The community may at any time enact stricter requirements on its own, or pursuant to policies established by other Federal, State, or regional entities. These proposed elevations will also be used to calculate the appropriate flood insurance premium rates for new buildings and their contents and for the second layer of insurance on existing buildings and their contents.

The proposed base (100-year) flood elevations for selected locations are:

Source of flooding	Location	Elevation in feet, national geodetic vertical datum
Hackensack River	Corporate Limits-200 feet*	10
	New Milford Avenue**	12
	Oradell Avenue-200 feet*	15
	Oradell Reservoir	25
Hackensack River Bypass.	New Milford Avenue-50 feet***	13
	Elm Street-180 feet*	14

*Upstream from centerline.
**At centerline.
***Downstream from centerline.

(National Flood Insurance Act of 1968 (Title XIII of Housing and Urban Development Act of 1968), effective January 28, 1969 (33 FR 17804, November 28, 1968), as amended; 42 U.S.C. 4001-4128; Executive Order 12127, 44 FR 19367; and delegation of authority to Federal Insurance Administrator, 44 FR 20963.)

Issued: April 25, 1979.

Gloria M. Jimenez,
Federal Insurance Administrator.

[Docket No. FI-5422]

[FR Doc. 79-13924 Filed 5-7-79; 8:45 am]

BILLING CODE 4210-23-M

[24 CFR Part 1917]

Proposed Flood Elevation Determinations for the City of Albany, Albany County, N.Y., Under the National Flood Insurance Program

AGENCY: Office of Federal Insurance and Hazard Mitigation, FEMA.[1]

ACTION: Proposed rule.

SUMMARY: Technical information or comments are solicited on the proposed base (100-year) flood elevations listed below for selected locations in the city of Albany, Albany County, New York. These base (100-year) flood elevations are the basis for the flood plain management measures that the community is required to either adopt or show evidence of being already in effect in order to qualify or remain qualified for participation in the National Flood Insurance Program (NFIP).

DATES: The period for comment will be ninety (90) days following the second publication of this proposed rule in a newspaper of local circulation in the above-named community.

ADDRESS: Maps and other information showing the detailed outlines of the flood-prone areas and the proposed base (100-year) flood elevations are available for review at the City Planning Department, City Hall, Albany, New York. Send comments to: Honorable, Erastus Corning, Mayor of Albany, Albany City Hall, Albany, New York 12207.

FOR FURTHER INFORMATION CONTACT: Mr. Richard Krimm, National Flood Insurance Program, (202) 755-5581 or Toll Free Line (800) 424-8872, Room 5270, 451 Seventh Street, SW., Washington, D.C. 20410.

SUPPLEMENTARY INFORMATION: The Federal Insurance Administrator gives notice of the proposed determinations of base (100-year) flood elevations for the City of Albany, Albany County, New York, in accordance with section in accordance with section 110 of the Flood Disaster Protection Act of 1973 (Pub. L. 93-234), 87 Stat. 980, which added section 1363 to the National Flood Insurance Act of 1968 (Title XIII of the Housing and Urban Development Act of 1968 (Pub. L. 90-448)), 42 U.S.C. 4001-4128, and 24 CFR Part 1917.4(a)).

These elevations, together with the flood plain management measures required by § 1910.3 of the program

[1] The functions of the Federal Insurance Administration, Department of Housing and Urban Development, were transferred to the newly established Federal Emergency Management Agency by Reorganization Plan No. 3 of 1978 (43 FR 41943, September 19, 1978) and Executive Order 12127 (44 FR 19367, April 3, 1979).

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regulations, are the minimum that are required. They should not be construed to mean the community must change any existing ordinances that are more stringent in their flood plain management requirements. The community may at any time enact stricter requirements on its own, or pursuant to policies established by other Federal, State or regional entities. These proposed elevations will also be used to calculate the appropriate flood insurance premium rates for new buildings and their contents and for the second layer of insurance on existing buildings and their contents.

The proposed base (100-year) flood elevations for selected locations are:

Source of flooding	Location	Elevation in feet, national geodetic vertical datum
Hudson River	Downstream Corporate Limits.	20
	Dunn Memorial Bridge	21
	Albany Tidal Gage	21
	Amtrak Railroad	21
	Interstate 90	22
Normans Kill	Downstream limit of detailed study.	110
	Upstream Corporate Limits	116

(National Flood Insurance Act of 1968 (Title XIII of Housing and Urban Development Act of 1968), effective January 28, 1969 (33 FR 17804, November 28, 1968), as amended; 42 U.S.C. 4001–4128; Executive Order 12127, 44 FR 19367; and, delegation of authority to Federal Insurance Administrator, 44 FR 20963.)

Issued: April 18, 1979.

Gloria M. Jimenez,
Federal Insurance Administrator.

[Docket No. FI–5426]
[FR Doc. 79–13898 Filed 5–7–79; 8:46 am]
BILLING CODE 4210–23–M

[24 CFR Part 1917]

Proposed Flood Elevation Determinations for the Village of Scarsdale, Westchester County, N.Y., Under the National Flood Insurance Program

AGENCY: Office of Federal Insurance and Hazard Mitigation, FEMA.[1]

ACTION: Proposed rule.

SUMMARY: Technical information or comments are solicited on the proposed base (100-year) flood elevations listed below for selected locations in the Village of Scarsdale, Westchester County, New York.

These base (100-year) flood elevations are the basis for the flood plain management measures that the community is required to either adopt or show evidence of being already in effect in order to quality or remain qualified for participation in the National Flood Insurance Program (NFIP).

DATES: The period for comment will be ninety (90) days following the second publication of this proposed rule in a newspaper of local circulation in the above-named community.

ADDRESSES: Maps and other information showing the detailed outlines of the flood-prone areas and the proposed base (100-year) flood elevations are available for review at Village Hall, Scarsdale, New York. Send comments to: Mr. Lowell Tooley, Village Manager, Village of Scarsdale, Village Hall, Scarsdale, New York 10583.

FOR FURTHER INFORMATION CONTACT: Mr. Richard Krimm, Room 5270, 451 Seventh Street SW., Washington, D.C. 20410. National Flood Insurance Program (202) 755–5581 or Toll Free Line (800) 424–8872

SUPPLEMENTARY INFORMATION: The Federal Insurance Administrator gives notice of the proposed determinations of base (100-year) flood elevations for the Village of Scarsdale, New York, in accordance with section 110 of the Flood Disaster Protection Act of 1973 (Pub. L. 93–234), 87 Stat. 980, which added section 1363 to the National Flood Insurance Act of 1968 (Ttile XIII of the Housing and Urban Development Act of 1968 (Pub. L. 90–448)), 42 U.S.C. 4001–4128, and 24 CFR 1917.4(a).

These elevations, together with the flood plain management measures required by § 1910.3 of the program regulations, are the minimum that are required. They should not be construed to mean the community must change any existing ordinances that are more stringent in their flood plain management requirements. The community may at any time enact stricter requirements on its own, or pursuant to policies established by other Federal, State, or regional entities. These proposed elevations will also be used to calculate the appropriate flood insurance premium rates for new buildings and their contents and for the second layer of insurance on existing buildings and their contents.

The proposed base (100-year) flood elevations for selected locations are:

Source of flooding	Location	Elevation in feet, National geodetic vertical datum
Bronx River	Popham Road—40 feet*	132
	Conrail—20 feet*	145
	Greenacres Avenue—80 feet*.	165
	Hartsdale Dam—40 feet*	168
South Fox Meadow Brook.	Bronx River Parkway—100 feet*.	158
	Paddington Road—20 feet*	185
	Tompkins Road—40 feet*	199
Sheldrake River	Heathcote Road—40 feet*	222
	Cayuga Road—40 feet*242	
Hutchinson River	Sprague Road—40 feet*	214
	Drake Road—60 feet*	234

* Upstream from centerline.

(National Flood Insurance Act of 1968 (Title XIII of Housing and Urban development Act of 1968), effective January 28, 1969 (33 FR 17804, November 28, 1968), as amended; 42 U.S.C. 4001–4128; Executive Order 12127, 44 FR 19367; and delegation of authority to Federal Insurance Administrator, 44 FR 20963.)

Issued: April 24, 1979.

Gloria M. Jimenez,
Federal Insurance Administrator.

[Docket No. FI–5427]
[FR Doc. 79–13900 Filed 5–7–79; 8:45 am]
BILLING CODE 4210–23–M

[24 CFR Part 1917]

Proposed Flood Elevation Determinations for the Village of Suffern, Rockland County, N.Y., Under the National Flood Insurance Program

AGENCY: Office of Federal Insurance and Hazard Mitigation, FEMA.[1]

ACTION: Proposed rule.

SUMMARY: Technical information or comments are solicited on the proposed base (100-year) flood elevations listed below for selected locations in the Village of Suffern, Rockland County, New York. These base (100-year) flood elevations are the basis for the flood plain management measures that the community is required to either adopt or show evidence of being already in effect in order to qualify or remain qualified for participation in the National Flood Insurance Program (NFIP).

DATES: The period for comment will be ninety (90) days following the second publication of this proposed rule in a newspaper of local circulation in the above-named community.

ADDRESSES: Maps and other information showing the detailed outlines of the flood-prone areas and the proposed base (100-year) flood elevations are available for review at Municipal Building, Suffern, New York. Send comments to: Honorable Joseph Savarese, Mayor, Village of Suffern, Municipal Building, Suffern, New York 10901.

FOR FURTHER INFORMATION CONTACT: Mr. Richard Krimm, National Flood Insurance Program, Room 5270, 451 Seventh Street, SW., Washington, D.C. 20410. (202) 755–5581 or Toll Free Line (800) 424–8872.

SUPPLEMENTARY INFORMATION: The Federal Insurance Administrator gives notice of the proposed determinations of base (100-year) flood elevations for the Village of Suffern, New York, in accordance with section 110 of the Flood Disaster Protection Act of 1973 (Pub. L. 93–234), 87 Stat. 980, which added section 1363 to the National Flood Insurance Act of 1968 (Title XIII of the Housing and Urban Development Act of 1968 (Pub. L. 90–448)), 42 U.S.C. 4001–4128, and 24 CFR 1917.4(a).

These elevations, together with the flood plain management measures required by § 1910.3 of the program regulations, are the minimum that are required. They should not be construed to mean the community must change any existing ordinances that are more stringent in their flood plain management requirements. The community may at any time enact stricter requirements on its own, or pursuant to policies established by other Federal, State or regional entities. These proposed elevations will also be used to calculate the appropriate flood insurance premium rates for new buildings and their contents and for the second layer of insurance on existing buildings and their contents.

The proposed base (100-year) flood elevations for selected locations are:

Source of flooding	Location	Elevation in feet, national geodetic vertical datum
Rampao River	Conrail Spur—20 feet*	277
	New York State Thruway—50 feet*.	280
Mahwah River	Boulevard Place—25 feet*	279
	New York State Route 59—10 feet*.	291
	At Upstream Corporate Limits.	305
Montebello Creek	At Downstream Corporate Limits.	319
	Dam—20 feet**	324
	Dam—20 feet*	329
	At Upstream Corporate Limits.	341
Antrim Creek	Old Mill Road—50 feet*	304

*Upstream from centerline.
**Downstream from centerline.

[1] The functions of the Federal Insurance Administration, Department of Housing and Urban Development, were transferred to the newly established Federal Emergency Management Agency by Reorganization Plan No. 3 of 1978 (43 FR 41943, September 19, 1978) and Executive Order 12127 (44 FR 19367, April 3, 1979).

[CFR Part 1917]

Proposed Flood Elevation Determinations for the Town of Pinetops, Edgecombe County, N.C., Under the National Flood Insurance Program

AGENCY: Office of Federal Insurance and Hazard Mitigations, FEMA.[1]

ACTION: Proposed rule.

SUMMARY: Technical information or comments are solicited on the proposed base (100-year) flood elevations listed below for selected locations in the Town of Pinetops, Edgecombe County, North Carolina. These base (100-year) flood elevations are the basis for the flood plain management measures that the community is required to either adopt or show evidence of being already in effect in order to qualify or remain qualified for participation in the National Flood Insurance Program (NFIP).

DATES: The period for comment will be ninety (90) days following the second publication of this proposed rule in a newspaper of local circulation in the above-named community.

ADDRESSES: Maps and other information showing the detailed outlines of the flood-prone areas and the proposed base (100-year) flood elevations are available for review at Town Hall, Pinetops, North Carolina. Send comments to: Mr. Milton Carlton, Town Clerk, Town of Pinetops, Town Hall, Pinetops, North Carolina 27864.

FOR FURTHER INFORMATION CONTACT: Mr. Richard Krimm, National Flood Insurance Program (202) 755–5581 or Toll Free Line (800) 424–8872 Room 5270 451 Seventh Street, SW., Washington, D.C. 20410.

SUPPLEMENTARY INFORMATION: The Federal Insurance Administrator gives notice of the proposed determinations of base (100-year) flood elevations for the Town of Pinetops, North Carolina, in accordance with section 110 of the Flood Disaster Protection Act of 1973 (Pub. L. 93–234), 87 Stat. 980, which added section 1363 to the National Flood Insurance Act of 1968 (Title XIII of the Housing and Urban Development Act of 1968 (Pub. L. 90–448)), 42 U.S.C. 4001–4128, and 24 CFR 1917.4(a).

These elevations, together with the flood plain management measures required by § 1910.3 of the program regulations, are the minimum that are required. They should not be construed to mean the community must change any existing ordinances that are more stringent in their flood plain management requirements. The community may at any time enact stricter requirements on its own, or pursuant to policies established by other Federal, State, or regional entities. These proposed elevations will also be used to calculate the appropriate flood insurance premium rates for new buildings and their contents and for the second layer of insurance on existing buildings and their contents.

The proposed base (100-year) flood elevations for selected locations are:

Source of flooding	Location	Elevation in feet, national geodetic vertical datum
Town Creek	Secondary Road 1200—100 feet*.	54
	Secondary Road 1202**	57
Bynum Mill Creek	North Carolina State Highways 42 and 43—50 feet*.	53
	Secondary Road 1120—150 feet*.	63

* Upstream of centerline.
** At centerline.

(National Flood Insurance Act of 1968 (Title XIII of Housing and Urban Development Act of 1968), effective January 28, 1969 (33 FR 17804, November 28, 1968), as amended; 42 U.S.C. 4001–4128; Executive Order 12127, 44 FR 19367; and delegation of authority to Federal Insurance Administrator, 44 FR 20963).

Issued: April 18, 1979.

Gloria M. Jimenez,
Federal Insurance Administrator.

[Docket No. FI–5429]

[FR Doc. 79–13902 Filed 5–7–79; 8:45 am]

BILLING CODE 4210–23–M

[1] The functions of the Federal Insurance Administration, Department of Housing and Urban Development, were transferred to the newly established Federal Emergency Management Agency by Reorganization Plan No. 3 of 1978 (43 FR 41943, September 19, 1978) and Executive Order 12127 (44 FR 19367, April 3, 1979).

V 4 4 / 9 0

[24 CFR Part 1917]

Proposed Flood Elevation Determinations for the Town of Whitakers, Edgecombe County, N.C., Under the National Flood Insurance Program

AGENCY: Office of Federal Insurance and Hazard Mitigation, FEMA.[1]

ACTION: Proposed rule.

SUMMARY: Technical information or comments are solicited on the proposed base (100-year) flood elevations listed below for selected locations in the Town of Whitakers, Edgecombe County, North Carolina. These base (100-year) flood elevations are the basis for the flood plain management measures that the community is required to either adopt or show evidence of being already in effect in order to qualify or remain qualified for participation in the National Flood Insurance Program (NFIP).

DATES: The period for comment will be ninety (90) days following the second publication of this proposed rule in a newspaper of local circulation in the above-named community.

ADDRESSES: Maps and other information showing the detailed outlines of the flood-prone areas and the proposed base (100-year) flood elevations are available for review at Town Hall, Whitakers, North Carolina. Send comments to: Mr. I. B. Parker, Town Clerk, Town of Whitakers, Town Hall, P.O. Box 727, Whitakers, North Carolina 27891.

FOR FURTHER INFORMATION CONTACT: Mr. Richard Krimm, National Flood Insurance Program, (202) 755–5581 or Toll Free Line (800) 424–8872, Room 5270, 451 Seventh Street, SW., Washington, D.C. 20410.

SUPPLEMENTARY INFORMATION: The Federal Insurance Administrator gives notice of the proposed determinations of base (100-year) flood elevations for the Town of Whitakers, North Carolina, in accordance with section 110 of the Flood Disaster Protection Act of 1973 (Pub. L. 93–234), 87 Stat. 980, which added section 1363 to the National Flood Insurance Act of 1968 (Title XIII of the Housing and Urban Development Act of 1968 (Pub. L. 90–448)), 42 U.S.C. 4001–4128, and 24 CFR 1917.4(a).

These elevations, together with the flood plain management measures required by Section 1910.3 of the program regulations, are the minimum that are required. They should not be construed to mean the community must change any existing ordinances that are more stringent in their flood plain management requirements. The community may at any time enact stricter requirements on its own, or pursuant to policies established by other Federal, State, or regional entities. These proposed elevations will also be used to calculate the appropriate flood insurance premium rates for new buildings and their contents and for the second layer of insurance on existing buildings and their contents.

The proposed base (100-year) flood elevations for selected locations are:

Source of flooding	Location	Depth in feet above ground
White Oak Swamp	Intersection of East Nash Street and Cutchin Street.	2
	Intersection of Watson Street and Porter Street.	2
	Intersection of Knight Street and King Street.	2

(National Flood Insurance Act of 1968 (Title XIII of Housing and Urban Development Act of 1968), effective January 28, 1969 (33 FR 17804, November 28, 1968), as amended; 42 U.S.C. 4001–4128; Executive Order 12127, 44 FR 19367; and delegation of authority to Federal Insurance Administrator, 44 FR 20963.)

Issued: April 24, 1979.

Gloria M. Jimenez,
Federal Insurance Administrator.

[Docket No. FI–5430]
[FR Doc. 79–13903 Filed 5–7–79; 8:45 am]
BILLING CODE 4210–23–M

[24 CFR Part 1917]

Proposed Flood Elevation Determinations for the City of Jamestown, Guilford County, N.C. Under the National Flood Insurance Program

AGENCY: Office of Federal Insurance and Hazard Mitigation, FEMA.[1]

ACTION: Proposed rule.

SUMMARY: Technical information or comments are solicited on the proposed base (100-year) flood elevations listed below for selected locations in the City of Jamestown, Guilford County, North Carolina. These base (100-year) flood elevations are the basis for the flood plain management measures that the community is required to either adopt or show evidence of being already in effect in order to qualify or remain qualified for participation in the National Flood Insurance Program (NFIP).

DATES: The period for comment will be ninety (90) days following the second publication of this proposed rule in a newspaper of local circulation in the above-named community.

ADDRESSES: Maps and other information showing the detailed outlines of the flood-prone areas and the proposed base (100-year) flood elevations are available for review at City Manager's Office, City Hall, 301 N. Main Street, Jamestown, North Carolina. Send comments to: Mayor Hall or Mr. Charles P. Turner, City Manager, City Hall, 301 N. Main Street, Jamestown, North Carolina 27261.

FOR FURTHER INFORMATION CONTACT: Mr. Richard Krimm, National Flood Insurance Program, (202) 755–5581 or Toll Free Line (800) 424–8872, Room 5270, 451 Seventh Street, SW., Washington, D.C. 20410.

SUPPLEMENTARY INFORMATION: The Federal Insurance Administrator gives notice of the proposed determinations of base (100-year) flood elevations for the City of Jamestown, Guilford County, North Carolina, in accordance with section 110 of the Flood Disaster Protection Act of 1973 (Pub. L. 93–234), 87 Stat. 980, which added section 1363 to the National Flood Insurance Act of 1968 (Title XIII of the Housing and Urban Development Act of 1968 (Pub. L. 90–448)), 42 U.S.C. 4001–4128, and 24 CFR 1917.4(a).

These elevations, together with the flood plain management measures required by § 1910.3 of the program regulations, are the minimum that are required. They should not be construed to mean the community must change any existing ordinances that are more stringent in their flood plain management requirements. The community may at any time enact stricter requirements on its own, or pursuant to policies established by other Federal, State, or regional entities. These proposed elevations will also be used to calculate the appropriate flood insurance premium rates for new buildings and their contents and for the second layer of insurance on existing buildings and their contents.

The proposed base (100-year) flood elevations for selected locations are:

[1] The functions of the Federal Insurance Administration, Department of Housing and Urban Development, were transferred to the newly established Federal Emergency Management Agency by Reorganization Plan No. 3 of 1978 (43 FR 41943, September 19, 1978) and Executive Order 12127 (44 FR 19367, April 3, 1979).

Source of flooding	Location	Elevation, in feet, national geodetic vertical datum
Deep River	Approximately 100 feet downstream of Regsdale Road Bridge.	732
	Just upstream of U.S. 29A and 70A Bridge.	737
	High Point Lake	761
Bull Run	Just upstream of Southern Railway Bridge.	741

(National Flood Insurance Act of 1968 (Title XIII of Housing and Urban Development Act of 1968), effective January 28, 1969 (33 FR 17804, November 28, 1968), as amended; 42 U.S.C. 4001–4128; Executive Order 12127, 44 FR 19367; and delegation of authority to Federal Insurance Administrator 44 FR 20963.)

Issued: April 24, 1979.

Gloria M. Jimenez,
Federal Insurance Administrator.

[Docket No. FI–5424]
[FR Doc. 79–13922 Filed 5–7–79; 8:45 am]
BILLING CODE 4210–23–M

[24 CFR Part 1917]

Proposed Flood Elevation Determinations for the City of Walhalla, Pembina County, N. Dak., Under the National Flood Insurance Program

AGENCY: Federal Insurance and Hazard Mitigation, FEMA.[1]

ACTION: Proposed rule.

SUMMARY: Technical information or comments are solicited on the proposed base (100-year) flood elevations listed below for selected locations in the City of Walhalla, Pembina County, North Dakota. These base (100-year) flood elevations are the basis for the flood plain management measures that the community is required to either adopt or show evidence of being already in effect in order to qualify or remain qualified for participation in the National Flood Insurance Program (NFIP).

DATES: The period for comment will be ninety (90) days following the second publication of this proposed rule in a newspaper of local circulation in the above-named community.

ADDRESSES: Maps and other information showing the detailed outlines of the flood-prone areas and the proposed base (100-year) flood elevations are available for review at City Hall, Central Avenue, Walhalla, North Dakota. Send comments to: Honorable Ed Karel, Mayor, City of Walhalla, City Hall, Central Avenue, P.O. Box 38, Walhalla, North Dakota 58282.

FOR FURTHER INFORMATION CONTACT: Mr. Richard Krimm, National Flood Insurance Program, (202) 755–5581 or Toll Free Line (800) 424–8872, Room 5270, 451 Seventh Street, SW., Washington, D.C. 20410.

SUPPLEMENTARY INFORMATION: The Federal Insurance Administrator gives notice of the proposed determinations of base (100-year) flood elevations for the City of Walhalla, North Dakota, in accordance with section 110 of the Flood Disaster Protection Act of 1973 (Pub. L. 93–234), 87 Stat. 980, which added section 1363 to the National Flood Insurance Act of 1968 (Title XIII of the Housing and Urban Development Act of 1968 (Pub. L. 90–448)), 42 U.S.C. 4001–4128, and 24 CFR 1917.4(a).

These elevations, together with the flood plain management measures required by § 1910.3 of the program regulations, are the minimum that are required. They should not be construed to mean the community must change any existing ordinances that are more stringent in their flood plain management requirements. The community may at any time enact stricter requirements on its own, or pursuant to policies established by other Federal, State or regional entities. These proposed elevations will also be used to calculate the appropriate flood insurance premium rates for new buildings and their contents and for the second layer of insurance on existing buildings and their contents.

The proposed base (100-year) flood elevations for selected locations are:

Source of flooding	Location	Elevation in feet, national geodetic vertical datum
Pembina River	Burlington Northern Railroad Bridge—200 feet*.	948
	Federally Aided Secondary County Road No. 9 Bridge—150 feet*.	948
	State Highway 32 Bridge—100 feet*.	954

*Upstream from centerline.

(National Flood Insurance Act of 1968 (Title XIII of Housing and Urban Development Act of 1968), effective January 28, 1969 (33 FR 17804, November 28, 1968), as amended; 42 U.S.C. 4001–4128; Executive Order 12127, 44 FR 19367; and, delegation of authority to Federal Insurance Administrator, 44 FR 20963.)

Issued: April 24, 1979.

Gloria M. Jimenez,
Federal Insurance Administrator.

[Docket No. FI–5431]
[FR Doc. 79–13904 Filed 5–7–79; 8:45 am]
BILLING CODE 4210–23–M

[24 CFR Part 1917]

Proposed Flood Elevation Determinations for the Borough of Alexandria, Huntingdon County, Pa.

AGENCY: Office of Federal Insurance and Hazard Mitigation, FEMA.[1]

ACTION: Proposed rule.

SUMMARY: Technical information or comments are solicited on the proposed base (100-year) flood elevations listed below for selected locations in the Borough of Alexandria, Huntingdon County, Pennsylvania.

These base (100-year) flood elevations are the basis for the flood plain management measures that the community is required to either adopt or show evidence of being already in effect in order to qualify or remain qualified for participation in the National Flood Insurance Program (NFIP).

DATES: The period for comment will be ninety (90) days following the second publication of this proposed rule in a newspaper of local circulation in the above-named community.

ADDRESS: Maps and other information showing the detailed outlines of the flood-prone areas and the proposed base (100-year) flood elevations are available for review at the Borough Building, Scout House, Alexandria, Pennsylvania. Send comments to: Honorable Roy Shirk, Mayor of Alexandria, Alexandria, Pennsylvania 16611.

FOR FURTHER INFORMATION CONTACT: Mr. Richard Krimm, National Flood Insurance Program, Room 5270, 451 Seventh Street SW., Washington, D.C. 20410, 202–755–5581 or toll-free line 800–424–8872.

SUPPLEMENTARY INFORMATION: The Federal Insurance Administrator gives notice of the proposed determinations of base (100-year) flood elevations for the Borough of Alexandria, Huntingdon County, Pennsylvania in accordance with section 110 of the Flood Disaster Protection Act of 1973 (Pub. L. 93–234), 87 Stat. 980, which added section 1363 to

[1] The functions of the Federal Insurance Administration, Department of Housing and Urban Development, were transferred to the newly established Federal Emergency Management Agency by Reorganization Plan No. 3 of 1978 (43 FR 41943, September 19, 1978) and Executive Order 12127 (44 FR 19367, April 3, 1979).

the National Flood Insurance Act of 1968 (Title XIII of the Housing and Urban Development Act of 1968 (Pub. L. 90–448)), 42 U.S.C. 4001–4128, and 24 CFR 1917.4(a).

These elevations, together with the flood plain management measures required by § 1910.3 of the program regulations, are the minimum that are required. They should not be construed to mean the community must change any existing ordinances that are more stringent in their flood plain management requirements. The community may at any time enact stricter requirements on its own, or pursuant to policies established by other Federal, State, or regional entities. These proposed elevations will also be used to calculate the appropriate flood insurance premium rates for new buildings and their contents and for the second layer of insurance on existing buildings and their contents.

The proposed base (100-year) flood elevations for selected locations are:

Source of flooding	Location	Elevation in feet, national geodetic vertical datum
Frankstown Branch Juniata River.	Downstream corporate limits	703
	Bridge Street (T.R. 305)	704
	Upstream corporate limits	708

(National Flood Insurance Act of 1968 (Title XIII of Housing and Urban Development Act of 1968), effective January 28, 1969 (33 FR 17804, November 28, 1968), as amended; 42 U.S.C. 4001–4128; Executive Order 12127, 44 FR 19367; and delegation of authority to Federal Insurance Administrator 44 FR 20963.)

Issued: April 18, 1979.

Gloria M. Jimenez,
Federal Insurance Administrator.

[Docket No. FI–5432]

[FR Doc. 79–13905 Filed 5–7–79; 8:45 am]

BILLING CODE 4210–23–M

[24 CFR Part 1917]

Proposed Flood Elevation Determinations for the Township of Chartiers, Washington County, Pa., Under the National Flood Insurance Program

AGENCY: Office of Federal Insurance and Hazard Mitigation, FEMA.[1]

ACTION: Proposed rule.

SUMMARY: Technical information or comments are solicited on the proposed base (100-year) flood elevations listed below for selected locations in the Township of Chartiers, Washington County, Pa.

These base (100-year) flood elevations are the basis for the flood plain management measures that the community is required to either adopt or show evidence of being already in effect in order to qualify or remain qualified for participation in the National Flood Insurance Program (NFIP).

DATES: The period for comment will be ninety (90) days following the second publication of this proposed rule in a newspaper of local circulation in the above-named community.

ADDRESS: Maps and other information showing the detailed outlines of the flood-prone areas and the proposed base (100-year) flood elevations are available for review at the Chartiers Township Building. Send comments to: Mr. Michael Kusky, Chairman of the Board of Supervisors of Chartiers, 2451 West Pike Street, Uston, Pennsylvania 15342.

FOR FURTHER INFORMATION CONTACT:
Mr. Richard Krimm, National Flood Insurance Program, Room 5270, 451 Seventh Street SW., Washington, D.C. 20410, 202–755–5581 or toll-free line 800–424–8872.

SUPPLEMENTARY INFORMATION: The Federal Insurance Administrator gives notice of the proposed determinations of base (100-year) flood elevations for the Township of Chartiers, Washington County, Pennsylvania in accordance with section 110 of the Flood Disaster Protection Act of 1973 (Pub. L. 93–234), 87 Stat. 980, which added section 1363 to the National Flood Insurance Act of 1968 (Title XIII of the Housing and Urban Development Act of 1968 (Pub. L. 90–448)), 42 U.S.C. 4001–4128, and 24 CFR 1917.4(a).

These elevations, together with the flood plain management measures required by § 1910.3 of the program regulations, are the minimum that are required. They should not be construed to mean the community must change any existing ordinances that are more stringent in their flood plain management requirements. The community may at any time enact stricter requirements on its own, or pursuant to policies established by other Federal, State, or regional entities. These proposed elevations will also be used to calculate the appropriate flood insurance premium rates for new buildings and their contents and for the second layer of insurance on existing buildings and their contents.

The proposed base (100-year) flood elevations for selected locations are:

Source of flooding	Location	Elevation in feet, national geodetic vertical datum
Chartier's Creek	Downstream corporate limits	953
	Downstream side of Conrail	955
	Upstream side of Conrail	958
	Upstream side of Johnson Road.	961
	Upstream crossing of Conrail	967
	Upstream side of Legislative Route 62092.	975
	Upstream side of State Route 802.	980
	Upstream side of Country Club Road.	985
	Confluence of Tributary No. 5	990
	Upstream side of Dirt Road	993
	Upstream corporate limits	996
George's Run	Downstream corporate limits	1,004
	Driveway (5,400 feet upstream of corporate limits).	1,022
	Farm Road (7,800 feet upstream of corporate limits).	1,029
	Farm Road (16,300 feet upstream of corporate limits).	1,080
	Private Road (17,400 feet upstream of corporate limits).	1,087
	Farm Road (19,600 feet upstream of corporate limits).	1 103
	Driveway (20,900 feet upstream of corporate limits).	1 107
Chartiers Run	Downstream corporate limits	954
	Washington Steel Corporation.	963
	Driveway (9,100 feet upstream of the downstream corporate limits).	972
	McConnells Mills Farm Road	980
	Farm Road (16,300 feet upstream of the downstream corporate limits).	991

(National Flood Insurance Act of 1968 (Title XIII of Housing and Urban Development Act of 1968), effective January 28, 1969 (33 FR 17804, November 28, 1968), as amended; (42 U.S.C. 4001–4128); Executive Order 12127, 44 FR 19367; and, delegation of authority to Federal Insurance Administrator 44 FR 20963.)

Issued: April 24, 1979.

Gloria M. Jimenez,
Federal Insurance Administrator.

[Docket No. FI–5433]

[FR Doc. 79–13906 Filed 5–7–79; 8:45 am]

BILLING CODE 4210–23–M

[1] The functions of the Federal Insurance Administration, Department of Housing and Urban Development, were transferred to the newly established Federal Emergency Management Agency by Reorganization Plan No. 3 of 1978 (43 FR 41943, September 19, 1978) and Executive Order 12127 (44 FR 19367, April 3, 1979).

[24 CFR Part 1917]

Proposed Flood Elevation Determinations for the Township of Forward, Allegheny County, Pa., Under the National Flood Insurance Program

AGENCY: Office of Federal Insurance and Hazard Mitigation, FEMA.[1]

ACTION: Proposed rule.

SUMMARY: Technical information or comments are solicited on the proposed base (100-year) flood elevations listed below for selected locations in the Township of Forward, Allegheny County, Pennsylvania.

These base (100-year) flood elevations are the basis for the flood plain management measures that the community is required to either adopt or show evidence of being already in effect in order to qualify or remain qualified for participation in the National Flood Insurance Program (NFIP).

DATES: The period for comment will be ninety (90) days following the second publication of this proposed rule in a newspaper of local circulation in the above-named community.

ADDRESSES: Maps and other information showing the detailed outlines of the flood-prone areas and the proposed base (100-year) flood elevations are available for review at the Forward Township Building. Send comments to: Mr. Vincent Julian, Chairman of the Board of Supervisors of Forward, R.D. 3, Box 40–A, Monongahela, Pennsylvania 15063.

FOR FURTHER INFORMATION CONTACT:
Mr. Richard Krimm, National Flood Insurance Program, (202) 755–5581 or Toll Free Line (800) 424–8872, Room 5270, 451 Seventh Street, SW., Washington, D.C. 20410.

SUPPLEMENTARY INFORMATION: The Federal Insurance Administrator gives notice of the proposed determinations of base (100-year) flood elevations for the Township of Forward, Allegheny County, Pennsylvania in accordance with section 110 of the Flood Disaster Protection Act of 1973 (Pub. L. 93–234), 87 Stat. 980, which added section 1363 to the National Flood Insurance Act of 1968 (Title XIII of the Housing and Urban Development Act of 1968 (Pub. L. 90–448)), 42 U.S.C. 4001–4128, and 24 CFR Part 1917.4(a).

These elevations, together with the flood plain management measures required by § 1910.3 of the program regulations, are the minimum that are required. They should not be construed to mean the community must change any existing ordinances that are more stringent in their flood plain management requirements. The community may at any time enact stricter requirements on its own, or pursuant to policies established by other Federal, State or regional entities. These proposed elevations will also be used to calculate the appropriate flood insurance premium rates for new buildings and their contents and for the second layer of insurance on existing buildings and their contents.

The proposed base (100-year) flood elevations for selected locations are:

Source of flooding	Location	Elevation in feet, national geodetic vertical datum
Monongahela River	Downstream corporate limits	749
	Lock and Dam No. 3 (upstream).	750
	Upstream corporate limits	756
Fallen Timber Run	Downstream crossing of State Route 51.	777
	Downstream end of parking lot culvert.	783
	Upstream crossing of State Route 51 at downstream end of culvert.	787

(National Flood Insurance Act of 1968 (Title XIII of Housing and Urban Development Act of 1968), effective January 28, 1969 (33 FR 17804, November 28, 1968), as amended; 42 U.S.C. 4001–4128; Executive Order 12127, 44 FR 19367; and, delegation of authority to Federal Insurance Administrator, 43 FR 7719.)

Issued: April 24, 1979.

Gloria M. Jimenez,
Federal Insurance Administrator.

[Docket No. FI–5434]

[FR Doc. 79–13907 Filed 5–7–79; 8:45 am]

BILLING CODE 4210–23–M

[24 CFR Part 1917]

Proposed Flood Elevation Determinations for the Borough of Hellam, York County, Pa., Under the National Flood Insurance Program

AGENCY: Office of Federal Insurance and Hazard Mitigation, FEMA.[1]

ACTION: Proposed rule.

SUMMARY: Technical information or comments are solicited on the proposed base (100-year) flood elevations listed below for selected locations in the Borough of Hellam, York County, Pennsylvania.

These base (100-year) flood elevations are the basis for the flood plain management measures that the community is required to either adopt or show evidence of being already in effect in order to qualify or remain qualified for participation in the National Flood Insurance Program (NFIP).

DATES: The period for comment will be ninety (90) days following the second publication of this proposed rule in a newspaper of local circulation in the above-named community.

ADDRESSES: Maps and other information showing the detailed outlines of the flood-prone areas and the proposed base (100-year) flood elevations are available for review at the residence of Mr. William Linneman, 123 South Prospect Street, Hellam, Pennsylvania. Send comments to: Honorable Charles E. Dellinger, Mayor of Hellam, 471 Fitzpatrick Lane, Hellam, Pennsylvania 17406.

FOR FURTHER INFORMATION CONTACT:
Mr. Richard Krimm, National Flood Insurance Program, (202) 755–5581 or Toll Free Line (800) 424–8872, room 5270, 451 Seventh Street, SW., Washington, D.C. 20410.

SUPPLEMENTARY INFORMATION: The Federal Insurance Administrator gives notice of the proposed determinations of base (100-year) flood elevations for the Borough of Hellam, York County, Pennsylvania in accordance with section 110 of the Flood Disaster Protection Act of 1973 (Pub. L. 93–234), 87 Stat. 980, which added section 1363 to the National Flood Insurance Act of 1968 (Title XIII of the Housing and Urban Development Act of 1968 (Pub. L. 90–448)), 42 U.S.C. 4001–4128, and 24 CFR 1917.4(a).

These elevations, together with the flood plain management measures required by § 1910.3 of the program regulations, are the minimum that are required. They should not be construed to mean the community must change any existing ordinances that are more stringent in their flood plain management requirements. The community may at any time enact stricter requirements on its own, or pursuant to policies established by other Federal, State, or regional entities. These proposed elevations will also be used to calculate the appropriate flood insurance premium rates for new buildings and their contents and for the second layer of insurance on existing buildings and their contents.

The proposed base (100-year) flood elevations for selected locations are:

[1] The functions of the Federal Insurance Administration, Department of Housing and Urban Development, were transferred to the newly established Federal Emergency Management Agency by Reorganization Plan No. 3 of 1978 (43 FR 41943, September 19, 1978) and Executive Order 12127 (44 FR 19367, April 3, 1979).

Source of flooding	Location	Elevation in feet, national geodetic vertical datum
Kreutz Creek	Southeastern Corporate Limit	328
	1000 feet west of Southeastern Corporate Limits.	338
	Upstream of confluence of Tributary D.	343
	Upstream of confluence of Tributary E.	347
Tributary D	Covered Bridge over Dirt Road.	347
	East Forry Street	366
	Cherry Avenue	379
	Corporate Limit	381
Tributary E	Corporate Limit	352

(National Flood Insurance Act of 1968 (Title XIII of Housing and Urban Development Act of 1968), effective January 28, 1969 (33 FR 17804, November 28, 1968), as amended; 42 U.S.C. 4001–4128; Executive Order 12127, 44 FR 19367; and delegation of authority to Federal Insurance Administrator, 44 FR 20963.)

Issued: April 18, 1979.

Gloria M. Jimenez,
Federal Insurance Administrator.
[Docket No. FI–5495]
[FR Doc. 79–13906 Filed 5–4–79; 8:45 am]
BILLING CODE 4210–23–M

[24 CFR Part 1917]

Proposed Flood Elevation Determinations for the Township of Kennedy, Allegheny County, Pa., Under the National Flood Insurance Program

AGENCY: Office of Federal Insurance and Hazard Mitigation, FEMA.[1]

ACTION: Proposed rule.

SUMMARY: Technical information or comments are solicited on the proposed base (100-year) flood elevations listed below for selected locations in the Township of Kennedy, Allegheny County, Pennsylvania.

These base (100-year) flood elevations are the basis for the flood plain management measures that the community is required to either adopt or show evidence of being already in effect in order to qualify or remain qualified for participation in the National Flood Insurance Program (NFIP).

DATES: The period for comment will be ninety (90) days following the second publication of this proposed rule in a newspaper of local circulation in the above-named community.

ADDRESS: Maps and other information showing the detailed outlines of the flood-prone areas and the proposed base (100-year) flood elevations are available for review at the Kennedy Township Municipal Building. Send comments to: Mr. Scott O'Donnell, President of the Kennedy, Township Commission, 4 Highland Drive, McKees Rocks, Pennsylvania 15136.

FOR FURTHER INFORMATION CONTACT: Mr. Richard Krimm, National Flood Insurance Program, Room 5270, 451 Seventh Street SW., Washington, D.C. 20410, (202) 755–5581 or toll-free line 800–424–8872.

SUPPLEMENTARY INFORMATION: The Federal Insurance Administrator gives notice of the proposed determinations of base (100-year) flood elevations for the Township of Kennedy, Allegheny County, Pennsylvania in accordance with section 110 of the Flood Disaster Protection Act of 1973 (Pub. L. 93–234), 87 Stat. 980, which added section 1363 to the National Flood Insurance Act of 1968 (Title XIII of the Housing and Urban Development Act of 1968 (Pub. L. 90–448)), 42 U.S.C. 4001–4128, and 24 CFR 1917.4(a).

These elevations, together with the flood plain management measures required by § 1910.3 of the program regulations, are the minimum that are required. They should not be construed to mean the community must change any existing ordinances that are more stringent in their flood plain management requirements. The community may at any time enact stricter requirements on its own, or pursuant to policies established by other Federal, State, or regional entities. These proposed elevations will also be used to calculate the appropriate flood insurance premium rates for new buildings and their contents and for the second layer of insurance on existing buildings and their contents.

The proposed base (100-year) flood elevations for selected locations are:

Source of flooding	Location	Elevation in feet, national geodetic vertical datum
Ohio River Back Channel	Downstream Corporate Limits	720
	Downstream side of Emsworth Back Channel Dam.	720
	Upstream side of Emsworth Back Channel Dam.	721
	Upstream Corporate Limits	721
Chartier's Creek	Downstream Corporate Limits.	734
	Upstream side of Round House Bridge.	735
	Upstream Corporate Limits	738

(National Flood Insurance Act of 1968 (Title XIII of Housing and Urban Development Act of 1968), effective January 28, 1969 (33 FR 17804, November 28, 1968), as amended; 42 U.S.C. 4001–4128; Executive Order 12127, 44 FR 19367; and delegation of authority to Federal Insurance Administrator, 43 FR 7719.)

Issued: April 18, 1979.

Gloria M. Jimenez,
Federal Insurance Administrator.
[Docket No. FI–5436]
[FR Doc. 79–13909 Filed 5–7–79; 8:45 am]
BILLING CODE 4210–23–M

[24 CFR Part 1917]

Proposed Flood Elevation Determinations for the Township of Lower Chanceford, York County, Pa.

AGENCY: Office of Federal Insurance and Hazard Mitigation, FEMA.[1]

ACTION: Proposed rule.

SUMMARY: Technical information or comments are solicited on the proposed base (100-year) flood elevations listed below for selected locations in the Township of Lower Chanceford, York County, Pennsylvania.

These base (100-year) flood elevations are the basis for the flood plain management measures that the community is required to either adopt or show evidence of being already in effect in order to qualify or remain qualified for participation in the National Flood Insurance Program (NFIP).

DATES: The period for comment will be ninety (90) days following the second publication of this proposed rule in a newspaper of local circulation in the above-named community.

ADDRESSES: Maps and other information showing the detailed outlines of the flood-prone areas and the proposed base (100-year) flood elevations are available for review at the Lower Chanceford Township Building.

Send comments to: Mr. H. Donald Grove, Chairman of the Board of Supervisors of Lower Chanceford, R. D. 2, Airville, Pennsylvania 17302.

FOR FURTHER INFORMATION CONTACT: Mr. Richard Krimm, National Flood Insurance Program, (202) 755–5581 or Toll Free Line (800) 424–8872, Room 5270, 451 Seventh Street, SW., Washington, D.C. 20410.

SUPPLEMENTARY INFORMATION: The Federal Insurance Administrator gives notice of the proposed determinations of

[1] The functions of the Federal Insurance Administration, Department of Housing and Urban Development, were transferred to the newly established Federal Emergency Management Agency by Reorganization Plan No. 3 of 1978 (43 FR 41943, September 19, 1978) and Executive Order 12127 (44FR 19367, April 3, 1979).

base (100-year) flood elevations for the Township of Lower Chanceford, York County, Pennsylvania in accordance with section 110 of the Flood Disaster Protection Act of 1973 (Pub. L. 93–234), 87 Stat. 980, which added section 1363 to the National Flood Insurance Act of 1968 (Title XIII of the Housing and Urban Development Act of 1968 (Pub. L. 90–448)), 42 U.S.C. 4001–4128, and 24 CFR 1917.4(a).

The elevations, together with the flood plain management measures required by § 1910.3 of the program regulations, are the minimum that are required. They should not be construed to mean the community must change any existing ordinances that are more stringent in their flood plain management requirements. The community may at any time enact stricter requirements on its own, or pursuant to policies established by other Federal, State, or regional entities. These proposed elevations will also be used to calculate the appropriate flood insurance premium rates for new buildings and their contents and for the second layer of insurance on existing buildings and their contents.

The proposed base (100-year) flood elevations for selected locations are:

Source of flooding	Location	Elevation in feet, national geodetic vertical datum
Susquehanna River	Upstream Township Limits	189
	Upstream side of Holtwood Dam.	183
	Downstream side of Holtwood Dam.	155
	Downstream Township Limits	117

(National Flood Insurance Act of 1968 (Title XIII of Housing and Urban Development Act of 1968), effective January 28, 1969 (33 FR 17804, November 28, 1968), as amended; 42 U.S.C. 4001–4128; Executive Order 12127, 44 FR 19367; and, delegation of authority to Federal Insurance Administrator 44 FR 20963.)

Issued: April 18, 1979.

Gloria M. Jimenez,
Federal Insurance Administrator.
[Docket No. FI–5437]
[FR Doc. 79–13910 Filed 5–7–79; 8:45 am]
BILLING CODE 4210–23–M

[24 CFR Part 1917]

Proposed Flood Elevation Determinations for the Borough of Monroe, Bradford County, Pa., Under the National Flood Insurance Program

AGENCY: Office of Federal Insurance and Hazard Mitigation, FEMA.[1]

ACTION: Proposed rule.

SUMMARY: Technical information or comments are solicited on the proposed base (100-year) flood elevations listed below for selected locations in the Bourough of Monroe, Bradford County, Pennsylvania.

These base (100-year) flood elevations are the basis for the flood plain management measures that the community is required to either adopt or show evidence of being already in effect in order to qualify or remain qualified for participation in the National Flood Insurance Program (NFIP).

DATES: The period for comment will be ninety (90) days following the second publication of this proposed rule in a newspaper of local circulation in the above-named community.

ADDRESSES: Maps and other information showing the detailed outlines of flood-prone areas and the proposed base (100-year) flood elevations are available for review at the Monroe Community Hall, Main Street, Monroeton, Pennsylvania. Send comments to: Honorable Paul F. Thrasher, Mayor of Monroe, R. D. 1, Monroeton, Pennsylvania 18832.

FOR FURTHER INFORMATION CONTACT: Mr. Richard Krimm, National Flood Insurance Program, (202) 755–5581 or toll free line (800) 424–8872, Room 5270, 451 Seventh Street, SW., Washington, D.C. 20410.

SUPPLEMENTARY INFORMATION: The Federal Insurance Administrator gives notice of the proposed determinations of base (100-year) flood elevations for the Borough of Monroe, Bradford County, Pennsylvania in accordance with section 110 of the Flood Disaster Protection Act of 1973 (Pub. L. 93–234), 87 Stat. 980, which added section 1363 to the National Flood Insurance Act of 1968 (Title XIII of the Housing and Urban Development Act of 1968 (Pub. L. 90–448)), 42 U.S.C. 4001–4128, and 24 CFR 1917.4(a).

These elevations, together with the flood plain management measures required by § 1910.3 of the program regulations, are the minimum that are required. They should not be construed to mean the community must change any existing ordinances that are more stringent in their flood plain management requirements. The community may at any time enact stricter requirements on its own, or pursuant policies established by other Federal, State, or regional entities.

These proposed elevations will also be used to calculate the appropriate flood insurance premium rates for new buildings and their contents and for the second layer of insurance on existing buildings and their contents.

The proposed base (100-year) flood elevations for selected locations are:

Source of flooding	Location	Elevation in feet, national geodetic vertical datum
Towanda Creek	Upstream Corporate Limits	782
	Locust Street Extended (to Creek Bank).	773
	Berwick Drive	765
	Downstream face of Bridge Street Bridge.	
	Downstream Corporate Limits.	749

(National Flood Insurance Act of 1968 (Title XIII of Housing and Urban Development Act of 1968), effective January 28, 1969 (33 FR 17804, November 28, 1968), as amended; 42 U.S.C. 4001–4128; Executive Order 12127, 44 FR 19367; and delegation of authority to Federal Insurance Administrator 44 FR 20963.

Issued: April 24, 1979.

Gloria M. Jimenez,
Federal Insurance Administrator.
[Docket No. FI–5439]
[FR Doc. 79–13911 Filed 5–7–79; 8:45 am]
BILLING CODE 4210–23–M

[24 CFR Part 1917]

Proposed Flood Elevation Determinations for the Township of North Strabane, Washington County, Pa., Under the National Flood Insurance Program

AGENCY: Office of Federal Insurance and Hazard Mitigation, FEMA.[1]

ACTION: Proposed rule.

SUMMARY: Technical information or comments are solicited on the proposed base (100-year) flood elevations listed below for selected locations in the Township of North Strabane, Washington County, Pennsylvania.

These base (100-year) flood elevations are the basis for the flood plain management measures that the community is required to either adopt or show evidence of being already in effect in order to qualify or remain qualified for participation in the National Flood Insurance Program (NFIP).

DATES: The period for comment will be ninety (90) days following the second

[1] The functions of the Federal Insurance Administration, Department of Housing and Urban Development, were transferred to the newly established Federal Emergency Management Agency by Reorganization Plan No. 3 of 1978 (43 FR 41943, September 19, 1978) and Executive Order 12127 (44 FR 19367, April 3, 1979).

[1] The functions of the Federal Insurance Administration, Department of Housing and Urban Development, were transferred to the newly established Federal Emergency Management Agency by Reorganization Plan No. 3 of 1978 (43 FR 41943, September 19, 1978) and Executive Order 12127 (44 FR 19367, April 3, 1979).

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publication of this proposed rule in a newspaper of local circulation in the above-named community.

ADDRESSES: Maps and other information showing the detailed outlines of the flood-prone areas and the proposed base (100-year) flood elevations are available for review at the Township Building, Route 519 South, South Canonsburg, Pennsylvania. Send comments to: Mr. James Maggi, Chairman of the Board of Supervisors of North Strabane, R. D. 1, Box 132, South Canonsburg, Pennsylvania 15317.

FOR FURTHER INFORMATION CONTACT: Mr. Richard Krimm, National Flood Insurance Program, (202) 755–5581 or Toll Free Line (800) 424–8872, Room 5270, 451 Seventh Street, SW, Washington, D.C. 20410.

SUPPLEMENTARY INFORMATION: The Federal Insurance Administrator gives notice of the proposed determinations of base (100-year) flood elevations for the Township of North Strabane, Washington County, Pennsylvania in accordance with section 110 of the Flood Disaster Protection Act of 1973 (Pub. L. 93–234), 87 Stat. 980, which added section 1363 to the National Flood Insurance Act of 1968 (Title XIII of the Housing and Urban Development Act of 1968 (Pub. L. 90–448)), 42 U.S.C. 4001–4128, and 24 CFR 1917.4(a).

These elevations, together with the flood plain management measures required by § 1910.3 of the program regulations, are the minimum that are required. They should not be construed to mean the community must change any existing ordinances that are more stringent in their flood plain management requirements. The community may at any time enact stricter requirements on its own, or pursuant to policies established by other Federal, State, or regional entities. These proposed elevations will also be used to calculate the appropriate flood insurance premium rates for new buildings and their contents and for the second layer of insurance on existing buildings and their contents.

The proposed base (100-year) flood elevations for selected locations are:

Source of Flooding	Location	Elevation in feet, national geodetic vertical datum
Chartiers Creek	Morganza Road	922
	Curry Avenue	925
	Euclid Avenue	928
	Central Avenue	934
	Jefferson Avenue	936
	Strabane Avenue	948
	Main Street	953
	8,550 feet upstream of Johnson Road to limit of Detailed Study.	
Little Chartiers Creek	Route 19	923
	Gallery Road	928
	Confluence with Tributary No. 8.	942
	Confluence with Tributary No. 7.	951
	Linden Road	960
	Sportsman Club Private Road.	963
	Route 519	973
	Gristy Road	984
	Route 136	992

(National Flood Insurance Act of 1968 (Title XIII of Housing and Urban Development Act of 1968), effective January 28, 1969 (33 FR 17804, November 28, 1968), as amended; 42 U.S.C. 4001–4128; Executive Order 12127, 44 FR 19367; and, delegation of authority to Federal Insurance Administrator 44 FR 20963.)

Issued: April 24, 1979.

Gloria M. Jimenez,
Federal Insurance Administrator.

[Docket No. FI–5439]

[FR Doc. 79–13912 Filed 5–7–79; 8:45 am]

BILLING CODE 4210–23–M

[24 CFR Part 1917]

Proposed Flood Elevation Determinations for the Township of North Versailles, Allegheny County, Pa., Under the National Flood Insurance Program

AGENCY: Office of Federal Insurance and Hazard Mitigation, FEMA.[1]

ACTION: Proposed rule.

SUMMARY: Technical information or comments are solicited on the proposed base (100-year) flood elevations listed below for selected locations in the Township of North Versailles, Allegheny County, Pennsylvania.

These base (100-year) flood elevations are the basis for the flood plain management measures that the community is required to either adopt or show evidence of being already in effect in order to qualify or remain qualified for participation in the National Flood Insurance Program (NFIP).

DATES: The period for comment will be ninety (90) days following the second publication of this proposed rule in a newspaper of local circulation in the above-named community.

ADDRESSES: Maps and other information showing the detailed outlines of the flood-prone areas and the proposed base (100-year) flood elevations are available for review at the Township of North Versailles, Allegheny County, Pennsylvania. Send comments to: M. John Weber, President of the Board of Supervisors of North Versailles, 1401 Greensburg, Pennsylvania 15137.

FOR FURTHER INFORMATION CONTACT: Mr. Richard Krimm, National Flood Insurance Program, Room 5270, 451 Seventh Street SW., Washington, D.C. 20410, 202–755–5581 or toll-free line 800–424–8872.

SUPPLEMENTARY INFORMATION: The Federal Insurance Administrator gives notice of the proposed determinations of base (100-year) flood elevations for the Township of North Versailles, Allegheny County, Pennsylvania in accordance with section 110 of the Flood Disaster Protection Act of 1973 (Pub. L. 93–234), 87 Stat. 980, which added section 1363 to the National Flood Insurance Act of 1968 (Title XIII of the Housing and Urban Development Act of 1968 (Pub. L. 90–448)), 42 U.S.C. 4001–4128, and 24 CFR 1917.4(a).

These elevations, together with the flood plain management measures required by § 1910.3 of the program regulations, are the minimum that are required. They should not be construed to mean the community must change any existing ordinances that are more stringent in their flood plain management requirements. The community may at any time enact stricter requirements on its own, or pursuant to policies established by other Federal, State, or regional entities. These proposed elevations will also be used to calculate the appropriate flood insurance premium rates for new buildings and their contents and for the second layer of insurance on existing buildings and their contents.

The proposed base (100-year) flood elevations for selected locations are:

Source of flooding	Location	Elevation in feet, national geodetic vertical datum
Monongahela River	Upstream corporate limits	743
	Port Perry Bridge	741
Turtle Creek	Wallborough Bridge (upstream side).	750
	Greensburg Pike (upstream side).	735
Crooked Run	Private Drive (upstream side) 1,600' upstream of Arcannia Street.	854
	Arcannia Street (upstream side).	830
	Downstream corporate limits.	816
Thompson Run	Upstream corporation limits	732
	Confluence with Turtle Creek	732

(National Flood Insurance Act of 1968 (Title XIII of Housing and Urban Development Act of 1968), effective January 28, 1969 (33 FR 17804, November 28, 1968), as amended; 42 U.S.C. 4001–4128; Executive Order 12127, 44 FR 19367; and delegation of authority to Federal Insurance Administrator 44 FR 20963.)

Issued: April 24, 1979.

Gloria M. Jimenez,
Federal Insurance Administrator.

[Docket No. FI–5440]

[FR Doc. 79–13913 Filed 5–7–79; 8:45 am]

BILLING CODE 4210–23–M

[1] The functions of the Federal Insurance Administration, Department of Housing and Urban Development, were transferred to the newly established Federal Emergency Management Agency by Reorganization Plan No. 3 of 1978 (43 FR 41943, September 19, 1978) and Executive Order 12127 (44 FR 19367, April 3, 1979).

[24 CFR Part 1917]

Proposed Flood Elevation Determinations for the Township of Stowe, Allegheny County, Pa. Under the National Flood Insurance Program:

AGENCY: Office of Federal Insurance and Hazard Mitigation, FEMA.[1]

ACTION: Proposed rule.

SUMMARY: Technical information or comments are solicited on the proposed base (100–year) flood elevations listed below for selected locations in the Township of Stowe, Allegheny County, Pennsylvania. These base (100–year) flood elevations are the basis for the flood plain management measures that the community is required to either adopt or show evidence of being already in effect in order to qualify or remain qualified for participation in the National Flood Insurance Program (NFIP).

DATES: The period for comment will be ninety (90) days following the second publication of this proposed rule in a newspaper of local circulation in the above-named community.

ADDRESSES: Maps and other information showing the detailed outlines of the flood-prone areas and the proposed base (100–year) flood elevations are available for review at the Township Building, 1301 Island Avenue. Send comments to: Mr. Stanley Bachowski, President of the Commission of Stowe, 1106 13th Street, McKees Rocks, Pennsylvania 15136.

FOR FURTHER INFORMATION CONTACT: Mr. Richard Krimm, National Flood Insurance Program, (202) 755–5581 or Toll Free Line (800) 424–8872, Room 5270, 451 Seventh Street, SW, Washington, D.C. 20410.

SUPPLEMENTARY INFORMATION: The Federal Insurance Administrator gives notice of the proposed determinations of base (100–year) flood elevations for the Township of Stowe, Allegheny County, Pennsylvania in accordance with section 110 of the Flood Disaster Protection Act of 1973 (Pub. L. 93–234), 87 Stat. 980, which added section 1363 to the National Flood Insurance Act of 1968 (Title XIII of the Housing and Urban Development Act of 1968 (Pub. L. 90–448)), 42 U.S.C. 4001–4128, and 24 CFR 1917.4(a).

These elevations, together with the flood plain management measures required by § 1910.3 of the program regulations, are the minimum that are required. They should not be construed to mean the community must change any existing ordinances that are more stringent in their flood plain managment requirements. The community may at any time enact stricter requirements on its own, or pursuant to policies established by other Federal, State, or regional entities. These proposed elevations will also be used to calculate the appropriate flood insurance premium rates for new buildings and their contents and for the second layer of insurance on existing buildings and their contents.

The proposed base (100–year) flood elevations for selected locations are:

Source of flooding	Location	Elevation in feet national geodetic vertical datum
Ohio River	Upstream corporate limits	725
	Downstream corporate limits	721

(National Flood Insurance Act of 1968 (Title XIII of Housing and Urban Development Act of 1968), effective January 28, 1969 (33 FR 17804, November 28, 1968), as amended; 42 U.S.C. 4001–4128; Executive Order 12127, 44 FR 19367; and, delegation of authority to Federal Insurance Administrator 43 FR 7719).

Issued: April 18, 1979.

Gloria M. Jimenez,
Federal Insurance Administrator.

[Docket No. FI–5441]

FR Doc. 79–13914 Filed 5–7–79; 8:45 am]

BILLING CODE 4210–23–M

[24 CFR Part 1917]

Proposed Flood Elevation Determinations for the City of Greenville, Greenville County, S.C., Under the National Flood Insurance Program

AGENCY: Office of Federal Insurance and Hazard Mitigation, FEMA.[1]

ACTION: Proposed rule.

SUMMARY: Technical information or comments are solicited on the proposed base (100-year) flood elevations listed below for selected locations in the City of Greenville, Greenville County, South Carolina. These base (100-year) flood elevations are the basis for the flood plain management measures that the community is required to either adopt or show evidence of being already in effect in order to qualify or remain qualified for participation in the National Flood Insurance Program (NFIP).

DATES: The period for comment will be ninety (90) days following the second publication of this proposed rule in a newspaper of local circulation in the above-named community.

ADDRESSES: Maps and other information showing the detailed outlines of the flood-prone areas and the proposed base (100-year) flood elevations are available for review at Dept of Public Works for the City of Greenville, 206 N. Main Street, Greenville, South Carolina 29602. Send comments to: Mayor James H. Simpkins or Mr. John Dullea, City Manager, P.O. Box 2207, Greenville, South Carolina.

FOR FURTHER INFORMATION CONTACT: Mr. Richard Krimm, National Flood Insurance Program (202) 755–5581 or Toll Free Line (800) 424–8872, Room 5270, 451 Seventh Street, SW, Washington, D.C. 20410.

SUPPLEMENTARY INFORMATION: The Federal Insurance Administrator gives notice of the proposed determinations of base (100-year) flood elevations for the City of Greenville, Greenville County, South Carolina, in accordance with section 110 of the Flood Disaster Protection Act of 1973 (Pub. L. 93–234), 87 Stat. 980, which added section 1363 to the National Flood Insurance Act of 1968 (Title XIII of the Housing and Urban Development Act of 1968 (Pub. L. 90–448)). 42 U.S.C. 4001–4128, and 24 CFR 1917.4(a).

These elevations, together with the flood plain management measures required by § 1910.3 of the program regulations, are the minimum that are required. They should not be construed to mean the community must change any existing ordinances that are more stringent in their flood plain management requirements. The community may at any time enact stricter requirements on its own, or pursuant to policies established by other Federal, State, or regional entities. These proposed elevations will also be used to calculate the appropriate flood insurance premium rates for new

[1] The functions of the Federal Insurance Administration, Department of Housing and Urban Development, were transferred to the newly established Federal Emergency Management Agency by Reorganization Plan No. 3 of 1978 (43 FR 41943, September 19, 1978) and Executive Order 12127 (44 FR 19367, April 3, 1979).

[1] The functions of the Federal Insurance Administration, Department of Housing and Urban Development, were transferred to the newly established Federal Emergency Management Agency by Reorganization Plan No. 3 of 1978 (43 FR 41943, September 19, 1978) and Executive Order 12127 (44 FR 19367, April 3, 1979).

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buildings and their contents and for the second layer of insurance on existing buildings and their contents.

The proposed base (100-year) flood elevations for selected location are:

Source of flooding	Location	Elevation, in feet, national geodetic vertical datum
Reedy River	Approximately 120 feet upstream of Southern corporate limits.	822
	Mount Vista Avenue extended.	839
	Approximately 300 feet upstream Faris Road extended.	845
	Just downstream of McDaniel Avenue.	852
	Just downstream of U.S. Highway 29.	877
	Just downstream Camperdown Way.	907
	Just upstream Greenville Northern R.R. Bridge (180 feet upstream of South Main Street).	919
	Nassau Street extended	929
	Approximately 70 feet downstream of Bramlette Road.	933
	Approximately 50 feet downstream West Washington Road.	938
Reedy River Tributary 1.	Approximately 50 feet upstream of Parkins Mill Road.	828
Reedy River Tributary 2.	Approximately 120 feet upstream of Haldon Drive.	829
	Approximately 120 feet upstream of Parkins Mill Road.	839
	Just downstream of Cleveland Street.	844
Reedy River Tributary 3.	Approximately 550 feet upstream of Greenville Tech Street (Just upstream of Culvert Entrance).	851
Brushy Creek	Approximately 30 feet downstream of Chapman Road.	838
	Just upstream West Farris Road.	868
Richland Creek	Just downstream of Laurens Road.	855
	Approximately 150 feet upstream of East North Street.	861
	Spartanburg Street	864
	Approximately 160 feet upstream of Chick Spring Road.	894
Richland Creek Tributary 1.	Approximately 100 feet downstream of Hillside Drive.	866
Richland Creek Tributary 4.	Approximately 160 feet upstream of U.S. Highway 29.	885
Richland Creek Tributary 5.	Approximately 50 feet upstream of Summit Drive.	905
	Approximately 100 feet downstream of North Main Street.	905
Richland Creek Tributary 5A.	Approximately 200 feet downstream of Windsor Drive.	918
Richland Creek Tributary 6.	Approximately 30 feet upstream of Chick Springs Road.	906
Laurel Creek	Approximately 250 feet upstream of Interstate 85.	879
	Approximately 140 feet downstream of Woodruff Road (SC 46).	914
Laurel Creek East	Just downstream of Rocky Slope Road.	902
Laurel Creek Tributary	Approximately 50 feet upstream of corporate limits.	786

(National Flood Insurance Act of 1968 (Title XIII of Housing and Urban Development Act of 1968), effective January 28, 1969 (33 FR 17804, November 28, 1968), as amended; 42 U.S.C. 4001–4128; Executive Order 12127, 44 FR 19367; and delegation of authority to Federal Insurance Administrator 44 FR 20963.)

Issued: April 24, 1979.

Gloria M. Jimenez,
Federal Insurance Administrator.

[Docket No. FI–5442]

[FR Doc. 79–13915 Filed 5–7–79; 8:45 am]

BILLING CODE 4210–23–M

[24 CFR Part 1917]

Proposed Flood Elevation Determinations for the Town of Pownal, Bennington County, Vt., Under the National Flood Insurance Program; Cancellation

AGENCY: Office of Federal Insurance and Hazard Mitigation, FEMA.[1]

ACTION: Cancellation of proposed rule.

SUMMARY: The Federal Insurance Administration has erroneously published at 43 FR 45391 on October 2, 1978, the proposed flood elevation determination for the Town of Pownal, Bennington County, Vermont. This notice will serve as a cancellation of that publication. A new notice of proposed flood elevation determination will be published in the near future.

FOR FURTHER INFORMATION CONTACT:
Mr. Richard Krimm, National Flood Insurance Program (202) 755–5581 or Toll Free Line (800) 424–8872, Room 5270, 451 Seventh Street, SW., Washington, D.C. 20410.

(National Flood Insurance Act of 1968 (Title XIII of Housing and Urban Development Act of 1968), effective January 28, 1969 (33 FR 17804, November 28, 1968), as amended; 42 U.S.C. 4001–4128; Executive Order 12127, 44 FR 19367; and, delegation of authority to Federal Insurance Administrator 44 FR 20963).

Issued: April 16, 1979.

Gloria M. Jimenez,
Federal Insurance Administrator.

[Docket No. FI–4580]

[FR Doc. 79–13916 Filed 5–7–79; 8:45 am]

BILLING CODE 4210–23–M

[1] The functions of the Federal Insurance Administration, Department of Housing and Urban Development, were transferred to the newly established Federal Emergency Management Agency by Reorganization Plan No. 3 of 1978 (43 FR 41943, September 19, 1978) and Executive Order 12127 (44 FR 19367, April 3, 1979).

[24 CFR Part 1917]

Proposed Flood Elevation Determinations for the Village of Stowe, Lamoille County, Vt., Under the National Flood Insurance Program

AGENCY: Office of Federal Insurance and Hazard Mitigation, FEMA.[1]

ACTION: Proposed rule.

SUMMARY: Technical information or comments are solicited on the proposed base (100-year) flood elevations listed below for selected locations in the Village of Stowe, Lamoille County, Vermont. These base (100-year) flood elevations are the basis for the flood plain management measures that the community is required to either adopt or show evidence of being already in effect in order to qualify or remain qualified for participation in the National Flood Insurance Program (NFIP).

DATES: The period for comment will be ninety (90) days following the second publication of this proposed rule in a newspaper of local circulation in the above-named community.

ADDRESSES: Maps and other information showing the detailed outlines of the flood-prone areas and the proposed base (100-year) flood elevations are available for review at the Village Office, Stowe, Vermont. Send comments to: Mr. Emmett Morton, Village Trustee, Village of Stowe, Village Office, Stowe, Vermont 05672.

FOR FURTHER INFORMATION CONTACT:
Mr. Richard Krimm, National Flood Insurance Program (202) 755–5581 or Toll Free Line (800) 424–8872 Room 5270 451 Seventh Street, SW., Washington, D.C. 20410.

SUPPLEMENTARY INFORMATION: The Federal Insurance Administrator gives notice of the proposed determinations of base (100-year) flood elevations for the Village of Stowe, in accordance with section 110 of the Flood Disaster Protection Act of 1973 (Pub. L. 93–234), 87 Stat. 980, which added section 1363 to the National Flood Insurance Act of 1968 (Title XIII of the Housing and Urban Development Act of 1968 (Pub. L. 90–448), 42 U.S.C. 4001–4128, and 24 CFR Part (1917.4(a)).

These elevations, together with the flood plain management measures required by § 1910.3 of the program regulations, are the minimum that are required. They should not be construed

[1] The functions of the Federal Insurance Administration, Department of Housing and Urban Development, were transferred to the newly established Federal Emergency Management Agency by Reorganization Plan No. 3 of 1978 (43 FR 41943, September 19, 1978) and Executive Order 12127 (44 FR 19367, April 3, 1979).

to mean the community must change any existing ordinances that are more stringent in their flood plain management requirements. The community may at any time enact stricter requirements on its own, or pursuant to policies established by other Federal, State, or regional entities. These proposed elevations will also be used to calculate the appropriate flood insurance premium rates for new buildings and their contents and for the second layer of insurance on existing buildings and their contents.

The proposed base (100-year) flood elevations for selected locations are:

Source of flooding	Location	Elevation in feet, national geodetic vertical datum
East Branch Little River.	At mouth	709
	At upstream corporate limits	709
Little River	At upstream corporate limits	709
	At downstream corporate limits.	687
	1,500 feet downstream of State Highway Route 108.	695
	Just downstream of State Highway Route 108.	703
	Just upstream of State Highway Route 108.	709
West Branch Little River.	At mouth	709
	At upstream corporate limits	710

(National Flood Insurance Act of 1968 (Title XIII of Housing and Urban Development Act of 1968), effective January 28, 1969 (33 FR 17804, November 28, 1968), as amended; 42 U.S.C. 4001–4128; Executive Order 12127, 44 FR 19367; and delegation of authority to Federal Insurance Administrator, 44 FR 20963).

Issued: April 18, 1979.

Gloria M. Jimenez,
Federal Insurance Administrator.

[Docket No. FI–5417]

[FR Doc. 79–13918 Filed 5–7–79; 8:45 am]

BILLING CODE 4210–23–M

[24 CFR Part 1917]

Proposed Flood Elevation Determinations for Whitman County, Wash.; Under the National Flood Insurance Program

AGENCY: Office of Federal Insurance and Hazard Mitigation, FEMA.[1]

ACTION: Proposed rule.

SUMMARY: Technical information or comments are solicited on the proposed base (100-year) flood elevations listed below for selected locations in Whitman County, Washington.

[1] The functions of the Federal Insurance Administration, Department of Housing and Urban Development, were transferred to the newly established Federal Emergency Management Agency by Reorganization Plan No. 3 of 1978 (43 FR 41943, September 19, 1978) and Executive Order 12127 (44 FR 19367, April 3, 1979).

These base (100-year) flood elevations are the basis for the flood plain management measures that the community is required to either adopt or show evidence of being already in effect in order to qualify or remain qualified for participation in the National Flood Insurance Program (NFIP).

DATES: The period for comment will be ninety (90) days following the second publication of this proposed rule in a newspaper of local circulation in the above-named community.

ADDRESSES: Maps and other information showing the detailed outlines of the flood-prone areas and the proposed base (100-year) flood elevations are available for review at Whitman County Courthouse, North Main, Colfax, Washington.

Send comments to: Mr. James Henning, Chairman, Whitman County Board of Commissioners, Whitman County Courthouse, North Main, Colfax, Washington 99111.

FOR FURTHER INFORMATION CONTACT:
Mr. Richard Krimm, National Flood Insurance Program, (202) 755–5581 or Toll Free Line (800) 424–8872, Room 5270, 451 Seventh Street, SW., Washington, D.C. 20410.

SUPPLEMENTARY INFORMATION: The Federal Insurance Administrator gives notice of the proposed determinations of base (100-year) flood elevations for Whitman County, Washington, in accordance with section 110 of the Flood Disaster Protection Act of 1973 (Pub. L. 93–234), 87 Stat. 980, which added section 1363 to the National Flood Insurance Act of 1968 (Title XIII of the Housing and Urban Development Act of 1968 (Pub. L. 90–448)), 42 U.S.C. 4001–4128, and 24 CFR 1917.4(a).

These elevations, together with the flood plain management measures required by § 1910.3 of the program regulations, are the minimum that are required. They should not be construed to mean the community must change any existing ordinances that are more stringent in their flood plain management requirements. The community may at any time enact stricter requirements on its own, or pursuant to policies established by other Federal, State or regional entities. These proposed elevations will also be used to calculate the appropriate flood insurance premium rates for new buildings and their contents and for the second layer of insurance on existing buildings and their contents.

The proposed base (100-year) flood elevations for selected locations are:

Source of flooding	Location	Elevation in feet, national geodetic vertical datum
McCoy Creek	Union Pacific Railroad Bridge—110 feet*.	2435
	50 feet**	2440
	State Highway 27—5 feet**	2441
Pine Creek	1st Street Bridge—50 feet**	2209
	State Highway 271 Bridge—53 feet*.	2222
	50 feet**	2227
Hangman Creek	County Road 200***	2482
Little Hangman Creek	Private Road (most downstream crossing)—100 feet**.	2491
	Union Pacific Railroad Bridge***.	2501
Silver Creek	Private Drive—60 feet*	2439
	50 feet**	2445
	Union Pacific Railroad Bridge—26 feet**.	2460
Palouse River	State Highway 127—100 feet**.	1954
	Burlington Northern Railroad Bridge***.	2421
South Fork Palouse River.	County Road 5490***	2283
	Private Road (most downstream crossing)—55 feet**.	2295
	Union Pacific Railroad Bridge—10 feet**.	2301
	Cross Street***	2323
	Private Road (at station 24,640)—50 feet**.	2384
	Burlington Northern Railroad Bridge—140 feet**	2404
	County Road 9100***	2462
	County Federal Air Secondary Road 9060 (downstream crossing)—5 feet*.	2478
	50 feet**	2485
	Washington-Idaho State Line.	2518
Paradise Creek	Union Pacific Railroad Bridge (at station 370)—50 feet**.	2382
	Union Pacific Railroad Bridge (at station 1,840)—25 feet**.	2429
	Private Road (at station 2,753)—100 feet*.	2451
	(at centerline)	2457
	Union Pacific Railroad Bridge (at station 4,280)—10 feet**.	2488
	Union Pacific Railroad Bridge (at station 5,805)—30 feet**.	2513
	Washington-Idaho State Line.	2529
Missouri Flat Creek	Burlington Northern Railroad Bridge—150 feet*.	2385
	County Road 5220—50 feet**.	2410
Dry Fork Creek	Private Road (most downstream crossing)***.	2430
	Cemetery Road—30 feet**	2441
	Private Road (most upstream crossing)***.	
Union Flat Creek	Private Bridge***	2556
	Burlington Northern Railroad Bridge***.	2565
South Fork Union Flat Creek.	U.S. Highway 195—50 feet**	2593
	County Road 9290—45 feet**.	2597
Unnamed Creek	Confluence with South Fork Union Flat Creek***.	2587

*Downstream from centerline.
**Upstream from centerline.
***At centerline.

(National Flood Insurance Act of 1968 (Title XIII of Housing and Urban Development Act of 1968), effective January 28, 1969 (33 FR 17804, November 28, 1968), as amended; 42 U.S.C. 4001–4128; Executive Order 12127, 44 FR 19367; and, delegation of authority to Federal Insurance Administrator, 44 FR 20963.)

Issued: April 24, 1979.

Gloria M. Jimenez,
Federal Insurance Administrator.

[Docket No. FI-5418]
[FR Doc. 79-13918 Filed 5-7-79; 8:45 am]
BILLING CODE 4210-23-M

[24 CFR Part 1917]

Proposed Flood Elevation Determinations for Summers County, W. Va.; Under the National Flood Insurance Program

AGENCY: Office of Federal Insurance and Hazard Mitigation, FEMA.[1]

ACTION: Proposed rule.

SUMMARY: Technical information or comments are solicited on the proposed base (100-year) flood elevations listed below for selected locations in Summers County, West Virginia.

These base (100-year) flood elevations are the basis for the flood plain management measures that the community is required to either adopt or show evidence of being already in effect in order to qualify or remain qualified for participation in the National Flood Insurance Program (NFIP).

DATES: The period for comment will be ninety (90) days following the second publication of this proposed rule in a newspaper of local circulation in the above-named community.

ADDRESS: Maps and other information showing the detailed outlines of the flood-prone areas and the proposed base (100-year) flood elevations are available for review at the County Commissioner's Office, County Courthouse, Hinton, West Virginia.

SEND COMMENTS TO: Mr. Billy Joe Edwards, President of the Summerrs County Comission, P.O. Box 97, Hinton, West Virginia 25951.

FOR FURTHER INFORMATION CONTACT: Mr. Richard Krimm, National Flood Insurance Program, Room 5270, 451 Seventh Street SW., Washington, D.C. 20410, 202-755-5581 or toll-free line 800-424-8872.

SUPPLEMENTARY INFORMATION: The Federal Insurance Administrator gives notice of the proposed determinations of base (100-year) flood elevations for Summers County, West Virginia in accordance with section 110 of the Flood Disaster Protection Act of 1973 (Pub. L. 93-234), 87 Stat. 980, which added section 1363 to the National Flood Insurance Act of 1968 (Title XIII of the Housing and Urban Development Act of 1968 (Pub. L. 90-448)), 42 U.S.C. 4001-4128, and 24 CFR 1917.4(a).

These elevations, together with the flood plain management measures required by § 1910.3 of the program regulations, are the minimum that are required. They should not be construed to mean the community must change any existing ordinances that are more stringent in their flood plain management requirements. The community may at any time enact stricter requirements on its own, or pursuant to policies established by other Federal, State, or regional entities. These proposed elevations will also be used to calculate the appropriate flood insurance premium rates for new buildings and their contents and for the second layer of insurance on existing buildings and their contents.

The proposed base (100-year) flood elevations for selected locations are:

Source of flooding	Location	Elevation in feet, national geodetic vertical datum
Beech Run	Upstream of State Route 3	1,373
	.48 mile upstream of confluence adjacent to Beech Run Church.	1,435
	1.03 miles upstream of confluence adjacent to cemetery.	1,500
	2.18 miles upstream of confluence.	1,777
Big Creek	Upstream of Chessie System	1,404
	.35 mile upstream of confluence.	1,434
	.55 mile upstream of confluence.	1,467
Blue Lick Creek	Confluence with Greenbrier River.	1,462
	Upstream of County Route 17.	1,497
	.81 mile upstream of confluence.	1,575
Bradshaw Creek	Upstream of confluence with Wheel Run.	1,537
	Upstream of County Route 33.	1,544
	1.59 miles upstream at Private Road.	1,564
	Upstream of State Route 12	1,597
Brooks Branch	Confluence with New River	1,338
	Downstream of State Route 20.	1,351
	.363 mile upstream of confluence.	1,394
Buggy Branch	Confluence with Greenbrier River.	1,520
	.45 mile upstream of confluence.	1,520
Fisher Creek	Confluence with Mill Creek	1,733
	.65 mile upstream of confluence.	1,850
	1.15 miles upstream of confluence.	1,954
	1.725 miles upstream of confluence.	2,091
Greenbrier River	Upstream State Route 107	1,376
	Upstream State Route 13	1,393
	Confluence of Big Creek	1,404
	Confluence of Powley Creek	1,412
	Upstream State Route 3	1,415
	Confluence of Wolf Creek	1,436
	Confluence of Kissinger Run	1,445
	Confluence of Blue Lick Creek.	1,461
	Confluence of Hungard Creek.	1,503
	Confluence of Buggy Branch	1,520
	At Confluence of Griffith Creek.	1,540
Griffith Creek	Downstream of State Route 3.	1,540
	Downstream County Route 7 at mile .75.	1,601
	Downstream County Route 7 at mile 1.29.	1,872
Humgard Creek	Downstream State Route 3	1,503
	.9 mile upstream of confluence.	1,511
	100 feet downstream of State Route 8.	1,541
Kates Branch	Downstream of State Route 20.	1,344
	.4 mile upstream of confluence.	1,400
	.625 mile upstream of confluence.	1,449
Kissinger Run	Confluence with Greenbrier River.	1,445
	Downstream of County Route 29.	1,445
Laurel Creek	Downstream of State Route 20.	1,280
	.85 mile upstream of confluence.	1,412
	1.75 miles upstream of confluence.	1,477
Lick Creek	Upstream of State Route 20	1,283
	Upstream of Private Road crossing.	1,353
	.45 mile upstream of Private Bridge.	1,382
	2.8 miles upstream of Private Bridge.	1,469
	Confluence of Mill Creek	1,545
Madam Creek	Upstream of State Route 3	1,374
	Upstream Private Drive .70 mile upstream of confluence.	1,435
	Upstream Private Drive 1.10 miles upstream of confluence.	1,470
	Downstream Private drive 1.86 miles upstream of confluence.	1,529
	Upstream County Route 3/21.	1,555
	Upstream County Route 12/2.	1,626
	Upstream Private Drive .41 mile upstream of County Route 12/2.	1,694
	1 mile upstream County Route 12/2 adjacent to Martha Chapel.	1,800
	Downstream Private Road 1 mile upstream of Martha Chapel.	2,099
Meadow Creek	Upstream Chessie System	1,257
	Upstream County Route 7	1,277
	.6 mile upstream of County Route 7.	1,359
Mill Creek	Upstream County route 4	1,549
	Upstream Private Road .66 mile upstream of County Route 4.	1,608
	Upstream State Route 20	1,740
	1.3 miles upstream State Route 20.	2,016
New River	Confluence of Meadow Creek.	1,254
	Confluence of Lick Creek	1,274
	Confluence of Kates Branch	1,325
	Confluence of Madam Creek	1,365
	Confluence of Greenbrier River.	1,376
Pipestem Creek	1.32 miles upstream of confluence.	1,534
	1.85 miles upstream of confluence.	1,500
	2.5 miles upstream of confluence adjacent to Greenbrier River.	1,656
	2.8 miles upstream of confluence.	1,685

[1] The functions of the Federal Insurance Administration, Department of Housing and Urban Development, were transferred to the newly established Federal Emergency Management Agency by Reorganization Plan No. 3 of 1978 (43 FR 41943, September 19, 1978) and Executive Order 12127 (44 FR 19367, April 3, 1979).

Source of flooding	Location	Elevation in feet, national geodetic vertical datum
Powley Creek	County Route 13	1,415
	.23 mile upstream of confluence.	1,440
	.29 mile upstream of confluence.	1,455
Stinking Lick Creek	Upstream County Route 33/3.	1,541
	.96 mile upstream from County Route 33/3.	1,571
	1.42 miles upstream from County Route 33/3.	1,607
Tributary No. 1 to New River.	Upstream Chessie System	1,257
	Upstream County Route 7	1,272
	Upstream County Route 7/2	1,350
	About 1 mile upstream County Route 7/2.	1,355
Wheel Run	Upstream County Route 21/2.	1,544
	Upstream Private Road	1,577
	.18 mile upstream of Private Road.	1,610
Wolf Creek	Upstream State Route 12	1,436
	.13 mile upstream of State Route 12.	1,444

(National Flood Insurance Act of 1968 (Title XIII of Housing and Urban Development Act of 1968), effective January 28, 1969 (33 FR 17804, November 28, 1968), as amended (42 U.S.C. 4001-4128); Executive Order 12127, 44 FR 19367; and delegation of authority to Federal Insurance Administrator, 44 FR 20963.)

Issued: April 18, 1979.

Gloria M. Jimenez,
Federal Insurance Administrator.

[Docket No. FI-5419]
[FR Doc. 79-13920 Filed 5-7-79; 8:45 am]
BILLING CODE 4210-23-M

[24 CFR Part 1917]

Proposed Flood Elevation Determinations for the City of Naples, Collier County, Fla., Under the National Flood Insurance Program

AGENCY: Office of Federal Insurance and Hazard Mitigation, FEMA.[1]

ACTION: Proposed rule.

SUMMARY: Technical information or comments are solicited on the proposed base (100-year) flood elevations listed below for selected locations in the City of Naples, Collier County, Florida. These base (100-year) flood elevations are the basis for the flood plain management measures that the community is required to either adopt or show evidence of being already in effect in order to qualify or remain qualified for participation in the National Flood Insurance Program (NFIP).

DATES: The period for comment will be ninety (90) days following the second publication of this proposed rule in a newspaper of local circulation in the above-named community.

ADDRESS: Maps and other information showing the detailed outlines of the flood-prone areas and the proposed base (100-year) flood elevations are available for review at City Hall, 735 Eighth Street South, Naples, Florida. Send comments to: Mr. George Patterson, City Manager, City of Naples, City Hall, 735 Eighth Street South, Naples, Florida 33904.

FOR FURTHER INFORMATION CONTACT: Mr. Richard Krimm, National Flood Insurance Program, Room 5270, 451 Seventh Street SW., Washington, D.C. 20410, 202-755-5581 or toll-free line 800-424-8872.

SUPPLEMENTARY INFORMATION: The Federal Insurance Administrator gives notice of the proposed determinations of base (100-year) flood elevations for the City of Naples, Florida, in accordance with section 110 of the Flood Disaster Protection Act of 1973 (Pub. L. 93-234), 87 Stat. 980, which added section 1363 to the National Flood Insurance Act of 1968 (Title XIII of the Housing and Urban Development Act of 1968 (Pub. L. 90-448)), 42 U.S.C. 4001-4128, and 24 CFR 1917.4(a).

These elevations, together with the flood plain management measures required by § 1910.3 of the program regulations, are the minimum that are required. They should not be construed to mean the community must change any existing ordinances that are more stringent in their flood plain management requirements. The community may at any time enact stricter requirements on its own, or pursuant to policies established by other Federal, State, or regional entities. These proposed elevations will also be used to calculate the appropriate flood insurance premium rates for new buildings and their contents and for the second layer of insurance on existing buildings and their contents.

The proposed base (100-year) flood elevations for selected locations are:

Source of flooding	Location	Elevation in feet, national geodetic vertical datum
Gulf of Mexico	Neopolitan Way (entire street).	12
	Crayton Road between Harbour Drive and Mooring Line Drive.	12
	Coral Drive (entire street)	11
	Admiralty Parade East (entire street).	11
	16th Avenue South between 4th Street and 8th Street.	10
	8th Street between 12th Avenue South and 8th Avenue South.	9

(National Flood Insurance Act of 1968 (Title XIII of Housing and Urban Development Act of 1968), effective January 28, 1969 (33 FR 17804, November 28, 1968), as amended (42 U.S.C. 4001-4128); Executive Order 12127, 44 FR 19367; and delegation of authority to Federal Insurance Administrator, 44 FR 20963.)

Issued: April 26, 1979.

Gloria M. Jimenez,
Federal Insurance Administrator.

[Docket No. FI-5472]
[FR Doc. 79-14068 Filed 5-7-79; 8:45 am]
BILLING CODE 4210-23-M

[24 CFR Part 1917]

Proposed Flood Elevation Determinations for the City of Notus, Canyon County, Idaho, Under the National Flood Insurance Program

AGENCY: Office of Federal Insurance and Hazard Mitigation, FEMA.[1]

ACTION: Proposed rule.

SUMMARY: Technical information or comments are solicited on the proposed base (100-year) flood elevations listed below for selected locations in the City of Notus, Canyon County, Idaho.

These base (100-year) flood elevations are the basis for the flood plain management measures that the community is required to either adopt or show evidence of being already in effect in order to qualify or remain qualified for participation in the National Flood Insurance Program (NFIP).

DATES: The period for comment will be ninety (90) days following the second publication of this proposed rule in a newspaper of local circulation in the above-named community.

ADDRESSES: Maps and other information showing the detailed outlines of the flood-prone areas and the proposed base (100-year) flood elevations are available for review at City Hall, Elgin Avenue, Notus, Idaho. Send comments to: Honorable Jim E. Martin, Mayor, City of Notus, City Hall, P.O. Box 257, Notus, Idaho 83656.

[1] The functions of the Federal Insurance Administration, Department of Housing and Urban Development, were transferred to the newly established Federal Emergency Management Agency by Reorganization Plan No. 3 of 1978 (43 FR 41943, September 19, 1978) and Executive Order 12127 (44 FR 19367, April 3, 1979).

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FOR FURTHER INFORMATION CONTACT: Mr. Richard Krimm, National Flood Insurance Program, Room 5270, 451 Seventh Street SW., Washington, D.C. 20410, 202–755–5581 or toll-free line 800–424–8872.

SUPPLEMENTARY INFORMATION: The Federal Insurance Administrator gives notice of the proposed determinations of base (100-year) flood elevations for the City of Notus, Idaho, in accordance with section 110 of the Flood Disaster Protection Act of 1973 (Pub. L. 93–234), 87 Stat. 980, which added section 1363 to the National Flood Insurance Act of 1968 (Title XIII of the Housing and Urban Development Act of 1968 (Pub. L. 90–448)), 42 U.S.C. 4001–4128, and 24 CFR 1917.4(a).

These elevations, together with the flood plain management measures required by § 1910.3 of the program regulations, are the minimum that are required. They should not be construed to mean the community must change any existing ordinances that are more stringent in their flood plain management requirements. The community may at any time enact stricter requirements on its own, or pursuant to policies established by other Federal, State, or regional entities. These proposed elevations will also be used to calculate the appropriate flood insurance premium rates for new buildings and their contents and for the second layer of insurance on existing buildings and their contents.

The proposed base (100-year) flood elevations for selected locations are:

Source of flooding	Location	Elevation in feet, national geodetic vertical datum
Boise River	Notus-Greenleaf Road—100 feet downstream from centerline.	2297

(National Flood Insurance Act of 1968 (Title XIII of Housing and Urban Development Act of 1968), effective January 28, 1969 (33 FR 17804, November 28, 1968), as amended; (42 U.S.C. 4001–4128); Executive Order 12127, 44 FR 19367; and delegation of authority to Federal Insurance Administrator, 44 FR 20963.)

Issued: April 18, 1979.

Gloria M. Jimenez,
Federal Insurance Administrator.

[Docket No. FI–6471]
[FR Doc. 79–14067 Filed 5–7–79; 8:45 am]
BILLING CODE 4210–23–M

[24 CFR Part 1917]

Proposed Flood Elevation Determinations for the Township of Rochelle Park, Bergen County, N.J. Under the National Flood Insurance Program

AGENCY: Office of Federal Insurance and Hazard Mitigation, FEMA.[1]

ACTION: Proposed rule.

SUMMARY: Technical information or comments are solicited on the proposed base (100-year) flood elevations listed below for selected locations in the Township of Rochelle Park, Bergen County, New Jersey.

These base (100-year) flood elevations are the basis for the flood plain management measures that the community is required to either adopt or show evidence of being already in effect in order to qualify or remain qualified for participation in the National Flood Insurance Program (NFIP).

DATES: The period for comment will be ninety (90) days following the second publication of this proposed rule in a newspaper of local circulation in the above-named community.

ADDRESSES: Maps and other information showing the detailed outlines of the flood-prone areas and the proposed base (100-year) flood elevations are available for review at Township Hall, Rochelle Avenue, Rochelle Park, New Jersey.

Send comments to: Honorable William Schneider, Mayor, Township of Rochelle Park, 24 Chestnut Avenue, Rochelle, New Jersey 07660.

FOR FURTHER INFORMATION CONTACT: Mr. Richard Krimm, National Flood Insurance Program, (202) 755–5581 or Toll Free Line (800) 424–8872, room 5270, 451 Seventh Street SW., Washington, D.C. 20410.

SUPPLEMENTARY INFORMATION: The Federal Insurance Administrator gives notice of the proposed determinations of base (100-year) flood elevations for the Township of Rochelle Park, New Jersey, in accordance with section 110 of the Flood Disaster Protection Act of 1973 (Pub. L. 93–234), 87 Stat. 980, which added section 1363 to the National Flood Insurance Act of 1968 (Title XIII of the Housing and Urban Development Act of 1968 (Pub. L. 90–448)), 42 U.S.C. 4001–4128, and 24 CFR 1917.4(a).

These elevations, together with the flood plain management measures required by § 1910.3 of the program regulations, are the minimum that are required. They should not be construed to mean the community must change any existing ordinances that are more stringent in their flood plain management requirements. The community may at any time enact stricter requirements on its own, or pursuant to policies established by other Federal, State, or regional entities. These proposed elevations will also be used to calculate the appropriate flood insurance premium rates for new buildings and their contents and for the second layer of insurance on existing buildings and their contents.

The proposed base (100-year) flood elevations for selected locations are:

Source of flooding	Location	Elevation, in feet, national geodetic vertical datum
Saddle River	Essex Street—100 feet*	40
	Susquehanna Railroad—100 feet*.	42
	Garden State Parkway—50. feet*	43
Spout Brook	Park Road—50 feet*	43
	Passaic Street—50 feet*	43
	Plaza Way—50 feet**	43

*Upstream from centerline
**Downstream from centerline

(National Flood Insurance Act of 1968 (Title XIII of Housing and Urban Development Act of 1968), effective January 28, 1969 (33 FR 17804, November 28, 1968), as amended; 42 U.S.C. 4001–4128; Executive Order 12127, 44 FR 19367; and, delegation of authority to Federal Insurance Administrator 44 FR 20963.)

Issued: April 18, 1979.

Gloria M. Jimenez,
Federal Insurance Administrator

[Docket No. FI–5466]
[FR Doc. 79–14062 Filed 5–7–79; 8:45 am]
BILLING CODE 4210–23–M

[24 CFR Part 1917]

Proposed Flood Elevation Determinations for the City of Conneaut, Ashtabula County, Ohio, Under the National Flood Insurance Program

AGENCY: Office of Federal Insurance and Hazard Mitigation.[1]

ACTION: Proposed rule.

[1] The functions of the Federal Insurance Administration, Department of Housing and Urban Development, were transferred to the newly established Federal Emergency Management Agency by Reorganization Plan No. 3 of 1978 (43 FR 41943, September 19, 1978) and Executive Order 12127 (44 FR 19367, April 3, 1979).

SUMMARY: Technical information or comments are solicited on the proposed base (100-year) flood elevations listed below for selected locations in the City of Conneaut, Ashtabula County, Ohio.

These base (100-year) flood elevations are the basis for the flood plain management measures that the community is required to either adopt or show evidence of being already in effect in order to qualify or remain qualified for participation in the National Flood Insurance Program (NFIP).

DATES: The period for comment will be ninety (90) days following the second publication of this proposed rule in a newspaper of local circulation in the above-named community.

ADDRESSES: Maps and other information showing the detailed outlines of the flood-prune areas and the proposed base (100-year) flood elevations are available for review at the Town Office, Conneaut, Ohio.

Send comments to: The Honorable Mr. Paul Williams, Mayor, City of Conneaut, Town Office, Conneaut, Ohio 44030.

FOR FURTHER INFORMATION CONTACT: Mr. Richard Krimm, National Flood Insurance Program, (202) 755–5581 or Toll Free Line (800) 424–8872, room 5270, 451 Seventh Street SW., Washington, D.C. 20410.

SUPPLEMENTARY INFORMATION: The Federal Insurance Administrator gives notice of the proposed determinations of base (100-year) flood elevations for the City of Conneaut, in accordance with section 110 of the Flood Disaster Protection Act of 1973 (Pub. L. 93–234), 87 Stat. 980, which added section 1363 to the National Flood Insurance Act of 1968 (Title XIII of the Housing and Urban Development Act of 1968 (Pub. L. 90–448), 42 U.S.C. 4001–4128, and 24 CFR Part 1917.4(a)).

These elevations, together with the flood plain management measures required by § 1910.3 of the program regulations, are the minimum that are required. They should not be construed to mean the community must change any existing ordinances that are more stringent in their flood plain management requirements. The community may at any time enact stricter requirements on its own, or pursuant to policies established by other Federal, State or regional entities. These proposed elevations will also be used to calculate the appropriate flood insurance premium rates for new buildings and their contents and for the second layer of insurance on existing buildings and their contents.

The proposed base (100-year) flood elevations for selected locations are:

Source of Flooding	Location	Elevation in feet, national geodetic vertical datum
Conneaut Creek	Mouth at Lake Erie	577
	1,600 feet downstream of Conrail.	577
	Approximately 300 feet downstream of Conrail.	581
	Just upstream of Conrail	588
	Approximately 900 feet downstream of State Route 7.	594
	Just downstream of State Route 7.	598
Lake Erie	Entire shoreline in Conneaut	577

(National Flood Insurance Act of 1968 (Title XIII of Housing and Urban Development Act of 1968), effective January 28, 1969 (33 FR 17804, November 28, 1968), as amended; 42 U.S.C. 4001–4128; Executive Order 12127, 44 FR 19367; and delegation of authority to Federal Insurance Administrator, 44 FR 20963).

Issued: April 18, 1979.

Gloria M. Jimenez,
Federal Insurance Administrator.

[Docket No. FI–5469]
[FR Doc. 79–14065 Filed 5–7–79; 8:45 am]
BILLING CODE 4210–23–M

[24 CFR Part 1917]

Proposed Flood Elevation Determinations for the Borough of Goldsboro, York County, Pa., Under the National Flood Insurance Program

AGENCY: Office of Federal Insurance and Hazard Mitigation, FEMA.[1]

ACTION: Proposed rule.

SUMMARY: Technical information or comments are solicited on the proposed base (100-year) flood elevations listed below for selected locations in the Borough of Goldsboro, York County, Pennsylvania.

These base (100-year) flood elevations are the basis for the flood plain management measures that the community is required to either adopt or show evidence of being already in effect in order to qualify or remain qualified for participation in the National Flood Insurance Program (NFIP).

DATES: The period for comment will be ninety (90) days following the second publication of this proposed rule in a newspaper of local circulation in the above-named community.

ADDRESS: Maps and other information showing the detailed outlines of the flood-prone areas and the proposed base (100-year) flood elevations are available for review at the residence of the Borough Secretary, Goldsboro, Pennsylvania. Send comments to: Honorable Kenneth Myers, Mayor of Goldsboro, 53 York Street, Goldsboro, Pennsylvania 17319.

FOR FURTHER INFORMATION CONTACT: Mr. Richard Krimm, National Flood Insurance Program, Room 5270, 451 Seventh Street SW., Washington, D.C. 20410, 202–755–5581 or toll-free line 800–424–8872.

SUPPLEMENTARY INFORMATION: The Federal Insurance Administrator gives notice of the proposed determinations of base (100-year) flood elevations for the Borough of Goldsboro, York County, Pennsylvania in accordance with section 110 of the Flood Disaster Protection Act of 1973 (Pub. L. 93–234), 87 Stat. 980, which added section 1363 to the National Flood Insurance Act of 1968 (Title XIII of the Housing and Urban Development Act of 1968 (Pub. L. 90–448)), 42 U.S.C. 4001–4128, and 24 CFR 1917.4(a)).

These elevations, together with the flood plain management measures required by § 1910.3 of the program regulations, are the minimum that are required. They should not be construed to mean the community must change any existing ordinances that are more stringent in their flood plain management requirements. The community may at any time enact stricter requirements on its own, or pursuant to policies established by other Federal, State, or regional entities. These proposed elevations will also be used to calculate the appropriate flood insurance premium rates for new buildings and their contents and for the second layer of insurance on existing buildings and their contents.

The proposed base (100-year) flood elevations for selected locations are:

Source of flooding	Location	Elevation in feet, national geodetic vertical datum
Susquehanna River	Downstream Corporate Limits.	297
	Upstream Corporate Limits	296
Fishing Creek	Confluence with Susquehanna River.	297
	York Street	297
	Weir 500 feet downstream of Pines Road.	310
	Pines Road	313

(National Flood Insurance Act of 1968 (Title XIII of Housing and Urban Development Act of 1968), effective January 28, 1969 (33 FR 17804, November 28, 1968), as amended (42 U.S.C. 4001–4128); Executive Order 12127, 44 FR 19367; and delegation of authority to

[1] The functions of the Federal Insurance Administration, Department of Housing and Urban Development, were transferred to the newly established Federal Emergency Management Agency by Reorganization Plan No. 3 of 1978 (43 FR 41943, September 19, 1978) and Executive Order 12127 (44 FR 19367, April 3, 1979).

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Federal Insurance Administrator, 44 FR 20963.)

Issued: April 18, 1979.

Gloria M. Jimenez,
Federal Insurance Administrator.

[Docket No. FI-5467]

[FR Doc. 79-14063 Filed 5-7-79; 8:45 am]

BILLING CODE 4210-23-M

[24 CFR Part 1917]

Proposed Flood Elevation Determinations for the Borough of West Mifflin, Allegheny County, Pa., Under the National Flood Insurance Program

AGENCY: Office of Federal Insurance and Hazard Mitigation, FEMA.[1]

ACTION: Proposed rule.

SUMMARY: Technical information or comments are solicited on the proposed base (100-year) flood elevations listed below for selected locations in the Borough of West Mifflin, Allegheny County, Pennsylvania.

These base (100-year) flood elevations are the basis for the flood plain management measures that the community is required to either adopt or show evidence of being already in effect in order to qualify or remain qualified for participation in the National Flood Insurance Program (NFIP).

DATES: The period for comment will be ninety (90) days following the second publication of this proposed rule in a newspaper of local circulation in the above-named community.

ADDRESSES: Maps and other information showing the detailed outlines of the flood-prone areas and the proposed base (100-year) flood elevations are available for review at the Borough Building, West Mifflin, Pennsylvania.

Send comments to: Mr. George Miklos, President of the Council of West Mifflin, P.O. Box 24, 4733 Greensprings Road, West Mifflin, Pennsylvania 15122.

FOR FURTHER INFORMATION CONTACT: Mr. Richard Krimm, National Flood Insurance Program, (202) 755–5581 or toll free line (800) 424–8872, room 5270, 451 Seventh Street SW., Washington, D.C. 20410.

SUPPLEMENTARY INFORMATION: The Federal Insurance Administrator gives notice of the proposed determinations of base (100-year) flood elevations for the Borough of West Mifflin, Allegheny County, Pennsylvania in accordance with section 110 of the Flood Disaster Protection Act of 1973 (Pub. L. 93–234), 87 Stat. 980, which added section 1363 to the Nation Flood Insurance Act of 1968 (Title XIII of the Housing and Urban Development Act of 1968 (Pub. L. 90–448)), 42 U.S.C. 4001–4128, and 24 CFR 1917.4(a).

These elevations, together with the flood plain management measures required by § 1910.3 of the program regulations, are the minimum that are required. They should not be construed to mean the community must change any existing ordinances that are more stringent in their flood plain management requirements. The community may at any time enact stricter requirements on its own, or pursuant to policies established by other Federal, State, or regional entities. These proposed elevations will also be used to calculate the appropriate flood insurance premium rates for new buildings and their contents and for the second layer of insurance on existing buildings and their contents.

The proposed base (100-year) flood elevations for selected locations are:

Source of flooding	Location	Elevation in feet, national geodetic vertical datum
Monongahela River	Downstream side of Lock and Dam No. 2.	740
	Upstream side of Lock and Dam No. 2.	741
	Corporate limits (0.26 miles upstream of dam).	741
	3.04 miles upstream of Lock and Dam No. 2.	743
	4.54 miles upstream of Lock and Dam No. 2.	745
	6.84 miles upstream of Lock and Dam No. 2.	746

(National Flood Insurance Act of 1968 (Title XIII of Housing and Urban Development Act of 1968), effective January 28, 1969 (33 FR 17804, November 28, 1968), as amended; 42 U.S.C 4001–4128; Executive Order 12127, 44 FR 19367; and, delegation of authority to Federal Insurance Administrator 44 FR 20963).

Issued: April 18, 1979.

Gloria M. Jimeoez,
Federal Insurance Administrator.

[Docket No. FI-5468]

[FR Doc. 79-14064 Filed 5-7-79; 8:45 am]

BILLING CODE 4210-23-M

[24 CFR Part 1917]

Proposed Flood Elevation Determinations for the Township of Monaghan, York County, Pa., Under the National Flood Insurance Program

AGENCY: Office of Federal Insurance and Hazard Mitigation, FEMA.[1]

ACTION: Proposed rule.

SUMMARY: Technical information or comments are solicited on the proposed base (100-year) flood elevations listed below for selected locations in the Township of Monaghan, York County, Pennsylvania.

These base (100-year) flood elevations are the basis for the flood plain management measures that the community is required to either adopt or show evidence of being already in effect in order to qualify or remain qualified for participation in the National Flood Insurance Program (NFIP).

DATES: The period for comment will be ninety (90) days following the second publication of this proposed rule in a newspaper of local circulation in the above-named community.

ADDRESSES: Maps and other information showing the detailed outlines of the flood-prone areas and the proposed base (100-year) flood elevations are available for review at the Monaghan Township Building.

Send comments to: Mr. Lloyd Sowers, President of the Commission of Monaghan, R.D. 3, Dillsburg, Pennsylvania 17019.

FOR FURTHER INFORMATION CONTACT: Mr. Richard Krim, National Flood Insurance Program, (202) 755–5581 or Toll Free Line (800) 424–8872, Room 5270, 451 Seventh Street SW., Washington, D.C. 20410.

SUPPLEMENTARY INFORMATION: The Federal Insurance Administrator gives notice of the proposed determinations of base (100-year) flood elevations for the Township of Monaghan, York County, Pennsylvania in accordance with section 110 of the Flood Disaster Protection Act of 1973 (Pub. L. 93–234), 87 Stat. 980, which added section 1363 to the National Flood Insurance Act of 1968 (Title XIII of the Housing and Urban Development Act of 1968 (Pub. L. 90–448)), 42 U.S.C. 4001–4128, and 24 CFR 1917.4(a).

These elevations, together with the flood plain management measures required by § 1910.3 of the program regulations, are the minimum that are required. They should not be construed to mean the community must change any existing ordinances that are more stringent in their flood plain management requirements. The community may at any time enact stricter requirements on its own, or pursuant to policies established by other Federal, State or regional entities. These proposed elevations will also be used to calculate the appropriate flood insurance premium rates for new buildings and their contents and for the second layer of insurance on existing buildings and their contents.

The proposed base (100-year) flood elevations for selected locations are:

Source of flooding	Location	Elevation in feet, national geodetic vertical datum
Yellow Breeches Creek.	Upstream Corporate Limits	414
	Gilbert Road (Upstream side)	409
	Township Route 612 (Upstream side).	399
	Wharf Road	380
	Downstream Corporate Limits.	376
Stoney Run	Wharf Road (Upstream side)	420
	Red Hill Road (Upstream side).	385
	Confluence with Yellow Breeches Creek.	376
Pippins Run	150 feet downstream of Cemetery Road (Township Route 918).	544
	Legislative Route 66001 (Upstream side).	502
	Lewisberry Road (Upstream side).	412
	Township Route 611	390
Fishers Run	Willow Road (Extended)	599
	Fishertown Road (Upstream side).	554
	Fileys Road (Upstream side)	506
	Grantham Road (Upstream side).	412

(National Flood Insurance Act of 1968 (Title XIII of Housing and Urban Development Act of 1968), effective January 28, 1969 (33 FR 17804, November 28, 1968), as amended; 42 U.S.C. 4001–4128; Executive Order 12127, 44 FR 19367; and delegation of authority to Federal Insurance Administrator, 44 FR 20963.)

Issued: April 24, 1979.

Gloria M. Jimenez,
Federal Insurance Administrator.

[Docket No. FI-5473]

[FR Doc. 79-14089 Filed 5-7-79; 8:45 am]

BILLING CODE 4210-23-M

[1] The functions of the Federal Insurance Administration, Department of Housing and Urban Development, were transferred to the newly established Federal Emergency Management Agency by Reorganization Plan No. 3 of 1978 (43 FR 41943, September 19, 1978) and Executive Order 12127 (44 FR 19367, April 3, 1979).

[24 CFR Part 1917]

Proposed Flood Elevation Determinations for the City of Heath, Rockwall County, TEX. Under the National Flood Insurance Program

AGENCY: Office of Federal Insurance and Hazard Mitigation, FEMA.[1]

ACTION: Proposed rule.

SUMMARY: Technical information or comments are solicited on the proposed base (100-year) flood elevations listed below for selected locations in the City of Heath, Rockwall County, Texas.

These base (100-year) flood elevations are the basis for the flood plain management measures that the community is required to either adopt or show evidence of being already in effect in order to qualify or remain qualified for participation in the National Flood Insurance Program (NFIP).

DATES: The period for comment will be ninety (90) days following the second publication of this proposed rule in a newspaper of local circulation in the above-named community.

ADDRESSES: Maps and other information showing the detailed outlines of the flood-prone areas and the proposed base (100-year) flood elevations are available for review at Heath City Hall, 217 Hubbard Drive, Heath, Texas 75087.

Send comments to: Mayor Hutchins or Ms. L. Aileen Perry, City Secretary, P.O. Box 574, Heath, Texas 75087.

FOR FURTHER INFORMATION CONTACT: Mr. Richard Krimm, National Flood Insurance Program (202) 755–5581 or Toll Free Line (800) 424–8872, Room 5270, 451 Seventh Street, SW., Washington, D.C. 20410.

SUPPLEMENTARY INFORMATION: The Federal Insurance Administrator gives notice of the proposed determinations of base (100-year) flood elevations for the City of Heath, Rockwall County, Texas, in accordance with section 110 of the Flood Disaster Protection Act of 1973 (Pub. L. 93–234), 87 Stat. 980, which added section 1363 to the National Flood Insurance Act of 1968 (Title XIII of the Housing and Urban Development Act of 1968 (Pub. L. 90–448)), 42 U.S.C. 4001–4128, and 24 CFR 1917.4(a).

These elevations, together with the flood plain management measures required by § 1910.3 of the program regulations, are the minimum that are required. They should not be construed to mean the community must change any existing ordinances that are more stringent in their flood plain management requirements. The community may at any time enact stricter requirements on its own, or pursuant to policies established by other Federal, State, or regional entities. These proposed elevations will also be used to calculate the appropriate flood insurance premium rates for new buildings and their contents and for the second layer on existing buildings and their contents.

The proposed base (100-year) flood elevations for selected locations are:

Source of flooding	Location	Elevation in feet, national geodetic vertical datum
Buffalo Creek	Just downstream of FM 550 (Lawrence Drive).	453
Buffalo Creek	Approximately 600 feet downstream of FM 549 (Hubbard Drive).	462
	Just upstream of FM 549 (Hubbard Drive).	471

(National Flood Insurance Act of 1968 (Title XIII of Housing and Urban Development Act of 1968), effective January 28, 1969 (33 FR 17804, November 28, 1968), as amended; 42 U.S.C. 4001–4128; Executive Order 12127, 44 FR 19367; and delegation of authority to Federal Insurance Administrator, 44 FR 20963).

Issued: April 18, 1979.

Gloria M. Jimenez,
Federal Insurance Administrator.

[FR Doc. 79-14066 Filed 5-7-79; 8:45 am]

BILLING CODE 4210-23-M

DEPARTMENT OF LABOR

Occupational Safety and Health Administration

[29 CFR Part 1910]

Servicing Multi-Piece Rim Wheels; Corrections

AGENCY: Occupational Safety and Health Administration, U.S. Department of Labor.

ACTION: Proposed Standard; Corrections.

SUMMARY: This notice announces corrections to the proposed standard for servicing of multi-piece rim wheels which appeared in the Federal Register on April 24, 1979 (44 FR 24252).

FOR FURTHER INFORMATION CONTACT: Mr. John J. Klocko, Jr., Project Officer, Occupational Safety and Health Administration, U.S. Department of Labor, 200 Constitution Avenue, Room

N–3506, Washington, D.C. 20210, Telephone: (202) 523–7213.

SUPPLEMENTARY INFORMATION: On April 24, 1979, a document was published in the **Federal Register** (44 FR 24252) which, with an accompanying presentation of the background, major issues, summary and explanation of the proposal, regulatory assessment statement and public participation information, proposed a general industry safety standard for servicing of multi-piece wheels. There were several inadvertent errors and omissions in the April 24, 1979 document. This document corrects those errors.

Accordingly, FR Doc. 79–12758, appearing at 44 FR 24252, is corrected as follows:

1. Page 24252 column 3, paragraph 1, line 4, "radically" is corrected to read "radially".

2. Page 24252, column 3, paragraph 1, line 16, capitalize "f" in "Firestone".

3. Page 24252, column 3, paragraph 1, line 17, capitalize "c" in "Commander".

4. Page 24252, column 3, paragraph 2, line 7, "rim" is corrected to read "ring".

5. Page 24253, column 2, paragraph 1, line 14, "wheel rims" is corrected to read "rim wheels".

6. Page 24253, column 3 paragraph 1, line 1, "presented values" is corrected to read "data".

7. Page 24253, column 3, paragraph 1, line 8, delete the word "observation".

8. Page 24253, column 3, paragraph 1, line 11, "sever" is corrected to read "severe".

9. Page 24254, column 2, paragraph 3, line 3, add the following parenthetical phrase between "curve" and "during": "(where the material has been permanently deformed)".

10. Page 24256, column 1, paragraph 2, line 2, "sheel" is corrected to read "wheel".

11. Page 24256, column 1, paragraph 2, line 16, "pneumtic" is corrected to read "pneumatic".

12. Page 24256, column 3, line 17, "setting" is corrected to read "seating".

13. Page 24256, column 3, add the following list of references and heading between paragraph 3 and *"V. Regulatory Assessment Statement":*

"IV. References

1. Bureau of Labor Statistics, *Occupational Injuries and Illnesses in the U.S., by Industry, 1975;* 1978; Bulletin 1981.

2. Branick Retread Equipment, *Tire Handling Equipment,* 1978, Bulletin #C–108–678–2.

3. Centaur Management Consultants, Inc., *Economic Impact Statement/ Assessment for Multi-piece Rim Assemblies,* June 29, 1978, Final Report for OSHA.

4. Florida Department of Commerce, *Learn and Live,* September 1975. I1115. Op. Cit., March 1978.

6. Insurance Institute for Highway Safety, *Institute Urges Recall of Multi-piece Wheel,* June 29, 1978, Status Report, Vol. 13, No. 9.

7. Motor Wheel Corporation, *Safety and Service Manual,* November 1977, Form #TR–77–2310.

8. National Highway Traffic Safety Administration, *Failures of RH 5° Wheels,* December 21, 1973, ODI Case No. 150.

9. National Highway Traffic Safety Administration, *Goodyear, 1950–1972, Two-Piece Truck Wheels, KB, KWX, and KW, Which May Separate Explosively During Inflation,* September 28, 1973, ODI Case No. 215.

10. National Highway Traffic Safety Administration, *Multi-piece Rim/Wheel Matching Chart,* January 1978.

11. National Highway Traffic Safety Administration, *Petition by Insurance Institute for Highway Safety,* October 2, 1978, Multi-piece Wheel Testing, Attachment A.

12. Op. Cit., Summary of Multi-piece Wheel and Rim Separation Reports, Attachment B.

13. National Highway Traffic Safety Administration, *Safety Precautions for Mounting and Demounting Tube Type Truck/Bus Tires,* January 1978, Safety Chart.

14. National Safety Council, *Accident Facts,* 1976.

15. National Safety Council, *Mounting Heavy-Duty Tires and Rims,* 1957, Data Sheet 411.

16. OSHA Louisville, Kentucky Area Office, *Hazards Not Covered by a Standard,* July 28, 1972, Form OSHA–9.

17. OSHA Office of Management, Data Systems and Statistical Coordination, Internal Documents *(Occupational Death Reports),* 1976–1977.

18. Rubber Manufacturers Association, *Care and Service of Highway Truck Tires,* 1977, Bulletin RMA–HTM–977.

19. Rubber Manufacturers Association, *Results of Survey of Multi-piece Rim Wheel Accidents 1972–1975,* March 16, 1978, Letter.

20. Society of Automotive Engineers, *Nomenclature—Wheels and Rims—Trucks SAE J393,* June 1969.

21. Tire and Rim Association, *Yearbook,* 1977.

14. Page 24256, column 3, heading "IV. *Regulatory Assessment Statement"* is corrected to read "V. *Regulatory Assessment Statement".*

15. Page 24257, column 2, heading "V. *Public Participation"* is corrected to read "VI. *Public Participation".*

16. Page 24257, column 3, heading "VI. *Authority"* is corrected to read "VII. *Authority".*

17. Page 24258, column 1, paragraph 9, line 4, "rim base" is corrected to read "wheel".

18. Page 24261, column 1, paragraph 5, line 1, "Sec. 84" is corrected to read "Sec. 6, 84".

Signed at Washington, D.C. this 2nd day of May 1979.

Eula Bingham,

Assistant Secretary of Labor.

[Docket No. S–005]

[FR Doc. 79–14363 Filed 5–7–79; 8:45 am]

BILLING CODE 4510–26–M

ENVIRONMENTAL PROTECTION AGENCY

[40 CFR Part 52]

Proposed Rulemaking Governing the Burning of Higher Sulfur Fuel In Central Massachusetts Air Pollution Control District

AGENCY: Environmental Protection Agency (EPA).

ACTION: Proposed rule.

SUMMARY: EPA is proposing to approve a revision to the Massachusetts State Implementation Plan (SIP) which would permanently make effective Massachusetts Regulation 310 CMR 7.05(l) "Sulfur Content of Fuels and Control Thereof" for the Central Massachusetts Air Pollution Control District (CMAPCD) except fot the city of Worcester. EPA previously approved a SIP revision for the CMAPCD which allowed certain sources to burn higher sulfur content fuel under specified conditions. That revision will expire on July 1, 1979. This proposed revision would permanently extend the regulation.

DATES: Comments must be received on or before June 7, 1979.

ADDRESSES: Copies of the Massachusetts submittal and EPA's evaluation are available for public inspection during normal business hours at the Environmental Protection Agency, Region I, Room 1903, JFK Federal Building, Boston, Massachusetts 02203; Public Information Reference Unit, Environmental Protection Agency, 401 M Street, SW., Washington, D.C. 20460; and the Massachusetts Department of Environmental Quality Engineering, Division of Air and Hazardous Materials, 600 Washington Street, Room 320, Boston, Massachusetts 02111.

Comments should be submitted to the Regional Administrator, Region I, Environmental Protection Agency, Room 2203, JFK Federal Building, Boston, Massachusetts 02203.

FOR FURTHER INFORMATION CONTACT: Victor M. Trinidad, Air Branch, EPA Region I, Room 1903, JFK Federal Building, Boston, Massachusetts 02203 (617) 223–5609.

SUPPLEMENTARY INFORMATION: On March 2, 1979 the Commissioner of the Massachusetts Department of Environmental Qualtiy Engineering (the Department) submitted to EPA a proposed revision to the Massachusetts State Implementation Plan (SIP), permanently extending regulation 310 CMR 7.05(l)"Sulfur Content of Fuels and Control Thereof" (formerly Regulation 5.1). The proposed revision would allow certain fossil fuel burning facilities in the Central Massachusetts Air Pollution Control District (CMAPCD) to continue burning higher sulfur fuels beyond the present expiration date of July 1, 1979. The CMAPCD has the same geographic boundaries as the Central Massachusetts Intrastate Air Quality Control Region (AQCR).

The original Massachusetts SIP was approved by EPA on May 31, 1972 (37 FR 10842). This SIP established a limit of 0.55 pounds per million Btu heat content for the sulfur content of fossil fuels. Massachusetts Chapter 494 of the Acts of 1974, required the Department to periodically review state air pollution control strategies and to relax any regulation more stringent than necessary. Pursuant to Chapter 494, the Department reviewed the Sulfur in Fuels Regulations for each of its Air Pollution Control Districts. As a result of that review the Department submitted revisions to the Massachusetts SIP to permit certain sources to burn higher sulfur content fuel.

On February 15, 1977 (42 FR 9176), EPA approved the initial SIP revision for CMAPCD allowing fossil fuel users of over 100 million Btu's per hour rated input capacity to burn fossil fuel having a sulfur content not in excess of 1.21 pounds per million Btu heat release potential (approximately equivalent to 2.2 percent sulfur content residual fuel oil) until July 1, 1979. Excluded from the revision were all sources located in the cities of Worcester and Fitchburg, and the following sources: Borden Incorporated, Chemical Division, Leominster; The Felters Company, Millbury; and Whitten Machine Works, Whitinsville, all of which remain subject to regulations requiring the burning of fossil fuels having a sulfur content not in excess of 0.55 pounds per million Btu heat release potential (approximately equivalent to one percent sulfur content residual fuel oil).

On May 19, 1977 (42 FR 25730) EPA approved a SIP revision allowing sources with heat input rates over 100 million Btu's per hour to burn fossil fuel with a sulfur content not to exceed 1.21 pounds per million Btu heat release potential in the city of Fitchburg, with the exception of Fitchburg Gas and Electric Company and General Electric Company. State Regulations required all sources in Fitchburg to burn lower sulfur oil (0.55 pounds per million Btu heat release potential) during the 5-month heating season, November through March. Accordingly, the sources in Fitchburg that were approved to burn the higher sulfur oil are: James River-Massachusetts Inc., and Fitchburg Paper Co. (only in those boilers which emit through the 55 meter stack). On June 21, 1978 (43 FR 26574) EPA extended the expiration date of the aforementioned regulation until July 1, 1979.

Under this revision sources outside of Worcester with heat input rates over 100 million Btu's per hour can apply to the Department for permission to burn the higher sulfur fuels. The Department would analyze the impact from each requesting source to insure that the NAAQS will not be violated. Sources must demonstrate that they can burn higher sulfur fuel without violating other state regulations, including the particulate matter emission limitations and the opacity requirement. At the Department's descretion some sources are required to establish and operate an ambient air monitoring network around the sources. The data from these networks are submitted to the department regularly and are used to evaluate the effect of burning higher sulfur fuels.

Since the revision submitted on March 2, 1979 is a permanent one, the State has established a procedure in the SIP to review and re-analyze the burning of higher sulfur fuels not later then July 1, 1982 and at least every three years thereafter.

The Department has submitted a list of 15 sources with heat input capacity over 100 million Btu's per hour in CMAPCD and eligible to burn the high sulfur fuels. EPA has determined that it cannot adequately review and take action on the entire list before July 1, 1979. therefore, in order to permit the continued burning of higher sulfur fuel at facilities presently approved, EPA in consultation with the Department has extracted the 4 sources burning higher sulfur fuels from this list of fifteen. The sources are:

1. American Optical Company, Baldwinville.
2. Wyman Gordon Company, Grafton.
3. James River—Massachusetts Inc., Fitchburg.
4. Fitchburg Paper Company, Fitchburg (only boilers which emit through the 55 meter stack).

EPA is proposing today to approve the revision for these sources. EPA will take no action on the remaining eleven sources at this time.

The Department submitted mathematical modeling in support of the original revision. EPA reviewed the modeling from sources for which approval is being recommended, and found it consistent with the EPA Guidelines for Air Quality Maintenance Planning and Analysis, Volume 10 (revised); Procedures for Evaluating Air Quality Impacts of New Stationary Sources (OAQPS No. 1.2029R), October 1977, EPA 450/4–77001, and Guideline Series (OAQPS 1.2080), April 1978, Guidelines on Air Quality Models. No violations were predicted for the sources proposed to be approved today. In addition, EPA has reviewed the sulfur dioxide (SO_2) levels recorded by State and private monitoring networks. No violations or exceedances of the SO_2 NAAQS were observed.

In accordance with the requirements of the August 7, 1977 Clean Air Act Amendments (P.L. 95–95), the Department is presently developing SIP revisions for Total Suspended Particulates (TSP) non-attainment areas in the State. In CMAPCD, the city of Worcester is designated non-attainment for TSP primary standards, and the city of Fitchburg and the town of Athol for TSP secondary standards. (The rest of the CMAPCD is unclassified for TSP). The present revision excludes the sources in the city of Worcester (no sources have any impact in the town of Athol). The city of Fitchburg is subject to the impact of two sources; James River-Massachusetts Inc. and Fitchburg Paper Co. A review of the TSP data available for the sources showed an exceedance of the secondary standard in December 1978. At the time neither was burning higher sulfur fuels. The SIP Revision for the TSP non-attainment areas which the Department is presently developing will include the impact of higher sulfur fuels from those sources. The burning of higher sulfur fuel will therefore not interfere with the attainment of the NAAQS for TSP.

The present revision is not subject to the requirements of 40 CFR 51.24

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concerning Prevention of Significant Deterioration (PSD) of Air Quality. Because there was an approved revision increasing the sulfur in fuel levels before August 7, 1977, the allowable emissions from the sources covered are included in the "baseline concentration" and do not represent increased air quality deterioration over this baseline.

The Department submittal includes justification for other sources to burn higher sulfur fuel in addition to those EPA is proposing to approve today. EPA is taking no action on those sources at this time and will propose approval or disapproval action when the review is completed.

This notice is issued to advise the public that comments may be submitted as to whether the proposed revision to the Massachusetts State Implementation Plan should be approved or disapproved.

The Administrator's decision to approve or disapprove the plan revision will be based on whether it meets the requirements of Sections 110(a)(2)(A)–(H) and 110(a)(3) of the Clean Air Act, as amended, and EPA regulations in 40 CFR Part 51. This revision is being proposed pursuant to Sections 110(a) and 301 of the Clean Air Act, as amended (42 U.S.C. 7410 and 7601).

Dated: April 20, 1979.

William R. Adams, Jr.,
Regional Administrator, Region I.

[FRL 1219–3]
[FR Doc. 79–14370 Filed 5–7–79; 8:45 am]
BILLING CODE 6560–01–M

[40 CFR Part 65]

Proposed Approval of an Administrative Order Issued by Ohio Environmental Protection Agency to Capitol University

AGENCY: U.S. Environmental Protection Agency.

ACTION: Proposed rule.

SUMMARY: U.S. EPA proposes to approve an Administrative Order issued by the Ohio Environmental Protection Agency to Capitol University. The Order requires the company to bring air emissions from its three coal-fired boilers in Columbus, Ohio, into compliance with certain regulations contained in the Federal approved Ohio State Implementation Plan (SIP) by July 1, 1979. Because the Order has been issued to a major source and permits a delay in compliance with provisions of the SIP, it must be approved by U.S. EPA before it becomes effective as a Delayed Compliance Order under the Clean Air Act (the Act). If approved by the U.S. EPA, the Order will constitute an addition to the SIP. In addition, a source in compliance with an approved Order may not be sued under the Federal enforcement or citizen suit provisions of the Act for violations of the SIP regulations covered by the Order. The purpose of this notice is to invite public comment on U.S. EPA proposed approval of the Order as a Delayed Compliance Order.

DATE: Written comments must be received on or before June 7, 1979.

ADDRESSES: Comments should be submitted to Director, Enforcement Division, U.S. EPA, Region V, 230 South Dearborn Street, Chicago, Illinois 60604. The State Order, supporting material, and public comments received in response to this notice may be inspected and copied (for appropriate charges) at this address during normal business hours.

FOR FURTHER INFORMATION CONTACT: Cynthia Colantoni, Enforcement Division, U.S. EPA, 230 South Dearborn Street, Chicago, Illinois 60604. (312) 353–2082.

SUPPLEMENTARY INFORMATION: Capitol University operates three coal-fired Boilers at Columbus, Ohio. The Order under consideration addresses emissions from the facility, which are subject to Ohio Administrative Code (OAC) 3745–17–07 and OAC 3745–17–10. The regulations limit the emissions of particulate matter and visible emissions, and are part of the federally aproved Ohio State Implementation Plan. The Order requires final compliance with the regulation by July 1, 1979, by shutting down said boilers and replacing them with five gas/oil-fired boilers. The source has consented to the terms of the Order.

Because this Order has been issued to a major source of particulate matter emissions and visible emissions and permits a delay in compliance with the applicable regulations it must be approved by U.S. EPA before it becomes effective as a Delayed Compliance Order under Section 113(d) of the Act. U.S. EPA may approve the Order only if it satisfies the appropriate requirements of this subsection.

If the Order is approved by U.S. EPA, source compliance with its terms would preclude Federal enforcement action under Section 113 of the Act against the source for violations of the regulations covered by the Order during the period the Order is in effect. Enforcement against the source under the citizen suit provision of the Act (Section 304) would be similarly precluded. If approved, the Order would also constitute an addition to the Ohio SIP.

All interested persons are invited to submit written comments on the proposed Order. Written comments received by the date specified above will be considered in determining whether U.S. EPA may approve the Order. After the public comment period, the Administrator of U.S. EPA will publish in the **Federal Register** the Agency's final action on the Order in 40 CFR Part 65.

(42 U.S.C. 7413, 7601.)

Dated: April 2, 1979.

John McGuire,
Regional Administrator.

In consideration of the foregoing, it is proposed to amend 40 CFR chapter I, as follows:

PART 65—DELAYED COMPLIANCE ORDER

1. By adding an entry to the table in § 65.401 to reflect approval of the following order:

2. The text of the order reads as follows:

Before the Ohio Environmental Protection Agency

In the Matter of: Capital University, 2199 East Main Street, Columbus, Ohio 43209.

Order

The Director of Environmental Protection, (hereinafter "Director"), hereby makes the following Findings of Fact and, pursuant to Sections 3704.03(S) and (I) of the Ohio Revised Code and in accordance with Section 113(d) of the Clean Air Act, as amended, 42 U.S.C. 7401 *et seq.*, issues the following Orders which will not take effect until the Administrator of the United States Environmental Protection Agency has approved their issuance under the Clean Air Act:

Findings of Fact

1. Capital University, (hereinafter "Capital"), operates three coal-fired boilers, identified as Source Nos. 0125042612B001–B003 which serve its facility located at 2199 East Main Street, Columbus, Ohio, 43209.

2. In the course of operation of said boilers, air contaminants are emitted in violation of OAC Rules 3745–17–07 and 3745–17–10.

3. Capital is unable to immediately comply with OAC Rules 3745–17–07 and 3745–17–10.

4. Potential emissions of particulate matter from the boilers are approximately 230 tons per year; therefore Capital constitutes a major stationary source or facility under Section 302(j) of the Clean Air Act, as amended.

5. The compliance schedule set forth in the Orders below requires compliance with OAC Rules 3745–17–07 and 3745–17–10 as expeditiously as practicable.

6. Implementation by Capital of the interim requirements contained in the Orders below will fulfill the requirements of Section 113(d)(7) of the Clean Air Act, as amended.

7. It is technically and economically unreasonable to require Capital to install continuous opacity monitoring equipment prior to the final compliance date specified in the Orders below, since Capital is currently in violation of OAC Rule 3745–17–07 and it will be until it has completed its compliance program; therefore, such monitoring would produce no data which is not already known.

8. The Director's determination to issue the Orders set forth below is based upon his consideration of reliable, probative and substantial evidence relating to the technical feasibility and economic reasonableness of compliance with such Orders, and their relation to benefits to the people of the State to be derived from such compliance.

Orders

Whereupon, after due consideration of the above Findings of Fact, the Director hereby issues the following Orders pursuant to Sections 3704.03 (S) and (I) of the Ohio Revised Code in accordance with Section 113(d) of the Clean Air Act, as amended, 42 U.S.C., 7401 *et seq.*, which will not take effect until the Administrator of the United States Environmental Protection Agency has approved their issuance under the Clean Air Act.

1. Capital shall bring its three coal-fired boilers located at 2199 East Main Street, Columbus, Ohio, 43209 into final compliance with OAC Rules 3745–17–07 and 3745–17–10 by shutting down said boilers and replacing them with five gas/oil-fired boilers no later than 7/1/79.

2. Compliance with Order (1) above shall be achieved by Capital in accordance with the following schedule on or before the dates specified:

Prepare boiler specifications—Completed.
Receive boiler bids—Completed.
Award boiler contract—Completed.
Design building modifications and boiler installation—January 15, 1979.
Obtain Construction bids—February 8, 1979.
Award Construction Contract—February 23, 1979.
Complete building modifications—May 15, 1979.
Complete boiler installation—June 21, 1979.
Shut down coal-fired boilers and achieve final compliance with OAC Rules 3745–17–07 and 3745–17–10—July 1, 1979.

3. Pending achievement of compliance with Order (1) above, Capital shall comply with the following interim requirements which are determined to be reasonable and to be the best practicable system(s) of emission reduction, and which are necessary to insure compliance with OAC Rules 3745–17–07 and 3745–17–10 insofar as Capital is able to comply with them during the period this Order is in effect in accordance with Section 113(d)(7) of the Clean Air Act, as amended. Such interim requirements shall include:

a. Capital shall immediately use coal with an analysis of: less than or equal to 7 percent ash, less than or equal to 1 percent sulfur, greater than or equal to 13,000 Btu, in order to minimize emission from the coal-fired boilers.

b. Capital shall immediately institute an operation and maintenance program to minimize emissions from the coal-fired boilers.

c. Capital shall continued to use its multiclone collectors to minimize emissions from the coal-fired boilers.

4. Within five (5) days after the scheduled achievement date of each of the increments of progress specified in the compliance schedule in Order (2) above, Capital shall submit a written progress report to the Ohio EPA, Central District Office. The person submitting these reports shall certify whether each increment of progress has been achieved and the date it was achieved. The reports shall also include Capital's status of compliance with the interim control requirements in Order 3 above.

5. Capital shall apply for and obtain permits to install the gas/oil-fired boilers prior to their installation in accordance with Chapter 3745–31 of the Ohio Administrative Code. Capital shall also apply for and obtain permits to operate the gas/oil-fired boilers prior to their operation in accordance with Chapter 3745–35 of the Ohio Administrative Code.

6. Capital is hereby notified that unless it is exempted under Section 120(a)(2)(B) or (C) of the Clean Air Act, as amended, failure to achieve final compliance with Order (1) above by July 1, 1979, will result in a requirement to pay a noncompliance penalty under Section 120 of the Clean Air Act, as amended.

These orders will not take effect until the Administrator of the United States Environmental Protection Agency has approved their issuance under the Clean Air Act.

Date: March 5, 1979.

James F. McAvoy,
Director.

Waiver

Capital University agrees that the attached Findings and Orders are lawful and reasonable and agrees to comply with the attached Orders. Capital University hereby waives the right to appeal the issuance or terms of the attached Findings and Orders to the Environmental Board of Review, and it hereby waives any and all rights it might have to seek judicial review of said Findings and Orders either in law or equity. Capital University also waives any and all rights it might have to seek judicial review of any approval by U.S. EPA of the attached Findings and Orders or to seek a stay of enforcement of said Findings and Orders in connection with any judicial review of Ohio's air implementation plan or portion thereof.

Dated: December 15, 1978.

Hugh R. Higgins,
Vice President and Treasurer, Authorized Representative of Capital University

[FRL 1203–8]
[FR Doc. 79–14270 Filed 5–7–79; 8:45 am]
BILLING CODE 6560–01–M

[40 CFR Part 65]

Proposed Delayed Compliance Order for the City of White Plains, N.Y.

AGENCY: Environmental Protection Agency.

ACTION: Proposed rule.

SUMMARY: EPA proposed to issue an administrative Order to the City of White Plains, New York. The Order requires the City to bring air emissions from its Municipal Incinerator into compliance with certain regulations contained in the federally-approved New York State Implementation Plan ("SIP"). Because the City is unable to comply with these regulations at this time, the proposed Order would establish an expenditious schedule requiring final compliance by no later than July 1, 1979. Source compliance with the terms of the Order would preclude suits under the federal enforcement and citizen suit provisions of the Clean Air Act for violation of the SIP regulations covered by this Order. The purpose of this notice is to invite public comment and to offer an opportunity to request a public hearing on EPA's proposed issuance of the Order.

DATES: Written comments must be received on or before June 7, 1979, and requests for a public hearing must be received on or before May 23, 1979.

All requests for a public hearing should be accompanied by a statement of why the hearing would be beneficial and a text or summary of any proposed testimony to be offered at the hearing. If there is significant public interest in a hearing, it will be held after twenty-one days prior notice of the date, time and place of the hearing has been given in this publication.

ADDRESSES: Comments and requests for a public hearing should be submitted to: Meyer Scolnick, Director, Enforcement Division, U.S. Environmental Protection Agency, Region II, 26 Federal Plaza, New York, New York 10007.

FOR FURTHER INFORMATION CONTACT: Walter E. Mugdan, Attorney, General Enforcement Branch, Enforcement Division, U.S. Environmental Protection Agency, Region II, 26 Federal Plaza, New York, New York 10007, (212) 264–4434.

SUPPLEMENTARY INFORMATION: The City of White Plains, New York operates a Municipal Incinerator for the disposal of solid waste. The proposed Order addresses smoke emissions from the

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Incinerator, which are subject to the requirements of Title 6, Official Compilation of Codes, Rules and Regulations of the State of New York ("NYCRR"), Sections 201.2(b) and 222.3(a) and (b). Section 201.2(b) requires that air pollution sources hold a valid Certificate to Operate issued by the State Department of Environmental Conservation. Sections 222.3(a) and (b) limit the permissible opacity of smoke emissions from incinerators in, *inter alia*, Westchester County. The regulations are part of the federally-approved New York State Implementation Plan. The Order requires the City to take certain steps to minimize the emissions of smoke with an opacity in excess of the regulatory limitations; and to cease all operations at the Incinerator by no later than July 1, 1979. The source has consented to the issuance of the Order, and has agreed to meet the increments of progress embodied therein during the period of the informal rulemaking initiated by this notice.

The proposed Order satisfies the applicable requirements of Section 113(d) of the Clean Air Act ("the Act"). If the Order is issued, source compliance with its terms would preclude further EPA enforcement action under Section 113 of the Act against it for violations of the regulations covered by the Order during the period it is in effect. Enforcement against the source under the citizen suit provisions of the Act (Section 304) would be similarly precluded.

Authority: 42 U.S.C. 7413 and 7601.

Dated: April 17, 1979.

Eckardt C. Beck,
Regional Administrator, Region II.

In consideration of the foregoing, it is proposed to amend 40 CFR Chapter 1, as follows:

PART 65—DELAYED COMPLIANCE ORDERS

1. By adding an entry to the table in § 65.370 to reflect approval of the following order:

U.S. Environmental Protection Agency, Region II

In the Matter of White Plains Municipal Incinerator (White Plains, New York).
Consent Order.—Index No. 60223.

Preliminary Statement

On April 29, 1977 the United States Environmental Protection Agency ("EPA") Region II issued an administrative Order to the City of White Plains, pursuant to Section 113(a) of the Clean Air Act, 42 U.S.C. § 7413(a) ("the Act"), establishing a compliance schedule pursuant to which existing violations of applicable portions of the New York State Implementation Plan ("SIP") (approved by the Administrator of the EPA pursuant to Section 110 of the Act, 42 U.S.C. § 7410) at its Municipal Incinerator would be corrected.

The Order provides that the Incinerator must be in final compliance with Sections 201.2(b) and 222.3(a) and (b), Title 6, Official Compilation of Codes, Rules and Regulations of the State of New York ("NYCRR"), by no later than July 1, 1981. This date reflected the then projected date of completion of the proposed Grasslands Resource Recovery Facility, to be built by the County of Westchester pursuant to its County Solid Waste Plan.

The Clean Air Act Amendments of 1977, which were enacted into law on August 7, 1977, provide that any administrative Orders issued pursuant to Section 113(a) would become void one year after the enactment of those Amendments, unless they had by that time been modified to comply with the requirements of Section 113(d). (Section 113(d)(12).) Section 113(d) requires, *inter alia*, that administrative Orders issued thereunder may not permit delays in compliance with SIP regulations beyond July 1, 1979 or three years after the date for final compliance with the regulation(s) in question, whichever is later. (Section 113(d)(1)(D).) Title 6 NYCRR Parts 201 and 222 do *not* provide final compliance dates later than July 1, 1976; an administrative Order issued to the City of White Plains with respect to its Municipal Incinerator, therefore, may not pursuant to Section 113(d) of the Clean Air Act as amended in 1977, extend compliance with the above-mentioned SIP regulations beyond July 1, 1979.

Pursuant to Section 113(d)(12), therefore, the above-mentioned administrative Order became void on August 7, 1978.

Findings

1. The EPA finds that the White Plains Municipal Incinerator is operating in violation of 6 NYCRR § 201.2(b), in that it does not have a valid Certificate to Operate issued by the New York State Department of Environmental Conservation ("DEC"); and 6 NYCRR §§ 222.3 (a) and (b), in that it emits smoke of a shade or opacity in excess of the limitations establisbd in those subsections.

2. Such violations have continued beyond the 30th day after EPA's issuance to the City of White Plains, on September 29, 1976, of a Notice of Violation (Index No. 60223), pursuant to Section 113(a)(1) of the Act.

3. The County of Westchester has abandoned its plans to construct the Grasslands Resource Recovery Facility, earlier anticipated by the County Solid Waste Plan to be completed by mid-1981. The County now proposes to construct a resource recovery facility in Peekskill, New York, which it anticipates to be completed by mid-1983.

4. The City of White Plains can, by meeting the terms of this Order, bring the emissions from its municipal Incinerator into compliance with applicable SIP requirements prior to July 1, 1979. The EPA has determined that the schedule embodied herein will provide for such compliance as expeditiously as practicable.

5. The EPA has determined that there exist certain interim control measures, required pursuant to Paragraph (C) of the administrative Order issued to the City on April 29, 1977, the implementation of which can minimize air pollution emissions during the period of delayed compliance at the Incinerator permitted by the terms of this Order, and these measures are therefore included herein.

6. Public notice, opportunity for a public hearing, and thirty days notice to the State of New York have been provided.

Order

Based upon the foregoing, and pursuant to Section 113(d) of the Act, it is hereby ORDERED:

That the City of White Plains (hereinafter "the City") complete the actions specified on or before the dates set forth in the following schedule:

(A) Immediately upon issuance of this Order, and continuing as long as the White Plains Municipal Incinerator is in operation, the City shall comply with the following operating and maintenance procedures therefor in order to minimize excess emissions of air contaminants:

1. Inspect and repair the water sprays on a weekly basis.

2. Submit to EPA spray monitoring meter data on a monthly basis.

3. Maintain and calibrate opacity monitors, temperature gauges, and opacity recording equipment at regular intervals as prescribed by the manufacturers.

4. Submit to EPA on a monthly basis:

a. furance temperature and smoke opacity charts;

b. an explanation in writing of occasions upon which furnace temperatures are less than 1400° F. for 10% or more of the burning time; and

c. an explanation in writing of periods when opacity exceeds 20%.

5. When starting its Incinerator, the City shall use only dry types of waste and exclude cardboard, paper and other such materials which tend to produce fly-ash emissions.

6. An experienced operator must be stationed at the storage pit to segregate and prevent the charging of objectionable materials, such as tires, appliance and large metal objects.

7. The quantity of underfire air shall be strictly limited to the amount necessary to adequately support combustion and provide necessary cooling for the grates; overfire and secondary air should be adjusted to keep smoke emissions to a minimum.

8. The Incinerator shall be inspected weekly and necessary repairs on the refractory and grates made promptly.

9. A stockpile of replacement parts shall be maintained at all times.

(B) On or before July 1, 1979 the City shall terminate operation of the White Plains Municipal Incinerator (until such time, if ever, as the Incinerator has been brought into full compliance with all applicable emission limitations, and has received a valid Certificate to Operate from the New York State Department of Environmental Conservation and all other necessary federal, State and local permits).

(C) All submissions and reports to the EPA required by this Order shall be made to Mr. Kenneth Eng, Chief, Air & Environmental Application Section, Permits Administration Branch, Planning and Management Division, U.S. Environmental Protection Agency, Region II, 26 Federal Plaza, New York, New York 10007.

(D) Violation of any requirement of this Order may result in one or more of the following (to the extent such steps may be legally applicable):

1. Enforcement of such requirement pursuant to Section 113(a), (b) or (c) of the Act, including possible judicial action for an injunction and civil penalties, or criminal prosecution.

2. Revocation of this Order, after notice and opportunity for a public hearing, and subsequent enforcement of 6 NYCRR Parts 201 and 222, in accordance with the preceding paragraph.

3. If such violation continues beyond July 1, 1979, notice of noncompliance and subsequent action pursuant to Section 120 of the Act, 42 U.S.C. § 7420.

So ordered, effective immediately.

Douglas Costle,
Administrator.
Date———— ————

Consent

The undersigned, having full authority to represent the City of White Plains, has read the foregoing Order, believes it to be reasonable, and therefore consents to both its issuance and to its terms. The undersigned recognizes that the City of White Plains is subject to all remedies provided in Section 113 of the Act for failure to comply with the terms of the foregoing Order, and explicitly waives any and all rights under any provision of law to challenge this Order.

for: City of White Plains

Alfred Del Vecchio,
Mayor, City of White Plains.

Dated: March 29, 1979.

[FRL 1212-7]

[FR Doc. 79-14289 Filed 5-7-79; 8:45 am]

BILLING CODE 6560-01-M

[40 CFR Part 65]

Proposed Delayed Compliance Order for Department of Air Force Wright-Patterson Air Force Base

AGENCY: U.S. Environmental Protection Agency.

ACTION: Proposed Rule.

SUMMARY: U.S. EPA proposes to issue an Administrative Order to the Department of the Air Force, Wright-Patterson Air Force Base. The Order requires the Air Force to bring Wright-Patterson Air Force Base into compliance with Ohio Regulation AP-3-11, part of the federally approved Ohio State Implementation Plan (SIP). Because the Air Force is unable to comply with these regulations at this time, the proposed Order would establish an expeditious schedule requiring final compliance by April 15, 1980. Source compliance with the Order would preclude suits under the Federal enforcement and citizen suit provisions of the Clean Air Act (Act) for violation of the SIP regulations covered by the Order.

The purpose of this notice is to invite public comment and to offer an opportunity to request a public hearing on U.S. EPA's proposed issuance of the Order.

DATES: Written comments must be received on or before June 7, 1979, and requests for a public hearing must be received on or before May 23, 1979. All requests for a public hearing should be accompanied by a statement of why the hearing would be beneficial and a text or summary of any proposed testimony to be offered at the hearing. If there is significant public interest in a hearing, it will be held after twenty-one days prior notice of the date, time, and place of the hearing has been given in this publication.

ADDRESSES: Comments and request for a public hearing should be submitted to Director, Enforcement Division, U.S. Environmental Protection Agency, Region V, 230 South Dearborn Street, Chicago, Illinois 60604. Material supporting the Order and public comments received in response to this notice may be inspected and copied (for appropriate charges) at this address during normal business hours.

FOR FURTHER INFORMATION CONTACT: Ms. Louise C. Gross, Attorney, Enforcement Division, U.S. Environmental Protection Agency, 230 South Dearborn Street, Chicago, Illinois 60604, at (312) 353-2082.

SUPPLEMENTARY INFORMATION: The Department of the Air Force owns Wright-Patterson Air Force Base. The proposed Order addresses emissions from Buildings 66, 170, 271, 770 and 1240 at this facility, which are subject to AP-3-11 of the Ohio Implementation Plan. The regulations limit the emissions of particulate matter and are part of the federally approved Ohio State Implementation Plan. The Order requires final compliance with the regulations by April 15, 1980, and the source has consented to its terms.

The proposed Order satisfies the applicable requirements of Section 113(d) of the Act. If the Order is issued, source compliance with its terms would preclude further U.S. EPA enforcement action under Section 113 of the Act against the source for violations of the regulations covered by the Order during the period the Order is in effect. Enforcement against the source under the citizen suit provisions of the Act (Section 304) would be similarly precluded.

Comments received by the date specified above will be considered in determining whether U.S. EPA should issue the Order. Testimony given at any public hearing concerning the Order will also be considered. After the public comment period and any public hearing, the Administrator of U.S. EPA will publish in the **Federal Register** the Agency's final action on the Order in 40 CFR Part 65.

Dated: April 2, 1979.

John McGuire,
Regional Administrator, Region V.

In consideration of the foregoing, it is proposed to amend 40 CFR Chapter I, as follows:

PART 65—DELAYED COMPLIANCE ORDERS

1. By adding an entry to the table in § 65.400, *Federal Delayed Compliance Orders issued under Section 113(d) (1), (3), and (4) of the Act*, to reflect approval of the following order.

2. The text of the order reads as follows:

U.S. Environmental Protection Agency

In the Matter of: Department of the Air Force, Wright-Patterson Air Force Base, Proceeding Under Sections 113(d) and 114(a) of the Clean Air Act, as Amended, Order No. EPA-5-79-A.

Order

The following order is issued this date pursuant to Sections 113(d) and 114(a) of the Clean Air Act, as amended, 42 U.S.C. Section 7401 *et seq.* (hereinafter referred to as "the Act"). Public notice, opportunity for public hearing and thirty days notice to the State of Ohio have been provided pursuant to Section 113(d)(1) of the Act. This order contains a schedule for compliance, interim control requirements, monitoring requirements and reporting requirements. A demonstration of final compliance is required as expeditiously as practicable, but no later than April 15, 1980.

On November 25, 1977, James O. McDonald, Director, Enforcement Division, Region V, United States Environmental Protection Agency (hereinafter referred to as the "U.S. EPA"), pursuant to authority duly delegated to him by the Administrator of the U.S. EPA, issued a Notice of Violation, pursuant to Section 113(a)(1) of the Act, to the United States Air Force (hereinafter referred to as the "Air Force"), Wright-Patterson Air Force Base, upon finding that Buildings 66, 170, 271, 770 and 1240 at the Base were found to be in violation of the applicable Ohio Implementation Plan, as defined in Section

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110(d) of the Act. The Notice cited the Base for violation of Ohio Regulation AP-3-11 (now Section 3745-17-10 of the Ohio Administrative Code and hereinafter referred to as AP-3-11), as demonstrated by the Base's Air Pollution Emission Report, emission factor calculations and material contained in the Office of Federal Activities file. A copy of this Notice was sent to the State of Ohio.

After a thorough investigation of all relevant facts, it is determined that the Air Force is presently unable to comply with the Ohio Implementation Plan, that the schedule for compliance set forth in this order is as expeditious as practicable and that the terms of this order comply with Section 113(d) of the Act. Therefore, it is hereby ordered that:

I. The Air Force shall achieve compliance with AP-3-11 at the Wright-Patterson Air Force Base in accordance with the following schedule:

A. Initiate bid process—has been commenced prior to the issuance of this order.

B. Award contracts—has been commenced prior to the issuance of this order.

C. Issue Notice to Proceed—has been commenced prior to the issuance of this order.

D. Complete construction of new boilers and electrostatic precipitators at Building 1240; eliminate coal-firing operations at Buildings 271 and 170—October 1, 1979.

E. Complete construction of new boilers and electrostatic precipitators at Building 770; eliminate coal-firing operations at Building 66—January 15, 1980.

F. Achieve compliance with AP-3-11 at Building 1240—December 1, 1979.

G. Achieve compliance with AP-3-11 at Building 770—March 15, 1980.

II. The Air Force shall achieve and demonstrate final compliance with AP-3-11 at the Wright-Patterson Air Force Base by April 15, 1980. In order to demonstrate such compliance, the Air Force shall conduct stack tests in accordance with U.S. EPA approved methods. The Air Force shall notify U.S. EPA in writing at least 30 days in advance of performing the required tests. The results of such tests shall be submitted to U.S. EPA no later than 30 days from their completion.

III. Pursuant to the authority granted in Sections 113(d)(1)(C) and 114(a) of the Clean Air Act, the Air Force shall install a continuous monitoring system for the measurement of opacity on each effluent stack of Buildings 770 and 1240 following any control devices at the Wright-Patterson Air Force Base. The continuous monitoring system shall be installed, calibrated, maintained and operated in accordance with the procedures set forth in Appendix B of 40 C.F.R. Section 60.13 and Appendix B of 40 C.F.R. Part 60. This system shall become operational not later than December 1, 1979 for Building 1240 and not later than March 15, 1980 for Building 770.

The Air Force is required to submit a written report every calendar quarter giving the nature and cause of any emissions in violation of Ohio Regulation AP-3-07 and corrective action taken. Negative reports will be submitted. The reports shall include the magnitude and duration of all violating emissions.

In addition, all data resulting from the operation of the continuous monitoring system shall be stored for a period of two years and made available for inspection by the U.S. EPA or its agent upon request. Malfunctions or periods where the continuous monitoring system is not in operation shall be reported immediately, along with proposed corrective action.

IV. Pursuant to Section 113(d)(7) of the Act, during the period in which this order is in effect, the Air Force shall use the best practicable interim system of emission reduction (taking into account the requirement with which the source must ultimately comply in Section I, above) for the period during which this order is in effect. This shall include the following:

A. The use of coal with an analysis of less than or equal to 10 per cent ash and greater than or equal to 12,500 BTU per pound of coal.

B. Continued operation and maintenance of existing mechanical collectors so as to minimize emissions.

C. Utilization of load shifting where practicable in order to utilize the most efficient boilers and the boilers equipped with electrostatic precipitators. This shall include cessation of coal firing during summer months wherever practicable.

D. Continuous surveillance of boiler operation to maintain high combustion efficiencies.

E. Regular preventative maintenance of boilers to ensure good operational condition.

V. No later than ten (10) days after date for achievement of an incremental step specified in this order, the Air Force shall notify U.S. EPA in writing of its compliance or noncompliance with the requirement. Should events occur which cause or are likely to cause delays in meeting any requirement contained in this order, the Air Force shall immediately notify U.S. EPA in writing of the anticipated delay and reasons for the delay. Notification to U.S. EPA of an anticipated delay does not excuse the delay. Furthermore, should such events occur, the Air Force shall have the right to request that this order be modified by the U.S. EPA. If and until such modification is made, however, the Air Force shall remain subject to this order.

VI. Beginning three months after the date for achievement of the first increment of progress specified in this order, the Air Force shall submit a status report to U.S. EPA detailing the progress made during that quarter. These reports shall be submitted quarterly until the schedule for compliance has been completed.

VII. All submissions and notifications to the U.S. EPA pursuant to this order shall be made to the Chief, Air Compliance Section, U.S. EPA, Region V, 230 South Dearborn Street, Chicago, Illinois 60604. A copy of all submissions and notifications shall also be sent to Regional Air Pollution Control Agency, 451 West 3rd Street, Dayton, Ohio 45422.

VIII. Nothing in this order shall be construed so as to affect the Air Force's responsibility to comply with any other Federal, State or local regulations.

IX. Nothing in this order shall be construed as a waiver by the Administrator of any rights or remedies under the Clean Air Act, including, but not limited to, Section 303 of the Act, 42 U.S.C. Section 7603.

X. The Air Force is hereby notified that its failure to achieve final compliance by July 1, 1979, may result in a requirement to pay a noncompliance penalty under Section 120. In the event of such failure, the Air Force will be formally notified, pursuant to Section 120(b)(3) and any regulations promulgated thereunder, of its noncompliance.

XI. This order shall be effective upon Federal Register promulgation.

Date

Administrator

The United States Air Force has reviewed this order and believes it to be a reasonable means by which the Wright-Patterson Air Force Base can achieve final compliance with Ohio Regulation AP-3-11. The Air Force stipulates as to the correctness of all facts stated above and consents to the requirements and terms of this order.

Date

United States Air Force, Wright-Patterson Air Force Base

[FRL 1204-6]

[FR Doc. 79-14271 Filed 5-7-79; 8:45 am]

BILLING CODE 6560-01-M

[40 CFR Part 65]

Proposed Delayed Compliance Order for Gulf and Western Industries, Inc., Natural Resources Group

AGENCY: Environmental Protection Agency.

ACTION: Proposed rule.

SUMMARY: The EPA proposes to issue an administrative Order pursuant to Section 113(d)(1) of the Clean Air Act, as amended, 42 U.S.C. § 7401 *et seq.* ("the Act"), requiring Gulf and Western Industries, Inc., Natural Resources Group ("G&W"), to bring its titanium pigments plant located at Gloucester City, New Jersey, into compliance with certain regulations contained in the federally-approved New Jersey State Implementation Plan ("SIP"). The proposed Order would establish a final compliance date by G&W of June 30, 1979 because of the inability of this source to comply with these regulations at this time. Source compliance with this Order would preclude suits under the federal enforcement and citizen suit provisions of the Act for violation of the SIP regulations covered by this Order. The purpose of this notice is to invite public comment and to offer an opportunity to request a public hearing on EPA's proposed issuance of this Order.

DATES: Written comments and requests for a public hearing must be received on or before June 7, 1979. All requests for a public hearing should be accompanied by a statement of why the hearing would be beneficial and a text or summary of any proposed testimony to be offered at the hearing. If there is significant public interest in a hearing, it will be held after thirty days notice of the date, time, and place of the hearing has been given in this publication.

ADDRESSES: Comments and requests for a public hearing should be submitted to: Meyer Scolnick, Director, Enforcement Division, U.S. Environmental Protection Agency, Region II, 26 Federal Plaza, New York, New York 10007. Material supporting this Order and public comments received in response to this notice may be inspected and copied (for appropriate charges) at this address during normal business hours.

FOR FURTHER INFORMATION CONTACT: Samuel P. Moulthrop, Attorney, General Enforcement Branch, Enforcement Division, U.S. Environmental Protection Agency, Region II, 26 Federal Plaza, New York, New York 10007, (212) 264-5695.

SUPPLEMENTARY INFORMATION: Gulf and Western Industries, Inc. owns and operates a plant which produces titanium pigment in Gloucester City, New Jersey. The Order under consideration concerns emissions from Digesters Number 2, 3, 4, 5, and 6, which are subject to the requirements of Title 7, Chapter 27, Subchapter 6 of the New Jersey Administrative Code. This regulation limits the permissible opacity of particulate emissions and is part of the federally-approved State Implementation Plan for the Air Quality Control Region in which the source is located.

G&W has proposed to comply with the opacity limitation by replacing the wooden discharge emergency stacks on the digesters and sealing leaks in the wooden reactor tops of the digesters. The Order sets forth schedules of compliance for each digester and requires full compliance by all digesters on or before June 30, 1979. G&W has consented to the issuance of this Order.

The proposed Order satisfies the applicable requirements of Section 113(d) of the Act. If the Order is issued, source compliance would preclude further EPA enforcement action under Section 113 of the Act against the source for violations of the regulation covered by the Order during the period the Order is in effect. Enforcement against the source under the citizen suit provisions of Section 304 of the Act would be similarly precluded.

Comments received by the date specified above will be considered in determining whether EPA should issue this Order. Testimony given at any public hearing concerning the Order will also be considered. After the public comment period and any public hearing, the Administrator of the EPA will publish in the Federal Register the Agency's final action on the Order in 40 CFR Part 65.

Dated: April 13, 1979.

Eckardt C. Beck,

Regional Administrator, Region II.

In consideration of the foregoing, it is proposed that 40 CFR Chapter 1 be amended as follows:

PART 65—DELAYED COMPLIANCE ORDERS

1. By adding an entry to the table in § 65.350 Federal delayed compliance orders issued under Section 113(d)(1), (3), and (4) of the Act, to reflect approval of the following order.

2. The text of the order reads as follows:

U.S. Environmental Protection Agency
Region II

In the Matter of Gulf and Western Industries—Natural Resources Group, Chemical Division (Gloucester City Plant). Consent Order.—Index Nos. 70118 & 70147.

Findings

On April 26, 1977 and July 22, 1977, the United States Environmental Protection Agency ("EPA") issued Notices of Violation, pursuant to Section 113(a)(1) of the Clean Air Act, as amended, 42 U.S.C. § 1857c-8 (now 42 U.S.C. § 7401 *et seq.* ("the Act")), to Gulf and Western Industries-Natural Resources Group, Chemical Division ("the Company"), located at Gloucester City, New Jersey. The Notices of Violation were issued upon a finding that the South Digester Stack (also known as the No. 1 Titanium Digester Stack) and the North Digester Stack at the Company's Gloucester Plant were in violation of New Jersey Administrative Code ("N.J.A.C.") 7:27-6.2(d), a regulation limiting the permissible opacity of particulate emissions. Said regulation is part of the federally-approved implementation plan applicable to the air quality control region in which the Company is situated. The findings of violation were based upon readings taken by an EPA certified visible emissions observer at the subject facility.

A meeting was held on September 12, 1977 between representatives of the Company and EPA pursuant to § 113(a)(4) of the Act. Studies were subsequently undertaken by the Company to determine what type of air pollution control equipment could be installed to meet the standards of N.J.A.C. 7:27-6.2(d).

Three digesters vent into the North Digester Stack and three into the South Digester Stack. Each of the six digesters has a wooden discharge emergency stack. The Company has indicated that air leakage through the wooden reactor tops and wooden emergency stacks of these digesters reduces the efficiency of the existing control equipment on the North and South Digester Stacks.

Based upon the results of its investigation, the Company suggested and agreed to an abatement control program to assure compliance with the applicable standard. The air pollution control approach selected by the Company was tested on Digester No. 1. After careful evaluation of the test results submitted by the Company on May 5, 1978, EPA agreed to the compliance schedule suggested by the Company, the terms of which are set forth herein.

The EPA finds that the violations at the North and South Digester stacks have continued beyond 30 days after issuance of the above-mentioned Notices of Violation.

The EPA has determined that the Company has acted in good faith, that the alleged violations involved are being corrected, and that the source can, by meeting the terms of this Order, be in final compliance with applicable air pollution control regulations prior to July 1, 1979. The EPA has determined that the schedule embodied herein will provide for compliance by the Company as expeditiously as is practicable. The EPA finds that the Company has completed installation of pollution control equipment for and modifications of Digester No. 2, Digester No. 4 and Digester No. 5.

The EPA has determined that there exist no interim control measures which are practicably available to the Company to minimize air emissions during the period of delayed compliance at its Gloucester City facility permitted by the terms of this Order.

Public notice, opportunity for a public hearing and thirty days notice to the State of New Jersey have been provided.

Order

Based upon the foregoing, after consideration of public comment, and pursuant to Section 113(d) of the Act, IT IS HEREBY ORDERED:

That the Company take the following actions on or before the dates specified at its Gloucester City facility:

I. A. With respect to Digester No. 2: (1) Within seven (7) days after receipt of this Consent Order, the Company shall submit a written report to EPA containing the results of one or more opacity measurements taken on this stack after the installation was completed.

B. With respect to Digester No. 4: (1) Within seven (7) days after receipt of this Consent Order, the Company shall submit a written report to EPA containing the results of one or more opacity measurements taken on this stack after the installation was completed.

C. With respect to Digester No. 5: (1) Within seven (7) days after receipt of this Consent Order, the Company shall submit a written report to EPA containing the results

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of one or more opacity measurements taken on this stack after the installation was completed.

D. With respect to Digester No. 3, (1) On or before March 10, 1979, the Company shall procure a fiberglass reinforced plastic emergency stack, fiberglass transition pieces which attach to the stack, and all other material and equipment necessary for the replacement of the wooden discharge emergency stack;

(2) On or before March 24, 1979, the Company shall begin installation of the fiberglass stack, transition pieces, and all other necessary material and equipment;

(3) On or about March 31, 1979, the Company shall seal any cracks in the wooden reactor top;

(4) On or about March 31, 1979, the Company shall complete the installation of the replacement stack;

(5) Within ten (10) days after the above work is completed or within seven (7) days after receipt of this Consent Order, whichever is later, the Company shall submit a written report to the EPA containing the results of one (or more) opacity measurements taken on this stack after the installation was completed.

E. With respect to Digester No. 6, (1) On or before May 10, 1979, the Company shall procure a fiberglass reinforced plastic emergency stack, fiberglass transition pieces which attach to the stack, and all other material and equipment necessary for the replacement of the wooden discharge emergency stack;

(2) On or about May 24, 1979, the Company shall begin installation of the fiberglass stack, transition pieces, and all other necessary material and equipment;

(3) On or before May 31, 1979, the Company shall seal any cracks in the wooden reactor top;

(4) On or before May 31, 1979, the Company shall complete the installation of the replacement stack;

(5) Within ten (10) days after the above work is completed or within seven (7) days after receipt of this Consent Order, whichever is later, the Company shall submit a written report to the EPA containing the results of one (or more) opacity measurements taken on this stack after the installation was completed.

II. A. On or before June 30, 1979, the Company shall take an opacity measurement on its stack during the reaction period for each digester serving such stack and certify in writing to EPA that emissions from its North and South Digester Stacks are in full compliance with the requirements of N.J.A.C. 7:27–6.2(d).

III. The Company shall comply with the following reporting requirements: A. No later than seven (7) days after any date specified in Paragraph I of this Order for achievement of any incremental step (including final compliance) the Company shall notify the EPA in writing of its status of compliance with respect to said incremental step. If compliance with any incremental step is not achieved, or at any time is not anticipated to be achieved, in a timely manner, the notification required by this Paragraph shall provide a full explanation of the failure or expected failure to so comply. Notwithstanding any explanation for a delay or expected delay, any failure to meet the incremental step by the date specified herein shall be deemed a violation of this Order and may subject the Company to the remedies described in Paragraph V below.

B. All submissions, notifications and reports to the EPA pursuant to terms of this Order shall be made to Mr. Kenneth Eng, Chief, Air and Environmental Application Section, Permits Administration Branch, Management Division, U.S. Environmental Protection Agency, 26 Federal Plaza, New York, New York 10007.

IV. Nothing herein shall affect the responsibility of the Company to comply with State or local regulations. This Order shall be terminated in accordance with Section 113(d)(8) of the Act if the Administrator (or his delegate) determines on the record, after notice and hearing, that an inability to comply with N.J.A.C. 7:27–6.2(d) no longer exists.

V. Violation of any requirement of this Order may result in one or more of the following actions: A. Enforcement of such requirement pursuant to Section 113 (a), (b), or (c) of the Act, including possible judicial action for an injunction or criminal prosecution.

B. Revocation of this Order, after notice and opportunity for a public hearing, and subsequent enforcement of N.J.A.C. 7:27–6.2(d) in accordance with the preceding Paragraph.

C. If such violation continues beyond July 1, 1979, notice of noncompliance and subsequent action pursuant to Section 120 of the Act.

So ordered, effective immediately.

Administrator
U.S. Environmental Protection Agency

Date

The undersigned, having full authority to represent Gulf and Western Industries—Natural Resources Group, Chemical Division, has read the foregoing Order, believes it to be reasonable, and therefore consents to both its issuance and to its terms. The undersigned recognizes that the Company is subject to all remedies provided in Section 113 of the Act for failure to comply with the terms of the foregoing Order.

Name

Title

Date
For Gulf and Western Industries—Natural Resources, Chemical Division

[FRL 1209–5]
[FR Doc. 79–14274 Filed 5–7–79; 8:45 am]
BILLING CODE 6560–01–M

[40 CFR Part 65]

Proposed Delayed Compliance Order for Firestone Industrial Products Co.

AGENCY: U.S. Environmental Protection Agency.

ACTION: Proposed rule.

SUMMARY: U.S. EPA proposes to issue an Administrative Order to Firestone Industrial Products Company. The Order requires the Company to bring the rubber adhesive spreader (the source) into compliance with Indiana Regulation APC–15(8)(a), part of the federally approved Indiana State Implementation Plan (SIP). Because the Company is unable to comply with these regulations at this time, the proposed Order would establish an expeditious schedule requiring final compliance by July 1, 1979. Source compliance with the Order would preclude suits under the Federal enforcement and citizen suit provision of the Clean Air Act (Act) for violation of the SIP regulations covered by the Order.

The purpose of this notice is to invite public comment and to offer an opportunity to request a public hearing on U.S. EPA's proposed issuance of the Order.

DATES: Written comments must be received on or before June 7, 1979, and requests for a public hearing must be received on or before May 23, 1979. All requests for a public hearing should be accompanied by a statement of why the hearing would be beneficial and a text or summary of any proposed testimony to be offered at the hearing. If there is significant public interest in a hearing, it will be held after twenty-one days prior notice of the date, time, and place of the hearing has been given in this publication.

ADDRESSES: Comments and requests for a public hearing should be submitted to Director, Enforcement Division, U.S. Environmental Protection Agency, Region V, 230 South Dearborn Street, Chicago, Illinois 60604. Material supporting the Order and public comments received in response to this notice may be inspected and copied (for appropriate charges) at this address during normal business hours.

FOR FURTHER INFORMATION CONTACT: Linda M. Buell, Attorney, Enforcement Division, U.S. Environmental Protection Agency, 230 South Dearborn Street, Chicago, Illinois 60604, at (312) 353–2082.

SUPPLEMENTARY INFORMATION: Firestone Industrial Products Company owns a rubber adhesive spreader at its Noblesville, Indiana facility. The proposed Order addresses emissions

from the rubber adhesive spreader at this facility, which is subject to Indiana Regulation APC–15(8)(a) of the Indiana Implementation Plan. The regulation limits the emissions of organic materials and is part of the federally approved Indiana State Implementation Plan. The Order requires final compliance with the regulations by July 1, 1979 and the source has consented to its terms.

The proposed Order satisfies the applicable requirements of Section 113(d) of the Act. If the Order is issued, source compliance with its terms would preclude further U.S. EPA enforcement action under Section 113 of the Act against the source for violations of the regulation covered by the Order during the period the Order is in effect. Enforcement against the source under the citizen suit provisions of the Act (Section 304) would be similarly precluded.

Comments received by the date specified above will be considered in determining whether U.S. EPA should issue the Order. Testimony given at any public hearing concerning the Order will also be considered. After the public comment period and any public hearing, the Administrator of U.S. EPA will publish in the **Federal Register** the Agency's final action on the Order in 40 CFR Part 65.

Dated: March 27, 1979.

John McGuire,
Regional Administrator, Region V

In consideration of the foregoing, it is proposed to amend 40 CFR Chapter I, as follows:

PART 65—DELAYED COMPLIANCE ORDERS

1. By adding an entry to the table in § 65.190, *Federal Delayed Compliance Orders issued under Section 113(d) (1), (3), and (4) of the Act,* to reflect approval of the following order.

2. The text of the Order reads as follows:

United States Environmental Protection Agency

In the Matter of Firestone Industrial Products Company, Noblesville, Indiana. Proceeding under Sections 113(a), 113(d) and 114, Clean Air Act, as amended. Order No. EPA–5–79–A.

Order

The following ORDER is issued this date pursuant to Sections 113(a), 113(d) and 114 of the Clean Air Act, as amended, 42 U.S.C. Section 7401 *et seq.*, (hereinafter referred to as "the Act"). The ORDER contains a compliance schedule with increments of progress. Emission monitoring and reporting requirements are not included, since emission monitors are not available for hydrocarbon sources. In addition, interim emission reduction requirements are not included as none are available. Final compliance is required as expeditiously as practicable, but no later than July 1, 1979. Public notice, opportunity for a public hearing and notice to the State of Indiana have been provided pursuant to Section 113(d)(1) of the Act.

On January 18, 1978, James O. McDonald, Director, Enforcement Division, Region V, United States Environmental Protection Agency (hereinafter referred to as "U.S. EPA"), pursuant to authority duly delegated to him by the Administrator of U.S. EPA, issued a Notice of Violation to the Firestone Industrial Products Company (hereinafter referred to as "the Company"), stating that the Company's facility, located in Noblesville, Indiana, was found to be in violation of the applicable Indiana Implementation Plan, as defined in Section 110(d) of the Act. The Notice cited the Company's rubber adhesive spreader and several other sources for violation of Indiana Regulation APC–15(8)(a). A copy of said Notice was sent to the State of Indiana Pollution Control Board.

Pursuant to Section 113(a)(4) of the Act, opportunity to confer with the Administrator's delegates was duly given to the Company. On February 16, 1978, a conference was held in Noblesville, Indiana, to discuss the January 18, 1978, Notice of Violation mentioned above. These discussions were sufficient to fulfill the Section 113(a)(4) requirements and a more formal conference was waived. A second conference was held in Chicago on December 1, 1978.

U.S. EPA has determined that said violations have continued beyond the 30th day after the date of the Enforcement Director's notification.

After a review of information submitted at the conference, and a thorough investigation of all relevant facts, including public comment, it has been determined that the Company is presently unable to comply with Indiana Regulation APC–15(8)(a), that the schedule hereinafter set forth requires compliance as expeditiously as practicable, and that the terms of this ORDER comply with Section 113(d) of the Act.

Therefore, it is hereby ORDERED that:

1. The Company shall achieve compliance with Indiana Regulation APC–15(8)(a) for the rubber adhesive spreader, in accordance with the following schedule:

Increment and date

1. Select control device and submit plans to U.S. EPA—achieved.
2. Issue control device purchase order—achieved.
3. Initiate on-site construction or installation—April 30,1979.
4. On-site construction or installation 50 percent complete—June 8, 1979.
5. Completion of on-site construction or installation—June 22, 1979.
6. Achieve final compliance with Indiana Regulation APC–15(8)(a)—July 1, 1979.
7. Submit source tests to demonstrate final compliance—July 22, 1979.

II. Nothing herein shall affect the responsibility of the Company to comply with other Federal, State or local regulations.

III. No later than ten days after any date for achievement of an incremental step specified in this ORDER, the Company shall notify U.S. EPA in writing of its compliance or noncompliance with the requirement. If delay is anticipated in meeting any requirement contained in this ORDER, the Company shall immediately notify U.S. EPA in writing of the anticipated delay and reasons for the delay. Notification to U.S. EPA of an anticipated delay does not excuse the delay.

IV. On May 1, 1979, the Company shall submit a status report to U.S. EPA detailing the progress made since issuance of the control device purchase order.

V. Nothing herein shall be construed to be a waiver by the Administrator of any rights or remedies under the Clean Air Act, including, but not limited to, Section 303 of the Act, 42 U.S.C. Section 7503.

VI. Although interim emission reduction requirements are not available, the coating equipment shall be operated and maintained in such a way as to reduce emissions of organic solvents as much as possible, consistent with safety and production requirements.

VII. The Company is hereby notified that its failure to achieve final compliance at the rubber adhesive spreader by July 1, 1979, will result in a requirement to pay a noncompliance penalty under Section 120. In the event of such failure, the Company will be formally notified, pursuant to Section 120(b)(3) and any regulations promulgated thereunder, of its noncompliance.

VIII. All submissions and notifications to U.S. EPA, pursuant to this ORDER, shall be made to the Air Compliance Section, Enforcement Division, U.S. EPA, Region V, 230 South Dearborn Street, Chicago, Illinois 60604, (312) 353–2090.

Date

Administrator

Firestone Industrial Products Company has reviewed this ORDER, consents to the terms and conditions of this ORDER, and believes it to be a reasonable means by which the Noblesville, Indiana facility can achieve final compliance with Indiana Regulation APC–15(8)(a).

Date

Humbert M. Lopes
Firestone Industrial Products Company

[FRL 1098–6]
[FR Doc. 79–14272 Filed 5–7–79; 8:45 am]
BILLING CODE 6560–01–M

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[40 CFR Part 65]

Proposed Delayed Compliance Order for Mannington Mills, Inc.

AGENCY: Environmental Protection Agency.

ACTION: Proposed Rule.

SUMMARY: The EPA proposes to issue an administrative Order pursuant to Section 113(d)(1) of the Clean Air Act, as amended, 42 U.S.C. § 7401 *et seq.* ("the Act"), requiring Mannington Mills, Inc. ("Mannington Mills") to bring its vinyl floor covering manufacturing facility located at Salem, New Jersey, into compliance with certain regulations contained in the federally-approved New Jersey State Implementation Plan ("SIP"). The proposed Order would establish a final compliance date by Mannington Mills of July 30, 1974 because of the inability of this source to comply with these regulations at this time. Source compliance with this Order would preclude suits under the Federal enforcement and citizen suit provisions of the Act for violation of the SIP regulations covered by this Order. The purpose of this notice is to invite public comment and to offer an opportunity to request a public hearing on EPA's proposed issuance of this Order.

DATES: Written comments and requests for a public hearing must be received on or before June 7, 1979. All requests for a public hearing should be accompanied by a statement of why the hearing would be beneficial and a text or summary of any proposed testimony to be offered at the hearing. If there is significant public interest in a hearing, it will be held after thirty days notice of the date, time, and place of the hearing has been given in this publication.

ADDRESSES: Comments and requests for a public hearing should be submitted to: Meyer Scolnick, Director, Enforcement Division, U.S. Environmental Protection Agency, Region II, 26 Federal Plaza, New York, New York 10007. Material supporting this Order and public comments received in response to this notice may be inspected and copied (for appropriate charges) at this address during normal business hours.

FOR FURTHER INFORMATION CONTACT: Samuel P. Moulthrop, Attorney, General Enforcement Branch, Enforcement Division, U.S. Environmental Protection Agency, Region II, 26 Federal Plaza, New York, New York 10007, (212) 264–5695.

SUPPLEMENTARY INFORMATION: Mannington Mills, Inc. owns and operates a plant which manufactures vinyl floor covering in Salem, New Jersey. The Order under consideration concerns emissions from Scrubber #1 on the Vinyl I Line, which are subject to the requirements of Title 7, Chapter 27, Subchapter 6 of the New Jersey Administrative Code. This regulation limits the permissible opacity of particulate emissions and is part of the federally-approved State Implementation Plan for the Air Quality Control Region in which the source is located.

Mannington Mills has proposed to comply with the opacity limitation by installing a new scrubber, mist eliminator and associated equipment. The Order requires that installation of the equipment be completed and full compliance achieved on or before June 30, 1979. During the installation of the new equipment, emissions from the Vinyl I Line will be vented uncontrolled for a period of two months. EPA has reserved the right to order Mannington Mills to stop these emissions if EPA determines that they cause a substantial adverse environmental or health effect or create a substantial nuisance. Mannington Mills has consented to the issuance of this Order and to its terms.

The proposed Order satisfies the applicable requirements of Section 113(d) of the Act. If the Order is issued, source compliance would preclude further EPA enforcement action under Section 113 of the Act against the source for violations of the regulation covered by the Order during the period the Order is in effect. Enforcement against the source under the citizen suit provisions of Section 304 of the Act would be similarly precluded.

Comments received by the date specified above will be considered in determining whether EPA should issue this Order. Testimony given at any public hearing concerning the Order will also be considered. After the public comment period and any public hearing, the Administrator of the EPA will publish in the **Federal Register** the Agency's final action on the Order in 40 CFR Part 65.

Dated: April 13, 1979.

Eckardt C. Beck,

Regional Administrator, Region II.

In consideration of the foregoing, it is proposed that 40 CFR Chapter I be amended as follows:

PART 65—DELAYED COMPLIANCE ORDERS

1. By adding an entry to the table in § 65.350, *Federal delayed compliance orders issued under Section 113(d)(1), (3) and (4) of the Act,* to reflect approval of the following order.

2. The text of the order reads as follows:

U.S. Environmental Protection Agency
Region II

In the Matter of Mannington Mills, Inc. (Salem, New Jersey).

Consent Order.—Index No. 70117.

Findings

On April 26, 1977 the United States Environmental Protection Agency, Region II ("EPA") issued a notice of Violation, pursuant to Section 113(a)(1) of the Clean Air Act, as amended, 42 U.S.C. § 7401 *et seq.* ("the Act"), to Mannington Mills, Inc. ("the Company"), located at Salem, New Jersey. The Notice of Violation was issued upon a finding that Scrubber #1 on the Vinyl I Line was in violation of New Jersey Administrative Code ("N.J.A.C.") 7:27–6.2(d) (formerly N.J.A.C. 7:27–6.2(b)), a regulation limiting the permissable opacity of particulate emissions. Said regulation is part of the federally-approved implementation plan applicable to the Air Quality Control Region in which the Company is situated. The finding of violation was based upon readings taken by an EPA certified visable emissions observer at the subject facility on March 17, 1977. On June 21, 1977 an EPA inspector documented a continuing violation of N.J.A.C. 7:27–6.2(d) at said Scrubber #1.

At a meeting held on September 19, 1977 between representatives of the Company and EPA pursuant to Section 113(a)(4) of the Act, and in subsequent conversations, the Company admitted the above violations. Studies were thereafter undertaken by the Company to determine what type of air pollution control equipment could be installed to meet the standards of N.J.A.C. 7:27–6.2(d).

Based upon the results of its investigation, the Company suggested and agreed to an abatement control program to bring it into compliance with the applicable standard. After careful evaluation of the air pollution control approach selected by the Company, EPA agreed to the compliance schedule suggested by the Company.

Before a final Order, imposing the air pollution control scheme, was issued the Company proposed a different control scheme, which it believed would be more effective. This proposal involved the installation of a new scrubber, mist eliminator, ductwork, and ancillary equipment on the Vinyl I Line (hereinafter referred to as "the control equipment"). After a careful review the EPA has agreed to this new proposal.

The EPA has determined that the Company has acted in good faith, that the violations involved are being corrected, and that the source can, by meeting the terms of this Order, be in final compliance with applicable air pollution control regulations prior to July 1, 1979. The EPA has determined that the schedule embodied herein will provide for compliance by the Company as expeditiously as is practicable.

The EPA has determined that there exist no interim control measure which are practicably available to the Company to minimize air emissions during the period of delayed compliance at its Salem, Mew Jersey facility permitted by the terms of this Order.

Public notice, opportunity for a public hearing and thirty days notice to the State of New Jersey have been provided.

Order

Based upon the foregoing, after consideration of public comment, and pursuant to Section 113(d) of the Act, it is hereby ordered:

That the Company take the following actions on or before the dates specified at its facility in Salem, New Jersey:

I. A. On or before February 24, 1979 the Company shall complete detailed engineering plans and specifications for the control equipment.

B. On or before march 3, 1979 the Company shall commence construction necessary for installation of the control equipment.

C. On or before April 14, 1979 the Company shall take delivery of all necessary equipment comprising the control equipment, except the Robinson blower which the Company shall obtain prior to June 1, 1979.

D. On or before June 9, 1979 the Company shall complete installation of the control equipment.

E. On or before June 30, 1979 the Company shall achieve full compliance with N.J.A.C. 7:27–6.2(d) at the Vinyl I Line.

II. During the period in which the control equipment is being installed on the Vinyl I Line, the Company shall not vent uncontrolled emissions from the Vinyl I Line, unless such emissions are vented in a vertical direction.

III. During any time period in which the Company vents uncontrolled emissions from the Vinyl I Line pursuant to this Order, the EPA may require the Company to cease venting uncontrolled emissions or to further limit, control, or restrict emissions from the Vinyl I Line, if the EPA determines in writing that the uncontrolled emissions cause (or contribute to) a substantial adverse environmental or health impact or create a substantial nuisance.

IV. On or before June 30, 1979, the Company shall evaluate the performance of the control equipment for reducing opacity and certify in writing to EPA that emissions from the Vinyl I Line are in final compliance with the requirements of N.J.C.A. 7:27–6.2(d).

V. The company shall comply with the following reporting requirements:

A. No later than seven (7) days after any date specified in Paragraph I and II of this Order, for achievement of any incremantal step (including final compliance) for which a specific reporting date is not set forth, the Company shall notify the EPA in writing of its status of compliance with respect to said incremental step. If compliance with any incremental step is not achieved, or at any time is not anticipated to be achieved, in a timely manner, the notification required by this Paragraph shall provide a full explanation for the failure or expected failure to so comply. Notwithstanding any explanation for a delay or expected delay, any failure to meet the incremental step by the date specified wherin shall be deemed a violation of this Order and may subject the Company to the remedies described in Paragraph VII, below.

B. All submissions, notifications and reports to the EPA pursuant to terms of this Order shall be made to Mr. Kenneth Eng, Chief, Air and Environmental Application Section, Permits Administration Branch, Planning and Management Division, U.S. Environmental Protection Agency, 26 Federal Plaza New York, New York 10007.

VI. Nothing herein shall affect the responsibility of the Company to comply with the State or local regulations. This Order shall be terminated in accordance with Section 113 (d)(8) of the act if the Administrator (or his delegate) determines on the record, after notice and hearing, that an inability to comply with N.J.A.C. 7:27–6.2(d) no longer exists.

VII. Violation of any requirement of this Order may result in one or more of the following actions:

A. Enforcement of such requirement pursuant to Section 113 (a), (b), or (c) of the Act, including possible judicial action for an injunction or criminal prosecution.

B. Revocation of this Order, after notice and opportunity for a public hearing, and subsequent enforcement of N.J.A.C. 7:27–6.2(d) in accordance with the preceding paragraph.

C. If such violation continues beyond July 1, 1979, notice of noncompliance and subsequent action pursuant to Section 120 of the Act.

So ordered, effective immediately.

Administrator,
U.S. Environmental Protection Agency.

Date

Consent

The undersigned, having full authority to represent Mannington Mills, Inc., has read the foregoing Order, believes it to be reasonable, and therefore consents to both its issuance and its terms. The undersigned acknowledges that the Company has been and continues to be in violation of the requirements of N.J.A.C. 7:27–6.2(d). The undersigned recognizes that the Company is subject to all remedies provided in Section 113 of the Act for failure to comply with the terms of the foregoing Order.

Name:
Position:
For Mannington Mills, Inc.
Date

[FRL 1209–6]

[FR Doc. 79–14275 Filed 5–7–79; 8:45 am]

BILLING CODE 6560–01–M

[40 CFR Part 65]

Proposed Delayed Compliance Order for United Service Co.

AGENCY: U.S. Environmental Protection Agency.

ACTION: Proposed rule.

SUMMARY: U.S. EPA proposes to issue an Administrative Order to United Service Company. The Order requires the Company to bring its boilers #1 and #3 at Cleveland, Ohio, into compliance with AP–3–07 and AP–3–11, part of the federally approved Ohio State Implementation Plan (SIP) and 40 CFR Section 52.1882(a). Because the Company is unable to comply with these regulations at this time, the proposed Order would establish an expeditious schedule requiring final compliance with AP–3–07 and AP–3–11 by July 1, 1979, and final compliance with 40 CFR Section 52.1882(a) by thirty days after final publication of Order. Source compliance with the Order would preclude suits under the Federal enforcement and citizen suit provision of the Clean Air Act (Act) for violation of the SIP regulations covered by the Order.

The purpose of this notice is to invite public comment and to offer an opportunity to request a public hearing on U.S. EPA's proposed issuance of the Order.

DATES: Written comments must be received on or before June 7, 1979, and requests for a public hearing must be received on or before May 23, 1979. All requests for a public hearing should be accompanied by a statement of why the hearing would be beneficial and a text or summary of any proposed testimony to be offered at the hearing. If there is significant public interest in a hearing, it will be held after twenty-one days prior notice of the date, time, and place of the hearing has been given in this publication.

ADDRESSES: Comments and requests for a public hearing should be submitted to Director, Enforcement Division, U.S. Environmental Protection Agency, Region V, 230 South Dearborn Street, Chicago, Illinois 60604. Material supporting the Order and public comments received in response to this notice may be inspected and copied (for appropriate charges) at this address during normal business hours.

FOR FURTHER INFORMATION CONTACT: Ms. Linda M. Buel, Attorney, Enforcement Division, U.S. Environmental Protection Agency, 230 South Dearborn Street, Chicago, Illinois 60604, at (312) 353–2082.

SUPPLEMENTARY INFORMATION: United Service Company owns an industrial laundry facility at Cleveland, Ohio. The proposed Order addresses emissions from boilers #1 and #3 at this facility, which are subject to AP–3–07 and AP–3–

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11 of the Ohio Implementation Plan and 40 CFR 52.1882(a), part of the federally promulgated sulfur dioxide plan for Ohio. The regulations limit the emissions of visible air contaminants, particulate matter and sulfur dioxide. The Order requires final compliance with Regulations AP–3–07 and AP–3–11 by July 1, 1979, and final compliance with 40 CFR 52.1882(a) by thirty days after final publication of the Order. The Company has consented to these terms.

The proposed Order satisfies the applicable requirements of Section 113(d) of the Act. If the Order is issued, source compliance with its terms would preclude further U.S. EPA enforcement action under Section 113 of the Act against the source for violations of the regulations covered by the Order during the period the Order is in effect. Enforcement against the source under the citizen suit provisions of the Act (Section 304) would be similarly precluded.

Comments received by the date specified above will be considered in determining whether U.S. EPA should issue the Order. Testimony given at any public hearing concerning the Order will also be considered. After the public comment period and any public hearing, the Administrator of U.S. EPA will publish in the **Federal Register** the Agency's final action on the Order in 40 CFR Part 65.

Dated: April 17, 1979.

John McGuire,
Regional Administrator, Region V

In consideration of the foregoing, it is proposed to amend 40 CFR Chapter 1, as follows:

PART 65—DELAYED COMPLIANCE ORDERS

1. By adding an entry to the table in § 65.400, *Federal Delayed Compliance Orders issued under Section 113(d)(1), (3), and (4) of the Act,* to reflect approveal of the following order.

2. The text of the order reads as follows:

U.S. Environmental Protection Agency, Region V

In the Matter of the United Service Company, Cleveland, Ohio. Proceeding Under Sections 113(a), 113(d) and 114 Clean Air Act, as Amended. Order No. EPA–5–79–A–.

Order

The following ORDER is issued this date pursuant to Sections 113(a), 113(d) and 114 of the Clean Air Act, as amended, 42 U.S.C. 7401 *et seq.*, (hereinafter referred to as "the Act"). The ORDER contains a compliance schedule with increments of progress and interim emission reduction requirements. Final compliance is required as expeditiously as practicable, but no later than July 1, 1979. Public notice, opportunity for a public hearing and notice to the State of Ohio have been provided pursuant to Section 113(d)(1) of the Act.

On November 15, 1977, Dale S. Bryson, Acting Director, Enforcement Division, Region V, United States Environmental Protection Agency (hereinafter referred to as "U.S. EPA"), pursuant to authority duly delegated to him by the Administrator of U.S. EPA, issued a Notice of Violation to the Independent Towel Supply Company (hereinafter referred to as "Independent Towel"), stating that their facility, located at 1802 Central Avenue, Cleveland, Ohio, was found to be in violation of the Ohio Implementation Plan as well as the federally promulgated Sulfur Dioxide Plan for Ohio. A copy of the Notice was sent to the State of Ohio. The Notice cited Independent Towel's Boilers 1 and 3 for violation of Ohio Regulation AP–3–11 and 40 CFR Section 52.1882(a), which required Independent Towel to either certify compliance with 40 CFR Section 52.1881(b) or submit to the Administrator certain information about control plans for the boilers.

On May 17, 1978, Dale S. Bryson, Acting Director, Enforcement Division, Region V, U.S. EPA, pursuant to authority duly delegated to him by the Administrator, issued a Notice of Violation to Independent Towel stating that the above-mentioned boilers had also been found in violation of Ohio Regulation AP–3–07, part of the applicable Ohio Implementation Plan. A copy of the Notice was sent to the State of Ohio.

After going into bankruptcy, on November 28, 1978, certain assets previously belonging to Independent Towel were purchased by the United Service Company ("the Company") from the trustee in bankruptcy. In addition, the Company possesses an option to purchase certain real estate from Miller Brothers Realty Company, which includes the facility at 1802 Central Avenue, Cleveland, Ohio. This option will be exercised on or before July 8, 1979.

Representatives of the Company attended meetings at the Cleveland Division of Air Pollution Control on December 12, 1978, January 5, 1979, January 23, 1979, and February 21, 1979, with representatives of U.S. EPA in attendance. The purchase of the Independent Towel assets was with full knowledge of the outstanding Notices of Violation issued on November 15, 1977, and May 17, 1978.

U.S. EPA has determined that said violations have continued beyond the 30th day after the date of the Acting Enforcement Director's notification.

The Company's plan calls for the replacement of the violating boilers with alternative systems which will enable the Company to comply with the Ohio particulate matter regulations and the federally promulgated Ohio sulfur dioxide regulations by July 1, 1979.

After a thorough investigation of all relevant facts, it has been determined that because immediate compliance is infeasible, compliance in accordance with the schedule hereinafter set forth is reasonable.

Therefore, it is hereby ORDERED and AGREED that:

I. The Company shall achieve compliance with Ohio Regulations AP–3–07 and AP–3–11 in accordance with the following schedule:

Increment and date
Obtain bids for equipment and for site preparation—achieved.
Evaluate bids—achieved.
Award contracts for equipment and for site preparation—achieved.
Initiate site preparation—April 5, 1979.
Complete installation of equipment and site preparation—June 14, 1979.
Achieve final compliance with Ohio Regulations AP–3–07 and AP–3–11—July 1, 1979.

II. Compliance with 40 CFR Section 52.1882(a) will be achieved by the immediate submission to the Administrator certifying compliance with 40 CFR Section 52.1881(b).

III. No later than ten days after any date for achievement of an incremental step specified in this ORDER, the Company shall notify U.S. EPA in writing of its complaince or noncompliance with the requirement. If delay is anticipated in meeting any requirement contained in this ORDER, the Company shall immediately notify U.S. EPA in writing of the anticipated delay and reasons for the delay.

IV. Nothing herein shall affect the responsibility of the Company to comply with other Federal, State or local regulations.

V. Commencing immediately and throughout the pendency of this ORDER, the Company shall (consistent with good operating practice) operate its boilers so as to reduce to the maximum extent possible particulate matter emissions.

VI. The Company is hereby notified that its failure to achieve final compliance by July 1, 1979, will result in a requirement to pay a noncompliance penalty under Section 120. In the event of such failure, the Company will be formally notified, pursuant to Section 120(b)(3) and any regulations promulgated thereunder, of its noncompliance.

VII. Nothing herein shall be construed to be a waiver by the Administrator of any rights or remedies under the Clean Air Act, including, but not limited to, Section 303 of the Act, 42 U.S.C. Section 7503.

VIII. All submissions and notifications to U.S. EPA, pursuant to this ORDER, shall be made to the Air Compliance Section, Enforcement Division, U.S. EPA, Region V, 230 South Dearborn Street, Chicago, Illinois 60604. Copies should also be sent to the Cleveland Division of Air Pollution Control, 2735 Broadway Avenue, Cleveland, Ohio 44115.

Date _____

Administrator

The United Service Company has reviewed this ORDER, consents to the terms and conditions of this ORDER, and believes it to be a reasonable means by which the Cleveland, Ohio facility can achieve final compliance with Ohio Regulations AP–3–07, AP–3–11 and 40 CFR Section 52.1882(a).

Date _____

Leslie W. Spero,
President, The United Service Company.

[FRL 1213–3]
[FR Doc. 79–14273 Filed 5–7–79; 8:45 am]
BILLING CODE 6560–01–M

[40 CFR Part 65]

Delayed Compliance Orders; Proposed Approval of an Administrative Order Issued by Ohio Envirnmental Protection Agency to Lincoln Electric Co.

AGENCY: U.S. Environmental Protection Agency.

ACTION: Proposed rule.

SUMMARY: U.S. EPA proposes to approve an Administrative Order issued by the Ohio Environmental Protection Agency to Lincoln Electric Company. The Order requires the company to bring air emissions from its three varnish dip-tank and bake oven systems in Cleveland, Ohio, into compliance with certain regulations contained in the federally approved Ohio State Implementation Plan (SIP) by July 1, 1979. Because the Order has been issued to a major source and permits a delay in compliance with provisions of the SIP, it must be approved by U.S. EPA before it becomes effective as a Delayed Compliance Order under the Clean Air Act (the Act). If approved by U.S. EPA, the Order will constitute an addition to the SIP. In addition, a source in compliance with an approved Order may not be sued under the Federal enforcement or citizen suit provisions of the Act for violations of the SIP regulations covered by the Order. The purpose of this notice is to invite public comment on U.S. EPA's proposed approval of the Order as a Delayed Complaince Order.

DATE: Written comments must be received on or before June 7, 1979.

ADDRESSES: Comments should be submitted to Director, Enforcement Division, U.S. EPA, Region V, 230 South Dearborn Street, Chicago, Illinois 60604. The State Order, supporting material, and public comments received in response to this notice may be inspected and copied (for appropriate charges) at this address during normal business hours.

FOR FURTHER INFORMATION CONTACT: Cynthia Colantoni, Enforcement Division, U.S. EPA, 230 South Dearborn Chicago, Illinois 60604 (312) 353–2082.

SUPPLEMENTARY INFORMATION: Lincoln Electric Company operates three dip-tank and bake oven systems at Cleveland, Ohio. The Order under consideration addresses emissions from the facility, which is subject to Ohio Administrative Code (OAC) 3745–21–07(G). The regulation limits the emissions of hydrocarbons, and is part of the federally approved Ohio State Implementation Plan. The Order requires final compliance with the regulation by July 1, 1979 through the installation of after burner systems to incinerate the bake oven emissions. The source has consented to the terms of the Order.

Because this Order has been issued to a major source of hydrocarbon emissions and permits a delay in compliance with the applicable regulation, it must be approved by U.S. EPA before it become effective as a Delayed Compliance Order under Section 113(d) of the Act. U.S. EPA may approve the Order only if it satisfies the appropriate requirements of this subsection.

If the Order is approved by U.S. EPA, source compliance with its terms would preclude Federal enforcement action under Section 113 of the Act against the source for violations of the regulation covered by the Order during the period the Order is in effect. Enforcement against the source under the citizen suit provision of the Act (Section 304) would be similarly precluded. If approved, the Order would also constitute an addition to the Ohio SIP.

All interested persons are invited to submit written comments on the proposed Order. Written comments received by the date specified above will be considered in determining whether U.S. EPA may approve the Order. After the public comment period, the Administrator of U.S. EPA will publish in the **Federal Register** the Agency's final action on the Order in 40 CFR Part 65.

(42 U.S.C. 7413, 7601.)

Dated: April 2, 1979.

John McGuire,
Regional Administrator.

1. In consideration of the foregoing, it is proposed to amend 40 CFR Chapter I, as follows:

PART 65—DELAYED COMPLIANCE ORDERS

By adding an entry to the table in § 65.401 to reflect approval of the following order.

2. The text of the order reads as

Section 113(d) Order Before the Ohio Environmental Protection Agency

In the Matter of: The Lincoln Electric Company, 22801 St. Clair Avenue, Cleveland, Ohio 44117.

Orders

The Director of Environmental Protection, (hereinafter "Director"), hereby makes the following Findings of Fact and, pursuant to Sections 3704.03 (S) and (I) and 3704.031 of the Ohio Revised Code and in accordance with Section 113(d) of the Clean Air Act, as amended, 42 U.S.C. 7401 *et seq.*, issues the following Orders which will not take effect until the Administrator of the United States Environmental Protection Agency has approved their issuance under the Clean Air Act.

Findings of Fact

1. The Lincoln Electric Company (hereinafter Lincoln Electric), operates three varnish dip-tank and bake oven systems (1318202137 P003, P012, and P016) which serve its facility located at 22801 St. Clair Avenue, Cleveland, Ohio 44117.

2. In the course of operation of the three varnish dip tank and bake oven systems, air contaminants are emitted in violation of OAC 3745–21–07 (G).

3. Lincoln Electric is unable to immediately comply with OAC 3745–21–07 (G).

4. Potential emissions of hydrocarbons from three varnish dip tank and bake oven systems are approximately 139 tons per year; therefore Lincoln Electric constitutes a major stationary source or facility under Section 302(j) of the Clean Air Act, as amended.

5. The compliance schedule set forth in the Orders below requires compliance with OAC 3745–21–07 (G) as expeditiously as practicable.

6. Implementation by Lincoln Electric of the interim requirements contained in the Orders below will fulfill the requirements of Section 113(d)(7) of the Clean Air Act, as amended.

7. Due to the composition of the hydrocarbon emissions from the varnish dip tank and bake oven systems, it is technically infeasible and economically unreasonable to require the installation of continuous emission monitoring equipment for the ovens.

8. The Director's determination to issue the Orders set forth below is based upon his consideration of reliable, probative and substantial evidence relating to the technical feasibility and economic reasonableness of compliance with such Orders, and their relation to benefits to the people of the State to be derived from such compliance.

Orders

Whereupon, after due consideration of the above Findings of Fact, the Director hereby issues the following Orders pursuant to Sections 3704.03(S) and (I) and 3704.031 of the Ohio Revised Code in accordance with Section 1113(d) of the Clean Air Act, as amended, 42 U.S.C., 7401 *et seq.*, which will not take effect until the Administrator of the United States Environmental Protection Agency has approved their issuance under the Clean Air Act.

1. Lincoln Electric shall bring its three varnish dip-tank and bake oven systems located at 22801 St. Clair Avenue, Cleveland, Ohio 44117 into final compliance with OAC 3745–21–07 (G) by installing afterburner systems to incinerate the bake oven emissions no later than July 1, 1979.

2. Compliance with ORDER (1) above shall be achieved by Lincoln Electric in accordance with the following schedule on or before the dates specified:

Submit final control plans—January 15, 1979.
Award contract(s)—January 31, 1979.
Begin construction—April 10, 1979.
Complete construction—June 15, 1979.
Complete stack testing to demonstrate compliance (if determined necessary by Cleveland DAPC)—June 30, 1979.
Achieve final compliance with State and Federal statutes and regulations—July 1, 1979.

3. Pending achievement of compliance with Order (1) above, Lincoln Electric shall comply with the following interim requirements which are determined to be reasonable and to be the best practicable systems of emission reduction, and which are necessary to ensure compliance with OAC 3745–21–07 (G) insofar as Lincoln Electric is able to comply with it during the period this Order is in effect in accordance with Section 113(d)(7) of the Clean Air Act, as amended. Such interim requirements shall include:

a. Lincoln Electric shall immediately institute a regular maintenance program to minimize emissions from the varnish dip tank and bake oven systems.

b. Lincoln Electric shall continue to use non-photochemically reactive solvent coatings to minimize emissions from the varnish dip tank and bake oven systems.

c. Lincoln Electric shall submit quarterly coatings and solvent usage reports for each dip tank/bake oven system to Cleveland DAPC with the first report due January 1, 1979.

4. Within five (5) days after the scheduled achievement date of each of the increments of progress specified in the compliance schedule in Order (2) above, Lincoln Electric shall submit a progress report to the Division of Air Pollution Control, 2735 Broadway Avenue, Cleveland, Ohio 44115. The person submitting these reports shall certify whether each increment of progress has been achieved and the date it was achieved. The reports shall also include Lincoln Electric Company's status of compliance with the interim control requirements in Order (3) above.

5. If deemed necessary by Cleveland DAPC, Lincoln Electric shall conduct emission tests on varnish ovens P003, P012, and P016 to demonstrate compliance with OAC 3745–21–07 (G). Such tests shall be performed in accordance with Ohio EPA approved methods on a date no later than June 30, 1979 (see Order No. 2 above). Written notification of intent to test shall be provided to the City of Cleveland, Division of Air Pollution Control, thirty (30) days prior to the testing date, so that a person from that office can be present at the tests. Test results shall be received by that office no later than July 31, 1979.

6. Lincoln Electric is hereby notified that unless it is exempted under Section 120(a)(2)(B) or (C) of the Clean Air Act, as amended, failure to achieve final compliance with Order (1) above by July 1, 1979, will result in a requirement to pay a noncompliance penalty under Section 120 of the Clean Air Act, as amended.

These orders will not take effect until the Administrator of the United States Environmental Protection Agency has approved their issuance under the Clean Air Act.

James F. McAvoy,
Director of Environmental Protection.

Waiver

The Lincoln Electric Company agrees that the attached Findings and Orders are lawful and reasonable and agrees to comply with the attached Orders. The Lincoln Electric Company hereby waives the right to appeal the issuance or terms of the attached Findings and Orders to the Environmental Board of Review, and it hereby waives any and all rights it might have to seek judicial review of said Findings and Orders either in law or equity. The Lincoln Electric Company also waives any and all rights it might have to seek judicial review of any approval by U.S. EPA of the attached Findings and Orders or to seek a stay of enforcement of said Findings and Orders in connection with any judicial review of Ohio's air implementation plan or portion thereof.

George G. Willis,
President, Authorized Representotive of The Lincoln Electric Company.

[FRL 1204–1]
[FR Doc. 79–14278 Filed 5–7–79; 8:45 am]
BILLING CODE 6560–01–M

[40 CFR Part 65]

Delayed Compliance Orders; Proposed Approval of an Administrative Order Issued by Ohio Environmental Protection Agency to Central Soya Company, Inc.

AGENCY: U.S. Environmental Protection Agency.

ACTION: Proposed rule.

SUMMARY: U.S. EPA proposes to approve an Administrative Order issued by the Ohio Environmental Protection Agency to Central Soya Company, Inc. The Order requires the company to bring air emissions from its two coal-fired boilers in Marion, Ohio, into compliance with certain regulations contained in the federally approved Ohio State Implementation Plan (SIP) by June 15, 1980. Because the Order has been issued to a major source and permits a delay in compliance with provisions of the SIP, it must be approved by U.S. EPA before it becomes effective as a Delayed Compliance Order under the Clean Air Act (the Act). If approved by U.S. EPA, the Order will constitute an addition to the SIP. In addition, a source in compliance with an approved Order may not be sued under the Federal enforcement or citizen suit provisions of the Act for violations of the SIP regulations covered by the Order. The purpose of this notice is to invite public comment on U.S. EPA's proposed approval of the Order as a Delayed Compliance Order.

DATES: Written comments must be received on or before June 7, 1979.

ADDRESSES: Comments should be submitted to Director, Enforcement Division, U.S. EPA, Region V, 230 South Dearborn Street, Chicago, Illinois 60604. The State Order, supporting material, and public comments received in response to this notice may be inspected and copied (for appropriate charges) at this address during normal business hours.

FOR FURTHER INFORMATION CONTACT: Cynthia Colantoni, Enforcement Division, U.S. EPA, 230 South Dearborn Street, Chicago, Illinois 60604. (312) 353–2082.

SUPPLEMENTARY INFORMATION: Central Soya Company, Inc. operates two coal-fired boilers at Marion, Ohio. The Order under consideration addresses emissions from these two boilers which are subject to OAC 3745–17–07 and OAC 3745–17–10. The regulations limit the emissions of particulate matter and visible emissions and are part of the federally approved Ohio State Implementation Plan. The Order requires final compliance with the regulations by April 15, 1980 by shutting down the boilers and replacing them with a fluidized bed boiler and properly designed baghouse.

Because this Order has been issued to a major source of particulate matter emissions and visible emissions and permits a delay in compliance with the applicable regulations it must be approved by U.S. EPA before it becomes effective as a Delayed Compliance Order under Section 113(d) of the Act. U.S. EPA may approve the Order only if it satisfies the appropriate requirements of this subsection.

If the Order is approved by U.S. EPA, source compliance with its terms would preclude Federal enforcement action under Section 113 of the Act against the source for violations of the regulations covered by the Order during the period the Order is in effect. Enforcement against the source under the citizen suit provision of the Act (Section 304) would be similarly precluded. If approved, the Order would also constitute an addition to the Ohio SIP. However, in the event final compliance is not achieved by July 1, 1979, source compliance with the Order will not preclude assessment of any noncompliance penalties under Section 120 of the Act, unless the source is otherwise entitled to an exemption under Section 120(a)(2) (B) or (C).

All interested persons are invited to submit written comments on the proposed Order. Written comments received by the date specified above will be considered in determining whether U.S. EPA may approve the Order. After the public comment period, the Administrator of U.S. EPA will publish in the Federal Register the Agency's final action on the Order in 40 CFR Part 65.

(42 U.S.C. 7413, 7601.)

Dated: April 27, 1979.

John McGuire,
Regional Administrator.

1. In consideration of the foregoing, it is proposed to amend 40 CFR Chapter I, as follows:

PART 65—DELAYED COMPLIANCE ORDERS

1. By adding an entry to the table in § 65.401 to reflect approval of the following order.

2. The text of the order reads as follows:

Before the Ohio Environmental Protection Agency

In the matter of Central Soya Company, Inc., 751 East Farming Street, Marion, OH 43302.

Order

The Director of Environmental Protection (hereinafter "Director") hereby makes the following Findings of Fact and, pursuant to Sections 3704.03 (S) and (I) and 3704.031 of the Ohio Revised Code and in accordance with Section 113(d) of the Clean Air Act, as amended, 42 U.S.C. 7401 et seq., issues the following Orders which will not take effect until the Administrator of the United States Environmental Protection Agency has approved their issuance under the Clean Air Act:

Findings of Fact

1. Central Soya Company, Inc., (hereinafter "Central Soya") operates two coal-fired boilers (Ohio EPA source numbers B002 and B003) which serve its facility located at 751 East Farming Street, Marion, Ohio.

2. In the course of operation of said coal-fired boilers, air contaminants are emitted in violation of OAC–3745–17–07 and OAC–3745–17–10.

3. Central Soya is unable to immediately comply with OAC–3745–17–07 and OAC–3745–17–10.

4. Potential uncontrolled emissions of particulates from the two coal-fired boilers are greater than 100 tons per year; therefore, Central Soya constitutes a major source or facility under Section 302(j) of the Clean Air Act, as amended.

5. The compliance schedule set forth in the Orders below requires compliance with OAC–3745–17–07 and OAC–3745–17–10 as expeditiously as practicable.

6. Implementation by Central Soya of the interim requirements contained in the Orders below will fulfill the requirements of Section 113(d)(7) of the Clean Air Act, as amended.

7. It is technically and economically unreasonable to require Central Soya to install and operate a continuous opacity monitoring system on the boilers prior to achieving compliance with the Orders specified below, since Central Soya is currently unable to comply with the requirements of OAC–3745–17–07 pertaining to visible emissions, no data would be produced which is not already known and, therefore, no purpose would be served.

8. The Director's determination to issue the Orders set forth below is based upon his consideration of reliable probative and substantial evidence relating to the technical feasibility and economic reasonableness of compliance with such Orders and their relation to benefits to the people of the State to be derived from such compliance.

Orders

Whereupon, after due consideration of the above Findings of Fact, the Director hereby issues the following Orders pursuant to Sections 3704.03 (S) and (I) and 3704.031 of the Ohio Revised Code in accordance with Section 113(d) of the Clean Air Act, as amended, 42 U.S.C. 7401 et seq., which will not take effect until the Administrator of the United States Environmental Protection Agency has approved their issuance under the Clean Air Act.

1. Central Soya shall bring its two coal-fired boilers (Ohio EPA source numbers B002 and B003) located at 751 Farming Street, Marion, Ohio, into final compliance with OAC–3745–17–07 and OAC–3745–17–10 by shutting down said boilers and replacing them with a new-technology, fluidized bed boiler and properly designed baghouse, which comply with all applicable state and federal regulations in effect as of the effective date of this Order, not later than April 15, 1980.

"New-technology fluidized bed combustion is a method of injecting fuel into a fluidized bed of particles of mineral matter, such as ash, limestone, or sand. Water-cooled, heat-transfer tubes located within the bed and surrounding water-wall surfaces maintain an optimum temperature for heat transfer and sulfur reduction. The fluidized bed combustion is combined with a fire-tube boiler to provide a complete, shop-assembled, packaged, multifuel boiler system."

2. Compliance with Order (1) above shall be achieved by Central Soya in accordance with the following schedule on or before the dates specified.

Submit final control plans—January 15, 1979.
Award contracts for the fluidized bed boiler and baghouse—May 15, 1979.
Shut down boiler B002 and initiate construction of the fluidized bed boiler and baghouse—October 15, 1979.
Complete construction of the fluidized bed boiler and baghouse—March 15, 1980.
Conduct compliance tests for the fluidized bed boiler and submit the test results to the Northwest District Office of the Ohio EPA—April 15, 1980.
Shut down boiler B003 and bring the fluidized bed boiler and baghouse into final compliance—April 15, 1980.

3. Central Soya shall apply for and obtain a Permit to Install, in accordance with OAC–3745–31–01 through OAC–3745–31–08, for the fluidized bed boiler and baghouse prior to the initiation of construction of the new equipment. Central Soya shall also apply for and obtain a Permit to Operate for the fluidized bed boiler and baghouse in accordance with OAC–3745–35–02.

4. Pending achievement of compliance with Order (1) above, Central Soya shall comply with the following interim requirements which are determined to be reasonable and to be the best practicable systems of emissions reduction and which are necessary to ensure compliance with OAC–3745–17–07 and OAC–3745–17–10 insofar as Central Soya is able to comply with them during the period this Order is in effect in accordance with Section 113(d) (7) of the Clean Air Act, as amended. Such interim requirements shall include:

a. Central Soya shall immediately institute a regular maintenance program to minimize emissions from the two coal boilers.

b. Central Soya shall continue to use the multiple cyclones to minimize emissions from the two coal boilers.

c. Central Soya shall immediately use coal with an analysis of: less than or equal to 8.0 percent ash, less than or equal to 3.20 percent sulfur, greater than or equal to 12,160 BTU, in order to minimize emissions from the two coal boilers.

5. Within ten (10) days after the scheduled achievement date of each of the increments of progress specified in the compliance schedule in Order (2) above, Central Soya shall submit a written progress report to the Northwest District Office, Ohio Environmental Protection Agency. The person submitting these reports shall certify whether each increment of progress has been achieved and the date it was achieved. The reports shall also include the facility's status of compliance with interim control requirements in Order (4) above.

6. Central Soya shall conduct emission tests on the fluidized bed boiler to verify compliance with Order (1) above. Such tests shall be conducted in accordance with procedures approved by the Director, and test results shall be submitted to the Northwest District Office of the Ohio EPA no later than the date specified in the compliance schedule in Order (2) above. Written notification of intent to test shall be provided to the Northwest District Office thirty (30) days prior to the testing date.

7. Central Soya is hereby notified that unless it is exempted under Section 120 (a)(2) (B) or (C) of the Clean Air Act, as amended, failure to achieve final compliance with Order (1) above by July 1, 1979, will result in a requirement to pay a noncompliance

penalty under Section 120 of the Clean Air Act, as amended.

These orders shall not take effect until the Administrator of the United States Environmental Protection Agency has approved their issuance under the Clean Air Act.

Dated: February 12, 1979.

James F. McAvoy

Waiver

Central Soya Company, Inc., agrees that the attached Findings and Orders are lawful and reasonable and agrees to comply with the attached Orders. Central Soya Company, Inc., hereby waives the right to appeal the provisions of the attached Findings and Orders to the Environmental Board of Review.

Dated: December 1, 1978.

G. W. Gillespie,
Authorized Representative of Central Soya Company, Inc.
Group Vice President.

[FRL 1204-2]
[FR Doc. 79-14277 Filed 5-7-79; 8:45 am]
BILLING CODE 6560-01-M

[40 CFR Part 65]

Delayed Compliance Orders; Proposed Approval of an Administrative Order Issued by Ohio Environmental Protection Agency to Lincoln Electric Co.

AGENCY: U.S. Environmental Protection Agency.

ACTION: Proposed rule.

SUMMARY: U.S. EPA proposes to approve an Administrative Order issued by the Ohio Environmental Protection Agency to Lincoln Electric Company. The Order requires the company to bring air emissions from its two paint dip-tanks and drying oven systems in Cleveland, Ohio, into compliance with certain regulations contained in the federally approved Ohio State Implementation Plan (SIP) by July 1, 1979. Because the Order has been issued to a major source and permits a delay in compliance with provisions of the SIP, it must be approved by U.S. EPA before it becomes effective as a Delayed Compliance Order under the Clean Air Act (the Act). If approved by U.S. EPA, the Order will constitute an addition to the SIP. In addition, a source in compliance with an approved Order may not be sued under the Federal enforcement or citizen suit provisions of the Act for violations of the SIP regulations covered by the Order. The purpose of this notice is to invite public comment on U.S. EPA's proposed approval of the Order as a Delayed Compliance Order.

DATE: Written comments must be received on or before June 7, 1979.

ADDRESSES: Comments should be submitted to Director, Enforcement Division, U.S. EPA, Region V, 230 South Dearborn Street, Chicago, Illinois 60604. The State Order, supporting material, and public comments received in response to this notice may be inspected and copied (for appropriate charges) at this address during normal business hours.

FOR FURTHER INFORMTION CONTACT:
Cynthia Colantoni, Enforcement Division, U.S. EPA, 230 South Dearborn Street, Chicago, Illinois 60604, (312-353-2082).

SUPPLEMENTARY INFORMATION: Lincoln Electric Company operates two paint dip-tanks and drying oven systems at Cleveland, Ohio. The Order under consideration addresses emissions from the facility, which is subject to Ohio Administrative Code (OAC) 3745-21-07(G). The regulation limits the emissions of hydrocarbons, and is part of the federally approved Ohio State Implementation Plan. The Order requires final compliance with the regulation by July 1, 1979, by conversion to a complying air-dry coating system based on exempt solvents or by adapting or installing another complying method or device no later than July 1, 1979. The source has consented to the terms of the Order.

Because this Order has been issued to a major source of hydrocarbon emissions and permits a delay in compliance with the applicable regulation, it must be approved by U.S. EPA before it becomes effective as a Delayed Compliance Order under Section 113(d) of the Act. U.S. EPA may approve the Order only if it satisfies the appropriate requirements of this subsection.

If the Order is approved by U.S. EPA, source compliance with its terms would preclude Federal enforcement action under Section 113 of the Act against the source for violations of the regulation covered by the Order during the period the Order is in effect. Enforcement against the source under the citizen suit provision of the Act (Section 304) would be similarly precluded. If approved, the Order would also constitute an addition to the Ohio SIP.

All interested persons are invited to submit written comments on the proposed Order. Written comments received by the date specified above will be considered in determining whether U.S. EPA may approve the Order. After the public comment period, the Administrator of the U.S. EPA will publish in the **Federal Register** the Agency's final action on the Order in 40 CFR Part 65.

(42 U.S.C. 7413, 7601.)

Dated: April 2, 1979.

John McGuire,
Regional Administrator.

1. In consideration of the foregoing, it is proposed to amend 40 CFR Chapter I, as follows:

PART 65—DELAYED COMPLIANCE ORDERS

By adding an entry to the table in § 65.401 to reflect approval of the following order.

2. The text of the order reads as follows:

Section 113(d) Order Before the Ohio Environmental Protection Agency

In the matter of: The Lincoln Electric Company, 22801 St. Clair Avenue, Cleveland, Ohio 44117.

The Director of Environmental Protection, (hereinafter "Director"), hereby makes the following Findings of Fact and, pursuant to Sections 3704.03 (S) and (I) and 3704.031 of the Ohio Revised Code and in accordance with Section 113(d) of the Clean Air Act, as amended, 42 U.S.C. 7401 *et seq.*, issues the following Orders which will not take effect until the Administrator of the United States Environmental Protection Agency has approved their issuance under the Clean Air Act.

Findings of Fact

1. The Lincoln Electric Company (hereinafter Lincoln Electric) operates two paint dip-tank and drying oven systems (13/18/20/2137 P005 and P014) which serve its facility located at 22801 St. Clair Avenue, Cleveland, Ohio 44117.

2. In the course of operation of the two paint dip-tank and drying oven systems, air contaminants are emitted in violation of OAC 3745-21-07(G).

3. Lincoln Electric is unable to immediately comply with OAC 3745-21-07(G).

4. Potential emissions of hydrocarbon from the two paint bake oven systems and other facility sources exceed 100 tons per year; therefore Lincoln Electric constitutes a major stationary source or facility under Section 302(j) of the Clean Air Act, as amended.

5. The compliance schedule set forth in the Orders below requires compliance with OAC 3745-21-07(G) as expeditiously as practicable.

6. Implementation by Lincoln Electric of the interim requirements contained in the Orders below will fulfill the requirements of Section 113(d) (7) of the Clean Air Act, as amended.

7. Due to the composition of the hydrocarbon emissions from the paint dip-tank and drying oven systems, it is technically infeasible and economically unreasonable to require the installation of continuous emission monitoring equipment for the ovens.

8. The Director's determination to issue the Orders set forth below is based upon his consideration of reliable, probative and substantial evidence relating to the technical feasibility and economic reasonableness of compliance with such Orders, and their relation to benefits to the people of the State to be derived from such compliance.

Orders

Whereupon, after due consideration of the above Findings of Fact, the Director hereby issues the following Orders pursuant to Sections 3704.03 (S) and (I) and 3704.031 of the Ohio Revised Code in accordance with Section 113(d) of the Clean Air Act, as amended, 42 U.S.C. 7401 *et seq.*, which will not take effect until the Administrator of the United States Environmental Protection Agency has approved their issuance under the Clean Air Act.

1. Lincoln Electric shall bring its two paint dip-tank and drying oven systems located at 22801 St. Clair Avenue, Cleveland, Ohio 44117 into final compliance with OAC 3745-21-07(G) by converting to a complying air-dry coating system based on exempt solvents or by adapting or installing another complying method or device no later than July 1, 1979.

2. Compliance with ORDER (1) above shall be achieved by Lincoln Electric in accordance with the following schedule on or before the dates specified:

Submit final control plans—January 15, 1979.
Award contract(s)—January 31, 1979.
Begin construction—April 10, 1979.
Complete construction—June 15, 1979.
Complete stack testing to demonstrate compliance (if determined necessary by Cleveland DAPC)—June 30, 1979.
Achieve final compliance with State and Federal Statutes and Regulations—July 1, 1979.

3. Pending achievement of compliance with Order (1) above, Lincoln Electric shall comply with the following interim requirements which are determined to be reasonable and to be the best practicable systems of emission reduction, and which are necessary to ensure compliance with OAC 3745-21-07 (G) insofar as Lincoln Electric is able to comply with it during the period this Order is in effect in accordance with Section 113(d)(7) of the Clean Air Act, as amended. Such interim requirements shall include:

a. Lincoln Electric shall immediately institute a regular maintenance program to minimize emissions from the paint dip-tank and drying oven systems.

b. Lincoln Electric shall continue to use non-photochemically reactive solvent coatings to minimize emissions from the paint dip-tank and drying oven systems.

c. Lincoln Electric shall submit quarterly coating and solvent usage reports for each dip-tank/drying oven system with the first one due January 1, 1979.

4. Within five (5) days after the scheduled achievement date of each of the increments of progress specified in the compliance schedule in Order (2) above, Lincoln Electric shall submit a progress report to the Division of Air Pollution Control, 2735 Broadway Avenue, Cleveland, Ohio 44115. The person submitting these reports shall certify whether each increment of progress has been achieved and the date it was achieved. The reports shall also include Lincoln Electric's status of compliance with the interim control requirements in Order (3) above.

5. If deemed necessary by Cleveland Division of Air Pollution Control, Lincoln Electric shall conduct emission tests on paint drying oven P005 and P014 to demonstrate compliance with OAC 3745-21-07(G). Such tests shall be performed in accordance with Ohio EPA approved methods on a date no later than June 30, 1979 (see Order No. 2 above). Written notification of intent to test shall be provided to the City of Cleveland, Division of Air Pollution Control, thirty (30) days prior to the testing date, so that a person from that office can be present at the tests. Test results shall be received by that office no later than July 31, 1979.

6. Lincoln Electric is hereby notified that unless it is exempted under Section 120(a)(2) (B) or (C) of the Clean Air Act, as amended, failure to achieve final compliance with Order (1) above by July 1, 1979, will result in a requirement to pay a noncompliance penalty under Section 120 of the Clean Air Act, as amended.

These orders will not take effect until the Administrator of the United States Environmental Protection Agency has approved their issuance under the Clean Air Act.

James F. McAvoy,
Director of Environmental Protection.

WAIVER

The Lincoln Electric Company agrees that the attached Findings and Orders are lawful and reasonable and agrees to comply with the attached Orders. The Lincoln Electric Company hereby waives the right to appeal the issuance of terms of the attached Findings and Orders to the Environmental Board of Review, and it hereby waives any and all rights it might have to seek judicial review of said Findings and Orders either in law or equity. The Lincoln Electric Company also waives any and all rights it might have to seek judicial review of any approval by U.S. EPA of the attached Findings and Orders or to seek a stay of enforcement of said Findings and Orders in connection with any judicial review of Ohio's air implementation plan or portion thereof.

George G. Willis,
Resident, Authorized Representative of the Lincoln Electric Company.

[FRL 1204-4]
[FR Doc. 79-14276 Filed 5-7-79; 8:45 am]
BILLING CODE 6560-01-M

[40 CFR Part 65]

Proposed Delayed Compliance Order for Factory Power Co.

AGENCY: U.S. Environmental Protection Agency.

ACTION: Proposed rule.

SUMMARY: U.S. EPA proposes to issue an Administrative Order to Factory Power Company. The Order requires the Company to bring four coal-fired boilers into compliance with Ohio Regulation AP-3-11 part of the federally approved Ohio State Implementation Plan (SIP). Because the Company is unable to comply with this regulation at this time, the proposed Order would establish an expeditious schedule requiring final compliance by March 30, 1980. Source compliance with the Order would preclude suits under the Federal enforcement and citizen suit provisions of the Clean Air Act (Act) for violation of the SIP regulations covered by the Order.

The purpose of this notice is to invite public comment and to offer an opportunity to request a public hearing on U.S. EPA's proposed issuance of the Order.

DATE: Written comments must be received on or before the thirtieth day from the date of this notice and requests for a public hearing must be received on or before the fifteenth day from the date of this notice. All requests for a public hearing should be accompanied by a statement of why the hearing would be beneficial and a text or summary of any proposed testimony to be offered at the hearing. If there is significant public interest in a hearing, it will be held after twenty-one days prior notice of the date, time, and place of the hearing has been given in this publication.

ADDRESSES: Comments and requests for a public hearing should be submitted to Director, Enforcement Division, U.S Environmental Protection Agency, Region V, 230 South Dearborn Street, Chicago, Illinois 60604. Material supporting the Order and public comments received in response to this notice may be inspected and copied (for appropriate charges) at this address during normal business hours.

FOR FURTHER INFORMATION CONTACT:
Louise C. Gross, Attorney, Enforcement Division, U.S Environmental Protection Agency, 230 South Dearborn Street, Chicago, Illinois 60604, at (312) 353-2082.

SUPPLEMENTARY INFORMATION: Factory Power Company owns a boiler house in Cincinnati, Ohio. The proposed Order addresses emissions from four coal-fired boilers at this facility, which is subject to Regulation AP-3-11 of the Ohio Implementation Plan. The regulation limits the emissions of particulate matter and is part of the federally approved Ohio State Implementation Plan. The order requires final compliance with the regulation by March 30, 1980 and the source has consented to its terms.

The proposed Order satisfies the applicable requirements of Section 113(d) of the Act. If the Order is issued,

source compliance with its terms would preclude further U.S. EPA enforcement action under Section 113 of the Act against the source for violations of the regulation covered by the Order during the period the Order is in effect. Enforcement against the source under the citizen suit provisions of the Act (Section 304) would be similarly precluded.

Comments received by the date specified above will be considered in determining whether U.S. EPA should issue the order. Testimony given at any public hearing concerning the Order will also be considered. After the public comment period and any public hearing, the Administrator of U.S. EPA will publish in the **Federal Register** the Agency's final action on the Order in 40 CFR Part 65.

Dated: April 2, 1979.

John McGuire,

Regional Administrator, Region V.

1. In consideration of the foregoing, it is proposed to amend 40 CFR Chapter I, as follows:

PART 65—DELAYED COMPLIANCE ORDERS

By adding an entry to the table in § 65.400 *Federal Delayed Compliance Orders issued under Section 113(d) (1), (3), and (4) of the Act,* to reflect approval of the following order.

2. The text of the order reads as follows:

U.S. Environmental Protection Agency

In the matter of: Factory Power Company, Cincinnati, Ohio; Proceeding Under Section 113(d) of the Clean Air Act, as Amended, Order No. EPA–5–79–A–.

Order

The following Order is issued this date pursuant to Section 113(d) of the Clean Air Act, as amended, 42 U.S.C. Section 7401 *et seq.* (hereinafter the Act). Public notice, opportunity for public hearing and thirty days notice to the State of Ohio have been provided pursuant to Section 113(d)(1) of the Act. This Order contains a schedule for compliance, interim control requirements and reporting requirements. Final compliance is required as expeditiously as practicable, but no later than March 30, 1980.

On November 8, 1978, James O. McDonald, Director, Enforcement Division, Region V, United States Environmental Protection Agency (hereinafter U.S. EPA), issued a Notice of Violation, pursuant to Section 113(a)(1) of the Act, to the Factory Power Company in Cincinnati, Ohio (hereinafter the Company), upon finding that the four coal-fired boilers at its Cincinnati, Ohio boilerhouse (boilers 3, 4, 5 and 6) were found to be in violation of the applicable Ohio Implementation Plan, as defined in Section 110(d) of the Act. The Notice cited the Company for violation of Ohio Regulation AP–3–11 (hereinafter AP–3–11), as demonstrated by emission factor calculations and material submitted to the U.S. EPA by the Company pursuant to Section 114 of the Act. A copy of this Notice was sent to the State of Ohio.

At the Company's request, a conference was held on November 28, 1978, to discuss the Notice of Violation. At that time, the Company submitted stack test results demonstrating compliance on boilers 4 and 5.

After a thorough investigation of all relevant facts, it is determined that the Company is presently unable to comply with the Ohio Implementation Plan, that the schedule for compliance set forth in this Order is as expeditious as practicable, and that the terms of this Order comply with Section 113(d) of the Act. Therefore, it is hereby Ordered that:

I. The Factory Power Company shall achieve compliance with AP–3–11 at boilers 3 and 6 in accordance with the following schedule:

A. Solicit bids—December 1, 1978.

B. Award contracts—February 1, 1979.

C. Initiate on-site construction—August 1, 1979.

D. Complete construction—January 31, 1980.

E. Perform final compliance testing—February 28, 1980.

F. Demonstrate compliance with AP–3–11—March 30, 1980.

II. The Company shall achieve and demonstrate final compliance with AP–3–11 at its Cincinnati, Ohio boilerhouse by conducting stack tests in accordance with U.S. EPA approved methods. The Company shall notify U.S. EPA in writing at least thirty (30) days in advance of performing the required tests. The results of such tests shall be submitted to U.S. EPA no later than March 30, 1980.

III. Pursuant to Section 113(d)(7) of the Act, during the period in which this Order is in effect, the Company shall utilize the best practicable interim system of emission reduction (taking into account the requirement with which the source must ultimately comply in Section I, above). This shall include use of coal with an ash content not to exceed 5.9%, and maintenance and operation of the existing control devices in a manner which ensures that their present collection efficiencies will not diminish.

IV. No later than ten days after any date for achievement of an incremental step specified in this Order, the Company shall notify U.S. EPA in writing of its compliance or noncompliance with the requirement. If delay is anticipated in meeting any requirement contained in this Order, the Company shall immediately notify U.S. EPA in writing of the anticipated delay and reasons for the delay. Notification to U.S. EPA of an anticipated delay does not excuse the delay.

V. Beginning three months after the date for achievement of the first increment of progress specified in this Order, the Company shall submit a status report to U.S. EPA detailing the progress made during that quarter. These reports shall be submitted quarterly until the schedule for compliance has been completed.

VI. All submissions and notifications to the U.S. EPA pursuant to this Order shall be made to the Chief, Air Compliance Section, U.S. EPA, Region V, 230 South Dearborn Street, Chicago, Illinois 60604. A copy of all submissions and notifications shall be sent to the Ohio Environmental Protection Agency, P.O. Box 1049, Columbus, Ohio 43216.

VII. Nothing in this Order shall be construed so as to affect the Company's responsibility to comply with any other Federal, State or local regulations.

VIII. Nothing in this Order shall be construed as a waiver by the Administrator of any rights or remedies under the Clean Air Act, including, but not limited to, Section 303 of the Act, 42 U.S.C. Section 7603.

IX. The Company is hereby notified that its failure to achieve final compliance by July 1, 1979, could result in a requirement to pay a noncompliance penalty under Section 120. In the event of such failure, the Company will be formally notified, pursuant to Section 120(b)(3) and any regulations promulgated thereunder, of its noncompliance.

X. The provisions of this Order shall apply and be binding upon the company, its officers, directors, agents, servants, employees and any successors in interest; in addition, the provisions of this order shall apply to all persons, firms and corporations having notice of the Order and who are or who will be acting in concert and privity with the Company or its officers directors, agents, servants, employees and any successors in interest. The Company shall give notice of this Order to any successors in interest prior to transfer of ownership, and shall simultaneously verify to the United States Environmental Protection Agency, Region V, Enforcement Division, that such notice has been given.

XI. This Order shall be effective upon **Federal Register** promulgation.

Date———

Administrator ———

The Factory Power Company has reviewed this Order and believes it to be a reasonable means by which its Cincinnati, Ohio, boilerhouse can achieve compliance with Ohio Regulation AP–3–11. The Company stipulates as to the correctness of all facts stated above and consents to the requirements and terms of this Order. The Company further agrees not to challenge the reasonableness of this Order.

Date———

Factory Power Company ———

[FR Doc. 79-14279 Filed 5-7-79; 8:45 am]

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FEDERAL MARITIME COMMISSION

[46 CFR Part 512]

Amendment to Financial Reports by Common Carriers by Water in the Domestic Offshore Trades

AGENCY: Federal Maritime Commission.

ACTION: Proposed Rulemaking.

SUMMARY: The Federal Maritime Commission hereby proposes to publish substantive guidelines for determining what constitutes a just and reasonable rate of return or profit for common carriers by water in the domestic offshore trades.

DATES: Comments must be submitted on or before July 9, 1979.

ADDRESSES: Comments to: Francis C. Hurney, Secretary, Federal Maritime Commission, 1100 L Street, NW., Washington, D.C. 20573.

FOR FURTHER INFORMATION CONTACT: Francis C. Hurney, Sectetary, Federal Maritime Commission, 1100 L Street, NW., Washington, D.C. 20573, Telephone: (202) 523–5725.

SUPPLEMENTARY INFORMATION: On November 15, 1978, the Federal Maritime Commission served an Advanced Notice of Proposed Rulemaking which sought written comments from governmental bodies, shippers and carriers regarding the nature, scope and feasibility of substantive guidelines for determining what constitutes a just and reasonable rate of return or profit for common carriers by water in the domestic offshore trades. In addition to this request for written comments, the Commission solicited comments at a series of informal hearings which were held in various cities throughout the country. Most of the comments received in response to our Advanced Notice of Proposed Rulemaking concerned one of the following areas:

1. Allocation Methods;
2. Rate Base;
3. Valuation of assets;
4. Rate of Return;
5. Tax Calculation and Treatment of Deferred taxes and Capital Construction Fund;
6. Operational Data;
7. Projections; and
8. Small Carrier Exemption.

The general trust of comments received in response to the Advanced Notice of Proposed Rulemaking is discussed below to the extent the comments relate to these eight areas. Although all comments were considered in formulating the proposed rule, no attempt is made herein to deal with the specific comments of each party.

Allocation Methods

The proposed rules require that expenses be allocated between the Trade and the Service on the basis of cargo-cube-mile relationship instead of the revenue-ton-mile relationship presently required by General Order II. In the case for containerized cargo, cargo cube will be computed on the basis of the outside dimensions of the container. A number of commentators suggested that the Commission retain the revenue-ton-mile relationship as a means of allocation. However, the staff is of the view that in a containership operation, the cost of providing service is really the cost of providing space for containers. The carrier's revenue per container varies with the amount of cargo in the container, while the carrier's cost per container remains the same regardless of the amount of cargo in the container. Since we are here concerned with the allocation of expenses, the outside dimensions of the container seems to be the most appropriate basis for allocation.

Rate Base

The proposed rules permit capitalization of interest on construction funds and capitalization of leases. It appears from the comments received that these changes have the overwhelming support of carriers in the domestic offshore trades.

Valuation of Assets

Virtually all carriers that submitted comments suggested that the rate base reflect replacement value rather than acquisition cost, as presently required by General Order II. While the usage of replacement cost appears to be a reasonable concept, the Financial Accounting Standards Board has been unable to devise a generally accepted method of calculating replacement cost, despite several years of intensive effort. Accordingly, the proposed rules continue to use acquisition cost for the calculation of rate base. If a generally accepted method of calculating replacement cost is established in the future, we will reexamine our position.

Rate of Return

The proposed rules contain three standards for evaluating proposed rate changes. Rate-of-return on equity will be employed in evaluating the rates for vessel operators that have a signficant asset structure and a significant owners' equity. A fixed charge coverage ratio will be employed in evaluating rates for vessel operators that have a significant asset structure, but not a significant owners' equity. Operating ratio will be employed in evaluating the rates of vessel operators that have no significant asset structure.

From comments received during the informal hearings, it appears that there is considerable sentiment in favor of a return-on-rate-base standard which would not consider the debt/equity structure of the firm. However, adoption of such a standard would require the Commission to reverse its policy of calculating the return to the equity holder and comparing that return with return on equity received in other United States industries which have similar risks. See, *F.P.C.v. Hope Natural Gas Co.*, 320 U.S. 591 (1944); *Bluefield Waterworks and Improvement Co.* v. *Public Service Commission*, 262 U.S. 679 (1923); *Pacific Coast of Hawaii and Altantic-Gulf/Hawaii—General Increase in Rates*, 7 F.M.C. 260, 290 (1962), and *Matson Navigation Company—General Increase in Rates in the Pacific/Hawaiian Trade*, 16 F.M.C. 96, 124 (1973). We are unwilling to abandon this policy unless it can be shown that the policy results in unfairness to the equity holder, or that a simple return-on-rate-base standard would be easier to administer and would meet the requirements of the *Hope* and *Bluefield* cases.

Although most comments opposed a return-on-equity standard, it was generally agreed that if such a standard were to be adopted, the debt/equity structure of the carrier, rather than its parent corporation, should be used. The proposed rule follows this approach, and would include, as equity, in intercompany loans between the carrier and related companies which are not liquidated within 12 months.

Tax Calculation

The proposed rules require that the carrier calculate its individual tax expense by "flowing through" tax benefits which are received as a result of accelerated depreciation and the Capital Construction Fund. This differs from the tax treatment accorded in two recent Commission proceedings, *Matson Navigation Company—Proposed Rate Increase in the United States Pacific Coast-Hawaii Domestic Offshore Trade*, [No. 75–57 (F.M.C., December 12, 1978) and *Matson Navigation Company—Proposed Rate Increases in the United States Pacific Coast/Hawaii Domestic Offshore Trade,]* No. 76–43 (FMC, December 12, 1978). In those cases, the tax expense was normalized, while a pro-rata share of accumulated deferred taxes was removed from rate base. We are not satisfied that this methodology is the appropriate way to make the adjustment to rate base in all cases. However, without some adjustment, the normalization of taxes would result in a windfall to the carrier. A simpler approach is to require the carrier to "flow through" its tax benefits to the

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shippers in the years in which they are realized.

The strongest argument against "flow through" is that it reduces the incentive for a carrier to place money in a Capital Construction Fund and thus runs counter to the intent of Congress to stimulate shipbuilding. On the other hand, the ratepayers have no assurance that money placed in the Capital Construction Fund will ever be used for their benefit. For example, the money may be used to purchase a vessel to be used in a different trade.

The proposed rule, while requiring "flow through" in the calculation of tax expense, would permit the carrier to include funds obtained from the Capital Construction Fund in calculating the acquisition value of a vessel in the trade for rate base purposes. Thus, the shipper will only be charged for those assets which are actually employed for its benefit in the trade.

Operational Data

The proposed rules require the carrier to furnish vessel utilization figures and other statistics relating to the vessels it employs in the trade. These requirements, suggested during the informal hearings, will enable the Commission to consider the efficiency of the carrier in determining whether its proposed rates are reasonable.

Projections

The proposed rules do not fix a uniform set of rules or standards for projecting cargo, expenses or revenue, as some commentators would have required. However, the proposed rules do require the carrier to submit a detailed description of the methods it employed in projecting revenues; a list of the shippers contacted in projecting cargo carriage, and an explanation of any significant changes since the last actual report. We believe that in this way carriers will have the flexibility to develop innovative techniques which are best suited to their specific trades; at the same time, Commission oversight will reduce the likelihood that the shipping public will suffer as the result of faulty forecasting.

Small Carrier Exemption

The proposed rule permits carriers earning gross revenues of $1,000,000 or less to apply for a waiver of the detailed reporting requirements specified therein. Carriers obtaining a waiver would be required to file a simplified annual report and a simplified report in support of any proposed rate increases. This should relieve small carriers that operate in the domestic offshore trades from undue burden while supplying the Commission with sufficient data to permit it to fulfill its regulatory responsibilities.

It is expected that interested persons will comment regarding the estimated financial and man-hour burden which will be incurred in complying with the proposed rules.

Miscellaneous Changes

In addition to those provisions suggested by the public, several additional changes have been incorporated in the proposed rules. For example, working capital will be the lesser of the General Order 11 formula or actual working capital. The proposed rules would also require a stronger certification by the person making the report as well as a statement of opinion from an independent auditor. Work papers in support of the report will be required as well.

All increases which have a significant effect on the shipping public will be evaluated by the staff regardless of whether the increase meets the definition of a General Rate Increase as given in Pub. L. 95-475. In order to make this evaluation, the staff requires current financial data. Therefore, the requirements for justification of an increase or decrease in rates in the proposed rules is broader than that contained in Pub. L. 95-475, and includes any increase or decrease which would affect not less than 50 percent of the tariff items of the carrier, or which would result in an increase or decrease of not less than 3 percent of the carrier's gross revenue.

Every effort has been made to comply with the President's Directive to simplify language. There are a number of nonsubstantive, purely stylistic changes designed to simplify and clarify the proposed rules.

The proposed rules and the comments discussed above pertain solely to reports by vessel operating common carriers. Separate proposed rules governing reports by non-vessel operating common carriers will be published in the near future. They will reflect comments received during the informal hearings and in response to the Advanced Notice of Proposed Rulemaking.

This Notice of Proposed Rulemaking does not include pro-forma statements which have been prepared in accordance with the proposed rules. Copies of pro-forma statements are available in the offices of the Federal Maritime Commission and its District Offices. Comments on these proposed rules may address alternative approaches.

Pursuant to section 4 of the Administrative Procedure Act (5 U.S.C. 553), sections 18, 21, and 43 of the Shipping Act, 1916 (46 U.S.C. 817, 820, and 841(a)), and sections 1, 2, 3(a), 3(b), 4, and 7 of the Intercoastal Shipping Act, 1933, the Federal Maritime Commission proposes to amend Part 512 of Title 46, Code of Federal Regulations as follows:

By the Commission.

Francis C. Hurney,
Secretary.

PART 512—FINANCIAL REPORTS BY COMMON CARRIERS BY WATER IN THE DOMESTIC OFFSHORE TRADES

Sec.
512.1 Purpose.
512.2 General Requirements.
512.3 Certification.
512.4 Access to and audit of records.
512.5 Operational definitions.
512.6 Forms/Instructions.

Authority: Secs. 512.1 to 512.6 issued pursuant to sec. 18, 21 and 43 of the Shipping Act, 1916 (46 U.S.C. 817, 820 and 841(a)) and sec. 1, 2, 3(a), 3(b), 4 and 7 of the Intercoastal Shipping Act, 1933 (46 U.S.C. 843, 844, 845, 845(a) and 847).

Note.—The Reporting Requirements contained in General Order II have been approved by the U.S. General Accounting Office under No —.

§ 512.1 Purpose.

The purpose of the Rule is to establish methodologies that the Federal Maritime Commission (Commission) intends to follow in evaluating proposed rate changes in the domestic offshore trades submitted by vessel operating carriers (VOCs) subject to the provisions of the Intercoastal Shipping Act, 1933, and to provide for the orderly acquisition of the data required for the methodologies so established.[1] The methodology employed in each case will depend on the nature of the relevant carrier's operations and financial structure. In evaluating proposed rate changes, the Commission will employ one of three possible standards, as follows:

(a) *Rate of return on equity.* This standard will be employed in evaluating proposed rates of VOCs which have significant asset structures and significant owners' equities. A significant asset structure is one in which the carrier's Trade rate base (Exhibit A) is 30 percent or more of its Trade revenue (Exhibit B). A significant owner's equity is one in which the carrier's equity is 20 percent or more of its total assets.

[1] Another Rule will be issued for persons subject to the Act who do not operate vessels, i.e., non-vessel operating common carriers (NVOCC's).

(b) *Fixed charges coverage ratio.* This standard will be employed in evaluating proposed rates of VOCs which have significant asset structures, but not significant owners' equities.

(c) *Operating ratio.* This standard will be employed in evaluating proposed rates of VOCs which do not have significant asset structures.

A carrier's vessel utilization will also be taken into account in determining the reasonableness of proposed rates. An adjustment to the otherwise applicable rate of return employed in evaluating the proposed rates will be made in those instances where utilization is considered to be below a reasonable level. Carriers will submit the utilization figures for each of its vessels in the Trade as they leave the last continental U.S. port and as they arrive at the first continental U.S. port; for voyages not terminating in the continental United States, the utilization level outbound from the last non-contiguous port and inbound at the first non-contiguous port. The Commission will also consider the overall fleet deployment of the carrier in determining the reasonableness of proposed rates. An adjustment to the otherwise applicable rate of return employed in evaluating the proposed rates will be made if the carrier's fleet deployment indicates a skewed pattern of use, with high cost vessels in the regulated trades and low cost vessels in other trades, unless some valid operating reason dictates such vessel deployment.

§ 512.2 General requirements.

(a) All persons engaged in the common carriage of persons or property via cargo vessels in the domestic offshore trades (except persons engaged in intrastate operations in Alaska and Hawaii) and required by the Intercoastal Shipping Act, 1933, as amended, to file tariffs with the Commission, shall execute and file, in duplicate, with the Secretary of the Commission, Statements of Rate Base and Income Account for each domestic offshore trade served.

(b) Initial statements under this rule shall be filed within 150 days after the close of the first fiscal year commencing after the promulgation of this Order. Subsequent annual reports shall be filed within 150 days of the close of the carrier's fiscal year.

(c) Upon application the Commission may:

(1) Grant reasonable extensions of the time limit prescribed by this section for filing the statements and data required by this part: *Provided,* that:

(i) The application therefor is received at least 15 days before the statements and data are due;

(ii) The application states a specific date on or before which the required statements and data will be filed; and

(iii) An application for an extension is not construed as constituting relief from possible penalties for trady filing, unless the extension is granted. In those instances where extensions are granted, the Commission will not consider filings for general rate changes until such time as the requisite statements and data are filed.

(2) Relieve a carrier from full compliance with this part and permit the carrier to submit alternative data as the Commission deems acceptable; *Provided,* That:

(i) The application shows good cause and is accompanied by a description of the data which the carrier proposes to submit in lieu of the required statements, or the data itself is filed within a reasonable time (which shall ordinarily be considered a minimum of 60 days) before the statements and data required under this part are due;

(ii) The Commission finds full compliance with this part unnecessary to fulfill its regulatory functions; and

(iii) Such application with its supporting data shall be published in the **Federal Register** and interested parties given 20 days within which to file comments thereon with the Commission.

(3) Grant a waiver of the detailed reporting requirements to carriers who have earned gross revenues of $1,000,000 or less for the reporting period in a particular Trade and who are considered by the Commission to be not significant in that Trade. The application for waiver (Exhibit D of the *pro forma* statements) must be accompanied by a company-wide balance sheet and income statement. Generally, a carrier whose Trade revenues amount to 15 percent or less of the total revenue for the Trade in question, will be considered as not significant in the Trade. Such waiver application with its supporting data shall be published in the **Federal Register** and interested parties given 20 days within which to file comments thereon with the Commission. This waiver provision is applicable to annual reporting requirements and to filings of proposed rate changes in accordance with § 512.2(d)(1).

(d) Whenever a carrier files with the Commission an increase or decrease in rates which would affect not less than 50 percent of the tariff items of that carrier in a particular Trade, or which would result in an increase or decrease of not less than 3 percent in the carrier's gross revenues in that particular Trade, it shall file simultaneously therewith, in duplicate, the following data:

(1) Financial and operating data in support of proposed rate changes as follows:

(i) An *actual* midyear rate base exhibit (Exhibit A-a) and supporting schedules computed from its balance sheet as of a date not more than fourteen (14) months prior to the date of filing the proposed rates and an income statement for the 12 month period commencing from the date of the balance sheet.

(ii) A *projected* midyear rate base exhibit (Exhibit A-p) and supporting schedules computed from its balance sheet as of the end of the month in which the rate changes are proposed to become effective, and an income statement for the 12 month period commencing from the date of the balance sheet.

(iii) An *actual* income account exhibit (Exhibit B-a) and supporting schedules covering the 12 month period commencing with the date of the balance sheet used in paragraph (d)(1)(i) of this section.

(iv) A *projected* income account exhibit (Exhibit B-p) and supporting schedules for the 12 month period commencing with the month following the date in which the changed rates are proposed to become effective (taking into account the effect of the proposed rate changes).

(v) *Actual* and *projected* rate-of-return exhibits (Exhibits C-a and C-p) and supporting schedules coinciding with the time periods covered by the income statements furnished in response to paragraphs (d)(1) (iii) and (iv) of this section.

(vi) The carrier's company-wide balance sheets in the form of schedule 200 of Forms FMC-63 or FMC-64 as of the same dates upon which the actual and projected midyear rate base exhibits (Exhibits A-a and A-p) were based.

(vii) The carrier's company-wide income statements for the same periods as the actual and projected income account exhibits (Exhibits B-a and B-p).

(2) The work papers described in subparagraph § 512.4.

(e) If a carrier files proposed rate changes within 90 days of the end of its fiscal year, it may, at its option, furnish its annual General Order 11 report for the fiscal year in lieu of the schedules of actual data required in paragraphs (d)(1)(i) and (iii) of this section. The requirement to furnish schedules pertaining to future operations under the

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proposed rate changes would not be affected by this substitution.

(f) When a proposed rate change is filed which does not meet the criteria set forth in § 512.2(d), the following certification shall be submitted simultaneously with the tariff material:

Certification

I, the undersigned, [type or print name and title of officer] of [full name of reporting company] certify under the penalties of U.S.C. Title 18, section 1001, that the proposed rate changes submitted herewith affect less than 50 percent of the tariff items in the relevant Trade and less than 3 percent of the gross revenue in the Trade, and therefore are not accompanied by the financial and operating data required by subparagraphs (1) and (2) of § 512.2(d)

Signature _____
Date _____

(g) All financial and operating data filed in connection with proposed rate changes shall be made available to protestants by the carrier upon request. The Commission, upon request, will make available any additional data contained in its files that it relies upon to reach a decision, including the staff's recommendation to the Commission. Reproduciton and other costs for this service are listed in Commission Rule 503.41–503.43.

(h) Where it is necessary to allocate property, revenue (except *Net Passenger* and *Other Voyage* revenue), costs or expenses, the allocation shall be on a direct basis; if this is not practicable, allocation shall be made in the manner prescribed in § 512.6 of this part. However, if the gross revenue from *Other Services* does not exceed 5 percent of the total company gross revenue, no segregation of revenue and expense between *Other Services* and the *Service* (see definitions, § 512.5(b) and (d)) is required by this part. Further, if the gross revenue from *Other Cargo* does not exceed 5 percent of the total gross revenue from the *Service*, no segregation of revenue and expense between *Other Cargo* and *The Trade* (see definitions, § 512.5(c)) is required.

(i) All carriers subject to these reporting requirements must comply fully with the instructions outlined herein, both as to the submission of the specified reports and as to compliance with the methods prescribed for their preparation. A carrier may request relief from full compliance in accordance with the provisions of subparagraph § 512.2(e). If a carrier has no transactions to report on a required schedule, it must submit a blank schedule with the word "NONE" printed across its face.

(j) The rules contained herein are issued by the Commission to meet the specific requirements of the Intercoastal Shipping Act of 1933 as amended, and will be used to evaluate proposed rate changes in the domestic offshore trades. However, the Commission reserves to itself the right to employ other bases for allocation and calculation in any instance where, in its opinion, the application of the rules and regulations prescribed herein create unreasonable results.

(k) With respect to the annual statements required by this part, all data submitted must conform to the figures listed in the annual financial statements filed with the Commission in compliance with General Order 5.

(l) All percentage calculations required by allocations herein shall be carried to two places beyond the decimal point, e.g., 97.54 percent.

(m) Whenever a carrier files an initial tariff, it shall file simultaneously therewith a company-wide balance sheet and income statement (if one exists) together with the data required in Exhibit E. If a carrier is operating in another domestic offshore trade and has already filed the requisite annual data, only the data set forth in Exhibit E will be required.

§ 512.3 Certification.

The data required by this part shall be accompanied by a certification by the corporate officer responsible for the maintenance and accuracy of the books, accounts and financial records of the carrier, stating that:

(a) The books and accounts have been maintained in accordance with an appropriate system of accounts; and

(b) The exhibits and schedules have been prepared from the books and records of the carrier in accordance with this part.

In addition, the data required by this part shall be accompanied by a Statement of Opinion by the independent auditors engaged for the annual financial audit of the carrier, stating that: (1) All exhibits and schedules have been prepared from regularly maintained records; (2) the records so maintained conform to, are reconciled to, or are the actual financial data subject to the regular financial audit; (3) the allocations have been made in accordance with the rules promulgated in this part; and (4) the financial and statistical data used are supported by an appropriate information gathering system having proper internal controls which have been tested for adequacy.

§ 512.4 Access to and audit of records.

(a) The carrier shall submit all work papers, properly cross-referenced and indexed, which were prepared in support of the exhibits and schedules. In addition, the books and records of the carrier and any related company whose financial data is included in any of the exhibits or schedules shall be made available upon request for examination by persons representing the Commission. Commission representatives shall be permitted to make copies of these records to the extent they deem necessary.

(b) For all proposed rate changes as defined in § 512.2(d), the carrier shall submit (1) a detailed description of the methods employed in projecting revenues; (2) a list of the names and addresses of all shippers contacted in the development of said projections; and (3) a reconciliation and explanation of all changes of five percent or more in the expense accounts between the projected and the last actual report.

(c) All exhibits and schedules submitted as part of the filing requirements are to include the work paper reference numbers so that amounts shown can be readily traced to the appropriate work papers.

§ 512.5 Operational Definitions.

Various expressions, terms, and designations used herein may have several meanings in common usage. For the purposes of this rule, however, the following terms are expressly limited to the definitions listed below:

(a) *Voyage.* A completed round trip from port of origin and return to port of origin. In no case shall a voyage be split to reflect outward and inward services separately. However, when a vessel is reassigned to a new United States basing point, then the voyage runs from the old United States port of origin to the new United States port of origin. Should a vessel sail outbound in the Service and then proceed to charter, the voyage will be considered to be terminated upon completion of the offloading of the last cargo in the Service. Carriers which are party to operating differential subsidy agreements may use Maritime Administration commencement and termination guidelines for the purposes of this part.

Voyages generally are considered to be terminated on the completion of one of the following operations or events:

(1) The latest occurring event of the following:

(i) Crew paid off;

(ii) Discharge of last inbound cargo;

(iii) Completion of repairs (excluding annual overhaul and emergency repairs); or

(2) Midpoint in time of operations in which cargo is simultaneously on-loaded and off-loaded.

Usually this will be considered to have happened at noon or midnight of the day on which the determining operation is completed.

(b) *The service.* Those voyages and/or terminal facilities in which cargo subject to the Commission's regulation under 46 CFR Part 531 is either carried or handled.

(c) *The trade.* That part of the Service subject to the Commission's regulation under 46 CFR Part 531 and as defined below under "Domestic Offshore Trade Route."

(d) *Other services.* Those voyages or terminal facilities other than those in the relevant Service. For example, a voyage to a foreign port on which no regulated cargo was carried, or a terminal facility in a foreign country.

(e) *Other cargo.* That part of the Service not included in the Trade.

(f) *Domestic offshore trade route.* The carriage of common carrier cargo under the terms of a tariff(s) on file with and regulated by the Commission between any one of the five areas of the Continental United States listed in paragraph (f)(1) of this section and one non-contiguous area of the United States (see paragraph (f)(2) of this section), or between two non-contiguous areas of the United States. Where service is offered to or from two or more areas at the same rates (e.g., Atlantic Coast to Puerto Rico and the Virgin Islands) and listed as such in a single tariff, the carriage of cargo to or from those two or more areas may be treated as one domestic offshore trade for the purposes of this subpart.

(1) The five areas of the Continental United States are:

(i) North Atlantic (Maine to, but not including Hatteras, North Carolina);

(ii) South Atlantic (Hatteras, North Carolina to, but not including, Key West, Florida);

(iii) Gulf (Key West, Florida to and including Brownsville, Texas);

(iv) West Coast; and

(v) Great Lakes.

(2) The non-contiguous areas of the United States (including, but not limited to those) to which Service is offered under the terms of tariffs on file with the Commission as of December, 1978 are:

(i) Alaska;

(ii) Virgin Islands;

(iii) Puerto Rico;

(iv) American Samoa;

(v) Hawaiian Islands;

(vi) Guam;

(vii) Northern Marianas Islands;

(viii) Johnson Island;

(ix) Midway Island; and

(x) Wake Island.

(g) *Cargo vessel.* A self-propelled or non-self-propelled vessel which transports cargo, but not including vessels which are authorized to carry more than 12 passengers.

(h) *Cargo cube.* The product of the outside dimensions of a unit of cargo expressed in cubic feet. In computing cargo cube for containerized cargo, the outside dimensions of the container shall be used. In computing the cargo cube for railroad cars, containers on chassis, lighters, or any other equipment which has an actual cargo capacity which differs substantially from the outside cube of the equipment itself, the outside cube of the equipment, including its wheels, shall be used. Empty equipment, such as containers, etc., shall be included in the computation of cargo cube if and only if they are revenue-producing units of cargo. Where an operator finds it more convenient to accumulate cargo cube data in terms of measurement tons or metric quantities, these units may be used instead of cargo cube in all instances where cargo cube is cited in this part. Where either of these options are exercised, the operator shall modify the headings on the prescribed reporting forms to indicate the units in which the data is being reported. The Commission does not contemplate that carriers will tape measure each piece of cargo at dockside, but does expect that where exact measurement is unavailable, carriers will derive a cube for such shipments, initially at least, by the use of conversion factors. Such conversion factors must be more than rough approximations; they must be developed after careful consideration of all evidence available to the carrier, including loading documents, the opinions of experienced operating personnel, and sample measurements; they must reflect separate factors for each of the principal commodities not affreighted on a measurement basis; they must reflect efforts to obtain actual measurements from shippers; and they must reflect reasonable surveillance to insure the accuracy of measurements provided by shippers.

(i) *Measurement ton.* Equals forty (40) cubic feet.

(j) *Metric measurement ton.* Equals 35.31 cubic feet or 1 cubic meter.

(k) *Twenty-foot equivolent (TEU).* Equals 1,280 cubic feet, based on the standard 20'x8'x8' container.

(l) *Cargo cube relationship.* The ratio of total cargo cube for all cargo carried in the Trade to total cargo cube for all cargo carried in the Service.

(m) *Cargo cube miles.* The product of the cargo cube carried between each post of origin and destination, multiplied by the number of nautical miles representing the shortest navigable distance between the two ports as set forth in *Distance Between Ports* (Department of the Navy, Oceanographic Office); *Distance Between United States Ports* (U.S. Department of Commerce, Coast and Geodetic Survey) or, if not listed in either of these publications, as approved by the Commission. Where revenue derived from the carriage of passengers and Other Services is treated as a reduction of costs under § 512.6(c)(2)(iii), the cargo-cube, if any, from which such revenue is derived shall be omitted from the cargo-cube mile calculations required herin. Where the carrier's service is solely between ports in the continental United States and domestic offshore ports, and there are no significant differences in the distances between the various continental ports and the several domestic offshore ports served, and where the ocean rates between said ports are identical, the cargo-cube relationship may be used in lieu of the cargo-cube mile relationship.

(n) *Cargo-cube mile relationship.* The ratio of cargo-cube miles for all cargo carried in the Trade to total cargo-cube miles for all cargo carried in the Service. Because the total of all cargo-cube miles will normally be a figure of considerable magnitude, the data shall be submitted in terms of thousands of cargo-cube miles.

(o) *Vessel operating expense.* (1) For carriers required to file Form FMC–64: the total of Direct Vessel, Port, Terminal and Container/Barge Expenses, *less* Other Revenue.

(2) For carriers required to file Form FMC–63: the total of Direct Vessel and Other Shipping Operations Expenses, *less* Other Revenue.

(p) *Vessel operating expense relationship.* The ratio of total Trade Vessel Operating Expense to total Company Vessel Operating Expense.

(q) *Related companies.* Companies or persons that directly or indirectly (through one or more intermediaries) control, or are controlled by, or are under common control with the reporting carrier. The term "control" shall include actual as well as legal control, whether maintained or exercised through (or by reason of) the circumstances surrounding organizational structure or operation,

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through (or by) common directors, officers, stockholders, a voting trust(s), a holding or investment company or companies, or through (or by) any other direct or indirect means, including the power to exercise control.

(r) *Initial tariff.* The first filing of a tariff by a carrier in a specific domestic offshore Trade, or the filing of a tariff in a Trade where the carrier does not have an active tariff.

(s) *Total trade operating expense.* The total of all expenses shown on Exhibit B (Income Account), including Federal income taxes and related company transactions.

(t) *Total company operating expense.* The total of all expenses shown on Form FMC–64, Lines 2, 19, 22, 23, 26 and 27, or on Form FMC–63, Lines 2, 21, 26, 29 and 30.

(u) *Operating expense relationship.* The ratio of total Trade operating expenses to total Company operating expenses.

§ 512.6 Forms and instructions.

(a) *General.* (1) The information required by this part shall be submitted in the prescribed format and shall consist of:

Exhibit A—Rate base and supporting schedules;
Exhibit B—Income account and supporting schedules;
Exhibit C—Rate of return and supporting schedules;
Exhibit D—Application for waiver; and
Exhibit E—Initial tariff filing supporting data.

(2) The required exhibits and schedules are described in the following paragraphs. *Pro forma* statements, illustrating the required exhibits and schedules, are appended to these rules and are described in paragraphs (b), (c), (d), (e) and (f) of this section. These *pro forma* statements are based on the Uniform System of Accounts for Maritime Carriers prescribed by the Maritime Administration and the Interstate Commerce Commission. For those carriers who are required to file Form FMC–63, a means has been provided whereby the accounts prescribed by the Interstate Commerce Commission for Carriers by Inland and Coastal Waterways may be reconciled with the requirements of these statements. For such carriers, alternative Schedules A–IV, B–II, B–III, B–V and B–VI have been provided, each identified by suffix (A) (i.e., Schedule A–IV(A)).

(b) *Rate base (Exhibit A)*—(1) *Investment in vessels (Schedule A–I).* Each cargo vessel (excluding chartered vessels) employed in the Service for which a statement is filed shall be listed by name, showing the original cost to the carrier, or to any related company, *plus* the cost of betterments, conversions, and alterations, *less* the cost of any deductions. All additions and deductions made during the period shall be shown gross and on a *pro rata* basis, reflecting the number of days they were applicable during the period. The result of these computations shall be called Adjusted Cost. Where any of the above figures differ from those reported in Schedule 222 or 220, respectively, of the annual financial statements Forms FMC–63 or FMC–64, or from those reported for Federal income tax purposes, the differences shall be set forth and fully explained.

(i) The cargo vessels employed in the Service shall be categorized and treated separately as follows:

(A) For those cargo vessels employed exclusively in the Service for the entire period, inclusive of normal periodic lay-ups, the adjusted cost shall be included in the total to be allocated to the Trade.

(B) For those cargo vesseis employed in the Service for less than the entire period, the adjusted costs shall be pro-rated between voyages in the Service and voyages in Other Services. The total number of days service excludes layup days; therefore it is likely to be less than the number of days in the reporting period. Lay-up days of vessels in this category will normally be assigned to the respective Services on the same basis used in allocating the adjusted costs of such vessels, i.e., active days. However, if one more of the vessels normally employed in the Service has been diverted temporarily to Other Services in lieu of incurring lay-up expense, no assignment of lay-up time to Other Services is required. If a vessel(s) is permanently withdrawn from the Service and laid-up pending disposition, the period of lay-up shall be assigned to Other Services. In summary, an inequitable amount of lay-up days shall not be assigned to the Service or to the Trade. That portion of the adjusted cost of the vessels not allocated to Other Services shall be included in the total to be allocated to the Trade.

(ii) The total of the adjusted cost of all vessels employed in the Service during the period which has not been allocated to Other Services, as required in § 512.6(b)(1)(i)(B) above, shall be distributed between the Trade and Other Cargo in the cargo-cube-mile relationship.

(iii) Where the Service of the carrier is solely between ports in the continental United States and domestic offshore ports, and where there are no significant differences between the distances from the various continental ports and the several domestic offshore ports, and the ocean rates between said ports are identical, the cargo-cube relationship may be used in lieu of the cargo-cube-mile relationship.

(iv) Revenue derived from the carriage of passengers and Other Services which is treated herein as a reduction of costs § 512.6(c)(2)(iii), and the cargo-cube from which such revenue is derived, shall be excluded from the cargo-cube-mile calculations required herein.

(2) *Reserve for depreciation—Vessels (Schedule A–II).* (i) Each cargo vessel (excluding chartered vessels) employed in the Service shall be listed separately, showing for each its depreciable life and residual value. For vessels owned the entire year, the accumulated reserve for depreciation as of the beginning and the end of the year shall be reported and the arithmetic average thereof computed. This amount shall be allocated to the Service and to the Trade in the same proportions as the cost of the vessel was allocated on Schedule A–I. When any of the amounts required herein are different from those reported in Schedule 222 or 221, respectively, of the annual financial statements (Forms FMC–63 or FMC–64) or from those reported for Federal income tax purposes, the differences shall be set forth and fully explained. If the depreciable life of any equipment installed on a vessel differs from the depreciable life of the vessel, the cost thereof and the depreciation bases shall be set forth separately.

(ii) For any vessels disposed of during the period, a proportional reduction shall be made in the reserve for depreciation corresponding to the similar deduction required by § 512.6(b)(1). The reserve for depreciation upon which the proportional reduction is calculated shall be the average of the reserves for depreciation at the beginning of the year and at date of disposal.

(iii) For any vessels acquired during the period, the proportional additon to the reserve fund shall be calculated as one-half of the reserve for depreciation on that vessel at the end of the year.

(3) *Other property and equipment—Net (Schedule A–III).* (i) Actual investment, representing original cost to the carrier or to any related company, in other fixed assets employed in the Service shall be reported as of the beginning of the year. Accumulated reserves for depreciation for these assets shall be reported both as at the beginning and the end of the year. The arithmetic average of the reserves shall

also be shown and shall be the amount deducted from original cost in determining rate base. Additions and deductions during the period shall also be reported, and the carrier may assume that all such changes took place at midyear except for those involving substantial sums, which shall be pro-rated on a daily basis. Assets shall be grouped in major categories as required by the appropriate annual financial statements Forms FMC–63 or FMC–64. Allocation to the Trade shall be based upon the actual use of the specific asset or group of assets within the Trade. For those assets employed in a general capacity, such as office furniture and fixtures, the vessel operating expense relationship shall be employed for allocation purposes. The basis of allocation to the Trade shall be set forth and fully explained.

(ii) With respect to any significant deductions, the reserve shall be proportionately reduced as required by § 512.6(b)(2)(ii).

(iii) When any of the figures required herein differ from those reported in the annual financial statement, Forms FMC–63 or FMC–64, or from those reported for Federal income tax purposes, the differences shall be set forth and fully explained.

(4) *Working capital (Schedule A–IV).* Working Capital shall be determined as average voyage expense or actual working capital, whichever is lower.

(i) Average voyage expense shall be calculated on the basis of the actual expenses of operating and maintaining the vessel(s) employed in the Service (excluding lay-up expenses) for a period represented by the average length of time of all round trip voyages (excluding lay-up periods) terminated during the period in which any cargo was carried in the Trade. Expenses for operating and maintaining the vessels employed in the Trade shall include: Total Net Vessel Operating Expense for terminated voyages (accounts 701–741, 743–749, 752–773, 855–856, 861–863, 867–880, 888–894 *less* accounts 608–612, 624, 645, 650, 655, 660, 665), Administrative and General Expense (accounts 901–952, 960–961, 965, 989–995 *less* account 670), and Interest Expense (accounts 960, 961) allocated to the Trade as provided in § 512(c)(2), (4) and (5). For this purpose, if the average voyage, as determined above, is of less than 90 days duration, the expense of hull and machinery insurance and protection and indemnity insurance (accounts 730 and 732, respectively) shall be determined to be 90 days; Provided that such allowance for insurance expense shall not, in the aggregate, exceed the total actual insurance expense for the period.

(ii) Actual working capital applicable to the Trade shall be calculated by taking the arithmetic average of the total company beginning and ending balances in the asset and liability accounts identified below, and allocating the net result to the Trade in the vessel operating expense relationship. For purposes of this computation, actual working capital shall include only the following accounts:

Accounts

100–199 Current assets (*less* reserves) and provision for accrued deposits in reserve funds (see A, B, C, below). Voluntary deposits shall not be accrued for deposit and shall not be deducted from current assets.
200 Deferred expenses—unterminated voyages.
375–389 Deferred charges (to operations) and prepaid expenses.

Less

400–539 Current liabilities (excluding mortgage notes-vessels, and other liabilities payable from reserve funds).
495 Advance ticket sales and deposits.
500 Deferred revenues—unterminated voyages.

The provision for accrued deposits into the reserve funds referred to in Accounts 100–199 above shall include, but is not limited to, the following:

(A) Accrued depreciation on vessels required to be deposited into the reserve funds.

(B) Proceeds from the sale of vessels and other sums (i.e., insurance proceeds) which, upon collection, are required to be deposited into the reserve funds.

(C) All other accrued mandatory deposits into the reserve funds.

(5) *Working capital (Schedule A–IV (A)).* Working capital for carriers who file Form FMC–63 shall be determined as the average monthly expense or actual working capital, whichever is lower.

(i) Average monthly expenses for carriers who annually file Form FMC–63 with the Commission shall be equal to one-twelfth of the expenses of the carrier during the relevant 12 month period, computed by adding the Annual Vessel Operating Expense, Administrative and General Expense, Interest Expense, and Inactive Vessel Expense, each as allocated to the Trade and shown respectively on Schedules B–II(A), B–III(A), B–IV and B–V(A), and dividing the total by 12.

(ii) Actual working capital for carriers who file Form FMC–63 shall be determined by taking the arithmetic average of the total company beginning and ending balances in the asset and liability accounts identified below and allocating the net result to the Trade in the vessel operating expense relationship. For purposes of this computation, actual working capital shall include only the following accounts:

Accounts

100–117 Current assets *less* reserves.
166 Claims pending.
170 Other deferred assets.
171 Incompleted voyage expenses.

Less

200–209 Current liabilities.
210 Equipment obligations and other long-term debt due within one year.
230 Incompleted voyage revenues.

(6) *Other assets.* Any other assets claimed by the carrier as components of its rate base shall be set forth separately in a schedule and supported by the annual financial statements, Forms FMC–63 or FMC–64. The basis of allocation to the Trade and computations of percentages employed shall be set forth and fully explained. Where other assets are subject to depreciation, the amount of the reserve to be subtracted from the original cost in determining the component of rate base shall be the arithmetic average of the reserves for depreciation as of the beginning and the end of the year. Capital Construction Funds and other special funds are specifically excluded from rate base.

(7) *Property and equipment of related companies.*—(i) Property and equipment of related companies used by the reporting carrier in the Trade shall be reported. The cost of such asset shall be that reflected on the books of the related company. In calculating depreciated costs, the reserve for depreciation to be deducted from the original cost shall be the arithmetic average of the reserve for depreciation as of the beginning and the end of the year. Allocations of net depreciated cost to the Trade shall be in accordance with § 512.6(b)(1), (2) and (3), set forth and fully explained in a schedule similar to Schedule A–III.

(ii) Where such assets are included in the rate base, the profits or losses from intercompany transactions related to such assets are to be eliminated in accordance with § 512.6(c)(11).

(8) *Capitalization of interest on construction.*—Interest shall be capitalized on all funds (including the carrier's own funds) actually employed in the design, engineering study, performance inspection, construction, reconstruction or reconditioning of a capital asset. Such asset shall be owned in the carrier's own name or in the name

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of any of its related companies. Should a carrier capitalize such interest on assets of related companies, such companies shall produce any information related to these assets upon request of the Commission, its employees or agents. Interest on funds expended shall be eligible for capitalization when all of the following conditions and requirements are met:

(i) The construction period must be 12 months or greater. For the purpose of this part, the construction period begins when construction work commences on the asset and ends when the asset is ready for use by the carrier. Strike periods, during which construction is delayed for 8 consecutive days or more, must be eliminated when determining whether or not the 12-month requirement is met;

(ii) Payments must be made on a periodic basis during the period of design and construction;

(iii) Interest shall be calculated starting with the first payment and on each subsequent payment thereafter. The rate employed shall be the average prime rate for the month in which the payment is made, as set forth in the *Federal Reserve Bulletin;*

(iv) A detailed description of the interest calculations shall be submitted for each capital asset included in the rate base of the carrier in the first year of its inclusion. Such description should include the name of the construction company employed and firm(s) performing design, engineering and/or inspection services and shall be set forth on a separate schedule similar to *pro forma* Schedule A–1 (page 3 of 4) "Capitalization of Interest on Construction." Capitalized interest shall be included in the rate base when the asset is included in the rate base, in accordance with § 512.6(b) and in the same allocable amounts as the asset. A schedule shall be provided each time a rate base statement is submitted, setting forth the year in which an interest calculation statement was submitted for each asset which includes capitalized construction interest in the rate base; and

(v) The effects of the interest-during-construction provisions shall be applicable to all work completed after December 31, 1977.

(9) *Capitalization of leases.* Leased assets which are capitalized on the carrier's books and which meet AICPA guidelines as to capitalization shall also be included in rate base. A separate schedule (see *pro forma* Schedule A–III, (page 3 of 3), "Capitalization of Leases") shall be submitted setting forth pertinent information relating to the lease and the details of the capitalization calculation. Allocations to the Trade shall follow the requirements outlined in § 512.6(b)(1) *Investment in Vessels,* or § 512.6(b)(3) *Other Property and Equipment—Net,* whichever is applicable.

(10) *Vessel statistics.* For those cargo vessels employed in the Service (including chartered vessels), a schedule similar to the *pro forma* Schedule A–I (page 3 of 7), "Vessel Statistics" shall be submitted, setting forth the following statistics: the name and type of each vessel (e.g., container, ro/ro, barge, etc.); the year built and the year acquired; the year converted, if applicable; the gross tonnage; the container capacity in twenty-foot equivalents; and the fuel type and speed of the vessel. Chartered vessels should be footnoted as such.

(11) *Vessel utilization.* For all voyages in the Service, a schedule similar to the *pro forma* Schedule A–1 (pages 4 and 5 of 7), "Vessel Utilization" shall be submitted setting forth the following: The termination dates of the voyage; voyage number; capacity of the vessel/barge and the utilization levels of the vessel/barge outbound and inbound. Capacity and utilization figures should be expressed in 20-foot equivalent units (8′×8′×20′). Utilization shall be determined on the basis of the actual number or cargo units carried, calculated as follows:

(i) For voyages beginning and ending at continental U.S. ports: the reported utilization levels on clearance at the last continental U.S. port outbound and the first continental U.S. port inbound;

(ii) For voyages between non-contiguous areas: the reported utilization levels on clearance at the last port served in one non-contiguous area outbound and the first port served in that same non-contiguous area inbound.

The maximum capacity, including below and on deck, should be 100 percent.

(12) *Vessel revenue and expense.* For all vessels employed by the carrier, including chartered vessels, a schedule similar to *pro forma* Schedule A–1 (pages 6 and 7 of 7) "Vessel Revenue and Expense" shall be submitted. This schedule should show the total revenue and expense of each vessel and the average revenue and expense per terminated voyage day. Voyages shall be divided between Other Services and the Service. The schedule shall also include: name of vessel; terminated voyage days; total revenue; direct vessel, port, terminal and container/barge expenses; other revenue; and the amount of gross profit (loss) per vessel.

(c) *Income account (exhibit B)* —(1) *Operating revenue (schedule B–I).* Revenue allocated to the Trade shall include only revenue earned from the common carriage of cargo in the domestic offshore trade on voyages terminated during the period, except that minor amounts of other cargo may be considered Trade cargo in accordance with § 512.2(h). Cargo cube revenue figures shall be reported in total for the Trade and separately for each of the 15 commodities (listed by tariff descriptions) producing the highest revenues in the Trade for that number of commodities comprising at least 50 percent of the revenue in the Trade, whichever is greater for the outbound portion of the voyage; and for each of the 15 commodities producing the highest revenues in the trade or for that number of commodities comprising at least 50 percent of the revenue in the Trade, whichever is greater, for the inbound portion of the voyage. However, no separate listing shall be made for the carriage of any commodities which totalled less than 20,000 cubic feet for the relevant 12 month period. Where fewer than 15 commodities account for at least 90 percent of the total revenue for either the outbound or inbound portion of the Trade, only those commodities need be separately reported. Where the same commodity is carried under several tariff designations having different rates (e.g., potatoes refrigerated, potatoes non-refrigerated, potatoes in bags, and potatoes in containers), each of these tariff designations shall be considered as an individual commodity. Where the applicable tariff establishes a single rate per container for containers that may contain more than one commodity, the commodity shall be considered freight-all-kinds and the individual commodity designations shall be disregarded.

(i) Interest and dividend income form short-term investments shall be allocated to the Trade in the vessel operating expense relationship.

(2) *Vessel operating expense (Schedule B–II).* A vessel operating expense summary of voyages terminated during the period in which any cargo was carried in the Service shall be submitted. Allocations to the Trade shall be on the following basis:

(i) For all voyages in the Service, vessel expense shall be allocated to the Trade in the cargo-cube-mile relationship where an allocation is necessary. Should any of the elements of vessel expense be directly allocable to specific cargo, such direct allocations shall be made and explained.

(ii) Port, terminal and container/barge expenses shall be allocated separately, by ports at which incurred, between the Trade and Other Cargo to the extent possible, or otherwise on the basis of cargo cube loaded and discharged at each port. A separate shedule shall be submitted for each port where any Trade cargo was handled, showing the amounts directly and indirectly assigned within the Service to Other Cargo and Trade Cargo categories. Any direct assignments shall be set forth and fully explained.

(iii) Passenger Revenue *less* passenger brokerage, Other Voyage revenue and Other Shipping Operations Revenues (Accounts 645, 650, 655, 660 and 665) shall be deducted from Vessel Operating Expense. Passenger Revenue—Net and Other Voyage revenue should be allocated between the Trade and Other Cargo on a direct basis where possible, otherwise in the cargo-cube-mile relationship. Other Shipping Operations Revenue, listed separately by ports at which earned, should be allocated directly to the extent possible, otherwise on the basis of cargo cube loaded and discharged at each port. A supporting schedule shall be submitted for Passenger and other Voyage Revenue, showing the amount of revenue directly and indirectly assigned within the Service to Other Cargo and Trade Cargo categories. Any direct assignments shall be fully set forth and explained. A separate schedule shall be submitted for each port where Other Shipping Operations Revenue was received, showing the amount of revenue directly and indirectly assigned within the Service to other Cargo and Trade Cargo categories. Any direct assignments shall be set forth and fully explained. (This schedule is not required of those carriers who annually file Form FMC–63 with the Commission.)

(3) *Vessel operating expense (Schedule B–II(A)).* This schedule shall be submitted by carriers who annually file Form FMC–63 with the Commission. It is designed to summarize operating results and to provide for allocations to the Trade where necessary because of the simultaneous carriage of Other Cargo. The principles of allocation are the same as those require by § 512.6(c)(2) above.

(4) *Administrative and general expense (schedules B–III and B–III(A)).* (i) Administrative and general expenses, *less* agency fees, commissions and brokage earned, shall be allocated to the Trade in the vessel operating expense relationship. Direct allocations should be made where practicable, particularly with respect to advertising expense related to the operation of passenger and combination vessels. Any direct assignment shall be set forth and explained in detail in an appropriate schedule.

(ii) In those instances where a carrier is involved in other businesses in addition to shipping, Administrative and General Expenses (A&G) should be allocated to each business in the ratio of total operating expenses for each business (*less* A&G) to total company operating expenses (*less* A&G). Allocation to the Trade should then be made as previously described.

(5) *Interest expense and debt payments (Schedule B–IV).* (i) This schedule shall set forth the total interest and debt payments, apportioned between principle and interest, short and long-term, on debt and lease obligations. Principal and interest shall be allocated to the Trade in the relationship that Trade assets *less* working capital bears to company-wide assets *less* current assets. Where related company assets are employed by the reporting company, the balance sheet figures on the related company's books for such assets shall be added to the company-wide total computing the relationship.

(ii) In those instances where interest expenses are capitalized in accordance with § 512.6(b)(8), a deduction shall be made for the amount so capitalized.

(6) *Inactive vessel expense (schedules B–V and B–V(A)).* Inactive vessel expense shall, in general, be allocated by vessel on the same basis as the investment in such vessel is included in the rate base. Inactive vessel expense applicable to vessels not used in the Service or withdrawn from the Service shall be excluded (see § 512.6(b)(1)(i)(B).

(7) *Depreciation and amortization (schedules B–VI and B–VI(A)).* Depreciation and amortization of assets included in the rate base shall be allocated on the same bases as are the specific assets.

(8) *Construction—differential subsidy refund (schedule B–VII).* Construction-differential subsidy refunds paid or payable to the Maritime Administration in connection with vessels employed on a part-time basis in the Service and applicable to the period for which a report is being made, calculated in accordance with the requirements of section 506 of the Merchant Marine Act, 1936, as amended, shall be taken into account. The construction-differential subsidy refund attributable to operations in the Service shall be allocated to the Trade in the relationship that the cargo-cube-miles of cargo carried in the Trade bear to the total cargo-cube-miles of that cargo in the Service, the revenue from which was used to determine the amount of the refund. Whenever expenses applicable to the Trade are increased due to construction-differential subsidy refunds, details of calculations with respect thereto must be reported on Schedule B–VII.

(9) *Other income or expenses.* (i) Any other elements of income or expense, wholly or partial applicable to the Trade, shall be fully explained and supported by a schedule showing details of allocation and reconcilitation with figures shown in the annual financial statement, Forms FMC–63 or FMC–64.

(ii) Operating-differential subsidy refunds under section 605(a) of the Merchant Marine Act, 1936, as amended, shall not be allocated to the Trade.

(10) *Provisions for income tax (schedule B–VIII).* The provisions for Federal, State, and other income taxes shall be listed separately. If the company is organized outside of the United States (e.g., Puerto Rico), it shall indicate the entity to which it pays income taxes, the tax paid, and the rate of tax applicable to its taxable income for the subject year. The tax information to be included herein shall show the tax liability of the carrier only. Such information shall be computed on the basis of that carrier's data, as if the carrier were filing its own tax return, regardless of whether or not that carrier may be included in a consolidated return filed by another corporate entity. Where that amount is not ascertainable at the time of filing this report, it shall be estimated with as much precision as possible, and not merely computed at the highest statutory tax rate. Tax savings resulting from the investment credit shall be shown separately. The amount for actual taxes shall be increased by the amount of tax savings resulting from the investment tax credit. Allocation of tax liability to the Trade, where necessary, shall be made on the basis of the relationship between net income from the Trade before taxes and total net income before taxes. Where circumstances exist which would would make this type of allocation inequitable to the Trade or to other operations (e.g., a large uninsured casualty loss in one aspect of operations), the circumstances should be explained and proper adjustments made to the allocated tax liability.

(ii) If the regulated company has assets in its rate base which are owned by related companies, these assets are to be considered for tax computation purposes as part of the regulated company's assets. Therefore, if the related company is using accelerated depreciation for its tax return, then the

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regulated company is to do the same in computing its tax liability.

(11) *Related company transactions (schedule B–IX).* The net income (loss) after Federal income taxes from transactions in the Service with related companies shall be allocated to the Trade. Such allocations shall be on the same basis as the specific expense was allocated to the Trade. Income taxes should be assigned to related company transactions based on the effective tax rate that was applied to the profits or losses resulting from such transactions. The methods employed shall be fully explained and supported by a schedule similar to *pro forma* Schedule B–IX, "Related Company Transactions."

(d) *Rate of return (exhibit C).* (1) All carriers are required to calculate all three rate-of-return evaluation methods set forth in the following paragraph, though the Commission is likely to evaluate the reasonableness of the carrier's rates as follows:

(i) For those carriers who have 20 percent or more equity in total company assets, and whose Trade rate base is more than 30 percent of Trade revenue, the return on equity method will be employed;

(ii) For those carriers who have less than 20 percent equity in total company assets, and whose Trade rate base is more than 30 percent of Trade revenue, the fixed coverage ratio will be employed;

(iii) For those carriers whose Trade rate base is less than 30 percent of Trade revenue, the operating ratio will be employed.

(2) *Return on equity (Schedule C–I).* (i) The return on equity calculation will be computed by *dividing* Trade net income (Exhibit B, or B–a and B–p, as appropriate) *by* equity in Trade assets (Schedules C–I, or C–I(a) and C–I(p), as appropriate). The equity in Trade assets shall be determined by the *ratio* of total company owners' equity *to* total company owners' equity plus long-term debt, both supported by the balance sheets furnished in accordance with § 512.2(d)(1)(vi). All these amounts are to be as of the beginning of the reporting period. The percentage derived therefrom shall be applied to Trade assets (Exhibits A, or A–a and A-p, as appropriate) to determine the amount of equity in such assets.

(ii) When the reporting carrier's balance sheet shows outstanding loans with a related company, such loans are to be considered equity if they are not liquidated within 12 months, and the interest thereon eliminated from all calculations.

(iii) The analysis of the reasonableness of a carrier's return on equity will be made on the basis of the carrier's cost of capital. Among the methods used to determined the cost of capital are the discounted-cash-flow (DCF) method and the comparable earnings test. The DCF method equates the market value of a company's stock with the present value of the income stream that stockholders might reasonably expect to receive in the future. This method is appropriate only when the carrier issues stock directly to the public and the stock is actively traded on an exchange.

(iv) The comparable earnings test requires information on the earnings of U.S. corporations over an extended period of time. From these time-series data, the average rate of return earned by U.S. corporations is computed. A risk factor is calculated next to determine whether the company in question should earn more or less than the average rate of return of U.S. corporations. The determination of the proper risk factor is made by comparing the business and financial risk facing the carrier as compared to other firms, the trend in the cost of money, market shares and other objective and subjective factors.

(3) *Fixed Coverage Ratio (Schedule C–II).* (i) The fixed coverage ratio shall be computed by *dividing* the total of net income, interest expense, depreciation and amortization expense, and the provision for income taxes as allocated to the Trade (Exhibit B, or B-a and B-p, as appropriate) *by* the Trade fixed charges. Fixed charges applicable to the Trade are the total of interest expense, principal payments, and capitalized lease obligations, as shown on Schedule B–IV, or B–IV and B–p–IV, as appropriate.

(ii) In order to evaluate the reasonableness of a carrier's fixed charges coverage ratio, the staff will analyze the debt-coverage ratios for variety of entities including, but not limited to: (A) public utilities; (B) Government-owned corporations; (3) rural electric cooperatives; (O) various municipal enterprises such as airports and hospitals; and (E) various sectors of the transportation industry including subsidized and unsubsidized ocean carriers. The staff will analyze the subject carrier's debt-coverage ratio in light of the nature of its debt structure (i.e., long term or short term), the overall economic conditions facing the carrier, and the market environment with which the carrier is operating.

(4) *Operating Ratio (Schedule C–III).* (i) The operating ratio will be computed by *dividing* total Trade expenses (adjusted for related company transaction *by* total Trade revenue.

(ii) The reasonableness of a carrier's operating ratio will be determined by analyzing the operating ratios of regulated and non-regulated industries such as: (A) public utilities; (B) publicly-held corporations; and (3) transportation companies. The comparison of the carrier's operating ratio with ratios for other firms will include an analysis of the risks inherent in ocean transportation as compared to other regulated and non-regulated industries. The staff will also conduct a comparative analysis of the financial ratios; (*1*) current; (*2*) leverage; (*3*) turnover; and (*4*) profitability, and an analysis of the stability in earnings for the carrier versus other firms.

(e) *Application for waiver (Exhibit D).* (1) Carriers requesting a waiver of the detailed reporting requirements in accordance with § 512.2(c)(3) must submit an application similar in format to Exhibit D. The information required relates to the identity of the applicant; routes or services offered; certain financial and operating data; and the person to contact concerning the application.

(2) The data submitted must be certified by the corporate officer responsible for the maintenance and accuracy of the books, accounts and financial records of the carrier. The certificate shall state that the application has been prepared from the books and records of the carrier and that, to the best of the certificant's knowledge and belief, the facts submitted are true and correct. This certificate must be notarized.

(3) Specific instructions concerning completion of the application for waiver are contained in page 1 of Exhibit D.

(f) *Initial tariff filing supporting data (Exhibit E).* (1) Carriers filing initial tariffs, as defined in § 512.2(i) shall submit the information set forth in *pro forma* Exhibit E. The information required relates to the identity of the respondent; the routes or services to be offered; certain financial and operating data; and the person to contact concerning the report.

(2) The data submitted must be certified by the corporate officer responsible for the maintenance and accuracy of the books, accounts and financial records of the carrier. The certificate shall state that the data have been prepared from the books and records of the carrier and that, to the best of the certificant's knowledge and belief, the facts submitted are true and correct. This certificate must be notarized.

(3) Specific instructions concerning completion of the data for initial tariff filings are contained in Exhibit E.

[Docket No. 78–48]
[FR Doc. 79–14252 Filed 5–7–79; 8:45 am]
BILLING CODE 6730–01–M

FEDERAL COMMUNICATIONS COMMISSION

[47 CFR Part 73]

FM Broadcast Stations in Grove, Okla. and Columbus, Kans.; Proposed Changes in Table of Assignments

AGENCY: Federal Communications Commission.

ACTION: Notice of Proposed Rule Making.

SUMMARY: Action taken herein proposes the assignment of a first Class A FM channel to Grove, Oklahoma. Petitioner, George C. Lackey, requested a Class C assignment, but due to spacing limitations, only a Class A channel is available to the community. A first Class A channel also is proposed for Columbus, Kansas, in response to a petition filed by Ben H. Woolery. The proposed Class A channels would provide for stations which could furnish first local aural broadcast service to the respective communities.

DATES: Comments must be filed on or before June 25, 1979, and reply comments must be filed on or before July 16, 1979.

ADDRESSES: Federal Communications Commission, Washington, D.C. 20554.

FOR FURTHER INFORMATION CONTACT: Mildred B. Nesterak, Broadcast Bureau, (202) 632–7792.

SUPPLEMENTARY INFORMATION:

In the matter of amendment of § 73.202(b), table of assignments, FM Broadcast Stations. (Grove, Oklahoma and Columbus, Kansas)

Adopted: April 26, 1979.

Released: May 1, 1979.

By the Chief, Broadcast Bureau:

1. The Commission has before it two petitions: one filed by George C. Lackey ("Lackey"), proposing the assignment of Class C Channel 300 to Grove, Oklahoma,[1] and the other filed by Ben H. Woolery ("Woolery"), proposing the assignment of Channel 257A to Columbus, Kansas.[2] Both channels were proposed as first FM assignments to these communities. An opposition was filed to the Columbus proposal by Jack Maxton ("Maxton"), President of Cherokee Broadcasting, and applicant for Channel 296 at Baxter Springs, Kansas.

2. Grove (pop. 2,000), in Delaware County (pop. 17,167),[3] is located approximately 120 kilometers (75 miles) northeast of Tulsa, Oklahoma, and 280 kilometers (175 miles) south of Kansas City, Missouri.

3. Columbus (pop. 3,356), seat of Cherokee County (pop. 21,549), is located in southeastern Kansas, approximately 150 kilometers (93 miles) northeast of Tulsa, Oklahoma, and 210 kilometers (132 miles) south of Kansas City, Missouri.

4. Lackey states that Grove is in the Grand Lake resort area and is in need of a first local aural broadcast service.

5. Woolery states the economy of Columbus is dependent largely on agriculture but also has several small manufacturing plants which contribute to the economy. He states that the community is located in a tornado and severe weather area and a radio facility is needed to furnish weather information to Columbus and the surrounding rural community. Woolery has submitted detailed information with respect to Columbus in order to demonstrate the need for a first FM assignment.

6. Maxton opposes the proposed assignment to Columbus on economic grounds. He claims that Cherokee County could not support two stations. He states that, although the county is a stable area, it is not a fast growing one and most of the stores and businesses are considered small by any standard and do not do much advertising. Maxton points out that the proposed Columbus transmitter site would be located approximately 8 kilometers (5 miles) from Baxter Springs and which site would be closer to Baxter Springs than to the proposed city of license, Columbus. Maxton requests that the Commission consider whether Cherokee County is in need of a second Class A channel since there are now 8 AM and 7 FM radio stations with a variety of programming within a thirty-mile radius of Columbus.

7. The proposed assignment of Channel 300 to Fayetteville, Arkansas, has been precluded by its assignment to Grove, Oklahoma. A channel search by the staff revealed that Channel 257A is the only channel available for assignment to Grove. Since Channel 257A could not be assigned to both Grove and Columbus because of spacing requirements, we are proposing Channel 257A to Grove which would satisfy its needs for a first local aural broadcast service. In a further channel search it was found that Channel 252A could be assigned to Columbus. In view of the apparent need for a first FM assignment to that community, we are proposing Channel 252A to Columbus. However, in order to meet the minimum distance separation requirements, the transmitter of a Channel 252A station must be located 9.61 kilometers (6.13 miles) northeast of Columbus.

8. Accordingly, the Commission proposes to amend the FM Table of Assignments (Section 73.202(b) of the Commission's Rules) with regard to the cities listed below:

City	Channel No. Present	Channel No. Proposed
Grove, Oklahoma		257A
Columbus, Kansas		252A

9. The Commission's authority to institute rule making proceedings, showings required, cut-off procedures, and filing requirements are contained in the attached Appendix and are incorporated by reference herein. NOTE: A showing of continuing interest is required by paragraph 2 of the Appendix before a channel will be assigned.

10. Interested parties may file comments on or before June 25, 1979, and reply comments on or before July 16, 1979.

11. For further information concerning this proceeding, contact Mildred B. Nesterak, Broadcast Bureau, (202) 632–7792. However, members of the public should note that from the time a notice of proposed rule making is issued until the matter is no longer subject to Commission consideration or court review, all *ex parte* contacts are prohibited in Commission proceedings, such as this one, which involve channel assignments. An *ex parte* contact is a message (spoken or written) concerning the merits of a pending rule making other than comments officially filed at the Commission or oral presentation required by the Commission.

Federal Communications Commission.

Wallace E. Johnson,
Chief, Broadcast Bureau.

1. Pursuant to authority found in Sections 4(i), 5(d)(1), 303(g) and (r), and 307(b) of the Communications Act of 1934, as amended, and Section 0.281(b)(6) of the Commission's Rules, IT IS PROPOSED TO AMEND the FM Table of Assignments, Section 73.202(b)

[1] Public Notice of the petition was given on January 19, 1978, Report No. 1096. Channel 300 was assigned to Fayetteville, Arkansas, by *Second Report and Order*, Docket No. 19679, adopted August 15, 1978, and is therefore precluded from assignment to Grove, Oklahoma, because of short spacing.

[2] Public Notice of the petition was given on December 6, 1978, Report No. 1154.

[3] Population figures are taken from the 1970 U.S. Census.

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of the Commission's Rules and Regulations, as set forth in the *Notice of Proposed Rule Making* to which this Appendix is attached.

2. *Showings required.* Comments are invited on the proposal(s) discussed in the Notice of Proposed Rule Making to which this Appendix is attached. Proponent(s) will be expected to answer whatever questions are presented in initial comments. The proponent of a proposed assignment is also expected to file comments even if it only resubmits or incorporates by reference its former pleadings. It should also restate its present intention to apply for the channel if it is assigned, and, if authorized, to build the station promptly. Failure to file may lead to denial of the request.

3. *Cut-off procedures.* The following procedures will govern the consideration of filings in this proceeding.

(a) Counterproposals advanced in this proceeding itself will be considered, if advanced in initial comments, so that parties may comment on them in reply comments. They will not be considered if advanced in reply comments. (See § 1.420(d) of Commission Rules.)

(b) With respect to petitions for rule making which conflict with the proposal(s) in this Notice, they will be considered as comments in the proceeding, and Public Notice to this effect will be given as long as they are filed before the date for filing initial comments herein. If they are filed later than that, they will not be considered in connection with the decision in this docket.

(4) *Comments and reply comments; service.* Pursuant to applicable procedures set out in Sections 1.415 and 1.420 of the Commission's Rules and Regulations, interested parties may file comments and reply comments on or before the dates set forth in the *Notice of Proposed Rule Making* to which this Appendix is attached. All submissions by parties to this proceeding or persons acting on behalf of such parties must be made in written comments, reply comments, or other appropriate pleadings. Comments shall be served on the petitioner by the person filing the comments. Reply comments shall be served on the person(s) who filed comments to which the reply is directed. Such comments and reply comments shall be accompanied by a certificate of service. (See § 1.420(a), (b) and (c) of the Commission Rules.)

5. *Number of copies.* In accordance with the provisions of Section 1.420 of the Commission's Rules and Regulations, an original and four copies of all comments, reply comments, pleadings, briefs, or other documents shall be furnished the Commission.

6. *Public inspection of filings.* All filings made in this proceeding will be available for examination by interested parties during regular business hours in the Commission's Public Reference Room at its headquarters, 1919 M Street NW., Washington, D.C.

[BC Docket 79-94; RM 3031; RM-3256]
[FR Doc. 79-14296 Filed 5-7-79; 8:45 am]
BILLING CODE 6712-01-M

DEPARTMENT OF COMMERCE

National Oceanic and Atmospheric Administration

[50 CFR Part 611]

Foreign Fishing

AGENCY: National Oceanic and Atmospheric Administration/ Commerce.

ACTION: Proposed regulation

SUMMARY: An amendment to the foreign fishing regulations is proposed which would provide additional protection to domestic fixed gear by enlarging the fixed-gear areas in the Northwest Atlantic Ocean fishery. Foreign vessels are prohibited from trawling within the fixed-gear areas. The Coast Guard broadcasts the boundaries of these areas, based on reports from domestic fishermen of the location of their fixed gear.

DATE: Comments are invited until May 20, 1979.

ADDRESS: Send comments to Bernard E. Skud, Permits and Regulations Division, National Marine Fisheries Service, Washington, D.C. 20235.

FOR FURTHER INFORMATION CONTACT: William P. Allen (202) 634-7293.

SUPPLEMENTARY INFORMATION: An amendment to the regulations governing foreign fishing activities within the United States fishery conservation zone was proposed on February 2, 1979, which would have prohibited foreign vessels in the Northwest Atlantic Ocean fishery from trawling within two nautical miles ("buffer" zone) of fixed-gear areas (43 FR 6761). Buffer zones were in effect during 1978 but were not included in the regulations for 1979. Eight comments, all opposed, were received on the proposed regulation.

The principal objections were that the buffer zones: (1) effectively precluded foreign fishing vessels from taking their allocations; (2) created crowded, chaotic, and dangerous conditions on the remaining available fishing grounds; and (3) restricted the available fishing grounds so that some incursions into buffer zones were unavoidable.

During 1978, foreign nations harvested only 27.5 percent of their allocations in the Northwest Atlantic Ocean fishery. The objections regarding restrictive conditions on the available fishing grounds were supported by the U.S. Coast Guard.

Other objections were that buffer zones external to fixed-gear areas: (1) were unnecessary because the fixed-gear areas provided adequate protection; (2) created a plotting burden on foreign fishing vessels and U.S. enforcement vessels; and (3) created enforcement difficulties because external buffer zones are not specifically defined in geographic coordinates.

These objections notwithstanding, adequate protection of domestic gear from losses caused by foreign trawling is essential, and a buffer zone is necessary to allow for navigational inaccuracies and the surface currents which change the position of the markers. However, the width of the buffer zones should not be excessive. In 1978, fixed-gear areas frequently included border areas containing no fixed gear, and the external two-mile buffer zone unnecessarily restricted the areas available for foreign fishing.

To provide adequate protection for domestic fixed gear, the boundaries of fixed-gear areas (as broadcast by the Commander, Atlantic Area, U.S. Coast guard) will include a buffer zone extending one to two nautical miles beyond the locations of reported gear.

Including a buffer zone inside the fixed-gear area, instead of outside the area, has the following advantages: (1) the plotting burden is reduced; (2) specific coordinates of prohibited trawling areas are provided; and (3) the width of the buffer zone will not be excessive. Therefore, it is proposed to amend the foreign fishing regulations by providing buffer zones within the fixed-gear areas.

During development of this proposed regulation, comments were received from interested parties after the close of the comment period prescribed (February 16, 1979). In addition, significant discussions were held with representatives of the Coast Guard and the Department of State. To provide an opportunity for all interested parties to comment on this latest proposed amendment, a 10-day comment period is provided.

The Assistant Administrator has made an initial determination that this proposed regulation is not a significant regulation under Executive Order 12044. Environmental impact statements for the preliminary fishery management plans concerned are on file with the Environmental Protection Agency.

(16 U.S.C. 1801 *et seq.*)

Signed at Washington, D.C., this 2nd day of May, 1979.

Winfred H. Meibohm,
Executive Director, National Marine Fisheries Service.

Section 611.50(d)(1) is proposed to be amended by deleting paragraph (d)(1)(i) and replacing it with the following new paragraph (d)(1)(i):

§ 611.50 Northwest Atlantic Ocean Fishery.

* * * * *

(d) * * *

(1) * * *

(i) In any fixed-gear area (as broadcast by the Coast Guard; see § 611.11 and paragraph (d)(2) of this section). Fixed-gear areas will include a buffer zone around the actual reported locations of the fixed gear.

* * * * *

[FR Doc. 79-14369 Filed 5-7-79; 8:45 am]
BILLING CODE 3510-22-M

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Notices

Federal Register
Vol. 44, No. 90
Tuesday, May 8, 1979

This section of the FEDERAL REGISTER contains documents other than rules or proposed rules that are applicable to the public. Notices of hearings and investigations, committee meetings, agency decisions and rulings, delegations of authority, filing of petitions and applications and agency statements of organization and functions are examples of documents appearing in this section.

DEPARTMENT OF AGRICULTURE

Agricultural Marketing Service

Packers and Stockyards; Meat Pricing Task Force; Change in Time and Location of Meeting

On Wednesday, March 28, 1979, five meetings of the Meat Pricing Task Force were announced (**Federal Register**, Vol. 44, No. 61). An additional meeting of the Task Force was announced for June 11, 1979, at the Airport Marina Hotel, Dallas-Fort Worth Regional Airport, Dallas, Texas (**Federal Register**, Vol. 44, No. 83, April 27, 1979).

The purpose of this notice is to announce a change in the time and location of the May 10, 1979, meeting of the Task force originally scheduled to begin at 10:00 a.m. in Room 218A, Administration Building, U.S. Department of Agriculture, Washington, D.C. The reason for this change is the large number of public participants anticipated for the meeting.

The May 10, 1979, meeting of the Meat Pricing Task Force is now scheduled to begin at 8:00 a.m. in the enclosed Patio, Administration Building, U.S. Department of Agriculture, Washington, D.C.

As stated in the April 27, 1979, Federal Register notice, written statements from any interested person will be accepted if postmarked no later than May 21, 1979. Any person interested in submitting a written statement to the Task Force should address such statement to Chas B. Jennings, Deputy Administrator, Packers and Stockyards, AMS, U.S. Department of Agriculture, Room 3039–South, Washington, D.C. 20250.

Dated: May 3, 1979.

Chas B. Jennings,
Deputy Administrator Vice Chairman, Meat Pricing Task Force.
[FR Doc. 79-14285 Filed 5-7-79; 8:45 am]
BILLING CODE 3410-02-M

Food and Nutrition Service

National Advisory Council on Maternal, Infant, and Fetal Nutrition; Meeting

Pursuant to the Federal Advisory Committee Act (Pub. L. 92–463), announcement is made of the following Council meeting:

Name: National Advisory Council on Maternal, Infant and Fetal Nutrition.
Date and time: 9:00 a.m., May 21–23, 1979.
Place: Radisson Cadillac Hotel, 1114 Washington Blvd., Detroit, Michigan 48231.
Purpose of meeting: The Council will continue its study of the Special Supplemental Food Program for Women, Infants and Children (WIC) and the Commodity Supplemental Food Program (CSFP).
Proposed agenda: The Council will visit the Commodity Supplemental Food Program and the WIC Program operating in Detroit. The remainder of the agenda will pertain to a wide variety of issues concerning the operation of these two programs.

This meeting will be open to the public. As time permits, members of the public may participate in the meeting.

Persons wishing additional information about the meeting should contact Lindy Dahnk, Supplemental Food Programs Division, Food and Nutrition Service, U.S. Department of Agriculture, Washington, D.C. 20250, telephone (202) 447–8421.

Dated: May 2, 1979.

Carol Tucker Foreman,
Assistant Secretary for Food and Consumer Services.
[FR Doc. 79-14204 Filed 5-7-79; 8:45 am]
BILLING CODE 3410-30-M

Forest Service

Fremont National Forest Grazing Advisory Board Meeting

The Fremont National Forest Grazing Advisory Board will meet at 1 p.m. on Thursday, May 31, 1979, at the Forest Supervisors Office, 34 North D Street, Lakeview, Oregon 97630.

The purpose of this meeting is:

Review Range Allotment Management Planning

1. RPA Assessment and Program Direction.
2. Public Participation.

The meeting will be open to the public. Persons who wish to attend should notify Ralph B. Roberts, 34 North D, Lakeview, Oregon, 97630, Phone 947–2151. Written statements may be filed with the Board before or after the meeting.

The committee has established the following rules for public participation.

Rules for public participation/subjects must be written statutory functions of the Board.

1. Must have pre-notice and placed on agenda.
2. Time limit will be announced at meeting.
3. May be oral or written.
4. Aggreived grazing permittee must contact:
a. District Ranger regarding decision or recommendations.
b. Forest Supervisor regarding proposed action.
c. Advisory Board member.
d. Forest Supervisor/Board President in emergency.
5. General Public:
a. Same steps as aggrieved grazing permittee.
b. Open input on agenda items permitted.
c. May present topics or concerns if prearranged.

Dated: May 1, 1979.

Jerry L. Mooesmith,
Acting Forest Supervisor.
[FR Doc. 79-14232 Filed 5-7-79; 8:45 am]
BILLING CODE 3410-11-M

Office of Transporation

Rural Transporation Advisory Task Force Meeting

AGENCY: Office of Transporation, U.S. Department of Agriculture.

ACTION: Notice of Public Meeting of the Rural Transporation Advisory Task Force.

DATES: May 15, 1979, 8 a.m.; May 16, 1979, 8 a.m.; and May 17, 1979, 8 a.m.

ADDRESS: Hampshire House Hotel, 1000 Grant Street, Denver, Colorado.

SUMMARY: At the completion of its work on January 1, 1980, the Task Force will report on methods for enhancing the economical and efficient movement of agricultural commodities (including forest products) and agricultural inputs and recommend approaches for establishing a national agricultural transporation policy and for identifying impediments to a railroad transporation system adequate for the needs of agriculture. The Task Force has formed three subcommittees on policy and essential transporation needs of agriculture; railroad problems of agriculture; and highway, waterway,

and air transporation problems of agriculture. At its last meeting, the Task Force finalized the nature of an interim report including the identification of critical agricultural transporation issues. The purpose of the next meeting is to fully discuss and identify options for each issue for inclusion in the interim report, tentatively scheduled for publication in June, 1979. The public is invited to attend and observe the meeting of the Task Force. Afternoon sessions will be primarily devoted to subcommittee workshops while morning sessions will be for full Task Force meetings, to include reports of subcommittees and presentation of information by staff and other resource people.

FOR FURTHER INFORMATION CONTACT:
Dr. Robert J. Tosterud, Office of Transportation, U.S. Department of Agriculture, Washington, D.C. 20250, Phone: (202) 447–3963.

Dated: May 1, 1979.

Ron Schrader,
Acting Director, Office of Transporation.
[FR Doc. 79-14308 Filed 5-7-79; 8:45 am]
BILLING CODE 3410-02-M

Rural Electrification Administration

Associated Electric Cooperative, Inc.; Draft Environmental Impact Statement

Notice is hereby given that the Rural Electrification Administration has prepared a Draft Environmental Impact Statement in accordance with Section 102(2)(C) of the National Environmental Policy Act of 1969, in connection with possible financing assistance for Associated Electric Cooperative, Inc., P.O. Box 754, Springfield, Missouri 65801.

This financing is related to the Missouri portion of approximately 55 miles of 500 kV transmission line in the counties of New Madrid, Pemiscott and Dunklin, Missouri, and Mississippi County, Arkansas.

Additional information may be obtained from Mr. Joseph S. Zoller, Assistant Administrator—Electric, Rural Electrification Administration, U.S. Department of Argiculture, Washington, D.C. 20250.

Comments are invited from the public and particularly from State and local agencies which are authorized to develop and enforce environmental standards, and from Federal agencies having jurisdication by law or special expertise with respect to any environmental impact from which comments have not been requested specifically.

Copies of the REA Draft Environmental Impact Statement have been sent to various Federal, State, and local agencies, as outlined in the Council on Environmental Quality Guidelines. Limited supplies of this document are available for mailing upon request. The Draft Environmental Impact Statement may be examined during regular business hours at the offices of REA in the South Agriculture Building, 12th Street and Independence Avenue, S.W., Washington, D.C., Room 4314, or at the headquarters of Associated Electric Cooperative, Inc., whose address is given above.

Comments concerning the environmental impact of the construction proposed should be addressed to Mr. Zoller at the address given above. Comments must be received within 60 days of the date of publication of this notice to be considered in connection with the proposed financing assistance.

Any financing assistance by REA pursuant to this proposed project will be subject to, and release of funds thereunder will be contingent upon REA's reaching satisfactory conclusions with respect to environmental effects and final action will be taken only after compliance with the Environmental Statement procedure required by the National Environmental Policy Act of 1969, and procedures required by other environmentally related statutes, regulations, and Executive Orders and Secretary's Memoranda.

Dated at Washington, D.C. this 30th day of April 1979.

Robert W. Feragen,
Administrator, Rural Electrification Administration.
[FR Doc. 79-14142 Filed 5-7-79; 8:45 am]
BILLING CODE 3410-15-M

CIVIL AERONAUTICS BOARD

Former Large Irregular Air Service Investigation (Application of Air Specialties Corp.); Hearing

Notice is hereby given, pursuant to the provisions of the Federal Aviation Act of 1958, as amended, that a hearing in the above-entitled proceeding will be held on June 6, 1979, at 9:30 a.m. (local time), in Hearing Room 1003 D, Universal Building North, 1875 Connecticut Avenue, N.W., Washington, D.C., before me.

For information concerning the issues involved and other details in this proceeding, interested persons are referred to the prehearing conference report served November 9, 1978, and other documents which are in the docket of this proceeding on file in the Docket Section of the Civil Aeronautics Board.

Dated at Washington, D.C., May 2, 1979.

Marvin H. Morse,
Administrative Law Judge.
[Docket 33361]
[FR Doc. 79-14227 Filed 5-7-79; 8:45 am]
BILLING CODE 6320-01-M

Tiger International-Seaboard World Airlines, Inc., Acquisition Case; Hearing

Notice is hereby given, pursuant to the provisions of the Federal Aviation Act of 1958, as amended, that the hearing in the above entitled matter will be held on June 19, 1979 through July 13, 1979, inclusive, at 9:30 a.m. (local time) in Room 1003, Hearing Room D, 1875 Connecticut Avenue, N.W., Washington, D.C. 20428, before the undersigned judge.

Dated at Washington, D.C., May 2, 1979.

John J. Mathias,
Administrative Law Judge.
[Docket No. 33712]
[FR Doc. 79-14228 Filed 5-7-79; 8:45 am]
BILLING CODE 6320-01-M

COMMISSION ON CIVIL RIGHTS

Colorado, Montana, North Dakota, South Dakota, Utah, and Wyoming Advisory Committees; Agenda and Notice of Open Meeting

Notice is hereby given, pursuant to the provisions of the Rules and Regulations of the U.S. Commission on Civil Rights, that a planning meeting of the Regional Advisory Committees of the Commission will convene at 9:00 am and will end at 1:00 pm, on May 23, 1979, at the Executive Tower Inn, Suite 1706, 1405 Curtis Street, Denver, Colorado.

Persons wishing to attend this open meeting should contact the Committee Chairperson, or the Rocky Mountain Regional Office of the Commission, Executive Tower Inn, Suite 1700, 1405 Curtis Street, Denver, Colorado 80202.

The purpose of this meeting is to plan future activities.

This meeting will be conducted pursuant to the provisions of the Rules and Regulations of the Commission.

Dated at Washington, D.C., May 2, 1979.

John I. Binkley,
Advisory Committee Management Officer.
[FR Doc. 79-14320 Filed 5-7-79; 8:45 am]
BILLING CODE 6335-01-M

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Connecticut Advisory Committee; Agenda and Notice of Open Meeting

Notice is hereby given, pursuant to the provisions of the Rules and Regulations of the U.S. Commission on Civil Rights, that a planning meeting of the Connecticut Advisory Committee (SAC) of the Commission will convene at 7:00 pm and will end at 9:00 pm, on May 31, 1979, at the Holiday Inn, Meriden, Connecticut.

Persons wishing to attend this open meeting should contact the Committee Chairperson, or the Northeastern Regional Office of the Commission, 26 Federal Plaza, Room 1639, New York, New York 10007.

The purpose of this meeting is to discuss project and community development.

This meeting will be conducted pursuant to the provisions of the Rules and Regulations of the Commission.

Dated at Washington, D.C., May 3, 1979.

John I. Binkley,
Advisory Committee Management Officer.
[FR Doc. 79-14321 Filed 5-7-79; 8:45]
BILLING CODE 6335-01-M

DEPARTMENT OF COMMERCE

National Oceanic and Atmospheric Administration

Gulf of Mexico Fishery Management Council; Public Meeting

AGENCY: National Marine Fisheries Service, NOAA.

SUMMARY: The Gulf of Mexico Fishery Management Council, established by Section 302 of the Fishery Conservation and Management Act of 1976 (Pub. L. 94-265), will meet to: (1) review status reports on development of fishery management plans; (2) consider foreign fishing applications, if any; and (3) conduct other business.

DATES: The meeting will convene on Tuesday, June 5, 1979, at 1:30 p.m.; Wednesday, June 6, 1979, at 8:30 a.m.; Thursday, June 7, 1979, at 8:30 a.m.; adjourning at 5 p.m. on the 5th and 6th and at approximately 12 noon on the 7th. The meeting is open to the public.

ADDRESS: The meeting will take place in the Iberville Room of the Monteleone Hotel, 214 Rue Royale, New Orleans, Louisiana.

FOR FURTHER INFORMATION CONTACT: Gulf of Mexico Fishery Management Council, Lincoln Center, Suite 881, 5401 West Kennedy Boulevard, Tampa, Florida 33609, Telephone: (813) 228-2815.

Dated: May 3, 1979.

Winfred H. Meibohm,
Executive Director, National Marine Fisheries Service.
[FR Doc. 79-14353 Filed 5-7-79; 8:45 am]
BILLING CODE 3510-22-M

Mid-Atlantic Fishery Management Council; Public Meeting

AGENCY: National Marine Fisheries Service, NOAA.

SUMMARY: The Mid-Atlantic Fishery Management Council, established by Section 302 of the Fishery Conservation and Management Act of 1976 (Public Law 94-265), will meet to discuss: (1) Fluke Fishery Management Plan (FMP); (2) Butterfish and Bluefish FMP's; and (3) other business.

DATES: The meeting will convene on Wednesday, June 13, 1979, at 1 p.m. and will adjourn on Friday, June 15, 1979, at approximately 1 p.m. The meeting is open to the public.

ADDRESS: The meeting will take place at the Best Western Airport Motel, Philadelphia International Airport, Route #291, Philadelphia, Pennsylvania 19153.

FOR FURTHER INFORMATION CONTACT: Mid-Atlantic Fishery Management Council, North and New Streets, Room 2115, Federal Building, Dover, Delaware 19901, Telephone: (302) 674-2331.

Dated: May 3, 1979.

Winfred H. Meibohm,
Executive Director, National Marine Fisheries Service.
[FR Doc. 79-14352 Filed 5-7-79; 8:45 am]
BILLING CODE 3510-22-M

Modification of Permit No. 219

Notice is hereby given that, pursuant to the provisions of Sections 216.33 (d) and (e) of the Regulations Governing the Taking and Importing of Marine Mammals (50 CFR Part 216), Scientific Research Permit No. 219, issued to Dr. Kenneth S. Norris, University of California at Santa Cruz, on January 31, 1978, as modified March 9, 1979, is further modified as follows:

1. Section A is modified by deleting Section A-1 and substituting there the following:

"Fifteen (15) spinner porpoises (*Stenella longirostris*) of either sex, may be taken, radio or Roto tagged and released."

The original permit authorized fifteen (15) spinner porpoises to be taken by radio tagging and released. By this modification, the Permit Holder is authorized to use a Roto tag in lieu of a radio tag where appropriate.

This modification is effective on May 2, 1979.

The Permit, as modified, and documentation pertaining to the modification, is available for review in the following offices: Assistant Administrator for Fisheries, National Marine Fisheries Service, 3300 Whitehaven Street, N.W., Washington, D.C.; and Regional Director, National Marine Fisheries Service, Southwest Region, 300 South Ferry Street, Terminal Island, California 90731.

Dated: May 2, 1979.

Winfred H. Meibohm,
Associate Director, National Marine Fisheries Service.
[FR Doc. 79-14350 Filed 5-7-79; 8:45 am]
BILLING CODE 3510-22-M

South Atlantic Fishery Management Council's Advisory Panel; Public Meeting

AGENCY: National Marine Fisheries Service, NOAA.

SUMMARY: The South Atlantic Fishery Management Council was established by Section 302 of the Fishery Conservation and Management Act of 1976 (Public Law 94-265) and the Council has established an Advisory Panel (AP) which will meet to review the final draft of the King and Spanish Mackerel Fishery Management Plan.

DATES: The meeting will convene on Wednesday, May 23, 1979, at 9 a.m. and will adjourn at approximately 3 p.m. The meeting is open to the public.

ADDRESS: The meeting will take place at the South Carolina Wildlife and Marine Resources Department, Ft. Johnson Road, Charleston, South Carolina.

FOR FURTHER INFORMATION CONTACT: South Atlantic Fishery Management Council, 1 Southpark Circle, Suite 306, Charleston, South Carolina 29407, Telephone: (803) 571-4366.

Dated: May 3, 1979.

Winfred H. Meibohm,
Executive Director, National Marine Fisheries Service.
[FR Doc. 79-14351 Filed 5-7-79; 8:45 am]
BILLING CODE 3510-22-M

South Atlantic Fishery Management Council, Inter-Council Billfish Steering Committee; Public Meeting

AGENCY: National Marine Fisheries Service, NOAA.

SUMMARY: The Inter-Council Billfish Steering Committee, established under Section 302 of the Fishery Conservation and Management Act of 1976 (Pub. L. 94-265), will meet to review the Billfish Fishery Management Plan.

DATES: The meeting will convene on Monday, May 21, 1979, at 9 a.m. and will adjourn on Tuesday, May 22, 1979, at approximately 12 noon. The meeting is open to the public.

ADDRESS: The meeting will take place at the South Atlantic Fishery Management Headquarters, Charleston, South Carolina.

FOR FURTHER INFORMATION: South Atlantic Fishery Management Council, 1 Southpark Circle, Suite 306, Charleston, South Carolina 29407, Telephone: (803) 571-4366.

Dated: May 2, 1979.

Winfred H. Meibohm,
Executive Director, National Marine Fisheries Service.
[FR Doc. 79-14238 Filed 5-7-79; 8:45 am]
BILLING CODE 3510-22-M

Office of the Secretary

National Voluntary Laboratory Accreditation Program (NVLAP); Quarterly Report—Thermal Insulation Materials; Correction

The NVLAP Quarterly Report appearing in the Federal Register of April 13, 1979 (44 FR 22139), indicated that formal applications for accreditation for testing thermal insulation materials were received from 20 organizations representing 23 laboratories. The names of only 22 laboratories were listed. The laboratory of Johns-Manville Sales Corporation should be added to that list.

Dated: May 3, 1979.

Jordan J. Baruch,
Assistant Secretary for Science and Technology.
[FR Doc. 79-14310 Filed 5-7-79; 8:45 am]
BILLING CODE 3510-13-M

DEPARTMENT OF DEFENSE

Department of the Army

Armed Forces Epidemiological Board; Open Meeting

1. In accordance with section 10(a)(2) of the Federal Advisory Committee Act (Pub. L. 92-463) announcement is made of the following committee meeting:

Name of Comittee: Armed Forces Epidemiological Board.
Date of Meeting: May 31-June 1, 1979.
Place: Conference Room 3092, Walter Reed Army Institute of Research, Walter Reed Army Medical Center, Washington, D.C.
Time: 0900-1700 May 31, 1979; 0830-1400 June 1, 1979.
Proposed Agenda: The proposed agenda will include briefings on the Navy Tuberculosis Control Program, Navy malaria control in the Philippines, and update on the Uniformed Services University and the Armed Forces Preventive Medicine Officers will discuss their current activities. The meeting will conclude with a Board working session.

2. This meeting will be open to the public, but limited by space accommodations. Any interested person may attend, appear before, or file statements with the committee at the time and in the manner permitted by the committee. Interested persons wishing to participate should advise the Executive Secretary, DASG-AFEB, Room 1B472 Pentagon, Washington, D.C. 20310.

Dated: 30 April 1979.

Charles W. Halverson,
CDR MSC USN, Executive Secretary.
[FR Doc. 79-14286 Filed 5-7-79; 8:45 am]
BILLING CODE 3710-08-M

Corps of Engineers

Intent To Prepare a Draft Environmental Impact Statement

To prepare a Draft Environmental Impact Statement (DEIS) for the proposed Novato Regional Shopping Center, Regulatory Permit Application in Novato, Marin County, California.

AGENCY: San Francisco District, U.S. Army Corps of Engineers, Department of Defense.

ACTION: Notice of Intent to Prepare a Draft Environmental Impact Statement (DEIS).

SUMMARY: 1. Proposed Action. Novato Center Inc., Richard Hanna, President, has applied for a Department of the Army permit under Section 10 of the River and Harbor Act of 1899 and under Section 404 of the Clean Water Act to fill 48 acres of historic wetland and 8 acres of existing brackish marsh for the purpose of contruction of a 77-acre regional shopping center, with approximately 986,000 squate feet of leasable retail space. The center would be built partly on the 56 acres proposed to be filled and partly on an adjoining previously filled portion of the property. The application also includes the excavation of approximately 400,000 cubic yards of fill material from historic wetland on an adjacent property. A 37-acre lake would be created as a result. The site of the above work is known locally as Hanna Ranch.

Development plans have not been submitted for the entire 56 acres within Corps jurisdiction which are proposed to be filled.

A change in zoning from industrial to commercial use would be necessary for the southern portion of the project site.

2. Alternatives. Four alternatives to the proposed action will be considered in the Draft EIS. They are as follows:

a. No fill or development on any portion of the project site.

b. A reduced (53-acre) on-site shopping center with no fill placed within Corps jurisdiction.

c. Development on-site in accordance with current city zoning of commercial use in the north and industrial use in the southern portion.

d. Development of a 77-acre regional shopping center at Hamilton Air Force Base (two miles south of the Hanna Ranch site) as proposed by Marin County. Most of the base has been determined to be surplus Federal property and will be disposed pending a study by the U.S. General Services Administration of potential future uses.

3. Scoping Process: a. To allow for identification of the significant issues and to facilitate communication between the applicant and interested agencies and other interested parties, the San Francisco District of the Corps has and is coordinating the EIS process with the City of Novato, the U.S. Fish and Wildlife Service, the California State Resources Agency, the project applicant, and private conservation groups. The Corps formally requested comments from government agencies and community groups in January 1978, through the San Francisco District, Corps of Engineers, Public Notice #10138-33. Other interested parties are invited to participate in the DEIS process by contacting the address indicated in paragraph six of this notice.

b. The significant issues to be analyzed in depth in the DEIS are: loss of wildlife habitat, hydrology and water quality, geologic and seismic risks, traffic and air quality, economics and public services and utilities.

c. Although the document is being prepared solely by the San Francisco District, the City of Novato has provided significant input.

d. Consultation is being performed under the Fish and Wildlife Coordination Act (16 USC Sec 661 et seq.), the National Historic Preservation Act of 1966 (16 USC Sec 470 et seq.) and the Endangered Species Act of 1973.

4. Because coordination with concerned agencies is already underway, and because the significant issues have been identified through previous coordination, a scoping meeting as such is not planned.

5. It is estimated that the DEIS will be available to the public in June 1979, provided required additional data is received as expected.

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6. Questions about the proposed action and DEIS can be answered by Roger Golden, Paul Portch, or Jody Zaitlin, Environmental Branch, San Francisco District, Corps of Engineers, 211 Main Street, San Francisco, California 94105 (415–556–0325).

Dated: April 30, 1979.

Raymond F. Jackson,
Lt. Colonel, CE, District Engineer.
[FR Doc. 79–14240 Filed 5–7–79; 8:45 am]
BILLING CODE 3710–FS–M

Engineers Corps

Intent To Prepare a Draft Environmental Impact Statement (DEIS) for Proposed Modifications to Existing Navigation Project on Green and Barren Rivers, Ky.

AGENCY: U.S. Army Corps of Engineers, DOD.

ACTION: Notice of Intent to Prepare a Draft Environmental Impact Statement (DEIS).

SUMMARY: Alternatives under consideration are:

Close Lock 3: Continue to provide spot maintenance at Dams 3, 5, 6, and Barren River Dam 1 on a custodial care basis as required.

Close Lock 3: Dispose of all properties at Dams 3–6 and Barren River Dam 1; revoke authorization of navigation project above Green River Mile 108.2.

No change: Continue operation of Lock and Dam 3.

Gradually dismantle Dams 3 and 6 and lower pools (over 1–2 year period), dispose of all properties at Dams 3–6 and Barren River Dam 1; revoke authorization of navigation project above Green River Mile 108.2.

Provision of developed recreation areas (possibly including camping, boating, picnicking, nature walks, etc.) at suitable upper river damsites, with or without structural maintenance to dams themselves.

Channel modifications near Mile 106 to provide navigation by four-barge tow to Rochester.

A Plan Formulation Public Meeting was recently held, February 15, 1979, in Bowling Green, Kentucky. This meeting constituted a part of the scoping process as the alternatives and preliminary impacts and evaluations were presented to the public and affected agencies for their considerations. Views and comments were solicited and obtained. The scoping process will continue with invitations for comments to be sent in April 1979 to affected agencies and those organizations and individuals that have expressed an interest in the environmental or cultural resources. The aforementioned meeting and coordination efforts are expected to adequately define the scope of issues to be addressed in the DEIS. No specific meeting for scoping purposes will be held. As presently scheduled, the DEIS will be distributed for review in September 1979.

ADDRESS: Questions regarding the proposed action, the Draft Environmental Impact Statement or the scoping process, should be directed to Thomas P. Nack, Colonel, Corps of Engineers, 600 Federal Place, P.O. Box 59, Louisville, Kentucky 40201. Telephone: (502) 582–5601.

By Authority of the Secretary of the Army.

Dated: April 30, 1979.

Richard C. Bennett,
Deputy District Engineer.
[FR Doc. 79–14233 Filed 5–7–79; 8:45 am]
BILLING CODE 3710–GF–M

DEPARTMENT OF ENERGY

Office of Assistant Secretary for International Affairs

Additional Agreement Between the U.S. Government and the European Atomic Energy Committee; Proposed Subsequent Arrangement

Pursuant to Section 131 of the Atomic Energy Act of 1954, as amended (42 U.S.C. 2160) notice is hereby given of a proposed "subsequent arrangement" under the Additional Agreement Between the Government of the United States of America and the European Atomic Energy Community (EURATOM) Concerning the Peaceful Uses of Atomic Energy and the Agreements for Cooperation Between the Government of the United States of America and the Governments of Sweden, Austria, and Norway.

The subsequent arrangement to be carried out under the above mentioned agreement involves approval of the following retransfers:

RTD/EU(SW)–43—Retransfer from Sweden to West Germany of 1,484 g uranium, containing 31 g U–235, to be used in an experimental test to develop methods for purification of scrap material from wet recovery.

RTD/EU(AT)–10—Retransfer from Austria to West Germany of 5.53 g uranium, containing 5.1 g U–235, and 25.5 g thorium, for post irradiation analysis and disposal.

RTD/EU(SW)–44—Retransfer from Sweden to France of 1,484 g uranium, containing 31 g U–235, to be used in an experimental test to develop methods for purification of scrap material from wet recovery.

RTD/SW(NO)–14—Retransfer from Norway to Sweden of 4,000 g uranium, containing 140 g U–235, the return of uranium samples after analysis of uranium content, isotopic composition, and rare earth metals.

In accordance with Section 131 of the Atomic Energy Act of 1954, as amended, it has been determined that the furnishing of the nuclear material will not be inimical to the common defense and security.

This subsequent arrangement will take effect no sooner than May 23, 1979.

For the Department of Energy.

Dated: May 2, 1979.

Harold D. Bengelsdorf,
Director for Nuclear Affairs International Programs.
[FR Doc. 79–14368 Filed 5–7–79; 8:45 am]
BILLING CODE 6450–01–M

Federal Energy Regulatory Commission

Columbia Gas Transmission Corp.; Proposed Changes In FERC Gas Tariff

May 2, 1979.

Take notice that on April 27, 1979, Columbia Gas Transmission Corporation (Columbia) tendered for filing the following revised tariff sheets to its FERC Gas Tariff, Original Volume No. 1:

Fifth Revised Sheet No. 1
Fifth Revised Sheet No. 19
Fourth Revised Sheet No. 20
Second Revised Sheet No. 27
Fourth Revised Sheet No. 28
Fourth Revised Sheet No. 29
Fourth Revised Sheet No. 30
Second Revised Sheet No. 31
Second Revised Sheet No. 32
Fourth Revised Sheet No. 33
Third Revised Sheet No. 34
Second Revised Sheet No. 37
First Revised Sheet No. 38
Second Revised Sheet No. 43
First Revised Sheet No. 44
First Revised Sheet No. 44A
First Revised Sheet No. 44B
First Revised Sheet No. 44C
First Revised Sheet No. 44D
Sixth Revised Sheet No. 47
Seventh Revised Sheet No. 62
Second Revised Sheet No. 63
Original Sheet No. 63A
Seventh Revised Sheet No. 90

According to Columbia, the purpose of this tariff filing is to delete the seasonal curtailment provisions and Maximum Monthly Volumes contained in its interim curtailment plan under the Commission's order issued October 31, 1975, in Docket No. RP72–89, from its currently effective FERC Tariff. Columbia claims that such provisions are no longer necessary or appropriate in view of its most recent supply/demand projections, which indicate that it will not be curtailing its customers at least through October, 1987, the last year of the forecast period. Columbia proposes to retain daily curtailment procedures and provisions protecting

high-priority and essential agricultural uses on its system in the event of *force majeure* situations, including an unanticipated, temporary loss of gas supply.

Columbia requests the Commission to grant such waivers of its Regulations as it deems necessary to permit the revised tariff sheets to become effective as of April 1, 1979, and asks that, if the Commission suspends the filing, such suspension be for only one day, so that the revised tariff sheets can be made effective at the earliest possible date.

Copies of the filing were served by Columbia upon its jurisdictional customers interested State commissions and all parties to its curtailment proceeding in Docket No. RP72–89.

It appears reasonable and consistent with the public interest in this proceeding to prescribe a period shorter than 15 days for the filing of protests and petitions to intervene. Therefore, any person desiring to be heard or to protest said filing should file a petition to intervene or protest with the Federal Energy Regulatory Commission, 825 North Capitol Street, N.E., Washington, D.C. 20426, in accordance with §§ 1.8 and 1.10 of the Commission's Rules of Practice and Procedure (18 CFR 1.8, 1.10) on or before May 11, 1979. Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceeding. Any person wishing to become a party must file a petition to intervene in accordance with the Commission's Rules. This filing which was made with the Commission is available for public inspection.

Kenneth F. Plumb,
Secretary.

[Docket No. TC79–127 (related to RP72–89)]
[FR Doc. 79–14256 Filed 5–7–79; 8:45 am]
BILLING CODE 6450–01–M

ENVIRONMENTAL PROTECTION AGENCY

California; Marine Sanitation Device Standard for Two Harbor Areas Within the State

On January 31, 1979, notice was published that the State of California has petitioned the Administrator, U.S. Environmental Protection Agency, to determine that adequate facilities for the safe and sanitary removal and treatment of sewage from all vessels are reasonably available for the waters of Channel Islands Harbor, Oxnard, and Avalon Bay Harbor, Santa Catalina Island (44 FR 6197). The petition was filed pursuant to section 312 (f)(3) of Pub. L. 92–500.

Section 312(f)(3) states:

After the effective date of the initial standards and regulations promulgated under this section, if any State determines that the protection and enhancement of the quality of some or all of the waters within such State require greater environmental protection, such State may completely prohibit the discharge from all vessels of any sewage, whether treated or not, into such waters, except that no such prohibition shall apply until the Administrator determines that adequate facilities for the safe and sanitary removal and treatment of sewage from all vessels are reasonably available for such water to which such prohibition would apply.

The information submitted to me by the State of California certified that there are two pumpout facilities available to service vessels in Avalon Harbor. These facilities, which are installed on a large float on the east side of the harbor, are open 24 hours a day, and their use is free to the public. The two facilities are operated by the City of Avalon, and the waste collected at the two pumpout facilities is disposed of at the City of Avalon's secondary treatment sewage treatment plant (NPDES Permit Number CA 0054372).

The State of California has also certified that each pumpout facility can service from three to five vessels at one time, depending on vessel length, and that five minutes are required to pump out the average vessel. Peak period accommodation of Avalon Harbor during the summer of 1978 was 347 vessels; however, the State has certified that the two pumpout facilities can service a total of approximately 576 vessels per day if required to do so, and both pumpout facilities can accommodate vessels with an 18–foot draft.

The State of California has further certified that there are three pumpout facilities available to service vessels in Channel Islands Harbor. All three facilities are operated by the County of Ventura, Channel Island Harbor Manager, and are open 24 hours a day. Pumpout facility No. 1 is located at the Harbor Master's Dock, pumpout facility No. 2 is located at the Launch Ramp day-use dock, and pumpout facility No. 3 is located at the Peninsula Park dock; the three facilities can service approximately 1,500 vessels, considerably more than the present population of 1,150 vessels, and each facility takes approximately five minutes to pump out the average vessel. All three facilities are coin-operated, and provide five minutes of pumping for twenty-five cents ($0.25). The wastes collected from the three pumpout facilities are discharged to the City of Oxnard's secondary treatment sewage treatment plant (NPDES Permit No. CA 00544097).

The State of California has also certified that pumpout facility No. 1 will accommodate vessels with approximately a 20-foot draft, and that pumpout facilities Nos. 2 and 3 are in locations where the harbor is dredged to a depth of 10 feet at mean lower low water.

Three comments were received by the Agency on the merits of the two petitions prior to the deadline for receipt of comments. The first was from the City Council of the City of Avalon, Santa Catalina Island, California, supporting the California State Water Resources Control Board's petition to the Agency. The second comment was from a law firm in New York City representing the Boating Pollution Control Committee. The commenter stated his belief that the petitions should be denied because they are "patently defective on their respective faces, and that it is patently incongruous to require the retention and discharge of vessel sewage only to be concentrated and deposited in municipal secondary treatment sewage plants and from there to be discharged into the receiving waters." This is a criticism of the existing statute and not of the two petitions submitted by the State, and is not relevant to the issue at hand. The commenter also stated his belief that the pumpout facilities were inadequate. This belief was based on three assumptions, all of which I have considered and rejected. First, the commenter assumed that to pump out a vessel takes ten minutes. The State has certified that it takes five minutes to perform this operation. I have accepted the State's certification, since the State is engaged in the operation of the facility. Second, the commenter assumed that each pumpout facility can handle only one vessel at a time. The State has certified that the two pumpout facilities in Avalon Harbor are each capable of handling three to five vessels at one time. While it is correct that the State has certified that the three facilities in Channel Island Harbor can each handle one vessel at one time, I do not find this sufficient grounds for rejection of the petition, and have accepted the State's certification on the basis of their operational experience. Third, the commenter assumed that every vessel must be pumped out every day. I find that this assumption is unreasonably conservative, and that in reality, vessels are often pumped out every second or third day.

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The third comment was from a distributor of Type II marine sanitation devices, who stated that he was against the requested prohibition, and who enclosed copies of some of his previous statements to the State Water Resources Control Board opposing the initiation of the petition by the Board to the Agency.

One comment was received by the Agency after the deadline for receipt of comments; it was from the Environmental Quality Protection Commission of the City of Oxnard, California. However, this comment has not been a factor in the determination I have made, since it was received after the deadline for receipt of comments.

Following an examination of the petitions and their supporting information, and a consideration of the three comments received prior to the closing date stated in the January 31 **Federal Register** notice, I have determined that adequate facilities for the safe and sanitary removal and treatment of sewage from all vessels are reasonably available for the waters of Channel Islands Harbor, Oxnard, and Avalon Bay Harbor, Santa Catalina Island, both within the State of California. This determination is made pursuant to section 312(f)(3) of the Pub. L. 92–500.

Dated: May 2, 1979.

Douglas M. Costle,
Administrator.

[FRL 1216–8]
[FR Doc. 79–14348 Filed 5–7–79; 8:45 am]
BILLING CODE 6560–01–M

FEDERAL HOME LOAN BANK BOARD

Chaves County Savings and Loan Association, Roswell, N. Mex.; Approval of Conversion Application (Notice of Final Action)

Dated: April 30, 1979.

Notice is hereby given that on April 26, 1979, the Federal Home Loan Bank Board, as operating head of the Federal Savings and Loan Insurance Corporation ("Corporation"), by Resolution No. 79–269 approved the application of Chaves County Savings and Loan Association, Roswell, N. Mex., for permission to convert to the stock form of organization. Copies of the application are available for inspection at the Secretariat of said Corporation, 1700 G Street, NW., Washington, D.C. 20552 and at the Office of the Supervisory Agent of said Corporation at the Federal Home Loan Bank of Little Rock, 1400 Tower Building, Little Rock, Arkansas 72201.

By the Federal Home Loan Bank Board.

J. J. Finn,
Secretary.

[No. AC–54]
[FR Doc. 79–14307 Filed 5–7–79; 8:45 am]
BILLING CODE 6720–01–M

Peoples Savings and Loan Association, Little Rock, Ark.; Approval of Conversion Application (Notice of Final Action)

Dated: April 30, 1979.

Notice is hereby given that on April 19, 1979, the Federal Home Loan Bank Board, as operating head of the Federal Savings and Loan Insurance Corporation, by Resolution No. 79–253 approved the application of Peoples Savings and Loan Association, Little Rock, Ark., for permission to convert to the stock form of organization. Copies of the application are available for inspection at the Secretariat of said Corporation, 1700 G Street, NW., Washington, D.C. 20552 and at the Office of the Supervisory Agent of said Corporation at the Federal Home Loan Bank of Little Rock, 1400 Tower Building, Little Rock, Ark. 72201.

By the Federal Home Loan Bank Board.

J. J. Finn,
Secretary.

[AC–53]
[FR Doc. 79–14306 Filed 5–7–79; 8:45 am]
BILLING CODE 6720–01–M

FEDERAL MARITIME COMMISSION

Agreements Filed

The Federal Maritime Commission hereby gives notice that the following agreements have been filed with the Commission for approval pursuant to section 15 of the Shipping Act, 1916, as amended (39 Stat. 733, 75 Stat. 763, 46 U.S.C. 814).

Interested parties may inspect and obtain a copy of each of the agreements and the justifications offered therefor at the Washington Office of the Federal Maritime Commission, 1100 L Street, NW., Room 10423 or may inspect the agreements at the Field Offices located at New York, N.Y.; New Orleans, Louisiana; San Francisco, California; Chicago, Illinois; and San Juan, Puerto Rico. Interested parties may submit comments on each agreement, including requests for hearing, to the Secretary, Federal Maritime Commission, Washington, D.C. 20573, on or before May 28, 1979. Comments should include facts and arguments concerning the approval, modification, or disapproval of the proposed agreement. Comments shall discuss with particularity allegations that the agreement is unjustly discriminatory or unfair as between carriers, shippers, exporters, importers, or ports, or between exporters from the United States and their foreign competitors, or operates to the detriment of the commerce of the United States, or is contrary to the public interest, or is in violation of the Act.

A copy of any comments should also be forwarded to the party filing the agreements and the statement should indicate that this has been done.

Agreement No. 8524–1. Filing Party: John D. Straton, Jr., Manager, Rates and Conferences, Moore-McCormack Lines, Inc., 2 Broadway, New York, New York 10004.

Summary: Agreement No. 8524–1, a transshipment agreement between Scandinavian and East African Lines and their subsidiary company La Ligne Scandinave and Robin Line, a service of Moore-McCormack Lines, Inc., extends the scope of the agreement to also include the Seychelles Islands and also provides for transshipment at South and East African ports in the Capetown Mombasa range.

Agreemnent No. T–2153–6. Filing Party: Leslie E. Still, Jr., Senior Deputy City Attorney, Harbor Branch, City of Long Beach, Harbor Administration Building, P.O. Box 570, Long Beach, California 90801.

Summary: Agreement No. T–2153–6, between the City of Long Beach and National Molasses Company (NMC) modifies the basic agreement between the parties which provides for the exclusive use of land and the preferential use of wharf on Pier J to be used as a liquid bulk terminal. The purpose of the modification is to re-define and clarify the uses for which NMC may use the premises.

Agreement No. T–2640–13. Filing Party: L. M. Killeen, Director of Real Estate, Port of Seattle, P.O. Box 1209, Seattle, Washington 98111.

Summary: Agreement No. T–2640–13, between the Port of Seattle (Port) and American President Lines, Inc. (APL), modifies the parties' basic agreement which provides for the 20-year lease to APL of certain premises and activities by APL at Terminals 25 and 26, Seattle, Washington. The purpose of this amendment is to amortize the Port's reimbursement to APL for certain modifications to the yard area as well as costs expended by APL for the movement of an additional crane from Terminal 46 and subsequent installation at Terminal 25. Also included in the amendment is amortization of the book value of the crane over its remaining life. These additional costs will result in an increase of monthly rental from $123,465.98 to $139,371.96.

Agreement No. T–3798. Filing Party: H. H. Wittren, Manager, Waterfront Real Estate, Port of Seattle, P.O. Box 1209, Seattle, Washington 98111.

Summary: Agreement No. T–3798, between Port of Seattle (Port) and Seacon Terminals, Inc. (Seacon), provides for the lease of an office building at Terminal 46 to Seacon for the monthly rental of $2,096.36. This lease cancels and supersedes a prior lease for the same premises between the Port and Kerr Steamship Company, Inc. By order of the Federal Maritime Commission.

Dated: May 2, 1979.

Francis C. Hurney,
Secretary.

[FR Doc. 79–14311 Filed 5–7–79; 8:45 am]
BILLING CODE 6730–01–M

Trailer Marine Transport Corp., Proposed General Increase in Rates; Order of Investigation and Hearing

On January 31, 1979, Trailer Marine Transport Corp. (TMT) filed Supplement No. 1 to its Tariff FMC–F No. 5 proposing a 5 percent general increase in rates effective April 1, 1979. Under authority of Commission Special Permission No. 6317, TMT filed Supplement No. 2 to its Tariff FMC–F No. 5 postponing the April 1, 1979 effective date to May 1, 1979.

TMT Tariff FMC–F No. 5 establishes local, joint and proportional commodity rates between United States Atlantic and Gulf Coast ports and ports in the Commonwealth of Puerto Rico and the Virgin Islands via direct and transshipment service at Puerto Rico. The proposed 5 percent general increase would apply: to all ocean freight commodity rates to and from U.S. Atlantic and Gulf Coast ports and Puerto Rico; to the minimum ocean freight charge on a shipment under one bill of lading between terminals in Puerto Rico and U.S. Atlantic and Gulf Coast ports (TMT Freight Tariff No. 7, FMC–F No. 5, Rule 5, p. 29); and to rates which apply "Per Trailer", i.e. except as otherwise indicated in individual tariff items, rates on shipments loaded in trailers by the shipper, unloaded by the consignee and having specified minimum and maximum interior capacities (TMT Freight Tariff No. 7, FMC–F No. 5, Rule 15, p. 36). Supporting data, as required by Commission General Order No. 11 (G.O. 11) was submitted by TMT at the time of filing of the proposed increase.

Protests were received from the Puerto Rico Manufacturers Association (PRMA) and the Government of the Virgin Islands (GVI). The PRMA protest is primarily concerned that the 5 percent general increase in rates, in addition to other increases in individual commodity rates, are unjust and unreasonable. Moreover, PRMA asserts that the individual and general rate increases may exceed the 5 percent no-suspension limit under Pub. L. 95–475 (92 Stat. 1494), thereby empowering the Commission to suspend the proposed increase.

It is the position of GVI that due to the nature of the trade between the U.S. mainland and the Virgin Islands via Puerto Rico, TMT's proposed rate increase would have a significant negative impact on the commerce and economy of the Virgin Islands. The GVI contends that TMT, on the basis of its G.O. 11 report, has failed to provide sufficient justification that its proposed rates are just, reasonable, and lawful under section 18(a) of the Shipping Act, 1916 and under sections 3 and 4 of the Intercoastal Shipping Act, 1933, as amended. The GVI alleges TMT's data is insufficient to determine: (1) that part of the embedded debt cost of Crowley Maritime Corporation (CMC) (TMT's parent Corporation) which should be allocated to TMT; (2) the debt and equity ratio of Crowley Maritime Corporation; and (3) the rate of return on equity that should be attributed to TMT. Further, the GVI believes additional information is required of TMT to explain the revenue projections that are contained in its G.O. 11 for the forecasted year. The GVI requests that the Commission enter into a hearing and investigation and include at least the following issues:

1. Whether the proposed rates are unjust and unreasonable in that they will provide TMT (and/or CMC) with an excessive return as measured by accepted analytical methods;

2. Whether TMT's projection of the revenue that is designed to be produced by the proposed rates is reasonable;

3. What is a just and reasonable allocation of assests and expenses from CMC to TMT;

4. Whether the proposed rates are unjust and unreasonable in that their negative effect on the Virgin Islands' economy outweighs the carrier's need, if any, for increased revenues.

We have permitted the subject rate increase to go into effect without suspension in view of it being subject to section 3(c)(1)(B) of the Intercoastal Shipping Act, 1933, as amended, which provides in part that the Commission may not suspend "* * * an increase or decrease of 5 per centum or less and filed as part of a general increase in rates or a general decrease in rates * * *." However, the Commission is of the opinion that TMT's proposed 5 percent increase, as proposed in Supplement No. 1 to Tariff FMC–F No. 5, should be made the subject of a limited public hearing to determine whether or not TMT's return on equity is excessive in comparison to other industries facing similar business and financial risks. Moreover, the Commission has reviewed data submitted by TMT regarding the tandem barge towing service with Gulf Caribbean Marine Lines (GCML—also a subsidiary of CMC) between U.S. Gulf Coast ports and Puerto Rico. This data shows that costs are divided equally between the two companies for the joint tow portion of a voyage. However, the Commission is of the opinion that an equal division of these expenses does not follow a benefits-received allocation principle. Therefore, this proceeding shall also determine the allocation of line haul expenses and the division of assets between TMT and GCML for tandem barge towing between U.S. Gulf Coast ports and Puerto Rico.

Now, therefore, *it is ordered*, That, pursuant to the authority of sections 18(a) and 22 of the Shipping Act, 1916 and sections 3 and 4 of the Intercoastal Shipping Act, 1933 as amended (46 U.S.C. sections 817, 821, 845, 845a), an expedited investigation is hereby instituted into the lawfulness of the tariff matters contained in Supplement No. 1 to Trailer Marine Transport Corporation Tariff FMC–F No. 5 for the purpose of making such findings as the facts and circumstances warrant;

It is further ordered, That, this proceeding be limited to an investigation of:

1. Whether or not TMT's return on equity is excessive in comparison to other industries facing similar business and financial risks; and

2. The allocation of line haul expenses and division of assets between TMT and Gulf Caribbean Marine Lines, both subsidiaries of CMC, for tandem barge towing services between U.S. Gulf Coast ports and Puerto Rico;

It is further ordered, That Trailer Marine Transport Corporation be named Respondent in this proceeding;

It is further ordered, That the Government of the Virgin Islands and the Puerto Rico Manufacturers Association be named Protestants in this proceeding;

It is further ordered, That in accordance with Rule 42 of the Commission's Rules of Practice and Procedure (46 CFR 502.42), Hearing Counsel shall be a party to this proceeding;

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It is further ordered, That this proceeding be assigned for public hearing before an Administrative Law Judge of the Commission's Office of Administrative Law Judges and that the hearing be held at a date and place to be determined by the Presiding Administrative Law Judge;

It is further ordered, That the parties submit to the Administrative Law Judge, at a prehearing conference, recommendations identifying all unresolved issues and specifying the type of procedure best suited to resolve them. After consideration of these recommendations, the Administrative Law Judge will issue an appropriate order limiting the issues and establishing the procedure for their resolution;

It is further ordered, That the hearing shall include oral testimony and cross-examination in the descretion of the Presiding Officer only upon a proper showing that there are genuine issues of material fact that cannot be resolved on the basis of sworn statements, affidavits, depositions, or other documents or that the nature of the matters in issue is such that an oral hearing and cross-examination are necessary for the development of an adequate record;

It is further ordered, That any hearing in this proceeding shall be completed within sixty (60) days of service of this order;

It is further ordered, That the initial decision of the Presiding Administrative Law Judge shall be submitted in writing to the Commission within one hundred and twenty (120) days of service of this order;

It is further ordered, That during the predency of this investigation, Respondent will serve the Administrative Law Judge and all parties of record with notice of any tariff changes affecting the material under investigation at the same time such changes are filed with the Commission;

It is further ordered, That notice of this Order be published in the **Federal Register**, and a copy be served upon all parties of record;

It is further ordered, That any person, other than the parties named herein, having an interest and desiring to participate in this proceeding shall file a petition for leave to intervene in accordance with Rule 72 of the Commission's Rules of Practice and Procedure (46 CFR 502.72);

It is further ordered, That all future notices, orders, and/or decisions issued by or on behalf of the Commission in this proceeding, including notice of the time and place of hearing or prehearing conference, shall be mailed directly to all parties of record;

It is further ordered, That, except as provided in Rules 159 and 201(a) of the Commission's Rules of Practice and Procedure (46 CFR 502.159, 46 CFR 502.201(a)), all documents submitted by any party of record in this proceeding shall be filed in accordance with Rule 118 of the Commission's Rules of Practice and Procedure (46 CFR 502.118), as well as being mailed directly to all parties of record.

By the Commission.

Francis C. Hurney,
Secretary.

[Docket No. 79-48]
[FR Doc. 79-14257 Filed 5-7-79; 8:45 am]
BILLING CODE 6730-01-M

DEPARTMENT OF HEALTH, EDUCATION, AND WELFARE

Alcohol, Drug Abuse, and Mental Administration

National Advisory Council on Drug Abuse; Meeting

In accordance with Section 10(a)(2) of the Federal Advisory Committee Act (5 U.S.C. Appendix I), announcement is made of the following National Advisory body scheduled to assemble during the month of May 1979:

National Advisory Council on Drug Abuse

May 24 and 25, 1979; 9:30 a.m., Conference Room G, Parklawn Building, 5600 Fishers Lane, Rockville, Maryland 20857. Closed 9:30 a.m. to Noon; May 24, open otherwise. Contact: Ms. Pamela Jo Thurber, Room 10-05, Parklawn Building, 5600 Fishers Lane, Rockville, Maryland 20857, 301-433-6480.

Purpose. The National Advisory Council on Drug Abuse advises and makes recommendations to the Secretary of Health, Education, and Welfare, the Administrator, Alcohol, Drug Abuse, and Mental Health Administration, and the Director, National Institute on Drug Abuse, on the development of new initiatives and priorities, and the efficient administration of drug abuse research, training, demonstration, prevention, and community services programs. The Council also gives advice on policies and priorities for drug abuse grants and contracts, and reviews and makes recommendations on grant applications.

Agenda. From 9:30 a.m. to 12 noon, May 24, the meeting shall be closed for final review of grant applications for Federal assistance in accordance with the determination by the Administrator, Alcohol, Drug Abuse, and Mental Health Administration, pursuant to the provisions of Title 5, U.S. Code 552b(c)(6), and Section 10(d) of Pub. L. 92-463 (5 U.S.C. Appendix I).

The remainder of the meeting from 1:30 p.m. on May 24 until adjournment on May 25 will be open to the public for a discussion of issues in the field of drug abuse, and administrative announcements.

Substantive program information, summaries of the meeting, and roster of the Council members may be obtained from the contact person listed above.

Dated: May 1, 1979.

Elizabeth A. Connolly,
Committee Management Officer, Alcohol, Drug Abuse, and Mental Health Administration.

[FR Doc. 79-14234 Filed 5-7-79; 8:45 am]
BILLING CODE 4110-88-M

Food and Drug Administration

Amercian Cyanamid Co.; Filing of Food Additive Petition

AGENCY: Food and Drug Administration.

ACTION: Notice.

SUMMARY: American Cyanamid Co. has filed a petition proposing that the food additive regulations be amended to provide for safe use of a dipentene-styrene resin as a component of adhesives intended for food-contact use.

FOR FURTHER INFORMATION CONTACT: John J. McAuliffe, Bureau of Foods (HFF-334), Food and Drug Administration, Department of Health, Education, and Welfare, 200 C St. SW., Washington, DC 20204, 202-472-5690.

SUPPLEMENTARY INFORMATION: Under the Federal Food, Drug, and Cosmetic Act (sec. 409(b)(5), 72 Stat. 1786 (21 U.S.C. 348(b)(5))), notice is given that a petition (FAP 8B3392) has been filed by the American Cyanamid Co., Wayne, NJ 07470, proposing that § 175.105 Adhesives (21 CFR 175.105) be amended to provide for the use of a dipentene-styrene resin as a component of adhesives intended for food-contact use.

The agency has determined that the proposed action falls under § 25.1(f)(1)(v) (21 CFR 25.1(f)(1)(v)) and is exempt from the need of an environmental impact analysis report and that no environmental impact statement is necessary.

Dated: May 1, 1979.

Sanford A. Miller,
Director, Bureau of Foods.

[Docket No. 79F-0114]
[FR Doc. 79-14443 Filed 5-7-79; 8:45 am]
BILLING CODE 4110-03-M

Consumer Exchange Meeting

AGENCY: Food and Drug Administration.

ACTION: Notice.

SUMMARY: This document announces a forthcoming Consumer Exchange Meeting to be chaired by Adam J. Trujillo, Director, Food and Drug Administration (FDA) Orlando District Office, Orlando, FL.

DATE: The meeting will be held from 9 a.m. to 11:30 a.m., Thursday, May 24, 1979.

ADDRESS: The meeting will be held at the FDA Orlando District Office, Orlando Central Park, 7200 Lake Ellenor Dr., Rm. 120, Orlando, FL 32809.

FOR FURTHER INFORMATION CONTACT: Lynne C. Trauba, Consumer Affairs Officer, Food and Drug Administration, 7200 Lake Ellenor Dr., Orlando, FL 32809, 305-855-0900.

SUPPLEMENTARY INFORMATION: The purpose of this meeting is to encourage dialogue between consumers and FDA officials to identify and set priorities for current and future health concerns, to enhance relationships between local consumers and the FDA Orlando District Office, and to contribute to the agency's policymaking decisions on vital issues.

Dated: May 3, 1979.

William F. Randolph,
Acting Associate Commissioner for Regulatory Affairs.

[FR Doc. 79-14442 Filed 5-7-79; 8:45 am]
BILLING CODE 4110-03-M

Health Services Administration

Assistance Under Public Health Service Act, Project Grants for Family Planning Services, Delivery Improvement Research; Announcement of Availability of Grants

The Bureau of Community Health Services, Health Services Administration, announces that under the authority of Section 1004(a) of the Public Health Service Act (42 U.S.C. 300a-2(a) grants will be available in fiscal year 1979 to public or nonprofit private entities for research projects in the field of program implementation related to the improved delivery of family planning services. The amount available for these grants in fiscal year 1979 is $500,000, and it is expected that 4 or 5 awards will be made under this program during fiscal year 1979.

Application kits, including all necessary forms, instructions, and information, may be obtained by writing:

Grants Management Branch, Bureau of Community Health Services, Room 6-48, Parklawn Building, 5600 Fishers Lane, Rockville, Maryland 20857, 301 443-1440.

Completed applications should be returned to the above address; the deadline for submission is August 1, 1979.

Consultation and technical assistance regarding development of an application are available from Mr. William J. White, Bureau of Community Health Services, Office for Family Planning, 5600 Fishers Lane, Room 7-49, Rockville, Maryland 20857; telephone 301 443-2430.

It is anticipated that the Secretary will issue regulations establishing procedures and criteria for the approval of applications for research in the field of program implementation related to the delivery of family planning services. Until such regulations are issued, all information and guidance provided reflect preliminary policies only; if those policies are changed by the regulations before grants are made, applications will have to be revised accordingly.

Dated: April 25, 1979.

John H. Kelso,
Acting Administrator, Health Services Administration.

[FR Doc. 79-14235 Filed 5-7-79; 8:45 am]
BILLING CODE 4110-84-M

DEPARTMENT OF THE INTERIOR

Heritage Conservation and Recreation Service

National Register of Historic Places; Notification of Pending Nominations

Nominations for the following properties being considered for listing in the National Register were received by the Heritage Conservation and Recreation Service before April 27, 1979. Pursuant to § 60.13(a) of 36 CFR Part 60, published in final form on January 9, 1976, written comments concerning the significance of these properties under the National Register criteria for evaluation may be forwarded to the Keeper of the National Register, Office of Archeology and Historic Preservation, U.S. Department of the Interior, Washington, DC 20240. Written comments or a request for additional time to prepare comments should be submitted by May 18, 1979.

William J. Murtagh,
Keeper of the National Register.

ALASKA

North Slope Division

Barrow vicinity, *Negilik,* SE of Barrow at Colville River Delta.

Valdez, Chitina, Whittier Division

Chitina, *Chitina Tin Shop,* Main St.

CALIFORNIA

San Francisco County

San Francisco, *Old Ohio Street Houses,* 17-55 Osgood Pl.

CONNECTICUT

Fairfield County

Fairfield, *Ogden, David, House,* 1520 Bronson Rd.

Hartford County

Windsor, Allyn, Capt. Benjamin, II House, 119 Deerfield Rd.

Litchfield County

Kent vicinity, *Beardsley, Capt. Philo, House,* SE of Kent on Beardsley Rd.

Middlesex County

Cromwell, *Middletown Upper Houses Historic District,* CT 99.

New Haven County

New Haven, *Goffe Street Special School for Colored Children,* 106 Goffe St.

New London County

Lisbon, *Clark, Andrew, House,* Ross Hill Rd.

DELAWARE

Kent County

Dover, *Victorian Dover Historic District,* roughly bounded by Silver Lake, St. Jones River, North and Queen Sts.

GEORGIA

Clarke County

Athens, *Crane, Ross, House,* 247 Pulaski St.
Whitehall, *White Hall,* Whitehall and Simonton Bridge Rds.

HAWAII

Hawaii County

Honaunau, *St. Benedict's Catholic Church,* off HI 11.

Kauai County

Lihue, *Wilcox, Albert Spencer, Building (Kaua'i Museum),* 4420 Rice St.

IOWA

Johnson County

Iowa City, *Berryhill, Charles, House,* 414 Brown St.
Iowa City, *Rittenmeyer, F. X., House,* 630 E. Fairchild St.

LOUISIANA

Tangipahoa Parish

Hammond, *Hammond Historic District,* roughly bounded by Magnolia, Robert, Cherry and Morris Sts.

MAINE

Washington County

Whitneyville, *Whitneyville Congregational Church,* Main St.

M Y 8 7 9 UMI

MISSISSIPPI

Jefferson County

Union Church, *Union Church Presbyterian Church*, MS 550.

NEBRASKA

Lancaster County

Walton vicinity, *Retzlaff Farmstead.*

NEW MEXICO

Bernalillo County

Albuquerque, *de Garcia, Tomasa Griego, House*, 6939 Edith Blvd., NE.

Mora County

Ocate, *Strong, J. P., Store*, NM 21 and NM 120.

NEW YORK

Greene County

Leeds vicinity, *Salisbury Manor*, NW of Leeds on NY 145/23.

Onondaga County

Syracuse, *Syracuse University Multiple Resource Area*, roughly bounded by University P., Irving Ave., Sims Dr. and College Pl.

Suffolk County

Commack, *Carll, Marion, Farm*, 475 Commack Rd.

Yates County

Penn Yan, *Yates County Courthouse Park District*, Main, Court and Liberty Sts.

PENNSYLVANIA

Chester County

Chester Springs vicinity, *Lapp Log House (Hopper Log House)* S of Chester Springs at Conestoga and Yellow Springs Rds.

Downingtown, *Downingtown Log House*, 15 E. Lancaster Ave.

Philadelphia County

Philadelphia, *Old Federal Reserve Bank*, 925 Chestnut St.

Philadelphia, *Union League of Philadelphia*, 140 S. Broad St.

Westmoreland County

New Florence vicinity, *Squirrel Hill Site (36 Wm 35)* W of New Florence.

TEXAS

Erath County

Thurber vicinity, *Thurber Historic District*, S of Thurber

Harris County

Houston, *Carter, W. T., Jr., House*, 18 Courtlandt Pl.

VIRGINIA

Alexandria (independent city)

Lee-Fendall House, 614 Oronoco St.

Arlington County

Arlington, *Hume School*, 1805 S. Arlington Ridge Rd.

Brunswick County

Lawrenceville, *St. Paul's College*, St. Paul's College campus.

Fairfax County

Herndon, *Herndon Depot*, Elden St.

Hampton (independent city)

Trusty, William H., House, 76 W. County St.

Hanover County

Ashland, *Randolph-Macon College Buildings*, Randolph-Macon College campus.

Isle of Wight County

Raynor vicinity, *Jordan, Joseph, House*, NE of Raynor on VA 683.

James City County

Toano vicinity, *Chickahominy Shipyard Archeological Site.*

Lynchburg (independent city)

Hayes Hall, Dewitt St. and Garfield Ave.

Main Hall, Randolph-Macon Woman's College, 2500 Rivermont Ave.

Madison County

Woodberry Forest, *Residence, The*, Woodbury Forest School.

Norfolk (independent city)

Christ and St. Luke's Church, 560 W. Olney Rd.

Page County

Hamburg vicinity, *Fort Egypt*, NW of Hamburg.

Stanley vicinity, *Beaver, John, House*, N of Stanley on VA 615.

Petersburg (independent city)

Poplar Lawn Historic District, roughly bounded by Surrey Lane, S. Jefferson, Mars and Harrison Sts.

Prince Edward County

Meherrin vicinity, *Falkland*, NW of Meherrin on VA 632.

Richmond (independent city)

St. Andrew's Church, 223, 224 and 227 S. Cherry St.

Shenandoah County

Strasburg, *Strasburg Stone and Earthenware Manufacturing Company*, E. King St.

Southampton County

Drakes Corner vicinity, *Brown's Ferry*, E of Drakes Corner off VA 684.

Wythe County

Fort Chiswell vicinity, *McGavock Family Cemetery*, E of Fort Chiswell off I–81.

WISCONSIN

Kenosha County

Kenosha, *Kenosha High School*, 913 57th St.

Kenosha, *St. Matthew's Episcopal Church*, 5900 7th Ave.

Racine County

Racine, *Hansen House*, 1221 N. Main St.

Racine, *Murray, George, House*, 2219 Washington Ave.

[FR Doc. 79–13891 Filed 5–7–79; 8:45 am]

BILLING CODE 4310–03–M

National Register of Historic Places; Notification of Pending Nominations

Correction

In FR Doc. 79–13003 appearing at page 25520 in the issue of Tuesday, May 1, 1979, on page 25521, second column insert the following State above "*Franklin County*": "**WASHINGTON.**"

BILLING CODE 1505–01–M

DEPARTMENT OF LABOR

Mine Safety and Health Administration

Consolidation Coal Co.; Petition For Modification of Application of Mandatory Safety Standard

Consolidation Coal Company, Consol Plaza, Pittsburgh, Pennsylvania 15241, has filed a petition to modify the application of 30 CFR 75.1700 (oil and gas wells), to its Loveridge Mine, located in Marion County, West Virginia. The petition is filed under section 101(c) of the Federal Mine Safety and Health Act of 1977, Public Law 95–164.

The substance of the petition follows:

1. Several abandoned oil and gas wells penetrate the coal seam the petitioner intends to mine.

2. As an alternative to leaving barriers of coal around these wells as required by the standard, the petitioner proposes to plug and mine through the wellbores using a technique detailed in the petition.

3. This technique uses expanding cement to seal the wellbores below the coal seam and involves careful monitoring to insure that natural gas from the well does not enter the mine.

4. In addition to eliminating a possible gas flow, this technique simplifies the mine ventilation system and improves subsidence control in secondary mining.

5. The petitioner states that this alternative will achieve no less protection for its miners than that provided by the standard.

Request for Comments

Persons interested in this petition may furnish written comments on or before, June 7, 1979. Comments must be filed with the Office of Standards, Regulations and Variances, Mine Safety and Health Administration, 4015 Wilson Boulevard, Arlington, Virginia 22203. Copies of the petition are available for inspection at that address.

Dated: April 30, 1979.

Robert B. Lagather,

Assistant Secretary for Mine Safety and Health.

[Docket No. M–79–59–C]

[FR Doc. 79–14343 Filed 5–7–79; 8:45 am]

BILLING CODE 4510–43–M

Kentucky Diamond Coal Co., Inc.; Petition For Modification of Application of Mandatory Safety Standard

Kentucky Diamond Coal Company, Inc., Route 2, Box 233 A, Whitesburg, Kentucky 41858, has filed a petition to modify the application of 30 CFR 75.1710 (canopies) to its No. 4 Mine located in Letcher County, Kentucky. The petition is filed under section 101(c) of the Federal Mine Safety and Health Act of 1977, Pub. L. 95-164.

The substance of the petition follows:

1. The petition concerns the use of canopies on cutting machines, scoops, roof bolting machines and roof bolting drills in the petitioner's mine.

2. Due to low mining heights in the petitioner's mine, canopies on this equipment would strike and dislodge roof supports, creating the danger of a roof fall.

3. A canopy would restrict an equipment operator's field of view, limiting his ability to properly control the equipment or to see other miners in the area.

4. The petitioner has attempted to find canopies for its equipment which would not diminish the safety of its miners. However, as yet the petitioner has found none.

5. For these reasons, the petitioner requests relief from the application of the standard to its mine.

Request for Comments

Persons interested in this petition may furnish written comments on or before June 7, 1979. Comments must be filed with the Office of Standards, Regulations and Variances, Mine Safety and Health Administration, 4015 Wilson Boulevard, Arlington, Virginia 22203. Copies of the petition are available for inspection at that address.

Dated: April 30, 1979.

Robert B. Lagather,

Assistant Secretary for Mine Safety and Health.

[Docket No. M–79–53–C]

[FR Doc. 79–14344 Filed 5–7–79; 8:45 am]

BILLING CODE 4510–43–M

Office of the Secretary

Abate Clothing Inc. Atlantic City, N.J.; Termination of Investigation

Pursuant to Section 221 of the Trade Act of 1974, an investigation was initiated on March 13, 1979 in response to a worker petition received on March 8, 1979 which was filed on behalf of workers and former workers producing men's and women's coats, overcoats, dresses and suits at Abate Clothing Inc., Atlantic City, New Jersey.

The Notice of Investigation was published in the **Federal Register** on March 23, 1979 (44 FR 17834). No public hearing was requested and none was held.

In a letter dated April 20, 1979 the petitioner requested withdrawal of the petition. On the basis of the withdrawal, continuing the investigation would serve no purpose. Consequently the investigation has been terminated.

Signed at Washington D.C. this 2nd day of May 1979.

Marvin M. Fooks,

Director, Office of Trade Adjustment Assistance.

[TA–W–4924]

[FR Doc. 79–14339 Filed 5–7–79; 8:45 am]

BILLING CODE 4510–28–M

C.A. Baltz and Sons, Inc. Salem, N.Y., Negative Determination Regarding Eligibility To Apply for Worker Adjustment Assistance

In accordance with Section 223 of the Trade Act of 1974 the Department of Labor herein presents the results of TA–W–4767: investigation regarding certification of eligibility to apply for worker adjustment assistance as prescribed in Section 222 of the Act.

The investigation was initiated on February 1, 1979, in response to a worker petition received on January 30, 1979, which was filed by the International Ladies' Garment Workers' Union on behalf of workers and former workers producing ladies' loungewear and sleepwear at the Salem, New York plant of C.A. Baltz and Sons, Incorporated.

The Notice of Investigation was published in the **Federal Register** on February 9, 1979 (44 FR 8381). No public hearing was requested and none was held.

The determination was based upon information obtained principally from officials of C.A. Baltz and Sons, Inc., its customers, the U.S. Department of Commerce, the U.S. International Trade Commission, the National Cotton Council of America, industry analysts and Department files.

In order to make an affirmative determination and issue a certification of eligibility to apply for adjustment assistance each of the group eligibility requirements of Section 222 of the Act must be met. Without regard to whether any of the other criteria have been met, the following criterion has not been met:

That increases of imports of articles like or directly competitive with articles produced by the firm or appropriate subdivision have contributed importantly to the separations, or threat thereof, and to the absolute decline in sales or production.

The Department surveyed the major manufacturers for whom C. A. Baltz and Sons performs contract work. None of those manufacturers have imported ladies' loungewear and sleepwear or utilized foreign contractors in the 1976–1978 period. Some of the manufacturers decreased purchases from Baltz from 1977 to 1978 and experienced decreased sales during the same time period. A Departmental survey of those manufacturers' customers revealed that customers which reduced purchases from the manufacturers from 1977 to 1978 either reduced import purchases both absolutely and relative to total purchases or increased their domestic purchases to a much greater extent than their import purchases.

Conclusion

After careful review, I determine that all workers of the Salem, New York, plant of C.A. Baltz and Sons, Incorporated are denied eligibility to apply for adjustment assistance under Title II, Chapter 2 of the Trade Act of 1974.

Signed at Washington, D.C. this 30th day of April 1979.

C. MICHAEL AHO,

Director, Office of Foreign Economic Research.

[TA–W–4767]

[FR Doc. 79–14340 Filed 5–7–79; 8:45 am]

BILLING CODE 4510–28–M

Frank Montalbano Sportswear, Inc., Paterson, N.J.; Negative Determination Regarding Eligibility To Apply for Worker Adjustment Assistance

In accordance with Section 223 of the Trade Act of 1974 the Department of Labor herein presents the results of TA–W–4868: investigation regarding certification of eligibility to apply for worker adjustment assistance as prescribed in Section 222 of the Act.

The investigation was initiated on February 28, 1979 in response to a worker petition received on February 27, 1979 which was filed by the Passaic District Council of New Jersey, International Ladies' Garment Workers' Union on behalf of workers and former workers producing ladies' blouses at Frank Montalbano Sportswear, Incorporated in Paterson, New Jersey.

The Notice of Investigation was published in the **Federal Register** on

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March 9, 1979 (44 FR 13095). No public hearing was requested and none was held.

The determination was based upon information obtained principally from officials of Frank Montalbano Sportswear, Incorporated, the U.S. Department of Commerce, the U.S. International Trade Commission, industry analysts and Department files.

In order to make an affirmative determination and issue a certification of eligibility to apply for adjustment assistance, each of the group eligibility requirements of Section 222 of the Act must be met. Without regard to whether any of the other criteria have been met, the following criterion has not been met:

That increases of imports of articles like or directly competitive with articles produced by the firm or appropriate subdivision have contributed importantly to the separations, or threat thereof, and to the absolute decline in sales or production.

The average employment of sewing machine and pressing machine operators engaged in the production of women's blouses at Montalbano Sportswear and the average number of hours worked per worker increased in 1978 compared to 1977 and increased during the January-February period of 1979 compared to the same period of 1978.

Employment declines were experienced among the floor workers at Montalbano Sportswear. Floor workers at the firm are involved in a training program in which superior work performance is rewarded with advancement to the status of sewing machine operator. Attrition plays an important role in the turn over rate among floor workers. This can be attributed to the relative unskilled and tedious nature of the floor worker's job.

Conclusion

After careful review, I determine that all workers at Frank Montalbano Sportswear, Incorporated, Paterson, New Jersey are denied eligibility to apply for adjustment assistance under Title II, Chapter 2 of the Trade Act of 1974.

Signed at Washington, D.C. this 30th day of April 1979.

James F. Taylor,

Director, Office of Management, Administration and Planning.

[TA-W-4868]

[FR Doc. 79-14341 Filed 5-7-79; 8:45 am]

BILLING CODE 4510-28-M

Goodyear Tire and Rubber Co., Plant No. 2, Akron, Ohio; Determinations Regarding Eligibility To Apply for Worker adjustment Assistance

In accordance with Section 223 of the Trade Act of 1974 the Department of Labor herein presents the results of TA-W-4789: investigation regarding certification of eligibility to apply for worker adjustment assistance as prescribed in Section 222 of the Act.

The investigation was initiated on February 9, 1979 in response to a worker petition received on January 29, 1979 which was filed by the United Rubber Workers Union on behalf of workers and former workers producing machine built hose, hand built hose, irrigation hose, fire hose, air springs, conveyor belt hose and extruded and special products at the Akron, Ohio No. 2 Plant (Industrial Products Division) of the Goodyear Tire and Rubber Company.

The Notice of Investigation was published in the **Federal Register** on February 23, 1979 (44 FR 10800). No public hearing was requested and none was held.

The determination was based upon information obtained principally from officials of Goodyear Tire and Rubber Company, its customers, the U.S. Department of Commerce, the U.S. International Trade Commission, industry analysts and Department files.

In order to make an affirmative determination and issue a certification of eligibility to apply for adjustment assistance each of the group eligibility requirements of Section 222 of the Act must be met. With respect to workers producing machine built hose and irrigation hose, it is concluded that all of the requirements have been met.

U.S. imports of hose products increased both absolutely and relative to domestic production from 1976 to 1977 and from 1977 to 1978.

Goodyear Tire and Rubber Company has been importing machine built hose from a Canadian plant since 1977. The company is planning to transfer all production of this type of hose from its Akron plant to the newer one in Canada. Goodyear increased its imports of machine built hose from this plant from 1977 to 1978 both absolutely and relative to machine built hose production at the Akron plant.

A Departmental survey of the major customers of Goodyear revealed that customers decreased purchases of irrigation hose from the subject firm and increased purchases of imported irrigation hose from 1977 to 1978.

With respect to workers producing conveyor belts, without regard to whether any of the other criteria have been met, the following criterion has not been met:

That sales or production, or both, of the firm or subdivision have decreased absolutely.

Sales and production of conveyor belts at Plant No. 2 Akron, Ohio increased from 1977 to 1978. Sales and production of conveyor belts increased in each quarter of 1978 compared to the same quarter in 1977.

With respect to workers producing fire hose and without regard to whether any of the other criteria have been met, the following criterion has not been met:

That increases of imports of articles like or directly competitive with articles produced by the firm or appropriate subdivision have contributed importantly to the separation, or threat thereof, and to the absolute decline in sales or production.

A Departmental survey of the major customers of Goodyear purchasing fire hose revealed that none of them purchased imports in 1977 or 1978.

Conclusion

After careful review of the facts obtained in the investigation, I conclude that increases of imports of articles like or directly competitive with machine built hose and irrigation hose produced at Goodyear Tire and Rubber Company's Akron, Ohio Plant No. 2 (Industrial Products Division) contributed importantly to the decline in sales or production and to the total or partial separation of workers of that firm. In accordance with the provisions of the Act, I make the following certification:

All workers of Goodyear Tire and Rubber Company's Akron, Ohio Plant No. 2 (Industrial Products Division) engaged in employment related to the production of machine built hose and irrigation hose who became totally or partially separated from employment on or after January 26, 1978 be certified as eligible to apply for adjustment assistance under Title II, Chapter 2 of the Trade Act of 1974.

Signed at Washington, D.C. this 30th day of April 1979.

C. Michael Abo,

Director, Office of Foreign Economic Research.

[TA-W-4789]

[FR Doc. 79-14342 Filed 5-7-79; 8:45 am]

BILLING CODE 4510-28-M

Investigations Regarding Certifications of Eligibility to Apply for Worker Adjustment Assistance

Petitions have been filed with the Secretary of Labor under Section 221(a) of the Trade Act of 1974 ("the Act") and are identified in the Appendix to this notice. Upon receipt of these petitions, the Director of the Office of Trade Adjustment Assistance, Bureau of International Labor Affairs, has instituted investigations pursuant to Section 221(a) of the Act and 29 CFR 90.12.

The purpose of each of the investigations is to determine whether absolute or relative increases of imports of articles like or directly competitive with articles produced by the workers' firm or an appropriate subdivision thereof have contributed importantly to an absolute decline in sales or production, or both, of such firm or subdivision and to the actual or threatened total or partial separation of a significant number or proportion of the workers of such firm or subdivision.

Petitioners meeting these eligibility requirements will be certified as eligible to apply for adjustment assistance under Title II, Chapter 2, of the Act in accordance with the provisions of Subpart B of 29 CFR Part 90. The investigations will further relate, as appropriate, to the determination of the date on which total or partial separations began or threatened to begin and the subdivision of the firm involved.

Pursuant to 29 CFR 90.13, the petitioners or any other persons showing a substantial interest in the subject matter of the investigations may request a public hearing, provided such request is filed in writing with the Director, Office of Trade Adjustment Assistance, at the address shown below, not later than May 18, 1979.

Interested persons are invited to submit written comments regarding the subject matter of the investigations to the Director, Office of Trade Adjustment Assistance, at the address shown below, not later than May 18, 1979.

The petitions filed in this case are available for inspection at the Office of the Director, Office of Trade Adjustment Assistance, Bureau of International Labor Affairs, U.S. Department of Labor, 200 Constitution Avenue, N.W., Washington, D.C. 20210.

Signed at Washington, D.C. this 30th day of April 1979.

Marvin M. Fooks,

Director, Office of Trade Adjustment Assistance.

Appendix

Petitioner: Union/workers or former workers of—	Location	Date received	Date of petition	Petition No.	Articles produced
Bert Lorell of California, DBA Lorell of Calif. (workers).	Gardena, Calif	4/25/79	4/13/79	TA-W-5,312	Sew ladies' apparel (jackets).
Blair Electric Service Company (U.M.W.A.)	Raleigh County, W. Va	4/23/79	4/19/79	TA-W-5,313	Construct preparation plants.
Blair Electric Service Company (U.M.W.A.)	Wyoming County, W. Va	4/23/79	4/19/79	TA-W-5,314	Construct preparation plants.
F. J. Boutell (Teamsters)	Hoboken, N.J	4/12/79	4/9/79	TA-W-5,315	Ship GM cars.
Cliftax Corp. (workers)	New Bedford, Mass	4/23/79	4/19/79	TA-W-5,316	Men's suits and sportscoats.
Freight Consolidation Service, Inc. (Teamsters).	Hoboken, N.J	4/12/79	4/9/79	TA-W-5,317	Unload GM cars.
Gibson Electric Co., Inc. (U.M.W.A.)	Raleigh County, W. Va	4/23/79	4/19/79	TA-W-5,318	Electrical construction work for preparation plants.
Gibson Electric Co., Inc. (U.M.W.A.)	Wyoming County, W. Va	4/23/79	4/19/79	TA-W-5,319	Electrical construction work for preparation plants.
Hattie-Carnegie, Harry Rosenfeld Div. (Leather Goods, Plastics, Handbags & Novelty Workers' Union).	New York, N.Y	4/23/79	4/18/79	TA-W-5,320	Ladies' handbags.
Ideal Outerwear Co. (ACTWU)	East Newark, N.J	4/23/79	4/17/79	TA-W-5,321	Men's sportswear, jackets, coats.
Nu-Car Carriers, Inc. (Teamsters)	Newark, N.J	4/12/79	4/9/79	TA-W-5,322	Transport Ford cars.
Riverton Coal Company, Eagle Mine (U.M.W.A.).	Powellton, W. Va	4/23/79	4/16/79	TA-W-5,323	Mining of coal.
Roberts & Schaefer Company (U.M.W.A.)	Raleigh County, W. Va	4/23/79	4/19/79	TA-W-5,324	Engineering and construction of preparation plants.
Roberts & Schaefer Company (U.M.W.A.)	Wyoming County, W. Va	4/23/79	4/19/79	TA-W-5,325	Engineering and construction of preparation plants.
Royalty Smokeless Coal Co., Premier Tipple (U.M.W.A.).	McDowell County, W. Va	4/23/79	4/19/79	TA-W-5,326	Mining of coal.
Seagoing Uniform Corporation (workers)	Brooklyn, N.Y	4/25/79	4/21/79	TA-W-5,327	Sew pants.
Sun Cloud (workers)	New York, N.Y	4/23/79	4/17/79	TA-W-5,328	Ladies' wool coats, rainwear, suits and jackets.
T & R Handling Corp. (Teamsters)	Newark, N.J	4/12/79	4/9/79	TA-W-5,329	Unload cars for Ford.
Trace Fork Coal Company, Trace Fork Mine #4 (U.M.W.A.).	Premier, W. Va	4/23/79	4/19/79	TA-W-5,330	Mining of coal.
Trace Fork Coal Company, Trace Fork Mine #5 (U.M.W.A.).	Premier, W. Va	4/23/79	4/19/79	TA-W-5,331	Mining of coal.
Trace Fork Coal Company, Trace Fork Mine #8 (U.M.W.A.).	Premier, W. Va	4/23/79	4/19/79	TA-W-5,332	Mining of coal.
Trace Fork Coal Company, Banacek Mine (U.M.W.A.).	Premier, W. Va	4/23/79	4/19/79	TA-W-5,333	Mining of coal.

[FR Doc. 79-14337 Filed 5-7-79; 8:45 am]

BILLING CODE 4510-28-M

Investigations Regarding Certifications of Eligibility to Apply for Worker Adjustment Assistance

Petitions have been filed with the Secretary of Labor under Section 221(a) of the Trade Act of 1974 ("the Act") and are identified in the Appendix to this notice. Upon receipt of these petitions, the Director of the Office of Trade Adjustment Assistance, Bureau of International Labor Affairs, has instituted investigations pursuant to Section 221(a) of the Act and 29 CFR 90.12.

The purpose of each of the investigations is to determine whether absolute or relative increases of imports of articles like or directly competitive with articles produced by the workers' firm or an appropriate subdivision thereof have contributed importantly to an absolute decline in sales or production, or both, of such firm or subdivision and to the actual or threatened total or partial separation of a significant number or proportion of the workers of such firm or subdivision.

Petitioners meeting these eligibility requirements will be certified as eligible to apply for adjustment assistance under Title II, Chapter 2, of the Act in accordance with the provisions of Subpart B of 29 CFR Part 90. The

investigations will further relate, as appropriate, to the determination of the date on which total or partial separations began or threatened to begin and the subdivision of the firm involved.

Pursuant to 29 CFR 90.13, the petitioners or any other persons showing a substantial interest in the subject matter of the investigations may request a public hearing, provided such request is filed in writing with the Director, Office of Trade Adjustment Assistance, at the address shown below, not later than May 18, 1979.

Interested persons are invited to submit written comments regarding the subject matter of the investigations to the Director, Office of Trade Adjustment Assistance, at the address shown below, not later than May 18, 1979.

The petitions filed in this case are available for inspection at the Office of the Director, Office of Trade Adjustment Assistance, Bureau of International Labor Affairs, U.S. Department of Labor, 200 Constitution Avenue, N.W., Washington, D.C. 20210.

Signed at Washington, D.C. this 2nd day of May 1979.

Marvin M. Fooks,
Director, Office of Trade Adjustment Assistance.

Appendix

Petitioner: Union/Workers or former workers of—	Location	Date received	Date of petition	Petition No.	Articles produced
Cementation Company of America, Inc. (U.M.W.A.).	Raleigh County, W.Va	4/23/79	4/19/79	TA-W-5,334	Contract construction work for Westmoreland Coal Company.
Fashion Leather Bags (workers)	New York, N.Y	4/25/79	4/20/79	TA-W-5,335	Sell ladies handbags.
Fleshman Trucking, Inc. (U.M.W.A.)	Raleigh County, W. Va	4/23/79	3/27/79	TA-W-5,336	Truck hauling of coal.
Holly Coal Company (workers)	Summersville, W. Va	4/25/79	4/10/79	TA-W-5,337	Mining of coal.
Muench-Kreuzer Candle Corp. (U.S.W.A.)	Liverpool N.Y	4/24/79	4/20/79	TA-W-5,338	Candles.
Muench-Kreuzer Candle Corp. (U.S.W.A.)	Syracuse, N.Y. Plants	4/24/79	4/20/79	TA-W-5,339	Candles.
Olga Coal Co., Caretta Mine #4 (U.M.W.A.)	McDowell County, W. Va	4/23/79	4/19/79	TA-W-5,340	Mining of coal.
Olga Coal Co., War Creek Mine #5 (U.M.W.A.).	McDowell County, W. Va	4/23/79	4/19/79	TA-W-5,341	Mining of coal.
Olga Coal Company Road Fork Mine #2 (U.M.W.A.).	McDowell County, W. Va	4/23/79	4/19/79	TA-W-5,342	Mining of coal.
Olga Coal Company, Olga Mine (U.M.W.A.)	McDowell County, W. Va	4/23/79	4/19/79	TA-W-5,343	Mining of coal.
Olga Coal Company, Olga Preparation Plant (U.M.W.A.).	McDowell County, W. Va	4/23/79	4/19/79	TA-W-5,344	Cleaning of coal.
Preservati Construction Co., Inc., Black Wolf Mine (U.M.W.A.).	McDowell County, W. Va	4/23/79	4/19/79	TA-W-5,345	Mining of coal.
Preservati Construction Co., Inc. Horsepen Mine #1 (U.M.W.A.).	Tazewell County, Va	4/23/79	4/19/79	TA-W-5,346	Mining of coal.
Preservati Construction Co., Inc. Horsepen Mine #2 (U.M.W.A.).	Tazewell County, Va	4/23/79	4/19/79	TA-W-5,347	Mining of coal.
Rolin Coal Company, Rolin Deep Mine (U.M.W.A.).	Raleigh County, W. Va	4/2/79	3/27/79	TA-W-5,348	Mining of coal.

[FR Doc. 79-14338 Filed 5-7-79; 8:45 am]

BILLING CODE 4510-28-M

Certification Regarding Eligibility To Apply for Worker Adjustment Assistance

In accordance with Section 223 of the Trade Act of 1974 the Department of Labor herein presents the results of an investigation regarding certification of eligibility to apply for worker adjustment assistance as prescribed in Section 222 of the Act.

In order to make an affirmative determination and issue a certification of eligibility to apply for adjustment assistance each of the group eligibility requirements of Section 222 of the Act must be met.

Camp Creek Mining Co., Camp Creek, W. Va. [TA-W-4874]; McKenzie Mining Co., Egeria, W. Va., Odd, W. Va., Flat Top, W. Va. [TA-W-4876, TA-W-4877, and TA-W-4877A]

The investigation was initiated on February 28, 1979 in response to a worker petition received on February 23, 1979 which was filed by the United Mine Workers of America, District #29, on behalf of workers and former workers mining metallurgical coal at the Camp Creek Mining Company, Camp Creek, West Virginia, and at the Leatherhead No. 1 and No. 2 mines and at the Tipple mine of the McKenzie Mining Company, Egeria, West Virginia. The investigation revealed that the Tipple mine is a preparation plant located not in Egeria, but in Odd, West Virginia. The investigation also revealed that the Appalachian Pocahontas Coal Company is the parent company of both the McKenzie and Camp Creek Mining Companies. It is concluded that all of the requirements have been met.

Coke is metallurgical coal at a later stage of processing. Since a domestic product may be "directly competitive with" an imported article at a later stage of processing, imports of coke can be considered in determining import injury to workers producing metallurgical coal at Camp Creek and at McKenzie Mining Companies.

Appalachian Pocahontas Coal Company sells all coal produced by the Camp Creek and McKenzie operations on a contractual basis through coal brokers. A Labor Department survey of the major customers that purchased Appalachian's coal through brokers revealed that these major customers began to decrease purchases of metallurgical coal from Appalachian and increased purchases of imported coke from 1977 to 1978.

Conclusion

After careful review of the facts obtained in the investigation, I conclude that increases of imports of articles like or directly competitive with metallurgical coal mined at the Camp Creek Mining Company, Camp Creek, West Virginia and mined at the Egeria, West Virginia mines and prepared at the Odd, West Virginia preparation plant of the McKenzie Mining Company, contributed importantly to the decline in sales or production and to the total or partial separation of workers of these firms. In accordance with the provisions of the Act, I make the following certification:

All workers of Camp Creek Mining Company, Camp Creek, West Virginia and the Egeria, West Virginia mines and the Odd, West Virginia preparation plant of the McKenzie Mining Company and the joint field office at Flat Top, West Virginia who became totally or partially separated from employment on or after October 1, 1978 are eligible to apply for adjustment assistance under Title II, Chapter 2 of the Trade Act of 1974.

Signed at Washington, D.C., this 25th day of April 1979.

James F. Taylor,
Director, Office of Management, Administration, and Planning.

[FR Doc. 79-14122 Filed 5-7-79; 8:45 am]

BILLING CODE 4510-28-M

Certification Regarding Eligibility To Apply for Worker Adjustment Assistance

In accordance with Section 223 of the Trade Act of 1974 the Department of Labor herein presents the results of an investigation regarding certification of eligibility to apply for worker adjustment assistance as prescribed in Section 222 of the Act.

In order to make an affirmative determination and issue a certification of eligibility to apply for adjustment assistance each of the group eligibility requirements of Section 222 of the Act must be met.

Cities Service Co., Plainview Terminal, Plainview, N.Y. [TA-W-4860]

The investigation was initiated on February 28, 1979 in response to a worker petition received on February 26, 1979 which was filed by the Oil, Chemical and Atomic Workers International Union on behalf of workers and former workers transporting gas for the Plainview terminal, Plainview, New York, of Cities Service Company.

The Cities Service Company was founded in 1910 and incorporated in the State of Delaware. The company operates a fully integrated refinery of petroleum products in Lake Charles, Louisiana, and distributes these products from terminal throughout the United States. The Plainview, New York terminal is engaged in providing the service of transporting petroleum products by truck.

Since workers of the Plainview, New York terminal of Cities Service Company do not produce an article within the meaning of Section 222(3) of the Trade Act, they may be certified only if their separation was caused importantly by a reduced demand for their services from either the parent firm or from a firm related to Cities Service Company by ownership or control. In either case, the reduction in demand for services must originate at a production facility whose workers independently meet the statutory criteria for certification, and that reduction must directly relate to the product adversely impacted by imports.

The Plainview terminal, unlike others of Cities Service Company, did not have any loading facilities and did not transport petroleum products produced by Cities Service Company. The company's trucks picked up the petroleum products of independent companies and delivered them to customers.

Since the reduced demand for petroleum products trucking services did not come from Cities Service Company or a firm related to Cities Service Company through ownership or control, the petroleum products that are handled cannot be considered in determining whether workers at the Plainview terminal of Cities Service Company may be certified as eligible to apply for worker adjustment assistance.

Conclusion

After careful review, I determine that all workers of the Plainview terminal, Plainview, New York, of Cities Service Company are denied eligibility to apply for adjustment assistance under Title II, Chapter 2 of the Trade Act of 1974.

Signed at Washington, D.C. this 27th day of April 1979.

C. Michael Abo,
Director, Office of Foreign Economic Research.

[FR Doc. 79-14123 Filed 5-7-79; 8:45 am]

BILLING CODE 4510-28-M

Certification Regarding Eligibility To Apply for Worker Adjustment Assistance

In accordance with Section 223 of the Trade Act of 1974 the Department of Labor herein presents the results of an investigation regarding certification of eligibility to apply for worker adjustment assistance as prescribed in Section 222 of the Act.

In order to make an affirmative determination and issue a certification of eligibility to apply for adjustment assistance each of the group eligibility requirements of Section 222 of the Act must be met.

F & D Ladies' Coats & Suits, Inc., Brooklyn, N.Y.

The investigation was initiated on March 5, 1979 in response to a worker petition received on February 12, 1979 which was filed on behalf of workers and former workers producing ladies' coats, raincoats and some jackets at F & D Ladies' Coats and Suits, Inc., Brooklyn, New York. It is concluded that all of the requirements have been met.

Imports of women's, misses', and children's coats and jackets increased absolutely in 1978 compared to 1977.

Imports of women's, girls' and infants' raincoats increased absolutely in 1978 compared to 1977.

One of the manufacturers for which F & D Ladies' Coats and Suits produces garments reduced purchases from F & D in 1978 compared to 1977 and in the first quarter of 1979 compared to the first quarter of 1978. This manufacturer increased purchases of imported coats, raincoats and jackets in FY 1978 (Y/E July 31, 1978) compared to FY 1977, and in the first half of FY 1979 compared to the first half of 1978. This manufacturer provided F & D with the major proportion of its business in 1978.

Conclusion

After careful review of the facts obtained in the investigation, I conclude that increases of imports of articles like or directly competitive with women's coats, raincoats and jackets produced at F & D Ladies' Coats and Suits, Inc., Brooklyn, New York contributed importantly to the decline in sales or production and to the total or partial separation of workers of that firm. In accordance with the provisions of the Act, I make the following certification:

All workers of F & D Ladies' Coats and Suits, Inc., Brooklyn, New York who became totally or partially separated from employment on or after February 8, 1978 are eligible to apply for adjustment assistance under title II, Chapter 2 of the Trade Act of 1974.

Signed at Washington, D.C. this 26th day of April 1979.

James F. Taylor,
Director, Office of management, Administration, and Planning.

[TA-W-4880]

[FR Doc. 79-14124 Filed 5-7-79; 8:45 am]

BILLING CODE 4510-28-M

Certification Regarding Eligibility To Apply for Worker Adjustment Assistance

In accordance with Section 223 of the Trade Act of 1974 the Department of Labor herein presents the results of an investigation regarding certification of

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eligibility to apply for worker adjustment assistance as prescribed in Section 222 of the Act.

In order to make an affirmative determination and issue a certification of eligibility to apply for adjustment assistance each of the group eligibility requirements of Section 222 of the Act must be met.

Fair-Rite Products Corp., Palestine, Ill.

The investigation was initiated on February 28, 1979 in response to a worker petition received on February 26, 1979 which was filed on behalf of workers and former workers producing ferrite magnetic cores at the Palestine, Illinois plant of Fair-Rite Products Corporation.

Without regard to whether any of the other criteria have been met, the following criterion has not been met:

That increases of imports of articles like or directly competitive with articles produced by the firm or appropriate subdivision have contributed importantly to the separations, or threat thereof, and to the absolute decline in sales or production.

The Department conducted a survey of customers of the Palestine, Illinois facility of Fair-Rite Products Corporation. The survey indicated that most customers did not purchase imported ferrite cores for coils as used in the entertainment industry, principally color television sets. The customers that decreased purchases from Fair-Rite and increased purchases of imported ferrite cores represented an insignificant proportion of the firm's decline in sales.

Conclusion

I determine that all workers of the Palestine, Illinois plant of the Fair-Rite Products Corporation are denied eligibility to apply for adjustment assistance under Title II, Chapter 2 of the Trade Act of 1974.

Signed at Washington, D.C., this 27th day of April 1979.

Michael Aho,

Director, Office of Foreign Economic Research.

[TA-W-4863]

[FR Doc. 79-14125 Filed 5-7-79; 8:45 am]

BILLING CODE 4510-28-M

Certification Regarding Eligibility To Apply for Worker Adjustment Assistance

In accordance with Section 223 of the Trade Act of 1974 the Department of Labor herein presents the results of an investigation regarding certification of eligibility to apply for worker adjustment assistance as prescribed in Section 222 of the Act.

In order to make an affirmative determination and issue a certification of eligibility to apply for adjustment assistance each of the group eligibility requirements of Section 222 of the Act must be met.

Food Fair, Inc., Pantry Pride Supermarket Division, Philadelphia, Pa. [TA-W-4854]

The investigation was initiated on February 26, 1979 in response to a worker petition received on February 22, 1979 which was filed on behalf of workers and former workers cutting, packaging and weighing meat at the Philadelphia Region of the Pantry Pride Supermarket Division of Food Fair, Inc., Philadelphia, Pennsylvania. The Department has determined that services are not "articles" within the meaning of Section 222 of the Act.

The Pantry Pride Supermarket Division of Food Fair, Inc. is a chain of retail food supermarkets. The employees in the Philadelphia Region are engaged in the retail selling of food.

On October 2, 1978, Food Fair, Inc. and nine of its subsidiaries filed petition under Chapter 11 of the National Bankruptcy Act. The court ordered Food Fair to close down its Pantry Pride Supermarket Division in the Philadelphia Region.

The petition alleges that increased imports of meat and seafood contributed importantly to the separation of workers cutting and packaging meat for retail sale by the Philadelphia Region of the Pantry Pride Supermarket Division of Food Fair, Inc. The Philadelphia Region is not involved in the production of an article within the meaning of Section 222 (3) of the Act.

Conclusion

After careful review, I determine that all workers of the Philadelphia Region of the Pantry Pride Supermarket Division of Food Fair, Inc., Philadelphia, Pennsylvania are denied eligibility to apply for adjustment under Title II, Chapter 2 of the Trade Act of 1974.

Signed at Washington, D.C., this 27th day of April 1979.

Michael Aho,

Director, Office of Foreign Economic Research.

[FR Doc. 79-14126 Filed 5-7-79; 8:45 am]

BILLING CODE 4510-28-M

Certification Regarding Eligibility To Apply for Worker Adjustment Assistance

In accordance with Section 223 of the Trade Act of 1974 the Department of Labor herein presents the results of an investigation regarding certification of eligibility to apply for worker adjustment assistance as prescribed in Section 222 of the Act.

In order to make an affirmative determination and issue a certification of eligibility to apply for adjustment assistance each of the group eligibility requirements of Section 222 of the Act must be met.

Grandview Mining Co., Beaver, W. Va. [TA-W-4875]

The investigation was initiated on February 28, 1979 in response to a worker petition received on February 23, 1979 which was filed by the United Mine Workers of America, District #29, on behalf of workers and former workers mining metallurgical coal at Grandview Mining Company, Beaver, West Virginia. Without regard to whether any of the other criteria have been met, the following criterion has not been met:

That increases of imports of articles like or directly competitive with articles produced by the firm or appropriate subdivision have contributed and importantly to the separations, or threat thereof, and to the absolute decline in sales or productions.

Evidence developed during the course of the investigation revealed that legal ownership of the Grandview Mining Company is in arbitration.

The quantity of sales and production of coal produced by Grandview Mining Company increased in 1978 compared to 1977. Coal sales and production were halted indefinitely at the end of November, 1978 as a result of an ownership dispute.

Average employment of production workers at Grandview Mining increased in 1978 until legal problems concerning the ownership of the company caused the cessation of operations.

Conclusion

After careful review, I determine that all workers of Grandview Mining Company, Beaver, West Virginia are denied eligibility to apply for adjustment assistance under Title II, Chapter 2 of the Trade Act of 1974.

Signed at Washington, D.C., this 27th day of April 1979.

Michael Aho,

Director, Office of Foreign Economic Research.

[FR Doc. 79-14127 Filed 5-7-79; 8:45 am]

BILLING CODE 4510-28-M

Certification Regarding Eligibility To Apply for Worker Adjustment Assistance

In accordance with Section 223 of the Trade Act of 1974 the Department of Labor herein presents the results of an

investigation regarding certification of eligibility to apply for worker adjustment assistance as prescribed in Section 222 of the Act.

In order to make an affirmative determination and issue a certification of eligibility to apply for adjustment assistance each of the group eligibility requirements of Section 222 of the Act must be met.

Harbison-Walker Refractories Division of Dresser Industries Cape May, N.J.

The investigation was initiated on March 20, 1979 in response to a worker petition received on March 15, 1979 which was filed by the United Steelworkers of America on behalf of workers and former workers producing synthetic dead-burned magnesite at the Cape May, New Jersey plant of the Harbison-Walker Refractories Division of Dresser Industries.

Without regard to whether any of the other criteria have been met, the following criterion has not been met:

That increases of imports of articles like or directly competitive with articles produced by the firm or appropriate subdivision have contributed importantly to the separations, or threat thereof, and to the absolute decline in sales or production.

The Department conducted a survey of some of the customers of magnesite of Harbison-Walker Refractories. None of the respondents reported reduced purchases from Harbison-Walker Refractories and increased purchases of imported magnesite in 1978 compared to 1977.

The aggregate level of imports of synthetic dead-burned magnesite remained constant in 1978 compared to 1977. The ratio of imports to domestic shipments of synthetic dead-burned magnesite declined in 1978 compared to 1977.

Conclusion

After careful review, I determine that all workers of the Cape May, New Jersey plant of the Harbison-Walker Refractories Division of Dresser Industries are denied eligibility to apply for adjustment assistance under Title II, Chapter 2 of the Trade Act of 1974.

Signed at Washington, D.C. this 25th day of April 1979.

James F. Taylor,

Director, Office of Management Administration and Planning.

[TA-W-4992]

[FR Doc. 79-14128 Filed 5-7-79; 8:45 am]

BILLING CODE 4510-28-M

Certification Regarding Eligibility To Apply for Worker Adjustment Assistance

In accordance with Section 223 of the Trade Act of 1974 the Department of Labor herein presents the results of an investigation regarding certification of eligibility to apply for worker adjustment assistance as prescribed in Section 222 of the Act.

In order to make an affirmative determination and issue a certification of eligibility to apply for adjustment assistance each of the group eligibility requirements of Section 222 of the Act must be met.

Hunt Manufacturing Co., Bienfang Paper Division, Edison, N.J.

The investigation was initiated on March 23, 1979 in response to a worker petition received on March 20, 1979 which was filed on behalf of workers and former workers producing paper products at the Edison, New Jersey plant of the Bienfang Paper Division of the Hunt Manufacturing Company. Without regard to whether any of the other criteria have been met, the following criterion has not been met:

That increases of imports of articles like or directly competitive with articles produced by the firm or appropriate subdivision have contributed importantly to the separations, or threat thereof, and to the absolute decline in sales or production.

The Edison, New Jersey plant is scheduled to be permanently closed at the end of April 1979. All production activities performed at the Edison plant will be immediately transferred to another company facility in Statesville, North Carolina. The company currently operates a production facility in the Statesville area. Operating costs are expected to be lower as the two plants will be able to share the same support facilities.

Production, sales and employment at the Edison plant increased in 1978 compared to 1977 and continued to increase in the first quarter of 1979 compared to the first quarter in 1978.

The ratio of imports of both writing and related paper and of combination furnish paperboard to the respective domestic production of these products was less than 0.5 percent in both 1977 and 1978.

Conclusion

After careful review, I determine that all workers of the Edison, New Jersey plant of the Bienfang Paper Division of the Hunt Manufacturing Company are denied eligibility to apply for adjustment assistance under Title II, Chapter 2 of the Trade Act of 1974.

Signed at Washington, D.C. this 26th day of April 1979.

James F. Taylor,

Director, Office of Management Administration and Planning.

[TA-W-5028]

[FR Doc. 79-14129 Filed 5-7-79; 8:45 am]

BILLING CODE 4510-28-M

Certification Regarding Eligibility To Apply for Worker Adjustment Assistance

In accordance with Section 223 of the Trade Act of 1974 the Department of Labor herein presents the results of an investigation regarding certification of eligibility to apply for worker adjustment assistance as prescribed in Section 222 of the Act.

In order to make an affirmative determination and issue a certification of eligibility to apply for adjustment assistance each of the group eligibility requirements of Section 222 of the Act must be met.

Imperial Reading Corp., Marshall, Tex.

The investigation was initiated on March 16, 1979 in response to a worker petition received on March 12, 1979 which was filed by the United Garment Workers of America on behalf of workers and former workers producing denim jeans at the Marshall, Texas plant of Imperial Reading Corporation. The investigation revealed that the plant produced primarily men's and boys' denim jeans. It is concluded that all of the requirements have been met.

U.S. imports of men's and boys' woven cotton and man-made jeans and dungarees increased from 14,000,000 units in 1976 to 23,000,000 units in 1977 and increased again to 30,500,000 units in 1978.

Customers who were surveyed reported that they decreased purchases of denim jeans from Imperial Reading Corporation and increased their reliance on foreign sources for similar products.

Conclusion

After careful review of the facts obtained in the investigation, I conclude that increases of imports of articles like or directly competitive with men's and boys' denim jeans produced at the Marshall, Texas plant of Imperial Reading Corporation contributed importantly to the decline in sales or production and to the total or partial separation of workers of that firm. In accordance with the provisions of the Act, I make the following certification:

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"All workers of the Marshall, Texas plant of Imperial Reading Corporation who became totally or partially separated from employment on or after February 27, 1978 are eligible to apply for adjustment assistance under Title II, Chapter 2 of the Trade Act of 1974."

Signed at Washington, D.C. this 27th day of April 1979.

C. Michael Aho,
Director, Office of Foreign Economic Research.

[TA-W-4962]
[FR Doc. 79-14130 Filed 5-7-79; 8:45 am]
BILLING CODE 4510-28-M

Certification Regarding Eligibility To Apply for Worker Adjustment Assistance

In accordance with Section 223 of the Trade Act of 1974 the Department of Labor herein presents the results of an investigation regarding certifcation of eligibility to apply for worker adjustment assistance as prescribed in Section 222 of the Act.

In order to make an affirmative determination and issue a certification of eligibility to apply for adjustment assistance each of the group eligibility requirements of Section 222 of the Act must be met.

Majestic Silver Co., New Haven, Conn.

The investigation was initiated on March 7, 1979 in response to a worker petition received on March 1, 1979 which was filed on behalf of workers and former workers engaged in employment related to the importation of flatware at Majestic Silver Company, New Haven, Connecticut. "The Department has determined that services are not 'articles' within the meaning of Section 222 of the Act."

Majestic Silver Company increased its imports of stainless steel flatware in 1977 as compared to 1976. In December 1977, Majestic terminated its in-house production of flatware.

Majestic had sold imported stainless steel flatware prior to December 1977 and continued selling imported flatware after ceasing domestic production. Those workers who were retained after the discontinuation of the domestic manufacturing operation in December 1977 have been engaged exclusively in employment related to the shipping and packaging of imported flatware.

Majestic has not produced an article as that term is used in the Trade Act of 1974 since December 1977 and consequently Majestic's employees have not been engaged in the production of an article for a least five consecutive quarters.

Conclusion

After careful review, I determine that all workers of Majestic Silver Company, New Haven, Connecticut are denied eligibility to apply for adjustment assistance under Title II, Chapter 2 of the Trade Act of 1974.

Signed at Washington, D.C. this 26th day of April 1979.

James F. Taylor,
Director, Office of Management, Administration and Planning.

[TA-W-4898]
[FR Doc. 79-14131 Filed 5-7-79; 8:45 am]
BILLING CODE 4510-28-M

Certification Regarding Eligibility To Apply for Worker Adjustment Assistance

In accordance with Section 223 of the Trade Act of 1974 the Department of Labor herein presents the results of an investigation regarding certification of eligibility to apply for worker adjustment assistance as prescribed in Section 222 of the Act.

In order to make an affirmative determination and issue a certification of eligibility to apply for adjustment assistance each of the group eligibility requirements of Section 222 of the Act must be met.

McKnight Mining, Inc., Fayette County, W.Va.

The investigation was initiated on March 5, 1979 in response to a worker petition received on February 23, 1979 which was filed by the United Mine Workers of America, District 29 on behalf of workers formerly producing metallurgical coal at McKnight Mining, Incorporated, Fayette County, West Virginia. Without regard to whether any of the other criteria have been met, the following criterion has not been met:

That increases of imports of articles like or directly competitive with articles produced by the firm or appropriate subdivision have contributed importantly to the separations, or threat thereof, and to the absolute decline in sales or production.

McKnight Mining, Incorporated was a producer of metallurgical coal at two strip mine sites in Fayette County, West Virginia. Since the company's inception in May 1976, all of the coal was sold exclusively to foreign buyers. Declines in production and employment at McKnight Mining, Incorporated are solely attributable to reduced purchases by foreign customers.

Conclusion

After careful review, I determine that all workers of McKnight Mining, Incorporated, Fayette County, West Virginia are denied eligibility to apply for adjustment assistance under Title II, Chapter 2 of the Trade Act of 1974.

Signed at Washington, D.C. this 26th day of April 1979.

James F. Taylor,
Director, Office of Management Administration and Planning.

[TA-W-4881]
[FR Doc. 79-14132 Filed 5-7-79; 8:45 am]
BILLING CODE 4510-28-M

Certification Regarding Eligibility To Apply for Worker Adjustment Assistance

In accordance with Section 223 of the Trade Act of 1974 the Department of Labor herein presents the results of an investigation regarding certification of eligibility to apply for worker adjustment assistance as prescribed in Section 222 of the Act.

In order to make an affirmative determination and issue a certification of eligibility to apply for adjustment assistance each of the group eligibility requirements of Section 222 of the Act must be met.

Natalie Knitting Mills, Division of Hampshire Designers, Inc., Chilhowie, Va.

The investigation was initiated on February 26, 1979 in response to a worker petition received on February 22, 1979 which was filed on behalf of workers and former workers producing men's and ladies' sweaters and leotards at Natalie Knitting Mills, Division of Hampshire Designers, Incorporated, Chilhowie, Virginia. The investigation revealed that the plant primarily produces women's sweaters and knit tops. Without regard to whether any of the other criteria have been met, the following criterion has not been met:

That increases of imports of articles like or directly competitive with articles produced by the firm or appropriate subdivision have contributed importantly to the separations, or threat thereof, and to the absolute decline in sales or production.

The Office of Trade Adjustment Assistance conducted a survey of customers who had decreased purchases of knit tops from Natalie Knitting Mills. The survey revealed that the majority of these customers did not purchase from foreign sources. The one customer who had increased its purchases of imported knit tops, in 1978 compared to 1977, represented an insignificant percent of Natalie's 1978 sales. This customer does not anticipate decreasing its purchases from Natalie in 1979 as compared to 1978.

Production of women's sweaters and tops at Natalie Knitting Mills increased in 1978 compared to 1977 and in the first two months of 1979 compared to the same period of 1978.

The average number of hourly workers at Natalie Knitting Mills increased in every quarter of 1978 and in the first quarter of 1979 compared to the corresponding quarters one year earlier.

Conclusion

After careful review, I determine that all workers of Natalie Knitting Mills, Division of Hampshire Designers, Incorporated, Chilhowie, Virginia are denied eligibility to apply for adjustment assistance under Title II, Chapter 2 of the Trade Act of 1974.

Signed at Washington, D.C. this 27th day of April 1979.

C. Michael Aho,
Director, Office of Foreign Economic Research.

[TA-W-4852]
[FR Doc. 79-14133 Filed 5-7-79; 8:45 am]
BILLING CODE 4510-28-M

Certification Regarding Eligibility To Apply for Worker Adjustment Assistance

In accordance with Section 223 of the Trade Act of 1974 the Department of Labor herein presents the results of an investigation regarding certification of eligibility to apply for worker adjustment assistance as prescribed in Section 222 of the Act.

In order to make an affirmative determination and issue a certification of eligibility to apply for adjustment assistance each of the group eligibility requirements of Section 222 of the Act must be met.

Tru-Fit Knitwear, Inc., Brooklyn, N.Y.

The investigation was initiated on February 26, 1979 in response to a worker petition received on February 11, 1979 which was filed by the International Ladies' Garment Workers' Union on behalf of workers and former workers producing men's and women's sweaters at Tru-Fit Knitwear, Incorporated, Brooklyn, New York. It is concluded that all of the requirements have been met.

U.S. imports of women's, misses' and children's sweaters increased both absolutely and relative to domestic production from 1975 to 1976. Imports of sweaters increased in 1977 as compared to the average level of imports for the years 1973 through 1976. The ratio of imports of sweaters to domestic production exceeded 140 percent in 1976 and in 1977. The IP ratio in 1977 was higher than the average IP ratio for the period 1973 through 1976.

U.S. imports of men's and boys' sweaters, knit cardigans and pullovers increased from 20.4 million units in 1975 to 28.5 million units in 1976 and to 28.3 million units in 1977. Imports increased to 38.4 million units in 1978 as compared to 28.3 million units in 1977.

The Department conducted a survey of the customers of Tru-Fit's sales in the first six months of 1977 reduced purchases of sweaters from Tru-Fit and increased purchases of imported sweaters in the first six months of 1978 compared to the same period in 1977.

Conclusion

After careful review of the facts obtained in the investigation, I conclude that increases of imports of articles like or directly competitive with men's and women's sweaters produced at Tru-Fit Knitwear, Incorporated, Brooklyn, New York contributed importantly to the decline in sales or production and to the total or partial separation of workers of that firm. In accordance with the provisons of the Act, I make the following certification: "All workers of Tru-Fit Knitwear, Incorporated, Brooklyn, New York who became totally or partially separated from employment on or after February 10, 1978 are eligible to apply for adjustment assistance under Title II, Chapter 2 of the Trade Act of 1974."

Signed at Washington, D.C., this 25th day of April 1979.

James F. Taylor,
Director, Office of Management Administration and Planning.

[TA-W-4856]
[FR Doc. 79-14134 Filed 5-7-79; 8:45 am]
BILLING CODE 4510-28-M

Certification Regarding Eligibility To Apply for Worker Adjustment Assistance

In accordance with Section 223 of the Trade Act of 1974 the Department of Labor herein presents the results of an investigation regarding certification of eligibility to apply for worker adjustment assistance as prescribed in Section 222 of the Act.

In order to make an affirmative determination and issue a certification of eligibility to apply for adjustment assistance each of the group eligibility requirements of Section 222 of the Act must be met.

Uniroyal, Inc., Naugatuck, Conn.

The investigation was initiated on March 15, 1979 in response to a worker petition received on March 13, 1979 which was filed by the United Rubber, Cork, Linoleum and Plastic Workers of America on behalf of workers and former workers producing rubber canvas footwear at the Naugatuck, Connecticut plant of Uniroyal, Incorporated. It is concluded that all of the requirements have been met.

Imports of rubber canvas footwear increased absolutely and relative to domestic production in 1977 compared to 1976 and in 1978 compared to 1977.

Certifications applicable to the petitioning group of workers were issued on May 11, 1977 (TA-W-1683 and 1995). These certifications remain in effect until May 11, 1979, two years from their date of issuance.

Imports of rubber canvas footwear continue to have an adverse affect on the remaining operations of the Naugatuck, Connecticut plant after the expiration of the previous certification.

By May 11, 1979, the expiration date of the Department's previous certifications, remaining workers at the Naugatuck, Connecticut plant of Uniroyal, Incorporated will continue to be warehousing rubber canvas footwear. Uniroyal had discontinued production of footwear at the Naugatuck plant in December of 1977 and has since been warehousing footwear at this facility while attempting to sell this plant and this division. In April 1979, the company sold the Naugatuck plant and property but continues to warehouse footwear by leasing back some buildings. By July 1, 1979, approximately 100 more workers will be laid off, with further layoffs occurring after this date. Uniroyal plans to sell the footwear division by the end of 1979.

Conclusion

After careful review of the facts obtained in the investigation, I conclude that increases of imports of articles like or directly competitive with rubber canvas footwear produced at the Naugatuck, Connecticut plant of Uniroyal, Incorporated contributed importantly to the decline in sales or production and to the total or partial separation of workers of that firm. In accordance with the provisions of the Act, I make the following certification:

All workers of the Naugatuck, Connecticut plant of Uniroyal, Incorporated who became totally or partially separated from employment on or after May 11, 1979 are eligible to apply for adjustment assistance under Title II, Chapter 2 of the Trade Act of 1974.

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Signed at Washington, D.C. this 26th day of April 1979.

James F. Taylor,

Director, Office of Management, Administration and Planning.

[TA-W-4959]

[FR Doc. 79-14135 Filed 5-7-79; 8:45 am]

BILLING CODE 4510-28-M

Certification Regarding Eligibility To Apply for Worker Adjustment Assistance

In accordance with Section 223 of the Trade Act of 1974 the Department of Labor herein presents the results of an investigation regarding certification of eligibility to apply for worker adjustment assistance as prescribed in Section 222 of the Act.

In order to make an affirmative determination and issue a certification of eligibility to apply for adjustment assistance each of the group eligibility requirements of Section 222 of the Act must be met.

Western Tanning, Inc., Delta, Colo.

The investigation was initiated on February 28, 1979 in response to a worker petition received on February 26, 1979 which was filed on behalf of workers and former workers producing tanned leather at Western Tanning, Incorporated, Delta, Colorado. It is concluded that all of the requirements have been met.

U.S. imports of tanned and finished cattlehides increased both absolutely and relative to domestic production during 1978 compared to 1977.

Customers representing a significant proportion of Western Tanning's sales of cattlehide leather were surveyed by the Department. The results of this survey revealed that customers reduced purchases from Western Tanning and increased purchases of imported cattlehide leather in 1978 compared to 1977 and during the first two months of 1979 compared to the first two months of 1978.

Conclusion

After careful review of the facts obtained in the investigation, I conclude that increases of imports of articles like or directly competitive with tanned leather produced at Western Tanning, Incorporated, Delta, Colorado contributed importantly to the decline in sales or production and to the total or partial separation of workers of that firm. In accordance with the provisions of the Act, I make the following certification:

All workers of Western Tanning, Incorporated, Delta, Colorado who became totally or partially separated from employment on or after May 1, 1978 are eligible to apply for adjustment assistance under Title II, Chapter 2 of the Trade Act of 1974.

Signed at Washington, D.C. this 27th day of April 1979.

C. Michael Aho, Director, Office of Foreign Economic Research.

[TA-W-4872]

[FR Doc. 79-14136 Filed 5-7-79; 8:45 am]

BILLING CODE 4510-28-M

Certification Regarding Eligibility To Apply for Worker Adjustment Assistance

In accordance with Section 223 of the Trade Act of 1974 the Department of Labor herein presents the results of an investigation regarding certification of eligibility to apply for worker adjustment assistance as prescribed in Section 222 of the Act.

In order to make an affirmative determination and issue a certification of eligibility to apply for adjustment assistance each of the group eligibility requirements of Section 222 of the Act must be met.

The Willette Corp., New Brunswick, N.J.

The investigation was initiated on March 20, 1979 in response to a worker petition received on March 15, 1979 which was filed by the Amalgamated Clothing and Textile Workers' Union on behalf of workers and former workers producing ceramic fixtures for the Willette Corporation, New Brunswick, New Jersey. The investigation revealed that the plant primarily produces vitreous china bathroom accessories for the Willette Corporation. Without regard to whether any of the other criteria have been met, the following criterion has not been met:

That sales or production, or both, of the firm or subdivision have decreased absolutely.

Annual company sales increased in 1978 compared with 1977 and continued to increase in the first quarter of 1979 compared with the like period of 1978.

Conclusion

After careful review, I determine that all workers of the Willette Corporation, New Brunswick, New Jersey are denied eligibility to apply for adjustment assistance under Title II, Chapter 2 of the Trade Act of 1974.

Signed at Washington, D.C. this 26th day of April 1979.

James F. Taylor,

Director, Office of Management, Administration, and Planning.

[TA-W-5001]

[FR Doc. 79-14137 Filed 5-7-79; 8:45 am]

BILLING CODE 4510-28-M

Certification Regarding Eligibility To Apply for Worker Adjustment Assistance

In accordance with Section 223 of the Trade Act of 1974 the Department of Labor herein presents the results of an investigation regarding certification of eligibility to apply for worker adjustment assistance as prescribed in Section 222 of the Act.

In order to make an affirmative determination and issue a certification of eligibility to apply for adjustment assistance each of the group eligibility requirements of Section 222 of the Act must be met.

Winter Scene Fashions, Inc., Hoboken, N.J.

The investigation was initiated on March 13, 1979 in response to a worker petition received on March 1, 1979 which was filed on behalf of workers and former workers producing ladies' coats and suits at Winter Scene Fashions, Incorporated, Hoboken, New Jersey. The investigation revealed that the plant produces ladies' winter coats only. Without regard to whether any of the other criteria have been met, the following criterion has not been met:

That increases of imports of articles like or directly competitive with articles produced by the firm or appropriate subdivision have contributed importantly to the separations, or threat thereof, and to the absolute decline in sales or produciton.

Declines in employment which took place at Winter Scene Fashions, Incorporated are attributable to the seasonal nature of the ladies' coat industry. Contractors for ladies' coats generally receive orders for winter coats during the second quarter of the calendar year. Workers producing winter coats are typically employed from May through November in order to fulfill manufacturers' ordes. Workers are then usually laid off in November of December once the orders are completed. In most years, contractors producing winter coats suffer a period of negligible orders during the first few months at the beginning of the calendar year. Employment declines which occurred at Winter Scene Fashions, Incorporated during the first quarters of both 1978 and 1979 reflect the seasonal pattern typical to winter coat production.

Conclusion

After careful review, I determine that all workers of Winter Scene Fashions, Incorporated, Hoboken, New Jersey are denied eligibility to apply for adjustment assistance under Title II, Chapter 2 of the Trade Act of 1974.

Signed at Washington, D.C. this 25th day of April 1979.

James F. Taylor,

Director, Office of Management, Administration, and Planning.

[TA-W-4949]

[FR Doc. 79-14138 Filed 5-7-79; 8:45 am]

BILLING CODE 4510-28-M

Pension and Welfare Benefit Programs

Class Exemption for Certain Transactions Authorized or Required by Judicial Order or Judicially Approved Settlement Decree

AGENCY: Department of Labor.

ACTION: Grant of class exemption.

SUMMARY: This exemption permits certain otherwise prohibited and specially taxable transactions and activities involving employee benefit plans under the Employee Retirement Income Security Act of 1974 (the "Act") and the Internal Revenue Code of 1954, as amended, (the "Code") to take place provided, among other things, that before such transactions or activities take place they are specifically authorized or required by a judicial order or a judicially approved settlement decree. The exemption may affect employee benefit plans, participants in and beneficiaries of such plans, fiduciaries of such plans and other persons engaging in such transactions or activities, and any other parties to litigation resulting in a court order or court-approved settlement authorizing or requiring such transactions or activities.

EFFECTIVE DATE: May 1, 1979.

FOR FURTHER INFORMATION CONTACT: Stevan Durovic, Plan Benefits Security Division, Office of the Solicitor, U.S. Department of Labor, Washington, D.C. 20216; (202) 523-9129. (This is not a toll-free number.)

SUPPLEMENTARY INFORMATION: On February 6, 1979, notice was published in the **Federal Register** (44 FR 7244) that the Department of Labor (the "Department") proposed on its own motion a class exemption from the prohibitions of sections 406 and 407(a) of the Act, and from the taxes imposed by section 4975(a) and (b) of the Code, to the extent necessary to permit employee benefit plans and fiduciaries and disqualified persons thereof to engage under certain circumstances in transactions and activities which are within the scope of those sections, provided that the transactions or activities have been authorized or required in advance by an order made or approved by a United States District Court. The exemption would be available only where the Department or the Internal Revenue Service was a party to the litigation, and where the nature of the transaction or activity was specifically described in an order issued by the court or a settlement approved by the court. The exemption was proposed pursuant to section 408(a) of the Act and section 4975(c)(2) of the Code, and in accordance with the procedures set forth in ERISA Procedure 75-1 (40 FR 18471, April 18, 1975). [1]

No public comments and no requests for a public hearing with respect to the proposed class exemption were received by the Department. For the reasons set forth in the notice of the proposed exemption, the Department has determined to adopt the class exemption as proposed. [2]

General Information

The attention of interested persons is directed to the following:

1. The fact that a transaction or activity is the subject of an exemption granted under section 408(a) of the Act and section 4975(c)(2) of the Code does not relieve a fiduciary or other party in interest or disqualified person with respect to a plan which is affected by the exemption from certain other provisions of the Act and the Code, including any prohibited transaction provisions to which the exemption does not apply and the general fiduciary responsibility provisions of section 404 of the Act. Section 404 of the Act requires, among other things, that a fiduciary discharge his duties respecting the plan solely in the interests of the plan's participants and beneficiaries and in a prudent fashion. Nor does it affect the provision of section 401(a) of the Code that, in order to qualify under that section, a plan must operate for the exclusive benefit of the employees of the employer maintaining the plan or their beneficiaries.

2. This class exemption is supplemental to, and not in derogation of, any other provisions of the Act and the Code, including statutory exemptions and transitional rules. Furthermore, the fact that a transaction or activity is subject to an administrative or statutory exemption or transitional rule is not dispositive of whether the transaction is in fact a prohibited transaction.

3. This class exemption is applicable to a particular transaction or activity only if the transaction or activity satisfies the conditions specified in the class exemption.

Exemption

In accordance with section 408(a) of the Act and section 4975(c)(2) of the Code and the procedures set forth in ERISA Procedure 75-1 (40 FR 18471, April 18, 1975), and based upon the considerations set forth in the notice of proposed class exemption (44 FR 7244, February 6, 1979), the Department makes the following determinations:

(a) The class exemption set forth herein below is administratively feasible;

(b) It is in the interests of plans and of their participants and beneficiaries; and

(c) It is protective of the rights of participants and beneficiaries of plans.

Accordingly, the following exemption is hereby granted under the authority of section 408(a) of the Act and section 4975(c)(2) of the Code and in accordance with the procedures set forth in ERISA Procedure 75-1.

Sections 406 and 407(a) of the Act and section 4975(a) and (b) of the Code shall not apply with respect to any transaction or activity which is authorized or required, prior to the occurrence of such transaction or activity, by an order of a United States District Court or by a settlement of litigation approved by such a court, provided that the nature of such transaction or activity is specifically described in such order or settlement, and provided further that the Secretary of Labor or the Internal Revenue Service is a party to the litigation at the time of such order or settlement.

Signed at Washington, D.C., this 1st day of May 1979.

Ian D. Lanoff,

Administrator, Pension and Welfare Benefit Programs, Labor-Management Services Administration, U.S. Department of Labor

[FR Doc. 79-14288 Filed 5-7-79; 8:45 am]

BILLING CODE 4510-29-M

[1] The authority of the Secretary of Labor to issue exemptions under section 4975(c)(2) of the Code is set forth in section 102 of Reorganization Plan No. 4 of 1978 (43 FR 47713, October 17, 1978), effective December 31, 1978.

[2] Although the class exemption is available only in cases where the Department or the Internal Revenue Service is a party to the litigation, the Department and the Service do not intend to become parties to litigation in cases where they would otherwise not be parties, merely to make the class exemption available or potentially available. Where a court authorizes or requires a prohibited transaction in connection with a proceeding to which neither the Department nor the Service is a party, plan fiduciaries intending to carry out the transaction are free to apply for an individual exemption pursuant to the Department's regular procedure. Information concerning judicial activity should be included in any application for such an exemption. *See* ERISA Procedure 75-1, 40 FR 18471, April 18, 1975.

Exemption From Prohibited Transactions Provisions Involving the Building Trades United Pension Trust Fund, Milwaukee and Vicinity

AGENCY: Department of Labor.

ACTION: Grant of individual exemption.

SUMMARY: This exemption enables the Building Trades United Pension Trust Fund, Milwaukee and Vicinity (the Plan) to carry out an extension of credit pursuant to permanent mortgage financing to Megal Development Corporation (Megal).

FOR FURTHER INFORMATION CONTACT: Stephen Elkins of the Department of Labor (202) 523–8196. (This is not a toll-free number.)

SUPPLEMENTARY INFORMATION: On March 23, 1979, notice was published in the **Federal Register** (44 FR 17813) of pendency before the Department of Labor (the Department) of a proposed exemption from the restrictions of section 406(a) of the Employee Retirement Income Security Act of 1974 (the Act) and from taxes imposed by section 4975(a) and (b) of the Internal Revenue Code of 1954 (the Code), by reason of section 4975(c)(1)(A) through (D) of the Code. The exemption was requested in an application filed by the trustees of the Plan pursuant to section 408(a) of the Act and in accordance with procedures set forth in ERISA Procedure 75–1 (40 FR 18471, April 28, 1975).

The notice set forth a summary of facts and representations contained in the application for exemption and referred interested persons to the application on file with the Department for a complete statement of the facts and representations. The application has been available for public inspection at the Department in Washington, D.C. The notice also invited interested persons to submit comments on the requested exemption to the Department. No comments have been received by the Department with respect to the exemption as proposed.

The application was filed with both the Department and the Internal Revenue Service. However, effective December 31, 1978, section 102 of Reorganization Plan No. 4 of 1978 (43 FR 47713, October 17, 1978) transferred the authority of the Secretary of the Treasury to issue exemptions of the type requested to the Secretary of Labor. Therefore this exemption is granted solely by the Department.

General Information

The attention of interested persons is directed to the following:

(1) The fact that a transaction is the subject of an exemption granted under section 408(a) of the Act and section 4975(c)(2) of the Code does not relieve a fiduciary or party in interest or disqualified person with respect to a plan to which the exemption is applicable from certain other provisions of the Act and the Code. These provisions include any prohibited transaction provisions to which the exemption does not apply, and the general fiduciary responsibility provisions of section 404 of the Act, which require, among other things, that a fiduciary discharge his duties respecting the plan solely in the interests of the participants and beneficiaries of the plan, and in a prudent fashion in accordance with section 404(a)(1)(B) of the Act. Moreover, the fact that the transaction is the subject of an exemption does not affect the requirement of section 401(a) of the Code that a plan must operate for the exclusive benefit of the employees (and their beneficiaries) of the employer maintaining the plan.

(2) This exemption does not extend to transactions prohibited under section 406(b) of the Act and section 4975(c)(1)(E) and (F) of the Code.

(3) This exemption is supplemental to and not in derogation of any other provisions of the Act and the Code, including statutory or administrative exemptions and transitional rules. Further, the fact that a transaction is the subject of an administrative exemption, statutory exemption, or transitional rule, is not dispositive of whether the transaction is, in fact, a prohibited transaction.

Exemption

In accordance with section 408(a) of the Act and section 4975(c)(2) of the Code, and with the procedures set forth in ERISA Procedure 75–1, and based upon the entire record, the Department makes the following determinations:

(a) The exemption is administratively feasible;

(b) The exemption is in the interests of the Plan and of its participants and beneficiaries; and

(c) The exemption is protective of the rights of the participants and beneficiaries of the Plan.

Therefore, the prohibitions of section 406(a) of the Act and the taxes imposed by § 4975(a) and (b) of the Code, by reason of § 4975(c)(1)(A) through (D) of the Code shall not apply to extension of credit pursuant to the three mortgage loans discussed in the exemption as proposed at 44 FR 17814, between the Plan and Megal, nor to purchase of the three construction loans by the Plan from First Bank-Midland, N.A., Milwaukee, attendant to effectuation of such extension of credit from the Plan to Megal.

The availability of this exemption is subject to the express conditions that the material facts and representations contained in the applicaion are true and complete, and that the application accurately describes all material terms of the transactions to be consummated pursuant to this exemption.

Signed at Washington, D.C. this 2nd day of May, 1979.

Ian D. Lanoff,

Administrator of Pension and Welfare Benefit Programs, Labor-Management Services Administration, U.S. Department of Labor.

[Prohibited Transaction Exemption 79–16]

[FR Doc. 79–14289 Filed 5–7–79; 8:45 am]

BILLING CODE 4510–29–M

Office of Pension and Welfare Benefit Programs

Advisory Council on Employee Welfare and Pension Benefit Plans; Meeting

Pursuant to Section 512 of the Employee Retirement Income Security Act of 1974 (29 U.S.C. 1142) a meeting of the Advisory Council on Employee Welfare and Pension Benefit Plans will be held at 9:30 a.m. on Wednesday, May 23, 1979, in Conference Room N–5437 D, U.S. Department of Labor, 200 Constitution Avenue, N.W., Washington, D.C.

The purpose of the meeting is to discuss the items listed below and to invite public comment on any aspect of the administration of ERISA.

1. Department of Labor Progress Report
2. Council Report on Work Groups
3. Statements from the Public

Members of the public are encouraged to file a written statement pertaining to any topic concerning ERISA, by submitting 30 copies on or before May 21, 1979, to the Administrator, Pension and Welfare Benefit Programs, U.S. Department of Labor, Room S–4522, 200 Constitution Avenue, N.W., Washington, D.C. 20216

Persons desiring to address the Council should notify Edward F. Lysczek, Executive Secretary of the Advisory Council, in care of the above address or by calling (202) 523–8753.

Signed at Washington, D.C., this 2nd day of May 1979.

Ian D. Lanoff,

Administrator of Pension and Welfare Benefit Programs.

[FR Doc. 79–14312 Filed 5–7–79; 8:45 am]

BILLING CODE 4510–29–M

Exemption for Certain Activities Involving the United Mine Workers of America 1950 Benefit Plan and Trust

AGENCY: Department of Labor.

ACTION: Grant of an Individual Exemption.

SUMMARY: This exemption permits the trustees of the United Mine Workers of America 1950 Benefit Plan and Trust (the Plan) to offer their opinion so as to assist in resolution of certain disputes arising in connection with provision of health and other benefits through employee welfare benefit plans established by individual employers pursuant to the National Bituminous Coal Wage Agreement of 1978 (the Agreement).

DATE: The exemption is effective from March 27, 1978 until termination of the Agreement.

FOR FURTHER INFORMATION CONTACT: Stephen Elkins of the Department of Labor, (202) 523–8196. (This is not a toll-free number.)

SUPPLEMENTARY INFORMATION: On January 12, 1979 notice was published in the **Federal Register** (44 FR 2726) that the Department of Labor (the Department) had under consideration a proposed exemption from the restrictions of section 406(a)(1)(C) and (D) and 406(b)(1) of the Employee Retirement Income Security Act of 1974 (the Act). The proposed exemption was requested in an application filed by the trustees of the Plan, pursuant to section 408(a) of the Act, and in accordance with procedures set forth in ERISA Procedure 75–1 (40 FR 18471, April 28, 1975).

As proposed, the exemption would allow the trustees of the Plan to offer their opinion with respect to questions of eligibility and coverage arising in connection with benefits provided by welfare plans (the 1978 Plans) created pursuant to terms of the Agreement. In the absence of the exemption, the trustees represent that they may be prohibited from providing such advisory opinions because of certain provisions of section 406 of the Act.

According to the trustees, eligibility and benefit coverage under the 1978 Plans is to be identical to eligibility and benefit coverage under the Plan. Furthermore, by terms of the Agreement, the Plan was amended so as to authorize the trustees of the Plan to resolve disputes which might arise concerning eligibility and benefit coverage under the 1978 Plans.

The Notice of Pendency invited interested persons to submit comments on the proposed exemption and to request that a public hearing be held. Comments and hearing requests were received. Notice of a public hearing, as requested, was published in the Federal Register on March 13, 1979 (44 FR 14651). The hearing was held at which persons presented testimony explaining their view with respect to the proposed exemption.

Discussion of Comments and Testimony Received at Public Hearing

Following publication of the proposed exemption, the Department received approximately sixty comments. The comments were almost exclusively from beneficiaries of the Plan, or from representatives of such beneficiaries.

A substantial majority of the comments raised issues not specifically addressed to whether or not the proposed exemption should be granted. For the most part, the comments expressed dissatisfaction with the arrangement whereby pension and welfare benefits are provided to retirees from plans separate from the plans which provide pension and welfare benefits to active employees. These comments do not appear germane to the question of whether or not the exemption should be granted. Other commentators raised questions concerning the burden of administrative costs which might fall upon the Plan with respect to Plan trustees rendering advisory opinions regarding the 1978 Plans. On the basis of all the facts and circumstances described in the application, including the guarantee of the level of benefits currently provided under the Plan, the Department believes that the requested exemption should be granted, notwithstanding the possibility of increased administrative costs as described in the application.

The Hearing was held in Washington on April 17, 1979. Testimony was received from ten persons. Portions of such testimony echoed the concerns of beneficiaries of the Plan who earlier had filed comments on the proposed exemption. Other testimony, while not opposing the proposed exemption, raised questions as to the authority of the trustees of the Plan to enforce compliance with any opinions which they might issue with respect to coverage or eligibility under the 1978 Plans. Still other testimony was given fully in support of the proposed exemption, at the same time addressing questions raised by others who testified or presented comments.

After consideration of the comments received and the testimony presented at the hearing, the Department has decided to grant the exemption in the form in which it was proposed.

GENERAL INFORMATION: The attention of interested persons is directed to the following:

(1) The fact that a transaction is the subject of an exemption granted under section 408(a) of the Act does not relieve a fiduciary or other party in interest with respect to a plan to which the exemption is applicable from certain other provisions of the Act, including any prohibited transaction provisions to which the exemption does not apply and the general fiduciary responsibility provisions of section 404 of the Act, which require, among other things, that a fiduciary discharge his duties respecting the plan solely in the interests of the plan's participants and beneficiaries and in a prudent fashion in accordance with section 404(a)(1)(B) of the Act.

(2) This exemption does not extend to transactions prohibited under sections 406(a)(1)(A), (B) and (E), 406(a)(2), 406(b)(2) and (3), and 407(a) of the Act.

(3) This exemption is supplemental to, and not in derogation of, any other provision of the Act, including statutory exemptions and transitional rules. Furthermore, the fact that transactions are subject to an administrative or statutory exemption is not dispositive of whether the transactions are in fact prohibited transactions.

Exemption

In accordance with section 408(a) of the Act, and based upon the entire record, including written comments submitted in response to the notice of January 12, 1979, and the testimony received at the public hearing on April 17, 1979, the Department makes the following determinations:

(a) The exemption set forth herein is administratively feasible;

(b) The exemption is in the interests of the Plan and of the participants and beneficiaries of the Plan; and

(c) The exemption is protective of the rights of participants and beneficiaries of the Plan.

Accordingly, the following exemption hereby is granted under the authority of section 408(a) of the Act, and in accordance with procedures set forth in ERISA Procedure 75–1.

Effective March 27, 1978, and until the date of termination of the National

Bituminous Coal Wage Agreement of 1978, the restrictions of section 406(a)(1)(C) and (D), and 406(b)(1) of the Act shall not apply to the resolution by the trustees of the United Mine Workers of America 1950 Benefit Plan and Trust of disputes involving the nature of benefits to be provided under plans established pursuant to Article XX of the National Bituminous Coal Wage Agreement of 1978 (1978 plans), generic questions of eligibility under the 1978 plans, and individual questions of eligibility under the 1978 plans, provided that such trustees maintain and make available to the Department of Labor upon request, records adequate to ascertain both the cost of rendering such services and the portion of such costs which may be attributed to the resolution of each of the three types of disputes which the trustees may consider.

Signed at Washington, D.C. this 3rd day of May 1979.

Ian Lanoff,

Administrator, Pension and Welfare Benefit Programs, Labor-Management Services Administration, U.S. Department of Labor.

[Prohibited Transaction Exemption 79-17]
[FR Doc. 79-14291 Filed 5-7-79; 8:45 am]
BILLING CODE 4510-29-M

NATIONAL COMMISSION ON EMPLOYMENT AND UNEMPLOYMENT STATISTICS

Public Meeting

Notice is hereby given that the National Commission on Employment and Unemployment Statistics will hold a public meeting on June 7 and June 8, 1979, in Room 550, 2000 K Street, N.W., Washington, D.C. 20006.

The National Commission on Employment and Unemployment Statistics was established under Section 13 of the Emergency Jobs Program Extension Act of 1975, Public Law 94-444. Its purpose is to advise the President and the Congress on reliable and comprehensive measurements of employment and unemployment by examining the procedures, concepts, and methodology involved in employment and unemployment statistics, and suggesting ways and means of improving them.

The meetings will begin each day at 9:00 a.m. to review issues involved in linking employment status, income and earnings. The public is invited to attend. Official records of the meetings will be available for public inspection by contacting:

Mr. Wesley H. Lacey, Administrative Officer, National Commission on Employment and Unemployment Statistics, Suite 550, 2000 K Street, NW., Washington, D.C. 20006.

Signed at Washington, D.C., this 3rd day of May, 1979.

Sar A. Levitan,

Chairman.

[FR Doc. 79-14287 Filed 5-7-79; 8:45 am]
BILLING CODE 4510-23-M

NATIONAL COMMISSION ON UNEMPLOYMENT COMPENSATION

Intent To Hold Hearings on Reinsurance of State Unemployment Compensation Plans

The Commission plans to consider and vote at a forthcoming meeting on the general principle of establishing by Federal law a reinsurance plan which would provide for payments made from a Federal reinsurance account to States which experience extraordinary benefit costs.

The plan would be effective beginning January 1, 1980. The plan would be phased into full operation over a five year period.

The plan would be financed exclusively from employer payroll contributions. The total cost would be limited to an annual cost equivalent to two-tenths of one percent of taxable payrolls.

One option is that the two-tenths of one percent of taxable payrolls would come entirely from the Federal Unemployment Tax Act. Another is that one-tenth comes from FUTA and one-tenth from State Funds. Another is that funds come in part or whole from Federal general revenues. The plan which the Commission will have under consideration provides that the income to the reinsurance account would come entirely from two-tenths of one percent of taxable payrolls from FUTA.

A State would be eligible to receive a reinsurance payment provided it maintained a solvency standard in its State Law, which provided as of September 30 of the year prior to receipt of a reinsurance payment, a State reserve fund of 1½ times the highest benefits paid out in 5 of the prior 7 calendar years (eliminating the highest and lowest years).

The various reinsurance approaches in Unemployment Compensation suggested to the Commission may be summarized as follows:

1. Payments based upon a specified increase in unemployment;

2. Payments based upon a specified increase in benefit payments;

3. Payments based upon a specified increase in contribution costs;

4. Some combination of a specified increase in two or three of the above.

The plan would be operative either when unemployment exceeded a specified level, or when benefit payments exceeded a specified level or both.

Such hearing will afford the Commission an opportunity to study a method or methods of financing the costs of any reinsurance plans. This will include a review of a proposal on reinsurance adopted by majority vote by the Interstate Conference of Employment Security Agencies at a meeting on March 15, 1979, together with all other proposals submitted to the Commission or developed by the Commission and staff.

It is currently expected that the hearing will be held at either of two scheduled Commission meetings:

Portland, Oregon—July 26–28, 1979.
New York City—August 23–25, 1979.

The Commission will welcome any comments in writing that will assist in preparation for such hearing. *In particular, the Commission invites comments on a method or methods to finance the costs of any reinsurance plan.*

All such comments should be directed to the Executive Director of the Commission, as identified below, no later than May 31, 1979.

Documents submitted in response to this notice, and staff papers prepared for the Commission use, will be made available to all respondents and others requesting such materials. These will be distributed as far in advance of the hearing date, of which announcement will be made in the **Federal Register**, as feasible.

Requests for permission to testify in person will be granted by the Commission to the extent that time permits and in such manner as to offer the Commission the broadest possible spectrum of differing views. More specific information on details of the hearing will be published in a subsequent notice.

Telephone inquiries and communications concerning this meeting should be directed to:

James M. Rosbrow, Executive Director, National Commission on Unemployment Compensation, 1815 Lynn Street, room 440, Rosslyn, Virginia 22209, (703) 235-2782.

Signed at Washington, D.C. this 1st day of May, 1979.

James M. Rosbrow,

Executive Director, National Commission on Unemployment Compensation.

[FR Doc. 79-14345 Filed 5-7-79; 8:45 am]
BILLING CODE 4510-30-M

Intent To Hold Hearings on Federal Wage Base Under the Federal Unemployment Tax Act

The Commission plans to consider and vote at a forthcoming meeting on the general principle of increasing the $6,000 taxable wage base in the Federal Unemployment Tax Act (FUTA) on a phased basis over a period of time.

1. One option is to increase the base in relation to some portion of annual average national covered earnings.

2. Another option is to increase the base on a specific annual basis such as $1,000 a year, or $2,000 very two years.

3. Another option is to apply a FUTA tax rate to total earnings.

4. Another option is to increase the base periodically a given amount over a period such as five years, and then relate future increases to some proportion of average earnings.

5. Another option is to make the wage base some proportion of the social security earnings base.

The Commission has heard extensive testimony on this subject over the past year.

It is currently expected that the subject will be discussed and action taken at either of two scheduled Commission meetings:

Portland, Oregon—July 26–28, 1979.
New York City—August 23–25, 1979.

The Commission will welcome any comments in writing that will assist in their deliberations.

All such comments should be directed to the Executive Director of the Commission, as identified below, no later than May 31, 1979.

Documents submitted in response to this notice, and staff papers prepared for the Commission use, will be made available to all respondents and others requesting such materials. These will be distributed as far in advance of the meeting date, of which announcement will be made in the **Federal Register**, as feasible.

If found to be advisable, requests for permission to testify in person will be granted by the Commission to the extent that time permits and in such manner as to offer the Commission the broadest possible spectrum of differing views. More specific information on details of the hearing will be published in a subsequent notice.

Telephone inquiries and communications concerning this meeting should be directed to:

James M. Rosbrow, Executive Director, National Commission on Unemployment Compensation, 1815 Lynn Street, room 440, Rosslyn, Virginia 22209, (703) 235-2782.

Signed at Washington, D.C. this 1st day of May 1979.

James M. Rosbrow,

Executive Director, National Commission on Unemployment Compensation.

[FR Doc. 79-14346 Filed 5-7-79; 8:45 am]
BILLING CODE 4510-30-M

NATIONAL SCIENCE FOUNDATION

Executive Committee of the Advisory Committee for Ocean Sciences; Meeting

In accordance with the Federal Advisory Committee Act, Pub. L. 92-463, as amended, the National Science Foundation announces the following meeting:

Name: Executive Committee of the Advisory Committee for Ocean Sciences.
Date and Time: May 24 and 25, 1979—9:00 a.m. to 5:00 p.m. each day.
Place: Room 543, National Science Foundation, 1800 G Street, NW Washington, DC.
Type of Meeting: Open.
Contact Person: Dr. Dirk Frankenberg, Director, Division of Ocean Sciences, Room 609, National Science Foundation, Washington, DC 20550. Telephone (202) 632-5913.
Summary Minutes: May be obtained from the Committee Management Coordinator, Division of Financial and Administrative Management, Room 238, 1800 G Street, NW, Washington, DC 20550.
Purpose of Committee: To provide advice and recommendations concerning oceanographic research and its support by the NSF's Division of Ocean Sciences.
Agenda: May 24, 1979.
1) Review and Approve minutes of last meeting—R. Dugdale
2) Establish a more rapid procedure for approving minutes of meeting—R. Dugdale
3) Report on IDOE/CORES—Grant Gross
a. progress report on establishment of CORES
b. status report on preliminary proposals discussed at October meeting
c. plans for review of 1979 preliminary and full-scale proposals
4) Report on UNOLS fleet, funding shortfall, and *Alpha Helix* status—M. K. Johrde
5) Study on Ocean Sciences Research Facility Requirements 1980-85—D. Frankenberg
Agenda May 25, 1979.
6) Review and Oversight Plans for Oceanography Section Programs—J. Byrne
7) Structure of the Ocean Sciences Division Advisory Committee—D. Frankenberg
8) Rotation of Executive Committee—R. Dugdale

May 3, 1979.

M. Rebecca Winkler,

Committee Management Coordinator.

[FR Doc. 79-14347 Filed 5-7-79; 8:45 am]
BILLING CODE 7555-01-M

PRESIDENT'S COMMISSION ON PENSION POLICY

Report of Staff Contacts

The President's Commission on Pension Policy decided in its first public meeting on March 23, 1979 to request that each professional member of the staff maintain a log of contacts of a substantive nature with individuals and groups interested in the activities of the Commission.

During the month of April the Commission staff met with representatives of the following groups and organizations.

Municipal Finance Officers Association.
ERISA Industry Committee.
American Academy of Actuaries.
National Governors' Association.
National Conference of State Legislatures.
U.S. Chamber of Commerce.
National Association of Retired Federal Employees.
Pension Rights Center.
Merrill Anderson Company.
Putnam Sound National Bank.
Council of State Governments.
William M. Mercer Company.
Teachers Insurance and Annuity Association and the College Retirement Equities Fund (TIAA-CREF).
Employee Benefit Research Institute.
Academy for Contemporary Problems.
Mathematica.
OMB and White House Staff.
Staff of the United States Senate and the U.S. House of Representatives.
Staff of the U.S. Department of Housing and Urban Development.
Staff of the Social Security Administration.
Paul Howell, Pension Consultant.

Signed at Washington, D.C., this 2nd day of May 1979.

Thomas C. Woodruff,

Executive Director.

[FR Doc. 79-14321 Filed 5-7-79; 8:45 am]
BILLING CODE 6820-99-M

SECURITIES AND EXCHANGE COMMISSION

Bergstrom Paper Co.; Application and Opportunity for Hearing

April 30, 1979.

Notice is hereby given that Bergstrom Paper Company (the "Applicant") has filed an application pursuant to Section 12(h) of the Securities Exchange Act of 1934, as amended (the "1934 Act"), for

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an order exempting Applicant from the provisions of Sections 13 and 15(d) of the 1934 Act.

The Applicant states that it has no securities owned by the public as the result of a merger with and into P.H. Glatfelter Company on January 30, 1979.

For a more detailed statement of the information presented, all persons are referred to said application which is on file in the offices of the Commission at 1100 L Street, N.W., Washington, D.C. 20549.

Notice is further given that any interested person not later than May 25, 1979, may submit to the Commission in writing his views or any substantial facts bearing on this application or the desirability of a hearing thereon. Any such communication or request should be addressed: Secretary, Securities and Exchange Commission, 1100 L Street, Washington, D.C. 20549, and should state briefly the nature of the interest of the person submitting such information or requesting the hearing, the reason for such request, and the issues of fact and law raised by the application which he desires to controvert. At any time after said date, an order granting the application may be issued upon request or upon the Commission's own motion.

For the Commission, by the Division of Corporation Finance, pursuant to delegated authority.

Shirley E. Hollis,
Assistant Secretary.

[File No. 81-487]
[FR Doc. 79-14258 Filed 5-7-79; 8:45 am]
BILLING CODE 8010-01-M

Hyatt Corp.; Application and Opportunity for Hearing

April 30, 1979.

Notice is hereby given that Hyatt Corporation ("Applicant") has filed an application pursuant to Section 12(h) of the Securities Exchange Act of 1934 (the "1934 Act") for an order granting Applicant an exemption from the periodic reporting requirements of sections 13 and 15(d) of the 1934 Act.

The Applicant states, in part:

1. On February 5, 1979, Applicant was merged into New Hy, Inc., a Delaware corporation which is owned by the principal stockholders of the Applicant prior to the merger. As a result of the merger, Applicant no longer has any publicly traded common stock.

2. Preparation and filing of a final Form 10-K for the fiscal year ended January 31, 1979 would serve no useful purpose.

Applicant argues that the granting of the exemption would not be inconsistent with the public interest or the protection of investors.

For a more detailed statement of the information presented, all persons are referred to said application which is on file in the ofices of the Commission at 1100 L Street, N.W., Washington, D.C. 20549.

Notice is further given that any interested persons not later than May 25, 1979, may submit to the Commission in writing his views or any substantial facts bearing on this application or the desirability of a hearing thereon. Any such communication or request should be addressed: Secretary, Securities and Exchange Commission, 500 North Capitol Street, N.W., Washington, D.C. 20549, and should state briefly the nature of the interest of the person submitting such information or requesting the hearing, the reason for the request, and the issues of fact and law raised by the application which such person desires to controvert. At any time after said date, an order granting the application may be issued upon request or upon the Commission's own motion.

For the Commission, by the Division of Corporation Finance, pursuant to delegated authority..

Shirley E. Hollis,
Assistant Secretary.

[File No. 81-483]
[FR Doc. 79-14260 Filed 5-7-79; 8:45 am]
BILLING CODE 8010-01-M

Hudson Pulp & Paper Corp.; Application and Opportunity for Hearing

April 30, 1979.

Notice is hereby given that the Hudson Pulp & Paper Corp. ("Applicant") has filed an application pursuant to Section 12(h) of the Securities Exchange Act of 1934, as amended (the "1934 Act") for exemption from the filing requirements of Sections 12, 13 and 15(d) of the 1934 Act.

The Application states, in part:

1. The Applicant is a Maine corporation subject to the reporting provisions of Sections 12, 13 and 15(d) of the 1934 Act.

2. On January 19, 1979, the Applicant became a wholly-owned subsidiary of Georgia Pacific Corporation as the result of a merger.

3. There is no trading in Applicant's securities.

In the absence of an exemption, Applicant is required to file certain periodic reports with the Commission pursuant to Sections 12, 13 and 15(d) of the 1934 Act.

The Applicant argues that no public investors will benefit from the filing of the required periodic reports.

For a more detailed statement of the information presented, all persons are referred to said application which is on file in the offices of the Commission at 1100 L Street, N.W., Washington, D.C. 20549.

Notice is further given that any interested person not later than May 25, 1979, may submit to the Commission in writing his views or any substantial facts bearing on this application or the desirability of a hearing thereon. Any such communication or request should be addressed: Secretary, Securities and Exchange Commission, 500 North Capitol Street, N.W., Washington, D.C. 20549, and should state briefly the nature of the interest of the person submitting such information or requesting the hearing, the reason for such request, and the issues of fact and law raised by the application which he desires to controvert.

Persons who request a hearing or advice as to whether a hearing is ordered will receive any notices and orders issued in this matter, including the date of the hearing (if ordered) and any postponements thereof. At any time after said date, an order granting the application may be issued upon request or upon the Commission's own motion.

For the Commission, by the Division of Corporation Finance, pursuant to delegated authority.

Shirley E. Hollis,
Assistant Secretary.

[File No. 81-486]
[FR Doc. 79-14261 Filed 5-7-79; 8:45 am]
BILLING CODE 8010-01-M

Mercury General Corp.; Application and Opportunity for Hearing

April 30, 1979.

Notice is hereby given that Mercury General Corporation ("Applicant") has filed an application, pursuant to Section 12(h) of the Securities Exchange Act of 1934, as amended (the "1934 Act"), for an order granting Applicant an exemption from the provisions of Sections 13 and 15(d) of the 1934 Act.

The Applicant states, in part:

1. On January 3, 1979, Applicant became a wholly-owned subsidiary of California General Management Inc. As a result of the merger, Applicant no longer has any publicly owned common stock.

2. There is no tradng in the common stock of Applicant.

3. The Applicant filed a certification pursuant to Rule 12g-4 of the 1934 Act to terminate registration of its common stock.

In the absence of an exemption, Applicant is required to file reports pursuant to Sections 13 and 15(d) of the 1934 Act and the rules and regulations thereunder for the fiscal year ended December 31, 1978, and for the fiscal year ending December 31, 1979. Applicant believes that its request for an order exempting it from the reporting provisions of Sections 13 and 15(d) of the 1934 Act is appropriate in view of the fact that the time, effort, and expense involved in the preparation of additional periodic reports will be disproportionate to any benefit to the public.

For a more detailed statement of the information presented, all persons are referred to said application which is on file in the offices of the Commission at 1100 L Street, N.W., Washington, D.C.

Notice is further given that any interested person not later than May 25, 1979, may submit to the Commission in writing his views or any substantial facts bearing on this application or the desirability of a hearing thereon. Any such communication or request should be addressed: Secretary, Securities and Exchange Commission, 500 North Capitol Street, N.W., Washington, D.C. 20549, and should state briefly the nature of the interest of the person submitting such information or requesting the hearing, the reasons for the request, and the issues of fact and law raised by the application which such person desires to controvert. At any time, after said date, an order granting the application may be issued upon request or upon the Commission's own motion.

For the Commission, by the Division of Corporation Finance, pursuant to delegated authority.

Shirley E. Hollis,
Assistant Secretary.

[File No. 81-477]
[FR Doc. 79-14262 Filed 5-7-79; 8:45 am]
BILLING CODE 8010-01-M

Metropolitan Development Corp.; Application and Opportunity for Hearing

April 30, 1979.

Notice is hereby given that Metropolitan Development Corporation ("Applicant") has filed an application pursuant to Section 12(h) of the Securities Exchange Act of 1934, as amended (the "1934 Act") for an order granting Applicant an exemption from the provisions of Sections 13 and 15(d) of the 1934 Act.

The Applicant states, in part:

1. Pursuant to an offer to purchase, First City Development Corporation of California acquired 91% of the Applicant's issued and outstanding common stock in early 1979. On March 16, 1979 First City caused a short form cash merger of the Applicant into First City.

2. Registration of Applicant's stock under Section 12(g) of the 1934 Act was terminated effective April 5, 1979.

3. Applicant argues that the granting of the exemption would not be inconsistent with the public interest or the protection of investors, in view of the fact that its securities are no longer publicly held.

For a more detailed statement of the information presented, all persons are referred to said application which is on file in the offices of the Commission at 1100 L Street, NW., Washington, D.C.

Notice is further given that any interested person not later than May 25, 1979, may submit to the Commission in writing his views or any substantial facts bearing on this application or the desirability of a hearing thereon. Any such communication or request should be addressed: Secretary, Securities and Exchange Commission, 500 North Capitol Street, N.W., Washington, D.C. 20549, and should state briefly the nature of the interest of the person submitting such information or requesting the hearing, the reason for the request, and the issues of fact and law raised by the application which such person desires to controvert. At any time, after said date, an order granting the application may be issued upon request or upon the Commission's own motion.

For the Commission, by the Division of Corporation Finance, pursuant to delegated authority.

Shirley E. Hollis,
Assistant Secretary.

[File No. 81-501]
[FR Doc. 79-14283 Filed 5-7-79; 8:45 am]
BILLING CODE 8010-01-M

City of Milan; Application and Opportunity for Hearing

April 30, 1979.

Notice is hereby given that the City of Milan ("Applicant") has filed an application pursuant to Section 12(h) of the Securities Exchange Act of 1934, as amended (the "1934 Act") for exemption from the filing requirements of Section 13 of the 1934 Act.

The Application states, in part:

1. The Applicant is a foreign municipality subject to the reporting provisions of Section 13 of the 1934 Act by virtue of registration under Section 12(b) thereof.

2. On July 18, 1963, the Applicant issued 5 ½% External Loan Bonds ("Bonds") due July 1, 1978 in the principal amount of $20,000,000. Such Bonds were listed on the New York Stock Exchange (the "Exchange").

3. On July 1, 1978, the Applicant provided its paying agent with sufficient funds to redeem all remaining Bonds and such Bonds were removed from listing on the Exchange. The Applicant is not otherwise subject to Sections 12(g) or 15(d) of the 1934 Act.

In the absence of an exemption, Applicant is required to file certain periodic reports with the Commission pursuant to Section 13 of the 1934 Act.

The Applicant argues that no useful purpose would be served in filing the required periodic reports.

For a more detailed statement of the information presented, all persons are referred to said application which is on file in the offices of the Commission at 1100 L St., N.W., Washington, D.C. 20549.

Notice is further given that any interested person not later than May 25, 1979, may submit to the Commission in writing his views or any substantial facts bearing on this application or the desirability of a hearing thereon. Any such communication or request should be addressed: Secretary, Securities and Exchange Commission, 500 North Capitol Street, N.W., Washington, D.C. 20549, and should state briefly the nature of the interest of the person submitting such information or requesting the hearing, the reason for such request, and the issues of fact and law raised by the application which he desires to controvert.

Persons who request a hearing or advice as to whether a hearing is ordered will receive any notices and orders issued in this matter, including the date of the hearing (if ordered) and any postponements thereof. At any time after said date, an order granting the application may be issued upon request or upon the Commission's own motion.

For the Commission, by the Division of Corporation Finance, pursuant to delegated authority.

Shirley E. Hollis,
Assistant Secretary.

[File No. 81-411]
[FR Doc. 79-14259 Filed 5-7-79; 8:45 am]
BILLING CODE 8010-01-M

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New England Electric System; Proposed Issue and Sale of Common Stock Pursuant to a Dividend Reinvestment and Share Purchase Plan

May 1, 1979.

Notice is hereby given that New England Electric System ("NEES"), 20 Turnpike Road, Westborough, Massachusetts 01581, a registered holding company, has filed an application-declaration with this Commission pursuant to the Public Utility Holding Company Act of 1935 ("Act"), designating Sections 6(a) and 7 of the Act and Rules 5(a)(1) and 50(a)(5) promulgated thereunder as applicable to the proposed transaction. All interested persons are referred to the application-declaration, which is summarized below, for a complete statement of the proposed transaction.

By order dated August 1, 1977 (HCAR NO. 20121), NEES was authorized to issue through August 1, 1979 a maximum of 500,000 shares of its authorized common shares, $1 par value, pursuant to a Dividend Reinvestment and Common Share Purchase Plan.

NEES now proposes to issue and sell from time to time through December 31, 1981, up to 500,000 additional shares of its authorized but unissued common stock, par value $1.00, pursuant to a dividend Reinvestment and Common Share Purchase Plan ("Plan"). The proceeds of the sale will be used for investment in NEES' subsidiaries, purchase of additional shares of their capital stocks, or capital contributions for payment of NEES' indebtedness, or for general purposes.

The Plan will be administered by the First National Bank at Boston, or such other bank or trust company as NEES may from time to time designate. All holders of record of NEES's common shares will be eligible to participate. Participants in the Plan may: (a) have cash dividends on their common shares automatically reinvested at a 5% discount, (b) have cash dividends on a portion of their shares automatically reinvested at a 5% discount, (c) continue to receive their cash dividends and invest by making optional cash payments (with no discount) not more frequently than once a month and not less than $25 per payment, or (d) reinvest all or a portion of their cash dividends at a 5% discount and, in addition, invest by making optional cash payments (with no discount). The Company reserves the right to refuse any optional cash payment in excess of $5,000. The price of common shares purchased with invested common dividends will be 95% of the average of the daily averages of the high and low sales prices of the common shares on the New York Stock Exchange Composite Transactions listing during the last five trading days ending with the investment date. The price of common shares purchased with optional cash payments will be 100% of such average. The Investment Dates are the dividend payment dates for the months in which dividends are payable or, if such day is not a trading-day, the next following trading day. For each month in which a dividend is not payable, the Investment Date shall be the first trading day of such month.

A participant may change his investment option at any time. All costs of administration of the Plan will be paid by NEES. There will be no brokerage commissions or service charges to participants in connection with purchases under the Plan. A participant will be able to withdraw from the plan at any time upon written notice. Upon withdrawal the participant will be issued a certificate for the number of shares credited to his account and will receive a cash payment for the value of any fractional share. Participants will retain all voting relating to the shares purchased under the Plan and credited to their accounts and shares will be voted in accordance with the instructions of the participant to whose account they are credited.

NEES will announce the Plan to its shareholders and solicit their participation by mailing to them a summary prospectus. A summary prospectus or similar material will be sent to those who become shareholders after the initial announcement of the Plan. All shareholders who join the Plan will receive a complete prospectus.

NEES states that the proposed issuance and sale of common shares through the reinvestment of dividends is exempted from the competitive bidding requirements of Rule 50 by virtue of 50(a)(1), and request an exemption under Rule 50(a)(5) for the proposed issuance and sale of common shares through the optional cash payments provision of the Plan.

A statement of fees and expenses to be incurred in connection with the proposed transaction will be filed by amendment. It is stated that no state commission and no federal commission, other than this Commission, has jurisdiction over the proposed transaction.

Notice is further given that any interested person may, not later than May 25, 1979, request in writing that a hearing be held on such matter, stating the nature of his interest, the reasons for such request, and the issues of fact or law raised by said application-declaration which he desires to controvert; or he may request that he be notified if the Commission should order a hearing thereon. Any such request should be addressed: Secretary, Securities and Exchange Commission, Washington, D.C. 20549. A copy of such request should be served personally or by mail upon the applicant-declarant at the above-stated address, and proof of service (by affidavit or, in case of an attorney at law, by certificate) should be filed with the request. At any time after said date, the application-declaration, as filed or as it may be amended, may be granted and permitted to become effective as provided in Rule 23 of the General Rules and Regulations promulgated under the Act, or the Commission may grant exemption from such rules as provided in rules 20(a) and 100 thereof or take such other action as it may deem appropriate. Persons who request a hearing or advice as to whether a hearing is ordered will receive any notices or orders issued in this matter, including the date of the hearing (if ordered) and any postponements thereof.

For the Commission, by the Division of Corporate Regulation, pursuant to delegated authority.

Shirley E. Hollis,
Assistant Secretary.

[Rel. No. 21026; 70-6295]
[FR Doc. 79-14284 Filed 5-7-79; 8:45 am]
BILLING CODE 8010-01-M

Olinkraft, Inc.; Application and Opportunity for Hearing

April 30, 1979.

Notice is hereby given that Olinkraft, Inc. ("Applicant") has filed an application pursuant to Section 12(h) of the Securities Exchange Act of 1934, as amended (the "1934 Act"), seeking an exemption from the requirement to file reports pursuant to Sections 13 and 15(d) of the 1934 Act.

The Applicant states in part:

1. The Applicant was a publicly-held company with a class of securities registered pursuant to Section 12(b) of the 1934 Act, and was thus subject to the reporting provisions of Section 13 of the 1934 Act.

2. On January 19, 1979, the Applicant was merged with Johns-Manville Corporation pursuant to an Agreement and Plan of Reorganization dated November 9, 1978.

3. As a result of the merger, all the issued and outstanding shares of common stock of the Applicant are now owned by Johns-Manville Corporation.

4. After termination of its Section 12(b) registration on March 5, 1979, Applicant is subject to the reporting provisions of Section 15(d) of the 1934 Act.

In the absence of an exemption, Applicant will be required to file certain periodic reports with the Commission, including an annual report on Form 10-K for the fiscal year ended December 31, 1978, pursuant to Section 13 of the 1934 Act, and further reports for periods ending in 1979 pursuant to Section 15(d) of the 1934 Act.

The Applicant contends that no useful purpose would be served in filing the periodic reports because Johns-Manville Corporation now owns all of the Applicant's common stock, and its common stock is no longer publicly traded.

For a more detailed statement of the information presented, all persons are referred to said application which is on file in the Office of the Commission at 1100 L Street, N.W., Washington, D.C. 20549.

Notice is further given that any interested person not later than May 25, 1979, may submit to the Commission in writing his views on any substantial facts bearing on the application or the desirability of a hearing thereon. Any such communication or request should be addressed: Secretary, Securities and Exchange Commission, 500 North Capitol Street, N.W., Washington, D.C. 20549, and should state briefly the nature of the person submitting such information or requesting the hearing, the reason for such request, and the issues of fact and law raised by the application which he desires to controvert.

Persons who request a hearing or advice as to whether a hearing is ordered will receive any notices and orders issued in this matter, including the date of the hearing (if ordered) and any postponements thereof. At any time after said date, an order granting the application may be issued upon request or upon the Commission's own motion.

For the Commission, by the Division of Corporation Finance, pursuant to delegated authority.

Shirley E. Hollis,
Assistant Secretary.

[File No. 81-490]
[FR Doc. 79-14265 Filed 5-7-79; 8:45 am]
BILLING CODE 8010-01-M

Southern Co. and Southern Co. Services, Inc.; Proposal by Service Co. to Increase Amount of Notes Outstanding

Notice is hereby given that The Southern Company ("Southern"), 64 Perimeter Center East, P.O. Box 720071, Atlanta, Georgia 30346, a registered holding company, and Southern Company Services, Inc. ("Services"), 64 Perimeter Center East, P.O. Box 720071, Atlanta, Georgia 30346, a service company subsidiary of Southern, have filed an application-declaration and an amendment thereto with this Commission pursuant to the Public Utility Holding Company Act of 1935 ("Act") designating Sections 6(a), 7 and 12 of the Act and rules 45 and 50 promulgated thereunder as applicable to the proposed transactions. All interested persons are referred to the application-declaration, which is summarized below, for a complete statement of the proposed transactions.

Services provides certain services for Southern and its associate companies in the Southern system pursuant to authorization of the Commission. It is stated that expansion in the amount of such services provided in recent years has resulted in a substantial increase in the amount of Services' necessary working capital needs. Services presently has authority from the Commission to issue and sell up to $30,000,000 aggregate principal amount of unsecured notes to Southern and to issue up to $22,000,000 aggregate principal amount of unsecured notes to Aetna Life Insurance Company ("Aetna"). The Commission's order authorizing the sale of notes to Aetna, dated February 22, 1977 (HCAR No. 19893), contemplates that borrowings made pursuant to such authority and borrowings made pursuant to the Commission's order authorizing the borrowings from Southern will aggregate not more than $30,000,000 at any one time outstanding.

Services' working capital needs have continued to increase to the point that they are now expected to be approximately $42,000,000 during 1979 and up to $45,000,000 during 1980. Services proposes that the aggregate principal amount of notes which Services is authorized by the Commission to issue be increased to $50,000,000, consisting of the presently authorized $22,000,000 in notes to Aetna; up to $20,000,000 in notes to Credit Lyonnais as described below; and the balance to Southern. It is proposed that the maximum principal amount at any one time outstanding will not exceed $50,000,000 until further authorization from the Commission.

Services proposes to enter into an agreement ("Loan Agreement") to issue and sell unsecured notes ("Notes") in an aggregate principal amount not to exceed $20,000,000 to Credit Lyonnais ("Bank"). It is proposed that the Notes will be guaranteed by Southern as to principal, premium, if any, and interest. It is expected that the Notes will represent a significant saving to Services in interest cost over its current borrowings and other currently available means of financing. The following are the proposed terms of the Notes: The interest rate will be either (a) The applicable London Interbank Offering Rate ("LIBOR"), as quoted to the Bank on the date of quotation, plus ⅝ of 1% in the first three years; plus ¾ of 1% during the years 4 through 6; and plus ⅞ of 1% during the years 7 and 8, or (b) 107% of the applicable prime rate from time to time established by the Bank. The election of one of the foregoing rate bases will be made by Services at each interest interval and will apply for such. Interest will be payable at the end of each calendar quarter.

The interest rate, whether based upon the LIBOR or upon the prime rate, will be adjusted at periodic intervals throughout the life of the Loan Agreement, with the length of each such interval, subject to the limitations below, to be determined by Services. Such intervals may vary between 30 and 90 days in the event that Services shall elect to use the interest rate calculation formula based upon the Bank's prime rate, or shall vary between 30 and 180 days if Services shall elect to use the LIBOR based rate. Regardless of whether the prime rate basis or the LIBOR basis is used, the applicable interest rate will be fixed for the duration of each interest interval.

The Notes will mature eight years from the date thereof, with principal to be repaid in five equal annual installments, commencing at the end of the fourth year.

Prepayment will be permitted without penalty at any time, provided that the applicable interest payment basis prevailing at the time of the request for prepayment is the prime rate basis. If at the time of the prepayment request the interest rate is determined on the LIBOR basis, then prepayment without penalty will be permitted on the date corresponding to the end of the then current interest interval. In the event that prepayment is solicited prior to the end of such LIBOR based interest interval, the Bank will charge a penalty

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for such prepayment equal to the Bank's out-of-pocket cost for settling its offsetting LIBOR based transaction, provided that, if no such cost is incurred by the Bank, then no prepayment penalty will be imposed.

The net proceeds from the sale of the Notes will be applied: to redeem Services' Notes to CIT Corporation outstanding at the time of the sale; to finance to acquisition of fixed assets; to increase Services' working capital; and to the extent not required for the foregoing purposes, to reduce Services' outstanding borrowings from Southern.

Southern and Services request that the proposed transactions be excepted from the competitive bidding requirements of Rule 50 pursuant to paragraph (a)(5) thereof for the reasons that such requirements are impracticable with respect to the proposed transactions and are unnecessary for the protection of investors or consumers to assure the maintenance of competitive conditions.

A statement of the fees, commissions and expenses to be incurred in connection with the proposed transactions will be filed by amendment. It is stated that no state or federal commission, other than this Commission, has jurisdiction over the proposed transactions.

Notice is further given that any interested person may, not later than May 24, 1979, request in writing that a hearing be held on such matter, stating the nature of his interest, the reasons for such request, and the issues of fact or law raised by the filing which he desires to controvert; or he may request that he be notified if the Commission should order a hearing thereon. Any such request should be addressed: Secretary, Securities and Exchange Commission, Washington, D.C. 20549. A copy of such request should be served personally or mail upon the applicants-declarants at the above-stated address, and proof of service (by affidavit or, in case of an attorney at law, by certificate) should be filed with the request. At any time after said date, the application-declaration, as amended or as it may be further amended, may be granted and permited to become effective as provided in Rule 23 of the General Rules and Regulations promulgated under the Act, or the Commission may grant exemption from such rules as provided in Rules 20(a) and 100 thereof or take such other action as it may deem appropriate. Persons who request a hearing or advice as to whether a hearing is ordered will receive any notices or orders issued in this matter, including the date of the hearing (if ordered) and any postponements thereof.

For the Commission, by the Division of Corporate Regulation, pursuant to delegated authority.

Shirley E. Hollis,

Assistant Secretary.

[Release No. 21024; 70-6287]

[FR Doc. 79-14266 Filed 5-7-79; 8:45 am]

BILLING CODE 8010-01-M

Unifund, Inc.; Filing of Application for Order Declaring That Applicant Has Ceased To Be an Investment Company

May 1, 1979.

Notice is hereby given that Unifund, Inc. ("Applicant"), 727 S. Main Street, Burbank, California 91506, registered under the Investment Company Act of 1940 ("Act") as an open-end, diversified, management investment company, filed an application on May 11, 1978, requesting an order of the Commission, pursuant to Section 8(f) of the Act, declaring that Applicant has ceased to be an investment company as defined by the Act. All interested persons are referred to the application on file with the Commission for a statement of the representations contained therein, which are summarized below.

Applicant states that it is a California corporation which registered under the Act on December 7, 1964, and that 1 million shares of its common stock were registered for issuance under the Securities Act of 1933.

According to the application, on January 31, 1977, pursuant to an Agreement and Plan of Reorganization ("Plan"), Paramount Mutual Fund, Inc. ("PMF"), an investment company registered under the Act, acquired substantially all of the assets of Applicant, including all of Applicant's portfolio securities, and assumed the outstanding liabilities of Applicant, in exchange for shares of common stock of PMF. Applicant states that its board of directors authorized and recommended the adoption of said Plan, and that the Plan was approved by a majority vote of the outstanding shares of Applicant at a meeting held on January 25, 1977. The application states that the number of PMF shares issued to Applicant was determined by dividing the net assets of Applicant by the net asset value per share of PMF, in each case, determined as of January 31, 1977. Applicant states that the PMF shares it received were distributed on a pro rata basis to each of Applicant's shareholders. Applicant further states that, as of January 31, 1977, it had net assets of $1,710,091, a net asset value of $9.59 per share, and 178,320 shares outstanding. According to the application, on such date the net asset value of PMF was $8.71 per share, and 196,331 shares of PMF were distributed to Applicant's shareholders.

The application further states that, as of the date of the application, Applicant had no assets or debts, and was not a party to any litigation or administrative proceeding. Applicant states that it is not engaged, and does not propose to engage, in any business activities other than those necessary for the winding up of its affairs, and that distribution to all of Applicant's shareholders has been made in full. Applicant further states that on January 31, 1977, the appropriate documents of dissolution were filed with the State of California.

Section 8(f) of the Act provides, in pertinent part, that when the Commission, upon application, finds that a registered investment company has ceased to be an investment company, it shall so declare by order and upon the taking effect of such order the registration of such company under the Act shall cease to be in effect.

Notice is further given that any interested person may, not later than May 25, 1979, at 5:30 p.m., submit to the Commission in writing a request for a hearing on the matter accompanied by a statement as to the nature of his interest, the reason for such request, and the issues, if any, of fact or law proposed to be controverted, or he may request that he be notified if the Commission shall order a hearing thereon. Any such communication should be addressed: Secretary, Securities and Exchange Commission, Washington, D.C. 20549. A copy of such request shall be served personally or by mail upon Applicant at the address stated above. Proof of such service (by affidavit or, in the case of an attorney-at-law, by certificate) shall be filed contemporaneously with the request. As provided by Rule 0-5 of the Rules and Regulations promulgated under the Act, an order disposing of the application will be issued as of course following said date unless the Commission thereafter orders a hearing upon request or upon the Commission's own motion. Persons who request a hearing, or advice as to whether a hearing is ordered, will receive any notices and orders issued in this matter, including the date of the hearing (if ordered) and any postponements thereof.

For the Commission, by the Division of Investment Management, pursuant to delegated authority.

Shirley E. Hollis,

Assistant Secretary.

[Release No. 10679; 811-1296]

[FR Doc. 79-14287 Filed 5-7-79; 8:45 am]

BILLING CODE 8010-01-M

WJA Realty, Successor to World Jai-Alai, Inc.; Application and Opportunity for Hearing

April 30, 1979.

Notice is hereby given that WJA Realty ("WJA"), a Massachusetts limited partnership, has filed as successor to World Jai-Alai, Inc. ("World") an application pursuant to Section 12(h) of the Securities Exchange Act of 1934, as amended, (the "1934 Act"), seeking for World an exemption from the reporting requirements of Section 13 and 15(d) of that Act.

The Application states in part:

1. WJA Delaware, Inc. a wholly-owned subsidiary of WJA, was merged with and into World effective November 22, 1978 and World was thereafter liquidated. Prior to such merger and liquidation, World was the issuer of a class of securities registered under Section 12(g) of the 1934 Act.

2. Stockholders of World at the time of the merger had the right to appraisal under Delaware law.

3. In connection with the merger, a registration statement was filed by WJA on Form S-14, File No. 2-61010, and declared effective on June 16, 1978.

4. A current report on Form 8-K dated November 22, 1978 was filed by World with the Commission in connection with its merger and liquidation.

5. A certification on Form 12g-4 was filed by World with the Commission on December 5, 1978 to terminate registration of its common stock, par value $.10 per share, pursuant to Section 12(g)(4) of the 1934 Act.

In the absence of an exemption, WJA, as successor to World, is required to file pursuant to Sections 13 and 15(d) of the 1934 Act and the rules and regulations thereunder, an annual report on Form 10-K for World's fiscal year ending June 30, 1979. WJA states that no useful purpose would be served in filing such annual report on Form 10-K and that its request for an order exempting it from the provisions of Sections 13 and 15(d) of the 1934 Act is appropriate in view of the fact that WJA believes that the time, effort and expense involved in preparation of such annual report on Form 10-K would be disproportionate to any benefit to the public.

For a more detailed statement of the information presented, all persons are referred to the application which is on file in the offices of the Commission at 1100 L Street, N.W., Washington, D.C. 20549.

Notice is further given that any interested person not later than May 25, 1979, may submit to the Commission in writing his views or any substantial facts bearing on this application or the desirability of a hearing thereon. Any such communication or request should be addressed to: Secretary, Securities and Exchange Commission, 500 North Capitol St., N.W., Washington, D.C. 20549, and should state briefly the nature of the interest of the person submitting such information or requesting the hearing, the reasons for such request, and the issues of fact and law raised by the application which he desires to controvert. Persons who request a hearing or advice as to whether a hearing is ordered will receive any notices or orders issued in this matter, including the date of the hearing (if ordered) and any postponements thereof. At any time after that date, an order granting the application in whole or in part may be issued upon request or upon the Commission's own motion.

For the Commission, by the Division of Corporation Finance, pursuant to delegated authority.

Shirley E. Hollis,

Assistant Secretary.

[File No. 81-452]

[FR Doc. 79-14288 Filed 5-7-79; 8:45 am]

BILLING CODE 8010-01-M

SMALL BUSINESS ADMINISTRATION

Agribusiness Capital Co.; Issuance of a Small Business Investment Company License

On July 27, 1978, a notice was published in the **Federal Register** (43 FR 32484) stating that an application had been filed by Agribusiness Capital Company, 1401 North Western Avenue, Lake Forest, Illinois 60045, with the Small Business Administration (SBA) pursuant to Section 107.102 of the Regulations governing small business investment companies (12 CFR 107.102 (1978)) for a license as a small business investment company.

Interested parties were given until close of business August 11, 1978, to submit their comments to SBA. No comments were received.

Notice is hereby given that, pursuant to Section 301(c) of the Small Business Investment Act of 1958, as amended, after having considered the application and all other pertinent information, SBA issued License No. 05/05-0127 on April 19, 1979, to Agribusiness Capital Company to operate as a small business investment company.

(Catalog of Federal Domestic Assistance Program No. 59.011, of Small Business Investment Companies)

Dated: May 2, 1979.

Peter F. McNeish,

Deputy Associate Administrator for Finance and Investment.

[License No. 05/05-0127]

[FR Doc. 79-14359 Filed 5-7-79; 8:45 am]

BILLING CODE 8025-01-M

Missouri; Declaration of Disaster Loan Area

Clay County and adjacent counties within the State of Missouri constitute a disaster area as a result of damage caused by tornadoes, winds, rain and flooding which occurred on April 11, 1979. Applications will be processed under provisions of Pub. L. 94-305. Interest rate is 7¾ percent. Eligible persons, firms and organizations may file applications for loans for physical damage until close of business on July 2, 1979, and for economic injury until close of business on February 4, 1980, at: Small Business Administration District Office, 12 Grand Bldg., 5th Floor, 1150 Grand Avenue, Kansas City, Missouri 64106, or other locally announced locations.

(Catalog of Federal Domestic Assistance Program Nos. 59002 and 59008).

Dated: May 2, 1979.

A. Vernon Weaver,

Administrator.

[Declaration of Disaster Loan Area 1625]

[FR Doc. 79-14358 Filed 5-7-79; 8:45 am]

BILLING CODE 8025-01-M

New York; Declaration of Disaster Loan Area

Chautauqua, Erie and Jefferson Counties and adjacent counties within the State of New York constitute a disaster area as a result of damage caused by high winds, ice, and flooding which occurred on or about April 6-7, 1979. Applications will be processed under the provisions of Pub. L. 94-305. Interest rate is 7% percent. Eligible persons, firms and organizations may file applications for loans for physical damage until the close of business on June 29, 1979, and for economic injury until the close of business on January 29, 1980, at: Small Business Administration, District Office, 26 Federal Plaza, Room 3100, New York, New York 10007, or other locally announced locations.

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(Catalog of Federal Domestic Assistance Program Nos. 59002 and 59008.)

Dated: April 30, 1979.

A. Vernon Weaver,
Administrator.

[Declaration of Disaster Loan Area 1623]
[FR Doc. 79-14356 Filed 5-7-79; 8:45 am]
BILLING CODE 8025-01-M

Texas; Declaration of Disaster Loan Area

As a result of the President's major disaster declaration I find that Hardin, Harris, Jefferson, Liberty, Montgomery and Orange Counties, and adjacent counties within the State of Texas, constitute a disaster area because of damage resulting from severe storms, tornadoes and flooding beginning on or about April 18, 1979. Applications will be processed under the provisions of Pub. L. 94–305. Interest rate is 7⅜ percent. Eligible persons, firms and organizations may file applications for loans for physical damage until the close of business on June 25, 1979, and for economic injury until close of business on January 28, 1980, at: Small Business Administration, District Office, One Allen Center, Suite 705, 500 Dallas Street, Houston, Texas 77002, or other locally announced locations.

(Catalog of Federal Domestic Assistance Program Nos. 59002 and 59008).

Dated: May 2, 1979.

A. Vernon Weaver,
Administrator.

[Declaration of Disaster Loan Area 1626]
[FR Doc. 79-14357 Filed 5-7-79; 8:45 am]
BILLING CODE 8025-01-M

Wisconsin; Declaration of Disaster Loan Area

Waupaca County and adjacent counties within the State of Wisconsin constitute a disaster area as a result of damage caused by flooding which occurred on March 24, 1979. Applications will be processed under provisions of Pub. L. 94–305. Interest rate is 7⅜ percent. Eligible persons, firms and organizations may file applications for loans for physical damage until the close of business on July 2, 1979, and for economic injury until the close of business on February 4, 1980, at: Small Business Administration, District Office, 212 East Washington Avenue—2nd Floor, Madison, Wisconsin 53703, or other locally announced locations.

(Catalog of Federal Domestic Assistance Program Nos. 59002 and 59008.)

Dated: May 2, 1979.

A. Vernon Weaver,
Administrator.

[Declaration of Disaster Loan Area 1624]
[FR Doc. 79-14355 Filed 5-7-79; 8:45 am]
BILLING CODE 8025-01-M

North Dakota; Declaration of Disaster Loan Area

As a result of the President's major disaster declaration, I find that the following 40 counties; Barnes, Benson, Bottineau, Burke, Burleigh, Cass, Cavalier, Dickey, Divide, Eddy, Emmons, Foster, Grand Forks, Griggs, Kidder, LaMoure, Logan, McHenry, McLean, Mercer, Morton, Mountrail, Nelson, Oliver, Pembina, Pierce, Ramsey, Renville, Richland, Rolette, Sargent, Steele, Stutsman, Towner, Traill, Walsh, Wells, Ward, Williams and adjacent counties within the State of North Dakota, constitute a disaster area because of damage resulting from severe storms, snowmelt and flooding beginning on or about April 11, 1979. Applications will be processed under the provisions of Pub. L. 94–305. Interest rate is 7⅜ percent. Eligible persons, firms and organizations may file applications for loans for physical damage until the close of business on June 25, 1979, and for economic injury until close of business on January 28, 1980, at: Small Business Administration, District Office, Federal Office Building, Room 218, 653–2nd Avenue North, Fargo, North Dakota 58102, or other locally announced locations.

(Catalog of Federal Domestic Assistance Program Nos. 59002 and 59008).

Date: May 1, 1979.

A. Vernon Weaver,
Administrator.

[Declaration of Disaster Loan Area #1627]
[FR Doc. 79-14360 Filed 5-7-79; 8:45 am]
BILLING CODE 8025-01-M

Region II Advisory Council Meeting; Public Meeting

The Small Business Administration Region II Advisory Council, located in the geographical area of Hato Rey, will hold a public meeting at 9:30 a.m., on Tuesday, June 12, 1979, at the Federico Degetau Federal Building, Room 756, Carlos Chardón Avenue, Hato Rey, Puerto Rico, to discuss such business as may be presented by members, staff of the Small Business Administration, or others present.

For further information, write or call Antonio Yordán, District Director, U.S. Small Business Administration, Federico Degetau Federal Building, Room 691, Carlos Chardón Avenue, Hato Rey, Puerto Rico 00918–(809) 753–4218.

Dated: May 3, 1979.

K Drew,
Deputy Advocate for Advisory Councils.

[FR Doc. 79-14354 Filed 5-7-79; 8:45 am]
BILLING CODE 8025-01-M

Trammell Crow Investment Co.; Application for Transfer of Control of a Licensed Small Business Investment Company

Notice is hereby given that an application has been filed with the Small Business Administration (SBA), pursuant to Section 107.701 of the regulations governing small business investment companies (13 CFR Section 107.701 (1978)), for the transfer of control of Trammell Crow Investment Company (TCIC), located at 2001 Bryan Street, Dallas, Texas 75201, a Federal Licensee under the Small Business Investment Act of 1958, as amended, (the Act), (15 U.S.C. 661 et seq.) and the Rules and Regulations promulgated thereunder.

TCIC was licensed by SBA on April 13, 1961, and its present paid-in capital and paid-in surplus is $529,000. The present shareholders are as follows:

Trammell Crow—66.6 percent.
Trammell S. Crow—33.4 percent.

It is proposed that Henry Billingsley acquire 100 percent of the Licensee's stock now held by his father-in-law, Trammell Crow, and his brother-in-law, Trammell S. Crow.

The proposed transfer of control is subject to the prior approval of SBA. If such approval is given, the new officers and directors of TCIC will be:

Henry Billingsley, 3921 Potomac, Dallas, Texas 75205—President, Director.
Trammell Crow, 4500 Preston Road, Dallas, Texas 75205—Vice President, Director.
Hubert H. Young, Jr., 12126 Forestwood Circle, Dallas, Texas 75234—Secretary, Director.
Mary Laura Verner, 6108 Junius, Dallas, Texas 75214—Treasurer.
Lucy Crow Billingsley, 3921 Potomac, Dallas, Texas 75205—Director.

Matters involved in SBA's consideration of the application include the general business reputation and character of management and shareholders, and the probability of successful operations of TCIC under their management, in accordance with the Act and Regulations.

Notice is further given that any person may, not later than May 23, 1979, submit to SBA in writing comments on the proposed transfer of control of this company. Any such comments should be addressed to: Associate Administrator for Finance and Investment, Small Business Administration, 1441 "L" Street, N.W., Washington, D.C. 20416.

A copy of this notice will be published by TCIC in a newspaper of general circulation in Dallas, Texas.

(Catalog of Federal Domestic Assistance Program No. 59.011, Small Business Investment Companies).

Dated: May 1, 1979.

Peter F. McNeish,
Deputy Associate Administrator for Finance and Investment.

[License NO. 06/10/0044]
[FR Doc. 79-14361 Filed 5-7-79; 8:45 am]
BILLING CODE 8025-01-M

DEPARTMENT OF STATE

Office of the Secretary

United States-Spain Joint Committee for Scientific and Technological Cooperation—Cooperative Research Grants

The United States-Spain Joint Committee for Scientific and Technological Cooperation, established under the Treaty of Friendship and Cooperation with Spain (TIAS 8360, signed at Madrid January 24, 1976), announces the availability of grants for research activities conducted jointly by Spanish and United States scientists. These grants will be made as part of the second annual program conducted under Supplementary Agreement No. 3 of the Treaty which provides for Scientific and Technological cooperation between the two countries. The amount available for such grants totals $500,000 and will be used only for activities which have not previously been funded under Supplementary Agreement No. 3.

1. Procedures

Grants will be made for the support of cooperative research projects under the direction of a Spanish and a United States principal investigator.

The proposal for a cooperative research grant must be prepared jointly by the Spanish and United States principal investigators. The Spanish principal investigator is responsible for the description in Spanish of that part of the cooperative project which is to be carried out at the Spanish center which he represents. Similarly, the U.S. principal investigator will prepare in English that part of the cooperative project which is to be carried out in the U.S. center.

2. Eligibility

Not for profit institutions and U.S. Government agencies are eligible to submit proposals in conjunction with similar Spanish institutions and Government agencies.

3. Amount, Nature and Period of the Grants

(a) The grants will be made for the amount approved by the Joint Committee, which will take into account the budgets submitted by the Spanish and United States principal investigators. The grant to the Spanish principal investigator will be made to the Spanish institution which he/she represents, and the grant to the U.S. principal investigator will be made to his/her U.S. institution.

(b) The Spanish side of the Joint Committee has designated as being of special interest proposals which involve (1) more than one Spanish institution, and (2) research in the oceanography of the Spanish continental shelf, the quality of terrestrial and maritime waters in the coastal zone, and solid state physics and its applications.

(c) The normal period of the grant will be 12 months, from July, 1979 to June, 1980. However, if in the course of the development of the work plan a longer period (maximum of three years) is determined to be appropriate, the proposers shall indicate their desire to have the grant renewed. Requests for grant renewals will be made by means of new proposals in the following program cycle, on the condition that the activity reports presented at the end of the original grant period are favorable.

4. Presentation of Proposals

Proposals and supplementary documents must be presented in triplicate to the Executive Secretariat of the United States-Spanish Joint Committee for Scientific and Technological Cooperation, Calle Cartagena 83–85, 3°, Madrid 28, Spain within a maximum period of three months from the date of the publication of this announcement in the **Federal Register.**

Grant application forms are available from the Executive Secretariat at the above address or from Mr. Wilfred F. Declercq, Bureau of Oceans and International Environmental and Scientific Affairs, Room 4328, Department of State, Washington, D.C. 20520.

The applications require the following information to be submitted: Project title, the names, position titles, institutional addresses and professional curriculum vitae of the United States and Spanish principal investigators; a summary of the proposed research; a statement of common objectives and the advantages to be gained from the cooperation; the research plan of each principal investigator; the human and material resources each has available for the project; a bibliography on the research subject; budgets for the United States and Spanish parts of the project, and administrative approval by the appropriate official of each institution.

5. Selection

Proposals will be evaluated by a joint group of United States and Spanish experts designated by the Co-Chairmen of the Joint Committee.

The joint group of experts, when necessary for the evaluation of proposals, may interview applicants or request additional information.

When the selection is completed, the joint group of experts will transmit its recommendations to the Joint Committee for final decision.

6. Reporting Obligations of Grantees

Grantees shall present to the Executive Secretariat, in triplicate, semi-annual reports on the work accomplished with an indication of the results achieved; these reports will be evaluated by the joint group of experts.

Dated: April 30, 1979.

Thomas R. Pickering,
Assistant Secretary of State for Oceans and International Environmental and Scientific Affairs.

[Public Notice 662]
[FR Doc. 79-14236 Filed 5-7-79; 8:45 am]
BILLING CODE 4710-09-M

United States-Spain Joint Committee for Scientific and Technological Cooperation—Postdoctoral Research and Travel Grants

The United States-Spain Joint Committee for Scientific and Technological Cooperation, established under the Treaty of Friendship and Cooperation with Spain (TIAS 8360; signed at Madrid January 24, 1976), announces the availability of postdoctoral research grants for U.S. scientific research personnel for the purpose of carrying out research in Spain. The term of the grant will be from six to twelve months. In addition, short term travel grants will be awarded to qualified U.S. scientists in order that they may travel to Spain to exchange information on specific research topics or to learn special techniques. This type of grant will have a maximum term of three months.

1. Scope of Grants

Grants are available in the following areas of research:

(a) Agriculture.
(b) Natural resources.

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(c) Oceanography.
(d) Environment.
(e) Urban and regional planning.
(f) Industrial technology.
(g) Energy.
(h) Biomedical sciences.
(i) Basic sciences.

The grant period will begin between September 1, 1979 and January 31, 1980; in special circumstances, the Joint Committee may authorize a grant period to begin at an earlier or later date. The postdoctoral research grants may be extended for an additional year, provided a proper application for extension is submitted by the grantee and his/her quarterly reports receive a favorable review.

2. Requirements

Applicants must meet the following requirements:

(a) Be a U.S. citizen or be a regular member of the U.S. scientific community.

(b) Possess a Doctoral degree, or have equivalent experience.

(c) Have knowledge of written and spoken Spanish.

(d) Submit proof of acceptance by the Spanish University or research center where the applicant wishes to carry out his/her work.

(e) Not be the recipient of any other financial aid or grant for the same purpose.

3. Amount and Nature of Grants

The grant award will include:

(a) Round-trip airfare (economy class) between the grantee's usual residence and his/her final destination in Spain by the most direct route.

(b) Health and accident insurance in Spain during the grantee's stay on the grant (for postdoctoral grants only).

(c) Subsistence at the rate of $1,000 per month for grants of more than one month's duration; current U.S. Government per diem rates will be paid for grants of one month or less.

Outbound travel will not be paid for those persons who, upon initiating the grant activity, are already in Spain.

When two grantees are married and reside in the same city in Spain during the period of their grants, the monthly stipend of one of them will be reduced by 50 percent.

4. Presentation of Applications

Application forms may be obtained from the Executive Secretariat of the United States-Spanish Joint Committee for Scientific and Technological Cooperation (Calle Cartagena, 83–85, third floor, Madrid 28, telephone 256.0408), or from Mr. Wilfred F. Declercq, Bureau of Oceans and International Environmental and Scientific Affairs, Room 4328, Department of State, Washington, D.C. 20520. Three copies of the form and any accompanying documents (with the exception of reference 5—see 5(g) below) must be submitted to the Executive Secretariat within three months of the date of publication of this Notice in the **Federal Register**.

5. Documents to be presented.

(a) Application form completed and signed.

(b) Professional resume.

(c) Description of the planned research.

(d) Written evidence of acceptance as referenced in paragraph 2(d).

(e) Certification of knowledge of Spanish as referenced in paragraph 2(c).

(f) Proof of possession of doctorate degree (or academic transcripts for non-doctorate holders).

(g) Two letters of reference from professors or researchers who have supervised or directed research done by applicant in his/her field. These letters should be submitted directly to the Executive Secretariat by the authors at the same time the grant application is submitted.

6. Selection

Applications will be evaluated by a joint United States-Spanish panel appointed by the co-chairmen of the United States-Spain Joint Committee for Scientific and Technological Cooperation.

The panel may request additional information concerning any application and conduct personal interviews with the applicant.

The panel will send to the Joint Committee a list of applicants which it recommends for grants. On the basis of this recommendation, the Joint Committee will make the final award of grants.

7. Certain Obligations of Grantees

(a) To conduct his/her activity on the research project in accordance with the practices of the host institution.

(b) To submit to the Executive Secretariat of the Joint Committee on a quarterly basis (or at the end of the stay if the grant period is shorter) a report of the work carried out and the results obtained. This report should be signed by the department head or supervising scientist at the host institution.

8. Payment Schedule

The grant stipend will be paid before the start of each quarter after the quarterly report referenced in paragraph 7 is approved. This rule will not apply to the first quarter payment.

9. Early Termination of Grant

If a grantee terminates his/her research before expiration of the grant, he/she should immediately notify the Executive Secretariat in writing. The Joint Committee will examine the reasons for the early termination and if it finds the reasons unjustifiable it may require the grantee to reimburse the Joint Committee for the amounts paid to him/her (including the cost of air fare).

10. Renewal of Grant.

Under special circumstances, a grantee who needs more time in Spain to finish his/her research may be awarded a renewal of the grant. A written request must be sent to the Executive Secretariat well in advance of the proposed renewal date.

Dated: April 30, 1979.

Thomas R. Pickering,
Assistant Secretary of State For Oceans and International Environmental and Scientific Affairs.

[Public Notice 663]
[FR Doc. 79-14287 Filed 5-7-79; 8:45 am]
BILLING CODE 4710-08-M

DEPARTMENT OF THE TREASURY

Customs Service

Certain Textiles and Textile Products From Colombia; Amendment of Final Countervailing Duty Determination

AGENCY: U.S. Customs Service, Treasury Department.

ACTION: Amendment of Final Countervailing Duty Determination.

SUMMARY: This notice is to inform the public that the Treasury Department has determined that the Government of Colombia no longer gives benefits which constitute bounties or grants under the countervailing duty law on the manufacture, production or exportation of certain leather wearing apparel, which until recently were duty-free, were receiving such bounties or grants.

EFFECTIVE DATE: March 1, 1979.

FOR FURTHER INFORMATION CONTACT: Donald W. Eiss, Office of Tariff Affairs, Department of the Treasury, 15th Street and Pennsylvania Avenue, NW., Washington, D.C. 20220 (202–544–8256).

SUPPLEMENTARY INFORMATION: On November 16, 1978, a notice of "Final Countervailing Duty Determination" regarding certain textiles and textile products from Colombia was published in the **Federal Register** (43 FR 53525–26). That notice advised the public that an investigation had determined that the Government of Colombia pays or bestows bounties or grants within the meaning of section 303 of the Tariff Act of 1930, as amended (19 U.S.C. 1303) (hereinafter referred to as "the Act"), on the manufacture, production or exportation of certain leather wearing apparel from Colombia. It was further determined that all other products subject to the investigation did not receive benefits considered to be bounties or grants within the meaning of the Act.

The leather wearing apparel found to have benefited from the bestowal of "bounties or grants" entered the United States from under item number 791.76 of the Tariff Schedules of the United States. The merchandise being duty-free under the U.S. Generalized System of Preferences (GSP), pursuant to section 303(a)(2) of the Act (19 U.S.C. 1303(a)(2)) countervailing duties could not be imposed absent a determination by the U.S. International Trade Commission that an industry in the United States is being, or is likely to be, injured, or is prevented from being established, by reason of the importation of such article or merchandise into the United States. The case was referred to the U.S. International Trade Commission and liquidation of entries was suspended pending its determination in the matter.

On March 5, 1979, the U.S.I.T.C. published its determination in the **Federal Register** that no injury or likelihood of injury resulted from the importation of the duty-free leather wearing apparel from Colombia (44 FR 12113). Accordingly the suspension of liquidation was to have been terminated and liquidation of leather wearing apparel classified under TSUS item number 791.76 entered on or after November 16, 1978, would have proceeded without regard to countervailing duties.

However, on March 2, 1979, the President published Executive Order 12124 in the **Federal Register** (44 FR 11729) which removed leather wearing apparel classified under TSUS item number 791.76 from the listing of articles eligible for duty-free entry under GSP. As a result, imposition of countervailing duties on such leather wearing apparel from Colombia, on or after March 1, 1979, is no longer controlled by section 303(a)(2) of the Act. With respect to such items, the Treasury Department has established that a "net" bounty or grant of 6.18 percent exists. However, Colombien manufacturers of these products have certified that they will renounce the "net" bounty of 6.18 percent, voluntarily relinquishing negotiable tax certificates (CAT's) valued in those amounts on leather wearing apparel exports to the United States on or after March 1, 1979. The Government of Colombia and its Central Bank have stated that they will monitor this agreement and report any violations to the U.S. Treasury Department. Based upon these circumstances, it is determined that with respect to the leather wearing apparel classified under TSUS item number 791.76, no bounty or grant is being paid or bestowed within the meaning of section 303 of the Act upon its manufacture, production or exportation, and the final determination published on November 16, 1978, is hereby amended accordingly.

This determination is published pursuant to section 303 of the Tariff Act of 1930, amended (19 U.S.C. 1303).

Pursuant to Reorganization Plan No. 26 of 1950 and Treasury Department Order 190 (Revision 15), March 16, 1979, the provisions of Treasury Department Order 165, revised, November 2, 1954, and section 159.47 of the Customs Regulations (19 CFR 150.47), insofar as they pertain to the issuance of an amended final countervailing duty determination by the Commissioner of Customs, are hereby waived.

Robert H. Mundheim,
General Counsel of the Treasury.

April 30, 1979.
[FR Doc. 79-14305 Filed 5-7-79; 8:45 am]
BILLING CODE 4810-22-M

Office of the Secretary

Bonds of 2004–2009; Interest Rate; Supplement to Department Circular

May 3, 1979.

The Secretary of the Treasury announced on May 2, 1979, that the interest rate on the bonds described in Department Circular—Public Debt Series—No. 10–79, dated April 26, 1979, will be 9⅛ percent. Interest on the bonds will be payable at the rate of 9⅛ percent per annum.

Supplementary Statement

The announcement set forth above does not meet the Department's criteria for significant regulations and, accordingly, may be published without compliance with the Departmental procedures applicable to such regulations.

Paul H. Taylor,
Fiscal Assistant Secretary

[Public Debt Series—No. 10–7]
[FR Doc. 79-14304 Filed 5-7-79; 8:45 am]
BILLING CODE 4810-40-M

INTERSTATE COMMERCE COMMISSION

California Motor Carrier Tariff Bureau, Inc.—Agreement

April 26, 1979.

The Commission is in receipt of the above-entitled and numbered application for approval of an agreement under the provisions of 49 U.S.C. Section 10706(b), formerly Section 5a of the Interstate Commerce Act.

Filed February 28, 1979: Ann M. Pougiales, Loughran & Hegarty, 100 Bursh Street, 21st Floor, and San Francisco, CA 94104.

Agreement involves: Organization and procedures for the joint consideration, initiation and establishment of rates, classifications, divisions, allowances and charges and regulations pertaining thereto by motor common carriers of property in interstate and intrastate commerce between points in California.

The complete application may be inspected at the Office of the Commission, in Washington, D.C.

Any interested person desiring to protest and participate in this proceeding shall notify the Commission in writing on or before May 28, 1979. As provided by the General Rules of Practice of the Commission, persons other than applicants should fully disclose their interest, and the position they intend to take with respect to the application. Otherwise, the Commission, in its discretion, may proceed to investigate and determine the matters involved without public hearing.

H. G. Homme, Jr.
Secretary.

[Section 5a Application No. 117]
[FR Doc. 79-14248 Filed 5-7-79; 8:45 am]
BILLING CODE 7035-01-M

Chicago and North Western Transportation Co.

Because of the inability of the railroad to assemble the cars, a movement of 60 empty covered hopper cars has been seriously delayed enroute to Shakopee, Minnesota, for loading. The Peavey Company desires to ship a sixty car unit-grain-train of wheat to Buffalo, New York, routed CNW–NW. The consignee at Buffalo is badly in need of the wheat. Only 46 empty covered hoppers have

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arrived at Shakpoee. Section (a) of Revised Service Order No. 1312 authorizes any railroad which is unable to supply the number of covered hopper cars required by its tariff to transport unit-grain-trains of fewer cars in accordance with the scale in Section (b).

Pursuant to the authority vested in the Director, Bureau of Operations, by Section (h) of Revised Service Order No. 1312, the Chicago and North Western Transportation Company is authorized to operate a sixty (60) car unit-grain-train from Shakopee, Minnesota, to Buffalo, New York, comprised of sixty (60) covered hoppers, on a one trip basis, with a minimum of 46 loaded cars operated in the first movement, and the remaining cars of the unit-train operated together in the final movement of the unit-grain-train. The total tariff minimum weight will be transported as required except if the railroad is unable to move all of the empty covered hoppers to the loading point on the final movement, the train can be reduced by the allowable number of cars or allowable weight percentage, as set forth in Section (b) of this Service Order.

This exception applies to railroad owned and private covered hopper cars.

The bills of lading and waybills shall bear the following endorsement: "Unit-grain-train of ( ) tons or ( ) cars. Partial movement of ( ) tons or ( ) cars forwarded authority Exception No. 9 to ICC Revised Service Order No. 1312. ( ) tons or ( ) cars to follow."

Demurrage rules will be treated as if each of the movements of the unit-train is a complete movement in itself.

Effective 12:01 a.m., April 24, 1979.

Expires 11:59 p.m., May 15, 1979.

Issued at Washington, D.C., April 23, 1979.

Joel E. Burns,

Director.

[Rev. S.O. 1312, Exc. 9]

[FR Doc. 79-14245 Filed 5-7-79; 8:45 am]

BILLING CODE 7035-01-M

Illinois Terminal Railroad Company—Abandonment and Abandonment of Trackage Rights Over—Illinois Central Gulf Railroad Company—In Logan and Tazewell Counties, IL; Notice of Findings

Notice is hereby given pursuant to 49 U.S.C. § 10903 (formerly Section 1a of the Interstate Commerce Act) that by a Certificate and Decision decided March 29, 1979, a finding, which is administratively final, was made by the Commission, Review Board Number 5, stating that, subject to the conditions for the protection of railway employees prescribed by the Commission in AB-36 (Sub-No. 2), Oregon Short Line R. Co.—Abandonment Goshen, I.C.C., decided February 9, 1979, provided, however, that applicant shall not sell, lease or otherwise dispose of the right-of-way underlying the track between mileposts 155.99 and 128.41, including all bridges and culverts, for a period of 120 days following issuance of the certificate to permit any state and local government agency or other interested party to negotiate the acquisition for public use of all or any portion of the right-of-way, the present and future public convenience and necessity abandonment by the Illinois Terminal Railroad Company of its line of railroad extending from milepost 155.99 at or near Allentown, IL, to milepost 128.41 at Lincoln, IL, and of its operation over the line of railroad owned by the Illinois Central Gulf Railroad Company extending from a point near milepost 44.3 at Lincoln to a point near milepost 55.4 at Mt. Pulaski, IL. A certificate of public convenience and necessity permitting abandonment was issued to the Illinois Terminal Railroad Company. After the completion of investigation, the requirement of Section 1121.38(a) of the Regulations that publication of notice of abandonment decisions in the **Federal Register** be made only after such a decision becomes administratively final was waived.

Upon receipt by the carrier of an actual offer of financial assistance, the carrier shall make available to the offeror the records, accounts, appraisals, working papers, and other documents used in preparing Exhibit I (Section 1121.45 of the Regulations). Such documents shall be made available during regular business hours at a time and place mutually agreeable to the parties.

The offer must be filed and served no later than May 23, 1979. The offer, as filed, shall contain information required pursuant to Section 1121.38(b) (2) and (3) of the Regulations. If no such offer is received, the certificate of public convenience and necessity authorizing abandonment shall become effective 45 days from the date of this publication.

H. G. Homme, Jr.,

Secretary.

[Docket AB-84 [Sub-No. 1)]

[FR Doc. 79-14247 Filed 5-7-79; 8:45 am]

BILLING CODE 7035-01-M

Minnesota Intrastate Freight Rates and Charges—1979

Decided: April 18, 1979.

By joint petition filed March 19, 1979, eight common carriers by railroad [1] operating in intrastate commerce in Minnesota, request that this Commission institute an investigation of their Minnesota intrastate pulpwood and woodpulp rates under 49 U.S.C. 11501 and 11502 (formerly Section 13 of the Interstate Commerce Act). They seek an order authorizing them to increase such rates and charges in the same amounts approved for interstate application in Ex Parte Nos. 318, 330, 336 and 343. Petitioners have stated grounds sufficient to warrant the institution of an investigation.

It is ordered: The petition is granted. An ivestigation, under 49 U.S.C. 11501 and 11502 is instituted to determine whether the Minnesota state rail rates on pulpwood and woodpulp in any respect cause an unjust discrimination against or any undue burden on interstate or foreign commerce, or cause undue or unreasonable advantage, preference, or prejudice as between persons or localities in interstate commerce and persons or localities in interstate of foreign commerce, or are otherwise unlawful, by reason of the failure of such rates and charges to include increases authorized for interstate application by this Commission in Ex Parte Nos. 318, 330, 336 and 343. In the investigation we shall also determine if any rates or charges, or maximum, or minimum charges, or both, should be prescribed to remove any unlawful advantage, preference, discrimination, undue burden, or other violation of law found to exist.

All common carriers by railroad operating in Minnesota subject to the jurisdiction of the Commission are made respondents in this proceeding.

All persons who wish to participate in this proceeding and to file and receive copies of pleadings shall make known that fact by notifying the Office of Proceedings, Room 5356 Interstate Commerce Commission, Washington, D.C. 20423, on or before May 23, 1979. Although individual participation is not precluded, to conserve time and to avoid unnecessary expense, persons having common interests should endeavor to consolidate their presentations to the greatest extent possible. This Commission desires participation of only those who intend to take an active part in this proceeding.

As soon as practicable after the last day for indicating a desire to participate in the proceeding, this Commission will serve a list of names and addresses on all persons upon who service of all pleadings must be made. Thereafter, this proceeding will be assigned for oral hearing or handling under modified procedure.

A copy of the order shall be served upon each of the petitioners and respondents. Minnesota shall be notified of the proceeding by sending copies of this decision by certified mail to the Governor of Minnesota and the Minnesota Public Service Commission. Further notice of this proceeding shall be given to the public by depositing a copy of this decision in the Office of the Secretary of the Interstate Commerce Commission at Washington, D.C. and by filing a copy with the Director, Office of the Federal Register, for publication in the **Federal Register.**

This is not a major Federal Action significantly affecting the quality of the human environment. Furthermore, this decision is not a major regulatory action under the Energy Policy and Conservation Act of 1975.

By the Commission, Alan Fitzwater, Director, Office of Proceedings.

H. G. Homme, Jr.,

Secretary.

[Docket 37144]

[FR Doc. 79-14249 Filed 5-7-79; 8:45 am]

BILLING CODE 7035-01-M

[1] Burlington Northern, Inc.; Canadian National Railways; Chicago Milwaukee; St. Paul and Pacific Railroad (Stanley E. G. Hillman, Trustee); Chicago and North Western Transportation Company; Chicago Rock Island and Pacific Railroad Company (William M. Gibbons, Trustee); Duluth, Missabe and Iron Range Railway Company; Duluth Winnipeg and Pacific Railway; and Soo Line Railroad Company.

Rerouting Traffic

Missouri-Kansas-Texas Railroad Company: Upon further consideration of I.C.C. Order No. 29 and good cause appearing therefor:

It is ordered, I.C.C. Order No. 29 is amended by substituting the following paragraph (g) for paragraph (g) thereof:

(g) Expiration date. This order shall remain in effect until modified or vacated by order of this Commission.

Effective date. This amendment shall become effective at 11:59 p.m., April 30, 1979.

This amendment shall be served upon the Association of American Railroads, Car Service Division, as agent of all railroads subscribing to the car service and car hire agreement under the terms of that agreement, and upon the American Short Line Railroad Association. A copy of this amendment shall be filed with the Director, Office of the Federal Register.

Issued at Washington, D.C., April 30, 1979.

Interstate Commerce Commission,

Robert S. Turkington,

Agent.

[Amdt. No. 1; I.C.C. Order 29; S.O. 1344]

[FR Doc. 79-14242 Filed 5-7-79; 8:45 am]

BILLING CODE 7035-01-M

Rerouting Traffic

Upon further consideration of I.C.C. order No 11 (Louisville and Nashville Railroad Company), and good cause appearing therefor:

It is ordered, I.C.C. Order No. 11 is amended by substituting the following paragraph (g) for paragraph (g) thereof:

(g) *Expiration date.* This order shall remain in effect until modified or vacated by order of this Commission.

Effective date. This amendment shall become effective at 11:59 p.m., April 30, 1979.

This amendment shall be served upon the Association of American Railroads, Car Service Division, as agent of all railroads subscribing to the car service and car hire agreement under the terms of that agreement, and upon the American Short Line Railroad Association. A copy of this amendment shall be filed with the Director, Office of the Federal Register.

Issued at Washington, D.C., April 27, 1979.

Interstate Commerce Commission,

Robert S. Turkington,

Agent.

[Amdt. No. 3; I.C.C. Order 11; S.O. 1344]

[FR Doc. 79-14243 Filed 5-7-79; 8:45 am]

BILLING CODE 7035-01-M

Soo Line Railroad Company

Because of the inability of the railroad to assemble the cars, a movement of 60 empty covered hopper cars has been seriously delayed on Soo Line Railroad Company enroute to Duluth, Minnesota, for loading. International Multi-Foods desires to ship a sixty (60) car unit-grain-train of barley to Buffalo, New York, routed Soo Line-Norfolk and Western-ConRail. The consignee at Buffalo is badly in need of the barley. Only 27 empty covered hoppers have arrived at Duluth. Section (a) of Revised Service Order No. 1312 authorizes any railroad which is unable to supply the number of covered hopper cars required by its tariffs to transport unit-grain-trains of fewer cars in accordance with the scale in Section (b).

Pursuant to the authority vested in the Director, Bureau of Operations, by Section (h) of Revised Service Order No. 1312, Soo Line Railroad Company is authorized to operate a sixty (60) car unti-grain-train from Duluth, Minnesota, to Buffalo, New York, comprised of sixty (60) railroad owned covered hoppers, on a one trip basis, with a minimum of 27 loaded cars operated in the first movement, and the remaining cars of the unit-train operated together in the final movement of this unit-grain-train. The total tariff minimum weight will be transported as required except if the railroad is unable to move all of the empty covered hoppers to the loading point on the final movement, the train can be reduced by the allowable number of cars or allowable weight percentage, as set forth in Section (b) of this Service Order.

This exception applies to railroad owned covered hopper cars.

The bills of lading and waybills shall bear the following endorsement: "Unit-grain-train of ( ) tons or ( ) cars. Partial movement of ( ) tons or ( ) cars forwarded authority Exception No. 8 to ICC Revised Service Order No. 1312. ( ) tons or ( ) cars to follow".

Demurrage rules will be treated as if each of the movements of the unit-train is a complete movement in itself.

Effective 12:01 a.m., April 21, 1979.

Expires 11:59 p.m., May 1, 1979.

Issued at Washington, D.C., April 20, 1979.

Joel E. Burns,

Director

[Exception 8; Rev. S.O. 1312]

[FR Doc. 79-14244 Filed 5-7-79; 8:45 am]

BILLING CODE 7035-01-M

Transportation of "Waste" Products for Reuse or Recycling; Special Certificate Letter Notice(s)

The following letter notices request participation in a Special Certificate of Public Convenience and Necessity for the transportation of "waste" products for reuse or recycling in furtherance of a recognized pollution control program under the Commission's regulations (49 CFR 1062) promulgated in *"Waste" Products,* Ex Parte No. MC-85, 124 M.C.C. 583 (1976). Requests are processed as seeking authority between all points in the United States.

An original and one copy of protests (including protestant's complete argument and evidence) against applicant's participation may be filed with the Interstate Commerce Commission on or before May 28, 1979. A copy must also be served upon applicant or its representative. Protests against the applicant's participation will not operate to stay commencement of the proposed operation.

If the applicant is not otherwise informed by the Commission, operations may commence on or before June 7,

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1979, subject to its tariff publication effective date.

P–13–78 (Special Certificate-Waste Products) (Amendment) filed February 12, 1979. Applicant: VICTORY EXPRESS, INC., 2600 Willowburn Ave., Dayton, Ohio 45427. Representative: Richard Schaefer, Vice-President (same address as applicant). Sponsors: General Mill Supply Company of Detroit, MI; Albert E. Silberman & Co., Inc., of Cleveland, OH; Marks Lead Co., Inc., of Cleveland, OH; Krell Paper Stock Company, Inc., of Grand Rapids, MI; Van's Paper & Board Sales, of Kalamazoo, MI; Marks Paper Stock Co., of Canton, OH; Container Corporation of America, of Carol Stream, IL. Commodities: Waste Products (waste paper).

Note.—The purpose of this amendment is to add the above-named sponsors.

P–2–79 (Special Certificate, Waste Products) filed February 21, 1979. Applicant: CARL SCHAEFER JR. TRUCK LINES, INC., P.O. Box 26040, Trotwood, OH 45426. Representative: Carl Schaefer, Jr., President, (same address as applicant). Sponsors: General Mill Supply Company, of Detroit, MI; Albert E. Silberman & Co., Inc., of Cleveland, OH; Marks Lead Co., Inc., of Cleveland, OH; Krell Paper Stock Company, Inc. of Grand Rapids, MI; Van's Paper & Board Sales, of Kalamazoo, MI; Marks Paper Stock Co., of Canton, OH; Container Corporation of America, of Carol Stream, IL; Acme Waste Products, Inc., of Cleveland, OH; Capitol Waste Materials Co., of Dayton, OH. Commodities: Waste Products (waste paper).

By the Commission.

H. G. Homme, Jr.,
Secretary.

[FR Doc. 79–14324 Filed 5–7–79; 8:45 am]
BILLING CODE 7035–01–M

Assignment of Hearings

May 3, 1979.

Cases assigned for hearing, postponement, cancellation or oral argument appear below and will be published only once. This list contains prospective assignments only and does not include cases previously assigned hearing dates. The hearings will be on the issues as presently reflected in the Official Docket of the Commission. An attempt will be made to publish notices of cancellation of hearings as promptly as possible, but interested parties should take appropriate steps to insure that they are notified of cancellation or postponements of hearings in which they are interested.

MC 59531 (Sub-107F), Auto Convoy Co., now assigned for hearing on May 15, 1979, (1 day), will be held in Room No. 9017, U.S. Post Office, 701 Loyola Avenue, New Orleans, LA.

MC 115162 (Sub-424F), Poole Truck Line., MC 115311 (Sub-293F), J & M Transportation Co., Inc., now assigned for hearing on May 21, 1979 (1 week), will be held in Room No. 9017, U.S. Post Office, 701 Loyola Avenue, New Orleans, LA.

MC 116915 (Sub-62F), Eck Miller Transportation Corp., now assigned for hearing on May 14, 1979, (2 days), will be held in Room 1319, Everett McKinley Dirksen Building, 219 S. Dearborn Street, Chicago, IL.

MC 123872 (Sub-90F), W & L Motor Lines, Inc., now assigned for hearing on May 16, 1979, (3 days), will be held in Room 1319, Everett McKinley Dirksen Building, 219 S. Dearborn Street, Chicago, IL.

MC 99439 (Sub-11F), Suwannee Transfer, Inc., now assigned for hearing on May 16, 1979 (3 days), at Jacksonville, FL., and will be held in Room No. 801, Federal Building, 400 West Bay Street.

MC 97699 (Sub-49F), Barber Transportation Co., now assigned for hearing on May 14, 1979, (5 days), at Sioux City, Iowa, and will be held at the Hilton Inn, Plaza South, 707–4th Street.

MC 143762 (Sub-2F), Steve T. Allen, DBA Riggs & Allen Transportation, now assigned for hearing on May 16, 1979 (3 days) at Phoenix, AZ., and will be held in Room 235, U.S. Tax Court, Federal Building & Post Office, 522 N. Central Avenue.

MC 2908 (Sub-24), Capital Motor Lines, DBA Capital Trailways, now assigned for continued hearing on June 9, 1979 (2 weeks), at Montgonery AL., in a hearing room to be later designated.

MC–C–10166, North American Van Lines, Inc., et al. Investigation & Revocation Of Certificates, now assigned for continued Prehearing Conference on May 30, 1979, at the Offices of the Interstate Commerce Commission, Washington, D.C.

MC 118159 (Sub-285F), National Refrigerated Transport, Inc., now assigned May 16, 1979, at Atlanta, GA., will be held in Room No. 305, 1252 W. Peachtree St., N.W.

MC 129537 (Sub-28F), Reeves Transportation Co., now assigned May 14, 1979, at Atlanta, GA., will be held in Room No. 305, 1252 W. Peachtree St., N.W.

MC 118831 (Sub-170F), Central Transport, Inc., now assigned May 14, 1979, at Washington, D.C., is cancelled and application is dismissed.

MC 99610 (Sub-30F), Ross Neely Express, Inc., now assigned for hearing on June 4, 1979, at Atlanta, GA., is cancelled and application dismissed.

MC 59457 (Sub-38F), Sorensen Transportation Company, Inc., MC 107615 (Sub-14F), Untco, Inc., now assigned for hearing on June 19, 1979 at the Office of the Interstate Commerce Commission, Washington, D.C.

MC 59457 (Sub-38F), Sorensen Transportation Company, Inc., MC 107615 (Sub-14F), Untco, Inc., now assigned for continued hearing on July 9, 1979, at the Offices of the Interstate Commerce Commission, Washington, D.C.

MC 32882 (Sub-96F), Mitchell Bros. Truck Lines, A Corp., now assigned May 21, 1979, at Los Angeles, CA, is advanced to May 16, 1979, (3 days), in Room 203, U.S. County Court House 111 N. Hill Street, Los Angeles, CA.

MC 134068 (Sub-39F), Kodiak Refrigerated Lines, Inc., now assigned May 16, 1979, at Los Angeles, CA, is postponed to May 21, 1979, (1 week), in Room 203, U.S. County Court House, 111 N. Hill Street, Los Angeles, CA.

MC 114457 (Sub-445F), Dart Transit Company, A Corp., and MC 135874 (Sub-114F), LTL Perishables, Inc., now assigned May 21, 1979, at St. Paul, MN, will be held in Court Room No. 2, 7th Floor, Federal Bldg., 316 N. Robert.

H. G. Homme, Jr.,
Secretary.

[Notice No. 83]
[FR Doc. 79–14323 Filed 5–7–79; 8:45 am]
BILLING CODE 7035–01–M

Irregular-Route Motor Common Carriers of Property-Elimination of Gateway Letter Notices

Dated: April 26, 1979.

The following letter-notices of proposals to eliminate gateways for the purpose of reducing highway congestion, alleviating air and noise pollution, minimizing safety hazards, and conserving fuel have been filed with the Interstate Commerce Commission under the Commission's *Gateway Elimination Rules* (49 CFR 1065), and notice thereof to all interested persons is hereby given as provided in such rules.

An original and two copies of protests against the proposed elimination of any gateway herein described may be filed with the Interstate Commerce Commission on or before May 18, 1979. A copy must also be served upon applicant or its representative. Protests against the elimination of a gateway will *not* operate to stay commencement of the proposed operation.

Successively filed letter-notices of the same carrier under these rules will be numbered consecutively for convenience in identification. Protests, if any, must refer to such letter-notices by number.

The following applicants seek to operate as a *common carrier*, by motor vehicles, over irregular routes.

MC 108119 (Sub-No. E–46) (Correction), filed July 11, 1976, published in the **Federal Register**, issue of April 19, 1978, and partially republished, as amended, this issue. Applicant: E. L. MURPHY TRUCKING COMPANY, P.O. Box 43010, St. Paul, MN 55164. Applicant's representative: Mark E. Moser (same address as above).

(A)(1) *Metal* and *metal articles* when such commodities are heavy and bulky articles requiring specialized handling or rigging, and (2) *Metal* and *metal articles*, when such commodities are materials and supplies used or useful in road construction, mining, logging and sawmill operations, (except contractors' equipment, machinery and machine parts), (a) between points in ID in and north of the counties of Clearwater, Lewis and that part of ID County on and west of US Hwy 95, on the one hand, and, on the other hand, points in AL, AR, CT, DE, DC, FL, GA, IA, KS, (points on and east of US Hwy 281), KY, LA, ME, MD, MA, MI (points in the Upper Peninsula only), MN, MS, NE (points on and east of US Hwy 281), NH, NJ, NY, NC, ND (points on and east of US Hwy 281), OK (points on and east of US Hwy 281), PA, RI, SC, SD, (points on and east of US Hwy 281), TN, TX (points on and east of US Hwy 281), VT, VA, WV and WI, (b) between points in ID within the counties of Custer, Lemhi, Valley and points in ID east of US Hwy 95, on the one hand, and, on the other hand, points in AL, AR, CT, DE, DC, FL, GA, IA, KS (points on and east of US Hwy 77), KY, LA, ME, MD, MA, MI (points in the Upper Peninsula only), MN, MS, NE (points on and east of a line extending southerly along US Hwy 81 to its junction with I Hwy 80, then easterly along I Hwy 80 to it junction with US Hwy 77, then southerly along US Hwy 77 to the NE-KS State line), NH, NJ, NY, NC, ND (points on and east of US Hwy 281), OK (points on and east of a line extending southerly along US Hwy 177 to its junction with OK Hwy 13, then southeasterly along OK Hwy 13 to its junction with OK Hwy 99, then southerly along OK Hwy 99 to its junction with OK Hwy 78, then southeasterly along OK Hwy 78 to its junction with US Hwy 75, then southerly along US Hwy 75 to the OK-TX State line), PA, RI, SC, SD, (points on and east of a line extending southerly along US Hwy 281 to its junction with SD Hwy 50, then southerly along SD Hwy 50 to Yankton, SD, then southerly along US Hwy 81 to the SD-NE State line), TN, TX (points on and east of a line extending southerly along US Hwy 69 to its junction with TX Hwy 19, then southerly along TX Hwy 19 to Huntsville, TX, then southerly along I Hwy 45 to Houston, TX then southerly along TX Hwy 288 to the Gulf of Mexico), VT, VA, WV and WI, (c) between points in ID within the counties of Adams, WA, Payette, Gem, Canyon and Ada, on the one hand, and, on the other hand, points in AL, AR (points on and east of a line extending southerly from Ft. Smith, AR along US Hwy 71 to the AR-LA State line), CT, DE, DC, FL, GA, IA, KS (points on and east of US Hwy 75), KY, LA (points on and east of a line extending southerly along US Hwy 71 to its junction with US Hwy 171, then southerly along US Hwy 171 to its junction with LA Hwy 27, then southerly along LA Hwy 27 to the Gulf of MX near Creole, LA), ME, MD, MA, MI (points in the Upper Peninsula only), MN, MS, NE (points on and east of a line extending southerly along US Hwy 81 to its junction with US Hwy 275, then southerly along US Hwy 275 to its junction with US Hwy 77, then southerly along US Hwy 77 to its junction with NE Hwy 92, then easterly along NE Hwy 92 to its junction with NE Hwy 50, then southerly along NE Hwy 50 to its junction with NE Hwy 4, then easterly along NE Hwy 4 to its junction with US Hwy 75, then southerly along US Hwy 75 to the NE-KS State line), NH, NJ, NY, NC, ND (points on and east of US Hwy 281), OK (points on and east of a line extending southerly along US Hwy 75 to Tulsa, OK, then southeasterly along Muskogee Turnpike to its junction with I Hwy 40, then easterly along I Hwy 40 to the OK-AR State line), PA, RI, SC, SD (points on and east of a line extending southerly along US Hwy 281 to its junction with US Hwy 16, then easterly along US Hwy 16 to its junction with SD Hwy 37, then southerly along SD Hwy 37 to its junction with SD Hwy 50, then southeasterly along SD Hwy 50 to its junction with US Hwy 81, then southerly along US Hwy 81, to the SD-NE State line), TN, VT, VA, WV, and WI, (d) between points in ID within the counties of Boise, Elmore, Owyhee, Twin Falls, Gooding, and Camas, on the one hand, and, on the other hand, points in AL, AR, (points on and east of US Hwy 65), and CT, DE, DC, FL, GA, IA, (points on and east of a line extending southerly along I Hwy 29 to its junction with LA Hwy 141, then easterly along IA Hwy 141 to its junction with US Hwy 59, then southerly along US Hwy 59 to its junction with I Hwy 80, then easterly along I Hwy 80 to its junction with US Hwy 71, then southerly along US Hwy 71 to its junction with US Hwy 34, then easterly along US Hwy 34 to its junction with US Hwy 169, then southerly along US Hwy 169 to its junction with IA Hwy 2, then easterly along IA Hwy 2 to its junction with I Hwy 35, then southerly along I Hwy 35 to the IA-MO State line), KY, LA (points on and east of a line extending southerly along I Hwy 55 to its junction with I Hwy 10, then easterly along I Hwy 10 to its junction with LA Hwy 23, then southerly along LA Hwy 23 to the Gulf of MX), ME, MD, MI (points in the Upper Peninsula only), MN, MS (points on and east of a line extending southeasterly along MS Hwy 27 to its junction with I Hwy 55, then southerly along I Hwy 55 to the LA State line), NH, NJ, NY, NC, ND (points on and east of US Hwy 281), PA, RI, SC, SD (points on and east of a line extending southerly along US Hwy 281 to its junction with US Hwy 212, then easterly along US Hwy 212 to its junction with SD Hwy 37, then southerly along SD Hwy 37 to its junction with I Hwy 90, then easterly along I Hwy 90 to its junction with US Hwy 81, then southerly along US Hwy 81 to its junction with SD Hwy 50, then southeasterly along SD Hwy 50 to its junction with US Hwy 77, then along US Hwy 77 to the SD-IA State line), TN, VT, VA, WV and WI, (e) between points in ID within the counties of Blaine, Butte, Lincoln, Jerome, Minidoka, Power, Cassia and the Commercial Zone of Pocatello, on the one hand, and, on the other hand, points in AL, AR (points on and east of a line extending southerly along US Hwy 63 to its junction with AR Hwy 1, then southeasterly along AR Hwy 1 to its junction with US Hwy 49, then easterly along US Hwy 49 to the AR-MS State line), CT, DE, DC, FL, GA, IA (points on, north and east of a line extending easterly along IA Hwy 141 to its junction with US Hwy 30, then easterly along US Hwy 30 to its junction with US Hwy 218, then southerly along US Hwy 218 to the IA-IL State line), KY, ME, MD, MA, MI (points in the Upper Peninsula), MN, MS, (points on and east of a line extending southerly along MS Hwy 322 to its junction with US Hwy 49, then southerly along US Hwy 49, to its junction with US Hwy 49W, then southerly along US Hwy 49W to its junction with US Hwy 49, then southerly along US Hwy 49 to the Gulf of MX), NH, NJ, NY, NC, ND (points on and east of US Hwy 281), PA, RI, SC, SD, (points on and east of a line extending southerly along US Hwy 281 to its junction with US Hwy 14, then easterly along US Hwy 14 to its junction with SD Hwy 37, then southerly along SD Hwy 37 to its junction with US Hwy 13, then easterly along US Hwy 18, then southerly along US Hwy 81 to the SD-NE State line), TN, VT, VA, WV, WI, (f) between points in ID in and east of the Counties of Clark, Jefferson, Bingham, Bannock, and Oneida, on the one hand, and, on the other hand, points in AL, CT, DE, DC, FL, GA, IA (points on, north and east of a line extending easterly along US Hwy 18 to its junction with US Hwy 169, then southerly along US Hwy 169 to its junction with US Hwy 20, then easterly along US Hwy 20 to its junction with IA Hwy 150, then, southerly along IA Hwy

150 to its junction with US Hwy 30, then easterly along US Hwy 30 to its junction with US Hwy 61, then southerly along US Hwy 61 to the IA-IL State line), KY (points on and east of the Penny Riley Parkway), ME, MD, MA, MI (points in the Upper Peninsula only), MN, NH, NJ, NY, NC, ND, (points on and east of ND Hwy 18), PA, RI, SC, SD, (points on and east of US Hwy 81 extending southerly to its junction with SD Hwy 19, then southerly along SD Hwy 19 to its junction with US Hwy 18, then easterly along US Hwy 18 to the SD-IA State line), TN (points on and east of a line extending southerly along TN Hwy 48 to its junction with the Natchez Trace Parkway, then southerly along the Natchez Trace Parkway to the TN-MS State line), VT, VA, WV, and WI, (B) (1) *Metal* and *metal articles* when such commodities are heavy and bulky articles requiring specialized handling or rigging, and (2) *Metal* and *metal articles*, when such commodities are materials and supplies used or useful in road construction, mining, logging and sawmill operations, (except contractors' equipment, machinery and machine parts).

(a) Between points in ID within the counties of Boundary, Bonner, Valley, Kootenai, Beneway, Shoshone, Latah, Clearwater, ID, Nez Perce, Lewis, Adams, WA, Payette, Gem, Canyon, Ada, Boise, Elmore, Camas, Gooding, Twin Falls and Owyhee, on the one hand, and, on the other, points in IL, IN, MI (points in the lower peninsula only), MO, and OH, (b) between points in ID within the counties of Butte, Blaine, Lincoln, Jerome, Minidoka, Power and Cassia, on the one hand, and, on the other, points in IL, IN, MI (points in the lower peninsula only), MO (points on and east of a line extending northerly along US Hwy 65 to its junction with MO Hwy 73, then northerly along MO Hwy 73 to its junction with US Hwy 54, then northeasterly along U.S. Hwy 54 to its junction with MO Hwy 19, then northerly along MO Hwy 19 to its junction with US Hwy 61, then northerly along US Hwy 19 to its junction with US Hwy 61, then northerly along US Hwy 61 to the IA-MO State line), and OH, (c) between points in ID within the counties of Lemhi and Custer, on the one hand, and, on the other, points in IL (points on and east of a line extending northeasterly along IL Hwy 150 to its junction with IL Hwy 4, then northerly along IL Hwy 4 to its junction with IL Hwy 29, then northerly along IL Hwy 29 to its junction with IL Hwy 26, then northerly along IL Hwy 26 to the IL-WI State line), IN, MI (points in the lower peninsula only), and OH, (d) Between points within the commercial zone of Pocatello, ID, on the one hand, and, on the other, points in IL (points that are on and east of a line extending northerly along I Hwy 55 to its junction with US Hwy 66, then northerly along US Hwy 66 to its junction with IL Hwy 29, then northerly along IL Hwy 29 to its junction with US Hwy 6, then westerly along US Hwy 6 to the IL-IA State line), IN, MI (points in the lower peninsula only), MO (points that are on and east of a line extending northerly along I Hwy 55 to its junction with MO Hwy 51, then northerly along MO Hwy 51 to the IL-MO State line, and points in the St. Louis, MO commercial zone) and OH, (C)(1) *Metal* and *metal articles* when such commodities are heavy and bulky articles requiring specialized handling or rigging, and (2) *Metal* and *metal articles*, when such commodities are materials and supplies used or useful in road construction, mining, logging and sawmill operations, (exept contractors' equipment, machinery and machine parts), (a) between points in OR in and east of the counties of Hood River, Wasco, Jefferson, and Deschutes and on and north of US Hwy 20, on the one hand, and, on the other hand, points in AL, AR, CT, DE, DC, FL, GA, IL, IN, IA, KS (points on and east of a line extending southerly from the KS-NE State line along US Hwy 77 to its junction with KS Hwy 96, then easterly along KS Hwy 96 to KS Hwy 99, then southerly along KS Hwy 99 to the KS-OK State line), KY, LA, ME, MD, MA, MI, MN, MS, MO, NE (points on and east of a line extending southerly along US Hwy 81 to its junction with NE Hwy 92, then easterly along NE Hwy 92 to its junction with NE Hwy 15, then southerly along NE Hwy 15 to its junction with I Hwy 80, then easterly along I Hwy 80 to its junction with US Hwy 77, then southerly along US Hwy 77 to the NE-KS State line) NH, NJ, NY, NC, ND (points on and east of ND Hwy 3), OH, OK (points on and east of a line extending southerly from the OK-KS State line along US Hwy 75 to its junction with I Hwy 40, then southerly along the Indian Nation Turnpike to the OK-TX State line), PA, RI, SC, SD (points on and east of SD Hwy 45), TN, TX, (points on and east of a line extending southerly along TX Hwy 19 to its function with US Hwy 69, then along US Hwy 69 to the Gulf of Mexico at Port Aurthor, TX), VT, VA, WA, and WI, (b) between points in OR in and east of the counties of Deschutes and Klamath and points south of US Hwy 20, on the one hand, and, on the other hand, points in AL, AR, CT, DE, DC, FL, GA, IL, IN, IA, KS (points on and east of a line extending southerly along US Hwy 77 to its junction with US Hwy 36, then easterly along US Hwy 36 to its junction with US Hwy 159, then southerly along US Hwy 159 to its junction with US Hwy 59, then southerly along US Hwy 59 to its junction with US Hwy 169, then southerly along US Hwy 169 to the KS-OK State line), KY, LA (points on, north and east of a line extending westerly along US Hwy 84 to its junction with US Hwy 171, then southerly along US Hwy 171 to Lake Charles, LA, then southerly along LA Hwy 27 to the Gulf of Mexico), ME, MD, MA, MI, MN, MS, MO, NE (points on and east of a line extending southerly along US Hwy 81 to its junction with NE Hwy 92, then easterly along NE Hwy 92 to its junction with NE Hwy 15, then southerly along NE Hwy 15 to its junction with I Hwy 80, then easterly along I Hwy 80 to its junction with US Hwy 77, then southerly along US Hwy 77 to the NE-KS State line), NH, NJ, NY, NC, ND (points on and east of ND Hwy 3), OH, OK (points on and east of US Hwy 169 extending southerly to Tulsa, OK, then southerly along US Hwy 75 to the Indian Nation Turnpike, then along the Indian Nation Turnpike to the OK-TX State line), PA, RI, SC, SD (points on and east of SD Hwy 45), TN, TX (points on, east and north of a line extending southerly along TX Hwy 19 to its junction with TX Hwy 154, then southerly along TX Hwy 154 to its junction with US Hwy 69, then southerly along US Hwy 69 to its junction with US Hwy 84, then easterly along US Hwy 84 to the TX-LA State line), VT, VA, WV and WS, (D) (1) *Metal* and *metal articles* when such commodities are heavy and bulky articles requiring specialized handling or rigging, and (2) *Metal* and *metal articles*, when such commodities are materials and supplies used or useful in road construction, mining, logging and sawmill operations, (except contractors' equipment, machinery and machine parts), (a) between points in WA, in north and west of the counties of Grays Harbor, Thurston, Pierce, King, Snohomish, Skagit and Whatcom, on the one hand, and, on the other hand, points in AL, AR, CT, DE, DC, FL, GA, IA, KS (points on and east of US Hwy 283), KY, LA, ME, MD, MA, MI (points in the Upper Peninsula only), MN, MS, NE (points on and east of a line extending southerly along US Hwy 183 to its junction with I Hwy 80, then westerly along I Hwy 80 to its junction with US Hwy 283, then southerly along US Hwy 283 to the NE-KS State line), NH, NJ, NY, NC, ND (points on and east of ND Hwy 3), OK (points on and east of a line extending southerly along US Hwy 283 to Altus, OK, then southerly along OK Hwy 44 to the OK-TX State line), PA, RI, SC, SD (points on and east of a line extending southerly along SD Hwy 45 to its junction with I Hwy 90, then westerly along I Hwy 90 to its junction with SD Hwy 47 to its junction with US Hwy 183, then southerly along US Hwy 183 to the SD-NE State line), TN, TX (points on and east of a line extending southerly along TX Hwy 283 to its junction with US Hwy 287, then southerly along US Hwy 287 to US Hwy 281, then along US Hwy 281 to the international Boundary near McAllen, TX), VT, VA, WV and WI (b) between points in WA within the counties of Clark, Skamania, Cowlitz, Wahkiakum, Pacific and Lewis, on the one hand, and, on the other hand, points in AL, AR, CT, DE, DC, FL, GA, IA, KS (points on and east of KS Hwy 14), KY, LA, ME, MD, MA, MI (points in the Upper Peninsula only), MN, MS, NE (points on and east of a line extending southerly along NE Hwy 137 to its junction with US Hwy 20, then easterly along US Hwy 20 to its junction with US Hwy 281, then sourtherly along US Hwy 281, to the NE-KS State line), NH, NJ, NY, NC, ND (points on and east of ND Hwy 3), OK (points on and east of a line extending southerly along US Hwy 81 to its junction with OK Hwy 7, then easterly along OK Hwy 7 to its junction with I Hwy 35, then southerly along I Hwy 35 to the OK-TX State line), PA, RI, SC, SD (points on and east of a line extending southerly along SD Hwy 45 to its junction with US Hwy 14, then westerly along US Hwy 14 to its junction with SD Hwy 47, then southerly along SD Hwy 47 to the SD-NE State line), TN, TX (points on and east of I Hwy 35 extending southerly from the TX-OX State line to Waco, TX, then southerly along US Hwy 77 to Victoria, TX, then southerly along TX Hwy 185 to the Gulf of Mexico near Port O'Conner, TX), VT, VA, WV and WI, (c) between points in WA in and east of the counties of Klickitat, Yakima, Kittitas, Chelan, and Okanogan, on the one hand, and, on the other hand, points in AL, AR, CT, DE, DC, FL, GA, IA, KS (points on and east of US Hwy 281), KY, LA, ME, MD, MA, MI, (points in the Upper Peninsula only), MN, MS, NE (points on and east of US Hwy 281), NH, NJ, NY, NC, ND, (points on and east of a line extending along US Hwy 281 to its junction with US Hwy 10 then westerly along US Hwy 10 to its junction with ND Hwy 30, then southerly along ND Hwy 30 to its junction with ND Hwy 13, then westerly along ND Hwy 13 to its junction with ND Hwy 3, then southerly along ND Hwy 3 to the ND-SD State line), OK (points on and east of a line extending southerly along US Hwy 281 to its junction with US Hwy 183, then southerly along US Hwy 183 to the OK-TX State line), PA, RI, SC, SD (points on and east of a line extending southerly along US Hwy 281 to its junction with US Hwy 183 to the OK-TX State line), PA, RI, SC, SD (points on and east of SD Hwy 45), TN, TX (points on and east of a line extending southerly along US Hwy 281 to its junction with US Hwy 183, then southerly along US Hwy 183 to the OK-TX State line), PA, RI, SC, SD (points on and east of a line extending southerly along SD Hwy 45 to its junction with I Hwy 90, then westerly along I Hwy 90 to its junction with SD Hwy 47 to its junction with US Hwy 183, then southerly along US Hwy 183 to the SD-NE State line), TN, TX (points on and east of a line extending southerly along TX Hwy 283 to its junction with US Hwy 287, then southerly along US Hwy 287 to US Hwy 281, then along US Hwy 281 to the international Boundary near McAllen, TX), VT, VA, WV and WI (b) between points in WA within the counties of Clark, Skamania, Cowlitz, Wahkiakum, Pacific and Lewis, on the one hand, and, on the other hand, points in AL, AR, CT, DE, DC, FL, GA, IA, KS (points on and east of KS Hwy 14), KY, LA, ME, MD, MA, MI (points in the Upper Peninsula only), MN, MS, NE (points on and east of a line extending southerly along NE Hwy 137 to its junction with US Hwy 20, then easterly along US Hwy 20 to its junction with US Hwy 281, then sourtherly along US Hwy 281, to the NE-KS State line), NH, NJ, NY, NC, ND (points on and east of ND Hwy 3), OK (points on and east of a line extending southerly along US Hwy 81 to its junction with OK Hwy 7, then easterly along OK Hwy 7 to its junction with I Hwy 35, then southerly along I Hwy 35 to the OK-TX State line), PA, RI, SC, SD (points on and east of a line extending southerly along SD Hwy 45 to its junction with US Hwy 14, then westerly along US Hwy 14 to its junction with SD Hwy 47, then southerly along SD Hwy 47 to the SD-NE State line), TN, TX (points on and east of I Hwy 35 extending southerly from the TX-OX State line to Waco, TX, then southerly along US Hwy 77 to Victoria, TX, then southerly along TX Hwy 185 to the Gulf of Mexico near Port O'Conner, TX), VT, VA, WV and WI, (c) between points in WA in and east of the counties of Klickitat, Yakima, Kittitas, Chelan, and Okanogan, on the one hand, and, on the other hand, points in AL, AR, CT, DE, DC, FL, GA, IA, KS (points on and east of US Hwy 281), KY, LA, ME, MD, MA, MI, (points in the Upper Peninsula only), MN, MS, NE (points on and east of US Hwy 281), NH, NJ, NY, NC, ND, (points on and east of a line extending along US Hwy 281 to its junction with US Hwy 10 then westerly along US Hwy 10 to its junction with ND Hwy 30, then southerly along ND Hwy 30 to its junction with ND Hwy 13, then westerly along ND Hwy 13 to its junction with ND Hwy 3, then southerly along ND Hwy 3 to the ND-SD State line), OK (points on and east of a line extending southerly along US Hwy 281 to its junction with US Hwy 183, then southerly along US Hwy 183 to the OK-TX State line), PA, RI, SC, SD (points on and east of a line extending southerly along SD Hwy 45 to its junction with I Hwy 90, then westerly along I Hwy 90 to its junction with SD Hwy 47 to its junction with US Hwy 183, then southerly along US Hwy 183 to the SD-NE State line), TN, TX (points on and east of a line extending southerly along TX Hwy 283 to its junction with US Hwy 287, then southerly along US Hwy 287 to US Hwy 281, then along US Hwy 281 to the international Boundary near McAllen, TX), VT, VA, WV and WI (b) between points in WA within the counties of Clark, Skamania, Cowlitz, Wahkiakum, Pacific and Lewis, on the one hand, and, on the other hand, points in AL, AR, CT, DE, DC, FL, GA, IA, KS (points on and east of KS Hwy 14), KY, LA, ME, MD, MA, MI (points in the Upper Peninsula only), MN, MS, NE (points on and east of a line extending southerly along NE Hwy 137 to its junction with US Hwy 20, then easterly along US Hwy 20 to its junction with US Hwy 281, then sourtherly along US Hwy 281, to the NE-KS State line), NH, NJ, NY, NC, ND (points on and east of ND Hwy 3), OK (points on and east of a line extending southerly along US Hwy 81 to its junction with OK Hwy 7, then easterly along OK Hwy 7 to its junction with I Hwy 35, then southerly along I Hwy 35 to the OK-TX State line), PA, RI, SC, SD (points on and east of a line extending southerly along SD Hwy 45 to its junction with US Hwy 14, then westerly along US Hwy 14 to its junction with SD Hwy 47, then southerly along SD Hwy 47 to the SD-NE State line), TN, TX (points on and east of I Hwy 35 extending southerly from the TX-OX State line to Waco, TX, then southerly along US Hwy 77 to Victoria, TX, then southerly along TX Hwy 185 to the Gulf of Mexico near Port O'Conner, TX), VT, VA, WV and WI, (c) between points in WA in and east of the counties of Klickitat, Yakima, Kittitas, Chelan, and Okanogan, on the one hand, and, on the other hand, points in AL, AR, CT, DE, DC, FL, GA, IA, KS (points on and east of US Hwy 281), KY, LA, ME, MD, MA, MI, (points in the Upper Peninsula only), MN, MS, NE (points on and east of US Hwy 281), NH, NJ, NY, NC, ND, (points on and east of a line extending along US Hwy 281 to its junction with US Hwy 10 then westerly along US Hwy 10 to its junction with ND Hwy 30, then southerly along ND Hwy 30 to its junction with ND Hwy 13, then westerly along ND Hwy 13 to its junction with ND Hwy 3, then southerly along ND Hwy 3 to the ND-SD State line), OK (points on and east of a line extending southerly along

US Hwy 281 to its junction with US Hwy 183, then southerly along US Hwy 183 to the OK-TX State line), PA, RI, SC, SD (points on and east of SD Hwy 45), TN, TX (points on and east of a line extending southerly along US Hwy 281 to its junction with US Hwy 183, then southerly along US Hwy 183 to its junction with US Hwy 59, then southwesterly along US Hwy 59 to its junction with US Hwy 77, then southerly along US Hwy 77 to its end near Brownsville, TX), VT, VA, WV, and WI, (E) (1) *Metal* and *metal articles* when such commodities are heavy and bulky articles requiring specialized handling or rigging, and (2) *Metal* and *metal articles*, when such commodities are materials and supplies used or useful in road construction, mining, logging and sawmill operations, (except contractors' equipment, machinery and machine parts), (a) between points in WA in, north and west of the counties of Gray Harbor, Thurston, Pierce, King, Snohomish, Skogit and Whatcom, on the one hand, and, on the other, points in the States of IL, IN, MO, MI (points in the Lower Peninsula only) and OH, (b) between points in WA within the counties of Pacific, Lewis, Wahkiakum, Coiity, Skamania and Clark, on the one hand, and, on the other, points in the States of IL, IN, MI (points in the Lower Peninsula only), MO and OH, (c) Between points in WA that are in and east of the counties of Klickitat, Yakima, Kittitas, Chelan, and Okanogon on the one hand, and, on the other, points in IL (points on and south of a line extending northeasterly along IL Hwy 37 to its junction with IL Hwy 146, then easterly along IL Hwy 146 to its junction with US Hwy 45, then northwesterly along US Hwy 45 to its junction with IL Hwy 1, then northeasterly along IL Hwy 1 to its junction with US Hwy 50, then easterly along US Hwy 50 to the IL-IN State line), IN (points on and east of a line extending easterly along US Hwy 50 to its junction with IN Hwy 67, then northeasterly along IN Hwy 67 to its junction with US Hwy 31, then northerly along US Hwy 31 to the IN-MI State line), MI (points in the Lower Peninsual only), MO (points on and east of a line extending northerly along I Hwy 55 to its junction with I Hwy 57, then easterly along I Hwy 57 to the IL-MO State line) and OH. (Gateways eliminated: (1) any point in MT west of a line extending from the boundary of the US and Canada along US Hwy 89 to Livingston, MT, then east along US Hwy 10 to Laurel, MT, then south along US Hwy 310 to the MT-WY State line, including points on the indicated portions of the highways specified, and MN, (2) Ada or Jerome County, ID and any point in MN, (3) Ada or Jerome County, ID, and points in MN, (4) any point in western MT and MN, (5) Ada or Jerome County, ID, and MN. The purpose of this partial republication is to correct the commodity description in the above sections. The remainder of this letter-notice remains as previously published.

MC-115554 (Sub-No. E20), filed June 4, 1974. Applicant: SCOTT'S TRANSPORTATION SERVICE, INC., P.O. Box 1634, Des Moines, IA 50306. Applicant's representative: James R. Madler, Attorney, 1255 North Sandburg Terrace, Chicago, IL 60610. *Refrigerators, refrigeration and electrical equipment, appliances, and parts, materials and supplies* used in the manufacture, repair, and distribution of such commodities, (1) between points in IL, on the one hand, and, on the other, points in AZ on, south and west of a line beginning at the AZ-NV state line and extending along AZ Hwy 68 to junction I Hwy 40, then east along I Hwy 40 to junction U.S. Hwy 89, then south along U.S. Hwy 89 to junction AZ Hwy 69, then east along AZ Hwy 69 to junction I Hwy 17, then south along I Hwy 17 to junction I Hwy 10, then south along on I Hwy 10 to junction I Hwy 8, then west along I Hwy 8 to the CA-AZ state line, (2) between points in IL on and north of a line beginning at the IL-MO state line, and extending along IL Hwy then along IL Hwy 13 to the KY-IL state line, on the one hand, and, on the other, points in AZ (3) between points in IL, on the north of a line beginning at the IL-IN state line, and extending along U.S. Hwy 36 to junction IL Hwy 104, then along IL Hwy 104, to the Mississippi River on the one hand, and, on the other, points in NM (4) between points in IL on the north of a line beginning at the IN-IL state line and extending west along U.S. Hwy 50 to junction U.S. Hwy 45, then north along U.S. Hwy 45 to junction I Hwy 70, then west along I Hwy 70 to junction U.S. Hwy 51, then north along on U.S. Hwy 51 to junction IL Hwy 29, then west along IL Hwy 29 to junction IL Hwy 104, then west along IL Hwy 104 to junction U.S. Hwy 36, then west along on U.S. Hwy 36 to the IL-MO state line, on the one hand, and, on the other, poin's in CO (5) Between points in IL on the one hand, and, on the other points in CO on and west of a line beginning at the CO-NE state line and extending southwest along I Hwy 80 to junction I-Hwy 25, then along I Hwy 25 to junction U.S. Hwy 24, then west along U.S. Hwy 24 to junction U.S. Hwy 285, then south along U.S. Hwy 285 to junction CO Hwy 291, then east along CO Hwy 291 to junction

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U.S. Hwy 50, then west along U.S. Hwy 50 to the CO–UT state line. (Gateway eliminated: Amana, IA).

MC 118831 (Sub-No. E–148), filed April 19, 1978. Applicant: CENTRAL TRANSPORT, INC., P.O. Box 5388, Uwharrie Road, High Point, N.C. 27263. Applicant's representative: E. Stephen Heisely, Suite 805, 666 Eleventh St., N.W., Washington, D.C. 20001. *Liquid petrochemicals,* (except anhydrous ammonia, fertilizer, and fertilizer materials), in bulk, in tank vehicles, between Fayetteville, N.C. on the one hand; and on the other, points in North Carolina on and west of a line beginning at Gibson, N.C. on the one North Carolina-South Carolina State line and running northwestward on N.C. Hwy 381 to US Hwy 381 to US Hwy 74 to US Hwy 220 to N.C. Hwy 73 to US Hwy 52 to US Hwy 601 to US Hwy 64 to N.C. Hwy 901 to N.C. Hwy 115 to N.C. Hwy 18 to the North Carolina-Virginia Line; and points in North Carolina on and South of a line beginning at the North Carolina-South Carolina Line on US Hwy 301 running thence on US Hwy 301 to Rowland; thence, over N.C. Hwy 130 to N.C. Hwy 904 to Fair Bluff; US Hwy 76 to Carro Gordo; thence, over unnumbered highway through Wards to N.C. Hwy 410 to US Hwy 701 to unnumbered highway through Mollie to Nakina to Old Dock; thence, N.C. Hwy 130 to the Atlantic Ocean. (Gateway eliminated points in S.C.)

MC 118831 (Sub-No. E–149), filed April 19, 1978. Applicant: CENTRAL TRANSPORT, INC., P.O. Box 5388, Uwharrie Road, High Point, N.C. 27263. Applicant's representative: E. Stephen Heisely, Suite 805, 666 Eleventh St., N.W., Washington, D.C. 20001. *Liquid petrochemicals,* (except anhydrous ammonia, fertilizer, and fertilizer materials), in bulk, in tank vehicles, between Lexington, N.C. on the one hand, and on the other, points in the following portions of North Carolina: Those points in North Carolina on and east of a line beginning on N.C. Hwy 145 at the North Carolina-South Carolina State Line running to Morven; thence, due east in a straight line to Hamlet; thence, US Hwy 74 to Laurel Hill; thence, unnumbered highway to Wagram; thence, unnumbered highway to Antioch; thence, N.C. Hwy 211 through Red Springs to Lumberton; thence, N.C. Hwy 41 to Chinquapin; thence, unnumbered highway to US Hwy 258 north of Jacksonville; thence, N.C. Hwy 24 through Boque and Ocean to unnumbered highway; thence, through Newport to N.C. Hwy 101; thence, N.C. Hwy 101 to unnumbered highway to Merrimon and points in North Carolina on and west of a line beginning on N.C. Hwy 200 at the North Carolina-South Carolina State line north to N.C. Hwy 16; N.C. Hwy 16 to N.C. Hwy 51; thence, unnumbered highway to N.C. Hwy 49 to Interstate 85; to N.C. Hwy 16; thence, north on N.C. Hwy 16 to N.C. Hwy 275; thence, N.C. 275 to Kings Mountain; thence, US Hwy 74 to Shelby; thence, N.C. Hwy 226 through Polkville to unnumbered Highway through Sunshine and Bostic to Branch Road; thence, US Hwy 74; US Hwy 74 to Fairview; thence, unnumbered highway through Fletcher to Mills River; thence, N.C. Hwy 191 to US Hwy 19 to Interstate 40 to the Tennessee State Line. (Gateway eliminated: points in S.C.)

MC 118831 (Sub-No. E–151), filed April 19, 1978. Applicant: CENTRAL TRANSPORT, INC., P.O. Box 5388, Uwharrie Road, High Point, N.C. 27263. Applicant's representative: E. Stephen Heisely, Suite 805, 666 Eleventh St., N.W., Washington, D.C. 20001. *Liquid petrochemicals,* (except anhydrous ammonia, fertilizer, and fertilizer materials), in bulk, in tank vehicles, from Canton, N.C. to points in Georgia on and south of a line beginning on the Tugaloo River (Georgia-South Carolina State Line) on US Hwy 123 and running west to Cornelia; thence, US Hwy 23 to Georgia Hwy 105; thence, Georgia Hwy 105 to Georgia Hwy 254; thence, Georgia Hwy 254 to Georgia Hwy 115 to Cleveland; thence, US Hwy 129 to Georgia Hwy 9 to Dahlonega; thence, US Hwy 19 to Dawsonville; thence, Georgia Hwy 53 to Tate, Georgia; thence, Georgia Hwy 156 to Georgia Hwy 140; thence, Georgia Hwy 140 to Georgia Hwy 153 to Rome; thence, Georgia Hwy 20 to the Alabama-Georgia State Line. (Eliminate: Gateway of SC).

By the Commission.

H. G. Homme, Jr.,
Secretary.

[FR Doc. 79-14322 Filed 5-7-79; 8:45 am]

BILLING CODE 7035-01-M

Motor Carrier Temporary Authority Applications

April 26, 1979.

The following are notices of filing of applications for temporary authority under Section 210a(a) of the Interstate Commerce Act provided for under the provisions of 49 CFR 1131.3. These rules provide that an original and six (6) copies of protests to an application may be filed with the field official named in the Federal Register publication no later than the 15th calendar day after the date the notice of the filing of the application is published in the Federal Register. One copy of the protest must be served on the applicant, or its authorized representative, if any, and the protestant must certify that such service has been made. The protest must identify the operating authority upon which it is predicated, specifying the "MC" docket and "Sub" number and quoting the particular portion of authority upon which it relies. Also, the protestant shall specify the service it can and will provide and the amount and type of equipment it will make available for use in connection with the service contemplated by the TA application. The weight accorded a protest shall be governed by the completeness and pertinence of the protestant's information.

Except as otherwise specifically noted, each applicant states that there will be no significant effect on the quality of the human environment resulting from approval of its application.

A copy of the application is on file, and can be examined at the Office of the Secretary, Interstate Commerce Commission, Washington, D.C., and also in the ICC Field Office to which protests are to be transmitted.

Note.—All applications seek authority to operate as a common carrier over irregular routes except as otherwise noted.

Motor Carriers of Property

MC 263 (Sub-227TA), filed March 26, 1979. Applicant: GARRETT FREIGHTLINES, INC., 2055 Garrett Way, Pocatello, ID 83201. Applicant's representative: Wayne S. Green (same address as applicant). *Sugar, in packages,* from points in ID to points in SD, for 180 days. Supporting shipper(s): The Amalgamated Sugar Company, First Security Bank Building, Ogden, UT 84402. Send protests to: Barney L. Hardin, D/S, ICC, Suite 110, 1471 Shoreline Dr., Boise, ID 83706. An underlying ETA seeks 90 days authority.

MC 2202 (Sub-585TA), filed February 14, 1979. Applicant: ROADWAY EXPRESS, INC., P.O. Box 471, 1077 Gorge Blvd., Akron, OH 44309. Representative: William O. Turney, Suite 1010, 7101 Wisconsin Ave., Washington, DC 20014. Common carrier—regular routes, general commodities (except those of unusual value, Class A and B explosives, household goods as defined by the Commission, commodities in bulk, and those requiring special equipment, serving the federal prison at or near Milan, MI, as an off-route point in connection with applicant's regular routes, for 180 days. Applicant will tack with its existing authority. Supporting shipper(s): U.S. Postal Service, Office of Resources Management, Room 1100, 475 L'Enfant Plaza West, S.W., Washington, DC 20260. Send protests to: Mary Wehner, D/S, ICC, 731 Federal Office Building, Cleveland, OH 44199.

MC 2202 (Sub-587TA), filed March 27, 1979. Applicant: ROADWAY EXPRESS, INC., P.O. Box 471, 1077 Gorge Blvd., Akron, OH 44309. Representative: William O. Turney, 7101 Wisconsin Ave., Suite 1010, Washington, DC 20014. Common carrier—regular route: *General commodities* (except those of unusual value, Class A and B explosives, household goods as defined by the Commission, commodities in bulk, and those requiring special equipment), serving the plantsite of Ampacet at or near De Ridder, LA, as an off-route point in connection with applicant's regular routes, for 180 days. Applicant will tack with its existing authority and interline at all points of interchange. Supporting shipper(s): Ampacet Corporation, 16 Pearl Street, Metuchen, NJ 08840. Send protests to: Mary Wehner, D/S, ICC, 731 Federal Office Building, Cleveland, OH 44199.

MC 8973 (Sub-56TA), filed March 1, 1979. Applicant: METROPOLITAN TRUCKING, INC, 2424 95th Avenue, North Bergen, NJ 07047. Representative: Dennis J. Reilly, Suite 102, 4851 Homestead Road, Houston, TX 77028. Common, irregular. *Plastic pettets and plastic granules,* from La Porte, Port Arthur, Houston, and Orange, TX to Chicago, IL for 180 days. An underlying ETA seeks 90 days authority. Supporting shipper(s): ARCO Polymers, Inc., 1500 Market St., P.O. Box 7258, Philadelphia, PA 19101. Send protests to: Robert E. Johnston, D/S, ICC, 9 Clinton St. Room 618, Newark, NJ 07102.

MC 14552 (Sub-66TA), filed April 5, 1979. Applicant: MCNICHOLAS TRANSPORTATION CO., 555 West Federal St., Youngstown, OH 44501. Representative: Michael Spurlock, Esq., 275 East State St., Columbus, OH 43215. *Iron and steel articles,* from the facilities of Armco, Inc., at Middletown, OH, to points in MI, for 180 days. An underlying ETA seeks 90 days authority. Supporting shipper(s): Armco, Inc., 703 Curtis St., Middletown, OH 45043. Send protests to: Mary Wehner, D/S, ICC, 731 Federal Office Building, Cleveland, OH 44199.

MC 19193 (Sub-17TA), filed April 6, 1979. Applicant: LAFFERTY TRUCKING COMPANY, 3703 Beale Avenue, Altoona, PA 16603. Representative: S. Berne Smith, Esquire, McNees, Wallace & Nurick, P.O. Box 1166, Harrisburg, PA 17108. *Contract carrier:* irregular routes: *Such merchandise as is dealt in by wholesale, retail and chain grocery and food business houses* and in connection therewith *equipment, materials and supplies used in the conduct of such business* between shippers facilities in Altoona, PA and its retail stores in Hornell, Jamestown, and Olean, NY. Restriction: Limited to transportation service to be performed under a continuing contract or contracts with The Great Atlantic and Pacific Tea Company, Inc., for 180 days. An underlying ETA seeks 90 days authority. Supporting shipper(s): The Great Atlantic and Pacific Tea Company, 2 Paragon Drive, Montsvale, NJ 07645. Send protests to: John J. England, District Supervisor, Bureau of Operations, Interstate Commerce Commission, 2111 Federal Building, 1000 Liberty Avenue, Pittsburgh, PA 15222.

MC 64932 (Sub-594TA), filed February 12, 1979. Applicant: ROGERS CARTAGE COMPANY, 10735 South Cicero Avenue, Oak Lawn, IL 60453. Representative: William F. Farrell, address same as applicant. *Re-processed Sulphuric Acid,* in bulk, in tank vehicles from the facility of Eli Lilly Company at LaFayette, IN to the facility of Ohio Liquid Company at Vickery, OH, for 180 days. Supporting shipper(s): Eli Lilly and Company, 1555 South Kentucky Avenue, Indianapolis, IN 46206. Send protests to: Annie Booker, Transportation Assistant, Interstate Commerce Commission, Everett McKinley Dirksen Building, 219 South Dearborn Street, Room 1386, Chicago, IL 60604.

MC 64932 (Sub-595TA), filed February 12, 1979. Applicant: ROGERS CARTAGE COMPANY, 10735 South Cicero Avenue, Oak Lawn, IL 60453. Representative: Same as applicant. *Waste Oil,* in bulk, in tank vehicles from the plantsite of Alcoa Aluminum at Alcoa, TN to the plantsite of Nalco Chemical Company at Chicago, IL, for 180 days. Supporting shipper(s): Nalco Chemical Company, 2901 Butterfield Road, Oak Brook, IL 60521. Send protests to: Annie Booker, Transportation Assistant, Interstate Commerce Commission, Everett McKinley Dirksen Building, 219 South Dearborn Street, Room 1386, Chicago, IL 60604.

MC 80282 (Sub-3TA), filed April 4, 1979. Applicant: SOUTH ATLANTIC BONDED WAREHOUSE CORPORATION, P.O. Drawer R, 2020 E. Market Street, Greensboro, NC 27406. Representative: Terrell C. Clark, P.O. Box 25, Stanleytown, VA 24168. *Appliances, carpet, carpet cushioning, heating and air-conditioning units, and kitchen cabinets* from Greensboro, NC, on the one hand, and, on the other, points in VA; Fayette, Greenbriar, Logan, McDowell, Mercer, Monroe, Raleigh, Summers, and Wyoming counties, WV; Carter, Hancock, Hawkins, Johnson, Sullivan, Unicoi, and Washington counties, TN; and Floyd, Harlan, Johnson, Knott, Leslie, Letcher, Martin, Perry, and Pike counties, KY, for 180 days. An underlying ETA has been filed for 90 day authority. Supporting shipper(s): Sears, Roebuck and Co., 2600 Lawndale Drive, Greensboro, NC 27480. Send protests to: Mr. Archie W. Andrews, D/S, ICC, P.O. Box 26896, Raleigh, NC 27611.

MC 82063 (Sub-102TA), filed March 23, 1979. Applicant: KLIPSCH HAULING CO., 10795 Watson Rd., Sunset Hills, MO 63127. Representative: W. E. Klipsch, same as above. Liquid Chemicals, in bulk, in tank vehicles, from Freeport, TX to points in AL, AR, FL, GA, IL, IN, IA, KS, KY, LA, MI, MO, MS, NC, NJ, OH, PA, SC, TN, WV, and WI, for 180 days. An underlying ETA seeks 90 days authority. Supporting shipper(s): Dow Chemical U.S.A., Freeport, TX 77541. Send protests to: P. E. Binder, DS, ICC, Rm. 1465, 210 N. 12th St., St. Louis, MO 63101.

MC 82063 (Sub-104TA), filed April 10, 1979. Applicant: KLIPSCH HAULING CO., 10795 Watson Rd., Sunset Hills, MO 63127. Representative: W. E. Klipsch, address same as above. *Liquid chemicals,* in bulk, in tank vehicles, from Brownsville, TN to all points in the US (except AK and HI), for 180 days. An underlying ETA seeks 90 days authority. Supporting shipper(s): B.A.S.F. Wyandotte Corporation, 100 Cherry Hill Rd., Parsippany, NJ 07054. Send protests to: P. E. Binder, DS, ICC, Rm. 1465, 210 N. 12th St., St. Louis, MO 63101.

MC 103802 (Sub-11TA), filed March 29, 1979. Applicant: SKJONSBY TRUCK LINE, INC., 2831 First Avenue North, Box 382, Fargo, ND 58102. Representative: Richard P. Anderson, 502 First National Bank Bldg., Fargo, ND 58126. (1) *Such commodities as are dealt in, or used by, agricultural equipment, industrial equipment, and lawn and leisure product dealers and manufacturers* (except commodities in bulk, in tank vehicles), and (2) *Parts and attachments for the commodities named in (1) above),* from Fargo and Mandan, ND to points in ND, SD, MN, MT and WY, restricted to shipments having a prior movement by rail, for 180 days. An underlying ETA seeks 90 days authority. Supporting shipper(s): International Harvester Company, 401 N. Michigan Avenue, Chicago, IL 60611. Send

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protests to: DS, ICC, Bureau of Operations, Room 268 Fed. Bldg. & U.S. Post Office, 657 2nd Avenue North, Fargo, ND 58102.

MC 106373 (Sub-42TA), filed February 28, 1979. Applicant: THE SERVICE TRANSPORT CO., 114¼ East Main Street, P.O. Box 950, Ravenna, OH 44266. Representative: William P. Jackson, Jr., P.O. Box 1240, Arlington, VA 22210. *Iron and steel articles,* from facilities of Gibraltar Group of Companies, its affiliates and subsidiaries, at Buffalo, NY, and Niles, OH, to points in MI, IN, IL, and WI, for 180 days. An underlying ETA seeks 90 days authority. Supporting shipper(s): Gibraltar Group of Companies, 635 South Park Avenue, Buffalo, NY 14240. Send protests to: Mary Wehner, D/S, ICC, 731 Federal Office Building, Cleveland, OH 44199.

MC 106373 (Sub-43TA), filed February 14, 1979. Applicant: THE SERVICE TRANSPORT CO., 114¼ East Main Street, P.O. Box 950, Ravenna, OH 44266. Representative: William P. Jackson, Jr., P.O. Box 1240, Arlington, VA 22210. *Iron and steel articles,* from facilities of Bethlehem Steel Corporation, at or near Lackawanna, NY, to points in IN and IL, for 180 days. An underlying ETA seeks 90 days authority. Supporting shipper(s): Bethlehem Steel Corporation, Bethlehem, PA 18016. Send protests to: Mary Wehner, D/S, ICC, 731 Federal Office Building, Cleveland, OH 44199.

MC 107012 (Sub-350TA), filed February 27, 1979. Applicant: NORTH AMERICAN VAN LINES, INC., P.O. Box 988, 5001 U.S. Highway 30 West, Fort Wayne, IN 46801. Representative: Stephen C. Clifford, address same as applicant. *Baby cribs, cartoned,* from Quincy, FL to Elverson, PA, for 180 days. An underlying ETA seeks 90 days authority. Supporting shipper: Graco Childrens Po-ductions, Inc., Route 23, Elverson, PA 19520. Send protests to: Beverly J. Williams, Transportation Assistant, I.C.C. 46 E. Ohio St., Rm 429, Indianapolis, IN 46204.

MC 107452 (Sub-12TA), filed February 28, 1979. Applicant: R. D. BROWN d.b.a. DAN BROWN TRUCKING, Greybull Heights, Greybull, WY 82426. Representative: Same as applicant. *Taconite (bentonite),* in bulk, from Worland, WY to Nashwauk, MN, for 180 days. An underlying ETA seeks 90 days authority. Supporting shipper(s): Black Hills Bentonite Company, Box 9, Mills, WY 82644. Send protests to: District Supervisor Paul A. Naughton, Interstate Commerce Commission, Rm 105 Federal Bldg & Crt House, 111 South Wolcott, Casper, WY 82601.

MC 107452 (Sub-13TA), filed March 23, 1979. Applicant: R. D. BROWN d.b.a. DAN BROWN TRUCKING, Greybull Heights, Greybull, WY 82426. Representative: Dan Brown (same address as applicant's). *Taconite (bentonite),* in bulk, from Worland, WY to points in MN, for 180 days. An underlying ETA seeks 90 days authority. Supporting shipper(s): Black Hills Bentonite Co., P.O. Box 9, Mills, WY 82644. Send protests to: District Supervisor Paul A. Naughton, Interstate Commerce Commission, Rm 105 Federal Bldg & Crt House, 111 South Wolcott, Casper, WY 82601.

MC 107882 (Sub-44TA), filed April 6, 1979. Applicant: ARMORED MOTOR SERVICE CORPORATION, 160 Ewingville Road, Trenton, N.J. 08638. Representative: Herbert Alan Dubin, 1320 Fenwick Lane, Silver Spring, MD 20910. *Contract carrier:* irregular routes: silver dollar tokens, from Cincinnati, OH to Atlantic City, NJ, for 180 days. An underlying ETA seeks 90 day authority. Supporting shipper(s): Caesar's World, Boardwalk Regency, Atlantic City, NJ 08401. Send protests to: District Supervisor, ICC, 428 East State Street, Room 204, Trenton, NJ 08608.

MC 109692 (Sub-82TA), filed January 26, 1979. Applicant: GRAIN BELT TRANSPORTATION COMPANY, Route 13, Kansas City, Missouri 64161. Representative: Warren H. Sapp, P. O. Box 16047, Kansas City, Missouri 64112. (1) *Irrigation systems, pipe, tubing, light* and *transmission poles, mast arms, brackets, bases, solar energy heating* and *cooing systems, wood burning heating appliances, iron* and *steel articles,* and (2) *parts, materials, equipment, supplies* and *accessories* for, or used in the manufacture, distribution, installation and operations of, the commodities described in (1) above, between the facilties of Valmont Industries, Inc. at or near Valley, NE, on the one hand, and, on the other, points in AZ, CA, CO, ID, MT, NV, OR, UT, WA and WY, for 180 days. An underlying ETA seek 90 days authority. Supporting shipper(s): Valmont Industries, Inc., Valley, NE 68064. Send protests to: Vernon V. Coble, DS, Interstate Commerce Commission, 600 Federal Building, 911 Walnut Street, Kansas City, Missouri.

MC 109692 (Sub-83TA), filed March 23, 1979. Applicant: GRAIN BELT TRANSPORTATION COMPANY, Route 13, Kansas City, Missouri 64161. Representative: Warren H. Sapp, P. O. Box 16047, Kansas City, Missouri 64112. *Such commodities as are dealt in or used by manufacturers and dealers of agricultural equipment, industrial equipment, and lawn and leisure products, except commodities in bulk,* between the facilities of, or used by, International Harvester Company at Canton, East Moline, Moline, and Rock Island, IL, on the one hand, and, on the other, points in CO, ID, KS, MO, NE, NV, UT and WY, for 180 days. An underlying ETA seeks authority for 90 days. Restriction: The above authority is restricted to the transportation of traffic (a) originating at the facilities of, or used by, International Harvester Company named therein, and destined to points in the states named therein, and (b) originating at points in the states named therein and destined to the facilities of, or used by, International Harvester Company. Supporting shipper(s): Agricultural Equipment Group, International Harvester Company, 401 N. Michigan Avenue, Chicago, Illinois 60611. Send protests to: Vernon V. Coble, District Supervisor, Interstate Commerce Commission, 600 Federal Building, 911 Walnut Street, Kansas City, Missouri 64106.

MC 110563 (Sub-267TA), filed March 21, 1979. Applicant: COLDWAY FOOD EXPRESS, INC., P.O. Box 747, State Route 29 N, Sidney, OH 45365. Representative: John L. Maurer (same address as applicant). *Bananas,* from the Ports of Norfolk, Portsmouth and Hampton Roads, VA, to points in IL, IN, MD, MA, MI, MO, NJ, NY, NC, OH, PA, SC, TN, VA, WV, DC and the ports of entry on the United States-Canada Border, for 180 days. An underlying ETA seeks 90 days authority. Supporting shipper(s): Best Banana Company, Inc., 3616 E. Virginia Beach Blvd., Norfolk, VA 23502. Send protests to: Interstate Commerce Commission, Bureau of Operations, 600 Arch St., Rm. 3238, Phila., PA 19106.

MC 110683 (Sub-141TA), filed April 3, 1979. Applicant: SMITH'S TRANSFER CORPORATION, Post Office Box 1000, Staunton, Virginia 24401 Representative: W. D. Kirkpatrick, same address as above. Common—Regular. *General Commodities,* except household goods as defined by the Commission, commodities in bulk, Classes A & B explosives, commodities requiring special equipment, and commodities of unusual value, serving points in McDonough, Warren, Knox, Peoria, Stark, Mercer, Rock Island, Henry, Bureau, and Vermillion counties, IL; and White, Warren, Fountain, Tippecanoe, Parke, Montgomery, Jennings, Jackson, Washington, Vermillion and Vigo

counties, IN, as off route points in connection with present regular routes, for 180 days. An underlying ETA seeks 90 days authority. Supporting shipper(s): There are 53 supporting shippers to this application whose statements may be examined at the I.C.C., Washington, D.C. or the field office. Send protests to: Paul D. Collins, DS, ICC, Room 10–502 Federal Bldg., 400 North 8th St., Richmond, VA 23240.

MC 110923 (Sub-10TA), filed April 5, 1979. Applicant: ALBERT LIVEK, d.b.a. AL LIVEK'S TRUCKING SERVICE, 808 Harrison Street, Kewanee, IL 61443. Representative: Joseph Winter, 29 South LaSalle Street, Chicago, IL 60603. *Such commodities as are dealt in or used by manufacturers and dealers of agricultural equipment, industrial equipment, and lawn and leisure products;* (except commodities in bulk) (1) from the facilities of, or used by, International Harvester Co., East Moline, Moline and Rock Island, IL to points in the U.S. in and east of WI, IA, MO, AR and LA (except IN), and (2) from the facilities of, or used by International Harvester at Canton, IL to points in AR, CT, LA, MA, ME, NH, RI, and VT, points in IA west of U. S. Hwy. 63, points in MO on and west of U. S. Hwy 65, and points in Kenosha, Racine and Milwaukee Counties, WI, restricted in (1) and (2) above to the transportation of traffic originating at the named facilities and destined to the named destinations, except that the foregoing restriction shall not apply to traffic moving in foreign commerce, for 180 days. An underlying ETA was granted for 90 days. Supporting shipper(s): International Harvester Company, 401 North Michigan Avenue, Chicago, IL 60611. Send protests to: Annie Booker, Interstate Commerce Commission, 219 South Dearborn Street, Room 1386, Chicago, Illinois 60604.

MC 111302 (Sub-148TA), filed March 1, 1979. Applicant: HIGHWAY TRANSPORT, INC., 934 44th Avenue, North, P.O. Box 90408, Knoxville, TN 37209. Representative: David A. Peterson, same address as applicant. *Liquid resins, in bulk, in tank vehicles,* from the facilities of Cargill, Inc., in Forest Park, GA to AL, FL, MS, NC, SC, TN, TX, Louisville, KY, St. Louis, MO, and Attleboro, MA, for 180 days. Supporting shipper(s): Cargill Inc., 71 Barnett Road, Forest Park, GA 30050. Send protests to: Glenda Kuss, TA, ICC, Suite A–422, U.S. Court House, 801 Broadway, Nashville, TN 37203.

MC 111302 (Sub-150TA), filed March 7, 1979. Applicant: HIGHWAY TRANSPORT, INC., P.O. Box 10470, 1500 Amherst Road, Knoxville, TN 37919. Representative: David A. Peterson, same address as applicant. *Liquid chemicals, in bulk, in tank vehicles,* from the facilities of Alpine Laboratories, Inc., in Childersburg, AL to points in AR, CA, CO, IA and NE, for 180 days. Supporting shipper(s): Alpine Laboratories, Inc., P.O. Box 147, Bay Minette, AL 36506. Send protests to: Glenda Kuss, TA, ICC, Suite A–422, U.S. Court House, 801 Broadway, Nashville, TN 37203.

MC 111302 (Sub-153TA), filed April 11, 1979. Applicant: HIGHWAY TRANSPORT, INC., P.O. Box 10470, 1500 Amherst Road, Knoxville, TN 37919. Representative: David A. Petersen (same address as applicant). *Dry extendo spheres, in bulk, in hopper-type vehicles,* from the facilities of P A Industries in Rockwood, TN to Dalton and Milledgeville, GA and Berlin, WI, for 180 days. Supporting Shipper(s): P. A. Industries, Rockwood, TN. Send protests to: Glenda Kuss, TA, ICC, Suite A–422, U.S. Court House, 801 Broadway, Nashville, TN 37203.

MC 111812 (Sub-619TA), filed March 28, 1979. Applicant: MIDWEST COAST TRANSPORT, INC., P.O. Box 1233, 1600 E. Benson Rd., Sioux Falls, SD 57101. Representative: Lamoyne Brandsma (same address as applicant). *Chemical liquid photographic developer* from Bensenville, IL to Rochester, NY for 180 days. An underlying ETA seeks 90 days authority. Supporting Shipper(s): Minnesota Mining and Manufacturing Company, 3M Center, St. Paul, MN 55101. Send protests to: J. L. Hammond, DS, ICC, Room 455, Federal Bldg., Pierre, SD 57501.

MC 111812 (Sub-622TA), filed April 5, 1979. Applicant: MIDWEST COAST TRANSPORT, INC., P.O. Box 1233, Sioux Falls, SD 57101. Representative: Lamoyne Brandsma (same address as applicant). *Meats, meat products, meat by-products and articles distributed by meat packinghouses* as described in Sections A and C of Appendix I to the report in Descriptions in Motor Carrier Certificates, 61 M.C.C. 209 and 766 (except hides and commodities in bulk) and *foodstuffs* when moving in mixed truckloads with articles listed above from the facilities of Oscar Mayer & Co. at or near Davenport, IA to the states of GA & FL for 180 days. An underlying ETA seeks 90 days authority. Supporting Shipper(s): Oscar Mayer & Co., Inc., P.O. Box 7188, Madison, WI 53707. Send protests to: J. L. Hammond, DS, ICC, Room 455, Federal Bldg., Pierre, SD 57501.

MC 112713 (Sub-252TA), filed March 23, 1979. Applicant: YELLOW FREIGHT SYSTEM, INC., P.O. Box 7270, 10990 Roe Ave., Shawnee Mission, KS 66207. Representative: John M. Records (same as applicant). *General commodities* (except Classes A and B explosives, commodities in bulk, household goods as defined by the Commission, commodities of unusual value, and those requiring special equipment), serving Cedar Rapids, IA as an off-route point in connection with carrier's otherwise authorized operations, for 180 days. An underlying ETA seeks 90 days. Supporting Shipper(s): There are approximately 31 statements of support attached to the application which may be examined at the Interstate Commerce Commission in Washington, DC, or copies may be examined at the field office named below. Send protests to: DS John V. Barry, 600 Fed Bldg., 911 Walnut Street, Kansas City, MO 64106.

MC 112713 (Sub-253TA), filed March 23, 1979. Applicant: YELLOW FREIGHT SYSTEM, INC., P.O. Box 7270, 10990 Roe Ave., Shawnee Mission, KS 66207. Representative: John M. Records (same as applicant). *Shipping racks,* serving the facilities of General Tire and Rubber Co., at Ionia, MI as an off-route point in connection with carrier's otherwise authorized operations, for 180 days. An underlying ETA seeks 90 days. Supporting Shipper(s): The General Tire & Rubber Co., Akron, OH. Send protests to: DS John V. Barry, 600 Fed Bldg., 911 Walnut Street, Kansas City, MO 64106.

MC 112893 (Sub–57TA), filed February 27, 1979. Applicant: BULK TRANSPORT CO., P.O. Box 186, Pleasant Prairie, WI 53158. Representative: John R. Sims, Jr., 915 Pennsylvania Bldg., 425 13th St., NW., Washington, DC 20004. *Petroleum lubrication oil, industrial oils and petroleum wax,* in bulk, in tank vehicles, from the facilities of Mobil Oil Corp. in Cicero, IL to the states of IN, IA, OH, MI, WI & MN, for 180 days. An underlying ETA seeks 90 days authority. Supporting shipper(s): Mobil Oil Corp., 3350 N. Central Expressway, Suite 522, Dallas, TX 75206. Send protests to: Gail Daugherty, Transportation Asst., Interstate Commerce Commission, Bureau of Operations, U.S. Federal Building & Courthouse, 517 East Wisconsin Avenue, Room 619, Milwaukee, Wisconsin 58202.

MC 113362 (Sub–351TA), filed April 3, 1979. Applicant: ELLSWORTH FREIGHT LINES, INC., 310 East Broadway, Eagle Grove, IA 50533. Representative: Milton D. Adams, P.O. Box 429, Austin, MN 55912. *Millwork, hardwood furniture parts, hardwood furniture dimension stock,* from Foreston, MN to Davenport, IA for 180

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days. An underlying ETA seeks 90 days authority. Supporting shipper(s): Foreston Dimensions Co., Div. of Woodcraft Ind., P.O. Box 26, St. Cloud, MN 56330. Send protests to: Herbert W. Allen, DS, ICC, 518 Federal Bldg., Des Moines, IA 50309.

MC 114273 (Sub-573TA), filed March 23, 1979. Applicant: CRST, INC., 3930 16th Ave., P.O. Box 68, Cedar Rapids, IA 52406. Representative: Kenneth L. Core, Commerce Attorney (same as applicant). *Iron and steel articles* from the plantsites of Wheeling-Pittsburgh Steel located at Canfield, Martins Ferry, Mingo Junction, Steubenville and Yorkville, OH; Allenport and Monessen, PA; Beech Botton, Benwood, Follansbee, and Wheeling, WV to destinations in the state of IL, for 180 days. An underlying ETA seeks 90 days authority. Supporting shipper(s): Wheeling-Pittsburgh Steel Corporation. P.O. Box 118, Pittsburgh, PA 15230. Send protests to: Herbert W. Allen, DS, ICC, 518 Federal Bldg., Des Moines, IA 50309.

MC 114273 (Sub-574TA), filed March 23, 1979. Applicant: CRST, INC., 3930 16th Ave., P.O. Box 68, Cedar Rapids, IA 52406. Representative: Kenneth L. Core, Commerce Attorney (same as applicant). *Meat, meat products, and meat by-products, and articles distributed by meat packinghouses, as described in Sections A, C and D of Appendix I to the report in Descriptions in Motor Carrier Certificates, 61 M.C.C. 209 and 766,* (restricted against the transportation of commodities in bulk, in tank vehicles), between the facilities of Lauridsen Foods, Inc., at or near Britt, IA, on the one hand, and, on the other, points in CT, DE, IL, IN, KS, ME, MD, MA, MI, MN, MO, NE, NH, NJ, NY, OH, PA, RI, VT, VA, WI, and DC, restricted to traffic originating at and destined to the named points for 180 days. An underlying ETA seeks 90 days authority. Supporting shipper(s): Armour and Company, Greyhound Tower, Phoenix, AZ 85077. Send protests to: Herbert W. Allen, DS, ICC, 518 Federal Bldg., Des Moines, IA 50309.

MC 114273 (Sub-576TA), filed February 21, 1979. Applicant: CRST, INC., P.O. Box 68, Cedar Rapids, IA 52406. Representative: Kenneth L. Core (same as applicant). *Agricultural implements and parts* from Grinnell, IA to Chesapeake, VA; Louisville, KY; Indianapolis, IN; and Syracuse, NY for 180 days. An underlying ETA seeks 90 days authority. Note: Common control may be involved. Supporting shipper(s): Farmhand, Inc., 146 South, Grinnell, IA 50112. Send protests to: Herbert W. Allen, DS, ICC, 518 Federal Bldg., Des Moines, IA 50309.

MC 114273 (Sub-585TA), filed March 30, 1979. Applicant: CRST, INC., P.O. Box 68, 3930 16th Ave., Cedar Rapids, IA 52406. Representative: Kenneth L. Core, Commerce Attorney (same as applicant). *Heatilator fireplaces and parts or accessories,* from the facilities of the Heatilator Division of Vega Industries at Mt. Pleasant and/or Centerville, IA to all points in MN, MI, WI, IL, IN, OH, PA, NY, NJ, VA, WV, MD, DE, and MA for 180 days. Supporting shipper(s): Heatilator Div. of Vega Industries, Highway 34 W., Mt. Pleasant, IA 52641. Send protests to: Herbert W. Allen, DS, ICC, 518 Federal Bldg., Des Moines, IA 50309.

MC 114273 (Sub-586TA), filed March 30, 1979. Applicant: CRST, INC., P.O. Box 68, Cedar Rapids, IA 52406. Representative: Kenneth L. Core, Commerce Attorney (same as applicant). *Hog and pig skins and trimmings* as described in Section A of Appendix I to the report in Descriptions in Motor Carrier Certificates, 61 M.C.C. 209 and 766, from the facilities of Geo. A Hormel & Co. at Ottumwa, IA to all points in CT, DE, ME, MD, MA, MI, NH, NJ, NY, OH, PA, RI, VT, VA, WV, and DC for 180 days. An underlying ETA seeks 90 days authority. Supporting shipper(s): Geo. A. Hormel & Company, P.O. Box 800, Austin, MN 55912. Send protests to: Herbert W. Allen, DS, ICC, 518 Federal Bldg., Des Moines, IA 50309.

MC 114632 (Sub-212TA), filed April 3, 1979. Applicant: APPLE LINES, INC., 212 S. W. Second Street, P.O. Box 287, Madison, SD 57042. Representative: David E. Peterson (same as applicant). *Ferro alloys and calcium carbide* from Ashtabula and Marietta, OH and Alloy, WV to points in MN and WI for 180 days. An underlying ETA seeks 90 days authority. Supporting shipper(s): Carpenter Brothers, Inc., 606 W. Wisconsin Ave., Milwaukee, WI 53203. Send protests to: J. L. Hammond, DS, ICC, Room 455, Federal Bldg., Pierre, SD 57501.

MC 114632 (Sub-213TA), filed April 4, 1979. Applicant: APPLE LINES, INC., 212 S. W. Second Street, P.O. Box 287, Madison, SD 57042. Representative: David E. Peterson (same as applicant). *Frozen foodstuffs* from Wethersfield and Hartford, CT to Syracuse, NY and points in GA, IL, KS, MN, MI, MO, OH, PA, TX, and WI for 180 days. Supporting shipper(s): Foodways National, Inc., 1000 Silas Dean Hwy., Wethersfield, CT 06109. Send protests to: J. L. Hammond, DS, ICC, Room 455, Federal Bldg., Pierre, SD 57501.

MC 115162 (Sub-474TA), filed April 4, 1979. Applicant: POOLE TRUCK LINE, INC., P.O. Box Drawer 500, Evergreen, AL 36401. Representative: Robert E. Tate (same as applicant). *Kiln dust, mineral filler,* in bulk from Mobile, AL to Pascagoula, MS for 180 days. An underlying ETA seeks 90 days authority. Supporting shipper(s): Ideal Cement Company, P.O. Box 6707, Mobile, Al 36606. Send protests to: Mabel E. Holston, Transporation Assistant, Bureau of Operation, ICC, Room 1616—2121 Building, Birmingham, AL 35203.

MC 115322 (Sub-166TA), filed March 20, 1979. Applicant: Redwing Refrigerated, Inc., P.O. Box 10177, Taft, FL 32809. Representative: L. W. Fincher, P.O. Box 428, Tampa, FL 33601. *Foodstuffs,* from Blackwood, N.J. to the international boundry between the United States and Canada for 180 days. An underlying ETA seeks 90 days authority. Supporting Shipper(s): Pestritto Foods, P.O. Box 328, Blackwood, N.J. 08012. Send protests to: G. H. Fauss, Jr., D/S, ICC, Box 35008, 400 West Bay St., Jacksonville, FL 32202.

MC 115523 (Sub-179TA), filed March 30, 1979. Applicant: CLARK TANK LINES COMPANY, 1450 Beck Street, P.O. Box 1995, Salt Lake City, UT 84110. Representative: Melvin J. Whitear (same address as applicant). *Sand,* In bulk, from Vancouver, WA to Little Mountain, UT and *petroleum Coke,* in bulk, from Brea, CA to Little Mountain, UT, for 180 days. Supporting Shipper(s): Western Zirconium, Inc., 3564 Lincoln Ave., Suite 7, Ogden, UT 84401. Send protests to: L. D. Helfer, DS, ICC, 5301 Federal Bldg., Salt Lake City, UT 84138.

MC 115523 (Sub-180TA), filed April 6, 1979. Applicant: CLARK TANK LINES COMPANY, 1450 Beck Street, P.O. Box 1895, Salt Lake City, UT 84110. Representative: Melvin J. Whitear (same address as applicant). *Petroleum products,* in bulk, from Sinclair, WY to points in UT, for 180 days. Supporting Shipper(s): W. W. Clyde & Company, P.O. Box 350, Springville, UT 84663. Send protests to: L. D. Helfer, DS, ICC, 5301 Federal Bldg., Salt Lake City, UT 84138.

MC 115703 (Sub-15TA), filed February 20, 1979. Applicant: KREITZ MOTOR EXPRESS, INC., P.O. Box 375, 220 Park Road North Wyomissing, PA 19610. Representative: Robert D. Gunderman, 710 Statler Bldg., Buffalo, NY 14202. *Machinery and machine parts, and commodities which, because of size of weight, require the use of special equipment,* between points in Berks, Luzerne and York Counties, PA, on the one hand, and, on the other, points in

WA, ID, MT, OR, WY, CA, NV, UT and CO, for 180 days. Supporting Shipper(s): Rockwell International, M.G.D. Graphic Systems Group, Wyomissing, PA. Send protests to: T. M. Esposito, Trans. Asst., 600 Arch St., Room 3238, Phila., PA 19106.

MC 115793 (Sub-25TA), filed March 20, 1979. Applicant: CALDWELL FREIGHT LINES, INC., Highway 321 South, P.O. Box 672, Lenoir, NC 28645. Representative: C. Douglas Woods, P.O. Box 620, Lenoir, N.C. 28645. *Limestone or gypsum products in bags* (except in bulk, in tank vehicles) from Irvington, KY to all points in NC and SC, for 180 days. An underlying ETA seeks 90 days authority. Supporting Shipper(s): American Pelletizing Corporation, P.O. Box 3628, Des Moines, LA 50322. Send protests to: District Supervisor Terrell Price, 800 Briar Creek Rd-Rm CC516, Mart Office Building, Charlotte, N.C. 28205.

MC 116073 (Sub-375TA), filed March 29, 1979. Applicant: BARRETT MOBILE HOME TRANSPORT, INC., 1825 Main Avenue, P.O. Box 919, Moorhead, MN 56560. Representative: John C. Barrett, same address as applicant. *Travel trailers* from the plantsite of Skyline Corporation at or near Mansfield, TX to points in LA and NM, for 180 days. Supporting shipper(s): Skyline Corporation, 2520 By-Pass Road, Elkhart, IN 46514. Send protests to: DS, ICC, Bureau of Operations, Room 268, Fed. Bldg. & U.S. Post Office, 657 2nd Avenue North, Fargo, ND 58102.

MC 116073 (Sub-376TA), filed April 11, 1979. Applicant: BARRETT MOBILE HOME TRANSPORT, INC., 1825 Main Avenue, P.O. Box 919, Moorhead, MN 56560. Representative: John C. Barrett, same address as above. *Travel trailers* from the plantsite of Terry Industries of Texas at or near Waco, TX to points in AR, CO, KS, LA, MO, NM, OK and TX, for 180 days. Supporting shipper(s): Fleetwood Enterprises, Inc., 3125 Myers Street, Riverside, CA 92503.Send protests to: DS, ICC, Bureau of Operations, room 268, Fed. Bldg. & U.S. Post Office, 657 2nd Avenue North, Fargo, ND 58102.

MC 116763 (Sub-496TA), filed March 23, 1979. Applicant: CARL SUBLER TRUCKING, INC., North West St., Versailles, OH 45380. Representative: Gary J. Jira (same as applicant). *Charcoal, charcoal briquettes, activated carbon, hickory chips, lighter fluid and related barbecue items (except commodities in bulk),* (1) from the facilities of Husky Industries, Inc., located at or near Ocala, FL, and Pachuta, MS, to points in AL, GA, KY, LA, MS, NC, SC, TN, TX and VA. (2) from the facilities of Husky Industries, Inc., located at Romeo, FL, to points in the U.S. in and east of MN, IA, MO, OK and TX and Kansas City, KS, for 180 days. RESTRICTED in (1) and (2) above to traffic originating at and destined to the above named territory. An underlying ETA seeks 90 days authority. Supporting shipper(s): Husky Industries, Inc., David Modlinski, Traffic Manager, 62 Perimeter Center, East, Atlanta, GA 30346. Send protests to: Bureau of Operations, ICC, Wm. J. Green, Jr., Federal Bldg., 600 Arch St., room 63238, Philadelphia, PA 19106.

MC 116763 (Sub-497TA), filed March 7, 1979. Applicant: CARL SUBLER TRUCKING, INC., North West St., Versailles, OH 45380. Representative: Gary J. Jira (same as applicant). *Such commodities as are used, distributed, manufactured, processed or dealt in by wholesalers, distributors, retailers, manufacturers or processors of automotive and transportation equipment, parts or accessories (except (1) commodities in bulk, in tank vehicles, (2) commodities the transportation of which because of size or weight require the use of special equipment and (3) automobiles, trucks and buses, as described in the report in Descriptions in Motor Carrier Certificates, 61 MCC 209 and 766),* from the facilities of Kinpak, Inc., at or near Atlanta, GA, to points in AL, FL, NC, SC and TN, for 180 days. RESTRICTED to the transportation of shipments originating at the above named origin and destined to points in the named destination states. Supporting shipper(s): Kinpak, Inc., H. W. Fisher, President, 460 Patton Drive, SW, Atlanta, GA 30336. Send protests to: Paul J. Lowry, DS, ICC, 5514–B Federal Bldg., 550 Main St., Cincinnati, OH 45202.

MC 116763 (Sub-498TA), filed March 29, 1979. Applicant: CARL SUBLER TRUCKING, INC., North West St., Versailles, OH 45380. Representative: Gary J. Jira (same as applicant). *(1) Such commodities as are dealt in by manufacturers, distributors, wholesalers, and retailers of cleaning, scouring, washing, preserving, protecting and polishing compounds, waxes, insecticides, disinfectants, deodorants and related materials and supplies; and (2) materials, equipment and supplies used in the manufacturing, distribution, warehousing and sale of such commodities as outlined in (1) above. RESTRICTED in (1) and (2) above against the transportation of commodities in bulk, in tank vehicles,* between the facilities of S. C. Johnson & Son, Inc., at or near Racine, WI, on the one hand, and, on the other, points in the United States in and east of MN, IA, MO, OK and TX, for 180 days. RESTRICTED to traffic which either originates at or is destined to the above named facilities. An underlying ETA seeks 90 days authority. Supporting shipper(s): S. C. Johnson & Sons, Inc., Gilbert H. Anderson, Traffic Manager, Rates & Routes, Domestic & International, 1525 Howe St., Racine, WI 53403. Send protests to: Bureau of Operations, ICC, Wm. J. Green, Jr., Federal Bldg., 600 Arch St., room 63238, Philadelphia, PA 19106.

MC 117883 (Sub-241TA), filed March 20, 1979. Applicant: SUBLER TRANSFER, INC., One Vista Drive, P.O. Box 62, Versailles, OH 45380. Representative: Thomas R. Stone (same as applicant). *Candy, confectionery and chewing gum (except in bulk, in tank vehicles),* (1) from Canajoharie, NY, to Holland, MI, and (2) from Holland, MI, to Canajoharie, NY; Baltimore, MD, and North Bergen, NJ, for 180 days. RESTRICTED to traffic originating at the plantsite and/or storage facilities of Life Savers, Inc., at Canajoharie, NY, and Holland, MI. An underlying ETA seeks 90 days authority. Supporting Shipper(s): Life Savers, Inc., L. E. McDuffee, Manager Distribution Operations, Church Street, Canajoharie, NY 13317. Send protest to: Bureau of Operations, ICC, Wm. J. Green, Jr., Federal Bldg., 600 Arch St., room 63238, Philadelphia, PA 19106.

MC 118142 (Sub-214TA), filed February 27, 1979. Applicant: M. BRUENGER & CO., INC., 6250 North Broadway, Wichita, KS 67219. Representative: Lester C. Arvin, 814 Century Plaza Bldg., Wichita, KS 67202. *Prepared flour mixes and frosting mixes (except in bulk),* from facilities of Chelsea Milling Company at or near Chelsea, MI. to the states of AR, IA, KS, MO, NE, OK & TX; 180 days, common irregular, 90-day ETA being filed concurrently; SUPPORTING SHIPPER: Chelsea Milling Company, Chelsea, MI.; SEND PROTESTS TO: M. E. Taylor, DS, ICC, 101 Litwin Bldg., Wichita, KS 67202. Supporting Shipper(s): Chelsea Milling Company, Chelsea, MI 48118. Send protests to: M. E. Taylor, Dist. Supv., Interstate Commerce Commission, 101 Litwin Bldg., Wichita, KS 67202.

MC 118142 (Sub-218TA), filed March 30, 1979. Applicant: M. BRUENGER & CO., INC., 6250 North Broadway, Wichita, KS 67219. Representative: Lester C. Arvin, 814 Century Plaza, Wichita, KS 67202. Automotive,

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industrial and tractor tires and tubes, from Huntsville, AL and Buffalo, NY to Wichita, KS.; 180 days, common, irregular; ETA filed simultaneously and permanent already applied for; Supporting Shipper: AG–TIRE, INC. Wichita, KS.; Send protests to: M. E. Taylor, DS, ICC, 101 Litwin Bldg., Wichita, KS 67202. Supporting Shipper(s): AG–TIRE, INC., Garvey Industrial Park, 55th Hoover Rd., Wichita, KS 67209. Send protests to: M. E. Taylor, Dist. Supv., Interstate Commerce Commission, 101 Litwin Bldg., Wichita, KS 67202.

MC 118202 (Sub-109TA), filed March 7, 1979. Applicant: SCHULTZ TRANSIT, INC., P.O. Box 406, 323 Bridge St., Winona, MN 55987. Representative: Robert S. Lee, 1000 First National Bank Building, Minneapolis, MN 55402. (1) *Paper* from Byron and Stevens Point, WI to Chicago, IL; and (2) *Magazines and magazine sections* from Chicago, IL to Glendale, Baltimore and Riverdale, MD, Merrifield, VA, Philadelphia, PA, Depew, NY and Denver, CO, for 180 days. An underlying ETA seeks 90 days authority. SUPPORTING SHIPPER(S): Time, Inc., 303 East Ohio Street, 19th Floor, Chicago, IL 60611. SEND PROTESTS TO: Delores A. Poe, TA, ICC, 414 Federal Building & U.S. Court House, 110 South 4th Street, Minneapolis, MN 55401.

MC 119493 (Sub-271TA), filed March 23, 1979. Applicant: MONKEM COMPANY, INC., West 20th Street Road, P.O. 1196, Joplin, MO 64801. Representative: Thomas D. Boone (same as applicant). *Flour, corn meal, flour or meal prepared edible, and flaked potatoes (except in bulk),* from Sherman, TX, to AL, AR, AZ, CO, GA, LA, MS, MO, OK, AND TN for 180 days. An underlying ETA seeks 90 days. Supporting shipper(s): ConAgra, Inc., Omaha, NE. Send protests to: DS John V. Barry, 600 Fed. Bldg., 911 Walnut, Kansas City, MO 64106.

MC 119493 (Sub-272TA), filed March 9, 1979. Applicant: MONKEM COMPANY, INC., P.O. 1196, Joplin, MO 64801. Representative: Thomas D. Boone (same). *Fertilizer, tree and weed killing compounds, insecticides and fungicides (except in bulk),* from East St. Louis, IL to KS for 180 days. An underlying ETA seeks 90 days. Supporting shipper(s): Swift Agricultural Chemical Corp. East St. Louis, IL 62202. Send protests to: DS John V. Barry, Room 600, 911 Walnut, Kansas City, MO 64106.

MC 119493 (Sub-280TA), filed April 4, 1979. Applicant: MONKEM COMPANY, INC., P.O. Box 1196, West 20th Street Road, Joplin, MO 64801. Representative: Thomas D. Boone (same as applicant). (1) *New Furniture,* from facilities of La-Z-Boy Midwest Company at or near Neosho, Missouri, to ND, SD, MN, WI, IL, MI, IN, KY, AL, GA, OH, WV, NC, SC, and (2) *Materials and supplies* used in the manufacture, sale and distribution of new furniture (except in bulk), from destination states named in (1) above to facilities of La-Z-Boy Midwest Company at or near Neosho, Missouri, for 180 days. An underlying ETA seeks 90 days authority. Supporting shipper(s): La-Z-Boy Midwest Company, P.O. Box 628, Neosho, Missouri 64850. Send protests to: John V. Barry, District Supervisor, Interstate Commerce Commission, 600 Federal Building, 911 Walnut, Kansas City, MO 64106.

MC 119702 (Sub-67TA), filed March 30, 1979. Applicant: STAHLY CARTAGE CO., 119 South Main St., Edwardsville, IL 62025. Representative: Jeff Wolford, 119 South Main St., Edwardsville, IL 62025. Common, irregular Petroleum solvents in bulk in tank vehicles from (i) the plant site and storage facilities of Superior Terminals, Inc. located in St. Louis, Mo to all points and places in IN and Memphis, TN (2) Chicago, IL to Indianapolis, IN; Louisville, KY; memphis, TN to the plantsite and storage facilities of Superior Terminals, Inc. located in St. Louis, MO for 180 days. Supporting shipper(s): Superior Terminals, Inc., 60 Chouteau Avenue, St. Louis, MO 63102. Send protests to: Charles D. Little, District Supervisor, Interstate Commerce Commission, Room 414 Leland Office Building, 527 East Capitol Avenue, Springfield, Illinois 62701.

MC 121223 (Sub-4TA), filed February 28, 1979. Applicant: GEORGE HALLDEN SONS CO., P.O. Box 2271, 370 Le Harps Road, Youngstown, OH 44504. Representative: Paul B. Sonoski, Jr., 2310 Grant Building, Pittsburgh, PA 15219. *Iron and steel articles,* from the facilities of United States Steel Corporation, in Allegheny and Westmoreland Counties, PA, to points in OH, for 180 days. An underlying ETA seeks 90 days authority. Supporting shipper(s): United States Steel Corporation, 600 Grant Street, Pittsburgh, PA 15230. Send protests to: Mary Wehner, D/S, ICC, 731 Federal Office Building, Cleveland, OH 44199.

MC 121223 (Sub-5TA), filed April 5, 1979. Applicant: GEORGE HALLDEN SONS CO., P.O. Box 2271, 370 Le Harps Road, Youngstown, OH 44504. Representative: Paul B. Sonoski, Jr., 2310 Grant Building, Pittsburgh, PA 15219. *Iron and steel articles,* from points in Trumbull and Mahoning Counties, OH, to points in OH. Restricted to traffic having a prior movement in interstate commerce, for 180 days. An underlying ETA seeks 90 days authority. Supporting shipper(s): United States Steel Corporation, 600 Grant Street, Pittsburgh, PA 15230. Send protests to: Mary Wehner, D/S, ICC, 731 Federal Office Building, Cleveland, OH 44199.

MC 123392 (Sub-86TA), filed March 2, 1979. Applicant: JACK B. KELLEY, INC., Rt. 1, Box 400, Amarillo, TX 79106. Representative: Austin L. Hatchell, Suite 1022, Perry Brooks Bldg., Austin, TX 78701. *Liquefied carbon dioxide gas,* in bulk, in tank trailers, from the plantsite of Dye Carbonic near Cortez, CO to Portland, ME, for 180 days. An underlying ETA seeks up to 90 days authority. Supporting shipper(s): Gil V. Dye Corporation, P.O. Box 6496, Phoenix, AZ 85005. Send protests to: Haskell E. Ballard, District Supervisor, Interstate Commerce Commission, Bureau of Operations, Box F–13206 Federal Building, Amarillo, TX 79101.

MC 123872 (Sub-102TA), filed March 29, 1979. Applicant: W & L MOTOR LINES, INC., P.O. Box 3467, Hickory, NC 28601. Representative: Allen E. Bowman (same as applicant's). *Meat, meat products and meat by-products and articles distributed by meat packing houses, as described in Sections A & C of Appendix I to the report in Descriptions in Motor Carrier Certificates, 61 MCC 209 and 766 (except hides and commodities in bulk in tank vehicles)* from Waterloo, IA and Indianapolis, IN to points in VA, for 180 days. An underlying ETA seeks 90 days authority. Supporting shipper(s): The Rath Packing Company, P.O. Box 330, Waterloo, IA 50704. Send protests to: District Supervisor Terrell Price, 800 Briar Creek Road—Room CC516, Mart Office Building, Charlotte, NC 28205.

MC 124062 (Sub-18TA), filed March 6, 1979. Applicant: FRICK TRANSPORT, INC., Wawaka, IN 46794. Representative: Donald W. Smith, P.O. Box 40248, Indianapolis, IN 46240. *Liquid caustic soda, in bulk, in tank vehicles,* from Burns Harbor, IN to points in MI, IL and OH, for 180 days. Supporting shipper: Resource Economics Corporation, Suite 4, 1724 Sherman Avenue, Evanston, IL 60201. Send protests to: Beverly J. Williams, Transporation Assistant, ICC, 429 Federal Bldg., 46 East Ohio Street, Indianapolis, IN 46204.

MC 124692 (Sub-274TA), filed April 9, 1979. Applicant: SAMMONS TRUCKING, P.O. Box 4347, Missoula, MT 59801. Representative: James B. Hovland, 414 Gate City Bldg., P.O. Box 1680, Fargo, ND 58107. *Carbon steel pipe*

(1) from Portland, OR commercial zone to points in WA, OR, ID, and MT; Restriction: Restricted to transporation of shipments having a prior movement by water; and (2) from the storage facilities utilized by Denco Steel Corp. at Vancouver, WA to points in WA, OR, ID, and MT, for 180 days. An underlying ETA seeks 90 days authority. Supporting shipper(s): Denco Steel Corp., Suite 202, Academy Center, 4000 Palos Verdes Drive North, Palos Verdes Peninsula, CA 90274. Send protests to: Paul J. Labane, DS, ICC, 2602 First Avenue North, Billings, MT 59101.

MC 124813 (Sub-198TA), filed March 1, 1979. Applicant: UMTHUN TRUCKING CO., 910 South Jackson Street, P.O. Box 166, Eagle Grove, IA 50533. Representative: William L. Fairbank, 1980 Financial Center, Des Moines, IA 50309. *Iron and steel articles* from the facilities of Bethlehem Steel Corporation at Burns Harbor, IN to points in IA, except points in Des Moines, Henry, Jefferson, Lee, Louisa and Van Buren Counties, IA for 180 days. An underlying ETA seeks 90 days authority. Supporting shipper(s): Bethlehem Steel Corporation, Box 248, Chesterton, IN 46304. Send protests to: Herbert W. Allen, DS, ICC, 518 Federal Bldg., Des Moines, IA 50309.

MC 124813 (Sub-199TA), filed March 8, 1979. Applicant: UMTHUN TRUCKING CO., 910 South Jackson Street, P.O. Box 166, Eagle Grove, IA 50533. Representative: William L. Fairbank, 1980 Financial Center, Des Moines, IA 50309. *Iron and steel articles* from points in the Chicago, IL Commercial Zone to Webster City, IA, for 180 days. An underlying ETA seeks 90 days authority. Supporting shipper(s): Franklin Manufacturing Company, Laundry Division, White Consolidated Industries, 600 Stockdale Street, Webster City, IA 50595. Send protests to: Herbert W. Allen, DS, ICC, 518 Federal Bldg., Des Moines, IA 50309.

MC 124813 (Sub-200TA), filed April 4, 1979. Applicant: UMTHUN TRUCKING CO., 910 South Jackson St., P.O. Box 166, Eagle Grove, IA 50501. Representative: Carl E. Munson, 469 Fischer Bldg., Dubuque, IA 52001. *Wooden pallets and pallet parts* from Dubuque, IA to points in IL and IN for 180 days. Supporting shipper(s): Edison Pallet & Wood Products, P.O. Box 195, Winfield, IL 60190. Send protests to: Herbert W. Allen, DS, ICC, 518 Federal Bldg., Des Moines, IA 50309.

MC 124813 (Sub-201TA), filed March 28, 1979. Applicant: UMTHUN TRUCKING CO., 910 South Jackson St., P.O. Box 166, Eagle Grove, IA 50501. Representative: William L. Fairbank, 1980 Financial Center, Des Moines, IA 50309. *Landscape timbers* from Chippewa Falls, WI to points in IL, IA, and MN for 180 days. An underlying ETA seeks 90 days authority. Supporting shipper(s): Landscape Supplies, 152 Muriel Blvd., West St. Paul, MN 55118. Send protests to: Herbert W. Allen, DS, ICC, 518 Federal Bldg., Des Moines, IA 50309.

MC 125433 (Sub-234TA), filed March 19, 1979. Applicant: F–B TRUCK LINE COMPANY, 1945 South Redwood Road, Salt Lake City, UT 84104. Representative: John B. Anderson (same address as applicant). (1) *Chemicals, drilling mud and ore,* except commodities in bulk in tank vehicles, and (2) equipment, materials and supplies used in or useful in the manufacture or distribution of chemicals, drilling mud and ore, between points in the United States, for 180 days. Restricted to traffic originating at or destined to the facilities of Eiseman Chemical Company. Supporting shipper(s): Eisenman Chemical Company, 312 East 16th Street, Greeley, CO 80631. Send protests to: L. D. Helfer, DS, ICC, 5301 Federal Building, Salt Lake City, UT 84138.

MC 125433 (Sub-235TA), filed March 23, 1979. Applicant: F–B TRUCK LINE COMPANY, 1945 South Redwood Road, Salt Lake City, UT 84104. Representative: John B. Anderson (same address as applicant). *Battery insulating partitions and glass fiber scrap* from the facilities of Evans Products Company located at or near Corvallis, OR to points in the United States (except AK and HI) for 180 days. Supporting shipper(s): Evans Products Company, P.O. Box E, 1115 SE Crystal Lake Drive, Corvallis, OR 97330. Send protests to: L. D. Helfer, DS, ICC, 5301 Federal Building, Salt Lake City, UT 84138.

MC125433 (Sub-236TA), filed March 28, 1979. Applicant: F-B TRUCK LINE COMPANY, 1945 South Redwood Road, Salt Lake City, UT 84104. Representative: John B. Anderson (same address as applicant). *Furnaces, air conditioners, combination furnace and air conditioner units, solar energy heating and cooling systems,* and parts, attachments and accessories for furnaces, air conditioners, combination furnace and air conditioner units and solar energy heating and cooling systems, except in bulk, from Marshalltown, IA to points in UT, NV, AZ, CA and OR, for 180 days. An underlying ETA seeks 90 days authority. Supporting shipper(s): Lennox Industries, Inc., P.O. Box 400450, Dallas, TX 75240. Send protests to: L. D. Helfer, DS, ICC, 5301 Federal Bldg., Salt Lake City, UT 84138.

MC125433 (Sub-237TA), filed April 5, 1979. Applicant: F-B TRUCK LINE COMPANY, 1945 South Redwood Road, Salt Lake City, UT 84104. Representative: John B. Anderson (same address as applicant). (1) *Tractors;* (2) *industrial, construction, excavating and material handling equipment;* (3) parts and attachments for (1) and (2) above, from the facilities of J. I. Case at or near Bettendorf and Burlington, IA to points in AR, MS, LA, OK, TX, UT, MT, ID, WA, OR, CA and NV, for 180 days. Supporting shipper(s): J. I. Case, 700 State Street, Racine, WI 53404. Send protests to: L. D. Helfer, DS, ICC, 5301 Federal Bldg., Salt Lake City, UT 84138.

MC125433 (Sub-238TA), filed April 6, 1979. Applicant: F-B TRUCK LINE COMPANY, 1945 South Redwood Road, Salt Lake City, UT 84104. Representative: John B. Anderson (same address as applicant). *Canned goods,* from CA to points in the United States (excluding AK and HI). Restricted to shipments originating at the facilities of Glorietta Foods, for 180 days. Supporting shipper(s): Glorietta Foods, 570 Race Street, San Jose, CA 95126. Send protests to: L. D. Helfer, DS, ICC, 5301 Federal Bldg., Salt Lake City, UT 84138.

MC125533 (Sub-39TA), filed January 31, 1979. Applicant: GEORGE W. KUGLER, INC., 2800 East Waterloo Road, Akron, OH 44312. Representative: John P. McMahon, Esq., George, Greek, King, McMahon & McConnaughey, 100 E. Broad St., Columbus, OH 43215. (1) *Fire brick, fire clay, fire kiln lining, refractory products and commodities* used in the installation thereof; and (2) *materials and supplies* used in the manufacture and production of the commodities named in (1) above between Farber, MO, on the one hand, and, on the other, points in CT, DE, MD, MA, MI, NJ, NY, OH, PA, RI, SC, TN, VA and WV, for 180 days. Supporting shipper(s): North American Refractories Co., 900 Hanna Building, Cleveland, OH 44115. Send protests to: Mary Wehner, District Supervisor, Interstate Commerce Commission, 1240 E. Ninth Street, Cleveland, OH 44199.

MC–126822 (Sub–55TA), filed March 23, 1979. Applicant: WESTPORT TRUCKING COMPANY, 15580 South 169 Highway, Olathe, KS 66061. Representative: Kenneth E. Smith, same as applicant. Air conditioning and heating duct work and registers and equipment, materials, and supplies used in the installation thereof from the facilities of Goodman Manufacturing

Corporation, at or near Houston, TX to points in PA, NJ, OK, FL, CO, AL, GA, and NC, for 180 days. An underlying ETA seeks 90 days. Supporting shipper(s): Goodman Manufacturing Corp., Houston, Texas. Send protests to: DS John V. Barry, 600 Fed Bldg., 911 Walnut, Kansas City, MO 64106.

MC–126893 (Sub–3TA), filed April 9, 1979. Applicant: BALTIMORE-WASHINGTON EXPRESS SERVICE, INC., P.O. Box 4333, Baltimore, MD 21223. Representative: Charles E. Creager, P.O. Box 1417, Hagerstown, MD 21740. *General commodities in vehicles equipped with mechanical refrigeration (except Classes A & B explosives, commodities in bulk, household goods and commodities requiring special equipment)* between the facilities of Baltimore Shippers and Receivers Association, Inc. at or near Baltimore, MD on the one hand, and, on the other, Denver, CO and Houston and Dallas, TX, including their respective commercial zones, for 180 days. An underlying ETA seeks 90 days authority. Supporting shipper(s): Larry E. Dillon, Baltimore Shippers and Receivers Association, Inc., 3601 Benson Avenue, Baltimore, MD 21227. Send protests to: W. L. Hughes, DS, ICC, 1025 Federal Bldg., Baltimore, MD 21201.

MC–127042 (Sub–259TA), filed April 5, 1979. Applicant: HAGEN, INC., 3232 Highway 75 North, P.O. Box 98, Leeds Station, Sioux City, IA 51108. Representative: Robert G. Tessar (same address as above). *Glass bottles (empty glass bottles one gallon or less in capacity),* from Joliet, IL to Cedar Rapids and Iowa City, IA, for 180 days. An underlying ETA seeks 90 days authority. Supporting shipper(s): Richard D. Moreland, National Bottle Company, 1 Bala Plaza, Bala Cynwyd, PA 19004. Send protests to: Carroll Russell, ICC, Suite 620, 110 No. 14th St., Omaha, NE 68102.

MC–127172 (Sub–5TA), filed February 21, 1979. Applicant: FRANCIS MARGOLIES, d.b.a. MARC BAGGAGE LINES, 9033 Hollyberry Avenue, Des Plaines, IL 60016. Representative: Donald S. Mullins, 4704 West Irving Park Road, Chicago, IL 60641. Contract carrier-irregular routes, *Electric and Electronic Products, Electric Lamps, Fluorescent, Incadescent, Mercury Vapor, Photoflash, Photographic and Sealed Beam,* between the facilities of G T E Sylvania Incorporated at Elk Grove Village, IL, on the one hand, and on the other, MI (upper peninsula only), Elkhart, Jasper, Lake, LaPorte, Porter, and St. Joseph Counties, IN, Clinton, Cott, Des Moines, Dubuque, Iowa, Johnson, Lee, Linn, Mahasca, and Muscatine Counties, IA, and WI, for 180 days. Supporting shipper(s): G T E Sylvania Incorporated, 800 Devon Avenue, Elk Grove Village, IL 60007. Send protests to: Annie Booker, Transportation Assistant, Interstate Commerce Commission, Everett McKinley Dirksen Building, 219 South Dearborn Street, Room 1386, Chicago, IL 60604.

MC 127602 (Sub-22TA), filed March 1, 1979. Applicant: DENVER-MIDWEST MOTOR FREIGHT, INC., P.O. Box 996, Denver, CO 80201. Representative: Michael J. Ogborn, P.O. Box 82028, Lincoln, NE 68501. *General commodities,* (except those of unusual value, Classes A and B explosives, household goods as defined by the Commission, commodities in bulk, and commodities requiring special equipment), between Denver, CO and Grand Junction, CO; (From Denver, CO over Interstate Highway 70 to Grand Junction, CO and return over the same route, serving no intermediate points, for 180 days. An underlying ETA seeks 90 days authority. Supporting shipper(s): There are 30 supporting shippers. Send protests to: District Supervisor Herbert C. Rouff, 492 U.S. Customs House, 721 19th Street, Denver, CO 80202.

Note.—Applicant intends to tack and interline at Denver and Grand Junction, CO.

MC 128273 (Sub-343TA), filed March 6, 1979. Applicant: MIDWESTERN DISTRIBUTION, INC., P.O. Box 189, 121 Humboldt St., Fort Scott, KS 66701. Representative: Elden Corban, P.O. Box 189, Fort Scott, KS 66701. *Paper and paper products* (except commodities in bulk in tank vehicles) from Kankakee, IL to points in the U.S.; Restricted to traffic which originates at the facilities of Olinkraft, Inc., at or near Kankakee, IL (except AK, HI & IL); Supporting shipper: Olinkraft, Inc., West Monroe, LA.; Send protests to: M. E. Taylor, DS, ICC, 101 Litwin Bldg., Wichita, KS 67202, for 180 days. Supporting shipper(s): Olinkraft, Inc., P.O. Box 488, West Monroe, LA 71291. Send protests to: M. E. Taylor, Dist. Supv., Interstate Commerce Commission, 101 Litwin Bldg., Wichita, KS 67202.

MC 128543 (Sub-16TA), filed February 23, 1979. Applicant: CRESCO LINES, INC., 13900 South Keeler Avenue, Crestwood, IL 60445. Representative: Edward G. Bazelon, 39 South LaSalle Street, Chicago, IL 60603. Contract-irregular, *zinc, zinc alloys and zinc products* between the facilities of St. Joe Zinc Company located at Josephtown (Potter Township, Beaver County), PA, on the one hand, and on the other, AL, AR, CT, DE, GA, IL, IN, IA, KY, MD, MI, MO, NJ, NY, NC, TX and WI, for 180 days. An underlying ETA seeks 90 days authority. Supporting shipper(s): St. Joe Zinc Company, 2 Oliver Plaza, Pittsburgh, PA 15222. Send protests to: Annie Booker, Transportation Assistant, Interstate Commerce Commission, Everett McKinley Dirksen Building, 219 South Dearborn Street, Room 1386, Chicago, IL 60604.

MC 129032 (Sub-79TA), filed March 22, 1979. Applicant: TOM INMAN TRUCKING, INC., 6015 So. 40th West, P.O. Box 9667, Tulsa, OK 74107. Representative: David R. Worthington (same as applicant). (1) *Such merchandise as is dealt in by wholesale, retail, chain, grocery and food business houses,* and (2) *materials, ingredients and supplies used in the manufacture, distribution, and sale of the products in (1) above,* between the facilities of the Ralston Purina Co. at or near Flagstaff, AZ, on the one hand, and, on the other, points in AR, CO, IL, IN, IA, KS, KY, LA, MI, MN, MO, NE, ND, OH, OK, PA, SD, TN, TX, and WI, restricted to traffic originating at or destined to the above named origin, for 180 days. An underlying ETA seeks 90 days authority. Supporting shipper(s): Ralston Purina Company, Checkerboard Square, St. Louis, MO 63188. Send protests to: Connie Stanley, Transportation Assistant, Interstate Commerce Commission, Room 240 Old Post Office and Court House Bldg., 215 N.W. 3rd, Oklahoma City, OK 73102.

MC–129032 (Sub–82TA), filed April 12, 1979. Applicant: TOM INMAN TRUCKING, INC., 6015 South 49th West Avenue, P.O. Box 9667, Tulsa, OK 74107. Representative: David Worthington, 6015 South 49th West Avenue, Tulsa, OK 74107. *Alcoholic Beverages* (except malt beverages) from Louisville, Frankfort, Bardstown, Clermont, and Owensboro, KY, Lawrenceburg, IN, Cincinnati, OH, Pekin, Peoria, Chicago, Lemont, and Plainfield, IL, St. Louis, MO, Lynchburg, TN, Tulsa and Oklahoma City, OK to Los Angles, Sacramento, San Diego and San Francisco, CA for 180 days. An underlying ETA seeks 90 days authority. Supporting shipper(s): Central Liquor Company, 4001 NW. Third Street, Oklahoma City, OK 73107. Send protests to: Connie Stanley, Transportation Assistant, Interstate Commerce Commission, Room 240 Old Post Office Bldg., 215 NW. Third Street, Oklahoma City, OK 73102.

MC–129563 (Sub–6TA), filed April 6, 1979. Applicant: ONONDAGA BEVERAGE TRANSPORT, INC., 345 Spencer Street, Syracuse, NY 13204. Representative: Freeda Harvey, 345 Spencer Street, Syracuse, NY 13204. *Contract carrier;* irregular routes: *Malt beverages in containers,* from South Volney, NY to Painesville, Lorain and Ravenna, OH, for 180 days. An underlying ETA seeks 90 days authority. Supporting shipper(s): Glenn Distributors, Inc., Edward W. Hursh, President, 44–76 Burton St., Painesville, OH 44077. Portage Distributing Co., Tony Porcase, President, 6117 State Route 14, Ravenna, OH 44266. Forrest Distributing Co., Peter Popov, Jr., Vice-President, 1138 Lexington Ave., Lorain, OH 44052. Send protests to: Interstate Commerce Commission, U.S. Courthouse and Federal Bldg., 100 S. Clinton St.–Rm. 1259, Syracuse, NY 13260.

By the Commission.

H. G. Homme, Jr.,
Secretary.

[Notice No. 54]

[FR Doc. 79–14327 Filed 5–7–79; 8:45 am]

BILLING CODE 7035–01–M

Motor Carrier Temporary Authority Applications

April 26, 1979.

The following are notices of filing of applications for temporary authority under Section 210a(a) of the Interstate Commerce Act provided for under the provisions of 49 CFR 1131.3. These rules provide that an original and six (6) copies of protests to an application may be filed with the field official named in the **Federal Register** publication no later than the 15th calendar day after the date the notice of the filing of the application is published in the **Federal Register**. One copy of the protest must be served on the applicant, or its authorized representative, if any, and the protestant must certify that such service has been made. The protest must identify the operating authority upon which it is predicated, specifying the "MC" docket and "Sub" number and quoting the particular portion of authority upon which it relies. Also, the protestant shall specify the service it can and will provide and the amount and type of equipment it will make available for use in connection with the service contemplated by the TA application. The weight accorded a protest shall be governed by the completeness and pertinence of the protestant's information.

Except as otherwise specifically noted, each applicant states that there will be no significant effect on the quality of the human environment resulting from approval of its application.

A copy of the application is on file, and can be examined at the Office of the Secretary, Interstate Commerce Commission, Washington, D.C., and also in the ICC Field Office to which protests are to be transmitted.

Note—All applications seek authority to operate as a common carrier over irregular routes except as otherwise noted.

Motor Carriers of Property

MC 133302 (Sub-4TA), filed April 6, 1979. Applicant: WICHITA-SOUTHEAST KANSAS TRANSIT, INC., P.O. Box G, Parsons, KS 67357. Representative: Frank W. Taylor, Jr., Suite 600, 1221 Baltimore Avenue, Kansas City, MO 64105. Authority sought to operate as *common carrier,* by motor vehicle, over regular routes, transporting: *General commodities* (except those of unusual value, classes A and B explosives, household goods, commodities in bulk, and those requiring special equipment), (1) Between Joplin, MO, and Fort Scott, KS, from Joplin, MO, over MO Hwy 171 to the junction KS Hwy 57, then over KS Hwy 57 to the junction U.S. Hwy 69, then over U.S. Hwy 69 to Fort Scott, KS, and return over the same route; (2) Between Carthage, MO, and the junction of KS Hwy 96 and U.S. Hwy 69, from Carthage, MO, over MO Hwy 96 to the junction of KS Hwy 96 to the junction of U.S. Hwy 69, and return over the same route; (3) Between Springfield, MO, and the junction of KS Hwy 96 and U.S. Hwy 69, from Springfield, MO, over Interstate Hwy 44 to the junction of MO Hwy 96, then over MO Hwy 96 to the junction of KS Hwy 96, then over KS Hwy 96 to the junction of U.S. Hwy 69, and return over the same route; (4) Between Sringfield, MO, and Joplin, MO, on the one hand, and, on the other, Riverton, KS, from Springfield, MO, over Interstate Hwy 44 to the Junction of U.S. Hwy 166, then over U.S. Hwy 166 to the junction with KS Hwy 26, then over KS Hwy 26 to Riverton, KS, and return over the same route; (5) Between South Coffeyville, OK, and Coffeyville, KS, from South Coffeyville, OK, over U.S. Hwy 169 to Coffeyville, KS, and return over the same route, for 180 days. Supporting shipper(s): There are 44 supporting shippers which may be examined at the field office listed. Send protests to: M. E. Taylor, DS, ICC, 101 Litwin Bldg., Wichita, KS 67202.

MC 134552 (Sub-8TA), filed March 5, 1979. Applicant: TRANSAMERICAN CARRIER CO., Route 1, Box 28, Winthrop, MN 55396. Representative: Bradford E. Kistler, P.O. Box 82028, Lincoln, NE 68501. *Dry fertilizer (except commodities in bulk, in tank vehicles)* from Pine Bend, MN to Points in IA, WI, NE, ND and SD, for 180 days. An underlying ETA seeks 90 days authority. Supporting Shipper(s): N-ReN Corporation, P.O. Box 418, South St. Paul, MN 55075. Farmers Union Central Exchange, Inc., a/k/a Cenex, P.O. Box 43089, St. Paul, MN 55164. Send protests to: Delores A. Poe, TA, ICC, 414 Federal Building and U.S. Court House, 110 South 4th Street, Minneapolis, MN 55401.

MC 134783 (Sub-48TA), filed March 1, 1979. Applicant: DIRECT SERVICE, INC., 940 East 66th Street, P.O. Box 2491, Lubbock, TX 79408. Representative: Charles M. Williams, 350 Capitol Life Center, 1600 Sherman Street, Denver, CO 80203. (1)(a) *Drugs, medicines, cosmetics, plastic boxes, weed killing compounds, and animal and poultry feed supplements,* and (b) Materials and supplies used in the manufacture and production of the commodities named in (1)(a) above (except commodities in bulk), and (c) Rejected and/or damaged shipments of the commodities named in (1)(a) and (b) above (except commodities in bulk), from the facilities of Eli Lilly and Company, located at or near Clinton, Lafayette, and Indianapolis, IN, to points in TX and (2) Materials and supplies used in the manufacture and distribution of commodities named in (1) above, from points in TX, to the facilities of Eli Lilly and Company, located at or near Indianapolis, Clinton, and Lafayette, IN, for 180 days. An underlying ETA seeks up to 90 days authority. Supporting Shipper(s): Eli Lilly & Company, 1555 Kentucky Avenue, Indianapolis, IN 46206. Send protests to: District Supervisor Haskell E. Ballard, Box F–13206 Federal Building, Amarillo, TX 79101.

MC 134783 (Sub-50TA), filed March 30, 1979. Applicant: DIRECT SERVICE, INC., 940 East 66th Street, P.O. Box 2491, Lubbock, TX 79408. Representative: Charles M. Williams, 350 Capitol Life Center, 1600 Sherman Street, Denver, CO 80203. *Foodstuffs* (except in bulk), from the facilities of Knouse Foods, Inc. at or near Peach Glen, Orrtanna, and Chambersburg, PA, to points in TX, LA, OK, NM, and AR, for 180 days. Supporting Shipper(s): Knouse Foods, Inc. Peach Glen, PA 17306. Send protests to: District Supervisor Haskell E. Ballard, Box F–13206 Federal Building, Amarillo, TX 79101.

MC 134813 (Sub-10TA), filed February 26, 1979. Applicant: WESTERN

CARTAGE, INC., P.O. Box 964, Pryor, OK 74361. Representative: Michael R. Vanderburg, Attorney, 5200 South Yale, Suite 400, Tulsa, OK 74135. *Contract Carrier:* irregular routes: *Foodstuffs, baby supplies, canner's supplies, equipment and commodities used, or useful in the packing, sale and distribution of the above commodities* (except commodities in bulk), between the facilities of Gerber Products Co., at Fort Smith, AR, on the one hand, and, on the other, points in AR, CO, IL, IA, KS, KY, LA, MO, MS, NE, NM, OK, SD, TN, TX, and WY, for the account of Gerber Products Co., for 180 days. An underlying ETA seeks 90 days authority. Supporting Shipper(s): Gerber Products Co., 445 State Street, Fremont, MI 49412. Send protests to: Connie Stanley, Transportation Assistant, Interstate Commerce Commission, Room 240 Old Post Office and Court House Bldg., 215 N.W. 3rd, Oklahoma City, OK 73102.

MC 135653 (Sub-5TA), filed April 5, 1979. Applicant: GLENN E. TRIPP, d.b.a., SPECIAL SERVICE, 760 Lindenwood Lane, Medina, OH 44256. Representative: Michael Spurlock, Esq., 275 East State St., Columbus, OH 43215. *Canned fruit juices* from the facilities of Keystone Foods, Inc., located at North East, PA, to points in OH for 180 days. An underlying ETA seeks 90 days authority. Supporting shipper(s): Keystone Foods, Inc., 63 Wall St., North East, PA 16428. Send protests to: Mary A. Wehner, D/S, ICC, 731 Federal Office Building, Cleveland, OH 44199.

MC 136512 (Sub-15TA), filed March 1, 1979. Applicant: SPACE CARRIERS, INC., 444 Lafayette Road, St. Paul, MN 55101. Representative: James E. Ballenthin, 630 Osborn Building, St. Paul, MN 55102. *Spindles and transmission parts* from Ellicottville and Syracuse, NY to St. Paul, MN, for 180 days. An underlying ETA seeks 90 days authority. Supporting shipper(s): Ford Motor Company, Suite 200 East, One Parklane Boulevard, Dearborn, MI 48126. Send protests to: Delores A. Poe, TA, ICC, 414 Federal Building and U.S. Court House, 110 South 4th Street, Minneapolis, MN 55401.

MC 136732 (Sub-23TA), filed March 29, 1979. Applicant: OSTERKAMP TRUCKING, INC., 764 North Cypress Street, P.O. Box 5546, Orange, CA 92667. Representative: Michael R. Eggleton, 2500 Old Crow Canyon Road, Suite 235, San Ramon, CA 94583. *Cast iron pressure pipe*, from the facilities of the United States Pipe and Foundry Company at Union City, CA, to points in CO, for 180 days. An underlying ETA seeks up to 90 days operating authority. Supporting shipper(s): United States Pipe and Foundry Company, P.O. Box 707, Union City, CA 94587. Send protests to: Irene Carlos, Transportation Assistant, Interstate Commerce Commission, Room 1321 Federal Building, 300 North Los Angeles Street, Los Angeles, California 90012.

MC 138882 (Sub-235TA), filed March 29, 1979. Applicant: WILEY SANDERS TRUCK LINES, INC., P.O. Drawer 707, Troy, AL 36081. Representative: William P. Jackson, Jr. 3426 N. Washington Blvd., P.O. Box 1240, Arlington, VA 22210. *Malt beverages*, from Laredo, TX, to points in NJ, LA, NC, TN, PA, OH, Washington, DC, MD, DE, VA, AL, GA, and FL. For 180 days. An underlying ETA seeks 90 days authority. Supporting shipper(s): All Brand Importers, Inc., P.O. Box 67, 99 Powerhouse Road, Roslyn Heights, NY 11577. Send protests to: Mabel E. Holston, Transportation Assistant, Bureau of Operation, ICC, Room 1616, 2121 Building, Birmingham, AL 35203.

MC 138882 (Sub-236TA), filed March 30, 1979. Applicant: WILEY SANDERS TRUCK LINES, INC., P.O. Drawer 707, Troy, AL 36081. Representative: James W. Segrest, P.O. Box 707, Troy, AL 36081. *Paper and paper products materials, equipment and supplies used in the manufacture, distribution and sales thereof*, between the facilities of the Packaging Corporation of America located at or near Harrisonburg, VA on the one hand, and, on the other, points in and east of MN, IA, MO, AR, and TX. Restricted aginst the transportation of commodites in bu ld, Restricted against the transportation of commodities in bulk. Restricted to shipments originating at the above origins and destined to the above destinations. For 180 days. Supporting shipper(s): Packaging Corporation of America, 1603 Orington Avenue, Evanston, IL 60204. Send protests to: Mabel E. Holston, Transportation Assistant, Bureau of Operation, ICC, Room 1616—2121 Building, Birmingham, AL 35203.

MC 139483 (Sub-3TA), filed March 26, 1979. Applicant: ALLEN MITCHEK, P.O. Box 512, Sterling, CO 80751. Representative: Charles J. Kimball, Kimball, Williams & Wolfe, P.C., 350 Capitol Life Center, 1600 Sherman St., Denver, CO 80203. *Dry fertilizer* from Sidney, NE and its commercial zone to points in CO, WY, SD and NE for 180 days. Underlying ETA seeks 90 days authority. Supporting shipper: Farmland Industries, Inc., P.O. Box 7305, Kansas City, MO 64116. Send protests to: D/S Roger L. Buchanan, ICC, 721 19th St., 492 U.S. Customs House, Denver, CO 80202.

MC 139973 (Sub-68TA), filed March 2, 1979. Applicant: J. H. WARE TRUCKING, INC., 909 Brown Street (P.O. Box 398), Fulton, Missouri 65251. Representative: Larry D. Knox, 600 Hubbell Building, Des Moines, Iowa 50309. (1) *Electrical appliances*, (2) *equipment and parts for electrical appliances*, and (3) *poleline hardware*, from Washington, MO, to those points in the United States in and west of MT, WY, CO, and NM (except AK and HI), for 180 days. Supporting shipper(s): A. B. Chance & Co., 8100 West Florissant, St. Louis, MO 63136. Send protests to: Vernon V. Coble, DS, Interstate Commerce Commission, 600 Federal Building, 911 Walnut Street, Kansas City, MO 64106.

MC 139982 (Sub-2TA), filed March 2, 1979. Applicant: WILLIAMSON DELIVERY SERVICE, INC., Box 22032 AMF, Tampa, FL 33622. Representative: Travis W. Williamson, same address as applicant. *General commodities*, except those of unusual value, classes A and B explosives, household goods as defined by the Commission, commodities in bulk and those requiring special equipment, between Tampa International Airport, on the one hand, and, on the other, points in Charlotte, DeSoto, Hardee, Highlands, Lee, Manatee, Pinellas and Sarasota Counties, FL, restricted to the transportation of traffic having an immediately prior or subsequent movement by air, for 180 days. An underlying ETA seeks 90 days authority. Supporting shipper(s): There are nine supporting shippers. Their statements may be examined at the office listed below and Headquarters. Send protests to: Donna M. Jones, Transportation Assistant, Interstate Commerce Commission—BOp, Monterey Building, Suite 101, 8410 N.W. 53rd Terrace, Miami, FL 33166.

MC 140563 (Sub-27TA), filed March 21, 1979. Applicant: W. T. MYLES TRANSPORTATION CO., P.O. Box 321, 4480 Moreland Ave., Conley, GA 30027. Representative: Archie B. Culbreth, Suite 202, 2200 Century Parkway, Atlanta, GA 30345. *Paper and paper products* from the facilities of Union Camp Corporation at or near Tifton and Savannah, GA to points in IL, IN, IA, MI, MN, MO, OH, and WI for 180 days. An underlying ETA seeks 90 days authority. Supporting shipper(s): Union Camp Corporation, 1600 Valley Road, Wayne, NJ 07470. Send protests to: Sara K. Davis, T/A, ICC, 1252 W. Peachtree St., N.W., Rm. 300, Atlanta, GA 30309.

MC–140612 (Sub–62TA), filed March 23, 1979. Applicant: ROBERT F. KAZIMOUR, P.O. Box 2207, Cedar Rapids, IA 52406. Representative: J. L. Kazimour (same as applicant). (1) Such merchandise as is dealt in by wholesale, retail, chain grocery and feed business houses, paste, dairy, flour, and soy products, and (2) materials, ingredients and supplies used in the manufacture, distribution and sale of the products in (1) above, between points in, and west and south of MI, OH, KY, TN and NC. Restricted to traffic originating at or destined to the facilities used by Ralston Purina Co. for 180 days. An underlying ETA seeks 90 days authority. Supporting shipper(s): Ralston Purina Company, Checkerboard Square, St. Louis, MO 63188. Send protests to: Herbert W. Allen, DS, ICC, 518 Federal Bldg., Des Moines, IA 50309.

MC–140612 (Sub–65TA), filed March 30, 1979. Applicant: ROBERT F. KAZIMOUR, P.O. Box 2207, Cedar Rapids, IA 52406. Representative: J. L. Kazimour (same as applicant). *Rubber and or plastic articles and materials, equipment and supplies, used in the manufacture and distribution of rubber and plastic articles* (except commodities in bulk in tank vehicles), between the facilities used by Entek Corporation of America located at or near Irving, TX on the one hand, and, on the other, points in and west of MI, OH, KY, TN, and NC for 180 days. An underlying ETA seeks 90 days authority. Supporting shipper(s): Entek Corporation of America, P.O. Box 61048, Dallas, TX 75261. Send protests to: Herbert W. Allen, DS, ICC, 518 Federal Bldg., Des Moines, IA 50309.

MC–141033 (Sub–50TA), filed March 30, 1979. Applicant: CONTINENTAL CONTRACT CARRIER CORP., 15045 E. Salt Lake Avenue, P.O. Box 1257, City of Industry, CA 91749. Representative: Harris L. Rabins, same address as applicant. *Such commodities as are dealt in by producers and packagers of paint and paint products (except in bulk)*, from Los Angeles, CA and its Commercial zones; Baltimore, MD and its commercial zones; Chicago, IL and its commercial zones; Atlanta, GA and its commercial zones; and Linden, NJ and its commercial zones, to all points in the United States, for 180 days. An underlying ETA seeks up to 90 days operating authority. Supporting shipper(s): Dutch Boy, Inc., 500 Central Avenue, P.O. Box 209, Northfield, IL 60093. Send protests to: Irene Carlos, Transportation Assistant, Interstate Commerce Commission, P.O. Box 1551, Los Angeles, CA 90053.

MC–141212 (Sub–4TA), filed April 5, 1979. Applicant: JOHN M. RADKE, Route 2, Box 93, Marathon, WI 54448. Representative: Richard A. Westley, 4506 Regent Street, Suite 100, Madision, WI 53705. *Animal and poultry feeds and feed ingredients*, from the facilities of Ralston Purina Company, Minneapolis, MN to Ashland, WI, for 180 days. An underlying ETA seeks 90 days authority. Supporting shipper(s): Ralston Purina Company, 3901 Hiawatha Ave., So., Minneapolis, MN 55406. Send protests to: Gail Daugherty, Transportation Asst., Interstate Commerce Commission, Bureau of Operations, U.S. Federal Building and Courthouse, 517 East Wisconsin Avenue, Room 619, Milwaukee, Wisconsin 53202.

MC 141443 (Sub-15TA), filed April 11, 1979. Applicant: JOHN LONG TRUCKING, INC., 1030 Denton Street, Sapulpa, Oklahoma 74066. Representative: Wilburn L. Williamson, Suite 615-East, The Oil Center, 2601 Northwest Expressway, Oklahoma City, Oklahoma 73112. *Such commodities as are dealt in by wholesale, retail and chain and grocery and food business houses (except frozen commodities and commodities in bulk)* from the facilities of the Clorox Company at Kansas City, MO to Denver, CO and its commercial zone for 180 days. An underlying ETA seeks 90 days authority. Supporting shipper(s): The Clorox Company, 1221 Broadway, Oakland, CA 94612. Send protests to: Connie Stanley, Transportation Assistant, Interstate Commerce Commission, Room 240 Old Post Office Bldg., 215 N.W. Third Street, Oklahoma City, Oklahoma 73102.

MC 141733 (Sub-3TA), filed April 6, 1979. Applicant: UNION TRANSIT COMPANY, INC., 276 Pasco Road, Springfield, MA 01151. Representative: David M. Marshall, Esq., Marshall and Marshall, 101 State Street, Suite 304, Springfield, MA 01103. Contract carrier: irregular routes: *Paper and paper products, and materials and supplies used in the manufacture, distribution and sale of such commodities* (except in bulk), (1) between the facilities of American Pad & Paper company located at Holyoke, MA, on the one hand, and, on the other, the facilities of American Pad & Paper Company located at Salt Lake City, UT, Mattoon, IL, and Grapevine, TX and (2) between the facilities of American Pad & Paper Company located at Mattoon, IL on the one hand, and, on the other, the facilities of American Pad & Paper Company located at Salt Lake City, UT, and Grapevine, TX under a continuing contract or contracts with American Pad & Paper Company, for 180 days. An underlying ETA seeks 90 days authority. Supporting shipper(s): American Pad & Paper Company, 75 Appleton Street, Holyoke, MA 01040. Send protests to: David M. Miller, DS, ICC, 436 Dwight Street, Springfield, MA 01103.

MC 141932 (Sub-10TA), filed March 20, 1979. Applicant: POLAR TRANSPORT, INC., 176 King Street, Hanover, MA 02339. Representative: A. C. Gardner, 176 King Street, Hanover, MA 02339. (1) *Synthetic plastics, synthetic latex, adhesives, sealants, cements, chemicals, chemical compounds, cleaning compounds, rubber compounds, soldering flux, coatings, lubricants, fertilizer compounds, battery insulating partitions, pulpboard and materials, equipment and supplies used in the application of the above named commodities, and materials, equipment and supplies used in the manufacture, production and distribution of the above named commodities*, (except in bulk and commodities which by reason of size or weight require the use of special equipment), between Atlanta, GA; Chicago, IL; Owensboro, KY, Acton and Cambridge, MA; Nashua, NH and Woodbury, NJ on the one hand, and, on the other, points in the United States in or east of ND, SD, NE, KS, OK, and TX and further restricted to traffic orginating at or destined to the facilities of W. R. Grace & Co.; (2) *building materials, perlite, plant bed media, plastic articles, potting soil, vermiculate and materials, equipment and supplies used in the application of the above named commodities and materials, equipment and supplies used in the manufacture, production and distribution of the above named commodities*, (except in bulk and commodities which by reason of size or weight require the use of special equipment), between Little Rock, AR, Boca Raton, Jacksonville, Pompano Beach and Tampa, FL, Atlanta, GA, Chicago, IL, Wilders, KY, New Orleans, LA, Muirkirk, MD, Easthampton, MA, Dearborn, MI, Minneapolis, MN, St. Louis, MO, North Bergen and Trenton, NJ, Weedsport, NY, High Point, NC, New Castle, PA, Enoree and Travelers Rest, SC, Nashville, TN, Dallas, Houston, and San Antonio, TX and Milwaukee, WI, on the one hand, and, on the other, points in the Unites States in or east of ND, SD, NE, KS, OK, and TX and further restricted to traffic originating at or destined to the facilities of W. R. Grace & Co., for 180 days. Supporting shipper(s): W. R. Grace & Co., Organic Chemicals Div., 55 Hayden Ave., Lexington, MA 02173; W. R. Grace & Co. Construction Products Div., 62 Whittemore Ave., Cambridge, MA 02140. Send protests to: John B. Thomas, TS,

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ICC, 150 Causeway St., Rm. 501, Boston, MA 02114.

MC 142062 (Sub-24TA), filed March 5, 1979. Applicant: VICTORY FREIGHTWAY SYSTEM, INC., P.O. Box Drawer P, Sellersburg, IN 47172. Representative: William P. Jackson, Jr., 3426 N. Washington Blvd., P.O. Box 1240, Arlington, VA 22210. *Contract carrier:* irregular routes: *Cabinets, components thereof and accessories therefor, and materials, equipment and supplies used in the installation or distribution of the foregoing commodities*, from the facilities of H. J. Scheirich Company at or near Louisville, KY, to points in AZ, CA, and FL, for 180 days. Restricted to transportation of commodities under a continuing contract or contracts with H. J. Scheirich Company. Supporting shipper: H. J. Scheirich Company, 250 Ottawa, P.O. Box 21037, Louisville, KY 40221. Send protests to: Beverly J. Williams, Transportation Assistant, ICC, 429 Federal Bldg., 46 E. Ohio Street, Indianapolis, IN 46204. An underlying ETA seeks 90 days authority.

MC 142262 (Sub-6TA), filed March 15, 1979. Applicant: BERNARD PAVELKA TRUCKING, INC., Route 1, Box 263B, Hastings, NE 68901. Representative: Bradford E. Kistler, P.O. Box 82028, Lincoln, NE 68501. Authority sought to operate as a *contract carrier*, by motor vehicle, over irregular routes, transporting: *Meats, meat products, and meat by-products, and articles distributed by meat packinghouses*, as described in Sections A and C of Appendix I to the report in *Descriptions in Motor Carrier Certificates*, 61 M.C.C. 209 and 766 (except hides and commodities in bulk), from the facilities of Gibbon Packing, Inc., at or near Gibbon, NE, to Bloomington and Rockford, IL, and Kenosha, WI, under a continuing contract(s) with Gibbon Packing, Inc. of Gibbon, NE, for 180 days. An underlying ETA seeks 90 days authority. Supporting shipper(s): Gibbon Packing, Inc., P.O. Box Q, Gibbon, NE 68840. Send protests to: Max Johnston, DS, ICC, 285 Federal Building and U.S. Courthouse, 100 Centennial Mall North, Lincoln, NE 68508.

MC 142283 (Sub-6TA), filed March 13, 1979. Applicant: VOORHORST, INC., 2099 East Packard Hwy., Charlotte, MI 48813. Representative: Karl L. Gotting, 1200 Bank of Lansing Building, Lansing, MI 48933. *Soybean meal and soybean hulls*, from the facilities of Cargill, Inc., Chicago, IL, to various points in MI restricted to shipments moving in equipment equipped with auger unloading devices, for 180 days. Supporting shipper(s): Cargill, Inc., 122nd and Torrence Ave., Chicago, IL 60617. Send protests to: Clarence Flemming, TS, ICC, 225 Federal Bldg., 325 West Allegan Street, Lansing, MI 48933.

MC 142352 (Sub-6TA), filed March 13, 1979. Applicant: HAUSMAN TRUCKING, INC., 607 D Avenue, Vinton, IA 52349. Representative: John P. Rhodes, P.O. Box 5000, Waterloo, IA 50704. *Meats and packinghouse products*, from the facilities of Wilson Foods Corp., at Cedar Rapids, IA to AL, AR, GA, IL (except Chicago, IL and its commercial zone), MO and TN, restricted to shipments originating at the named origin and destined to the named states, for 180 days. An underlying ETA seeks 90 days authority. Supporting shipper(s): Wilson Foods Corporation, 4545 Lincoln Blvd., Oklahoma City, OK 73105. Send protests to: Herbert Allen, DS, ICC, 518 Federal Bldg., 210 Walnut Street, Des Moines, IA 50309.

MC 142423 (Sub-5TA), filed March 19, 1979. Applicant: BIG D CARTAGE, INC., 20891 Kingsberry Drive, Mt. Clemens, MI 48045. Representative: Robert E. McFarland, 999 West Big Beaver Road, Suite 1002, Troy, MI 48084. *Automobile parts*, from the facilities of Clipper International Corporation at Detroit, MI to Buffalo, NY and the commercial zone thereof, for 180 days. An underlying ETA seeks 90 days of authority. Supporting Shipper(s): Clipper International Corporation, 18050 Ryan Road, Detroit, MI 48234. Send protests to: Timothy Quinn, TS, ICC, 604 Federal Bldg. and U.S. Courthouse, 231 W. Lafayette Blvd., Detroit, MI 48226.

MC 142743 (Sub-12TA), filed April 2, 1979. Applicant: FAST FREIGHT SYSTEMS, INC., Rt. 1, Box 132c, Tupelo, MS 38801. Representative: Edwin M. Snyder, 22375 Haggerty Rd., P.O. Box 400, Northville, MI 48167. *Iron and steel articles* from Chicago, IL, St. Louis, MO, Houston, TX, and Birmingham, AL to points in AR, MS and TN, for 180 days. An underlying ETA seeks 90 days of authority. Supporting Shipper(s): Donnelly Metals, 4646 Poplar, Suite 215, Memphis, TN 38117. Send protests to: Alan Tarrant, D/S, ICC, Rm. 212, 145 E. Amite Bldg., Jackson, MS 39201.

MC 142792 (Sub-3TA), filed April 3, 1979. Applicant: DENNIS I. OLSON d.b.a. TWO WAY TRUCKING, No. 4 Ginger Cove Road, Valley, NE 68064. Representative: Donald L. Stern, Suite 610, 7171 Mercy Rd., Omaha, NE 68106. *Meats, meats products, meat by-products and articles distributed by meat packinghouses as described in Sections A and C of Appendix I to the report in Descriptions in Motor Carrier Certificates, 61 M.C.C. 209 and 766 (except hides and skins and commodities in bulk)*, from the facilities utilized by Wilson Foods Corporation at Omaha, NE, to points in CT, DE, ME, MD, MA, NH, NJ, NY, PA, RI, VT, VA, and DC, for 180 days. Restricted to the transportation of traffic originating at the above named origin and destined to the above named destinations. An underlying ETA seeks 90 days authority. Supporting Shipper(s): A. N. Brent, Wilson Foods Corporation, 4545 Lincoln Blvd., Oklahoma City, OK 73105. Send protests to: Carroll Russell, ICC, Suite 620, 110 No. 14th St., Omaha, NE 68102.

MC 143032 (Sub-13TA), filed March 29, 1979. Applicant: THOMAS J. WALCZYNSKI, d.b.a. WALCO TRANSPORT, 3112 Truck Center Drive, Duluth, MN 55806. Representative: James B. Hovland, 414 Gate City Building, P.O. Box 1680, Fargo, ND 58107. *Printing paper, not printed*, from the facilities of Potlatch Corporation at or near Brainerd and Cloquet, MN to the Minneapolis-St. Paul, MN Commercial Zone, restricted to the transportation of traffic having a subsequent movement by rail, for 180 days. An underlying ETA seeks 90 days of authority. Supporting Shipper(s): Potlatch Corporation, Division Transportation Manager, P.O. Box 510, Cloquet, MN 55720. Send protests to: Delores A. Poe, TA, ICC, 414 Federal Building & U.S. Court House, 110 South 4th Street, Minneapolis, MN 55401.

MC143693 (Sub-4TA), filed April 13, 1979. Applicant: DFC TRUCKING COMPANY, 17872 Cartwright Road, Irvine, CA 92705. Representative: Floyd L. Farano, 2555 E. Chapman Avenue, Suite 705, Fullerton, CA 92631. *Contract:* irregular: *Donut mix, flour, sugar, shortening, yeast, fruit filling, frozen and canned fruit juice; frozen, canned and packaged foodstuffs*, (1) Between the distribution, shipping and receiving facilities of Winchell's Donut Houses located in La Mirada, CA; Union city, CA; Portland, OR; Denver, CO; Arlington, TX; Kansas City, MO; Bonner Springs, KS; Chicago, IL; Itasca, IL; Bloomington, MN; Minneapolis, MN; and Cleveland, OH; (2) From the distribtuion, shipping and receiving facilities of Winchell's Donut Houses located in La Mirada, CA; Union City, CA; Portland, OR; Denver, CO; Arlington, TX; Kansas City, MO; Bonner Springs, KS; Chicago, IL; Itasca, IL; Bloomington, MN; Minneapolis, MN and Cleveland, OH, to Winchell's Donut Houses located at various locations in the states of CA, OR, WA, ID, UT, TX, CO, KS, NE, SD, MN, IA, MO, and AR. *Furniture, fixtures, supplies and equipment used in the establishment and operation of a donut house*, (1) Between the distribution, shipping and receiving centers of Winchell's Donut Houses located in La Mirada, CA; Union City, CA; Portland, OR; Denver, CO; Arlington, TX; Kansas City, MO; Bonner Springs, KS; Chicago, IL; Itasca, IL; Bloomington, MN; Minneapolis, MN; and Cleveland, OH; (2) From the distribution, shopping and receiving centers of Winchell's Donut House in La Mirada, CA and Bonner Springs KS, to Winchell's Donut Houses located at various locations in the 48 contiguous United States. *Used furniture, fixtures and equipment used in the operation of a donut house returned for refurbishing and repair*, from Winchell's Donut Houses located at various locations in the 48 contiguous United States, to Winchell's restaurant furniture, fixture and equipment repair facilities located at La Mirada, CA and Bonner Springs, KS, for 180 days. Supporting shipper(s): Winchell's Donut House, 16424 Valley View Avenue, La Mirada, CA. Send protests to: Irene Carlos, Transportation Assistant, Interstate Commerce Commission, P.O. Box 1551, Los Angeles, CA 90053.

MC144323 (Sub-3TA), filed April 4, 1979. Applicant: RICHARD P. CHARAPATA, d.b.a. CHARAPATA TRUCKING, N30 W26466 Peterson Drive, Pewaukee, WI 53072. Representative: Daniel R. Dineen, 710 Plankington Ave., Milwaukee, WI 53203. *Contract carrier:* irregular routes: *Steel wire and steel rods*, from the facilities of Charter Rolling Division, Charter Manufacturing Co., Inc., Saukville, WI to the facilities of National Lockwasher Division, Charter Manufacturing Co., Inc., North Branch, NJ, for 180 days. An underlying ETA seeks 90 days authority. Supporting shipper(s): Charter Rolling Division, Charter Manufacturing Co., Inc., 1658 Cold Spring Drive, Saukville, WI 53080. Send protests to: Gail Daugherty, Transportation Asst., Interstate Commerce Commission, Bureau of Operations, U.S. Federal Building & Courthouse, 517 East Wisconsin Avenue, Room 619, Milwaukee, WI 53202.

MC144513 (Sub-8TA), filed April 4, 1979. Applicant: CONDOR CONTRACT CARRIERS, INC., 656 Wooster St., Lodi, OH 44254. Representative: Bradford E. Kistler, Esq., P.O. Box 82028, Lincoln, NE 68501. *Carpet and flooring materials, and materials and supplies utilized in the distribution and installation thereof*, from Nashville and Chattanooga, TN; Columbus, GA; and points in GA on and north of I-85, to the facilities of Building Material Distributors, Inc., at or near Galt and Sunnyvale, CA, for 180 days. An underlying ETA seeks 90 days authority. Supporting shipper(s): Building Material Distributors, Inc., P.O. Box 606, Galt, CA 95632. Send protests to: Mary A. Wehner, D/S, ICC, 731 Federal Office Building, Cleveland, OH 44199.

MC144572 (Sub-14TA), filed April 4, 1979. Applicant: MONFORT TRANSPORTATION COMPANY, P.O. Box G, Greeley, CO 80631. Representative: John T. Wirth, 717 17th St., Suite 2600, Denver, CO 80202. *Packaged chemicals* (1) from points in CA, CT, DE, FL, GA, IL, IA, KS, KY, LA, MI, MS, MO, NV, NJ, NY, NC, OH, OR, PA, TN, WA, WV and WI to Denver and Grand Junction, CO; and (2) from points in states above, with the exception of CA, to points in CA, for 180 days. Underlying ETA seeks 90 days authority. Supporting shipper: Foremost-McKesson, Inc., Crocker Plaza, One Post St., San Francisco, CA 94104. Send protests to: D/S Roger L. Buchanan, ICC, 721 19th St., 492 U.S. Customs House, Denver, CO 80202. Supporting shipper(s): Foremost-McKesson, Inc., Crocker Plaza, One Post St., San Francisco, CA 94104. Send protests to: D/S Roger L. Buchanan, ICC, 721 19th St., 492 U.S. Customs House, Denver, CO 80202.

MC 144622 (Sub-55TA), filed March 2, 1979. Applicant: GLENN BROS. TRUCKING, INC., P.O. Box 9343, 11800 Arch Street Pike, Little Rock, AR 72206. Representative: Phillip G. Glenn, same as applicant. *Meat, meat products, meat by-products and articles distributed by meat packing houses* (except hides and commodities in bulk), from Logansport, IN to points in CA, restricted to transporation from plant and storage facilities of Wilson Foods Corporation, destined to the above named destinations, for 180 days, as a common carrier over irregular routes. An underlying ETA seeks 90 days authority. Supporting shipper(s): Wilson Foods Corporation, 4545 Lincoln Blvd., Oklahoma City, OK 73105. Send protests to: William H. Land, Jr., District Supervisor, 3108 Federal Office Building, 700 West Capitol, Little Rock, AR 72201.

MC 144622 (Sub-49TA), filed March 1, 1979. Applicant: GLENN BROS. TRUCKING, INC., P.O. Box 9343, 11800 Arch Street Pike, Little Rock, AR 72209. Representative: Phillip G. Glenn, same as applicant and Theodore Ploydoroff, 1307 Dolley Madison, Suite 301, McLean, VA 22101. (1) *Such merchandise* as is dealt in by wholesale, retail, chain grocery and food business houses, and (2) *materials, ingredients and supplies* used in the manufacture, distribution, and sale of the products in (1) above, between the facilities of the Ralston Purina Company at or near Clinton and Davenport, IA on the one hand, and on the other, points in IL, IN, KY, MI, MN, MO, NY, OH, PA, and WI, for 180 days, as a common carrier over irregular routes. Supporting shipper(s): Ralston Purina Company, Checkerboard Square, St. Louis, MO 63188. Send protests to: William H. Land, Jr., District Supervisor, 3108 Federal Office Building, 700 West Capitol, Little Rock, AR 72201.

MC 144622 (Sub-60TA), filed April 2, 1979. Applicant: GLENN BROS. TRUCKING, INC., P.O. Box 9343, Little Rock, AR 72219. Representative: Phillip G. Glenn, same as applicant and Theodore Ploydoroff, 1307 Dolley Madison, Suite 301, McLean, VA 22101. Canned goods (except frozen and in bulk), from the facilities of Joan of Arc at or near St. Francisville and Belledeau, LA to points in CT, IA, IL, KS, MA, MD, MI, MN, MO, NH, NJ, NY, OH, PA, VT, WI, and all points in and west of MT, CO, NM, and WY, for 180 days as a common carrier over irregular routes. An underlying ETA seeks 90 days authority. Supporting shipper(s): Joan of Arc, Inc., 2231 W. Altorfer Dr., Peoria, IL 61614. Send protests to: William H. Land, Jr., District Supervisor, 3108 Federal Office Building, 700 West Capitol, Little Rock, AR 72201.

MC 144912 (Sub-2TA), filed March 8, 1979. Applicant: LEON R. GOLDSMITH, d.b.a., TERMINAL MOTOR EXPRESS, 1711 East 15th Street, Los Angeles, CA 90021. Representative: William J. Monheim, P.O. Box 1756, Whittier, CA 90609. *General commodities (except those of unusual value, Classes A and B explosives, household goods as defined by the Commission, commodities in bulk, and those requiring special equipment) which are at the time moving on bills of lading of a non-profit shipper association*, between Los Angeles, CA, on the one hand, and, on the other, Atlanta, GA; Boston, MA; Chicago, IL; Cleveland, OH; Memphis, TN; Newark, NJ; and Philadelphia and Pittsburgh, PA, for 180 days. An underlying ETA seeks up to 90 days operating authority. Supporting shipper(s): MSA-Lamada, Inc., 4430 E. Sheila Street, Los Angeles, CA 90023. Send protests to: Irene Carlos, Transporation Assistant, Interstate Commerce Commission, Room 1321, Federal Building, 300 North Los Angeles Street, Los Angeles, California 90012.

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MC 145072 (Sub-14TA), filed March 30, 1979. Applicant: M. S. CARRIERS, INC., 7372 Eastern Avenue, Germantown, TN 38138. Representative: A. Doyle Cloud, Jr., 2008 Clark Tower, 5100 Poplar Avenue, Memphis, TN 38137. *Equipment, material and supplies utilized in the manufacture of heating and refrigeration equipment, steel and aluminum,* from the states of NJ, OH, NY, PA, MI, IN and IL to the plantsite of McQuay-Perfex in Fairbault, MN and Spirit Lake, IA, for 180 days. An underlying ETA seeks 90 days authority.Supporting Shipper(s): McQuay-Perfex, Inc., 13600 Industrial Park Blvd., Minneapolis, MN. Send protests to: Floyd A. Johnson, District Supervisor, Interstate Commerce Commission, 100 North Main Building, Suite 2006, 100 North Main Street, Memphis, TN 38103.

MC 145102 (Sub-16TA), filed March 6, 1979. Applicant: FREYMILLER TRUCKING, INC., P.O. Box 188, Shullsburg, WI 53586. Representative: Michael J. Wyngaard, 150 E. Gilman St., Madison, WI 53703. *Frozen bakery products* from the facilities of Dressel's Bakery, a division of American Bakery, Chicago, IL to Burbank, CA, for 180 days. An underlying ETA seeks 90 days authority. Supporting Shipper(s): Dressel's Bakery, a div. of American Bakery, 6630 S. Ashland Ave., Chicago, IL 60636. Send protests to: Gail Daugherty, Transportation Asst., Interstate Commerce Commission, Bureau of Operations, U.S. Federal Building and Courthouse, 517 East Wisconsin Avenue, Room 619, Milwaukee, Wisconsin 53202.

MC 145102 (Sub-18TA), filed April 10, 1979. Applicant: FREYMILLER TRUCKING, INC., P.O. Box 188, Shullsburg, WI 53586. Representative: Michael J. Wyngaard, 150 E. Gilman St., Madison, WI 53703. *Meat, meat products and meat by-products, and articles distributed by meat packing houses,* as described in Sections A and C of Appendix I to the report in Descriptions in Motor Carrier Certificates, 61 MCC 209 and 766 (except hides and commodities in bulk) from Green Bay, WI to points in CA, for 180 days. An underlying ETA seeks 90 days authority. Supporting Shipper(s): Packerland Packing Co., Inc., P.O. Box 1184-Lime Kiln Rd., Green Bay, WI 54305. Send protests to: Gail Daugherty, Transportation Asst., Interstate Commerce Commission, Bureau of Operations, U.S. Federal Building and Courthouse, 517 East Wisconsin Avenue, Room 619, Milwaukee, Wisconsin 53202.

MC 145102 (Sub-19TA), filed March 30, 1979. Applicant: FREYMILLER TRUCKING, INC., P.O. Box 188, Shullsburg, WI 53586. Representative: Michael J. Wyngaard, 150 E. Gilman St., Madison, WI 53703. *Meats, meat products and meat byproducts, and articles distributed by meat packing houses,* as described in Sections A and C of Appendix I to the report in Descriptions in Motor Carrier Certificates, 61 M.C.C. 209 and 766 (except hides and commodities in bulk) from the facilities of Hillshire Farm Co., at or near New London, WI to CA, OR and WA, for 180 days. An underlying ETA seeks 90 days authority. Supporting Shipper(s): Hillshire Farm Co., P.O. Box 227, New London, WI 54961. Send protests to: Gail Daugherty, Transportation Asst., Interstate Commerce Commission, Bureau of Operations, U.S. Federal Building and Courthouse, 517 East Wisconsin Avenue, Room 619, Milwaukee, Wisconsin 53202.

MC 145152 (Sub-60TA), filed March 6, 1979. Applicant: BIG THREE TRANSPORTATION, INC., P.O. Box 706, Springdale, AR 72764. Representative: Don Garrison, P.O. Box 159, Rogers, AR 72756. Such commodities as are dealt in or used by wholesale and retail discount and variety stores, from Benton and White Counties, AR on the one hand, and, on the other, points in the states of IL, KY, KS, LA, MO, MS, OK, TN, and TX, for 180 days as a common carrier over irregular routes. An underlying ETA seeks 90 days authority. Supporting shipper(s): Wal-Mart Stores, Inc., P.O. Box 116, Bentonville, AR 72712. Send protests to: William H. Land, Jr., District Supervisor, 3108 Federal Office Building, 700 West Capitol, Little Rock, AR 72201.

MC 145152 (Sub-61TA), filed March 27, 1979. Applicant: BIG THREE TRANSPORTATION, INC., P.O. Box 706, Springdale, AR 72764. Representative: Don Garrison, P.O. Box 159, Rogers, AR 72756. (1) *Office furniture* from the facilities of Peterson Furniture Industries, Inc. at or near Springdale, AR, to points in AZ, DE, ID, MA, MD, ME, MO, NC, NH, NJ, NV, NY, PA, RI, VA, and VT, (2) *Parts, equipment, materials and supplies* used in the manufacture of the commodities named in (1) above, from Grand Rapids, MI and Laurel, MS, to Springdale, AR, for 180 days as a common carrier over irregular routes. An underlying ETA seeks 90 days authority. Supporting shipper(s): Peterson Furniture Industries, Inc., P.O. Box 152, Springdale, AR 72764. Send protests to: William H. Land, Jr., District Supervisor, 3108 Federal Office Building, 700 West Capitol, Little Rock, AR 72201.

MC 145152 (Sub-62TA), filed March 29, 1979. Applicant: BIG THREE TRANSPORTATION, INC., P.O. Box 706, Springdale, AR 72764. Representative: Don Garrison, P.O. Box 159, Rogers, AR 72756. (1) *Frozen poultry products,* and (2) *commodities* the transportation of which is exempt from economic regulation under Section 203(b)(6) of the Interstate Commerce Act, in mixed loads with frozen poultry products (except commodities in bulk, in tank vehicles), and (3) *Materials, equipment and supplies* used in the processing and distribution of the commodities named in (1) above, from points in GA, IA, IL, MS, NC, NJ, OH, TN, TX, and WV, to Benton, Carroll, Howard, Pulaski and Washington Counties, AR; Webster Parish, LA; Barry and Lawrence Counties, MO, and (4) *Frozen poultry products and commodities the transportation of* which is exempt under Section 203(b)(6) of the Interstate Commerce Act, in mixed loads with frozen poultry (except commodities in bulk, in tank vehicles), from Benton, Carroll, Howard, Pulaski and Washington Counties, AR, to points in the United States (except AK, AR and HI), restricted to the transportation of traffic originating at or destined to the facilities of Tyson Foods, Inc., for 180 days as a common carrier over irregular routes. Supporting shipper(s): Tyson Foods, Inc., 2210 Oaklawn, Springdale, AR 72756. Send protests to: William H. Land, Jr., District Supervisor, 3108 Federal Office Building, 700 West Capitol, Little Rock, AR 72201.

MC 145152 (Sub-63TA), filed April 3, 1979. Applicant: BIG THREE TRANSPORTATION, INC., P.O. Box 706, Springdale, AR 72764. Representative: Don Garrison, P.O. Box 159, Rogers, AR 72756. *Foodstuffs* (except in bulk), from the facilities of Southeastern Public Service, Inc., at or near Bonner Springs, KS to points in AR, IA, LA, MO and OK for 180 days as a common carrier over irregular routes. Supporting shipper(s): Southeastern Public Service, Inc., 800 47th Street, Kansas City, MO. Send protests to: William H. Land, Jr., District Supervisor, 3108 Federal Office Building, 700 West Capitol, Little Rock, AR 72201.

MC 145152 (Sub-64TA), filed April 3, 1979. Applicant: BIG THREE TRANSPORTATION, INC., P.O. Box 706, Springdale, AR 72764. Representative: Don Garrison, P.O. Box 159, Rogers, AR 72756. Charcoal Briquettes (except in bulk), from the facilities of Husky Industries, at or near Branson, MO; Pachuta, M Scotia, NY; Dickinson, ND; and White City, OR to points in the United States (except AK and HI), 180 days, common, irregular. An underlying ETA seeks 90 days authority. Supporting shipper(s): Husky Industries, Inc., 62 Perimeter Center East, Atlanta, GA 30346. Send protests to: William H. Land, Jr., District Supervisor, 3108 Federal Office Building, 700 West Capitol, Little Rock, AR 72201.

MC 145152 (Sub-65TA), filed April 10, 1979. Applicant: BIG THREE TRANSPORTATION, INC., P.O. Box 706, Springdale, AR 72764. Representative: Don Garrison, P.O. Box 159, Rogers, AR 72756. Foodstuffs, Canned, Preserved or Prepared (Other than frozen) NOI From the facilities of Ocean Spray Corporation, at or near Bordentown, NJ; Middleboro, MA; and North East, PA to points in AR, CO, IL, IN, KS, KY, LA, MI, MO, OH, OK, TN and TX, 180 days, common, irregular. An underlying ETA seeks 90 days authority. Supporting shipper(s): Ocean Spray Corporation, Water Street, Plymouth, MA 02360. Send protests to: William H. Land, Jr., District Supervisor, 3108 Federal Office Building, 700 West Capitol, Little Rock, AR 72201.

MC 145152 (Sub-66TA), filed April 11, 1979. Applicant: BIG THREE TRANSPORTATION, INC., P.O. Box 706, Springdale, AR 72764. Representative: Don Garrison, P.O. Box 159, Rogers, AR 72756. Plastic Cannisters, From Luxemberg, WI to Jacksonville, FL. Restricted to the transportation of traffic originating at the named origin and destined to the facilities of Roux Laboratories, Inc. at or near Jacksonville, FL, 180 days, common, irregular. An underlying ETA seeks 90 days authority. Supporting shipper(s): Roux Laboratories, Inc., 3733 University Boulevard, Jacksonville, FL 32217. Send protests to: William H. Land, Jr., District Supervisor, 3108 Federal Office Building, 700 West Capitol, Little Rock, AR 72201.

MC 145152 (Sub-66TA), filed April 13, 1979. Applicant: BIG THREE TRANSPORTATION, INC., P.O. Box 706, Springdale, AR 72764. Representative: Don Garrison, P.O. Box 159, Rogers, AR 72756. (1) Chemicals, and (2) Materials, Equipment and Supplies used in the manufacture and distribution of the commodities named in (1) above (except in bulk) from the facilities of National Starch & Chemical Corporation, at or near Meredosia, IL to points in AZ, AR, CA, CT, DE, MA, MD, ME, NH, NY, PA, RI, VA and VT. Restricted to the transportation of traffic originating at the facilities of National Starch & Chemical Corporation at or near Meredosia, IL, 180 days, common, irregular. An underlying ETA seeks 90 days authority. Supporting shipper(s): National Starch & Chemical Corporation, 10 Finderne Avenue, Bridgewater, NJ 08807. Send protests to: William H. Land, Jr., District Supervisor, 3108 Federal Office Building, 700 West Capitol, Little Rock, AR 72201.

MC 145152 (Sub-68TA), filed April 13, 1979. Applicant: BIG THREE TRANSPORTATION, INC., P.O BOX 706, Springdale, AR 72764. Representative: Don Garrison, P.O. Box 159, Rogers, AR 72756. Such commodities as are dealt in or used by manufacturers and distributors of containers and related articles (except in bulk) From Henryetta, OK to Detroit and Frankenmuth, MI. 180 days, common, irregular. An underlying eta seek 90 days authority. Supporting shipper(s): Midland Glass Company, Inc., P.O. Box 557, Cliffwood, NJ 07721.Send protests to: William H. Land, Jr., District Supervisor, 3108 Federal Office Building, 700 West Capitol, Little Rock, AR 72201.

MC 145152 (Sub-69TA), filed April 13, 1979. Applicant: BIG THREE TRANSPORTATION, INC., P.O. Box 706, Springdale, AR 72764. Representative: Don Garrison, P.O. Box 159, Rogers, AR 72756. Toilet Preparations and Toilet Articles (in vehicles equipped with mechanical refrigeration) (1) from Denton, TX to the facilities of Roux Laboratories, Inc., at or near Jacksonville, FL (2) From the facilities of Roux Laboratories, Inc., at or near Jacksonville, FL to points in IL Restricted to the transportation of traffic originating at or destined to the facilities of Roux Laboratories, Inc. 180 days, common, irregular. An underlying ETA seeks 90 days authority.Supporting shipper(s): Roux Laboratories, Inc., 6831 Stuart Avenue, Jacksonville, FL 32205. Send protests to: William H. Land, Jr., District Supervisor, 3108 Federal Office Building, 700 West Capitol, Little Rock, AR 72201.

MC 145152 (Sub-70TA), filed April 13, 1979. Applicant: BIG THREE TRANSPORTATION, INC., P.O. Box 706, Springdale, AR 72764. Representative: Don Garrison, P.O. Box 159, Rogers, AR 72756. Fully baked refrigerated rye bread from the facilities of Iverson Baking Company, at or near Rogers, AR to points in IL. 180 days, common, irregular. An underlying ETA seeks 90 days authority. Supporting shipper(s): Iverson Baking Company, 1510 West Easy Street, Rogers, AR 72756. Send protests to: William H. Land, Jr., District Supervisor, 3108 Federal Office Building, 700 West Capitol, Little Rock, AR 72201.

MC 145203 (Sub-2TA), filed March 14, 1979. Applicant: REITZEL TRUCKING CO., INC., 7401 Fremont Pike, Perrysburg, OH 43551. Representative: Paul F. Beery, 275 East State St., Columbus, OH 43215. *Plastic auto parts,* from the plantsite of the Budd Company at North Baltimore, OH to points in the lower peninsula of MI; St. Louis, MO; and Louisville, KY, and their respective commercial zones, for 180 days. An underlying ETA seeks 90 days authority. Common carrier-irregular routes. Supporting shipper(s): Budd Co., P.O. Box 277, North Baltimore, OH 45872. Send protests to: Interstate Commerce Commission, Bureau of Operations, 600 Arch St., room 3238, Philadelphia, PA 19106.

MC 145423 (Sub-3TA), filed March 21, 1979. Applicant: C. VAN BOXELL TRANSPORTATION COMPANY, 763 South Oakwood, Detroit, MI 48217. Representative: William B. Elmer, 21635 East Nine Mile Road, St. Clair Shores, MI 48080. Coal tar and coal tar products, in bulk, in tank vehicles, from Detroit, MI to points in IL, IN, NJ, NY, OH, PA, and WI. For 180 days. An underlying ETA seeks 90 days authority. Supporting shipper(s): Semet-Solvay division, Allied Chemical, P.O. Box 1013 R, Morristown, NJ 07960. Send protests to: C. R. Flemming, D/S, I.C.C., 225 Federal Building, Lansing, MI 48933.

MC 145423 (Sub-4TA), filed March 19, 1979. Applicant: C. VAN BOXELL TRANSPORTATION COMPANY, 763 South Oakwood, Detroit, MI 48217. Representative: William B. Elmer, 21635 East Nine Mile Road, St. Clair Shores, MI 48080. *Roofing, roofing materials, roofing products, roofing insulation and materials, equipment and supplies* used in the installation or manufacture of the aforegoing FROM Detroit, MI to points in PA and KY, for 180 days. An underlying ETA seeks 90 days authority. Supporting shipper(s): Owens-Corning Fiberglas Corporation, Fiberglas Tower, Toledo, OH 43659. Send protests to: C. R. Flemming, D/S, I.C.C., 225 Federal Building, Lansing, MI 48933.

MC 145592 (Sub-2TA), filed March 28, 1979. Applicant: R & E TRANSPORTATION CO., INC., 1614 English Knoll, Birmingham, AL 35235. Representative: Robert C. Thrasher (same address as applicant). Contract, Irregular: *Pipe, valves, fitting and accessories therewith, including the materials and supplies used in the manufactor of commodity,* between the

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facility of Slocomb Plastic Pipe and Products Inc. at Slocomb, AL on the one hand, on the other, points in AR, CA, CO, CT, DE, IA, KS, ME, MA, MN, NE, NH, NJ, NM, NY, OK, RI, TX, VT, WI. For 180 days. An underlying ETA seeks 90 days authority. Supporting shipper(s): Slocomb Plastic Pipe & Products Co., Inc., P.O. Drawer J, Slocomb, AL 36375. Send protests to: Mabel E. Holston, Transportation Assistant, Bureau of Operation, ICC, Room 1616, 2121 Building, Birmingham, AL 35203.

MC 145772 (Sub-4TA), filed April 4, 1979. Applicant: LANG CARTAGE CORP., P.O. Box 1465, Waukesha, WI 53187. Representative: Richard Alexander, 710 N. Plankinton Ave., Milwaukee, WI 53203. *Fluid automotive products,* (except in bulk in tank vehicles), from Cicero, IL and points in its Commercial Zone to Waukesha, WI, for 180 days. An underlying ETA seeks 90 days authority. Supporting shipper(s): O'Rourke Distributing Co., Inc., 303 Sentry Dr., Waukesha, WI 53186. Send protests to: Gail Daugherty, Transportation Asst., Interstate Commerce Commission, Bureau of Operations, U.S. Federal Building & Courthouse, 517 East Wisconsin Avenue, Room 619, Milwaukee, Wisconsin 53202.

MC 145842 (Sub-3TA), filed March 5, 1979. Applicant: SUNDERMAN TRANSFER, INC., Box 63, Windom, MN 56101. Representative: Carl E. Munson, 469 Fischer Building, Dubuque, IA 52001. *Fresh meat* from the facilities of John Morrell & Co. at East St. Louis, IL to points in IA, for 180 days. An underlying ETA seeks 90 days authority. Supporting shipper(s): John Morrell & Co., 208 South LaSalle Street, Chicago, IL. 60604. Send protests to: Delores A. Poe, TA, ICC, 414 Federal Building & U.S. Court House, 110 South 4th Street, Minneapolis, MN 55401.

MC 145872 (Sub-1TA), filed April 2, 1979. Applicant: TREVIS BERRY TRANSPORTATION, P.O. Box 1802, Gilroy, CA 95020. Representative: Trevis L. Berry, 655 Luchessa, Gilroy, CA 95020. Contract carrier: irregular routes: *Fibreboard, paper or pulpboard materials* and supplies in the manufacture and distribution of fibreboard, paper or pulpboard products, between the facilities of Container Corporation of America at or near Oakland, Milpitas, San Jose, and Santa Clara, CA, on the one hand, and, on the other, points in NV, for 180 days. An underlying ETA seeks 90 days authority. Supporting shipper(s): Container Corporation of America, 2800 De La Cruz Boulevard, Santa Clara, CA. Send protests to: District Supervisor Michael M. Butler, 211 Main, Suite 500, San Francisco, CA 94105. Supporting shipper(s): Container Corporation of America, 2800 De La Cruz Boulevard, Santa Clara, CA 95050. Send protests to: District Supervisor Michael M. Butler, 211 Main, Suite 500, San Francisco, CA 94105.

MC 146152 (Sub-2TA), filed April 2, 1979. Applicant: W. S. GILSTRAP, dba, W. S. GILSTRIP TRUCKING, Route 1, Live Oak Ridge, Nipomo, CA 93444. Representative: William J. Monheim, P.O. Box 1756, Whittier, CA 90609. *Contract:* irregular: *Electrical switchgears and materials, equipment, supplies and components used in the manufacture of electrical switchgears,* between Santa Maria, CA, on the one hand, and, on the other, points in the United States, in and east of ND, SD, NE, KS, OK, and LA, under a continuing contract(s) with Gould, Inc., Switchgear Division, for 180 days. An underlying ETA seeks up to 90 days operating authority. Supporting shipper(s): Gould, Inc., Switchgear Division, 2643 Industrial Parkway, P.O. Box 1068, Santa Maria, CA 93456. Send protests to: Irene Carlos, Transportation Assistant, Interstate Commerce Commission, Room 1321, Federal Building, 300 North Los Angeles Street, Los Angeles, California 90012.

MC 146293 (Sub-11TA), filed March 15, 1979. Applicant: REGAL TRUCKING CO., INC., 95 Lawrenceville Industrial Park Circle, NE, Lawrenceville, GA 30245. Representative: Virgil H. Smith, Suite 12, 1587 Phoenix Blvd., Atlanta, GA 30349. *Adhesive cement, racks, stands, rims, strips, tools, products dealt in by wholesale and retail building supply stores (except commodities in bulk)* from Los Angeles and Orange Counties, CA to points in the U.S. on and east of US Hwy 85, for 180 days. An ETA seeks 90 days authority. Supporting shipper(s): Taylor Manufacturing Co., Inc., 900 Rockdale Ind. Blvd., Conyers, GA 30270. Send protests to: Sara K. Davis, T/A, ICC, 1252 W. Peachtree Street NW., room 300, Atlanta, GA 30309.

MC 146293 (Sub-12TA), filed March 22, 1979. Applicant: REGAL TRUCKING CO., INC., 95 Lawrenceville Industrial Park Circle, NE, Lawrenceville, GA 30245. Representative: Virgil H. Smith, Suite 12, 1587 Phoenix Blvd., Atlanta, GA 30349. *Florescent lighting fixtures, parts and accessories for florescent lighting fixtures (except in bulk)* from Bucks and Philadelphia Counties, PA to WA, OR, CA, NV, AZ, UT, ID, WY, CO, NM, MT, OK, TX, AR, LA, MS, TN, AL, GA, FL, NC, SC, for 180 days. An underlying ETA seeks 90 days authority. Supporting shipper(s): Keystone Lighting Corp., Rt. 13 Beaver Street, Bristol, PA. Send protests to: Sara K. Davis, T/A, ICC, 1252 W. Peachtree Street NW, Room 300, Atlanta, GA 30309.

MC 146382 (Sub-1TA), filed March 14, 1979. Applicant: J. R. KUZAS MEATS, INC., 16615 S. Vincennes Road, South Holland, IL 60473. Representative: Julius R. Kuzas (address same as applicant). *Meat, meat by-products, and articles distributed by packing houses* as described in Section A & C of Appendix I to the report in description in Motor Carrier Certificate, except hides and commodities; from the facilities of J. R. Kuzas Meats, Inc. South Holland, IL to all points in Chicago, IL commercial zone and all points in Lake LaPorte and Porter Counties, IN, for 180 days. An underlying ETA was granted 90 days' authority. Supporting shipper(s): George A. Hormel Company, P.O. Box 800, Austin, MN 55912. Send protests to: Annie Booker, TA, Interstate Commerce Commission, 219 South Dearborn Street, Room 1386, Chicago, IL 60604.

MC 146403 (Sub-1TA), filed March 6, 1979. Applicant: ROGER LOVE, dba ROGER LOVE TRUCKING, Route 3, East Grand Forks, MN 56721. Representative: William J. Gambucci, 414 Gate City Building, P.O. Box 1680, Fargo, ND 58102. *Coal,* from the Duluth, MN commercial zone to points in ND on and east of U.S. Hwy 281 and on and north of Interstate Highway 94, for 180 days. An underlying ETA seeks 90 days authority. Supporting shipper(s): Ireland Lumber Company, 2600 West Demers Avenue, Grand Forks, ND 58201. Send protests to: DS, ICC, Room 268 Federal Building & U.S. Post Office, 657 2nd Avenue North, Fargo, ND 58102.

MC 146422 (Sub-2TA), filed March 26, 1979. Applicant: DELBERT F. JOHNSTON, 2601 Gore Road, Pueblo, CO 81006. Representative: Jack B. Wolfe, 350 Capitol Life Center, 1600 Sherman Street, Denver, CO 80203. Contract/irregular—*Steel pipe,* (1) from La Junta, CO and its commercial zone, to points in MT, WY, NE and KS; (2) from Houston, TX and its commercial zone, to La Junta, CO, and its commercial zone. Restricted to transportation to be performed under a continuing contract, or contracts with Timberline Pipe Corporation. An underlying ETA seeks 90 days authority, for 180 days. Supporting shipper(s): Timberline Pipe Corporation, Box 5603, Pueblo, CO 81002. Send protests to: District Supervisor Herbert C. Ruoff, 721 19th Street, 492 U.S. Customs House, Denver, CO 80202.

MC 146432 (Sub-2TA), filed March 19, 1979. Applicant: THE HIRT TRUCKING COMPANY, 771 Walnut Street, Fremont, OH 43420. Representative: John L. Alden, 1396 W. Fifth Ave., Columbus, OH 43212. *Canned and preserved foodstuffs,* from the facilities of Heinz USA at or near Fremont and Toledo, OH and Holland, MI to points in AL, FL, GA, MS and SC, for 180 days. Supporting Shipper(s): Heinz USA, Division of H. J. Heinz Company, P.O. Box 57, Pittsburgh, PA 15230. Send protests to: Interstate Commerce Commission, Bureau of Operations, 600 Arch St., Rm. 3238, Phila. PA 19106.

MC 146483 (Sub-1TA), filed March 30, 1979. Applicant: JAMES G. POTTER, d/b/a JIM POTTER & SONS, 608 Tyler Avenue, Muscle Shoals, AL 35660. Representative: James G. Potter, P.O. Box 216, Sheffield, AL 35660. *Freight of all kinds* moving in trailers furnished by shipper, consignee or the railroad that have their prior or subquent movement by railroad from railroad yard at Decatur and Haleyville, AL and counties in AL of Lauderdale, Lawrence, Franklin, Limestone, Morgan, Madison, Cullman, Winston, Marshall, Jackson, and Colbert, for 180 days. An underlying ETA seeks 90 days authority. Supporting Shipper(s): Diamond Shamrock Corporation, 1100 Superior Avenue, Cleveland, OH 44114. Send protests to: Mabel E. Holston, Transportation Assistant, Room 1616–2121 Building, Bureau of Operation, ICC,. Birmingham, AL 35203.

MC 146502 (Sub-1TA), filed March 30, 1979. Applicant: DOUG'S MOBILE HOME TOWING, INC., Rt. 1, Box 554, Monroe, NC 28110. Representative: William P. Farthing, Jr., 1100 Cameron-Brown Building, Charlotte, NC 28204. *Single and double wide mobile and modular housing and office units* (1) from points in NC west of US Highway 220 to points in the States of PA, DE, MD and KY (2) to, from and between points in NC west of US Highway 220 on the one hand and points in the states of WV, VA, TN, SC, GA and AL on the other, for 180 days. An underlying ETA seeks 90 days authority. Supporting Shipper(s): Tidwell Homes of NC, Rockwell, NC; Schult Homes, Polkton, NC; Carolina Homes Rockwell, NC, Design Space International, 6351 N. Tryon St., Charlotte, NC. Send protests to: District Supervisor Terrell Price, 800 Briar Creek Rd-Rm CC516, Mart Office Building, Charlotte, NC 28205.

MC 146562 (Sub-1TA), filed April 4, 1979. Applicant: VICTOR L. MATHIS, d.b.a., LOBO LEASING COMPANY, 26 Westlake Drive, NE., Albuquerque, NM 87112. Representative: Jack Smith, 420 Lomas Boulevard NW, Albuquerque, NM 87102. *Packaged petroleum products and packaged drywall products,* between points and places in NM, on the one hand, and points and places in CA, on the other, for 180 days. An underlying ETA seeks 90 days authority. Supporting Shipper(s): There are 7 shippers. Their statements may be examined at the office listed below and Headquarters. Send protests to: DS, ICC, 1106 Federal Office Building, 517 Gold Avenue SW, Albuquerque, NM 87101.

MC 146572 (Sub-1TA), filed April 6, 1979. Applicant: LEONARD & HARRAL PACKING COMPANY, 122 Woodhull St., San Antonio, TX 78214. Representative: Howard M. Burke, 122 Woodhull St., San Antonio, TX 78214. Applicant applies for common carrier authority over irregular route to transport *meats, meat products,* and *meat byproducts,* as described in Section A of Appendix I to the report in Descriptions in Motor Carrier Certificates, 61 M.C.C. 209, *and cheeses* from Washington Court House, Dayton, and New Riegel, OH, Harrodsburg, KY and Atlanta, GA to Houston, San Antonio and Dallas, TX., for 180 days. An underlying ETA seeks 90 days Authority. Supporting Shipper(s): Cudahy Foods Co., 100 W. Clarendon, Suite 1800, Phoenix, AZ 85013. Send protests to: Richard H. Dawkins, District Supervisor, INTERSTATE COMMERCE COMMISSION, Room B–400 Federal Building, 727 E. Durango St., San Antonio, TX 78206.

MC 146592 (Sub-1TA), filed March 26, 1979. Applicant: AVERY TRANSPORT, INC., 11026 Roswell, Pomona, CA 91766. Representative: Milton W. Flack, 4311 Wilshire Blvd., Suite 300, Los Angeles, CA 90010. Travel trailers and 5th wheel trailers from Chino, Hemet and San Jacinto, CA, to points in AZ, NV, NM and UT, for 180 days. Supporting Shipper(s): Skyline Home, Inc., d.b.a., Nomad Travel Trailers, 920 W. Mayberry Street, Hemet, CA 92343; Kit Manufacturing Company, P.O. Box 848, Long Beach, CA 90801; Modernistic Industries, 335 S. Lyon, Hemet, CA 92343; Carolina International Corp., 39661 Esplanade Avenue, San Jacinto, CA 92386. Send protests to: Irene Carlos, Transportation Assistant, Interstate Commerce Commission, Room 1321 Federal Building, 300 North Los Angeles Street, Los Angeles, CA 90012.

MC 146602 (Sub-1TA), filed April 4, 1979. Applicant: ODEAN DUANE BAKKEN DBA BAKKEN TRUCK LINE, Northwood, IA 50459. Representative: Carl E. Munson, 469 Fischer Bldg., Dubuque, IA 52001. *Plastic articles* from Fort Wayne and La Porte, IN to the facilities of Carroll George, Inc., at or near Northwood, IA for 180 days. An underlying ETA seeks 90 days authority. Supporting Shipper(s): Carroll George Inc., P.O. Box 144, Northwood, IA 50459. Send protests to: Herbert W. Allen, DS, ICC, 518 Federal Bldg., Des Moines, IA 50309.

MC 146633 (Sub-1TA), filed March 22, 1979. Applicant: TOWING SERVICES OF U.S.A., INC., 4590 126th Avenue, North, Clearwater, FL 33520. Representative: Elbert Brown, Jr., P.O. Box 1378, Altamonte Springs, FL 32701. *Wrecked, disabled,* or *repossessed motor vehicles, trailers, motor homes* and *replacement vehicles* and *parts* therefore, *in wrecker service* between points and places in FL, GA, AL, MS, LA, TX, SC, NC, TN, KY, VA, DC, MD, PA, OH, IN, and IL for 180 days. Supporting Shipper(s): There are six supporting shippers. Their statements may be examined at the office listed below and Headquarters. Send protests to: Donna M. Jones, Transportation Assistant, Interstate Commerce Commission—BOp, Monterey Building, Suite 101, 8410 N.W. 53rd Terrace, Miami, FL 33166.

MC 146652 (Sub-1TA), filed March 29, 1979. Applicant: FEDERAL PRODUCE TRANSPORTATION COMPANY, 8309 Tujunga Avenue, Sun Valley, CA 91352. Representative: Jack H. Blanshan, 205 West Touhy Avenue, Suite 200, Park Ridge, IL 60068. *Bananas and agricultural commodities exempt from regulation under Section 10526(a)(6) of the Interstate Commerce Act when transported in mixed loads with bananas,* from the facilities of Del Monte Banana Company at Port Hueneme, CA to points in AZ, OR and WA, for 180 days. Restricted to the transportation of traffic having a prior movement by water. An underlying ETA seeks up to 90 days operating authority. Supporting Shipper(s): Del Monte Banana Company, 1201 Brickell Avenue, Miami, FL 33101. Send protests to: Irene Carlos, Transportation Assistant, Interstate Commerce Commission, Room 1321 Federal Building, 300 North Los Angeles Street, Los Angeles, California 90012.

MC 146673 (Sub-1TA), filed March 29, 1979. Applicant: DENNIS JIMISON CONSTRUCTION CO., INC., P.O. Box 1154, Glendive, MT 59330. Representative: G. Todd Baugh, 805 Midland Bank Bldg., Billings, MT 59101. *Petroleum, petroleum products and materials, equipment and supplies used in manufacture, refining and*

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distribution of petroleum and petroleum products from Portland, OR and Wood River, IL and their commercial zones to points in MT, for 180 days. An underlying ETA seeks 90 days authority. Supporting Shipper(s): Cross Petroleum Service, Box 1388, Glendive, MT 59330. Send protests to: Paul J. Labane, DS, ICC, 2602 First Avenue North, Billings, MT 59101.

MC 146732TA, filed March 26, 1979. Applicant: John Laubenthal, d.b.a., LAUBENTHAL REFRIGERATED TRANSPORT, 1421 Garford Avenue, Elyria, OH 44035. Representative: Richard H. Brandon, 220 West Bridge Street, Dublin, OH 43017. (1) *Sauces and condiments*, in containers, from the facilities of Conway Import Co., Franklin Park, IL, to Cleveland, Dayton, and Toledo, OH, and Louisville, KY; (2) *salad dressings, mayonnaise, oils and cooking oils*, in containers, from the facilities of Re-Mi Foods, Inc., Elk Grove Village, IL, to Akron, Cleveland, Mansfield, and Warren, OH; (3) *edible cooking oils*, in containers, from the facilities of Columbus Foods Co., Chicago, IL, to Cleveland, OH; *shortening*, in containers, from the facilities of Interstate Foods Corporation, Chicago, IL, to Cleveland and Toledo, OH, restricted to operations in vehicles equipped with mechanical temperature control devices, for 180 days. An underlying ETA seeks 90 days authority. Supporting Shipper(s): Columbus Foods Co., 324 N. Bell Avenue, Chicago, IL 60612; Conway Import Co., Inc., 11051 W. Addison Street, Franklin Park, IL 60131; Re-Mi Foods, Inc., 1201 Towne Road, Elk Grove Village, IL 60007; Interstate Foods Corporation, 3800 S. Morgan Street, Chicago, IL 60609. Send protests to: Mary A. Wehner, D/S, ICC, 731 Federal Building, Cleveland, OH 44199.

MC 146733TA; filed March 19, 1979. Applicant: CLAYCAMP, INC., 2904 East North Street, Tampa, FL 33610. Representative: Felix A. Johnston, Jr., 1030 E. LaFayette Street, Suite 112, Tallahassee, FL 32301. *Animal, fish, and poutry feed, insecticides, fungicides, and animal medicines* (*none of which are food for human consumption*), between Ralston Purina plant in Tampa and point and places in States of FL, IN, KY, TN, MS, AL, GA, NC, SC, WI, MN, MO, LA, OH, and IL for 180 days. Supporting Shipper(s): Ralston Purina Company, 3615 E. Broadway, Tampa, FL. Send protests to: G. H. Fauss, Jr., DC, ICC, Box 35008, 400 West Bay Street, Jacksonville, FL 32202.

By the Commission.

H. G. Homme, Jr.,

Secretary.

[Notice No. 55]

[FR Doc. 79-14329 Filed 5-7-79; 8:45 am]

BILLING CODE 7035-01-M

Permanent Authority Applications; Decision-Notice

Decided: May 2, 1979.

The following applications filed on or before February 28, 1979, are governed by Special Rule 247 of the Commission's *Rules of Practice* (49 CFR § 1100.247). For applications filed before March 1, 1979, these rules provide, among other things, that a protest to the granting of an application must be filed with the Commission within 30 days after the date notice of the application is published in the **Federal Register**. Failure to file a protest, within 30 days, will be considered as a waiver of opposition to the application. A protest under these rules should comply with Rule 247(e)(3) of the Rules of Practice which requires that it set forth specifically the grounds upon which it is made, contain a detailed statement of protestant's interest in the proceeding, (as specifically noted below), and shall specify with particularity the facts, matters, and things relied upon, but shall not include issues or allegations phrased generally. A protestant should include a copy of the specific portions of its authority which protestant believes to be in conflict with that sought in the application, and describe in detail the method—whether by joinder, interline, or other means—by which protestant would use such authority to provide all or part of the service proposed. Protests not in reasonable compliance with the requirements of the rules may be rejected. The original and one copy of the protest shall be filed with the Commission, and a copy shall be served concurrently upon applicant's representative, or upon applicant if no representative is named. If the protest includes a request for oral hearing, such request shall meet the requirements of section 247(e)(4) of the special rules and shall include the certification required in that section.

On cases filed on or after March 1, 1979, petitions for intervention either with or without leave are appropriate.

Section 247(f) provides, in part, that an applicant which does not intend timely to prosecute its application shall promptly request that it be dismissed, and that failure to prosecute an application under the procedures of the Commission will result in its dismissal.

If applicant has introduced rates as an issue it is noted. Upon request an applicant must provide a copy of the tentative rate schedule to any protestant.

Further processing steps will be by Commission notice, decision, or letter which will be served on each party of record. *Broadening amendments will not be accepted after the date of this publication.*

Any authority granted may reflect administratively acceptable restrictive amendments to the service proposed below. Some of the applications may have been modified to conform to the Commission's policy of simplifying grants of operating authority.

Findings: With the exceptions of those applications involving duly noted problems (e.g., unresolved common control, unresolved fitness questions, and jurisdictional problems) we find, preliminarily that each common carrier applicant has demonstrated that its proposed service is required by the public convenience and necessity, and that each contract carrier applicant qualifies as a contract carrier and its proposed contract carrier service will be consistent with the public interest and the transportation policy of 49 U.S.C § 10101. Each applicant is fit, willing, and able properly to perform the service proposed and to conform to the requirements of Title 49, Subtitle IV, United States Code, and the Commission's regulations. Except where specifically noted this decision is neither a major Federal action significantly affecting the quality of the human environment nor a major regulatory action under the Energy Policy and Conservation Act of 1975.

In those proceedings containing a statement or note that dual operations are or may be involved we find, preliminarily and in the absence of the issue being raised by a protestant, that the proposed dual operations are consistent with the public interest and the transportation policy of 49 U.S.C. § 10101 subject to the right of the Commission, which is expressly reserved, to impose such conditions as it finds necessary to insure that applicant's operations shall conform to the provisions of 49 U.S.C. § 10930(a) [formerly section 210 of the Interstate Commerce Act].

In the absence of legally sufficient protests, filed within 30 days of publication of this decision-notice (or, if the application later becomes unopposed), appropriate authority will be issued to each applicant (except those with duly noted problems) upon compliance with certain requirements which will be set forth in a notification of effectiveness of this decision-notice. To the extent that the authority sought below may duplicate an applicant's existing authority, such duplication shall not be construed as conferring more than a single operating right.

Applicants must comply with all specific conditions set forth in the grant or grants of authority within 90 days after the service of the notification of the effectiveness of this decision-notice, or the application of a non-complying applicant shall stand denied.

By the Commission, Review Board Number 1, Members Carleton, Joyce, and Jones.

H. G. Homme, Jr.,

Secretary.

MC 2633 (Sub-62F), filed February 22, 1979. Applicant: CROSSETT, INC., P.O. Box 946, Warren, PA 16365. Representative: Kenneth T. Johnson, Bankers Trust Bldg., Jamestown, NY 14701. To operate as a *common carrier*, by motor vehicle, in interstate or foreign commerce, over irregular routes, transporting *liquefied petroleum gas*, in bulk, in tank vehicles, from points in Clearfield County, PA, to points in NY. CONDITION: To the extent the certificate granted in this proceeding authorizes the transportation of liquified petroleum gas, it will expire 5 years from the date of issuance. (Hearing site: Buffalo, NY, or Pittsburgh, PA.)

MC 14702 (Sub-19F), filed February 26, 1979. Applicant: OHIO FAST FREIGHT, INC., P.O. Box 808, Warren, OH 44482. Representative: Michael Spurlock, 275 East State Street, Columbus, OH 43215. To operate as a *common carrier*, by motor vehicle, in interstate or foreign commerce, over irregular routes, transporting *iron powder*, from the facilities of Hoeganaes Corporation, at or near Gallatin, TN, to points in OH, IN, MI, IL, and KY. (Hearing site: Columbus, OH.)

MC 16903 (Sub-65F), filed February 23, 1979. Applicant: MOON FREIGHT LINES, INC., P.O. Box 1275, Bloomington, IN. Representative: Donald W. Smith, P.O. Box 40248, Indianapolis, IN 46240. To operate as a *common carrier*, by motor vehicle, in interstate or foreign commerce, over irregular routes, transporting *glazed cinder blocks*, from Martinsville, VA, to points in DE, NJ, and PA. (Hearing site: Washington, DC.)

MC 16903 (Sub-66F), filed February 23, 1979. Applicant: MOON FREIGHT LINES, INC., P.O. Box 1275, Bloomington, IN 47402. Representative: Donald W. Smith, P.O. Box 40248, Indianapolis, IN 46240. To operate as a *common carrier*, by motor vehicle, in interstate or foreign commerce, over irregular routes, transporting *fabricated metal products*, from the facilities of the United States Gypsum Company, at Franklin Park, IL, to those points in the United States in and east of MI, IL, MO, AR, and LA. (Hearing site: Washington, DC.)

MC 41432 (Sub-160F), filed February 15, 1979. Applicant: EAST TEXAS MOTOR FREIGHT LINES, INC., 2355 Stemmons Freeway, Dallas, TX 75207. Representative: Leroy Hallman, 4555 First National Bank Bldg., Dallas, TX 75202. To operate as a *common carrier*, by motor vehicle, in interstate or foreign commerce, over regular routes, transporting *general commodities* (except those of unusual value, classes A and B explosives, household goods as defined by the Commission, commodities in bulk, and those requiring special equipment),

(1) between Dallas, TX, and Muskogee, OK, from Dallas over U.S. Hwy 75 to junction U.S. Hwy 69, then over U.S. Hwy 69 to Muskogee, and return over the same route, serving the intermediate points of McKinney, Sherman, and Denison, TX;

(2) between Dallas, TX, and Oklahoma City, OK, from Dallas over Interstate Hwy 35E to junction U.S. Hwy 77, then over U.S. Hwy 77 to Oklahoma City, and return over the same route, serving the intermediate points of Gainesville, TX, and Ardmore, OK;

(3) between Fort Worth, TX, and junction Interstate Hwy 35E and Interstate Hwy 35W, over Interstate Hwy 35W, serving no intermediate points and serving junction Interstate Hwy 35E and Interstate Hwy 35W for purposes of joinder only;

(4) between Fort Worth and Wichita Falls, TX, over U.S. Hwy 287, serving no intermediate points and serving junction U.S. Hwy 287 and U.S. Hwy 81 for purposes of joinder only;

(5) between Bowie, TX, and junction U.S. Hwy 81 and H. E. Bailey Turnpike, over U.S. Hwy 81, serving the intermediate point of Duncan, OK, and serving junction U.S. Hwy 81 and H. E. Bailey Turnpike for purposes of joinder only;

(6) between Wichita Falls, TX, and Oklahoma City, OK, from Wichita Falls over U.S. Hwy 281 to junction H. E. Bailey Turnpike, then over H. E. Bailey Turnpike to Oklahoma City, and return over the same route, serving the intermediate or off-route points of Lawton, Chickasha, and Anadarko, OK;

(7) between Amarillo, TX, and Oklahoma City, OK, over Interstate Hwy 40, serving no imtermediate points;

(8) between junction U.S. Hwy 287 and U.S. Hwy 82 and junction U.S. Hwy 82 and U.S. Hwy 75, over U.S. Hwy 82, serving no intermediate points and serving junction U.S. Hwy 82 and U.S. Hwy 81 and junction U.S. Hwy 82 and U.S. Hwy 77 for purposes of joinder only;

(9) between junction U.S. Hwy 75 and U.S. Hwy 69 and Oklahoma City, OK, from junction U.S. Hwy 75 and U.S. Hwy 69 over U.S. Hwy 75 to junction OK Hwy 3, then over OK Hwy 3 to junction OK Hwy 13, then over OK Hwy 13 to junction OK Hwy 39, then over OK Hwy 39 to junction U.S. Hwy 77, then over U.S. Hwy 77 to Oklahoma City, and return over the same route (also from junction OK Hwy 13 and U.S. Hwy 177 over U.S.Hwy 177 to junction Interstate Hwy 40, then over Interstate Hwy 40 to Oklahoma City, and return over the same route), seving the intermediate point of Ada, OK;

(10) between Ada and McAlester, OK: from Ada over OK Hwy 1 to junction U.S. Hwy 270, then over U.S. Hwy 270 to McAlester, and return over the same route, serving no intermediate points and serving junction U.S. Hwy 270 and U.S. Hwy 75 for purposes of joinder only;

(11) between junction U.S. Hwy 69 and Indian Nation Turnpike and Tulsa, OK, from junction U.S. Hwy 69 and Indian Nation Turnpike over Indian Nation Turnpike to junction U.S. Hwy 75, then over U.S. Hwy 75 to Tulsa, and return over the same route, serving the intermediate or off-route points of Henryetta and Okmulgee, OK;

(12) between junction U.S. Hwy 82 and U.S. Hwy 75 and junction U.S. Hwy 82 and U.S. Hwy 271, over U.S. Hwy 82, serving no intermediate points;

(13) between junction U.S. Hwy 69 and Indian Nation Turnpike and junction U.S. Hwy 271 and U.S. Hwy 82 at or near Paris, TX, from junction U.S. Hwy 69 and Indian Nation Turnpike, over Indian Nation Turnpike to junction U.S. Hwy 271 at or near Hugo, OK, then over U.S. Hwy 271 to junction U.S. Hwy 82, and return over the same route, serving no intermediate points and serving junction U.S. Hwy 271 and U.S. Hwy 82 for purposes of joinder only;

(14) between Ardmore, OK, and junction U.S. Hwy 70 and Indian Nation Turnpike, over U.S. Hwy 70, serving no intermediate points, and serving junction U.S. Hwy 70 and U.S. Hwy 75 and junction U.S. Hwy 70 and Indian Nation Turnpike for purposes of joinder only;

(15) between junction Interstate Hwy 35 and U.S. Hwy 60 and junction U.S. Hwy 60 and U.S. Hwy 66, over U.S. Hwy 60,

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serving the intermediate or off-route points of Ponca City, Tonkawa, and Bartlesville, OK;

(16) between Tulsa, OK, and junction Muskogee Turnpike and Interstate Hwy 40, from Tulsa over OK Hwy 51 to junction Muskogee Turnpike, then over Muskogee Turnpike to junction Interstate Hwy 40, and return over the same route, serving the intermediate point of Muskogee, OK;

(17) between junction OK Hwy 3 and Interstate Hwy 40 and Fort Smith, AR, over Interstate Hwy 40, serving the intermediate or off-route points of Shawnee and Seminole, OK, and serving junction U.S. Hwy 75 and Interstate Hwy 40 for purposes of joinder only;

(18) between Fort Smith and Little Rock, AR, over Interstate Hwy 40, serving the intermediate or off-route points of Conway and Morrilton, AR;

(19) between Little Rock, AR, and junction U.S. Hwy 65 and U.S. Hwy 60, over U.S. Hwy 65, serving no intermediate points, and serving junction of U.S. Hwy 65 and U.S. Hwy 60 for purposes of joinder only;

(20) between Texarkana, AR, and junction U.S. Hwy 82 and U.S. Hwy 271, over U.S. Hwy 82, serving no intermediate points and serving junction U.S. Hwy 82 and U.S. Hwy 271 for purposes of joinder only;

(21) between Fort Smith, AR, and Joplin, MO, over U.S. Hwy 71, serving the intermediate or off-route points of Fayetteville, Springdale, Rogers, Siloam Springs, and Bentonville, AR, and Neosho, MO;

(22) between Oklahoma City, OK, and Springfield, MO, over U.S. Hwy 66, serving all intermediate points between Tulsa, OK, and Springfield, MO, including Tulsa, and the off-route point of Neosho, MO;

(23) between Joplin, MO, and junction U.S. Hwy 71 and MO Hwy 7, over U.S. Hwy 71, serving the off-route point of Pittsburg, KS and serving the junction U.S. Hwy 71 and MO Hwy 7 for purposes of joinder only;

(24) between Springfield and St. Louis, MO, over Interstate Hwy 44, serving no intermediate points;

(25) between Kansas City and St. Louis, MO: (a) from Kansas City over U.S. Hwy 40 to St. Louis and return over the same route, and (b) from Kansas City over U.S. Hwy 50 to junction U.S. Hwy 54, then over U.S. Hwy 54 to junction U.S. Hwy 40, then over U.S. Hwy 40, to St. Louis, and return over the same route (also from junction U.S. Hwy 40 and Interstate Hwy 70 over Interstate Hwy 70 to St. Louis, and return over the same route), serving in connection with (a) and (b) above the intermediate or off-route points of Sedalia, Boonville, Jefferson City, Columbia, and Mexico, MO;

(26) between Kansas City and Hannibal, MO: from Kansas City over U.S. Hwy 24 to junction U.S. Hwy 36, then over U.S. Hwy 36 to Hannibal, and return over the same route, serving intermediate points of Moberly and Monroe City, MO;

(27) between Jefferson City, MO, and El Dorado, KS, over U.S. Hwy 54, serving no intermediate points and serving junction U.S. Hwy 54 and U.S. Hwy 71 for purposes of joinder only;

(28) between Oklahoma City, OK, and Salina, KS: from Oklahoma City over Interstate Hwy 35 to junction Interstate Hwy 135, then over Interstate Hwy 135 to junction U.S. Hwy Alt. 81, then over U.S. Hwy Alt. 81 to Salina, and return over the same route, serving the intermediate or off-route points of Enid, OK, Wichita, Newton, and McPherson, KS.

(29) between Ponca City, OK, and Kansas City, MO: from Ponca City over U.S. Hwy 77 to junction Interstate Hwy 35, then over Interstate Hwy 35 to junction U.S. Hwy 40, then over U.S. Hwy 40 to Kansas City, and return over the same route (also from junction U.S. Hwy 77 and Kansas Turnpike, over Kansas Turnpike to Kansas City, and return over the same route, serving the intermediate or off-route points of Arkansas City, Winfield, El Dorado, Topeka, Lawrence, and Kansas City, KS;

(30) between Kansas City, KS, and junction U.S. Hwy 73 and U.S. Hwy 75, over U.S. Hwy 73, serving the intermediate point of Leavenworth, KS, and serving the junction U.S. Hwy 73 and U.S. Hwy 75 for purposes of joinder only;

(31) between junction U.S. Hwy 77 and U.S. Hwy 40 and Omaha, NE: from junction U.S. Hwy 77 and U.S. Hwy 40 over U.S. Hwy 77 to junction U.S. Hwy 6, then over U.S. Hwy 6 to Omaha, and return over the same route (also from junction U.S. Hwy 77 and Interstate Hwy 80 over Interstate Hwy 80 to Omaha, and return over the same route), serving the intermediate points of Lincoln, NE;

(32) between Kansas City, MO, and junction Interstate Hwy 80 and Interstate Hwy 35, over Interstate Hwy 35, serving no intermediate points;

(33) between Wichita and McPherson, KS: from Wichita over KS Hwy 96 to junction KS Hwy 61, then over KS Hwy 61 to McPherson, and return over the same route, serving the intermediate point of Hutchinson, KS;

(34) between Salina and Topeka, KS, over U.S. Hwy 40, serving junction U.S. Hwy 40 and U.S. Hwy 77 for purposes of joinder only;

(35) between El Dorado, KS, and junction U.S. Hwy 77 and U.S. Hwy 40, over U.S. Hwy 77, serving no intermediate points;

(36) between Memphis, TN, and Kansas City, MO: from Memphis over Interstate Hwy 40 to junction Interstate Hwy 55, then over Interstate Hwy 55 to junction U.S. Hwy 63, then over U.S. Hwy 63 to junction U.S. Hwy 60 at or near Willow Springs, MO, then over U.S. Hwy 60 to Springfield, then over MO Hwy 13 to junction MO Hwy 7 at or near Clinton, MO, then over MO Hwy 7 to junction U.S. Hwy 71, then over U.S. Hwy 71 to Kansas City, and return over the same route, serving the intermediate points of Jonesboro, AR, and Springfield, MO, and serving junction U.S. Hwy 71 and MO Hwy 7 for purposes of joinder only;

(37) between St. Louis, MO, and Muscatine, IA: from St. Louis over Interstate Hwy 70 to junction U.S. Hwy 61 (also from St. Louis over U.S. Hwy 40 to junction U.S. Hwy 61 at or near Wentzville, MO), then over U.S. Hwy 61 to Muscatine, and return over the same route, serving the intermediate or off-route points of Hannibal and Palmyra, MO, Quincy, IL, and Keokuk, Fort Madison, and Burlington, IA;

(38) between Kansas City, MO, and Council Bluffs, IA, over Interstate Hwy 29, serving the intermediate or off-route points of St. Joseph, MO, and Leavenworth, KS;

(39) between Omaha, NE, and Davenport, IA: (a) from Omaha over Interstate Hwy 80 to junction U.S. Hwy 6, then over U.S. Hwy 6 to Davenport, and return over the same route (also from Omaha over U.S. Hwy 6 to Davenport and return over the same route), and (b) from Omaha over U.S. Hwy 6 to junction U.S. Hwy 75, then over U.S. Hwy 75 to junction U.S. Hwy 30, then over U.S. Hwy 30 to junction IA Hwy 38, then over IA Hwy 38 to junction IA Hwy 130, then over IA Hwy 130 to Davenport, and return over the same route, serving in connection with (a) and (b) above the intermediate or off-route points of Ames, Marshalltown, Des Moines, Tama, Council Bluffs, Amana, Cedar Rapids, Marion, and Iowa City, IA;

(40) between Marshalltown and Dubuque, IA: from Marshalltown over IA Hwy 14 to junction IA Hwy 57 near Fern, IA, then over IA Hwy 57 to Waterloo, then over U.S. Hwy 20 to Dubuque, and return over the same route, serving the intermediate or off-route points of Waterloo, Independence, Oelwein, and Dyersville, IA;

(41) between Stanwood, IA, and Aurora, IL, over U.S. Hwy 30, serving the intermediate points of Sterling and Rock Falls, IL, and Clinton, IA;

(42) between Moline and Rochelle, IL: from Moline over IL Hwy 92 to junction IL Hwy 5, then over IL Hwy 5 to junction IL Hwy 2 then over IL Hwy 2 to junction IL Hwy 38, then over IL Hwy 38 to Rochelle, and return over the same route, serving the intermediate or off-route points of Cordova, Sterling, and Dixon, IL;

(43) between Moline, IL, and junction Interstate Hwy 80 and Interstate Hwy 55, over Interstate Hwy 80, serving no intermediate points, and serving junction Interstate Hwy 80 and Interstate Hwy 55 for purposes of joinder only;

(44) between Dubuque, IA, and Freeport, IL, over U.S. Hwy 20, serving no intermediate points;

(45) between Des Moines, IA, and Minneapolis, MN: from Des Moines over Interstate Hwy 35 to junction Interstate Hwy 35W, then over Interstate Hwy 35 W to Minneapolis, and return over the same route, serving the intermediate or off-route points of Ames, IA, and Albert Lea, Owatonna, and Faribault, MN;

(46) between Chicago, IL, and Milwaukee, WI, over U.S. Hwy 41, serving no intermediate points;

(47) between Council Bluffs, IA, and Minneapolis, MN: from Council Bluffs over Interstate Hwy 29 to junction U.S. Hwy 75 at or near Sioux City, IA, then over U.S. Hwy 75 to junction IA Hwy 60, then over IA Hwy 60 to IA–MN State line, then over MN Hwy 60 to junction U.S. Hwy 169, then over U.S. Hwy 169 to MN Hwy 101, then over MN Hwy 101 to junction MN Hwy 13, then over MN Hwy 13 to junction Interstate Hwy 35, then over Interstate Hwy 35 to junction Interstate Hwy 35W, then over Interstate Hwy 35W to Minneapolis, and return over the same route, serving the intermediate points of Sioux City and Le Mars, IA, and Mankato, MN, and serving junction U.S. Hwy 16 and MN Hwy 60 for purposes of joinder only;

(48) between Burlington, IA, and Monmouth, IL, over U.S. Hwy 34, serving no intermediate points;

(49) between junction U.S. Hwy 61 and U.S. Hwy 218 near Summitville, IA and Owatonna, MN, over U.S. Hwy 218, serving the intermediate or off-route points of Mt. Pleasant, Iowa City, Cedar Rapids, Cedar Falls, and Waterloo, IA, and Austin, MN;

(50) between Dubuque, IA, and St. Paul, MN, over U.S. Hwy 52, serving the intermediate point of Rochester, MN;

(51) between Dubuque, IA, and junction U.S. Hwy 61 and U.S. Hwy 14, over U.S. Hwy 61, serving no intermediate points;

(52) between Rochester, MN, and Janesville, WI, over U.S. Hwy 14, serving no intermediate points;

(53) between Dubuque, IA, and Green Bay, WI: from Dubuque over U.S. Hwy 151 to junction U.S. Hwy 41, then over U.S. Hwy 41 to Green Bay, and return over the same route, serving no intermediate points;

(54) between St. Paul, MN, and junction U.S. Hwy 14 and Interstate Hwy 90: from St. Paul over U.S. Hwy 12 to junction Interstate Hwy 94, then over Interstate Hwy 94 to junction Interstate Hwy 90, then over Interstate Hwy 90 to junction U.S. Hwy 14, and return over the same route, serving no intermediate points;

(55) between St. Paul, MN, and Stevens Point, WI, over U.S. Hwy 10, serving no intermediate points and serving junction U.S. Hwy 10 and Interstate Hwy 94 for purposes of joinder only;

(56) between Milwaukee and Green Bay, WI: from Milwaukee over U.S. Hwy 41 to junction U.S. Hwy 151, then over U.S. Hwy 151 to junction WI Hwy 55, then over WI Hwy 55 to junction U.S. Hwy 41, then over U.S. Hwy 41 to Green Bay, and return over the same route, serving no intermediate points;

(57) between Stevens Point and Appleton, WI, over U.S. Hwy 10, serving no intermediate points;

(58) between Madison and Stevens Point, WI, over U.S. Hwy 51, serving no intermediate points;

(59) between Green Bay, WI, and junction WI Hwy 29 and Interstate Hwy 94, over WI Hwy 29, serving the intermediate points of Wausau and Chippewa Falls, WI;

(60) between Milwaukee and Beloit, WI, over WI Hwy 15, serving no intermediate points;

(61) between Milwaukee and Madison, WI, over Interstate Hwy 94, serving no intermediate points;

(62) between junction U.S. Hwy 16 and MN Hwy 60 and junction U.S. Hwy 16 and U.S. Hwy 218, over U.S. Hwy 16, serving no intermediate points and serving junction U.S. Hwy 16 and Interstate Hwy 35 for purposes of joinder only;

(63) between junction U.S. Hwy 16 and U.S. Hwy 218 and junction U.S. Hwy 63 and U.S. Hwy 52: from junction U.S. Hwy 16 and U.S. Hwy 218 over U.S. Hwy 16 to junction U.S. Hwy 63, then over U.S. Hwy 63 to junction U.S. Hwy 52, and return over the same route, serving no intermediate points;

(64) between Wichita Falls, TX, and Ardmore, OK: from Wichita Falls over TX Hwy 79 to the TX–OK State line, then over OK Hwy 79 to junction U.S. Hwy 70, then over U.S. Hwy 70 to Ardmore, and return over the same route, serving no intermediate points and serving junction OK Hwy 79 and U.S. Hwy 81 at or near Waurika, OK, for purposes of joinder only;

(65) between Dallas, TX, and junction TX Hwy 24 and U.S. Hwy 82 at or near Paris, TX: from Dallas over Interstate Hwy 30 to junction TX Hwy 34, then over TX Hwy 34 to junction TX Hwy 24, then over TX Hwy 24 to junction U.S. Hwy 82, and return over the same route, serving no intermediate points and serving junction TX Hwy 24 and U.S. Hwy 82 for purposes of joinder only;

(66) between Fort Smith, AR, and Texarkana, TX, over U.S. Hwy 71, as an alternate route for operating convenience only, serving no intermediate points;

(67) between junction U.S. Hwy 70 and Indian Nation Turnpike and Fort Smith, AR: from junction U.S. Hwy 70 and Indian Nation Turnpike over Indian Nation Turnpike to junction U.S. Hwy 271, then over U.S. Hwy 271 to junction U.S. Hwy 71, then over U.S. Hwy 71 to Fort Smith, and return over the same route, as an alternate route for operating convenience only, serving no intermediate points;

(68) between Tulsa, OK, and junction Interstate Hwy 35 and Cimarron Turnpike, over Cimarron Turnpike, as an alternate route for operating convenience only, serving no intermediate points;

(69) between Wichita, KS, and junction Interstate Hwy 35 and U.S. Hwy 77, over Interstate Hwy 35, serving no intermediate points, and serving junction Interstate Hwy 35 and U.S. Hwy 77 for purposes of joinder only;

(70) between Newton and Hutchinson, KS, over U.S. Hwy 50, as an alternate route for operating convenience only, serving no intermediate points;

(71) between Hutchinson and Kansas City, KS: from Hutchinson over U.S. Hwy 50 to Kansas City, and return over the same route (also from junction U.S. Hwy 50 and Interstate Hwy 35 over Interstate Hwy 35 to Kansas City, and return over the same route), serving no intermediate points, and serving junction U.S. Hwy 50 and Interstate Hwy 35 for purposes of joinder only;

(72) between Kansas City, MO, and junction MO Hwy 10 and U.S. Hwy 24: from Kansas City over U.S. Hwy 69 to junction MO Hwy 10, then over MO Hwy 10 to junction U.S. Hwy 24, and return over the same route, serving no intermediate points and serving junction

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MO Hwy 10 and U.S. Hwy 24 for purposes of joinder only.
(73) between Topeka, KS, and Omaha, NE, over U.S. Hwy 75, as an alternate route for operating convenience only, serving no intermediate points;
(74) between Des Moines, IA, and junction U.S. Hwy 30 and IA Hwy 330: from Des Moines over U.S. Hwy 65 to junction IA Hwy 330, then over IA Hwy 330 to junction U.S. Hwy 30, and return over the same route, as an alternate route for operating convenience only, serving no intermediate points;
(75) between Cedar Rapids and Dubuque, IA, over U.S. Hwy 151, as an alternate route for operating convenience only, serving no intermediate points;
(76) between Davenport and Dubuque, IA, over U.S. Hwy 61, serving no intermiedate points and serving the junction U.S. Hwy 61 and U.S. Hwy 30 for purposes of joinder only;
(77) between Dixon and Rockford, IL, over IL Hwy 2, serving no intermediate points;
(78) between Hannibal, MO, and Jacksonville, IL over U.S. Hwy 36, serving no intermediate points;
(79) between Portland, OR, and Ogden, UT: from Portland over Interstate Hwy 80N to junction Interstate Hwy 15, then over Interstate Hwy 15 to Ogden, and return over the same route, serving no intermediate points;
(80) between Ogden, UT, and Omaha, NE: from Ogden over Interstate Hwy 80 N to junction Interstate Hwy 80, then over Interstate Hwy 80 to Omaha, and return over the same route, serving no intermediate points and serving junction Interstate Hwy 80N and Interstate Hwy 80 near Coalville, UT, for purposes of joinder only;
(81) between Sacramento, CA, and junction Interstate Hwy 80N and Interstate Hwy 80, over Interstate Hwy 80, serving no intermediate points and serving junction Interstate Hwy 80 and Interstate Hwy 15 and junction Interstate Hwy 80 and Interstate Hwy 80N for purposes of joinder only;
(82) between San Bernadino, CA, and junction Interstate Hwy 80 and Interstate Hwy 15, over Interstate Hwy 15, serving no intermediate points, and serving junction Interstate Hwy 80 and Interstate Hwy 15 for purposes of joinder only;
(83) between San Bernadino, CA, and junction U.S. Hwy 60 and U.S. Hwy 287: from San Bernadino over Interstate Hwy 15 to junction Interstate Hwy 40, then over Interstate Hwy 40 to junction U.S. Hwy 287 and U.S. Hwy 60, and return over the same route, serving no intermediate points and serving junction Interstate Hwy 40 and U.S. Hwy 54 for purposes of joinder only;
(84) between San Bernadino, CA, and junction Interstate Hwy 76 and Interstate Hwy 80: from San Bernadino over Interstate Hwy 15 to junction UT Hwy 4, then over UT Hwy 4 to junction Interstate Hwy 70, then over Interstate Hwy 70 to junction U.S. Hwy 6, then over U.S. Hwy 6 to junction Interstate Hwy 76, then over Interstate Hwy 76 to junction Interstate Hwy 80, and return over the same route, serving no intermediate points and serving junction Interstate Hwy 76 and Interstate Hwy 80 for purposes of joinder only;
(85) between junction Interstate Hwy 40 and U.S. Hwy 54 and Wichita, KS, over U.S. Hwy 54, serving no intermediate points;
(86) between El Paso and Wichita Falls, TX: from El Paso U.S. Hwy 180 to junction U.S. Hwy 277, then over U.S. Hwy 277 to Wichita Falls, and return over the same route, serving no intermediate points and serving junction U.S. Hwy 87 and U.S. Hwy 180 for purposes of joinder only;
(87)(a) serving in connection with routes (1) through (17) above, points in Collin, Cooke, Fannin, Grayson, and Lamar Counties, TX, and Bryan, Caddo, Carter, Cleveland, Comanche, Creek, Garfield, Grady, Kay, Muskogee, Oklahoma, Okmulgee, Pittsburg, Pontotoc, Pottawatomie, Stephens, Seminole, Tulsa, and Washington Counties, OK, as intermediate or off-route points;
(b) serving in connection with route (21) above, points in Benton, Sebastian, and Washington Counties, AR, as intermediate or off-route points;
(c) serving in connection with routes (22) through (26) above, points in Ottawa County, OK, Bourbon, and Crawford Counties, KS, and Audrain, Boone, Buchanan, Cole, Cooper, Greene, Jackson, Jasper, Lawrence, Marion, Monroe, Newton, Pettis, and Randolph Counties, MO, as intermediate or off-route points;
(d) serving in connection with routes (28) through (35) above, points in Butler, Cherokee, Cowley, Douglas, Harvey, McPherson, Reno, Sedgwick, Saline, Shawnee, and Wyandotte Counties, KS, and Dodge, Douglas, Sarpy, and Washington Counties, NE, as intermediate or off-route points;
(e) serving in connection with route (37) above, points in Marion County, MO, Adams County, IL, and Des Moines, and Lee Counties, IA, as intermediate or off-route points;
(f) serving in connection with route (38) above, points in Buchanan County, MO, and Leavenworth County, KS, as intermediate or off-route points;
(g) serving in connection with routes (39) through (42) above, points in Buchanan, Clinton, Dubuque, Fayette, Humboldt, Iowa, Johnson, Linn, Marshall, Polk, Pottawattamie, Story, Tama, and Webster Counties, IA, and Lee, Rock Island, and Whiteside Counties, IL, as intermediate or off-route points;
(h) serving in connection with routes (44) through (50) above, points in Black Hawk, Henry, Plymouth, and Woodbury Counties, IA, and Blue Earth, Brown, Dakota, Dodge, Freeborn, Fillmore, Houston, Hennepin, Le Sueur, Mower, Nicolett, Olmsted, Ramsey, Rice, Scott, Steele, Winona, and Waseca Counties, MN, as intermediate or off-route points; and
(i) serving in connection with routes (51) through (61) above, Antigo, Merrill and Rhinelander, WI, and those points in WI on and south of a line beginning at the MN-WI State line and extending along Interstate Hwy 94 to juntion WI Hwy 29, then along WI Hwy 29 to junction WI Hwy 22, then along WI Hwy 22 to Green Bay.

Applicant intends to tack the authority described above with its existing regular-route operations. (Hearing site: Dallas, TX, Oklahoma City, OK, Kansas City, MO, St. Paul, MN, San Francisco, CA, and Atlanta, GA.)

MC 99493 (Sub-6F), filed February 22, 1979. Applicant: CENTRAL STORAGE & TRANSFER CO. OF HARRISBURG, A Corporation, P.O. Box 2821, Harrisburg, PA 17105. Representative: Christian V. Graf, 407 North Front Street, Harrisburg, PA 17101. To operate as a *common carrier*, by motor vehicle, in interstate or foreign commerce, over irregular routes, transporting *general commodities* (except those of unusual value, classes A and B explosives, household goods as defined by the Commission, commodities in bulk, and motor vehicles), between Baltimore, MD, and the facilities of Central Storage & Transfer Co. of Harrisburg, at Harrisburg, PA. (Hearing site: Washington, DC, or Harrisburg, PA.)

MC 109373 (Sub-3F), filed February 26, 1979. Applicant: NATIONAL TRUCKING, INC., P.O. Box 16081, Houston, TX 77022. Representative: Thomas F. Sedberry, 1102 Perry-Brooks Building, Austin, TX 78701. To operate as a *common carrier* by motor vehicle, in interstate or foreign commerce, over irregular routes, transporting (1) *machinery, equipment, materials, and supplies* used in, or in connection with the discovery, development, production, refining, manufacture, processing, storage, transmission and distribution of natural gas and petroleum and their products and by-products, and *machinery, materials, equipment and supplies* used in, or in connection with the construction, operation, repair, servicing, maintenance and dismantling of pipe lines, including the stringing and picking up thereof, (2) *earth drilling machinery and equipment*, and *machinery, equipment, materials and supplies and pipe* incidental to, used in, or in connection with (a) the transportation, installation, removal, operation, repair, servicing, maintenance and dismantling of drilling machinery and equipment, and (b) the completion of holes or wells drilled, (c) the production, storage and transmission of commodities resulting from drilling operations at well or hole sites, and (d) the injection or removal of commodities into or from holes or wells, between points in Harris, Orange and Jefferson Counties, TX, on the one hand, and, on the other, points in LA. (Hearing site: Houston, TX.)

MC 112123 (Sub-16F), filed February 22, 1979. Applicant: BEST-WAY TRANSPORTATION, a Corporation, 5150 North 16th Street, Phoenix, AZ 85016. Representative: Donald E. Fernaays, 4040 East McDowell Road, Suite 320, Phoenix, AZ 85008. To operate as a *common carrier*, by motor vehicle, in interstate or foreign commerce, transporting *general commodities* (except those of unusual value, classes A and B explosives, household goods as defined by the Commission, commodities in bulk, and those requiring special equipment), serving San Manuel, AZ, and the facilities of Palo Verde Nuclear Station, at or near Wintersburg, AZ, as off-route points in connection with carrier's otherwise authorized regular-route operations. (Hearing site: Los Angeles, CA, or Phoenix, AZ).

Note: The person or persons who appear to be engaged in common control must either file an application under 49 U.S.C. Section 11343(a) (1978), Formerly section 5(2) of the Interstate Commerce Act, or submit an affidavit indicating why such approval is unnecessary.

MC 112713 (Sub-247F), filed February 1, 1979. Applicant: YELLOW FREIGHT SYSTEM, INC., 10990 Roe Avenue, P.O. Box 7270, Shawnee Mission, KS 66207. Representative: Robert E. DeLand (same address as applicant). To operate as a *common carrier*, by motor vehicle, in interstate or foreign commerce, transporting *general commodities* (except those of unusual value, classes A and B explosives, household goods as defined by the Commission, commodities in bulk, and those requiring special equipment), serving the facilities of Magma Copper Co., at San Manuel, AZ, as an off-route point in connection with carrier's otherwise authorized regular-route operations. (Hearing site: Los Angeles, CA, or Phoenix, AZ.)

MC 112822 (Sub-469F), filed February 23, 1979. Applicant: BRAY LINES INCORPORATED, 1401 North Little Street, P.O. Box 1191, Cushing, OK 74023. Representative: Edward T. Lyons, Jr., 1600 Lincoln Center Building, 1660 Lincoln Street, Denver, CO 80264. To operate as a *common carrier*, by motor vehicle, in interstate or foreign commerce, over irregular routes, transporting *foodstuffs*, from points in ID, OR, and WA, to points in AZ, CA, ID, NV, OR, and WA. (Hearing site: Portland, OR, or Seattle, WA.)

MC 114052 (Sub-8F), filed February 23, 1979. Applicant: CATENCAMP TRANSFER & STORAGE, INC., 218 East Richmond Street, Shawano, WI 54166. Representative: Richard C. Alexander, 710 N. Plankinton Avenue, Milwaukee, WI 53203. To operate as a *contract carrier*, by motor vehicle, in interstate or foreign commerce, over irregular routes, transporting (1) *paper and paper products*, from the facilities of Shawano Paper Mills Divisions Little Rapids Corporation, at Shawan, WI, to those points in the United States in and east of MN, IA, MO, KS, OK, AR, and LA, and (2) *waste, scrap paper, and pallets*, in the reverse direction, under continuing contract(s) with Shawano Paper Mills Division, Little Rapids Corporation, of Shawano, WI. (Hearing site: Milwaukee, or Green Bay, WI).

MC 114273 (Sub-552F), filed February 22, 1979. Applicant: CRST, INC., P.O. Box 68, Cedar Rapids, IA 52406. Representative: Kenneth L. Core (same address as applicant). To operate as a *common carrier*, by motor vehicle, in interstate or foreign commerce, over irregular routes, transporting *paper and paper products*, from Clinton, IA, to Eden and Greensboro, NC. (Hearing site: Chicago, IL, or Washington, DC.)

MC 114273 (Sub-553F), filed February 26, 1979. Applicant: CRST, INC., P.O. Box 68, Cedar Rapids, IA 52406. Representative: Kenneth L. Core (same address as applicant). To operate as a *common carrier*, by motor vehicle, in interstate or foreign commerce, over irregular routes, transporting (1) *dental, medical and surgical supplies*, and (2) *materials, supplies and equipment* used in the manufacture and distribution of commodities in (1) above (except in bulk, in tank vehicles), between the facilities of Parke Davis at Greenwood, SC, on the one hand, and, on the other, points in IL, IN, IA, KS, MI, MN, MO, NE, and OH, restricted to the transportation of traffic originating at the named origin, and destined to the indicated destinations. (Hearing site: Chicago, IL, or Washington, DC.)

MC 114273 (Sub-554F), filed February 26, 1979. Applicant: CRST, INC., P.O. Box 68, Cedar Rapids, IA 52406. Representative: Kenneth L. Core (same address as applicant). To operate as a *common carrier*, by motor vehicle, in interstate or foreign commerce, over irregular routes, transporting *alcoholic liquors*, from Detroit, MI, to Minneapolis, MN. The purpose of this filing is to substitute single-line service for existing joint-line service. (Hearing site: Chicago, IL, or Washington, DC.)

MC 114273 (Sub-555F), filed February 26, 1979. Applicant: CRST, INC., P.O. Box 68, Cedar Rapids, IA 52406. Representative: Kenneth L. Core (same address as applicant). To operate as a *common carrier*, by motor vehicle, in interstate or foreign commerce, over irregular routes, transporting *door and accessories for doors*, from the facilities of Lakeshore Industries, Inc., at Toledo, OH, to points in IA, IN, IL, KS, MO, MN, and NE, restricted to the transportation of traffic originating at the named origin and destined to the indicated destinations. The purpose of this filing is to substitute single-line service for existing joint-line service. (Hearing site: Chicago, IL, or Washington, DC.)

MC 114273 (Sub-556F), filed February 26, 1979. Applicant: CRST, INC., P.O. Box 68, Cedar Rapids, IA 52406. Representative: Kenneth L. Core (same address as applicant). To operate as a *common carrier*, by motor vehicle, in interstate or foreign commerce, over irregular routes, transporting *molded pulp egg cartons* (1) from Middletown, OH, to points in IA, NE, MO, MN, and WI, and; (2) from Palmer, MA, to points in OH, IN, IL, MI, IA, NE, MO, MN and WI. (Hearing site: Chicago, IL, or Washington, DC.)

MC 114273 (Sub-558F), filed February 26, 1979. Applicant: CRST, INC., 3930 16 Avenue, S.E., P.O. Box 68, Cedar Rapids, IA 52406. Representative: Kenneth L. Core (same address as applicant). To operate as a *common carrier*, by motor vehicle, in interstate or foreign commerce, in irregular routes, transporting (1) *lead and lead alloys*, from Omaha, NE, to points in the United States (except AK and HI), and (2) *materials and supplies* (except in commodities in bulk), used in the manufacture and distribution of lead and lead alloys in the reverse direction, restricted in (1) and (2) above to the

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transportation of traffic originating at or destined to the facilities of ASARCO Incorporated, at or near Omaha, NE. (Hearing site: Chicago, IL, or Washington, DC.)

MC 114273 (Sub-559F), filed February 26, 1979. Applicant: CRST, INC., P.O. Box 68, Cedar Rapids, IA 52406. Representative: Kenneth L. Core (same address as applicant). To operate as a *common carrier,* by motor vehicle, over irregular routes, transporting *meats, meat products, and meat byproducts, and articles distributed by meat-packing houses,* as described in Sections A and C of Appendix I to the report in *Descriptions in Motor Carrier Certificates,* 61 M.C.C. 209 and 766 (except hides and commodities in bulk, in tank vehicles), from Cherokee and Storm Lake, IA, to points in MI and OH. (Hearing site: Chicago, IL, or Washington, DC.)

MC 114273 (Sub-562F), filed February 26, 1979. Applicant: CRST, INC., P.O. Box 68, Cedar Rapids, IA 52406. Representative: Kenneth L. Core (same address as applicant). To operate as a *common carrier,* by motor vehicle, in interstate or foreign commerce, over irregular routes, transporting *non-acloholic beverages, mixes and preparations,* (except in bulk, in tank vehicles), from the facilities of Thomas J. Lipton, Inc., at or near Suffolk, VA, to Cleveland and Columbus, OH, Chicago, IL, Minneapolis, MN, and Detroit, MI. (Hearing site: Chicago, IL, or Washington, DC.)

MC 114273 (Sub-563F), filed February 26, 1979. Applicant: CRST, INC., P.O. Box 68, Cedar Rapids, IA 52406. Representative: Kenneth L. Core (same address as applicant). To operate as a *common carrier,* by motor vehicle, in interstate or foreign commerce, over irregular routes, transporting *farm machinery,* from Vinton, IA, to points in IL, IN, MI, OH, PA, WV, VA, MD, NY, DE, and KY. The purpose of this filing is to substitute single-line service for existing joint-line service. (Hearing site: Chicago, IL, or Washington, DC.)

MC 115162 (Sub-462F), filed February 26, 1979. Applicant: POOLE TRUCK LINE, INC., P.O. Drawer 500, Evergreen, AL 36401. Representative: Robert E. Tate (same address as applicant). To operate as a *common carrier,* by motor vehicle, in interstate or foreign commerce, over irregular routes, transporting *insulating materials and minerol wool,* from the facilitiles of the Rock Wool Manufacturing Co., at Leeds, AL, to points in MS, GA, WV, and those points in FL on and west of U.S. Hwy 319. (Hearing site: Birmingham, AL, or Washington, DC.)

MC 116763 (Sub-478F), filed February 26, 1979. Applicant: CARL SUBLER TRUCKING, INC., North West Street, Versailles, OH 45380. Representative: H. M. Richters (same address as applicant). To operate as a *common carrier,* by motor vehicle, in interstate or foreign commerce, over irregular routes, transporting (1) *such merchandise as is dealt in by discount and variety stores* (except foodstuffs, furniture, and commodities in bulk), and (2) *foodstuffs* (except in bulk), and *furniture,* in mixed loads with the commodities in (1) above, from the facilities of K-Mart Corporation, at or near Charlotte, NC, to points in MA, NJ, PA, TN, and TX, restricted to the transportation of traffic originating at the named origin and destined to the indicated destinations. (Hearing site: Detroit, MI.)

MC 116763 (Sub-489F), filed February 21, 1979. Applicant: CARL SUBLER TRUCKING, INC., North West Street, Versailles, OH 45380. Representative: H. M. Richters (same address as applicant). To operate as a *common carrier,* by motor vehicle, in interstate or foreign commerce, over irregular routes, transporting *such commodities* as are dealt in or used by grocery and food business houses, (except commodities in bulk, in tank vehicles), between points in WI, on the one hand, and, on the other, those points in the United States in and east of MN, IA, MO, OK, and TX (except WI), restricted to the transportation of traffic originating at or destined to points in WI. (Hearing site: Milwaukee, WI.)

MC 116763 (Sub-491F), filed February 22, 1979. Applicant: CARL SUBLER TRUCKING, INC., North West Street, Versailles, OH 45380. Representative: H. M. Richters (same address as applicant). To operate as a *common carrier,* by motor vehicle, in interstate or foreign commerce, over irregular routes, transporting *canned milk,* from Maysville, KY, to points in WI, restricted to the transportation of traffic originating at the named origin and destined to the indicated destinations. (Hearing site: Cincinnati, OH.)

MC 117212 (Sub-8F), filed February 16, 1979. Applicant: DIRECT WINTERS TRANSPORT (WESTERN) LIMITED, 1803 Hekla Avenue, Winnipeg, Manitoba, Canada R2R OK3. Representative: Richard H. Streeter, 1729 H Street, NW., Washington, DC 20006. To operate as a *common carrier,* by motor vehicle, in foreign commerce only, over irregular routes, transporting *meats and meatpacking house products,* from the ports of entry on the international boundary line between the United States and Canada at or near Noyes, MN, and Pembina, ND, to points in OH. (Hearing site: Rochester or Buffalo, NY.)

MC 118202 (Sub-110F), filed February 14, 1979. Applicant: SCHULTZ TRANSIT, INC., P.O. Box 406, Winona, MN 55987. Representative: Robert S. Lee, 1000 First National Bank, Minneapolis, MN 55402. To operate as a *common carrier,* by motor vehicle, in interstate or foreign commerce, over irregular routes, transporting (1) *foodstuffs* (except commodities in bulk), and (2) *meats, meat products and meat byproducts, and articles distributed by meat-packing houses,* as described in sections A and C of Appendix I to the report in *Descriptions in Motor Carrier Certificates,* 61 M.C.C. 209 and 766, (except hides, foodstuffs, and commodities in bulk), from Austin and Owatonna, MN, to points in AR, IL, IN, KY, MI, OH, OK, and TX. (Hearing site: Minneapolis, MN.)

MC 119522 (Sub-42F), filed February 22, 1979. Applicant: McCLAIN TRUCKING, INC., 2425 Walton Street, P.O. Box 2159, Anderson, IN 46011. Representative: John B. Leatherman, Jr. (same address as applicant). To operate as a *common carrier,* by motor vehicle, in interstate or foreign commerce, over irregular routes, transporting (1) *printed matter,* and (2) *materials and supplies* used in the manufacture of printed matter, between Crawfordsville, IN, Chicago, IL, and Glasgow, KY, restricted to the transportation of traffic originating at or destined to the facilities of R.R. Donnelley & Sons, Inc. (Hearing site: Indianapolis, IN, or Chicago, IL.)

MC 123263 (Sub-14F), filed February 26, 1979. Applicant: FLOYD R. WANGERIN AND LORRAINE C. WANGERIN, a Partnership, d.b.a. WANGERIN TRUCKING CO., Rural Route 2, Stephenson, MI 49887. Representative: Michael S. Varda, 121 South Pinckney Street, Madison, WI 53703. To operate as a *common carrier,* by motor vehicle, in interstate or foreign commerce, over irregular routes, transporting *animal and poultry feed, in bags,* from Clinton and Davenport, IA, to Minneapolis, MN. (Hearing site: Milwaukee, WI, or Chicago, IL.)

MC 123872 (Sub-99F), filed February 26, 1979. Applicant: W & L MOTOR LINES, INC., P.O. Box 3467, Hickory, NC 28601. Representative: Allen E. Bowman (same address as applicant). To operate as a *common carrier,* by motor vehicle, in interstate of foreign commerce, over irregular routes, transporting *meat, meat products and meat byproducts, and articles distributed by meat-packing houses,* as described in Sections A & C of Appendix I to the report in *Descriptions in Motor Carrier Certificates,* 209 and 766 (except hides and commodities in bulk), from the facilities of Geo. A. Hormel & Company, at (1) Rockville and Springfield, MO, and (2) Miami, OK, to points in GA, NC, SC, TN, and VA. (Hearing site: Austin, MN, or Washington, DC.)

Note—Dual operations may be involved.

MC 124802 (Sub-17F), filed February 23, 1979. Applicant: ACE MOTOR FREIGHT, INC., Box 127, Summerville, PA 15864. Representative: H. Ray Pope, Esquire, 10 Grant Street, Clarion, PA 16214. To operate as a *common carrier,* by *motor vehicle,* in interstate or foreign commerce, over irregular routes, transporting *coal,* in bulk, in dump vehicles, (1) from points in Butler and Venango Counties, PA, to points in NY, and (2) from points in Clarion and Jefferson Counties, PA, to those points in NY on and west of Interstate Hwy 81. (Hearing site: Pittsburg, PA, or Washington, DC.)

MC 126472 (Sub-23F), filed February 21, 1979. Applicant: WILLCOXSON TRANSPORT, INC., R.R. No. 2, Kahoka, MO 63445. Representative: Kenneth F. Dudley, 611 Church Street, P.O. Box 279, Ottumwa, IA 52501. To operate as a *common carrier,* by motor vehicle, in interstate or foreign commerce, over irregular routes, transporting *anhydrous ammonia,* in bulk, in tank vehicles, from points Marion County, MO to points in IA and IL. (Hearing site: Chicago, IL, or Kansas City, MO.)

MC 127042 (Sub-248F), filed February 16, 1979. Applicant: HAGEN, INC., P.O. Box 98—Leeds Station, Sioux City, IA 51108. Representative: Robert G. Tessar (same address as applicant). To operate as a *common carrier,* by motor vehicle, in interstate or foreign commerce, over irregular routes, transporting *meats, meat products and meat byproducts,* and *articles distributed by meat-packing houses,* as described in sections A and C of Appendix I to the report in *Descriptions in Motor Carrier Certificates,* 61 M.C.C. 209 and 766, (except hides and commodities in bulk, in tank vehicles), from the facilities of (1) Farmland Foods, Inc., at (a) Carroll, Denison, Iowa Falls, Des Moines, Ft. Dodge, Cherokee, and Sioux City, IA, and (b) Omaha and Lincoln, NE, to points in AZ, CA, CO, ID, MT. NV, NM, OR, TX, UT, WA, and WY, and (2) Dubuque Packing Company, at Denison, IA, to points in AZ, CA, CO, ID, NV, OR, TX, UT, and WA. (Hearing site: Omaha, NE.)

MC 127042 (Sub-249F), filed February 16, 1979. Applicant: HAGEN, INC., P.O. Box 98—Leeds Station, Sioux City, IA 51108. Representative: Robert G. Tessar (same address as applicant). To operate as a *common carrier,* by motor vehicle, in interstate or foreign commerce, over irregular routes, transporting *meats, meat products and meat byproducts,* and *articles distributed by meat-packing houses,* as described in sections A and C of Appendix I to the report in *Descriptions in Motor Carrier Certificates,* 61 M.C.C. 209 and 766, (except hides and commodities in bulk), from the facilities of Hygrade Food Products, Inc., at Storm Lake and Cherokee, IA, to points in CA, CO, ID, KS, MN, MO, NE, SD, WA, and WI. (Hearing site: Omaha, NE.)

MC 127303 (Sub-53F), filed February 21, 1979. Applicant: ZELLMER TRUCK LINES, INC., P.O. Box 343, Granville, IL 61326. Representative: Dwight L. Koerber, Jr., 805 McLachlen Bank Bldg., 666 Eleventh Street, NW, Washington, DC 20001. To operate as a *common carrier,* by motor vehicle, in interstate or foreign commerce, over irregular routes, transporting *feed, feed ingredients, minerals, pre-mixes, animal health products, livestock feeders, and livestock equipment,* (except commodities in bulk), from Cedar Rapids, IA, to points in MO, MN, and WI. (Hearing site: Des Moines, IA, or Chicago, IL.)

MC 128273 (Sub-339F), filed February 26, 1979. Applicant: MIDWESTERN DISTRIBUTION, INC., P.O. Box 189, Fort Scott, KS 66701. Representative: Elden Corban (same address as applicant). To operate as a *common carrier,* by motor vehicle, in interstate or foreign commerce, over irregular routes, transporting *paper* and *paper products* (except commodities in bulk, in tank vehicles), from the facilities of Simpson Paper Company, at or near Vicksburg, MI, to points in the United States (except AK, HI and MI), restricted to the transportation of traffic originating at the named origin. (Hearing site: Sacramento, CA, or Washington, DC.)

MC 128343 (Sub-45F), filed February 21, 1979. Applicant: C–LINE, INC., Tourtellot Hill Road, Chepachet, RI 02814. Representative: Ronald N. Cobert, Suite 501, 1730 M Street, NW, Washington, DC 20036. To operate as a *contract carrier,* by motor vehicle, in interstate or foreign commerce, over irregular routes, transporting *plastic pots, crushed pine cones, ground shale, clay pebbles, and plant foods,* between Birmingham, AL, on the one hand, and, on the other, ports of entry on the international boundary line between the United States and Canada in ND, under continuing contract(s) with The Tupperware Co., of North Smithfield, RI. (Hearing site: Providence, RI, or Boston, MA.)

Note—Dual operations may be involved.

MC 129032 (Sub-75F), filed February 23, 1979. Applicant: TOM INMAN TRUCKING, INC., 6015 So. 49th West Ave., Tulsa, OK 74107. Representative: David R. Worthington (same address as applicant). To operate as a *common carrier,* by motor vehicle, in interstate or foreign commerce, over irregular routes, transporting *fresh meat products,* from the facilities of Packerland Packing Company, at or near (1) Chippewa Falls, (2) Eau Claire, and (3) Green Bay, WI, to Shreveport, LA, and points in TX, restricted to the transportation of traffic originating at the named origins, and destined to the indicated destinations. (Hearing site: Chicago, IL, or St. Louis, MO.)

MC 134872 (Sub-14F), filed February 22, 1979. Applicant: GOSSELIN EXPRESS, LTD., 141 Smith Blvd., Thetford Mines, Quebec, Canada. Representative: Neil D. Breslin, 600 Broadway, Albany, NY 12207. To operate as a *common carrier,* by motor vehicle, in foreign commerce only over irregular routes, transporting *asbestos,* in bags, from the ports of entry on the international boundary line between the United States and Canada at Champlain, NY, and Detriot, Sault St. Marie, and Port Huron, MI, to points in AL, CT, IL, IN, IA, MD, NH, NJ, NY, OH, PA, TN, TX, VT, VA, WV, and WI. (Hearing site: Albany, NY.)

MC 135082 (Sub-84F), filed February 14, 1979. Applicant: ROADRUNNER TRUCKING, INC., P.O. Box 26748, 4100 Rankin Road, NE, Albuquerque, NM 87125. Representative: Randall R. Sain, (same address as applicant). To operate as a *common carrier,* by motor vehicle, in interstate or foreign commerce, over irregular routes, transporting *plastic materiols* (except in bulk, in tank vehicles), from points in Orange County, TX, to Portland, OR, and Los Angeles and San Leandro, CA. (Hearing site: Albuquerque, NM.)

MC 135873 (Sub-9F), filed February 26, 1979. Applicant: KSS TRANSPORTATION CORP., P.O. Box 3052, North Brunswick, NJ 08902. Representative: Elaine M. Conway, 10 South La Salle Street, Suite 1600, Chicago, IL 60603. To operate as a *contract carrier,* by motor vehicle, in

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interstate or foreign commerce, over irregular routes, transporting *such commodities* as are dealt in by manufacturers and distributors of printed matter (except commodities in bulk), between Franklin, KY, on the one hand, and, on the other, points in the United States (except AK, HI, and KY), under a continuing contract(s) with Brown Printing, Inc., of Waseca, MN. (Hearing site: Minneapolis, MN.)

Note.—Dual operations may be involved.

MC 136393 (Sub-3F), filed February 22, 1979. Applicant: N.Y., N.J., CONN., FREIGHT & MESSENGER CORP., 55 Lakeshore Drive, Rockaway, NJ 07866. Representative: Ronald I. Shapss, 450 Seventh Avenue, New York, NY 10001. To operate as a *common carrier*, by motor vehicle, in interstate or foreign commerce, over irregular routes, transporting *such merchandise* as is dealt in by retail department stores (except commodities in bulk), between New York, NY, and Chicago, IL, on the one hand, and, on the other points in the United States (except AK and HI). CONDITION: Issuance of a certificate is subject to the coincidental cancellation, as requested by applicant, of the outstanding permit in MC 145115F, issued March 22, 1979. (Hearing site: New York, NY.)

MC 139482 (Sub-97F), filed February 23, 1979. Applicant: NEW ULM FREIGHT LINES, INC., P.O. Box 877, New Ulm, MN 56073. Representative: James E. Ballenthin, 630 Osborn Building, St. Paul, MN 55102. To operate as a *common carrier*, by motor vehicle, in interstate or foreign commerce, over irregular routes, transporting *such commodities* as are dealt in by retail department stores (except foodstuffs and commodities in bulk), (1) from points in CT, DE, ME, MD, MA, NH, NJ, NY, PA, RI, VT, VA AND WV, to the facilities of the Zayre Corporation at points in IL, IN, IA, KY, MI, MN, MO, OH, and WI, and (2) from points in IL, IN, IA, KY, MI, MN, MO, OH, and WI to the facilities of the Zayre Corporation at Clinton, Framingham, and Mansfield, MA. (Hearing site: Boston, MA.)

MC 139973 (Sub-63F), filed February 21, 1979. Applicant: J. H. WARE TRUCKING, INC., P.O. Box 398, Fulton, MO 65251. Representative: Larry D. Knox, 600 Hubbell Bldg., Des Moines, IA 50309. To operate as a *common carrier*, by motor vehicle, in interstate or foreign commerce, over irregular routes, transporting (1) *electrical appliances, electrical equipment, parts for electrical appliances and equipment, and poleline hardware*, and (2) *materials and supplies* used in the manufacture and distribution of the commodities in (1) above (except commodities in bulk), between Washington, MO, on the one hand, and, on the other, those points in the United States in and east of MT, WT, CO, and NM. (Hearing site: St. Louis, MO.)

MC 140563 (Sub-24F), filed February 7, 1979. Applicant: W.T. MYLES TRANSPORTATION CO., a corporation, P.O. Box 321, Conley, GA 30027. Representative: Archie B. Culbreth, Suite 202, 2200 Century Parkway, Atlanta, GA 30345. To operate as a *common carrier*, by motor vehicle, in interstate or foreign commerce, over irregular routes, transporting (1) *Fibrous glass products and materials, mineral wool, mineral wool products and materials, insulated air ducts, insulating products and materials, glass fibre rovings, yarn and strands, glass fibre mats and mattings, and flexible air ducts*, (except commodities in bulk), and (2) *materials, equipment, and supplies* used in the manufacture of the commodities in (1) above, (except commodities in bulk), between the facilities of CertainTeed Corporation, at or near Mountaintop, PA, on the one hand, and, on the other, those points in the United States in and east of MT, WY, CO, and NM. (Hearing site: Atlanta, GA).

Note.—Dual operations may be involved.

MC 141852 (Sub-2F), filed February 26, 1979. Applicant: BILLY G. BARNETT and JOE D. BARNETT, d.b.a. BARNETT BROTHERS, 422 Pemberton Drive, Pearl, MS 39208. Representative: Paul M. Daniell, P.O. Box 872, Atlanta, GA 30301. To operate as a *contract carrier*, by motor vehicle, in interstate or foreign commerce, over irregular routes, transporting (1) *covered copper wire and fluorescent lamp ballasts*, and (2) *materials, equipment and supplies* (except in bulk), used in the manufacture of copper wire and fluorescent lamp ballasts, between Blytheville, AR, and Mendenhall and Vicksburg, MS, under a continuing contract with Universal Manufacturing Corporation, of Paterson, NJ. (Hearing site: Jackson, MS, or New Orleans, LA.)

MC 144503 (Sub-11F), filed February 21, 1979. Applicant: ADAMS REFRIGERATED EXPRESS, INC., P.O. Box F, Forest Park, GA 30050. Representative: Virgil H. Smith, Suite 12, 1587 Phoenix Blvd., Atlanta, GA 30349. To operate as a *common carrier*, by motor vehicle, in interstate or foreign commerce, over irregular routes, transporting *meats, meat products and meat byproducts, and articles distributed by meat-packing houses*, as described in sections A and C of Appendix I to the report in *Descriptions in Motor Carrier Certificates*, 61 M.C.C. 209 and 766, (except hides and commodities in bulk), from the facilities of Wilson Food Corporation, at Albert Lea, MN, and Cedar Rapids and Des Moines, IA, to points in AL, FL, GA, NC, SC, and TN, restricted to the transportation of traffic originating at the named origins and destined to the indicated destinations. (Hearing site: Dallas, TX, or Kansas City, MO.)

MC 144503 (Sub-12F), filed February 21, 1979. Applicant: ADAMS REFRIGERATED EXPRESS, INC., P.O. Box F, Forest Park, GA 30050. Representative: Virgil H. Smith, Suite 12, 1587 Phoenix Blvd., Atlanta, GA 30349. To operate as a *common carrier*, by motor vehicle, in interstate or foreign commerce, over irregular routes, transporting *meats, meat products and meat byproducts, and articles distributed by meat-packing houses*, as described in sections A and C of Appendix I to the report in *Descriptions in Motor Carrier Certificates*, 61 M.C.C. 209 and 766, (except hides and commodities in bulk), from the facilities of Wilson Food Corporation, at Marshall, MO, and Omaha, NE, to points in AL, FL, GA, NC, SC, and TN, restricted to the transportation of traffic originating at the named origins and destined to the indicated destinations. (Hearing site: Dallas, TX, or Kansas City, MO.)

MC 144532 (Sub-2F), filed February 23, 1979. Applicant: ANDERSON POTATO CO., INC., 2179 Route 112, Medford, NY 11763. Representiative: John L. Alfano, 550 Mamaroneck Avenue, Harrison, NY 10528. To operate as a *contract carrier*, by motor vehicle, in interstate or foreign commerce, over irregular routes, transporting (1) *bakery products*, and (2) *bakery product ingredients* between the facilities of Entenmann's Bakery, Inc., at (a) Bay Shore, NY, and (b) Miami, FL, on the one hand, and, on the other, points in IL, MI, MO, NJ, NY, OH, PA, SC, and WV, under a continuing contract(s) with Entenmann's, Inc., of Bay Shore, NY. (Hearing site: New York, NY.)

MC 144812 (Sub-2F), filed February 22, 1979. Applicant: HASKELL BRATTER AND CARY MILLER, A Partnership, d.b.a. EAGLE AIR FREIGHT, P.O. Box 58062, Houston, TX 77058. Representative: Jack L. Shultz, P.O. Box 82028, Lincoln, NE 68501. To operate as a *common carrier*, by motor vehicle, in interstate or foreign commerce, over irregular routes, transporting (1) *general commodities* (except those of unusual value, classes A and B explosives, household goods as defined by the Commission, commodities in bulk, and those requiring special equipment), and (2) *commodities* the transportation of which is otherwise exempt from economic regulation under 49 U.S.C § 10526(a)(6) (1978) formerly Section 203(b)(6) of the Interstate Commerce Act, in mixed loads with the commodities in (1) above, between Houston Intercontinental Airport and William P. Hobby Airport, at Houston, TX, on the one hand, and, on the other, Angleton, Brenham, Bryan, Clute, College Station, Freeport, Lake Jackson, Navasota, and Houston, TX, restricted to the transportation of traffic having a prior or subsequent movement by air. (Hearing site: Houston, TX.)

MC 145152 (Sub-42F), filed February 15, 1979. Applicant: BIG THREE TRANSPORTATION, INC., P.O. Box 706, Springdale, AR 72764. Representative: Don Garrison, P.O. Box 159, Rogers, AR 72756. To operate as a *common carrier*, by motor vehicle, in interstate or foreign commerce, over irregular routes, transporting (1) *malt beverages*, from points in Jefferson County, CO, to points in CA, KS, OK, and TX; and (2) *materials and supplies* used by breweries, in the reverse direction. (Hearing site: Denver, CO, or Fayetteville, AR.)

MC 145152 (Sub-43F), filed February 15, 1979. Applicant: BIG THREE TRANSPORTATION, INC., P.O. Box 706, Springdale, AR 72764. Representative: Don Garrison, P.O. Box 159, Rogers, AR 72756. To operate as a *common carrier*, by motor vehicle, in interstate or foreign commerce, over irregular routes, transporting *such commodities* as are dealt in or used by manufacturers and distributors of containers, container ends, and accessories for containers (except commodities in bulk), between points in the United States (except AK and HI). (Hearing site: Trenton, NJ, or Tulsa, OK.)

MC 146003 (Sub-2F), filed February 26, 1979. Applicant: BROOKRIDGE LEASING, INC., 7211 Brookpart Road, Parma, OH 44129. Representative: E. H. Van Deusen, 220 West Bridge Street, Dublin, OH 43017. To operate as a *common carrier*, by motor vehicle, in interstate or foreign commerce, over irregular routes, transporting *automobiles and trucks, in truckaway service*, in secondary movements, between points in AL, CT, DE, FL, GA, IL, IN, KY, ME, MD, MA, MI, NH, NJ, NY, NC, OH, PA, RI, SC, TN, VT, VA, and WV. (Hearing site: Tampa, FL.)

MC 146293 (Sub-6F), filed February 5, 1979. Applicant: REGAL TRUCKING CO., INC., 95 Lawrenceville Industrial, Park Circle NE., Lawrenceville, GA 30245. Representative: Virgil H. Smith, Suite 12, 1587 Phoenix Blvd., Atlanta, GA 30349. To operate as a *common carrier*, by motor vehicle, in interstate or foreign commerce, over irregular routes, transporting *carpet backing, yarn, and materials, equipment, and supplies* used in the manufacture of carpet backing and yarn (except commodities in bulk), from Bainbridge, Nashville, and Hazelhurst, GA, to points in CA, OK, and TX, restricted to the transportation of traffic orginating at the named origins and destined to the indicated destinations. (Hearing site: Atlanta, GA.)

MC 146313 (Sub-1F), filed February 22, 1979. Applicant: WILLIAM E. MULLENAX, d.b.a. MULLENAX REFRIGERATED TRANSPORT, Route 220 South, Petersburg, WV 26847. Representative: Paul F. Beery, 275 East State Street, Columbus, OH 43215. To operate as a *common carrier*, by motor vehicle, in interstate or foreign commerce, over irregular routes, transporting *such commodities* as are dealt in or used by grocery and food business houses, (except commodities in bulk), between Cincinnati and Columbus, OH, on the one hand, and, on the other, points in IN, KY, MI, PA, VA, and WV, under continuing contract(s) with The Kroger Co., of Cincinnati, OH. (Hearing site: Columbus, OH.)

MC 146443F, filed February 14, 1979. Applicant: SCARLET & GRAY CORP., P.O. Box 424, Dayton, OH 45409. Representative: A. Charles Tell, 100 East Broad Street, Columbus, OH 43215. To operate as a *contract carrier*, by motor vehicle, in interstate or foreign commerce, over irregular routes, transporting *iron and steel articles*, (1) from the facilities of Superior Drawn Steel Co., at Monaca, PA, to points in IN, KY, and OH, (2) between the facilities of Ward Steel Service Co., at Dayton, OH, on the one hand, and, on the other, points in IL, IN, KY, MI, PA, and WV, and (3) between the facilities of L & H Threaded Rods, Division of Gray America Corp., at Muncie, IN, on the one hand, and, on the other, points in IL, KY, MI, OH, PA, and WV, under continuing contracts in (1) above with Superior Drawn Steel Co., of Monaca, PA, in (2) above with Ward Steel Service Co., of Dayton, OH, and in (3) above with L & H Threaded Rods, Division of Gray America Corp., of Dayton, OH. (Hearing site: Columbus, OH.)

MC 146492F, filed February 26, 1979. Applicant: DESETRAN, INC., 9450 South State Street, Sandy, UT 84070. Representative: Steven J. Kalish, 1750 Pennsylvania Ave., N.W., Washington, DC 20006. To operate as a *contract carrier*, by motor vehicle, in interstate or foreign commerce, over irregular routes, transporting *such commodities* as are dealt in, or used by, health care products manufacturers, (except commodities in bulk, and those requiring refrigeration), between the facilities of the (1) Deseret Company, at Sandy, UT, on the one hand, and, on the other, points in the United States (except AK and HI), (2) Parke, Davis & Company, at Greenwood, SC, on the one hand, and, on the other, points in the United States (except AK & HI), (3) Fuller Laboratories, Inc., at Eden Prairie, MN, on the one hand, and, on the other, points in MI, (4) Parke-Davis division of Warner Lambert, at Detroit and Allen Park, MI, on the one hand, and, on the other, points in CA, CO, CT, GA, MD, MN, MO, NJ, OH, SC, TX, AND WA, and (5) Warner-Chilcott and General Diagnostic divisions of Warner Lambert at Morris Plains and Cedar Knoll, NJ, on the one hand, and, on the other, points in CA, CO, CT, GA, MD, MI, MN, MO, OH, SC, TX, AND WA, under continuing contract(s) with the Deseret Company of Sandy, UT, in (1) above Parke, Davis & Company of Greenwood, SC, in (2) above Fuller Laboratories, Inc., of Eden Prairie, MN, in (3) above the Parke-Davis division of Warner-Lambert, of Detroit, MI, in (4) above and the Warner-Chilcott and General Diagnostic divisions of the Warner Lambert Company, of Morris Plains, NJ, in (5) above. (Hearing site: Washington, DC or Morris Plains, NJ)

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[FR Doc. 79-14326 Filed 5-7-79; 8:45 am]

BILLING CODE 7035-01-M

Permanent Authority Applications, Decision-Notice

Decided: May 2, 1979

The following applications filed on or before February 28, 1979, are governed by Special Rule 247 of the Commission's *Rules of Practice* (49 CFR § 1100.247). For applications filed before March 1, 1979, these rules provide, among other things, that a protest to the granting of an application must be filed with the Commission within 30 days after the date notice of the application is published in the **Federal Register**. Failure to file a protest, within 30 days, will be considered as a waiver of opposition to the application. A protest under these rules should comply with Rule 247(e)(3) of the Rules of Practice which requires that it set forth

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specifically the grounds upon which it is made, contain a detailed statement of protestant's interest in the proceeding, (as specifically noted below), and shall specify with particularity the facts, matters, and things relied upon, but shall not include issues or allegations phrased generally. A protestant should include a copy of the specific portions of its authority which protestant believes to be in conflict with that sought in the application, and describe in detail the method—whether by joinder, interline, or other means—by which protestant would use such authority to provide all or part of the service proposed. Protests not in reasonable compliance with the requirements of the rules may be rejected. The original and one copy of the protest shall be filed with the Commission, and a copy shall be served concurrently upon applicant's representative, or upon applicant if no representative is named. If the protest includes a request for oral hearing, such request shall meet the requirements of section 247(e)(4) of the special rules and shall include the certification required in that section.

On cases filed on or after March 1, 1979, petitions for intervention either with or without leave are appropriate.

Section 247(f) provides, in part, that an applicant which does not intend timely to prosecute its application shall promptly request that it be dismissed, and that failure to prosecute an application under the procedures of the Commission will result in its dismissal.

If applicant has introduced rates as an issue it is noted. Upon request an applicant must provide a copy of the tentative rate schedule to any protestant.

Further processing steps will be by Commission notice, decision, or letter which will be served on each party of record. *Broadening amendments will not be accepted after the date of this publication.*

Any authority granted may reflect administratively acceptable restrictive amendments to the service proposed below. Some of the applications may have been modified to conform to the Commission's policy of simplifying grants of operating authority.

Findings: With the exceptions of those applications involving duly noted problems (e.g., unresolved common control, unresolved fitness questions, and jurisdictional problems) we find, preliminarily, that each common carrier applicant has demonstrated that its proposed service is required by the public convenience and necessity, and that each contract carrier applicant qualifies as a contract carrier and its proposed contract carrier service will be consistent with the public interest and the transportation policy of 49 U.S.C. § 10101. Each applicant is fit, willing, and able properly to perform the service proposed and to conform to the requirements of Title 49, Subtitle IV, United States Code, and the Commission's regulations. Except where specifically noted this decision is neither a major Federal action significantly affecting the quality of the human environment nor a major regulatory action under the Energy Policy and Conservation Act of 1975.

In those proceedings containing a statement or note that dual operations are or may be involved we find, preliminarily and in the absence of the issue being raised by a protestant, that the proposed dual operations are consistent with the public interest and the transportation policy of 49 U.S.C. § 10101 subject to the right of the Commission, which is expressly reserved, to impose such conditions as it finds necessary to insure that applicant's operations shall conform to the provisions of 49 U.S.C. § 10930(a) [formerly section 210 of the Interstate Commerce Act.]

In the absence of legally sufficient protests, filed within 30 days of publication of this decision-notice (or, if the application later becomes unopposed), appropriate authority will be issued to each applicant (except those with duly noted problems) upon compliance with certain requirements which will be set forth in a notification of effectiveness of this decision-notice. To the extent that the authority sought below may duplicate an applicant's existing authority, such duplication shall not be construed as conferring more than a single operating right.

Applicants must comply with all specific conditions set forth in the grant or grants of authority within 90 days after the service of the notification of the effectiveness of this decision-notice, or the application of a non-complying applicant shall stand denied.

By the Commission, Review Board Number 3, Members Parker, Fortier, and Hill.

H. G. Homme, Jr.,
Secretary.

MC 11592 (Sub-26F), filed February 22, 1979. Applicant: BEST REFRIGERATED EXPRESS, INC., P.O. Box 7365, Omaha, NE 68107. Representative: Frank E. Myers (same address as applicant). To operate as a *common carrier*, by motor vehicle, in interstate or foreign commerce, over irregular routes, transporting *meats, meat products, meat byproducts, and articles distributed by meat-packing houses*, as described in Sections A and C of Appendix 1 to the report in *Descriptions in Motor Carrier Certificates, 61 M.C.C. 209 and 766* (except hides and commodities in bulk, in tank vehicles), Omaha, NE, and Harlan, IA, to points in AZ, and CA. (Hearing site: Omaha or Lincoln, NE.)

MC 14252 (Sub-43F), filed January 15, 1979. Applicant: COMMERCIAL LOVELACE MOTOR FREIGHT, INC., 3400 Refugee Road, Columbus, OH 43227. Representative: William C. Buckham (same address as applicant). To operate as a *common carrier*, by motor vehicle, in interstate or foreign commerce, over irregular routes, transporting *plastic and expanded plastic products*, (except commodities in bulk), from the facilities of Dow Chemical U.S.A. at Hanging Rock, OH, Channahon, IL, and Pevely, MO, to (1) points in IL, IN, OH, and MO, (2) points in Mercer, Lawrence, butler, Allegheny, Erie, Crawford, Beaver, Washington, and Greene Counties, PA, and (3) those points in WV on, north and west of a line, beginning at the PA-WV state line, and extending along Interstate Hwy 79 to Charlestion, WV, then west over Interstate Hwy 64 to the WV-KY state line. (Hearing site: Columbus, OH, or Indianapolis, IN.)

MC 52953 (Sub-49F), filed February 23, 1979. Applicant: ET & WNC TRANSPORTATION COMPANY A Corporation, 3177 Irving Boulevard, Callas, TX 75247. Representative: Jackie Hill (same address as applicant).To operate as a *common carrier*, by motor vehicle, in interstate or foreign commerce, over irregular routes, transporting *general commodities* (except those of unusual value, Classes A and B explosives, household goods as defined by the Commission, commodities in bulk, and those requiring special equipment), serving the facilities of Cello Chemical Company, at or near Havre de Grace, MD, as an off-route point in conjunction with applicant's regular route operations. (Hearing site: Baltimore, MD, or Washington, DC.)

MC 82492 (Sub-227F), filed February 16, 1979. Applicant: MICHIGAN & NEBRASKA TRANSIT CO., INC., 2109 Olmstead Road, P.O. Box 2853, Kalamazoo, MI 49003. Representative: Dewey R. Marselle (same address as applicant). To operate as a *common carrier*, by motor vehicle, in interstate or foreign commerce, over irregular routes, transporting (1) *printed matter*, and (2) *materials, equipment, and supplies* used in the manufacture and distribution of printed matter, (a) between Franklin, KY, on the one hand, and, on the other, points in IL, IN, IA, KS, MI, MO, MN, NE, ND, OH, SD, TN, WI, those points in NY in and west of Broome, Cortland, Onondaga, and Oswego Counties, and those points in PA on and west of U.S. Hwy 219, and (b) between Waseca, MN, on the one hand, and, on the other, points in IL, IN, IA, KS, KY, MI, MO, NE, ND, OH, SD, TN, WI, those points in NY in and west of Broome, Cortland, Onondaga, and Oswego Counties, and those points in PA on and west of U.S. Hwy 219, restricted to the transportation of traffic originating at or destined to the facilities of Brown Printing Co., Inc., at Franklin, KY, or Waseca, MN. (Hearing site: Minneapolis, MN, or Chicago, IL.)

MC 107002 (Sub-544F), filed February 23, 1979. Applicant: MILLER TRANSPORTERS, INC., P.O. Box 1123, Jackson, MS 39205. Representative: John A. Crawford, P.O. Box 22567, Jackson, MS 39205. To operate as a *common carrier*, by motor vehicle, in interstate or foreign commerce, over irregular routes, transporting *chemicals*, in bulk, in tank vehicles, from points in Jefferson, Shelby and Walker Counties, AL, to points in AR, FL, GA, IN, KY, LA, MS, NC, SC, TN, TX, and VA. [Hearing site: Birmingham, AL.)

MC 107012 (Sub-346F), filed February 21, 1979. Applicant: NORTH AMERICAN VAN LINES, INC., 5001 U.S. Hwy 30 West, P.O. Box 988, Fort Wayne, IN 46801. Representative: David D. Bishop, P.O. Box 988, Fort Wayne, IN 46801. To operate as a *common carrier*, by motor vehicle, in interstate or foreign commerce, over irregular routes, transporting *electronic air cleaners and prefabricated metal articles* (except commodities the transportation of which because of size or weight requires the use of special equipment), from the facilities of Metal-Fab, Inc., at or near Wichita, KS, to points in the United States (except AK and HI). (Hearing site: Kansas City, MO, or Chicago, IL.)

MC 109633 (Sub-42F), filed February 21, 1979. Applicant: ARBET TRUCK LINES, INC., 222 East 135th Place, Chicago, IL 60627. Representative: Arnold L. Burke, 180 North LaSalle Street, Chicago, IL 60601. To operate as a *common carrier*, by motor vehicle, in interstate or foreign commerce, over irregular routes, transporting *corn and corn products* (except commodities in bulk), and *equipment and supplies* used in the manufacture and distribution of corn products, between Hammond, IN, on the one hand, and, on the other, points in CT, DE, MD, MA, NY, VA, and WV, restricted to the transportation of traffic originating at or destined to the facilities of American Maize Products Co. (Hearing site: Chicago, IL.)

MC 110563 (Sub-262F), filed February 16, 1979. Applicant: COLDWAY FOOD EXPRESS, INC., P.O. Box 747, State Route 29 North, Sidney, OH 45365. Representative: Joseph M. Scanlan, 111 West Washington St., Chicago, IL 60602. To operate as a *common carrier*, by motor vehicle, in interstate or foreign commerce, over irregular routes, transporting *meats, meat products and meat byproducts*, and *articles distributed by meat-packing houses*, as described in sections A and C of Appendix I to the report in *Descriptions in Motor Carrier Certificates*, 61 M.C.C. 209 and 766, (except hides and commodities in bulk), from the facilities of John Morrell & Co., at or near East St. Louis, IL, and St. Louis, MO, to points in CA. (Hearing site: Chicago, IL.)

MC 110683 (Sub-131F), filed September 11, 1978, and previously published in the Federal Register on November 14, 1978. Applicant: SMITH'S TRANSFER CORPORATION, P.O. Box 1000, Staunton, VA 24401. Representative: Francis W. McInerny, 1000 Sixteenth Street, NW., Washington, DC 20036. To operate as a *common carrier*, by motor vehicle, in interstate or foreign commerce, transporting *general commodities* (except those of unusual value, classes A and B explosives, household goods as defined by the Commission, commodities in bulk, and those requiring special equipment), (1) between Richmond, VA, and Raleigh, NC: from Richmond over Interstate Hwy 95 to Petersburg, then over Interstate Hwy 85 to Henderson, NC, then over U.S. Hwy 1 to Raleigh, and return over the same route, (2) between Richmond, VA and Raleigh, NC: from Richmond over U.S. Hwy 95 to Rocky Mount, NC, then over U.S. Hwy 64 to Raleigh, NC, and return over the same route, (3) between Henderson and Durham, NC, over U.S. Hwy 85, (4) between Rocky Mount, NC, and the junction of Interstate Hwy 95 and U.S. Hwy 74, near Lumberton, NC, over U.S. Hwy 95, (5) between Monroe and Wilmington, NC, over U.S. Hwy 74, (6) between Wilson and Wilmington, NC, over U.S. Hwy 117, (7) between Raleigh and Rockingham, NC, over U.S. Hwy 1, (8) between Rocky Mount and Wilmington, NC: from Rocky Mount over U.S. Hwy 64 to junction U.S. Hwy 13 at or near Bethel, then over U.S. Hwy 13 to Greenville, NC, then over U.S. Hwy 11 to Kinston, NC, then over U.S. Hwy 258 to junction U.S. Hwy 17 at or near Jacksonville, NC, then over U.S. Hwy 17 to Wilmington, and return over the same route, (a) restricted in (1) through (8) above to the transportation of traffic moving from, to, or through VA, (b) serving Richmond, VA, for joinder only, (c) serving all intermediate points in NC, and (d) serving Caswell, Person, Granville, Vance, Warren, Halifax, Northampton, Gates, Hertford, Bertie, Edgecombe, Nash, Franklin, Chatham, Wilson, Martin, Pitt, Greene, Wayne, Johnston, Harnett, Stanly, Anson, Montgomery, Richmond, Moore, Scotland, Hoke, Cumberland, Robeson, Bladen, Columbus, Brunswick, New Hanover, Pender, Duplin, Sampson, Lenoir, and Jones Counties, NC, as off-route points. (Hearing site: Washington, D.C.)

Condition.—(1) Issuance of a certificate is subject ot the prior submission by applicant of a verified statement stating further specific details of applicant's existing authority (including specific sub-numbers) and how applicant can presently perform the above operations.

Notes.—(1) Applicant states that it presently holds authority to serve all points in NC, but approval of this application would permit operations between same points over shorter and more economical routes. Applicant proposes to support the application by evidence of past traffic and efficiencies and economies. (2) The purpose of this republication is to correctly identify Route (2), add off-route points, and add the above condition. (3) The authority sought, to the extent it duplicates existing authorities of applicant, shall be restricted so as to prohibit severance of duplicating rights by sale or otherwise.

MC 111302 (Sub-143F), filed February 22, 1979. Applicant: HIGHWAY TRANSPORT, INC., P.O. Box 10470, Knoxville, TN 37919. Representative: David A. Petersen (same address as applicant). To operate as a *common carrier*, by motor vehicle, in interstate or foreign commerce, over irregular routes, transporting *citric acid*, in bulk, in tank vehicles, from Elkhart, IN, to points in NC, SC, and TN. (Hearing site: Chicago, IL.)

MC 111302 (Sub-144F), filed February 22, 1979. Applicant: HIGHWAY TRANSPORT, INC., P.O. Box 10470, Knoxville, TN 37919. Representative: David A. Petersen (same address as applicant). To operate as a *common carrier*, by motor vehicle, in interstate or foreign commerce, over irregular routes, transporting *liquid chemicals*, in bulk, in tank vehicles, between Columbus, GA, on the one hand, and, on the other, those points in the United States in and east of ND, SD, NE, OK, and TX. (Hearing site: Atlanta, GA or Washington, D.C.)

MC 115162 (Sub-463F), filed February 26, 1979. Applicant: POOLE TRUCK LINE, INC., P.O. Drawer 500, Evergreen, AL 36401. Representative: Robert E. Tate (same address as applicant). To operate as a *common carrier*, by motor vehicle,

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in interstate or foreign commerce, over irregular routes, transporting (1) *plastic bags, plastic can liners, plastic containers, plastic articles, plastic film, plastic sheeting, plastic drop cloths, and plastic tarpaulins*, from points in Lawrence County, TN, to points in AL, AR, CO, FL, GA, IL, IN, KS, KY, LA, MI, MS, MO, NC, OH, OK, SC, TX, VA, and WV, and (2) *equipment, materials, and supplies* used in the manufacture and distribution of commodities named in (1) above in the reverse direction. (Hearing site: Nashville, TN, or Atlanta, GA.)

MC 115322 (Sub-163F), filed February 22, 1979. Applicant: REDWING REFRIGERATED, INC., P.O. Box 10177, Taft, FL 32809. Representative: L. W. Fincher, P.O. Box 426, Tampa, FL 33601. To operate as a *common carrier*, by motor vehicle, in interstate or foreign commerce, over irregular routes, transporting *canned and preserved foodstuffs*, from points in Cattaraugus, Wayne, Genesee, Livingston, and Ontario Counties, NY, to points in AL, DE, FL, GA, MD, NC, SC, TN, VA, WV, and DC. (Hearing site: Washington, D.C.)

MC 115603 (Sub-16F), filed February 21, 1979. Applicant: TURNER BROS. TRUCKING CO., INC., P.O. Box 94626, Oklahoma City, OK 73143. Representative: Clint Oldham, 1108 Continental Life Bldg., Fort Worth, TX 76102. To operate as a *common carrier*, by motor vehicle, in interstate or foreign commerce, over irregular routes, transporting (1) *pipe* and *iron and steel articles* (except pipe), from Conroe, TX, to points in the United States (including AK, But excluding HI); and (2) *materials, equipment, and supplies* used in the manufacture and distribution of the commodities in (1) above, in the reverse direction. (Hearing site: Dallas, TX.)

MC 116763 (Sub-486F), filed February 21, 1979. Applicant: CARL SUBLER TRUCKING, INC., North West Street, Versailles, OH 45380. Representative: H. M. Richters (same address as applicant). To operate as a *common carrier*, by motor vehicle, in interstate or foreign commerce, over irregular routes, transporting *such commodities* as are dealt in or used by manufacturers, distributors, wholesalers, and retailers, of leather and leather products (except commodities in bulk, in tank vehicles), from those points in the United States in and east of ND, SD, NE, CO, and NM (except WI), to points in WI, restricted to the transportation of traffic destined to the named destinations. (Hearing site: Milwaukee, WI.)

MC 116763 (Sub-487F), filed February 21, 1979. Applicant: CARL SUBLER TRUCKING, INC., North West Street, Versailles, OH 45380. Representative: H. M. Richters (same address as applicant). To operate as a *common carrier*, by motor vehicle, in interstate or foreign commerce, over irregular routes, transporting *such commodities* as are dealt in or used by manufacturers and distributors of appliances and cookware, (except commodities in bulk, in tank vehicles), from points in the United States in and east of MN, IA, MO, OK, and TX to the facilities of The West Bend Co., Division of Dart Ind., at or near West Bend and Rockfield, WI, restricted to the transportation of traffic destined to the named destination facilities. (Hearing site: Milwaukee, WI.)

MC 116763 (Sub-488F), filed February 21, 1979. Applicant: CARL SUBLER TRUCKING, INC., North West Street, Versailles, OH 45380. Representative: H. M. Richters (same address as applicant). To operate as a *common carrier*, by motor vehicle, in interstate or foreign commerce, over irregular routes, transporting (1) *macaroni, spaghetti, noodles, and vermicelli products*, from the facilities of American Beauty Macaroni Co., at or near Denver, CO, to points in KS, MO, and MN; (2) *canned and preserved foodstuffs*, (except frozen foods), from the facilities of Ellis Food Corp., at or near Denver, CO, to points in KS, MO, and NE; and (3) *canned and preserved foodstuffs, flour, shortening, cooking oil, an salad oil*, (except frozen foods and commodities in bulk, in tank vehicles), from the facilities of Rustco Products Co., Division of Federal Co., at or near Denver, CO, to points in AR, AL, FL, GA, IA, IL, IN, KY, LA, MI, MN, MS, MO, OH, PA, and WI, restricted in (1), (2), and (3) above to the transportation of traffic orginating at the named origin facilities and destined to the indicated destinations. (Hearing site: Denver, CO.)

MC 116763 (Sub-490F), filed February 21, 1979. Applicant: CARL SUBLER TRUCKING, INC., North West Street, Versailles, OH 45380. Representative: H. M. Richters (same address as applicant). To operate as a *common carrier*, by motor vehicle, in interstate or foreign commerce, over irregular routes, transporting (1) *frozen foodstuffs* and (2) *shellfish and fish*, the transportation of which is otherwise exempt from economic regulation under 49 U.S.C. § 10526(a)(6), when transported in mixed loads with the commodities in (1) above, from the facilities of Denver Fish & Shoran Foods Co., at or near Denver, CO, to points in IL, IN, OH, MN, and WI, restricted to the transportation of traffic originating at the named origin facilities and destined to the indicated destinations. (Hearing site: Denver, CO.)

MC 118142 (Sub-211F), filed February 16, 1979. Applicant: M. BRUENGER & CO., INC., 6250 North Broadway, Wichita, KS 67219. Representative: Lester C. Arvin, 814 Century Plaza Bldg., Wichita, KS 67202. To operate as a *common carrier*, by motor vehicle, in interstate or foreign commerce, over irregular routes, transporting *bananas*, and *agricultural commodities* the transportation of which is otherwise exempt from economic regulation under 49 U.S.C. § 10526(a)(6) (1978), in mixed loads with bananas, from Gulfport, MS, to St. Louis, MO, and points in IL, IM, IA, MI, and WI, restricted to the transportation of traffic having an immediately prior movement by water. (Hearing site: New Orleans, LA, or Gulfport, MS.)

Note.—Dual operations may be involved.

MC 119493 (Sub-264F), filed February 23, 1979. Applicant: MONKEM COMPANY, INC., P.O. Box 1196, Joplin, MO 64801. Representative: Thomas D. Boone (same address as applicant). To operate as a *common carrier*, by motor vehicle, in interstate or foreign commerce, over irregular routes, transporting (1) *animal and poultry feed and ingredients* (except in bulk), and (2) *materials and supplies*, used in the manufacture, sale, and distribution of commodities in (1) above, (except in bulk), between Columbus, OH, on the one hand, and, on the other, points in the United States in and east of MT, WY, CO, and NM. (Hearing site: Columbus, OH, or Chicago, IL.)

MC 125433 (Sub-177F), filed December 1, 1978, and previously published in the **Federal Register** on April 17, 1979, as Sub 117F. Applicant: F-B TRUCK LINE COMPANY, A Corporation, 1945 South Redwood Road, Salt Lake City, UT 84104. Representative: John B. Anderson (same address as applicant). The scope of this application remains as previously published. The purpose of this republication is to correctly identify the application as Sub-No. 177F.

MC 125433 (Sub-209F), filed February 8, 1979. Applicant: F-B TRUCK LINE COMPANY, A Corporation, 1945 South Redwood Road, Salt Lake City, UT 84104. Representative: John B. Anderson (same address as applicant). To operate as a *common carrier*, by motor vehicle, in interstate or foreign commerce, over irregular routes, transporting *charcoal, charcoal briquets, hickory chips, charcoal lighter fluid, compressed sawdust fireplace logs, and barbecue supplies*, from the facilities of Husky Industries at or near Dickinson, ND, to points in CA, CO, ID, MT, NE, NM, OR, TX, and WA. (Hearing site: Dallas, TX.)

MC 125433 (Sub-212F), filed February 14, 1979. Applicant: F-B TRUCK LINE COMPANY, A Corporation, 1945 South Redwood Road, Salt Lake City, UT 84104. Representative: John B. Anderson (same address as applicant). To operate as a *common carrier*, by motor vehicle, in interstate or foreign commerce, over irregular routes, transporting *cement pipe containing asbestos fibre and pipe fittings*, from Van Buren, AR, to those points in the United States in and west of MN, IA, MO, OK, TX, and LA (except AK and HI); and (2) *materials and supplies* used in the manufacture and distribution of the commodities in (1) above, in the reverse direction. (Hearing site: Chicago, IL.)

MC 125433 (Sub-214F), filed February 16, 1979. Applicant: F-B TRUCK LINE COMPANY, A Corporation, 1945 South Redwood Road, Salt Lake City, UT 84104. Representative: John B. Anderson (same address as applicant). To operate as a *common carrier*, by motor vehicle, in interstate or foreign commerce, over irregular routes, transporting *shaped metal articles*, and *parts* for shaped metal articles, (except commodities the transportation of which because of size or weight requires the use of special equipment), from the facilites of Simpson Company, at San Leandro, CA, to those points in the United States in and east of ND, SD, NE, KS, OK, and TX, restricted to the transportation of traffic originating at the named origin facilities. (Hearing site: San Francisco, CA.)

MC 125433 (Sub-215F), filed February 16, 1979. Applicant: F-B TRUCK LINE COMPANY, A Corporation, 1945 South Redwood Road, Salt Lake City, UT 84104. Representative: John B. Anderson (same address as applicant). To operate as a *common carrier*, by motor vehicle, in interstate or foreign commerce, over irregular routes, transporting (1) *hydraulic pumps*, and (2) *attachments, accessories, equipment, and supplies* used in connection with hydraulic pumps, between the facilities of Paul Munroe Hydraulics, Inc., at or near Whittier and Orange, CA, on the one hand, and, on the other, points in the United States (except AK and HI). (Hearing site: Los Angeles, CA.)

MC 127042 (Sub-247F), filed February 6, 1979, and previously published in the **Federal Register** on March 29, 1979. Applicant: HAGEN, INC., P.O. Box 98, Leeds Station, Sioux City, IA 51106. Representative: Robert G. Tessar (same address as applicant). To operate as a *common carrier*, by motor vehicle, in interstate or foreign commerce, over irregular routes, transporting *meats, meat products and meat byproducts*, and *articles distributed by meat-packing houses*, as described in sections A and C of Appendix I to the report in *Descriptions in Motor Carrier Certificates*, 61 M.C.C. 209 and 766, (except hides and commodities in bulk, in tank vehicles), from Glenwood and Des Moines, IA, to points in CA. (Hearing site: Omaha, NE.)

Note.—The purpose of this republication is to add Des Moines, IA, as an origin.

MC 126133 (Sub-24F), filed February 16, 1979. Applicant: H. H. OMPS, INC., Route 7, Box 295, Winchester, VA 22601. Representative: Jeremy Kahn, Suite 733 Investment Bldg., 1511 K Street, NW, Washington, DC 20005. To operate as a *common carrier*, by motor vehicle, in interstate or foreign commerce, over irregular routes, transporting *rock salt*, in bulk, from Baltimore, MD, to points in Caroline, Clarke, Culpeper, Fairfax, Fauquier, Frederick, Greene, King George, Loudoun, Madison, Orange, Page, Prince William, Rappahannock, Rockingham, Shenandoah, Spotsylvania, Stafford, and Warren Counties, VA, and Berkeley, Hardy, Hampshire, Jefferson, Mineral, and Morgan Counties, WV. (Hearing site: Washington, DC.)

MC 134082 (Sub-18F), filed February 5, 1979. Applicant: K. H. TRANSPORT, INC., 4796 Linthicum Road, Dayton, MD 21036. Representative: Chester A. Zyblut, 366 Executive Building, 1030 Fifteenth Street, N.W., Washington, DC 20005. To operate as a *common carrier*, by motor vehicle, in interstate or foreign commerce, over irregular routes, transporting *frozen meats*, from Port Newark, NJ, Philadelphia, PA, Wilmington, DE, and Baltimore, MD, to points in IL, IN, KY, MD, MO, OH, PA, TN, and WI, restricted to the transportation of traffic having a prior movement by water. (Hearing site: Washington, DC.)

MC 136782 (Sub-12F), filed February 14, 1979. Applicant: R.A.N. TRUCKING COMPANY, A Corporation, P.O. Box 128, Eau Claire, PA 16030. Representative: Daniel C. Sullivan, 10 S. LaSalle Street, Suite 1600, Chicago, IL 60603. To operate as a *common carrier*, by motor vehicle, in interstate or foreign commerce, over irregular routes, transporting *general commodities* (except those of unusual value, classes A and B explosives, household goods as defined by the Commission, commodities in bulk, and those requiring special equipment), from New York, NY, Wilmington, DE, and Trenton and Camden, NJ, to Pittsburgh, PA, and points in Butler County, PA. Condition: The person or persons who appear to be engaged in common control must either file an application under 49 U.S.C. Section 11343(a)(1978) (formerly Section 5(2) of the Interstate Commerce Act), or submit an affidavit indicating why such approval is unnecessary. (Hearing site: Pittsburgh, PA, or Washington, DC.)

Note.— Applicant states that the purpose of this application is to substitute single line service for joint line service.

MC 139743 (Sub-7F), filed February 23, 1979. Applicant: GEORGIA CARPET EXPRESS, INC., P.O. Box 1680, Dalton, GA 30720. Representative: Archie B. Culbreth, Suite 202, 2200 Century Parkway, Atlanta, GA 30345. To operate as a *common carrier*, by motor vehicle, in interstate or foreign commerce, over irregular routes, transporting *carpets, carpeting and carpet samples*, from the facilities of (1) Galaxy Carpet Mills, Inc., at or near Chatsworth, GA, and (2) E.T. Barwick Industries, Inc., at or near Lafayette, GA, to points in AZ, NV, and NM. (Hearing site: Atlanta, GA.)

MC 141033 (Sub-49F), filed February 23, 1979. Applicant: CONTINENTAL CONTRACT CARRIER CORP., A corporation, 15045 E. Salt Lake Avenue, P.O. Box 1257, City of Industry, CA 91749. Representative: Richard A. Peterson, P.O. Box 81849, Lincoln, NE 68501. To operate as a *common carrier*, by motor vehicle, in interstate or foreign commerce, over irregular routes, transporting (1) *such commodities as are dealt in by hardware stores, drug stores, discount houses, wholesale and retail grocery, and food business houses, and (2) material and supplies* used in the manufacture of the commodities in (1) above, between points in the United States (except AL and HI). (Hearing site: Oakland, CA, or Washington, DC.)

MC 145152 (Sub-26F), filed November 28 1978, and previously published in the **Federal Register** on February 8, 1979. Applicant: BIG THREE TRANSPORTATION, INC., Post Office Box 706, Springdale, AR 72764. Representative: Don Garrison, Post Office Box 159, Rogers, AR 72756. To operate as a *common carrier*, by motor vehicle, in interstate or foreign commerce, over irregular routes, transporting (1) *office furniture*, from Springdale, AR, to points n AL, AZ, CO, CT, DE, FL, GA, IA, ID, IL, IN, KS, KY, LA, MA, MD, ME, MI, MN, MO, MS, MT, NC, ND, NE, NM, NH, NJ, NY, NV, OH, OK, PA, RI, SC, SD, TN, TX, UT, VA, VT, I, WV, WY, and DC; and (2) *parts, equipment, materials*, and *supplies* used in the manufacture of office furniture, from Grand Rapids, MI, Laurel, MS, and

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Morristown, TN, to Springdale, AR. (Hearing site: Fayetteville, AR, or Tulsa, OK.)

Note—The purpose of this republication is to change the teritorial description in parts (1) and (2)

MC 141212 (Sub-2F), filed February 26, 1979. Applicant: JOHN M. RADKE, Route 2, Box 93, Marathon, WI 54448. Representtative: Richard A. Westley, 4506 Regent Street, Suite 100, Madison, WI 53705. To operate as a *common carrier*, by motor vehicle, in interstate or foreign commerce, transporting *degenerated granite*, in bulk, in dump vehicles, from points in Marathon County, WI, to points in IL and IM. (Hearing site: Chicago, IL.)

MC 141652 (Sub-32F), filed February 22, 1979. Applicant: ZIP TRUCKING, INC., P.O. Box 5717, Jackson, MS 39208. Representative: Paul M. Daniell, P.O. Box 872 Atlanta GA 30301. To operate as a *common carrier*, by motor vehicle, in interstate or foreign commerce, over irregular routes, transporting *fabrics and piece goods*, from points in CT, MD, MA, NJ, NY, PA, and RI, to Tupelo, MS. (Hearing site: Jackson, MS, or New Orleans, LA.)

MC 142352 (Sub-5F), filed February 26, 1979. Applicant: HAUSMAN TRUCKING, INC., 607 D Avenue, Vinton, IA 52349. Representative: JOHN P. RHODES, P.O. Box 5000, Waterloo, IA 50704. To operate as a *common carrier*, by motor vehicle, in interstate or foreign commerce, over irregular routes, transporting *meats, meat products and meat byproducts, and articles distributed by meat-packing houses*, as described in Sections A and C of Appendix I to the report in *Descriptions in Motor Carrier Certificates*, 61 M.C.C. 209 and 766 (except hides and commodities in bulk), from the facilities of Wilson Foods Corporation at Cedar Rapids, IA, to points in AL, AR, GA, IL (except Chicago, IL, and its commercial zone), and MO, restricted to the transportation of trafic originating at the named origin facilities and destined to the indicated distinations. (Hearing site: Oklahoma City, OK, or Washington, DC.)

MC 144233 (Sub-3F), filed February 14, 1979. Applicant: REJEAN, INC., Hwy 64 East, Russellville, AR 72801. Representative: Thomas B. Staley, 1550 Tower Bldg., Little Rock, AR 72201. To operate as a *common carrier*, by motor vehicle, in interstate or foreign commerce, over irregular routes, transporting *zinc oxide, zinc dust, zinc slabs, and zinc dross*, (except commodities in bulk, in tank vehicles), from the facilities of St. Joe Zinc Company, at Josephtown, PA, to points in the United States (except AK and HI). (Hearing site: Little Rock, AR.)

MC 144672 (Sub-9F), filed February 12, 1979. Applicant: VICTORY EXPRESS, INC., P.O. Box 26189, Trotwood, OH 45426. Representative: Richard H. Schaefer (same address as applicant). To operate as a *common carrier*, by motor vehicle, in interstate or foreign commerce, over irregular routes, transporting *such commodities* as are dealt in or used by manufacturers, converters, and printers of paper and paper products, between points in Champaign and Montgomery Counties, OH, on the one hand, and, on the other, points in the United States, (except AK and HI). (Hearing site: Columbus, OH.)

Note.—Dual operations may be involved.

MC 144982 (Sub-2F), filed February 26, 1979. Applicant: OHIO PACIFIC EXPRESS, INC., 2385 South High Street, Columbus, OH 43207. Representative: Thomas F. Kilroy, Suite 406, Executive Building, 6901 Old Keene Mill Road, Springfield, VA 22150. To operate as a *common carrier*, by motor vehicle, in interstate or foreign commerce, over irregular routes, transporting *cleaning compounds and chemicals* (except in bulk), from Terre Haute, IN, to points in AZ, CA, CO, FL, GA, ID, LA, MT, NV, NM, OK, OR, TN, TX, UT, WA, and WY. (Hearing site: Columbus or Cincinnati, OH.)

MC 145072 (Sub-8F), filed February 16, 1979. Applicant: M. S. CARRIERS, INC., 7372 Eastern Avenue, Germantown, TN 37138. Representative: A. Doyle Cloud, Jr., 2008 Clark Tower, 5100 Poplar Avenue, Memphis, TN 38137. To operate as a *common carrier*, by motor vehicle, in interstate or foreign commerce, over irregular routes, transporting *tires*, from Warren, OH, to points in AL, AR, MS, and TN. (Hearing site: Memphis, TN.)

Note.—Dual operations may be involved.

MC 145092 (Sub-1F), filed February 23, 1979. Applicant: HILT TRUCK LINE, INC., P.O. Box 988, D.T.S., Omaha, NE 68101. Representative: Thomas L. Hilt (same address as applicant). To operate as a *contract carrier*, by motor vehicle, in interstate or foreign commerce, over irregular routes, transporting (1) *plastic, rubber, and plastic and rubber articles*, and (2) *such commodities* as are used in the manufacture, distribution, and sale of the commodities named in (1) above, (except commodities in bulk), between points in the United States (except AK and HI), restricted to the transportation of traffic under continuing contract(s) with Osterman & Brewer, Inc., of Dallas, TX. (Hearing site: Washington, DC.)

MC 145673 (Sub-3F), filed February 7, 1979. Applicant: ROAD RAIL SERVICES, INC., 860 Skokie Hwy., Lake Bluff, IL 60044. Representative: James R. Madler, 120 W. Madison Street, Chicago, IL 60602. To operate as a *common carrier*, by motor vehicle, in interstate or foreign commerce, over irregular routes, transporting *automobile parts, automobile supplies, and automobile accessories*, (except commodities in bulk), from Bedford Park and Hinsdale, IL, to points in IN, OH, and MI. (Hearing site: Chicago, IL.)

MC 146272 (Sub-1F), filed February 23, 1979. Applicant: J & H TRUCKING LTD., a Corporation, Box 255, Lillooet, British Columbia, Canada. Representative: Michael D. Duppenthaler, 211 South Washington Street, Seattle, WA 98104. To operate as a *contract carrier*, by motor vehicle, in interstate or foreign commerce, over irregular routes, transporting *lumber, veneer, and railroad ties*, from Ports of Entry on the International Boundary Line between the United States and Canada, at Blaine and Sumas, WA, to Arlington, WA, under a continuing contract(s) with William A. Cook, of Lillooet, B.C., Canada VOK 1VO. (Hearing site: Seattle, WA.)

MC 146473F, filed February 16, 1979. Applicant: C. L. D. TRANSPORTATION CO., INC., 751 Broadway, Bayonne, NJ 07002. Representative: Charles J. Williams, 1815 Front Street, Scotch Plains, NJ 07076. To operate as a *contract carrier*, by motor vehicle, in interstate or foreign commerce, over irregular routes, transporting *passengers and their baggage*, in the same vehicle as passengers, in charter operations, beginning and ending at Bayonne, NJ, and extending to points in the United States (including AK, but excluding HI), under continuing contract(s) with Domenico Tours, Inc., of Bayonne, NJ. (Hearing site: Newark, NJ, or New York, NY.)

[Decisions Volume No. 52]
[FR Doc. 79-14236 Filed 5-7-79; 8:45 am]
BILLING CODE 7035-01-M

Exemption Under Provision of Rule 19 of the Mandatory Car Service Rules Ordered in Ex Parte No. 241

To: *All Railroads:* Upon further consideration of Revised Exemption No. 143 issued January 24, 1979.

It is ordered, That, under authority vested in me by Car Service Rule 19, Revised Exemption No. 143 to the Mandatory Car Service Rules ordered in Ex Parte No. 241 is amended to expire July 31, 1979.

This amendment shall become effective April 30, 1979.

Issued at Washington, D.C., April 27, 1979.
Interstate Commerce Commission.
Robert S. Turkington,
Agent.

[Amdt. 1 to Revised Exemption No. 143]
[FR Doc. 79-14333 Filed 5-7-79; 8:45 am]
BILLING CODE 7035-01-M

Exemption Under Provision of Rule 19 of the Mandatory Car Service Rules Ordered in Ex Parte No. 241

To: *All Railroads:* Because of a strike situation, the Pitsburgh and Lake Erie Railroad Company is unable to furnish shippers gondola cars of suitable ownership to maintain operations thereby threatening to close factories and create economic loss.

It is ordered, That pursuant to the authority vested in me by Car Service Rule 19:

The Pittsburgh and Lake Erie Railroad Company is authorized to accept from shippers general service plain gondola cars less than 61-ft., in length and bearing mechanical designations "GA", "GB", "GD", "GH", "GS", and "GT", as listed in the Official Railway Equipment Register, ICC RER 6410–A issued by W. J. Trezise, or successive issues thereof, regardless of the provisions of Car Service Rules 1 and 2.

It is further ordered, This exemption shall not apply to cars of Mexican or Canadian ownership or to cars subject to Interstate Commerce Commission or Association of American Railroads' Orders requiring return of cars to owners.

Effective April 20, 1979.
Expires May 11, 1979.

Issued at Washington, D.C., April 20, 1979.
Interstate Commerce Commission.
Joel E. Burns,
Agent.

[Exemption No. 165]
[FR Doc. 79-14334 Filed 5-7-79; 8:45 am]
BILLING CODE 7035-01-M

New York, Susquehanna and Western Railroad Co. Rerouting Traffic.

Upon further consideration of I.C.C. Order No. 1 (New York, Susquehanna and Western Railroad Company), and good cause appearing therefor:

It is ordered, I.C.C. Order No. 1, is amended by substituting the following paragraph (g) for paragraph (g) thereof:

(g) *Expiration date.* This order shall remain in effect until modified or vacated by order of this Commission.

Effective date. This amendment shall become effective at 11:59 p.m. April 30, 1979.

This amendment shall be served upon the Association of American Railroads, Car Service Division, as agent of all railroads subscribing to the car service and car hire agreement under the terms of that agreement, and upon the American Short Line Railroad Association. A copy of this amendment shall be filed with the Director, Office of the Federal Register.

Issued at Washington, D.C., April 27, 1979
Interstate Commerce Commission.
Robert S. Turkington,
Agent.

[Amdt. No. 2 to I.C.C. Order No. 1 under S.O. No. 1344]
[FR Doc. 79-14335 Filed 5-7-79; 8:45 am]
BILLING CODE 7035-01-M

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Sunshine Act Meetings

Federal Register
Vol. 44, No. 90
Tuesday, May 8, 1979

This section of the FEDERAL REGISTER contains notices of meetings published under the "Government in the Sunshine Act" (Pub. L. 94-409) 5 U.S.C. 552b(e)(3).

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CIVIL AERONAUTICS BOARD.

Deletion of item from the May 3, 1979 meeting agenda.

TIME AND DATE: 10 a.m., May 3, 1979.

PLACE: Room 1027, 1825 Connecticut Avenue NW., Washington, D.C. 20428.

SUBJECT:

26. Dockets 24817 and 30998; Agreements among the members of the Air Traffic Conference of America (ATC) relating to travel agency bonding requirements. CAB 16874–A67 and CAB 16874–A34. (memo 8744, BPDA, OGC, BCP).

STATUS: Open.

PERSON TO CONTACT: Phyllis T. Kaylor, the Secretary (202) 673–5068.

SUPPLEMENTARY INFORMATION: Item 26 is being deleted because the Chairman needs additional time to review this case. Accordingly, the following Members have voted that agency business requires that Item 26 be deleted from the May 3, 1979 meeting and that no earlier announcement of this deletion was possible:

Acting Chairman Richard J. O'Melia
Member Elizabeth E. Bailey
Member Gloria Schaffer

[M–216, Amdt. 4; May 3, 1979]

[S–910–79 Filed 5–4–79; 2:08 pm]

BILLING CODE 6320–01–M

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CIVIL AERONAUTICS BOARD.

TIME AND DATE: 10 a.m., May 10, 1979.

PLACE: Room 1027—Open, room 1011—closed, 1825 Connecticut Avenue NW., Washington, D.C. 20428.

SUBJECT:

1. Ratification of items adopted by notation.

2. Docket 34191, Draft final rule to eliminate the reporting of freight loss and damage claims data (memo 8760, OEA, BPDA, OGC).

3. Docket 34492, Amendment of Part 385 Delegation and Review of Action Under Delegation; Nonhearing Matters (OGC, OEA).

4. Docket 34280, Third-party complaint of Carlsbad, Clovis, and Hobbs, N. Mex.; Enforcement Proceeding for the assessment of civil penalties against Texas International Airlines for failure to meet service obligations at Carlsbad, Clovis, and Hobbs, N. Mex. (BCP, OGC, BPDA).

5. Release of investigation materials obtained by administrative supoenas in enforcement cases (BCP).

6. Proposed elimination of the requirement that carrier commission schedules be filed with the Board (OGC, BCP).

7. Amendment of Part 252 of the Board's Economic Regulations concerning filing of no-smoking manuals (memo 8589–C, OGC, BCP).

8. H.R. 612, a bill to prohibit the denial of air transportation solely on the basis of handicap (OGC).

9. Docket 31407 (Donald L. Pevsner v. American Airlines et al.), petition for review of BOE decision dismissing Pevsner's third-party complaint alleging that U.S. foreign carriers have failed to comply with Board Order 76–3–81 requiring the cancellation of certain baggege rules and charges in foreign air transportation (OGC).

10. Docket 30790, Motion of BCAL to modify previous order granting conditional release of international traffic data (memo 7978–J, OGC, BIA).

11. Docket 30699, *Oakland Service Case* (fitness phase)—Order taking discretionary review of issue of Aero-america's fitness (OGC).

12. Docket 28778, *Additional Dallas/Fort Worth-Kansas City Nonstop Service Investigation*, Draft Order (memo 7778–C, OGC).

13. Docket 32485, *Baltimore/Washington-St. Louis Route Proceeding*, Draft Order (OGC).

14. Docket 32115 and 34814; *Boise-Denver Nonstop Proceeding; Application of Frontier Airlines, Inc.* (for Boise-Denver Exemption Authority)—Opinion and Order (OGC).

15. Docket 24817 and 30998; Agreements among the members of the Air Traffic Conference of America (ATC) relating to travel agency bonding requirements, CAB 16874–A67 and CAB 16874–A34 (memo 8744, BPDA, OGC, BCP).

16. Dockets 33125, 33335, 34891, 34919, 34929, 34935, 34938, 35045, and 35072; Great Lakes-Florida Service (BPDA).

17. Docket 29789, Houston/New Orleans-Yucatan Route Proceeding (memo 6382–F, OGC).

18. Docket 35080, TWA's application for an exemption authorizing flights between Los Angeles and Fort Lauderdale, and other points (memo 8755, BPDA).

19. Docket 34567, Piedmont Aviation's Application in three Charleston, S.C. Markets (memo 8557–A, BPDA).

20. Docket 34717, United's application for an exemption from condition 17 of its certificate for Route 51 (memo 8765, BPDA).

21. Processing of section 401(j)(2) notices under Interim Part 323 (BPDA, OS, OASO, OGC, OI).

22. Dockets 34667, 34807, 34878, 35132, and 35134; applications of Braniff, Western, Ozark, Piedmont and Hughes Airwest for Dallas/Ft. Worth-Phoenix Nonstop Authority (memo 8763, BPDA, OGC, BLJ).

23. Dockets 34303, 34767, and 34767; Application of Pacific Southwest Airlines for a certificate of public convenience and necessity authorizing subsidy-ineligible nonstop authority between Denver and San Francisco/Los Angeles and San Diego. Applications of Hughes Airwest and Ozark Air Lines for similar authority and motions to consolidate filed in Docket 34767 (memo 8766, BPDA, OGC, BLJ).

24. Dockets 33527, 33815, 33923, 33901, 33665, 33659, 34709, 34726, 34733, 34732, 34735, 34303, 34747, and 34865; Applications of Frontier, Northwest, American, Ozark, Western, Trans World, Piedmont, Braniff, Eastern Southern, National, Pacific Southwest, North Central and Delta for Denver-Los Angeles nonstop authority (memo 8443–A, BPDA, OGC, BLJ).

25. Dockets 33826, 34086, 34145, 34174, 33894, 34696, 34687, 34707, 34690, 34694, 34718, 34750, 34659, 34303, 34698, and 34693; Applications of Continental, Delta, Ozark, TWA, American, Braniff, Eastern, Frontier, Hughes Airwest, National, North Central, Northwest, Pacific Southwest, Southern, and TXI for Denver-San Francisco and/or Denver-San Jose nonstop authority (BPDA, OGC, BLJ).

26. Docket 34321, Finalization of Show-Cause Order 79–3–85, tentatively amending Piedmont's certificate for Route 87 to permit one-stop operations in the Nashville/Washington market (memo 8585–A, BPDA).

27. Docket 34521, Allegheny's petition for show-cause procedures on its application for removal of certificate restrictions on its operations between Chicago and Cleveland, Chicago and White Plains, and Burlington and Chicago (memo 8757, BPDA, OGC, BLJ).

28. Docket 34739, Delta's notice of intent to suspend service at Beaumont/Pt. Arthur, Texas (BPDA).

29. Docket 34740, Notice of Delta Air Lines, Inc. of intent to suspend air service at Meridian, Mississippi under section 401(j) of the Act (BPDA).

30. Dockets 34513, 26681, and 34565; Petition of the Port of Astoria for determination of essential air transportation; Hughes Airwest Petition for modification of orders granting temporary suspension, and notice of intent to terminate service at Astoria/Seaside, Oregon (BPDA).

31. Dockets 34707 and 34852, Ozark's notice of suspension of all air service at Ottumwa, Iowa, the Airport Commission of the City of Ottumwa's petition for determination of essential air service, and the City of Waterloo's motion for reconsideration of Order 79–3–186 (BPDA).

32. Docket 35034, Application of Mississippi Valley Airlines, Inc. for an exemption to permit it to suspend service at St. Louis on less than the 90 days' notice required by Section 37(c) of the Airline Deregulation Act (memo 8759, BPDA).

33. Docket 35084, Application of United for a blanket exemption from section 403 of the Act to enable it to transport other carriers' charter passengers on its scheduled service in emergency situations (memo 8762, BPDA).

34. Dockets 34640, 34757, and 34856; Application of Pan American, Northwest, and Braniff for exemption from the Hawaii common-fare requirement (memo 8758, BPDA).

35. Docket 35075, Temporary subsidy mail rate for Air New England, Inc (BPDA, OCCR, OC, OGC).

36. Dockets 31574 and 35366; *California-Nevada Low-Fare Route Proceeding; Application of PSA for Long Beach Exemption Authority* (memo 7433–E, OGC).

37. Docket 34317, Application of Alberta Northern Airlines LTD for an initial foreign air carrier permit to operate charters between Canada and the United States using small aircraft (BIA, OGC, BLJ).

38. Dockets 34875 and 35010; Applications of TIA and World for exemptions to perform U.S.-Ireland scheduled service (memo 8654–D, BIA).

STATUS: Items 1–37 open; item 38 closed.

PERSON TO CONTACT: Phyllis T. Kaylor, the Secretary (202) 673–5068.

SUPPLEMENTARY INFORMATION: Public disclosure, particularly to foreign governments, of opinions, evaluations, and strategies of the consultations could seriously compromise the ability of the United States Delegation to achieve an agreement which would be in the best interest of the United States. Accordingly, the following Members have voted that public observation of this meeting would involve matters the premature disclosure of which would be likely to significantly frustrate implementation of proposed agency action within the meaning of the exemption provided under 5 U.S.C. 552b(e)(9)(B) and 14 CFR section 310b.5(9)(B) and that the meeting will be closed.

Member Richard J. O'Melia
Member Elizabeth E. Bailey
Member Gloria Schaffer

PERSONS EXPECTED TO ATTEND:

Board Members: Chairman Marvin S. Cohen, Member Richard J. O'Melia, Member Elizabeth E. Bailey, and Member Gloria Schaffer.

Assistant to Board Members: Mr. Sanford Rederer, Mr. David M. Kirstein, Mr. Richard Klem, Mr. Stephen H. Lachter, and Mr. James L. Deegan.

Managing Director: Mr. Cressworth Lander.

Executive Assistant to the Managing Director: Mr. John R. Hancock.

Bureau of International Affairs: Mr. Donald L. Litton, Mr. Anthony M. Largay, Mr. David A. Levitt, Mr. Rosario J. Scibilia, Mr. Richard M. Loughlin, and Mr. Joseph Chesen.

Office of the General Counsel: Mr. Gary J. Edles, Mr. Michael Schopf, and Mr. Peter B. Schwarzkopf.

Bureau of Pricing and Domestic Aviation: Mr. Michael E. Levine, Mr. John Kiser, Mr. Douglas Leister, Ms. Barbara A. Clark, and Mr. Herbert P. Aswall.

Office of Economic Analysis: Mr. Robert H. Frank and Mr. Larry Manheim.

Bureau of Consumer Protection: Mr. Reuben Robertson and Ms. Patricia Kennedy.

Office of the Secretary: Mrs. Phyllis T. Kaylor, Ms. Deborah A. Lee, and Ms. Louise Patrick.

General Counsel Certification

I certify that this meeting may be closed to the public under 5 U.S.C. 552b(c)(9)(B) and 14 CFR section 310b.5(9)(B) and that the meeting may be closed to public observation.

Philip Bakes, Jr.,
General Counsel.

[M–217; May 3, 1979]

[S–911–79 Filed 5–4–79; 2:06 pm]

BILLING CODE 6320–01–M

3

FEDERAL ELECTION COMMISSION.

"FEDERAL REGISTER" NO. FR–S–903.

PREVIOUSLY ANNOUNCED DATE AND TIME: Thursday, May 10, 1979 at 10 a.m.,

CHANGE IN MEETING: The following item has been deleted from the closed portion of the meeting: Audits continued from the meetings of April 11, 19, 25, 26, and May 3.

PERSON TO CONTACT FOR INFORMATION: Mr. Fred S. Eiland, Public Information Officer, 202–523–4065.

Lena L. Stafford,
Acting Secretary to the Commission.

[S–90–B–79 Filed 5–4–79; 1:43 pm]

BILLING CODE 6715–01–M

4

FEDERAL ENERGY REGULATORY COMMISSION.

May 4, 1979.

AGENCY HOLDING METTING: Federal Energy Regulatory Commission.

TIME AND DATE: 10 a.m., May 4, 1979.

PLACE: Commissioners library, 825 North Capitol Street, NE., Washington, D.C. 20426.

STATUS: Closed.

MATTERS TO BE CONSIDERED: Continued meeting from March 28, 1979, on matters relating to an investigation. Two additional matters relating to an investigation.

CONTACT PERSON FOR MORE INFORMATION: KENNETH F. PLUMB, SECRETARY, (202) 275–4166.

[S–907–79 Filed 5–4–79; 10:55 am]

BILLING CODE 6450–01–M

5

FEDERAL DEPOSIT INSURANCE CORPORATION.

Change in Times of Agency Meetings

Pursuant to the provisions of subsection (e)(2) of the "Government in the Sunshine Act," (5 U.S.C. 552b(e)(2)), notice is hereby given that the meetings of the Corporation's Board of Directors scheduled for 2 p.m. (Open) and 2:30 p.m. (Closed) on Monday, May 7, 1979, have been rescheduled for 10 a.m. and 10:30 a.m., respectively, on that same date.

Dated: May 4, 1979.

Federal Deposit Insurance Corporation,
Hoyle L. Robinson,
Acting Executive Secretary.

[S–912–79 Filed 5–4–79; 3:27 pm]

BILLING CODE 6714–01–M

6

FEDERAL RESERVE SYSTEM.

TIME AND DATE: 11 a.m., Friday, May 11, 1979.

PLACE: 20th Street and Constitution Avenue, N.W., Washington, D.C. 20551.

STATUS: Closed.

MATTERS TO BE CONSIDERED:

1. Personnel actions (appointments, promotions, assignments, reassignments, and salary actions) involving individual Federal Reserve System employees.

2. Any agenda items carried forward from a previously announced meeting.

CONTACT PERSON FOR MORE INFORMATION: Mr. Joseph R. Coyne, Assistant to the Board: (202) 452–3204.

Date: May 3, 1979.

Griffith L. Garwood,
Deputy Secretary of the Board.

[S–908–79 Filed 5–4–79; 1:43 pm]

BILLING CODE 6210–01–M

7

INTERNATIONAL TRADE COMMISSION.

TIME AND DATE: 10:30 a.m., and 2 p.m., Monday, May 14, 1979.

V 4 4 / 9 0

PLACE: Room 117, 701 E Street NW., Washington, D.C. 20436.

STATUS: Parts of this meeting will be open to the public. The rest of the meeting will be closed to the public.

MATTERS TO BE CONSIDERED: PORTIONS OPEN TO THE PUBLIC:

1. Agenda.
2. Minutes.
3. Ratifications.
4. Petitions and complaints, if necessary.
5. Steel wire coat hangers from Canada (Inv. AA1921–Inq.–25)—briefing (during morning session) and vote (during afternoon session).
6. Certain steel wire nails from Korea (Inv. AA1921–Inq.–26)—briefing (during morning session) and vote (during afternoon session).
7. Rayon staple fiber from Italy (Inv. AA1921–197)—briefing (during morning session) and vote (during afternoon session).
8. Any items left over from previous agenda.

Portions closed to the public:

9. Status report on Investigation 332–101 (MTN Study), if necessary (in closed session).

CONTACT PERSON FOR MORE INFORMATION: Kenneth R. Mason, Secretary (202) 523–0161.

[USITC SE–79–20]

[S–914–79 Filed 5–4–79; 8:45 am]

BILLING CODE 7020–02–M

8

SECURITIES AND EXCHANGE COMMISSION.

"FEDERAL REGISTER" CITATION OF PREVIOUS ANNOUNCEMENTS: 44 FR 24692; April 26, 1979.

STATUS: Closed meeting; open meeting.

PLACE: Room 825, 500 North Capitol Street, Washington, D.C.

DATES PREVIOUSLY ANNOUNCED: Monday April 23, 1979.

CHANGES IN THE MEETING: Additional items; deletion. The following item was not considered at the open meeting on Thursday, May 3, 1979 at 10 a.m.:

The Commission will consider a request for an administrative hearing be held on an application filed pursuant to Section 6(c) of the Investment Company Act of 1940 (the "Act") by Investors Diversified Services, Inc. ("IDS"), the IDS Life Insurance Company ("IDS Life"), Alleghany Corporation ("Alleghany"), and two groups of open-end, diversified, management investment companies advised by IDS and IDS Life (the "Funds") requesting a temporary exemption from the provisions of Section 15(a) of the Act to permit the surviving corporation of a proposed merger of IDS into a wholly-owned subsidiary of Alleghany, and IDS Life to continue to render investment advisory services to the Funds after the assignment of their present advisory contracts on the same basis as such services are currently being provided, pending shareholder approval of new contracts. For further information, please contact Glen Payne at (202) 755–1739 or Katherine Malfa at (202) 755–1613.

The following additional item was considered at a closed meeting held on Thursday, May 3, 1979, immediately following the above scheduled meeting:

Regulatory matters bearing enforcement implications.

The following additional item was considered at an open meeting held on Thursday, May 3, 1979 at 3:15 p.m.:

Oral argument on an appeal by Frank DeFelice, Ph. D. and Associates, Inc. and Dr. DeFelice from disciplinary action taken against him by the National Association of Securities Dealers, Inc. For further information, please contact R. Moshe Simon at (202) 755–1530.

The following additional closed items were considered after the 3:15 open meeting:

Post oral discussion.
Regulatory matter bearing enforcement implications.

Commissioners Loomis, Evans, Pollack and Karmel determined that Comission business required the above changes and that no earlier notice thereof was possible.

May 4, 1979.

[S–913–79 Filed 5–4–79; 3:45 pm]

BILLING CODE 8010–01–M

9

TENNESSEE VALLEY AUTHORITY.

TIME AND DATE: 9:30 a.m., Thursday, May 10, 1979. (Meeting No. 1217).

PLACE: Dalton High School, 1500 Manly Street, Dalton, Ga.

STATUS: Open.

MATTERS FOR ACTION:

Personnel Actions [1]

1. Change of status for John T. Shields from Administrator of the International Fertilizer Development Program to Assistant Director of Agricultural Development Office of Agricultural and Chemical Development, Muscle Shoals, Alabama.
2. Change of status for William R. Norwood, Assistant to the Manager of Engineering Design and Construction.
3. Change of status for Jerre W. Wilson, Assistant to the Manager of Engineering Design and Construction.
4. Change of status for Bevan W. Brown, Jr., from Acting Director of Natural Resources Services to Director of Natural Resources Services.
5. Change of status for Richard L. Doub from Chief, Planning and Management Services, to Assistant to the Manager of Natural Resources.
6. Appointment of Michael D. High as Assistant Director, Energy Demonstrations and Technology Division (Energy Demonstrations), Office of Power, Chattanooga, Tennessee.
7. Appointment of J. Frederick Weinhold as Director, Energy Demonstrations and Technology Division, Office of Power, Chattanooga, Tennessee.

[1] These items were approved by individual Board members. This would give formal ratification to the Board's action.

Consulting and Personal Service Contracts

1. Consulting contract with Stanley D. Wilson, Seattle, Washington, for consulting and advisory services in connection with geotechnic and foundation engineering, requested by the Office of Engineering Design and Construction.

Purchase Awards

1. Req. No. 823402—Main steam isolation valves for the Yellow Creek Nuclear Plant.
2. Req. No. 824710—Main feed pump turbines for the Yellow Creek Nuclear Plant.
3. Req. No. 823589 (Reissue)—Requirement contract for metal cable trays and fittings for the Yellow Creek Nuclear Plant.
4. Req. No. 825460—Generator breakers for Browns Ferry Nuclear Plant.
5. Req. No. 595539—Purchase of interim computing equipment for the Computing Services Branch.

Project Authorizatioos

1. No. 3434—Construct a new 500–kv transmission line from the Browns Ferry Nuclear Plant to the Cordova, Tennessee, 500–kv Substation.
2. No. 3423—Install generator breakers and replace unit station-service transformers at Browns Ferry Nuclear Plant.

Power Items

1. Lease and amendatory agreement with Volunteer Electric Cooperative covering arrangements for 161–kv delivery at TVA's Ten Mile 69–kv Substation.
2. Lease and amendatory agreements with city of Cookeville, Tennessee, and Upper Cumberland Electric Membership Corporation covering arrangements for 69–kv delivery to each distributor at TVA's Cookeville District Substation.
3. Lease-purchase and amendatory agreement with Engelherd Minerals & Chemicals Corporation concerning power supply for its ferroalloy plant near Rockwood, Tennessee.
4. Lease-purchase and amendatory agreement with Reynolds Metals Company concerning power supply for its Sheffield, Alabama, operations.
5. Agreement with Middle Tennessee Electric Membership Corporation covering arrangements for participation of TVA in test project concerning heating-cooling storage devices.

Real Property Transactions

1. Grant of permanent easement to The Water Works and Sewer Board of the city of Guntersville, Alabama, for construction of a sewage pumping station affecting approximately 0.5 acre of Guntersville Reservoir land—Tract XTGR–128SP.
2. Grant of 30–year recreation easement to city of Knoxville, Tennessee, affecting approximately 10.9 acres of Fort Loudoun Reservoir land known as Bicentennial Park—Tract XTFL–113RE.
3. Grant of permanent easement to the Tennessee Department of Transportation for public highway right of way affecting approximately 0.67 acre of Guntersville Reservoir land—Tract XTGR–130B.
4. Abandonment of portion of Lonadale-Alcoa transmission line easement and right of way in Blount County, Tennessee—Tract OAE–1.
5. Sale of permanent easement to First Baptist Church of Gilbertsville, Kentucky, for a building site, affecting approximately 0.27 acre of Kentucky Reservoir land in Marshall County, Kentucky—Tract XGIR–900B.
6. Filing of condemnation suits.

Unclassified

1. Letter agreement with the Department of Energy covering arrangements for Oak Ridge National Laboratory to conduct a study of fiber optics communications for utility applications.
2. Adoption of final regulations and implementation of Contract Disputes Act of 1978.

Dated: May 3, 1979.

CONTACT PERSON FOR MORE INFORMATION: James L. Bentley, Director of Information, or a member of his staff can respond to requests for information about this meeting. Call 615–632–3257, Knoxville, Tennessee. Information is also available at TVA's Washington Office, 202–566–1401.

[S–906–79 Filed 5–4–79; 9:25 am]

BILLING CODE 8120–01–M

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federal register

Tuesday
May 8, 1979

Part II

Department of Labor

Employment and Training Administration

Comprehensive Employment and Training Act (CETA) Prime Sponsors

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DEPARTMENT OF LABOR

Employment and Training Administration

Comprehensive Employment and Training Act (CETA) Prime Sponsors

AGENCY: Employment and Training Administration, Labor.

ACTION: Notice.

SUMMARY: This notice promulgates the revised area wage adjustment index for Fiscal Year 1979 as required under Section 122(i)(3) of the Comprehensive Employment and training Act. This revised index replaces the area wage adjustment index which was published in the **Federal Register** on December 29, 1978.

EFFECTIVE DATE: January 26, 1979.

FOR FURTHER INFORMATION CONTACT: Mr. Robert Anderson, Administrator, Office of Comprehensive Employment Development, Employment and Training Administration, U.S. Department of Labor, 601 D Street, N.W., Washington, D.C., 20213, Telephone (202) 376–6254.

1. *Purpose.* To transmit the revised annual area wage adjustment index for Fiscal Year (fiscal year) 1979.

2. *Background.* Field Memorandum No. 75–79 transmitted the area wage index to be used by CETA prime sponsors in fiscal year '79. This index was computed as the ratio of the average annual wage in each county to the national average annual wage. In cases where CETA prime sponsors consist of county combinations and portions of counties, the average annual wage was computed as a weighted average of the wages in component counties based on the relative employment in each.

3. *Adjustments in the area wage index.* As result of the numerous comments from prime sponsors and public interest groups regarding the methodology used to compute the index, the following two principal adjustments have been made:

a. The index has been computed on a Standard Metropolitan Statistical Area (SMSA) basis in addition to the original index for each prime sponsor jurisdiction. Prime sponsors may use the higher of either the SMSA index or the original prime sponsor index.

b. Where an SMSA index within a Balance of State (BOS), consortium or rural CEP prime sponsor is higher than the prime sponsor index, or where the individual index of a county within a BOS, consortium, or rural CEP prime sponsor which is eligible to be a program agent (i.e., a county of at least 50,000 population), is higher than the prime sponsor index, the county or SMSA index may be used.

4. *Format of the area wage adjustment index.* The index figures presented in the attached table represent the highest of the prime sponsor index, the SMSA index, or the individual county index. In addition, maximum wages and average wages are shown for each county based on the highest index figure. In BOS, consortia, and rural CEP prime sponsors, the county index and maximum and average wages are shown only for counties eligible to be program agents (at least 50,000 population).

5. *Application of the area wage adjustment index.* (a) Maximum wage provisions were effective on January 26, 1979.

(b) Average wage provisions are effective April 1, 1979, and apply to all PSE participants hired on or after that date.

(c) In BOS, consortia, and rural CEP prime sponsors, there may be several different indices. The prime sponsor should use the index for the county in which a participant will be employed. Individual indices were computed to allow the prime sponsor to focus funds in high unemployment, but relatively higher wage, areas than would be possible with the original BOS, consortium, or CEP average wage level.

6. *Average wage rates payable with CETA funds.* The average annual wage rate for PSE participants hired on or after April 1, 1979, shall not exceed $7,200, as adjusted upward or downward by the Secretary on an area basis in the area wage adjustment index. In no case shall this wage be adjusted downward to a level that is less than 10 percent above annualized Federal minimum wage rate.

The total average payments per month, equivalent to a full-time PSE job, including such payments to those engaged full-time in a combination of PSE and training who spend at least 50 percent of their time in PSE and who are compensated for training at the minimum wage, shall not exceed the prorated monthly share of the annual average wage.

7. *Action Required.* Regional offices are to immediately transmit the attached index to all CETA prime sponsors.

8. *Inquiries.* Questions may be directed to Joan Shelly on 8–376–7006.

BILLING CODE 4510-30-M

1977 PRIME SPONSOR, COUNTY, AND SMSA WAGE INDEXES (NATIONAL AVERAGE ANNUAL WAGES OF $11,425 = 100.0), MAXIMUM AND AVERAGE WAGES

	PRIME SPONSOR INDEX	COUNTY INDEX	SMSA INDEX	MAXIMUM WAGES	AVERAGE WAGES
ALABAMA					
BIRMINGHAM CONSORTIUM (JEFFERSON COUNTY)					
JEFFERSON	100.8	100.8	99.8	10,886	7,258
HUNTSVILLE CONSORTIUM (MADISON COUNTY)					
MADISON	106.8	106.0	98.3	10,608	7,632
MOBILE CONSORTIUM					
BALDWIN	90.2	69.8	91.2	10,000	6,635
MOBILE	90.2	94.0	91.2	10,000	6,768
MONTGOMERY CONSORTIUM					
AUTAUGA	85.1		85.1	10,000	6,635
ELMORE	85.1		85.1	10,000	6,635
MONTGOMERY	85.1	86.7	85.1	10,000	6,635
TUSCALOOSA COUNTY					
TUSCALOOSA	87.2	87.2	87.2	10,000	6,635
BALANCE OF ALABAMA					
CALHOUN	83.2	87.7	87.7	10,000	6,635
COLBERT	83.2	121.3	101.9	12,000	8,734
CULLMAN	83.2	72.8		10,000	6,635
DALLAS	83.2	70.7		10,000	6,635
ETOWAH	83.2	100.0	100.0	10,000	7,260
HOUSTON	83.2	83.3		10,000	6,635
LAUDERDALE	83.2	73.2	101.9	10,190	7,337
LEE	83.2	84.8		10,000	6,635
LIMESTONE	83.2		98.3	10,000	7,078
MARSHALL	83.2	72.6	98.3	10,000	7,078
MORGAN	83.2	98.7		10,000	7,186
RUSSELL	83.2		81.0	10,000	6,635
ST. CLAIR	83.2		99.8	10,000	7,186
SHELBY	83.2	91.1	99.8	10,000	7,186
TALLADEGA	83.2	86.3		10,000	6,635
WALKER	83.2		99.8	10,000	7,186
ALASKA					
ANCHORAGE MUNICIPALITY DIVISION					
ANCHORAGE DIVISION	183.3	183.3	183.3	18,330	13,198
BALANCE OF ALASKA					
FAIRBANKS DIVISION	198.8	209.0		20,900	15,048
ARIZONA					
TUSCON/PIMA CSRT. (PIMA CN.)					
PIMA	87.9	87.9	87.9	10,000	6,635
BALANCE OF ARIZONA					
COCHISE	91.5	97.5		10,000	7,020
COCONINO	91.5	76.9		10,000	6,635
NAVAJO	91.5	98.3		10,000	7,078
PINAL	91.5	106.1		10,610	7,639
YAVAPAI	91.5	86.7		10,000	6,635
YUMA	91.5	83.1		10,000	6,635
BAL OF MARICOPA CO LESS PHOENIX					
MARICOPA	96.4	96.4	96.4	10,000	6,941
PHOENIX CITY					
MARICOPA	96.4	96.4	96.4	10,000	6,941
ARKANSAS					
CENTRAL ARKANSAS CONSORTIUM					
PULASKI	89.3	90.6	91.1	10,000	6,635
SALINE	89.3		91.1	10,000	6,635
BALANCE OF ARKANSAS					
BENTON	76.1	76.6	76.3	10,000	6,635
CRAIGHEAD	76.1	75.7		10,000	6,635
CRAWFORD	76.1		81.6	10,000	6,635
CRITTENDEN	76.1	74.1	93.4	10,000	6,725
GARLAND	76.1	74.0		10,000	6,635
JEFFERSON	76.1	86.7	86.7	10,000	6,635

1977 PRIME SPONSOR, COUNTY, AND SMSA WAGE INDEXES (NATIONAL AVERAGE ANNUAL WAGES OF $11,425 = 100.0), MAXIMUM AND AVERAGE WAGES

	PRIME SPONSOR INDEX	COUNTY INDEX	SMSA INDEX	MAXIMUM WAGES	AVERAGE WAGES
BALANCE OF ARKANSAS					
MISSISSIPPI	76.1	78.4		10,000	6,635
SEBASTIAN	76.1	84.6	81.6	10,000	6,635
WASHINGTON	76.1	76.8	76.3	10,000	6,635
CALIFORNIA					
BAL OF ALAMEDA CO LESS OAKLAND AND BERKELEY					
ALAMEDA	114.8	114.8	117.1	11,710	8,431
BERKELEY CITY					
ALAMEDA	114.8	114.8	117.1	11,710	8,431
BUTTE COUNTY					
BUTTE	82.3	82.3		10,000	6,635
BAL OF CONTRA COSTA COUNTY, CO. LESS CITY OF RICHMOND					
CONTRA COSTA	107.0	107.8	117.1	11,710	8,431
FRESNO CSRT. (FRESNO CN.)					
FRESNO	81.1	81.1	81.1	10,000	6,635
GLENDALE CITY					
LOS ANGELES	109.9	109.9	109.9	10,990	7,913
HUMBOLDT COUNTY					
HUMBOLDT	98.4	98.4		10,000	7,085
IMPERIAL COUNTY					
IMPERIAL	73.9	73.9		10,000	6,635
INLAND MANP. ASSOC.					
RIVERSIDE	90.3	84.8	90.3	10,000	6,635
SAN BERNARDINO	90.3	94.6	90.3	10,000	6,811
KERN COUNTY					
KERN	95.2	95.2	95.2	10,000	6,854
LONG BEACH CITY					
LOS ANGELES	109.9	109.9	109.9	10,990	7,913
LOS ANGELES CITY					
LOS ANGELES	109.9	109.9	109.9	10,990	7,913
MARIN COUNTY					
MARIN	92.2	92.2	117.1	11,710	8,431
BAL LOS ANGELES CO LESS GLENDALE,L BCH,PASADENA,LA,&TORRANCE					
LOS ANGELES	109.9	109.9	109.9	10,990	7,913
MERCED COUNTY					
MERCED	73.3	73.3		10,000	6,635
MONTEREY COUNTY					
MONTEREY	88.4	88.4	88.4	10,000	6,635
OAKLAND CITY					
ALAMEDA	114.8	114.8	117.1	11,710	8,431
ORANGE COUNTY MANP. CSRT. (ORANGE CN.)					
ORANGE	101.2	101.2	101.2	10,120	7,286
PASADENA CITY					
LOS ANGELES	109.9	109.9	109.9	10,990	7,913
RICHMOND CITY					
CONTRA COSTA	107.0	107.0	117.1	11,710	8,431
SAN DIEGO METC (SAN DIEGO CN.)					
SAN DIEGO	96.7	96.7	96.7	10,800	6,962
SAN FRANCISCO CITY/COUNTY					
SAN FRANCISCO	124.1	124.1	117.1	12,000	8,935
SAN LUIS OBISPO COUNTY					
SAN LUIS OBISPO	87.5	87.5		10,000	6,635
SAN MATEO COUNTY					
SAN MATEO	120.0	120.0	117.1	12,000	8,640
SANTA BARBARA COUNTY					
SANTA BARBARA	89.7	89.7	89.7	10,000	6,635
SANTA CLARA VALLEY					
SANTA CLARA	114.7	114.7	114.7	11,470	8,258
SANTA CRUZ COUNTY					
SANTA CRUZ	78.7	78.7	78.7	10,000	6,635
SOLANO COUNTY					
SOLANO	109.3	109.3	103.8	10,930	7,870
SONOMA COUNTY					
SONOMA	90.4	90.4	90.4	10,000	6,635
STANISLAUS COUNTY					
STANISLAUS	86.5	86.5	86.5	10,000	6,635
STOCKTON/SAN JOAQUIN MANP. CSRT. (SAN JOAQUIN CN.)					
SAN JOAQUIN	92.2	92.2	92.2	10,000	6,638
SUNNYVALE CITY					
SANTA CLARA	114.7	114.7	114.7	11,470	8,258
TORRANCE CITY					
LOS ANGELES	109.9	109.9	109.9	10,990	7,913
TULARE COUNTY					
TULARE	71.0	71.0		10,000	6,635
VENTURA COUNTY					
VENTURA	95.8	95.8	95.8	10,000	6,898
BALANCE OF CALIFORNIA					
EL DORADO	84.4	77.7		10,000	6,635
KINGS	84.4	80.9		10,000	6,635
MADERA	84.4	72.0		10,000	6,635
MENDOCINO	84.4	87.5		10,000	6,635
NAPA	84.4	91.4	103.8	10,380	7,474

1977 PRIME SPONSOR, COUNTY, AND SMSA WAGE INDEXES (NATIONAL AVERAGE ANNUAL WAGES OF $11,425 = 100.0), MAXIMUM AND AVERAGE WAGES

	PRIME SPONSOR INDEX	COUNTY INDEX	SMSA INDEX	MAXIMUM WAGES	AVERAGE WAGES
BALANCE OF CALIFORNIA					
PLACER	84.4	84.1	107.9	10,790	7,769
SACRAMENTO CONSORTIUM					
SACRAMENTO	113.0	113.0	107.9	11,300	8,136
YOLO COUNTY					
YOLO	89.2	89.2	107.9	10,790	7,769
SHASTA COUNTY					
SHASTA	99.0	99.0		10,000	7,128
COLORADO					
ADAMS COUNTY					
ADAMS	99.7	99.7	104.2	10,420	7,502
ARAPAHOE COUNTY					
ARAPAHOE	96.9	96.9	104.2	10,420	7,502
BOULDER COUNTY					
BOULDER	96.4	96.4	104.2	10,420	7,502
COLORADO SPRINGS CONSORTIUM (EL PASO COUNTY)					
EL PASO	83.0	83.0	82.8	10,000	6,635
DENVER CITY/COUNTY					
DENVER	108.5	108.5	104.2	10,850	7,812
JEFFERSON COUNTY CONSORTIUM					
JEFFERSON	102.5	102.5	104.2	10,420	7,502
LARIMER COUNTY					
LARIMER	84.9	84.9	84.9	10,000	6,635
PUEBLO COUNTY					
PUEBLO	101.0	101.0	101.0	10,100	7,272
WELD COUNTY					
WELD	93.0	93.0	93.0	10,000	6,696
BALANCE OF COLORADO					
DOUGLAS	80.9		104.2	10,420	7,502
GILPIN	80.9		104.2	10,420	7,502
MESA	80.9	88.2		10,000	6,635
CONNECTICUT					
BRIDGEPORT CONSORTIUM					
FAIRFIELD	110.4	113.1	113.1	11,310	8,143
NEW HAVEN	110.4	95.6	95.6	11,040	7,949
HARTFORD CONSORTIUM					
HARTFORD	103.4	104.6	102.1	10,460	7,531
TOLLAND	103.4	73.0	102.1	10,340	7,445
NEW HAVEN CONSORTIUM					
NEW HAVEN	95.6	95.6	95.6	10,000	6,883
STAMFORD CONSORTIUM					
FAIRFIELD	113.1	113.1	113.1	11,310	8,143
WATERBURY CITY					
NEW HAVEN	95.6	95.6	95.6	10,000	6,883
BALANCE OF CONNECTICUT					
FAIRFIELD	100.2	113.1	113.1	11,310	8,143
HARTFORD	100.2	104.6	102.1	10,460	7,531
LITCHFIELD	100.2	90.7		10,020	7,214
MIDDLESEX	100.2	90.6	102.1	10,210	7,351
NEW HAVEN	100.2	95.6	95.6	10,020	7,214
NEW LONDON	100.2	99.8	99.8	10,020	7,214
TOLLAND	100.2	73.0	102.1	10,210	7,351
WINDHAM	100.2	84.2		10,020	7,214
DELAWARE					
WILMINGTON CITY					
NEW CASTLE	113.6	113.6	113.9	11,390	8,201
DELAWARE MANP. CONSORTIUM					
KENT	104.3	84.3		10,430	7,510
NEW CASTLE	104.3	113.6	113.9	11,390	8,201
SUSSEX	104.3	80.6		10,430	7,510
DISTRICT OF COLUMBIA					
DISTRICT OF COLUMBIA	132.5	132.5	118.4	12,000	9,540
FLORIDA					
ALACHUA COUNTY					
ALACHUA	82.4	82.4	82.4	10,000	6,635
BREVARD COUNTY					
BREVARD	97.0	97.0	97.0	10,000	6,984
BROWARD CONSORTIUM (BROWARD COUNTY)					
BROWARD	90.8	90.8	90.8	10,000	6,635

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1977 PRIME SPONSOR, COUNTY, AND SMSA WAGE INDEXES (NATIONAL AVERAGE ANNUAL WAGES OF $11,425 = 100.0), MAXIMUM AND AVERAGE WAGES

	PRIME SPONSOR INDEX	COUNTY INDEX	SMSA INDEX	MAXIMUM WAGES	AVERAGE WAGES
ESCAMBIA COUNTY					
ESCAMBIA	89.8	89.8	88.8	10,000	6,635
HEARTLAND MANPOWER CONSORTIUM					
POLK	84.7	87.3	87.3	10,000	6,635
LEE COUNTY					
LEE	80.3	80.3	80.3	10,000	6,635
LEON/GADSEN CONSORTIUM					
LEON	82.5	83.8	83.4	10,000	6,635
MANATEE COUNTY					
MANATEE	78.5	78.5	78.5	10,000	6,635
MIAMI/DADE CONSORTIUM					
DADE	97.5	98.3	98.3	10,000	7,078
N.E. FLORIDA MANPOWER CONSORTIUM					
BAKER	92.6		90.9	10,000	6,667
DUVAL	92.6	92.6	90.9	10,000	6,667
NASSAU	92.6		90.9	10,000	6,667
OKALOOSA COUNTY					
OKALOOSA	81.2	81.2		10,000	6,635
ORANGE COUNTY/ORLANDO CONSORTIUM (ORANGE COUNTY)					
ORANGE	87.3	87.3	85.1	10,000	6,635
PALM BEACH COUNTY					
PALM BEACH	92.4	92.4	92.4	10,000	6,653
PASCO COUNTY					
PASCO	72.3	72.3	84.9	10,000	6,635
SARASOTA COUNTY					
SARASOTA	81.5	81.5	81.5	10,000	6,635
SEMINOLE COUNTY					
SEMINOLE	76.8	76.8	85.1	10,000	6,635
PINELLAS COUNTY CONSORTIUM (PINELLAS COUNTY)					
PINELLAS	81.4	81.4	84.9	10,000	6,635
MARION COUNTY					
MARION	73.1	73.1		10,000	6,635
HILLSBOROUGH CONSORTIUM (HILLSBOROUGH COUNTY)					
HILLSBOROUGH	89.1	89.1	84.9	10,000	6,635
VOLUSIA COUNTY					
VOLUSIA	73.9	73.9	73.9	10,000	6,635
BALANCE OF FLORIDA					
BAY	76.6	75.4	75.4	10,000	6,635
CLAY	76.6	76.8	90.9	10,000	6,635
COLLIER	76.6	81.7		10,000	6,635
LAKE	76.6	75.8		10,000	6,635
OSCEOLA	76.6		85.1	10,000	6,635
ST. JOHNS	76.6		90.9	10,000	6,635
ST. LUCIE	76.6	80.4		10,000	6,635
SANTA ROSA	76.6		88.8	10,000	6,635
WAKULLA	76.6		83.4		
GEORGIA					
ATLANTA CITY					
DEKALB	109.3	101.8	104.0	10,930	7,870
FULTON	109.3	109.7	104.0	10,970	7,898
CLAYTON COUNTY					
CLAYTON	102.9	102.9	104.8	10,400	7,488
COBB COUNTY					
COBB	94.3	94.3	104.8	10,400	7,488
COLUMBUS AREA CONSORTIUM (GEORGIA PART, COLUMBUS SMSA)					
CHATTAHOOCHEE	81.6		81.0	10,000	6,635
COLUMBUS	81.6	79.2	81.0	10,000	6,635
CSRA CONSORTIUM					
COLUMBIA	82.4		91.1	10,000	6,635
RICHMOND	82.4	89.6	91.1	10,000	6,635
BAL OF DEKALB COUNTY, CO. LESS CITY OF ATLANTA (PART)					
DEKALB	101.0	101.0	104.0	10,400	7,488
BAL OF FULTON COUNTY LESS CITY OF ATLANTA (PART)					
FULTON	109.7	109.7	104.0	10,970	7,898
GWINNETT CO					
GWINETT	97.4	97.4	104.8	10,400	7,488
MID GEORGIA CONSORTIUM					
BIBB	92.9	83.2	95.4	10,000	6,869
HOUSTON	92.9	118.6	95.4	11,860	8,539
JONES	92.9	65.3	95.4	10,000	6,869
TWIGGS	92.9		95.4	10,000	6,869
SAVANNAH/CHATHAM CONSORTIUM (CHATHAM COUNTY)					
CHATHAM	90.6	90.6	89.8	10,000	6,635
BALANCE OF GEORGIA					
BRYAN	77.0		89.8	10,000	6,635
BUTTS	77.0		104.0	10,400	7,488
CARROLL	77.0	79.5		10,000	6,635
CATOOSA	77.0		94.1	10,000	6,775
CHEROKEE	77.0		104.0	10,400	7,488
CLARKE	77.0	84.0		10,000	6,635
DADE	77.0		94.1	10,000	6,775
DOUGHERTY	77.0	91.0	90.6	10,000	6,635
DOUGLAS	77.0		104.0	10,400	7,488
EFFINGHAM	77.0		89.8	10,000	6,635
FAYETTE	77.0		104.0	10,400	7,488
FLOYD	77.0	99.1		10,000	6,635
FORSYTH	77.0		104.8	10,400	7,488
HALL	77.0	76.6		10,000	6,635
HENRY	77.0		104.8	10,400	7,488
LEE	77.0		90.6	10,000	6,635
LOWNDES	77.0	74.8		10,000	6,635

1977 PRIME SPONSOR, COUNTY, AND SMSA WAGE INDEXES (NATIONAL AVERAGE ANNUAL WAGES OF $11,425 = 100.0), MAXIMUM AND AVERAGE WAGES

	PRIME SPONSOR INDEX	COUNTY INDEX	SMSA INDEX	MAXIMUM WAGES	AVERAGE WAGES
BALANCE OF GEORGIA					
NEWTON	77.0		104.0	10,400	7,488
PAULDING	77.0		104.0	10,400	7,488
ROCKDALE	77.0		104.0	10,400	7,488
WALKER	77.0	74.8	94.1	10,000	6,775
WALTON	77.0		104.0	10,400	7,488
WHITFIELD	77.0	87.3		10,000	6,635
HAWAII					
HONOLULU CITY/COUNTY					
HONOLULU	89.5	89.5	89.5	10,000	6,635
HAWAII BAL OF STATE					
HAWAII	81.3	82.4		10,000	6,635
MAUI + KALAWAO	81.3	81.8		10,000	6,635
IDAHO					
IDAHO STATEWIDE CONSORTIUM					
ADA	89.5	96.9	96.9	10,000	6,977
BANNOCK	89.5	84.0		10,000	6,635
BONNEVILLE	89.5	98.1		10,000	6,635
CANYON	89.5	79.8		10,000	6,635
ILLINOIS					
CHAMPAIGN CONSORTIUM					
CHAMPAIGN	88.3	91.6	91.6	10,000	6,635
CHICAGO CITY					
COOK	116.9	116.9	114.8	11,690	8,417
BAL OF COOK COUNTY, CO. LESS CHICAGO CITY					
COOK	116.9	116.9	114.8	11,690	8,417
DUPAGE COUNTY					
DU PAGE	107.8	107.8	114.8	11,480	8,266
KANE CO CSRT					
DE KALB	96.5	87.5		10,000	6,948
KANE	96.5	98.1	114.8	11,480	8,266
LAKE COUNTY					
LAKE	107.3	107.3	114.8	11,480	8,266
LA SALLE COUNTY					
LA SALLE	100.8	100.8		10,080	7,258
MACON COUNTY					
MACON	109.1	109.1	109.1	10,910	7,855
MADISON COUNTY CONSORTIUM					
MADISON	108.0	109.6	106.4	10,960	7,891
MCHENRY COUNTY					
MCHENRY	95.6	95.6	114.8	11,480	8,266
MCLEAN COUNTY					
MCLEAN	94.0	94.0	94.8	10,000	6,768
PEORIA COUNTY CONSORTIUM					
PEORIA	108.8	108.8	117.6	11,760	8,467
ROCKFORD CONSORTIUM					
BOONE	108.8		108.8	10,880	7,834
WINNEBAGO	108.8	106.7	108.8	10,880	7,834
ROCK ISLAND COUNTY					
ROCK ISLAND	122.9	122.9	112.6	12,000	8,849
SANGAMON COUNTY CONSORTIUM					
SANGAMON	94.8	94.7	94.6	10,000	6,826
SHAWNEE CONSORTIUM					
	78.8			10,000	6,635
ST. CLAIR CONSORTIUM					
ST. CLAIR	93.9	93.9	106.4	10,640	7,661
TAZEWELL COUNTY					
TAZEWELL	137.1	137.1	117.6	12,000	9,871
WILL COUNTY CONSORTIUM					
WILL	109.6	110.2	114.8	11,480	8,266
BALANCE OF ILLINOIS					
ADAMS	90.8	91.2		10,000	6,635
CLINTON	90.8		106.4	10,640	7,661
HENRY	90.8	85.3	112.6	11,260	8,107
JACKSON	90.8	73.6		10,000	6,635
KANKAKEE	90.8	93.7	93.7	10,000	6,746
KNOX	90.8	97.0		10,000	6,984
MENARD	90.8		94.6	10,000	6,811
MONROE	90.8		106.4	10,640	7,661
VERMILION	90.8	103.2		10,320	7,430
WHITESIDE	90.8	105.1		10,510	7,567
WILLIAMSON	90.8	94.4		10,000	6,797
INDIANA					
DELAWARE CONSORTIUM					
DELAWARE	100.5	101.6	101.6	10,160	7,315
ELKHART COUNTY					
ELKHART	97.5	97.5		10,000	7,020
FT. WAYNE CONSORTIUM					
ADAMS	99.9		101.7	10,170	7,322
ALLEN	99.9	104.2	101.7	10,420	7,502
DEKALB	99.9		101.7	10,170	7,322
GARY CITY					
LAKE	126.2	126.2	125.6	12,000	9,086
HAMMOND CITY					
LAKE	126.2	126.2	125.6	12,000	9,086
INDIANAPOLIS CITY / MARION CO					
MARION	110.0	110.0	105.8	11,000	7,920
BAL OF LAKE COUNTY, CO. LESS CITIES OF GARY AND HAMMOND					
LAKE	126.2	126.2	125.6	12,000	9,086
LA PORTE COUNTY					
LAPORTE	93.1	93.1		10,000	6,783
MADISON COUNTY					
MADISON	121.1	121.1	121.1	12,000	8,719
SOUTH BEND CITY					
ST. JOSEPH	97.6	97.6	95.8	10,000	7,027
SOUTHWESTERN CONSORTIUM					
GIBSON	97.5		97.8	10,000	7,042
POSEY	97.5		97.8	10,000	7,042

1977 PRIME SPONSOR, COUNTY, AND SMSA WAGE INDEXES (NATIONAL AVERAGE ANNUAL WAGES OF $11,425 = 100.0), MAXIMUM AND AVERAGE WAGES

	PRIME SPONSOR INDEX	COUNTY INDEX	SMSA INDEX	MAXIMUM WAGES	AVERAGE WAGES
SOUTHWESTERN CONSORTIUM					
VANDERBURGH	97.5	94.8	97.8	10,000	7,042
WARRICK	97.5		97.8	10,000	7,042
BAL OF ST. JOSEPH COUNTY, CO. LESS SOUTH BEND CITY					
ST. JOSEPH	97.6	97.6	95.8	10,000	7,027
TIPPECANOE COUNTY					
TIPPECANOE	96.2	96.2	96.2	10,000	6,926
VIGO COUNTY					
VIGO	93.8	93.8	93.6	10,000	6,754
BALANCE OF INDIANA					
BARTHOLOMEW	93.3	120.9		12,000	8,705
BOONE	93.3		105.8	10,580	7,618
CLARK	93.3	85.2	100.4	10,040	7,229
CLAY	93.3		93.6	10,000	6,739
DEARBORN	93.3		105.2	10,520	7,574
FLOYD	93.3	80.2	100.4	10,040	7,229
GRANT	93.3	110.0		11,000	7,920
HAMILTON	93.3	88.3	105.8	10,580	7,618
HANCOCK	93.3		105.8	10,580	7,618
HENDRICKS	93.3	85.1	105.8	10,580	7,618
HENRY	93.3	107.2		10,720	7,718
HOWARD	93.3	127.4	124.8	12,000	9,173
JOHNSON	93.3	76.2	105.8	10,580	7,618
KOSCIUSKO	93.3	90.5		10,000	6,718
MARSHALL	93.3		95.8	10,000	6,898
MONROE	93.3	86.6	86.6	10,000	6,718
MORGAN	93.3		105.8	10,580	7,618
PORTER	93.3	121.4	125.6	12,000	9,043
SHELBY	93.3		105.8	10,580	7,618
SULLIVAN	93.3		93.6	10,000	6,739
TIPTON	93.3		124.8	12,000	8,986
VERMILLION	93.3		93.6	10,000	6,739
WAYNE	93.3	92.2		10,000	6,718
WELLS	93.3		101.7	10,170	7,322
IOWA					
BLACKHAWK COUNTY					
BLACK HAWK	110.6	110.6	110.6	11,060	7,963
CENTRAL IOWA REGIONAL ASSN. OF LOCAL GOVERNMENTS					
POLK	95.1	99.0	98.3	10,000	7,128
STORY	95.1	87.0		10,000	6,847
WARREN	95.1		98.3	10,000	7,078
DAVENPORT CITY					
SCOTT	105.6	105.6	112.6	11,260	8,107
LINN COUNTY MANPOWER CONSORTIUM					
LINN	103.2	103.2	103.2	10,320	7,430
WOODBURY COUNTY					
WOODBURY	90.4	90.4	90.1	10,000	6,635
BALANCE OF IOWA					
CLINTON	84.7	90.8		10,000	6,635
DUBUQUE	84.7	109.5	109.5	10,959	7,884
POTTAWATTAMIE	84.7	82.4	94.1	10,000	6,775
SCOTT	84.7	105.6	112.6	11,260	8,107
KANSAS					
JOHNSON/LEAVENWORTH CONSORTIUM					
JOHNSON	94.4	95.4	104.1	10,410	7,495
LEAVENWORTH	94.4	87.4		10,000	6,797
KANSAS CITY CONSORTIUM (WYANDOTTE COUNTY)					
WYANDOTTE	111.9	111.9	104.1	11,190	8,057
TOPEKA CONSORTIUM (SHAWNEE COUNTY)					
SHAWNEE	92.9	92.9	91.6	10,000	6,689
WICHITA CITY					
SEDGWICK	95.9	95.9	95.2	10,000	6,905
BALANCE OF KANSAS					
DOUGLAS	81.0	89.7	89.7	10,000	6,635
JEFFERSON	81.0		91.6	10,000	6,635
RILEY	81.0	83.7		10,000	6635
OSAGE	81.0		91.6	10,000	6,635
RENO	81.0	87.1		10,000	6,635
SEDGWICK	81.0	95.9	95.2	10,000	6,905

1977 PRIME SPONSOR, COUNTY, AND SMSA WAGE INDEXES (NATIONAL AVERAGE ANNUAL WAGES OF $11,425 = 100.0), MAXIMUM AND AVERAGE WAGES

	PRIME SPONSOR INDEX	COUNTY INDEX	SMSA INDEX	MAXIMUM WAGES	AVERAGE WAGES
KENTUCKY					
BLUE GRASS MANPOWER CONSORTIUM					
BOURBON	89.7		91.7	10,000	6,635
CLARK	89.7		91.7	10,000	6,635
FAYETTE	89.7	93.9	91.7	10,000	6,761
SCOTT	89.7		91.7	10,000	6,635
WOODFORD	89.7		91.7	10,000	6,635
EASTERN KENTUCKY RURAL CEP					
PIKE	102.9	108.2		10,820	7,798
KENTON COUNTY					
KENTON	82.4	82.4	105.2	10,520	7,574
LOUISVILLE/JEFFERSON CONSORTIUM (JEFFERSON COUNTY)					
JEFFERSON	102.8	102.8	100.4	10,280	7,402
BALANCE OF KENTUCKY					
BOONE	84.4		105.2	10,520	7,574
BOYD	84.4	103.9	100.6	10,390	7,481
BULLITT	84.4		100.4	10,040	7,229
CAMPBELL	84.4	87.6	105.2	10,520	7,574
CHRISTIAN	84.4	77.9	90.0	10,000	6,635
DAVIESS	84.4	88.8	88.8	10,000	6,635
GREENUP	84.4		100.6	10,060	7,243
HENDERSON	84.4		97.8	10,000	7,042
JESSAMINE	84.4		91.7	10,000	6,635
HARDIN	84.4	83.9		10,000	6,635
MCCRACKEN	84.4	88.8		10,000	6,635
OLDHAM	84.4		100.4	10,040	7,229
WARREN	84.4	80.2		10,000	6,635
LOUISIANA					
BATON ROUGE CITY/EAST BATON ROUGE PARISH					
EAST BATON ROUGE	103.3	103.3	103.7	10,370	7,466
CALCASIEU/JEFF CONSORTIUM					
CALCASIEU	101.4	104.1	104.1	10,410	7,495
JEFFERSON PARISH					
JEFFERSON	97.1	97.1	98.0	10,000	7,056
LAFAYETTE PARISH					
LAFAYETTE	98.0	98.0	98.0	10,000	7,056
NEW ORLEANS CITY/ORLEANS PARISH					
ORLEANS	98.9	98.9	98.0	10,000	7,421
OUACHITA PARISH					
OUACHITA	91.6	91.6	91.6	10,000	6,635
RAPIDES PARISH					
RAPIDES	78.1	78.1	78.1	10,000	6,635
SHREVEPORT CITY					
CADDO	90.4	90.4	89.2	10,000	6,635
BALANCE OF LOUISIANA					
ACADIA	93.8	71.7		10,000	6,754
ASCENSION	93.8		103.7	10,370	7,466
BOSSIER	93.8	80.6	89.2	10,000	6,754
CADDO	93.8	90.4	89.2	10,000	6,754
GRANT	93.8		78.1	10,000	6,754
LAFOURCHE	93.8	93.1		10,000	6,754
IBERIA	93.8	92.7		10,000	6,754
LIVINGSTON	93.8		103.7	10,370	7,466
ST. BERNARD	93.8	108.6	98.0	10,860	7,819
ST. LANDRY	93.8	76.2		10,000	6,754
ST.MARY	93.8	112.3		11,230	8,086
ST. TAMMANY	93.8	73.1	98.0	10,800	7,456
TANGIPAHOA	93.8	67.2		10,000	6,754
TERREBONNE	93.8	107.8		10,780	7,762
WEBSTER	93.8		89.2	10,000	6,754
WEST BATON ROUGE	93.8		103.7	10,370	7,466
MAINE					
CUMBERLAND COUNTY					
CUMBERLAND	84.2	84.2	85.1	10,000	6,635
KENNEBEC COUNTY					
KENNEBEC	83.6	83.6		10,000	6,635
PENOBSCOT CONSORTIUM					
PENOBSCOT	82.4	84.6		10,000	6,635
YORK COUNTY					
YORK	70.2	70.2		10,000	6,635
CETA BALANCE OF MAINE					
ANDROSCOGGIN	75.9	71.9	71.9	10,000	6,635
AROOSTOOK	75.9	76.8		10,000	6,635
SAGADAHOC	75.9		85.1	10,000	6,635
MARYLAND					
BALTIMORE CONSORTIUM					
ANNE ARUNDEL	100.3	92.5	100.3	10,030	7,222
BALTIMORE	100.3	101.7	100.3	10,170	7,322
CARROLL	100.3	82.9	100.3	10,030	7,222
HARFORD	100.3	93.7	100.3	10,030	7,222
HOWARD	100.3	100.2	100.3	10,030	7,222
BALTIMORE - INDEPENDENT CITY	100.3	102.7	100.3	10,270	7,394
MONTGOMERY COUNTY					
MONTGOMERY	108.7	108.7	118.4	11,840	8,525
PRINCE GEORGES COUNTY					
PRINCE GEORGES	97.8	97.8	118.4	11,840	8,525
WESTERN MARYLAND CONSORTIUM					
ALLEGANY	92.3	96.2		10,000	6,926
FREDERICK	92.3	86.3		10,000	6,646
WASHINGTON	92.3	97.0		10,000	6,984
BALANCE OF MARYLAND					
CECIL	77.7	80.8	113.9	11,390	8,201
CHARLES	77.7	92.1	118.4	11,840	8,525
ST. MARYS	77.7	95.0		10,000	6,840
WICOMICO	77.7	77.0		10,000	6,635

1977 PRIME SPONSOR, COUNTY, AND SMSA WAGE INDEXES (NATIONAL AVERAGE ANNUAL WAGES OF $11,425 = 100.0), MAXIMUM AND AVERAGE WAGES

	PRIME SPONSOR INDEX	COUNTY INDEX	SMSA INDEX	MAXIMUM WAGES	AVERAGE WAGES
MASSACHUSETTS					
BOSTON CITY					
SUFFOLK	108.4	108.4	99.7	10,840	7,805
BROCKTON CONSORTIUM					
BRISTOL	82.3	79.1	79.1	10,000	6,635
NORFOLK	82.3	93.3	99.7	10,000	7,178
PLYMOUTH	82.3	80.2	99.7	10,000	7,178
CAMBRIDGE CONSORTIUM					
MIDDLESEX	103.7	103.7	99.7	10,370	7,466
HAMPDEN COUNTY (SPRINGFIELD) CONSORTIUM					
HAMPDEN	89.7	89.7	88.9	10,000	6,635
LOWELL CONSORTIUM					
MIDDLESEX	103.7	103.7	99.7	10,370	7,466
NEW BEDFORD CONSORTIUM					
BRISTOL	79.2	79.1	79.1	10,000	6,635
PLYMOUTH	79.2	80.2	99.7	10,000	7,178
WORCESTER CONSORTIUM					
WORCESTER	90.4	90.4	90.4	10,000	6,635
FALL RIVER CONSORTIUM					
BRISTOL	79.1	79.1	79.1	10,000	6,635
CETA BALANCE OF MASSACHUSETTS					
BARNSTABLE	93.4	71.3		10,000	6,725
BERKSHIRE	93.4	91.7	91.7	10,000	6,725
BRISTOL	93.4	79.1	79.1	10,000	6,725
ESSEX	93.4	88.6	99.7	10,000	7,178
FRANKLIN	93.4	84.3		10,000	6,725
HAMPSHIRE	93.4	85.5	88.9	10,000	6,725
MIDDLESEX	93.4	103.7	99.7	10,370	7,466
NORFOLK	93.4	93.3	99.7	10,000	7,178
PLYMOUTH	93.4	80.2	99.7	10,000	7,178
SUFFOLK	93.4	108.4	99.7	10,840	7,805
WORCESTER	93.4	90.4	90.4	10,000	6,725
MICHIGAN					
ANN ARBOR CITY					
WASHTENAW	118.1	118.1	118.1	11,810	8,503
BAL OF WASHTENAW CO,LESS ANN ARBOR CITY					
WASHTENAW	118.1	118.1	118.1	11,810	8,503
BAY COUNTY					
BAY	108.1	108.1	108.1	10,810	7,783
BERRIEN COUNTY					
BERRIEN	100.6	100.6		10,060	7,243
CALHOUN COUNTY					
CALHOUN	111.1	111.1	109.3	11,110	7,999
DEARBORN CITY					
WAYNE	134.2	134.2	129.4	12,000	9,662
DETROIT CITY					
WAYNE	134.2	134.2	129.4	12,000	9,662
FLINT/GENESSEE CONSORTIUM					
GENESEE	135.8	143.2	138.8	12,000	10,310
LAPEER	135.8	90.6	129.4	12,000	9,778
SHIAWASSEE	135.8	90.6	138.8	12,000	9,994
JACKSON CONSORTIUM					
JACKSON	105.6	110.0	110.0	11,000	7,920
LENAWEE	105.6	102.1		10,560	7,603
KALAMAZOO COUNTY					
KALAMAZOO	107.3	107.3	104.6	10,730	7,726
KENT CONSORTIUM					
ALLEGAN	99.2	87.8		10,000	7,142
IONIA	99.2		112.1	11,210	8,071
KENT	99.2	101.5	99.7	10,150	7,308
LANSING CONSORTIUM					
CLINTON	113.7	90.6	112.1	11,370	8,186
EATON	113.7	89.5	112.1	11,370	8,186
INGHAM	113.7	116.7	112.1	11,670	8,402
LIVONIA CITY					
WAYNE	134.2	134.2	129.4	12,000	9,662
BAL OF MACOMB COUNTY, CO. LESS CITY OF WARREN					
MACOMB	132.5	132.5	129.4	12,000	9,540
MONROE COUNTY					
MONROE	113.1	113.1	110.7	11,310	8,143
MUSKEGON CONSORTIUM					
MUSKEGON	102.8	104.0	102.0	10,400	7,488
OCEANA	102.0		102.0	10,200	7,344
OAKLAND COUNTY					
OAKLAND	120.7	120.7	129.4	12,000	9,317
OTTAWA COUNTY					
OTTAWA	93.8	93.0	99.7	10,000	7,178
SAGINAW COUNTY					
SAGINAW	128.2	128.2	128.2	12,000	9,230
ST. CLAIR COUNTY					
ST. CLAIR	99.8	99.8	129.4	12,000	9,317
WARREN CITY					
MACOMB	132.5	132.5	129.4	12,000	9,540
BAL OF WAYNE CO LESS DETROIT,DEARBORN AND LIVONIA					
WAYNE	134.2	134.2	129.4	12,000	9,662
BALANCE OF MICHIGAN					
BARRY	90.5		109.3	10,930	7,870
ISABELLA	90.5	89.5		10,000	6,635
LIVINGSTON	90.5	87.9	129.4	12,000	9,317

1977 PRIME SPONSOR, COUNTY, AND SMSA WAGE INDEXES (NATIONAL AVERAGE ANNUAL WAGES OF $11,425 = 100.0), MAXIMUM AND AVERAGE WAGES

	PRIME SPONSOR INDEX	COUNTY INDEX	SMSA INDEX	MAXIMUM WAGES	AVERAGE WAGES
BALANCE OF MICHIGAN					
MARQUETTE	90.5	92.6		10,000	6,667
MIDLAND	90.5	140.1		12,000	10,887
ST. JOSEPH	90.5	93.8		10,000	6,754
TUSCOLA	90.5	89.3		10,000	6,635
VAN BUREN	90.5	86.8	104.6	10,460	7,531
MINNESOTA					
DAKOTA COUNTY					
DAKOTA	91.1	91.1	101.3	10,130	7,294
DULUTH CITY					
ST. LOUIS	94.5	94.5	92.8	10,000	6,804
BAL OF HENNEPIN CO LESS CITY OF MINNEAPOLIS					
HENNEPIN	102.6	102.6	101.3	10,260	7,387
MINNEAPOLIS CITY					
HENNEPIN	102.6	102.6	101.3	10,260	7,387
BAL OF RAMSEY COUNTY, CO. LESS ST. PAUL CITY					
RAMSEY	106.6	106.6	101.3	10,660	7,675
REGION III CONSORTIUM					
ST. LOUIS	94.3	94.5	92.8	10,000	6,804
RURAL MINNESOTA CEP					
CLAY	68.3		88.2	10,000	6,635
ST. PAUL CITY					
RAMSEY	106.6	106.6	101.3	10,660	7,675
QUAD COUNTIES CONSORTIUM					
ANOKA	92.1	92.8	101.3	10,130	7,294
CARVER	92.1		101.3	10,130	7,294
SCOTT	92.1		101.3	10,130	7,294
WASHINGTON	92.1	94.6	101.3	10,130	7,294
BALANCE OF MINNESOTA					
BLUE EARTH	77.5	78.4		10,000	6,635
CHISAGO	77.5		101.3	10,130	7,294
OLMSTED	77.5	99.9	99.9	10,000	7,193
POLK	77.5		79.0	10,000	6,635
SHERBURNE	77.5		76.2	10,000	6,635
STEARNS	77.5	76.3	76.2	10,000	6,635
WRIGHT	77.5	67.5	101.3	10,130	7,294
MISSISSIPPI					
JACKSON CONSORTIUM					
HINDS	88.5	89.7	88.5	10,000	6,635
RANKIN	88.5	79.6	88.5	10,000	6,635
HARRISON COUNTY					
HARRISON	76.1	76.1	79.6	10,000	6,635
BALANCE OF MISSISSIPPI					
DE SOTO	76.6	78.3	93.4	10,000	6,725
FORREST	76.6	79.1		10,000	6,635
HANCOCK	76.6		79.6	10,000	6,635
JACKSON	76.6	98.1	98.1	10,000	7,063
JONES	76.6	81.3		10,000	6,635
LAUDERDALE	76.6	79.1		10,000	6,635
LEE	76.6	76.3		10,000	6,635
LOWNDES	76.6	77.4		10,000	6,635
STONE	76.6		79.6	10,000	6,635
WASHINGTON	76.6	78.3		10,000	6,635
MISSOURI					
INDEPENDENCE CITY					
JACKSON	104.4	104.4	104.1	10,440	7,517
BAL OF JACKSON CO LESS CITIES OF INDEPENDENCE & KANSAS(PART)					
JACKSON	104.4	104.4	104.1	10,440	7,517
JEFFERSON/FRANKLIN CONSORTIUM					
FRANKLIN	82.1	80.8	106.4	10,640	7,661
JEFFERSON	82.1	84.7	106.4	10,640	7,661
KANSAS CITY CONSORTIUM					
CASS	104.9		104.1	10,490	7,553
CLAY	104.9	104.9	104.1	10,490	7,553
JACKSON	104.9	104.4	104.1	10,490	7,553
PLATTE	104.9		104.1	10,490	7,553
RAY	104.9		104.1	10,490	7,553
SPRINGFIELD CITY					
GREENE	84.2	84.2	83.6	10,000	6,635
ST. CHARLES COUNTY					
ST. CHARLES	87.7	87.7	106.4	10,640	7,661
ST. LOUIS CITY					
ST. LOUIS IND. CITY	111.8	111.8	106.4	11,180	8,050
ST. LOUIS COUNTY					
ST. LOUIS	106.3	106.3	106.4	10,640	7,661
BALANCE OF MISSOURI					
ANDREW	74.5		87.4	10,000	6,635
BOONE	74.5	86.5	86.5	10,000	6,635
BUCHANAN	74.5	88.2	87.4	10,000	6,635
CAPE GIRARDEAU	74.5	83.5		10,000	6,635
CHRISTIAN	74.5		83.6	10,000	6,635
JASPER	74.5	81.2		10,000	6,635

1977 PRIME SPONSOR, COUNTY, AND SMSA WAGE INDEXES (NATIONAL AVERAGE ANNUAL WAGES OF $11,425 = 100.0), MAXIMUM AND AVERAGE WAGES

	PRIME SPONSOR INDEX	COUNTY INDEX	SMSA INDEX	MAXIMUM WAGES	AVERAGE WAGES
NEBRASKA					
LINCOLN CITY					
LANCASTER	101.2	101.2	101.2	10,000	7,294
OMAHA CITY					
DOUGLAS	104.1	104.1	104.1	10,490	7,553
SARPY	104.1	104.1	104.1	10,490	7,553
BALANCE OF NEBRASKA					
BUFFALO	77.2	77.2	77.2	10,000	6,635
DAWSON	77.2	77.2	77.2	10,000	6,635
HALL	77.2	77.2	77.2	10,000	6,635
HOWARD	77.2	77.2	77.2	10,000	6,635
LINCOLN	77.2	77.2	77.2	10,000	6,635
NEVADA					
CLARK	107.1	107.1	107.1	10,000	7,675
WASHOE	107.1	107.1	107.1	10,000	7,675
BALANCE OF NEVADA					
CARSON CITY	107.1	107.1	107.1	10,000	7,675
NEW HAMPSHIRE					
MANCHESTER CITY					
HILLSBOROUGH	90.2	90.2	90.2	10,000	6,635
NASHUA CITY					
HILLSBOROUGH	90.2	90.2	90.2	10,000	6,635
BALANCE OF NEW HAMPSHIRE					
BELKNAP	90.2	90.2	90.2	10,000	6,635
CARROLL	90.2	90.2	90.2	10,000	6,635
CHESHIRE	90.2	90.2	90.2	10,000	6,635
COOS	90.2	90.2	90.2	10,000	6,635
GRAFTON	90.2	90.2	90.2	10,000	6,635
MERRIMACK	90.2	90.2	90.2	10,000	6,635
ROCKINGHAM	90.2	90.2	90.2	10,000	6,635
STRAFFORD	90.2	90.2	90.2	10,000	6,635
SULLIVAN	90.2	90.2	90.2	10,000	6,635
NEW JERSEY					
ATLANTIC CITY					
ATLANTIC	97.2	97.2	97.2	10,000	6,635
BERGEN/PASSAIC CONSORTIUM					
BERGEN	114.2	114.2	114.2	10,000	7,578
PASSAIC	114.2	114.2	114.2	10,000	7,578
CAMDEN CONSORTIUM					
CAMDEN	97.2	97.2	97.2	10,000	6,635
GLOUCESTER	97.2	97.2	97.2	10,000	6,635
CUMBERLAND COUNTY					
CUMBERLAND	97.2	97.2	97.2	10,000	6,635
ELIZABETH CITY					
UNION	114.2	114.2	114.2	10,000	7,578
HUDSON CONSORTIUM					
HUDSON	114.2	114.2	114.2	10,000	7,578
JERSEY CITY					
HUDSON	114.2	114.2	114.2	10,000	7,578
MIDDLESEX COUNTY					
MIDDLESEX	114.2	114.2	114.2	10,000	7,578
MONMOUTH/OCEAN CONSORTIUM					
MONMOUTH	97.2	97.2	97.2	10,000	6,635
OCEAN	97.2	97.2	97.2	10,000	6,635
MORRIS COUNTY					
MORRIS	114.2	114.2	114.2	10,000	7,578
NEWARK CITY					
ESSEX	114.2	114.2	114.2	10,000	7,578
PATERSON CITY					
PASSAIC	114.2	114.2	114.2	10,000	7,578
TRENTON CITY					
MERCER	97.2	97.2	97.2	10,000	6,635
BALANCE OF NEW JERSEY					
HUNTERDON	97.2	97.2	97.2	10,000	6,635
SALEM	97.2	97.2	97.2	10,000	6,635
SOMERSET	97.2	97.2	97.2	10,000	6,635
SUSSEX	97.2	97.2	97.2	10,000	6,635
WARREN	97.2	97.2	97.2	10,000	6,635

1977 PRIME SPONSOR, COUNTY, AND SMSA WAGE INDEXES (NATIONAL AVERAGE ANNUAL WAGES OF $11,425 = 100.0), MAXIMUM AND AVERAGE WAGES

	PRIME SPONSOR INDEX	COUNTY INDEX	SMSA INDEX	MAXIMUM WAGES	AVERAGE WAGES
NEW MEXICO					
ALBUQUERQUE CITY					
BERNALILLO	94.1	94.1	94.1	10,000	6,635
BALANCE OF NEW MEXICO					
CHAVES	94.1	94.1	94.1	10,000	6,635
DONA ANA	94.1	94.1	94.1	10,000	6,635
EDDY	94.1	94.1	94.1	10,000	6,635
LEA	94.1	94.1	94.1	10,000	6,635
SAN JUAN	94.1	94.1	94.1	10,000	6,635
SANTA FE	94.1	94.1	94.1	10,000	6,635
NEW YORK					
ALBANY/SCHENECTADY/TROY CONSORTIUM					
ALBANY	101.4	101.4	101.4	10,000	7,203
RENSSELAER	101.4	101.4	101.4	10,000	7,203
SCHENECTADY	101.4	101.4	101.4	10,000	7,203
BUFFALO CITY					
ERIE	101.4	101.4	101.4	10,000	7,203
ELMIRA CITY					
CHEMUNG	101.4	101.4	101.4	10,000	7,203
NASSAU/SUFFOLK CONSORTIUM					
NASSAU	114.2	114.2	114.2	10,000	7,578
SUFFOLK	114.2	114.2	114.2	10,000	7,578
NEW YORK CITY					
BRONX	114.2	114.2	114.2	10,000	7,578
KINGS	114.2	114.2	114.2	10,000	7,578
NEW YORK	114.2	114.2	114.2	10,000	7,578
QUEENS	114.2	114.2	114.2	10,000	7,578
RICHMOND	114.2	114.2	114.2	10,000	7,578
ROCHESTER CITY					
MONROE	101.4	101.4	101.4	10,000	7,203
ROCKLAND COUNTY					
ROCKLAND	114.2	114.2	114.2	10,000	7,578
SYRACUSE CITY					
ONONDAGA	101.4	101.4	101.4	10,000	7,203
UTICA/ROME CONSORTIUM					
ONEIDA	101.4	101.4	101.4	10,000	7,203
WESTCHESTER CONSORTIUM					
WESTCHESTER	114.2	114.2	114.2	10,000	7,578
BALANCE OF NEW YORK					
ALLEGANY	101.4	101.4	101.4	10,000	7,203
CATTARAUGUS	101.4	101.4	101.4	10,000	7,203
CHAUTAUQUA	101.4	101.4	101.4	10,000	7,203
CHENANGO	101.4	101.4	101.4	10,000	7,203
CLINTON	101.4	101.4	101.4	10,000	7,203
COLUMBIA	101.4	101.4	101.4	10,000	7,203
CORTLAND	101.4	101.4	101.4	10,000	7,203
DELAWARE	101.4	101.4	101.4	10,000	7,203
DUTCHESS	101.4	101.4	101.4	10,000	7,203
ESSEX	101.4	101.4	101.4	10,000	7,203
FRANKLIN	101.4	101.4	101.4	10,000	7,203
FULTON	101.4	101.4	101.4	10,000	7,203
GENESEE	101.4	101.4	101.4	10,000	7,203
GREENE	101.4	101.4	101.4	10,000	7,203
HAMILTON	101.4	101.4	101.4	10,000	7,203
HERKIMER	101.4	101.4	101.4	10,000	7,203
JEFFERSON	101.4	101.4	101.4	10,000	7,203
LEWIS	101.4	101.4	101.4	10,000	7,203
LIVINGSTON	101.4	101.4	101.4	10,000	7,203
MADISON	101.4	101.4	101.4	10,000	7,203
MONTGOMERY	101.4	101.4	101.4	10,000	7,203
NIAGARA	101.4	101.4	101.4	10,000	7,203
OLEANS	101.4	101.4	101.4	10,000	7,203
ONTARIO	101.4	101.4	101.4	10,000	7,203
ORANGE	101.4	101.4	101.4	10,000	7,203
OSWEGO	101.4	101.4	101.4	10,000	7,203
OTSEGO	101.4	101.4	101.4	10,000	7,203
PUTNAM	101.4	101.4	101.4	10,000	7,203
RENSSELAER	101.4	101.4	101.4	10,000	7,203
SARATOGA	101.4	101.4	101.4	10,000	7,203
SCHOHARIE	101.4	101.4	101.4	10,000	7,203
SCHUYLER	101.4	101.4	101.4	10,000	7,203
SENECA	101.4	101.4	101.4	10,000	7,203
ST. LAWRENCE	101.4	101.4	101.4	10,000	7,203
STEUBEN	101.4	101.4	101.4	10,000	7,203
SULLIVAN	101.4	101.4	101.4	10,000	7,203
TIOGA	101.4	101.4	101.4	10,000	7,203
TOMPKINS	101.4	101.4	101.4	10,000	7,203
ULSTER	101.4	101.4	101.4	10,000	7,203
WARREN	101.4	101.4	101.4	10,000	7,203
WASHINGTON	101.4	101.4	101.4	10,000	7,203
WAYNE	101.4	101.4	101.4	10,000	7,203
WYOMING	101.4	101.4	101.4	10,000	7,203
YATES	101.4	101.4	101.4	10,000	7,203

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	PRIME SPONSOR INDEX	COUNTY INDEX	SMSA INDEX	MAXIMUM WAGES	AVERAGE WAGES
BALANCE OF MISSOURI					
COLE	74.5	79.9		10,000	6,635
GREENE	74.5	84.2	83.6	10,000	6,635
MONTANA					
BALANCE OF MONTANA					
CASCADE	83.7	89.3	89.3	10,000	6,635
MISSOULA	83.7	90.8		10,000	6,635
YELLOWSTONE	83.7	90.8	90.8	10,000	6,635
BUTTE RURAL CEP	93.3			10,000	6,718
NEBRASKA					
LINCOLN CITY					
LANCASTER	80.9	80.9	80.9	10,000	6,635
OMAHA CONSORTIUM (NEBRASKA PART, OMAHA SMSA)					
DOUGLAS	95.3	96.0	96.1	10,000	6,912
SARPY	95.3	81.4	96.1	10,000	6,862
BALANCE OF NEBRASKA					
DAKOTA	76.7		80.1	10,000	6,635
LANCASTER	76.7	80.9	80.9	10,000	6,635
NEVADA					
LAS VEGAS CSRT. (CLARK CN.)					
CLARK	99.1	99.1	99.1	10,000	7,135
WASHOE COUNTY					
WASHOE	97.2	97.2	97.2	10,000	6,998
BALANCE OF NEVADA	93.3			10,000	6,718
NEW HAMPSHIRE					
HILLSBOROUGH COUNTY					
HILLSBOROUGH	86.4	86.4	86.4	10,000	6,635
ROCKINGHAM/STRAFFORD CONSORTIUM					
ROCKINGHAM	78.8	78.1	99.7	10,000	7,178
STRAFFORD	78.8	77.7		10,000	6,635
BALANCE OF NEW HAMPSHIRE					
CHESHIRE	77.7	80.1		10,000	6,635
GRAFTON	77.7	76.3		10,000	6,635
MERRIMACK	77.7	80.2		10,000	6,635
NEW JERSEY					
ATLANTIC COUNTY					
ATLANTIC	83.3	83.3	83.3	10,000	6,635
BERGEN COUNTY					
BERGEN	109.3	109.3	118.3	11,830	8,518
BURLINGTON COUNTY					
BURLINGTON	95.9	95.9	105.4	10,540	7,589
CAMDEN CITY					
CAMDEN	100.8	100.8	105.4	10,540	7,589
BAL OF CAMDEN COUNTY, CO. LESS CAMDEN CITY					
CAMDEN	100.8	100.8	105.4	10,540	7,589
CUMBERLAND COUNTY					
CUMBERLAND	94.6	94.6	94.6	10,000	6,811
ELIZABETH CITY					
UNION	120.7	120.7	115.7	12,000	8,690
BAL OF ESSEX COUNTY, CO. LESS CITY OF NEWARK					
ESSEX	113.1	113.1	115.7	11,570	8,330
GLOUCESTER COUNTY					
GLOUCESTER	100.6	100.6	105.4	10,540	7,589
HUDSON COUNTY CONSORTIUM					
HUDSON	108.0	108.0	108.0	10,800	7,776
BAL OF MERCER COUNTY, CO. LESS TRENTON CITY					
MERCER	105.5	105.5	105.5	10,550	7,596

1977 PRIME SPONSOR, COUNTY, AND SMSA WAGE INDEXES (NATIONAL AVERAGE ANNUAL WAGES OF $11,425 = 100.0), MAXIMUM AND AVERAGE WAGES

	PRIME SPONSOR INDEX	COUNTY INDEX	SMSA INDEX	MAXIMUM WAGES	AVERAGE WAGES
MIDDLESEX COUNTY					
MIDDLESEX	113.3	115.3	113.3	11,330	8,158
MONMOUTH COUNTY					
MONMOUTH	94.5	94.5	94.5	10,000	6,804
MORRIS COUNTY					
MORRIS	113.7	113.7	115.7	11,570	8,330
NEWARK CITY					
ESSEX	113.1	113.1	115.7	11,570	8,330
OCEAN COUNTY					
OCEAN	82.0	82.0		10,000	6,635
BAL. OF PASSAIC CO., CO. LESS PATERSON CITY					
PASSAIC	102.2	102.2	102.2	10,220	7,358
PATERSON CITY					
PASSAIC	102.2	102.2	102.2	10,220	7,358
SOMERSET COUNTY					
SOMERSET	115.6	115.6	115.7	11,570	8,330
TRENTON CITY					
MERCER	105.5	105.5	105.5	10,550	7,596
BAL OF UNION COUNTY, CO. LESS ELIZABETH CITY					
UNION	120.7	120.7	115.7	12,000	8,690
BALANCE OF NEW JERSEY					
CAPE MAY	96.1	71.3		10,000	6,919
HUNTERDON	96.1	91.7		10,000	6,919
SALEM	96.1	132.5	113.9	12,000	9,540
SUSSEX	96.1	76.5		10,000	6,919
WARREN	96.1	100.3	99.9	10,030	7,222
NEW MEXICO					
ALBUQUERQUE CONSORTIUM (BERNALILLO COUNTY)					
BERNALILLO	90.7	90.7	90.3	10,000	6,635
BALANCE OF NEW MEXICO					
DONA ANA	87.3	89.7		10,000	6,635
LEA	87.3	100.3		10,030	7,222
MCKINLEY	87.3	103.9		10,390	7,481
SANDOVAL	87.3		90.3	10,000	6,635
SAN JUAN	87.3	103.6		10,360	7,459
SANTA FE	87.3	75.3		10,000	6,635
VALENCIA	87.3	93.1		10,000	6,703
NEW YORK					
ALBANY CITY					
ALBANY	101.2	101.2	101.1	10,120	7,286
BALANCE OF ALBANY COUNTY, COUNTY LESS ALBANY CITY					
ALBANY	101.2	101.2	101.1	10,120	7,286
BROOME COUNTY					
BROOME	97.5	97.5	99.3	10,000	7,158
BUFFALO CITY					
ERIE	102.1	102.1	103.3	10,330	7,438
CHAUTAUQUA CONSORTIUM					
ALLEGANY	87.6	92.3		10,000	6,646
CATTARAUGUS	87.6	84.5		10,000	6,635
CHAUTAUQUA	87.6	88.2		10,000	6,635
CHEMUNG COUNTY					
CHEMUNG	91.8	91.8	91.8	10,000	6,635
DUTCHESS COUNTY					
DUTCHESS	111.8	111.8	111.8	11,150	8,058
ERIE CONSORTIUM					
ERIE	102.1	102.1	103.3	10,330	7,438
ROCHESTER CITY					
MONROE	117.8	117.8	112.0	11,780	8,482
BAL OF MONROE CO., CO. LESS ROCHESTER CITY					
MONROE	117.8	117.8	112.0	11,780	8,482
NASSAU CONSORTIUM					
NASSAU	101.7	101.7	98.6	10,170	7,322
HEMPSTEAD TOWN - LONG BEACH CITY CONSORTIUM					
NASSAU	101.7	101.7	98.6	10,170	7,322
NEW YORK CITY	120.7			12,000	8,690
NIAGARA COUNTY					
NIAGARA	109.3	109.3	103.3	10,930	7,878
ONEIDA COUNTY					
ONEIDA	91.1	91.1	90.6	10,000	6,635
BAL OF ONONDAGA COUNTY, CO. LESS SYRACUSE CITY					
ONONDAGA	103.4	103.4	103.1	10,340	7,445
ORANGE COUNTY					
ORANGE	87.4	87.4		10,000	6,635
OSWEGO COUNTY					
OSWEGO	110.5	110.5	103.1	11,050	7,956
RENSSELAER COUNTY					
RENSSELAER	88.4	88.4	101.1	10,110	7,279
ROCKLAND COUNTY					
ROCKLAND	93.2	93.2	118.3	11,830	8,518
SARATOGA COUNTY					
SARATOGA	94.5	94.5	101.1	10,110	7,279
SCHENECTADY COUNTY					
SCHENECTADY	115.6	115.6	103.1	11,560	8,323
STEUBEN COUNTY					
STEUBEN	109.3	109.3		10,930	7,878
ST. LAWRENCE COUNTY					
ST. LAWRENCE	100.1	100.1		10,010	7,207
SUFFOLK CONSORTIUM (SUFFOLK COUNTY)					
SUFFOLK	93.8	93.8	98.6	10,000	7,099
SYRACUSE CITY					
ONONDAGA	103.4	103.4	103.1	10,340	7,445

1977 PRIME SPONSOR, COUNTY, AND SMSA WAGE INDEXES (NATIONAL AVERAGE ANNUAL WAGES OF $11,425 = 100.0), MAXIMUM AND AVERAGE WAGES

	PRIME SPONSOR INDEX	COUNTY INDEX	SMSA INDEX	MAXIMUM WAGES	AVERAGE WAGES
ULSTER COUNTY					
ULSTER	93.3	93.3		10,000	6,718
WESTCHESTER CONSORTIUM					
PUTNAM	109.7	82.1	118.3	11,830	8,518
WESTCHESTER	109.7	110.8	118.3	11,830	8,518
YONKERS CITY					
WESTCHESTER	110.8	110.8	118.3	11,830	8,518
BALANCE OF NEW YORK					
CAYUGA	84.8	84.8		10,000	6,635
CLINTON	84.8	86.9		10,000	6,635
COLUMBIA	84.8	78.5		10,000	6,635
FULTON	84.8	75.6		10,000	6,635
GENESEE	84.8	92.4		10,000	6,653
HERKIMER	84.8	88.1	90.6	10,000	6,635
JEFFERSON	84.8	86.5		10,000	6,635
LIVINGSTON	84.8	87.7	112.0	11,200	8,064
MADISON	84.8	80.4	103.1	10,310	7,423
MONTGOMERY	84.8	79.1	101.1	10,110	7,279
ONTARIO	84.8	80.5	112.0	11,200	8,064
ORLEANS	84.8		112.0	11,200	8,064
OTSEGO	84.8	77.6		10,000	6,635
SULLIVAN	84.8	68.6		10,000	6,635
TIOGA	84.8		99.3	10,000	7,150
TOMPKINS	84.8	88.3		10,000	6,635
WARREN	84.8	83.0		10,000	6,635
WASHINGTON	84.8	97.3		10,000	7,006
WAYNE	84.8	87.5	112.0	11,200	8,064
NORTH CAROLINA					
ALAMANCE COUNTY					
ALAMANCE	75.1	75.1	75.1	10,000	6,635
BUNCOMBE COUNTY					
BUNCOMBE	81.2	81.2	80.7	10,000	6,635
CHARLOTTE CITY					
MECKLENBURG	97.5	97.5	92.5	10,000	7,020
CUMBERLAND COUNTY					
CUMBERLAND	78.8	78.8	78.8	10,000	6,635
DAVIDSON COUNTY					
DAVIDSON	75.1	75.1	90.6	10,000	6,635
DURHAM CITY					
DURHAM	97.7	97.7	90.5	10,000	7,034
GASTON COUNTY					
GASTON	81.3	81.3	92.5	10,000	6,660
GREENSBORO CONSORTIUM (GUILFORD COUNTY)					
GUILFORD	90.4	90.4	90.6	10,000	6,635
ONSLOW COUNTY					
ONSLOW	71.1	71.1		10,000	6,635
RALEIGH CONSORTIUM					
JOHNSTON	79.7	66.6		10,000	6,635
WAKE	79.7	86.4	90.5	10,000	6,635
BAL OF WAKE COUNTY, CO. LESS CITY OF RALEIGH					
WAKE	86.4	86.4	90.5	10,000	6,635
WINSTON SALEM CONSORTIUM (FORSYTH COUNTY)					
FORSYTH	102.5	102.5	90.6	10,250	7,380
ROBESON COUNTY					
ROBESON	65.8	65.8		10,000	6,635
BALANCE OF NORTH CAROLINA					
BRUNSWICK	76.6		86.2	10,000	6,977
CABARRUS	76.6	71.5		10,000	6,635
BURKE	76.6	76.4		10,000	6,635
CALDWELL	76.6	78.6		10,000	6,635
CATAWBA	76.6	78.2		10,000	6,635
CLEVELAND	76.6	81.0		10,000	6,635
COLUMBUS	76.6	73.7		10,000	6,635
CRAVEN	76.6	87.9		10,000	6,635
CURRITUCK	76.6		87.5	10,000	6,635
DURHAM	76.6	97.7	90.5	10,000	7,034
EDGECOMBE	76.6	77.0		10,000	6,635
HALIFAX	76.6	71.5		10,000	6,635
HARNETT	76.6	67.7		10,000	6,635
HENDERSON	76.6	78.7		10,000	6,635
IREDELL	76.6	72.4		10,000	6,635
LENOIR	76.6	80.7		10,000	6,635
MADISON	76.6		80.7	10,000	6,635
MECKLENBURG	76.6	97.5	92.5	10,000	7,020
NASH	76.6	75.1		10,000	6,635
NEW HANOVER	76.6	83.9	86.2	10,000	6,635
ORANGE	76.6	88.9	90.5	10,000	6,635
PITT	76.6	74.9		10,000	6,635
RANDOLPH	76.6	73.1	90.6	10,000	6,635
ROCKINGHAM	76.6	76.7		10,000	6,635
ROWAN	76.6	79.3		10,000	6,635
RUTHERFORD	76.6	74.6		10,000	6,635
STOKES	76.6		90.6	10,000	6,635
SURRY	76.6	66.8		10,000	6,635
UNION	76.6	74.1	92.5	10,000	6,660
WAYNE	76.6	72.5		10,000	6,635
WILKES	76.6	72.6		10,000	6,635
WILSON	76.6	79.7		10,000	6,635
YADKIN	76.6		90.6	10,000	6,635
NORTH DAKOTA					
NORTH DAKOTA STATEWIDE CONSORTIUM					
BURLEIGH	83.7	89.7		10,000	6,635
CASS	83.7	92.6	88.2	10,000	6,667

1977 PRIME SPONSOR, COUNTY, AND SMSA WAGE INDEXES (NATIONAL AVERAGE ANNUAL WAGES OF $11,425 = 100.0), MAXIMUM AND AVERAGE WAGES

	PRIME SPONSOR INDEX	COUNTY INDEX	SMSA INDEX	MAXIMUM WAGES	AVERAGE WAGES
NORTH DAKOTA STATEWIDE CONSORTIUM					
GRAND FORKS	83.7	84.2	79.0	10,000	6,635
WARD	83.7	81.4		10,000	6,635
OHIO					
AKRON CONSORTIUM					
MEDINA	107.9	85.8	113.6	11,360	8,179
SUMMIT	107.9	110.4	113.6	11,360	7,949
ALLEN COUNTY					
ALLEN	104.4	104.4	98.7	10,440	7,517
ASHTABULA COUNTY					
ASHTABULA	94.4	94.4		10,000	6,792
BUTLER COUNTY					
BUTLER	115.0	115.0	115.0	11,500	8,288
CANTON CONSORTIUM					
STARK	103.1	104.9	104.3	10,490	7,553
WAYNE	103.1	95.5		10,310	7,423
CINCINNATI CITY					
HAMILTON	109.3	109.3	105.2	10,930	7,870
CLARK COUNTY					
CLARK	97.6	97.6	95.1	10,000	7,027
CLERMONT/WARREN CONSORTIUM					
CLERMONT	85.2	90.1	105.2	10,520	7,574
WARREN	85.2	80.2	105.2	10,520	7,574
CLEVELAND CONSORTIUM					
CUYAHOGA	115.5	116.8	113.6	11,600	8,352
GEAUGA	115.5	91.5	113.6	11,550	8,316
COLUMBUS CONSORTIUM (FRANKLIN CO.)					
FRANKLIN	102.1	102.1	100.5	10,210	7,351
DAYTON CITY					
MONTGOMERY	115.5	115.5	110.8	11,550	8,316
GREENE COUNTY					
GREENE	91.7	91.7	110.8	11,080	7,978
BAL OF HAMILTON, CO LESS CINCINNATI CITY					
HAMILTON	109.3	109.3	105.2	10,930	7,870
LAKE COUNTY					
LAKE	102.1	102.1	113.6	11,360	8,179
LICKING/DEL CONSORTIUM					
DELAWARE	95.8	87.8	100.5	10,050	7,236
LICKING	95.8	99.1		10,000	7,135
LORAIN COUNTY					
LORAIN	117.3	117.3	117.3	11,730	8,446
MONTGOMERY-PREBLE CONSORTIUM					
MONTGOMERY	114.1	115.5	110.8	11,550	8,316
PREBLE	114.1		110.8	11,410	8,215
NORTH EAST OHIO MANPOWER CONSORTIUM					
COLUMBIANA	109.4	88.4		10,940	7,877
MAHONING	109.4	103.8	112.4	11,240	8,093
TRUMBULL	109.4	122.2	112.4	12,000	8,796
PORTAGE CO					
PORTAGE	91.6	91.6	108.0	10,800	7,776
RICHLAND/MORROW CSRT					
RICHLAND	103.6	105.1	105.1	10,510	7,567
SCIOTO COUNTY					
SCIOTO	88.2	88.2		10,000	6,635
TOLEDO CONSORTIUM					
LUCAS	112.2	113.0	110.7	11,300	8,136
WOOD	112.2	107.1	110.7	11,220	8,078
BALANCE OF OHIO					
ATHENS	94.7	86.0		10,000	6,818
AUGLAIZE	94.7		98.7	10,000	7,106
BELMONT	94.7	98.1	99.8	10,000	7,186
CARROLL	94.7		104.3	10,430	7,510
CHAMPAIGN	94.7		95.1	10,000	6,847
DARKE	94.7	81.6		10,000	6,818
ERIE	94.7	104.4		10,440	7,517
FAIRFIELD	94.7	90.0	100.5	10,050	7,236
FULTON	94.7		110.7	13,970	7,978
HANCOCK	94.7	102.0		10,200	7,344
HURON	94.7	92.4		10,000	6,818
JEFFERSON	94.7	112.4	124.4	12,000	8,957
LAWRENCE	94.7	93.4	100.6	10,060	7,243
MADISON	94.7		100.5	10,050	7,236
MARION	94.7	101.3		10,130	7,294
MIAMI	94.7	91.2	110.8	11,080	7,978
MUSKINGUM	94.7	88.0		10,000	6,818
OTTAWA	94.7		110.7	11,070	7,970
PICKAWAY	94.7		100.5	10,050	7,236
PUTNAM	94.7		98.7	10,000	7,106
ROSS	94.7	100.8		10,080	7,258
SANDUSKY	94.7	98.8		10,000	7,114
SENECA	94.7	106.0		10,600	7,632
TUSCARAWAS	94.7	91.7		10,000	6,818
VAN WERT	94.7		98.7	10,000	7,106
WASHINGTON	94.7	94.1	95.9	10,000	6,985
OKLAHOMA					
BAL. OF CLEVELAND CO. LESS OKLAHOMA CITY (PART)					
CLEVELAND	73.0	73.0	94.9	10,000	6,833
COMANCHE COUNTY					
COMANCHE	75.9	75.9	75.9	10,000	6,635
OKLAHOMA CITY CONSORTIUM					
CANADIAN	96.7		94.9	10,000	6,962
CLEVELAND	96.7	73.0	94.9	10,000	6,962
MC CLAIN	96.7		94.9	10,000	6,962
OKLAHOMA	96.7	98.1	94.9	10,000	7,063

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	PRIME SPONSOR INDEX	COUNTY INDEX	SMSA INDEX	MAXIMUM WAGES	AVERAGE WAGES
OKLAHOMA COUNTY, CO. LESS CITY OF OKLAHOMA (PART)					
OKLAHOMA	98.1	98.1	94.9	10,000	7,063
TULSA CONSORTIUM					
CREEK	103.6	82.8	102.1	10,360	7,459
OSAGE	103.6		102.1	10,360	7,459
TULSA	103.6	104.9	102.1	10,490	7,553
BALANCE OF OKLAHOMA					
GARFIELD	82.3	89.2		10,000	6,635
KAY	82.3	97.4		10,000	7,013
LE FLORE	82.3		81.6	10,000	6,635
MC CLAIN	82.3		94.9	10,000	6,833
MAYES	82.3		102.1	10,210	7,351
MUSKOGEE	82.3	90.4		10,000	6,635
PAYNE	82.3	68.5		10,000	6,635
POTTAWATOMIE	82.3	75.1	94.9	10,000	6,833
ROGERS	82.3		102.1	10,210	7,351
SEQUOYAH	82.3		81.6	10,000	6,635
WAGONER	82.3		102.1	10,210	7,351
OREGON					
BAL OF CLACKAMAS CO. LESS PORTLAND CITY (PART)					
CLACKAMAS	98.8	98.8	105.0	10,500	7,560
JACKSON/JOSEPHINE CSRT.					
JACKSON	93.8	94.8		10,000	6,826
LANE COUNTY					
LANE	98.4	98.4	98.4	10,000	7,085
MID WILLAMETTE VALLEY CONSORTIUM					
MARION	93.0	93.5	93.1	10,000	6,732
POLK	93.0		93.1	10,000	6,703
MULTNOMAH/WASHINGTON CONSORTIUM					
MULTNOMAH	103.8	107.3	105.0	10,730	7,726
WASHINGTON	103.8	98.8	105.0	10,500	7,560
PORTLAND CITY					
CLACKAMAS	107.3	98.8	105.0	10,730	7,726
MULTNOMAH	107.3	107.3	105.0	10,730	7,726
BALANCE OF OREGON					
BENTON	94.8	97.6		10,000	7,027
COOS	94.8	102.4		10,240	7,373
DOUGLAS	94.8	102.9		10,290	7,409
JOSEPHINE	94.8	87.5		10,000	6,826
KLAMATH	94.8	95.8		10,000	6,898
LINN	94.8	106.3		10,630	7,654
UMATILLA	94.8	83.9		10,000	6,826
PENNSYLVANIA					
BAL OF ALLEGHENY COUNTY, CO. LESS PITTSBURGH CITY					
ALLEGHENY	112.9	112.9	111.9	11,290	8,129
BEAVER COUNTY					
BEAVER	122.8	122.8	111.9	12,800	8,842
BERKS COUNTY					
BERKS	94.0	94.0	94.0	10,000	6,768
BUCKS COUNTY					
BUCKS	97.7	97.7	105.4	10,548	7,589
CENTRE COUNTY					
CENTRE	87.9	87.9		10,000	6,635
CHESTER COUNTY					
CHESTER	103.8	103.8	105.4	10,540	7,589
DELAWARE COUNTY					
DELAWARE	103.7	103.7	105.4	10,540	7,589
ERIE CITY					
ERIE	97.7	97.7	97.7	10,000	7,034
BAL OF ERIE COUNTY, CO. LESS ERIE CITY					
ERIE	97.7	97.7	97.7	10,000	7,034
FAYETTE COUNTY					
FAYETTE	87.3	87.3		10,000	6,635
FRANKLIN COUNTY					
FRANKLIN	90.1	90.1		10,000	6,635
BAL OF LACKAWANNA COUNTY, CO. LESS SCRANTON CITY					
LACKAWANNA	81.7	81.7	83.7	10,000	6,635
LANCASTER CONSORTIUM					
LANCASTER	90.4	90.5	90.5	10,000	6,635
LEBANON	90.4	89.8		10,000	6,635
LAWRENCE COUNTY					
LAWRENCE	93.0	93.0		10,000	6,696
LEHIGH VALLEY CONSORTIUM					
LEHIGH	101.7	99.4	99.9	10,170	7,322
NORTHAMPTON	101.7	105.1	99.9	10,510	7,567
LUZERNE COUNTY					
LUZERNE	84.6	84.6	83.7	10,000	6,635
LYCOMING CONSORTIUM					
LYCOMING	90.2	90.0	90.0	10,000	6,635
MERCER CONSORTIUM					
CRAWFORD	98.2	86.0		10,000	7,070

1977 PRIME SPONSOR, COUNTY, AND SMSA WAGE INDEXES (NATIONAL AVERAGE ANNUAL WAGES OF $11,425 = 100.0), MAXIMUM AND AVERAGE WAGES

	PRIME SPONSOR INDEX	COUNTY INDEX	SMSA INDEX	MAXIMUM WAGES	AVERAGE WAGES
MERCER CONSORTIUM					
MERCER	98.2	103.5		10,350	7,452
VENANGO	98.2	104.0		10,400	7,488
MONTGOMERY COUNTY					
MONTGOMERY	107.0	107.0	105.4	10,700	7,784
NORTHUMBERLAND COUNTY					
NORTHUMBERLAND	86.0	86.0		10,000	6,635
PHILADELPHIA CITY/COUNTY					
PHILADELPHIA	109.1	109.1	105.4	10,910	7,855
PITTSBURGH CITY					
ALLEGHENY	112.9	112.9	111.9	11,290	8,129
SCHUYLKILL CONSORTIUM					
CARBON	76.2	73.7	99.9	10,000	7,193
SCHUYLKILL	76.2	77.0		10,000	6,635
SCRANTON CITY					
LACKAWANNA	81.7	81.7	83.7	10,000	6,635
SOUTHERN ALLEGANY CONSORTIUM					
BLAIR	93.1	84.6	84.6	10,000	6,783
CAMBRIA	93.1	104.6	101.5	10,460	7,531
SOMERSET	93.1	91.4	101.5	10,150	7,308
SUSQUEHANNA CONSORTIUM					
CUMBERLAND	98.3	94.0	98.3	10,000	7,078
DAUPHIN	98.3	101.8	98.3	10,180	7,330
PERRY	98.3		98.3	10,000	7,078
TRI-COUNTY CONSORTIUM (BUTLER CONSORTIUM)					
ARMSTRONG	103.5	98.1		10,350	7,452
BUTLER	103.5	105.9		10,590	7,625
INDIANA	103.5	103.5		10,350	7,452
WASHINGTON COUNTY					
WASHINGTON	107.4	107.4	111.9	11,190	8,057
WESTMORELAND COUNTY					
WESTMORELAND	101.1	101.1	111.9	11,190	8,057
YORK COUNTY					
YORK	95.1	95.1	92.2	10,000	6,847
BALANCE OF PENNSYLVANIA					
ADAMS	86.5	71.8	92.2	10,000	6,635
BRADFORD	86.5	89.0		10,000	6,635
CLEARFIELD	86.5	89.2		10,000	6,635
COLUMBIA	86.5	82.0		10,000	6,635
MCKEAN	86.5	87.0		10,000	6,635
MONROE	86.5	85.8	83.7	10,000	7,150
SUSQUEHANNA	86.5		99.3		
RHODE ISLAND					
PROVIDENCE CITY					
PROVIDENCE	84.3	84.3	83.0	10,000	6,635
BALANCE OF RHODE ISLAND					
BRISTOL	82.0		83.0	10,000	6,635
KENT	82.0	78.0	83.0	10,000	6,635
NEWPORT	82.0	74.4		10,000	6,635
PROVIDENCE	82.0	84.3	83.0	10,000	6,635
WASHINGTON	82.0	81.6	83.0		
SOUTH CAROLINA					
SOUTH CAROLINA STATEWIDE CONSORTIUM					
AIKEN	82.9	96.2	91.1	10,000	6,926
ANDERSON	82.9	80.5		10,000	6,635
BEAUFORT	82.9	71.4		10,000	6,635
BERKELEY	82.9	95.6	88.2	10,000	6,883
CHARLESTON	82.9	88.2	88.2	10,000	6,635
DARLINGTON	82.9	88.6		10,000	6,635
DORCHESTER	82.9		88.2	10,000	6,635
FLORENCE	82.9	80.2		10,000	6,635
GREENVILLE	82.9	89.0	86.9	10,000	6,635
GREENWOOD	82.9	81.9		10,000	6,635
HORRY	82.9	61.6		10,000	6,635
LAURENS	82.9	78.6		10,000	6,635
LEXINGTON	82.9	85.6	84.6	10,000	6,635
ORANGEBURG	82.9	74.3		10,000	6,635
PICKENS	82.9	77.4	86.9	10,000	6,635
RICHLAND	82.9	84.9	84.6	10,000	6,635
SPARTANBURG	82.9	86.8	86.9	10,000	6,635
SUMTER	82.9	71.8		10,000	6,635
YORK	82.9	84.4			
SOUTH DAKOTA					
SOUTH DAKOTA STATEWIDE CONSORTIUM					
MINNEHAHA	77.5	88.5	88.3	10,000	6,635
PENNINGTON	77.5	79.1		10,000	6,635

1977 PRIME SPONSOR, COUNTY, AND SMSA WAGE INDEXES (NATIONAL AVERAGE ANNUAL WAGES OF $11,425 = 100.0), MAXIMUM AND AVERAGE WAGES

	PRIME SPONSOR INDEX	COUNTY INDEX	SMSA INDEX	MAXIMUM WAGES	AVERAGE WAGES
TENNESSEE					
CHATTANOOGA CITY					
HAMILTON	97.9	97.9	94.1	10,800	7,849
BAL OF HAMILTON COUNTY, CO. LESS CHATTANOOGA CITY					
HAMILTON	97.9	97.9	94.1	10,800	7,849
KNOXVILLE CONSORTIUM (KNOX COUNTY)					
KNOX	85.5	85.5	95.1	10,000	6,847
MEMPHIS CONSORTIUM (SHELBY COUNTY)					
SHELBY	94.9	94.9	93.4	10,000	6,833
NASHVILLE/DAVIDSON COUNTY (DAVIDSON COUNTY)					
DAVIDSON	91.7	91.7	88.4	10,000	6,635
SULLIVAN COUNTY					
SULLIVAN	100.8	100.8	89.5	10,080	7,258
BALANCE OF TENNESSEE					
ANDERSON	79.0	123.4	95.1	12,000	8,885
BLOUNT	79.0	105.3	95.1	10,530	7,582
BRADLEY	79.0	72.4		10,000	6,635
CARTER	79.0		89.5	10,000	6,635
CHEATHAM	79.0		88.4	10,000	6,635
DICKSON	79.0		88.4	10,000	6,635
GREENE	79.0	70.0		10,000	6,635
HAWKINS	79.0		89.5	10,000	6,635
MADISON	79.0	87.1		10,000	6,635
MARION	79.0		94.1	10,000	6,775
MONTGOMERY	79.0	77.9	77.9	10,000	6,635
ROBERTSON	79.0		88.4	10,000	6,635
RUTHERFORD	79.0	81.4	88.4	10,000	6,635
SEQUATCHIE	79.0		94.1	10,000	6,775
SUMNER	79.0	80.2	88.4	10,000	6,635
TIPTON	79.0		93.4	10,000	6,725
UNICOI	79.0		89.5	10,000	6,635
UNION	79.0		95.1	10,000	6,847
WASHINGTON	79.0	77.1	89.5	10,000	6,635
WILLIAMSON	79.0		88.4	10,000	6,635
WILSON	79.0		88.4	10,000	6,635
TEXAS					
ALAMO CONSORTIUM					
BEXAR	84.5	86.9	85.9	10,000	6,635
COMAL	84.5		85.9	10,000	6,635
ALAMO CONSORTIUM					
GUADALUPE	84.5		85.9	10,000	6,635
GULF COAST AREA MANPOWER CONSORTIUM					
BRAZORIA	101.7	122.0	115.1	12,000	8,784
FORT BEND	101.7	108.8	115.1	11,510	8,287
LIBERTY	101.7		115.1	11,510	8,287
MONTGOMERY	101.7	85.6	115.1	11,510	8,287
WALLER	101.7		115.1	11,510	8,287
CAMERON COUNTY					
CAMERON	71.1	71.1	71.1	10,000	6,635
CAPITAL AREA MANPOWER CONSORTIUM					
HAYS	82.9		85.1	10,000	6,635
TRAVIS	82.9	86.4	85.1	10,000	6,635
WILLIAMSON	82.9	69.5		10,000	6,635
CENTRAL TEXAS MANPOWER CONSORTIUM					
BELL	78.7	78.5	77.2	10,000	6,635
CORYELL	78.7		77.2	10,000	6,635

1977 PRIME SPONSOR, COUNTY, AND SMSA WAGE INDEXES (NATIONAL AVERAGE ANNUAL WAGES OF $11,425 = 100.0), MAXIMUM AND AVERAGE WAGES

	PRIME SPONSOR INDEX	COUNTY INDEX	SMSA INDEX	MAXIMUM WAGES	AVERAGE WAGES
COASTAL BEND MANPOWER CSRT					
NUECES	91.7	95.3	95.1	10,000	6,862
SAN PATRICIO	91.7	92.9	95.1	10,000	6,847
DALLAS CITY					
DALLAS	105.5	105.5	101.0	10,550	7,596
DALLAS COUNTY CONSORTIUM					
DALLAS	105.5	105.5	101.0	10,550	7,596
EL PASO CONSORTIUM (EL PASO COUNTY)					
EL PASO	79.3	79.3	79.3	10,000	6,635
FT. WORTH CONSORTIUM					
TARRANT	97.7	97.7	101.0	10,100	7,272
GALVESTON COUNTY					
GALVESTON	106.0	106.0	106.0	10,600	7,632
BALANCE OF HARRIS CO LESS PASADENA CSRT AND HOUSTON CITY					
HARRIS	115.8	115.8	115.1	11,580	8,338
HIDALGO COUNTY CONSORTIUM					
HIDALGO	68.3	68.6	68.6	10,000	6,635
HOUSTON CITY					
HARRIS	115.8	115.8	115.1	11,580	8,338
GREATER PASADENA CONSORTIUM					
HARRIS	115.8	115.8	115.1	11,580	8,338
NORTH TEXAS STATE PLANNING REGIONAL CONSORTIUM					
CLAY	80.1		83.1	10,000	6,635
NORTH TEXAS STATE PLANNING REGIONAL CONSORTIUM					
WICHITA	80.1	83.3	83.1	10,000	6,635
PERMIAN BASIN CONSORTIUM					
ECTOR	102.4	106.0	106.0	10,400	7,488
MIDLAND	102.4	110.4	110.4	11,040	7,949
REGION XI CONSORTIUM					
MC LENNAN	78.4	81.2	81.2	10,000	6,635
S.E. TEXAS COMPREHENSIVE MANPOWER CONSORTIUM					
HARDIN	115.0		115.0	11,500	8,280
JEFFERSON	115.0	115.7	115.0	11,570	8,330
ORANGE	115.0	119.5	115.0	11,950	8,604
BAL OF TARRANT CO LESS FT WORTH CSRT AND GRAND PRAIRIE(PART)					
TARRANT	97.7	97.7	101.0	10,100	7,272
SOUTH PLAINS ASSOCIATION OF GOVERNMENTS					
LUBBOCK	80.4	80.6	80.6	10,000	6,635
TEXARKANA CONSORTIUM (ARKANSAS-TEXAS)					
LITTLE RIVER	87.6		87.6	10,000	6,635
MILLER	87.6		87.6	10,000	6,635
BOWIE	87.6	90.8			
TEXAS PANHANDLE EMPLOYMENT AND TRAINING ALLIANCE CONSORTIUM					
POTTER	91.7	91.9	89.7	10,000	6,635
RANDALL	91.7	77.3	89.7	10,000	6,635
WEBB COUNTY					
WEBB	68.0	68.0	68.0	10,000	6,635
WEST CENTRAL TEXAS CSRT					
CALLAHAN	78.3		80.3	10,000	6,635
JONES	78.3		80.3	10,000	6,635
TAYLOR	78.3	81.0	80.3	10,000	6,635
EAST TEXAS MANPOWER CONSORTIUM					
GREGG	86.0	90.9	93.1	10,000	6,703
HARRISON	86.0		93.1	10,000	6,703
SMITH	86.0	90.4	90.4	10,000	6,635
BALANCE OF TEXAS					
ANGELINA	80.6	88.9		10,000	6,635
BRAZOS	80.6	76.2	101.0	10,000	6,635
COLLIN	80.6	81.0	101.0	10,100	7,272
DENTON	80.6	73.2	101.0	10,100	7,272

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1977 PRIME SPONSOR, COUNTY, AND SMSA WAGE INDEXES (NATIONAL AVERAGE ANNUAL WAGES OF $11,425 = 100.0), MAXIMUM AND AVERAGE WAGES

	PRIME SPONSOR INDEX	COUNTY INDEX	SMSA INDEX	MAXIMUM WAGES	AVERAGE WAGES
BALANCE OF TEXAS					
ELLIS	80.6	80.2	101.0	10,100	7,272
GRAYSON	80.6	82.9	82.9	10,000	6,635
HOOD	80.6		101.0	10,100	7,272
JOHNSON	80.6	71.5	101.0	10,100	7,272
KAUFFMAN	80.6		101.0	10,100	7,272
PARKER	80.6				
ROCKWALL	80.6		101.0	10,100	7,272
TOM GREEN	80.6	77.9	101.0	10,100	7,272
VICTORIA	80.6	91.9	77.9	10,000	6,635
WISE	80.6		101.0	10,100	7,272
UTAH					
UTAH STATEWIDE CONSORTIUM					
DAVIS	92.6	105.8	94.5	10,580	7,618
SALT LAKE	92.6	93.9	94.5	10,000	6,804
TOOELE	92.6		94.5	10,000	6,804
UTAH	92.6	90.8	90.8	10,000	6,667
WEBER	92.6	82.0	94.5	10,000	6,804
VERMONT					
VERMONT STATEWIDE CONSORTIUM					
CHITTENDEN	82.7	96.1		10,000	6,919
RUTLAND	82.7	78.8		10,000	6,635
VIRGINIA					
ALEXANDRIA CITY					
ALEXANDRIA	100.3	100.3	118.4	11,840	8,525
ARLINGTON COUNTY					
ARLINGTON	134.2	134.2	118.4	12,000	9,662
FAIRFAX-LOUDOUN CONSORTIUM					
FAIRFAX	101.5	103.4	118.4	11,840	8,525
LOUDOUN	101.5	93.9	118.4	11,840	8,525
FAIRFAX CITY	101.5		118.4	11,840	8,525
FALLS CHURCH	101.5		118.4	11,840	8,525
HENRICO COUNTY CONSORTIUM					
CHESTERFIELD	94.1	107.4	95.1	10,740	7,733
HANOVER	94.1	79.3	95.1	10,000	6,847
HENRICO	94.1	90.2	95.1	10,050	6,847
PENNINSULA CONSORTIUM					
JAMES CITY	93.2		92.9	10,000	6,710
YORK	93.2		92.9	10,000	6,710
HAMPTON	93.2	93.4	92.9	10,000	6,725
NEWPORT NEWS	93.2	97.0	92.9	10,000	6,984
WILLIAMSBURG	93.2		92.9	10,000	6,710
PRINCE WILLIAM COUNTY CONSORTIUM					
PRINCE WILLIAM	97.2	82.9	118.4	11,840	8,525
MANASSAS CITY	97.2		118.4	11,840	8,525
MANASSAS PARK CITY	97.2		118.4	11,840	8,525
RAMPS CONSORTIUM					
CHARLES CITY	95.5		95.1	10,000	6,876
GOOCHLAND	95.5		95.1	10,000	6,876
NEW KENT	95.5		95.1	10,000	6,876
POWHATAN	95.5		95.1	10,000	6,876
RICHMOND	95.5	95.9	95.1	10,000	6,985
ROANOKE CONSORTIUM					
BOTETOURT	87.7		87.3	10,000	6,635
CRAIG	87.7		87.3	10,000	6,635
ROANOKE	87.7	86.9	87.3	10,000	6,635
ROANOKE CITY	87.7	83.7	87.3	10,000	6,635
SALEM	87.7		87.3	10,000	6,635
STAMA CONSORTIUM					
CHESAPEAKE	87.8	83.4	87.5	10,000	6,635

1977 PRIME SPONSOR, COUNTY, AND SMSA WAGE INDEXES (NATIONAL AVERAGE ANNUAL WAGES OF $11,425 = 100.0), MAXIMUM AND AVERAGE WAGES

	PRIME SPONSOR INDEX	COUNTY INDEX	SMSA INDEX	MAXIMUM WAGES	AVERAGE WAGES
STAMA CONSORTIUM					
NORFOLK	87.8	91.8	87.5	10,000	6,635
PORTSMOUTH	87.8	97.0	87.5	10,000	6,984
SUFFOLK	87.8		87.5	10,000	6,635
VIRGINIA BEACH	87.8	70.6	87.5	10,000	6,635
BALANCE OF VIRGINIA					
ALBERMARLE	82.4	92.2		10,000	6,635
AMHERST	82.4		87.7	10,000	6,635
APPOMATTOX	82.4		87.7	10,000	6,635
AUGUSTA	82.4	94.8		10,000	6,826
CAMPBELL	82.4		87.7	10,000	6,635
DINWIDDIE	82.4		92.9	10,000	6,689
GLOUCESTER	82.4		92.9	10,000	6,689
HENRY	82.4	88.9		10,000	6,635
MONTGOMERY	82.4	85.9		10,000	6,635
PITTSYLVANIA	82.4	90.9		10,000	6,635
PRINCE GEORGE	82.4	110.6	92.9	11,060	7,963
ROCKINGHAM	82.4	71.7		10,000	6,635
SCOTT	82.4		89.5	10,000	6,635
WASHINGTON	82.4		89.5	10,000	6,635
BRISTOL	82.4		89.5	10,000	6,635
COLONIAL HEIGHTS	82.4		92.9	10,000	6,689
HOPEWELL	82.4		92.9	10,000	6,689
LYNCHBURG	82.4	87.4	87.7	10,000	6,635
PETERSBURG	82.4		92.9	10,000	6,689
WASHINGTON					
CLARK COUNTY					
CLARK	106.0	106.0	105.0	10,600	7,632
KING/SNOHOMISH CONSORTIUM					
KING	113.6	114.6	113.6	11,460	8,251
SNOHOMISH	113.6	106.2	113.6	11,360	8,179
KITSAP COUNTY					
KITSAP	117.0	117.0		11,700	8,424
BAL OF PIERCE COUNTY, CO. LESS TACOMA CITY					
PIERCE	101.0	101.0	101.0	10,100	7,272
SPOKANE CSRT. (SPOKANE CN.)					
SPOKANE	96.9	96.9	96.9	10,000	6,977
TACOMA CITY					
PIERCE	101.0	101.0	101.0	10,100	7,272
YAKIMA COUNTY					
YAKIMA	88.9	88.9	88.9	10,000	6,635
BALANCE OF WASHINGTON					
BENTON	103.3	129.8	121.5	12,000	9,346
COWLITZ	103.3	121.7		12,000	8,762

1977 PRIME SPONSOR, COUNTY, AND SMSA WAGE INDEXES (NATIONAL AVERAGE ANNUAL WAGES OF $11,425 = 100.0), MAXIMUM AND AVERAGE WAGES

	PRIME SPONSOR INDEX	COUNTY INDEX	SMSA INDEX	MAXIMUM WAGES	AVERAGE WAGES
BALANCE OF WASHINGTON					
FRANKLIN	103.3		121.5	12,000	8,748
GRAYS HARBOR	103.3	108.0		10,800	7,776
LEWIS	103.3	100.2		10,330	7,438
SKAGIT	103.3	98.8		10,330	7,438
THRUSTON	103.3	105.3		10,530	7,582
WHATCOM	103.3	99.1		10,330	7,438
WEST VIRGINIA					
WEST VIRGINIA STATEWIDE CONSORTIUM					
BROOKE	102.7		124.4	12,000	8,957
CABELL	102.7	95.4	100.6	10,270	7,394
FAYETTE	102.7	100.4		10,270	7,394
HANCOCK	102.7		124.4	12,000	8,9572
HARRISON	102.7	96.1		10,270	7,394
KANAWHA	102.7	110.0	110.3	11,030	7,942
MC DOWELL	102.7	125.7		12,000	9,858
MARION	102.7	99.9		10,270	7,394
MARSHALL	102.7		99.8	10,270	7,394
MERCER	102.7	92.1		10,270	7,394
MONONGALIA	102.7	94.9		10,270	7,394
OHIO	102.7	88.5		10,270	7,394
PUTNAM	102.7		99.8	10,270	7,394
RALEIGH	102.7	102.2	110.3	11,030	7,942
WAYNE	102.7			10,270	7,394
WIRT	102.7		100.6	10,270	7,394
WOOD	102.7	97.1	95.9	10,270	7,394
WISCONSIN			95.9	10,270	7,394
MADISON/DANE CONSORTIUM (DANE CO.)					
DANE	95.7	95.7	95.7	10,800	6,890
MARATHON COUNTY					
MARATHON	94.9	94.9		10,000	6,833
MILWAUKEE COUNTY					
MILWAUKEE	107.7	107.7	105.8	10,770	7,754
NORTHWEST WISCONSIN CEP					
DOUGLAS	75.4		92.8	10,800	6,682
OUTAGAMIE COUNTY					
OUTAGAMIE	96.6	96.6	98.1	10,000	7,063
ROCK COUNTY					
ROCK	102.0	102.0		10,200	7,344
TRICO CETAC					
KENOSHA	100.0	102.5	102.5	10,250	7,380
RACINE	100.0	106.8	106.8	10,608	7,632
WALWORTH	100.0	78.3		10,800	7,280
WINNE/FOND CONSORTIUM					
FOND DU LAC	95.4	86.2		10,800	6,869
WINNEBAGO	95.4	100.8	98.1	10,080	7,258
WOW CONSORTIUM					
OZAUKEE	99.0	95.4	105.8	10,580	7,618
WASHINGTON	99.0	87.0	105.8	10,580	7,618
WAUKESHA	99.0	103.0	105.8	10,580	7,618
BALANCE OF WISCONSIN					
BROWN	83.9	98.0	98.0	10,000	7,056
CALUMET	83.9		98.1	10,000	7,063
CHIPPEWA	83.9		89.1	10,000	6,635
DODGE	83.9	89.4		10,000	6,635
EAU CLAIRE	83.9	92.9	89.1	10,000	6,689
GRANT	83.9	68.7		10,000	6,635
JEFFERSON	83.9	87.2		10,000	6,635
LA CROSSE	83.9	86.7	86.7	10,000	6,635
MANITOWOC	83.9	85.4		10,000	6,635
PORTAGE	83.9	86.1		10,000	6,635
ST. CROIX	83.9		101.3	10,130	7,294
SHEBOYGAN	83.9	93.1		10,000	6,703
WOOD	83.9	98.2		10,000	7,070

1977 PRIME SPONSOR, COUNTY, AND SMSA WAGE INDEXES (NATIONAL AVERAGE ANNUAL WAGES OF $11,425 = 100.0), MAXIMUM AND AVERAGE WAGES

	PRIME SPONSOR INDEX	COUNTY INDEX	SMSA INDEX	MAXIMUM WAGES	AVERAGE WAGES
BALANCE OF WISCONSIN					
GRANT	83.9	68.7		10,000	6,635
JEFFERSON	83.9	87.2		10,000	6,635
LA CROSSE	83.9	86.7	86.7	10,000	6,635
MANITOWOC	83.9	85.4		10,000	6,635
PORTAGE	83.9	86.1		10,000	6,635
ST. CROIX	83.9		101.3	10,130	7,294
SHEBOYGAN	83.9	93.1		10,000	6,703
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Signed this 2 day of ~~April~~ May 1979

at Washington, D.C.

Ray Marshall

R. Ray Marshall,
Secretary of Labor.

Certified to be a true copy of the original document.

Melvin T. Green

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Reader Aids

Federal Register

Vol. 44, No. 90

Tuesday, May 8, 1979

INFORMATION AND ASSISTANCE

Questions and requests for specific information may be directed to the following numbers. General inquiries may be made by dialing 202-523-5240.

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AGENCY PUBLICATION ON ASSIGNED DAYS OF THE WEEK

The following agencies have agreed to publish all documents on two assigned days of the week (Monday/Thursday or Tuesday/Friday).

This is a voluntary program. (See OFR NOTICE FR 32914, August 6, 1976.)

Monday	Tuesday	Wednesday	Thursday	Friday
DOT/COAST GUARD	USDA/ASCS		DOT/COAST GUARD	USDA/ASCS
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DOT/FAA	USDA/FNS		DOT/FAA	USDA/FNS
DOT/OHMO	USDA/FSQS		DOT/OHMO	USDA/FSQS
DOT/OPSO	USDA/REA		DOT/OPSO	USDA/REA
CSA	MSPB*/OPM*		CSA	MSPB*/OPM*
	LABOR			LABOR
	HEW/FDA			HEW/FDA

Documents normally scheduled for publication on a day that will be a Federal holiday will be published the next work day following the holiday.

Comments on this program are still invited. Comments should be submitted to the Day-of-the-Week Program Coordinator, Office of the Federal Register, National Archives and Records Service, General Services Administration, Washington, D.C. 20408

***NOTE: As of January 1, 1979, the Merit Systems Protection Board (MSPB) and the Office of Personnel Management (OPM) will publish on the Tuesday/Friday schedule. (MSPB and OPM are successor agencies to the Civil Service Commission.)**

REMINDERS

The items in this list were editorially compiled as an aid to Federal Register users. Inclusion or exclusion from this list has no legal significance. Since this list is intended as a reminder, it does not include effective dates that occur within 14 days of publication.

Rules Going Into Effect Today

ENERGY DEPARTMENT

Economic Regulatory Administration—

21230 4–9–79 / Exemption for use of natural gas by existing powerplants under the Powerplant and Industrial Fuel Use Act of 1978

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Note: No public bills which have become law were received by the Office of the Federal Register for inclusion in today's List of Public Laws.

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(Revised as of October 1, 1978)

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[A Cumulative checklist of CFR issuances for 1979 appears in the first issue of the Federal Register each month under Title 1. In addition, a checklist of current CFR volumes, comprising a complete CFR set, appears each month in the LSA (List of CFR Sections Affected)]

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federal register

Wednesday
May 9, 1979

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27063 **Energy Emergency—Florida** Presidential determination extension under the Clean Air Act

27065 **Flag Day and National Flag Week** Presidential proclamation

27168 **Natural Gas Policy** DOE/FERC requests comments on proper procedure for handling challenges to contractual authority to collect maximum lawful prices; comments by 5-16-79

27334, 27362 **Toxic Substances Control** EPA proposes rules and holds meetings on health effects test standards; comments by 8-7-79, public meetings July 1979 (2 documents) (Part II of this issue)

27194 **Federal Photovoltaic Utilization Program** DOE proposes rules for monitoring and assessment requirements; comments by 7-9-79, hearing 6-14-79, requests to testify at hearing by 6-4-79

FEDERAL REGISTER Published daily, Monday through Friday, (not published on Saturdays, Sundays, or on official holidays), by the Office of the Federal Register, National Archives and Records Service, General Services Administration, Washington, D.C. 20408, under the Federal Register Act (49 Stat. 500, as amended; 44 U.S.C. Ch. 15) and the regulations of the Administrative Committee of the Federal Register (1 CFR Ch. I). Distribution is made only by the Superintendent of Documents, U.S. Government Printing Office, Washington, D.C. 20402.

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Area Code 202–523–5240

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27180 **Puerto Rico and Possession Tax Credit** Treasury/IRS proposes rules for making and revoking elections relating to tax credit enacted by Tax Reform Act of 1976; comments and public hearing request by 7–9–79

27089, 27183 **Earned Income Credit** Treasury/IRS issues temporary rules relating to advance payment by employers and advance payment certificates; effective for wages paid after 6–30–79, comments and requests for hearing by 7–9–79 (2 documents)

27079, 27181, 27182 **Foreign Earned Income** Treasury/IRS provides temporary rules; proposes amendments to rules, and will hold public hearing relating to exclusion and deduction for excess foreign living costs; effective for taxable years after 12–31–77, comments by 7–30–79, hearing 8–28–79 (3 documents)

27068 **Federal Credit Unions** NCUA finalizes rules regarding purchase, sale and pledge of eligible obligations; effective 5–9–79, comments by 6–15–79

27161 **National Environmental Policy** NASA proposes to adopt procedures for implementation of the National Environmental Policy Act; comments by 6–8–79

27095 **Offshore Military Activities Program** DOD/Sec'y updates procedures on use of offshore areas, states policy and assigns responsibilities; effective 3–22–79

27191 **Waters Heaters** DOE proposes to amend test procedures; comments by 7–9–79, public hearing 6–27–79, requests to speak at hearing by 6–14–79, statements by 6–22–79

27190 **American Alligator** Interior/FWS reopens comment period on proposal to reclassify to threatened, simplify certain licenses and allow for sale of meat; comments between 5–10 and 6–5–79

27093 **Demands for Disclosure** Treasury/ATFB adds section to procedural rules regarding disclosure of information; effective 5–9–79

27232 **Hong Kong Export Visas** CITA announces new endorsement stamp; effective 6–1–79 except for previously authorized merchandise

27331 **Sunshine Act Meetings**

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Federal Register
Vol. 44, No. 91
Wednesday, May 9, 1979

Presidential Documents

Title 3—

The President

Memorandum of May 7, 1979

Extension of Determination Under Section 110(f) of the Clean Air Act—Florida

Memorandum for the Administrator, Environmental Protection Agency

Based on a request submitted to me by the Governor of the State of Florida to extend my April 6, 1979 determination that a regional energy emergency exists in the State of Florida of such severity that a temporary suspension of certain particulate and opacity control regulations which apply to fossil-fuel fired electric generating plants under the Florida Air Quality Implementation Plan be necessary, and that other means of responding to the energy emergency may be inadequate, I hereby extend that determination from May 5 to June 4, 1979. This extension shall be effective for not more than thirty (30) days and is limited by the same conditions as my original determination. If, during the extension, I find that a regional energy emergency no longer exists in Florida, I will direct that this extension be rescinded and that all suspension orders issued by the Governor be terminated on the day of that rescission. You will continue to retain full authority to disapprove temporary suspension of regulations in Florida and to exercise your emergency powers authority under Section 303 of the Clean Air Act, when and if necessary.

It is important to keep suspensions to an absolute minimum since Section 110(f) of the Clean Air Act limits each suspension to a maximum duration of 120 days.

This determination shall be published in the **Federal Register.**

Jimmy Carter

THE WHITE HOUSE,
Washington, May 7, 1979.

[FR Doc. 79-14682
Filed 5-8-79; 11:04 am]
Billing code 3195-01-M

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Proclamation 4660 of May 8, 1979

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Proclamation 4660 of May 8, 1979

Flag Day and National Flag Week, 1979

By the President of the United States of America
A Proclamation

Two years after the Battle of Bunker Hill, on June 14, 1777, the Continental Congress chose a flag which tellingly expressed the unity and resolve of Colonials who had banded together to seek independence. The delegates voted "that the flag of the thirteen United States be thirteen stripes, alternate red and white; that the union be thirteen stars, white in a blue field representing a new constellation."

With the addition of thirty-seven stars, and after more than two centuries of history, the flag chosen by the Continental Congress in Philadelphia is our flag today, symbolizing a shared commitment to freedom and equality.

To commemorate the adoption of our flag, the Congress, by a joint resolution of August 3, 1949 (63 Stat. 492), designated June 14 of each year as Flag Day and requested the President to issue annually a proclamation calling for its observance. The Congress also requested the President, by joint resolution of June 9, 1966 (80 Stat. 194), to issue annually a proclamation designating the week in which June 14 occurs as National Flag Week and to call upon all citizens of the United States to display the flag of the United States on those days.

To focus the attention of the American people on their country's character, heritage and future well-being, the Congress has also, by joint resolution of June 13, 1975, set aside the 21 days from Flag Day through Independence Day as a period to honor America (89 Stat. 211).

NOW, THEREFORE, I, JIMMY CARTER, President of the United States of America, do hereby designate the week beginning June 10, 1979, as National Flag Week, and I direct the appropriate officials of the Government to display the flag on all Government buildings during the week. I urge all Americans to observe Flag Day, June 14, and Flag Week by flying the Stars and Stripes from their homes and other suitable places.

IN WITNESS WHEREOF, I have hereunto set my hand this eighth day of May, in the year of our Lord nineteen hundred seventy-nine, and of the Independence of the United States of America the two hundred and third.

Jimmy Carter

FR Doc. 79-14683
[Filed 5-8-79; 11:05 am]
Billing code 3195-01-M

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Rules and Regulations

Federal Register
Vol. 44, No. 91
Wednesday, May 9, 1979

This section of the FEDERAL REGISTER contains regulatory documents having general applicability and legal effect, most of which are keyed to and codified in the Code of Federal Regulations, which is published under 50 titles pursuant to 44 U.S.C. 1510.
The Code of Federal Regulations is sold by the Superintendent of Documents. Prices of new books are listed in the first FEDERAL REGISTER issue of each month.

7 CFR Part 2

DEPARTMENT OF AGRICULTURE

Office of the Secretary

Revision of Delegations of Authority by the Secretary of Agriculture and General Officers of the Department

AGENCY: Department of Agriculture.

ACTION: Final rule.

SUMMARY: This document delegates authority to the Assistant Secretary for Marketing and Transportation Services and to the Under Secretary for International Affairs and Commodity Programs to administer functions under the Wheat and Wheat Foods Research and Nutrition Education Act and to redelegate that authority to the Administrators of the Agricultural Marketing Service and the Foreign Agricultural Service. These amendments to the delegations of authority are necessary for the expeditious handling of this program and to make other necessary changes.

EFFECTIVE DATE: May 9, 1979.

FOR FURTHER INFORMATION, CONTACT: W. David Spalding, Livestock, Poultry, Grain, and Seed Division, AMS, USDA, Washington, D.C., 20250, Phone: 202–447–3970.

PART 2—DELEGATIONS OF AUTHORITY BY THE SECRETARY OF AGRICULTURE AND GENERAL OFFICERS OF THE DEPARTMENT

Accordingly, Part 2, Subtitle A, Title 7 Code of Federal Regulations is amended as follows:

Subpart C—Delegations of authority to the Deputy Secretary, Under Secretary for International Affairs and Commodity Programs, Assistant Secretaries, the Director of Economics, Policy Analysis and Budget, and the Director, Office of Governmental and Public Affairs

1. Section 2.17 is amended by adding a new paragraph (a)(3)(xxxii) and revising paragraph (a)(3)(xxxi) to read as follows:

§ 2.17 Delegations of authority to the Assistant Secretary for Marketing and Transportation Services.

* * * * *

(a) *Related to agricultural marketing.* * * *

(3) * * *

(xxxi) Beef Research and Information Act, as amended, (7 U.S.C. 2901–2918), except as delegated to the Under Secretary for International Affairs and Commodity Programs in § 2.21(a)(33) and § 2.21(d)(10).

(xxxii) Wheat and Wheat Foods Research and Nutrition Education Act (7 U.S.C. 3401–3417), except as delegated to the Under Secretary for International Affairs and Commodity Programs in § 2.21(d)(10).

* * * * *

2. Section 2.21 is amended by revising paragraphs (a)(33) and (d)(10) to read as follows:

§ 2.21 Delegations of authority to the Under Secretary for International Affairs and Commodity Programs.

* * * * *

(a) *Related to agricultural stabilization and conservation.* * * *

(33) Conduct producer referendums required under Section 9 of the Beef Research and Information Act, as amended, (7 U.S.C. 2908).

* * * * *

(d) *Related to foreign agriculture.* * * *

(10) Plan and carry out programs and activities under the foreign market promotion authority of the Wheat Research and Promotion Act (7 U.S.C. 1292 note); the Cotton Research and Promotion Act (7 U.S.C. 2101–2118); Section 610 of the Agricultural Act of 1970 (7 U.S.C. 2119); the Potato Research and Promotion Act (7 U.S.C. 2611–2627); the Egg Research and Consumer Information Act of 1974 (7 U.S.C. 2701–2718); the National Wool Act of 1954, as amended (7 U.S.C. 1781–1787); The Beef Research and Information Act, as amended, (7 U.S.C. 2901–2918); and the Wheat and Wheat Foods Research and Nutrition Education Act (7 U.S.C. 3401–3417). This authority includes determining the programs and activities to be undertaken and assuring that they are coordinated with the overall departmental programs to develop foreign markets for U.S. agricultural products.

* * * * *

Subpart F—Delegations of Authority by the Assistant Secretary for Marketing and Transportation Services

3. Section 2.50 is amended by adding paragraph (a)(3)(xxxiii) and revising paragraph (a)(3)(xxxii) to read as follows:

§ 2.50 Administrator, Agricultural Marketing Service.

(a) *Delegations.* * * *

(3) * * *

(xxxii) Beef Research and Information Act, as amended.

(7 U.S.C. 2901–2918), except as delegated in § 2.65(a)(33) and § 2.68(a)(10).

(xxxiii) Wheat and Wheat Foods Research and Nutrition Education Act (7 U.S.C. 3401–3417), except as delegated in § 2.68(a)(10).

* * * * *

Subpart H—Delegations of Authority by the Under Secretary for International Affairs and Commodity Programs

4. Section 2.65 is amended by revising paragraph (a)(33) to read as follows:

§ 2.65 Administrator, Agricultural Stabilization and Conservation Service.

(a) *Delegations.* * * *

(33) Conduct producer referendums required under Section 9 of the Beef Research and Information Act, as amended, (7 U.S.C. 2908).

* * * * *

5. Section 2.68(a)(10) is amended to read as follows:

§ 2.68 Administrator, Foreign Agricultural Service.

(a) *Delegations.* * * *

(10) Plan and carry out programs and activities under the foreign market

promotion authority of the Wheat Research and Promotion Act (7 U.S.C. 1292 note); the Cotton Research and Promotion Act (7 U.S.C. 2101–2118); Section 610 of the Agricultural Act of 1970 (7 U.S.C. 2119); the Potato Research and Promotion Act (7 U.S.C. 2611–2627); the Egg Research and Consumer Information Act of 1974 (7 U.S.C. 2701–2718); the National Wool Act of 1954, as amended, (7 U.S.C. 1781–1787); the Beef Research and Information Act, as amended, (7 U.S.C. 2901–2918); and the Wheat and Wheat Foods Research and Nutrition Education Act (7 U.S.C. 3401–3417). This authority includes determining the programs and activities to be undertaken and assuring that they are coordinated with the overall departmental programs to develop foreign markets for U.S. agricultural products.

* * * * *

(5 U.S.C. 301 and Reorganization Plan No. 2 of 1953.)

For Subpart C:

Dated: May 4, 1979.

Bob Bergland,

Secretary.

For Subpart F:

Dated: May 4, 1979.

Jerry C. Hill,

Deputy Assistant Secretary for Marketing and Transportation Services.

For Subpart H:

Dated: May 4, 1979.

Dale E. Hathaway,

Assistant Secretary.

[FR Doc. 79-14509 Filed 5-8-79; 8:45 am]

BILLING CODE 3410-01-M

NATIONAL CREDIT UNION ADMINISTRATION

12 CFR Part 701

Federal Credit Unions: Purchase, Sale, and Pledge of Eligible Obligations

AGENCY: National Credit Union Administration.

ACTION: Final rule.

SUMMARY: The rule permits a Federal credit union to do the following things. First, it can purchase from, sell to, or pledge to any source any eligible obligations of its members. Second, it can purchase from a liquidating credit union any eligible obligations of the liquidating credit union's individual members. Eligible obligations purchased on this basis can be sold or pledged to any source. Third, if granting student loans on an ongoing basis, it can purchase student loans from any source, if the purchase will facilitate the purchaser's packaging of a pool of such loans to be sold or pledged on the secondary market. Student loans purchased on this basis can be sold or pledged to any source. Fourth, if granting real estate loans pursuant to Section 701.21–6 on an ongoing basis, it can purchase real estate loans from any source, if the purchase will facilitate the purchaser's packaging of a pool of such loans to be sold or pledged on the secondary mortgage market. Real estate loans purchased on this basis can be sold or pledged to any source. The rule is necessary to implement provisions of the April 19, 1977 amendments (Pub. L. 95–22, 91 Stat. 49) to the Federal Credit Union Act. It is intended to provide Federal credit unions greater flexibility both in meeting member demands and in spreading the risk of those demands. It is also intended to provide Federal credit unions making student loans and Federal credit unions making long term real estate loans greater access to the respective secondary markets. This should enhance a credit union's ability to react quickly and efficiently to meet liquidity needs.

EFFECTIVE DATE: This rule will be effective on May 9, 1979. However, comments on it will be accepted if received on or before June 15, 1979. If necessary, an amended rule will be issued later.

ADDRESS: Send comments to Robert S. Monheit, Senior Attorney, Office of General Counsel, National Credit Union Administration, Room 4202, 2025 M Street, N.W., Washington, D.C. 20456.

FOR FURTHER INFORMATION CONTACT: Stephen Raver, Director, Division of Examination, Office of Examination and Insurance, or John L. Culhane, Jr., Attorney-Advisor, Office of General Counsel, National Credit Union Administration, 2025 M Street, N.W., Washington, D.C. 20456. Telephone numbers: (202) 254–8760 (Mr. Raver), (202) 632–4870 (Mr. Calhane).

SUPPLEMENTARY INFORMATION: Before Pub. L. 95–22 was passed, Federal credit unions could not purchase, sell, or pledge obligations of their members. Pub. L. 95–22 granted these powers, to be implemented by rules adopted by the Administration.

As an interim measure, the Administration issued a rule allowing Federal credit unions to sell long term real estate loans to the Federal National Mortgage Association, the Federal Home Loan Mortgage Corporation, and to Federal, State, and local housing authorities. This interim rule was later amended to allow Federal credit unions to sell their members' guaranteed student loans to the Student Loan Marketing Association.

On January 2, 1979, the Administration published a proposed rule, which would, when adopted in final form, replace the interim rule, 44 FR 60 (1979). Comments were requested by January 31, 1979. Shortly after the public comment period ended, one commenter requested, and was granted, permission to submit comments. Those comments were received on February 26, 1979. They were considered, along with all other comments received on or before that date.

Virtually all of the comments were favorable. Several commenters, while agreeing with most of the provisions of the proposed rule, raised questions or made suggestions that convinced the Administration that a number of changes from the proposed rule are warranted. In addition, some changes have been made to resolve problems detected by the Administration. This final rule replaces the interim rule, effective immediately.

Analysis of Changes and Comments

1. Purchases

a. Overlap. The final rule allows a Federal credit union to purchase different loans in different situations. It can purchase an eligible obligation of one of its members from any source. It can purchase an eligible obligation of a liquidating credit union's individual member from the liquidating credit union. It can purchase a student loan for pooling purposes. It can purchase a real estate loan for pooling purposes. As noted by several commenters, these provisions can overlap.

Where the provisions overlap, the purchaser may decide which provision it has relied on. This decision does not have to be made when the loan is purchased. However, if the purchaser delays too long it may find that it cannot use certain provisions. The circumstances that existed when the purchase was made, such as whether or not the borrower was then a member of the purchasing credit union, will govern in determining which provisions might have been used.

There will be different consequences depending upon which provision is selected. For example, suppose a Federal credit union discovers that it has purchased a real estate loan of one of its own members from a liquidating credit union. The loan has a maturity of thirty-five years, so it could not have been granted by the Federal credit union. This loan could have been purchased either as an eligible

obligation of a member, as an eligible obligation sold by a liquidating credit union, or in the proper circumstances, as a loan to be used in packaging a pool.

In this situation, the Federal credit union should consider these factors, among others, in making its decision. The loan must be refinanced within 60 days of the date it was purchased (as discussed below) if the Federal credit union wants to treat it as having been purchased as an eligible obligation of a member. If more than 60 days have passed, this provision could not be used. The loan need not be refinanced if it is to be treated as a loan purchased from a liquidating credit union. Under the proper circumstances, it could be treated as a loan purchased for pooling purposes. In that case, it would have to be promptly sold or pledged on the secondary market.

b. Eligible Obligations of Members. A Federal credit union can purchase the eligible obligation of a member if the obligation is a "loan it is empowered to grant." As originally drafted, the proposed rule required that the eligible obligation be a "type of loan [a Federal credit union] is empowered to grant." The phrase "type of loan" has been deleted from the final rule, since, as noted by one commenter, it was somewhat misleading. The basic restriction has been retained, however. It remains the Administration's belief that Congress did not intend that Federal credit unions should be handling unfamiliar obligations, with certain limited exceptions.

In order to provide some flexibility, a provision has been added which will allow a Federal credit union to purchase a member's loan which it could not grant, regardless of who the seller is. When this is done, the loan must be refinanced, within 60 days of the date it is purchased, to comply with the lending restrictions placed on Federal credit unions. For example, a consumer loan bearing interest at an annual rate of 13 percent could be purchased if refinanced so that the annual interest rate is no greater than 12 percent. In addition, the member must consent to the refinancing. To assure that this will happen, a Federal credit union should obtain the member's consent before completing arrangements to purchase the loan.

One problem concerning the purchase of eligible obligations of members has been noted. It is the extent to which Section 701.21–4 of the Administration's regulations should apply when the member whose loan is being purchased is also an official of the Federal credit union buying the loan.

Section 701.21–4 basically requires the board of directors to approve certain loan applications. Board approval is necessary on certain loans to officials and on certain loans guaranteed or endorsed by officials. To avoid any claims of preferential treatment of officials, the purchase of an official's loan and the purchase of a loan endorsed or guaranteed by an official will normally be treated as though the credit union is actually granting the loan. If under § 701.21–4 board approval would be necessary to grant the loan, it will be necessary to purchase the loan. Section 701.21–4 will soon be amended to explain how the appropriate calculations will be made.

The Administration does not intend to require board approval, however, where an official's loan or a loan endorsed or guaranteed by an official is purchased from a liquidating credit union. Nor will board approval be required where such a loan is purchased for pooling purposes. Board approval would slow down the liquidation process in the first case. In the second, it would unduly hamper a Federal credit union trying to package a pool of loans for the secondary market.

c. Eligible Obligations of a Liquidating Credit Union. One commenter asked how the proposed rule would relate to Section 701.29, the present rule governing the purchase of notes from a liquidating credit union. Having reviewed the requirements of Section 701.29, the Administration has decided to delete that Section. The purchase of notes from a liquidating credit union will be governed by this rule.

One change has been made from the proposed rule. Recognizing that the power to purchase notes from a liquidating credit union was added in part to speed up the liquidation process, the Administration has deleted the requirement that loans purchased be ones that the purchasing Federal credit union could have granted.

d. Student Loans. The Student Loan Marketing Association requested that the Administration review the language and legislative history of the Federal Credit Union Act to determine if Federal credit unions can purchase student loans of members and non-members in order to package a pool of loans to be sold or pledged on the secondary market. The Administration has concluded that this may be done provided that the purchasing credit union is granting student loans on an ongoing basis and provided that the loans purchased are ones on which payment has been deferred. In addition, the loans purchased must be secured by the insurance or guarantee of the Federal Government, or a State government, or any agency of either.

As the Administration has noted, Section 107(13) of the Federal Credit Union Act (12 U.S.C. 1757(13)), which authorizes the purchase of eligible obligations, does not authorize a Federal credit union to purchase a loan unless the person liable on the loan happens to be a member of that credit union (or unless the seller is a liquidating credit union). However, considering the Congressional intent in enacting Pub. L. 95–22 to encourage Federal credit union lending to accomplish certain social or economic objectives, the Administration does not believe that Congress intended Section 107(13) to be an express prohibition on such purchases, provided they are authorized by other sections of the Act.

It is the Administration's belief that the power to purchase student loans is incidental to the power granted in section 107(5)(A)(iii) (12 U.S.C. 1757(5)(A)(iii)) to make loans secured by the insurance or guarantee of government agencies. In order to operate an effective student loan program, where payments on the loans are deferred, a Federal credit union must be able to access efficiently the secondary market for such loans. This can best be done by pooling these loans. Pooling is advantageous where a portfolio of a certain size must be amassed in order to qualify for a par purchase. Also, there may be important administrative advantages under a pooling arrangement, since only the Federal credit union packaging the pool will be a party to any purchase contract.

Student loans purchased to package a pool of loans will be treated similarly to real estate loans purchased to package a pool of loans. Consequently, they will not be included in determining whether the aggregate balance of unpaid notes purchased has exceeded 5 percent of the unimpaired capital and surplus of the purchaser.

To encourage Federal credit unions to make student loans and to assemble a pool of such loans to be sold or pledged on the secondary market, the Administration will permit the purchase of non-member loans for pooling purposes. However, because they will be purchasing loans of non-members, Federal credit unions will be expected to sell or pledge obligations purchased to package a pool of loans promptly. Arrangements to dispose of such loans should generally be made in advance of their purchase by obtaining a commitment from a buyer to purchase

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the pool of loans before the pool is actually assembled.

The Administration believes that pooling student loans will benefit smaller Federal credit unions granting student loans by making entry into the secondary market more feasible. It will benefit larger Federal credit unions by allowing them to sell or pledge their loans in such a way as to take greater advantage of marketplace conditions. It will benefit credit union members by generating more funds for additional student loans.

e. Real Estate Loans. The comments received concerning the purchase of real estate loans for pooling purposes prompted the Administration to reexamine the statutory authority for this power. Balancing the need for efficient access to the secondary mortgage market against Congressional intent in restricting the real estate loans that can be made by Federal credit unions, the Administration had proposed to allow Federal credit unions actively engaged in real estate lending to purchase loans, for pooling purposes, only from other credit unions and only if those loans complied with § 701.21–6. These limitations were proposed to ensure that credit union funds would not be used for luxury homes or for other than one-to-four-family dwellings.

Based on its review, the Administration has decided that these limitations were unnecessarily restrictive. Consequently, the rule has been changed to allow Federal credit unions to purchase real estate loans for pooling purposes from any source. However, a loan can only be purchased if it was used to finance the acquisition of a one-to-four-family dwelling for the principal residence of the borrower, if the sales price was not more than 150 percent of the median sales price of residential real property situated in the geographical area in which the property is located, and if the loan is secured by a first lien upon such dwelling. As long as these requirements are met, maturities, interest rates, and other terms and conditions may vary from those required by § 701.21–6.

In order to purchase real estate loans for pooling purposes, the proposed rule required that a Federal credit union be "engaged in real estate lending pursuant to § 701.21–6." Because there seemed to be some confusion both as to how this phrase was to be interpreted and as to the degree of activity required, it has been revised. A Federal credit union must now be "granting real estate loans pursuant to § 701.21–6 on an ongoing basis."

This means that the Federal credit union's board of directors must have adopted a policy of granting long term real estate loans. The Federal credit union must actually be granting these loans, i.e. accepting applications, processing them, and disbursing its own funds. This must be done on an ongoing basis.

The purchase of loans must also "facilitate the purchaser's packaging of a pool of such loans." This means that the Federal credit union must include a substantial portion of its own loans in the pool. Once it disposes of, i.e. sells or pledges, a particular pool of loans, it must then grant more loans before a second pool can be assembled.

Should the board of directors decide that the credit union will stop making real estate loans, it will still be considered by the Administration to be "granting real estate loans . . . on an ongoing basis" for a reasonable period (e.g. 60 days) after the board's decision becomes final. Loans may be purchased for pooling purposes up to that time, provided that this last pool is disposed of promptly.

Given the statutory authority for this power, the Administration does not believe that the phrase "granting real estate loans pursuant to § 701.21–6 on an ongoing basis" can be deleted, nor can a specific exception be made for corporate centrals, as suggested by one commenter. If a central or corporate central has natural members to which it grants real estate loans on an ongoing basis, then it may purchase real estate loans for pooling purposes, if the purchase will facilitate the packaging of a pool.

Because they will be purchasing loans of non-members and loans they could not grant, Federal credit unions will be expected to sell or pledge obligations purchased to package a pool of loans promptly. Arrangements to dispose of such loans should generally be made in advance of their purchase by obtaining a commitment from a buyer to purchase the pool of loans before the pool is actually assembled.

f. The 5% Limitation. Two comments were received concerning this provision, which would have limited the amount of loans that could be purchased to 5 percent of the unimpaired capital and surplus of the purchaser. One commenter requested that a waiver clause be added allowing a Federal credit union to make more purchases with the Administration's prior written approval. Another commenter reviewed the legislative history of the provision and argued that the limitation should apply only to obligations of non-members purchased from liquidating credit unions.

The Administration feels that the language of Section 107(13) is clear, and that the best interpretation is that adopted in the proposed rule. However, exceptions have been written into the rule for student loans and real estate loans purchased to package a pool of loans for the appropriate secondary market. The limitation is not applicable in those cases because such purchases are not made pursuant to Section 107(13). A similar restriction has not been imposed so as not to hamper the ability of Federal credit unions to access the respective secondary markets.

2. Sales

Although no comments were received concerning these provisions, two changes have been made. The Administration has amended the rule to clarify that student loans purchased to package a pool may be resold. The rule has also been amended to allow a Federal credit union to sell any loans it purchased using the power to purchase eligible obligations of a liquidating credit union's individual members from the liquidating credit union.

This second change is the result of the Administration's examination of relevant judicial decisions and of the language and legislative history of the Federal Credit Union Act. The Administration has concluded that the power to purchase notes from a liquidating credit union by implication includes the power to sell or pledge those loans.

3. Pledges

The one comment received on these provisions concerned the requirement of the proposed rule that the original loan documents be retained. The commenter noted that the Uniform Commercial Code will usually require that the party to whom loan documents have been pledged take possession of those documents in order to have priority over other creditors who may also have a security interest in them. In addition, in the event of default by a Federal credit union that has pledged loan documents as security for a loan it obtained, the lender will need to take possession of the loan documents to sell them.

The Administration agrees that a change is warranted and has therefore amended the rule to require that copies of the original loan documents be retained. The requirement has not been eliminated, as suggested by the commenter. The Administration believes that the loan documents or copies of them should be available for review by the agency's examiners in order to assure that the loans comply with applicable laws and with sound credit union practice.

Two other changes have been made. The rule has been amended to allow a Federal credit union to pledge any loan it purchased using the power to purchase eligible obligations of a liquidating credit union's individual members from the liquidating credit union. The Administration has also amended the rule to clarify that student loans purchased to package a pool of loans may be pledged.

4. Discounts

In the preamble to the proposed rule the Administration announced that it did not presently intend to regulate the discounting of eligible obligations. Credit union officials were advised that any abuses would be remedied by administrative actions, including cease and desist actions. The Administration also advised that, under the proper circumstances, it would consider civil and criminal actions against the directors of a credit union who abuse the power. One commenter, referring to the possibility of civil or criminal liability, requested guidelines as to what would be considered reasonable.

The Administration believes that the facts of each case will, for the most part, determine whether or not a discounting was reasonable. Consequently, in reviewing a particular transaction the Administration will look at the effect of that transaction on the credit union's equity. It will also look to see if the transaction was designed to benefit certain officials, creditors, or third parties at the expense of the credit union.

5. Ten Percent Limitation

The proposed rule required that a Federal credit union's retained or acquired interest in loans to a member be added with other loans to the member and with partial interests in participation loans to determine the member's total indebtedness to the credit union. The sum of these amounts could not exceed 10 percent of the credit union's unimpaired capital and surplus. Real estate loans purchased to package a pool of loans to be sold or pledged on the secondary mortgage market were to be excluded in determining whether this limit would be exceeded.

Upon reconsideration, the Administration has revised this part of the rule. Real estate loans of members *will* be considered in determining whether the 10 percent limit has been exceeded, even if they are purchased for pooling purposes. In addition, when used in this part of the rule, the word "person" will be interpreted to mean both a member and a non-member. Consequently, the same calculations used to determine a member's total indebtedness will be used to determine a non-member's total indebtedness to the credit union. This sum may not exceed the 10 percent limit.

Real estate loans purchased for pooling purchases had originally been excluded so as not to hamper the purchasing credit union's ability to access the secondary mortgage market. Because Federal credit unions must generally have assets of $2,000,000 or more to engage in real estate lending, and hence, to purchase other real estate loans for pooling purposes, this change should not adversely affect the purchasing credit union's ability to access the secondary market. Similarly, because a real estate loan cannot be purchased for pooling purposes if its sales price exceeds 150 percent of the median sales price of residential real property in the geographical area in which the property is located, this change should have little effect on the real estate loans that can be purchased for pooling purposes.

The change will serve to protect a credit union in the rare case where, under the proposed rule, a large loan could have been purchased. In that case, had the borrower defaulted before the loan was sold, the credit union's financial stability could have been jeopardized. Because the 10 percent limit protects the credit union when any one person defaults, the rule has been revised so that similar protection will be afforded when non-member loans are purchased, regardless of whether they are purchased from liquidating credit unions or are purchased from other sources to be used in assembling pools of real estate or student loans.

6. Effective Date

Several commenters requested that the final rule be effective immediately upon publication. The Administration is convinced that good cause exists for the rule to become effective prior to thirty days from the date of publication in the Federal Register.

Although Federal credit unions may now grant long term real estate loans, they cannot always convert these loans into funds which can be used to generate additional loans. Further, by limiting the institutions to which Federal credit unions may sell loans, the interim rule subjects Federal credit unions to the risk of fluctuating interest rates, should they be unable to meet the yield required by those institutions. The present interim rule, because it does not allow Federal credit unions to purchase non-member real estate loans for pooling purposes, also does not allow efficient access to the secondary mortgage market. Therefore, to ensure the liquidity of Federal credit unions making these loans, Federal credit unions need to be able to pool these loans and to sell them to any source immediately.

While the Administration believes that these reasons outweigh the need for a delayed effective date, the Administration recognizes its duty to provide an opportunity for further comment since substantive changes have been made. Therefore, comments received on or before June 15, 1979 will be considered, and, should a demonstrated need arise, further amendments to the rule will be made.

Lawrence Connell,
Administrator.

May 3, 1979.

(Sec. 107(5)(A)(i), (iii), 91 Stat. 49 (12 U.S.C. 1757(5)(A)(i), (iii)), Sec. 107(13), 91 Stat. 51 (12 U.S.C. 1757(13)), Sec. 107(15), 82 Stat. 264 (12 U.S.C. 1757(15)), Sec. 120, 73 Stat. 635 (12 U.S.C. 1766) and Sec. 209, 84 Stat. 1104 (12 U.S.C. 1789))

Part 701—Organization and Operation of Federal Credit Unions

Accordingly, 12 CFR Part 701 is amended by replacing existing § 701.21–8 with the following and by deleting existing § 701.29 and reserving that section for later use:

§ 701.21–8 Purchase, sale, and pledge of eligible obligations.

(a) For purposes of this section:

(1) "Eligible obligation" means a loan or group of loans, other than a line of credit loan, except, however, the term shall include a line of credit loan of a liquidating credit union.

(2) "Student loan" means a loan granted to finance the borrower's attendance at an institution of higher education or at a vocational school, which is secured by and on which payment of the outstanding principal and interest has been deferred in accordance with the insurance or guarantee of the Federal Government, of a State government, or any agency of either.

(3) "Real estate loan" means a loan granted to finance the acquisition of a one-to-four-family dwelling for the principal residence of the borrower, the sales price of which is not more than 150 percent of the median sales price of residential real property situated in the geographical area in which the property

is located, and which is secured by a first lien upon such dwelling.

(4) "Obligation account" means a special payable account established for the accumulation of payments on a loan awaiting distribution to the purchaser of an eligible obligation.

(b) *Purchase.* (1) A Federal credit union may purchase, in whole or in part, within the limitations of the board of directors' written purchase policies:

(i) Eligible obligations of its members, from any source, if either (A) they are loans it is empowered to grant or (B) they are refinanced with the consent of the borrowers, within 60 days after they are purchased, so that they are loans it is empowered to grant;

(ii) Eligible obligations of a liquidating credit union's individual members, from the liquidating credit union;

(iii) Student loans, from any source, if the purchaser is granting student loans on an ongoing basis and if the purchase will facilitate the purchasing credit union's packaging of a pool of such loans to be sold or pledged on the secondary market; and

(iv) Real estate loans, from any source, if the purchaser is granting real estate loans pursuant to section 701.21–6 on an ongoing basis and if the purchase will facilitate the purchasing credit union's packaging of a pool of such loans to be sold or pledged on the secondary mortgage market. The dollar amount of loans purchased in accordance with this subsection shall be included in the aggregate dollar amount of real estate loans allowed under § 701.21–6(b)(4).

(2) A Federal credit union may make purchases in accordance with subsection (b), *provided:*

(i) The board of directors or investment committee approves the purchase; and

(ii) A written agreement and a schedule of the eligible obligations covered by the agreement are retained in the purchaser's office.

(3) The agreement to purchase a partial interest in eligible obligations shall, at a minimum:

(i) Identify the eligible obligations covered by the agreement;

(ii) Provide for the collection, processing and/or remittance of payments of principal and interest, late charges, service charges, escrow accounts (if required), and obligation accounts;

(iii) Disclose the responsibilities of each party in the event an eligible obligation becomes subject to collection, loss or foreclosure;

(iv) Provide that in the event of loss each owner shall share in the loss in proportion to its interest in the eligible obligations;

(v) Provide for the distribution of payments of principal to each owner proportionate to its interest in the eligible obligation;

(vi) Provide for loan status reports; and

(vii) State the terms and conditions under which the agreement may be terminated or modified.

(4) The aggregate of the unpaid balances of eligible obligations purchased under subsection (b) shall not exceed 5 percent of the unimpaired capital and surplus of the purchaser. Student loans purchased in accordance with subsection (b)(1)(iii) and real estate loans purchased in accordance with subsection (b)(1)(iv) shall not be included in considering this 5 percent limitation.

(c) *Sale.* (1) A Federal credit union may sell, in whole or in part, to any source, eligible obligations of its members, eligible obligations purchased in accordance with subsection (b)(1)(ii), student loans purchased in accordance with subsection (b)(1)(iii), and real estate loans purchased in accordance with subsection (b)(1)(iv), within the limitations of the board of directors' written sale policies, *provided:*

(i) The board of directors or investment committee approves the sale; and

(ii) A written agreement and a schedule of the eligible obligations covered by the agreement are retained in the seller's office.

(2) An agreement to sell a partial interest in eligible obligations shall at a minimum comply with the requirements set forth in subsection (b)(3).

(3) A sale of an eligible obligation shall not be subject to recourse or repurchase provisions. However, the following are permitted:

(i) An agreement which requires the seller to repurchase the eligible obligation because of any breach of warranty or misrepresentation;

(ii) An agreement which allows the seller to repurchase at its discretion; and

(iii) An agreement which allows substitution of one loan for another loan.

(d) *Pledge.* (1) A Federal credit union may pledge, in whole or in part, to any source, eligible obligations of its members, eligible obligations purchased in accordance with subsection (b)(1)(ii), student loans purchased in accordance with subsection (b)(1)(iii), and real estate loans purchased in accordance with subsection (b)(1)(iv), within the limitations of the board of directors' written pledge policies, *provided:*

(i) The board of directors or investment committee approves the pledge;

(ii) Copies of the original loan documents are retained; and

(iii) A written agreement covering the pledging arrangement is retained in the office of the credit union that pledges the eligible obligations.

(2) The pledge agreement shall, at a minimum:

(i) Identify the eligible obligations covered by the agreement;

(ii) Disclose the responsibilities of each party in the event an eligible obligation becomes subject to collection, loss or foreclosure;

(iii) Set forth the terms and conditions regarding substitution; and

(iv) Set forth the terms and conditions under which the agreement may be modified or terminated.

(e) *Servicing.* A Federal credit union may agree to service any eligible obligation it purchases or sells in whole or in part.

(f) *10 Percent Limitation.* The total indebtedness owing to any Federal credit union by any person, inclusive of retained and reacquired interests, shall not exceed 10 percent of its unimpaired capital and surplus.

§ 701.29 [Reserved].

[FR Doc. 79-14506 Filed 5-8-79; 8:45 am]

BILLING CODE 7535-01-M

SMALL BUSINESS ADMINISTRATION

13 CFR Part 105

Standards of Conduct; Outside Employment and Activities

AGENCY: Small Business Administration.

ACTION: Final rule.

SUMMARY: (i) The Agency is amending §§ 105.510(a) and (b) and 105.801(b) (1), (2) and (3) of SBA's Standards of Conduct Regulations to: (1) provide for the approval of the Assistant Administrator for Personnel Management in lieu of the Director of Personnel in cases involving outside business, employment or vocation, and (2) to provide for the new composition of the Standards of Conduct Committee.

(ii) This action arises as the result of reorganization within the Small Business Administration.

(iii) The effect of said action with respect to § 105.510 (a) and (b) will be that the Assistant Administrator for Personnel Management will approve requests for employees engaged in any outside business, employment or vocation rather than the Director of Personnel as previously provided by § 105.510 of the Standards of Conduct Regulations.

The effect of the revision of § 105.801(b) will be that the Standards of Conduct Committee will be comprised of the: (1) General Counsel or, in his absence, the Deputy General Counsel or, in his absence, the Acting General Counsel who shall act as Chairman of the Committee; (2) the Associate Deputy Administrator for Support Services or, in his absence, the Assistant Administrator for Personnel Management; and (3) the Associate Deputy Administrator for Programs or, in his absence, the Director, Office of Field Management.

EFFECTIVE DATE: May 9, 1979.

FOR FURTHER INFORMATION CONTACT: Robert M. Peterson, Office of General Counsel, Small Business Administration, 1441 L Street, NW., Washington, D.C. 20416 (202) 653–6477.

SUPPLEMENTARY INFORMATION: Inasmuch as the amendment set forth below is a procedural change, notice of proposed rulemaking and public proceedings thereon are not required by section 553 of Title 5 of the United States Code.

Accordingly, pursuant to the authority contained in Section 5 of the Small Business Act, 72 Stat. 384 (15 U.S.C. 631 *et seq.*) and E.O. 11222, 3 CFR 1964–65 Comp.; 5 CFR 735.104 notice is hereby given that the Small Business Administration amends Sections 105.510 (a) and (b) and 105.801(b) (1), (2) and (3) to read as follows:

1. Section 105.510 (a) and (b) are amended as follows:

§ 105.510 Outside employment and activities.

(a) Except with the written approval of the Assistant Administrator for Personnel Management, no employee shall engage in any outside business, employment or vocation. This limitation applies regardless of whether a fee, gift, salary or other compensation is received for the activity. In his discretion, the Assistant Administrator for Personnel Management may refer requests for approval to the Standards of Conduct Committee for its recommendations.

(b) In reviewing applications for approval under this section, the Assistant Administrator for Personnel Management and the Standards of Conduct Committee will consider all relevant factors, including: * * *

* * * * *

2. Section 105.801(b) (1), (2) and (3) are revised as follows:

§ 105.801 Standards of Conduct Committee.

* * * * *

(b) The Standards of Conduct Committee shall be comprised of:

(1) The General Counsel or, in his absence, the Deputy General Counsel or, in his absence, the Acting General Counsel who shall act as Chairman of the Committee;

(2) The Associate Deputy Administrator for Support Services or, in his absence, the Assistant Administrator for Personnel Management; and

(3) The Associate Deputy Administrator for Programs or, in his absence, the Director, Office of Field Management.

Dated: May 1, 1979.

A. Vernon Weaver,
Administrator.

[Revision 2, Amendment 2]

[FR Doc. 79-14538 Filed 5-8-79; 8:45 am]

BILLING CODE 8025-01-M

CIVIL AERONAUTICS BOARD

14 CFR Part 385

Delegation to the Administrative Law Judges

Adopted by the Civil Aeronautics Board at its office in Washington, D.C., on May 3, 1979.

AGENCY: Civil Aeronautics Board.

ACTION: Final rule.

SUMMARY: The Board amends its delegation of authority to give a presiding administrative law judge authority to: (1) dismiss applications sought to be withdrawn by parties without objection, (2) grant requests for consolidation of conforming applications, and (3) deny requests for consolidation of non-conforming applications.

DATES: Adopted: May 3, 1979. Effective: May 3, 1979.

FOR FURTHER INFORMATION CONTACT: Richard B. Dyson, Associate General Counsel, Civil Aeronautics Board, 1825 Connecticut Avenue, N.W., Washington, D.C. 20428, 202–673–5444.

SUPPLEMENTARY INFORMATION: The Board is amending 14 CFR 385.11, a section that delegates authority to the administrative law judges, by adding a paragraph (b) expanding their authority to enable them to dismiss applications sought to be withdrawn. This authority is presently delegated to the Chief Administrative Law Judge in § 385.10(b)(1). The Board is also adding a new paragraph (c) to 14 CFR 385.11 giving to the presiding administrative law judge authority to deny requests to consolidate non-conforming applications and grant requests for consolidation of conforming applications within the scope of any route proceeding instituted by the Board.

On occasion the Board has had to act to consolidate applications long after a case was ready for a judge's decision. The delegated authority here alleviates the necessity for separate delegations whenever the Board changes the scope of a case on petition for reconsideration.

Since this amendment is administrative in nature, affecting a rule of agency organization and procedure, the Board finds that notice and public procedure are unnecessary, and that the rule may become effective immediately.

PART 385—DELEGATION AND REVIEW OF ACTION UNDER DELEGATION; NONHEARING MATTERS

Accordingly, the Board amends 14 CFR Part 385, *Delegation and Review of Action Under Delegation; Nonhearing Matters,* by adding new paragraphs (b) and (c) to § 385.11, to read:

§ 385.11 Delegation to Administrative Law Judges, Bureau of Administrative Law Judges.

The Board hereby delegates to the Administrative Law Judges, Bureau of Administrative Law Judges, the authority to take the following actions in matters to which they are respectively assigned:

* * * * *

(b) With respect to matters to be decided after notice and hearing, dismiss applications or complaints (except those falling under Subpart B of Part 302 of this chapter (Procedural Regulations)) when such dismissal is requested or consented to by the applicant or complainant, or where such party has failed to prosecute such application or complaint.

(c) Grant requests for consolidation of applications for route authority within the scope of the proceeding before him, and deny requests for consolidation of applications for route authority not within the scope of the proceeding.

[Section 204(a) of the Federal Aviation Act of 1958, as amended, 72 Stat. 743, 49 U.S.C. 1324; Reorganization Plan No. 3 of 1961, 75 Stat. 837, 26 FR 5989, 49 U.S.C. 1324 (note).]

By the Civil Aeronautics Board:

Phyllis T. Kaylor,
Secretary.

[Regulation OR-152; Amdt. 85]

[FR Doc. 79-14507 Filed 5-8-79; 8:45 am]

BILLING CODE 6320-01-M

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FEDERAL EMERGENCY MANAGEMENT AGENCY

24 CFR Part 1914

Suspension of Community Eligibility Under the National Flood Insurance Program

AGENCY: Office of Federal Insurance and Hazard Mitigation, Federal Emergency Management Agency [1]

ACTION: Final rule.

SUMMARY: This rule lists communities where the sale of flood insurance, as authorized under the National Flood Insurance Program (NFIP), will be suspended because of noncompliance with the flood plain management requirements of the program.

EFFECTIVE DATES: The third date ("Susp.") listed in the fifth column.

FOR FURTHER INFORMATION CONTACT: Mr. Richard Krimm, National Flood Insurance Program, (202) 755–5581 or Toll Free Line 800–424–8872, Room 5270, 451 Seventh Street SW., Washington, D.C. 20410.

[1] The functions of the Federal Insurance Administration, U.S. Department of Housing and Urban Development, were transfered to the newly established Federal Emergency Management Agency by Reorganization Plan No. 3 of 1978 (43 FR 41943, September 19, 1978) and Executive Order 12127 (44 FR 19367, April 3, 1979).

SUPPLEMENTARY INFORMATION: The National Flood Insurance Program (NFIP), enables property owners to purchase flood insurance at rates made reasonable through a Federal subsidy. In return, communities agree to adopt and administer local flood plain management measures aimed at protecting lives and new construction from future flooding. Section 1315 of the National Flood Insurance Act of 1968, as amended (42 U.S.C. 4022) prohibits flood insurance coverage as authorized under the National Flood Insurance Program (42 U.S.C. 4001–4128) unless an appropriate public body shall have adopted adequate flood plain management measures with effective enforcement measures. The communities listed in this notice no longer meet that statutory requirement for compliance with program regulations (24 CFR Part 1909 et seq.). Accordingly, the communities are suspended on the effective date in the fifth column, so that as of that date subsidized flood insurance is no longer available in the community.

In addition, the Federal Insurance Administrator has identified the special flood hazard areas in these communities by publishing a Flood Hazard Boundary Map. The date of the flood map, if one has been published, is indicated in the sixth column of the table. Section 202(a) of the Flood Disaster Protection Act of 1973 (Pub. L. 93–234), as amended, provides that no direct Federal financial assistance (except assistance pursuant to the Disaster Relief Act of 1974 not in connection with a flood) may legally be provided for construction or acquisition of buildings in the identified special flood hazard area of communities not participating in the NFIP, with respect to which a year has elapsed since identification of the community as having flood prone areas, as shown on the Federal Insurance Administration's initial flood insurance map of the community. This prohibition against certain types of Federal assistance becomes effective for the communities listed on the date shown in the last column.

The Federal Insurance Administrator finds that delayed effective dates would be contrary to the public interest. The Administrator also finds that notice and public procedure under 5 U.S.C. 553(b) are impracticable and unnecessary.

In each entry, a complete chronology of effective dates appears for each listed community.

Section 1914.6 is amended by adding in alphabetical sequence new entries to the table.

§ 1914.6 List of suspended communities.

State	County	Location	Community No.	Effective dates of authorization/ cancellation of sale of flood insurance in community	Hazard area identified	Date [1]
Alabama	Tuscaloosa	Tuscaloosa, city of	010203–A	May 5, 1973, emergency, Feb. 1, 1979, regular, May 15, 1979, suspended.	Oct. 24, 1975	May 15, 1979.
New Hampshire	Merrimack	Canterbury, town of	330108–A	June 10, 1975, emergency, May 15, 1979, regular, May 15, 1979, suspended.	Apr. 5, 1974 Jan. 14, 1979	Do.

[1] Date certain Federal assistance no longer available in special flood hazard area.

(National Flood Insurance Act of 1968 (title XIII of the Housing and Urban Development Act of 1968); effective Jan. 28, 1969 (33 FR 17804, Nov. 28, 1968), as amended, 42 U.S.C. 4001–4128; Executive Order 12127, 44 FR 19367; and delegation of authority to Federal Insurance Administrator, 44 FR 20963.)

Issued: April 30, 1979.

Gloria M. Jimenez,
Federal Insurance Administrator.

[Docket No. FI–8475]

[FR Doc. 79–14302 Filed 5–8–79; 8:45 am]

BILLING CODE 4210–23–M

24 CFR Part 1915

List of Communities With Special Hazard Areas Under the National Flood Insurance program

AGENCY: Office of Federal Insurance and Hazard Mitigation, Federal Emergency Management Agency.[1]

ACTION: Final rule.

SUMMARY: This rule identifies communities with areas of special flood, mudslide, or erosion hazards as authorized by the National Flood Insurance Program. The identification of such areas is to provide guidance to communities on the reduction of property losses by the adoption of appropriate flood plain management or other measures to minimize damage. It will enable communities to guide future construction, where practicable, away from locations which are threatened by flood or other hazards.

EFFECTIVE DATES: The date listed in the eighth column of the table or 30 days after the date of this **Federal Register** publication, whichever is later.

[1] The functions of the Federal Insurance Administration, U. S. Department of Housing and Urban Development, were transferred to the newly established Federal Emergency Management Agency by Reorganization Plan No. 3 of 1978 (43 FR 41943, September 19, 1978) and Executive Order 12127 (44 FR 19367, April 3, 1979).

FOR FURTHER INFORMATION CONTACT: Mr. Richard Krimm, National Flood Insurance Program, (202) 755–5581 or Toll Free Line 800–424–8872, Room 5270, 451 Seventh Street, SW., Washington, DC 20410.

SUPPLEMENTARY INFORMATION: The Flood Disaster Protection Act of 1973 (Pub. L. 93–234) requires the purchase of flood insurance on and after March 2, 1974, as a condition of receiving any form of Federal or federally related financial assistance for acquisition or construction purposes in an identified flood plain area having special flood hazards that is located within any community participating in the National Flood Insurance Program.

One year after the identification of the community as flood prone, the requirement applies to all identified special flood hazard areas within the United States, so that, after that date, no such financial assistance can legally be provided for acquisition and construction in these areas unless the community has entered the program. The prohibition, however, does not apply to loans by federally regulated, insured, supervised, or approved lending institutions (1) to finance the acquisition of a residential dwelling occupied as a residence prior to March 1, 1976, or one year following identification of the area within which such dwelling is located as an area containing special flood hazards, whichever is later, or made to extend, renew, or increase the financing or refinancing in connection with such a dwelling, (2) to finance the acquisition of a building or structure completed and occupied by a small business concern, as defined by the Secretary, prior to January 1, 1976, (3) any loan or loans, which in the aggregate do not exceed $5,000, to finance inprovements to or rehabilitation of a building or structure occupied as a residence prior to January 1, 1976, or (4) any loan or loans, which in the aggregate do not exceed an amount prescribed by the Secretary, to finance nonresidential additions or improvements to be used solely for agricultural purposes on a farm.

This 30 day period does not supersede the statutory requirement that a community, whether or not participating in the program, be given the opportunity for a period of six months to establish that it is not seriously flood prone or that such flood hazards as may have existed have been corrected by floodworks or other flood control methods. The six months period shall be considered to begin 30 days after the date of publication in the **Federal Register** or the effective date of the Flood Hazard Boundary Map, whichever is later. Similarly, the one year period a community has to enter the program under section 201(d) of the Flood Disaster Protection Act of 1973 shall be considered to begin 30 days after publication in the **Federal Register** or the effective date of the Flood Hazard Boundary Map, whichever is later.

This identification is made in accordance with Part 1915 or Title 24 of the Code of Federal Regulations as authorized by the National Flood Insurance Program (42 U.S.C. 4001–4128)

Section 1915.3 is amended by adding in alphabetical sequence a new entry to the table:

§ 1915.3 List of communities with special hazard areas (FHBMs in effect).

State, county, community name and number of panels	Community number and suffix	Program and change code	Inland or coastal	Hazard F/M/E	Identification date(s)	Effective date of this map action	Local map repository
Arkansas, Desha, city of McGehee, 0001B	0500688	E–8, 11, 12	I	F	Mar. 29, 1974, Dec. 12, 1975	May 1, 1979	Honorable Hayes R. Stephens, Mayor, P.O. Drawer 61, McGehee, AR 71654 (501) 222–3160.
Louisiana, St. Tammany Parish, town of Abita Springs, 01B–02B.	220199B	E–8, 11, 12	I	F	May 17, 1974, Dec. 26, 1975.	May 1, 1979	Honorable Edwin S. Peters, Jr., Mayor, Town Hall, P.O. Box 416, Abita Springs, LA 70420 (504) 892–0711.
Missouri, unincorporated area, Ray County, 0001A–0006A.	290778A	E–5	I	F	May 1, 1979	May 1, 1979	Mr. Monroe Fields, Chairman, Ray County, Board of County Commissioners, Richmond, MO 64085 (818) 776–3181.
Texas, McLennan, city of Gholson, 0001A	481521A	N–5	I	F	May 1, 1979	May 1, 1979	Honorable Howard T. Sexton, Mayor, Office of Mayor, City of Gholson, Route 5, Box 495, Waco, TX 76705 (817) 829–1796.
Texas, Fort Bend, Pecan Grove Municipal Utility District No. 1, 0001B.	481486B	E–12	I	F	Nov. 1, 1977	May 1, 1979	Mr. J. B. Belin, Jr., Pecea Grove Associates, 1900 St. James Place, Suite 120, Houston, TX 77827 (713) 623–2160.
Texas, San Jacinto, city of Pointblank, 0001A	481528A	N–5	I	F	May 1, 1979	May 1, 1979	Honorable Dr. James H. Logan, Mayor, City of Pointblank, Office of Mayor, Pointblank, TX 77364 (713) 653–2367.
Illinois, Marion, village of Central City, 01	170452B	E–8, 11, 12, 14	I	F	Feb. 15, 1974, Jan. 16, 1976.	May 4, 1979	Charles Woolbright, V. Pres., 141 North Harrison St., Centralia, IL 62801, Phone: (616) 532–2123.
Illinois, Henderson, village of Lomax, 01	170281B	E–11, 12, 14	I	F	Mar. 1, 1974, Jan 30, 1976.	May 4, 1979	Kenneth Webster, Mayor, Village Hall, Lomax, IL 61454, Phone: (217) 449–3433.
Michigan, Hillsdale, city of Litchfield, 01	260409B	E–11	I	F	July 11, 1975, Oct. 10, 1975.	May 4, 1979	Woodrow Southfield, Mayor, City Hall, Litchfield, MI 49252, Phone: (517) 542–3477.

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State, county, community name and number of panels	Community number and suffix	Program and change code	Inland or coastal	Hazard F/M/E	Identification date(s)	Effective date of this map action	Local map repository
Arkansas, unincorporated area, St. Francis County, 0001B–0008B.	050184B	N–11, 12	I	F	June 28, 1977	May 8, 1979	Mr. Thomas Aycock, Administrative Assistant to the County Judge, County Courthouse, 313 South Izard Street, Forrest City, AR 72335 (501) 633–1656.
California, Amador, city of Jackson, 0001A	060448A	N–8, 11, 12	I	F	June 25, 1974	May 8, 1979	Mr. Kenneth H. Glantz, Consultative Civil Engineer, City of Jackson, P.O. Box 4437, 1150 West Robinhood Drive, Stockton, CA 95204 (209) 478–5777.
Colorado, Fremont, town of Rockvale, 01B–02B.	080221B	N–9, 11, 12, 13, 15.	I	F	June 27, 1975	May 8, 1979	Honorable John Lennox, Mayor, Town Hall, 510 Railroad Street, Rockvale, CO 81244 (303) 784–3716.
Idaho, unincorporated area, Gooding County, 0003A–0010A; 0012A–0013A.	160227A	E–5	I	F	May 8, 1979	May 8, 1979	Mr. John R. LeMoyne, Chairman, Gooding County, Board of County Commissioners, Box 417, Gooding, ID 83330 (208) 934–4841.
Iowa, Wapello, city of Eldon, 01C–02C	190271C	E–9, 11, 12, 13, 15.	I	F	Dec. 17, 1973, June 18, 1976.	May 8, 1979	Mr. Thomas Allen, City Engineer for Eldon, IA, Franch–Reneker Associates, Inc., P.O. Box 135, Fairfield, IA 52556 (515) 472–5145.
Missouri, St. Charles, city of Lake Saint Louis, 0001A.	290868A	E–5	I	F	May 8, 1979	May 8, 1979	Honorable George E. Heidelbaugh, Jr., Mayor, 1000 Lake Saint Louis Boulevard, Lake Saint Louis, MO 63367 (314) 532–3912.
Montana, unincorporated area, Prairie County, 0011A–0012A; 0016A–0017A.	300164A	N–5	I	F	May 8, 1979	May 8, 1979	Mr. Fred Schwartz, Chairman, Prairie County, Board of County Commissioners, Terry, MT 59349 (406) 637–5431.
Oregon, Umatilla, city of Adams, 01B	410205B	E–11, 12	I	F	August 30, 1974, December 26, 1975.	May 8, 1979	Honorable Lee Grimes, Mayor, City Hall, Main and Wade Streets, Adams, OR 97810 (503) 566–3383.
Texas, Kendall, city of Boerne, 01C–02C	480418C	E–9, 11, 12, 13, 15.	I	F	November 30, 1973, January 23, 1976.	May 8, 1979	Honorable A. E. Howell, Jr., Mayor, P.O. Drawer U, Boerne, TX 78006 (512) 249–2511.
Vermont, Orange, town of Braintree, 0001A–0002A.	500235A	E–11, 12	I	F	December 13, 1974.	May 8, 1979	Mrs. Helen E. Bowen, Braintree Town Clerk, R.D. #2, Randolph, VT 05060 (802) 728–9496.
Arizona, Pima, town of Marana, 0001A–0002A.	040118A	N–5, 15	I	F	May 15, 1979	May 15, 1979	Honorable Donald Frew, Mayor, Town of Marana, P.O. Box 157, Marana, AZ 85238 (602) 682–3401.
Montana, unincorporated area, Powder River County, 0005A–0006A; 0016A; 0030A; 0035A.	300183A	N–5	I	F	May 15, 1979	May 15, 1979	Mr. Floyd Inion, Chairman, Board of County Commissioners, County of Powder River, P.O. Box J, Broadus, MT 59317 (406) 436–2657.
New Mexico, Sandoval and Bernalillo, village of Corrales, 0001A.	350094A	E–8, 12	I	F	Dec. 20, 1974	May 15, 1979	Honorable Ann Dunlap, Mayor, P.O. Box 707, Corrales, NM 87048 (505) 897–0502.
Texas, Brown, city of Brownwood, 0001B–0002B.	480087B	E–11, 12	I	F	May 24, 1974, May 21, 1976.	May 15, 1979	Honorable W. T. Harlow, Mayor, P.O. Box 1389, Brownwood, TX 76801 (915) 646–6056.
Texas, Tarrant, city of Crowley, 0001B–0002B	480591B	E–11, 12, 13	I	F	June 28, 1974, July 2, 1976.	May 15, 1979	Ms. Nancy Eller, City Secretary, City Hall, Crowley, TX 76038 (817) 297–1311.
Texas, McLennan, city of Hallsburg, 0001A–0002A.	481522A	N–5	I	F	May 15, 1979	May 15, 1979	Honorable Margie Wilbanks, Mayor, Office of Mayor, City of Hallsby, Route 7, Box 428, Waco, TX 76705 (817) 875–2346.
Washington, unincorporated area, Mason County, 0001B–0012B.	530115B	E–11, 12	I	F	Aug. 9, 1977	May 15, 1979	Mr. Jack Christenson, Assistant Engineer, Mason County, P.O. Box 357, Shelton, WA 98584 (206) 426–4443.
Indiana, Madison, town of Country Club Heights, 01.	180451A	N–5	I	F	May 18, 1979	May 18, 1979	Dr. Beeler, Town Bd. Pres., Overlook Drive, Anderson, IN 46011, Phone: (317) 642–1316.
Ohio, Defiance, village of Hicksville, 0001B	390145	E–8, 11, 12, 14	I	F	May 17, 1974, May 21, 1976.	May 18, 1979	Jay Volkert, Mayor, 111 S. Main Street, Hicksville, OH 43526, Phone: (419) 542–6138.
Ohio, Union, city of Marysville, 0001B	390548	E–8, 11, 12, 14	I	F	Mar. 22, 1974, Aug. 27, 1976.	May 18, 1979	Clifton H. Brown, 6th and Main Street, Marysville, OH 43040, Phone: (513) 642–6015.
Ohio, Stark, city of Massillon, 0001B	390517	E–8, 11, 12, 14	I	F	Jan. 9, 1974, Aug. 22, 1975.	May 18, 1979	Mark Ross, Mayor, City Hall, Massillon, OH 44646, Phone: (216) 833–1058.
Ohio, Fairfield and Franklin, village of Pickerington, 0001D.	390162	E–11, 12, 14	I	F	June 28, 1974, Feb. 28, 1975, June 25, 1976, Dec. 18, 1977.	May 18, 1979	Garvan Smith, Mayor, 500 Herford Drive, Pickennglon, OH 43147, Phone: (614) 837–3974.

State, county, community name and number of panels	Community number and suffix	Program and change code	Inland or coastal	Hazard F/M/E	Identification date(s)	Effective date of this map action	Local map repository
Ohio, Hamilton, city of Reading, 0001B	390234	E–11, 12, 14	I	F	Feb 8, 1974, Apr 16, 1976.	May 18, 1979	William Ernest, Mayor, Pike and Market Street, Reading, OH 45215, Phone: (513) 733–4044.
Ohio, Summit, village of Reminderville, 0001A	390855	N–5	I	F	May 18, 1979	May 18, 1979	Ray W. Williams, Mayor, 3601 Glenwood Blvd., Reminderville, OH, Phone: (216) 562–8382 home; (216) 562–8873 work.
Ohio, Summit, city of Twinsburg, 0001B	390534	E–8, 11, 12, 14	I	F	Mar. 15, 1974, June 18, 1976.	May 18, 1979	Anthony Terici, Mayor, 9810 Ravenna Road, Twinsburg, OH 44087, Phone: (216) 425–4234.
Ohio, Auglaize, city of Wapakoneta, 0001B	390023	E–8, 11, 12, 14	I	F	Feb. 15, 1974, May 28, 1976.	May 18, 1979	William Lietz, Mayor, 102 Perry Street, Wapakoneta, OH 45895, Phone: (419) 738–3011.
Pennsylvania, Huntingdon, township of Jackson, 0001A–0005A.	421691	E–11, 12, 14	I	F	Dec. 13, 1974	May 18, 1979	Ralph M. Weiler, Chairman, R.D., Petersburg, PA 16669, Phone: (814) 667–3679.
Pennsylvania, Venango, township of Oakland, 0001A–0003A.	422111	E–11, 12, 14	I	F	Dec. 13, 1974	May 18, 1979	Ralph Prichard, Chairman, R.D. #1, Cooperstown, PA 16317, Phone: (814) 648–5272.
Pennsylvania, Huntingdon, township of West, 0001A–0003A.	421706	E–11, 12, 14	I	F	Jan. 17, 1975	May 18, 1979	Raymond McGargle, Chairman, R.D., Petersburg, PA 16669, Phone: (814) 669–4846.
New Hampshire, Sullivan, town of Lempster, 0001, 0003, 0004.	330160A	E–12	I	F	Jan. 31, 1975	May 18, 1979	Town of Lempster, Town Hall, Lempster, NH 03605.
New Hampshire, York, town of Warren, 0001, 0003.	330168B	E–11, 12	I	F	Sept. 13, 1974	May 18, 1979	Board of Selectmen, Town of Warren, Warren, NH 03279.
Idaho, unincorporated area, Kootenai County, 0001B–0014B.	160076B	E–8, 11, 12	I	F	June 7, 1977	May 22, 1979	Mr. Eugene W. Ingalls, Chairman, Board of County Commissioners, Kootenai County, County Courthouse, 501 Government Way, Coeur d'Alene, ID 83814 (208) 664–8291.
Iowa, unincorporated area, Franklin County, 0001A–0006A.	190867A	N–5	I	F	May 22, 1979	May 22, 1979	Mr. Conrad Meints, County Chairman, Franklin County, Board of Supervisors, Hampton, IA 50441 (515) 456–4226.
New Mexico, Lea, city of Hobbs, 0002A	350029A	E–8, 11, 12	I	F	Apr. 2, 1976	May 22, 1979	Honorable Max Clampitt, Mayor, 300 North Turner, P.O. Box 1117, Hobbs, NM 88240 (505) 397–3636.
Texas, unincorporated area, Angelina County, 0001B–0013B.	480007B	N–8, 11, 12	I	F	Dec. 27, 1974, June 28, 1977.	May 22, 1979	Honorable Claude E. Welch, County Judge, County Courthouse, County of Angelina, P.O. Box 906, Lufkin, TX 75901 (713) 639–2161.
Illinois, Monroe, city of Columbia, 0001B	170510	E–8, 11, 12, 14	I	F	May 17, 1974, Jan. 23, 1976.	May 25, 1979	Edd Ghent, Mayor, 208 South Rapp Street, Columbia, IL 62236, Phone: (618) 281–7144.
Illinois, Henderson, village of Oquawka, 01	170282B	E–12, 14	I	F	Dec. 7, 1973, July 16, 1976.	May 25, 1979	Harry Cooper, V. Pres., Village Hall, Oquawka, IL 61469, Phone: (309) 867–4721.
Indiana, Greene, city of Linton, 0001A	180456	N–5, 15	I	F	May 25, 1979	May 25, 1979	Robert C. Walters, Mayor, City Hall, Linton, IN 47441, Phone: (812) 847–7014.
Minnesota, Nobles, Nobles County, 0001A–0009A.	270668	E–5	I	F	May 25, 1979	May 25, 1979	Ken W. Roberts, Auditor, Courthouse, Worthington, MN 56187, Phone: (507) 376–4151.
Ohio, Delaware, village of Sunbury, 0001B	390152	E–8, 11, 12, 14	I	F	May 31, 1974, June 4, 1976.	May 25, 1979	Harold Kintner, Mayor, Box 449, Sunbury, OH 43074, Phone: (614) 965–3886.
Ohio, Fairfield, village of Thurston, 01	390690A	E–8, 11, 12, 14	I	F	Jan. 31, 1975	May 25, 1979	Charles George, Mayor, P.O. Box 102, Thurston, OH 43157, Phone: (614) 862–4534.
Ohio, Wyandot, Wyandot County, 0001B only	390787	E–12, 14	I	F	Feb. 17, 1978	May 25, 1979	John A. Hendricks, Pres., Bd. of Comm., Courthouse, Upper Sandusky, OH 43351, Phone: (419) 294–3436.
Pennsylvania, Venango, township of Mineral, 0001A–0002A.	422536	N–11, 12, 14	I	F	Jan. 31, 1975	May 25, 1979	J. L. Krizon, Chairman, R.D. #1, Polk, PA 16342, Phone: (814) 437–1595.
Pennsylvania, Huntingdon, township of Penn, 0001A–0003A.	421698	E–11, 12, 14	I	F	Dec. 6, 1974	May 25, 1979	John W. Lynn, Chairman, R.D. #1, Hesston, PA 16647, Phone: (814) 658–3882.
Arkansas, unincorporated area, Mississippi county, 0001B–0016B.	050452B	N–11, 12	I	F	Oct. 18, 1977	May 29, 1979	Honorable A. A. "Shug" Banks, County Judge, Mississippi County Countyhouse, Blytheville, AR 72315 (501) 763–3212.

State, county, community name and number of panels	Community number and suffix	Program and change code	Inland or coastal	Hazard F/M/E	Identification date(s)	Effective date of this map action	Local map repository
California, unincorporated area, Santa Cruz County, 0002A–0017A.	060353A	E–8, 11, 12	I	F	Aug. 16, 1974	May 29, 1979	Mr. John Gilchrist, Principal Planner, Environmental Division, County of Santa Cruz, Planning Department, Governmental Center, 701 Ocean Street, Santa Cruz, CA 95060 (408) 425–2191.
Colorado, El Paso, city of Fountain, 0001B–0002B.	080061B	E–8, 11, 12	I	F	June 28, 1974, Oct. 24, 1975.	May 29, 1979	Honorable Sigurd Aga, Mayor, City Hall, 116 South Main Street, Fountain, CO 80817 (303) 382–5604.
Louisiana, West Carroll Parish, village of Epps, 01A.	220283A	N–8, 11, 12	I	F	June 4, 1976	May 29, 1979	Honorable Edward C. Jones, Mayor, Village Hall, P.O. Box 253, Epps, LA 71237 (318) 926–5224.
Louisiana, Jackson Parish, town of Jonesboro, 0001A.	220252A	N–5, 15	I	F	May 29, 1979	May 29, 1979	Honorable W. Richard Zuber, Mayor, City Hall Building, 100 Fourth Street, Jonesboro, LA 71251 (318) 259–2385.
Montana, unincorporated area, Musselshell County, 0011A–0012A; 0014A.	300174A	N–5	I	F	May 29, 1979	May 29, 1979	Mr. O. S. Ellis, Chairman, Musselshell County, Board of County Commissioners, Roundup, MT 59072 (406) 323–1104.
Oregon, Malheur, city of Adrian, 0001A	410285A	N–5	I	F	May 29, 1979	May 29, 1979	Honorable Marvin Bowers, Mayor, Office of Mayor, P.O. Box 226, Adrian, OR 97901 (503) 372–2358.
Oregon, Umatilla, city of Ukiah, 0001A	410279A	E–5	I	F	May 29, 1979	May 29, 1979	Honorable Lloyd A. Waid, Mayor, City Hall, P.O. Box 187, Ukiah, OR 97880 (503) 427–3281.
Texas, Henderson, city of Tool, 0001A	481532A	N–5	I	F	May 29, 1979	May 29, 1979	Honorable Oran White, Mayor, City of Tool, Office of Mayor, Route 6, Kemp, TX 75143 (214) 432–2856.

(National Flood Insurance Act of 1968 (title XIII of the Housing and Urban Development Act of 1968); effective Jan. 28, 1969 (33 FR 17804, Nov. 28, 1968), as amended, 42 U.S.C. 4001–4128; Executive Order 12127, 44 FR 19367; and delegation of authority to Federal Insurance Administrator, 44 FR 20963.)

Issued: April 30, 1979.

Gloria M. Jimenez,
Federal Insurance Administrator.

[Docket No. FI–5474]

[FR Doc. 79–14292 Filed 5–8–79; 8:45 am]

BILLING CODE 4210–23–M

DEPARTMENT OF THE TREASURY

Internal Revenue Service

26 CFR Part 1

Investment Credit Employee Stock Ownership Plans (TRASOP's) Public Hearing on Proposed Regulations

AGENCY: Internal Revenue Service, Treasury.

ACTION: Public hearing on temporary regulations.

SUMMARY: This document provides notice of a public hearing on temporary regulations relating to investment credit employee stock ownership plans ("TRASOP's").

DATES: The public hearing will be held on June 28, 1979, beginning at 10:00 a.m. Outlines of oral comments must be delivered or mailed by June 14, 1979.

ADDRESS: The public hearing will be held in the I.R.S. Auditorium, Seventh Floor, 7400 Corridor, Internal Revenue Building, 1111 Constitution Avenue, N.W., Washington, D.C. The outlines should be submitted to the Commissioner of Internal Revenue, Attn: CC:LR:T (EE–4–78), Washington, D.C. 20224.

FOR FURTHER INFORMATION CONTACT: George Bradley or Charles Hayden of the Legislation and Regulations Division, Office of Chief Counsel, Internal Revenue Service, 1111 Constitution Avenue, N.W., Washington, D.C. 20224, 202–566–3935, not a toll free call.

SUPPLEMENTARY INFORMATION: The subject of the public hearing is temporary regulations under section 46(a) of the Internal Revenue Code of 1954. The temporary regulations appeared in the **Federal Register** for Friday, January 19, 1979, at page 4128 (44 FR 4128).

On July 30, 1976, the Internal Revenue Service published proposals in the **Federal Register** to amend the Income Tax Regulations under section 46(a) of the Internal Revenue Code of 1954 and section 301(d) of the 1975 Tax Reduction Act (41 FR 31828).

By a notice published in the **Federal Register** on October 19, 1976, the public was invited to comment not only on issues addressed in the proposals, but also on issues addressed by section 803(h) of the Tax Reform Act of 1976 and by the Conference Report of the Committee of Conference on H.R. 10612. A public hearing was held on November 12, 1976.

After consideration of all comments, some of the proposals were revised and adopted as final regulations and others were re-proposed in the temporary regulations that are the subject of this hearing.

The rules of § 601.601(a)(3) of the "Statement of Procedural Rules" (26 CFR Part 601) shall apply with respect to the public hearing. Persons who have submitted written comments within the time prescribed in the notice of proposed rulemaking and also desire to present oral comments at the hearing on the proposed regulations should submit an outline of the comments to be presented at the hearing and the time they wish to devote to each subject by June 14, 1979. Each speaker will be limited to 10 minutes for an oral presentation exclusive of time consumed by questions from the panel for the Government and answers to these questions.

Because of controlled access restrictions, attendees cannot be admitted beyond the lobby of the Internal Revenue Building until 9:45 a.m.

An agenda showing the scheduling of the speakers will be made after outlines are received from the speakers. Copies of the agenda will be available free of charge at the hearing.

This document does not meet the criteria for significant regulations set forth in paragraph 8 of the Treasury Directive appearing in the **Federal Register** for Wednesday, November 8, 1978.

By direction of the Commissioner of Internal Revenue:

George H. Jelly,
Director, Employee Plans and Exempt Organizations Division.

[EE–4–78]

[FR Doc. 79–14480 Filed 5–8–79; 8:45 am]

BILLING CODE 4830–01–M

26 CFR Parts 1 and 5b

Temporary Income Tax; Foreign Earned Income Exclusion and the Deduction for Excess Foreign Living Costs

AGENCY: Internal Revenue Service, Treasury

ACTION: Temporary regulations.

SUMMARY: This document provides temporary regulations relating to the foreign earned income exclusion and the deduction for excess foreign living costs. Changes to the applicable tax law were made by the Foreign Earned Income Act of 1978. These regulations affect U.S. citizens and residents who work overseas and provide them with the guidance needed to comply with the law.

EFFECTIVE DATE: The regulations apply generally to taxable years beginning after December 31, 1977.

FOR FURTHER INFORMATION CONTACT: David K. Dolan of the Legislation and Regulations Division, Office of the Chief Counsel, Internal Revenue Service, 1111 Constitution Avenue NW., Washington, D.C. 20224, Attention: CC:LR:T; 202–566–3289 (not a toll-free call).

SUPPLEMENTARY INFORMATION:

Background

This document contains temporary regulations under section 911 of the Internal Revenue Code of 1954 relating to the foreign earned income exclusion. The temporary regulations under this section are necessary because of the amendments made to section 911 by section 202 of the Foreign Earned Income Act of 1978 (Pub. L. 95–615, 92 Stat. 3098). This document also contains temporary regulations under section 913 of the Code relating to the deduction for excess foreign living costs. Section 913 was enacted by section 203 of the Foreign Earned Income Act. The temporary regulations under sections 911 and 913 will remain in effect until superseded by final regulations under those sections.

Explanation of Provisions

Section 911

Section 911 was amended by the Foreign Earned Income Act of 1978 to permit qualifying taxpayers who reside in a camp located in a hardship area in a foreign country to exclude annually up to $20,000 of foreign earned income. A taxpayer is not allowed a credit, however, for any foreign taxes paid or accrued on the excluded income.

Section 5b.911–1(b) of the temporary regulations provides rules for determining whether a taxpayer qualifies for the exclusion. Section 5b.911–2 specifies the type of income that may be excluded. Section 5b.911–3 sets forth the manner of determining the maximum amount of the exclusion for any taxable year. Section 5b.911–4 provides special rules applicable to married taxpayers with community income. Section 5b.911–5, among other things, specifies the manner of determining the portion of foreign taxes which is allocable to the excluded income and for which a foreign tax credit may not be claimed. Section 5b.911–6 contains procedural rules, including the manner of making an election not to claim the benefits of section 911 and thereby enabling the taxpayer to claim the benefits of section 913. Section 5b.911–7 contains the effective date of these regulations. The temporary regulations apply to taxable years beginning after December 31, 1978. They also apply to the taxable year beginning during 1978 of qualifying taxpayers who do not make an election pursuant to section 209(c) of the Foreign Earned Income Act to have prior law apply to that year. Prior law is section 911 as amended by section 1011 (a), (b), and (c) of the Tax Reform Act of 1976 and by section 701(u)(10) of the Revenue Act of 1978.

Section 913

Section 913, enacted by the Foreign Earned Income Act of 1978, allows to qualifying taxpayers with foreign tax homes a deduction which consists of the following amounts:

(1) A cost-of-living differential;

(2) Qualified housing expenses;

(3) Qualified school expenses;

(4) Qualified home leave transportation expenses; and

(5) A hardship area amount.

The section 913 deduction is a deduction from gross income and is limited to the amount of the taxpayer's foreign source earned income reduced by certain amounts. The deduction may not be claimed by a taxpayer who claims the section 911 exclusion.

Section 5b.913–1 of the temporary regulations describes the deduction generally. Section 5b.913–2 provides rules for determining whether a taxpayer qualifies for the deduction. Among other things, the taxpayer must satisfy either the foreign residence test or the physical presence test (510 days/18-month requirement) which were prerequisites for qualifying for the section 911 exclusion before its amendment by the Foreign Earned Income Act of 1978.

Section 5b.913–3 contains definitions which are generally applicable to the section 913 deduction. The term "tax home," for example, is relevant to each of the five elements of the deduction because each is allowed only for periods when the taxpayer's tax home is in a foreign country. The term "qualified second household" is relevant to all elements of the deduction other than the hardship area amount; special rules relate to each if the taxpayer maintains a qualified second household.

Section 5b.913–4 specifies the method of computing the foreign source earned income limitation, which is the maximum amount of the section 913 deduction.

Sections 5b.913–5 through 5b.913–9 provide rules for computing, respectively, the cost-of-living differential, qualified housing expenses, qualified school expenses, qualified home leave transportation expenses, and the hardship area amount.

Section 5b.913–10 contains special rules for married couples both spouses of which qualify for the section 913 deduction. Section 5b.913–11 contains special rules for married couples with community income.

Section 5b.913–12 makes a cross-reference to regulations under section 911 which, among other things, permit both section 911 and section 913 taxpayers to apply for an extension for filing their return until after completion of the qualifying period for claiming the section 911 exclusion or the section 913 deduction. Finally, § 5b.913–13 sets forth the effective date of the section 913 regulations. The effective date is the same as that specified for the temporary regulations under section 911 contained in this document.

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Waiver of Procedural Requirements of Treasury Directive

Expeditious adoption of the provisions contained in this document is essential because of the need for immediate guidance to taxpayers in filing their 1978 income tax returns and in determining wages subject to income tax withholding during 1979. For this reason, Jerome Kurtz, Commissioner of Internal Revenue, has determined that the provisions of paragraphs 8 through 14 of the Treasury Department directive implementing Executive Order 12044 must be waived.

Drafting Information

The principal author of these regulations is David K. Dolan of the Legislation and Regulations Division of the Office of Chief Counsel, Internal Revenue Service. However, personnel from other officies of the Internal Revenue Service and Treasury Department participated in developing the regulations in matters of both substance and style.

Adoption of Amendments to the Regulations

Accordingly, a new Part 5b Temporary Income Tax Regulations under the Foreign Earned Income Act of 1978, is added to Title 26 of the Code of Federal Regulations, and the following regulations are adopted:

§§ 1.911, 1.911-1, and 1.911-2 [Deleted]

Paragraph 1. Sections 1.911, 1.911-1, and 1.911-2 are deleted, and the following § 5b.911-1 through 5b.911-7 are adopted.

§ 5b.911-1 Individuals qualifying for the exclusion.

(a) *Scope.* Section 911 provides that a qualifying taxpayer may exclude from gross income qualifying earned income described in § 5b.911-2. The amount that may be excluded is subject to the limitation provided in § 5b.911-3. Taxpayers may make an election under § 5b.911-6(a) not to claim the benefit of section 911.

(b) *Taxpayers qualifying.* A taxpayer qualifies for the exclusion provided by section 911 if the taxpayer resides in a camp located in a hardship area and satisfies either the foreign residence test or the physical presence test of § 5b.913-2 (a) (1) and (2). A taxpayer is considered to reside in a camp only for portions of the taxable year during which the taxpayer's abode is in a camp. A taxpayer who is away from a camp for short periods of time may still be considered to reside in the camp during those periods of absence. As an illustration, a taxpayer living in a camp who spends weekends or takes periodic vacations of short duration away from the camp may be considered to reside in the camp during those periods of absence. A taxpayer who spends 2 consecutive months away from the camp, however, is not considered to reside in the camp during that period of absence. An individual is not considered to reside in a camp located in a hardship area during any period when the area where the camp is located is not designated as a hardship area. (See § 5b.913-3(e).)

(c) *Camp*—(1) *In general.* A camp is lodging which—

(i) Is substandard;

(ii) Is provided by or on behalf of the employer for the convenience of the employee because the place where the taxpayer renders services is in a remote area where satisfactory housing is not available on the open market;

(iii) Is located as near as practicable to the worksite of the taxpayer;

(iv) Is furnished in a common area or enclave which is not available to the public for lodging or accommodations; and

(v) Normally accommodates 10 or more persons who are either employees of the taxpayer's employer or other employees performing services at the taxpayer's worksite.

For purposes of paragraph (c)(1)(ii) of this section, the term "for the convenience of the employer" has the same meaning which it has for purposes of section 119. For purposes of paragraph (c)(1)(iv) of this section, a cluster of housing units occupied by employees who perform services at the taxpayer's worksite is not a common area or enclave if adjacent to or surrounded by similar housing occupied by other individuals.

(2) *Substandard lodging.* Substandard lodging means housing which—

(i) Consists of movable units such as mobile homes and trailers;

(ii) Is a mass housing structure, such as a barracks, where more than two unrelated persons are required to sleep in the same room;

(iii) Is not equipped with air conditioning and heat, if appropriate for the climate, and electricity;

(iv) Is not equipped with all of the following plumbing facilities for each family unit or, if unrelated employees are required to share housing, for every four persons on the average:

(A) Hot and cold piped water;

(B) A usable interior flush toilet; and

(C) A usable interior bathtub or shower; or

(v) Does not provide safe and adequate shelter—that is, in its present condition, it endangers the health, safety, or well-being of its occupants.

For purposes of paragraph (c)(2)(i) of this section, housing does not necessarily consist of movable units merely because it is prefabricated. The environment or neighborhood in which housing is located is not relevant in determining whether housing is substandard.

(3) *Remote area.* A remote area is any place which is not within a reasonable commuting distance (defined in § 5b.913-3(f)) of a community (city, town, village, etc.) with a population of 2,500 or more individuals.

(d) *Hordship area.* A hardship area is defined in § 5b.913-3(e).

(e) *Section 119 and business premises.* With respect to a taxpayer who excludes income pursuant to section 911, a camp as defined in paragraph (c) of this section is considered to be part of the business premises of the taxpayer's employer for purposes of section 119 for the portion of the taxable year during which the taxpayer satisfies the foreign residence test or the physical presence test of § 5b.913-2(a) (1) and (2) and resides in a camp located in a hardship area.

§ 5b.911-2 Qualifying earned income.

(a) *In general.* Qualifying earned income is earned income (defined in paragraph (b) of this section) which—

(1) Is attributable to services performed in a foreign country (defined in § 5b.913-3(d)) during the portions of the taxable year during which the taxpayer resides in a camp located in a hardship area and satisfies the foreign residence test or the physical presence test of § 5b.913-2(a) (1) and (2);

(2) Is not paid by the U.S. government or any U.S. government agency or instrumentality;

(3) Is not received as a pension or annuity or included in the taxpayer's gross income by reason of section 402(b) (relating to the taxability of a beneficiary of a nonexempt trust) or section 403(c) (relating to the taxability of a beneficiay under a nonqualified annuity or under annuities purchased by exempt organizations); and

(4) Is not received after the close of the taxable year following the taxable year in which the services giving rise to the income are performed.

For purposes of paragraph (a) (1) of this section, the place of receipt of income is immaterial in determining whether income is derived from services performed in a foreign country.

(b) *Definition of "earned income"*—(1) *In general.* "Earned income" means wages, salaries, professional fees, and other amounts received as compensation for personal services actually rendered. "Earned income" does not include any portion of compensation paid by a corporation which represents a distribution of earnings and profits rather than a reasonable allowance for personal services actually rendered to the corporation.

(2) *Earned income from business in which capital is material.* In the case of a taxpayer engaged in a trade or business (other than in corporate form) in which both personal services and capital are material income-producing factors, a reasonable allowance as compensation for the personal services actually rendered by the taxpayer shall be considered earned income. In no case, however, may the total amount to be treated as earned income exceed 30 percent of the taxpayer's share of the net profits of the trade or business.

(3) *Earned income and employed assistants.* Earned income includes all fees received by a taxpayer engaged in a professional occupation (such as a doctor or lawyer) in the performance of professional activities. Professional fees constitute earned income even though the taxpayer employs assistants to perform part or all of the services rendered, provided the taxpayer's patients or clients look to the taxpayer as the person responsible for the services rendered.

§ 5b.911-3 Determination of the maximum excludable amount of qualifying earned income.

(a) *Application of the limitation*—(1) *In general.* Qualifying earned income described in § 5b.911-2 is excludable only to the extent of the limitation specified in paragraph (b) of this section for the taxable year in which the income is earned. Income is considered to be earned in the taxable year in which the services giving rise to the income are performed. Earned income is not to be attributed to any year in which the services performed are insubstantial in nature. The determination of the amount of excluded earned income in this manner does not affect the time for reporting any amounts included in gross income.

(2) *Illustrations.* Paragraph (a) (1) of this section is illustrated by the following examples:

Example (1). B, a U.S. citizen and cash-basis taxpayer, is a *bona fide* resident of foreign country X for the entire taxable years 1980 and 1981. During that entire period, B resides in a camp located in a hardship area. In 1981, B receives $40,000 for services performed in country X during 1980 and 1981. Of the total amount received in 1981 ($40,000), $30,000 is attributable to services performed during 1980, and $10,000 is attributable to services performed during 1981. The limitation specified in § 5b.911-3 (b) is $20,000 for income earned in each of the years 1980 and 1981. Thus, $20,000 of the $30,000 earned in 1980 and the entire $10,000 earned in 1981 are excluded in 1981 (the year of receipt). The nonexcludable $10,000 of the $30,000 earned in 1980 must be included in B's gross income in 1981 (the year of receipt).

Example (2). The facts are the same as in example (1), except that in 1982 B receives an additional $5,000 for services performed in country X in 1981. Since the $10,000 of income earned and received in 1981 is excluded, the remaining limitation for income earned in 1981 which is available for earned income received in 1982 is $10,000. Accordingly, the $5,000 earned in 1981 but received in 1982 is excluded from B's gross income in 1982.

(b) *Limitation*—(1) *In general.* The limitation for each taxable year on the exclusion of qualifying earned income described in § 5b.911-2 equals $20,000 multiplied by the following fraction:

The number of qualifying days

The number of days in the taxable year

(2) *Qualifying days.* The number of qualifying days is the total number of calendar days in the taxable year during which the taxpayer—

(i) Resides in a camp located in a hardship area within the meaning of § 5b.911-1 (b); and

(ii) Satisfies the foreign residence test or the physical presence test of § 5b.913-2 (a) (1) and (2).

(c) *Illustrations.* This section is illustrated by the following examples:

Example (1). B, a U.S. citizen and a calendar year, cash-basis taxpayer, is a *bona fide* resident of foreign country X for the period April 1, 1979, through September 30, 1981. B resides in a camp located in a hardship area during that entire period and returns to the United States during that period only for a 3-week vacation in 1980. B receives $50,000 in each of the years 1979, 1980, and 1981 as current compensation for services performed in country X during the portions of those years during which B is a resident of country X. B receives no other compensation. The amounts of excluded income earned in taxable years 1979 through 1981 are computed as follows: of the income earned in 1979, $15,068 ($20,000 × 275/365); of the income earned in 1980, $20,000 ($20,000 × 366/366); and of the income earned in 1981, $14,959 ($20,000 × 273/365.

Example (2). B, a U.S. resident and a calendar year, cash-basis taxpayer, arrives in foreign country Y from the United States on April 24, 1980. B resides in a camp located in a hardship area during the entire time B is in country Y. B remains in country Y until October 25, 1981, at which time B departs for the United States where B remains for the rest of 1981. B qualifies under the physical presence test of § 5b.913-2 (a) (2) for the period during which B is in country Y. B receives $50,000 in each of the years 1980 and 1981 as current compensation for services performed in country Y during the portions of those years during which B is in country Y. B receives no other compensation. The amounts of excluded income earned in taxable years 1980 and 1981 are computed as follows: of the income earned in 1980, $13,716 ($20,000 × 251/366); and of the income earned in 1981, $16,274 ($20,000 × 297/365).

§ 5b.911-4 Treatment of community income.

(a) *General rule.* This paragraph applies to married taxpayers with community income other than taxpayers described in paragraph (b) of this section. The amount of excluded earned income is first determined separately for each spouse under the rules of §§ 5b.911-1 through 5b.911-3 on the basis of the income attributable to that spouse's services. The sum of the amounts of excluded earned income so determined for each spouse is the aggregate amount excluded on a joint return. If the couple files separate returns, one-half of the aggregate amount which would be excluded on a joint return constitutes the exclusion on the separate return of each spouse.

(b) *Special rules applicable to married taxpayers to whom section 879 applies.* The following special rules regarding the treatment of community income apply to any U.S. citizen or resident married to a nonresident alien for whom an election under section 6013 (g) or (h) is not in effect to have the nonresident alien spouse treated as a U.S. resident. Section 879 (applicable to taxable years beginning after December 31, 1976) provides that earned income of such couples which is community income under the applicable community property law is treated as the income of the spouse who rendered the services for which the earned income was paid or accrued. The amount of earned income excluded under section 911 from the gross income of the spouse who is a U.S. citizen or resident is thus computed on the basis of the earned income attributed to that spouse under section 879. Any portion of such earned income that is not excluded is taxable to that spouse. The non-resident alien spouse does not compute an excluded amount with respect to any income attributed to that spouse under section 879 since, among other things, nonresident aliens do not qualify for the section 911 exclusion.

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(c) *Illustrations.* This section is illustrated by the following examples:

Example (1). B, a U.S. citizen and cash-basis taxpayer, is a *bona fide* resident of foreign country S and resides in a camp in a hardship area during the entire 1981 taxable year. During 1981, B receives $40,000 compensation for services performed during that year in country S. C, B's spouse and a U.S. citizen, is a resident of the United States during 1981 and receives no compensation during 1981. B's salary is considered community income under the law of state X, the marital domicile. If the income were not community income $20,000 of the $40,000 received by B would be excluded from B's gross income. As a result, whether B files a joint or a separate return, the aggregate amount excluded from B's gross income is $20,000.

Example (2). The facts are the same as in example (1), except that C is a *bona fide* resident of country S and resides in a camp in a hardship area during the entire 1981 taxable year. In addition, C receives $10,000 during the 1981 taxable year for services performed in country S during that year. If all compensation received during 1981 were not community income, $20,000 of the $40,000 received by B would be excluded from B's gross income and the entire $10,000 received by C would be excluded from C's gross income. As a result, whether B and C file separate returns or a joint return, the aggregate amount excluded from their combined gross income is $30,000.

Example (3). B, a U.S. citizen and cash-basis taxpayer, is a *bona fide* resident of foreign country X and resides in a camp in a hardship area during the entire 1981 taxable year. During 1981, B receives $40,000 compensation for services performed in country X during that year. C, B's spouse and a citizen of country X, is a resident of country X during 1981. C receives $10,000 compensation for services performed during that year in country X. Under the law of country X, the marital domicile, one-half of B's earnings (or $20,000) belong to C and one-half of C's earnings (or $5,000) belong to B. An election under section 6013 (g) or (h) is not in effect to have C, a nonresident alien, treated as a resident of the United States. As a result, the $40,000 income received by B is treated as the earned income of B under section 879 and is subject to U.S. tax if not otherwise excluded. The amount of earned income excluded by B from gross income is $20,000. The remaining $20,000 received by B is included in B's gross income for 1981. The $10,000 received by C is treated as the earned income of C and is not subject to tax since it is derived by a nonresident alien from sources outside the United States.

§ 5b.911–5 Disallowance of deductions and the foreign tax credit.

(a) *Deductions.* No deduction is allowed for any expenses (other than moving expenses), losses, or other otherwise deductible items that are definitely related (within the meaning of § 1.861–8) to earned income excluded from gross income under section 911. If earned income qualifying for the exclusion (determined under § 5b.911–2) exceeds the earned income actually excluded under section 911, the amount not allowed as a deduction is determined by multiplying the deductions definitely related to qualifying earned income by the following formula:

$$\frac{\text{Excluded earned income}}{\text{Qualifying earned income}}$$

Thus, if the taxpayer earns $60,000 of qualifying earned income during the taxable year, incurs $3,000 of otherwise deductible business expenses attributable to that income, and excludes $20,000 of that income, $1,000 of the business expenses ($3,000×$20,000/$60,000) are not deductible, because they are allocable to the excluded $20,000. Deductions which are not definitely related to qualifying earned income are deductible to the extent allowed by chapter 1 of the Code. Examples of deductions that are not definitely related are personal and family medical expenses, real estate taxes and mortgage interest on a personal residence, charitable contributions, and deductions for personal exemptions.

(b) *Foreign tax credit.* The amount of foreign taxes for which a credit may be claimed is reduced by the portion of foreign taxes allocable to excluded earned income. The reduction is made prior to the application of the limitation of section 904. For purposes of this paragraph, the portion of taxes imposed by a foreign country that is allocable to excluded earned income is determined by multiplying the amount of the foreign taxes by a fraction. The numerator of the fraction equals—

(1) The U.S. tax (less general tax credit, if any) on the sum of (i) the taxpayer's taxable income (or tax table income if the taxpayer uses the tax tables in computing tax) plus (ii) the excluded earned income (reduced by allocable deductions other than moving expenses) less

(2) The U.S. tax (less general tax credit, if any) on the taxpayer's taxable income (or tax table income).

The denominator of the fraction is the numerator plus the limitation imposed for the taxable year by section 904.

§ 5b.911–6 Procedural rules.

(a) *Election not to exclude earned income.* A taxpayer who is entitled to the benefit of section 911 may elect under section 911 (d) not to exclude earned income as provided in section 911. This election shall be made on Form 2555, which must be filed either with the income tax return or with an amended return. The election is effective only for the taxable year for which the return is filed. The election may be revoked by filing a new Form 2555 with an amended return. An election not to exclude earned income as provided in section 911 enables a qualifying taxpayer, and in certain cases the taxpayer's spouse, to claim the benefits of section 913 (see § 5b.913–2 (a)). In addition, taxpayers who elect not to exclude income are not subject to the rules of § 5b.911–5 relating to the disallowance of deductions and of the foreign tax credit.

(b) *Returns and extensions*—(1) *In general.* Any return filed before completion of the period necessary to qualify a taxpayer for the exclusion under section 911 or the deduction under section 913 shall be filed without regard to the exclusion or deduction provided in those sections. A claim for a credit or refund of any overpayment of tax may be filed, however, if the taxpayer subsequently qualifies for the exclusion or deduction. See section 6012 (c) and § 1.6012–1 (a) (3), relating to returns to be filed and information to be furnished by taxpayers who qualify for the exclusion under section 911.

(2) *Extensions.* A taxpayer desiring an extension of time (in addition to the automatic extension of time granted by § 1.6081–2) for filing a return until after the completion of the qualifying period described in § 5b.913–2 (a) (1) or (2) for claiming either the exclusion under section 911 or the deduction under section 913 may apply for an extension on Form 2350, Application for Extension of Time for Filing United States Income Tax Return. The application must be filed with the Director, Internal Revenue Service Center, Philadelphia, Pennsylvania 19255. The application must set forth the facts relied upon to justify the extension of time requested and must include a statement as to the earliest date the taxpayer expects to be entitled to the exclusion or deduction.

(c) *Declaration of Estimated Tax.* In estimating gross income for the purpose of determining whether a declaration of estimated tax must be made for any taxable year, a taxpayer is not required to take into account income which the taxpayer believes will be excluded from gross income under the provisions of section 911. In computing estimated tax, however, the taxpayer must take into account, among other things, the denial of the foreign tax credit for foreign taxes allocable to the excluded income (see § 5b.911–5 (b)).

§ 5b.911–7 Effective date of §§ 5b.911–1 through 5b.911–6.

Sections 5b.911–1 through 5b.911–6 apply to taxable years beginning after December 31, 1978. Those sections also apply to the taxable year beginning during 1978 of taxpayers who do not make an election pursuant to section 209(c) of the Foreign Earned Income Act of 1978 (Pub. L. 95–615, 92 Stat. 3109) to have prior law apply to that taxable year. Prior law is section 911 as amended by section 1011 (a), (b), and (c) of the Tax Reform Act of 1976 (Pub. L. 94–455, 90 Stat. 1610) and by section 701(u)(10) of the Revenue Act of 1978 (Pub. L. 95–600, 92 Stat. 2917). For the rules applicable to earlier taxable years, see 26 C.F.R. §§ 1.911–1 and 1.911–2 (1978).

Par. 2. The following §§ 5b.913–1 through 5b.913–13 are adopted.

§ 5b.913–1 Deduction for certain expenses of living abroad.

(a) *In general.* Section 913 allows to qualifying taxpayers a deduction which consists of the following amounts:

(1) The cost-of-living differential described in § 5b.913–5;

(2) Qualified housing expenses described in § 5b.913–6;

(3) Qualified school expenses described in § 5b.913–7;

(4) Qualified home leave transportation expenses described in § 5b.913–8; and

(5) The hardship area amount described in § 5b.913–9.

The section 913 deduction is a deduction from gross income and is limited to the amount of the foreign source earned income limitation described in § 5b.913–4. In addition, special rules in § 5b.913–10 apply to married couples, both spouses of which qualify for the section 913 deduction.

(b) *Relation to the foreign tax credit.* The amount of foreign taxes for which a credit may be claimed, determined prior to the application of the limitation of section 904, is not reduced as a result of claiming the benefits of section 913. The section 913 deduction, however, is allocable to income from sources without the United States for purposes of computing the foreign tax credit limitation under section 904.

§ 5b.913–2 Taxpayers qualifying for the deduction.

(a) *In general.* A taxpayer qualifies for the section 913 deduction if the taxpayer either—

(1) Is a citizen of the United States and establishes to the satisfaction of the Commissioner that the taxpayer has been a *bona fide* resident of a foreign country or countries for an uninterrupted period which includes an entire taxable year; or

(2) Is a citizen or resident individual of the United States and has been present in a foreign country or countries for at least 510 full calendar days of any period of 18 consecutive months.

A taxpayer does not qualify for the section 913 deduction during a taxable year, however, if the taxpayer excludes from gross income under section 911 any earned income attributable to services performed during that taxable year. In addition, a taxpayer does not qualify for the section 913 deduction for any period during which the taxpayer's spouse derives earned income which is excluded from gross income under section 911 unless the taxpayer's spouse maintains a separate abode which is not within a reasonable commuting distance of the taxpayer's abode, and each spouse has a different tax home which is not within a reasonable commuting distance of the other spouse's tax home.

(b) *Determination of bona fide residence.* Whether a taxpayer is a *bona fide* resident of a foreign country shall be determined by applying, to the extent possible, the principles of section 871 and the regulations thereunder for determining the residence of aliens. Though the period of *bona fide* residence must be uninterrupted, if *bona fide* residence in a foreign country or countries is established, temporary visits to the United States or elsewhere on vacation or business during the taxpayer's period of residence will not necessarily nullify the taxpayer's status as a *bona fide* resident of a foreign country. A taxpayer with earned income from sources within a foreign country is not a *bona fide* resident of that country if—

(1) The taxpayer makes a statement to the authorities of the foreign country claiming to be a nonresident of that country and

(2) The taxpayer is held not subject as a resident of the foreign country to the income tax imposed by that country on such income.

If a taxpayer has made a statement of nonresidence to the authorities of a foreign country which is pending as of any date a determination of the taxpayer's *bona fide* residence is being made, the taxpayer is not considered a *bona fide* resident of the foreign country as of that date.

(c) *The 510-day/18-month requirement*—(1) *In general.* For purposes of paragraph (a) (2) of this section, the term "18 consecutive months" means any period of 18 months duration. The 18-month period may begin with any day of the calendar month. The period ends with the day before the corresponding calendar day in the 18th succeeding month or, if there is no corresponding calendar day, with the last day of the 18th succeeding month. The 18-month period may commence before or after the taxpayer's arrival in a foreign country and may terminate before or after the taxpayer's departure. The 510 full days need not be consecutive, but may be interrupted by periods during which the taxpayer is not present in a foreign country. A taxpayer who has been present in a foreign country and then travels over areas not within any country for less than 24 hours shall not be deemed outside the foreign country during the period of travel, so long as the individual does not travel within the United States. Time spent in a foreign country in the employment of the U.S. government or an agency or instrumentality of the U.S. government counts toward satisfaction of the 510-day requirement. In addition, time spent in a foreign country prior to January 1, 1978, counts toward satisfaction of the 510-day requirement, even though no deduction is allowed under section 913 for that time.

(2) *Illustrations of the 510-day rule.* The 510-day rule is illustrated by the following examples:

Example (1). B, a U.S. citizen, arrives in Venezuela from New York at 12 noon on April 24, 1980. B remains in Venezuela until 2 p.m. on October 25, 1981, at which time B departs for the United States where B remains for the rest of 1981. B is in a foreign country an aggregate of 510 full days during each of the following two 18-month periods: March 17, 1980, through September 16, 1981; and June 2, 1980, through December 1, 1981.

Example (2). C, a resident alien of the United States, travels extensively from the time C leaves the United States on March 6, 1980, until the time C departs England on January 1, 1982, to return to the United States permanently. The schedule of C's travel and the number of full days at each location are listed below:

Country	Time and date of arrival	Time and date of departure	Full days in foreign country
United States		10 p.m. (by air) Mar. 5, 1980	
England	9 a.m., Mar. 6, 1980	10 p.m. (by ship) June 25, 1980	110
United States	11 a.m., June 30, 1980	1 p.m. (by ship) July 19, 1980	0
France	3 p.m., July 24, 1980	11 a.m. (by air) Aug. 22, 1981	393
United States	4 p.m., Aug. 22, 1981	9 p.m. (by air) Sept. 4, 1981	0
England	9 a.m., Sept. 5, 1981	9 a.m. (by air) Jan. 1, 1982	117
United States	1 p.m., Jan 1, 1982		

C is not present in a foreign country or countries an aggregate of 510 full days during the 18-month period beginning March 7, 1980 (C's first full day in a foreign country). However, C is present in a foreign country or countries an aggregate of 510 full days during the following 18-month periods: July 1, 1980, through December 31, 1981; and July 25, 1980, through January 24, 1982. The computation with respect to each period may be illustrated as follows:

	Full days in foreign country
First 18-month period (Mar. 7, 1980, through Sept. 6, 1981):	
Mar. 7, 1980, through June 24, 1980	110
June 25, 1980, through July 24, 1980	0
July 25, 1980, through Aug. 21, 1981	393
Aug. 22, 1981, through Sept. 5, 1981	0
Sept. 6, 1981	1
Total full days	504
Second 18-month period (July 1, 1980, through Dec. 31, 1981):	
July 1, 1980, through July 24, 1980	0
July 25, 1980, through Aug 21, 1981	393
Aug. 22, 1981, through Sept. 5, 1981	0
Sept. 6, 1981, through Dec. 31, 1981	117
Total full days	510
Third 18-month period (July 25, 1980, through Jan. 24, 1982):	
July 25, 1980, through Aug. 21, 1981	393
Aug. 22, 1981, through Sept. 5, 1981	0
Sept. 6, 1981, through Dec. 31, 1981	117
Jan. 1, 1982, through Jan. 24, 1982	0
Total full days	510

Example (3). The facts are the same as in example (2), except that C arrives in England on February 25, 1980, instead of March 6, 1980. As a result, C is present in a foreign country or countries an aggregate of 510 full days during the 18-month period February 19, 1980, through August 18, 1981, as well as during the latter two of the three periods listed in example (2). The computation with respect to the period commencing February 19, 1980, is illustrated below:

	Full days in foreign country
Feb. 19, 1980, through Feb. 25, 1980	0
Feb. 26, 1980, through June 24, 1980	120
June 25, 1980, through July 24, 1980	0
July 25, 1980, through Aug. 18, 1981	390
Total full days	510

Because the 18-month periods commencing February 19, 1980, and July 25, 1980 (the third 18-month period in example (2)), fully overlap the 18-month period commencing July 1, 1980 (the second 18-month period in example (2)), that latter period need not be considered in determining whether C qualifies under the 510-day rule for the days covered by that period.

§ 5b.913-3 General definitions.

(a) *Tax home.* For purposes of section 913 and the regulations thereunder, the term "tax home" has the same meaning which it has for purposes of section 162(a)(2), except that a taxpayer shall not be considered to have a tax home in a foreign country for any period during which the taxpayer's abode is in the United States. Temporary presence of the taxpayer in the United States does not necessarily mean that the taxpayer's abode is in the United States during that time. If the taxpayer is present in the United States for an extended period of time, however, the taxpayer's abode will generally be considered to be in the United States during that time. As an illustration, the abode of a taxpayer who is abroad during an entire taxable year except for a 2-week vacation in the United States is not considered to be in the United States during that 2-week vacation. The abode of a taxpayer who spends 2 consecutive months in the United States is considered, however, to be in the United States during that 2-month period in the absence of unusual circumstances.

(b) *Qualified second household.*—(1) *In general.* A qualified second household is a separate household maintained by a taxpayer for the taxpayer's spouse or dependents who, if minors, are in the taxpayer's legal custody or the joint custody of the taxpayer and spouse. In order to be a qualified second household, the separate household must be maintained in a foreign country at a place other than the tax home of the taxpayer and must be provided because of adverse living conditions at the taxpayer's tax home. The taxpayer's tax home need not be in a hardship area (defined in paragraph (e) of this section) in order for the separate household to be a qualified second household. In no circumstances is a taxpayer considered to maintain more than one qualified second household at the same time.

(2) *Adverse living conditions.* Adverse living conditions are living conditions which are dangerous, unhealthy, or otherwise adverse. Adverse living conditions include a state of warfare or civil insurrection in the general area of the taxpayer's tax home. In addition, adverse living conditions exist if the taxpayer's abode is on the business premises of the employer for the convenience of the employer and, because of the nature of the business premises (for example, a construction site or drilling rig), it is not feasible to provide family housing. The criteria used by the U.S. Department of State in granting a separate maintenance allowance are relevant but not determinative for purposes of determining whether a separate household is provided because of adverse living conditions. Whether the taxpayer's tax home is in a hardship area (defined in paragraph (e) of this section) also is relevant but not determinative.

(c) *United States.* The term "United States" when used in a geographical sense includes the possessions of the United States and the areas set forth in section 638(1). It also includes areas described in section 638(2) to the extent that they relate to U.S. possessions.

(d) *Foreign country.* The term "foreign country" means any territory under the sovereignty of a government other than that of the United States. It includes the air space over any such territory. It does not include a possession or territory of the United States.

(e) *Hardship area.* A hardship area is any place in a foreign country (defined in paragraph (d) of this section) which is designated by the Secretary of State as a place where living conditions are extraordinarily difficult or notably unhealthy, or where excessive physical hardships exist, and for which a post differential of 15 percent or more would be provided under section 5925 of Title 5 of the U.S. Code to any officer or employee of the U.S. Government present at that place.

(f) *Reasonable commuting distance.* For purposes of sections 911 and 913, a reasonable commuting distance is a distance which is capable of being traveled by automobile or available water transportation in 1 hour.

§ 5b.913-4 Foreign source earned income limitation.

(a) *In general.* The deduction allowed under section 913 may not exceed foreign source earned income reduced by the portion of definitely related deductions (within the meaning of § 1.861-8), other than the deduction allowed by section 913, that is allocable to such income.

(b) *Foreign source earned income.* For purposes of the regulations under section 913, foreign source earned income is the earned income (defined in § 5b.911-2 (b)) which—

(1) Is derived by the taxpayer and, if the taxpayer's spouse shares the taxpayer's abode, by the taxpayer's spouse;

(2) Is attributable to services performed outside the United States during portions of the taxable year during which the taxpayer's tax home is in a foreign country and the taxpayer qualifies under § 5b.913-2(a) for the section 913 deduction;

(3) Is not excluded from gross income under section 119; and

(4) Satisfies the requirements of § 5b.911-2(a) (2), (3), and (4).

For purposes of paragraph (b)(2) of this section, the place of receipt of income is immaterial in determining whether income is attributable to services performed outside the United States.

§ 5b.913-5 Cost-of-living differential.

(a) *In general.* The cost-of-living differential is the amount specified in tables issued annually by the Internal Revenue Service for the taxpayer's tax home and family size multiplied by the following fraction:

$$\frac{\text{Number of qualifying days}}{\text{Number of days in the taxable year}}$$

(b) *Qualifying days.* The number of qualifying days is the total number of calendar days in the taxable year during which all of the following requirements are satisfied:

(1) The taxpayer's tax home is in a foreign country;

(2) The taxpayer qualifies under § 5b.913-2 (a) for the section 913 deduction;

(3) The value of the taxpayer's meals and lodging is not excluded from gross income under section 119; and

(4) Neither the taxpayer nor the taxpayer's spouse is compensated in whole or in part for the cost-of-living of the taxpayer's household (or of a qualified second household) by means of an allowance which is excluded from gross income under section 912.

(c) *Change of foreign tax home*—(1) *In general.* If during the taxable year the taxpayer has more than one foreign tax home, the taxpayer must determine the qualifying days with respect to each foreign tax home and compute a separate cost-of-living amount for each pursuant to the rules of this section. The aggregate of those amounts constitutes the taxpayer's cost-of-living differential for the year.

(2) *Illustration.* If the taxpayer's tax home is West Berlin, West Germany, for 200 qualifying days and Paris, France, for 165 qualifying days during the taxable year, the taxpayer must compute two cost-of-living amounts. The first equals the full year's cost-of-living differential specified in the cost-of-living table for West Berlin multiplied by 200/365. The second equals the full year's cost-of-living differential specified for Paris multiplied by 165/365. The sum of the two amounts so computed constitutes the taxpayer's cost-of-living differential for the taxable year.

(d) *Family size*—(1) *In general.* In determining family size, the family includes only the taxpayer and any spouse and dependents who share the taxpayer's abode. A dependent is not considered to share the taxpayer's abode while boarding at a school. In addition, no person is considered to share the taxpayer's abode during any days for which the value of that person's meals and lodging is excluded from gross income under section 119. If family size varies during any period within the taxable year during which the taxpayer has a particular foreign tax home, a separate cost-of-living amount must be computed for each portion of that period during which the family size is different. Those amounts must then be aggregated to determine the cost-of-living differential for the taxable year.

(2) *Illustration.* If all of the days of a taxable year are qualifying days with respect to one foreign tax home and an unmarried taxpayer's only dependent attends a secondary level boarding school for 274 days of the year and lives with the taxpayer during the remaining 91 days, the taxpayer must compute two cost-of-living amounts. The first equals the full year's cost-of-living differential specified in the cost-of-living table for the taxpayer's tax home for a family size of one multiplied by 274/365. The second equals the full year's cost-of-living differential specified for the taxpayer's tax home for a family of two multiplied by 91/365. The sum of the two amounts so computed constitutes the taxpayer's cost-of-living differential for the taxable year.

(e) *Special rules for qualified second households*—(1) *In general.* The cost-of-living differential for the portion of the taxable year during which the taxpayer maintains a qualified second household (defined in § 5b.913-3(b)) is determined on the basis of the amount specified for the location of the taxpayer's qualified second household. No cost-of-living differential is determined for the taxpayer's tax home for any period during which the taxpayer maintains a qualified second household.

(2) *Qualifying days.* In determining under paragraph (b) of this section the number of qualifying days during which the taxpayer maintains a qualified second household, paragraph (b)(3) of this section does not apply. Thus, the number of qualifying days is not reduced by days during which the value of the taxpayer's meals and lodging is excluded from gross income under section 119.

(3) *Family size.* Family size is determined as provided in paragraph (d) of this section, except that the family includes only the spouse and any dependents whose abode is the qualified second household. In addition, the taxpayer is considered a family member during days for which the value of the taxpayer's meals and lodging is not excluded under section 119, regardless of whether the taxpayer is actually present in the qualified second household.

§ 5b.913-6 Qualified housing expenses.

(a) *In general.* The amount of qualified housing expenses equals the reasonable housing expenses incurred by or on behalf of the taxpayer for housing in a foreign country for the taxpayer and any spouse and dependents who share the taxpayer's abode less the taxpayer's base housing amount.

(b) *Housing expenses*—(1) *In general.* Housing expenses include rent, utilities (other than telephone service), real property insurance, and repairs. Housing expenses do not include—

(i) The cost of house purchase, improvements, and other costs which are capital expenditures;

(ii) The cost of furniture or accessories (whether purchased or leased), parking, or domestic labor (maids, gardeners, etc.);

(iii) Amortized payments of principal with respect to an evidence of indebtedness secured by a mortgage on the taxpayer's housing;

(iv) Depreciation of housing owned by the taxpayer, or amortization or depreciation of capital improvements made to housing which is leased by the taxpayer; or

(v) Interest and taxes deductible under section 163 or 164 or other amounts deductible under section 216 (a).

(2) *Limitation.* Housing expenses are taken into account for purposes of this section only to the extent that they are attributable to housing for portions of the taxable year during which—

(i) The taxpayer's tax home is in a foreign country;

(ii) The value of the taxpayer's housing is not excluded under section 119;

(iii) Neither the taxpayer nor the taxpayer's spouse is compensated in whole or in part for the expenses of housing located within a reasonable

commuting distance of the taxpayer's tax home by means of an allowance which is excluded from gross income under section 912; and

(iv) The taxpayer qualifies under § 5b.913–2(a) for the section 913 deduction.

In addition, except as provided in paragraph (d) (1) of this section relating to qualified second households, if the taxpayer maintains more than one foreign abode at the same time, housing expenses are to be taken into account only to the extent that they are incurred with respect to the abode which bears the closest relationship (not necessarily geographic) to the taxpayer's tax home.

(3) *Reasonableness.* An amount paid for housing is reasonable for purposes of paragraph (a) of this section only to the extent that it does not exceed an amount which would be paid for housing which is not lavish or extravagant under the circumstances.

(c) *Base housing amount*—(1) *In general.* The base housing amount equals 20 percent of the excess of the taxpayer's worldwide earned income over the sum of the following amounts—

(i) The portion of definitely related deductions (within the meaning of § 1.861–8), other than the deduction allowed under section 913, which is allocable to worldwide earned income;

(ii) The cost-of-living differential (determined under § 5b.913–5);

(iii) The qualified school expenses (determined under § 5b.913–7);

(iv) The qualified home leave transportation expenses (determined under § 5b.913–8);

(v) The hardship area amount (determined under § 5b.913–9); and

(vi) Housing expenses (defined in paragraphs (a) and (b) of this section).

(2) *Worldwide earned income.* Worldwide earned income is earned income (defined in § 5b.911–2 (b)), whether or not from sources outside the United States, which—

(i) Is derived by the taxpayer and, if the taxpayer's spouse shares the taxpayer's abode, by the taxpayer's spouse;

(ii) Satisfies the requirements of § 5b.911–2 (a) (2), (3), and (4); and

(iii) Is attributable to services performed during portions of the taxable year during which—

(A) The taxpayer's tax home is in a foreign country;

(B) The value of the taxpayer's housing is not excluded under section 119; and

(C) The taxpayer qualifies under § 5b.913–2 (a) for the section 913 deduction.

(d) *Special rules for qualified second households*—(1) *In general.* Qualified housing expenses may be claimed for housing expenses relating to the taxpayer's tax home and for housing expenses relating to a qualified second household. Qualified housing expenses are computed separately with respect to each.

(2) *Qualified housing expenses for the tax home.* In the case of a taxpayer who maintains a qualified second household, the qualified housing expenses for housing at the taxpayer's tax home are determined as provided in paragraphs (a), (b), and (c) of this section, except that, if the taxpayer's tax home is in a hardship area (defined in § 5b.913–3 (e)), the base housing amount with respect to the tax home equals zero rather than the amount determined as provided in paragraph (c) of this section. In determining under paragraph (c) of this section the base housing amount of a taxpayer whose tax home is not in a hardship area, housing expenses in paragraph (c) (1) (vi) of this section do not include the housing expenses incurred with respect to the qualified second household.

(3) *Qualified housing expenses for the qualified second household*—(i) *Expenses.* In determining under paragraph (b) of this section the housing expenses relating to the qualified second household, the limitation of paragraph (b) (2) (ii) of this section does not apply, so that housing expenses may include those incurred for housing during portions of the taxable year during which the value of the taxpayer's housing at the taxpayer's tax home is excluded under section 119. In addition, the words "qualified second household" are substituted for "taxpayer's tax home" in paragraph (b) (2) (iii) of this section. Thus, housing expenses may include those incurred for housing during portions of the taxable year during which either the taxpayer or the taxpayer's spouse is compensated by means of an allowance which is excluded under section 912 for the expenses of housing located at the taxpayer's tax home, but do not include expenses incurred for housing during portions of the year during which either spouse is so compensated for the expenses of housing at the location of the qualified second household.

(ii) *Base housing amount.* In determining under paragraph (c) of this section the base housing amount relating to the qualified second household—

(A) Housing expenses in paragraph (c) (1) (vi) of this section include those relating both to the qualified second household and to housing at the taxpayer's tax home;

(B) Paragraph (c) (2) (iii) (B) of this section does not apply, so that, subject to the other criteria of paragraph (c) (2) of this section, earned income used in computing the base housing amount includes income attributable to services performed during periods during which the value of the taxpayer's housing is excluded under section 119; and

(C) Worldwide earned income as defined in paragraph (c) (2) of this section does not include income attributable to services performed during any period during which the taxpayer does not maintain a qualified second household.

(e) *Illustrations.* This section is illustrated by the following examples:

Example (1). All of the following facts relate to the entire 1980 taxable year. B qualifies for the section 913 deduction under § 5b.913–2 (a). B's tax home is in town X, located in foreign country F. Town X is not located in a hardship area. B's spouse and their 1-year old child live in a qualified second household in city Y in foreign country Z. B receives a $40,000 salary from B's corporate employer for services performed in country F and incurs no business expenses. B's employer also pays B a cost-of-living allowance of $4,000 and furnishes housing with a local fair market value of $10,000, for which the employer charges B $6,000. The value of the housing furnished by B's employer is not excluded from gross income under section 119. B's total earned income is, therefore, $48,000. B's spouse has no earned income. The cost-of-living differential specified in the 1980 cost-of-living table for country Z, the location of the qualified second household, is $3,000. B pays $15,000 for housing for B's spouse and child. Neither B nor B's spouse incurs any qualified school or home leave transportation expenses.

(a) The qualified housing expenses relating to the housing at B's tax home are computed by subtracting from $10,000 (the full value of B's housing) the base housing amount for the housing at B's tax home. The base housing amount for the housing at B's tax home is $7,000—20 percent of $35,000 ($48,000 worldwide earned income less the $3,000 cost-of-living differential and the $10,000 of housing expenses). Thus, the amount of qualified housing expenses relating to the housing at B's tax home equals $3,000.

(b) The qualified housing expenses relating to the qualified second household are computed by subtracting from $15,000 (the housing expenses relating to the qualified second household) the base housing amount for the qualified second household. The base housing amount for the qualified second household is $4,000—20 percent of $20,000 ($48,000 worldwide earned income less the $3,000 cost-of-living differential, the $10,000 of housing expenses relating to the housing at B's tax home, and the $15,000 of housing expenses incurred with respect to the qualified second household). Thus, the amount of qualified housing expenses relating to the qualified second household equals $11,000.

(c) B's qualified housing expenses equal $14,000, which is the sum of the $3,000 qualified housing expenses relating to the housing at B's tax home and the $11,000 of qualified housing expenses relating to the qualified second household.

Example (2). The facts are the same as in example (1), except that town X is located in a hardship area. The qualified housing expenses relating to the housing at B's tax home equal $10,000, which is the full value of B's housing. The amount of qualified housing expenses relating to the qualified second household equals $11,000 and is computed in the same manner as in paragraph (b) of example (1). Thus, B's qualified housing expenses equal $21,000.

Example (3). The facts are the same as in example (1), except that there is no qualified second household, the cost-of-living differential specified in the 1980 cost-of-living table for country F (the location of B's tax home) is $3,000, and town X is located in a hardship area. The amount of B's qualified housing expenses equals $3,000 and is computed in the same manner as in paragraph (a) of example (1). Although B's tax home is located in a hardship area, B cannot claim as qualified housing expenses the full value of the housing provided at B's tax home, since B does not maintain a qualified second household.

§ 5b.913–7 Qualified school expenses.

(a) *Qualified school expenses.* Qualified school expenses are reasonable school expenses incurred by or on behalf of the taxpayer for the education of a dependent of the taxpayer at levels equivalent to grades kindergarten through 12.

(b) *School expenses*—(1) *In general.* School expenses include tuition, fees, the cost of books, other amounts required by the school, and the cost of local transportation. Optional expenses, such as the cost of optional field trips and the cost of extracurricular activities, are not school expenses. If an adequate U.S.-type school is not available within a reasonable commuting distance (defined in § 5b.913–3(f)) of the taxpayer's tax home, the expenses of room and board for the dependent and the cost of transportation between the school and the taxpayer's tax home at the beginning and end of the school year and during vacation periods are also school expenses. The cost of transportation does not include amounts paid for meals or lodging in route or after arrival.

(2) *Limitation*—(i) *In general.* School expenses are qualified school expenses only to the extent that—

(A) They are not expenses for which a credit is claimed pursuant to section 44A (relating to child care) or for which a deduction is claimed pursuant to section 213 (relating to medical expenses);

(B) They are not attributable to the education of a dependent during any period during which the taxpayer or the taxpayer's spouse is compensated in whole or in part for any education expenses relating to that dependent by means of an allowance which is excluded from gross income under section 912;

(C) They are attributable to education for portions of the taxable year during which the taxpayer's tax home is in a foreign country and the taxpayer qualifies under § 5b.913–2(a) for the section 913 deduction; and

(D) They are attributable to education for portions of the taxable year during which the dependent lives either with the taxpayer (that is, shares the taxpayer's abode) at the taxpayer's tax home or in a qualified second household.

(ii) *Illustrative discussion.* Under paragraph (b) (2) (i) (C) of this section, in the case of a tuition payment that is made in September 1980 for the school term beginning during that month and ending in June 1981, only that portion of the payment attributable to the number of school days in 1980 may be claimed as a qualified school expense in 1980. The remainder may be claimed as a qualified school expense in 1981, provided the expense otherwise would be a qualified school expense. For purposes of paragraph (b) (2) (i) (D) of this section, a dependent is considered to live with the taxpayer at the taxpayer's tax home (or in the qualified second household) during the portions of the school term during which the dependent lives at school, provided the dependent's residence during the year is the taxpayer's household (or the qualified second household). For example, a dependent who during the 2 years prior to the current taxable year spent all school vacations with the parent-taxpayer in the taxpayer's household may be considered a resident of the taxpayer's household even though during the current year the dependent spends summer vacation in a summer camp. In contrast, a dependent who remained in the United States when the taxpayer moved abroad and visits the taxpayer at the taxpayer's foreign household only on an occasional basis will not be considered to be a resident of the taxpayer's household.

(c) *Reasonable expenses.* If an adequate U.S.-type school is available within a reasonable commuting distance (as defined in § 5b.913–3 (f)) of the taxpayer's tax home, the taxpayer's dependents may attend school elsewhere, but tuition is considered reasonable only to the extent that it does not exceed the amount which would be incurred with respect to the school which is within commuting distance. If two or more adequate U.S.-type schools are available within a reasonable commuting distance of the taxpayer's tax home, tuition is considered reasonable only to the extent that it does not exceed the amount which would be incurred with respect to the least expensive of those schools. Round-trip transportation expenses are reasonable only to the extent that they do not exceed the lowest reserved coach or economy rate which is offered without advance booking on the day and at the time of day that the dependent travels. First class fares are considered reasonable only if no coach or economy accommodations are provided to any passengers on the particular flight or if the dependent is required to use first class accommodations because of physical impairment. In addition, the cost of transportation by modes other than air (including ship, rail, and automobile) is not considered reasonable to the extent that the cost of transportation by such other modes exceeds the cost of transportation by air.

(d) *Availability and adequacy.* A school is not considered available under paragraphs (b) and (c) of this section if the school will not accept the taxpayer's dependents for enrollment. A school is not adequate if, because of physical impairment or learning disabilities, the dependent is in need of special educational facilities or training which the school does not provide. In addition, a school is not adequate if the dependent desires a college preparatory curriculum and the school does not offer such a curriculum.

(e) *U.S.-type school.* A U.S.-type school is any school which offers a curriculum which—

(1) Is taught in English;

(2) Is comparable to that offered by accredited schools in the United States; and

(3) Would qualify the student for graduation if the student were to transfer to a U.S. school.

(f) *Special rules for qualified second households.* If the taxpayer maintains a qualified second household (defined in § 5b.913–3 (b)), the location of the taxpayer's qualified second household rather than the taxpayer's tax home is to be used to determine what constitutes school expenses under paragraph (b) (1) of this section and whether school expenses are reasonable under paragraph (c) of this section.

§ 5b.913–11 Effective date.

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§ 5b.913–8 Qualified home leave transportation expenses.

(a) *In general.* Qualified home leave transportation expenses are the reasonable expenses incurred by or on behalf of the taxpayer for the transportation during the taxable year of the taxpayer or of the taxpayer's spouse or dependents. The expenses must be incurred for round-trip transportation from the location of the taxpayer's tax home (or, with respect to the spouse and dependents, from a qualified second household) to the taxpayer's present or most recent principal residence (whether owned or rented) in the United States or to the port of entry in the continental United States (excluding Alaska) which is nearest to the taxpayer's tax home (or qualified second household). Qualified transportation expenses do not include amounts paid for meals or lodging in route or after arrival in the United States.

(b) *Limitations*—(1) *One trip during each 12-month period abroad*—(i) *In general.* Qualified transportation expenses include the cost of no more than one round trip per person during each period of 12 consecutive months during which—

(A) The taxpayer's tax home is in a foreign country; and

(B) The taxpayer qualifies under § 5b.913–2 (a) for the section 913 deduction.

The trip can occur before completion of a 12-month period. In addition, two trips may be taken within a 12-month interval. In such case, however, each trip must occur during separate 12-month periods which do not overlap.

(ii) *Illustration of paragraph (b) (1) (i).* A taxpayer acquires a tax home and first qualifies under § 5b.913–2(a) for the section 913 deduction on January 1, 1979. The taxpayer claims as a home leave transportation expense the cost of the taxpayer's first trip since arrival between the taxpayer's foreign tax home and last U.S. residence, which occurs from December 15 through December 31, 1981. The taxpayer can claim as a home leave transportation expense the transportation cost of a second trip, occurring in February 1982 only if the taxpayer continues through December 31, 1982, to have a foreign tax home and to qualify under § 5b.913–2(a).

(2) *Spouse and dependents.* Home leave transportation expenses may be claimed for the transportation of a spouse or dependent only if, at the time of the transportation, the spouse or dependent lives either with the taxpayer (that is, shares the taxpayer's abode) at the taxpayer's tax home or in a qualified second household. A dependent is considered to live with the taxpayer at the taxpayer's tax home (or in the qualified second household) during the portions of the school term during which the dependent lives at school, provided the dependent's residence during the year is the taxpayer's household (or the qualified second household). (See § 5b.913–7(b)(2)(ii).)

(3) *Double benefits denied*—(i) *In general.* The taxpayer may not claim as a qualified transportation expense the cost of any trip occurring during the 12-month period described in paragraph (b)(1)(i) if during that period the person for whom the transportation expense is incurred takes another trip the cost of which—

(A) Is claimed as a qualified transportation expense by a person other than the taxpayer; or

(B) Is compensated for in whole or in part by means of an allowance which is granted to the taxpayer or the taxpayer's spouse for purposes of home leave transportation and which is excluded from gross income under section 912.

(ii) *Illustration of paragraph (b)(3)(i).* A taxpayer has a foreign tax home and qualifies under § 5b.913–2(a) for the section 913 deduction from January 1, 1980, through June 30, 1981. In August 1980, the taxpayer's dependent child takes a 2-week trip the cost of which is claimed as a qualified transportation expense by the taxpayer's spouse. The child takes another trip in November 1980. Regardless of whether the 12-month period decribed in paragraph (b)(1)(i) of this section for the November trip is considered to be January 1, 1980, through December 31, 1980, July 1, 1980, through June 30, 1981, or some intermediate period, the dependent's August trip occurs during the 12-month period for the November trip. Because the cost of the August trip is claimed as a qualified transportation expense by the taxpayer's spouse, the taxpayer may not claim as a qualified transportation expense the cost of the trip occurring in November. The result would be the same if the cost of the August trip were not claimed as a qualified transportation expense by the spouse, but, instead, the cost of that trip were compensated for by an allowance which is granted to the taxpayer or to the taxpayer's spouse and which is excluded from gross income under section 912.

(c) *Reasonableness.* In determining whether transportation expenses are reasonable, the rules of § 5b.913–7(c) (qualified school expenses) as they relate to transportation apply.

§ 5b.913–9 Hardship area amount.

(a) *Hardship area amount.* The hardship area amount equals $5,000 multiplied by the following fraction:

The number of qualifying days

The total number of days in the taxable year.

(b) *Qualifying days.* The number of qualifying days is the total number of calendar days in the taxable year during which the following requirements are satisfied:

(1) The taxpayer's tax home is located in a hardship area (defined in § 5b.913–3(e)); and

(2) The taxpayer qualifies under § 5b.913–2(a) for the section 913 deduction.

A taxpayer's tax home is not considered to be located in a hardship area during any day for which the area where the taxpayer's tax home is located is not designated as a hardship area. To determine the number of days during which the taxpayer's tax home is located in an area designated as a hardship area, see the hardship area list. (The hardship area list is contained in the instructions to Form 2555 or may be obtained from the Director of International Operations, CP:OIO: 8, Internal Revenue Service, Washington, D.C. 20225.)

§ 5b.913–10 Married couples with two qualifying spouses.

(a) *In general.* Subject to the rules of this section, in the case of a married couple both spouses of which qualify for the deduction provided in section 913, both spouses may claim the benefit of the deduction. If both spouses claim the benefit of section 913 directly as qualifying taxpayers, however, neither may claim any benefits of section 913 relating to a qualified second household maintained for the other spouse. If one spouse foregoes the benefits which that spouse, as a qualifying taxpayer, could claim under section 913, the other spouse may claim the benefits of section 913 relating to a qualified second household maintained for the first spouse. In such case, the earned income of both spouses is considered in computing the foreign earned income limitation under § 5b.913–4 and base housing amount under § 5b.913–6(c) of the spouse who claims the benefits of section 913. The rules in paragraphs (b) through (g) of this section apply only to married couples both spouses of which qualify for the deduction provided in section 913 and neither spouse of which claims any benefits relating to a qualified second household maintained for the other spouse.

(b) *Foreign source earned income limitation.* If separate returns are filed and both spouses claim the section 913 deduction, the foreign source earned income limitation for purposes of the separate return of each spouse is computed as provided in § 5b.913–4, except that it is to be computed solely on the basis of the earned income derived by that spouse (without regard to community income laws). Otherwise, the limitation is computed as provided in § 5b.913–4—that is, on the basis of the combined earned income of both spouses unless they maintain separate abodes.

(c) *Cost-of-living differential.* Except as provided in paragraph (g) of this section, only one cost-of-living differential is permitted for the couple. If separate returns are filed, each spouse's cost-of-living differential equals one-half of the differential computed for the couple.

(d) *Qualified housing expenses*—(1) *Expenses.* Except as provided in paragraph (g) of this section, a married couple may claim qualified housing expenses with respect to only one abode.

(2) *Base housing amount.* If separate returns are filed and both spouses claim the section 913 deduction, the base housing amount for purposes of the separate return of each spouse is computed as provided in § 5b.913–6(c), except that it is to be computed solely on the basis of the earned income derived by that spouse (without regard to community income laws). The aggregate of the qualified housing expenses which may be claimed on separate returns may not exceed, however, the amount which would be computed for the couple if a joint return were filed. If separate returns are not filed or if both spouses do not claim the section 913 deduction, the base housing amount is computed as provided in § 5b.913–6(c)—that is, on the basis of the combined earned income of both spouses unless they maintain separate abodes.

(e) *Qualified home leave transportation expenses.* Pursuant to § 5b.913–8(b)(3), a married couple may not include as qualified home leave transportation expenses the cost of more than one round trip for each spouse or dependent during each period of 12 consecutive months during which the couple's tax home is in a foreign country, even though both spouses independently qualify under § 5b.913–2 (a) for the section 913 deduction.

(f) *Hardship area amount and joint returns.* Subject to the rules of § 5b.913–9, each spouse may claim a hardship area amount. If joint returns are filed, however, the hardship area amount determined for each spouse may not exceed the foreign earned income limitation computed as provided in § 5b.913–4, except that it is to be computed solely on the basis of the earned income derived by that spouse (without regard to community income laws).

(g) *Separate tax homes*—(1) *In general.* A married couple that maintains separate abodes may claim a cost-of-living differential and qualified housing expenses with respect to each abode if—

(i) The abodes are not within a reasonable commuting distance of each other; and

(ii) The spouses have different tax homes which are not within a reasonable commuting distance of each other.

(2) *Joint returns.* If under paragraph (g) (1) a cost-of-living differential or qualified housing expenses are claimed with respect to the separate abode of each spouse and a joint return is filed, the aggregate of the following amounts may not exceed the foreign earned income limitation computed as provided in § 5b.913–4 solely on the basis of the earned income derived by each spouse (without regard to community income laws):

(i) The cost-of-living differential determined as provided in § 5b.913–5 with respect to that spouse's tax home;

(ii) The qualified housing expenses incurred with respect to that spouse's abode determined by using a base housing amount computed as provided in § 5b.913–6 (c) solely on the basis of the earned income derived by that spouse (without regard to community income laws); and

(iii) The hardship area amount for that spouse.

§ 5b.913–11 Married couples with community income.

(a) *Joint return.* Married couples with community earned income who file a joint return must compute their section 913 deduction under the rules of §§ 5b.913–1 through 5b.913–10. Where relevant, those rules instruct taxpayers with community income to disregard community income laws and treat the income earned by each spouse solely as that spouse's income.

(b) *Separate returns.* Married couples with community earned income (other than taxpayers to whom section 879 applies) who file separate returns must first compute the section 913 deduction as if they filed a joint return. One-half of that amount is the section 913 deduction to be claimed by each spouse on a separate return.

§ 5b.913–12 Returns and extensions.

See § 5b.911–6 (b) relating to returns and extensions for taxpayers qualifying for the section 913 deduction.

§ 5b.913–13 Effective date.

Sections 5b.913–1 through 5b.913–12 apply to taxable years beginning after December 31, 1978. Those sections also apply to the taxable year beginning during 1978 of taxpayers who do not make an election pursuant to section 209 (c) of the Foreign Earned Income Act of 1978 (Pub. L. No. 95–615, 92 Stat. 3109) to have section 911 under prior law apply to that taxable year.

There is need for immediate guidance with respect to the provisions contained in this Treasury decision. For this reason, it is found impracticable to issue it with notice and public procedure under subsection (b) of section 553 of Title 5 of the United States Code or subject to the effective date limitation of subsection (d) of that section.

This Treasury decision is issued under the authority contained in section 7805 of the Internal Revenue Code of 1954 (68A Stat. 917; 26 U.S.C. 7805) and, in part, under the authority contained in section 913(m) of the Code (92 Stat. 3106; 26 U.S.C. 913(m)).

Jerome Kurtz,
Commissioner of Internal Revenue.

Approved: May 2, 1979.

Donald C. Lubick,
Assistant Secretary of the Treasury.

[T.D. 7617]

[FR Doc. 79–14400 Filed 5–4–79, 12:38 pm]

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26 CFR Part 38

Employment Taxes; Temporary Employment Tax Regulations Under the Revenue Act of 1978; Advance Payments of Earned Income Credit

AGENCY: Internal Revenue Service. Treasury.

ACTION: Temporary regulations.

SUMMARY: This document contains Temporary Employment Tax Regulations relating to the advance payment by employers of the earned income credit and relating to earned income credit advance payment certificates, as provided by section 3507 of the Internal Revenue Code of 1954. Changes to the applicable tax law were made by the Revenue Act of 1978. The regulations would provide employees eligible for advance payments of earned income credit and their employers with the guidance needed to comply with the net law. The rules contained in the temporary regulations set forth in this document also serve as a notice of proposed rulemaking by which the rules contained therein are proposed to be prescribed as final regulations.

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DATES: These temporary regulations are effective with respect to wages paid after June 30, 1979. Written comments and requests for a public hearing must be delivered or mailed on or before July 9, 1979.

ADDRESS: Send comments and requests for a public hearing to: Commissioner of Internal Revenue, Attention: CC:LR:T (LR–188–78), Washington, D.C. 20224.

FOR FURTHER INFORMATION CONTACT: Eileen Murphy of the Legislation and Regulations Division, Office of the Chief Counsel, Internal Revenue Service, 1111 Constitution Avenue, N.W., Washington, D.C. 20224 (Attention: CC:LR:T) (202–566–3297).

SUPPLEMENTARY INFORMATION:

Background

This document contains temporary regulations under section 3507 of the Internal Revenue Code of 1954, as added by section 105 (b) of the Revenue Act of 1978 (Pub. L. 95–600), which are necessary to conform the regulations.

The regulations promulgated in this document are also proposed to be prescribed as final Employment Tax Regulations (26 CFR Part 38) under section 3507 of the Internal Revenue Code of 1954.

Advance Payments of Earned Income Credit

Prior to enactment of section 105(b) of the Revenue Act of 1978, section 43 of the Internal Revenue Code of 1954 provided an earned income credit which could only be claimed and received by an eligible individual as a credit on an income tax return. Section 105(b) of the Act (which added section 3507 to the Code) changed the manner by which an eligible individual may receive the amount of the earned income credit. Although the eligible individual must still file a tax return for the year in which the credit is claimed, the new provisions allow an eligible individual to receive at the end of each payroll period during the year a ratable portion (the "advance earned income credit amount") of the earned income credit for the year. The temporary regulations provide rules for determination and payment by employers of advance earned income credit amounts. Every employer paying wages after June 30, 1979, to an employee with respect to whom an earned income credit advance payment certificate is in effect must, at the time of paying the wages, also pay the employee the earned income advance amount of that employee. For eligible employees subject to income tax withholding, the advance payment is based on the amount of wages subject to withholding; for employees not subject to withholding, but subject to FICA taxes, the payment is based on the amount of wages subject to FICA taxes. The advance earned income credit amount is determined by reference to prescribed advance amount tables. Payment of the advance earned income credit amount by the employer is credited on a dollar-for-dollar basis against the employer's liability for income tax withholding and FICA taxes. If advance amounts paid exceed this liability for the payroll period, the employer may either ratably reduce each advance amount paid or elect to pay the full advance amounts, with the excess amount treated as an advance payment of the employer's liability for income tax withholding, employee FICA taxes, and employer FICA taxes, in that order of priority. The employer takes any earned income advance amounts into account on the employer's Form 941, 941E, 942, or 943.

Earned Income Credit Advance Payment Certificates

The temporary regulations also provide rules prescribing the form and contents of the earned income credit advance payment certificate, rules relating to the employee's furnishing the certificate to the employer, and the period for which the certificate is effective. Form W–5 is the prescribed form for the earned income credit advance payment certificate. This form includes instructions to aid employees in determining whether they are eligible for advance earned income credit payments from their employers. The period for which a certificate first becomes (or ceases to be) effective depends on whether a previous certificate is or has been in effect with the employer for that employee for the calendar year. Rules are also provided for the revocation of a certificate and for the furnishing of a new certificate, necessitated by a change in the circumstances of the employee.

Waiver of Procedural Requirements of Treasury Directive

There is need for expeditious adoption of the provisions contained in this document because of the need for immediate guidance to employers and employees to whom section 3507 applies in ascertaining the proper amounts to be paid employees eligible for the advance payment of earned income credit. For this reason, Jerome Kurtz, Commissioner of Internal Revenue, has determined that the provisions of paragraphs 8 through 14 of the Treasury Department directive implementing Executive Order 12044 must be waived.

Comments and Requests for a Public Hearing

Before adoption of the final regulations proposed in this document, consideration will be given to any written comments that are submitted (preferably six copies) to the Commissioner of Internal Revenue. All comments will be available for public inspection and copying. A public hearing will be held upon written request to the Commissioner by any person who has submitted written comments. If a public hearing is held, notice of the time and place will be published in the Federal Register.

Drafting Information

The principal author of these regulations is Eileen Murphy of the Legislation and Regulations Division of the Office of Chief Counsel, Internal Revenue Service. However, personnel from other offices of the Internal Revenue Service and Treasury Department participated in developing the regulation both on matters of substance and style.

Adoption of Amendments to the Regulations

Accordingly, a new Part 38, Temporary Employment Tax Regulations under the Revenue Act of 1978, is added to Title 26 of the Code of Federal Regulations and the following temporary regulations are adopted.

§ 38.3507–1 Advance payments of earned income credit.

(a) *General rule*—(1) *In general.* Every employer paying wages after June 30, 1979, to an employee with respect to whom an earned income credit advance payment certificate is in effect must, at the time of paying the wages, also pay the employee the advance earned income credit amount of that employee. For the purposes of applying this section and § 38.3507–2—

(i) In the case of an individual who receives wages which are subject to income tax withholding, the term "employee" has the same meaning as set forth in section 3401(c) and the regulations thereunder, and the term "wages" has the same meaning as set forth in sections 3401(a) and 3402(e) and the regulations under those sections; and

(ii) In the case of an individual who does not receive wages which are subject to income tax withholding, but who receives wages which are subject to employee FICA taxes, the term "employee" has the same meaning as set forth in section 3121(d) and the regulations thereunder and the term "wages" has the same meaning as set forth in section 3121(a) and the regulations thereunder.

An individual not having wages subject to either income tax withholding or employee FICA taxes is not entitled to advance payments of earned income credit.

(2) *Cross references.* For determination of the advance earned income credit amount of an employee, see paragraph (b) of this section. For rules relating to the treatment of the payment of an employee's advance earned income credit amount as equivalent to payment by the employer of withholding and FICA taxes, see paragraph (c) of this section. For rules describing the earned income credit advance payment certificate, see § 38.3507–2 (a) and (b). For rules relating to the employee's furnishing of the earned income credit advance payment certificate and the payroll periods for which the certificate is effective, see § 38.3507–2 (c) and (d).

(b) *Advance earned income credit amount.* The advance earned income credit amount of an employee is determined, with respect to any payroll period, on the basis of the employee's wages from the employer for the period and in accordance with the advance amount tables prescribed by the Commissioner of Internal Revenue and then in effect for the payroll period. See, however, paragraph (c) (2) of this section. The advance amount paid is reflected on the employee's W–2 form as a separate item (and neither as a reduction of withholding nor an increase in compensation). For purposes of applying this section and § 38.3507–2, the term "payroll period" has the meaning set forth in section 3401 (b) and the regulations thereunder. As required by section 3507(c)(2)(A), these advance amount tables must be similar in form to, and coordinated with, the tables prescribed under section 3402 (relating to income tax collected at the source). Sections 3507(c)(2)(B) and 3507(c)(2)(C) provide, respectively, separate rules for the treatment in the advance amount tables of the advance earned income credit of the following two separate classes of employees:

(1) Employees who are not married (within the meaning of section 143), or employees whose spouses do not have an earned income credit advance payment certificate in effect; and

(2) Employees whose spouses have an earned income credit advance payment certificate in effect.

(c) *Payment of advance earned income credit amount as payment of withholding and FICA taxes*—(1) *In general.* (i) The provisions of this paragraph (c) apply for all purposes of the Internal Revenue Code of 1954. Payments of advance earned income credit amounts pursuant to paragraph (a)(1) of this section do not constitute the payment of compensation. These payments by the employer are treated as made—

(A) First, from the aggregate amount, with respect to all employees, required to be deducted and withheld for the payroll period under section 3401 (relating to income tax withholding);

(B) Second, from the aggregate amount, with respect to all employees, required to be deducted for the payroll period under section 3102 (relating to employee FICA taxes); and

(C) Third, from the aggregate amount of the taxes imposed for the payroll period under section 3111 (relating to employer FICA taxes).

For purposes of the requirements of sections 3401, 3102, and 3111, as the case may be, and 6302, amounts equal to the advance earned income credit amounts paid to employees are treated as if paid to the Treasury Department on the day on which the wages (and advance amounts) are paid to the employees. The employer must report the payment and treatment of the advance amounts on the employer's Form 941, 941E, 942, or 943, as the case may be, in accordance with the applicable instructions.

(ii) The provisions of paragraph (c)(1)(i) of this section may be illustrated by the following example:

Example. Employer X has ten employees, each of whom is entitled to advance earned income credit payment of $10. The total of advance amounts paid by the employer to the ten employees for the payroll period is $100. The total of income tax withholding for the payroll period is $90. The total of employee FICA taxes for the payroll period is $61.30, and the total of employer FICA taxes for the payroll period is also $61.30. Under the rules of paragraph (c)(1)(i) of this section, the total of advance amounts paid to employees is treated as if X had paid the Treasury Department on the day X paid the employees' wages: first, the $90 aggregate amount of income tax withholding; and second, $10 of the aggregate amount of employee FICA tax. X remains liable only for $112.60 of the aggregate FICA tax [$51.30+$61.30=$112.60].

(2) *Advance payments exceeding taxes due.* (i) If, for any payroll period, the aggregate amount of advance earned income credit amounts required to be paid by an employer under paragraph (a)(1) of this section exceeds the sum of the amounts for the payroll period referred to in paragraphs (c)(1)(i) (A) through (C) of this section, the employer reduces each advance amount paid for the payroll period by an amount which bears the same ratio to the excess of the advance amounts as the subject advance amount bears to the aggregate of advance amounts for the payroll period. However, this paragraph (c)(2) does not apply if the employer makes the election provided by paragraph (c)(3) of this section.

(ii) The provisions of paragraph (c)(2) of this section may be illustrated by the following example.

Example. Assume the same facts as the example in paragraph (c)(1)(ii) of this section, except that the employer is a state government which does not pay FICA taxes. Under these facts, the advance amounts would be $10 greater than the $90 total of income tax withholding for the payroll period. Assume 10 employees each receiving $10 in advance payments. Under the rule of this paragraph (c)(2), the employer X reduces the amount of the advance amount paid to each employee by 1/10, computed as follows: $10/$100=1/10. This is the same result as would be obtained by reducing the advance payment of $10 for each of the ten employees by one–tenth 10/100 of the $10 excess or $1.00.

(3) *Election to treat excess amounts as advance tax payment.* In lieu of reducing advance payments under paragraph (c)(2) of this section, an employer may elect under this paragraph (c)(3) to pay in full all advance earned income credit amounts. However, if no election is made, the employer is required to reduce advance amounts paid in accordance with paragraph (c)(2) of this section. The election, if made, applies to all advance earned income credit amounts required to be paid for the payroll period. The employer reflects the election on the employer's Form 941, 941E, 942, or 943 as the case may be, and must specify (with supporting computations) the amount of the excess of advance amounts paid and the payroll period to which the excess relates. Separate elections may be made for separate payroll periods. The excess of advance amounts paid is treated as an advance payment by the employer of employment taxes described in subdivisions (i) through (iii) of this paragraph (c)(3) and due for the period reported on the Form 941, 941E, 942, or 943 which includes the payroll period during which the excess amounts were paid. The amount of the excess advance payment is applied to the amounts of the employer's liability—

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employee's spouse, the spouse's

employee. The employer is not required

SUMMARY: This Treasury decision adds

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(i) First, for income tax withholding due under section 3401 for the reporting period in which the payment is made;

(ii) Second, for employee FICA taxes due under section 3102 for the reporting period in which the payment is made; and

(iii) Third, for employer FICA taxes due under section 3111 for the reporting period in which the payment is made.

If the amount of the employment taxes (as described) for which the employer remains liable for the reporting period in which the excess payment is made is less than the excess payment, the employer may claim a refund of that portion of the excess amount paid which exceeds the employer's remaining liability for these taxes for the reporting period. This refund may be claimed, in the same manner as a refund of wage withholding taxes paid by the employer under section 3401, on the employer's Form 941, 941E, 942, or 943, as the case may be, for the reporting period. In the absence of a claim for refund, that portion of the excess amount will be applied by the Internal Revenue Service against the employer's liability for employment taxes reported on the employer's Form 941, 941E, 942, or 943, as the case may be, filed for the next reporting period.

(4) *Failure to make advance payments.* The failure to pay an employee, at the time required by paragraph (a)(1) of this section, all or any part of an advance earned income credit amount as required by this section is treated, for all purposes including penalties, as a failure by the employer as of that time to deduct and withhold under chapter 24 of the Internal Revenue Code of 1954 an amount equal to the advance amount (or part thereof) not paid. This treatment applies to the failure to pay an advance amount to an eligible employee without regard to whether—

(i) The employer is required, under section 3401 or 3102, to deduct any amounts from wages of the employee for the payroll period;

(ii) The employer paid the advance amount to the district director or deposited the advance amount with a duly designated depositary of the United States and did not pay the advance amount to the employee as required by this section; or

(iii) The employee is ultimately not entitled to claim the earned income credit (in full or in part) on a return for the year, so long as the employee had a valid earned income credit advance payment certificate in effect with the employer at the time when the wages were paid.

If an employer fails to pay an advance earned income credit amount as required under this section, the advance amount will not be collected by the Internal Revenue Service from the employer. However, the employer is liable for any penalties or additions to tax otherwise applicable in respect of the failure to pay the advance amount.

§ 38.3507-2 Earned income credit advance payment certificates.

(a) *Definition.* For the purposes of this section and § 38.3507-1, an earned income credit advance payment certificate is a statement furnished by an employee to the employer which—

(1) Certifies that the employee reasonably expects to be eligible to receive the earned income credit provided by section 43 for the employee's last taxable year under subtitle A of the Internal Revenue Code of 1954 which begins in the calendar year in which the wages are paid;

(2) Certifies that the employee does not have an earned income credit advance payment certificate in effect for the calendar year (in which the wages are paid) with respect to the payment of wages by another employer; and

(3) States if the employee's spouse has an earned income credit advance payment certificate in effect with any employer. For the rule for determining if an employee's spouse has a certificate in effect, see paragraph (c)(3) of this section.

(b) *Form and content of earned income credit advance payment certificate*—(1) *In general.* Form W-5 (Earned Income Credit Advance Payment Certificate) is the prescribed form for the earned income credit advance payment certificate. The Form W-5 must be prepared in accordance with the instructions applicable thereto and must set forth fully and clearly the data therein called for. In lieu of the prescribed form, a form the provisions of which are identical with those of the prescribed form may be used.

(2) *Invalid certificates.* A Form W-5 does not meet the requirements of section 3507 or this section and is invalid if it is not completed or signed or contains an alteration or unauthorized addition (as defined in § 31.3402(f)(5)-1 (b) (1) and (2)). Any earned income credit advance payment certificate which the employee clearly indicates to be false by oral statement or written statement to the employer must be treated by the employer as a certificate which is invalid as of the date of the employee's statement. For purposes of the preceding sentence, the term "employer" includes any individual authorized by the employer to receive earned income credit advance payment certificates or to make payroll distributions. If an employer receives from an employee an invalid certificate, the employer must consider it a nullity with respect to all payments of wages thereafter to the employee and must inform the employee of the certificate's invalidity. The employer is not required to ascertain whether any completed and signed earned income credit advance payment certificate is correct. However, the employer should inform the district director if the employer has reason to believe that the certificate contains any incorrect statement.

(c) *When earned income credit advance payment certificate takes effect*—(1) *No previous certificate.* An earned income credit advance payment certificate furnished the employer where no previous certificate is or has been in effect with the employer for that employee for the calendar year takes effect with—

(i) The date of the beginning of the first payroll period ending on or after the date on which the certificate is received by the employer;

(ii) the date of the first payment of wages made without regard to a payroll period on or after the date on which the certificate is received by the employer; or

(iii) The first day of the calendar year for which the certificate is furnished, if that day is later than the otherwise applicable effective date specified in subdivision (i) or (ii) of this paragraph (c)(1).

(2) *Previous certificate.* Except as otherwise provided in this paragraph (c)(2), and earned income credit advance payment certificate furnished the employer where a previous certificate is or has been in effect with the employer for that employee for the calendar year takes effect on the date of the first payment of wages made on or after the first status determination date (as defined in paragraph (c)(4) of this section) occurring at least thirty days after the date on which the certificate is received by the employer. However, if the employer so chooses, the employer may treat the certificate as effective on the date of any payment of wages made on or after the date on which the certificate is received by the employer (without regard to any status determination date).

(3) *Certificate of spouse.* For the sole purpose of applying paragraph (a)(3) of this section, in determining if a certificate is in effect with respect to an employee's spouse, the spouse's certificate is treated as then in effect if the spouse's certificate will be or is reasonably expected to be in effect on the first status determination date following the date on which the employer receives the employee's certificate.

(4) *Status determination date.* For the purposes of this section, the term "status determination date" means January 1, May 1, July 1, and October 1 of each year.

(d) *Period during which certificate remains in effect; change of status*—(1) *Period certificate remains in effect.* An earned income credit advance payment certificate which takes effect during a calendar year continues in effect with respect to the employee only during that calendar year and until revoked by the employee or until another certificate takes effect. See paragraphs (d)(2) and (c)(2) of this section.

(2) *Change of status*—(i) *Revocation of certificate.* If, after an employee has furnished an earned income credit advance payment certificate—

(A) The employee no longer wishes to receive advance earned income credit payments; or

(B) There has been a change of circumstances which has the effect of either making the employee ineligible for the earned income credit for the taxable year or causing a certificate to be in effect for the employee's spouse, then the employee must revoke the certificate previously furnished by furnishing the employer a new certificate (Form W-5 or identical form) in revocation of the earlier certificate. Depending upon the nature of the change of circumstances, the employer may be required, pursuant to the new certificate, to pay further advance earned income credit amounts to the employee (but in different amounts than previously paid to the employee). The Form W-5 (or identical form) must be prepared in accordance with the instructions applicable thereto and must set forth fully and clearly the data therein called for. In the case of revocation due to change of circumstances, the new certificate in revocation must be delivered to the employer within ten days after the employee first learns of the change of circumstances. The new certificate is effective under the rules provided in paragraph (c)(2) of this section for later certificates. A new certificate furnished by an employee which is invalid within the meaning of paragraph (b)(2) of this section nevertheless operates to revoke the earlier certificate but is otherwise considered a nullity with respect to all payments of wages thereafter to the employee. The employer is not required to ascertain whether any employee has experienced a change of circumstances described in subdivision (i)(B) of this paragraph which necessitates the employee's furnishing a new certificate. However, the employer should inform the district director if the employer has reason to believe that an employee has experienced a change of circumstances as described if the employee does not deliver a new certificate to the employer within the ten day period.

(ii) *Change in spouse's certificate.* If, after an employee has furnished an earned income credit advance payment certificate stating that a certificate is in effect for the spouse of the employee, the certificate of the spouse is no longer in effect, the employee may furnish the employer with a new certificate which reflects this change of circumstances.

§ 38.6302-1 Use of Government depositaries in connection with taxes under Federal Insurance Contributions Act and income tax withheld.

The periods within which FICA taxes and withheld income taxes must be deposited under § 31.6302-1 are determined, in the case of employers paying advance earned income credit amounts, by reference to the amount of taxes required to be deposited after reduction for advance amounts paid to employees.

There is a need for immediate guidance with respect to the provisions contained in this Treasury decision. For this reason, it is found impracticable to issue it with notice and public procedure under subsection (b) of section 553 of title 5 of the United States Code or subject to the effective date limitation of subsection (d) of that section.

This Treasury decision is issued under the authority contained in section 7805 of the Internal Revenue Code of 1954 (68A Stat. 917; 26 U.S.C. 7805).

Jerome Kurtz,
Commissioner of Internal Revenue.

Approved: April 27, 1979.

Donald C. Lubick,
Assistant Secretary of the Treasury.

[T.D. 7619]
[FR Doc. 79-14493 Filed 5-4-79; 4:57 pm]
BILLING CODE 4830-01-M

Bureau of Alcohol, Tobacco, and Firearms

27 CFR Part 71

Requests or Demands for Disclosure

AGENCY: Bureau of Alcohol, Tobacco and Firearms.

ACTION: Final rule.

SUMMARY: This Treasury decision adds a new section to the Statement of Procedural Rules and makes conforming changes. The new section deals with Bureau procedure for handling requests or demands for disclosure of ATF information.

EFFECTIVE DATE: May 9, 1979.

FOR FURTHER INFORMATION CONTACT: Steven C. Simon, Research and Regulations Branch, Bureau of Alcohol, Tobacco and Firearms, Washington, DC 20226; 202-566-7626.

SUPPLEMENTARY INFORMATION: Currently, the regulations governing requests or demands for disclosure of ATF information (other than disclosure procedures for Freedom of Information and Privacy Act requests, which are covered by 27 CFR Part 71) are found in 26 CFR § 301.9000-1. This section deals primarily with the Internal Revenue Service, and is couched in terms of internal revenue records and authority of the Commissioner in testimony matters. These terms are often found to be cumbersome and confusing to State courts and others. Consequently, it is considered advisable to add regulations to 27 CFR Part 71, which will be identical in substance with the current regulations in § 301.9000-1, but will have altered terminology to reflect their application to the Bureau of Alcohol, Tobacco and Firearms. Non-substantive conforming changes, required by addition of the new regulations, are also being made at this time.

Because these regulations relate to agency management and personnel within the meaning of 5 U.S.C. 553(a), the Bureau finds that the requirements of 5 U.S.C. 553(b) and (d), dealing with notice of proposed rulemaking and effective date limitation, are not applicable. Accordingly, the regulations shall become effective on the date of publication of this Treasury decision in the **Federal Register.**

The drafter of this document was Steven C. Simon of the Research and Regulations Branch, Bureau of Alcohol, Tobacco and Firearms. However, supervisors and reviewers from both the Bureau and the Department of the Treasury exercised control over the development of the regulations, both as to matters of substance and style.

This Treasury decision is issued under the authority contained in 5 U.S.C. 301.

Accordingly, the Statement of Procedural Rules, 27 CFR Part 71, is amended as follows:

§ 71.26 [Amended]

Paragraph A. Section 71.26 is amended as follows:

1. Paragraph (g) is deleted.

Executive order, or regulations, or for other demand requiring the production

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1. Paragraph (g) is deleted.

2. Paragraph (h) is re-designated as paragraph (g).

Par. B. Section 71.27 is amended to read as follows:

§ 71.27 Requests or demands for disclosure in testimony and in related matters.

(a) *Authority.* The provisions of this section are prescribed under the authority of 5 U.S.C. 301; section 2 of Reorganization Plan No. 26 of 1950 (64 Stat. 1280); 12 U.S.C. 3412; 18 U.S.C. 1905; section 2(g) of the Federal Alcohol Administration Act (27 U.S.C. 202(c)); and sections 5274, 6103, 7213, 7803 and 7805 of the Internal Revenue Code of 1954 (26 U.S.C. 5274, 6103, 7213, 7803 and 7805).

(b) *Definitions.* The following definitions apply whenever the defined terms appear in this section.

(1) *ATF officer or employee.* The terms "ATF officer" and "ATF employee" mean all officers and employees of the United States, engaged in the administration and enforcement of laws administered by the Bureau of Alcohol, Tobacco and Firearms, and appointed or employed by, or subject to the directions, instructions or orders of, the Secretary of the Treasury or his delegate.

(2) *ATF records or information.* The terms "ATF records" and "ATF information" mean any records (including copies thereof) or information, made or obtained by, furnished to, or coming to the knowledge of, any ATF officer or employee while acting in his official capacity, or because of his official status, with respect to the administration of laws administered by or concerning the Bureau of Alcohol, Tobacco and Firearms.

(3) *Demand.* The term "demand" means any subpoena, notice of deposition either upon oral examination or written interrogatory, or other order, of any court, administrative agency, or other authority.

(c) *Disclosure of ATF records or information prohibited without prior approval of the Director.* The disclosure, including the production, of ATF records or information to any person outside the Department of the Treasury or to any court, administrative agency, or other authority, in response to any request or demand for the disclosure of such records or information shall be made only with the prior approval of the Director. However, nothing in this section shall restrict the disclosure of ATF records or information which the Director has determined is authorized under any provision of statute, Executive order, or regulations, or for which a procedure has been established by the Director. For example, this section does not restrict the disclosure of ATF records or information under § 71.22, nor does it restrict the disclosure of ATF records or information which is requested by U.S. attorneys or attorneys of the Department of Justice for use in cases which arise under the laws administered by or concerning the Bureau of Alcohol, Tobacco and Firearms and which are referred by the Department of the Treasury to the Department of Justice for prosecution or defense.

(d) *Delegation to Director of authority to determine disclosure and establish procedures.* The Director is hereby authorized to determine whether or not ATF officers and employees will be permitted to disclose ATF records or information in response to—

(1) A request by any court, administrative agency, or other authority, or by any person, for the disclosure of such records or information; or

(2) A demand for the disclosure of such records or information.

The Director is also authorized to establish such other procedures as he may deem necessary with respect to the disclosure of ATF records or information by ATF officers and employees. Any determination by the Director as to whether ATF records or information will be disclosed, or any procedure established by him in connection therewith, shall be made in accordance with applicable statutes, Executive orders, regulations, and any instructions that may be issued by the Secretary or his delegate. Notwithstanding the preceding provisions of this paragraph, the Director shall, where either he or the Secretary deems it appropriate, refer the opposing of a request or demand for disclosure of ATF records or information to the Secretary.

(e) *Procedure in the event of a request or demand for ATF records or information.* (1) *Request procedure.* Any ATF officer or employee who receives a request for ATF records or information, the disposition of which is not covered by a procedure established by the Director, shall promptly communicate the contents of the request to the Director through the appropriate supervisor for the district or region in which he serves. The officer or employee shall await instructions from the Director concerning the response to the request. For the procedure to be followed in the event a person making a request seeks to obtain a court order or other demand requiring the production of ATF records or information, see paragraph (e)(2) of this section (immediately below).

(2) *Demand procedure.* Any ATF officer or employee who is served with a demand for ATF records or information, the disposition of which is not covered by a procedure established by the Director, shall promptly, and without awaiting appearance before the court, administrative agency, or other authority, communicate the contents of the demand to the Director through the appropriate supervisor for the district or region in which he serves. The officer or employee shall await instructions from the Director concerning the response to the demand. If it is determined by the Director that the demand should be opposed, the U.S. attorney, his assistant, or other appropriate legal representative shall be requested to respectfully inform the court, administrative agency, or other authority that the Director has instructed the officer or employee to refuse to disclose the ATF records or information sought. If instructions have not been received from the Director at the time when the officer or employee is required to appear before the court, administrative agency, or other authority in response to the demand, the U.S. attorney, his assistant, or other appropriate legal representative shall be requested to appear with the officer or employee upon whom the demand has been served and request additional time in which to receive such instructions. In the event the court, administrative agency, or other authority rules adversely with respect to the refusal to disclose the records or information pursuant to the instructions of the Director, or declines to defer a ruling until instructions from the Director have been received, the officer or employee upon whom the demand has been served shall, pursuant to this section, respectfully decline to disclose the ATF records or information sought.

(f) *State cases.* Regional regulatory administrators, special agents in charge, chiefs of field laboratories, and regional administrative officers, may, in the interest of Federal and State law enforcement, upon receipt of demands or requests of State authorities, and at the expense of the State, authorize employees under their supervision to attend trials and administrative hearings in liquor, tobacco, firearms, or explosives cases in which the State is a party or on behalf of the State in any criminal case, to produce records, and to testify as to facts coming to their knowledge in their official capacities. However, in cases where a defendant in a criminal case requests or demands testimony or the production of ATF records or information, authorization from the Director is required. Production or testimony may not divulge information contrary to 26 U.S.C. 6103 and 7213, or 12 U.S.C. 3412. See also 18 U.S.C. 1905.

(g) *Penalties.* Any ATF officer or employee who disobeys the provisions of this section will be subject to dismissal and may incur criminal liability.

Signed: April 16, 1979.

G. R. Dickerson,
Director.

Approved: April 23, 1979.

Richard J. Davis,
Assistant Secretary.

[T.D. ATF-57]

[FR Doc. 79-14362 Filed 5-8-79; 8:45 am]

BILLING CODE 4810-31-M

DEPARTMENT OF DEFENSE

Office of the Secretary

32 CFR Part 252

Department of Defense Offshore Military Activities Program[1]

AGENCY: Office of the Secretary of Defense.

ACTION: Final rule.

SUMMARY: This rule updates procedures regarding Department of Defense's use of offshore areas, and serves as the basis for a comprehensive offshore military activities program. It state DoD policy and assigns responsibilities. The purpose of the program is to limit use of offshore areas to that considered essential for military purposes.

EFFECTIVE DATE: March 22, 1979.

FOR FURTHER INFORMATION CONTACT: Mr. F. B. Roche, Office of the Deputy Assistant Secretary of Defense (Installation and Housing), The Pentagon, Washington, D.C. 20301, Telephone 202-697-7227.

SUPPLEMENTARY INFORMATION: In FR Doc. 63-12512, appearing in the Federal Register (28 FR 12868) on December 4, 1963, the Office of the Secretary of Defense published Part 252 to establish DoD policy regarding the use of public domain lands for military purposes. On June 29, 1968, the Department of Defense revised Part 252 and published the revisions in FR Doc. 68-14280, appearing in the Federal Register (33 FR 17784), on November 28, 1968. This revision of Part 252 outlines procedures to implement current statutes, such as the Submerged Lands Act (43 U.S.C. 1301 *et seq.*); Pub. L. 85-337; Outer Continental Shelf Lands Act (43 U.S.C. 1331 *et seq.*); Marine Resources and Engineering Development Act of 1966 (33 U.S.C. 1101 *et seq.*); and the River and Harbor Act of 1899 (33 U.S.C. 401 *et seq.*).

Accordingly, 32 CFR Chapter I is amended by revising Part 252, reading as follows:

[1] Copies may be obtained, if needed, from the U.S. Naval Publications and Forms Center, 5801 Tabor Avenue, Phiadelphia, PA. 19120 Attention: Code 301.

PART 252—DEPARTMENT OF DEFENSE OFFSHORE MILITARY ACTIVITIES PROGRAM

Sec.
252.1 Purpose.
252.2 Applicability and Scope.
252.3 Definitions.
252.4 Policy.
252.5 Responsibilities.

Authority: The provisions of this Part 252 issued under 5 U.S.C. 301.

§ 252.1 Purpose.

This Part updates established policies and procedures for the utilization of offshore areas by the Department of Defense. This Part will serve as the basis for a comprehensive Offshore Military Activities Program.

§ 252.2 Applicability and scope.

The provisions of this Part apply to the Office of the Secretary of Defense, the Military Departments, and the Defense Agencies (hereafter referred to as "DoD Components") and concern utilization for military purposes of the offshore areas.

§ 252.3 Definitions.

(a) *Outer Continental Shelf.* All submerged lands lying seaward and outside of the area of lands beneath navigable waters as defined in section 2 of the Submerged Lands Act (ch. 65. 67 Stat. 29 (1953), codified at 43 U.S.C. 1301 *et seq.* (1970)) and of which the subsoil and seabed apertain to the United States and are subject to its jurisdicion and control.

(b) *State-Owned Offshore Submerged Lands.* Coastal portions of lands beneath navigable waters, as defined in section 2 of the Submerged Lands Act.

(c) *Offshore Areas.* The water surface areas and the submerged land areas over which the United States exercises jurisdiction and control.

(d) *Offshore Military Activities Program.* The program established here to implement DoD policies and procedures for those activities, operations, and installations that require an offshore environment.

§ 252.4 Policy.

The Department of Defense supports the basic principle that lands comprising the Outer Continental Shelf and State owned offshore areas should be utilized in the highest national interest. The Department of Defense policy, therefore, is that its use of offshore areas will be limited to that considered essential for military purposes, and that such use will be shared with non-military interests to the maximum extent feasible.

(a) Upon determination by the Department of the Interior, or the coastal States, that the mineral potential of certain offshore areas presently being or proposed to be used for military purposes must be explored or exploited, the Department of Defense will endeavor to accommodate to the maximum feasible extent the joint military and commercial utilization of these areas.

(b) If it is determined that non-military interests cannot be accommodated without degradation of military programs, and alternatives are neither available nor economically or militarily feasible, the Department of Defense will attempt to reach agreement with the Department of the Interior or the coastal States, as applicable, to exclude conflict areas from leasing programs.

§ 252.5 Responsibilities.

(a) *The Assistant Secretary of Defense (Manpower, Reserve Affairs, and Logistics) (ASD (MRA&L)),* or designee, in meeting the objectives of the policies here established, shall:

(1) Develop and maintain a comprehensive program for the military use of the offshore environment; and provide direction and guidance to the Military Departments, as appropriate.

(2) Review and direct Military Departments' offshore activities.

(3) Negotiate, in coordination with the appropriate Military Departments, and enter into such administrative arrangements and agreements with the Department of the Interior and the States as may be necessary to ensure that the Department of the Interior's or States' leasing plans and programs are compatible with the Department of Defense missions.

(4) Represent the Department of Defense on the Secretary of the Interior's Outer Continental Shelf Advisory Board.

(5) Conduct continuing liaison with the Department of the Interior and appropriate coastal States to ensure compatibility between each other's programs.

(6) Inform concerned Military Departments of new developments in

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Subpart H—Labor Surplus Area

the Department of the Interior's, States' and significant industry mineral leasing plans that may affect present or potential military interests in offshore areas.

(b) Under the general direction of the ASD(MRA&L), the *Military Departments* shall:

(1) Review proposed Department of the Interior's and States' mineral leasing maps and alert the ASD(MRA&L) of proposed lease areas that could be incompatible with the military missions. Where joint use is feasible, recommend conditions and stipulations that should be imposed in leases to ensure the integrity of military missions, and otherwise protect the interests of the United States against claims arising out of damage to property or injury to non-Government personnel.

(2) Establish and maintain lines of communications and coordination to ensure that each Military Department is fully cognizant of plans, programs, and negotiations of the other Military Departments regarding offshore areas.

(3) Review notices referred to in § 252.5(d)—and provide comments to the Chief of Engineers (Department of the Army) regarding the compatibility of proposed actions with offshore military activities.

(4) Inform the Chief of Engineers, Department of the Army, of any change in the status of offshore ranges, restricted areas or operation areas.

(5) Develop legislation, when requested by the General Counsel, DoD, pursuant to the Engle Act, (Pub. L. No. 85–337, 72 Stat. 28 (1958), codified at 43 U.S.C. 155 et seq. (1070)), to restrict specified areas from operation of the mineral leasing provisions of the Outer Continental Shelf Lands Act, (ch. 345, 67 Stat. 462 (1953), codified at 43 U.S.C. 1331 *et seq.* (1970 and Supp. V. 1975) as amended by Outer Continental Shelf Lands Act Amendments of 1978, Pub. L. No. 95–372, 92 Stat. 629).

(6) Conduct other activities related to the offshore environment as requested by the ASD(MRA&L).

(c) This Part does not limit the responsibilities of the Secretary of the Navy assigned under the provisions of the Marine Resources and Engineering Development Act of 1966, (Pub. L. No. 89–454, 80 Stat. 203, codified at 33 U.S.C. 1101 *et seq.* (1976)). Moreover, the *Secretary of the Navy* shall:

(1) Represent the Department of Defense on matters for which the Secretary is assigned responsibility pursuant to the Marine Resources and Engineering Development Act of 1966.

(2) Inform the ASD(MRA&L) of programs planned or developed, and actions taken to ensure that marine resources and the Offshore Military Activities Programs are consistent.

(d) The *Secretary of the Army* will provide notices to the ASD(MRA&L), to affected military installations and activities and to the Director, Defense Mapping Agency (Hydrographic Center), of potential obstructions and hazards to navigation pursuant to the River and Harbor Act of 1899 (ch. 425, 30 Stat. 1151, codified at 33 U.S.C. 401 *et seq.* (1976), and proposed permits for obstructions to be located on the Outer Continental Shelf pursuant to section 4(e) of the Outer Continental Shelf Lands Act to ensure compatibility with the Offshore Military Activities Program.

H. E. Lofdale,

Director, Correspondence and Directives, Washington Headquarters Services, Department of Defense.

May 4, 1979.

[DOD Directive 3100.5]

[FR Doc. 79-14505 Filed 5-8-79; 8:45 am]

BILLING CODE 3810-70-M

DEFENSE LOGISTICS AGENCY

32 CFR Parts 1201, 1203, 1212, 1214, 1216, 1220, 1221, and 1250

Defense Logistics Procurement Regulation

AGENCY: Defense Logistics Agency (DLA).

ACTION: Final rule.

SUMMARY: The Defense Logistics Agency (DLA) is revising its Defense Logistics Procurement Regulation (DLPR) issued by authority of the Director. It implements the Defense Acquisitions Regulation (DAR) and other Department of Defense publications and, pursuant to DAR 1–108, establishes for DLA procedures relating to the acquisition of supplies and services under the authority of Chapfer 137, Title 10 of the United States Code, or other statutory authority.

EFFECTIVE DATE: As specified in the rule.

FOR FURTHER INFORMATION CONTACT: Mr. G. Dean Fogle, Commercial, AC 202–274–6431, Autovon, 284–6433

By order of the Director.

J. J. McAleer, Jr.,

Colonel, USA, Staff Director, Administration.

The provisions of this subchapter A are issued under 5 U.S.C. 301; 10 U.S.C. 125, 133, 2202, 2301–2314; DoD Directive 5101.22, June 8, 1978.

Miscellaneous Amendments to Subchapter

Chapter XII of Title 32 of the Code of Federal Regulations is amended as follows:

PART 1201—GENERAL PROVISIONS

Subpart A—Introduction

1. Sections 1201.104–51, 1201.105–50, 1201.107(b) are revised to read as follows:

§ 1201.104–51 Procurement letters.

Numbered procurement letters (PROCLTRs) are issued by the DLA Directorate of Procurement, DLA–P, to provide information and procedural guidance to DLA purchasing personnel to re-emphasize existing policy, or to transmit new or changed policy promulgated by OSD or higher authority. PROCLTRs are not an authorized medium for changes to DLA contracting policy or procedures. PROCLTRs shall expire no later than one year from date of issue.

§ 1201.105–50 DLPR changes.

Numbered DLPR changes are issued periodically by the Directorate of Procurement DLA–P, for distribution to all recipients of this regulation for the purpose of revising or supplementing the DLPR.

§ 1201.107 Dissemination and effective date of the regulation (including appendices, revisions, supplements and manuals).

* * * * *

(b) Compliance with the DLPR, including any revision to the DLPR, shall be permissive effective with the date of issuance thereof (as indicated by the page revision date) and shall be mandatory effective 60 days thereafter, unless otherwise provided in such revision.

Subpart C—General Policies

2. Section 1201.307–50 is amended; section 1201.312 is added; and section 1201.314(f) is revised to read as follows:

§ 1201.307–50 Notice to bidders.

The following notice shall be included in master solicitations or bid packages distributed to industry for procurement action:

* * * * *

§ 1201.312 Voluntary refunds.

(b) *Solicited refunds.* (1) If overpricing is suspected after contract award or issuance of a purchase order, the contractor may be asked, before any action under DAR 1–312(b), if the offered price is erroneous. If an error is confirmed, the purchase order or contract may be modified or the purchase order may be cancelled as appropriate.

(2) Documentation supporting a decision to solicit a voluntary refund under DAR 1–312(b) shall be forwarded to HQ DLA, ATTN: DLA–PPP.

§ 1201.314 Disputes and appeals.

* * * * *

(f) If, after review of a Board decision on contracts of his procuring activity, Counsel for the activity is of the opinion that the decision is erroneous, a Motion for Reconsideration should be filed.

3. Section 1201.332–6 is added to read as follows:

§ 1201.332–6 Responsibility for reviewing the minority business enterprise subcontracting programs.

When contracts containing the MBE subcontracting clause are retained by the buying activity for contract administration, the procedures in 1220.703–53 apply.

Subpart D—Procurement Responsibility and Authority

4. In § 1201.452–2, paragraph (a)(5) is revised to read as follows:

§ 1201.452–2 Actions requiring HQDLA review and approval prior to award.

(a) * * *

(1) through (4) * * *

(5) All negotiated actions amounting to $100,000 or more, including orders issued under Basic Ordering Agreements, when award is proposed to a sole offeror;

* * * * *

§ 1201.452–3 [Amended]

5. Section 1201.452–3 is amended by deleting sentence beginniing with "A carbon copy * * *" and substituting therefor "A HQ DLA retention file shall be prepared in accordance with the instructions set forth in 1216.851–2, block No. 17."

6. In § 1201.452–9, subparagraphs (5) and (6) are redesignated (c) and (d) and revised to read as follows:

§ 1201.452–9 Letter contracts.

* * * * *

(c) A copy of the signed letter contract or modification shall be forwarded to HQDLA, ATTN: DLA–PC, within one week after its execution;

(d) Any anticipated or actual slippage in the definitization schedule or the additional milestones must be reported in writing to DLA–PC. The reasons for the slippage and the revised schedule or milestone dates shall also be provided;

7. In § 1201.452–10, paragraph (c) is amended by adding paragraph (8) to read as follows:

§ 1201.452–10 Requests for waiver of HQ DLA preaward review and approval.

* * * * *

(c) * * *

(1) through (7) * * *

(8) A statement as to whether a pre-award review has been performed by the Center.

§ 1201.452–12 [Amended]

8. Section 1201.452–12, line 2 is amended by deleting "DD" from Reports Control Symbol.

Subpart G—Small Business Concerns

9. In § 1201.705–5, paragraph (c)(1)(iii)(B)(*7*) is added to read as follows:

§ 1201.705–5 Contracting with the Small Business Administration.

* * * * *

(c) * * *

(1) * * *

(iii) * * *

(B) * * *

(*7*) In each instance where a requirement previously committed for Section 8(a) contracting is withdrawn and subsequently purchased by regular acquisition methods, purchasing offices shall, within 30 days after award, provide a written report to DLA–PS on each item stating (1) the DLA estimated current fair market price, (2) the SBA final offered price excluding business development expense, and (3) the final contract price paid. Reports Control Symbol DLA (AR)2201 (P) applies. This reporting requirement expires 1 June 1980 unless sooner rescinded or extended.

* * * * *

10. Section 1201.707–4 is added to read as follows:

§ 1201.707–4 Responsibility for reviewing the subcontracting program.

When contracts containing the Small Business Subcontracting clause are retained by the buying activity for contract administration, the procedures in § 1220.703–53 apply.

11. Subpart H is added to read as follows:

Subpart H—Labor Surplus Area Concerns

Sec.

1201.805 Subcontracting with Labor Surplus Area Concerns.

1201.805–4 Responsibility for reviewing the Subcontracting Program.

Subpart H—Labor Surplus Area Concerns

§ 1201.805 Subcontracting with labor surplus area concerns.

§ 1201.805–4 Responsibility for reviewing the subcontracting program.

When contracts containing the Labor Surplus Area Subcontracting clause are retained by the buying activity for contract administration, the procedures in § 1220.703–53 apply.

Subpart I—Responsible Prospective Contractors

12. Section 1201.903 is added to read as follows:

§ 1201.903 Minimum standards for responsible prospective contractors.

1201.903–1 (iii) *DoD policy is that DoD components shall assure contracts are not awarded to suppliers with a history of providing products or services of an unsatisfactory quality.* This necessitates the maintenance of contractor quality history and development of criteria for its use. Occasional deficiencies in contractor performance may be unavoidable, but if the defects are of a critical or repetitive nature and the contractor is not amenable, such information may be used as a basis for not awarding future contracts. Contractor records will not be limited to product quality deficiencies, but will include also discrepancies due to inadequate packaging, improper or missing documentation, overages, shortages, misdirected or damaged shipments, and similar discrepancies. Individual and summary records of actions taken will be maintained for review by management. If there are overriding reasons for awarding a contract to a supplier who has an unsatisfactory quality history, the contract file will be documented accordingly, and DLA Form 970, Special Inspection Requirements, shall be submitted to the Government inspection activity (see § 1216.850–3).

PART 1203—PROCUREMENT BY NEGOTIATION

13. Section 1203.604–52 is added to read as follows:

§ 1203.604–52 Small purchase price review program.

(a) Defense Supply Centers shall perform a monthly post-award price analysis of randomly selected small purchases from the total universe of the previous month's central small purchases (excluding purchases by secondary and tertiary field activities).

§ 1203.1210 Cost Accounting Standards

(B) Warranty clauses, when satisfactory quality history for the item/

The purpose of this program is to determine the incidence of unreasonably priced actions in the sample, and from that information, to determine what if any, corrective action may be required. Unreasonably priced actions are those for which, in the judgment of the analyst, a fair and reasonable price cannot be determined pursuant ot the pricing techniques of DAR/DLPR 3–604 and ASPM No. 2. If field assistance is necessary to verify the reasonableness of unsubstantiated minimum charges, set-up charges, etc., assistance should be requested from the cognizant ACO. The review shall be performed by the DSC Cost and Price Analysis Element or the Contract Review Office at the discretion of the Center. The sample size shall be 13 line items from separate awards. (When multiple line item awards are included in the sample, the line item to be reviewed shall be selected on a random basis.) When an unreasonable price is indicated, appropriate action to resolve the overpricing shall be taken, including, where appropriate, action pursuant to DLPR 1–312. Other appropriate action, such as initiating action for competitive procurement of previously sole source items and initiating action to revise specifications will be accomplished. A summary record of post-award price analysis results shall be maintained by the Center. A quarterly report of analysis results, in the format cited below, shall be submitted to this Headquarters, ATTN: DLA–PPP, within 45 days following the end of the quarter. RCS DLA(Q) 2207(P), assigned to this reporting requirement, expires 15 July 1980.

(b) The quarterly report of analysis results established in (a) above shall be submitted substantially under the following format:

Post-Award Price Review Program

Defense _____ Supply Center

Report for the (1st, 2nd, 3rd, 4th) Quarter 19__

	SASPS I	SASPS II	MANUAL
Total Small Purchase Line Items Awarded During Report Quarter (excluding local purchases and purchases by DSC field activities)			
No. of Line Items Against Which Analysis Has Been Completed During Report Period A. Competitive B. Non-Competitive			
No. of Unreasonably Priced Line Items A. Competitive B. Non-Competitive			
Corrective Action A. Price Reduction (No. of line items and total dollar value of reductions) B. Cancellation (No. of line items and total dollar value of cancellations) C. Other (No. of line items) (e.g., Action initiated for competitive acquisitions, commercial alternate found, action initiated to revise specifications, etc.)			

Subpart H—Price Negotiation Policies

14. In § 1203.807–2, paragraph (b)(5) is added to read as follows:

§ 1203.807–2 Requirements for price or cost analysis.

(a) * * *

(b) * * *

(1) thru (4) * * *

(5) The cost/price analysis element shall perform a cost/price analysis against acquisitions selected for such analysis under the DLA Quality Audit Program (DLAM 4155.2). When an unreasonable price is indicated, the cost/price analysis element shall take appropriate action to resolve the overpricing, including, where appropriate, action pursuant to § 1201.312. The Quality Audit Monitor shall be advised of the results of the cost/price analysis and any action taken as a result thereof.

15. Section 1203.807–6 is renumbered 1203.807–5 and revised, and section 1203.807–7 is added to read as follows:

§ 1203.807–5 Refusal to provide cost or pricing data.

Prior to referral to HQ DLA, the Commander or in his absence, the Acting Commander shall make a determination whether or not to personally negotiate with the contractor involved and attempt to obtain the necessary cost or pricing data. If the contractor refuses to furnish cost of pricing data, attempts will be made to obtain this refusal in writing. In those cases where it is determined that the Commander should not personally conduct negotiations, a detailed memorandum setting forth the rationale shall be forwarded with the referral to HQ DLA, ATTN: DLA–PC.

§ 1203.807–7 Adequate price competition, catalog or market prices and prices set by law or regulation.

(b)(5) One copy of each exemption shall be provided to HQ DLA, ATTN: DLA–PPP.

Subpart L—Cost Accounting Standards

16. Section 1203.1201 is added; §§ 1203.1204 and 1203.1210 are revised to read as follows:

§ 1203.1201 General.

(a) Interest Rate Applicable to the Adjustment Provisions of CASB Regulations and Applicable Cost Accounting Standards. (See 1203.1300–3(c).)

§ 1203.1204 Contract clauses.

(a)(i) The analysis of the information furnished by the offeror in support of his claim for exemption from the requirements of the Cost Accounting Standards Clause must demonstrate that the criteria of DAR 3.807(b)(2) have been met. The results of such an analysis shall be separately documented in the contract file. In addition, when a determination is made that a catalog or market price exemption applies, the contract file documentation pertaining to the pricing aspects of the procurement (i.e., the price analysis, the prenegotiation briefing memorandum and the PNM) shall indicate that pricing is based on adequate price competition. (See 1221.126, Item 18.)

§ 1203.1210 Cost Accounting Standards Board report.

(a) Recommendations requested in DAR 3.1210(b)(2)(f) should be provided to HQ DLA, ATTN: DLA–PP, within 40 days following the end of each calendar year. Negative reports are not required. RCS DD–DR & E(A) 1222 applies.

Subchapter M—Facilities Capital Employed

17. Section 1203.1300–3 is added to read as follows:

§ 1203.1300–3 Estimating business unit facilities capital and cost of money.

(c) Interest Rate. The interest rate established by the Secretary of the Treasury is published in the Federal Register every six months, normally the third week of December and June. The current rate may also be obtained from the Office of Comptroller, Accounting and Finance Division at each DLA Supply Center or activity.

PART 1212—CONTRACTOR INDUSTRIAL LABOR RELATIONS

Subpart A—Basic Labor Policies

§ 1212.101–3 [Amended]

18. Section 1212.101–3 is amended by deleting "DDI&L" and substituting therefor "DD–DR & E".

§ 1212.107 [Amended]

19. Section 1212.107 is amended by deleting the term "ASPR 12–107" and substituting therefor "DAR 12–107"; deleting the phrase "(31 December and 30 June)" and substituting therefor "(31 March and 30 September)".

PART 1214—PROCUREMENT QUALITY ASSURANCE

20. Part 1214 is revised by adding subpart A; subpart C, §§ 1214.305–1 and 1214.305–2(b)(5).

Subpart A—General

Sec.

1214.101–5 Criteria for applying contract quality requirements.

Subpart A—General

§ 1214.101–5 Criteria for applying contract quality requirements.

(a)(1)(i) *No Specific Contract Quality Requirement.* This type of quality requirement in DAR 14.101.5(a)(i)(A) shall not be used in DLA contracts. Contractors shall be held responsible for the quality of products and services by means of:

(A) Contract provisions that place responsibility on contractors; and

(B) Warranty clauses, when appropriate.

(d) When a commercial item is purchased to satisfy a military need, contract quality requirements shall be tailored with the concurrence of the Engineering Support Activity to:

(1) Eliminate or minimize special Government testing, quality control and inspection requirements consistent with the need and cost objectives, in consideration of the reliability established in the commercial market;

(2) Maximize use of the Certificate of Conformance (COC);

(3) Provide for examination and acceptance at the most economical point of delivery (source or destination); and

(4) Facilitate the exercise of any warranty rights.

Subpart C—Contract Provisions

§ 1214.305 Places of performance of government procurement quality assurance actions.

§ 1214.305–1 General.

In addition to DAR 14–305.1, contracts and purchase orders will be assigned for source inspection only when absolutely necessary. In general, source inspection may be necessary when there are requirements for technical inspection; e.g., first article inspection, in-process inspection, and/or requirements for special testing or detailed inspection. Purchases should be assigned for destination inspection if verification as to type and kind, quantity and condition is sufficient.

§ 1214.305–2 Government procurement quality assurance at source.

* * * * *

(b)(5) *With reference to DAR 3–606.2, purchases of items for direct shipment overseas may be assigned for destination using the Fast Payment procedure if there are no requirements for technical inspection.* The Fast Payment procedure applies to small purchases of $10,000 or less and without dollar limitation to brand name commissary resale subsistence and commercial-type medical supplies. Other purchases for direct shipment overseas shall be assigned for source inspection, unless the Contracting Officer determines that inspection can be performed overseas. Contracts for the latter shall include the CoC clause whenever practical.

21. Section 1214.306 is amended by revising (c)(1) to read, as set forth below and by amending subparagraph (c)(2) by deleting the words "shipped directly to bases in CONUS and overseas." and substituting therefor "when there is satisfactory quality history for the item/contractor"

* * * * *

§ 1214.306 Acceptance of supplies or services.

(c) Based upon criteria contained in DAR 14–306(c), maximum use will be made of contractor's CoC to reduce Government inspection for acceptance of supplies. Whenever practical, all DLA contracts, except those for bulk fuel, assigned for source inspection to the DCASRs shall include the CoC clause given below. If a sole source or existing contractor refuses to accept the CoC clause; i.e., execute the CoC, there is little we can do. Also, the use of the CoC clause may not be appropriate for purchases of surplus materiel. Principal Contracting Officers shall document the contract file giving the reason why the optional CoC clause is not included in a particular contract. Each Defense Supply Center will monitor supplies accepted on contractor's CoC through the DLA Quality Audit or through special inspections of receipts at the Depots.

(1) A clause worded as follows will be inserted in the contract:

Certificate of Conformance (DLA 1979 FEB)

Unless required otherwise in the contract or by the Contract Administration Office, the Contractor is required to deliver the supplies to be furnished hereunder with a "Certificate of Conformance." In no case shall the Government's right to inspect supplies under the inspection provisions of this contract be prejudiced. The Contractor signed certificate shall be attached to or included on the top copy of the DD 250 or 1155 copies distributed to the payment office. When acceptance is at destination, a copy of the signed certificates shall also be attached to or entered on copies of the DD 250, DD 1155, or other appropriate documents accompanying the shipment. This certificate shall read as follows:

* * * * *

PART 1216—PROCUREMENT FORMS

Subpart H—Miscellaneous Forms

22. Part 1216, subpart H is amended by revising §§ 1216.850–2 and 1216.850–3 to read as follows:

§ 1216.850–2 Conditions for use.

The Special Quality Assurance Instruction Form, (DLA Form 970), Special Inspection Requirements, is to be used on all procurements of critical items and whenever there is

substituting therefor "The schedule of

provisions of a proposed State Delayed

before the Order was issued by U.S.

V 4 4 / 9 1 M Y 9 7 9 UMI V

unfavorable quality history for the item or the contractor.

§ 1216.850–3 Procedures.

When there is unfavorable quality history for the items or contractor or the items that have been identified as having a critical application in accordance with DLAR 3200.3, Identification, Processing and Procurement of Items With Critical Applications, are to be procured, the appropriate Defense Contract Administration Services (DCAS) field activities or other agencies having inspection cognizance shall be alerted through use of DLA Form 970, regardless of the dollar value of the item or contract. Two copies of the completed form will be forwarded to the appropriate DCAS field activity as shown in DoD 4105.59–H, Directory of Contract Administration Services Components. The copies will be sent to the cognizant CAO quality assurance staff or attached to DCASR copies of the contracts at the time of contract distribution.

PART 1220—ADMINISTRATIVE MATTERS

Subpart G—Assignment of Contract Administration

23. Section 1220.703–50 is revised; §§1220.703–51, 1220.703–52, 1220.703–53, 1220.704 are added to read as follows:

§ 1220.703–50 Criteria for evaluating the need for field contract administration services.

Although the need for quality source inspection is the predominant reason DLA contracts and orders are assigned for field contract administration services (CAS), Contracting Officers shall also consider the existence of the following criteria when determining the need for field assignment of new awards:

(a) Complexity of Procurement. When unique or special contract clauses apply in the instant procurement and it may be expected that significant post-award involvement will occur. Some examples are: MIL SPECs, FED SPECs, First Article, Premium Pay, Economic Price Adjustments, Liquidated Damages, FMS/Export Requirements, Canadian firms, etc.

(b) Supply Criticality. When the urgency of a requirement is classified as a UMMIPS priority 01 through 06, or when the item(s) being procured significantly impact the DSCs' supply availability rate. These conditions would indicate that intensified contract management can be anticipated.

(c) Pre-Award Surveys (PAS). When a PAS indicates possible problem areas; e.g., financial, production, capacity, or technical capability.

(d) Previous Contractor Performance. When data provided by the F–42, Contractor Performance Summary Report, F–38, Contract Delinquency Report, or other internal information indicates potential delivery or quality problems are likely to cause a need for intensified post-award contract management.

(e) Low Dollar Value Commercial Item Exception. Contracting Officers normally will not assign orders for field administration if they are for commercial items and are under $100 in total value.

§ 1220.703–51 Need for extraordinary contracting officer communication to field CAS activities.

When, in the Contracting Officer's judgment, a contract or order requires special attention by a field CAS activity that cannot be adequately conveyed by a criticality designator, this need will be communicated in writing. Drawing the attention of field CAS activities to special Contracting Officer area(s) of concern should normally be accomplished during this assignment process or as soon as possible thereafter.

§ 1220.703–52 Assignment of contracts or orders originally retained.

If the Contracting Officer retains administration of a contract or order and a need subsequently arises to delegate any aspect of contract administration to a CAO, the contract or order shall be assigned for performance of all contract administration functions when the need is recognized.

§ 1220.703–53 DCAS support for subcontracting programs when administration is retained by the buying activity.

"When contracts containing the small business, labor surplus area, or disadvantaged small business subcontracting clauses are retained for contract administration by the buying activity, the PCO will request support from the appropriate DCAS office to administer the programs imposed by these clauses. Section C of these contracts will contain a statement substantially as follows: "The Small Business, Labor Surplus Area, and Minority Business Enterprise Subcontracting Program clauses in this contract will be administered by the cognizant Defense Contract Administration Services Office." (Note: Assignment for supporting administration will be made to the DCAS office cognizant of the geographical area in which the contractor is located). Three copies of the contract shall be forwarded to the appropriate DCAS office with a request for supporting contract administration of these clauses in accordance with DAR 20–703.2. The DCAS office will monitor the prime contractor's small business, labor surplus area, and minority business enterprise subcontracting programs and accomplish the periodic reviews required by DAR 1–406(c)(1).

§ 1220.704 Delegation of optional contract administration functions.

When assignments are made to a field Contract Administration Office (CAO) under provisions of 20–703.50 of either contracts and orders subject to a Master Solicitation Agreement or of large purchase awards, which are not subject to a Master Solicitation Agreement, the following additional, optional functions should be delegated:

Administrative Changes—Modification for minor corrections (e.g., typographical errors, incorrect name and address, wrong computations not requiring additional funds, errors/omissions pertaining to Accounting Classification Reference Number (ACRN), Facility Codes, or DoD Activity Address Directory (DoDAAD) Codes).

Cancellations—Modifications to cancel CLINs not shipped, when requested by the PCO.

Diversions—Modifications effecting diversion when notice from the PCO provides new shipping instructions.

Excusable Delays (e.g., strikes, floods, etc.)—Modifications to extend delivery date when delinquencies will result because of excusable delays.

Nonexcusable Delays—Modifications, to revise delivery time up to 90 days, issued for consideration.

PART 1221—PROCUREMENT MANAGEMENT REPORTING SYSTEM

Subpart B—Monthly Procurement Summary (DD Form 1057)

§ 1221.201 [Amended]

24. Section 1221.201 is amended by adding at the end of paragraph "RCS DD–DRE(M) 1015 applies."

PART 1250—SUPPLEMENTAL PROCEDURES

Subpart G—The DLA Master Solicitation Program

§ 1250.705–1 [Amended]

25. Section 1250.705–1(a) is amended by deleting the fourth sentence and substituting therefor "The schedule of individually numbered solicitations shall reflect any revised clauses or solicitation provisions pending revision and reissuance of the entire master solicitation."

Appendix E—DLA Contract Financing Regulations

26. Subpart F is revised to read as follows:

Subpart F—Contract Debts—Interest—Deferred Payments

E–600.50 Follow directions contained in DLAM 7000.1, Chapter 12, Sections I and II and Figures 12–1, 12–2 and 12–11.

E–620 Contract Clause—Interest. (See 3–1300.3(c)).

[DLAR 4105.1]

[FR Doc. 79–14508 Filed 5–8–79; 8:45 am]

BILLING CODE 3620–01–M

ENVIRONMENTAL PROTECTION AGENCY

40 CFR Part 65

Delayed Compliance Order for American Materials Corp.

AGENCY: U.S. Environmental Protection Agency.

ACTION: Final rule.

SUMMARY: By this rule, the Administrator of U.S. EPA approves a Delayed Compliance Order to American Materials Corporation. The Order requires the Company to bring air emissions from it crushed slag processing plant at Middletown, Ohio, into compliance with certain regulations contained in the federally approved Ohio State Implementation Plan (SIP). American Materials Corporation's compliance with the Order will preclude suits under the Federal enforcement and citizen suit provisions of the Clean Air Act (Act) for violations of the SIP regulations covered in the Order.

DATES: This rule takes effect May 9, 1979.

FOR FURTHER INFORMATION CONTACT: Cynthia Colantoni, United States Environmental Protection Agency, Region V, 230 South Dearborn Street, Chicago, Illinois 60604, Telephone (312) 353–2082.

SUPPLEMENTARY INFORMATION: On February 20, 1979 the Acting Regional Administrator of U.S. EPA's Region V Office published in the **Federal Register** (44 FR 10403) a notice setting out the provisions of a proposed State Delayed Compliance Order for American Materials Corporation. The notice asked for public comments and offered the opportunity to request a public hearing on the proposed Order.

No public comments and no requests for a public hearing were received in response to the notice.

Therefore, a Delayed Compliance Order effective this date is approved to American Materials Corporation by the Administrator of U.S. EPA pursuant to the authority of Section 113(d)(2) of the Act, 42 U.S.C. 7413(d)(2). The Order places American Materials Corporation on a schedule to bring its cruised slag processing plant at Middletown, Ohio into compliance as expeditiously as practicable with Regulations OAC 3745–17–07 and OAC 3745–17–11, a part of the federally approved Ohio State Implementation Plan. American Materials Corporation is unable to immediately comply with these regulations. The Order also imposes interim requirements which meet Sections 113(d)(1)(C) and 113(d)(7) of the Act, and emission monitoring and reporting requirements. If the conditions of the Order are met, it will permit American Materials Corporation to delay compliance with the SIP regulations covered by the Order until July 1, 1979.

Compliance with the Order by American Materials Corporation will preclude Federal enforcement action under Section 113 of the Act of violations of the SIP regulations covered by the Order. Citizen suits under Section 304 of the Act to enforce against the source are similarly precluded. Enforcement may be initiated, however, for violations of the terms of the Order, and for violations of the regulations covered by the Order which occurred before the Order was issued by U.S. EPA or after the Order is terminated. If the Administrator determines that American Materials Corporation is in violation of a requirement contained in the Order, one or more of the actions required by Section 113(d)(9) of the Act will be initiated. Publication of this notice of final rulemaking constitutes final Agency action for the purpose of judicial review under Section 307(b) of the Act.

U.S. EPA has determined that the Order shall be effective upon publication of this notice because of the need to immediately place American Materials Corporation on a schedule for compliance with the Ohio State Implementation Plan.

(42 U.S.C. 7413(d), 7601)

Dated: May 3, 1979.

Douglas M. Costle,
Administrator.

In consideration of the foregoing, Chapter 1 of Title 40 of the Code of Federal Regulations is amended as follows:

PART 65—DELAYED COMPLIANCE ORDERS

By adding the following entry to the table in 65.401:

§ 65.401 U.S. EPA approval of State delayed compliance orders issued to major stationary sources.

The State Order identified below has been approved by the Administrator in accordance with Section 113(d)(2) of the Act and with this Part. With regard to the Order the Administrator has made all the determinations and findings which are necessary for approval of the Order under section 113(d) of the Act.

Source	Location	Order number	Date of FR proposal	SIP regulation involved	Final compliance date
American Materials Corporation.	Middleton, Ohio	None	2/20/79	OAC 3745–17–07 OAC 3745–17–11	7/1/79

[FRL 1217–6]

[FR Doc. 79–14520 Filed 5–8–79; 8:45 am]

BILLING CODE 6560–01–M

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40 CFR Part 65

Delayed Compliance Order for Amoco Oil Co.

AGENCY: United States Environmental Protection Agency.

ACTION: Final rule.

SUMMARY: By this rule, the Administrator of U.S. EPA issues a Delayed Compliance Order to Amoco Oil Company (Amoco). The Order requires the Company to bring air emissions from its volatile organic materials loading rack at Whiting, Indiana, into compliance with certain regulations contained in the federally approved Indiana State Implementation Plan (SIP). Amoco's compliance with the Order will preclude suits under the Federal enforcement and citizen suit provisions of the Clean Air Act (Act) for violations of the SIP regulations covered in the Order.

DATES: This rule takes effect May 9, 1979.

FOR FURTHER INFORMATION CONTACT:
Mr. Roger M. Grimes, Attorney, United States Environmental Protection Agency, Region V, 230 South Dearborn Street, Chicago, Illinois 60604, Telephone (312) 353–2082.

SUPPLEMENTARY INFORMATION: On February 9, 1979, the Regional Administrator of U.S. EPA's Region V Office published in the Federal Register (44 FR 8311) a notice setting out the provisions of a proposed Federal Delayed Compliance Order for Amoco. The notice asked for public comments and offered the opportunity to request a public hearing on the proposed Order.

No public comments and no request for a public hearing were received in response to the notice.

Therefore, a Delayed Compliance Order effective this date is issued to Amoco by the Administrator of U.S. EPA pursuant to the authority of Section 113(d)(1) of the Act, 42 U.S.C. 7413(d)(1). The Order places Amoco on a schedule to bring its volatile organic materials loading rack at Whiting, Indiana, into compliance as expeditiously as practicable with Regulation APC–15, Section 4, a part of the federally approved Indiana State Implementation Plan. Amoco is unable to immediately comply with this regulation. The Order also imposes interim requirements which meet Sections 113(d)(1)(C) and 113(d)(7) of the Act, and emission monitoring and reporting requirements. If the conditions of the Order are met, it will permit Amoco to delay compliance with the SIP regulation covered by the Order until July 1, 1979.

Compliance with the Order by Amoco will preclude Federal enforcement action under Section 113 of the Act for violations of the SIP regulations covered by the Order. Citizen suits under Section 304 of the Act to enforce against the source are similarly precluded. Enforcement may be initiated, however, for violations of the terms of the Order, and for violations of the regulation covered by the Order which occurred before the Order was issued by U.S. EPA or after the Order is terminated. If the Administrator determines that Amoco is in violation of a requirement contained in the Order, one or more of the actions required by Section 113(d)(9) of the Act will be initiated. Publication of this notice of final rulemaking constitutes final Agency action for the purposes of judicial review under Section 307(b) of the Act.

U.S. EPA has determined that the Order shall be effective upon publication of this notice because of the need to immediately place Amoco on a schedule for compliance with the Indiana State Implementation Plan.

(42 U.S.C. 7413(d), 7601)

Dated: May 2, 1979.

Douglas M. Costle,
Administrator.

In consideration of the foregoing, Chapter 1 of Title 40 of the Code of Federal Regulations is amended as follows:

PART 65—DELAYED COMPLIANCE ORDERS

By adding the following entry to the table in § 65.190:

§ 65.190 Federal Delayed Compliance Order issued under Section 113(d) (1), (3), and (4) of the Act.

Source	Location	Order No.	Date of FR proposal	SIP regulation involved	Final compliance date
Amoco Oil Company	Whiting, Ind	EPA–5–79–A–23	2–9–79	APC–15, Section 4	7–1–79

[FRL 1206–2]
[FR Doc. 79–14518 Filed 5–8–79, 8:45 am]
BILLING CODE 6560–01–M

40 CFR Part 65

Delayed Compliance Order for Dayton Power & Light

AGENCY: U.S. Environmental Protection Agency.

ACTION: Final rule.

SUMMARY: By this rule, the Administrator of U.S. EPA approves a Delayed Compliance Order to Dayton Power and Light Company. The Order requires the Company to bring air emissions from its Boilers #1 and #2 at the Longsworth Street Station and Boilers #1A and #2A at the Third Street Station at Dayton, Ohio, into compliance with certain regulations contained in the federally approved Ohio State Implementation Plan (SIP). Dayton Power and Light Company's compliance with the Order will preclude suits under the Federal enforcement and citizen suit provisions of the Clean Air Act (Act) for violations of the SIP regulations covered in the Order.

DATES: This rule takes effect upon publication May 9, 1979.

FOR FURTHER INFORMATION CONTACT:
Cynthia Colantoni, United States Environmental Protection Agency, Region V, 230 South Dearborn Street, Chicago, Illinois 60604, Telephone (312) 353–2082.

SUPPLEMENTARY INFORMATION: On February 20, 1979 the Regional Administrator of the U.S. EPA's Region V Office published in the **Federal Register** (44 FR 10401) a notice setting out the provisions of a proposed State Delayed Compliance Order for Dayton Power and Light. The notice asked for public comments and offered the opportunity to request a public hearing on the proposed Order.

No public comments and no request for a public hearing were received in response to the notice.

Therefore, a Delayed Compliance Order effective this date is approved to Dayton Power and Light by the Administrator of U.S. EPA pursuant to the authority of Section 113(d)(2) of the Act, 42 U.S.C. 7413(d)(2). The Order places Dayton Power and Light on a schedule to bring its Boilers #1 and #2 at the Longworth Street Station and Boilers #1A and #2A at the Third Street Station at Dayton, Ohio, into compliance as expeditiously as practicable with Regulations OAC–3745–17–07 and OAC–3745–17–10, a part of the federally approved Ohio State Implementation Plan. Dayton Power and Light is unable to immediately comply with these regulations. The Order also imposes interim requirements which meet Sections 113(d)(1)(C) and 113(d)(7) of the Act, and emission monitoring and reporting requirements. If the conditions of the Order are met, it will permit Dayton Power and Light to delay compliance with the SIP regulations covered by the Order until June 30, 1979.

Compliance with the Order by Dayton Power and Light will preclude Federal enforcement action under Section 113 of the Act for violations of the SIP regulations covered by the Order. Citizen suits under Section 304 of the Act to enforce against the source are similarly precluded. Enforcement may be initiated, however, for violations of the terms of the Order, and for violations of the regulations covered by the Order which occurred before the Order was issued by U.S. EPA or after the Order is terminated. If the Administrator determines that Dayton Power and Light is in violation of a requirement contained in the Order, one or more of the actions required by Section 113(d)(9) of the Act will be initiated. Publication of this notice of final rulemaking constitutes final Agency action for the purposes of judicial review under Section 307(b) of the Act.

U.S. EPA has determined that the Order shall be effective upon publication of this notice because of the need to immediately place Dayton Power and Light on a schedule for compliance with the Ohio State Implementation Plan.

(42 U.S.C. 7413(d), 7601)

Dated: May 2, 1979.

Douglas M. Costle,
Administrator.

In consideration of the foregoing, Chapter I of Title 40 of the Code of Federal Regulations is amended as follows:

PART 65—DELAYED COMPLIANCE ORDERS

By adding the following entry to the table in § 65.401:

§ 65.401 U.S. EPA approval of State delayed compliance orders issued to major stationary sources.

The State Order identified below has been approved by the Administrator in accordance with Section 113(d)(2) of the Act and with this Part. With regard to this Order, the Administrator has made all the determinations and findings which are necessary for approval of the Order under Section 113(d) of the Act.

Source	Location	Date FR proposal	SIP regulation involved	Final compliance date
Dayton Power and Light Company	Dayton, Ohio	2–20–79	OAC–3745–17–07 OAC–3745–17–10	6–30–79

[FRL 1201–8]
[FR Doc. 79–14514 Filed 5–8–79, 8:45 am]
BILLING CODE 6560–01–M

40 CFR Part 65

Delayed Compliance Orders for Ohio Power Co., Cardinal Generating Station and Muskingum River Generating Station

AGENCY: U.S. Environmental Protection Agency.

ACTION: Final rule.

SUMMARY: By this rule, the Administrator of U.S. EPA issues two Delayed Compliance Orders to Ohio Power Company. The Orders require the Company to bring air emissions from its Cardinal Generating Station at Brilliant, Ohio, and its Muskingum River Generating Station at Beverly, Ohio, into compliance with certain regulations contained in the federally approved Ohio State Implementation Plan (SIP). Ohio Power Company's compliance with the Orders will preclude suits under the Federal enforcement and citizen suits provisions of the Clean Air Act (Act) for violations of the SIP regulations covered in the Orders.

DATES: This rule takes effect May 9, 1979.

FOR FURTHER INFORMATION CONTACT:
Ms. Linda M. Buell, Attorney, United States Environmental Protection Agency, Region V, 230 South Dearborn Street, Chicago, Illinois 60604, Telephone (312) 353–2082.

SUPPLEMENTARY INFORMATION: On December 21, 1978, the Regional Administrator of U.S. EPA's Region V Office published in the **Federal Register** (43 FR 59527) two notices setting out the provisions of two proposed Federal Delayed Compliance Orders for Ohio Power Company. The notices asked for public comments and offered the opportunity to request a pubic hearing on the proposed Orders. No public comments and no request for a public hearing were received in response to the notices.

Therefore, two Delayed Compliance Orders effective this date are issued to Ohio Power Company by the Administrator of U.S. EPA pursuant to the authority of Section 113(d)(1) of the Act, 42 U.S.C. 7413(d)(1). The Orders place Ohio Power Company on schedules to bring its Cardinal Generating Station at Brilliant, Ohio, and its Muskingum River Generating Station at Beverly, Ohio, into compliance as expeditiously as practicable with Regulations AP–3–07 and AP–3–11, part of the federally approved Ohio State Implementation Plan. Ohio Power Company is unable to immediately comply with these regulations. The Orders also impose interim requirements which meet Sections 113(d)(1)(C) and 113(d)(7) of the Act, and emission monitoring and reporting requirements. If the conditions of the Orders are met, it will permit Ohio Power Company to delay compliance with the SIP regulations

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covered by the Orders until April 15, 1980.

Compliance with the Orders by Ohio Power Company will preclude Federal enforcement action under Section 113 of the Act for violations of the SIP regulations covered by the Orders. Citizen suits under Section 304 of the Act to enforce against the source are similarly precluded. Enforcement may be initiated, however, for violations of the terms of the Orders, and for violations of the regulations covered by the Orders which occurred before the Orders were issued by U.S. EPA or after the Orders are terminated. If the Administrator determines that Ohio Power Company is in violation of a requirement contained in the Orders, one or more of the actions required by Section 113(d)(9) of the Act will be initiated. Publication of this notice of final rulemaking constitutes final Agency action for the purposes of judicial review under Section 307(b) of the Act.

U.S. EPA has determined that the Orders shall be effective upon publication of this notice because of the need to immediately place Ohio Power Company on a schedule for compliance with the Ohio State Implementation Plan.

(42 U.S.C. 7413(d), 7601)

Dated: May 3, 1979.

Douglas M. Costle,
Administrator.

In consideration of the foregoing, Chapter 1 of the Title 40 of the Code of Federal Regulations is amended as follows:

PART 65—DELAYED COMPLIANCE ORDERS

By adding the following entry to the table in § 65.400:

§ 65.400 Federal delayed compliance orders issued under section 113(d)(1), (3), and (4) of the Act.

Source	Location	Order No.	Date of FR proposal	SIP regulation involved	Final compliance date
Ohio Power Company, Cardinal Generating Station.	Brilliant, OH	EPA-5-79-A-30	12/21/78	AP-3-07, AP-3-11.	4/15/80
Muskingum River Generating Station.	Beverly, OH	EPA-5-79-A-31	12/21/78	AP-3-07, AP-3-11.	4/15/80

[FRL 1202-3]
[FR Doc. 79-14516 Filed 5-8-79; 8:45 am]
BILLING CODE 6560-01-M

40 CFR Part 65

Delayed Compliance Order for Sorg Paper Co.

AGENCY: U.S. Environmental Protection Agency.

ACTION: Final rule.

SUMMARY: By this rule, the Administrator of U.S. EPA approves a Delayed Compliance Order to Sorg Paper Company (Sorg). The Order requires the Company to bring air emissions from its coal-fired boilers at Middletown, Ohio, into compliance with certain regulations contained in the federally approved Ohio State Implementation Plan (SIP). Sorg's compliance with the Order will preclude suits under the Federal enforcement and citizen suit provisions of the Clean Air Act (Act) for violations of the SIP regulations covered in the Order.

DATE: This rule takes effect May 9, 1979.

FOR FURTHER INFORMATION, CONTACT: Cythia Colantoni, United States Environmental Protection Agency, Region V, 230 South Dearborn Street, Chicago, Illinois 60604, Telephone (312) 353-2082.

SUPPLEMENTARY INFORMATION: On February 1, 1979 the Regional Administrator of the U.S. EPA's Region V Office published in the **Federal Register** (44 FR 6469) a notice setting out the provisions of a proposed State Delayed Compliance Order for Sorg. The notice asked for public comments and offered the opportunity to request a public hearing on the proposed Order.

No public comments and no request for a public hearing were received in response to the notice.

Therefore, a Delayed Compliance Order effective this date is approved to Sorg by the Administrator of U.S. EPA pursuant to the authority of Section 113(d)(2) of the Act, 42 U.S.C. 7413(d)(2). The Order places Sorg on a schedule to bring its coal-fired boilers at Middletown, Ohio, into compliance as expeditiously as practicable with Regulations OAC-3745-17-07 and OAC-3745-17-10, a part of the federally approved Ohio State Implementation Plan. Sorg is unable to immediately comply with these regulations. The Order also imposes interim requirements which meet Sections 113(d)(1)(C) and 113(d)(7) of the Act, and emission monitoring and reporting requirements. If the conditions of the Order are met, it will permit Sorg to delay compliance with the SIP regulations covered by the Order until July 1, 1979.

Compliance with the Order by Sorg will preclude Federal enforcement action under Section 113 of the Act for violations of the SIP regulations covered by the Order. Citizen suits under Section 304 of the Act to enforce against the source are similarly precluded. Enforcement may be initiated, however, for violations of the terms of the Order, and for violations of the regulations covered by the Order which occurred before the Order was issued by U.S. EPA or after the Order is terminated. If the Administrator determines that Sorg is in violation of a requirement contained in the Order, one or more of the actions required by Section 113(d)(9) of the Act will be initiated. Publication of this notice of final rulemaking constitutes final Agency action for the purposes of judicial review under Section 307(b) of the Act.

U.S. EPA has determined that the Order shall be effective upon publication of this notice because of the need to immediately place Sorg Paper Company on a schedule for compliance with the Ohio State Implementation Plan.

(42 U.S.C. 7413(d), 7601)

Dated: May 3, 1979.

Douglas M. Costle,
Administrator.

In consideration of the foregoing, Chapter I of Title 40 of the Code of Federal Regulations is amended as follows:

PART 65—DELAYED COMPLIANCE ORDERS

By adding the following entry to the table in § 65.401:

§ 65.401 U.S. EPA approval of State delayed compliance orders issued to major stationary sources.

The State Order identified below has been approved by the Administrator in accordance with Section 113(d)(2) of the Act and with this Part. With regard to this Order, the Administrator has made all the determinations and findings which are necessary for approval of the Order under Section 113(d) of the Act.

Source	Location	Date FR proposal	SIP regulation involved	Final compliance date
Sorg Paper Company	Middletown, Ohio	2-1-79	OAC-3745-17-07 OAC-3745-17-10	7-1-79

[FRL 1202-5]
[FR Doc. 79-14517 Filed 5-8-79; 8:45 am]
BILLING CODE 6560-01-M

40 CFR Part 65

Delayed Compliance Order for Triangle Refineries, Inc.

AGENCY: U.S. Environmental Protection Agency.

ACTION: Final rule.

SUMMARY: By this rule, the Administrator of U.S. EPA issues a Delayed Compliance Order to Triangle Refineries, Inc. The Order requires the Company to bring air emissions from its gasoline loading facility at Clermont, Indiana, into compliance with certain regulations contained in the federally approved Indiana State Implementation Plan (SIP). Triangle Refineries, Inc.'s compliance with the Order will preclude suits under the Federal enforcement and citizen suit provisions of the Clean Air Act (Act) for violations of the SIP regulations covered in the Order.

DATES: This rule takes effect May 9, 1979.

FOR FURTHER INFORMATION CONTACT: Arthur E. Smith, Jr., Attorney, United States Environmental Protection Agency, Region V, 230 South Dearborn Street, Chicago, Illinois 60604, Telephone (312) 353-2082.

SUPPLEMENTARY INFORMATION: On December 27, 1978, the Regional Administrator of U.S. EPA's Region V Office published in the **Federal Register** (43 FR 60306) a notice setting out the provisions of a proposed Federal Delayed Compliance Order for Triangle Refineries, Inc. The notice asked for public comments and offered the opportunity to request a public hearing on the proposed Order.

No public comments and no request for a public hearing were received in response to the notice.

Therefore, a Delayed Compliance Order effective this date is issued to Triangle Refineries by the Administrator of U.S. EPA pursuant to the authority of Section 113(d)(1) of the Act, 42 U.S.C. 7413(d)(1). The Order places Triangle Refineries, Inc. on a schedule to bring its gasoline loading rack at Clermont, Indiana, into compliance as expeditiously as practicable with Regulations APC-15, Section 4, a part of the federally approved Indiana State Implementation Plan. Triangle Refineries, Inc. is unable to immediately comply with this regulation. The Order also imposes interim requirements which meet Section 113(d)(1)(C) and 113(d)(7) of the Act, and emission monitoring and reporting requirements. If the conditions of the Order are met, it will permit Triangle Refineries, Inc. to delay compliance with the SIP regulations covered by the Order until July 1, 1979.

Compliance with the Order by Triangle Refineries, Inc., will preclude Federal enforcement action under Section 113 of the Act for violations of the SIP regulation covered by the Order. Citizen suits under Section 304 of the Act to enforce against the source are similarly precluded. Enforcement may be initiated, however, for violations of the terms of the Order, and for violations of the regulation covered by the Order which occurred before the Order was issued by U.S. EPA or after the Order is terminated. If the Administrator determines that Triangle Refineries, Inc. is in violation of a requirement contained in the Order, one or more of the actions required by Section 113(d)(9) of the Act will be initiated. Publication of this notice of final rulemaking constitutes final Agency action for the purposes of judicial review under Section 307(b) of the Act.

U.S. EPA has determined that the Order shall be effective upon publication of this notice because of the need to immediately place Triangle Refineries, Inc. on a schedule for compliance with the Indiana State Implementation Plan.

Dated: May 2, 1979.

Douglas M. Costle,
Administrator.

In consideration of the foregoing, Chapter 1 of Title 40 of the Code of Federal Regulations is amended as follows:

PART 65—DELAYED COMPLIANCE ORDERS

1. By adding the following entry to the table in § 65.190:

§ 65.190 Federal delayed compliance orders issued under section 113(d) (1), (3), and (4) of the Act.

Source	Location	Order No.	Date of FR proposal	SIP regulation involved	Final compliance date
Triangle Refineries	Clermont, Ind.	EPA-5-79-A-22	12/27/79	APC-15, Section 4.	7/1/79

[FRL 1215-4]
[FR Doc. 79-14519 Filed 5-8-79; 8:45 am]
BILLING CODE 6560-01-M

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40 CFR Part 65

Delayed Compliance Order for Sunmark Industries, a Division of Sun Oil Co. of Pennsylvania

AGENCY: U.S. Environmental Protection Agency.

ACTION: Final rule.

SUMMARY: By this rule, the Administrator of U.S. EPA issues a Delayed Compliance Order to Sunmark Industries, a Division of Sun Oil Company of Pennsylvania (Sun Oil). The Order requires the Company to bring air emissions from its gasoline loading facility at Clermont, Indiana, into compliance with certain regulations contained in the federally approved Indiana State Implementation Plan (SIP). Sun Oil's compliance with the Order will preclude suits under the Federal enforcement and citizen suit provisions of the Clean Air Act (Act) for violations of the SIP regulations covered in the Order.

DATES: This rule takes effect May 9, 1979.

FOR FURTHER INFORMATION CONTACT: Arthur E. Smith, Jr., Attorney, United States Environmental Protection Agency, Region V, 230 South Dearborn Street, Chicago, Illinois 60604, Telephone (312) 353–2082.

SUPPLEMENTARY INFORMATION: On December 22, 1978, the Regional Administrator of U.S EPA's Region V Office published in the **Federal Register** (43 FR 59852) a notice setting out the provisions of a proposed Federal Delayed Compliance Order for Sun Oil. The notice asked for public comments and offered the opportunity to request a public hearing on the proposed Order.

No public comments and no request for a public hearing were received in response to the notice.

Therefore, a Delayed Compliance Order effective this date is issued to Sun Oil by the Administrator of U.S. EPA pursuant to the authority of Section 113(d)(1) of the Act, 42 U.S.C. 7413(d)(1). The Order places Sun Oil on a schedule to bring its gasoline loading facility at Clermont, Indiana, into compliance as expeditiously as practicable with Regulation APC–15 Section 4, a part of the federally approved Indiana State Implementation Plan. Sun Oil is unable to immediately comply with this regulation. The Order also imposes interim requirements which meet Sections 113(d)(1)(C) and 113(d)(7) of the Act, and emission monitoring and reporting requirements. If the conditions of the Order are met, it will permit Sun Oil to delay compliance with the SIP regulation covered by the Order until July 1, 1979.

Compliance with the Order by Sun Oil will preclude Federal enforcement action under Section 113 of the Act for violations of the SIP regulation covered by the Order. Citizen suits under Section 304 of the Act to enforce against the source are similarly precluded. Enforcement may be initiated, however, for violations of the terms of the Order, and for violations of the regulation covered by the Order which occurred before the Order was issued by U.S. EPA or after the Order is terminated. If the Administrator determines that Sun Oil is in violation of a requirement contained in the Order, one or more of the actions required by Section 113(d)(9) of the Act will be initiated. Publication of this notice of final rulemaking constitutes final Agency action for the purposes of judicial review under Section 307(b) of the Act.

U.S. EPA has determined that the Order shall be effective upon publication of this notice because of the need to immediately place Sun Oil on a schedule for compliance with the Indiana State Implementation Plan.

(42 U.S.C. 7413(d), 7601)

Dated: May 3, 1979.

Douglas M. Costle,
Administrator.

In consideration of the foregoing, Chapter 1 of Title 40 of the Code of Federal Regulations is amended as follows:

PART 65—DELAYED COMPLIANCE ORDERS

By adding the following entry to the table in § 65.190:

§ 65.190 Federal delayed compliance orders issued under section 113(d) (1), (3), and (4) of the Act.

Source	Location	Order No.	Date of FR proposal	SIP regulation involved	Final compliance date
•	•	•	•	•	•
Sunmark Industries, a Division of Sun Oil of Pennsylvania.	Clermont, Ind	EPA–5–79–A–22	12/22/78	APC–15, Section 4.	7/1/79
•	•	•	•	•	•

[FRL 1202–2]

[FR Doc. 79–14515 Filed 5–8–79; 8:45 am]

Proposed Rules

Federal Register
Vol. 44, No. 91
Wednesday, May 9, 1979

This section of the FEDERAL REGISTER contains notices to the public of the proposed issuance of rules and regulations. The purpose of these notices is to give interested persons an opportunity to participate in the rule making prior to the adoption of the final rules.

DEPARTMENT OF AGRICULTURE

Federal Crop Insurance Corporation

[7 CFR Part 402]

Proposed Raisin Crop Insurance Regulations

AGENCY: Federal Crop Insurance Corporation, USDA.

ACTION: Proposed rule.

SUMMARY: The proposed rule prescribes procedures for insuring raisin crops effective with the 1979 crop year. This rule combines provisions from previous regulations for insuring raisins in a shorter, clearer, and more simplified document which will make the program more effective administratively. This rule is promulgated under the authority contained in the Federal Crop Insurance Act, as amended.

DATE: Written comments, data, and opinions must be submitted not later than May 30, 1979, to be assured of consideration.

ADDRESS: Written comments on this proposed rule should be sent to James D. Deal, Manager, Federal Crop Insurance Corporation, Room 4096 South Building, U.S. Department of Agriculture, Washington, D.C. 20250.

FOR FURTHER INFORMATION CONTACT: Peter F. Cole, Secretary, Federal Crop Insurance Corporation, U.S. Department of Agriculture, Washington, D.C. 20250, 202–447–3325.

SUPPLEMENTARY INFORMATION: Under the authority contained in the Federal Crop Insurance Act, as amended (7 U.S.C. 1501 *et seq.*), it is proposed that the Raisin Crop Insurance Regulations for the 1977 and Succeeding Crop Years as found in 7 CFR Part 402 (42 FR 31427, June 21, 1977) be revised and reissued effective for the 1979 and succeeding crop years. The previous regulations applicable to insuring raisin crops as found in 7 CFR Part 402 are not applicable to 1979 and succeeding raisin crops but remain in effect for FCIC raisin insurance policies issued for the crop years prior to 1979.

It has been determined that combining provisions from previous regulations for insuring raisin crops into one shortened, simplified, and clearer regulation would be more effective administratively. In addition, proposed 7 CFR Part 402 would provide that (1) any premium not paid by the termination date for indebtedness will be increased by a 9 percent service fee with a 9 percent simple interest charge applying to any unpaid balances at the end of each subsequent 12-month period thereafter; (2) eliminate the 30-day period for filing a claim; (3) make available higher amounts of insurance coverage at $325, $400, and $500 per ton; (4) provide that the insurable varieties of grapes will be shown on the actuarial table rather than on the policy; (5) provide that the insured tonnage will be determined from actual marketing records in no loss years and from tray count and Corporation determination in loss years by estimation which was the previous method; (6) provide that the maximum allowance for any one reconditioning of raisins as a result of rainfall be shown on the actuarial table; (7) provide that a minimum value of $75.00 per ton instead of the previous $25.00 per ton be counted for any raisins not removed from the vineyard; (8) allow the Corporation to waive, by prior written agreement, the right to acquire all of the right, title, and share of the insured in any raisins damaged by rainfall; (9) allow the Corporation to determine by units the insured tonnage and share or declare the insured tonnage on any unit to be "zero" if the insured does not file a tonnage report on or before a date on file in the office for the county; and (10) replace the previous premium discount provisions with a premium adjustment table which provides premium discounts of up to 50 percent for good insuring experience as well as premium increases for unfavorable insuring experience on an individual contract basis.

The proposed Raisin Crop Insurance Regulations provide a June 30 cancellation date in order to be effective for the crop year. These regulations and any amendments thereto, are to be placed on file in the Corporation's office for the county by not later than 15 days prior to June 30. Executive Order No. 12044 requires that the public be afforded 60 days during which to comment on proposed regulations. However, where an emergency exists, as here, less time for public comments may be allowed. Accordingly, the public shall have 21 days to comment on this proposal. The Corporation has determined that in view of the necessary administrative details to be implemented before the June 15 filing date, including notifying all present policyholders, and printing and distribution of revised application and policy forms, and to afford the farmers an opportunity to examine them before the cancellation date of June 30, 1979, there would not be enough time to allow the full 60 days for public comment in accordance with the provisions of Executive Order No. 12044.

All written submissions made pursuant to this notice will be available for public inspection at the office of the Manager during regular business hours 8:15 a.m. to 4:45 p.m., Monday through Friday.

Proposed rule

Accordingly, pursuant to the authority contained in the Federal Crop Insurance Act, as amended (7 U.S.C. 1501 *et seq.*), the Federal Crop Insurance Corporation hereby proposes to revise and reissue Part 402 of Chapter IV in Title 7 of the Code of Federal Regulations (7 CFR Part 402), to read as follows:

PART 402—RAISIN CROP INSURANCE

Subpart—Regulations for the 1979 and Succeeding Crop Years

Sec.

402.1 Availability of raisin insurance.
402.2 Premium rates and amounts of insurance.
402.3 Public notice of indemnities paid.
402.4 Creditors.
402.5 Good faith reliance on misrepresentation.
402.6 The contract.
402.7 The application and policy.

Authority: Secs. 506, 516, 52 Stat. 73, as amended, 77, as amended (7 U.S.C. 1506, 1516).

Subpart—Regulations for the 1979 and Succeeding Crop Year

§ 402.1 Availability of raisin insurance.

Insurance shall be offered under the provisions of this subpart on raisins in counties within limits prescribed by and in accordance with the provisions of the

Federal Crop Insurance Act, as amended. The counties shall be designated by the Manager of the Corporation from those approved by the Board of Directors of the Corporation. Before insurance is offered in any county, there shall be published by appendix to this chapter the names of the counties in which raisin insurance will be offered.

§ 402.2 Premium rates and amounts of insurance.

(a) The Manager shall establish premium rates, production guarantees, coverage levels, amounts of insurance and prices at which indemnities shall be computed for raisins which shall be shown on the county actuarial table on file in the office for the county and may be changed from year to year.

(b) At the time the application for insurance is made, the applicant shall elect an amount of insurance per ton from among those amounts shown on the actuarial table for the crop year.

§ 402.3 Public notice of indemnities paid.

The Corporation shall provide for posting annually in each county at each county courthouse a listing of the indemnities paid in the county.

§ 402.4 Creditors.

An interest of a person in an insured crop existing by virtue of a lien, mortgage, garnishment, levy, execution, bankruptcy, or an involuntary transfer shall not entitle the holder of the interest to any benefit under the insurance contract except as provided in the policy.

§ 402.5 Good faith reliance on misrepresentation.

Notwithstanding any other provision of the raisin insurance contract, whenever, (a) an insured person under a contract of crop insurance entered into under these regulations, as a result of a misrepresentation or other erroneous action or advice by an agent or employee of the Corporation, (1) is indebted to the Corporation for additional premiums, or (2) has suffered a loss to a crop which is not insured, or for which the insured person is not entitled to an indemnity because of failure to comply with the terms of the insurance contract, but which the insured person believed to be insured, or believed the terms of the insurance contract to have been complied with or waived, and (b) the Board of Directors of the Corporation, or the Manager in cases involving not more than $20,000, finds (1) that an agent or employee of the Corporation did in fact make such misrepresentation or take other erroneous action or give erroneous advice, (2) that said insured person relied thereon in good faith, and (3) that to require the payment of the additional premiums or to deny such insured's entitlement to the indemnity would not be fair and equitable, such insured person shall be granted relief the same as if otherwise entitled thereto.

§ 402.6 The contract.

(a) The insurance contract shall become effective upon the acceptance by the Corporation of a duly executed application for insurance on a form prescribed by the Corporation. Such acceptance shall be effective upon the date the notice of acceptance is mailed to the applicant. The contract shall cover the raisin crop as provided in the policy. The contract shall consist of the application, the policy, the attached appendix, and the provisions of the county actuarial table showing the premium rates, amounts of insurance, varieties, reconditioning allowances, and applicable dates when necessary. Any changes made in the contract shall not affect its continuity from year to year. Copies of forms referred to in the contract are available at the office for the county.

§ 402.7 The application and policy.

(a) Application for insurance on a form prescribed by the Corporation may be made by any person to cover such person's insurable share in the raisin crop as landlord, owner-operator, or tenant. The application shall be submitted to the Corporation at the office for the county on or before the applicable closing date on file in the office for the county.

(b) The Corporation reserves the right to discontinue the acceptance of applications in any county upon its determination that the insurance risk involved is excessive, and also, for the same reason, to reject any individual application. The Manager of the Corporation is authorized in any crop year to extend the closing date for submitting applications or contract changes in any county, by placing the extended date on file in the office for the county and publishing a notice in the **Federal Register** upon the Manager's determination that no adverse selectivity will result during the period of such extension: *Provided, however,* That if adverse conditions should develop during such period, the Corporation will immediately discontinue the acceptance of application.

(c) In accordance with the provisions governing changes in the contract contained in policies issued under FCIC regulations for 1969 and succeeding crop years, a contract in the form provided for under this subpart will come into effect as a continuation of a raisin contract issued under such prior regulations, without the filing of a new application.

(d) The provisions of the application and Raisin Insurance Policy for the 1979 and Succeeding Crop Years, and the Appendix to the Raisin Insurance Policy are as follows:

United States Department of Agriculture

Federal Crop Insurance Corporation

Application for 19 —— and Succeeding Crop Years

Raisin Crop Insurance Contract

Contract No. _____
Identification No. _____
Name and address _____
Zip Code _____
County _____
State _____

A. The applicant, subject to the provisions of the regulations of the Federal Crop Insurance Corporation (herein called "Corportion"), hereby applies to the Corporaton for insurance on the applicant's share in the raisins produced in the above-stated county. The applicant elects from the actuarial table the amount of insurance per ton. The premium rates and amounts of insurance shall be those shown on the applicable county actuarial table filed in the office for the county each crop year.

Amount of insurance per ton election _____
Example: For the 19 —— crop year only (100% share)
Location/farm No. _____
Amount of Insurance per ton* _____
Premium per ton _____
Practice _____

B. When notice of acceptance of this application is mailed to the applicant by the corporation, the contract shall be in effect for the first crop year specified above, unless the time for submitting applications has passed at the time this application is filed, and shall continue for each succeeding crop year until cancelled or terminated as provided in the contract. This accepted application, the following raisin insurance policy, the attached appendix, and the provisions of the county actuarial table showing the premium rates, amounts of insurance, and applicable dates shall constitute the contract. Additional information regarding contract provisions can be found in the county regulations folder on file in the office for the county. No term or condition of the contract shall be waived or chnged except in writing by the Corporation.

Code No./witness to signature _____
Signature of applicant _____
Date _____
Address of office for county: _____

_____

Phone _____

* Your amount of insurance will be based on the unit (tonnage X amount of insurance per ton elected).

Raisin Crop Insurance Policy

Terms and conditions

Subject to the provisions in the attached appendix:

1. *Cause of loss.* (a) Cause of loss insured against. The insurance provided is against unavoidable loss resulting from rainfall on the raisins while in the vineyards, on trays, or in rolls for drying and occurring within the insurance period subject to any exceptions, exclusions or limitations shown on the actuarial table.

(b) Causes of loss not insured against. The contract shall not cover any loss or damage due to (1) the neglect or malfeasance of the insured, any member of the insured's household, the insured's tenants, or the insured's employees, (2) failure to follow recognized good raisin management practices, taking into consideration the environmental conditions and the respective cultural practices for the area as determined by the Corporation, (3) damage resulting from the backing up of water by any governmental or public utilities dam or reservoir project, or (4) any cause other than rainfall.

2. *Crop and tonnage insured.* (a) The crop insured shall be raisins of the grape varieties for which the actuarial table shows a production guarantee and premium rate per ton, and shall be produced by the insured on the unit: *Provided,* That insurance shall not attach in any crop year to raisins which are first placed on trays after September 20 for those raisins drying in east/west rows, or an earlier date if specified on the actuarial table for those raisins drying in north/south rows, as determined by the Corporation.

(b) The tonnage of raisins insured for each crop year shall be the raisin tonnage in which the insured has a share as reported by the insured or as determined by the Corporation, whichever the Corporation shall elect.

3. *Responsibility of insured to report tray count, tonnage and share.* (a) If there is no damage to the insured crop, the insured shall submit to the Corporation a report of the net tons of all raisins delivered and the insured's share therein as soon as delivery records are available.

(b) In the event of rain damage, the insured shall submit to the Corporation on a form prescribed by the Corporation, a report showing by variety (1) the name of the variety, (2) the location of the vineyard(s), (3) the number of trays upon which the raisins have been placed for drying, and (4) the insured's share.

4. *Amount of insurance.* (a) In a crop year in which there is no damage to the crop, the amount of insurance shall be determined by multiplying the insured tonnage of raisins times the applicable amount of insurance per ton times the insured's share.

(b) In a crop year in which rain damage is reported by the insured, the number of trays upon which raisins have been placed for drying shall be multiplied by the average tray weight, as determined by the Corporation, and such product and actual market records shall be the basis used to determine the insured tonnage. The amount of insurance for any unit in such crop year shall be determined by multiplying such insured tonnage times the applicable amount of insurance per ton times the insured's share.

5. *Annual premium.* (a) The annual premium for each unit is earned and payable at the time insurance attaches and shall be determined by multiplying the insured's tonnage times the applicable premium rate times the insured's share at the time insurance attaches, times the premium adjustment percentage in subsection (c) of this section.

(b) For premium adjustment purposes, only the years during which premiums were earned subsequent to the 1978 crop year shall be considered.

(c) The premium shall be adjusted as shown in the following table:

BILLING CODE 3410-08-M

% ADJUSTMENTS FOR FAVORABLE CONTINUOUS INSURANCE EXPERIENCE:

Loss Ratio 1/ Through Previous Crop Year	Number of Years Continuous Experience Through Previous Year: Percentage Adjustment Factor For Current Crop Year															
	0	1	2	3	4	5	6	7	8	9	10	11	12	13	14	15 or more
.00 - .20	100	95	95	90	90	85	80	75	70	70	65	65	60	60	55	50
.21 - .40	100	100	95	95	90	90	90	85	80	80	75	75	70	70	65	60
.41 - .60	100	100	95	95	95	95	95	90	90	90	85	85	80	80	75	70
.61 - .80	100	100	95	95	95	95	95	95	90	90	90	90	85	85	85	80
.81 - 1.09	100	100	100	100	100	100	100	100	100	100	100	100	100	100	100	100

% ADJUSTMENTS FOR UNFAVORABLE INSURANCE EXPERIENCE:

Loss Ratio 1/ Through Previous Crop Year	Number of Loss Years Through Previous Year*: Percentage Adjustment Factor For Current Crop Year															
	0	1	2	3	4	5	6	7	8	9	10	11	12	13	14	15
1.10 - 1.19	100	100	100	102	104	106	108	110	112	114	116	118	120	122	124	126
1.20 - 1.39	100	100	100	104	108	112	116	120	124	128	132	136	140	144	148	152
1.40 - 1.69	100	100	100	108	116	124	132	140	148	156	164	172	180	188	196	204
1.70 - 1.99	100	100	100	112	122	132	142	152	162	172	182	192	202	212	222	232
2.00 - 2.49	100	100	100	116	128	140	152	164	176	188	200	212	224	236	248	260
2.50 - 3.24	100	100	100	120	134	148	162	176	190	204	218	232	246	260	274	288
3.25 - 3.99	100	100	105	124	140	156	172	188	204	220	236	252	268	284	300	300
4.00 - 4.99	100	100	110	128	146	164	182	200	218	236	254	272	290	300	300	300
5.00 - 5.99	100	100	115	132	152	172	192	212	232	252	272	292	300	300	300	300
6.00 - Up	100	100	120	136	158	180	202	224	246	268	290	300	300	300	300	300

*Only the most recent 15 crop years will be used to determine the number of "Loss Years"
(A crop year is determined to be a "Loss Year" when the amount of indemnity for the year exceeds the premium for the year)

1/ Loss Ratio means the ratio of indemnity(ies) paid to premium(s) earned.

BILLING CODE 3410-08-C

(d) Any amount of premium for an insured crop which is unpaid on the day following the termination date for indebtedness for such crop shall be increased by a 9 percent service fee, which increased amount shall be the premium balance, and thereafter, at the end of each 12-month period, 9 percent simple interest shall attach to any amount of the premium balance which is unpaid: *Provided,* That, when notice of loss has been timely filed by the insured as provided in section 7 of this policy, the service fee will not be charged and the contract will remain in force if the premium is paid in full within 30 days after the date of approval or denial of the claim for indemnity; however, if any premium remains unpaid after such date, the contract will terminate and the amount of premium outstanding shall be increased by a 9 percent service fee, which increased amount shall be the premium balance. If such premium balance is not paid within 12 months immediately following the termination date, 9 percent per annum simple interest shall apply from the termination date to any unpaid premium balance.

(e) Any unpaid amount due the Corporation may be deducted from any indemnity payable to the insured by the Corporation or from any loan or payment to the insured under any Act of Congress or program administered by the U.S. Department of Agriculture, when not prohibited by law.

6. *Insurance period.* For each crop year, insurance attaches at the time the raisins are placed on trays for drying, as provided in section 2 above, and ceases upon the earlier of October 25, or the date the raisins are boxed or removed from the vineyard.

7. *Notice of damage or loss.* Any notice of damage or loss shall be given promptly in writing by the insured to the Corporation at the office for the county after such damage to the raisins from rainfall becomes apparent, giving the date(s) of such damage. If not so reported within 7 days, the Corporation reserves the right to reject any claim resulting from such damage on the unit.

8. *Claim for indemnity.* (a) It shall be a condition precedent to the payment of any indemnity that the insured shall furnish any information required by the Corporation regarding the production, weight and handling of the insured raisins and the manner and extent of loss, and authorize the Corporation in writing to examine and obtain any records pertaining to the production and/or marketing of the insured raisins under this contract from the raisin packer, raisin reconditioner, and/or the Raisin Administrative Committee established under orders issued by the U.S. Department of Agriculture.

(b) Indemnities shall be determined separately for each unit. The amount of indemnity for any unit shall be determined by multiplying the insured tonnage of raisins times the applicable amount of insurance per ton times the insured share in the raisins and subtracting therefrom the insured(s) share in the value, as determined by the Corporation, of the damaged and undamaged raisins produced on the unit: *Provided,* That if the premium computed on the insured tonnage and share is more than the premium on the reported tonnage and share, the amount of indemnity shall be computed on the insured tonnage and share and then reduced proportionately.

(c) Undamaged raisins or raisins damaged solely by uninsured causes shall be valued at the current market value or the amount of insurance, whichever is higher.

(d) Raisins damaged partially by rainfall and partially by uninsured causes shall be valued at the highest prices obtainable, subject to an adjustment for any reduction in value due to uninsured causes.

(e) Raisins damaged by rainfall, but which are reconditioned and can be marketed as undamaged raisins, shall be valued at the current market price or the amount of insurance, whichever is higher, except that an allowance for reconditioning shall be deducted from such value. The maximum allowance for any one reconditioning as a result of rainfall shall be as shown on the county actuarial table, but such reconditioning allowance, or the aggregate thereof, shall not exceed the value of the raisins after reconditioning as determined by the Corporation.

(f) The Corporation shall have the right to require the insurance to recondition a representative sample(s) of not in excess of 10 tons of raisins damaged by rainfall to determine whether or not they may be marketed as undamaged raisins. On the basis of determinations made by the Corporation from such sample(s), the Corporation shall have the right to require the insured to recondition all such raisins or to recondition no more than the representative sample(s). If the reconditioned raisins of the representative sample(s) cannot be marketed as undamaged raisins, the cost of reconditioning such sample(s) shall be deducted from the total value of the raisins for the unit.

(g) In determining the value of raisins produced on the unit, a *minimum* value of $75.00 per ton shall be counted for any raisins not removed from the vineyard as determined by the Corporation. The insured shall be responsible to box and deliver any raisins that can be removed from the vineyard as determined by the Corporation.

(h) Notwithstanding any other provisions hereof, the Corporation shall have the right, unless waived by prior written agreement, to acquire all of the right, title, and share of the insured in any raisins damaged by rainfall. In such event, the raisins shall be valued at "zero" in determining the amount of loss and the Corporation's representative and employees shall have the right of ingress or egress on the insured's farm to the extent necessary to take possession of, care for, and remove such raisins from the farm.

(i) Raisins destroyed without inspection shall be valued at the applicable amount of insurance per ton.

9. *Misrepresentation and fraud.* The Corporation may void the contract without affecting the insured's liability for premiums or waiving any right, including the right to collect any unpaid premiums if, at any time, the insured has concealed or misrepresented any material fact or committed any fraud relating to the contract, and such voidance shall be effective as of the beginning of the crop year with respect to which such act or omission occurred.

10. *Transfer of insured share.* If the insured transfers any part of the insured share during the crop year, protection will continue to be provided according to the provisions of the contract to the transferee for such crop year on the transferred share, and the transferee shall have the same rights and responsibilities under the contract as the original insured for the current crop year. Any transfer shall be made on an approved form.

11. *Records and access to farm.* The insured shall keep or cause to be kept for two years after the time of loss, separate records of the production, storage, shipments, sale or other disposition of all raisins produced on each unit. Any persons designated by the Corporation shall have access to such records and the farm for purposes related to the contract.

12. *Life of contract: Cancellation and termination.* (a) The contract shall be in effect for the first crop year specified on the application and may not be canceled for such crop year. Thereafter, either party may cancel the insurance for any subsequent crop year by giving a signed notice to the other on or before the June 30 immediately preceding such crop year. In the absence of such notice to cancel, and subject to the provisions of subsection (b) of this section and section 7 of the Appendix, the contract shall continue in force for each succeeding crop year.

(b) Except as provided in section 5(d) of this policy, the contract will terminate as to any crop year if any amount due the Corporation under this contract is not paid on or before the July 31 preceding such crop year: *Provided,* That the date of payment for premium, (1) if deducted from an indemnity claim, shall be the date the insured signs such claim or, (2) if deducted from payment under another program administered by the U.S. Department of Agriculture, shall be the date such payment was approved.

13. *Other insurance.* If the insured in any crop year obtains any other insurance on any units(s) against rainfall damage or loss while the raisins are on the trays for drying, this contract shall be voided for the current crop year on such unit(s) if such other insurance is obtained before insurance attaches under this contract.

Appendix

(Additional Terms & Conditions)

1. *Meaning of Terms*

For the purposes of raisin crop insurance:

(a) "Actuarial table" means the forms and related material for the crop year approved by the Corporation which are on file for public inspection in the office for the county, and which show the amounts of insurance per ton, premium rates, varieties, reconditioning allowances, and related information regarding raisin insurance in the county.

(b) "Contiguous land" means land which is touching at any point, except that land which is separated by only a public or private right of way shall be considered contiguous.

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(c) "County" means the county shown on the application and any additional land located in a local producing area bordering on the county, as shown on the actuarial table.

(d) "Crop year" means the calendar year in which the raisins are placed on trays for drying.

(e) "Insured" means the person who submitted the application accepted by the Corporation.

(f) "Office for the county" means the Corporation's office serving the county shown on the application for insurance or such office as may be designated by the Corporation.

(g) "Person" means an individual, partnership, association, corporation, estate, trust, or other business enterprise or legal entity, and wherever applicable, a State, a political subdivision of a State, or any agency thereof.

(h) "Raisin tonnage report" means the form prescribed by the Corporation for annually reporting all of the insured's share and tonnage of raisins in the county.

(i) "Share" means the interest of the insured as landlord, owner-operator, or tenant in the insured raisins as reported by the insured or as determined by the Corporation, whichever the Corporation shall elect, and no other share shall be deemed to be insured: *Provided,* That the share insured shall be the share of the insured at the time damage becomes apparent as reported by the insured or as determined by the Corporation, whichever the Corporation shall elect.

(j) "Tenant" means a person who rents land from another person for a share of the raisin crop or proceeds therefrom.

(k) "Ton" means 2,000 pounds of raisins on the trays. When deemed appropriate, the Corporation may determine raisin tonnage computed on the basis of one ton of raisins insured for every four and a half tons of fresh grapes when first placed on trays for drying.

(l) "Unit" as to each insured variety of grapes means all acreage in the county of that variety located on contiguous land, on the date insurance attaches for the crop year, (1) in which the insured has a 100 percent share; (2) which is owned by one person and operated by the insured as a tenant; or (3) which is owned by the insured and rented to one tenant. Land rented for cash, a fixed commodity payment, or any consideration other than a share in the crop on such land only shall be considered as owned by the lessee. Land which would otherwise be one unit may be divided into two or more units by written agreement between the Corporation and the insured. The Corporation shall determine units as herein defined when adjusting a loss, notwithstanding what is shown on the raisin tonnage report, and has the right to consider any tonnage and share reported by or for the insured's spouse or child or any member of the insured's household to be the bona fide share of the insured or any other person having the bona fide share.

2. *Roisins Insured*

If the insured does not submit a tonnage report on or before the March 31 immediately following the insurance period, the Corporation may elect to determine by units the insured tonnage and share or declare the insured tonnage on any unit(s) to be "zero". If the insured does not have a share in any insured raisins in the county for any year, the insured shall submit a report so indicating. Any tonnage report or tray count report submitted by the insured may be revised only upon approval of the Corporation.

3. *Annual Premium*

(a) If there is no break in the continuity of participation, any premium adjustment applicable under section 5 of the policy shall be transferred to (1) the contract of the insured's estate or surviving spouse in case of death of the insured, (2) the contract of the person who the insured if such person had previously participated in the vineyard operation, or (3) the contract of the same insured who stops operating a vineyard in one county and starts operating a vineyard in another county.

(b) If there is a break in the continuity of participation, any reduction in premium earned under section 5 of the policy shall not thereafter apply; however, any previous unfavorable insurance experience shall be considered in premium computation following a break in continuity.

4. *Claim for and Payment of Indemnity*

(a) Any claim for indemnity on a unit shall be submitted to the Corporation on a form prescribed by the Corporation.

(b) In determining the total production to be counted for each unit, production from units on which the production has been commingled will be allocated to such units in proportion to the liability on each unit.

(c) There shall be no abandonment to the Corporation of any insured raisins.

(d) In the event that any claim for indemnity under the provisions of the contract is denied by the Corporation, an action on such claim may be brought against the Corporation under the provisions of 7 U.S.C. 1508(c): *Provided,* That the same is brought within one year after the date notice of denial of the claim is mailed to and received by the insured.

(e) Any indemnity will be payable within 30 days after a claim for indemnity is approved by the Corporation. However, in no event shall the Corporation be liable for interest or damages in connection with any claim for indemnity whether such claim be approved or disapproved by the Corporation.

(f) If the insured is an individual who dies, disappears, or is judicially declared incompetent, or the insured is an entity other than an individual and such entity is dissolved after insurance attaches for any crop year, any indemnity will be paid to the person(s) the Corporation determines to be beneficially entitled thereto.

(g) The Corporation reserves the right to reject any claim for indemnity if any of the requirements of this section are not met and the Corporation determines that the amount of loss cannot be satisfactorily determined.

5. *Subrogation*

The insured (including any assignee or transferee) assigns to the Corporation all rights of recovery against any person for loss or damage to the extent that payment hereunder is made by the Corporation. The Corporation thereafter shall execute all papers required and take appropriate action as may be necessary to secure such rights.

6. *Termination of the Contract*

(a) The contract shall terminate if no premium is earned for five consecutive years.

(b) If the insured is an individual who dies or is judicially declared incompetent, or the insured entity is other than an individual and such entity is dissolved, the contract shall terminate as of the date of death, judicial declaration, or dissolution; however, if such event occurs after insurance attaches for any crop year, the contract shall continue in force through such crop year and terminate at the end thereof. Death of a partner in a partnership shall dissolve the partnership unless the partnership agreement provides otherwise. If two or more persons having a joint interest are insured jointly, death of one of the persons shall dissolve the joint entity.

7. *Amount of Insurance—Coverage Level and Price Election*

(a) If the insured has not elected on the application an amount of insurance per ton from among those shown on the actuarial table, the amount of insurance per ton which shall be applicable under the contract, and which the insured shall be deemed to have elected, shall be as provided on the actuarial table for such purpose.

(b) The insured may, with the consent of the Corporation, change the amount of insurance per ton for any crop year on or before the closing date for submitting applications for that crop year.

8. *Assignment of Indemnity*

Upon approval of a form prescribed by the Corporation, the insured may assign to another party the right to an indemnity for the crop year and such assignee shall have the right to submit the loss notices and forms as required by the contract.

9. *Contract Changes*

The Corporation reserves the right to change any terms and provisions of the contract from year to year. Any changes shall be mailed to the insured or placed on file and made available for public inspection in the office for the county at least 15 days prior to the cancellation date preceding the crop year for which the changes are to become effective, and such mailing or filing shall constitute notice to the insured. Acceptance of any changes will be conclusively presumed in the absence of any notice from the insured to cancel the contract as provided in section 12 of the policy.

Note.—The reporting requirements contained herein have been approved by the Bureau of the Budget in accordance with the Federal Reports Act of 1942, and OMB Circular No. A-40.

Note.—These regulations have been determined nonsignificant under the USDA criteria implementing Executive Order 12044. A draft impact analysis is available from Peter F. Cole, Secretary, Federal Crop Insurance Corporation, Room 4096, U.S. Department of Agriculture, Washington, D.C. 20250.

Approved by the Board of Directors on April 6, 1979.

Dated: April 30, 1979.

Peter F. Cole,
Secretary, Federal Crop Insurance Corporation.

[FR Doc. 79-14381 Filed 5-8-79; 8:45 am]
BILLING CODE 3410-08-M

[7 CFR Part 417]

Proposed Sugarcane Crop Insurance Regulations

AGENCY: Federal Crop Insurance Corporation, USDA.

ACTION: Proposed rule.

SUMMARY: This proposed rule prescribes procedures for insuring sugarcane crops effective with the 1980 crop year. This rule revises and reissues provisions from previous regulations for insuring sugarcane in a clearer and more simplified document which will make the program more effective administratively. This rule is promulgated under the authority contained in the Federal Crop Insurance Act, as amended.

DATE: Written comments, data, and opinions must be submitted not later than June 8, 1979, to be assured of consideration.

ADDRESS: Written comments on this proposed rule should be sent to James D. Deal, Manager, Federal Crop Insurance Corporation, Room 4096 South Building, U.S. Department of Agriculture, Washington, D.C. 20250.

FOR FURTHER INFORMATION CONTACT: Peter F. Cole, Secretary, Federal Crop Insurance Corporation, U.S. Department of Agriculture, Washington, D.C. 20250, 202-447-3325.

SUPPLEMENTARY INFORMATION: Under the authority contained in the Federal Crop Insurance Act, as amended (7 U.S.C. 1501 *et seq.*), it is proposed that the Sugarcane Crop Insurance Regulations for the 1979 and Succeeding Crop Years as found in 7 CFR Part 417 (43 FR 36423, August 17, 1978) be revised and reissued effective with the 1980 and succeeding crop years. The previous regulations applicable to insuring sugarcane crops as presently found in 7 CFR Part 417 remain in effect for sugarcane insurance policies issued for the crop years prior to 1980.

It has been determined that combining provisions from previous documents and regulations for insurance sugarcane crops into one simplified and clearer regulation would be more effective administratively. In addition, the proposed regulations would: (a) Add a 9 percent service charge to any premium not paid by the termination date for indebtness and thereafter a 9 percent per annum simple interest to any unpaid premium balance, (b) contain a premium adjustment table to provide for maximum premium discounts for good insuring experience up to 50 percent and premium increases for unfavorable insuring experience on an individual contract basis, (c) extend the time period for submitting a notice of damage or loss from 15 days to 30 days, (d) eliminate the 60-day period for filing a claim for loss, and (e) offer three levels of coverage in each county.

The proposed regulations provide a July 31 cancellation date for all counties. These regulations and any amendments thereto, must be placed on file in the Corporation's office for each particular county in which the insurance is available by not later than 15 days prior to July 31.

Executive Order No. 12044 requires that the public be afforded 60 days during which to comment on proposed regulations. However, where an emergency exists, as here, less time for public comment may be allowed. Accordingly, the public shall have 30 days to comment on this proposal because certain sugarcane crops will be planted shortly and the final regulations and policies covering these crops must be published and be available in the FCIC county offices not later than July 15, 1979, to afford the farmers an opportunity to examine them before the cancellation date of July 31, 1979. All written submissions made pursuant to this notice will be available for public inspection at the office of the Manager during regular business hours, 8:15 a.m., to 4:45 p.m., Monday through Friday.

Proposed Rule

Accordingly, pursuant to the authority contained in the Federal Crop Insurance Act, as amended (7 U.S.C. 1501 *et seq.*), the Federal Crop Insurance Corporation proposes to revise 7 CFR Part 417, but these provisions shall remain in effect for FCIC insurance policies issued for crop years prior to 1980. The Corporation also proposes to reissue Part 417 in Chapter IV of Title 7 of the Code of Federal Regulations effective with the 1980 and subsequent crops of sugarcane to read as follows:

PART 417—SUGARCANE CROP INSURANCE

Subpart—Regulations for the 1980 and Succeeding Crop Years

Sec.

417.1 Availability of sugarcane insurance.
417.2 Premium rates, production guarantees, coverage levels, and prices at which indemnities shall be computed.
417.3 Public notice of indemnities paid.
417.4 Creditors.
417.5 Good faith reliance on misrepresentation.
417.6 The contract.
417.7 The application and policy.

Authority: Secs. 506, 516, 52 Stat. 73, as amended, 77, as amended (7 U.S.C. 1506, 1516)

Subpart—Regulations for the 1980 and Succeeding Crop Years

§ 417.1 Availability of sugarcane insurance.

Insurance shall be offered under the provisions of this subpart on sugarcane in counties within limits prescribed by and in accordance with the provisions of the Federal Crop Insurance Act, as amended. The counties shall be designated by the Manager of the Corporation from those approved by the Board of Directors of the Corporation. Before insurance is offered in any county, there shall be published by appendix to this chapter the names of the counties in which sugarcane insurance will be offered.

§ 417.2 Premium rates, production guarantees, coverage levels, and prices at which indemnities shall be computed.

(a) The Manager shall establish premium rates, production guarantees, coverage levels, and prices at which indemnities shall be computed for sugarcane which shall be shown on the county actuarial table on file in the office for the county and may be changed from year to year.

(b) At the time the application for insurance is made, the applicant shall elect a coverage level and price at which indemnities shall be computed from among those levels and prices shown on the actuarial table for the crop year.

§ 417.3 Public notice of indemnities paid.

The Corporation shall provide for posting annually in each county at each county courthouse a listing of the indemnities paid in the county.

§ 417.4 Creditors.

An interest of a person in an insured crop existing by virtue of a lien, mortgage, garnishment, levy, execution, bankruptcy, or an involuntary transfer shall not entitle the holder of the interest to any benefit under the insurance contract except as provided in the policy.

§ 417.5 Good faith reliance on misrepresentation.

Notwithstanding any other provision of the sugarcane insurance contract, whenever (a) an insured person under a contract of crop insurance entered into under these regulations, as a result of a misrepresentation or other erroneous action or advice by an agent or employee of the Corporation, (1) is indebted to the Corporation for additional premiums, or (2) has suffered a loss to a crop which is not insured, or for which the insured person is not entitled to an indemnity because of failure to comply with the terms of the insurance contract, but which the insured person believed to be insured, or believed the terms of the insurance contract to have been complied with or waived, and (b) the Board of Directors of the Corporation, or the Manager in cases involving not more than $20,000, finds (1) that an agent or employee of the Corporation did in fact make such misrepresentation or take other erroneous action or give erroneous advice, (2) that said insured person relied thereon in good faith, and (3) that to require the payment of the additional premiums or to deny such insured's entitlement to the indemnity would not be fair and equitable, such insured person shall be granted relief the same as if otherwise entitled thereto.

§ 417.6 The contract.

(a) The insurance contract shall become effective upon the acceptance by the Corporation of a duly executed application for insurance on a form prescribed by the Corporation. Such acceptance shall be effective upon the date the notice of acceptance is mailed to the applicant. The contract shall cover the sugarcane crop as provided in the policy. The contract shall consist of the application, the policy, the attached appendix, and the provisions of the county actuarial table showing the production guarantees, coverage levels, premium rates, prices for computing indemnities, insurable and uninsurable acreage, and applicable dates when necessary. Any changes made in the contract shall not affect its continuity from year to year. Copies of forms referred to in the contract are available at the office for the county.

§ 417.7 The application and policy.

(a) Application for insurance on a form prescribed by the Corporation may be made by any person to cover such person's insurable share in the sugarcane crop as landlord, owner-operator, or tenant. The applicaton shall be submitted to the Corporation at the office for the county on or before the applicable closing date on file in the office for the county.

(b) The Corporation reserves the right to discontinue the acceptance of applications in any county upon its determination that the insurance risk involved is excessive, and also, for the same reason, to reject any individual application. The Manager of the Corporation is authorized in any crop year to extend the closing date for submitting applications or contract changes in any county, by placing the extended date on file in the office for the county and publishing a notice in the **Federal Register** upon the Manager's determination that no adverse selectivity will result during the period of such extension: *Provided, however,* That if adverse conditions should develop during such period, the Corporation will immediately discontinue the acceptance of applications.

(c) In accordance with the provisions governing changes in the contract contained in policies issued under FCIC regulations for 1969 and succeeding crop years, a contract in the form provided for under this subpart, as a continuation of a sugarcane contract issued under such prior regulations, shall come into effect without the filing of a new application.

(d) The provisions of the application and Sugarcane Insurance Policy for the 1980 and succeeding crop years, and the Appendix to the Sugarcane Insurance Policy are as follows:

United States Department of Agriculture

Federal Crop Insurance Corporation

Application for 19—— and Succeeding Crop Years

Sugarcane Crop Insurance Contract

Contract No.

Identification No. _____
Name and address _____
Zip Code _____
County _____
State _____
Type of entity _____
Applicant is over 18— Yes☐ No☐

A. The applicant, subject to the provisions of the regulations of the Federal Crop Insurance Corporation (herein called "Corporation"), hereby applies to the Corporation for insurance on the applicant's share in the sugarcane grown on insurable acreage as shown on the county actuarial table for the above-stated county. The applicant elects from the actuarial table the coverage level and price at which indemnities shall be computed. The premium rates and production guarantees shall be those shown on the applicable county actuarial table filed in the office for the county for each crop year.
Level election _____
Price election _____
Example: For the 19—— Crop year only (100% share)
Location/farm No. _____
Guarantee per acre* _____
Premium per acre _____
Practice _____

B. When notice of acceptance of this application is mailed to the applicant by the corporation, the contract shall be in effect for the first crop year specified above, unless the time for submitting applications has passed at the time this application is filed, and shall continue for each succeeding crop year until cancelled or terminated as provided in the contract. This accepted application, the following sugarcane insurance policy, the attached appendix, and the provisions of the county actuarial table showing the production guarantees, coverage levels, premium rates, prices for computing indemnities, insurable and uninsurable acreage, and applicable dates, shall constitute the contract. Additional information regarding contract provisions can be found in the county regulations folder on file in the office for the county. No term or condition of the contract shall be waived or changed except in writing by the Corporation.
(Code No./witness to signature) _____
Signature of applicant _____
(Date) _____
Address of office for county: _____

_____
Phone _____
Location of farm headquarters: _____

_____
Phone _____

Sugarcane Crop Insurance Policy

Terms and conditions

Subject to the provisions in the attached appendix:

1. *Causes of loss.* (a) Causes of loss insured against. The insurance provided is against unavoidable loss of production resulting from adverse weather conditions, insects, plant disease, wildlife, earthquake or fire occurring within the insurance period, subject to any exceptions, exclusions or limitations with respect to causes of loss shown on the actuarial table.

(b) Causes of loss not insured against. The contract shall not cover any loss of production due to (1) the neglect or malfeasance of the insured, any member of the insured's household, the insured's tenants, or the insured's employees, (2) failure to follow recognized good farming practices, (3) damage resulting from the backing up of water by any governmental or public utilities dam or reservoir project, or (4) any cause not specified as an insured cause in this policy as limited by the actuarial table.

2. *Crop and acreage insured.* (a) The crop insured shall be sugarcane grown for processing for sugar and for which the actuarial table shows a guarantee and premium rate per acre, and which is grown on insured acreage.

(b) The acreage insured for sugarcane for each crop year shall be that acreage in the county in which the insured has a share, of

*Your guarantee will be based on the unit (acres X per acre guarantee).

plant and *stubble* cane on insurable acreage as shown on the actuarial table and as reported by the insured or as determined by the Corporation, whichever the Corporation shall elect: *Provided,* That insurance shall not attach or be considered to have attached as determined by the Corporation to any acreage of sugarcane (1) planted with another crop, (2) cut for seed, (3) where premium rates are established by farming practices on the actuarial table, and the farming practices carried out on any acreage are not among those for which a premium rate has been established, (4) which is destroyed and after such destruction it was practical to replant to sugarcane and such acreage was not replanted, (5) initially planted after the date established by the Corporation and such date placed on file for public inspection by the insureds in the office for the county, as being too late to initially plant and expect a normal crop to be produced, or (6) planted to a type or variety of sugarcane not established as adapted to the area or shown as noninsurable on the actuarial table.

(c) Insurance may attach only by written agreement with the Corporation on sugarcane which is planted for the development or production of hybrid sugarcane or for experimental purposes.

3. *Responsibility of insured to report acreage and share.* The insured shall submit to the Corporation on a form prescribed by the Corporation, a report showing (1) all acreage of sugarcane in the county (including a designation of any acreage to which insurance does not attach) in which the insured has a share and (2) the insured's share therein at the time insurance attaches. Such report shall be submitted each year not later than May 31.

4. *Production guarantees, coverage levels, and prices for computing indemnities.* (a) For each crop year of the contract, the production guarantees, coverage levels, and prices at which indemnities shall be computed shall be those shown on the actuarial table.

(b) The production guarantee per acre shall be reduced 20 percent for any unharvested acreage.

5. *Annual premium.* (a) The annual premium is earned and payable at the time insurance attaches and the amount thereof shall be determined by multiplying the insured acreage times the applicable premium per acre, times the insured's share at the time insurance attaches, times the premium adjustment percentage in subsection (c) of this section.

(b) For premium adjustment purposes, only the years during which premiums were earned shall be considered.

(c) The premium shall be adjusted as shown in the following table:

BILLING CODE 3410-06-M

% ADJUSTMENTS FOR FAVORABLE CONTINUOUS INSURANCE EXPERIENCE:

Loss Ratio 1/ Through Previous Crop Year	Number of Years Continuous Experience Through Previous Year: 0	1	2	3	4	5	6	7	8	9	10	11	12	13	14	15 or more
	Percentage Adjustment Factor For Current Crop Year															
.00 - .20	100	95	95	90	90	85	80	75	70	70	65	65	60	60	55	50
.21 - .40	100	100	95	95	90	90	90	85	80	80	75	75	70	70	65	60
.41 - .60	100	100	95	95	95	95	95	90	90	90	85	85	80	80	75	70
.61 - .80	100	100	95	95	95	95	95	95	90	90	90	90	85	85	85	80
.81 - 1.09	100	100	100	100	100	100	100	100	100	100	100	100	100	100	100	100

% ADJUSTMENTS FOR UNFAVORABLE INSURANCE EXPERIENCE:

Loss Ratio 1/ Through Previous Crop Year	Number of Loss Years Through Previous Year*: 0	1	2	3	4	5	6	7	8	9	10	11	12	13	14	15
	Percentage Adjustment Factor For Current Crop Year															
1.10 - 1.19	100	100	100	102	104	106	108	110	112	114	116	118	120	122	124	126
1.20 - 1.39	100	100	100	104	108	112	116	120	124	128	132	136	140	144	148	152
1.40 - 1.69	100	100	100	108	116	124	132	140	148	156	164	172	180	188	196	204
1.70 - 1.99	100	100	100	112	122	132	142	152	162	172	182	192	202	212	222	232
2.00 - 2.49	100	100	100	116	128	140	152	164	176	188	200	212	224	236	248	260
2.50 - 3.24	100	100	100	120	134	148	162	176	190	204	218	232	246	260	274	288
3.25 - 3.99	100	100	105	124	140	156	172	188	204	220	236	252	268	284	300	300
4.00 - 4.99	100	100	110	128	146	164	182	200	218	236	254	272	290	300	300	300
5.00 - 5.99	100	100	115	132	152	172	192	212	232	252	272	292	300	300	300	300
6.00 - Up	100	100	120	136	158	180	202	224	246	268	290	300	300	300	300	300

*Only the most recent 15 crop years will be used to determine the number of "Loss Years"
(A crop year is determined to be a "Loss Year" when the amount of indemnity for the year exceeds the premium for the year)

1/ Loss Ratio means the ratio of indemnity(ies) paid to premium(s) earned.

(d) Any amount of premium for an insured crop which is unpaid on the day following the termination date for indebtedness for such crop shall be increased by a 9 percent service fee, which increased amount shall be the premium balance, and thereafter, at the end of each 12-month period, 9 percent simple interest shall attach to any amount of the premium balance which is unpaid: *Provided,* When notice of loss has been timely filed by the insured as provided in section 7 of this policy, the service fee will not be charged and the contract will remain in force if the premium is paid in full within 30 days after the date of approval or denial of the claim for indemnity; however, if any premium remains unpaid after such date, the contract will terminate and the amount of premium outstanding shall be increased by a 9 percent service fee, which increased amount shall be the premium balance. If such premium balance is not paid within 12 months immediately following the termination date, 9 percent per annum simple interest shall apply from the termination date to any unpaid premium balance.

(e) Any unpaid amount due the Corporation may be deducted from any indemnity payable to the insured by the Corporation or from any loan or payment to the insured under any Act of Congress or program administered by the U.S. Department of Agriculture, when not prohibited by law.

6. *Insurance period.* insurance on insured acreage of *plant* cane shall attach at the time of planting and insurance for *stubble* cane shall attach on the later of the April 15 following normal harvest or 30 days after harvest. The insurance period shall cease upon the earliest of (a) final adjustment of a loss, (b) harvest, (c) total destruction of the insured sugarcane crop, or (d) the following applicable date of the calendar year immediately following the normal commencing of harvest in the county:

Louisiana—January 31.

All other States—April 30.

7. *Notice of damage or loss.* (a) Any notice of damage or loss shall be given promptly in writing by the insured to the Corporation at the office for the county.

(b) Notice shall be given promptly if, during the period before harvest, the sugarcane on any unit is damaged to the extent that the insured does not expect to further care for the crop or harvest any part of it, or if the insured wants the consent of the Corporation to put the acreage to another use. No insured acreage shall be put to another use until the Corporation has made an appraisal of the potential production of such acreage and consents in writing to such other use. Such consent shall not be given for *plant* cane until it is too late or impractical to replant to sugarcane. Notice shall also be given when such acreage has been put to another use.

(c) In addition to the notices required in subsection (b) of this section, if a loss is to be claimed on any unit, the insured shall give written notice thereof to the Corporation at the office for the county not later than *30 Days* after the earliest of (1) the date harvest is completed on the unit, (2) the calendar date for the end of the insurance period, or (3) the date the entire sugarcane crop on the unit is destroyed, as determined by the Corporation. The Corporation reserves the right to provide additional time if it determines there are extenuating circumstances.

(d) If a loss is to be claimed on any unit, the stalks on unharvested acreage and the stubble remaining on harvested acreage shall be left intact until inspected by the Corporation.

(e) The Corporation may reject any claim for indemnity if any of the requirements of this section are not met.

8. *Claim for indemnity.* (a) It shall be a condition precedent to the payment of any indemnity that the insured (1) establish the total production of sugarcane on the unit and that any loss of production was directly caused by one or more of the insured causes during the insurance period for the crop year for which the indemnity is claimed and (2) furnish any other information regarding the manner and extent of loss as may be required by the Corporation.

(b) Indemnities shall be determined separately for each unit. The amount of indemnity for any unit shall be determined by (1) multiplying the insured acreage of sugarcane on the unit by the applicable production guarantee per acre, which product shall be the production guarantee for the unit, (2) subtracting therefrom the total production of sugarcane to be counted for the unit, (3) multiplying the remainder by the applicable price for computing indemnities, and (4) multiplying the result obtained in step (3) by the insured share: *Provided,* That if the premium computed on the insured acreage and share is more than the premium computed on the reported acreage and share, the amount of indemnity shall be computed on the insured acreage and share and then reduced proportionately.

(c) The total production to be counted for a unit shall be determined by the Corporation and shall include all harvested and appraised production from acreage reported for harvest as sugarcane.

(1) The production to be counted for a unit of any sugarcane damaged by freeze occuring within the insurance period to the extent that processing of such cane adversely affects boiling house operations, as determined by the Corporation, shall be adjusted by the factor obtained by dividing the value of such damaged sugarcane by the value of undamaged standard sugarcane, as determined by the Corporation.

(2) Appraised production to be counted for a unit shall include: (i) Any appraisal on *stubble* acreage with insufficient stand at the time of inspection as provided in subsection (d) of this section, (ii) the greater of the appraised production or 50 percent of the applicable guarantee for any acreage which, with the consent of the Corporation, is planted before sugarcane harvest becomes general in the current crop year to any other crop insurable on such acreage (excluding small grains maturing for harvest in the following calendar year), (iii) any appraisal by the Corporation for potential production on harvested acreage and for uninsured causes and poor farming practices, (iv) not less than the applicable guarantee for any acreage which is abandoned or put to another use without prior written consent of the Corporation or damaged solely by an uninsured cause, and (v) only the appraisal in excess of 20 percent of the production guarantee for all other unharvested acreage. Any appraisals made by the Corporation and any harvested production not processed for sugar shall be in net tons and considered as standard sugarcane.

(d) An appraisal for inadequate stand shall be made on any *stubble* acreage of sugarcane when the stand at the time of inspection is less than 1,000 plants for each ton of harvested guarantee. The per acre appraisal shall be the number of tons by which the harvested guarantee per acre exceeds the number of tons determined by converting the plant population per acre to tons at the rate of 1,000 plants per ton.

(3) The appraised potential production for acreage for which consent has been given to be put to another use shall be counted as production in determining the amount of loss under the contract. However, if consent is given to put acreage to another use and the Corporation determines that any such acreage (1) is not put to another use before harvest of sugarcane becomes general in the county, (2) is harvested, or (3) is further damaged by an insured cause before the acreage is put to another use, the indemnity for the unit shall be determined without regard to such appraisal and consent.

9. *Misrepresentation and fraud.* The Corporation may void the contract without affecting the insured's liability for premiums or waiving any right, including the right to collect any unpaid premiums if, at any time, the insured has concealed or misrepresented any material fact or committed any fraud relating to the contract, and such voidance shall be effective as of the beginning of the crop year with respect to which such act or omission occurred.

10. *Transfer of insured share.* If the insured transfers any part of the insured share during the crop year, protection will continue to be provided according to the provisions of the contract to the transferee for such crop year on the transferred share, and the transferee shall have the same rights and responsibilities under the contract as the original insured for the current crop year. Any transfer shall be made on an approved form.

11. *Records and access to farm.* The insured shall keep or cause to be kept for two years after the time of loss, records of the harvesting, storage, shipments, sale or other disposition of all sugarcane produced on each unit including separate records showing the same information for production from any uninsured acreage. Any persons designated by the Corporation shall have access to such records and the farm for purposes related to the contract.

12. *Life of contract: Cancellation and termination.* (a) The contract shall be in effect for the first crop year specified on the application and may not be cancelled for such crop year. Thereafter, either party may cancel insurance for any subsequent crop year by giving a signed notice to the other on

insured shall report as irrigated only the

the Corporation determines that the amount

USDA criteria implementing Executive Order

It has been determined that combining

or before the cancellation date preceding such crop year.

(b) Except as provided in section 5(d) of this policy, the contract will terminate as to any crop year if any amount due the Corporation under this contract is not paid on or before the termination date for indebtedness preceding such crop year: *Provided,* That the date of payment for premium (1), if deducted from an indemnity claim shall be the date the insured signs such claim or (2), if deducted from payment under another program administered by the U.S. Department of Agriculture, shall be the date such payment was approved.

(c) For each crop year of the contract, the cancellation date shall be the July 31 preceding the beginning of the crop year. The termination date for indebtedness shall be the August 31 of the next succeeding calendar year.

(d) In the absence of a notice from the insured to cancel, and subject to the provisions of subsections (a), (b), and (c) of this section and section 7 of the Appendix, the contract shall continue in force for each succeeding crop year.

Appendix

(Additional Terms and Conditions)

1. *Meaning of Terms*

For the purposes of sugarcane crop insurance:

(a) "Actuarial table" means the forms and related material for the crop year approved by the Corporation which are on file for public inspection in the office for the county, and which show the production guarantees, coverage levels, premium rates, prices for computing indemnities, insurable and uninsurable acreage, and related information regarding sugarcane insurance in the county.

(b) "County" means the county shown on the application and any additional land located in a local producing area bordering on the county, as shown on the actuarial table.

(c) "Crop year" means the period from planting for *plant* cane and from the later of April 15 or 30 days after harvest for *stubble* cane, until the end of the insurance period for the applicable crop year. It shall be designated by the calendar year in which harvest normally begins in the county.

(d) "Harvest" means cutting and removing the sugarcane from the field.

(e) "Insurable acreage" means the land classified as insurable by the Corporation and shown as such on the county actuarial table.

(f) "Insured" means the person who submitted the application accepted by the Corporation.

(g) "Office of the county" means the Corporation's office serving the county shown on the application for insurance or such office as may be designated by the Corporation.

(h) "Person" means an individual, partnership, association, corporation, estate, trust, or other business enterprise or legal entity, and wherever applicable, a State, a political subdivision of a State, or any agency thereof.

(i) "Share" means the interest of the insured as landlord, owner-operator, or tenant in the insured sugarcane crop at the time insurance attaches as reported by the insured or as determined by the Corporation, whichever the Corporation shall elect, and no other share shall be deemed to be insured: *Provided,* That for the purpose of determining the amount of indemnity, the insured share shall not exceed the insured's share at the earliest of (1) the date of beginning of harvest on the unit, (2) the calendar date for the end of the insurance period, or (3) the date the entire crop on the unit is destroyed, as determined by the Corporation.

(j) "Sugarcane" means either (1) sugarcane the initial year planted (herein called "plant" cane) or (2) sugarcane which has previously been harvested and the stubble from the stalks left for the purpose of producing another crop (herein called "stubble" cane).

(k) "Standard sugarcane" means net sugarcane containing the percent sucrose in the normal juice or in the cane and, where applicable, the purity factor as shown on the actuarial table.

(l) "Tenant" means a person who rents land from another person for a share of the sugarcane crop or proceeds therefrom.

(m) "Unit" means all insurable acreage of sugarcane in the county on the date insurance attaches for the crop year (1) in which the insured has a 100 percent share, or (2) which is owned by one entity and operated by another entity on a share basis. Land rented for cash, a fixed commodity payment, or any consideration other than a share in the sugarcane crop on such land shall be considered as owned by the lessee. Land which would otherwise be one unit may be divided into two or more units according to applicable guidelines on file in the office for the county or by written agreement between the Corporation and the insured. The Corporation shall determine units as herein defined when adjusting a loss, notwithstanding what is shown on the acreage report, and has the right to consider any acreage and share reported by or for the insured's spouse or child or any member of the insured's household to be the bona fide share of the insured or any other person having the bona fide share.

2. *Acreage Insured*

(a) The Corporation reserves the right to limit the insured acreage of sugarcane to any acreage limitations established under any Act of Congress: *Provided,* The insured is so notified in writing prior to the time insurance attaches on the sugarcane.

(b) If the insured does not submit an acreage report on or before May 31, the Corporation may elect to determine by units the insured acreage and share or declare the insured acreage on any unit(s) to be "zero". If the insured does not have a share in any insured acreage in the county for any year, the insured shall submit a report so indicating. Any acreage report submitted by the insured may be revised only upon approval by the Corporation.

3. *Irrigated Acreage*

(a) Where the actuarial table provides for insurance on an irrigated practice, the insured shall report as irrigated only the acreage for which the insured has adequate facilities and water to carry out a good irrigation practice at the time of seeding.

(b) Where irrigated acreage is insurable, any loss of production caused by failure to carry out a good irrigation practice, except failure of the water supply from an unavoidable cause occurring after the beginning of seeding as determined by the Corporation, shall be considered as due to an uninsured cause. The failure or breakdown of irrigation equipment or facilities shall not be considered as a failure of the water supply from an unavoidable cause.

4. *Annual Premium*

(a) If there is no break in the continuity of participation, any premium adjustment applicable under section 5 of the policy shall be transferred to (1) the contract of the insured's estate or surviving spouse in case of death of the insured, (2) the contract of the person who succeeds the insured if such person had previously participated in the farming operation, or (3) the contract of the same insured who stops farming in one county and starts farming in another county.

(b) If there is a break in the continuity of participation, any reduction in premium earned under section 5 of the policy shall not thereafter apply; however, any previous unfavorable insurance experience shall be considered in premium computation following a break in continuity.

5. *Claim for and Payment of Indemnity*

(a) Any claim for indemnity on a unit shall be submitted to the Corporation on a form prescribed by the Corporation.

(b) In determining the total production to be counted for each unit, production from units on which the production has been commingled will be allocated to such units in proportion to the liability on each unit.

(c) There shall be no abandonment to the Corporation of any insured sugarcane acreage.

(d) In the event that any claim for indemnity under the provisions of the contract is denied by the Corporation, an action on such claim may be brought against the Corporation under the provisions of 7 U.S.C. 1508(c): *Provided,* That, the same is brought within one year after the date notice of denial of the claim is mailed to and received by the insured.

(e) Any indemnity will be payable within 30 days after a claim for indemnity is approved by the Corporation. However, in no event shall the Corporation be liable for interest or damages in connection with any claim for indemnity whether such claim be approved or disapproved by the Corporation.

(f) If the insured is an individual who dies, disappears, or is judicially declared incompetent, or the insured is an entity other than an individual and such entity is dissolved after the sugarcane is planted for any crop year, any indemnity will be paid to the person(s) the Corporation determines to be beneficially entitled thereto.

(g) The Corporation reserves the right to reject any claim for indemnity if any of the requirements of this section are not met and

the Corporation determines that the amount of loss cannot be satisfactorily determined.

6. *Subrogation*

The insured (including any assignee or transferee) assigns to the Corporation all rights of recovery against any person for loss or damage to the extent that payment hereunder is made by the Corporation. The Corporation thereafter shall execute all papers required and take appropriate action as may be necessary to secure such rights.

7. *Termination of the Contract*

(a) The contract shall terminate if no premium is earned for five consecutive years.

(b) If the insured is an individual who dies or is judicially declared incompetent, or the insured entity is other than an individual and such entity is dissolved, the contract shall terminate as of the date of death, judicial declaration, or dissolution; however, if such event occurs after insurance attaches for any crop year, the contract shall continue in force through such crop year and terminate at the end thereof. Death of a partner in a partnership shall dissolve the partnership unless the partnership agreement provides otherwise. If two or more persons having a joint interest are insured jointly, death of one of the persons shall dissolve the joint entity.

8. *Coverage Level and Price Election*

(a) If the insured has not elected on the application a coverage level and price at which indemnities shall be computed from among those shown on the actuarial table, the coverage level and price election which shall be applicable under the contract, and which the insured shall be deemed to have elected, shall be as provided on the actuarial table for such purposes.

(b) The insured may, with the consent of the Corporation, change the coverage level and/or price election for any crop year on or before the closing date for submitting applications for that crop year.

9. *Assignment of Indemnity*

Upon approval of a form prescribed by the Corporation, the insured may assign to another party the right to an indemnity for the crop year and such assignee shall have the right to submit the loss notices and forms as required by the contract.

10. *Contract Changes*

The Corporation reserves the right to change any terms and provisions of the contract from year to year. Any changes shall by mailed to the insured or placed on file and made available for public inspection in the office for the county at least 15 days prior to the cancellation date preceding the crop year for which the changes are to become effective, and such mailing or filing shall constitute notice to the insured. Acceptance of any changes will be conclusively presumed in the absence of any notice from the insured to cancel the contract as provided in section 12 of the policy.

Note.—The reporting requirements contained herein have been approved by the Bureau of the Budget in accordance with the Federal Reports Act of 1942, and OMB Circular No. A–40.

Note.—These proposed regulations have been determined non-significant under the USDA criteria implementing Executive Order No. 12044. A draft impact analysis is available from Peter F. Cole, Secretary, Federal Crop Insurance Corporation, Room 4096, U.S. Department of Agriculture, Washington, D.C. 20250.

Approved by the Board of Directors on April 6, 1979.

Peter F. Cole,
Secretary,
Federal Crop Insurance Corporation.
[FR Doc. 79-14099 Filed 5-8-79; 8:45 am]
BILLING CODE [illegible]

[7 CFR Part 430]

Proposed Sugar Beet Crop Insurance Regulations

AGENCY: Federal Crop Insurance Corporation, USDA.

ACTION: Proposed rule.

SUMMARY: The proposed rule prescribes procedures for insuring sugar beet crops effective with the 1980 crop year. The rule combines provisions from previous regulations for insuring sugar beets into a shorter, clearer and more simplified document which will make the program more effective administratively. This rule is promulgated under the authority contained in the Federal Crop Insurance Act, as amended.

DATE: Written comments, data, and opinions must be submitted not later than June 8, 1979, to be assured of consideration.

ADDRESS: Written comments on this proposed rule should be sent to James D. Deal, Manager, Federal Crop Insurance Corporation, Room 4096 South Building, U.S. Department of Agriculture, Washington, D.C. 20250.

FOR FURTHER INFORMATION CONTACT: Peter F. Cole, Secretary, Federal Crop Insurance Corporation, U.S. Department of Agriculture, Washington, D.C. 20250, 202–447–3325.

SUPPLEMENTARY INFORMATION: Under the authority contained in the Federal Crop Insurance Act, as amended (7 U.S.C. 1501 *et seq.*), it is proposed that there be hereby established a new Part 430 of Chapter IV in Title 7 of the Code of Federal Regulations to be known as 7 CFR Part 430, Sugar Beet Crop Insurance. This part prescribes procedures for insuring sugar beet crops effective with the 1980 crop year.

All previous regulations applicable to insuring sugar beet crops as found in 7 CFR 401.101–401.111, 401.140, and 401.149 will not be applicable to 1980 and succeeding sugar beet crops but will remain in effect for FCIC sugar beet insurance policies issued for the crop years prior to 1980.

It has been determined that combining all previous regulations for insuring sugar beet crops into one shortened, simplified, and clearer regulation would be more effective administratively. In addition, the proposed Part 430 would contain a premium adjustment table to provide maximum individual premium discounts for good insuring experience of up to 50 percent and premium increases for unfavorable insuring experience. The good experience discounts provided under the previous sugar beet crop insurance policies have been discontinued; however, the proposed premium adjustment table will result in more premium discounts for good experience than were formerly provided under the good experience discounts in the previous policy. Further, the proposed Part 430 would (1) provide that any premium balance not paid by the termination date will be increased by a 9 percent service fee with a 9 percent per annum simple interest charge applying to any unpaid premium balance at the end of each subsequent 12-month period, (2) extend the 15-day period for submitting a notice of damage or loss to 30 days and eliminate the 60-day period for filing a claim for loss, (3) provide 3 levels of insurance coverage on each sugar beet crop in each county, and (4) increase the limitation from $5,000 to $20,000 in those cases involving good faith reliance on misrepresentation (as found in 7 CFR Part 430.5 of the proposed regulations) wherein the Manager of the Corporation is authorized to take action to grant relief.

The proposed Sugar Beet Crop Insurance Regulations provide a July 15 cancellation date for other Arizona and California, and December 31 for all other States. These regulations and any amendments there to, will be placed on file in the Corporation's office for each particular county in which the insurance is available not later than 15 days prior to the applicable cancellation date.

Executive Order No. 12044 required that the public be afforded 60 days during which to comment on proposed regulations. However, where an emergency exists, as here, less time for public comment may be allowed. Accordingly, the public shall have 30 days to comment on this proposal because certain sugar beet crops will be planted shortly and the final regulations and policies covering these crops must be published and be available in the FCIC county offices not later than June 30, 1979, to afford the farmers an opportunity to examine them before the cancellation date of July 15, 1979.

All written submissions made pursuant to this notice will be available

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for public inspection at the Office of the Manager during regular business hours, 8:15 a.m. to 4:45 p.m., Monday through Friday.

Proposed Rule

Accordingly, pursuant to the authority contained in the Federal Crop Insurance Act, as amended (7 U.S.C. 1501 *et seq.*), the Federal Crop Insurance Corporation proposes to delete and reserve 7 CFR 401.140 and 401.149, but these provisions shall remain in effect for FCIC insurance policies issued for crop years prior to 1980. The Corporation also proposes to issue a new Part 430 in Chapter IV of Title 7 of the Code of Federal Regulations effective with the 1980 and subsequent crops of sugar beet to read as follows:

PART 430—SUGAR BEET CROP INSURANCE

Subpart—Regulations for the 1980 and Succeeding Crop Years

Sec.

430.1 Availability of sugar beet insurance.
430.2 Premium rates, production guarantees, coverage levels, and prices at which indemnities shall be computed.
430.3 Public notice of indemnities paid.
430.4 Creditors.
430.5 Good faith reliance on misrepresentation.
430.6 The contract.
430.7 The application and policy.

Authority: Secs. 506, 516, 52 Stat. 73, 77, as amended (7 U.S.C. 1506, 1516).

Subpart—Regulations for the 1980 and Succeeding Crop Years

§ 430.1 Availability of sugar beet insurance.

Insurance shall be offered under the provisions of this subpart on sugar beets in counties within limits prescribed by and in accordance with the provisions of the Federal Crop Insurance Act, as amended. The counties shall be designated by the Manager of the Corporation from those approved by the Board of Directors of the Corporation. Before insurance is offered in any county, there shall be published by appendix to this chapter the names of the counties in which sugar beet insurance will be offered.

§ 430.2 Premium rates, production guarantees, coverage levels, and prices at which indemnities shall be computed.

(a) The Manager shall establish premium rates, production guarantees, coverage levels, and prices at which indemnities shall be computed for sugar beets which shall be shown on the county actuarial table on file in the office for the county and may be changed from year to year.

(b) At the time the application for insurance is made, the applicant shall elect a coverage level and price at which indemnities shall be computed from among those levels and prices shown on the actuarial table for the crop year.

§ 430.3 Public notice of indemnities paid.

The Corporation shall provide for posting annually in each county at each county courthouse a listing of the indemnities paid in the county.

§ 430.4 Creditors.

An interest of a person in an insured crop existing by virtue of a lien, mortgage, garnishment, levy, execution, bankruptcy, or an involuntary transfer shall not entitle the holder of the interest to any benefit under the insurance contract except as provided in the policy.

§ 430.5 Good faith reliance on misrepresentation.

Notwithstanding any other provision of the sugar beet insurance contract, whenever (a) an insured person under a contract of crop insurance entered into under these regulations, as a result of a misrepresentation or other erroneous actioh or advice by an agent or employee of the Corporation, (1) is indebted to the Corporation for additional premiums, or (2) has suffered a loss to a crop which is not insured or for which the insured person is not entitled to an indemnity because of failure to comply with the terms of the insurance contract, but which the insured person believed to be insured, or believed the terms of the insurance contract to have been complied with or waived, and (b) the Board of Directors of the Corporation, or the Manager in cases involving not more than $20,000, finds (1) that an agent or employee of the Corporation did in fact make such misrepresentation or take other erroneous action or give erroneous advice, (2) that said insured person relied thereon in good faith, and (3) that to require the payment of the additional premiums or to deny such insured's entitlement to the indemnity would not be fair and equitable, such insured person shall be granted relief the same as if otherwise entitled thereto.

§ 430.6 The contract.

(a) The insurance contract shall become effective upon the acceptance by the Corporation of a duly executed application for insurance on a form prescribed by the Corporation. Such acceptance shall be effective upon the date the notice of acceptance is mailed to the applicant. The contract shall cover the sugar beet crop as provided in the policy. The contract shall consist of the application, the policy, the attached appendix, and the provisions of the county actuarial table showing the production guarantees, coverage levels, premium rates, prices for computing indemnities, insurable and uninsurable acreage, and applicable dates when necessary. Any changes made in the contract shall not affect its continuity from year to year. Copies of forms referred to in the contract are available at the office for the county.

§ 430.7 The application and policy.

(a) Application for insurance on a form prescribed by the Corporation may be made by any person to cover such person's insurable share in the sugar beet crop as landlord, owner-operator, or tenant. The application shall be submitted to the Corporation at the office for the county and, where applicable, on or before the closing date on file in the office for the county.

(b) The Corporation reserves the right to discontinue the acceptance of applications in any county upon its determination that the insurance risk involved is excessive, and also, for the same reason, to reject any individual application. The Manager of the Corporation is authorized in any crop year to extend the closing date for acceptance of applications or contract changes in any county, by placing the extended date on file in the office for the county and publishing a notice in the **Federal Register** upon the manager's determination that no adverse selectivity will result during the period of such extension: *Provided, however,* That if adverse conditions should develop during such period, the Corporation will immediately discontinue the acceptance of applications.

(c) In accordance with the provisions governing changes in the contract contained in policies issued under FCIC regulations for 1969 and succeeding crop years, a contract in the form provided for under this subpart, as a continuation of a sugar beet contract issued under such prior regulations, shall come into effect without the filing of a new application.

(d) The provisions of the application and Sugar Beet Insurance Policy for the 1980 and succeeding crop years, and the appendix to the Policy are as follows:

United States Department of Agriculture

Federal Crop Insurance Corporation

Application for 19—— and Succeeding Crop Years

Sugar Beet Crop Insurance Contract

Contract No. _____
Identification No. _____
Name and address _____
Zip Code _____
County _____
State _____
Type of entity _____
Applicant is over 18—Yes ☐ No ☐

A. The applicant, subject to the provisions of the regulations of the Federal Crop Insurance Corporation (herein called "Corporation"), hereby applies to the Corporation for insurance on the applicant's share in the sugar beets planted on insurable acreage as shown on the county actuarial table for the above-stated county. The applicant elects from the actuarial table the coverage level and price at which indemnities shall be computed. The premium rates and production guarantees shall be those shown on the applicable county actuarial table filed in the office for the county for each crop year.

Level election _____
Price election _____
Example: For the 19—— crop year only (100% share)
Location/farm No. _____
Guarantee per acre* _____
Premium per acre _____
Practice _____

B. When notice of acceptance of this application is mailed to the applicant by the corporation, the contract shall be in effect for the first crop year specified above, unless the time for submitting applications has passed at the time this application is filed, and shall continue for each succeeding crop year until cancelled or terminated as provided in the contract. This accepted application, the following sugar beet insurance policy, the attached appendix, and the provisions of the county actuarial table showing the production guarantees, coverage levels, premium rates, prices for computing indemnities, insurable and uninsurable acreage, and applicable dates shall constitute the contract. Additional information regarding contract provisions can be found in the county regulations folder on file in the office for the county. No term or condition of the contract shall be waived or changed except in writing by the Corporation.

Code No. witness to signature _____
Signature of applicant _____
Date _____
Address of office for county: _____
_____
Phone _____
Location of farm headquarters: _____
_____
Phone _____

Sugar Beet Crop Insurance Policy

Terms and conditions

Subject to the provisions in the attached appendix:

1. *Causes of loss.* (a) Causes of loss insured against. The insurance provided is against unavoidable loss of production resulting from adverse weather conditions, insects, plant disease, wildlife, earthquake or fire occurring within the insurance period subject to any exceptions, exclusions or limitations with respect to causes of loss shown on the actuarial table.

(b) Causes of loss not insured against. The contract shall not cover any loss of production due to (1) the neglect or malfeasance of the insured, any member of the insured's household, the insured's tenants, or the insured's employees, (2) failure to follow recognized good farming practices, (3) damage resulting from the backing up of water by any governmental or public utilities dam or reservoir project, or (4) any cause not specified as an insured cause in this policy as limited by the actuarial table.

2. *Crop and acreage insured.* (a) Upon acceptance of an application for insurance, the crop insured shall be sugar beets grown under a contract with a processor for processing as sugar, for which the actuarial table shows a guarantee and premium rate per acre.

(b) The acreage insured for sugar beets for each crop year shall be that acreage in which the insured has a share planted to sugar beets on insurable acreage, as shown on the actuarial table and as reported by the insured or as determined by the Corporation, whichever the Corporation shall elect, *Provided,* That insurance shall not attach or be considered to have attached as determined by the Corporation to any acreage (1) where premium rates are established by farming practices on the actuarial table, and the farming practices carried out on any acreage are not among those for which a premium rate has been established, (2) excluded from the processor contract for, or during, the crop year, (3) which is destroyed and after such destruction it was practical to replant to sugar beets and such acreage was not replanted, (4) initially planted after the date established by the Corporation and such date placed on file for public inspection by the insureds in the office for the county as being too late to initially plant and expect a normal crop to be produced, (5) planted to sugar beets the preceding crop year in Michigan, Minnesota, North Dakota and Ohio or the two preceding crop years in all other States unless otherwise provided on the county actuarial table, (6) planted to a type or variety of sugar beets not established as adapted to the area or shown as non-insurable on the actuarial table, or (7) in California other than Imperial County, planted before the filing of the application or reinstatement request if such acreage is not inspected for the crop year and approved in writing by the Corporation after a normal stand is obtained.

(c) Insurance may attach only by written agreement with Corporation on acreage which is planted for the development or production of hybrid seed or for experimental purposes.

3. *Responsibility of insured to report acreage and share.* The insured shall submit to the Corporation on a form prescribed by the Corporation, a report showing (1) all acreage of sugar beets planted in the county (including a designation of any acreage to which insurance does not attach) in which the insured has a share and (2) the insured's share therein at the time of planting. Such report shall be submitted promptly after completion of planting each year not later than the acreage reporting date on file in the office for the county for such purpose.

4. *Production guarantees, coverage levels and prices for computing indemnities.* (a) For each crop year of the contract, the production guarantees, coverage levels and prices at which indemnities shall be computed shall be those shown on the actuarial table.

(b) The production guarantee per acre shall be progressive as follows:

(1) *First Stage*—from planting until July 1 (except in California and Arizona it shall be the earlier of thinning or 90 days after planting; and to any acreage that the Corporation determines was damaged in this stage to the extent that growers in the area usually would not further care for the crop.

(2) *Second Stage*—from the end of first stage until at least 15 percent of the production guarantee per acre for the third stage has been harvested.

(3) *Third Stage*—after harvest of at least 15 percent of the production guarantee per acre for any acreage.

The production guarantee applicable to any acreage within a unit shall be that established for the stage reached by the crop on such acreage as determined by the Corporation.

5. *Annual premium.* (a) The annual premium is earned and payable at the time of planting and the amounts thereof shall be determined by multiplying the insured acreage times the applicable premium per acre, times the insured's share at the time of planting, times the premium adjustment percentage in subsection (c) of this section.

(b) For premium adjustment purposes, only the years during which premiums were earned shall be considered.

(c) The premium shall be adjusted as shown in the following table:

BILLING CODE 3410-08-M

*Your guarantee will be based on the unit (acres x per acre guarantee)

(d) Any amount of premium for an insured acreage which is destroyed or damaged to the extent that the Corporation determines that it is not practical to replant to sugar beets and such acreage is not replanted shall be earned and payable as follows:

(1) If destroyed or damaged to the extent that the Corporation determines that it is not practical to replant to sugar beets and such acreage is not replanted, 100 percent of the premium for such acreage shall be earned and payable 30 *DAYS* after the earliest of (1) the date harvest would normally have started on the unit of which such acreage is a part, (2) the date the Corporation will determine the production to

% ADJUSTMENTS FOR FAVORABLE CONTINUOUS INSURANCE EXPERIENCE:

Loss Ratio 1/ Through Previous Crop Year	Number of Years Continuous Experience Through Previous Year: 0	1	2	3	4	5	6	7	8	9	10	11	12	13	14	15 or more
	Percentage Adjustment Factor For Current Crop Year															
.00 - .20	100	95	95	90	90	85	80	75	70	70	65	65	60	60	55	50
.21 - .40	100	100	95	95	90	90	90	85	80	80	75	75	70	70	65	60
.41 - .60	100	100	95	95	95	95	95	90	90	90	85	85	80	80	75	70
.61 - .80	100	100	95	95	95	95	95	95	90	90	90	90	85	85	85	80
.81 - 1.09	100	100	100	100	100	100	100	100	100	100	100	100	100	100	100	100

% ADJUSTMENTS FOR UNFAVORABLE INSURANCE EXPERIENCE:

Loss Ratio 1/ Through Previous Crop Year	Number of Loss Years Through Previous Year*: 0	1	2	3	4	5	6	7	8	9	10	11	12	13	14	15
	Percentage Adjustment Factor For Current Crop Year															
1.10 - 1.19	100	100	100	102	104	106	108	110	112	114	116	118	120	122	124	126
1.20 - 1.39	100	100	100	104	108	112	116	120	124	128	132	136	140	144	148	152
1.40 - 1.69	100	100	100	108	116	124	132	140	148	156	164	172	180	188	196	204
1.70 - 1.99	100	100	100	112	122	132	142	152	162	172	182	192	202	212	222	232
2.00 - 2.49	100	100	100	116	128	140	152	164	176	188	200	212	224	236	248	260
2.50 - 3.24	100	100	100	120	134	148	162	176	190	204	218	232	246	260	274	288
3.25 - 3.99	100	100	105	124	140	156	172	188	204	220	236	252	268	284	300	300
4.00 - 4.99	100	100	110	128	146	164	182	200	218	236	254	272	290	300	300	300
5.00 - 5.99	100	100	115	132	152	172	192	212	232	252	272	292	300	300	300	300
6.00 - Up	100	100	120	136	158	180	202	224	246	268	290	300	300	300	300	300

*Only the most recent 15 crop years will be used to determine the number of "Loss Years"
(A crop year is determined to be a "Loss Year" when the amount of indemnity for the year exceeds the premium for the year)

1/ Loss Ratio means the ratio of indemnity(ies) paid to premium(s) earned.

(d) Any amount of premium for an insured crop which is unpaid on the day following the termination date for indebtedness for such crop shall be increased by a 9 percent service fee, which increased amount shall be the premium balance, and thereafter, at the end of each 12 month period, 9 percent simple interest shall attach to any amount of the premium balance which is unpaid: *Provided,* When notice of loss has been timely filed by the insured as provided in section 7 of this policy, the service fee will not be charged and the contract will remain in force if the premium is paid in full within 30 days after the date of approval or denial of the claim for indemnity; however, if any premium remains unpaid after such date, the contract will terminate and the amount of premium outstanding shall be increased by a 9 percent service fee, which increased amount shall be the premium balance. If such premium balance is not paid within 12 months immediately following the termination date, 9 percent per annum simple interest shall apply from the termination date to any unpaid premium balance.

(e) Any unpaid amount due the Corporation may be deducted from any indemnity payable to the insured by the Corporation or from any loan or payment to the insured under any Act of Congress or program administered by the U.S. Department of Agriculture, when not prohibited by law.

6. *Insurance period.* Insurance on insured acreage shall attach at the time the sugar beets are planted and shall cease upon the earliest of (a) final adjustment of a loss, (b) harvesting, (c) total destruction of the insured sugar beet crop, (d) the applicable date of the calendar year in which the sugar beets are normally harvested as follows: (1) July 15 for Arizona and Imperial County, California (2) the last day of the 12th calendar month after planting of the acreage for all other California counties, unless a written request from the insured for an extension of the insurance period is received prior to such date and is approved by the Corporation, (3) November 25 in Ohio, or (4) November 15 in all other States.

7. *Notice of damage or loss.* (a) Any notice of damage or loss shall be given promptly in writing by the insured to the Corporation at the office for the county.

(b) Notice shall be given promptly if, during the period before harvest, the sugar beets on any unit are damaged to the extent that the insured does not expect to further care for the crop or harvest any part of it, or if the insured wants the consent of the Corporation to put the acreage to another use. No insured acreage shall be put to another use until the Corporation has made an appraisal of the potential production of such acreage and consents in writing to such other use. Such consent shall not be given until it is too late or impractical to replant to sugar beets. Notice shall also be given when such acreage has been put to another use.

(c) In addition to the notice required in subsection (b) of this section, if an indemnity is to be claimed on any unit, the insured shall give written notice thereof to the Corporation at the office for the county not later than *30 DAYS* after the earliest of (1) the date harvest is completed on the unit, (2) the calendar date for the end of the insurance period, or (3) the date the entire sugar beet crop on the unit is destroyed, as determined by the Corporation. The Corporation reserves the right to provide additional time if it determines there are extenuating circumstances.

(d) Any insured acreage which is not to be harvested and upon which an indemnity is to be claimed shall be left intact until inspected by the Corporation.

(e) The Corporation may reject any claim for indemnity if any of the requirements of this section are not met.

8. *Claim for indemnity.* (a) It shall be a condition precedent to the payment of any indemnity that the insured (1) establish the total production of sugar beets on the unit and that any loss of production was directly caused by one or more of the insured causes during the insurance period for the crop year for which the indemnity is claimed and (2) furnish any other information regarding the manner and extent of loss as may be required by the Corporation.

(b) Indemnities shall be determined separately for each unit. The amount of indemnity for any unit shall be determined by (1) multiplying the insured acreage of sugar beets on the unit by the applicable production guarantee per acre, which product shall be the production guarantee for the unit, (2) subtracting therefrom the total production of sugar beets to be counted for the unit, (3) multiplying the remainder by the applicable price for computing indemnities, and (4) multiplying the result obtained in step (3) by the insured share: *Provided,* That if the premium computed on the insured acreage and share is more than the premium computed on the reported acreage and share, the amount of indemnity shall be computed on the insured acreage and share and then reduced proportionately.

(c) The total production to be counted for a unit shall be determined by the Corporation and shall include all harvested and appraised production: *Provided,* That for acreage not qualifying for the third stage production in excess of the difference between the third stage production guarantee and the production guarantee applicable to such acreage shall be counted except that for acreage abandoned, put to another use without prior written consent of the Corporation, or damage solely by an uninsured cause not less than the applicable production guarantee shall be counted.

(1) Any harvested production of sugar beets shall be adjusted by the factor (rounded to three decimal places) obtained by dividing the average percentage of sugar in the sugar beets, as determined from individual tests made at the time of delivery to the processor, by the percentage of sugar shown on the actuarial table: *Provided, however,* That if individual tests of sugar content are not made by the processor at the time of delivery of the sugar beets, the factor to be used shall be 1.000; *Provided, further,* That for harvested sugar beets which are not acceptable under the contract with a processor due to an insurable cause of loss occurring within the insurance period, the Corporation will determine the production to be counted by (a) dividing the value of the beets, as determined by the Corporation by the value of undamaged beets containing the percentage of sugar shown on the actuarial table and (b) multiplying the result obtained by the tons of beets harvested: *Provided, further,* That any Corporation appraisals shall be the tons appraised with no adjustment for quality.

(2) Appraised production to be counted for a unit shall include: (i) Any appraisals by the Corporation for unharvested or potential production, poor farming practices, or uninsured causes of loss and (ii) not less than the applicable guarantee for any acreage which is abandoned or put to another use without prior written consent of the Corporation or damaged solely by an uninsured cause.

(d) The appraised potential production for acreage for which consent has been given to be put to another use shall be counted as production in determining the amount of loss under the contract. However, if consent is given to put acreage to another use and the Corporation determines that any such acreage (1) is harvested, or (2) is further damaged by an insured cause before the acreage is put to another use, the indemnity for the unit shall be determined without regard to such appraisal and consent.

9. *Misrepresentation and fraud.* The Corporation may void the contract without affecting the insured's liability for premiums or waiving any right, including the right to collect any unpaid premiums if, at any time the insured has concealed or misrepresented any material fact or committed any fraud relating to the contract, and such voidance shall be effective as of the beginning of the crop year with respect to which such act or omission occurred.

10. *Transfer of insured share.* If the insured transfers any part of the insured share during the crop year, protection will continue to be provided according to the provisions of the contract to the transferee for such crop year on the transferred share, and the transferee shall have the same rights and responsibilities under the contract as the original insured for the current crop year. Any transfer shall be made on an approved form.

11. *Records and access to form.* The insured shall keep or cause to be kept for two years, after the time of loss, records of the harvesting, storage, shipments, sale or other disposition of all sugar beets produced on each unit including separate records showing the same information for production from any uninsured acreage. Any persons designated by the Corporation shall have access to such records and the farm for purposes related to the contract.

12. *Life of contract: Cancellation and termination.* (a) The contract shall be in effect for the first crop year specified on the application and may not be cancelled for such crop year. Thereafter, either party may cancel insurance for any subsequent crop year by giving a signed notice to the other on or before the cancellation date preceding such crop year.

(b) Except as provided in section 5(d) of this policy, the contract will terminate as to any crop year if any amount due the Corporation under this contract is not paid on or before the termination date for indebtedness preceding such crop year: *Provided,* That the date of payment for premium (1), if deducted from an indemnity claim, shall be the date the insured signs such claim or (2), if deducted from payment under another program administered by the U.S. Department of Agriculture, shall be the date such payment was approved.

(c) Following are the cancellation and termination dates:

State and county	Cancellation date	Termination date for indebtedness
Arizona, and Imperial County, Calif.	July 15	August 31.
All other California counties.	July 15	(1)
All other States	December 31	March 31.

[1] The termination date for indebtedness for all California counties other than Imperial County shall be the date the insured begins planting for the next crop year unless prior to such date the insured has made arrangements satisfactory to the Corporation for payment of the premium owed the Corporation.

(d) In the absence of a notice from the insured to cancel, and subject to the provisions of subsections (a), (b), and (c) of this section and section 7 of the Appendix, the contract shall continue in force for each succeeding crop year.

Appendix

(Additional Terms and Conditions)

1. *Meaning of Terms*

For the purpose of sugar beet crop insurance:

(a) "Actuarial table" means the forms and related material for the crop year approved by the Corporation which are on file for public inspection in the office for the county, and which show the production guarantees, coverage levels, premium rates, prices for computing indemnities, insurable and uninsurable acreage, and related information regarding sugar beet insurance in the county.

(b) "County" means the county shown on the application and any additional land located in a local producing area bordering on the county, as shown on the actuarial table.

(c) "Crop year" means the period within which the sugar beet crop is normally grown and shall be designated by the calendar year in which the sugar beet crop is normally harvested except that in California and Arizona it shall be the period from planting until the applicable date for the end of the insurance period and shall be designated by reference to the calendar year in which planted if planted by July 15, and if planted after July 15, by reference to the next calendar year.

(d) "Harvest" means the lifting and topping of the sugar beets for the purpose of delivery to a processor.

(e) "Insurable acreage" means the land classified as insurable by the Corporation and shown as such on the county actuarial table.

(f) "Insured" means the person who submitted the application accepted by the Corporation.

(g) "Office for the county" means the Corporation's office serving the county shown on the application for insurance or such office as may be designated by the Corporation.

(h) "Person" means an individual, partnership, association, corporation, estate, trust, or other business enterprise or legal entity, and wherever applicable, a State, a political subdivision of a State, or any agency thereof.

(i) "Share" means the interest of the insured as landlord, owner-operator, or tenant in the insured sugar beet crop at the time of planting as reported by the insured or as determined by the Corporation, whichever the Corporation shall elect, and no other share shall be deemed to be insured: *Provided,* That for the purpose of determining the amount of indemnity, the insured share shall not exceed the insured's share at the earliest of (1) the date of beginning of harvest on the unit; (2) the calendar date for the end of the insurance period; or (3) the date the entire crop on the unit is destroyed, as determined by the Corporation.

(j) "Tenant" means a person who rents land from another person for a share of the sugar beet crop or proceeds therefrom.

(k) "Unit" means all insurable acreage of sugar beets in the county on the date of planting for the crop year (1) in which the insured has a 100 percent share, or (2) which is owned by one entity and operated by another entity on a share basis. Land rented for cash, a fixed commodity payment, or any consideration other than a share in the sugar beet crop on such land shall be considered as owned by the lessee. Land which would otherwise be one unit may be divided into two or more units according to applicable guidelines on file in the office for the county or by written agreement between the Corporation and the insured. The Corporation shall determine units as herein defined when adjusting a loss, notwithstanding what is shown on the acreage report, and has the right to consider any acreage and share reported by or for the insured's spouse or child or any member of the insured's household to be the bona fide share of the insured or any other person having the bona fide share.

2. *Acreage Insured*

(a) The Corporation reserves the right to limit the insured acreage of sugar beets to any acreage limitations established under any Act of Congress, provided the insured is so notified in writing prior to the planting of sugar beets.

(b) If the insured does not submit an acreage report as provided in section 3 of the policy, the Corporation may elect to determine by units the insured acreage and share or declare the insured acreage on any unit(s) to be "zero". If the insured does not have a share in any insured acreage in the county for any year, the insured shall submit a report so indicating. Any acreage report submitted by the insured may be revised only upon approval of the Corporation.

3. *Irrigated Acreage*

(a) Where the actuarial table provides for insurance on an irrigated practice, the insured shall report as irrigated only the acreage for which the insured has adequate facilities and water to carry out a good irrigation practice at the time of planting.

(b) Where irrigated acreage is insurable, any loss of production caused by failure to carry out a good irrigation practice, except failure of the water supply from an unavoidable cause occurring after the beginning of planting as determined by the Corporation, shall be considered as due to an uninsured cause. The failure or breakdown of irrigation equipment or facilities shall not be considered as a failure of the water supply from an unavoidable cause.

4. *Annual Premium*

(a) If there is no break in the continuity of participation, any premium adjustment applicable under section 5 of the policy shall be transferred to (1) the contract of the insured's estate or surviving spouse in case of death of the insured, (2) the contract of the person who succeeds the insured if such person had previously participated in the farming operation, or (3) the contract of the same insured who stops farming in one county and starts farming in another county.

(b) If there is a break in the continuity of participation, any reduction in premium earned under section 5 of the policy shall not thereafter apply; however, any previous unfavorable insurance experience shall be considered in premium computation following a break in continuity.

5. *Claim for and Payment of Indemnity*

(a) Any claim for indemnity on a unit shall be submitted to the Corporation on a form prescribed by the Corporation.

(b) In determining the total production to be counted for each unit, production from units on which the production has been commingled will be allocated to such units in proportion to the liability on each unit.

(c) There shall be no abandonment to the Corporation of any insured sugar beet acreage.

(d) In the event that any claim for indemnity under the provisions of the contract is denied by the Corporation, an action on such claim may be brought against the Corporation under the provisions of 7 U.S.C. 1508(c): *Provided,* That the same is brought within one year after the date notice of denial of the claim is mailed to and received by the insured.

(e) Any indemnity will be payable within 30 days after a claim for indemnity is approved by the Corporation. *However,* in no event shall the Corporation be liable for interest or damages in connection with any claim for indemnity whether such claim be approved or disapproved by the Corporation.

(f) If the insured is an individual who dies, disappears, or is judicially declared incompetent, or the insured is an entity other than an individual and such entity is dissolved after the sugar beets are planted for any crop year, any indemnity will be paid to the person(s) the Corporation determines to be beneficially entitled thereto.

(g) The Corporation reserves the right to reject any claim for indemnity if any of the requirements of this section are not met and the Corporation determines that the amount of loss cannot be satisfactorily determined.

6. *Subrogation*

The insured (including any assignee or transferee) assigns to the Corporation all rights of recovery against any person for loss or damage to the extent that payment hereunder is made by the Corporation. The Corporation thereafter shall execute all papers required and take appropriate action as may be necessary to secure such rights.

7. *Termination of the Contract*

(a) The contract shall terminate if no premium is earned for five consecutive years.

(b) If the insured is an individual who dies or is judicially declared incompetent, or the insured entity is other than an individual and such entity is dissolved, the contract shall terminate as of the date of death, judicial declaration, or dissolution; however, if such event occurs after insurance attaches for any crop year, the contract shall continue in force through such crop year and terminate at the end thereof. Death of a partner in a partnership shall dissolve the partnership unless the partnership agreement provides otherwise. If two or more persons having a joint interest are insured jointly, death of one of the persons shall dissolve the joint entity.

8. *Coverage Level and Price Election*

(a) If the insured has not elected on the application a coverage level and price at which indemnities shall be computed from among those shown on the actuarial table, the coverage level and price election which shall be applicable under the contract, and which the insured shall be deemed to have elected, shall be as provided on the actuarial table for such purposes.

(b) The insured may, with the consent of the Corporation, change the coverage level and/or price election for any crop year on or before the closing date for submitting applications for that crop year.

9. *Assignment of Indemnity*

Upon approval of a form prescribed by the Corporation, the insured may assign to another party the right to an indemnity for the crop year and such assignee shall have the right to submit the loss notices and forms as required by the contract.

10. *Contract Changes*

The Corporation reserves the right to change any terms and provisions of the contract from year to year. Any changes shall be mailed to the insured or placed on file and made available for public inspection in the office for the county at least 15 days prior to the cancellation date preceding the crop year for which the changes are to become effective, and such mailing or filing shall constitute notice to the insured. Acceptance of any changes will be conclusively presumed in the absence of any notice from the insured to cancel the contract as provided in section 12 of the policy.

Note.—The reporting requirements contained herein have been approved by the Bureau of the Budget in accordance with the Federal Reports Act of 1942, and OMB Circular No. A-40.

Note.—These proposed regulations have been determined non significant under the USDA criteria implementing Executive Order No. 12044. A draft impact analysis is available from Peter F. Cole, Secretary, Federal Crop Insurance Corporation, Room 4096, U.S. Department of Agriculture, Washington, D.C. 20250.

Approved by the Board of Directors on April 6, 1979.

Dated: April 30, 1979.

Peter F. Cole,

Secretary, Federal Crop Insurance Corporation.

[FR Doc. 79-14379 Filed 5-8-79; 8:45 am]

BILLING CODE 3410-08-M

Commodity Credit Corporation

[7 CFR Part 1435]

Price Support for 1979 Crop Sugarbeets and Sugarcane

AGENCY: Commodity Credit Corporation, USDA.

ACTION: Proposed rule.

SUMMARY: The Secretary of Agriculture gives notice that he is considering a proposal to support prices to domestic producers of 1979 crop sugarbeets and sugarcane through nonrecourse loans made by the Commodity Credit Corporation (CCC) to sugar processors.

The Food and Agriculture Act of 1977 amended the Agricultural Act of 1949 to direct the Secretary to support the price of the 1977 and 1978 crops of sugarbeets and sugarcane through loans with respect to the processed products thereof. Under various legislative proposals now being considered by the Congress, the Secretary would be directed to implement a loan program wherein loan rates would be established at a specified percentage of the stated market price objective for sugar. These proposals are strongly endorsed by the Department of Agriculture, and the early enactment of substantive sugar legislation is a matter of vital importance in the view of the Department. Such legislation, however, would not become effective before October 1, 1979, at the earliest. By that time, substantial quantities of the 1979 sugarbeet and sugarcane crops will have been harvested. Sugar processed from these crops is ineligible for coverage under the 1978 crop price support loan program and would not be available for coverage under the proposed legislation now being considered. Some domestic producers would thus be deprived of the price support protection and interim financing that would be made available to producers in areas where the 1979 crop harvest begins after October 1, 1979.

The proposed loan program for 1979 crop sugar would be implemented under existing statutory authorities to provide continuity of price support coverage for sugarbeet and sugarcane producers which would not otherwise exist.

DATE: Comments on the proposed action must be received on or before May 21, 1979, to be assured of receiving consideration.

ADDRESS: Mail comments to Sugar Branch, Procurement and Sales Division, ASCS–USDA, Room 5741–South Building, P.O. Box 2415, Washington, D.C. 20013.

FOR FURTHER INFORMATION CONTACT: Laurence E. Ackland, Sugar Branch, 202–447–5647.

SUPPLEMENTARY INFORMATION: The effective date of price support under proposed sugar legislation now before Congress would be October 1, 1979—the beginning of the 1979 sugar supply year. Timing of the initiation of the sugar supply year concept would include, under current crop year concepts, most of the 1979 crop with notable exceptions. Puerto Rican producers and processors will have completed, long before October 1, 1979, harvesting and processing of their 1979 sugarcane crop. A major part of the Hawaiian sugarcane crop and substantial quantities of sugarbeets in California and Arizona will have also been harvested and processed. Such sugar will not, therefore, be covered by new legislation. If it is determined that price support coverage should be provided for this portion of the 1979 crop, or for the entire 1979 crop if new legislation should fail to be enacted, the Secretary of Agriculture may make such support available under the discretionary authority contained in Section 301 of the Agricultural Act of 1949, as amended (7 U.S.C. 1447).

Section 401(b) of the Act (7 U.S.C. 1421(b)) requires, in the case of any commodity for which price support is discretionary, that the following factors be taken into consideration in determining whether a price support operation shall be undertaken and the level of such support:

(1) *The supply of the commodity in relation to the demand therefor.* World stocks are at record levels and another large world sugar crop is expected. Estimated production from the 1978–1979 crop will total 90 million metric tons (raw value)—1 to 2 million metric tons below the previous year's record of 92 million metric tons. World production

is thus expected to exceed world consumption, projected at 89 million metric tons, by 1 to 2 million tons. When added to 1977–1978 year-end stocks, over one-third of global consumption requirements will be carried over into the new crop year. This stock-to-consumption ratio would be the highest at any time during the past 25 years. A ratio of about 25 percent is considered normal, i.e., when supply and consumption is more or less in balance, resulting in stable prices.

Current prospects are for 1979 world sugar prices to increase moderately from the 1978 average of 7.61 cents per pound, provided U.S. support of the International Sugar Agreement (ISA), is forthcoming. The longer-term outlook is for a leveling off of production associated with annual global consumption increases of 2 to 3 million tons per year. As world consumption rises above production, world stocks will begin to decline. Until world stocks approach pipeline levels of near 25 percent or less, world sugar prices are expected to remain below domestic costs of production which are estimated, on the basis of available data, to total about 16.3 cents per pound on a national weighted average basis for the 1979 crop.

A functioning ISA is indispensable in efforts to stablize world sugar prices within the range of 11 to 21 cents per pound called for in the agreement, and thereby bring greater stability to the domestic market. However, additional authority is needed to fully implement the ISA. The United States, which was instrumental in shaping the agreement, has not yet ratified the agreement nor enacted statutory authority for full participation. If the U.S. does not particiate in the ISA, the already depressed world sugar market will face increasing pressure as world stocks, which have been held off the market in compliance with ISA quota provisions, are tendered. Lower world sugar prices would not only affect the 50 nations which have already signed the agreement—particularly developing countries in Latin America— but would create serious domestic industry needs and price support problems.

While the domestic market price objective for raw sugar has been 15 cents since January 1979, the derived market price did not reach or exceed 15 cents until February. Excess supplies have kept current import duties and fees from assuring the price objective.

With low world market prices in 1977 and 1978 together with Congressionally-mandated minimum loan levels and Commodity Credit Corporation (CCC) interest charges of 8 percent for the 1977 crop and 7 percent for the 1978 crop, processors placed significant quantities of sugar under loan. Some 1977 crop sugar has been forfeited. The CCC now owns nearly 200,000 tons of 1977-crop sugar worth over $53 million, and this total is expected to rise to about $55 million. Loans on 1978 crop sugar are expected to total nearly $800 million—some of which will be forfeited unless domestic market prices rise. Quantities of 1978 crop sugar now under loan represent approximately 40 percent of the 1978 crop.

To force 1979 crop sugar processed prior to October 1979 onto the market would add to the complexities of providing support for the 1978 crop still being processed in some areas. Increased quantities of 1978 crop sugar would likely be placed under loan and increased forfeitures would likely result. Further, difficulties would likely be encountered in moving gradually from the current market price objective of 15 cents per pound, raw value, to the 1979 sugar supply year market price objective of 15.8 cents per pound proposed in new legislation.

In crop years 1977 and 1978, imported sugar was used while domestic sugar was placed in the loan program. Similarly, since support is not now available for 1979 crop sugar now being processed, it will be marketed while significant quantities of 1978 crop sugar under loan move into CCC inventories and sugar yet eligible is placed under loan. When CCC inventories are sold, an economic dislocation will again result.

(2) *The price levels at which other commodities are being supported.* While price support for sugarbeets and sugarcane for the 1978 crop has been at levels equivalent to 52.5 percent of parity—the statutory minimum—price support is not now provided for the 1979 and later crops. The 1978 support level for sugarbeets and sugarcane is 2.5 percentage points higher than the loan level for soybeans, 0.2 point higher than the loan level for oats, and more than 8 points below the support levels for barley, peanuts, corn, wheat, rice, and tobacco. When compared to estimated production costs, the support levels for sugarbeets and sugarcane in 1978 were 94 and 95 percent, respectively, of their estimated total costs of production. Support levels for corn, peanuts, wheat, rice and milk on a total production cost basis were also above 90 percent. Barley, sorghum, cotton and burley tobacco were supported at levels ranging from 80 to 90 percent of their estimated total costs of production.

Assuming that the market price objective for the 1979 sugar supply year is 15.8 cents per pound, raw value, as proposed in legislation now before Congress, and that import constraints allow that objective to be achieved in the market, it is estimated that prices actually attained by producers for 1979 crop sugarbeets and sugarcane will be near the 1978 crop support level of 52.5 percent of parity. However, if market prices should remain at levels near the current 15-cent objective, the return to producers would be equal to about 51 percent of parity. If the basic loan rates under a 1979 crop loan program were established at levels sufficiently below anticipated market prices so as to encourage loan redemption and movement of sugar to market when those prices are reached, such loan rates would provide an estimated minimum level of support to producers of 44 to 48 percent of estimated July 1979 parity. On a total production cost basis, the minimum support would range from 80 to 90 percent.

(3) *The availability of funds.* Funds necessary to provide a loan program for 1979 crop sugar would be available under the statutory borrowing authority of CCC. Currently, the borrowing authority of CCC may not exceed $20 billion. At the present time about $5 billion of this authority remains available.

(4) *The perishability of the commodity.* Considerations associated with this statutory factor would not preclude the use of a loan program for 1979 crop sugar. It is believed that sugar can be stored, under proper storage conditions, for up to 18 months with little or no deterioration in quality. Should any loss in quality occur during the first 11 to 12 months while the sugar is under loan, the losses are sustained by the processor. CCC's risk on sugar going out of condition does not begin until sugar is forfeited. On sugar which has been forfeited, the risks increase the longer inventories are held. It is anticipated that some sugar now in CCC inventories will go out of condition this year and be sold at a discount. By not forcing 1979 crop sugar immediately onto the market, the volume of 1978 crop redemptions would be expected to be larger, and the anticipated need for CCC discounts on older 1977 and 1978 crop sugar reduced.

(5) *The importance of the commodity to agriculture and the national economy.* The United States—the third largest producer of sugar in the world (following the EEC and USSR)—produced an average of 6.4 million tons of sugar per year during the period 1970–1978, or about 8 percent of world production. Production in the United States dropped as low as 5.7 million tons in 1974, while reaching a high of 7.25 million tons a year later. Early acreage estimates indicate the 1979 crop will total about 5.8 million tons.

During the period 1970–78, domestic consumption averaged about 11 million tons per year. The United States has, therefore, relied on imports for about 42 percent or 4.6 million tons of its annual sugar requirements. The importation of this quantity of sugar from a "world free market," wherein total quantities traded totaled about 16 million tons, makes the United States the largest importer of sugar from a much smaller market than suggested by production statistics. Prices in the domestic market, while supported in 1978, are subject to fluctuations in prices in the "world free market." Without a domestic price support program, domestic prices would be totally dependent upon world supply and demand conditions.

While the 1979 domestic sugarbeet and sugarcane crops were processed in 100 factories, the number of processing facilities is expected to decline to near 90 in 1979. Farms producing sugarbeets and sugarcane will total between 12,000 and 16,000. In addition, 22 refineries will be processing domestic and foreign raw cane sugar. Without support being indicated for 1979 and beyond, a more severe decline in processing facilities, farms, and refineries may be observed.

(6) *The ability to dispose of stocks acquired through a price-support operation.* If a price support program for 1979 crop sugarbeets and sugarcane were to be implemented in such a manner as to provide for the accumulation of sugar in CCC inventories, the subsequent disposal of that sugar would disrupt the market which the program was designed to support. However, if loan rates for sugar were set at levels consistent with anticipated market prices—thereby being sufficiently lower than such prices so that loan redemption would be encouraged—the program would be used by processors principally for financing purposes, yet producers would still be provided with price support at a specified level.

(7) *The need for offsetting temporary losses of export markets.* The United States consumes about 42 percent more sugar than it produces, and is therefore a net importer of sugar. That small quantity which is exported is generally refined sugars of specialized applications not available elsewhere.

(8) *The ability and willingness of producers to keep supplies in line with demand.* As noted above, the United States consumes more sugar than it produces. Although the total market for sweeteners continues to grow due to population increases, the consumption of sugar has remained near 11 million tons since 1970. The proportion supplied annually by the domestic industry has averaged near 58 percent since 1970. Domestic production fluctuated between 5.7 and 7.2 million tons during the same period. Acreage estimates suggest that the 1979 crop will total about 5.8 million tons.

Based on the above considerations of the required statutory factors, it is the intent of the Secretary of Agriculture to establish a price support loan program with respect to 1979 crop sugarbeets and sugarcane. A principal objective of the proposed program would be to establish loan rates and associated support prices which would permit loan redemption and movement of 1979 crop sugar to market without financial loss to producers and processors. This objective would be accomplished by setting the basic loan rates for sugar at appropriate levels below anticipated market prices. Such prices indicate that the basic loan rate for raw cane sugar should be established at a level in the range of 13 to 14.25 cents per pound, raw value. A loan rate in that range for raw cane sugar would indicate a basic loan rate for refined beet sugar in the range of 15.15 to 16.52 cents per pound.

The proposed 1979 crop loan program would be generally patterned after the current 1978 crop nonrecourse loan program and would include the following major provisions:

(1) The basic loan rate established for refined beet sugar would reflect the long-term relationship (1.10 to 1.00) between refined beet sugar net selling prices and raw cane sugar prices. After adjustment to reflect the proper price relationship, the estimate average 1979 crop fixed marketing costs (which are incurred by beet processors regardless of the disposition of a loan) would be added to make up the loan rate for refined beet sugar.

(2) Regional loan rates and specified minimum support prices for sugarbeets and sugarcane would apply to the sugarbeet and sugarcane processing regions as established for the 1978 crop. Differential loan rates would be based on the estimated average costs of transporting 1979 crop sugar from the processing region to destination.

(3) Since Section 301 of the Agricultural Act of 1949, as amended, does not authorize the establishment of minimum wage rates for sugar fieldworkers, minimum wage determinations and provisions such as those mandated by the Food and Agriculture Act of 1977 for the 1977 and 1978 sugar crops would not apply to the operations of the proposed program.

(4) Payment to producers of less than the specified minimum support price per ton of sugarbeets or sugarcane because of an existing marketing custom or practice would not be permitted.

(5) Loans would be made and serviced by State and county ASCS offices.

(6) The 1979 crop of sugarbeets and sugarcane would be defined according to normal harvesting periods. However, loans under the proposed program would be allowed only for that sugar processed from the 1979 crop harvest that is placed under loan prior to the effective date of any superseding loan program authorized by new legislation.

In the interest of obtaining information which will assist the Secretary in establishing the provisions of a price support program for 1979 crop sugarbeets and sugarcane, it is requested that respondents to this invitation for comments give careful consideration to all of the matters discussed above and to the general provisions of the proposed rule following below. Although the proposed rule does not contain specific loan rates and support prices for each processing region, the minimum and maximum loan rates and support price which would be indicated for the proposed range of basic loan rates discussed earlier are contained in the draft impact analysis prepared in conjunction with this proposal. An approved Draft Impact Analysis on the proposed action is available from Laurence E. Ackland, Room 5761—South Building, USDA, Washington, D.C. 20250.

This regulation has been determined significant under the USDA criteria implementing Executive Order 12044.

I have determined that it would be impracticable and contrary to the public interest to comply with the Department's requirement that 60 days be allowed for public comment on this proposal. The proposed action, if implemented, should not unduly delay the availability of loans to those producing areas where harvest and processing of the 1979 crop has already started. Therefore, the closing date for comments is May 21, 1979.

Prior to adopting the proposed action, the Department of Agriculture will give consideration to comments submitted in writing within the comment period. All written submissions made pursuant to this notice will be made available for inspection from 8:15 a.m. to 4:45 p.m., Monday through Friday, in Room 5761—

quantity of the processor's eligible sugar

office on a form prescribed by CCC to

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South Building, 14th Street and Independence Avenue, S.W., Washington, D.C. (7 CFR 1.27(b)).

In consideration of the foregoing, it is proposed to amend 7 CFR Part 1435 by adding a new Subpart—Price Support Loan Program for 1979 Crop Sugarbeets and Sugarcane—to read as follows:

Subpart—Price Support Loan Program for 1979 Crop Sugarbeets and Sugarcane

Sec.

1435.55 General statement.
1435.56 Administration.
1435.57 Definitions.
1435.58 Level and method of support and loan rates.
1435.59 Eligibility requirements.
1435.60 Availability, disbursement, and maturity of loan.
1435.61 Quantity for loan.
1435.62 Loan maintenance and liquidation.
1435.63 Processor storage agreement.
1435.64 Miscellaneous provisions.
1435.65 Applicable forms.

Authority: Secs. 301–303 and 401 et seq. of the Agricultural Act of 1949, as amended (7 U.S.C. 1447 et seq., 1421 et seq.).

Subpart—Price Support Loan Program for 1979 Crop Sugarbeets and Sugarcane

§ 1435.55 General statement.

This subpart contains the regulations which set forth the requirements with respect to price support for the 1979 crop of sugarbeets and sugarcane. The Commodity Credit Corporation (CCC) will offer to eligible processors nonrecourse loans which must be evidenced by notes and security agreements and secured by the pledge of eligible sugar in eligible storage.

§ 1435.56 Administration.

(a) The Procurement and Sales Division, Agricultural Stabilization and Conservation Service (referred to as "ASCS"), will administer this subpart under the general direction and supervision of the Deputy Administrator, Commodity Operations.

(b) In the field, this subpart will be administered by the Kansas City Commodity Office and the Management Field Office (referred to as KCCO and MFO respectively) and designated Agricultural Stabilization and Conservation State and county committees (referred to as State and county committees).

§ 1435.57 Definitions.

(a) "1979 crop" means domestic sugarbeets and sugarcane, the substantial portion of which is harvested in the areas indicated below during the following periods:

Sugar Producing Area and Harvesting Period

Sugarbeets:
- All States, excluding California and Arizona, September through November, 1979.
- California, excluding southern area, July 1979 through June 1980.
- Southern California, [1] March through September 1979.
- Arizona-lowland area, April through August 1979.
- Arizona-upland area, September 1979 through January 1980.

Sugarcane:
- Florida, October 1979 through May 1980.
- Louisiana, October 1979 through January 1980.
- Texas, October 1979 through May 1980.
- Hawaii, calendar year 1979.
- Puerto Rico, calendar year 1979.

(b) "Eligible producer" means the owner of a portion or all of the sugarbeets or sugarcane, including share rent landowners, at the time of harvest and delivery to the processor.

(c) "Sugar" means refined beet sugar or raw cane sugar, cane syrup or edible molasses which is processed from domestically produced sugarbeets and sugarcane, which is not contaminated and does not contain chemicals or other substances poisonous to man or animals.

(d) "Processor" means a person who commercially processes sugarbeets into refined sugar or sugarcane into raw sugar, cane syrup or edible molasses.

(e) "Raw value" of any quantity of sugar means its equivalent in terms of ordinary commercial raw sugar testing ninety-six degrees by the polariscope.

(f) "Sugarbeets of average quality" means sugarbeets containing 15.44 percent sucrose.

(g) "Sugarcane of average quality" means (1) for Florida, sugarcane containing 13.97 percent sucrose in normal juice; and (2) for Louisiana, sugarcane containing 12.79 percent sucrose in normal juice of 78.69 percent purity.

(h) "Secretary" means the Secretary of Agriculture or an official who has been designated to act on his behalf.

§ 1435.58 Level and method of support and loan rates.

(a) *Level of support.* Prices to domestic producers of 1979 crop sugarbeets and sugarcane will be supported at average levels estimated to be equivalent to —— percent of the parity prices for sugarbeets and sugarcane as of July 1979. The general support prices for sugarbeets and sugarcane are as specified in § 1435.59(b).

(b) *Method of support.* The support to domestic producers of 1979 crop sugarbeets and sugarcane will be made available through nonrecourse loans to eligible processors.

(c) *Loan rates.* The basic (weighted average) loan rates for the 1979 crop shall be —— cents per pound for refined beet sugar and —— cents per pound for cane sugar, raw value, including the cane sugar, raw value, equivalent contained in cane syrup and edible molasses.

(d) *Locational differentials.* (1) The loan rate applicable to eligible sugar shall be the rate specified in subparagraphs (2) and (3) of this paragraph for the region in which such sugar was processed: *Provided,* That in the case of refined or specialty sugar made from raw cane sugar which would otherwise be eligible for loan except that it is no longer in its raw form, the loan rate shall be the appropriate regional loan rate applied to the cane sugar, raw value, equivalent of the refined or specialty sugar. Such sugar must have been manufactured by a cans sugar refining facility that is cooperatively owned by its raw cane sugar processors or by a processor of sugarcane who is also a refiner.

(2) The processing regions and applicable loan rates for refined beet sugar shall be as listed below:

Region number and description	Cents per pound
1—Michigan and Ohio	
2—Minnesota and the eastern half of North Dakota	
3—Northeastern quarter of Colorado; northwestern quarter of Kansas; Nebraska; and the southwestern quarter of Wyoming	
4—Southeastern quarter of Colorado; and Texas	
5—Montana and the northwestern quarter of Wyoming	
6—That part of Idaho east of the eastern boundary of Owyhee county and of such boundary extended northward; and Utah	
7—That part of Idaho west of the eastern boundary of Owyhee County and of such boundary extended northward; Oregon; and Washington	
Arizona and California	

(3) The processing regions and applicable loan rates for cane sugar, raw value, shall be as listed below, except that for such sugar processed in Hawaii or Puerto Rico but placed under loan on the mainland of the United States the applicable loan rate shall be —— cents per pound:

Region	Cents per pound
Florida	
Louisiana	
Texas	
Hawaii	
Puerto Rico	

[1] Southern California includes the counties of Imperial, San Diego, Riverside, Orange, San Bernardino, and that part of Los Angeles lying south of the San Gabriel Mountains.

§ 1435.59 Eligibility requirements.

(a) The quantity of sugar which is eligible to be placed under the 1979 Price Support Loan Program is that quantity which is equivalent to that quantity processed from that part of the 1979 crop grown by eligible producers, such sugar must be processed and owned by the eligible processor (or jointly owned by eligible processor and eligible producer) tendering the sugar as collateral for loan, and must be in eligible storage.

(b) Eligible processors for the 1979 crop are those who pay to all eligible producers who deliver to them for processing sugarbeets and sugarcane of average quality in the following locations, not less than:

(1) For sugarbeets in the regions described in paragraph (d)(2) of § 1435.58, the following rates per net ton:

Region 1, ——.
Region 2, ——.
Region 3, ——.
Region 4, ——.
Region 5, ——.
Region 6, ——.
Region 7, ——.
Region 8, ——.

(2) For sugarcane in Florida, $ —— per net ton;

(3) For sugarcane in Louisiana, $ —— per net ton;

(4) For sugarcane in Texas, the amount determined by multiplying —— cents times the average pounds of cane sugar, raw value, recovered per ton from the sugarcane delivered to the processor by all producers, as adjusted by the processor to reflect the quality of the juice (normal juice sucrose and normal juice purity) extracted from the individual producer's sugarcane;

(5) For sugarcane in Hawaii, where the delivery point is at the mill, the amount determined by multiplying —— cents times the total pounds of cane sugar, raw value, recovered per ton from the sugarcane delivered to the processor by the individual producer; and

(6) For sugarcane in Puerto Rico, that price determined in accordance with the provisions of Puerto Rico Law No. 426—also known as the Puerto Rico Sugar Law—and the rules issued thereunder by the Sugar Board of Puerto Rico;

Provided, however, That the foregoing prices may be adjusted for sugarbeets or sugarcane of nonaverage quality on the method agreed upon by the producer and processor.

(c) Eligible storage shall consist of a storage structure or space which is determined by the State committee to be committed to the storage of such quantity of the processor's eligible sugar as is offered for loan or maintained under loan and which is safe for storage of the product.

§1435.60 Availability, disbursement, and maturity of loan.

(a) *Obtaining price support.* To obtain price support on eligible sugar, and eligible processor must file a request for a loan with the State committee of the State where he is headquartered; and must execute a note, security agreement, and storage agreement as prescribed by CCC. Such request must be filed no late than 90 calendar days after the processor completes processing the 1979 crop: *Provided,* That loans can be made under this subpart only if disbursed prior to the effective date of any superseding loan program.

(b) *Redeemed loan collateral.* A processor may not reoffer as security or repledge to CCC as collateral any sugar that hs been redeemed from CCC loan.

(c) *Disbursement of loans.* Disbursement will be made by means of sight drafts drawn on CCC.

(d) *Maturity of loans.* Loans will mature on the last day of the eleventh calendar month following the month in which the loan was disbursed. Whenever the final date falls on a weekend or Federal holiday, the date shall be extended to the next workday.

§ 1435.60 Quantity for loan.

Loans shall not be made on more than the quantity which an eligible processor certifies is eligible, available, and properly stored, and for which processor's weight and polarization records, or such other records satisfactory to CCC, are furnished. Sugar pledged as collateral for a loan is not required to be stored identity preserved; however, a processor's outstanding loan quantity may not exceed his total eligible storage capacity less ineligible sugar in storage.

§ 1435.62 Loan maintenance and liquidation.

(a) *Maintenance of the commodity under loan.* A processor shall maintain in eligible storage eligible sugar of sufficient quality and quantity to cover the loan except that, if prior permission is obtained from the loan-making office, the processor may substitute other sugar of the same or a subsequent crop year which is located at a different storage facility: *Provided,* That such sugar is of at least equal quantity and quality as the sugar which was originally put under loan: *Provided, further,* That the processor may request and obtain prior written approval of the loan-making office on a form prescribed by CCC to remove a specified quantity for the purpose of delivering it to a buyer prior to repayment of the loan. The loan-making office shall not approve a request unless the buyer of the sugar agrees to pay to CCC an amount, not in excess of the purchase price, necessary to satisfy the processor's loan indebtedness on the sugar purchased. Any such approval shall not constitute a release of CCC's security interest in the sugar or release the processor from liability for any amounts due on his loan indebtedness if full payment of such amounts is not received by the loan-making office.

(b) *Loan liquidation.* (1) CCC may at any time accelerate the time for repayment of price support loan indebtedness. In the event of any such acceleration, CCC will give the processor notice of such acceleration at least 10 days in advance of the accelerated loan maturity date. Upon maturity of the loan, the processor is required to pay off his loan or deliver to CCC a quantity of eligible sugar equivalent to that pledged as collateral for loan, title to which shall, without a sale thereof, immediately vest in CCC. If the processor wishes to deliver the commodity to CCC he must, on or before maturity, give the State committee notice in writing of his intention to do so. Notwithstanding any of the provisions of this section, the State committee may on request of the processor authorize delivery prior to maturity if the processor loses control of the storage structure or if there is insect infestation that cannot be controlled, danger of flood, damage to the storage structure, or deterioration of the quality of the stored commodity beyond the control of the processor or for any other reason deemed sufficient by the Deputy Administrator, Commodity Operations.

(2) At his option, a processor may, at any time prior to maturity, redeem all or any part of his loan.

(3) The interest rate until loan maturity for each 1979 crop sugar loan shall be the 1979 crop CCC price support interest rate in effect at the time the loan is disbursed.

(c) *Storage costs.* Storage costs through the loan maturity date shall be borne by the borrower.

(d) *Processor incorrect certification or unauthorized removal.* If CCC determines, by actual measurement or otherwise, that the actual quantity serving as collateral for loan is less than the loan quantity, then CCC may call the loan. If CCC feels the seriousness of the matter so justifies it, CCC may call other outstanding loans of the processor and

Code of Federal Regulations, Subparts C 1944.175 Actions subsequent to loan and/or

may deny further loans for one year or more.

(e) *Loss or damage.* The processor is responsible for any loss in quantity or quality of sugar under loan, except that CCC will bear its pro rata share of any loss in the case of sugar stored on a commingled basis, less any insurance proceeds and salvage value of the sugar to which CCC may be entitled, if the processor establishes to the satisfaction of CCC each of the following conditions: (1) The loss or damage occurred without fault or negligence on the part of the processor; (2) the loss resulted solely from an external cause (other than insect infestation, vermin, or animals) such as theft, fire, lightning, explosion, windstorm, cyclone, tornado, flood, or other act of God; (3) the processor gave the State committee immediate notice of such loss or damage; and (4) the processor made no fradulent representation in the loan documents or in obtaining the loan.

(f) *Settlement of loan.* If the loan rate value of the sugar delivered to CCC, plus loss assumed by CCC according to paragraph (e) of this section, is equal to or greater than the outstanding loan balance, the loan shall be considered as fully satisfied. The loan rate value of the collateral delivered to CCC in excess of that required to satisfy the loan will be paid to the processor.

(g) *Foreclosure.* If the loan indebtedness is not satisfied in accordance with provisions of this section, CCC may, upon notice, with or without removing the collateral from storage, sell it at either a public or private sale. CCC may become the purchaser. If the net proceeds are less than the amount due on the loan the borrower shall pay the difference to CCC.

§ 1435.63 Processor storage agreement.

(a) The borrower shall: (1) Maintain the loan collateral in eligible storage while it is under loan in accordance with the provisions of § 1435.62(a) and, as deemed necessary by CCC, after maturity of the unredeemed loan, and (2) remove and physically deliver loan collateral in accordance with written instructions by CCC.

(b) CCC shall make monthly storage payments to the processor for the time he stores the commodity for CCC after the maturity date of the unredeemed loan. The storage payment rate shall not exceed $.0005 per pound, per month.

§ 1435.64 Miscellaneous provisions.

(a) *Insurance.* CCC will not require the processor to insure the sugar pledged as collateral; however, if the processor insures such sugar and an indemnity is paid thereon, such indemnity shall inure to the benefit of CCC to the extent of its interest, after first satisfying the processor's equity in the sugar involved in the loss.

(b) *Subterfuge.* The processor shall not reduce returns to the producer below those determined in accordance with the requirements of this subpart through any subterfuge or device whatsoever.

(c) *Processor indebtedness.* The regulations issued by the Secretary governing setoffs and withholding, Part 13 of this title, shall be applicable to the program.

(d) *Liens.* Waivers of liens or encumbrances on the sugar tendered as collateral for loans must be obtained which will fully protect the interest of CCC. A lienholder, in lieu of waiving his prior lien on sugar tendered as collateral for a loan, may execute a Lienholder's Subordination Agreement (Form CCC–864) with CCC in which he subordinates his security interest to the rights of CCC. No liens or encumberances shall be placed on the sugar pledged as collateral after the loan is approved.

(e) *Appeals.* A producer or processor may obtain reconsideration and review of determinations made under this subpart in accordance with the regulations in Part 780 of this title.

(f) *Records and inspection thereof.* ASCS shall reserve the right to have access to the premises of the processor, in order to inspect, examine, and make copies of the books, records, accounts, and other written data as are deemed necessary by ASCS to determine compliance with the requirements of this subpart. Such books, records, accounts and other written data shall be retained by the processor for not less than 3 years.

(g) *False certifications.* Any false certification, which is made for the purpose of enabling a processor to obtain any loan to which he is not entitled, will subject the person making such certification to liability under applicable Federal, civil and criminal statutes.

(h) *Handling payments and collections not exceeding three dollars.* In order to avoid administrative costs of making small payments and handling small accounts, amounts of $3 or less which are due the processor will be paid only upon his request. Deficiencies of $3 or less, including interest, may be disregarded unless demand for payment is made by CCC.

(i) *Death, incompetency, or disappearance.* In case of the death, incompetency, or disappearance of any processor who is entitled to the payment of any sum in settlement of a loan payment shall, upon proper application to the State committee, be made to the persons who would be entitled to such processor's payment under the regulations contained in Part 707 of this title—Payment Due Persons Who Have Died, Disappeared, or Have Been Declared Incompetent.

§ 1435.65 Applicable forms.

The CCC forms for use in connection with this program will be made available by the State committee.

Signed at Washington, D.C., on May 4, 1979.

Bob Bergland,
Secretary.

[FR Doc. 79–14487 Filed 5–4–79; 4:08 pm]

BILLING CODE 3410–05–M

Farmers Home Administration

[7 CFR Parts 1822, 1944]

Amendment, Consolidation and Redesignation

AGENCY: Farmers Home Administration, USDA.

ACTION: Proposed rule.

SUMMARY: The Farmers Home Administration (FmHA) proposes to revise and redesignate its regulations pertaining to Farm Labor Housing Loans and Grants. The intended effect of this action is to combine the loan and the grant regulations into one Subpart, expand the eligibility requirements for Labor Housing loans to family partnerships and corporations provide nationwide program clarity and consistency, incorporate provisions of the Housing and Community Development Act of 1976, and simplify program regulations.

DATES: Comments must be received on or before July 9, 1979.

ADDRESSES: Submit written comments to the office of the Chief, Directives Management Branch, Farmers Home Administration, U.S. Department of Agriculture, Room 6346, Washington, DC 20250. All written comments made pursuant to this notice will be available for public inspection at the address given above.

FOR FURTHER INFORMATION CONTACT: Russell Gibler (202) 447–7207.

SUPPLEMENTARY INFORMATION: FmHA proposes to amend, consolidate, and redesignate Subpart C and E of Part 1822, Chapter XVIII, Title 7, Code of Federal Regulations into a new Subpart D of Part 1944, Chapter XVIII, Title 7, Code of Federal Regulations. Subparts C and E of Part 1822 will be deleted.

This change will combine the present labor housing loan and grant regulations into one regulation. Included with this combination is an expansion of the eligibility requirements to include Federally recognized Indian Tribes and family sized farming partnerships and corporations. The test for other credit will not be required for individuals seeking assistance to provide housing for their domestic migrant farm laborers as long as the individual farmer will pay the market rate of interest for the loan. It also provides for a statement of previous participation in other Federally funded housing projects by the applicant. Nonprofit organizations and public bodies will be eligible to request financial assistance for initial operating capital. The local FmHA official responsible for the administration of the labor housing program will be the District Director rather than the present County Supervisor.

As proposed, Subpart D of Part 1944 reads as follows:

PART 1822—RURAL HOUSING LOANS AND GRANTS

§§ 1822.61–1822.77 (Subpart C) [Deleted]

§§ 1822.201–1822.222 (Subpart E) [Deleted]

PART 1944—HOUSING

SUBCHAPTER H—PROGRAM REGULATIONS

PART 1944—HOUSING

Subpart D—Farm Labor Housing Loan and Grant Policies, Procedures and Authorizations

Sec.

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1944.176 Loan and/or grant closing.
1944.177 Coding loans and grants as to initial or subsequent.
1944.178 Complaints regarding discrimination in use and occupancy of LH.
1944.179–1944.180 [Reserved]
1944.181 Loan servicing.
1944.182 Rental assistance.
1944.183–1944.200 [Reserved]
Exhibit A—Labor Housing Loan and Grant Application Handbook
Exhibit A–1—Information to be Submitted with Preapplication for Labor Housing Loan or Grant
Exhibit A–2—Information to be Submitted with Application for Federal Assistance (Short Form)
Exhibit A–3—Labor Housing Construction Guidelines
Exhibit A–4—Survey of Existing Labor Housing
Exhibit A–5—Statement of Budget, Income, and Expense
Exhibit B—Management Plans
Exhibit C—Loan Resolution
Exhibit D—Loan Agreement
Exhibit E—Loan and Grant Resolution
Exhibit F—Labor Housing Grant Agreement
Exhibit G—Legal Service Agreement
Exhibit H—Information Pertaining to Preparation of Notes or Bonds and Bond Transcript Documents for Public Body Applicants
Exhibit I—Guide Letter for Use in Informing Private Lender of FmHA's Commitment

PART 1944—HOUSING

Subpart D—Farm Labor Housing Loan and Grant Policies, Procedures and Authorizations

§ 1944.151 Purpose.

This subpart sets forth the policies and procedures and delegates authority for making initial and subsequent insured loans under Section 514 and grants under Section 516 of the Housing Act of 1949, to provide housing and related facilities for domestic farm labor.

§ 1944.152 Objective.

The basic objective of the Farmers Home Administration (FmHA) in making domestic Farm Labor Housing (LH) loans is to provide decent, safe, and sanitary housing and related facilities for domestic farm labor to be located in areas where a need exists and in making LH grants when there is a pressing need for such facilities in the area and there is reasonable doubt that the housing can be provided without the grant assistance.

§ 1944.153 Definitions.

As used in this subpart:

(a) *Domestic farm laborer.* Means persons who receive a substantial portion of their income as laborers on farms in the United States, Puerto Rico, or the Virgin Islands and either (1) are citizens of the United States, or (2) reside in the United States, Puerto Rico, or the Virgin Islands after being legally admitted for permanent residence, and may include the immediate families of such persons. Laborers on farms may include laborers engaged in handling agricultural commodities while in the unprocessed stage, provided the place of employment, such as a packing shed, is on or near the farm where the commodity is produced. Laborers performing farming functions off the farm must be employed by the producer of the agricultural commodity. Domestic farm labor also includes persons working in aquaculture operations as defined in Subpart C of Part 1904 of this Chapter.

(b) *Housing.* Means new or existing structures which are or will be suitable for decent, safe, and sanitary dwelling use by domestic farm labor. "Housing" may include household furnishings and related facilities where appropriate.

(c) *Household furnishings.* Consists of such basic durable items as stoves, refrigerators, tables, chairs, dressers, and beds. Items such as bedding, linens, dishes, silverware, and cooking utensils are not included in this definition.

(d) *Related facilities.* Include community rooms or buildings, cafeterias, dining halls, infirmaries, child care facilities, assembly halls, and other essential service facilities such as central heating, sewerage, lighting systems, clothes washing facilities, and safe domestic water supply. All related facilities must be reasonably necessary for proper use of the housing as dwellings for domestic farm labor occupants.

(e) *Farmowner.* Farmowner means a natural person or persons who are the "owners" of a "farm" as these two terms are further defined in Subpart A of Part 1822 (FmHA Instruction 444.1).

(f) *Family farm corporation or partnership.* Means a private corporation or partnership in which at least 90% of the stock or interest is owned and controlled by members of the same family whose adult members are actually engaged in the day-to-day onsite farming operations. Members of the same family are those persons occupying one household or who live on the farm in a separate household who are related by blood or law and provide joint operation of the land. However, if more than two separate households are involved, the family farm corporation or

provide local management and

lease. When the State Director is

(1) Be an organization, as defined in

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partnership, shall not be eligible for assistance. The family farm corporation or partnership must be (1) legally organized and authorized to own and operate a farm business within the State, (2) legally able to carry out the purposes of the loan, and (3) prohibited from the sale or transfer of 90% of the stock or interest to other than family members by either the articles of incorporation, bylaws or by agreement between the stockholders or partners and the corporation or partnership.

(g) *Organization.* Means an association of farmers, a broad-based nonprofit organization, a nonprofit organization of farmworkers, federally recognized Indian Tribe, or an agency or political subdivision of State or local government.

(h) *Association of farmers.* Means three or more farmers (farmowners or leaseholders) acting as a single legal entity whose members are individuals devoting a substantial part of their time to personal participation in the conduct of farming operations, and the majority of whose members reside in the area where the housing will be located. Members may include the individual members of farming partnerships or corporations provided such individuals are actually involved in the day-to-day onsite farming operations.

(i) *Broad-based nonprofit organization.* Means an organization, public or private, which (1) is incorporated within the State, Puerto Rico, Virgin Islands, or a Federally recognized Indian Tribe, (2) is organized and operated on a nonprofit basis, and (3) is legally precluded from distributing any profits or dividends to its members, (4) is not grower oriented (majority of board must be nonfarmers) (5) pledges to administer the housing as a community service in the interest of the whole community, and (6) has at least 25 members for projects with a total development cost of up to $100,000 and additional members for projects costing more than $100,000. The membership must reflect a variety of interests of the area where the housing will be located. Organizations operating in more than one local area will have local representation within its membership from each area where it's housing projects are located.

(j) *Nonprofit organization of farmworkers.* Means a nonprofit organization which is incorporated within the State, Puerto Rico, or the Virgin Islands, has local representation in the membership, and whose membership is primarily made up of individuals who receive a substantial portion of their income from farm work.

(k) *Construct or repair.* Means to construct new structures or facilities, or to acquire, relocate, or repair or improve existing structures or facilities.

(l) *Members and membership.* Include stockholders and stock when appropriate.

(m) *Board and directors.* Includes the governing body and members of the governing body of an organization.

(n) *Promissory note.* May include a bond or other evidence of indebtedness.

(o) *Mortgage.* May include any appropriate form of security instrument.

(p) *Development cost.* Includes the cost of constructing, purchasing, improving, altering, or repairing new or existing housing and related facilities, buying household furnishings, and purchasing or improving the necessary land. It includes necessary architectural, engineering, legal fees and charges and other appropriate technical and professional fees and charges. It does not include fees, charges, or commissions such as payments to brokers, negotiators, or other persons for the referral of prospective applicants or solicitations of loans. For all types of LH applicants, other than the individual farmowners, family farm corporation and partnerships, and an association of farmers, the development cost may include initial operating expenses of up to 2 percent of the aforementioned costs.

(q) *Individual.* Means a natual person. In the case of married persons, it may include the spouse.

(r) *Applicant.* Means the applicant for or the recipient of an LH loan or grant.

(s) *LH fund(s).* May include either loan or grant monies or both in this subpart.

(t) *Subsequent LH loan or grant.* Is a loan or grant to an applicant or borrower to complete the units planned with the initial loan or grant.

(u) *Migrant.* A domestic farmworker who works in any given local area on a seasonal basis and relocates his or her primary place of residence as farmwork is followed during the year.

§§ 1944.154–1944.156 [Reserved]

§ 1944.157 Eligibility requirements.

(a) *Eligibility of applicant for an LH loan.* To be eligible for an LH loan the applicant must:

(1) Be an individual farmowner, family farm corporation or partnership, or an organization, as these terms are defined in § 1944.153, which will own the housing and operate it on a nonprofit basis.

(2) Except for a State and local public agencies, or a political subdivision thereof be unable to provide the necessary housing from their own resources and be unable to obtain the necessary credit from any other source upon terms and conditions they could reasonably be expected to fulfill. If an association of farmers or family farm corporation or partnership, the individual members, individually and jointly, must be unable to provide the necessary housing by utilizing their own resources and be unable, by pledging their personal liability, to obtain other credit. That would enable them to provide housing for farm workers at rental rates they can afford to pay except, The State Director may make an exception to the requirement that an individual farm owner, family farm corporation, family farm partnership or an association be unable to obtain the necessary credit elsewhere when *all* of the following conditions exist:

(i) There is a need in the area for housing for domestic farmworkers *who are migrants* and the applicant will provide such housing.

(ii) There are no qualified State or political subdivisions, public or private nonprofit organizations currently available or likely to become available within a reasonable period of time that are willing and able to provide the housing.

(iii) The rates and terms of such loans will be in accordance with § 1810.1 of Subpart A Part 1810 (FmHA Instruction 440.1).

(3) Have sufficient initial operating capital. LH loans made to nonprofit organizations and to State or local public agencies or policial subdivisions thereof, may include up to 2 percent of the development cost for initial operating expenses. The initial operating capital should be sufficient to pay such costs as property and liability insurance premiums, fidelity bond premiums if required, utility hookup deposits, maintenance equipment, moveable furnishings and equipment, printing lease forms, and other initial expenses.

(4) After the loan is made, have income sufficient to pay operating expenses, make necessary capital replacements, make the payments on the loan and other authorized debts, and accumulate reasonable reserves as required.

(5) Possess the legal capacity, character, ability, and experience to carry out the undertakings and obligations required for the loan, including the obligation to maintain and operate the housing and related facilities for the purpose for which the loan is made. Organizations operating in more than one local area will be required to indicate their ability to

provide local management and supervision of the day-to-day operation of the housing project.

(6) If an individual farmowner, family farm corporation or partnership, or an association of farmers, use the housing for labor to be used in the farming operations of the applicant, or farming operations of its members.

(7) Own the housing and related land or become the owner when the loan is closed. An owner may include, in addition to the owner of full marketable title, a lessee of a tract of land owned by a State, political subdivision, public body or public agency, or Indian tribal lands which are not available for purchase. It May also include land when the State Director determines that long-term leasing of sites by nonpublic bodies is a well established practice and such leaseholds are fully marketable in the area, provided:

(i) The applicant is unable to obtain fee title to the property.

(ii) A recorded mortgage constituting a valid and enforceable lien on the applicant's leasehold will be given as security.

(iii) The amount of the LH loan against the property will not exceed the maximum security value determined in accordance with Subparts A and B of Part 1809 of this Chapter (FmHA Instructions 422.2 or 422.3) as appropriate.

(iv) The unexpired term of the lease on the date of loan approval is at least 25 percent longer than the repayment period of the loan and rental charged for the lease should not exceed the rate being paid for similar leases in the area.

(v) The borrower's interest may not be subject to summary foreclosure or cancellation.

(vi) The lease must:

(A) Not restrict the right to foreclose the RRH Mortgage or to transfer the lease.

(B) Permit FmHA to bid at foreclosure sale or to accept voluntary conveyance of the security in lieu of foreclosure.

(C) Permit FmHA after acquiring the leasehold through foreclosure, or voluntary conveyance in lieu of foreclosure, or in event of abandonment by the borrower, to occupy the property, or to sublet the property and to sell the leasehold for cash or credit.

(D) Permit the borrower, in the event of default or inability to continue with the lease and the LH loan, to transfer the leasehold, subject to the LH mortgage, to a transferee with assumption of the LH debt and grant obligation.

(vii) The advice of OGC will be obtained as to legal sufficiency of the lease. When the State Director is uncertain as to whether a loan can be made on a leasehold, the request should be submitted to the National Office for evaluation and instructions.

(8) If it is a private broad-based nonprofit organization or a nonprofit organization of farmworkers, meet the following additional requirements:

(i) Be legally precluded from distributing any dividends or net earnings to its members or any private individual during its corporate lifetime.

(ii) In the event of its dissolution, be legally bound to transfer its net assets to a nonprofit organization of a similar type or a public body for use for domestic farm labor housing or other public purposes if the need for farm labor housing no longer exists.

(iii) Responsibility for management of the housing must be vested in the applicant's board of directors.

(A) A broad-based nonprofit organization must be governed by a board of directors of not less than five members who are experienced in such fields as real estate management, finance, or related businesses and who will be not be users of the labor housed in the project.

(B) A nonprofit organization of farmworkers must have representation on the board from the area where the housing is located. Directors may be elected who are not members of the organization but are experienced in such fields as real estate management, finance, or related businesses provided member directors represent a majority of the board.

(iv) Be prohibited from requiring or preventing employment on any particular farm or farms as a condition of occupancy.

(v) Except for an organization of farmworkers, be certified as exempt from Federal income taxation.

(9) Individual farmowner applicants who are citizens of the United States, the Commonwealth of Puerto Rico, the Virgin Islands, the territories and possessions of the United States, or the trust territory of the Pacific Islands or residents in one of the foregoing areas after being legally admitted for permanent residence or on indefinite parole. If the applicant is an organization, other than a State or political subdivision, the majority of the members and controlling interests must be individuals who meet the citizenship requirements for individual farm owners as stated above.

(b) *Eligibility of applicant for an LH grant.* To be eligible for an LH grant the applicant must meet the applicable requirements in § 1944.157 (a) and;

(1) Be an organization, as defined in § 1944.153(g) other than an association of farmers, with an assured life over a period of years sufficient to carry out the purpose of providing low-rent housing for domestic farm labor. This should not be less than the anticipated useful life of the project as suitable housing for domestic farm labor, assuming proper maintenance and repair of the property. Ordinarily, this should not be less than 50 years.

(2) When the grant is closed, be the owner (as defined in this subpart) of the housing and related facilities, including the site.

(3) Be unable to provide the necessary housing from its own resources, including any power to levy taxes, assessments, or charges, and be unable to obtain terms and conditions the applicant could reasonably be expected to fulfill.

(4) Possess the legal and actual capacity, ability, and experience to incur and carry out the undertakings and obligations required, including the obligations to maintain and operate the housing and related facilities for the purpose for which the grant is made.

(5) Legally obligate itself not to divert income from the housing to any other business, enterprise, or purpose.

(c) *Authorized representotive of applicant.* FmHA will deal only with the applicant or its bona fide representative and technical advisers. The authorized representative of the applicant must be a person who has no pecuniary interest in the award of the architectural or construction contracts, the purchase of equipment, or the purchase of land for the housing site.

§ 1944.158 Loan and grant purpose.

LH loans and grants may be made to qualified applicants to:

(a) Build, buy, improve or repair housing as defined in § 1944.153(b).

(b) Purchase and improve the necessary land on which the housing will be located. (1) The cost of land purchased with loan or grant funds may not exceed its present market value in its present condition. Present market value will be determined by a current appraisal in accordance with applicable FmHA regulations.

(2) Loan or grant funds will not be used to buy land from a number of an applicant-organization, or from another organization in which any member of the applicant-organization has an interest, without prior approval of the State Director. In granting this approval the State Director should be sure that the present market value is at least equal to the purchase price.

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(2) Loan or grant funds may be used to

with the requirement that the

(b) *Interest rate.* LH loans will be

(c) The housing to be provided is the

(iii) Whenever possible, consistent

of application as part of a development

(3) Loan or grant funds may be used to acquire land in excess of that needed for the housing, including related facilities, except when the applicant cannot acquire only the needed land at a fair price, can justify the acquisition, agrees to sell the excess land as soon as practicable and apply proceeds on the loan, and has legal authority to acquire and administer the land.

(c) Develop and install water supply, sewage disposal, streets, heat and light systems necessary in connection with the housing. If the facilities are located offsite, the following requirements must be met:

(1) The applicant will hold the title to the facility or have a legally assured adequate right to use of the facility for at least the life of the loan or grant and such title or right can be transferred to any subsequent owner of the site.

(2) The facilities are provided for the exlusive use of the LH project or funds are limited to the prorated part of the total cost of the facility according to the use and benefit to the project. The applicant will agree in writing to the application as extra payments on the LH loan of any subsequent collection by the borrower from other users or beneficiaries of the facility.

(3) Adequate security can be obtained with or without a mortgage based on the offsite facilities.

(d) Develop other related facilities in connection with the housing such as:

(1) Maintenance workshop and storage facilities.

(2) Recreation center including lounge if the project is large enough to justify such a facility.

(3) Central cooking and dining facilities when the project is large enough to justify such services.

(4) Small infirmary for emergency care only when justifed.

(5) Laundry room and equipment if not provided in the individual units.

(6) Appropriate recreational facilities and other facilities to meet essential needs.

(e) Construct office and living quarters for the resident manager and other operating personnel in projects consisting of 10 or more units, if such facilities would be advantageous to the project and the Government.

(f) Construct maintenance equipment or similar structures.

(g) Purchase and install ranges, refrigerators, clothes washers, and clothes dryers. Clothes washers and clothes dryers may be installed in individual rental units only if the inclusion of such items in individual units is customary in the area for the type of housing involved and consistent with the requirement that the construction involved be undertaken in an economical manner and not constitute elaborate or extravagent items. Otherwise, the clothes washers and clothes dryers must be installed in a central laundry room. Wherever, practical, this equipment should be attacked to the real in a manner to prevent easy removal.

(h) Purchase and install essential equipment which upon installation becomes a part of the real estate.

(i) Provide landscaping, foundation planting, seeding or sodding of lawns, or other necessary facilities related to buildings such as walks, yards, fences, parking areas, and driveways.

(j) Pay related costs such as fees and charges for legal, architectural, engineering, and other appropriate technical and required services. Ordinarily, FmHA will furnish the needed guidance for the development of the LH loan docket and project. However, the State Director may authorize the use of loan funds to enable a nonprofit corporation to pay a qualified consulting organization or foundation, operating on a nonprofit basis, charges for necessary services, provided the State Director determines that:

(1) Either (a) the applicant, with available FmHA assistance, cannot meet all requirements for a sound loan or grant without the services, or (b) the services would permit significant financial savings to the Government, either directly or by lightening the workload involved in processing applications, and

(2) The charges are reasonable in amount, considering (a) the amount and the purpose of the loan or grant, (b) the payment ability of the borrower, and (c) the cost of similar services in the same or similar rural areas.

(k) Pay interest which will accure during the estimated construction period.

(l) Pay normal charges necesaary to obtain interim financing.

(m) Pay initial operating expenses up to 2 percent of the development cost for any type applicant except an individual farmowner, family farm corporation, partnership or an association of farmers.

§ 1944.159 Rates and terms.

(a) *Amortization period.* Each loan will be scheduled for payment in installments within a period, not to exceed 33 years, as may be necessary to assure that the loan will be adequately secured, taking into account the probable depreciation of the security.

(b) *Interest rate.* LH loans will be made at interest rates specified in FmHA instruction 440.1, Exhibit B which is avialable in any FmHA office.

(c) *Rental Assistance.* This may be granted to LH projects in accordance with the provisions of Exhibit R of Subpart of Part 1822 of this Chapter (FmHA Instruction 444.5, Exhibit R).

§§ 1944.160—1944.162 [Reserved]

§ 1944.163 Conditions under which an LH grant may be made.

A grant may be made to an eligible applicant only when all of the following requirements can be met:

(a) The applicant will contribute at least one-tenth of the total development cost, obtained from its own resources, including any power to levy taxes, assessments, or charges, with credit from other sources, or with an LH loan. The applicant's contribution must be available at the time of grant closing. If an LH Loan is needed, the applicant will file an application for a combination loan and grant at the same time.

(b) The housing and related facilities will fulfill a pressing need in the area in which the housing is or will be located and there is reasonable doubt that such housing can be provided without the grant.

(1) The applicant will furnish FmHA factual evidence of fulfilling a pressing need, showing:

(i) Number of domestic farm laborers currently being used in the area.

(ii) Kind of labor performed.

(iii) Outlook for future need for domestic farm labor in the area.

(iv) Kind, condition, and adequacy of housing presently used by domestic farm laborers.

(v) Ownership of presently occupied housing.

(vi) Customary rental terms and conditions.

(vii) Reasons why needed housing cannot be financed with funds from other sources including an LH loan.

(2) When appropriate, the District Director may check with such sources as the State Department of Labor, Bureau of Employment Security, and other reliable sources to verify the information submitted.

(3) If, after evaluating the information furnished by the applicant and additional information that may be provided, the District Director determines that the housing will fulfill a pressing need and that a reasonable doubt exists that the housing can be provided without the grant, the District Director will prepare a narrative statement to support these conclusions.

(c) The housing to be provided is the most practicable type, giving due consideration to the purposes to be served and the needs of the occupants. Housing for families will be constructed in accordance with Department of Housing and Urban Development (HUD) Minimum Property Standards. Dormitory type housing for individual seasonal workers, when justified, may be constructed in accordance with Department of Labor (DOL) Occupational Safety and Health Administration (OSHA) standards.

(d) The housing will be constructed in an economical manner and will not be of elaborate or extravagant design or material.

(e) The housing must be durable and suitable for year-round use unless the need for such housing is seasonal and year-round occupancy is not practical and will not be needed.

§ 1944.164 Limitations and conditions.

(a) *Limitations on use of loan and grant funds.* Among the purposes for which loan and grant funds will *not* be used are the following:

(1) Providing housing for the members of the immediate family of the applicant when the applicant is an individual farmowner, family farm corporation, partnership or an association of farmers.

(2) Housing, related facilities or household funishings which are elaborate or extravagant in design or material.

(3) Refinancing debts of the applicant.

(4) Moveable-type furnishings or equipment except household furnishings as defined in § 1944.153(c).

(5) Payment of any fees, charges, or commissions to any broker, negotiator, or other person for the referral of a prospective applicant or solicitation of the loan.

(6) Payment of any fee, salary, commission, profit, or compensation to an applicant, or any officer, director, trustee, stockholder, member, or agent of the applicant, except as provided in § 1944.158 (j).

(b) *Priority in use of grant funds and maximum amount of grant.* (1) *Priority in use of grant funds.* Projects will be authorized for funding by the National and State Offices based on priority being given to:

(i) Applications which best demonstrate management ability and experience in the operation of rental housing, particularly farm labor housing.

(ii) Locations where a long range and pressing need exists for farm labor housing because of labor intensive agricultural crop production and a lack of suitable housing.

(iii) Whenever possible, consistent with the foregoing limitations and conditions, project occupancy consisting of domestic migratory farm labor.

(iv) Projects where occupants will derive the highest portion of their income from on farm agricultural work.

(2) *Maximum amount of grant.* The amount of any grant may not exceed the lessor of:

(i) Ninety percent of the total development cost, or

(ii) That portion of the total cash development cost which exceeds the sum of any amount the applicant can provide from its own resources plus the amount of a loan which the applicant will probably be able to repay, with interest, from income from rentals within the financial reach of low-income farmworker families. The availability of rental assistance and HUD section 8 subsidies will be considered in determining the rentals that farm workers will pay.

(c) *Advance of grant funds.* The times for requesting Treasury Checks representing LH grant funds and depositing such checks in the applicant's supervised bank account will be determined in accordance with § 1944.175. When other funds to help finance the labor housing are being supplied by the applicant from its own resources or from a loan, such other funds will be used before a grant check is requested from the Treasury or deposited in or disbursed from the supervised bank account, as appropriate to comply with §§ 1944.175.

(d) *Obligations incurred before loan or grant closing.* When the applicant files an application for a loan or grant, the District Director will advise the applicant that construction must not be started and obligations for work materials, or land must not be incurred or made before the loan or grant is closed, and that it is the policy of the FmHA not to permit loan or grant funds to be used to pay such obligations or reimburse the applicant for such payments for such purposes before the loan or grant is closed, the State Director may authorize the use of loan or grant funds to pay such debts or reimburse the applicant only when the State Director finds that all the following conditions exist:

(1) The debts were incurred: (a) after the applicant filed a written application for a loan with FmHA; or (b) before the date of application as part of a predevelopment loan specifically intended as interim financing from a public agency or non-profit organization and prior concurrence of the National Office is obtained; or (c) before the date of application as part of a development loan made to a State or local public agency specifically intended as temporary financing and prior concurrence of the National Office is obtained.

(2) The applicant is unable to pay such debt from its own resources or from credit from other sources, and failure to authorize the use of loan or grant funds to pay such debts or reimburse the applicant would impair the applicant's financial position.

(3) The debts were incurred or payments were made for authorized loan and grant purposes.

(4) Contracts, materials, construction and any land purchase meet FmHA standards.

(5) Payment of the debts will remove any liens which have attached and any basis for liens that may attach to the property on account of such debts.

(e) *Grant resolution.* A resolution will be adopted by the applicant's Board of Directors and a certified copy included in the grant docket before a grant is approved.

(1) For a grant accompanied by an LH loan, the form of resolution attached as Exhibit E to this subpart will be used with any necessary changes required or approved by the Office of the General Counsel (OGC). For a grant not accompanied by an LH loan, the form of resolution will be provided or approved by the National Office following Exhibit E as closely as feasible.

(2) The form of resolution to be adopted by the applicant will contain policy and procedural requirements which should be read and be fully understood by the applicant's Board of Directors and officers. Included in the resolution will be provisions authorizing FmHA to prescribe requirements regarding the operation of the housing and related facilities and other provisions including the following:

(i) The rentals charged domestic farm labor will not exceed such amounts as are approved by FmHA after considering the income of the occupants and the necessary costs of operation, debt service, and adequate maintenance of the housing.

(ii) The housing will be maintained at all times in a safe and sanitary condition in accordance with standards prescribed by State and local law, and as required by FmHA.

(iii) In granting occupancy of the housing an absolute priority will be given at all times to domestic farm labor.

(3) The resolution will also authorize the appropriate officers of the applicant to execute a "Labor Housing Grant

Agreement," in the format of Exhibit F of this subpart. If changes are required in Exhibit F they must be approved by OGC.

(f) *Conditional obligations to repay grants.* The obligations incurred by the applicants as a condition of the grant will be in accordance with Exhibit F of this Subpart.

(g) *Loan resolution or loan agreement.* An applicant-organization will have its Board of Directors adopt a loan resolution and furnish a certified copy for the loan docket before loan approval. The resolution will be substantially in the format of Exhibit C of this subpart. Any necessary changes must be approved by the OGC. An individual farmowner applicant, will execute a loan agreement in substantial the same format as Exhibit D of this subpart. Any necessary changes must be approved by OGC. The provisions of the resolution or agreement should be read and fully understood by the applicant. They will be binding on the applicant as part of the loan contract.

(h) *Restrictions on conditions of occupancy.* No organization borrower other than an association of farmers, or family farm corporation or partnership will be permitted to require that an occupant work on any particular farm or for any particular owner or interest as a condition of occupancy of the housing. Tenant selection should be in accordance with Exhibit B of this subpart. No borrower or grantee will discriminate, or permit discrimination by any agent, lessee, or other operator in the use of occupancy of the housing or related facilities because of race, color, religion, sex, national origin, age, marital status, physical or mental handicap (must possess capacity to enter into legal contract). Each borrower or grantee will comply with Subpart E of Part 1901 of this Chapter (FmHA Instruction 1901–E).

(i) *Supervisory assistance.* Supervision will be provided borrowers to the extent necessary to achieve the objectives of the loan and to protect the interests of the Government. The provision of Subpart G of Part 182 of this Chapter (FmHA Instruction 430.2) will be followed.

(j) *Nondiscrimination in use and occupancy.* The borrower will not discriminate nor permit discrimination or segregation by any agent, lessee, or other operator in the use of occupancy of the housing or related facilities because of race, color, religion, sex, age, maritial status, physical or mental handicapped (must possess the capacity to enter into a legal contract) national origin, and will comply with Subpart E of Part 1901 of this Chapter.

(k) *Location of housing.* (1) Except for a loan to an individual farmowner, family farm corporation or partnership, or an association of farmers, all housing must be located:

(i) In or as a part of an established community.

(ii) Near essential community facilities such as shopping, schools, and other essential services.

(iii) On a public all-weather road.

(iv) In an area where the property would be readily saleable.

(v) In an area where existing LH will not be adversely affected. Exhibit A–4 of this subpart may be used to identify possible projects affected.

(2) LH loans may be made to associations of farmers to finance housing that is not located within or as a part of an established community only when the State Director determines that the following conditions will be met: (i) All the LH dwelling units will be located on contiguous plotted lots within the same subdivision which has been properly accepted by the proper local bodies and duly recorded.

(ii) The housing site is located on a paved road.

(iii) The housing consists of single family individual detached houses and the sites are residential in character.

(iv) The housing sites are in an area which will have a continuing demand for rental housing.

(v) The housing sites will be served by a central water and sewer system unless not economically feasible.

(l) *Implementation of OMB Circular A–95 concerning formulation, evaluation, and review of federal programs and projects having significant impact on area and community development.* Except for Indian tribes, when projects exceed 10 individual detached units or 25 or more multiple units, the provisions of Subpart H of Part 1901 of this Chapter apply.

(m) *Guidelines for preparing environmental assessment and environmental impact statements.* All projects shall comply with Subpart G of Part 1901 of this Chapter.

(n) *National flood insurance.* The provisions of the National Flood Insurance Act of 1968 as amended by the Flood Disaster Protection Act of 1973 apply to FmHA authorities permitting financing of LH now located in or to be located in special flood or mudslide prone areas as designated by the Federal Insurance Administration (FIA) of HUD. Subpart B of Part 1806 of this Chapter (FmHA Instruction 426.2) applies.

(o) *Implementation of Part 1980 C of this Chapter [Administration Letter 843(440)].* The taking of mortages on land offered for security, which is located on any of the Reclamation Projects listed in Part 1890 C of this Chapter [Administration Letter 843(440)], dated May 17 1965, must meet its requirements. This Administrative Letter is available at the local FmHA Office.

(p) *LH loans to Indians secured by trust or restricted land.* Loans to individuals will be secured by a mortgage on the leasehold interest held by the applicant. The leasehold interest must meet the conditions of § 1822.7 (j) of Subpart A of Part 1822 of this Chapter (FmHA Instruction 444.1 VII J). Loans to tribes or tribal corporations will be secured in accordance with §§1823.409 and 1823.414 of Subpart N of Part 1823 of this Chapter (FmHA Instruction 442.11 IX and XIV A).

(q) *Refinancing LH Loans.* Each borrower, except public bodies, will be required to agree to refinance the unpaid balance of the borrower's LH loan at the request of FmHA, whenever it appears to FmHA that the borrower is able to obtain a loan from responsible cooperative or private credit sources at reasonable rates and terms.

§§ 1944.165–1944.167 [Reserved]

§ 1944.168 Security requirements.

(a) *General.* Each loan will be secured so as to adequately protect the financial interest of the Government in the loan during its repayment period. The amount of the loan may not exceed the value of the security for the loan as determined by an appraisal, less the unpaid principal balance, plus past due interest of any prior or junior liens that will or will likely to exist against the security after the loan is closed. If the State Director determines it necessary or advisable to encumber household furnishings purchased with loan funds, the State Director will, with the advice of OGC, issue appropriate instructions setting forth the manner in which household furnishings will be secured.

(b) *Loan to an individual farmowner or family farm corporation or partnership.* For every loan to an individual farmowner or family farm corporation or partnership, a real estate mortgage will be taken on the farm in accordance with Part 1807 of this Chapter (FmHA Instruction 427.1). If requested by the applicant, a mortgage may be taken on a part of the *farm* to be improved with the LH loan which contains at least enough land to clearly provide adequate security for the loan as determined by an appraisal. In such cases, the loan must meet the following conditions:

(1) In cases involving single-detached houses, the tract to be mortgaged must not include or be close to farm service buildings, must be in a good residential location, and must be otherwise suitable as a residential type of nonfarm tract and the housing must be of such quality that it would meet the requirements for a section 502 Rural Housing (RH) loan.

(2) In cases including multiunit structures, the location requirements of § 1944.164 (1) (l) must be met.

(3) If the tract to be mortgaged is covered by a prior lien which also applies to other land, the tract to be given as security must either:

(i) Be released from the prior lien or subordinated to permit a first lien for the LH loan, or

(ii) Provide adequate security for the entire prior lien debt and the LH loan and comply with § 1822.10 (b) (2) of Subpart A of Part 1822 of this Chapter (paragraph X B 2 of FmHA Instruction 444.1).

(4) All other requirements for a sound loan must be met.

(5) Personal liability will be required of the stockholders or partners of a family farm corporation or partnership.

(c) *Loan to an organization.* (1) A loan to an organization which can give a real estate mortgage will be secured by a mortgage on good and marketable title to the real estate including the housing, the related facilities, and the site, subject to any exceptions that may be waived as provided in Section 1807.2 (d) of Part 1807 of this Chapter (paragraph II D of FmHA Instruction 427.1).

(2) If a first mortgage cannot be obtained, a junior mortgage may be taken provided:

(i) The prior mortgage as affected by the State law does not contain such provisions for future advances, payment schedules, forfeiture or cancellation, foreclosure without adequate notice to junior lienholders, or other matters which may jeopardize FmHA's security position or the borrower's ability to pay the loan; or

(ii) Such provisions are satisfactorily limited, modified, waived, or subordinated.

(3) If it is impossible for an applicant which is a public or quasipublic organization to give a real estate mortgage, the security to be taken will be determined by the National Office upon the recommendation of the State Director. The State Director should consult OGC as to whether the proposed security is legally permissable.

(4) In individual cases, additional security may be advisable to ensure that the loan objectives will be carried out. For example, when the applicant or its members do not have proven ability to manage and operate the housing successfully, one or more of the following types of security may be required.

(i) A mortgage or other security interest in other real estate or personal property owned by the applicant or by the members of the applicant-organization.

(ii) A pledge, assignment, mortgage or other security interest in income from the housing.

(iii) A cosigner on the promissory note, letter of credit, endorsements, assessments, user agreements, personal liability agreements, or membership subscription agreements.

(5) As a general policy, personal liability will be required of the members of an association of farmers.

§ 1944.169 Technical, legal and other services.

(a) *Appraisals.* (1) When real estate is taken as security, the property will be appraised by an FmHA employee authorized to make real estate appraisals. Form FmHA 426–1, "Valuation of Buildings," will be completed to show the depreciated replacement value of all the buildings existing or to be constructed on the property to be taken as security. When the security being offered is:

(i) *A farm* and involves not more than two rental units, the appraisal will be made in accordance with Subpart A of Part 1809 of this Chapter (FmHA Instruction 422.1).

(ii) *Other than a farm,* and involves not more than two rental units, the appraisal will be made in accordance with Subpart A of Part 1809 of this Chapter (FmHA Instruction 422.3).

(iii) Farm or nonfarm, and involves more than two rental units or dormitory-type housing, the appraisal will be made in accordance with Subpart B of Part 1809 of this Chapter (FmHA Instruction 422.2).

(2) If the loan includes funds for purchasing household furnishings or equipment which will not become part of the real estate, a narrative type appraisal, identifying the items, will be prepred by the employee preparing the real estate appraisal. The value placed on such furnishings will be based on comparable selling prices in area.

(b) *Architectural and engineering services.* Housing and related facilities will be planned and designed to meet the needs of the type of occupants who will likely occupy it. A written contract for architectural or engineering services will be required as outlined in Subpart A of Part 1804 of this chapter (FmHA Instruction 424.1).

(c) *Construction and development policies.* (1) *Planning and construction.* Housing will be planned in accordance with Subpart A of Part 1804 of this Chapter (FmHA Instruction 424.1) and Exhibit A–3 of this subpart. Construction and development will be performed in accordance with Subpart A of Part 1804 of this Chapter (FmHA Instruction 424.1).

(2) *Davis-Bacon Act.* Construction financed with the assistance of an LH grant will be subject to Subpart D of Part 1901 of this Chapter regarding the Davis-Bacon Act and related requirements.

(3) *Compliance with local codes and regulations.* Planning construction, zoning, and operation of housing financed with the LH loan or grant will conform with all applicable Federal, State and local laws, ordinances, codes, and regulations governing such matters as construction, heating, plumbing, electrical installation, fire prevention, health and safety and sanitation. If there are no local or State codes and regulations governing these matters, the State Director will issue appropriate guidelines to insure that the facilities meet all FmHA requirements.

(4) *Land use objectives.* Location of projects shall be such, to the extent practicable, that they result in the preservation of Important Farmlands and Forestlands, Prime Rangeland and Wetlands. State Directors will assure that FmHA actions, investments, and programs on non-Federal lands are consistent with State and local land use plans and programs to the extent practicable. In carrying this out, State Directors will:

(i) Attempt to integrate departmental and State and local land use policies and programs.

(ii) Identify and minimize to the extent practicable adverse environmental, economic, and social effects of FmHA projects and programs.

(iii) Provide landholders and other concerned people information about the alternatives to, and the associated environmental, social, and economic implications of proposed actions.

(iv) Refrain from enabling others to irreversibly convert these lands or encroaching or enabling other encroachments on flood plains unless there are no practicable alternatives.

(v) In unusual circumstances when the State Director is unable to make a determination regarding land

classification, the State Director will request assistance from the Administrator of the Soil Conservation Service in Washington, D.C.

(d) *Optioning of land.* If a loan or grant includes funds to purchase real estate, the applicable provisions of Subprt C of Part 1904 of this Chapter regarding options will be followed. After the loan is approved, the District Director will have Form FmHA 440–35, "Acceptance of Option," or other appropriate form of acceptance, completed, signed, and mailed to the seller.

(e) *Insurance.* The State Director will determine the minimum amounts and types of insurance the applicant will carry. (1) Fire and extended coverage will be required on all buildings included in the security for the loan in accordance with Subpart A of Part 1806 of this Chapter (FmHA Instruction 426.1).

(2) Suitable Workman's Compensation Insurance will be carried by the applicant for all its employees.

(3) The applicant will be advised of the possibility of incurring liability and encouraged, or may be required when appropriate, to obtain liability insurance.

(f) *Title clearance and legal services.* When the applicant is an organization, or has special title or loan closing problems, title clearance and legal services will be obtained in accordance with instructions from the OGC. In other cases, the provisions of Part 1807 of this Chapter (FmHA Instruction 427.1) regarding title clearance and legal services will apply.

(g) *Use of and accountability for loan and grant funds.* Loan and grant funds and any funds furnished by the borrower will be deposited and handled in accordance with Part 1803 of this Chapter (FmHA Instruction 402.1). (1) Funds funished by the borrower for the purchase of special equipment and furnishings to be used in connection with the project, for which loan or grant funds could not be used, should not be deposited in the supervised bank account with loan or grant funds.

(2) For all organizations collateral will be pledged by the depository bank for any loan or grant funds or borrower contribution in accordance with Section 1803.4 of Part 1803 of this Chapter (Pargraph IV of FmHA Instruction 402.1).

(3) Funds may be disbursed from the supervised bank account only for authorized loan or grant purposes.

(h) *Bond counsel.* All tax exempt public bodies offering bonds as security for the LH loan are required to obtain the services of recognized bond counsel in the preparation of evidence of indebltedness in accordance with with § 1942.19 of Subpart A of Part 1942 of this Chapter except as provided in paragraph 1 of Exhibit H of this subpart.

(i) *Bonding.* (1) The provisions of Subpart A of Part 1804 of this Chapter (FmHA Instruction 424.1) pertaining to surety bonds are applicable to LH loans and grants.

(2) If the applicant is an organization, it will provide fidelity bond coverage for the official(s) entrusted with the receipt, custody, and disbursement of its funds and the custody of any other negotiable or readily saleable personal property. The amount of the bond will be at least equal to the maximum amount of money that the applicant will have on hand at any one time exclusive of loan or grant funds deposited in a supervised bank account. The United States will be named co-obligee in the bond if not prohibited by State law. Form FmHA 440–24, "Position Fidelity Schedule Bond," may be used if permitted by State law.

(j) *Contracts for legal services.* On projects requireing extensive legal services, the applicant will be required to have a written contract for these services. All such contracts will be subject to review and approval by the FmHA and, therefore, should be submitted to the FmHA before execution by the applicant. Contracts will provide for the types of service to be performed and the amount of the fees to be paid, either in lump-sum on the completion of all services or in installments as services are performed. Legal Service Agreement, Exhibit G, may be used.

§ 1944.170 Processing preapplications.

(a) *Preapplication.* Form AD–621, "Preapplication for Federal Assitance," with the additional information outlined in Exhibit A–1 will be submitted to the District Director. This information is used to determine the applicant's eligibility and eliminate any proposals which have little or no chance for funding. The applicant should be instructed not to prepare an application until notified to proceed.

(b) *Actions by District Director.* The preapplication, with attachments, will be reviewed by the District Director. The Distric Director will inspect the site and consider its desirability if it appears that the applicant is eligible. The preapplication, including the comments and recommendations of the District Director and any additional material considered necessary, will be forwarded to the State Director.

(c) *Actions by State Director.* (1) If the applicant is an organization adopting without change the "Articles and Bylaws" prescribed by State supplements, the preapplication need not be submitted to OGC.

(2) In all other cases involving loans or grants to organizations, the docket, with any questions or comments of the State Director will be submitted to the OGC for a preliminary opinion as to whether the applicant and the proposed loan meet or can meet the requirements of State law and this subpart.

(3) Determining amount of grant.

(i) General. The State Director will determine the amount the applicant can obtain from other sources, including an LH loan, and the amount of the grant to be made, within the limits set forth in § 1944.164 (c)(2). The State Director will make this determination after thoroughly analyzing the information the docket.

(ii) Method of determining amount of grant.

(A) The State Director will examine the income of the project based on the estimated rental charges and operating costs of the housing when in full operation to determine the soundness of the operations. When there is any doubt as to the probable soundness due to unrealistic planning of income or operating expenses, or for other reasons, the housing project and its operation will be discussed with the applicant to determine changes which can be made to correct the deficiencies.

(B) When a sound plan of operation has been agreed upon, the State Director will determine the amount of funds that can be expected to be available from other sources, including an LH loan. The State Director will also determine the amount of income availalbe for loan repayments after allowing for reasonable and necessary maintenance costs, payments on debts of the applicant, and the orderly accumulation of an adequate reserve.

(C) The amount of the grant will be the difference between the amount of funds to be provided in accordance with paragraph (c) (3) (ii) (B) of this section, plus any funds available from the applicant's own resources and the total development cost of the project. In no case, however, may the amount of the grant exceed 90 percent of the total development cost.

(4) When the State Director considers it necessary, any preapplication may be sent to the National Office for evaluation and instructions.

(5) The State Director, after completing review of the preapplication material and determining the amount of grant, will notify the District Director of the State Director's determination and

authorize the District Director to prepare and execute Form AD–622, "Notice of Preapplication Review Action." The District Director will forward the original to the applicant, a copy to the State Director, and a copy to the case file.

§ 1944.171 Preparation of completed loan and/or grant docket.

(a) *Information needed.* If the applicant has been requested to file an application, Form AD–625, "Applicant for Federal Assistance (Short Form)," the additional information as outlined in Exhibit A–2 will be submitted to the District Director.

(b) *District Director's responsibility.* As the information for the loan docket is being developed, the District Director will work closely with the applicant. The District Director will review and verify the information furnished for correctness, adequacy, and completeness. The District Director will determine that the market survey is adequate and that the market survey report is accurate. The District Director will evaluate the manner in which the applicant plans to conduct its business and financial affairs and comment on the adequacy of the management.

(c) *County Committee certification.* County Committees will not be used to review LH loan and/or grant applications.

(d) *Assembly, review, and distribution of complete loan and/or grant docket items.* When all items required for the complete loan and/or grant docket have been furnished, they will be examined thoroughly by the FmHA official who will approve the loan and/or grant to make sure they are properly and accurately prepared and are complete in all aspects, including dates and signatures. The loan and/or grant docket items will be assembled in the following order for distribution after approval:

Form No.	Name of form or document	Total number of copies	Signed by borrower	Number for docket	Copy for borrower
AD–621	Preapplication for Federal Assistance	3	1	2–0&1C	1–C
Exhibit A–1	Information to be Submitted with Preapplication for Labor Housing (LH) Loan or Grant.	2	0	1–0	1–C
	Memorandum from the National Office authorizing development of loan docket and loan or grant approval if required by § 1944.164(a).	1		1–0	
AD–622	Notice of Preapplication Review Action	3		2–C	1–0
AD–625	Application for Federal Assistance (Short Form)	3	1	2–0&1C	1–C
Exhibit A–2	Information to be Submitted with Application for Federal Assistance (Short Form).	2	0	1–0	1–C
FmHA 444–5	Multiple Family Housing Fund Analysis	4		4–0&3C	
FmHA 440–1	Request for Obligation of Funds	4	2–0&1C	3–0&2C	1
FmHA 400–4	Nondiscrimination Agreement (Under Title VI, Civil Rights Act of 1964).	2	2–0&1C	1–0	1–C
FmHA 400–1	Equal Opportunity Agreement	2		1–0	1–C
**FmHA 400–3	Notice to Contractors and Applicants	3		2–0&1C	1–C
FmHA 400–4	Nondiscrimination Agreement	2	1	1	1
**FmHA 400–6	Compliance Statement (when applicable)	3		2–0&1C	1–C
	**Evidence of Legal Authority (copies or citation of specific provisions of State constitution and statutory authority).	2	1	1–0	1–C *
	Appraisal report with attachments	1		1–0	1–C
FmHA 426–1	Valuation of Buildings	1		1–0	
FmHA 440–9	Supplementary Payment Agreement	2	1	1–0	1–C
Other Loan Docket Items. Preliminary Title Opinion and a Final Title Opinion or a title insurance binder, a mortgage title insurance policy and a copy of deed, purchase contract, or other instrument of ownership.					
	*Proof of Organization (certified copy of charter or articles of incorporation).	2	1	1–0	1–C
	*Certified copies of bylaws or regulations	2	1	1–0	1–C
	*List of names and addresses of officers, directors, and members, and membership interest held by each.	2	1	1–0	1–C
	*Certified copy of Loan Resolution	1	1	1–0	
	Loan Agreement, if applicable	2	1	1–0	1–C
	**Survey of land given as security, plans, specifications, costs estimates, and proposed manner of construction.	3	1	1–0	1–C
Exhibit A–5	Statement of Budget, Income and Expenses	2	1	1–0	1–C
When applicable, include copy of lease or occupancy agreement to be used, report of lien search, option or foreclosure notice agreement, and items of information concerning prior mortgage(s).					

*When applicant is an organization.
**One copy for contractor.

(e) *Submission of docket to State Office.* The loan and/or grant docket, including comments and recommendations by the District Director, will be submitted to the State Office. The State Director will prepare, with the advice of OGC and include in the docket a memorandum to the County Supervisor which will either require additional information if the material submitted is inadequate, or will set forth the conditions of loan approval. If the State Director determines that the loan and/or grant should be approved, the State Director will approve the loan and sign the memorandum to the County Supervisor.

(f) *Submission of docket to National Office.* The final loan and/or grant docket need not be submitted to the National Office unless required by an authorizing memorandum resulting from compliance with § 1944.164.

(g) *Press release.* When it is determined that a loan and/or grant can be approved, a press release will be prepared in accordance with FmHA Instruction 2015–C which is available in the FmHA State and National Offices.

§ 1944.172 [Reserved]

§ 1944.173 Loan and Grant Approval—Delegation of authority.

The State Director is authorized to approve loans and/or grants in accordance with this Subpart and Subpart A of part 1901 of this Chapter. The State Director may delegate loan or grant approval in writing to State Office employees other than District Directors. No LH grant may be approved by the State Director without the prior consent of the National Office.

(a) *Action before to loan or grant approval.* The loan or grant approval official is responsible for reviewing the docket to determine that the proposed loan and/or grant complies with all pertinent regulations, instructions, and directives. In making this review, the approval official will determine that:

(1) The applicant is eligible.

(2) The funds are requested for authorized purposes.

(3) The proposed loan or grant is sound.

(4) The security is adequate for the loan.

(5) All preapproval requirements have been met.

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(6) All other requirements will be met.

(b) *Approval of a loan or grant.* When a loan and/or grant is approved:

(1) The approval official will prepare and sign form FmHA 440–1 in an original and two copies. The State Director or a designee will telephone the Finance Office Check Request Station and request that loan and/or grant funds for a particular project be obligated.

(2) Immediately after contacting the Finanee Office, the requesting official will furnish the requesting office's security identification code. Failure to furnish the security code will result in the rejection of the request for obligation. After the security code is furnished, all information contained on Form FmHA 440–1 will be furnished the Finance Office. Upon receipt of the telephone request for obligation of funds, the Finance Office will record all information necessary to process the request for obligation in addition to the date and time of the request.

(3) The individual making the request will record the date and time of the request and sign form FmHA 440–1 in section 37.

(4) The Finance Office will terminally process telephone obligation requests.Those requests for obligation received before 2:30 p.m. Central Time will be processed on the date of the request. Requests received after 2:30 p.m. Central Time, to the extent possible, will be processed on the date recieved; however, there may be instances in which a request will be processed on the next working day.

(5) Each working day the Finance Office will notify the State Office by telephone of all projects for which funds were reserved during the previous night's processing cycle and the date of obligation. If funds cannot be reserved for a project, the Finance Office will notify the State Office that funds are not available within the State allocation. The obligation date will be 6 working days from the date the request for obligation is processed in the Finance Office. The Finance Office will mail to the State Offices Form FmHA 440–57, "Acknowledgement of Obligated Funds/Check Request," confirming the reservation of funds with the obligation date inserted as requried by item no. 9 on the Forms Manual Insert (FMI) for Form FmHA 440–57. Form FmHA 440–57 will be prepared and distributed in accordance with the FMI.

(6) After notification by the Finance Office that the funds have been reserved, the Original only of Form FmHA 444–5 accompanied by a copy of any National Office memorandum authorizing approval, will be mailed to the Finance Office and a copy to the National Office. Forms FmHA 440–1 for those obligations requested by telephone *will not* be mailed to the Finance Office. Immediately after notification by telephone of the reservation of funds for not-for-profit organizations and public bodies, the State Director will call the Information Division in the National Office as required by FmHA Instruction 2015–C. Notice of approval to the applicant will be accomplished by mailing the applicant's signed copy of Form FmHA 440–1 on the obligation date. The State Director or a designee will record the actual date of applicant notification on the original of Form FmHA 440–1 and include the original of the form as a permanent part of the District Office project file with a copy in the State Office file.

(7) Determine the maximum rental rates to be charged domestic farm labor for occupancy of the housing, and advise the applicant, by memorandum, of these maximum rates. In determining the maximum rental rates due consideration must be given to the income and earning capacity of the prospective occupants of the housing and the cost of operating and maintaining such housing. As a general guide, the rental charges should not exceed 25 percent of the occupant families' estimated adjusted annual income.

(c) *Disapproval of a loan or grant.* When a loan and/or grant is disapproved after the docket has been developed, the reasons for such action will be shown on the original Form FmHA 440–1. Form FmHA 440–1 will be initialed and dated. The District Director will notify the applicant in writing of the disapproval of the loan and the reasons therefore and advise them of their right to appeal in accordance with Subpart B of Part 1900 of this Chapter (FmHA Instruction 1900–B). The disapproved docket will then be handled in accordance with applicable FmHA regualtions (Part 2033 of this Chapter). Any appeals as a result of disapproval will be handled in accordance with Subpart B of Part 1900 of this Chapter (FmHA Instruction 1900–B).

§ 1944.174 Distribution of loan and/or grant approval documents.

(a) *OGC.* For a loan to an organization, or in special cases, the approved loan or grant docket, including any title evidence, will be sent to OGC for preparation of closing instructions and any special legal documents required for closing. A certified copy of the required loan and grant resolution, grant agreement or the original executed, witnessed loan and grant agreement must be supplied by the applicant in time to be included in the loan or grant docket. No docket will be considered which fails to include such a required resolution or agreement. OGC will route the docket, including closing instructions and any such legal documents, to the District Office through the State Office for review and for inclusion of any further instructions needed in closing the loan.

(b) *State Central Information Reception Agency (SCIRA).* Standard Form 424, "Federal Assistance," will be prepared by the State Director within 7 days after approval of an initial or subsequent grant or after a change in the amount of purpose of a grant in accordance with Subpart J of Part 1901 of this Chapter.

§ 1944.175 Actions subsequent to loan and/or grant approval.

(a) *Interim financing from commercial sources.* Interim financing should be used when a loan and/or grant exceeds $50,000 provided funds can be borrowed at reasonable interest rates from commercial sources for the construction period. When interim commercial financing is used:

(1) The docket will be processed to the stage where the FmHA loan and/or grant would normally be closed. FmHA loan and/or grant funds will be obligated before the applicant proceeds with the final arrangements for interim commercial financing.

(2) The State Director or District Director may deliver a copy of Form FmHA 440–57 as evidence of the FmHA commitment, if necessary, or a letter stating that funds in specified amounts have been obligated and will be available to retire the interim financing if the applicant complies with the approval conditions. See Exhibit I for a sample letter that may be used.

(3) FmHA will undertake similar functions as if FmHA funds had been advanced from the standpoint of approving construction contracts and the monitoring of construction.

(4) The supervised bank account will normally not be used for funds obtained through interim commercial financing. However, the District Director will approve Form FmHA 424–18, "Partial Payment Estimate," to insure that funds are used for authorized purposes.

(5) When the interim financing funds have been expended, the FmHA loan and/or grant will be closed and permanent instruments will be issued to evidence the FmHA indebtedness. The FmHA loan and/or grant proceeds will

be used to retire the interim commercial indebtedness.

(6) Before the FmHA loan and/or grant is closed, the applicant will be required to provide the District Director with statements from the contractor(s), engineer, and attorney that they have been paid in full in accordance with their contracts or other agreements and that there are no unpaid obligations outstanding in connection with the construction of the project.

(b) *Multiple advances of LH loan and grant funds.* In the event interim commercial financing is not available, multiple advances will be used for all loans and/or grants in excess of $50,000 subject to the following:

(1) When relatively large amounts of funds are to be expended for purchases of real estate or for other reasons at the time of closing, separate checks for such pruposes may be ordered and endorsed by the borrower to the seller or other appropriate party. This will preclude the necessity for depositing such funds in the supervised bank account and reduce the amount of required collateral.

(2) Except as indicated in paragraph (b)(1) of this subpart, advances will be made only as needed to cover disbursements required by the borrower for a 30-day period. Normally, the advances should not exceed 24 in number or extend longer than 2 years beyond loan closing. The retained percentage withheld from the contract or to assure that construction will be completed in accordance with the contract documents will ordinarily be included in the last advance. Advances will be requested in sufficient amounts to insure that ample funds will be on hand to pay costs of construction, land purchase, legal, engineering, or architectural costs, interest, and other expenses, as needed. The borrower will prepare Form FmHA 440–11, "Estimate of Funds Needed for 30-day Period Commencing————," modified as needed, to show the amount of funds required during the 30-day period. This form will be approved by the District Director. After the District Director determines that the estimate prepared by the borrower is adequate, the District Director will request the advance by indicating the amount on Form FmHA 440–57 in accordance with the FMI and forwarding it to the Finance Office, St. Louis, Missouri. As an example, for a loan and/or grant of $100,000, the advances may be made as follows: Assuming that the loan and/or grant will be closed on July 1, the borrower will complete Form FmHA 440–11 in sufficient time so that the funds will be available on the day of loan closing. The estimates should be broken down for the first advance in a manner similar to the following:

Construction	$30,000
Land acquisition	5,000
Architectural	4,000
Legal	1,000
Total	40,000

An advance in the amount of $40,000 would then be available on July 1, the date of loan closing. The second advance will also be based on the borrower's estimate prepared on Form FmHA 440–11, and will be prepared in sufficient time so that the estimated amount of funds will be available on August 1. This estimate of funds might be broken down as follows:

Construction	$20,000
Architectural	1,000
Total	21,000

A copy of Form FmHA 440–57 specifying the amount then will be forwarded to the Finance Office. The same routine will be followed for each advance until the project is completed.

(3) Any deviation from the multiple advance procedure must have the prior approval of the National Office.

(c) *Requesting check.* When loan approval conditions can be met, including any real estate lien required, and a date for loan closing has been agreed upon, the District Director will determine the amount of funds needed in accordance with either paragraph (a) or (b) of this section. The District Director or the District Director's delegate will then order the loan and/or grant check so that it will be available on or just before the date set for loan closing.

(d) *Increase or decrease in the amount of the loan.* If it becomes necessary for the amount of the loan and/or grant to be increased or decreased before loan closing, the loan approval official or District Director will request that all distributed docket forms be returned to the District Office. The loan docket will be revised accordingly and reprocessed.

(e) *Cancellation of loan.* Loans and/or grants may be canceled after approval and before loan closing as follows:

(1) The District Director will prepare Form FmHA 440–10, "Cancellation of Loan or Grant Check and/or Obligation," in an original and two copies [3 copies if the check is received in the District Office from the Regional Disbursing Office). The original and copies will be sent to the State Director with the reasons for requesting cancellation. If the State Director approves the request for cancellation, the State Director will forward the original request to the Finance Office after making appropriate adjustments in the records to control loan allocations. A copy of Form FmHA 440–10 will be sent to the National Office and the District Office.

(2) If the loan or grant check is received in the District Office the District Director will return it to the Disbursing Center, U.S. Treasury Department, Post Office Box 3329, Kansas City, Kansas 66103, with a copy of Form FmHA 440–10.

(3) All interested parties will be notified of the cancellation as provided in Part 1807 of this Chapter (FmHA Instruction 427.1).

(f) *Handling the loan or grant check.* The loan or grant check will be handled in accordance with paragraph IV of FmHA Instruction 102.1 which is available in any FmHA Office and Part 1803 of this Chapter (FmHA Instruction 402.1).

(g) *Property insurance.* Buildings will be insured in accordance with Subpart A of Part 1806 of this Chapter (FmHA Instruction 426.1).

§ 1944.176 Loan and/or grant closing.

(a) *Applicable instructions.* LH loans and/or grants will be closed in accordance with applicable provisions of Part 1807 of this Chapter (FmHA Instruction 427.1) and State supplements. Loan dockets for an organization and loan dockets for an individual in special cases will be sent to OGC for additional closing instructions. A family farm corporation, partnership, or an association of farmers applicant may use its attorney to close the loan in accordance with applicable loan closing instructions provided the attorney is not a member, officer, director, trustee, stockholder or partner of the applicant entity. Nonprofit organizations may use an attorney who is a member of their organization. The cost incurred by the organization for legal services must be reasonable and competitive for the area.

(b) *LH grant agreement.* A LH grant agreement, prepared and authorized as provided in § 1944.164 (f) (3) of this subpart, will be dated and executed by the applicant on the date of grant closing. The executed agreement will be filed with the mortgage or other security instrument in the County Office case file.

(c) *Mortgage.* Unless the OGC determines the form to be inappropriate, real estate mortgage Form FmHA 427–1 (State), "Real Estate Mortgage for ————," will be used. For loans and/or grants to organizations, Form

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FmHA 427–1 will be modified as prescribed by or with the advice of the OGC with respect to the name, address, and other identification of the borrower, style of execution, acknowledgment, and any other provisions.

(1) The mortgage or other instrument will contain the following covenant:

The property described herein was obtained or improved through Federal financial assistance. This property is subject to the provisions of Title VI of the Civil Rights Act of 1964 and the regulations issued pursuant thereto for so long as the property continues to be used for the same or similar purpose for which financial assistance was extended or for so long as the purchaser owns it, whichever is longer.

(2) When a loan resolution or loan agreement is used, an additional paragraph will be included in the mortgage to read as follows:

This instrument also secures the obligations and covenants of Borrower set forth in Borrower's Loan Resolution (Loan Agreement) of (*Date*), which is hereby incorporated herein by reference.

(3) When the borrower is not an individual farmowner, or an association of farmers, the mortgage will include the following provision:

Borrower will not require any occupant of the housing or related facilities, as a condition of occupancy, to work or be employed on any particular farm or other place, or work for or be employed by any particular person, firm, or interest.

(4) For a grant made at the same time as an LH loan, the mortgage securing the loan will contain a provision making it also secure the applicant's obligations under the LH grant agreement. For a grant not made at the same time as an LH loan, the type of security instrument will be determined by the National Office based upon the State Director's recommendation and the advice of OGC.

(d) *Promissory Note.* (1) The total amount to be shown on the note will be shown on Form FmHA 440–1. The note will be dated the date of loan closing as authorized in Part 1807 of this Chapter (paragraph II F 8 of FmHA Instruction 427.1).

(2) Form FmHA 440–16, "Promissory Note" will be used for all LH loans. Payments on LH loans will be scheduled on an annual basis and in accordance with the FMI. Form FmHA 440–9 will be used to schedule payments on a monthly, quarterly, or semi-annual basis in accordance with the expected schedule of income from the project.

(3) Deferred principal payments may be permitted up to 2 years when determined to be necessary and advisable. Accrued interest must be paid annually; however, smaller than regular payments of principal or no payments of principal may be provided for the first and second installments after loan closing.

(4) The note(s) will be signed in accordance with Part 1807 of this Chapter (FmHA Instruction 427.1) and any supplemental instructions from OGC.

(5) Immediately after loan closing the original notes and copies will be distributed in accordance with the FMI.

(6) For a loan to a public body the forms of obligation will be determined in accordance with § 1942.19 of Subpart A of Part 1942 of this Chapter.

(e) *Recorded mortgage.* When the real estate mortage is returned by the recording official, the District Director will retain the original in the borrower's case folder. If the original is retained by the recording official for the county records, a conformed copy including the recording data showing the date and place of recordation and book and page number will be prepared and filed in the borrower's case folder. A copy of the mortgage, conformed as to all matters except the recording date, will be delivered to the borrower

(f) *Date of closing—establishment of account.* (1) An LH loan and/or grant is considered closed when the security instrument is filed of record, or, if no security instrument is filed of record, when the loan or grant funds are deposited in the supervised bank account or otherwise made available to the borrower after the borrower executes and delivers the note and any other required instruments.

(2) After the loan and/or grant is closed, the account and case folder will be established in accordance with applicable FmHA regulations (FmHA Instructions 405.1 which is available in any FmHA Office, and 2033–B which is available in the FmHA State and National Office.

§ 1944.177 Coding loans and grants as to initial or subsequent.

A borrower may obtain financing for more than one project. Each project will be coded as an initial loan or grant when the total number of units are built or purchased at one place at one time. A subsequent loan or grant will be so coded when an additional loan or grant is necessary to complete the units planned with the initial loan or grant. As an example, the borrower may obtain initial loans or grants for more than one project in the same district, in different counties under the same District Office jurisdiction, or in more than one District Office jurisdiction. Codes to be used will be in accordance with the FMI for Forms FmHA 440–1, FmHA 440–57, and FmHA 444.5

§ 1944.178 Complaints regarding discrimination in use and occupancy of LH.

Any occupant or applicant for occupancy or use of such LH housing or related facilities who believe they have been discriminated against because of race, color, religion, sex, national origin, age, marital status, physical or mental handicap (must possess capacity to enter into legal contract) may file a complaint with the District Director or State Director. Any such complaint will be referred through the State Director to the National Office.

(a) The complaint must be in writing and signed by the complainant and contain the following information (the County Supervisor will provide assistance as needed in preparing the complaint).

(1) The name and address (including telephone number) of the complainant.

(2) The name and address of the person committing the alleged discrimination.

(3) Date and place of the alleged discrimination.

(4) Any other pertinent information that will assist in the investigation and resolution of the complaint.

(b) The District Director or State Director will acknowledge receipt of the complaint and promptly forward it to the National Office.

(c) Attached to the written complaint should be a statement from the District Director or State Director as to whether the security instrument or other document executed by the borrower contains a nondiscrimination agreement. The statement also should include any other information which the State Director or District Director has pertaining to the complaint. The District Director or State Director should delay a comprehensive investigation of any complaint until requested to conduct the investigation by the National Office.

(d) The National Office will determine whether discrimination did in fact occur. If necessary, appropriate steps will be taken to ascertain the essential facts.

(e) If it is found that the borrower's nondiscrimination agreement in the security instrument or elsewhere was violated, FmHA will inform the parties of such finding and advise the violator to take the action necessary to correct the violation and to give appropriate assurance of future compliance.

(f) If it is found that the complaint is without substance, the parties concerned will be so notified.

(g) If the borrower fails to take such corrective action and assure future compliance, the Administrator may take further appropriate action.

§§1944.179–1944.180 [Reserved]

§ 1944.181 Loan servicing.

LH loans and grants will be serviced in accordance with Subpart B of Part 1924 of this Chapter and Subpart G of Part 1802 of this Chapter (FmHA Instruction 430.2). Requests for rent increases will be processed in accordance with Exhibit F of Subpart G of Part 1802 of this Chapter (FmHA Instruction 430.2, Exhibit F).

§ 1944.182 Rental Assistance.

Rental assistance may be provided to eligible tenants in LH projects in accordance with Exhibit R of Subpart D of Part 1822 of this Chapter (Exhibit R of FmHA Instruction 444.5).

§§ 1944.183–1944.200 [Reserved]

Attachments as a part hereof: Exhibits A, A–1, A–2, A–3, A–4, A–5, B, C, D, E, F, G, H, I

Exhibit A—Labor Housing Loan and Grant Application Handbook

Introduction

Development of a proposal for Labor Housing (LH) loan and grant can be an expensive proposition and the Farmers Home Administration (FmHA), therefore, encourages applicants to develop applications in two phases which are termed preapplication phase and application phase. In development of the items required for the preapplication phase, applicants should understand that the Government is in no way obligated to commit loan or grant funds to the proposed project and therefore, they should not, at this stage, incur expenses for the optioning of land, architectural services, engineering services, or other purposes unless they will be able to use their own funds to pay these expenses. In addition, before the development of a preapplication, applicants should meet with the local FmHA District Director to gain a basic understanding of the eligibility and other requirements of the LH loan and grant program.

Exhibit A–1—Information to be Submitted with Preapplication for Labor Housing Loan or Grant

The following information should be submitted with Form AD–621, "Preapplication for Federal Assistance":

1. *Eligibility:* a. Financial Statement—A current, dated, and signed financial statement showing assets and liabilities with information on the repayment schedule and status of all debts. If the applicant is an association of farmers, a current financial statement will also be required from each member. The applicant, must have or be able to obtain initial operating capital of at least 2 percent of the total development cost of the project. A statement should, therefore, be included explaining how such funds will be provided. Loan or grant funds may be used to provide the required initial operating capital for nonprofit and State or local public agencies.

b. All applicants, except State and local public agencies, must provide evidence that they are unable to obtain credit from other sources. Letters from credit institutions who normally provide real estate loans in the area should be otained and these letters should indicate the rates and terms upon which a loan might be provided.

c. If a Labor Housing (LH) grant is requested, a statement explaining why the housing cannot be provided without a grant. This statement should provide preliminary estimates of the rents required without a grant, and the rents with the proposed grant.

d. A statement of the applicant's experience in operating LH or other rental housing. If the applicant's experience is limited, additional information should be provided to indicate how the applicant plans to compensate for this limited experience. (i.e., obtaining assistance and advice of a management firm, non-profit group, public agency, or other organization on a continuous basis).

e. A brief statement explaining the applicant's proposed method of operation and management. This does not have to be a full-fledged management plan, as outlined by Exhibit B, however, it should generally explain how the applicant proposes to operate the facility. (i.e., onsite manager, contracting for management services, etc.).

f. Organization-type applicants must provide a copy of or an accurate citation to the special provisions of State law under which the applicant is or is to be organized, a copy of the applicant's charter, Articles of Incorporation, bylaws, and other basic authorizing documents; names and addresses of the applicant's members, directors, and officers; and, if a member or subsidiary of another organization, its name, address, and principal business.

g. Statement of Personal History—A Form FmHA 449–4 which discloses previous participation in any FmHA, FHA or HUD housing program is required of each member of a family farm corporation, family farm partnership or association of farmers, and each officer and director of other organization applicants. Items 1, 4, and 13 of Form FmHA 449–4 must be completed by each applicant that is a nonprofit corporation, a State agency, or a political subdivision or agency of State or local Government; however, a Form FmHA 449–4 is not required of any elected or appointed official in conjunction with an application from any public organization.

2. *Need and demand:* A preliminary survey should be conducted to identify the supply and demand for LH in the area. This survey should address or include the following items:

a. The annual income level of farmworker families in the area and the probable income of those farm workers who are most apt to occupy the proposed unit.

b. A realistic estimate of the number of farmworkers who are home-based in the area and the number of farmworkers who normally migrate into the area. Information on migratory workers should indicate the average number of months the migrants reside in the area and an indication of what type of family groups are represented by the migrants (i.e., single individuals as opposed to families). Much of this information may be available from the local office of the Rural Manpower Services section of the Department of Employment Services.

c. General information concerning the type of labor intensive crops grown in the area and prospects for continued demand for farm laborers (i.e., prospects for mechanization etc.). Information may be available from the local U.S. Department of Agriculture (USDA) Extension Service office or from the Agricultural Stabilization and Conservation Service.

d. The overall occupancy rate for comparable rental units in the area and rents charged and customary rental practices for these units (i.e., will they rent to large families, do they require annual leases, etc.). This information may be available from census data, local planning organizations, or local housing authorities.

e. The number, condition, adequacy, ownership, and rental rates for units currently used or available to farmworkers. This information may be available from local farmworker advocacy groups, Rural Manpower Services, or social service agencies.

f. A general description of the units proposed, including number, type, and size and an estimate of the total development cost and amount of contribution by the applicant.

Note.—The market survey is one of the most important determinates of the overall feasibility of the proposed project. Therefore, the applicant may wish to do a more detailed study of the market in accordance with Item 9 of Exhibit A–2.

3. *Additional information:* The following items should be provided only if they are readily available:

a. A map of the proposed site showing the location of the site and supporting information on the neighborhood and available facilities, such as distance to shopping, churches, schools, available transportation, drainage, sanitation facilities, water supply, and access to other services such as doctors, dentists, and hospitals.

b. Any available sketches or schematics of the proposed housing including plot plans, building layouts, and construction types.

The information required by the preapplication will be carefully reviewed for eligibility and feasibility by appropriate Farmers Home Administration (FmHA) officials. As soon as a decision is reached, the applicant will be advised of the availability of funds for the project, via Form AD–622, "Notice of Preapplication Review Action."

Upon receipt of Form AD–622 indicating favorable action by FmHA, the applicant, if proposing more than 10 single detached units, or 25 multifamily type units, should submit Form AD–621, "Preapplication for Federal Assistance," with required information to the appropriate State and/or area-wide

clearinghouses so that required A–95 reviews

addition, supporting information should be

10. Proposed, detailed operating budgets

clearinghouses so that required A–95 reviews can be conducted and comments received from appropriate State agencies before the final application is submitted. Local FmHA District or State Offices can provide names and addresses of appropriate clearinghouses and details on the information which must be submitted.

Exhibit A–2—Information to be Submitted with "Application for Federal Assistance (Short Form)"

After the applicant has received the signed Form AD–622, "Notice of Preapplication Review Action," authorizing the applicant to proceed to develop a final application, the applicant and the applicant's architect should meet with the Farmers Home Administration (FmHA) architect/engineer and other officials responsible for loan processing. During this preprocessing meeting, FmHA will discuss the services which the applicant's architect will be expected to provide and will also explain the items needed to complete the final application.

If after the preprocessing meeting the applicant believes that the Labor Housing (LH) project can be developed within the guidelines required by FmHA, the following information should be submitted with Form AD–625, "Application for Federal Assistance (Short Form)":

1. If applicable, evidence that Form AD–621, "Preapplication for Federal Assistance," has been filed with the appropriate State or local clearinghouses for A–95 review along with any comments received from the clearinghouses.

2. Proposed contracts for architectural, engineering, and legal services as applicable. (Standard forms provided by the appropriate professional organization can normally be used if prior approval is obtained from the FmHA State Office.

3. A plot plan and detailed preliminary drawings and specifications prepared in accordance with Subpart A of Part 1804 of this Chapter (FmHA Instruction 424.1). Exhibit A–3 provides FmHA's general philosopy and standards concerning the construction of LH facilities.

4. A detailed cost breakdown of the project for items such as land purchase, right-of-ways, building construction, equipment, utility connections, on-site improvements, architectural and/or engineering services, and legal services. The costs breakdown should itemize labor and material unit costs. If a LH grant is proposed, contruction will be subject to the provisions of the Davis-Bacon Act. LH grant applications should, therefore, obtain a copy of Subpart D of Part 1901 of this Chapter which explains the Davis-Bacon requirements.

5. Satisfactory evidence of review and approval of the proposed housing, including compliance with zoning requirments by State and local officials, as required by applicable State or local laws, ordinances, or regulations.

6. If not already provided in the preapplication submittal, a map of the proposed site showing the location of the site in relation to available facilities such as schools, shopping, churches, hosptials, etc. In addition, supporting information should be provided indicating that essential utilities such as sewer, water, electricity, etc., will be available to the project. (See Exhibit A–3 for FmHA's general requirements for location of LH facilities).

7. Form FmHA 440–46, "Environmental Impact Assessment," for all projects involving more than 25 individual detached or 50 multi-family units. This is not a request for an Environmental Impact statement. Parts I, II and III should be completed by the applicant. The remainder will be completed by FmHA.

8. A description of and justification for any related facilities such as community or multi-purpose type buildings, cafeterias, dining halls, infirmaries, child care facilitis, etc. To be included for funding by FmHA, the facilities should not be of extravagant design and their size must be commensurate with the needs of the farm workers who will occupy the housing facility. Any long-term agreements which are contemplated with other agencies for services such as manpower training, migrant health services, child care, and education programs should be explained and included as justification for the related facilities.

9. A detailed market analysis addressing in detail the items required under item 2 of the preapplication submittal should be conducted in accordance with the following:

a. The market area (i.e., the area from which tenants can reasonably be drawn for the project) should be clearly identified.

b. Existing units which are currently available or which could become available should be surveyed and information obtained in accordance with Exhibit A–4.

c. The number of farmworkers home-based in the area and the number of workers migrating into the area by month should be realistically estimated. Additional information should also be obtained concerning the farmworker family or household composition (i.e., family size, number of children, number of adults, and number of adults who work outside the home). Complete information may not be readily available, however, the best possible statistics should be provided so a realistic estimate of occupancy of the proposed project can be made.

d. Income levels of the general farmworker population and incomes of those most likely to occupy the project.

e. Individual farmworkers and farmworker groups should be contacted and their ideas obtained concerning the type of housing which would gain the greatest acceptance. (This information may not seem important at the outset of the loan if there is a pressing need for LH, however, to assure a long-term demand for the project consideration should be given to the views of the prospective tenants).

f. The above items should then be correlated to arrive at a realistic estimate of the total need for units, type of units, estimated occupancy, and maximum rental rates which can be charged for the units, and the type of amenities or related facilities which should be provided.

10. Proposed, detailed operating budgets for: (a) the first year of operation, and (b) a typical year's operation. The overall percentage of occupancy should be based upon the data collected in the market analysis. Operating costs should be realistic and should reflect somewhat higher than nomal maintenance costs and an allowance for the establishment of a reserve as required by the loan agreement. The budget should be prepared in the format of Exhibit A–5.

11. A management plan which includes the applicable items of Exhibit B.

12. When the loan is to be secured by a junior real estate lien, certain agreements will be required from prior lien holders. The local or State FmHA official will provide the applicable agreements.

When the final application is assembled it should be submitted to the local FmHA District Office for review and submission to the State Office. As soon as a final decision to approve the loan is reached, the applicant will be notified and advised to proceed with the preparation of final plans and specifications, contract documents, and other items needed to close the loan. *The applicant should not proceed with bid advertisement or contract awards until advised to proceed by FmHA.*

Exhibit A–3—Labor Housing Construction Guidelines

I. *Introduction:* This Exhibit provides the Farmers Home Administration's (FmHA's) general guidelines and policies concerning the planning, location, and construction of housing for farmworkers. The type of housing should be in accordance with the needs of the prospective tenants. Multi-family type units are encouraged whenever possible; however, when planning units for farmworker families, lower density building design and layout is normally desirable. Housing should be designed in such a manner that it will be decent, safe, sanitary, and modest in size and cost. Actual plans, specifications and contract documents should be prepared in accordance with Subpart A of Part 1804 of this Chapter (FmHA Instruction 424.1).

II. *Types of housing and appropriate standards:* a. Single-family type housing is defined as an individual or a group of single family dwelling units, detached or attached. These type units should meet the following standards:

1. All sites shall be planned and constructed in accordance with Subpart D of Part 1804 of this Chapter (FmHA Instruction 424.5).

2. All planning and construction shall be in conformance with the Minimum Property Standards (MPS) and applicable State and local codes.

b. Multi-family type housing is defined as a project or a number of projects encompassing buildings containing more than one dwelling and may include mixtures of single-family and multi-family structures in a single project. These type units should meet the following standards:

1. All housing should be planned in substantial compliance with the MPS to facilitate easy conversion to conventional

rental type housing. Items which must comply with the MPS are:

a. Room sizes.
b. Storage spaces.
c. Light and ventilation.
d. Insulation.
e. Plumbing installation.
f. Heating systems.
g. Electrical installation.
h. Room arrangements.
i. Fire protection.

2. All planning and construction should be in conformance with applicable State and local codes.

BILLING CODE 3410–07–M

Exhibit A-4

SURVEY OF EXISTING LABOR HOUSING

Name of Town _____ Date of Survey _____

Name and Address of Rental Units	Number, Size and Monthly Rent of Units in each Project										Project Type **	Age	Condition of Bldg. Area
	*0 or 1 BR			2 BR			3 BR			4 or 5 Br			
	No.	Size	Rent	No.	Size	Rent	No.	Size	Rent	No. Size Rent			

*Circle Applicable Type Units
If both 0 and 1 Br or 4 and 5 Br units in same project use two lines

** i.e. Number of stories; number of units per building in project. Identify architectural style

Exhibit A-5

STATEMENT OF BUDGET, INCOME, AND EXPENSE (Excluding Depreciation)

Name of Borrower _____
Address _____
Project Location _____
Kind of Loan _____ Term of Loan _____ Interest Rate _____ Amount $ _____

	1st Year Beg. _____ End _____ (1)	Typical Year Beg _____ End _____ (2)	Typical Yr w/ Grant Beg _____ End _____ (3)	Typical Yr w/o Grant Beg _____ End _____ (4)
Income from Rent				
No. & Kind Per Month				
1 _____units @ _____				
2 _____units @ _____				
3 _____units @ _____				
4 _____units @ _____				
5 Less Allowance for Vacancy and Contingencies as authorized by FmHA	( )	( )	( )	( )
6 Total Income from Rent				
Other Income				
7 Laundry				
8 Interest Income				
9 Other (specify)				
10 Total Other Income (Add Lines 7 through 9)				
11 Total Income (Add Lines 6 through 10)				
12 Total Operation, Maintenance and other Expenses				
13 Net Income (Loss) (Line 11 less Line 12)				
Other Deductions				
14 FmHA Payment (Principal)				
15 Transfer to Reserve				
16 Authorized Capital Imp.				
17 Other Authorized Debt Payments				
18 Other (specify)				
19 Total Other Deductions (Add LInes 14 thru 18)				
20 Excess (Deficit) (Line 13 less Line 19)				

Certified Correct

_____ by _____
(date) Applicnt's Signature

Exhibit B - Management Plans

9. *Maintenance and repairs:* A schedule for

decided to provide certain housing and

Page 2

Exhibit A-5

OPERATION AND MAINTENANCE EXPENSES:

	(1)	(2)	(3)	(4)
1. Salaries and Wages	$	$	$	$
Caretaker	$	$	$	$
Manager	$	$	$	$
2. Utilities	$	$	$	$
Water	$	$	$	$
Sewer	$	$	$	$
Gas	$	$	$	$
Electricity	$	$	$	$
Heating	$	$	$	$
Garbage and Trash Removal	$	$	$	$
Telephone	$	$	$	$
Other	$	$	$	$
3. Maintenance	$	$	$	$
Janitor's Supplies	$	$	$	$
Repairs	$	$	$	$
Building Equipment Repairs	$	$	$	$
Exterminating	$	$	$	$
Decorating	$	$	$	$
Grounds Maintenance	$	$	$	$
Furniture & Furnishing Replacements	$	$	$	$
Other	$	$	$	$
4. Insurance	$	$	$	$
Fire and Extended Coverage	$	$	$	$
Liability	$	$	$	$
Compensation	$	$	$	$
Other	$	$	$	$
5. Taxes	$	$	$	$
Real Estate	$	$	$	$
Social Security	$	$	$	$
Special Assessments	$	$	$	$
Income	$	$	$	$
Other	$	$	$	$
6. Other Expenses	$	$	$	$
Accounting	$	$	$	$
Legal	$	$	$	$
Advertising	$	$	$	$
Interest (FmHA)	$	$	$	$
Other Interest	$	$	$	$
7. Total Operation and Maintenance Expenses (Add Section 1 thru 6) (Total to Line 12 Front Side)	$	$	$	$

BILLING CODE 3410-07-C

Exhibit B—Management Plans

The management of a rental project, regardless of the type of tenants, is one of the most, if not the most, important determinants of the success or failure of a proposed project.

The management plan, therefore, as the primary management charter should constitute a comprehensive description of the detailed policies and procedures to be followed in managing the project and should as a minimum address the following items:

1. *Staffing.* The number, qualifications required, and duties of all personnel who will be hired to operate the project. Equal employment opportunity should be provided and special consideration should be given to hiring Spanish-speaking person if warranted by the expected occupancy.

2. *Marketing.* The marketing efforts of techniques which will be used to obtain initial rent ups and occupancy of future vacancies (i.e. advertisement, contacts with social service agencies, local farmers, etc.).

3. *Tenant selection.* Domestic farm workers must be given absolute priority in renting available units. Other selection criteria should be specifically outlined in the management plan. Arbitrary restrictions as to family sized, age of children, or other similar items are prohibited, however, the size of unit assigned to a family should be commensurate with its needs. Rejected tenant applications should be maintained for a minimum of 1 year and applicants must be advised of the reasons for rejection.

4. *Ineligible tenants.* Units can be rented to other than farm workers when they are not needed by farm workers (i.e., during the off season), however, the leases must be on a short-term basis, normally not exceeding 30 days, and ineligible tenants must be advised that they will have to vacate the units if an eligible farm worker becomes available. To avoid future problems, occupancy by ineligibles should be avoided if at all possible.

5. *Lease or occupany agreement.* A copy of any proposed lease or occupany agreement should clearly outline the responsibilities of the tenant and landlord.

6. *Counseling services.* Pre- and post-occupancy counseling services, which will be provided to tenants by borrowers to acquaint them with the project or otherwise assist them, should be thoroughly explained.

7. *Collection of rent:* The system which will be used in the collection of rent must be outlined including proper provisions for the internal control and security of cash collections, followup on overdue accounts, persons responsible for collections, recordkeeping, and conditions for the return of security deposits, if required.

8. *Evictions:* The plan should spell out the specific reasons which warrant eviction and the steps which will be taken to resolve problems before eviction, including provisions for appeal. Voluntary compliance with the lease or occupancy agreement should be emphasized and every effort should be made to utilize the benefits available through local social service agencies and other community organizations.

9. *Maintenance and repairs:* A schedule for preventive maintenance and the procedure for handling service requests from individual tenants, including procedures for the handling of emergency repairs on a 24-hour basis should be outlined.

10. *Records and reports:* The type of recordkeeping system which will be established and the person or persons who will be responsible for keeping records and submitting required reports to FmHA. Subpart G of Part 1802 of this Chapter (FmHA Instruction 430.2) outlines the reports required and the formats for these reports. This Instruction is available from the local District Office.

11. *Fidelity bonds:* Bonding should be provided for all persons entrusted with the receipt, custody, and disbursement of funds and custody of other negotiable or readily salable personal property. The amount of the bond should be at least equal to the maximum amount of money or property which the individual will have control of at any one time.

12. *Tenant councils:* Tenant councils should be encouraged and should be given an input into proposed changes in lease agreements, staff selection, eviction, and in some cases tenant selection and other management decisions which have a bearing on the tenant's overall situation. Provisions should also be outlined for the democratic election of tenant councils.

13. *Rent increases:* Requested or proposed rent increases should be handled in accordance with Exhibit F of Subpart G of Part 1802 of this Chapter. (FmHA Instruction 430.2, Exhibit F).

14. *Non-discrimination:* The plan should address the policy of non-discrimination in tenant selection and employee hiring in accordance with Form FmHA 400-4, "Non-Discrimination Agreement," and the affirmative action planned in the recruitment of employees and tenants.

15. *Other items:* Any other items which have a bearing on the operation and management of the project.

16. The management plan must be signed and dated by the borrower or the borrower's authorized representative.

Exhibit C-Loan Resolution

(LH Insured Loan to Nonprofit Corporation)

LOAN RESOLUTION OF ———————— ——, 19—.

RESOLUTION OF THE BOARD OF DIRECTORS OF ———————— PROVIDING FOR BORROWING $———— TO FINANCE HOUSING AND RELATED FACILITIES FOR DOMESTIC FARM LABOR, THE COLLECTION, HANDLING, AND DISPOSITION OF INCOME, THE ISSUANCE OF INSTALLMENT PROMISSORY NOTE AND REAL ESTATE SECURITY INSTRUMENT, AND RELATED MATTERS.

Whereas ———————— (herein referred to as "Corporation") is a nonprofit corporation duly organized and operating under ———————— (authorizing State statute) ————;

The Board of Directors of the Corporation (herein referred to as the "board") has decided to provide certain housing and related facilities for domestic farm labor;

The board has determined that the Corporation is unable to provide such housing and facilities with its own resources or to obtain from other sources for such purpose sufficient credit upon terms and conditions which the Corporation could reasonably be expected to fulfill;

BE IT RESOLVED:

1. *Applicable for Loan.* The Corporation shall apply for and obtain a domestic farm labor housing loan (herein called "the loan") of $———— through the facilities of the United States of America acting through the Farmers Home Administration, United States Department of Agriculture (herein called "the Government") pursuant to title V of the Housing Act of 1949. The loan shall be used solely for the specific eligible purposes for which it is approved by the Government, in order to provide housing and related facilities for domestic farm labor. Such housing and facilities and the land constituting the site are herein called "the housing."

2. *Execution of Loan Instruments.* To evidence the loan the Corporation shall issue a promissory note (herein referred to as "the note"), signed by its President and attested by its Secretary, with its corporate seal affixed thereto, for the amount of the loan, payable in installments over a period of ———— years, bearing interest at the rate of 1 percent per annum, and containing other terms and conditions prescribed by the Government. To secure the note or any indemnity or other agreement required by the Government, the President and Secretary are hereby authorized to execute a real estate security instrument giving a lien upon the housing and upon such other real property of the Corporation as the Government shall require, including an assignment or security interest in the rents and profits as collateral security to be enforceable in the event of any default by the Corporation, and containing other terms and conditions prescribed by the Government. The President and Secretary are further authorized to execute any other security instruments and other instruments and documents required by the Government in connection with the making or insuring of the loan. The indebtedness and other obligations of the Corporation under the note, the related security instruments, and any related agreements are herein called the "loan obligations." (Revised 6-16-71—PN 261).

3. *Equal Opportunity and Nondiscrimination Provisions.* The borrower will comply with (a) any undertakings and agreements required by the Government pursuant to Executive Order 11063 regarding nondiscrimination in the use and occupancy of housing, (b) Farmers Home Administration Form FmHA 400-1 entitled "Equal Opportunity Agreement," including an "Equal Opportunity Clause," to be incorporated in or attached as a rider to each construction contract the amount of which exceeds $10,000 and any part of which is paid for with funds from the loan, (c) Farmers Home Administration Form FmHA 400-4, entitled "Nondiscrimination Agreement (Under Title VI, Civil Rights Act of 1964)," a copy of which

is attached hereto and made a part hereof, and any other undertakings and agreements required by the Government pursuant to lawful authority.

4. *Supervised Bank Account.* The proceeds of the note and the amount of $———— to be contributed by the Corporation from its own funds and used for eligible loan purposes shall be deposited in a "supervised bank account" as required by the Government.[1] Amounts in the supervised bank account exceeding $40,000 shall be secured by the depository bank in advance in accordance with the U.S. Treasury Department Circular No. 176. As provided by the terms of the agreement creating the supervised bank account, all funds therein shall, until duly expended, collaterally secure the loan obligations. Withdrawals from the supervised bank account by the Corporation shall be made only on checks signed by the ———— of the Corporation and countersigned by the County Supervisor of the Farmers Home Administration, and only for the specific loan purposes approved in writing by the Government. The Corporation's share of any liquidated damages or other monies paid by defaulting contractors or their sureties shall be deposited in the supervised bank account to assure completion of the project. When all approved items eligible for payment with loan funds are paid in full, any balance remaining in the supervised bank account shall be applied on the note as an "extra payment" as defined in the regulations of the Farmers Home Administration, and the supervised bank account shall be closed. (Revised 12–15–71—PN 287.)

5. *Accounts for Housing Operations and Loan Servicing.* The Corporation shall establish on its books the following accounts, which shall be maintained so long as the loan obligations remain unsatisfied: A General Fund Account, an Operation and Maintenance Account, a Debt Service Account, and a Reserve Account. Funds in said accounts shall be deposited in a bank or banks insured by the Federal Deposit Insurance Corporation, except for any portion invested in readily marketable obligations of the United States as authorized by section 9.

The Treasurer of the Corporation shall execute a fidelity bond, with a surety company approved by the Government, in an amount not less than the estimated maximum amount of such funds to be held in said accounts at any one time. The United States of America shall be named as co-obligee, and the amount of the bond shall not be reduced without the prior written consent of the Government. The Corporation in its descretion may at any time establish and utilize additional accounts to handle any funds not covered by the provisions of this resolution.

6. *General Fund Account.* By the time the loan is closed the Corporation shall from its own funds deposit in the General Fund Account the amount of $————. All income and revenue from the housing shall upon receipt be immediately deposited in the General Fund Account. The Corporation may also in its discretion at any time deposit therein other funds, not otherwise provided for by this resolution, to be used for any of the purposes authorized in section 7, 8, or 9. Funds in the General Fund Account shall be used only as authorized in said sections and, until so used, shall be held by the Corporation in trust for the Government as security for the loan obligations.

7. *Operation and Maintenance Account.* Not later than the 15th of each month, out of the General Fund Account shall be transferred to the Operation and Maintenance Account, sufficient amounts to enable the Corporation to pay from the Operation and Maintenance Account the actual, reasonable, and necessary current expenses, for the current month and the ensuing month, of operating and maintaining the housing not otherwise provided for. Current expenses may include, in addition to expenses occurring or becoming due monthly, monthly accumulations of proportionate amounts for the payment of items which may become due either annually or at irregular intervals, such as taxes and insurance, normal repair and replacement of furnishings and equipment reasonably necessary for operation of the housing. Current expenses may also include initial purchase and installation of such furnishings and equipment with any funds deposited in and transferred from the General Fund Account which are not proceeds of the loan or income or revenue from the housing.

8. *Debt Service Account.* Each month, immediately after the transfer to the Operation and Maintenance Account provided for in section 7, or after it is determined that no such transfer is called for, any balance remaining in the General Fund Account, or so much thereof as may be necessary, shall be transferred to the Debt Service Account until the amount in the Debt Service Account equals the amount of the next installment due on the loan. Funds in the Debt Service Account shall be used only for payments on the loan obligations and, until so used, shall be held by the Corporation in trust for the Government as security therefor.

9. *Reserve Account.* (a) Immediately after each transfer to the Debt Service Account as provided in section 8, any balance in the General Fund Account shall be transferred to the Reserve Account. Funds in the Reserve Account may be used only as authorized in this resolution and until so used shall be held by the Corporation in trust as security for the loan obligations. Transfers at a rate not less than $————[2] annually shall be made to the Reserve Account until the amount in the Reserve Account reaches the sum of $————[2] and shall be resumed at any time when necessary, because of disbursements from the Reserve Account, to restore it to said sum. Of such sum, at least 50 percent shall be maintained on a cash basis, referred to herein as the "cash reserve." After the cash reserve reaches the required 50 percent of said sum, all or any portion of the balance of said sum may, at the option of the Corporation, consist of an amount, referred to herein as the "prepayment reserve," by which the Corporation is "ahead of schedule" as defined in the regulations of the Farmers Home Administration. Funds in the cash reserve shall be deposited in a separate bank account or accounts insured by the Federal Deposit Insurance Corporation or invested in readily marketable obligations of the United States, the earnings on which shall accrue to the Reserve Account.

(b) With the prior consent of the Government, funds in the Reserve account may be used by the Corporation—

(1) To meet payments due on the loan obligations in the event the amount in the Debt Service Account in not sufficient for the purpose.

(2) To pay costs of repairs or replacements to the housing caused by catastrophe or long-range depreciation which are not current expenses under section 7.

(3) To make improvements or extensions to the housing.

(4) For other purposes desired by the Corporation which in the judgment of the Government likely will promote the loan purposes without jeapordizing collectibility of the loan or impairing the adequacy of the security, or will strengthen the security, or will facilitate, improve, or maintain the orderly collectibility of the loan.

(c) Any amount in the Reserve Account which exceeds the aggregate sum specified in subsection (a) and is not agreed between the Corporation and the Government to be used for purposes authorized in subsection 9(b) shall be applied promptly on the loan obligations.

10. *Regulatory Convenants.* So ong as the loan obligations remain unsatisfied, the Corporation shall—

Impose and collect such fees, assessments, rents, and charges that the income of the Corporation will be sufficient at all times for operation and maintenance of the housing, payments on the loan obligations, and maintenance of the accounts herein provided for.

(b) Maintain complete books and records relating to the Corporation's financial affairs, cause such books and records to be audited at the end of each fiscal year, promptly furnish the Government without request a copy of each audit report, and permit the Government to inspect such books and records at all reasonable times.

If required or permitted by the Government, revise the accounts herein provided for, or establish new accounts, to cover handling and disposition of income from and payment of expenses attributable to the housing or to any other property securing the loan obligations, and submit to the Government regular and special reports concerning the housing or the Corporation's financial affairs.

(d) Unless the Government gives prior consent—

(1) Not use or permit use of the housing for any purpose other than as housing and related facilities for domestic farm labor.

[1] Only loan funds, and borrower's funds to be used for an eligible loan purpose, may be deposited in the supervised bank account.

[2] In most cases this figure should be one-tenth of the aggregate sum specified later in the sentence and indicated by footnote 3.

[3] The amount to be inserted will usually be about 10 percent of the value of the buildings and related facilities financed wholly or partially with the loan.

(2) Not enter into any contract or agreement for improvements or extensions to the housing or other property securing the loan obligations.

(3) Not cause or permit voluntary dissolution of the Corporation, nor merge or consolidate with any other organization, nor cause or permit any transfer or encumberance of title to the housing or any part thereof or interest therein, by sale, mortgage, lease, or otherwise, nor engage in any other new business, enterprise, or venture than operation of the housing.

(4) Not cause or permit the issuance or transfer of any stock, borrow any money, nor incur any liability aside from current expenses as defined in section 7.

(e) Submit the following to the Government for prior review and approval not less than ———— days before the effective dates, unless approval is waived by the Government:

(1) Annual budgets and operating plans.

(2) Statements of management policy and practice, including eligibility criteria and implementing rules for occupancy of the housing.

(3) Proposed rents and charges and other terms of rental agreements.

(4) Rates of Compensation to officers and employees of the Corporation payable from or chargeable to any account provided for in this resolution.

(f) If required by the Government, modify and adjust any matters covered by clause (e) of this section.

(g) Comply with all its agreements and obligations in or under the note, security instrument, and any related agreement executed by the Corporation in connection with the loan.

(h) Not alter, amend, or repeal without the Government's consent this resolution or the bylaws or articles of incorporation of the Corporation, which shall constitute parts of the total contract between the Corporation and the Government relating to the loan obligations.

(i) Do other things as may be required by the Government in connection with the operation of the housing, or with any of the Corporation's operations or affairs which may affect the housing, the loan obligations, or the security.

11. *Refinancng of Loan.* If at any time it appears to the Government that the corporation is able to obtain a loan upon reasonable terms and conditions to refinance the loan obligations then outstanding, upon request from the Government the Corporation will apply for, take all necessary actions to obtain, and accept such refinancing loan and will use the proceeds for said purpose.

12. *General provisions.* (a) It is expressly understood and agreed that any loan made will be administered subject to the limitations of the authorizing act of Congress and relaed regulations, and that any rights granted to the Government herein or elsewhere may be exercised by it in its sole discretion to carry out the purposes of the loan, enforce such limitations, and protect the Government's financial interest in the loan and the security.

(b) The provisions of this resolution are representations to the Government to induce the Government to make a loan to the Corporation as aforesaid. If the Corporation should fail to comply with or perform any provisions of this resolution or any requirement made by the Government pursuant to this resolution, such failure shall constitute default as fully as default in payment of amounts due on the loan obligations. In the event of such failure, the Government at its option may declare the entire amount of the loan obligations immediately due and payable, and, if such entire amount is not paid forthwith, may take possession of and operate the housing and proceed to foreclose its security and enforce all other available remedies.

(c) Upon request by the Government the Corporation will permit representatives of the Government to inspect and make copies of any of the records of the Corporation pertaining to this loan. Such inspection and copying may be made during regular office hours of the Corporation, or any other time the Corporation and the Government finds convenient.

(d) Any provisions of this resolution may be waived by the Government in its sole discretion, or changed by agreement between the Government and the Corporation, after this resolution becomes contractually binding, to any extent such provisions could legally have been foregone, or agreed to in amended form, by the Government initially.

(e) Any notice, consent, approval, waiver, or agreement must be in writing.

(f) This resolution may be cited in the security instrument and any other instrument or agreements as the "Loan Resolution of (date of this resolution)————19——."

_____

_____

_____

_____

Certificate

The undersigned,————————, the Secretary of the Corporation identified in the foregoing Loan Resolution, hereby certifies that the foregoing is a true copy of a resolution duly adopted by the board of directors on ————19——, which has not been altered, amended, or repealed.

(Date) _____

(Secretary) _____

(SEAL)

Exhibit D—Loan Agreement

(LH Insured Loan to Individual)

1. *Parties and Terms Defined.* This agreement dated ———— of the Undersigned ————————, herein called "Borrower" whether one or more, whose post office address is ————————, with the United States of America acting through the Farmers Home Administration, United States Department of Agriculture, herein called "the Government," is made in consideration of a loan, herein called "the loan," to Borrower in the amount of $———— made or insured, or to be made or insured by the Government pursuant to title V of the Housing Act of the 1949 to provide housing and related facilities for domestic farm laborers. Such housing and related facilities, together with the site, may be referred to herein as "the housing." The indebtdeness and other obligations of Borrower under the note evidencing the loan, the related security instrument, and any related agreement are herein called the "loan obligations."

2. *Equal Opportunity and Nondiscrimination Provisions.* The borrower will comply with (a) any undertakings and agreements required by the Government pursuant to Executive Order 11063 regarding nondiscrimination in the use and occupancy of housing, (b) Farmers Home Administration Form FmHA 400–1 entitled "Equal Opportunity Agreement," including an "Equal Opportunity Clause" to be incorporated in or attacked as a rider to each construction contract the amount of which exceeds $10,000 and any part of which is paid for with funds from the loan, (c) Farmers Home Administration Form FmHA 400–4, entitled "Nondiscrimination Agreement [Under Title VI, Civil rights Act of 1964)," a copy of which is attached hereto and made a part hereof, and any other undertakings and agreements required by the Government pursuant to lawful authority.

3. *Supervised Bank Account.* The proceeds of the note and the amount of $———— to be contributed by the Corporation from its own funds and used for eligible loan purposes shall be deposited in a "supervised bank account" as required by the Government.[1] Amounts in the supervised bank account exceeding $40,000 shall be secured by the depository bank in advance in accordance with U.S. Treasury Department Circular No. 176. As provided therein shall, until duly expended, collaterally secure the loan obligations. Withdrawals from the supervised bank account by the Corporation shall be made only on checks signed by ———— of the Corporation and countersigned by the County Supervisor of the Farmers Home Administration, and only for the specific loan purposes approved in writing by the Government. The Corporation's share of any liquidated damages or other monies paid by defaulting contractors or their sureties shall be deposited in the supervised bank account to assure completion of the project. When all approved items eligible for payment with loan funds are paid in full, any balance remaining in the supervised bank account shall be applied on the note as an "extra payment" as defined in the regulations of the Farmers Home Administration, and the supervised bank account shall be closed.

4. *Accounts for Housing Operations and Loan Servicing.* Borrower shall establish on his books the following accounts, which shall be maintained so long as the loan obligations remain unsatisfied: A General Fund Account, an operation and Maintenance Account, A Debt Service Account, and a Reserve Account. Funds in said accounts shall be deposited in a bank or banks insured by the Federal Deposit Insurance Corporation, except for any portion invested in readily marketable obligations of the United States as authorized by section 8 (a).

[1] In must cases this figure should be one-tenth of the aggregate sum specified later in the sentence as indicated by footnote.[2]

5. *General Fund Account.* By the time the loan is closed Borrower shall from his own funds deposit in the General Fund Account the amount of $————. All income and revenue from the housing shall upon receipt be immediately deposited in the General Fund Account. Borrower may also in his discretion at any time deposit therein other funds, not otherwise provided for by this agreement, to be used for any of the purposes authorized in section 8, 7, or 8. Funds in the General Fund Account shall be used only as authorized in said sections and, until so used, shall be held by Borrower in trust for the Government as security for the loan obligations.

6. *Operation and Maintenance Account.* Not later than the 15th of each month out of the General Fund Account shall be transferred to the Operation and Maintenance Account sufficient amounts to enable Borrower to pay from the Operation and Maintenance Account the acutal, reasonable, and necessary current expenses, for the current month and the ensuing month, of operating and maintaining the housing not otherwise provided for. Current expenses may include, in addition to expenses occurring or becoming due monthly, monthly accumulations of proportionate amounts for the payment of items, which may become due either annually or at irregular intervals, such as taxes, insurance, and normal repair and replacement of furnishings and equipment reasonably necessary for operation of the housing. Current expenses may also include intial purchase and installation of such furnishings and equipment with any funds deposited in and transferred from the General Fund Account which are not proceeds of the loan or income or revenue from the housing.

7. *Debt Service Account.* Each month, immediately after the transfer to the Operation and Maintenance Account provided for in section 8, or after it is determined that no such transfer is called for, any balance remaining in the General Fund Account, or so much thereof as may be necessary, shall be transferred to the Debt Service account until the amount in the Debt Service Account equals the amount of the next installment due on the loan. Funds in the Debt Service Account shall be used only for payments on the loan obligations and, until so used, shall be held by Borrower in trust for the Government as security therefor.

8. *Reserve Account.* (a) Immediately after each transfer to the Debt Service Account as provided in section 7, any balance in the General Fund Account shall be transferred to the Reserve Account. Funds in the Reserve Account may be used only as authorized in this agreement and until so used shall be held by the Borrower in trust as security for the loan obligations. Transfers at a rate less than $———— [1] annually shall be made to the Reserve Account until the amount in the Reserve Account reaches the sum of $———— [2] and shall be resumed at any time when necessary, because of disbursements from the Reserve Account, to restore it to said sum. Of such sum, at least 50 percent shall be maintained on a cash basis, referred to herein as the "cash reserve." After the cash reserve reaches the required 50 percent of said sum, all or any portion of the balance of said sum may, at the option of Borrower, consist of an amount, referred to as the "prepayment reserve," by which Borrower is "ahead of schedule" as defined in the regulations of the Farmers Home Administration. Funds in the cash reserve shall be deposited in a separate bank account or accounts insured by the Federal Deposit Insurance Corporation or invested in readily marketable obligations of the United States, the earnings on which shall accrue to the Reserve Account.

(b) With the prior consent of the Government, funds in the Reserve account may be used by Borrower—

(1) To meet payments due on the loan obligations in the event the amount in the Debt Service Account is not sufficient for the purpose.

(2) To pay costs of repairs or replacements to the housing caused by catastrophe or long-range depreciation which are not current expenses under section 6.

(3) To make improvements or extensions to the housing.

(4) For other purposes desired by Borrower which in the judgment of the Government likely will promote the loan purposes without jeopardizing collectibility of the loan or impairing the adequacy of the security, or will strenghten the security, or will facilitate, improve, or maintain the orderly collectibility of the loan.

(5) For any purpose desired by Borrower, provided Borrower determines that after such disbursement (a) the amount in the Reserve Account will be not less than that required by subsection 8(a) to be accumulated by that time, and (b) during the next 12 months the amount in the Reserve Account will likely not fall below that required to be accumulated by the end of such period.

(c) Any amount in the Reserve Account which exceeds the aggregate sum specified in subsection 8(a) and is not agreed between the Corporation and the Government to be used for purposes authorized in subsection 8(a) shall be applied promptly on the loan obligations.

9. *Regulotory Covenants.* So long as the loan obligations remain unsatisfied, Borrower shall—

(a) Impose and collect such fees, assessments, rents, and charges that his income will be sufficient at all times for operation and maintenance of the housing, payments on the loan obligations, and maintenance of the accounts herein provided for.

(b) Maintain complete books and records relating to his financial affairs, cause such books and records to be audited at the end of each fiscal year, promptly furnish the Government without request a copy of each audit report, and permit the Government to inspect such books and records at all reasonable times.

(c) If required by the Government, revise the accounts herein provided for, or establish new accounts, to cover handling and disposition of income from and payment of expenses attributable to the housing or to any other property securing the loan obligations, and submit regular and special reports concerning the housing or Borrower's financial affairs.

(d) Unless the Government gives prior consent—

(1) Not use the housing for any purpose other than as labor housing and related facilities for domestic farm laborers.

(2) Not enter into any contract or agreement for improvements or extensions to the housing or other property securing the loan obligations.

(3) Not cause or permit the transfer or encumbrance of title to the housing or any part thereof or interest therein, by sale, mortgage, lease, or otherwise.

(e) Submit the following to the Government for prior review and approval not less then ———— days before the effective dates.

(1) Annual budgets and operating plans, including proposed rents and charges and other terms of rental agreements for occupancy and compensation to employees chargeable as operating expenses of the housing.

(2) Statements of management policy and practice, including eligibility criteria and implementing rules for occupancy of the housing.

(f) If required by the Government, modify and adjust any matters covered by clause (e) of this section.

(h) Do other things as may be required by the Government in connection with the operation of the housing or with any of Borrower's operations or affairs which may affect the housing, the loan obligations, or the security.

10 *Refinancing of Loan.* If at any time it appears to the Government that Borrower is able to obtain a loan upon reasonable terms and conditions to refinance the loan obligations then outstanding, upon request from the Government, Borrower will apply for, take all necessary actions to obtain, and accept such refinancing loan and will use the proceeds for said purpose.

11 *General Provisions.*

(a) It is understood and agreed by Borrower that any loan made or insured will be administered subject to the limitations of the authorizing act of Congress and related regulations, and that any rights granted to the Government herein or elsewhere may be exercised by it in its sole discretion to carry out the purposes of the loan, enforce such limitations and protect the Government's financial interest in the loan and the security.

(b) Borrower shall also comply with all covenants and agreements set forth in the note, security instrument, and any related agreements executed by Borrower in connection with the loan.

(c) The provisions of this agreement are representations to the Government to induce the Government to make or insure a loan to Borrower as aforesaid. If Borrower should fail to comply with or perform any provision of this agreement or any requirement made by the Government pursuant hereto, such failure shall constitute default as fully as default in payment of amounts due on the loan. In the event of such failure, the Government at its option may declare the entire amount of the loan obligations immediately due and payable and, if such entire amount is not paid forthwith, may take possession of and operate the housing and proceed to foreclose its security and enforce all other available remedies.

(d) Upon request by the Government the Borrower will permit representatives of the Government to inspect and make copies of any of the records of the Borrower pertaining to this loan. Such inspection and copying may be made during regular office hours of the Borrower, or any other time the Borrower and the Government finds convenient.

(e) Any provisions of this agreement may be waived by the Government, or changed by agreement between the Government and Borrower to any extent such provisions could legally have been foregone, or agreed to in any amended form, by the Government initially. Any notice, consent, approval, waiver, or agreement must be in writing.

(f) This agreement may be cited in the security instrument and other instruments or agreements as the "Loan Agreement of (date of this agreement) ———— 19————."

Witness ————————————
Borrower ————————————
Witness ————————————
Borrower ————————————

[1] The amount to be inserted will usually be about 10 percent of the value of the buildings and related facilities financed wholly or partially with the loan.

Exhibit E—Loan and Grant Resolution

(Labor Housing Loan and Grant to a Nonprofit Corporation)

Loan and Grant Resolution of————, 19————.

Resolution of the Board of Directors of————Providing for Obtaining Financial Assistance in the Amount $————To aid in Financing Federally defined Low-Rent Housing and Related Facilities for Low-Income Domestic Farm Labor, and Related Matters.

Whereas————(herein referred to as the "Corporation") is organized and operating under————(authorizing State statute) and the board of directors of the Corporation has determined that—

(a) The Corporation should provide low-rent housing and related facilities for low-income domestic farm labor, as defined in title V of the Housing Act of 1949.

(b) The estimated total cash development cost of such housing and facilities amounts to $————.

(c) For such purpose the Corporation is able to furnish from its own resources $————.

(d) The Corporation will need financial assistance in the amount of $————which the Corporation is unable to obtain from other sources for such purpose upon terms and conditions which the Corporation could reasonably be expected to fulfill.

(e) Of such amount of needed financial assistance the Corporation will be able to repay, with interest at 1% per annum, the amount of $————over a repayment period of————years, if the balance of $————is made available to the Corporation as an grant.

(f) The housing and related facilities will fulfill a pressing need in the area in which they are or will be located.

(g) The housing and facilities cannot be provided without the aid of a grant in the amount stated above:

Therefore be it Resolved:

1. *Application for Loan and Grant.* The Corporation shall apply to the United States of America, acting through the Farmers Home Administration, United States Department of Agriculture (herein called "the Government") for a loan of $————and a grant of $————, pursuant to Title V of the Housing Act of 1949. Such loan may be insured by the Government. The loan and the grant shall be used only for the specific eligible purposes approved by the Government, in order to provide low-rent housing and related facilities for low-income domestic farm labor. Such housing and facilities and the land constituting the site may be referred to herein as the "housing."

2. *Execution of Loan and Grant Instruments.* To evidence the loan the Corporation shall issue a promissory note (herein referred to as "the Note"), signed by its President and attested by its Secretary, with its corporate seal affixed thereto, for the amount of the loan, payable in installments over a period of————years, bearing interest at a rate not to exceed————percent per annum, and containing other terms and conditions prescribed by the Government. To evidence the obligations of the grant, the Corporation shall execute an instrument in the form attached hereto entitled "Labor Housing Grant Agreement" and referred to herein as the "Grant Agreement," evidencing terms and conditions upon which the grant is made by the Government and the obligations of the Corporation with respect thereto. To secure the note and/or all other obligations and agreements of the Corporation with respect to the loan and the grant, as required by the Government, the President and the Secretary are hereby authorized to execute a security instrument giving a lien upon or security interest in the housing and such other property as the Government shall require, including an assignment of or security interest in the rents and profits as collateral security to be enforceable in the event of any default by the Corporation. The President and the Secretary are further authorized to execute any other security and other instruments, agreements, and documents required by the Government for the loan or grant. The indebtedness and other obligations of the Corporation under the note, Grant Agreement, this resolution, the security instrument, and any other instruments and agreements related to the loan or grant are herein called the "loan and grant obligations."

3. *Equal Employment Opportunity under Construction Contracts and Nondiscrimination in the Use of Occupancy and Housing and in Any Other Benefits of the Loan or Grant.* The President and the Secretary are hereby authorized and directed to excute on behalf of the Corporation (a) any undertakings and agreements required by the Government regarding nondiscrimination in the use and occupancy of housing, (b) Farmers Home Administration Form FmHA 400-1, "Equal Opportunity Agreement," involving an Equal Opportunity Clause to be incorporated in or attached as a rider to each construction contract which exceeds $10,000 in amount and is paid for in whole or in part with loan or grant funds, and (c) Farmers Home Administration Form FmHA 400-4, "Nondiscrimination Agreement (Under Title VI, Civil Rights Act of 1964)," a copy of which is attached hereto and made a part hereof.

4. *Supervised Bank Account.* The proceeds of the loan and grant and the amount of $————to be contributed by the Corporation from its own funds and used for approved eligible purposes shall be deposited in a "supervised bank account" as required by the Government. [1]Amounts in the supervised bank account exceeding $40,000 shall be secured by the depositary bank in advance in accordance with U. S. Treasury Department Circular No. 176. As provided by the terms of the agreement creating the supervised bank account, all funds therein shall, until duly expended, collaterally secure the loan and grant obligations. Withdrawals from the supervised bank account by the Corporation shall be made only on checks signed by the———— of the Corporation and countersigned by the County Supervisor or other authorized official of the Farmers Home Administration, and only for the specific eligible purposes approved in writing by the Government. The Corporation's share of any liquidated damages or other monies paid by defaulting contractors of their sureties shall be deposited in the supervised bank account to assure completion of the project. When all approved items eligible for payment with loan or grant funds are paid in full, any balance remaining in the supervised bank account shall be treated as a refund of loan and grant funds in the same ratio as that between the amounts of the loan and grant and the supervised bank account shall be closed.

5. *Accounts for Housing Operations and Loan Servicing.* The Corporation shall establish on its books the following accounts, which shall be maintained so long as the loan or grant obligations continue: A General Fund Account, an Operation and Maintenance Account, a Debt Service Account, and a Reserve Account. Funds in said accounts shall be deposited in a bank or banks insured by the Federal Deposit Insurance Corporation, except for any portion invested in readily marketable obligations of the United States as authorized by section 9. The Treasurer of the Corporation shall execute a fidelity bond, with a surety company approved by the Government, in an amount not less than the estimated maximum amount of such funds to be held in said accounts at any one time. The United States of America shall be named as co-obligee, and the amount of the bond shall not be reduced without the prior written consent of the Government. The Corporation in its descretion may at any time establish and utilize additional accounts to handle any funds not covered by the provisions of this resolution.

[1] Only loan or grant funds, and borrower's funds to be used for an eligible loan or grant purpose, may be deposited in the supervised bank account.

inspection of its operations by a

6. *General Fund Account.* By the time the loan and grant are closed the Corporation shall from its own funds deposit in the General Fund Account the amount of $———. All income and revenue from the housing shall upon receipt be immediately deposited in the General Fund Account. The Corporation may also in its discretion at any time deposit therein other funds, not otherwise provided for by this resolution, to be used for any of the purposes authorized in section 7, 8, or 9. Funds in the General Fund Account shall be used only as authorized in said sections and, until so used, shall be held by the Corporation in trust for the Government as security for the loan and grant obligations.

7. *Operation and Maintenance Account.* Not later than the 15th of each month, out of the General Fund Account shall be transferred to the Operation and Maintenance Account, sufficient amounts to enable the Corporation to pay from the Operation and Maintenance Account the actual, reasonable, and necessary current expenses, for the current month and the ensuing month, of operating and maintaining the housing not otherwise provided for. Current expenses may include, in addition to expenses occurring or becoming due monthly, monthly accumulations of proportionate amounts for the payment of items which may become due either annually or at irregular intervals, such as taxes and insurance and normal repair and replacement of furnishings and equipment reasonably necessary for operation of the housing. Current expenses may also include initial purchase and installation of such furnishings and equipment with any funds deposited in and transferred from the General Fund Account which are not proceeds of the loan and, unless the Government gives prior written consent, are not income or revenue from the housing.

8. *Debt Service Account.* Each month, immediately after the transfer to the Operation and Maintenance Account provided for in section 7, or after it is determined that no such transfer is called for, any balance remaining in the General Fund Account, or so much thereof as may be necessary, shall be transferred to the Debt Service Account until the amount in the Debt Service Account equals the amount of the next installment due on the loan. Funds in the Debt Service Account shall be used only for payments on the loan obligations while they continue and, until so used, shall be held by the Corporation in trust for the Government as security for the loan and grant obligations.

9. *Reserve Account.* (a) Immediately after each transfer to the Debt Service Account as provided in section 8, any balance in the General Fund Account shall be transferred to the Reserve Account. Funds in the Reserve Account may be used only as authorized in this resolution and until so used shall be held by the Corporation in trust as security for the loan and grant obligations. Transfers at a rate not less than $ [2] annually shall be made to the Reserve Account until the amount in the Reserve Account reaches the sum of $ [3] and shall be resumed at any time when necessary, because of disbursements from the Reserve Account, to restore it to said sum. Of such sum, at least 50 percent shall be maintained on a cash basis, referred to herein as the "cash reserve." After the cash reserve reaches the required 50 percent of said sum, all or any portion of the balance of said sum may, at the option of the Corporation, consist of an amount, referred to herein as the "prepayment reserve," by which the Corporation is "ahead of schedule" as defined in the regulations of the Farmers Home Administration. Funds in the cash reseve shall be deposited in a separate bank account or accounts insured by the Federal Deposit Insurance Corporation or invested in readily marketable obligations of the United States, the earings on which shall accrue to the Reserve Account.

(b) With the prior consent of the Government, funds in the Reserve Account may be used by the Corporation—

(1) To meet payments due on the loan obligations in the event the amount in the Debt Service Account is not sufficient for the purpose.

(2) To pay costs of repairs or replacements to the housing caused by catastrophe or long-range depreciation which are not current expenses under section 7.

(3) To make improvements or extensions to the housing.

(4) For other pruposes desired by the Corporation which in the judgment of the Government likely will promote the loan or grant purposes without jeopardizing collectibility of the loan or impairing the adequacy of the security, or will strengthen the security, or will facilitate, improve, or maintain the orderly collectibility of the loan.

(c) Any amount in the Reseve Account which exceeds the sum specified in subsection (a), and is not agreed between the Corporation and the Government to be used for purposes authorized in subsection (b) shall be applied promptly on the loan obligations.

10. *Regulatory Covenants.* So long as the loan or grant obligations continue, the Corporation shall—

(a) Impose and collect such fees, assessments, rents, and charges that the income of the Corporation will be sufficient at all times for operation and maintenance of the housing payments on the loan obligations, and maintenance of the accounts herein provided for.

(b) Maintain complete books and records relating to the Corporation's financial affairs, cause such books and records to be audited at the end of each fiscal year, promptly furnish the Government without request a copy of each audit report, and permit the Government to inspect such books and records at all reasonable times.

(c) If required or permitted by the Government, revise the accounts herein provided for, or establish new accounts, to cover handling and disposition of income from and payment of expenses attributable to the housing or to any other property securing the loan or grant obligations, and submit to the Government regular and special reports concerning the housing or the Corporation's financial affairs, including any information required by the Government regarding income of the occupants of the housing.

(d) Unless the Government gives prior consent—

(1) Not use or prmit use of the housing for any prupose other than as low-rent housing and related facilities for low-income domestic farm labor, as those terms are defined by the Government.

(2) Not enter into any contract or agreement for improvements or extensions to the housing or other property securing the loan or grant obligations.

(3) Not cause or permit voluntary dissolution of the Corporation, nor merge or consolidate with any other organization, nor Transfer or encumber title, to the housing or any part thereof or interest therin, by sale, mortgage, lease, or other conveyance or encumbrance, nor engage in any other new business, enterprise, or venture than operation of the housing.

(4) Not borrow any money, nor incur any liability aside from current expenses as defined in section 7.

(e) Submit the following to the Government for prior review not less than days before the effective dates:

(1) Annual budgets and operating plans.

(2) Statements of management policy and practice including eligibility critieria and implementing rules for occupancy of the housing.

(3) Proposed rents and charges and other terms of rental agreements for occupancy of the housing.

(4) Rates of compensation to officers and employees of the Corporation payable from or chargeable to any account provided for in this resolution.

(f) If required by the Government, modify and adjust any matters covered by clause (e) of this section.

(g) Comply with all its agreements and obligations in or under this resolution, the note, Grant Agreement, security instrument, and any related agreement executed by the Corporation in connection with the loan or grant.

(h) Not alter, amend, or repeal without the government's consent this resolution or the bylaws or articles of incorporation of the Corporation, which shall constitute parts of the total contract between the Corporation and the Government relating to the loan and grant obligations.

(i) Do other things as may be required by the Government in connection with the operation of the housing, or with any of the Corporation's operations or affairs which may affect the housing, the loan or grant obligations, or the security.

11 *Refinancing of Loan.* If at any time it appears to the Government that the Corporation is able to obtain a loan upon reasonable terms and conditions to refinance the loan obligations then outstanding, upon request from the Government, the Corporation will apply for, take all necessary actions to obtain, and accept such refinancing loan and will use the proceeds for said purpose.

12 *General Provisions.*

(a) It is understood and agreed by the Corporation that any loan or grant will be administered subject to the limitations of the authorizing act of Congress and related regulations, and that any rights granted to the Government herein or elsewhere may be exercised by it in its sole discretion to carry out the purpose of the loan and grant, enforce such limitations, and protect the Government's Financial interest in the loan and grant and the security.

(b) The provisions of this resolution are representations of the Corporation to induce the Government to make or insure a loan or make a grant to the Corporation as aforesaid. If the Corporation should fail to comply with or perform any of its loan or grant obligations, such failure shall constitute default as fully as default in payment of amounts due on the loan obligations. In the event of default, the Government at its option may declare the entire amount of the loan and grant obligations immediately due and payable and, if such entire amount is not paid forthwith, may take possession of and operate the housing and proceed to foreclose its security and enforce all other available remedies.

(c) Upon request by the Government the corporation will permit representatives of the Government to inspect and make copies of any of the records of the corporation pertaining to the financial assistance. Such inspection and copying may be made during regular office hours of the corporation, or any other time the corporation and the Government finds convenient.

(d) Any provisions of this resolution may be waived by the Government in its sole discretion, or changed by agreement between the Government and the Corporation, after this resolution becomes contractually binding, to any extent such provisions could legally have been foregone, or agreed to in amended form, by the Government initially.

(e) Any notice, consent, approval, waiver, or agreement must be in writing.

(f) This resolution may be cited in the security instrument and elsewhere as the "Loan and Grant Resolution of (date of this resolution) ———— 19———."

Certificate

The undersigned, ————, the Secretary of the corporation identified in the foregoing resolution, hereby certifies that the foregoing is a true copy of a resolution duly adopted by the board of directors on ———— 19———, which has not been altered, amended or repealed.

(Date) ————

(Secretary) ————

(SEAL)

Exhibit F—Labor Housing Grant Agreement

This Agreement dated ————, 19———, between ———— which is organized and operating under (Authorizing Statute) ———— herein called "Grantee," and the United States of America acting through the Farmers Home Administration, Department of Agriculture, herein called "Grantor," Witnesseth:

Whereas: Grantee has determined to undertake a project of acquisition, construction, enlargement and/or capital improvement of a Labor Housing Project to serve domestic farm laborers at an estimated cost of $ ———— and has duly authorized the undertaking of such project.

Grantee is able to finance not more than $ ———— of the development costs through revenues, charges, taxes or assessments, or funds otherwise available to Grantee resulting in a reasonable rental rate.

Said sum of $ ———— has been committed to and by Grantee for such project development costs.

Grantor has agreed to grant the Grantee a sum not to exceed $ ———— subject to the terms and conditions established by the Grantor. Provided, however, that the proportionate share of any grant funds actually advanced and not needed for grant purposes shall be returned immediately to the Grantor. The Grantor may terminate the grant in whole, or in part, at any time before the date of completion, whenever it is determined that the Grantee has failed to comply with the conditions of the grant.

Now, Therefore, In consideration of said grant by Grantor to Grantee, to be made pursuant to Section 516 of the Housing Act of 1949 for the purpose only of defraying a part not to exceed ——— percent of the development costs, as defined by applicable Farmers Home Administration instructions.

Grantee Agrees That Grantee Will:

A. Cause said project to be constructed within the total sums available to it, including said grant, in accordance with the project plans and specifications and any modifications thereof prepared by Grantee and approved by Grantor.

B. Permit periodic inspection of the construction by a representative of Grantor during construction.

C. Manage, operate and maintain the project, including these units if less than the whole of said project, continuously in an efficient and economic manner.

D. Make the services of said project available within its capacity to all domestic farm laborers in Grantee's service area without discrimination as to race, color, religion, sex, national origin, age, marital status, or physical or mental handicap (possess capacity to enter into legal contract for services) at reasonable rental rates, whether for one or more types of units, adopted by resolution date ———— 19———, as may be modified from time to time by Grantee. The initial rental rates must be approvd by Grantor. Thereafter, Grantee may not make modifications to the rental rate structure without prior authorization from the Grantor.

E. Adjusts its operating costs and service charges from time to time to provide for adequate operation and maintenance, emergency repair reserves, obsolescence reserves, debt service and debt service reserves.

F. Provide Grantor with such periodic reports as it may require and permit periodic inspection of its operations by a representative of the Grantor.

G. To execute Form FmHA 400–1, "Equal Opportunity Agreement," and to execute Form FmHA 400–4, "Nondiscrimination Agreement," and to execute any other agreements required by Grantor which Grantee is legally authorized to execute. If any such form has been executed by Grantee as a result of a loan being made to Grantee by Grantor contemporaneously with the making of this grant, another form of the same type need not be executed in connection with this grant.

H. Upon any default under its representations or agreements set forth in this instrument, Grantee, at the option and demand of Grantor, will repay to Grantor forthwith the original principal amount of the grant stated hereinabove, with the interest at the rate of 5 per centum per annum from the date of the default. Default of the Grantee with constituted termination of the grant thereby causing cancellation of Federal assistance under the grant. The Provisions of this Grant agreement may be enforced by Grantor, at its option and without regard to prior waivers by it of previous defaults of Grantee, by judicial proceedings to require specific performance of the terms of this Grantee Agreements or by such other proceedings in law or equity, in either Federal or State courts, as may be deemed necessary by Grantor to assure compliance with the provisions of this Grant Agreement and the laws and regulations under which this grant is made.

I. Return immediately to Grantor, as required by the regulations of Grantor, any grant funds actually advanced and not needed by Grantee for approved purposes.

J. Use the real property including land, land improvements, structures, and appurtenances thereto, for authorized purposes of the grant as long as needed.

1. Title to real property shall invest in the recipient subject to the condition that the Grantee shall use the real property for the authorized purpose of the original grant as long as needed.

2. The Grantee shall obtain approval by the Grantor agency for the use of the real property in other projects when the Grantee determines that the property is no longer needed for the original grant purposes. Use in other projects shall be limited to those under other Federal grant programs or programs that have purposes consistent with those authorized for support by the Grantor.

3. When the real property is no longer needed as provided in 1 and 2 above, the Grantee shall request disposition instructions from the Grantor agency or its successor Federal agency. The Grantor agency shall observe the following rules in the disposition insructions.

(a) The Grantee may be permitted to retain title after it compensates the Federal Government in an amount computed by applying the Federal percentage of participation in the cost of the original project to the fair market value of the property.

(b) The Grantee may be directed to sell the property under guidelines provided by the Grantor agency and pay the Federal

[2] In most cases this figure should be one-tenth of the aggregate sum specified later in the sentence as the total amount of the Reserve Account.

[3] The amount to be inserted will usually be about 10 percent of the value of the buildings and related facilities financed wholly or partially with the loan and grant. (Revised 7–3–74—PN 42–)

Government an amount computed by applying the Federal percentage of participation in the cost of the original project to the proceeds from sale (after deducting actual and reasonable selling and fix-up expenses, if any, from the sales proceeds). When the Grantee is authorized or required to sell the property, proper sales procedures shall be established that provide for competition to the extent practicable and result in the highest possible return.

(c) The Grantee may be directed to transfer title to the property to the Federal Government provided that in such cases the Grantee shall be entitled to compensation computed by applying the Grantee's percentage of participation in the cost of the program or project to the current fair market value of the property.

This Grant Agreement covers the following described real property (use continuation sheets as necessary).

K. Abide by the following conditions pertaining to nonexpendable personal property which is furnished by the Grantor or acquired wholly or in part with grant funds. Nonexpendable personal property means tangible personal property having a useful life of more than one year and an acquisition cost of $300 or more per unit. A Grantee may use its own definition of nonexpendable personal property provided that such definition would at least include all tangible personal property as defined above.

1. Use of nonexpendable property.

(a) The Grantee shall use the property in the project for which it was acquired as long as needed. When no longer needed for the original project, the Grantee shall use the property in connection with its other Federally sponsored activities, if any, in the following order of priority:

(1) Activities sponsored by the FmHA.

(2) Activities sponsored by other Federal agencies.

(b) During the time that nonexpendable personal property is held for use on the project for which it was acquired, the Grantee shall make it available for use on other projects if such other use will not interfere with the work on the project for which the property was originally acquired. First preference for such other use shall be given to FmHA sponsored projects. Second preference will be given to other Federally sponsored projects.

2. Disposition of nonexpendable property. When the Grantee no longer needs the property as provided in paragraph (a) above, the property may be used for other activities in accordance with the following standards:

(a) Nonexpendable property with a unit acquisition cost of $1,000. The Grantee may use the property for other activities without reimbursement to the Federal Government or sell the property and retain the proceeds.

(b) Nonexpendable personal property with a unit acquisition cost of $1,000 or more. The Grantee may retain the property for other uses provided that compensation is made to the original Grantor agency or its successor. The amount of compensation shall be computed by applying the percentage of Federal participation in the cost of the original project or program to the current fair market value of the property. If the Grantee has no need for the property and the property has further use value, the Grantee shall request disposition instructions from the original grantor agency.

The Grantor agency shall determine whether the property can be used to meet the agency's requirements. If no requirement exists within the agency, the availability of the property shall be reported, in accordance with the guidelines of the Federal Property Management Regulations (FPMR), to the General Services Administration by the Grantor agency to determine whether a requirement for the property exists in other Federal agencies. The Grantor agency shall issue instructions to the Grantee no later than 120 days after the Grantee request and the following procedures shall govern:

(1) If so instructed or if disposition instructions are not issued within 120 calendar days after the Grantee's request, the Grantee shall sell the property and reimburses the Grantor agency an amount computed by applying to the sales proceeds the percentage of Federal participation in the cost of the original project or program. However, the Grantee shall be permitted to deduct and retain from the Federal share $100 or ten percent of the proceeds, whichever is greater, for the Grantee's selling and handling expenses.

(2) If the Grantee is instructed to ship the property elsewhere the Grantee shall be reimbursed by the benefitting Federal agency with an amount which is computed by applying the percentage of the Grantee participation in the cost of the original grant project or program to the current fair market value of the property, plus any reasonable shipping or interim storage costs incurred.

(3) If the Grantee is instructed to otherwise dispose of the property, the Grantee shall be reimbursed by the Grantor agency for such costs incurred in its disposition.

3. The Grantee's property management standards for nonexpendable personal property shall also include:

(a) Property records which accurately provide for: a description of the property; manufacturer's serial number or other identification number; acquisition date and cost; source of the property; percentage (at the end of budget year) of Federal participation in the cost of the project for which the property was acquired; location, use and condition of the property and the date the information was reported; and ultimate disposition data including sales price or the method used to determine current fair market value if the Grantee reimburse the Grantor for its share.

(b) A physical inventory of property shall be taken and the results reconciled with the property records at least once every two years to verify the existence, current utilization, and continued need for the property.

(c) A control system shall be in effect to insure adequate safeguards to prevent loss, damage, or theft of the property. Any loss, damage, or theft of nonexpendable property shall be investigated and fully documented.

(d) Adequate maintenance procedures shall be implemented to keep the property in good condition.

(e) Proper sales procedures shall be established for unneeded property which would provide for competition to the extent practicable and result in the highest possible return.

This Grant Agreement covers the following described nonexpendable property (use continuation sheets as necessary).

L. Provide Financial Management Systems which will include:

1. Accurate, current, and complete disclosure of the financial results of each grant. Financial reporting will be on an accrual basis.

2. Records which identify adequately the source and application of funds for grant-supporting activities. Those records shall contain information pertaining to grant awards and authorization, obligations, unobligated balances, assets, liabilities, outlays, and income.

3. Effective control over and accountability for all funds, property and other assets. Grantees shall adequately safeguard all such assets and shall assure that they are used solely for authorized purposes.

4. Accounting records supported by source documentation.

M. Retain financial records, supporting documents, statistical records, and all other records pertinent to the grant for a period of at least three years after grant closing except that the records shall be retained beyond the three-year period if audit findings have not been resolved. Microfilm copies may be substituted in lieu of original records. The Grantor and the Comptroller General of the United States, or any of their duly authorized representatives, shall have access to any books, documents, papers, and records of the Grantee's government which are pertinent to the specific grant program for the purpose of making audits, examinations, excerpts and transcripts.

N. Provide information as requested by the Grantor to determine the need for and complete any necessary Environmental Impact Statements.

O. Provide an audit report prepared in sufficient detail to allow the Grantor to determine that funds have been used in compliance with the proposal, any applicable laws and regulations and this Agreement.

P. Agree to account for and to return to Grantor interest earned on grant funds pending their disbursement for program purposes when the Grantee is a unit of local government. States and agencies or instrumentalities of states shall not be held accountable for interest earned on grant funds pending their disbursement.

Q. Not encumber, transfer or dispose of the property or any part thereof, furnished by the Grantor or acquired wholly or in part with Grantor funds without the written consent of the Grantor except as provided in item J above.

R. To include in all contracts for construction or repair a provision for compliance with the Copeland "Anti-Kick Back" Act (18 U.S.C. 874) as supplemented in Department of Labor regulations (29 CFR,

Part 3). The Grantee shall report all suspected or reported violations to the Grantor.

S. Pay all laborers and mechanics employed by contractors and subcontractors wages at rates not less than those prevailing on similar construction in the locality as determined by the Secretary of Labor in accordance with the Davis-Bacon Act, as amended (40 U.S.C 276a—276a-5).

T. In construction contracts in excess of $2,000 and in other contracts in excess of $2,500 which involve the employment of mechanics or laborers, to include a provision for compliance with Sections 103 and 107 of the Contract Work Hours and Safety Standards Act (40 U.S.C. 327–330) as supplemented by Departement of Labor regulations (29 CFR, Part 5).

U. To include in all contracts in excess of $100,000 a provision that the contractor agrees to comply with all the requirements of Section 114 of the Clean Air Act (42 U.S.C. § 1875C–9) and Section 308 of the Water Pollution Control Act specified in Section 114 of the Clean Air Act and Section 308 of the Water Pollution Control Act and all regulations and guidelines issued thereunder after the award of the contract. Such regulations and guidelines can be found in 40 CFR 15.4 and 40 FR 17126 dated April 16, 1975. In so doing the Contractor further agrees:

1. As condition for the award of contract to notify the Owner of the receipt of any communication from the Environmental Protection Agency (EPA) indicating that a facility to be utilized in the performance of the contract is under consideration to be listed on the EPA list of Violating Facilities. Prompt notification is required prior to contract award.

2. To certify that any facility to be utilized in the performance of any nonexempt contractor subcontract is not listed on the EPA list of Violating Facilities. Prompt notification is required prior to contract award.

3. To include or cause to be included the above criteria and the requirements in every nonexempt subcontract and that the Contractor will take such action as the Government may direct as a means of enforcing such provisions.

As used in these paragraphs the term "facility" means any building, plan, installation, structure, mine, vessel or other floating craft, location, or site of operations, owned, leased, or supervised by a Grantee, cooperator, contractor, or subcontractor, to be utilized in the performance of a grant, agreement, contract, subgrant, or subcontract. Where a location or site of operation contains or includes more than one building, plant, installation, or structure, the entire location shall be deemed to be a facility except where the Director, Office of Federal Activities, Environmental Protection Agency, determines that independent facilities are co-located in one geographical area.

GRANTOR AGREES THAT IT:

A. Will make available to Grantee for the purpose of this Agreement not to exceed $———— which it will advance to Grantee to meet not to exceed —— percent of the development costs of the project in accordance with the actual needs of Grantee as determined by Grantor.

B. Will assist Grantee, within available appropriations, with such technical assistance as Grantor deems appropriate in planning the project and coordinating the plan with local official comprehensive plans and with any State or area plans for the area in which the project is located.

C. At its sole discretion and at any time may give any consent, deferment, subordination, release, satisfaction, or termination of any or all of Grantee's grant obligations, with or without available consideration, upon such terms and conditions as Grantor may determine to be (1) advisable to further the purpose of the grant or to protect Grantor's financial interest therein and (2) consistent with the statutory purposes of the grant and the limitations of the statutory under which it is made.

TERMINATION OF THIS AGREEMENT.

This agreement may be terminated for cause in the event of default on the part of the Grantee as provided in paragraph I above or for convenience of the Grantor and Grantee prior to the date of completion of the grant purpose. Termination for convenience will occur when both the Grantee and Grantor agree that the continuation of the project will not produce beneficial results commensurate with the further expenditure of funds.

IN WITNESS WHEREOF Grantee on the date first above written has caused these presence to be executed by its duly authorized ————————
and attested and its corporated seal affixed by its duly authorized ————————.

ATTEST:

————————

By ————————

By ————————

————————

(Title)

————————

(Title)

UNITED STATES OF AMERICA FARMERS HOME ADMINISTRATION

By ————————

————————

(Title)

Exhibit G—Legal Service Agreement

Agreement made this —— day of ————, 19 — between the ————————, hereinafter called the owners, and ————————, hereinafter called the attorney, witnesseth:

Whereas the owners intent to form a corporation, hereinafter called the corporation, to construct and operate a labor housing project in

(Town) ————————

(County) ————————

(State) ————————

and to obtain a loan from the Farmers Home Administration to finance the construction, and the attorney agrees to perform all legal services necessary to incorporate the Corporation, and to perform all other customary legal services necessary to the organization, financing, construction, and initial operation of the proposed rural rental housing project, such services to include but not to be restricted to the following:

1. Prepare the file necessary incorporating papers and supervise and assist in taking other necessary or incidental actions to create the Corporation and authorize it to finance, construct, and operate the proposed housing project.

2. Prepare for, and furnish advice and assistance to the owners, and to the Board of Directors and officers of the Corporation, in connection with (a) notices and conduct of meetings; (b) preparation of minutes of meetings; (c) preparation and adoption of necessary resolutions in connection with the authorization, financing, construction, and initial operation of a rural rental housing project; (d) necessary construction contracts; (e) preparation of adoption of bylaws and related documents; (f) any other action necessary for organizing the Corporation or financing, constructing, and initially operating the proposed housing project.

3. Review of construction contract, bid-letting procedure, and surety and performance bonds.

4. Examination of real estate titles and preparation, review, and recording of deeds and any other instruments.

5. Cooperation with the architect employed by the owners or the Corporation in connection with preparation of survey sheets, easements, and any other necessary title documents, construction contracts, and other instruments.

6. Rendering of legal opinions as required by the owners or the Corporation or the Farmers Home Administration, United States Department of Agriculture.

7. Owners agree to pay to the attorney for professional services in accordance with this agreement, as follows:

————————

————————

The fees to be payable in the following manner and at the following times:

————————

————————

The attorney states and agrees that of the above total fees, ———————— represents fees for services in connection with the organization and incorporation of the Corporation.

The owners and the attorney further covenant and agree that, if upon organization and incorporation the Corporation fails or refuses to adopt and ratify this Agreement by appropriate resolution within —— days, this Agreement shall terminate and owners shall be liable only for payment for legal services rendered in connection with such organization and incorporation.

Signed this —— day of ————, 19 —.

Attorney: ————————.

Owners: ————————.

————————

————————

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Exhibit H—Information Pertaining to Preparation of Notes or Bonds and Bond Transcript Documents for Public Body Applicants.

(a) This section includes information for use by public body applicants in the preparation and issuance of evidences of debt ("bonds" or "debt instruments"). This information is made available to applicants as appropriate for application processing and loan docket preparation.

(1) *Policies.* (i) This section outlines the policies of the FmHA with respect to preparation and issuance of evidences of debt (hereinafter sometimes referred to as "bonds" or "debt instruments") by applicants whose obligations bear interest that is not subject to Federal income tax.

(ii) Preparation of the bonds and the bond transcript documents will be the responsibility of the applicant. Tax exempt public body applicants will obtain the services and opinion of recognized Bond Counsel with respect to the validity of a bond issue. The applicant normally will be represented by a local attorney who will obtain the assistance of a recognized Bond Counsel firm which has had experience in municipal financing with such investors as investment dealers, banks and insurance companies.

(iii) At the option of the applicant for issues of $250,000 or less, Bond Counsel may be used for the issuance of a final opinion only and not for the preparation of the other documents and of the bond docket when the applicant, FmHA, and Bond Counsel have agreed in advance as to the method of preparation of the bond transcript documents. Under such circumstances the applicant will be responsible for the preparing of the bond transcript documents.

(iv) At the option of the applicant and with the prior approval from the National Office of FmHA, for issues of $50,000 or less, the applicant need not use Bond Counsel if:

(A) The amount of the issue does not exceed $50,000 and the applicant recognizes and accepts the fact that processing the application may require additional legal and administrative time.

(B) There is a significant cost saving to the applicant particularly with reference to total legal fees after determining what Bond Counsel would charge as compared with what the local attorney will charge without Bond Counsel;

(C) The local attorney is able and experienced in handling this type of legal work.

(D) The applicant understands that, if it is required by FmHA to refinance its loan pursuant to the Statutory refinancing requirements, it will probably have to obtain at its expense a Bond Counsel's opinion at that time.

(E) All bonds will be prepared in accordance with this regulation and will conform as nearly as possible to accepted methods of preparation of similar bonds in the area.

(F) Many matters necessary to comply with FmHA requirements such as land rights, easements, and organizational documents will be handled by the applicant's local attorney. Specific closing instructions in addition to any requirements of Bond Counsel will be issued by the Office of the General Counsel of the U.S. Department of Agriculture for the guidance of FmHA.

(2) *Bond transcript documents.* Any questions with respect to FmHA requirements should be discussed with local FmHA representatives. Bond Counsel is required to furnish at least two complete sets of the following to the applicant, who will furnish one complete set to FmHA:

(i) Copies of all organizational documents.

(ii) Copies of general incumbency certificate.

(iii) Certified copies of minutes or excerpts therefrom of all meetings of the applicant's governing body at which action was taken in connection with the authorization and issuance of the bonds.

(iv) Certified copies of documents evidencing that the applicant has complied fully with all statutory requirements incident to calling and holding of a favorable bond election, if such an election is necessary in connection with bond issuance.

(v) Certified copies of the resolutions or ordinances or other documents, such as the bond authorizing resolution or ordinance and any resolution establishing rates and regulating the use of the improvement, if such documents are not included in the minutes furnished.

(vi) Copies of official Notice of Sale and affidavit of publication of Notice of Sale where a public sale is required by State statute.

(vii) Specimen bond, with any attached coupons.

(viii) Attorney's no-litigation certificate.

(ix) Certified copies of resolutions or other documents pertaining to the bond award.

(x) Any additional or supporting documents required by Bond Counsel.

(xi) For loans involving multiple advances of FmHA loan funds, a preliminary approving opinion of Bond Counsel if a final unqualifed opinion cannot be obtained until all funds are advanced. The preliminary opinion for the entire issue shall be delivered on or before the first advance of loan funds and state that the applicant has the legal authority to issue the bonds, construct, operate and maintain the facility, and repay the loan subject only to changes during the advance of funds such as litigation resulting from the failure to advance loan funds, and receipt of closing certificates.

(xii) Preliminary approving opinion, if any, and final unqualified approving opinion of recognized Bond Counsel including opinion regarding interest on bonds being exempt from Federal and any State income taxes. On approval of the Administrator, a final opinion may be qualifed to the extent that litigation is pending relating to Indian claims that may affect title to land or validity of the obligation.

(3) *Interim financing from commercial sources during construction period for loans of $50,000 or more.* In all cases where it is possible for funds to be borrowed at reasonable interest rates on an interim basis from commercial sources, such interim financing will be obtained so as to preclude the necessity for mulitple advances of FmHA funds.

(4) *Permanent instruments for FmHA loans to repay interim commercial financing.* Such loans will be evidenced by one of the types of instruments in the order of preference shown in paragraph (a)(5) of this section.

(5) *Multiple advances of FmHA funds using permanent instruments.* Where interim financing from commercial sources is not available, FmHA loan proceeds will be disbursed on an "as needed by borrower" basis in amounts not to exceed the amount needed during 30-day periods. FmHA loans will be evidenced by the following types of instruments chosen in accordance with the following order of preference:

(i) *First preference—Form FmHA 440–22.* If legally permissible, use Form FmHA 440–22, "Promissory Note Association or Organization," for insured loans.

(ii) *Second preference—single instruments with amortized installments.* If Form FmHA 440–22 is not legally permissible, use a single instrument showing on the face the full amount of the loan and providing for amortized installments with provision for entering the date and amount of each FmHA advance on the reverse there of or on an attachement to the instrument. Form FmHA 440–22 should be followed to the extent possible. Where interest-only payments are scheduled for the first installment due dates, no attempt should be made to compute in dollar terms the amount of interest due on such dates. Rather the instrument should provide that "interest only" is due on these dates. Thereafter, regular amortized installments of a specified dollar amount will be due on each installment date.

(iii) *Third preference—single instrument with installments of principal plus interest.* If a single amortized installement instrument is not legally permissible, use a single instrument provding for specified installments of principal plus accrued interest. The principal should be in an amount best adapted to making principal retirement and interest payments which closely approximate equal installments of combined interest and principal as required by the first two preferences.

(A) The repayment terms described in paragraph (a)(5)(ii) of this section "Second preference" apply.

(B) The instruments shall contain in substance the following provisions:

(*1*) A statement of principal maturities and due dates.

(*2*) Payments made on indebtedness evidenced by this instrument, regardless of when made, shall be applied first to interest due through the date of payment and next to principal except that payments made from security depleting sources shall, after payment of interest to the payment date, be applied to the principal last to become due under the instrument and shall not affect the obligation of the borrower to pay the remaining installments as scheduled.

(iv) *Fourth preference.* If instruments described under the first, second, and third preferences are not legally permissible, use

serial bonds with a bond or bonds delivered in the amount of each advance. Bonds will be delivered in the order of their numbers. Such bonds will conform with the minimum requirements of paragraph (a)(7) of this section. Rules for application of payments on serial bonds will be the same as those for principal installement single bonds as set out in the preceding paragraph (a)(5)(iii) of this section.

(6) *Multiple advances of FmHA funds using temporary debt instrument.* When none of the instruments described in paragraph (a)(5) of this section are legally permissible or practical, a bond anticipation note or similar temporary debt instrument may be used. The debt instrument will provide for multiple advance of FmHA loan funds and will be for the full amount of the FmHA loan. The instrument will be prepared by Bond Counsel and approved by the State Director and OGC. At the same time FmHA delivers the last advance, the borrower will deliver the permanent bond instrument to FmHA to replace the temporary debt instrument and the canceled temporary instrument will be delivered to the borrower. The approved debt instrument will show at least the following:

(i) The date from which each advance will bear interest.

(ii) The interest rate.

(iii) A payment schedule providing for interest on outstanding principal at least annually.

(iv) A maturity date which shall be no earlier than the anticipated issuance date of the permanent instrument(s).

(7) *Minimum bond specifications.* The provisions of paragraph (a)(7) are of this section minimum specifications only, and must be followed to the extent legally permissible.

(i) *Type and denominations.* Bond resolutions or ordinances will provide that the instrument(s) be either a bond representing the total amount of the indebtedness or Serial bonds in denominations customarily accepted in municipal financing (ordinarily in multiples of not less than $1,000). Single bonds may provide for either repayment of principal plus interest or amortized installements; amortized installments are preferable from the standpoint of FmHA. Coupon bonds will not be used unless required by statute.

(ii) *Bond registration.* Bonds will contain provisions permitting registration as to both principal and interest. Bonds purchased by FmHA will be registered in the name of "United States of America, Farmers Home Administration," and will remain so registered at all times while the bonds are held or insured by the United States. The address of FmHA for registration purposes will be that of the FmHA Finance Office.

(iii) *Size and quality.* Size of bonds and coupons should conform to standard practice. Paper must be of sufficient quality to prevent deterioration through ordinary handling over the life of the loan.

(iv) *Date of bonds.* Bonds will be dated as of the day of delivery.

(v) *Payment date.* Insofar as loan payments are consistent with income availability, applicable State statutes, and commercial customs in the preparation of bonds or other evidence of indebteness, they should be scheduled on a monthly basis either in the bond or other evidence of indebtedness or through the use of a supplemental agreement. Such requirements will be accomplished not later than the time of loan closing. When monthly payments are required, such payments will be scheduled beginning one full month following the date of loan closing or the end of any approved deferment period. Subsequent monthly payments will be scheduled each full month thereafter. In those cases where evidence of indebtedness calls for annual or semiannual payments, they will be scheduled beginning six or twelve full months, respectively following the date of loan closing or the end of any approved deferment period. Subsequent payments will be scheduled each sixth or twelfth full month respectively, thereafter. When the evidence of indebtedness is dated the 29th, 30th, or 31st day of a month, the payment date will be scheduled the 28th day of the month. Borrowers scheduled to make monthly payments will be given a monthly payment card jacket at the time of loan closing. These borrowers will submit payment directly to the Finance Office.

(vi) *Place of payment.* Payment on bonds purchased by FmHA should be submitted to the FmHA Finance Office by the borrower.

(vii) *Redemptions.* Bonds should contain customary redemption provisions, subject, however, to unlimited right of redemption without premium of any bonds held by FmHA except to the extent limited by the provisions under the "Third Preference" and "Forth Preference" in paragraph (a)(5) of this section.

(viii) *Additional revenue bonds.* Parity bonds may be issued to complete the project. Otherwise, parity bonds may not be issued unless the net revenues (that is, unless otherwise defined by the State statute, gross revenues less essential operation and maintenance expense) for the fiscal year preceding the year in which such parity bonds are to be issued, were 120 percent of the average annual debt service requirements on all bonds then outstanding and those to be issued; provided, that this limitation may be waived or modified by the written consent of bondholders representing 75 percent of the then outstanding principal indebtedness. Junior and subordinate bonds may be issued without restriction.

(ix) *Scheduling of FmHA payments when joint financing is involved.* In all cases in which FmHA is participating with another lender in the joint financing of the project to supply funds required by one applicant, the FmHA payments of principal and interest should approximate amortized installments.

(x) *Precautions.* The following types of provisions in debt instruments should be avoided.

(A) Provisions for the holder to manually post each payment to the instrument.

(B) Provisions for returning the permanent or temporary debt instrument to the borrower in order that it, rather than FmHA, may post the date and amount of each advance or repayment on the instrument.

(8) *Bidding by FmHA.* Where a public bond sale is required by State statutes, FmHA will not normally submit a bid at the advertised sale unless State statutes require a bid to be submitted. Preferably, FmHA will negotiate the purchase with the applicant subsequent to the advertised sale if no acceptable bid is received. In those cases were FmHA is required to bid, the bid will be made at the applicable FmHA interest rate.

Exhibit I—Guide Letter for Use in Informing Private Lender of FmHA's Commitment

(Name and Address of Private Lender)

_____

_____

Dear Mr. _____:

(For Organizations)

Reference is made to a request from the (Smith Housing Assoc.) through (John Smith) its President, for interim financing from your firm to construct a rental housing facility at the interest rate and terms and conditions agreed upon as reflected in the attached letter.

(For Individuals)

Reference is made to a request from (John Jones) for interim financing from your firm to construct a rental housing facility at the interest rate and terms and conditions agreed upon as reflected in the attached letter.

This letter is to confirm certain understandings on behalf of the Farmers Home Administration (FmHA).

Final drawings, specifications, and all other contracts documents have been prepared and approved, and the applicant is prepared to commence construction. It has been determined by the applicant and the Farmers Home Administration that the conditions of loan closing can be met. Funds have been obligated for the project, as evidenced by the attached copy of Porm FmHA 440–57, "Acknowledgement of Obligated Funds/Check Request."

The applicant has been required by FmHA to deposit $_____ with your firm to be utilized prior to any interim loan funds. The applicant has proposed and FmHA has agreed that you may first advance any applicant funds on deposit, and then advance the proceeds of the interim loan in accordance with the terms and conditions stated in your attached letter, as needed to pay for construction and other authorized and legally eligible expenses incurred by the applicant. It is understood, however, that advances of both the applicant's funds and the interim loan funds will be made only upon presentation of proper statements and partial payment estimates prepared by the builder, and approved for payment by the consulting architect, the applicant, and the FmHA District Director.

We have scheduled the Farmers Home Administration loan to be closed when construction to be financed with loan funds is substantially complete in accordance with the FmHA approved contract documents, drawings and specifications (except for minor punch list items), and the applicant provides evidence indicating that there are no unpaid obligations outstanding in connection with the project. At that time, funds not exceeding

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the FmHA loan amount will be available to pay off the amount of loan advances your lending institution has made for authorized approved purposes, including accrued interest to the date of closing.

FmHA cannot provide you with an unconditional letter of commitment guaranteeing FmHA loan closing. Factors such as noncompletion, default, unacceptable workmanship, and marked deviation from approved drawings and specifications could prevent the FmHA loan from being closed.

These problems can be minimized by making a thorough review of the [contract documents,]* drawings and specifications, evaluating the qualifications and past performance of the builder, and obtaining an adequate corporate surety bond guaranteeing both payment and performance.

The following are additional safeguards to help assure FmHA loan closing:

1. We invite you or your representatives to accompany FmHA personnel during construction inspections so that at least 3 or 4 joint inspections at critical points during construction (including the final inspection), can be made to help assure that construction is proceeding in accordance with the FmHA approved drawings and specifications.

2. FmHA will maintain its commitment in the amount of the obligated loan funds for a reasonable period of time after the expiration of any specified completion dates, provided work on the project is progressing satisfactorily and any identified problems have been resolved.

3. FmHA will not arbitrarily abandon your lending institution in the event of default. Should the contractor default, FmHA will attempt to provide financial assistance to the applicant in accordance with our administrative procedures and lending requirements, provided a new contractor can complete the project for a total cost within the security value of the project. If this is not possible, or should the FmHA loan applicant become unable or unwilling to continue with the project, FmHA also will attempt to provide financial assistance to any eligible applicant (subject to the availability of funds, our administrative procedures, and our lending requirements), to purchase the completed project from your lending institution.

4. FmHA is aware that circumstances, such as subsurface ground conditions and change orders necessitated by required changes in the work to be performed, may cause cost increases after FmHA loan approval and the obligation of FmHA loan funds. It is a general practice for FmHA to make subsequent loans when necessary to help cover these eligible costs, provided additional loan funds are available, the change orders were approved by FmHA, the increased costs are legitimate and are for authorized loan purposes, and the total cost of the project is within its security value.

Your assistance to the applicant is appreciated.

Sincerely,

_____ State Director.

This regulation has not been determined significant under the USDA criteria implementing Executive Order 12044. A copy of the Impact Statement prepared according to these criteria is available from the Office of the Chief, Directives Management Branch, Farmers Home Administration, U.S. Department of Agriculture, Room 6346, Washington, DC., 20250.

This document has been reviewed in accordance with FmHA Instruction 1901–G, "Environmental Impact Statements." It is the determination of FmHA that the proposed action does not constitute a major Federal action significantly affecting the quality of the human environment, and in accordance with the National Environmental Policy Act of 1969, Public Law 91–190, an Environmental Impact Statement is not required.

(42 U.S.C. 1480; delegation of authority by the Secretary of Agriculture, 7 CFR 2.23; delegation of authority by the Assistant Secretary for Rural Development, 7 CFR 2.70.)

Dated: April 30, 1979.

James E. Thornton,

Associate Administrator Farmers Home Administration.

[FR Doc. 79-14303 Filed 5-8-79; 8:45 am]

BILLING CODE 3410-07-M

CIVIL AERONAUTICS BOARD

[14 CFR Ch. II]

Currency Exchange Conditions; Termination of Rulemaking

AGENCY: Civil Aeronautics Board.

ACTION: Termination of rulemaking proceeding.

SUMMARY: The Civil Aeronautics Board is terminating a rulemaking begun in response to a petition by the Air Transport Association, a trade association of various U.S. scheduled air carriers. The petition asked the Civil Aeronautics Board to adopt rules to alleviate currency exchange problems of U.S. flag carriers in foreign countries. The Board has decided that the problem is better handled through case-by-case proceedings than by rulemaking.

FOR FURTHER INFORMATION CONTACT: Mark W. Frisbie, Office of General Counsel, Civil Aeronautics Board, 1825 Connecticut Avenue, Washington, D.C. 20428. 202/673–5442.

SUPPLEMENTARY INFORMATION: In February 1977, the Air Transport Association of America (ATA) [1] filed a petition for rulemaking directed at the problem of certain foreign currency exchange prices affecting U.S. flag carriers in various countries. ATA cited two major problems: restrictions on sales by U.S. carriers in a foreign country, and governmentally-imposed restrictions and delays in converting or remitting foreign currency revenues. ATA proposed that the Board should, subject to presidential approval, require foreign air carriers operating in the United States to establish escrow accounts in dollars in the United States when U.S. carriers encounter foreign currency problems in the home countries of particular carriers. The escrow account would contain funds of the foreign air carrier equivalent to the unremitted funds of U.S. air carriers held by the foreign country. ATA also suggested that escrow funds could be transferred to affected U.S. carriers, in return for which the foreign air carrier would be credited with the U.S. carriers' claims to foreign funds, thereby forcing an informal currency exchange. ATA recommended that the rule include reciprocal restriction on ticket sales by foreign carriers in the United States whenever U.S. carriers are restricted in the foreign land.

On May 31, 1977, in response to ATA's petition, the Board issued an Advance Notice of Proposed Rulemaking (EDR–327, 42 FR 28898, June 6, 1977) asking for more detailed information on the problem and on ATA's proposal. Seaboard World Airways, Mr. Robert T. Murphy, and ATA filed comments favoring some regulatory action by the Board, and Czechoslovak Airlines, VARIG (Brazilian Airlines), and China Airlines opposed any such action.

Comments supporting the ATA petition argued that bilateral negotiations have proven ineffective in practice to cure the currency exchange problems. Mr. Murphy, a former Member of the CAB, stated that diplomatic efforts to solve these problems have been so consistently unproductive that remedial action is warranted. ATA maintained that diplomatic and commercial negotiations are too time-consuming, given the sums of money at stake, to be worthwhile, even if they are ultimately successful. In addition, ATA reiterated its claim that the Board is obligated by the International Air Transportation Fair Competitive Practices Act of 1974 (88 Stat. 2102, 49 U.S.C. 1159) to take action to eliminate the discriminatory and unfair competitive practices alleged. ATA advocated a rulemaking that would allow faster action than under existing case-by-case procedures. It suggested as guidelines for the Board procedures that would take about 1 month in all. Individual permit amendment procedures ordinarily take at least 5 months.

[1] ATA acted on behalf of Alaska Airlines, Aloha Airlines, Braniff Airways, Delta Air Lines, Eastern Air Lines, The Flying Tiger Line, National Airlines, Northwest Airlines, Pan American World Airways, Trans World Airlines, Western Air Lines, Wien Air Alaska, and North Central Airlines.

Comments opposing the suggested rulemaking argued that currency exchange problems are best handled on an individual basis, and they questioned the Board's authority to make private foreign air carriers responsible for the actions of their governments. Czechoslovak Airlines argued that no actionable discrimination exists where all foreign carriers are treated the same, if the disparate treatment for domestic carriers is based on established policy or legislation of the home country. It intimated that action directed against those policies, without any further showing of discriminaton, could provoke retaliation in turn against air carriers of the country taking the action. VARIG asserted that under the *International Air Transportation Policy of the United States* (September 1976) unilateral action should be used only as a last resort, and that unilateral action in this case would violate a bilateral agreement between the United States and Brazil. It also maintained that the Board has no statutory authority to hold or transfer the funds of one private airline for the benefit of another, and that the suggested escrow arrangement would be a taking of private property without compensation in violation of the Fifth Amendment.

The Board recognizes that foreign currency difficulties are a significant problem for U.S. flag carriers, but we have decided that they are best handled on a case-by-case basis, not by the more summary procedure contemplated in this rulemaking. Any conditions that could be imposed on foreign air carriers under a rule such as proposed by ATA can also be imposed through individual permit amendment proceedings. The conditions could be imposed more quickly under a rule than by permit amendment, but we do not think that quick action is usually necessary or judicious in these matters.

Foreign currrency exchange problems for U.S. carriers, while significant, are rarely so acute as to cause complete cessation of operation. A carrier that cannot withdraw money from a foreign country, or that experiences unusual delay in withdrawal, can obtain working capital from financial institutions. A carrier's expenses may temporarily increase pending permit amendment proceedings, or it may suffer from devaluation, but it will not be prevented from operating. Hence, immediate action on behalf of U.S. carriers is not so urgent in currency exchange matters as where actual operating rights have been limited or denied. Moreover, although currency restrictions do not affect the flag carrier of a country as they do other carriers, and thus may be considered discriminatory, the carriers representing financially troubled countries are usually in weak financial condition themselves, and therefore do not enjoy a superior competitive position relative to the U.S. carriers.

As we noted in EDR–327, foreign currency exchange practices present complex issues that transcend aviation considerations alone. These problems do not lend themselves to solution through standardized, summary proceedings. The Board has limited expertise in the banking procedures and economic policies prevailing for each country where there are currency exchange problems. Individual permit amendment proceedings would allow thorough investigations, resulting in solutions tailored to the circumstances of each case, and they would allow consultation with agencies having greater expertise.

Because the issues in foreign currency exchange matters are so complicated, but seldom critical to the provision of air transportation, we have decided that a rulemaking is not the right vehicle for dealing with them. The opportunity for thorough study and individually tailored solutions in a case-by-case approach is more important than the ability to act more quickly under a rule. Accordingly, the Civil Aeronautics Board is terminating this rulemaking proceeding.

(Secs. 204, 402, Federal Aviation Act of 1958, as amended, 72 Stat. 743, 757; [49 U.S.C. 1324, 1372].)

By the Civil Aeronautics Board.

Phyllis T. Kaylor,

Secretary.

[EDR–327 B, Docket No. 30460]

[FR Doc. 79-14437 Filed 5-8-79; 8:45 am]

BILLING CODE 6320-01-M

NATIONAL AERONAUTICS AND SPACE ADMINISTRATION

[14 CFR Parts 1204 and 1216]

Policy on Environmental Quality and Control; Procedures for Implementing the National Environmental Policy Act (NEPA)

AGENCY: National Aeronautics and Space Administration.

ACTION: Proposed rule.

SUMMARY: NASA proposes to adopt procedures for implementing the provisons of the National Enironmental Policy Act (NEPA) in accordance with the latest regulations of the Council on Environmental Quality (CEQ), 43 FR 55978 (1978) (to be codified in 40 CFR 1500 et seq.).

DATE: Comments or suggestions should be submitted in writing on or before June 8, 1979.

ADDRESS: Comments should be addressed to Mr. Nathaniel B. Cohen, Director, Management Support Office (External Relations), Code LB–4, National Aeronautics and Space Administration, Washington, DC 20546.

FOR FURTHER INFORMATION CONTACT: Mr. Nathaniel B. Cohen, 202–755–8383.

SUPPLEMENTARY INFORMATION: Section 102 of the NEPA directs Federal agencies to interpret and administer the policies, regulations, and public laws of the United States in accordance with the environmental policies established in Section 101 of the Act. Section 102(2) contains "action-forcing" provisions to make sure that Federal agencies act according to the letter and spirit of the Act. The CEQ has issued implementing regulations to provide Federal agencies with "efficient, uniform procedures for translating the law (NEPA) into practical action." These regulations provide "uniform standards applicable throughout the Federal government for conducting environmental reviews."

The CEQ regulations require that each agency develop its own procedures for their implementation. The agency procedures are required to supplement the CEQ regulations and to confine themselves to implementing procedures; they should not merely paraphrase the CEQ regulations. The regulations that follow provide for the required NASA implementing procedures for compliance with the NEPA. They are designed to:

a. Integrate the NEPA process with other planning at the earliest possible time.

b. Ensure that decisions are made in accordance with the policies and purposes of NEPA.

c. Involve the public in the NEPA process in an appropriate, responsible manner.

These procedures cover the NASA decision processes and the substantive consideration of environmental factors, the procedural requirements for environmental documentation in the decision processes, criteria to assist in determining the need for enviornmental impact assessments and statements, and the required contents of these assessments and statements. CEQ Regulations require that these procedures be effective July 30, 1979.

PART 1216—ENVIRONMENTAL QUALITY

1. In 14 CFR Chapter V, Subpart 1204.11 is redesignated as Subparts 1216.1 and 1216.3 and revised to read as follows:

Subpart 1216.1—Policy on Environmental Quality and Control

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Authority.—The National Aeronautics and Space Act of 1958, as amended (42 U.S.C. 2451 et seq.); the National Environmental Policy Act of 1969 (NEPA), as amended (42 U.S.C. 4321 et seq.); the Environmental Quality Improvement Act of 1970, as amended (42 U.S.C. 4371 et seq.); Section 309 of the Clean Air Act, as amended (42 U.S.C. 7609); Executive Order 11514, Protection and Enhancement of Environmental Quality (March 5, 1970, as amended by Executive Order 11991, May 24, 1977); the Council on Environmental Quality NEPA Regulations (43 FR 55978); and Executive Order 12114, Environmental Effects Abroad of Major Federal Actions, January 4, 1979 (44 FR 1957).

Subpart 1216.1—Policy on Environmental Quality and Control

§ 1216.100 Scope.

This Subpart sets forth NASA policy on environmental quality and control and the responsibilities of NASA officials in carrying out these policies.

§ 1216.101 Applicability.

This Subpart is applicable to NASA Headquarters and field installations.

§ 1216.102 Policy.

NASA policy is to:

(a) Use all practicable means, consistent with NASA's statutory authority, available resources, and the national policy, to protect and enhance the quality of the environment;

(b) Provide for proper attention to and ensure that environmental amenities and values are given appropriate consideration in all NASA actions, including those performed under contract, grant, lease, or permit;

(c) Recognize the worldwide and long-range character of environmental concerns and, when consistent with the foreign policy of the United States and its own responsibilities, lend appropriate support to initiatives, resolutions, and programs designed to maximize international cooperation in anticipating and preventing a decline in the quality of the world environment;

(d) Use systematic and timely approaches which will ensure the integrated use of the natural and social sciences and environmental design arts in planning and decisionmaking for actions which may have an impact on the human environment;

(e) Pursue research and development, within the scope of NASA's authority or in response to authorized agencies, for application of technologies useful in the protection and enhancement of environmental quality;

(f) Initiate and utilize ecological and other environmental information in the planning and development of resource-oriented projects; and

(g) Invite cooperation, where appropriate, from Federal, State, local, and regional authorities and the public in NASA planning and decisionmaking processes.

§ 1216.103 Responsibilities of NASA officials.

(a) The Associate Administrator for External Relations or designee shall:

(1) Coordinate the formulation and revision of NASA policies and positions on matters pertaining to environmental protection and enhancement;

(2) Represent NASA in working with other governmental agencies and interagency organizations to formulate, revise, and achieve uniform understanding and application of governmentwide policies relating to the environment;

(3) Develop and ensure the implementation of agencywide standards, procedures, and working relationships for protection and enhancement of environmental quality and compliance with applicable laws and regulations;

(4) Develop, as an integral part of NASA's basic decision processes, procedures to ensure that environmental factors are properly considered in all proposals and decisions;

(5) Establish and maintain working relationships with the Council on Environmental Quality, Environmental Protection Agency, and other national, state, and local governmental agencies concerned with environmental matters;

(6) Acquire information for and ensure the preparation of appropriate NASA reports on environmental matters.

(b) Officials-in-Charge of Headquarters Offices and NASA Field Installation Directors are responsible for:

(1) Identifying matters under their cognizance which may affect protection and enhancement of environmental quality and for employing the proper procedures to ensure that necessary actions are taken to meet the requirements of applicable laws and regulations;

(2) Coordinating environmental quality-related activities under their cognizance with the Associate Administrator for External Relations; and

(3) Supporting and assisting the Associate Administrator for External Relations on request.

(c) Officials-in-Charge of Headquarters Offices are additionally responsible for:

(1) Giving high priority, in the pursuit of program objectives, to the identification, analysis, and proposal of research and development which, if conducted by NASA or other agencies, may contribute to the achievement of beneficial environmental objectives; and

(2) In coordination with the Associate Administrator for External Relations, making available to other parties, both governmental and nongovernmental, advice and information useful in protecting and enhancing the quality of the environment.

(d) NASA Field Installation Directors are additionally responsible for:

(1) Implementing the NASA policies, standards and procedures for the protection and enhancement of environmental quality and supplementing them as appropriate in local circumstances;

(2) Specifically assigning responsibilities for environmental activities under the installation's cognizance to appropriate subordinates, while providing for the coordination of all such activities; and

(3) Establishing and maintaining working relationships with national, state, regional and governmental agencies responsible for environmental regulations in localities in which the field installations conduct their activities.

Subpart 1216.3—Procedures for Implementing the National Environmental Policy Act (NEPA)

§ 1216.300 Scope.

This Subpart sets forth NASA procedures implementing the provisions of Section 102(2) of the National Environmental Policy Act (NEPA). The NASA procedures of this Subpart supplement the regulations of the Council on Environmental Quality (43 FR 55978) which establish uniform procedures for implementing those provisions of NEPA.

§ 1216.301 Applicability.

(a) This Subpart is applicable to NASA Headquarters and field installations.

(b) The procedures established by this Subpart apply to all NASA actions which may have an impact on the quality of the environment. These actions may fall within any of the three NASA budget categories: Research and Development (R&D), Construction of Facilities (CofF), and Research and Program Management (R&PM), or, if not involving budget authority or other Congressional approval, may be separate from the categories.

§ 1216.302 Definition of key terms.

The definitions contained within Part 1508, *Terminology and Index*, CEQ Regulations, 43 FR 55978, apply to Subpart 1216.3. Additional definitions, necessary for the purpose of this Subpart, are as follows:

(a) *Budget Line Items.* The individual items in the annual NASA authorization legislation which are used here to classify the range of NASA actions. The three main budget line items are:

(1) *Research and Development (R&D).* Those activities directed towards attaining the objectives of a specific mission, project, or program. All NASA's aeronautics and space program elements are categorized within the R&D program categories. R&D funds are expended chiefly for contracted research and development and for research grants. Some R&D funds are also expended in support of in-house research (e.g., equipment purchases and other research support, but *not* civil service salaries).

(2) *Research and Program Management (R&PM).* Those activities directed towards the general support of the NASA institution charged with the conduct of the aeronautics and space program. R&PM funds are expended for the NASA civil service work force (both for performing in-house R&D and for planning, managing, and supporting contractor and grantee R&D), and for other general supporting functions.

(3) *Construction of Facilities (C of F).* Those activities directed towards construction of new facilities; repair, rehabilitation, and modification of existing facilities; acquisition of related facility equipment; design of facilities projects; and advance planning related to future facilities needs.

(b) *Construction of Facilities Project.* The consolidation of applicable specific individual types of facility work, including related collateral equipment, which is required to fully reflect all of the needs, generally relating to one facility, which have been or may be generated by the same set of events or circumstances which are required to be accomplished at one time in order to provide for the planned initial operational use of the facility or a discrete portion thereof. Facility projects are subject to the NASA decision processes of § 1216.304.

(c) *Environmental Analysis.* The analysis of the environmental effects of proposed actions, including alternative proposals. The analyses are carried out from the very earliest of planning studies for the action in question, and are the materials from which the more formal environmental assessments, environmental impact statements, and public record of decisions are made.

(d) *Institutional Action.* An action to establish, change, or terminate an aspect of the NASA institution, defined as the total NASA resource (plant, employees, skills).

(e) *R&D Project.* A discrete research and development activity, with a scheduled beginning and ending, which normally involves one of the following primary purposes:

(1) The design, development, and demonstration of major advanced technology hardware items;

(2) The design, construction, and operation of a new launch vehicle (and associated ground support) during its research and development phase; and

(3) The construction and operation of one or more aeronautics or space vehicles (and necessary ground support) in order to accomplish a scientific or technical objective. R&D projects are each subelements in the NASA R&D budget line item. R&D projects are subject to the decision processes of § 1216.304.

§ 1216.303 Responsibilities of NASA officials.

(a) The Associate Administrator for External Relations or designee, who is responsible for developing the procedures of this Subpart and for ensuring that environmental factors are properly considered in all NASA planning and decisionmaking, shall:

(1) Monitor these processes to ensure that the agency procedures are achieving their purposes;

(2) Advise line management and inform NASA employees of technical and management requirements of environmental analysis, of appropriate expertise available in and out of NASA, and—with the assistance of the NASA General Counsel—of relevant legal developments; and

(3) Consolidate and transmit to the appropriate parties NASA comments on environmental impact statements and other environmental reports prepared by other agencies.

(b) Officials-in-Charge of Headquarters Offices (hereafter termed "Headquarters officials") are responsible for implementing the procedures established by these regulations for the consideration and documentation of the environmental aspects of the decision processes in their respective areas of responsibility.

(c) The Director, Office of Legislative Affairs, is responsible for ensuring that legislative environmental impact statements accompany NASA legislative proposals or reports on legislation submitted to the Congress. The Associate Administrator for External Relations, the Comptroller, and General Counsel will provide guidance as required.

Agency Procedures

§ 1216.304 Major decision points.

The possible environmental effects of a proposed action must be considered, along with technical, economic, and other factors, in the earliest planning. At that stage, the responsible Headquarters official shall begin the necessary steps to comply with all the requirements of

Section 102(2) of the National Environmental Policy Act of 1969. Major NASA activities, particularly R&D and facility projects, generally have four distinct phases: The conceptual study phase; the detailed planning/definition phase; the development/construction phase; and the operation phase. (Other NASA activities have fewer, less well-defined phases, but can still be characterized by phases representing general or feasibility study, detailed planning or definition, and implementation.) Environmental documentation shall be linked to major decision points as follows:

(a) Completion of an environmental assessment and the determination as to whether an environmental impact statement is required must be made prior to the decision to proceed from the conceptual study phase to the detailed planning/definition phase of the proposed action. For example, this determination must be concurrent with:

(1) Proposal of an R&D project for detailed planning and project definition;

(2) Proposal of a major Construction of Facilities project for detailed planning and project definition;

(3) Proposal of an institutional action (other than a facility project) for detailed planning and definition; and

(4) Proposal of a plan to define changes in an approved project.

(b) The final environmental impact statement (EIS) should be completed and circulated prior to the decision to proceed from the detailed planning/definition phase to the development/construction (or implementation) phase of the proposed action. For example, the EIS should be completed by, and incorporated with:

(1) Proposal of an R&D project for development/construction;

(2) Proposal of a major Construction of Facilities project for development/construction;

(3) Proposal to undertake a significant institutional action (other than a facility project); and

(4) Proposal to implement a program change.

§ 1216.305 Criteria for actions requiring environmental assessments.

(a) Whether a proposed NASA action within the meaning of the CEQ Regulations (43 FR 55978) requires the preparation of an environmental assessment, an environmental impact statement, both, or neither, will depend upon the scope of the action and the context and intensity of any environmental effects expected to result. A NASA action shall require the preparation of an environmental assessment (§§ 1501.3 and 1508.9 of the CEQ Regulations) provided the action is not one normally requiring an environmental impact statement (paragraph (c)) or it is not categorically excluded from the requirement for an environmental assessment and an environmental impact statement (paragraph (d)).

(b) Specific NASA actions normally requiring an environmental assessment are:

(1) Specific spacecraft development and flight projects in space science.

(2) Specific spacecraft development and flight projects in space and terrestrial applications.

(3) Specific experimental projects in aeronautics and space technology and specific energy technology applications.

(4) Development and operation of new space transportation systems and advanced development of new space transportation and spacecraft systems.

(5) Reimbursable launches of non-NASA spacecraft or payloads.

(6) Major Construction of Facilities projects.

(7) Actions to alter ongoing operations at a NASA installation which could lead, either directly or indirectly, to natural or physical environmental effects.

(c) NASA actions expected to have a significant effect upon the quality of the human environment shall require an environmental impact statement. For these actions an environmental assessment is not required. Criteria to be used in determining significance are given in § 1508.27 of the CEQ Regulations (43 FR 55978). Specific NASA actions requiring environmental impact statements, all in the R&D budget category, are as follows:

(1) Development and operation of new launch vehicles.

(2) Development and operation of space vehicles likely to release substantial amounts of foreign materials into the earth's atmosphere, or into space.

(3) Development and operation of nuclear systems, including reactors and thermal devices used for propulsion and/or power generation. Excluded are devices with millicurie quantities or less of radioactive materials used as instrument detectors and small radioisotope heaters used for local thermal control, provided they are properly contained and shielded.

(d) NASA actions categorically excluded from the requirements to prepare either an environmental assessment or an EIS (§ 1508.4 of the CEQ Regulations) fit the following criteria: They are each sub-elements of an approved broadbased level-of-effort NASA science and technology program (basic research, applied research, development of technology, ongoing mission operations), facility program, or institutional program; and they are each managed relatively independently of other related sub-elements by means of separate task orders, Research and Technology Operating Plans, etc. Specific NASA actions fitting these criteria and thus categorically excluded from the requirements for environmental assessments and environmental impact statements are:

(1) R&D activities in space science (eg., Physics and Astronomy Research and Analysis, Planetary Exploration Mission Operations and Data Analysis) other than specific spacecraft development and flight projects.

(2) R&D activities in space and terrestrial applications (e.g., Resource Observations Applied Research and Data Analysis, Technology Utilization) other than specific spacecraft development and flight projects.

(3) R&D activities in aeronautics and space technology (e.g., Research and Technology Base, Systems Technology Programs) other than experimental projects and energy technology applications.

(4) R&D activities in space transportation systems engineering and scientific and technical support operations, routine transportation operations, and advanced studies.

(5) R&D activities in space tracking and data systems.

(6) Facility planning and design.

(7) Minor construction of new facilities including rehabilitation, modification, and repair.

(8) Continuing operations of a NASA installation at a level of effort, or altered operations, provided the alterations induce only social and/or economic effects but no natural or physical environmental effects.

(e) Even though an action may be categorically excluded from the need for a formal environmental assessment or environmental impact statement, it is not excluded from the requirement for an environmental analysis conducted during the earliest planning phases. If that analysis shows that the action deviates from the criteria for exclusion and it is concluded that there may be significant environmental effects, an environmental assessment must be carried out. Based upon that assesement, a determination must then be made whether or not to prepare an environmental impact statement.

§ 1216.306 Preparation of environmental assessments.

(a) For each NASA action meeting the criteria of § 1216.305(b), and for other actions as required, the responsible Headquarters official shall prepare an environmental assessment (§§ 1501.3 and 1508.9 of the CEQ Regulations) and, on the basis of that assessment, determine if an EIS is required.

(b) If the determination is that no environmental impact statement is required, the Headquarters official shall, in coordination with the Associate Administrator for External Relations, prepare a "Finding of No Significant Impact." (See § 1508.13 of the CEQ Regulations.) The "Finding of No Significant Impact" shall be made available to the affected public through direct distribution and publication in the Federal Register.

(c) If the determination is that an environmental impact statement is required, the Headquarters official shall proceed with the "notice of intent to prepare an EIS" (see § 1508.22 of the CEQ Regulations). The Headquarters official shall transmit this notice to the Associate Administrator for External Relations for review and subsequent publication in the Federal Register (see section 1507.3(e) of the CEQ Regulations). The Headquarters official shall then apply procedures set forth in § 1216.307 to determine the scope of the EIS and proceed to prepare and release the environmental statement in accordance with the CEQ Regulations and the procedures of this Subpart.

(d) Environmental assessments may be prepared for any actions, even those which meet the criteria for environmental impact statements (§ 1216.305(c)) or for categorical exclusion (§ 1216.305(d)), if the responsible Headquarters official believes that the action may be an exception or that an assessment will assist in planning or decisionmaking.

§ 1216.307 Scoping.

The responsible Headquarters official shall conduct an early and open process for determining the scope of issues to be addressed in environmental impact statements and for identifying the significant issues related to a proposed action. The elements of the scoping process are defined in § 1501.7 of the CEQ Regulations and the process must include considerations of the range of actions, alternatives, and impacts discussed in § 1508.25 of the CEQ Regulations. The range of environmental categories to be considered in the scoping process shall include, but not be limited to:

(a) Air quality;

(b) Water quality;

(c) Waste generation, treatment, transportation disposal and storage;

(d) Noise, sonic boom, and vibration;

(e) Toxic substances;

(f) Biotic resources;

(g) Radioactive materials and non-ionizing radiation;

(h) Endangered species;

(i) Historical, archeological, and recreational factors;

(j) Wetlands and floodplains; and

(k) Economic, population and employment factors, provided they are interrelated with natural or physical environmental factors.

§ 1216.308 Preparation of draft statements.

(a) The responsible Headquarters official shall prepare the draft environmental impact statement in the manner provided in Part 1502 of the CEQ Regulations and shall submit the draft statement and any attachments to the Associate Administrator for External Relations for NASA review prior to any formal review outside NASA. This submission shall be accompanied by a list of Federal, state, and local officials (Part 1503 of the CEQ Regulations) and a list of other interested parties (§ 1506.6 of the CEQ Regulations) from whom comments should be requested.

(b) After the NASA review is completed, the Associate Administrator for External Relations shall submit the approved draft statement to the Environmental Protection Agency (EPA), Office of Federal Activities, and shall seek the views of appropriate agencies and individuals in accordance with Part 1503 and § 1506.6 of the CEQ Regulations.

(c) Comments received shall be provided to the originating official for consideration in preparing the final statement. To the extent possible, requirements for review and consultation with other agencies on environmental matters established by statutes other than NEPA, such as the review and consultation requirements of the Endangered Species Act of 1973, as amended, should be met prior to or through this review process (§ 1216.320).

§ 1216.309 Public involvement.

(a) Interested persons can get information on NASA environmental impact statements and other aspects of NASA's NEPA process by contacting the Director, Management Support Office (Code LB), NASA, Washington, DC 20546, 202–755–8383. Pertinent information regarding any aspect of the NEPA process may also be mailed to the above address.

(b) Responsible Headquarters officials and NASA Field Installation Directors shall identify those persons, community organizations, and environmental interest groups who may be interested or affected by the proposed NASA action and who should be involved in the NEPA process. They shall submit a list of such persons and organizations to the Associate Administrator for External Relations at the same time they submit:

(1) A recommendation regarding a "Finding of No Significant Impact."

(2) A "Notice of Intent to Prepare an EIS,"

(3) A recommendation for public hearings,

(4) A preliminary draft EIS,

(5) A preliminary final EIS,

(6) Other preliminary environmental documents (§ 1216.321(d)).

(c) The Associate Administrator for External Relations may modify such lists referred to in paragraph (b) as appropriate to ensure that NASA shall comply, to the fullest extent practicable, with § 1506.6 of the CEQ Regulations and § 2–4(d) of Executive Order 12114.

(d) The decision whether to hold public hearings shall be made by the Associate Administrator for External Relations in consultation with the General Counsel.

§ 1216.310 Preparation of final statements.

(a) After conclusion of the review process with other Federal, state, and local agencies and the public, the responsible Headquarters official shall consider all suggestions, revise the statement as appropriate, and forward the proposed final statement to the Associate Administrator for External Relations. The Associate Administrator for External Relations shall submit the approved final statement to the EPA Office of Federal Activities, to all parties who commented, and to other interested parties in accordance with CEQ Regulations.

(b) Each draft and final statement, the supporting documentation, and the record of decision shall be available for public review and copying at the office of the responsible Headquarters official, or at the office of a suitable designee. Copies of draft and final environment impact statements shall also be available at the NASA Information Center, 600 Independence Avenue, SW, Washington, DC 20546; at information centers at appropriate NASA field installations; and at appropriate state and local clearinghouses.

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§ 1216.311 Record of the decision.

At the time of the decision on the proposed action, the originating Headquarters official shall consult with the Associate Administrator for External Relations and prepare a concise public record of the decision. (See § 1505.2 of the CEQ Regulations.)

§ 1216.312 Timing.

(a) Environmental impact statements are drafted when the Headquarters official has determined that the statement shall be prepared. No decision to proceed to the development/construction (or implementation) phase of the proposed action (the major decision point of § 1216.304(b)) shall be made by NASA until the later of the following dates (§ 1506.10 of the CEQ Regulations):

(1) Ninety days after publication of an EPA notice of a NASA draft EIS.

(2) Thirty days after publication of an EPA notice of a NASA final EIS.

(b) When necessary to comply with other specific statutory requirements, NASA shall consult with and obtain from CEQ time periods other than those specified by the Council for timing of agency action.

§ 1216.313 Implementing and monitoring the decision.

(a) Section 1505.3 of the CEQ Regulations provides for agency monitoring to assure that mitigation measures and other commitments associated with the decision and its implementation and described in the EIS are carried out and have the intended effects.

(b) The responsible Headquarters official shall, as necessary, conduct the required monitoring and shall provide periodic reports as required by the Associated Administrator for External Relations.

If the monitoring activity indicates that resulting environmental effects differ from those described in the current documents, the Headquarters official shall reassess the environmental impact and consult with the Associate Administrator for External Relations to determine the need for additional mitigation measures and whether to prepare a supplement to the EIS (see § 1502.9 of the CEQ Regulations).

§ 1216.314 Tiering.

Actions which are the subject of an environmental impact statement and which represents projects of broad scope may contain within them component actions of narrower scope, perhaps restricted to individual sites of activity or sequential stages of a mission, and which themselves may require environmental assessments and, where necessary, environmental impact statements. The CEQ Regulations provide that agencies may use "Tiering" (§ 1508.28 of the CEQ Regulations) of environmental impact statements to relate such broad and narrow actions. When employing tiering, Headquarters officials shall, by reference, make maximum use of environmental documentation already available, and avoid repetition.

§ 1216.315 Processing legislative environment impact statements.

(a) Preparation of a legislative environmental impact statement shall conform to the requirements of § 1506.8 of the CEQ Regulations. The responsible Headquarters official, in coordination with the Associate Administrator for External Relations, shall identify those legislative proposals or reports on legislation that would require preparation of environmental impact statements in accordance with criteria set forth in § 1216.305.

(b) For the purposes of this provision, "legislation" not only excludes requests for appropriations (§ 1508.17 of the CEQ Regulations), but also excludes the annual authorization bill submitted to the Congress.

§ 1216.316 Cooperating with other agencies and individuals.

(a) The Associate Administrator for External Relations shall ensure that NASA officials have an opportunity to cooperate with other agencies and individuals. He/she shall keep abreast of the activities of Federal, state, and local agencies, particularly activities in which NASA has expertise or jurisdiction by law (see § 1508.15 of the CEQ Regulations). He/she shall inform the responsible Headquarters official of the need for cooperation as necessary.

(b) At the request of the Associate Administrator for External Relations, Headquarters officials shall initiate discussions with another Federal agency concerning those activities which may be the subject of that agency's EIS on which NASA proposes to comment.

(c) At the request of the Associate Administrator for External Relations, the responsible Headquarters official shall, in the interest of eliminating duplication, prepare joint analyses, assessments, and statements with state and local agencies. These joint environmental documents shall conform with the requirements of these procedures and overall NASA policy.

(d) Because of the uniqueness of NASA's aerospace activities, it is unlikely that NASA will have the opportunity to "adopt" environmental statements prepared by other agencies (§ 1506.3 of the CEQ Regulations). However, should the responsible NASA official wish to adopt a Federal draft or final environmental impact statement or protion thereof, he/she shall consult with the Associate Administrator for External Relations to determine whether that statement meets NASA requirements.

(e) From time to time, there may be disagreements between NASA and other Federal agencies regarding which agency has primary responsibility to prepare an environmental impact statement in which both parties are involved. The Headquarters official with primary responsibility for the activity in question shall consult with the associate Administrator for External Relations to resolve such questions in accordance with § 1501.5 of the CEQ Regulations.

(f) Responsibility for the environmental analyses and any necessary environmental assessments and environmental impact statements required by permits, leases, easements, etc., proposed for issuance to non-Federal applicants rests with the Headquarters official responsible for granting of that permit, lease, easement, etc. The responsible Headquarters official shall consult with the Associate Administrator for External Relations for advice on the type of environmental information needed from the applicant and on the extent of the applicant's participation in the necessary environmental studies and their documentation.

§ 1216.317 Classified information.

Environmental assessments and impact statements which contain classified information to be withheld from public release in the interest of national security or foreign policy shall be organized so that the classified portions are appendices to the environmental document itself. The classified portion shall not be made available to the public.

§ 1216.318 Deviations.

From time to time there will arise good and valid reasons for a deviation from these procedures. These procedures are not intended to be a substitute for sound professional judgment. Accordingly, if and as problems arise which justify a deviation, the proposed deviation and supporting rationale shall be forwarded to the Associate Administrator for External Relations. Unless such documentation is received, it will be assumed that each

planning and decisionmaking action is in accordance with these procedures.

§ 1216.319 Environmental resources document.

Each Field Installation Director shall ensure that there exists an environmental resources document which describes the current environment at that field installation, including current information on the effects of NASA operations on the local environment. This document shall include information on the same environmental effects as included in an environmental impact statement (See § 1216.307). This document shall be coordinated with the Associate Administrator for External Relations and shall be published in an appropriate NASA report category for use as a reference document in preparing other environmental documents (e.g., environmental impact statements for proposed actions to be located at the NASA field installation in question). The Director of each NASA field installation shall ensure that existing resource documents are reviewed and updated, if necessary, by December 31, 1980, and at appropriate intervals thereafter.

§ 1216.320 Environmental review and consultation requirements.

(a) Headquarters officials and Field Installation Directors shall, to the maximum extent possible, conduct environmental analyses, assessments, and any impact statement preparation concurrently with environmental reviews required by the laws and regulations listed below:

(1) Section 106 of the National Historic Preservation Act of 1966 (16 U.S.C. 470(f)) requires identification of National Register properties, eligible properties, or properties which may be eligible for the National Register within the area of the potential impact of a NASA proposed action. Evaluation of the impact of the NASA action on such properties shall be discussed in draft environmental impact statements and transmitted to the Advisory Council on Historic Preservation for comments.

(2) Section 7 of the Endangered Species Act (16 U.S.C. 1531 et seq.) requires indentification of and consultation on aspects of the NASA action that may affect listed species or their habitat. A written request for consultation, along with the draft statement, shall be conveyed to the Regional Director of the U.S. Fish and Wildlife Service or the National Marine Fisheries Service, as appropriate, for the Region where the action will be carried out.

(3) Executive Order 11988 (Floodplains Management) and Executive Order 11990 (Wetlands), as implemented by 14 CFR Subpart 1216.2—Floodplains and Wetlands Management, prescribe procedures to avoid adverse impacts associated with the occupancy and modification of floodplains and wetlands and require identification and evaluation of actions which are proposed for location in or which may affect a floodplain or wetland. A comparative evaluation of such actions shall be discussed in draft environmental impact statements and transmitted to appropriate A–95 clearing-houses for comments.

(b) Other environmental review and consultation requirements peculiar to NASA, if any, shall be identified as a part of a NASA environmental handbook to be prepared.

§ 1216.321 Environmental effects abroad of major Federal actions.

(a) In accordance with these procedures and E.O. 12114, "Environmental Effects Abroad of Major Federal Actions" (44 FR 1957), dated January 4, 1979, the Headquarters official shall analyze actions under his/her cognizance with due regard for the environmental effects abroad of such actions. The Headquarters official shall consider whether such actions involve:

(1) Potential environmental effects on the global commons (i.e., oceans and the upper atmosphere);

(2) Potential environmental effects on a foreign nation not participating with or not otherwise involved in the NASA activity;

(3) The export of products or facilities producing products (or emissions/effluents) which in the U.S. are prohibited or strictly regulated because their effects on the environment create a serious public health risk. The Associate Administrator for External Relations will provide additional guidance regarding the types of chemical, physical, and biological agents involved.

(4) A physical project which, in the U.S., would be prohibited or strictly regulated by Federal law to protect the environment against radioactive substances;

(5) Potential environmental effects on natural and ecological resources of global importance and which the President in the future may designate (or which the Secretary of State designates pursuant to international treaty). A list of any such designations will be available from the Office of the Associate Administrator for External Relations.

(b) Prior to decisions (§ 1216.304) on any action falling into the categories specified in paragraph (a), the Headquarters official shall make a determination whether such action may have a significant environmental effect abroad.

(c) If the Headquarters official determines that the action *will not have* a significant environmental effect abroad, he/she shall prepare a memorandum for the record which states the reasoning behind such a determination. A copy of the memorandum shall be forwarded to the Associate Administrator for External Relations. Note that these procedures do not allow for categorical exclusions (E.O. 12114, section 2–5(d)).

(d) If the Headquarters official determines that an action *may have* a significant environmental effect abroad, he/she shall consult with the Associate Administrator for External Relations and the Director, International Affairs Division. The Associate Administrator for External Relations, in coordination with the Director, International Affairs Division, shall (as specified in E.O. 12114) make a determination whether the subject action requires:

(1) An environmental impact statement;

(2) Bilateral or multilateral environmental studies; or

(3) Concise reviews of environmental issues.

(e) When informed of the determination of the Associate Administrator for External Relations, the Headquarters official shall proceed to take the necessary actions in accordance with these implementing procedures.

(f) The Associate Administrator for External Relations shall, in coordination with the Director, International Affairs Division, determine when an affected nation shall be informed regarding the availability of documents referred to in paragraph (d) and coordinate with the Department of State all NASA communications with foreign governments concerning environmental matters as related to E.O. 12114 (44 FR 1957).

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PART 1204—ADMINISTRATIVE AUTHORITY AND POLICY

Subpart 1204.11 (§§ 1204.1100–1204.1103) [Reserved]

2. In 14 CFR Chapter V, Subpart 1204.11 is reserved.

Robert A. Frosch,
Administrator.

[FR Doc. 79-14511 Filed 5-8-79; 8:45 am]

BILLING CODE 7510-01-M

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

[18 CFR Parts 154 and 271]

Amendment and Clarification of the Commission's Interim Regulations Implementing the Natural Gas Policy Act of 1978 and Regulations Under the Natural Gas Act

AGENCY: Federal Energy Regulatory Commission.

ACTION: Notice of Inquiry.

SUMMARY: The Federal Energy Regulatory Commission hereby requests comment on the proper procedure for handling challenges to contractual authority to collect maximum lawful prices under the Natural Gas Policy Act of 1978.

DATES: Comments should be filed by May 16, 1979.

ADDRESSES: All filings should reference Docket No. RM79–22 and should be addressed to: Office of the Secretary, Federal Energy Regulatory Commission, 825 North Capitol Street, N.E., Washington, D.C. 20426.

FOR FURTHER INFORMATION CONTACT: Phil Yates, Federal Energy Regulatory Commission, 825 North Capitol Street, N.E., Washington, D.C. 20426, (202) 275–4212.

SUPPLEMENTARY INFORMATION: On March 13, 1979, the Commission issued Order No. 23 in Docket No. RM79–22. Order No. 23 dealt generally with the question of contractual authority to collect maximum lawful prices the under Natural Gas Policy Act of 1978 (NGPA).[1] Apart from that question was the procedural issue of how an interested party could challenge the collection of an NGPA maximum lawful price if that interested party asserted that the applicable contract did not provide the requisite authority to collect the price.

In Order No. 23 we stated:

[T]he Commission will establish a general protest procedure in which parties in interest can petition the Commission for a specific determination as to whether a particular contractual clause constitutes the requisite authority to charge and collect Natural Gas Policy Act rates.[2]

By this Notice of Inquiry, the Commission requests suggestions on the proper forum in which to deal with challenges of contractual authority to collect the maximum lawful prices under the NGPA and the most expeditious method of dealing with such challenges. Suggestions have been made in the formal pleadings in Docket No. RM79–22,[3] that area rate clauses could be grouped generically for decisional purposes and that Purchased Gas Adjustment (PGA) hearings may be the appropriate forum for considering challenges to contractual authority. The Commission invites comments on these two suggestions, as well as any other *procedural* alternatives to resolve challenges to contractual authority. Comments should specifically address the mechanics of the procedural approach favored by the commentor.

The Commission wishes to establish a procedure to handle challenges as quickly as possible.[4] Accordingly, we will consider only those comments received by May 16, 1979.

Interested persons are invited to submit written comments on the proposed regulations to the Office of the Secretary, Federal Energy Regulatory Commission, 825 North Capitol Street, NE., Washington, D.C. 20426. Comments should reference Docket No. RM79–22 on the outside of the envelope and on all documents submitted to the Commission. Fifteen (15) copies should be submitted. All comments and related information received by the Commission by May 16, 1979, will be considered prior to the promulgation of final regulations.

By direction of the Commission.

Kenneth F. Plumb,
Secretary.

[Docket No. RM79–22]

[FR Doc. 79-14510 Filed 5-8-79; 8:45 am]

BILLING CODE 6450-01-M

[1] Pub. L. 95–621, 92 Stat. 3350.

[2] Order No. 23, mimeo of 52, Docket No. RM79–22.

[3] Application of the Public Service Commission of the State of New York for Rehearing of Order No. 23; Petition of the State of Michigan and the Michigan Public Service Commission for Rehearing of Order No. 23. Both were filed on May 12, 1979, in Docket No. RM79–22.

[4] The deadlines for filing protests to blanket affadavits and interim collection filings were extended by Commission order from May 1, 1979, to June 15, 1979, in response to a Request of Associated Gas Distributors for Clarification, filed on May 12, 1979, in Docket No. RM79–22.

FEDERAL EMERGENCY MANAGEMENT AGENCY

[24 CFR Part 1917]

Proposed Flood Elevation Determinations for the City of Santa Fe Springs, Los Angeles County, Calif., Under the National Flood Insurance Program

AGENCY: Office of Federal Insurance and Hazard Mitigation, FEMA [1]

ACTION: Proposed rule.

SUMMARY: Technical information or comments are solicited on the proposed base (100-year) flood elevations listed below for selected locations in the City of Santa Fe Springs, Los Angeles County, California. These base (100-year) flood elevations are the basis for the flood plain management measures that the community is required to either adopt or show evidence of being already in effect in order to qualify or remain qualified for participation in the national flood insurance program (NFIP).

DATES: The period for comment will be ninety (90) days following the second publication of this proposed rule in a newspaper of local circulation in the above-named community.

ADDRESSES: Maps and other information showing the detailed outlines of the flood-prone areas and the proposed base (100-year) flood elevations are available for review at City Hall, 11710 Telegraph Road, Santa Fe Springs, California. Send comments to: Mr. Robert Williams, City Manager, City of Santa Fe Springs, City Hall, 11710 Telegraph Road, P.O. Box 2120, Santa Fe Springs, California 90670.

FOR FURTHER INFORMATION CONTACT: Mr. Richard Krimm, National Flood Insurance Program, (202) 755–5581 or Toll Free Line (800) 424–8872, Room 5270, 451 Seventh Street, SW., Washington, D.C. 20410.

SUPPLEMENTARY INFORMATION: The Federal Insurance Administrator gives notice of the proposed determinations of base (100-year) flood elevations for the City of Santa Fe Springs, California, in accordance with section 110 of the Flood Disaster Protection Act of 1973 (Pub. L. 93–234), 87 Stat. 980, which added section 1363 to the National Flood Insurance Act of 1968 (Title XIII of the Housing and Urban Development Act of 1968 (Pub. L. 90–448)), 42 U.S.C. 4001–4128, and 24 CFR 1917.4(a).

These elevations, together with the flood plain management measures required by § 1910.3 of the program regulations, are the minimum that are required. They should not be construed to mean the community must change any existing ordinances that are more stringent in their flood plain management requirements. The community may at any time enact stricter requirements on its own, or pursuant to policies established by other Federal, State, or regional entities. These proposed elevations will also be used to calculate the appropriate flood insurance premium rates for new buildings and their contents and for the second layer of insurance on existing buildings and their contents.

The proposed base (100-year) flood elevations for selected locations are:

Source of flooding	Location	Elevation in feet, national geodetic vertical datum
Flowline No. 1	Florence Avenue—50 feet*	118
Ponding Area	200 feet northeast of intersection of North Fork Coyote Creek and Atchison Topeka and Santa Fe Railroad.	84
Ponding Area	100 feet northwest of intersection of Lakeland Road and Atchison Topeka and Santa Fe Railroad.	141
Ponding Area	100 feet northeast of intersection of Lakeland Road and Atchison Topeka and Santa Fe Railroad.	146

*Upstream from centerline.

(National Flood Insurance Act of 1968 (Title XIII of Housing and Urban Development Act of 1968), effective January 28, 1969 (33 FR 17804, November 28, 1968), as amended; 42 U.S.C. 4001–4128; Executive Order 12127, 44 FR 19367; and delegation of authority to Federal Insurance Administrator, 44 FR 20963.)

Issued: April 24, 1979.

Gloria M. Jimenez,
Federal Insurance Administrator.

[Docket No. FI-6445]

[FR Doc. 79-14508 Filed 5-8-79; 8:45 am]

BILLING CODE 4210-23-M

[24 CFR Part 1917]

Proposed Flood Elevation Determinations for the City of Willows, Glenn County, Calif., Under the National Flood Insurance Program

AGENCY: Office of Federal Insurance and Hazard Mitigation, FEMA.[1]

[1] The functions of the Federal Insurance Administration, Department of Housing and Urban Development, were transferred to the newly established Federal Emergency Management Agency by Reorganization Plan No. 3 of 1978 (43 FR 41943, September 19, 1978) and Executive Order 12127 (44 FR 19367, April 3, 1979).

ACTION: Proposed rule.

SUMMARY: Technical information or comments are solicited on the proposed base (100-year) flood elevations listed below for selected locations in the City of Willows, Glenn County, California.

These base (100-year) flood elevations are the basis for the flood plain management measures that the community is required to either adopt or show evidence of being already in effect in order to qualify or remain qualified for participation in the National Flood Insurance Program (NFIP).

DATES: The period for comment will be ninety (90) days following the second publication of this proposed rule in a newspaper of local circulation in the above-named community.

ADDRESSES: Maps and other information showing the detailed outlines of the flood-prone areas and the proposed base (100-year) flood elevations are available for review at City Hall, 201 Lassen Street, Willows, California. Send comments to: Mr. Russell Melqmist, City Manager, City of Willows, City Hall, 201 Lassen Street, Willows, California 95988.

FOR FURTHER INFORMATION CONTACT: Mr. Richard Krimm, National Flood Insurance Program, 202–755–5581 or Toll Free Line (800) 424–8872, Room 5270, 451 Seventh Street SW., Washington, D.C. 20410.

SUPPLEMENTARY INFORMATION: The Federal Insurance Administrator gives notice of the proposed determinations of base (100-year) flood elevations for the City of Willows, California, in accordance with section 110 of the Flood Disaster Protection Act of 1973 (Pub. L. 93–234), 87 Stat. 980, which added section 1363 to the National Flood Insurance Act of 1968 (Title XIII of the Housing and Urban Development Act of 1968 (Pub. L. 90–448)), 42 U.S.C. 4001–4128, and 24 CFR 1917.4(a).

These elevations, together with the flood plain management measures required by § 1910.3 of the program regulations, are the minimum that are required. They should not be construed to mean the community must change any existing ordinances that are more stringent in their flood plain management requirements. The community may at any time enact stricter requirements on its own, or pursuant to policies established by other Federal, State, or regional entities. These proposed elevations will also be used to calculate the appropriate flood insurance premium rates for new buildings and their contents and for the second layer of insurance on existing buildings and their contents.

The proposed base (100-year) flood elevations for selected locations are:

Source of flooding	Location	Elevation in feet, national geodetic vertical datum
South Fork Willow, Wilson, and Walker Creeks (Shallow Flooding Area).	At the intersection of Laurel Street and Yolo Street.	129
	At the intersection of Willows Street and Venture Street.	130
	At the intersection of Lassen Street and French Street.	136
South Fork Willow and Wilson Creeks.	At the intersection of French Street and Shasta Street.	136

(National Flood Insurance Act of 1968 (Title XIII of Housing and Urban Development Act of 1968), effective January 28, 1969 (33 FR 17804, November 28, 1968), as amended (42 U.S.C. 4001–4128); Executive Order 12127, 44 FR 19367; and delegation of authority to Federal Insurance Administrator, 44 FR 20963.)

Issued: April 24, 1979.

Gloria M. Jimenez,
Federal Insurance Administrator.

[Docket No. FI-6444]

[FR Doc. 79-14088 Filed 5-8-79; 8:45 am]

BILLING CODE 4210-23-M

[24 CFR Part 1917]

Proposed Flood Elevation Determinations for the Town of Granby, Hartford County, Conn., Under the National Flood Insurance Program

AGENCY: Federal Insurance and Hazard Mitigation, FEMA.[1]

ACTION: Proposed rule.

SUMMARY: Technical information or comments are solicited on the proposed base (100-year) flood elevations listed below for selected locations in the Town of Granby, Hartford County, Connecticut.

These base (100-year) flood elevations are the basis for the flood plain management measures that the community is required to either adopt or show evidence of being already in effect in order to qualify or remain qualified for participation in the National Flood Insurance Program (NFIP).

DATES: The period for comment will be ninety (90) days following the second publication of this proposed rule in a newspaper of local circulation in the above-named community.

ADDRESSES: Maps and other information showing the detailed outlines of the

[1] The functions of the Federal Insurance Administration, Department of Housing and Urban Development, were transferred to the newly established Federal Emergency Management Agency by Reorganization Plan No. 3 of the 1978 (43 FR 41943, September 19, 1978) and Executive Order 12127 (44 FR 19367, April 3, 1979).

flood-prone areas and the proposed base (100-year) flood elevations are available for review at the Granby Town Hall, 15 North Granby Road, Granby, Connecticut.

Send comments to: Mr. William F. Smith, Chief Administrative Officer of Granby, Granby Town Hall, 15 North Granby Road, Granby, Connecticut 06035.

FOR FURTHER INFORMATION CONTACT: Mr. Richard Krimm, National Flood Insurance Program, (202) 755–5581 or Toll Free Line (800) 424–8872, room 5270, 451 Seventh Street SW., Washington, D.C. 20410.

SUPPLEMENTARY INFORMATION: The Federal Insurance Administrator gives notice of the proposed determinations of base (100-year) flood elevations for the Town of Granby, Hartford County, Connecticut in accordance with section 110 of the Flood Disaster Protection Act of 1973 (Pub. L. 93–234), 87 Stat. 980, which added section 1363 to the National Flood Insurance Act of 1968 (Title XIII of the Housing and Urban Development Act of 1968 (Pub. L. 90–448)), 42 U.S.C. 4001–4128, and 24 CFR 1917.4(a).

These elevations, together with the flood plain management measurs required by § 1910.3 of the program regulations, are the minimum that are required. They should not be construed to mean the community must change any existing ordinances that are more stringent in their flood plain management requirements. The community may at any time enact stricter requirements on its own, or pursuant to policies established by other Federal, State, or regional entities. These proposed elevations will also be used to calculate the appropriate flood insurance premium rates for new buildings and their contents and for the second layer of insurance on existing buildings and their contents.

The proposed base (100-year) flood elevations for selected locations are:

Source of flooding	Location	Elevation in feet, national geodetic vertical datum
Salmon Brook	Downstream Corporate Limits.	166
	Confluence of East and West Branches of Salmon Brook.	167
East Branch Salmon Brook.	Upstream of State Route 20	184
	Upstream of U.S. Route 202 and State Route 10.	187
	Upstream Mechanicsville Road Bridge.	195
	Upstream Wells Rod Bridge	219
	Upstream of East Street Bridge.	277
West Branch of Salmon Brook.	Downstream U.S. Route 202 and State Route 10.	178
	Upstream of Simsbury Road	288
	Downstream of Broad Hill Road.	359

(National Flood Insurance Act of 1968 (Title XIII of Housing and Urban Development Act of 1968), effective January 28, 1969 (33 FR 17804, November 28, 1968), as amended: 42 U.S.C. 4001–4128; Executive order 12127, 44 FR 19367; and, delegation of authority to Federal Insurance Administrator 44 FR 20963.

Issued: April 18, 1979.

Gloria M. Jimenez,
Federal Insurance Administrator.

[Docket No. FI–5445]

[FR Doc. 79–14090 Filed 5–8–79; 8:45 am]

BILLING CODE 4210–23–M

[24 CFR Part 1917]

Proposed Flood Elevation Determinations for the City of New Haven, New Haven County, Conn., Under the National Flood Insurance Program

AGENCY: Federal Insurance and hazard Mitigation, FEMA. [1]

ACTION: Proposed rule.

SUMMARY: Technical information or comments are solicited on the proposed base (100-year) flood elevations listed below for selected locations in the City of New Haven, New Haven County, Connecticut.

These base (100-year) flood elevations are the basis for the flood plain management measures that the community is required to either adopt or show evidence of being already in effect in order to qualify or remain qualified for participation in the National Flood Insurance Program (NFIP).

DATES: The Period for comment will be ninety (90) days following the second publication of this proposed rule in a newspaper of locan circulation i the above-named community.

ADDRESSES: Maps and other information showing the detailed outlines of the flood-prone areas and the proposed base (100-year) flood elevations are available for review at the City Planning Department; Ninth floor and the City Engineer's Office; Fifth Floor, 157 Church Street, New Haven, Connecticut.

Send comments to: Honorable Frank Loge, Mayor of New Haven, New Haven City Hall, 195 Church Street, New Haven, Connecticut 06510.

FOR FURTHER INFORMATION CONTACT: Mr. Richard Krimm, National Flood Insurance Program, room 5270, 451 Seventh Street SW., Washington, D.C. 20410 (202) 755–5581 or Toll Free Line (800) 424–8872,

SUPPLEMENTARY INFORMATION: The Federal Insurance Administrator gives notice of the proposed determinations of base (100-year) flood elevations for the City of New Haven, New Haven County, Connecticut in accordance with section 1010 of the Flood Disaster Protection Act of 1973 (Pub. L. 93–234), 87 Stat. 980, which added section 1363 to the National Flood Insurance Act of 1968 (Title XIII of the Housing and Urban Development Act of 1968 (Pub. L. 90–448)), 42 U.S.C. 4001–4128, and 24 CFR 1917.4(a).

These elevations, together with the flood plain management measures required by § 1910.3 of the program regulations, are the minimum that are required. They should not be construed to mean the community must change any existing ordinances that are more stringent in their flood plain management requirements. The community may at any time enact stricter requirements on its own, or pursuant to policies established by other Federal, State, or regional entities. These proposed elevations will also be used to calculate the appropriate flood insurance premium rates for new buildings and their contents and for the second layer of insurance on existing buildings and their contents.

The proposed base (100-year) flood elevations for selected locations are:

Source of flooding	Location	Elevation in feet, national geodetic vertical datum
Quinnipiac River	Throughout the community	11
Mill River	Throughout the community	11
West River	100' downstream of Edgewood Avenue.	11
	Edgewood Avenue Upstream	12
	Whalley Avenue Upstream	14
	Blake Street Upstream	18
	Valley Street Upstream	31
	East Ramsdell Street Upstream.	72
	Lily Pond Dam Downstream	75
	Lily Pond Dam Upstream	78
	Lily Pond Avenue	83
	Upstream Corporate Limits	83
Wintergreen Brook	Blake Street	19
	Wintergreen Avenue	26
Beaver Brook	Blake Street	18
	Fitch Street	23
	Crescent Street	26
Morris Creek	Throughout Community	11
Tuttle Brook	Throughout Community	11

(National Flood Insurance Act of 1968 (Title XIII of Housing and Urban Development Act of 1968), effective January 28, 1969 (33 FR 17804, November 28, 1968), as amended; 42 U.S.C. 4001–4128; Executive Order 12127, 44 FR 19367; and delegation of authority to Federal Insurance Administrator, 44 FR 20963.)

Issued: April 18, 1979.

Gloria M. Jimenez,
Federal Insurance Administrator.

[Docket No. FI–5446]

[FR Doc. 79–14091 Filed 5–8–79; 8:45 am]

BILLING CODE 4210–23–M

[24 CFR Part 1917]

Proposed Flood Elevation Determinations for the City of Sebastian, Indian River County, Fla., Under the National Flood Insurance Program

AGENCY: Office of Federal Insurance and Hazard Mitigation, FEMA [1]

ACTION: Proposed rule.

SUMMARY: Technical information or comments are solicited on the proposed base (100-year) flood elevations listed below for selected locations in the City of Sebastian, Indian River County, Florida.

These base (100-year) flood elevations are the basis for the flood plain management measures that the community is required to either adopt or show evidence of being already in effect in order to qualify or remain qualified for participation in the National Flood Insurance Program (NFIP).

DATE: The period for comment will be ninety (90) days following the second publication of this proposed rule in a newspaper of local circulation in the above-named community.

ADDRESS: Maps and other information showing the detailed outlines of the flood-prone areas and the proposed base (100-year) flood elevations are available for review at City Hall, Sebastian, Florida.

Send comments to: Honorable Pat Flood, Jr., Mayor, City of Sebastian, City Hall, P.O. Box 127, Sebastian, Florida 32958.

FOR FURTHER INFORMATION CONTACT: Mr. Richard Krimm, National Flood Insurance Program, (202) 755–5581 or Toll Free Line (800) 424–8872, Room 5270, 451 Seventh Street SW., Washington, D.C. 20410.

SUPPLEMENTARY INFORMATION: The Federal Insurance Administrator gives notice of the proposed determinations of base (100-year) flood elevations for the City of Sebastian, Florida, in accordance with section 110 of the Flood Disaster Protection Act of 1973 (Pub. L. 93–234), 87 Stat. 980, which added section 1363 to the National Flood Insurance Act of 1968 (Title XIII of the Housing and Urban Development Act of 1968 (Pub. L. 90–448)), 42 U.S.C. 4001–4128, and 24 CFR 1917.4(a).

These elevations, together with the flood plain management measures required by § 1910.3 of the program regulations, are the minimum that are required. They should not be construed to mean the community must change any existing ordinances that are more stringent in their flood plain management requirements. The community may at any time enact stricter requirements on its own, or pursuant to policies established by other Federal, State, or regional entities. These proposed elevations will also be used to calculate the appropriate flood insurance premium rates for new buildings and their contents and for the second layer of insurance on existing buildings and their contents.

The proposed base (100-year) flood elevations for selected locations are:

Source of flooding	Location	Elevation in feet, national geodetic vertical datum
Indian River	Intersection of Riverside Avenue and Main Street.	8
	Intersection of Riverside Avenue and Harrison Street.	8
Drainage Right of Way.	1200 feet south of the intersection of Scroll Street and Roulette Street.	5

(National Flood Insurance Act of 1968 (Title XIII of Housing and Urban Development Act of 1968), effective January 28, 1969 (33 FR 17804, November 28, 1968), as amended; 42 U.S.C. 4001–4128; Executive Order 12127, 44 FR 19367; and delegation of authority to Federal Insurance Administrator, 44 FR 20963.)

Issued: April 18, 1979.

Gloria M. Jimenez,
Federal Insurance Administrator.

[Docket No. FI–5447]

[FR Doc. 79–14092 Filed 5–8–79; 8:45 am]

BILLING CODE 4210–23–M

[24 CFR Part 1917]

Proposed Flood Elevation Determinations for the City of Pocatello, Bannock County, Idaho, Under the National Flood Insurance Program

AGENCY: Office of Federal Insurance and Hazard Mitigation, FEMA [1]

ACTION: Proposed rule.

SUMMARY: Technical information or comments are solicited on the proposed base (100-year) flood elevations listed below for selected locations in the City of Pacatello, Bannock, County, Idaho.

These base (100-year) flood elevations are the basis for the flood plain management measures that the community is required to either adopt or show evidence of being already in effect in order to qualify or remain qualified for participation in the National Flood Insurance Program (NFIP).

DATES: The period for comments will be niney (90) days following the second publication of this proposed rule in a newspaper or local circulation in the above-named community.

ADDRESSES: Maps and other information showing the detailed outlines of the flood-prone areas and the proposed base (100-year) flood elevations are available for review at City Hall, 209 East Lewis, Pocatello, Idaho.

Send comments to: Honorable Ione Horrocks, Mayor, City of Pocatello, City Hall, 209 East Lewis, Pocatello, Idaho 83201.

FOR FURTHER INFORMATION CONTACT: Mr. Richard Krimm, National Flood Insurance Program (202) 755–5581 or Toll Free Line (800) 424–8872, Room 5270, 451 Seventh Street, SW., Washington, D.C. 20410.

SUPPLEMENTARY INFORMATION: The Federal Insurance Administrator gives notice of the proposed determinations of base (100-year) flood elevations for the City of Pocatello, Idaho, in accordance with section 110 of the Flood Disaster Protection Act of 1973 (Pub. L. 93–234), 87 Stat. 980, which added section 1363 to the National Flood Insurance Act of 1968 (Title XIII of the Housing and Urban Development Act of 1968 (Pub. L. 90–448)), 42 U.S.C. 4001–4128, and 24 CFR 1917.4(a).

These elevations, together with the flood plain management measures required by § 1910.3 of the program

[1] The functions of the Federal Insurance Administration, Department of Housing and Urban Development, were transferred to the newly established Federal Emergency Management Agency by Reorganization Plan No. 3 of 1978 (43 FR 41943, September 19, 1978) and Executive Order 12127 (44 FR 19367, April 3, 1979).

regulations, are the minimum that are required. They should not be construed to mean the community must change any existing ordinances that are more stringent in their flood plain management requirements. The community may at any time enact stricter requirements on its own, or pursuant to policies established by other Federal, State, or regional entities. These proposed elevations will also be used to calculate the appropriate flood insurance premium rates for new buildings and their contents and for the second layer of insurance on existing buildings and their contents.

The proposed base (100-year) flood elevations for selected locations are:

Source of flooding	Location	Elevation in feet, national geodetic vertical datum
Pocatello Creek	Interstate Highway 15—330 feet*.	4560
	Interstate Highway 15—280 feet*.	4587
	Booth Road-10 feet**	4652
	Upstream Corporate Limits	4685
Portneuf River	U.S. Highway 30N (Business) Lower***.	4430
	West Carson Street***	4434
	West Clark Street***	4444
	Bannock Highway***	4456
	Cheyenne Avenue***	4464

*Downstream from centerline.
**Upstream from centerline.
***At centerline.

Source of flooding	Location	Depth in Feet above ground
Pocatello Creek	Intersection of Alameda Road and Jefferson Avenue.	2
	Intersection of Cedar Street and Willard Avenue.	2
	Intersection of Cedar Street and McKinley Avenue.	2
	Intersection of Cedar Street and Colorado Avenue.	2
Trail Creek	Intersection of Foothill Road and Ravine Drive.	2
City Creek	Along Hayes Avenue 400 feet west of its intersection with Idaho Street.	2
	Along Grant Avenue 750 feet west from its intersection with Idaho Street.	2
Cusick Creek	Intersection of Lamb Street and Grant Avenue.	2
Johnny Creek	Intersection of Bannock Highway and Shoshoni Trail.	2

(National Flood Insurance Act of 1968 (Title XIII of Housing and Urban Development Act of 1968), effective January 28, 1969 (33 FR 17804, November 28, 1968), as amended; 42 U.S.C. 4001–4128; and Executive Order 12127, 44 FR 19367; and delegation of authority to Federal Insurance Administrator, 44 FR 20963).

Issued: April 24, 1979.

Gloria M. Jimenez,
Federal Insurance Administrator.

[Docket No. FI-5448]
[FR Doc. 79-14093 Filed 5-8-79; 8:45 am]
BILLING CODE 4210-23-M

[24 CFR Part 1917]

Proposed Flood Elevation Determinations for the City of Centreville, St. Clair County, Ill., Under the National Flood Insurance Program

AGENCY: Office of Federal Insurance and Hazard Mitigation, FEMA [1]

ACTION: Proposed rule.

SUMMARY: Technical information or comments are solicited on the proposed base (100-year) flood elevations listed below for selected locations in the City of Centreville, St. Clair County, Illinois. These base (100-year) flood elevations are the basis for the flood plain management measures that the community is required to either adopt or show evidence of being already in effect in order to qualify or remain qualified for participation in the national flood insurance program (NFIP).

DATES: The period for comment will be ninety (90) days following the second publication of this proposed rule in a newspaper of local circulation in the above-named community.

ADDRESSES: Maps and other information showing the detailed outlines of the flood-prone areas and the proposed base (100-year) flood elevations are available for review at City Hall, 5800 Bond Avenue, Centreville, Illinois 62207. Send comments to: The Honorable Riley Owens, Mayor, City of Centreville, City Hall, 5800 Bond Avenue, Centreville, Illinois 62207.

FOR FURTHER INFORMATION CONTACT: Mr. Richard Krimm, National Flood Insurance Program, (202) 755–5581 or Toll Free Line (800) 424–8872, Room 5270, 451 Seventh Street, SW., Washington, D.C. 20410.

SUPPLEMENTARY INFORMATION: The Federal Insurance Administrator gives notice of the proposed determinations of base (100-year) flood elevations for the City of Centreville, in accordance with section 110 of the Flood Disaster Protection Act of 1973 (Pub. L. 93–234), 87 Stat. 980, which added section 1363 to the National Flood Insurance Act of 1968 (Title XIII of the Housing and Urban Development Act of 1968 (Pub. L. 90–448), 42 U.S.C. 4001–4128, and 24 CFR 1917.4(a)).

These elevations, together with the flood plain management measures required by § 1910.3 of the program regulations, are the minimum that are required. They should not be construed to mean the community must change any existing ordinances that are more stringent in their flood plain management requirements. The community may at any time enact stricter requirements on its own, or pursuant to policies established by other Federal, State, or regional entities. These proposed elevations will also be used to calculate the appropriate flood insurance premium rates for new buildings and their contents and for the second layer of insurance on existing buildings and their contents.

The proposed base (100-year) flood elevations for selected locations are:

Source of flooding	Location	Elevation in feet, national geodetic vertical datum
Platte River	0.19 miles downstream from State Highway 50.	1020
	1.8 miles upstream from State Highway 50.	1028
Mill Creek	At mouth with Platte River	1025
	0.04 miles downstream of Second Street.	1035
	0.27 miles upstream of Sixth Street.	1045
	0.72 miles upstream of Sixth Street.	1053
	0.92 miles upstream of Sixth Street.	1058
	1.27 miles upstream of Sixth Street.	1066
	1.36 miles upstream of Sixth Street.	1069
Tributary to Mill Creek	At confluence with Mill Creek	1042
	Just downstream of Missouri Pacific Railroad.	1042
	Just upstream of Missouri Pacific Railroad.	1048
	At Maple Street	1049
	At Oak Street	1056
	At Elm Street	1061
	0.067 miles upstream from Elm Street.	1070
	0.14 miles upstream from Elm Street.	1076
	0.296 miles upstream from Elm Street.	1083
	0.416 miles upstream from Elm Street.	1089
	0.019 miles downstream of State Highway 66.	1097
	Just upstream of State Highway 66.	1113
	0.085 miles upstream of State Highway 66.	1113

(National Flood Insurance Act of 1968 (Title XIII of Housing and Urban Development Act of 1968), effective January 28, 1969 (33 FR 17804, November 28, 1968), as amended; 42 U.S.C. 4001–4128; Executive Order 12127, 44 FR 19367; and delegation of authority to Federal Insurance Administrator, 44 FR 20963.)

[1] The functions of the Federal Insurance Administration, Department of Housing and Urban Development, were transferred to the newly established Federal Emergency Management Agency by Reorganization Plan No. 3 of 1978 (43 FR 41943, September 19, 1978) and Executive Order 12127 (44 FR 19367, April 3, 1979).

Issued: April 24, 1979.

Gloria M. Jimenez,
Federal Insurance Administrator.

[Docket No. FI-5449]
[FR Doc. 79-14094 Filed 5-8-79; 8:45 am]
BILLING CODE 4210-23-M

[24 CFR Part 1917]

Proposed Flood Elevation Determinations for the City of Rossville, Shawnee County, Kans.

AGENCY: Office of Federal Insurance and Hazard Mitigation, FEMA.[1]

ACTION: Proposed rule.

SUMMARY: Technical information or comments are solicited on the proposed base (100-year) flood elevations listed below for selected locations in the City of Rossville, Shawnee County, Kansas.

These base (100-year) flood elevations are the basis for the flood plain management measures that the community is required to either adopt or show evidence of being already in effect in order to qualify or remain qualified for participation in the national flood insurance program (NFIP).

DATES: The period for comment will be ninety (90) days following the second publication of this proposed rule in a newspaper of local circulation in the above-named community.

ADDRESS: Maps and other information showing the detailed outlines of the flood-prone areas and the proposed base (100-year) flood elevations are available for review at City Hall, Rossville, Kans. Send comments to: The Honorable William L. Smith, Mayor, City of Rossville, City Hall, Rossville, Kansas 66533.

FOR FURTHER INFORMATION CONTACT: Mr. Richard Krimm, National Flood Insurance Program, 202–755–5581 or Toll-Free Line (800) 424–8872. Room 5270, 451 Seventh Street SW., Washington, D.C. 20410.

SUPPLEMENTARY INFORMATION: The Federal Insurance Administrator gives notice of the proposed determinations of base (100-year) flood elevations for the City of Rossville, in accordance with section 110 of the Flood Disaster Protection Act of 1973 (Pub. L. 93–234), 87 Stat. 980, which added section 1363 to the National Flood Insurance Act of 1968 (Title XIII of the Housing and Urban Development Act of 1968 (Pub. L. 90–448), 42 U.S.C. 4001–4128, and 24 CFR 1917.4(a)).

These elevations, together with the flood plain management measures required by § 1910.3 of the program regulations, are the minimum that are required. They should not be construed to mean the community must change any existing ordinances that are more stringent in their flood plain management requirements. The community may at any time enact stricter requirements on its own, or pursuant to policies established by other Federal, State, or regional entities. These proposed elevations will also be used to calculate the appropriate flood insurance premium rates for new buildings and their contents and for the second layer of insurance on existing buildings and their contents.

The proposed base (100-year) flood elevations for selected locations are:

Source of flooding	Location	Elevation in feet, national geodetic vertical datum
Cross Creek	2,100 feet downstream of U.S. Highway 24.	927
	Directly upstream of Pattawatomie Street.	929
	North corporate limit	930

(National Flood Insurance Act of 1968 (Title XIII of Housing and Urban Development Act of 1968), effective January 28, 1969 (33 FR 17804, November 28, 1968), as amended (42 U.S.C. 4001–4128); Executive Order 12127, 44 FR 19367; and delegation of authority to Federal Insurance Administrator, 44 FR 20963.)

Issued: April 18, 1979.

Gloria M. Jimenez,
Federal Insurance Administrator.

[Docket No. FI-5450]
[FR Doc. 79-14095 Filed 5-8-79; 8:45 am]
BILLING CODE 4210-23-M

[24 CFR Part 1917]

Proposed Flood Elevation Determinations for the Town of Hiram, Oxford County, Maine, Under the National Flood Insurance Program

AGENCY: Office of Federal Insurance and Hazard Mitigation, FEMA.[1]

ACTION: Proposed rule.

SUMMARY: Technical information or comments are solicited on the proposed ase (100-year) flood elevations listed below for selected locations in the Town of Hiram, Oxford County, Maine.

These base (100-year) flood elevations are the basis for the flood plain management measures that the community is required to either adopt or show evidence of being already in effect in order to qualify or remain qualified for participation in the National Flood Insurance Program (NFIP).

DATES: The period for comment will be ninety (90) days following the second publication of this proposed rule in a newspaper of local circulation in the above-named community.

ADDRESSES: Maps and other information showing the detailed outlines of the flood-prone areas and the proposed base (100-year) flood elevations are available for review at the Town Planning Office, Hiram, Maine.

SEND COMMENTS TO: Mr. Corliss Sargent, Chairman, Board of Selectmen, Town of Hiram, Town Office, Hiram, Maine 04041.

FOR FURTHER INFORMATION CONTACT: Mr. Richard Krimm, National Flood Insurance Program, (202) 755–5581 or Toll Free Line (800) 424–8872, Room 5270, 451 Seventh Street, SW., Washington, D.C. 20410.

SUPPLEMENTARY INFORMATION: The Federal Insurance Administrator gives notice of the proposed determinations of base (100-year) flood elevations for the Town of Hiram, in accordance with section 110 of the Flood Disaster Protection Act of 1973 (Pub. L. 93–234), 87 Stat. 980, which added section 1363 to the National Flood Insurance Act of 1968 (Title XIII of the Housing and Urban Development Act of 1968 (Pub. L. 90–448), 42 U.S.C. 4001–4128, and 24 CFR Part 1917.4 (a)).

These elevations, together with the flood plain management measrues requried by § 1910.3 of the program regulations, are the minimum that are required. They should not be construed to mean the community must change any existing ordinances that are more stringent in their flood plain management requirements. The community may at any time enact stricter requirements on its own, or pursuant to policies established by other Federal, State or regional entities. These proposed elevations will also be used to calculate the appropriate flood insurance premium rates for new buildings and their contents and for the second layer of insurance on existing buildings and their contents.

The proposed base (100-year) flood elevations for selected locations are:

[1] The functions of the Federal Insurance Administration, Department of Housing and Urban Development, were transferred to the newly established Federal Emergency Management Agency by Reorganization Plan No. 3 of 1978 (43 FR 41943, September 19, 1978) and Executive Order 12127 (44 FR 19367, April 3, 1979).

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Source of Flooding	Location	Elevation in feet, national geodetic vertical datum
Saco River	At downstream corporate limits.	283
	Just downstream of Hiram Falls Dam.	291
	Just upstream of Hiram Falls Dam.	352
	Approximately 200 feet upstream of Maine Central Railroad.	361
	At upstream corporate limits..	366
Ossipee River	At confluence with Saco River.	283
	Approximately 400 feet upstream of South Hiram Road.	298
	Approximately 1.6 miles upstream of South Hiram Road.	310
	At upstream corporate limits..	344
Hancock Brook	Mouth at Saco River	362
	Just upstream Sawmill Road.	374
	Just upstream Log Crib Dam.	397
	Approximately 1,100 feet upstream of Log Crib Dam.	383
Ridlon Brook	At confluence with Ossipee River.	343
Spectacle Ponds Brook.	Just upstream Robbin Mill Road.	354
	Just upstream Small Dam	365
	Just upstream of South Hiram Road.	369
	At upstream corporate limits..	372

(National Flood Insurance Act of 1968 (Title XIII of Housing and Urban Development Act of 1968), effective January 28, 1969 (33 FR 17804, November 28, 1968), as amended; 42 U.S.C. 4001–4128; Executive Order 12127, 44 FR 19367; and, of delegation authority to Federal Insurance Administrator, 44 FR 20963.)

Issued: April 24, 1979.

Gloria M. Jimenez,
Federal Insurance Administrator.

[Docket No. FI–5451]
[FR Doc. 79–14090 Filed 5–8–79; 8:45 am]
BILLING CODE 4210–23–M

[24 CFR Part 1917]

Proposed Flood Elevation Determinations for the Town of Amesbury, Essex County, Mass., Under the National Flood Insurance Program

AGENCY: Office of Federal Insurance and Hazard Mitigation, FEMA. [1]

ACTION: Proposed rule.

SUMMARY: Technical information or comments are solicited on the proposed base (100-year) flood elevations listed below for selected locations in the Town of Amesbury, Essex County, Massachusetts.

[1] The functions of the Federal Insurance Administration, Department of Housing and Urban Development, were transferred to the newly established Federal Emergency Management Agency by Reorganization Plan No. 3 of 1978 (43 FR 41943, September 19, 1978) and Executive Order 12127 (44 FR 19367, April 3, 1979).

These base (100-year) flood elevations are the basis for the flood plain management measures that the community is required to either adopt or show evidence of being already in effect in order to qualify or remain qualified for participation in the National Flood Insurance Program (NFIP).

DATES: The period for comment will be ninety (90) days following the second publication of this proposed rule in a newspaper of local circulation in the above-named community.

ADDRESSES: Maps and other information showing the detailed outlines of the flood-prone areas and the proposed base (100-year) flood elevations are available for review at the Town Hall, Friend Street, Amesbury, Massachusetts. Send comments to: Mr. Robert A. Gonthier Jr., Chairman Board of Selectment, Town of Amesbury, Town Hall, Friend Street, Amesbury, Massachusetts 01913.

FOR FURTHER INFORMATION CONTACT: Mr. Richard Krimm, Assistant Administrator, Office of Flood Insurance, (202) 755–5581 or Toll Free Line (800) 424–8872, Room 5270, 451 Seventh Street, SW., Washington, D.C. 20410.

SUPPLEMENTARY INFORMATION: The Federal Insurance Administrator gives notice of the proposed determinations of base (100-year) flood elevations for the Town of Amesbury, in accordance with section 110 of the Flood Disaster Protection Act of 1973 (Pub. L. 93–234), 87 Stat. 980, which added section 1363 to the National Flood Insurance Act of 1968 (Title XIII of the Housing and Urban Development Act of 1968 (Pub. L. 90–448), 42 U.S.C. 4001–4128, and 24 CFR Part 1917.4 (a)).

These elevations, together with the flood plain management measures required by § 1910.3 of the program regulations, are the minimum that are required. They should not be construed to mean the community must change any existing ordinances that are more stringent in their flood plain management requirements. The community may at any time enact stricter requirements on its own, or pursuant to policies established by other Federal, State or regional entities. These proposed elevations will also be used to calculate the appropriate flood insurance premium rates for new buildings and their contents and for the second layer of insurance on existing buildings and their contents.

The proposed base (100-year) flood elevations for selected locations are:

Source of flooding	Location	Elevation in feet, national geodetic vertical datum
Merrimack River	Southeastern corporate limit..	10
	0.4 mile upstream of Powwow River confluence.	12
	Southwestern corporate limit.	13
Powwow River	Confluence with Merrimack River.	12
	500 feet downstream of Main Street near wooden dam.	12
	Just upstream of Main Street near wooden dam.	47
	Just downstream of Pond Street.	75
	Just downstream of Lake Gardner Dam.	78
	Just upstream of Lake Gardner Dam.	90
	At corporate limits upstream of West Whitehall Road.	93
	Just downstream of Nelson Road near Tuxbury Pond dam.	
	2,500 feet upstream of Tuxbury Pond Dam.	100

(National Flood Insurance Act of 1968 (Title XIII of Housing and Urban Development Act of 1968), effective January 28, 1969 (33 FR 17804, November 28, 1968), as amended; 42 U.S.C. 4001–4128; Executive Order 12127, 44 FR 19367; and delegation of authority to Federal Insurance Administrator, 44 FR 20963.)

Issued: April 24, 1979.

Gloria M. Jimenez,
Federal Insurance Administrator.

[Docket No. FI–5452]
[FR Doc. 79–14097 Filed 5–8–79; 8:45 am]
BILLING CODE 4210–23–M

[24 CFR Part 1917]

Proposed Flood Elevation Determinations for the Town of Shutesbury, Franklin County, Mass., Under the National Flood Insurance Program

AGENCY: Office of Federal Insurance and Hazard Mitigation, FEMA.[1]

ACTION: Proposed rule.

SUMMARY: Technical information or comments are solicited on the proposed base (100-year) flood elevations listed below for selected locations in the Town of Shutesbury, Franklin County, Massachusetts.

These base (100-year) flood elevations are the basis for the flood plain management measures that the community is required to either adopt or show evidence of being already in effect in order to qualify or remain qualified

[1] The functions of the Federal Insurance Administration, Department of Housing and Urban Development, were transferred to the newly established Federal Emergency Management Agency by Reorganization Plan No. 3 of 1978 (43 FR 41943, September 19, 1978) and Executive Order 12127 (44 FR 19367, April 3, 1979).

for participation in the National Flood Insurance Program (NFIP).

DATES: The period for comment will be ninety (90) days following the second publication of this proposed rule in a newspaper of local circulation in the above-named community.

ADDRESSES: Maps and other information showing the detailed outlines of the flood-prone areas and the proposed base (100-year) flood elevations are available for review at the Town Hall, Shutesbury, Massachusetts. Send comments to: Mr. John C. Howell Chairman of the Board of Selectmen Town of Shutesbury Town Hall Shutesbury, Massachusetts 01072.

FOR FURTHER INFORMATION CONTACT: Mr. Richard Krimm, National Flood Insurance Program, Room 5270, 451 Seventh Street, SW., Washington, D.C. 20410, (202) 755–5581 or Toll Free Line (800) 424–8872.

SUPPLEMENTARY INFORMATION: The Federal Insurance Administrator gives notice of the proposed determinations of base (100-year) flood elevations for the Town of Shutesbury, in accordance with section 110 of the Flood Disaster Protection Act of 1973 (Pub. L. 93–234), 87 Stat. 980, which added section 1363 to the National Flood Insurance Act of 1968 (Title XIII of the Housing and Urban Development Act of 1968 (Pub. L. 90–448), 42 U.S.C. 4001–4128, and 24 CFR Part 1917.4 (a)).

These elevations, together with the flood plain management measures required by § 1910.3 of the program regulations, are the minimum that are required. They should not be construed to mean the community must change any existing ordinances that are more stringent in their flood plain managment requirements. The community may at any time enact stricter requirements on its own, or pursuant to policies established by other Federal, State or regional entities. These proposed elevations will also be used to calculate the appropriate flood insurance premium rates for new buildings and their contents and for the second layer of insurance on existing buildings and their contents.

The proposed base (100-year) flood elevations for selected locations are:

Source of flooding	Location	Elevation in feet, national geodetic vertical datum
LAKE WYOLA	At North Leverett Road	836
	At the Dam (Downstream Limit of Detailed Study).	836

(National Flood Insurance Act of 1968 (Title XIII of Housing and Urban Development Act of 1968), effective January 28, 1969 (33 FR 17804, November 28, 1968), as amended; 42 U.S.C. 4001–4128; Executive Order 12127, 44 FR 19367; and delegation of authority to Federal Insurance Administrator, 44 FR 20963.

Issued. April 24, 1979.

Gloria M. Jimenez,
Federal Insurance Administrator.

[Docket No. FI–5453]
[FR Doc. 79–14098 Filed 5–8–79; 8:45 am]
BILLING CODE 4210–23–M

[24 CFR Part 1917]

Proposed Flood Elevation Determinations for the Town of Freetown, Bristol County, Mass., Under the National Flood Insurance Program

AGENCY: Office of Federal Insurance and Hazard Mitigation, FEMA. [1]

ACTION: Proposed rule.

SUMMARY: Technical information or comments are solicited on the proposed base (100-year) flood elevations listed below for selected locations in the Town of Freetown, Bristol County, Massachusetts.

These base (100-year) flood elevations are the basis for the flood plain management measures that the community is required to either adopt or show evidence of being already in effect in order to qualify or remain qualified for participation in the National Flood Insurance Program (NFIP).

DATES: The period for comments will be ninety (90) days following the second publication of this proposed rule in a newspaper of local circulation in the above-named community.

ADDRESSES: Maps and other information showing the detailed outlines of the flood-prone areas and the proposed base (100-year) flood elevations are available for review at the Town Hall, North Main Street, Assonet, Massachusetts.

Send comments to: Mr. Fredrick Boehler, Chairman, Board of Selectment, Town of Feetown, Town Hall, North Main Street, Assonet, Massachusetts 02702.

FOR FURTHER INFORMATION CONTACT: Mr. Richard Krimm, National Flood Insurance Program (202) 755–5581 or Toll Free Line (800) 424–8872, Room 5270, 451

[1] The functions of the Federal Insurance Administration, Department of Housing and Urban Development, were transferred to the newly established Federal Emergency Management Agency by Reorganization Plan No. 3 of 1978 (43 FR 41943, September 19, 1978) and Executive Order 12127 (44 FR 19367, April 3, 1979).

Source of flooding	Location	Elevation in feet, national geodetic vertical datum
Assonet River	Just downstream of State Route 24.	15
	700 feet upstream of Dam No. 1.	15
	Just downstream of Locust Street.	21
	Just upstream of Dam No. 2..	33
	Just downstream of Ferge Road.	33
	Just upstream of Dam No. 3..	42
	Just downstream of Myricks Street.	45
	Northern corporate limit	48
Fall Brook	Mouth at Long Pond	55
	Just downstream of Dam No. 1.	60
	100 feet downstream of County Road.	68
	Just upstream of County Road.	73
	Just upstream of State route 140.	75
	Just upstream of Bailey Road.	83
	Just upstream of Conrail	86
	Just downstream of Dam No. 3.	89
Rattlesnake Brook	Just downstream of Narrows Road.	15
	350 feet downstream of South Main Street.	20
	Just upstream of South Main Street.	26
	350 feet upstream of State Route 24.	30

Seventh Street, SW., Washington, D.C. 20410.

SUPPLEMENTARY INFORMATION: The Federal Insurance Administrator gives notice of the proposed determinations of base (100-year) flood elevations for the Town of Freetown, in accordance with section 110 of the Flood Disaster Protection Act of 1973 (Pub. L. 93–234), 87 Stat. 980, which added section 1363 to the National Flood Insurance Act of 1968 (Title XIII of the Housing and Urban Development Act of 1968 (Pub. L. 90–448)), 42 U.S.C. 4001–4128, and 24 CFR Part 1917.4(a)).

These elevations, together with the flood plain management measures required by § 1910.3 of the program regulations, are the minimum that are required. They should not be construed to mean the community must change any existing ordinances that are more stringent in their flood plain management requirements. The community may at any time enact stricter requirements on its own, or pursuant to policies established by other Federal, State, or regional entities. These proposed elevations will also be used to calculate the appropriate flood insurance premium rates for new buildings and their contents and for the second layer of insurance on existing buildings and their contents.

The proposed base (100-year) flood elevations for selected locations are:

(National Flood Insurance Act of 1968 (Title XIII of Housing and Urban Development Act of 1968), effective January 28, 1969 (33 FR 17804, November 28, 1968), as amended; 42 U.S.C. 4001–4128; and Executive Order 12127, 44 FR 19367; and delegation of authority to Federal Insurance Administrator, 44 FR 20963).

Issued April 18, 1979.

Gloria M. Jimenez,
Federal Insurance Administrator.

[Docket No. FI–5454]
[FR Doc. 79–14099 Filed 5–8–79; 8:45 am]
BILLING CODE 4210–23–M

[24 CFR Part 1917]

Proposed Flood Elevation Determinations for the Township of Fraser, Bay County, Mich., Under the National Flood Insurance Program; Correction

AGENCY: Federal Insurance and Hazard Mitigation, FEMA.[1]

ACTION: Correction of proposed rule.

SUMMARY: This document corrects a proposed rule on base (100-year) flood elevations that appeared on page 14570 of the Federal Register of March 13, 1979.

EFFECTIVE DATE: March 13, 1979.

FOR FURTHER INFORMATION CONTACT: Mr. Richard Krimm, National Flood Insurance Program (202) 755–5581 or Toll Free Line (800) 424–8872, Room 5270, 451 Seventh Street, SW., Washington, D.C. 20410.

The following corrections are made: Wherever the county name appears it should be changed to read Bay County.

Comments should be sent to: Mr. Frank Gibala, Supervisor, Township of Fraser, Township Hall, 1471 North Mackinaw, Lynwood, Michigan 48634.

(National Flood Insurance Act of 1968 (Title XIII of Housing and Urban Development Act of 1968), effective January 28, 1969 (33 FR 17804, November 28, 1968), as amended; 42 U.S.C. 4001–4128; and Executive Order 12127, 44 FR 19367; and delegation of authority to Federal Insurance Administrator, 44 FR 20963).

Issued: April 24, 1979.

Gloria M. Jimenez,
Federal Insurance Administrator.

[Docket No. FI–5244]
[FR Doc. 79–14100 Filed 5–8–79; 8:45 am]
BILLING CODE 4210–23–M

[1] The functions of the Federal Insurance Administration, Department of Housing and Urban Development, were transferred to the newly established Federal Emergency Management Agency By Reorganization Plan No. 3 of 1978 (43 FR 41943, September 19, 1978) and Executive Order 12127 (44 FR 19367, April 3, 1979).

[24 CFR Part 1917]

Proposed Flood Elevation Determinations for the Unincorporated Areas of Coahoma County, Miss. Under the National Flood Insurance Program

AGENCY: Office of Federal Insurance and Hazard Mitigation, FEMA

ACTION: Proposed rule.

SUMMARY: Technical information or comments are solicited on the proposed base (100-year) flood elevations listed below for selected locations in the unincorporated areas of Coahoma County, Mississippi.

These base (100-year) flood elevations are the basis for the flood plain management measures that the community is required to either adopt or show evidence of being already in effect in order to qualify or remain qualified for participation in the National Flood Insurance Program (NFIP).

DATE: The period for comment will be ninety (90) days following the second publication of this proposed rule in a newspaper of local circulation in the above-named community.

ADDRESS: Maps and other information showing the detailed outlines of the flood-prone areas and the proposed base (100-year) flood elevations are available for review at Coahoma County Engineers Office, Clarksdale, Mississippi. Send comments to: Mr. D. S. Butler, County Engineer, Coahoma County, P.O. Box 57, Clarksdale, Mississippi 38614.

FOR FURTHER INFORMATION CONTACT: Mr. Richard Krimm, National Flood Insurance Program, (202) 755–5581 or Toll Free Line (800) 424–8872. Room 5270, 451 Seventh Street, SW., Washington, D.C. 20410.

SUPPLEMENTARY INFORMATION: The Federal Insurance Administrator gives notice of the proposed determinations of base (100-year) flood elevations for the uncorporated areas of Coahoma County, Mississippi, in accordance with section 110 of the Flood Disaster Protection Act of 1973 (Pub. L. 93–234), 87 Stat. 980, which added section 1363 to the National Flood Insurance Act of 1968 (Title XIII of the Housing and Urban Development Act of 1968 (Pub. L. 90–448)), 42 U.S.C. 4001–4128, and 24 CFR 1917.4(a).

These elevations, together with the flood plain management measures required by § 1910.3 of the program regulations, are the minimum that are required. They should not be construed to mean the community must change any existing ordinances that are more stringent in their flood plain management requirements. The community may at any time enact stricter requirements on its own, or pursuant to policies established by other Federal, State, or regional entities. These proposed elevations will also be used to calculate the appropriate flood insurance premium rates for new buildings and their contents and for the second layer of insurance on existing buildings and their contents.

The proposed base (100-year) flood elevations for selected locations are:

Source of flooding	Location	Elevation in feet, national geodetic vertical datum
Mississippi River	Bolivar-Coahoma County Boundary.	174
	Coahoma-Tunica Corporate Limit.	197
Big Sunflower River	Just upstream Mississippi Highway 322.	153
	Just upstream Frairs Point Road.	156
Little Sunflower River	Just upstream Lee Drive Extended	157

(National Flood Insurance Act of 1968 (Title XIII of Housing and Urban Development Act of 1968), effective January 28, 1969 (33 FR 17804, November 28, 1968), as amended; 42 U.S.C. 4001–4128; Executive Order 12127, 44 FR 19367; and, delegation of authority to Federal Insurance Administrator 44 FR 20963.)

Issued: April 18, 1979.

Gloria M. Jimenez,
Federal Insurance Administrator.
[Docket No. FI–5455]
[FR Doc. 79–14101 Filed 5–8–79; 8:45 am]
BILLING CODE 4210–23–M

[24 CFR Part 1917]

Proposed Flood Elevation Determinations for the Town of Weston, Middlesex County, Mass.; under The National Flood Insurance Program

AGENCY: Federal Insurance and Hazard Mitigation, FEMA. [1]

ACTION: Proposed rule.

SUMMARY: Technical information or comments are solicited on the proposed base (100-year) flood elevations listed below for selected locations in the Town of Weston, Middlesex County, Massachusetts.

These base (100-year) flood elevations are the basis for the flood plain management measures that the community is required to either adopt or show evidence of being already in effect in order to qualify or remain qualified for participation in the national flood insurance program (NFIP).

DATE: The period for comment will be ninety (90) days following the second publication of this proposed rule in a newspaper of local circulation in the above-named community.

ADDRESS: Maps and other information showing the detailed outlines of the flood-prone areas and the proposed base (100-year) flood elevations are available for review at the Town Office, Town Clerk, P.O. Box 378, Weston, Massachusetts. Send comments to: Mr. Harold Hestnes, Chairman Board of Selectmen, Town of Weston, Town Office, P.O. Box 378, Weston, Massachusetts 02193. Attention: J. Ward Carter, Executive Secretary.

FOR FURTHER INFORMATION CONTACT: Mr. Richard Krimm, National Flood Insurance Program, (202) 755–5581 or Toll Free Line (800) 424–8872, Room 5270, 451 Seventh Street SW., Washington, D.C. 20410.

SUPPLEMENTARY INFORMATION: The Federal Insurance Administrator gives notice of the proposed determinations of base (100-year) flood elevations for the Town of Weston, in accordance with section 110 of the Flood Disaster Protection Act of 1973 (Pub. L. 93–234), 87 Stat. 980, which added section 1363 to the National Flood Insurance Act of 1968 (Title XIII of the Housing and Urban Development Act of 1968 (Pub. L. 90–448), 42 U.S.C. 4001–4128, and 24 CFR Part 1917.4(a)).

These elevations, together with the flood plain management measures required by § 1910.3 of the program regulations, are the minimum that are required. They should not be construed to mean the community must change any existing ordinances that are more stringent in their flood plain management requirements. The community may at any time enact stricter requirements on its own, or pursuant to policies established by other Federal, State, or regional entities. These proposed elevations will also be used to calculate the appropriate flood insurance premium rates for new buildings and their contents and for the second layer of insurance on existing buildings and their contents.

The proposed base (100-year) flood elevations for selected locations are:

Source of flooding	Location	Elevation in feet, National geodetic vertical datum
Bogle Brook	Southern corporate limits	156
	Just upstream of Sherburn Circle.	168
	75 feet downstream of Bogle Street.	171
	Just upstream of Bogle Street.	174
	At the upstream inlet to Nanepash Pond.	175
	Just downstream of Interstate 90.	180
	Just upstream of Interstate 90.	184
	Just upstream of MDC Aqueduct.	193
	About 0.25 mile downstream of Pine Street.	197
	About 0.43 mile upstream of Pine Street.	199
	About 0.54 mile upstream of Pine Street.	206
Tributary No. 4	At the confluence with Bogle Brook.	159
	Just upstream of Bogle Street.	168
	About 2,800 feet upstream of Bogle Street.	186
Tributary No. 3	At confluence with Bogle Brook.	180
	About 1,640 feet upstream of the confluence with Bogle Brook.	184
	About 2, 400 feet upstream of the confluence with Bogle Brook.	185
Charles River	At the downstream corporate limits.	39
	Just upstream of Park Road	40
	At the upstream corporate limits.	42
Stony Brook	At the mouth	39
	Just downstream of South Street.	39
	Just upstream of South Street.	48
	Just downstream of Stony Brook Reservoir Dam.	48
	Just upstream of Stony Brook Dam.	72
	At the confluence of Stony Brook with Stony Brook Reservoir.	72
	Just downstream of Boston Post Road.	87
	About 280 feet upstream of Boston Post Road.	92
	About 900 feet downstream of confluence of Hobbs Brook.	98
	Just upstream of Church Street.	99
	Just downstream of Viles Street.	102
	Just upstream of Viles Street.	109
	Just downstream of Boston and Maine Railroad (about 300 feet upstream of confluence of Cherry Brook).	110
	Just upstream of Boston and Maine Railroad (about 400 feet upstream of confluence of Cherry Brook).	114
	About 1,580 feet downstream of Conant Road.	114
	Just upstream of Conant Road.	124
	Just Upstream of Merriam Street.	128

(National Flood Insurance Act of 1968 (Title XIII of Housing and Urban Development Act of 1968), effective January 28, 1969 (33 FR 17804, November 28, 1968), as amended; (42 U.S.C. 4001–4128); Executive Order 12127; 44 FR 19367; and, delegation of authority to Federal Insurance Administrator, 44 FR 20963.)

Issued: April 24, 1979.

Gloria M. Jimenez,
Federal Insurance Administrator.
[Docket No. FI–5456]
[FR Doc. 79–14102 Filed 5–8–79; 8:45 am]
BILLING CODE 4210–23–M

[24 CFR Part 1917]

Proposed Flood Elevation Determinations for Cascade County, Mont., Under the National Flood Insurance Program

AGENCY: Office of Federal Insurance and Hazard Mitigation, FEMA [1]

ACTION: Proposed rule.

SUMMARY: Technical information or comments are solicited on the proposed base (100-year) flood elevations listed below for selected locations in Cascade County, Montana. These base (100-year) flood elevations are the basis for the flood plain management measures that the community is required to either adopt or show evidence of being already in effect in order to qualify or remain qualified for participation in the national flood insurance program (NFIP).

DATES: The period for comment will be ninety (90) days following the second publication of this proposed rule in a newspaper of local circulation in the above-named community.

ADDRESSES: Maps and other information showing the detailed outlines of the flood-prone areas and the proposed base (100-year) flood elevations are available for review at Cascade County Courthouse Annex, Room 108, Great Falls, Montana. Send comments to: Mr. John Montgomery, Associate Planner, Cascade County, Cascade County Planning Board, Cascade County Courthouse Annex, Room 108, Great Falls, Montana 59401.

FOR FURTHER INFORMATION CONTACT: Mr. Richard Krimm, National Flood Insurance Program, (202) 755–5581 or Toll Free Line (800) 424–8872, Room 5270, 451 Seventh Street, SW., Washington, D.C. 20410.

SUPPLEMENTARY INFORMATION: The Federal Insurance Administrator gives notice of the proposed determinations of base (100-year) flood elevations for

[1] The functions of the Federal Insurance Administration, Department of Housing and Urban Development, were transferred to the newly established Federal Emergency Management Agency by Reorganization Plan No. 3 of 1978 (43 FR 41943, September 19, 1978) and Executive Order 12127 (44 FR 19367, April 3, 1979).

Cascade County, Montana, in accordance with section 110 of the Flood Disaster Protection Act of 1973 (Pub. L. 93–234), 87 Stat. 980, which added section 1363 to the National Flood Insurance Act of 1968 (Title XIII of the Housing and Urban Development Act of 1968 (Pub. L. 90–448)), 42 U.S.C. 4001–4128, and 24 CFR 1917.4(a).

These elevations, together with the flood plain management measures required by § 1910.3 of the program regulations, are the minimum that are required. They should not be construed to mean the community must change any existing ordinances that are more stringent in their flood plain management requirements. The community may at any time enact stricter requirements on its own, or pursuant to policies established by other Federal, State, or regional entities. These proposed elevations will also be used to calculate the appropriate flood insurance premium rates for new buildings and their contents and for the second layer of insurance on existing buildings and their contents.

The proposed base (100-year) flood elevations for selected locations are:

Source of flooding	Location	Elevation in feet, national geodetic vertical datum
Missouri River (North of Great Falls).	Black Eagle Dam—100 feet*.	3,306
	10th Street North—20 feet**.	3,310
Missouri River (South of Great Falls).	U.S. Highway 89 Bypass—100 feet*.	3,320
	Limit of Detailed Study upstream from U.S. Highway 89 Bypass**.	3,326
Missouri River (Near Ulm).	Most downstream Limit of Detailed Study**.	3,332
	Most upstream Limit of Detailed Study**.	3,334
Missouri River (Near Hardy).	Most downstream Limit of Detailed Study**.	3,364
	Interstate Highway 15—50 feet*.	3,394
	U.S. Highway 91—100 feet*.	3,407
	Interstate Highway 15 (second crossing)—50 feet*.	3,425
Sun River (Near Great Falls).	Burlington Northern Railroad—50 feet*.	3,322
Sun River (Near Vaugh).	Central Avenue—80 feet*	3,329
	Manchester Road Bridge—50 feet*.	3,338
	Vaugh-Vim County Road—100 feet*.	3,353
	County Highway 200 Bridge—100 feet*.	3,413
Sun River (Near Simms).	Most downstream Limit of Detailed Study**.	3,546
	Simms Asheulot Road Bridge—100 feet*.	3,564
Sun River Overflow Area (Near Vaugh).	End of Overflow Area**	3,339
	Beginning of Overflow Area**.	3,349
Belt Creek	Most downstream Corporate Limits**.	3,499
	Armington Bridge**	3,558
Sand Coulee Creek	Bridge 288 on Federal Aid and Secondary Highway 458—50 feet*.	3,331
	Bridge 310 County Road—40 feet*.	3,337
Sand Coulee Creek (South Side of Railroad).	Bridge 311 Fields Road—90 feet*.	3,348
	Burlington Northern	
	3,358 Railroad—70 feet*	
Sand Coulee Creek	Road—100 feet*	3,368
	Federal and Secondary Highway 227—70 feet***.	3,387
	100 feet*	3,388
	Bridge 321A on County Road—50 feet*.	3,397
	Blaine Street (Tracy)—100 feet***.	3,427
	150 feet*	3,429
	Burlington Northern Railroad—50 feet*.	3,435
	Bridge 323A on Road to Brown—100 feet*.	3,440
	Sand Coulee Creek Road Culvert—100 feet*.	3,452
	Confluence with Cottonwood Creek**.	3,470
Sand Coulee Creek (North Side Railroad).	Bridge on Burlington Northern Railroad in Gibson Flats—150 feet***.	3,348
	50 feet*	3,350
	Reinforced Concrete Pipe under Gibson Flats and Road—50 feet*.	3,357
Sand Coulee Fork	Burlington Northern Railroad**.	3,425
	Blaine Street—30 feet*	3,428
	Sand Coulee Road**	3,448
	Bridge 326 between highway and Frontage Road—40 feet***.	3,492
	70 feet*	3,495
	Bridge 327 between highway and Frontage Road—100 feet***.	3,506
Cottonwood Creek	Bridge 527 on Frenchman Hill Road—100 feet***.	3,470
	100 feet*	3,472
	Bridge 332 on Federal Aid Secondary Highway 226—100 feet*.	3,522
	Bridge 333 on Griffin Coulee Road—100 feet***.	3,527
	130 feet*	3,531
	Federal Aid Secondary Highway 227 Culvert—20 feet*.	3,544
	Bridge 334A Culvert to Dewey Avenue—60 feet*.	3,579
	Reinforced Concrete Pipe under Cottonwood Coulee Road—60 feet*.	3,604
Tributary A	Unnamed Road—40 feet*	3,611
	Reinforced Concrete Pipe under Cottonwood Avenue—100 feet***.	3,634
	30 feet*	3,641
	Reinforced Concrete Pipe under Federal Aid-Secondary Highway 227—90 feet***.	3,666
	At centerline	3,674
Gibson Flats	Gibson Flats Road—80 feet*	3,351
	Divergence from Coulee Creek**.	3,358

*Upstream from centerline.
**At centerline.
***Downstream from centerline.

(National Flood Insurance Act of 1968 (Title XIII of Housing and Urban Development Act of 1968), effective January 28, 1969 (33 FR 17804, November 28, 1968), as amended; 42 U.S.C. 4001–4128; Executive Order 12127, 44 FR 19367; and delegation of authority to Federal Insurance Administrator, 44 FR 20963.)

Issued: April 18, 1979.

Gloria M. Jimenez,
Federal Insurance Administrator.

[Docket No. FI–5457]

[FR Doc. 79–14106 Filed 5–8–79; 8:45 am]

BILLING CODE 4210–23–M

[24 CFR Part 1917]

Proposed Flood Elevation Determinations for the City of Helena, Lewis and Clark County, Mont.; Under The National Flood Insurance Program

AGENCY: Office of Federal Insurance and Hazard Mitigation, FEMA.[1]

ACTION: Proposed rule.

SUMMARY: Technical information or comments are solicited on the proposed base (100-year) flood elevations listed below for selected locations in the City of Helena, Lewis and Clark County, Montana.

These base (100-year) flood elevations are the basis for the flood plain management measures that the community is required to either adopt or show evidence of being already in effect in order to qualify or remain qualified for participation in the national flood insurance program (NFIP).

DATES: The period for comment will be ninety (90) days following the second publication of this proposed rule in a newspaper of local circulation in the above-named community.

ADDRESS: Maps and other information showing the detailed outlines of the flood-prone areas and the proposed base (100-year) flood elevations are available for review at City Hall, First and Lewis and Clark Streets, Helena, Montana. Send comments to: Mr. C. R. Hanson, Director of Public Service, City of Helena, City Hall, First and Lewis and Clark Streets, Helena, Montana 59601.

FOR FURTHER INFORMATION CONTACT: Mr. Richard Krimm, National Flood Insurance Program, 202–755–5581 or Toll-Free Line (800) 424–8872, Room 5270, 451 Seventh Street SW., Washington, D.C. 20410.

SUPPLEMENTARY INFORMATION: The Federal Insurance Administrator gives notice of the proposed determinations of base (100-year) flood elevations for the City of Helena, Montana, in accordance with section 110 of the Flood Disaster Protection Act of 1973 (Pub. L. 93–234), 87 Stat. 980, which added section 1363 to the National Flood Insurance Act of 1968 (Title XIII of the Housing and Urban Development Act of 1968 (Pub. L. 90–448)), 42 U.S.C. 4001–4128, and 24 CFR 1917.4(a).

These elevations, together with the flood plain management measures required by § 1910.3 of the program regulations, are the minimum that are required. They should not be construed to mean the community must change any existing ordinances that are more stringent in their flood plain management requirements. The community may at any time enact stricter requirements on its own, or pursuant to policies established by other Federal, State, or regional entities. These proposed elevations will also be used to calculate the appropriate flood insurance premium rates for new buildings and their contents and for the second layer of insurance on existing buildings and their contents.

The proposed base (100-year) flood elevations for selected locations are:

Source of flooding	Location	Elevation in feet, national geodetic vertical datum
Last Chance Gulch	Burlington Northern Railroad—60 feet*.	3,941
	1st Driveway—25 feet**	4,170
	1st Driveway—35 feet*	4,175
	2nd Driveway—20 feet*	4,181
	3rd Driveway—25 feet*	4,185
Grizzly Gulch	West Main Street—60 feet**	4,215
	West Main Street—15 feet*.	4,220
	Corporate Limits>***	4,321
Orofino Gulch	Confluence with Last Chance Gulch—15 feet*.	4,209
	Corporate Limits***	4,304

*Upstream from centerline.
**Downstream from centerline.
***At centerline.

Source of flooding	Location	Depth, feet above ground
Last Chance Gulch	Intersection of Neill Avenue and Front Street.	1
	Intersection of 6th Avenue and Last Chance Gulch.	1

(National Flood Insurance Act of 1968 (Title XIII of Housing and Urban Development Act of 1968), effective January 28, 1969 (33 FR 17804, November 28, 1968), as amended (42 U.S.C. 4001–4128); and Executive Order 12127, 44 FR 19367; and delegation of authority to Federal Insurance Administrator, 44 FR 20963.)

Issued: April 24, 1979.

Gloria M. Jimenez,
Federal Insurance Administrator.

[Docket No. FI–5458]

[FR Doc. 79–14104 Filed 5–8–79; 8:45 am]

BILLING CODE 4210–23–M

[1] The functions of the Federal Insurance Administration, Department of Housing and Urban Development, were transferred to the newly established Federal Emergency Management Agency by Reorganization Plan No. 3 of 1978 (43 FR 41943, September 19, 1978) and Executive Order 12127 (44 FR 19367, April 1979).

[24 CFR Part 1917]

Proposed Flood Elevation Determinations for the City of Kalispell, Flathead County, Mont. Under the National Flood Insurance Program

AGENCY: Office of Federal Insurance and Hazard Mitigation, FEMA.[1]

ACTION: Proposed rule.

SUMMARY: Technical information or comments are solicited on the proposed base (100-year) flood elevations listed below for selected locations in the City of Kalispell, Flathead County, Montana.

These base (100-year) flood elevations are the basis for the flood plain management measures that the community is required to either adopt or show evidence of being already in effect in order to qualify or remain qualified for participation in the National Flood Insurance Program (NFIP).

DATES: The period for comment will be ninety (90) days following the second publication of this proposed rule in a newspaper of local circulation in the above-named community.

ADDRESSES: Maps and other information showing the detailed outlines of the flood-prone areas and the proposed base (100-year) flood elevations are available for review at City Hall, 336 2nd Avenue East, Kalispell, Montana. Send comments to: Honorable Norma E. Happ, Mayor, City of Kalispell, City Hall, 336 2nd Avenue, East, P.O. Box 1035, Kalispell, Montana 59901.

FOR FURTHER INFORMATION CONTACT: Mr. Richard Krimm, National Flood Insurance Program, (202) 755–5581 or Toll Free Line (800) 424–8872, Room 5270, 451 Seventh Street, SW., Washington, D.C. 20410.

SUPPLEMENTARY INFORMATION: The Federal Insurance Administrator gives notice of the proposed determinations of base (100-year) flood elevations for the City of Kalispell, Montana, in accordance with section 110 of the Flood Disaster Protection Act of 1973 (Pub. L. 93–234), 87 Stat. 980, which added section 1363 to the National Flood Insurance Act of 1968 (Title XIII of the Housing and Urban Development Act of 1968 (Pub. L. 90–448)), 42 U.S.C. 4001–4128, and 24 CFR 1917.4(a).

These elevations, together with the flood plain management measures required by § 1910.3 of the program regulations, are the minimum that are required. They should not be construed to mean the community must change any existing ordinances that are more stringent in their flood plain management requirements. The community may at any time enact stricter requirements on its own, or pursuant to policies established by other Federal, State, or regional entities. These proposed elevations will also be used to calculate the appropriate flood insurance premium rates for new buildings and their contents and for the second layer of insurance on existing buildings and their contents.

The proposed base (100-year) flood elevations for selected locations are:

Source of flooding	Location	Elevation, in feet, national geodetic vertical datum
Ashley Creek	Culvert at South Main Street-20 feet*.	2923
	Crook Avenue-20*	2930
West Spring Creek	Most downstream Corporate Limits**.	2963
	Most upstream Corporate Limits**.	2963
Stillwater River	Most downstream Corporate Limits**.	2937
	Most upstream Corporate Limits**.	2948
Flathead River	Limit of Flooding affecting the City of Kalispell**.	2903

* Upstream from centerline.
** At centerline.

(National Flood Insurance Act of 1968 (Title XIII of Housing and Urban Development Act of 1968), effective January 28, 1969 (33 FR 17804, November 28, 1968), as amended; 42 U.S.C. 4001–4128; Executive Order 12127, 44 FR 19367; and delegation of authority to Federal Insurance Administrator, 44 FR 20963.)

Issued: April 18, 1979.

Gloria M. Jimenez,
Federal Insurance Administrator.

[Docket No. FI–5459]

[FR Doc. 79–14105 Filed 5–8–79; 8:45 am]

BILLING CODE 4210–23–M

[24 CFR PART 1917]

Proposed Flood Elevation Determinations for the Village of Louisville, Cass County, Nebr., Under the National Flood Insurance Program

AGENCY: Office of Federal Insurance and Hazard Mitigation, FEMA[1]

ACTION: Proposed rule.

SUMMARY: Technical information or comments are solicited on the proposed base (100-year) flood elevations listed

[1] The functions of the Federal Insurance Administration, Department of Housing and Urban Development, were transferred to the newly established Federal Emergency Management Agency by Reorganization Plan No. 3 of 1978 (43 FR 41943, September 19, 1978) and Executive Order 12127 (44 FR 19367, April 3, 1979).

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below for selected locations in the Village of Louisville, Cass County, Nebraska.

These base (100-year) flood elevations are the basis for the flood plain management measures that the community is required to either adopt or show evidence of being already in effect in order to qualify or remain qualified for participation in the National Flood Insurance Program (NFIP).

DATES: The period for comment will be ninety (90) days following the second publication of this proposed rule in a newspaper of local circulation in the above-named community.

ADDRESSES: Maps and other information showing the detailed outlines of the flood-prone areas and the proposed base (100-year) flood elevations are available for review at the Village Hall, Louisville, Nebraska 68037. Send comments to: Mr. Dennis Reznicek, Chairman of the Board of Trustees, Village of Louisville, Village Hall, Louisville, Nebraska 68037.

FOR FURTHER INFORMATION CONTACT: Mr. Richard Krimm, National Flood Insurance program, Room 5270, 451 Seventh Street, SW., Washington, D.C. 20410, (202) 755–5581 or Toll Free Line (800) 424–8872.

SUPPLMENTARY INFORMATION: The Federal Insurance Administrator gives notice of the proposed determinations of base (100-year) flood elevations for the Village of Louisville, in accordance with section 110 of the Flood Disaster Protection Act of 1973 (Pub. L. 93–234), 87 Stat. 980, which added section 1363 to the National Flood Insurance Act of 1968 (Title XIII of the Housing and Urban Development Act of 1968 (Pub. L. 90–448), 42 U.S.C. 4001–4128, and 24 CFR Part 1917.4 (a)).

These elevations, together with the flood plain management measures required by § 1910.3 of the program regulations, are the minimum that are required. They should not be construed to mean the community must change any existing ordinances that are more stringent in their flood plain management requirements. The community may at any time enact stricter requirements on its own, or pursuant to policies established by other Federal, State or regional entities. These proposed elevations will also be used to calcluate the appropriate flood insurance premium rates for new buildings and their contents and for the second layer of insurance on existing buildings and their contents.

The proposed base (100-year) flood elevations for selected locations are:

Source of flooding	Location	Elevation in feet, national geodetic vertical datum
East Side Levee and Sanitary District Canal.	About 800 feet southwest of Lake Boulevard..	411
	About 340 feet southeast of the terminus of Pershing Boulevard.	411
Harding Ditch.....	About 400 feet northeast of Church Road.	410
	About 2000 feet northeast of Southern Railway.	410
	About 3900 feet north of Southern Railway crossing over Harding Ditch.	410
Shallow Flooding (Ponding from Rainfall).	Area northwest of intersection of 72nd Street and Dorris Street.	411
	Intersection Dolly Lane and Anne Street.	416
	200 feet northwest of intersection of Anne Street and Church Road.	416
	Intersection of Church Road and 58th Street.	413
	Intersection of 56th Street and Gay Avenue.	413
	Intersection of 54th Street and Church Road.	413
	Intersection of Gay Avenue and Mousette Lane.	413
	Intersection of Cotton Bolt Avenue and Freedom Street.	413
	Intersection of 1st Street and 46th Street.	413
	About 1000 feet northwest of intersection of State Route 157 and Pocket Road.	410
Ponding from Rainfall (deeper than 3 feet).	Area bounded by Lake Boulevard, 55th Street, 51st Street, and northern corporate limits.	411

(Nation Flood Insurance Act of 1968 (Title XIII of Housing and Urban Development Act of 1968), effective Janaury 28, 1969 (33 FR 17804, November 28, 1968), as amended; 42 U.S.C. 4001–4128; Executive Order 12127, 44 FR 19367 delegation of authority to Federal Insurance Administrator, 44 FR 20963.

Issued: April 24, 1979.

Gloria M. Jimenez,

Federal Insurance Administrator.

[FR Doc. 79–14106 Filed 5–8–79; 8:45 am]

BILLING CODE 4210–23–M

DEPARTMENT OF THE TREASURY

Internal Revenue Service

[26 CFR Part 1]

Elections Relating to the Puerto Rico and Possession Tax Credit; Proposed Rulemaking

AGENCY: Internal Revenue Service, Treasury.

ACTION: Notice of proposed rulemaking.

SUMMARY: This document contains proposed regulations prescribing rules for making and revoking elections relating to the Puerto Rico and possession tax credit which was enacted by the Tax Reform Act of 1976.

DATES: Written comments and requests for a public hearing must be delivered or mailed by July 9, 1979. The regulations are proposed to apply for taxable years beginning after December 31, 1975.

FOR FURTHER INFORMATION CONTACT: Daniel Horowitz of the Legislation and Regulations Division, Office of Chief Counsel, Internal Revenue Service, 1111 Constitution Avenue, N.W., Washington, D.C. 20224. Attention: CC:LR:T, 202–566–3287, not a toll-free call.

SUPPLEMENTARY INFORMATION:

Background

This document contains proposed amendments to the Income Tax Regulations (26 CFR Part 1) under section 936 of the Internal Revenue Code of 1954. These amendments are proposed to conform the regulations to section 1051(b) of the Tax Reform Act of 1976 (90 Stat. 1643) and are to be issued under the authority contained in sections 7805 and 936(e) of the Internal Revenue Code of 1954 (68A Stat. 917 and 90 Stat. 1644; 26 U.S.C. 7805 and 936(e)).

Explanation of Provisions

Section 1051(b) of the Tax Reform Act of 1976 added section 936 to the Code. A domestic corporation which elects the application of section 936 may qualify for the Puerto Rico and possessions tax credit. Section 936(e) provides that the election shall be made at such time and in such manner as the Secretary may by regulations prescribe. The election shall apply for the first taxable year for which it is made and for which the conditions of section 936(a)(1) (A) and (B), as in effect prior to the enactment of the Revenue Act of 1978, are satisfied. It shall continue to apply for at least the 9 immediately following taxable years unless the Secretary grants consent for earlier revocation. Temporary regulations § 7.0(c)(5) now provides that the election be made by filing Form 5712 within 90 days after the beginning of the first taxable year for which the election is made.

The proposed amendments to the Income Tax Regulations provide that a corporation shall make the election by filing Form 5712 on or before the later of the two following dates. The first date is the date on which such corporation is required to file its Federal income tax return for the first taxable year for which the election is made. The second date is the 60th day following the date on which these proposed amendments to the Income Tax Regulations are published in the **Federal Register** as a Treasury decision. In addition, any corporation to which an election applies

on the date on which these proposed amendments to the Income Tax Regulations are published in the **Federal Register** as a Treasury decision is granted the consent of the Secretary to revoke the election for the first taxable year to which the election applied.

The proposed amendments to the Income Tax Regulations do not meet the Treasury Department criteria for a significant regulation because they are essentially procedural.

Drafting Information

The principal author of this regulation is Daniel Horowitz of the Legislation and Regulations Division of the Office of Chief Counsel, Internal Revenue Service. However, personnel from other offices of the Internal Revenue Service and Treasury Department participated in developing the regulation, both on matters of substance and style.

Proposed Amendments to the Income Tax Regulations

The proposed amendments to 26 CFR Part 1 are as follows:

Paragraph 1. Section 7.0(c)(5) is deleted and § 7.0(c)(6) is redesignated as § 7.0(c)(5).

Par. 2. Section 1.936–1 is added to read as set forth below.

§ 1.936–1 Elections.

(a) *Making an election.* A domestic corporation shall make an election under section 936(e), for any taxable year beginning after December 31, 1975, by filing Form 5712 on or before the later of—

(1) The date on which such corporation is required, pursuant to sections 6072(b) and 6081, to file its Federal income tax return for the first taxable year for which the election is made; or

(2) The 60th day following the date on which these proposed amendments to the Income Tax Regulations are published in the **Federal Register** as a Treasury decision.

Form 5712 shall be filed with the Internal Revenue Service Center, 11601 Roosevelt Boulevard, Philadelphia, Pennsylvania 19155 (Philadelphia Center).

(b) *Revoking an election.* Any corporation to which an election under section 936(e) applies on the date on which these proposed amendments to the Income Tax Regulations are published in the **Federal Register** as a Treasury decision is hereby granted the consent of the Secretary to revoke that election for the first taxable year to which the election applied. (The corporation may make a new election under § 1.936–1(a) for any subsequent taxable year.) The corporation shall make this revocation by sending to the Philadelphia Center a written statement of revocation before the 61st day following the date on which these proposed amendments to the Income Tax Regulations are published in the **Federal Register** as a Treasury decision.

Jerome Kurtz,

Commissioner of Internal Revenue.

[LR–139–78]

[FR Doc. 79–14491 Filed 5–8–79; 8:45 am]

BILLING CODE 4830–01–M

[26 CFR Parts 1, 5b]

The Foreign Earned Income Exclusion and the Deduction for Excess Foreign Living Costs

AGENCY: Internal Revenue Service, Treasury.

ACTION: Proposed rulemaking; cross-reference to temporary regulations.

SUMMARY: This document contains proposed regulations relating to the foreign earned income exclusion, the deduction for excess foreign living costs, and certain other provisions. Changes to the applicable tax law were made by the Foreign Earned Income Act of 1978. The proposed regulations relating to the foreign earned income exclusion and the deduction for excess foreign living costs are identical to temporary income tax regulations published in the Rules and Regulations portion of this **Federal Register.**

DATES: The proposed regulations apply generally to taxable years beginning after December 31, 1977. Written comments must be delivered or mailed by July 30, 1979. A public hearing will be held on August 28, 1979. (See the Notice of Public Hearing in the Proposed Rules protions of this issue of the **Federal Register.**)

ADDRESS: Written comments should be submitted to Commissioner of Internal Revenue, Attention: CC:LR:T (LR–2–79), Washington, D.C. 20224.

FOR FURTHER INFORMATION CONTACT: Daivd K. Dolan of the Legislation and Regulations Division, Office of Chief Counsel, Internal Revenue Service, 1111 Constitution Avenue, NW., Washington, D.C. 20224. Attention: CC:LR:T; 202–556–3289 (not a toll-free call).

SUPPLEMENTARY INFORMATION:

Background

This document contains proposed amendments to the Income Tax Regulations (26 CFR Part 1) under section 911 of the Internal Revenue Code of 1954. The amendments are being proposed to conform the regulations under section 911 relating to the foreign earned income exclusion to section 202 of the Foreign Earned Income Act of 1978 (Pub. L. 95–615, 92 Stat. 3098). In addition, amendments to the Income Tax Regulations are being proposed to adopt regulations under new section 913 of the Code, enacted by section 203 of the Foreign Earned Income Act, which provides a deduction for excess foreign living costs. The proposed regulations under sections 911 and 913, effective generally for taxable years beginning after 1977, are identical to the temporary regulations under sections 911 and 913 published in the Rules and Regulations portion of this issue of the **Federal Register** (FR Doc. 79–14400, T.D. 7617), except that the proposed regulations would amend 26 CFR Part 1. For an explanation of those provisions, see the preamble to the temporary regulations.

This document also contains proposed technical amendments to the regulations under sections 953, 981, 1303, 6073, and 6081 of the Code. The proposed amendments to the regulations under sections 953, 981, and 1303 would merely conform cross-references to provisions formerly contained in the regulations under section 911 which have been relocated. Under the proposed regulations relating to sections 6073 and 6081, U.S. residents living or traveling outside the United States would be granted the same automatic 2-month extensions for filing declarations of estimated tax and for filing tax returns which are currently granted to U.S. citizens who are residing or traveling outside the United States.

Comments and Public Hearing

Before adoption of the regulations proposed by this document, consideration will be given to any written comments that are submitted (preferably six copies) to the Commissioner of Internal Revenue and to any testimony that is given at the public hearing to be held on the proposed regulations. All comments and outlines of hearing testimony will be available for public inspection and copying.

Drafting Information

The principal author of these proposed regulations is David K. Dolan of the Legislation and Regulations Divisions of the Office of Chief Counsel, Internal Revenue Service. However, personnel from other offices of the Internal Revenue Service and Treasury Department participated in developing

these regulations in matters of both substance and style.

Proposed amendments to the regulations

The proposed amendments to 26 CFR Part 1 are as follows:

§§ 5b.911–1 through 5b.911–7 [Redesignated]

Paragraph 1. Sections 5b.911–1 through 5b.911–7 (T.D. 7617) are redesignated as §§ 1.911–1 through 1.911–7, respectively, with all references to Part 5b of Title 26 changed to Part 1 of Title 26, and are inserted immediately after § 1.905–5.

§§ 5b.913–1 through 5b.913–13 [Redesignated]

Par. 2. Sections 5b.913–1 through 5b.913–13 (T.D. 7617) are redesignated as §§ 1.913–1 through 1.913–13, respectively, with all references to Part 5b of Title 26 changed to Part 1 of Title 26, and are inserted immediately after § 1.912–2.

Par 3. The sixth sentence of paragraph (d) of § 1.953–2 is amended to read as follows:

§ 1.953–2 Actual United States risks.

* * * * *

(d) *Lives or health of United States residents.* * * * In determining the country of residence of an insured, the principles of §§ 1.871–2 to 1.871–5 inclusive and of § 1.913–2 (b), relating to the determination of residence and nonresidence in the United States and of foreign residence, shall apply. * * *

* * * * *

Par. 4. Paragraph (a) (3) of § 1.981–1 is amended to read as follows:

§ 1.981–1 Foreign law community income for taxable years beginning after December 31, 1966.

(a) *Election for special treatment.* * * *

(3) *Determination of residence.* The principles of paragraphs (a) (2) and (b) (7) of § 1.911–1 (26 CFR § 1.911–1 (1978)) shall apply in order to determine for purposes of this paragraph whether a U.S. citizen is a *bona fide* resident of a foreign country or countries during the entire taxable year. The principles of §§ 1.871–2 through 1.871–5 shall apply in order to determine whether the alien spouse of a U.S. citizen is a nonresident during the entire taxable year.

* * * * *

Par. 5. The second sentence of paragraph (c)(4)(ii) of § 1.1303–1 is amended to read as follows:

§ 1.1303–1 Eligible individuals.

* * * * *

(c) *Individuals receiving support from others.* * *

(4) *Spouse supported by others.* * * *

(ii) * * * For the definition of the term "earned income," see section 911 (b) and § 1.911–2 (b).

* * * * *

Par. 6. Paragraph (c) of § 1.6073–4 is redesignated as paragraph (d), and a new paragraph (c) is inserted to read as follows:

§ 1.6073–4 Extension of time for filing declarations by individuals.

* * * * *

(c) *Residents outside the United States.* In the case of a U.S. resident living or traveling outside the United States and Puerto Rico on the 15th day of the 4th month of a taxable year beginning after December 31, 1978, an extension of time for filing the declaration of estimated tax otherwise due on or before the 15th day of the 4th month of the taxable year is granted to and including the 15th day of the 6th month of the taxable year.

(d) *Addition to tax applicable.* * * *

Par. 7. The caption of § 1.6081–2 is revised and paragraph (a)(6) is inserted before the flush language of paragraph (a) of such section. Section 1.6081–2 as so amended reads as follows:

§ 1.6081–2 Extensions of time in the case of certain partnerships, corporations, and U.S. citizens and residents.

(a) *In general.* * * *.

(6) U.S. residents living or traveling outside the United States and Puerto Rico, including persons in military or naval service on duty outside the United States and Puerto Rico but only with respect to taxable years beginning after December 31, 1977.

* * * * *

Jerome Kurtz,
Commissioner of Internal Revenue

[LR–2–79]
[FR Doc. 79–14401 Filed 5–4–79; 12:38 am]
BILLING CODE 4830–01–M

[26 CFR Parts 1, 31]

Income Tax; the Foreign Earned Income Exclusion and Deduction for Excess Foreign Living Costs; Employment Tax Withholding on Remuneration of Employees Entitled to the Deduction for Excess Foreign Living Costs; Public Hearing on Proposed Regulations

AGENCY: Internal Revenue Service, Treasury.

ACTION: Public hearing on proposed regulations.

SUMMARY: This document provides notice of a public hearing on proposed regulations relating to the foreign earned income exclusion and the deduction for excess foreign living costs and on proposed regulations relating to withholding on remuneration of employees entitled to the deduction for excess foreign living costs. The 1978 Qualified Cost-of-Living Differential Tables and the 1978 Qualified Hardship Areas List used to calculate the deduction for excess foreign living costs (IR–2089) are not subjects of this hearing and oral comments on these matters may not be presented.

DATES: The public hearing will be held on August 28, 1979, beginning at 10:00 a.m. Outlines of oral comments must be delivered or mailed by July 30, 1979.

ADDRESS: The public hearing will be held in the I.R.S. Auditorium, Seventh Floor, 7400 Corridor, Internal Revenue Building, 1111 Constitution Avenue, N.W., Washington, D.C. Outlines of comments on the proposed regulations relating to the foreign earned income exclusion and the deduction for excess foreign living costs should be submitted to the Commissioner of Internal Revenue, Attn: CC:LR:T (LR–2–79), Washington, D.C. 20224. Separate outlines of comments on the proposed regulations relating to withholding on remuneration of employees entitled to the deduction for excess foreign costs should be submitted to the Commissioner of Internal Revenue, Attn: CC:LR:T (LR–212–78), Washington, D.C. 20224

FOR FURTHER INFORMATION CONTACT: George Bradley or Charles Hayden of the Legislation and Regulations Division, Office of Chief Counsel, Internal Revenue Service, 1111 Constitution Avenue, N.W., Washington, D.C. 20224, 202–566–3935, not a toll-free call.

SUPPLEMENTARY INFORMATION: The public hearing is being held to receive oral comments on proposed regulations relating to the foreign earned income exclusion under section 911 of the Internal Revenue Code of 1954 and the deduction for excess foreign living costs under section 913 of the Code. These proposed regulations appear in the Proposed Rules portion of this issue of the **Federal Register**. The text of the proposed regulations under sections 911 and 913 is identical to temporary regulations published in the Rules and Regulations portion of this issue (FR Doc. 79–14400, T.D. 7617). Oral comments may also be presented on proposed regulations relating to withholding on remuneration of

employees entitled to the deduction for excess foreign living costs. These proposed regulations appeared in the **Federal Register** for Thursday, January 4, 1979 (44 FR 1110).

The purpose of this hearing is to allow the public to voice their opinions in reference to the above mentioned proposed regulations. It is *NOT* intended for speakers to present oral comments on the 1978 Qualified Cost-of-Living Differential Tables or the 1978 Qualified Hardship Areas List used to calculate the deduction provided in section 913. The methodology used in preparing the 1978 Qualified Cost-of-Living Differential Tables may be obtained from the Director, Statistics Division, Attn: PR:S:S, Internal Revenue Service, Washington, D.C. 20224. Written comments regarding those tables may be submitted to the Commissioner of Internal Revenue, Attn: PR:S:S, Washington, D.C. 20224.

The rules of § 601.601(a)(3) of the "Statement of Procedural Rules" (26 CFR Part 601) shall apply with respect to the public hearing. Persons who have submitted written comments within the time prescribed in the notice of proposed rulemaking and also desire to present oral comments at the hearing on the proposed regulations should submit an outline of the comments to be presented at the hearing and the time they wish to devote to each subject by July 30, 1979. Each speaker will be limited to 10 minutes for an oral presentation exclusive of time consumed by questions from the panel for the Government and answers to these questions.

Because of controlled access restrictions, attendees cannot be admitted beyond the lobby of the Internal Revenue Building until 9:45 a.m.

An agenda showing the scheduling of the speakers will be made after outlines are received from the speakers. Copies of the agenda will be available free of charge at the hearing.

This document does not meet the criteria for significant regulations set forth in paragraph 8 of the Treasury Directive appearing in the **Federal Register** for Wednesday, November 8, 1978.

By direction of the Commissioner of Internal Revenue:

Robert A. Bley,
Director, Legislation and Regulations Division.

[LR–2–79; LR–232–78]
[FR Doc. 79–14402 Filed 5–4–79; 12:38 am]
BILLING CODE 4830–01–M

[26 CFR Part 31]

Employment Taxes; Applicable on and After January 1, 1955; Advance Payments of Earned Income Credit

AGENCY: Internal Revenue Service, Treasury.

ACTION: Proposed rulemaking cross-reference to temporary regulations.

SUMMARY: In the Rules and Regulations portion of this **Federal Register**, the Internal Revenue is issuing temporary employment tax regulations relating to the advance payment by employers of the earned income credit and relating to earned income credit advance payment certificates as provided by section 3507 of the Internal Revenue Code of 1954. The temporary regulation also serves as a notice of proposed rulemaking for final employment tax regulations.

DATES: The temporary regulations are effective with respect to wages paid after June 30, 1979. The regulations are prescribed under a change to the applicable employment tax law which was made by the Revenue Act of 1978. The proposed regulations are to be effective for the same period. Written comments and requests for a public hearing must be delivered or mailed by July 9, 1979.

ADDRESS: Send comments and requests for a public hearing to: Commissioner of Internal Revenue, Attention: CC:LR:T (LR–188–78), Washington, D.C. 20224.

FOR FURTHER INFORMATION CONTACT: Eileen Murphy of the Legislation and Regulations Division, Office of the Chief Counsel, Internal Revenue Service, 1111 Constitution Avenue, N.W., Washington, D.C. 20224 (Attention: CC:LR:T) (202–566–3297).

SUPPLEMENTARY INFORMATION: The temporary regulation in the Rules and Regulations portion of this issue of the **Federal Register** adds a new 26 CFR Part 38. The final regulations which are proposed to be based on the temporary regulation would amend 26 CFR Part 31.

For the text of the temporary regulation, see FR Doc. 79–14493 (T.D. 7619) published in the Rules and Regulations portion of this issue of the **Federal Register.**

Jerome Kurtz,
Commissioner of Internal Revenue.

[FR Doc. 79–14402 Filed 5–4–79; 4:56 pm]
BILLING CODE 4830–01–M

ENVIRONMENTAL PROTECTION AGENCY

[40 CFR Part 52]

Availability of Implementation Plan Revisions for Nonattainment Areas in Alabama

AGENCY: Environmental Protection Agency, Region IV.

ACTION: Notice of availability.

SUMMARY: EPA announces today that the Alabama implementation plan revisions for the total suspended particulate and ozone nonattainment areas due for submittal by January 1, 1979, under the Clean Air Act Amendments of 1977 have been received and are available for public inspection.

DATES: The public is invited to submit written comments. A notice of proposed rulemaking describing the revisions will be published in the **Federal Register** later; the period for the submittal of written comments will extend for 30 days after the publication of the notice of proposed rulemaking.

ADDRESSES: The Alabama submittal may be examined during normal business hours at the following EPA offices:

Public Information Reference Unit, Library Systems Branch, Environmental Protection Agency, 401 M Street, S.W., Washington, D.C. 20460.

Library, Environmental Protection Agency, Region IV, 345 Courtland Street, N.E., Atlanta, Georgia 30308.

In addition, the Alabama revisions may be examined at the offices of the Alabama Division of Air Pollution Control, Air Pollution Control Commission, 645 South McDonough Street, Montgomery, Alabama, 36104.

Comments should be addressed to the EPA Region IV Air Programs Branch, 345 Courtland St., N.E., Atlanta, Georgia, 30308.

FOR FURTHER INFORMATION CONTACT: Raymond Gregory of EPA's Region IV Air Programs Branch. Mr. Gregory may be reached by telephone at 404/881–2864 (FTS 257–2864).

SUPPLEMENTARY INFORMATION: Section 172 of the Clean Air Act, as amended 1977, requires that States submit revisions in their implementation plans by January 1, 1979, to provide for the attainment of the national ambient air quality standards in areas designated nonattainment. On March 3, 1973, the Administrator designated a number of areas in Alabama as nonattainment for total suspended particulates and ozone (the revisions for the sulfur dioxide nonattainment areas will be submitted

at a later date) (43 FR 8982). This State has responded by preparing implemention plan revisions as required by the Clean Air Act. The purpose of this notice is to call the public's attention to the fact that these have been formally submitted and are available for public inspection. Also, the public is encouraged to submit written comments on them. A description of the revisions will be published in the **Federal Register** at a later date as part of a notice of proposed rulemaking.

(Sections 110 and 172 of the Clean Air Act (42 U.S.C. 7410 and 7502))

Dated: May 2, 1979.

John C. White,

Regional Administrator.

[FRL 1220-8]

[FR Doc. 79-14529 Filed 5-8-79; 8:45 am]

BILLING CODE 6560-01-M

[40 CFR Part 52]

Approval and Promulgation of Implementation Plans; Georgia: Proposed 1979 Plan Revisions

AGENCY: U.S. Environmental Protection Agency, Region IV.

ACTION: Proposed rule.

SUMMARY: EPA today proposes approval action on the State Implementation Plan (SIP) revisions which the Georgia Environmental Protection Division submitted pursuant to requirements of Part D of the Clean Air Act Amendments (CAAA) of 1977 with regard to nonattainment areas. The SIP contains regulations entitled "Amendments, Additions, Partial Repeals and Revisions of the Rules and Regulations of the Department of Natural Resources Relating to the Environmental Protection Division, Air Quality Control, Chapter 391-3-1." EPA has found all portions of the nonattainment revisions to be approvable except for certain portions of the transportation control plans which have not been submitted and which are needed to attain the air quality standards for carbon monoxide (CO) in Atlanta. With respect to the CO sections of the SIP, EPA intends to propose approval if the deficiencies noted are corrected. If these deficiencies are not corrected, EPA will disapprove this portion of the SIP.

The public is invited to submit written comments on these proposed actions.

DATES: To be considered, comments must be submitted on or before June 8, 1979. A thirty-day comment period is being used to enable publication of final action on the SIP revisions before the July 1, 1979, statutory deadline in section 172 of the CAAA. Availability of the SIP revision was first announced in the **Federal Register** on February 13, 1979. Therefore, the public has had greater than 60 days to study the proposal. Additionally, the issues contained in the SIP are straightforward and do not warrant a longer comment period.

ADDRESSES: Written comments should be addressed to Harriet Smith of EPA Region IV's Air Programs Branch (See EPA Region IV address below). Copies of the materials submitted by Georgia may be examined during normal business hours at the following locations:

Public Information Reference Unit, Library Systems Branch, Environmental Protection Agency, 401 M Street, S.W., Washington, D.C. 20460.

Library, Environmental Protection Agency, Region IV, 345 Courtland Street, N.E., Atlanta, Georgia 30308.

Air Protection Branch, Environmental Protection Division, Georgia Department of Natural Resources, 270 Washington Street, S.W., Atlanta, Georgia 30334.

FOR FURTHER INFORMATION CONTACT: Harriet Smith of EPA Region IV's Air Programs Branch, 345 Courtland Street, N.E., Atlanta, Georgia 30308. Telephone 404/881-3286 (FTS-257-3286).

SUPPLEMENTAL INFORMATION:

Background

In the March 3, 1978, **Federal Register** (43 CFR 8962 at 8981) a number of areas within the State of Georgia were designated as not attaining certain national ambient air quality standards. The areas designated nonattainment for the primary and secondary standards for total suspended particulate matter (TSP) are:

A. That portion of Fulton County within the northwest section of Atlanta (primary standard).

B. That portion of Chatham County within the north central section of Savannah (primary standard).

C. That portion of the northern part of Walker County which includes Rossville (primary standard).

D. That portion of Washington County within the southern section of Sandersville (secondary standard).

The area designated nonattainment for carbon monoxide (CO) is:

Atlanta Area—those portions of Clayton, DeKalb, and Fulton Counties within perimeter highway I-285.

The areas designated nonattainment for photochemical oxidants (ozone) are:

A. Atlanta area—Clayton, Cobb, Coweta, DeKalb, Douglas, Fayette, Fulton, Gwinnett, Henry, Paulding and Rockdale Counties.

B. Muscogee County (Columbus).

Implementation plan revisions under Part D of the CAAA were developed by the State for all the foregoing areas except Sandersville. These revisions were submitted for EPA's approval on January 17, 1979; additional information requested by EPA was submitted on March 9, 16, and 20, 1979. In the materials submitted, the State asserted that no violations of the secondary particulate standard have occurred in Sandersville since June 1977, and requested that the area be redesignated attainment. This request will be dealt with in a separate **Federal Register** notice.

Receipt of the Georgia revisions was first announced in the **Federal Register** of February 13, 1979 (44 Fr 9424). The Georgia revisions have been reviewed by EPA in light of the CAAA of 1977, EPA regulations, and additional guidance materials. The criteria utilized in this review were detailed in the **Federal Register** on April 4, 1979 (44 FR 20372) and need not be repeated in detail here.

General Discussion

Section 172(b) of the CAAA of 1977 contains the requirements for nonattainment State Implementation Plans. The following is a listing of these requirements accompanied by a discussion of the contents and adequacies of the Georgia submittals.

(1) SIP provisions shall be adopted by the State (or promulgated by the Administrator under section 110(c)) after reasonable notice and public hearing;

A public hearing was held in Atlanta, Georgia, on December 20, 1978, following 30 days public notice. These SIP provisions were adopted by the State on February 23, 1979.

(2) SIP provisions shall provide for the implementation of all reasonably available control measures as expeditiously as practicable;

For discussion of reasonably available control measures including Reasonable Available Control Technology (RACT) see number 3.

(3) SIP provisions shall require, in the interim, reasonable further progress (as defined in section 171 (1)) including such reduction in emissions from existing sources in the area as may be obtained through the adoption, at a minimum, of reasonably available control technology;

Reasonable further progress (RFP) graphs and calculations accompany each explanation of progress toward attainment for each nonattainment area. The SIP calls for meeting national ambient air quality standards in all areas by the end of 1982 except for carbon monoxide in Atlanta. The State has requested an extension to the end of 1987 for meeting the carbon monoxide standard. Each area is discussed below.

Savannah (TSP)—The State maintains that RACT has been applied to all industrial/stationary sources. EPA is reviewing sources in the area before making a final determination that RACT is in place where needed. The State intends to conduct a fugitive road dust study and then implement the resultant necessary measures to reduce dust in the nonattainment area. If EPA confirms that RACT has been applied where necessary, the road dust study is approvable as a feasible approach to achieving reasonable further progress. The nonattainment area in Savannah is located around two monitoring sites. The State has requested that EPA designate the area around one of the monitors as attainment. This will be dealt with in a separate **Federal Register** notice.

Atlanta (TSP)—The State maintains that RACT has been applied to all industrial/stationary sources. EPA is reviewing sources in the area before making a final determination that RACT is in place where needed. The State intends to conduct a fugitive road dust study and then implement the necessary measures to reduce dust in the nonattainment area. If EPA confirms that RACT has been applied where necessary, the road dust study is approvable as a feasible approach to achieving reasonable further progress.

Following completion of the fugutive dust study in Atlanta and Savannah, the State will submit a SIP revision to EPA which will include adopted tactics, commitments to implement them, and amendments to the control strategy.

Sandersville (TSP)—There has been no TPS air quality violation in Sandersville since June 1977. The State has requested that EPA redesignate the area as attainment. It is not the policy of EPA to designate an area as attainment without at least two years of data with no violations. For the purpose of new source review the area is to be treated as attainment since present data indicates that it is. EPA will propose to redesignate this area as unclassifiable in a separate **Federal Register** notice.

Rossville (TSP)—According to information in the State submittal, violations of the standard result from fugitive dust from a quarrying site and dust emissions from stockpiles and in-plant roads. The State proposes control of these emissions along with better maintenance and application of existing control devices on the quarrying operation and an asphalt plant.

Columbus (Ozone)—The State has calculated that a 13% reduction in hydrocarbon emissions is needed to meet the ozone standard. Reductions will be obtained through the Federal Motor Vehicle Control Program and statewide regulations for volatile organic compounds (VOC) emitted by large sources—those with potential emissions equal to or in excess of 100 tons per year. The State projects that a 19% reduction will occur by 1982. Therefore, the area should become attainment by early 1981.

Atlanta (Ozone)—The State has calculated that a 23% reduction in hydrocarbon emissions is needed to meet the ozone standard. Reductions are to be obtained through the Federal Motor Vehicle Control Program statewide and VOC regulations for sources with potential emissions of 100 tons per year or greater. The State projects that a 31% reduction will occur by 1982. Therefore, the area should become attainment by late 1981. EPA concurs with the emission reduction figures calculated by the State.

Atlanta (CO)—The State has calculated, and EPA concurs, that a 47% reduction in CO is necessary to achieve the 10 mg/m³ 8-hour ambient standard. Since 98% of the CO emissions are attributed to motor vehicles, all emission reduction measures are directed toward this source category through use of the Federal Motor Vehicle Control Program. The State is unable to meet the CO ambient standard by the end of 1982. Therefore, an extension has been requested to 1987 and the State must implement a mandatory inspection and maintenance program for motor vehicles, transportation control measures, and a new source review program consistent with the requirements of item 11(A).

The Georgia Legislature has passed the necessary statutes for a mandatory Inspection and Maintenance Program. The bill was signed into law April 16, 1979.

The I/M Program is a privat garage system in which mandatory inspection will begin April 1, 1981 with mandatory repair to begin April 1, 1982. The program will be integrated with the current safety inspection program under the Commissioner of Public Safety at an additional cost of $3.00 per vehicle. Technical assistance in air quality areas are under the powers and duties of the Board of Natural Resources.

EPA's review of the Atlanta transportation control plan has revealed a number of deficiencies. These deficiencies include:

(A) A memorandum of agreement between the State and the metropolitan planning organization, which delineates responsibilities under the transportation control program, is not included in the SIP.

(B) The current 1979 TIP/AE must be reviewed for projects that have a positive air quality impact. Measures that are found to have been benefits and are feasible must be submitted with implementation dates. The implementation dates should correspond to the dates shown in the TIP/AE. Those measures selected from the 1979 TIP/AE for incorporating into the State Implementation Plan must also include a commitment to the implementation and enforcement of such measures by the responsible agencies.

(C) Section 108(f) requires EPA to publish and make available information documents on transportation control measures that are reasonably available for implementation in order to reduce emissions from transportation sources. EPA considers all Section 108(f) measures to be reasonably available. However, if through analysis some measures are found to be infeasible, EPA will allow these measures to be withdrawn. The submittal does not contain the schedule for analysis of packages of 108(f) measures with a commitment to implement expeditiously the measures that are found feasible for implementation.

(D) The submittal does not identify the financial and manpower allocations to accomplish the tasks required under Section 108(e) of the CAAA and other transportation system management elements and air quality related projects which are or will be incorporated into the Unified Planning Work Program (UPWP) and the Transportation Improvement Program/Annual Element (TIP/AE). The UPWP must also be modified to include provisions for progress reporting as required by the "Transportation/Air Quality Guidelines", issued pursuant to Section 108(e) of the CAAA. The SIP must contain only those measures from the modified UPWP and TIP/AE that are related to transportation air quality planning under Section 108(e) of the CAAA.

(E) The CAAA of 1977, Section 110(a)(3)(D), requires that a SIP which provides for attainment later than December 31, 1982, pursuant to Section 172(a)(2), shall be revised to include comprehensive measures and requirements referred to in subsection 110(c)(5)(B). The measures should: "establish, expand, or improve public transportation measures to meet basic transportation needs as expeditiously as practicable; and implement transportation control measures to attain and maintain national ambient air quality standards." EPA will accept a commitment to comply with this requirement. A commitment is included in the Georgia SIP in a letter dated December 20, 1978, from the Atlanta Regional Commission to the State Department of Natural Resources. EPA is soliciting comments on the approvability of Georgia's SIP with regard to this commitment.

The State has indicated that deficiencies will be corrected in later submittals. The transportation control

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plan is not approvable without these additions.

(4) SIP provisions shall include a comprehensive, accurate, current inventory of actual emissions from all sources (as provided by rule of the Administrator) of each such pollutant for each such area which is revised and resubmitted as frequently as may be necessary to assure that the requirements of paragraph (3) are met and to assess the need for additional reductions to assure attainment of each standard by the date required under subsection (a);

Appropriate emissions inventories for TSP, ozone (the inventory is for hydrocarbons which react with sunlight to form ozone), and CO have been submitted. Future reporting requirements for updating inventories are included.

(5) SIP provisions shall expressly identify and quantify the emissions, if any, of any such pollutant which will be allowed to result from the construction and operation of major new or modified stationary sources for each such area;

There is no identification and quantification of emissions from major new or modified sources. Therefore, offsets under Section 173 of the CAAA will be required for these new sources. The State expects to be able to satisfy the offset requirement through emissions reductions in excess of the reductions needed to provide for Reasonable Further Progress. The mechanism for tracking these reductions as they occur is provided in the Georgia Permit Regulation (Georgia Rule 391–3–1–.03).

(6) SIP provisions shall require permits for the construction and operation of new or modified stationary sources in accordance with Section 173 (relating to permit requirements);

The State requires permits for the construction and operation of new or modified major stationary sources in accordance with Section 173 (Georgia Rule 391–3–1–.03[8][c][5]).

(7) SIP provisions shall identify and commit the financial and manpower resources necessary to carry out the plan provisions required by this subsection;

With the exception of the CO plan cited above, the State has identified and committed adequate financial and manpower resources necessary to carry out the provisions of this SIP revision. The State is committed to an FY–79 budget of $2,039,972 and 80 workyears.

(8) SIP provisions shall contain emission limitations, schedules of compliance and other such measures as may be necessary to meet the requirements of this section;

This revision package does not contain emission limitations or schedules of compliance for TSP sources because the State maintains that all such sources are in compliance with the requirement that RACT be applied. A vigorous enforcement program for fugitive emissions has been identified as a strategy for Rossville (see number 3).

With respect to Volatile Organic Compound (VOC) regulations, the State has adopted statewide regulations pertaining to those emission limitations and process and equipment specifications necessary to meet the requirement that RACT be applied to these sources. Categorical compliance schedules are included. These regulations are for sources in nine categories which equal or exceed 100 tons of emissions per year.

Categories of sources controlled by presently adopted regulations include: (1) surface coating including (a) auto and light duty truck manufacturing, (b) can coating, (c) coil coating, (d) paper coating, (e) fabric and vinyl coating; (2) metal furniture coating; (3) large appliance surface coating; (4) wire coating; (5) petroleum liquid storage; (6) bulk gasoline terminals; (7) cutback asphalt; (8) petroleum refinery; and (9) solvent metal cleaning (Georgia Rule 391–3–1–.02[2][t] through [ff]).

In addition the State is committed to adopt VOC regulations for additional RACT categories annually as they are developed by EPA.

The Inspection and Maintenance legislation, as signed by Governor Busbee on April 16, 1979 establishes legal authority for a mandatory program in counties with a vehicle registration of 200,000 or greater. In the Metro Atlanta area, these are DeKalb, Cobb, and Fulton counties. The duties and powers of the Commissioner of Public Safety and the Board of Natural Resources with respect to the I/M legislation are outlined in Section 10, page 20 and Section 8, page 14 respectively, of the bill. The program is to begin on April 1, 1981 (Ref. Section 7, page 10 of the bill) with mandatory repair of failed vehicles to begin April 1, 1982 (Ref. Section 9, page 18 of the bill).

A schedule outlining other milestones for the program and a commitment by the responsible agencies to implement the I/M program according to the schedule is to be submitted to EPA, Region IV, in the near future. These milestones include measures such as establishing standards, cutpoints, and notification of garages. With respect to the implementation of an Inspection and Maintenance program, the SIP commits to attainment of the CO standard by December 31, 1987. This commitment appears to assure implementation of a program which will achieve EPA's required 25% reduction in light duty vehicle CO emissions by December 31, 1987. The review of the material submitted relative to the above satisfies the requirements of the CAAA. (See Item 11)

(9) SIP provisions shall contain evidence of public, local government, and State legislative involvement and consultation in accordance with Section 174 (relating to planning procedures) and include (A) an identification and analysis of the air quality, health, welfare, economic, energy, and social effects of the plan provisions required by this subsection and of the alternatives considered by the State, and (B) a summary of the public comment on such analysis;

Consultation with the public, local governments and State legislative involvement is evidenced by a listing of correspondence in the SIP. The State's analysis of the air quality, health, and welfare effects determine that the impact of the SIP will be beneficial. The portion of the analysis that addressed the economic, energy, and social effects has been completed through an EPA contract. The State has received no public comments on any of the above aspects of the analysis.

(10) SIP provisions shall include written evidence that the State, the general purpose local government or governments, or a regional agency designated by general purpose local governments for such purpose, have adopted by statute, regulation, ordinance, or other legally enforceable documents, the necessary requirements and schedules and timetables for compliance, and are committed to implement and enforce the appropriate elements of the plan:

In the State of Georgia the Environmental Protection Division of the Department of Natural Resources has full statutory authority for enforcing the SIP revisions. The Board of Natural Resources adopted on February 23, 1979, the necessary regulatory portion of the SIP. Timetables for compliance are addressed in number 8. There are portions of the transportation plan which will be carried out by the Georgia Department of Transportation under full statutory authority. The bill will be submitted as part of the SIP.

(11) SIP provisions shall, in the case of plans which make a demonstration pursuant to paragraph (2) of subsection (a).

(A) establish a program which requires, prior to issuance of any permit for construction or modification of a major emitting facility, an analysis of alternative sites, sizes, production processes, and environmental control techniques for such proposed source which demonstrates that benefits of the proposed source significantly outweigh the environmental and social costs imposed as a result of its location, construction, or modification;

(B) establish a specific schedule for implementation of a vehicle emission control inspection and maintenance program; and

(C) identify other measures necessary to provide for attainment of the applicable national ambient air quality standard not later than December 31, 1987.

Paragraph 11 of subsection 172 (b) applies only to the Atlanta nonattainment area for carbon monoxide.

The alternatives analysis for new sources required by subparagraph (A) above has been submitted in the SIP as a revision to the State's permitting regulation (Georgia Rule 391–3–1–.03 (8)(c)(4)).

The schedule for the implementation of inspection and maintenance (I/M) program included in the SIP has been determined to be inadequate. The State will have to modify the SIP schedule to reflect the final implementation dates and to include specific interim compliance dates for this aspect of the SIP to be approvable.

As noted above the State has indicated that it will submit additional control measures to attain the CO standard by 1987. (See Number 3)

In addition to the implementation plan for the nonattainment areas under Part D of the CAAA the SIP revisions contain changes applicable to other portions of the CAAA, including changes to the Georgia ambient air quality standards, regulations concerning prevention of significant deterioration, other emission standards, source monitoring, permits and permit fees, exceptions, exemptions, and enforcement. These topics will be dealt with in a separate **Federal Register.**

Proposed Action

Based on the foregoing, EPA is proposing to approve fully the SIP under Part D of the CAAA, as it relates to the attainment of ozone standards in Atlanta and Columbus. It is the agency's intent to propose approval of the CO plan for Atlanta if the State corrects the deficiencies noted. EPA is also proposing to approve the TSP plans for Savannah, Atlanta, and Rossville.

(Section 110 and 172 of the Clean Air Act (42 U.S.C. 7410 and 7502))

Dated: April 27, 1979.

John A. Little,

Acting Regional Administrator.

[FRL 1220–2]

[FR Doc. 79–14528 Filed 5–8–79; 8:45 am]

BILLING CODE 6560–01–M

[40 CFR Part 52]

Approval and Promulgation of State Implementation Plans; Montana

AGENCY: Environmental Protection Agency (EPA).

ACTION: Proposed rule.

SUMMARY: This action proposes to approve revisions to the Montana State Implementation Plan (SIP) submitted by the Governor of Montana on January 26, 1978. These revisions included a stipulation between the Montana Department of Health and Environmental Sciences (DHES) and the Farmers Union Central Exchange (CENEX), relating to reductions in ambient concentrations of sulfur dioxide in the vicinity of the CENEX refinery. Approval has been withheld pending an EPA analysis of the sulfur dioxide control measures proposed by CENEX in the stipulation. This analysis has been completed and it indicates that the National Ambient Air Quality Standards for sulfur dioxide will be met in the existing non-attainment area, if the control measures proposed by CENEX are implemented.

DATES: Comments must be received on or before June 8, 1979.

ADDRESSES: The proposed Montana revisions are available for public inspections at the offices of the Montana Department of Health and Environmental Sciences, Bureau of Air Quality, Cogswell Building, Helena, Montana, 59601. Copies of the proposed revisions are available at the Environmental Protection Agency offices listed below: Environmental Protection Agency, Federal Office Building, Drawer 10096, 301 South Park, Helena, Montana 59601. Environmental Protection Agency, Public Information Reference Unit, Room 2922 (EPA Library), 401 M Street, S.W., Washington, D.C. 20460.

Interested persons are encouraged to submit written comments on the proposed revisions. Comments should be addressed to the Environmental Protection Agency, Montana Office, Federal Office Building, Drawer 10096, 301 South Park, Helena, Montana 59601. All comments will be available for public inspection during business hours at the Montana Office.

FOR FURTHER INFORMATION CONTACT:

Ivan W. Dodson, Director, EPA Montana Office, Federal Office Building, Drawer 10096, 301 South Park, Helena, Montana 59601.

SUPPLEMENTARY INFORMATION: The stipulation between DHES and CENEX requires CENEX to install the following facilities:

Project	Scheduled completion date	Status
FCC heat exchange	Dec. 1978	Complete.
Asphalt loading heater	Aug. 1978	Complete.
Continuous O_2 analyzers.	May 1978	Complete.
Insulation of asphalt tanks.	Dec. 1978	Complete.
FCC gas compressor electrification.	Dec. 1980	To be completed approximately May 1979.
Crude main air preheat system.	Dec. 1979	To be completed approximately May 1979.
Spare sulfur reactor system and stack.	Dec. 1979	Complete.

In addition CENEX agreed to raise the existing sulfur plant reaction system stack from its existing height of approximately 100 feet to a new height of 199 feet, said stack to service both the existing sulfur plant and the new sulfur plant. CENEX further agreed to eliminate the two 50 foot high stacks on part of the crude main heater preheat system and install a single stack of 199 feet in their stead.

The DHES stipulation raises a question as to the compatibility of the emission limitations for the CENEX plant facilities with Section 123 of the Clean Air Act Amendments. The statute places a limit on the creditable stack height that can be used in control strategy demonstrations. EPA's analysis on which the approvability of this revision is based, relies upon the existing facility stack heights which are less than good engineering practice (GEP) as defined by Section 123. Thus the evaluation is conservative in that the emission limitations for the CENEX facilities are at least as stringent as would be required if determined by modeling of the facilities with GEP stack heights.

Other companies named in the stipulation are as follows:

Exxon Company U.S.A., a division of Exxon Corporation: the Continental Oil Company, Billings Refinery; The Montana Power Company, Billings, Montana; the Great Western Sugar Company, Billings, Montana; and the Montana Sulphur and Chemical Company, Billings, Montana. These companies have agreed to undertake certain activities which are much less extensive, but which will complement the action taken by CENEX.

The requirements for public hearings and plan revisions (40 CFR 51.4 and 51.6) have been met by the proposed revision.

The changes in control strategies are consistent with EPA requirements as defined in 40 CFR 50.13.

The Administrator hereby issues this notice setting forth as proposed rulemaking, pursuant to Section 110 of the Clean Air Act and 40 CFR Part 51, the Montana revisions submitted on July 17, 1978.

(Section 110 of the Clean Air Act as amended (42 U.S.C. 7410); Section 301 as amended (42 U.S.C. 7601).)

Dated: March 14, 1979.

Alan Merson,
Regional Administrator.

[FRL 1220-1]
[FR Doc. 79-14525 Filed 5-8-79; 8:45 am]
BILLING CODE 6560-01-M

[40 CFR Part 52]

Commonwealth of Pennsylvania; State Implementation Plan

AGENCY: Environmental Protection Agency.

ACTION: Proposed rule.

SUMMARY: The Commonwealth of Pennsylvania has submitted a proposed revision of its State Implementation Plan (SIP) consisting of changes to the Air Resources Regulations of the Pennsylvania Department of Environmental Resources (DER). The changes primarily involve a relaxation of some sulfur dioxide (SO_2) emission limitations for certain air basins. The proposed revision affects Chapter 121 (relating to general provisions), Chapter 123 (relating to standards for contaminants), and Chapter 139 (relating to sampling and testing) of DER's rules and regulations. Although the proposed regulation changes would affect sources of SO_2 throughout the Commonwealth, EPA is now proposing only the application of the new regulations to sources located in Erie County. A demonstration submitted by DER shows that the relaxations will not violate either the National Ambient Air Quality Standards (NAAQS) or the Prevention of Significant Deterioration (PSD) increments for SO_2.

DATE: Comments must be submitted on or before June 8, 1979.

ADDRESSES: Copies of the proposed SIP revision and the accompanying support documents are available for inspection during normal business hours at the following offices:

U.S. Environmental Protection Agency, Air Programs Branch, Curtis Building, 6th & Walnut Sts., Philadelphia, PA 19106. ATTN: Mark E. Garrison.

Pennsylvania Department of Environmental Resources, Bureau of Air Quality & Noise Control, 200 North 3rd Street, Harrisburg, PA 17120. ATTN: Mr. James K. Hambright.

Public Information Reference Unit, Room 2922—EPA Library, U.S. Environmental Protection Agency, 401 M Street, S.W., Washington, D.C. 20460.

All comments on the proposed revision submitted on or before June 8, 1979 will be considered and should be directed to:

Mr. Howard Heim, Chief, Air Programs Branch (3AH10), Air & Hazardous Materials Division, U.S. Environmental Protection Agency, Region III, 6th & Walnut Streets, Philadelphia, Pennsylvania 19106. ATTN: AH018PA.

FOR FURTHER INFORMATION CONTACT: Mr. Mark E. Garrison (3AH13) Air Programs Branch, U.S. Environmental Protection Agency, Curtis Building, Tenth Floor, Sixth & Walnut Streets, Philadelphia, Pennsylvania 19106; phone 215/597-2745.

SUPPLEMENTARY INFORMATION: On April 24, 1979, Governor Dick Thornburgh of the Commonwealth of Pennsylvania submitted proposed amendments to DER's air pollution regulations. In his letter, the governor certified that the amended regulations meet the public hearing and notice requirements of 40 CFR Part 51.4 and meet all relevant State procedural requirements. EPA was also asked to consider the amended regulations as a revision of the Pennsylvania SIP. EPA is today proposing the regulations only as they apply in the Erie air basin. Geographically, this air basin is the same as Erie County; therefore, references hereinafter to Erie County also refer to the Erie air basin. Proposed rulemaking on the regulations as applied to the rest of the Commonwealth will be published in the near future.

The Erie air basin is currently classified as attaining the NAAQS for SO_2. Because of this designation, a SIP revision is not required to be submitted to EPA under Section 172 of the Clean Air Act (42 U.S.C. § 7672). The following is a summary of the key provisions of the new regulations that affect Erie County:

General provision—The SO_2 emission limit for combustion units changes from a sliding scale of 1.8 to 3.0 lbs SO_2 per million Btu (MMbtu) heat input for units whose sizes range downward from 2,000 MMbtu to 50 MMbtu heat input per hour, to 4 lbs SO_2 per MMbtu heat input for all size units. Operators of large, solid fossil fuel-fired units may petition DER for application of an optional SO_2 emission limitation depending on averaging time, as follows:

30-day running average: 3.7 lb/MMbtu.

Daily average, not to be exceeded more than twice in any 30-day period: 4.0 lb/MMbtu.

Daily average, not to be exceeded at any time: 4.8 lb/MMbtu.

(2) Commercial fuels—A requirement is added to limit the sulfur content of commercial fuel to 2.8% (Grade Nos. 4, 5, and 6 fuel oil) and .3% (Grade No. 2 fuel oil). An equivalency provision allows the burning of higher sulfur fuel oil if equipment or processes are used to remove SO_2 to an extent such that the emission rate would not exceed the rate that would result from burning fuel oil that complies with the sulfur-in-fuel limitations.

(3) Monitoring requirements; test methods and procedures—All sources who petition DER for application of the emission averaging provisions must install continuous in-stack monitoring devices for SO_2 which meet the requirements set forth in the amended regulations. These requirements are contained in Section 123.25 and in Subchapter C of Chapter 139. In addition to these monitoring requirements, the proposed amendments make several changes to the testing procedures in Chapter 139. The changes consist primarily of clarifications in language and in the addition of requirements for sampling and testing sulfur-in-fuel.

Since the proposed revision relaxes an existing SIP in an attainment area for SO_2, DER submitted an air quality demonstration to show first, that the NAAQS for SO_2 will not be violated and second, that the applicable PSD increments for SO_2 will not be exceeded. The demonstration included diffusion modeling performed for DER by a consultant. The model used to assess the impact of the proposed revision on annual average SO_2 concentrations in Erie was EPA's Air Quality Display Model (AQDM). Short-term (3-hour and 24-hour) impacts were assessed using Larsen's statistical technique and APMAX, a Gaussian diffusion model developed ty the consultant. The results of the diffusion modeling were evaluated by DER. For the Erie air basin, DER stated that the modeling study underpredicted the expected values. Consequently, DER has estimated that the actual impact of the proposed revision on ambient air quality will be greater than the modeling prediction and that by 1985, SO_2 concentrations in Erie County will be 80% of the NAAQS, and that a maximum of 11% of the applicable PSD increments will be consumed.

Based on the foregoing, it is the tentative decision of the Administrator to approve the proposed revision of the Pennsylvania State Implementation Plan for Erie County.

The public is invited to submit to the address stated above, comments on whether the proposed changes to the regulations should be approved as a revision of the Pennsylvania State Implementation Plan.

The Administrator's decision to approve or disapprove the proposed revision will be based on the comments received and on a determination whether the amendments meet the requirements of Section 110(a)(2) of the Clean Air Act and 40 CFR Part 51, Requirements for Preparation, Adoption, and Submittal of State Implementation Plans.

Under Executive Order 12044, EPA is required to judge whether a regulation is "significant" and therefore subject to the procedural requirements of the Order or whether it may follow other specialized development procedures. EPA labels these other regulations "specialized." I have reviewed this regulation and determined that it is a specialized regulation not subject to the procedureal requirements of Executive Order 12044.

(42 U.S.C. 7401)

Dated: May 2, 1979.

Jack J. Schramm,
Regional Administrator.

[FRL 1220-6]
[FR Doc. 79-14513 Filed 5-8-79; 8:45 am]
BILLING CODE 6560-01-M

[40 CFR Part 62]

Approval and Promulgation of State Plans for Designated Facilities and Pollutants; Negative Declarations

AGENCY: Environmental Protection Agency (EPA).

ACTION: Proposed rulemaking.

SUMMARY: Section 111(d) of the Clean Air Act requires States to submit to EPA plans to control emissions for designated facilities and pollutants. Section 62.06 of Part 62 provides for submission of a "negative declaration" from states certifying that no such facilities exist within its boundaries. The purpose of this notice is to propose approval of negative declarations of fluoride emissions from phosphate fertilizer plants received from the States of Connecticut, Maine, Massachusetts, New Hampshire, Rhode Island, and Vermont, and negative declarations for sulfuric acid mist emissions from sulfuric acid production units for the states of Connecticut, New Hampshire, Rhode Island, and Vermont.

DATES: Comments must be received on or before June 8, 1979.

ADDRESSES: Comments should be submitted to William R. Adams, Jr., Regional Administrator, Region I, Environmental Protection Agency, J.F.K. Federal Bldg., Boston, Massachusetts 02203.

Copies of the letters received are available for public inspection at the following locations:

EPA, Region 1, Air Branch, Room 1903, J.F.K. Federal Building, Boston, Massachusetts 02203.

EPA, Public Information, Reference Unit, 401 M Street, S.W., Washington, DC 20460.

Air Compliance Unit, Department of Environmental Protection, State Office Building, 165 Capitol Avenue, Hartofrd, Connecticut 06115.

Air Pollution Control Agency, Division of Public Health Services, Health and Welfare Building, Hazen Drive, Concord, New Hampshire 03301.

Division of Air Resources, Department of Environmental Management, Cannon Building, Room 204, 75 Davis Street, Providence, Rhode Island 02908.

Division of Air and Hazardous Materials, Department of Environmental Quality Engineering, 600 Washington Street, Boston, Massachusetts 02111.

Bureau of Air Quality Control, Department of Environmental Protection, State House, Augusta, Maine 04330.

Air and Solid Waste Programs, Division of Environmental Engineering, State Office Building, Montpelier, Vermont 05602.

FOR FURTHER INFORMATION CONTACT: John Courcier, Environmental Protection Agency, Air Branch, Region I, Room 1903, JFK Federal Building , Boston, Massachusetts 02203, (617) 223-4448.

SUPPLEMENTARY INFORMATION: Section 111(d) of the Clean Air Act requires states to submit to EPA plans to control emissions for designated facilities and pollutants for which standards of performance for new sources have been established under Section 111(b) of the Act. EPA promulgated Part 62 of the Code of Federal Regulations (43 FR 51393) which provides a procedural framework for submission of these plans. Section 62.06 of Part 62 provides that when no such designated facility exists within a state, it may submit a letter certifying that such is the case. The negative declaration is in lieu of a plan. The States of Connecticut, Maine, Massachusetts, New Hampshire, Rhode Island and Vermont have submitted letters of negative declaration in lieu of a control plan, stating that no phosphate fertilizer plants exist in their respective states. In addition, the States of Connecticut, New Hampshire, Rhode Island and Vermont, have also included negative declaration for sulfuric acid production units. Approval of the proposed negative declarations will be based on a determination by the Administrator that they meet the requirements of Section 111(d) of the Act, and the provisions of Part 60 of this chapter.

All interested persons are invited to submit written comments on the proposed regulatory action set forth.

Authority: Section 111 and 301(a) of the Clean Air Act as amended (42 U.S.C. 7413 and 7601).

Dated: May 1, 1979.

William R. Adams, Jr.,
Regional Administrator, Region I.

EPA proposes to amend Part 62 of Chapter I, Subchapter C, Title 40 of the Code of Federal Regulations as follows:

PART 62

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Subpart H—Connecticut

Fluoride Emissions From Phosphate Fertilizer Plants

§ 62.1600 Identification of plan—Negative declaration.

The State Department of Environmental Protection submitted on November 30, 1977, a letter certifying that there are no existing phosphate fertilizer plants in the state subject to Part 60, Subpart B of this chapter.

Sulfuric Acid Mist Emissions From Sulfuric Acid Production Units

§ 62.1625 Identification of plan—Negative declaration.

The State Department of Environmental Protection submitted on November 30, 1977, a letter certifying that there are no existing sulfuric acid plants in the state subject to Part 60, Subpart B of this chapter.

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Subpart U—Maine

Fluoride Emissions From Phosphate Fertilizer Plants

§ 62.4850 Identification of plan—Negative declaration.

The State Department of Environmental Protection submitted on April 19, 1978, a letter certifying that there are no existing phosphate fertilizer plants in the state subject to Part 60, Subpart B of this chapter.

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Subpart W—Massachusetts

Fluoride Emissions From Phosphate Fertilizer Plants

§ 62.5350 Identification of plan—Negative declaration.

The State Department of Environmental Quality Engineering submitted on April 12, 1978, a letter certifying that there are no existing phosphate fertilizer plants in the state subject to Part 60, Subpart B of this chapter.

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Subpart EE—New Hampshire

Fluoride Emissions From Phosphate Fertilizer Plants.

§ 62.7350 Identification of plan—Negative declaration.

The State Air Pollution Control Agency submitted on November 29, 1978, a letter certifying that there are no existing phosphate fertilizer plants in the state subject to Part 60, Subpart B of this chapter.

Sulfuric Acid Mist Emissions From Sulfuric Acid Production Units

§ 62.7375 Identification of plan—Negative declaration.

The State Air Pollution Control Agency submitted on November 29, 1978, a letter certifying that there are no existing sulfuric acid plants in the state subject to Part 60, Subpart B of this chapter.

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Subpart OO—Rhode Island

Fluoride Emissions From Phosphate Fertilizer Plants.

§ 62.9850 Identification of plan—Negative declaration.

The State Department of Environmental Management submitted on November 14, 1977, a letter certifying that there are no existing phosphate fertilizer plants in the state subject to Part 60, Subpart B of this chapter.

Sulfuric Acid Mist Emissions From Sulfuric Acid Production Units

§ 62.9875 Identification of plan—Negative declaration.

The State Department of Environmental Management submitted on November 14, 1977, a letter certifying that there are no existing sulfuric acid plants in the state subject to Part 60, Subpart B of this chapter.

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Subpart UU—Vermont

Fluoride Emissions From Phosphate Fertilizer Plants

§ 62.11350 Identification of plan—Negative declaration.

The State Agency of Environmental Conservation submitted on April 11, 1978, a letter certifying that there are no existing phosphate fertilizer plants in the state subject to Part 60, Subpart B of this chapter.

Sulfuric Acid Mist Emissions From Sulfuric Acid Production Units

§ 62.11375 Identification of plan—Negative declaration.

The State Agency of Environmental Conservation submitted on April 11, 1978, a letter certifying that there are no existing sulfuric acid plants in the state subject to Part 60, Subpart B of this chapter.

[FRL 1220-7]
[FR Doc. 79-14512 Filed 5-8-79; 8:45 am]
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DEPARTMENT OF THE INTERIOR

Fish and Wildlife Service

[50 CFR Part 17]

Reclassification of the American Alligator; Reopening of the Comment Period; Public Hearings

AGENCY: Fish and Wildlife Service, Interior.

ACTION: Reopening of the comment period; notice of public hearings.

SUMMARY: The public comment period on the Service's proposal to reclassify the Amerian alligator to Threatened (Similarity of Appearance) in nine parishes in Louisiana, and proposals to simplify buyers', tanners', and fabricators' licenses, and to allow the sale of alligator meat is hereby reopened between May 10, 1979 and June 5, 1979. In addition, the reopening of the comment period will allow public hearings to be held on the proposal. These hearings will be held May 25, 1979, at 1 p.m., at Morgan City, Louisiana in the Civic Center and May 29, 1979, at 1 p.m., at Tallahassee, Florida in Hayden Burns Building (Florida Department of Transportation Auditorium).

DATES: The Service will consider all comments received between May 10, 1979 and June 5, 1979.

FOR FURTHER INFORMATION CONTACT: Mr. Harold J. O'Connor, Acting Associate Director—Federal Assistance, Fish and Wildlife Service, Washington, D.C. 20240. Phone 202/343-4646.

SUPPLEMENTARY INFORMATION: In the Federal Register of October 2, 1978 (43 FR 45513–45517), the Service proposed a series of changes in both the classification and special rules pertaining to the American alligator, *Alligator mississippiensis*. Briefly, these include a proposal to reclassify the American alligator to Threatened (Similarity of Appearance) in nine parishes of southern Louisiana, a proposal to simplify buyers', tanners', and fabricators' licenses, and to allow the sale of alligator meat from legally taken alligators. Details of these proposals may be obtained by consulting the Federal Register cited above and the November 1978, *Endangered Species Technical Bulletin*.

In the Federal Register of October 2, 1978 (43 FR 45513–45517), the Service stated its intention to hold public hearings on the proposal.

However, because of the delay in the reauthorization of the Endangered Species Act, these hearings were never held. The Services now announces public hearings on these proposals will be held May 25, 1979, at 1 p.m., at Morgan City, Louisiana in the Civic Center and May 29, 1979, at 1 p.m., at Tallahassee, Florida in Hayden Burns Building (Florida Department of Transportation Auditorium).

Further, the comment period on the Service's proposals of October 2, 1978 (43 FR 45513–45517) regarding the American alligator is hereby opened between May 10, 1979 and June 5, 1979. All comments and statements presented at this hearing will be made part of the public record on this species and will be considered before any final decisions are made concerning the October 2 proposals. The Service also announces that it will propose regulations within 30 days (1) establishing a permit procedure under the special rule for action relating to the species, including its exportation and importation, (2) modifying the determination of "American Alligator" within the special rule to include alligators in captivity, and (3) licensing the activities of foreign buyers, tanners, and fabricators to insure control over trade in the species.

Dated: May 3, 1979.

Robert S. Cook,
Acting Director, Fish and Wildlife Service.

[FR Doc. 79-14438 Filed 5-8-79; 8:45 am]
BILLING CODE 4310-55-M

DEPARTMENT OF ENERGY

Office of Energy Conservation and Solar Applications

[10 CFR Part 430]

Energy Conservation Program for Consumer Products; Test Procedures for Water Heaters; Public Hearing

AGENCY: Department of Energy.

ACTION: Proposed rule.

SUMMARY: The Department of Energy hereby proposes to amend its test procedures for water heaters. These test procedures are a part of the energy conservation program for consumer products established pursuant to the Energy Policy and Conservation Act, as amended by the National Energy Conservation Policy Act, which requires that standard methods of testing be prescribed for covered products.

DATES: Written comments in response to this notice by July 9, 1979; requests to speak at the public hearing by June 14, 1979; statements by June 22, 1979; public hearing to be held on June 27, 1979, 9:30 a.m.

ADDRESSES: Written comments, requests to speak at the public hearing, and statements to: Margaret W. Sibley, U.S. Department of Energy, Office of Conservation and Solar Applications, Docket #CAS-rm-79-105, Mail Stop 2221C, 20 Massachusetts Avenue, NW., Washington, D.C. 20585.

PUBLIC HEARING TO BE HELD AT: Department of Energy, Room 3000A, Federal Building, 12th Street and Pennsylvania Avenue, NW., Washington, D.C. 20585.

FOR FURTHER INFORMATION CONTACT:

James A. Smith, U.S. Department of Energy, Office of Conservation and Solar Applications, Division of Buildings and Community Systems, Consumer Products Efficiency Branch, Room 2246, 20 Massachusetts Avenue, NW., Washington, D.C. 20585, (202) 376-4814.

Margaret W. Sibley (Hearing Procedures), U.S. Department of Energy, Office of Conservation and Solar Applications, 20 Massachusetts Avenue, NW., Mail Stop 2221C, Washington, D.C. 20585, (202) 376-1651.

Robert M. Mussler, U.S. Department of Energy, Office of General Counsel, 20 Massachusetts Avenue, NW., Room 3224, Washington, D.C. 20585, (202) 376-4100.

SUPPLEMENTARY INFORMATION:

A. Background

Title III, Part B of the Energy Policy and Conservation Act (Act) (Pub. L. 94-163) established an energy conservation program for consumer products. As part of this program, section 323 (42 U.S.C. 6293) of the Act requires that standard methods of testing to determine estimated annual operating cost and at least one other useful measure of energy consumption be prescribed for certain products, including water heaters.

Test procedures for water heaters were proposed by notice issued April 21, 1977 (42 FR 21576, April 27, 1977). Final test procedures for water heaters were prescribed on September 27, 1977 (42 FR 54110, October 4, 1977). DOE amended the test procedures for water heaters by notice issued October 13, 1978 (43 FR 48986, October 19, 1978) in order to specify a new method of determining the measure of efficiency of water heaters.

DOE is today proposing to amend the test procedures for water heaters, specifically Appendix E to Subpart B of Part 430, Code of Federal Regulations, in order to specify two new measures, first hour rating and recovery rate.

B. Discussion

When originally proposed on April 21, 1977, the test procedures for water heaters included the measures of hot water supply rating and recovery rate. Hot water supply rating was a measure of the maximum amount of hot water that a water heater could provide in one hour. Recovery rate was a measure of the rate at which a water heater could heat water. Both of these measures were included in the original proposed test procedures because they were likely to assist consumers in making purchasing decisions.

At the public hearing on the original proposed water heater test procedures, members of the water heater industry argued that the test procedures as proposed were unduly burdensome for the testing of electric water heaters with immersed heating elements due to the large number of models that would have to be tested and the attendant high cost of testing.

After reviewing those comments, a decision was made to revise the definition of a water heater basic model for the final test procedures to exclude immersed heating elements from consideration as a distinguishing feature of a basic model. This change was made only after a very careful evaluation led to acceptance of the commenters' claim that, for the purposes of the test procedures, the electrical characteristics of an electric water heater with immersed heating elements have only a minimal effect on its efficiency and hence its energy consumption. Since these characteristics did, however, have a significant effect on the proposed measures, hot water supply rating and recovery rate for electric water heaters, this revision of the definition of a water heater basic model made the proposed method for the determination of these measures unworkable.

Since hot water supply rating was a useful measure of the capacity of a water heater, members of the water heater industry expressed concern over the possible loss of this measure. They commented that the hot water supply rating of an electric water heater with immersed heating elements could be predicted by calculation; however, they had no such prediction scheme to present at the time. Neither did they submit any data from which a hot water supply rating prediction scheme might be developed.

While the development of a scheme for predicting the hot water supply rating of such a water heater was considered feasible, it was found that, lacking a proven hot water supply rating prediction scheme and lacking test data from which to attempt to develop such a scheme, the proposed measure, hot water supply rating, had to be deleted from the final test procedures for water heaters. However, a statement was included in the notice of the final rule on test procedures to the effect that further investigations into schemes for the prediction of hot water supply rating or for the determination of some other measure of hot water delivery performance for water heaters would be made. It was further stated that the water heater industry and other interested parties were invited to provide input concerning these investigations.

No comments on the original proposed test procedures for water heaters addressed the measure of recovery rate. This measure, sometimes referred to as "recovery capacity," accounted for the combined effect of a water heater's power input and recovery efficiency on the rate at which the water heater could heat water. In the proposed test procedures, recovery rate was to be determined independently of hot water supply rating and was intended to serve as a useful measure of the rate at which a water heater could recover from a large hot water draw. The higher the recovery rate, the more quickly the water heater could replenish its stored volume of hot water subsequent to a large water draw.

Revising the definition of a water heater basic model also made the proposed method for the determination of recovery rate unworkable. Again, lacking a proven recovery rate prediction scheme and the test data from which to attempt to develop such a

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scheme, this proposed measure, like hot water supply rating, had to be deleted from the final test procedures.

The investigation into schemes for the prediction of hot water supply rating or for the determination of some other measure of hot water delivery performance for water heaters was concluded by DOE at about the same time that two events occurred which reaffirmed the need for such measures to be included in the test procedures for water heaters. The first of these events was the release of the Federal Trade Commission's (FTC) final staff report on FTC's proposed rule concerning disclosure of energy cost and consumption information in labeling and advertising of consumer products. This report was released on February 12, 1979. In it, FTC made the following statement in the section dealing with the determination of the capacity of consumer products covered by the proposed rule:

"Historically, gas and oil water heater sales are based on recovery capacity, while electric water heater comparisons are based on storage capacity. Some participants [in the public hearing and written comments process] argued that the traditional methods of comparing water heaters are unsatisfactory. A system that reflects the energy needed both to store and to replace consumed hot water is more informative than one that measures only storage or recovery. The Recommended Rule reservedly bases capacity on tank storage, in accordance with current DOE test procedures. If the Department of Energy prescribes methods of measuring first hour recovery rates or hot water supply ratings before the Commission issues the final labeling rule, staff recommends that the final rule reflect the DOE procedure for measuring capacity in effect at that time."

The second event was the series of six public meetings held on DOE's advanced notice of proposed rulemaking regarding energy efficiency standards for nine types of consumer products. These public meetings were held over the period January 26 to February 8, 1979. Four of the participants in these public meetings, all representatives of the water heater industry, made statements to the effect that DOE should use the measure, first hour rating, as the measure of the capacity of a water heater and issue minimum energy efficiency standards which are a function of this capacity measure. (As it is used here, first hour rating can be considered to be equivalent to hot water supply rating.) These commenters claimed that the establishment of minimum energy efficiency standards as a function of tank volume, the present measure of the capacity of a water heater, would impose a more stringent requirement on water heaters with large tank volumes than those with small tank volumes. Such an approach would discriminate against water heaters with large tank volumes. It was pointed out that water heaters with large tank volumes provide a utility which cannot always be matched by those with smaller tank volumes, particularly in the case of electric water heaters. Commenters argued that consumers need water heaters with large tank volumes to satisfy their hot water needs in order to take advantage of off-peak or time-of-day electric utility rates to reduce their water heating energy bill.

In an effort to develop a more useful measure of water heater capacity, DOE is proposing to amend the test procedures for water heaters to incorporate two new measures, recovery rate and first hour rating.

Recovery rate as proposed in this notice is the same as it appeared in the original proposed test procedures except that a new method of determining the power input of an electric water heater with immersed heating elements is specified. Also, as proposed in this notice, recovery rate is used in the determination of first hour rating. After reviewing the rationale behind the decision to delete this measure from the original proposed test procedures for water heaters, DOE has determined that the measure should now be reconsidered. DOE finds that while the method for the determination of power input for electric water heaters with immersed heating elements may introduce some error into the determination of recovery rate, such error may not be of such a magnitude as to be unacceptable. The benefits of this measure, both with regard to its usefulness to consumers, discussed earlier, and its contribution toward the determination of first hour rating, may outweigh concerns over any slight inaccuracy in the measure.

While first hour rating as herein proposed is equivalent to hot water supply rating as it appeared in the original proposed test procedures for water heaters, the different name for the measure has been chosen for two reasons: to eliminate possible confusion between the two versions of the measure since the methods for their determination differ and to eliminate the subjective term "hot" from the title. Consumers of differing sensibilities are likely to differ in their interpretation of what constitutes "hot" water. Since it is not DOE's intent to define "hot" water, the use of this term could be misleading to consumers. The new title "first hour rating" is a more appropriate title since it both identifies the time base of the measure, and hour, and, by use of the term "first", implies that the measure is only indicative of the performance of the water heater during its "first" hour of operation. While the consumer will not know the conditions for the determination of this measure, it is sufficient that the term will discourage the interpretation of the measure as a rate of hot water delivery performance which the water heater can maintain hour after hour.

The test for first hour rating proposed here is significantly less burdensome than the test for hot water supply rating previously proposed. Not only are fewer tests required for electric water heaters with immersed heating elements, but the test itself is a simpler, less time-consuming one than the hot water supply rating test previously proposed. Just as with the hot water supply rating test, the first hour rating test can be conducted right before or after a standby loss test. The only additional test instruments required will be a weighing container and a scale for weighing the water drawn from the water heater during the test or a water flow meter for determining directly the amount of water drawn from the water heater during the test.

The determination of the measure, first hour rating, is based partly on test results and partly on calculation. The test portion is intended to account for the influence of tank capacity, tank geometry, and water inlet/dip tube design. The calculation portion is intended to account for the influence of input power and recovery efficiency. This method of determining first hour rating overcomes the problem associated with the determination of hot water supply rating in that the influence of the electrical characteristics of an electric water heater with immersed heating elements on the first hour rating is determined by calculation rather than by test.

C. Comment Procedure

1. *Written Comment*

Interested persons are invited to participate in this rulemaking by submitting data, views or arguments with respect to the proposed amendments set forth in this notice to Margaret Sibley at the address indicated at the beginning of this preamble.

Comments should be identified on the outside of the envelope and on documents submitted to DOE with the designation "Water Heaters—Proposed Amendments (Docket No. CAS–RM–79–105)." If possible, fifteen copies should be submitted. All comments received by July 9, 1979 and all other relevant information, will be considered by DOE before final action is taken on the proposed regulation. Late comments will be considered to the extent that time permits.

Pursuant to the provisions of 10 CFR 1004.11, any person submitting information which he or she believes to be confidential and exempt by law from public disclosure should submit one complete copy, and fifteen copies from which information claimed to be confidential has been deleted. In accordance with the procedures established at 10 CFR 1004.11, DOE shall make its own determination with regard to any claim that information submitted be exempt from public disclosure.

2. *Public Hearing*

a. *Request procedures.* The time and place of the public hearing are indicated at the beginning of this preamble. The hearing will be continued, if necessary, on June 28, 1979.

DOE invites any person who has an interest in the proposed amendment issued today, or who is a representative of a group or class of persons that has an interest in today's proposed amendment, to make a written request for an opportunity to make an oral presentation. Such a request should be directed to the address indicated at the beginning of this preamble and must be received before June 14, 1979. A request may be hand delivered to such address, between the hours of 8:00 a.m. and 4:30 p.m., Monday through Friday. A request should be labeled both on the document and on the envelope "Water Heaters—Proposed Amendments (Docket No. CAS–RM–79–105)."

The person making the request should briefly describe the interest concerned; if appropriate, state why he or she is a proper representative of a group or class of persons that has such an interest, and give a concise summary of the proposed oral presentation and a telephone number where he or she may be contacted.

DOE will notify, before 4:30 p.m., June 18, 1979, each person selected to appear at the hearing. Each person selected to be heard must submit 15 copies of his or her statement to the address and by the date given in the beginning of this preamble. In the event any person wishing to testify cannot meet the 15 copy requirement, alternative arrangements can be made with Margaret W. Sibley in advance of the hearing by so indicating in the letter requesting an oral presentation or by calling (202) 376–1651.

b. *Conduct of hearings.* DOE reserves the right to select the persons to be heard at this hearing, to schedule their respective presentations and to establish the procedures governing the conduct of the hearing. The length of each presentation may be limited, based on the number of persons requesting to be heard.

A DOE official will be designated to preside at the hearing. This will not be a judical or evidentiary-type hearing. Questions may be asked only by those conducting the hearing, and there will be no cross-examination of the persons presenting statements. Any decision made by DOE with respect to the subject matter of the hearing will be based on all information available to DOE. At the conclusion of all initial oral statements, each person who has made an oral statement will be given the opportunity if he or she so desires, to make a rebuttal statement. The rebuttal statements will be given in the order in which the initial statements were made and will be subject to time limitations.

Any person who wishes to ask a question at the hearing may submit the question, in writing, to the presiding officer. The presiding officer will determine whether the question is relevant and whether the time limitations permit it to be presented for answer.

Any further procedural rules needed for the proper conduct of the hearing will be announced by the presiding officer.

A transcript of the hearing will be made and the entire record of the hearing, including the transcript, will be retained by DOE and made available for inspection at the DOE Freedom of Information Reading Room, Room GA152, Forrestal Building, 1000 Independence Avenue, S.W., Washington, D.C., between the hours of 8:00 a.m. and 4:30 p.m., Monday through Friday. For information concerning the availability of records at the Freedom of Information Reading Room, call 202–252–5969. In addition, any person may purchase a copy of the transcript from the reporter.

D. Environmental and Inflationary Review

Pursuant to section 7(c)(2) of the Federal Energy Administration Act of 1974, a copy of this notice has been submitted to the Administrator of the Environmental Protection Agency for his comments concerning the impact of this proposal on the quality of the environment. The Administrator has no comments.

The National Environmental Policy Act of 1969 requires DOE to assess the environmental impacts of any proposal issued by the Department for "major Federal actions significantly affecting the quality of the human environment." Since test procedures under the energy conservation program for consumer products will be used only to standardize the measurement of energy usage and will not affect the quality or distribution of energy usage, DOE has determined that the action of prescribing test procedures, by itself, will not result in any environmental impacts. On this basis, DOE has determined that, with respect to prescribing test procedures under the energy conservation program for appliances, no environmental impact statement is required.

The proposed rule has been reviewed in accordance with Executive Order 12044 and DOE Order 2030. From the regulatory analysis performed, it was determined that the proposal was significant in nature but did not have major impacts to manufacturers and consumers (imposing annual economic costs of $100 million or more).

(Energy Policy and Conservation Act, Pub. L. 94–163, 89 Stat. 871, 42 U.S.C. 6201 as amended by Pub. L. 95–619, 92 Stat. 3281; Department of Energy Organization Act, Pub. L. 95–91, 91 Stat. 565, 42 U.S.C. 7101).

In consideration of the foregoing, it is proposed to amend Part 430 of Chapter II of Title 10, Code of Federal Regulations, as set forth below.

Issued in Washington, D.C., May 3, 1979.

Maxine Savitz,
Deputy Assistant Secretary, Conservation and Solar Applications.

Appendix E to Subpart E—[Amended]

1. Appendix E to Subpart B of Part 430 is amended by adding a new section 3.7 to read as follows:

* * * * * *

3.7 *First hour rating test.*

3.7.1 *First hour rating test for gas and oil water heaters and electric water heaters with other than immersed heating elements.* Establish normal water heater operation with the maximum mean tank temperature within the range specified in section 2.8 and with all air eliminated from the tank. Begin the first hour rating test immediately after a cutout by recording the time and withdrawing water from the water heater at a rate of 5.0 ± 0.25 gallons per minute. All water withdrawn from the water heater during this test shall be collected in a weighing container for the purpose of determining

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its weight. Alternatively, a water flow meter may be used to measure the volume of water withdrawn from the water heater directly. Continuously monitor the outlet water temperature from the start of the waterdraw and record the maximum value measured. For the purposes of this test, this recorded temperature shall be referred to as the initial outlet water temperature. Continue the withdrawal of water until the outlet water temperature drops to a value 40° F below the initial outlet water temperature, at which time terminate the withdrawal, record the time duration, t_f, of the test, in hours measured with an error no greater than 2 percent, and record the weight of the water withdrawn, W, in pounds, measured with an error no greater than 2 percent, or the volume of the water withdrawn, G, in gallons, measured with an error no greater than 2 percent. If the outlet water temperature does not drop 40° F after one hour, the test is to be terminated and the first hour rating expressed as greater than 300 gallons.

3.7.2 *First hour rating test for electric water heaters with immersed heating elements.* Except as provided in this section, all electric water heaters with an immersed heating element shall be tested with an immersed heating element that has a design power rating of 4.5 kilowatts. If 4.5 kilowatts exceeds the maximum design power rating specified by the manufacturer for the water heater to be tested, the first hour rating test shall be conducted with the water heater equipped with an immersed heating element of a design power rating equal to the manufacturer's specified maximum design power rating. All water heaters designed to operate with dual immersed heating elements shall be tested with dual immersed heating elements of equal design power rating in accordance with the provisions specified in this section. Tests shall be conducted in accordance with the same procedures as those specified in section 3.7.1.

2. Appendix E to Subpart B of Part 430 is amended by adding a new section 4.7 to read as follows:

* * * * *

4.7 *Recovery rate.*

4.7.1 *Recovery rate for gas and oil water heaters.* For a gas or oil water heater, calculate the recovery rate, R, expressed in gallons per hour and defined as:

$$R = \frac{P \times E_r}{k \times \Delta T_s}$$

Where:

k is as defined in section 4.1.1.

ΔT_s is as defined in section 4.3

E_r is as calculated in section 4.1.1.

P = power input to the burner, determined in accordance with section 3.2.1, expressed in Btu per hour.

4.7.2 *Recovery rate for electric water heaters.* For an electric water heater, calculate the recovery rate, R, expressed in gallons per hour defined as:

$$R = \frac{P^* \times E_r \times 3{,}412\ \text{Btu/kWh}}{k \times \Delta T_s}$$

Where:

k is as defined in section 4.1.1.

ΔT_s is as defined in section 4.3.

E_r is as calculated in section 4.1.2 for electric water heaters with other than immersed heating elements, or section 4.1.3 for electric water heaters with immersed heating elements.

P^* = P (power input to the heating elements, expressed in kilowatts, as determined in accordance with section 3.2.1 for electric water heaters with other than immersed heating elements or section 3.2.2 for electric water heaters with immersed heating elements) with the following exception: For electric water heaters with dual immersed heating elements which, in characteristic operation of the water heater, are not energized simultaneously at any time, P^* shall be taken as the design power rating of the heating element in closest proximity to the hot water outlet of the water heater, expressed in kilowatts.

Appendix E to Subpart B [Amended]

3. Appendix E to Subpart B of Part 430 is amended by adding a new section 4.8 to read as follows:

4.8 *First hour rating.* Calculate the first hour rating, F, expressed in gallons and defined as:

$$F = \frac{W}{d} + [R \times (1 - t_f)], \text{ or}$$

$$F = G + [R \times (1 - t_f)]$$

Where—

R is as calculated in section 4.7.1 for gas and oil water heaters, or section 4.7.2 for electric water heaters.

W = weight of the water withdrawn from the water heater during the first hour rating test, determined in accordance with section 3.7.1 for gas and oil water heaters and electric water heaters with other than immersed heating elements, or section 3.7.2 for electric water heaters with immersed heating elements, expressed in pounds.

d = 8.25 pounds per gallon, the nominal density of water.

G = volume of water withdrawn from the water heater during the first hour rating test, determined in accordance with section 3.7.1 for gas and oil water heaters and electric water heaters with other than immersed heating elements, or section 3.7.2 for electric water heaters with immersed heating elements, expressed in gallons.

t_f = duration of the water draw in the first hour rating test, determined in accordance with section 3.7.1 for gas and oil water heaters and electric water heaters with other than immersed heating elements, or section 3.7.2 for electric water heaters with immersed heating elements, expressed in hours.

[Docket No. CAS–RM–79–105]
[FR Doc. 79–14489 Filed 5–4–79; 4:38 pm]
BILLING CODE 6450–01–M

[10 CFR Part 436]

Federal Photovoltaic Utilization Program; Public Hearing

AGENCY: Department of Energy.

ACTION: Proposed rule.

SUMMARY: The Department of Energy today proposes rules for the monitoring and assessment requirements of the Federal Photovoltaic Utilization Act, Title V, Part 4 of the National Energy Conservation Policy Act. The program implementing this legislation is referred to as the Federal Photovoltaic Utilization Program, and is summarized in the following preamble. Under this program, Federal agencies will receive funds from the Department of Energy for the installation of photovoltaic solar electric systems at Federal facilities. Today's proposed rules relate only to requirements for monitoring and assessing the performance and operation of systems installed as a part of the program.

DATES: Written comments must be submitted by July 9, 1979. Public hearings will be held on June 14, 1979, beginning at 9:30 a.m. Requests to testify at the hearing must be submitted by June 4, 1979.

ADDRESSES: Send written comments and requests to speak to Margaret W. Sibley, Office of Conservation and Solar Applications, Room 2221C, 20 Massachusetts Avenue, N.W., Washington, D.C. 20545. Hearing will be held at Room 3000A, 12th and Pennsylvania Avenue, Washington, D.C. Documents for public inspection or copying may be found at the DOE Reading Room, GA–152, Forrestal Building, 1000 Independence Avenue, S.W., Washington, D.C. 20585.

FOR FURTHER INFORMATION CONTACT:

Elaine Smith, Federal Photovoltaic Utilization Program Manager, Office of Conservation and Solar Applications, Department of Energy, Room 1210, 20 Massachusetts Avenue, N.W., Washington, D.C. 20545 (202) 376–5931.

Margaret W. Sibley, Office of Conservation and Solar Applications, Department of Energy, Room 2221C, 20 Massachusetts Avenue, N.W., Washington, D.C. 20545 (202) 376–1651.

William J. Dennison, Office of General Counsel, Department of Energy, Room 3228, 20 Massachusetts Ave., N.W., Washington, D.C. (202) 376–4100.

SUPPLEMENTARY INFORMATION:

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C. The Stimulation of the General Use Within the Federal Government of Methods for the Minimization of Life Cycle Costs
D. The Development of Data on Performance and Operation Through Monitoring and Assessment of Photovoltaic Solar Electric Equipment for Which Assistance was Provided
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VII. Determinations Under Executive Order 12044

I. Introduction and Background

Title V, Part 4 of the National Energy Conservation Policy Act (NECPA) (Pub.L. 95–619) establishes the Federal Photovoltaic Utilization Program (FPUP) to be administered by the Department of Energy (DOE). The Act authorizes the appropriation of $98,000,000 through the fiscal year ending September 30, 1981, and calls for the installation of photovoltaic solar electric systems in Federal facilities. Photovoltaic solar electric systems directly convert sunlight into electricity. Congress intends this program to stimulate the use of low-cost production techniques by the domestic photovoltaic industry.

The FPUP is part of continuing Federal support for the development of solar energy in general, and photovoltaics in particular. Some of the technologies that will be used as a part of FPUP have been developed under the Solar Energy Research, Development and Demonstration Act of 1974 (Pub.L. 93–473). The DOE expects FPUP to assist in accelerating the commercialization of photovoltaic technology. As an ancillary benefit, the DOE anticipates that experience in using this technology will provide important feedback for continuing research and development efforts directed toward improved products.

The FPUP also continued the work started by Section 208 of the Department of Energy Act of 1978 (Pub.L. 95–238) which established a program to purchase photovoltaic solar electric systems for use by Federal agencies in life cycle cost effective applications. The Section 208 program is described in the Department of Energy Final Report, "Application and System Design Study for Cost-Effective Solar Photovoltaic Systems at Federal Installations", February 1979.

The DOE intends to implement the FPUP in rounds as funds are appropriated by Congress. Within each round there will be 2 phases: Phase I provides for selection of projects and their installation. Phase II involves monitoring and assessing the performance and operation of the photovoltaic solar electric systems funded through the FPUP for a period of three years. Applications may be submitted to the DOE by any Federal agency desiring to install photovoltaic solar electric equipment at a Federal facility. The application for project assistance shall include information concerning: the funds required for the acquisition and installation of photovoltaic solar electric equipment on the specified facility; the proposed implementation schedule; the extent to which the public, private, or commercial sector utilizes facilities of the type for which project assistance is applied; the extent to which the agency intends to participate in a permanent Federal market for photovoltaics; and a determination of the life cycle cost effectiveness.

Applications for fiscal year 1979 have been based on the life cycle costing methodology developed for use in the Section 208 program and contained in "Application and System Design Study for Cost-Effective Solar Photovoltaic Systems at Federal Installations," Final Report, February 1979. Currently the DOE is coordinating the formulation of more sophisticated life cycle costing methodologies.

The proposed rules set forth at the end of this preamble cover only one aspect of the FPUP: the specific requirements for monitoring and assessing the performance and operation of the FPUP solar electric systems. This preamble summarizes the entire program, including the monitoring and assessment requirements, and also discusses alternatives to the proposed rules.

II. Statutory Provisions

Section 563 of the NECPA establishes the Federal Photovoltaic Utilization Program (FPUP) which requires the DOE to develop and carry out a program to stimulate photovoltaic energy commercialization through accelerated procurement and installation of photovoltaic solar electric systems in Federal facilities. To this end, section 565 authorizes the DOE to make acquisitions of photovoltaic solar electric systems. Acquisitions may occur through the use of multiyear contracts. Section 566(1) requires the DOE to consult with the Department of Defense to insure that the installation and purchase of FPUP photovoltaic solar electric systems does not interfere with defense-related activities. Section 566(2) requires the DOE to prescribe rules and regulations to monitor and assess the performance and operation of photovoltaic electric systems installed pursuant to the FPUP. Section 566(3) requires the DOE to report annually to the Congress on the status of the program. Section 567(a) limits the DOE to procuring not more than 30 megawatts of photovoltaic solar electric systems through fiscal year ending September 30, 1981, for purposes of the FPUP.

Section 567(b) provides that Federal agencies may directly procure photovoltaic solar electric systems, in lieu of purchases of photovoltaic solar electric systems under FPUP. However, such agencies are required by section 567(b) to consult with the DOE before procuring such systems. Section 569 authorizes the appropriation of funds to the DOE for the purpose of this program not to exceed $98,000,000 through the fiscal year ending September 30, 1981.

III. Description of the Federal Photovoltaic Utilization Program

The program policies discussed in this section are intended to provide for the accomplishment of the program purposes within the framework of the legislation. In this section, a purpose of the FPUP is set forth, and then the program policies are discussed in order

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to illustrate the way in which that purpose will be accomplished.

A. *The Accelerated Growth of a Commercially Viable and Competitive Industry To Make Photovoltaic Solar Electric Systems Available to the General Public as an Option*

A purpose of the legislation is to accelerate the growth of a commercially viable and competitive industry in order to make photovoltaic solar electric systems available to the general public as an option. The DOE plans to schedule procurement of photovoltaic solar electric systems in a manner which will stimulate the use of low-cost production techniques by suppliers of such systems. By participating with the other Federal agencies in the selection of photovoltaic electric system applications and suppliers, the DOE intends to create a Federal market for photovoltaic solar electric systems. The increased annual sales to this Federal market are expected to stimulate the use of low-cost mass production processes by the photovoltaic solar electric industry.

B. *The Reduction of Fossil Fuel Costs to the Federal Government*

Another purpose of the legislation is to reduce fossil fuel costs to the Federal Government. The DOE intends to fund photovoltaic solar electric systems under the FPUP only if their installation would result in the reduction of current use of fossil fuels or reduction in the rate of growth of fossil fuel use.

C. *The Stimulation of the General Use Within the Federal Government of Methods for the Minimization of Life Cycle Costs*

The DOE intends to establish guidelines to stimulate the general use within the Federal Government of methods for the minimization of life cycle costs. The DOE will require each participating agency to submit and explain information regarding all of the costs to be incurred and all of the savings to be accrued over the total lifetime of the photovoltaic system. Because the savings are assumed to be in the form of reduced conventional energy demand, the savings can be quantified by the value of the amount of fuel saved due to the use of photovoltaic solar energy equipment to meet some of the energy demand of the facility.

Applications for FY 1979 have been based on the life cycle costing methodology developed for use in the Section 208 program and contained in "Application and System Design Study for Cost-Effective Solar Photovoltaic Systems at Federal Installations," Final Report, February 1979. Currently the DOE is coordinating the formulation of more sophisticated life cycle costing methodologies. Such methodologies will be utilized by the DOE and participating agencies to determine the life cycle cost effectiveness of future installation under the FPUP. The new methodologies will be available from the DOE and comments on their validity will be welcome.

D. *The Development of Data on Performance and Operation Through Monitoring and Assessment of Photovoltaic Solar Electric Equipment for Which Assistance Was Provided*

Section 566(2) of the FPUP legislation requires that the DOE establish rules to monitor and assess the photovoltaic solar electric equipment for which assistance was provided under the FPUP. The rules proposed today define and outline the specific information required to be reported and the reporting schedule. The information collected from the installations will provide one substitute for private and commercial experience in the use of photovoltaics.

The DOE recognizes the problems of Federal agencies in meeting reporting requirements. Therefore, to the extent possible, the DOE will minimize the burden of the data gathering activities to be required by this program. In a few selected sites, DOE may feel that a project design warrants additional specific data gathering. The DOE and the participating agency will make any necessary contractual arrangements when a site is selected for additional data gathering. A discussion of the proposed monitoring and assessment rules is presented in Section IV below.

E. *The Installation of the Most Advanced and Reliable Photovoltaic Solar Electric Technologies*

One objective of the legislation is installation, to the maximum extent practicable, of the most advanced and reliable technologies. In order to assure, monitor, and maintain control over the completeness and reasonableness of the system design, and to insure that such systems reflect the most advanced and reliable technologies, the DOE will provide assistance in a two-step process—proposals will be reviewed and initial selections made, after which the system design will be reviewed. If the system design is technically adequate, assistance will be provided through interagency agreement. If the system design is technically inadequate, then the DOE will attempt to assist the applicant make its proposal design acceptable. The DOE will not provide assistance in connection with cost overruns. The DOE will not provide any assistance in connection with operation and maintenance of the photovoltaic solar electric system, or the management and operation of the facility.

IV. Issues

In the process of formulating the proposed rules, the DOE considered alternatives to the rules as proposed. This section discusses those alternatives and explains why the option that appears in the proposed rules was chosen. The numbering below corresponds to the numbering in the proposed rules to make cross-referencing easier.

§ 436.92 Monitoring requirements.

(a) *Installation Data.* The proposed rules require the participating agency to keep background data on file for each installation. The information required includes the system design and installation drawings, acceptance test plan and data, records of design reviews, and an operation and maintenance manual. The DOE considered requiring the submission of all this data to the DOE as part of the Installation Report. Installation Reports are required to be submitted within 60 days of project completion. The DOE chose, however, not to require the submission of the background information in order to minimize the reporting burdens on the participating agencies.

The Installation Report may be submitted for a group of systems (systems group) having substantially similar systems characteristics, as defined in the definitions section of the proposed rules. The DOE elected this approach instead of an absolute requirement of submitting an Installation Report for each installation. Such systems groups are to be identified in cooperation between the participating agency and the DOE. The systems group reporting approach was chosen in order to minimize agency reporting requirements. It is further anticipated that information classified by systems group will be of greater value to future Federal initiatives and private sector programs.

(b) *Operational Data.* The proposed rule requires the participating agency to submit semiannual Operational Reports for a period of three years. A question considered by the DOE was the length of time an agency would be required to submit the Operational Reports. The DOE feels that uniform operational data is required in order to integrate the FPUP data with future programs. As a result, the DOE elected to propose a requirement that the agencies submit operational data for a period of three years on all installations and/or systems groups.

§ 436.93 Assessment requirements.

(a) *Agency Assessment.* The DOE is proposing to require each participating agency to submit a summary of its experience with the FPUP solar systems, in order to learn more about attitudes that result from user experience with photovoltaics. User attitudes are important to the photovoltaic industry and to Congress in their attempts to stimulate a photovoltaics market.

(b) *DOE Assessment.* The DOE is proposing to asssess the performance and operation of systems along with the participating agencies. The DOE assessment will appear in the annual report to Congress required by Section 566(3). An alternative would be to prepare a separate report. Because the public, photovoltaics industry, and others would have access to the annual report to Congress, a separate report would result in unnecessary duplication.

§ 436.94 Additional data options.

Many of the systems to be installed under the FPUP can yield important technical information. Requiring extensive reporting on all systems, however, would be time consuming and expensive. As a result, the DOE has reserved the right to choose individual systems for intensive monitoring. For systems so chosen, the DOE will arrange for the provision of technical, financial, and personnel assistance for the participating agency. As a result, the participating agency will not be burdened with additional reporting or financial requirements.

V. Environmental Review

DOE is preparing an environmental assessment of the Federal Photovoltaic Utilization Program pursuant to the National Environmental Policy Act of 1969, as amended (NEPA) (42 U.S.C. 4321 *et seq.).* If on the basis of this environmental assessment, it is concluded that the impacts of the program are environmentally significant, an environmental impact statement will be prepared. This NEPA review will be completed and considered prior to the promulgation of a rule in this matter.

VI. Comment Period and Hearing Procedure

A. *Written Comments*

Interested persons are invited to submit written comments with respect to the proposed regulation to Margaret Sibley at the address specified at the beginning of this preamble. Comments should be identified on the outside of the envelope with the designation "Federal Photovoltaic Utilization Program (Docket No. CAS–RM–79–402)." Five copies must be submitted. All comments received by July 9, 1979, before 4:30 p.m., and all relevant information, will be considered by the DOE before final action is taken on the proposed regulations.

Any information or data considered by the person furnishing it to be confidential must be so identified and submitted in writing, one copy only. The DOE reserves the right to determine the confidential status of the information or data and to treat such information or data according to its determination.

B. *Public Hearings*

1. *Request Procedure.* The time and place for the hearing are indicated at the beginning of this preamble. If necessary to present all oral statements, the hearing will be continued at 9:30 a.m. on June 15, 1979.

Any person who has an interest in the proposed regulations issued today, or who is a representative of a group or class of persons with such an interest, may make a written request for an opportunity to make an oral presentation. Such a request should be delivered to the DOE at the address stated at the beginning of this preamble, and must be received before 4:30 p.m., on June 4, 1979. Such a request may be hand delivered to Room 2221C, 20 Massachusetts Avenue, N.W., Washington, D.C., between the hours of 8 a.m. and 4:30 p.m., Monday through Friday, except for holidays. The person making the request should be prepared to describe the interest concerned; to state, if appropriate, why he or she is a proper representative of a group or class of persons that has such an interest; and to give a concise summary of the proposed oral presentation and a phone number where he or she may be contacted through June 14, 1979.

Each person selected to be heard will be notified by the DOE before 4:30 p.m., on June 6, 1979, and must submit 15 copies of his or her statement to Margaret W. Sibley, Room 2221C, 20 Massachusetts Avenue, N.W., Washington, D.C. 20545 by June 11, 1979.

2. *Conduct of the Hearing.* The DOE reserves the right to select the persons to be heard at the hearing, to schedule their respective presentations and to establish the procedures governing the conduct of the hearing. The length of each presentation may be limited, based on the number of persons requesting to be heard.

A DOE official will be designated to preside at the hearing. This will not be a judicial or evidentiary-type hearing. Questions may be asked only by those conducting the hearing, and there will be no cross-examination of persons presenting statements. Any decision made by the DOE with respect to the subject matter of the hearing will be based on all information available to the DOE. At the conclusion of all initial oral statements, each person who has made an oral statement will be given the opportunity if he or she so desires, to make a rebuttal statement. The rebuttal statements will be given in the order in which the initial statements were made and will be subject to time limitations.

Any interested persons may submit questions, to be asked of any person making a statement at the hearings, to Margaret Sibley before 4:30 p.m., June 13, 1979. Any person who wishes to ask a question at the hearing may submit the question, in writing, to the presiding officer. The DOE, or the presiding officer if the question is submitted at the hearing, will determine whether the question is relevant, and whether the time limitations permit it to be presented for answer. Any further procedural rules needed for the proper conduct of the hearings will be announced by the presiding officer.

A transcript of the hearing will be made and the entire record of the hearing, including the transcript, will be retained by the DOE and made available for inspection at the Freedom of Information Office, Room GA–152, Forrestal Building, 1000 Independence Avenue, S.W., Washington, D.C., between the hours of 8 a.m., and 4:30 p.m., Monday through Friday.

In the event that it becomes necessary for the DOE to cancel a hearing, DOE will make every effort to publish advance notice in the Federal Register of such cancellation. Moreover, DOE will notify all persons scheduled to testify at the hearings. However, it is not possible for DOE to give actual notice of cancellations or changes to persons not identified to DOE as participants. Accordingly, persons desiring to attend a hearing are advised to contact DOE on the last working day preceding the date of the hearing to confirm that it will be held as scheduled.

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VII. Determinations Under Executive Order 12044

Today's proposed rule was reviewed under Executive Order 12044, 43 FR 12661, and is deemed to be significant because of the impact on Federal agencies of the Executive Branch. This is not deemed a major rulemaking because the rules when finalized will not have the kind of effects which call for a regulatory analysis.

(National Energy Conservation Policy Act, Pub. L. 95-619; Department of Energy Organization Act, Pub. L. 95-91.)

In consideration of the foregoing, it is proposed to amend Chapter II of Title 10, Code of Federal Regulations, by establishing Subpart E or Part 436 as set forth below.

Issued in Washington, D.C., May 2, 1979.

Maxine Savitz,

Deputy Assistant Secretary, Conservation and Solar Applications.

PART 436—FEDERAL ENERGY MANAGEMENT AND PLANNING PROGRAMS

Subpart E—Federal Photovoltaic Utilization Program

Sec.

436.90 Purpose and scope.
436.91 Definitions.
436.92 Monitoring requirements.
436.93 Assessment requirements.
436.94 Additional data reporting options.

Authority: Sec. 566(2), National Energy Conservation Policy Act, (Pub. L. 95-619, 92 Stat. 3281).

Subpart E—Federal Photovoltaic Utilization Program

§ 436.90 Purpose and scope.

This subpart provides the rules that the Department of Energy is required to promulgate for monitoring and assessing the performance and operation of photovoltaic systems under the Federal Photovoltaic Utilization Act, Title V, Part 4 of the National Energy Conservation Policy Act of 1978 (Pub. L. 95-619). The program implementing this legislation is known as the Federal Photovoltaic Utilization Program. The legislation authorizes the Department of Energy to fund the installation of photovoltaic solar electric systems in Federal facilities. The regulations set forth monitoring and assessment requirements applicable to the Department of Energy and the Federal agencies that install photovoltaic solar electric systems using project assistance provided under the Federal Photovoltaic Utilization Program.

§ 436.91 Definitions.

As used in this part:

"Acceptance Test Costs" means the costs associated with executing an acceptance test plan and collecting acceptance test data.

"Acceptance Test Data" means that data collected as a result of the execution of an acceptance test plan.

"Acceptance Test Plan" means a test procedure for assuring that a photovoltaic solar electric system will meet its designed reliability and power output requirements after installation and prior to acceptance by a Federal agency.

"Agency" means an Executive agency as defined in Section 105 of Title 5, United States Code.

"Construction Costs" means the cost of site preparation, including the cost of materials and labor related to site preparation, prior to installation of a photovoltaic solar electric system.

"Design Review" means a meeting or series of meetings held by an agency with the designer of a photovoltaic solar electric system to assess and document the adequacy and accuracy of the mechanical, electric, and control portions of the system and to insure that estimates of acquisition, construction, and installation costs are correct.

"DOE" means the Office of Conservation and Solar Applications of the Department of Energy.

"Engineering Design Costs" means the cost of preparing specifications and drawings for the procurement, construction, and installation of photovoltaic solar electric systems.

"Facility" means any structure or fixture which uses electrical energy.

"Federal Facility" means any building, structure, or fixture or part thereof which is owned by the United States or any Federal agency, or which is held by the United States or any Federal agency under a lease-acquisition agreement under which the United States or Federal agency will receive fee simple title under the terms of such agreement without further negotiation.

"Installation Costs" means the cost of installing a photovoltaic solar electric system on a prepared site, but does not include photovoltaic structure costs.

"Normal Operation" means the operation of the photovoltaic solar electric system, where after installation, the system meets designed reliability and power output requirements.

"Operations and Maintenance Costs" means those costs incurred after commencement of normal operation and associated with maintaining a photovoltaic solar electric system so that it continues to perform satisfactorily over its design lifetime.

"Operations and Maintenance Manual" means a technical document prepared by the manufacture or the installer of a photovoltaic solar electric system, describing how the system functions and specifying the procedures to be followed so that normal operation of the system is maintained.

"Photovoltaic Array" means that portion of a photovoltaic solar electric system which directly converts incident sunlight to electricity by means of photovoltaic effect.

"Photovoltaic Array Costs" means the cost of a photovoltaic array.

"Photovoltaic Effect" means the physical phenomenon exhibited under certain circumstances by some materials in which a portion of the light energy striking the material is directly converted to electrical energy.

"Photovoltaic Outage" means an interruption of normal operation due to a failure within the photovoltaic solar electric system.

"Photovoltaic Solar Electric System" means a system consisting of a photovoltaic array and all other components, including energy storage devices where appropriate, necessary to provide electricity.

"Photovoltaic Structure Costs" means the cost of the structure necessary to support the photovoltaic array, but does not include installation costs.

"Program" means the Federal Photovoltaic Utilization Program which implements the Federal Photovoltaic Utilization Act.

"Project" means specific actions to accomplish the design, acquisition, construction, and installation of photovoltaic solar electric equipment in a single facility.

"Sub-Assemblies Costs" means the cost of the components of a photovoltaic solar electric system such as batteries, regulators, inverters, and cabling.

"Systems Group" means a grouping of photovoltaic solar electric systems which have similar design and operating characteristics, which are operated by the same agency, and which have been specifically designated as a systems group by the DOE. Factors considered in designating a systems group include, but are not limited to: Design, location, method of installation, facility type, technology, operations and maintenance schedules, size, costs, and projected costs in future markets.

§ 436.92 Monitoring requirements.

(a) *Installation data.* (1) Each agency participating in the program shall maintain for each project records regarding the information described below. Upon reasonable notice of request, the participating agency shall make such records available to DOE for inspection. Four copies of the information shall be submitted to the DOE upon request. The information may also be submitted to the DOE in the same form and at the same time as it is received or generated by an agency. The records required to be maintained under this paragraph include:

(i) Current photovoltaic solar electric system design and installation drawings;

(ii) A written record of the project design review;

(iii) Acceptance test plan and acceptance test data; and

(iv) The Project Operation and Maintenance Manual.

(2) Within sixty days of commencement of normal operation, each participating agency shall submit one Installation Report for each completed project. *Provided, however,* That if any participating agency installs multiple projects with substantially similar systems characteristics, the agency may request, and the DOE may then allow the agency, to submit a single report for such systems group. The DOE may require each Installation Report to assume the format of a standard form to be supplied to participating agencies by the DOE. Each Installation Report shall state:

(i) Actual and planned project completion date;

(ii) Total funds expended;

(iii) Actual and planned breakdown of:

(A) Photovoltaic array costs;

(B) Photovoltaic structure costs;

(C) Subassemblies costs;

(D) Construction costs;

(E) Engineering design costs;

(F) Installation costs;

(G) Acceptance test costs; and

(H) Any other costs;

(iv) Names of manufacturers and/or installers;

(v) Significant problems encountered: and

(vi) Comments and recommendations.

(b) *Operational data.* Within sixty days of commencement of normal operation, each agency shall submit a Systems Operational Report containing the following operating and maintenance information for each project. The agency shall continue to submit such reports on a semiannual basis thereafter for three years, unless otherwise stipulated in the interagency agreement by which the DOE agreed to fund the project. The DOE may require each Systems Operational Report to assume the format of a standard form to be supplied to participating agencies by the DOE. Each Systems Operational Report shall describe for the reporting period:

(1) All photovoltaic or other scheduled outages;

(i) Reasons for all scheduled outages;

(ii) Corrective actions taken; and

(2) Operations and maintenance cost.

(c) *Unscheduled outages.* All unscheduled outages shall be reported to the DOE within thirty days of the completion of corrective action, and each unscheduled outage report shall describe:

(1) Unscheduled outage length;

(2) Reasons for unscheduled outage; and

(3) Corrective action taken.

(d) In the event that any participating agency experiences logistic hardships that make semiannual reports impractical, the agency may request in writing, on or before sixty days from the due date of the report, that the DOE allow reports to be submitted on an annual basis, upon a showing of good cause by the agency. The request shall be signed by a senior policy making official of the participating agency such as an Assistant Secretary or an Assistant Administrator.

(e) If the DOE has allowed the reporting of installation data by systems group under paragraph (a)(2) of this section, operational data required under this section may also be submitted by systems group.

§ 436.93 Assessment requirements.

(a) *Assessment by Participating Agencies.* (1) Within three years of commencement of normal operation, each agency participating in the FPUP shall provide to the DOE a Final Report on the installation and operation of each photovoltaic solar electric system. Copies of the Final Report shall be transmitted to the manufacturers and installers of the systems. This report shall be for a systems group where such group has been identified by the DOE. Each Final Report shall identify:

(i) Design characteristics of the project or system group;

(ii) Manufacturers and installers of the project;

(iii) Methods which were used to achieve cost, reliability, and designed power production goals;

(iv) Data that were or would have been helpful to the participating agency in advance of system design and implementation;

(v) Technical problems and failures;

(vi) Problems in system development and installation arising from technical, regulatory, and/or institutional interfaces; and

(vii) The extent to which the participating agency intends to rely in the future upon photovoltaic solar electric systems to supply its energy needs.

(b) *Assessment by the DOE.* (1) The DOE shall assess, in Annual Reports to the Congress, the performance and operation of the systems installed pursuant to the program. Each report shall be based on the monitoring and assessment data submitted by the participating agencies under the requirements of this Subpart, as well as other information available to the DOE. Each Annual Report will address issues relating to:

(i) Energy savings in current and future markets;

(ii) Carry-over to other applications categories and systems groups;

(iii) Potential for standardization of components;

(iv) Potential for modular use and installation of components;

(v) Optimal design approaches to achieve cost and performance goals;

(vi) Down time attributable to unscheduled outages;

(vii) Cost of repairing unscheduled outages;

(viii) Suggested resolution of regulatory issues; and

(ix) Life cycle cost data.

§ 436.94 Additional data reporting options.

(a) The DOE will retain the option to select projects in which a participating agency will be required to:

(1) Install instrumentation and provide other services required for the collection of instrumented performance data for a period not to exceed three years from date of photovoltaic solar energy system operation, and

(2) Submit additional design disclosure, component, and facility energy load data, or such other data as may be required to evaluate photovoltaic solar electric systems for a period not to exceed three years from the date of project operation.

(b) Participating agencies selected under paragraph (a) of this section will be notified in writing by the DOE regarding their selection and of any specific instructions under that paragraph.

(c) For any project selected by the DOE under paragraph (a) of this section, the agency will be funded by the DOE to cover the costs of instrumentation and the related activities which are to be performed in accordance with the instructions provided by the DOE.

(d) The DOE may provide instrumentation, sensors, junction box.

data recording system, installation and other related data gathering services by support contractors if necessary to:

(1) Minimize cost to the Government; or

(2) Assure the acquisition of accurate and uniform information.

[Docket No. CAS–RM–79–402]
[FR Doc. 79-14494 Filed 5-4-79; 4:38 pm]
BILLING CODE 6450-01-M

[10 CFR Part 456]

Residential Conservation Service Program; Proposed Rulemaking and Public Hearing Correction Notice

AGENCY: Department of Energy.

ACTION: Correction to Notice of Proposed Rulemaking and extension of public comment period.

SUMMARY: The following are changes to the proposed rule issued in FR Doc. 79–7797 in the Monday, March 19, 1979 issue of the **Federal Register**, Vol. 44, No. 54, Book 2, pp. 16543–16877. These changes are issued in order to correct clerical, grammatical or typographical errors in the March 19, 1979 publication and do not reflect policy changes of the Department.

DATES: The comment period on the proposed rule is extended to June 11, 1979.

Comments on the Draft Regulatory Analysis, the draft environmental assessment, and the urban and community impact analysis must be received by July 9, 1979.

ADDRESS: Send comments to: Margaret W. Sibley, Office of Conservation and Solar Applications, U.S. Department of Energy, 20 Massachusetts Avenue, NW., Washington, D.C. 20545, (202) 376–4802.

FOR FURTHER INFORMATION CONTACT:

James R. Tanck, Director, Residential Conservation Service Program, Office of Conservation and Solar Applications, U.S. Department of Energy, 20 Massachusetts Avenue, NW., Washington, D.C. 20545, (202) 376–4708.

Margaret W. Sibley, Office of Conservation and Solar Applications, U.S. Department of Energy, 20 Massachusetts Avenue, NW., Washington, D.C. 20545, (202) 376–4802.

Issued in Washington, D.C., on May 2, 1979.

Maxine Savitz,
Deputy Assistant Secretary, Conservation and Solar Applications.

1. On page 16546, column three, the paragraph entitled "DATES" should read as follows:

"Written comments on the proposed rule must be received by June 11, 1979, 4:30 p.m., e.d.t., in order to assure their consideration. Written comments on the Draft Regulatory Analysis, the draft environmental assessment, and the urban and community impact analysis must be received by July 9, 1979, 4:30 p.m., e.d.t., in order to ensure their consideration.

Hearings will be held at the places and on the dates indicated below in the proposed rule. A special hearing will be held late in June in Washington, D.C., to hear oral comments on the Draft Regulatory Analysis, the draft environmental assessment, and the draft urban and community impact analysis. The exact date, time, and place of this hearing will be published in the **Federal Register** at a later time.

2. On page 16546, column three, in the paragraph entitled "HEARINGS", delete the word "seven" and insert in lieu thereof: "eight".

3. On page 16546, third column, immediately before "SUPPLEMENTARY INFORMATION," insert: "William Funk, Deputy Assistant General Counsel for Legal Counsel, U.S. Department of Energy, Room 6144, 12th & Pennsylvania Avenue, N.W., Washington, D.C. 20461, (202) 633–9296."

4. On page 16569, second column, the third full paragraph should read as follows:

"The standards being proposed apply to the following materials and products or components thereof."

5. On page 16569, third column, the sixth bullet ("Heat absorbing and heat-reflective glazing") should be deleted.

6. On page 16569, third column, under the heading "Technical Issues," after the eighth bullet, add a bullet which reads as follows:

"• HH–I–558—Federal Specification for Mineral Fiber Batts and Blankets—Industrial Type."

7. On page 16571, second column, the second full sentence should read as follows:

"The other requirements for loose-fill cellulosic insulation (thermal resistance, and resistance to odor emission, moisture absorption, and fungi) contained in this proposed rule will be unaffected by the CPSC actions."

8. On page 16571, third column, the fourth full paragraph should read as follows:

"The ASTM E 84–77 flame spread test method should be the basis for evaluating surface burning characteristics. This test method is recommended for polystyrene, polyurethane, and polyisocyanurate insulation board."

9. On page 16571, third column, after the last bullet, add two bullets which read as follows:

"• Weatherstripping
• Energy Usage Display Meters"

10. On page 16572, first column, the first full paragraph, the third sentence should read as follows:

"An Underwriter's Laboratory standard is proposed for heat pumps and a proposed Underwriter's Laboratory standard is proposed for vent dampers on oil-fired appliances."

11. On page 16572, first column, the third full paragraph should read as follows:

"With respect to westherstripping, glazing compounds, and heat absorbing and heat-reflective glazing materials, DOE has determined that no standard is necessary for the RCS program as commercially available materials are suitable."

12. On page 16573, second column, the third full sentence should read as follows:

"Exceptions to the 3-inch air space requirement with respect to flues and chimneys are made for mineral fiber loose-fill and unfaced batts and blankets and mineral cellular loosefill provided the materials are noncombustible when tested in accordance with ASTM E–136."

13. Page 16575, third column, the fourth full paragraph should read as follows:

"This Summary of the Draft Regulatory Analysis is published concurrently with the publication of the proposed rules for the RCS Program. A copy of the complete Draft Regulatory Analysis is available for public inspection in the DOE Reading Room, Room GA–152, Forrestal Building, 1000 Independence Avenue, S.W., Washington, D.C., between the hours of 8:00 a.m. and 4:30 p.m., Monday through Friday. A copy may be purchased at the cost of reproduction by contacting:

Mr. James Tanck, Director, Residential Conservation Service Program, Office of Assistant Secretary for Conservation and Solar Applications, U.S. Department of Energy, 20 Massachusetts Avenue, N.W., Washington, D.C. 20545 (202) 376–4708.

Persons who received not fully typed copies of the Draft Regulatory Analysis may receive a fully typed and edited copy without cost by contacting Mr. Tanck."

14. On page 16585, third column, the section entitled "XII. ENVIRONMENTAL AND URBAN IMPACT ANALYSIS" should read as follows:

"In accordance with the requirements of the National Environmental Policy Act of 1969 (NEPA), 42 U.S.C. 431 *et seq.*, DOE is undertaking an environmental assessment of the Residential Energy Conservation Program. DOE has been unable to complete the assessment by the time of NECPA's statutory deadline for the publication of these proposed rules. The assessment is scheduled to be available for public comment by June 8, 1979. Its result and availability will be published in the **Federal Register**.

DOE has determined that the proposed rules are a major policy and program initiative which requires formal urban and community impact analysis pursuant to OMB Circular A–116. Because of NECPA's statutory deadline for publication of these proposed rules, DOE has been unable to complete this analysis by the time of the publication of the proposed rules. The draft urban and community impact analysis is scheduled to be available for public comment by June 8, 1979. Its availability will be published in the Federal **Register**.

To enable full opportunity for interested persons to comment on the draft environmental assessment and the draft urban and community impact anaylsis, DOE is establishing a special comment period which will run through July 9, 1979, 4:30 p.m., e.d.t., dedicated to comments on these documents, as well as the Draft Regulatory Analysis. Moreover, a special hearing in Washington, D.C., will be held on these matters in late June. The exact time, date, and place will be published in the **Federal Register** at a later date."

(b) In the first paragraph delete "May 3 for Salt Lake City Hearing" and insert in lieu thereof: "May 2 for Denver Hearing, May 4 for Seattle Hearing."

(c) In the last full paragraph, delete "May 7 for Salt Lake City Hearing" and insert in lieu thereof: "May 7 for Denver Hearing, "May 9 for Seattle Hearing."

§ 456.102 [Amended]

17. On page 16588, first column, paragraph (c) of § 456.102, first sentence, the following should be omitted: ", in consultation with the Administrator of the Economic Regulatory Administration,"

§ 456.205 [Amended]

18. On page 16591, second column, paragraph (d) of § 456.205, the word "disapproved" should be "disapprove".

19. On page 16593, first column, paragraph (a)(4) of § 456.305 should read:

§ 456.305 Scope of benefits.

(a) • • •

(4) Billing of costs and repayment of services as described in § 456.311; and

• • • • • • • • •

§ 456.306 [Amended]

20. On page 16593, second column, paragraph (a)(7) of § 456.306 should read as follows:

(a) • • •

"(7) Include the following disclosure or its equivalent:

Energy savings depend on many factors. The estimates contained in this program announcement are based on simulations of typical houses. Your savings will be different if your house is a different size or type, if your family is a different size, of if your energy using habits are different from those we assumed. The energy audity which we offer will provide more specific estimates for your home."

• • • • • •

§ 456.306 [Amended]

21. On page 16593, third column, paragraph (b)(3) of § 456.306 should read as follows:

• • • • • •

(b) • • •

"(3) For active solar space heating systems, and for combined active solar space heating and solar domestic hot water systems, there are nine categories, which are "gas space heating", "oil space heating", "electric space heating", with respect to the following building types:"

• • • • • •

§ 456.307 [Amended]

22. On page 16594, third column, subdivision (v)(D)(*3*) of paragraph (c)(1) of § 456.307 should read as follows:

• • • • • •

(c) • • •
(1) • • •
(v) • • •
(D) • • •
"(*3*) Braking;"
• • • • • •

§ 456.307 [Amended]

23. On page 16594, third column, subdivision (v)(D)(*9*) of paragraph (c)(1) of § 456.307 should read as follows:

• • • • • •

(c) • • •
(1) • • •
(v) • • •
(D) • • •
"(9) The disclosure provided in subdivision (v)(B)(5) of this subparagraph."
• • • • • •

§ 456.307 [Amended]

24. On page 16594, third column, subdivision (iii) of paragraph (d)(1) of § 456.307 should read as follows:

• • • • • •

(d) • • •
(1) • • •
"(iii) Provide clear indication to the eligible customer, through sample calculation or disclosure, that the total energy cost savings from the installation of several suggested measures will be less than the sum of the energy cost savings of such measures installed individually."
• • • • • •

25. On page 16596, second column, subdivision (ii)(B) of paragraph (b)(3) of § 456.310 should read as follows:

§ 456.310 Accounting and payment of costs.

• • • • • •

(b) • • •
(3) • • •
(ii) • • •
"(B) Arranging for a lender to make a loan to an eligible customer to finance the purchase and installation costs of energy conservation and renewable resource measures, including the cost of arranging repayment of the principal and interest of a loan as part of the periodic bill;"
• • • • • •

V 4 4 / 9 1 M Y 9 7 9 UMI

§ 456.311 [Amended]

26. On page 16596, third column, paragraph (b)(4) of § 456.311 should read as follows:

§ 456.311 Billing of costs, repayment of loans, and termination of service.

* * * * *

(b) * * *

"(4) In the case of any loan for purchase and installation of suggested measures made by a covered utility or a participating home heating supplier under the Residential Conservation Service Program, or, under the circumstances described in the State Plan pursuant to § 456.305, by a lender other than a covered utility or participating home heating supplier:"

* * * * *

§ 456.505 [Amended]

27. On page 16602, third column, paragraph (a) of § 456.505, the following should be omitted:

", in consultation with the Administrator of the Economic Regulatory Administration,".

28. On page 16608, first column, paragraph (d)(3) of § 456.803 should read as follows:

§ 456.803 Standards for loose-fill cellulosic or wood fiber insulation.

* * * * *

(d) * * *

"(3) *Test procedures for critical radiant flux.* Critical radiant flux shall be determined in accordance with the following test procedure: Prepare the insulation to be tested by following the test method for settled density at paragraph (d)(1) of this section."

* * * * *

29. On page 16634, first column, paragraph (c)(3) of § 456.811 should read as follows:

§ 456.811 Standards for aluminum foil reflective thermal insulation.

* * * * *

(c) * * *

"(3) *Kraft paper.* Kraft paper used in aluminum foil insulation shall meet the requirements of ASTM D585."

* * * * *

30. On page 16634, third column, paragraph (a)(2) of § 456.812 should read as follows:

§ 456.812 Standards for storm windows, storm and thermal doors, caulks and sealants, clock thermostats, water heater and heating/air conditioning duct insulation.

* * * * *

(a) * * *

"(2) Storm and thermal doors (aluminum, wood, or rigid vinyl frame.)"

§ 456.812 [Amended]

* * * * *

31. On pages 16634–16635, third and first columns respectively, subdivision (iii) of paragraph (c)(1) of § 456.812 should read as follows:

* * * * *

(c) * * *

(1) * * *

"(iii) Rigid vinyl frame storm and thermal windows shall be constructed with vinyl profile extrusions which conform to NBS/VPS26–70, Rigid Polyvinyl-Chloride Profile Extrusions."

* * * * *

§ 456.814 [Amended]

32. On page 16635, third column, paragraph (a)(2) of § 456.814 should read as follows:

(a) * * *

"(2) Replacement oil-fired central furnaces."

* * * * *

§ 456.814 [Amended]

33. On page 16635, third column, paragraph (b)(1) of § 456.814 should read as follows:

* * * * *

"(b) *Product standards.*—(1) *Standards for replacement gas-fired central furnaces and boilers.* Gas-fired central furnaces and boilers shall conform to ANSI Z21.47–1978, entitled "American National Standard for Gas-Fired Central Furnaces and Boilers," ANSI Z21.13–1977, entitled "Gas-Fired, Low Pressure Steam and Hot Water Heating Boilers," or ANSI Z21.59–1974, "Gas-Fired High Pressure Steam and Hot Water Heating Boilers".

* * * * *

§ 456.814 [Amended]

34. On page 16636, first column, after paragraph (b)(8) of § 456.814 add the following subparagraphs:

(b) * * *

"(9) *Standard for Replacement Oil-Fired Central Furnaces.* * Oil-fired central furnaces shall conform to ANSI Z96.1, entitled "American National Standard for Oil-Fired Central Furnaces" and to UL 727, entitled "Standard for Safety, Oil-Fired Central Furnaces"."

(10) *Standard for Sofety, Boiler Assemblies.* * Boiler assemblies shall conform to ANSI Z96.3, entitled "American National Standard for Boiler Assemblies" and to UL 726, entitled "Standard for Safety, Boiler Assemblies"."

(11) *Standard for Direct Vent Furnaces.* * Direct Vent Furnaces shall conform to ANSI Z21.64, entitled "Direct Vent Furnaces"."

35. On page 16642, third column, paragraph (a)(7) of § 456.906 should read as follows:

§ 456.906 Standard practice for the installation of organic cellular rigid board thermal installation.

(a) * * *

"(7) This practice covers the installation of the rigid board but does not include in detail the installation of exterior siding and roofing required to protect rigid board insulation from the effects of weather or the installation of interior fire protective coverings even though the protective coverings are required."

* * * * *

§ 456.911 [Amended]

36. On page 16654, first column, paragraph (a)(5) of § 456.911, first sentence, replace "insulation" with "clock thermostat".

Appendix I(A) to Part 456 [Amended]

37. On page 16667, paragraph (b)(3) of Appendix I(A) to Part 456 should read as follows:

* * * * *

"(3) *Replacement Furnaces or Boilers.* Replacement furnaces or boilers are suggested measures for all categories of buildings in all States and climate zones."

* * * * *

Appendix I(B) to Part 456 [Amended]

38. On page 16723, paragraph (a) of Appendix I(B) Part 456 should read as follows:

"(a) The symbols for each measure are:

D: Solar Domestic Hot Water Systems
S: Active Solar Space Heating Systems
D/S: Combined Active Solar Space Heating and Solar Domestic Hot Water Systems
P: Passive Solar Space Heating and Cooling Systems
W: Wind Energy Systems
H: Replacement Solar Swimming Pool Heaters."

* * * * *

Appendix I(B) to Part 456 [Amended]

39. On page 16723, paragraph (b)(2) of Appendix I(B) Part 456 should read as follows:

* * * * *

(b) * * *

"(2) The tables indicate the building type for which these two measures are suggested."

40. Page 16724 through page 16741 should read as follows:

Climatic Regions

Region, County

Alabama

1

Colbert, Franklin, Lauderdale, Lawrence

2

Blount, Calhoun, Cleburne, Cherokee, Cullman, DeKalb, Etowah, Jackson, Limestone, Madison, Marshall, St. Clair

3

Autauga, Barbour, Bibb, Bullock, Butler, Chambers, Chilton, Choctaw, Clay, Coosa, Crenshaw, Dale, Dallas, Elmore, Fayette, Greene, Hale, Henry, Jefferson, Lamar, Lee, Lowndes, Macon, Marengo, Marion, Montgomery, Perry, Pickens, Pike, Randolph, Russell, Shelby, Sumter, Tallapoosa, Talladega, Tuscaloosa, Walker, Wilcox, Winston

4

Baldwin, Clarke, Coffee, Conecuh, Covington, Escambia, Geneva, Houston, Mobile, Monroe, Washington

Alaska

1

Bettles, Fairbanks, Nome

2

Bethel

3

Barrow

4

Adak

5

Annette Island, Gulkana, Yakutat, Naknek, Homer

6

7

Alpine, Inyo

8

Los Angeles

9

Imperial, Riverside, San Bernardino

Colorado

1

Moffat

2

Delta, Dolores, Garfield, LaPlata, Mesa, Montezuma, Montrose, Rio Blanco, San Juan, San Miguel

3

Alamosa, Archuleta, Chaffee, Clear Creek, Conejos, Costilla, Custer, Douglas, Eagle, El Paso, Fremont, Grande, Gunnison, Hinsdale, Huerfano, Jackson, Jefferson, Lake, Mineral, Park, Pitkin, Rio Grand, Routt, Saguache, Summitt, Teller

4

Adams, Arapahoe, Boulder, Elbert, Larimer, Logan, Morgan, Phillips, Sedgwick, Washington, Weld, Yuma

5

Cheyenne, Kiowa, Kit Carson, Lincoln, Prowers

6

Baca, Bent, Crowley, Las Animas, Otero, ueblo

Connecticut

1

Fairfield, Hartford, Litchfield, Middiesex, New Haven, New London, Tolland, Windham

Delaware

1

Kent, New Castle, Sussex

Florida

1

Bay, Calhoun, Escambia, Franklin, Gadsden, Gulf, Hamilton, Holmes, Jefferson, Leon, Liberty, Madison, Okaloosa, Santa Rosa, Taylor, Wakulla, Walton, Washington

Arizona

1

Apache, Navajo

2

Cochise, Graham, Greenlee

3

Gila, Maricopa, Mohave, Pima, Pinal, Santa Cruz, Yuma

4

Coconino

5

Yavapai

Arkansas

1

Baxter, Benton, Boone, Carroll, Cleburne, Conway, Crawford, Franklin, Garland, Johnson, Logan, Madison, Marion, Montgomery, Newton, Perry, Polk, Pope, Saline, Scott, Searcy, Sebastian, Stone, Van Buren

2

Clay, Craighead, Crittenden, Cross, Faulkner, Fulton, Greene, Independence, Izard, Jackson, Lawrence, Lee, Lonoke, Mississippi, Monroe, Phillips, Poinsett, Prairie, Pulaski, Randolph, St. Francis, Sharp, White, Woodruff

3

Ashley, Bradley, Calhoun, Clark, Columbia, Dallas, Hempstead, Hot Spring, Howard, Lafayette, Little River, Miller, Nevada, Ouachita, Pike, Sevier, Union

4

Arkansas, Chicot, Cleveland, Desha, Drew, Grant, Jefferson, Lincoln

California

1

Del Norte, Humboldt, Mendocino

2

Amador, Butte, Calaveras, Colusa, El Dorado, Glenn, Lake, Napa, Nevada, Placer, Plumas, Sacramento, San Joaquin, Shasta, Sierra, Siskiyou, Sutter, Tehama, Trinity, Yolo, Yuba

3

Modoc, Lassen

5

Alameda, Contra Costa, Marin, San Mateo, Monterey, San Benito, San Luis Obispo, Santa Clara, Santa Cruz, Sonoma

6

Fresno, Kern, Kings, Madera, Mariposa, Merced, Stanislaus, Tulare, Tuolumne

2

Alachua
Baker
Bradford
Columbia
Glades
Highlands
Lake
Marion
Okeechobee
Orange
Osceola
Polk
Sumter
Union

3

Brevard
Broward
Charlotte
Citrus
Clay
Collier
Dade
DeSoto
Dixie
Duval
Flagler
Gilchrist
Hardee
Hendry
Hernando
Hillsborough
Indian River
Lafayette
Lee
Levy
Manatee
Martin
Monroe
Nassau
Palm Beach
Pasco
Pinellas
Putnam
St. Johns
St. Lucie
Sarasota
Suwannee
Volusia

Georgia

1

Bartow
Chattooga
Cherokee
Cobb
Dawson
Douglas
Fannin
Floyd
Forsyth
Gilmer
Gordon
Haralson
Lumpkin
Murray
Paulding
Pickens
Polk
Rabun
Union
Walker
Whitfield

2

Baldwin
Banks
Barrow
Ben Hill
Bibb
Bleckley
Burke
Butts
Calhoun
Carroll
Chattahoochee
Clarke
Clay
Clayton
Columbia
Coweta
Crawford
Crisp
Dodge
Dooly
Dougherty
Elbert
Fayette
Franklin
Fulton
Glascock
Greene
Gwinnett
Habersham
Hall
Hancock
Harris
Hart
Heard
Henry
Houston
Jackson
Jasper
Jefferson
Johnson
Jones
Lamar
Laurens
Lee
Lincoln
Macon
Madison
Marion
McDuffie
Meriwhether
Monroe
Morgan
Newton
Oconee
Oglethorpe
Peach
Pike
Pulaski
Putnam
Quitman
Randolph
Richmond
Rockdale
Schley
Spalding
Stephens
Stewart
Sumter
Talbot
Taliaferro
Taylor
Terrell
Troup
Turner
Twiggs
Upson
Walton
Warren
Washington
Webster
White
Wilcox
Wilkes
Wilkinson
Worth

3

Appling
Atkinson
Bacon
Baker
Berrien
Brantley
Brooks
Bryan
Bulloch
Camden
Candler
Chatham
Charlton
Clinch
Coffee
Colquitt
Cook
Decatur
Early
Echols
Effingham
Emanuel
Evans
Glynn
Grady
Irwin
Jeff Davis
Jenkins
Lanier
Liberty
Long
Lowndes
McIntosh
Miller
Mitchell
Montgomery
Pierce
Seminole
Screven
Tattnall
Telfair
Thomas
Tift
Toombs
Treulten
Ware
Wayne
Wheeler

Hawaii

1

Hawaii

2

Honolulu
Maui

3

Kauai

Idaho

1

Benewah
Bonner
Boundary
Clearwater
Kootenai

2

Ada
Adams
Boise
Canyon
Clark
Custer
Elmore

3

Bannock
Bingham
Blaine
Bonneville
Butte
Camas
Cassia
Fort Hall
Fremont
Gooding

4

Bear Lake
Caribou
Latah
Lewis
Nez Perce
Shoshone
Gem
Idaho
Lemhi
Payette
Valley
Washington
Jefferson
Jerome
Lincoln
Madison
Minidoka
Owyhee
Power
Teton
Twin Falls
Franklin
Oneida

Illinois

Illinois

1

Boone
Bureau
Carroll
Cook
DeKalb
DuPage
Henry
Jo Daviess
Kane
Kendall
Lake
Lee
McHenry
Mercer
Ogle
Rock Island
Stephenson
Whiteside
Will
Winnebago

2

Champaign
Clark
Coles
Crawford
Cumberland
DeWitt
Douglas
Edgar
Ford
Grundy
Henderson
Iroquois
Kankakee
Knox
LaSalle
Livingston
Logan
Macon
Marshall
McLean
Moultrie
Peoria
Piatt
Putnam
Shelby
Stark
Tazewell
Vermilion
Warren
Woodford

3

Adams
Pond
Brown
Calhoun
Cass
Christian
Clinton
Fulton
Greene
Hancock
Jersey
Macoupin
Madison
Mason
McDonough
Menard
Monroe
Montgomery
Morgan
Pike
Randolph
Sangamon
Schuyler
Scott
ST. Clair

4

Alexander
Clay
Edwards
Effingham
Fayette
Franklin
Gallatin
Hamilton
Hardin
Jackson
Jasper
Jefferson
Johnson
Lawrence
Marion
Perry
Pope
Richland
Saline
Union
Wabash
Washington
Wayne
White
Williamson

5

Massac
Pulaski

Indiana

1

DeKalb
Elkhart
Lagrange
Lake
La Porte
Marshall
Noble
Porter
St Joseph
Stake
Steuben

2

Adams
Allen
Bartholomew
Benton
Blackford
Boone
Brown
Carroll
Cass
Clark
Clay
Clinton
Daviess
Dearborn
Decatur
Delaware
Fayette
Floyd
Fountain
Franklin
Fulton
Grant
Greene
Hamilton
Hancock
Harrison
Hendricks
Henry
Howard
Huntington
Jackson
Jasper
Jay
Jefferson
Jennings
Johnson

Indiana

Knox
Kosciusko
Lawrence
Madison
Marion
Martin
Miami
Monroe
Montgomery
Morgan
Newton
Ohio
Orange
Owen
Parke
Wabash
Warren
Washington
Wayne
3
Crawford
Dubois
Gibson
Perry
Pike
Pulaski
Putnam
Randolph
Ripley
Rush
Scott
Shelby
Sullivan
Switzerland
Tippecanoe
Tipton
Union
Vermillion
Vigo
Wells
White
Whitley
Posey
Spencer
Vanderburgh
Warrick

Iowa

1

Adair
Adams
Appanoose
Audubon
Benton
Black Hawk
Boone
Bremer
Buena Vista
Butler
Calhoun
Cass
Carroll
Cerro Gordo
Cherokee
Clark
Clay
Crawford
Dallas
Davis
Decatur
Dickinson
Emmett
Floyd
Franklin
Fremont
Greene
Grundy
Guthrie
Hamilton
Hancock
Hardin
Harrison
Henry
Humboldt
Ida
Iowa
Jasper
Jefferson
Johnson
Keokuk
Kossuth
Louisa
Lucas
Madison
Mahaska
Marion
Marshall
Mills
Monona
Monroe
O'Brien
Osceola
Page
Palo Alto
Polk
Plymouth
Pocahontas
ottawattamie
Poweshiek
Ringgold
Sac
Shelby
Sioux
Story
Tama
Taylor
Union
Wapello
Warren
Washington
Wayne
Webster
Winnebago
Woodbury
Worth
Wright

2

Allamakee
Buchanan
Cedar
Chickasaw
Clayton
Clinton
Delaware
Dubuque
Fayette
Howard
Jackson
Jones
Linn
Mitchell
Muscatine
Scott
Winneshiek

Kansas

1

Cheyenne
Clark
Comanche
Decatur
Edwards
Finney
Ford
Gove
Graham
Grant
Gray
Greeley
Hamilton
Haskell
Hodgeman
Kearny
Kiowa
Lane
Logan
Meade
Ness
Pawnee
Rawlins
Rush
Scott
Seward
Sheridan
Sherman
Stanton
Stevens
Thomas
Trego
Wallace
Wichita

2

Barber
Barton
Butler

3

Allen
Aderson
Atchison
Bourbon
Brown
Chase
Cherokee
Clay
Coffey
Crawford
Doniphan
Douglas
Elk
Franklin
Geary
Greenwood
Jackson
Jefferson
Johnson

4

Morton

5

Chautaugua
Cloud
Cowley
Dickinson
Ellis
Ellsworth
Harper
Harvey
Jewell
Kingman
Lincoln
Marion
McPherson
Mitchell
Norton
Osborne
Ottawa
Phillips
Pratt
Reno
Republic
Rice
Rooks
Russell
Saline
Sedgwick
Smith
Stafford
Sumner

Kentucky

1

Anderson
Boone
Bourbon
Boyle
Bracken
Bullit
Campbell
Carroll
Casey
Fayette
Franklin
Gallatin
Garrard
Grant
Harrison
Henry

2

Adair
Allen
Barren
Breckinridge
Butler
Crittendon
Cumberland
Daviess
Edmonson
Grayson
Labette
Leavenworth
Linn
Lyon
Marshall
Miami
Montgomery
Morris
Nemaha
Neosho
Osage
Pottawatomie
Riley
Shawnee
Wabaunsee
Washington
Wilson
Woodson
Wyandotte
Jefferson
Jessamine
Kenton
Lincoln
Marion
Nicholas
Oldham
Owen
Pendleton
Robertson
Scott
Shelby
Spencer
Taylor
Trimble
Woodford
Green
Hancock
Hardin
Hart
Henderson
Hopkins
Larue
Livingston
McLean

Muhlenberg
Ohio
Todd
Union
Webster

3

Barren
Butler
Edmonson
Hart
Logan
Metcalfe
Monroe
Simpson
Warren

4

Bath
Bourbon
Bracken
Campbell
Fleming
Gallatin
Grant
Harrison
Kenton
Lewis
Mason
Nicholas
Pendleton
Robertson
Scott

Louisiana

1

Ascension
Assumption
East Baton Rouge
East Feliciana
Iberville
Lafayette
Pointe Coupee
St. Helena
St. James
St. John the Baptist
St. Martin
West Baton Rouge
West Feliciana

2

Acadia
Allen
Beauregard
Calcasieu
Cameron
Evangeline
Jefferson Davis
Vermilion

3

Caldwell
Catahoula
Concordia
Franklin
Jackson
La Salle
Lincoln
Madison
Morehouse
Ouachita
Richland
Tensas
Union
West Carroll

4

Bienville
Bossier
Caddo
Claiborne
De Soto
Natchitoches
Red River
Sabine
Webster

5

Avoyelles
Grant
Rapides
Vernon
Winn

Maine

1

Androscoggin
Cumberland
Franklin
Kennebec
Knox
Lincoln
Oxford
Sagadahoc
Somerset
Waldo

2

Aroostook
Hancock
Penobscot
Piscataquis
Washington
York

Maryland

1

Allegany
Garrett
Washington

2

Anne Arundel
Baltimore
Baltimore City
Carroll
Harford
Howard

3

Calvert
Charles
Frederick
Montgomery
Prince Georges

4

Caroline
Cecil
Dorchester
Kent
Queen Anne's
Somerset
Talbot
Wicomico
Worcester

5

St. Mary's

Massachusetts

1

Berkshire
Franklin
Hampden
Hampshire

2

Bristol
Essex
Middlesex
Norfolk
Plymouth
Suffolk

3

Barnstable
Dukes
Nantucket

Michigan

1

Alcona
Alpena
Antrim
Arenac
Bay
Benzie
Charlevoix
Cheboygan
Clare
Crawford
Gladwin
Gratiot
Huron
Iosco
Isabella
Kalkaska
Lake
Manistee
Mason
Mecosta
Midland
Missaukee
Montmorency
Newaygo
Oceana
Ogemaw
Osceola
Oscoda
Otsego
Presque Isle
Roscommon
Saginaw
Sanilac
Tuscola
Wexford

2

Allegan
Barry
Berrien
Branch
Calhoun
Cass
Clinton
Eaton
Genesee
Gratiot
Hillsdale
Ingham
Ionia
Jackson
Kalamazoo
Kent
Lapeer
Lenawee
Livingston
Macomb
Monroe
Montcalm
Muskegon
Oakland
Ottawa
Saginaw
St. Clair
St. Joseph
Shiawassee
Tuscola
Van Buren
Washtenaw
Wayne

Minnesota

1

Aitkin
Becker
Beltrami
Cass
Clay
Clearwater
Crow Wing
Douglas
Grant
Hubbard
Kittson
Lake of the Woods
Mahnomen
Marshall
Morrison
Norman
Otter Tail
Pennington
Pine
Polk
Pope
Red Lake
Roseau
Stearns
Stevens
Todd
Traverse
Wadena
Wilkin

2

Anoka
Benton
Carlton
Chisago
Dakota
Hennepin
Isanti
Kanabec
Lake
Ramsey
Sherburne
Washington
Wright

3

Blue Earth
Brown
Carver
Cottonwood
Faribault
Fillmore
Freeborn
Houston
Jackson
Le Sueur
Martin
Mower
Nicollet
Nobles
Olmsted
Rice
Rock
Scott
Sibley
Steele
Wabasha
Waseca
Watonwan
Winona

4

Chippewa
Dodge
Goodhue
Kandiyohi
Lac qui Parle
Lincoln
Lyon
Meeker
Murray
Pipestone
Redwood
Renville
Swift
Yellow Medicine

Mississippi

1

Alcorn
Benton
Calhoun
Chickasaw
Choctaw
Clay
Desoto
Itawamba
Lafayette
Lee
Lowndes
Marshall
Monroe
Oktibbeha
Pontotoc
Prentiss
Tippah
Tishomingo
Union
Webster
Winston

2

Adams
Amite
Attala
Claiborne
Copiah
Franklin
Hinds
Holmes
Humphreys
Issaquena
Jefferson
Jefferson Davis
Lawrence
Leake
Lincoln
Madison
Marion
Pike
Rankin
Sharkey
Simpson
Smith
Walthall
Warren
Wilkinson
Yazoo

3

Carroll
Grenada
Leflore
Montgomery
Sunflower
Tallahatchie
Yalobusha

4

Covington
Forrest
George
Greene
Hancock
Harrison
Jackson
Jones
Lamar
Pearl River
Perry
Stone
Wayne

Missouri

1

Adair
Andrew
Atchison
Buchanan
Caldwell
Carroll
Chariton
Clark
Clinton
Daviess
De Kalb
Gentry
Grundy
Harrison
Holt
Knox
Linn
Livingston
Macon
Mercer
Nodaway
Putnam
Ralls
Schuyler
Scotland
Shelby
Sullivan
Worth

2

Audrain
Boone
Callaway
Cole
Cooper
Howard
Lincoln
Moniteau
Montgomery
Osage
Pike
Warren

3

Bollinger
Cape Girardeau
Iron
Madison
Perry
Ste. Genevieve
St. Francois
Wayne

4

Barton
Bates
Benton
Cass
Cedar
Dade
Dallas
Henry
Hickory
Jasper
Johnson
Lafayette
Newton
Pettis
Polk
St. Clair
Saline
Vernon

5

Clay
Jackson
Platte
Ray

Montana

1

Beaverhead
Big Horn
Broadwater
Carbon
Carter
Cascade
Chouteau
Custer
Daniels
Dawson
Deer Lodge
Fallon
Fergus
Flathead
Gallatin
Garfield
Glacier
Golden Valley
Granite
Hill
Jefferson
Judith Basin
Lake
Lewis and Clark
Liberty
Lincoln
Madison
McCone
Meagher
Mineral
Missoula
Musselshell
Park
Petroleum
Phillips
Pondera
Powder River
Powell
Prairie
Ravalli
Richland
Roosevelt
Rosebud
Sanders
Sheridan
Silver Bow
Stillwater
Sweet Grass
Teton
Toole
Treasure
Valley
Wheatland
Wibaux
Yellowstone

2

Blaine
Chouteau
Glacier
Hill
Liberty
Pondera
Teton
Toole

Nebraska

1

Antelope
Boone
Boyd
Brown
Burt
Butler
Cedar
Colfax
Cuming
Dakota
Dixon
Dodge
Douglas
Holt
Howard
Keya Paha
Knox
Madison
Nance
Pierce
Platte
Rock
Saunders
Stanton
Thurston
Washington
Wayne

2

Adams
Arthur
Banner
Blaine
Box Butte
Boyd
Brown
Buffalo
Chase
Cherry
Cheyenne
Clay
Custer
Dawes
Deuel
Dundy
Franklin
Frontier
Furnas
Gage
Garden
Garfield
Gosper
Grant
Greeley
Hall
Hamilton
Harlan
Hayes
Hitchcock
Hooker
Howard
Jefferson
Kearney
Keith
Kimball
Lincoln
Logan
Loup
McPherson
Merrick
Morrill
Nuckolls
Perkins
Phelps
Polk
Red Willow
Rock
Saline
Sheridan
Sherman
Sioux
Thayer
Thomas
Valley
Webster
Wheeler
York

Nevada

1

Churchill
Clark
Douglas
Esmeralda
Eureka
Humboldt
Lander
Lincoln
Lyon
Mineral
Nye
Pershing
Storey
Washoe
White Pine

2

Carson City
Elko
Lincoln
Nye
Ormsby
Storey
Washoe
White Pine

New Hampshire

1

Belknap
Carroll
Coos
Grafton
Merrimack
Sullivan

2

Cheshire
Hillsborough
Rockingham
Strafford

New Jersey

1

Atlantic
Cape May
Cumberland
Gloucester
Salem

2

Burlington
Camden
Mercer

3

Monmouth
Ocean

4

Bergen
Essex
Hudson
Hunterdon
Middlesex
Morris
Passaic
Somerset
Sussex
Union
Warren

New Mexico

1

Chaves
Curry
De Baca
Eddy
Guadalupe
Harding
Lea
Quay
Roosevelt
Union

2

Catron
Dona Ana
Grant
Hidalgo
Luna
Otero
Sierra
Socorro

3

Bernalillo
Cibola
Los Alamos
McKinley
Rio Arriba
Sandoval
San Juan
San Miguel
Santa Fe
Taos
Torrance
Valencia

New York

1

Albany
Columbia
Delaware
Dutchess
Greene
Orange
Putnam
Rensselaer
Schoharie
Sullivan
Ulster

2

Bronx
Kings
New York
Queens
Richmond

3

Nassau
Suffolk

4

Chenango
Cortland
Fulton
Hamilton
Herkimer
Madison
Montgomery
Otsego
Schenectady
Schoharie

5

Cayuga
Cortland
Jefferson
Lewis
Onondaga
Oswego
St. Lawrence

6

Allegany
Broome
Chemung
Chenango
Cortland
Delaware
Otsego
Schuyler
Steuben
Tioga
Tompkins

7

Cattaraugus
Chautauqua
Erie
Niagara

8

Genesee
Livingston
Monroe
Ontario
Orleans
Seneca
Wayne
Wyoming
Yates

9

Dutchess
Orange
Putnam
Rockland
Sullivan
Ulster
Westchester

10

Clinton
Essex
Franklin
Fulton
Hamilton
Montgomery
Saratoga
Schenectady
Warren
Washington

North Carolina

1

Beaufort
Bertie
Camden
Chowan
Currituck
Dare
Gates
Hertford
Hyde
Martin
Pasquotank
Perquimans
Pitt
Tyrrell
Washington

2

Carteret
Craven
Duplin
Greene
Jones
Lenoir
Onslow
Pamlico
Wayne

3

Bladen
Brunswick
Columbus
New Hanover
Pender
Sampson

4

Cumberland
Harnett
Hoke
Johnston
Robeson

5

Chatham
Durham
Franklin
Granville
Lee
Moore
Orange
Person
Vance
Wake
Warren

6

Alamance
Caswell
Davidson
Davie
Forsyth
Guilford
Randolph
Rockingham
Stokes
Surry
Yadkin

7

Alexander
Alleghany
Ashe
Avery
Burke
Caldwell
Catawba
Cleveland
Gaston
Iredell
Lincoln
McDowell
Mitchell
Polk
Rutherford
Watauga
Wilkes

8

Anson
Cabarrus
Cleveland
Davidson
Gaston
Iredell
Lincoln
Mecklenburg
Montgomery
Rowan
Stanly
Union

9

Buncombe
Cherokee
Clay
Graham
Haywood
Henderson
Jackson
Macon
Madison
Swain
Transylvania

10

Alexander
Catawba
Cleveland
Gaston
Lincoln
Mecklenburg
Rowan
Union

North Dakota

1

Adams
Billings
Bowman
Burke
Divide
Dunn
Golden Valley
Hettinger
McKenzie
Mercer
Morton
Oliver
Slope
Stark
Williams

2

Benson
Bottineau
Burleigh
Eddy
Emmons
Foster
Grand Forks
Kidder
McHenry
McIntosh
McLean
Nelson
Pierce
Ramsey
Renville
Rolette
Sheridan
Sioux
Towner
Wells

3

Barnes
Cass
Dickey
Griggs
La Moure
Logan
Ransom
Richland
Sargent
Steele
Stutsman
Traill

4

Golden Valley
Grant
Hettinger
Morton
Oliver
Sioux

Ohio

1

Adams
Brown
Butler
Clermont
Hamilton
Highland
Warren

2

Champaign
Clark
Darke
Greene
Miami
Montgomery
Preble

3

Allen
Auglaize
Crawford
Hancock
Hardin
Logan
Marion
Mercer
Putnam
Shelby
Van Wert

4

Ashland
Carroll
Columbiana
Coshocton
Harrison
Holmes
Jefferson
Knox
Richland
Stark
Tuscarawas
Wayne

5

Ashtabula
Cuyahoga
Geauga
Lake
Lorain
Medina

6

Athens
Gallia
Hocking
Jackson
Lawrence
Meigs
Pike
Ross
Scioto
Vinton

7

Belmont
Carroll
Columbiana
Guernsey
Harrison
Jefferson
Monroe
Noble

8

Clinton
Fayette
Madison
Pickaway
Ross

9

Delaware
Fairfield
Franklin
Licking
Madison
Pickaway

10

Erie
Fulton
Huron
Lucas
Ottawa
Sandusky
Seneca
Wood

11

Defiance
Fulton
Henry
Lucas
Williams
Wood

Oklahoma

1

Adair
Cherokee
Delaware
Mayes
Muskogee
Ottawa
Sequoyah
Wagoner

2

Atoka
Bryan
Choctaw
Coal
Haskell
Hughes
Johnston
Latimer
Le Flore
Marshall
Pittsburg
Pontotoc
Pushmataha

3

Caddo
Canadian
Grady
Kingfisher
Lincoln
Logan
Oklahoma
Payne
Pottawatomie

4

Beaver
Cimarron
Harper
Texas
Woods
Woodward

5

Alfalfa
Beckham
Blaine
Custer
Dewey
Ellis
Garfield
Grant
Kay
Major
Noble
Roger Mills
Washita

6

Carter
Cotton
Garvin
Jefferson
Love
Murray
Stephens

7

Comanche
Jackson
Kiowa
Tillman

8

Creek
Okfuskee
Okmulgee
Osage
Pawnee
Tulsa

9

Craig
Mayes
Nowata
Ottawa
Rogers
Tulsa
Washington

Oregon

1

Clackamas
Columbia
Multnomah
Washington

2

Clatsop
Tillamook

3

Benton
Lincoln
Linn
Polk
Yamhill

4

Coos
Curry
Douglas
Jackson
Josephine

5

Gilliam
Hood River
Sherman
Wasco

6

Baker
Grant
Harney
Malheur
Umatilla
Union
Wallowa

7

Crook
Deschutes
Jefferson
Klamath
Lake
Wheeler

Pennsylvania

1

Bucks
Chester
Delaware
Montgomery
Philadelphia

2

Berks
Lehigh
Northampton

3

Adams
Cumberland
Dauphin
Franklin
Lancaster
Lebanon
York

4

Bedford
Blair
Cambria
Fulton
Huntingdon
Somerset

5

Allegheny
Armstrong
Beaver
Butler
Fayette
Greene
Indiana
Lawrence
Washington
Westmoreland

6

Clarion
Crawford
Erie
Forest
Mercer
Venango
Warren

7

Lackawanna
Luzerne
Monroe
Pike
Susquehanna
Wayne

8

Clinton
Lycoming
Northumberland
Snyder
Union

9

Bradford
Cameron
Centre
Clearfield
Elk
McKean
Potter
Sullivan
Tioga

10

Armstrong
Blair
Cambria
Clearfield
Indiana
Jefferson
Somerset

11

Columbia
Montour
Schuylkill
Wyoming

Rhode Island

1

Bristol
Kent
Newport
Providence
Washington

South Carolina

1

Beaufort
Berkeley
Charleston
Colleton
Dorchester
Georgetown
Hampton
Horry
Jasper

2

Aiken
Allendale
Bamberg
Barnwell
Calhoun
Lexington
Orangeburg
Richland

3

Chesterfield
Darlington
Dillon
Florence
Marion
Marlboro

4

Abbeville
Anderson
Edgefield
Greenville
Greenwood
Laurens
McCormick
Oconee
Pickens
Saluda

5

Chester
Fairfield
Kershaw
Lancaster
Lee
Newberry
Sumter
Union
York

6

Cherokee
Chesterfield
Darlington
Dillon
Florence
Marlboro
Spartanburg

South Dakota

1

Aurora
Beadle
Brookings
Brown
Clark
Codington
Davison
Deuel
Edmunds
Faulk
Grant
Hamlin
Hand
Hanson
Hyde
Jerauld
Kingsbury
Lake
McCook
McPherson
Marshall
Miner
Moody
Potter
Roberts
Sanborn
Spink
Sully
Turner

2

Bennett
Bon Homme
Charles Mix
Clay
Douglas
Gregory
Hutchinson
Lincoln
Lyman
Mellette
Todd
Tripp
Union
Yankton

3

Butte
Corson
Dewey
Harding
Meade
Perkins
Ziebach

Tennessee

1

Bledsoe
Blount
Bradley
Campbell
Carter
Claiborne
Cocke
Grainger
Greene
Hamblen
Hamilton
Hancock
Hawkins
Jefferson
Johnson
Knox
Loudon
McMinn
Meigs
Monroe
Morgan
Polk
Rhea
Roane
Scott
Sevier
Sullivan
Unicoi
Union
Washington

2

Anderson
Bedford
Bledsoe
Blount
Bradley
Campbell
Cannon
Carroll
Cheatham
Claiborne
Coffee
Crockett
Cumberland
Davidson
Decatur
De Kalb
Dickson
Fentress
Franklin
Gibson
Giles
Grundy
Hardeman
Hardin
Hawkins
Haywood
Henderson
Henry
Hickman
Houston
Humphreys
Jackson
Lake
Lauderdale
Lawrence
Lewis
Lincoln
Loudon
McMinn
Macon
Madison
Marion
Marshall
Maury
Meigs
Monroe
Montgomery
Moore
Morgan
Obion
Overton
Perry
Pickett
Polk
Putnam
Rhea
Roane
Robertson
Rutherford
Scott
Sequatchie
Sevier
Shelby
Smith
Stewart
Sullivan
Sumner
Tipton
Trousdale
Unicoi
Union
Van Buren
Warren
Washington
Wayne
Weakley
White
Williamson
Wilson

Texas

1

Anderson
Angelina
Bowie
Camp
Cass
Cherokee
Delta
Fannin
Franklin
Gregg
Harrison
Henderson
Hopkins
Houston
Lamar
Marion
Morris
Nacogdoches
Panola
Rains
Red River
Rusk
Sabine
San Augustine
Shelby
Smith
Titus
Upshur
Van Zandt
Wood

2

Aransas
Bee
Brooks
Calhoun
Cameron
Duval
Goliad
Hidalgo
Jackson
Jim Wells
Kenedy
Kleberg
Live Oak
Matagorda
Nueces
Refugio
San Patricio
Victoria
Willacy

3

Austin
Brazoria
Chambers
Colorado
Fort Bend
Galveston
Harris
Liberty
Montgomery
Walker
Waller
Wharton

4

Atascosa
Bandera
Bexar
Comal
Dimmit
Edwards
Frio
Gillespie
Guadalupe
Kendall
Kerr
Kinney
La Salle
Maverick
Medina
Real
Uvalde
Val Verde
Webb
Wilson
Zapata
Zavala

5

Andrews
Borden
Brewster
Coke
Concho
Crane
Crockett
Culberson
Ector
Glasscock
Hudspeth
Irion
Jeff Davis
Loving
Martin
Mason
Menard
Midland
Pecos
Presidio
Reagan
Reeves
Schleicher
Sterling
Sutton
Terrell
Tom Green
Upton
Ward
Winkler

6

Archer
Baylor
Borden
Brown
Callahan
Clay
Coleman
Comanche
Cottle
Eastland
Fisher
Foard
Hardeman
Haskell
Jack
Jones
Kent
Knox
Mitchell
Montague
Nolan
Runnels
Scurry
Shackelford
Stephens
Stonewall
Taylor
Throckmorton
Wichita
Wilbarger
Young

7

Bell
Bosque
Brazos
Burleson
Coryell
Falls
Freestone
Grimes
Hamilton
Hill
Lampasas
Leon
Limestone
Madison
Milam
Robertson
Somervell
Washington

8

Cooke
Dallas
Denton
Ellis
Erath
Hood
Johnson
Kaufman
Navarro
Parker
Rockwall
Somervell
Tarrant

9

Armstrong
Bailey
Briscoe
Carson
Castro
Childress
Cochran
Collingsworth
Dallam
Deaf Smith
Dickens
Donley
Floyd
Gray
Hale
Hall
Hansford
Hartley
Hemphill
Hockley
Hutchinson
Lamb
Lipscomb
Moore
Motley
Ochiltree
Oldham
Parmer
Potter
Randall
Roberts
Sherman
Swisher
Terry
Wheeler
Yoakum

10

Andrews
Archer
Baylor
Borden
Briscoe
Carson
Childress
Clay
Cottle
Dallam
Dickens
Donley
Foard
Gray
Hall
Hansford
Hardeman
Hartley
Haskell
Hemphill
Hutchinson
Jack
Knox
Lipscomb
Moore
Motley
Ochiltree
Oldham
Potter
Randall
Roberts
Sherman
Stonewall
Swisher
Wheeler
Wichita
Wilbarger
Young

Utah

1

Box Elder
Cache
Rich

2

Davis
Morgan
Salt Lake
Summit
Tooele
Weber

3

Beaver
Carbon
Daggett
Duchesne
Emery
Garfield
Grand
Iron
Juab
Kane
Millard
Piute
Sanpete
Sevier
Uintah
Utah
Wasatch
Washington
Wayne

Vermont

1

Addison
Bennington
Chittenden
Franklin
Grand Isle
Rutland

2

Caledonia
Essex
Lamoille
Orange
Orleans
Washington
Windham
Windsor

Virginia

1

Accomack
Northampton

2

Chesapeake
Norfolk
Portsmouth
Virginia Beach

3

Isle of Wight
James City
Newport News
Southampton
Suffolk
York

4

Amelia
Brunswick
Chesterfield
Dinwiddie
Emporia
Greensville
Hopewell
Nottoway
Petersburg
Powhatan
Prince George
Surry
Sussex

5

Caroline
Essex
Fredericksburg
King and Queen
King George
King William
Lancaster
Middlesex
Northumberland
Richmond
Spotsylvania
Stafford
Westmoreland

6

Albemarle
Buckingham
Charlottesville
Culpeper
Fluvanna
Goochland
Greene
Louisa
Madison
Orange
Rappahannock

7

Alleghany
Augusta
Bath
Botetourt
Clifton Forge
Covington
Craig
Fincastle
Highland
Lexington
Rockbridge
Roanoke
Salem
Warren

8

Arlington
Fairfax
Fairfax City
Falls Church
Loudoun
Prince William

9

Bland
Buchanan
Carroll
Dickenson
Floyd
Galax
Grayson
Lee
Pulaski
Russell
Scott
Smyth
Tazewell
Washington
Wise
Wythe

10

Amherst
Appomattox
Bedford
Campbell
Danville
Franklin
Halifax
Henry
Lynchburg
Martinsville
Pittsylvania

Washington

1

Clallam
Island
Jefferson
San Juan
Skagit
Whatcom

2

King
Kitsap
Pierce
Snohomish

3

Clark
Cowlitz
Grays Harbor
Lewis
Mason
Pacific
Skamania
Thurston
Wahkiakum

4

Adams
Asotin
Benton
Columbia
Ferry
Franklin
Garfield
Kittitas
Klickitat
Pend Oreille
Spokane
Stevens
Walla Walla
Whitman
Yakima

West Virginia

1

Brooke
Hancock
Marshall
Ohio
Wetzel

2

Barbour
Doddridge
Harrison
Lewis
Marion
Monongalia
Pleasants
Ritchie
Taylor
Tyler
Upshur

3

Boone
Cabell
Clay
Kanawha
Lincoln
Logan
Mason
Mingo
Putnam
Wayne

4

Braxton
Calhoun
Gilmer
Jackson
Roane
Wirt

5

Fayette
Greenbrier
Monroe
Nicholas
Pocahontas
Summers
Webster

6

Berkeley
Grant
Hampshire
Hardy
Jefferson
Mineral
Morgan
Pendleton
Preston

7

Mercer
Raleigh
Wyoming

Wisconsin

1

Ashland
Bayfield
Burnett
Douglas
Iron
Price
Rusk
Sawyer
Taylor
Washburn

2

Barron
Chippewa
Dunn
Eau Claire
Pepin
Pierce
Polk
St. Croix

3

Buffalo
Crawford
Grant
Iowa
Jackson
La Crosse
Monroe
Richland
Trempealeau
Vernon

4

Columbia
Dane
Dodge
Green
Jefferson
Lafayette
Rock
Sauk

5

Fond du Lac
Green Lake
Kenosha
Marquette
Milwaukee
Ozaukee
Racine
Sheboygan
Walworth
Washington
Waukesha
Waupaca
Waushara
Winnebago

6

Adams
Clark
Florence
Forest
Juneau
Langlade
Lincoln
Marathon
Menominee
Oconto
Oneida
Portage
Shawano
Taylor
Vilas
Wood

7

Brown
Calumet
Door
Kewaunee
Manitowoc
Marinette
Outagamie
Shawano
Waupaca
Winnebago

8

Ashland
Bayfield
Douglas
Iron
Price
Sawyer
Taylor
Vilas
Washburn

Wyoming

1

Albany
Carbon
Converse
Crook
Goshen
Laramie
Natrona
Niobrara
Platte

2

Big Horn
Campbell
Fremont
Hot Springs
Johnson
Natrona
Park
Sheridan
Washakie
Weston

V 4 4 / 9 1 M Y 9 7 9 UMI

Meade	Russell
Metcalfe	Union
Monroe	Warren
Muhlenberg	Webster
Ohio	
3	
Bath	Lawrence
Boyd	Lee
Breathitt	Lewis
Carter	Madison
Clark	Magoffin
Clay	McCreary
Clinton	Menifee
Elliott	Morgan
Estill	Owsley
Fleming	Pulaski
Greenup	Rockcastle
Jackson	Rowan
Johnson	Wayne
Laurel	Wolfe
4	
Ballard	Logan
Caldwell	Lyon
Calloway	Marshall
Carlisle	McCracken
Christian	Simpson
Fulton	Todd
Graves	Trigg
Hickman	
5	
Bell	Letcher
Floyd	Martin
Harlan	Perry
Knott	Pike
Knox	Whitley
Leslie	

Louisiana

1	
Avoyelles	Madison
Bienville	Morehouse
Bossier	Natchitoches
Caddo	Ouachita
Caldwell	Rapides
Catahoula	Red River
Claiborne	Richland
Concordia	Sabine
DeSoto	Tensas
East Carroll	Union
Franklin	Vernon
Grant	Webster
Jackson	West Carroll
LaSalle	Winn
Lincoln	
2	
Acadia	Point Coupee
Allen	St. Bernard
Ascension	St. Charles
Assumption	St. Helena
Beauregard	St. James
Calcasieu	St. John the Baptist
Cameron	St. Landry
East Baton Rouge	St. Martin
East Feliciana	St. Mary
Evangeline	St. Tammany
Iberia	Tangipahoa
Iberville	Terrebonne
Jefferson	Vermilion
Lafayette	Washington
Lafourche	West Baton Rouge
Livingston	West Feliciana
Orleans	
Plaquemines	

Maine

1	
Aroostook	Penobscot
Franklin	Piscataquis
Oxford	Somerset
2	
Androscoggin	Hancock
Cumberland	Kennebec
Knox	Waldo
Lincoln	Washington
Sagadahoc	York

Maryland

1	
Allegany	
Garrett	
2	
Washington	
3	
Anne Arundel	Frederick
Baltimore	Hartford
Calvert	Howard
Caroline	Kent
Carroll	Montgomery
Cecil	Prince Georges
Charles	Queen Annes
Dorchester	Talbot
4	
St. Marys	Wicomico
Somerset	Worcester

Massachusetts

1	
Berkshire	Hampden
Franklin	
2	
Barnstable	Nantucket
Bristol	Norfolk
Dukes	Plymouth
Essex	Suffolk
Middlesex	Worcester

Michigan

1	
Alger	Iron
Baraga	Luce
Chippewa	Mackinac
Delta	Marquette
Dickinson	Menominee
Gogebic	Ontonagon
Houghton	Schoolcraft
2	
Alcona	Lapeer
Allegan	Leelanau
Alpena	Lenawee
Antrim	Livingston
Arenac	Macomb
Barry	Manistee
Bay	Mason
Benzie	Mecosta
Berrien	Midland
Branch	Missaukee
Calhoun	Monroe
Cass	Montcalm
Charlesvoix	Montmorency
Cheboygan	Muskegon
Clare	Newaygo
Clinton	Oakland
Crawford	Oceana
Eaton	Ogemaw
Emmet	Osceola
Genesee	Oscoda
Gladwin	Otsego
Grand Traverse	Ottawa
Gratiot	Presque Isle
Hillsdale	Roscommon
Huron	Saginaw
Ingham	St. Clair
Ionia	St. Joseph
Iosco	Sanilac
Isabella	Shiawassee
Jackson	Tuscola
Kalamazoo	Van Buren
Kalkaska	Washtenaw
Kent	Wayne
Lake	Wexford

Minnesota

1	
Becker	Mahnomen
Beltrami	Marshall
Big Stone	Norman
Cass	Otter Tail
Chippewa	Pennington
Clay	Polk
Clearwater	Pope
Crow Wing	Red Lake
Douglas	Roseau
Grant	Stevens
Hubbard	Swift
Itasca	Todd
Kittson	Traverse
Koochinching	Wadena
Lac qui Parle	Wilkin
Lake of the Woods	
2	
Aitkin	Kandiyohi
Anoka	Meeker
Benton	Mille Lacs
Carlton	Morrison
Chisago	Pine
Cook	St. Louis
Hennepin	Sherburne
Isanti	Stearns
Lake	Washington
Kanabec	Wright
3	
Blue Earth	
Brown	
Carver	
Dakota	
Dodge	
Faribault	
Fillmore	
Freeborn	
4	
Cottonwood	Nobles
Jackson	Pipestone
Lincoln	Rock
Martin	
Murray	

Mississippi

1	
Alcorn	Tate
Benton	Tippah
DeSoto	Tishomingo
Marshall	Tunica
Prentiss	
2	
Attala	Madison
Bolivar	Monroe
Calhoun	Montgomery
Carroll	Neshoba
Chickasaw	Newton
Choctaw	Noxubee
Claiborne	Oktibbeha
Clarke	Panola
Coahoma	Pontotoc
Copiah	Quitman
Granada	Rankin
Hinds	Scott
Holmes	Sharkey
Humphreys	Simpson
Issaquena	Smith
Itawamba	Sunflower
Jasper	Tallahatchie
Kemper	Union
Lafayette	Warren
Lauderdale	Washington
Leake	Webster
Lee	Winston
Leflore	Yalobusha
Lowndes	Yazoo
3	
Adams	Jefferson Davis
Amite	Lawrence
Franklin	Lincoln

Marion	Walthall
Pike	Wilkinson
4	
Covington	Jones
Forrest	Lamar
George	Pearl River
Greene	Perry
Hancock	Stone
Harrison	Wayne
Jackson	

Missouri

1	
Butler	Oregon
Carter	Pemiscot
Dunklin	Ripley
Mississippi	Scott
New Madrid	Stoddard
2	
Barry	Ozark
Howell	Stone
McDonald	Taney
Newton	
3	
Barton	Lawrence
Camden	Madison
Cedar	Miller
Christian	Phelps
Dade	Polk
Dallas	Pulaski
Dent	Reynolds
Douglas	Shannon
Greene	Texas
Hickory	Wayne
Iron	Webster
Jasper	Wright
Laclede	
4	
Adair	Lafayette
Andrew	Lewis
Atchison	Lincoln
Audrain	Linn
Bates	Livingston
Benton	Macon
Bollinger	Maries
Boone	Marion
Buchanan	Mercer
Caldwell	Monroe
Callaway	Montgomery
Cape Girardeau	Morgan
Carroll	Nodaway
Cass	Osage
Chariton	Perry
Clark	Pettis
Clay	Pike
Clinton	Platte
Cole	Putnam
Cooper	Ralls
Crawford	Randolph
Daviess	Ray
De Kalb	St. Charles
Franklin	St. Clair
Gasconade	St. Francois
Gentry	Ste. Genevieve
Grundy	Schuyler
Harrison	Scotland
Henry	Shelby
Holt	Sullivan
Howard	Vernon
Jackson	Warren
Jefferson	Washington
Johnson	Worth
Knox	

Montana

1	
Flathead	Missoula
Lake	Powell
Lincoln	Sanders
Mineral	
2	
Blaine	Phillips
Cascade	Pondera
Chouteau	Richland
Daniels	Roosevelt
Fergus	Sheridan
Glacier	Teton
Hill	Toole
Liberty	Valley
McCone	
3	
Basin	Lewis and Clark
Beaverhead	Madison
Broadwater	Meagher
Carbon	Ravalli
Deer Lodge	Silver Bow
Gallatin	Stillwater
Golden Valley	Sweet Grass
Granite	Wheatland
Jefferson	Yellowstone National Park
Judith Basin	
4	
Big Horn	
Yellowstone	
5	
Carter	Petroleum
Custer	Powder River
Dawson	Prairie
Fallon	Rosebud
Garfield	Treasure
Musselshell	Wibaux

Nebraska

1	
Cherry	Sheridan
Dawes	
2	
Antelope	Keya Paha
Blaine	Knox
Boone	Lancaster
Boyd	Loup
Brown	Madison
Buffalo	Merrick
Burt	Nance
Butler	Otoe
Cass	Phelps
Cedar	Pierce
Colfax	Platte
Cuming	Polk
Custer	Rock
Dakota	Sarpy
Dawson	Saunders
Dixon	Seward
Dodge	Sherman
Douglas	Stanton
Garfield	Thurston
Gosper	Valley
Greeley	Washington
Hall	Wayne
Hamilton	Wheeler
Holt	York
Howard	
3	
Hitchcock	Kearney
Red Willow	Nuckolls
4	Webster
Franklin	
Furnas	
Harlan	
5	
Adams	Nemaha
Clay	Pawnee
Fillmore	Richardson
Gage	Saline
Jefferson	Thayer
Johnson	

Nevada

1	
Elko	
Humboldt	
2	
Eureka	Washoe
Lander	White Pine
Pershing	
3	
Clark	Lyon
Churchill	Mineral
Douglas	Nye
Esmeralda	Storey
Lincoln	

New Hampshire

1	
Coos	
Grafton	
2	
Belknap	Merrimack
Carroll	Rockingham
Cheshire	Strafford
Hillsboro	Sullivan

New Jersey

1	
Atlantic	Middlesex
Bergen	Monmouth
Burlington	Morris
Camden	Ocean
Cape May	Passaic
Cumberland	Salem
Essex	Somerset
Gloucester	Sussex
Hudson	Union
Hunterdon	Warren
Mercer	

New Mexico

1	
Colfax	Union
Harding	
2	
Chaves	Lincoln
Curry	Quay
DeBaca	Roosevelt
Eddy	San Miguel
Guadalupe	Torrance
Lea	
3	
Catron	Lune
Dona Ana	Otero
Grant	Sierra
Hidalgo	
4	
San Juan	
5	
Rio Arriba	Socorro
Bernalillo	Valencia
McKinley	
Sandoval	
Santa Fe	
6	
Mora	
Taos	

New York

1	
Clinton	Niagara
Erie	Onondaga
Franklin	Orleans
Genesee	Oswego
Jefferson	Saint Lawrence
Lewis	Wayne
Monroe	
2	
Essex	Warren
Saratoga	Washington

3
Chautaugua

4
Alleghany
Broome
Cattaraugus
Cayuga
Chemung
Chenango
Cortland
Hamilton
Herkimer
Livingston
Madison
Oneida
Ontario
Otsego
Schuyler
Seneca
Steuben
Tioga
Tompkins
Wyoming
Yates

5
Albany
Delaware
Fulton
Greene
Montgomery
Rensselaer
Schenectady
Schoharie
Sullivan
Ulster

6
Columbia

7
Bronx
Dutchess
Kings
Nassau
Orange
Putnam
Queens
Richmond
Rockland
Suffolk
Westchester

North Carolina
1
Alamance
Alexander
Ellegharry
Ashe
Avery
Burke
Cabarrus
Caldwell
Caswell
Catawba
Chatham
Cleveland
Davidson
Davie
Durham
Egecombe
Forsyth
Franklin
Gaston
Granville
Guilford
Halifax
Iredell
Johnston
Lee
Lincoln
McDowell
Mecklenburg
Montgomery
Moore
Nash
Northampton
Orange
Person
Polk
Randolph
Rockingham
Rowan
Rutherford
Stanly
Stokes
Surry
Union
Vance
Wake
Warren
Watauga
Wilkes
Wilson
Yadkin

2
Beaufort
Bertie
Camden
Chowan
Currituck
Dare
Gates
Hertford
Hyde
Martin
Pasquotank
Perquimans
Pitt
Tyrrell
Washington

3
Buncombe
Cherokee
Clay
Graham
Haywood
Henderson
Jackson
Macon
Madison
Mitchell
Swain
Transylvania
Yancey

4
Anson
Cumberland
Harnett
Hoke
Richmond
Robeson
Scotland

5
Bladen
Brunswick
Carteret
Columbus
Craven
Duplin
Greene
Jones
Lenoir
New Hanover
Onslow
Pamlico
Pender
Sampson
Wayne

North Dakota
1
Barnes
Benson
Billings
Bottineau
Burke
Burleigh
Cass
Cavalier
Dickey
Divide
Dunn
Eddy
Emmons
Foster
Golden Valley
Grand Forks
Grant
Griggs
Hettinger
Kidder
La Moure
Logan
McHenry
McIntosh
McKenzie
McLean
Mercer
Morton
Mountrail
Nelson
Oliver
Pembina
Pierce
Ramsey
Ransom
Renville
Richland
Rolette
Sargent
Shendan
Stark
Steele
Stutsman
Towner
Traill
Walsh
Ward
Wells
Williams

2
Adams
Bowman
Slope

3
Sioux

Ohio
1
Defiance
Fulton
Henry
Lucas
Williams
Wood

2
Ashtabula
Cuyahoga
Erie
Huron
Lake
Lorain
Ottawa
Sandusky
Seneca

3
Allen
Ashland
Auglaize
Brown
Butler
Champaign
Clark
Clermont
Clinton
Crawford
Darke
Delaware
Fayette
Greene
Hamilton
Hancock
Hardin
Logan
Madison
Marion
Mercer
Miami
Montgomery
Morrow
Paulding
Preble
Putnam
Richland
Shelby
Union
Van Wert
Warren
Wyandot

4
Geauga
Mahoning
Medina
Portage
Summit
Trumbull

5
Adams
Athens
Belmont
Carroll
Columbiana
Coshocton
Fairfield
Franklin
Gallia
Guernsey
Harrison
Hocking
Holmes
Jackson
Jefferson
Knox
Lawrence
Licking
Meigs
Monroe
Morgan
Muskingum
Noble
Perry
Pickaway
Pike
Ross
Scioto
Stark
Tuscarawas
Vinton
Washington
Wayne

Oklahoma
1
Cimarron
Texas

2
Beaver
Ellis
Harper
Woods
Woodward

3
Alfalfa
Beckham
Blaine
Caddo
Canadian
Cleveland
Comanche
Cotton
Custer
Dewey
Garfield
Grady
Grant
Greer
Harmon
Jackson
Jefferson
Kay
Kingfisher
Kiowa
Logan
Major
McClain
Noble
Oklahoma
Roger Mills
Stephens
Tillman
Washita

4
Adair
Cherokee
Craig
Creek
Delaware
Lincoln
Mayes
McIntosh
Muskogee
Nowata
Okmulgee
Osage
Ottawa
Pawnee
Payne
Rogers
Tulsa
Wagoner
Washington

5
Atoka
Bryan
Carter
Choctaw
Coal
Garvin
Hughes
Johnston
Love
Marshall
McCurtain
Murray
Okfuskee
Pittsburg
Pontotoc
Pottawatomie
Pushmataha
Seminole

Oregon
1
Benton
Clatsop
Columbia
Lincoln
Polk
Tillamook
Washington
Yamhill

2
Clackamas
Douglas
Jackson
Josephine
Lane
Linn
Marion
Multnomah

3
Gilliam
Hood River
Morrow
Sherman
Union
Umatilla
Wallowa
Wasco

4
Baker
Crook

Deschutes
Grant

5
Coos
Curry

6
Harney
Klamath
Lake
Malheur

Pennsylvania
1
Crawford
Erie

2
Blair
Bradford
Cambria
Cameron
Centre
Clarion
Clearfield
Clinton
Elk
Forest
Indiana
Jefferson
Lawrence
Lycoming
McKean
Mercer
Potter
Sullivan
Susquehanna
Tioga
Venango
Warren

3
Allegheny
Armstrong
Beaver
Butler
Greene
Washington

4
Bedford
Fayette
Somerset
Westmoreland

5
Adams
Carbon
Columbia
Cumberland
Dauphin
Franklin
Fulton
Huntingdon
Juniata
Lackawanna
Lehigh
Luzerne
Mifflin
Monroe
Montour
Northampton
Northumberland
Perry
Pike
Schuylkill
Snyder
Union
Wayne
Wyoming

6
Berks
Bucks
Chester
Delaware
Lancaster
Lebanon
Montgomery
Philadelphia
York

Rhode Island
1
Bristol
Kent
Newport
Providence
Washington

South Carolina
1
Abbeville
Aiken
Anderson
Bamberg
Barnwell
Calhoun
Cherokee
Chester
Chesterfield
Darlington
Dillon
Edgefield
Fairfield
Greenville
Greenwood
Kershaw
Lancaster
Laurens
Lee
Lexington
Marlboro
McCormick
Newberry
Oconee
Orangeburg
Pickens
Richland
Saluda
Spartanburg
Sumter
Union
York

2
Allendale
Beaufort
Berkely
Charleston
Clarendon
Collenton
Dorchester
Florence
Georgetown
Hampton
Horry
Jasper
Marion
Williamsburg

South Dakota
1
Bennett
Butte
Custer
Fall River
Haakon
Harding
Jackson
Lawrence
Meade
Pennington
Perkins
Shannon
Washabaugh
Ziebach

2
Aurora
Beadle
Bon Homme
Brookings
Brule
Buffalo
Campbell
Corson
Charles Mix
Clark
Clay
Davison
Dewey
Douglas
Edmunds
Faulk
Gregory
Hamlin
Hand
Hanson
Hughes
Hutchinson
Hyde
Jerauld
Jones
Kingsbury
Lake
Lincoln
Lyman
McCook
Mellette
Miner
Minnehaha
Moody
Potter
Sanborn
Spink
Stanley
Sully
Todd
Tripp
Turner
Union
Walworth
Yankton

3
Brown
Codington
Deuel
Day
Grant
Marshall
McPherson
Roberts

Tennessee
1
Clay
Macon

2
Benton
Caroll
Cheatham
Chester
Crockett
Davidson
Decatur
Dickson
Dyer
Fayette
Gibson
Giles
Hardeman
Hardin
Haywood
Henderson
Henry
Hickman
Houston
Humphrey
Lake
Lauderdale
Lawrence
Lewis
Madison
Maury
McNairy
Montgomery
Perry
Robertson
Rutherford
Shelby
Smith
Stewart
Sumner
Tipton
Trousedale
Wayne
Weakley
Williamson
Wilson

3
Cumberland
Fentress
Jackson
Overton
Hancock
Hawkins
Pickett
Putnam
Scott

4
Anderson
Blount
Campbell
Carter
Claiborne
Cocke
Grainger
Greene
Hamblen
Jefferson
Johnson
Knox
Loudon
Morgan
Roane
Sevier
Sullivan
Union
Washington

5
Bedford
Bledsoe
Bradley
Cannon
Coffee
De Kalb
Franklin
Grundy
Hamilton
Lincoln
Marion
McMinn
Meigs
Monroe
Moore
Polk
Rhea
Sequatchie
Van Buren
Warren
White

Texas
1
Carson
Dallam
Deaf Smith
Hansford
Hartley
Hutchinson
Moore
Ochiltree
Oldham
Potter
Randall
Roberts
Sherman

2
Andrews

3
Cochran
Crane
Dawson
Ector
Gaines
Hockley
Lamb
Loving
Lubbock
Lynn
Martin
Midland
Parmer
Terry
Ward
Winkler
Yoakum

4
Brewster
Culberson
El Paso
Hudspeth
Jeff Davis
Pecos
Presidio
Reeves
Terrell
Val Verde

4
Hemphill
Llpscomb

5
Archer
Armstrong
Baylor
Borden
Briscoe
Castro
Childress
Clay
Collingsworth
Cottle
Crosby
Dickens
Donley
Fisher
Floyd
Foard
Garza
Gray
Hale
Hall
Hardeman
Haskell
Jack
Jones
Kent
King
Knox
Motley
Palo Pinto
Scurry
Shackelford
Stephens
Stonewall
Swisher
Wheeler
Wilbarger
Wichita
Young

6
Atascosa
Bandera
Bexar
Blanco
Brown
Burnet
Callahan
Coleman
Coke
Comanche
Concho
Crockett
Dimmitt
Eastland
Edwards
Erath
Frio
Gillespie
Glasscock
Hamilton
Howard
Irion
Karnes
Kendall
Kerr
Kimble
Kinney
Lampasas
LaSalle
Llano
Maverick
Mason
McCulloch
McMullen
Medina
Menard
Mills
Mitchell

Nolan	Taylor
Reagan	Tom Green
Real	Upton
Runnels	Uvalde
San Saba	Webb
Schleicher	Wilson
Sterling	Zapata
Sutton	Zavala
7	
Anderson	Falls
Angelina	Fannin
Bastrop	Franklin
Bell	Freestone
Bosque	Gonzales
Brazos	Grayson
Burleson	Gregg
Caldwell	Grimes
Cherokee	Guadalupe
Collin	Hays
Comal	Henderson
Cooke	Hill
Coryell	Hood
Cottle	Hopkins
Dallas	Houston
Denton	Hunt
Ellis	Johnson
Kaufman	Rusk
Lamar	San Jacinto
Lee	Smith
Leon	Somervell
Limestone	Tarrant
Madison	Titus
McLennan	Trinity
Milam	Travis
Montague	Tyler
Nacogdoches	Upshur
Navarro	Van Zandt
Parker	Walker
Polk	Washington
Rains	Williamson
Red River	Wise
Robertson	Wood
8	
Bowie	Panola
Cass	Sabine
Harrison	San Augustine
Marion	Shelby
9	
Austin	Jasper
Brazoria	Jefferson
Chambers	Lavaca
Colorado	Liberty
DeWitt	Matagorda
Fayette	Montgomery
Ft. Bend	Newton
Galveston	Orange
Hardin	Victoria
Harris	Waller
Jackson	Wharton
10	
Arkansas	Kenedy
Bee	Kleburg
Brooks	Live Oak
Calhoun	Nueces
Cameron	Refugio
Duval	San Patricio
Goliad	Starr
Hidalgo	Willacy
Jim Hogg	

Utah

1	
Box Elder	Salt Lake
Cache	Sanpete
Carbon	Summit
Daggett	Tooele
Davis	Utah
Duchesne	Uintah
Juab	Wasatch
Morgan	Weber
Rich	
2	
Beaver	Millard
Garfield	Piute
Iron	Sevier
Kane	Washington
3	
Emery	San Juan
Grand	Wayne

Vermont

1	
Addison	Orange
Caledonia	Orleans
Chittenden	Rutland
Essex	Washington
Franklin	Windsor
Grand Isle	
Lamoille	
2	
Bennington	
Windham	

Virginia

1	
Alleghany	Page
Augusta	Pulaski
Bath	Roanoke
Bland	Rockbridge
Botetourt	Rockingham
Buchanan	Russell
Clarke	Scott
Craig	Shenandoah
Dickenson	Smyth
Frederick	Tazewell
Giles	Warren
Highland	Washington
Lee	Wise
Montgomery	Wythe
2	
Albermarle	Greene
Amelia	Goochland
Amherst	Halifax
Appomattox	Hanover
Bedford	Henrico
Brunswick	Henry
Buckingham	King George
Campbell	Louisa
Caroline	Lunenburg
Carroll	Madison
Charlotte	Mecklenburg
Chesterfield	Nelson
Culpeper	Nottoway
Cumberland	Orange
Dinwiddie	Patrick
Fauquier	Pittsylvania
Floyd	Powhatan
Fluvanna	Prince Edward
Franklin	Rappahannock
Grayson	Spotsylvania
Greensville	Stafford
3	
Arlington	Loudoun
Fairfax	Prince William
4	
Charles City	New Kent
Essex	Northumberland
Gloucester	Prince George
Isle of Wight	Richmond
James City	Southampton
King and Queen	Surry
King William	Sussex
Lancaster	Westmoreland
Mathews	York
Middlesex	

Washington

1	
Clallam	Mason
Grays Harbor	Pacific
Jefferson	Wahkiakum
2	
Clark	
3	
Cowlitz	Pierce
Island	Skagit
King	Snohamish
Kitsap	Whatcom
Lewis	
Chelan	Pend Oreille
Ferry	Skamania
Kittitas	Stevens
Okanogan	
4	
Adams	Garfield
Asotin	Grant
Benton	Lincoln
Columbia	Spokane
Douglas	Walla Walla
Franklin	Whitman

West Virginia

1	
Brooke	Putnam
Cabell	Ritchie
Doddridge	Roane
Hancock	Tyler
Jackson	Wayne
Marshall	Wetzel
Mason	Wirt
Ohio	Wood
Pleasants	
2	
Barbour	McDowell
Berkeley	Mercer
Boone	Mineral
Braxton	Mingo
Calhoun	Monongalia
Clay	Monroe
Fayette	Morgan
Gilmer	Nicholas
Grant	Pendleton
Greenbrier	Pocahontas
Hampshire	Preston
Hardy	Raleigh
Harrison	Randolph
Jefferson	Summers
Kanawha	Taylor
Lewis	Tucker
Lincoln	Upshur
Logan	Webster
Marion	Wyoming

Wisconsin

1	
Ashland	Lincoln
Barron	Marinette
Bayfield	Oconto
Burnett	Oneida
Chippewa	Polk
Douglas	Price
Dunn	Rusk
Eau Claire	St. Croix
Florence	Sawyer
Forest	Taylor
Iron	Vilas
Langlade	Washburn
2	
Adams	Iowa
Brown	Jackson
Buffalo	Jefferson
Calumet	Juneau
Clark	Kenosha
Columbia	Kewaunee
Crawford	La Crosse
Dane	Lafayette
Dodge	Manitowoc
Door	Marathon
Fond du Lac	Marquette
Grant	Menominee
Green	Milwaukee
Green Lake	Monroe

Outagamie	Sheboygan
Ozaukee	Trempealeau
Pepin	Vernon
Pierce	Walworth
Portage	Washington
Racine	Waukesha
Richland	Waupaca
Rock	Waushara
Sauk	Winnebago
Shawano	Wood

Wyoming

1	
Yellowstone National Park	
2	
Big Horn	Sheridan
Johnson	
3	
Campbell	Niobrara
Crook	Weston
4	
Carbon	Sweetwater
Fremont	Teton
Sublette	
5	
Albany	Natrona
Converse	Washakie
Hot Springs	
6	
Goshen	Platte
Laramie	
7	
Lincoln	
Uinta	

BILLING CODE 6450-01-M

41. Page 16764 should read as follows:

STATE: MARYLAND

Region	Fuel Displaced	Solar Measure					
		D	S	D/S	P	W	H
1	ELECTRICITY	X			X	X	X
	OIL	X			X		X
	NATURAL GAS	X			X		X
2	ELECTRICITY	X			X	X	X
	OIL	X			X		X
	NATURAL GAS	X			X		X
3	ELECTRICITY	X			X	X	X
	OIL	X			X		X
	NATURAL GAS	X			X		X
4	ELECTRICITY	X			X	X	X
	OIL	X			X		X
	NATURAL GAS	X			X		X
	ELECTRICITY						
	OIL						
	NATURAL GAS						
	ELECTRICITY						
	OIL						
	NATURAL GAS						
	ELECTRICITY						
	OIL						
	NATURAL GAS						
	ELECTRICITY						
	OIL						
	NATURAL GAS						

42. Page 16796 should read as follows:

STATE: WYOMING

Region	Fuel Displaced	Solar Measure					
		D	S	D/S	P	W	H
1	ELECTRICITY				X		X
	OIL				X		X
	NATURAL GAS				X		X
2	ELECTRICITY				X		X
	OIL				X		X
	NATURAL GAS				X		X
3	ELECTRICITY				X		X
	OIL				X		X
	NATURAL GAS				X		X
4	ELECTRICITY				X		X
	OIL				X		X
	NATURAL GAS				X		X
5	ELECTRICITY				X		X
	OIL				X		X
	NATURAL GAS				X		X
6	ELECTRICITY				X		X
	OIL				X		X
	NATURAL GAS				X		X
7	ELECTRICITY				X		X
	OIL				X		X
	NATURAL GAS				X		X
	ELECTRICITY						
	OIL						
	NATURAL GAS						

[Docket No. CAS–R4–79–101]
[FR Doc. 79–14495 Filed 5–4–79; 4:38 pm]
BILLING CODE 6450–01–C

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Notices

Federal Register
Vol. 44, No. 91
Wednesday, May 9, 1979

This section of the FEDERAL REGISTER contains documents other than rules or proposed rules that are applicable to the public. Notices of hearings and investigations, committee meetings, agency decisions and rulings, delegations of authority, filing of petitions and applications and agency statements of organization and functions are examples of documents appearing in this section.

ADMINISTRATIVE CONFERENCE OF THE UNITED STATES

Committee on Rulemaking and Public Information; Public Meeting

Pursuant to the Federal Advisory Committee Act (Pub. L. 92–463), notice is hereby given of a meeting of the Committee on Rulemaking and Public Information of the Administrative Conference of the United States, to be held in the Library of the Conference, 2120 L Street, N.W., Suite 500, Washington, D.C. at 3:00 p.m. on Thursday, May 17, 1979.

The purpose of this meeting is to discuss and take action on any amendments that may be suggested by the Council of the Conference in the Committee's recommendations evaluating the Federal Trade Commission's Magnuson-Moss trade regulation rulemakings.

Attendance is open to the interested public, but limited to the space available. Persons wishing to attend should notify this office at least two days in advance of the meeting. The Committee Chairman, if he deems it appropriate, may permit members of the public to present oral statements at the meeting; any member of the public may file a written statement with the Committee before, during or after the meeting.

For further information concerning this meeting, contact Stephen L. Babcock (202) 254–7065. Minutes of the meeting will be available on request.

Richard K. Berg,
Executive Secretary.

May 4, 1979.

[FR Doc. 79-14475 Filed 5-8-79; 8:45 am]

BILLING CODE 6110-10-M

Airline Tariff Publishers, Inc.; Agreement to Reorganize

Adopted by the Civil Aeronautics Board at its office in Washington, D.C., on the 3rd day of May 1979.

Final Order

By Order 79–2–104, we directed all interested persons to show cause why we should not condition our continued approval of the organizational agreements of the Airline Tariff Publishing Company (ATPCO) on the removal of Section 3 of the ATPCO Tariff Participants' Agreement which allows competing carriers to notify one another about tariff changes before they are filed with the Board.[1] We tentatively concluded that the section was substantially anticompetitive in that it has the capacity to impede price competition, and that it was not necessary to meet a serious transportation need or to secure important public benefits.

Objections to our Show-Cause Order were filed by American Airlines, Inc., and jointly by several Canadian carriers.[2]

American does not object to our withdrawing approval of Section 3 of the ATPCO agreement. It does contend, however, that without advance exchange of proposed tariff filings on local fares, there will be a lag between the date local fare changes become effective and the effective date of related joint fares. As a solution, American requests that we adopt a policy of allowing changes in joint fares to be filed on short notice so that they may become effective at the same time as the related local fares.

The Canadian carriers object to our proposed action insofar as it would prohibit them from exchanging information on fares and tariff provisions applicable to transportation within Canada and between the U.S. and Canada. The Canadian carriers request that any disapproval of Section 3 of the tariff participants' agreement be limited so that it will not affect exchanges of information on intra-Canadian fares and tariff provisions.

With respect to the application of our tentative findings and conclusions to U.S.-Canada fares, the Canadian carriers' comments are more general. They argue that Section 3 which permits but does not require advance exchanges of price information is procompetitive because competitors may match the initiating carrier's decrease in fares, or, by refusing to match an increase, force the initiating carrier to withdraw a proposed increase in fares.

Finally, the Canadian carriers urge that Section 3 benefits the public by allowing the Canadian carriers quickly and efficiently to adjust tariff rates, rules, practices, and services. Without this mechanism, the Canadian carriers assert that they will be forced to rely on the mails to learn of tariff changes made by competing or connecting carriers.

We have decided to make final our tentative findings and conclusions as contained in Order 79–2–104, with one minor clarification.

We are not persuaded by the Canadian carriers' arguments that Section 3 of the tariff participants' agreement is procompetitive. They seem to agree with us that the advance notice mechanism can act to stabilize prices. However, they contend that this stabilizing influence sometimes acts to hold prices down and that the mechanism is therefore procompetitive. It is clear, though, that an agreement among competitors that interferes with normal pricing mechanisms is anticompetiive regardless of whether it stabilizes prices at a high, low or intermediate level.[3]

Turning to the purported public interest justifications for the advance exchanges of tariff information, we agree that the public benefits from the prompt availability of accurate tariff information. We believe, however, that other arrangements can be made to obtain information about tariff filings quickly without having to rely on a mechanism for advance notification of proposed fare changes among competitors. Even if no such arrangement were available, the marginal conveniences gained by a few carriers as a result of this mechanism are overwhelmed by the potential

[1] ATPCO, successor of the Airline Tariff Publishers, Inc., operates as a tariff agent for various U.S. and Canadian air carriers which own and control it under agreements approved by the Board. See Orders E–20925, 73–8–119 and 73–10–26.

[2] A joint response was filed by the Canadian carriers which included Air Canada, Eastern Provincial Airways Ltd., Pacific Western Airlines Ltd., Quebecair, Transair Ltd., and CP Air.

[3] *Albrecht* v. *Herald Co.*, 390 U.S. 145, 152 (1968); *United States* v. *Socony-Vacuum Oil Co.*, 310 U.S. 150, 221 (1940).

anticompetitive effects which we discussed in our prior order.

Although American does not challenge our tentative conclusions, it requests that we provide a substitute procedure by which carriers can provide for simultaneous effectiveness of their local and joint fare increases. However, the need for such a procedure is certainly not readily apparent. As we stated in Order 79–2–104, participants in joint hauls are already permitted to discuss and reach agreement on joint fares. Moreover, it is the carriers themselves that control the timing of their tariff filings. We are, therefore, not convinced that our disapproval of Section 3 of the ATPCO tariff participants' agreement will either place an undue burden on carriers' ability to implement joint fare changes in a timely manner, or result in any significant lag between the effective dates of local fares and related joint fares. Consequently, we see no need at this time to adopt a general policy permitting filing of joint tariff changes on short notice. If individual carriers perceive a need to make particular filings on short notice, and they can justify their request, they are free to seek permission from us at the time of filing.

We turn finally to the request of the Canadian carriers that we limit our order or disclaim jurisdiction in this case so that we do not affect their activities which involve solely intra-Canadian fares. We are solely concerned with activities which affect competition in transportation within, to and from the United States. With regard to exchanges of information on proposed fares and other tariff revisions which do not affect such competition and which are not filed or required to be filed with the Board, we disclaim jurisdiction.

Accordingly, 1. We make final the tentative findings and conclusions contained in Order 79–2–104, February 15, 1979;

2. We condition our continued approval of the organizational agreements of ATPCO on the removal of Section 3 from the ATPCO Traffic Participants' Agreement;

3. We direct ATPCO to continue to maintain all records and instructions presently in its possession or received in the future relating to any tariffs, tariff revisions and manuals it publishes or has published and to keep such records and instructions for at least five years after publication of the tariff, tariff revision or manual to which they pertain;

4. We disclaim jurisdiction over exchanges of information on proposed fares and other tariff revisions which have no effect on commerce in the United States and which are not filed or required to be filed with the Board;

5. This Order will be effective five days after its service date;

6. We will serve this order upon all persons whose names appear on the service list in Docket 25476 and also upon the Department of Justice, the Federal Trade Commission, and the Department of Transportation.

This order shall be published in the Federal Register.

Phyllis T. Kaylor,[4]
Secretary.

[Order 79–5–33; Docket No. 25476; Agreement CAB 23157]

[FR Doc. 79-14435 Filed 5-8-79; 8:45 am]

BILLING CODE 6320-01-M

Former Large Irregular Air Service Investigation; Hearing

A hearing will be held on the application of Land-Air Corp. at 9:30 a.m. on July 13, 1979 in the Federal Office Building and Court House, Room 5417, 200 N.W. 4th Street, Oklahoma City, OK.

Dated at Washington, D.C., May 3, 1979.

Rudolf Sobernheim,
Administrative Law Judge.

[Docket No. 33983]

[FR Doc. 79-14434 Filed 5-8-79; 8:45 am]

BILLING CODE 6320-01-M

Texas International Airlines' Petition for Reconsideration Regarding Subsidy Rate

AGENCY: Civil Aeronautics Board.

ACTION: Summary of Order 79–5–32 which denies a Texas International Airlines' petition for reconsideration of an earlier Board order which removed Texas International's subsidy effective July 1, 1978, and denies a separate Texas International petition for a new subsidy rate.

SUMMARY: The Board adopted an order denying a Texas International request to reverse the earlier decision to terminate federal subsidy to the carrier. The Board found that Texas International has no need for subsidy even considering the fact that, under the Airline Deregulation Act of 1978, revenues from non-subsidized services cannot be used in establishing a carrier's need during the period October 24, 1978, through December 31, 1982. The adopted order also denies a separate Texas International petition for a new subsidy rate requesting the same relief as the denied petition.

[4] All members concurred.

FOR FURTHER INFORMATION CONTACT: John R. Hokanson or James Craun, Bureau of Pricing and Domestic Aviation, Civil Aeronautics Board, 1825 Connecticut Avenue, NW., Washington, D.C., 20428, 202–673–5132.

The complete text of Order 79–5–32 is available from our Distribution Section, Room 516, 1825 Connecticut Avenue, NW., Washington, D.C. Persons outside the metropolitan area may send a postcard request for Order 79–5–32 to the Distribution Section, Civil Aeronautics Board, Washington, D.C., 20428.

By the Civil Aeronautics Board, May 3, 1979

Phyllis T. Kaylor,
Secretary.

[Order 79–5–32]

[FR Doc. 79-14435 Filed 5-8-79; 8:45 am]

BILLING CODE 6320-01-M

Texas International Airlines; Awarding of New and Improved Authority Between Points Dallas/Ft. Worth and St. Louis

AGENCY: Civil Aeronautics Board.

ACTION: Notice of Order to Show Cause (79–5–31).

SUMMARY: The Board is proposing to award new and improved authority between the points Dallas/Ft. Worth and St. Louis to Texas International Airlines, and any other fit, willing and able applicant whose fitness, willingness and ability can be established by officially noticeable data.

The complete text of this order is available as noted below.

DATES: All interested persons having objections to the Board issuing an order making final the tentative findings and conclusions shall file, by June 7, 1979, a statement of objections, together with a summary of testimony, statistical data, and other material expected to be relied upon to support the stated objections. Such filings shall be served upon all parties listed below.

ADDRESSES: Objections to the issuance of a final order should be filed in the Dockets Section, Civil Aeronautics Board, Washington, D.C., 20428, in Docket 35465.

In addition, copies of such filings should be served on Texas International Airlines.

FOR FURTHER INFORMATION CONTACT: Arthur B. Barnes, Bureau of Pricing and Domestic Aviation, Civil Aeronautics Board, 1825 Connecticut Avenue, N.W., Washington, D.C. 20428, (202) 673–5198.

SUPPLEMENTARY INFORMATION: In the event no objections are filed, the

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Secretary of the Board will enter an order making final the tentative findings and conclusions contained in the show-cause order.

The complete text of Order 79–5–31 is available from the Distribution Section, Room 516, Civil Aeronautics Board, 1825 Connecticut Avenue, N.W., Washington, D.C. 20428. Persons outside the metropolitan area may send a postcard request for Order 79–5–31 to that address.

By the Civil Aeronautics Board, May 3, 1979.

Phyllis T. Kaylor,
Secretary.

[Order 79–5–31]
[FR Doc. 79–14436 Filed 5–8–79; 8:45 am]
BILLING CODE 6320–01–M

COMMISSION ON CIVIL RIGHTS

New Mexico Advisory Committee; Agenda and Notice of Open Meeting

Notice is hereby given, pursuant to the provision of the Rules and Regulations of the U.S. Commission on Civil Rights, that a planning meeting of the New Mexico Advisory Committee (SAC) of the Commission will convene at 1:00 pm and will end at 5:00 pm, on June 6, 1979, at the Airport Mariana (2nd Floor), 2910 Yale Blvd., S.E., Albuquerque, New Mexico 87119.

Persons wishing to attend this open meeting should contact the Committee Chairperson, or the Southwestern Regional Office of the Commission, Heritage Plaza, 418 South Main, San Antonio, Texas 78204.

The purpose of this meeting is to discuss civil rights issues in New Mexico.

This meeting will be conducted pursuant to the provisions of the Rules and Regulations of the Commission.

Dated at Washington, D.C., May 4, 1979.

John I. Binkley,
Advisory Committee Management Officer.
[FR Doc. 79–14445 Filed 5–8–79; 8:45 am]
BILLING CODE 6335–01–M

DEPARTMENT OF COMMERCE

Industry and Trade Administration

Case Western Reserve University; Decision on Applicaation for Duty-Free Entry of Scientific Article

The following is a decision on an application for duty-free entry of a scientific article pursuant to section 6(c) of the Educational, Scientific, and Cultural Materials Importation Act of 1966 (Pub. L. 89–651, 80 Stat. 897) and the regulations issued thereunder as amended (15 CFR 301).

A copy of the record pertaining to this decision is available for public review between 8:30 A.M. and 5:00 P.M. at 666-11th Street, N.W. (Room 735) Washington, D.C.

Docket No. 78–00454. Applicant: Case Western Reserve University, Department of Pharmacology, 2119 Abington Road, Cleveland, Ohio 44106. Article: MS–3076 Dual-Beam Mass Spectrometer and Accessories. Manufacturer: AEI Scientific Apparatus, Ltd., United Kingdom. Intended use of article: The article is intended to be used primarily for the study of drug metabolism as part of a comprehensive program for the study of parasitic diseases. Isolation of purified drug metabolites from biological sources will be followed by introduction of minute quantities of material into the source of the mass spectrometer either by direct insertion probe or via gas chromatography. The accurate mass information about the drug molecule, hopefully to determine its chemical structure. In addition, the article will be used to train graduate students pharmacology in utilization of the mass spectrometer data system.

Comments: No comments have been received with respect to this application.

Decision: Application approved. No instrument or apparatus of equivalent scientific value to the foreign article, for such purposes as this article is intended to be used, was being manufactured in the United States at the time the foreign article was ordered (May 23, 1978).

Reasons: The foreign article provides dual beam operation in a high resolution magnetic sector instrument. The National Bureau of Standards advises in its memorandum dated March 14, 1979 that (1) the capability of the foreign article described above is pertinent to the applicant's intended purpose and (2) it knows of no domestic instrument or apparatus of equivalent scientific value to the foreign article for the applicant's intended use which was available at the time the foreign article was ordered.

The Department of Commerce knows of no other instrument or apparatus of equivalent scientific value to the foreign article, for such purposes as this article is intended to be used, which is being manufactured in the United States.

(Catalog of Federal Domestic Assistance Program No. 11.105, Importation of Duty-Free Educational and Scientific Materials.)

Richard M. Seppa,
Director, Statutory Import Programs Staff.
[FR Doc. 79–14426 Filed 5–8–79; 8:45 am]
BILLING CODE 3510–25–M

Battelle Memorial Institute, Pacific Northwest Division; Decision on Application for Duty-Free Entry of Scientific Article

The following is a decision on an application for duty-free entry of a scientific article pursuant to section 6(c) of the Educational, Scientific, and Cultural Materials Importation Act of 1966 (Pub. L. 89–651, 80 Stat. 897) and the regulations issued thereunder as amended (15 CFR 301).

A copy of the record pertaining to this decision is available for public review between 8:30 A.M. and 5:00 P.M. at 666 11th Street, N.W. (Room 735), Washington, D.C.

Docket No. 79–00082. Applicant: Battelle Memorial Institute, Pacific Northwest Division, P.O. Box 999, Richland, WA 99352. Article: Model 2192DIT Microdiffractometer with attachments for transmission method and accessories. Manufacturer: Rigaku, Japan. Intended use of article: The article is intended to be used to do small area X-ray diffractions which will give structural and microstructural information on geothermal samples, fine crystalling phases, and thin films.

Comments: No comments have been received with respect to this application.

Decision: Application approved. No instrument or apparatus of equivalent scientific value to the foreign article, for such purposes as this article is intended to be used, is being manufactured in the United States.

Reasons: The foreign article has a counter tube capable of measuring micro areas of a sample by simultaneous counting of the Debye-Scherrer patterns as a whole. The National Bureau of Standards advises in its memorandum dated March 23, 1979 that (1) the capability of the foreign article described above is pertinent to the applicant's intended purpose and (2) it knows of no domestic instrument or apparatus of equivalent scientific value to the foreign article for the applicant's intended use.

The Department of Commerce knows of no other instrument or apparatus of equivalent scientific value to the foreign article, for such purposes as this article is intended to be used, which is being manufactured in the United States.

(Catalog of Federal Domestic Assistance Program No. 11.105, Importation of Duty-Free Educational and Scientific Materials.)

Richard. M. Seppa,
Director, Statutory Import Programs Staff.
[FR Doc. 79–14430 Filed 5–8–79; 8:45 am]
BILLING CODE 3510–25–M

East Tennessee State University; Decision on Application for Duty-Free Entry of Scientific Article

The following is a decision on an application for duty-free entry of a scientific article pursuant to section 6(c) of the Educational, Scientific, and Cultural Materials Importation Act of 1966 (Pub. L. 89–651, 80 Stat. 897) and the regulations issued thereunder as amended (15 CFR 301).

A copy of the record pertaining to this decision is available for public review between 8:30 A.M. and 5:00 P.M. at 666 11th Street, N.W. (Room 735), Washington, D.C.

Docket No. 79–00057. Applicant: East Tennessee State University, College of Medicine, Box 23320A, Johnson City, TN 37601. Article: Phywe Model ICP–21 Single Parameter Fluoreacence Impulsecytophotometer and Accessories. Manufacturer: Phywe, West Germany. Intended use of article: The article is intended to be used to allow quantitative cytochemical study of fluorescent dyes bound to specific classes of macromolecules in populations of cells. Specific experiments include studies of relative DNA content in certain mollusc species known to contain multiple sets of chromosomes (polyploidy) in each nucleus; to study cell cycle kinetic, protein and RNA amounts per cell in populations of normal blood cells and leukemias; and to study monocytes and macrophages with respect to total protein (related to size) and the distribution of fluorescent structures with respect to "activation".

Comments: No comments have been received with respect to this application.

Decision: Application approved. No instrument or apparatus of equivalent scientific value to the foreign article, for such purposes as this article is intended to be used, is being manufactured in the United States.

Reasons: The foreign article has a range of excitation wavelength of 300 to 800 nanometers and a coefficient of variation of less than 29 percent. The Department of Health, Education, and Welfare advises in its memorandum dated March 1, 1979 that (1) the capability of the foreign article described above is pertinent to the applicant's intended purpose and (2) it knows of no domestic instrument or apparatus of equivalent scientific value to the foreign article, for such purposes as this article is intended to be used, which is being manufactured in the United States.

(Catalog of Federal Domestic Assistance Program No. 11.105, Importation of Duty-Free Educational and Scientific Materials.)

Richard M. Seppa,
Director, Statutory Import Programs Staff.
[FR Doc. 79–14427 Filed 5–8–79; 8:45 am]
BILLING CODE 3510–25–M

Michigan Technological University; Decision on Application for Duty-Free Entry of Scientific Article

The following is a decision on an application for duty-free entry of a scientific article pursuant to Section 6(c) of the Educational, Scientific, and Cultural Materials Importation Act of 1966 (Public Law 89–651, 80 Stat. 897) and the regulations issued thereunder as amended (15 CFR 301).

A copy of the record pertaining to this decision is available for public review between 8:30 A.M. and 5:00 P.M. at 666–11th Street, N.W. (Room 735) Washington, D.C.

Docket No. 79–00059. Applicant: Michigan Technological University, Dept. of Geol. and Geol. Engrg., Purchasing Department, Houghton, MI 49931. Article: Heating and cooling stage for microscope. Manufacturer: Chaixmeca, France. Intended use of article: The article is intended to be used to study microscopic inclusions in rock specimens, and particularly specimens from mineral deposits. The studies will involve determination of: (1) the temperature of disappearance of vapor bubbles; (2) the temperature of dissolution of solid phases in the fluid inclusions, and (3) the temperature at which the inclusions freeze. These data will provide information on the temperature and pressures at which the fluid inclusions formed and on the concentration of dissolved salts in the trapped fluids. This information will aid in the understanding of the mechanism(s) of formation of mineral deposits, and particularly vein deposits of the base and precious metals. The article will also be used in graduate courses in mineral deposits and, to a lesser extent, petrology, and will be used for research by graduate students and faculty.

Comments: No comments have been received with respect to this application.

Decision: Application approved. No instrument or apparatus of equivalent scientific value to the foreign article, for such purposes as this article is intended to be used, is being manufactured in the United States.

Reasons: The foreign article provides the combination of heating and cooling at temperatures between −185 and +600 degrees centrigrade while viewing a specimen through a microscope. The National Bureau of Standards advises in its memorandum dated March 22, 1979 that (1) the capability of the foreign article described above is pertinent to the applicant's intended purpose and (2) it knows of no domestic instrument or apparatus of equivalent scientific value to the foreign article for the applicant's intended use.

The Department of Commerce knows of no other instrument or apparatus of equivalent scientific value to the foreign article, for such purposes as this article is intended to be used, which is being manufactured in the United States.

(Catalog of Federal Domestic Assistance Programs No. 11.105, Importation of Duty-Free Educational and Scientific Materials.)

Richard M. Seppa,
Director, Statutory Import Programs Staff.
[FR Doc. 79–14428 Filed 5–8–79; 8:45 am]
BILLING CODE 3510–25–M

National Institute of Neurological and Communicative Disorders and Stroke; Decision on Application for Duty-Free Entry of Scientific Article

The following is a decision on an application for duty-free entry of a scientific article pursuant to section 6(c) of the Educational, Scientific, and Cultural Materials Importation Act of 1966 (Public Law 89–651, 80 Stat. 897) and the regulations issued thereunder as amended (15 CFR 301).

A copy of the record pertaining to this decision is available for public review between 8:30 A.M. and 5:00 P.M. at 666-11th Street, N.W. (Room 735) Washington, D.C.

Docket No. 78–00322. Applicant: National Institute of Neurological and Communicative Disorders and Stroke, NIH, 9000 Rockville Pike, Building 36, Room 5D–06, Bethesda, Md. 20014. Article: Finnpipette–9–Analyzer. Manufacturer: Labsystem Oy division of Finnpipette Ky, Finland. Intended use of Article: The article is intended to be used for experiments involving serological tests for antibody to various viruses which include rubella, rubeola, cytomegalovirus, Herpes Simplex types I and II, as well as many other virus systems. The objective pursued in the course of the investigation is the determination of antibody levels in patients for using the high sensitive ELISA method (enzyme-linked immunosorbent assay) for the detection of small quantities of antibody.

Comments: No comments have been received with respect to this application.

Decision: Application approved. No instrument or apparatus of equivalent scientific value to the foreign article, for such purposes as this article is intended to be used, is being manufactured in the United States at the time the foreign article was ordered (February 11, 1977).

Reasons: The foreign article provides semi-automatic large scale analysis (nine samples simultaneously) of samples computer interfaced for analysis in relation to stored data. The National Bureau of Standards advises in its memorandum dated March 8, 1979 that (1) the capability of the foreign article described above is pertinent to the applicant's intended purpose and (2) it knows of no domestic instrument or apparatus of equivalent scientific value to the foreign article for the applicant's intended use which was available at the time the foreign article was ordered.

The Department of Commerce knows of no other instrument or apparatus of equivalent scientific value to the foreign article, for such purposes as this article is intended to be used, which is being manufactured in the United States at the time the foreign article was ordered.

(Catalog of Federal Domestic Assistance Program No. 11.105, Importation of Duty-Free Educational and Scientific Materials.)

Richard M. Seppa,

Director, Statutory Import Programs Staff.

[FR Doc. 79-14425 Filed 5-8-79; 8:45 am]

BILLING CODE 3510-25-M

Southern Illinois University—Edwardsville, et al.; Applications for Duty-Free Entry of Scientific Articles

The following are notices of the receipt of applications for duty-free entry of scientific articles pursuant to Section 6(c) of the Educational, Scientific, and Cultural Materials Importation Act of 1966 (Public Law 89-651; 80 Stat. 897). Interested persons may present their views with respect to the question of whether an instrument or apparatus of equivalent scientific value for the purposes for which the article is intended to be used is being manufactured in the United States. Such comments must be filed in triplicate with the Director, Statutory Import Programs Staff, Bureau of Trade Regulation, U.S. Department of Commerce, Washington, D.C. 20230, on or before May 29, 1979.

Regulations (15 CFR 301.9) issued under the cited Act prescribe the requirements for comments.

A copy of each application is on file, and may be examined between 8:30 A.M. and 5:00 P.M., Monday through Friday, at 666-11th Street, N.W. (Room 735), Washington, D.C.

Docket No. 79-00208. Applicant: Southern Illinois University-Edwardsville, Edwardsville, IL 62026. Article: High Resolution Fourier Transformation Multi-Nuclear Magnetic Resonance Spectrometer System, Model JNM/FX-60Q and Accessories. Manufacturer: JEOL Ltd., Japan. Intended use of article: The article is intended to be used for research projects which involve the determination of nmr spectra of hydrogen, carbon-13, and fluorine and nitrogen-15 nuclei. The compounds used for these studies include those used in physical, analytical, medicinal chemistry, and environmental chemistry. Titles of the research projects which this article will be used include the following:

1. Inorganic and Bioinorganic Binding Mechanisms.
2. Separation Methods.
3. NMR in Analysis of Drugs.
4. Structural and Synthetic Medicinal Chemistry of Fluorine containing compounds.
5. Structure and Chemistry of Platinum Containing Anti-tumor Agents.
6. Rearrangements of Photosensitive Organic Molecules.
7. NMR studies of Pharmaceutical Compounds.
8. The Chemistry of—Chymotrysin.
9. Chemical characteristics of cyanide containing waste water.

Experiments conducted will provide structural information about the materials under study and will help to elucidate the chemical environment of these compounds. The article will also be used to teach undergraduate and graduate students various analytical techniques in the determination of molecular structures and chemical identification of compounds in course entitled "Instrumental Methods of Analysis." Application received by Commissioner of Customs: March 19, 1979.

Docket No: 79-00209. Applicant: National Institute of Environmental Health Sciences, NIH, HEW, P.O. Box 12233, Research Triangle Park, NC 27709. Article: LKB 14801-1 CryoKit and LKB 14815 Set of Tools and Accessories. Manufacturer: LKB Produkter AB, Sweden. Intended use of article: The article is intended to be used to study the ultrastructure of tissues that transport or utilize intracellular ions. Frozen thin-sections of normal lung tissue and lung tissues from animals exposed to a variety of injurious gases and particulates will be prepared for study in the electron microscope with particular attention being given to the existence and location of mineral inclusions. The general goal of the investigation is to further understand the localization of intracellular minerals (exogenous and endogenous) and the nature of the cellular involvement in elemental translocation. Application received by Commissioner of Customs: March 20, 1979.

Docket No. 79-00210. Applicant: Brookhaven National Laboratory, Upton, New York 11973. Article: Rotating Anode X-ray Generator, Model RU-200H with anode housing mount and accessories. Manufacturer: Rigaku, Japan. Intended use of article: The article is intended to be used by the National Synchrotron Light Source (NSLS) as a source of intense X-rays for the development and testing of mirrors and monochromators to be used on X-ray beam lines at the NSLS. Optical designs, mechanical manipulations, vibration problems, and designs of detectors, goniometers and samples manipulators will be thoroughly checked with this source of radiation. In addition, the Solid State Physics Group at Brookhaven National Laboratory will utilize this new rotating anode facility for X-ray scattering studies, complementary to the current programs of neutron scattering studies. Studies of graphite intercalant systems will be extended to the AsF_5- graphite system. Studies of adsorbed rare gases on grafoil will be made, continuing work on adsorbed Kr and other gases of lower atomic number, Ne for example. Phase transitions in molecular crystals, biphenyl for example, will be studied. Application received by Commissioner of Customs: March 20, 1979.

Docket No. 79-00211. Applicant: Tri-State University, Angola, Indiana 46703. Article: Centrifugal Pump Test Set. Manufacturer: Plint and Partners, Ltd., United Kingdom. Intended use of article: The article is intended to be used for educational purposes in the courses:

CE 304 Hydraulic Engineering I—To expose all civil engineering students to basic design concepts in hydraulic engineering including the selection of centrifugal pumps in the design of pipe systems, and

CE 404 Hydraulic Engineering II—Application of hydraullc engineering design concepts of hydrology as applied to drainage systems and the detailed analysis of the operating characteristics of centrifugal pumps and turbines.

Application received by Commissioner of Customs: March 20, 1979.

Docket No. 79-00212. Applicant: National Institute of Environmental Health Sciences (NIEHS), NIH, USPHS, DHEW, P.O. Box 12233, Research Triangle Park, North Carolina 27709. Article: Electron Microscope, Model EM 400 (HMS) and accessories. Manufacturer: Philips Electronics Instruments NVD, The Netherlands. Intended use of article: The article is intended to be used for the study of ultrastructural morphology of a wide variety of cells from various organs in laboratory animals exposed to chemical compounds and physical factors (microwave, noise, etc.) of interest to Institute research personnel. Application received by Commissioner of Customs: March 20, 1979.

Docket No. 79-00213. Applicant: The University of Texas Health Science Center at San Antonio, 7703 Floyd Curl Drive, San Antonio, Texas 78284. Article: Scanning Electron Microscope, Model PSEM 500A and Accessories. Manufacturer: Philips Electronics Instruments NVD, The Netherlands. Intended use of article: The article is intended to be used for studies of biologic tissues from the heart, blood vessels, kidney, lung, red cells, bone marrow cells and blood cells. Some nonbiologic materials, which are used biologically in prostheses—artificial joints, artificial heart valves, artificial blood vessels, and artificial skin—may be studied in this article. The experiments to be conducted are:

(a) Tissue culture of primate vascular endothelium and smooth muscle cells.

(b) To conduct an educational training program for resident physicians, graduate students and for young investigators entering into the field of scanning electron microscopy.

(c) Identification and localization of specific elements in sections of tissue utilizing the scanning-transmission mode of operation coupled with X-ray analysis.

Application received by Commissioner: February 25, 1979.

Docket No. 79-00214. Applicant: University of Washington, Quaternary Research Center, Seattle, Washington 98195. Article: VG Micromass 903 Triple Collector Isotope Ratio Mass Spectrometer—Siamese and Accessories. Manufacturer: VG Micromass Ltd., United Kingdom. Intended use of article: The article is intended to be used to analyze $^{18}O/^{16}O$ ratios in ice cores from Antarctica to provide information about major climatic fluctuations. A study of past climatic variations is critical to understanding and predicting future long-term global climatic changes. The article will also be used to study the $^{13}C/^{12}C$ ration in tree rings in research designed to assist in determinations of the proportion of CO_2 in the atmosphere that results from fossil fuel combustion. In addition, the article will be used to train students in the isotope ratio mass spectrometry techniques.

Application received by Commissioner of Customs: March 22, 1979.

Docket No. 79-00215. Applicant: University of Washington, Quaternary Research Center, Seattle, Washington 98195. Article: Automated Sample Preparation Unit, Model MM5020 and Accessories. Manufacturer: VG Micromass Ltd., United Kingdom. Intended use of article: The article will be used in conjunction with a mass spectrometer that is being used to analyze $^{18}O/^{16}O$ ratios in ice cores from Antarctica to provide information about major climatic fluctuations. A study of past climatic variations is critical to understanding and predicting future long-term global climatic changes. The article will also be used to study the $^{13}C/^{12}C$ ration in tree rings in research designed to assist in determinations of the proportion of CO_2 in the atmosphere that results from fossil fuel combustion. In addition, the article will be used to train students in the isotope ratio mass spectrometry techniques. Application received by Commissioner of Customs: March 22, 1979.

Docket No. 79-00219. Applicant: VA Wadsworth Medical Center, Wilshire and Sawtelle Blvds., Los Angeles, California 90073. Article: Scanning Electron Microscope, Model HFS-2 and Accessories. Manufacturer: Hitachi, Perkin-Elmer, Japan. Intended use of article: The article is intended to be used for high resolution membrane receptor work being performed during the study of changes membrane molecules undergo with aging. Application received by Commissioner of Customs: March 22, 1979.

(Catalog of Federal Domestic Assistance Program No. 11.105, Importation of Duty-Free Educational and Scientific Materials.)

Richard M. Seppa,

Director, Statutory Import Programs Staff.

[FR Doc. 79-14424 Filed 5-8-79; 8:45 am]

BILLING CODE 3510-25-M

SRI International; Decision on Application for Duty-Free Entry of Scientific Article

The following is a decision on an application for duty-free entry of a scientific article pursuant to Section 6(c) of the Educational, Scientific, and Cultural Materials Importation Act of 1966 (Public Law 89-651, 80 Stat. 897) and the regulations issued thereunder as amended (15 CFR 301).

A copy of the record pertaining to this decision is available for public review between 8:30 A.M. and 5:00 P.M. at 666-11th Street, N.W. (Room 735) Washington, D.C.

Docket No. 79-00063. Applicant: SRI International, 333 Ravenswood Avenue, Menlo Park, California 94025. Article: Laser, EMG 500. Manufacturer: Lambda Physik, West Germany. Intended use of article: The article is intended to be used to provide an intense source of ultraviolet coherent radiation during the study of the photo-dissociation and absorption of neutral and ionic molecules, and the lifetimes of excited states of these molecules. The bonding and potential surfaces of these molecules will also be investigated.

Comments: No comments have been received with respect to this application.

Decision: Application approved. No instrument or apparatus of equivalent scientific value to the foreign article, for such purposes as this article is intended to be used, is being manufactured in the United States.

Reasons: The foreign article provides an energy per pulse output of 150 millijoules with a high repetition rate power (40-50 Hertz). The National Bureau of Standards advises in its memorandum dated March 9, 1979 that (1) the capability of the foreign article described above is pertinent to the applicant's intended purpose and (2) it knows of no domestic instrument or apparatus of equivalent scientific value to the foreign article for the applicant's intended use.

The Department of Commerce knows of no other instrument or apparatus of equivalent scientific value to the foreign article, for such purposes as this article is intended to be used, which is being manufactured in the United States.

(Catalog of Federal Domestic Assistance Program No. 11.105, Importation of Duty-Free Educational and Scientific Materials.)

Richard M. Seppa,

Director, Statutory import Programs Staff.

[FR Doc. 79-14429 Filed 5-8-79; 8:45 am]

BILLING CODE 3510-25-M

University of Houston, et al.; for Applications Duty-Free Entry of Scientific Articles

The following are notices of the receipts of applications for duty-free entry of scientific articles pursuant to Section 6(c) of the Educational, Scientific, and Cultural Materials Importation Act of 1966 (Public Law 89-651; 80 Stat. 897). Interested persons may present their views with respect to the question of whether an instrument or apparatus of equivalent scientific value

for the purposes for which the article is intended to be used is being manufactured in the United States. Such comments must be filed in triplicate with the Director, Statutory Import Programs Staff, Bureau of Trade Regulation, U.S. Department of Commerce, Washington, D.C. 20230, on or before May 29, 1979.

Regulations (15 CFR 301.9) issued under the cited Act prescribe the requirements for comments.

A copy of each application is on file, and may be examined between 8:30 A.M. and 5:00 P.M., Monday through Friday, at 666–11th Street, N.W. (Room 735), Washington, D.C.

Docket No. 79–00216. Applicant: University of Houston, 4800 Calhoun, Houston, TX 77004. Article: 12kW RU–200 Constant Potential Rotating Anode X-Ray Generator and Accessories. Manufacturer: Rigaku Corp., Japan. Intended use of article: The article is intended to be used for the study of atomic arrangements in metals, semiconductors and insulators in order to understand the relation of structure to properties. The article provides a very high intensity source of x-rays incident upon weakly scattering materials. The article will also be used for individual graduate instruction in x-ray methods. Application received by Commissioner of Customs: April 2, 1979.

Docket No. 79–00217. Applicant: Dept. of Health, Education, and Welfare—National Institutes of Health, National Cancer Institute, Division of Cancer Biology and Diagnosis, Building 31, Room 3A–05, Bethesda, Maryland 20014. Article: Accessories for Small Animal Irradiator consisting of Gammacell–40 Sample Cavity Collimator, Set of 3 Attenuators and Sample Drawer Tray. Manufacturer: Atomic Energy of Canada Ltd., Canada. Intended use of article: The article is intended to be used for investigation of immunologic functions of various types from the administration of relatively low doses (200–300 rads) which permits the transplantation of foreign neoplasms to lethal doses in the 800–900 rad range followed by the transplantation of hematopoietic cells. Since the hematopoietic system is relatively sensitive to ionizing irradiation, animals may be rendered deficient in certain types of cells by exposure to lethal irradiation and replacement of only the desired hematopoietic cell types, e.g., immunologists study various functions of the immune systems by producing T-cell or B-cell different animals. Application Received by Commissioner of Customs: April 2, 1979.

Docket No. 79–00218. Applicant: National Aeronautics and Space Administration—Lyndon B. Johnson Space Center, R and T Procurement Branch/BC7, Houston, TX 77058. Article: Monohud Pilots' Display Unit, Video Signals Unit, Electronic Drive Unit, Electronic Unit, and Accessories. Manufacturer: Marconi Avionics Elliott Bros. Ltd., United Kingdom. Intended use of article: The article is intended to be used in the study, in-flight development, and verification of Head-Up Display (HUD) symbology formats and algorithms for the Space Shuttle Orbiter approach and landing. Because of the Shuttle Orbiter's unique flight and landing characteristics, critical touchdown parameters, and no go-around capability, a head-up display has the property of being a pilot aid to Orbiter landing tasks. Application received by Commissioner of Customs: April 2, 1979.

Docket No. 79–00222. Applicant: Stanford University Medical Center, Stanford, California 94305. Article: Electron Microscope, Model JEM–100S with sheet film camera and Accessories. Manufacturer: JEOJ Ltd., Japan. Intended use of article: The article is intended to be used to examine various tissues of the eye. Although most of the material will be derived from experimental and normal animals, it is anticipated that human ocular tissue of a pathological nature will also be studied. Experiments to be conducted will include: (1) Ultrastructure of nerve-epithelial interactions in the cornea, (2) ultrastructure of tissue cultural corneal cells, (3) kinetics of tracer movement into the cornea, (4) corneal pathology, and (5) ultrastructural analysis of corneal transparency. The article will also be used as an educational tool for graduate students, postdoctoral students and visiting scientists. Application received by Commissioner of Customs: April 2, 1979.

Docket No. 79–00223. Applicant: National Radio Astronony Observatory, Associated Universities, Inc., 2010 N. Forbes Blvds., Suite 100, Tucson, AZ 85705. Article: Repair of Klystron Model VRB2113A30 and Accessories. Manufacturer: Varian Associates of Canada Ltd., Canada. Intended use of article: The article is intended to be used as a phaselocked local oscillator in a millimeter wave radio astronomy receiver. The receiver is used in conjuction with a microwave antenna to measure the intensity, polarization, frequency and direction of cosmic radiation. Application received by Commissioner of Customs: April 2, 1979.

Docket No. 79–00224. Applicant: The Johns Hopkins University, School of Medicine, 725 North Wolfe Street, Baltimore, Maryland 21205. Article MS–50 Ultra High Resolution Mass Spectrometer (MI–015) and Accessories. Manufacturer: AEI/Kratos, United Kingdom. Intended use of article: The article is intended to be used for studies of a wide variety of chemical and biochemical compounds including peptides, polysaccharides, organometallic, multi-conjugated drug metabolites, natural products from terrestrial plants, animals and marine organisms, synethetic products, small polymers, stable isotope-labeled compounds, environmental residues, toxic substances and other. For the most part, the article will be used to elucidate structures of unknown compounds brought to the facility by scientists from all over the country. There will also be a substantial informal educational component in the use of the article described, since scientists are encouraged to bring their samples or send students with the samples and to participate in deciding what meaurements to make and in making them. Application received by Commissioner of Customs: March 30, 1979.

Docket No. 79–00225. Applicant: The Buffalo General Hospital, 100 High Street, Buffalo, New York 14203. Article: Heart/Lung pump and Accessories. Manufacturer: Biomedix, United Kingdom. Intended use of article: The article is intended to be used for the study of long term effects on myocardial structure and function after myocardial preservation during open heart surgery with potassium cardioplegia and profound hypothermia. Since aging characteristics of certain inbred strain of rats are well known, rat hearts will be used as the experimental animal. Application received by Commissioner of Customs: March 22, 1979.

Docket No. 79–00226. Applicant: University of California—Los Alamos Scientific Laboratory, P.O. Box 990, Los Alamos, NM 87545. Article: Line Tunable Multigas Laser Model TEA 801A and Accessories. Manufacturer: Lumonics Research Ltd., Canada. Intended use of article: The article is intended to be used for the study of multiple photodissociation of polyatomic molecules. The property to be investigated is photodissociation cross section. The experiment to be conducted is the irradiation of polyatomic molecules with extremely high irradiation fluences. The article is to produce the required extremely high ir fluences. Application received by Commissioner of Customs: April 2, 1979.

Docket No. 79–00227. Applicant: University of California—Los Alamos Scientific Laboratory, P.O. Box 990, Los Alamos, NM 87545. Article: Extended Interaction Oscillator Model VKE 2490G and Accessories. Manufacturer: Varian Associates of Canada, Canada. Intended use of article: The article is intended to be used to cause spin transitions in the electron free radical of cr^{v} and thereby to induce proton spin polarization in the hydrogen content of the 1,2 propane dial. The development of proton polarization will allow the propane dial to be used as a polarized target in medium energy neutron-proton scattering experiments such as these have not been attempted before at these energies. Application received by Commissioner of Customs: April 2, 1979.

(Catalog of Federal Domestic Assistance Program No. 11.105, Importation of Duty-Free Educational and Scientific Materials.)

Richard M. Seppa,

Director, Statutory Import Programs Staff.

[FR Doc. 79–14423 Filed 5–8–79; 8:45 am]

BILLING CODE 3510–25–M

University of Illinois at Chicago, et al.; Notice of Consolidated Decision on Applications; for Duty-Free Entry of Scientific Articles

The following is a consolidated decision on applications for duty-free entry of scientific articles pursuant to Section 6(c) of the Educational, Scientific, and Cultural Materials Importation Act of 1966 (Pub. L. 89–651, 80 Stat. 897) and the regulations issued thereunder as amended (15 CFR 301).

A copy of the record pertaining to each of the applications in this consolidated decision is available for public review between 8:30 A.M. and 5:00 P.M. at 666–11th Street N.W., Washington, D.C.

Decision: Applications denied. Applicants have failed to establish that instruments or apparatus of equivalent scientific value to the foreign articles for such purposes as the foreign articles are intended to be used, are not being manufactured in the United States.

Reasons: Subsection 301.8 of the Regulations provides in pertinent part:

"The applicant shall *on or before the 20th* day following the date of such notice, inform the Deputy Assistant Secretary whether it intends to resubmit another application for the same article for the same intended purposes to which the denied application relates. The applicant shall then resubmit the new application on or before the 90th day following the date of the notice of denial without prejudice to resubmission, unless an extension of time is granted by the Deputy Assistant Secretary in writing prior to the expiration of the 90-day period.

" • • • If the applicant fails, within the applicable time periods specified above, to either (a) inform the Deputy Assistant Secretary whether it intends to resubmit another application for the same article to which the denial without prejudice to resubmission relates, or (b) resubmit the new application, the prior denial without prejudice to resubmission shall have the effect of a final decision by the Deputy Assistant Secretary on the application within the context of Subsection 301.11." (Emphasis added).

The meaning of the subsection is that should an applicant either fail to notify the Deputy Assistant Secretary of its intent to resubmit another application for the same article to which the denial without prejudice relates *within the 20-day* period, or fails to resubmit a new application within the 90-day period, the prior denial without prejudice to resubmission will have the effect of a final denial of the application.

None of the applicants to which this consolidated decision relates has satisfied the requirements set forth above, therefore, the prior denials without prejudice have the effect of a final decision denying their respective applications.

Subsection 301.8 further provides:

"• • • the Deputy Assistant Secretary shall transmit a summary of the prior denial without prejudice to resubmission, of the **Federal Register** for publication, to the Commissioner of Customs, and to the applicant."

Each of the prior denials without prejudice to resubmission to which this consolidated decision relates was based on the failue of the respective applicants to submit the required documentation, including a completely executed application form, in sufficient detail to allow the issue of "scientific equivalency" to be determined by the Deputy Assistant Secretary.

Docket No. 78–00102. Applicant: University of Illinois at Chicago Circle, P.O. Box 4348, Chicago, Illinois 60607. Article: 80 MHz, Model WP–80 DS Spectrometer. Date of denial without prejudice to resubmission: October 19, 1978.

Docket No. 78–00394. Applicant: University of California—Los Alamos Scientific Laboratory, P.O. Box 990, Los Alamos, NM 87545. Article: 3(Three) each CO_2 Lasers, TEA 103–2 and Accessories. Date of denial without prejudice to resubmission: December 21, 1978.

Docket No. 78–00415. Applicant: Oregon State University, School of Oceanography, Corvallis, Oregon 97331. Article: Submersible acoustic transponder. Date of denial without prejudice to resubmission: December 21, 1978.

(Catalog of Federal Domestic Assistance Program No. 11.105, Importation of Duty-Free Educational and Scientific Materials.)

Richard M. Seppa,

Director, Statutory Import Programs Staff.

[FR Doc. 79–14422 Filed 5–8–79; 8:45 am]

BILLING CODE 3510–25–M

University of Rochester; Decision on Application for Duty-Free Entry of Scientific Article

The following is a decision on an application for duty-free entry of a scientific article pursuant to Section 6(c) of the Educational, Scientific, and Cultural Materials Importation Act of 1966 (Public Law 89–651, 80 Stat. 897) and the regulations issued thereunder as amended (15 CFR 301).

A copy of the record pertaining to this decision is available for public review between 8:30 a.m. and 5:00 p.m. at 666–11th Street, N.W. (Room 735) Washington, D.C.

Docket Number 79–00039. Applicant: University of Rochester, University of Rochester Medical Center, 601 Elmwood Avenue, Rochester, New York 14642. Article: Sheath Flow Chamber for Phywe ICP 22. Manufacturer: Phywe AG, West Germany. Intended use of article: The article is intended to be used for the study of cytochemistry of human and other animal cells and chromosomes to develop new techniques for the recognition of abnormal or unusual cells or chromosomes by virtue of their cytochemical properties.

Comments: No comments have been received with respect to this application.

Decision: Application approved. No instrument or apparatus of equivalent scientific value to the foreign article, for such purposes as this article is intended to be used, is being manufactured in the United States.

Reasons: The foreign article has a specific sheath flow geometry which allows cells to be brought up through the flow chamber to a point just below (0.4 millimeters) the microscopic objective, then be swept aside at rigid angles out of the field of view. The article also permits measurement of fluorescence with the same optical system that is used to visualize cells in the fluorescence microscope. The ... Department of Health, Education, and Welfare advises in its memorandum

dated March 1, 1979 that (1) the capability of the foreign article described above is pertinent to the applicant's intended purpose and (2) it knows of no domestic instrument or apparatus of equivalent scientific value to the foreign article for the applicant's intended use.

The Department of Commerce knows of no other instrument or apparatus of equivalent scientific value to the foreign article, for such purposes as this article is intended to be used, which is being manufactured in the United States.

(Catalog of Federal Domestic Assistance Program No. 11.105, Importation of Duty-Free Educational and Scientific Materials.)

Richard M. Seppa,
Director, Statutory Import Programs Staff.
[FR Doc. 79-14431 Filed 5-8-79; 8:45 am]
BILLING CODE 3510-25-M

Wayne State University School of Medicine; Decision on Application for Duty-Free Entry of Scientific Article

The following is a decision on an application for duty-free entry of a scientific article pursuant to Section 6(c) of the Educational, Scientific, and Cultural Materials Importation Act of 1966 (Public Law 89-651, 80 Stat. 897) and the regulations issued thereunder as amended (15 CFR 301).

A copy of the record pertaining to this decision is available for public review between 8:30 A.M. and 5:00 P.M. at 666 11th Street, N.W. (Room 735) Washington, D.C.

Docket Number 79-00024. Applicant: Wayne State University School of Medicine, Department of Pathology, 9374 Scott Hall, 540 East Canfield, Detroit, Mich. 48201. Article: Balzers BAF 301 High Vacuum Freeze-Etch System and Accessories. Manufacturer: Balzers High Vacuum Corp. Subsidiary of Balzers Ltd., Switzerland. Intended use of article: The article is intended to be used for varied projects in a research program in morphology. Among the research interests are the following:

(1) Investigation of the relative contributions that elevated wall stress and vasopathogenesis of the microvascular lesions in severe hypertension.

(2) Examination of the characteristics and distribution of the different types of junctions that are located within the complex intracellular space between cardiac muscle cells and to study the effects induced by angiotension II and renal hypertension.

(3) Study of freeze-fracture and etching changes induced by renal hypertension on the arteriosclerosis prone intercostal orifices of the aorta in man.

(4) Examination of the modifications induced at the level of the tight endothelial junctions by angiotension II and renal hypertension.

(5) Investigation of the role of increased vascular permeability in the development of the cardiomyopathic process.

The article will also be used in a course in experimental cardiovascular pathology to introduce students to the area of experimental pathology and teach them how the investigation of animal models of human disease can lead to a better understanding and improved therapy of disease in man.

Comments: No comments have been received with respect to this application. Decision: Application approved. No instrument or apparatus of equivalent scientific value to the foreign article, for such purposes as this article is intended to be used, is being manufactured in the United States. Reasons: The foreign article provides temperature control of the specimen table to 0.1 degree centigrade (°C) in the –80° to –120° C range and a built in microtome. The Department of Health, Education, and Welfare advises in its memorandum dated March 1, 1979 that (1) the capability of the foreign article described above is pertinent to the applicant's intended purpose and (2) it knows of no domestic instrument or apparatus of equivalent scientific value to the foreign article for the applicant's intended use.

The Department of Commerce knows of no other instrument or apparatus of equivalent scientific value to the foreign article, for such purposes as this article is intended to be used, which is being manufactured in the United States.

(Catalog of Federal Domestic Assistance Program No. 11.105, Importation of Duty-Free Educational and Scientific Materials.)

Richard M. Seppa,
Director, Statutory Import Programs Staff.
[FR Doc. 79-14432 Filed 5-8-79; 8:45 am]
BILLING CODE 3510-25-M

National Oceanic and Atmospheric Administration

Gulf of Mexico and South Atlantic Fishery Management Council's Coral Advisory Subpanels; Meeting

AGENCY: National Marine Fisheries Service, NOAA.

SUMMARY: The Gulf of Mexico and South Atlantic Fishery Management Councils were established by the Fishery Conservation and Management Act of 1976 (Public Law 94-265), and the Councils have established Coral Advisory Subpanels which will meet to review a draft fishery management plan on corals.

DATES: The meeting will convene on Thursday, May 31, 1979, at 8:30 a.m. and will adjourn at 4 p.m. The meeting is open to the public.

ADDRESS: The meeting will take place in Council headquarters, Suite 881, Lincoln Center, 5401 West Kennedy Boulevard, Tampa, Florida.

FOR FURTHER INFORMATION CONTACT: Gulf of Mexico Fishery Management Council, Lincoln Center, Suite 881, 5401 West Kennedy Boulevard, Tampa, Florida 33609, Telephone: (813) 228-2815.

Dated: May 4, 1979.

Winfred H. Meibohm,
Executive Director, National Marine Fisheries Service.
[FR Doc. 79-14536 Filed 5-8-79; 8:45 am]
BILLING CODE 3510-22-M

COMMITTEE FOR THE IMPLEMENTATION OF TEXTILE AGREEMENTS

Announcing a New Endorsement Stamp for Hong Kong Export Visas

AGENCY: Committee for the Implementation of Textile Agreements.

ACTION: A new endorsement stamp showing both the quantity and textile category of the merchandise will be used by the Hong Kong Government on its export visas accompanying certain cotton, wool and man-made fiber apparel products, produced or manufactured in Hong Kong and exported to the United States, effective on June 1, 1979.

SUMMARY: The Hong Kong Government has notified the Government of the United States, that, effective on June 1, 1979, a new endorsement stamp listing the quantity and textile category of the merchandise will be used on all export visas for cotton, wool and man-made fiber apparel products, which are subject to the terms of the bilateral textile agreement between the two governments, except shipments valued under US$250, which will continue to require the currently authorized exempt certification. Both the category and the quantity must be correctly indicated on the new stamp; otherwise, the merchandise will be denied entry. The only exception will be instances in which the quantity indicated exceeds the actual quantity of the shipment.

EFFECTIVE DATE: The Hong Kong Government will begin using the new endorsement stamp on June 1, 1979; however, the merchandise exported through June 28, 1979, which has the previously authorized stamp on the accompanying export visa shall not be denied entry into the United States for consumption, or withdrawal from warehouse for consumption.

FOR FURTHER INFORMATION CONTACT: Leonard A. Mobley, Director, Trade Analysis Division, Office of Textiles, U.S. Department of Commerce, Washington, D.C. 20230 (202/377-4212).

SUPPLEMENTARY INFORMATION: On January 5, 1978, there was published in the Federal Register (43 FR 883) a letter dated December 30, 1977 from the Chairman of the Committee for the Implementation of Textile Agreements to the Commissioner of Customs, establishing an export visa requirement for cotton, wool and man-made fiber apparel products in Categories 330-359, 431-459 and 630-659, produced or manufactured in Hong Kong and exported to the United States after December 31, 1977. The letter published below amends the directive of December 30, 1977 to require, effective on June 1, 1979, that export visas accompanying apparel products in the cited categories from Hong Kong, except appropriately certified shipments valued at less than US$250, include the new endorsement stamp. A facsimile of the stamp is published as an enclosure to that letter. A list of Hong Kong Government officials authorized to issue the new stamp accompanies this notice.

Robert E. Shepherd,
Chairman, Committee for the Implementation of Textile Agreements, and Deputy Assistant Secretary for Domestic Business Development.

Hong Kong Government Officials Authorized To Issue Endorsement Stamps for Apparel Products Exported to the United States

Chin Lai-ming
Chung Yu
Fung Chan Yan-mui
HO Siu-lan
Hoe Chan Chor-wan
Hon
Leung Mi-kin
Lau Ho Wan-chee, Norah
Law Shuk-ngor, Anita
Law Yin-hing
Leung Yuen-fong
Mak Tse Lai-ching
Sin Fung-pik
So Chan Kit-ping, Alice
So Poon Siu-ying, Betty
To Dao-wah
Tsang Miu-wah
Tse Chui Kam-chee
Wong Yau Suk-fun
Yu Mak Kin-yee
Yuen Chung-lai
May 3, 1979.

Committee for the Implementation of Textile Agreements

Commissioner of Customs,
Department of the Treasury, Washington, D.C. 20229.

Dear Mr. Commissioner: This directive amends, but does not cancel, the directive of December 30, 1977 from the Chairman of the Committee for the Implementation of Textile Agreements, which established an export visa requirement for certain cotton, wool and man-made fiber apparel products, produced or manufactured in Hong Kong and exported to the United States after December 31, 1977.

Under the terms of the Arrangement Regarding International Trade in Textiles done at Geneva on December 20, 1973, as extended on December 15, 1977; pursuant to the Bilateral Cotton, Wool and Man-Made Fiber Textile Agreement of August 8, 1977, as amended, between the Governments of the United States and Hong Kong; and in accordance with the provisions of Executive Order 11651 of March 3, 1972, as amended by Executive Order 11951 of January 6, 1977, the directive of December 30, 1977 is amended to require, that, effective on June 1, 1979, export visas for cotton, wool and man-made fiber apparel products in Categories 330-359, 431-459 and 630-659, produced or manufactured in Hong Kong and exported to the United States, except properly certified shipments of such products valued under US $250, will include a new endorsement stamp. A facsimile of the new stamp is enclosed.

Both the category and quantity must be correctly indicated on the new stamp; otherwise, the merchandise will be denied entry. The only exception will continue to be those instances in which the quantity indicated exceeds the actual quantity of the shipment.

Merchandise exported through June 28, 1979, which has the previously authorized stamp on the accompanying export visa will not be denied entry into the United States for consumption, or withdrawal from warehouse for consumption.

The actions taken with respect to the Government of Hong Kong and with respect to imports of cotton, wool and man-made fiber apparel products from Hong Kong have been determined by the Committee for the Implementation of Textile Agreements to involve foreign affairs functions of the United States. Therefore, the directions to the Commissioner of Customs, being necessary to the implementation of such actions, fall within the foreign affairs exception to the rule-making provisions of 5 U.S.C. 553. This letter will be published in the Federal Register.

Sincerely,

Robert E. Shepherd,
Chairman, Committee for the Implementation of Textile Agreements, and Deputy Assistant Secretary for Domestic Business Development.

Enclosure.

Facsimile of Stamp Used by Hong Kong Government on Visas for Cotton, Wool, and Man-Made Fiber Apparel Products Exported to the United States

This licence has been issued in accordance with the terms of the HK/USA Textile Agreement and that the quantity(ies) listed below has been charged to 1979 quantitative limit(s) prescribed for the category(ies) of the product(s) in question for export to the U.S.A. This copy is for presentation to the competent authorities in the U.S.A.

_____in Cat._____
_____in Cat._____
_____in Cat._____

Licensing Officer No. —— for Director of Trade Industry and Customs.

[FR Doc. 79-14421 Filed 5-8-79; 8:45 am]
BILLING CODE 3510-25-M

DEPARTMENT OF ENERGY

National Petroleum Council, Task Group of the NPC Committee on U.S. Petroleum Inventories and Storage and Transportation Capacities; Meeting

Notice is hereby given that the Coordinating Subcommittee of the Committee on U.S. Petroleum Inventories, and Storage and Transportation Capacities will meet on May 30 1979. The National Petroleum Council was established to provide advice, information, and recommendations to the Secretary of Energy on matters relating to oil and natural gas or the oil and natural gas industries. The Committee on U.S. Petroleum Inventories, and Storage and Transportation Capacities will analyze the potential constraints in these areas which may inhibit future production and will report its findings to the National Petroleum Council. Its analysis and findings will be based on information and data to be gathered by the various task groups. The seventh meeting of the Coordinating Subcommittee scheduled for May 24, 1979 is cancelled and is now scheduled for Wednesday, May 30, 1979, starting at 1 p.m., in the Sixth Floor Board Room, Panhandle Eastern Pipeline Company, 3000 Bissonnet Street, Houston, Texas. The tentative agenda for the meeting follows:

1. Introductory remarks by R. Scott Van Dyke, Chairman.
2. Remarks by Mario Cardullo, Government Cochairman.
3. Progress Reports by the Task Group Chairmen.
4. Discussion of timetable of study completion.
5. Discussion of any other matters pertinent to the overall assignment of the Coordinating Subcommittee.

The meeting is open to the public. The chairman of the task group is empowered to conduct the meeting in a fashion that will, in his judgment, facilitate the orderly conduct of business. Any member of the public who wishes to file a written statement with the task group will be permitted to do so, either before or after the meeting.

V 4 4 / 9 1 MAY 79 UMI

Members of the public who wish to make oral statements should inform Mario Cardullo, Office of Resource Applications, 202–633–8828, prior to the meeting and reasonable provision will be made for their appearance on the agenda.

Summary minutes of the meeting will be available for public review at the Freedom of Information Public Reading Room, Room GA–152, Department of Energy, Forrestal Building, 1000 Independence Avenue, SW., Washington, D.C., between the hours of 8 a.m. and 4:30 p.m., Monday through Friday, except Federal holidays.

Issued at Washington, D.C. on May 3, 1979.

George S. Mclsaac,

Assistant Secretary for Resource Applications.

May 3, 1979.

[FR Doc. 79–14367 Filed 5–8–79; 8:45 am]

BILLING CODE 6450–01–M

Implementation of the Federal Photovoltaic Utilization Act—Operation of the Federal Photovoltaic Utilization Act Advisory Committee

The Federal Photovoltaic Utilization Act (the Act) (Pub. L. 95–619, Title V, Part 4) established the Federal Photovoltaic Utilization Program Advisory Committee. In carrying out his responsibilities under this Act, the Secretary of Energy has determined that the Committee must be structured and operated and its members must be appointed in accordance with the provisions of the Act, the Department of Energy Organization Act (Pub. L. 95–91), the Federal Advisory Committee Act (Pub. L. 92–463), the OMB Circular A–63 (revised) and other implementing regulations and directives. This Committee is described below.

1. *Name of Advisory Committee:* Federal Photovoltaic Utilization Program Advisory Committee.

2. *Purpose:* The Advisory Committee will assist the Secretary of Energy in the establishment and conduct of a program concerning the purchase of photovoltaic electric systems to be used on Federal Buildings, the early development of a permanent low-cost private photovoltaic industry in the United States, and the stimulation of the private sector market for photovoltaic power systems.

3. *Membership:* As required by the Act, the membership shall include the Secretary of Defense, the Secretary of Housing and Urban Development, the Administrator of the National Aeronautics and Space Administration, the Administrator of the General Services Administration, the Secretary of Transportation, the Administrator of the Small Business Administration, the Chairman of the Federal Trade Commission, the Postmaster General and such other persons the Secretary of Energy deems necessary to assure that the membership of the Committee will be fairly balanced in terms of the point of view represented and the functions performed by the Committee. All selections will comply with Section 624 of the Department of Energy Organization Act (Pub. L. 95–91). The members other than those officials required to be included by the Act will be recommended for appointment to the Secretary of Energy by the Assistant Secretary of Conservation and Solar Applications in consultation with the Department of Energy Advisory Committee Management Officer and such other DOE officials as are deemed appropriate.

There will be no discrimination based on race, color, creed, national origin, religion, age, or sex.

4. *Operation:* The Federal Photovoltaic Utilization Program Advisory Committee will operate in accordance with the provisions of the Department of Energy Organization Act (Pub. L. 95–91), the Federal Advisory Committee Act (Pub. L. 92–463), OMB Circular A–63 (revised) and other directives and instructions issued in accordance with implementation of Pub. L. 92–463 and the Department of Energy policy and procedures. Advisory Committee meetings will be held approximately three times a year. An agenda for each meeting will be developed cooperatively between the Advisory Committee Chairperson and DOE. The Assistant Secretary for Conservation and Solar Applications will be responsible for effective Advisory Committee operations, which will include providing on a continuous basis all information on DOE policies, procedures, programs, priorities, and issues reasonably required by the Advisory Committee to perform its functions. Staff support will be provided to the Committee by the Office of Conservation and Solar Applications.

5. *Objectivity:* The advice and recommendations of the Advisory Committee will not be inappropriately influenced by the appointing authority or by any special interest, but will instead be the result of the Advisory Committee's independent judgment.

6. *Terminotion:* The Committee shall terminate on October 1, 1981, pursuant to Pub. L. 95–619.

Dated: April 13, 1979.

James R. Schlesinger,

Secretary of Energy.

[FR Doc. 79–14447 Filed 5–4–79; 3:29 pm]

BILLING CODE 6450–01–M

Federal Energy Regulatory Commission

California Resources Agency; Determination by a Jurisdictional Agency Under the Natural Gas Policy Act of 1978

April 30, 1979.

On April 16, 1979, the Federal Energy Regulatory Commission received notices from the jurisdictional agencies listed below of determinations pursuant to 18 CFR 274.104 and applicable to the indicated wells pursuant to the Natural Gas Policy Act of 1978.

State of California Resources Agency

FERC Control Number: JD79 5189
API Well Number: 113–20477
Section of NGPA: 103
Operator: Santa Fe Energy Company
Well Name: CWAD–WFL No. 11
Field: Conway Ranch Field
County: Yolo County
Purchaser: Pacific Gas & Electric Co.
Volume: 126.855 MMcf.

FERC Control Number: JD79 5190
API Well Number: 113–20472
Section of NGPA: 103
Operator: Santa Fe Energy Co.
Well Name: CWAD–WFL No. 9A
Field: Conway Ranch Field
County: Yolo
Purchaser: Pacific Gas & Electric Company
Volume: 174.150 MMcf.

FERC Control Number: JD79 5191
API Well Number: 113–20471
Section of NGPA: 103
Operator: Santa Fe Energy Company
Well Name: CWAD–WFL No. 8A
Field: Conway Ranch Field
County: Yolo
Purchaser: Pacific Gas & Electric Co.
Volume: 365.7 MMcf.

FERC Control Number: JD79 5192
API Well Number: 113–20462
Section of NGPA: 103
Operator: Santa Fe Energy Company
Well Name: CWAD–Natomas No. 1A
Field: Conway Ranch Field
County: Yolo
Purchaser: Pacific Gas & Electric Co.
Volume: 158.045 MMcf.

FERC Control Number: JD79 5193
API Well Number: 113–20514
Section of NGPA: 103
Operator: Santa Fe Energy Company
Well Name: CWAD–WFL No. 12A
Field: Conway Ranch Field
County: Yolo
Purchaser: Pacific Gas & Electric Co.
Volume: 94.875 MMcf.

The applications for determination in these proceedings together with a copy or description of other materials in the record on which such determinations were made are available for inspection, except to the extent such material is treated as confidential under 18 CFR 275.206, at the Commission's Office of Public Information, Room 1000, 825 North Capitol Street, N.E., Washington, D.C. 20426.

Persons objective to any of those final determinations may, in accordance with 18 CFR 275.203 and 18 CFR 275.204, file a protest with the Commission on or before May 24, 1979. Please reference the FERC Control Number in any correspondence concerning a determination.

Kenneth F. Plumb,

Secretary.

[FR Doc. 79–14413 Filed 5–8–79; 8:45 am]

BILLING CODE 6450–01–M

Michigan, Department of natural Resources; Notice of Determination by a Jurisdictional Agency Under the Natural Gas Policy Act of 1978.

April 30, 1979.

On April 18, 1979, the Federal Energy Regulatory Commission received notices from the jurisdictipnal agencies listed below of determinations pursuant to 18 CFR 274. 104 and applicable to the indicated wells pursuant to the Natural Gas Policy Act of 1978.

Department Of Natural Resources (State Of Michigan)

FERC Control Number: JD79–5420
API Well Number: 31851
Section of NGPA: 102
Operator: Miller Brothers
Well Name: Miller Brothers Zimmerman 9A
Field: Mayfield–9–25N–11W
County: Gramd Traverse
Purchaser: Consumers Power Company
Volume: 78 MMcf.

FERC Control Number: JD79–5418
API Well Number: 32171
Section of NGPA: 102
Operator: Miller Brothers
Well Name: Miller Brothers Lyke 22A
Field: Cleon–22–24N–13W
County: Maistee
Purchaser: Consumer Power Company
Volume: 200 MMcf.

FERC Control Number: JD79–5419
API Well Number: 31777
Section of NGPA: 102
Operator: Miller Brothers
Well Name: Miller Brothers Lyke– Leik 27
Field: Cleon–27–24N–13W
County: Manistee
Purchaser: Consumers Power Company
Volume: 1.1 MMcf.

The applications for determination in these proceedings together with a copy or description of other materials in the record on which such determinations were made are available for inspection, except to the extent such material is treated as confidential under 18 CFR 275.206, at the Commission's Office of Public Information, room 1000, 825 North Capitol Street, N.E., Washington, D.C. 20426.

Persons objecting to any of those final determinations may, in accordance with 18 CFR 275. 203 and 18 CFR 275.204, file a protest with the Commission on or before May 24, 1979. Please reference the FERC Control Number in any correspodence concerning a determination.

Kenneth F. Plumb,

Secretary.

[FR Doc. 79–14406 Filed 5–18–79; 8:45 am]

BILLING CODE 6450–01–M

Moran Oil Co.; Notice of Petition for Declaratory Order

April 25, 1979.

Take notice that on January 29, 1979, Moran Oil Company, P.O. Box 2549, 300 First Victoria National Bank Bldg., Victoria, Texas 77901, filed a petition for a declaratory order pursuant to Section 1.7(c) of the Commission's Rules of Practice and Procedure in Docket No. RI79–25. Petitioner requests that the Commission issue a declaratory order stating either that an amendment to an interstate contract for deliveries of gas by Petitioner to Lone Star Gas Company (Lone Star) does not violate the Natural Gas Policy Act of 1978 (NGPA) or, alternatively, giving relief under Part 271 Subpart K of the Commission's interim regulations under the NGPA.

In support of its request Petitioner sets forth the chronology of events, covering some five years, which culminated in an agreement between Petitioner and Lone Star to amend the existing contract. Petitioner further states that the agreement amending the contract, prepared by Lone Star, had been signed by Petitioner; and, subsequently, Lone Star refused to sign in fear of possible civil or criminal penalties under the NGPA. Petitioner adopts the position that the amendment is valid, enabling Petitioner to be paid for the subject gas or Petitioner should be allowed to recover its costs under the relief provided by Section 502(c) of the NGPA.

Any person desiring to be heard or to make any protest with reference to said petition should on or before May 17, 1979, file with the Federal Energy Regulatory Commission, 825 North Capitol St. N.E., Washington, D.C. 20426, a petiton to intervene or a protest in accordance with the requirements of the Commission's Rules of Practice and Procedure (18 CFR 1.8 or 1.10). All protests filed with the Commission will be considered by it in determining the appropriate action to be taken but will not serve to make the protestants parties to the proceeding. Any person wishing to become a party to a proceeding or to participate as a party in any hearing therein must file a petition to intervene in accordance with the Commission's Rules.

Kenneth F. Plumb,

Secretory.

[Docket No. RI79–25]

[FR Doc. 79–14403 Filed 5–8–79; 8:45 am]

BILLING CODE 6450–01–M

New Mexico Oil Conservation Division, Notice of Determination by a Jurisdictional Agency Under the Natural Gas Policy Act of 1978

April 30, 1979.

On April 18, 1979, the Federal Energy Regulatory Commission received notices from the jurisdictional agencies listed below of determinations pursuant to 18 CFR 274.104 and applicable to the indicated wells pursuant to the Natural Gas Policy Act of 1978.

New Mexico Oil Conservation Division

FERC Control Number: JD79 5380
API Well Number: 30–025–25884
Section of NGPA: 103
Operator: Marathon Oil Company
Well Name: McDonald State A/c 2, Well No. 29
Field: Drinkard
County: Lea
Purchaser: Getty Oil Company
Volume: 92.0 MMcf.

FERC Control Number: JD79 5381
API Well Number: 30–105–22040
Section of NGPA: 103
Operator: Marathon Oil Company
Well Name: Arnquist Estate Well No. 4
Field: Penasco Draw (San Andres-Yeso) Assoc.
County: Eddy
Purchaser: Transwestern Pipeline Company
Volume: 5.0 MMcf.

FERC Control Number: JD79 5382
API Well Number: 30–025–25933
Section of NGPA: 103
Operator: Marathon Oil Company
Well Name: McDonald State A/c 2, Well No. 32
Field: Drinkard
County: Lea
Purchaser: Getty Oil Company
Volume: 44.0 MMcf.

FERC Control Number: JD79 5383
API Well Number: 30–025–25926
Section of NGPA: 103
Operator: Marathon Oil Company
Well Name: McDonald State A/c 2, Well No. 30
Field: Drinkard
County: Lea
Purchaser: Getty Oil Company
Volume: 84.0 MMcf.

FERC Control Number: JD79 5384
API Well Number: 30–025–25932

Section of NGPA: 103
Operator: Marathon Oil Company
Well Name: McDonald State A/c 2, Well No. 31
Field: Drinkard
County: Lea
Purchaser: Getty Oil Company
Volume: 30.0 MMcf.

FERC Control Number: JD79 5385
API Well Number: 30–025–25684
Section of NGPA: 103
Operator: Marathon Oil Company
Well Name: State K–5796 Well No. 2
Field: Vacuum Abo, North
County: Lea
Purchaser: Phillips Petroleum Company
Volume: 13.0 MMcf.

FERC Control Number: JD79 5386
API Well Number: 30–025–25475
Section of NGPA: 103
Operator: Marathon Oil Company
Well Name: McDonald State A/c 2, Well No. 29
Field: Drinkard
County: Lea
Purchaser: Phillips Petroleum Company
Volume: 20.0 MMcf.

FERC Control Number: JD79 5387
API Well Number: 30–025–25568
Section of NGPA: 103
Operator: Marathon Oil Company
Well Name: Lou Worthan Well No. 18
Field: Wantz Granite Wash
County: Lea
Purchaser: Getty Oil Company
Volume: 136.0 MMcf.

FERC Control Number: JD79 5387
API Well Number: 30–025–25568
Section of NGPA: 103
Operator: Marathon Oil Company
Well Name: Lou Worthan, Well No. 18
Field: Wantz Granite Wash
County: Lea
Purchaser: Getty Oil Company
Volume: 136.0 MMcf.

FERC Control Number: JD79 5388
API Well Number: 30–015–22191
Section of NGPA: 103
Operator: Western Oil Producers, Inc.
Well Name: Bass #1
Field: Carlsbad Wolfcamp East
County: Eddy
Purchaser: Natural Gas Pipeline Company of America
Volume: MMcf N/A.

The applications for determination in these proceedings together with a copy or description of other materials in the record on which such determinations were made are available for inspection, except to the extent such material is treated as confidential under 18 CFR 275.206, at the Commission's Office of Public Information, Room 1000, 825 North Capitol Street, N.E., Washington, D.C 20426.

Persons objecting to any of those final determinations may, in accordance with 18 CFR 275.203 and 18 CFR 275.204, file a protest with the Commission on or before May 24, 1979. Please reference the FERC Control Number in any correspondence concerning a determination.

Kenneth F. Plumb,
Secretary.
[FR Doc. 79-14407 Filed 5-8-79; 8:45 am]
BILLING CODE 6450-01-M

New Mexico Oil Conservation Division; Notice of Determination by a Jurisdictional Agency Under the Natural Gas Policy Act of 1978.

April 30, 1979.

On April 18, 1979, the Federal Energy Regulatory Commission received notices from the jurisdictional agencies listed below of determinations pursuant to 18 CFR 274.104 and applicable to the indicated wells pursuant to the Natural Gas Policy Act of 1978.

New Mexico Oil Conservation Division

FERC Control Number: JD79 5365
API Well Number: 3003907630000
Section of NGPA: 108
Operator: El Paso Natural Gas Company
Well Name: Rincon Unit #32
Field: Blanco Mesaverde Gas
County: Rio Arriba
Purchaser: El Paso Natural Gas Company
Volume: 17.5 MMcf.

FERC Control Number: JD79 5366
API Well Number: 30045114570000
Section of NGPA: 108
Operator: El Paso Natural Gas Company
Well Name: Heizer 1
Field: Blanco Mesaverde Gas
County: San Juan
Purchaser: El Paso Natural Gas Company
Volume: 18.0 MMcf.

FERC Control Number: JD79 5367
API Well Number: 3004513440000
Section of NGPA: 108
Operator: El Paso Natural Gas Company
Well Name: Farmington Com B #1
Field: Basin Dakota Gas
County: San Juan
Purchaser: El Paso Natural Gas Company
Volume: 19.0 Mcf.

FERC Control Number: JD79 5368
API Well Number: 30045208960000
Section of NGPA: 108
Operator: El Paso Natural Gas Company
Well Name: Callison #1
Field: Aztec Pictured Cliffs Gas
County: San Juan
Purchaser: El Paso Natural Gas Company
Volume: 20.4 MMcf.

FERC Control Number: JD79 5369
API Well Number: 30045117860000
Section of NGPA: 108
Operator: El Paso Natural Gas Company.
Well Name: Flanigam #1
Field: Aztec Pictured Cliffs Gas
County: San Juan
Purchaser: El Paso Natural Gas Company
Volume: 21.9 MMcf.

FERC Control Number: JD79 5370
API Well Number: 30045106780000
Section of NGPA: 108
Operator: Beta Developent Co.
Well Name: Rhoda Abrams #2
Field: Basin Dakota
County: San Juan
Purchaser: El Paso Natural Gas Company
Volume: 14 MMcf.

FERC Control Number: JD79 5371
API Well Number: N/A
Section of NGPA: 108
Operator: Beta Development Co.
Well Name: Rhoda Abrams #2
Field: Basin Dakota
County: San Juan
Purchaser: El Paso Natural Gas Company
Volume: 14 MMcf.

The applications for detemination in these proceedings together with a copy or description of other materials in the record on which such determinations were made are available for inspection, except to the extent such material is treated as confidental under 18 CFR 275.206, at the Commission's Office of Public Information, Room 1000, 825 North Capitol Street, N.E., Washington, D.C. 20426.

Persons objecting to any of those final determinations may, in accordance with 18 CFR 275.203 and 18 CFR 275.204, file a protest with the Commission on or before May 24, 1979. Please reference the FERC Control Number in any correspondence concerning a determination.

Kenneht F. Plumb,
Secretary.
[FR Doc. 79-14408 Filed 5-8-79; 8:45 am]
BILLING CODE 6450-01-M

New Mexico Oil Conservation Division; Notice of Determination by a Jurisdictional Agency Under the Natural Gas Policy Act of 1978

April 30, 1979.

On April 18, 1979, the Federal Energy Regulatory Commission received notices from the jurisdictional agencies listed below of determinations pursuant to 18 CFR 274.104 and applicable to the indicated wells pursuant to the Natural Gas Policy Act of 1978.

New Mexico Oil Conservation Division

FERC Control Number: JD79 5372
API Well Number: 30–025–06659
Section of NGPA: 108
Operator: Gulf Oil Corporation
Well Name: H.T. Mattern (NCT–C) Well No. 3
Field: Eumont Gas
County: Lea
Purchaser: El Paso Natural Gas Co.
Volume: 13 MMcf.

FERC Control Number: JD79 5373
API Well Number: N/A
Section of NGPA: 108
Operator: Gulf Oil Corporation
Well Name: H.T. Mattern (NCT–C) Com. Well No. 8
Field: Eumont Gas
County: Lea
Purchaser: Northern Natural Gas Company
Volume: 14 MMcf.

FERC Control Number: JD79 5374
API Well Number: 30–025–06667
Section of NGPA: 108
Operator: Gulf Oil Corporation
Well Name: Eunice Com. Unit Well No. 1
Field: Eumont Gas
County: Lea
Purchaser: Northern Natural Gas Company
Volume: 14 MMcf.

FERC Control Number: JD79 5375
API Well Number: 30–025–05559
Section of NGPA: 108
Operator: Gulf Oil Corporation
Well Name: J.R. Holt (NGT–C) Com. Well No. 1
Field: Eumont Gas
County: Lea
Purchaser: Northern Natural Gas Company
Volume: 5.8 MMcf.

FERC Control Number: JD79 5376
API Well Number: 30–025–09399
Section of NGPA: 108
Operator: Gulf Oil Corporation
Well Name: J. F. Janda (NGT–G) Well No. 1
Field: Jalmat Gas
County: Lea
Purchaser: Northern Natural Gas Company
Volume: 11.8 MMcf.

FERC Control Number: JD79 5377
API Well Number: N/A
Section of NGPA: 108
Operator: Gulf Oil Corporation
Well Name: Learcy McBuffington Well No. 1
Field: Langlie Mattix Gas
County: Lea
Purchaser: Northern Natural Gas Company
Volume: 4 MMcf.

FERC Control Number: JD79 5378
API Well Number: 30–025–01992
Section of NGPA: 108
Operator: Gulf Oil Corporation
Well Name: Lea "FE" State Well No. 3
Field: Vacuum Queen Gas
County: Lea
Purchaser: Phillips Petroleum Co.
Volume: 3.3 MMcf.

FERC Control Number: JD79 5379
API Well Number: 30–025–24641
Section of NGPA: 108
Operator: Tahoe Oil & Cattle Co.
Well Name: Judy #1
Field: Langlie—Mattix
County: N/A:
Purchaser: El Paso Natural Gas Co.
Volume: 21.444 MMcf.

The applications for determination in these proceedings together with a copy or description of other materials in the record on which such determinations were made are available for inspection, except to the extent such material is treated as confidential under 18 CFR 275.206, at the Commission's Office of Public Information, Room 1000, 825 North Capital Street, N.E., Washington, D.C. 20426. Persons objecting to any of those final determinations may, in accordance with 18 CFR 275.203 and 18 CFR 275.204, file a protest with the Commission on or before May 24, 1979. Please reference the FERC Control Number in any correspondence concerning a determination.

Kenneth F. Plumb,
Secretary.
[FR Doc. 79-14409 Filed 5-8-79; 8:45 am]
BILLING CODE 6450-01-M

New Mexico Oil Conservation Division; Notice of Determination by a Jurisdictional Agency Under the Natural Gas Policy Act of 1978

May 1, 1979.

On April 12, 1979, the Federal Energy Regulatory Commission received notices from the jurisdictional agencies listed below of determinations pursuant to 18 CFR 274.104 and applicable to the indicated wells pursuant to the Natural Gas Policy Act of 1978.

New Mexico Oil Conservation Division

FERC Control Number: JD79–2774
API Well Number: 30–039–21418
Section of NGPA: 103
Operator: Northwest Pipeline Corporation
Well Name: San Juan 29–6 #54A
Field: Blanco Mesa Verde
County: Rio Arriba
Purchaser: Northwest Pipeline Corporation
Volume: 41 MMcf.

FERC Control Number: JD79–2775
API Well Number: 30–039–21324
Section of NGPA: 103
Operator: Northwest Pipeline Corporation
Well Name: S. J. 29–6 #43–A
Field: Blanco MV
County: Rio Arriba
Purchaser: Northwest Pipeline Corporation
Volume: 78 MMcf.

FERC Control Number: JD79–2776
API Well Number: 30–039—21788
Section of NGPA: 103
Operator: Northwest Pipeline Corporation
Well Name: San Juan 29–5 Unit #88
Field: Basin Dakota
County: Rio Arriba
Purchaser: Northwest Pipeline Corporation
Volume: N/A.

FERC Control Number: JD79–2776
API Well Number: 30–039–21788
Section of NGPA: 103
Operator: Northwest Pipeline Corporation
Well Name: San Juan 29–5 Unit #88
Field: Basin Dakota
County: Rio Arriba
Purchaser: Northwest Pipeline Corporation
Volume: N/A.

FERC Control Number: JD79–2777
API Well Number: 30–039–21325
Section of NGPA: 103
Operator: Northwest Pipeline Corporation
Well Name: San Juan 29–6 #45A
Field: Blanco MV
County: Rio Arriba
Purchaser: Northwest Pipeline Corporation
Volume: 92 MMcf.

FERC Control Number: JD79–2778
API Well Number: 30–039–21496
Section of NGPA: 103
Operator: Northwest Pipeline Corporation
Well Name: San Juan 31–6 Unit #29
Field: Blanco MV
County: Rio Arriba
Purchaser: Northwest Pipeline Corporation
Volume: 151 MMcf.

FERC Control Number: JD79–2779
API Well Number: 30–039–21486
Section of NGPA: 103
Operator: Northwest Pipeline Corporation
Well Name: Governador #2
Field: Governador PC
County: Rio Arriba
Purchaser: Northwest Pipeline Corporation
Volume: 45 MMcf

FERC Control Number: JD79–2780
API Well Number: 30–039–21224
Section of NGPA: 103
Operator: Northwest Pipeline Corporation
Well Name: S. J. 29–6 #36A
Field: Blanco MV
County: Rio Arriba
Purchaser: Northwest Pipeline Corporation
Volume: 93 MMcf.

FERC Control Number: JD79–2781
API Well Number: 30–039–21417
Section of NGPA: 103
Operator: Northwest Pipeline Corporation
Well Name: San Juan 29–6 #59A
Field: Blanco Mesa Verda
County: Rio Arriba
Purchaser: Northwest Pipeline Corporation
Volume: 255 MMcf.

The applications for determination in these proceedings together with a copy or description of other materials in the record on which such determinations were made are available for inspection, except to the extent such material is treated as confidential under 18 CFR 275.206, at the Commission's Office of Public Information, Room 1000, 825 North Capitol Street, N.E., Washington, D.C. 20426.

Persons objecting to any of those final determinations may, in accordance with 18 CFR 275.203 and 18 CFR 275.204, file a protest with the Commission on or before May 24, 1979. Please reference the FERC Control Number in any correspondence concerning a determination.

Lois D. Cashell,
Acting Secretary.
[FR Doc. 79-14410 Filed 5-8-79; 8:45 am]
BILLING CODE 6450-01-M

North Dakota State Industrial Commission, Oil and Gas Division; Notice of Determination by a Jurisdictional Agency Under the Natural Gas Policy Act of 1978

April 30, 1979.

On April 18, 1979, the Federal Energy Regulatory Commission received notices from the jurisdictional agencies listed below of determinations pursuant to 18 CFR 274.104 and applicable to the indicated wells pursuant to the Natural Gas Policy Act of 1978.

North Dakota State Industrial Commission, Oil and Gas Division

FERC Control Number: JD79-5415
API Well Number: 33-053-00767
Section of NGPA: 103
Operator: Energetics, Inc.
Well Name:
Field: Union Center
County: McKenzie County
Purchaser: Cheyenne Light, Fuel & Power Co., et al
Volume: 13296 MMcf

FERC Control Number: JD79-5416
API Well Number:
Section of NGPA: 103
Operator: Energetics, Inc.
Well Name: George Wollan 44-14
Field: Union Center
County: McKenzie County
Purchaser: Montana Dakota Utilities Co., et al
Volume: 12,132 MMcf

FERC Control Number: JD79-5417
API Well Number:
Section of NGPA: 103
Operator: Energetics, Inc.
Well Name: Eldred Brenna 13-13
Field: Union Center
County: McKenzie County
Purchaser: Montana Dakota Utilities Co., et al
Volume: 40068 MMcf

The applications for determination in these proceedings together with a copy or description of other materials in the record on which such determinations were made are available for inspection, except to the extent such material is treated as confidential under 18 CFR 275.206, at the Commission's Office of Public Information, Room 1000, 825 North Capitol Street, N.E., Washington, D.C. 20426.

Persons objecting to any of those final determinations may, in accordance with 18 CFR 275.203 and 18 CFR 275.204, file a protest with the Commission on or before May 24, 1979. Please reference the FERC Control Number in any correspondence concerning a determination.

Kenneth F. Plumb,
Secretary.

[FR Doc. 79-14411 Filed 5-8-79; 8:45 am]

BILLING CODE 6450-01-M

The State Of North Dakota Geological Survey

FERC Control Number: JD79-5412
API Well Number: 33-053-00804
Section of NGPA: 102
Operator: Brownlie, Wallace, Armstrong and Bander
Well Name: Hatter #34-32
Field: MonDak
County: McKenzie
Purchaser: Montana-Dakota Utilities Co.
Volume: 42.000 MMcf.

FERC Control Number: JD79-5413
API Well Number: 33-063-00801
Section of NGPA: 102
Operator: Brownlie, Wallace, Armstrong and Bander
Well Name: BN #11-21
Field: MonDak
County: McKenzie
Purchaser: Montana-Dakota Utilities
Volume: 5.000

FERC Control Number: JD79-5414
API Well Number: 33-053-00747
Section of NGPA: 102
Operator: Brownlie, Wallace, Armstrong and Bander
Well Name: Interstate Land & C.C. #2-14
Field: MonDak
County: McKenzie
Purchaser: Montana-Dakota Utilities Inc.
Volume: 37.000

The applications for determination in these proceedings together with a copy or description of other materials in the record on which such determinations were made are available for inspection, except to the extent such material is treated as confidential under 18 CFR 275.206, at the Commission's Office of Public Information, Room 1000, 825 North Capitol Street, N.E., Washington, D.C. 20426.

Persons objecting to any of those final determinations may, in accordance with 18 CFR 275.203 and 18 CFR 275.204, file a protest with the Commission on or before May 24, 1979. Please reference the FERC Control Number in any correspondence concerning a determination.

Kenneth F. Plumb,
Secretary.

[FR Doc. 79-14414 Filed 5-8-79; 8:45 am]

BILLING CODE 6450-01-M

North Dakota Geological Survey; Notice of Determination by a Jurisdictional Agency Under the Natural Gas Policy Act of 1978

April 30, 1979.

On April 18, 1979, the Federal Energy Regulatory Commission received notices from the jurisdictional agencies listed below of determinations pursuant to 18 CFR 274.104 and applicable to the indicated wells pursuant to the Natural Gas Policy Act of 1978.

Ohio Department of Natural Resources; Notice of Determination by a Jurisdictional Agency Under the Natural Gas Policy Act of 1978

April 30, 1979.

On April 18, 1979, the Federal Energy Regulatory Commission received notices from the jurisdictional agencies listed below of determinations pursuant to 18 CFR 274.104 and applicable to the indicated wells pursuant to the Natural Gas Policy Act of 1978.

Ohio Department of Natural Resources

FERC Control Number: JD79-5430
API Well Number: 3411923943**14
Section of NGPA: 108
Operator: Oxford Oil Company
Well Name: L. E. Crowley #1
Field:
County: Muskingum
Purchaser: National Gas & Oil Corp.
Volume: 18.3 MMcf.

FERC Control Number: JD79-5431
API Well Number: 34-155-2-0765**14
Section of NGPA: 103
Operator: Inland Drilling Co., Inc.
Well Name: Maltino No. 1
Field:
County: Trumbull
Purchaser: East Ohio Gas Company
Volume: 0.210 MMcf.

FERC Control Number: JD79-5432
API Well Number: 341924051**14
Section of NGPA: 108
Operator: Temple Oil & Gas Company
Well Name: Harold Luntz No. 1
Field:
County: Muskingum
Purchaser: National Gas & Oil Corp.
Volume: 4.6 MMcf.

FERC Control Number: JD79-5433
API Well Number: 341120850**14
Section of NGPA: 108
Operator: Nova A. Christman
Well Name: George Christman No. 1
Field:
County: Monroe
Purchaser: Columbia Gas Transmission
Volume: 1.1 MMcf.

FERC Control Number: JD79-5434
API Well Number: 3411121801**14
Section of NGPA: 108
Operator: Nova A. Christman
Well Name: Calvert No. 1
Field:
County: Monroe
Purchaser: River Gas Company
Volume: 0.96 MMcf.

FERC Control Number: JD79-5435
API Well Number: 3411121196**14
Section of NGPA: 102
Operator: Nova A. Christman
Well Name: Burkhart No. 1
Field:
County: Monroe
Purchaser: Columbia Gas Transmission
Volume: 1 MMcf.

FERC Control Number: JD79-5436
API Well Number: 3411521413**14
Section of NGPA: 108
Operator: Ohio Production Corp.
Well Name: McGonagle McGonalgle & Snyder et al Unit No. 1
Field:
County: Morgan
Purchaser: Columbia Gas Transmission Corp.
Volume: 6 MMcf.

FERC Control Number: JD79-5437
API Well Number: 34-075-2-1418**14
Section of NGPA: 108
Operator: Jerry Moore, Inc.
Well Name: Yoder Unit No. 1
Field: Mt Eaton
County: Holmes
Purchaser: Columbia Gas Transmission Corp.

Volume: .2 MMcf.

FERC Control Number: JD79-5438
API Well Number: 34-075-2-1434**14
Section of NGPA: 108
Operator: Jerry Moore, Inc.
Well Name: Yoder Unit No. 1-6PH
Field: Winesburg
County: Holmes
Purchaser: Columbia Gas Transmission Corp.
Volume: 2.5 MMcf.

FERC Control Number: JD79-5439
API Well Number: 34-169-2-1682**14
Section of NGPA: 108
Operator: Jerry Moore, Inc.
Well Name: A. P. Yoder No. 1-10
Field: Mt Eaton
County: Wayne
Purchaser: Columbia Gas Transmission Corp.
Volume: 3.9 MMcf.

FERC Control Number: JD79-5440
API Well Number: 34-075-2-1422**14
Section of NGPA: 108
Operator: Jerry Moore, Inc.
Well Name: Earl Wisard No. 1
Field: Winesburg
County: Holmes
Purchaser: Columbia Gas Transmission Corp.
Volume: 9 MMcf.

FERC Control Number: JD79-5441
API Well Number: 34-103-2-1868**14
Section of NGPA: 108
Operator: Jerry Moore, Inc.
Well Name: T. Workinger D. Schrock No. 1
Field: Homerville
County: Medina
Purchaser: Columbia Gas Transmission Corp.
Volume: 3.4 MMcf.

FERC Control Number: JD79-5442
API Well Number: 34-075-2-1429**14
Section of NGPA: 108
Operator: Jerry Moore, Inc.
Well Name: Edwin Borntrager No. 1
Field: Winesburg
County: Holmes
Purchaser: Columbia Gas Transmission
Volume: 2.8 MMcf.

FERC Control Number: JD79-5443
API Well Number: 34-031-2-2256**14
Section of NGPA: 108
Operator: Jerry Moore, Inc.
Well Name: R. M. Allen No. 1
Field: Tunnel Hill
County: Coshocton
Purchaser: Columbia Gas Transmission Corp.
Volume: 3.0 MMcf.

FERC Control Number: JD79-5444
API Well Number: 34-031-2-2371**14
Section of NGPA: 108
Operator: Jerry Moore, Inc.
Well Name: Apple Herbert Unit No. 20070
Field: West Lafayette
County: Coshocton
Purchaser: Columbia Gas Transmission Corp.
Volume: .01

FERC Control Number: JD79-5445
API Well Number: 34-151-2-2394**14
Section of NGPA: 108
Operator: Jerry Moore, Inc.
Well Name: Edgar Wright No. 11375
Field: Wilmot
County: Stark
Purchaser: Columbia Gas Transmission Corp.
Volume: 2.9 MMcf.

FERC Control Number: JD79-5446
API Well Number: 34-157-2-2261**14
Section of NGPA: 108
Operator: Jerry Moore, Inc.
Well Name: A. Winkleman & H. Cline No. 20080
Field: Ragersville
County: Tuscarawas
Purchaser: Columbia Gas Transmission Corp.
Volume: 3.1 MMcf.

FERC Control Number: JD79-5447
API Well Number: 34-075-2-1617**14
Section of NGPA: 108
Operator: Jerry Moore, Inc.
Well Name: David C. Wengerd Unit No. 11360
Field: Walnut Creek
County: Holmes
Purchaser: Columbia Gas Transmission
Volume: .6 MMcf.

FERC Control Number: JD-5448
API Well Number: 34-031-2-3070**14
Section of NGPA: 108
Operator: Jerry Moore, Inc.
Well Name: G. J. Burnett, Jr. No. 1
Field: Warsaw
County: Coshocton
Purchaser: Columbia Gas Transmission Corp.
Volume: 3.2 MMcf.

FERC Control Number: JD79-5449
API Well Number: 34-151-2-2356**14
Section of NGPA: 108
Operator: Jerry Moore, Inc.
Well Name: Roman Bontrager No. 11277
Field: Wilmot
County: Stark
Purchaser: Columbia Gas Transmission Corp.
Volume: 5.1 MMcf.

FERC Control Number: JD79-5450
API Well Number: 23-103-2-1847**14
Section of NGPA: 108
Operator: Jerry Moore, Inc.
Well Name: L.S. Baker & C. A. Ramey No. 11553
Field: Homerville
County: Medina
Purchaser: Columbia Gas Transmission Corp.
Volume: 3.8 MMcf.

FERC Control Number: JD79-5451
API Well Number: 3407521961**14
Section of NGPA: 108
Operator: Buckeye Oil Producing Company
Well Name: Chupp No. 1
Field:
County: Holmes
Purchaser: Columbia Gas Transmission Corp.
Volume: 18 MMcf.

FERC Control Number: JD79-5452
API Well Number: 3411521394**14
Section of NGPA: 108
Operator: Ohio Production Corporation
Well Name: Beatty Dingey Unit No. 1
Field:
County: Morgan
Purchaser: Columbia Gas Transmission Corp.
Volume: 3 MMcf.

FERC Control Number: JD79-5453
API Well Number: 3411521519**14
Section of NGPA: 108
Operator: Ohio Production Corp.
Well Name: John Palmer No. 1
Field:
County: Morgan
Purchaser: Columbia Gas Transmission Corp.
Volume: 7 MMcf.

FERC Control Number: JD79-5454
API Well Number: 3411923166**14
Section of NGPA: 108
Operator: Perry Development Company.
Well Name: Wendell Derry No. 1
Field:
County: Muskingum
Purchaser: The East Ohio Gas Company
Volume: 11 MMcf.

FERC Control Number: JD79-5455
API Well Number: 34-075-2-1457**4
Section of NGPA: 108
Operator: Jerry Moore, Inc.
Well Name: M Yutzy Unit No. 1-13
Field: Winesburg
County: Holmes
Purchaser: Columbia Gas Transmission Corp.
Volume: 1.54 MMcf.

FERC Control Number: JD79-5456
API Well Number: 34-075-2-1570**14
Section of NGPA: 108
Operator: Jerry Moore, Inc
Well Name: Paul W. Yoder No. 1128
Field: Winesburg
County: Holmes
Purchaser: Columbia Gas Transmission Corp.
Volume: 4.1 MMcf.

FERC Control Number: JD79-5457
API Well Number: 34-169-2-1658**14
Section of NGPA: 108
Operator: Jerry Moore, Inc.
Well Name: E. Yoder Unit No. 1-24
Field: Mt. Eaton
County: Wayne
Purchaser: Columbia Gas Transmission Corp.
Volume: 9 MMcf.

FERC Control Number: JD79-5458
API Well Number: 3411521350**14
Section of NGPA: 108
Operator: Ohio Production Corp.
Well Name: McGonable & Snyder Reed Unit No. 1
Field:
County: Morgan
Purchaser: Columbia Gas Transmission Corp.
Volume: 10 MMcf.

FERC Control Number: JD79-5459
API Well Number: 34-031-2-2218**14
Section of NGPA: 108
Operator: Jerry Moore, Inc.
Well Name: Chester Baumgardner No. 11502
Field: Warsaw
County: Coshocton
Purchaser: Columbia Gas Transmission Corp.
Volume: .08 MMcf.

FERC Control Number: JD79-5460
API Well Number: 34-103-2-1855**14
Section of NGPA: 108
Operator: Jerry Moore, Inc.
Well Name: Bishop Jedlicka Unit No. 1
Field: Homerville
County: Medina
Purchaser: Columbia Gas Transmission Corp.
Volume:

FERC Control Number: JD79-5461
API Well Number: 34-031-2-2237
Section of NGPA: 108
Operator: Jerry Moore, Inc.
Well Name: J. P. Baird No. 1
Field: West Lafayette
County: Coshocton
Purchaser: Columbia Gas Transmission Corp.

Volume:

FERC Control Number: JD79–5462
API Well Number: 34–103–2–1832**14
Section of NGPA: 108
Operator: Jerry Moore, Inc.
Well Name: Skinner Ramey Unit No. 11500
Field: W/C
County: Medina
Purchaser: Columbia Gas Transmission Corp.
Volume: 8.6 MMcf.

FERC Control Number: JD79–546
API Well Number: 34–157–2–2263**14
Section of NGPA: 108
Operator: Jerry Moore, Inc.
Well Name: Wm. H. Stauffer No. 20081
Field: Baltic
County: Tuscarawas
Purchaser: Columbia Gas Transmission Corp.
Volume: 3.8 MMcf.

FERC Control Number: JD79–5464
API Well Number: 34–031–2–2326
Section of NGPA: 108
Operator: Jerry Moore, Inc.
Well Name: Carrie L. Schlegel No. 1
Field: Baltic
County: Coshocton
Purchaser: East Ohio Gas Company
Volume: 1 MMcf.

FERC Control Number: JD79–5465
API Well Number: 34–031–2–2329**14
Section of NGPA: 108
Operator: Jerry Moore, Inc.
Well Name: Arthur E. Schumaker No. 1
Field: Baltic
County: Coshocton
Purchaser: East Ohio Gas Company
Volume: 5.5 MMcf.

FERC Control Number: JD79–5466
API Well Number: 34–031–2–2340**14
Section of NGPA: 108
Operator: Jerry Moore, Inc.
Well Name: John C. Stein No.1
Field: Baltic
County: Coshocton
Purchaser: East Ohio Gas Company
Volume: 6 MMcg.

FERC Control Number: JD79–5467
API Well Number: 34–157–2–1902**14
Section of NGPA: 108
Operator: Jerry Moore, Inc.
Well Name: J. E. Baker & G. L. Sigrist No. 11402
Field: Dundee
County: Tuscarawas
Purchaser: Columbia Gas Transmission Corp.
Volume:

FERC Control Number: JD79–5468
API Well Number: 34–075–2–1507**14
Section of NGPA: 108
Operator: Jerry Moore, Inc.
Well Name: Weaver Yoder Unit No. 1–36
Field: WinesburgHolmes
Purchaser: Columbia Gas Transmission Corp.
Volume: 6 MMcf.

FERC Control Number: JD79–5469
API Well Number: 34–075–2–1504**14
Section of NGPA: 108
Operator: Jerry Moore, Inc.
Well Name: V. R. Weaver Unit No. 1–7
Field: Berlin
County: Holmes
Purchaser: Columbia Gas Transmission Corp.
Volume: 6.7 MMcf.

FERC Control Number: JD79–5470
API Well Number: 3410521509**14
Section of NGPA: 108
Operator: Adams Drilling Company
Well Name: Proffitt Bush No. 1
Field:
County: Meigs
Purchaser: Columbia Gas Transmission Corp.
Volume: 2 MMcf.

FERC Control Number: JD79–5471
API Well Number: 3410520221**14
Section of NGPA: 108
Operator: Adams Drilling Company
Well Name: Edison Hobstetter No. 1
Field:
County: Meigs
Purchaser: Columbia Gas Transmission Corp.
Volume: 15 MMcf.

FERC Control Number: JD79–5472
API Well Number: 3410520448**14
Section of NGPA: 108
Operator: Adams Drilling Company
Well Name: Simpson C. Jividen No. 1
Field:
County: Meigs
Purchaser: Columbia Gas Transmission Corp.
Volume:

FERC Control Number: JD79–5473
API Well Number: 34–031–2–2339**14
Section of NGPA: 108
Operator: Jerry Moore, Inc.
Well Name: Dent Thomas Lorenz Unit No. 1
Field: Baltic
County: Coshocton
Purchaser: East Ohio Gas Company
Volume: 6.4 MMcf.

FERC Control Number: JD79–5474
API Well Number: 34–031–2–2324**14
Section of NGPA: 108
Operator: Jerry Moore, Inc.
Well Name: George H. Lorenz No. 1
Field: Baltic
County: Coshocton
Purchaser: East Ohio Gas Company
Volume: 4.8 MMcf.

FERC Control Number: JD79–5475
API Well Number: 34–157–2–2274
Section of NGPA: 108
Operator: Jerry Moore, Inc.
Well Name: Arvid Lund No. 1
Field: Baltic
County: Tuscarawas
Purchaser: East Ohio Gas Company
Volume: 1.1 MMcf.

FERC Control Number: JD79–5476
API Well Number: 34–031–2–2343**14
Section of NGPA: 108
Operator: Jerry Moore, Inc.
Well Name: George H. Lorenz No. 2
Field: Baltic
County: Coshocton
Purchaser: East Ohio Gas Company
Volume: 1.3 MMcf.

FERC Control Number: JD79–5477
API Well Number: 34–031–2–2605**14
Section of NGPA: 108
Operator: Jerry Moore, Inc.
Well Name: Paul C. Waters No. 20197
Field: West Lafayette
County: Coshocton
Purchaser: Columbia Gas Transmission Corp.
Volume: .5 MMcf.

FERC Control Number: JD79–5478
API Well Number: 34–031–2–2393**14
Section of NGPA: 108
Operator: Jerry Moore, Inc.
Well Name: Paul C. Waters No. 20083
Field: Orange
County: Coshocton
Purchaser: Columbia Gas Transmission Corp.
Volume: 4 MMcf.

FERC Control Number: JD79–5479
API Well Number: 34–8–2–2057**14
Section of NGPA: 103
Operator: Petroleum Sec. FD.–1977 Dr. Program
Well Name: Lester W. Geiser No. 2
Field: Smithville Field
County: Wayne
Purchaser: Columbia Gas Transmission Corp.
Volume: 36.50 MMcf.

FERC Control Number: JD79–5480
API Well Number: 34–169–2–2026**14
Section of NGPA: 103
Operator: Petroleum Sec. FD. 1977 Dr. Program
Well Name: Lois I. Shisler No. 2
Field: Smithville Field
County: Wayne
Purchaser: Columbia Gas Transmission Corp.
Volume: 91.25 MMcf.

FERC Control Number: JD79–5481
API Well Number: 34–031–2–2217**14
Section of NGPA: 108
Operator: Jerry Moore, Inc.
Well Name: Ester Taylor No. 11393
Field: West Lafayette
County: Coshocton
Purchaser: Columbia Gas Transmission Corp.
Volume: .7 MMcf.

FERC Control Number: JD79–5482
API Well Number: 34–031–2–2342**14
Section of NGPA: 108
Operator: Jerry Moore, Inc.
Well Name: Carl C. Parrillo No. 1
Field: Baltin
County: Coshocton
Purchaser: East Ohio Gas Company
Volume: 7.7 MMcf.

FERC Control Number: JD79–5483
API Well Number: 34–031–2–2263**14
Section of NGPA: 108
Operator: Jerry Moore, Inc.
Well Name: Eugene H. Waggoner No. 1
Field: West Lafayette
County: Coshocton
Purchaser: Columbia Gas Transmission Corp.
Volume: 18 MMcf.

FERC Control Number: JD79–5484
API Well Number: 34–103–2–1848
Section of NGPA: 108
Operator: Jerry Moore, Inc.
Well Name: Ned E. Walters No. 11554
Field: Homerville
County: Medina
Purchaser: Columbia Gas Transmission Corp.
Volume: 2 MMcf.

FERC Control Number: JD79–5485
API Well Number: 34–031–2–2348**14
Section of NGPA: 108
Operator: Jerry Moore, Inc.
Well Name: Thomas Vessels Unit No. 1–20067
Field: West Lafayette
County: Coshocton
Purchaser: Columbia Gas Transmission Corp.
Volume: 17 MMcf.

FERC Control Number: JD79–5486
API Well Number: 34–157–2–2275**14
Section of NGPA: 108
Operator: Jerry Moore, Inc.
Well Name: Nora Warren Clyde Toland No. 1
Field: Baltin
County: Tuscarawas
Purchaser: East Ohio Gas Company
Volume: .8 MMcf.

FERC Control Number: JD79–5487
API Well Number: 34–157–2–2276**14
Section of NGPA: 108
Operator: Jerry Moore, Inc.
Well Name: Clyde Toland No. 1
Field: Baltic
County: Tuscarawas
Purchaser: East Ohio Gas Company
Volume: 3 MMcf.

FERC Control Number: JD 79–5488
API Well Number: 34–157–2–2271**14
Section of NGPA: 108
Operator: Jerry Moore, Inc.
Well Name: Nora M. Warren No. 1
Field: Baltic
County: Tuscarawas
Purchaser: East Ohio Gas Company
Volume: .7 MMcf.

FERC Control Number: JD79–5489
API Well Number: 34–031–2–2331**14
Section of NGPA: 108
Operator: Jerry Moore, Inc.
Well Name: W. Wilson & P. Armbrust No. 1
Field: Baltic
County: Coshocton
Purchaser: East Ohio Gas Company
Volume: .7 MMcf.

FERC Control Number: JD79–5490
API Well Number: 34–157–2–1372**14
Section of NGPA: 108
Operator: Jerry Moore, Inc.
Well Name: J. Noland Unit No. 1
Field: Strasburg
County: Tuscarawas
Purchaser: East Ohio Gas Company
Volume: 5 MMcf.

FERC Control Number: JD79–5491
API Well Number: 34–075–2–1505**14
Section of NGPA: 108
Operator: Jerry Moore, Inc.
Well Name: E. Troyer Unit No. 1–A
Field: Winesburg
County: Holmes
Purchaser: Columbia Gas Transmission Corp
Volume: 9 MMcf.

FERC Control Number: JD79–5492
API Well Number: 34–169–2–1607**14
Section of NGPA: 108
Operator: Jerry Moore, Inc.
Well Name: V. J. Wengerd Unit No. 1
Field: Mt. Eaton
County: Wayne
Purchaser: Columbia Gas Transmission Corp.
Volume: 5.9 MMcf.

FERC Control Number: JD79–5493
API Well Number: 34–031–2–2264**14
Section of NGPA: 108
Operator: Jerry Moore, Inc.
Well Name: Bluck Hickory Flats No. 1
Field: West Lafayette
County: Coshocton
Purchaser: Columbia Gas Transmission Corp.
Volume: 1.2 MMcf.

FERC Control Number: JD79–5494
API Well Number: 34–157–2–1479**14
Section of NGPA: 108
Operator: Jerry Moore, Inc.
Well Name: S. Parker Unit No. 1
Field: Strasburg
County: Tuscarawas
Purchaser: East Ohio Gas Company
Volume: 2.4 MMcf.

FERC Control Number: JD79–5495
API Well Number: 34–157–2–1203**14
Section of NGPA: 108
Operator: Jerry Moore, Inc.
Well Name: H. D. Rowe No. 1
Field: Strasburg
County: Tuscarawas
Purchaser: East Ohio Gas Company
Volume: 4.5 MMcf.

FERC Control Number: JD79–5496
API Well Number: 34–157–2–1958**14
Section of NGPA: 108
Operator: Jerry Moore, Inc.
Well Name: North American Refrac Co. No. 5374
Field: Strasburg
County: Tuscarawas
Purchaser: East Ohio Gas Company
Volume: 3.8 MMcf.

FERC Control Number: JD79–5497
API Well Number: 3405320157**14
Section of NGPA: 102
Operator: Wray Petroleum Corporation of Ohio
Well Name: Osborne No. 1
Field:
County: Gallia
Purchaser:
Volume: 36 MMcf.

FERC Control Number: JD79–5498
API Well Number: 3405320160**14
Section of NGPA: 102
Operator: Wray Petroleum Corporation of Ohio
Well Name: Campbell No. 1
Field:
County: Gallia
Purchaser:
Volume: 36 MMcf.

FERC Control Number: JD79–5499
API Well Number: 3405320166**14
Section of NGPA: 102
Operator: Wray Petroleum Corporation of Ohio
Well Name: Wood No. 1
Field:
County: Gallia
Purchaser:
Volume:

FERC Control Number: JD79–5500
API Well Number: 3405320161**14
Section of NGPA: 102
Operator: Wray Petroleum Corporation of Ohio
Well Name: Waugh No. 2
Field:
County: Gallia
Purchaser:
Volume: 36 MMcf.

The applications for determination in these proceedings together with a copy or description of other materials in the record of which such determinations were made are available for inspection, except to the extent such material is treated as confidential under 18 CFR 275.206, at the Commission's Office of Public Information, Room 1000, 825 North Capitol Street, N.E., Washington, D.C. 20426.

Persons objecting to any of those final determinations may, in accordance with 18 CFR 275.203 and 18 CFR 275.204, file a protest with the Commission on or before May 24, 1979. Please reference the FERC Control Number in any correspondence concerning a determination.

Kenneth F. Plumb,
Secretary.

[FR Doc. 79–14412 Filed 5–8–79; 8:45 am]

BILLING CODE 6450–01–M

OXY Petroleum, Inc., et al.; Notice of Determination by a Jurisdictional Agency Under the Natural Gas Policy Act of 1978

May 1, 1979.

On April 11, 1979, the Federal Energy Regulatory Commission received notices from the jurisdictional agencies listed below of determinations pursuant to 18 CFR 274.104 and applicable to the indicated wells pursuant to the Natural Gas Policy Act of 1978.

FERC Control Number: JD79–2786
API Well Number: 029–55520
Section of NGPA: 102
Operator: OXY Petroleum, Inc.
Well Name: Chevron Cal Canal 1
Field: Cal Canal Field
County: Kern
Purchaser: Belridge Oil Company
Volume: 120 MMcf

FERC Control Number: JD79–2787
API Well Number: 029–57970
Section of NGPA: 102
Operator: OXY Petroleum, Inc.
Well Name: Chevron 33–5
Field: Cal Canal Field
County: Kern
Purchaser: Belridge Oil Company
Volume: 30 MMcf

FERC Control Number: JD79–2788
API Well Number: 029–56709
Section of NGPA: 102
Operator: OXY Petroleum, Inc.
Well Name: Chevron 84–31
Field: Cal Canal Field
County: Kern
Purchaser: Belridge Oil Company
Volume: 264 MMcf

FERC Control Number: JD79–2794
API Well Number: 029–57841
Section of NGPA: 102
Operator: OXY Petroleum, Inc.
Well Name: Chevron-Nelson 12–32
Field: Cal Canal Field
County: Kern
Purchaser: Belridge Oil Company
Volume: 72 MMcf

FERC Control Number: JD79–2795
API Well Number: 029–57008
Section of NGPA: 102

Operator: OXY Petroleum, Inc.
Well Name: Chevron 43–5
Field: Cal Canal Field
County: Kern
Purchaser: Belridge Oil Company
Volume: 59 MMcf

FERC Control Number: JD79–2789
API Well Number: 029–56221
Section of NGPA: 102
Operator: OXY Petroleum, Inc.
Well Name: Chevron Cal Canal 61–5
Field: Cal Canal Field
County: Kern
Purchaser: Belridge Oil Company
Volume: 360 MMcf

FERC Control Number: JD79–2790
API Well Number: 029–58032
Section of NGPA: 102
Operator: OXY Petroleum, Inc.
Well Name: Chevron 32–31
Field: Cal Canal Field
County: Kern
Purchaser: Belridge Oil Company
Volume: 264 MMcf

FERC Control Number: JD79–2791
API Well Number: 029–57573
Section of NGPA: 102
Operator: OXY Petroleum, Inc.
Well Name: Chevron-Nelson 22–32
Field: Cal Canal Field
County: Kern
Purchaser: Belridge Oil Company
Volume: 60 MMcf

FERC Control Number: JD79–2792
API Well Number: 029–56811
Section of NGPA: 102
Operator: OXY Petroleum, Inc.
Well Name: Chevron 88–31
Field: Cal Canal Field
County: Kern
Purchaser: Belridge Oil Company
Volume: 276 MMcf

FERC Control Number: JD79–2793
API Well Number: 029–57572
Section of NGPA: 102
Operator: OXY Petroleum, Inc.
Well Name: Chevron 42–5
Field: Cal Canal Field
County: Kern
Purchaser: Belridge Oil Company
Volume: 300 MMcf

The applications for determination in these proceedings together with a copy or description of other materials in the record on which such determinations were made are available for inspection, except to the extent such material is treated as confidential under 18 CFR 275.206, at the Commission's Office of Public Information, Room 1000, 825 North Capitol Street, N.E., Washington, D.C. 20426.

Persons objecting to any of those final determinations may, in accordance with 18 CFR 275.203 and 18 CFR 275.204, file a protest with the Commission on or before May 24, 1979. Please reference the FERC Control Number in any correspondence concerning a determination.

Kenneth F. Plumb,
Secretary.
[FR Doc. 79–14405 Filed 5–8–79; 8:45 am]
BILLING CODE 6450–01–M

South Columbia Basin Irrigation District; Notice of Application for Preliminary Permit

April 30, 1979.

Take notice that on March 6, 1978, the South Columbia Basin Irrigation District filed an application for preliminary permit [pursuant to the Federal Power Act, 16 USC § 791(a)–825(r)] for a proposed water power project, to be known as the South Columbia Basin Hydroelectric Project, FERC No. 2840, located in Adams, Grant, and Franklin Counties, Washington, on the Potholes East Canal (PEC) and the Eltopia Branch Canal (EBC) of the Bureau of Reclamation's (BOR) Columbia Basin Irrigation Project which convey water diverted from the Columbia River. The proposed project would utilize waters from a navigable waterway and would occupy lands over which the BOR holds an easement. Correspondence with the Applicant should be directed to: Mr. Russell Smith, Secretary-Manager, South Columbia Basin Irrigation District, P.O. Box 1006, Pasco, Washington 99301, and Mr. James Leavy, Leavy, Taber, Schultz, Bergdhal and Sweeney, Attorneys at Law, P.O. Box 891, Pasco, Washington 99301.

Description of Project.—Three of the proposed power plants would develop the head at existing chutes along canals and a fourth power plant would develop the head at BOR's O'Sullivan Dam. The project is more specifically described as follows: (a) the PEC 22.7 Power Plant would have an installed capacity of 5,200 kW and would utilize water diverted from the existing canal, transmitted to the power plant via a short penstock, and returned to an existing stilling basin; (b) the PEC 66.0 Power Plant would have an installed capacity of 2,600 kW and would utilize water diverted from the existing canal, transmitted to the power plant via a 2,700-foot-long penstock, and returned to an existing stilling basin; (c) The EBC 4.6 Power Plant would have an installed capacity of 2,200 kW and would utilize water diverted from the existing canal, transmitted to the power plant via a 1,300-foot-long penstock, and returned to an existing stilling basin; and (d) the PEC Headworks Power Plant would have an installed capacity of 4,500 kW, would be located at the base of O'Sullivan Dam and would utilize water released for the Potholes East Canal.

The estimated average annual output of the project would be 60 million kWh.

Proposed Scope and Cost of Studies Under Permit.—Applicant has requested a 3-year permit to prepare a definitive project report, including preliminary designs, geological explorations, and collection of environmental data. The cost of the foregoing activities, together with preparation of an environmental impact report or environmental assessment, obtaining agreements with various Federal, State, and local agencies, preparing a license application, final geologic exploration and field surveys, is estimated by Applicant to be about $150,000.

Proposed Use of Project Power.—Project energy would be utilized by the Applicant in the operation of irrigation facilities with excess energy being marketed to the publicy owned utilities, rural electric cooperatives, municipalities, or investor owned utilities within the State of Washington.

Purpose of Preliminary Permit.—A preliminary permit does not authorize construction. A permit, if issued, gives the Permittee, during the term of the permit, the right of priority of application for license while the Permittee undertakes the necessary studies and examinations to determine the engineering, economic, and environmental feasibility of the proposed project, the market for power, and all other necessary information for inclusion in an application for a license.

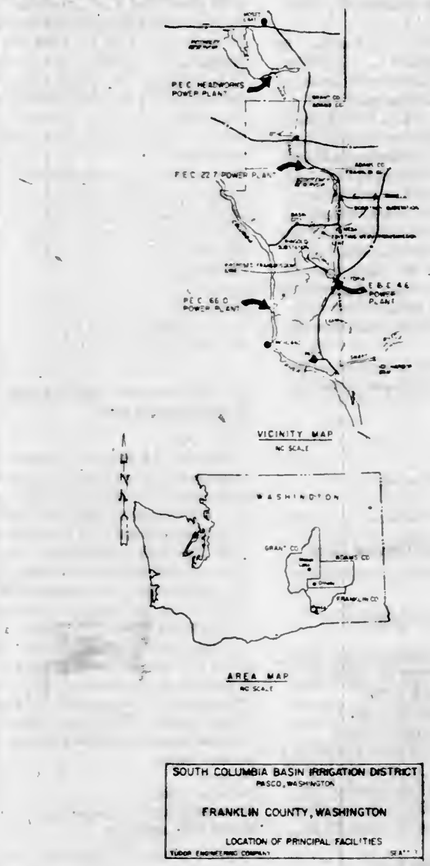
Agency Comments.—Federal, State, and local agencies that receive this notice through direct mailing from the Commission are invited to submit comments on the described application for preliminary permit. (A copy of the application may be obtained directly from the Applicant.) Comments should be confined to substantive issues relevant to the issuance of a permit and consistent with the purpose of a permit as described in this notice. No other formal request for comments will be made. If an agency does not file comments within the time set below, it will be presumed to have no comments.

Protests, Petitions to Intervene, and Agency Comments.—Anyone desiring to be heard or to make any protest about this application should file a petition to intervene or a protest with the Federal Energy Regulatory Commission, in accordance with the requirements of the Commission's Rules of Practice and Procedure, 18 CFR, § 1.8 or 1.10 (1978). In determining the appropriate action to take, the Commission with consider all protests filed, but a person who merely files a protest does not become a party to the proceeding. To become a party or to participate in any hearing, a person must file a petition to intervene in accordance with the Commission's Rules.

Any protest, petition to intervene, or agency comments must be filed on or before July 16, 1979. The Commission's address is: 825 North Capitol Street, NE., Washington, D.C. 20426.

The application is on file with the Commission and is available for public inspection.

Kenneth F. Plumb.
Secretary.



[Project No. 2840]
[FR Doc. 79–14404 Filed 5–8–79; 8:45 am]
BILLING CODE 6450–01–M

Arizona Public Service Co.; Filing

May 3, 1979.

Take notice that on April 30, 1979, Arizona Public Service Company (APS) tendered for filing a letter stating that Citizens Utilities Company (Citizens) was requested by Nogales, Senora, Mexico for emergency power and Citizens in turn requested of APS to supply them with the same.

APS states that it furnished Citizens with this emergency power on both December 20 and 21, 1978 at a peak demand over and above the normal billing demand of 5,304 KW which, at the rate of $3.06 per KW, resulting in a charge of $16,230.24 for said emergency service. APS indicates that this delivery was outside and not to be considered as being covered by the regular wholesale power agreement between APS and Citizens.

APS requests waiver of the formal requirements of Section 35.13 of the Commission's Regulation.

Any person desiring to be heard or to protest said application should file a petition to intervene or protest with the Federal Energy Regulatory Commission, 825 North Capitol Street, N.E., Washington, D.C. 20426, in accordance with Sections 1.8 and 1.10 of the Commission's Rules of Practice and Procedure (18 CFR 1.8, 1.10). All such petitions or protests should be filed on or before May 25, 1979. Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceeding. Any person wishing to become a party must file a petition to intervene. Copies of this application are on file with the Commission and are available for public inspection.

Kenneth F. Plumb.
Secretary.

[Docket No. ER 79–340]
[FR Doc. 79–14448 Filed 5–8–79; 8:45 am]
BILLING CODE 6450–01–M

Arkansas Power & Light Co.; Change in Rates

May 3, 1979.

The filing Company submits the following:

Take notice that Arkansas Power & Light Company (AP&L), on May 1, 1979, tendered for filing proposed changes in its rates and charges to seven municipalities, as reflected in proposed Rate Schedule WM2; two rural electric cooperatives, as reflected in proposed Rate Schedule WC2; and the City Water and Light Department of Jonesboro, Arkansas, as reflected in a proposed amendment to Appendix B of the January 23, 1973 contract between AP&L and Jonesboro. The proposed changes would increase revenues from jurisdictional sales and services to these

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customers by $6,475,144 based on the 12 months period ending June 30, 1979.

AP&L states that the proposed increased rates are necessitated by the fact that it is realizing an unreasonably low rate of return on sales to its affected jurisdictional customers. AP&L's financial condition has deteriorated to the point that it is now precluded from issuing additional first mortgage bonds. The Company states that the proposed rates for service to the municipals and cooperatives have been prepared in accordance with the provisions of the September 16, 1976 Settlement Agreement between the Company and those customers, which was filed in Docket No. ER76–110 and approved by the Commission by Order issued November 15, 1976.

Copies of the proposed rate schedules and statements comparing the sales and revenues therefrom, which pertain to the particular customer, were served on AP&L's jurisdictional customers affected by the filing. Copies were also served on the Arkansas Public Service Commission, the Louisiana Public Service Commission and the Tennessee Public Service Commission.

Any person desiring to be heard or to protest said application should file a petition to intervene or protest with the Federal Energy Regulatory Commission, 825 North Capitol Street NE., Washington, D.C. 20426, in accordance with Sections 1.8 and 1.10 of the Commission's Rules of Practice and Procedure (18 CFR 1.8, 1.10). All such petitions of protests should be filed on or before May 25, 1979. Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceeding. Any person wishing to become a party must file a petition to intervene. Copies of this application are on file with the Commission and are available for public inspection.

Kenneth F. Plumb,

Secretary.

[Docket No. ER79–339]

[FR Doc. 79–14449 Filed 5–8–79; 8:45 am]

BILLING CODE 6450–01–M

Arkansas Louisiana Gas Co. et al., Compliance Filing

May 3, 1979.

In the matter of Arkansas Louisiana Gas Company [Docket Nos. RP79–53 and RP79–54], Texas Gas Transmission Corp. [Docket No. RP79–31].

Take notice that Arkansas Louisiana Gas Company and Texas Gas Transmission Corporation tendered for filing several revised tariff sheets, prepared to be effective April 1, 1979. Arkansas Louisiana Gas Company and Texas Gas Transmission Corporation state that these sheets are being filed in compliance with the terms of the Commission's March 30 order in Docket No. RP79–53 *et al.* which conditionally accepted tariff sheets providing for tracking of the State of Louisiana First Use Tax.

Any person desiring to be heard or to protest said filing should file a petition to intervene or protest with the Federal Energy Regulatory Commission, 825 North Capitol Street, N.E., Washington, D.C. 20426, in accordance with Sections 1.8 and 1.10 of the Commission's Rules of Practice and Procedure (18 CFR 1.8, 1.10). All such petitions or protests should be filed on or before May 11, 1979. Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceeding. Any person wishing to become a party must file a petition to intervene.

Copies of this filing are on file with the Commission and are available for public inspection.

Kenneth F. Plumb,

Secretary.

[Docket Nos. RP79–53, 54; RP79–31]

[FR Doc. 79–14450 Filed 5–8–79; 8:45 am]

BILLING CODE 6450–01–M

Central Illinois Public Service Co.; Filing

May 3, 1979.

The filing Company submits the following:

Take notice that Central Illinois Public Service Company (CIPS) on April 30, 1979, tendered for filing Fifth Supplemental Agreement to the Interconnection Agreement dated January 31, 1967, with Kentucky Utilities Company (KU). The Commission has previously designated the January 31, 1967 Agreement as CIPS Rate Schedule FERC No. 59, KU Rate Schedule FERC No. 81.

The parties state that Fifth Supplemental Agreement provides for an increase in the demand charge for Short Term Power, proposed to become effective July 1, 1979. The parties also state that, since the use of Short Term service cannot be accurately determined or estimated, it is impossible to determine or estimate the increase in revenues resulting from the increased charges.

Copies of the filing were served upon Kentucky Utilities Company. The Fifth Supplemental Agreement is also being filed with the Illinois Commerce Commission.

Any person desiring to be heard or to protest said application should file a petition to intervene or protest with the Federal Energy Regulatory Commission, 825 North Capitol Street, N.E., Washington, D.C. 20426, in accordance with Sections 1.8 or 1.10 of the Commission's Rules of Practice and Procedure (18 CFR 1.8, 1.10). All such petitions or protests should be filed on or before May 25, 1979. Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceeding. Any person wishing to become a party must file a petition to intervene. Copies of this application are on file with the Commission and are available for public inspection.

Kenneth F. Plumb,

Secretary.

[Docket No. ER 79–337]

[FR Doc. 79–14451 Filed 5–8–79; 8:45 am]

BILLING CODE 6450–01–M

The Connecticut Light & Power Co.; Extension of Time

May 3, 1979.

On April 24, 1979, the Connecticut Light and Power Company (CL&P) filed a motion for additional time to comply with the refund requirements of the Commission's order of February 23, 1979. The motion states that CL&P and its municipal wholesale customers are in disagreement over the amount of refunds due and that an agreement will probably be reached by May 8, 1979.

Upon consideration, notice is hereby given that an extension of time is granted to and including May 8, 1979 for payment of refunds under the February 23, 1979 order. The refund report shall be filed on or before May 23, 1979.

Kenneth F. Plumb,

Secretary.

[Docket No. E–7743]

[FR Doc. 79–14452 Filed 5–8–79; 8:45 am]

BILLING CODE 6450–01–M

Consolidated Gas Supply Corp.; Settlement Conference

May 3, 1979.

Take notice that an informal settlement conference will be convened in the subject gas pipeline rate proceedings at 11:00 A.M. on May 14, 1979, in a hearing room at the office of the Federal Energy Regulatory Commission, 825 North Capitol Street, N.W., Washington, D.C. 20426.

Customers and other interested persons will be permitted to attend, but

if such persons have not previously been permitted to intervene by order of the Commission, attendance at the conference will not be deemed to authorize intervention as a party in the proceeding.

Kenneth F. Plumb,

Secretary.

[Docket Nos. RP 75–91, RP 77–7, RP 77–140, RP 78–52, and RP 79–22]

[FR Doc. 79–14453 Filed 5–8–79; 8:45 am]

BILLING CODE 6450–01–M

Consumers Power Co.; Tariff Change

May 3, 1979.

The filing Company submits the following:

Take notice that Consumers Power Company ("Consumers Power") on April 30, 1979, tendered for filing an Operating Agreement among Consumers Power, The Detroit Edison Company ("Detroit Edison") and Northern Indiana Public Service Company ("Northern"), dated May 1, 1979, and a Facilities Agreement between Consumers Power and Northern dated December 1, 1977.

Consumers Power states that the Operating Agreement establishes the rates, charges, terms and conditions of service governing contractual relations between Consumers Power, Detroit Edison and Northern. The interchange of power and energy between Consumers Power, Detroit Edison and Northern will be by use of certain 138,000 volt transmission facilities interconnecting the systems of Consumers Power and Northern (Barton Lake-Batavia Interconnection Point), and any additional interconnection points that may be constructed. The Operating Agreement is to be effective on the date that the Barton Lake-Batavia Interconnection Point enters service, expected to be on or about May 1, 1979, for an initial period of 35 years and from year-to-year thereafter, until terminated as prescribed in the Operating Agreement.

Consumers Power states the Operating Agreement provides for Emergency Service, Short-Term Capacity and Energy, Economy Energy and Conservation Energy.

Consumers Power states the Facilities Agreement provides that Northern will pay to Consumers Power annual charges comprised of annual carrying charges on the capital cost of certain facilities to be provided and owned by Consumers Power under the terms of the Facilities Agreement, and the annual operation and maintenance expenses of the facilities. The Facilities Agreement further provides for annual redetermination of the annual charge rate and the annual operation and maintenance expense rate.

Any person desiring to be heard or to protest said agreements should file a petition to intervene or protest with the Federal Energy Regulatory Commission, 825 North Capitol Street, NE, Washington, DC 20426, in accordance with §§ 1.8 and 1.10 of the Commission's Rules of Practice and Procedure (18 CFR 1.8, 1.10). All such petitions or protests should be filed on or before May 25, 1979. Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceeding. Any person wishing to become a party must file a petition to intervene. Copies of the Operating Agreements and the Facilities Agreement are on file with the Commission and are available for public inspection.

Kenneth F. Plumb,

Secretary.

[Docket No. ER 79–338]

[FR Doc. 79–14454 Filed 5–8–79; 8:45 am]

BILLING CODE 6450–01–M

The Detroit Edison Co.; Tariff Change

May 3, 1979.

The filing Company submits the following:

Take notice that The Detroit Edison Company ("Detroit Edison") on April 30, 1979, tendered for filing a Supplement to the Operating Agreement dated March 1, 1966 among Consumers Power Company, The Detroit Edison Company (together the "Michigan Companies") and Indiana & Michigan Electric Company. The Commission has previously designated the March 1, 1966 Operating Agreement as Detroit Edison Rate Schedule No. 12. The proposed Supplement provides for a 5.0 mill per kilowatt per hour demand charge and an energy charge of 110% of the out-of-pocket cost for all sales of emergency energy from the Michigan Companies under the Agreement. The current rate of the greater of (a) 110% of the out-of-pocket energy cost of supply or (b) 30.0 mills per kilowatthour for all purchases of emergency energy by the Michigan Companies under the Agreement remains unchanged.

The inclusion of a demand charge for emergency energy service is intended to recognize the capacity used to supply such energy and discourage inappropriate reliance by purchasers on the availability of such service for length periods of time.

Copies of the filing were served upon Consumers Power Company, Indiana & Michigan Electric Company, the Michigan Public Service Commission and the Public Service Commission of Indiana. Detroit Edison has requested a waiver of notice requirement with respect to transactions heretofore concluded.

Any person desiring to be heard or to protest said Supplement should file a petition to intervene or protest with the Federal Energy Regulatory Commission, 825 North Capitol Street, N.W., Washington, D.C. 20426, in accordance with Sections 1.8 and 1.10 of the Commisson's Rules of Practice and Procedure (18 CFR 1.8. 1.10). All such petitions or protest should be filed on or before May 25, 1979. Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceeding. Any person wishing to become a party must file a petition to intervene. Copies of the Supplement are on file with the Commission and are available for public inspection.

Kenneth F. Plum,

Secretary.

[Docket No. ER79–341]

[FR Doc. 79–14455 Filed 5–8–79; 8:45 am]

BILLING CODE 6450–01–M

Duke Power Co.; Amended Settlement Agreement

May 3, 1979.

Take notice that Duke Power Company (Duke) on April 13, 1979, tendered for filing an Amended Settlement Agreement among Duke, the Municipal intervenors and the Cooperative intervenors. This Amended Settlement Agreement is intended to supersede the Settlement Agreement filed with the Judge on October 18, 1978, certified to the Commission on October 19, 1978, which is still pending before the Commission for its approval.

Any person desiring to be heard or to protest said settlement agreement should file comments with the Federal Energy Regulatory Commission, 825 North Capital Street, NE., Washington, D.C. 20426, on or before May 18, 1979. Comments will be considered by the Commission in determining the appropriate action to be taken. Copies of this agreement are on file with the Commission and are available for public inspection.

Kenneth F. Plumb,

Secretary.

[Docket No. ER78–415]

[FR Doc. 79–14456 Filed 5–8–79; 8:45 am]

BILLING CODE 6450–01–M

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Kentucky Utilities Co.; Application Pursuant to Section 203 of the Federal Power Act for Authority To Acquire Securities of a Public Utility

May 3, 1979.

Take notice that the Kentucky Utilities Company (KU) on April 11, 1979 tendered for filing an application pursuant to Section 203 of the Federal Power Act to acquire from the Old Dominion Power Company (OD) certain of OD's securities. OD is a wholly-owned subsidiary of KU.

Any person desiring to be heard or to protest said application should file a petition to intervene or protest with the Federal Energy Regulatory Commission, 825 North Capital Street, N.E., Washington, D.C. 20426, in accordance with Sections 1.8 and 1.10 of the Commission's Rules of Practice and Procedure (18 CFR 1.8, 1.10). All such petitions or protests should be filed on or before May 31, 1979. Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceeding. Any person wishing to become a party must file a petition to intervene. Copies of this application are on file with the Commission and are available for public inspection.

Kenneth F. Plumb,
Secretary.

[Docket No. EL79-15]
[FR Doc. 79-14457 Filed 5-8-79; 8:45 am]
BILLING CODE 6450-01-M

Lawrenceburg Gas Transmission Corp.; Proposed Change in FERC Gas Tariff

May 3, 1979.

Take notice that on May 1, 1979, Lawrenceburg Gas Transmission Corporation (Lawrenceburg) tendered for filing three (3) substitute revised gas tariff sheets to its FERC Gas Tariff, First Revised Volume No. 1, all of which are dated as issued on April 23, 1979, proposed to become effective and identified as follows:

Effective January 1, 1979.—Second Substitute Sixteenth Revised Sheet 4 No. Second Revised Sheet No. 4A.

Effective March 1, 1979.—Third Subsitute Seventeenth Revised Sheet No. 4.

Lawrenceburg states that these tariff sheets are being filed in compliance with Article IV of its Stipulation and Agreement at Docket No. RP78-37, as approved by Commission order issued February 26, 1979, in order to track a reduction in the Federal Income Tax rate effective January 1, 1979.

Lawrenceburg proposes to commence billing at the reduced rates contained in the instant filing for volumes delivered on and after April 1, 1979, and to refund amounts overcollected during the January 1, 1979 through March 31, 1979 period through credits to its customers' April, 1979 bills.

Lawrenceburg states that copies of this filing have been served upon its jurisdictional customers and interested state commissions.

Any person desiring to be heard or to protest said filing should file a petition to intervene or protest with the Federal Energy Regulatory Commission, 825 North Capitol Street, N.E., Washington, D.C. 20426, in accordance with Sections 1.8 and 1.10 of the Commission's Rules of Practice and Procedure (18 CFR 1.8, 1.10). All such petitions or protests should be filed on or before May 18, 1979. Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceeding. Any person wishing to become a party must file a petition to intervene. Copies of this filing are on file with the Commission and are available for public inspection.

Kenneth F. Plumb,
Secretary.

[Docket No. RP78-37]
[FR Doc. 79-14458 Filed 5-8-79; 8:45 am]
BILLING CODE 6450-01-M

Northern Natural Gas Co.; Purchased Gas Cost Adjustment Rate Change

May 3, 1979.

Take notice that on April 26, 1979 Northern Natural Gas Company (Northern) tendered for filing, as part of Northern's F.E.R.C. Gas Tariff, Third Revised Volume No. 1 and Original Volume No. 2, the following tariff sheets to be effective June 27, 1979:

Third Revised Volume No. 1,
Nineteenth Revised Sheet No. 4a.

Original Volume No. 2, Nineteenth Revised Sheet No. 1c.

Nineteenth Revised Sheet No. 4a is filed pursuant to Northern's Purchased Gas Adjustment Clause, Subparagraph 18.3(b) of its F.E.R.C. Gas Tariff, Third Revised Volume No. 1. Nineteenth Revised Sheet No. 1c is filed pursuant to Northern's Purchased Gas Adjustment Clause, Subparagraph 1.3(b) applicable to Volume No. 2 sales. This change in Northern's rates reflects the increase in Northern's cost of purchased gas as a result of filings made by natural gas producers pursuant to Part 273 of the Natural Gas Policy Act of 1978 (NGPA). These filings were made by April 1, 1979 with the jurisdictional agencies for certification to collect the maximum lawful prices pursuant to Sections 102, 103, 107 and 108 of the NGPA. Northern will begin paying essentially all of its producers the higher costs beginning with March, 1979 production, but will not be collecting higher rates until June 27, thus it has also reflected unrecovered gas purchased costs in this filing for the months of March through June, 1979, which it is proposing to collect over the last six months of 1979.

The Company states that copies of the filing have been mailed to each of the Gas Utility customers and interested State Commissions.

Any person desiring to be heard or to protest said filing should file a petition to intervene or protest with the Federal Energy Regulatory Commission, 825 North Capitol Street, N.E., Washington, D.C. 20426, in accordance with Sections 1.8 and 1.10 of the Commission's Rules of Practice and Procedure (18 CFR 1.8, 1.10). All such petitions or protests should be filed on or before May 21, 1979. Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceeding. Any person wishing to become a party must file a petition to intervene. Copies of this filing are on file with the Commission and are available for public inspections.

Kenneth F. Plumb,
Secretary.

[Docket Nos. RP 71-107 and RP 72-127]
[FR Doc. 79-14459 Filed 5-8-79; 8:45 am]
BILLING CODE 6450-01-M

North Penn Gas Co.; Proposed Changes in FERC Gas Tariff

May 3, 1979.

Take notice that North Penn Gas Company (North Penn) on April 30, 1979 tendered for filing proposed changes in its FERC Gas Tariff, First Revised Volume No. 1. The proposed changes would increase revenues from jurisdictional sales and service by $1,974,553, based on a test period consisting of the twelve months ended December 31, 1978, as adjusted.

North Penn states that the increased rates are required to reflect an increase in rate of return to 11.8% and related income taxes, increased plant and increases in the cost of materials, supplies, wages and taxes.

Copies of this filing were served upon North Penn's jurisdictional customers, as well as interested State Commissions.

Any persons desiring to be heard or to protest said filing should file a petition to intervene or protest with the Federal Energy Regulatory Commission, 825 North Capitol Street, N.E., Washington, D.C. 20426, in accordance with Sections 1.8 and 1.10 of the Commission's Rules of Practice and Procedure (18 CFR 1.8 and 1.10). All such petitions or protests should be filed on or before May 17, 1979. Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceeding. Any person wishing to become a party must file a petition to intervene. Copies of this filing are on file with the Commission and are available for public inspection.

Kenneth F. Plumb
Secretary.

[Docket No. RP79-68]
[FR Doc. 79-14460 Filed 5-8-79; 8:45 am]
BILLING CODE 6450-01-M

Ohio Power Co.; Tariff Change

May 3, 1979.

The filing Company submits the following:

Take notice that Ohio Power Company, on April 27, 1979 tendered for filing proposed changes in its FERC Electric Tariff MRS For Municipal Resale Electric Service, Original Volume No. 1. The proposed changes would increase revenues from jurisdictional sales and service by $1,176,000, based on the 12-month period ending December 31, 1979. Ohio Power Company proposes that the rates and charges and terms and conditions of service revised by this filing become effective June 26, 1979.

Copies of the filing were served upon the affected municipal customers and the Public Utilities Commission of Ohio.

Any person desiring to be heard or to protest said application should file a petition to intervene or protest with the Federal Energy Regulatory Commission, 825 North Capitol Street, N.E., Washington, D.C. 20426, in accordance with §§ 1.8 and 1.10 of the Commission's rules of practice and procedure (18 CFR 1.8, 1.10). All such petitions or protests should be filed on or before May 25, 1979. Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceeding. Any person wishing to become a party must file a petition to intervene. Copies of this application are on file with the Commission and are available for public inspection.

Kenneth F. Plumb,
Secretary.

[Docket No. ER79-333]
[FR Doc. 79-14461 Filed 5-8-79; 8:45 am]
BILLING CODE 6450-01-M

South Texas Natural Gas Gathering Co.; References of Settlement Agreements

May 3, 1979.

Take notice that on March 6, 1979 and on April 6, 1979, Administrative Law Judge Ellis certified to the Commission two settlement agreements proposed in settlement of various issues in the subject proceedings. The first of the proposed settlement agreements would resolve the cost of service issues in Docket No. RP77-59, and is not opposed by any party to that proceeding. The second proposed settlement agreement would, if approved, dispose of a cost allocation issue and of a transportation rate issue presented in both dockets. The transportation rate issue is the subject of separate investigations under Section 5 of the Natural Gas Act in both dockets. The Commission Staff opposes the transportation rate settlement agreement in Docket No. RP78-58. The Staff is the only party which objects to the second proposed settlement agreement.

Any person desiring to be heard or to protest the above-discussed settlement agreements should file comments with the Federal Energy Regulatory Commission, 825 North Capitol Street, N.E., Washington, D.C. 20426, on or before May 18, 1979. Comments will be considered by the Commission in determining the appropriate action to be taken. Copies of this agreement are on file with the Commission and are available for public inspection.

Kenneth F. Plumb,
Secretary.

[Docket Nos. 5-RP77-59 and RP78-58 (not consolidated)]
[FR Doc. 79-14462 Filed 5-8-79; 8:45 am]
BILLING CODE 6450-01-M

Southern Natural Gas Co.; Petition for Expeditious Modification of Stipulation and Agreement

May 3, 1979.

Take notice that on December 13, 1978, Southern Natural Gas Company (Southern) filed a petition in the subject docket requesting that proceedings in this matter be reopened for the limited purpose of accepting a modification to the stipulation and agreement approved by the Commission herein in Opinion No. 5, *Southern Natural Gas Company, et al.*, Docket Nos. RP74-6, *et al.*

Southern states that the purpose of the modification to the aforesaid stipulation and agreement is to recognize the impact of the introduction of higher Btu regasified LNG on the eastern end of Southern's system and that the stipulation and agreement is a product of negotiations with its affected customers.

Copies of Southern's petition are on file at the Commission's Office of Public Information.

Any person desiring to comment upon Southern's petition should file a petition to intervene, protest, or answer with the Federal Energy Regulatory Commission, Washington, D.C. 20426, in accordance with Sections 1.8, 1.10, and 1.12 of the Commission's Rules of Practice and Procedure (18 CFR 1.8, 1.10, and 1.12). Any person desiring to comment upon Southern's petition should file a protest or answer pursuant to Sections 1.10 or 1.12 of the Commission's regulations, in this docket. All protests filed with the Commission will be considered by it in determining the appropriate action to be taken but will not serve to make the protestants parties to the proceeding. Any person wishing to become a party to a proceeding or to participate as a party in any hearing therein must file a petition to intervene in accordance with the Commission's rules. All filings are due on or before May 16, 1979.

Kenneth F. Plumb,
Secretary.

[Docket Nos. RP72-74 and RP74-6]
[FR Doc. 79-14463 Filed 5-8-79; 8:45 am]
BILLING CODE 6450-01-M

Union Electric Co.; Proposed Revised Service Schedules

May 3, 1979.

The filing Company submits the following:

Take notice that on May 1, 1979, Union Electric Company (Union) tendered for filing a Second Amendment and Revised Service Schedules C and D to the Interchange Agreement dated July 2, 1976 between Union and Kentucky Utilities Company.

Union indicates that said agreements provide for revisions in certain rates under said Interchange Agreement.

Union proposes an effective date of July 1, 1979.

Any person desiring to be heard or to protest said filing should file a petition to intervene or protest with the Federal Energy Regulatory Commission, 825 North Capitol Street, NE., Washington, D.C. 20426, in accordance with the Commission's Rules of Practice and Procedure (18 CFR 1.8, 1.10). All such petitions or protests should be filed on or before May 29, 1979. Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceeding. Any person wishing to become a party must file a petition to intervene. Copies

of this filing are on file with the Commission and are available for public inspection.

Kenneth F. Plumb,
Secretary.
[Docket No. ER79-342]
[FR Doc. 79-14464 Filed 5-8-79; 8:45 am]
BILLING CODE 6450-01-M

Utah Power & Light Co.; Proposed Settlement Agreement

May 3, 1979.

Take notice that February 8, 1979, Utah Power & Light Company and its wholesale customer in this docket, Idaho Power Company filed for approval by the Commission an executed Settlement Agreement purporting to resolve all issues present in this docket. On February 22, 1979, this Settlement Agreement, as amended at a prehearing conference held February 15, 1979, together with the record in this proceeding, were certified by the Presiding Judge to the Commission for disposition.

Any person desiring to be heard or to protest said settlement proposal should file comments with the Federal Energy Regulatory Commission, 825 North Capitol Street, NE., Washington, D.C. 20426, on or before May 18, 1979. Comments will be considered by the Commission in determining the appropriate action to be taken. Copies of this proposal are on file with the Commission and are available for public inspection.

Kenneth F. Plumb,
Secretary.
[Docket No. ER78-216]
[FR Doc. 79-14465 Filed 5-8-79; 8:45 am]
BILLING CODE 6450-01-M

Colorado Interstate Gas Co.; Order Accepting for Filing and Suspending Rate Increase Subject to Conditions and Establishing Procedures

Issued May 1, 1979.

On April 2, 1979, Colorado Interstate Gas Company (CIG) filed revised tariff sheets [1] designed to increase revenues from jurisdictional sales and services by $17,512,263 annually. CIG proposed May 1, 1979 as the effective date for these revised tariff sheets. The test period is based upon actual costs for the twelve months ended December 31, 1978, as adjusted for known and measurable changes through September 30, 1979. Notice of the proposed increase was issued April 6, 1979.

The proposed rate increase is based upon claimed increases of virtually all costs of operation, particularly labor expenses, as well as a need for an 11.37 percent overall rate of return. CIG has also included costs associated with the construction and operation of facilities which have not yet been certificated and placed in service. CIG requests waiver of Section 154.63(e)(2)(ii) of Commission Regulations to permit inclusion of these uncertificated facilities in its proposed rates. Additionally, CIG requests waiver of Section 154.22 to allow a one-day reduction of the required 30-day notice period prior to putting the tariff into effect. To comply with the 30-day notice requirement, CIG should have filed on April 1, 1979, but CIG notes that such date fell on a Sunday. CIG points out that it was precluded by Section 154.66 from filing a tariff change prior to April 1, 1979.

In this filing, CIG claims an overall rate of return of 11.37%, which would yield a 15.75% return on common equity. The filing also reflects the current cost of purchased gas included in CIG's latest PGA filing in Docket No. RP72-122 (PGA79-1) to be effective April 1, 1979. In addition, CIG has included credits to its cost of service for natural gas liquids sold to its affiliate Colorado Oil Company.

Further, the Company has included the volumes and cost of service of associated gas reserves, wells, and related production facilities which CIG has sought to reacquire from its affiliate, CIG Exploration, Inc. after the termination of its Gas Search Program on February 28, 1979. The filing reflects repricing of gas produced from old wells [2] on these old leases [3] on a cost of service basis, rather than on an area rate basis. The reacquisition of these properties is at issue in Docket Nos. CP73-184 and CI73-485.

Based upon a review of CIG's filing, the Commission finds that the proposed general rate increase has not been shown to be just and reasonable, and may be unjust, unreasonable and unduly discriminatory, or otherwise unlawful. Accordingly, the Commission shall accept the revised tariff sheets for filing, suspend their use for five months until October 1, 1979, subject to refund and the conditions set forth below, and set the matter for hearing.

Acceptance of the sheets shall be subject to the outcome of proceedings in Docket Nos. CP73-189 and CI73-485. For good cause shown, waiver of Section 154.22 shall be granted to allow a shortened notice period. Waiver of Section 154.63(e)(2)(ii) shall also be granted, on condition that on or before October 1, 1979, CIG file revised tariff sheets to reflect elimination of costs associated with facilities not certificated and in service at the end of the test period. Further, CIG shall file revised sheets to reflect the actual balance of advance payments as of September 30, 1979, provided that the inclusion of a higher advance payments balance shall not be permitted to increase the level of the original suspended rates. CIG shall not be permitted to make offsetting adjustments to the suspended rates prior to hearing, except for those adjustments made pursuant to Commission approved tracking provisions, those adjustments required by this order, and those adjustments required by other Commission orders.

The Commission orders: (A) Pursuant to the authority of the Natural Gas Act, particularly sections 4, 5, 8 and 15 thereof, and the Commission's rules and regulations, a public hearing shall be held concerning the lawfulness of the increased rates proposed by CIG.

(B) Waiver of 18 CFR 154.22 shall be granted to permit a one-day reduction of the required notice period.

(C) Waiver of 18 CFR 154.63(e)(2)(ii) shall be granted to allow reflection of costs of facilities not yet in service, subject to the conditions of Ordering Paragraph (E).

(D) Pending hearing and decision, and subject to the conditions of Ordering Paragraphs (E) and (F), Fourth Revised Sheet Nos. 7 and 8 to Original Volume No. 1, and Second Revised Sheet Nos. 187, 251 and 330 to Original Volume No. 2 of CIG's FERC Gas Tariff are accepted for filing and suspended for five months until October 1, 1979, when they may become effective subject to refund, in the manner prescribed by the Natural Gas Act.

(E) CIG shall file substitute revised tariff sheets as of October 1, 1979 to reflect (a) the elimination of facilities not in service by September 30, 1979, pursuant to the requirements of 18 CFR 154.63(e)(2)(ii) and (b) the actual balance of advance payments as of September 30, 1979, provided that the inclusion of a higher advance payments balance shall not be permitted to increase the level of the original suspended rates. CIG shall not be permitted to make offsetting adjustments to the suspended rates prior to hearing, except for those adjustments made pursuant to Commission approved tracking provisions, those adjustments required by this order, and those required by other Commission orders.

(F) Acceptance of these tariff sheets shall be subject to the outcome of proceedings in Docket Nos. CP73-184 and CI73-485.

(G) The Commission Staff shall prepare and serve top sheets on all parties on or before August 6, 1979.

(H) A Presiding Administative Law Judge to be designated by the Chief Administrative Law Judge for that purpose (18 CFR 3.5(D)), shall convene a settlement conference in this proceeding to be held within 10 days after the service of top sheets by the Staff, in a hearing or conference room of the Federal Energy Regulatory Commission, 825 North Capitol Street, NE., Washington, D.C. 20426. The Presiding Administrative Law Judge is authorized to establish such further procedural dates as may be necessary, and to rule upon all motions (except motions to consolidate, sever, or dismiss), as provided for in the rules of practice and procedure.

By the Commission. Commissioner Hall voted present.

Lois D. Cashell,
Acting Secretary.
[Docket No. RP79-59]
[FR Doc. 79-14486 Filed 5-8-79; 8:45 am]
BILLING CODE 6450-01-M

Exxon Co., U.S.A.; Filing of Petition for Review Under 42 U.S.C. 7194

May 1, 1979.

Take notice that Exxon Company, U.S.A. on April 20, 1979 filed a Petition for Review under 42 U.S.C. § 719(b) (1977 Supp.) from an order of the Secretary of Energy.

Copies of the petition for review have been served on the Secretary, Department of Energy, and all participants in prior proceedings before the Secretary.

Any person desiring to be heard with reference to such filing should on or before May 22, 1979 file a petition to intervene with the Federal Energy Regulatory Commission, 825 North Capitol Street, NE., Washington, D.C. 20426, in accordance with the Commission's rules of practice and procedure (18 CFR 1.8). Any person wishing to become a party or to participate as a party must file a petition to intervene. Such petition must also be served on the parties of record in this proceeding and the Secretary of Energy through Gaynell C. Methvin, Deputy General Counsel for Enforcement and Litigation, Department of Energy, 12th and Pennsylvania Ave., NW., Washington, D.C. 20461. Copies of the petition for review are on file with the Commission and are available for public inspection at Room 1000, 825 North Capitol St., NE., Washington, D.C. 20426.

Kenneth F. Plumb,
Secretary.
[Docket No. RA 79-24]
[FR Doc. 79-14487 Filed 5-8-79; 8:45 am]
BILLING CODE 6450-01-M

Northwest Pipeline Corp.; Order Accepting for Filing and Suspending Proposed Rate Increase, Granting Waiver and Interventions, and Establishing Procedures

Issued April 30, 1979.

On March 30, 1979, Northwest Pipeline Corporation (Northwest) filed revised tariff sheets (listed in Appendix A of this order) proposing an increase in rates to its jurisdictional customers. On April 10, 1979, Northwest filed corrected copies of the revised tariff sheets to reflect the full use requirement of 2 percent. Northwest states that the proposed increase will compensate it for increased costs which it has incurred and will incur in the future, and will generate an additional $34,109,239 per year in revenues above those collected under its currently effective rates. Northwest states that this proposed increase represents a percentage increase of 4.7%, and would amount to an average increase of .969¢ per therm over current rates. In addition, Northwest states that this increase would result in an additional $78,714 in revenues for mainline transportation services under certain other rate schedules. [1] The proposed effective date for these rate changes is May 1, 1979. The proposed rates are based on cost of service for the twelve month period ended December 31, 1978, as adjusted for known and measurable changes through September 30, 1979.

Northwest also proposes certain modifications to Section 16, Purchased Gas Cost Adjustment Provision (PGAC) of its FERC Gas Tariff, Original Volume No. 1, denominated "*pro forma* tariff sheets to Original Volume No. 1." The purpose of these proposed changes is to permit the periodic adjustment of rates to reflect changes in royalties and production taxes resulting from variations in the volume of leasehold gas and changes in the wellhead value of natural gas. Northwest states that the modifications to its PGAC redefine purchased gas so as to include gas well royalties and related production taxes within the definition of purchased gas.

Northwest requests that the Commission consider the proposed PGAC modifications as part of any Section 4 proceedings which might be instituted. The *pro forma* tariff sheets filed by Northwest will be subject for review in this proceeding and any determination by this Commission with respect to the *pro forma* sheets will have prospective effect only.

Public notice of Northwest's filing was issued on April 3, 1979. The notice provided that protests and petitions to intervene must be filed on or before April 18, 1979. The Peoples Natural Gas Division of Northern Natural Gas Company filed a timely petition to intervene. We will permit it to participate in this proceeding, subject to certain conditions noted in Ordering Paragraph (D), below.

Based upon a review of Northwest's filing, we find that the proposed rate increases have not been shown to be just and reasonable, and may be unjust, unreasonable, and unduly discriminatory, or otherwise unlawful. Accordingly, we will accept Northwest's proposed tariff sheets for filing, suspend their use for five months until October 1, 1979, when they will be permitted to take effect subject to refund and to the conditions enumerated below. In addition, we will set this matter for hearing.

We note that Northwest's cost of service contains costs associated with facilities which are not certificated and not in service. Northwest requests waiver of section 154.63(e)(2)(ii) of the Commission's Regulations to permit these costs to be included in this filing. The Commission will grant waiver of this regulation and will accept Northwest's proposed tariff sheets for filing, on condition that on or before September 30, 1979, Northwest file revised tariff sheets eliminating all costs associated with facilities not placed in service by that date. Northwest shall also reflect in those revised tariff sheets adjustments of the estimated balance in Account 166 to the balance at the end of the test period, provided that the inclusion of a higher advance payments balance shall not be permitted to increase the level of the original suspended rates. This waiver is granted upon condition that Northwest shall not be permitted to make offsetting adjustments te the suspended rates prior to hearing, except for those adjustments made pursuant to Commission-approved tracking provisions or required by Commission orders.

The Commission orders: (A) Pursuant to the authority of the Natural Gas Act, particularly sections 4, 5, 8 and 15

[1] These are Rate Schedules X-23, X-32, X-34, X-36, X-38 of Original Volume No. 2.

[1] Fourth Revised Sheet Nos. 7 and 8 to Original Volume No. 1, and Second Revised Sheet Nos. 187, 251 and 330 to Original Volume No. 2 of CIG's FERC Gas Tariff.

[2] "Old wells" are wells commenced prior to January 1, 1973.

[3] "Old leases" are leases owned by a pipeline or its affiliate acquired on or before October 7, 1969.

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thereof, and the Commission's rules and regulations, a public hearing shall be held concerning the lawfulness of the increased rates proposed by Northwest.

(B) Pending hearing and decision, and subject to the conditions of Ordering Paragraph (C) below, Northwest's tariff sheets listed on Appendix A to this order are accepted for filing and suspended for five months until October 1, 1979, when they may become effective subject to refund, in the manner prescribed by the Natural Gas Act.

(C) Northwest shall file substitute revised tariff sheets on or before October 1, 1979, reflecting the elimination of costs associated with facilities which are not in service by that date, pursuant to the requirements of 18 CFR § 154.63(e)(2)(ii), and subject to condition that Northwest shall not be permitted to make offsetting adjustments to the suspended rates prior to hearing, except for those adjustments made pursuant to Commission approved tracking provisions, those adjustments required by this order, and those required by other Commission orders. Northwest's substitute revised tariff sheets will reflect the actual balance of advance payments in Account 166 as of September 30, 1979, provided that, the inclusion of a higher advance payment balance will not be permitted to increase the level of the original suspended rates.

(D) The Peoples Natural Gas Division of Northern Natural Gas Company is permitted to intervene in the above-entitled proceeding, subject to the rules and regulations of the Commission; *Provided, however,* that its participation shall be limited to matters affecting asserted rights and interests specifically set forth in its petition for leave to intervene; and *Provided, further,* that its admission in the manner provided shall not be construed as recognition by the Commission that it might be aggrieved because of any order or orders entered in this proceeding.

(E) The Commission Staff shall prepare and serve top sheets on all parties on or before August 1, 1979.

(F) A Presiding Administrative Law Judge to be designated by the Chief Administrative Law Judge for that purpose (18 CFR 3.5(d)), shall convene a settlement conference in this proceeding to be held within 10 days after the service of top sheets by the Staff, in a hearing or conference room of the Federal Energy Regulatory Commission, 825 North Capitol Street, N.E., Washington, D.C. 20426. The Presiding Administrative Law Judge is authorized to establish such further procedural dates as may be necessary, and to rule upon all motions (except motions to consolidate, sever, or dismiss), as provided for in the rules of practice and procedure.

(G) The *pro forma* tariff sheets filed by Northwest will subject for review in this proceeding and any determination by this Commission with respect to the *pro forma* sheets will have prospective effect only.

By the Commission.

Lois D. Cashell,
Acting Secretary.

APPENDIX A

Northwest Pipeline Corp. Docket No. RP79-57 Revised Tariff Sheets

Original Volume No. 1

Twenty Third Revised Sheet No. 10
Third Revised Sheet No. 13
Fourth Revised Sheet No. 14
Second Revised Sheet No. 71

Original Volume No. 2

Original Sheet No. 2
Original Sheet No. 3
First Revised Sheet No. 56
Third Revised Sheet No. 195
Fourth Revised Sheet No. 243
Third Revised Sheet No. 283
Third Revised Sheet No. 309

[Docket No RP79-57]
[FR Doc. 79-14468 Filed 5-8-79; 8:45 am]
BILLING CODE 6450-01-M

Determination by a Jurisdictional Agency Under the Natural Gas Policy Act of 1978

May 1, 1979.

On April 10, 1979, the Federal Energy Regulatory Commission received notices from the jurisdictional agencies listed below of determinations pursuant to 18 CFR 274.104 and applicable to the indicated wells pursuant to the Natural Gas Policy Act of 1978.

New Mexico Oil Conservation Division

FERC Control Number: JD79-2756
API Well Number: 30-039-21444
Section of NGPA: 103
Operator: Odessa Natural Coporation
Well Name: Shipley No. 1
Field: Chacon Dakota
County: Rio Arriba
Purchaser: El Paso Natural Gas Company
Volume: 182.5 MMcf.

FERC Control Number: JD79-2757
API Well Number: 3003921657
Section of NGPA: 103
Operator: Odessa Natural Coporation
Well Name: Shipley No. 2
Field: Chacon Dakota
County: Rio Arriba
Purchaser: El Paso Natural Gas Company
Volume: 292.0 MMcf.

FERC Control Number: JD79-2758
API Well Number: 30-015-22420
Section of NGPA: 103
Operator: Dorchester Exploration, Inc.
Well Name: Liggett, et al. Com. No. 1
Field: W. Four Mile Draw (Morrow)
County: Eddy
Purchaser: Gas Company of New Mexico
Volume: N/A.

FERC Control Number: JD79-2759
API Well Number: 30-015-22728
Section of NGPA: 103
Operator: Yates Petroleum Corporation
Well Name: Gulf "KC" State Com No. 1
Field: Richard Knob Atoka-Morrow
County: Eddy
Purchaser: N/A
Volume: N/A.

FERC Control Number: JD79-2760
API Well Number: 30-015-22689
Section of NGPA: 103
Operator: Yates Petroleum Corporation
Well Name: Lanning "JC" Com No. 1
Field: Eagle Creek Atoka-Morrow, East
County: Eddy
Purchaser: Transwestern Pipeline Company
Volume: N/A.

FERC Control Number: JD79-2761
API Well Number: 30-015-22125
Section of NGPA: 103
Operator: Cities Service Company
Well Name: State CX No. 1
Field: Undesignated Winchester Morrow
County: Eddy
Purchaser: El Paso Natural Gas Co.
Volume: 344.9 MMcf.

FERC Control Number: JD79-2762
API Well Number: N/A
Section of NGPA: 103
Operator: Caulkins Oil Company
Well Name: State C Comm.
Field: South Blanco Pictured Cliffs-Otero Chacra
County: Rio Arriba
Purchaser: Gas Company of New Mexico
Volume: 47,500 MMcf.

FERC Control Number: JD79-2763
API Well Number: 30-025-26048
Section of NGPA: 103
Operator: Exxon Corporation
Well Name: New Mexico "CV" State, Well No. 2
Field: Comanche Stateline Tansill-Yates Lea
County: Lea
Purchaser: El Paso Natural Gas Company
Volume: 0.5 MMcf.

FERC Control Number: JD79-2764
API Well Number: 30-025-25953
Section of NGPA: 103
Operator: Exxon Corporation
Well Name: New Mexico "CV" State, Well No. 1
Field: Comanche Stateline Tansill-Yates
County: Lea
Purchaser: El Paso Natural Gas Company
Volume: 7.0 MMcf.

FERC Control Number: JD79-2765
API Well Number: N/A
Section of NGPA: 103
Operator: HNG Oil Company
Well Name: Ogden 6 Com. No. 1
Field: Malaga West (Morrow)
County: Eddy
Purchaser: El Paso Natural Gas Co.
Volume: 381 MMcf.

FERC Control Number: JD79-2766

API Well Number: N/A
Section of NGPA: 103
Operator: HNG Oil Company
Well Name: Woods 9 Com. No. 2
Field: Malaga West (Morrow)
County: Eddy
Purchaser: El Paso Natural Gas Co.
Volume: 402 MMcf.

FERC Control Number: JD79-2767
API Well Number: N/A
Section of NGPA: 103
Operator: HNG Oil Company
Well Name: Woods 9 Com. No. 1
Field: Malaga West (Morrow)
County: Eddy
Purchaser: El Paso Natural Gas Company
Volume: 227 MMcf.

FERC Control Number: JD79-2768
API Well Number: 30-015-22400
Section of NGPA: 103
Operator: Harvey E. Yates Company
Well Name: Empire South Deep Unit No. 18
Field: Und. South Empire Morrow
County: Eddy
Purchaser: El Paso Natural Gas Company
Volume: 2,500 MMcf.

FERC Control Number: JD79-2769
API Well Number: 30-015-22188
Section of NGPA: 103
Operator: Hondo Oil & Gas Company
Well Name: Hondo 22 State #1
Field: Eddy Undesignated Atoka
County: Eddy
Purchaser: El Paso Natural Gas Company
Volume: 40 MMcf.

FERC Control Number: JD79-2770
API Well Number: 30-015-22317
Section of NGPA: 103
Operator: Hondo Oil & Gas Company
Well Name: State 'BV' No. 1
Field: Undesignated Empire South, Morrow (Gas)
County: Eddy
Purchaser: El Paso Natural Gas Company
Volume: 5000 MMcf.

FERC Control Number: JD79-2771
API Well Number: N/A
Section of NGPA: 103
Operator: Summit Energy, Inc.
Well Name: Drinkard Estate No. 6
Field: Wantz Granite Wash
County: Lea
Purchaser: Getty Oil Company
Volume: 50 MMcf.

FERC Control Number: JD79-2772
API Well Number: N/A
Section of NGPA: 103
Operator: Summit Energy, Inc.
Well Name: Drinkard Estate No. 7
Field: Wantz Granite Wash
County: Lea
Purchaser: Getty Oil Company
Volume: 50 MMcf.

FERC Control Number: JD79-2782
API Well Number: 30-045-0078-00
Section of NGPA: 108
Operator: Johney M. Myers
Well Name: N/A
Field: Fulcher-Kutz
County: San Juan
Purchaser: El Paso Natural Gas Company
Volume: 1917 MMcf.

The applications for determination in these proceedings together with a copy or description of other materials in the record on which such determinations were made are available for inspection, except to the extent such material is treated as confidential under 18 CFR 275.206, at the Commission's Office of Public Information, Room 1000, 825 North Capitol Street, N.E., Washington, D.C. 20426.

Persons objecting to any of those final determinations may, in accordance with 18 CFR 275.203 and 18 CFR 275.204, file a protest with the Commission on or before May 24, 1979. Please reference the FERC Control Number in any correspondence concerning a determination.

Kenneth F. Plumb,
Secretary.
[FR Doc. 79-14469 Filed 5-8-79; 8:45 am]
BILLING CODE 6450-01-M

Determination by a Jurisdictional Agency Under the Natural Gas Policy Act of 1978

May 1, 1979.

On April 10, 1979, the Federal Energy Regulatory Commission received notices from the jurisdictional agencies listed below of determinations pursuant to 18 CFR 274.104 and applicable to the indicated wells pursuant to the Natural Gas Policy Act of 1978.

West Virginia Department of Mines, Oil and Gas Division

FERC Control Number: JD79-2895
API Well Number: 47039227580000
Section of NGPA: 103
Operator: Appalachian Exploration & Devel., Inc.
Well Name: Cannelton Coal A-9
Field: Cabin Creek
County: Kanawha
Purchaser: Cabot Corporation
Volume: 63.5 MMcf.

FERC Control Number: JD79-2896
API Well Number: 470470736
Section of NGPA: 103
Operator: Texas International Petroleum Corp.
Well Name: Pocahontas Land Corp. A-22
Field: Elkhorn
County: McDowell
Purchaser: Consolidated Gas Supply Corp.
Volume: 36.5 MMcf.

FERC Control Number: JD79-2897
API Well Number: 470470731
Section of NGPA: 103
Operator: Texas International Petroleum Corp.
Well Name: Pocahontas Land Corp. A-26
Field: North Fork
County: McDowell
Purchaser: Consolidated Gas Supply Corp.
Volume: 26.0 MMcf.

FERC Control Number: JD79-2898
API Well Number: 470470726
Section of NGPA: 103
Operator: Texas International Petroleum Corp.
Well Name: Pocahontas Land Corp. No. C-11
Field: North Fork
County: McDowell
Purchaser: Consolidated Gas Supply Corp.
Volume: 26.0 MMcf.

FERC Control Number: JD79-2899
API Well Number: 470470724
Section of NGPA: 103
Operator: Texas International Petroleum Corp.
Well Name: Pocahontas Land Corp. No. C-9
Field: North Fork
County: McDowell
Purchaser: Consolidated Gas Supply Corp.
Volume: 26.0 MMcf.

FERC Control Number: JD79-2900
API Well Number: 470470723
Section of NGPA: 103
Operator: Texas International Petroleum Corp.
Well Name: Pocahontas Land Corp. No. C-8
Field: North Fork
County: McDowell
Purchaser: Consolidated Gas Supply Corp.
Volume: 26.0 MMcf.

FERC Control Number: JD79-2901
API Well Number: 470470722
Section of NGPA: 103
Operator: Texas International Petroleum Corp.
Well Name: Pocahontas Land Corp. No. C-7
Field: North Fork
County: McDowell
Purchaser: Consolidated Gas Supply Corp.
Volume: 26.0 MMcf.

FERC Control Number: JD79-2902
API Well Number: 470470721
Section of NGPA: 103
Operator: Texas International Petroleum Corp.
Well Name: Pocahontas Land Corp. No. C-6
Field: North Fork
County: McDowell
Purchaser: Consolidated Gas Supply Corp.
Volume: 26.0 MMcf.

FERC Control Number: JD79-2903
API Well Number: 470470711
Section of NGPA: 103
Operator: Texas International Petroleum Corp.
Well Name: Pocahontas Land Corp. No. C-5
Field: North Fork
County: McDowell
Purchaser: Consolidated Gas Supply Corp.
Volume: 26.0 MMcf.

FERC Control Number: JD79-2904
API Well Number: 470470704
Section of NGPA: 103
Operator: Texas International Petroleum Corp.
Well Name: Pocahontas Land Corp. No. C-2
Field: North Fork
County: McDowell
Purchaser: Consolidated Gas Supply Corp.
Volume: 26.0 MMcf.

FERC Control Number: JD79-2905
API Well Number: 47015212310000
Section of NGPA: 103
Operator: Appalachian Exploration & Devel., Inc.
Well Name: Caldwell-Shelton-Wood No. 1
Field: Pleasant

County: Clay
Purchaser: Cabot Corporation
Volume: 24.6 MMcf.

FERC Control Number: JD79–2906
API Well Number: 471090800
Section of NGPA: 103
Operator: Texas International Petroleum Corp.
Well Name: Pocahontas Land Corp. No. A–29
Field: Barkers Ridge
County: Wyoming
Purchaser: Consolidated Gas Supply Corp.
Volume: 38.5 MMcf.

FERC Control Number: JD79–2907
API Well Number: 4710920799
Section of NGPA: 103
Operator: Spartan Gas Company
Well Name: Pocahontas Land Corp. No. 4 4–S–189
Field: Barkers Ridge
County: Wyoming
Purchaser: Consolidated Gas Supply Corp.
Volume: 12 MMcf.

FERC Control Number: JD79–2908
API Well Number: 4710920798
Section of NGPA: 103
Operator: Spartan Gas Company
Well Name: Pocahontas Land Corp. No. 3 3–S–188
Field: Barkers Ridge
County: Wyoming
Purchaser: Consolidated Gas Supply Corp.
Volume: 100 MMcf.

FERC Control Number: JD79–2909
API Well Number: 47047766
Section of NGPA: 103
Operator: Energy Development Corporation
Well Name: EDC No. 11–McD–766
Field: Big Sandy
County: McDowell
Purchaser: Consolidated Gas Supply Corp.
Volume: 40 MMcf.

FERC Control Number: JD79–2910
API Well Number: 47047760
Section of NGPA: 103
Operator: Energy Development Corporation
Well Name: EDC No. 10 McD–760
Field: Big Sandy
County: McDowell
Purchaser: Consolidated Gas Supply Corp.
Volume: 100 MMcf.

FERC Control Number: JD79–2911
API Well Number: 47079208730000
Section of NGPA: 103
Operator: Appalachian Exploration & Devel., Inc.
Well Name: McLean Heirs A–3
Field: Union
County: Putnam
Purchaser: Cabot Corporation
Volume: 23.2 MMcf.

FERC Control Number: JD79–2912
API Well Number: 47079208690000
Section of NGPA: 103
Operator: Appalachian Exploration & Devel., Inc.
Well Name: Putnam Land B–6
Field: Union
County: Putnam
Purchaser: Cabot Corporation
Volume: 23.7 MMcf.

FERC Control Number: JD79–2913
API Well Number: 47079208610000
Section of NGPA: 103
Operator: Appalachian Exploration & Devel., Inc.
Well Name: McLean Heirs A–4
Field: Union
County: Putnam
Purchaser: Cabot Corporation
Volume: 14.1 MMcf.

FERC Control Number: JD79–2914
API Well Number: 470212977
Section of NGPA: 103
Operator: Waco Oil and Gas Co., Inc.
Well Name: Timma Mick #3
Field: Heaters Fork
County: Gilmer
Purchaser: Consolidated Gas Supply Corp.
Volume: 25 MMcf.

FERC Control Number: JD79–2915
API Well Number: 4710920797
Section of NGPA: 103
Operator: Spartan Gas Company
Well Name: Pocahontas Land Corp No. 2 2–S–187
Field: Barkers Ridge
County: Wyoming
Purchaser: Consolidated Gas Supply Corp.
Volume: 35 MMcf.

FERC Control Number: JD79–2916
API Well Number: 47067004680000
Section of NGPA: 103
Operator: Cities Service Company
Well Name: Flynn Coal & Lumber Co. #20
Field: Gauley
County: Nicholas
Purchaser: Equitable Gas Company
Volume: 49 MMcf.

FERC Control Number: JD79–2917
API Well Number: 47067204170000
Section of NGPA: 103
Operator: Appalachian Exploration & Devel., Inc.
Well Name: Secondo Dalporto #1
Field: Jefferson
County: Nicholas
Purchaser: Cabot Corporation
Volume: 129.8 MMcf.

FERC Control Number: JD79–2918
API Well Number: 47067204310000
Section of NGPA: 103
Operator: Appalachian Exploration & Devel., Inc.
Well Name: C & H Corporation B–15
Field: Jefferson
County: Nicholas
Purchaser: Cabot Corporation
Volume: 19.6 MMcf.

FERC Control Number: JD79–2919
API Well Number: 47079208670000
Section of NGPA: 103
Operator: Appalachian Exploration & Devel., Inc.
Well Name: Putnam Land B–4
Field: Union
County: Putnam
Purchaser: Cabot Corporation
Volume: 16.0 MMcf.

FERC Control Number: JD79–2920
API Well Number: 47079208680000
Section of NGPA: 103
Operator: Appalachian Exploration & Devel., Inc.
Well Name: Putnam Land B–5
Field: Union
County: Putnam
Purchaser: Cabot Corporation
Volume: 11.0 MMcf.

FERC Control Number: JD79–2921
API Well Number: 47015212690000
Section of NGPA: 103
Operator: Appalachian Exploration & Devel., Inc.
Well Name: J. C. Morton #2
Field: Pleasant
County: Clay
Purchaser: Cabot Corporation
Volume: 9.4 MMcf.

FERC Control Number: JD79–2921
API Well Number: 4710920807
Section of NGPA: 103
Operator: Spartan Gas Company
Well Name: Pocahontas Land Corp No. 6 6–S–194
Field: Barkers Ridge
County: Wyoming
Purchaser: Consolidated Supply Corp.
Volume: 30 MMcf.

FERC Control Number: JD79–2922
API Well Number: 4710920807
Section of NGPA: 103
Operator: Spartan Gas Company
Well Name: Pocahontas Land Corp. No. 6 6–S–194
Field: Barkers Ridge
County: Wyoming
Purchaser: Consolidated Supply Corp.
Volume: 30 MMcf.

FERC Control Number: JD79–2923
API Well Number: 47079208650000
Section of NGPA: 103
Operator: Appalachian Exploration & Devel., Inc.
Well Name: Putnam Land B–3
Field: Union
County: Putnam
Purchaser: Cabot Corporation
Volume: 11.0 MMcf.

FERC Control Number: JD79–2924
API Well Number: 47047753
Section of NGPA: 103
Operator: Energy Development Corporation
Well Name: EDC No. 6–McD 753
Field: Big Sandy
County: McDowell
Purchaser: Consolidated Gas Supply Corp.
Volume: 25 MMcf.

FERC Control Number: JD79–2925
API Well Number: 470670427
Section of NGPA: 103
Operator: Texas International Petroleum Corp.
Well Name: Hestle Schoolcraft No. 1 CC–18
Field: Grant
County: Nicholas
Purchaser: Equitable Gas Company
Volume: 91.250 MMcf.

FERC Control Number: JD79–2926
API Well Number: 47079208740000
Section of NGPA: 103
Operator: Appalachian Exploration & Devel., Inc.
Well Name: Putnam Land B–2
Field: Union
County: Putnam
Purchaser: Cabot Corporation
Volume: 15.5 MMcf.

FERC Control Number: JD79–2927
API Well Number: 470470733
Section of NGPA: 103
Operator: Texas International Pet. Corp.
Well Name: Pocahontas Land Corp. A–39
Field: North Fork
County: McDowell
Purchaser: Consolidated Gas Supply Corp.
Volume: 38.5 MMcf.

FERC Control Number: JD79–2928
API Well Number: 4710920802
Section of NGPA: 103
Operator: Spartan Gas Company
Well Name: Pocahontas Land Corp. No. 5 5–S–190
Field: Barkers Ridge
County: Wyoming
Purchaser: Consolidated Gas Corp.
Volume: 6 MMcf.

The applications for determination in these proceedings together with a copy or description of other materials in the record on which such determinations were made are available for inspection, except to the extent such material is treated as confidential under 18 CFR 275.206, at the Commission's Office of Public Information, Room 1000, 825 North Capitol Street, N.E., Washington, D.C. 20426.

Persons objecting to any of those final determinations may, in accordance with 18 CFR 275.203 and 18 CFR 275.204, file a protest with the Commission on or before May 24, 1979. Please reference the FERC Control Number in any correspondence concerning a determination.

Kenneth F. Plumb,
Secretary.
[FR Doc. 79–14470 Filed 5–8–79; 8:45 am]
BILLING CODE 6450–01–M

Determination by a Jurisdictional Agency Under the Natural Gas Policy Act of 1978

May 1, 1979.

On April 25, 1979, the Federal Energy Regulatory Commission received notices from the jurisdictional agencies listed below of determinations pursuant to 18 CFR 274.104 and applicable to the indicated wells pursuant to the Natural Gas Policy Act of 1978.

Ohio Department of Natural Resources

FERC Control Number: JD79–3814
API Well Number: 3415122363–14
Section of NCPA: 106
Operator: NUCORP Energy Company
Well Name: Weaver Well No. 1
Field: NA
County: Stark County
Purchaser: Columbia Gas Company
Volume: 11,416 MMcf.

FERC Control Number: JD79–3815
API Well Number: 3401921114**14
Section of NCPA: 103
Operator: L & M Exploration, Inc.
Well Name: Puskarich No. 3
Field: NA
County: Carroll
Purchaser: Bonanza Gas Line
Volume: 6000 MMcf.

FERC Control Number: JD79–3816
API Well Number: 3401921129**14
Section of NCPA: 103
Operator: L & M Exploration, Inc.
Well Name: Puskarich No. 2
Field: NA
County: Carroll
Purchaser: Bonanza Gas Line
Volume: 6000 MMcf.

FERC Control Number: JD79–3817
API Well Number: 3401921111**14
Section of NCPA: 103
Operator: L & M Exploration, Inc.
Well Name: Puskarich No. 1
Field: NA
County: Carroll
Purchaser: Bonanza Gas Line
Volume: 6000 MMcf.

FERC Control Number: JD79–3818
API Well Number: 3401921146**14
Section of NCPA: 103
Operator: L & M Exploration, Inc.
Well Name: Otte No. 3
Field: NA
County: Carroll
Purchaser: Bonanza Gas Line
Volume: 2000 MMcf.

FERC Control Number: JD79–3819
API Well Number: 3401921174**14
Section of NCPA: 103
Operator: L & M Exploration, Inc.
Well Name: McIntosh No. 2
Field: NA
County: Carroll
Purchaser: Bonanza Gas Line
Volume: 6000 MMcf.

FERC Control Number: JD79–3820
API Well Number: 3401921048**14
Section of NCPA: 103
Operator: L & M Exploration, Inc.
Well Name: Korns No. 2
Field: NA
County: Carroll
Purchaser: Bonanza Gas Line
Volume: 2700 MMcf.

FERC Control Number: JD79–3821
API Well Number: 3413321613**14
Section of NCPA: 103
Operator: Jud Noble and Associates, Inc.
Well Name: R. Lange No. 2
Field: NA
County: Portage
Purchaser: East Ohio Gas Company
Volume: 40 MMcf.

FERC Control Number: JD79–3822
API Well Number: 34075220000014
Section of NCPA: 103
Operator: Amtex Oil and Gas, Inc.
Well Name: Flint Stone Farms No. 3
Field: NA
County: Holmes
Purchaser: Columbia Gas Transmission Corp.
Volume: 25 MMcf.

FERC Control Number: JD79–3823
API Well Number: 3411924593**14
Section of NCPA: 103
Operator: Hopewell Oil and Gas Development Co.
Well Name: Swingle Heirs No. 1
Field: NA
County: Muskingum
Purchaser: National Gas and Oil Corp.
Volume: 8 MMcf.

FERC Control Number: JD79–3824
API Well Number: 3407522049**14
Section of NCPA: 103
Operator: Champion Petroleum Company
Well Name: 3 Grass baugh
Field: NA
County: Holmes
Purchaser: Columbia Gas Transmission Corp.
Volume: 18.25 MMcf.

FERC Control Number: JD79–3825
API Well Number: 3407522044**14
Section of NCPA: 103
Operator: Champion Petroleum Company
Well Name: 2 Mullen
Field: NA
County: Holmes
Purchaser: Columbia Gas Transmission Corp.
Volume: 18.25 MMcf.

FERC Control Number: JD79–3826
API Well Number: 3412122091**14
Section of NCPA: 107
Operator: Tiger Oil, Inc.
Well Name: Johnson Etals No. 1
Field: NA
County: Noble
Purchaser: NA
Volume: 2 MMcf.

FERC Control Number: JD79–3827
API Well Number: 3418923443**14
Section of NGPA: 103
Operator: American Exploration Co.
Well Name: Rine—Wheeler Unit No. 1
Field: NA
County: Licking
Purchaser: American Energy Services
Volume: 2400 MMcf.

FERC Control Number: JD79–3828
API Well Number: 3411521723**14
Section of NGPA: 103
Operator: Guernsey Petroleum Corporation
Well Name: Grassel-Pistor IME
Field: NA
County: Morgan
Purchaser: East Ohio Gas Co.
Volume: 10 MMcf.

FERC Control Number: JD79–3829
API Well Number: 3405922390**14
Section of NGPA: 103
Operator: Guernsey Petroleum Corporation
Well Name: Williams Morrow 1 ME
Field: NA
County: Guernsey
Purchaser: East Ohio Gas Co.
Volume: 5 MMcf.

FERC Control Number: JD79–3830
API Well Number: 3405922169**14
Section of NGPA: 103
Operator: Guernsey Petroleum Corporation
Well Name: Hinson No. 1–MD
Field: NA
County: Guernsey
Purchaser: Columbia Gas Transmission Co.
Volume: 9 MMcf.

FERC Control Number: JD79–3831
API Well Number: 3400523143**14
Section of NGPA: 103
Operator: Hortin & Huffman
Well Name: William L. Raubenolt No. 1
Field: NA
County: Ashland

Purchaser: Columbia Gas Transmission Corp.
Volume: 2 MMcf.

FERC Control Number: JD79–3832
API Well Number: 3400523152**14
Section of NGPA: 103
Operator: Hortin and Huffman
Well Name: Richard & Thelma Krebs No. 2
Field: NA
County: Ashland
Purchaser: Columbia Gas Transmission Corp.
Volume: 2 MMcf.

FERC Control Number: JD79–3833
API Well Number: 3405922347**14
Section of NGPA: 103
Operator: Edco Drilling & Producing, Inc.
Well Name: Clyde & Jean Roberts No. 1
Field: NA
County: Guernsey
Purchaser: The East Ohio Gas Company
Volume: 29 MMcf.

FERC Control Number: JD79–3834
API Well Number: 3403123360**14
Section of NGPA: 103
Operator: Dale Dugan
Well Name: Vaughn McGrady No. 1
Field: NA
County: Coshocton
Purchaser: National Gas applied for
Volume: 5 MMcf.

FERC Control Number: JD79–3835
API Well Number: 3405320240**14
Section of NGPA: 103
Operator: R. Gene Brasel also dba Brasel & Brasel
Well Name: R.O.J. Corporation B–1
Field: NA
County: Gallis
Purchaser: Columbia Gas Transmission Corporation
Volume: 3 MMcf.

FERC Control Number: JD79–3836
API Well Number: 3403123137**14
Section of NGPA: 103
Operator: Edco Drilling & Producing, Inc.
Well Name: 2–B Jones
Field: NA
County: Coshocton
Purchaser: NA
Volume: 18.25 MMcf.

FERC Control Number: JD79–3837
API Well Number: 3403123354**14
Section of NGPA: 103
Operator: Edco Drilling & Producing, Inc.
Well Name: 2 E Jones
Field: NA
County: Coshocton
Purchaser: National Gas & Oil
Volume: 18.25 MMcf.

FERC Control Number: JD79–3838
API Well Number: 3405922328**14
Section of NGPA: 103
Operator: Enterprise Gas & Oil, Inc.
Well Name: Bonnell No. 1
Field: NA
County: Guernsey
Purchaser: NA
Volume: 25.5 MMcf.

FERC Control Number: JD79–3839
API Well Number: 340592272**14
Section of NGPA: 103
Operator: Enterprise Gas & Oil, Inc.
Well Name: Dearth No. 1
Field: NA
County: Guernsey
Purchaser: NA
Volume: 14.6 MMcf.

FERC Control Number: JD79–3840
API Well Number: 3401921253**14
Section of NGPA: 103
Operator: Enterprise Gas and Oil, Inc.
Well Name: Gartrell No. 2–A
Field: NA
County: Carroll
Purchaser: NA
Volume: 25.5 MMcf.

FERC Control Number: JD79–3841
API Well Number: 3405922436**14
Section of NGPA: 103
Operator: Enterprise Gas & Oil, Inc.
Well Name: Yerian No. 2
Field: NA
County: Guernsey
Purchaser: NA
Volume: 36.5 MMcf.

FERC Control Number: JD79–3842
FERC Control Number: JD79–3842
API Well Number: 3405921652**14
Section of NGPA: 103
Operator: Enterprise Gas & Oil, Inc.
Well Name: C. Williams, et al. No. 1
Field: NA
County: Guernsey
Purchaser: NA
Volume: 18.2 MMcf.

FERC Control Number: JD79–3843
API Well Number: 3415521060**14
Section of NGPA: 103
Operator: Inland Drilling Co., Inc.
Well Name: Maitino No. 6
Field: NA
County: Trumbull
Purchaser: East Ohio Gas
Volume: 0.210 MMcf.

FERC Control Number: JD79–3844
API Well Number: 3415520740**14
Section of NGPA: 103
Operator: Inland Drilling Co., Inc.
Well Name: Hopkins No. 1
Field: NA
County: Trumbull
Purchaser: East Ohio Gas Co.
Volume: 0.266 MMcf.

FERC Control Number: JD79–3845
API Well Number: 3415122396**14
Section of NGPA: 108
Operator: Jerry Moore, Inc.
Well Name: W. J. Bucher & R. Lash No. 53334
Field: Brewster
County: Stark
Purchaser: East Ohio Gas Co.
Volume: 10 MMcf.

FERC Control Number: JD79–3846
API Well Number: 3415121111**14
Section of NGPA: 108
Operator: K-Vill Oil & Gas
Well Name: Clovis No. 1
Field: NA
County: Stark
Purchaser: East Ohio Gas Company
Volume: 11 MMcf.

FERC Control Number: JD79–3847
API Well Number: 3403122327**14
Section of NGPA: 108
Operator: Jerry Moore, Inc.
Well Name: G. H. Lorenz and Carl Parrillo No. 1
Field: Baltic
County: Coshocton
Purchaser: East Ohio Gas Company
Volume: .7 MMcf.

FERC Control Number: JD79–3848
API Well Number: 3411920906**14
Section of NGPA: 108
Operator: Quaker State Oil Refining Corp.
Well Name: Ren Lyons No. 1 6950–00
Field: NA
County: Muskingum
Purchaser: National Gas & Oil Corp.
Volume: 3.285 MMcf.

FERC Control Number: JD79–3849
API Well Number: 3415520932**14
Section of NGPA: 103
Operator: Inland Drilling Co., Inc.
Well Name: Miceli No. 1 No. 0932
Field: NA
County: Trumbull
Purchaser: NA
Volume: 6,684 MMcf.

FERC Control Number: JD79–3850
API Well Number: 3413321473**14
Section of NGPA: 103
Operator: Inland Drilling Co., Inc.
Well Name: Ferrara Ferrara No. 2 No. 1473
Field: NA
County: Portage
Purchaser: NA
Volume: 5,023 MMcf.

FERC Control Number: JD79–3851
API Well Number: 3413321306**14
Section of NGPA: 103
Operator: Inland Drilling Co., Inc.
Well Name: Enlow No. 1 No. 1306
Field: NA
County: Portage
Purchaser: No Contract
Volume: 17,376 MMcf.

FERC Control Number: JD79–3852
API Well Number: 3413321472**14
Section of NGPA: 103
Operator: Inland Drilling Co., Inc.
Well Name: Ferrara-Ferrara No. 1
Field: NA
County: Portage
Purchaser: No Contract
Volume: 5,023 MMcf.

FERC Control Number: JD79–3853
API Well Number: 3415520951**14
Section of NGPA: 103
Operator: Inland Drilling Co., Inc.
Well Name: Cover No. 2
Field: NA
County: Trumbull
Purchaser: No Contract
Volume: 6,684 MMcf.

FERC Control Number: JD79–3854
API Well Number: 3413321504**14
Section of NGPA: 103
Operator: Inland Drilling Co., Inc.
Well Name: Pochedly No. 2 No. 1504
Field: NA
County: Portage
Purchaser: No Contract
Volume: 5,023 MMcf.

FERC Control Number: JD79–3855
API Well Number: 3413321528**14
Section of NGPA: 103
Operator: Inland Drilling Co., Inc.
Well Name: Huzvar No. 1 No. 1528
Field: NA
County: Portage
Purchaser: No Contract
Volume: 5,023 MMcf.

FERC Control Number: JD79–3856
API Well Number: 3413321663**14
Section of NGPA: 103
Operator: Jud Noble and Associates, Inc.
Well Name: Ankrom No. 3
Field: NA
County: Portage
Purchaser: East Ohio Gas Company
Volume: 20 MMcf.

FERC Control Number: JD79–3857
API Well Number: 3413321713**14
Section of NGPA: 103
Operator: Jud Noble and Associates, Inc.
Well Name: Ankrom No. 2
Field: NA
County: Portage
Purchaser: East Ohio Gas Company
Volume: 20 MMcf.

FERC Control Number: JD79–3858
API Well Number: 3413321529**14
Section of NGPA: 103
Operator: Jud Noble and Associates, Inc.
Well Name: Ankrom No. 1
Field: NA
County: Portage
Purchaser: East Ohio Gas Company
Volume: 20 MMcf.

FERC Control Number: JD79–3859
API Well Number: 3407521940**14
Section of NGPA: 108
Operator: John C. Mason
Well Name: Daniel & Faye Levers 2
Field: NA
County: Holmes
Purchaser: Columbia Gas Transmission Corp.
Volume: 18 MMcf.

FERC Control Number: JD79–3860
API Well Number: 3410521508**14
Section of NGPA: 108
Operator: Adams Drilling Company
Well Name: Paul Sayre No. 1
Field: NA
County: Meigs
Purchaser: Columbia Gas Transmission Corp.
Volume: 5 MMcf.

FERC Control Number: JD79–3861
API Well Number: 3410521632**14
Section of NGPA: 108
Operator: Adams Drilling Company
Well Name: Goeglein Candy No. 1
Field: NA
County: Meigs
Purchaser: Columbia Gas Transmission Corp.
Volume: 6 MMcf.

The applications for determination in these proceedings together with a copy or description of other materials in the record on which such determinations were made are available for inspection, except to the extent such material is treated as confidential under 18 CFR 275.206, at the Commission's Office of Public Information, Room 1000, 825 North Capitol Street, N.E., Washington, D.C. 20426.

Persons objecting to any of those final determinations may, in accordance with 18 CFR 275.203 and 18 CFR 275.204, file a protest with the Commission or or before May 24, 1979. Please reference the FERC Control Number in any correspondence concerning a determination.

Kenneth F. Plumb,
Secretary.

[FR Doc. 79–14471 Filed 5–8–79; 8:45 am]

BILLING CODE 6450–01–M

Determination by a Jurisdictional Agency Under the Natural Gas Policy Act of 1978

May 1, 1979.

On April 25, 1979, the Federal Energy Regulatory Commission received notices from the jurisdictional agencies listed below of determinations pursuant to 18 CFR 274.104 and applicable to the indicated wells pursuant to the Natural Gas Policy Act of 1978.

Ohio Department of Natural Resources

FERC Control Number: JD79–3771
API Well Number: 3400921874**14
Section of NGPA: 103
Operator: Quaker State Oil Refining Corp.
Well Name: Poston #4
Field: NA
County: Athens
Purchaser: Columbia Gas Transmission Corp.
Volume: MMcf.

FERC Control Number: JD79–3772
API Well Number: 3407522010**14
Section of NGPA: 103
Operator: W. H. Patton Drilling Co.
Well Name: Robert & Cheryl Evans #1
Field: NA
County: Holmes
Purchaser: American Energy Service Inc.
Volume: 3,250,000 MMcf.

FERC Control Number: JD79–3773
API Well Number: 3407521959**14
Section of NGPA: 103
Operator: W. H. Patton Drilling Co.
Well Name: Harley Fisher #1
Field: NA
County: Holmes
Purchaser: American Energy Service Inc.
Volume: NA.

FERC Control Number: JD79–3774
API Well Number: 3407522052**14
Section of NGPA: 103
Operator: W. H. Patton Drilling Co.
Well Name: Jerry Strouse #1
Field: NA
County: Holmes
Purchaser: American Energy Service Inc.
Volume: 2,850,000 MMcf.

FERC Control Number: JD79–3775
API Well Number: 3407522098**14
Section of NGPA: 103
Operator: W. H. Patton Drilling Co.
Well Name: Robert Hall—Jerry Strouse #1
Field: NA
County: Holmes
Purchaser: American Energy Service Inc.
Volume: 1,875,000 MMcf.

FERC Control Number: JD79–3776
API Well Number: 3400523158**14
Section of NGPA: 103
Operator: L & M Exploration
Well Name: Kopp #1
Field: NA
County: Ashland
Purchaser: East Ohio Gas Company
Volume: 1500 MMcf.

FERC Control Number: JD79–3777
API Well Number: 3412122042**14
Section of NGPA: 103
Operator: O'Neal Productions, Inc.
Well Name: P. McVay #1
Field: NA
County: Noble
Purchaser: East Ohio Gas Company
Volume: 14 MMcf.

FERC Control Number: JD79–3778
API Well Number: 3407522046**14
Section of NGPA: 103
Operator: Champion Petroleum Company
Well Name: 6 Grassbaugh
Field: NA
County: Holmes
Purchaser: Columbia Gas Transmission
Volume: 18.25 MMcf.

FERC Control Number: JD79–3779
API Well Number: 3408322503**14
Section of NGPA: 103
Operator: Lew Bates, Jr.
Well Name: Taylor #1
Field: NA
County: Knox
Purchaser: Columbia Gas Transmission Corp.
Volume: 30 MMcf.

FERC Control Number: JD79–3780
API Well Number: 3411424220**14
Section of NGPA: 103
Operator: Bates Oil & Gas Inc.
Well Name: Lantz #1
Field: NA
County: Muskingum
Purchaser: Columbia Gas Transmission Corp.
Volume: 1,138 MMcf.

FERC Control Number: JD79–3781
API Well Number: 3401921059**14
Section of NGPA: 103
Operator: L & M Exploration, Inc.
Well Name: Shipley-Warburton #3
Field: NA
County: Carroll
Purchaser: Bonanza Gas Line
Volume: 9000 MMcf.

FERC Control Number: JD79–3782
API Well Number: 3401921073**14
Section of NGPA: 103
Operator: L & M Exploration, Inc.
Well Name: Shipley-Warburton #2
Field: NA
County: Carroll
Purchaser: Bonanza Gas Line
Volume: 9000 MMcf.

FERC Control Number: JD79–3783
API Well Number: 3401921117**14
Section of NGPA: 103
Operator: L & M Exploration, Inc.
Well Name: Carson #1
Field: NA
County: Carroll
Purchaser: Bonanza Gas Line
Volume: 18000 MMcf.

FERC Control Number: JD79–3784.
API Well Number: 3401921198**14.
Section of NGPA: 103.
Operator: L & M Exploration, Inc.
Well Name: Slutz #2.

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Field: NA.
County: Carroll.
Purchaser: Bonanza Gas Line.
Volume: 8000 MMcf.

FERC Control Number: JD79–3785.
API Well Number: 3401921063**14.
Section of NGPA: 103.
Operator: L & M Exploration, Inc.
Well Name: Snider #2.
Field: NA.
County: Carroll.
Purchaser: Bonanza Gas Line.
Volume: 15000 MMcf.

FERC Control Number: JD79–3786.
API Well Number: 3401921062**14.
Section of NGPA: 103.
Operator: L & M Exploration, Inc.
Well Name: Snider #3.
Field: NA.
County: Carroll.
Purchaser: Bonanza Gas Line.
Volume: 15000 MMcf.

FERC Control Number: JD79–3787.
API Well Number: 340192110**14.
Section of NGPA: 103.
Operator: L & M Exploration, Inc.
Well Name: Smith #1.
Field: NA.
County: Carroll.
Purchaser: Bonanza Gas Line.
Volume: 2500 MMcf.

FERC Control Number: JD78–3788.
API Well Number: 3401921032**14.
Section of NGPA: 103.
Operator: L & M Exploration, Inc..
Well Name: Scott #1.
Field: NA.
County: Carroll.
Purchaser: Bonanza Gas Line.
Volume: 4500 MMcf.

FERC Control Number: JD79–3789.
API Well Number: 3407322125**14.
Section of NGPA: 103.
Operator: Reliance Management Co.
Well Name: Harry Lanning #1.
Field: NA.
County: Hocking.
Purchaser: Columbia Gas Transmission Corp.
Volume: 10 MMcf.

FERC Control Number: JD79–3790.
API Well Number: 3415520279**14.
Section of NGPA: 103.
Operator: Inland Drilling Co., Inc.
Well Name: Hopkins #2 0279.
Field: NA.
County: Trumbull.
Purchaser: East Ohio Gas Co.
Volume: 0.266 MMcf.

FERC Control Number: JD79–3791.
API Well Number: 3413321316**14.
Section of NGPA: 103.
Operator: Inland Drilling Co.
Well Name: Lappin #1 #1316.
Field: NA.
County: Portage Co.
Purchaser: No Contract.
Volume: 5,023 MMcf.

FERC Control Number: JD79–3792.
API Well Number: 3400523136**14.
Section of NGPA: 103.
Operator: Hortin and Huffman.
Well Name: C. & M. Bender #1.
Field: NA.
County: Ashland.
Purchaser: Columbia Gas Transmission Corp.
Volume: 2 MMcf.

FERC Control Number: JD79–3793.
API Well Number: 340052314**141.
Section of NGPA: 103.
Operator: Hortin and Huffman.
Well Name: Robert W. & Colleen Stitzlein #1.
Field: NA.
County: Ashland.
Purchaser: Columbia Gas Transmission Corp.
Volume: 2 MMcf.

FERC Control Number: JD79–3794.
API Well Number: 3403122921**14.
Section of NGPA: 103.
Operator: General Electric Company Haddad and Brooks.
Well Name: General Electric #1.
Field: NA.
County: Coshocton.
Purchaser: Not yet determined.
Volume: 18 MMcf.

FERC Control Number: JD79–3795.
API Well Number: 3408322380**14.
Section of NGPA: 103.
Operator: Bates Oil and Gas, Inc.
Well Name: Hughes #1.
Field: NA.
County: Knox.
Purchaser: Columbia Gas Transmission Corp.
Volume: 200 MMcf.

FERC Control Number: JD79–3796.
API Well Number: 3408322512**14.
Section of NGPA: 103.
Operator: Lew Bates, Jr.
Well Name: Britton #1.
Field: NA.
County: Knox.
Purchaser: Columbia Gas Transmission Corp.
Volume: NA.

FERC Control Number: JD79–3797.
API Well Number: 3408322575**14.
Section of NGPA: 103.
Operator: Bates Oil & Gas, Inc.
Well Name: Dodrill #2.
Field: NA.
County: Knox.
Purchaser: Columbia Gas Transmission Corp.
Volume: NA.

FERC Control Number: JD79–3798.
API Well Number: 3408322462**14.
Section of NGPA: 103.
Operator: Bates Oil & Gas, Inc.
Well Name: Dodrill #1
Field: NA.
County: Knox.
Purchaser: Columbia Gas Transmission Corp.
Volume: 178 MMcf.

FERC Control Number: JD79–3799
API Well Number: 3408322411**14
Section of NGPA: 103
Operator: Lew Bates, Jr.
Well Name: Shannon #4
Field: NA
County: Knox
Purchaser: Columbia Gas Transmission Corp.
Volume: 21 MMcf.

FERC Control Number: JD79–3800
API Well Number: 3401921034**14
Section of NGPA: 103
Operator: L&M Exploration, Inc.
Well Name: Scott #2
Field: NA
County: Carroll
Purchaser: Bonanza Gas Line
Volume: 4500 MMcf.

FERC Control Number: JD79–3801
API Well Number: 3401921035**14
Section of NGPA: 103
Operator: L&M Exploration, Inc.
Well Name: Scott #3
Field: NA
County: Carroll
Purchaser: Bonanza Gas Line
Volume: 4500 MMcf.

FERC Control Number: JD79–3802
API Well Number: 3401921051**14
Section of NGPA: 103
Operator: L&M Exploration
Well Name: Korns #1
Field: NA
County: Carroll
Purchaser: Bonanza Gas Line
Volume: 2500 MMcf.

FERC Control Number: JD79–3803
API Well Number: 3401921075**14
Section of NGPA: 103
Operator: L&M Exploration, Inc.
Well Name: Carroll Recreation 5B
Field: NA
County: Carroll
Purchaser: Bonanza Gas Line
Volume: 7000 MMcf.

FERC Control Number: JD79–3804
API Well Number: 3401921225**14
Section of NGPA: 103
Operator: L&M Exploration
Well Name: Frace #4
Field: NA
County: Carroll
Purchaser: Bonanza Gas Line
Volume: 2000 MMcf.

FERC Control Number: JD79–3805
API Well Number: 3401921124**14
Section of NGPA: 103
Operator: L&M Exploration, Inc.
Well Name: Carson #4
Field: NA
County: Carroll
Purchaser: Bonanza Gas Line
Volume: 30000 MMcf.

FERC Control Number: JD79–3806
API Well Number: 3401921123**14
Section of NGPA: 103
Operator: L&M Exploration
Well Name: Carson #3
Field: NA
County: Carroll
Purchaser: Bonanza Gas Line
Volume: 20000 MMcf.

FERC Control Number: JD79–3807
API Well Number: 3401921060**14
Section of NGPA: 103
Operator: L&M Exploration, Inc.
Well Name: Shipley-Warburton #1
Field: NA
County: Carroll
Purchaser: Bonanza Gas Line
Volume: 9000 MMcf.

FERC Control Number: JD79–3808
API Well Number: 3413320500**14
Section of NGPA: 108
Operator: Jerry Moore, Inc.
Well Name: H. Finegan Unit #1
Field: Atwater
County: Portage
Purchaser: East Ohio Gas Company
Volume: 4.8 MMcf.

FERC Control Number: JD79–3809
API Well Number: 3413320727**14
Section of NGPA: 108
Operator: Jerry Moore, Inc.
Well Name: Andrew B. Englehart #1
Field: Atwater
County: Portage
Purchaser: East Ohio Gas Company
Volume: 11 MMcf.

FERC Control Number: JD79–3810
API Well Number: 3415721220**14
Section of NGPA: 108
Operator: Jerry Moore, Inc.
Well Name: F. H. Andreas Unit #1
Field: Strasburg
County: Tuscarawas
Purchaser: East Ohio Gas Company
Volume: 3.9 MMcf.

FERC Control Number: JD79–3811
API Well Number: 3415122381**14
Section of NGPA: 108
Operator: Jerry Moore, Inc.
Well Name: Jacob N. Wise #1–5293
Field: Mt. Eaton
County: Stark
Purchaser: East Ohio Gas Company
Volume: 2.7 MMcf.

FERC Control Number: JD79–3812
API Well Number: 340312233**14
Section of NGPA: 108
Operator: Jerry Moore, Inc.
Well Name: Glenn-Fisher-Smith Unit #1
Field: Baltic
County: Coshocton
Purchaser: East Ohio Gas Company
Volume: .8 MMcf.

FERC Control Number: JD79–3813
API Well Number: 34169021733**14
Section of NGPA: 108
Operator: NUCORP Energy Company
Well Name: Swartzentruber Well #2
Field: NA
County: Wayne
Purchaser: Columbia Gas Company
Volume: 6.771 MMcf.

The applications for determination in these proceedings together with a copy or description of other materials in the record on which such determinations were made are available for inspection, except to the extent such material is treated as confidential under 18 CFR 275.206, at the Commission's Office of Public Information, Room 1000, 825 North Capitol Street, NE., Washington, D.C. 20426.

Persons objecting to any of those final determinations may, in accordance with 18 CFR 275.203 and 18 CFR 275.204, file a protest with the Commission on or before May 24, 1979. Please reference the FERC Control Number in any correspondence concerning a determination.

Kenneth F. Plumb,
Secretary.
[FR Doc. 79-14472 Filed 5-8-79; 8:45 am]
BILLING CODE 6450-01-M

Determination by a Jurisdictional Agency Under the Natural Gas Policy Act of 1978

May 3, 1979.

On April 3, 1979, the Federal Energy Regulatory Commission received notice from the Industrial Commission of North Dakota of a determination pursuant to 18 CFR 274.104 and Section 103 of the Natural Gas Policy Act of 1978 applicable to:

FERC Control Number: JD79–5645
API Well Number: 33–053–00766
Operator: Prosper Energy Corporation
Well Name: 27–1 Sherven 6514
Field: Charlson Deep (Silurian)
County: McKenzie
Purchaser: N/A
Volume: 75* MMcf.

The application for determination in this matter together with a copy or description of other materials in the record on which such determination was made is available for inspection, except to the extent such material is treated as confidential under 18 CFR 275.206, at the Commission's Office of Public. Information, Room 1000, 825 North Capitol Street, N.E., Washington D.C. 20426.

Persons objecting to this final determination may, in accordance with 18 CFR 275.203 and 18 CFR 275.204, file a protest with the Commission within fifteen (15) days of the date of publication of this Notice. Please reference the FERC Control Number in any correspondence concerning a determination.

Kenneth F. Plumb,
Secretary.
[FR Doc. 79-14473 Filed 5-8-79; 8:45 am]
BILLING CODE 6450-01-M

Determination by a Jurisdictional Agency Under the Natural Gas Policy Act of 1978

May 3, 1979.

On April 27, 1979, the Federal Energy Regulatory Commission received notice from the U.S. Geological Survey of a determination pursuant to 18 CFR 274.104 and Section 103 of the Natural Gas Policy Act of 1978 applicable to:

FERC Control Number: JD79–5647
API Well Number: 30–039–21522
Operator: Consolidated Oil & Gas, Inc.
Well Name: Champlin #2–A
Field: Blanco Mesaverda
County: Rio Arriba
Purchaser: Northwest Pipeline Corporation
Volume: 109.50 MMcf.

The application for determination in this matter together with a copy or description of other materials in the record on which such determination was made is available for inspection, except to the extent such material is treated as confidential under 18 CFR 275.206, at the Commission's Office of Public Information, Room 1000, 825 North Capitol Street, N.E., Washington, D.C. 20426.

Persons objecting to this final determination may, in accordance with 18 CFR 275.203 and 18 CFR 275.204, file a protest with the Commission within fifteen (15) days of the date of publication of this Notice. Please reference the FERC Control Number in any correspondence concerning a determination.

Lois D. Cashell,
Acting Secretary.
[FR Doc. 79-14474 Filed 5-8-79; 8:45 am]
BILLING CODE 6450-01-M

ENVIRONMENTAL PROTECTION AGENCY

Asbestos in Buildings; Denial of Petition

AGENCY: Environmental Protection Agency.

ACTION: Denial of petition.

SUMMARY: On September 18, 1978, the Honorable Governor Brendan T. Byrne of New Jersey petitioned the Environmental Protection Agency to develop a regulation to control asbestos contamination of buildings under the Toxic Substances Control Act (TSCA) and the Clean Air Act (CAA). EPA denied the petition.

FOR FURTHER INFORMATION CONTACT: Larry E. Longanecker, Control Action Division (TS–794), Office of Toxic Substances, U.S. Environmental Protection Agency, 401 M Street, SW., Washington, D.C. 20460. Phone: (202) 755–1188.

SUPPLEMENTARY INFORMATION: Following is the text of a letter to Governor Byrne from EPA Administrator Douglas Costle dated February 2, 1979, stating EPA's reasons for denial.

'Thank you for your letter of September 18, 1978 in which you ask that the Environmental Protection Agency (EPA) develop an enforceable Federal regulation which will control asbestos contamination of buildings and structures throughout the country.'

"The public health issues raised in your letter have lately been the subject of considerable concern within the Federal government. Secretary Califano's announcement to which you refer is one manifestation of that concern. EPA's continuing investigation of asbestos is another. In addition to the Agency's ongoing activities with respect to air and water asbestos emissions, EPA has devoted

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substantial resources over the last six months to assessing the risk posed by asbestos sources that are currently unregulated. EPA's Office of Toxic Substances (OTS) is responsible for leading and coordinating this high priority effort. As part of its activities, OTS has contacted each of the fifty States to find out what is being done on the State level regarding the asbestos-sprayed material problem in schools and has engaged in continuing discussions with the experts in the field about the seriousness of the problem and ways to ameliorate it.

"We are not at this time taking the regulatory action you suggest under our current authority to require the control of asbestos contamination in buildings and structures throughout the country. However, we have been analyzing various regulatory approaches to solve the problem and will continue to do so. Your letter and a petition by the Environmental Defense Fund (EDF) provide useful input into this analysis. As you probably know, the EDF petitioned EPA on December 21, 1978, to control asbestos-sprayed materials in schools under the Toxic Substances Control Act (TSCA). Pursuant to section 21 of TSCA, I am required to respond to this petition. Your comments as well as those of other State Governors and officials with regard to this petition will be shortly requested by my staff. A copy of the petition is enclosed for your advance consideration.

"Although there is considerable general knowledge regarding the toxicity of asbestos, we do not now have sufficient specific knowledge of the exposures associated with asbestos-sprayed materials currently in buildings. Before regulating this asbestos problem under section 6 of TSCA, I must first find that there is a reasonable basis to conclude that the asbestos materials present or will present an unreasonable risk of injury to health or the environment. This standard requires EPA to conduct a thorough assessment of all the ramifications of the problem, including the risk presented, benefits of and substitutes for asbestos, and economic consequences of a rule including its impact on small businesses. At present we do not know enough about the numbers of buildings and persons affected, the levels of exposure, and the costs of abatement to make the statutory findings required by TSCA. Your September 12, 1978 letter acknowledges that 'dealing with the containment and removal of asbestos materials is extremely complex and costly.' The attendant regulatory problems also admit of no easy answers.

"Whether we decide to take regulatory action or not, EPA will initiate a technical assistance program to provide guidance to State and local officials to identify and abate problems from asbestos-sprayed materials in school buildings because we believe that this is the most effective way to address the problem immediately. EPA will disseminate a guidance package to the Governors, State asbestos program authorities, and school districts. It will also be available to anyone who requests it. The package will contain the manual prepared by the Office of Air Quality Planning and Standards (OAQPS) and a manual written for the laymen which OTS is now preparing. This second manual will supplement the information in the OAQPS document and clarify for the layman the problems concerning asbestos-sprayed materials and explain measures that can be taken to sample, analyze, and determine whether abatement is necessary and what abatement methods can be used. Regional EPA Toxic Substance Coordinators and Department of Health, Education and Welfare Regional personnel will be trained to provide guidance to the States. EPA will recommend quality assurance measures on asbestos samples. Voluntary reporting to EPA by the States will be encouraged so that EPA can maintain a data base on State asbestos programs.

"The purpose of this program will be twofold. By providing technical liaison and guidance, the Agency hopes to encourage States to institute their own programs to abate the asbestos problem in school buildings. New Jersey's program has already established a good model for us. In addtion, EPA hopes to obtain further information relating to such matters as exposure and economic impacts in order to assist the Agency in deciding whether or under what circumstances it should initiate a rulemaking proceeding. While I recognize that you may feel that a technical assistance program is inadequate to deal with the asbestos contamination problem, I feel that this program will achieve the most immediate reduction of public exposure to asbestos and is the best way of exhibiting an immediate Federal concern for local problems.

"While the technical program is designed to encourage States to make their own decisions whether and how to take abatement measures for asbestos-sprayed materials in school buildings, I intend to watch the implementation of State programs very closely. The cost of abatement and the availability of funds may prove to be the most significant factor affecting the success of State efforts and may be a key factor in determining whether EPA should pursue the alternative of requesting Congressional assistance. This alternative has not been ruled out for future consideration, although it is not actively being pursued at this time.

"As to your general question regarding indoor air quality, two years ago EPA's Office of Research and Development initiated a study of indoor air quality and factors affecting it. That study has now been completed and a final report is due to be published in the near future. I have asked that a copy be mailed to you. I will want to consider the results of that study in the course of deciding whether EPA should undertake any additional activity related to the quality of indoor air. As to regulatory action under section 112 of the Clean Air Act, we do not believe that provision authorizes control of indoor emissions of asbestos.

"I greatly appreciate your concerns regarding asbestos exposure and look forward to continued contact concerning this problem between EPA and New Jersey. If additional information is needed, please call Mr. Larry C. Dorsey, Control Action Division, Office of Toxic Substances, (202) 755-1188."

Dated: May 1, 1979.

Steven D. Jellinek,

Assistant Administrator for Toxic Substances.

[FRL 1220-3]

[FR Doc. 79-14527 Filed 5-8-79; 8:45 am]

BILLING CODE 6560-01-M

Issuance of Experimental Use Permits

The Environmental Protection Agency (EPA) has issued experimental use permits to the following applicants. Such permits are in accordance with, and subject to, the provisions of 40 CFR Part 172, which defines EPA procedures with respect to the use of pesticides for experimental purposes.

No. 8730-EUP-5. Herculite Products, Inc., New York, N.Y. 10010. This experimental use permit allows the use of 215.6 pounds of the insecticide n-tetradecyl formate on cotton to evaluate control of tobacco budworm and bollworm. A total of 1,960 acres is involved; the program is authorized only in the States of Arizona, California, and Mississippi. The experimental use permit is effective from April 3, 1979 to April 3, 1980. A temporary exemption from the requirement of a tolerance for residues of the active ingredient in or on cotton has been established. (PM-17, Room: E-229, Telephone: 202/426-9425)

No. 8730-EUP-8. Herculite Products, Inc., New York, N.Y. 10010. This experimental use permit allows the use of 133 pounds of the insecticide (*Z*)-11-hexadecenal with (*Z*)-9-tetradecenal on cotton to evaluate control of tobacco budworm and bollworm. A total of 2,010 acres is involved; the program is authorized only in the States of Arizona, California, and Mississippi. The experimental use permit is effective from April 3, 1979 to April 3, 1980. A temporary exemption from the requirement of a tolerance for residues of the active ingredients in or on cotton has been established. (PM-17, Room: E-229, Telephone: 202/426-9425).

No. 8730-EUP-9. Herculite Products, Inc., New York, N.Y. 10010. This experimental use permit allows the use of 22.9 pounds of the insecticide (*Z*)-9-tetradecen-1-ol formate on cotton to evaluate control of tobacco budworm and bollworm. A total of 260 acres is involved; the program is authorized only in the State of Arizona. The experimental use permit is effective from April 3, 1979 to April 3, 1980. A temporary exemption from the requirement of a tolerance for residues of the active ingredient in or on cotton has been established. (PM-17, Room: E-229, Telephone: 202/426-9425)

Interested parties wishing to review the experimental use permits are referred to the designated Product Manager (PM), Registration Division (TS-767), Office of Pesticide Programs, EPA, 401 M Street, S.W., Washington, D.C. 20460. The descriptive paragraph for each permit contains a telephone number and room number for information purposes. It is suggested that interested persons call before visiting the EPA Headquarters Office, so that the appropriate permits may be made conveniently available for review purposes. The files will be available for inspection from 8:30 a.m. to 4:00 p.m. Monday through Friday.

(Section 5 of the Federal Insecticide, Fungicide, and Rodenticide Act, as amended in 1972, 1975, and 1978 (92 Stat. 619; 7 U.S.C. 136).)

Dated: May 2, 1979.

Douglas D. Campt,

Director, Registration Division.

[FRL 1219-6; opp-50423]

[FR Doc. 79-14523 Filed 5-8-79; 8:45 am]

BILLING CODE 6560-01-M

Issuance of Experimental Use Permits

The Environmental Protection Agency (EPA) has issued experimental use permits to the following applicants. Such permits are in accordance with, and subject to, the provisions of 40 CFR Part 172, which defines EPA procedures with respect to the use of pesticides for experimental purposes.

No. 8340-EUP-1. American Hoechst Corporation, Somerville, New Jersey 08876. This experimental use permit allows the use of 9,300 pounds of the herbicide diclofop-methyl on wheat and barley to evaluate control of volunteer corn and annual grasses. A total of 9,300 acres is involved; the program is authorized only in the States of California, Colorado, Idaho, Minnesota, Montana, North Dakota, Oregon, South Dakota, Utah, Washington, and Wyoming. The experimental use permit is effective from April 10, 1979 to March 16, 1980. Temporary tolerances for residues of the active ingredient and its metabolites in or on barley grain and wheat grain have been established. (PM-23, Room: E-351, Telephone: 202/755-1397)

No. 8340-EUP-2. American Hoechst Corporation, Somerville, New Jersey 08876. This experimental use permit allows the use of 4,995 pounds of the herbicide diclofop-methyl on soybeans to evaluate control of volunteer corn and annual grasses. A total of 4,995 acres is involved; the program is authorized only in the States of Delaware, Illinois, Indiana, Iowa, Kentucky, Maryland, Michigan, Minnesota, Missouri, New Jersey, Ohio, Virginia, and Wisconsin. The experimental use permit is effective from April 10, 1979 to March 21, 1980. A temporary tolerance for residues of the active ingredient and its metabolites in or on soybeans (bean only) has been established. (PM-23, Room: E-351, Telephone: 202/755-1397)

No. 3125-EUP-160. Mobay Chemical Corporation, Kansas City, Missouri 64120. This experimental use permit allows the use of 10,000 pounds of the insecticide 1-methylethyl 2-[[ethoxy[(1-methylethyl)amino]phosphinothioyl]oxy] benzoate on turf areas of airport facilities to evaluate control of Japanese beetle larvae. A total of 5,000 acres is involved; the program is authorized only in the States of Kentucky and Pennsylvania. The experimental use permit is effective from March 23, 1979 to March 23, 1980. (PM-16, Room: E-229, Telephone: 202/755-9315)

Interested parties wishing to review the experimental use permits are referred to the designated Product Manager (PM), Registration Division (TS-767), Office of Pesticide Programs, EPA, 401 M Street, S.W., Washington, D.C. 20460. The descriptive paragraph for each permit contains a telephone number and room number for information purposes. It is suggested that interested persons call before visiting the EPA Headquarters Office, so that the appropriate permits may be made conveniently available for review purposes. The files will be available for inspection from 8:30 a.m. to 4:00 p.m. Monday through Friday.

(Section 5 of the Federal Insecticide, Fungicide, and Rodenticide Act, as amended in 1972, 1975, and 1978 (92 Stat. 819; 7 U.S.C. 136).)

Dated: May 2, 1979.

Douglas D. Campt,

Director, Registration Division.

[FRL 1219-5; OPP-50424]

[FR Doc. 79-14522 Filed 5-8-79; 8:45 am]

BILLING CODE 6560-01-M

Montana Departments of Agriculture and Livestock; Issuance of Specific Exemption To Use Compound 1080 To Control Columbia Ground Squirrels

On December 23, 1977, the Environmental Protection Agency (EPA) announced in the Federal Register (42 FR 64428) receipt of an application for a specific exemption from the Montana Departments of Agriculture and Livestock (hereafter referred to as the "Applicants") to use Compound 1080 (sodium monofluoroacetate) to control Columbian ground squirrel damage in 12 counties of western Montana; public comment on this application was also solicited.

Comments were received from three environmental groups, all opposed to the granting of the specific exemption. Their concerns and EPA's responses to them will be addressed below.

Background

The Applicants requested permission to use approximately 50,000 pounds of treated bait on irrigated and non-irrigated hay, small grain crops, and pasture and rangeland. The bait would be applied in twelve counties in areas of high infestation. EPA estimated that this quantity of bait could treat 121,000 acres with an assumed average infestation density of 30 burrows per acre.

Although EPA agreed that the Columbian ground squirrels were a problem in Montana, it was determined that the information submitted did not support an emergency exemption to use 1080. In order to gather more information before making a decision, EPA personnel made an inspection of the heavily infested areas, as requested by the Applicants. As result of their observations and subsequent meetings with the Applicants, livestock growers and crop producers, these EPA officials agreed that emergency criteria were met, and that with appropriate restrictions placed on the use of 1080, the risks to humans and the environment woul be sufficiently reduced inlight of the benefits to warrant an emergency exemption. The Applicants then amended their request and submitted a new one.

Proposed Plan

The amended request more clearly defines the areas to be treated in the same twelve counties. A total of 71,831 acres of grain and hay land would be treated at a dosage rate of 0.22 ounce bait per burrows on an assumed density of 30 burrow per acre. Compound 1080 would be incorporated into a dyed bait consisting of oat grouts or crimped oats. A total of 35,415 pounds of prepared bait (354 ounces of technical grade sodium monofluoroacetate) would be hand-placed using a calibrated dipper, under the supervision of a State-certified applicator. Each burrow would be treated once. The twelve counties involved in this program, located in western Montana, are: Broadwater, Flathead, Granite, Lake, Lewis and Clark, Lincoln, Mineral, Missoula, Powell, Ravalli, Sanders, and Silver Bow.

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Alternative Means of Control

The Applicants have evaluated other methods of control and have found them to be prohibitively expensive, ineffective, or otherwise unsatisfactory. These methods include: trapping, shooting, exclusion (fencing), flooding, repellents, land use modification, disease introduction, and fumigants. In a field study conducted by Montana, the use of strychnine achieved approximately 64% to 81% control of the Columbian ground squirrel. According to growers and livestock producers in Montana, this level is not sufficient to reduce the following year's squirrel population. The fact that 12,314 acres of land in nine of the twelve counties have already been abandoned because of extensive Columbian ground squirrel infestations suggests that currently available alternatives are neither economically feasible nor otherwise practical.

Economic Impact

Although hard data on yield reduction losses resulting from the use of 1080 are not available, based on total anticipated yield losses supplied by the Applicants, it was roughly estimated that this use might reduce losses by approximately $1.5 million in 1978. It was anticipated that most of the benefits resulting from the proposed use of 1080 would be realized in 1979 and 1980.

Hazard to the Environment

The Fish and Wildlife Service, U.S. Department of the Interior (USDI), has informed EPA that the use of 1080 to control the Columbian ground squirrel as prescribed in Montana's amended request is not likely to jeopardize the continued existence of the Northern Rocky Mountain wolf, Grizzly Bear, or Bald Eagle, all endangered species. Because only cropland and hay fields and the perimeter around these lands would be treated, it was determined that the normal habitat of the wolf and grizzly bear would not be exposed to 1080. USDI indicated that while secondary poisoning of the bald eagle is possible, it is highly unlikely. The bald eagles are provided an extra margin of safety by the fact that 1080 would not be applied during the winter when bald eagle populations are more likely to be concentrated.

It should be noted that EPA has issued a Rebuttable Presumption Against Registration of 1080 (41 FR 52792) for use as a rodenticide partly on the basis of hazard to non-target species. From studies done in California, it is anticipated that several deaths of coyotes, foxes, bobcats, skunks, and badgers would occur from the use of 1080. However, the overall impact on non-target species, considering the limited treatment area and the fact that only a single application will be made, should not be significant. It is anticipated that migration, reproduction, and increased survival of the young should soon return the population of affected non-target species to pretreatment levels.

Risks to Humans

1080 is highly toxic to humans and accidental ingestion of this substance has resulted in several human deaths in the past 30 years. There does not appear to be a readily available effective antidote for 1080 poisoning. However, Montana's application for use of 1080 contains several use restrictions designed to safeguard against human exposure. For example, the application provides that all applicators should be properly trained in the handling and use of 1080 baits, 1080 grain bait shall be used only under the on-site supervision of certified government pesticide applicators, all persons authorized to possess and use 1080 grain bait shall store such bait in locked containers, gloves shall be worn by all persons handling 1080 grain bait, as well as other safeguards. If other restrictions are added which require measures to avert exposure during bait preparation and proper storage of 1080 before it is mixed with the baits and if application of treated baits to areas frequented by small children is prohibited to avoid the possibility of endangering small children, then the possibility of human exposure should be negligible.

Comments by Environmental Groups

Three environmental groups commented on the proposed use of 1080, all opposed it. One group offered three reasons: (1) The economic losses vary "wildly" between the original and amended applications; (2) Recent evidence has shown that existing analytical techniques fail to detect sodium monofluoroacetate in tissue samples. Thus monitoring for non-target kills resulting from 1080 poisoning would be impossible by taking tissue samples; and (3) Lack of formal consultation with USDI regarding endangered species. EPA's response to these comments are: (1) The economic losses claimed in the original application were based on a 1973 survey and consisted largely of estimated losses. Additional data were required by EPA, and the final analysis was based on estimated 1977 crop losses. Taking into account inflation and increasing damage by the squirrels, this increase in losses is not unexpected; (2) Montana will monitor the program not by analyzing tissue of dead animals, but rather, through visual observation of the treated areas for animal carcasses. The proposed single application control program contains sufficient safeguards to insure that no significant lasting impact on populations of non-target species and no impact on populations of endangered species will result; and (3) EPA did request a formal consultation with USDI, and as indicated above, the USDI responded.

Another environmental group expressed concern about 1080's known persistence, lack of a suitable antidote, and the high risk of secondary poisoning which this rodenticide presents, and also stated that zinc phosphide and diphacinone were not evaluated as alternative rodenticides by the Applicants. As has already been noted, no human exposure and only insignificant impact on non-target species is anticipated from the use of 1080 during a limited period of one year if adequate precautions are taken. Furthermore, neither zinc phosphide nor diphacinone can be considered to be alternatives. There are also indications that zinc phosphide may not provide adequate control of some species of ground squirrel. In addition, diphacinone may be impractical to use over large areas, because it must be applied three times over a period of six days using either bait stations or spot treatments around individual mounds.

The third environmental organization pointed out discrepancies in the original application which made unclear whether Montana was expressing a need for 1080 use in certain areas. The State of Montana subsequently clarified the areas in which 1080 was felt to be needed.

The same environmental group also expressed concern about the potential for non-target kills, particularly hawks and badgers. Although not definitive, a study conducted by the Fish and Wildlife Service, USDI, in 1977, suggests that raptors including hawks would not be significantly at risk. It is anticipated that some badger deaths would occur. However, the impact on the local badger population would be small and temporary because the emergency exemption would permit only a single application of 1080 in a geographically restricted area.

After reviewing the application and other available information, EPA has determined (a) a Columbian ground squirrel outbreak has occured; (b) there is no pesticide presently registered for

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use in Montana which is economically feasible to use over large areas and which provides effective control of this pest; (c) significant economic problems may result if the Columbian ground squirrel is not controlled; and (d) the time available for action to mitigate the problems posed is insufficient for a pesticide to be registered for this use. Accordingly, the Applicants have been granted a specific exemption to use the pesticide noted above until August 1, 1979, to the extent and in the manner set forth in the application. This exemption was granted on August 1, 1978. However, this date was too late in the season to permit efficacious use of 1080. Therefore, the State of Montana has not yet used 1080 and will not do so until at least spring of 1979. The specific exemption is subject to the following restrictions in addition to the terms and conditions set forth in the application for use:

1. Up to 35,415 pounds (354 ounces of technical grade 1080) of the 0.05 percent bait prepared in accordance with the formula proposed in the application are authorized;

2. The "Treatment" paragraph which appears under the heading "Physicians Treatment" on the proposed label for 1080 grain bait formulation must be revised to read as follows:

Treatment.—The treatment for sodium monofluoroacetate poisoning is mainly symptomatic. Immediate emesis and gastric lavage followed by oral doses of magnesium sulfate are useful. Complete rest and quiet are indicated.

Barbiturates may be tried to control convulsions, but barbiturates alone are not of value as antidotes.

Monoacetin (glyceryl monoacetate) has been shown to be effective against sodium monofluoroacetate poisoning in monkeys. However, it is not licensed as a drug and is available only as a technical product. Other substances may also have some antidotal effect in laboratory animals. Whether any of these substances should be administered for treatment of sodium monofluoroacetate poisoning is left to the judgment of the local medical community.

Contact immediately, day or night, the closest poisoning treatment center (see list below) for further information.

Poisoning Treatment Centers

Name, Location, Telephone
(provide this information)

3. The "Statement of Practical Treatment" which appears on the proposed label for 1080 grain bait formulation must be revised to read as follows:

Statement of Practical Treatment

If Swallowed—Drink 1 or 2 glasses of water and induce vomiting by touching back of throat with finger.

Do not induce vomiting or give anything by mouth to an unconscious person. Contact a physician immediately.

Also, immediately contact, day or night, the closest poisoning treatment center. (See list of addresses and telephone numbers on left panel).

If on skin, immediately flush with plenty of water.

4. The "Disposal" section of the "Storage and Disposal" statement on the proposed label must be revised to read as follows:

Disposal

Disposal of container, toxic solution/baits, and poisoned animals in a landfill approved by the local health or environmental department.

5. Under this specific exemption, the Compound 1080 grain bait shall be used only to control the Columbian ground squirrel (*Spermophilus columbianus*) in the crop areas of the twelve counties mentioned above. The total acreage treated in each of the counties designated below must not exceed the following: Broadwater—3,816; Flathead—8,099; Granite—6,124; Lake—9,298; Lewis and Clark—6,717; Lincoln—2,592; Mineral—1,419; Missoula—5,511; Powell—22,458; Ravalli—787; Sanders—3,320; and Silver Bow—1,690;

6. The Compound 1080 grain bait is to be scattered around active burrow entrances, not piled or placed in holes, at a rate of no more than 0.22 ounce bait per active entrance, using a calibrated dipper. Each active burrow is to be treated no more than once;

7. Compound 1080 grain bait shall be used only under the on-site supervision of certified pesticide applicators trained by the Montana Department of Livestock and licensed by the Montana Department of Agriculture. Each applicator shall be trained in:

a. The biology and ecology of the Columbian ground squirrel;

b. Safe handling of the toxic grain baits;

c. Proper placement of the bait;

d. Consideration of environmental conditions before baiting is begun;

e. Necessary record keeping; and

f. Other competency standards;

8. Each State-certified pesticide applicator shall keep records dealing with the placement of Compound 1080 grain bait. Such records shall include, but not be limited to:

a. The approximate number of acres upon which bait is applied;

b. The amount of bait applied;

c. The date of each application;

d. All accidents or injuries to humans, domestic animals, or non-target species; and

e. The time and location of application, name of product, pest to be controlled, and the name of the applicator;

9. All persons authorized to possess and use Compound 1080 and grain bait treated with this toxicant shall keep such toxicant and treated bait in locked containers during storage and transport;

a. All preparation of baits must be done at a central formulation site; persons preparing the formulation from the dry concentrates must wear gloves and a respirator;

b. Equipment used to handle and mix 1080 must be identified and used only for this purpose; and

c. All containers of 1080 or 1080-treated baits must be clearly labeled. Baits must not take the form of any food normally consumed by humans;

10. All bait removed from locked containers for use shall be carried only in zippered canvas pouches marked in red letters "Poison Grain." The bag shall remain closed at all times except when bait is actually being applied;

11. Gloves shall be ersons handling Compound 1080 grain bait;

12. Persons applying the bait shall wash their hands before eating or smoking. Washing facilities shall be made readily available by the supervising State-certified pesticide applicator;

13. Compound 1080 grain bait shall be applied only during seasons when Columbian ground squirrels are accepting grain, and the majority of the population is active above ground. These seasons shall be determined locally by the State-certified pesticide applicator in consultation with the Department of Livestock vertebrate pest control biologists, but in no case shall Compound 1080 be applied during the winter months;

14. Compound 1080 grain bait shall not be used in situations where threatened and endangered species, bald eagle, grizzly bear, and Northern Rocky Mountain Wolf, may be adversely affected. Compound 1080 grain is not to be applied in prairie dog towns or in areas where the black-footed ferret has been sighted;

15. Compound 1080 bait is not to be applied to areas frequented by small children;

16. Field studies should be initiated to determine the effectiveness of

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strychnine and zinc phosphide when used as green or fresh forage bait, e.g. cabbage leaves, versus grain bait. These studies should also include comparative efficacy tests with gas cartridges, Compound 1080 grain baits, and zinc phosphide grain baits:

17. A final report on the results of this program and the efficacy tests mentioned in item 16 shall be submitted to the EPA by December 31, 1979. This report should contain, but is not limited to the following information:

a. Total number of baits applied;

b. Estimated number of burrows treated per acre in each county;

c. On representative farms, crop yields, which have been taken both the year before treatment with 1080 is begun, and after;

d. An approximation of the time necessary to treat with Compound 1080 grain bait, strychnine baits, and gas cartridges;

e. As accurately as possible, a cost estimate of the control program completed under this specific exemption and the economic benefits derived from it; and

f. To what extent abandoned fields treated with Compound 1080 were restored to their former production capability and in terms of profit, the economic benefits which were realized from the use of 1080 in these fields.

Because EPA is in the final stages of deciding whether the registration of products containing 1080 will continue or be cancelled for all or some uses, the above information could aid in evaluating the benefits of 1080 and may be requested earlier than December 31, 1979, the date upon which the final report on this specific exemption is due;

18. The Applicants are responsible for insuring that all of the provisions of this specific exemption are adhered to;

19. The EPA shall be immediately informed of any adverse effects resulting from the use of Compound 1080 under this specific exemption;

20. All animal carcasses found above ground must be buried or burned; and

21. Compound 1080 shall not be used on any Federal lands.

Authority.—Section 18 of the Federal Insecticide, Fungicide, and Rodenticide Act (FIFRA), as amended in 1972, 1975 and 1978 (92 Stat. 818; 7 U.S.C. 136).

Dated: April 2, 1979.

Edwin L. Johnson,
Deputy Assistant Administrator for Pesticide Programs.

[FRL 1219-8; OPP-180068A]
[FR Doc. 79-14528 Filed 5-8-79; 8:45 am]
BILLING CODE 6560-01-M

Pesticide Programs; Withdrawal of Pesticide Petition

On September 23, 1974, the Environmental Protection Agency (EPA) gave notice (39 FR 34097) that Ciba-Geigy Corp., Box 11422, Greensboro, NC 27409, had filed a petition (PP 5F1539). This petition proposed establishment of tolerance limitations for residues of the herbicide procyazine 2-[[4-chloro-6-(cyclopropylamino)-1,3,5-triazin-2-yl] amino]-2-methylpropanenitrile) and its hydroxy metabolites, *N*-[4-(cycloproylamino)-6-hydroxy-1,3,5-triazin-2-yl]-2-methylalanine, *N*-[4-amino-6-hydroxy-1,3,5-triazin-2-yl)-2-methylalanine, and *N*-(4,6-dihydroxy-1,3,5-triazin-2-yl)-2-methylalanine (calculated as procyazine) in or on the raw agricultural commodities corn fodder and forage at 2 parts per million (ppm); fresh corn including sweet corn (kernels plus cob with husk removed), and corn grain at 0.2 ppm (negligible residue); and eggs, milk, and the meat, fat, and meat byproducts of cattle, goats, hogs, horses, poultry, and sheep at 0.02 ppm (negligible residue).

Ciba-Geigy Corp. has withdrawn this petition without prejudice to future filing in accordance with the regulations (40 CFR 180.8) pertaining to section 408 of the Federal Food, Drug, and Cosmetic Act (21 USC 346a(d)).

Dated: May 3, 1979.

Douglas D. Campt,
Director, Registration Division.

[FRL 1221-2; PW-17]
[FR Doc. 79-14532 Filed 5-8-79; 8:45 am]
BILLING CODE 6560-01-M

Pesticide Programs; Filing of Pesticide/Flood Additive Petitions

Pursuant to sections 408(d)(1) and 409(b)(5) of the Federal Food, Drug, and Cosmetic Act, the Environmental Protection Agency (EPA) gives notice that the following petitions have been submitted to the Agency for consideration.

PP 9F2191. Shell Chemical Co., 1025 Connecticut Ave., NW., Suite 200, Washington, DC 20036. Proposes that 40 CFR 180.362 be amended by establishing tolerance limitations for the combined residues of the insecticide hexakis (2-methyl-2-phenylpropyl) distannoxane and its organotin metabolites calculated as hexakis (2-methyl-2-phenylpropyl) distannoxane in or on the following raw agricultural commodities:

Commodity	Part(s) per million
Milk	0.1
Eggs, meat, liver and kidney of poultry	0.1
Almonds	0.5
Fat, meat and meat byproducts (excluding liver and kidney) of cattle	0.5
Grapes	5.0
Almond hulls	80.0

The proposed analytical method for determining residues is by thin layer chromatography.

FAP 9H5214. Shell Chemical Co. Proposes that 21 CFR 561.255 be amended by establishing a regulation permitting residues of the above insecticide on the commodities raisin waste at 20.0 ppm and dried grape pomace at 100.0 ppm.

Interested persons are invited to submit written comments on these petitions to the Federal Register Section, Program Support Division (TS-757), Office of Pesticide Programs, EPA, Rm. 401, East Tower, 401 M St., SW., Washington, DC 20460. Inquiries concerning these petitions may be directed to Product Manager (PM) 12, Registration Division (TS-767), Office of Pesticide Programs, at the above address, or by telephone at 202/426-9425. Written comments should bear a notation indicating the petition number to which the comments pertain. Comments may be made at any time while a petition is pending before the Agency. All written comments filed pursuant to this notice will be available for public inspection in the Office of the Federal Register Section from 8:30 a.m. to 4 p.m. Monday through Friday.

Dated: May 3, 1979.

Douglas D. Campt,
Director, Registration Division.

[FRL 1221-1; PF-129]
[FR Doc. 79-14530 Filed 5-8-79; 8:45 am]
BILLING CODE 6560-01-M

Pesticide Programs; Renewal of Temporary Tolerances; Methyl 2-[4-(2,4-dichlorophenoxy) phenoxy] propanoate

On July 10, 1978, the Environmental Protection Agency (EPA) announced (43 FR 29620) the renewal of temporary tolerances for combined residues of the herbicide methyl 2-[4-(2,4-dichlorophenoxy)phenoxy]propanoate and its metabolites 2-[4-(2',4'-dichlorophenoxy)phenoxy]propionic acid and 2-[4-(2',4'-dichloro-5'-hydroxyphenoxy)phenoxy]propionic acid (all calculated as the parent compound) in or on the raw agricultural commodities barley grain and wheat grain at 0.1 part per million (ppm). These tolerances were established (41 FR 4636) in response to a pesticide petition (PP 6G1664) submitted by American Hoechst Corp., Agricultural Chemicals Dept., Route 202-206, North Somerville, NJ 08876. This renewal expired March 16, 1979.

American Hoechst Corp. requested a one-year renewal of these temporary tolerances both to permit continued testing to obtain additional data and to permit the marketing of the above raw agricultural commodities when treated in accordance with the provisions of the experimental use permit 83210-EUP-1 that has been renewed under the Federal Insecticide, Fungicide, and Rodenticide Act (FIFRA), as amended in 1972, 1975, and 1978 (92 Stat. 819; 7 U.S.C. 136).

The scientific data reported and all other relevant material were evaluated, and it was determined that a renewal of the temporary tolerances would protect the public health. Therefore, the temporary tolerances have been renewed on condition that the pesticide is used in accordance with the experimental use permit with the following provisions:

1. The total amount of the pesticide to be used must not exceed the quantity authorized by the experimental use permit.

2. American Hoechst Corp. must immediately notify the EPA of any findings from the experimental use that have a bearing on safety. The firm must also keep records of production, distribution, and performance and on requests make the records available to any authorized officer or employee of the EPA or the Food and Drug Administration.

These temporary tolerances expire March 16, 1980. Residues not in excess of 0.1 ppm remaining in or on barley grain and wheat grain after this expiration date will not be considered actionable if the pesticide is legally applied during the term of and in accordance with the provisions of the experimental use permit and temporary tolerances. These temporary tolerances may be revoked if the experimental use permit is revoked or if any scientific data or experience with this pesticide indicate such revocation is necessary to protect the public health. Inquiries concerning this notice may be directed to Ms. Willa Garner, Product Manager 23, Registration Division (TS-767), Office of Pesticide Programs, 401 M Street, SW., Washington, D.C. 20460 (202/755-1397).

Authority: Section 408(j) of the Federal Food, Drug, and Cosmetic Act [21 U.S.C. 346a(j)].

Dated: May 3, 1979.

Douglas D. Campt,
Director, Registration Division.

[FRL 1221-2; PP6G1664/T203]
[FR Doc. 79-14530 Filed 5-8-79; 8:45 am]
BILLING CODE 6560-01-M

Pesticide Programs; Approval of Application to Conditionally Register Pesticide Product Containing New Active Ingredient

On March 10, 1976, notice was given (43 FR 9856) that ICI Americas Inc., Concord Pike & New Murphy Road, Wilmington, DE 19897, has filed an application (EPA File Symbol No. 10182-RI) with the Environmental Protection Agency (EPA) to register the pesticide product AMBUSH INSECTICIDE containing 25.5% of the active ingredient permethrin (3-phenoxyphenyl) methyl (±)-cis, trans-3-(2,2-dichloroethenyl)-2,2-dimethylcyclopropanecarboxylate) which was not previously registered at the time of submission. Notice of registration is given in accordance with 40 CFR 162.7(d)(2).

This application was approved April 11, 1979, and the product has been assigned the EPA Registration No. 10182-18. AMBUSH INSECTICIDE is classified for restricted use in cotton. A copy of the approved label and list of data references used to support registration are available for public inspection in the office of the Federal Register Section, Program Support Division (TS-757), Office of Pesticide Programs, Rm. 401 East Tower, 401 M St., SW, Washington, DC 20460. The data and other scientific information used to support registration, except for the material specifically protected by Section 10 of the Federal Insecticide, Fungicide, and Rodenticide Act (FIFRA) as amended in 1972, 1975, and 1978 (92 Stat. 819; 7 U.S.C. 136) will be available for public inspection in accordance with Section 3(c)(2) of FIFRA, within 30 days after the registration date of April 11, 1979. Requests for data must be made in accordance with the provisions of the Freedom of Information Act and must be addressed to the Freedom of Information Office (A-101), EPA, 401 M St., SW, Washington DC 20460. Such requests should: 1) identify the product by name and registration number and 2) specify the data or information desired.

Dated: May 3, 1979.

Edwin L. Johnson,
Deputy Assistant Administrator for Pesticide Programs.

[FRL 1219-7; OPP-C30143A]
[FR Doc. 79-14524 Filed 5-8-79; 8:45 am]
BILLING CODE 6560-01-M

Science Advisory Board; Environmental Measurements Committee; Open Meeting

As required by Pub. L. 92-463, notice is hereby given that a meeting of the Environmental Measurements Advisory Committee of the Science Advisory Board will be held beginning at 1:00 p.m., May 29, Room 5051, HEW North Building, 330 Independence Ave., S.W., Washington, D.C., beginning at 9:00 a.m. May 30 in Room 1101, Waterside Mall, 401 M St., S.W., Washington, D.C.

This is the first meeting of the Environmental Measurements Committee this year. The agenda includes an overview of Agency organization and function for the new appointed members and a discussion of future issues for the possible consideration of the committee. The principal agenda topic will be a review and discussion of current agency information policy.

The meeting is open to the public. Any member of the public wishing to attend, participate, or obtain information should contact Dr. Douglas Seba, Executive Secretary or Ms. Sarah Mills, Staff Assistant, Environmental Measurements Committee (703) 557-7720 by May 22, 1979.

Dated: May 2, 1979.

Richard M. Dowd,
Staff Director, Science Advisory Board.

[FRL 1220-4]
[FR Doc. 79-14521 Filed 5-8-79; 8:45 am]
BILLING CODE 6560-01-M

FEDERAL MARITIME COMMISSION

Transportation Maritime Mexicana, S.A. and Nopal; Agreement Filed

Notice is hereby given that the following agreement has been filed with the Commission for approval pursuant to Section 15 of the Shipping Act, 1916, as amended (39 Stat. 733, 75 Stat. 763, 46 U.S.C. 814).

Interested parties may inspect and obtain a copy of the agreement at the Washington office the Federal Maritime Commission, 1100 L Street NW., Room 10126; or may inspect the agreement at the field Offices located at New York, N.Y., New Orleans, Louisiana, San Francisco, California, and San Juan, Puerto Rico. Comments on such agreements, including requests for hearing, may be submitted to the Secretary, Federal Maritime Commission, Washington, D.C. 20573, on or before May 21, 1979. Any person desiring a hearing on the proposed agreement shall provide a clear and concise statement of the matters upon

which they desire to adduce evidence. An allegation of discrimination or unfairness shall be accompanied by a statement describing the discrimination or unfairness with particularity. If a violation of the Act or detriment to the Commerce of the United States is alleged, the statement shall set forth with particularity the acts and circumstances said to constitute such violation or detriment to commerce.

A copy of any such statement should also be forwarded to the party filing the agreement (as indicated hereinafter) and the statement should indicate that this has been done.

Agreement Number 10370.

Filing Party: Stanley O. Sher, Esquire, Billig, Sher & Jones, P.C. 2033 K Street NW., Washington, D.C. 20006

SUMMARY: Agreement No. 10370, between Transportacion Maritima Mexicana, S.A. (TMM) and Nopal, a division of Oivind Lorentzen Ltd., is a cooperative working arrangement whereby Nopal agrees to nominate TMM as its managing agent for Nopal's East Coast of South America/United States Gulf services. It is further agreed that TMM shall place suitable tonnage at Nopal's disposal, Nopal as the common carrier to issue its own bill of lading, with a sailing frequency which will enable Nopal to fulfill its pool shares and minimum sailing requirements in any pools to which Nopal is or may become a party, existing in the trade. TMM shall pay all expenses related to the carriage of Nopal's cargoes and will receive in compensation 97.5 percent of the related gross freight revenue on pool cargoes and 98.5 percent on non-pool cargoes. All over-carrying penalties or undercarrying compensations under the applicable pool agreements are to be for TMM's account during the life of this agreement, which is through December 31, 1980.

The agreement also provides that TMM shall nominate Oivind Lorentzen, Inc. as general agent in the United States for the service described above, as well as for TMM's own, separate services in the United States Gulf/East Coast of South America trade.

By Order of the Federal Maritime Commission.

Dated: May 4, 1979.

Francis C. Hurney,
Secretary.

FEDERAL TRADE COMMISSION

16 CFR Part 803

Early Termination of Waiting Period of the Premerger Notification Rules

AGENCY: Federal Trade Commission.

ACTION: Granting of request for early termination of the waiting period of the premerger notification rules.

SUMMARY: Dalgety Foods, Inc. is granted early termination of the waiting period provided by law and the premerger notification rules with respect to its proposed acquisition of Cedergreen Foods Corp. The grant was made by the Federal Trade Commission and the Assistant Attorney General in charge of the Antitrust Division of the Department of Justice in reponse to a request for early termination submitted by Dalgety Foods, Inc. Neither agency intends to take any action with respect to this acquisition during the waiting period.

EFFECTIVE DATE: April 27, 1979.

FOR FURTHER INFORMATION CONTACT: Malcolm R. Pfunder, Assistant Director for Evaluation, Bureau of Competition, Room 394, Federal Trade Commission, Washington, D.C. 20580, (202–523–3404).

SUPPLEMENTARY INFORMATION: Section 7A of the Clayton Act, 15 U.S.C. 18a, as added by sections 201 and 202 of the Hart-Scott-Rodino Antitrust Improvements Act of 1976, requires persons contemplating certain mergers or acquisitions to give the Commission and Assistant Attorney General advance notice and to wait designated periods before consummation of such plans. Section 7A(b)(2) of the Act and § 803.11 of the rules implementing the Act permit the agencies, in individual cases, to terminate this waiting period prior to its expiration and to publish notice of this action in the Federal Register.

By direction of the Commission.

Carol M. Thomas,
Secretary.

[FR Doc. 79–14498 Filed 5–8–79; 8:45 am]

BILLING CODE 6750–01–M

DEPARTMENT OF HEALTH, EDUCATION, AND WELFARE

Health Care Financing Administration

National Professional Standards Review Council; Meeting

In accordance with section 10(a)(2) of the Federal Advisory Committee Act (Public Law 92–463), announcement is made of the following Council meeting:

Names: National Professional Standards Review Council.

Date and Time: May 21, 1979 (10:00 a.m. to 5:00 p.m.), May 22, 1979 (9:00 a.m. to 1:00 p.m.).

Place: Auditorium (first floor), HEW North Building, 330 Independence Avenue, S.W., Washington, D.C.

Purpose of Meeting: The Council was established to advise the Secretary of Health, Education, and Welfare on the administration of Professional Standards Review (Title XI, Part B, Social Security Act). Professional Standards Review is the procedure to assure that the services for which payment may be made under the Social Security Act are medically necessary and conform to appropriate professional standards for the provision of quality health care. The Council's agenda will include discussion of a variety of issues relevant to the implementation of the PSRO program. On May 11, 1979 a tentative agenda will be available to the public.

Meeting of the Council is open to the public. Public attendance is limited to space available.

Any member of the public may file a written statement with the Council before, during, or after the meeting. To the extent that time permits, the Council Chairman will allow public presentation of oral statements at the meeting.

All communications regarding this Council should be addressed to Margaret Van Amringe, Staff Director, National Professional Standards Review Council, Health Standards and Quality Bureau, Room 5127–S, Switzer Building, 330 "C" Street, Washington, D.C. 20201, (202) 472–5536.

Dated: May 3, 1979.

Margaret VanAmringe,
Staff Director, National Professional Standards Review Council.

[FR Doc. 79–14371 Filed 5–8–79; 8:45 am]

BILLING CODE 4110–35–M

National Institutes of Health

Meeting of Lipid Metabolism Advisory Committee

Pursuant to Pub. L. 92–463, notice is hereby given of the meeting of the Lipid Metabolism Advisory Committee, National Heart, Lung, and Blood Institute, May 21, 1979, Federal Building, Conference Room B119, National Institutes of Health, Bethesda, Maryland.

This meeting will be open to the public on May 21 from 8:30 a.m. to 12:00 noon to discuss the Lipid Metabolism Branch Program Review. Attendance by the public will be limited to space available.

In accordance with the provisions set forth in sections 552b(c)(4) and 552b(c)(6), Title 5, U.S. Code and section 10(d) of Pub. L. 92–463, the meeting will closed to the public on May 21 from 1:00 p.m. to adjournment for the review, discussion and evaluation of individual contract projects and programs. These projects and the discussions could reveal confidential trade secrets or commerical property such as patentable material, and personal information concerning individuals associated with the projects, disclosure of which would constitute a clearly unwarranted invasion of personal privacy.

Mr. York Onnen, Chief, Public Inquiries and Reports Branch, NHLBI, National Institutes of Health, Building 31, Room 5A03, Bethesda, Maryland 20205, (301) 496–4236, will provide summaries of the meeting and roster of the committee members. Dr. Basil M. Rifkind, Chief, Lipid Metabolism Branch, NHLBI, Federal Building, Room 401, (301) 496–1681, will furnish substantive program information.

(Catalog of Federal Domestic Assistance Program No. 13.837, National Institutes of Health)

Dated: April 30, 1979.

Suzanne L. Fremeau,
Committee Management Officer, National Institutes of Health.

[FR Doc. 79–14383 Filed 5–8–79; 8:45 am]

BILLING CODE 4110–08–M

Meetings for the Review of Contract Proposals and Grant Applications

Pursuant to Pub. L. 92–463, notice is hereby given of the meetings of committees advisory to the National Cancer Institute. These meetings will be open to the public to discuss administrative details or other issues relating to committee business as indicated in the notice. Attendance by the public will be limited to space available.

These meetings will be closed to the public as indicated below in accordance with the provisions set forth in sections 552b(c)(4) and 552b(c)(6), Title 5, U.S. Code and section 10(d) of Pub. L. 92–463, for the review, discussion and evaluation of individual contract proposals and grant applications, as indicated. These proposals and applications and the discussions could reveal confidential trade secrets or commercial property such as patentable material, and personal information concerning individuals associated with the proposals and applications, the disclosure of which would constitute a clearly unwarranted invasion of personal privacy.

Mrs. Marjorie F. Early, Committee Management Officer, NCI, Building 31, Room 4B43, National Institutes of Health, Bethesda, Maryland 20205 (301/496–5708) will furnish summaries of the meetings and rosters of committee members, upon request. Other information pertaining to the meeting can be obtained from the Executive Secretary indicated. Meetings will be held at the National Institutes of Health, 9000 Rockville Pike, Bethesda, Maryland 20205, unless otherwise stated.

Name of committee: Bladder and Prostatic Cancer Review Committee (Prostatic Subcommittee).
Dates: June 1, 1979.
Place: Roswell Park Research Study Center, 666 Elm Street, Buffalo, New York.
Times: Open: June 1, 8:30 a.m.—9:00 a.m.
Closed: June 1, 9:00 a.m.—adjournment.
Closure reason: To review research grant applications.
Executive Secretary: Dr. Andrew Chiarodo. Address: Westwood Building Room 853, National Institutes of Health. Phone: 301/496–7194.

(Catalog of Federal Domestic Assistance Number 13.393; 13.394; 13.395 National Institutes of Health)

Name of committee: Bladder and Prostatic Cancer Review Committee (Bladder Subcommittee).
Dates: June 7–8, 1979.
Place: Royal Court Inn, 1750 South Elmhurst Road, Des Plaines, Illinois 60618.
Times: Open: June 7, 8:30 a.m.—10:30 a.m.
Closed: June 7, 10:30 a.m.—5:00 p.m.
Closed: June 8, 8:30 a.m.—adjournment.
Closure reason: To review research grant applications.
Executive Secretary: Dr. William Straile. Address: Westwood Building Room 853, National Institutes of Health. Phone: 301/496–7194.

(Catalog of Federal Domestic Assistance Number 13.393, 13.394, 13.395 National Institutes of Health)

Name of committee: Large Bowel and Pancreatic Cancer Review Committee (Large Bowel Subcommittee).
Dates: June 7–8, 1979.
Place: Prudential Building 1100 Holcolm Building, Houston, Texas.
Times: Open: June 7, 7:30 p.m.—8:00 p.m.
Closed: June 7, 8:00 p.m.—adjournment.
Closed: June 8, 8:30 a.m.—adjournment
Closure reason: To review research grant applications.
Executive secretary: Dr. Andrew Chiarodo. Address:Westwood Building Room 853, National Institutes of Health. Phone: 301/496–7194.

(Catalog of Federal Domestic Assistance Number 13.393; 13.394, 13.395 National Institutes of Health)

Name of committee: Cancer Control Intervention Programs Review Committee
Dates: June 14–15, 1979.
Place: Landow Building, Conference Room A, 7910 Woodmont Avenue Bethesda, Maryland, 20014.
Times: Open: June 14, 8:30 a.m.—9:00 a.m.
Closed: June 14, 9:00 a.m.—5:00 p.m.
Closed: June 15, 8:30 a.m.—adjournment
Closure reason: To review research contract proposals.
Executive secretary: Dr. Louis M. Ouellette. Address: Westwood Building Room 806, National Institutes of Health. Phone: 301/496–7413.

(Catalog of Federal Domestic Assistance Number 13.399 National Institutes of Health)

Name of committee: Cancer Clinical Investigation Review Committee.
Dates: June 25–27, 1979.
Place: Building 31C Conference Room 8, National Institutes of Health.
Times: Open: June 25, 8:30 a.m.—10:00 a.m.
Closed: June 25, 10:00 a.m.—5:00 p.m.
Closed: June 26, 8:30 a.m.—5:00 p.m.
Closed: June 27, 8:30 a.m.—adjournment.
Closure reason: To review research grant applications.
Executive secretary: Dr. Dorothy Macfarlane. Address: Westwood Building Room 819, National Institutes of Health, Phone: 301/496–7481.

(Catalog of Federal Domestic Assistance Number 13.395 National Institutes of Health)

Name of committee: Cancer Special Program Advisory Committee.
Dates: July 11–12, 1979.
Place: Building 31C Conference Room 9, National Institutes of Health.
Times: Open: July 11, 9:00 a.m.—10:00 a.m.
Closed: July 11, 10:00 a.m.—5:00 p.m.
Closed: July 12, 8:30 a.m.—adjournment.
Closure reason: To review research grant applications.
Executive secretary: Dr. William R. Sanslone. Address: Westwood Building Room 805, National Institutes of Health. Phone: 301/496–7565.

(Catalog of Federal Domestic Assistance Number 13.392 National Institutes of Health)

Dated: April 30, 1979.

Suzanne L. Fremeau,
Committee Management Officer, National Institutes of Health.

[FR Doc. 79–14386 Filed 5–8–79; 8:45 am]

BILLING CODE 4110–08–M

Aging Review Committee Meeting

Pursuant to Pub. L. 92–463, notice is hereby given of the meeting of the Aging Review Committee, National Institute on Aging, on June 21, 22, 1979, in Building 31C, Conference Room 7, National Institutes of Health, Bethesda, Md.

The meeting will be open to the public from 9:00 a.m. to 10:00 a.m. on June 21, for introductory remarks. Attendance by the public will be limited to space available.

In accordance with the provisions set forth in sections 552b(c)(4) and 552b(c)(6), Title 5, U.S. Code and section 10(d) of Pub. L. 92–463, the meeting will be closed to the public on June 21, from 10:00 a.m. to adjournment on June 22, for the review, discussion and evaluation of individual grant applications. These applications and the discussions could reveal confidential trade secrets or commerical property such as patentable material, and personal information concerning individuals associated with the applications, disclosure of which would constitute a clearly unwarranted invasion of personal privacy.

Mrs. Suzanna H. Porter, Committee Management Officer, NIA, Building 31, Room 5C07, National Institutes of Health, Bethesda, Maryland, Area Code 301, 496–5345, will provide summaries of meetings and rosters of Committee members as well as substantive program information.

(Catalog of Federal Domestic Assistance Program No. 13.866, National Institutes of Health)

Dated: April 30, 1979.

Suzanne L. Fremeau,

Committee Management Officer, National Institutes of Health.

[FR Doc. 79-14398 Filed 5-8-79; 8:45 am]

BILLING CODE 4110-08-M

Allergy and Clinical Immunology Research Committee Meeting

Pursuant to Pub. L. 92–463, notice is hereby given of the meeting of the Allergy and Clinical Immunology Research Committee, National Institute of Allergy and Infectious Diseases on June 11–12, 1979, at the Federal Building, Room 6C–01, National Institutes of Health, Bethesda, Maryland.

This meeting will be open to the public from 8:30 a.m. until 12:00 Noon on June 11 and from 8:30 a.m. until 9:00 a.m.on June 12 to discuss program policies and issues. Attendance by the public will be limited to space available.

In accordance with the provisions set forth in sections 552b(c)(4) and 552b(c)(6), Title 5, U.S. Code and section 10(d) of Pub. L. 92–463, the meeting of the Committee will be closed to the public on June 11 from 1:00 p.m. until 5:00 p.m., and on June 12 from 9:00 a.m. to 5:00 p.m. for the review, discussion, and evaluation of individual grant applications. These applications, and discussions could reveal confidential trade secrets or commercial property such as patentable material, and personal information concerning individuals associated with the applications and proposals, the disclosure of which would constitute a clearly unwarranted invasion of personal privacy.

Mr. Robert L. Schreiber, Chief, Office of Research Reporting and Public Response, NIAID, Building 31, Room 7A32, National Institutes of Health, Bethesda, Maryland 20205, telephone (301) 496–5717, will provide summaries of the meeting, and rosters of the Committee members.

Dr. Harley G. Sheffield, Executive Secretary, Allergy and Clinical Immunology Research Committee, NIAID, NIH, Westwood Building, Room 706, telephone (301) 496–7465, will provide substantive program information.

(Catalog of Federal Domestic Assistance Program No. 13.855, National Institutes of Health)

Dated: April 30, 1979.

Suzanne L. Fremeau

Committee Management Officer, National Institutes of Health.

[FR Doc. 79-14389 Filed 5-8-79; 8:45 am]

BILLING CODE 4110-08-M

Animal Resources Review Committee Meeting

Pursuant to Pub. Law 92–463, notice is hereby given of the meeting of the Animal Resources Review Committee, Division of Research Resources, May 30 and 31, 1979, Conference Room 8, Building 31, National Institutes of Health, Bethesda, Maryland 20205.

The meeting will be open to the public on May 30 from 1:00 p.m. to recess, during which time there will be a brief staff presentation on the current status of the Animal Resource and Primate Research Centers programs. The Committee will select future meeting dates. Attendance by the public will be limited to space available.

In accordance with the provisions set forth in Sections 552b(c)(4) and 552b(c)(6), Title 5, U.S. Code and Section 10(d) of Pub. L. 92–463, the meeting will be closed to the public on May 30 from 8:30 a.m. to 12:00 noon for the review, discussion, and evaluation of individual grant applications submitted to the Primate Research Centers Program and on May 31 from 8:30 to adjournment for the review, discussion, and evaluation of individual grant applications and an individual National Research Service Award submitted to the Laboratory Animal Sciences Program. These applications and the discussions could reveal confidential trade secrets or commercial property such as patentable material, and personal information concerning individuals associated with the applications, disclosure of which would constitute a clearly unwarranted invasion of personal privacy.

Mr. James Augustine, Information Officer, Room 5B13, Bldg. 31, Division of Research Resources, National Institutes of Health, Bethesda, Maryland 20205, (301) 496–5545, will provide summaries of the meeting and rosters of the committee members. Dr. Dennis O. Johnsen, Executive Secretary of the Animal Resources Review Committee, Room 5B55, Bldg. 31, National Institutes of Health, Bethesda, Maryland 20205, (301) 496–5175, will furnish substantive program information.

(Catalog of Federal Domestic Assistance Programs No. 13.306, National Institutes of Health)

Dated: April 30, 1979.

Suzanne L. Fremeau,

NIH Committee Management Officer.

[FR Doc. 79-14384 Filed 5-8-79; 8:45 am]

BILLING CODE 4110-08-M

Biomedical Library Review Committee Meeting

Pursuant to Pub. L. 92–463, notice is hereby given of the meeting of the Biomedical Library Review Committee, National Library of Medicine, on June 18–20, 1979, convening each day at 8:30 a.m. in the Board Room of the National Library of Medicine, 8600 Rockville Pike, Bethesda, Maryland, to adjournment on June 20.

This meeting will be open to the public from 8:30 to 11:00 a.m. on June 18 for the discussion of administrative reports and program developments. Attendance by the public will be limited to space available.

In accordance with provisions set forth in section 552b(c)(4) and 552b(c)(6), Title 5, U.S. Code and section 10(d) of Pub. L. 92–463, the meeting will be closed to the public from 11:00 a.m. on June 18 to adjournment on June 20 for the review, discussion and evaluation of individual grant applications. These applications and the discussions could reveal confidential trade secrets or commercial property such as patentable material, and personal information concerning individuals associated with the applications, disclosure of which would constitute a clearly unwarranted invasion of personal privacy.

Dr. Roger W. Dahlen, Executive Secretary of the Committee, and Chief, Division of Biomedical Information Support, Extramural Programs, National Library of Medicine, 8600 Rockville Pike, Bethesda, Maryland 20205, telephone number: 301–496–4191, will provide summaries of the meeting, rosters of the committee members, and other information pertaining to the meeting.

(Catalog of Federal Domestic Assistance Program No. 13.879—National Institutes of Health)

Dated: April 30, 1979.

Suzanne L. Fremeau,

Committee Management Officer, National Institutes of Health.

[FR Doc. 79-14396 Filed 5-8-79; 8:45 am]

BILLING CODE 4110-08-M

Cellular and Molecular Basis of Disease Review Committee Meeting

Pursuant to Pub. L. 92–463, notice is hereby given of the meeting of the

Cellular and Molecular Basis of Disease Review Committee, National Institute of General Medical Sciences, on June 11–12, 1979 at the National Institutes of Health, Building 31A, Conference Room 4, Bethesda, Maryland.

This meeting will be open to the public on June 11, 1979 from 8:30 a.m. until 9:00 a.m. for bachground information and discussion of issues relvant to the National Institute of General Medical Sciences and its National Research Service Award training activities and research programs. Attendance by the public will be limited to space available.

In accordance with provisions set forth in section 552b(c)(6), Title 5, U.S. code and section 10(d) of Pub. L. 92–463, the meeting will b closed to the public on June 11, 1979 from 9:00 a.m. until 6:00 p.m. and on June 12, 1978 from 8:30 a.m. until adjournment for the review, discussion, and evaluation of individual grant applications. These applications and discussions could reveal personal information concerning individuals associated with the applications, disclosure of which would constitute a clearly unwarranted invasion of personal privacy.

Mr. Paul Deming, Research Reports Officer, MIGNS, National Institutes of Health, Room 9A05, Westwood Building, Bethesda, Maryland, 20205 (Telephone: 301/496–7301) will provide a summary of the meeting and a roster of committee members.

Dr. Lee Van Lenten, Executive Secretary, Cellular and Molecular Basis of Disease Review Committee, NIGMS, National Institutes of Health, Room 907, Westwood Building, Bethesda, Maryland, 20205 (Telephone: 301/496–7621) will furnish substantive program information.

(Catalog of Federal Domestic Assistance Program No. 13–863, General Medical Sciences

Dated: April 30, 1979.

Suzanne L. Fremeau,

Committee Management Officer, National Institutes of Health.

[FR Doc. 79-14390 Filed 5-8-79; 8:45 am]

BILLING CODE 4110-08-M

General Clinical Research Centers Committee Meeting

Pursuant to Pub. L. 92–463, notice is hereby given of the meeting of the General Clinical Research Centers Committee, Division of Research Resources, on June 21–22, 1979, in Conference Room 6, Building 31, National Institutes of Health, Bethesda, Maryland 20205.

The meeting will be open to the public June 21, 1979, from 9:00 a.m. to 11:00 a.m., to discuss administrative matters. Attendance by the public will be limited to space available.

In accordance with the provisions set forth in sections 552b(c)(4) and 552b(c)(6), Title 5, U. S. Code and section 10(d) of Pub. L. 92–463, the meeting will be closed to the public June 21 from 11:00 a.m. to 5:00 p.m., and on June 22 from 9:00 a.m. to adjournment for the review, discussion, and evaluation of individual grant applications. These applications and the discussions could reveal confidential trade secrets or commercial property such as patentable material, and personal information concerning individuals associated with the applications disclosure of which would constitute a clearly unwarranted invasion of personal privacy.

Mr. James Augustine, Information Officer, Division of Research Resources, National Institutes of Health, Room 5B13, Building 31, National Institutes of Health, Bethesda, Maryland 20205, (301) 496–5545, will provide summaries of the meeting and rosters of the Committee members. Dr. Ephraim Y. Levin, Executive Secretary of the General Clinical Research Centers Committee, Room 5B51, Building 31, National Institutes of Health, Bethesda, Maryland 20205, (301) 496–6595, will furnish substantive program information.

(Catalog of Federal Domestic Assistance Programs No. 13.333, National Institutes of Health)

Dated: April 30, 1979.

Suzanne L. Fremeau,

NIH Committee Management Officer.

[FR Doc. 79-14397 Filed 5-8-79; 8:45 am]

BILLING CODE 4110-08-M

Genetic Basis of Disease Review Committee Meeting

Pursuant to Pub. L. 92–463, notice is hereby given of the meeting of the Genetic Basis of Disease Review Committee, National Institute of General Medical Sciences on June 18–19, 1979, 9 a.m., Conference Room 7, Building 31C, National Institutes of Health, Bethesda, Maryland.

This meeting will be open to the public on June 18 from 9 a.m. to 11 a.m. for opening remarks and discussion of procedural matters and issues relevant to the Genetics Program. Attendance by the public will be limited to space available.

In accordance with provisions set forth in Title 5, U.S. Code 552b(c)(6), the meeting will be closed to the public on June 18 from 11 a.m. to 5 p.m., and June 19 from 9 a.m. until adjournment, for the review, discussion, and evaluation of institutional training grant applications in genetics. These applications and the discussions could disclose information of a personal nature where disclosure would constitute a clearly unwarranted invasion of personal privacy.

Mr. Paul Deming, Research Reports Officer, NIGMS, Westwood Building, Room 9A05, Bethesda, Maryland 20205, Telephone (301) 496–7301, will furnish summary minutes of the meeting and a roster of committee members.

Mrs. Mary L. Wolff, Executive Secretary, Genetic Basis of Disease Review Committee, Westwood Building, Room 953, Telephone (301) 496–7585, will furnish substantive program information.

(Catalog of Federal Domestic Assistance Program 13–862, General Medical Sciences Genetics Program)

Dated: April 30, 1979.

Suzanne L. Fremeau,

Committee Management Officer, National Institutes of Health.

[FR Doc. 79-14395 Filed 5-8-79; 8:45 am]

BILLING CODE 4110-08-M

Microbiology and Infectious Diseases Advisory Committee; Meeting

Pursuant to Pub. L. 92–463, notice is hereby given of the meeting of the Microbiology and Infectious Diseases Advisory Committee, National Institute of Allergy and Infectious Diseases, on June 4–5, 1979, at the National Institutes of Health, Building 1, Wilson Hall, Bethesda, Maryland.

This meeting will be open to the public from 8:30 a.m. until 10:30 a.m. on June 4 to discuss program policies and issues. Attendance by the public will be limited to space available.

In accordance with the provisions set forth in sections 552b(c)(4) and 552b(c)(6), Title 5, U.S. Code and Section 10(d) of Pub. L. 92–463, the meeting of the Committee will be closed to the public from 10:30 a.m. on June 4 until adjournment on June 5 for the review, discussion, and evaluation of individual grant applications and contract proposals. These applications, proposals, and discussion could reveal confidential trade secrets or commercial property such as patentable material, and personal information concerning individuals associated with the applications and proposals, the disclosure of which would constitute a clearly unwarranted invasion of personal privacy.

Mr. Robert L. Schreiber, Chief, Office of Research Reporting and Public Response, NIAID, National Institutes of

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Health, Building 31, Room 7A32, Bethesda, Maryland 20205 (301) 496–5717, will provide summaries of the meeting, and rosters of the Committee members.

Dr. Thelma N. Fisher, Executive Secretary, Microbiology and Infectious Diseases Advisory Committee, NIAID, National Institutes of Health, Westwood Building, Room 706, Bethesda, Maryland 20205, (301) 496–7465, will provide substantive program information.

(Catalog of Federal Domestic Assistance Program No. 13.856, National Institutes of Health)

Dated: April 30, 1979.

Suzanne L. Fremeau,

Committee Management Officer, Notionol Institutes of Health.

[FR Doc. 79–14387 Filed 5–8–79; 8:45 am]

BILLING CODE 4110–08–M

Neurological Disorders Program—Project Review B Committee Meeting

Pursuant to Pub. L. 92–463, notice is hereby given of the meeting of the Neurological Disorders Program-Project Review B Committee, National Institutes of Health, June 14–16, 1979, in the Holiday Inn, New Jersey Room, 8120 Wisconsin Avenue, Bethesda, MD 20014.

The meeting will be open to the public from 8:00 p.m. until 10:00 p.m. on June 14th, to discuss program planning and program accomplishments. Attendance by the public will be limited to space available. In accordance with the provisions set forth in section 552b(c)(4), and 552b(c)(6), Title 5, U.S. Code and section 10(d) of Pub. L. 92–463, the meeting will be closed to the public on June 15th from 8:30 a.m. to adjournment on June 16th, for the review, discussion and evaluation of individual grant applications. The applications and the discussion could reveal confidential trade secrets or commercial property such as patentable material, and personal information concerning individuals associated with the applications, the disclosure of which could constitute a clearly unwarranted invasion of personal privacy.

Sylvia Shaffer, Chief, Office of Scientific and Health Reports, Building 31, Room 8A03, NIH, NINCDS, Bethesda, MD 20205, telephone 301/496–5751, will furnish summaries of the meeting and rosters of committee members.

Dr. Herbert Yellin, Executive Secretary, Federal Building, Room 9C10B, Bethesda, MD 20205, telephone 301/496–9223, will furnish substantive program information.

(Catalog of Federal Domestic Assistance Program No. 13.852, National Institutes of Health)

Dated: April 30, 1979.

Suzanne L. Fremeau,

Committee Management Officer, National Institutes of Health.

[FR Doc. 79–14393 Filed 5–8–79; 8:45 am]

BILLING CODE 4110–08–M

Neurological Disorders Program—Project Review A Committee Meeting

Pursuant to Pub. L. 92–463, notice is hereby given of the meeting of the Neurological Disorders Program-Project Review A Committee, National Institutes of Health, June 14–16, 1979, in the Holiday Inn, Pennsylvania Room, 8120 Wisconsin Avenue, Bethesda, MD 20014.

The meeting will be open to the public from 8:00 p.m. until 10:00 p.m. on June 14th, to discuss program planning and program accomplishments. Attendance by the public will be limited to space available. In accordance with the provisions set forth in section 552b(c)(4), and 552b(c)(6), Title 5, U.S. Code and section 10(d) of Pub. L. 92–463, the meeting will be closed to the public on June 15th from 8:30 a.m. to adjournment on June 16th, for the review, discussion and evaluation of individual grant applications. The applications and the discussion could reveal confidential trade secrets or commercial property such as patentable material, and personal information concerning individuals associated with the applications, the disclosure of which could constitute a clearly unwarranted invasion of personal privacy.

Sylvia Shaffer, Chief, Office of Scientific and Health Reports, Building 31, Room 8A03, NIH, NINCDS, Bethesda, MD 20205, telephone 301/496–5751, will furnish summaries of the meeting and rosters of committee members.

Dr. Leon J. Greenbaum, Jr., Executive Secretary, Federal Building, Room 9C14B, Bethesda, MD 20014, telephone 301/496–9223, will furnish substantive program information.

(Catalog of Federal Domestic Assistance Program No. 13,852, National Institutes of Health)

Dated: April 30, 1979.

Suzanne L. Fremeau,

Committee Management Officer, Notionol Institutes of Health.

[FR Doc. 79–14394 Filed 5–8–79; 8:45 am]

BILLING CODE 4110–08–M

Pharmacology-Toxicology Review Committee Meeting

Pursuant to Pub. L. 92–463, notice is hereby given of the meeting of the Pharmacology-Toxicology Review Committee, National Institute of General Medical Sciences, June 14–15, 1979, National Institute of Health, Building 31C, Conference Room 10, Bethesda, Maryland.

This meeting will be open to the public on June 14 from 8:30 a.m. to 9:30 a.m. for opening remarks and general administrative business. Attendance by the public will be limited to space available.

In accordance with provisions set forth in Title 5, U.S. Code 552b(c)(6), the meeting will be closed to the public on June 14 from 9:30 a.m. to 5:00 p.m. and on June 15 from 8:30 a.m. to 5:00 p.m. or adjournment for the review, discussion and evaluation of individual grant applications. These applications and the discussions could reveal personal information concerning individuals associated with the applications, disclosure of which would constitute a clearly unwarranted invasion of personal privacy.

Mr. Paul Deming, Research Reports Officer, NIGMS, Westwood Building, Room 9A05, Bethesda, Maryland 20205, Telephone: 301, 496–7301, will provide a summary of the meeting and a roster of committee members.

Substantive program information may be obtained from Dr. Martha Panitch, Executive Secretary, Pharmacology-Toxicology Review Committee, Westwood Building, Room 953, Bethesda, Maryland, Telephone: 301, 496–7585.

(Catalog of Federal Domestic Assistant Program 13–859, Pharmacology-Toxicology Program, National Institute of General Medical Sciences, National Institute of Health)

Dated: April 30, 1979.

Suzanne L. Fremeau,

Committee Management Officer, National Institutes of Health.

[FR Doc. 79–14391 Filed 5–8–79; 8:45 am]

BILLING CODE 4110–08–M

Population Research Committee Meeting

Pursuant to Pub. L. 92–463, notice is hereby given of the meeting of the Population Research Committee, National Institute of Child Health and Human Development, on June 6–8, 1979 in the Landow Building, Conference Room "A," 7910 Woodmont Avenue, Bethesda, Maryland.

This meeting will be open to the public on June 6 from 9:00 a.m. to 10:30 a.m. to discuss the program status, new developments and projections for population research centers, programs projects and institutional fellowships. Attendance by the public will be limited to space available.

In accordance with the provisions set forth in Title 5, U.S. Code 552b(c)(4) and 552b(c)(6) and section 10(d) of Pub. L. 92–463, the meeting will be closed to the public on June 6 from 10:30 a.m. to adjournment on June 8 for the review, discussion and evaluation of individual grant applications.

The applications and the discussions could reveal confidential trade secrets or commercial property such as patentable material, and personnal information concerning individuals associated with the applications, the disclosure of which would constitute a clearly unwarranted invasion of personal privacy.

Mrs. Marjorie Neff, Committee Management Officer, NICHD, Building 31, Room 2A–04, National Institutes of Health, Bethesda, Maryland, Area Code 301, 496–1848, will provide a summary of the meeting and a roster of committee members. Dr. William A. Sadler, Executive Secretary of the Population Research Committee, NICHD, Landow Building, Room 7C–33, National Institutes of Health, Bethesda, Maryland, Area Code 301, 496–6515, will furnish substantive program information.

(Catalog of Federal Domestic Assistance Program No. 13.864, National Institutes of Health)

Dated: April 30, 1979.

Suzanne L. Fremeau,

Committee Management Officer, Notionol Institutes of Health.

[FR Doc. 79–14388 Filed 5–8–79; 8:45 am]

BILLING CODE 4110–08–M

Transplantation Biology and Immunology Committee Meeting

Pursuant to Pub. L. 92–463, notice is hereby given of the meeting of the Transplantation Biology and Immunology Committee, National Institute of Allergy and Infectious Diseases on June 14–15, 1979, at the Federal Building, Room 6C–01, National Institutes of Health, Bethesda, Maryland.

This meeting will be open to the public from 8:30 a.m. until 12:00 Noon on June 14 and from 8:30 a.m. until 9:00 a.m. on June 15 to discuss program policies and issues. Attendance by the public will be limited to space available.

In accordance with the provisions set forth in sections 552b(c)(4) and 552(c)(6), Title 5, U.S. Code and section 10(d) of Pub. L. 92–463, the meeting of the Committee will be closed to the public on June 14 from 1:00 p.m. until 5:00 p.m., and on June 15 from 9:00 a.m. to 5:00 p.m. for the review, discussion and evaluation of individual grant applications and contract proposals. These applications, proposals, and discussions could reveal confidential trade secrets or commercial property such as patentable material, and personal information concerning individuals associated with the applications and proposals, the disclosure of which would constitute a clearly unwarranted invasion of personal privacy.

Mr. Robert L. Schreiber, Chief, Office of Research Reporting and Public Response, NIAID, Building 31, Room 7A32, National Institutes of Health, Bethesda, Maryland 20205, telephone (301) 496–5717, will provide summaries of the meeting, and rosters of the Committee members.

Dr. Harley G. Sheffield, Executive Secretary, Transplantation Biology and Immunology Committee, NIAID, NIH, Westwood Building, Room 706, telephone (301) 496–7465 will provide substantive program information.

(Catalog of Federal Domestic Assistance Program No. 13.855, National Institutes of Health)

Dated: April 30, 1979.

Suzanne L. Fremeau,

Committee Management Officer, National Institutes of Health.

[FR Doc. 79–14392 Filed 5–8–79; 8:45 am]

BILLING CODE 4110–08–M

Vision Research Program Committee Meeting

Pursuant to Pub. L. 92–463, notice is hereby given of the meeeting of the Vision Research Program Committee, National Eye Institute, June 28, 1979, Building 31, C Wing, Conference Room 8, National Institutes of Health, Bethesda, Maryland.

This meeting will be open to the public on Thursday, June 28, from 8:30 a.m. to 9:30 a.m. for opening remarks. Attendance by the public will be limited to space available.

In accordance with provisions set forth in sections 552b(c)(4) and 552b(c)(6), Title 5, U.S. Code and section 10(d) of Pub. L. 92–463, the meeting will be closed to the public from 10:00 a.m. on June 28 until adjournment on June 28 for the review, discussion and evaluation of individual grant applications. These applications and the discussions could reveal confidential trade secrets or commercial property such as patentable material, and personal information concerning individuals associated with the applications, disclosure of which would constitute a clearly unwarranted invasion of personal privacy.

Mr. Julian Morris, Chief, Office of Program Planning and Scientific Reporting, National Eye Institute, Building 31, Room 6A–25, National Institutes of Health, Bethesda, Maryland 20205 (telephone: 301/496–5248) will furnish summaries of the meeting and rosters of committee members.

Dr. Catherine Henley, Review and Special Projects Officer, Extramural and Collaborative Programs, National Eye Institute, Building 31, Room 6A–06, National Institutes of Health, Bethesda, Maryland 20205 (telephone: 301/496–5561) will furnish substantive program information.

(Catalog of Federal Domestic Assistance Program Nos. 13.867, 13.868, 13.869, 13.870, and 13.871, National Institutes of Health)

Dated: April 30, 1968.

Suzanne L. Fremeau,

Committee Management Officer, Notionol Institutes of Health.

[FR Doc. 79–14399 Filed 5–8–79; 8:45 am]

BILLING CODE 4110–08–M

Office of the Assistant Secretary for Health

Intent To Grant Exclusive Patent Licenses to Exxon Research & Engineering Co.

Pursuant to Section 8.2, 45 CFR, Part 8, and 41 CFR 1–9, notice is hereby given of an intent to grant to Exxon Research and Engineering Co., exclusive licenses to manufacture, use and sell for medical purposes the inventions disclosed and claimed in U.S. Patent Application Serial No. 874,247 filed February 1, 1978 for "Detoxification by Means of Controlled *In Vivo* Secretion Triggered Rupture of Liquid Membrane Capsules," by William J. Asher and Tina C. Vogler, and United States Patent Application Serial No. 874,254 filed February 1, 1978, for "Liquid Membrane Capsule Systems Resistant to Coalescence by Means of an Irreversible Coating," by Tina C. Vogler and William J. Asher. Copies of the two patent applications may be obtained upon written request to the Acting Chief, Patent Branch, Department of Health, Education, and Welfare, Room 5A–03 Westwood Building, National Institutes of Health, Bethesda, Maryland 20205.

The proposed license will have a duration of five (5) years, may be royalty bearing, and will contain other terms and conditions to be negotiated by the parites in accordance with Department of Health, Education, and Welfare (HEW) patent regulations. HEW will grant the license unless, within sixty (60) days of this Notice, the Acting Chief, Patent Branch, named

hereinabove, receives in writing a statement from any person setting forth reasons why it would not be in the best interest of the United States to grant the proposed license, together with supporting documents.

The Assistant Secretary for Health of the Department of Health, Education, and Welfare will review all written responses to this Notice.

(45 CFR 8.2 and 41 CFR 1–9.)

Dated: April 27, 1979.

Julius B. Richmond,

Assistant Secretary for Health.

[FR Doc. 79–14446 Filed 5–8–79; 8:45 am]

BILLING CODE 4110–85–M

DEPARTMENT OF HOUSING AND URBAN DEVELOPMENT

Federal Disaster Assistance Administration

Arkansas; Amendment to Notice of Major Disaster Declaration

AGENCY: Federal Disaster Assistance Administration, HUD.

ACTION: Notice.

SUMMARY: This Notice amends the Notice of a major disaster for the State of Arkansas (FDAA–574–DR), dated April 11, 1979.

DATED: April 23, 1979.

FOR FURTHER INFORMATION CONTACT: John L. Perry, Program Support Staff, Federal Disaster Assistance Administration, Department of Housing and Urban Development, Washington, D.C. 20410 (202/634–7825).

NOTICE: This Notice of major disaster for the State of Arkansas dated April 11, 1979, is hereby amended to include the following area among those areas determined to have been adversely affected by the catastrophe declared a major disaster by the President in his declaration of April 11, 1979.

For Public Assistance in addition to Individual Assistance: Bradley County.

(Catalog of Federal Domestic Assistance No. 14.701, Disaster Assistance)

William H. Wilcox,

Administrator, Federal Disaster Assistance Administration

[Docket No. NFD–668; FDAA–574–DR]

[FR Doc. 79–14417 Filed 5–8–79; 8:45 am]

BILLING CODE 4210–22–M

Mississippi; Amendment to Notice of Major Disaster Declaration

AGENCY: Federal Disaster Assistance Administration, HUD.

ACTION: Notice.

SUMMARY: This Notice amends the Notice of a major disaster for the State of Mississippi (FDAA–577–DR), dated April 16, 1979.

DATED: April 22, 1979.

FOR FURTHER INFORMATION CONTACT: John L. Perry, Program Support Staff, Federal Disaster Assistance Administration, Department of Housing and Urban Development, Washington, D.C. 20410 (202–634–7825).

NOTICE: This Notice of major disaster for the State of Mississippi dated April, 16, 1979, is hereby amended to include the following areas among those areas determined to have been adversely affected by the catastrophe declared a major disaster by the President in his declaration of April 16, 1979.

For Public Assistance in addition to Individual Assistance, the Counties of:

Attala, Choctaw, Claiborne, Clay, Issaquena, Kemper, Lawrence, Leake, Madison, Marion, Monroe, Neshoba, Noxubee, Oktibbeha, Sharkey, Warren Winston, Yazoo.

(Catalog of Federal Domestic Assistance No. 14,701, Disaster Assistance)

William H. Wilcox,

Administrator, Federal Disaster Assistance Administration.

[Docket No. NFD–667; FDAA–577–DR]

[FR Doc. 79–14416 Filed 5–8–79; 8:45 am]

BILLING CODE 4210–22–M

DEPARTMENT OF THE INTERIOR

Bureau of Land Management

Beaufort Sea Oil and Gas; Hearing Change

Public hearings to be held in four Alaskan locations on a proposed Federal-State Beaufort Sea oil and gas lease sale were announced in the April 19, 1979 **Federal Register** (44 FR 23383).

The following change in scheduling the Fairbanks hearing should be noted:

Time: May 17, 1979—1:00 p.m. May 18, 1979—9:00 a.m.

Location: University of Alaska, Schaible Auditorium, Fairbanks, Alaska.

Arnold E. Petty,

Acting Associate Director, Bureau of Land Management.

Approved: May 3, 1979.

Guy R. Martin,

Assistant Secretary of the Interior.

[FR Doc. 79–14375 Filed 5–8–79; 8:45 am]

BILLING CODE 4310–84–M

Bureau of Reclamation

Gallup-Navajo Indian Water Supply Project, New Mexico-Arizona; Intent To Prepare a Draft Environmental Statement

Pursuant to section 102(2)(C) of the National Environmental Policy Act of 1969, the Department of the Interior proposes to prepare a draft environmental statement for the Gallup-Navajo Indian Water Supply Project, New Mexico-Arizona. The purpose of the project is to develop a reliable water supply to meet immediate and long-range needs of the Navajo Indian communities in northwestern New Mexico and the city of Gallup, New Mexico. The primary alternatives are:

1. To divert water from Navajo Reservoir on the San Juan River, using Navajo Indian Irrigation Project canals to convey the water to the proposed Cottonwood dam and reservoir. The water would be transported to delivery points through an aqueduct system.

2. To release water from Navajo Reservoir into the San Juan River to the proposed San Juan diversion dam at Farmington, New Mexico, down river some 37 miles where it would enter an aqueduct delivery system.

Investigations have been underway since 1971; and over the years, input has been received from interested agencies and individuals. Consequently, there will not be a scoping meeting.

Interested public entities and individuals may obtain information on the project and provide input to the draft environmental statement. The draft environmental statement is expected to be completed and available for review and comment by January 1980.

The contact person for this draft environmental statement is Larry Kysar, Bureau of Reclamation, Herring Plaza, Box H–4377, Amarillo, TX 79101, telephone (808) 376–2212.

Dated: May 3, 1979.

R. Keith Higginson,

Commissioner.

[FR Doc. 79–14439 Filed 5–8–79; 8:45 am]

BILLING CODE 4310–09–M

DEPARTMENT OF JUSTICE

Consent Judgment in Clean Water Act Enforcement Action

In accordance with Departmental Policy, 28 CFR 50.7, 38 FR 19029, notice is hereby given that a proposed consent decree in *United States* v. *Navisco, Inc.*, has been lodged with the United States District Court for the Northern District of Illinois. The decree requires that Nabisco pay a civil penalty of three thousand dollars, and install modifications to its Marseilles, Illinois boxboard facility to prevent future untreated by-pass discharges from the facility.

The Department of Justice will receive on or before June 8, 1979, written comments relating to the proposed consent decree. Comments should be addressed to the Assistant Attorney General, Land and Natural Resources Division, Department of Justice, Washington, D.C. 20530, and should refer to *United States* v. *Nabisco, Inc.*, D.J. Ref. 90–5–1–1–1101.

The consent decree may be examined at the office of the United States Attorney, United States Courthouse, Chicago, Illinois 60604, at the United States Environmental Protection Agency, Region V, 230 S. Dearborn Street, Chicago, Illinois 60604, and at Room 2625, Pollution Control Section, Land and Natural Resources Division, Department of Justice, 9th & Pennsylvania Avenue, N.W., Washington, D.C. 20530. A copy of the proposed judgment may be obtained in person or by mail from the Pollution Control Section, Land and Natural Resources Division of the Department of Justice.

Sanford Sagalkin,

Acting Assistant Attorney General, Land and Natural Resources Division.

[FR Doc. 79–14420 Filed 5–8–79; 8:45 am]

BILLING CODE 4410–01–M

Proposed Consent Decree In Action To Enjoin Discharge of Air Pollutants by United States Steel Corporation (South Works)

In accordance with Departmental Policy, 28 CFR 50.7, 38 FR 19029, notice is hereby given that on or about April 26, 1979, a proposed consent decree in *First Charter Land Corporation, et al.* v. *Newman A. Howard, Jr., et al.* (E.D. Va., Civ. No. 78–14–N), was lodged with the United States District Court for the Eastern District of Virginia (Norfolk Division). The proposed consent decree includes remedial work on previously dug canals, protection and enhancement of certain wetlands, monitoring provisions, and a bonding requirement.

The proposed consent decree may be examined at the office of the United States Attorney, Room 409, United States Post Office and Courthouse, Granby Street, Norfolk, Virginia 23510, and at the Pollution Control Section, Land and Natural Resources Division of the Department of Justice, Room 2631, Ninth and Pennsylvania Avenue, N.W., Washington, D.C. 20530. A copy of the proposed decree may be obtained in person or by mail from the Pollution Control Section, Land and Natural Resources Division of the Department of Justice, at a cost of $8.60 per copy to cover reproduction expense. Checks or money orders should be made payable to the Treasurer of the United States.

The Department of Justive will receive written comments relating to the proposed consent decree on or before June 8, 1979. Comments should be addressed to the Assistant Attorney General, Land and Natural Resources Division, Department of Justice, Washington, D.C. 20530, and should refer to *First Charter Land Corporation* v. *Howard* (E.D. Va., Civ. No. 78–14–N), D.J. Ref. 62–81–2.

James W. Moorman,

Assistant Attorney General, Land and Natural Resources Division.

[FR Doc. 79–14419 Filed 5–8–79; 8:45 am]

BILLING CODE 4410–01–M

LEGAL SERVICES CORPORATION

Grants and Contracts

May 7, 1979.

The Legal Services Corporation was established pursuant to the Legal Services Corporation Act of 1974, Pub. L. 93–355 88 Stat. 378, 42 U.S.C. 2996–2996*l*, as amended, Pub. L. 95–222 (December 28, 1977). Section 1007(f) provides: "At least 30 days prior to the approval of any grant application or prior to entering into a contract or prior to the initiation of any other project, the Corporation shall announce publicly * * * such grant, contract or project."

The Legal Services Corporation hereby announces publicly that it is considering the grant application submitted by:

Legal Aid Services, Inc. of Casper, Wyoming to serve the migrant farmworker population in the State of Wyoming.

Interested persons are hereby invited to submit written comments or recommendations concerning the above application to the Regional Office of the Legal Services Corporation at:

Legal Services Corporation, Seattle Regional Office, 506 Second Avenue, Seattle, Washington 98104.

Alice Daniel,

Acting President.

[FR Doc. 79–14504 Filed 5–8–79; 8:45 am]

BILLING CODE 8820–36–M

LIBRARY OF CONGRESS

American Folklife Center Board of Trustees Meeting

In accordance with Pub. L. 92–463, the Board of Trustees of the American Folklife Center announces its meeting to be held on June 4, 1979, in the Whittall Pavilion of the Library of Congress from 8:30 a.m. to 4:00 p.m. The meeting will be open to the public up to the seating capacity of the room (approximately 40, including about 25 members of the Board and the staff of the American Folklife Center). It is suggested that persons planning to attend this meeting as observers contact Eleanor Sreb, American Folklife Center, (202) 426–6590.

The American Folklife Center was created by the U.S. Congress with passage of Pub. L. 94–201, the American Folklife Preservation Act, in 1976. The Center is directed to "preserve and present American folklife" through programs of research, documentation, archival preservation, live presentation, exhibition, publication, dissemination, training, and other activities involving the many folk cultural traditions of the United States. The Center is under the general guidance of a Board of Trustees composed of members from Federal agencies and private life widely recognized for their interest in American folk traditions and arts.

The Center is structured with a small core group of versatile professionals who both carry out programs themselves and oversee projects done on contract by others. In the brief period of the Center's operation, it has begun energetically to carry out its mandate with programs that provide coordination, assistance, and model projects for the field of American folklife.

Raymond L. Dockstader,

Deputy Director, American Folklife Center.

[FR Doc. 79–14376 Filed 5–8–79; 8:45 am]

BILLING CODE 1410–01–M

NATIONAL COMMISSION ON AIR QUALITY

Plan of Study

Printed below is the draft Plan of Study of the National Commission on Air Quality.

The Commission was established under Section 323 of the Clean Air Act as amended. That Section directs the Commission to evaluate the Act and report back to Congress recommendations based upon Commission studies.

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In preparing the draft Plan of Study, the Commission held public hearings in Washington, D.C., and in Los Angeles in January, February, and April 1979 and considered numerous written and verbal comments on how the Commission should conduct its study. The Plan of Study is designed to be a general overview and description of issues the Commission plans to consider and the ways it plans to address those issues. More detailed statements of the structure and operation of specific studies to be undertaken will be developed after adoption by the Commission of a final Plan of Study as the Commission's research program continues to develop.

The Commission invites additional public comments, specifically focussing on the draft Plan of Study, to be submitted in writing by June 8, 1979, to Mr. Richard A. Penna, Acting Assistant Director for Research, The National Commission on Air Quality, 499 South Capitol Street, S.W., Washington, D.C. 20003. Telephone (202) 245–2405.

The National Commission on Air Quality.

William H. Lewis, Jr.,
Director.

May 4, 1979.

Plan of Study

(Draft prepared by NCAQ staff for consideration by Commissionn members and the public)

Introduction

Congress established the National Commission on Air Quality in 1977 when it substantially amended the federal Clean Air Act of 1970. Section 323 of the Act prescribes a number of studies for the Commission to carry out and gives the Commission a broad mandate to evaluate the Act in a comprehensive fashion.

The Commission is to conduct its review in light of the purposes of the 1970 Act and the 1977 Amendments. Those purposes, as stated in Section 101(b)(1), are "to protect and enhance the quality of the Nation's air resources so as to promote the public health and welfare and the productive capacity of its population."

This Plan of Study divides the issues to be addressed in generally the same way as the provisions appear in the Clean Air Act. The Commission's study, however, will not be limited to considering the meirits of existing provisions. In addition, the Commission will evaluate alternatives for achieving the goals of the Act in a fundamentally different manner. These alternatives will be addressed throughout the Plan and will be summarized in Part VIII—Review and Analysis of Alternative Approaches to Air Pollution Control.

In general, the Act provides for controlling pollutants for which ambient air quality standards have been established. Part I of the Plan—Analysis of National Ambient Air Quality Standards—will analyze these standards and the way they are established. This Part also will examine the need for controlling currently unregulated pollutants.

The Act imposes requirements for control of regulated pollutants under three separate but related general headings: Prevention of Significant Deterioration of Air Quality; Plan Requirements for Non-Attainment Areas; and Emission Standards for Moving Sources. The Commission will study these requirements in Part II—Review and Analysis of Policy for Areas Attaining Standards; Part III—Review and Analysis of Policy for Non-Attainment Areas; and Part IV—Review of Vehicle Emission Standards. Part VI of the Study—The Impact of Air Pollution Abatement Activities on Selected Industries will examine the overall impact of all the Act's requirements on specific industries.

In addition to directing a review of the key programmatic elements of the Act's requirements, Congress directed the Commission to study certain economic impacts and to review institutional arrangements and scientific research needed to implement the Act. Part V, Costs and Benefits Associated with Air Pollution Control, and Part VII, Review and Analysis of Institutional Relationships and Research Programs, will address these issues.

Congress also required the Commission to examine the effects of the Act on energy supplies and consumption and to address questions relating to enforcement of air pollution control laws. Because energy and enforcement issues are involved throughout the air pollution control program, the study will deal with these subjects in each appropriate Part.

Each part of the Plan consists of a discussion of issues to be studied by the Commission and a description of the methodology to be used in studying them. Because of the Commission's limited life and budget, little "original" research will be performed. The Commission will draw heavily from studies performed and data collected by government agencies, research organizations, and private groups. The Commission will critically analyze the assumptions, methodology, and findings of these studies. The Commission will supplement these studies as necessary, and incorporate relevant information into its final report.

Because of limited time, many studies will be conducted simultaneously rather than sequentially. In a number of cases, however, studies completed early in the Commission's life will provide data and conclusions for studies to be completed later. The discussions of methodology will indicate where this approach will be possible.

The Commission will establish a program to ensure broad public participation and will seek comments from the public at all stages of the program, including the development of its reports to Congress.

In fully involving all sectors of the public in its work, the Commission plans not only a public information program but also an active public involvement or public participation program. Through meetings, hearings, workshops, and briefings—both formal and informal, both in Washington, D.C., and throughout the country—the Commission will assure that groups interested in air pollution control issues have abundant opportunity to be involved in Commission activities.

The Commission will develop a detailed public participation/public information work plan which will emphasize that its approach is one in which the Commission not only informs the public of its own activities but also *listens* to the public's experiences and applies that information to the overall study.

This Plan of Study is the initial step in a process which will lead to the development of specific study programs in each of the eight general areas described above. The final Commission approval of this Plan will be followed immediately by a period of intensive research of available literature. The literature search will enable the Commission to define more fully the extent of research efforts which are necessary for each subject area. Based upon this review the Commission will prepare a budget that will indicate the amount of funds to be allocated for the studies in each of the subject areas. After approval of the budget, the Commission will begin preparation of the detailed work statements for studies in each of the areas.

Upon the completion of all studies and review of public comments on the studies and draft reports, the Commission will develop appropriate reports and recommendations.

I. *Analysis of Notional Ambient Air Quality Standards*

A. *Issues to be Addressed.* The establishement of National Ambient Air Quality Standards (NAAQS), which must be attained by a specified date, is a fundamental requirement of the present statutory framework. Pursuant to the Clean Air Act of 1970, the Environmental Protection Agency adopted national primary and secondary ambient air quality standards for sulfur oxides, total suspended particulates, carbon monoxide, photochemical oxidants, hydrocarbons, and oxides of nitrogen. In response to a court decision that the agency must adopt a standard once it determines that a pollutant coming from numerous sources causes adverse health effects, EPA also has adopted primary and secondary standards for lead.

Congress in the 1977 Clean Air Act Amendments directed EPA to establish and independent scientific committee to review the air quality criteria and ambient standards no later than December 31, 1980, and thereafter at intervals of no more than five years. Congress also provided that the EPA review can take place more often than every five years, and said the standards should be revised whenever the information justifies revision.

In the 1977 Amendments, Congress directed EPA to adopt a short-term (maximum three-hour) standard for oxides of nitrogen within a year of enactent of the amendments unless the EPA Administrator finds no such standard "is requisite to protect public health."

In addition, Congress amended Section 122(a) of the Clean Air Act to require EPA to investigate the need for setting ambient standards for radioactive pollutants, cadmium, arsenic, and polycyclic organic matter. If the EPA Administrator determines that any of those substances may endanger public health, ambient standards must be adopted within one year of enactment, except for radioactive pollutants, for which the standards are to be adopted within two years of enactment.

In this area the Commission will examine existing and proposed ambient standards and the scientific and medical bases upon which these standards are set. Studies will attempt to examine both the policy and physical phenomena related to standard setting. Several issues are particularly relevant to this area of study:

—A review of the current practices used by EPA in preparing criteria documents and establishing NAAQS and practices which might be substituted for or added to existing ones
—An analysis of factors considered in establishing NAAQS, including margin of safety, protection of susceptible segments of the population, synergistic effects of pollutants, and secondary effects such as acid rainfall
—Scientific and medical bases for NAAQS
—The relationship between hydrocarbons and oxides of nitrogen in the formation of photochemical oxidants including an analysis of the amount of reduction of each pollutant necessary to attain NAAQS
—The necessity to develop a standard for fine particulate matter as a replacement for or in addition to the total suspended particulates (TSP) standard
—The consideration of fugitive dust in the establishment of particulate standards
—The need for a separate NAAQS for carbon monoxide at high altitudes

In addition to an examination of existing standards, the Commission will study the desirability of developing ambient or other standards for currently unregulated pollutants including pollutants resulting from chemical changes in the atmosphere (secondary pollutants).

B. *Methodology.* The Commission's study in this area will consist primarily of a critical review of existing data and an examination of the processes used by EPA in establishing NAAQS. The Commission will perform a preliminary literature search for each of the existing criteria pollutants and compile a list of candidate substances for further investigation to determine whether a NAAQS is required. The Commission also will establish a review panel to examine the relationship of hydrocarbons and oxides of nitrogen in the formation of photochemical oxidants. The panel will consist of 10–12 experts in the field selected by the Commission. The task of the group will be to determine whether and how much one or both precursors of oxidant (hydrocarbons and oxides of nitrogen) must be controlled to attain the NAAQS for oxidant and whether the precursor to be controlled varies for different parts of the country. The review panel will be charged with developing within 90 days an approach to these issues by means of at least two intensive 3–4 day sessions where data and views can be presented in an uninterrupted manner. The conclusions of this panel will be necessary in order to complete other studies relating to oxidant control utilizing the most current scientific knowledge of this question.

Upon completing the preliminary literature search, the Commission will examine current and proposed NAAQS, the procedures used in establishing these standards, candidate substances, and relevant studies by the National Academy of Sciences and public and private sector groups. The Commission will review relevant scientific studies and data on health effects of fine particles and high altitude effects of carbon monoxide. The resulting information will be the basis for recommendations by the Commission regarding the standard setting procedure, the need for refinement of certain standards, and the need, if any, for additional substances to be the subject of NAAQS or other standard setting. The research also will be used in other studies; for example, the attainment and non-attainment studies. The special studies on unregulated pollutants and high altitude CO emissions will be used in examining standards for motor vehicle emissions and their health effects.

II. *Review and Analysis of Policy for Areas Attaining Standards*

A. *Issues to be Addressed.* Congress in the Clean Air Act of 1970 directed the Environmental Protection Agency to establish national ambient air quality standards and gave states primary responsibility for attainment and maintenance of both primary and secondary standards.

While directing that areas exceeding the standards reduce emissions to meet the standards, the Act did not specify requirements for areas of the country in which air quality was cleaner than required by the ambient standards. The issue raised in subsequent litigation was whether EPA could approve state implementation plans which did not prevent "clean air" areas from becoming "dirtier" up to the national standards.

With the courts ultimately determining that EPA could not approve such plans, EPA in November 1972 notified states that it would disapprove state implementation plans which did not provide for the prevention of significant deterioration of air quality (PSD). EPA's December 1974 PSD regulations were incorporated into SIPs under Section 110(c) of the Clear Air Act.

EPA's regulations established three classes with numerical "increments" specifying additional allowable pollution levels for sulfur dioxide and particulates. Class I allowed very minor additional pollution, Class II moderate additional pollution, and Class III additional pollution up to the NAAQS.

The PSD regulations were to be enforced through a preconstruction and premodification permit program applicable to 19 specified industries.

Permits for sources in those industries could not be approved unless the sources would not exceed the applicable increments and unless they used best available control technology (BACT).

In its 1977 Clean Air Act Amendments, Congress affirmed the PSD concept and extended its application. In those Amendments, Congress mandated that EPA adopt PSD regulations for other criteria pollutants by August 1979. Within 21 months of promulgation of those regulations, state implementation plans are to be submitted to EPA and approved or disapproved in the succeeding four months.

Congress in the 1977 Amendments also expanded from 19 to 28 the number of source categories specified to be covered by the PSD regulations. It said "major stationary sources" within those 28 industries with the potential to emit 100 tons or more of pollutants would be covered by the regulations. The coverage would extend also to those sources with the potential to emit or increase emissions by 100 tons of any pollutant or any regulated under new source performance standards, national emission standards for hazardous air pollutants, or those regulated under the mobile source control title of the Act.

Beyond the 28 specified industries, other sources with the potential to emit 250 tons of any pollutant also would be covered.

The law specified that, except for certain federal lands, all areas initially would be classified as Class II and could be redesignated by states, Indian tribes, and federal land managers.

The Commission in this research will focus on issues related to the prevention of significant deterioration provisions of the Clean Air Act, with particular attention being given to values intended to be protected by those provisions and to impacts of PSD on source location and size, employment and regional economic growth. The Commission also will address questions relating to uniform implementation and enforcement of existing requirements of the Act and will consider alternative techniques for accomplishing the goals of PSD. Of particular interest will be the enforceability of alternative techniques.

In examining PSD and its impacts, the Commission will address a number of significant issues. These include:

—The appropriateness of the increments of additional pollution permitted by the Act in preventing significant deterioration of air quality in Class I and II regions
—Alternative techniques, for example the use of standards in lieu of increments and the use of nonregulatory alternatives to PSD and the enforceability of such approaches
—The allocation of PSD increments within a state and in interstate areas, particularly in areas with significant existing or potential energy development and generation
—Whether existing PSD requirements affect the size and location of major sources and the effectiveness and appropriateness of existing siting requirements
—Whether exclusion of non-major sources will affect the ability of major sources to meet existing increments
—The reliability of existing modelling techniques and possible alternatives for PSD review, and the extent to which modelling should serve as a basis for approval of PSD permits
—The desirability of including pollutants other than sulfur dioxide and particulates in PSD review
—Whether technology is available to permit projected economic growth without exceeding increments contained in the Act, and the cost of such technology
—Best available control technology requirements
—The adequacy of the existing methods for designation of lands of special national interest and of methods to add or delete such lands from Class I designation
—The impact of the visibility provisions in the Act on future economic development, including industrial growth and tourism

B. *Methodology.* The Commission will develop the information necessary to address these issues through selected air quality regions. Separate studies will focus on modelling, alternative designation techniques, inclusion of additional pollutants, and visibility.

The Commission will review existing literature which addresses these questions and on the basis of this search will develop a detailed study methodology. Regions will be selected when the literature search is completed. The Commission then will establish ad hoc information groups of local government, business and citizen representatives for each region. These groups will provde data and help involve local officials to ensure that the analysis uses the most accurate information available.

The Commission also will establish a modelling review panel. This panel, similar in composition and purpose to the photochemical oxidant panel, will review existing modelling techniques and assumptions taking into account the effects of variations in climate, meteorology, terrain, and other localized effects. Within 90 days of its organization this panel will recommend specific models for use in the attainment and non-attainment studies.

The Commission during this time will begin a study to examine the appropriateness of the existing increments of additional pollution permitted by the Act. In this study, the Commission will focus on whether the existing increments are appropriate to protect areas designated as Class I and II from significant deterioration of air quality. The Commission will use results of the study to assess costs and benefits associated with the existing increments as compared to the alternative increment levels to be examined in the regional studies.

When the regional information groups are established, the Commission also will prepare work statements for the regional studies. The Commission expects to select —— regions for analysis. These analyses will draw upon studies performed and data collected by other governmental and industry organizations for baseline data and analyses. The methodology and analytical approach for all of these studies will be the same to assure consistent results.

The regional studies will include the following components:

—An examination of control technology and costs necessary for compliance with existing requirements
—The establishment of growth projections
—A review of emission inventory and air quality data from 1979 SIP submissions
—An evaluation of costs of control for existing increments in the region
—An evaluation of regional economic and energy impacts
—The development of alternatives to PSD including alternative increment levels
—An evaluation of costs, enforceability and institutional requirements of alternatives
—A comparison of environmental, economic and technological effects of the current increment approach with the effects under alternatives considered

When the regional studies are being conducted, the Commission will examine the issues of designation methods, visibility requirements, and the desirability of including additional pollutants in PSD review. In the study of additional pollutants, the Commission will attempt to identify the types and relative magnitude of costs and benefits associated with including other pollutants in PSD review. In the study of visibility, the Commission will attempt to measure effects of the Act's provisions on regional economic development, including industrial growth and tourism, and the Act's effectiveness in protecting visibility in scenic areas. In the designation study, the Commission will examine existing procedures for designation to Class I or Class III areas to determine their efficacy in preventing deterioration of air quality while permitting economic growth. The Commission in this study will work closely with the Department of the Interior and state and local officials in affected areas.

Results of the regional, increment evaluation, pollutant addition, visibility and designation studies will form the basis for the Commission's recommendations on the issue of PSD policies for attainment areas. These findings also will be valuable data for the industry and institutional relationship studies described below.

III. *Review and Analysis of Policy for Non-Attainment Areas*

A. *Issues to be Addressed.* The Clean Air Act of 1970 required states to attain primary national ambient air quality standards by May 31, 1975, with extensions possible for some areas to mid-1977. Secondary standards were to be attained within a "reasonable time," and most state implementation plans defined that to be the same as the primary standard attainment date.

By the May 31, 1975 date, however, the Environmental Protection Agency reported that 160 of 247 air quality control regions still had monitored violations. Lacking congressional guidance on the consequences for states failing to achieve the standards by the deadline, EPA adopted its own strategy for allowing new growth in non-attainment areas.

On December 21, 1976, EPA published an interpretive ruling on its preconstruction review regulations establishing what has become known as the "emissions offset" ruling. As amended in 1977, the Clean Air Act largely ratifies until July 1, 1979, EPA's interpretive ruling. After July 1, 1979, the ruling is to be replaced by revised state implementation plans (SIPs).

The revised SIPs must provide for annual emission reductions from existing sources, an emission inventory for all non-attainment areas, a growth allowance, and detailed permit requirements for new major sources. The SIPs must demonstrate that primary NAAQS attainment will be accomplished by December 31, 1982, except for oxidants and carbon monoxide for which, upon the making of a special showing, deadlines can be extended until December 31, 1987.

The plans also must detail the amount of new growth permissible and require that new sources achieve the lowest achievable emission rate (LAER), which is defined as the most stringent emission limitation in the state implementation plan of any state for that class or category of source or the most stringent emission limitation actually achieved in practice, whichever is more stringent.

The state implementation plans must require also that existing sources use reasonably available control technology so that annual reductions in emissions will lead to attainment of the applicable NAAQS by the specified attainment date.

The Commission will assess the existing statutory requirements for areas not attaining ambient standards for their effectiveness in achieving the goals intended by Congress and for their effects on environmental health, energy development, employment and economic growth. The pollutants considered in this analysis will be sulfur dioxide, particulates, and photochemical oxidants. The Commission will examine several subsidiary issues as part of the overall non-attainment issue. These include:

—The effectiveness of the offset/new source review provisions and alternatives to those provisions (e.g., emission taxes, emission "auctions," other market approaches to allocating emissions and other emission allocation procedures), and the enforceability of the alternatives
—The effectiveness and appropriateness of existing siting requirements other than the offset provisions
—The impact of interregional and interstate transport and background levels of photochemical oxidants on non-attainment control requirements (only in oxidants study)
—The availability of offset sources within regions
—Whether the most cost-effective controls are being included in SIPs
—The need for Inspection and Maintenance (I/M) Programs in photochemical oxidant non-attainment areas
—The availability, effectiveness and costs of transportation controls for attaining or maintaining standards, including analysis of alternative policy instruments for achieving reductions of emissions from transportation systems; e.g., incentives/disincentives through federal transportation funding mechanisms and energy and economic impacts of these alternative funding approaches (only in oxidants study)
—The effectiveness and uniformity of state and federal enforcement activities
—The use of alternative control schemes (e.g., increased emphasis on controlling mobile rather than stationary source emissions or vice versa) and resultant enforcement impacts
—The ability of states to attain standards by deadlines in the Act
—Consideration of the definitions of reasonably available control technology (RACT) and lowest achievable emission rate (LAER)
—Special problems of small businesses and government agencies in obtaining emission offsets.

B. *Methodology.* The Commission's research on non-attainment will be quite similar in approach to its studies of attainment areas. Except for the study on special problems of small businesses and government agencies in obtaining emission offsets, much of the data will be collected through regional studies.

The Commission will undertake an extensive literature search, and upon completion, will select regions to be studied. The Commission will establish ad hoc information groups such as those described in the attainment area study.

Concurrently with the establishment of regional information groups, the Commission will prepare detailed work statements for these studies. The methodology for each will be the same to ensure that the results can be properly compared. —— regions for each pollutant will be selected for study. As with the attainment studies, these will use existing reports to the maximum extent possible. Also, the work done by the photochemical oxidants review panel and the modelling review panel will be used in these studies.

The content of the regional studies will be quite similar to the studies outlined in the PSD/attainment area discussion, above. However, because of several significant differences in content, the basic elements of these regional studies also are listed; these include:

—An examination of control technology and costs
—The establishment of regional growth projections
—A review of emission inventory and air quality data derived from 1979 SIP submissions
—An evaluation of the way background levels and tranport of oxidants affect development and implementation of control strategies (performed only in oxidant non-attainment studies)
—The identification of alternative control strategies
—An evaluation of economic, technology, compliance time and health impacts of alternative strategies and alternative NAAQS levels (from NAAQS review studies)
—An evaluation of regional health, energy and economic impacts for existing requirements
—The development of alternative approaches to offset/new source review policy
—An evaluation of costs, economic development, enforceability and institutional requirements of alternative approaches
—A comparison of offset/new source review procedures to alternative approaches

An integral part of the regional studies will be an analysis to determine the combination of strategies which will permit the regions to attain standards by mandated deadlines. In making these

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determinations, the Commission will focus on motor vehicle inspection and maintenance programs. Inspection and maintenance will be examined also in light of anticipated advances in vehicle technology in the mid-to-late 1980s.

The study of problems encountered by small businesses and governmental agencies in obtaining offsets will proceed while the regional and industry studies are in progress. The Commission will examine the extent of problems and identify possible means of eliminating them (if serious problems exist). In addition, the Commission will evaluate the impact of alternative approaches to non-attainment developed as a part of the regional studies.

Results of the regional studies and of the small business impact study will form the basis of the Commission's recommendations on policies and strategies to attain ambient air quality standards in present non-attainment areas. They also will provide data for studies conducted in the Institutional Relationship and Selected Industry portions of the Commission's Plan of Study. Varying mobile and stationary source control options also will be useful to the Vehicle Emission Standards study.

IV. Review of Vehicle Emission Standards

A. *Issues to be Addressed.* Congress in 1965 noted that "the problem of motor vehicle pollution is growing," and said that photochemical smog "is appearing with increasing frequency and severity in metropolitan areas throughout the nation." The Senate that year said it was convinced the "manufacturers have the capability of incorporating air pollution reduction facilities in their vehicles" for hydrocarbons and carbon monoxide, but it said "further research is needed to determine effects of automobile pollutants other than hydrocarbons and carbon monoxide and to find means of controlling them."

In the Motor Vehicle Air Pollution Control Act of 1965, Congress directed the Secretary of the Department of Health, Education and Welfare to "conduct and accelerate research programs" into these and other automobile emission problems. In enacting the 1970 Amendments to the Act, Congress adopted automobile emissions standards for hydrocarbons, carbon monoxide, and oxides of nitrogen.

In the 1977 Clean Air Act Amendments it established interim automobile emission standards for those pollutants for 1978–1979, and 1980, with "final" standards to be achieved by 1981. Under the 1977 Amendments, the 1981 standards call for meeting 0.41 gram per mile for hydrocarbons, 3.40 grams per mile for carbon monoxide (with the possibility of a two-year waiver to 7 grams per mile), and one gram per mile for oxides of nitrogen (with a research goal of 0.4 gram per mile and with an innovative technology or diesel waiver to 1.5 grams per mile).

The 1977 Amendments also require automobile manufacturers to demonstrate to the Environmental Protection Agency Administrator the health and safety impacts of new motor vehicles and engines and of new fuels and fuel additives. EPA is authorized also to prescribe gasoline fill pipe standards for new motor vehicles to assure proper connections with approved vapor recovery systems.

In addition, the 1977 Amendments call for a nonconformance penalty to eliminate competitive advantages that could accrue to automakers by delaying compliance. The Act provides for civil penalties of up to $2,500 for tampering with auto emission controls, and it requires EPA to develop and phase in heavy-duty vehicle emission standards for hydrocarbons, carbon monoxide and, by 1985, for oxides of nitrogen. The heavy-duty vehicle statutory standards require 90 percent hydrocarbon and carbon monoxide emission reductions by 1983 and a 75 percent oxides of nitrogen reduction by 1985.

The Commission will examine the following issues related to vehicle emission standards:

—The availability of technology and the economic, energy and environmental effects of achieving required and proposed control levels for NOx emissions
—The effectiveness of existing and proposed control technology for all pollutants, including the problems of deterioration of current technology, tampering and fuel switching
—The need for emission limitations for currently unregulated pollutants
—The control of vehicle emissions at high altitude

B. *Methodology.* The Commission will design these studies to determine the emission standards necessary both to attain and maintain relevant NAAQS and to protect the public from currently unregulated pollutants such as nitrosamines.

In the case of NOx emissions, existing exhaust standards for gasoline and diesel vehicles and alternative levels will be examined to determine benefits of the various limitations in attaining the existing photochemical oxidants standard, and the short-term ambient standard for NO_2 to be proposed by EPA. The Commission also will study the availability and cost of technology to meet more stringent NOx standards.

The Commission will examine the impact of NOx emissions on non-attainment of the photochemical oxidants NAAQS by examining varying vehicle emission levels of NOx in the regional non-attainment studies discussed above and also examining benefits and costs which would result from such controls. The Commission will evaluate the impact of NOx emissions on meeting the proposed short-term NO_2 NAAQS by determining the effects existing and alternative emission levels would have on attainment in a non-attainment area. In examining alternative NOx emission standards, the Commission will estimate fuel economy impacts of various alternatives.

Finally, as a part of the NOx study, the Commission will assess the potential NOx reductions obtainable with an I/M program and consider which type of test for NOx may be best suited for I/M programs.

In the study of control technology, the Commission will examine questions related to equipment currently in use, and will examine the impact that anticipated or other alternative technology may have on these questions. The Commission will review catalyst technology to determine how much catalytic converters deteriorate in in-use vehicles. In addition, the Commission will determine the extent to which tampering with other engine components and fuel switching reduce the control obtained from these devices. The Commission then will assess anticipated and other alternative control systems to determine their effects on these issues and will attempt to identify potential areas of concern with these technologies.

The Commission will study the control of CO by examining benefits and costs of existing and alternative emission levels both at sea level and at high altitude. The Commission will examine the impact of different CO limitations by analyzing three typical non-attainment locations for CO: an urban central business district at sea level; a major suburban shopping plaza at sea level; and a business district with heavy traffic at high altitude. Each of these conditions will be examined assuming both the existence and the absence of an I/M program.

In each case, the Commission will examine existing and alternative CO emission limitations to determine effects they have on attainment of NAAQS. The Commission also will address the impact of the alternative emission levels on fuel economy at sea level and at high altitude in light of findings in the NAAQS study regarding the need for a high-altitude CO NAAQS.

Currently unregulated pollutants from vehicles, specifically including diesel-powered vehicles, will be examined in light of the study of regulated and unregulated pollutants in the NAAQS study described above. The Commission will determine emission levels of these pollutants by examining data from manufacturers and EPA. This study will focus on determining what contribution unregulated vehicular emissions make to the overall emissions of substances of particular concern and also the extent to which current and anticipated emissions will present a health or other environmental problem.

In its vehicle emission studies, the Commission will explore the adequacy of some of the most debated areas of the 1977 Clean Air Act Amendments. In addition to forming an integral part of the Commission's final report to Congress, the results will provide data for the cost-benefit and institutional relationship portions of the Plan of Study.

V. Costs and Benefits Associated With Air Pollution Control

A. *Issues to be Addressed.* The Commission will examine at a macroeconomic level the costs and benefits associated with air pollution control. The Commission also will examine cases in which cost/benefit analyses can and should be used in air pollution control activities and cases in which cost/benefit analyses cannot be used. To the extent possible, the Commission will quantify aggregate costs and benefits of past and future controls. Where no quantification is possible, the Commission will attempt to provide a range or estimate based upon the best available methodology.

Examples of the types of costs and benefits to be examined include:

Costs

—Capital costs for compliance
—Operation and maintenance costs
—Opportuntiy costs/foregone investment
—Administrative fees (consultants legal fees)
—Control agency budgets
—Decreases in employment in certain industries
—Decreases in plant productivity

Benefits

Health

—Lower health care costs because of fewer adverse health effects of air pollution

Economic

—Increased worker productivity
—Increased employment in certain industries
—Increased agricultural yields
—Less damage to structures, materials and property values
—Fewer adverse effects on aesthetics and tourism
—Increases in plant productivity and process modernization as a result of pollution control investment
—Recovery of materials

Other issues to be examined as part of this anaylsis include the effects of domestic air pollution control requirements on U.S. industry in international markets and effects on the balance of trade. In addition, with data developed in the regional attainment, non-attainment vehicle emission and industry studies, the Commission will examine marginal costs associated with the marginal benefits of increasingly stringent control requirements.

The Commission in its study of these questions will emphasize the assignment of values and quantification of benefits because they are a relatively new and more speculative area of study. The Commission will begin its compilation of these data early in its study through an extensive search of existing literature. The literature search will determine where additional information is necessary in order to attempt to fully quantify, or accurately estimate a cost or benefit, or to determine where quantification is possible given current valuation techniques.

Based upon the results of this research, the Commission will determine how or where such additional information can be obtained or the type of analyses necessary to develop it. Where the development or gathering of that information will not involve massive new research, the Commission will attempt to obtain or develop the information. Where major new research is needed, the Commission will identify the type of work to be undertaken.

The Commission also will examine the use of cost-benefit studies in future air pollution control programs at all levels of government. The Commission will examine current practices and determine situations in which they can be used. The Commission will use the results of the quantification and valuation analyses discussed above to determine potential additional uses for them in air pollution control activities.

VI. The Impact of Air Pollution Abatement Activities on Selected Industries

A. *Issues to be Addressed.* The existing statutory requirements for attainment and non-attainment areas, as discussed previously, create a complex framework within which sources are to operate. In analyzing the attainment and non-attainment parts of the Plan, the Commission will focus on general effects of existing and alternative requirements and will not assess effects on a specific industry. The Commission here will examine the overall impact of the Act's requirements on specific industries, with high priority being given to energy-related industries, particularly those using coal or affecting coal utilization.

The Commission in this area will examine the following broad subjects:

—The effects of existing and alternative control requirements on existing sources
—The effects of existing and alternative control requirements on new or modified sources.

On the first issue, the Commission will study existing and alternative control approaches and assess the abatement technologies necessary, costs, energy consumption, and effects on the environment, employment and economic development. On the second issue, the Commission will examine the effects on siting decisions for new or modified sources of existing and alternative approaches to PSD, offset/new source review, new source performance standards, and visibility requirements. In these studies, the Commission will attempt to determine the extent of overlapping requirements for PSD, non-attainment review and new source performance standards and whether alternative approaches would reduce or increase the amount of any overlap.

B. *Methodology.* The Commission in this research effort will focus on indepth analyses of selected industries. The Commission first will select candidate industries for study. The Commission will examine those industries which will be affected by the broadest range of requirements contained in the existing Act. It will give top priority to energy-related industries, with particular emphasis on those industries affecting increased coal utilization. Because many studies of major industries have been undertaken by industrial and governmental groups, and because of limited Commission resources, the Commission intends to use studies conducted by others to the greatest possible extent, both in selecting industries and in performing its analysis.

Once the Commission selects the industries, it will make a thorough literature search to examine the studies previously performed on the industries. This approach will enable the Commission to determine what additional data or analyses will be

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necessary to complete the studies contemplated and to develop a detailed work statement.

While the literature search is being conducted, the Commission will establish an ad hoc information group for each industry selected. These groups will consist of representatives of the industry to be studied, control agencies, and environmental and labor organizations. The groups will provide a flow of communication among the Commission, the industry, and those affected by the industry. These groups will help assure that the Commission and those performing the study for the Commission have the most accurate data possible.

Each industry study will include the following components:

—A compliation of the availability of control technology, environmental effects, costs, and energy needs associated with existing SIP requirements
—A cost-effectiveness analysis of various processes and controls
—The performance of air quality modelling to predict impacts relative to the following: existing PSD increments; alternative increments; alternative approaches to PSD; offset/new source non-attainment review; new source performance standards; visibility requirements
—Selection of possible control techniques for existing and alternative requirements
—Assembly of regional and national projections of future new and expanded plants
—Extrapolation nationally of technology availability and costs
—Evaluation of regional and national effects of existing and alternative approaches on economic growth, employment, energy consumption and development and, where appropriate, coal utilization

The Commission will examine results of these analyses in light of the overall impact each industry has on national and regional air quality, economic development, employment, and energy development, especially the future use of coal. In the studies of industries which utilize coal an analysis will be performed of current and projected emission of carbon dioxide (CO_2) from sources in that industry, as well as the relationship between coal combustion and radioactive byproducts. The studies will be conducted to allow consideration of effects that current requirements have on plant siting and sizing decisions. In addition, they will examine overall effects on the industry of alternative approaches to existing requirements which will be developed as part of the regional studies of attainment and non-attainment areas.

The Commission will use these studies to evaluate the overall effects of existing requirements and alternative control approaches. That analysis will help the Commission develop overall recommendations on attainment, non-attainment and new source review policies and procedures, particularly as they affect energy development and coal utilization.

VII. Review and Analysis of Institutional Relationships and Research Programs

A. *Issues to be Addressed.* The Commission will focus its attention in this area on the relationships between federal, state, and local governments and the private sector in planning, administering and enforcing the Clean Air Act, and on air pollution-related research activities of government and industry. Specific questions to be addressed include:

—The ability of federal, state, and local governments to implement and enforce existing provisions of the Act, including an examination of available resources, relationships among states in interstate air quality control regions, and effects of existing sanction provisions
—The relationship of air quality planning to other state and local planning efforts (e.g., transportation and growth management) and to other federally-mandated environmental planning programs (e.g., Clean Water Act Areawide Management Plans and Solid Waste Management Planning)
—The adequacy of research, development, and demonstration projects conducted by federal, state and local governments and private industry
—The ability of business to secure the financial resources and train the personnel necessary to assure compliance with the control requirements contained in the Act.

B. *Methodology.* The Commission will study administration and enforcement of existing provisions of the Act by EPA and state and local governments. It will examine statutory authority of state and local agencies, resources available to all levels of government, and the effectiveness in using those resurces for planning, surveillance and enforcement. The Commission will emphasize two areas: The proper role of the federal government in the air quality planning process; and implementation of the Act by all levels of government. As part of this study, the Commission will examine the relationship of air quality planning to other state and local planning activities and, in particular, the role of regional planning activities and, in particular, the role of regional planning organizations. Recommendations for improvements or adjustment of any major differences in planning and enforcement will be developed.

To carry out this study, the Commission will contact officials at all levels of government and industry for views and data. Some of this contact will taken place in the regional and industry information group activities which are part of the attainment, non-attainment and industry studies. The views of officials in other regions and industries also will be actively sought. Of particular interest will be the degree of participation by elected and non-elected officials, business officials, and public interest groups in developing the 1979 SIP revisions, and the effects of any sanctions imposed because of EPA non-approval of those plans. The Commission will also examine the Section 175 (Department of Transportation) transportation planning grants to local agencies and the urban demonstration grants made by the Department of Commerce under the President's Urban Policy.

The Commission will analyze current and projected budgets, personnel levels, and enforcement activity data by reviewing existing SIPs and contacting appropriate officials. Whenever possible, the issues explored in this study will be analyzed in conjunction with the regional studies described earlier in the Plan of Study.

In a second study to be done simultaneously with the one described above, the Commission will examine the air pollution research done by federal, state and local governments and industry. Federal research activities will be carefully scrutinized and evaluated, and several state and local programs will be selected for examination. In addition, the Commission will examine efforts of selected industries and industry groups to further air pollution research activities. In this study, the Commission will determine the adequacy of research programs at each level and recommend possible improvements.

For federal agency analysis, the Commission will draw upon reports and analyses by congressional committees, and will evaluate the reports in light of recent activities. The Commission will use existing reports and data on state, local and industrial efforts where available, and additional information will be obtained through interviews with appropriate officials.

An important part of the regional attainment and non-attainment studies will be the development of alternative approaches to meeting the goals of PSD and offset/new source review policies. As indicated in the description of those studies, a portion of them will be devoted to examining institutional relationships which would be created by substituting each alternative for the existing approach, as well as the enforceability of each of these measures. Because these factors are critical to determining the viability of these alternatives, Commission personnel who will analyze these issues will not have participated in developing the alternative approaches.

In the study of the ability of industry to achieve requirements contained in the Act, the Commission will use data collected in the regional attainment, non-attainment, industry and cost-benefit studies. The Commission will examine not only the financial commitments needed to comply with the Act's requirements and sources of these resources, but also training programs established by industry to assure proper operation and maintenance of pollution control equipment, and proper reporting of information to control agencies.

The institutional relationships and research studies will be especially important to almost all other Commission studies. The findings will be applied to these other studies as they are completed to test the practicality of alternative approaches to the 1977 Clean Air Act Amendments and to support final recommendations of the Commission.

VIII. Review and Analysis of Alternative Approaches to Air Pollution Control

A. *Issues to be Addressed.* Other parts of the Plan provide for developing and evaluating alternatives to the specific area of the Act being considered. These alternatives include economic and other non-regulatory approaches and alternative emission limitations as potential substitutes for existing requirements.

This portion of the study, in addition to compiling and summarizing conclusions about each of the alternatives, will review alternatives transcending specific issues such as attainment or non-attainment, now provided for under the Act. In particular, the Commission will emphasize the study of economic incentives. Also, alternatives which would require that pollutants from all media be addressed comprehensively will be considered. Advantages and disadvantages of all alternatives will be considered, and an evaluation made of each approach or combination of approaches.

B. *Methodology.* The Commission will thoroughly examine each of the studies prepared as part of this Plan of Study. The alternatives discussed in each of these studies will be reviewed both as complete or partial replacements for and as supplements to existing requirements. The Commission will examine the alternatives and advantages and disadvantages of each, and assess whether the overall goals of the Act could be better accomplished by use of one or more alternatives. In this evaluation, the Commission will consider the net effect on air quality and other environmental programs, enforceability, economic impacts, and needed institutional arrangements.

While analyses of these considerations will take place as part of each study, the examination in this part will enable the Commission also to review the total statutory framework. That review may result in modifying some of the alternatives or applying approaches in one subject area to other areas.

This approach will allow the Commission to explore more fully the range of possible approaches and to evaluate implications of these newly developed or modified approaches.

While reviewing and evaluating alternative approaches to existing issues, the Commission also will examine whether economic and other non-regulatory approaches can be used effectively to deal with the major issues created by the Act. As discussed previously, these approaches may include auction or other market approaches, emission taxes as well as generic alternatives to existing PSD and non-attainment requirements. The Commission will develop candidate alternatives in light of future growth and technology projections and those alternatives will be examined in terms of enforceability, economic impact and needed institutional relationships.

The results of these studies on alternative approaches will be an essential part of the basis for the Commission's overall recommendations.

IX. The Final Report

Upon concluding the studies in the eight areas described above, the Commission will review and compile the findings of each. These findings will then be reviewed in the context of the overall statutory scheme; within two months of completion of all studies, a draft report will be prepared for review by the general public. Afer that review, the Commission will consider the views and comments and prepare a final report to Congress.

The final report will contain recommendations on issues for which statutory modifications appear desirable and the framework for such modifications; issues for which no changes to the existing statute appear necessary; and issues for which modifications to current administrative practices and procedures would be appropriate.

[FR Doc. 79-14444 Filed 5-8-79; 8:45 am]
BILLING CODE 6820-96-M

SECURITIES AND EXCHANGE COMMISSION

Allegheny Power System, Inc., and Potomac Edison Co.; Proposal by Public Utility Subsidary To Make Subordinated Short-Term Borrowings From Parent Holding Company

April 30, 1979.

Notice is hereby given that Allegheny Power System, Inc. ("APS"), 320 Park Avenue, New York, New York 10022, a registered holding company, and the Potomac Edison Company ("PE"), Downsville Pike, Hagerstown, Maryland 21740, a public utility subsidiary of APS, have filed an application-declaration and amendments thereto with this Commission pursuant to the Public Utility Holding Company Act of 1935 ("Act"), designating Sections 6 and 12 of the Act as applicable to the proposed transactions. All interested persons are referred to the application-declaration, which is summarized below, for a complete statement of the proposed transactions.

It is proposed that APS, for a period not to exceed 12 months, beginning as soon as appropriate authorizations from regulatory bodies have been received and ending on June 1, 1980, from time to time, will lend and PE will borrow such amounts as may be necessary for varying periods of time of not less than one day and not more than 270 days but not to exceed $30 million outstanding at any one time.

The proposed borrowings will (a) bear interest at a rate equal to the actual cost of money to APS of obtaining the funds either through the sale of commercial paper or through bank borrowings pursuant to Commission orders dated September 21, 1977 and August 24, 1978 (HCAR Nos. 20185 and 20682), (b) be subordinated to the outstanding cumulative preferred stock of PE, (c) be prepayable by PE at any time without premium or penalty and (d) be evidenced by notes. PE will not make principal or interest payments on the proposed borrowings if dividend payments on outstanding shares of the cumulative preferred stock are in arrears.

APS is authorized to have outstanding at any one time $130 million of short-term debt until September 30, 1980,

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although its authority to issue such short-term debt expires on March 31, 1980. As of March 15, 1979, APS had about $61 million of short-term debt outstanding and it is expected that on June 1, 1979 about $90 million of such short term debt will be outstanding. APS plans to issue common stock, the precise amount of which has not yet been determined, in the summer of 1979 and should it nevertheless prove necessary to do so will seek authority to issue additional amounts of short-term debt. APS will pay or pre-pay short-term debt incurred for the purposes proposed herein as soon as practicable upon repayment by PE.

PE will repay any monies borrowed from APS from time to time from one or more of the following: internally generated funds, the proceeds of a Federal income tax refund expected to aggregate between $10 and $12 million (expected to be received prior to the end of 1979), the proceeds of the sale of first mortgage bonds expected to be sold in the third quarter of 1979 and the proceeds of the sale of such other securities, including additional common stock to its parent, as this Commission and other regulatory authorities having jurisdiction may authorize.

As stated above, the cost to PE of the borrowings proposed herein would be equal to the cost of short-term debt to APS. The commercial paper issued by APS is rated P–1 and is sold to a dealer in commercial paper at a discount not in excess of the discount rate per annum prevailing at the time for issuance of commercial paper of comparable quality and of the particular maturity. Pursuant to the Commission's orders of September 21, 1977 and August 24, 1978 (HCAR Nos. 20185 and 20682, respectively), APS may only issue commercial paper notes if (1) the interest cost thereof is equal to or less than the effective interest cost at which APS could borrow the same amount from certain banks identified in that order, or (2) APS cannot at that time borrow the same amount for the same period of time from such banks. PE's commercial paper is rated P–2 and the arrangements for the sale of its commercial paper are substantially the same as those for APS.

APS generally borrows from banks at the prime or equivalent interest rate of the bank at which the borrowing is made in effect at the time of issuance, or in effect from time to time, or in some instances at a lower rate pursuant to special arrangements. The prime or equivalent rate as of March 15, 1979 varied between 11½ and 11¾% depending on the bank. APS and its subsidiaries regularly maintain balances at all of the banks named to meet regular operating requirements although the amounts of such balances will vary from time to time. Balances required to support lines of credit and loans are generally either on the basis of a percentage of the lines of credit extended by the bank (for example, 10%) or a higher percentage (for example, 20%) of notes outstanding, whichever is greater or a percentage of the line of credit (for exemple, 10%) plus a percentage (for example, 10%) of notes outstanding in every case on an average annual basis. If such balances were maintained solely to fulfill compensating balance requirements for borrowings, the effective interest cost to APS of issuing and selling notes would be no more than 14.68% of a prime rate of 11¾% and 15% with a prime rate of 12%. In some instances fees can be substituted for or used in conjunction with lower compensating balances than those described. In some cases fees equal to a specific percentage of the prime rate are involved while in others a combination of a fee equal to 2½% of prime and a 5% balance requirement of the line of credit is required. APS uses the substitute fee arrangements only if the effective cost thereof is less than the cost of the compensating balance arrangement in effect at that bank at that time. The fee arrangements produce an effective interest cost of between 13.35% and 14.05% on the basis of a prime rate of 11¾% and between 13.63% and 14.35% on the basis of a prime rate of 12%. Similar arrangements are applicable to PE when it borrows from banks directly. As a result the cost to PE of borrowing funds from APS under the proposed arrangement would be substantially the same or less than the cost of PE's borrowing such funds directly.

It is stated that the fees, commissions and expenses to be incurred in connection with the proposed transactions are estimated at $4,000. The Public Service Commission of West Virginia and the State Corporate Commission of Virginia have jurisdiction over the proposed transactions. It is stated that no State or federal commission, other than this Commission, has jurisdiction over the proposed transactions.

Notice is further given that any interested person may, not later than May 29, 1979, request in writing that a hearing be held on such matter, stating the nature of his interest, the reasons for such request, and the issues of fact or law raised by the filing which he desires to controvert; or he may request that he be notified if the Commission should order a hearing thereon. Any such request should be addressed: Secretary, Securities and Exchange Commission, Washington, D.C. 20549. A copy of such request should be served personally or by mail upon the applicants-declarants at the above-stated address, and proof of service (by affidavit or, in case of an attorney at law, by certificate) should be filed with the request. At any time after said date, the applications-declaration, as amended or as it may be further amended, may be granted and permitted to become effective as provided in Rule 23 of the general rules and regulations promulgated under the Act, or the Commission may grant exemption from such rules as provided in Rules 20 (a) and 100 thereof or take such other action as it may deem appropriate. Persons who request a hearing or advice as to whether a hearing is ordered will receive any notices or orders issued in this matter, including the date of the hearing (if ordered) and any postponements thereof.

For the Commission, by the Division of Corporate Regulation, pursuant to delegated authority.

Shirley E. Hollis,

Assistant Secretary.

[Release No. 21025; 70-6285]

[FR Doc. 79-14476 Filed 5-8-79; 8:45 am]

BILLING CODE 8010-01-M

R. B. Jones Corp.; Application and Opportunity for Hearing

April 30, 1979.

Notice is hereby given that R. B. Jones Corporation ("Applicant") has filed an application pursuant to Section 12(h) of the Securities Exchange Act of 1934, as amended (the "1934 Act"), seeking an exemption from the requirement to file reports pursuant to Sections 13 and 15(d) of the 1934 Act.

The Applicant states in part:

1. The Applicant was a publicly-held company with a class of securities registered pursuant to Section 12(g) of the 1934 Act, and was thus subject to the reporting provisions of Sections 13 and 15(d) of the 1934 Act.

2. On January 31, 1979, the Applicant was merged with and into a wholly owned subsidiary of Alexander & Alexander Services, Inc. pursuant to an Agreement and Plan of Merger dated January 8, 1979.

3. As a result of the merger there is no trading in Applicant's securities all of which are held of record by Alexander & Alexander Services, Inc.

In the absence of an exemption, Applicant will be required to file certain periodic reports with the Commission including a quarterly report on Form 10–Q for the quarter ended January 31, 1979 and such further reports for periods through Applicant's fiscal year end of October 31, 1979, pursuant to Section 15(d) of the 1934 Act.

The Applicant contends that no useful purpose would be served in filing the periodic reports because Alexander & Alexander Services, Inc. now owns all of the Applicant's common stock, and its common stock is no longer publicly traded.

For a more detailed statement of the information presented, all persons are referred to said application which is on file in the Office of the Commission at 1100 L Street, N.W., Washington, D.C. 20549.

Notice is further given that any interested person not later than May 25, 1979, may submit to the Commission in writing his views on any substantial facts bearing on the application or the desirability of a hearing thereon. Any such communication or request should be addressed: Secretary, Securities and Exchange Commission, 500 North Capitol Street, N.W., Washington, D.C. 20549, and should state briefly the nature of the interest of the person submitting such information or requesting the hearing, the reason for such request, and the issues of fact and law raised by the application which he desires to controvert.

Persons who request a hearing or advice as to whether a hearing is ordered will receive any notices and orders issued in this matter, including the date of the hearing (if ordered) and any postponements thereof. At any time after said date, an order granting the application may be issued upon request or upon the Commission's own motion.

For the Commission, by the Division of Corporation Finance, pursuant to delegated authority.

Shirley E. Hollis,

Assistant Secretary.

[File No. 81–499]

[FR Doc. 79-14499 Filed 5-8-79; 8:45 am]

BILLING CODE 8010-01-M

Wood Industries, Inc.; Application and Opportunity for Hearing

April 30, 1979.

Notice is hereby given that Wood Industries, Inc. ("Applicant") has filed an application pursuant to Section 12(h) of the Securities Exchange Act of 1934, as amended (the "1934 Act"), seeking an exemption from the requirement to file reports pursuant to Sections 13 and 15(d) of the 1934 Act.

The Applicant states in part:

1. The Applicant was a publicly-held company with a class of securities registered pursuant to Section 12(b) of the 1934 Act, and was thus subject to the reporting provisions of Sections 13 and 15(d) of the 1934 Act.

2. On February 9, 1979, the Applicant was merged with and into a wholly owned subsidiary of MaschinenFabrik Augsburg-Nuernberg Aktiengesellschaft, ("M.A.N.") a German corporation, pursuant to an Agreement and Plan of Merger dated December 6, 1978.

3. As a result of the merger Applicant has only one record holder of its common stock.

4. Applicant after termination of its Section 12(b) registration on March 5, 1979, is now subject to the reporting provisions of Section 15(d) of the 1934 Act.

In the absence of an exemption, Applicant will be required to file certain periodic reports with the Commission including an annual report on Form 10–K for the fiscal year ending June 30, 1979, and such further reports for periods ending within Applicant's fiscal year pursuant to Section 15(d) of the 1934 Act.

The Applicant contends that no useful purpose would be served in filing the required periodic reports because there are no longer public investors or trading interest in its securities.

For a more detailed statement of the information presented, all persons are referred to said application which is on file in the Office of the Commission at 1100 L Street, N.W., Washington, D.C. 20549.

Notice is further given that any interested person not later than May 25, 1979, may submit to the Commission in writing his views on any substantial facts bearing on the application or the desirability of a hearing thereon. Any such communication or request should be addressed: Secretary, Securities and Exchange Commission, 500 North Capitol Street, N.W., Washington, D.C. 20549, and should state briefly the nature of the interest of the person submitting such information or requesting the hearing, the reason for such request, and the issues of fact and law raised by the application which he desires to controvert.

Persons who request a hearing or advice as to whether a hearing is ordered will recieve any notices and orders issued in this matter, including the date of the hearing (if ordered) and any postponements therof. At any time after said date, an order granting the application may be issued upon request or upon the Commission's own motion.

For the Commission, by the Division of Corporation Finance, pursuant to delegated authority.

Shirley E. Hollis,

Assistant Secretary.

[File No. 81–497]

[FR Doc. 79-14500 Filed 5-8-79; 8:45 am]

BILLING CODE 8010-01-M

SMALL BUSINESS ADMINISTRATION

Issuance of License

On February 15, 1979, a Notice was published in the Federal Register (FR Vol 44, No. 33–9821) stating that an application had been filed by Central Capital Corporation, 1097 Commercial Ave., Lancaster, Pennsylvania 17604, with the Small Business Administration (SBA) pursuant to Section 107.102 of the SBA Regulations governing small business investment companies (SBIC's), (13 CFR 107.102 [1978]), for a license as an SBIC.

Interested parties were given until the close of business March 2, 1979, to submit their written comments to SBA. No comments were received.

Notice is hereby given that, pursuant to Section 301(c) of the Small Business Investment Act of 1958, as amended, after having considered the application and all other pertinent information the SBA issued License No. 04/04–0140 to Central Capital Corporation on April 20, 1979.

Peter F. McNeish,

Deputy Associate Administrator for Finance and Investment.

[FR Doc. 79-14478 Filed 5-8-79; 8:45 am]

BILLING CODE 8025-01-M

Minnesota; Declaration of Disaster Loan Area

As a result of the President's major disaster declaration I find that Aitkin, Clay, Itasca, Kittson, Lake of the Woods, Marshall, Norman, Polk, Red Lake, Roseau, Wilkin counties and adjacent counties within the State of Minnesota, constitute a disaster area because of damage resulting from severe storms and flooding beginning on or about April 14, 1979. Applications will be processed under the provisions of Public Law 94–305. Interest rate is 7% percent. Eligible persons, firms and organizations may file applications for loans for physical damage until the close of business on June 29, 1979, and for economic injury until close of business on January 30, 1980, at: Small Business Administration, District Office, Plymouth Building Room 530, 12 South Sixth Street, Minneapolis, Minnesota 55402, or other locally announced locations.

(Catalog of Federal Domestic Assistance Program Nos. 59002 and 59008)

Dated: May 4, 1979.

Harold A. Theiste,
Acting Administrator.

[Declaration of Disaster Loan Area #1629]
[FR Doc. 79-14479 Filed 5-8-79; 8:45 am]
BILLING CODE 8025-01-M

Missouri; Declaration of Disaster Loan Area

Clark County and adjacent counties within the State of Missouri constitute a disaster area as a result of damage caused by ice jams and flooding which occurred on March 13–14, 1979. Applications will be processed under provisions of Public Law 94–305. Interest rate is 7¾ percent. Eligible persons, firms and organizations may file applications for loans for physical damage until the close of business on July 2, 1979, and for economic injury until the close of business on February 4, 1980, at: Small Business Administration, District Office, Mercantile Tower, Suite 2500, One Mercantile Center, St. Louis, Missouri 63101, or other locally announced locations.

(Catalog of Federal Domestic Assistance Program Nos. 59002 and 59008)

Dated: May 3, 1979.

A. Vernon Weaver,
Administrator.

[Declaration of Disaster Loan Area #1628]
[FR Doc. 79-14480 Filed 5-8-79; 8:45 am]
BILLING CODE 8025-01-M

Small Business Product Liability Issues and Options; Hearing

• Pursuant to statutory authority set forth in Section 634(d) of Title 15, United States Code, the Chief Counsel for Advocacy of the Small Business Administration, Milton D. Stewart, Esq., with the approval of the Administrator, A. Vernon Weaver, will conduct a public hearing in Kansas City, Missouri, on May 26, 1979, on Small Business Product Liability Issues and Options. The hearing will convene at 9:00 a.m. at the Federal Building, 601 East 12th Street, Kansas City, Missouri

• The Office of the Chief Counsel for Advocacy will consider the current product liability problems of small business owners and their assessments of the remedies proposed at the Federal and state levels.

• Participants will incude small manufacturers and product sellers, pertinent trade association representatives, and concerned government officials.

• The hearing is open to the public. Any member of the public may make a verbal statement, but must file a written statement prior to the hearing. Any member of the public may file a written statement with the Office of the Chief Counsel for Advocacy before, during, or after the hearing. All communications or inquiries regarding the hearing should be addressed to: Maureen C. Glebes, Office of the Chief Counsel for Advocacy, U.S. Small Business Administration, 1441 L Street, NW., Room 1100, Vermont Building, Washington, D.C 20416, (202) 653–6083.

Milton D. Stewart,
Chief Counsel for Advocacy.

April 26, 1979.
[FR Doc. 79-14477 Filed 5-8-79; 8:45 am]
BILLING CODE 8025-01-M

INTERSTATE COMMERCE COMMISSION

Motor Carrier Temporary Authority Applications

The following are notices of filing of applications for temporary authority under Section 210a(a) of the Interstate Commerce Act provided for under the provisions of 49 CFR 1131.3. These rules provide that an original and six (6) copies of protests to an application may be filed with the field official named in the **Federal Register** publication no later than the 15th calendar day after the date the notice of the filing of the application is published in the **Federal Register**. One copy of the protest must be served on the applicant, or its authorized representative, if any, and the protestant must certify that such service has been made. The protest must identify the operating authority upon which it is predicated, specifying the "MC" docket and "Sub" number and quoting the particular portion of authority upon which it relies. Also, the protestant shall specify the service it can and will provide and the amount and type of equipment it will make available for use in connection with the service contemplated by the TA application. The weight accorded a protest shall be governed by the completeness and pertinence of the protestant's information.

Except as otherwise specifically noted, each applicant states that there will be no significant effect on the quality of the human environment resulting from approval of its application.

A copy of the application is on file, and can be examined at the Office of the Secretary, Interstate Commerce Commission, Washington, D.C., and also in the ICC Field Office to which protests are to be transmitted.

Note.—All applications seek authority to operate as a common carrier over irregular routes except as otherwise noted.

Motor Carriers of Property

MC 2226 (Sub-115TA), filed April 6, 1979. Applicant: RED ARROW FREIGHT LINES, INC., P.O. Box 1897, San Antonio, TX 78297. Representative: Phillip Robinson, 1806 Rio Grande (Box 2207), Austin, TX 78767. *General Commodities* (except those of unusual value, classes A and B explosives, household goods as defined by the Commission, commodities in bulk, and those requiring special equipment): (1) Between Dallas and Amarillo, Texas, from Dallas over Interstate Highway 35E to Denton, then over U.S. Highway 380 to Decatur, the over U.S. Highway 287 to Amarillo, and return over the same route, serving Wichita Falls, and all intermediate points between Wichita Falls and Amarillo. (2) Between Dallas and Decatur, Texas, from Dallas over Texas Highway 114 to Rhome, then over U.S. Highway 287 to Decatur and return over the same route, serving Decatur and Rhome for purposes of joinder only. (3) Between Dallas and Rhome, Texas, from Dallas over the Texas Turnpike Authority Toll Road to Fort Worth, then over U.S. Highway 287 to Rhome and return over the same route, serving Fort Worth as an intermediate point and serving Rhome for purposes of joinder only. (4) Between Fort Worth and Wichita Falls, Texas, from Fort Worth over Texas Highway 199 to Jacksboro, then over U.S. Highway 281 to Wichita Falls, and return over the same route. (5) Between Jacksboro and Lubbock, Texas, from Jacksboro over Texas Highway 114 to Seymour, then over U.S. Highway 82 to Lubbock and return over the same route, serving all intermediate points. (6) Between Wichita Falls and Abilene, Texas, (a) over U.S. Highway 277, and (b) from Wichita Falls over Texas Highway 79 to Throckmorton, then over U.S. Highway 283 to Albany, then over U.S. Highway 180 to junction Texas Highway 351, then over Texas Highway 351 to Abilene, and return over the same route, serving all intermediate points (except Weinert, Haskell, Points between Abilene and Stamford on U.S. Highway 277 and Albany). (7) Between Jacksboro and Rule, Texas, over U.S. Highway 380, serving all intermediate points (except Haskell and those between Jacksboro and Graham), serving South Bend, Eliasville, Ivan and Woodson as off-route points, and serving Jacksboro as a point of joinder only. (8) Between Stamford and Benjamin, Texas, over Texas Highway 6. (9) Between Vernon and Hereford, Texas, from Vernon over U.S. Highway 70 to Olton, then over Farm-to-Market Road 168 to Hart (also from Plainview over Texas Highway 194 to Hart), then over Texas Highway 194 to junction U.S. Highway 385, then over U.S. Highway 385 to Hereford, and return over the same route, serving all intermediate points and the off-route points of Fargo, Roading Springs and Glenn. (10) Between Ralls and Estelline, Texas, from Ralls over Texas Highway 207 to Silverton, then over Texas Highway 86 to Estelline, and return over the same route, serving all intermediate points. (11) Between Amarillo and Farwell, Texas, over U.S. Highway 60, serving all intermediate points and the United States Helium Plant west of Amarillo as an off-route point. (12) Between Idalou and Plainview, from Idalou over U.S. Highway 82 to junction Farm-to-Market Road 400, then over Farm-to-Market Road 400 to Plainview and return over the same route, serving all intermediate points and the off-route point of Petersburg. (13) Between Wichita Falls, Texas, and Sheppard Air Force Base and the Wichita Falls Airport and Kell Field, from Wichita Falls over U.S. Highways 277 and 281 to their intersection with unnumbered county road to Sheppard Air Force Base and the Wichita Falls Airport and Kell Field and return over the same route, serving all intermediate points. (14) Between Olney and Newcastle, Texas, over Texas Highway 251, serving all intermediate points. (15) Between Jean, Texas, and the intersection of Farm-to-Market Road 1769 and U.S. Highway 380 over Farm-to-Market Road 1769, serving all intermediate points. (16) Between Seymour and Throckmorton, Texas, over U.S. Highway 283, serving all intermediate points. (17) Between Canyon and Plainview, Texas, over U.S. Highway 87. (18) Between Matador and Dickens, Texas, over U.S. Highway 70. (19) Between Childress and Paducah, Texas, over U.S. Highway 62. (20) Between Quanah, Texas, and junction Farm-to-Market Road 104 and U.S. Highway 70, over Farm-to-Market Road 104. (21) Between Knox City and Munday, Texas, over Texas Highway 222. (22) Between Graham, Texas, and junction Texas Highway 16 and U.S. Highway 281 near Antelope, Texas, over Texas Highway 16. Routes (17) through (22) are alternate routes for operating convenience only, serving no intermediate points and serving the termini for purpose of joinder only. Routes (1) through (22) are restricted against service to points in new Mexico. Applicant intends to tack and coordinate the authority sought with applicant's existing authorities in MC–2226 and subs thereunder, and to interline with other motor carriers. Supporting shipper(s): There are 614 supporting shippers. Their statements can be examined at the office listed below and at ICC Headquarters. Send protests to: Richard H. Dawkins, District Supervisor, Interstate Commerce Commission, Room B–400 Federal Building, San Antonio, TX 78206.

MC 27817 (Sub-155 TA), filed March 29, 1979. Applicant: H. C. GABLER, INC., RD No. 3 P.O. Box 220, Chambersburg, PA 17201. Representative: Christian V. Graf, Esquire, 407 North Front Street, Harrisburg, PA 17101. See attached summary. Supporting shipper(s): Heinz USA, Division of H. J. Heinz Company, P.O. Box 57, Pittsburgh, PA 15230. Send protests to: Interstate Commerce Commission, William J. Green Jr Federal Bldg., 600 Arch Street, Room 3238, Philadelphia, PA 19106.

MC 32166 (Sub-13TA), filed March 29, 1979. Applicant: BRONAUGH MOTOR EXPRESS, INC., 1025 Nandino Blvd., Lexington, Ky. 40511. Representative: John W. Bronaugh, President (address above). Authority sought to operate as a common carrier, by motor vehicle, over regular routes, transporting *General Commodities* (except those of unusual value, Classes A and B explosives, household goods as defined by the Commission, commodities in bulk, and those requiring special equipment), between Lexington, Ky. and its commercial zone, and Nashville, TN, and its commercial zone, serving no intermediate points; from Lexington, Ky., over U.S. Hwy. 60 to its junction with Blue Grass Parkway, then over Blue Grass Parkway to its junction with Interstate Hwy. 65, then over Interstate Hwy. 65 to Nashville, TN, and return over the same route. Supporting shipper(s): Thirty-two (32) Supporting Shippers. Send protests to: Mrs. Linda H. Sypher, District Supervisor, Interstate Commerce Commission, Washington, D.C. 20423.

MC 37656 (Sub-12TA), filed April 16, 1979. Applicant: DOYLE TRUCKING CORPORATION, 100 Plaza Center, Secaucus, NJ 07094. Representative: Edward L. Nehez, P.O. Box 1409, 167 Fairfield, NJ 07006. Contract, irregular. *New Furniture*. From the facilities of Allied Fine Furniture, Inc. at Richmond, VA to points in ME, NH, VT, NY, NJ, MA, RI, DE, CT, PA, MD, DC, and WV, for 180 days. An underlying ETA seeks 90 days authority. Supporting shipper(s): Allied Fine Furniture, 5301 Glen Allen, Richmond, VA 23231. Send protests to: Robert E. Johnston, D/S, ICC, 9 Clinton St., Newark, NJ 07102.

MC 40757 (Sub-19TA), filed April 3, 1979. Applicant: CREECH BROTHERS TRUCK LINES, INC., 100 Industrial Dr., Troy, MO 63379. Representative: Richard A. Mehley, 1000 16th St. NW., Washington, D.C. 20036. *Printed matter*, between Crawfordsville, IN and Troy, MO, for 180 days. Supporting shipper(s): Harper & Row Publishers, Inc., Keystone Industrial Park, Scranton, PA 18512. Send protests to: P. E. Binder, DS, ICC, Rm. 1465, 210 N. 12th St., St. Louis, MO 63101.

MC 42487 (Sub-908TA), filed April 2, 1979. Applicant: CONSOLIDATED FREIGHTWAYS CORPORATION OF DELAWARE, 175 Linfield Drive, Menlo Park, CA 94025. Representative: V. R. Oldenburg, P.O. Box 3062, Portland, OR 97208. Common: regular routes: General commodities, except those of unusual value, Classes A and B explosives, household goods as defined by the Commission, commodities in bulk and commodities requiring special equipment, between Fort Smith, AR and the facilities of Ladish Company at or near Russellville, AR, serving no intermediate points: From Fort Smith over U. S. Hwy 64 to Russellville, and return over the same route, for 180 days. Applicant intends to tack the proposed authority with its present authority found in Docket MC 42487 SUB 708. Supporting shipper(s): Ladish Company, 5481 S. Packard Ave., Cudahy, WI 53110. Send protests to: District Supervisor M. M. Butler, 211 Main, Suite 500, San Francisco, CA 94105.

MC 59557 (Sub-16TA), filed April 13, 1979. Applicant: AUCLAIR TRANSPORTATION, INC., 333 March Ave., Manchester, NH 03108. Representative: Elliott Bunce, Suite 1301, 1600 Wilson Blvd., Arlington, VA 22209. *General commodities*, except those of unusual value and except dangerous explosives, household goods as defined by the Commission, commodities in bulk, commodities requiring special equipment and those injurious or contaminating to other lading, between points in the St. Louis, MO commercial zone, for 180 days. Supporting shipper(s): There are 18 shippers. Their statements may be examined at the office listed below and Headquarters. Send protests to: Ross J. Seymour, DS, ICC, RM 3,6 Loudon RD., Concord, NH 03301.

MC 77016 (Sub-21TA), filed March 26, 1979. Applicant: BUDIG TRUCKING CO., 1100 Gest St., Cincinnati, OH 45203.

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Representative: George M. Catlett, Attorney at Law, Suite 708 McClure Bldg., Frankfort, KY 40601. *Common carrier:* regular routes: *General commodities (except those of unusual value, classes A and B explosives, household goods as defined by the Commission, commodities in bulk, and those requiring special equipment),* (1) Between Madison, IN, and Vevay, IN: from Madison, IN, over Indiana Hwy 56 to Vevay, IN, and return over the same route, serving all intermediate points; (2) between Louisville, KY, and Cincinnati, OH: from Louisville, KY, over Interstate Hwy 71 to Cincinnati, OH, and return over the same route, serving no intermediate points, but serving the junction of Interstate Hwy 71 and Kentucky Hwy 227 for joinder only; and (3) between the junction of Interstate Hwy 71 and the junction of Kentucky Hwy 227 and Madison, IN: from the junction of Interstate Hwy 71 and Kentucky Hwy 227 over Kentucky Hwy 227 to junction of U.S. Hwy 42, thence over U.S. Hwy 42 to junction of Kentucky Hwy 36, thence over Kentucky Hwy 36 to junction of U.S. Hwy 421, thence over U.S. Hwy 421 to Madison, IN, and return over the same route, serving all intermediate points. Authority is sought to serve the commercial zones of all points sought to be served in Routes (1) through (3) next above, and to tack Routes (1) through (3) next above with each other. RESTRICTION: Service at Louisville, KY, and points within its commercial zone located wholly in KY is restricted against the handling of traffic originating at, destined to, or interchanged at Maysville, KY, and points within its commercial zone located wholly in KY, for 180 days. An underlying ETA seeks 90 days authority. Supporting shipper(s): There are approximately 95 supporting shippers. Send protests to: Bureau of Operations, ICC, Wm. J. Green, Jr., Federal Bldg., 600 Arch St., Room 6323B, Philadelphia, PA 19106.

MC 91306 (Sub-19TA), filed April 11, 1979. Applicant: JOHNSON BROTHERS TRUCKERS, INC., 1858 9th Ave, NE, Hickory, NC 28601. Representative: Gerald Johnson, P.O. Box 848, Hickory NC 28601. *Containers, sheet iron or steel* from Everett, MA to points in Mecklenburg and Union Counties, NC, for 180 days. An underlying ETA seeks 90 days authority. Supporting shipper(s): Radiator Specialty, Charlotte, NC. Send protests to: District Supervisor Terrell Price, 800 Briar Creek Rd. Rm CC516, Mart Office Building, Charlotte, NC 28205.

MC 93147 (Sub-6TA), filed April 9, 1979. Applicant: DELTA TRANSPORT CORP., 80 James Street, Jersey City, NJ 07302. Representative: Paul Sheley, P.O. Box 546, West Springfield, MA 01809. A. *Resins, plastic, plastic articles, vinyl and chemicals.* B. Materials, equipment and supplies used in the manufacturing, sale and distribution of commodities in (a) above. Restricted in A and B above against commodities in bulk in tank vehicles. Between points in the US except AK and HI, for 180 days. An underlying ETA seeks 90 days authority. Supporting shipper(s): Mobil Chemical Company, 3 Hanover Street, Holyoke, MA 01040. Send protests to: R. E. Johnston, D/S, ICC, 9 Clinton St. Room 618, Newark, NJ 07102.

MC 93147 (Sub-7TA), filed April 9, 1979. Applicant: DELTA TRANSPORT CORPORATION, 80 James Street, Jersey City, NJ 07302. Representative: Paul Sheley, P.O. Box 546, West Springfield, MA 01089. *Machines, N.O.I., parts, materials, equipment, and supplies* used in the manufacturing, sale and distribution of machines, for 180 days. An underlying ETA seeks 90 days authority. BETWEEN points in the US except AK and HI. RESTRICTION: Restricted against commodities in bulk moving in tank vehicles. Supporting shipper(s): Choice-Vend, Inc., P.O. Box 250 Turnpike Road, Windsor Locks, CT 06096. Send protests to: R. E. Johnston, D/S, ICC, 9 Clinton St., Newark, NJ 07102.

MC 95876 (Sub-274TA), filed April 4, 1979. Applicant: ANDERSON TRUCKING SERVICE, INC., 203 Cooper Avenue North, St. Cloud, MN 56301. Representative: Robert S. Lee, 1000 First National Bank Building, Minneapolis, MN 55402. *Forgings and castings* from points in IN to Avon, MN, for 180 days. An underlying ETA seeks 90 days authority. Supporting shipper(s): Hanauer Machine Works, Inc., a subsidiary of Federal-Mogul, Purchasing Agent, Highway 1–94, Avon, MN 56310. Send protests to: Delores A. Poe, TA, ICC, 414 Federal Building and U.S. Court House, 110 South 4th Street, Minneapolis, MN 55401.

MC 100666 (Sub-457TA), filed April 10, 1979. Applicant: MELTON TRUCK LINES, INC., P.O. Box 7666, Shreveport, LA 71107. Representative: Paul L. Caplinger (same address as applicant). Applicant is seeking authority to operate as a common carrier over irregular routes transporting *heating and air conditioning equipment, parts and accessories* from the facilities of Heil Quaker Corporation at or near Davidson County, TN to points in AL and MS, for 180 days. Applicant has filed underlying ETA seeking 90 days authority. Supporting shipper(s): Heil Quaker Corporation, 1714 Heil Quaker Blvd. LaVergne, TN 37086. Send protests to: Robert J. Kirspel, DS, ICC, T–9038 Federal Bldg., 701 Loyola Ave., New Orleans, LA 70113.

MC 102567 (Sub-225TA), filed April 11, 1979. Applicant: McNAIR TRANSPORT, INC., P.O. Drawer 5357, Bossier City, LA 71111. Representative: Joe C. Day, 13403 Northwest Fwy., Suite 130, Houston, TX 77040. Applicant is seeking authority to operate as a common carrier over irregular routes transporting *Chemicals,* in bulk, in tank vehicles, between the plantsite of Dow Chemical Co., at or near Plaquemine, LA and the U.S. (except AK and HI), for 180 days. Applicant has filed an underlying ETA seeking 90 days. Supporting shipper(s): Dow Chemical Company U.S.A., Louisiana Division, P.O. Box 150, Plaquemine, LA 70764. Send protests to: Robert J. Kirspel, DS, ICC. T–9038 Federal Bldg., 701 Loyola Ave., New Orleans, LA 70113.

MC 102616 (Sub-992TA), filed April 11, 1979. Applicant: COASTAL TANK LINES, INC., 250 North Cleveland-Massillon Rd., Akron, OH 44313. Representative: David F. McAllister (same address as above). *Foundry facing compound,* in bulk, in tank vehicles, from Darlington, PA, to Huntington, WV, for 180 days. Supporting shipper(s): Thermium, Inc., P.O. Box 352, Darlington, PA 16115. Send protests to: Mary Wehner, D/S, I.C.C., 731 Federal Bldg., Cleveland, OH 44199.

MC 104896 (Sub-57TA), filed March 30, 1979. Applicant: WOMELDORF, INC., P.O. Box G, Knox, PA 16232. Representative: James W. Patterson, Esquire, 1200 Western Savings Bank Building, Philadelphia, PA 19107. (1) Containers, container ends and closures, (2) Commodities manufactured or distributed by manufacturers and distributors of containers when moving in mixed loads with containers, and (3) Material, equipment and supplies used in the manufacture and distribution of the commodities named in (1) above, Between those points in the United States in and east of MN, IA, MO, AR and LA, restricted, (1) against the transportation of commodities in bulk, in tank vehicles, and (2) to the transportation of traffic originating at or destined to the facilities of Brockway Glass Company, Inc. for 180 days. Supporting shipper(s): Brockway Glass Company, Inc., McCullough Avenue, Brockway, PA 15824. Send protests to: John J. England, District Supervisor,

Bureau of Operations, Interstate Commerce Commission, 2111 Federal Building, 1000 Liberty Avenue, Pittsburgh, PA 15222.

MC 105007 (Sub-54TA), filed April 4, 1979. Applicant: MATSON TRUCK LINE, INC., 1407 St. John Avenue, Albert Lea, MN 56007. Representative: Robert S. Lee, 1000 First National Bank Building, Minneapolis, MN 55402. *Paper* from Madisonville, KY to Lake Mills, IA, for 180 days. An underlying ETA seeks 90 days authority. Supporting shipper(s): Southern Specialty, P.O. Box 606, Madisonville, KY 42431. Send protests to: Delores A. Poe, TA, ICC, 414 Federal Building & U.S. Court House, 110 South 4th Street, Minneapolis, MN 55401.

MC 107496 (Sub-1206TA), filed March 30, 1979. Applicant: RUAN TRANSPORT CORPORATION, 666 Grand Avenue, Des Moines, IA 50309. Representative: E. Check (same as applicant). *Inedible tallow,* in bulk, in tank vehicles, from Rockport, MO to points in KS for 180 days. An underlying ETA seeks 90 days authority. Supporting shipper: MBPXL, P.O. Box 2519, Wichita, KS 67201. Send protests to: Herbert W. Allen, DS, ICC, 518 Federal Bldg., Des Moines, IA 50309.

MC 107496 (Sub-1207TA), filed March 30, 1979. Applicant: RUAN TRANSPORT CORPORATION, 666 Grand Avenue, Des Moines, IA 50309. Representative: E. Check (same as above). *Animal fats, animal and vegetable oils and blends and products thereof* in bulk, in tank vehicles, from the facilities of Kraft, Inc., at Champaign, IL to Indianapolis and New Albany, IN and Louisville, KY for 180 days. An underlying ETA seeks 90 days authority. Supporting shipper: Kraft, Inc., Industrial Group, P.O. Box 398, Memphis, TN 38101. Send protests to: Herbert W. Allen, DS, ICC, 518 Federal Bldg., Des Moines, IA 50309.

MC 107496 (Sub-1209TA), filed March 30, 1979. Applicant: RUAN TRANSPORT CORPORATION, 666 Grand Avenue, Des Moines, IA 50309. Representative: E. Check (same as above). *Lime pellets,* in bulk, in tank vehicles, from the plantsite of U.S. Gypsum at or near New Orleans, LA to the Ashgrove Plant at or near Sequiota, MO for 180 days. An underlying ETA seeks 90 days authority. Supporting shipper: Exxon Chemical Company, U.S.A., P.O. Box 3272, Houston, TX 77001. Send protests to: Herbert W. Allen, DS, ICC, 518 Federal Bldg., Des Moines, IA 50309.

MC 108207 (Sub-505TA), filed April 3, 1979. Applicant: FROZEN FOOD EXPRESS, INC., P.O. Box 225888, Dallas, TX 75265. Representative: M. W. Smith (same as above). *Foodstuffs,* from Memphis, TN, to points in IL, IA, NE, KS, TX, MO, OK, NM, AR, MS, and LA for 180 days. Underlying ETA for 90 days filed. Supporting shipper: I. M. Smucker Co., 4740 Burbank Memphis, TN 38118. Send protests to: Opal M. Jones, Trans. Asst., Interstate Commerce Commission, 1100 Commerce Street, Room 13C12, Dallas, TX 75242.

MC 109376 (Sub-13TA), filed April 9, 1979. Applicant: SKINNER TRANSFER CORP., P.O. Box 284, Reedsburg, WI 53959. Representative: Richard Westley, 4506 Regent St., Suite 100, Madison, WI 53705. *Rough iron/steel castings* (1) from facilities of Grede Foundries, Inc. at or near Reedsburg, Waukesha, & Milwaukee, WI to points in IA, IL, IN, OH, PA, NY & MI (2) *Foundry materials and supplies* from points in PA, NY, OH & IL to the facilities of Grede Foundries, Inc., named in (1) above, for 180 days. An underlying ETA seeks 90 days authority. Supporting shippers(s): Grede Foundries, Inc., 9898 W. Bluemound Rd., Milwaukee, WI 53226. Send protests to: Gail Daugherty, Transportation Asst., 517 E. Wisconsin Avenue, Room 619, Milwaukee, Wisconsin 53202.

MC 112617 (Sub-426TA), filed March 30, 1979. Applicant: LIQUID TRANSPORTERS, INC., P.O. Box 21395, Louisville, KY 40221. Representative: Charles R. Dunford (address as above). Authority sought to operate as a *Common carrier* by motor vehicle, over irregular routes, to transport Olefin Solvent, in bulk, in tank vehicles, from West Lake Charles, LA, to Parsons, WV. Supporting shippers(s): Richard A. Parks, Traffic Manager, The Kingsford Company, P.O. Box 1033, Louisville, KY 40201. Send protests to: Mrs. Linda H. Sypher, District Supervisor, Interstate Commerce Commission, 426 Post Office Building, Louisville, Ky. 40202.

MC 113047 (Sub-11TA), filed April 18, 1979. Applicant: BUANNO TRANSPORTATION CO., INC., R.D. No. 1 Fort Johnson, N.Y. 12070. Representative: Henry Buanno (same address). *Common carrier:* Irregular Routes, Foodstuffs (Gum, Candy, Cough Drops, Chicle, Confectionary) Between Holland, MI on the one hand, and, on the other Canajoharie and Port Chester, NY. Supporting shippers(s): Life Savers, Inc., L. E. McDuffee, Manager Distribution, Church Street, Canajoharie, NY 13317. Send protests to: David M. Miller, District Supervisor, ICC, 338–342 Federal Building, 436 Dwight Street, Springfield, MA 01103.

MC 113666 (Sub-161TA), filed April 3, 1979. Applicant: FREEPORT TRANSPORT, INC., 1200 Butler Road, Freeport, PA 16229. Representative: R. Scott Mahood, House Counsel (same as Applicant). *Pesticides and insecticides, in packages* from Randolph, WI to ports of entry on the International Boundary line between the United States and Canada located at Detroit and Port Huron, MI. Supporting shippers(s): Cyanamid Canada, Inc., 635 Dorchester Blvd., West, Montreal, Quebec H3B 4A6. Send protests to: John J. England, District Supervisor, Interstate Commerce Commission, 2111 Federal Building, 1000 Liberty Avenue, Pittsburgh, PA 15222.

MC 113666 (Sub-162TA), filed April 16, 1979. Applicant: FREEPORT TRANSPORT, INC., 1200 Butler Road, Freeport, PA 16229. Representative: R. Scott Mahood, House Counsel (same as applicant). *Refractories and refractory products* from Mt. Union, PA to points in the Chicago Commercial Zone for 180 days. An ETA seeks 90 days operating authority. Supporting shipper: Harbison Walker Refractories, No. 2 Gateway Center, Pittsburgh, PA 15222. Send protests to: J. J. England, DS, ICC, 2111 Federal Building, Pittsburgh, PA 15222.

MC 114097 (Sub-10TA), filed April 2, 1979. Applicant: NIEDFELDT TRUCKING SERVICE, INC., 821 S. Front St., LaCrosse, WI 54601. Representative: Ed H. Instenes, P.O. Box 676, Winona, MN 55987. *Contract carrier;* irregular routes; *Malt beverages, empty beverage containers and pallets,* between St. Paul, MN and LaCrosse, WI, for 180 days. Supporting shipper: G. Heileman Brewing Co., Inc., LaCrosse, WI. Send protests to: Gail Daugherty, Transportation Asst. ICC., 517 E. Wisconsin Ave., Room 619, Milwaukee, WI 53202.

MC 114457 (Sub-498TA), filed April 11, 1979. Applicant: DART TRANSIT COMPANY, 2102 University Avenue, St. Paul, MN 55114. Representative: James H. Wills, (same address as applicant). *Electric ranges and microwave ovens and such commodities as are used in the manufacture of electric and microwave ovens and accessories related thereto* from the facilities of Litton Microwave Cookings Products, Litton Systems, Inc., at Sioux Falls, SD to points in the U.S. (except AK, HI and SD), for 180 days. Supporting shipper: Litton Microwave Cooking Products, Traffic Manager, 1405 Xenium Lane North, Minneapolis, MN 55441. Send protests to: Delores A. Poe, TA, ICC, 414 Federal Building and U.S. Court House, 110 South 4th Street, Minneapolis, MN 55401.

MC 114457 (Sub-499TA), filed April 11, 1979. Applicant: DART TRANSIT COMPANY, 2102 University Avenue, St. Paul, MN 55114. Representative: James H. Wills, (same address as applicant). *Glass containers* from Lawrenceburg, IN

to points in WI, for 180 days. Supporting shipper: Thatcher Glass Manufacturing Co., P.O. Box 265, Elmira, NY 14902. Send protests to: Delores A. Poe, TA, ICC, 414 Federal Building and U.S. Court House, 110 South 4th Street, Minneapolis, MN 55401.

MC 114897 (Sub-130TA), filed April 3, 1979. Applicant: WHITFIELD TANK LINES, INC., 124 W. Thomas Rd., Phoenix, AZ 85011. Representative: J. Karleen Kelso, (same address as applicant). *Petroleum and petroleum products, in bulk, in tank vehicles,* from Ardmore, OK to El Paso, TX, for 180 days. An underlying ETA seeks 90 days authority. Supporting Shipper: ASARCO Inc., 120 Broadway, New York, NY 10005. Send protests to: Ronald R. Mau, District Supervisor, 2020 Federal Bldg., 230 N. 1st Ave., Phoenix, AZ 85025.

MC 115056 (Sub-22TA), filed April 3, 1979. Applicant: LANE TRUCK LINES, INC., 505 Sunset Avenue, Rocky Mount, NC 27801. Representative: Thomas L. Young, Attorney, 131 North Church Street, Rocky Mount, NC 27801. *Wooden fencing and fencing materials* from points in Halifax County, NC, to points in VA, WV, OH, MD, DE, PA, NJ, NY, CT, MA, SC, GA, and FL, for 180 days. An underlying ETA seeking 90 days authority has been filed. Supporting shipper(s): Carolina Wood Preserving Co., Inc., P.O. Box 310, Scotland Neck, NC 27874. Send protests to: Mr. Archie W. Andrews, D/S, ICC, P.O. Box 26896, Raleigh, NC 27611.

MC 115826 (Sub-443TA), filed April 10, 1979. Applicant: W. J. DIGBY, INC., 6015 East 58th St., Commerce City, CO 80022. Representative: Howard Gore (same address as applicant). *Toilet preparations, health and beauty aid products, buffing or polishing compounds, chemicals NOI, foodstuffs, cleaning compounds and equipment and appliances used in health and beauty care* (except commodities in bulk) between Sparks NV; Portland, OR; Seattle, WA; Chicago, IL and Los Angeles and San Francisco, CA and their commercial zones, for 180 days. RESTRICTED: to transportation for traffic originating at or consigned to the facilities of Alberto-Culver Company. Supporting shipper: Alberto Culver Company, 2525 Armitage Ave., Melrose Park, IL 60160. Send protests to: D/S Herbert C. Ruoff, ICC, 492 U.S. Customs House, 721 19th St., Denver, CO 80202.

MC 115828 (Sub-444TA), filed April, 19, 1979. Applicant: W. J. DIGBY, INC., 6015 East 58th St., Commerce City, CO 80022. Representative: Howard Gore (same address as above). *Alcoholic liquors in cases,* from Melvindale, MI to Phoenix, AZ, Denver, CO, Salt Lake City, UT, their commercial zones; and points in CA, for 180 days. Supporting shipper(s): Seagram's Distillers, 800 Third Avenue, New York, NY 10022. Send protests to: District Supervisor Herbert C. Ruoff, 492 U.S. Customs House, 721 19th Street, Denver, CO 80202.

MC 115826 (Sub-445TA), filed April 16, 1979. Applicant: W. J. DIGBY, INC., 6015 East 58th Avenue, Commerce City, CO 80022. Representative: Howard Gore (same address as above). *Foodstuffs and articles, materials and supplies used and dealt in by restaurants and food service companies,* from points in AZ, CA, DE, FL, IA, ID, IL, ME, MA, NH, NY, OR, PA, RI, TX, VT, WA and WI to Denver, CO and Albuquerque, NM, for 180 days. An underlying ETA seeks 90 days authority. Supporting shipper(s): United Food Service, Inc., 3770 East 40th Avenue, Denver, CO 80205. Send protests to: District Supervisor Herbert C, Ruoff, 492 U.S. Customs House, 721 19th Street, Denver, CO 80202.

MC 11607 (Sub-410TA). Applicant: DSI TRANSPORTS, INC., 4550 One Post Oak Place/Suite 300, Houston, TX 77027. Representative: J. C. Browder, 4550 One Post Oak Place/Suite 300, Houston, TX 77027. Common carrier over irregular routes. *Nitric acid, in bulk, in tank vehicles* from Lake Charles, LA to points in Texas within a 350-mile radius of Lake Charles, LA seeks 180 days authority. An underlying ETA seeks 90 days authority. Supporting shipper(s): Olin Corporation, 120 Long Ridge Road, Stamford, CT 06904. Send protests to: John F. Mensing, Interstate Commerce Commission, 8610 Federal Bldg., 515 Rusk Ave., Houston, TX 77002.

MC 117676 (Sub-8TA), filed April 13, 1979. Applicant: HERMS TRUCKING, INC., 620 Pear Street, Trenton, N.J. 08648. Representative: Alan Kahn, Esquire, 1920 Two Penn Center Plaza, Philadelphia, Pa. 19102. *Charcoal briquets, pressed fireplace logs and hickory chips* (except in bulk), from the facilities of The Kingsford Company at Ridgely and Parsons, WV to points in CT, DE, MA, MD, ME, NJ, NY, OH, PA, RI, and VT, for 180 days. An underlying ETA seeks 90 day authority. Supporting shipper(s): The Kingsford Company, 1700 Commonwealth Building, P.O. Box 1033, Louisville, KY 40201. Send protests to: District Supervisor, ICC, 428 East State Street, Room 204, Trenton, N.J. 08608.

MC 117686 (Sub-258TA), filed April 4, 1979. Applicant: HIRSCHBACK MOTOR LINES, INC., 5000 South Lewis Blvd., P.O. Box 417, Sioux City, IA 51102. Representative: George L. Hirschback (same address as applicant). *Heating and cooling units,* from Los Angeles, CA to Phoenix, AZ; Denver, CO; Council Bluffs, Des Moines, and Sioux City, IA; Kansas City and Wichita, KS; Kansas City and Springfield, MO; Minneapolis, MN; Kearney, Grand Island, Omaha, and Lincoln, NE; Oklahoma City, OK; and Milwaukee and Madison, WI, for 180 days. An underlying ETA seeks 90 days authority. Supporting shipper(s): R. G. Beecroft, Carrier Transicold Co., 1100 S. Taylor Ave., Montebello, CA 90604. Send protests to: Carroll Russell, ICC, Suite 620, 110 No. 14th St., Omaha, NE 68102.

MC 118776 (Sub-31TA), filed April 12, 1979. Applicant: GULLY TRANSPORTATION, INC., 3820 Wisman Lane, Quincy, IL 62301. Representative: Frank Taylor, Jr., Suite 600, 1221 Baltimore Ave., Kansas City, MO 64105. (1) *Animal bedding materials,* from Warrensburg, NY and Maumee, OH to St. Louis, MO and (2) *dry animal feed,* in bags, from Richmond, IN to St. Louis, MO, for 180 days. Supporting shipper(s): Mariam Feed Co., 3801 N. Broadway St., St. Louis, MO. Send protests to: Charles D. Little, DS, ICC, RM., 414, 527 E. Capitol Ave., Springfield, IL 62701.

MC 119767 (Sub-356TA), filed April 6, 1979. Applicant: BEAVER TRANSPORT CO., P.O. Box 186, Pleasant Prairie, WI 53158. Representative: John R. Sims, Jr., 915 Pennsylvania Bldg., 425 13th St., NW., Washington, DC 20004. *Paper, paper products, and cellulose products,* from the facilities of Procter & Gamble Paper Products Co. at or near Neeley's Landing, MO to points in IL, IN, IA, KS, KY, MI, MN, NE, ND, OH, SC & WI, for 180 days. An underlying ETA seeks 90 days authority. Supporting shipper(s): Procter & Gamble Paper Products Co., P.O. Box 599, Cincinnati, OH 45201. Send protests to: Gail Daugherty, T/A., ICC, 617 E. Wisconsin Ave., Room 619, Milwaukee, Wisconsin 53202.

MC 119777 (Sub-367TA), filed April 2, 1979. Applicant: LIGON SPECIALIZED HAULER, INC., Highway 85, East, Madisonville, KY 42431. Representative: Carl U. Hurst, Attorney (same as above). (1) Plastic pallets and/or dunnage and (2) materials, equipment, and supplies used in the production or distribution of plastic products, between the facilities of Midland-Ross Corporation, Dawson Springs, KY, on the one hand, and, on the other, points in the United States, except AK and HI. Supporting shipper(s): Joe Eades, Manager, Special Projects, Midland-Ross Corp., P.O. Box 423, Dawson Springs, KY 42408. Send protests to: Mrs. Linda H. Sypher, District Supervisor, Interstate Commerce Comm., 426 Post Office Bldg., Louisville, KY 40202.

MC 119777 (Sub-368TA), filed April 18, 1979. Applicant: LIGON SPECIALIZED HAULER, INC., P.O. Drawer L, Madisonville, KY 42431. Representative: Carl U. Hurst, Attorney (as above). Authority sought to transport (1) Cypsum Wallboard from the facilities of Weyerhaeuser Company, Inc., at Briar, AR to points in AL, FL, GA, IL, IN, KS, KY, LA, MS, MO, NB, OK, TN, TX and WI; (2) Posts, poles and piling from the facilities of Weyerhaeuser Company, Inc., at DeQueen, AR, to points in AL, CO, GA, IL, IN, IA, KS, KY, LA, MN, MI, MS, MO, NB, NM, NC, ND, NY, OH, OK, SC, SD, TN, TX, VA, WV, and WI; (3) Particleboard, insulation board, board or sheets from the facilities of Weyerhaeuser Company, Inc., at Craig, OK, to points in AL, AR, AZ, CO, GA, FL, IL, IN, IA, KS, KY, LA, MI, MN, MS, MO, NB, NC, NM, NY, OH, PA, TN, TX, SD, VA and WI. Supporting shipper(s): J. L. Flemming, Region Transportation Manager, Weyerhaeuser Company, 810 Whittington Ave., Hot Springs, AR 71901. Send protests to: Mrs. Linda H. Sypher, District Supervisor, Interstate Commerce Commission, 426 Post Office Building, Louisville, KY 40202.

MC 119777 (Sub-369TA), filed April 18, 1979. Applicant: LIGON SPECIALIZED HAULER, INC., P.O. Drawer L, Madisonville, Ky. 42431. Representative: Carl U. Hurst, Attorney (as above). Authority sought to operate as a motor *common carrier,* over irregular routes, to transport Corn and Corn products, in bulk, in tank vehicles, from Indianapolis, IN, to Battle Creek, MI; Lancaster and Cincinnati, OH; Paris, IL and Louisville, KY. Supporting shipper(s): Richard McFarland, Production Scheduling Mgr., Evans Milling Company, Subsidiary of Illinois Cereal Mills, Inc., Paris. IL. Send protests to: Mrs. Linda H. Sypher, District Supervisor, Interstate Commerce Commission, 426 Post Office Building, Louisville KY. 40202.

MC 119917 (Sub-55TA), filed March 9, 1979. Applicant: DUDLEY TRUCKING COMPANY INC., 724 Memorial Dr., Atlanta, GA 30316. Representative: Barry L. Dudley (same as applicant). *Charcoal, charcoal briquets, hickory chips, charcoal lighter fluid, fireplace logs (compressed sawdust), and related barbecue equipment* between Isanti, MN and points in IO, IN, MO, NE, IL, WI, & ND; between Branson, MO and points in AR, AL, LA, OK, VA, TN, & TX; between Pachuta, MS and points in AL, LA, GA, FL, TN, NC, SC, & TX; and between Ocala, FL and points in GA, AL, MS, TN, NC, & SC. An underlying ETA seeks 90 days authority. Supporting shipper(s): Husky Industries, Inc., 62 Perimeter Center East, Atlanta, GA 30346. Send protests to: Sara K. Davis, T/A, ICC 1252 W. Peachtree St., N.W., Rm. 300, Atlanta, GA 30309.

MC 119917 (Sub-56TA), filed March 9, 1979. Applicant: DUDLEY TRUCKING COMPANY, INC., 724 Memorial Dr., S.E., Atlanta, GA 30316. Representative: Theodore Polydoroff, Suite 301, 1307 Dolly Madison Blvd., McLean, VA 22101. *Foodstuffs, and materials, supplies and equipment used in the manufacture of foodstuffs (except commodities in bulk)* between the facilities of Keebler Co., at or near Grand Rapids, MI, Cincinnati, OH, and Chicago, IL, on the one hand, and, on the other points in IL, IN, IA, MI, MN, MO, NE, ND, OH, and WI, restricted to the transportation of shipments originating at or destined to the named facilities and restricted against the transportation of the named commodities from Cincinnati, OH to points in MI. An underlying ETA seeks 90 days authority. Supporting shipper(s): Keebler Co., One Hollow Tree LN., Elmhurst, IL 60126. Send protests to: Sara K. Davis, T/A, ICC, 1252 W. Peachtree St., N.W., Rm. 300, Atlanta, GA 30309.

MC 121066 (Sub-9TA), filed April 12, 1979. Applicant: NEBRASKA TRANSPORT CO., INC., P.O. Box 621, Scottsbluff, NE, 69361. Representative: Scott T. Robertson, P.O. Box 81849, Lincoln, NE, 68501. *Meats, meat products and meat by-products, and articles distributed by meat packinghouses as described in Sections A and C of Appendix I to the report in Descriptions in Motor Carrier Certificates, 61M.C.C. 209 and 766 (except hides and commodities in bulk),* from Austin, MN, to Denver, CO. An underlying ETA seeks 90 days authority. Supporting shipper(s): Edward C. Hunkele, Motor Carrier Services Supervisor, Geo. A. Hormel & Co., Box 800, Austin, MN, 55912. Send protests to: Max H. Johnston, District Supervisor, 285 Federal Building and Court House, 100 Centennial Mall North, Lincoln, NE, 68508.

MC 121626 (Sub-16TA), filed April 9, 1979. Applicant: BAYVIEW TRUCKING, INC., 7080 Florin-Perkins Road, Sacramento, CA 95828. Representative: Paul D. Kratz, 7171 Mercy Road, Suite 610, Omaha, NE 68106, Phone: (402) 392-1220. *Frozen Foods* in mechanically refrigerated trailers from the facilities of Campbell Soup Company at Omaha, NE to Denver and Grand Junction, CO, for 180 days. An underlying ETA seeks 90 days authority. Supporting shipper: Campbell Soup Company, 1202 Douglas, Omaha, NE 68102. Send protests to: A. J. Rodriguez, DS, ICC, 211 Main Street, Suite 500, San Francisco, CA 94105.

MC 123407 (Sub-567TA), filed March 20, 1979. Applicant: SAWYER TRANSPORT, INC., Sawyer Center, Route 1, Chestertown, IN 46304. Representative: H. E. Miller, Jr. (same as applicant). *Plumbing Goods:* from Shelby, OH, to Wickes Lumber and Supply Centers located in the States of AR, CT, DE, FL, GA, IL, IN, IA, KS, KY, LA, ME, MD, MA, MI, MN, MO, MS, NE, NH, NJ, NY, NC, OK, PA, SC, TN, TX, VT, VA and WI for 180 days. Applicant has been granted authority for 90 days. Supporting shipper: Wickes Lumber, 515 North Washington Avenue, Saginaw, MI 48607. Send protests to: Annie Booker, TA, Interstate Commerce Commission, 219 South Dearborn Street, Room 1386, Chicago, IL 60604.

MC 123407 (Sub-568TA), filed April 13, 1979. Applicant: SAWYER TRANSPORT, INC., Sawyer Center, Route 1, Chestertown, IN 46304. Representative: H. E. Miller (same as applicant). (1) *Iron and steel articles:* from the facilities of Georgetown Steel Co., located in Georgetown, SC to points in the U.S. in and east of KS, NE, ND, SD, OK and TX; and (2) *Materials and supplies used in the manufacture of iron and steel articles:* from points in the U.S. in and east of KS, NE, ND, SD, OK, and TX to the facilities of Georgetown Steel Co., located in Georgetown, SC for 180 days. Supporting shipper: Georgetown Steel Corp., P.O. Box 619, Georgetown, SC. Send protests to: Annie Booker, TA, Interstate Commerce Commission, 219 South Dearborn Street, Room 1386, Chicago, IL 60604.

MC 123987 (Sub-21TA), filed April 11, 1979. Applicant: JEWETT SCOTT TRUCK LINE, INC., Box 267, Mangum, OK 73554. Representative: Jewett Scott, Jr. (same as above). *Wire and wire products, fence and fencing materials,* from the plantsite of Bekaert Steel Wire Corporation, Van Buren, AR, to points in AZ, CA, CO, KS, IA, ID, LA, MO, MT, ND, NE, NM, NV, OK, OR, SD, TX, UT, WA, and WY, for 180 days. An underlying ETA seeking 90 days authority was granted, Supporting shipper: Bekaert Steel Wire Corporation, I-40 and Lee Creek Road, Van Buren, AR 72956. Send protests to: Haskell E. Ballard, District Supervisor, Interstate Commerce Commission—Bureau of Operations, Box F-13206 Federal Building, Amarillo, TX 79101.

MC 124887 (Sub-78TA), filed April 3, 1979. Applicant: SHELTON TRUCKING SERVICE, INC., Route 1, Box 230, Altha, FL 32421. Representative: Sol H. Proctor, 1101 Blackstone Building, Jacksonville, FL 32202. *Material used in manufacturing of stoves and metal beds,* from points in and east of ND, SD, OK, NE, KS, and TX, to the facilities of Fisher Stoves in or near Watkinsville, GA (Oconee County), for 180 days. An underlying ETA seeks 90 days authority. Supporting shipper(s): Fisher Stoves, P.O. Box 481, Watkinsville, GA 30667. Send protests to: G. H. Fauss, Jr., DS, ICC, Box 35008, 400 West Bay Street, Jacksonville, FL 32202.

MC 125126 (Sub-4TA), filed April 9, 1979. Applicant: CO–TRUX RENTALS, INC., RFD No. 1, Honeyman Street, Princeton, NJ 08540. Representative: Eugene M. Malkin, Suite 6193, 5 World Trade Center, New York, N.Y. 10048. *Contract carrier:* irregular routes: (1) *Household cleaning, polishing and washing compounds, toilet preparations, and fabric dying, bleaching and softening agents,* from the facilities of Knomark, Inc. at or near Jamaica, NY to points in CA, DE, FL, GA, IL, IN, MD, MI, NC, OH, PA, TN, TX, WI and WV, and (2) *materials and supplies* (except in bulk) used in the manufacture, packaging and distribution of the commodities specified in (1) above on return, under continuing contract with Knomark, Inc. of Jamaica, NY, for 180 days. Supporting shipper(s): Knomark, Inc., 132–20 Merrick Blvd., Jamaica, NY 11434. Send protests to: District Supervisor, ICC, 428 East State Street, Room 204, Trenton, NJ 08608.

MC 126346 (Sub-25TA), filed April 11, 1979. Applicant: HAUPT CONTRACT CARRIERS, INC., P.O. Box 1023, Wausau, WI 54401. Representative: Elaine Conway, 10 S. LaSalle St., Suite 1600, Chicago, IL 60603. *Contract carrier;* irregular routes; (1) *Tractors and farm equipment, industrial, construction and excavation machinery and equipment and parts and attachments for the commodities described above,* from Racine & Wausau, WI; Burlington and Bettendorf, IA; and Terre Haute, IN; to the Ports of Baltimore, MD; Charleston, SC; Miami and Jacksonville, FL; New York, NY and Tacoma, WA; and (2) *Tractors* from Jacksonville, FL to points in IL, IN, KY, MI, OH, TN & WI, for 180 days. An underlying ETA seeks 90 days authority. Supporting shipper(s): J. I. Case Co., 700 State St., Racine, WI 53404. Send protests to: Gail Daugherty, TA. ICC, 517 East Wisconsin Avenue, Room 619, Milwaukee, Wisconsin 53202.

MC 127306 (Sub-11TA). Applicant: M. W. McCURDY & CO., INC., 401 Nora Lane, Houston, TX 77022. Representative: Daniel O. Hands, Suite 200, 205 W. Touhy Ave., Park Ridge, IL 60068. Common carrier over irregular routes. (1) *Precooked rice, and* (2) *rice which is otherwise exempt from economic regulation under 49 USC Section 10526(a)(6), when moving in mixed loads with precooked rice,* from the facilities of Riviana Foods Inc. at or near Houston, TX to Phoenix and Tucson, AZ, Los Angeles, Riverside, San Diego and San Francisco, CA and Portland, OR, and points in the commercial zones of the destination points named, restricted to traffic originating at the named origin for 180 days. An underlying ETA seeking 90 days authority has been filed. Supporting shipper(s): Riviana Foods Inc., P.O. Box 2636, Houston, TX 77001. Send protests to: John F. Mensing, 8610 Federal Bldg., 515 Rusk Ave., Houston, TX 77002.

MC 129387 (Sub-90TA), filed April 5, 1979. Applicant: PAYNE TRANSPORTATION, INC., P.O. Box 1271, Huron, SD 57350. Representative: Charles E. Dye (same address as applicant's). *Meat, meat products and meat by-products and articles distributed by meat packinghouses* as described in Sections A, B and C of Appendix I to the report in Descriptions in Motor Carrier Certificates, 61 M.C.C. 209 and 766 (except hides and commodities in bulk) from Esterville and Sioux City, IA; Sioux Falls, SD and Worthington, MN and their commercial zones to points in AZ, CA and NM, for 180 days. Supporting shipper(s): John Morrell & Co., 208 S. LaSalle St., Chicago, IL 60604. Send protests to: J. L. Hammond, DS, ICC, Room 455, Federal Bldg., Pierre, SD 57501.

MC 129387 (Sub-91TA), filed April 6, 1979. Applicant: PAYNE TRANSPORTATION, INC., P.O. Box 1271, Huron, SD 57350. Representative: Charles E. Dye (same address as applicant's). *Foodstuffs* from Minneapolis, MN and its commercial zone to Deadwood, SD, for 180 days. Supporting shipper(s): Twin City Fruit, Inc., 11 Sherman St., Deadwood, SD 57732. Send protests to: J. L. Hammond, DS, ICC, Room 455, Federal Bldg., Pierre, SD 57501.

MC 133666 (Sub-28TA), filed March 29, 1979. Applicant: JACOBSON TRANSPORT, INC., 1112 Second Avenue South, Wheaton, MN 56296. Representative: Thomas J. Burke, Jr., 1600 Lincoln Center Building, 1660 Lincoln Street, Denver, CO 80264. *Road asphalt, road oils and fuel oils, in bulk, in tank vehicles,* from Minneapolis-St. Paul, MN to points in ND and SD, for 180 days. Supporting shipper(s): Duininck Bros. & Gilchrist, Prinsburg, MN 56281. Send protests to: Delores A. Poe, TA, ICC, 414 Federal Building & U.S. Court House, 110 South 4th Street, Minneapolis, MN 55401.

MC 133796 (Sub-56TA), filed April, 13, 1979. Applicant: GEORGE APPEL TRUCKING, INC., 249 Carverton Road, Trucksville, PA 18708. Representative: Joseph F. Hoary, 121 S. Main St., Taylor, PA 18517. *Paint, roofing cement, masonry cleaning compounds, cement, glazing and caulking compounds, adhesives,* and *advertising material,* from Dunmore, PA, to Goshen, CA, for 180 days. An underlying ETA seeks 90 days authority. Supporting shipper: United Gilsonite Laboratories, 103 Woodlawn Drive, Peckville, PA 18452. Send protests to: ICC, Wm. J. Green, Jr., Federal Bldg., 600 Arch St., Philadelphia, PA 19106.

MC 133867 (Sub-14TA), filed April 6, 1979. Applicant: STARLING TRANSPORT LINES, INC., P.O. Box 1733, Fort Pierce, FL 33450. Representative: Dwight L. Koerber, Jr., 805 McLachlen Bank Bldg., 666 Eleventh St., N.W., Washington, D.C. 20001. *Contract carrier*—Irregular route: *Foodstuffs* from New Paltz, NY to Anaheim, CA, La Grange, IL, Taylor, MI, Morrow, GA and Dallas, TX under a contract with Foodways National, Inc. for 180 days. An underlying ETA seeks 90 days authority. Supporting shipper(s): Foodways National, Inc., 1000 Silas Avenue Dean Highway, Wethersfield, CT 06109. Send protests to: Donna M. Jones, TA, ICC-BOP, Monterey Bldg., Suite 101 8410 N.W. 53rd Terr., Miami, FL 33166.

MC 134197 (Sub-5TA), filed April 12, 1979. Applicant: JACKSON AND JOHNSON, INC., Route 31, West Church St., Box 327, Savannah, NY 13146. Representative: Philip C. Pinsky, Atty.-at-Law, Suite 1020—State Tower Bldg., Syracuse, NY 13202. *Foodstuffs, (except frozen foods and commodities in bulk)* from the plantsite of Ragu Foods, Inc. in Rochester, NY to points in CT, ME, MA, NJ, NH, RI and VT, with no transportation for compensation on return except as otherwise authorized. Supporting shipper(s): Ragu Foods, Kevin J. Clarke, Asst. Div. Traffic Mgr., 33 Benedict Place Greenwich, CT 06830. Send protests to: Interstate Commerce Commission, U.S. Courthouse and Federal Bldg., 100 S. Clinton St., Rm. 1259, Syracuse, NY 13260.

MC 134286 (Sub-102TA), filed April 20, 1979. Applicant: ILLINI EXPRESS, INC., P.O. Box 1564, Sioux City, IA 51102. Representative: Julie Humbert (same address as applicant). *Frozen foodstuffs (except in bulk),* from the facilities of Continental Freezers of Illinois at or near Chicago, IL to points in CO, IN, IA, KS, KY, MI, MO, NE, and OH, for 180 days. An underlying ETA seeks 90 days authority. Supporting shippers(s): Continental Freezers of Illinois, 4220 S. Kildare Blvd., Chicago, IL. Send protests to: Carroll Russell, ICC, Suite 620, 110 No. 14th St., Omaha, NE 68102.

MC 134286 (Sub-103TA), filed April 16, 1979. Applicant: ILLINI EXPRESS, INC., P.O. Box 1564 Sioux City, IA 51102. Representative: Julie Humbert (same address as above) *Weed killing compounds and animal feed supplements (except in bulk),* from the facilities of Eli Lilly and Company at or near Clinton, Indianapolis, and Lafayette, IN to Memphis, TN; Lubbock, TX; Omaha, NE; and Des Moines, IA, and points in their commercial zones, for 180 days. An underlying ETA seeks 90 days authority. Supporting shippers(s): Eli Lilly & Company, Box 618, Indianapolis, IN 46206. Send protests to: Carroll Russell, ICC, Suite 620, 110 No. 14th St., Omaha, NE 68102.

MC 134477 (Sub-334TA), filed March 29, 1979. Applicant: SCHANNO TRANSPORTATION, INC., 5 West Mendota Road, West St. Paul, MN 55118. Representative: Robert P. Sack, P.O. Box 6010, West St. Paul, MN 55118. *Fresh meats, suspended,* from the facilities of Sunstar Foods, Inc., at or near south St. Paul, MN to Huron, SD, for 180 days. An underlying ETA seeks 90 days authority. Supporting shippers(s): Sunstar Foods, Inc., Traffic Manager, 425 South Concord Street, South St. Paul, MN 55075. Send protests to: Delores A. Poe, TA, ICC, 414 Federal Building & U.S. Court House, 110 South 4th Street, Minneapolis, MN 55401.

MC 136786 (Sub-153TA), filed April 5, 1979. Applicant: ROBCO TRANSPORTATION , INC., 4333 Park Ave., Des Moines, IA 50321. Representative: William L. Libby, 7525 Mitchell Rd., Eden Prairie, MN 55343. *Foodstuffs (except commodities in bulk), in vehicles equipped with mechanical refrigeration,* from the facilities of Welch Foods, Inc. at or near Kennewick and Grandview, WA to points in CO and UT for 180 days. Supporting shippers(s): Welch Foods, Inc., 2 South Portage St., Westfield, NY 14787. Send protests to: Herbert W. Allen, DS, ICC, 518 Federal Bldg., Des Moines, IA 50309.

MC 138157 (Sub-140TA), filed April 9, 1979. Applicant: SOUTHWEST EQUIPMENT RENTAL, INC., d.b.a. SOUTHWEST MOTOR FREIGHT, 2931 South Market Street, Chattanooga, TN 37410. Representative: Patrick E. Quinn P.O. Box 9596, Chattanooga, TN 37412. *Agricultural pesticides* from Los Angeles, CA to points in the United States in and east of ND, SD, NE, KS, OK & TX, for 180 days. Restricted against transportation of commodities in bulk. Further restricted to traffic originating at the facilities of AMVAC Chemical Corporation. Supporting shippers(s): AMVAC Chemical Corporation, 4100 East Washington Blvd., Los Angeles, CA 90023. Send protests to: Glenda Kuss, TA. ICC, Suite A–422, U.S. Court House, 801 Broadway, Nashville, TN 37203.

MC 138176 (Sub-11TA), filed April 13, 1979. Applicant: RENTZ FARM SUPPLY, INC., Route 1, Brinson, GA 31725. Representative: Frank D. Hall, Suite 713, 3384 Peachtree Road, NE, Atlanta, GA 30326. *Nitrogen fertilizer solutions and phosphatic fertilizer solutions, in bulk, in tank vehicles,* from the facilities of Allied Chemical Corporation at or near Sylvania and Bainbridge, GA, to all points in FL and SC for 180 days. An underlying ETA seeks 90 days authority. Supporting shipper(s): Allied Chemical Corporation, P.O. Box 2120, Houston, TX 77001. Send protests to: G. H. Fauss, Jr., DS, ICC, Box 3008, 400 West Bay Street, Jacksonville, FL 32202.

MC 138176 (Sub-12TA), filed April 3, 1979. Applicant: RENTZ FARM SUPPLY, INC., Route 1, Brinson, GA 31725. Representative: Frank D. Hall, Suite 713, 3384 Peachtree Road, NE, Atlanta, GA 30326. *(1) anhydrous ammonia and liquid nitrogen solutions, in bulk, in tank vehicles; (2) fertilizer, dry, in bulkhoulers; and (3) liquid fertilizer solution, in bulk,* in tank vehicles, from the facilities of Kaiser Agricultural Chemical Co. at or near Bainbridge and Tifton, GA, to all points in FL and AL for 180 days. An underlying ETA seeks 90 days authority. Supporting shipper(s): Kaiser Agricultural Chemical Co., P.O. Box 246, Savannah, GA 31402. Send protests to: G. H. Fauss, Jr., DS, ICC, Box 35008, 400 West Bay Street, Jacksonville, FL 32202.

MC 138257 (Sub-1TA), filed April 10, 1979. Applicant: BESTWAY TRANSPORT, INC., 4900 Holabird Ave., Baltimore, MD 21224. Representative: Robert L. Cope, 1730 M Street, N.W., Suite 501, Washington, DC 20036. (1) *Floor coverings, paneling, flooring,* between the facilities of Tate Architectural Products and Tate Interiors, located within the commercial zone of Baltimore, MD, on the one hand, and, on the other, CT, DE, GA, MA, MD, NJ, NY, OH, PA, WV, and VA: (2) *Bottles,* between the facilities of Maryland Glass Co. and Chattanooga Glass, located within the commercial zones of Baltimore, MD, and the facilities of Sewell Plastics, Inc., located at Havre De Grace, MD, on the one hand, and, on the other, CT, DE, GA, MA, MD, NJ, NY, OH, PA, WV, and VA; and (3) *Bottles,* between the facilities of Chattanooga Glass located at Keyser, WV, on the one hand, and, on the other, CT, DE, GA, MA, MD, NJ, NY, OH, PA, WV and VA, for 90 days. An underlying ETA seeks 90 days authority. Supporting shipper(s): There are six shippers. Their statements may be examined at the office listed below and headquarters. Send protests to: W. L. Hughes, DS, ICC, 1025 Federal Bldg., Baltimore, MD 21201.

MC 138627 (Sub-61TA), filed April 12, 1979. Applicant: SMITHWAY MOTOR XPRESS, INC., P.O. Box 404, Fort Dodge, IA 50501. Representative: Arlyn L. Westergren, Suite 106, 7101 Mercy Rd., Omaha, NE 68106. *Iron and steel articles and materials, equipment, and supplies (except in bulk) used in the manufacture of iron and steel articles,* between the facilities of North Star Steel Co. at Newport, MN, on the one hand, and, on the other, points in AR, CO, IL, IN, IA, KS, KY, MI, MO, NE, ND, OH, OK, SD, TN, TX and WI for 180 days. An underlying ETA seeks 90 days authority. Supporting shipper(s): North Star Steel Co., P.O. Box 43189, St. Paul, MN 55164. Send protests to: Herbert W. Allen, DS, ICC, 518 Federal Bldg., Des Moines, IA 50309.

MC 138736 (Sub-11TA), filed March 12, 1979. Applicant: F B M TRUCKING INC., Hwy 154 East (P.O. Box 513), Fayetteville, GA 30214. Representative: Dorothy V. Meatows (same as applicant). *Fabric or piece goods—unfinished, woven, made of acetate, rayon or synthetic fiber or mixtures thereof, synthetic fiber, not woven nor knitted nor stitched, woven cotton fabric unfinished not printed, dyed or bleached* from points in AL, GA, NC, SC, TN and VA to the plantsite of Pacific Upholstery Supply Corp. at Gardena, CA, for 180 days. An underlying ETA seeks 90 days authority. Supporting shipper(s): Pacific Upholstery Supply Corp., 15151 S. Main St., Gardena, CA 90247. Send protests to: Sara K. Davis, T/A ICC, 1252 W. Peachtree St., NW., Rm 300, Atlanta, GA 30309.

MC 139206 (Sub-57TA), filed April 10, 1979. Applicant: P.M.S. TRANSPORTATION, INC., 2564 Harley

Drive, Maryland Heights, MO 64043. Representative: R. C. Mitchell (address same as above). *Contract carrier,* irregular routes, *Pipe or tubing, brass bronze of copper; automotive air conditioner parts,* and *aluminum or steel,* in strips or coils, between the facilities of Thermal Components, Inc., Montgomery, AL, on the one hand, and, on the other, points in the U.S. (except AK and HI), under a continuing contract or contracts with Thermal Components, Inc., for 180 days. An underlying ETA seeks 90 days authority. Supporting shipper(s): Thermal Components, Inc., 2760 Gunter Pk. Dr., West, Montgomery, AL 36109. Send protests to: P. E. Binder, DS, ICC, Rm. 1485, 210 N. 12th St., St. Louis, MO 63101.

MC 139276 (Sub-7TA), filed March 20, 1979. Applicant: ALOHA FREIGHTWAYS, INC., 1069 Bryn Mawr Avenue, Bensenville, IL 60106. Representative: Grace Kasallis (address same as applicant). *Iron and steel articles;* from the facilities of Jones and Laughlin Steel Company located in Chicago, IL commercial zone to points in IL on and north of a line commencing at the IN-IL state line at U.S. Hwy 36 to Decatur then along U.S. Hwy 48 to the intersection of U.S. Hwy 29, then along U.S. Hwy 29 to the intersection of U.S. Hwy 36, then west along U.S. Hwy 36 to the IL-IA state line and Bettendorf, IA and Davenport, IA. Supporting shipper(s): Jones and Laughlin Steel Corporation, 3001 Dickey Road, East Chicago, IN 46320. Send protests to: Annie Booker, Transporation Assistant, Interstate Commerce Commission, 219 South Dearborn Street, Room 1386, Chicago, IL 60604.

MC 13957 (Sub-38TA), filed March 30, 1979. Applicant: ADAMS TRANSIT, INC., P.O. Box 338, Friesland, WI 53935. Representative: Wayne Wilson, 150 E. Gilman St., Madison, WI 53703. *Paper, paper products, cellulose products, and textile softeners (except in bulk, in tank vehicles)* (1) from Green Bay, WI to points in IL, IN, IA, KY, MI, MN, MO, OH, and PA (2) from Neelys Landing, MO to points in IL, IN, IA, KY, MI, MN, OH, PA and WI; and (3) from Cheboygan, MI to Mehoopany, PA, restricted to traffic originating at the facilities of Procter & Gamble Paper Products Co. at the named origins and destined to the named destinations, for 180 days. An underlying ETA seeks 90 days authority. Supporting shipper(s): Procter & Gamble Paper Products Co., P.O. Box 599, Cincinnati, OH 45201. Send protests to: Gail Daugherty, Transporation Asst., IL, 517 East Wisconsin Ave., Room 619, Milwaukee, Wisconsin 53202.

MC 139906 (Sub-46TA), filed March 26, 1979. Applicant: INTERSTATE CONTRACT CARRIER CORPORTAION, 2156 West 2200 South, P.O. 30303, Salt Lake City, UT 84125. Representative: Richard A. Peterson, P.O. Box 81849, Lincoln, NE 68501. *Such commodities as are used, manufactured or dealt in by manufacturers and distributors of sound recording* (except in bulk or those which because of their size or weight require special handling or equipment) (1) from Danbury, CT, New York, NY and points in their commercial zones, and points in NJ to Terre Haute, IN and points in its commercial zone and to points in CA. (2) From Terre Haute, IN and points in its commercial zone, to points in NJ and Danbury, CT, New York, NY, and points in their commercial zones, and to points in CA. (3) From points in CA to Terre Haute, IN and New York, NY and points in their commercial zones, and points in NJ. Restricted to the transportation of traffic originating or terminating at the facilities of CBS, Inc., for 180 days. Supporting shipper(s): CBS Records, a division of CBS, Inc., 51 East 52nd St., New York, NY 10019. Send protests to: L. D. Helfer, DS, ICC, 5301 Federal Bldg., Salt Lake City, UT 84138.

MC 139906 (Sub-47TA), filed March 27, 1979. Applicant: INTERSTATE CONTRACT CARRIER CORPORATION, 2156 West 2200 South, P.O. Box 30303, Salt Lake City, UT 84125. Representative: Richard A. Peterson, P.O. Box 81849, Lincoln, NE 68501. *Such merchandise as is dealt in by a retail mail order house* from the facilities of United States Sales Corporation in Pacoima, CA to points in the United States in and east of ND, SD, NE, CO and NM, for 180 days. An underlying ETA seeks 90 days authority. Supporting shipper(s): United States Sales Corp., 12800 Rangoon Avenue, Pacoima, CA 91331. Send protests to: L. D. Helfer, DS, ICC, 5301 Fed. Bldg., Salt Lake, City, UT 84138.

MC 139906 (Sub-48TA), filed March 7, 1979. Applicant: INTERSTATE CONTRACT CARRIER CORPORATION, 2156 West 2200 South, P.O. Box 30303, Salt Lake City, UT 84125. Representative: Richard A. Peterson, P.O. Box 81849, Lincoln, NE 68501. *General commodities* (except those of unusual value, Classes A & B explosives, commodities in bulk, household goods as defined by the Commission and those requiring special handling of equipment) from the facilities of Import-Export Shippers Cooperative, Inc., at Los Angeles, CA to points in the United States in and east of ND, SD, NE, KS, OK and TX, for 180 days. An underlying ETA seeks 90 days authority. Supporting shipper(s): Import-Export Shippers Cooperative, Inc., 2437 East 14th Streeet, P.O. Box 2 1428 Los Angeles, CA 90021. Send protests to: L. D. Helfer, DS, ICC, 5301 Federal Bldg., Salt Lake City, UT 84138.

MC 140186 (Sub-31TA), filed April 16, 1979. Applicant: TIGER TRANSPORTATION, INC., P.O. Box 2248, Missoula, MT 59801. Representative: Joel E. Guthals, Attorney at Law, P.O. Box 2533, Billings, MT 59103. *General commodities,* except those of unusual value, Class A and B explosives, household goods as defined by the Commission, commodities in bulk, commodities requiring special equipment and those injurious to or contaminiating to other lading, from points in CA, CO, GA, IL, KS, MN, MO, NE, NC, OR, UT, WA and WI, on the one hand, to MT and WY, on the other hand; and between points in MT and WY, restricted to transportation of shipments moving on bills of lading of exempt shipping associations operating pursuant to 49 U.S.C. Sec. 1002(c)(1), for 180 days. An underlying ETA seeks 90 days authority. Supporting shipper(s): Billings Retail Shippers Association, 1000-1st Ave. No., Billings, MT. Billings Shipping Corporation, 1000-1st Ave. No., Billings, MT. Billings Furniture Pool Association, 1000-1st Ave. No., Billings, MT. Send protests to: Paul J. Labane, DS, ICC, 2602 First Avenue North, Billings, MT 59101.

MC141426 (Sub-23TA), filed April 16, 1979. Applicant: WHEATON CARTAGE CO., 3rd & G Streets, Millville, NJ 08332. Representative: Lester R. Gutman, 805 McLachlen Bank Building, 666 Eleventh Street, NW, Washington, DC 20001. *Contract carrier:* irregular routes: *Medical, surgical and hospital supplies,* from Broken Bow, Holdredge, and Columbus, NE to points in CT, NJ and NY, for 180 days. An underlying ETAF seeks 90-day authority. Supporting shipper(s): Becton-Dickerson & Co., Rutherford, NJ 07070. Send protests to: District Supervisor, ICC, 428 East State Street, Room 204, Trenton, NJ 08608.

MC 141516 (Sub-3TA), filed April 6, 1979. Applicant: RICHARD L. HODGES, INC., P.O. Box 141, Unity, ME 04988. Representative: John C. Lightbody, 30 Exchange St., Portland, ME 04101. *Frozen and dry vegetable products* from ME to points in AL, AR, FL, GA, LA, MD, MS, NC, SC, TN, TX, VA and WV. Supporting shipper(s): L & S Sales, Inc., P.O. Box 158, Ashland, ME 04732.

McCain Foods, Inc., Washburn, ME 04786. Send protests to: Donald G. Weiler, District Supervisor, ICC, 76 Pearl St., Rm., 303, Portland, ME 04111.

MC 142096 (Sub-7TA), filed April 13, 1979. Applicant: MILLER BROS. TRUCKING CO., INC., 4100 W. Mitchell St., Milwaukee, WI 53215. Representative: James Spiegel, 6425 Odana Rd., Madison, WI 53719. *Such commodities as are manufactured, processed, sold, used or dealt in by manufacturers, converters, and printers of paper and paper products (except commodities in bulk),* between the facilities of Bay West Co. at or near Columbus, Green Bay, and Mosinee, WI and points in the Chicago, IL Commercial Zone, restricted to transportation performed for Bay West Co., for 180 days. An underlying ETA seeks 90 days authority. Supporting shipper(s): Bay West Co., 1100 W. Mason St., Green Bay, WI 54303. Send protests to: Gail Daugherty, Transportation Asst., ICC, 517 E. WI Ave., Rm. 619, Millwaukee, Wisconsin 53202.

MC 142246 (Sub-5TA), filed April 2, 1979. Applicant: VAN WYK, INC., C Street, Box 433, Sheldon, IA 51201. Representative: Edward A. O'Donnell, 1004 29th St., Sioux City, IA 51104. *Contract carrier:* irregular routes: *Meat, meat products, meat by-products, and articles distributed by meat packinghouses, as described in Sections A & C of appendix I to the Report in Descriptions in Motor Carrier Certificates, 61 M.C.C. 209 and 766, except hides and commodities in bulk, in tank vehicles,* from the facilities of Dubuque Packing Co., LeMars, IA, to points in IL and IN, under continuing contract or contracts with Dubuque Packing Co. at LeMars, IA, for 180 days. An underlying ETA seeks 90 days authority. Supporting shipper(s): Richard Ernst, Dubuque Packing Co., LeMars, IA 51031. Send protests to: Carroll Russell, ICC, Suite 620, 110 No. 14th St., Omaha, NE 68102.

MC 142846 (Sub-3TA), filed April 2, 1979. Applicant: ROYAL COACH TOURS, 644 Stockton Avenue, San Jose, CA 95126. Representative: Eldon M. Johnson, 650 California Street, Suite 2808, San Francisco, CA 94108. *Passengers and their baggage,* in the same vehicle with passengers, in charter operations, beginning and ending at points in Santa Clara County, CA and extending to points in Douglas, Storey and Washoe Counties, and Carson City, NV, for 180 days. An underlying ETA seeks 90 days authority. Supporting Shipper(s): Nevada Tahoe Tours 394 So. Bird Ave., San Jose, CA 95126 and Travelyn Tours, 650 Stockton Ave., San Jose, CA 95126. Send Protests To: District Supervisor Michael M. Butler, 211 Main—Suite 500, San Francisco, CA 94105. Supporting shipper(s): Nevada Tahoe Tours, 394 So. Bird Ave., San Jose, CA 95126. Travelyn Tours, 650 Stockton Ave., San Jose, CA 95126. Send protests to: District Supervisor Michael M. Butler, 211 Main—Suite 500, San Jose, CA 95126.

MC 142947 (Sub-2TA), filed April 13, 1979. Applicant: SCOTT D. WILLIAMS TRUCKING, INC., W248 S3029 Prairie Ave., Waukesha, WI 53186. Representative: Richard Alexander, 710 N. Plankinton Ave., Milwaukee, WI 53203. Contract carrier; irregular routes; *Steel and steel articles* from points in the Chicago, IL Commerical Zone to Appleton, Butler, Cedarburg, LaCrosse, Madison, Milwaukee, Thorp and Waukesha, WI, for 180 days. An underlying ETA seeks 90 days authority. Supporting shipper(s): Badger Steel Sales, Inc., 34829 Bartlett Rd., Oconomowoc, WI. Send protests to: Gail Daugherty, Transportation Asst., Interstate Commerce Commission, U.S. Federal Bldg, 517 East Wisconsin Avenue, Room 619, Milwaukee, Wisconsin 53202.

MC 143127 (Sub-31TA), filed April 9, 1979. Applicant: K. J. TRANSPORTATION, INC., 1000 Jefferson Rd., Rochester, NY 14623. Representative: S. Michael Richards, P.O. Box 225, Webster, NY 14580. *(1) Office equipment and supplies and (2) materials, equipment and supplies used in the sale, manufacture and distribution of the items named in (1), (except in bulk),* between the facilities of Burroughs Corporation at or near Park Ridge, NJ, Rochester, NY, Bardstown, KY and City of Industry, CA for 180 days. Underlying ETA for 90 days under R-16 was granted with effective date of March 28, 1979. Supporting shipper(s): Burroughs Corporation, John Villano, Traffic Manager, 76 Park Avenue, Park Ridge, NJ 07656. Send protests to: Interstate Commerce Commission, U.S. Courthouse & Federal Bldg., 100 S. Clinton St.—Rm. 1259, Syracuse, NY 13260.

MC 143127 (Sub-32TA), filed April 4, 1979. Applicant: K. J. TRANSPORTATION, INC., 1000 Jefferson Road, Rochester, NY 14623. Representative: S. Michael Richards, P.O. Box 225, Webster, NY 14580. *Foodstuffs,* from the facilities of Campbell Soup Company at Napoleon, OH to points in IL, IN, KY, NJ, NY, PA and WV for 180 days. No ETA has been filed. Permanent will be filed within 60 days. Supporting shipper(s): Campbell Soup Company, Harry Sanford, Mgr. of Transportation, Napoleon, OH 43545. Send protests to: Interstate Commerce Commission, U.S. Courthouse & Federal Bldg., 100 S. Clinton St.—Rm. 1259, Syracuse, NY 13260.

MC 143127 (Sub-33TA), filed April 16, 1979. Applicant: K.J. TRANSPORTATION, INC., 1000 Jefferson Road, Rochester, NY 14623. Representative: S. Michael Richards, P.O. Box 225, Webster, NY 14580. (1) *Synthetic latex, liquid, and synthetic plastics, liquid, in drums (requiring protective service), battery insulating partitions and pulpboard,* from the facilities of W. R. Grace & Co. at Owensboro, KY to all points in the states of ND, SD, NE, CO, OK and TX and all states east thereof, and (2) *Materials, equipment and supplies used in the manufacture, production, and distribution of the commodities named in (1) above,* from the destination states named in (1) above to the facilities of W. R. Grace & Co. at Owensboro, KY for 180 days. RESTRICTION: Restricted against the transportation of commodities in bulk, in tank vehicles and commodities which by reason of size or weight, require the use of special equipment. Underlying ETA for 90 days under R-18 was granted April 10, 1979. Supporting shipper(s): W. R. Grace & Co., Organic Chemicals Division, J. D. Feagin, Traffic Mgr., 55 Hayden Ave., Lexington, MA 02173. Send protests to: Interstate Commerce Commission, U.S. Courthouse & Federal Bldg., 100 S. Clinton St.—Rm. 1259, Syracuse, NY 13260.

MC 143246 (Sub-4TA), filed March 30, 1979. Applicant: LAND TRANSPORT CORPORATION, 24 Sabrina Rd., Wellesley, MA 02181. Representative: James E. Mahoney, 148 State Street, Boston, MA 02109. Authority sought to operate as a *contract carrier,* by motor vehicle, over irregular routes, transporting *such commodities as are sold in drug, chain, discount and department stores (except commodities in bulk, in tank vehicles) under a continuing contract with Newton Buying Corporation* between the distribution centers and warehouses of Newton Buying Corporation located in Framingham, MA on the one hand, and, on the other, Farmington, MI, for 180 days. Supporting Shipper(s): Newton Buying Corporation, 770 Cochituate Rd., Framingham, MA 01701. Send protests to: John B. Thomas, District Supervisor, Interstate Commerce Commission, 150

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Causeway Street, Room 501, Boston, MA 02114.

MC 144027 (Sub-8TA), filed April 20, 1979. Applicant: WARD CARTAGE AND WAREHOUSING, INC., Route #4, Glasgow, KY 42141. Representative: Walter Harwood, Attorney, P.O. Box 15214, Nashville, TN 37215. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, (1) General Commodities, except those of unusual value, classes A and B explosives, household goods, commodities in bulk, and those requiring special equipment, from the facilities of or used by the Procter and Gamble Distributing Company, at or near Cincinnati, OH, to points in KY, except Louisville; and (2) Foodstuffs, from Lexington, KY, to the facilities of or used by the Procter and Gamble Distributing Company, at or near Cincinnati, OH. Supporting Shipper(s): W. P. Edmund, III, Traffic Analyst, The Procter & Gamble Distributing Company, P.O. Box 599, Cincinnati, OH 45201. Send protests to: Mrs. Linda H. Sypher, District Supervisor, Interstate Commerce Commission, 426 Post Office Building, Louisville, KY 40202.

MC 144117 (Sub-37TA), filed April 10, 1979. Applicant: TLC LINES, INC., P.O. Box 1090, Fenton, MO 63026. Representative: Bernard J. Kompare, Sullivan & Sullivan Associates, Ltd., 10 S. LaSalle St., Suite 1600, Chicago, IL 60603. *Pet food ingredients* (except in bulk) from the facilities of Consolidated Pet Foods, Inc., at or near Amarillo, TX, to Columbus, OH; Kankakee and Chicago, IL; Topeka, KS; Los Angeles, CA; Crete, NE, and Lafayette, IN, for 180 days. Restricted to the transportation of traffic originating at the above-named origin. Supporting Shipper(s): Consolidated Pet Food, Inc., P.O. Box 30488, Amarillo, TX 79120. Send protests to: P. E. Binder, DS, ICC, Rm. 1485, 210 N. 12th St., St. Louis, MO 63101.

MC 145406 (Sub-34TA), filed March 30, 1979. Applicant: MIDWEST EXPRESS, INC., 380 East Fourth St., Dubuque, IA 52001. Representative: Richard A. Westley, Attorney, 4506 Regent St., Suite 100, Madison, WI 53705. *Meat, meat products and articles distributed by meat packinghouses*, from the facilities of Wilson Foods Corporation, located at or near Albert Lea, MN; Cedar Rapids, Cherokee and Des Moines, IA to points in WA and OR for 180 days. An underlying ETA seeks 90 days authority. Supporting Shipper(s): Wilson Foods Corporation, 4545 Lincoln Blvd., Oklahoma City, OK 73105. Send protests to: Herbert W. Allen, DS, ICC, 518 Federal Bldg., Des Moines, IA 50309.

MC 145406 (Sub-35TA), filed April 4, 1979. Applicant: MIDWEST EXPRESS, INC., 380 E. Fourth St., Dubuque, IA 52001. Representative: Richard A. Westley, Attorney, 4506 Regent St., Suite 100, Madison, WI 53705. *Meat* from the plantsite of Iowa Beef Processors, Inc., (IBP) facilities at Dakota City, NE and Sioux City, IA to points in CA for 180 days. An underlying ETA seeks 90 days authority. Supporting shipper(s): Iowa Beef Processors, Inc., Dakota City, NE 68731. Send protests to: Herbert W. Allen, DS, ICC, 518 Federal Bldg., Des Moines, IA 50309.

MC 145566 (Sub-5TA), filed April 4, 1979. Applicant: TERRY W. KULTGEN & NORMAN W. KULTGEN d/b/a B & K ENTERPRISES, 7950 S. 27th St., Oak Creek, WI 53154. Representative: Terry W. Kultgen, 5605 Brookhaven Dr., Racine, WI 53406. *Rotating biological disc assemblies*, which because of size or weight require special equipment or special handling, from the facilities of Tait/Bio-Shafts, Inc. at Oconomowoc, WI to Harvard, IL and points in its Commercial Zone, for 180 days. An underlying ETA seeks 90 days authority. Supporting shipper(s): Tait/Bio-Shafts, Inc., 5656 N. Frontier Rd., Oconomowoc, WI 53066. Send protests to: Gail Daugherty, Transportation Asst., ICC, 517 East Wisconsin Avenue, Room 619, Milwaukee, Wisconsin 53202.

MC 145566 (Sub-6TA), filed April 4, 1979. Applicant: TERRY W. KULTGEN & NORMAN W. KULTGEN d/b/a B & K ENTERPRISES, 7950 S. 27th St., Oak Creek, WI 53154. Representative: Terry W. Kultgen, 5605 Brookhaven Dr., Racine, WI 53406. *Commodities which because of size or weight require special handling or special equipment*, from the facility of Voeller Mfg. Co. at Port Washington, WI to points in IN, MI, OH, PA, NY, NJ, VA, MD and WV, for 180 days. Supporting shipper(s): Voeller Mfg. Co., 455 Moore Rd., Port Washington, WI. Send protests to: Gail Daugherty, Transportation Asst., ICC, 517 E. Wisconsin Avenue, Room 619, Milwaukee, Wisconsin 53202.

MC 145566 (Sub-7TA), filed April 4, 1979. Applicant: TERRY W. KULTGEN & NORMAN W. KULTGEN d/b/a B & K ENTERPRISES, 7950 S. 27th St., Oak Creek, WI 53154. Representative: Terry W. Kultgen, 5605 Brookhaven Dr., Racine, WI 53406. *Steel wire and steel rod*, from the facilities of Charter Rolling Div. of Charter Mfg. at Saukeville, WI to the facilities of National Lock Washer Div. of Charter Mfg. at North Branch, NJ, for 180 days. An underlying ETA seeks 90 days authority. Supporting shipper(s): Charter Rolling, Div. of Charter Mfg., Saukeville, WI 53080. Send protests to: Gail Daugherty, Transportation Asst., ICC, 517 E. Wisconsin Avenue, Room 619, Milwaukee, Wisconsin 53202.

MC 145596 (Sub-2TA), filed April 20, 1979. Applicant: A & M EXPRESS, INC., 1136 Haley Road, Murfreesboro, TN 37130. Representative: C. B. Smotherman (same address as applicant). *Paper, paper forms, and related products and commodities used in the manufacture and distribution of paper and paper forms* between Rutherford County, TN, on the one hand, and, on the other, points in AL, FL, GA, IL, KS, LA, MN, MO, OH, TX, WI, IN, ME, MI, NC, PA and VA, for 180 days. Supporting shipper(s): Standard Register Company, P.O. Box 1167, 626 Albany, Dayton, OH 45401. Send protests to: Glenda Kuss, TA, ICC, Suite A-422 U.S. Court House, 801 Broadway, Nashville, TN 37203.

MC 145797 (Sub-6TA), filed April 3, 1979. Applicant: NANCY TRANSPORTATION, INC., 429 Stablestone Dr., Chesterfield, MO 63017. Representative: R. Thomas Grasso (address same as above). *Foodstuffs, candy and confectionery* (except in bulk, in tank vehicles) from the facilities of Sunmark, Inc., at or near Itasca, IL to the facilities of Sunmark, Inc., at or near St. Louis, MO, and from the facilities of Sunmark, Inc., at or near St. Louis, MO and Itasca, IL to New Jersey. Supporting shipper(s): Sunmark, Inc., 10795 Watson Rd., St. Louis, MO 63123. Send protests to: P. E. Binder, DS, ICC, Rm. 1465, 210 N. 12th St., St. Louis, MO 63101.

MC 145897 (Sub-2TA), filed April 4, 1979. Applicant: WOODCO, d.b.a. S N F PETROLEUM TRANSPORTATION, P.O. Box 1868, Casper, WY 82602. Representative: S. Sheldon Wood (same address as applicant). *Petroleum products*, between points in WY, for 180 days. An underlying ETA seeks 90 days authority. Supporting shipper(s): Exxon Minerals Co., Highland Mine Operations, P.O. Box 3020, Casper, WY 82602. Send protests to: District Supervisor Paul A. Naughton, Interstate Commerce Commission, Room 105, Federal Building and Court House, 111 South Wolcott, Casper, WY 82601.

MC 145907 (Sub-TA), filed April 9, 1979. Applicant: RICHARD KILLIAN d.b.a. KILLIAN TRUCKING, 345 N. Highway Dr., Fenton, MO 63026. Representative: B. W. LaTourette, Jr., 11 S. Meramec, Suite 1400, St. Louis, MO 63105. *Contract carrier*, irregular routes (1) *Meat* from the plantsite of Diamond Meat Packing Company, Carlinville, IL to points in the US except AK, HI, NC, SC, ND, SD, ME, NH, VT, MA, CT, RI, DE, MD and DC and (2) New Restaurant

Fixtures, Pre-Fabricated Interior Fixtures, including necessary pre-cut lumber, from the sites of Holekamp Industries, Inc., and Marion Lumber Co. at or near St. Louis, MO, on the one hand, and, on the other, points in IA, WI, MN, NE, NV, IL, FL, MI and KS, for 180 days. An underlying ETA seeks 90 days authority. Supporting shipper(s): Diamond Meat Packing Co., Carlinville, IL, 62626. Holekamp Industries, Inc., 425 N. Highway Dr., Fenton, MO 63026. Marion Lumber Co., 13575 St. Charles Rock Rd., Bridgeton, MO 63044. Send protests to: P. E. Binder, OIC, ICC, Rm. 1465, 210 N. 12th St., St. Louis, MO 63101.

MC 146416 (Sub-5TA), filed April 10, 1979. Applicant: HERITAGE TRANSPORTATION COMPANY, 155 N. Eucla Avenue, San Dimas, CA 91773. Representative: R. Y. Schureman, 1545 Wilshire Blvd., Los Angeles, CA 90017. *Chemicals; cleaning, scouring and washing compounds; plastic liquids and sheeting; ink; defoaming compounds; laminating machinery, parts, solvents, pallets and containers in mechanically refrigerated trailers*, between the facilities of Thiokol/Dynachem Corporation at or near Tustin, CA and their warehouse facilities in Los Angeles, Orange, Riverside and San Bernardino Counties, CA, on the one hand, and, on the other, points in MA, NJ, VA, NC, FL, MI, IN, and TX, for 180 days. An underlying ETA seeks up to 90 days operating authority. Supporting shipper(s): Thiokol/Dynachem Corporation, P.O. Box 12047, Santa Ana, CA. Send protests to: Irene Carlos, Transportation Assistant, Interstate Commerce Commission, P.O. Box 1551, Los Angeles, CA 90053.

MC 146466 (Sub-1TA), filed April 16, 1979. Applicant: SUMMIT TRUCK LINES, LTD., RR. #3, Pella, IA 50219. Representative: Robert R. Rydell, 1020 Savings and Loan Bldg., Des Moines, IA 50309. *Swinging meat* from Pella, IA to IL, WI, NE and MN for 180 days. An underlying ETA seeks 90 days authority. Supporting shipper(s): Pella Packing Co., Inc., R.R. #3, Pella, IA 50219. Send protests to: Herbert W. Allen, DS, ICC, 518 Federal Bldg., Des Moines, IA 50309.

MC 146546 (Sub-1TA), filed April 12, 1979. Applicant: JOHN W. & CARLENE C. ARNETT, dba LUCARJO CARRIERS, 4643 Prescott, Lincoln, NE, 68506. Representative: John W. Arnett (same address as applicant). (1) *Furniture*, from the facilities of Harris of Pendleton at Lincoln, NE, to points in PA, NJH, CT, DE, DC, IL, MA, MD, OH, VA, NY, NE, IA, and IN: (2) *materials, equipment and supplies used in the manufacture, sale and distribution of furniture*, from destination states named in (1) above to the facilities of Harris of Pendleton at Lincoln, NE. An underlying ETA seeks 90 days authority. Supporting shipper(s): Paul Schwab, Plant Manager, Harris of Pendleton, 4909 Stockwell Street, Lincoln, NE, 68506. Send protests to: Max H. Johnston, District Supervisor, 285 Federal Building & Court House, 100 Centennial Mall North, Lincoln, NE, 68508.

MC 146557 (Sub-1TA), filed April 3, 1979. Applicant: ROBERT W. GRAVERT, dba S & R RENTALS, 5024 "I" Parkway, Sacramento, CA 95823. Representative: Raymond A. Greene, Jr., Handler, Baker & Greene, 100 Pine Street, Suite 2550, San Francisco, CA 94111. *Contract carrier*, irregular routes: *Fabricated structural steel and steel products* from Sacramento and Fresno, CA to North Valmey, NV, for 180 days. An underlying ETA seeks 90 days authority. Supporting shipper(s): Pittsburgh-DesMoines Steel Company, P.O. Box 115469, Sacramento, CA 95813. Send protests to: A. J. Rodriguez, DS, ICC, 211 Main Street, Suite 500, San Francisco, CA 94105.

MC 146566 (Sub-TA), filed March 21, 1979. Applicant: JAK-WIL EXPRESS, INC., Box 161, Mankato, MN 56001. Representative: Grant J. Merritt, 4444 IDS Center, Minneapolis, MN 55402. *Plastic film and plastic articles (except in bulk)* from Mankato, MN to Waukesha, Madison and Milwaukee, WI and Chicago, IL, for 180 days. An underlying ETA seeks 90 days authority. SUPPORTING SHIPPER(S): National Poly Products, Traffic Coordinator, P.O. Box 1180, Mankato, MN 56001. SEND PROTESTS TO: Delores A. Poe, TA, ICC, 414 Federal Building & U.S. Court House, 110 South 4th Street, Minneapolis, MN 55401.

MC 146567 (Sub-2TA), filed March 21, 1979. Applicant: COAST TRANSPORT, INC., 4667 Somerton Road, Trevose, PA 19407. Representative: Ira G. Megdal, Esq., 499 Cooper Landing Road, Cherry Hill, NJ 08002. *General commodities* (except commodities in bulk, commodities which because of size or weight require specialized handling, household goods as defined by the Commission, and Classes A and B explosives), in containers, (1) between Phila., PA on the one hand, and Baltimore, MD, New York, NY, and Norfolk, VA, on the other (2) between pts. in Phila., PA, for 180 days. An underlying ETA seeks 90 days authority. Supporting Shipper(s): Solano Forwarding Co., 904 Public Ledger Bldg., Phila., PA. Davies Turner Co., Inc., 113 Chestnut St., Phila., PA 19106. Eckert Overseas Agencies, Inc., 613 Lafayette Bldg, 5th and Chestnut Sts., Phila., PA 19106. Tilston Roberts, Inc., 716 Mall Bldg., Phila., PA 19106 Send protests to: Carol Rosen, TA, ICC, 600 Arch St., Rm. 3238, Philadelphia, PA 19106.

MC 146636 (Sub-1TA), filed April 16, 1979. Applicant: J. K. Smith, P. Smith and M. R. Smith d.b.a. SMITH TRUCKING, Route 1, Box 43, Round Lake, MN 56167. Representative: Steven K. Kuhlmann, P.O. Box 82028, Lincoln, NE 68501. Canned goods from Fond du Lac, WI to Birmingham, AL; Augusta, Atlanta and Rome, GA; Jacksonville, Miami, Pensacola and Monticello, FL; New Orleans, LA; Memphis, TN, Harrisonburg, and Roanoke, VA; Hayward and Los Angeles, CA; Salt Lake City, UT; and Portland, OR. An underlying ETA seeks 90 days authority. Supporting Shipper(s): Valley Warehouse, P.O. Box 67, Ripon, WI 54971. Send protests to: Delores A. Poe, T/A, ICC, 414 Federal Building & U.S. Court House, 110 South 4th Street, Minneapolis, MN 55401.

MC 146646 (Sub-2TA), filed March 30, 1979. Applicant: BRISTOW TRUCKING CO., P.O. Box 63558, Birmingham, AL 35217. Representative: John R. Frawley, Jr., 5506 Crestwood Blvd., Birmingham, AL 35212. *Paper, paper products and wood pulp* between the facilities of Scott Paper Company located in the commercial zones of Mobile, AL; Chicago, IL; Philadelphia, PA; Fond Du Lac, Green Bay, Marinette and Oconto Falls, WI. For 180 days. Supporting Shipper(s): Scott Paper Company, Scott Plaza I, Philadelphia, PA 19113. Send protests to: Mabel E. Holston, Transportation Assistant, Bureau of Operation, ICC, Room 1616—2121 Building, Birmingham, AL 35203.

MC 146657 (Sub-1TA), filed April 3, 1979. Applicant: LEGAN BUS LINES, LTD., 3027—130 Avenue, Edmonton, AB, Canada T5A 3M1. Representative: Lawrence I. Lindeman, 425—13th St. NW, Suite 1032, Washington, DC 20004. *Passengers and their baggage, in special and charter operations*, from ports of entry on the U.S.-Canada Boundary line in WA, MT, ND and MN to points in the United States (except AK and HI), and return; restricted to traffic originating in foreign commerce, for 180 days. An underlying ETA seeks 90 days authority. Supporting shippers(s): L. R. Blair, Clover Bar, Pioneer Court, 6 Mission St., Sherwood Park, AB Sherwood Oaks Senior Citizens, 100 Fir St., Sherwood Park, AB Great Oaks Seniors, Ste 101-6 Mission St., Sherwood Park, AB Sally Smith, Past Pres., Sherwood Oaks Senior

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Citizens Assn., 7120—136 Ave., Edmonton, AB Eleanor Blair, Senior Citizen, 311–6 Mission St., Sherwood Park, AB. Send protests to: Paul J. Labane, DS, ICC, 2602 First Avenue North, Billings, MT 59101.

MC 146667 (Sub-2TA), filed March 30, 1979. Applicant: VERMILLION GRAIN CO., INC., P.O. Box 96, Vermillion, KS 66544. Representative: Clyde N. Christey, Kansas Credit Union Bldg., 1010 Tyler, Suite 110–L, Topeka, KS 66612. *Ammonium Nitrote*, from the facilities of N-ReN Corp. near Pryor, OK to points in KS north of Interstate I–70 and east of U.S. Hwy 81, and points in NE south of U.S. Interstate 80 and east of U.S. Hwy 81, for 180 days. An underlying ETA seeks 90 days authority. Supporting Shipper(s): N-ReN Corporation, 256 McCullough St., Cincinnati, OH 45226. Send protests to: Thomas P. O'Hara, D/S, ICC, 256 Federal Bldg. 444 S.E. Quincy, Topeka, KS 66683.

MC 146677 (Sub-1TA), filed April 3, 1979. Applicant: GRANNY'S EXPRESS, INC., 2101 Rose Ave., Cincinnati, OH 45212. Representative: E. H. van Deusen, P.O. Box 97, 220 West Bridge St., Dublin, OH 43017. *General commodities (except those of unusual value, classes A and B explosives, household goods as defined by the Commission, commodities in bulk, and those requiring special equipment)*, between points in the Cincinnati, OH, Commercial Zone, on the one hand, and, on the other, points in OH, for 180 days. RESTRICTED to the transportation of shipments having a prior or subsequent movement by rail. An underlying ETA seeks 90 days authority. Supporting shippers(s): Rail-Van, Inc., Cincinnati, OH; C. W. Zumbiel Co., Cincinnati, OH; Nationwide Shippers Cooperative Ass'n., Inc., Cincinnati, OH; International Paper Co., Cincinnati, OH; DuBois Chemicals, Sharonville, OH; and Levi Strauss & Company, Florence, KY. Send protests to: Bureau of Operations, ICC, Wm. J. Green, Jr., Federal Bldg., 600 Arch St., Room 63238, Philadelphia, PA 19106.

MC 146726 (Sub-1TA), filed April 2, 1979. Applicant: HENRY MEARS, Rural Route 3, Harrisburg, AR 72432. Representative: Henry Mears, Rural Route 3, Harrisburg, AR 72432. Farm and Grain storage building, and equipment. From points of manufacture in IL and IN to points of erection in AR for 180 days as a contract carrier over irregular routes. Supporting shippers(s): Jerry Jacobs Construction, Route 1, Harrisburg, AR 72432. Send protests to: William H. Land, Jr., District Supervisor, 3108 Federal Office Building, 700 West Capitol, Little Rock, AR 72201.

MC 146766 (Sub-1TA), filed April 12, 1979. Applicant: F. E. BLATCHLEY, INC., Silver Street, Portland, CT 06480. Representative: Edward F. Bowes, Esq., P.O. Box 1409, Fairfield, NJ 07006. Contract carrier: irregular routes: *Petroleum products in bulk*, in tank vehicles, from New Haven, CT to points on and west of MA Highway 12 in MA, for 180 days. An underlying ETA seeks 90 days authority. Supporting shipper(s): Getty Refining & Marketing Company, P.O. Box 1650, Tulsa, OK 74102. Send protests to: J. D. Perry, Jr., DS, ICC, 135 High Street, Hartford, CT 06103.

MC 146766 (Sub-2TA), filed April 12, 1979. Applicant: F. E. BLATCHLEY, INC., Silver Street, Portland, CT 06480. Representative: Edward F. Bowes, Esq., P.O. Box 1409, Fairfield, NJ 07006. Contract Carrier: irregular routes: *Petroleum products in bulk*, in tank vehicles, from East Hartford, New Haven, West Haven, East Haven, Rocky Hill and Wethersfield, CT to points and places in MA on and west of MA Highway 12, for 180 days. An underlying ETA seeks 90 days authority. Supporting shipper(s): F. L. Roberts & Co., Inc., 93 West Broad Street, Springfield, MA 01105. Send protests to: J. D. Perry, Jr., DS, ICC, 135 High Street, Hartford, CT 06103.

MC 146777 (Sub-1TA), filed April 10, 1979. Applicant: CENTRAL STATES DISPATCH, INC., 2619 N St., Omaha, NE 68107. Representative: D. Douglas Titus, Suite 510, Bensen Bldg., Sioux City, IA 51101. *(1) General commodities (except those of unusual value, Classes A & B explosives and household goods), in vehicles equipped with mechanical refrigeration, having a prior or subsequent movement by water*, between points in the commercial zones of Baltimore, MD; New York, NY; Norfolk, VA; Philadelphia, PA, on the one hand, and, on the other, points in CO, IA, IL, IN, KS, KY, MI, KN, MO, NE, ND, OH, PA, SD, and WI; and *(2) Empty containers, trailers and container chassis having a prior or subsequent movement by water*, between points in CO, IA, IL, IN, KS, KY, MD, MI, MN, MO, NE, NY, HJ, OH, PA, SD, AND WI, for 180 days. An underlying ETA seeks 90 days authority. Supporting shipper(s): There are 6 statements in support attached to this application which may be examined at the ICC in Washington, D.C. or at the field office named below. Send protests to: Carroll Russell, ICC, Suite 620, 110 No. 14th St., Omaha, NE 68102.

MC 115826 (Sub-422TA), filed March 12, 1979 and published in the Federal Register issue of April 12, 1979 and republished as corrected in this issue. Applicant: W. J. DIGBY, INC., 6015 East 58th Ave., Commerce City, CO 80022. Representative: Howard Gore (same address as applicant). *Meats and meat products*, from Phoenix, AZ to points in NM, TX, OK TN, GA and FL for 180 days. An UNDERLYING ETA seeks 90 days authority. Supporting shipper(s) Cudahy Foods Co., 100 W. Clarendon Phoenix, AZ 85038. Send protests to Herbert C. Ruoff, D/S, 492 U.S. Customs House, 721 19th St., Denver, CO 80202. The purpose of this republication is to indicate the proper destination territory of this application.

MC 107486 (Sub-1172TA), filed October 30, 1978 and republished as corrected this issue. Applicant: RUAN TRANSPORT CORP., 666 Grand Ave., 3200 Ruan Center, Des Moines, IA 50309. Representative: E. Check (same as applicant). *Inedible animal fat*, in bulk in tank vehicles, from Huro, SD to Sleepy Eye, MN, for 180 days. An underlying ETA seeks authority. Supporting shipper(s): Armour Food Co., Clarendon, Greyhound Tower, Phoenix, AZ 85077. Send protests to Herbert W. Allen, D/S, 518 Federal Bldg., Des Moines, IA 50309.

By the Commission.

H. G. Homme, Jr.,
Secretary.

[Notice No. 71]
[FR Doc. 79–14331 Filed 5–8–79; 8:45 am]
BILLING CODE 7035–01–M

Motor Carrier Temporary Authority Applications

Important Notice

The following are notices of filing of applications for temporary authority under Section 210a(a) of the Interstate Commerce Act provided for under the provisions of 49 CFR 1131.3. These rules provide that an original and Six (6) copies of protests to an application may be filed with the field official named in the Federal Register publication no later than the 15th calendar day after the date the notice of the filing of the application is published in the Federal Register. One copy of the protest must be served on the applicant, or its authorized representative, if any, and the protestant must certify that such service has been made. The protest must identify the operating authority upon which it is predicated, specifying the "MC" docket and "Sub" number and quoting the particular portion of authority upon which it relies. Also, the protestant shall

specify the service it can and will provide and the amount and type of equipment it will make available for use in connection with the service contemplated by the TA application. The weight accorded a protest shall be governed by the completeness and pertinence of the protestant's information.

Except as otherwise specifically noted, each applicant states that there will be no significant effect on the quality of the human environment resulting from approval of its application.

A copy of the application is on file, and can be examined at the Office of the Secretary, Interstate Commerce Commission, Washington, D.C., and also in the ICC Field Office to which protests are to be transmitted.

Note.—All applications seek authority to operate as a common carrier over irregular routes except as otherwise noted.

Motor Carriers of Property

MC 13087 (Sub-47TA), filed February 2, 1979. Applicant: STOCKBERGER TRANSFER & STORAGE, INC., 524 Second Avenue SW., Mason City, IA 50401. Representative: Thomas E. Leahy, Jr., 1980 Financial Center, Des Moines, IA 50309. *Foodstuffs, except in bulk*, from the facilities of Todo, Inc., at Charles City, IA to Milwaukee, WI; Minneapolis-St. Paul, MN; Chicago, IL; Kansas city, KS; St. Louis and Kansas City, MO, and points in their commercial zones, for 180 days. An underlying ETA seeks 90 days authority. Supporting shipper(s): Todo, Inc., 901 N. Main St., Charles City, IA 50616. Sent protests to: Herbert W. Allen, DS, ICC, 518 Federal Building, Des Moines, IA 50309.

MC 21337 (Sub-4TA), filed February 14, 1979. Applicant: RAPID FILM SERVICE, INC., P.O. Box 639, Grand Island, NE. 68801. Representative: Clarence C. Wagner (same address as applicant). *General commodities, except those requiring special equipment*, between Broken Bow, NE, and points in Blaine, Custer, Grant, Hooker, Logan, Sheridan, Thomas counties, NE. An underlying ETA seeks 90 days authority. Applicant proposes to tack at Broken Bow, NE, and interline at Grand Island and Omaha, NE. Supporting shipper(s): Baldwin Hardware, Mullen, NE, Sandhills Tack Shop, Hyannia, NE, Schmoker Chevrolet & Oldsmobile, Mullen, NE, Brandin' Iron, Thedford, NE, Schmoker Oil Co., Mullen, NE, McMullen Propane Co., Dunning, NE, B&D Enterprises, Mullen, NE. Send protests to: Max H. Johnston, District Supervisor, 285 Federal Building and Court House, 100 Centennial Mall North, Lincoln, NE 68508.

MC 2421 (Sub-20TA), filed February 22, 1979. Applicant: NEWTON TRANSPORTATION COMPANY, INC., P.O. Box 678, Lenoir, NC 28645. Representative: Charles H. Keller 510 Greer Circle, SW, Lenoir, NC 28645. *New furniture and furniture parts* from the plantsites and warehouse facilities of Broyhill Furniture Industries, Inc. located in Rutherfordton, NC to points in PA, for 180 days. Supporting shipper(s): Broyhill Furniture Industries, Inc., Lenoir, NC. Send protests to: District Supervisor Terrell Price, 800 Briar Creek Rd–Rm CC516, Mart Office Building, Charlotte, NC 28205.

MC 26396 (Sub-226TA), filed February 23, 1979. Applicant: POPELKA TRUCKING CO. d.b.a. THE WAGGONERS, P.O. Box 990, Livingston, MT 59047. Representative: Bradford E. Kistler P.O. Box 82028, Lincoln, NE 68501. *Agricultural chemicals* from Atlanta, IL to points in IA, KS, MN, MO, NE, SD and WI. Supporting shipper(s): Hopkins Agricultural Chemicals, P.O. Box 7532, Madison, WI 53707. Send protests to: Paul J. Labane, DS, ICC 2602 First Avenue North, Billings, MT 59101.

MC 26396 (Sub-228TA), filed February 26, 1979. Applicant: POPELKA TRUCKING CO. d.b.a. THE WAGGONERS, P.O. Box 990, Livingston, MT 59047. Representative: Bradford E. Kistler P.O. Box 82028, Lincoln, NE 68501. *Starch* from Keokuk, IA to points in the states of ND and MT. Supporting shipper(s): Wyo-Ben, 1242 N. 28th, Billings, MT 59101. Send protests to: Paul J. Labane, DS, ICC 2602 First Avenue North Billings, MT 59101.

MC 28307 (Sub-24TA), filed February 14, 1979. Applicant: FREDRICKSON MOTOR EXPRESS CORPORATION, P.O. Box 21098, Charlotte, NC 28206, Representative: Loy J. Foster (same address as applicant). *Common Carrier*-Regular Routes; *Glass containers & fiberboard containers* from Midway, NC over US Hwy 52 to Winston-Salem, NC then over US Hwy 158 to Reidsville, NC then over NC Hwy 14 to Eden, NC for 180 days. An underlying ETA seeks 90 days authority. NOTE: Applicant proposes to Tack the authority sought here with its lead docket, MC–28307. Supporting shipper(s): Owens-Illinois, Inc., P.O. Box 1035, Toledo, OH 43666. Send protests to: District Supervisor Terrell Price, 800 Briar Creek Rd.–Rm CC516, Mart Office Building, Charlotte, NC 28205.

MC 34227 (Sub-15TA), filed February 9, 1979. Applicant: PACIFIC INLAND TRANSPORTATION COMPANY, 15910 East Colfax, Aurora, CO 80011. Representative: James P. Beck, 717 17th St., Suite 2600, Denver, CO 80202. *Contract carrier:* irregular routes: *New furniture and furnishings* from the facilities of Samsonite Corporation near Ft. Smith, AR to points in AZ, CA, CO, ID, MT, NV, NM, OR, UT, WA and WY for 180 days. RESTRICTION: Restricted to a transportation service to be performed under continuing contract with Samsonite Corporation of Denver, CO. Supporting shipper: Samsonite Corporation, Route #1 Samsonite Blvd., Murfreesboro, TN 37130. Send protests to: District Supervisor Roger L. Buchanan, ICC, 721 19th St., 492 U.S. Customs House, Denver, CO 80202.

MC 41347 (Sub-10TA), filed March 1, 1979. Applicant: DEBACK CARTAGE CO., INC., 4041 W. Burnham St., Milwaukee, WI 53210. Representative: Richard Alexander, 710 N. Plankinton Ave., Milwaukee, WI 53203. *Fire brick shapes, furnace lining cement, crushed fire brick, and fire brick plastic and high-temperature mortar*, between the facilities of Chicago Fire Brick Co. at Chicago, IL and the facilities of D & S Distribution Service Warehouse, a Div. of D & S Investment Corp., at Wauwatosa, WI, for 180 days. Supporting shipper(s): Chicago Fire Brick Co., 1467 N. Elston Ave., Chicago, IL 60622. Send protests to: Gail Daugherty, TIA, ILL, 517 East Wisconsin Ave., Room 619, Milwaukee, Wisconsin 53202.

MC 41406 (Sub-113TA), filed January 26, 1979. Applicant: ARTIM TRANSPORTATION SYSTEM, INC., 7105 Kennedy Ave., Hammond, IN 46323. Representative: Wade H. Bourdon (same as applicant). *Iron and steel articles*, from Keokuk, IA to OH, PA, WV for 180 days. Supporting shipper(s): Amsted Industries, Inc., Griffin Wheel Company, 200 W. Monroe St., Chicago, IL 60606. Send protests to: TA Annie Booker, 219 S. Dearborn St. Rm. 1386, Chicago, IL 60604.

MC 42487 (Sub-909TA), filed February 20, 1979 Applicant: CONSOLIDATED FREIGHTWAYS CORPORATION OF DELAWARE, 175 Linfield Dr., Menlo Park, CA 94025. Representative: V. R. Oldenburg, P.O. Box 3062, Portland, OR 97208. *General commodities*, except those of unusual value, classes A and B explosives, livestock, household goods as defined by the Commission, commodities in bulk and those requiring special equipment, serving the facilities of Trent Tube Division, Colt Industries, Inc., at East Troy, WI, as an off-route point in connection with presently

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authorized regular route operations for 180 days. NOTE: Applicant proposes to interline traffic with its present connecting carriers at authorized interline points throughout the United States. Supporting shipper(s): Colt Ind. Crucible Inc., Trent Tube Div., 2188 Church St., East Troy, WI 53120. Send protests to: Michael M. Butler, District Supervisor, 211 Main, Suite 500, San Francisco, CA 94105. Supporting shipper: Colt Inc. Crucible Inc., Trent Tube Div., 2188 Church St., East Troy, WI 53120. Send protests to: District Supervisor Michael M. Butler, 211 Main—Suite 500, San Francisco, CA 94105.

MC 51146 (Sub-670TA), filed March 1, 1979. Applicant: SCHNEIDER TRANSPORT, INC., P.O. Box 2298, Green Bay, WI 54306. Representative: John R. Patterson, 2480 E. Commercial Blvd., Ft. Lauderdale, FL 33308. (a) *Containers, container ends, and closures:* (b) *commodities manufactured or distributed by manufacturers and distributors of containers* when moving in mixed loads with containers; and (c) *materials, equipment, and supplies* used in the manufacture and distribution of containers, container ends, and closures, between the facilities of Brockway Glass Company, Inc. at Muskingum County, OH and LaCrosse County, WI, for 180 days. An underlying ETA seeks 90 days authority. Supporting shipper(s): Brockway Glass Co., McCullough Ave., Brockway, PA 15824. Send protests to: Gail Daugherty, T/A. ICC, 517 East Wisconsin Avenue, Room 619, Milwaukee, Wisconsin 53202.

MC 51146 (Sub-677TA), filed February 20, 1979. Applicant: SCHNEIDER TRANSPORT, INC., P.O. Box 2298, Green Bay, WI 54306. Representative: John R. Patterson, 2480 E. Commercial Blvd., Ft. Lauderdale, FL 33308. *(1) Such merchandise as is dealt in by wholesale, retail, chain grocery, and food business houses; and (2) Equipment, materials, and supplies used in the manufacture, sale, and distribution of the commodities named in (1) above* between the facilities of the Ralston Purina Co. at or near Clinton and Davenport, IA on the one hand, and, on the other, points, in WI, for 180 days. An underlying ETA seeks 90 days authority. Supporting shipper(s): Ralston Purina Co., 2200 Manufacture Drive, Clinton, IA 52732. Send protests to: Gail Daugherty, T/A, ICC, 517 East Wisconsin Avenue, Room 619, Milwaukee, Wisconsin 53202.

MC 51146 (Sub-678TA), filed February 20, 1979. Applicant: SCHNEIDER TRANSPORT, INC., P.O. Box 2298, Green Bay, WI 54306. Representative: John R. Patterson, 2480 E. Commercial Blvd., Ft. Lauderdale, FL 33308. *Paper and paper related products* from Pacific, MO to points in NJ, NY and PA, for 180 days. An underlying ETA seeks 90 days authority. Supporting shipper(s): Alton Box Board Co., 401 Alton St., Alton, IL 62002. Send protests to: Gail Daugherty, T/A, ICC, 517 East Wisconsin Avenue, Room 619, Milwaukee, Wisconsin 53202.

MC 59117 (Sub-66TA), filed February 21, 1979. Applicant: ELLIOTT TRUCK LINE, INC., P.O. Box 1, Vinita, OK 74301. Representative: Wilburn L. Williamson, Suite 615-East, The Oil Center, 2601 Northwest Expressway, Oklahoma City, OK 73112. *Silica sand,* from Ottawa, IL, to Pryor, OK, for 180 days. An underlying ETA seeks 90 days authority. Supporting shipper(s): Pryor Foundry, Inc., Box 549, Pryor, OK 74361. Send protests to: Connie Stanley, Transportation Assistant, Interstate Commerce Commission, Room 240 Old Post Office & Court House Bldg., 215 N.W. 3rd, Oklahoma City, OK 73102.

MC 59117 (Sub-67TA), filed February 23, 1979. Applicant: ELLIOTT TRUCK LINES, INC., P.O. Box 1, Vinita, OK 74301. Representative: Tom B. Kretsinger, 20 East Franklin, Liberty, MO 64068. *Dry bulk fertilizer and fertilizer materials,* from Atlas, MO to AR, KS, IA, IL, OK, NE, and TX, for 180 days. An underlying ETA seeks 90 days authority. Supporting shipper(s): W. R. GRACE & Co., Agricultural Chemicals Group, 100 N. Main Bldg., Memphis, TN 38103. Send protests to: Connie Stanley, Transportation Assistant, Room 240, Old Post Office & Court House Bldg., 215 N.W. 3rd, Oklahoma City, OK 73102.

MC 59957 (Sub-53TA), filed February 28, 1979. Applicant: MOTOR FREIGHT EXPRESS, P.O. Box 1029, York, PA 17405. Representative: Walter M. F. Neugebauer, P.O. Box 1029, York, PA 17405. Iron and steel articles serving the facilities of Franklin Steel Company at or near Franklin, PA, as an off-route point in connection with carrier's authorized regular-route operations. Supporting shipper(s): Franklin Steel Company, P.O. Box 671, Franklin, PA 16323. Calumet Steel Company, 390 E. Joe Orr Rd., Chicago Heights, IL 60411. Send protests to: Charles F. Myers, District Supervisor, Interstate Commerce Commission, P.O. Box 869, Federal Square Station, 228 Walnut Street, Harrisburg, PA 17108.

MC 65628 (Sub-33TA), filed February 9, 1979. Applicant: FREDONIA EXPRESS, INC., P.O. Box 222, Fredonia, NY 14063. Representative: Mr. David C. Venable, Suite 805, 666 Eleventh Street, N.W., Washington, D.C. 20001. (1) *Such merchandise as is dealt in by wholesale, retail, chain grocery and food business houses* and (2) *materials, equipment, ingredients and supplies* used in the manufacture, distribution, and sale of the commodities named in (1) above, between the facilities of Ralston-Purina Company at or near Dunkirk, NY, on the one hand, and, on the other, points in MD, NJ, OH, PA and WV, for 180 days. An underlying ETA seeks 90 days authority. Supporting shipper(s): R. F. Schulenberg, Traffic Manager, Ralston Purina Company, Dunkirk, NY 14048. Send protests to: Richard H. Cattadoris, DS, ICC, 111 West Huron Street, Buffalo, NY 14202.

MC 69397 (Sub-55TA), filed February 15, 1979. Applicant: JAMES H. HARTMAN & SON, INC., P.O. Box 85, Pocomoke City, MD 21851. Representative: Wilmer B. Hill, Suite 805, 666 Eleventh St., NW., Washington, DC 20001. *Iron and steel* and *iron and steel articles,* from the facilities of Wheeling-Pittsburgh Steel Corp., at Canfield, Martins Ferry, Mingo Junction, Steubenville and Yorkville, OH; Allenport and Monessen, PA; and Beech Bottom, Benwood, Follansbee, and Wheeling, WV to points in NJ, NY and VA, for 180 days. An underlying ETA seeks 90 days authority. Supporting shipper(s): Wheeling-Pittsburgh Steel Corp., P.O. Box 118, Pittsburgh, PA 15230. Send protests to: T. M. Esposito, Trans. Asst., 600 Arch St., Room 3238, Phila., PA 19106.

MC 78687 (Sub-59TA), filed February 28, 1979. Applicant: LOTT MOTOR LINES, INC., West Cayuga Street, P.O. Box 751, Moravia, NY 13118. Representative: Dwight L. Koerber, Jr., 805 McLachlen Bank Bldg., 666 Eleventh Street, N.W., Washington, D.C. 20001. *Iron and steel articles,* from the facilities of Jones & Laughlin Steel Corporation at Aliquippa and Pittsburgh, PA to points in New York, except points in Rockland, Westchester, Nassau and Suffolk Counties, and New York, NY, for 180 days. Underlying ETA for 30+2 under R-5 was granted with the effective date being February 16, 1979. Supporting shipper(s): Jones & Laughlin Steel Corporation, Charles N. Hartman, Gen. Supvr., 1600 West Carson Street—Room 121, Pittsburgh, PA 15263. Send protest to: Interstate Commerce Commission, U.S. Courthouse & Federal Bldg., 100 S. Clinton St.—Rm. 1259, Syracuse, NY 13260.

MC 95376 (Sub-16TA), filed February 21, 1979. Applicant: MC VEY TRUCKING, INC., Rt. #1, Oakwood, IL 61358. Representative: Robert T. Lawley, Attorney, 300 Reisch Building, Springfield, IL 62701. (1) *Foundry sand,* from Michigan City, IN and Bridgman, MI to Tilton, IL, and (2) *Bulk pig iron* from Keokuk, IA to Tilton, IL (all restricted to traffic destined to the facilities of Central Foundry Division, General Motors Corporation, Tilton, IL.) Supporting shipper(s): Central Foundry Division, General Motors Corporation, 77 W. Center—P.O. Box 1629, Saginaw, MI 48605. Send protest to: Charles D. Little, District Supervisor, Interstate Commerce Commission, 414 Leland Office Building, 527 East Capitol Avenue, Springfield, Illinois 62701

MC 100666 (Sub-441TA), filed February 22, 1979. Applicant: MELTON TRUCK LINES, INC., P.O. Box 7666, Shreveport, LA 71107. Representative: Wilburn L. Williamson, Suite 615-East, The Oil Center, 2601 Northwest Expressway, Oklahoma City, OK 73112. *Prefabricated steel buildings, knocked down, and parts and accessories of prefabricated steel buildings and iron and steel articles* from the facilities of INRYCO, Inc. at Milwaukee, WI to points in AL, CA, FL, GA, NV, TN, and UT, for 180 days. Applicant has also filed an underlying ETA seeking up to 90 days operating authority. Supporting shipper(s): ARMCO, Inc., 703 Curtis Street, Middletown, OH 45043. Send protest to: Connie A. Guillory, ICC, T-9038 Federal Bldg., 701 Loyola Ave., New Orleans, LA 70113.

MC 102567 (Sub-219TA), filed February 28, 1979. Applicant: McNAIR TRANSPORT, INC., P.O. Drawer 5357, Bossier City, LA 71111. Representative: Joe C. Day, Vice-President—Traffic, 13403 Northwest Fwy.—Suite 130, Houston, TX 77040. *Liquid caustic soda, in bulk, in tank vehicles,* from Westwego, LA to all points in AL and MS, for 180 days. Applicant has filed an underlying ETA for 90 days. Supporting shipper(s): Morchem Products, 1009 Chartres, Houston, TX 77003. Send protest to: Connie A. Guillory, ICC, T-9038 Federal Bldg., 701 Loyola Ave., New Orleans, LA 70113.

MC 105007 (Sub-48TA), filed February 21, 1979. Applicant: MATSON TRUCK LINES, INC., 1407 St. John Avenue, Albert Lea, MN 56007. Representative: Val M. Higgins, 1000 First National Bank Building, Minneapolis, MN 55402. *Lard, grease and tallow, in bulk, in tank vehicles,* from Estherville, IA to St. Louis, MO, for 180 days. An underlying ETA seeks 90 days authority. Supporting shipper(s): John Morrell & Co., 208 South LaSalle Street, Chicago, IL 60604. Send protests to: Delores A. Poe, TA, ICC, 414 Federal Building and U.S. Court House, 110 South 4th Street, Minneapolis, MN 55401.

MC 106707 (Sub-14TA), filed February 15, 1979. Applicant: ADAMS TRUCKING, INC., 1700 West Second Street, Webster City, IA 50595. Representative: Ronald D. Adams (same as above). *Iron and steel articles* from the facilities on Inland Steel Company at East Chicago, IN to points in IL on and West of U.S. Route 78 on and North of U.S. 34, and to points in IA on and East of U.S. Route 61 for 180 days. An underlying ETA seeks 90 days authority. Supporting Shipper(s): Inland Steel Company, 30 W. Monroe Street, Chicago, IL 60603. Send protests to: Herbert W. Allen, DS, ICC, 518 Federal Bldg., Des Moines, IA 50309.

MC 112617 (Sub-423TA), filed Feb. 28, 1979. Applicant: LIQUID TRANSPORTERS, INC., P.O. Box 21395. Louisville, KY 40221. Representative: Charles R. Dunford, Vice President, Traffic (same as applicant). Cornstarch, in bulk, in hopper type vehicles, from the plantsite of American Maize Products Company at Hammond, IN, to points in IL, KY, MI, OH, PA and WV. Supporting Shipper(s): Donald F. Owens, Manager of Transportation, American Maize Products Co., 113th and Indianapolis Blvd., Hammond, IN 46328. Send protests to: Mrs. Linda H. Sypher, District Supervisor, Interstate Commerce Comm., 426 Post Office Building, Louisville, Ky. 40202.

MC 113406 (Sub-11TA), filed February 21, 1979. Applicant: DOT LINES, INC., 1000 Findlay Road, Lima, OH 45802. Representative: Beery & Spurlock Co., L.P.A., 275 East State Street, Columbus, OH 43215. *Auto parts,* from the plantsite and facilities of Ford Motor Company, at or near Lima and Cleveland, OH, to the plantsites, warehouses and facilities of Ford Motor Company, at or near Louisville, KY, for 180 days. Common-carrier-irregular routes. An underlying ETA seeks 90 days authority. Supporting Shipper(s): Ford Motor Company, One Parklane Blvd., Parklane Towers East, Suite 200, Dearborn, MI 48126. Send protests to: P. J. Crawford, Transportation Consumer Specialist, Interstate Commerce Commission, 313 Federal Office Bldg., 234 Summit St., Toledo, OH 43604.

MC 113646 (Sub-17TA), filed February 22, 1979. Applicant: JEFFERSON TRUCKING COMPANY, P.O. Box 17, National City, MI 48748. Representative: William B. Elmer, 21635 East Nine Mile Road, St. Clair Shores, MI 48080. *Contract carrier*—irregular routes. *Building materials, composition board, and materials and supplies used in the manufacture, distribution and installation thereof* (except commodities in bulk). For 180 days, between Newark, OH, on the one hand, and, on the other, points in AL, AR, FL, GA, KS, LA, MS, OK, NE, ND, SC, and SD. Supporting shipper(s): Gold Bond Building Products Division, National Gypsum Company, 2001 Rexford Road, Charlotte, NC 28211. Underlying ETA seeks 30 days authority. Send protests to: C. R. Flemming, D/S I.C.C., 225 Federal Building, Lansing, MI 48933.

MC 113666 (Sub-154TA), filed February 16, 1979. Applicant: FREEPORT TRANSPORT, INC., 1200 Butler Road, Freeport, PA 16229. Representative: D. R. Smetanick, Vice President (same as applicant). *Grouting compounds, materials and supplies used in the production and installation of grouting compounds* between Wilmington, DE on the one hand and, on the other, points in the United States (except AK and HI) for 180 days. An underlying ETA seeks 90 days. Supporting shipper(s): U.S. Grout Corporation, West End Avenue, Old Greenwich, CT 06870. Send protests to: John J. England, District Supervisor, Interstate Commerce Commission, 2111 Federal Building, 1000 Liberty Avenue, Pittsburgh, PA 15222.

MC113666 (Sub-155TA), filed February 16, 1979. Applicant: FREEPORT TRANSPORT, INC., 1200 Butler Road, Freeport, PA 16229. Representative: D. R. Smetanick, Vice President (same as applicant). *Iron and steel articles* between the plant sites of Allegheny Ludlum Steel Corp., located at Bagdad, Brackenridge and West Leechburg, PA, on the one hand, and, on the other, points in the states of AL, AR, IL, IN, KY, MO, NY, NC, OH and TN. Supporting shipper(s): Allegheny Ludlum Steel Corporation, P.O. Box 565, Leechburg, PA 15656. Send protests to: John J. England, District Supervisor, 2111 Federal Building, 1000 Liberty Avenue, Pittsburgh, PA 15222.

MC 113666 (Sub-156TA), filed February 23, 1979. Applicant: FREEPORT TRANSPORT, INC., 1200 Butler Road, Freeport, PA 16229. Representative: D. R. Smetanick, Vice President (same as applicant). *Ammonium nitrate,* in bulk from Donora, PA to points in OH, VA and WV for 180 days. An underlying ETA seeks 90 days authority. Supporting shipper(s): United States Steel Corporation, 600 Grant Street, Pittsburgh, PA 15230. Send protests to: John J. England, District Supervisor, Interstate Commerce Commission, 2111 Federal Building, 1000 Liberty Avenue, Pittsburgh, PA 15222.

MC 114457 (Sub-480TA), filed February 26, 1979. Applicant: DART TRANSIT COMPANY 2102 University Avenue, St. Paul, MN 55114. Representative: James H. Wills (same address as applicant). *Automotive parts and materials and supplies used in the manufacture of automotive parts (except commodities in bulk)* between the facilities of Ford Motor Company in the state of MI, on the one hand, and, on the other, St. Louis and Kansas City, MO and St. Paul, MN, for 180 days. Supporting Shipper(s): Ford Motor Company, One Parklane Boulevard, Parklane Towers-East, Suite 200, Dearborn, MI 48126. Send protests to: Delores A. Poe, TA, ICC, 414 Federal Building & U.S. Court House, 110 South 4th Street, Minneapolis, MN 55401.

MC 115496 (Sub-116TA), filed February 13, 1979. Applicant: LUMBER TRANSPORT, INC., P.O. Box 111, Cochran, Georgia 31014. Representative: Virgil H. Smith, Suite 12, 1587 Phoenix Blvd., Atlanta, Georgia 30349. (1) Building wall and insulation board, (2) moulding, building woodwork, (3) Lauan plywood, (4) board or sheets made from shavings, wood sawdust or ground wood, and (5) plywood from the plantsite of Pan American Gyro-Tex Company at Jasper, FL to points in GA, IL, IN, OH, IK, MO, MD, KS, PA, NY, NC, SC, VA, TN, and TX. Supporting Shipper(s): Pan American Gyro-Tex Company, Jacksonville, FL 32218. Send protests to: Sara K. Davis, Transportation Assistant ICC, Room 300, 1252 W. Peachtree St., NW., Atlanta, Georgia 30309.

MC 115826 (Sub-407TA). Applicant: W. J. DIGBY INC., 6015 East 58th Ave., Commerce City, CO 80022. Representative: Howard Gore (same address as above). *Frozen foods*, from Clearfield, UT to points in AL, FL, GA, KS, TX, OK, NC, SC, TN, NM, VA, MS and KY, for 180 days. An underlying ETA seeks 90 days authority. Supporting Shipper(s): Termicold Corporation, 1616 S. W. First Avenue, Portland, OR 97201. Send protests to: District Supervisor Herbert C. Ruoff, 721 19th Street, 492 U.S. Customs House, Denver, CO 97201.

MC 115826 (Sub-411TA). Applicant: W. J. DIGBY, INC., 6015 East 58th Avenue, Commerce City, CO 80022. Representative: Howard Gore (same address as above). *Meat*, from facilities of Iowa Beef Processors, Inc. at Dakota City, NE to points in Camden, Burlington, Gloucester, Mercer Counties, NJ; Bucks, Chester, Delaware, Montgomery and Philadelphia Counties, PA; Bristol, Essex, Hampshire, Middlesex, Norfolk, Plymouth, Suffolk and Worcester Counties, MA; and Anne Arundel, Baltimore, Carroll, Cecil, Frederick, Harford and Howard Counties, MD, for 180 days. An underlying ETA seeks 90 days authority. Supporting Shipper(s): Iowa Beef Processors, Inc., Dakota City NE 68731. Send protests to: District Supervisor Herbert C. Ruoff, 492 U.S. Customs House, 721 19th Street, Denver, CO 80202.

MC 115826 (Sub-408TA). Applicant: W. J. DIGBY, INC., 6015 East 58th Ave., Commerce City, CO 80022. Representative: Howard Gore (same address as above). *Canned goods*, from facilities of Oconomowoc Canning Co. at Poynette, WI to all points in the United States (except AK and HI), Restricted to transportation of traffic originating at the named origin, for 180 days. An underlying ETA seeks 90 days authority. Supporting Shipper(s): Oconomowoc Canning Co., P.O. Box 246, Oconomowoc, WI 53066. Send protests to: District Supervisor Herbert C. Ruoff, 492 U.S. Customs House, 721 19th Street, Denver, CO 80202.

MC 115826 (Sub-410TA). Applicant: W. J. DIGBY, INC., 6015 East 58th Avenue, Commerce City, CO 80022. Representative: Howard Gore (same address as above). *Boards, blocks, or panels NOI, honeycomb cellular construction, expanded or compressed; metal; fibreboard or paper impregnated with other materials, or not impregnated with other materials, corrugated or O/T corrugated*, from facilities of Hexcel Corporation near Casa Grande, AZ to Pascogoula, MS, St. Louis, MO and their commercial zones, for 180 days. An underlying ETA seeks 90 days authority. Supporting Shipper(s): Hexcel Corporation, 11711 Dublin Blvd., Dublin, CA 94566. Send protests to: District Supervisor Herbert C. Ruoff, 492 U.S. Customs House, 721 19th Street, Denver, CO 80202.

MC 115826 (Sub-412TA). Applicant: W. J. DIGBY, INC., 6015 East 58th Avenue, Commerce City, CO 80022. Representative: Howard Gore (same address as above). *Foodstuffs*, from points in CA to points in OK, for 180 days. An underlying ETA seeks 90 days authority. Supporting Shipper(s): Food Service Sales, Inc., 4900 North Portland, Suite 104, Oklahoma City, OK 73112. Send protests to: District Supervisor Herbert C. Ruoff, 492 U.S. Customs House, 721 19th Street, Denver, CO 80202.

MC 115826 (Sub-413TA). Applicant: W. J. DIGBY, INC., 6015 East 58th Avenue, Commerce City, CO 80022. Representative: Howard Gore (same address as above). *Confectionery, dessert preparations, gumball machines and gumball stands*, from facilities of Leaf Confectionery, Inc., Chicago, IL to points in CA, AZ and NM, for 180 days. An underlying 90 day ETA has been filed. Supporting Shipper(s): Leaf Confectionery, Inc., 1155 North Cicero Ave., Chicago, IL 60651. Send protests to: District Supervisor Herbert C. Ruoff, 492 U.S. Customs House, 721 19th Street, Denver, CO 80202.

MC 115828 (Sub-414TA). Applicant: W. J. DIGBY, INC., 6015 East 58th Avenue, Commerce City, CO 80022. Representative: Howard Gore (same address as above). *Meats and meat products*, from Washington Court House and Dayton, OH to Phoenix, AZ; Los Angeles and San Francisco, CA, to Salt Lake City, UT, Albuquerque, NM, Amarillo, TX, Kansas City, KS; Kansas City, MO, and their commercial zones, for 180 days. An underlying ETA seeks 90 days authority. Supporting Shipper(s): American Pantry, Inc., P.O. Box 9284, Phoenix, AZ 85068. Send protests to: District Supervisor Herbert C. Ruoff, 492 U.S. Customs House, 721 19th Street, Denver, CO 80202.

MC 116077 (Sub-402TA). Applicant: DSI TRANSPORTS, INC., 4550 Post Oak Place/Suite 300, Houston, TX 77027. Representative: J. C. Browder, 4550 Post Oak Place/Suite 300, Houston, TX 77072. Common carrier over irregular routes. Acrylonitrile, in bulk, in tank vehicles from Avondale, LA to St. Louis, MO. An underlying ETA seeks 90 days authority. Supporting Shipper(s): American Cyanamid Corp., 10800 River Rd., West Wego, LA 70094. Send protests to: John F. Mensing, Interstate Commerce Commission, 515 Rusk Avenue, 8610 Federal Bldg., Houston, TX 77002.

MC 116077 (Sub-403TA). Applicant: DSI TRANSPORTS, INC., 4550 One Post Oak Place/Suite 300, Houston, TX 77027. Representative: J. C. Browder, 4550 One Post Oak Place/Suite 300, Houston, TX 77072. *Common carrier* over irregular routes. *Clay catalyst*, in bulk, in tank vehicles from Houston, TX to the states of AR, OK, LA and TX. Supporting Shipper(s): Engelhard Minerals & Chemicals Corp., Menlo Park, Edison, NJ 08818. Send protests to: John F. Mensing, Interstate Commerce Commission, 515 Rusk Avenue, 8610 Federal Bldg., Houston, TX 77002.

MC 116457 (Sub-41TA), filed Feb. 22, 1979. Applicant: GENERAL TRANSPORTATION INCORPORATED, 1804 S. 27th Avenue, P.O. Box 6484, Phoenix, AZ 85005. Representative: D. Parker Crosby, 1710 S. 27th Avenue, P.O. Box 6484, Phoenix, AZ 85005. Waste paper, waste paper products, waste cardboard and waste newsprint (except in bulk) from points in Salt Lake County and Davis County, Utah, to the facilities of Crown Zellerbach, at Antioch, California, for 180 days. Supporting Shipper(s): Crown Zellerbach Corporation, 1 Bush Street, San Francisco, CA 94104. Send protests to: Thomas Klobas, Acting District Supervisor, Interstate Commerce Commission, 2020 Federal Bldg., 230 N. First Avenue, Phoenix, AZ 85025.

MC 116947 (Sub-67TA), filed February 16, 1979. Applicant: SCOTT TRANSFER, CO., INC., 920 Ashby Street, S.W., Atlanta, Georgia 30310. Representative: William Addams, Attorney, Suite 212, 5299 Roswell Road, N. E., Atlanta, Georgia 30342. (1) Canned goods, from the facility of Woldert Canning Co., Inc. at or near Tyler, TX to points in AL, SC, NC, GA, TN, LA, and MS and (2) Metal containers and parts therefor, from points in Fulton County, GA to the facility of Woldert Canning Co., Inc. at or near Tyler, TX. Supporting shipper(s): Woldert Canning, Inc., Tyler, Texas 75710. Send protests to: Sara K. Davis, Transportation Assistant, ICC, Room 300, 1252 West Peachtree St., NW, Atlanta, GA 30309.

MC 117686 (Sub-243TA), filed March 1, 1979. Applicant: HIRSCHBACH MOTOR LINES, INC., 5000 South Lewis Blvd., P.O. Box 417, Sioux City, IA 51102. Representative: Robert A. Sichser (same address as applicant). *Meat, meat products, and meat by-products, and articles distributed by meat packinghouses, as described in Sections A and C of Appendix I to the Report in Descriptions in Motor Carrier Certificates, 61 MCC 209 and 766 (except hides and commodities in bulk)*, from the facilities of Farmland Foods, Inc., at or near (1) Denison, Iowa Falls, Carroll, and Sioux City, IA and Omaha, NE, to points in FL, NC, and SC; (2) Des Moines, IA and Lincoln, NE to points in AL, FL, GA, LA, MS, NC, SC, and TN; and (3) Fort Dodge, IA, to FL, GA, NC, SC, for 180 days. Restricted to the transportation of traffic originating at the named origin facilities and destined to the named destinations. An underlying ETA seeks 90 days authority. Supporting shipper(s): Dean Wilson, Farmland Foods, Inc., P.O. Box 403, Denison, IA 51442. Send protests to: Carroll Russell, ICC, Suite 620, 110 No. 14th St., Omaha NE 68102.

MC 119226 (Sub-112TA), filed February 15, 1979. Applicant: LIQUID TRANSPORT CORP., 3901 Madison Avenue, Indianapolis, IN 46227. Representative: Robert W. Loser, 1009 Chamber of Commerce Building, Indianapolis, IN 46204. (1) *Chemical, vegetable oils, animal fats, and products thereof, in bulk, in tank vehicles*, from the facilities of Procter & Gamble Company at Ivorydale and St. Bernard, OH to points in AL, DE, GA, IA, IL, IN, KY, MI, NC, NJ, NY, PA, SC, TN, TX, VA and WV. (2) *Vegetable oils, in bulk, in tank vehicles, from points in IL and Ky to the facilities of Procter & Gamble Company at Ivorydale and St. Bernard, OH.*

MC 119767 (Sub-352TA), filed February 22, 1979. Applicant: BEAVER TRANSPORT CO., P.O. Box 186, Pleasant Prairie, WI 53158. Representative: John R. Sims, Jr., 915 Pennsylvania Bldg., 425 13th St., NW, Washington, DC 20004. *Tree or weed killing compounds* in containers from facilities of Amchem in Clinton, IA to points in the Lower Peninsula of Michigan, for 180 days. Supporting shipper(s): Amchem Products, Inc., Brookside Ave., Ambler, PA 19002. Send protests to: Gail Daugherty, T/A, 517 East Wisconsin Avenue, Room 619, Milwaukee, Wisconsin 53202.

MC 119767 (Sub-353TA), filed February 28, 1979. Applicant: BEAVER TRANSPORT CO., P.O. Box 186, Pleasant Prairie, WI 53158. Representative: John R. Sims, Jr., 915 Pennsylvania Bldg., 425 13th St., NW, Washington, DC 20004. *Liquid latex*, in drums, in temperature controlled vehicles, from Oak Creek, WI to Definance, OH, for 180 days. An underlying ETA seeks 90 days authority. Supporting shipper(s): Northwest Chemical Corp., 6870 S. 13th St., Oak Creek, WI 53154. Send protests to: Gail Daugherty, ICC, 517 East Wisconsin Ave., Rm. 619, Milwaukee, WI 53202.

MC 121626 (Sub-13TA), filed February 26,1979. Applicant: BAYVIEW TRUCKING, INC., 7080 Florin-Perkins Road, Sacramento, CA 95828. Representative: Donald L. Stern, Suite 610, 7171 Mercy Road, PH (402) 392-1220, Omaha, NE 68106. *Meat, meat by-products* processed by Lakin Meat Processors, Omaha, NE—In vehicles equipped with mechanical refrigeration, from the plantsite of Lakin Meat Processors at Omaha, NE to points in WA, OR, MT, CA, AZ, CO and UT, for 180 days. An underlying ETA seeks 90 days authority. Supporting shipper(s): Lakin Meat Processors, 8900 Dodge Road, Omaha, NE 68114. Send protests to: A. J. Rodriguez, DS, ICC, 211 Main Street, Suite 500, San Francisco, CA 94105.

MC 121517 (Sub-4TA), filed February 14, 1979. Applicant: ELLSWORTH MOTOR FREIGHT LINES, INC., P.O. Box 15627, Tulsa, OK 74112. Representative: Wilburn L. Williamson, Suite 615-East, The Oil Center, 2601 Northwest Expressway, Oklahoma City, OK 73112. *Limestone*, in bulk, from Carthage, MO, to Stroud, OK, for 180 days. An underlying ETA seeks 90 days authority. Supporting shipper(s): Allied Materials Corporation, P.O. Box 12340, 5101 North Pennsylvania, Oklahoma City, OK 73112. Send protests to: Connie Stanley, Room 240, 215 NW. 3rd, Oklahoma City, OK 73102.

MC 123476 (Sub-40TA), filed Febrary 22, 1979. Applicant: CURTIS TRANSPORT, INC., 23 Grandview Ind. Ct., Arnold, MO 63010. Representative: David G. Dimit (address, same as above). *Plastic bottles* (except in bulk, in tank vehicles) from Bedford Park, IL to Maryland Heights, MO, for 180 days. An underlying ETA seeks 90 days authority. Supporting shipper(s): International Bottle Company, 7420 S. Meade, Bedford Park, IL 60638. Sent protests to: P. E. Binder, DS, ICC, Rm 1465, 210 N. 12th St., St. Louis, MO 63101.

MC 124887 (Sub-66TA), filed February 6, 1979. Applicant: SHELTON TRUCKING SERVICE, INC., Route 1, Box 230, Altha, FL 32421. Representative: Sol H. Proctor, 1101 Blackstone Building, Jacksonville, FL. *Lumber* from Crestview, Defuniak Springs, and West Bay, FL, to points in the States of TX, LA, MS, TN, KY, IL, IN, MI, OH, VA, NC and SC. Supporting shipper(s): Louisiana-Pacific Corporation, P.O. Box 160 West Bay Station, Panama City, FL 32401. Sent protests to: G. H. Fauss, Jr., DS, ICC, Box 35008, 400 West Bay Street, Jacksonville, FL 32202.

MC 124887 (Sub-68TA), filed February 21, 1979. Applicant: SHELTON TRUCKING SERVICE, INC., Route 1, Box 230, Altha, FL. Representative: Sol H. Proctor, 1101 Blackstone Building, Jacksonville, FL 32202. *Face brick, fire brick, glazed face brick, and glazed and unglazed structural facing tile* (1) from the facilities of Elgin-Butler Brick Co., located in Bastrop County, TX, to points in and east of ND, SC, NE, KS, OK, and TX, and (2) from East Canton, OH, to points in MS, LA and TX. Supporting shipper(s): Elgin-Butler Brick Company, P.O. Box 45019, Baton Rouge, LA 70895. Sent protests to: G. H. Fauss, Jr., DS, ICC, Box 35008, 400 West Bay street, Jacksonville, FL 32202.

MC 124887 (Sub-70TA), filed February 20, 1979. Applicant: SHELTON TRUCKING SERVICE, INC., Route 1, Box 230, Altha, FL 32421.

Representative: Sol H. Proctor, 1101 Blackstone Building, Jacksonville, FL 32202. *Lumber, particleboard, and plywood* from Winnfield, Alexander and Urania, LA to points in AL, FL, GA, MS, NC, SC, TN, TX and VA. Supporting shipper(s): Louisiana Pacific Corporation, P.O. Drawer AA, New Waverly, TX 77358. Sent protests to: G. H. Fauss, Jr., DS, ICC, Box 35008, 400 West Bay Street, Jacksonville, FL 32202.

MC 126736 (Sub-111TA), filed February 6, 1979. Applicant: FLORIDA ROCK & TANK LINES, INC., 155 East 21st Street, P.O. Box 1559, Jacksonville, FL 32201. Representative: L. H. Blow (same as applicant). *Phosphate, phosphate products and phosphate by-products, in bulk* from Occidental, FL (at or near White Springs, FL), to points in SC. Supporting shipper(s): Hooker Chemical Company, P.O. Box 4289, Houston, TX 77210. Send protests to: G. H. Fauss, Jr., DS, ICC, Box 35008, 400 West Bay Street, Jacksonville, FL 32202.

MC 127047 (Sub-34TA), filed February 28, 1979. Applicant: ED RACETTE & SON, INC., 6021 No. Broadway, Wichita, KS 67219. Representative: William B. Barker, 641 Harrison, Topeka KS 66603. *Grain handling equipment* between Wichita, KS and points in CO, MO, NE, OK, TX & Portland, OR. Restricted to traffic originating at or destined to facilities of H & L Equipment, Inc., located at or near Wichita, KS.; 180 days, common, irregular; Supporting shipper: H & L Equipment, Inc., 3311 No. Emporia, Wichita, KS 67219; Send protests to: M. E. Taylor, DS, ICC, 101 Litwin Bldg., Wichita, KS. 67202. Supporting shipper(s): H & L Equipment, Inc. 3311 No. Emporia, Wichita, KS 67219. Send protests to: M. E. Taylor, Dist. Supv. Interstate Commerce Commission, 101 Litwin Bldg., Wichita, KS 67202

MC 127187 (Sub-14TA), filed February 8, 1979. Applicant: FLOYD DUENOW, INC., 1728 Industrial Park Blvd., P.O. Box 415, Pergus Falls, MN 56537. Representative: William J. Gambucci, 414 Gate City Bldg., P.O. Box 1680, Fargo, ND 58107. *Animal and poultry feed and animal and poultry feed ingredients* (except in bulk in tank vehicles) from points in IA, WI and NE to ports of entry on the U.S. Canada International Boundary Line in MN, ND and MT, restricted to traffic destined to points in the Canadian provinces of Manitoba, Alberta and Saskatchewan, for 180 days. An underlying ETA seeks 90 days authority. Supporting shipper(s): L. V. Patteson, Ltd., 215 Panet Road, Winnipeg, Manitoba, Canada. Send protests to: Ronald R. Mau, DS, ICC, Room 268 Fed. Bldg and U.S. Post Office, 657 2nd Avenue North Fargo ND 58102.

MC 128007 (Sub-134TA), filed February 9, 1979. Applicant: HOFER, INC., 20th and Bypass, Pittsburg, KS. 66762. Representative: Larry E. Gregg, 641 Harrison, Topeka, KS 66603. *Iron and steel articles* from Chicago, IL and its commercial zone to points in Harvey County, KS.; common carrier, irregular routes, 180 days; underlying 90 day ETA, R–85, granted 2–7–79; Supporting shipper(s): Hesston Corporation, Hesston, KS.; Send protests to: M. E. Taylor, DS, ICC, 101 Litwin Bldg., Wichita, KS. 67202. Supporting shipper(s): Hesston Corporation, Hesston, KS. 67062. Send protests to: M. E. Taylor, Dist. Supv. Interstate Commerce Commission, 101 Litwin Bldg., Wichita, KS, 67202.

MC 128087 (Sub-6TA), filed February 7, 1979. Applicant: JOHN N. JOHN, III, INC., P.O. Box 921, Crowley, LA 70526. Representative: John N. John, III, 1000 West 2nd Street, Crowley, LA 70526. *Bags, bagging, burlap, steel cotton bale ties, twine, cotton fabric, and metal strippings* in mixed or straight truckload, from the Port of New Orleans, LA to Crowley, LA. for 180 days. Applicant has filed an underlying ETA for 90 days operating authority. Supporting shipper(s): V. V. Sharpe Company, Inc., P.O. Box 507, Crowley, LA 70526, Continental Bag Company, P.O. Drawer 350, Crowley, LA 70526. Send protests to: Connie A. Guillory, ICC, T–9038 Federal Bldg., 701 Loyola Ave., New Orleans, LA 70113.

MC 128404 (Sub-13TA), filed February 27, 1979. Applicant: BLACKWOOD CRANE & TRUCK SERVICE, INC., P.O. Box 3037, Knoxville, TN 37917. Representative: Wayne R. Whaley, Jr. (same address as applicant). *Iron and steel and iron and steel articles,* between the plantsite of Olympic Metals in or near Knoxville, TN on the one hand, and, on the other, points in MS, GA, SC, NC, VA, WV, PA, OH, IN, IL, AR, AL and KY, for 180 days. Supporting shipper(s): Olympic Metals, Inc., P.O. Box 11112, Knoxville, TN 37921. Send protests to: Glenda Kuss, TA, ICC—Bureau of Operations, Suite A–422 U.S. Court House, 801 Broadway, Nashville, TN 37203.

MC 129387 (Sub-86TA), filed February 26, 1979. Applicant: PAYNE TRANSPORTATION, INC., P.O. Box 1271, Huron, SD 57350. Representative: Charles E. Dye (same address as applicant). *Cleaning, washing, buffing or polishing compound, textile softener, lubricating grease or oils, deodorants or disinfectants* (except commodities in bulk) from Joliet, IL and its commercial zone to points in CA, CO, IA, MO, NE, ND and SD for 180 days. An underlying ETA seeks 90 days authority. Supporting shipper(s): Economics Laboratory, Inc., Osborn Building, St. Paul, MN 55102. Send protests to: J. L. Hammond, DS, ICC, Room 455, Federal Bldg., Pierre, SD 57501.

MC 133296 (Sub-12TA), filed February 14, 1979. Applicant: YULE TRANSPORT, INC., P.O. Box 56, Medford, MN 55049. Representative: Val M. Higgins, 1000 First National Bank Building, Minneapolis, MN 55402. *Contract carrier:* irregular routes: *Canned goods* from Owatonna, MN to Dallas, Fort Worth, San Antonio, Lubbock and Houston, TX, for 180 days. An underlying ETA seeks 90 days authority. Supporting shipper(s): Owatonna Canning Co., 100 West Winona Street, Owatonna, MN 55060. Send protests to: Delores A. Poe, TA, ICC, 414 Federal Building & U.S. Court House, 110 South 4th Street, Minneapolis, MN 55401.

MC 133796 (Sub-53TA), filed February 9, 1979. Applicant: GEORGE APPEL TRUCKING, INC., 249 Carverton Road, Trucksville, PA 18708. Representative: Joseph F. Hoary, 121 S. Main St., Taylor, PA 18517. *Confectionery and cough drops,* from the facilities of Luden's, Inc., Reading, PA, to AZ, CA, CO, ID, NV, OR, UT and WA, for 180 days. An underlying ETA seeks 90 days authority. Supporting Shipper: Luden's, Inc., 200 No. Eighth St., Reading PA 19601. Send protests to: P. J. Kenworthy, DS, ICC, 314 U.S. Post Office Bldg., Scranton, PA 18503. Supporting Shipper(s): Luden's, Inc., 200 N. Eighth St., Reading PA 19601. Send protests to: P. J. Kenworthy, DS, ICC, 314 U.S. Post Office Bldg., Scranton, PA 18503.

MC 133796 (Sub-54TA), filed February 21, 1979. Applicant: GEORGE APPEL TRUCKING, INC., 249 Carverton Road, Trucksville, PA 18708. Representative: Joseph F. Hoary, 121 S. Main St., Taylor, PA 18517. *Sugar substitutes, broth* and *seasonings,* dry, in packages, from New Paltz, NY, to Anaheim, CA, Dallas, TX, Morrow, GA, LaGrange, IL, AND Detroit, MI, for 150 days. An underlying ETA seeks 90 days authority. Supporting Shipper: Foodways National, Inc., 140 Broadway, Hawthorne, NY 10532. Send protests to: P. J. Kenworthy, DS, ICC, 314 U.S. Post Office Bldg., Scranton, PA 18503. Supporting Shipper(s): Foodways National, Inc., 140 Broadway, Hawthorne, NY 10532. Send protests to: P. J. Kenworthy, DS, ICC, 314 U.S. Post Office Bldg., Scranton, PA 18503.

MC 133977 (Sub-26TA), filed February 27, 1979. Applicant: GENE'S INC., 10115 Brookville-Salem Road, Clayton, OH 45315. Representative: John L. Alden, Stiverson and Alden, 1396 West Fifth Ave., Columbus, OH 43212. *Plastic articles, except commodities in bulk,* from Memphis, TH, to points in the United States (except AK and HI). Supporting Shipper(s): Huntzman Container Corporation, Donald G. Leach, Corporate Traffic Manager, Waverville, ME 04901. Send protests to: Paul J. Lowry, DS, ICC, 5514–B Federal Bldg, 550 Main St., Cincinnati, OH 45202.

MC 134286 (Sub-95TA), filed February 15, 1979. Applicant: ILLINI EXPRESS, INC., P.O. Box 1564, Sioux City, IA 51102. Representative: Julie Humbert (same address as applicant). *Foodstuffs (except commodities in bulk),* from the facilities of Vlasic Foods, Inc. located at or near Memphis, Bridgeport, and Imlay City, MI, to points in the states of ND, SD, NE, KS, MN, IA, MO, WI, IL, MI, IN, OH, NY, and PA, for 180 days. An underlying ETA seeks 90 days authority. Supporting Shipper(s): Ira M. Kaplan, Vlasic Foods, Inc., 33200 West 14 Mile Road, West Bloomfield, MI 48003. Send protests to Carroll Russell, ICC, Suite 620, 110 No. 14th St., Omaha, NE 68102.

MC 134467 (Sub-41TA), filed March 1, 1979. Applicant: POLAR EXPRESS, INC., P.O. Box 845, Springdale, AR 72764. Representative: Charles M. Williams, 350 Capitol Life Center, 1600 Sherman Street, Denver, CO 80203. *Cheese, cheese products and synthetic cheeses* (except commodities in bulk), from the facilities of L. D. Schreiber Cheese Co., Inc., in Jasper, Newton, Barry and Lawrence Counties, MO, to the facilities of Martin Brower, Inc., at or near Manassas, VA, for 180 days as a common carrier over irregular routes. Supporting Shipper(s): L. D. Schreiber Cheese Co., Inc., P.O. Box 610, Green Bay, WI 54305. Send protests to: William H. Land, Jr., District Supervisor, 3108 Federal Office Building, 700 West Capitol, Little Rock, AR 72201.

MC 134477 (Sub-321TA), filed February 8, 1979. Applicant: SCHANNO TRANSPORTATION, INC., 5 West Mendota Road, West St. Paul, MN 55118. Representative: Robert P. Sack, P.O. Box 6010, West St. Paul, MN 55118. *Air cleaner filter paper (except in bulk)* from Greenwich, NY to Dixon, IL, Cresco, IA and Kirksville, MO, for 180 days. An underlying ETA seeks 90 days authority. Supporting Shipper(s): Donaldson Company, Inc., 1400 West 94th Street, Minneapolis, MN 55440. Send protests to: Delores A. Poe, TA, 414 Federal Building & U.S. Court House, 110 South 4th Street, Minneapolis, MN 55401.

MC 134477 (Sub-327TA), filed February 22, 1979. Applicant: SCHANNO TRANSPORTATION, INC., 5 West Mendota Road, West St. Paul, MN 55118. Representative: Robert P. Sack, P.O. Box 6010, West St. Paul, MN 55118. *Automatic control devices and parts, materials and equipment used in the manufacture thereof (except commodities in bulk)* between Minneapolis, MN and points in its Commercial Zone on the one hand, and, on the other, the international boundary at Port Huron, MI, restricted to traffic having prior or subsequent movement from or to Scarborough, Ontario, Canada and further restricted to traffic moving from or to the facilities of Honeywell, Inc. at Minneapolis, MN and points in its Commercial Zone, for 180 days. An underlying ETA seeks 90 days authority. Supporting Shipper(s): Honeywell, Inc., 1885 North Douglas Drive, Golden Valley, MN 55422. Send protests to: Delores A. Poe, TA, ICC, 414 Federal Building & U.S. Court House, 110 South 4th Street, Minneapolis, MN 55401.

MC 134477 (Sub-328TA), filed February 22, 1979. Applicant: SCHANNO TRANSPORTATION, INC., 5 West Mendota Road, West St. Paul, MN 55118. Representative: Robert P. Sack, P.O. Box 6010, West St. Paul, MN 55118. *Foodstuffs (except commodities in bulk)* from Fort Fairfield, ME to points in IL, KS, KY, MI, OH and WI, restricted to traffic originating at the above named origin and destined to the above named destinations, for 180 days. An underlying ETA seeks 90 days authority. Supporting shipper(s): Great A & P Tea Co., Inc., 2 Paragon Drive, Montvale, NJ 07645. Send protests to: Delores A. Poe, TA, ICC, 414 Federal Building & U.S. Court House, 110 South 4th Street, Minneapolis, MN 55401.

MC 134806 (Sub-58TA), filed February 27, 1979. Applicant: B–D–R TRANSPORT, INC., P.O. Box 1277, Brattleboro, VT 05301. Representative: Francis J. Ortman, 7101 Wisconsin Avenue, Suite 605, Washington, D.C. 20014. Contract carrier, irregular routes: *Aluminum linear shapes, in bundles,* from Vernon, CA to Plainsboro, NJ, for 180 days, under continuing contract or contracts with MAARK Division of AMF, Inc. Supporting shipper(s): MAARK Division of AMF, Inc., Schalks Road, Plainsboro, NJ 08536. Send protests to: ICC, PO Box 548, Montpelier, VT 05602.

MC 135007 (Sub-73TA), filed February 28, 1979. Applicant: AMERICAN TRANSPORT, INC., 7850 "F" Street, Omaha, NE 68127. Representative: Arthur J. Cerra, P.O. Box 19251, 2100 TenMain Center, Kansas City, MO 64141. *Meat, meat products, meat by-products, and articles distributed by meat packinghouses as described in sections A and C of Appendix I to the report in Descriptions in Motor Carrier Certificates, 61 MCC 209 and 766 (except hides and commodities in bulk),* from the facilities of Iowa Beef Processors, Inc., at or near Dakota City, NE; Sioux City, IA: and Emporia and Wichita, KS to points in TN, NC, SC, MS, AL, GA, KY, and FL, under contract with Iowa Beef Processors, Inc., for 180 days. An underlying ETA seeks 90 days authority. Supporting shipper(s): Glen C. Echelbarger, Iowa Beef Processors, Inc., Dakota City, NE 68731. Send protests to: Carroll Russell, ICC, Suite 620, 110 No. 14th St., Omaha, NE 68102.

MC 135797 (Sub-180TA), filed February 14, 1979. Applicant: J. B. HUNT TRANSPORT, INC., P.O. Box 200, Lowell, AR 72745. Representative: Paul R. Bergant (same as applicant). *Molding* from Turlock, CA and Douglas, AZ to Dallas, TX for 180 days, as a common carrier over irregular routes. Supporting shipper(s): Frazier Building Materials, P.O. Box 20456, Dallas, TX 75220. Send protests to: William H. Land, Jr., District Supervisor, 3108 Federal Office Building, 700 West Capitol, Little Rock, AR 72201.

MC 135797 (Sub-181TA), filed February 15, 1979. Applicant: J. B. HUNT TRANSPORT, INC., P.O. Box 200, Lowell, AR 72745. Representative: Paul R. Bergant (same as applicant). *Textiles* from St. Martinville, LA to Woodward, OK for 180 days as a common carrier over irregular routes. Supporting shipper(s): Union Underwear, P.O. Box 780, Bowling Green, KY 42101. Send protests to: Willaim H. Land, Jr., District Supervisor, 3108 Federal Office Building, 700 West Capitol, Little Rock, AR 72201.

MC 135797 (Sub-182TA), filed February 21, 1979. Applicant: J. B. HUNT TRANSPORT, INC., P.O. Box 200, Lowell, AR 72745. Representative: Paul R. Bergant (same as applicant). *Such commodities* as are dealt in or used by wholesale and retail discount or variety stores (except commodities in bulk), (1) from points in AR, CO, DE, ID, KS, KY, LA, ME, MD, MS, MO, MT, NE, NV, NH, ND, OK, OR, RI, SD, TN, UT, VT, WA, WV, WY and DC, to the facilities of Wal-Mart Stores, Inc. at points in AR, IL, KS, KY, LA, MO, MS, OK, TN and TX, and , (2) from points in Benton, and White Counties, AR to points in AR, IL, KY, LA, MO, MS, OK, TN and TX, for 180 days as a common carrier over irregular routes. Supporting shipper(s): Wal-Mart Stores, Inc., P.O. Box 116,

Bentonville, AR 72712. Send protests to: William H. Land, Jr., District Supervisor, 3108 Federal Office Building, 700 West Capitol, Little Rock, AR 72201.

MC 135797 (Sub-188TA), filed February 27, 1979. Applicant: J. B. HUNT TRANSPORT, INC., P.O. Box 200, Lowell, AR 72745. Representative: Paul R. Bergant (same as applicant). *Metal containers* from Springdale, AR to points in TX for 180 days, as a common carrier over irregular routes. Supporting shipper(s): Diamond International Corp., 429 New Street, Cincinnati, OH 45202. Send protests to: William H. Land, Jr., District Supervisor, 3108 Federal Office Building, 700 West Capitol, Little rock, AR 72201.

MC 135797 (Sub-189TA), filed February 27, 1979. Applicant: J. B. HUNT TRANSPORT, INC., P.O. Box 200, Lowell, AR 72745. Representative: Paul R. Bergant (same as applicant). *Glassware*, (1) from the facilities of Santa Claus Industries located at Waterloo, IA, to points in the United States (except AK and HI) and, (2) from Lancaster, OH to Waterloo, IA, for 180 days as a common carrier over irregular routes. Supporting shippers(s): Santa Claus Industries, P.O. Box 629, Waterloo, IA 50704. Send protests to: William H. Land, Jr., District Supervisor, 3108 Federal Office Building, 700 West Capitol, Little rock, AR 72201.

MC 136246 (Sub-18TA), filed February 16, 1979. Applicant: GEORGE BROS., INC., P.O. Box 492, Sutton, NE, 68979. Representative: Arlyn L. Westergren, Suite 106, 7101 Mercy Road, Omaha, NE. 68106. *Lard, grease and tallow*, in bulk, in tank vehicles, From the facilities of John Morrell & Co. at Estherville, IA to points in IL, MN, MO, NE, SD, and WI. An underlying ETA seeks 90 days authority. Supporting shipper(s): Curt Y. Hopkins, Manager of Transportation, John Morrell & Co., 208 South LaSalle St., Chicago, IL, 60604. Send protests to: Max H. Johnston, district Supervisor, 285 Federal Building & Court House, 100 Centennial Mall North, Lincoln, Nebraska 68508.

MC 136786 (Sub-148TA), filed February 15, 1979. Applicant: ROBCO TRANSPORTATION, INC., 4333 Park Avenue, Des Moines, IA 50321. Representative: William L. Libby, 7525 Mitchell Road, Eden Prairie, MN 55343. *Inedible meats, meat products and meat by-products (except hides and skins)*, from the facilities of Consolidated Pet Foods, Inc. at or near Amarillo, TX to the facilities of Kal-Kan Foods, Inc. at or near Vernon, CA, for 180 days. An underlying ETA seeks 90 days authority. Supporting Shipper(s): Kal Kan Foods, Inc., 3386 E. 44th Street, Vernon, CA 90058. Send protests to: Herbert W. Allen, DS, ICC, 518 Federal Bldg., Des Moines, IA 50309.

MC 136786 (Sub-149TA), filed February 16, 1979. Applicant: ROBCO TRANSPORTATION, INC., 4333 Park Avenue, Des Moines, IA 50321. Representative: William L. Libby, 7525 Mitchell Road, Eden Prairie, MN 55343. (1) Meats, meat products, meat by-products and articles distributed by meat packinghouses as described in Sections A & C of Appendix I to the report in Descriptions in Motor Carrier Certificates, 61 MCC 209 and 766 (except hides and commodities in bulk) and (2) foodstuffs when moving in mixed loads with articles listed in (1) above from the facilities of Oscar Mayer & Co., Inc. at or near Perry and Des Moines, IA to PA, NJ, NY, NC, MD, SC and VA for 180 days. An underlying ETA seeks 90 days authority. Supporting Shipper(s): Oscar Mayer & Co., Inc., P.O. Box 7188, Madison, WI 53707. Send protests to: Herbert W. Allen, DS, ICC, 518 Federal Bldg., Des Moines, IA 50309.

MC 138206 (Sub-6TA), filed February 12, 1979. Applicant: TRULINE CORPORATION, 4455 S. Cameron Ave., Las Vegas, NV 89103. Representative: Robert G. Harrison, 4299 James Dr., Carson City, NV 89701. *Iron and steel products*, including rebar, fencing, sheet, angle, flat beams, tubing, pipe, channel, structural sizes and shapes, mesh, rolls and nails, for 180 days. *Restriction:* Restricted to prohibit transportation of Construction materials and/or building materials as defined at Appendix VI in Description in Motor Carrier Certificates, 61 M.C.C. 209. Supporting Shipper(s): There are six shippers. Their statements may be examined at the office listed below and Headquarters. Send protests to: W. J. Huetig, DS, I.C.C., 203 Federal Bldg., Carson City, NV 89701.

MC 138486 (Sub-6TA), filed February 23, 1979. Applicant: DAVE WHITE TRUCKING, Dave White, d.b.a., R.R. #1, Cerro Gordo, IL 61818. Representative: Jerry C. Slaughter, Registered Practitioner, 4666 Faries Parkway, Decatur, IL 62525. *Corn products*, dry, in bulk (except in tank vehicles), from the facilities of Archer Daniels Midland Company in Cedar Rapids, Iowa to points in Illinois. Supporting shippers: Archer Daniels Midland Company, 4666 Faries Parkway, P.O. Box 1470, Decatur, Illinois 62525. Sent protests to: Charles D. Little, District Supervisor, Interstate Commerce Commission, 414 Leland Office Building, 527 East Capitol Avenue, Springfield, Illinois 62701.

MC 138676 (Sub-11TA), filed February 8, 1979. Applicant: O-J TRANSPORT COMPANY, 10290 Gratiot, Detroit, MI 48213. Representative: Robert E. McFarland, 999 West Big Beaver Rd., Suite 1002, Troy, MI 48084. *Auto parts and materials, supplies, equipment, and related articles used in the manufacture and production of motor vehicles*, between Detroit, MI and its commercial zone, on the one hand, and, on the other, Chicago, IL and its commecial zone, for 180 days. Supporting shippers: Ford Motor Company, Suite 200, Parklane Towers East, Dearborn, MI 48126. Sent protests to: Tim Quinn, DS, ICC, 604 Federal Building and U.S. Courthouse, 231 West Lafayette Blvd., Detroit, MI 48226.

MC 139207 (Sub-6TA), filed February 26, 1979. Applicant: McNABB-WADSWORTH TRUCKING COMPANY, 305 S. Wilcox Drive, Kingsport, TN 37665. Representative: Henry E. Seaton, 929 Pennsylvania Bldg., 425 13th Street, NW., Washington, D.C. 20004. *Flat glass* from the facilities of Tempglass Eastern, Inc., at or near Norcross, GA to points in AL, AR, FL, KY, MS, NC, SC, TN, VA and WV, for 180 days. Supporting shippers: Tempglass Eastern, Inc., 1441 Industrial Park Drive, Norcross, GA 30071. Sent protests to: Glanda Kuss, TA, ICC, Suite A-422, U.S. Court House, 801 Broadway, Nashville, TN 37203.

MC 139577 (Sub-31TA), filed February 3, 1979. Applicant: ADAMS TRANSIT, INC., P.O. Box 338, Friesland, WI 53935. Representative: Wayne W. Wilson, 150 E. Gilman St., Madison, WI 53703. *Such merchandise as is dealt in by wholesale, retail, chain grocery and food business houses and materials, equipment, ingredients and supplies used in the monufacture, distribution and sale of the products named above* between the facilities of the Ralston Purina Co. at or near Clinton and Davenport, IA and Louisville, KY on the one hand, and, on the other, points in the States of IN, IL, IA, KY, MI, MN, MO, OH, TN & WI, for 180 days. Supporting Shipper(s): Ralston Purina Co., Checkerboard Square, St. Louis, MO 53188. Send protests to: Gail Daugherty, TAICC,, 517 East Wisconsin Avenue, Room 619, Milwaukee, Wisconsin 53202.

MC 139587 (Sub-15TA), filed March 1, 1979. Applicant: BROWN REFRIGERATED EXPRESS, INC., P.O. Box 603, Fort Scott, KS 66701. Representative: Wilburn L. Williamson, Suite 615-East, The Oil Center, 2601 Northwest Expressway, Oklahoma City, OK 73112. *Rubber articles, plastic*

orticles, and rubber and plastic combined products, from Irving, TX to points in AL, AZ, CA, CO, FL, GA, IN, IA, KS, LA, MI, MN, MS, MO, NE, NC, OH, OK, OR, SC, WA, & WI; 180 days, common, irregular; Supporting Shipper: Entek Corporation of America, Dallas, TX.; Send protests to: M. E. Taylor, DS, ICC, 101, Litwin Bldg., Wichita, KS. 67202. Supporting Shippers(s): Entek Corporation of America, P.O. Box 61048, Dallas, TX 75261. Send protests to: M. E. Taylor, Dist. Supv., Interstate Commerce Commission, 101 Litwin Bldg., Wichita, KS. 67202.

MC 140587 (Sub-1TA), filed February 14, 1979. Applicant: CECIL CLAXTON, Route 3, Box 7, Wrightsville, Georgia 31096. Representative: Ronald K. Kolins, Esq., c/o Suite 428, 910 17th Street, NW., Washington, D.C. 20006. (1) Glass containers; (2) Materials, equipment and supplies used in the manufacture, sale and distribution of glass containers (1) from the plantsite of Midland Glass Co. at or near Warner Robins, GA. to St. Louis, MO to the plantsite of Midland Glass Co. at or near Warner Robins, GA. Supporting Shipper(s): Midland Glass Company, Inc., Cliffwood, N.J. 07721. Send protests to: Sara K. Davis, Transportation Assistant, ICC, Room 300, 1252 West Peachtree St., N.W., Atlanta, GA 30309.

MC 140717 (Sub-15TA), filed March 1, 1979. Applicant: JULIAN MARTIN, INC., P.O. Box 3348, Batesville, AR 72501. Representative:Timothy C. Miller, 9503 Marston Lane, Gaithersburg, MD 20760. Welding rods, wire and bars and welding related products, form the facilities of Alloy Road Division, Chemetron Corporation, Hanover, PA, and Monticello, IN, to points in AL, AR, AZ, CA, CO, ID, IA, IN, IL, KS, LA, MI, MN, MO, MS, MT, ND, NE, NM, NV, NY (restricted to points on and west of U.S. Highway I-81), OK, OR, SD, TX, UT, WA, WI and WY, restricted to traffic moving under a continuing contract with Chemetron Corporation, Hanover, PA, for 180 days as a contract carrier over irregular routes. Supporting shipper(s): Alloy Rods Division, Chemetron Corporation, Wilson Avenue, Hanover, PA 17331. Send protests to: Willian H. Land, Jr., District Supervisor, 3108 Federal Office Building, 700 West Capitol, Little Rock, AR 72201.

MC 141597 (Sub-6TA), filed February 5, 1979. Applicant: RIVERSIDE TRUCK LINE, INC., 919 Fourth Avenue, South, Denison, IA 51442. Representative: James M. Hodge, 1980 Financial Center, Des Moines, IA 50309. *Contract carrier:* irregular routes: *Meat, meat products, and meat by-products, and articles distributed by meat packinghouses as described in Sections A and C of Appendix I to the Report in Descriptions in Motor Carrier Certificates, 61 M.C.C. 209 and 766 (except hides and commodities in bulk)*, from the facilities of Famland Foods, Inc., located at or near Denison, Iowa Falls, and Carroll, IA, and Crete, NE to points in AZ, CA, ID, MT, NV, OR, UT, and WA, under continuing contract or contracts with Farmland Foods, Inc., for 180 days. Restricted to the transportation of traffic originating at the above-named origins and destined to the above-named destination state An underlying ETA seeks 90 days authority. Supporting shipper(s): Deam Wilson, Farmland Foods, Inc., P.O. Box 403, Denison, IA 51442. Send protests to: Carroll Russell, ICC, Suite 620, 110 No. 14th St., Omaha, NE 68102.

MC 142416 (Sub-4TA), filed January 16, 1979. Applicant: HAMILTON TRANSFER STORAGE & FEEDS, INC., P.O. Box H, Torrington, WY 82240. Represntative: Rufus P. Brott, Pres. (same address as applicant). *Common carrier,* regular routes. General commodities (except those of unusual value, classes A and B explosives, household goods as defined by the Commission, commodities in bulk, and those requiring special equipment), between Torrington, Wyo., and Casper, Wyo., serving Lusk and Doublas, Wyo., and all points on U.S. Highway 26 between Torrington and junction U.S. Highway and Interstate Highway 25 west of Dwyer, Wyo., thence north over Interstate Highway 25 (or U.S. Highway 87) to Casper, and return over the same route. From Torrington over U.S. Highway 26 to junction Interstate Highway 25 west of Dwyer, Wyo., thence north over Interstate Highway 25 (or U.S. Highway 87) to Casper, and return over the same route. From Torrington over U.S. Highway 26 to Lingle, Wyo., thence over U.S. Highway 85 to Lusk, Wyo., thence west over U.S. Highway 20 to Orin Junction, and thence over Interstate Highway 25 to Casper and return over the same route. Between Torrington, WY and Scottsbluff, NE via U.S. Hwy 26, serving all intermediate points in WY for 180 days. Waiver of restrictions against tacking and interline. Applicant requests waiver of restrictions against tacking and interline, this application. Supporting shipper(s): There are twelve shippers. Their statements may be examined at the office listed below and Headquarters. Send protests to: District Supervisor Paul A. Naughton, Interstate Commerce Commission, Rm 105 Federal Bldg & Crt House, 111 South Wolcott, Casper, WY 82601.

MC 142447 (Sub-10TA). Applicant: LOUISIANA-PACIFIC TRUCKING COMPANY, P.O. Drawer AB, New Waverly, TX 77358. Representative: Harold R. Ainsworth, 2307 American Bank Bldg., New Orleans, LA 70130. *Contract carrier* over irregular routes. *Shavings and Sawdust* from the Louisiana-Pacific Corp. plant at or near Carthage, TX to the Olinkraft, Inc. Particleboard plant at or near Lillie, LA for 180 days. An underlying ETA seeks 90 days authority. Supporting Shipper(s): Louisiana Pacific Corporation, P.O. Drawer AB, New Waverly, TX 77358. Send protests to: John F. Mensing, District Supervisor, 8610 Federal Bldg., 515 Rusk Ave., Houston, TX 77002.

MC 142897 (Sub-13TA), filed February 12, 1979. Applicant: KENNEDY FREIGHT LINES, INC., 7401 Fremont Pike, Perrysburg, OH 43551. Representative: Paul Beery, Beery & Spurlock., L.P.A., 275 E. State Street, Columbus, OH 43215. *Bakery products*, from Columbus, OH to Memphis and Nashville, TN and Roanoke, VA, for 180 days. Contract carrier-irregular routes. An underlying ETA seeks 90 days authority. Supporting Shipper(s): The Kroger Co., 1014 Vine Street, Cincinnati, OH 45201. Send protests to: P. J. Crawford, 313 Federal Office Bldg., 234 Summit St., Toledo, OH 43604.

MC 143236 (Sub-2S), filed February 26, 1979. Applicant: WHITE TIGER TRANSPORTATION, INC., 40 Hackensack Avenue, Kearny, NJ 07032. Representative: Elizabeth Eleanor Murphy, 40 Hackensack Avenue, Kearny, NJ 07032. *Beer and related material and equipment* used in the sale or brewing of beer (except in bulk) in vehicles equipped with temperature control between the facilities and distributors of Anheuser-Busch, Inc., at or near St. Louis, MO; Columbus, OH; Newark, NJ; on the one hand and, on the other facilities, of distributors, and customers of Anheuser-Busch, Inc., at points in Iowa, Missouri, New Jersey, New York, Delaware, Pennsylvania, New Hampshire, Rhode Island, Ohio, Connecticut, and Massachusetts, for 180 days. Supporting Shipper(s): Anheuser-Busch, Inc., 200 US Hwy 1, Newark, NJ 07101. Send protests to: Robert E. Johnston, D/S, ICC, 9 Clinton St., Room 618, Newark, NJ 07102.

MC 143387 (Sub-4TA), filed February 14, 1979. Applicant: ASSOCIATED COURIERS, INC., 342 Fee Fee Rd., Maryland Heights, MO 63043. Representative: Warren W. Wallin, Sullivan & Associates, Ltd., 10 S. LaSalle

St., suite 1600, Chicago, IL 60603. *Contract carrier;* irregular routes: *Radioactive pharmaceuticals, radioactive isotopes and medical testing kits,* between Maryland Heights, MO, on the one hand, and, on the other, Birmingham, AL, Nashville, TN, Charlotte, NC, Atlanta, GA, Orlando and Fort Lauderdale, FL: (2) *Lead safes and materials used in the packaging of the commodities in (1)* above, from Oak Ridge, TN, to Maryland Heights, MO, under contract with Mallinckrodt, Inc., for 180 days. An underlying ETA seeks 90 days authority. Supporting Shipper(s): Mallinckrodt, Inc., Box 10172 Lambert Field, St. Louis, MO 63045. Send protests to: P. E. Binder, ADS, ICC, Rm. 1465, 210 N. 12th St., St. Louis, MO 63101.

MC 143627 (Sub-4TA), filed February 26, 1979. Applicant: FITZSIMMONS TRUCKING, INC., 617 Fourth Avenue, Southeast, Waseca, MN 56093. Representative: Robert D. Gisvold, 1000 First National Bank Building, Minneapolis, MN 55402. *Contract carrier:* irregular routes: *Printed matter and equipment and supplies used by printing companies (except commodities in bulk)* between Franklin, KY, on the one hand, and, on the other, points in the United States (except AK and HI), under a contract with Brown Printing Company, Inc., of Waseca, MN, for 180 days. SUPPORTING SHIPPER(S): Brown Printing Company, Inc., U.S Highway 14 West, Waseca, MN 56093. SEND PROTESTS TO: Delores A. Poe, TA. ICC, 414 Federal Building & U.S. Court House, 110 South 4th Street, Minneapolis, MN 55401.

MC 143956 (Sub-5TA), filed February 16, 1979. Applicant: GARDNER TRUCKING CO., INC., Drawer 493, Walterboro, SC 29488. Representative: Theodore Polydoroff, Suite 301, 1301 Dolley Madison Blvd., McLean, VA 22101. *Foodstuffs, in vehicles equipped with temperature control* from facilities of Holsum Foods, Waukesha, WI to points in NJ, for 180 days. An underlying ETA seeks 90 days authority. Supporting Shipper(s): Holsum Foods, 500 South Prairie Avenue, Waukesha, WI 53186. Send protests to: E. E. Strotheid, D/S, ICC, Rm. 302, 1400 Bldg., 1400 Pickents Street, Columbia, SC 29201.

MC 144117 (Sub-30TA), filed February 16, 1979. Applicant: T. L. C. LINES, INC., P.O. Box 1090, Fenton, MO. 63026. Representative: Jack H. Blanshan, Suite 200, 205 W. Touhy Ave., Park Ridge, IL 60068. Foodstuffs, except frozen foods and commodities in bulk, in vehicles equipped with mechanical refrigeration, from the facilities of Hershey Chocolate Co., Div. Hershey Foods Corp., at or near Derry Township, Dauphin County, PA, and the facilities of Y&S Candies, Inc., at or near E. Hempfield Township, Lancaster County, PA, to Oakdale, CA and it commercial zone, for 180 days. An underlying ETA seeks 90 days authority. Supporting shipper(s): Hershey Chocolate Company, 19 E. Chocolate Ave., Hershey, PA 17033. Send protests to: P. E. Binder, DS, ICC, Rm. 1465, 210 N. 12th St., St. Louis, MO. 63101.

MC 144407 (Sub-9TA), filed February 22, 1979. Applicant: DECKER TRANSPORT COMPANY, INCORPORATED, 412 Route 23, Pompton Plains, NJ 07444. Representative: George A. Olsen, P.O. Box 357, Gladstone, NJ 07934. Common, irregular. Such commodities as are dealt in and sold by Do it Yourself Home Centers and materials, equipment, and supplies used in the conduct of such business (except foodstuffs and commodities in bulk), between Macedonia, Kent and Cleveland, OH on the one hand, and on the other, points in MA, CT, PA, NJ, RI and NY, for 180 days. Restricted to the transportation of shipments originating at or destined to the facilities of Forest City, Division of Forest City Enterprises, Inc. Supporting shipper(s): Forest City—Division of Forest City Enterprises, Inc., 10800 Brookpark Road, Cleveland, OH 44130. Send protests to: Joel Morrows, D/S, ICC, 9 Clinton St., Rm. 618, Newark, NJ 07102.

MC 144547 (Sub-3TA), filed February 26, 1979. Applicant: DURA-VENT TRANSPORT CORPORATION, 2525 El Camino Real, Redwood City, CA 94064. Representative: Barry Roberts, 888 17th St., N.W., Washington, DC 20006. *Contract carrier:* irregular routes: *Furnaces, air conditioning equipment, and related equipment, materials and supplies* from Cincinnati, OH, to points in AZ, CA, CO, ID, KS, MO, MT, NM, NV, OK, OR, TX, UT, WA, and WY, for the account of The Williamson Company, for 180 days. Supporting shipper(s): The Williamson Company, 3500 Madison Rd., Cincinnati, OH 45209. Send protests to: M. M. Butler, District Supervisor, 211 Main, Suite 500, San Francisco, CA.94105.

MC 144557 (Sub-5TA), filed February 23, 1979. Applicant: HUDSON TRANSPORTATION, INC., P.O. Box 847, Troy, AL 36801. Representative: William P. Jackson, Jr., 3426 North Washington Boulevard, P.O. Box 1240, Arlington, VA 22210. *Foodstuffs* (except in bulk), from the facilities of Illes Company, at or near Dallas, TX, to points in the United States in and east of MN, IA, MO, KS, OK, AR, and LA., for 180 days. Supporting shipper(s): Illes Company, 5527 Redfield, P.O. Box 35412, Dallas, TX 75235. Send protests to: Mabel E. Holston, TA, ICC, Room 1616—2121 Building, Birmingham, AL 35203.

MC 144827 (Sub-19TA), filed February 14, 1979. Applicant: DELTA MOTOR FREIGHT, INC., 2677 Farrisview, Memphis, TN 38118. Representative: R. Connor Wiggins, Jr., 100 North Main Bldg., Suite 909, Memphis, TN 38103. *Such merchandise as is dealt in by department stores and advertising materials,* from Chicago, Rockford and Des Plaines, IL; South Bend, IN; West Bend and Mikwaukee, WI to the facilities of Service Merchandise Company, Inc. at Memphis and Nashville, TN. Restricted to the transportation of shipments from suppliers and vendors of Service Merchandise Company, Inc. at the named origin points and to shipments destined to the facilities of Service Merchandise Company, Inc. at the named destinations, for 180 days. An underlying ETA seeks 90 days authority. Supporting Shipper(s): Service Merchandise Company, Inc., 2968 Foster Creighton Drive, Nashville, TN 37204. Send protests to: Floyd A. Johnson, D/S, ICC, 100 North Main Building—Suite 2006, 100 North Main Street, Memphis, TN 38103.

MC 144846 (Sub-5TA), filed February 15, 1979. Applicant: TRANSTATES, INC., 3216 East Westminister, Santa Ana, CA 92703. Representative: Patricia M. Schnegg, Esq., Knapp, Stevens, Grossman & Marsh, 1800 United California Bank Building, 707 Wilshire Boulevard, Suite 1800, Los Angeles, California 90017. Transformers and related electrical and switching equipment from the facilities of Westinghouse at Athens, GA to points in WA, OR, CA, AZ, NV, and UT, for 180 days. Supporting shipper(s): Westinghouse Electric Corporation, 290 Leger Road, No. Huntingdon, PA 15642. Send protests to: Irene Carlos, T/A, ICC, Room 1321 Federal Building, 300 North Los Angeles Street, Los Angeles, California 90012.

MC 144867 (Sub-2TA), filed February 2, 1979. Applicant: R & J TRANSPORT, INC., 929 N. 24th St., Manitowoc, WI 54220. Representative: Michael Wyngaard, 150 E. Gilman St., Madison, WI 53703. *Papermaking machinery and equipment, parts and accessories thereto, and dunnage* between Neenah, WI, on the one hand, and, on the other, points in IN, GA, FL, ME, NY, CA, WA, OR, MO & AR, for 180 days. An underlying ETA seeks 90 days authority. Supporting Shipper(s): J. W. Hewitt Co., 131 N. Commercial St., Neenah, WI 54956, and Stowe-Woodward Co., 912 Haase St., Neenah, WI 54956. Send protests to: Gail Daugherty, TA, 517 East Wisconsin Ave., Rm 619, Milwaukee, WI 53202.

MC 145406 (Sub-19TA), filed February 16, 1979. Applicant: MIDWEST EXPRESS, INC., 380 East Fourth Street, Dubuque, IA 52001. Representative: Richard A. Westley, Attorney 4506 Regent Street, Suite 100, Madison, WI 53705. *Fresh meat and packinghouse products* from the facilities of Wilson Foods Corp., at or near Cherokee, IA to points in IL for 180 days. An underlying ETA seeks 90 days authority. Supporting Shipper(s): Wilson Foods Corporation, 4545 Lincoln Boulevard, Oklahoma City, OK 73105. Send protests to: Herbert W. Allen DS, ICC 518 Federal Bldg., Des Moines, IA 50309.

MC 145627 (Sub-1TA), filed January 29, 1979. Applicant: M & T TRUCKING, INC. 4290 State Route 7, New Waterford, OH 44445. Representative: Stanley I. Goldman, 1700 K St., NW, Washington, DC 20006. *Coal,* from the facilities of East Fairfield Coal Co., at or near North Lima and Sprigfield Township (Mahoning County), OH to points in Lawrence and Beaver Counties, PA, for 180 days. An underlying ETA seeks 90 days authority. Supporting Shipper(s): East Fairfield Coal Co., P.O. Box 255, North Lima, OH 44452. Send protests to: J. A. Niggemyer, DS, 416 Old PO Bld., Wheeling WV 26003.

MC 146436 (Sub-TA), filed March 1, 1979. Applicant: SIERRA HIGHLANDS BUS CO., INC., 1559 Broadway, Fresno, CA 93721. Representative: Otto L. Johansen (same address as above). *Common Carrier:* regular routes: *Passengers and their baggage, Express, Newspapers, U.S. Mail* in the same vehicle, between Fresno and Fishcamp, CA, serving all intermediate points; from Fresno to Fishcamp via State Hwy 41 and return same route, for 180 days. An underlying ETA seeks 90 days authority. Supporting Shipper(s): There are 7 statements in support attached to this application which may be examined at the ICC in Washington, D.C. or copies of which may be examined in the San Francisco, CA field office. Send protests to: District Supervisor M. M. Butler, 211 Main, Suite 500, San Francisco, CA 94105.

MC 107496 (Sub-1208TA), filed March 30, 1979. Applicant: RUAN TRANSPORT CORPORATION, 666 Grand Avenue, Des Moines, IA 50309. Representative: E. Check (same as applicant). *Herbicides,* liquid, in bulk, in tank vehicles, from St. Rose, LA to Des Moines, IA for 180 days. An underlying ETA seeks 90 days authority. Supporting Shipper(s): CIBA-Geigy Corporation, 444 Saw Mill River Rd., Ardsley, NY 10502. Sent protests to: Herbert W. Allen, DS, ICC, 518 Federal Bldg., Des Moines, IA 50309.

MC 146146 (Sub-3TA), filed February 28, 1979. Applicant: HADDAD TRANSPORTATION, INC., 5000 Wyoming, Dearborn, MI 48126. Representative: James F. Schouman, 21925 Garrison Ave., Dearborn, MI 48124. Authority sought to operate as a contract carrier by motor vehicle, over irregular routes transporting (1) *iron and steel articles, machinery, aluminum, plastics N.O.I., auto trim, paint, compounds N.O.I., materials and related equipment and supplies,* from Detroit, MI and its commercial zone to points in the 48 contiguous States; (2) *materials, equipment and supplies used in the manufacture and distribution of the above-mentioned commodities,* from points in the 48 contiguous States to Detroit, MI and its commercial zone. Said operations are limited to a transportation service to be performed under a continuing contract, or contracts with Douglas and Lomason. Supporting Shipper(s): Douglas & Lomason, 24600 Hallwood Ct., Farmington Hills, MI 48018, Robert H. Brewer, Traffic Manager. Send protests to: Tim Quinn, DS, ICC, 604 Federal Building and U.S. Courthouse, 231 W. Lafayette Blvd., Detroit, MI 48226.

MC 146187 (Sub-1TA), filed February 20, 1979. Applicant: THE TEN WHEELERS, INC., Route 2, Gregory Road, Greenback, TN 37742. Representative: Edward C. Blank, II, P.O. Box 1004, Columbia, TN 38401. *Electroless nickel plating solution and raw materials for manufacture of same* (1) from the facilities of Elnic of Tennessee, Inc., Nashville, TN to points in the States of IL, IA, LA, MN, NV, NY, OK, RI, and TX and (2) from Rochester, NY and Chicago, IL to the facilities of Elnic of Tennessee, Inc., Nashille, TN, for 180 days. Supporting Shipper(s): Elnic of Tennessee, Inc., 657 Massman Drive, Nashville, TN 37210. Send protests to: Glenda Kuss, TA, ICC, Suite A-422, U.S. Court House, Nashville, TN 37203.

MC 146246 (Sub-1TA), filed February 8, 1979. Applicant: PETER AND SON, INC., 1424 Water Street, P.O. Box 903, Fitchburg, MA 01420. Representative: James M. Burns, 1383 Main Street, Springfield, MA 01103. Contract carrier, irregular routes, *such merchandise as is dealt in by mail order houses and retail stores* between Leominster, MA, on the one hand, and, on the other, Cheshire, Hillsborough and Rockingham Counties, NH for the account of Sears, Roebuck and Company of St. Davids, PA, for 180 days. An underlying ETA seeks 90 days authority. Supporting Shipper(s): Sears, Roebuck and Co., 555 E. Lancaster Avenue, St. Davids, PA 19087. Send protests to: David M. Miller, DS, ICC, 436 Dwight Street, Springfield, MA 01103.

MC 146277 (Sub-1TA), filed February 15, 1979. Applicant: ALLAN FODNESS, d./b./a. AL'S TRUCKING, R.R. #3, Lennox, South Dakota 57039. Representative: Mark Menard, P.O. Box 480, Sioux Falls, SD 57101. *Animal and poultry feed and feed ingredients in bags and in bulk in auger tank equipment* from Lennox, SD to points in IA bounded by Hwy 71 on the east and Hwy 20 on the south, points in MN bounded by Hwy 71 on the east and Hwy 212 on the north, Knox and Cedar Counties, NE, points in ND lying east of Hwy 83, points in SD and return from Sioux City, IA and New Richland, MN to Lennox, SD, for 180 days. An underlying ETA seeks 90 days authority. Supporting Shipper(s): Cargill, Inc., Nutrena Feed Division, Lennox, SD 57039. Send protests to: J. L. Hammond, DS, ICC, Room 455, Federal Bldg., Pierre, SD 57501.

MC 146296R (Sub-1TA), filed February 26, 1979. Applicant: DANCO OILFIELD SERVICE COMPANY, 2300 South Olie, Oklahoma City, OK 73109. Representative: G. Timothy Armstrong, 6161 North May Ave., Oklahoma City, OK 73112. *Steel tubing,* (1) from the facilities of Russell Steel Division of Van Pelt Corporation at Oklahoma City, OK, to points in TX and points in KS on and west of U.S. Hwy 81, and (2) from Houston, Dallas, and Lone Star, TX, to the facilities of Russell Steel Division of Van Pelt Corporation at Oklahoma City, OK, for 180 days. An underlying ETA seeks 90 days authority. Supporting Shipper(s): Russell Steel Division, 2030 N.W. 7th, Oklahoma City, OK 73106. Send protests to: Connie Stanley, Room 240 Old Post Office, 215 N.W. 3rd, Oklahoma City, OK 73102.

MC 146306 (Sub-1TA), filed February 15, 1979. Applicant: JOHN D. LARNED d.b.a. J & P TRANSPORTATION, Box 515, Westminster, CO 80030. Representative: Truman A. Stockton, Jr., 1650 Grant St. Bldg., Denver, CO 80203. Contract carrier: *irregular* routes: *Advertising matter and such general merchandise as is dealt in by wholesale and retail grocery and food business houses (except commodities in bulk in tank vehicles and fresh or frozen meats)* from the facilities of C.I.A.

Consolidators, Inc., at or near Denver, CO to Albuquerque, NM; Salt Lake City, UT and Gering, NE for 180 days. Underlying ETA filed seeking 90 days authority. SUPPORTING SHIPPER: C.A.I. Consolidators, Inc., 4250 Oneida, Suite 139, Denver, CO 80216. SEND PROTESTS TO: Roger L. Buchanan, ICC, 492 U.S. Customs House, 721 19th St., Denver, CO 80202. Supporting Shipper(s): C.A.I. Consolidators, Inc., 4250 Oneida, Suite 139, Denver, CO 80216. Send protests to: D/S Roger L. Buchanan, Interstate Commerce Commission, 721 19th St., 492 U.S. Customs House, Denver, CO 80202.

MC 146326 (Sub-1TA), filed February 21, 1979. Applicant: ALGER TRANSPORTATION, John Alger, Sr. d.b.a. 9811 Redman Ave., Omaha, NE 68134. Representative: Marshall D. Becker, Suite 610, 7171 Mercy Rd., Omaha, NE 68106. *Cable, wire and telephone equipment* (*except commodities in bulk in tank vehicles*), from Omaha, NE to Sunset Whitney Ranch, Mulford, Los Angeles and San Diego, CA and their respective commercial zones and empty reels and cores on return, for 180 days. An underlying ETA seeks 90 days authority. Supporting Shipper(s): A.C. Dodge, Western Electric Co., Inc., P.O. Box 14000, Omaha, NE 68114. Send protests to: Carroll Russell, ICC, Suite 620,110 No. 14th St., Omaha, NE 68102.

MC 146366 New carrier (Sub TA), filed February 22, 1979. Applicant: VICKERD BROTHERS LIMITED, R.R. #1, Woodslee, Ontario, Canada. NOR 1VO. Representative: Richard C. Marsh, 1600 First Federal Building, Detroit, MI 48226. *Shipping containers, reconditioned pallets and materials, and equipment and supplies used in the manufacture of shipping containers and reconditioned pallets*, between points of entry on the United States-Canada boundary line located in MI, on the one hand, and, on the other, points in OH, MI and IN, for 180 days. Restricted to shipments originating at or destined to the facilities of L & H Wood Manufacturing Company and L & H Wood Manufacturing Company, LTD. Supporting shipper(s): L & H Manufacturing Company, LTD., 31200 West Eight Mile Rd., Farmington, MI 48024. L & H Wood Manufacturing Company, 31200 West Eight Mile Rd., Farmington, MI 48204. Send protests to: Tim Quinn, DS, ICC, 604 Federal Building and U.S. Courthouse, 231 W. Lafayette Blvd., Detroit, MI 48226.

MC 146367 (Sub TA), filed February 5, 1979. Applicant: COAL CORNERS, INC., Aberdeen, KY 42261. Representative: Rudy Yessin, Attorney, 314 Wilkinson St., Frankfort, KY 40601. Coal, between points in KY, TN and IN, for 180 days. Supporting shipper(s): Jimmie Combs, President, Tri-Coal Energies, Inc., Rt. 1, Cromwell, KY 42333. F. L. Cassity, Alley Cassity Coal Co., Inc., P.O. Box 23305, Nashville, TN 37202. Mark A. Rust, Vice President, Golden R Coal Co., Rt. 1—Cromwell, KY 42333. Send protests to: Mrs. Linda H. Sypher, District Supervisor, Interstate Commerce Commission, 426 Post Office Building, Louisville, KY 40202.

Decided by the Commission.

H. G. Homme, Jr.,
Secretary.

[Notice No. 78]
[FR Doc. 79-14330 Filed 5-8-79; 8:45 am]
BILLING CODE 7035-01-M

Permanent Authority Applications; Decision-Notice

Decided: April 26, 1979.

The following applications are governed by Special Rule 247 of the Commission's *Rules of Practice* (49 CFR § 1100.247). These rules provide, among other things, that a protest to the granting of an application must be filed with the Commission within 30 days after the date notice of the application is published in the **Federal Register.** Failure to file a protest, within 30 days, will be considered as a waiver of opposition to the application. A protest under these rules should comply with Rule 247(e)(3) of the Rules of Practice which requires that it set forth specifically the grounds upon which it is made, contain a detailed statement of protestant's interest in the proceeding, (as specifically noted below), and shall specify with particularity the facts, matters, and things relied upon, but shall not include issues or allegations phrased generally. A protestant should include a copy of the specific portions of its authority which protestant believes to be in conflict with that sought in the application, and describe in detail the method—whether by joinder, interline, or other means—by which protestant would use such authority to provide all or part of the service proposed. Protests not in reasonable compliance with the requirements of the rules may be rejected. The original and one copy of the protest shall be filed with the Commission, and a copy shall be served concurrently upon applicant's representative, or upon applicant if no representative is named. If the protest includes a request for oral hearing, such request shall meet the requirements of § 247(e)(4) of the special rules and shall include the certification required in that section.

On cases filed on or after March 1, 1979, petitions for intervention either with or without leave are appropriate.

Section 247(f) provides, in part, that an applicant which does not intend timely to prosecute its application shall promptly request that it be dismissed, and that failure to prosecute an application under the procedures of the Commission will result in its dismissal.

If applicant has introduced rates as an issue it is noted. Upon request an applicant must provide a copy of the tentative rate schedule to any protestant.

Further processing steps will be by Commission notice, decision, or letter which will be served on each party of record. *Broadening amendments will not be accepted after the date of this publication.*

Any authority granted may reflect administratively acceptable restrictive amendments to the service proposed below. Some of the applications may have been modified to conform to the Commission's policy of simplifying grants of operating authority.

We Find: With the exceptions of those applications involving duly noted problems (e.g., unresolved common control, unresolved fitness questions, and jurisdictional problems) we find, preliminarily, that each common carrier applicant has demonstrated that its proposed service is required by the public convenience and necessity, and that each contract carrier applicant qualifies as a contract carrier and its proposed contract carrier service will be consistent with the public interest and the transportation policy of 49 U.S.C. 10101. Each applicant is fit, willing, and able properly to perform the service proposed and to conform to the requirements of Title 49, Subtitle IV, United States Code, and the Commission's regulations. Except where specifically noted this decision is neither a major Federal action significantly affecting the quality of the human environment nor a major regulatory action under the Energy Policy and Conservation Act of 1975.

In those proceedings containing a statement or note that dual operations are or may be involved we find, preliminarily and in the absence of the issue being raised by a protestant, that the proposed dual operations are consistent with the public interest and the transportation policy of 49 U.S.C. 10101 subject to the right of the Commission, which is expressly reserved, to impose such conditions as it finds necessary to insure that

applicant's operations shall conform to the provisions of 49 U.S.C. 10930(a) [formerly section 210 of the Interstate Commerce Act].

In the absence of legally sufficient protests, filed on or before June 8, 1979 (or, if the application later becomes unopposed), appropriate authority will be issued to each applicant (except those with duly noted problems) upon compliance with certain requirements which will be set forth in a notication of effectiveness of this decision-notice. To the extent that the authority sought below may duplicate an applicant's existing authority, such duplication shall not be construed as conferring more than a single operating right.

Applicants must comply with all specific conditions set forth in the grant or grants of authority within 90 days after the service of the notification of the effectiveness of this decision-notice, or the application of a non-complying applicant shall stand denied.

By the Commission, Review Board Number 1, Members Carleton, Joyce and Jones.

H. G. Homme, Jr.,
Secretary.

MC 4484 (Sub-7F), filed January 29, 1979. Applicant: CROWN TRANSPORT, INC., R.D. #2, Wampum, PA 16157. Representative: Andrew R. Clark, 1000 First National Bank Building, Minneapolis, MN 55402. To operate as a *common carrier*, by motor vehicle, in interstate or foreign commerce, over irregular routes, transporting (1) *rotary fans, machinery, and fabricated steel*, and (2) *attachments, accessories, and parts* for the commodities in (1) above, (except commoditites in bulk), (3) *materials, equipment and supplies* used in the manufacture of commodities named in (1) and (2) above, (except commodities in bulk), between the facilities of the Green Fan Company, at Beacon, NY, on the one hand, and, on the other, those points in the United States in and east of WI, IL, KY, TN, AR, and LA. (Hearing site: Washington, D.C.)

MC 8744 (Sub-15F), filed January 26, 1979. Applicant: CONSOLIDATED MOTOR EXPRESS, INC., 909 Grant Street, Bluefield, WV 27401. Representative: John M. Friedman, 2930 Putnam Avenue, Hurricane, WV 25526. To operate as a *common carrier*, by motor vehicle, in interstate or foreign commerce, over regular routes, transporting (1) *general commodities* (except those of unusual value, classes A and B explosives, household goods as defined by the Commission, commodities in bulk, and those requiring special equipment), (1) between Smithers, WV, and Charleston, WV, over U.S. Hwy 60, serving all intermediate points, and all off-route points in Kanawha County, and (2) between Beckley, WV, and Charleston, WV: (a) from Beckley over WV Hwy 3 to junction WV Hwy 3 and U.S. Hwy 119, then over U.S. Hwy 119 to Charleston, and return over the same route, serving all intermediate points and all off-route points in Kanawha County, and (b) over the WV Turnpike, serving all off-route points in Kanawha County. (Hearing site: Charleston, WV.)

MC 41404 (Sub-156F), filed February 2, 1979. Applicant: ARGO-COLLIER TRUCK LINES CORPORATION, P.O. Box 440, Martin, TN 38237. Representative: Mark L. Horne (same address as applicant). To operate as a *common carrier*, by motor vehicle, in interstate or foreign commerce, over irregular routes, transporting *foodstuffs* (except in bulk), from the facilities of J. H. Filbert, Inc., in Fulton, Clayton, DeKalb, Cobb, and Douglas Counties, GA, to points in AL, IL, IN, KY, LA, MS, NC, SC, and TN. (Hearing site: Baltimore, MD, or Atlanta, GA.)

MC 52704 (Sub-205F), filed February 1, 1979. Applicant: GLENN McCLENDON TRUCKING COMPANY, INC., P.O. Drawer "H", LaFayette, AL 36862. Representative: Archie B. Culbreth, Suite 202, 2200 Century Parkway, Atlanta, GA 30345. To operate as a *common carrier*, by motor vehicle, in interstate or foreign commerce, over irregular routes, transporting *such commodities* as are dealt in or used by manufacturers and distributors of rubber and rubber products, (except commodities in bulk, in tank vehicles), between the facilities of The Goodyear Tire & Rubber Company, at or near Gadsden, AL, on the one hand, and, on the other, points in AL, AR, DE, FL, GA, IA, IL, IN, KY, KS, LA, MD, MI, MN, MS, MO, NJ, NY, NC, OH, OK, PA, SC, TN, TX, VA, WV, and WI. (Hearing site: Atlanta, GA.)

MC 60014 (Sub-105F), filed February 8, 1979. Applicant: AERO TRUCKING, INC., P.O. Box 308, Monroeville, PA 15146. Representative: A. Charles Tell, 100 East Broad Street, Columbus, Oh 43215. To operate as a *common carrier*, by motor vehicle, in interstate or foreign commerce, over irregular routes, transporting (1) *metal buildings*, and (2) *parts and accessories* for metal buildings, from the facilities of Pascoe Steel Corporation at or near Columbus, GA, to those points in the United States in and east of MN, WI, IL, KY, TN, MS, and LA. (Hearing site: Atlanta, GA, or Washington, DC.)

MC 98964 (Sub-18F), filed January 26, 1979. Applicant: P.B.I. FREIGHT SERVICE, a corporation, 960 North 1200 West, Orem, UT 84057. Representative: Lon Rodney Kump, 333 East Fourth South, Salt Lake City, UT 84111. To operate as a *common carrier*, by motor vehicle, in interstate or foreign commerce, over regular routes, transporting *general commodities* (except commodities in bulk, household goods as defined by the Commission, and commodities requiring special equipment), between Fredonia, AZ, and Las Vegas, NV, from Fredonia over AZ Hwy 389 to the AZ–UT State line, then over UT Hwy 59 to Hurricane, UT, then over UT Hwy 15 to junction Interstate Hy 15, then over Interstate Hwy 15 to Las Vegas, NV, and return over the same route, serving all intermediate points in AZ, and the off-route points of Kaibab Indian Reservation, Cane Beds, Moccasin, Colorado City, and Pipe Spring National Monument, AZ, and serving no intermediate points in UT (except St. George, UT, for purposes of interline only). Condition: To the extent the certificate in this proceeding authorizes the transportation of classes A and B explosives it will expire 5 years from the date of issuance. (Hearing site: Las Vegas, NV, or Cedar City, UT.)

MC 106644 (Sub-274F), filed February 1, 1979. Applicant: SUPERIOR TRUCKING COMPANY, INC., P.O. Box 916, Atlanta, GA 30301. Representative: Louis C. Parker, III (same address as applicant). To operate as a *common carriers*, by motor vehicle, in interstate or foreign commerce, over irregular routes, transporting *plywood, paneling, gypsum board, composition board, and molding*, from the facilities of Pan American Gyro-Tex Company, at or near Jacksonville and Jasper, FL, to those points in the United States in and east of MN, IA, NE, KS, OK, and TX (except FL). (Hearing site: Jacksonville, FL, or Washington, DC.)

Note.—Dual operations may be involved.

MC 107064 (Sub-131F), filed February 5, 1979. Applicant: STEERE TANK LINES, INC., P.O. Box 2998, Dallas, TX 75221. Representative: Hugh T. Matthews, 2340 Fidelity Union Tower, Dallas, TX 75201. To operate as a *common carrier*, by motor vehicle, in interstate or foreign commerce, over irregular routes, transporting *petroleum products, chemicals, and fertilizer*, between points in OK, and those in TX on the north of Interestate Hwy 40, on the one hand, and, on the other, points in the United States (except AK and HI). (Hearing site: Dallas, TX.)

MC 113434 (Sub-126F), filed February 8, 1979. Applicant: GRA-BELL TRUCK LINE, INC., A–5253 144th Avenue, Holland, MI 49423. Representative: Wilhelmina Boersma, 1600 First Federal Building, Detroit, MI 48226. To operate as a *common carrier*, by motor vehicle, in interstate or foreign commerce, over irregular routes, transporting *paper and paper products* (except commodities in bulk), from the facilities of Scott Paper Company, at or near (1) Philadelphia, PA, to points in IL, IN, KY, MI, OH and WV, (2) Columbus, OH, to points in IL, IN, IA, KY, MI, MO, and WV, (3) Indianapolis, IN, to points in IA, IL, MI, MO, KY, and WV, and (4) Chicago, IL, to points in IA, IN, MI, MO, OH, and KY, restricted in (1), (2), (3), and (4) above, to the transportation of traffice originating at the named origins and destined to the indicated destinations (Hearing site: Philadelphia, PA, or Washington, DC.)

MC 114045 (Sub-531F), filed February 8, 1979. Applicant: TRANS-COLD EXPRESS, INC., P.O. Box 61226, Dallas, TX 75261. Representative: J. B. Stuart, (same address as applicant). To operate as a *common carrier*, by motor vehicle, in interstate or foreign commerce, over irregular routes, transporting *frozen foods*, from the facilities of Ore-Ida Foods, Inc., at Greenville, MI, to points in TX. (Hearing site: Chicago, IL, or Dallas, TX.)

MC 114334 (Sub-47F), filed February 2, 1979. Applicant: BUILDERS TRANSPORTATION COMPANY, a Corporation, 3710 Tulane, Memphis, TN 38116. Representative: Dale Woodall, 900 Memphis Bank Building, Memphis, TN 38103. To operate as a *common carrier*, by motor vehicle, in interstate or foreign commerce, over irregular routes, transporting *iron and steel articles*, from Birmingham, AL, to those points in MS on and north of U.S. Hwy 82. (Hearing site: Memphis, TN.)

MC 115554 (Sub-19F), filed February 5, 1979. Applicant: SCOTT'S TRANSPORTATION SERVICE, INC., P.O. Box 89B, R.R. 6, Iowa City, IA 52240. Representative: Michael J. Ogborn, P.O. Box 82028, Lincoln, NE 68501. To operate as a *common carrier*, by motor vehicle, in interstate or foreign commerce, over irregular routes, transporting (1) *gas* and *electrical appliances*, (2) *parts* for the commodities in (1) above, (3) *materials equipment and supplies* used in the manufacture, distribution and repair of the commodities in (1) above, from the facilities of Whirlpool Corporation, at Evansville, IN, to points in AR, IL, IA, MI, MN, MO, NE, OH, and WI. (Hearing site: Chicago, IL.)

MC 116254 (Sub-251F), filed February 2, 1979. Applicant: CHEM-HAULERS, INC., 118 East Mobile Plaza, Florence, AL 35630. Representative: Hampton M. Mills (same address as applicant). To operate as a *common carrier*, by motor vehicle, in interstate or foreign commerce, over irregular routes, transporting *contaminated brass items, contaminated copper items, contaminated zinc items, and contaminated lead items*, (1) from Decatur, AL, to points in OH, PA, IL, MO, CT, WI, IN, GA, KY, NY, TN, and FL, and (2) from points in TN, to points in AL. (Hearing site: Birmingham, AL, or Nashville, TN.)

MC 116254 (Sub-252F), filed February 8, 1979. Applicant: CHEM-HAULERS, INC., 118 East Mobile Plaza, Florence, AL 35630. Representative: Hampton M. Mills (same address as applicant). To operate as a *common carrier*, by motor vehicle, in interstate or foreign commerce, over irregular routes, transporting *liquid chemicals*, in bulk, in tank vehicles, from the facilities of Jefferson Chemical Company, Inc., in Jefferson, Montgomery, and Travis Counties, TX, to points in AL, MS, TN, AR, LA, and FL. (Hearing site: Houston, TX, or Washington, DC.)

MC 117664 (Sub-13F), filed February 6, 1979. Applicant: DENTON TRUCKING, INC., P.O. Box 33, Denton, MD 21629. Representative: Chester A. Zyblut, 366 Executive Bldg., 1030 Fifteenth St., NW, Washington, DC 20005. To operate as a *common carrier*, by motor vehicle, in interstate or foreign commerce, over irregular routes, transporting *limestone* and *limestone products*, in bulk, in dump vehicles, from the facilities of E. J. Baker Lime Company, at or near York, PA, to points in Sussex County, DE, and Caroline County, MD. (Hearing site: Washington, DC.)

MC 121664 (Sub-52F), filed January 25, 1979. Applicant: HORNADY TRUCK LINE, a corporation, P.O. Box 846, Monroeville, AL 36460. Representative: W. E. Grant, 1702 First Avenue South, Birmingham, AL 35201. To operate as a *common carrier*, by motor vehicle, in interstate or foreign commerce, over irregular routes, transporting *cement* (1) from the facilities of Martin Marietta Cement, Southern Division, at Atlanta, GA, to points in AL and FL, (2) from the facilities of (a) National Cement Company, at Ragland, AL, and (b) Martin Marietta Cement, Southern Division, at Roberta, AL, to points in LA. (Hearing site: Birmingham or Montgomery, AL.)

MC 121684 (Sub-54F), filed January 25, 1979. Applicant: HORNADY TRUCK LINE, a corporation, P.O. Box 846, Monroeville, AL 36460. Representative: Donald B. Sweeney, Jr., 603 Frank Nelson Building, Birmingham, AL 35203. To operate as a *common carrier*, by motor vehicle, in interstate or foreign commerce, over irregular routes, transporting *general commodities* (except those of unusual value, classes A and B explosives, household goods as defined by the Commission, commodities in bulk, and those requiring special equipment), between points in Monroe County, AL, on the one hand, and, on the other, Mobile, Selma, and Montgomery, AL. (Hearing site: Mobile or Montgomery, AL.)

MC 123054 (Sub-24F), filed February 6, 1979. Applicant: R & H CORPORATION, 295 Grand Avenue, Box 469, Clarion, PA 16214. Representative: William J. Lavelle, 2310 Grant Bldg., Pittsburgh, PA 15219. To operate as a *common carrier*, by motor vehicle, in interstate or foreign commerce, over irregular routes, transporting *glass containers, closures* for glass containers, and *fiberboard boxes*, from points in CT, to points in KY and MI. (Hearing site: Pittsburgh, PA, or Washington, DC.)

MC 123054 (Sub-25F), filed February 6, 1979. Applicant: R & H CORPORATION, 295 Grand Ave., Box 469, Clarion, PA 16214. Representative: William J. Lavelle, 2310 Grant Bldg., Pittsburgh, PA 15219. To operate as a *common carrier*, by motor vehicle, in interstate or foreign commerce, over irregular routes, transporting (1) *glass containers, plastic containers, and container accessories*, and (2) *materials, equipment, and supplies* used in the manufacture and distribution of the commodities named in (1) above, (except commodities in bulk, in tank vehicles), between those points in the United States in, north and east of MI, IN, KY, TN, and GA, restricted to the transportation of traffic originating at or destined to the facilities of Brockway Glass Company, Inc. (Hearing site: Pittsburgh, PA, or Washington, DC.)

MC 123314 (Sub-24F), filed January 31, 1979. Applicant: JOHN F. WALTER, INC., P.O. Box 175, Newville, PA 17241. Representative: Christian V. Graf, 407 North Front St., Harrisburg, PA 17101. To operate as a *common carrier*, by motor vehicle, in interstate or foreign commerce, over irregular routes, transporting *such commodities* as are dealt in by grocery and feed business houses, from the facilities of Ralston Purina Company, at or near Hampden Township (Cumberland County), PA, to points in NJ and those in NY on and south of Interstate Hwy 84. (Hearing site: Washington, DC or Harrisburg, PA.)

MC 123685 (Sub-24F), filed December 27, 1978, previously noticed in the Federal Register of February 2, 1979. Applicant: PEOPLES CARTAGE, INC., 8045 Navarre Road, SW., Massillon, OH 44646. Representative: Boyd B. Ferris, 50 West Broad Street, Columbus, OH 43215. To operate as a *common carrier*, by motor vehicle, in interstate or foreign commerce, over irregular routes, transporting *such commodities* as are dealt in or used by, processors and distributors of salt and salt products, between Rittman, Fairport Harbor, Cincinnati and Cleveland, OH, on the one hand, and, on the other, points in WV, PA, NY, MI, IL, IN, KY, TN, VA, MD, NJ, and DC. (Hearing site: Cleveland or Columbus, OH.)

Note.—This republication modifies the territorial description.

MC 124004 (Sub-47F), filed February 1, 1979. Applicant: RICHARD DAHN, INC., 620 West Mountain Rd., Sparta, NJ 07871. Representative: Geroge A. Olsen, P.O. Box 357, Gladstone, NJ 07934. To operate as a *common carrier*, by motor vehicle, in interstate or foreign commerce, over irregular routes, transporting *ground coffee*, from Freehold, NJ, to points in MN, restricted to the transportation of traffic originating at the named origin and destined to the indicated destinations. (Hearing site: New York, NY, or Washington, DC.)

MC 124004 (Sub-48F), filed February 1, 1979. Applicant: RICHARD DAHN, INC., 620 West Mountain Rd., Sparta, NJ 07871. Representative: George A. Olsen, P.O. Box 357, Gladstone, NJ 07934. To operate as a *common carrier*, by motor vehicle, in interstate or foreign commerce, over irregular routes, transporting (1) *feed and feed ingredients*, from the facilities of Doane Products Co., at or near Manassas, VA, to those points in the United States in and east of MN, IA, MO, AR, and L; and (2) *materials and supplies* used in the manufacture and distribution of feed and feed ingredients, in the reverse direction, restricted to the transportation of traffic originating at the named origin and destined to the indicated destinations. (Hearing site: New York, NY, or Washington, DC.)

MC 128205 (Sub-64F), filed February 5, 1979. Applicant: BULKMATIC TRANSPORT COMPANY, a Corporation, 12000 South Doty Ave., Chicago, IL 60628. Representative: William H. Towle, 180 North LaSalle St., Chicago, IL 60601. To operate as a *common carrier*, by motor vehicle, in interstate or foreign commerce, over irregular routes, transporting *starch*, in bulk, in tank vehicles, from Chicago, IL, to points in IL, OH, IN, WI, and MI, restricted to the transportation of traffic having a prior movement by rail (Hearing site: Chicago, IL.)

MC 133095 (Sub-202F), filed October 2, 1978, previously noticed in the Federal Register of November 28, 1978. Applicant: TEXAS-CONTINENTAL EXPRESS, INC., P.O. Box 434, Euless, TX 76039. Representative: Hugh T. Matthews, 2340 Fidelity Union Tower, Dallas, TX 75201. To operate as a *common carrier*, by motor vehicle, in interstate or foreign commerce, over irregular routes, transporting (1) *alcoholic beverages* (except in bulk), and (2) *materials and supplies* used in the manufacture and distribution of alcoholic beverages, between Peoria, IL, on the one hand, and, on the other, points in the United States (except AK and HI). (Hearing site: Dallas, TX)

Note.—This republication modifies the territorial description.

MC 134404 (Sub-44F), filed January 29, 1979. Applicant: AMERICAN TRANS-FREIGHT, INC., P.O. Box 796, Manville, NJ 08835. Representative: Eugene M. Malkin, Suite 6193, 5 World Trade Center, New York, NY 10048. To operate as a *contract carrier*, by motor vehicle, in interstate or foreign commerce, over irregular routes, transporting (1) *cleaning products, toilet preparations, nutritional foods*, and (2) *materials, equipment and supplies* used in the manufacture and distribution of the commodities named in (1) above (except commodities in bulk), (a) from Dayton, OH, and Nashville, TN, to Denver, CO, Jacksonville, FL, Atlanta, GA, Chicago and Peoria, IL, Kansas City, KS, Baltimore, MD, Detroit, MI, St. Louis, MO, Elizabeth, NJ, Syracuse, NY, Charlotte, NC, Columbus and Cincinnati, OH, East Stroudsburg, Philadelphia and Pittsburgh, PA, Saylesville, RI, Dallas, TX, and Richmond, VA, (b) from Franklin, KY, to Peoria, IL, Columbus, OH, Baltimore, MD, Elizabeth, NJ, Philadelphia and Pittsburgh, PA, and Nashville, TN, and (c) between Franklin, KY, Cincinnati, Dayton, and Urbana, OH, and East Stroudsburg, Pa, under a continuing contract(s) with The Drackett Products Company, Division of Bristol Meyers Company, of Cincinnati, OH. (Hearing site: New York, NY.)

Note.—Dual operations may be involved.

MC 134404 (Sub-45F), filed January 29, 1979. Applicant: AMERICAN TRANS-FREIGHT, INC., P.O. Box 796, Manville, NJ 08835. Representative: Eugene M. Malkin, Suite 6193, 5 World Trade Center, New York, NY 10048. To operate as a *contract carrier*, by motor vehicle, in interstate or foreign commerce, over irregular routes, transporting *fiberglass tubs and fiberglass shower stalls*, from the facilities of Facetglas, Inc., at or near, Martinsburg, WV, Rock Hill, SC, Mishawaka, IN, and Richmond, MI, to those points in the United States in and east of MN, IA, MO, AR, and LA, and (2) *materials, equipment and supplies* used in the manufacture and distribution of commodities in (1) above, (except commodities in bulk), in the reverse direction, under a continuing contract(s) with Facetglas, Inc., of Rock Hill, SC. (Hearing site: New York, NY.)

MC 134405 (Sub-63F), filed February 5, 1979. Applicant: BACON TRANSPORT COMPANY, a corporation, P.O. Box 1134, Ardmore, OK 73401. Representative: Wilburn L. Williamson, Suite 615 East, The Oil Center, 2601 Northwest Expressway, Oklahoma City, OK 73112. To operate as a *common carrier*, by motor vehicle, in interstate of foreign commerce, over irregular routes, transporting *petroleum and petroleum products*, in bulk, in tank vehicles, from Wynnewood, OK, to points in AZ, CO, and NM. (Hearing site: Oklahoma City, OK.)

MC 135944 (Sub-2F), filed January 25, 1979. Applicant: RODGERS EXPRESS, INC., 1310 S. West Street, Indianapolis, IN 46204. Representative: Donald W. Smith, P.O. Box 40248, Indianapolis, IN 46240. To operate as a *common carrier*, by motor vehicle, in interstate or foreign commerce, over regular routes, transporting *general commodities*, (except those of unusual value, classes A and B explosive, household goods as defined by the Commission, commodities in bulk, and those requiring special equipment), (1) between Havana, IL, and Columbus, OH, from Havana, over U.S. Hwy 136 to junction Interstate Hwy 74, then over Interstate Hwy 74 to junction Interstate 70, then over Interstate 70 to Columbus, OH, and return over the same route, serving the intermediate points of Mahomet, Heyworth, and Tilton, IL and Indianapolis, IN, and the off-route points of Bentown, Bloomington and Gibson City, IL, (2) between Havana, IL, and junction Interstate Hwys 465 and 70, at Indianapolis, IN from Havana over IL Hwy 78 to Jacksonville, IL, and then over U.S. Hwy 36 to junction Interstate Hwys 465 and 70, and return over the same route, serving no intermediate points, as an alternate route for operating convenience only. (Hearing site: Indianapolis, IN, or Chicago, IL.)

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MC 138464 (Sub-42F), filed January 29, 1979. Applicant: CAROLINA WESTERN EXPRESS, INC., P.O. Box 3961, Gastonia, NC 28052. Representative: Eric Meierhoefer, Suite 423, 1511 K Street, N.W. Washington, DC 20005. To operate as a *contract carrier*, by motor vehicle, in interstate or foreign commerce, over irregular routes, transporting (1) *zippers, thread, tape, braid, lace, binding, ribbon, webbing, and sewing aids*, (2) *materials* and supplies used in the manufacture and distribution of the commodities in (1) above, (except commodities in bulk), between points in the United States (except AK and HI), under continuing contracts(s) with Talon Division of Textron, Inc., of Meadville, PA. (Hearing site: Washington, DC.)

Note.—Dual operations may be involved.

MC 136774 (Sub-13F), filed January 30, 1979. Applicant: MC-MOR-HAN TRUCKING CO., INC., Shullsburg, WI 53586. Representative: Donald B. Levine, 39 South LaSalle St., Chicago, IL 60603. To operate as a *common carrier*, by motor vehicle, in interstate or foreign commerce, over irregular routes, transporting *corn syrup*, in bulk, in tank vehicles, from the facilities of American Maize Products Company, at or near Hammond, IN, to points in OH, MI, WI, and IL. (Hearing site: Chicago, IL.)

Note.—Dual operations may be involved.

MC 138054 (Sub-31F), filed February 4, 1979. Applicant: CONDOR CONTRACT CARRIERS, INC., 656 Wooster St., Lodi, OH 44254. Representative: Bradford E. Kistler, P.O. Box 82028, Lincoln, NE 68501. To operate as a *contract carrier*, by motor vehicle, in interstate or foreign commerce, over irregular routes, transporting *lawn equipment, garden equipment, and accessories and parts* for lawn equipment and garden equipment (except commodities in bulk, and those requiring special equipment), from Houston, TX, to points in the United States (except TX, AK, and HI); and (3) *forgings and castings*, from Houston, TX, to Morehead and Maysville, KY, under continuing contract(s) with Emerson Electric Co., of St. Louis, MO. (Hearing site: St. Louis, MO.)

Note.—Dual operations may be involved.

MC 138104 (Sub-63F), filed January 29, 1979. Applicant: MOORE TRANSPORTATION CO., INC., 3509 N. Grove Street, Fort Worth, TX 76106. Representative: Bernard H. English, 6270 Firth Road, Fort Worth, TX 76116. To operate as a *common carrier*, by motor vehicle, in interstate or foreign commerce, over irregular routes, transporting *roofing granules*, in bulk, in dump vehicles, from Annapolis, MO, and Little Rock, AR, to Fort Worth, TX. (Hearing site: Fort Worth or Dallas, TX.)

MC 139254 (Sub-18F), filed January 30, 1979. Applicant: BROOKS TRANSPORTATION, INC., 3830 Kelley Ave., Cleveland, OH 44114. Representative: John P. McMahon, 100 East Broad St., Columbus, OH 43215. To operate as a *common carrier*, by motor vehicle, in interstate or foreign commerce, over irregular routes, transporting *paper, paper articles, and materials, equipment, and supplies* used in the manufacture and distribution of paper and paper articles (except commodities in bulk), between those points in the United States in and east of ND, SD, NE, DS, OK, and TX, under continuing contract(s) with Champion International Corporation, of Hamilton, OH. CONDITION: Issuance of this permit is subject to prior or coincidental cancellation, at applicant's written request, of Permits Nos. MC-139254 Subs 4, 6, 9, and 11. (Hearing site: Columbus, OH.)

Note.—Dual operations may be involved.

MC 140024 (Sub-141F), filed February 6, 1979. Applicant: J. B. MONTGOMERY, INC., 5565 East 52nd Avenue, Commerce City, CO 80022. Representative: Jeffrey A. Knoll (same address as applicant). To operate as a *common carrier*, by motor vehicle, in interstate or foreign commerce, over irregular routes, transporting *hides and pelts*, from points in CO, NE, KS, IA, and MO, to points in CT, DE, IL, IN, KY, ME, MD, MS, MI, MO, NH, NJ, NY, PA, RI, VT, VA, WV, WI, and DC. (Hearing site: Omaha, NE.)

MC 141774 (Sub-17F), filed February 2, 1979. Applicant: R & L TRUCKING CO., INC., 105 Rocket Ave., Opelika, AL 36801. Representative: Robert E. Tate, P.O. Box 517, Evergreen, AL 36401. To operate as a *common carrier*, by motor vehicle, in interstate or foreign commerce, over irregular routes, transporting (1) *carbonated beverages* (except alcoholic beverages), from Eustis, FL, Birmingham, AL, Memphis, TN, Kenner, LA, Granite City, IL, Charlotte, NC, and Montgomery, AL, to points in FL, NC, SC, GA, MO, LA, AR, TN, KY, IL, MS, TX, and AL; and (2) *materials and supplies* used in the manufacture and distribution of the commodities described in (1) above, (except commodities in bulk, in tank vehicles), in the reverse direction. (Hearing site: Birmingham, AL, of San Francisco, CA.)

MC 141804 (Sub-169F), filed January 29, 1979. Applicant: WESTERN EXPRESS, DIVISION OF INTERSTATE RENTAL, INC., P.O. Box 3488, Ontario, CA 91761. Representative: Frederick J. Coffman (same address as applicant). To operate as a *common carrier*, by motor vehicle, in interstate or foreign commerce, over irregular routes, transporting (1) *tile and tile products*, and (2) *materials and supplies* used in the manufacture, distribution, and installation of the commodities in (1) above, (except commodities in bulk), from Minerva, OH, to those points in the United States in and west of ND, SD, NE, KS, OK, and TX, (except AK and HI). (Hearing site: Los Angeles or San Francisco, CA.)

MC 141804 (Sub-170F), filed January 30, 1979. Applicant: WESTERN EXPRESS, Division of Interstate Rental, Inc., P.O. Box 3488, Ontario, CA 91761. Representative: Frederick J. Coffman (same address as applicant). To operate as a *common carrier*, by motor vehicle, in interstate or foreign commerce, over irregular routes, transporting (1) *bicycles and tricycles*, (2) *accessories and parts* for bicycles and tricycles, and (3) *materials, equipment, and supplies* used in the manufacture, distribution, and sale of bicycles and tricycles, between Ponca City, OK, on the one hand, and, on the other, points in the United States (except AK and HI). (Hearing site: Los Angeles or San Francisco, CA.)

MC 142244 (Sub-2F), filed February 1, 1979. Applicant: LLOYD WEST and BURDETT WEST, a Partnership, d/b/a WEST BROTHERS CONSTRUCTION COMPANY, P.O. Box 256, Canada Hollow Rd., Millport, PA 16739. Representative: Gregory B. Fraser, Bankers Trust Bldg., Jamestown, NY 14701. To operate as a *contract carrier*, by motor vehicle, in interstate or foreign commerce, over irregular routes, transporting (1) *wooden dowels*, between points in NY, PA, OH, and TN; and (2) *wood chips*, from the facilities of Union Fork & Hoe Company, at or near Portville, NY, to the facilities of Masonite Corp., at or near Towanda, PA, under continuing contract(s) with Union Fork & Hoe Company, of Portville, NY. (Hearing site: Pittsburgh, PA.)

MC 143594 (Sub-6F), filed February 5, 1979. Applicant: NATIONAL BULK TRANSPORT, INC., P.O. Box 5078, Atlanta, GA 30302. Representative: Charles W. Singer, 2480 E. Commercial Blvd., Fort Lauderdale, FL 33308. To operate as a *common carrier*, by motor vehicle, in interstate or foreign commerce, over irregular routes, transporting *chemicals*, in bulk, from points in LA, to points in the United States (except AK and HI). (Hearing site: New Orleans, LA.)

MC 145134 (Sub-2F), filed September 29, 1978, previously noticed in the Federal Register of January 18, 1979. Applicant: FMLD, INC., Freeport Rd., Box 181, Creighton, PA 15030 Representative: Mark Lasser, 7130 Penn Avenue, Pittsburgh, PA 15208. To operate as a *contract carrier*, by motor vehicle, in interstate or foreign commerce, over irregular routes, transporting *such commodities* as are dealt in or used by manufacturers of petroleum products, (except containers in excess of fifty-five gallons, and commodities in bulk), between points in the United States (except AK and HI), under contract(s) with Pittsburgh Penn Oil Company, of Creighton, PA. CONDITION: Said carrier shall conduct separately its contract carrier operations and its other business activities. Carrier shall maintain separate accounting systems for each such business. Carrier shall not transport property as both a private and for-hire carrier at the same time and in the same vehicle. (Hearing site: Pittsburgh, PA, or Washington, DC)

Note.—This republication modifies the territorial description, and restrictively amends the commodity description.

MC 145384 (Sub-25F), filed February 6, 1979. Applicant: ROSE-WAY, INC., 1914 East Euclid, Des Moines, IA 50306. Representative: James M. Hodge, 1980 Financial Center, Des Moines, IA 50309. To operate as a *common carrier*, by motor vehicle, in interstate or foreign commerce, over irregular routes, transporting (1) *plastic pipe and pipe fittings*, from the facilities of R & G Sloane Manufacturing Company, Inc., at or near Bakersfield, Sant Ana, and Sun Valley, CA, to points in the United States (except KS, MT, NE, NM, OK, SD, and WY); and (2) *plastic granules*, in bags, from Louisville, KY, Avon Lake, OH, and Neal, WV, to the facilities R & G Sloane Manufacturing Company, Inc., at or near Bakersfield, Santa Ana, and Sun Valley, CA. (Hearing site: Los Angeles, CA, or Chicago, IL.)

Note.—Dual operations may be involved.

MC 145454 (Sub-2F), filed February 1, 1979. Applicant: SOUTHERN REFRIGERATED TRANSPORTATION COMPANY, INC., 2154 Green Valley Drive, Crown Point, IN 46307. Representative: Anthony E. Young, 29 S. LaSalle St., Suite 350, Chicago, IL 60603. To operate as a *common carrier*, by motor vehicle, in interstate or foreign commerce, over irregular routes, transporting *frozen foods*, and *materials and supplies* used in the manufacture and distribution of frozen foods (except commodities in bulk), between the facilities of The Pillsbury Company, at or near Murfreesboro and Nashville, TN, on the one hand, and, on the other, points in AL, GA, FL, NC, SC, MS, LA, VA, KY, IL, IN, OH, MI, and WI, restricted to the transportation of traffic originating at or destined to the above-named facilities. (Hearing site: Minneapolis-St. Paul, MN, or Chicago, IL.)

MC 145664 (Sub-1F), filed January 26, 1979. Applicant: STALBERGER, INC., 223 South 50th Avenue West, Duluth, MN 55806. Representative: John M. LeFevre, 4610 IDS Center, Minneapolis, MN 55402. To operate as a *common carrier*, by motor vehicle, in foreign commerce only, over irregular routes transporting *particleboard* and *composition board*, from ports of entry in the United States-Canada international boundary line at or near Grand Portage, MN, to points in MN, MI, ND, SD, NE, MO, IN, KY, KS, OH, and those in WI on and north of Hwy 29, restricted to the transportaton of traffic originating at the facilities of (a) MacMillan Bloedel Building Materials Limited, and (b) Great Lakes Paper Company Limited, at or near Thunder Bay, Ontario, Canada. (Hearing site: Minneapolis or Duluth, MN.)

MC 146094 (Sub-2F), filed January 26, 1979. Applicant: BURK DELIVERY SERVICE, INC., 6524 Brookville Rd., Indianapolis, IN 46219. Representative: Alki E. Scopelitis, 1301 Merchants Plaza, Indianapolis, IN 46204. To operate as a *contract carrier*, by motor vehicle, in interstate or foreign commerce, over irregular routes, transporting *such commodities* as are dealt in or used by retail drug stores, from the facilities of Hook Drugs, Inc., at Indianapolis, IN, to points in IL, under continuing contract(s) with Hook Drugs, Inc., of Indianapolis, IN. (Hearing site: Indianapolis, IN, or Chicago, IL.)

MC 146344F, filed February 2, 1979. Applicant: BEST MESSENGER SERVICE, INC., 61 Voorhis Lane, Hackensack, NJ 07601. Representative: Thomas F. X. Foley, State Hwy 34, Colts Neck, NJ 07722. To operate as a *contract carrier*, by motor vehicle, in interstate or foreign commerce, over irregular routes, transporting (1) *plastic articles*, and (2) *materials and supplies* used in the manufacture of plastic articles, between Wayne, Newton, and Marlboro, NJ, on the one hand, and, on the other, points in Fairfield, Hartford, New Haven, and New London Counties, CT, points in Bronx, Dutchess, Kings, Nassau, New York, Orange, Putnam, Queens, Richmond, Rockland, Suffolk, Sullivan, and Westchester Counties, NY, Bucks, Chester, Delaware, Lackawanna, Lebanon, Lehigh, Lycoming, Montgomery, Northampton, Philadelphia, Pike, Schuylkill, Susquehanna, Union, Wayne, and York Counties, PA, and points in NJ, under continuing contract(s) with Mack-Wayne Plastics Company of Wayne, NJ, a subsidiary of the West Company of Phoenixville, PA.

Note.— Dual operations may be involved. (Hearing site: Newark, NJ, or New York, NY)

[Permanent Authority Decisions]

[FR Doc. 79-14336 Filed 5-8-79; 8:45 am]

BILLING CODE 7035-01-M

Petitions, Applications, Finance Matters (Including Temporary Authorities), Alternate Route Deviations, and Intrastate Applications

Dated: April 26, 1979.

Petitions for Modification, Interpretation, or Reinstatement of Operating Rights Authority

The following petitions seek modification or interpretation of existing operating rights authority, or reinstatement of terminated operating rights authority.

All pleadings and documents must clearly specify the suffix (e.g. M1 F, M2 F) numbers where the docket is so identified in this notice.

An original and one copy of protests to the granting of the requested authority must be filed with the Commission within 30 days after the date of this notice. Such protests shall comply with Special Rule 247(e) of the Commission's *General Rules of Practice* (49 CFR 1100.247) * and shall include a concise statement of protestant's interest in the proceeding and copies of its conflicting authorities. Verified statements in opposition should not be tendered at this time. A copy of the protest shall be served concurrently upon petitioner's representative, or petitioner if no representative is named.

MC 1838 (Sub-11) (M2F) (notice of filing of petition to modify permit), filed January 31, 1979. Petitioner: S & K TRANS. INC., 1355 Bloomingdale, P.O. Box 208, Akron, NY 14001. Representative: David M. Marshall, 101 State Street—Suite 304, Springfield, MA 01103. Petitioner holds a motor *contract carrier* permit in MC 1838 (Sub-11), issued August 11, 1978, authorizing the transportation, over irregular routes of (1) *building materials* (except commodities in bulk, in tank vehicles, and iron and steel articles requiring the use of special equipment), between the

* Copies of Special Rule 247 (as amended) can be obtained by writing to the Secretary, Interstate Commerce Commission, Washington, D.C. 20423.

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facilities used by MacMillan Bloedel Building Materials located at points in the United States in and east of MN, IA, MO, AR, and LA (except Pine Hill and Opelika, AL), on the one hand, and, on the other, points in the United States in and east of MN, IA, MO, AR, and LA and ports of entry on the International Boundary Line between the United States and Canada located in ND, MT, ID, and WA, (2) *particleboard*, from Pine Hill, AL, to points in the United States in and east of MN, IA, MO, AR, and LA, and ports of entry on the International Boundary Line between the United States and Canada, located in ND, MT, ID, AND WA. Restriction: All of the service in (1) and (2) above to be performed under a continuing contract or contracts with MacMillan Bloedel Building Materials. Petitioner by the instant petition seeks to (a) delete the restriction (except Pine Hill and Opelika, AL) and (b) delete Part (2) of the Permit.

MC 19778 (Sub-88) (M1F) (Notice of filing petition to modify certificate), filed December 4, 1978. Petitioner: THE MILWAUKEE MOTOR TRANSPORTATION COMPANY, Suite 508, 516 West Jackson Boulevard, Chicago, IL 60606. Representative: Henry C. Winters, 525 Evergreen Building, 15 South Grady Way, Renton, WA 98055. Petitioner holds a motor *common carrier* certificate in MC 19778 (Sub-88), issued April 21, 1976 authorizing transportation of *general commodities* (except those of unusual value, classes A and B explosives, household goods as defined by the Commission, commodities in bulk, and commodities which because of size or weight require the use of special equipment), over described regular routes between Plevna, MT and Seattle, WA; between Plevna, MT and Miles City, MT; between junction U.S. Hwy 12 and MT Hwy 294 and Three Forks, MT; between Three Forks, MT and Bozeman, MT; between Harlowtown, MT and Lewistown, MT; between junction U.S. Hwy 191 and U.S. Hwy 87 and Chouteau, MT, between Lewistown, MT and Grassrange, MT; between Lewistown, MT and Great Falls, MT; between junction Interstate Hwy 90 and MT Hwy 200 and junction MT Hwy 200 and MT Hwy 209 at Clearwater, MT; between Wallace, ID and junction Interstate Hwy 90 and WA Hwy 243 east of Vantage, WA; between Plummer, ID and junction WA Hwy 27 and Interstate Hwy 90; between Gibbs, ID (junction of Interstate Hwy 90 and ID Hwy 41) and Metaline Falls, WA; between Beverly, WA and Hanford Works, Hanford, WA; between Seattle, WA and Tacoma, WA; between junction WA Hwy 410 and WA Hwy 161 and Morton, WA; between Chehalis, WA and Raymond, WA; between Port Townsend, WA and Port Angeles, WA; between Sumas, WA and Portland, OR; between Maytown, WA and Hoquiam, WA; between Tacoma, WA and Centralia, WA; between Everett, WA and North Bend, WA; between Tacoma, WA and Discovery Bay, WA and between St. Maries, ID and Elk River, ID; with service authorized to specified intermediate and off-route points; and over described alternate routes for operating convenience only in connection with carrier's regular route operations, serving no intermediate points, between Great Falls, MT and Butte, MT; between Newport, WA and Spokane, WA; between Lynnwood, WA and Tukwila, WA and between Moses Lake, WA and junction WA Hwy 17 and WA Hwy 170; Restriction: The operations authorized herein are subject to the following conditions: The service to be performed shall be limited to service which is auxiliary to, or supplemental of, rail service of the Chicago, Milwaukee, St. Paul, and Pacific Railroad Company, hereinafter called the railroad. Carrier shall not serve, or interchange traffic at, any point which is not a station on the rail lines of the railroad. Shipments transported by carrier shall be limited to those moving on through bills of lading covering, in addition to a motor carrier movement by carrier, an immediately prior or immediately subsequent movement by rail. No shipment shall be transported by carrier as a common carrier by motor vehicle between any of the following points or through, or to, or from more than one of said points: Miles City, Harlowton, and Missoula, Mont., Spokane and Seattle, Wash., and Portland, Oreg. Such further specific conditions as the Commission, in the future, may find it necessary to impose in order to insure that carrier's service shall be auxiliary to, or supplemental of, rail service of the railroad. By the instant petition, petitioner seeks to modify the above restriction to read: Restriction: The operations authorized herein are restricted to the transportation of shipments having a prior or subsequent movement by rail.

MC 48958 (M1F) (notice of filing petition to modify certificate), filed February 2, 1979. Petitioner: ILLINOIS-CALIFORNIA EXPRESS, INC., 510 East 51st Avenue, Denver, CO 80216. Representative: Lee E. Lucero (same address as petitioner). Petitioner holds motor *comon carrier* certificate in MC 48958, issued January 24, 1955, which authorizes transportation, over irregular routes of *contractors' supplies and used contractors' equipment*, between points in NE, CO, WY, KS, MO, IA, and IL. By the instant petition, petitioner seeks to modify the commodity description to read: *contractors' equipment, materials, and supplies.*

MC 107818 (Sub-29) (M1F) (notice of filing of petition to modify certificate), filed January 11, 1979. Petitioner: GREENSTEIN TRUCKING COMPANY, 280 N.W. 12th Street, Pompano Beach, FL 33061. Representative: Martin Sack, Jr., 1754 Gulf Life Tower, Jacksonville, FL 32207. Petitioner holds motor *common carrier* certificate in MC 107818 (Sub-29), issued August 8, 1972, authorizing the transportation, over irregular routes, of *fresh, frozen, and canned meats, and dairy products*, from St. Paul, MN, Chicago, IL, and points in WI, to points in AL, FL, GA, SC, and TN, with no transportation for compenstation on return except as otherwise authorized. Restriction: The operations authorized herein are restricted to the transportation of traffic originating at the plant sites, or storage facilities of Armour & Co., at Chicago, IL, St. Paul, MN, and points in WI and destined to points in AL, FL, GA, SC, and TN. By the instant petition, petitioner seeks to remove the restriction.

MC 108649 (Sub-5) (M1F) (notice of filing of petition to modify certificate), filed January 8, 1979. Petitioner: STURM FREIGHTWAYS, INC., 8919 N. University St., Peoria, IL 61614. Representative: Leonard R. Kofkin, 39 South LaSalle Street, Chicago, IL 60603. Petitioner holds motor *common carrier* certificate in MC 108649 (Sub-5), issued February 20, 1973, authorizing transportation, over regular routes of *general commodities*, (except those of unusual value, classes A and B explosives, commodities in bulk, and household goods as defined by the Commission), between junction U.S. Hwy 34 and U.S. Hwy 65, near Lucas, and Des Moines, IA, serving no intermediate points, from junction U.S. Hwy 34 and U.S. Hwy 65 over U.S. Hwy 65 to Des Moines, IA, and return over the same route. Restriction: The authority granted herein is restricted against the transportation of traffic moving to, from or through Omaha, NE, or Chicago, IL, or points within their respective commercial zones, as defined by the Commission. By the instant petition, petitioner seeks to modify the authority as to remove the restriction

prohibiting operations between Des Moines, IA, Chicago, IL, and Omaha, NE.

MC 111729 (Sub-535) (M2F) (Notice of filing of petition to modify certificate), filed January 16, 1979. Petitioner: PUROLATOR COURIER CORP., 3333 New Hyde Park Road, New Hyde Park, Ny 11040. Representative: Peter A. Green, 900 17th Street, N.W., Washington, DC 20006. Petitioner holds a motor *common carrier* certificate in MC 111729 (Sub-535) issued August 21, 1978, authorizing transportation, over irregular routes of *general commodities* (except articles of unusual value, classes A and B explosives, household goods as defined by the Commission, commodities in bulk, and those requiring special equipment), between points in AL, GA, MS, and TN and between points in AL, GA, MS, on the one hand, and, on the other, points in FL subject to the following restrictions: (1) restricted against the transportation of packages weighing more than 50 pounds; (2) restricted against the transportation of packages or articles weighing in the aggregate more than 100 pounds from one consignor at one location to one consignee at one location in any one day; (3) restricted against providing service from or to the premises of banks and banking institutions; (4) restricted against providing service from or to premises of persons, other than agencies of the United States Government who or which have entered into contracts with carrier or its affiliates and are served by them pursuant to permits issued by the Commission; (5) restricted against the transportation of motion picture film used primarily for commercial theatre exhibition; (6) restricted against the transportation of shipments having an immediately prior or subsequent movement by air between points in TN, AL, GA and FL; (7) restricted against transportation of shipments between points in the area described below including points on the line circumscribing the involved area and points in the commercial zones of any points on the line beginning at the intersection of the KY–TN State Boundary Line and U.S. Highway 31W; then southerly over U.S. Hwy 31W to Nashville, TN; then southeasterly over TN Hwy 50 to Lewisburg, TN; then southerly over U.S. Hwy 431 to the TN–AL State Boundary line to junction AL Hwy 17; then southerly over AL Hwy 17 to Hamilton, AL; then westerly along U.S. Hwy 78 to the AL–MS State line; then southerly along the AL–MS State line to junction U.S. Hwy 80; then westerly along U.S. Hwy 80 to junction with the Mississippi River at Vicksburg, MS; then northerly along the Mississippi River to the KY–TN State line; then easterly along the KY–TN State line to the point of beginning; and (8) the Commission reserves the right to impose such terms, conditions or limitations in the future as it may find necessary to insure that carrier's operations conform to the provisions of Section 210 of the Act. By the instant petition, petitioner requests that restrictions (6) and (7) be deleted and that restriction (8) be renumbered as (6).

MC 111729 (Sub-547) (M2F) (notice of filing of petition to modify certificate), filed January 15, 1979. Petitioner: PUROLATOR COURIER CORP., 3333 New Hyde Park Road, New Hyde Park, NY 11040. Representative: Peter A. Greene, 900 17th Street, N.W. Washington, DC 20006. Petitioner holds a motor *common carrier* certificate in MC–111729 Sub 547, issued November 26, 1976, authorizing transportation, over irregular routes, of *general commodities* (except articles of unusual value, classes A and B explosives, household goods as defined by the Commission, commodities in bulk, those requiring special equipment, commercial papers documents, and written instruments as are used in the business of banks and banking institutions, stocks, bonds, securities and negotiable instruments) between points in GA, NC, SC, and VA and between points in NC and SC, on the one hand, and, on the other, points in WV subject to the following restrictions: (1) restricted against the transportation of packages weighing more than 50 pounds, with each package or article considered to be a separate and distinct shipment; (2) restricted against the transportation of packages or articles weighing in the aggregate more than 100 pounds from one consignor at one location to one consignee at one location, in any one day; (3) restricted against the transportation of shipments having an immediate prior or subsequent movement by air (a) between points in SC, and (b) between points in SC, on the one hand, and, on the other, Charlotte, NC, and Atlanta, GA; (4) restricted against providing service from or to the premises of banks and banking institutions; (5) restricted against providing service from or to the premises of persons, other than agencies of the United States Government, who or which have entered into contracts with carrier or its affiliates and are served by them pursuant to permits issued by the Commission; (6) the authority granted herein shall be subject to the right of the Commission, which is hereby expressly reserved, to impose such terms, conditions, or limitations in the future as it may find necessary in order to insure that carrier's operations shall conform to the provisions of Section 210 of the Act. By the instant petition, petitioner requests that restriction (3) be deleted and that restrictions (4), (5) and (6) be renumbered as (3), (4) and (5).

MC–116509 (MIF) (notice or filing of petition to modify certificate), filed December 22, 1978. Petitioner: FOOD PRODUCTS REFRIGERATED EXPRESS, INC., 51 Lexington, Ave., New York, NY 10010. Representative: George A. Olsen, P.O. Box 357, Gladstone, NJ 07934. Petioner holds motor *common carrier* certificate in MC–116509, issued September 3, 1957, authorizing transportation, over irregular route or *frozen bakery products*, from New York NY, and Marysville and Harrisburg, PA, to Mobile, AL, South Bend, IN, Louisville, KY, Bay City, Detroit, and Jackson, MI, Buffalo, Jamestown, and to Rochester, NY, Elkton, Pittsburgh, and Sunbury, PA, Chattanooga, Knoxville, Memphis, and Nashville, TN, and Bristol, Norfolk, Roanoke, and Winchester, VA, and *corrugated cardboard and fibre shipping containers and unsold frozen bakery products*, from the above specified destination points to New York, NY, and Marysville and Harrisburg, PA. By the instant petition petitioner seeks to modify the authority by changing the commodity description to food and food products instead of frozen bakery products.

MC 117119 (Sub-433), (M1F) (notice of filing of petition to modify certificate), filed December 8, 1978. Petitioner: WILLIS SHAW FROZEN EXPRESS, INC., P.O. Box 188, Elm Springs, AR 72728. Representative: Martin M. Geffon, Box 154 Willingboro, NJ 08046. Petitioner holds motor *common carrier* Certificate in MC 117119 (Sub-433), issued March 24, 1972, authorizing transportation, over irregular routes, of *frozen foods and bakery products*, from Downingtown, Lancaster, and Philadelphia, PA, to points in CA, OR, WA, NM, and UT, with no transportation for compensation on return except as otherwise authorized. Restriction: The authority granted herein is restricted to the transportation of traffic originating at the above named origins. By the instant petition, petitioner seeks to modify the authority as follows: (a) have the commodity description changed to read "foodstuffs", (b) add the commodities "cake trays", and (c) add origin points of Pottstown, Bethlehem, Fogelsville,

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Mechanicsburg, and Shiremanstown, PA.

MC 119789 (Sub-254) (M1F) (Notice of petition to modify certificate), filed January 29, 1979. Petitioner: CARAVAN REFRIGERATED CARGO, INC., P.O. Box 226188, Dallas, TX 75266. Representative: James K. Newbold, Jr. (same address as petitioner). Petitioner holds motor *common carrier* Certificate in MC 119789 Sub 254, issued April 7, 1976, authorizing transportation, over irregular routes, of *milk or cream substitutes*, dry (other than frozen), in containers, from Chester, SC to points in AZ, AR, CA, DO, ID, KS, MN, MO, MT, NE, NV, NM, OK, OR, SD, TX, UT, WA, and WY, with no transportation for compensation on return except as otherwise authorized. Restriction: The operations authorized herein are restricted to the transportation of shipments originating at the facilities of Borden Foods Division, Borden, Inc., at Chester, SC. By the instant petition, petitioner seeks to add Rockhill, SC as an additional origin point in the above authority.

MC 130217 (M1F) (notice of filing of petition to modify license filed January 9, 1979). Petitioner: ST. PETERSBURG MOTOR CLUB d.b.a. AAA WORLD-WIDE TRAVEL AGENCY, 1121 First Avenue N. St. Petersburg, FL 33733. Representative: Finley B. Myers, Jr. (same address as applicant). Petitioner holds common carrier brokerage license in MC 130217 issued April 8, 1975. MC 130217 authorizes the transportation of passengers and their baggage, in special and charter operations in one-way and round-trip tours, beginning and ending at points in Pinellas County, FL, and extending to points in the United States (including AK and HI). By the instant petition, petitioner seeks to modify the territorial description as follows: between points in the Unites States.

MC 130358 (M1F) (notice of filing of petition to modify license), filed March 19, 1979. Petitioner: MARCON TOURS, INC., 825 David Whitney Building, Detroit, MI 48226. Representative: S. Harrison Kahn, Suite 733 Investment Building, 1511 K Street, N.W., Washington, DC 20005. Petitioner holds a *broker* license in MC–130358, issued July 14, 1977 authorizing broker activities of motor carrier passenger transportation at Detroit, MI. By this instant petition, petitioner seeks additional office at Troy, MI.

MC 133119 (Sub-61) (M1F) (notice of filing of petition to modify certificate), filed January 17, 1979. Petitioner: HEYL TRUCK LINES, INC., 200 Norka Drive, Akron, IA 51001. Representative: A. J. Swanson, 521 South 14th Street, P.O. Box 81849, Lincoln, NE 68501. Petitioner holds motor *common carrier* certificate in MC 133119 (Sub-61), issued March 16, 1977, authorizing the transportation of *bananas, and agricultural commodities* which would otherwise be exempt for economic regulation under Section 203(b)(6) of the Act, in mixed loads with bananas, from the facilities of Chiquita Brands, Inc., at Galveston, TX, to points in MN, MT, ND, SD, and WI, with no transportation for compensation on return except as otherwise authorized. Restriction: The authority granted herein is restricted to the transportation of shipments having an immediate prior movement by water. By the instant petition, petitioner seeks to remove the language "the facilities of Chiquita Brands, Inc., at", which limits present service to these facilities.

MC 135438 (M1F) (notice of filing of petition to modify certificate), filed January 25, 1979. Petitioner: SHELDON OIL COMPANY, 428 Main St., Suisun, CA 94585. Representative: Marvin Handler, 100 Pine Street—Suite 2550, San Francisco, CA 94111. Petitioner holds motor *common carrier* certificate in MC 135438, issued July 29, 1975, authorizing the transportation, over irregular routes, of *residual fuel oils* used in paving operations, ashalt, road oils, and road asphalt emulsions, in bulk, in tank vehicles, from points in Contra Costa, Alameda, Sacramento, and Solano Counties, CA, to points in Washoe, Storey, Carson City, Douglas, Lyon, Mineral, Churchill, Pershing, Humboldt, and Lander Counties, NV, with no transportation for compensation on return except as otherwise authorized. Restriction: The operations authorized herein shall not be tacked or joined with any other authority. By the instant petition, petitioner seeks to add Santa Clara County, CA as an origin.

MC 138109 (MIF) and (Sub-1) (MIF) (notice of filing of petition for modification of permits), filed March 16, 1979. Petitioner: RAY J. FORNEY, INC., P.O. Box 207, Ashton, IL 61006. Representative: E. Stephen Heisley, 805 McLachlen Bank Building, 666 Eleventh Street, N.W., Washington, DC 20001. By permits issued October 4, 1974, and March 9, 1977, in MC 138109 and MC 138109 (Sub 1), petitioner is authorized to operate as a *contract carrier*, by motor vehicle, over irregular routes, transporting: (1) *such merchandise* as is dealt in by wholesale, retail and chain grocery stores and food processors, and (2) *equipment, materials, and supplies* used in the operation and business of such stores (except commodities in bulk), between the plant sites and warehouse facilities of Crest Foods, Inc., at or near Ashton and Forreston, IL, on the one hand, and, on the other, points in the United States (except AK and HI). Restriction: The operations authorized herein are limited to a transportation service to be performed, under a continuing contract, or contracts, with Crest Foods, Inc., of Ashton, IL. By the instant petition, petitioner seeks to modify only the restriction in each permit by adding an additional contracting shipper: The Carnation Company, of Los Angeles, CA. The commodity and territorial description would remain the same. NOTE: Petitioner has filed a motion to dismiss the petition, arguing that Crest Foods, Inc., is the contracting shipper on all movements conducted under the authority of the permits. (Hearing site: Chicago, IL, or Washington, DC.)

MC 143499 (Sub-2) (MIF) (notice of filing of petition to modify certificate), filed February 14, 1979. Petitioner: DOUBLE NICKEL TRANSPORT LTD., 32 North Lexow Ave., Nanuet, NY 10954. Representative: John L. Alfano, 550 Mamaroneck Avenue, Harrison, NY 10528. Petitioner holds motor *contract carrier* permit in MC 143499 (Sub 2), issued March 15, 1979, authorizing the transportation, over irregular routes of (1) *agricultural pesticides* (except commodities in bulk, in tank vehicles), from the facilities of Ciba-Geigy Corporation, at (a) Birmingham, McIntosh, and Mobile, AL, (b) Baton Rouge, Port Allen, and St. Gabrial, LA, (c) Jackson, MS, and (d) Memphis, TN, to points in AR, DE, FL, GA, IL, IN, IA, KS, MD, MN, MO, NE, NJ, NY, NC, OH, OK, PA, TX, VA, and WI, and (2) *materials and supplies* used in the production of the commodities in (1) above, (except commodities in bulk), from the destinations named in (1) above, to the facilities named in (1) above, under contract in (1) and (2) above, with Ciba-Geigy Corporation, of Ardsley, NY. By the instant petition, petitioner seeks to add as part (3) *tetrabromobisphenol*, (except in bulk), from Eldorado, AR, to Toms River, NJ.

MC 143909 (Sub-1)(M1F) (notice of filing of petition to modify permit), filed January 29, 1979. Petitioner: KIRBY TRANSPORT INC., 6677 North Northwest Highway, Chicago, IL 60631. Representative: Stuart R. Mandel, 315 S. Beverly Drive, Suite 315, Beverly Hills, CA 90212. Petitioner holds motor *contract carrier* Permit in MC–143909 Sub 1, issued October 27, 1978, authorizing the transportation, over irregular routes, of *equipment and supplies* used by clinical industrial, educational and research laboratories, in trailers equipped with mechanical refrigeration; (1) from Edison and Gibbstown, NJ, to the facilities of Scientific Products Division of American Hospital Supply Corporation at or near Tempe, AZ, Irvine and Menlo Park, CA, Denver, CO, Miami and Ocala, FL, Stone Mountain (Atlanta), GA, Gurnee and McGaw, IL, Harahan, LA, Ronulus, MI, Minneapolis, MN, North Kansas City, MO, Charlotte, NC, Obetz, OH, Houston and Grand Prairie, TX, Salt Lake City, UT, and Redmond, WA, (2) from Gurnee, IL, to the facilities of Scientific Products Division of American Hospital Supply Corporation at or near Tempe, AZ, Irvine and Menlo Park, CA, Denver, CO, Harahan, LA, Maryland Heights, and North Kansas City, MO, Houston and Grand Prairie, TX, Salt Lake City, UT, and Redmond, VA, and (3) from Miami, FL, to the facilities of Hycel, Inc., at or near Houston, TX, and the facilities of Scientific Products Division of American Hospital Supply Corporation at or near Tempe, AZ, Irvine and Menlo Park, CA, and Houston, TX. Restriction: The above authority is limited to transportation to be performed under a continuing contract(s) with Scientific Products Division, American Hospital Supply Corporation, of McGraw Park, IL. By the instant petition, petitioner seeks to modify the Permit by substituting as a destination point, Sunnyvale, CA in place of Menlo Park, CA, in paragraphs (1), (2), and (3) of the Permit.

MC 144189 (M1F) (notice of filing of petition to modify permit), filed March 1, 1979. Petitioner: CORPORATE TRANSPORT INC., 107 7th North Street, Liverpool, NY 13088. Representative: Edward M. Alfano, 550 Mamaroneck Avenue, Harrison, NY 10528. Petitioner holds a *contract carrier* permit in MC 144189, issued November 20, 1978, authorizing transportation, over irregular routes, transporting *paper and paper products*, from Deferiet, NY to Akron, Canton, Cleveland, Independence, Sandusky, Wadsworth, and Willard, OH, Kokomo and Warsaw, IN, Adrian, Detroit, Grand Rapids, Lansing and Warren, MI, and Broadview, Brookfield, Chicago, and Elk Grove Village, IL; *pulp and papermaking machinery*, between Sandusky, OH, on the one hand, and, on the other, Deferiet, NY; and *paperwinding cores*, from Willard, OH, Kokomo, and Warsaw, IN and Chicago, IL to Deferiet, NY, all restricted to a transportation service to be performed under a continuing contract(s) with St. Regis Paper Company of New York. By the instant petition, petitioner seeks to change the commodity description to authorize the transportation of *such commodities* as are dealt in by a manufacturer of paper and paper products and *materials*, equipment, and supplies used in the manufacture of such commodities, (except commodities in bulk), and to change the territorial description to authorize service between Deferiet, NY, on the one hand, and, on the other, points in IL, IN, MI, and OH.

Republications of Grants of Operating Rights Authority Prior to Certification

The following grants of operating rights authorities are republished by order of the Commission to indicate a broadened grant of authority over that previously noticed in the Federal Register.

An original and one copy of a petition for leave to intervene in the proceeding must be filed with the Commission on or before June 8, 1979. Such pleading shall comply with Special Rule 247(e) of the Commission's *General Rules of Practice* (49 CFR 1100.247) addressing specifically the issue(s) indicated as the purpose for republication, and including copies of intervenor's conflicting authorities and a concise statement of intervenor's interest in the proceeding setting forth in detail the precise manner in which it has been prejudiced by lack of notice of the authority granted. A copy of the pleading shall be served concurrently upon the carrier's representative, or carrier if no representative is named.

MC 9644 (Sub-6F) (republication), filed March 24, 1978, previously noticed in the Federal Register issue of May 11, 1978. Applicant: B.T.L., INC., 631 Santa Fe, Kansas City, MO 64101. Representative: William J. Burns (same address as applicant). A Decision of the Commission, Review Board Number 2, decided January 22, 1979 and served February 26, 1979, finds that the present and future public convenience and necessity require operation by applicant, interstate or foreign commerce, as a *common carrier* by motor vehicle over regular routes transporting: *general commodities* (except articles of unusual value, classes A and B explosives, household goods as defined by the Commission, commodities in bulk, and those requiring special equipment), between Kansas City, MO, and Omaha, NE: from Kansas City, over Interstate Hwy 29, to junction Interstate Hwy 29, to junction Interstate Hwy 80, then over Interstate Hwy 80 to Omaha, and return over the same route, serving no intermediate points, as an alternate route for operating convenience only. Applicant is fit, willing and able properly to perform such service and to conform to the requirements of Title 49, Sub-title IV, U.S. Code and the Commission's regulations. The purpose of this republication is to indicate the substitution of Kansas City, MO as a termini in lieu of St. Joseph, MO.

MC 109397 (Sub-423), (republication), filed April 14, 1978, published August 3, 1978, and republished this issue. Applicant: TRI-STATE MOTOR TRANSIT CO., A CORP., P.O. Box 113, Joplin, MO 64801. Representative: A. N. Jacobs (same address as applicant). A decision of the Commission, Review Board Number 2, decided January 19, 1979, and served March 2, 1979, finds that the present and future public convenience and necessity require operations by applicant in interstate or foreign commerce as a *common carrier* by motor vehicle, over irregular routes, in the transportation of (1) *cranes, draglines, backhoes, shovels and loaders, and* (2) *equipment, attachments, accessories and parts for the commodities in (1) above*, from Cedar Rapids, IA, Milwaukee and Cudahy, WI, Escanaba, MI, Teterborough, NJ, Pampa, TX, Lima, OH, Schiller Park and Aurora, IL, Shady Grove, PA, and Conway, NC to points in the United States (except AK and HI), that applicant is fit willing and able properly to perform such service and to conform to the requirements of the Interstate Commerce Act and the Commission's rules and regulations. The purpose of this republication is to modify the commodity and territorial description.

MC 117686 (Sub-No. 194) (republication), filed November 12, 1977, published in the Federal Register issue of January 12, 1978, and republished this time. Applicant: HIRSCHBACH MOTOR LINES, INC., P.O. Box 417, Sioux City, IA 51102. Representative: George L. Hirschbach (same address as applicant). A decision of the Commission, Review Board Number 2, decided April 25, 1978, and served May 9, 1978, finds that the present and future public convenience and necessity require operations by applicant in interstate or foreign commerce as a *common carrier* by motor vehicle, over irregular routes, in the transportation of such commodities as are dealt in by grocery and food business houses, (except commodities in bulk) between Northfield, MN and Fargo, ND, restricted to the transportation of traffic originating at the facilities of Fairway Foods, Inc., at the named points, that applicant is fit,

willing, and able properly to perform such service and to conform to the requirements of the Interstate Commerce Act and the Commission's rules and regulations. The purpose of this republication is to modify the territorial description.

MC 126346 (Sub-No. 22) (republication), filed May 12, 1978, published in the **Federal Register** issue of June 27, 1978, and republished this issue. Applicant: HAUPT CONTRACT CARRIERS, INC., P.O. Box 1023, Wausau, WI 54401. Representative: Daniel C. Sullivan, 10 South LaSalle St., Suite 1600, Chicago, IL 60603. A decision of the Commission, Review Board Number 1, decided February 5, 1979, finds that the present and future public convenience and necessity require operations by applicant in interstate or foreign commerce as a *contract carrier*, by motor vehicle, over irregular routes, in the transportation of (1)(a) *self-propelled material handling equipment and construction equipment* (except self-propelled vehicles designed for transporting property or passengers on the highway) and (b) *grading and loading attachments for tractors, parts for grading and loading attachments, and parts and attachments for the commodities described in (1)(a) above*, from Wausau, WI to points in AZ, CA, CO, ID, MT, NV, NM, OR, UT, WA and WY, (2) *structural or fabricated steel and steel assemblies*, from Wausau, WI to points in the United States (except AK and HI and WI), and (3) *materials, equipment and supplies used in the manufacture and distribution of the commodities named in (1) and (2) above*, in the reverse direction, under contract with Loed Corp. of Wausau, WI, will be consistent with the public interest and the national transportation policy. The purpose of this republication is to modify the territorial description.

MC 142516 (Sub-11) (republication), filed April 14, 1978, published in the **Federal Register** issue of August 17, 1978, and republished this issue. Applicant: ACE TRUCKING CO., INC., 1 Hackensack Ave., South Kearny, NJ 07032. Representative: George A. Olsen, P.O. Box 357, Gladstone, NJ 07934. A decision of the Commission, Review Board Number 3, decided January 3, 1979, and served February 8, 1979, finds that the present and future public convenience and necessity require operations by applicant in interstate or foreign commerce as a *common carrier*, by motor vehicle, over irregular routes, in the transportation of *window glass* from the port of Newark, NJ and the port of New York, NY, to Chicago, IL, restricted to the transportation of traffic having a prior movement by water and destined to the named destination point, that applicant is fit, willing and able properly to perform such service and to conform to the requirements of the Interstate Commerce Act and the Commission's rules and regulations. The purpose of this republication is to modify the territorial description.

MC 143505 (Sub-No. 2) (republication), filed December 13, 1977, previously noticed in the **Federal Register** issue of March 2, 1978. Applicant: KOMMER BULK FEED SERVICES, INC., 171 Stafford Road, Palmyra, NY 14522. Representative: Charles A. Schiano, 500 Wilder Bldg., One East Main Street, Rochester, NY 14614. A Decision of the Commission, Division 2, Acting as an Appellate Division, decided January 22, 1979, and served February 9, 1979, finds that the present and future public convenience and necessity, require operation by applicant in interstate or foreign commerce, as a *common carrier* by motor vehicle, over irregular routes, transporting: (1) *dried brewers' grain and dried brewers' grain products*, in bulk and in bags, from points in Monroe County, NY, to points in PA; and (2) *feed and feed ingredients*, from Marion, Bellevue, Fostoria, and Delphos, OH, to points in NY and PA. Applicant is fit, willing and able properly to perform such service and to conform to the requirements of Title 49, Subtitle IV, U.S. Code and the Commission's regulations. The purpose of this republication indicate service from Bellevue, OH, in lieu of Belleville, OH.

Motor Carrier, Broker, Water Carrier, and Freight Forwarder Operating Rights Applications

The following applications are governed by Special Rule 247 of the Commission's General Rules of Practice (49 CFR 1100.247). These rules provide, among other things, that a protest to the granting of an application must be filed with the Commission within 30 days after the date of notice of filing of the application is published in the **Federal Register**. Failure to seasonably file a protest will be construed as a waiver of opposition and participation in the proceeding. A protest under these rules should comply with Section 247(e)(3) of the rules of practice which requires that it set forth specifically the grounds upon which it is made, contain a detailed statement of protestant's interest in the proceeding (including a copy of the specific portions of its authority which protestant believes to be in conflict with that sought in the application, and describing in detail the method—whether by joinder, interline, or other means—by which protestant would use a such authority to provide all or part of the service proposed), and shall specify with particularity the facts, matters, and things relied upon, but shall not include issues or allegations phrased generally. Protests not in reasonable compliance with the requirements of the rules may be rejected.

MC 60012 (Sub-99F) (republication), filed October 19, 1978, and previously published in the **Federal Register** on December 21, 1978. Applicant: RIO GRANDE MOTOR WAY, INC., 1400 West 52nd Avenue, Denver, CO 80221. Representative: Arnold L. Burke, 180 N. La Salle, Street, Chicago, IL 60601. Authority sought to operate as a *common carrier*, by motor vehicle, regular routes, transporting general commodities (except those of unusual value, classes A and B explosives, household goods as defined by the Commission, commodities in bulk, and those requiring special equipment), between Heber City, UT, and Craig, CO, over U.S. Hwy 40, serving all intermediate points. (Hearing site: Salt Lake City or Vernal, UT.)

Notes.—(1) Applicant states that he can operate over a series of regular routes between points in UT, CO, and NM. Applicant further states that he intends to tack his existing authority with the authority above. (2) The purpose of this republication is to add Note (1).

MC 114273 (Sub-409F) (republication), filed June 30, 1978, and previously published in the **Federal Register** on August 15, 1978, September 18, 1978, and September 20, 1978. Applicant: CRST, INC., P.O. Box 68, Cedar Rapids, IA 52406. Representative: Kenneth L. Core (same address as applicant). Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting *such commodities* as are dealt in by grocery stores and food business houses, from Chicago, IL, to points in OH. (Hearing site: Chicago, IL, or DC.)

Notes.—(1) Applicant states the purpose of this filing is to substitute single-line service for existing joint-line service. (2) The purpose of this republication is to add grocery stores to the commodity description.

MC 135082 (Sub-76F) (republication), filed October 3, 1978, and previously published in the **Federal Register** on December 14, 1978. Applicant: ROADRUNNER TRUCKING, INC., P.O. Box 26748, 415 Rankin Road, NE, Albuquerque, NM. Representative: Randall R. Sain (same address as applicant). Authority sought to operate as a *common carrier*, by motor vehicle,

over irregular routes, transporting: *Roofing, roofing products, supplies and equipment, metal products, and insulation materials* (except commodities in bulk), (1) Between points in AZ, CO, and NM. (2) From points in AZ, CO, and NM, to AR, CA, KS, LA, NV, MT, OK, OR, TX, UT, WA, and WY. (3) From points in AR, LA, MO, OK, TX, and Memphis, TN, to points in AZ, CO, and NM. (4) From points in CA, ID, MT, NV, OR, UT, WA, and WY, to points in AZ, CO, and NM. (Hearing sites: Albuquerque, NM, or Houston, TX.)

Notes.—(1) Applicant intends to tack the separate authorities herein sought at points in the common gateway states of AZ, CO, and NM in order to provide a through service as follows: From points in CA, OR, WA, ID, MT, NV, UT, and WY, to points in KS, LA, OK, TX and AR, and From points in AR, LA, MO, OK, TX and also Memphis, TN, to points in CA, OR, WA, ID, MT, NV, UT and WY and authority to so tack and provide said through service is hereby sought and requested in this application. (2) The purpose of this republication is to add Note (1) above.

MC 136393 (Sub-2F) (republication), filed November 14, 1978, and previously published in the **Federal Register** on January 16, 1979. Applicant: NY., NJ., CONN., FREIGHT & MESSENGER CORP., 55 Lakeshore Drive, Rockaway, NJ 07866. Representative: Ronald I. Shapss, 450 Seventh Avenue, New York, NY 10001. Authority sought to operate as a *common carrier*, by motor vehicle, in interstate or foreign commerce, over irregular routes, transporting *general commodities* (except those of unusual value, classes A and B explosives, household goods as defined by the Commission, commodities in bulk, and those requiring special equipment), (1) between Kansas City, KS, and points in MA, RI, CT, NY, NJ, DE, MD, PA, OH, MI, IN, WI, IL, MN, IA, and MO, in non-radial movements, and (2) from Kansas City, KS, and points in MA, RI, CT, NY, NJ, DE, MD, PA, OH, MI, IN, WI, IL, MN, IA, and MO, to points in WY, LA, TN, KY, ND, SD, NE, CO, KS, OK, AR, and TX, restricted to the transportation of traffic moving on bills of lading of freight forwarder. (Hearing site: New York, NY.)

Note.—The purpose of this republication is to add "in non-radial movements" to part (1).

Finance Applications

The following applications seek approval to consolidate, purchase, merge, lease operating rights and properties, or acquire control through ownership of stock, of rail carriers or motor carriers pursuant to Sections 11343 (formerly Section 5(2)) or 11349 (formerly Section 210a(b)) of the Interstate Commerce Act.

An original and one copy of protests against the granting of the requested authority must be filed with the Commission on or before June 8, 1979. Such protest shall comply with Special Rules 240(c) or 240(d) of the Commission's *General Rules of Practice* (49 CFR 1100.240) and shall include a concise statement of protestant's interest in the proceeding. A copy of the protest shall be served concurrently upon applicant's representative, or applicant, if no representative is named.

Each applicant states that approval of its application will not significantly affect the quality of the human environment nor involve a major regulatory action under the Energy Policy and Conversation Act of 1975.

MC–F–13986F. Authority sought by MARTIN THOMPSON, 11218 Elm Street, Omaha, NE 68144 to control Chip Carriers, Inc., 11218 Elm Street, Omaha, NE 68144 and Thompson Truck Transportation, Inc., 11218 Elm Street, Omaha, NE 68144. Applicants' attorney: Arthur Liberstein, 888 Seventh Avenue, New York, NY 10019. Operating rights sought to be controlled: *Chip Carriers, Inc.:* (1) *Foodstuffs* (except in bulk), and (2) *imprinted advertising, packaging* and *display materials*, and *display racks* and *stands* (except commodities in bulk), as a contract carrier over irregular routes, between points in AL, AR, AZ, CA, CO, FL, GA, ID, IL, IN, IA, KS, KY, LA, MI, MN, MS, MO, MT, NE, NM, ND, OH, OK, SD, TN, TX, UT, WI and WY. Restriction: The operations authorized herein are limited to a transportation service to be performed, under a continuing contract, or contracts, with Frito-Lay, Inc., of Dallas, TX. *Thompson Truck Transportation, Inc.:* To transport *flavoring syrup* and *compounds*, and *materials, supplies* and *equipment*, (except in bulk), used in the manufacture of flavoring syrup as a contract carrier over irregular routes between Arlington, TX, on the one hand, and, on the other, all points in the continental United States, under continuing contract(s) with Pepsi Cola Company, of Purchase, NY. (Hearing site: Omaha, NE.) Vendee is authorized to operate as a contract carrier in all States in the United States. Application has not been filed for temporary authority under section 210a(b).

No. MC–F–13988F. Authority sought for purchase by BAKER HI-WAY EXPRESS, INC., P.O. Box 506, Commercial Parkway, Dover, OH 44622, of a portion of the operating rights of A. J. WEIGAND, INC., P.O. Box 130, Dover, OH 44622, and for acquisition by HAROLD BAKER, SR., P.O. Box 506, Dover, OH 44622, of control of such rights through the transaction. Applicants' attorney: Richard H. Brandon, P.O. Box 97, 220 West Bridge Street, Dublin, OH 43017. Operating rights sought to be purchased: Steel and steel products, as a common carrier over irregular routes, from Dover, OH, and points within two miles of Dover, not including New Philadelphia, OH to points in that part of New York, on and west of a line beginning at Oswego, NY, and extending along New York Hwy 57 to Syracuse, NY, and then along U.S. Hwy 11 to the New York-Pennsylvania State line, those parts of Maryland and Pennsylvania on the west of U.S. Hwy 11, including Wilkes-Barre, Sunbury, and Harrisburgh, PA, that part of West Virginia, on, north, and west of a line beginning at the Maryland-West Virginia State line, and extending along U.S. Hwy 220 to junction U.S. Hwy 33, then along U.S. Hwy 33 to junction West Virginia Hwy 4, then along West Virginia Hwy 4 to junction U.S. Hwy 60, and then along U.S. Hwy 60 to the West Virginia-Kentucky State line, that part of Kentucky on, north and east of a line beginning at the West Virginia-Kentucky State line and extending along U.S. Hwy 60 to junction U.S. Hwy 62, then along U.S. Hwy 62 to junction U.S. Hwy 41 and then along U.S. Hwy 41 to the Ohio River, that part of Michigan and on and south of a line beginning at Muskegon, MI, and extending along MI Hwy 20 to Bay City, MI, and then along MI Hwy 25 to Huron City, MI, that part of IL on and east of U.S. Hwy 51 and on and north of U.S. Hwy 36, and points in IN; *Machinery and machinery parts* used in the manufacture of Steel and steel products, from points in the destination territory specified above to Dover, OH and points within two miles thereof, not including New Philadelphia, OH; *Truck Parts, accessories, and equipment, and trailer parts, accessories, and equipment*, from Chicago, IL, Detroit and Pontiac, MI, Hillside, NJ, and Clearfield, Pittsburgh, Uniontown and Washington, PA, to Dover, OH, with no transportation for compensation on return except as otherwise authorized; From Dover, OH to Clearfield, PA, with no transportation for compensation on return except as otherwise authorized; From dover, OH to Clearfiled, PA, with no transportation for compensation on return except as otherwise authorized; *Sheet steel and sheet steel products*, from the site of the plant of the Reeves Steel and Manufacturing Company, near Dover, OH to points in PA east of U.S. Hwy 11, except Wilkes-Barre, Sunbury, and Harrisburg, PA. *Sheet steel and sheet steel Products* (except articles

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requiring special equipment, from the site of Reeves Steel and Manufacturing Co. plant at Dover, OH to points in that part of NY east of a line beginning at Oswego, NY and extending along NY Hwy 57 to Syracuse, NY and then along U.S. Hwy 11 to the new York-Pennsylvania state line points in New Jersey, points in that part of Maryland east of U.S. Hwy 11 and the District of Columbia, with no transportation for compensation on return except as otherwise authorized. Vendee is authorized to operate as a common carrier under Certificate No. MC–119441 throughout the involved states. Application has not been filed for temporary authority under section 210a(b). Hearing site: Columbus, OH or Washington, D.C.

No. MC–F–13992F filed April 12, 1979. Authority sought for purchase by New Penn Motor Express, Inc., P.O. Box 630, Lebanon, PA of the operating rights of Auto Express, Inc., Elm Street and Remington Avenue, Scranton, PA 18505. Applicants' attorney: S. Harrison Kahn, Kahn and Kahn, Suite 733 Investment Building, Washington, D.C. 20005. New Penn seeks to purchase the Certificates of Public Convenience and Necessity issued to Auto Express, Inc. in Interstate Commerce Commission Docket No. MC–60196 and Sub No. 6 and Sub No. 7 thereto authorizing the transportation of general commodities, with the usual exceptions, as a common carrier between points in southeastern New York State and points in the northeastern sector of the Commonwealth of Pennsylvania over regular routes generally between Wilkes-Barre, PA and Endicott, NY; between Wilkes-Barre, PA and Elmira, NY; between Binghamton, NY and Waverly, NY; between Scranton, PA and nearly points in the Commonwealth of Pennsylvania, all more particularly described in the identified Certificates of Public Convenience and Necessity. New Penn is authorized, pursuant to a series of Certificates of Public Convenience and Necessity issued in Docket No. MC–70832 and various sub numbers thereunder to transport property as a motor common carrier of general freight, with the usual exceptions, between the eastern sector of the Commonwealth of Pennsylvania, points and places in New Jersey, the metropolitan area of New York, NY, points and places in Connecticut, Rhode Island and Massachusetts. An application of temporary authority under 49 USC Sec. 11349 has been filed. Harrisburg, PA has been requested as the hearing site.

Motor Carrier Intrastate Application(s)

The following application(s) for motor common carrier authority to operate in intrastate commerce seek concurrent motor carrier authorization in interstate or foreign commerce within the limits of the intrastate authority sought, pursuant to Section 10931 (formerly Section 206(a)(6)) of the Interstate Commerce Act. These applications are governed by Special Rule 245 of the Commission's *General Rules of Practice* (49 CFR 1100.245), which provides, among other things, that protests and requests for information concerning the time and place of State Commission hearings or other proceedings, any subsequent changes therein, and any other related matters shall be directed to the State Commission with which the application is filed and shall *not* be addressed to or filed with the Interstate Commerce Commission.

Missouri Docket No. T–43,001, filed April 12, 1979. Applicant: DONALD R. JONES, F. WILLIAM GEE, WARREN D. SPENCER, AND BILL ATWELL d.b.a. OVERLAND FREIGHT, 608 Missouri Boulevard, Jefferson City, MO 65101. Representative: Charles J. Fain, Fain & Fain, 333 Madison Street, Jefferson City, MO 65101. Certificate of Public Convenience and Necessity sought to operate a freight service, as follows: Transportation of: General commodities, except those of unusual value, Classes A and B explosives, commodities in bulk, uncrated household goods as defined by the Commission: From Jefferson City, MO, to Kansas City, MO over U.S. Hwy No. 50, and return over the same route; from Jefferson City, MO, over U.S. Hwy 54 to Fulton, MO; then over Callaway County Road F to junction of Callaway County Road WW; then over County Road WW to Columbia, MO, and return over the same route; with alternate route during inclement weather when said county roads are impassable as follows: From Fulton, MO, over U.S. Hwy 54 to junction of U.S. Interstate 70; then over U.S. Interstate 70 to Columbia, MO, and return over the same route to Fulton, MO; from Jefferson City, MO, over U.S. Hwy 54 to Eldon, MO, then over Business Route U.S. Hwy 54 to junction of U.S. Hwy 54; then over U.S. Hwy 54 to Lake Ozark, MO; then over U.S. Hwy 54 to Camdenton, MO, and return over the same route; from Jefferson City, MO, over U.S. Hwy 63 to Rolla, MO; and also from junction of U.S. Hwy 63 and Missouri State Hwy 68 over said Hwy 68 to Saint James, MO; then over U.S. Interstate 44 to Rolla, MO; then over U.S. Interstate 44 to St. Robert, MO, serving Fort Leonard Reservation as an off-access point; then from St. Robert, MO, over Business Loop 44 to Waynesville, MO; then over Missouri State Hwy 17 to junction of said Hwy 17 and U.S. Hwy 54; then over U.S. Hwy 54 to Jefferson City, MO; with authority to render service between Jefferson City, MO, and its commercial zone, and all points located on the above named routes, including their commercial zones, located on such routes and with authority to provide through service between all such points and to provide joint service at the applicable rates prescribed by the Commission for certificated motor common carriers. Intrastate, interstate and foreign commerce authority sought. HEARING: June 28 and 29, 1979, 10:00 A.M., Public Service Commission, 10th Floor, 100 E. Capitol Ave., Jefferson City, MO, 65101. Requests for procedural information should be addressed to Missouri Public Service Commission, P.O. Box 360, Jefferson City, MO 65102, and should *not* be direct to the Interstate Commerce Commission.

New York Docket No. T–727, filed April 6, 1979. Applicant: BENLIN DISTRIBUTION SERVICES, INC., 89 Perry Street, Buffalo, NY 14203. Representative: William J. Hirsch, esq., 43 Court Street, Buffalo, NY 14202. Certificate of Public Convenience and Necessity sought to operate a freight service, as follows: Transportation of: General commodities, between all points in Erie and Niagara Counties. Hearing: Date, time and place not yet fixed. Requests for procedural information should be addressed to Department of Transportation, 1220 Washington Ave., State Campus Building #4, Room G–21, Albany, NY 12232, and should *not* be directed to the Interstate Commerce Commission.

Note.—Applicant presently holds specific point to point authority between all major cities, towns, villages and hamlets in the above two counities. Intrastate, interstate and foreign commerce authority sought.

Oklahoma Docket No. MC–45133, filed March 19, 1979. Applicant: SMITH MOTOR FREIGHT, INC., 9112 S. Villa, Oklahoma City, OK 73159. Representative: WILLIAM L. ANDERSON, 4400 N. Lincoln, Suite 22, Oklahoma City, OK 73105. Certificate of Public Convenience and Necessity sought to operate a freight service, as follows: Transportation of: General commodities from Oklahoma City via U.S. Highway 62 and H. E. Bailey Turnpike to Richards Spur, near Lawton: U.S. 62 from Richards Spur to Chickasha; S.H. 8 from Anadarko to Cyril, S.S. Hwy 81 from Chickasha to its intersection with U.S. Hwy 277, then along U.S. 277 to its intersection with U.S. 62 north of Richards Spur: S.H. 19 from Cyril to Apache. The above authority to constitute the right to transport freight in all directions along routes described, to, from and between all points and places on the routes described, save and except no freight will be picked up or delivered in Chickasha; said authority shall include the right to serve all points and places on the routes described (except Chickasha) and also the right to serve customers along the routes or adjacent to the communities or routes served or traversed, where the same are within a reasonable distance from the described routes or points on said route and may be normally served without going through a city or town that carrier is not authorized to serve. Intrastate, interstate and foreign commerce authority sought. HEARING: May 24, 1979, 9:00 A.M., 2nd Floor, Jim Thorpe Bldg., Oklahoma City, OK. Requests for procedural information should be addressed to Oklahoma Corporation Commission, Jim Thorpe Office Building, Oklahoma City, OK 73105, and should *not* be directed to the Interstate Commerce Commission.

Tennessee Docket No. MC–7495 (amendment), filed January 24, 1979. Applicant: BLOUNT MOTOR LINES, INC., 3712 Valley Ridge Drive, Nashville, TN 37211. Representative: Grant W. Smith, P.O. Box 2725, 100 J. C. Bradford Bldg., Nashville, TN 37219. Certificate of Public Convenience and Necessity sought to operate a freight service, as follows: Transportation of: General commodities, except household goods, Class A and B explosives, and commodities which because of size and weight require special equipment or special handling, between all points and places in Davidson County, TN, and Blount County, TN. Intrastate, interstate and foreign commerce authority sought. Hearing: April 4, 1979, at 9:30 A.M., Commission Hearing room, C1–110 Cordell Hull Building, Nashville, TN. Requests for procedural information should be addressed to Tennessee Public Service Commission, C1–102 Cordell Hull Building, Nashville, TN 37219, and should not be directed to the Interstate Commerce Commission.

Tennessee Docket No. MC–7521, filed February 14, 1979. Applicant: AAA WISE EXPRESS, INC., 135 Lemuel Street, Nashville, TN 37207. Representative: Roland M. Lowell, 618 United American Bank Building, Nashville, TN 37219. Certificate of Public Convenience and Necessity sought to operate a freight service, as follows: Transportation of: General commodities (except commodities in bulk, household goods, and those commodities which because of size or weight require special handling or equipment), between Nashville, TN, and Memphis, TN, serving the intermediate points of Jackson, TN, and all intermediate points between Jackson and Memphis and as off-route points, all points in Madison County, TN, not on the regular described routes, Humboldt, TN, and Milan, TN: (a) from Nashville over U.S. Hwy 40 to Memphis and return over the same route, and (b) from Nashville over Interstate Highway 40 to Memphis and return over the same route. Intrastate, interstate and foreign commerce authority sought. Hearing: June 25, 1979, (1 week), 9:30 A.M., The Executive Plaza Inn, 1471 Brooks RD, Memphis, TN. Requests for procedural information should be addressed to Tennessee Public Service Commission, Cordell Hull Building, Nashville, TN 37219, and should not be directed to the Interstate Commerce Commission.

Operating Rights Application(s) Directly Related to Finance Proceedings

The following operating rights application(s) are filed in connection with pending finance applications under Section 11343 (formerly Section 5(2)) of the Interstate Commerce Act, or seek tacking and/or gateway elimination in connection with transfer applications under Section 10926 (formerly Section 212(b)) of the Interstate Commerce Act.

An original and one copy of protests to the granting of the authorities must be filed with the Commission on or before June 8, 1979. Such protests shall comply with Special Rule 247(e) of the Commission's *General Rules of Practice* (49 CFR 1100.247) and include a concise statement of protestant's interest in the proceeding and copies of its conflicting authorities. Verified statements in opposition should not be tendered at this time. A copy of the protest shall be served concurrently upon applicant's representative or applicant if no representative is named.

Each applicant states that approval of its application will not significantly affect the quality of the human environment nor involve a major regulatory action under the Energy Policy.

MC 126900 (Sub-3F), filed March 19, 1979. Applicant: Flamingo Moving & Storage, R. D. No. 3, Box 678, Mansfield, Pennsylvania 16933. Representative: Thomas F. X. Foley, State Highway 34, Colts Neck, NJ 07722. Authority sought to operate as a *common carrier*, by motor vehicle over irregular routes, in the transportation of household goods between Wellsboro, PA and points within 25 miles of Wellsboro, PA, on the one hand, and, on the other, points in Pennsylvania, West Virginia and the District of Columbia, and (2) between points in Cumberland, MD, and points in Maryland, Pennsylvania, and West Virginia within 10 miles of Cumberland, on the one hand, and, on the other, points in New Jersey, New York, and Ohio. Gateways eliminated: (1) Common points consist of Cumberland, MD and points in MD within 10 miles of Cumberland, MD., and (2) Common points consist of points in PA within 25 miles of Wellsboro, PA. (Hearing site: Philadelphia, PA.)

By the Commission.

H. G. Homme, Jr.,
Secretary.

[Vol. No. 15]

FR Doc. 79–14332 Filed 5–8–79; 8:45 am]

BILLING CODE 7035–01–M

Assignment of Hearings

May 4, 1979.

Cases assigned for hearing, postponement, cancellation or oral argument appear below and will be published only once. This list contains prospective assignments only and does not include cases previously assigned hearing dates. The hearings will be on the issues as presently reflected in the Official Docket of the Commission. An attempt will be made to publish notices of cancellation of hearings as promptly as possible, but interested parties should take appropriate steps to insure that they are notified of cancellation or postponements of hearings in which they are interested.

MC 112223 Sub-109F, Quickie Transport Company, and MC 118569 Sub-7F, Halberg Construction and Supply, Inc., d.b.a. Kirsher Transport Co., A Corp., now assigned May 21, 1979, at St. Paul, MN, will be held at the St. Paul Hotel, The Capitol Room, 367 St. Peter's Street.

MC 134477 Sub-241F, Schanno Transportation, Inc., now assigned May 17, 1979, at St. Paul MN, will be held at the St. Paul Hotel, The Capitol Room, 367 St. Peter's Street.

MC 134477 (Sub-261F), Schanno Transportation, Inc., now assigned May 16, 1979, at St. Paul, MN, will be held in the St. Paul Hotel, The Capitol Room, 367 St. Peter's Street.

MC 21259 Sub-2F, Gertsen Cartage Co., Inc., now assigned May 16, 1979, at Chicago, IL, is postponed indefinitely.

MC 144401F, General Oilfield Trucking, Inc., now assigned May 18, 1979, at Baton Rouge, LA, will be held in the Memorial Room, 760 Riverside Mall.

MC 124308 Sub-46F, Kenan Transport Company, Inc., now assigned May 14, 1979,

which will be served on each party of

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at Washington, D.C., is postponed to May 15, 1979, at the Offices of the Interstate Commerce Commission, Washington, D.C.

MC 119988 Sub-156F, Great Western Trucking Co., Inc., and MC 143059 Sub-24F, Mercer Transportation Co., a Texas Corp., now assigned May 14, 1979, at Portland, OR, will be held in Room No. 103, Pioneer Courthouse, 555 S.W. Yamhill Street.

MC 112989 Sub-76F, West Coast Truck Lines, Inc., now assigned May 15, 1979, at Portland, OR, will be held in the Redline Motor Inn, 310 Southwest Lincoln Street.

MC 124711 (Sub-71F), Becker Corporation, now assigned for hearing on June 4, 1979, (2 days), at Kansas, City, MO., will beheld in Room No. 609, Federal Office Building, 911 Walnut Street.

H. G. Homme, Jr.,
Secretary.

[Notice No. 83]
[FR Doc. 79-14483 Filed 5-8-79; 8:45 am]
BILLING CODE 7035-01-M

Motor Carrier Temporary Authority Applications

May 3, 1979.

The following are notices of filing of applications for temporary authority under Section 210a(a) of the Interstate Commerce Act provided for under the provisions of 49 CFR 1131.3. These rules provide that an original and six (6) copies of protests to an application may be filed with the field official named in the **Federal Register** publication no later than the 15th calender day after the date the notice of the filing of the application is published in the **Federal Register**. One copy of the protest must be served on the applicant, or its authorized representative, if any, and the protestant must certify that such service has been made. The protest must identify the operating authority upon which it is predicated, specifying the "MC" docket and "Sub" number and quoting the particular portion of authority upon which it relies. Also, the protestant shall specify the service it can and will provide and the amount and type of equipment it will make available for use in connection with the service contemplated by the TA application. The weight accorded a protest shall be governed by the completeness and pertinence of the protestant's information.

Except as otherwise specifically noted, each applicant states that there will be no significant effect on the quality of the human environment resulting from approval of its application.

A copy of the application is on file, and can be examined at the Office of the Secretary, Interstate Commerce Commission, Washington, D.C., and also in the ICC field Office to which protests are to be transmitted.

Note.—All applications seek authority to operate as a common carrier over irregular routes except as otherwise noted.

Motor Carriers of Property

W-1152 (Sub-6TA). By order entered May 1, 1979, the Motor Carrier Board granted United Transportation, Inc., 1046 First Avenue, Bethel, AK, 99559, 180-day temporary authority to engage in the business of transportation of general commodities, utilizing self-propelled vessels and non-self-propelled vessels with the use of separate towing vessels, between Tuluksak, AK and points on the Kushokwin River at and North of Tuluksak, AK., Applicant was authorized to tack this authority with its existing authority under W-1152 at Tuluksak, AK. Warren G. Kellicut, Esq. 3201 "C" Street, Suite 401, Anchorage, AK, 99503, for applicant. Any interested person may file a petition for reconsideration within 20 days of the date of this publication. Within 20 days after the filing of such petition with the Commission, any interested person may file and serve a reply thereto.

H. G. Homme, Jr.,
Secretary.

[Notice No. 56]
[FR Doc. 79-14484 Filed 5-8-79; 8:45 am]
BILLING CODE 7035-01-M

Montana Intrastate Freight Rates and Charges—1979

Decided: May 1, 1979.

By joint petition filed April 4, 1979, Union Pacific Railroad, Chicago, Milwaukee, St. Paul & Pacific R.R. Co., and Burlington Northern, Inc. (petitioners), each operating in intrastate commerce in Montana, request that this Commission institute an investigation of their Montana intrastate freight rates and charges, under 49 U.S.C. 11501 and 11502. Petitioners seek an order authorizing them to increase such rates and charges in the same amounts approved for interstate application by this Commission in Ex Parte Nos. 343 and 349. Petitioners have stated grounds sufficient to warrant instituting an investigation.

It is ordered: The petition is granted. An investigation, under 49 U.S.C. 11501 and 11502 is instituted to determine whether the Montana state rail freight rates in any respect cause any unjust discrimination against or any undue burden on interstate or foreign commerce, or cause undue or unreasonable advantage, preference, or prejudice as between persons or localities in intrastate commerce and persons or localities in interstate or foreign commerce, or are otherwise unlawful, by reason of the failure of such rates and charges to include the full increases authorized for interstate application by this Commission in Ex Parte Nos. 343 and 349. In the investigation we shall also determine if any rates or charges, or maximum or minimum charges, or both, should be prescribed to remove any unlawful advantage, preference, discrimination, undue burden, or other violation of law, found to exist.

All persons who wish to participate in this proceeding and to file and receive copies of pleadings shall make known that fact by notifying the Office of Proceedings, Room 5356, Interstate Commerce Commission, Washington, DC 20423, on or before May 24, 1979. Although individual participation is not precluded, to conserve time and to avoid unnecessary expense, persons having common interests should endeavor to consolidate their presentations to the greatest extent possible. This Commission desires participation of only those who intend to take an active part in this proceeding.

As soon as practicable after the last day for indicating a desire to participate in the proceeding, this Commission will serve a list of names and addresses on all persons upon whom service of all pleadings must be made. Thereafter, this proceeding will be assigned for oral hearing or handling under modified procedure.

A copy of the order shall be served upon each of the petitioners. Montana shall be notified of the proceeding by sending copies of this decision by certified mail to the Governor of Montana and the Montana Public Service Commission. Further notice of this proceeding shall be given to the public by depositing a copy of this decision in the Office of the Secretary of the Interstate Commerce Commission at Washington, D.C. and by filing a copy with the Director, Office of the Federal Register, for publication in the **Federal Register**.

This is not a major regulatory action under the Energy Policy and Conservation Act of 1975, nor is this a major federal action significantly affecting the quality of the human environment.

By the Commission, Alan Fizwater, Director, Office Proceedings.

H. G. Homme, Jr.,
Secretary.

[Decision No. 37159]
[FR Doc. 79-14481 Filed 5-8-79; 8:45 am]
BILLING CODE 7035-01-M

Permanent Authority Applications; Decision-Notice

Decided: April 23, 1979.

The following applications filed on or before February 28, 1979, are governed by Special Rule 247 of the Commission's *Rules of Practice* (49 CFR § 1100.247). For applications filed before March 1, 1979, these rules provide, among other things, that a protest to the granting of an application must be filed with the Commission within 30 days after the date notice of the application is published in the **Federal Register**. Failure to file a protest, on or before June 8, 1979, will be considered as a waiver of opposition to the application. A protest under these rules should comply with Rule 247(e)(3) of the Rules of Practice which requires that it set forth specifically the grounds upon which it is made, contain a detailed statement of protestant's interest in the proceeding, (as specifically noted below), and shall specify with particularity the facts, matters, and things relied upon, but shall not include issues or allegations phrased generally. A protestant should include a copy of the specific portions of its authority which protestant believes to be in conflict with that sought in the application, and describe in detail the method—whether by joinder, interline, or other means—by which protestant would use such authority to provide all or part of the service proposed.

Protests not in reasonable compliance with the requirements of the rules may be rejected. The original and one copy of the protest shall be filed with the Commission, and a copy shall be served concurrently upon applicant's representative, or upon applicant if no representative is named. If the protest includes a request for oral hearing, such request shall meet the requirements of section 247(e)(4) of the special rules and shall include the certification required in that section.

On cases filed on or after March 1, 1979, petitions for intervention either with or without leave are appropriate.

Section 247(f) provides, in part, that an applicant which does not intend timely to prosecute its application shall promptly request that it be dismissed, and that failure to prosecute an application under the procedures of the Commission will result in its dismissal.

If applicant has introduced rates as an issue it is noted. Upon request an applicant must provide a copy of the tentative rate schedule to any protestant.

Further processing steps will be by Commission notice, decision, or letter which will be served on each party of record. *Broadening amendments will not be accepted after the date of this publication.*

Any authority granted may reflect administratively acceptable restrictive amendments to the service proposed below. Some of the applications may have been modified to conform to the Commission's policy of simplifying grants of operating authority.

Findings

With the exceptions of those applications involving duly noted problems (e.g., unresolved common control, unresolved fitness questions, and jurisdictional problems) we find, preliminarily, that each common carrier applicant has demonstrated that its proposed service is required by the public convenience and necessity, and that each contract carrier applicant qualifies as a contract carrier and its proposed contract carrier service will be consistent with the public interest and the transportation policy of 49 U.S.C. 10101. Each applicant is fit, willing, and able properly to perform the service proposed and to conform to the requirements of Title 49, Subtitle IV, United States Code, and the Commission's regulations. Except where specifically noted this decision is neither a major Federal action significantly affecting the quality of the human environment nor a major regulatory action under the Energy Policy and Conservation Act of 1975.

In those proceedings containing a statement or note that dual operations are or may be involved we find, preliminarily and in the absence of the issue being raised by a protestant, that the proposed dual operations are consistent with the public interest and the transportation policy of 49 U.S.C. 10101 subject to the right of the Commission, which is expressly reserved, to impose such conditions as it finds necessary to insure that applicant's operations shall conform to the provisions of 49 U.S.C. 10930(a) [formerly section 210 of the Interstate Commerce Act].

In the absence of legally sufficient protests, filed on or before June 8, 1979 (or, if the application later becomes unopposed), appropriate authority will be issued to each applicant (except those with duly noted problems) upon compliance with certain requirements which will be set forth in a notification of effectiveness of this decision-notice. To the extent that the authority sought below may duplicate an applicant's existing authority, such duplication shall not be construed as conferring more than a single operating right.

Applicants must comply with all specific conditions set forth in the grant or grants of authority within 90 days after the service of the notification of the effectiveness of this decision-notice, or the application of a non-complying applicant shall stand denied.

By the Commission, Review Board Number 3, Members Parker, Fortier, and Hill.

H. G. Homme, Jr.,
Secretary.

MC 2900 (Sub-359F), filed February 1, 1979. Applicant: RYDER TRUCK LINES, INC., 2050 Kings Road, P.O. Box 2408-R, Jacksonville, FL 32203. Representative: John Carter (same address as applicant). To operate as a *common carrier*, by motor vehicle, in interstate or foreign commerce, over irregular routes, transporting (1) *plastic pipe, fittings, and materials* used in the installation of plastic pipe and fittings; and (2) *cast iron pipe, fittings, valves, hydrants, and accessories* used in the installation of cast iron pipe, fittings, valves, and hydrants, from the facilities of Clow Corporation, at points in Jefferson and Talladega Counties, AL, to those points in the United States in and east of MT, WY, CO, NM, and TX, restricted to the transportation of traffice originating at the named origins and destined to the named destinations. (Hearing site: Chicago, IL.)

MC 2900 (Sub-360F), filed February 5, 1979. Applicant: RYDER TRUCK LINES, INC., 2050 Kings Road, P.O. Box 2408-R, Jacksonville, FL 32203. Representative: John Carter (same address as applicant). To operate as a *common carrier*, by motor vehicle, in interstate or foreign commerce, over irregular routes, transporting *chemicals and materials or supplies* used in the manufacture and packaging of chemicals, between the facilities of the Dow Chemical Company, at or near Ludington, MI, on the one hand, and, on the other, points in IL, IN, KY, MI, MO, OH, PA, WV, and WI. (Hearing site: Detroit or Grand Rapids, MI.)

MC 2900 (Sub-361F), filed February 5, 1979. Applicant: RYDER TRUCK LINES, INC., 2050 Kings Road, P.O. Box 2408-R, Jacksonville, FL 32203. Representative: John Carter (same address as applicant). To operate as a *common carrier*, by motor vehicle, in interstate or foreign commerce, over irregular routes, transporting *axle housings*, from Reading, PA, to the facilities of the Dana Corporation, at or near Edgerton, WI, and Syracuse, IN, restricted to the transportation of traffic originating at the named origin and destined to the

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named destinations. (Hearing site: Philadelphia or Reading, PA.)

MC 2900 (Sub-363F), filed February 1, 1979. Applicant: RYDER TRUCK LINES, INC., 2050 Kings Road, P.O. Box 2408–R, Jacksonville, FL 32203. Representative: S.E. Somers, Jr. (same address as applicant). To operate as a *common carrier*, by motor vehicle, in interstate or foreign commerce, over irregular routes, transporting *general commodities* (except those of unusual value, classes A and B explosives, household goods as defined by the Commission, commodities in bulk, and those requiring special equipment), (1) Between junction U.S. Hwy 50 and Interstate Hwy 75, and juction Interstate Hwy 75 and Interstate Hwy 40, over Interstate Hwy 75, serving the termini for the purposes of joinder only, as an alternate route for operating convenience only, and (2) Between junction Interstate Hwy 75 and Interstate Hwy 40, and junction Interstate Hwy 85 and U.S. Hwy 21: From junction Interstate Hwy 75 and Interstate Hwy 40 over Interstate Hwy 40 to junction NC Hwy 226, then over NC Hwy 226 to junction U.S. Hwy 74, then over U.S. Hwy 74 to junction Interstate Hwy 85, then over Interstate Hwy 85 to junction U.S. Hwy 21, and return over the same route, serving the termini for the purpose of joinder only, as an alternate route for operating convenience only. (Hearing site: Jasksonville, FL, or Washington, DC.)

MC 2960 (Sub-27F), filed February 6, 1979. Applicant: ENGLAND TRANSPORTATION COMPANY OF TEXAS, 2301 McKinney Street, Houston, TX 77023. Representative: E. Larry Wells, Suite 1125, Exchange Park, Post Office Box 45538, Dallas, TX 75245. To operate as a *common carrier*, by motor vehicle, in interstate or foreign commerce, over irregular routes, transporting *fertilizer, weed and tree killing compounds, insecticides, and fungicides*, in bags or packages, from the facilities of Swift Agricultural Chemical Company, at or near Shreveport, LA, to points in TX. (Hearing site: Dallas, TX, or Shreveport, LA.)

MC 19311 (Sub-55F), filed January 29, 1979. Applicant: CENTRAL TRANSPORT, INC., 34200 Mound Road, Sterling Heights, MI 48077. Representative: Leonard R. Kofkin, 39 So. LaSalle St., Chicago, IL 60603. To operate as a *common carrier*, by motor vehicle, in interstate or foreign commerce, over regular routes, transporting *general commodities* (except classes A and B explosives, household goods as defined by the Commission, commodities in bulk, and those requiring special equipment). (1) Between Cleveland, OH, and Dunkirk, NY, over U.S. Hwy 20, serving all intermediate points, and (2) Between Lisbon, OH, and junction OH Hwy 11 and U.S. Hwy 20: From Lisbon, OH over OH Hwy 45 to junction U.S. Hwy 62, then over U.S. Hwy 62 to junction U.S. Hwy 422, then over U.S. Hwy 422 to junction OH Hwy 11, then over OH Hwy 11 to junction U.S. Hwy 20, and return over the same route, serving all intermediate points. (Hearing site: Cleveland, OH.)

MC 21491 (Sub-4F), filed January 24, 1979. Applicant: WILLIAM VOLLRATH, R.D. #1, Box 449, Harveys Lake, PA 18618. Representative: Joseph F. Hoary, 121 South Main Street, Taylor, PA 18517. To operate as a *common carrier*, by motor vehicle, in interstate or foreign commerce, over irregular routes, transporting (1) *metalware*, from the facilities of Bertels Can Company, Hanover Township, PA, to points in the United States (except AK and HI); and (2) *materials, supplies, and equipment* used in the manufacture of the commodities named in (1) above, from points in the United States (except AK and HI), to the facilities of Bertels Can Company, Hanover Township, PA. (Hearing site: Washington, DC.)

MC 21491 (Sub-5F), filed January 25, 1979. Applicant: WILLIAM VOLLRATH, R.D. #1, Box 449, Harveys Lake, PA 18618. Representative: Joseph F. Hoary, 121 South Main Street, Taylor, PA 18517. To operate as a *common carrier*, by motor vehicle, in interstate or foreign commerce, over irregular routes, transporting (1) *general commodities* (except those of unusual value, classes A and B explosives, household goods as defined by the Commission, commodities in bulk, those requiring special equipment, and foodstuffs), from the facilities of the Union Corporation, at Old Forge, PA, to points in the United States (except AK and HI); and (2) *materials, supplies, and equipment* used in the manufacture, sale, and distribution of the commodities named in (1) above, from points in the United States (except AK and HI), to the facilities of the Union Corporation, at Old Forge, PA, restricted to the transportation of traffic originating at or destined to the facilities of the Union Corporation, at Old Forge, PA. (Hearing site: Washington, DC.)

MC 33641 (Sub-142F), filed February 6, 1979. Applicant: IML FREIGHT, INC., P.O. Box 30277, Salt Lake City, UT 84125. Representative: Thomas A. Scott (same address as applicant). To operate as a *common carrier*, by motor vehicle, in interstate or foreign commerce, over irregular routes, transporting *soda ash, sodium bicarbonate, sodium carbonate, and cleaning, scouring, and washing compounds* (except commodities in bulk), from points in Sweetwater County, WY, to points in the United States (except AL, AK, AR, FL, GA, LA, ME, MN, MS, MT, NC, ND, NH, NM, OK, SD, SC, TN, TX, VT, and WI). (Hearing site: Salt Lake City, UT, or Denver, CO.)

MC 47171 (Sub-121F), filed February 5, 1979. Applicant: COOPER MOTOR LINES, INC., P.O. Box 2820, Greenville, SC 29602. Representative: Harris G. Andrews (same address as applicant). To operate as a *common carrier*, by motor vehicle, in interstate or foreign commerce, over irregular routes, transporting *alcoholic beverages*, from Hammondsport, NY, to points in SC. (Hearing site: Washington, DC.)

MC 52460 (Sub-235F), filed February 5, 1979. Applicant: ELLEX TRANSPORTATION, INC., 1420 W. 35th Street, P.O. Box 9637, Tulsa, OK 74107. Representative: Wilburn L. Williamson, Suite 615-East, The Oil Center, 2601 Northwest Expressway, Oklahoma City, OK 73112. To operate as a *common carrier*, by motor vehicle, in interstate or foreign commerce, over irregular routes, transporting *such commodities* as are sold and used by wholesale, retail, and discount stores, from points in AL, FL, GA, LA, MS, NC, SC, TN, and TX, to the facilities of Wal-Mart Stores, Inc., at or near Bentonville, Fort Smith, and Searcy, AR. (Hearing site: Oklahoma City, OK.)

MC 52921 (Sub-33F), filed January 29, 1979. Applicant: RED BALL, INC., P.O. Box 520, Sapulpa, OK 74066. Representative: Wilburn L. Williamson, Suite 615-East, The Oil Center, 2601 Northwest Expressway, Oklahoma City, OK 73112. To operate as a *common carrier*, by motor vehicle, in interstate or foreign commerce, over irregular routes, transporting *petroleum products*, in containers, *such commodities* as are distributed by wholesale or retail suppliers, marketers, or distributors of petroleum products, and *such commodities* as are used by wholesale or retail suppliers, marketers, or distributors of petroleum products in the conduct of their business, from Ponca City, OK, to points in LA. (Hearing site: Oklahoma City, OK.)

MC 52921 (Sub-34F), filed February 6, 1979. Applicant: RED BALL, INC., P.O. Box 520, Sapulpa, OK 74066. Representative: Wilburn L. Williamson, Suite 615-East, The Oil Center, 2601 Northwest Expressway, Oklahoma City, OK 73112. To operate as a *common carrier*, by motor vehicle, in interstate or foreign commerce, over irregular routes, transporting *paper, paper products, and materials, equipment, and supplies* used in the manufacture and distribution of paper and paper products, (except commodities in bulk, in tank vehicles), between the facilities of Union Camp Corporation, at or near Lafayette, LA, and San Antonio, TX, on the one hand, and, on the other, points in AR, CO, KS, LA, MO, NM, and OK. (Hearing site: Oklahoma City, OK.)

SC 56270 (Sub-21F), filed January 25, 1979. Applicant: LEICHT TRANSFER & STORAGE CO., a corporation, 1401–55 State Street, P.O Box 2385, Green Bay, WI 54306. Representative: Dennis L. Sedlacek (same address as applicant). To operate as a *common carrier*, by motor vehicle, in interstate or foreign commerce, over irregular routes, transporting *hardwood flooring, hardwood flooring components, and materials and supplies* used in the manufacture and distribution of hardwood flooring and hardwood flooring components, between White Lake, WI, and Ishpeming, MI, on the one hand, and, on the other, those points in the United States in and east of ND, SD, NE, KS, OK, and TX. (Hearing site: Madison, WI, or Chicago, IL.)

MC 59531 (Sub-113F), filed February 7, 1979. Applicant: AUTO CONVOY CO., 3020 South Haskell, Dallas, TX 75223. Representative: Eugene C. Ewald, 100 West Long Lake Road, Suite 102, Bloomfield Hills, MI 48013. To operate as a *common carrier*, by motor vehicle, in interstate or foreign commerce, over irregular routes, transporting *motor vehicles*, in initial movements, in truckaway service, from Claycomo, MO, to points in TX, OK, AZ, NM, AR, and LA. (Hearing site: Dallas, TX.)

MC 67450 (Sub-78F), filed January 25, 1979. Applicant: PETERLIN CARTAGE CO., a corporation, 9651 S. Ewing Avenue, Chicago, IL 60617. Representative: Joseph Winter, 29 South LaSalle Street, Chicago, IL 60603. To operate as a *common carrier*, by motor vehicle, in interstate or foreign commerce, over irregular routes, transporting *such commodities* as are dealt in or used by nursery and horticultural supply stores (except commodities in bulk), from Cullman, Opelika, and Sylacauga, AL, Susanville and Yreka, CA, Adel and Whitestone, GA, Morrison, IL, Wheaton, MD, Mason, MI, Newton, West Milford, and Sussex, NJ, Edenton, NC, Crestline, Bellefontaine, Toledo, and S. Charleston, OH, Lancaster, PA, and Knoxville, TN, to points in the United States (except AK and HI). (Hearing site: Chicago, IL, or Toledo, OH.)

MC 67450 (Sub-80F), filed February 2, 1979. Applicant: PETERLIN CARTAGE CO., a Corporation, 9651 S. Ewing Avenue, Chicago, IL 60617. Representative: Joseph Winter, 29 South LaSalle Street, Chicago, IL 60603. To operate as a *common carrier*, by motor vehicle, in interstate or foreign commerce, over irregular routes, transporting *malt syrup*, in bulk, from the facilities of Malt Products Corporation, at or near Maywood, NJ, to points in IL, IN, IA, OH, and WI. (Hearing Site: Chicago, IL.)

MC 69281 (Sub-49F), filed February 5, 1979. Applicant: THE DAVIDSON TRANSFER & STORAGE CO., a Corporation, 698 Fairmount Avenue, Towson Plaza, Baltimore, MD 21204. Representative: Henry J. Bouchat, P.O. Box 58, Baltimore, MD 21203. To operate as a *common carrier*, by motor vehicle, in interstate or foreign commerce, over regular routes, transporting *paper, pulpboard, and paper, pulpboard, and woodpulp products*, serving West Point, VA, as an off-route point in connection with carrier's otherwise authorized regular route operations. (Hearing Site: Washington, DC.)

MC 74681 (Sub–13F), filed January 31, 1979. Applicant: STEVENS VAN LINES, 121 South Niagara Street, Saginaw, MI 48602. Representative: Robert J. Gallagher, 1000 Connecticut Avenue, N.W., Suite 1200, Washington, DC 20036. To operate as a *common carrier*, by motor vehicle, in interstate or foreign commerce, over irregular routes, transporting *uncroted wooden wardrobe cabinets*, from the facilities of the Furniture Division of Hoover Universal, Inc., at or near Vernon, AL, to points in NH, MA, CT, RI, NY, NJ, PA, MD, DE, VA, WV, NC, SC, GA, FL, AL, MS, TN, KY, OH, IN, IL, MI, WI, MN, ND, SD, NE, IA, CO, KS, MO, NM, OK, AR, TX, LA, ME, VT, and DC. (Hearing Site: Saginaw, MI.)

MC 75320 (Sub-212F), filed February 1, 1979. Applicant: CAMPBELL SIXTY-SIX EXPRESS, INC., P.O. Box 807, Springfield, MO 65801. Representative: John A. Crawford, 17th Floor, Deposit Guaranty Plaza, P.O. Box 22567, Jackson, MS 39205. To operate as a *common carrier*, by motor vehicle, in interstate or foreign commerce, over regular routes, transporting *general commodities* (except those of unusual value, classes A and B explosives, household goods as defined by the Commission, commodities in bulk, and those requiring special equipment), serving the facilities of Sperry Vickers, at or near Searcy, White County, AR, as an off-route point in connection with carrier's otherwise authorized regular route operations. (Hearing Site: Little Rock, AR.)

MC 85970 (Sub-20F), filed January 22, 1979. Applicant: SARTAIN TRUCK LINE, INC., 1354 N. Second Street, Memphis, TN 38107. Representative: Warren A. Goff, 2008 Clark Tower, 5100 Poplar Avenue, Memphis, TN 38137. To operate as a *common carrier*, by motor vehicle, in interstate or foreign commerce, over regular routes, transporting *general commodities* (except those of unusual value, classes A and B explosives, household goods as defined by the Commission, commodities in bulk, and those requiring special equipment), (1) Between Dyersburg, TN, and Portageville, MO: From Dyersburg, TN over TN Hwy 78 to junction TN Hwy 21, then over TN Hwy 21 to the Mississippi River, then over MO Hwy 162 to Portageville, MO, and return over the same route, serving all intermediate points and points in Lake and Dyer Counties, TN as off-route points, (2) Between Nashville, TN, and Trenton, TN: (a) From Nashville, TN over U.S. Hwy 70 to junction U.S. Hwy 70–A, then over U.S. Hwy 70–A to junction TN Hwy 104, then over TN Hwy 104 to Trenton, TN, and return over the same route, serving no intermediate points, and (b) From Nashville, TN over Interstate Hwy 40 to junction U.S. Hwy 45 and TN Hwy 5, then over U.S. Hwy 45 and TN Hwy 5 to junction U.S. Hwy 45–W, then over U.S. Hwy 45–W to Trenton, TN, and return over the same route, serving the intermediate point of Jackson, TN, (3) Between junction Interstate Hwy 40 and TN Hwy 22, and Gleason, TN: From junction Interstate Hwy 40 and TN Hwy 22 over TN Hwy 22 to Gleason, TN, and return over the same route, as an alternate route for operating convenience only, (4) Between St. Louis, MO, and Nashville, TN: From St. Louis, MO, over Interstate Hwy 55 to junction Interstate Hwy 155, then over Interstate Hwy 155 to junction U.S. Hwy 51, then over U.S. Hwy 51 to junction TN Hwy 20, then over TN Hwy 20 to junction Interstate Hwy 40, then over Interstate Hwy 40 to Nashville, TN, and return over the same route, serving all intermediate points between St. Louis, MO, and Dyersburg, TN, including Dyersburg, (5) Between Dyersburg, TN, and Nashville, TN: From Dyersburg, TN over U.S. Hwy 51 to junction TN Hwy 54, then over TN Hwy 54 to junction U.S. Hwy 70, then over U.S. Hwy 70 to junction Interstate Hwy 40, then over Interstate Hwy 40 to Nashville, TN, and

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return over the same route, serving the intermediate points of Halls, Gates, Ripley, Henning, Covington, Brownsville, and Jackson, TN, (6) Between Union City, TN, and Fulton, KY: From Union City, TN over U.S. Hwys 51 and 45–W to Fulton, KY, and return over the same route, serving the intermediate point of South Fulton, TN and (7) Between Union City, TN, and Hickman, KY: From Union City, TN over TN Hwy 5 to the TN–KY State line, then over KY Hwy 125 to Hickman, KY, and return over the same route, serving the port of Hickman as an off-route point, restricted against the transportation of traffic originating at, destined to, or is interlined at Memphis, TN, when such traffic is moving to or from St. Louis, MO or Nashville, TN, and points in their respective commercial zones. (Hearing Site: Memphis, TN, or St. Louis, MO.)

MC 90870 (Sub-22F), filed January 31, 1979. Applicant: RIECHMANN ENTERPRISES, INC., Route 2, Box 137, Alhambra, IL 62001. Representative: Cecil L. Goettsch, 1100 Des Moines Building, Des Moines, IA 50309. To operate as a *common carrier*, by motor vehicle, in interstate or foreign commerce, over irregular routes, transporting *iron and steel articles*, from the facilities of Jones & Laughlin Steel Corp., at Putnam County, IL, to points in MO, and the Kansas City, KS commercial zone. (Hearing site: Chicago, IL, or Des Moines, IA.)

MC 90870 (Sub-23F), filed January 31, 1979. Applicant: RIECHMANN ENTERPRISES, INC., Route 2, Box 137, Alhambra, IL 62001. Representative: Cecil L. Goettsch, 1100 Des Moines Building, Des Moines, IA 50309. To operate as a *common carrier*, by motor vehicle, in interstate or foreign commerce, over irregular routes, transporting *iron and steel articles*, from the facilities of Laclede Steel Co., at Alton, IL, to those points in KY on and west of Interstate Hwy 65, those points in TN on and west of Interstate Hwy 65, those points in MS on and north of U.S. Hwy 82, and points in IN. (Hearing site: St. Louis, MO, or Washington, DC.)

MC 95540 (Sub-1075F), filed February 1, 1979. Applicant: WATKINS MOTOR LINES, INC., 1144 West Griffin Road, P.O. Box 1636, Lakeland, FL 33802. Representative: Benjy W. Fincher (same address as applicant). To operate as a *common carrier*, by motor vehicle, in interstate or foreign commerce, over irregular routes, transporting *titanium dioxide* (except in bulk), from DeLisle, MS, to those points in the United States in and east of MT, WY, CO, and NM, and points in CA. (Hearing site: Wilmington, DE, or Washington, DC.)

MC 95540 (Sub-1076F), filed February 1, 1979. Applicant: WATKINS MOTOR LINES, INC., 1144 West Griffin Road, P.O. Box 1636, Lakeland, FL 33802. Representative: Benjy W. Fincher (same address as applicant). To operate as a *common carrier*, by motor vehicle, in interstate or foreign commerce, over irregular routes, transporting *confectionery, chewing gum, and novelties*, from Duryea, PA, to points in NC, SC, GA, FL, KY, TN, AL, MS, KS, and MO. (Hearing site: Philadelphia, PA, or New York, NY.)

MC 95540 (Sub-1078F), filed February 5, 1979. Applicant: WATKINS MOTOR LINES, INC., 1144 West Griffin Road, P.O. Box 1636, Lakeland, FL 33802. Representative: Benjy W. Fincher (same address as applicant). To operate as a *common carrier*, by motor vehicle, in interstate or foreign commerce, over irregular routes, transporting *meats, meat products, and meat byproducts, and articles distributed by meat-packing houses*, as described in sections A and C of Appendix I to the report in *Descriptions in Motor Carrier Certificates*, 61 M.C.C. 209 and 766, (except hides and commodities in bulk), from the facilities of Wilson Foods Corporation, at or near Albert Lea, MN, to points in AR, LA, and MS, restricted to the transportation of traffic originating at the named origin and destined to the named destinations. (Hearing Site: Oklahoma City, OK, or Washington, DC.)

MC 95540 (Sub-1080F), filed February 5, 1979. Applicant: WATKINS MOTOR LINES, INC., 1144 West Griffin Road, P.O. Box 1636, Lakeland, FL 33802. Representative: Benjy W. Fincher (same address as applicant). To operate as a *common carrier*, by motor vehicle, in interstate or foreign commerce, over irregular routes, transporting *foodstuffs*, from New York, NY, to Chicago, IL (Hearing site: New York, NY, or Washington, DC.)

MC 95540 (Sub-1081F), filed February 5, 1979. Applicant: WATKINS MOTOR LINES, INC., 1144 West Griffin Road, P.O. Box 1636, Lakeland, FL 33802. Representative: Benjy W. Fincher (same address as applicant. To operate as a *common carrier*, by motor vehicle, in interstate or foreign commerce, over irregular routes, transporting *meats meat products, and meat byproducts, and articles distributed by meat-packing houses*, as described in sections A and C of Appendix I to the report in *Descriptions in Motor Carrier Certificates*, 61 M.C.C. 209 and 766, (except hides and commodities in bulk), from Gonzales, LA, to points in OH, IN, MN, CA, TN, and WI. (Hearing site: New Orleans, LA, or Washington, DC.)

MC 103051 (Sub-477F), filed February 6, 1979. Applicant: FLEET TRANSPORT COMPANY, INC., 934, 44th Ave., N., Nashville, TN 37209. Representative: Russell E. Stone, P.O. Box 90408, Nashville, TN 37209. To operate as a *common carrier*, by motor vehicle, in interstate or foreign commerce, over irregular routes, transporting *dry starch* in bulk, in tank vehicles, from Lexington, NC, to points in VA, SC, GA, and TN. (Hearing site: Nashville, TN, or Atlanta, Ga.)

MC 111231 (Sub-257F), filed January 24, 1979. Applicant: JONES TRUCK LINES, INC., 610 East Emma Avenue, Springdale, AR 72764. Representative: Kim D. Mann, Suite 1010, 7101 Wisconsin Avenue, Washington, DC 20014. To operate as a *common carrier*, by motor vehicle, in interstate or foreign commerce, over regular routes, transporting *general commodities* (except those of unusual value, classes A and B explosives, household goods as defined by the Commission, commodities in bulk, and those requiring special equipment), (1) Between Wichita, KS, and Aurora, CO: (a) From Wichita, KS over KS Hwy 96 to junction U.S. Hwy 50, then over U.S.Hwy 50 to junction U.S. Hwy 287, then over U.S. Hwy 287 to junction Interstate Hwy 70, then over Interstate Hwy 70 to Aurora, CO, and return over the same route, serving Great Bend, KS, and Eads, CO, as interemediate points for purposes of joinder only, and (b) From Wichita, KS over KS Hwy 96 to junction U.S. Hwy 50, then over U.S. Hwy 50 to junction U.S. Hwy 281, then over U.S. Hwy 281 to junction Interstate Hwy 70, then over Interstate Hwy 70 to Aurora, CO, and return over the same route, serving no intermediate points, and (2) Between Great Bend, KS, and Eads, CO: From Great Bend, KS over KS Hwy 96 to junction CO Hwy 96, then over CO Hwy 96 to Eads, CO, and return over the same route, serving no intermediate points, serving Great Bend, KS, and Eads, CO for purposes of joinder only. (Hearing site: Little Rock, AR, or Washington, DC.)

MC 112801 (Sub-223F), filed January 30, 1979. Applicant: TRANSPORT SERVICE CO., a Corporation, 2 Salt Creek Lane, Hinsdale, IL 60521. Representative: E. Stephen Heisley, 805 McLachlen Bank Building, 666 Eleveth Street, N.W., Washington, DC 20001. To operate as a *common carrier*, by motor vehicle, in interstate or foreign

commerce, over irregular routes, transporting *commodities*, in bulk, in tank vehicles, (1) between points in IL, IN, IA, KS, KY, MI, MN, MO, NE, OH, and TN, and (2) between points in the United States (except AK and HI). (Hearing site: Chicago, IL, or Washington, DC.)

Note.—Insofar as the transportation of hazardous materials is authorized the certificate shall expire in 5 years.

MC 112991 (Sub–4F), filed January 30, 1979. Applicant: LIVINGSTON TRANSPORTATION LIMITED, 264 Tillson Avenue, Tillsonburg, Ontario, Canada N4G 3B6. Representative: Wilhelmina Boersma, 1600 First Federal Building, Detroit, MI 48226. To operate as a *common carrier*, by motor vehicle, in interstate or foreign commerce, over irregular routes, transporting *dry bulk commodities*, in dump vehicles, between ports of entry on the international boundary line between the United States and Canada, at or near Detroit, Port Huron, and Sault Ste. Marie, MI, on the one hand, and, on the other, points in OH and MI. (Hearing Site: Detroit, MI, or Washington, DC.)

MC 113460 (Sub–10F), filed February 1, 1979. Applicant: BLACKHAWK TRANSPORTATION, INC., 3909 E. 29th Street, Des Moines, IA 50317. Representative: Thomas E. Leahy, Jr., 1980 Financial Center, Des Moines, IA 50309. To operate as a *common carrier*, by motor vehicle, in interstate or foreign commerce, over irregular routes, transporting *meats, meat products and meat byproducts and articles distributed by meat-packing houses*, as described in sections A and C of Appendix I to the report in *Descriptions in Motor Carrier Certificates*, 61 M.C.C. 209 and 766, (except hides and commodities in bulk), from the facilities of Wilson Foods Corporation, at Cedar Rapids, IA, to points in CT, DE, ME, MD, MA, NH, NJ, NY, PA, RI, VT, VA, and DC, restricted to the transportation of traffic originating at the named origin and destined to the named destinations. (Hearing Site: Dallas, TX, or Kansas City, MO.)

MC 114890 (Sub–89F), filed February 5, 1979. Applicant: COMMERCIAL CARTAGE CO., a Corporation, 343 Axminster Drive, Fenton, MO 63026. Representative: David A. Cherry, P.O. Box 1540, Edmond, OK 73034. To operate as a *common carrier*, by motor vehicle, in interstate or foreign commerce, over irregular routes, transporting *printing ink and printing ink ingredients*, in bulk, in tank vehicles, from St. Louis, MO, to points in AR, DE, IL, IN, KS, KY, MI, MN, NY, OH, PA, TN, VA, and WI. (Hearing Site: St. Louis, MO, or Washington, DC.)

MC 115331 (Sub–481F), filed January 29, 1979. Applicant: TRUCK TRANSPORT INCORPORATED, 29 Clayton Hills Lane, St. Louis, MO 63131. Representative: J. R. Ferris, 230 St. Clair Avenue, East St. Louis, IL 62201. To operate as a *common carrier*, by motor vehicle, in interstate or foreign commerce, over irregular routes, transporting (1) *extruded vinyl siding, extruded plastic siding, clapboard siding, plastic articles, paper articles, and building materials;* and (2) *accessories and supplies* used in connection with the commodities named in (1) above, (except commodities in bulk), from the facilities of Bird & Son, Inc., at or near Bardstown, KY, to points in AZ, CA, CO, CT, DE, ID, IL, IN, IA, KS, ME, MD, MA, MI, MS, NE, NH, NJ, NY, OH, OR, PA, UT, VT, WA, WV, WI, and DC. (Hearing Site: Washington, DC. or St. Louis, MO.)

MC 115331 (Sub–482F), filed January 29, 1979. Applicant: TRUCK TRANSPORT INCORPORATED, 29 Clayton Hills Lane, St. Louis, MO 63131. Representative: J. R. Ferris, 230 St. Clair Avenue, East St. Louis, IL 62201. To operate as a *common carrier*, by motor vehicle, in interstate or foreign commerce, over irregular routes, transporting (1) *zinc, zinc alloys, zinc oxide, zinc dust, zinc dross, residue or skimmings, metallic cadmium, lead sheet, and recyclable zinc products;* and (2) *materials, equipment, and supplies* used in the manufacture of the commodities named in (1) above, between the facilities of St. Joe Zinc Co., at or near Josephtown, Potter Township, Beaver County, PA, on the one hand, and, on the other, points in the United States (except AK and HI). (Hearing Site: Washington, DC. or St. Louis, MO.)

MC 115841 (Sub-672F), filed January 24, 1979. Applicant: COLONIAL REFRIGERATED TRANSPORTATION, INC., 9041 Executive Park Drive, Suite 110, Building 100, Knoxville, TN 37919. Representative: D. R. Beeler (same address as applicant). To operate as a *common carrier*, by motor vehicle, in interstate or foreign commerce, over irregular routes, transporting *floor covering, adhesives, preservatives, carpet tacking strips, and metal moulding*, from the facilities of Roberts Consolidated Industries, at or near Los Angeles County, CA, to points in VA, NC, SC, GA, FL, AL, TN, KY, MS, LA, AR, MO, IL, IN, OH, MI, WI, KS, OK, and TX. (Hearing site: Los Angeles, CA.)

MC 115841 (Sub-675F), filed February 5, 1979. Applicant: COLONIAL REFRIGERATED TRANSPORTATION, INC., 9041 Executive Park Drive, Suite 110, Building 100, Knoxville, TN 37919. Representative: D. R. Beeler (same address as applicant). To operate as a *common carrier*, by motor vehicle, in interstate or foreign commerce, over irregular routes, transporting *foodstuffs* (except commodities in bulk), in vehicles equipped with mechanical refrigeration, from the facilities of M & M/Mars, at or near Cleveland, TN, to points in AZ, CA, IA, IL, KS, MI, MO, NE, NV, OH, and UT. (Hearing site: Washington, DC, or Philadelphia, PA.)

MC 115841 (Sub-676F), filed February 5, 1979. Applicant: COLONIAL REFRIGERATED TRANSPORTATION, INC., 9041 Executive Park Drive, Suite 110, Building 100, Knoxville, TN 37919. Representative: David C. Venable, 805 McLachlen Bank Building, 666 Eleventh Street, N.W., Washington, DC 20001. To operate as a *common carrier*, by motor vehicle, in interstate or foreign commerce, over irregular routes, transporting *frozen foods and materials and supplies* used in the manufacture or distribution of frozen foods, between the facilities of The Pillsbury Company, at or near Murfreesboro and Nashville, TN, on the one hand, and, on the other, those points in the United States in and east of MN, IA, MO, AR, and LA (except TN), restricted to the transportation of traffic originating at or destined to the facilities of The Pillsbury Company at or near Murfreesboro and Nashville, TN. (Hearing site: Nashville, TN, or Minneapolis, MN.)

MC 119991 (Sub-27F), filed January 31, 1979. Applicant: YOUNG TRANSPORT, INC., Post Office Box 3, Logansport, IN 46947. Representative: Warren C. Moberly, 777 Chamber of Commerce Building, Indianapolis, IN 46204. To operate as a *common carrier*, by motor vehicle, in interstate or foreign commerce, over irregular routes, transporting *aluminum ingots, aluminum scrap, aluminum sheet metal, aluminum plate, and aluminum foil*, (1) between the facilities of Alcan Aluminum Division of Alcan Service, Inc., at or near Oswego, NY, Warren, OH, and Fairmont, WV, and (2) from the facilities of Alcan Aluminum Division of Alcan Service, Inc., at or near Oswego, NY, Warren, OH, and Fairmont, WV, to points in WA, OR, CA, ID, NV, MT, WY, UT, AZ, NM, ND, and SD. (Hearing site: Indianapolis, IN, or Washington, DC.)

MC 120910 (Sub-15F), filed November 8, 1978, and previously noticed in the FR issues of February 15, 1979, and March

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15, 1979. Applicant: SERVICE EXPRESS, INC., P.O. Box 1009, Tuscaloosa, AL 35401. Representative: William P. Jackson, jr., 3426 N. Washington Blvd., P.O. Box 1240, Arlington, VA 22210. To operate as a *common carrier*, by motor vehicle, in interstate or foreign commerce, over irregular routes, transporting *paper and paper products* (except commodities in bulk), from the facilities of Union Camp Corporation, at or near Prattville, AL, to points in AL, FL, GA, KY, LA, MS, NC, SC, TN, and VA. (Hearing site: Birmingham, AL.)

Note.—This republication adds LA as a destination State.

MC 120961 (Sub-29F), filed January 24, 1979. Applicant: BESTWAY EXPRESS, INC., 905 Visco Drive, Nashville, TN 37210. Representative: George M. Catlett, 708 McClure Building, Frankfort, KY 40601. To operate as a *common carrier*, by motor vehicle, in interstate or foreign commerce, over regular routes, transporting *general commodities* (except those of unusual value, classes A and B explosives, household goods as defined by the Commission, commodities in bulk, and those requiring special equipment). (1) Between Nashville, TN, and Mobile, AL: From Nashville, TN over Interstate Hwy 65 to junction AL Hwy 47, then over AL Hwy 47 to junction AL Hwy 59, then over AL Hwy 59 to junction U.S. Hwy 31, then over U.S. Hwy 31 to Mobile, AL, and return over the same route, serving the intermediate point of Montgomery, AL, and serving junction Interstate Hwy 65 and AL Hwy 47 for joinder only. (2) Between Mobile, AL, and junction Interstate Hwy 65 and AL Hwy 47: From Mobile, AL over Interstate Hwy 65 to junction Interstate Hwy 65 and AL Hwy 47, and return over the same route, serving junction Interstate Hwy 65 and AL Hwy 47 for joinder only. (3) Between Jackson, MS, and Mobile, AL: From Jackson, MS over U.S. Hwy 49 to junction U.S. Hwy 98, then over U.S. Hwy 98 to Mobile, AL, and return over the same route, serving no intermediate points, restricted against the transportation of traffic originating at, destined to, or interlined at Jackson, MS, and (4) Between Jackson, MS, and Montgomery, AL, over U.S. Hwy 80, serving no intermediate points, restricted against the transportation of traffic originating at, destined to, or interlined at, Jackson, MS. (Hearing site: Nashville, TN.)

MC 123061 (Sub-111F), filed February 5, 1979. Applicant: LEATHAM BROTHERS, INC., 46 Orange St., P.O. Box 16026, Salt Lake City, UT 84116. Representative: Harry D. Pugsley, 1283 E. South Temple #501, Salt Lake City, UT 84102. To operate as a *common carrier*, by motor vehicle, in interstate or foreign commerce, over irregular routes, transporting *salt and salt products*, from Saltair, UT, to points in CA. (Hearing site: Salt Lake City, UT, or Chicago, IL.)

MC 123061 (Sub-112F), filed February 7, 1979. Applicant: LEATHAM BROS. INC., 46 Orange Street, P.O. Box 16026, Salt Lake City, UT 84116. Representative: Harry D. Pugsley, 1283 E. South temple #501, Salt Lake City, UT 84102. To operate as a *common carrier*, by motor vehicle, in interstate or foreign commerce, over irregular routes transporting *bagged copper flue dust*, from points in Salt Lake County, UT, to East Helena, MT. (Hearing Site: Salt Lake City, UT, or Boise, ID.)

MC 124211 (Sub-356F), filed January 29, 1979. Applicant: HILT TRUCK LINE, INC., P.O. Box 988, D.T.S., Omaha, NE 68101. Representative: Thomas L. Hilt (same address as applicant). To operate as a *common carrier*, by motor vehicle, in interstate or foreign commerce, over irregular routes, transporting *foodstuffs* (except commodities in bulk), from the facilities of Blue Star Foods, Inc., at Omaha, NE, to points in the United States (except those points in MO south of U.S. Hwy 50, and points in AK, HI, IL, IA, MN, NE, ND, SD, and WI). (Hearing site: Omaha, NE.)

MC 124230 (Sub-37F), filed February 2, 1979. Applicant: C. B. JOHNSON, INC., P.O. Drawer S, Cortez, CO 81321. Representative: David E. Driggers, 1660 Lincoln Street, Suite 1600, Denver, CO 80264. To operate as a *common carrier*, by motor vehicle, in interstate or foreign commerce, over irregular routes, transporting (1) *ore and ore concentrates*, in bulk, from points in Lake County, CO, to Pueblo, Denver, and Canon City, CO; (2) *sulphuric acid*, in bulk, in tank vehicles, between points in AZ and NM; and (3) *molten sulphur*, in bulk, in tank vehicles, between points in WY and CO. (Hearing Site: Denver, CO.)

MC 124711 (Sub-81F), filed February 5, 1979. Applicant: BECKER CORPORATION, P.O. Box 1050, El Dorado, KS 67042. Representative: T. M. Brown, P.O. Box 1540, Edmond, OK 73034. To operate as a *common carrier*, by motor vehicle, in interstate or foreign commerce, over irregular routes, transporting *cement*, from points in KS to points in AR, MO, NE, and OK. (Hearing Site: Kansas City, MO, or Wichita, KS.)

MC 124801 (Sub-5F), filed January 24, 1979. Applicant: ROY AYERS, R.D. #2, Clarks Summit, PA 18411. Representative: Joseph F. Hoary, 121 South Main Street, Taylor, PA 18517. To operate as a *common carrier*, by motor vehicle, in interstate or foreign commerce, over irregular routes, transporting *feed, feed ingredients, and animal health and sanitation products*, between points in Union County, PA, on the one hand, and, on the other, points in Allegheny, Albany, Broome, Cattaraugus, Cayuga, Chemung, Chenango, Cortland, Delaware, Erie, Fulton, Genessee, Greene, Livingston, Madison, Montgomery, Oneida, Ontario, Oswego, Otsego, Onondaga, Schoharie, Schuyler, Seneca, Steuben, Sullivan, Tioga, Tompkins, Ulster, Wayne, Wyoming, and Yates Counties, NY. (Hearing Site: Scranton, PA.)

MC 125470 (Sub-44F), filed February 1, 1979. Applicant: MOORE'S TRANSFER, INC., P.O. Box 1151, Rural Route 4, Norfolk, NE 68701. Representative: Lavern R. Holdeman, 521 South 14th St., Suite 500, P.O. Box 81849, Lincoln, NE 68501. To operate as a *common carrier*, by motor vehicle, in interstate or foreign commerce, over irregular routes, transporting *iron and steel articles*, from points in IL, IN, IA, KS, MI, MN, MO, MT, ND, OK, SD, TX, UT, WI, and WY to the facilities of Norfolk Iron & Metal Co., Inc., at or near Norfolk, NE, restricted to the transportation of traffic originating at the named origins and destined to the named facilities. (Hearing Site: Norfolk or Omaha, NE.)

MC 127840 (Sub-87F), filed December 15, 1978. Applicant: MONTGOMERY TANK LINES, INC., 17550 Fritz Drive, Lansing, IL 60438. Representative: William H. Towle, 180 North LaSalle Street, Chicago, IL 60601. To operate as a *common carrier*, by motor vehicle, in interstate or foreign commerce, over irregular routes, transporting *corn products*, in bulk, from Keokuk, IA, to points in the United States (except AK and HI). (Hearing Site: Keokuk, IA.)

MC 134300 (Sub-35F), filed January 31, 1979. Applicant: TRIPLE R EXPRESS, INC., 498 First Street Northwest, New Brighton, MN 55112. Representative: Samuel Rubenstein, 301 North Fifth Street, Minneapolis, MN 55403. To operate as a *common carrier*, by motor vehicle in interstate or foreign commerce, over irregular routes, transporting *materials and supplies* used in the manufacture of paints and varnishes, (except commodities in bulk, in tank vehicles), from those points in the United States in and east of WI, IA, MO, AR, and LA, to Minneapolis, MN. (Hearing site: Minneapolis or St. Paul, MN.)

MC 134501 (Sub-39F), filed January 26, 1979. Applicant: INCORPORATED CARRIERS, LTD., P.O. Box 3128, Irving, TX 75061. Representative: T. M. Brown, P.O. Box 1540, Edmond, OK 73034. To operate as a *common carrier*, by motor vehicle in interstate or foreign commerce, over irregular routes, transporting *new furniture*, from Quincy, FL, to points in ME, NH, VT, MA, CT, RI, NY, PA, NJ, MD, DE, VA, WV, OH, IN, MI, KY, TN (except Shelby County), NC, SC, GA, AL, MS, LA, TX, and AR. (Hearing site: Tallahassee, FL, or Dallas, TX.)

MC 134501 (Sub-41F), filed January 26, 1979. Applicant: INCORPORATED CARRIERS, LTD., P.O. Box 3128, Irving, TX 75061. Representative: T. M. Brown, P.O. Box 1540, Edmond, OK 73034. To operate as a *common carrier*, by motor vehicle in interstate or foreign commerce, over irregular routes, transporting (1) *restaurant furniture*, from Miami, FL, to points in ME, NH, VT, MA, CT, RI, NY, PA, NJ, MD, DE, VA, WV, OH, IN, MI, KY, TN (except Shelby County), NC, SC, GA, AL, MS, LA, AR (except points on, north, and west of a line beginning at Interstate Hwy 40 and the Mississippi River, then along Interstate Hwy 40 to junction Interstate Hwy 30, then along Interstate Hwy 30 to junction AR Hwy 9, then along AR Hwy 9 to junction U.S. Hwy 79, then along U.S. Hwy 79 to the AR-LA State line), TX (except points on, north, and west of a line beginning at the LA-TX State line and Interstate Hwy 20, then along Interstate Hwy 20 to junction Interstate Hwy 35E, then along Interstate Hwy 35E to junction Interstate Hwy 35, then along Interstate Hwy 35 to Waco, TX, then along U.S. Hwy 77 to Victoria, TX, then along U.S. Hwy 87 to the Gulf of Mexico), and DC; and (2) *restaurant fixtures, equipment, and supplies* (except foodstuffs), from Miami, FL, to points in the United States (except AK and HI). (Hearing site: Miami, FL, or Dallas, TX.)

MC 135170 (Sub-31F), filed January 24, 1979. Applicant: TRI-STATE ASSOCIATES, INC., P.O. Box 188, Federalsburg, MD 21632. Representative: James C. Hardman, 33 North LaSalle Street, Chicago, IL 60602. To operate as a *contract carrier*, by motor vehicle in interstate or foreign commerce, over irregular routes, transporting *containers, containers ends and closures, container accessories, paper and plastic articles*, and *materials, equipment, and supplies* used in the manufacture, sale, and distribution of containers, container ends and closures,and container accessories, and paper and plastic articles (except commodities in bulk, and those which, because of size or weight, require the use of special equipment), between points in AL, DE, FL, GA, KY, LA, MD, MI, MS, NC, NJ, NY, OH, PA, SC, TN, VA, WV, and DC, under continuing contract(s) with The Continental Group, Inc., of Passaic, NJ. (Hearing site: Washington, DC.)

MC 136291 (Sub-13F), filed February 5, 1979. Applicant: CUSTOMIZED PARTS DISTRIBUTION, INC., 3600 N.W. 82nd Avenue, Miami, FL 33166. Representative: Francis W. McInerny, 1000 Sixteenth St., NW. #502, Washington, DC 20036. To operate as a *contract carrier*, by motor vehicle in interstate or foreign commerce, over irregular routes, transporting *liquid argon, liquid nitrogen*, and *liquid oxygen*, in specially designed cryogenic vehicles provided by the shipper, from Theodore, AL, to points in AR, GA, FL, KY, LA, MS, NC, SC, and TN, under continuing contract(s) with Union Carbide Corporation, of New York, NY. Condition: Any grant of authority shall be limited in point of time to a period expiring 5 years from the date of issuance. (Hearing site: Washington, DC.)

MC 136501 (Sub-6F), filed January 24, 1979. Applicant: CARDOSI CONTRACT REFRIGERATED EXPRESS, INC., 5885 Jetway Drive, Arlington, TN 38002. Representative: Thomas A. Stroud, 2008 Clark Tower, 5100 Poplar Avenue, Memphis, TN 38137. To operate as a *contract carrier*, by motor vehicle, in interstate or foreign commerce, over irregular routes, transporting *such commodities* as are dealt in by grocery and food business houses and in connection therewith, *equipment, supplies, and materials* used in the conduct of such businesses, in vehicles equipped with mechanical refrigeration (except commodities in bulk), between the facilities of the Kroger Co., at or near Cincinnati, Springdale, Woodlawn, Blue Ash, Columbus, and Whitehall, OH, on the one hand, and, on the other, points in OH, IN, IL, MO, AR, TX, TN, KY, GA, VA, WV, MI, PA, and FL, under continuing contract(s) with the Kroger Co., of Cincinnati, OH. (Hearing site: Memphis, TN, or Cincinnati, OH.)

MC 138741 (Sub-67F), filed February 5, 1979. Applicant: AMERICAN CENTRAL TRANSPORT, INC., 2005 North Broadway, Joliet, IL 60435. Representative: Tom B. Kretsinger, 20 Franklin, Liberty, MO 64068. To operate as a *common carrier*, by motor vehicle, in interstate or foreign commerce, over irregular routes, transporting *steel tubing*, from Gerald, MO, to points in AL, AR, IL, IN, IA, KS, KY, LA, MI, MS, NE, OH, OK, PA, TN, TX, and WI. (Hearing site: St. Louis, MO.)

MC 140241 (Sub-41F), filed February 5, 1979. Applicant: DALKE TRANSPORT, INC., Box 7, Moundridge, KS 67107. Representative: Larry E. Gregg, 641 Harrison Street, Topeka, KS 66603. To operate as a *common carrier*, by motor vehicle, in interstate or foreign commerce, over irregular routes, transporting *steel bar joists* and *accessories* for steel bar joists, from Grapeland, TX, to points in AZ, AR, LA, NM, and OK. (Hearing site: Dallas, TX.)

MC 140820 (Sub-11F), filed February 5, 1979. Applicant: A & R TRANSPORT, INC., 2996 N. Illinois 71, Ottawa, IL 61350. Representative: James R. Madler, 120 W. Madison St., Chicago, IL 60602. To operate as a *common carrier*, by motor vehicle, in interstate or foreign commerce, over irregular routes, transporting *sand*, in bulk, from points in LaSalle County, IL, and Berrien County, MI, to points in AL, AR, CT, DE, FL, GA, IL, IN, IA, KS, KY, LA, ME, MD, MA, MI, MN, MS, MO, NE, NH, NJ, NY, NC, ND, OH, OK, PA, RI, SC, SD, TN, TX, VT, VA, WV, and WI. (Hearing site: Chicago, IL.)

MC 141450 (Sub-10F), filed February 7, 1979. Applicant: WOOTEN TRANSPORT COMPANY, P.O. Box 731, Hazlehurst, GA 31519. Representative: Sol H. Proctor, 1101 Blackstone Bldg., Jacksonville, FL 32202. To operate as a *contract carrier*, by motor vehicle, in interstate or foreign commerce, over irregular routes, transporting (1) *containers and container parts*, from Homerville, GA, to those points in the United States in and east of ND, SD, NE, KS, OK, and TX (except ME, VT, NH, and MA); and (2) *materials and supplies* used in the manufacture of containers and container parts, from those points in the United States in and east of ND, SD, NE, KS, OK, and TX (except ME, VT, NH, and MA), to Homerville, GA, under continuing contract(s) with Standard Container, of Homerville, GA. (Hearing site: Jacksonville, FL, or Atlanta, GA.)

MC 141781 (Sub-15F), filed February 6, 1979. Applicant: LARSON TRANSFER & STORAGE COMPANY, INC., 10700 Lyndale Avenue South, Minneapolis, MN 55420. Representative: Samuel Pubenstein, 301 North Fifth Street, Minneapolis, MN 55403. To operate as a *common carrier*, by motor vehicle, in interstate or foreign commerce, over irregular routes, transporting *chain saws, snow-throwers, and garden, lawn, turf and golf course care equipment*, from the facilities of the Toro Company, at or near Windom and Minneapolis,

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MN, and Tomah, WI, to points in AL, AR, FL, GA, KY, LA, MS, NC, SC, and TN, restricted to the transportation of traffic originating at the named origins and destined to the named destinations. (Hearing site: Minneapolis or St. Paul, MN.)

Note.—Dual operations may be involved.

MC 142130 (Sub-4F), filed February 1, 1979. Applicant: CRESCENT INDUSTRIES, INC., P.O. Box 18146, Dallas, TX 75218. Representative: E. Larry Wells, Suite 1125, Exchange Park, P.O. Box 45538, Dallas, TX 75245. To operate as a *common carrier*, by motor vehicle, in interstate or foreign commerce, over irregular routes, transporting (1) *missiles and aircraft*; (2) *engines, parts, and equipment* for missiles and aircraft; and (3) *devices* used for the transportation of the commodities named in (1) and (2) above, (a) between points in Sacramento County CA, on the one hand, and, on the other, points in UT, WY, CO, NM, KS, OK, and TX and (b) between points in Sacramento County, CA, on the one hand, and, on the other, Lockhaven, PA, Wayne, MI, Alliance and Middletown, OH, Cape Girardeau, MO, and Riverdale, MD. (Hearing site: Dallas, TX, or Washington, DC.)

MC 142130 (Sub-5F), filed February 2, 1979. Applicant: CRESCENT INDUSTRIES, INC., P.O. Box 18146, Dallas, TX 75218. Representative: E. Larry Wells, Suite 1125, Exchange Park, P.O. Box 45538, Dallas, TX 75245. To operate as a *common carrier*, by motor vehicle, in interstate or foreign commerce, over irregular routes, transporting (1) *missiles and aircraft*, (2) *engines, parts, and equipment* for missiles and aircraft; and (3) *devices* used for the transportation of the commodities named in (1) and (2) above, between points in ME, NH, VT, MA, RI, CT, NY, NJ, MD, DE, VA, WV, PA, OH, MI, and DC, on the one hand, and, on the other, points in NE, KS, OK, TX, NM, AZ, CA, UT, CO, and WY. (Hearing site: Dallas, TX, or Washington, DC.)

MC 143701 (Sub-7F), filed February 5, 1979. Applicant: WILLIAM OBERSTE, INC., 5733 Airline Highway OFC 805, Metairie, LA 70003. Representative: Lester C. Arvin, 814 Century Plaza Bldg., Wichita, KS 67202. To operate as a *common carrier*, by motor vehicle, in interstate or foreign commerce, over irregular routes, transporting *plastic materials and commodities* used in the manufacture of plastic materials (except commodities in bulk), from Houston, TX, and Baton Rouge, Marksville, and Lake Charles, LA, to points in AL, FL, GA, IL, KY, MN, NC, OH, PA, SC, TN, VA, WI, and WV. (Hearing site: New Orleans, LA, or Atlanta, GA.)

MC 143960 (Sub-1F), filed February 6, 1979. Applicant: LEONARD ESTES, d.b.a. LEONARD ESTES TRUCKING COMPANY, Route #1 Box 248–D, Hamilton, AL 35570. Representative: John Self, P.O. Box 597, Hamilton, AL 35570. To operate as a *contract carrier*, by motor vehicle, in interstate or foreign commerce, over irregular routes, transporting *lumber*, from Guin, AL, to Clarksdale and Eupora, MS, Crossville, Selmer, and Henry, TN, under continuing contract(s) with Universal Forest Products, Inc., of Guin, AL. (Hearing site: Birmingham, AL.)

MC 144630 (Sub-12F), filed January 25, 1979. Applicant: STOOPS EXPRESS, INC., 2239 Malibu Court, Anderson, IN 46011. Representative: Donald W. Smith, P.O. Box 40248, Indianapolis, IN 46240. To operate as a *common carrier*, by motor vehicle, in interstate or foreign commerce, over irregular routes, transporting *overhead door sections, materials, and hardware* used in the manufacture and sale of overhead door sections, between the facilities of Overhead Door Corporation, at Dallas and Ft. Worth, TX, on the one hand, and, on the other, points in IN, MI, KY, OH, CA, and GA. (Hearing Site: Indianapolis, IN.)

Note: Dual operations may be involved.

MC 144661 (Sub-4F), filed February 1, 1979. Applicant: F. A. MILLER, INC., P.O. Box 401, Rexburg, ID 83440. Representative: Timothy R. Stivers, P.O. Box 162, Boise, ID 83701. To operate as a *contract carrier*, by motor vehicle, in interstate or foreign commerce, over irregular routes, transporting (1) *pre-cut log home packages*, from the facilities of Authentic Log Homes, at points in Albany County, WY, to those points in the United States in and west of MN, WI, IL, MO, AR, and LA (except AK and HI); (2) *lumber, lumber mill products, and particleboard*, from points in ID, to points in Albany County, WY, under continuing contract(s) in (1) and (2) above with Authentic Homes Corporation, of Laramie, WY; (3) *lumber, lumber mill products, and particleboard*, from those points in WA on and east of U.S. Hwy 97, those points in ID and MT on and west of Interstate Hwy 15, to points in CO and WY, under continuing contract(s) with Idaho Forest Industries, Inc., of Coeur d' Alene, ID; and (4) *lumber, lumber mill products, and particleboard*, (a) from points in OR, WA, and ID, to points in CA, and (b) from points in CA, to points in CO, UT, and WY, under continuing contract(s) with Intermountain-Orient, Inc., of Boise, ID. (Hearing Site: Boise, ID.)

MC 145541 (Sub-1F), filed February 5, 1979. Applicant: SUNWAY CORPORATION, 116 W. Main St., Thomasville, NC 27360. Representative: Stephen L. Ervin, Fairview Ch. Rd., P.O. Box 22, Trinity, NC 27370. To operate as a *common carrier*, by motor vehicle, in interstate or foreign commerce, over irregular routes, transporting *new furniture, furniture parts, and materials* used in the manufacture of new furniture, from points in Appomattox County, VA, and points in Caldwell, Catawba, Davidson, Forsyth, Guilford, and McDowell Counties, NC, to points in AZ, CA, and TX. (Hearing Site: Charlotte, NC, or Washington, DC.)

MC 145571 (Sub-1F), filed February 6, 1979. Applicant: RALPH AARON, JAMES BARTHOLOMEW AND AUBRY WILLIS, d.b.a. ABW TRUCKING COMPANY, P.O. Box 113, Scotts Hill, TN 38374. Representative: Roland M. Lowell, 618 United American Bank Bldg., Nashville, TN 37219. To operate as a *contract carrier*, by motor vehicle, in interstate or foreign commerce, over irregular routes, transporting *rock, sand, gravel, and base materials*, from points in Hardin County, TN, to points in Tishomingo County, MS, under continuing contract(s) with Clyd Owens Sand and Gravel, Inc., of Collierville, TN. (Hearing Site: Memphis, TN.)

MC 145660 (Sub-2F), filed January 31, 1979. Applicant: CALLISTER & SONS TRUCKING, 3077 Midwest Drive, Salt Lake City, UT 84118. Representative: Stuart L. Poelman, 700 Continental Bank Building, Salt Lake City, UT 84101. To operate as a *common carrier*, by motor vehicle, in interstate or foreign commerce, over irregular routes, transporting *lumber, lumber mill products, and wood fiber building materials*, from points in CA in and north of Sonoma, Napa, Solano, San Joaquin, Calaveras, and Tuolumne, and points in WA and OR, to points in UT, ID, WY, and CO. (Hearing Site: Salt Lake City, UT, or Portland, OR.)

MC 146230F, filed January 29, 1979. Applicant: J & V TRUCKING COMPANY, INC., 617 River Rouge Drive, Nashville, TN 37209. Representative: George M. Catlett, 708 McClure Building, Frankfort, KY 40601. To operate as a *contract carrier*, by motor vehicle, in interstate or foreign commerce, over irregular routes, transporting *rubber articles, and materials, equipment, and supplies* used in the manufacture, sale, and distribution of rubber articles, (1) between Franklin, KY, and Hot Springs, AR, on the one hand, and, on the other, points in the United States on and west of a line beginning at the mouth of the Mississippi River, and extending along the Mississippi River to junction with western boundary of Itasca County, MN, then northward along the western boundaries of Itasca and Koochiching Counties, MN, to the international boundary line between the United States and Canada, and (2) between Franklin, KY, on the one hand, and, on the other, Hot Springs, AR, under continuing contract(s) with Alliance Rubber Company, Inc., of Franklin, KY. (Hearing site: Nashville, TN, or Louisville, KY.)

MC 146251 (Sub-1F), filed January 26, 1979. Applicant: CLAXTON TRANSPORT, INC., Route 3, Box 135, Wrightsville, GA 31096. Representative: Ronald K. Kolins, 1055 Thomas Jefferson Street, N.W., Suite 308, Washington, DC 20007. To operate as a *common carrier*, by motor vehicle, in interstate or foreign commerce, over irregular routes, transporting (1) *newsprint paper*, from points in Laurens County, GA, to points in AL, AR, FL, GA, IL, IN, KS, KY, LA, MD, MO, MS, NC, OH, OK, PA, SC, TN, EX, VA, and WV; and (2) *waste newspaper, cores, materials, supplies, and equipment* used in the manufacture of newsprint paper, from points in AL, AR, FL, GA, IL, IN, KS, KY, LA, MD, MO, MS, NC, OH, OK, PA, SC, TN, TX, VA, and WV, to points in Laurens County, GA. (Hearing site: Atlanta, Ga.)

MC 146350F, filed February 1, 1979. Applicant: ARKAY COMPANY, INC., Star Route—East Lake Road, Guntersville, AL 35976. Representative: Donald B. Sweeney, Jr., 603 Frank Nelson Building, Birmingham, AL 35203. To operate as a *common carrier*, by motor vehicle, in interstate or foreign commerce, over irregular routes, transporting (1) *feed, feed ingredients, and minerals*, (except commodities in bulk), from the facilities of Southeastern Minerals, Inc. and Eastern Minerals, Inc., at or near Bainbridge, GA, Marshall, TX, and Henderson, NC, to points in AL, AR, DE, IL, IN, KY, LA, MD, MS, NC, OH, PA, SC, TN, TX, VA, and WV; and (2) *materials and supplies* used in the manufacture of the commodities named in (1) above, (except commodities in bulk), from points in AL, AR, DE, IL, IN, KY, LA, MD, MS, NC, OH, PA, SC, TN, TX, VA, and WV, to the facilities of Southeastern Minerals, Inc. and Eastern Minerals, Inc., at or near Bainbridge, GA, Marshall, TX, and Henderson, NC. (Hearing site: Birmingham, AL, or Atlanta, GA.)

MC 146470F, filed February 5, 1979. Applicant: MONARCH TRANSPORTATION, INC., P.O. Box 1257, Omaha, NE 68101. Representative: Scott E. Daniel, 800 Nebraska Savings Bldg., 1623 Farnam Street, Omaha, NE 68102. To operate as a *contract carrier*, by motor vehicle, in interstate or foreign commerce, over irregular routes, transporting (1) *asphalt emulsions, and building and road construction materials*, in bulk, in tank vehicles, from the facilities of Monarch Asphalt Oils, Inc., at Omaha, NE, to points in IA, SD, MN, KS, NE, and MO; (2) *coal tar emulsions*, from Omaha, NE, and Kansas City, MO, to points in KS, NE, IA, SD, MO, and MN; (3) *asphalt and road oils*, from Omaha, NE, Sugar Creek, MO, Sioux Falls, SD, St. Paul, MN, Casper and Cheyenne, WY, Denver, CO, and Points in KS, to points in KS, NE, SD, IA, MN, and MO; and (4) *aggregates, hot mix, and construction materials, equipment, and supplies* (except liquids in bulk), between points in KS, NE, SD, IA, MN, and MO, under continuing contract(s) with Monarch Asphalt Oils, Inc., of Omaha, NE. (Hearing site: Omaha, NE.)

MC 146471F, filed February 1, 1979. Applicant: SERVALL TRANSPORT LIMITED, 176 Creditstone Road, Concord, Ontario, Canada L4K 1B1. Representative: Rex Eames, 900 Guardian Building, Detroit, MI 48226. To operate as a *common carrier*, by motor vehicle, in interstate or foreign commerce, over irregular routes, transporting *iron and steel and iron and steel articles*, between Detroit, MI, on the one hand, and, on the other ports of entry on the international boundary line between the United States and Canada, at or near Detroit, MI. (Hearing site: Detroit or Lansing, MI.)

Broker Authority

MC 130551F, filed January 29, 1979. Applicant: CONNECTICUT MOTOR CLUB, INC., 2276 Whitney Avenue, Hamden, CT 06518. Representative: Thomas O. Terrace, P.O. Box No. 1820, 33 Whitney Avenue, New Haven, CT 06508. To engage in operations, in interstate or foreign commerce, as a *broker*, at Hamden, CT, in arranging for the transportation, by motor vehicle of *passengers and their baggage*, in the same vehicle with passengers, in round-trip special and charter operations, beginning and ending at points in New Haven, Litchfield, and Fairfield Counties, CT, and points of entry on the international boundary line between the United States and Canada. (Hearing site: New Haven or Bridgeport, CT.)

Freight Forwarder Authority

FF 501 (Sub-1F), filed February 2, 1979. Applicant: ECONOCARIBE CONSOLIDATORS, INC., 2929 N.W. 73rd Street, Miami, FL 33147. Representative: Bruce E. Mitchell, Fifth Floor—Lenox Towers South, 3390 Peachtree Road, Atlanta, GA 30326. To operate as a *freight forwarder*, through use of the facilities of common carriers by rail or motor, in the transportation of *general commodities* (except commodities in bulk, in tank vehicles), from points in the United States (except AK and HI), to New Orleans, LA, Houston, TX, and points in FL, restricted to the transportation of traffic having an immediate subsequent movement by water in foreign commerce, and restricted to service in substitution for water operations in conjunction with applicant's non-vessel operations. (Hearing site: New Orleans, LA, or Miami, FL.)

[Permanent Authority Decisions Volume No. 43]
[FR Doc. 79-14486 Filed 5-8-79; 8:45 am]
BILLING CODE 7035-01-M

Texas Intrastate Freight Rates and Charges—1979 [1]

Decided: May 1, 1979.

By petitions filed March 23, 1979 ten common carriers by railroad operating in intrastate commerce in the State of Texas request that this Commission institutes an investigation of their Texas intrastate freight rates and charges, under 49 U.S.C. 11501 and 11502 (formerly section 13 of the Interstate Commerce Act). They seek an order authorizing them to increase such rates and charges in the same amounts approved for interstate application by this Commission in Ex Parte No. 349. Petitioners have stated grounds sufficient to warrant instituting an investigation.

It is ordered: The petition is granted. An investigation, under 49 U.S.C. 11501 and 11502, is instituted to determine whether the Texas State rail freight rates in any respect cause any unjust discrimination against or any undue burden on interstate or foreign commerce, or cause undue or

[1] This decision embrace a petition, No. 37150, filed by St. Louis Southwestern Railway Company; a petition, 37150 (Sub-No. 1), filed by the Southern Pacific Transportation Company, and a joint petition, 37150 (Sub-No. 2) filed by The Atchison, Topeka and Santa Fe Railway Company; Chicago, Rock Island and Pacific Railroad Company; Fort Worth and Denver Railway Company; The Kansas City Southern Railway Company; Lousisana & Arkansas Railway Company; Missouri-Kansas-Texas Railroad Company; Missouri Pacific Railroad Company, and Saint Louis-San Francisco Railway Company.

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unreasonable advantage, preference, or prejudice as between persons or localities in intrastate commerce and persons or localities in interstate or foreign commerce, or are otherwise unlawful, by reason of the failure of such rates and charges to include the full increases authorized for interstate application by this Commission in Ex Parte No. 349. In the investigation we shall also determine if any rates or charges, or maximum or minimum charges, or both, should be prescribed to remove any unlawful advantage, preference, discrimination, undue burden, or other violation of law, found to exist.

All persons who wish to participate in this proceeding and to file and receive copies of pleadings shall make known that fact by notifying the Office of Proceedings, Room 5342, Interstate Commerce Commission, Washington, D.C. 20423, on or before May 24, 1979. Although individual participation is not precluded, to conserve time and to avoid unnecessary expense, persons having common interests should endeavor to consolidate their presentations to the greatest extent possible. This Commission desires participation of only those who intend to take an active part in this proceeding.

As soon as practicable after the last day for indicating a desire to participate in the proceeding, this Commission will serve a list of names and addresses on all persons upon whom service of all pleadings must be made. Thereafter, this proceeding will be assigned for oral hearing or handling under modified procedure.

A copy of this decision shall be served upon each of the petitioners. Texas shall be notified of the proceeding by sending copies of this decision by certified mail to the Governor of the State of Texas and Railroad Commission of Texas. Further notice of this proceeding shall be given to the public by a copy of this decision in the Office of the Secretary of the Interstate Commerce Commission at Washington, D.C., and by filing a copy with the Director, Office of the Federal Register, for publication in the **Federal Register**.

This is not a major federal action significantly affecting the quality of the human environment. Furthermore, this decision is not a major regulatory action under the Energy Policy and Conservation Act of 1975.

By the Commission, Alan Fitzwater, Director, Office of Proceedings.

H. G. Homme, Jr.,
Secretary.

[Decision No. 37150]

[FR Doc. 79-14482 Filed 5-8-79; 8:45 am]

BILLING CODE 7035-01-M

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Sunshine Act Meetings

Federal Register
Vol. 44, No. 91
Wednesday, May 9, 1979

This section of the FEDERAL REGISTER contains notices of meetings published under the "Government in the Sunshine Act" (Pub. L. 94-409) 5 U.S.C. 552b(e)(3).

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1

FEDERAL ENERGY REGULATORY COMMISSION.

May 7, 1979.

TIME AND PLACE: 9 a.m., May 7, 1979.

PLACE: Hearing room F, 825 North Capitol Street NE., Washington, D.C. 20426.

STATUS: Closed.

MATTERS TO BE CONSIDERED: Continued meeting from May 4, 1979, on matter relating to an investigation.

CONTACT PERSON FOR MORE INFORMATION: Kenneth F. Plumb, Secretary (202) 275-4166.

[S-918-79 Filed 5-7-79; 10:05 am]

BILLING CODE 6740-02-M

2

FEDERAL MARITIME COMMISSION.

"FEDERAL REGISTER" CITATION OF PREVIOUS ANNOUNCEMENT: May 3, 1979, 44 FR 25969.

PREVIOUSLY ANNOUNCED TIME AND DATE OF THE MEETING: 10 a.m., May 9, 1979.

CHANGE IN THE MEETING: Addition of the following item to the closed session:

3. Litigation with Baltic Shipping Company.

[S-915-79 Filed 5-7-79; 9:24 am]

BILLING CODE 6730-01-M

3

FEDERAL MINE SAFETY AND HEALTH REVIEW COMMISSION.

TIME AND DATE: 10 a.m., May 4, 1979.

PLACE: Room 600, 1730 K Street NW., Washington, D.C.

STATUS: Closed (pursuant to 5 U.S.C. 552b(C) (10)).

MATTER CONSIDERED: 3. FMSHRC Cases in Appellate Courts:

1. Jones v. Oliver, NORT 78-415.
2. Shamrock Coal v. FMSHRC, BARB 78-152-P.
3. Richardson v. Peabody Coal, BARB 78-600-P.
4. Cowin and Co. v. FMSHRC, HOPE 76-210-P.
5. Grundy Mining Co. v. Secretary of Labor, BARB 78-168-P.

VOTE: Voting to close that part of the meeting: Commissioners Waldie (Chairman), Lawson, Nease, Jestrab and Backley. It was determined by this vote that Commission business required that this meeting be closed. Further the Commission members voted to hold the meeting immediately on the basis that agency business so required and to issue public notice as soon as practicable.

ATTENDANCE: Present at that closed part of the meeting were; Commissioners Waldie (Chairman), Lawson, Nease, Jestrab and Backley; Al Treherne, Robert Phares, Mary Masulla, Arthur Sapper, Nathaniel Speights, Dan Delacey, Joanne Kelley, Carolyn Crittenden and Cris Gilbert.

CONTACT FOR MORE INFORMATION: Joanne Kelly, 202-653-5632.

[S-916-79 Filed 5-7-79; 9:24 am]

BILLING CODE 6735-01-M

4

FEDERAL MINE SAFETY AND HEALTH REVIEW COMMISSION.

May 4, 1979.

TIME AND DATE: 10 a.m., May 11, 1979.

PLACE: Room 600, 1730 K Street NW., Washington, D.C.

STATUS: Open.

MATTERS TO BE CONSIDERED: The Commission will consider and act upon the following agenda items:

1. Iselin Preparation Co., PITT 78-343,344.
2. Secretary of Labor v. Allied Chemical Co., HOPE 78-722-P (Petition for Discretionary Review).
3. Ronnie R. Ross v. Monterey Coal Co., VINC 78-36 (Petition for Discretionary Review).

CONTACT PERSON FOR MORE INFORMATION: Joanne Kelley 202-653-5632.

[S-917-79 Filed 5-7-79; 9:25 am]

BILLING CODE 6735-01-M

5

NATIONAL COMMISSION ON LIBRARIES AND INFORMATION SCIENCE.

White House Conference on Library and Information Services, Information Community Advisory Committee.

TIME AND DATE: 11 a.m., May 15, 1979.

PLACE: Hamilton Room, Hay-Adams Hotel, 800 16th Street NW., Washington, D.C.

STATUS: Open.

MATTERS TO BE DISCUSSED:

Review of important developments since last meeting.
Report of Exhibits Subcommittee.
Discussion of Program for White House Conference.
Outline of future activity.

CONTACT PERSON FOR MORE INFORMATION: Barry Jagoda, Coordinator (202) 342-9300.

Marilyn K. Gell,
Director.

May 3, 1979.

[S-918-79 Filed 5-7-79; 3:01 pm]

BILLING CODE 7527-01-M

6

NUCLEAR REGULATORY COMMISSION.

TIME AND DATE: May 8 and 11, 1979.

PLACE: Commissioners conference room, 1717 H Street NW., Washington, D.C.

STATUS: Open/closed.

MATTERS TO BE CONSIDERED:

Tuesday, May 8—11 a.m.

1. Briefing on Interagency Radiological Assistance Program (postponed from April 3, approximately 1 hour, public meeting).

Friday, May 11—9:30 a.m.

1. Discussion of NEPA Regulations (approximately 1 hour, public meeting).
2. Recess (5 minutes).
3. Discussion of Personnel Matter (approximately 1½ hours, closed—Exemption 6).

Noon—Recess.

Friday May 11—1:30 p.m.

1. Briefing on Legislative Matters (approximately 1½ hours, public meeting).
2. Recess (5 minutes).
3. Discussion of Upgrade Rule and Supporting Guidance (postponed from April 2, approximately 1½ hours, closed—Exemption 1).
4. Recess (5 minutes).
5. Affirmation session (approximately 5 minutes, public meeting).

V

a. Radiation Exposure to Transient Workers.
b. Physical Protection of Material.

CONTACT PERSON FOR MORE INFORMATION: Roger Tweed (202) 634–1410.

Roger M. Tweed,
Office of the Secretary.

May 4, 1979.

[S–920–79 Filed 5–7–79; 3:13 p.m.]

BILLING CODE 7590–01–M

7

NUCLEAR REGULATORY COMMISSION.

TIME AND DATE: Thursday, May 3, 1979.

PLACE: Commissioners conference room, 1717 H Street, NW., Washington, D.C.

STATUS: Open.

MATTERS TO BE CONSIDERED: Thursday, May 3—5 p.m.—Staff Briefing on Oyster Creek (approximately 1 hour, public meeting).

ADDITIONAL INFORMATION: The Commission voted 5–0 on May 3, that pursuant to 5 U.S.C.b(e)(1) and § 9.107(a) of the Commission's Rules, that Commission business requires that the above meeting be held on less than one week's notice to the public. Prompt discussion was required to permit consideration of this important issue.

CONTACT PERSON FOR MORE INFORMATION: Roger Tweed (202) 634–1410.

Roger M. Tweed,
Office of the Secretary.

May 3, 1979.

[S–921–79 Filed 5–7–79; 3:13 pm]

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federal register

Wednesday
May 9, 1979

Part II

Environmental Protection Agency

Proposed Health Effects Test Standards for Toxic Substances Control Act Test Rules

Good Laboratory Practice Standards for Health Effects

ENVIRONMENTAL PROTECTION AGENCY

[40 CFR Parts 770, 771, and 772]

Proposed Health Effects Test Standards for Toxic Substances Control Act Test Rules

AGENCY: Environmental Protection Agency.

ACTION: Proposed rule and notice of public meetings.

SUMMARY: This action proposes test standards for the development of data on the chronic health effects of chemical substances and mixtures for which testing will be required under the Toxic Substances Control Act (TSCA). With this proposal, the Environmental Protection Agency (EPA) initiates the process to codify these standards for incorporation into future TSCA Section 4 test rules. The Agency may also use these standards to respond to Section 4(g) petitions for test standards for new chemical substances. This proposal provides standards for testing for oncogenic (tumor-inducing) effects, other (non-oncogenic) chronic effects, and combined oncogenic and non-oncogenic chronic effects, by prescribing standards relating to experimental design, the conduct of tests, data evaluation, and other test requirements.

EPA proposes these test standards under Section 4(b) of TSCA. The ultimate purpose of the proposed standards is to assure that data developed under Section 4 test rules can be used by EPA to determine whether the tested chemicals present an unreasonable risk of oncogenic or other chronic effects and to support regulatory actions to eliminate or reduce such risk. The standards proposed at this time pertain to general provisions for the conduct of long-term laboratory animal bioassays. This proposal does, however, include general provisions that would apply to all TSCA health and environmental effects test rules. Standards for Good Laboratory Practices are also proposed in a separate part of today's Federal Register.

The Agency recognizes that long-term health effects testing is expensive and time-consuming. Estimates of the costs of performing tests in accordance with these proposed standards are presented in Section VI of this preamble. TSCA requires EPA to be selective in designating chemicals to be tested and in specifying the tests to be performed. Thus, to conclude from this proposal that large numbers of chemicals will routinely be subject to both oncogenic and non-oncogenic testing in accordance with the proposed standards would be erroneous and would give a misleading impression as to the likely economic impact of the TSCA testing program. Even so, the Agency is interested in ways of reducing the cost of performing oncogenic and non-oncogenic effects testing, insofar as the costs can be reduced without significantly impairing the reliability of test results and their usefulness for hazard assessment. EPA therefore will welcome and carefully consider suggestions for reducing costs.

DATES: Interested persons are invited to submit written comments to the EPA on these proposed test standards prior to the close of business on or before August 7, 1979. See section VII, Public participation, for further information.

PUBLIC MEETINGS: EPA has scheduled public meetings on these proposed standards. These meetings will be held during the week of July 9 in Chicago and during the week of July 16 in Washington, D.C. Additional information on these meetings incuding dates, times and locations, is presented in Section VIII, Public Meetings.

ADDRESSES: Written views and comments should bear the document control number OTS No. 046003 and should be submitted to: Ms. Joyce A. Barbour, Chemical Information Division, Office of Toxic Substances (TS–799), Environmental Protection Agency, 401 M Street SW., Washington, DC 20460.

FOR INFORMATION CONTACT: Industry Assistance Office, Office of Toxic Substances (TS–799), Environmental Protection Agency, 401 M Street, SW., Washington, D.C. 20460, Telephone No.: 800–424–9065 (toll-free) (In Washington, DC, call 544–1404).

SUPPLEMENTARY INFORMATION: A Support Document which provides the scientific bases for the test standards and discussions related economic and confidentiality issues is available upon request from the Industry Assistance Office, Office of Toxic Substances (TS–799), U.S. Environmental Protection Agency, 401 M Street, S.W., Washington, DC 20460. The Support Document must be read together with the preamble to obtain a complete explanation of the basis of this rule.

The following is an index to the remainder of this preamble.

I. Introduction—Statutory Framework—General, Test Standards, Chemical Identification, Relation to Premanufacture Notification, Applicability of Test Standards, Implementation.
II. Basis and Purpose—
III. Proposed test standards—General, Summary of Standards, Definitions, Submission of Study Plan, Personnel Qualifications, Chemical Analyses, Dietary Considerations, Reporting Requirements, Animal Selection, Use of Positive Controls, Age at Start of Exposure, Route(s) of Exposure, Number of Animals, Duration of Exposure/Observation Period, Dose Selection, Clinical Procedures, Pathology Examination, Additional Scientific Studies, Request for Comments on Proposed Test Standards.
IV. Policy considerations—Relationship to EPA Pesticide Registration Guidelines, Relationship to Interagency and International Test Guidelines, Specificity of Details in Standards, Future Health Effects Test Standards.
V. General Provisions—Information and Definitions, Confidentiality and Public Access to Information, Revision and Modifications of Test Standards, Compliance.
VI. Economic analysis—
VII. Public participation—
VIII. Public meetings—
IX. Public record.

I. Introduction

Under Section 4(b) of the Toxic Substances Control Act (TSCA) (Public Law 94–469; 90 Stat. 2006; 15 USC 2603), the EPA proposes standards for testing chemicals for chronic health effects. The proposal includes standards for long-term animal bioassays to test for oncogenic effects, and other (non-oncogenic) chronic effects. In addition to the standards proposed here, the Agency is also proposing standards for Good Laboratory Practices in a separate part of today's Federal Register.

Later this year, the Agency will propose the first chemicals to be tested in accordance with Section 4 test standards. In the present rulemaking to codify test standards, the issues center on the suitability of the proposed generic standards for testing chemicals under future Section 4 test rules. In later rulemakings to identify chemicals for testing, the issues will center on the need to test the identified chemicals.

When EPA determines that chemicals satisfy the testing prerequisites in Section 4(a), these chemicals will be joined in Section 4(a) test rules with the standards finalized as a result of today's proposal, or with revisions or modifications of these standards, as necessary and appropriate.

This preamble outlines EPA's legal authority to require testing of chemicals in accordance with test standards, discusses the use of test data for assessing the risk potential of toxic chemicals, and introduces the first Section 4 test standards to be proposed under TSCA.

Statutory Framework

General.—Section 4 of the Toxic Substances Control Act authorizes the Administrator of the Environmental Protection Agency to require manufacturers (including importers) and processors of identified chemical substances and mixtures to test the chemicals in accordance with applicable EPA test rules (Section 4(a), (b)). This regulatory authority implements Congress' stated intent that "adequate data should be developed with respect to the effect of chemical substances and mixtures on health and the environment and that development of such data should be the responsibility of those who manufacture and those who process such chemical substances and mixtures" (Section 2(b) (1)).

TSCA states that each Section 4(a) test rule must identify the chemical substances and mixtures for which testing is required, provide standards for the development of test data ("test standards"), and, for chemicals which are not new chemicals, designate deadlines for the submission of data developed under the rule (Section 4(b)(1)).

In today's action, EPA proposes test standards for oncogenic effects, non-oncogenic chronic effects, and combined chronic effects. In future actions, EPA will propose Section 4(a) test rules which identify specific chemical substances and mixtures which are to be tested, give deadlines for the submission of test data to the EPA, and specify the persons (Sponsors) who are required to conduct tests and submit data to the Agency. The Sponsor(s) may be the manufacturer(s), processor(s), or both, of the specified chemical.

Test standards.—TSCA specifies that each test rule must include standards for the development of test data. The test standards must prescribe the health and environmental effects, and the information relating to toxicity, persistence, and other characteristics which affect health and the environment for which test data for a chemical substance or mixtures are to be developed, and any analysis that is to be performed on such data (Sections 4(b)(1) and 3(12)(A). The Act states that carcinogenesis mutagenesis, teratogenesis, behavioral disorders, cumulative or synergistic effects and any other effect which may present an unreasonable risk of injury to health or the environment are effects for which test standards may be prescribed (Section 4(b)(2)(A)). The Act further specifies that the characteristics of chemical substances and mixtures for which such standards may be prescribed include persistence, acute toxicity, subacute toxicity, chronic toxicity, and any other characteristic which may present such a risk (Section 4(b)(2)(A)).

In addition, to assure reliable and adequate data for such health and environmental effects, each test rule must include standards which prescribe the manner in which data are to be developed, any test methodolgy to be employed in the development of such data, and such other requirements as are necessary to provide such assurance (Sections 4(b)(1)(B) and 3 (12)(B)). The Act specifies that the methodologies that may be prescribed in such standards include epidemiological studies, serial or hierachical tests, *in vitro* tests, and whole animal tests (Section 4(b)(2)(A)).

Chemical identification.—In order to require that a chemical be tested in accordance with EPA test standards, the Administrator must make three findings relating to the chemical's risk potential and the insufficiency of data then available to EPA.

First, the Administrator must find either that the manufacture, distribution in commerce, processing, use, disposal, or some combination of these activities involving the chemical may present an unreasonable risk of injury to health or the environment, or that the chemical is or will be produced in substantial quantities and that there is or may be significant or substantial human or environmental exposure to the chemical (Sections 4(a)(1)(A)(i) and (B) (i)).

Second, the Administrator must find that existing data and experience relating to the chemical are insufficient to reasonably determine or predict the effects on health or the environment of the manufacture, distribution in commerce, processing, use, or disposal of the chemical or of any combination of these activities. (Sections 4(a)(1)(A)(ii) and (B)(ii)).

The third finding is that testing is necessary to develop the requisite data (Sections 4(a)(1)(A)(iii) and (B)(iii)).

Section 26(c)(1) provides that any action authorized or required under any provision of the Act with respect to a chemical substance or mixture may be taken with respect to a "category of chemical substances or mixtures." Section 26(c)(2)(A) explains that the term "category of chemical substances" means a group of chemical substances the members of which are similar in molecular structure, in physical, chemical, or biological properties, in use, or in mode of entrance into the human body or the environment, or the members of which are in some other way suitable for classification as such for purposes of the Act, except that such term does not mean a group of chemical substances which are grouped together solely on the basis of their being new chemical substances.

The Administrator may require testing of mixtures only if, in addition to the foregoing findings, he finds that the necessary information cannot reasonably and more efficiently be obtained by testing the separate components in the mixtures (Section 4(a)(2)). Also, chemicals manufactured, processed, or distributed in commerce for use as pesticides, food additives, drugs, and cosmetics are among the chemicals to which TSCA, including the testing authority, does not generally apply (Section 3(2)(B)). However, such chemicals may be tested under Section 4 if they are also manufactured, processed, or distributed in commerce for other uses not excluded from TSCA authority.

Relation to premanufacture notification.—Under Section 5 of the TSCA any person who intends to manufacture a new chemical substance for commercial purposes in the United States must submit a notice to the EPA at least 90 days before such manufacture (or import) commences. The person must describe intended production, use and disposal plans, data on chemical and biological properties, and other information relating to the new chemical substance (Sections 5(a), (d)(1)). On January 10, 1979, the Agency proposed regulations and forms to implement the Section 5 notification requirements (44 FR 2242). The preamble to that proposal reviews the relevant statutory provisions and discusses the Agency's plans for implementation of Premanufacturing Notification.

The notification requirements in Section 5(b)(1) and the categorization authority in Section 26(c) require manufacturers of new chemical substances that are in a category for which testing is required under Section 4, to conduct the tests required for the category and submit the data with the premanufacture notification form. Specifically, Section 5(b)(1) provides that if a person is required both to submit a premanufacture notice to the Administrator and to submit test data for the substance under a Section 4 rule, the person must submit the data in accordance with the rule at the time the premanufacture notice is submitted.

In addition, persons intending to submit a Section 5 Premanufacture Notice but who are not subject to a Section 4(a) test rule may petition the

Administrator to prescribe standards for the development of test data for such substance (Section 4(g)). The Administrator must either grant or deny the petition within 60 days and, if a petition is granted, the Administrator must prescribe standards within 75 days of the date the petition is granted.

Applicability of test standards.— Section 4(b)(3)(B) specifies that if the Administrator makes the Section 4(a) findings referenced in that section (See discussion of chemical identification, above), the relevant test rules apply to each person who manufactures or intends to manufacture, and/or to each person who processes or intends to process the chemical substances and mixtures for which test data is required. The section also provides that the Administrator may permit two or more of the manufacturers and/or processors who are required to conduct tests and submit data to the EPA to designate one such person or a qualified third person to conduct the tests and submit such data on behalf of the persons making the designation. Because TSCA defines "manufacuture" to include "import into the customs territory of the United States" (Section 3(7)), the term "manufacturer" is used to mean both manufacturers and importers in this preamble and in Section 4 test rules.

Under Section 4(c) any person required by a section 4(a) test rule to conduct tests and submit data may apply to the Administrator for an exemption from such requirement. If the Administrator determines that a chemical substance or mixture for which an exemption application was submitted is equivalent to a chemical substance or mixture for which data have been submitted to the Administrator under a Section 4(a) rule or are being developed under such a rule, and that submission of data by the applicant would be duplicative of data which have been submitted to the Administrator under a Section 4(a) rule or are being developed under such a rule, the Administrator shall exempt the applicant from conducting tests and submitting data (Section 4(c)(2)). In accordance with procedures and rules authorized but not yet implemented by Sections 4(c)(3) and 4(c)(4), those persons exempted from conducting testing and submitting data must reimburse those persons submitting the data on which the exemption was based.

Implementation

The Administrator will propose chemicals to be tested for chronic effects when the Agency has determined that such data are necessary to adequately assess whether or not the chemical(s) may present a risk of injury to human health.

Except as provided below, each proposed test rule which identifies chemicals for chronic toxicity testing will reference the appropriate test standards finalized through the rulemaking which this proposal initiates. The Administrator may proposed individualized modifications of these standards for certain chemical substances and mixtures. Also, TSCA requires the Administrator to review the adequacy of these test standards at least once each year and, if necessary, to institute appropriate proceedings to revise the standards (Section 4(b)(2)(B)).

Each proposal which identifies chemicals for testing will: specify the chemical and physical form of the chemical for which testing is required, give deadlines for the submission of data to EPA, specify the persons (manufacturers, processors, or both) who are required to conduct the tests and submit data to EPA, provide other information necessary to conduct the required tests, e.g., route of exposure, and any necessary modifications to the standards.

When persons intending to manufacture or process new chemical substances submit Section 4(g) petitions for chronic effects test standards, the Agency will prescribe the standards finalized through this rulemaking or modifications of these standards, as appropriate.

The Agency will generally use the legal authority and approach outlined in this section in developing other TSCA test rules. The legal authority for other aspects of Section 4(a) test rules and related EPA action will be detailed when those rules and related procedures are published.

II. Basis and Purpose

People are afflicted with a wide variety of chronic diseases, including various types of cumulative effects which impair organ functions and neoplasias. Among these chronic effects are lung conditions, such as chronic bronchitis, pneumoconiosis, and emphysema; chronic liver disease, such as cirrhosis; chronic kidney disease, such as nephrosis and chronic interstitial nephritis; chronic nervous conditions, such as impaired mental or motor activity, and neuropathies; chronic skin effects; bone demineralization; cataracts; hematopoietic and cardiovascular conditions and generalized emaciation and debilitation. Malignant neoplasias represent one particularly large group of over 200 different disease processes described generally as "cancer".

Because of the broad spectrum of human susceptibility, chronic diseases produce mild to severe health effects in humans of all ages, races, and nationalities, regardless of sex. Most of these conditions adversely affect the quality of life for the affected person and his or her family, impose significant health care costs, restrict employability and other normal activity, and reduce life expectancy.

The exact cause of a chronic disease is often difficult to determine for each individual. However, environmental agents such as radiation, viruses, and chemicals have been identified as potential factors in the etiology of many chronic diseases. Numerous studies have demonstrated a higher incidence of particular chronic conditions in human populations exposed to certain chemicals, especially those in the workplace. The same chronic diseases occurring in the general population may also be related to specific chemical exposure.

Because chronic disease is a major human health problem, the Agency proposes test standards for developing experimental animal data that would be used to assess the risks of chemically-induced chronic health effects in humans. The standards serve several different purposes in relation to this risk assessment objective.

First, testing in accordance with these standards would permit a determiniation of whether the chemical produces particular effects such as kidney damage, liver damage, or tumors in test animals. Second, the standards are designed to develop data of a kind and quality that will permit an estimate of the probable magnitude of harm to humans who may be exposed to the chemical. This information along with other considerations would permit the Agency to decide whether any regulatory action is appropriate. Finally, because the standards are designed to assure that test data are reliable and adequate for risk assessment purposes, the Agency, industry and the public would be confident that these data are reliable indicators of the nature and extent of the risk and that the Agency's regulatory decisions are based on sound data. When these test data indicate that the chemical may present a risk of injury to human health, the Agency will review that data in terms of regulatory measures available under Sections 5, 6, 7, and 9 of TSCA.

The Agency has selected long-term bioassays as the method for development of chronic health effects test data. Long experience has established that such bioassays provide toxicity data of the kind and quality required for chronic effects hazard evaluation. Such bioassays have predicted or confirmed the carcinogenic potential for chemicals such as vinyl chloride, benzidine, 4-aminobiphenyl, bis(chloromethyl)ether, diethylstilbesterol, beta-naphthylamine, aflatoxin, and asbestos which are now widely accepted as carcinogens in humans. Data from animal bioassays have provided valuable data on which to base regulatory actions to restrict the use of these injurious chemicals and thereby reduce the risk to humans.

The importance and utility of long-term animal bioassays for development of test data on chronic health effects stems in part from the limits on other approaches to the development of such data. For example, in many cases, human studies cannot be conducted for ethical or legal reasons or because of scientific considerations such as the inability to identify a population that has been exposed to the chemical under conditions that permit meaningful scientific analysis.

Morover, even when such populations can be identified, it has been difficult, or in some cases impossible, to confirm by studies of humans a direct association of exposure to a specific chemical substance with a chronic disease. This is primarily due to: the long latency period (10–30 years in humans) for manifestation of many chronic disease states, exposure to several substances during that period, the inadequacy of personal histories or records on exposure to specific substances, concomitant factors such as smoking, malnutrition, infectious diseases, and genetic defects, and the great expense to conduct epidemiological studies having sufficient populations to demonstrate effects.

Thus, because epidemiological information is often impractical or impossible to apply to particular chemicals, such studies cannot always serve as a general methodology for ascertaining their chronic toxicity potential. When epidemiological data are available, they are often the best evidence for the identification of risk factors and hazardous processes that may result in excessive mortality rates. However, in the absence of such data, long-term animal bioassays provide the information necessary for this purpose.

III. Proposed Test Standards

General

This section of the Preamble summarizes the scientific base for the proposed test standards and reviews alternatives that the Agency considered. These issues are addressed in greater detail and with references in the Support Document for the proposed test standards. The proposed test standards have been modeled after generally accepted testing methodology and formulated on the basis of critical review by Agency scientists in consultation with scientists in industry, government, and universities.

Summary of Standards

The proposed test standards would require Sponsors to administer test chemicals to both sexes of at least two (2) species of laboratory animals, from weaning until 24–30 months of exposure and examine all animals in the study at their death for gross and microscopic abnormalities. There are some variations to the standards, depending upon the particular test to be conducted. The main differences are in number and types of species, doses and dose levels, duration of the tests and the extent of microscopic examination of tissues. For example, mice and rats are to be used in the oncogenic effects test, whereas rats and a non-rodent species are used in the test for other chronic effects. The combined test employs all three species. The number of doses varies with the particular test—three (3) for both the oncogenic effects test and for the non-oncogenic chronic effects tests, and either 3, 4 or 5 for the combined test, depending upon the species and the chemical. The proposed requirements for microscopic examination of tissues are more extensive in the chronic and combined chronic tests than in the oncogenic effects test. In addition to experimental design aspects, standards are proposed for the diet, chemical analysis, clinical examinations and scientist and technician qualifications.

Under these standards, persons subject to TSCA chronic effects test rules would develop and submit to the Agency the following kinds of information:

(a) Information relating to test methodology such as species tested, duration of test, exposure route(s), dose levels, clinical/pathological examinations, and any other methodological considerations prescribed in § 772.113 of this proposal;

(b) Information and data derived from these procedures such as data on the incidence of gross and microscopically-detected tumors or other lesions by species, sex, dose level, time on study, and data on clinical test results, and any other data and observations that relate to the chronic effects of the chemical in test animals;

(c) Information relating to Good Laboratory Practices such as nature and purity of the test substance, and qualifications of personnel conducting the tests, and other data prescribed in § 772.110–1.

(d) Analysis of data developed in the study, data describing deviations and departures from the prescribed protocols, and other factors which require qualification of the data or otherwise limit the interpretability of the data.

Definitions

"Chronic" effects refer to disease processes which have a long latency period for development, result from long-term exposure, are long-term illnesses, or combinations of these factors. Certain chronic effects, such as tumors or life-shortening, generally become manifest late in life regardless of the exposure. Other chronic effects, such as liver or kidney damage, may be similar to acute or subchronic effects observed after short-term exposures. They appear as chronic effects under conditions of less intense but longer exposure which might result in a gradual accumulation of tissue damage to the point that the effect eventually becomes manifest as an organ dysfunction. Oncogenic effects represent one major type of chronic effect requiring special considerations and thus separate standards are proposed.

The best standards for neoplasia, or tumor induction, are called "oncogenic" effects test standards rather than "carcinogenic" test standards, the term often used in the past. By strict definition, carcinogenicity pertains to invasive (or malignant) neoplasia arising from epithelial cells. The term oncogenicity includes the disease processes that result in benign and/or malignant neoplasms of any cell type and, thus, is considered the more appropriate term for these test standards.

Although the histogenesis of many benign neoplasms, and their eventual fate, is not fully known, medical scientists generally view benign neoplasms as significant because certain "benign" tumors may have serious consequences, including transformation to malignancy. For example, gliomas, benign brain tumors, and benign liver and kidney tumors

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often result in death or require radical surgical treatment.

Thus, these standards define an "oncogen" as a chemical agent that either initiates, promotes, or causes biologic changes that result in benign and/or malignant neoplasms.

Submission of Study Plan

The standards propose submittal of a Study Plan ninety days prior to initiation of the chronic test(s). The submission of a Study Plan prior to test does not and should not be taken to mean that the Agency intends to approve or disapprove the Study Plan. Submission of the Study Plan will allow the Agency to become knowledgeable about the tests to be undertaken, facilitate discussion and approval of certain Sponsor-recommended modifications, and aid in the determination of exemption requests filed under Section 4(c). A list of information items to be included in the Study Plan is contained in § 772.113–1.

Personnel Qualifications

Perhaps the most critical element in the design and conduct of chronic effects studies is that of having knowledgeable and motivated scientific staff managing and conducting the studies. The Agency, in attempting to arrive at a means of assuring reliable data, proposes certain qualification requirements in the standards for key scientific staff. Considered especially critical are the Study Director, and the responsible toxicologist, pathologist veterinarian, and histology and animal technicians. Other disciplines are also important, e.g., chemist, biochemist, and statistician. However, it is expected that the Study Director and Sponsor will assure the qualifications of all disciplines and the performance of all aspects of the studies. Standards for the Study Director are contained in the standards for Good Laboratory Practices, § 772.110, while standards for the pathologist, veterinarian, and technicians are contained in § 772.113–1.

The Agency recognizes the possible shortage of experimental pathologists having the qualifications defined in the standards and available to conduct routine diagnostic pathology, but, it also realizes the effects on decision-making of a less than adequate examination. The Agency is concerned with the lack of confidence in the routine diagnostic pathology carried out by unqualified pathologists. The standards propose that the responsible pathologist must be a board-certified or board-eligible medical or veterinary pathologist, with at least three years experience in pathology of the species to be examined. Other pathologists with less experience, can work under the direction of the responsible pathologist. Parapathologists, i.e., persons that have received special training in histology and gross necropsy, but do not possess a medical sciences degree, are not considered as having adequate academic training to conduct diagnostic microscopic examinations. The differentiation between normal tissues and many lesions, the diagnoses of these lesions, and an assessment of their biological nature, often requires a high degree of professional judgment. An ability to make such judgments can be attained only by a combination of intensive medical training and practical experience. It is acknowledged that there may be laboratories where parapathologists are well-trained and closely supervised who are employed satisfactorily in sorting or screening abnormal from normal tissues. Such situations, however, are considered rare and difficult to evaluate; therefore, the test standards do not permit the use of parapathologists for final microscopic diagnoses.

In arriving at these proposed standards for pathologists, the Agency realized that no simple definition would satisfy all situations, e.g., where pathologists are on a satisfactory consulting or subcontracting arrangement. The Agency is also aware that studies may be conducted in foreign laboratories. Some American and foreign pathologists may indeed be "qualified" but do not possess the proposed standards requirements. On the other hand, it is possible that a few pathologists, meeting the proposed standards, may not be considered "qualified" by their peers.

The Agency is also proposing standards which require that a veterinarian certified or eligible for certification in the American College of Laboratory Animal Medicine and having at least two years experience with the animal species to be used must be in charge of animal care and welfare. This requirement is proposed because Agency experience has shown that poor animal care has led to erroneous and useless experimental data. In order to assure reliable data, the Agency is thus proposing specific qualificaitons for the veterinarian in charge. The resource limitations do not appear as critical for the animal care veterinarian as in the case of the responsible pathologist.

The Agency is not proposing criteria for the responsible toxicologist at this time although that is under consideration. The reason for this is, in part, that there had not been a board for general toxicology until 1979. Only recently, the Society of Toxicology has created the American Board of Toxicology Certification. When the certification process has developed a suficiency of certified toxicologists, the agency may want to require such certification as a requirement for the toxicologist in charge of the studies conducted under section 4 test rules. There have been other toxicology boards for several years, e.g., veterinary toxicology, medical toxicology, and forensic toxicology; however, these specialty boards have not been related to general toxicology. For this reason, the Agency thinks that certification in those boards would not be an appropriate requirement for Section 4 activities.

The Agency is particularly interested in viewpoints as to how best to achieve the degree of personnel qualifications needed for these chronic studies while allowing for the use of adequately trained and experienced scientists that have equivalency in capabilities. This issue is of special concern regarding foreign conducted studies.

Chemical Analyses

Section 772.113–1 proposes that certain chemical tests be performed to determine: a) the stability of the test substance in the test mixture, b) methods to assure homogenous mixing of the test substance in the test mixture (feed or other carrier material), and c) concentration of test substance in each test mixture. The test standards would require chemical analyses which are intended to provide reasonable assurance that the test mixture contains the requisite level of test substance and that it is mixed equally throughout. Ideally, the test mixture to be administered to the test animals should contain the exact amount of the dose planned for, without any degradation impurities and with complete homogeneity of the test substance in the mixture.

The need for stability studies is prompted by the fact that some chemicals degrade or are lost from the mixture due to volatilization and/or elution from the mixture. As the rate of loss varies with the chemical and storage conditions of the test mixture, exact requirements for method of storage and period for use of the test mixture are not practical. The need to achieve homogeneity is so that all animals receive the exact same dose rather than a range of doses that might occur with a non-homogeneous mixture. From the practical standpoint, this is often difficult to achieve, especially with some chemicals that do not mix well at low levels. Due to the need to vary the extent of chemical analyses and mixing/storage procedures with the test chemical, the Agency proposes performance standards leaving the determination of methods to achieve them up to the Sponsor.

Dietary Considerations

The diet is a very significant source of variance in long-term studies. The longevity of several animal species, including humans, has been shown to be influenced considerably by the quality and quantity of the diet. It is essential that a nutritionally adequate diet that meets the needs for long-term animal health be utilized. In addition, the presence of dietary contaminants has been suggested as a major contributory factor in the outcome of long-term studies in that they may influence the incidence of lesions in test animals and make assessment of the causative relationship uncertain. For these reasons, the Agency proposes a specific diet for use in long-term studies as well as standards for chemical analysis for nutrients and dietary contaminants. Concern for the availability of the proposed diet prompted inquires to the National Institutes of Health and commercial laboratory feed companies. The Agency believes that the specified diet can be obtained by the Sponsor without substantial increased cost or time delay. Comment is specifically requested on the question of the benefits and problems associated with the requirement of a specific diet, and whether similar quality control can be assured through other means.

Reporting Requirements

As the purpose of Section 4 test rules is to develop data which can be utilized in assessing risk from the test chemical, the Agency proposes an extensive list of data items to be reported in the final test report. These relate to test procedures, conduct of the study, results, and analyses of the results.

It is anticipated that the Agency will require that the final report of a Section 4 test contain an abstract, introduction, methods and materials, results, discussion and data analyses, conclusions, and references, as well as formatted in a specified manner. The Agency intends to propose specific standards for data formatting later this year. Standardized formats will facilitate study comparisons and a more efficient review of test data submitted under Sections 4 and 5 of TSCA. The Agency is also considering the use of electronic data processing techniques to manage the large quantities of data that may become available through the implementation of TSCA, and may provide guidance on the use of such techniques in that context.

It is also proposed that Summary Reports be submitted on a quarterly basis which would provide the current status of the study. It is expected that these interim summary reports will be brief (5–10 pages) and provide summary information on significant findings of such parameters as survival, weight changes, clinical test results, accumulative incidence of tumors and toxicity.

Animal Selection

The Oncogenic Effects Test Standards propose the use of rats and mice, whereas the Non-Oncogenic Chronic Effects Test Standards propose the use of the rat and non-rodent. The Combined Chronic Effects Test Standards propose three species, the mouse, rat, and a non-rodent. Alternate species will be considered by the Agency on a case-by-case basis. Both sexes are proposed for all three standards.

For Oncogenic Effects Test Standards: Rats and mice have been found to be reliable models for human oncogenicity. Virtually all confirmed human oncogens, with the exception of arsenic, also are oncogenic in these species. Furthermore, since much oncogenicity testing has been done with rats and mice, these prior results provide a reference for new tests results. The choice of rodents is based also on economic and time concerns. In order to develop statistically meaningful data, large numbers of animals usually are required. The cost to conduct studies with large numbers of rodents is considerably less than that involved in the use of large numbers of large animals, such as dogs or monkeys. A second factor, that of the long latency period for tumor development, requires that animals be exposed and/or observed for most of their normal lifespan. Whereas with rodents this period is 2–3 years, dogs and monkeys must be maintained for 7–10 years. Not only does this greatly increase the cost, it means that the data will not be available for the correspondingly longer period.

In certain cases there may be a scientific rationale for using a different species, e.g., one having more comparable metabolism to that of humans. Where such a rationale exists, the Agency will consider permitting use of an alternate species.

Two species are proposed because in the past, chemical oncogens have not always proven positive in one species while positive results have been found in other species. Similar results in both species markedly increase the degree of confidence when extrapolations are made to humans. Data from a second species are particularly important when a chemical appears to be non-carcinogenic in the first species tested. Both sexes of both species are proposed because of the previously demonstrated differences in response of female and male animals to various chemicals in oncogenicity testing. In many previous oncogenicity tests neither the more sensitive sex nor species could have been predicted.

For Non-Oncogenic Chronic Effects Test Standards: Rats and a non-rodent (usually dog) are required. The basis for this is that non-oncogenic chronic effects are sometimes detectable in non-rodents but not in rodents (or vice versa). Another reason for the non-rodent is the enhanced capability to conduct more precise clinical evaluations with larger animals.

The Agency has received conflicting viewpoints as to the practicability of proposing a non-rodent species in addition to a rodent species for chronic effects testing. Those challenging the need for a non-rodent contend that nearly all chronic effects will be observed in the rodent, except in those instances in which species differences in metabolism, transport mechanisms, and/or protein binding might occur. Exposure levels for effects might differ and thus the basis for establishing exposure limits, e.g., Average Daily Intakes (ADI's) or Threshold Limit Values (TLV's), will be better than if only rodent data is available. Generally, dose-related effects obtained with larger animals more nearly approximate those expected in humans. As the Agency will likely propose exposure limits for chemicals tested under Section 4, where positive test results are found, dose-response data with two species will provide a firmer scientific basis for the risk estimations that might result.

Dogs have been extensively used as the usual non-rodent species of intermediate lifespan between humans and the common laboratory rodents and they are of a convenient size disposition for clinical examinations. In addition, they are relatively easy to breed and are available in relatively large numbers and of genetic similarity (if purebreds are desired). Non-human primates have also been promoted as surrogates for humans based primarily upon their phylogenetic relationship and similarity

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in physiological functions. They are generally difficult (and expensive) to obtain in a defined (disease-free) condition with most animal sources from foreign countries having restricted exportation quotas. For routine testing, the advantages of non-human primates over dogs likely do not offset the procurement, cost, and management problems involved in the use of primates.

For Combined Chronic Effects Test Standards: Three species, mouse, rat and a non-rodent are proposed in order to adequately assess both oncogenic and non-oncogenic chronic effects. In order to test the chemical for oncogenic effects in two species, both the rat and mouse must be used, as the duration of the non-rodent study would be too short due to a longer latency period for tumor development than the observation period. The non-rodent species is necessary to evaluate non-oncogenic chronic effects.

The Agency has not specified that a specific strain or stock of species be used as there are many strains which might be satisfactory with none clearly the preferred one for routine testing. Rather, the selection is to be made by the Sponsor of the test with the rationale to be presented at the time of Study Plan submission. In certain circumstances, the Agency might choose to propose a specific strain in the chemical test rule. Strains anticipated to be the most sensitive should be used unless a scientific basis exists for not doing so. The advantages of using inbred strains, hybrid strains, or an outbred stock are controversial. Inbred strains have less variability in biological characteristics such as average lifespan and spontaneous tumor rate and thus are more predictable in response. In contrast, outbred strains are generally more resistant to diseases and less likely to be genetically-resistant to a specific oncogenic agent. While the scientific community is divided as to the best choice for routine chronic toxicity testing, many scientific bodies consider the heterogeneity of response of outbreds as more likely to reveal an effect, and thus a characteristic that may outweigh the advantages of inbred strains. Hybrid strains possess many of the advantages of inbred strains while the increased gene pool lessens the probability of not responding due to strain-specific resistance. The National Cancer Institute uses a hybrid strain of mouse in its testing program primarily due to its hardiness (hybrid-vigor) and good longevity.

Use of Positive Controls

The Agency recognizes that to evaluate the validity of negative results it is important to be assured that the test animals are sensitive and respond to the chemical stimulus in a predictable manner. One way to determine such inherent sensitivity is to expose groups of the test animals to agents which produce the effect to be tested for. Such groups are known as "Positive Controls." Positive controls also have value in the monitoring of technical procedures and controls, such as diet mixture, pathology diagnoses, and data recording, as well as allowing comparison of research results within and between laboratories. The Agency is not proposing the routine inclusion of positive controls with each chemical test as they may not always be needed to adequately evaluate the sensitivity of the test animals. In addition, the Agency recognizes the technical and safety problems of employing known toxic chemicals in the laboratory. At the time of Study Plan submission the Sponsor should provide evidence which substantiates that sensitive animals are to be used. If this cannot be done, then positive controls may be needed. In certain cases, the Agency may include positive controls as a requirement in a specific chemical test rule.

Age at Start of Exposure

It is proposed to start animals on test at the earliest practical age, preferably immediately after weaning and acclimatization. This will be no later than six weeks of age for rodents and ten weeks of age for dogs. The sensitivity of the test system to detect chronic effects is enhanced if the animals are continuously exposed to the test substance from the period of rapid growth through adulthood.

The Agency considered providing for greater sensitivity in the Oncogenic Effects Test Standards by beginning exposure *in utero* and continuing it through the neonatal, infant, and adult life stages. The extent of the enhanced sensitivity is difficult to quantify. In studies using *in utero* exposure, tumors have been observed in organs other than those in which tumors were observed following adult exposure only. The Agency in not aware of any chemical found to be oncogenic as a result of *in utero* exposure that has not been determined oncogenic following post-parturition exposure alone; however, too few chemicals not oncogenic in adults have been tested by *in utero* exposure. Consequently, the data do not appear sufficient for deciding for or against the use of *in utero* exposure. Considerably greater cost and difficulties of adjusting exposure, litter randomization, etc., in using *in utero* exposure are significant considerations. However, the Agency invites comments on this issue.

Comments have been received that starting rodents on test at six weeks of age may be difficult to achieve, if animals must be obtained from a commercial supplier, acclimatized for 1–2 weeks and then subject to scheduling uncertainties within the laboratory. The Agency believes that six weeks is achievable except in rare situations. In those cases, the Sponsor should provide a rationale for starting at a different age.

Route(s) of Exposure

The Agency will designate route(s) of exposure individually for each chemical identified in each testing regulation. In general, the test chemical will be administered by the route(s) which simulates as nearly as possible the expected or known human exposure. Such experimental designs would provide greater confidence in extrapolating the test results to predict human hazards.

The most common human exposure route(s) may not always be the most important potential mode(s) of exposure. The kinetics of absorption and potential for local or systemic effects will be considered in selecting the route(s) of exposure to be used in the tests. For example, even though greater exposure to a chemical may be to the skin, if there is greater absorption through inhalation or ingestion, these routes may present the greater risk. In such a case, the Agency will likely propose testing by inhalation and/or ingestion. It is anticipated that usually only one route will be selected for testing; however, there may be occasions in which data obtained with two or more routes may be necessary to adequately assess for risk.

While the primary concern is for the development of the most meaningful data for assessment purposes, the Agency does recognize the necessity to consider resource availability and economic factors in selecting the route(s) of exposure for testing. For example, if both inhalation and ingestion routes would be expected to give equally meaningful results the Agency would probably select the less expensive route, ingestion. The Agency also realizes that certain aspects of testing may vary with the route of exposure, e.g., frequency of treatment, husbandry practices, and pathology. In those cases, the Agency may indicate such modifications in the test rule or may accept modifications proposed by the Sponsor at the time of Study Plan submission.

Number of Animals

The number of test animals determines in part the sensitivity of the test, i.e. its ability to demonstrate the effect(s) studied and the reliability of the observed effects. The utility of the data for risk assessment purposes is therefore highly influenced by the number of animals studied. The proposal proposes a minimum of 50 rodents or six non-rodents for each exposure or matched control group, with a group consisting of one sex of one species at one dose level. Historically, this number for each group has been selected primarily because it represents a compromise between the desired sensitivity of the test system and economic or practical considerations. An additional group of eight rats/group are proposed for the non-oncogenic chronic effects and combined chronic effects standards for the conduct of clinical chemical analysis. Additional animals must also be used if interim kills are planned.

The Agency considered not specifying a minimum sample size for the oncogenic effects test standards, providing instead specified error rates, e.g., 95% probability of detecting a 10% increase in tumor incidence between chemically-exposed and control animals. The Agency recognizes, however, that in testing chemicals of unknown potential oncogenicity or chronic toxicity, the target organ is generally not predictable. Because the incidence of spontaneously occurring tumors or chronic conditions varies so widely among organs, calculating the number of animals based upon pre-determined or specified error rates would be impractical in many cases. To achieve the same level of sensitivity given a high background incidence would require many more animals than if the background incidence was very low in controls.

Also considered was the use of an unbalanced design which would allow variation in the number of animals at different dose levels. This technique remains under consideration and the Agency requests comment on its scientific merit. The Agency also considered requiring fewer rodents for the Non-Oncogenic Effects Test Standards, but concluded that the foregoing considerations were equally applicable to testing for these other chronic effects.

Duration of Exposure/Observation Period

For Oncogenic Effects Test Standards: Since tumors have a long latency period, animals on oncogenicity tests must be allowed to live most of their life expectancy. The proposed Oncogenic Effects Test Standards propose that rodents be exposed to the test substance for a minimum of 24 months but no longer than 30 months prior to sacrifice. Continuous administration of the test chemical for this long exposure period should maximize the sensitivity of the test, thus enhancing the confidence in a negative test result. The Agency considers that with proper selection of rodent strains and proper husbandry practices, survival rates at 24 months in both rats and mice will be satisfactory for analysis purposes. Termination at 30 months is based upon the opinion that further continuation rarely would increase substantially the test sensitivity. In some cases it might tend to decrease the sensitivity as older animals die, or are cannibalized or autolyzed, and thus lost from the experiment.

The Agency has considered longer and shorter periods of exposure as well as the following alternatives to a prescribed exposure period: (a) continuous exposure until a predetermined level of mortality occurs, e.g., 75% of controls or of each test group, (b) continuous exposure until death of each animal, (c) set period of exposure followed by an additional period of observation, e.g., 18 month exposure and 6 months observation, (d) predetermined exposure period based upon expected length of life from literature information or historical control data.

A period of less than 24 months could decrease the sensitivity of the test to detect oncogenic effects. Certain tumors may have a long latency period and may be observed at 24 months but not at 18 months. The increased observation time will also increase the probability of detecting metastatic tumors. With current husbandry methods, rodents live longer than they did several years ago, and 24 months represents an achievable life expectancy for most strains. Alternatives (a) and (b) would assure that exposure was for the greater portion (or all) of the animals lifespan; however, these methods provide logistical difficulties in conducting the test and complexities in data analysis. Continuous exposure for the entire period is preferred over alternative (c) in that the test is often more sensitive. Historical control data, whether from within the test laboratory or from literature, is often unreliable for predicting the expected length of life, due to variables in breeder operations, seasonal fluctuations, etc. For this reason, alternative (d) was rejected.

For Non-Oncogenic Chronic Effects and Combined Chronic Effects Standards: In order to develop data suitable for evaluating life-shortening effects, as well as detect late occurring pathologic conditions, a period of at least 24 months for mice and non-rodents and 30 months for rats is proposed. While this period in non-rodents such as the dog or monkey may not be sufficient to detect life-shortening effects, it is expected that the vast majority of latent effects will be evident in high dose groups at that time. An even shorter period, such as 6–12 months, has also been considered for tests with non-rodents, especially the dog. EPA does not regard short periods as adequate because of the long latency period.

Dose Selection

For Oncogenic Effects Test Standards: The standards propose at least 3 dose levels of the test substance, with the High Dose Level (HDL) to be slightly toxic. The second dose is proposed to be a fraction of the high dose (generally ½ to ¼) with the low dose to be no more than ½ of the intermediate dose and no less than 10% of the high dose level selected. It is possible that some materials will have such a shallow dose-response curve for certain toxic effects, such that some toxicity might be observed at 10% of the High Dose Level. This is expected to occur only rarely. The proposal for a minimum of 3 dose levels is primarily to develop information as to the oncogenic potential of the tested agent although it should also indicate the general slope of the dose-response for the species responding. Such a design may not provide data sufficient for a precise dose-response analysis, and the Sponsor can add additional dose levels if desired to develop such information.

Determination of High Dose Level: In oncogenicity testing, the concept of employing high exposures, much greater than usual human exposure, is considered a valid procedure. This is based upon two factors: the statistical insensitivity of detecting an effect with small groups of animals and the possible differences in sensitivity between the test animals and humans. The probability that a test using small numbers of animals might detect a significant oncogenic response at the usual low, human exposure levels, is

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minimal except for the most potent of oncogens. A chemical inducing tumors in ½ percent of the U.S. population would result in over a million cancer cases. Yet a true cancer rate as high as 10–11 percent will go undetected over 5% of the time in a group of 50 animals. In order to increase the sensitivity to detect an oncogenic response, either many more animals must be utilized at the lower exposures, or higher exposures must be employed. The only practical approach for a routine test for oncogenic potential is to use high exposures.

These standards refer to a High Dose Level rather than a "Maximum Tolerated Dose" (MTD) as used in some guidelines on oncogenicity testing. The difference in terminology reflects the Agency's concern with the confusion and misinterpretation of MTD, as in the past the maximum tolerated dose has rarely been tolerated, depending on one's interpretation of definition of tolerance. No objective criteria for tolerance for the MTD have been accepted by all investigators. The MTD frequently used in the past has resulted in some decrease in survival rate, weight decrement, and toxic reactions, conditions which might be questioned as being tolerated. The MTD, often estimated from toxicity observed after exposure for 6–8 weeks, was quite inaccurate. The high dose levels had to be adjusted downwards in many documented studies before the study was completed because many treated animals died from effects not related to oncogenicity. In other cases, doses were adjusted upwards due to lack of an observable toxic effect. Due to the importance in determining accurate doses for long-term bioassays, the Agency requires conducting adequate preliminary toxicity range-finding studies, with a minimum of 90 days exposure.

Information on chemical tissue disposition (including absorption, disposition, metabolism, and excretion), might provide data which would help establish more precise dose levels from 90 day preliminary range-finding studies. Such data often are not available due to the expense of obtaining them. An alternative is to allow for adjusting the dose levels as the study proceeds in order to achieve the highest tolerated dose. While such adjustments present difficulties in data analysis and extrapolation, they may be necessary in some cases, to achieve the desired performance standards for the High Dose Level.

Lower Dose Levels: Two lower dose levels are proposed, fractions of the high dose level ranging down to no less than 10% of the high dose level. While a well selected single dose might be adequate to assess for oncogenic potential, the two additional dose levels provide: (a) assurance of an adequate study in the event of unpredicted toxicity occuring at the High Dose, (b) some information regarding the dose-response relationship, and (c) additional data which can be used in statistical evaluation of an oncogenic response.

The Agency has considered several other alternatives including (a) two dose levels (HDL and ½ HDL), (b) four doses (HDL, two middle dose levels, and a low dose approximately 1/100th of the High Dose), and (c) a process in which the number and range of doses is not defined but rather a requirement that data be developed sufficient for the Agency to conduct a risk assessment including dose-response analysis. Under alternative (c), a well-conducted study with two dose levels, such as in alternative (a) might provide sufficient data for an initial assessment of oncogenic potential. Should a positive result be obtained, however, additional studies, including more dose levels, might be necessary to provide adequate data necessary to make a scientific risk assessment. A serious disadvantage, that of delayed availability of results, might occur with option (c). An EPA review of many studies by the National Cancer Institute using two dose levels, MTD and ½ MTD, revealed that in many cases the greatest oncogenic response was achieved at the ½ MTD level. Conceivably, a higher oncogenic response might also have occurred had a third lower dose been included in those studies. Decrease survival of the animals at the MTD level may often account for this phenomenon; however, other mechanisms, e.g., competition between cell killing and cellular transformation, and altered metabolism may be determination of this inverse relationship. The EPA thinks that the proposed three dose levels, provide a reasonable balance between scientific needs and cost.

For Non-Oncogenic Chronic Effects Test Standards: The experiment is to be designed to allow for a dose-response analysis and "no observed effect." The highest dose, however, must be moderately toxic with lethality evident. The basis for these standards is the belief that a threshold may exist for most non-oncogenic effects and can be used in predicting risk at low exposure levels. The Agency is not proposing a specific number of dose levels required to meet these performance standards although it is expected that 3–4 may be needed to comply with the proposed standards.

For the Combined Chronic Effects Test Standards: The number of dose levels may vary with the species. For the mouse, three dose levels are proposed as it is intended to provide primarily oncogencity data and thus the dose used in the oncogenic effects test are sufficient. It could, of course, also provide valuable information on other chronic effects. For the non-rodent, criteria established for the Non-Oncogenic Chronic Effects Test Standards are to be followed. The rat is to provide data for both oncogenic and other chronic effects and thus dose levels meeting the requirements for both the Oncogenic and Non-Oncogenic Chronic Effects Test Standards must be selected. The combined Chronic Effects Test Standards should provide a sensitive test for both oncogenicity and chronic toxicity.

Clinical Procedures

The loss due to cannibalism or autolysis is largely preventable by careful and frequent clinical observations to detect weak or dead animals. Impending morbidity and mortality is often not evident a full day in advance, especially with rodents. The Agency therefore proposes observation of animals every 12 hours or more frequently to assure that no more than 5% of the animals in any group are lost from the experiment due to autolysis, cannibalism, missing from cage, etc. This is considered achievable through the use of proper operating practices and careful, clinical examinations.

Clinical data may also be used to predict onset and development of toxic effects at an early stage and help in antemorten and necropsy diagnosis. The three standards vary in the extent of proposed clinical tests. Only routine hemotology is proposed for the Oncogenic Effects Test Standards. In addition to hemotology, blood chemistry, urinalysis, and functional capacity studies are also proposed in the Non-Oncogenic Chronic Effects Test and the Combined Chronic Effects Test Standards for a subset of rat groups (8/group) and for all non-rodents. The reasons for the differences in proposed clinical tests are as follows: Hematology data can be used to predict the development or aid in the diagnosis of leukemia and other hematopoietic disorders of relevance to an assessment of oncogenic potential. However, other tests, such an urinalysis, have relatively little value in the oncogenicity test, except perhaps to detect other aspects of toxic effects. In contrast, results of hemotology and biochemical tests have considerable value in the determination of the extent or profile of other chronic toxic manifestations, especially as related to clinical and pathological observations.

Pathology Examination

It is crucial to the successful conduct of the study that an adequate pathology examination be planned for and accomplished with quality control procedures implemented at all steps in the study. For this reason the Agency proposes stringent requirements in regard to the qualifications of the responsible pathologist and in the thoroughness with which gross and microscopic examinations are conducted. Diagnosis can only be provided for those lesions presented on the microscopic slide. Even the most careful microscopic evaluation is of no value when lesions are lost due to autolysed tissues, an inadequate gross necropsy, or failure to recognize and select lesions at necropsy, blocking or slide preparation. While there is little controversy regarding the need for a careful and thorough gross necropsy considerable disagreement exists as to the extent of microscopic examination that is needed for a routine evaluation for oncogenicity.

There are differences of opinion among pathologists regarding the number of animals and tissues from each animal that should routinely be examined microscopically. Most frequently recommended have been the following:

(1) All tissues in the highest dose and control groups with the extent of subsequent pathology in the intermediate dose levels depending on the types and significance of the high dose level findings, e.g., examinations of gross lesions and tissues found to have tumors in the high dose group (target tissues).

(2) A small group (6–8) of selected tissues per animal;

(3) Random sampling a percentage of animals in the test, e.g., ten percent of each group.

(4) Major tissues from all animals.

The Agency has chosen the 4th approach. The Oncogenic Effects Test Standards propose microscopic examination of approximately 30 different organs or tissues of each animal, a few with multiple sections. This represents about 40,000 tissue sections per chemical tested and entails over three-quarters workyear effort by a diagnostic pathologist.

The proposed microscopic examination of all animals in the oncogenic test standards is based upon the knowledge that: (a) oncogenic response occasionally occurs in the lower dose groups while not in the high dose group, (b) dose-related variations may occur in the target organs or degree of metastasis, and (c) there is greater likelihood of missing rare tumors or those occuring in small incidence if only a single group is microscopically examined. There can be little doubt that a very thorough examination may be needed to detect early and/or small lesions, those in small organs, and those that resulted from metastasis and are in a minute form.

For chronic effects other than oncogenicity, dose-response relationships and a no-effect-level are to be determined. This will necessitate an even greater degree of pathology examination for all animals in the Non-Oncogenic Effects and the Combined Chronic Effects Test Standards. In addition to those tissues designated in the Oncogenic Effects Test Standards, several other tissues or multiple sections of certain organs are also proposed for examination in the Non-Oncogenic Effects and the Combined Chronic Effects Test Standards.

The Agency has not specified that pathology diagnoses be in accordance with any specific classification or nomenclature system. Various systems, e.g., SNOP (Systematized Nomenclature of Pathology, The College of American Pathologists), a modified-version of SNOP, the World Health Organization's International Histological Classification of Tumors, and that being used by the National Center for Toxicological Research, are being considered. The use of a uniform classification and reporting system would greatly facilitate the Agency's review and evaluation process. Such a system may be proposed at a future date along with data formatting requirements.

In order to achieve consistancy in diagnosis and prevent biassed diagnoses, it is desirable that the same pathologist examine all tissues of all animals in the test. The Agency realizes that this might not be practical or possible in all cases, especially for the Combined Chronic Effects Test and thus proposes that the same pathologist examine all tissues of one species. Another alternative being considered is to require the same pathologist to examine tissues from one sex of one species. This latter alternative would allow for more pathologists to be assigned to the study and facilitate completion of the examination. Viewpoints as to how best to achieve the desired quality control and prevention of bias in the pathology examination under practical conditions are solicited.

Routine weighing of organs is not proposed in the Oncogenic Effects Test Standards as the data are not considered of sufficient value in the assessment of oncogenic potential. However, organ to body weight ratios are of value in assessing chronic toxicity and thus weighing of a few major organs is proposed in the Non-Oncogenic Chronic Effects Test Standards and in the Combined Chronic Effects Standards.

Additional Scientific Studies

Other data might be valuable in relating animal toxicological findings to man, selecting appropriate test species, and determining chronic dose levels, e.g., that pertaining to metabolism, pharmacokinetics, and enzymology. Obtaining such data is often expensive, and the appropriate studies must be selected or designed specifically for the chemical to be tested. The Agency therefore proposes that the decisions as to the need for and extent of these additional studies (data needs) are usually best left to the discretion of the Sponsor. In some cases, however, they may be identified by the Agency and will be required in specific test rules.

Any animal metabolism and pharmacokinetics data provided by the Sponsor will be considered by the Agency in the risk assessment process. Because more accurate risk assessments may be made from comparative data, known data on human metabolism and pharmacokinetics (often available only from accidental or workplace exposures or in the scientific literature), might also be requested either informally or by a Section 8(d) rule.

Request for Comments on Proposed Test Standards

In the previous sections, the proposed standards have been discussed along with other alternatives considered. The public is invited to submit viewpoints and supporting data on any and all aspects of the standards and supporting documentation. Comments on the following issues are of particular interest to the Agency:

(a) Qualifications of professional personnel conducting tests

(b) Specifications for diet and chemical analyses

(c) Choice of animal species, e.g., rodents and non-rodent (dog) failure to designate specific strains requirements for controls

(d) Starting exposure as weanlings rather than in utero or as newborn animals

(e) Use of a set number of animals per groups, e.g., fifty, versus number based upon a specified sensitivity, e.g. increase of 10% in tumor rate

(f) Duration of exposure and observation periods

(g) Determination of doses and dose levels.

(h) Extent and methods of conducting clinical and pathology examinations.

(j) Reporting requirements.

IV. Policy Considerations

Relationship to EPA Pesticide Registration Guidelines

EPA's Office of Pesticide Programs has proposed testing guidelines under the Federal Insecticide, Fungicide, and Rodenticide Act, as amended (FIFRA) (86 Stat. 973; 89 Stat. 751; 7 U.S.C. 136 et seq.) which contain data requirements comparable to those proposed by these standards (43 FR 37336, August 22, 1978).

In addition, EPA or other Federal agencies and departments may issue regulations under other statutory authorities which would impose requirements similar to those in these standards. The Agency's policy is to reduce the burden on the regulated public which might arise from conflicting requirements under these different sets of regulations and guidelines. Therefore, although the proposed TSCA and proposed FIFRA test standards differ in some significant ways because of updated OTS views, the final TSCA test standards and final FIFRA guidelines will be consistent to the extent permitted by the different laws. Among major differences are: the use of a non-rodent in the non-oncogenic chronic and combined chronic standards, the duration of exposure, and the qualifications of key scientific personnel. A list comparing the diferences in the two standards appears in the Support Document.

Comments received in response to the FIFRA proposed guidelines will be reviewed along with those received from this proposal in arriving at final standards for both FIFRA and TSCA.

Relationship to Interagency and International Test Guidelines

The final TSCA standards also will be as consistent as possible with FDA's Good Laboratory Practice regulations and other data or testing requirements established by U.S. Federal regulatory bodies. EPA has joined with the Food and Drug Administration (DHEW) the Consumer Product Safety Commission (CPSC), and the Occupational Safety and Health Administration (DOL), and the U.S. Department of Agriculture (USDA), to form the Interagency Regulatory Liaison Group (IRLG). The general purpose of the IRLG is to coordinate the regulatory activities of the four agencies, and one IRLG committee is developing testing protocols for human health and environmental effects which would be acceptable to all four agencies. EPA will review the proposed IRLG guidelines when they are available and revise its test standards as appropriate.

In developing these and other areas under TSCA, the United States has been a full and regular partner in extensive international consultations and activities, especially through the Organization for Economic Cooperation and Development (OECD). The United States is the lead country for the projects on Long-Term Toxicology and Good Laboratory Practices. The preparation of test guidelines by the World Health Organization is also being followed closely. The Agency places high priority on these international activities and will attempt to achieve an international harmonization of standards and regulatory approaches in an attempt to eliminate trade and regulatory barriers, ensure that the international chemical industry is not hampered unnecessarily by vaque or inconsistent requirements and that data developed in one country are acceptable in another.

Although TSCA sets forth specific requirements and deadlines, it provides room for some discretion and flexibility. To the extent possible, EPA is attempting to make our regulatory approaches consistent with those of other countries and international organizations.

Comments from other countries and international organizations will be solicited and given serious consideration as the Agency further develops regulations. Agreements reached through the international activities in which the United States Environmental Protection Agency is engaged will be reflected in EPA's national regulations, in accordance with rulemaking requirements.

Specificity of Details in Standards

The Agency must assure that sufficient data are developed and in a manner and quality so that a hazard identification and risk assessment can be performed. It is recognized that many toxicology laboratories have the scientific staff and facilities to conduct the necessary tests in a highly professional manner, and that in those cases, only general guidance as to the type of data might suffice. In many well-documented cases, however, inadequate data have been provided to EPA or other agencies. For this reason, standards are detailed enough to provide for the most essential elements for development of reliable data. See discussion in the preamble to the Good Laboratory Practices, also apearing in today's **Federal Register**. The Agency has decided not to propose even more detailed requirements at this time, although other aspects have been suggested to the Agency and are under consideration. As these standards are of a generic nature, more specific requirements, related to the chemical substance(s) to be tested, may be proposed in specific chemical test rules.

Future Health Effects Test Standards

Standards for tests such as acute/subchronic toxicity, teratogenicity, and other health effects, will be proposed later this year for use in Section 4 test rules for these effects.

The Agency is also considering proposing certain biological screening tests to identify chemicals that may present a potential chronic health risk. Although short-term tests utilizing both mammalian and sub-mammalian species can be applied in the initial evaluation of the biologic activity of certain chemical substances, EPA does not believe that any short-term test or test battery is sufficiently validated at this time to replace long-term bioassays. EPA is, however, undertaking various activities to validate such short-term tests, and will consider proposing such standards upon their validation.

V. General Provisions

Elsewhere in this preamble, the Agency has explained that the standards proposed today are intended for use in future chronic effects test rules, and that the Agency will propose test rules for other health and environmental effects beginning later this year. Because today's proposal thus initiates the Agency's long-term program for testing chemicals through TSCA test rules, the Agency also proposes establishing a Part that provides information, test standards, and other general regulatory criteria applicable not only to the planned chronic effects test rules, but also to other future health and environmental effects test rules as well. These general provisions are reviewed below and proposed as new Part 770.

Information and Definitions

Sections 770.1, 770.2 and 770.3 would provide generally applicable informational provisions based primarily on the legal criteria summarized in Section I of this preamble. These provisions would describe the general structure of TSCA test rules, explain the purpose of these rules as a means of developing data for risk assessment purposes, summarize the legal authority for test rules, identify the persons responsible for developing test data and submitting these data to EPA, and provide generally applicable definitions Because these are intended as general provisions, the Agency would supplement these provisions by proposing other provisions specific to particular chemicals or specific to particular test standards, as necessary and appropriate.

Many of the definitions proposed for Section 4 test rules are identical to definitions finalized or proposed for regulations under Sections 5, 6, and 8 of TSCA. In addition, the Agency proposes new definitions or revised versions of existing definitions to meet the specific purposes of TSCA test rules.

Confidentiality and Public Access to Information

Section 770.4 of those regulations would establish general procedures for handling information claimed as confidential. In addition, specific procedures for handling confidentiality claims related to chemical identity will be proposed, if necessary, when the Agency applies these test standards to specific chemical substances or mixtures.

When information submitted is covered by a claim of confidentiality asserted in accordance with these rules, EPA will disclose that information only to the extent permitted by the Act, these rules, and EPA's Public Information rules, 40 CFR Part 2. Basically, this means that EPA will not disclose information claimed as confidential without prior notice to the submitter. If a person asserts a claim but fails to submit a sanitized copy or the required substantiations, he will be given an opportunity to correct this problem before EPA releases the information.

EPA will review all confidentiality claims asserted for information included in reports submitted to meet test rule requirements. In accordance with Section 14(b) of the Act, EPA will grant confidentiality for such information only if the Agency determines that release would disclose confidential information concerning the manufacturing or processing process for a chemical substance or mixture, or the confidential proportions of a mixture.

As discussed in the Support Document, EPA would require submission of a second sanitized copy of a health and safety study if a person asserts a claim of confidentiality for any information contained in the health and safety study, and substantiation of a claim of confidentiality at the time of submitting the information. First, for this type of information Congress intended public disclosure of the data to the extent possible. Second, because EPA expects a high volume of requests for disclosure, EPA must have the substantiation readily available in order to reduce the administrative burden of responding to Freedon of Information Act requests. And third, EPA must be prepared to respond to these requests speedily. Finally, the substantiations burden is further justified by the need to discourage ill-founded claims. Substantiation aids the submitter in understanting the findings which are required by law to support confidentiality claims. Experience with the Inventory reporting regulations indicates that detailed substantiation requirements significantly reduced the number of claims. This should result in a higher level of public information and a reduced burden on EPA to evaluate and protect information erroneously claimed to be confidential.

To satisfy this substantiation requirement, a person must provide written answers to a series of questions developed by EPA. The basis for this requirement, and the draft substantiation questions, are included in the Support Document.

Compliance and Enforcement

Section 770.5 proposes general standards for assessing the validity of data submitted under TSCA test rules. In the first instance, the Agency would review these data in terms of the test standards and other requirements in a test rule. Because data submissions that contain data that is intentionally false or misleading, or that omit required data cannot conform to the testing and reporting standards in a rule, the data would be presumed to be invalid. As a result, the Sponsor would be in violation of the test rule requirement that data be developed and submitted in accordance with the test standards. Further, data submissions that include such invalid data would also be in violation of the requirement that data developed in accordance with the test standards be submitted to the Agency by the deadline given in the rule. Similarly, where a testing facility refuses entry to EPA inspectors, any data submitted from such a facility would be considered to be invalid, and subject to the same consequences.

If data do not meet the requirements of the testing rule, including standards, the Agency may impose penalities for violation of the test rule, or require the test Sponsor to submit additional data as required by the test rule under an extended deadline, or otherwise use the regulatory and penalty provision of TSCA to enforce the test rule requirements. While the Agency would first review data submitted under a TSCA test rule to determine if it meets test rule requirements, the Agency is not precluded from considering non-confirming data for risk assessment purposes.

The Agency considers the success of the testing program to be vital to the effectiveness of the TSCA chemical control program as a whole. Consequently, every effort to insure compliance with the mandates of Section 4 in all rules and standards promulgated thereunder will be made. In this regard, the Agency intends to assure that standards regarding the development of test data are complied with by doing periodic inspections of facilities conducting tests required by Section 4 rules. However, the Agency intends to take a reasonable approach towards enforcing against minor deviations and technical violations.

The Agency has authority to proceed against responsible corporate officials under Sections 15 and 16 of TSCA since they are "persons" within the meaning of these sections. The Agency is also exploring the boundaries of the liability of independent testing facilities for violations of any Section 4 rules.

Revision and Modifications of Test Standards

Section 770.6 would provide general standards relating to the revision and modification of test standards. The Agency intends these standards to be dynamic and will provide for the periodic review of the scientific basis of the standards. Thus in accordance with Section 4(b)(2)(B) of the Act, the Agency will review the adequacy of all codified, generic test standards not less than once every 12 months after the standards are first incorporated into a test rule and will institute proceedings to revise the standards, if necessary. The Agency will revise the standards in accordance with the provisions of the Administrative Procedure Act (5 U.S.C. 551 et seq.). Changes to the standards which have significant impact would require notice

and opportunity for comment, but routine or minor changes may be made without proposal when the Agency determines such to be impractical and unnecessary.

Although EPA plans generally to incorporate generic test standards into test rules, the Agency also recognizes that generic standards may not be suitable for every chemical proposed for such testing. For example, test standards relating to the route of administration and the form of the chemical to be tested would necessarily be specific for each chemical and would be proposed at the time that the Agency identifies particular chemicals for testing. For this reason, requirements relating to standards of this kind are not included in the present proposal.

In addition, in some cases, the Agency may find that the generic standards are not completely suitable for a particular chemical and that a modification of the standards for that chemical is indicated. For example, the metabolic characteristics of a particular chemical may indicate that rodents are inappropriate as the test species, that a different dosing regimen is appropriate, or that tissues other than those specified in the generic test standards should be microscopically examined. In such cases, the Agency would propose chemical-specific modifications of the generic test standards.

VI. Economic Analysis

A regulatory analysis is not required with respect to these proposed test standards because the standards themselves do not impose any costs on any person at this time. The Agency recognizes, however, that long-term health effects testing is expensive and time-consuming. The estimated cost per chemical for the test standards proposed in this notice (based upon feeding studies) is approximately as follows:

Oncogenic effects	$400,000
Non-oncogenic chronic effects	$550,000
Combined oncogenic and non-oncogenic chronic effects	$800,000

The cost of prechronic range-finding studies is approximately as follows: oncogenic—$50,000; non-oncogenic chronic—$100,000; combined chronic—$130,000. Where these studies have not been previously conducted, the cost for the test standards will be increased by these amounts.

The use of point estimates unfortunately gives an impression of preciseness which is not intended. Actual costs of long-term testing will vary substantially (perhaps 10–40%), depending on a number of factors, including, for example, the chemical tested, laboratory performing the test, number of dose levels, species, route(s) of exposure, extent of pathology conducted, duration of tests, and inclusion of ancillary studies.

Many chemicals that will be subject to Section 4 rules may not require these specific chronic effects tests. Rather, these standards are being developed as part of an array of standards to be required selectively and as needed. Furthermore, no chemical will have to undergo all three tests. Depending on the data already available and the additional data needed to assess risks, a chemical could be required to undergo either oncogenicity or non-oncogenic chronic toxicity testing or both. Where both are required, testing can be performed in accordance with the combined test standard, thus allowing a saving of approximately $150,000 compared to the cost of separate testing for oncogenic and non-oncogenic effects.

Changes in cost per chemical could be achieved by modifications in the requirements set forth in the testing standards, e.g., reducing or increasing the number of dose levels, the number of tissues to be examined by the pathologists, the use of less highly skilled individuals, or performing testing in a non-rodent species. EPA believes that the proposed standards are necessary to assure that data developed through test rules are adequate for their intended use in risk assessment, and that abbreviated standards generally could result in a significant reduction in the quality and reliability of the resulting data and could preclude adequate assessment of hazard potential. For example, data derived from the NCI bioassay program, which utilizes two dose levels, rather than the three proposed levels, may adequately assess potential for oncogenicity but the data have serious limitations as pertains to assessing dose-response relationships.

EPA's issuance of testing rules (requiring testing of specific chemicals in accordance with the testing standards) will, of course, impose costs on persons required to undertake the testing. Which chemicals and how many chemicals will be required to undergo such testing remain to be decided. Given this, it is difficult to estimate the potential total cost of these standards, as incorporated into rules requiring testing of particular chemicals. Assuming that approximately 15 to 30 chemicals a year will be tested under Section 4 test rules using these particular test standards, their total annual cost is estimated to be $6 to $27 million.

The proposed standards could apply to both existing and new chemicals within any chemical category for which testing rules are issued. Thus, testing requirements may have some impact on development of new chemicals within categories selected for testing. The Agency recognizes that there is some potential for impact on innovation in the chemicals industry and that the extent of this impact will depend on the way in which the Agency selects and defines testing requirements for new chemicals.

VII. Public Participation

During the development of these proposed standards, numerous meetings and discussions were held with non-EPA scientists and with an Agency Work Group consisting of Agency scientists, other EPA officials and scientists from other Federal Agencies. At meetings on July 25 and August 15, 1978, scientists from industry, environmental groups and EPA, reviewed preliminary drafts, discussed the Agency's basic approach to developing the standards, and considered scientific alternatives for various aspects of the standards (43 FR 34841, August 7, 1978).

Drafts of these proposed standards were also discussed with the EPA's Science Advisory Board at public meetings held on June 22 and August 18, 1978 (43 FR 23013, May 30, 1978; 43 FR 32185, July 25, 1978). The Science Advisory Board also solicited public comments on the proposed standards at those meetings.

In addition to these workgroup and public meetings, other meetings on specific scientific issues were held. One, on pathology requirements, was held on April 3, 1978. On August 10, 1978, a workshop was held between Agency and National Cancer Institute scientists to discuss statistical and pathological aspects of oncogenicity and chronic toxicity bioassays.

This public participation has significant influenced the development of these proposed standards and associated provisions.

Note.—Comments previously presented to the Agency in response to the proposed Federal Insecticide, Fungicide, and Rodenticide Act (FIFRA) Guidelines for the Registration of Pesticides (43 FR 37336, August 22, 1978), are available to the Office of Toxic Substances and will be considered along the comments to this proposal in finalizing the TSCA standards. Previous submitters to the FIFRA proposal may supplement their earlier comments.

VIII. Public Meetings

EPA will hold public meetings during the comment period to provide the public an opportunity to present comments and questions on these proposed standards. The purpose of these meetings is to enable interested persons to provide oral comments on the proposed rulemaking to EPA officials who are directly responsible for developing the standards and supporting provisions of the rule. The public meetings will start with a short summary by EPA of the proposed standards to be followed by oral presentations from the floor of no more than 10 minutes per person, company, or organization, depending upon the number of requests. EPA will allot speaking times on a first-come basis, although the Agency reserves the right to alter the order depending upon the nature of the particular comments and other relevant factors. If time permits, following these prepared presentations, EPA will receive any other comments from the floor.

These meetings will be held during the week of July 9 in Chicago and during the week of July 16 in Washington, D.C. Further information on these meetings will be published in the Federal Register.

Persons who wish to present their comments at any one of the meetings should contact EPA no later than four days before the meeting date by calling toll-free at 800-424-9065 (in Washington, D.C., call 554-1404), or by writing to the address listed at the beginning of this preamble under "For Further Information Contact."

Presenters are urged, but not required, to submit copies of their statements on the day of the meeting. All such written materials will become a part of EPA's record for this rulemaking. In addition, the Agency will transcribe each meeting and will include the written transcripts in the public record.

IX. Public Record

EPA has established a public record for this rulemaking (docket number OTS 046003) which is available for inspection in the OTS Reading Room from 9:00 a.m. to 5:00 p.m. on working days (Room 710E, 401 M Street SW., Washington, D.C. 20460.) This record includes basic information considered by the Agency in developing this proposal. The Agency will supplement the record with additional information as it is received. The record includes the following categories of information:

(1) USEPA–OTS. "Proposed Health Effects Test Standards for Toxic Substances Control Act Test Rules".

(2) USEPA–OTS. "Proposed Health Effects Test Standards for Toxic Substances Control Act Test Rules": Support Document.

(3) Working drafts of the proposed rules, the preamble, and the Support Document which were available for public comment.

(4) Correspondence pertaining to development of the standards, preamble, and support document. (This does not include inter- or intra-agency correspondence, unless specifically noted in the index of the rulemaking record).

(5) Minutes, summaries, or transcripts relating to public meetings held to develop the standards.

Published documents cited in this preamble are incorporated in the record by reference. EPA will accept additional material for the record at any time between this proposal and the final designation of the rulemaking record. EPA will identify the complete rulemaking record on or before the date of promulgation of these requirements, as prescribed by TSCA Section 19(a)(3). The record of this proceeding is available in the OTS Reading Room.

Note.—Under Executive Order 12044, EPA is required to judge whether a regulation is "significant" and therefore subject to the procedural requirements of the Order or whether it may follow other specialized development procedures. EPA labels these other regulations "specialized". I have reviewed this regulation and determined that it is a specialized regulation not subject to the procedural requirements of Executive Order 12044.

Dated: April 27, 1979.

Douglas M. Costle,
Administrator.

It is proposed that new Parts 770, 771 and 772 be added to Chapter I of Title 40 as follows:

PART 770—TEST RULES FOR CHEMICAL SUBSTANCES AND MIXTURES

General

Sec.
770.1 Scope, purpose and authority.
770.2 Definitions.
770.3 Applicability.
770.4 Confidentiality and public access to information.
770.5 Compliance.
770.6 Revisions and modifications of test standards.

Authority: Section 4, Toxic Substances Control Act (TSCA) (90 Stat. 2006; 15 U.S.C. 2603).

General

§ 770.1 Scope, purpose, and authority.

(a) *Scope.* As authorized by Section 4 of the Toxic Substances Control Act (the

PART 771—IDENTIFICATION OF CHEMICAL SUBSTANCES AND MIXTURES TO BE TESTED [RESERVED]

PART 772—STANDARDS FOR DEVELOPMENT OF TEST DATA

Subpart A—General [Reserved]

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Subpart K—[Reserved]

Subpart L—Physical and Chemical Properties [Reserved]

Subpart M–Chemical Fate [Reserved]

Subpart N—Ecological Effects [Reserved]

Subparts O–Z—[Reserved]

Authority: Section 4, Toxic Substances Control Act (TSCA) (90 Stat. 2006; 15 U.S.C. 2603).

PART 770—TEST RULES FOR CHEMICAL SUBSTANCES AND MIXTURES

General

Sec.
770.1 Scope, purpose and authority.
770.2 Definitions.
770.3 Applicability.
770.4 Confidentiality and public access to information.
770.5 Compliance.
770.6 Revisions and modifications of test standards.

Authority: Section 4, Toxic Substances Control Act (TSCA) (90 Stat. 2006; 15 U.S.C. 2603.)

General

§ 770.1 Scope, purpose, and authority.

(a) *Scope.* As authorized by Section 4 of the Toxic Substances Control Act (the

[1] See FR Doc 79– also in this Part II of the Federal Register.

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"Act"), Part 771 of this Chapter provides test rules that require manufacturers (including importers) and processors of chemical substances and mixtures ("chemicals") to develop test data in accordance with the rule and submit this data to the Environmental Protection Agency ("EPA"). Part 771 identifies the chemical substances and mixtures for which data are to be developed, provides deadlines for the submission of data to EPA, and prescribes test standards for the development of the data by reference to the standards in Part 772 and specific modifications thereto. Part 772 includes standards relating to the design and conduct of tests, and the analysis and reporting of test data.

(b) *Purpose.* Each TSCA test rule is designed to require manufacturers and processors of the chemicals identified in the rule to develop data on the health and/or environmental effects of these chemicals so that the Administrator will have the data that are necessary to determine whether or not the tested chemicals present a risk of injury to human health or the environment. When data developed in accordance with the rule (and any other relevant information) indicate to the Administrator that regulatory action may be appropriate, the Administrator will use the data developed through the rule (and any other relevant information) to make decisions and support regulatory actions in accordance with the provisions of Section 5, 6, 7 and 9 of the Act.

(c) *Authority.* Section 4 of the Act authorizes the Administrator to promulgate rules for development of test data on chemical substances and mixtures, and specifies that each test rule must, among other things, identify the chemicals to be tested and provide standards for development of test data. The Act further specifies that each test rule must include standards that prescribe the health and environmental effects for which information is to be developed, the data that are to be developed, the analyses to be done on the data, and, if necessary to assure reliable and adequate data, test methodology and other requirements. In order to require that a chemical be tested in accordance with EPA test standards, the Administrator must make three findings relating to the chemical's risk potential and the insufficiency of data then available to EPA.

(1) First, the Administrator must find either that the manufacture, distribution in commerce, processing, use, disposal, or some combination of these activities involving the chemical may present an unreasonable risk of injury to health or the environment, or that the chemical is or will be produced in substantial quantities and that there is or may be significant or substantial human or environmental exposure to the chemical (Sections 4(a)(1)(A)(i) and (B)(i) of the Act).

(2) Second, the Administrator must find that existing data and experience relating to the chemical are insufficient to reasonably determine or predict the effects on health or the environment of the manufacture, distribution in commerce, processing, use, or disposal of the chemical or of any combination of these activities (Sections 4(a)(1)(A)(ii) and (B)(ii) of the Act.)

(3) The third finding of that testing is necessary to develop the requisite data (Sections 4(a)(1)(A)(iii) and (B)(iii) of the Act).

§ 770.2 Definitions.

(a) For the purposes of Parts 770, 771, and 772, the following terms shall have the meaning contained in Section 3 of the Toxic Substances Control Act, 15 U.S.C. 2601 *et seq.*, and any regulation issued under that Act: "Administrator"; "By-Product"; "Chemical Substance"; "Commerce"; "Co-Product"; "Distribute in commerce" and "Distribution in commerce"; "Health and Safety Study"; "Intermediate"; "Manufacture"; "Manufacture for commercial purposes"; "Possession or control"; "Process"; "Process for commercial purposes"; and "Standards for development of test data."

(b) For the purposes of Parts 770, 771, and 772, the following terms shall have the meaning contained in the Federal Food, Drug, and Cosmetic Act, 21 U.S.C. 321 *et seq.*, and the regulations issued under that Act: "cosmetic," "device," "drug," "food," and "food additive." In addition, the term "food" includes poultry and poultry products, as defined in the Poultry Products Inspection Act, 21 U.S.C. 453 *et seq.*; and eggs and egg products, as defined in the Egg Products Inspection Act, 21 U.S.C. 1033, *et seq.* "Pesticide" shall have the meaning contained in the Federal Insecticide, Fungicide, and Rodenticide Act, 7 U.S.C. 136 *et seq.*, and the regulations issued thereunder.

"Act" means the Toxic Substances Control Act, 15 U.S.C. 2601 *et seq.*

"Control substance" means any chemical substance or mixture or other material that is administered to the test system in the course of a study for the purpose of establishing a basis for comparison with the test substance.

"EPA" means the U.S. Environmental Protection Agency.

"Importer" means any person who imports a chemical substance, including a chemical substance as a part of a mixture or article, into the Customs Territory of the United States, and includes the person primarily liable for the payment of any duties on the merchandise or an authorized agent acting on his behalf. Importer also includes, as appropriate:

(1) The consignee;

(2) The importer of record;

(3) The actual owner, if an actual owner's declaration and superseding bond has been filed, in accordance with CFR 141.20; or,

(4) The transferree, if the right to draw merchandise in a bonded warehouse has been transferred in accordance with Subpart C of 19 CFR 144. For the purpose of this definition, the Customs Territory of the U.S. consists of the 50 States, Puerto Rico, and the District of Columbia.

"Impurity" means a chemical substance which is unintentionally present with another chemical substance or in a mixture.

"Person" means any natural person, firm, company, corporation, joint-venture, partnership, sole proprietorship, association, or any other business entity, any State or political subdivision thereof, any municipality, any interstate body and any department, agency, or instrumentality of the Federal Government.

"Processor" means any person who processes a chemical substance or mixture.

"Protocol" means a detailed description of the study design and conduct to be followed.

"Test data" means: (1) data, including chemical identity, from a formal or informal study, test, experiment, recorded observation, monitoring, or measurement; and (2) information concerning the objectives, experimental methods and materials, protocols, results, data analyses (including risk assessments), and conclusions from a study, test, experiment, recorded observation, monitoring, or measurement.

"Tester" means any person who develops health and/or environmental effects data to meet the requirements of a TSCA test rule, including any sponsor who develops such data and any independent consulting or contracting laboratory that develops such data.

"Test mixture" means a combination which results from mixing a test substance with another substance(s), including vehicle, dust-suppressant, feed, water, etc., for the purpose of exposing the test system to the test substance.

"Sponsor" means any manufacturer (including importer) or processor of a chemical substance or mixture for which testing is required under a TSCA test rule who conducts and/or causes to be conducted health and environmental effects tests required by TSCA test rules and/or submits data developed in accordance with the rule to EPA. "Sponsor" includes any manufacture or processor who designates a second manufacturer or processor or a tester to develop such health and environmental effects data.

"Study Plan" means a work document prepared by the sponsor(s) or tester(s) which contains the proposed test protocol along with other pertinent information regarding the test to be conducted, including: the name and address of the sponsor and testing facilities including responsible administrative officers; identification of the substance to be tested; physical and chemical properties of the test substance; data on test substance stability under test and storage conditions; brief summaries of training and experience of each professional involved in the study, including the study director, toxicologist, veterinarian, pathologist(s) and pathology assistants; rationale for species/strain selection; summary of expected spontaneous chronic diseases (including tumors), genealogy, and life span of the strain and species of test animal selected; routes of exposure; description of diet to be used; rationale and supporting data for dose selection; proposed modifications and rationale for variance from applicable TSCA standards; and, schedule for initiation of studies greater than 90 days duration, including schedule for submission of interim progress and final reports to EPA.

"Test substance" means the specific form of a chemical substance or mixture that is used to develop data to meet the requirements of a TSCA test rule.

"Test system" means any animal, plant, microorganism, or subparts thereof to which the test or control substance is administered or added for study. "Test system" also includes appropriate groups or components of the system not treated with the test or control substance.

"Testing facility" means the persons, premises, and operational units that the tester uses or has used for the development of health and environmental effects data required by TSCA test rules.

§ 770.3 Applicability.

(a) Section 4(b)(3)(B) of the Act specifies that if the Administrator makes the Section 4(a) findings referenced in that section, the relevant test rules apply to each person who manufacturers or intends to manufacture, and/or to each person who processes or intends to process the chemical substances and mixtures for which test data are required. The section also provides that the Administrator may permit two or more of the manufacturers and/or processors who are required to conduct tests and submit data to the EPA to designate one such person or a qualified third person to conduct the tests and submit such data on behalf of the persons making the designation.

(b) Under Section 4(c) of the Act, any person required by a TSCA test rule to conduct tests and submit data may apply to the Administrator for an exemption from such requirement. If the Administrator determines that a chemical substance or mixture for which an exemption application was submitted is equivalent to a chemical substance or mixture for which data have been submitted to the Administrator pursuant to a TSCA test rule or are being developed pursuant to such a rule, and that submission of data by the applicant would be duplicative of data which have been submitted to the Administrator pursuant to a Section 4(a) rule or are being developed pursuant to such a rule, the Administrator must exempt the applicant from conducting tests and submitting data (Section 4(c)(2)). In accordance with procedures and rules authorized by Sections 4(c)(3) and 4(c)(4), those persons exempted from conducting testing and submitting data must be required to reimburse those persons submitting the data on which the exemption was based.

§ 770.4 Confidentiality and public access to information.

(a) A person may assert a claim of confidentiality for any information which he submits to EPA under Part 771.

(b) Any claim of confidentiality must accompany the information at the time it is submitted to EPA.

(1) If any information in a document is claimed as confidential, two copies of the document in which the information appears must be submitted.

(i) One copy of the document must be complete. In that copy, the submitter must clearly identify the data which are claimed confidential by marking the specific information on each page with a label such as "confidential business information," "proprietary," or "trade secret."

(ii) The second copy must be complete except that all information claimed as confidential in the first copy must be deleted. EPA will place the second copy in the public file.

(2) If the person does not provide the second copy, EPA will notify him of this fact by telephone or certified mail. If EPA does not receive the second copy within ten working days after the person receives this notice, the Agency will place the first copy in the public file.

(c) At the time a person submits the information to EPA, he must substantiate any claim of confidentiality for information contained in health and safety studies.

(1) If a person does not submit any substantiation, EPA will notify him of this fact by certified mail. If EPA does not receive the substantiation within ten working days after the person receives this notice, the Agency will place the information in the public file.

(d) EPA will disclose information that is covered by a claim of confidentiality asserted in accordance with this section only to the extent permitted by and in accordance with the procedures set forth in the Act, this section and Part 2 of this Title.

(e) If a person does not assert a claim of confidentiality for information at the time he submits it to EPA, the Agency may make the information public, including placement in the public file, without further notice to the person.

§ 770.5 Compliance.

(a) *General.* In order to satisfy the requirements of a TSCA test rule, the sponsor and/or other person who conducts or has conducted tests to meet the requirements in the test rule must test the chemical identified in the rule in accordance with the standards specified in the rule, including the appropriate good laboratory practice standards. The sponsor must submit test data and other required information to EPA on or before the data submission deadline specified in the rule.

(b) *Violations.* (1) Section 15(1) of the Act makes it unlawful for any person to fail or refuse to comply with any rule promulgated or order issued under Section 4. Section 15(3) makes it unlawful for any person to fail or refuse to (i) establish or maintain records, (ii) submit reports, notices, or other information, or (iii) permit access to or copying of records required by the Act or any rule promulgated thereunder. Thus, failure to comply with any aspect of a Section 4 rule or the submission of invalid data, as defined in Section 770.5(c), would be violations as defined by Section 15(1) and 15(3).

contaminants that may affect the

(2) Section 16(a) provides that any person who violates any provision of Section 15 shall be liable to the United States for a civil penalty of up to $25,000 per violation, with each day of violation constituting a separate violation. If a violation is knowing or willful, criminal penalties of up to one year in prison and $25,000 per day of violation may also be assessed under Section 16(b). In addition, under Section 17 of the Act, the Agency may take injunctive action to restrain persons from violating Section 4 rules and standards.

(c) *Invalid data.* Except as provided in Section 770.5(d), data submitted to satisfy a TSCA test rule may be presumed to be invalid if any of the following conditions is present:

(1) The test is not being or was not conducted in accordance with the data development standards in the rule. Non-conformity with any single standard is sufficient to invalidate a test; or

(2) The data submission to EPA includes information and data that is intentionally false or misleading, contains significant omissions, or otherwise does not fulfill the requirements of Section 4 or of a test rule promulgated pursuant to Section 4; or

(3) A sponsor and/or any person who is developing or has developed test data to meet the requirements of a TSCA test rule refuses to admit the Administrator or his delegate for the purpose of auditing test data or inspecting test facilities.

(d) *Non-conforming data submissions.* If a person submits data that was not developed or submitted in accordance with the test standards or other requirements in a rule, EPA may review the data and, if appropriate, use the non-conforming data in order to meet the purposes of the Act.

§ 770.6 Revisions and modifications of test standards.

(a) *Annual revision.* At least once each year, EPA will review the generic test standards to assess their suitability for development of the data required by TSCA test rules. If this review indicates that substantial revision is required, EPA will propose amendments to the standards in accordance with the rulemaking procedures of 5 U.S.C. 553. If this review indicates that minor changes are required, EPA will publish these changes in the **Federal Register** and notify persons currently subject to a test rule containing the standards by certified mail. In either case, EPA will review data developed in accordance with the standards in effect when the rule was promulgated.

(b) *Chemical-specific modification of test standards.* EPA may propose or review a test sponsor's proposal for chemical-specific modifications of test standards if the generic standards are not suitable for a particular chemical. In addition, EPA and the sponsor may agree to specify those details of test methodology that are not mandatory test standards.

PART 771—IDENTIFICATION OF CHEMICAL SUBSTANCES AND MIXTURES TO BE TESTED [RESERVED]

PART 772—STANDARDS FOR DEVELOPMENT OF TEST DATA

Subpart A—General [Reserved]

Subpart B—Good Laboratory Practice Standards [Reserved] [1]

Sec.

772.110–1 Good Laboratory Practice Standards for Health Effects [Reserved] [1]

Subpart C—Acute and Subchronic Health Effects [Reserved]

Subpart D—Chronic Health Effects

772.113–1 General.

(a) *Scope and purpose.*
(b) *Applicability.*
(c) *Definitions.*
(d) *Good laboratory practice standards for chronic health effects.*
(e) *Specific personnel requirements.*
(f) *Submission of study plan.*
(g) *Test or control substance concentration.*
(h) *Dietary requirements.*
(i) *Contaminant analysis of feeds and/or vehicles.*
(j) *Reporting requirements.*
(k) *Contents of final report.*

Subpart E—Mutagenicity [Reserved]

Subpart F—Teratogenicity/Reproductive Effects [Reserved]

Subpart G—Short-Term Tests for Health Effects [Reserved]

Subpart H—Behavioral/Neurotoxicity Health Effects [Reserved]

Subpart I—Other Health Effects [Reserved]

Subpart J—Epidemiological Studies [Reserved]

Subpart K—[Reserved]

Subpart L—Physical and Chemical Properties [Reserved]

Subpart M—Chemical Fate [Reserved]

Subpart N—Ecological Effects [Reserved]

Subparts O–Z—[Reserved]

Authority: Section 4, Toxic Substances Control Act (TSCA) (90 Stat. 2006; 15 U.S.C. 2603).

[1] See FR Doc. 79–14497 also in this Part II of the Federal Register.

Subpart D—Chronic Health Effects

§ 772.113–1 General.

(a) *Scope and purpose.* The standards in this subpart are designed to develop data on chronic health effects of chemical substances and mixtures ("chemicals") subject to chronic health effects test regulations under the Toxic Substances Control Act (TSCA) (P.L. 94–469, 90 Stat. 2003, 15 U.S.C. 2601 *et. seq.*). The EPA will use these data to assess the risk of chronic effects these chemicals may present to human health.

(b) *Applicability.* These standards apply to the development of chronic health effects data from the testing of chemicals specified in Part 771 of this subchapter.

(c) *Definitions.* The definitions in section 3 of the TSCA and the definitions in § 770.2 and § 772.110–1(a)(3), entitled "Good Laboratory Practice Standards for Health Effects," apply to Subpart D. In addition, the following definitions also apply to Subpart D.

(1) "Chronic health effects" means any differences between the control and test animals which may result from long-term chemical exposure and/or develop over a long latency period.

(2) "Oncogenic effects" means chronic health effects which result in benign and/or malignant neoplasms. These effects may be due to initiation and/or promotion mechanisms.

(3) "Test group" means a cohort of test animals which have been randomly selected and which are identical in species/strain, sex, age, source, husbandry conditions, and dose level.

(4) "Exposed group" means a test group, which is administered the test substance at a specific dose level.

(5) "Matched control group" means a test group, which does not receive the test substance but which otherwise is treated the same as the exposed group.

(6) "Test animal" means any animal in the study.

(7) "Exposed animal" means any test animal that receives or is exposed to the test substance.

(8) "Control animal" means any test animal that is not exposed to the test substance.

(d) *Good laboratory practice standards for chronic health effects.* The Good Laboratory Practice Standards for Health Effects in Section 772.110–1, Subpart B, apply to Subpart D.

(e) *Specific personnel requirements.* For the purposes of these test standards:

(1) There are two types of qualified pathologists:

(i) Board-Certified or Board-Eligible pathologist(s) who have a minimum of three years of experience in pathology of the species of laboratory animals to be used; or

(ii) Other doctorate pathologists (D.V.M., M.D., Ph.D., D.D.S., D.O.) who have a minimum of three years of experience in gross, clinical, and/or histopathology of the species of laboratory animals to be used.

(2) A qualified veterinarian is one who is Board-Certified or eligible for certification by the American College of Laboratory Animal Medicine, and who has a minimum of two years of experience in laboratory animal science; and

(3) There are two types of qualified technical employees:

(i) One certified by the American Society of Clinical Pathology (HTASCP), or with equivalent training and experience.

(ii) One certified or eligible for certification by the American Association of Laboratory Animal Science (LTAALAS), or with equivalent training and experience.

(f) *Submission of study plan.* (1) The sponsor(s) of a study must submit a detailed study plan to the Agency at least 90 days before the study is initiated.

(2) The following information must be submitted:

(i) The name and address of the sponsor and testing facility including responsible administrative officials and project manager(s);

(ii) Brief summaries of the training and experience of each professional involved in the study, including Study Director, Veterinarian, Toxicologist(s), Pathologist(s) and Pathology Assistants;

(iii) Study protocol including rationale for species/strain selection, dose selection (and supporting data), route(s) of exposure, modifications or variance from applicable TSCA standards and rules;

(iv) Summary of expected spontaneous chronic diseases (including tumors), genealogy, and lifespan;

(v) Description of diet to be used and source of diet;

(vi) Data on test substance and stability under test and storage conditions;

(viii) Schedule for initiation and completion of major phases of long-term test(s); schedule for submission of interim progress and final reports to EPA.

(g) *Test or control substance concentration.* The tester must document that, at the time of administration, the test substance or mixture administered contains no less than 90 percent of the designated test substance concentration as specified in the sponsor-approved protocol. To accomplish this objective, the tester must conduct and document stability studies in accordance with Section 772.110–1, Subpart B, prior to initiation of a study and analyze the administered substance or mixture to determine:

(1) The rate of loss of the test substance by elution, degradation, or other means;

(2) The major degradation products, if any; and

(3) Analyze for initial concentration.

The initial mean concentration of the test substance must not vary more than ±5 percent from the designated concentration. To assure homogeneity in a test mixture, variability among randomly selected samples (at least 3) from the test mixture must not exceed ±10 percent from the means of the samples.

Note.—If a vehicle is needed in the preparation of the test mixture, either to dissolve, dilute or otherwise facilitate mixing or administering the test substance, the vehicle should be selected to have the following characteristics:

(1) It facilitates absorption but does not substantially alter the extent of distribution, metabolism, or retention of the test substance;

(2) It does not alter the chemical properities of the test substance or substantially enhance, reduce, or alter the toxic characteristics of the test substance;

(3) It does not substantially affect the food or water consumption or the nutritional status of the animals;

(4) It does not produce substantial physiological effects at the levels used in the study.

(h) *Dietary requirements.* (1) All rodents must be fed the standardized diet containing the nutrient levels and produced by feed stocks or ingredients as listed in Appendix A unless EPA approves another diet that the sponsor proposes as a substitute. The sponsor must request and obtain EPA approval at the time of study plan submission for diets for non-rodent species.

(2) The tester must not use feed 90 days after its manufacture. The tester must maintain as a part of the raw data a log showing the date each batch/lot of feed was manufactured and the last date it was administered.

(i) *Contaminant analysis of feeds and/or vehicles.* The sponsor must have each batch/lot of feed and vehicle analyzed to determine concentrations of contaminants listed in Appendix A of this section. The Agency considers this list to be minimal and not all inclusive. The Agency encourages the tester to conduct additional analysis for other contaminants that may affect the interpretation of the study results.

(j) *Reporting requirements.* The tester must submit to EPA all data generated by the test that is suggestive or predictive of the initiation and/or promotion of oncogenic or other chronic disease process(es) and all concomitant toxicologic manifestations. The tester must submit to EPA the following reports:

(1) "Study Plan" as required in § 772.113–1(f).

(2) "Interim Quarterly Summary Reports" outlining the current status of the study including any significant findings.

(3) "Final Test Report".

(k) *Contents of final test report.* (1) *Description of the test procedures.* (i) *Methodology.* Specification of test methods, including a full description of the study design and procedures, the length of the study, and the dates on which the study began and ended, must be stated.

(ii) *Deviation from standards.* The report must indicate all ways in which the test procedure deviated from test standards and must state the reasons for such deviations.

(iii) *Animal data.* Animal data must include:

(A) Species, strain and subline used, rationale for selection of species if it is different than that required in this subpart, and rationale for selection of strain and subline;

(B) Source of supply of the animals;

(C) Breeding Type—inbred, hybrid, outbred;

(D) Disease Control—specific pathogen-free, germ-free, conventional vaccinated;

(E) Description of any pre-test conditioning, including diet and quarantine;

(F) Initial number by sex, numbers of animals in each test group;

(G) Age and condition of each animal at beginning of study;

(H) Method of randomization used in assigning animals to each test group.

(iv) *Environmental conditions.* A description of the caging conditions must include number of animals per cage, bedding material, light (source and time cycle), diet (type and source), amount of diet (*ad libitum*, consumption), water source, amount of water, ambient temperature and humidity (range), cleaning agents used and any pest control materials.

(v) *Preparation of test mixture.* Data on preparation of test mixture must include: name of chemical(s), name of vehicle(s), preparation and calculations of concentrations, method(s) of

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preparation, amount prepared each time, frequency of preparation, physical state, pH, stability and decomposition, storage, date(s) prepared and date(s) of final use.

(vi) *Dosing.* Dosing information must include:

(A) All dose levels administered;

(B) Method and frequency of administration;

(C) Duration of treatment;

(D) Total volume of material (i.e., test substances plus vehicle) contained in individual dosings;

(E) If the test substance is administerd in a vehicle, the method of randomization used in selecting samples of test mixture to assay for the test substance, the assay method used to determine the stability and homogeneity of the test substance being administered, and the results of this assay;

(F) For each dose level, the mean total amount of test substance administered per animal; and

(G) The rationale including discussion of alternatives for selection of the vehicle.

(VII) *Treatment for infectious diseases.* A description of the treatment(s) used to prevent or control infectious diseases if such treatment was undertaken during a test or shortly before a test was begun must include:

(A) For each individual affected animal: its identification number; the nature and severity of the disease; frequency of administration and name(s) of drug(s) or other treatment; total number of doses; total dose given, total time of treatment, the date of first observation and duration of disease; the date(s) of each treatment; and the outcome of the treatment(s) in relation to the disease and to the test results; and

(B) For each treatment: preparation administered, dose per administration (volume, weight, how measured); route of administration; site; and methods and instruments used.

(viii) *Methods of observation.* (A) A description of methods of observation;

(B) Checking individual animals;

(C) Weighing animals and if done on individual animals basis or by weighing of cages;

(D) Frequency of recording of observations;

(E) Frequency of measuring consumption of feed and water.

(ix) *Statistical procedures.* Appropriate statistical methods must be used to summarize test data, to express trends, and to evaluate the significance of differences in data from individual test groups. All data averages or means must be accompanied by standard deviations, to indicate the amount of variability in the raw data. In addition, the standard errors of the means may also be calculated, since they are useful in comparing means from different test groups; however, notations of statistically significant differences, accompanied by the confidence level or probability, may be used in place of the standard errors.

(x) *References:* Statistical and any other methods employed for analyzing the raw data; a list of references to any published literature used in developing the test protocol, performing the testing, making and interpreting observations, and compiling and evaluating the results.

(2) *Data reporting.* The test report must contain the following information, arranged and presented in the format specified.

(i) *For individual animals.* (A) *Significant time periods.* In tabular form, data must be provided showing, for each animal:

(*1*) Its identification number;

(*2*) Whether it was a scheduled kill, the method of kill, and, if so, whether it was moribund before being killed;

(*3*) Its age at the beginning of study, and date on which dosing was begun;

(*4*) The date, time of day, and the day of the study when killing occurred or the animal's death was noted;

(*5*) The date, time of day, and the day of the study when gross necropsy was performed;

(*6*) The date and day of the study when the histopathology examination was performed; and

(*7*) The reasons for failure (if there was failure) to perform necropsy or histopathology examination.

(B) *Toxic, pharmacologic, and behavioral effects.* In tabular form, data must be provided showing, for each animal:

(*1*) Its identification number;

(*2*) The date of observation of each sign of toxicity or pharmacological effect or behavioral abnormality; and

(*3*) A description of the toxic sign, pharmacological effect, or behavioral abnormality. If such a response occurred repeatedly, it need be described only once and may thereafter be described by reference.

(C) *Food and body weight data.* In tabular form, data must be provided showing, for each animal:

(*1*) Its identification number;

(*2*) Estimated food consumption measured at weekly intervals for the first 13 weeks and at monthly intervals throughout the remainder of the test period; and

(*3*) Body weight measured at least weekly during the first 13 weeks of the test period and biweekly throughout the remainder of the test period.

(D) *Descriptions of tumors and other lesions.* Data must be submitted in an appropriate form showing:

(*1*) For each animal, its identification number, the number of weeks on study, its age (in weeks) at death, the manner of death (terminal kill, moribund, or other), and a complete description and diagnosis of every neoplasm, pre-neoplastic lesion, and non-neoplastic lesion found in the animal. The description and diagnosis must include the time of first observation for each lesion, correlation of the histopathology findings with the clinical and gross necropsy observations, and identity of any neoplasm or other lesion, which may have caused the animal to be moribund or to die. All pre-neoplastic and non-neoplastic lesions observed frequently or common in both treated and control animals must be graded. A commonly-accepted scale such as ±1, 2, 3 and 4 expressing degrees ranging from very slight to extreme may be used; however, other scales reflecting this concept are also acceptable. If a grading system is used, a description of the system must be submitted. The description and diagnosis of individual tumors must distinguish between apparently benign and apparently malignant tumors. Histopathologic abnormalities observed repeatedly in a specific test group need to be described only once, in detail as described above; subsequently, the repeat lesion may be referenced to the complete description. However, significant variations from the detailed description must be noted;

(*2*) For each animal, its identification number, and a list of the tissues examined, with designation by checkmark of those tissues found to be normal;

(*3*) For each animal, its identification number, and the number observed of each of the following: non-neoplastic lesions, pre-neoplastic lesions, benign tumors, and malignant tumors.

(ii) *By test group.* The following information must be arranged by test group (species, dose level and sex) and presented in the format specified. All averages must be accompanied by standard deviation. The number of data units on which a calculation is based must be reported for all percentages and means.

(A) *Toxic, pharmacologic, and behavioral effects.* In tabular form, data must be provided showing, for each test group (dose level and sex): (*1*) A list of each sign of toxicity, pharmacological effect, or behavioral abnormality affecting any animal in the test group;

(*2*) For each such response, the number of animals affected;

(*3*) For each such response, the median time from the beginning of the study to the first observation of such response; and

(*4*) The median age at death for those animals displaying each type of response.

(B) *Food and body weight data, means.* In tabular and graphic form, data must be provided showing, for each test group (dose level and sex): (*1*) Mean estimated food consumption measured at weekly intervals for the first 13 weeks and at monthly intervals throughout the remainder of the test period; and

(*2*) Mean body weight measured weekly during the first 13 weeks of the test period and bi-weekly throughout the remainder of the test period.

(C) *Survival and kill data.* In tabular format, data must be provided showing, for each test group: the number of animals which remained alive at the end of each 7-day interval, the number of animals that were killed or otherwise died during each 7-day interval, and the number that died by sacrifice and were moribund before sacrifice.

(D) *Clinical laboratory data.* (*1*) In any apropriate form, data must be submitted showing, for each animal: (*i*) Its identification number;

(*ii*) The results of any hematological blood chemistry, and other clinical laboratory tests performed; and

(*iii*) The results of any residue analysis, if performed.

(*2*) In any appropriate form, data must be submitted showing, for each test group (dose level and sex): (*i*) The average of the results of each hematological, blood chemistry, and other clinical laboratory test performed; and

(*ii*) The average results of any residue analysis, if performed.

(E) *Gross necropsy data.* The following test information, arranged by test group (dose level and sex), must be supplied in tabular form: (*1*) Data showing the identification number of any animal in which any gross abnormality was noted, and including, for each such animal, a description of each gross abnormality, the dimensions of any visible lesion, and the data (if known) when it was first observed. Gross abnormalities observed repeatedly in necropsies of the test animals need be described by reference.

(*2*) Data showing the number of animals in which any specific types of gross abnormalities are observed.

(*3*) Data showing the identification number of each animal, individual organ weights, and organ-to-body weight ratios.

(*4*) Data showing the mean weights of each type of organ, the mean organ-to-body weight ratios, and corresponding standard deviations.

(F) *Incidence of tumors, by test group.* Data must be submitted in tabular form, showing: (*1*) For each test group, the number of animals at the start of the test, the number and percentage of animals surviving to the termination of the test, the number and percentage of animals in which any tumor was found, the number and percentage of animals with multiple tumors (more than one type), and the number and percentage of animals with a malignant tumor; and

(*2*) For each type of tumor, the number of animals in each test group in which the affected tissue was examined microscopically, and the number and percentage of animals in each test group in which that type of tumor was observed.

(G) *Incidence of lesions other then tumors, by test group.* References to lesions in this paragraph (k) refer to lesions other than tumors. Data must be submitted in tabular form showing, for each test group: *(1)* The number of animals at the start of the test, the number of animals surviving to the termination of the test, the number of animals in which any lesion was found, the number of animals in which any pre-neoplastic lesions were found, and the number of animals in which any non-neoplastic lesions were found; and

(2) The number of animals affected by each different type of lesion, the average grade (when applicable) of each type of lesion, the number of animals examined microscopocally for each type of lesion, and the percentage of those animals examined which were affected by each type of lesion.

(H) *Cumulative mortality and cumulative incidence of tumors and other lesions at weekly intervals, by test group.* Data must be submitted in tabular form showing, for each test group at each 7-day interval: *(1)* Cumulative mortality (total number of animals which died during the study);

(2) Cumulative incidence of all types of tumors (total number of animals with any type of tumor);

(3) Cumulative incidence of specific types of tumors by site which were observed frequently (total number of animals with a specific type of commonly-occurring tumor); and

(4) Cumulative incidence and average grade (when applicable) for specific types of commonly-occurring non-neoplastic lesions.

(I) *Tumors and other lesions in historical controls.* In an appropriate form, data must be submitted showing the types, incidence (number and percentages), and grades (where known and appropriate) of non-neoplastic and pre-neoplastic lesions and benign and malignant tumors in historical controls (to the extent that such contols were taken into account in evaluating the results of testing).

(iii) *Study evaluation.* (A) An evaluation of the test results, including their statistical analysis, must be made and supplied, based on clinical findings, gross necropsy findings, and histopathology results. This submission must include an evaluation of the relationship, if any, between the animal's exposure to the test substance and the development of benign and malignant neoplasms as well as non-neoplastic disease.

(B) The statistical methods used must be described. This includes survival correction for tumor incidence.

(3) *Summary and analysis of test results.* This section of the test report must contain a summary and analysis of the data, and a statement of the conclusions drawn from the analysis. The summary must highlight any and all positive data or observations, and any deviations from control data which may be indicative of toxic effects. The summary must be presented in sufficient detail to permit independent evaluation of the results.

Appendix A—Dietary Requirements and Contaminant Analysis

Dietary Requirements. This Appendix provides dietary requirements and contaminant analysis of feeds and vehicles for the Chronic Effects Test.

(a) *Nutrient Requirements.* The diet usad must be manufactured from the following ingredients and no others. (Reference: Nutrient Requirements of Laboratory Animals, Third Revised Edition, National Academy of Sciences, Washington, D.C., 1978.)

(1) *Ingredients*

Fish meal
Soybean meal
Alfalfa meal
Corn gluten meal
Ground whole wheat
Ground #2 yellow shelled corn
Ground whole oats
Wheat middlings
Brewers dried yeast
Soy oil
Salt
Dicalcium phosphate
Ground limestone

(i) A vitamin premix must be prepared from the following vitamin sources:

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Vitamin A Palmitate or Acetate
D activated animal sterol
Menadione activity
Alpha-tocopherol acetate
Choline Chloride
Folic Acid
Niacin
d-Calcium Pantothenate
Riboflavin Supplement
Thiamine mono nitrate
B12 Supplement
Pyridoxine hydrochloride
d-Biotin

A mineral premix must be prepared from the following compounds:

Cobalt carbonate
Copper sulfate
Iron sulfate
Magnesium oxide
Manganese oxide
Zinc oxide
Calcium iodate

Microanalysis—The total calculated concentration of nutrients in the diet are from the ingredients and from the vitamin and mineral fortifications at the time of manufacture must be as follows:

	Minimum (percent)
Crude protein	18.0
Crude fat	4.3
Crude fiber	4.2
Ash	8.0

Nutrient concentrations in final diet must not vary from the individually stated values by more than 10%.

Amino Acids (percent of total diet):	Minimum
Arginine	0.95
Lysine	.90
Methionine	.38
Cystine	.27
Tryptophan	.20
Glycine	1.00
Histidine	.38
Leucine	1.50
Isoleucine	.95
Phenylalanine	.90
Tyrosine	.60
Threonine	.65
Valine	.95

Minerals:	Minimum
Calcium	1.15 percent
Phosphorous	.90 percent
Potassium	.80 percent
Sodium	.33 percent
Magnesium	.20 percent
Iron	345 mg/kg
Zinc	50 mg/kg
Manganese	140 mg/kg
Copper	12 mg/kg
Cobalt	.80 mg/kg
Iodine	1.85 mg/kg

	Minimum	Maximum
Vitamins:		
Vitamin A	15.0	75.00 IU/g
Vitamin D	4.0	10.00 IU/g
Alpha-tocopherol	50.0	mg/kg
Thiamine	14.0	mg/kg
Riboflavin	7.0	mg/kg
Niacin	65.0	mg/kg
Pantothenic Acid	32.0	mg/kg
Choline	1900.0	mg/kg
Pyridoxine	10.0	mg/kg
Folic Acid	2.0	mg/kg
Biotin	0.3	mg/kg
Vitamin B12	14.0	Mcg/lb
Vitamin K	3.0	mg/kg
For autoclavable diet:		
Vitamin A	30.0	mg/kg
Thiamin	70.0	mg/kg
Vitamin K	20.0	mg/kg

The diet must be void of any feed additives containing antibiotics or estrogen activity. When diet is purchased for feeding in meal form, it must be manufactured by regrinding pellets.

(2) *Approximate Analysis*—Analysis for nutrient content of both ingredients and the finished product must be conducted in accordance with the procedures of the Association of Official Agricultural Chemists (1975) and must be expressed as a nutrient content percentage by weight on an air-dry basis.

(3) *Ingredient Standards*—Ingredients used in the manufacture of this ration must not be contaminated with any more than 3 percent of foreign materials such as other grains, weed seeds, chaff, etc. Nor will any mold, must, or insect/rodent infestation be allowed. The average minimum nutrient concentrations of ingredients used in the manufacture of this ration must be equal to the values published in the National Academy of Sciences Publication 1684, United States-Canadian Tables of Food Composition.

The data from these analyses must be made available to the facility using the product.

(4) *Feed Additives and Processing Restrictions*—The product must contain no antibiotics, other preservatives or estrogen additives of any kind. All milling and warehousing conditions and/or restrictions, as specified in the latest issue of the National Institues of Health Standard No. 1, apply to the feed covered by this specification. The product must not be altered in any manner that will affect the final nutrient content.

(5) *Labeling*—Each bag must be clearly marked with the name of the product, the name of the manufacturer, the net weight, the ingredients, the guaranteed analysis of its contents, the date (month, day, and year) the manufacturing process was completed, and the batch number under which it was processed.

(b) *Contaminant analysis of feeds and vehicles.*

Parameter	Specification limitation	
	Minimum	Maximum
Aflatoxin (B1, B2, G1, G2) ppb Total		5
Estrogenic Activity, ppb (DES eq.)		1
Lindane, ppb		20
Heptachlor, ppb		20
Malathion, ppm		2.5
DDT (Total), ppb		100
Dieldrin, ppb		20
Cadmium, ppb		160
Arsenic, ppm		1.0
Lead, ppm		1.5
Mercury, ppb		100
Selenium, ppm	0.1	0.8
PCB, ppb		50
Nitrosamines, ppb		10

§ 772.113–2 Oncogenic effects test standards.

(a) *Study design.* (1) Species and Stains.

(2) Sex.

(3) Age at Start of Test.

(4) Group Size.

(5) Control Groups.

(6) Route(s) of Administration.

(7) Frequency of Exposure.

(8) Duration of Treatment and Observation Periods.

(9) Dose Levels and Dose Selection.

(b) *Study conduct.* (1) Clinical Procedures.

(2) Pathology Procedures.

§ 772.113–2 Oncogenic effects test standards.

(a) *Study design.* (1) *Species and Strain.* (i) The tester must use at least two rodent species, the laboratory mouse and rat. An alternative species may be used if the sponsor can provide sufficient data and/or rationale to demonstrate that it is a more appropriate species for a specific test substance. The sponsor must present such data and/or rationale for Agency approval as a part of the study plan submission.

(ii) The sponsor or tester must select the specific strains and/or stocks of test animals to be used. Established strains and/or stocks which are expected to be sensitive to the test substance must be used. As part of the study plan submission, the sponsor must present the rationale for selection of the specific test animals. This must include a summary of any prior test results with the selected species, historical data on their lifespans, spontaneous diseases and conditions (including tumors) and their incidences.

Note.—Acceptable rationale for alternate species would be results from prior oncogenicity studies which show that the alternative species is sensitive to the oncogenic effects of the chemical class to which the test substance belongs or that the alternate species has similar metabolism or pharmacokinetics to humans.

(2) *Sex.* The tester must use equal numbers of males and females at each dose level.

(3) *Age at start of test.* The tester must begin to dose rodents as soon as possible after weaning and environmental acclimatization, by no later than six (6) weeks of age. For nonrodents, the Agency must approve the age of initial exposure.

(4) *Group size.* Each "test group" of rats or mice must contain at least 50 animals. The tester must assign animals to individual test groups by a specified randomization procedure. When the study plan calls for interim kill, the tester must increase the number of animals in each group at the start of the study by the number scheduled to be killed before completion of the study. If species other than the laboratory mouse and rat are selected, EPA must approve the number of animals per group.

(5) *Control groups.* A tester must use a matched control group which is identical in every respect to the exposed groups except for exposure to the test substance.

Note (i).—If a vehicle is administered to the matched control group and if its toxic properties are not known, the tester may, at his/her discretion, use a negative or untreated control group.

Note (ii).—The EPA may require a Positive Control Group for particular chemicals when the sensitivity of the test animal to the chemical class to which the test substance belongs cannot be documented. When used, the positive control group should serve as an internal quality control to ascertain whether the test animals are sensitive to or respond in a predictable manner to known toxic agents and whether the test strain or species reacts similarly to another strain or species when exposed to the same known standard toxicant.

(6) *Route(s) of administration.* To the extent possible, route(s) of administration should be comparable to the expected or known routes of human exposure. The test rules in Part 771 will specify the route(s) to be employed for a particular chemical. For inhalation and dermal studies, Part 771 will also specify the specific conditions for administering the test substance.

(7) *Frequency of exposure.* The tester must administer test substance and vehicle, if any, by the same route and at the same frequency for the duration of the study. For gavage, the test substance must be administered daily; for feeding, *ad libitum;* for inhalation exposure, a minimum of 5 days per week, 6 hours per day; and for dermal exposure, as specified in the applicable test rule. The tester must conduct the dosing at approximately the same time each day.

(8) *Duration of treatment and observation periods.* The tester must administer the test substance to rodent species for a minimum of 24 months but no longer than 30 months. If a nonrodent species is used, the Agency must approve the duration of exposure.

(9) *Dose levels and dose selection.* (i) The tester must provide data from at least three dose levels (in addition to controls) in each sex of each species.

(A) The high dose level must be the maximum level that can be administered for the duration of the test period, with demonstrable but only slight toxicity, and no substantial reduction in longevity due to effects other than tumors. Signs of demonstrable, slight toxicity are a weight decrement not to exceed 10 percent compared to appropriate controls, clinical signs of toxicity, or pathologic lesions other than those related to a neoplastic response.

(B) The intermediate dose level must be some fraction (¼ to ½) of the high dose level.

(C) The lowest dose level must be some fraction (½ or less) of the intermediate dose level but not less than 10 percent of the high dose level.

(D) The sponsor or tester may add additional dose levels at his/her own discretion. If other dose levels are tested, the sponsor must submit the data from any such discretionary levels to Agency along with that of the required levels.

(ii) The tester must conduct a preliminary toxicology study of at least 90 days to select the chronic dose levels which will meet the requirements in this subsection. A preliminary toxicology study of at least 90 days that has been completed previously may be submitted for this purpose.

(iii) The sponsor must submit the rationale for dose selection including supporting data from preliminary toxicity studies as a part of the plan submission.

(b) *Study conduct.* (1) *Clinical procedures.* Veterinarians, as specified in § 772.113–1(e)(2), must ascertain and be responsible for the health status and care of all test animals prior to and during the study. Technical employees, as specified in § 772.113–1(e)(3)(ii), must be responsible for the daily observations and care of test animals.

(i) *Observation of Animals.* (A) Each test animal must be identified by a specific identification number. The tester must account for all animals at the end of the study. The tester must establish and adhere to standard operating procedures for housing, feeding, handling, and care of test animals as specified in § 772.110–1, Subpart B. To further assure minimal loss of animals due to cannibalism or autolysis of tissue, technical employees, as specified above, must observe the test animals every 12 hours throughout the test period. EPA may consider a study to be unacceptable for purposes of satisfying a test rule requirement if losses in any test group exceed 5 percent.

(B) Technical employees must conduct routine clinical examinations on each animal. These clinical examinations must include weighing of each animal, approximately the same time of day, at least once a week during the first 13 weeks, and every two weeks thereafter, and observing animals in relation to food and water consumption, morbidity, mortality and causes thereof, loss of animals for whatever reason, signs to toxicity, pharmacologic effects, and behavioral changes. The observer must record all data in detail at the time of observation.

(ii) *Hematology.* The tester must conduct the following quantitative hematologic determinations on a minimum of eight predesignated animals in each test group at one year (± one month) and at termination: hematocrit, hemoglobin, erythrocyte count, total and differential leukocyte counts, platelet count, and prothrombin and clotting times. If hematologic evidence of anemia is present at one year, reticulocyte counts must be performed within one week of the determination. In addition to the tests listed above, if any interim clinical observations suggest that other tests are necessary to assess the health status of test animals, the appropriate tests must be conducted. In the event that any of the predesignated animals does not survive 12 months, another animal selected by statistical randomization from the remainder of the appropriate test group can serve as a replacement.

Note.—Predesignated means that the animal has been selected to undergo this test by a specified randomization procedure prior to initiation of the study.

(iii) *Interim kill.* The tester may kill predesignated animals (other than those predesignated for hematological test in paragraph (b)(1)(ii) of this section at any time during the study, provided that he (she) increased the number of animals started in the study at least by the number scheduled or anticipated to be killed before the end of the study.

(iv) *Killing of test animals.* Animals which appear during the study as moribund, injured, or weak, and not expected to survive to the next observation, must be killed to preclude the loss of tissues from cannibalism and/or autolysis. Animals surviving to the termination of the study must also be killed. A technical employee must obtain blood samples for hemotologic determinations from each animal immediately before it is killed or as it is killed. The method used for killing must be humane and the same throughout the study. The tester must select a method of killing which will not produce interfering pathologic lesions.

(2) *Pathology procedures.* A Board-certified or Board-eligible pathologist, as specified in § 772.113–1(e)(1)(i), must be responsible for the planning and conduct of all pathology procedures and histopathology examinations, as well as for the final interpretation of all pathology data. Other doctorate pathologists, as specified in § 772.113–

1(e)(1)(ii), are also acceptable for conducting procedures in their disciplines of specialization, under the direct supervision of a Board-Certified or Board-Eligible pathologist as specified in § 772.113–1(e)(1)(i).

Note.—Direct supervision means that the supervisor is immediately available for consultation, as necessary. This consultation may be done in person or by telephone.

(i) *Gross necropsy.* (A) Qualified pathologists, as specified in § 772.113–1(e)(2)(1), must perform or personally supervise the necropsies. Other appropriately trained technical employees, as specified in § 772.113–1(e)(3)(i), may assist in the necropsy.

Note.—Personal supervision means that the supervisor is immediately available for consultation at the site.

(B) Animals must be necropsied as soon as possible after death but no later than 16 hours after death. If necropsy cannot be performed immediately after the animal is killed or found dead, a technical employee must immediately refrigerate (but not freeze) the animal at temperatures low enough to minimize tissue autolysis (4–8° C). Animals found dead upon routine clinical examination must be necropsied as soon as possible to salvage useable tissues.

(C) The gross necropsy must include an initial physical examination of the external surfaces and all orifices followed by an internal examination of tissues and organis *in situ*. The examination must include the following: external and internal portions of all hollow organs; cranial cavity and external surfaces of the brain and spinal cord; nasal cavity and paranasal sinuses; neck with its associated organs and tissues; thoracic, abdominal, and pelvic cavities with their associate organis and tissues; and the muscular/skeletal carcass. The urinary bladder and lungs must be inflated with a proper fixative to allow for better gross examination and preservation.

(D) The person responsible for the gross necropsy must record all gross necropsy findings in accordance with § 772.113–1 (k)(2).

(ii) *Tissue preservation.* A technical employee must immediately preserve all tissues and organs from all test animals in ten percent (10%) buffered formalin or another recognized and accepted fixative appropriate for the specific tissue(s). Sections from the following tissues from all test animals regardless of their time of death must be properly preserved for routine microscopic examination:

(A) All gross lesions (with a margin of normal tissue);

(B) Brain (minimum of one section each from the forebrain, midbrain, and hindbrain);

(C) Eyes and contiguous Harderian glands;

(D) Pituitary gland:

(E) Major salivary glands, thymus, thyroid with parathyroid, mammary, glands; Zymbal's gland (if present);

(F) Oral mucous membrane (including random sections from tongue, buccal, and alveolar mucosa, pharynx, and nasopharynx);

(G) Heart and aorta;

(H) Trachea; lungs with the mainstem bronchi;

(I) Esophagus, stomach, small intestines and large intestine (cecum, colon, and rectum);

(J) Adrenal glands, pancreas, liver (minimum of two lobes), gall bladder (if present), spleen;

(K) Kidneys, urinary bladder;

(L) Representative lumph nodes (including those draining any neoplasm and those with gross changes);

(M) Bone including marrow from the sternum, vertebra and/or tibiofemoral joint;

(N) Skeletal muscle;

(O) For males: testes, prostate, and all other accessory sex organs;

(P) For females: vagina, corpus and cervix uteri, ovaries, and fallopian tubes.

(iii) *Preparation of tissue for microscopic examination.* A pathologist or a technical employee, as specified in § 772.113–1(e)(3)(i), must prepare all specimens for microscopic examination.

(A) *Tissue fixation and trimming.* A technical employee must fix tissues for the appropriate time for the fixative utilized. A pathologist must perform or directly and personally supervise tissue trimming. Routinely, tissues must be trimmed to a thickness of no more than 0.4 cm for subsequent processing. Parenchymal organs must be trimmed to allow for the largest surface area possible for subequent microscopic examination. Hollow organs must be trimmed to allow for a cross section mount from mucosa to serosa. Lymph nodes must be bisected through the hilus, if possible.

(B) *Slide preparation.* A technical employee must cut tissues routinely at a thickness of three to six micra (3 to 6 μ), in no case exceeding 10μ. All tissues must be stained routinely with hematoxylin and eosin (H&E). EPA encourages the use of special stains appropriate to the specific neoplasm, lesion, or tissue. Multiple sections (step cuts) must be made on each tissue or organ that contains gross evidence of a neoplasm or lesion and on each tissue or organ in which a metastasis may be anticipated. The tester must identify all blocks and microscopic slides by references to the animal's specific identification number and must preserve and hold them in accordance with § 772.110–1(j)(2).

(iv) *Microscopic examination and evaluation.* (A) Qualified pathologists as described in § 772.113–1(e)(1), must perform the microscopic examination and evaluation with subsequent diagnosis. The same pathologist must examine and evaluate all microscopic slides from all test animals of a given species.

(B) Microscopic examination must be performed on all tissues described in paragraphs (b)(2)(ii), (b)(2)(v), and (b)(2)(vi) of this section. The pathologist must record, document, and report all microscopic findings including all abnormalities, lesions, neoplasms, metastatic tumors and their anatomic locations in accordance with § 772.113–1(k)(2).

(v) *Additional examination.* All adverse health effects, including non-oncogenic effects, observed during the course of the study must be examined. When there is clinical evidence suggesting specific toxicologic or pharmacologic effects, including non-oncogenic effects, the necropsy and microscopic examinations of the suspected target organs must be conducted in greater detail. For example, when there is clinical evidence of neurologic effects, multiple sections from brain, spinal cord, and nerves must be examined.

(vi) *Special examinations.* (A) Additional sections, as specified below, must be microscopically examined from a minimum of ten animals selected randomly from the long-term survivors of each test group and in all animals in which clinical or grossly observable evidence of disease is present. If microscopic examination reveals evidence of disease in any of the tissues, then these target tissues must be examined in all test animals.

(B) The necropsy and microscopic examinations must include, in addition to those tissues listed in paragraph (b)(2)(ii) of this section, the following:

(*1*) *In a feeding study:* nasal cavity; paranasal sinuses; nasopharynx.

(*2*) *In an inhalation study:* multiple sections of the upper respiratory tract; nares; nasal cavity; paranasal sinuses; hypopharynx-larynx.

(*3*) *In a dermal study:* skin (normal); skin from sites of skin painting.

§ 772.113–3 Non-oncogenic chronic effects test standards.

(a) *Study design.* (1) Species and strains.

(2) Sex.

(3) Age at start of test.

(4) Group size.

(5) Control groups.

(6) Route(s) of administration.

(7) Frequency of exposure.

(8) Duration of treatment and observation periods.

(9) Dose levels and dose selection.

(b) *Study conduct.* (1) Clinical procedures.

(2) Pathology procedures.

§ 772.113–3 Non-oncogenic chronic effects test standards.

(a) *Study design.* (1) *Species and strains.* (i) The tester must use at least two mammalian species: one, a laboratory rat and the second, a nonrodent. The Agency recommends the dog as the nonrodent species. The tester may utllize other suitable nonrodent species approved by EPA.

Note.—Selection of the most appropriate nonrodent species should be predicated upon such factors as metabolism, pharmacokinetics, sensitivity or organotropism and other considerations pertinent to the study.

(ii) The sponsor or tester must select the specific strains and/or stocks of test animals to be used. Test animals must be from established strains and/or stocks. As part of the study plan submission, the sponsor must present the rationale for selection of the specific test animals along with historical data on their lifespans and disease types and incidences.

(2) *Sex.* The tester must use equal numbers of males and females at each dose level.

(3) *Age at start of test.* The tester must begin to dose as soon as possible after weaning and environmental acclimatization, but no later than six weeks of age for rodents and at ten weeks of age for dogs. For nonrodent species, other than the dog, the Agency must approve the age of initial exposure.

(4) *Group size.* Each "test group" of rodents must contain at least 50 animals (plus at least 8 additional for clinical laboratory testing). If the nonrodent species is the dog, then each group must contain at least six animals. The tester must assign animals to individual test groups by a specified randomization procedure. When the study plan calls for interim kill, the tester must increase the number of animals in each group at the start of the study by the number scheduled to be killed before completion of the study. If species other than the laboratory dog and rat are selected, EPA must approve the number of animals per group.

(5) *Control groups.* A tester must use a matched control group which is identical in every respect to the exposed groups except for exposure to the test substance.

Note (i).—If a vehicle is administered to the matched control group and if its toxic properties are not known, the tester may, at his/her discretion, use a negative or untreated control group.

Note (ii).—The EPA may require a Positive Control Group for particular chemicals when the sensitivity of the test animal to the chemical class to which the test substance belongs cannot be documented. When used, the positive control group should serve as an internal quality control to ascertain whether the test animals are sensitive to or respond in a predictable manner to known toxic agents and whether the test strain or species reacts similarly to another strain or species when exposed to the same known standard toxicant.

(6) *Route(s) of administration.* To the extent possible, route(s) of administration should be comparable to the expected or known routes of human exposure. Test rules in Part 771 will specify the route(s) to be employed for a particular chemical. For inhalation and dermal studies, Part 771 will also specify the specific conditions for administering the test substance.

(7) *Frequency of exposure.* The tester must administer test substance and vehicle, if any, by the same route and at the same frequency for the duration of the study. For gavage, the test substance must be administered daily; for feeding, *ad libitum;* for inhalation exposure, a minimum of 5 days per week, 6 hours per day; and for dermal exposure, as specified in the applicable test rule. For gavage, the tester must conduct the dosing at approximately the same time each day.

(8) *Duration of treatment and observation periods.* The tester must administer the test substance to rate for at least 30 months. In studies with nonrodents, the tester must test for at least 2 years unless the Agency authorizes specific exceptions.

(9) *Dose levels and dose selection.* (i) The tester must select doses to permit analysis of dose-response relationships and the "no observable effect level" (NOEL).

(A) A minimum of three dose levels (in addition to controls) in each sex of each species must be used.

(B) The highest dose level must demonstrate toxicologic effects. Mortality in rat groups must not exceed 50 percent before 18 months. Mortality in nonrodent groups must be kept to a minimum but significant toxicologic effect must also be demonstrated in the species.

(C) The lowest dose level must be selected to produce no observable evidence of toxicity other than tumors (NOEL).

(D) The sponsor or tester may add additional dose levels at his/her own discretion. If other dose levels are tested, the sponsor must submit the data from any such discretionary levels to the Agency along with that of the required levels.

(ii) The tester must conduct a preliminary toxicology study of at least 90 days to select the chronic dose levels which meet the requirements of this section. A preliminary toxicology study of at least 90 days that has been completed previously may be submitted for this purpose.

(iii) The sponsor must submit the rationale for dose selection including supporting data from preliminary toxicity studies as a part of the study plan submission.

(b) *Study conduct.* (1) *Clinical procedures.* A veterinarian, as specified in § 772.113–1(e)(2), must ascertain and be responsible for the health status and care of all test animals during the study. A technical employee, as specified in § 772.113–1(e)(3)(ii), must be responsible for the daily observations and care of the test animals.

(i) *Observation of animals.* (A) Each test animal must be identified by a specific identification number. The tester must account for all animals at the end of the study. The tester must establish and adhere to standard operating procedures for housing, feeding, handling, and care of test animals as specified in § 772.110–1. To further assure minimal loss of animals due to cannibalism or autolysis of tissue, technical employees, as specified above, must observe the test animals at least every 12 hours throughout the test period. EPA may consider a study to be unacceptable for purposes of satisfying a test rule requirement if losses in any test group exceed 5 percent.

(B) Technical employees must conduct routine clinical examinations on all test animals. Clinical examination must include weighing of each animal, at approximately the same time of day, at least once a week during the first 13 weeks, and every two weeks thereafter and observing all animals in relation to food and water consumption, morbidity, mortality and causes thereof, loss of animals for whatever reason, signs of toxicity, pharmacologic effects, and behavioral changes. The observer must

record all data in detail at the time of observation.

(ii) *Clinical laboratory testing.* The tester must conduct the following quantitative determinations on a minimum of eight additional predesignated rats in each test group. For nonrodents, all animals in each test group must be utilized. In addition to the tests listed below, if any interim clinical observations suggest that other tests are necessary to assess the health status of test animals, the appropriate tests must be conducted.

Note.—Predesignated means that the animal has been selected to undergo these tests by a specified randomization procedure prior to initiation of the study.

(A) *Hematology.* The tester must conduct the following quantitative hematologic determinations at least at 3, 6, 12, 18, 24 months and at study termination: hematocrit, hemoglobin, erythrocyte count, total and differential leukocyte counts, platelet count, and prothrombin and clotting times. If hematologic evidence of anemia is present, reticulocyte counts must be performed within one week of the determination.

(B) *Blood chemistry.* The tester must conduct the following quantitative blood chemistry determinations at least at 3, 6, 12, 18, 24 months and at study termination: calcium, sodium, potassium, chloride, serum lactic dehydrogenase, serum glutamic pyruvic transaminase, creatinine kinase, serum glutamic oxaloacetic transaminase, glucose, blood urea nitrogen, creatinine, direct and total bilirubin, cholinesterase, total cholesterol, triglycerides, serum alkaline phosphatase, albumin, globulin, and total protein. In addition to these tests, the tester may conduct other quantitative blood chemistry determinations at his/her discretion, such as uric acid, gammaglutamyl transpeptidase, and ornithine carbamoyltransferase.

(C) *Urinalysis.* The tester must conduct the following quantitative determinations at least at 3, 6, 12, 18, 24 months and at study termination: specific gravity or osmolarity, pH, protein, glucose, ketones, bilirubin, and urobilinogen, as well as microscopic examination and analysis of formed elements. Each animal's urine must be evaluated individually.

Note.—*Additional Tests.* Based on results of concurrent or previous studies on the test substance, its metabolic or degradation products, the tester should conduct such other determinations as may be necessary for adequate toxicological evaluation.

(D) *Function tests.* (*1*) The tester must determine the functional capacity of the renal, hepatic, pulmonary, and cardiovascular systems.

Note.—Additional determinations must place major emphasis on organ or system function tests. Selection of the appropriate tests must be based upon the findings in the subchronic studies or observations made during the course of present study.

(*2*) Additional quantitative determinations may include, but not necessarily be limited to the following: water dilution and water concentration tests for renal function; total lung capacity, functional residual capacity, and residual volume for pulmonary function; bromsulphalein excretion test for liver function; electrocardiogram, blood pressure, and exercise recovery for cardiovascular function. The tester must perform these evaluations at the beginning (nonrodent only) and at least every 3, 6, 12, 18, 24 months and at study termination.

(E) *Residue analysis.* The tester must measure levels of test substance, major metabolites or other biologically significant metabolites at 3, 6, 12, 18, and 24 months ± 1 month and at the termination of the study. Tissues from the predesignated animals analyzed should include all target tissues from prechronic toxicology studies and those suggested by pharmaco-kinetic studies. These analyses must include at least plasma, 24-hour urine, feces and, at time of death or scheduled killing, liver and kidney.

(iii) *Interim kill.* The tester may kill predesignated animals (other than those predesignated for hematological tests in paragraph (b)(1)(ii)(A) of this section at any time during the study, provided that he/she increases the number of animals started in the study at least by the number scheduled or anticipated to be killed before the end of the study.

(iv) *Killing of test animals.* Animals which appear during the study as moribund, injured, or weak, and not expected to survive to the next observation, must be killed to preclude the loss of tissues from cannibalism and/or autolysis. Animals surviving to the termination of the study must also be killed. A technical employee must obtain blood samples for hematologic determinations from each animal immediately before it is killed or as it is killed. The method used for killing must be humane and the same throughout the study. The tester must select a method of killing which will not produce interfering pathologic lesions.

(*2*) *Pathology procedures.* A Board-Certified or Board-Eligible pathologist, as specified in § 772.113–1(e)(1)(i), must be responsible for the planning and conduct of all pathology procedures and histopathology examination, as well as for the final interpretation of all pathology data. Other doctorate pathologists, as specified in § 772.113–1(e)(1)(ii), are also acceptable for conducting procedures in their disciplines of specialization, under the direct supervision of a Board-Certified or Board-Eligible pathologist as specified in § 772.113–1(e)(1)(i).

Note.—Direct supervision means that the supervisor is immediately available for consultation, as necessary. This consultation may be done in person or by telephone.

(i) *Gross necropsy.* (A) Qualified pathologists, as specified § 772.113–1(e)(1), must perform or personaally supervise the necropsies. Other appropriately trained technical employees, as specified in § 772.113–1(e)(3)(i) may assist in the necropsy.

Note.—Personal supervision means that the supervisor is immediately available for consultation at the site.

(B) Animals must be necropsied as soon as possible after death but no later than 16 hours after death. If necropsy cannot be performed immediately after the animal is killed or found dead, a technical employee must immediately refrigerate (but not freeze) the animal at temperatures low enough to minimize tissue autolysis (4–8° C). Animals found dead upon routine clinical examination must be necropsied as soon as possible to salvage usable tissues.

(C) The gross necropsy must include an initial physical examination of the external surfaces and all orifices followed by an internal examination of tissues and organs *in situ.* The examination must include the following: external and internal portions of all hollow organs; cranial cavity and external surfaces of the brain and spinal cord; nasal cavity and paranasal sinuses; neck with its associated organs and tissues; thoracic, abdominal, and pelvic cavities with their associated organs and tissues; and the muscular/skeletal carcass. The urinary bladder and lungs must be inflated with a proper fixative to allow for better gross examination and preservation.

(D) The weights of the heart, liver, kidneys, testes, spleen, lung, brain, and adrenals must be recorded after careful dissection and trimming. In addition, the thyroid (with parathyroids) and pituitary must be weighed for each nonrodent. The person responsible for the gross necropsy must record all gross necropsy findings in accordance with § 772.113–1(k)(2).

(ii) *Tissue preservation.* A technical employee must immediately preserve all tissues and organs from all test animals in 10 percent buffered formalin or another recognized and accepted fixative appropriate for the specific tissue(s). Sections from the following tissues from all test animals regardless of their time of death must be properly preserved for routine microscopic examination:

(A) All gross lesions (with a margin of normal tissue);

(B) Brain (minimum of one section each from the forebrain, midbrain, and hindbrain);

(C) Spinal cord (minimum of one section each from cervical, thoracic, and lumbar regions);

(D) Eyes and contiguous Harderian glands;

(E) Pituitary gland;

(F) Major salivary glands, thymus, thyroid with parathyroid, mammary glands, Zymbal's gland (if present);

(G) Oral mucous membrane (including random sections from tongue, buccal, and alveolar mucosa, pharynx, and nasopharynx);

(H) Heart and aorta (three sections from different locations);

(I) Trachea; lungs, with the mainstem bronchi;

(J) Esophagus, stomach, small intestines and large intestine (cecum, colon, and rectum);

(K) Adrenal glands, pancreas, liver (minimum of two lobes), gall bladder (if present), spleen;

(L) Kidneys, urinary bladder;

(M) Representative lymph nodes (including those draining any neoplasm and those with gross changes);

(N) Bone including marrow, from the sternum vertebra and/or tibiofemoral joint;

(O) Skin (sections from similar sites of all animals);

(P) Skeletal muscle;

(Q) For males: testes, prostate, and all other accessory sex organs;

(R) For females: vagina, corpus and cervix uteri, ovaries, and fallopian tubes.

(iii) *Preparation of tissue for microscopic examination.* A pathologist or a technical employee, as specified in § 772.113–1(e)(3)(i), must prepare all specimens for microscopic examination.

(A) *Tissue fixation and trimming.* The technical employee must fix tissues for the appropriate times for the fixative utilized. A pathologist must perform or directly and personally supervise tissue trimming. Routinely, tissues must be trimmed to a thickness of no more than 0.4 cm for subsequent processing. Parenchymal organs must be trimmed to allow for the largest surface areas possible for subsequent microscopic examination. Hollow organs must be trimmed to allow for a cross section mount from mucosa to serosa. Lymph nodes must be bisected through the hilus, if possible.

(B) *Slide preparation.* A technical employee must cut tissues routinely at a thickness of three to six micra (3 to 8 μ), in no case exceeding 10 μ. All tissues must be stained routinely with hematoxylin and eosin (H&E). EPA encourages the use of special stains appropriate to the specific neoplasm, lesion, or tissue. Multiple sections (step cuts) must be made on each tissue or organ that contains gross evidence of a neoplasm or lesion and on each tissue or organ in which a metastasis may be aniticipated. The tester must identify all blocks and microscopic slides by reference to the animal's specific identification number and must preserve and hold them in accordance with § 772.110–1(j)(2).

(iv) *Microscopic examination and evaluation.* (A) Qualified pathologists as described in § 772.113–1(e)(1), must perform the microscopic examination and evaluation with subsequent diagnosis. The same pathologist must examine and evaluate all microscopic slides from all test animals of a given species.

(B) Microscopic examination must be performed on all appropriate tissues described in paragraphs (b)(2)(ii), (b)(2)(v), and (b)(2)(vi) of this section. The pathologist must record, document, and report all microscopic findings including all abnormalities, lesions, neoplasms, metastatic tumors and their anatomic location in accordance with § 772.113–1(k)(2).

(v) *Additional Examinations.* All adverse health effects observed during the course of the study must be examined. When there is clinical evidence of specific toxicologic or pharmacologic effects related to specific target organs, the necropsy and microscopic examinations of the suspected target organs must be conducted in greater detail. For example, when there is clinical evidence of neurologic effects, multiple sections from brain, spinal cord, and nerves must be examined.

(vi) *Special Examinations.* (A) Additional sections must be microscopically examined from a minimum of ten rodent animals selected randomly from the long-term survivors and all nonrodent animals of each test group and in all animals in which clincial or grossly observable evidence of disease is present. If microscopic examination reveals evidence of disease in any of these tissues, then these target tissues must be examined in all test animals.

(B) The necropsy and microscopic examination must include, in addition to those tissues listed in paragraph (b)(2)(ii) of this section, the following:

(*1*) *In a feeding study:* nasal cavity; paranasal sinuses; nasopharynx.

(*2*) *In an inhalation study:* multiple sections of the upper respiratory tract; nares; nasal cavity; paranasal sinuses; hypopharynx-larynx.

(*3*) *In a dermal study:* skin (normal); skin from sites of skin painting.

§ 772.113–4 Combined chronic effects test standards.

(a) *Study design.* (1) Species and strains.

(2) Sex.

(3) Age at start of test.

(4) Group size.

(5) Control groups.

(6) Route(s) of administration.

(7) Frequency of exposure.

(8) Duration of treatment and observation periods.

(9) Dose levels and dose selection.

(b) *Study conduct.* (1) Clinical procedures.

(2) Pathology procedures.

§ 772.113–4 Combined chronic effects test standards.

(a) *Study design.* (1) *Species and strains.* (i) The tester must use at least three mammalian species: two rodent species, the laboratory mouse and rat, and a nonrodent. The Agency recommends the dog as the nonrodent species. The tester may utilize other suitable nonrodent species after prior approval by EPA.

Note.—Section of the most appropriate nonrodent species should be predicated upon such factors as metabolism, pharmacokinetics, sensitivity or organotropism and other considerations pertinent to the study.

(ii) The sponsor or tester must select the specific strains and/or stocks of test animals to be used. Test animals must be from established strains and/or stocks. As part of the study plan submission, the sponsor must present the rationale for selection of the specific test animals along with historical data on their lifespans and disease types and incidences.

(3) *Sex.* The tester must use equal numbers of males and females at each dose level.

(3) *Age at start of test.* The tester must begin to dose as soon as possible after weaning and environmental acclimatization, but no later than six

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weeks of age for rodents and at ten weeks of age for dogs. For nonrodent species, other than the dog, the Agency must approve the age of initial exposure.

(4) *Group size.* Each "test group" of rodents must contain at least 50 animals (plus at least 8 additional for clinical laboratory testing). If the nonrodent species is the dog, then each group must contain at least six animals. The tester must assign animals to individual test groups by a specified randomization procedure. When the study plan calls for interim kill, the tester must increase the number of animals in each group at the start of the study by the number scheduled to be killed before completion of the study. If species other than the laboratory dog and rat are selected, EPA must approve the number of animals per group.

(5) *Control groups.* A tester must use a matched control group which is identical in every respect to the exposed groups except for exposure to the test substance.

Note (i).—If a vehicle is administered to the matched control group and if its toxic properties are not known, the tester may, at his/her discretion, use a negative or untreated control group.

Note (ii).—The EPA may require a Positive Control Group for particular chemicals when the sensitivity of the test animal to the chemical class to which the test substance belongs cannot be documented. When used, the positive control group should serve as an internal quality control to ascertain whether the test animals are sensitive to or respond in a predictable manner to known toxic agents and whether the test strain or species reacts similarly to another strain or species when exposed to the same known standard toxicant.

(6) *Route(s) of administration.* To the extent possible, route(s) of administration should be comparable to the expected or known routes of human exposure. Test rules in Part 771 will specify the route(s) to be employed for a particular chemical. For inhalation and dermal studies, Part 771 will also specify the specific conditions for administering the test substance.

(7) *Frequency of exposure.* The tester must administer test substance and vehicle, if any, by the same route and at the same frequency for the duration of the study. For gavage, the test substance must be administered daily; for feeding, *ad libitum;* for inhalation exposure, a minimum of 5 days per week, 6 hours per day; and for dermal exposure, as specified in the applicable test rule. For gavage, the tester must conduct the dosing at approximately the same time each day.

(8) *Duration of treatment and observation periods.* The tester must administer the test substance to the laboratory mouse for a minimum of 24 months, but no longer than 30 months and to the laboratory rat for at least 30 months. In studies with nonrodents, the tester must administer the test substance for at least 2 years unless the agency authorizes specific exceptions.

(9) *Dose levels and dose selection.* (i) The tester must select doses to permit the evaluation of oncogenic potential, dose-response relationships, and a "no observable effect level" (NOEL).

(A) In the mouse, the tester must use the dose levels as specified in § 772.113–2 (Oncogenic Effects Test Standards).

(B) In the rat, the tester must use at least four or five dose levels (in addition to controls) in each sex of each species.

(*1.*) The highest dose level must demonstrate toxicologic effects. Mortality in rat groups must not exceed 50 percent before 18 months.

(*2.*) The tester must also include the dose levels as specified in § 772.113–2 (Oncogenicity Test Standards).

(*3.*) One dose level must be selected to produce no observable evidence of toxicity other than tumors (NOEL).

(*4.*) If one of the dose levels required in paragraph B is predicted to induce no observable effects other than tumors (NOEL), a fifth dose is not required.

(C) In the nonrodent, the tester must use the dose levels as specified in § 772.113–3 (Non-Oncogenic Chronic Effects Test Standards).

(ii) The sponsor or tester may add additional dose levels at his/her own discretion. If other dose levels are tested, the sponsor must submit the data from any such discretionary levels to the Agency along with that of the required levels.

(iii) The tester must conduct a preliminary toxicology study of at least 90 days to select the chronic dose levels which meet the requirements of this section. A preliminary toxicology study of at least 90 days that has been completed previously may be submitted for this purpose.

(iv) The sponsor must submit the rationale for dose selection including supporting data from preliminary toxicity studies as a part of the study plan submission.

(b) *Study conduct.* (1) *Clinical procedures.* A veterinarian, as specified in § 772.113–1(e)(2), must ascertain and be responsible for the health status and care of all test animals during the study. A technical employee, as specified in § 772.113–1(c)(3)(ii), must be responsible for the daily observations and care of the test animals.

(i) *Observation of Animals.* (A) Each test animal must be identified by a specific identification number. The tester must account for all animals at the end of the study. The tester must establish and adhere to standard operating procedures for housing, feeding, handling, and care of test animals as specified in § 772.110–1. To further assure minimal loss of animals due to cannibalism or autolysis of tissue, technical employees, as specified above, must observe the test animals at least once every 12 hours throughout the test period. EPA may consider study to be unacceptable for purposes of satisfying a test rule requirement if losses in any test group exceed 5 percent.

(B) Technical employees must conduct routine clinical examinations on all test animals. Clinical examination must include weighing of each animal, at approximately the same time of day, at least once a week during the first 13 weeks, and every two weeks thereafter and observing all animals in relation to food and water consumption, morbidity, mortality and causes thereof, loss of animals for whatever reason, signs of toxicity, pharmacologic effects, and behavioral changes. The observer must record all data in detail at the time of observation.

(ii) *Clinical laboratory testing.* The tester must conduct the following quantitative determinations on a minimum of eight additional predesignated rats in each test group. For nonrodents, all animals in each test group must be utilized. In addition to the tests listed below, if any interim clinical observations suggest that other tests are necessary to assess the health status of test animals, the appropriate tests must be conducted.

Note.—Predesignated means that the animal has been selected to undergo these tests by a specified randomization procedure prior to initiation of the study.

(A) *Hematology.* The tester must conduct the following quantitative hematologic determinations at least at 3, 6, 12, 18, 24 months and at study termination: hematocrit, hemoglobin, erythrocyte count, total and differential leukocyte counts, platelet count, and prothrombin and clotting times. If hematologic evidence of anemia is present, reticulocyte counts must be performed within one week of the determination.

(B) *Blood chemistry.* The tester must conduct the following quantitative blood chemistry determinations at least at 3, 6, 12, 18, 24 months and at study termination: calcium, sodium, potassium, chloride, serum lactic dehydrogenase, serum glutamic pyruvic transaminase, creatinine kinase, serum glutamic oxaloacetic transaminase, glucose, blood urea nitrogen, creatinine, direct and total bilirubin, cholinesterase, total cholesterol, triglycerides, serum alkaline phosphatase, albumin, globulin, and total protein. In addition to these tests, the tester may conduct other quantitative blood chemistry determinations at his/her discretion, such as uric acid, gammaglutamyl transpeptidase, and ornithine carbamoyltransferase.

(C) *Urinalysis.* The tester must conduct the following quantitative determinations at least at 3, 6, 12, 18, 24 months and at study termination: specific gravity or osmolarity, pH, protein, glucose, ketones, bilirubin, and urobilinogen, as well as microscopic examination and analysis of formed elements. Each animal's urine must be evaluated individually.

Note.—Additional Tests. Based on results of concurrent or previous studies on the test substance, its metabolic or degradation products, the tester should conduct such other determinations as may be necessary for adequate toxicological evaluation.

(D) *Function tests.* (1) The tester must determine the functional capacity of the renal, hepatic, pulmonary, and cardiovascular systems.

Note.—Additional determinations must place major emphasis on organ or system function tests. Selection of the appropriate tests must be based on the findings in the subchronic studies or observations made during the course of present study.

(*2*) Additional quantitative determinations may include, but not necessarily be limited to the following: water dilution and water concentration tests for renal function; total lung capacity, functional residual capacity, and residual volume for pulmonary function; bromsulphalein excretion test for liver function; electrocardiogram, blood pressure, and exercise recovery for cardiovascular function. The tester must perform these evaluations at the beginning (nonrodent only) and at least every 3, 6, 12, 18, 24 months and at study termination.

(E) *Residue analysis.* The tester must measure levels of test substance, major metabolites or other biologically significant metabolites at 3, 6, 12, 18, and 24 months ± 1 month and at the termination of the study. Tissues analyzed should include all subchronic target tissues and those suggested by pharmaco-kinetic studies. These analyses must include at least plasma, 24-hour urine, feces and, at time of death or scheduled killing, liver and kidney.

(iii) *Interim kill.* The tester may kill predesignated animals (other than those predesignated for hematological tests in paragraph (b)(1)(ii)(A) of this section) at any time during the study, provided that he/she increases the number of animals started in the study at least by the number scheduled or anticipated to be killed before the end of the study.

(iv) *Killing of test animals.* Animals which appear during the study as moribund, injured, or weak, and not expected to survive to the next observation, must be killed to preclude the loss of tissues from cannibalism and/or autolysis. Animals surviving to the termination of the study must also be killed. A technical employee must obtain blood samples for hematologic determinations from each animal immediately before it is killed or as it is killed. The method used for killing must be humane and the same throughout the study. The tester must select a method of killing which will not produce interfering pathologic lesions.

(*2*) *Pathology procedures.* A Board-Certified or Board-Eligible pathologist, as specified in § 772.113–1(e)(1)(i), must be responsible for the planning and conduct of all pathology procedures and histopathology examinations, as well as for the final interpretation of all pathology data. Other doctorate pathologists, as specified in § 772.113–1(e)(1)(ii), are also acceptable for conducting procedures in their disciplines of specialization, under the direct supervision of a Board-Certified or Board-Eligible pathologist as specified in § 772.113–1(e)(1)(i).

Note.—Direct supervision means that the supervisor is immediately available for consultation, as necessary. This consultation may be done in person or by telephone.

(i) *Gross necropsy.* (A) Qualified pathologists, as specified in § 772.113–1(e)(1), must perform or personally supervise the necropsies. Other appropriately trained technical employees, as specified in § 772.113–1(e)(3)(i) may assist in the necropsy.

Note.—Personal supervision means that the supervisor is immediately available for consultation at the site.

(B) Animals must be necropsied as soon as possible after death but no later than 16 hours after death. If necropsy cannot be performed immediately after the animal is killed, or found dead, a technical employee must immediately refrigerate (but not freeze) the animal at temperatures low enough to minimize tissue autolysis (4–8° C). Animals found dead upon routine clinical examination must be necropsied as soon as possible to salvage usable tissues.

(C) The gross necropsy must include an initial physical examination of the external surfaces and all orifices followed by an internal examination of tissues and organs *in situ.* The examination must include the following: external and internal portions of all hollow organs; cranial cavity and external surfaces of the brain and spinal cord; nasal cavity and paranasal sinuses; neck with its associated organs and tissues; thoracic, abdominal, and pelvic cavities with their associated organs and tissues; and the muscular/skeletal carcass. The urinary bladder and lungs must be inflated with a proper fixative to allow for better gross examination and preservation.

(D) The weights of the heart, liver, kidneys, testes, spleen, lung, brain, and adrenals must be recorded after careful dissection and trimming. In addition, the thyroid (with parathyroids) and pituitary must be weighed for each nonrodent. The person responsible for the gross necropsy must record all gross necropsy findings in accordance with § 772.113–1(k)(2).

(ii) *Tissue preservation.* A technical employee must immediately preserve all tissues and organs from all test animals in 10 percent buffered formalin or another recognized and accepted fixative appropriate for the specific tissue(s). Sections from the following tissues from all test animals regardless of their time of death must be properly preserved for routine microscopic examination.

(A) All gross lesions (with a margin of normal tissue);

(B) Brain (minimum of one section each from the forebrain, midbrain and hindbrain);

(C) Spinal cord (minimum of one section each from cervical, thoracic, and lumbar regions);

(D) Eyes and contiguous Harderian glands;

(E) Pituitary gland;

(F) Major salivary glands, thymus, thyroid with parathyroid, mammary glands, Zymbal's gland (if present);

(G) Oral mucous membrane (including random sections from tongue, buccal, and alveolar mucosa, pharynx, and nasopharynx);

(H) Heart and aorta (three sections from different locations);

(I) Trachea; lungs, with the mainstream bronchi;

(J) Esophagus, stomach, small intestines and large intestine (cecum, colon, and rectum);

to rules under Section 4 of TSCA. In 7/19/76). Inspections by FDA of several

(K) Adrenal glands, pancreas, liver (minimum of two lobes), gall bladder (if present), spleen;

(L) Kidneys, urinary bladder;

(M) Representative lymph nodes (including those draining any neoplasm and those with gross changes;

(N) Bone including marrow, from the sternum vertebra and/or tibiofemoral joint;

(O) Skin (sections from similar sites of all animals);

(P) Skeletal muscle;

(Q) for males: testes, prostate, and all other accessory organs;

(R) For females: vagina, corpus and cervix uteri, ovaries, and fallopian tubes.

(iii) *Preparation of tissue for microscopic examination.* A pathologist or a technical employee, as specified in § 772.113–1(e)(3)(i), must prepare all specimens for microscopic examination.

(A) *tissue fixation and trimming.* The technical employee must fix tissues for the appropriate times for the fixature utilized. A pathologist must perform or directly and personally supervise tissue trimming. Routinely, tissues must be trimmed to a thickness of no more than 0.4 cm for subsequent processing. Parenchymal organs must be trimmed to allow for the largest surface areas possible for subsequent microscopic examination. Hollow organs must be trimmed to allow for a cross section mount from mucosa to serosa. Lymph nodes must be bisected through the hilus, if possible.

(B) *Slide preparation.* A technical employee must cut tissues routinely at a thickness of three to six micra (3 to 6 μ), in no case exceeding 10 μ. All tissues must be stained routinely with hematoxylin and eosin (H&E). EPA encourages the use of special stains appropriate to the specific neoplasm, lesion, or tissue. Multiple sections (step cuts) must be made on each tissue or organ that contains gross evidence of a neoplasm or lesion and on each tissue or organ in which a metastasis may be anticipated. The tester must identify all blocks and microscopic slides by reference to the animal's specific identification number and must preserve and hold them in accordance with § 772.110–1(j)(2).

(iv) *Microscopic examination and evaluation.* (A) Qualified pathologists as described in § 772.113–1(e)(1), must perform the microscopic examination and evaluation with subsequent diagnosis. The same pathologist must examine and evaluate all microscopic slides from all test animals of a given species.

(B) Microscopic examination must be performed on all appropriate tissues described in paragraphs (b)(2)(ii), (b)(2)(v), and (b)(2)(vi) of this section. The pathologist must record, document, and report all microscopic findings including all abnormalities, lesions, neoplasms, metastatic tumors and their anatomic location in accordance with § 772.113–1 (k)(2).

(v) *Additional examinations.* All adverse health effects observed during the course of the study must be examined. When there is clinical evidence of specific toxicologic or pharmacologic effects related to specific target organs, the necropsy and microscopic examinations of the suspected target organs must be conducted in greater detail. For example, when there is clinical evidence of neurologic effects, multiple sections from brain, spinal cord, and nerves must be examined.

(vi) *Special examinations.* (A) Additional sections must be microscopically examined from a minimum of ten rodent animals selected randomly from the long-term survivors and all nonrodent animals of each test group and in all animals in which clinical or grossly observable evidence of disease is present. If microscopic examination reveals evidence of disease in any of these tissues, then these target tissues must be examined in all test animals.

(B) The necropsy and microscopic examination must include, in addition to those tissues listed in paragraph (b)(2)(ii) of this section, the following:

(*1*) *In a feeding study:* nasal cavity; paranasal sinuses; nasopharynx.

(*2*) *In an inhalation study:* multiple sections of the upper respiratory tract; nares; nasal cavity; paranasal sinuses; hypopharynx-larynx.

(*3*) *In a dermal study:* skin (normal); skin from sites of skin painting.

[FRL 1079–6; OTS–046003]
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[40 CFR Part 772]

Good Laboratory Practice Standards for Health Effects

AGENCY: Environmental Protection Agency.

ACTION: Proposed rule and notice of public meetings.

SUMMARY: This action proposes good laboratory practice standards for the development of data on the health effects of chemical substances and mixtures tested in accordance with testing rules promulgated under section 4 of the Toxic Substances Control Act (TSCA) (Pub. L. 94–469, 90 Stat. 2003, 15 U.S.C., 2601 *et seq.).*

When these proposed good laboratory practice standards are made final, they will be incorporated, as appropriate, into the testing rules on the chemicals for which EPA makes the findings required by Section 4 of TSCA. Compliance with these standards is intended to assure the reliability and adequacy of the submitted data.

The good laboratory practice standards include general standards that apply to all laboratory health effects testing under Section 4 of TSCA.

DATES: Interested persons are invited to submit written comments to EPA on these proposed standards prior to the close of business on August 7, 1979. See also Section VII, public participation, for further information.

PUBLIC MEETINGS: EPA has scheduled public meetings on these proposed standards. These meetings will be held during the week of July 9 in Chicago and during the week of July 16 in Washington, D.C. Additional information on these meetings including dates, times and locations, is presented in Section X, Public Meetings.

ADDRESSES: Written comments should bear the document control number OTS–046002 and should be submitted to: Ms. Joyce A. Barbour, Chemical Information Division, Office of Toxic Substances (TS–793), U.S. Environmental Protection Agency, 401 M Street SW, Washington, D.C. 20460.

FOR FURTHER INFORMATION CONTACT: Industry Assistance Office, Office of Toxic Substances (TS–799), Environmental Protection Agency, 401 M Street SW., Washington, D.C. 20460, Telephone No.: 800–424–9065 (toll-free); (In Washington, D.C., call 554–1404).

SUPPLEMENTARY INFORMATION: Following is an index to the remainder of this preamble:

I. Introduction.
II. Problem of unreliable test data.
III. EPA's approach to good laboratory practice.
IV. Proposed good laboratory practice standards
a. General—Scope, Purpose and Definitions,
b. Test and Control Substances and Mixtures,
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I. Introduction

Under Section 4(b) of TSCA (90 Stat. 2003, *et seq.* 15 U.S.C., 2601 *et seq.*, EPA is initiating its proposals for standards for the development of test data that are relevant to the determination that particular chemicals present, or do not present, an unreasonable risk to health. The proposal consists of this notice and a separate one entitled "Health Effects Test Standards for Toxic Substances Control Act Test Rules" (hereafter "Health Effects Test Standards") also appearing in today's **Federal Register.**

In this notice, EPA is proposing general Good Laboratory Practice (GLP) Standards for Health Effects. These GLP Standards are designed to assure the reliability and adequacy of data submitted. These practices are proposed to apply generally to all animal bioassay laboratory health effects studies conducted under Section 4 of TSCA by or on behalf of manufacturers or processors of chemical substances or mixtures.

The separate "Health Effects Test Standards" notice contains specific standards for long-term animal bioassays to test for oncogenic effects and other (non-oncogenic) chronic effects. The preamble to the Health Effects Tests Standards notice also contains a detailed discussion of the statutory and regulatory framework of Section 4 of TSCA. That discussion is incorporated in this notice by reference.

While these GLP Standards will apply generally, EPA will be proposing more specific regulations pertaining to the conduct of laboratory studies in test standards that relate to particular effects or in test rules pertaining to particular chemicals. For example, while these proposed GLP Standards state principles of general applicability relating to care of experimental animals and maintenance of laboratory equipment, the Oncogenic and Non-Oncogenic Chronic Effects Test Standards appearing in the "Health Effects Test Standards" notice deal with issues of specific laboratory practices and experimental design as they relate to chronic effects testing (see proposed § 772.113 of the "Health Effects Tests Standards").

These GLP Standards for Health Effects are proposed as generic standards for testing chemicals subject to rules under Section 4 of TSCA. In later rulemaking proceedings, EPA will identify chemicals to be tested. In the chemical specific rules, EPA intends to focus on the need to test the chemicals. For example, EPA will determine under Section 4 of TSCA that a chemical (1) may present an unreasonable risk of injury to health or the environment, or will cause significant environmental or human exposure; (2) that there are insufficient data to determine health or environmental effects of the chemical; and (3) that testing is necessary to develop the data. If a chemical meets these prerequisites, a testing rule will be developed that will incorporate, as appropriate, the GLP standards. Once the proposed GLP standards are finalized, EPA is not required to solicit further comment on the general GLP principles in the chemical specific rules. A more detailed explanation of the regulatory framework appears in the separate **Federal Register** notice on "Health Effects Tests Standards."

EPA intends, at a later date, to propose, as part of these general GLP Standards, specific criteria for other types of health effects testing such as *in vitro* biological studies. In addition, GLP Standards addressing chemical fate and ecological effects testing under TSCA will be proposed at a later date.

EPA is also considering whether these general GLP Standards should be used to provide guidance to persons making submissions to EPA under Section 5 of TSCA. EPA specifically invites comment on the issue of the applicability of these GLP Standards to Section 5 or any other Agency regulatory authority under TSCA.

II. The Problem of Unreliable Test Data

It is apparent that EPA will be evaluating substantial amounts of laboratory data under the authority of Section 4 of TSCA. It has been well documented that government agencies have faced the problem that submitted data may be unreliable or unusable for regulatory purposes. In assessing the need for GLP Standards under TSCA, EPA has drawn heavily on its own experience and that of the U.S. Food and Drug Administration (FDA).

In testimony before both the U.S. Senate Subcommittee on Health (Committee on Labor and Public Welfare) and the U.S. Senate Subcommittee on Administrative Practice and Procedure (Committee on the Judiciary), the Commissioner of the FDA raised questions concerning the integrity of data submitted to FDA in support of the safety of regulated products (7/10/75, 1/20/76, 4/8/76, and 7/19/76). Inspections by FDA of several pharmaceutical houses and contract laboratories led to the discovery of unacceptable laboratory practices that, in turn, called into question the validity of the test data submitted by those sources. The unacceptable practices noted included selective reporting and underreporting of test results, lack of adherence to specified protocols, inadequate qualification and supervision of personnel, poor animal care procedures, poor record-keeping techniques, and the general failure of sponsors to monitor studies. As a result of these findings, FDA proposed Regulations for Good Laboratory Practice (41 FR 51206, November 19, 1976) and published final regulations on December 22, 1978 (43 FR 59986).

Aware of FDA's findings, EPA responded to the problem of questionable data by forming the Toxicology Data Auditing Program within the Agency's Office of Pesticide Programs (OPP). This effort was directed toward toxicity data submitted under the Federal Insecticide, Fungicide and Rodenticide Act (FIFRA) (7 U.S.C. 136 *et seq.*).

Public hearings to invite comment on the appropriateness of the Agency's approach to data quality assurance for pesticide testing were held in October and November of 1977, in San Francisco, Chicago, and Washington, D.C. Public comment indicated the necessity for such a program and a general concurrence with the Agency's approach.

In March 1978, EPA entered into an Interagency Agreement with FDA that formalized the Agencies' cooperative efforts to establish a coordinated quality assurance program for their various activities (43 FR 14124, April 4, 1978). Under the terms of this agreement, FDA provides inspectional support for EPA's data audits. Since the cooperative program became fully operational, approximately 65 joint audits have been performed. Top priority for auditing has been given to testing facilities that generate chronic toxicity, oncogenicity, teratogenicity, reproduction, and neurotoxicity data in support of petitions for pesticide residue tolerances. In addition, several audits have been done "for cause"—namely, data inconsistencies or purported questionable practices brought to the program management's attention from sources both within and outside the Agency. As a result of this program, the Pesticides and Toxic Substances Enforcement Division (PTSED) of EPA has referred some audited facilities to the Department of Justice for possible

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prosecution. Thus, the audits conducted to date, and the results reported, appear to indicate that testing facilities do not always follow good laboratory practices.

The cooperative efforts of EPA and FDA have been further expanded under a new Interagency Agreement that includes coordinated quality assurance activities for both FIFRA and TSCA.

III. EPA's Approach to Good Laboratory Practice

TSCA authorizes EPA to prescribe such standards as are necessary to assure test data are "reliable and adequate" (See Sections 3(12) and 4(b) of TSCA). To this end, EPA has considered various approaches to assure the quality of submitted data: (1) licensing or certification of laboratories; (2) a voluntary standard-setting scheme promulgated and administered by the private sector; and (3) promulgation of good laboratory practice standards that regulate testing procedures.

A laboratory licensing or certification scheme has been considered for TSCA purposes. The Agency has considered certification schemes for laboratories engaged in air and water quality monitoring under the Safe Drinking Water Act, the Clean Air Act, and the Water Pollution Control Act. Although a certification system is feasible for these analytical facilities, it would not be practical for toxicology laboratories because of the diversity and range of testing capabilities in these facilities. In addition, the quality control procedures for toxicity testing are more complex than those for air and water analysis; therefore, submitted data must be evaluated on a case-by-case basis.

The Agency also has considered the concept of a voluntary standard-setting scheme developed and administered by the industrial community or by scientific societies. Although such private sector programs are recognized as being potentially effective in improving testing practices and are thus to be encouraged, all such schemes are by their nature unenforceable. While it is expected that most laboratories will follow GLP Standards, an enforceable set of standards will provide the incentive to ensure that all laboratories comply.

The good laboratory practice standards approach, then, appears to be the most effective way of handling a problem of such magnitude and seriousness, since it will establish an enforceable program but will not needlessly expend Agency resources on an impractical certification scheme.

IV. Proposed Good Laboratory Practice Test Standards

This proposal sets forth standards for test substance characteristics, including handling and storage; personnel qualifications; and internal laboratory Quality Assurance Unit; administrative and personnel facilities; equipment; testing facilities operation; study design and conduct; records and reports; and inspections of laboratory facilities. In addition, guidance is provided in Appendix A for handling potentially toxic substances, including radioactive materials; for animal care facilities; for administrative and personnel facilities; and for animal care and handling. When evaluating submitted data, EPA will give serious consideration to whether a laboratory complies with the Appendix A Guidelines.

These proposed GLP Standards have been harmonized as much as possible with the GLP regulations promulgated by FDA on December 22, 1978 (43 FR 59986). However, EPA's and FDA's basic approach to regulation of the conduct of a laboratory study differs somewhat. FDA has only general good laboratory practice regulations, which are the equivalent of the standards set forth in this notice. In addition to these general standards, EPA will promulgate more specific standards that relate to particular effects or in test rules pertaining to particular chemicals. As a result, any general requirements of proposed § 772.10–1 set forth in this notice may be qualified by specific standards in specific rules. This notice, therefore, reflects a set of general standards that is common to the needs of both agencies.

EPA's proposal for general GLP Standards also differs from FDA's GLP regulations n the following areas: (1) EPA adds to the definition of "raw data" (Subsection 772.110–1(a)(3)) correspondence relating to planning, conduct and interpretation of the study; (2) in all cases, EPA requires stability testing of the chemical to be tested before the laboratory bioassay is initiated; and (3) EPA requires laboratories to retain certain data longer. In addition, standards contain an Appendix A that provides additional guidance not specifically contained in FDA's regulations. All these differences will be discussed below. Unless differences are specifically noted, each section of the EPA proposed general GLP Standards is substantially the same as the counterpart section in the FDA regulations. Note, however, that EPA does not propose a provision on "Disqualification of Testing Facilities," Subpart K of FDA regulations (43 FR 60019).

The preamble to the FDA rules contains 253 separate sections that provide detailed justification for the provisions of those rules. Many sections are also applicable to EPA's proposed GLP standards. These sections will be referenced, as appropriate, in subsequent sections of this preamble, as "FDA/GLP preamble section numbers. * * * " EPA invites comment on all issues presented in its proposed GLP Standards, whether or not the isues have been addressed by FDA.

Note further that since FDA's preamble is applicable only to the general standards proposed in this notice, FDA's preamble does not apply to specific effects testing standards in which EPA may provide more detail than in the general GLP rule. This situation is illustrated by comparing statements in FDA's/GLP preamble sections to EPA's proposed "Health Effects Test Standards" for chronic effects, which appears elsewhere in today's **Federal Register**. The FDA/GLP preamble notes that in FDA's regulations certain issues are left to the discretion of the testing laboratory or are beyond the scope of the regulations. These issues relate to the following areas: the appropriateness of the test system, determination of the adequacy of each standard operating procedure, contaminant analysis of feed, nutrient analysis, and expiration dates for feed (see FDA/GLP preamble section numbers 66, 135, 164, 165, 166, respectively, at 43 FR 59995–60008). EPA, on the other hand, delineates in the "Health Effects Test Standards" as they relate to chronic effects testing more specific requirements in each of these areas, as well as more detailed standards for study design and conduct, and reporting (see the "Health Effects Test Standards" § 772.113). For example, the FDA/GLP preamble section number 66 states that the "determination of the appropriateness of the test system is a scientific decision beyond the scope of these regulations" (43 FR 59995). In contrast, EPA proposes to require that for oncogenic effects test standards the use of two rodent species—the laboratory mouse and rat (§ 772.113-2(a)(1))—and that for non-oncogenic chronic effects test standards, a laboratory rat and a nonrodent mammalian species must be used (§ 772.113-3(a)(1)). Also, where FDA declines to provide specific guidance on nutrient analysis (FDA/GLP preamble section number 165), EPA provides detailed requirements for the rodent standardized diet in Appendix A of

§ 772.113 of its chronic health effects standards.

a. *General—Scope, Purpose, and Definitions—772.110–1(a).* EPA's definitions generally conform to FDA's, except with respect to those that relate to the differing scope of the authority of each agency. For example, EPA does not need to define "Application for research or marketing permit" (21 CFR 58.3(e); 43 FR 60014) and EPA's and FDA's definitions relating to "sponsor" of a study differ because of the differing authorities under which each agency regulates. (Compare 21 CFR 58.3(f) at 43 FR 60014, and EPA's proposed 772.110–1(a)(3)). Therefore, many of the sections in the "Definition" part of the preamble to FDA's regulations (FDA/GLP preamble section numbers 17–36) do not apply to EPA's standards. The following sections do apply generally to EPA's regulations: FDA/GLP preamble section numbers 17, 30–37, 43 FR 59990–92.

EPA has added to FDA's definition of "raw data" correspondence relating to the planning, conduct, and interpretation of the study. This issue has arisen as a result of recent FDA laboratory audits in which interpretations of data in lab records were found to be inconsistent with those in reports. FDA has not, as yet, formally addressed this issue, but it has supported this general approach in informal discussions.

b. *Test and Control Substances and Mixtures—772.110–1(b).* For a more detailed discussion of the issues relating to this section, see FDA/GLP preamble section numbers 168–192, 43 FR 60005–07. Paramount in any toxicology study is the assurance that the test system is properly exposed to the chemical substance being tested. In order to provide this assurance, EPA proposes specific quality assurance standards for test and control substances in this section. These proposed standards relate to the identity, purity, and composition of each batch of the test or control substance and to potential deterioration of the chemical substance during the period of administration.

This section also specifies that procedures be established for proper storage and handling of test and control substances. Standards relate to proper identification and documentation of receipt and distribution of these chemical substances.

Finally, this section addresses mixtures of test or control substances with carriers. Standards relate to determination of uniformity, concentration, and stability of the test or control substance in the mixture.

Proposed § 772.110–1(b) generally conforms to Subpart F of FDA's GLP regulations (43 FR 60017–18). The major difference between proposed EPA and FDA final GLP regulations is that EPA proposes to require that the stablility of a test substance or mixture (including shelf life stability and stability in feeds and/or vehicles) must, in all cases, be established before the initiation of any study while FDA permits concurremt stability testing. Also, EPA requires that each batch of an unstable test substance or mixture must be analyzed before the batch is used in the study. Compare EPA proposed §§ 772.110–1(b)(1)(ii); 772.110–1(b)(3)(i)(B); and 21 CFR sections 58.105(b), 58.113 at 43 FR 60017–18; FDA/GLP Preamble, section numbers 174, 188, 195 at 43 FR 60007. Both agencies still emphasize that determination of stability is an important requirement, but only differ as to timing of the stability determinations.

EPA believes that its proposal on stability testing represents sound laboratory practice. Stability studies are generally of short duration and will not significantly delay the toxicologic evaluation. For example, if a chronic study were to be initiated or even completed before the stability kinetics of the test substance were established and the tested substance was later found to be unstable, the study might have to be repeated, with considerable duplication of effort and delay resulting. For TSCA regulatory purposes, such a delay is considered unacceptable.

c. *Personnel and Organization—772.110–1(c).* For a more detailed discussion of the issues relating to this section, see FDA/GLP preamble section numbers 50–93, 43 FR 59994–99. The Agency considers adequate training and experience to be key factors in assuring the quality of the data generated. The proposed standard also defines responsibilities for the management of the testing facility, the Study Director, and the laboratory Quality Assurance Unit. The testing facility management is responsible for designating the Study Director, for the existence of a Quality Assurance Unit, and, in general, for assuring that any deviations from these Standards are appropriately reported, documented, and corrected.

A major difference between EPA's and FDA's approach to personnel qualifications is that EPA also will propose more specific requirements in Standards relating to testing of specific effects. In the proposed "Health Effects Test Standards," appearing elsewhere in this **Federal Register**, EPA proposes specific qualifications for personnel conducting chronic effects studies (772.113–1(b)(2)). FDA has no such counterpart in its regulations and rejects such specific requirements (see FDA/GLP preamble section number 49, 43 FR 59994). EPA requests comment on the requirements it proposes to impose on persons conducting studies for use by EPA. EPA notes that since these qualifications are testing standards under Section 4 of TSCA, any laboratory that violates the Standards could be held in violation of EPA regulations, or may run the risk of having its data rejected by EPA (See § 770.5, in the "Health Effects Test Standards" notice appearing elsewhere in this **Federal Register**).

(1) *Study Director.* Before the initiation of a study, the proposal requires that a Study Director be identified and assume ultimate responsibility for the implementation and conduct of the study. Experience has shown that unless responsibility for the proper conduct of a study is assigned to one person, there is potential for conflicting instructions and poor protocol implementation. The Study Director would be responsible for assuring that: the sponsor-approved protocol is followed; test systems are appropriate for the study; personnel involved in the study clearly understand their functions and are qualified to perform them; data are accurately and promptly verified and recorded; health hazards to the test system that appear during the study are recognized and removed; quality assurance procedures are followed; the studies are conducted in a manner that is safe for laboratory personnel; and the required data have been transmitted to the archives for storage.

(2) *Quality Assurance Unit.* In order to assure that quality control procedures are followed, the proposed standards require that testing facility management establish an internal Quality Assurance Unit that will provide an effective mechanism for monitoring ongoing studies.

Both EPA's proposed GLP Standards and the FDA final regulations exclude from GLP inspections Quality Assurance Unit records of findings and problems, or actions recommended and taken (See EPA's proposed § 772.110–1(k); see FDA's final regulation, 21 CFR 58.15 at 43 FR 60015; 21 CFR 58.35(c) at 43 CFR 60016; FDA/GLP preamble section number 91 at 43 FR 59998). EPA, however, is considering whether to subject such records to routine inspection procedures, since inspection of these files would provide the Agency with additional information regarding follow-up procedures and the corrective measures taken by the testing facility management in dealing with problems

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associated with the management of the quality assurance unit and the studies it oversees. This type of information may be of considerable value for enforcement purposes. EPA specifically invites comment as to whether all quality assurance unit records, including records of findings and problems, or action recommended and taken, should be subject to routine inspection.

d. *Facilities—772.110–1(d).* For additional discussion of this section, see FDA/GLP preamble section numbers 91–112, 43 FR 59999–60000. This section of the proposal addresses standards relating to animal facilities, animal supply facilities, facilities for handling test and control substances, laboratory operation areas, specimen and data storage facilities, and administrative and personnel facilities.

EPA differs from FDA in that EPA's GLP Standards contain the following additional guidance in Appendix A:

(1) EPA proposes guidance with regard to structural requirements and environmental control of animal facilities. These conditions may impact the validity of the data generated. As such, specific reference to the Animal Welfare Act is included in the Guidelines provided in Appendix A of this subsection.

(2) EPA proposes specialized guidelines for the handling of volatile agents, hazardous aerosols, radioactive materials, and other potentially toxic substances. Specific reference is made in Appendix A to (1) the Nuclear Regulatory Commission's regulations as set forth in 10 CFR, (2) to the Department of Health, Education and Welfare draft document entitled, "Guidelines for the Laboratory Use of Toxic Substances Posing an Occupational Carcinogenic Risk" (August 1978), and (3) to the International Agency for Research on Cancer document entitled, "A Manual on the Safety of Handling Carcinogens in the Laboratory."

(3) Guidelines for Administrative and Personnel Facilities are also provided in Appendix A. Specific reference is made to OSHA regulations set forth in Title 29 of the CFR.

(4) Guidelines are provided for Animal Care and Handling. EPA is of the opinion that the standards contained in the Federal gudelines and regulations cited in Appendix A and any revisions in them are sufficient to assure the quality of the data generated by a facility; therefore, the Agency has incorporated them by reference in this proposal.

e. *Equipment—772.110–1(e).* For further detailed discussion of the issues involved in this section see FDA/GLP preamble section numbers 113–129, 43 FR 60000–01.

This section proposes that laboratories established standards relating to equipment design, maintenance, and calibration and standard operating procedures for routine equipment inspection and standardization. In addition, proposed requirements are specified for the maintenance of written records for all inspection, maintenance, testing, calibrating, and/or standardizing operations. Such records will serve to document the nature of the defect and any remedial action(s) taken.

f. *Testing facilities operation—772.110–1(f).* For detailed discussion of the issues involved in this section, see FDA/GLP preamble section numbers 130–167, 43 FR 60002–05.

(1) *Standard operating procedures.* In order to ensure the quality and integrity of study data, it is proposed that laboratories establish written standard operating procedures for such areas as transfer, proper placement, identification, and care of animals; receipt, storage, testing, mixing, and administration of the test and control substances; maintenance and calibration of equipment; test system observations; laboratory tests; handling of animals found dead or moribund during a study; necropsy or postmortem examination of animals; collection and identification of specimens; and data handling storage, and retrieval.

(2) *Animal care.* Proper care and handling of test animals are essential to the quality of the data generated. EPA is proposing standards for the isolation and quarantine of sick animals or all animals newly received from outside sources. Such quarantine is believed necessary to preclude transmission of disease to animals already in the facility.

EPA is also proposing standards for animal identification, housing, and environmental conditions. Documentation will be required for periodic feed and water analysis, as well as for the use of any pest control materials. In addition, the Agency believes that further guidance is necessary in the general area of animal handling and care. As such, specific reference is made in Appendix A to the Animal Welfare Act of 1970, as set forth in 9 CFR Part 3. There is no counterpart to Appendix A in FDA's regulations.

g. *Protocol for and Conduct of a Study—770.110–1(g).* For a detailed discussion of the issues involved in this section, see FDA/GLP preamble section numbers 193, 194, 196–208, 43 FR 60007–09.

(1) *Protocol.* A written, sponsor-approved protocol is essential to ensure that all operations needed to fulfill the stated objectives of a study are performed. Previous EPA audits have shown that unauthorized deviations from protocols have occurred during the management of some studies, compromising their quality and integrity. This proposed section requires that certain informational components of a protocol be specified and carefully followed.

(2) *Conduct of the study.* This proposed section addresses several problems that have been identified in the area of study management. Adherence to the sponsor-approved protocol and to Agency test standards is required. Requirements relating to specimen identification are included to minimize the assignment of specimens to the wrong test system. It is also proposed that records of postmortem observations be made available when a pathologist is examining a specimen microscopically. This will assist the pathologist in correctly describing the microscopic findings and correlating them with gross observations. EPA also proposes standards for data collection and recording, in order to minimize the loss or inaccuracy of data generated during the management of a study.

h. *Records and reports—772.110–1(j).* For a detailed discussion of the issues involved in this section, see FDA/GLP preamble section numbers 210–230, 43 FR 60009–10.

(1) *Reporting of study results.* It is proposed that the final report be a complete and accurate representation of actual laboratory experience. EPA intends to publish detailed formatting requirements for these reports in the near future. The Agency proposes in these generic GLP Standards to require that the sponsor include all pertinent results, observations, and conclusions related to a study and that it document fully and completely all the conditions and circumstances under which a study was conducted. This proposed section specifies the informational content of the final report. It proposes that the final report be signed and dated by the Study Director and that the report of each individual scientist or other professional involved in the study be signed and dated by that responsible person. It also proposes that corrections or additions to a final report be in the form of an amendment by the Study Director. Such an amendment must clearly identify that part of the final report that is being amended or corrected and must specify

the reasons for the corrections or additions and be signed and dated by the person responsible for such changes.

(2) *Storage and retrieval of records and data.* Proper storage and ready retrieval of the raw data associated with a study are vital for the reconstruction of that study at a later time. Accessibility to such properly preserved data is of paramount importance to the Agency's auditing effort. This subsection proposes to require that all raw data, documentation, protocols, specimens, and final reports generated in connection with a study be retained in an archive(s) under conditions of storage which minimize deterioration of such documents and specimens and assure their preservation in case of a catastrophic event. This subsection also proposes that an individual be identified or responsible for the archives and that materials retained be indexed by test substance or mixture, test system, data and nature of the study.

(3) *Retention of records.* The proposal would require that every attempt be made by the testing facility or sponsor to retain raw data associated with a study for as long as the study is utilized for regulatory purposes or as long as the quality permits evaluation. Practical limitations, however, dictate that minimum periods of retention be established by regulation. As such, the Agency proposes in this subsection that documentation, records, raw data, and specimens pertaining to a study be retained for a period of at least ten (10) years from the date the study is submitted to the Agency. For relatively unstable wet specimens, or materials, retention is required only as long as the quality of the preparation affords evaluation.

If a testing facility goes out of business, all raw data and other documentation shall be transferred to the archives of the sponsor of the study, and the Agency shall be notified in writing of such a transfer and its specific location. If a facility conducting testing changes ownership or management, the Agency and the Sponsor must be notified and concur with the disposition of the archives.

Storage conditions for temperature sensitive specimens are stressed in this proposed section. Wet tissues, paraffin blocks, and other such specimens are to be stored under conditions which will promote their integrity and usefulness for the required retention period. It is recognized that certain types of specimens do not remain stable and of evaluative quality during storage; therefore, these types will be expected to be retained only as long as the quality of the preparation affords evaluation.

The Agency proposal differs with FDA with regard to the length of the required raw data and specimen retention period. See FDA/GLP preamble section numbers 225–226, 43 FR 60009–10. Since the EPA may wish to perform a data audit at any time during the marketing life of a chemical, a ten (10) year retention requirement is proposed. EPA will also consider comments relative to longer periods for retention of raw data.

i. *Inspection of testing facilities—772.110–1(k).* In order to assure that data development for the Agency is reliable and accurate, EPA believes that Agency personnel or agents must have the opportunity to inspect on a periodic basis the facility that conducts testing under Section 4 and to inspect (and in the case of records, to copy) *all* records and specimens required to be maintained. Although inspections on health effects studies will generally be conducted for EPA by FDA inspectors, EPA will pursue enforcement action regardless of the source of information. Any inspection will be conducted at reasonable times and in a reasonable manner, and under procedures to avoid inconvenience or intrusion into the work conducted by the inspected laboratory. Inspections, however, should be performed unannounced in order to insure the integrity of the inspection process. EPA expects that facilities generally will voluntarily permit entry of inspectors. In those circumstances in which facilities refuse entry the rules provide three consequences, explained below. The consequences considered by EPA are based on theories that do not precisely correspond with the theories that support the inspection authority of FDA because of the different statutory authorities under which each agency operates. See FDA/GLP preamble section numbers 39–48, 43 FR 59993–94. In addition, since EPA will promulgate more specific GLP Standards in chemical testing rules, EPA's inspections will in some instances be conducted with a greater level of detail. However, inspectors will be directed only toward tests being conducted under the requirements of TSCA.

Under proposed § 772.110–1(k)(1), EPA may take appropriate enforcement action against any laboratory (including an independent testing facility) that denies EPA entry for inspection purposes. The authority for this rule derives from Section 4(b)(1) of TSCA which directs EPA to promulgate "standards for development of test data." These standards are defined in Section 3(12)(B) of TSCA to include those requirements necessary to assure that data developed under testing rules are reliable and adequate, and "such other requirements as are necessary to provide such assurance." The Agency feels that lab inspections are necessary to provide this assurance.

Under proposed § 770.5 of the "Health Effects Tests Standards" appearing separately in this edition of the Federal Register, EPA will consider in violation of the Act data submitted by a facility that has not permitted EPA to inspect. The sponsor and/or other person conducting the test may then be liable under the Act for submitting data not in compliance with the rule. The Agency expects that such authority would be used, for example, when the Agency has received data, which it is not able to evaluate under scientific criteria accepted by the Agency.

Finally, by the terms of proposed § 772.110-1(k)(2), EPA will not consider reliable for purposes of indicating that a chemical does not present an adverse environmental or health effect any study performed by a laboratory that refuses entry. This action is separate from any enforcement authority held by the Agency, and derives from the presumption that EPA cannot be assured that the study conducted by a facility that has refused entry has been developed in accordance with the applicable standards. In such circumstances, it is within the Agency's discretion to question the validity of the study. EPA would simply be exercising its responsibility to consider a factor relevant to the weight to be given a study in the evaluation of a chemical. The Agency may, at its discretion, rely for purposes of showing a chemical causes adverse effect upon a study conducted by a laboratory that does not consent to inspections.

The Agency requests comments on these compliance measures. EPA will consider comments on other possible methods which it might adopt or on the advisability of including some or all of the alternatives in the final rule, including comments upon EPA's authority under TSCA to adopt any or all of these compliance measures. Comments are also welcome on the procedures the Agency should use to ensure that laboratory facilities permit entry for inspection purposes and that such entry is made in the least disruptive fashion consistent with EPA's need to assure the reliability of test data.

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V. Confidentiality

EPA notes that trade secrets obtained as a result of GLP inspection conducted under these regulations are protected under the provisions of Section 14 of TSCA (15 U.S.C. Section 2613) and 40 CFR, Part 2 (as amended, 43 FR 39997, September 8, 1978). Basically, this means that EPA will not disclose confidential information to the public except in very limited circumstances. Furthermore, EPA will not disclose information claimed to be confidential without prior notice to the submitter, even if EPA believes the information is not confidential.

Subsection 14(b) of TSCA provides that EPA may not withhold from public disclosure, "any health and safety study which is submitted under this Act with respect to * * * any chemical substance or mixture for which testing is required under Section 4 [of TSCA], * * *" although Section 14(b) does not authorize release of any data which disclose processes used in chemical manufacturing or processing or the portions of a mixture comprised by any chemical substance.

EPA recognizes that a person performing a GLP inspection may require access to information which the sponsor or laboratory may consider to be confidential. If such information has not yet been formally submitted to EPA, or previously requested by EPA under any other authorities of TSCA, the Agency believes that such information is not subject to public disclosure under Section 14(b) of TSCA.

EPA reserves the right to determine whether information claimed to be confidential is in fact entitled to confidential treatment under 4 CFR, Part 2 and also notes that pursuant to Section 14(a) of TSCA confidential information may still be disclosed to the public if necessary to protect health or the environment against unreasonable risk of injury or where relevant in any proceeding under TSCA.

EPA invites comment on its interpretation of Section 14(b). The Agency will also consider comments that Section 14(b) requires greater disclosure than stated in the interpretation.

VI. Economic Analysis

In December 1977, FDA estimated that the total estimated annual costs for domestic, non-governmental laboratories to comply with FDA's GLP regulations (on which EPA patterned its won GLP standards) would be $32.6 million. The costs of compliance with EPA's GLP requirements will be determined by the specifics of EPA regulatory programs and the extent to which laboratories have already incurred costs to comply with FDA GLP's. EPA and FDA have been jointly developing GLP regulations to minimize the joint cost of compliance.

EPA believes that additional costs that may be attributed to its GLP Standards are justified, since the Standards are necessary to assure adequate and reliable data for use in determining whether a chemical will present unreasonable risks to health. lesser standards, as experience shows, could result in a significant reduction in quality of data and serious detriment to the risk assessment process.

VII. Public Participation

During the development of these proposed regulations, a public meeting. was held on August 15, 1978, for which an announcement appeared in the Federal Register (43 FR 34841; August 7, 1978). In addition, drafts of these standards were discussed with the EPA's Science Advisory Board on June 22 and August 18, 1978. These meetings were also open to the public and announced in the Federal Register (43 FR 23013, May 30, 1978; 43 FR 32185, July 25, 1978). The Science Advisory Board also solicited public viewpoints to contribute to its critique of drafts of proposed standards.

VIII. Other Quality Assurance Issues of Concern to the Agency

a. *Ecological effects and chemical fate data.* Although this proposed regulation pertains to health effects data, the Agency must also concern itself with the quality of other types of data required under TSCA. The Agency is currently drafting good laboratory practice standards for the conduct of studies for ecological effects and Chemical Fate testing, and is developing strategy for implementing an inspection/audit program involving other governmental institutions which perform these types of tests. Concurrently, EPA is also developing a training program for its own regional enforcement personnel in order to prepare them for their roles in the OTS Quality Assurance Program.

b. *Agency-wide quality assurance effort.* Health and ecological effects as well as monitoring data are filed with the Agency pursuant to several Acts administered by other Offices within EPA. These Acts include, but are not limited to, the Safe Drinking Water Act, the Clean Air Act, the Resource Conservation and Reclamation Act, and the Water Pollution Control Act. The Offices which administer these mandates have similar concerns regarding the quality of the data submitted pursuant to these Acts. In order to present unified input to inter-Agency and international levels of organization dealing with quality assurance issues, the Office of Toxic Substances will participate in the coordination of the various quality assurance programs within other offices of the Agency.

c. *International implications.* Since much of the data utilized by EPA for regulatory decision making is generated in countries outside the United States, the Agency considers international coordination of quality assurance issues to be of prime importance for the effectiveness of its Program. The Administrator believes that all data utilized by the Agency should be judged by the same standards of quality. The Agency will work within the framework of the Organization of Economic Cooperation and Development (OECD) to carry out this policy.

IX. Legal Basis

These standards are being proposed as mandatory requirements under Sections 3(12)(B) and 4(b)(1)(B) of TSCA.

Section 3(12)(B) of TSCA defines the terms "standards for the development of test data" to include setting of requirements:

To the extent necessary to assure that data respecting such effects and characteristics (relating to the health and environmental consequences of exposure to a particular chemical) are reliable and adequate—

(i) The manner in which such data are to be developed,

(ii) The specification of any test protocol or methodology to be employed in the development of such data, and

(iii) Such other requirements as are necessary to provide such assurance.

Specific authority for adoption of such standards is found in Section 4(b)(1)(B) of TSCA, which specifies that rules adopted pursuant to Section 4(a) shall contain such "standards for the development of test data * * *."

X. Public Meetings

EPA will hold public meetings during the comment period to provide the public an opportunity to present comments and questions.

The Agency plans to hold three public meetings on these proposed standards during the week of July 9 in Chicago and during the week of July 16 in Washington, D.C. The purpose of these meetings is to enable interested persons to provide oral comments on the proposed rulemaking to EPA officials who are directly responsible for developing the standards and supporting provisions of the rule.

Persons who wish to present their comments at any one of the meetings should contact EPA no later than four days before the meeting date by calling toll-free at 800-424-9065 (in Washington, D.C., call 554-1404), or by writing to the address listed at the beginning of this preamble under "For Further Information Contact."

Presenters are urged, but not required, to submit copies of their statements on the day of the meeting. All such written materials will become a part of EPA's record for this rulemaking. In addition to these written materials, the Agency will include the written transcripts of the public meetings in the public record.

Note.— These are the same meetings at which EPA will receive oral comments on the "Proposed Health Effects Test Standards for Toxic Substances Control Act Test Rules," notice of which appears elsewhere in today's Federal Register.

XI. Public Record

EPA has established a public record for this rulemaking (docket number OTS 046003) which is available for inspection in the OTS Reading Room from 9:00 a.m. to 5:00 p.m. on working days (Room 710E, 401 M Street, S.W., Washington, D.C. 20460). This record includes basic information considered by the Agency in developing this proposal. The Agency will supplement the record with additional information as it is received. The record includes the following categories of information:

(1) U.S. EPA–OTS. "Good Laboratory Practice Standards for Health Effects."

(2) U.S. EPA–OTS, "Proposed Health Effects Test Standards for Toxic Substances Control Act Test Rules": Support Document

(3) Working drafts of the proposed rules and the preamble which were available for public comment.

(4) Correspondence between EPA personnel and persons outside the Agency pertaining to development of the standards and preamble. (This does not include inter- or intra-agency correspondence, unless specifically noted on the index of the rulemaking record).

(5) Minutes, summaries, or transcripts relating to public meetings held to develop the standards.

All publicly available published documents, including FDA's GLP Preamble [43 FR 59986], cited in this preamble are incorporated by reference in the rulemaking record. EPA also incorporates by reference and takes notice of the public record in the FDA/GLP proceedings on FDA's GLP regulations, FDA Docket No. 76N-0400. EPA will also accept additional material for the record at any time between this proposal and the final designation of the rulemaking record. EPA will identify the complete rulemaking record on or before the date of promulgation of these regulations as prescribed by TSCA Section 19(a)(3).

Note.— Under Executive Order 12044, EPA is required to judge whether a regulation is "significant" and therefore subject to the procedural requirements of the Order or whether it may follow other specialized development procedures. EPA labels these other regulations "specialized." I have reviewed this regulation and determined that it is a specialized regulation not subject to the procedural requirements of Executive Order 12044.

Dated: April 27, 1979.

Douglas M. Costle,
Administrator, Environmental Protection Agency

It is proposed to add Part 772, Subpart B, consisting at this time of § 772.110–1 which reads as follows:

PART 772—STANDARDS FOR DEVELOPMENT OF TEST DATA

Subpart B—Good Laboratory Practice Standards

Sec.

772.110–1 Good laboratory practice standards for health effects.

(a) General.
(1) Scope and purpose.
(2) applicability.
(i) General.
(ii) Studies performed under grants and contracts.
(3) Definitions.
(b) Test and control substances.
(1) Characterization.
(2) Handling.
(3) Mixtures of substances with carrier.
(c) Personnel and organization.
(1) Personnel.
(i) General requirements.
(ii) Specific requirements.
(2) Testing facility management.
(3) Study director.
(4) Quality Assurance Unit.
(d) Facilities.
(1) General.
(2) Animal care facilities.
(3) Animal supply facilities.
(4) Facilities for handling testing and control substances.
(5) Laboratory operation areas.
(6) Specimen and data storage facilities.
(7) Administrative and personnel facilities.
(e) Equipment.
(1) Equipment design.
(2) Maintenance and calibration of equipment.
(f) Testing facilities operation.
(1) Standard operating procedures.
(2) Reagents and solutions.
(3) Animal care.
(g) Protocol for and conduct of a study.
(1) Protocol.
(2) Conduct of a study.
(h)–(i) [Reserved]
(j) Records and reports.
(1) Reporting of study results.
(2) Storage and retrieval of records and data.
(3) Retention of records.
(k) Inspection of a testing facility.

Appendix A

(a) Handling of potentially toxic substances.
(b) Animal care facilities.
(c) Handling of radioactive materials.
(d) Administrative and personnel facilities.
(e) Animal care and handling.

Authority: Section 4, Toxic Substances Control Act (90 Stat. 2006, 15 U.S.C. 2603).

Subpart B—Good Laboratory Practice Standards

§ 772.110–1 Good laboratory practice standards for health effects.

(a) *General.* (1) *Scope and purpose.* This section prescribes good laboratory practice standards for conducting studies relating to health and safety evaluation. Compliance with this section is intended to assure the quality and integrity of health and safety data submitted pursuant to Section 4 of the Toxic Substances Control Act (TSCA) (Pub. L. 94-469, 90 Stat. 2003, 15 U.S.C. 2601 *et seq.*).

(2) *Applicability.* (i) *General.* The standards in this section apply to all health effects data developed and submitted to meet requirements of TSCA Section 4 test rules. In addition, more specific or detailed requirements are specified in specific test standards.

(ii) *Studies performed under grants and contracts.* When a sponsor utilizes the services of a consulting laboratory, contractor, or grantee to perform an analysis or other service, it must notify the consulting laboratory, contractor, or grantee that the service is part of a study that must be conducted in compliance with the provisions of this part.

(3) *Definitions.* The definitions in Part 770 apply to this section. In addition, the following specific definitions apply to this section:

(i) "Test substance" means the specific form of a chemical substance or mixture that is used to develop data to meet the requirements of a TSCA Section 4(a) test rule.

(ii) "Control substance" means any chemical substance or mixture or other material that is administered to the test system in the course of a study for the purpose of establishing a basis for comparison with the test substance.

(iii) "Sponsor" means any manufacturer [including importer] or processor(s) of a chemical substance or

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mixture for which testing is required under a TSCA test rule who conducts and/or causes to be conducted health and environmental effects tests required by TSCA test rules and/or submits data developed in accordance with the rule to EPA. "Sponsor" includes any manufacturer or processor who designates a second manufacturer or processor or a tester to develop such health and environmental effects data.

(iv) "Tester" means any person who develops health and/or environmental effects data to meet the requirements of a TSCA test rule, including any sponsor who develops such data and any independent consulting laboratory that develops such data.

(v) "Testing facility" means the persons, premises, and operational units that the tester uses or has used for the development of health and environmental effects data required by TSCA test rules.

(vi) "Person" means any natural person, firm, company, corporation, joint-venture, partnership, sole proprietorship, association, or any other business entity, any State or political subdivision thereof, any municipality, any interstate body and any department, agency, or instrumentality of the Federal government.

(vii) "Test system" means any animal, plant, micro-organism, or subparts thereof, to which the test or control substance or mixture is administered or added for study. "Test system" also includes appropriate groups or components of the sytem not treated with the test or control substance or mixture.

(viii) "Specimen" means any material derived from a test system for examination or analysis.

(ix) "Raw data" means any laboratory worksheets, records, memoranda, notes, or exact copies thereof, that are the result of original observations and activities of a study and are necessary for the reconstruction and evaluation of the report of that study. In the event that exact transcripts of raw data have been prepared (e.g., tapes which have been transcribed verbatim, dated and verified accurate by signature), the exact copy of exact transcript may be substituted for the original source as raw data. "Raw data" may include photographs, microfilm or microfiche copies, computer printouts, magnetic media, including dictated observations, recorded data from automated instruments, and correspondence relating to the planning, conduct, and interpretation of the study.

(x) "Quality assurance unit" means any person or organizational element, except the study director, designated by testing facility management to perform the duties relating to quality assurance of the studies.

(xi) "Study director" means individual responsible for the overall conduct of a study.

(xii) "Protocol" means a detailed description of the study and conduct to be followed.

(xiii) "Batch" means a specific quantity or lot of a test or control substance that has been characterized according to paragraph (b)(1)(i) of this section.

(xiv) "Impurity" means a chemical substance which is unintentionally present with another chemical substance.

(b) *Test and control substances.* (1) *Characterization.* (i) The identity, strength, purity, and composition or other characteristics which will appropriately identify the test or control substance must be determined for each batch and must be documented before the initiation of the study. Methods of synthesis, fabrication, or derivation of the test and control substances must be documented by the sponsor or the testing facility.

(ii) The stability of each test or control substance must be determined by the testing facility or by the sponsor before initiation of the study. If because of test or control substance instability, the stability of each batch of test or control substance to be used during the study cannot be determined before use of such batch, standard operating procedures must be established and followed to provide analysis of each batch.

(iii) Each storage container for a test or control substance must be labeled by name, chemical abstract number (CAS) or code number, batch number, expiration date, if any, and storage conditions necessary to maintain the identity, strength, purity, and composition of the test or control substances. Storage containers must be assigned to a particular test substance for the duration of the study.

(iv) For studies longer than 4 weeks, reserve samples from each batch of test and control substances must be retained for the period of time provided by paragraph (j)(3)(i) of this section.

(2) *Handling.* Procedures must be established for a system for the handling of the test and control substances to ensure that:

(i) There is proper storage.

(ii) Distribution is made in a manner designed to preclude the possibility of contamination, deterioration, or damage.

(iii) Proper identification is maintained throughout the distribution process.

(iv) The receipt and distribution of each batch is documented. Such documentation must include the date and quantity of each batch distributed or returned.

(v) In addition to the requirements set forth in paragraphs (b)(2)(i)–(iv) of this section, more detailed procedures for handling of potentially toxic substances are presented as guidelines in Appendix A of this section.

(3) *Mixtures of substances with carriers.* (i) For each test or control substance that is mixed with a carrier, tests by appropriate analytical methods must be conducted:

(A) To determine the uniformity of the mixture and to determine, periodically, the concentration of the test or control substance in the mixture.

(B) To determine the stability of the test and control substances in the mixture. If because of test mixture instability, the stability of each batch of the test mixture cannot be determined before use of such batch, standard operating procedures must be established and followed to provide for periodic analysis of each batch.

(ii) For studies of more than 4 weeks' duration, a reserve sample of each test or control carrier substance mixture must be taken and retained for the period of time provided by paragraph (j)(3)(i) of this section.

(iii) Where any of the components of the test or control substance carrier mixture has an expiration date, that date must be clearly shown on the container. If more than one component has an expiration date, the earliest date must be shown. Storage requirements under paragraph (b)(1) of this section apply also to test or control substance/carrier mixtures.

(c) *Personnel and organization.* (1) *Personnel.* (i) *General requirements.* (A) Each individual engaged in the conduct of or responsible for the supervision of a study must have education, training, and experience, or combination thereof, to enable that individual to perform the assigned functions.

(B) Each testing facility must maintain a current summary of training and experience and job description for each individual engaged in or supervising the conduct of a study.

(C) There must be a sufficient number of personnel for the timely and proper conduct of the study according to the protocol.

(D) Personnel must take necessary personel sanitation and health precautions designed to avoid

contamination of test and control substances and test systems.

(E) Personnel engaged in a study must wear clothing appropriate for the duties they perform. Such clothing must be changed as often as necessary to prevent microbiological, radiological, or chemical contamination of test systems and test and control substances.

(F) Any individual found at any time to have an illness that may adversely affect the quality and integrity of the study must be excluded from direct contact with test systems, test and control substances, and any other operation or function that may adversely affect the study until the condition is corrected. All personnel must be instructed to report to their immediate supervisors any health or medical conditions that may reasonably be considered to have an adverse effect on a study.

(ii) *Specific requirements.* In addition to the personnel requirements as described in paragraph (c)(1)(i) of this section, more specific personnel requirements will be specified in individual test standards.

(2) *Testing facility management.* For each study, testing facility management must:

(i) Designate a study director as described in paragraph (c)(3) of this section before the study is initiated.

(ii) Replace the study director promptly if it becomes necessary to do so during the conduct of a study, and document and maintain such action as raw data.

(iii) Assure that there is a quality assurance unit as described in paragraph (c)(4) of this section.

(iv) Assure that test and control substances or mixtures have been appropriately tested for identity, strength, purity, stability, and uniformity.

(v) Assure that personnel, resources, facilities, equipment, materials, and methodologies are available as scheduled.

(vi) Assure that personnel clearly understand the functions they are to perform.

(vii) Assure that any deviations from these regulations reported by the quality assurance unit are documented and communicated to the study director and if corrective actions are required, they are taken and documented.

(3) *Study director.* For each study, a scientist or other professional of appropriate education, training, and experience, or combination thereof, must be identified as the study director. The study director has overall responsibility for the technical conduct of the study, as well as for the interpretation, analysis, documentation, and reporting of results, and represents the single point of study control. The study director must assure that:

(i) The protocol, including any change, is approved as provided by paragraph (g)(1) of this section and is followed.

(ii) All data, including observations of all responses of the test system, are accurately recorded and verified.

(iii) Unforeseen circumstances that may affect the quality and integrity of the study are documented when they occur, and corrective action is taken and documented.

(iv) Test systems are as specified in the protocol.

(v) All applicable good laboratory practice regulations are followed.

(vi) All raw data, documentation, protocols, specimens, and final reports are transferred to the archives during or at the close of the study.

(4) *Quality assurance unit.* (i) A testing facility must have a quality assurance unit composed of one or more individuals who must be responsible for monitoring each study to assure management that the facilities, equipment, personnel, methods, practices, records, and controls are in conformance with the regulations in this section. For any given study the quality assurance unit must be entirely separate from and independent of the personnel engaged in the direction and conduct of that study.

(ii) The quality assurance unit must:

(A) Maintain a copy of a master schedule sheet of all studies conducted at the testing facility indexed by test substance and containing, for each study, the test system, nature of study, date study was initiated, current status of each study, name of the sponsor, name of the study director, and status of the final report.

(B) Maintain copies of all protocols pertaining to all studies for which the unit is responsible.

(C) Inspect each phase of a study periodically and maintain written and properly signed records of each periodic inspection showing the date of the inspection, the study inspected, the phase or segment of the study inspected, the person performing the inspection, findings and problems, action recommended and taken to resolve existing problems, and any scheduled date for reinspection. For studies lasting more than 6 months, inspections shall be conducted every 3 months. For studies lasting less than 6 months, inspections must be conducted at intervals adequate to assure the integrity of the study. Any significant problems which are likely to affect study integrity found during the course of an inspection must be brought to the attention of the study director and management immediately.

(D) Periodically submit to management and the study director written status reports on each study, noting any problems and the corrective actions taken.

(E) Determine that no deviations from sponsor approved protocols or standard operating procedures were made without proper authorization and documentation.

(F) Review the final study report to assure that such report accurately describes the methods and standard operating procedures, and that the reported results accurately reflect the raw data of the study.

(G) Prepare and sign a statement to be included with the final study report, which must specify the dates inspections were made and the dates findings were reported to management and to the study director.

(iii) The responsibilities and procedures applicable to the quality assurance unit, the records maintained by the quality assurance unit, and the method of indexing such records must be in writing and must be maintained. These items including inspection dates, the study inspected, the phase or segment of the study inspected, and the name of the individual performing the inspection must be made available for inspection to authorized employees of the Environmental Protection Agency or of the Food and Drug Administration.

(iv) A designated representative of the Environmental Protection Agency or of the Food and Drug Administration must have access to the written procedures established for the inspection and may request testing facility management to certify that inspections are being implemented, performed, documented and followed-up in accordance with this paragraph.

(v) All records maintained by the quality assurance unit must be kept in one location at the testing facility.

(d) *Facilities.* (1) *General.* Each testing facility must be of suitable size, construction, and location to facilitate the proper conduct of studies. It must be designed so that there is a degree of separation that will prevent any function or activity from having an adverse effect on the study.

(2) *Animal care facilities.* (i) A testing facility must have a sufficient number of animal rooms or areas, as needed, to assure proper:

(A) Separation of species or test systems,

(B) Isolation of individual projects,

thereof, including the dates of such

in such feed or water are not present at

(K) Each dosage level, expressed in

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(C) Quarantine of animals, and
(D) Routine or specialized housing of animals.
(ii) A testing facility must have a number of animal rooms or areas separate from those described in paragraph (d)(2)(i) of this section to ensure isolation of studies being done with test systems or test and control substances known to be biohazardous, including volatile substances, aerosols, radioactive materials, and infectious agents.
(iii) Separate areas must be provided for the diagnosis, treatment, and control of laboratory animal diseases. These areas must provide effective isolation for the housing of animals either known or suspected of being diseased, or of being carriers of disease, from other animals.
(iv) When animals are housed, facilities must exist for the collection and disposal of all animal waste and refuse or for safe sanitary storage of waste before removal from the testing facility. Disposal facilities must be provided and operated to minimize vermin infestation, odors, disease hazards, and environmental contamination.
(v) Animal facilities must be designed, constructed, and located so as to minimize disturbances that interfere with the study.
(vi) In addition to the requirements as described in paragraphs (d)(2)(i)–(v) of this section, more detailed guidance on animal care facilities is given in Appendix A of this section.
(3) *Animal supply facilities.* There must be storage areas for feed, bedding, supplies, and equipment. Storage areas for feed and bedding must be separated from areas housing the test systems and must be protected against infestation or contamination. Refrigeration must be provided for perishable supplies or feed.
(4) *Facilities for handling test and control substances.* (i) As necessary to prevent contamination or mixups, there must be separate areas for:
(A) Receipt and storage of the test and control substances.
(B) Mixing of the test and control substances with a carrier, e.g., feed.
(C) Storage of the test and control substance/carrier mixtures.
(ii) Storage areas for the test or control substance and test and control mixtures must be separate from areas housing the test systems and must be adequate to preserve the identity, strength, purity, and stability of the substances and mixtures.
(5) *Laboratory operation areas.* (i) Separate laboratory space must be provided for the performance of the routine procedures required by studies, including specialized areas for performing activities such as aseptic surgery, intensive care, necropsy, histology, radiography, and handling of biohazardous materials.
(ii) Separate space must be provided for cleaning, sterilizing, and maintaining equipment and supplies used during the course of the study.
(iii) In addition to the requirements described in paragraphs (d)(s)(i)–(ii) of this section, more detailed guidance on handling of radioactive materials is given in Appendix A of this section.
(6) *Specimen and data storage facilities.* Space must be provided for archives, limited to access by authorized personnel only, for the storage and retrieval of all raw data and specimens from completed studies.
(7) *Administrative and personnel facilities.* (i) There must be space provided for the administration, supervision, and direction of the testing facility.
(ii) Separate space must be provided for locker, shower, toilet, and washing facilities.
(iii) In addition to the requirements in paragraphs (d)(7)(i)–(ii) of this section, more detailed guidance on administrative and personnel facilities is given in Appendix A of this section.
(e) *Equipment.* (1) *Equipment design.* Automatic, mechanical, or electronic equipment used in the generation, measurement, or assessment of data and equipment used for facility environmental control must be of appropriate design and adequate capacity to function according to the protocol and must be suitably located for operation, inspection, cleaning, and maintenance.
(2) *Maintenance and calibration of equipment.* (i) Equipment must be adequately inspected, cleaned, and maintained. Equipment used for the generation, measurement, or assessment of data must be adequately tested, calibrated, and/or standardized.
(ii) The written standard operating procedures required under paragraph (f)(1) of this section must set forth in sufficient detail the methods, materials, and schedules to be used in the routine inspection, cleaning, maintenance, testing, calibration, and/or standardization of equipment, and must specify remedial action to be taken in the event of failure or malfunction of equipment. The written standard operating procedures must designate the person responsible for the performance of each operation, and copies of the standard operating procedures must be made available to laboratory personnel.
(iii) Written records must be maintained of all inspection, maintenance, testing, calibrating, and/or standardizing operations. These records, containing the date of the operation, must describe whether the maintenance operations were routine and followed the written standard operating procedures. Written records must be kept of nonroutine repairs performed on equipment as a result of failure and malfunction. Such records must document the nature of the defect, how and when the defect was discovered, and any remedial action taken in response to the defect.
(f) *Testing facilities operation.* (1) *Standard operating procedures.* (i) A testing facility must have written standard operating procedures setting forth study methods that management is satisfied are adequate to insure the quality and integrity of the data generated in the course of a study. All deviations in a study from standard operating procedures must be authorized by the study director and must be documented in the raw data. Significant changes in established standard operating procedures must be properly authorized in writing by management.
(ii) Standard operating procedures must be established for, but not limited to, the following:
(A) Animal room preparation.
(B) Animal care.
(C) Receipt, identification, storage, handling, mixing, and method of sampling of the test and control substances.
(D) Test system observations.
(E) Laboratory tests.
(F) Handling of animals found moribund or dead during study.
(G) Necropsy of animals or postmortem examination of animals.
(H) Collection and identification of specimens.
(I) Histopathology.
(J) Data handling, storage, and retrieval.
(K) Maintenance and calibration of equipment.
(L) Transfer, proper placement, and identification of animals.
(iii) Each laboratory area must have immediately available laboratory manuals and standard operating procedures relative to the laboratory procedures being performed, e.g., toxicology, histology, clinical chemistry, hematology, teratolgy, necropsy. Published literature may be used as a supplement to standard operating procedures.
(iv) A historical file of standard operating procedures, and all revisions

thereof, including the dates of such revisions, must be maintained.
(2) *Reagents and solutions.* All reagents and solutions in the laboratory areas must be labeled to indicate identity, titer or concentration, storage requirements, and expiration date. Deteriorated or outdated reagents and solutions must not be used.
(3) *Animal care.* (i) There must be standard operating procedures for the housing, feeding, handling, and care of animals.
(ii) All newly received animals from outside sources must be placed in quarantine until their health status has been evaluated and documented. This evaluation must be in accordance with acceptable veterinary medical practice.
(iii) At the initiation of a study, animals must be free of any disease or condition that might interfere with the purpose or conduct of the study. If, during the course of the study, the animals contract such a disease or condition, the diseased animals must be isolated. If necessary, hese animals may be treated for disease or signs of disease provided that such treatment does not interfere with the study. The diagnosis, authorizations of treatment, description of treatment, and each date of treatment must be documented and must be retained.
(iv) Warm-blooded animals, excluding suckling rodents, used in laboratory procedures that require manipulations and observations over an extended period of time or in studies that require the animals to be removed from and returned to their home cages for any reason (e.g., cage cleaning, treatment, etc.), must each receive appropriate identification (e.g., tattoo, toe clip, color code, ear tag, ear punch, etc.). All information needed to specifically identify each animal within an animal housing unit must appear on the outside of that unit.
(v) Animals of different species must be housed in separate rooms when necessary. Animals of the same species, but used in different studies, should not ordinarily be housed in the same room when inadvertent exposure to control or test substances or animal mixup could affect the outcome of either study. If such mixed housing is necessary, adequate differentiation by space and identification must be made.
(vi) Animal cages, racks and accessory equipment must be cleaned and sanitized at appropriate intervals.
(vii) Feed and water used for the animals must be analyzed periodically to ensure that contaminants known to be capable of interfering with the study and reasonably expected to be present in such feed or water are not present at levels above those specified in the protocol. Documentation of such analyses must be maintained as raw data.
(viii) Bedding used in animal cages or pens must not interfere with the purpose or conduct of the study and must be changed as often as necessary to keep the animals dry and clean.
(ix) The use of cleaning and pest control materials must be documented. Cleaning and pest control materials that interfere with the study must not be used.
(x) In addition to the requirements as described in paragraphs (f)(3) (i)–(ix) of this section, more detailed guidance for proper animal care is given in Appendix A of this section.
(g) *Protocol for and conduct of a study.* (1) *Protocol.* (i) Each study must have a sponsor-approved protocol that clearly indicates the objectives and all methods for the conduct of the study. The protocol must contain but not necessarily be limited to the following information:
(A) A descriptive title and statement of the purpose of the study.
(B) Identification of the test and control substance by name, chemical abstract (CAS) number or code number.
(c) The name and address of the sponsor including the sponsor's project manager. The name and address of the testing facility at which the study is being conducted.
(D) The proposed starting and completion dates.
(E) Justification for selection of the test system.
(F) Where applicable, the number, body weight range, sex, source of supply, species, strain, substrain, and age of the test system.
(G) The procedure for identification of the test system.
(H) A description of the study design, including the methods for control of bias.
(I) A description and/or identification of the diet used in the study as well as solvents, emulsifiers and/or other materials used to solubilize or suspend the test or control substances before mixing with the carrier. The description must include specification for acceptable levels of contaminants that are reasonably expected to be present in the dietary materials and are known to be capable of interfering with the purpose or conduct of the study if present at levels greater than established by the specifications.
(J) The route of administration and the reason for its choice.
(K) Each dosage level, expressed in milligrams per kilogram of body weight or other appropriate units, of the test or control substance to be administered and the method and frequency of administration.
(L) Method by which the degree of absorption of the test and control substances by the test system will be determined if necessary to achieve the objectives of the study.
(M) The type and frequency of tests, analyses, and measurements to be made.
(N) The records to be maintained.
(O) The date of approval of the protocol by the sponsor and the signature of the study director.
(P) A statement of the proposed statistical methods to be used.
(ii) All changes in or revisions of the sponsor approved protocol and the reasons therefore must be documented, signed by the study director, dated, and maintained with the protocol.
(iii) In addition to the protocol requirements as described in paragraphs (g)(1)(i)–(ii) of this section, additional protocol requirements will be specified in individual test standards.
(2) *Conduct of a study.* (i) The study must be conducted in accordance with the protocol.
(ii) The test systems must be monitored in conformity with the protocol.
(iii) Specimens must be identified by test system, study, nature, and date of collection. This information must be located on the specimen container or must accompany the specimen in a manner that precludes error in the recording and storage of data.
(iv) Records of gross findings for a specimen from postmortem observations must be available to a pathologist when examining that specimen histopathologically.
(v) All data generated during the conduct of a study, except those that are generated as direct computer input, must be recorded directly, promptly, and legibly in permanent ink. All data entries must be dated on the day of entry and signed or initialed by the person entering the data. Any change in entries must be made so as not to obscure the original entry, must indicate the reason for such change, and must be dated and signed or identified at the time of the change. In computer driven data collection systems, the individual responsible for direct data input must be identified at the time of data input. Any change in computer entries must be made so as not to obsure the original entry, must indicate the reason for change, and must be dated and the

(1962); Guinea Pigs (1964); Laboratory Cats

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responsible individual must be identified.

(h)–(i) [Reserved].

(j) *Records and reports.* (1) *Reporting of study results.* (i) A final report must be prepared for each study in accordance with the EPA reporting requirements. The reports must include, but not necessarily be limited to, the following:

(A) Name and address of the facility performing the study and the dates on which the study was initiated and completed.

(B) Objectives and procedures stated in the sponsor-approved protocol, including any changes in the original protocol including justification(s).

(C) Statistical methods employed for analyzing the data.

(D) The test and control substances identified by name, chemical abstract (CAS) number or code number, strength, purity, and composition or other appropriate characteristics.

(E) Stability of the test and control substances under the conditions of administration and storage.

(F) A description of the methods used.

(G) A description of the test system used. Where applicable, the final report must include the number of animals used, sex, body weight range, source of supply, species, strain and substrain, age, and procedure used for identification.

(H) A description of the dosage, dosage regimen, route of administration, and duration.

(I) A description of all circumstances that may have affected the quality or integrity of the data.

(J) The name of the study director, the names of other scientists or professionals, and the names of all supervisory personnel, involved in the study.

(K) A description of the transformations, calculations, or operations performed on the data, a summary and analysis of the data, and a statement of the conclusions drawn from the analysis.

(L) The signed and dated reports of each of the individual scientists or other professionals involved in the study.

(M) The locations where all specimens, raw data, and the final report are to be stored.

(N) The statement prepared and signed by the quality assurance unit as described in paragraph (c)(4)(ii)(G) of this section.

(ii) The final report must be signed by the study director.

(iii) Corrections or additions to a final report must be in the form of an amendment by the study director. The amendment must clearly identify that part of the final report that is being added to or corrected and the reasons for the correction or addition, and must be signed and dated by the person responsible.

(iv) In addition to the Reporting requirements in paragraphs (j)(1)(i)–(iii) of this section, additional Reporting requirements will be specified in individual test standards.

(2) *Storage and retrieval of records and data.* (i) All raw data, documentation, protocols, speciments, and final reports generated as a result of a study must be retained and indexed.

(ii) There must be an archive(s) for orderly storage and expedient retrieval of all raw data, documentation, protocols, speciments, and interim and final reports. Conditions of storage must minimize deterioration of the documents or specimens in accordance with the requirements for the time period of their retention and the nature of the documents or specimens. Tissue blocks must be separated from specimen slides by a fire resistant barrier. A testing facility may contract with commercial archives to provide a repository for all material to be retained. Raw data and specimens may be retained elsewhere provided the archive(s) have specific reference to those other locations.

(iii) An individual must be identified as responsible for the archives.

(iv) Only authorized personnel must enter the archives. Those who enter, must sign in and out, identify data removed and returned and dates removed and returned.

(v) Material retained or referred to in the archives must be indexed by test substance or mixture, date of study, test system, and nature of study.

(vi) In addition to the Stroage and Retrieval of Records and Data requirements as described in paragraphs (j)(2)(i)–(v) of this section, additional requirements will be specified in individual test standards.

(3) *Retention of records.* (i) Record retention requirements set forth in this subsection do not supercede the record retention requirements of any other regulations in this chapter.

(ii) Except as provided in paragraph (j)(3)(iii) of this section, documentation records, raw data, and specimens pertaining to a study and required to be made by this part must be retained in the archive(s) of the testing facility or sponsor for at least 10 years from the date the study is submitted to the Agency.

(iii) Wet specimens, samples of test or control substances, samples of test or control substance/carrier mixtures and specially prepared material (e.g., histochemical, electron microscopic, blood mounts, teratological preparation, and uteri from dominant lethal mutagenesis tests), which are relatively fragile and differ markedly in stability and quality during storage, must be retained only as long as the quality of the preparation affords evaluation. In no case must retention be required for a longer period than that set forth in paragraph (j)(3)(i) of this section.

(iv) The master schedule sheet, copies of protocols, and records of quality assurance inspections, as required by paragraph (c)(4)(iii) of this section must be maintained by the quality assurance unit as an easily accessible system of records for the period of time specified in paragraph (j)(3)(li) of this section.

(v) Summaries of training and experience and job descriptions required to be maintained by paragraph (c)(1)(i)(B) of this section must be retained along with all other testing facility employment records for the length of time specified in paragraph (j)(3)(i) of this section.

(vi) Records and reports of the maintenance and calibration and inspection of equipment, as required by paragraph (e)(2)(ii) and (iii) of this section, must be retained for the length of time specified in paragraph (j)(3)(i) of this section.

(vii) If a facility conductiong testing or an archive contracting facility goes out of business, all raw data, documentation, and other material specified in this section must be transferred to the archives of the sponsor of the study. The Agency must be notified in writing of such a transfer and its specific location. If a facility conducting testing or an archive contracting facility changes ownership or management, the Agency and the sponsor must be notified and concur with the disposition of the archives.

(k) *Inspection of a testing facility.* (1) A testing facility must permit an authorized employee of the Environmental Protection Agency or of the Food and Drug Administration, at reasonable times and in a resonable manner, to inspect the facility and to inspect (and in the case of records, also to copy) all records and specimens required to be maintained regarding studies within the scope of this section. The records inspection and copying requirements shall not apply to quality assurance unit records of findings and problems, or to action recommended and taken.

(2) The Environmental Protection Agency will not consider reliable for purposes of showing that a chemical substance or mixture does not present a risk of injury to health or the environment any data developed by a testing facility that refuses to permit inspection. The Agency, at its discretion, may for purposes of showing adverse effects rely upon studies conducted by laboratories refusing inspection. The determination that a study will not be considered does not however, relieve the sponsor of a required test of the obligation under any applicable statute or regulation to submit the results to the Environmental Protection Agency.

Appendix A

This Appendix provides guidance on certain issues related to Good Laboratory Practices for Health Effects. Information or methods contained in this Appendix apply to all health effects studies in Part 772.

(a) *Handling of Test Substances.* To minimize possible adverse effects on the health of testing facility personnel from exposure to toxic test substances, testing facilities and personnel should use the following documents (or revisions of these documents) as guidelines for the handling of potentially toxic test substances: the DHEW Toxicology Subcommittee document for Carcinogen Standards (August 1978) entitled, "Guidelines for the Laboratory Use of Toxic Substances Posing a Potential Occupational Carcinogenic Risk," and the IARC document entitled, "A Manual on the Safety of Handling Carcinogens in the Laboratory."

(b) *Handling of Radioactive Materials.* If radioactive materials are to be used, special facilities or areas and licensing of persons to possess and use radioactive materials should be in accordance with regulations set forth by the Nuclear Regulatory Commission in Title 10 of the Code of Federal Regulations or the requirements of an agreement State.

(c) *Administrative and Personnel Facilities.* Testing facilities should be in accordance with regulations set forth by the Occupational Safety and Health Administration under Title 29 of the Code of Federal Regulations.

(d) *Animal Care and Handling.* (1) All animals under the care of the testing facility should be housed, fed, and handled in compliance with standards set forth by the Animal Welfare Act of 1970 under 9 CFR Part 3, or, where standards are not indicated in 9 CFR Part 3, animals should be housed, fed, and handled in a manner consistent with the recommendations in HEW Publication No. (NIH) 74–23, "Guide for the Care and Use of Laboratory Animals," and a report of the Committee on Long-Term Holding of Laboratory Animals," and a report of the Committee on Long-Term Holding of Laboratory Rodents (ILAR News, Vol. XIX, No. 4, 1976). All animals for which there are no specific regulations should be housed, fed, and handled in compliance with Subpart E of 9 CFR Part 3, the recommendations of HEW Publication No. (NIH) 74–23 and the National Academy of Sciences/National Research Council, "Standards for the Breeding, Care and Management of Syrian Hamsters (1960); Laboratory Mice (1962); Laboratory Rats (1962); Guinea Pigs (1964); Laboratory Cats (1964); Laboratory Dogs (1964); and Laboratory Rabbits (1965)." Should these guidelines and standards be revised, animal care should be in accordance with such revisions.

(2) Animal cages, racks and accessory equipment should be cleaned and sanitized at appropriate intervals as recommended in HEW Publication No. (NIH) 74–23 and any revision of this document.

(e) *Animal Care Facilities.* Structural requirements and environmental control of rooms or areas for animals should comply with the provisions of the Animal Welfare Act of 1970 (Pub. L. 91–579) as set forth in 9 CFR Part 3. Space requirements for the primary enclosure should also be as specified in 9 CFR Part 3, except that where specifications regarding housing of certain species of animals are not set forth in the recommendations contained in HEW Publication No. (NIH 74–23) entitled, "Guide for the Care and Use of Laboratory Animals," and a report of the Committee on Long-Term Holding of Laboratory Rodents (ILAR News, Vol. XIX, No. 4, 1976) should be followed including any revisions of these documents.

[FRL 1079–5; OTS–046004]
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AGENCY PUBLICATION ON ASSIGNED DAYS OF THE WEEK

The following agencies have agreed to publish all documents on two assigned days of the week (Monday/Thursday or Tuesday/Friday). This is a voluntary program. (See OFR NOTICE FR 32914, August 6, 1976.)

Monday	Tuesday	Wednesday	Thursday	Friday
DOT/COAST GUARD	USDA/ASCS		DOT/COAST GUARD	USDA/ASCS
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	LABOR			LABOR
	HEW/FDA			HEW/FDA

Documents normally scheduled for publication on a day that will be a Federal holiday will be published the next work day following the holiday.

Comments on this program are still invited. Comments should be submitted to the Day-of-the-Week Program Coordinator, Office of the Federal Register, National Archives and Records Service, General Services Administration, Washington, D.C. 20408

***NOTE: As of January 1, 1979, the Merit Systems Protection Board (MSPB) and the Office of Personnel Management (OPM) will publish on the Tuesday/Friday schedule. (MSPB and OPM are successor agencies to the Civil Service Commission.)**

REMINDERS

The items in this list were editorially compiled as an aid to Federal Register users. Inclusion or exclusion from this list has no legal significance. Since this list is intended as a reminder, it does not include effective dates that occur within 14 days of publication.

Rules Going Into Effect Today

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21019 4–9–79 / New Mexico Air Quality Control Act

HOUSING AND URBAN DEVELOPMENT DEPARTMENT

Office of Assistant Secretary for Community Planning and Development—

21227 4–9–79 / Comprehensive planning assistance; approval and disapproval of land use and housing element requirement (retroactive to September 5, 1978)

Office of Assistant Secretary for Neighborhoods, Voluntary Associations and Consumer Protection—

21014 4–9–79 / Mobil home procedural and enforcement regulations; extension of conditional approval time for State Administrative Agencies

NUCLEAR REGULATORY COMMISSION

26060 5–4–79 / Uranium fuel cycle impacts from spent fuel reprocessing and radioactive waste management; extension of interim fuel cycle rule to 5–15–79 [originally published at 42 FR 13803, 3–14–77]

TREASURY DEPARTMENT

Customs Service—

17653 3–23–79 / Fasteners from Japan

Next Week's Deadlines for Comments on Proposed Rules

AGRICULTURE DEPARTMENT

Agricultural Marketing Service—

25460 5–1–79 / Avocados grown in South Florida and imported avocados; grade and maturity requirements; comments by 5–17–79

Commodity Credit Corporation—

22081 4–13–79 / 1979 Crop peanut loan and purchase program; comments by 5–14–79

Farmers Home Administration—

21994 4–12–79 / Rural housing loans and grants; technical and supervisory assistance; comments by 5–14–79

Rural Electrification Administration—

14607 3–13–79 / 15 and 25 kV primary underground power cable specifications; comments by 5–14–79

COMMERCE DEPARTMENT

National Oceanic and Atmospheric Administration—

18031 3–26–79 / Stone crab fishery; energency regulations; comments by 5–19–79

19445 4–3–79 / Stone crab fishery; plan approved and proposed regulations; comments by 5–19–79

Patent and Trademark Office—

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22478 3–16–79 / Compulsory counterclaims in trademark opposition and cancellation proceedings; comments by 5–15–79 (2 documents)

COMMODITY FUTURES TRADING COMMISSION

16443 3–19–79 / Application fees for registraion with Commission to be nonrefundable; comments by 5–18–79

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22608 4–16–79 / Weatherization assistance program provisions; comments by 5–16–79

Economic Regulatory Administration—

19423 4–3–79 / Butane and natural gasoline deregulation; comments by 5–18–79

17644 3–29–79 / Natural gas transportation certificates, displacement of fuel oil; comments by 5–17–79

20444 4–5–79 / Participation of gasoline retailers in State set-aside programs in mandatory petroleum allocation; comments by 5–15–79

Federal Energy Regulatory Commission—

22090 4–13–79

23093 4–16–79 / Determination of incentive rate of return, tariff, and related issues for the Alaska Natural Gas Transportation System; reply comments by 5–16–79 (2 documents)

22751 4–17–79 / Voluntary annual reporting of electric utility conservation activities; comments by 5–17–79

ENVIRONMENTAL PROTECTION AGENCY

22126 4–13–79 / Air pollution; approval and promulgation of nonattainment plan for S.D.; comments by 5–14–79

22130 4–13–79 / Air pollution; delayed compliance orders; North Carolina; Georgia-Pacific Corp.; comments by 5–14–79

22131 4–13–79 / Air pollution; delayed compliance orders; North Carolina; Pittsburg Plate Glass Industries; comments by 5–14–79

25895 5–3–79 / Cooperative Forestry Research Advisory Board

20744 4–6–79 / Advisory Group on Electron Devices, New York,

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22129 4–13–79 / Air pollution; delayed compliance orders; North Carolina; True Temper Corp.; comments by 5–14–79

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22480 4–16–79 / Disapproval of delayed compliance order issued by Wyoming Department of Environmental Quality to Black Hills Power & Light Co.; comments by 5–16–79

22752 4–17–79 / Food additive tolerances for insecticide propargite; comments by 5–17–79

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14578 3–13–79 / Prevention of discharge of dredged or fill material into defined area waters of the U.S.; comments by 5–14–79

15742 3–15–79 / Review of performance standards for sulfuric acid plants; comments by 5–14–79

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[Originally published at 43 FR 48669, 10–19–78]

21831 4–12–79 / Exemption from watch requirements for Class III-B public coast stations; comments by 5–16–79

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22487 4–16–79 / Self-policing of independent liner operators; comments by 5–16–79

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22755 4–17–79 / Diagnostic X-Ray Systems; proposed amendment of assembly and reassembly provisions; comments by 5–17–79

22058 4–13–79 / Penicillin antibiotic drugs; penicillamine capsules and tablets; comments by 5/14/79

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25476 5–1–79 / Apportionment of malpractice costs to medicare; comment period extended to 5–15–79
[First published at 44 FR 15744, 3–15–79]

15746 3–15–79 / Limitations on reimbursable costs under Medicare; comments by 5–14–79

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16444 3–19–79 / Debarment and suspension from eligibility for financial assistance; comments by 5–18–79

HOUSING AND URBAN DEVELOPMENT DEPARTMENT

Office of Assistant Secretary for Housing—Federal Housing Commissioner—

22472 4–16–79 / Determining of utilities allowances for tenants of PHA-owned projects; comments period extended to 5–16–79
[Originally published at 44 FR 1600, Jan. 5, 1979]

22652 4–16–79 / College Housing Program for Fiscal Year 1979; loan provisions; comments by 5–16–79

22472 4–16–79 / PHA-owned projects—demolition of structures or disposition of real property; comments by 5–16–79

22472 4–16–79 / Public housing agencies; energy audits and energy conservation measures and individual metering of utilities; comments period extended to 5–16–79
[Originally published at 44 FR 60854, Dec. 28, 1978]

23093 4–18–79 / Revised prescription of design standards pursuant to the Architectural Barriers Act of 1968; comments by 5–18–79

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16800 3–19–79 / Management of Federally-owned coal through lease or exchange; comments by 5–18–79

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14562 3–13–79 / Indus, Minn.; closing of port; comments by 5–14–79

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22482 4–16–79 / Rehabilitation funding provisions; comments by 5–16–79

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20447 4–5–79 / Organization and operation of Federal Credit Unions; comments by 5–15–79

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18513 3–28–79 / Nuclear power reactors, fracture toughness requirements; comments by 5–14–79

PENNSYLVANIA AVENUE DEVELOPMENT CORPORATION

22061 4–13–79 / Planning and design objectives, controls, and standards on Square 291; comments by 5–14–79

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19974 4–3–79 / Post employment conflict of interest; interim regulations; comments by 5–18–79

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16935 3–20–79 / Investment company sales literature interpretative rule; comments by 5–15–79

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15732 3–15–79 / Radiation surveys of airport X-Ray inspection cabinets; comments by 5–14–79

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15728 3–15–79 / Foreign banks at Federal branches and agencies, national banking law applicability; comments by 5–14–79

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25961 5–3–79 / Middletown, Pa. (open), 5–17 through 5–19–79

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24637 4–26–79 / Washington, D.C. (open), 5–15–79

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21057 4–9–79 / Coconino National Forest Grazing Advisory Board, Flagstaff, Ariz. (open), 5–15–79

19497 4–3–79 / Modoc National Forest Grazing Advisory Board, Alturas, Calif. (open), 5–16–79

Science and Education Administration—

25895 5–3–79 / Cooperative Forestry Research Advisory Board and Advisory Committee, St. Paul, Minn. (open),5–15, 5–16, and 5–17–79

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23270 4–19–79 / Missouri Advisory Committee, St. Louis, Mo. (open), 5–18–79

20735 4–6–79 / New York Advisory Committee, Schenectady, N.Y. (open), 5–18 and 5–19–79

25657 5–2–79 / North Carolina Advisory Committee, Raleigh, N.C. (open), 5–16–79

23271 4–19–79 / Vermont Advisory Committee, Montpelier, Vt. (open), 5–15–79

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25487 5–1–79 / Computer Systems Technical Advisory Committee and Computer Peripherals, Components and Related Test Equipment Technical Advisory Committee, Washington, D.C. (partially open), 5–17–79

25260 4–30–79 / Foreign Availability Subcommittee of the Computers Systems Technical Advisory Committee, Washington, D.C. (open), 5–15–79

25260 4–30–79 / Hardware Subcommittee of the Computer Systems Technical Advisory Committee, Washington, D.C. (partially open), 5–16–79

25261 4–30–79 / Licensing Procedures Subcommittee of the Computer Systems Technical Advisory Committee, Washington, D.C. (open), 5–15–79

25261 4–30–79 / Memory and Media Subcommittee of the Computer Peripherals, Components, and Related Test Equipment Technical Advisory Committee, Washington, D.C. (partially open), 5–16–79

National Oceanic and Atmospheric Administration—

25262 4–30–79 / Coastal Zone Management Advisory Committee, New Orleans, La. (open), 5–16 through 5–18–79

24617 4–26–79 / Gulf of Mexico Fishery Management Council's Billfishes Advisory Subpanel, Tampa, Fla. (open), 5–14–79

24617 4–26–79 / Gulf of Mexico Fishery Management Council's Scientific and Statistical Committee (open), Metairie, La., 5–16 through 5–18–79

24617 4–26–79 / Gulf of Mexico Fishery Management Council's Sharks Advisory Subpanel, Metairie, La. (open), 5–15–79

25263 4–30–79 / New England Fishery Management Council, Portland, Me. (open), 5–16 and 5–17–79

CONSUMER PRODUCT SAFETY COMMISSION

24903 4–27–79 / National Advisory Committee for the Flammable Fabric Act, Washington, D.C. (open), 5–14 and 5–15–79

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23107 4–18–79 / USAF Scientific Advisory Board, Los Angeles, Calif. (closed), 5–14 through 5–16–79

24907 4–27–79 / USAF Scientific Advisory Board, El Sagundo, Calif. (closed), 5–14 and 5–15–79

Army Department—

23555 4–20–79 / Army Science Board, Washington, D.C. (closed), 5–15 and 5–16–79

23555 4–20–79 / U.S. Army Medical Research and Development Advisory Panel Ad Hoc Study Group on Clinical and Preclinical Pharmacology, Washington, D.C. (partially open), 5–14–79

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23273 4–19–79 / Scientific Advisory Group, Arlington, Va. (closed), 5–17 and 5–18–79

Navy Department—

24625 4–26–79 / Resale System Advisory Committee, New Orleans, La. (partially open), 5–14–79

Office of the Secretary—

20744 4–6–79 / Advisory Group on Electron Devices, New York, N.Y. (closed), 5–16 and 5–17–79

21322 4–10–79 / Defense Intelligence School Panel of National Defense University and the Defense Intelligence School, Washington, D.C. (partially open), 5–15 through 5–17–79

22799 4–17–79 / Defense Science Board Task Force on High Energy Lasers, Washington, D.C. (closed), 5–17 and 5–18–79

17202 3–21–79 / Department of Defense Wage Committee, Alexandria, Va. (closed), 5–15–79

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24340 4–25–79 / Committee on U.S. Petroleum Inventories, and Storage and Transportation Capacities; Inventory and Storage Task Group, Washington, D.C. (open), 5–17–79

FEDERAL COMMUNICATIONS COMMISSION

25508 5–1–79 / Radio Technical Commission for Marine Services; Special Committee No. 70, Washington, D.C. (open), 5–18–79

FEDERAL PREVAILING RATE ADVISORY COMMITTEE

22812 4–17–79 / Washington, D.C. (open), 5–17–79

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24931 4–27–79 / Workshop on Occupational Health Engineering Control Technology, Cincinnati, Ohio (open), 5–16 and 5–17–79

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24347 4–25–79 / Extension and Continuing Education National Advisory Council, Washington, D.C. (open), 5–15–79

24936 4–27–79 / National Advisory Council on the Education of Disadvantaged Children, Portland, Oreg. (open), 5–18 and 5–19–79

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26166 5–4–79 / Consumer Participation, New York, N.Y. (open), 5–16–79

22814 4–17–79 / Obstetrics-Gynecology Devices Section of the Obstetrics-Gynecology and Radiologic Devices Panel, Silver Spring, Md. (open), 5–14–79

22812 4–17–79 / Ophthalmic Devices Section of the Ophthalmic; Ear, Nose, and Throat; and Dental Devices Panel, Washington, D.C. (partially open) 5–14–79; (open) 5–15–79

Health Resources Administration—

23320 4–19–79 / National Advisory Council on Health Professions Education, Hyattsville, Md. (partially open), 5–14 through 5–16–79

Health Services Administration—

23320 4–19–79 / Maternal and Child Health Research Grants Review Committee, Rockville, Md. (partially open), 5–16 through 5–16–79

National Institute of Education—

25702 5–2–79 / Laboratory and Center Operations Review Panel, Washington, D.C. (open), 5–18 and 5–19–79

National Institutes of Health—

19541 4–3–79 / Arthritis, Metabolism, and Digestive Diseases National Advisory Council, Bethesda, Md. (partially open), 5–17 and 5–18–79

24237 4–24–79 / Artificial Kidney—Chronic Uremia Advisory Committee, Bethesda, Md. (open), 5–15 through 5–17–79 (Originally published at 44 FR 21079, 4–9–79)

21080 4–9–79 / Cancer Research Manpower Committee, New Orleans, La. (partially open), 5–13–79

19539 4–3–79 / Child Health and Human Development National

24959 4–27–79 / Construction Safety and Health Advisory

25282 4–30–79 / Biomechanics Advisory Committee, Washington,

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19539 4–3–79 / Child Health and Human Development National Advisory Council, Bethesda, Md. (partially open), 5–14 and 5–15–79

19540 4–3–79 / Neurological and Communicative Disorders and Stroke National Advisory Council, Planning Subcommittee, Bethesda, Md. (partially open), 5–14–79

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26168 5–4–79 / Fund for the Improvement of Postsecondary Education Board of Advisory, Elkridge, Md. (closed), 5–17 through 5–19–79

23321 4–19–79 / President's Committee on Mental Retardation, San Diego, Calif. (open), 5–15 through 5–17–79

24232 4–24–79 / Rights and Responsibilities of Women, Secretary's Advisory Committee, Washington, D.C. (open), 5–17 and 5–18–79

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21084 4–9–79 / Casper District Grazing Advisory Board, Casper, Wyo. (open), 5–14–79

15792 3–22–79 / Colorado wilderness inventory, open house, Craig, Colo. (open), 5–15–79

17592 3–22–79 / Colorado wilderness inventory, open house, Grand Junction, Colo. (open), 5–16–79

24644 4–26–79 / Public lands in Nevada, open house, Battle Mountain, Nev., 5–14–79

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24644 4–26–79 / Public lands in Nevada, open house, Tonopah, Nev., 5–14–79

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22202 4–13–79 / Shoshone District Grazing Advisory Board, Shoshone, Idaho (open), 5–16–79

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21716 4–11–79 / Committee for the Preservation of the White House, Washington, D.C. (open), 5–18–79

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25277 4–30–79 / Advisory Committee on Mining and Mineral Resources Research, Washington, D.C. (open), 5–15–79

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25457 5–1–79 / Revisions to preliminary report of number of employees of Class I railroads, and monthly Report of Employees, Service and Compensation, forms A and B, Washington, D.C. (open), 5–15–79

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25952 5–3–79 / Juvenile Justice and Delinquency Prevention National Advisory Committee, Boston, Mass. (open), 5–16 through 5–19–79

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24959 4–27–79 / Business Research Advisory Council, Washington, D.C. (open), 5–16–79

21385 4–10–79 / Price Indexes Committee of the Business Research Advisory Council, Washington, D.C. (open), 5–15–79

21385 4–10–79 / Wages and Industrial Relations Committee of the Business Research Advisory Council, Washington, D.C.(open), 5–15–79

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24959 4–27–79 / Construction Safety and Health Advisory Committee, Harvey, Ill. (open), 5–16 and 5–17–79

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24353 4–25–79 / Marine Mammal Commission and Committee of Scientific Advisors on Marine Mammals, San Diego, Calif. (partially open), 5–17 through 5–19–79

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23134 4–18–79 / NASA Advisory Council (NAC), Historical Advisory Committee (open), 5–14–79

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24653 4–26–79 / Advisory Committee for Behavioral and Neural Sciences, Subcommittee on Linguistics, Washington, D.C. (open and closed), 5–13 through 5–15–79

24652 4–26–79 / Advisory Committee for Behavioral and Neural Sciences, Subcommittee on Psychobiology, Washington, D.C. (open and closed), 5–16 through 5–18–79

24652 4–26–79 / Advisory Committee for Chemistry, Washington, D.C. (open and closed), 5–14 and 5–15–79

24652 4–26–79 / Advisory Committee for Physiology, Cellular, and Molecular Biology, Subcommittee on Human Cell Biology, Washington, D.C. (closed), 5–18–79

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25710 5–2–79 / DOE/NSF Nuclear Science Advisory Committee 1979 Instrumentation Subcommittee, Washington, D.C. (open), 5–19 and 5–20–79

25710 5–2–79 / International Programs Advisory Committee, Washington, D.C. (closed), 5–18–79

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25707 5–2–79 / Meeting, Kingston, R.I. (open), 5–17 and 5–18–79

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21724 4–11–79 / Shipping Coordinating Committee, Committee on Ocean Dumping, Washington, D.C. (open), 5–15–79

24672 4–26–79 / Shipping Coordinating Committee, Subcommittee on Safety of Life at Sea, Washington, D.C. (open), 5–17–79

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21926 4–12–79 / Informal airspace meeting, Spokane, Wash. 5–16–79

23402 4–19–79 / Pittsburgh, Pa. terminal control area, Coraopolis, Pa. (open), 5–16–79

23401 4–19–79 / Proposed terminal area, Atlanta, Ga., 5–17–79

21927 4–12–79 / Radio Technical Commission for Aeronautics Separation Study Review Group, Washington, D.C. (open), 5–15 and 5–16–79

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25282 4–30–79 / Biomechanics Advisory Committee, Washington, D.C. (open), 5–15 and 5–16–79

[Originally published at 44 FR 15823, Mar. 15, 1979]

15822 3–15–79 / Regional Child Restraint Workshops, San Antionio, Tex. (open), 5–14 and 5–15–79

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22139 4–13–79 / Legal developments, Washington, D.C., 5–14–79

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24624 4–26–79 / East and West Flower Gardens; on environmental impact statement, Galveston, Tex., 5–18–79

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21654 4–11–79 / Residential conservation service, Denver, Colo., 5–14–79

21654 4–11–79 / Residential Conservation Service Program, Seattle, Wash., 5–17–79

16546 3–19–79 / Residential Conservation Service Program, Salt Lake, City, Utah, 5–14 through 5–16–79

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22022 4–12–79 / Electric utilities, assistance and intervention in State regulatory proceeding, Denver, Colo., 5–17–79

18856 3–29–79 / Financial assistance programs for State utility regulatory commissions and eligible nonregulated electric utilities, Denver, Colo., 5–16–79

18448 3–27–79 / Grants for Officers of Consumer Services, Denver, Colo., 5–15–79

22974 4–17–79 / Submission of reports to DOE by State regulatory authorities and nonregulated electric and gas utilities, Denver, Colo., 5–17–79

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22807 4–17–79 / California State motor vehicle pollution control standards, San Francisco, Calif., 5–17 and 5–18–79

[Rescheduled at 44 FR 23575, 4–20–79]

22131 4–13–79 / Gaseous emissions regulations for 1983 and later model year heavy duty engines, Ann Arbor, Mich., 5–14 and 5–15–79

18138 3–26–79 / Land fill disposal of solid waste; Washington, D.C., 5–15–79 and Houston, Tex., 5–17–79

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22823 4–17–79 / Proposed Central Utah project municipal and industrial system, Herber City, Utah, 5–17–79

22823 4–17–79 / Proposed Central Utah project municipal and industrial system, Orem, Utah, 5–19–79

22823 4–17–79 / Proposed Central Utah project municipal and industrial system, Salt Lake City, Utah, 5–18–79

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25940 5–3–79 / Carbon Steel Plate from Poland; Washington, D.C., 5–24–79

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25527 5–1–79 / MAC Crime Prevention and Education Program, Inc., Milwaukee, Wis., 5–14 and 5–15–79

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23544 4–20–79 / Loading of explosives into blast holes through drill steel or other devices, Miami, Fla., 5–18–79

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12306 3–6–79 / Express mail metro service, 1978, Washington, D.C., 5–18–79

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This is a list of documents relating to Federal grants programs which were published in the Federal Register during the previous week.

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26298 5–4–79 / HEW/OE—Direct grant programs, State-administerd programs, and geneal administrative regulations; comments by 7–3–79; workshops and hearings 5–17, 6–4 through 6–8–79, and 6–11–79

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25694 5–2–79 / HEW/HDSO—Child welfare research and demonstration grant program for demonstration projects to assess State's foster family services systems; apply by 7–2–79 for FY 1979 grant funds, and by 1–30–80 for FY 1980 grant funds

25696 5–2–79 / HEW/HDSO Child welfare research and demonstration grant program for projects to demonstrate the planning and initiation of a comprehensive emergency services program; apply by 7–2–79 for FY 1979 grant funds, and by 1–30–80 for FY 1980 grant funds

25511 5–1–79 / HEW/HDSO—Regional adoption resources centers demonstration program—Announcement No. 13652–791; apply by 7–16–79

25821 5–2–79 / HEW/OE—Citizen education for cultural understanding program awards; apply by 6–18–79

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25895 5–3–79 / Commerce/NOAA—Sea Grant Review Panel, Rockville, Md. (open), 5–30 and 5–31–79

26168 5–4–79 / HEW—Board of Advisors to the Fund for the Improvement of Postsecondary Education (closed), 5–17 through 5–19–79

25709 5–2–79 / NSF—Mathematical and Computer Sciences Advisory Committee; Computer Science Subcommittee, Washington, D.C. (partially open), 5–21 through 5–23–79

25708 5–2–79 / NSF—Memory and Cognitive Processes Subcommittee, Washington, D.C. (closed), 5–21 and 5–22–79

25709 5–2–79 / NSF—Molecular Biology Subcommittee, Washington, D.C. (closed), 5–21 and 5–22–79

25708 5–2–79 / NSF—Molecular Biology Subcommittee, Washington, D.C. (closed), 5–24 and 5–25–79

25707 5–2–79 / NSF—Physiology, Cellular and Molecular Biology

25707 5-2-79 / NSF—Physiology, Cellular, and Molecular Biology Advisory Committee; Cell Biology Subcommittee, Washington, D.C. (closed), 5-21 through 5-23-79

25708 5-2-79 / NSF—Physiology, Cellular, and Molecular Biology Advisory Committee; Genetic Biology Subcommittee, Washington, D.C. (closed), 5-24 through 5-26-79

25709 5-2-79 / NSF—Sensory Physiology and Perception Subcommittee, Washington, D.C. (closed), 5-23 and 5-24-79

25709 5-2-79 / NSF—Social Sciences Advisory Committee; Geography and Regional Science Subcommittee, Washington, D.C. (closed), 5-21-79

25708 5-2-79 / NSF—Sociology Subcommittee, Washington, D.C. (closed), 5-24 and 5-25-79

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26067 5-4-79 / DOE/FERC—Time limit for Commission action on research, development and demonstration programs

25812 5-2-79 / EPA—Grants for construction of publicly-owned treatment works; protests of grantee procurement actions; subject index list of regional administrator protest determinations issued during 1978, republication
[Originally published at 44 FR 20283, April 4, 1979]

25476 5-1-79 / HEW/CDC—Comprehensive Public Health Services; decision to develop health incentive grants regulations

25820 5-2-79 / HEW/OE—Citizen education for cultural understanding program

25476 5-1-79 / HEW/PHS—Preventive Health Service Programs; intention to develop regulations on formula grants

25534 5-1-79 / LSC—Consideration of grant applications submitted by various legal service agencies (2 documents)

25706 5-2-79 / LSC—Grants and contracts; California; comments invited

25706 5-2-79 / LSC—Grants and contracts; North Carolina; comments invited

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Highlights

Telecommunications Device for the Deaf—Office of the Federal Register provides a new service for deaf or speech impaired persons who need information about documents published in the **Federal Register.** See the Reader Aids section for the telephone listing.

27377 **National Railway Labor Conference** Executive order creating emergency board to investigate a labor-management dispute

27431 **Banks and Banking** Treasury/Comptroller proposes to authorize foreign banks to establish Federal branches and agencies; comments by 7–9–79

27618, 27627 **Energy Conservation** HUD issues cost-effective and efficiency standards for certain programs; comments by 6–11–79, effective 7–9–79 (2 documents)

27448 **Outer Continental Shelf** Interior/GS issues proposals for oil and gas and sulfur operations; comments by 7–9–79

27606 **Natural Gas for Outdoor Lighting** DOE/ERA issues rules prohibiting sale and direct industrial use

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FEDERAL REGISTER Published daily, Monday through Friday, (not published on Saturdays, Sundays, or on official holidays), by the Office of the Federal Register, National Archives and Records Service, General Services Administration, Washington, D.C. 20408, under the Federal Register Act (49 Stat. 500, as amended; 44 U.S.C. Ch. 15) and the regulations of the Administrative Committee of the Federal Register (1 CFR Ch. I). Distribution is made only by the Superintendent of Documents, U.S. Government Printing Office, Washington, D.C. 20402.

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27471 **Paperwork Reduction** DOE/EIA announces commitment to reducing energy reporting burden

27438 **Air Transportation** CAB proposes guidelines for determining essential service of small communities; comments by 6–25–79

27538 **Railroads** ICC announces proceedings to determine adequacy of revenue

27630 **Population Education Program** HEW/OE proposes awarding of direct discretionary grants; comments by 7–9–79

27614 **Income Maintenance and Child Support** HEW/SSA announces availability of enforcement research and demonstration grants

27505, 27506 **Law Enforcement** Justice/LEAA announces availability of research grants (2 documents)

27408 **Community Domestic Water and Waste Disposal Systems** USDA/FmHA issues regulations for development grants; effective 5–10, comments by 7–9–79

27539 **Sunshine Act Meetings**

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Federal Register
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Presidential Documents

Title 3—

The President

Executive Order 12132 of May 8, 1979

Creating an Emergency Board To Investigate a Dispute Between the National Railway Labor Conference and Certain of Its Employees

A dispute exists between the National Railway Labor Conference and certain of its employees represented by the American Train Dispatchers Association, a labor organization;

This dispute has not heretofore been adjusted under the provisions of the Railway Labor Act, as amended; and

This dispute, in the judgment of the National Mediation Board, threatens substantially to interrupt interstate commerce to a degree such as to deprive a section of the country of essential transportation service:

NOW, THEREFORE, by the authority vested in me by Section 10 of the Railway Labor Act, as amended (45 U.S.C. 160), it is hereby ordered as follows:

1–101. *Establishment of Board.* There is established a board of three members to be appointed by the President to investigate this dispute. No member of the board shall be pecuniarily or otherwise interested in any organization of railroad employees or any carrier.

1–102. *Report.* The board shall report its finding to the President with respect to the dispute within 30 days from the date of this Order.

1–103. *Maintaining Conditions.* As provided by Section 10 of the Railway Labor Act, as amended, from this date and for 30 days after the board has made its report to the President, no change, except by agreement, shall be made by the National Railway Labor Conference, or by its employees, in the conditions out of which the dispute arose.

Jimmy Carter

THE WHITE HOUSE,
May 8, 1979.

[FR Doc. 79-14721
Filed 5-8-79; 2:40 pm]
Billing code 3195-01-M

Editorial Note: The White House announcement of May 8, 1979, on establishing the Board and its membership, is printed in the Weekly Compilation of Presidential Documents (vol. 15, no. 18).

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Rules and Regulations

Federal Register
Vol. 44, No. 92
Thursday, May 10, 1979

This section of the FEDERAL REGISTER contains regulatory documents having general applicability and legal effect, most of which are keyed to and codified in the Code of Federal Regulations, which is published under 50 titles pursuant to 44 U.S.C. 1510.
The Code of Federal Regulations is sold by the Superintendent of Documents. Prices of new books are listed in the first FEDERAL REGISTER issue of each month.

FEDERAL DEPOSIT INSURANCE CORPORATION

12 CFR Part 336

FDIC Ethics Counselor; Change in Designation

AGENCY: Federal Deposit Insurance Corporation.

ACTION: Final rule.

SUMMARY: This provision amends present § 336.735–3(d) of the FDIC regulations to change the designated FDIC Ethics Counselor from the Assistant to the Chairman of the Board of Directors to the Executive Secretary of the FDIC. The Ethics Counselor is charged with offering counseling and guidance respecting statutes and regulations affecting employee responsibility and conduct and with receiving, reviewing, and maintaining custody of statements of employment and financial interest and disclosure statements filed by officers and employees of the FDIC. The Executive Secretary is a principal officer of the FDIC and has custody and responsibility for the safekeeping of the official records and official seal of the FDIC. In light of these responsibilities, the FDIC believes that the Executive Secretary should perform the duties of the Ethics Counselor. In addition, the Executive Secretary is a top-ranking employee with appropriate experience in whom the Chairman has complete confidence. Therefore, the amended section 336.735–3(d) will designate the Executive Secretary as the FDIC Ethics Counselor.

EFFECTIVE DATE: This amendment is effective on May 11, 1979.

FOR FURTHER INFORMATION CONTACT: Scott A. Anenberg, Attorney, Legal Division, Federal Deposit Insurance Corporation, Washington, D.C. 20429 (202–389–4454).

SUPPLEMENTARY INFORMATION: The FDIC has determined that notice of, public participation in, and delaying the effective date of this proposed amendment are unnecessary and impracticable. The amendment merely changes the individual designated as FDIC Ethics Counselor and makes no substantive change. In addition, the Ethics Counselor is charged with reviewing the forms to be filed by May 15 under Title II of the Ethics in Government Act, Pub. L. 95–521, and delaying the effective date would interfere with this process. The requirements of sections 553(b) and 553(d) of Title 5 of the United States Code, and sections 302.1, 302.2, and 302.5 of the FDIC's regulations are therefore inapplicable.

Accordingly, 12 C.F.R. 336.735–3(d) is amended as follows:

1. Revise § 336.735–3(d) to read:

§ 336.735–3 Effective date, distribution, and counseling.

* * * * *

(d) The Executive Secretary of the Corporation shall act as the Corporation's Ethics Counselor.

(12 U.S.C. 1819; 5 C.F.R. 735.104; E.O. 11222).

By direction of the Board of Directors dated May 7, 1979.

Federal Deposit Insurance Corporation.

Hoyle L. Robinson,
Acting Executive Secretary.

[FR Doc. 79–14634 Filed 5–9–79; 8:45 am]
BILLING CODE 6714–01–M

NATIONAL CREDIT UNION ADMINISTRATION

12 CFR Part 701

Organization and Operation of Federal Credit Unions; Fees Paid by Federal Credit Unions

AGENCY: National Credit Union Administration.

ACTION: Final rule.

SUMMARY: This rule amends the regulations governing the assessment of fees on Federal credit unions by replacing separate charges for chartering, supervision, and examination with a single operating fee payable by all operating Federal credit unions. Public Law 95–630 permits the NCUA Board to assess fees in accordance with schedules and for time periods in an amount necessary to offset the expenses of NCUA at a rate consistent with a credit union's ability to pay.

EFFECTIVE DATE: June 15, 1979.

ADDRESS: Comments on this final regulation may be submitted to Robert S. Monheit, Senior Attorney, Office of General Counsel, National Credit Union Administration, 2025 M Street, N.W., Washington, D.C. 20456.

FOR FURTHER INFORMATION CONTACT: John R. Sander, Budget Officer, Office of the Comptroller, National Credit Union Administration, 2025 M Street, N.W., Washington, D.C. 20456. Telephone (202) 633–6737.

SUPPLEMENTARY INFORMATION: On February 26, 1979, the Administration published a proposed rule to change the method of assessing fees on Federal credit unions. Public comment was invited to be received on or before March 26, 1979.

Based on an analysis of the comments received, the Administration has made no changes to the proposed rule.

ANALYSIS OF COMMENTS: The comments received from the credit union trade associations indicated substantial credit union support for the operating fee structure. However, some credit unions indicated concern with paying for an examination which they may not receive. The Administration recognizes that every Federal credit union will not be examined every calendar year. The frequency of examination of Federal credit unions is governed by the total employment authorized for NCUA by the Office of Management and Budget (OMB). In view of the current emphasis of the President and Congress to reduce Federal employment, NCUA must direct its limited examiner resources to those credit unions in most need of examination. Therefore, examinations will be conducted based on various operational factors such as size, complexity of operations, prevalence of critical problems, etc. Some credit unions will be examined less frequently than others, however, it is NCUA's objective that a Federal credit union will not be left unexamined for more than 24 months.

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Additional comments were provided requesting that a separate operating fee schedule be adopted for assessing fees on corporate central Federal credit unions (CCFCU's). The proposed scale of fees would be significantly less than other Federal credit unions would pay since the commentor maintained that CCFCU's operate on a smaller spread between income and expense. The commentor stated that, when compared to the operating fees paid by other Federal credit unions as expressed as a percentage of total expenses, the CCFCU's would pay from 12 to 19 times more.

The Administration does not agree with this conclusion since the analysis compared the operating fee as a percentage of total operating expenses (before dividends) in other credit unions to the operating fee as a percentage of the spread between cost of funds and return on funds for CCFCU's. These amounts are not similar in nature and cannot be used to present an accurate analysis of the impact the operating fee has on CCFCU's. If, on the other hand, the operating fee is expressed as a percentage of total expenses including dividends for CCFCU's as well as other credit unions, the percentages are nearly the same. The Administration concludes as a result that the operating fee will not have a greater or lesser impact on CCFCU's than it has on other types of Federal credit unions.

Operating Fee Assessment for Calendar Year 1979: Invoices for the operating fee assessment for calendar year 1979 are being mailed to each Federal credit union as of the effective date of this regulation. The fee will be based on the total assets of each Federal credit union as of December 31, 1978, calculated in accordance with the operating fee scale presented in Attachment A. Federal credit unions that have been examined and have already paid an examination fee in 1979 will receive a credit towards the operating fee assessment. The operating fees are due and payable no later than July 15, 1979.

Accordingly, 12 C.F.R. 701 is amended as set forth below.

Lawrence Connell,
Administrator.

May 4, 1979.

(Sec. 105, 93 Stat. 3652 (12 U.S.C. 1755). Sec. 120, 73 Stat. 635 (12 U.S.C. 1766) and Sec. 209, 84 Stat. 1104 (12 U.S.C. 1789).)

§ 701.1 [Amended]

1. Section 701.1 Organization of Federal credit unions

Subsection (c) is amended:

(1) by deleting the language "together with a check or money order payable to the National Credit Union Administration in the amount of $25 in payment of the investigation fee of $20 and charter fee of $5. The Regional Director", and by inserting in lieu thereof the word "who"; and

(2) by inserting a "." after the word "action" in the sixth sentence and by deleting the language "and the charter fee of $5 shall be returned to them. Under no circumstances shall the investigation fee of $20 be returned."

2. Section 701.6 is revised to read as follows:

§ 701.6 Fees paid by Federal credit unions.

(a) *Basis for assessment.* Not later than January 31 of each calendar year, each Federal credit union shall pay to the Administration for the current calendar year an operating fee in accordance with a schedule as fixed from time to time by the National Credit Union Administration Board based on the total assets of each Federal credit union as of December 31 of the preceding year.

(b) *Coverage.* The operating fee shall be paid by each Federal credit union engaged in operations as of January 1 of each calendar year. Newly chartered Federal credit unions will not pay an operating fee until January 31 of the year following the first full calendar year after the date chartered. Federal credit unions merging with other Federal or state credit unions and Federal credit unions converting to state charter will not receive a refund of the operating fee paid to the Administration in the year in which the merger or conversion takes place. State chartered credit unions that convert to Federal charter will pay an operating fee on January 31 of the year following the conversion to a Federal charter. Federal credit unions in liquidation will not pay any operating fee after the date of liquidation.

(c) *Notification.* Each Federal credit union shall be notified at least 30 days in advance of the schedule of fees to be paid. A Federal credit union may submit written comments to the Board for consideration regarding the existing fee schedule. Any subsequent revision to the schedule shall be provided to each Federal credit union at least 15 days before payment is due.

(d) *Calendar Year 1979 Operating Fee.* For the calendar year 1979 the operating fees payable by each Federal credit union will be due 30 days after the effective date of this regulation. The basis for assessment and the coverage of the fees remain the same as stated in subsections (a) and (b) above.

§§ 701.7 and 701.8 [Deleted]

3. Sections 701.7 Fee for examination and 701.8 Fee for examination of Federal credit unions in liquidation are deleted.

Attachment A

Operating Fee Computation

Determine the total amount of assets of your Federal credit union as of December 31 of the calendar year shown in accordance with instructions for closing the books contained in the Accounting Manual for Federal Credit Unions. Enter the amount in the appropriate space.

Compute the amount of operating fee payable from the scale shown and enter the amount in the appropriate space.

Operating Fee Scale

Total Assets	Fee
Under $25,000	$3 per $1,000 but not less than $10.
Over $25,000	$75, plus $2.50 per $1,000 for assets in excess of $25,000.
Over $50,000	$137.50, plus $2.20 per $1,000 for assets in excess of $50,000
Over $100,000	$247.50, plus $1.40 per $1,000 for assets in excess of $100,000
Over $250,000	$457.50, plus $1.10 per $1,000 for assets in excess of $250,000
Over $500,000	$732.50, plus $.65 per $1,000 for assets in excess of $500,000
Over $1,000,000	$1,057.50, plus $.50 per $1,000 for assets in excess of $1,000,000
Over $2,000,000	$1,557.50, plus $.44 per $1,000 for assets in excess of $2,000,000
Over $5,000,000	$2,877.50, plus $.22 per $1,000 for assets in excess of $5,000,000
Over $20,000,000	$6,177.50, plus $.21 per $1,000 for assets in excess of $20,000,000
Over $50,000,000	$12,477.50, plus $.20 per $1,000 for assets in excess of $50,000,000.
Over $100,000,000	$22,477.50, plus $.19 per $1,000 for assets in excess of $100,000,000.

The above scale is applied to even thousand-dollar units with fractional parts of $1,000 dropped.

[FR Doc. 79-14556 Filed 5-9-79; 8:45 am]

BILLING CODE 7535-01-M

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

14 CFR Part 39

Airworthiness Directives; Enstrom Helicopter Corp. Model F-28C and 280C Helicopters

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Final rule.

SUMMARY: This action publishes in the **Federal Register** and makes effective as to all persons an amendment adopting a new airworthiness directive (AD) which was previously made effective on all Enstrom F-28C and 280C helicopters by airmail letter dated April 11, 1979. The AD requires repetitive inspection of tail rotor blade grips for cracks and chamfering of the attachment bolt holes on the tail rotor blade grips and tail rotor blades. The AD was prompted by several reports of cracked tail rotor bladegrips.

DATES: Effective May 10, 1979. Compliance schedule—As prescribed in the body of the AD.

ADDRESSES: The applicable Service Bulletin may be obtained from Enstrom Helicopter Corporation, Twin County Airport, P.O. Box 277, Menominee, Michigan 49858.

Copies of the service information incorporated in this AD are contained in the Rules Docket, Office of the Regional Counsel, 2300 East Devon Avenue, Des Plaines, Illinois 60018; and at FAA Headquarters, Room 916, 800 Independence Avenue, S.W., Washington, D.C. 20591.

FOR FURTHER INFORMATION CONTACT: Terry Fahr, Engineering and Manufacturing Branch, Flight Standards Division, AGL-212, 2300 East Devon Avenue, Des Plaines, Illinois 60018, telephone (312) 694-4500, extension 424.

SUPPLEMENTARY INFORMATION: Pursuant to the authority of the Federal Aviation Act of 1958, delegated by the Administrator, an AD was adopted on April 11, 1979, and made effective immediately by airmail letter and applicable to all Enstrom F-28C and 280C helicopters. Cracks have recently been found in several Enstrom wide chord tail rotor grips (P/N 28-150013-1). Since this condition is likely to exist or develop on other helicopters of the same type design, an AD was issued to require inspection of the tail rotor blade grips for cracks, and chamfering of the attachment bolt holes on the tail rotor blade grips and tail rotor blades on all Enstrom Model F-28C and 280C helicopters.

Since it was found that immediate corrective action was required, notice and public procedure thereon was impracticable and contrary to the public interest and good cause existed for making the AD effective immediately. Since the possibility of this condition continues to exist, the AD is hereby published in the **Federal Register** as an amendment to Section 39.13 of Part 39 of the Federal Aviation Regulations to make it effective as to all persons.

Adoption of the Amendment

§ 39.13 [Amended]

Accordingly, pursuant to the authority delegated to me by the Administrator, § 39.13 of Part 39 of the Federal Aviation Regulations (14 CFR 39.13) is amended by adding the following airworthiness directive:

Enstrom Helicopter Corporation. Applies to all Model F-28C and 280C helicopters.

Compliance required as indicated.

To prevent tail rotor failures as a result of tail rotor blade grip cracks, accomplish the following:

(A) Prior to next flight after receipt of this AD and prior to each flight thereafter, visually check the tail rotor blade grips in the vicinity of the blade retention bolt holes for any evidence of cracks with at least a 10X glass. Pilot may make this check. If any cracks are found, the blade and grip unit must be replaced with a serviceable unit before further flight.

(B) Prior to the next 50 hours time in service after receipt of this AD, unless already accomplished, remove the tail rotor blades from the blade grips and examine the grips in the vicinity of the blade retention bolt holes using standard dye penetrant inspection methods. Caution—care must be taken not to intermix blades and grips as they are match drilled sets. If any cracks are found, remove the blade-and-grip unit and replace with a serviceable unit before further flight.

C) If no cracks are found in (B), or if the unit is a replacement unit, then by hand with the use of a 100°—½" back countersink (#AT4021-4) and a 3/16" pilot (#AT404-4), or equivalent tools, chamfer the edges (8 per grip) of the retention bolt holes in the blade grip .015×40°. Repeat the same operation on each tail rotor blade retention bolt hole (4 places). After chamfering, thoroughly inspect the grips and blades for any nicks, burrs, or sharp edges. If any are found, they should be blended out by crocus cloth. Note: Preflight check per paragraph A) is to be continued after this rework.

D) Replace the close tolerance bolts using a lubriplate compound and retorque to 50-75 in. lbs.

Enstrom Service Directive Bulletin No. 0048 also applies to the subject matter of this AD.

This amendment becomes effective upon publication in the **Federal Register**, as to all persons except those to whom it was made immediately effective by the airmail letter dated April 9, 1979, which contained this amendment.

(Secs. 313(a), 601, and 603, Federal Aviation Act 1958, as amended, (49 U.S.C. 1354(a), 1421, and 1423); Sec. 6(c), Department of Transportation Act (49 U.S.C. 1655(c)); 14 CFR 11.89)

Note.—The FAA has determined that this document involves a regulation which is not significant under Executive Order 12044, as implemented by DOT Department of Transportation Regulatory Policies and Procedures (44 FR 11034; February 26, 1979). A copy of the final evaluation prepared for this document is contained in the docket. A copy of it may be obtained by writing to Terry Fahr, Engineering and Manufacturing Branch, Flight Standards Division, AGL-212, 2300 East Devon Avenue, Des Plaines, Illinois 60018.

Issued in Des Plaines, Illinois, May 1, 1979.

Wayne J. Barlow,
Acting Director, Great Lakes Region.

[Docket No. 79-GL-6-AD; Amdt. 39-3465]

[FR Doc. 79-14565 Filed 5-9-79; 8:45 am]

BILLING CODE 4910-13-M

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24 CFR Part 39

Boeing Model 727 Series Airplanes; Airworthiness Directives

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Final rule.

SUMMARY: This Amendment adopts a new Airworthiness Directive (AD) to require inspections and replacement, as necessary, of the outboard trailing edge foreflap sequence carriage sliders made of polyimide plastic due to in-service cracking. Cracking has resulted in improper operation of the flap system and may result in damage to the surrounding control systems.

DATE: Effective date May 18, 1979. Initial compliance: As prescribed in the body of the AD.

ADDRESS: Boeing service bulletins specified in this directive may be obtained upon request to the Boeing Commercial Airplane Company, P.O. Box 3707, Seattle, Washington 98124. These documents may also be examined at FAA Northwest Region, 9010 East Marginal Way South, Seattle, Washington 98108.

FOR FURTHER INFORMATION CONTACT: Mr. Gerald R. Mack, Airframe Section, ANW-212, Engineering and Manufacturing Branch, 9010 East Marginal Way South, Seattle, Washington 98108, telephone (206) 767-2516.

SUPPLEMENTARY INFORMATION: Numerous reports of cracked or broken outboard trailing edge foreflap sequence carriage sliders made of polyimide plastic material, have been received. Cracking is attributed to brittleness of the plastic material. Cracked or broken sliders have caused improper operation of the outboard trailing edge flaps. Improper retraction of the foreflap can result in the foreflap being forced into the lateral control system components located in the wing rear spar resulting in inadvertent deflection of ailerons and speedbrakes. Unwanted extension of these surfaces could result in a hazardous situation.

Since this condition is likely to exist or develop in other Boeing Model 727 series airplanes with polyimide plastic outboard trailing edge foreflap sequence carriage sliders, an Airworthiness

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Directive is being issued to require inspections for cracks or missing pieces within 200 landings and thereafter at intervals of 200 landings until replaced with a slider made of Beryllium Copper material.

Since a situation exists that requires immediate adoption of this regulation, it is found that notice and public procedure hereon are impracticable and good cause exists for making this amendment effective in less than 30 days.

Adoption of the Amendment

Accordingly, pursuant to the authority delegated to me by the Administrator, § 39.13 of the Federal Aviation Regulations (14 CFR 39.13) is amended by adding the following new Airworthiness Directive:

Boeing: Applies to Model 727 series airplanes, certified in all categories, with outboard trailing edge foreflap sequence carriage sliders made from polyimide plastic. Compliance required as indicated.

A. Within the next 200 landings from the effective date of this AD, and thereafter at intervals not to exceed 200 landings inspect the sliders for cracks or missing pieces in accordance with Boeing Alert Service Bulletin No. 727-57-A147, or later FAA approved revisions, or an equivalent manner approved by the Chief, Engineering and Manufacturing Branch, FAA Northwest Region.

B. Cracked sliders are to be replaced prior to further flight, except that if a slider is cracked or missing pieces exist at only one attach bolt hole location, as noted in Boeing Alert Service Bulletin No. 727-57-A147, the slider may remain in service but must be inspected at intervals not to exceed 50 landings and must be replaced within 200 flights from detection of the initial cracking.

C. Terminating action of this AD consists of replacement of outboard trailing edge foreflap sequence carriage sliders with Boeing supplied Beryllium Copper sliders or an equivalent approved by the Chief, Engineering and Manufacturing Branch, FAA Northwest Region.

D. Airplanes may be flown to a maintenance base for replacement in accordance with FAR 21.197.

The manufacturer's specification and procedures identified and described in this directive are incorporated herein and made a part hereof pursuant to 5 U.S.C. 552(a)(1). All persons affected by this directive who have not already received these documents from the manufacturer, may obtain copies upon request to Boeing Commercial Airplane Company, P.O. Box 3707, Seattle, Washington 98124. These documents may also be examined at FAA Northwest Region, 9010 East Marginal Way South, Seattle, Washington 98108.

This amendment becomes effective May 18, 1979.

(Secs. 313(a), 601, 603, Federal Aviation Act of 1958, as amended (49 U.S.C. 1354(a), 1421, 1423); sec. 6(c) of the Department of Transportation Act (49 U.S.C. 1655(c); and 14 CFR 11.89).

Note.—The FAA has determined that this document involves a regulation which is not considered to be significant under the procedures and criteria prescribed by Executive Order 12044 and as implemented by the Department of Transportation Regulatory Policies and Procedures 44 FR 11034, February 26, 1979.

Issued in Seattle, Wash., on April 30, 1979.

C. B. Walk, Jr.,
Director, Northwest Region.

Note.—The incorporation by reference provisions in the document were approved by the Director of the Federal Register on June 19, 1967.

[Docket No. 79-NW-11-AD; Amdt. 39-3463]
[FR Doc. 79-14283 Filed 5-9-79; 8:45 am]
BILLING CODE 4910-13-M

14 CFR Part 39

Airworthiness Directives; DeHavilland Aircraft

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Final Rule.

SUMMARY: This amendment issues a new airworthiness directive applicable to DeHavilland DHC-6 type airplanes which requires operational restrictions, a repetitive inspection of the flap control rod tubes, and replacement where necessary. It appears that stress corrosion had developed in some airplanes which caused cracks. These cracks, if failure occurs, could be the source of an accident.

EFFECTIVE DATE: May 14, 1979. Compliance is required as set forth in the AD.

ADDRESSES: DeHavilland Service Bulletins may be acquired from the manufacturer at Downsview, Ontario, Canada M3K 145.

FOR FURTHER INFORMATION CONTACT: C. Birkenholz, Airframe Section, AEA-212, Engineering and Manufacturing Branch, Federal Building, J.F.K. International Airport, Jamaica, New York 11430; Tel. 212-995-2875.

SUPPLEMENTARY INFORMATION: There had been a report of a flap failure resulting in an accident and reports of finding cracks in the flap control rod tubes during inspections. Since this deficiency can exist or develop in other airplanes of similar type design, an airworthiness directive is being issued requiring repetitive inspections and replacement where necessary and operational limitations. A telegraphic airworthiness directive was sent to all DHC-6 owners and operators of record on this same subject.

In view of the air safety problem, notice and public procedure hereon are impractical and the amendment may be made effective in less than 30 days.

Adoption of the Amendment

Accordingly, and pursuant to the authority delegated to me by the Administrator, Section 39.13 of the Federal Aviation Regulations (14 CFR 39.13) is amended, by issuing a new airworthiness directive, as follows:

DeHavilland: Applies to DeHavilland DHC-6 series certificated in all categories with affected parts which have exceeded 300 hours in service.

To prevent possible asymmetric failure of the flap system due to cracking in the flap control rod tubes, accomplish the following:

(1) Prior to next flight unless the requirements of paragraph (2) and (3) below are complied with, install the following placard in full view of the pilot—

Landplane and Floatplane Limitations

Maximum wing flaps extension 15°. Maximum flaps extended speed 1.3 times 15° flaps stall speed, reference AFM. Landing distances in AFM increase by 55%.

Additional Floatplane Limitations

(2) Within the next 20 hours in service or 30 days, whichever occurs first, after the effective date of this AD, unless previously accomplished within the last 300 hours or 60 days, inspect the tube ends of the rod assemblies, P/N's C6CW 1029-1 OR-3, C6CW 1051-1 OR-3, OR C6CW 1024-1, C6CF 1085-1, OR-3 OR-5, by dye penetrant method using at least a ten power glass.

(3) If cracks are found, the rod assembly must be replaced by a rod with the same part number or equivalent, inspected and found serviceable in accordance with paragraph (2) of this airworthiness directive, or by a new rod with the same part number or equivalent, before further flight.

(4) If cracks are not found repeat inspection in paragraph (2) at intervals not to exceed 400 hours in service or 90 days, whichever occurs first, from the last inspection.

(5) Report positive findings including crack length, from paragraph (2) inspection, to Chief, Engineering and Manufacturing Branch, FAA, Eastern Region, within 10 days of inspection. (Reporting approved by Office of Management and Budget under OMB No. 04-R0174).

(6) Equivalent parts must be approved by Chief, Engineering and Manufacturing Branch, FAA, Eastern Region, For Further Information Contact:

Note.—Particular attention must be paid for the dye penetrant inspection to the area of the tube where the swaging occurs and where the wing rib rollers contact the tubes.

Paint must be removed prior to the required inspections and parts must be repainted after inspection.

Effective Date: This amendment is effective May 14, 1979.

(Secs. 313(a), 601, and 603, Federal Aviation Act of 1958, as amended, 49 U.S.C. 1354(a), 1421, and 1423; Sec. 6(c), Department of Transportation Act, 49 U.S.C. 1655(c); and 14 CFR 11.89.)

Issued in Jamaica, New York, on April 30, 1979.

Louis J. Cardinali,
Acting Director, Eastern Region.

[Docket No. 79-EA-16; Amdt. 39-3464]
[FR Doc. 79-14254 Filed 5-9-79; 8:45 am]
BILLING CODE 4910-13-M

14 CFR Part 71

Designation of Transition Area, New Castle, Pa.

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Final rule.

SUMMARY: This rule will designate a New Castle, Pa., Transition Area, over New Castle Municipal Airport, New Castle, Pa. This designation will provide protection to aircraft executing the new NDB RWY 22 instrument approach which has been developed for the airport. An instrument approach procedure requires the designation of controlled airspace to protect instrument aircraft utilizing the instrument approach.

EFFECTIVE DATE: 0901 GMT June 14, 1979.

FOR FURTHER INFORMATION CONTACT: Charles J. Bell, Airspace and Procedures Branch, AEA-530, Air Traffic Division, Federal Aviation Administration, Federal Building, J.F.K. International Airport, Jamaica, New York 11430, Telephone (212) 995-3391.

SUPPLEMENTARY INFORMATION: A Notice of Proposed Rule Making was published in the **Federal Register** on Thursday, May 4, 1978, on page 19236, so as to provide controlled airspace protection for IFR arrivals into the New Castle, Pa., Transition Area.

Interested parties were given an opportunity to submit comments on the proposal. There were no objections.

The final rule as promulgated has corrected the coordinates of the New Castle NDB (erroneously referred to as RBN in the NPRM) but the change does not affect the size or location of the new controlled area.

Adoption of the Amendment

Accordingly, pursuant to the authority delegated to me by the Administrator, Subpart G of Part 71 of the Federal Aviation Regulations (14 CFR Part 71) is amended, effective 0901 GMT June 14, 1979, by adoption of the amendment to read as follows:

1. Amend § 71.181 of Part 71 of the Federal Aviation Regulations by designating a New Castle, Pa., Transition Area, as follows:

That airspace extending upward from 700 feet above the surface within a 5-mile radius of the center 41°01'30"N., 80°24'45"W., of New Castle Municipal Airport, New Castle, Pa., within 3 miles each side of the 035° bearing of the New Castle, Pa. NDB, 41°01'25"N., 80°24'54"W., extending from the 5-mile radius area to 8.5 miles northeast of the NDB, excluding that portion which overlies the Youngstown, Ohio, 700-foot floor transition area.

(Section 307(a), and 313(a), Federal Aviation Act of 1958 (49 U.S.C. 1348(a) and 1354(c)); Sec. 6(c) of the Department of Transportation Act (49 U.S.C. 1655(c)); and 14 CFR 11.69.)

Issued in Jamaica, New York, on April 25, 1979.

Louis J. Cardinali,
Acting Director, Eastern Region.

[Airspace Docket No. 78-EA-21]
[FR Doc. 79-14255 Filed 5-9-79; 8:45 am]
BILLING CODE 4910-13-M

14 CFR Part 75

Change to Restricted Areas

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Rescission of a Final Rule.

SUMMARY: A recent amendment to § 73.31 with an effective date of June 14, 1979, changed the time of use of several restricted areas in the Hawaiian Island from "Continuous" to "Intermittent, activated by NOTAM 24 hours in advance." Subsequent to the publication of the amendment, it has been determined that the time of use as amended would not satisfy military requirements. This action rescinds that amendment so that the affected restricted areas will retain the continuous time of use.

EFFECTIVE DATE: May 10, 1979.

FOR FURTHER INFORMATION CONTACT: Mr. Lewis W. Still, Airspace Regulations Branch (AAT-230), Airspace and Air Traffic Rules Division, Air Traffic Service, Federal Aviation Administration, 800 Independence Avenue, SW., Washington, D.C. 20591; telephone: (202) 426-3128.

SUPPLEMENTARY INFORMATION: Subpart B of Part 73 of the Federal Aviation Regulations (14 CFR Part 73) was amended and published in the **Federal Register** on April 16, 1979, (44 FR 22442) changing the "Time of Designation" for Restricted Areas R-3101, R-3103, R-3120, R-3104 and R-3107 and their Subareas, located in the Hawaiian Islands, from "Continuous" to "Intermittent, activated by NOTAM 24 hours in advance." Subsequent to the publication of the amendment it has been determined that the altered time of use would not satisfy military requirements, and the continuous time of use is therefore retained. Action is taken herein to rescind Airspace Docket No. 78-PC-1; however, this rescission does not preclude future action of a similar nature.

Adoption of the Amendment

Accordingly, pursuant to the authority delegated to me by the Administrator, Airspace Docket No. 78-PC-1, published in the **Federal Register** on April 16, 1979, (44 FR 22442) under § 73.31 of Part 73 of the Federal Aviation Regulations (14 CFR Part 73) is rescinded, effective upon publication in the **Federal Register** as follows:

Airspace Docket No. 78-PC-1, FR Doc. 79-11710, published on April 16, 1979, (44 FR 22442) is rescinded and the current provisions of § 73.31 are retained.

(Sec. 307(a), 313(a), Federal Aviation Act of 1958 (49 U.S.C. 1348(a), 1354(a)); sec. 6(c), Department of Transportation Act (49 U.S.C. 1655(c)); 14 CFR 11.69).

Note.—The FAA has determined that this document involves a regulation which is not significant under Executive Order 12044, as implemented by DOT Regulatory Policies and Procedures (44 FR 11034; February 26, 1979). Since this regulatory action involves an established body of technical requirements for which frequent and routine amendments are necessary to keep them operationally current and promote safe flight operations, the anticipated impact is so minimal that this action does not warrant preparation of regulatory evaluation.

Issued in Washington, D.C., on May 2, 1979.

William E. Broadwater,
Chief, Airspace and Air Traffic Rules Division.

[Airspace Docket No. 78-PC-1]
[FR Doc. 79-14284 Filed 5-9-79; 8:45 am]
BILLING CODE 4910-13-M

CIVIL AERONAUTICS BOARD

14 CFR Part 302

Rules of Practice in Economic Proceedings: Notice to Alaskan Field Office

Adopted by the Civil Aeronautics Board at its office in Washington, D.C. May 3, 1979.

AGENCY: Civil Aeronautics Board.

ACTION: Final rule.

SUMMARY: This final rule amends the CAB Rules of Practice to require an additional copy of any document filed with the Civil Aeronautics Board in a

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route proceeding that affects a point in Alaska to be sent to the Alaskan field office. The reason for this proposal was to resolve the problems that arose when these documents were late in being transmitted from the Washington, D.C. office to Alaska, giving the parties there who were interested in submitting comments a significantly diminished period of time in which to comment.

DATES: Effective: June 9, 1979. Adopted: May 3, 1979.

ADDRESSES: Comments should be sent to: Docket 34879, Docket Section, Civil Aeronautics Board, Washington, D.C. 20428. Comments may be examined at the Docket Section, Civil Aeronautics Board, Room 714, 1825 Connecticut Avenue NW., Washington, D.C. 20428.

FOR FURTHER INFORMATION CONTACT: Richard B. Dyson, Associate General Counsel, Rules and Legislation, Civil Aeronautics Board, 1825 Connecticut Avenue NW., Washington, D.C. 20428; 202-673-5442.

SUPPLEMENTARY INFORMATION: By notice of proposed rulemaking PDR-62 dated February 1, 1979 (44 FR 9395, February 13, 1979) the CAB proposed that, in any route proceeding affecting a point in Alaska, an additional copy of any documents filed in that proceeding should be sent directly to the Alaskan field office.

No comments were received. The address for the comments sent to the Alaskan field office has been modified slightly from the proposal.

PART 302—RULES OF PRACTICE IN ECONOMIC PROCEEDINGS

Accordingly, the Board amends § 302.3(c) of 14 CFR Part 302, *Rules of Practice in Economic Proceedings* by adding a new sentence to read as follows:

§ 302.3 Filing of documents.

* * * * *

(c) *Number of copies.* Unless otherwise specified, an executed original and nineteen (19) true copies of each document required or permitted to be filed under these rules shall be filed with the Docket Section, except that an original and five (5) copies of third party complaints, answers, documents dealing with discovery, and motions addressed to an administrative law judge may be filed in proceedings under Subpart B—Rules Applicable to Economic Enforcement Proceedings. In any route proceeding that affects a point in Alaska, the person filing shall send an additional copy to: Civil Aeronautics Board, 701 C Street, Box 27, Anchorage, Alaska 99513. The copies need not be signed but the name of the person signing the document, as distinguished from the firm or organization he or she represents, shall also be typed or printed on all copies below the space provided for signature.

* * * * *

[Section 204(a) of the Federal Aviation Act of 1958, as amended, 72 Stat. 743, 49 U.S.C. 1324(a).]

By the Civil Aeronautics Board.

Phyllis T. Kaylor,
Secretary.

[Regulation PR-204; Docket 34879; Amdt. 55]

[FR Doc. 79-14825 Filed 5-9-79; 8:45 am]

BILLING CODE 6320-01-M

FEDERAL TRADE COMMISSION

16 CFR Part 13

Prohibited Trade Practices and Affirmative Corrective Actions; Renault U.S.A., Inc.

AGENCY: Federal Trade Commission.

ACTION: Final order.

SUMMARY: In settlement of alleged violation of federal law prohibiting unfair acts and practices and unfair methods of competition, this consent agreement, among other things, requires an Englewood Cliffs, N.J. seller and distributor of automobiles to cease limiting the duration of implied warranties; make available to purchasers who had been issued incorrect written limited warranties all relief provided by applicable state law, and refrain from raising any defense relating to the limitation of implied warranties in law suits brought by such purchasers. Additionally, the firm is required to notify all purchasers who had received incorrect written limited warranties that they have an implied warranty on the drive train of their vehicle for as long as four years, depending on state law; and furnish them with an explanation of how implied warranties protect consumers. The firm is also required to advise their dealers of their servicing obligations to purchasers who had been issued improper written warranties.

DATES: Complaint and order issued April 26, 1979.[1]

FOR FURTHER INFORMATION CONTACT: FTC/PS, Michael E. K. Mpras, Washington, D.C. 20580. (202) 523-1642.

SUPPLEMENTARY INFORMATION: On Tuesday, February 13, 1979, there was published in the Federal Register, 44 FR 9400, a proposed consent agreement with analysis In the Matter of Renault U.S.A., Inc., a corporation, for the purpose of soliciting public comment. Interested parties were given sixty (60) days in which to submit comments, suggestions or objections regarding the proposed form of order.

No comments having been received, the Commission has ordered the issuance of the complaint in the form contemplated by the agreement, made its jurisdictional findings and entered its order to cease and desist, as set forth in the proposed consent agreement, in disposition of this proceeding.

The prohibited trade practices and/or corrective actions, as codified under 16 CFR 13, are as follows: Subpart-Advertising Falsely or Misleadingly: § 13.70 Fictitious or misleading guarantees; § 13.205 Scientific or other relevant facts; § 13.260 Terms and conditions. Subpart-Corrective actions and/or Requirements: § 13.533 Corrective actions and/or requirements; 13.533-20 Disclosures; 13.533-75 Warranties. Subpart-Misrepresenting Oneself and Goods—Goods: § 13.1647 Guarantees; § 13.1740 Scientific or other relevant facts; § 13.1760 Terms and conditions. Subpart-Neglecting, Unfairly or Deceptively, To Make Material Disclosure: § 13.1895 Scientific or other relevant facts; § 13.1905 Terms and conditions.

(Sec. 6, 38 Stat. 721; 15 U.S.C. 46; interpret or apply sec. 5, 38 Stat. 719, as amended; sec. 110(b), 88 Stat. 2190; 15 U.S.C. 2310)

Carol M. Thomas,
Secretary.

[Docket C-2960]

[FR Doc. 79-14554 Filed 5-9-79; 8:45 am]

BILLING CODE 6750-01-M

DEPARTMENT OF THE TREASURY

Customs Service

19 CFR Part 4

Foreign Discriminating Duties of Tonnage and Impost With Respect to Vessels of and Certain Imports From the Republic of Nauru Suspended and Discontinued; Section 4.22, Customs Regulations, Amended

PART 4—VESSELS IN FOREIGN AND DOMESTIC TRADES

AGENCY: U.S. Customs Service, Department of the Treasury.

ACTION: Final rule.

SUMMARY: This rule adds the Republic of Nauru to the list of nations whose vessels are exempted from the payment of higher tonnage duties than are applicable to vessels of the United States and from the payment of light money. Satisfactory evidence has been obtained by the Department of State that no discriminating duties of tonnage or impost are imposed in Nauruan ports upon vessels belonging to citizens of the United States or on their cargoes.

EFFECTIVE DATE: The exemption became effective January 31, 1968.

FOR FURTHER INFORMATION CONTACT: Patrick J. Casey, Carriers, Drawback and Bonds Division, U.S. Customs Service, 1301 Constitution Avenue, N.W., Washington, D.C. 20229 (202-566-5706).

SUPPLEMENTARY INFORMATION:

Background

Generally, the United States imposes regular and special tonnage taxes, and a duty of a specified amount per ton, known as "light money," on all foreign vessels which enter United States ports (46 U.S.C. 121, 128). However, vessels of a foreign nation may be exempted from the payment of special tonnage taxes and light money upon presentation of proof satisfactory to the President that no discriminatory duties of tonnage or imposts are imposed by that foreign nation on United States vessels or their cargoes (46 U.S.C. 141). The President has delegated the authority to grant this exemption to the Secretary of the Treasury. Section 4.22, Customs Regulations (19 CFR 4.22), lists those nations whose vessels have been exempted from the payment of any higher tonnage duties than are applicable to vessels of the United States and from the payment of light money.

On November 22, 1978, the Department of State advised Customs that prior to independence on January 31, 1968, the Republic of Nauru, a former trust territory of Australia, enjoyed the same rights and obligations as Australia with respect to treaties with the United States (including the exemption for its registered vessels from the payment of special tonnage taxes and light money), and that following independence, Nauru chose to continue indefinitely the bilateral treaties that it had prior to independence. Consequently, there is satisfactory evidence which would permit the Secretary of the Treasury to find that vessels of the Republic of Nauru are entitled to the exemption, and the Department of State has requested that such vessels be afforded the exemption.

Declaration

Therefore, by virtue of the authority vested in the President by section 4228 of the Revised Statutes, as amended (46 U.S.C. 141), and delegated to the Secretary of the Treasury by Executive Order No. 10289, September 17, 1951, as amended by Executive Order No. 10882, July 18, 1960 (3 CFR, 1959-1963 Comp., Ch. II), and pursuant to the authorization provided by Treasury Department Order No. 190, Rev. 15 (43 FR 11884), I declare that the foreign discriminating duties of tonnage and impost within the United States are suspended and discontinued, in respect to vessels of the Republic of Nauru and the produce, manufactures, or merchandised imported into the United States in such vessels from Nauru or from any other foreign country.

This suspension and discontinuance shall take effect from January 31, 1968, in respect to vessels of Nauru and shall continue only for so long as the reciprocal exemptions of vessels wholly belonging to citizens of the United States and their cargoes shall be continued.

Amendment to the Regulations

§ 4.22 [Amended]

In accordance with this declaration, section 4.22, Customs Regulations (19 CFR 4.22), is amended by adding "Nauru, Republic of" in the appropriate alphabetical sequence in the list of nations whose vessels are exempted from the payment of any higher tonnage duties than are applicable to vessels of the United States and from the payment of light money.

(R.S. 251 as amended, 4219, as amended, 4225, as amended, 4228, as amended, sec. 3, 23 Stat. 119, as amended, sec. 624, 46 Stat. 759 (19 U.S.C. 66, 1624, 46 U.S.C. 3, 121, 128, 141))

Inapplicablity of Public Notice and Delayed Effective Date Requirements

Because this amendment merely implements a statutory requirement, notice and public procedure are unnecessary, and good cause exists for dispensing with a delayed effective date under 5 U.S.C. 553.

Regulation Determined To Be Nonsignificant

In a directive published in the Federal Register on November 8, 1978 (43 FR 52120), implementing Executive Order 12044, "Improving Government Regulations", the Treasury Department stated that it considers each regulation or amendment to an existing regulation published in the Federal Register and codified in the Code of Federal Regulations to be "significant". However, it has been determined that this amendment does not meet the Treasury Department criteria in the directive for a "significant" regulation " because it is nonsubstantive, essentially procedural, does not materially change existing or establish new policy, and does not impose substantial additional requirements or costs on, or substantially alter the legal rights or obligations of, those affected.

Drafting Information

The principal author of this document was Lawrence P. Dunham, Regulations and Legal Publications Division, Office of Regulations and Rulings, U.S. Customs Service. However, personnel from other offices of the Customs Service and the Departments of State and the Treasury participated in its development.

Dated: April 24, 1979.

Richard J. Davis,
Assistant Secretary of the Treasury.

[T.D. 79-134]

[FR Doc. 79-14611 Filed 5-9-79; 8:45 am]

BILLING CODE 4810-22-M

19 CFR Part 134

Specific Country of Origin Marking Requirements for Imported Manhole Covers and Frames

AGENCY: U.S. Customs Service, Department of the Treasury.

ACTION: Notice of specific country of origin marking requirements for imported covers and frames.

SUMMARY: The Customs Service has learned that the country of origin marking requirements are not being uniformly applied to imported manhole covers and frames. This document gives notice that, with certain exceptions set forth in the document, such merchandise shall be permanently and legibly marked with the country of origin by die stamping, molding, or etching and that such merchandise which is marked with the name of a location in the United States shall also be permanently and legibly marked with the country of origin in comparatively-sized letters preceded by words such as "Made in", although the country of origin marking need not be on the same side of a manhole cover as the name of the United States location.

DATES: This ruling shall be effective as to merchandise entered, or withdrawn from warehouse, for consumption on or after August 8, 1979.

FOR FURTHER INFORMATION CONTACT: Samuel A. Orandle, Entry Procedures and Penalties Division, U.S. Customs Service, 1301 Constitution Avenue, N.W., Washington, D.C. 20229 (202-566-5765).

[1] Copies of the Complaint and Decision and Order filed with the original documents.

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SUPPLEMENTARY INFORMATION:

Background

Section 304, Tariff Act of 1930, as amended (19 U.S.C. 1304), provides, in general, that every article of foreign origin, or its container, imported into the United States shall be legibly and conspicuously marked to indicate the country of origin to an ultimate purchaser in the United States, with certain exceptions. Authority is provided in 19 U.S.C. 1304 for the promulgation of regulations by the Secretary of the Treasury.

Part 134 of the Customs Regulations (19 CFR Part 134) contains the regulations on country of origin marking. Section 134.42 of the Customs Regulations (19 CFR 134.42) provides that specific methods of marking merchandise with its country of origin may be required by the Commissioner of Customs, and that notice of such rulings shall be published in the Federal Register and the Customs Bulletin.

Customs has learned that the country of origin marking requirements are not being applied uniformly, at the different ports of entry, to imported manhole covers and frame sets. Some manhole covers and frame sets have been entered with the country of origin painted on them or written with a yellow crayon. In other instances, no marking other than the United States distributor's name was shown. Some distributors have been found to be painting out the country of origin marking or dip processing the cover and frame sets so that any painted markings are covered.

Specific Method of Marking Required

To provide for uniformity of application of the country of origin marking requirements of 19 U.S.C. 1304, and to clarify those marking requirements as applied to the subject merchandise, manhole covers and frames imported into the United States shall be marked with their country of origin as follows:

1. Manhole covers and frames imported in bulk by a distributor for resale to ultimate purchasers in the United States shall each be permanently and legibly marked with the country of origin by die stamping, molding, or etching. Covers or frames which are marked with the name of a location in the United States shall be permanently and legibly marked with the name of the country of origin in comparably sized letters, preceded by words such as "Made in" or "Product of." However, the country of origin marking need not be on the same side of the cover or frame on which the name of the United States location appears.

2. There are two exceptions from the general country of origin marking requirements stated above for imported manhole covers and frames which are *not* marked with the name of a location in the United States.

(a) If the manhole covers and frames are ordered directly from a foreign supplier by a contractor or other ultimate purchaser in the United States who will use them and not offer them for resale, and if Customs is satisfied that the covers and frames were made in the country named in the invoice, they may be excepted from country of origin under 19 U.S.C. 1304(a)(3)(H).

(b) If the manhole covers and frames are imported in containers properly marked with the country of origin marking and Customs officers at the port of entry are satisfied that the merchandise will reach the ultimate purchaser in the marked container and be used only in the manufacture of finished articles, the manhole covers and frames may be excepted from country of origin marking under 19 U.S.C. 1304(a)(3)(D).

Authority

This notice is being published in accordance with section 304, Tariff Act of 1930, as amended (19 U.S.C. 1304), and section 134.42, Customs Regulations (19 CFR 134.42).

Dated: May 4, 1979

Leonard Lehman,
Acting Commissioner of Customs.

[T.D. 79-135]

FR Doc. 79-14613 Filed 5-9-79; 8:45 am]

BILLING CODE 4810-22-M

FEDERAL EMERGENCY MANAGEMENT AGENCY

24 CFR Part 1917

Final Flood Elevation Determination for the City of Athens, Limestone County, Ala., Under the National Flood Insurance Program

AGENCY: Office of Federal Insurance and Hazard Mitigation, FEMA.[1]

ACTION: Final rule.

SUMMARY: Final base (100-year) flood elevations are listed below for selected locations in the City of Athens, Limestone County, Alabama.

These base (100-year) flood elevations are the basis for the flood plain management measures that the community is required to either adopt or show evidence of being already in effect in order to qualify or remain qualified for participation in the National Flood Insurance Program (NFIP).

EFFECTIVE DATE: The date of issuance of the Flood Insurance Rate Map (FIRM), showing base (100-year) flood elevations, for the City of Athens, Limestone County, Alabama.

ADDRESSES: Maps and other information showing the detailed outlines of the flood-prone areas and the final elevations for the City of Athens, Limestone County, Alabama, are available for review at City Clerk's Office, City Hall, Athens, Alabama.

FOR FURTHER INFORMATION CONTACT:
Mr. Richard Krimm, National Flood Insurance Program, (202) 755–5581 or Toll Free Line (800) 424–8872, Room 5270, 451 Seventh Street, SW., Washington, D.C. 20410.

SUPPLEMENTARY INFORMATION: The Federal Insurance Administrator gives notice of the final determinations of flood elevations for the City of Athens, Limestone County, Alabama.

This final rule is issued in accordance with section 110 of the Flood Disaster Protection Act of 1973 (Pub. L. 93–234), 87 Stat. 980, which added section 1363 to the National Flood Insurance Act of 1968 (Title XIII of the Housing and Urban Development Act of 1968 (Pub. L. 90–448), 42 U.S.C. 4001–4128, and 24 CFR 1917.4(a)). An opportunity for the community or individuals to appeal this determination to or through the community for a period of ninety (90) days has been provided. No appeals of the proposed base flood elevations were received from the community or from individuals within the community.

The Administrator has developed criteria for flood plain management in flood-prone areas in accordance with 24 CFR Part 1910.

The final base (100-year) flood elevations for selected locations are:

Source of flooding	Location	Elevation in feet, national geodetic vertical datum
Swan Creek	Just downstream of City Street.	635
	Just upstream of U.S. Highway 72.	657
	Just upstream of State Highway 251.	682
	Just downstream of Elkton Street.	706
Tributary to Swan Creek at Mile 9.74.	Just upstream of Hobbs Street.	676
	Just upstream of Elkton Street.	706

[1] The functions of the Federal Insurance Administration, Department of Housing and Urban Development, were transferred to the newly established Federal Emergency Management Agency by Reorganization Plan No. 3 of 1978 (43 FR 41943, September 19, 1978) and Executive Order 12127 (44 FR 19367, April 3, 1979).

Source of flooding	Location	Elevation in feet, national geodetic vertical datum
Town Creek	Just upstream of Humane Road.	652
	Just upstream of Washington Street.	680
	Just downstream of Elm Street.	710
Tributary to Town Creek Mile 2.21.	Just downstream of Monroe Street.	675
	Just downstream of Levert Street.	687
	Approximately 100 feet downstream of Sommers Road.	696
Tributary A: Town Creek Mile 3.91.	Approximately 110 feet downstream of Hines Street.	700
	Approximately 80 feet downstream of Westbrook Street.	706

(National Flood Insurance Act of 1968 (Title XIII of Housing and Urban Development Act of 1968), effective January 28, 1969 (33 FR 17804, November 28, 1968), as amended; (42 U.S.C. 4001–4128); Executive Order 12127, 44 FR 19367; and, delegation of authority to Federal Insurance Administrator, 44 FR 20963.)

Issued: April 16, 1979.

Gloria M. Jimenez,
Federal Insurance Administrator.

[Docket No. FI-4660]

[FR Doc. 79-14112 Filed 5-9-79; 8:45 am]

BILLING CODE 4210-23-M

24 CFR Part 1917

Final Flood Elevation Determinations for the Town of Indian River Shores, Indian River County, Florida, Under the National Flood Insurance Program

AGENCY: Office of Federal Insurance and Hazard Mitigation, FEMA.[1]

ACTION: Final rule.

SUMMARY: Final base (100-year) flood elevations are listed below for selected locations in the Town of Indian River Shores, Indian River County, Florida.

These base (100-year) flood elevations are the basis for the flood plain management measures that the community is required to either adopt or show evidence of being already in effect in order to qualify or remain qualified for participation in the National Flood Insurance Program (NFIP).

EFFECTIVE DATE: The date of issuance of the Flood Insurance Rate Map (FIRM), showing base (100-year) flood elevations, for the Town of Indian River Shores, Florida.

ADDRESSES: Maps and other information showing the detailed outlines of the flood-prone areas and the final elevations for the Town of Indian River Shores, are available for review at Town Hall, 6001 North Route A1A, Indian River Shores, Florida.

FOR FURTHER INFORMATION CONTACT:
Mr. Richard Krimm, National Flood Insurance Program, (202) 755–5581 or Toll Free Line (800) 424–8872, Room 5270, 451 Seventh Street SW., Washington, D.C. 20410.

SUPPLEMENTARY INFORMATION: The Federal Administrator gives notice of the final determinations of flood elevations for the Town of Indian River Shores, Florida.

This final rule is issued in accordance with section 110 of the Flood Disaster Protection Act of 1973 (Pub. L. 93–234), 87 Stat. 980, which added section 1363 to the National Flood Insurance Act of 1968 (Title XIII of the Housing and Urban Development Act of 1968 (Pub. L. 90–448), 42 U.S.C. 4001–4128, and 24 CFR 1917.4(a)). An opportunity for the community or individuals to appeal this determination to or through the community for a period of ninety (90) days has been provided. No appeals of the proposed base flood elevations were received from the community or from individuals within the community.

The Administrator has developed criteria for flood plain management in flood-prone areas in accordance with 24 CFR Part 1910.

The final base (100-year) flood elevations for selected locations are:

Source of flooding	Location	Elevation, in feet, national geodetic vertical datum
Atlantic Ocean	Intersection of Island Creek Drive and Sabal Palm Lane.	5
	Intersection of Island Creek Drive and John's Island Drive.	6
	800 feet east from the intersection of State Highway A1A and Snook Alley.	8

(National Flood Insurance Act of 1968 (Title XIII of Housing and Urban Development Act of 1968), effective January 28, 1969 (33 FR 17804, November 28, 1968), as amended; 42 U.S.C. 4001–4128; Executive Order 12127, 44 FR 19367; and delegation of authority to Federal Insurance Administrator, 44 FR 20963.)

Issued: April 24, 1979.

Gloria M. Jimenez,
Federal Insurance Administrator.

[Docket No. FI-4300]

[FR Doc. 79-14113 Filed 5-9-79; 8:45 am]

BILLING CODE 4210-23-M

24 CFR Part 1917

Final Flood Elevation Determinations for the Town of Montague, Franklin County, Mass., Under the National Flood Insurance Program; Correction

AGENCY: Office of Federal Insurance and Hazard Mitigation, FEMA.[1]

ACTION: Correction of final rule.

SUMMARY: This document corrects a final rule on base (100-year) flood elevations that appeared on page 15694 of the Federal Register of March 15, 1979.

EFFECTIVE DATE: March 15, 1979.

FOR FURTHER INFORMATION CONTACT:
Mr. Richard Krimm, National Flood Insurance Program (202) 755–5581 or Toll Free Line (800) 424–8872, Room 5270, 451 Seventh Street, SW., Washington, D.C. 20410.

The following correction is made:

Source of flooding	Location	Elevation in feet, national geodetic vertical datum
Connecticut River	Turner's Falls Bridge—20 feet (upstream from centerline).	187

(National Flood Insurance Act of 1968 (Title XIII of Housing and Urban Development Act of 1968), effective January 28, 1969 (33 FR 17804, November 28, 1968), as amended; 42 U.S.C. 4001–4128; Executive Order 12127; 44 FR 19367; and, delegation of authority to Federal Insurance Administrator, 44 FR 20963).

Issued: April 16, 1979.

Gloria M. Jimenez,
Federal Insurance Administrator.

[Docket No. FI-4666]

[FR Doc. 79-14114 Filed 5-9-79; 8:45 am]

BILLING CODE 4210-23-M

24 CFR Part 1917

Final Flood Elevation Determination for the Borough of Fair Haven, Monmouth County, N.J., Under the National Flood Insurance Program

AGENCY: Office of Federal Insurance and Hazard Mitigation, FEMA.[1]

ACTION: Final rule.

[1] The functions of the Federal Insurance Administration, Department of Housing and Urban Development, were transferred to the newly established Federal Emergency Management Agency by Reorganization Plan No. 3 of 1978 (43 FR 41943, September 19, 1978) and Executive Order 12127 (44 FR 19367, April 3, 1979).

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SUMMARY: Final base (100-year) flood elevations are listed below for selected locations in the Borough of Fair Haven, Monmouth County, New Jersey.

These base (100-year) flood elevations are the basis for the flood plain management measures that the community is required to either adopt or show evidence of being already in effect in order to qualify or remain qualified for participation in the National Flood Insurance Program (NFIP).

EFFECTIVE DATE: The date of issuance of the Flood Insurance Rate Map (FIRM), showing base (100-year) flood elevations, for the Borough of New Haven, Monmouth County, New Jersey.

ADDRESSES: Maps and other information showing the detailed outlines of the flood-prone areas and the final elevations for the Borough of Fair Haven, Monmouth County, New Jersey, are available for review at the Fair Haven Municipal Building, Administrator's Office, Fair Haven, New Jersey.

FOR FURTHER INFORMATION CONTACT:
Mr. Richard Krimm, National Flood Insurance Program, (202) 755–5581 of Toll Free Line (800) 424–8872, Room 5270, 451 Seventh Street, SW., Washington, D.C. 20410.

SUPPLEMENTARY INFORMATION: The Federal Insurance Administrator gives notice of the final determinations of flood elevations for the Borough of Fair Haven, Monmouth County, New Jersey.

This final rule is issued in accordance with section 110 of the Flood Disaster Protection Act of 1973 (Pub. L. 93–234), 87 Stat. 980, which added section 1363 to the National Flood Insurance Act of 1968 (Title XIII of the Housing and Urban Development Act of 1968 (Pub. L. 90–448), 42 U.S.C. 4001–4128, and 24 CFR 1917.4(a)). An opportunity for the community or individuals to appeal this determination to or through the community for a period of ninety (90) days has been provided. No appeals of the proposed base flood elevations were received from the community or from individuals within the community.

The Administrator has developed criteria for flood plain management in flood-prone areas in accordance with 24 CFR Part 1910.

The final base (100-year) flood elevations for selected locations are:

Source of flooding	Location	Elevation in feet, national geodetic vertical datum
	Downstream Corporate Limits.	9
	Fair Haven Road	9
	4th Creek at River Road	9
	Battin Road	9
	Grange Avenue	9
	Swenkers Pond Brook at River Road.	9
	Upstream Corporate Limits	9

(National Flood Insurance Act of 1968 (Title XIII of Housing and Urban Development Act of 1968), effective January 28, 1969 (33 FR 17804, November 28, 1968), as amended: 42 U.S.C. 4001–4128; Executive Order 12127; 44 FR 19367; and, delegation of authority to Federal Insurance Administrator 44 FR 20963).

Issued: April 18, 1979.

Gloria M. Jimenez,
Federal Insurance Administrator.

[Docket No. FI–4961]
[FR Doc. 79–14115 Filed 5–9–79; 8:45 am]
BILLING CODE 4210–23–M

24 CFR Part 1917

Final Flood Elevation Determination for the Town of Webster, Monroe County, N.Y. Under the National Flood Insurance Program

AGENCY: Office of Federal Insurance and Hazard Mitigation, FEMA.[1]

ACTION: Final rule.

SUMMARY: Final base (100-year) flood elevations are listed below for selected locations in the Town of Webster, Monroe County, New York.

These base (100-year) flood elevations are the basis for the flood plain management measures that the community is required to either adopt or show evidence of being already in effect in order to qualify or remain qualified for participation in the National Flood Insurance Program (NFIP).

EFFECTIVE DATE: The date of issuance of the Flood Insurance Rate Map (FIRM), showing base (100-year) flood elevations, for the Town of Webster, Monroe County, New York.

ADDRESSES: Maps and other information showing the detailed outlines of the flood-prone areas and the final elevations for the Town of Webster, Monroe County, New York, are available for review at the Town Hall, 1000 Ridge Road, Webster, New York.

FOR FURTHER INFORMATION CONTACT:
Mr. Richard Krimm, National Flood Insurance Program (202) 755–5581 or Toll Free Line (800) 424–8872, Room 5270, 451 Seventh Street, SW., Washington, D.C. 20410.

SUPPLEMENTARY INFORMATION: The Federal Insurance Administrator gives notice of the final determinations of flood elevations for the Town of Webster, Monroe County, New York.

This final rule is issued in accordance with section 110 of the Flood Disaster Protection Act of 1973 (Pub. L. 93–234), 87 Stat. 980, which added section 1363 to the National Flood Insurance Act of 1968 (Title XIII of the Housing and Urban Development Act of 1968 (Pub. L. 90–448), 42 U.S.C. 4001–4128, and 24 CFR 1917.4(a)). An opportunity for the community or individuals to appeal this determination to or through the community for a period of ninety (90) days has been provided. No appeals of the proposed base flood elevations were received from the community or from individuals within the community.

The Administrator has developed criteria for flood plain management in flood-prone areas in accordance with 24 CFR Part 1910.

The final base (100-year) flood elevations for selected locations are:

Source of flooding	Location	Elevation in feet, national geodetic vertical datum
Fourmile Creek	Confluence with Lake Ontario.	249
	Lake Road	272
	Salt Road Upstream	284
	Basket Road Upstream	316
	Woodward Road Upstream	343
	Schlegel Road Upstream	385
	County Line Road Upstream	395
	Ridge Road Upstream	432
	Salt Road	441
	State Road	455
Mill Creek	Downstream Corporate Limits.	274
	Woodhull Road	288
	Imperial Drive Upstream	345
	Wall Road Upstream	352
	Klem Road	359
	Holley Road	375
	Orchard Street Upstream	398
	Sanford Street	449
	State Road	479
Shipbuilders Creek	Lake Road	264
	Vosburg Road	282
	Upstream Conrail	289
	Klem Road	336
	Gravel Road	389
	Adeline Drive	403
	Route 404	426
East Branch Shipbuilders Creek.	Upstream Conrail	326
	Klem Road Upstream	349
	Independence Drive Upstream.	363
	Fivemile Line Road	396
	Route 104 (Ridge Road)	428

(National Flood Insurance Act of 1968 (Title XIII of Housing and Urban Development Act of 1968), effective January 28, 1969 (33 FR 17804, November 28, 1968), as amended; 42 U.S.C. 4001–4128); Executive Order 12127; 44 FR 19367; and, delegation of authority to Federal Insurance Administrator 44 FR 20963).

[1] The functions of the Federal Insurance Administration, Department of Housing and Urban Development, were transferred to the newly established Federal Emergency Management Agency by Reorganization Plan No. 3 of 1978 (43 FR 41943, September 19, 1978) and Executive Order 12127 (44 FR 19367, April 3, 1979).

Issued: April 18, 1979.

Gloria M. Jimenez,
Federal Insurance Administrator.

[Docket No. FI–4911]
[FR Doc. 79–14118 Filed 5–9–79; 8:45 am]
BILLING CODE 4210–23

24 CFR Part 1917

Final Flood Elevation Determination for the City of Clairton, Allegheny County, Pa. Under the National Flood Insurance Program

AGENCY: Office of Federal Insurance and Hazard Mitigation, FEMA.[1]

ACTION: Final rule.

SUMMARY: Final base (100-year) flood elevations are listed below for selected locations in the City of Clairton, Allegheny County, Pennsylvania.

These base (100-year) flood elevations are the basis for the flood plain management measures that the community is required to either adopt or show evidence of being already in effect in order to qualify or remain qualified for participation in the National Flood Insurance Program (NFIP).

EFFECTIVE DATE: The date of issuance of the Flood Insurance Rate Map (FIRM), showing base (100-year) flood elevations, for the City of Clairton, Allegheny County, Pennsylvania.

ADDRESSES: Maps and other information showing the detailed outlines of the flood-prone areas and the final elevations for the City of Clairton, Allegheny County, Pennsylvania, are available for review at the City Hall, 551 Ravensburg Boulevard, Clairton, Pennsylvania.

FOR FURTHER INFORMATION CONTACT:
Mr. Richard Krimm, National Flood Insurance Program (202) 755–5581 or Toll Free Line (800) 424–8872, Room 5270, 451 Seventh Street, SW., Washington, D.C. 20410.

SUPPLEMENTARY INFORMATION: The Federal Insurance Administrator gives notice of the final determinations of flood elevations for the City of Clairton, Allegheny County, Pennsylvania.

This final rule is issued in accordance with section 110 of the Flood Disaster Protection Act of 1973 (Pub. L. 93–234), 87 Stat. 980, which added section 1363 to the National Flood Insurance Act of 1968 (Title XIII of the Housing and Urban Development Act of 1968 (Pub. L. 90–448), 42 U.S.C. 4001–4128, and 24 CFR 1917.4(a)). An opportunity for the community or individuals to appeal this determination to or through the community for a period of ninety (90) days has been provided. No appeals of the proposed base flood elevations were received from the community or from individuals within the community.

The Administrator has developed criteria for flood plain management in flood-prone areas in accordance with 24 CFR Part 1910.

The final base (100-year) flood elevations for selected locations are:

Source of flooding	Location	Elevation in feet, national geodetic vertical datum
Monongahela River	Downstream Corporate Limits.	746
	Glassport Highway Bridge	747
	Conrail Bridge	748
	Upstream Corporate Limits	748
Peters Creek	Ravensburg Boulevard Bridge.	751
	Upstream Corporate Limits	752

(National Flood Insurance Act of 1968 (Title XIII of Housing and Urban Development Act of 1968), effective January 28, 1969 (33 FR 17804, November 28, 1968), as amended; 42 U.S.C. 4001–4128; Executive Order 12127; 44 FR 19367; and, delegation of authority to Federal Insurance Administrator 44 FR 20963).

Issued: April 24, 1979.

Gloria M. Jimenez,
Federal Insurance Administrator.

[Docket No. FI–4926]
[FR Doc. 79–14117 Filed 5–9–79; 8:45 am]
BILLING CODE 4210–23–M

24 CFR Part 1917

Final Flood Elevation Determination for the Borough of Old Forge, Lackawanna County, Pa., Under the National Flood Insurance Program

AGENCY: Office of Federal Insurance and Hazard Mitigation, FEMA.[1]

ACTION: Final rule.

SUMMARY: Final base (100-year) flood elevations are listed below for selected locations in the Borough of Old Forge, Lackawanna County, Pennsylvania.

These base (100-year) flood elevations are the basis for the flood plain management measures that the community is required to either adopt or show evidence of being already in effect in order to qualify or remain qualified for participation in the National Flood Insurance Program (NFIP).

EFFECTIVE DATE: The date of issuance of the Flood Insurance Rate Map (FIRM), showing base (100-year) flood elevations, for the Borough of Old Forge, Lackawanna County, Pennsylvania.

ADDRESSES: Maps and other information showing the detailed outlines of the flood-prone areas and the final elevations for the Borough of Old Forge, Lackawanna County, Pennsylvania, are available for review at the Office of the Circuit Writer, Town Hall, Old Forge, Pennsylvania.

FOR FURTHER INFORMATION CONTACT:
Mr. Richard Krimm, National Flood Insurance Program, (202) 755–5581 or Toll Free Line (800) 424–8872, Room 5270, 451 Seventh Street, SW., Washington, D.C. 20410.

SUPPLEMENTARY INFORMATION: The Federal Insurance Administrator gives notice of the final determinations of flood elevations for the Borough of Old Forge, Lackawanna County, Pennsylvania.

This final rule is issued in accordance with section 110 of the Flood Disaster Protection Act of 1973 (Pub. L. 93–234), 87 Stat. 980, which added section 1363 to the National Flood Insurance Act of 1968 (Title XIII of the Housing and Urban Development Act of 1968 (Pub. L. 90–448), 42 U.S.C. 4001–4128, and 24 CFR 1917.4(a)). An opportunity for the community or individuals to appeal this determination to or through the community for a period of ninety (90) days has been provided. No appeals of the proposed base flood elevations were received from the community or from individuals within the community.

The Administrator has developed criteria for flood plain management in flood-prone areas in accordance with 24 CFR Part 1910.

The final base (100-year) flood elevations for selected locations are:

Source of flooding	Location	Elevation in feet, national geodetic vertical datum
Lackawanna River	Union Street Bridge	592
	South Main Street Bridge	611
	Third Street Bridge	636
	Upstream Corporate Limits	645
St. Johns Creek	Confluence w/Lackawanna River.	587
	Connell Street Bridge	606
	Mine Road Bridge	639
	Abandoned Railroad Bridge	661
	Milwaukee Street	675
	Oak Street	710
	Sibley Avenue	727
Mill Creek	Confluence w/Lackawanna River.	618
	Dick Street	622
	Abandoned Railroad Bridge	628
	Upstream County Boundary	636

[1] The functions of the Federal Insurance Administration, Department of Housing and Urban Development, were transferred to the newly established Federal Emergency Management Agency by Reorganization Plan No. 3 of 1978 (43 FR 41943, September 19, 1978) and Executive Order 12127 (44 FR 19367, April 3, 1979).

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(National Flood Insurance Act of 1968 (Title XIII of Housing and Urban Development Act of 1968), effective January 28, 1969 (33 FR 17804, November 28, 1968), as amended; 42 U.S.C. 4001–4128; Executive Order 12127, 44 FR 19367; and, delegation of authority to Federal Insurance Administrator, 44 FR 20963.)

Issued: April 24, 1979.

Gloria M. Jimenez,
Federal Insurance Administrator.

[Docket No. FI–4029]
[FR Doc. 79–14118 Filed 5–9–79; 8:45 am]
BILLING CODE 4210–23–M

24 CFR Part 1917

Final Flood Elevation Determination for the City of Wichita Falls, Wichita County, Tex., under the National Flood Insurance Programs

AGENCY: Office of Federal Insurance and Hazard Mitigation, FEMA.[1]

ACTION: Final rule.

SUMMARY: Final base (100-year) flood elevations are listed below for selected locations in the City of Wichita Falls, Wichita County, Texas.

These base (100-year) flood elevations are the basis for the flood plain management measures that the community is required to either adopt or show evidence of being already in effect in order to qualify or remain qualified for participation in the National Flood Insurance Program (NFIP).

EFFECTIVE DATE: The date of issuance of the Flood Insurance Rate Map (FIRM), showing base flood elevations, for the City of Wichita Falls, Wichita County, Texas.

ADDRESSES: Maps and other information showing the detail outlines of the flood-prone areas and the final elevations for the City of Wichita Falls, Wichita County, Texas are available for review at the City Planning Department, Wichita Falls, Texas.

FOR FURTHER INFORMATION CONTACT:
Mr. Richard Krimm, National Flood Insurance Program, (202) 755–5581 or Toll Free Line (800) 424–8872, Room 5270, 451 Seventh Street, SW, Washington, D.C. 20410.

SUPPLEMENTARY INFORMATION: The Federal Insurance Administrator gives notice of the final determinations of flood elevations for the City of Wichita Falls, Wichita County, Texas.

This final rule is issued in accordance with section 110 of the Flood Disaster Protection Act of 1973 (Pub. L. 93–234), 87 Stat. 980, which added section 1363 to the National Flood Insurance Act of 1968 (Title XIII of the Housing and Urban Development Act of 1968 (Pub. L. 90–448), 42 U.S.C. 4001–4128, and 24 CFR 1917.4(a)). An opportunity for the community or individuals to appeal this determination to or through the community for a period of ninety (90) days has been provided, and the Administrator has resolved the appeals presented by the community.

The Administrator has developed criteria for flood plain management in flood-prone areas in accordance with 24 CFR Part 1910.

The final base (100-year) flood elevations for selected locations are:

Source of flooding	Location	Elevation, feet, National Geodetic Vertical Datum
Wichita River	Just downstream of Loop 11.	950
	Approximately 1,000 feet upstream of Central Freeway.	848
	Just downstream of Eastside Drive.	945
Holliday Creek	Just upstream of Downstream Bridge.	967
	Just upstream of Southwest Parkway.	958
	Just upstream of Holliday Road.	950
Holliday Creek Tributary A.	Just upstream of South Access Road to Central Freeway.	984
	Just upstream of Lucas Avenue.	959
	Just upstream of Perigo Street.	946
Holliday Creek Tributary B.	Just downstream of Hatton Road.	961
	Just upstream of East Access Road to South Freeway.	955
	Just upstream of California Street.	947
Brenda Hursh Channel.	Approximately 100 feet upstream of Norman Street.	968
	Approximately 100 feet downstream of Weeks Street.	955
McGrath Creek	Just upstream of McNiel Avenue.	979
	Just upstream of Kemp Boulevard (Northbound).	970
	Just upstream of Weeks Park Lane.	951
McGrath Creek Tributary.	Just upstream of Kell Boulevard.	996
	Just downstream of Maplewood Avenue.	972
Holliday Creek Old Channel.	Approximately 200 feet upstream of Old Lake Road.	963
Lake Wichita Tributary	Just upstream of Trinidad Drive.	999
East Plum Creek	Approximately 200 feet downstream of Fisher Street.	947
Plum Creek	Just downstream of Nunn Street.	965
	Just upstream of Wrangler Drive.	975

(National Flood Insurance Act of 1968 (Title XIII of Housing and Urban Development Act of 1968), effective January 28, 1969 (33 FR 17804, November 28, 1968), as amended; 42 U.S.C. 4001–4128; Executive Order 12127, 44 FR 19367, and delegation of authority to Federal Insurance Administrator 44 FR 20963.)

Issued: April 24, 1979.

Gloria M. Jimenez,
Federal Insurance Administrator.

[Docket No. FI–3898]
[FR Doc. 79–14119 Filed 5–9–79; 8:45 am]
BILLING CODE 4210–23–M

24 CFR Part 1917

Final Flood Elevation Determination for the Town of Oceana, Wyoming County, West Virginia, Under the National Flood Insurance Program

AGENCY: Office of Federal Insurance and Hazard Mitigation, FEMA.[1]

ACTION: Final rule.

SUMMARY: Final base (100-year) flood elevations are listed below for selected locations in the Town of Oceana, Wyoming County, West Virginia.

These base (100-year) flood elevations are the basis for the flood plain management measures that the community is required to either adopt or show evidence of being already in effect in order to qualify or remain qualified for participation in the National Flood Insurance Program (NFIP).

EFFECTIVE DATE: The date of issuance of the Flood Insurance Rate Map (FIRM), showing base (100-year) flood elevations, for the Town of Oceana, Wyoming County, West Virginia.

ADDRESSES: Maps and other information showing the detailed outlines of the flood-prone areas and the final elevations for the Town of Oceana, Wyoming County, West Virginia, are available for review at the Oceana Town Hall, Cook Parkway, Oceana, West Virginia.

FOR FURTHER INFORMATION CONTACT:
Mr. Richard Krimm, National Flood Insurance Program, (202) 755–5581 or Toll Free Line (800) 424–8872, Room 5270, 451 Seventh Street, SW., Washington, D.C. 20410.

SUPPLEMENTARY INFORMATION: The Federal Insurance Administrator gives notice of the final determinations of flood elevations for the Town of Oceana, Wyoming County, West Virginia.

This final rule is issued in accordance with section 110 of the Flood Disaster Protection Act of 1973 (Pub. L. 93–234),

[1] The functions of the Federal Insurance Administration, Department of Housing and Urban Development, were transferred to the newly established Federal Emergency Management Agency by Reorganization Plan No. 3 of 1978 (43 FR 41943, September 19, 1978) and Executive Order 12127 (44 FR 19367, April 3, 1979).

87 Stat. 980, which added section 1363 to the National Flood Insurance Act of 1968 (Title XIII of the Housing and Urban Development Act of 1968 (Pub. L. 90–448), 42 U.S.C. 4001–4128, and 24 CFR 1917.4(a)). An opportunity for the community or individuals to appeal this determination to or through the community for a period of ninety (90) days has been provided. No appeals of the proposed base flood elevations were received from the community or from individuals within the community.

The Administrator has developed criteria for flood plain management in flood-prone areas in accordance with 24 CFR Part 1910.

The final base (100-year) flood elevations for selected locations are:

Source of flooding	Location	Elevation in feet, national geodetic vertical datum
Clear Fork	Downstream Corporate Limits.	1,240
	Old Mill Road	1,251
	Tyler Street	1,254
	Lois Street	1,281
	Upstream Corporate Limits	1,295
Laurel Fork	Confluence w/Clear Fork	1,267
	Sycamore Street (Extended)	1,272
	Private Drive	1,278
	Corporate Limits (Upstream)	1,295

(National Flood Insurance Act of 1968 (Title XIII of Housing and Urban Development Act of 1968), effective January 28, 1969 (33 FR 17804, November 28, 1968), as amended; 42 U.S.C. 4001–4128; Executive Order 12127; 44 FR 19367; and, delegation of authority to Federal Insurance Administrator 44 FR 20963).

Issued: April 24, 1979.

Gloria M. Jimenez,
Federal Insurance Administrator.
[Docket No. FI–4065]
[FR Doc. 79–14120 Filed 5–9–79; 8:45 am]
BILLING CODE 4210–23–M

24 CFR Part 1917

Final Flood Elevation Determinations for the Town of Pownal, Bennington County, Vt., Under the National Flood Insurance Program; Cancellation

AGENCY: Office of Federal Insurance and Hazard Mitigation, FEMA.[1]

ACTION: Cancellation of final rule.

SUMMARY: The Federal Insurance Administration has erroneously published at 44 FR 12184 on March 6, 1979, the final flood elevation determination for the Town of Pownal, Bennington County, Vermont. This notice will serve as a cancellation of the publication. A new notice of final flood elevation determination will be published in the near future.

FOR FURTHER INFORMATION CONTACT:
Mr. Richard Krimm, National Flood Insurance Program, (202) 755–5581 or Toll Free Line (800) 424–8872, Room 5270, 451 Seventh Street, SW., Washington, D.C. 20410.

(National Flood Insurance Act of 1968 (Title XIII of Housing and Urban Development Act of 1968), effective January 28, 1969 (33 FR 17804, November 28, 1968), as amended; 42 U.S.C. 4001–4128; Executive Order 12127, 44 FR 19367; and, delegation of authority to Federal Insurance Administrator, 44 FR 20963.)

Issued: April 24, 1979.

Gloria M. Jimenez,
Federal Insurance Administrator.

[Docket No. FI–4580]
[FR Doc. 79–14121 Filed 5–9–79; 8:45 am]
BILLING CODE 4210–23–M

DEPARTMENT OF JUSTICE

U.S. Parole Commission

28 CFR Part 2

PAROLING, RECOMMITTING AND SUPERVISING FEDERAL PRISONERS

Correction

In FR Doc. 79–13677, appearing at page 26540 in the issue of Friday, May 4, 1979, make the following corrections:

In the table on page 26543, the seventh line under the heading "Low Moderate" should read ".01–.04 liters of hash oil)]" and the ninth line under the heading "Moderate" should read "hashish/.05–.19 liters of hash oil)]".

In the table on page 26545, the second line under the heading "Moderate" should read "exceed $19,999[2]".

In the table on page 26548, the first entry under the column heading "customary time to be served before release" should read "<6 months." and, under that same column, delete all the "Do's".

BILLING CODE 1501–01–M

DEPARTMENT OF DEFENSE

Department of the Army

32 CFR Part 631

Deletion of General Transport Regulations

AGENCY: Department of the Army, DoD.

ACTION: Final rule.

SUMMARY: This rule amends 32 CFR to delete Part 631. It has been determined that the regulatory provisions published in 32 CFR Part 631, which pertain solely to the shipment of intoxicating liquors, are no longer required. The Army regulation prescribing this rule is obsolete and has been rescinded.

EFFECTIVE DATE: May 10, 1979.

FOR FURTHER INFORMATION CONTACT:
Mr. H. A. Baker, Military Traffic Management Command, Attn: MT–INM, Washington, DC 20315, Telephone: (202) 756–1765.

By authority of the Secretary of the Army.

Dated: May 3, 1979.

Rose D. Smyth,
Colonel, U.S. Army, Director, Administrative Management, TAGCEN.

Accordingly, 32 CFR is amended by deleting: Subchapter I and Part 631 to read as follows:

Subchapter I—Transport [Deleted]

PART 631—GENERAL TRANSPORT REGULATIONS [DELETED AND RESERVED]

[SR55–155–1]
[FR Doc. 79–14567 Filed 5–9–79; 8:45 am]
BILLING CODE 3710–08–M

DEPARTMENT OF TRANSPORTATION

Coast Guard

33 CFR Part 117

St. Johns River, Fla.; Drawbridge Operation Regulations

AGENCY: Coast Guard, DOT.

ACTION: Final rule.

SUMMARY: At the request of the Florida East Coast Railway (FEC), the Coast Guard is revising the regulations for the FEC railroad bridge across the St. Johns River, mile 24.9, in Jacksonville, to allow this bridge to operate on an automated system. The other FEC bridges near Jay Jay, Jupiter, Stuart and Port Mayaca, already use an automated system. This change is being made in order that all automated bridges operated by the

[1] The functions of the Federal Insurance Administration, Department of Housing and Urban Development, were transferred to the newly established Federal Emergency Management Agency by Reorganization Plan No. 3 of 1978 (43 FR 41943, September 19, 1978) and Executive Order 12127 (44 FR 19367, April 3, 1979).

V 4 4 / 9 2 M Y 1 0 7 9 UMI

Railroad can be operated under the same system.

EFFECTIVE DATE: This amendment is effective on June 11, 1979.

FOR FURTHER INFORMATION CONTACT: Frank L. Teuton, Jr., Chief, Drawbridge Regulations Branch (G-WBR/73), Room 7300, Nassif Building, 400 Seventh Street, S.W., Washington, D.C. 20590 (202-426-0942).

SUPPLEMENTARY INFORMATION: On november 18, 1976, the Coast Guard published a program rule (41 FR 50843) concerning this amendment. The Commander, sEventh Coast Guard District, also published these proposals as a Public Notice dated November 22, 1976. Interested persons were given until December 20, 1976 to submit comments.

DRAFTING INFORMATION: The principal persons involved in drafting this rule are: Frank L Teuton, Jr. Project Manager, Office of Marine Environment and Systems, and Mary Ann McCabe, Project Attorney, Office of the Chief Counsel.

Discussion of Comments

Four objections were received. These objections were to removal of a radiotelephone presently installed on the bridge and the attendant thereto. After a discussion of these objections with the applicant, it was agreed that the bridge be manned with a bridge supervisor who would monitor the radiotelephone. This bridge supervisor will have a mechanical override capability in case of emergency. The Coast Guard feels that the applicant has overcome the objections was is therefore issuing these regulations as amended.

PART 117—DRAWBRIDGE OPERATION REGULATIONS

In consideration of the foregoing, Part 117 of Title 33 of the Code of Federal Regulations is amended by adding a new § 117.429 immediately after § 117.408 to read as follows:

§ 117.429 St. Johns River, mile 24.9, automatic operation of the Florida East Cost Railway bridge, Jacksonville, FL.

(a) The bridge shall be constantly manned by a bridge supervisor who has a mechanical override capability for the automated operation.

(b) The bridge will normally be in the open position displaying flashing green lights to indicate that water traffic may pass.

(c) When a train approaches the bridge, large sign on both the upstream and downstream sides of the bridge will flash "bridge coming down," the navigational light will go to flashing red, and the standard siren signals will sound.

(d) After an eight/minute delay, the bridge will lower and lock if there are no vessels under the bridge.

(e) After the train has cleared, the bridge will open and the light signals will return to flashing green.

(f) Train crews can hold bridge down by pushing a hold button, and the bridge will remain down for a period of eight minutes or while the approach track circuit is occupied.

(g) A radiotelephone will be maintained at the bridge for the safety of navigation.

(Sec. 5, 28 Stat. 362, as amended, sec 6[g](2), 80 Stat. 937; 33 U.S.C. 499, 49 U.S.C. 1655[g](2); 49 CFR 1.46(c)(5)).

Dated: May 4, 1979.

J. B. Hayes,
Admiral, U.S. Coast Guard, Commandant.

[CGD 78-178]
[FR Doc. 79-14627 Filed 5-9-79; 8:45 am]
BILLING CODE 4910-14-M

GENERAL SERVICES ADMINISTRATION

Federal Property Resources Service

41 CFR Parts 101-43, 101-44, and 101-45

Demilitarization of Munitions List Items

AGENCY: Federal Property Resources Service, General Services Administration.

ACTION: Final rule.

SUMMARY: The General Services Administration is amending the regulations for the control of personal property having unsafe or dangerous characteristics to provide policies and procedures for the transfer, donation, or sale of munitions list items identified as requiring demilitarization.

EFFECTIVE DATE: May 10, 1979.

FOR FURTHER INFORMATION CONTACT: Mr. Stanley M. Duda, Director, Utilization Division (703-557-1540).

SUPPLEMENTARY INFORMATION: The General Services Administration has determined that this regulation will not impose unnecessary burdens on the economy or on individuals and, therefore, is not significant for the purposes of Executive Order 12044.

PART 101-43—UTILIZATION OF PERSONAL PROPERTY

The table of contents for Part 101-43 is amended to add the following entry:

Sec.
101-43.4804 Demilitarization codes and related instructions.

Subpart 101-43.3—Utilization of Excess

Section 101-43.315-5 is amended to revise paragraph (h) as follows:

§ 101-43.315-5 Procedure for effecting transfers.

* * * * *

(h)(1) Any item of excess personal property having unsafe or dangerous characteristics must be rendered safe by the holding activity before shipment or pickup is made or advice must be given the transferee regarding the actual or potential danger and the property clearly labeled to show this danger.

(2) Items on the U.S. Munitions List (22 CFR Part 121) that are subject to demilitarization requirements in order to render innocuous that property which is dangerous to public health or safety or to preclude the compromise of security requirements shall be identified on the excess personal property report by the reporting activity with the appropriate one-letter demilitarization codes listed in § 101-43.4804. Federal agencies acquiring these items shall perpetuate the demilitarization codes in their property records and on subsequent reports of excess personal property submitted to GSA. Demilitarization codes shall also be perpetuated on records of nonreportable property. Demilitarization will be a condition of excess personal property transfers and surplus personal property donations, and demilitarization requirements, when applicable, will be carried out prior to transfer or donation unless otherwise excepted by GSA. The requirement to demilitarize certain munitions list items prior to transfer or donation will normally be waived for the following recipients:

(i) Federal agencies, when the agency requires the property for functional use and agrees to demilitarize the item prior to further disposition;

(ii) Project grantees, provided the granting agency determines that prior demilitarization is not in the best interest of the Government and the project grantee agrees to demilitarize the property and prior to further disposition; and

(iii) Authorized donees to whom title is being passed, subject to certification to the appropriate State agency or sponsoring Federal Agency that demiliterization will be accomplished prior to further disposition.

* * * * *

Subpart 101-43.48—Exhibits

Section 101-43.4804 is added as follows:

§ 101-43.4804 Demiliterization codes and related instructions.

There are 13 demilitarization codes in use; however, the provisions of § 101-43.315-5(h)(2) apply only to items identified with five of the codes. The five codes and related demilitarization instructions are as follows:

Code and Demilitarization Instructions

C—MLI—Remove and/or demilitarize installed key point(s), or lethal parts, components, and accessories.
D—MLI—Demilitarize by mutilation (make unfit for intended purpose) by melting, cutting, tearing, scratching, crushing, breaking, punching, or neutralizing. (As an alternative, burial or deep water dumping may be a used when authorized.)
E—MLI—Demilitarize by burning, shredding, or pulping.
F—MLI—Demilitarization instructions to be furnished by the item manager.
L—MLI—Demilitarize by mutilation (make unfit for intended purpose) by melting, cutting, tearing, scratching, crushing, breaking, punching, or neutralizing. (As an alternative, burial or deep water dumping may be used when authorized.) This code will be applied only to items identified as being a component of a key point on a major end item.

PART 101-44—DONATION OF PERSONAL PROPERTY

The table of contents for Part 101-44 is amended or revise the following entry.

Sec.
101-44.108-4 U.S. Munitions List items.

Subpart 101-44.1—General Provisions

Section 101-44.108-4, previously reserved, is added as follows:

§ 101-44.108-4 U.S. munitions list items.

(a) Applicable demiliterization codes, as listed in § 101-43.4804, shall be perpetuated on all property records and reports of excess personal property as provided in § 101-43.315-5(h)(2). A State agency requesting the transfer for donation of munitions list items identified as requiring demiliterization, pursuant to the provisions of Subpart 101-44.2, shall include the demilitarization code on the SF 123 and a statement that the State agency will obtain from the donee a certification that, prior to further disposition, demilitarization of the property will be performed by the donee in accordance with the demilitarization instructions for the codes set forth in § 101-43.4804. In the case of munitions list items requested for donation by service educational activities or public airports, pursuant to the provisions of Subparts 101-44.4 and 101-44.5, respectively the donee shall include a statement on the SF 123 that it will demilitarize the property prior to further disposition in accordance with the requirements of the codes as set forth in § 101-43.4804.

(b) Before disposing of munitions list items identified as requiring demilitarization, the donee may request demilitarization instructions from GSA through the State agency for donations made pursuant to Subpart 101-44.2 or through the Federal Aviation Administration for donations made pursuant to Subpart 101-44.5. For munitions list items identified as requiring demilitarization donated to service educational activities pursuant to Subpart 101-44.4, demilitarization instructions may be obtained directly from the Defense Logistics Agency (DLA).

PART 101-45—SALE, ABANDONMENT, OR DESTRUCTION OF PERSONAL PROPERTY

Subpart 101-45.3—Sale of Personal Property

Section 101-45.309-3 is revised as follows:

§ 101-45.309-3 Demiliterization and decontamination.

(a) Dangerous material shall not be disposed of pursuant to this Part 101-45 without first being demilitarized or decontaminated when a duly authorized official of the executive agency concerned determines this action to be in the interest of public health, safety, or security. This may include rendering the property innocuous, stripping from it any confidential or secret characteristics, or otherwise making it unfit for futher use.

(b) Demilitarization or decontamination of property to be donated to public bodies pursuant to Subpart 101-44.7 shall be accomplished in a manner so as to preserve so far as possible any civilian utility or commercial value of the property

(c) Except for those sales otherwise authorized by § 101-45.309-2 or other statutes, and for specialized sales authorized by the Secretary of Defense, U.S. Munitions List items identified as requiring demilitarization shall not be reported for public sale without first being demilitarized or requiring demilitarization to be a part of the terms and conditions of sale. GSA may refer technical questions on demilitarization to the Department of Defense for advice.

(Sec. 205(c), 63 Stat. 390 (40 U.S.C. 486(c)))

Dated: April 27, 1979.

Clarence A. Lee,
Acting Administrator of General Services.

[FDMR Amdt. H-114]
[FR Doc. 79-14598 Filed 5-9-79; 8:45 am]
BILLING CODE 6820-96-M

GENERAL SERVICE ADMINISTRATION

Automated Data and Telecommunications Service

41 CFR Ch. 101

Teleprocessing Services Program; Appendix—Temporary Regulations

AGENCY: Automated Data and Telecommunications Service, General Services Administration.

ACTION: Temporary regulation.

SUMMARY: This supplement extends to November 30, 1979, the expiration date of FPMR Temporary Regulation E-47, relating to teleprocessing services program.

DATES: Effective date: May 1, 1979. Expiration date: November 30, 1979.

FOR FURTHER INFORMATION CONTACT: L. Perlman, Policy and Evaluation Division (202-566-0834).

SUPPLEMENTARY INFORMATION: The General Services Administration has determined that this regulation will not impose unnecessary burdens on the economy or on individuals and, therefore, is not significant for the purposes of Executive Order 12044.

Supplement 4 (43 FR 45842, Oct. 4, 1978) to FPMR Temporary Regulation E-47 is canceled and deleted from the appendix at the end of Subchapter E in 41 CFR Chapter 101.

(Sec. 205(c), 63 Stat. 390; (40 U.S.C. 486(c))

In 41 CFR Chapter 101, this temporary regulation is listed in the appendix at the end of Subchapter E.

[Federal Property Management Regs.; Temporary Reg. E-47, Supplement 5]

Teleprossing Services Program

1. *Purpose.* This supplement extends the expiration date of FPMR Temporary Regulation E-47.

2. *Effective date.* This regulation is effective May 1, 1979.

3. *Expiration date.* This supplement expires on November 30, 1979.

4. *Explanation of changes.* This supplement 5 revises the expiration date in paragraph 3 of FPMR Temporary Regulation E-47 to November 30, 1979, and cancels Supplement 4.

4/4/92

Dated: April 27, 1979.

Clarence A. Lee,
Acting Administrator of General Services.

[FPMR Temp. Reg. E–47; Supp. 5]

[FR Doc. 79–14599 Filed 5–9–79; 8:45 am]
BILLING CODE 6820–25–M

DEPARTMENT OF TRANSPORTATION

National Highway Traffic Safety Administration

49 CFR Part 571

Federal Motor Vehicle Safety Standards; New Pneumatic Tires—Passenger Cars

AGENCY: National Traffic Safety Administration, Department of Transportation.

ACTION: Final rule.

SUMMARY: This notice amends Federal Motor Vehicle Safety Standard No. 109, "New Pneumatic Tires—Passenger Cars", by adding two new metric tire size designations to Appendix A of that Standard. These amendments are made in response to petitions by Michelin Tire Corporation and the Rubber Manufacturers Association (RMA). Issuance of this notice permits the introduction of these metric tire sizes into interstate commerce.

EFFECTIVE DATE: May 10, 1979.

FOR FURTHER INFORMATION CONTACT: Arturo Casanova, Crash Avoidance Division, Office of Vehicle Safety Standards, National Highway Traffic Safety Administration, 400 Seventh Street, S.W., Washington, D.C. 20590, (202–426–1715).

SUPPLEMENTARY INFORMATION: This notice establishes a final rule with respect to two separate rulemaking actions, one initiated pursuant to a petition by RMA and the other initiated pursuant to petition by Michelin Tire Corporation (Michelin). In response to a petition by RMA (January 17, 1978) supporting a Dunlop tire which would use a higher inflation pressure and is designed to be retained on the tire rim in the event of rapid tire deflation, the National Highway Traffic Safety Administration (NHTSA) published a notice of proposed rulemaking at 43 FR 8570, March 2, 1978. That notice also proposed the addition of a Goodyear tire designed to use a higher inflation pressure. Several comments objecting to the inclusion of these tires in Table I of Appendix A of Standard No. 109 were received by NHTSA.

In response to a petition by Michelin (October 3, 1977) requesting the addition of new metric tire size designations, NHTSA published a routine amendment to Table I at 43 FR 4860, February 8, 1978. Under the procedures established by NHTSA for routine tire table amendments (33 FR 14964, October 5, 1968, as amended by 39 FR 28980, August 31, 1974), new size designations are published as a final rule which becomes effective 30 days after publication in the **Federal Register**, unless objections are received before the expiration of that 30-day period. Objections were received, so the sizes were not added. Subsequently, NHTSA published a notice of proposed rulemaking to include these sizes in Table I of Appendix A of Standard No. 109; 43 FR 13903, April 3, 1978.

NHTSA resolved the issues raised by the comments on the inclusion of the Goodyear tire and all but one of the Michelin tire sizes, and published a final rule for these tire sizes at 43 FR 24310, June 5, 1978. In that rule, NHTSA indicated that it would publish separately a final rule dealing with the Dunlop and remaining Michelin tire sizes. This notice sets forth a final rule for those sizes.

Comments objecting to the addition of these two tire size designations alleged that "intermix" or "mismatch" problems could accidentally occur when replacing a tire on a vehicle. Some of the commenters asserted that, because the nominal diameters of the proposed metric tires and corresponding metric rims (365mm and 370mm) are very nearly the same as those of certain existing English-unit tire/rim diameters (14 inch and 15 inch), it would be technically possible to mount an English-unit tire on the requested metric unit rim, or conversely, to mount a metric unit tire on an existing English-unit rim. Some commenters alleged that serious safety problems, such as tire explosions during, or road failures shortly after tire mounting could occur as a result of such intermixing. General Motors (GM) and the Armstrong Rubber Company (Armstrong) directed such allegations to both tires in this notice and the Department of California Highway Patrol directed its objection to the Michelin request. However, none of the objections summarized above were supported by data demonstrating that the safety hazards alleged had occurred or even that they could occur.

GM requested that the NHTSA defer action on all the proposed new tire sizes for one year to allow the tire and vehicle industries to work out a general solution to potential intermix problems raised by these and other metric tires. Dunlop requested that NHTSA take no final action on the tires proposed without considering the potential safety hazards involved. The Department of California Highway Patrol recommended that the trend toward proliferation of passenger car tire sizes be halted in view of the potential safety problems discussed above. Mercedes-Benz asserted that the differences among the proposed tires were sufficient to prevent intermix, but that the anticipated introduction of additional tire-rim combinations raised the possibility of mismatch problems. Mercedes stated that the anticipated proliferation of metric tire sizes raised the prospect that the spare parts industry might not expand quickly enough to meet after-market needs, in view of the fact that a vehicle owner would need to replace the tires on the vehicles with the same type of tires originally mounted thereon. Mercedes suggested that NHTSA encourage the development of uniform and interchangeable tires and rims. Armstrong objected to the Michelin proposal because of alleged confusion of the public and tire service personnel arising from the slight dimensional differences in metric and English unit tire/rim combinations.

With respect to this larger issue of general standardization of tires sizes, NHTSA believes it is not necessary to resolve it before permitting these tire sizes to be introduced. As explained below, the intermix problem has been alleviated with respect to these particular tire sizes. Since this is the case, it is inappropriate to delay the introduction of these sizes while awaiting a resolution of the larger issue.

In the June 5, 1978, notice establishing a final rule for the Goodyear tire and the 390mm Michelin tires, the agency indicated that it would defer final rulemaking on the Michelin 365mm tire and the Dunlop 370mm tire until agency intermix tests were performed on these tires. NHTSA subsequently conducted its own intermix tests at this agency's Safety Research Laboratory in Riverdale, Maryland. These tests indicated that these two tire sizes would not present the alleged intermix problems. Both Dunlop and Michelin have incorporated a design feature, called "blow-by," in the bead seat area which will not allow intermixing. "Blow-by" consists of flutes molded onto the lower bead area of the tire which bleed out air in the event the tire is not mounted on the proper rim. Hence, if one of these tires were mounted on an English-unit rim, the tires would not be able to hold air. In addition, the Michelin 365mm tire and rim concept cannot be intermixed with Dunlop 370mm tire and rim concept and vice versa. Since this feature precludes any intermix problems, and no commenter raised any other issues regarding these tire sizes, NHTSA is proceeding with final rulemaking action on these proposed tire sizes.

In consideration of the foregoing, 49 CFR 571.109 is amended as specified below:

§ 571.109 [Appendix amended]

In Tables I–PP and I–TT the following new tire size designations and corresponding values are added:

Table I–PP.—*Tire Load Ratings, Test Rims, Minimum Size Factors, and Section Widths for All Millimetric "65 Series" Radial Ply Tires (TR or JM Rim)*

Tire size designation [1]	Maximum tire loads, (pounds) at various cold inflation pressures (psi)													Test rim width (mm)	Minimum size factor (mm)	Section width [2] (mm)
	16	18	20	22	24	26	28	30	32	34	36	38	40			
180/65R365	700	750	795	840	885	925	960	995	1,030	1,065	1,100	1,135	1,165	135	771	184

[1] The letters "H", "S", or "V" may be included in any specified tire size designation adjacent to the "R".
[2] Actual section width and overall width shall not exceed the specified section width by more than 7 percent.

Table I–TT.—*Tire Load Rating, Test Rims, Minimum Size Factors and Section Widths for "P/65" Series ISO Type Tires for DL Millimetric Rims*

Tire size designation [2]	Maximum tire loads (kilograms) at various cold inflation pressures (kPa) [1]							Test rim width [3] (mm)	Minimum size factor (mm)	Section width (mm)
	120	140	160	180	200	220	240			
P195/65R370	405	435	465	495	520	545	570	135	805	194

[1] The designated cold inflation pressures may be increased to a maximum of 300 kPa to meet special vehicle performance requirements with no increase in load.
[2] The letters "D" for diagonal and "B" for bias-belted may be used in place of the "R".
[3] Actual section width and overall width shall not exceed the specified section width by more than the amount specified in S4.2.2.

The agency has reviewed the impacts of this rule and determined that they are minimal and that this is not a significant regulation within the meaning of Executive Order 12044.

The program official and attorney principally responsible for the development of this rule are Arturo Casanova and Stephen Kratzke, respectively.

Authority: Secs. 103, 119, 201, and 202, Pub. L. 89–563, 80 Stat. 718 (15 U.S.C. 1392, 1407, 1421, and 1422); delegation of authority at 49 CFR 1.51.

Issued on May 2, 1979.

Joan Claybrook,
Administrator.

[Docket No. 78–03; Notice 8; Docket No. 78–04; Notice 3]
[FR Doc. 79–14316 Filed 5–9–79; 8:45 am]
BILLING CODE 4910–59–M

49 CFR Part 571

Federal Motor Vehicle Safety Standards; New Pneumatic Tires—Passenger Cars

AGENCY: National Highway Traffic Safety Administration, Department of Transportation.

ACTION: Final rule.

SUMMARY: This notice grants in part and denies in part a petition submitted by the Japan Automobile Tire Manufacturers Association requesting the addition of two new tire size designations to Appendix A of Federal Motor Vehicle Safety Standard No. 109, "New Pneumatic Tires—Passenger Cars." The requested sizes have been redesignated using the alpha numeric system, because if the metric system were used, the values given for these tires would differ from those agreed upon by the International Organization for Standardization. When the alpha numeric system of designating tire sizes is used, one of the requested tire sizes duplicates a size currently included in the Appendix. Inclusion of that size again is unnecessary and therefore the request is denied. The request for inclusion of the other tire size is granted. Promulgation of this final rule permits the introduction of that size into interstate commerce.

EFFECTIVE DATE: May 10, 1979.

FOR FURTHER INFORMATION CONTACT: John Diehl, Office of Automotive Ratings, Crash Avoidance Division, National Highway Traffic Safety Administration, 400 Seventh Street, S.W., Washington, D.C. 20590 (202–426–1714).

SUPPLEMENTARY INFORMATION: According to agency practice, the National Highway Traffic Safety Administration (NHTSA) responds to petitions for adding new tire sizes to Appendix A of Standard No. 109 by quarterly issuing final rules under an abbreviated rulemaking procedure for expediting such routine amendments. Guidelines for this procedure (33 FR 14964, October 5, 1968, as amended at 39 FR 28980, August 13, 1974) provide that these final rules become effective 30 days after their date of publication if no comments objecting to them are received by NHTSA during this 30-day period. If objections are received, rulemaking procedures for proposing and issuing motor vehicle safety standards (49 CFR Part 553) are to be initiated.

Pursuant to a petition from the Japan Automobile Manufacturers Association (July 26, 1977), a final rule amending

Appendix A by adding two new tire size designations was published at 42 FR 62386, December 12, 1977, using the abbreviated rulemaking procedure. An objection to this amendment was timely submitted by General Motors Corp. (GM) on January 11, 1978. Accordingly, the amendment did not become effective.

NHTSA published a notice of proposed rulemaking on this addition at 43 FR 22420, May 25, 1978. In response to that notice, comments on the proposed tire sizes were submitted by GM and the B. F. Goodrich Company (Goodrich).

The petition had requested that two tire sizes, 225/60R13 and 225/60R14, be added to the appendix. GM and Goodrich both commented that the proposed millimetric 225/60R14 size designation was already included in Table I–R, under the alpha numeric designation of DR 60–14. A millimetric size designation describes the tire's cross-section width in millimeters, while the alpha numeric system describes the tire's cross-section width in inches. All the tire loads and other values for the requested 225/60R14 tire size were identical with those already listed for the DR 60–14 size. The commenters suggested that it would be most appropriate for NHTSA to add the values for the requested 225/60R13 size, but designate this size as DR 60–13, and deny the request with respect to the 225/60R14 size, since that size already appears in the tables.

There were two reasons offered in the comments for redesignating the requested tire sizes from 225/60R13 and 225/60R14 to DR 60–13 and DR 60–14. First, according to the commenters, the test rim widths and section widths requested by the petitioner for those tire sizes did not agree with the test rim widths and section widths agreed upon for those size tires by the International Organization for Standardization. Second, the commenters stated that consistency with international standardization efforts required the load values for the requested sizes to be expressed in kilograms and kilo Pascals, rather than in pounds and pounds per square inch, as proposed. There would be no inconsistency with the international standardization efforts for tire size designations if the tire sizes were redesignated as shown above.

NHTSA concurs with the suggestion that the international standardization of tire size designations is a desirable goal. When this can be promoted without any unduly great burden to the manufacturers or the public, NHTSA will generally follow this course. With respect to this petition, a redesignation of the tire sizes does not impose any significant burden on the manufacturers. The redesignation allows the tires to be sold without any further computation of values or testing by the manufacturer. Therefore, the benefits to be gained from harmonization of tire size designations outweighs the minimal burden imposed on the manufacturer by having to redesignate these tire sizes.

With this redesignation, the requested new tire sizes 225/60R13 and 225/60R14 become DR 60–13 and DR 60–14. The request for the DR 60–13 size is granted with the values proposed in the notice of proposed rulemaking for the 225/60R13 size. The request for the DR 60–14 size is denied, because that size is already included in Table I–R of the Appendix to Standard No. 109.

In consideration of the foregoing, Title 49 of the Code of Federal Regulations, Part 571.109 is amended to read as follows:

§ 571.109 [Appendix amended]

In Table I–R, the following new tire size designation and corresponding values are added.

Table I–R.—*Tire Load Ratings, Test Rims, Minimum Size Factors, and Section Widths for "60 Series" Radial Ply Tires*

Tire size designation [1]	Maximum tire loads, (pounds) at various cold inflation pressures (psi)													Test rim width (inches)	Minimum size factor (inches)	Section width [2] (inches)
	16	18	20	22	24	26	28	30	32	34	36	38	40			
DR60–13	890	950	1,010	1,070	1,120	1,170	1,220	1,270	1,320	1,360	1,410	1,450	1,490	6½	32.40	9.05

[1] The letters "H," "S," or "V" may be included in any tire size designation adjacent to the "R".
[2] Actual section width and overall width shall not exceed the specified section width by more than 7 percent.

NHTSA has reviewed this rule and determined that it is not a significant regulation within the meaning of Executive Order 12044. Further this action does not require an environmental impact statement under the National Environmental Policy Act (49 U.S.C. 4321 *et seq.*).

The program official and attorney principally responsible for the development of this rule are John Diehl and Stephen Kratzke, respectively.

Authority: Secs. 103, 109, 201, and 202, Pub. L. 89–563, 80 Stat. 718 (15 U.S.C. 1392, 1407, 1421, and 1422); delegation of authority at 49 CFR 1.50.

Issued on May 1, 1979.

Joan Claybrook,
Administrator.

[Docket No. 77–02; Notice 7]
[FR Doc. 79–14318 Filed 5–9–79; 8:45 am]
BILLING CODE 4910–59–M

National Highway Traffic Safety Administration

49 CFR Part 571

New Pneumatic Tires for Passenger Cars

AGENCY: National Highway Traffic Safety Administration, Department of Transportation.

ACTION: Final rule.

SUMMARY: Pursuant to petitions by the Rubber Manufacturers Association (RMA), European Tyre and Rim Technical Organization (ETRTO), and Michelin Tire Corporation (Michelin), this notice amends Federal Motor Vehicle Safety Standard No. 109, *New Pneumatic Tires—Passengers Cars*, by adding certain tire size designations to Appendix A of that standard. This amendment permits the introduction into interstate commerce of the new tire sizes.

EFFECTIVE DATE: June 11, 1979, if objections are not received before that date.

ADDRESS: Comments should refer to Docket 79–01 and be submitted to Docket Section, Room 5108, 400 Seventh Street, S.W., Washington, D.C. 20590.

FOR FURTHER INFORMATION CONTACT:
John Diehl, Office of Automotive Ratings, National Highway Traffic Safety Administration, 400 Seventh Street, S.W., Washington, D.C. 20590 (202–426–1714).

SUPPLEMENTARY INFORMATION:
According to agency practice, the National Highway Traffic Safety Administration (NHTSA) responds to petitions for adding new tire sizes to Table I of Appendix A of Standard No. 109 by quarterly issuing final rules under an abbreviated rulemaking procedure for expediting such routine amendments. Guidelines for this procedure were published at 33 FR 14964, October 5, 1968, and amended at 36 FR 8298, May 4, 1971; 36 FR 13601, July 22, 1971; and 39 FR 28980, August 13, 1974. These guidelines provide that these final rules become effective 30 days after their date of publication if no comments objecting to them are received by the agency during this 30 day period. If objections are received, regular rulemaking procedures for issuing and amending motor vehicle safety standards are initiated.

On December 19, 1978, RMA petitioned for the addition of three new tire sizes to an existing table within Table I of Appendix A of Standard No. 109. RMA petitioned for the addition of seven new tire sizes to an exisitng table on January 23, 1979. RMA also petitioned on January 24, January 26, January 29, and February 1, 1979, for the addition of four other tire sizes to Table I. ETRTO petitioned on November 3, 1978, for the addition of a new table to Table I, and for three new tire sizes to be included in that table. ETRTO also petitioned on February 21, 1979 for the addition of five new tire sizes to existing tables in Table I. Michelin petitioned on January 19, 1979, for the addition of a new tire size to an existing table. The bases for accepting or denying requests to add new tire size designations are set forth in the introductory guidelines to Appendix A. Briefly, the tests are the appropriateness of the information submitted for inclusion in the tire tables, and the appropriateness of the requested location within the tables of the requested tire sizes. The 24 new tire size designations requested to be added to Standard No. 109 appear to meet these criteria. Accordingly, the Michelin, ETRTO, and RMA are granted, and 23 new tire size designations are added to Table I of Appendix A of the standard pursuant to the abbreviated rulemaking procedure.

In consideration of the foregoing, 49 CFR 571.109 is amended as specified below, subject to the 30-day comment period outlined above:

§ 571.109 [Appendix A amended]

1. In Tables I–N, I–JJ, I–KK, I–LL, I–MM, I–PP, I–RR, and I–SS. The following new tire size designations and corresponding values are added.

BILLING CODE 4910–59–M

TABLE I - N

TIRE LOAD RATINGS, TEST RIMS, MINIMUM SIZE FACTORS, AND SECTION WIDTHS FOR "70 SERIES" RADIAL PLY TIRES

Tire size 1/ designation	MAXIMUM TIRE LOADS, (pounds) at various cold inflation pressures (psi)													Test rim width (inches)	Minimum size factor (inches)	Section width 2/ (inches)
	16	18	20	22	24	26	28	30	32	34	36	38	40			
145/70R13	545	560	580	600	615	630	650	665	685	700	720	735	750	4	26.44	5.67
165/70R14	640	680	725	765	800	835	875	905	940	970	1005	1035	1065	4 1/2	29.31	6.50

1/ The letters "H," "S," or "V" may be included in any specified tire size designation adjacent to the "R."

2/ Actual section width and overall eidth shall not exceed the specified width by more than 7 percent.

TABLE I - JJ

TIRE LOAD RATING, TEST RIMS, MINIMUM SIZE FACTORS AND SECTION WIDTHS FOR 'P/70' SERIES ISO TYPE TIRES

Tire size 1/ designation	Maximum tire loads (kilograms) at various cold inflation pressures (kPa)									Test rim width (inches)	Minimum size factor (mm)	Section 2/ width (mm)
	120	140	160	180	200	220	240	260	280			
P 195/70R14	420	455	485	515	545	570	595	620	645	5 1/2	812	196
P 245/70R15	650	705	755	800	840	885	920	960	995	7	955	248

1/ The letters "D" for diagonal and "B" for bias belted may be used in place of the "R."

2/ Actual section width and overall width shall not exceed the specified width by more than the amount specified in S4.2.2.2.

TABLE I - KK

TIRE LOAD RATING, TEST RIMS, MINIMUM SIZE FACTORS AND SECTION WIDTHS FOR 'P/60' SERIES ISO TYPE TIRES

Tire size 1/ designation	Maximum tire loads (kilograms) at various cold inflation pressures (kPa)									Test rim width (inches)	Minimum size factor (mm)	Section 2/ width (mm)
	120	140	160	180	200	220	240	260	280			
P 215/60R14	430	465	495	530	555	585	610	635	660	6	816	216
P 245/60R14	540	580	620	660	695	730	760	795	825	7	882	248
P 235/60R15	525	565	605	645	680	710	745	775	800	6 1/2	882	235

1/ The letters "D" for diagonal and "B" for bias belted may be used in place of the "R."

2/ Actual section width and overall width shall not exceed the specified width by more than the amount specified in S4.2.2.2.

TABLE I - LL

TIRE LOAD RATING, TEST RIMS, MINIMUM SIZE FACTORS AND SECTION WIDTHS FOR "T" SERIES 60 LB/IN TIRE

Tire size 1/ designation	Maximum tire load (pounds) at 60 psi Cold inflation pressure	Test rim width (inches)	Minimum size factor (inches)	Section 2/ width (inches)
T 125/80D16	60 psi 1775 lbs.	4	28.62	5.16

1/ The letters "D" for diagonal and "B" for bias belted may be used in place of the "R."

2/ Actual section width and overall width shall not exceed the specified width by more than the amount specified in S4.2.2.2.

TABLE I - MM

TIRE LOAD RATINGS, TEST RIMS, MINIMUM SIZE FACTORS, AND SECTION WIDTHS FOR "65 Series" Radial Ply Tires

Tire size 1/ designation	MAXIMUM TIRE LOADS, (pounds) at various cold inflation pressures (psi)													Test rim width (inches)	Minimum size factor (inches)	Section width 2/ (inches)
	16	18	20	22	24	26	28	30	32	34	36	38	40			
165/65R13	580	620	660	695	730	760	795	825	855	885	915	940	970	4 1/2	27.47	6.50
165/65R14	620	660	700	740	775	810	845	880	910	940	970	1000	1030	4 1/2	28.47	6.50
195/65R15	870	930	985	1040	1090	1140	1190	1235	1280	1325	1365	1410	1450	5 1/2	32.19	7.72

1/ The letter "H", "S", or "V" may be included in any specified tire size designation adjacent to the "R".

2/ Actual section width and overall width shall not exceed the specifed width by more than 7 percent.

TABLE I - PP

TIRE LOAD RATINGS, TEST RIMS, MINIMUM SIZE FACTORS, AND SECTION WIDTHS FOR ALL MILLIMETRIC "65 SERIES" RADIAL PLY TIRE TR or JM RIM

Tire size 1/ designation	MAXIMUM TIRE LOADS, (pounds) at various cold inflation pressures (psi)													Test rim width (mm)	Minimum size factor (mm)	Section width 2 (mm)
	16	18	20	22	24	26	28	30	32	34	36	38	40			
240/65R390	1210	1295	1375	1450	1520	1590	1655	1720	1785	1845	1905	1965	1875	180	937	245

1/ The letters "H," "S," or "V" may be included in any specified tire size designation adjacent to the "R."

2/ Actual section width and overall width shall not exceed the specified section width by more than 7 percent.

TABLE I - RR

TIRE LOAD RATING, TEST RIMS, MINIMUM SIZE FACTORS AND SECTION WIDTHS FOR 'P/65' SERIES ISO TYPE TIRES FOR TR OR JM RIMS

Tire size 2/ designation	Maximum tire loads (kilograms) at various cold inflation pressures (kPa) 1/							Test rim width (mm)	Minimum size factor (mm)	Section 3/ width (mm)
	120	140	160	180	200	220	240			
P205/65R390	455	490	525	560	590	615	645	150	850	208

1/ The designated cold inflation pressure may be increased to a maximum of 300 kPa to meet special vehicle performance requirements with no increase in load.

2/ The letters "D" for diagonal and "B" for bias belted may be used in place of the "R."

3/ Actual section width and overall width shall not exceed the specified width by more than the amount specified in S4.2.2.2.

TABLE I - SS

TIRE LOAD RATING, TEST RIMS, MINIMUM SIZE FACTORS AND SECTION WIDTHS FOR 'P/50' SERIES ISO TYPE TIRES

Tire size 1/ designation	Maximum tire loads (kilograms) at various cold inflation pressures (kPa)									Test rim width (inches)	Minimum size factor (mm)	Section 2/ width (mm)
	120	140	160	180	200	220	240	260	280			
P215/50R13	350	380	405	430	450	475	495	515	535	6	749	216
P235/50R13	405	440	470	500	525	550	575	600	620	6 1/2	787	235
P245/50R14	460	495	530	565	595	625	650	675	705	7	835	248
P265/50R14	525	570	610	645	680	715	745	775	805	7	868	262
P265/50R15	550	595	635	675	710	745	780	810	840	7	893	262
P275/50R15	585	635	680	720	760	795	830	865	895	8	921	279
P295/50R15	660	715	765	810	855	895	935	975	1010	8	953	294

1/ The letters "D" for diagonal and "B" for bias belted may be used in place of the "R."

2/ Actual section width and overall width shall not exceed the specified width by more than the amount specified in S4.2.2.2.

2. A new table, Table I-100 is added to Table I of Appendix A to read as set forth below.

TABLE I - 00

TIRE LOAD RATINGS, TEST RIMS, MINIMUM SIZE FACTORS, AND SECTION WIDTHS FOR "65 SERIES" RADIAL PLY TIRES ON DL RIMS

Tire size 1/ designation	MAXIMUM TIRE LOADS, (pounds) at various cold inflation pressures (psi)													Test rim width (mm)	Minimum size factor (mm)	Section width 2/ (mm)
	16	18	20	22	24	26	28	30	32	34	36	38	40			
150/65R320	415	445	480	510	545	575	605	640	670	700	730	765	800	95	655	149
160/65R345	495	530	570	610	645	685	725	760	795	835	875	910	950	110	704	162
180/65R345	605	655	700	745	795	840	885	935	980	1025	1070	1120	1165	110	744	177

1/ The letter "H," "S," or "V" may be included in any specified tire size designation adjacent to the "R."

2/ Actual section width and overall width shall not exceed the specified width by more than 7 percent.

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Interested persons are invited to submit comments on these additions. Comments must be limited so as not to exceed 15 pages in length. Necessary attachments may be appended to these submissions without regard to the 15 page limit. This limitation is intended to encourage commenters to detail their primary arguments in a succinct and concise fashion.

The agency has reviewed the impacts of this rule and determined that they are minimal and that this is not a significant regulation within the meaning of Executive Order 12044.

The program official and attorney principally responsible for the development of this rule are John Diehl and Stephen Kratzke, respectively.

(Secs. 103, 119, 201, and 202, Pub. L. 89–563, 80 Stat. 718 (15 U.S.C. 1392, 1407, 1421, and 1422); delegations of authority at 49 CFR 1.50 and 49 CFR 501.8)

Issued on May 2, 1979.

Michael M. Finkelstein,
Associate Administrator for Rulemaking.

[Docket No. 79–01; Notice 2]
[FR Doc. 79–14317 Filed 5–9–79; 8:45 am]
BILLING CODE 4910–59–M

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49 CFR Part 571

Federal Motor Vehicle Safety Standards; Designated Seating Position

Correction

Note.—This correction originally appeared at 44 FR 26884, Tuesday, May 8, 1979. It is being republished here today to conform to the Office of the Federal Register's assigned day of the week publication schedule (DOT/NHTSA documents are printed on Mondays and Thursdays).

In FR Doc. 79–11946, published at page 23229, on Thursday, April 19, 1979, after the signature on page 23235, the agency Docket No. was inadvertently left off and should be added to read "[Docket No. 78–13; Notice 2]".

BILLING CODE 1505–01–M

DEPARTMENT OF THE INTERIOR

Fish and Wildlife Service

50 CFR Part 26

Public Entry and Use; Special Regulations for Continued Opening of Clarence Rhode National Wildlife Range, et. al.

AGENCY: U.S. Fish and Wildlife Service, Department of the Interior.

ACTION: Special Regulations.

SUMMARY: The Director has determined that, with certain restrictions as delineated below under supplementary information, and in accordance with applicable State and Federal regulations, Clarence Rhode, Nunivak, Cape Newenham, Chamisso, Hazen Bay and Bering Sea National Wildlife Refuge shall open to public access, use and recreation. These regulations are compatible with the objectives for which the area was established, and will provide recreational opportunity to the public.

EFFECTIVE DATES: These regulations are effective from date of publication through May 31, 1980.

FOR FURTHER INFORMATION CONTACT: Charles Strickland, Refuge Manager, Clarence Rhode National Wildlife Range, P.O. Box 346, Bethel, Alaska 99559, Telephone Number (907) 543–3151.

SUPPLEMENTARY INFORMATION: The primary author of this document is Charles Strickland. Public access, use and recreation on portions of the described refuges shall be in accordance with applicable State and Federal regulations, subject to additional special regulations and conditions as indicated. Special conditions applying to individual refuges and maps are available at refuge headquarters, Office of the Refuge Manager (addresses listed above). The Refuge Recreation Act of 1962 (16 U.S.C. 460K) authorizes the Secretary of the Interior to administer such areas for public recreation as an appropriate incidental or secondary use only to the extent that it is practical and not inconsistent with the primary objectives for which the area was established. In addition, the Refuge Recreation Act requires that before any area of the refuge system is used for forms of recreation not directly related to the primary purposes and functions of the area, the Secretary must find that: (1) such recreational use will not interfere with primary purposes for which the area was established; and (2) funds are available for the development, operation, and maintenance of the permitted forms of recreation.

The recreational use authorized by these regulations will not interfere with the primary purposes for which these refuges were established. Funds are available for the administration of the recreational activities permitted by these regulations. Permission to enter or use that portion of the refuges selected by the Native villages under the Alaska Native Claims Settlement Act should be obtained from the respective village.

§ 26.34 Special regulations concerning public access, use and recreation for above listed national wildlife refuges.

Alaska

Clarence Rhode, Nunivak, Cape Newenham, Chamisso, Hazen Bay, and Bering Sea National Wildlife Refuge

A. Recreational uses such as hiking, boating, camping, photography, aircraft landing and associated activites are permitted.

B. The use of snowmachines are permitted only during periods of complete snow cover. Motorized vehicles are prohibited on Nunivak Island NWR with the exception of:

1. Boats,
2. Snowmachines:
a. Snowmachines are allowed during periods of complete snow cover as determined by the Refuge Manager, or his delegate.
b. On Nunivak; except for removal of legally harvested muskox, snowmachines may not be operated within one mile of any living muskox or area known to be occupied by any living muskox as determined through normal visual means.
3. Aircraft:
a. Aircraft landing is permitted on all refuges except Nunivak. Aircraft landings on Nunivak is restricted to the airstrip situated near the village of Mekoryuk. Float and/or ski planes are restricted to within a three (3) mile radius of the village of Mekoryuk.
4. Registered guides providing commercial guiding services on Nunivak Island must obtain an annual permit from the Refuge Manager.

The provisions of these special regulations supplement the regulations which govern public access, use, and recreation on wildlife refuge areas generally which are set forth in Title 50 Code of Federal Regulations, Part 26, and appropriate State regulations. The public is invited to offer suggestions and comment's at any time.

Dated: April 30, 1979.

LeRoy W. Sowl,
Deputy Alaska Area Director, Fish and Wildlife Service.
[FR Doc. 79–14555 Filed 5–9–79; 8:45 am]
BILLING CODE 4310–55–M

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50 CFR Part 33

Sport Fishing; Opening of Certain National Wildlife Refuges to Sport Fishing: Maryland, Virginia, and North Carolina

AGENCY: United States Fish and Wildlife Service, Department of the Interior.

ACTION: Special Regulations.

SUMMARY: The Director has determined that the opening to sport fishing of certain National Wildlife Refuges in Maryland, Virginia and North Carolina is compatible with the objectives for which the areas were established, will utilize a renewable natural resource, and will provide additional recreational opportunity to the public.

DATES: January 1, 1979 through December 31, 1979.

ADDRESSES: Contact the Refuge Manager at the address and/or telephone number listed below in the body of Special Regulations.

FOR FURTHER INFORMATION CONTACT: Howard N. Larsen, Regional Director, U.S. Fish and Wildlife Service, One Gateway Center, Suite 700, Newton Corner, Massachusetts 02158 (617–965–5100 Ext. 200).

SUPPLEMENTARY INFORMATION: Sport fishing is permitted on the National Wildlife Refuges indicated below in accordance with 50 CFR 33 and the following Special Regulations. Portions of refuges which are open to sport fishing are designated by signs and/or shown on maps available from the addresses indicated below and from the Regional Director, U.S. Fish and Wildlife Service, One Gateway Center, Suite 700, Newton Corner, Massachusetts 02158.

The Refuge Recreation Act of 1962 (16 U.S.C. 460k) authorizes the Secretary of the Interior to administer such areas for public recreation as an appropriate incidental or secondary use only to the extent that it is practicable and not inconsistent with the primary objectives for which the area was established. In addition, the Refuge Recreation Act requires (1) that any recreational use permitted will not interfere with the primary purpose for which the area was established: and (2) that funds are available for the development, operation, and maintenance of the permitted forms of recreation.

The recreational use authorized by these regulations will not interfere with the primary purposes for which these National Wildlife Refuges were established. This determination is based upon consideration of, among other things, the Service's Final Environmental Statement on the Operation of the National Wildlife Refuge System published in November 1076. Funds are available for the administration of the recreational activities permitted by these regulations.

Sport fishing shall be in accordance with all applicable State and Federal regulations subject to the following special conditions:

§ 33.5 Special regulations; sport fishing; for individual wildlife refuge areas.

Sport fishing is permitted on the following areas: Chincoteague National Wildlife Refuge, Box 62, Chincoteague, Virginia 23336. Contact J. C. Appel, Refuge Manager, at 804–336–6122. Special conditions: Sport fishing, crabbing, and clamming (shellfishing) is permitted on areas designated by signs as open. Open areas: (a) Surf fishing—the entire beach including Tom's Cove is open except as posted; (b) Other fishing is permitted from banks of impoundments and salt-water areas adjacent to the beach access road in the area known as Swan Cove and Tom's Cove and from other portions of the refuge including bay side waters as posted; (c) Shellfishing (clams, oysters, mussels, whelks, etc.)—the area between high and low tide marks in Tom's Cove, except as posted closed; (d) Crabbing—from the banks of impoundments and saltwater areas adjacent to the beach access road in the area known as Swan Cove and Tom's Cove and from other areas including bay side waters as posted. Commercial fishing operations or methods are not permitted. A permit is required for fishing from 10:00 PM to 4:00 AM. At least one member of the fishing party must be actively engaged in fishing at all times. Open fires and sleeping are not permitted. No permit is required at other times.

Blackwater National Wildlife Refuge, RFD #1, Box 121, Cambridge, Maryland 21613. Contact Refuge Manager, at 301–228–2677. Special conditions: Sport fishing and crabbing is permitted during daylight hours on areas designated by signs from April 15 through October 15, 1979. Boat launching from refuge lands is not permitted. The use of airboats is prohibited. All fish and crab lines must be attended. No set tackle may be used.

Mackay Island National Wildlife Refuge, Knotts Island, North Carolina, under administration of Back Bay National Wildlife Refuge, Pembroke #2 Building, South 218, 287 Pembroke Office Park, Virginia Beach, Virginia 23462. Contact Glen Bond, Refuge Manager, at 804–490–0505. Special conditions: Sport fishing is permitted during daylight

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hours on the areas designated by signs as open. Corey's Ditch and the canal adjacent to the Knotts Island Causeway are open year round to bank fishing only. The remainder of the refuge areas are open from March 15 to October 14, 1979. There is no horsepower limitation on outboard motors used for boat fishing. Airboats are prohibited.

Dismal Swamp National Wildlife Refuge, 680B Carolina Road, Suffolk, Virginia 23434. Contact Ralph Keel, Refuge Manager, at 804–539–7479. Special conditions: Bank and boat fishing is permitted during daylight hours in Lake Drummond. Public access is limited to boats entering Lake Drummond from the Feeder Ditch on the east side of the lake. Commercial fishing operations or methods are not permitted. Fishing will be with hand held line or rod and reel.

The provisions of this special regulation supplement the regulations which govern fishing on wildlife refuge areas generally which are set forth in Title 50, Code of Federal Regulations, Part 33. The public is invited to offer suggestions and comments at any time.

The Department of the Interior has determined that this document is not a significant rule and does not require a regulatory analysis under Executive Order 12044 and 43 CFR Part 14.

William C. Ashe,
Acting Regional Director, Fish and Wildlife Service.

May 3, 1979.

[FR Doc. 79–14553 Filed 5–9–79; 8:45 am]

BILLING CODE 4310–55–M

DEPARTMENT OF COMMERCE

National Oceanic and Atmospheric Administration

50 CFR Part 216

Prohibition of Take Incidental to Commercial Fishing Operations—Common Dolphin

AGENCY: National Marine Fisheries Service.

ACTION: Notice of prohibition of take of the central and southern stocks of common dolphin incidental to commercial fishing operations.

SUMMARY: A prohibition on taking the central stock of common dolphin (*Delphinus delphis*) is being implemented because observer records show that the 1979 quota for that stock has been exceeded. A prohibition on the southern stock of common dolphin is also being implemented at this time due to a projection that the 1979 quota for that stock will be met by the implementation date of this notice. The quota on the northern stock of common dolphin was closed on April 12, 1979, therefore no common dolphin may be taken incidental to fishing operations pursuant to the general permit issued to the American Tunaboat Association, Category 2; Encircling gear, purse seining involving the intentional taking of marine mammals.

EFFECTIVE DATE: The effective date of this notice is May 16, 1979.

ADDRESSES: Observer records may be reviewed at the office of the Director, Southwest Region, 300 South Ferry Street, Terminal Island, California. Telephone (213) 548–2575.

FOR FURTHER INFORMATION CONTACT: William P. Jensen, Marine Mammal Program Manager, National Marine Fisheries Service, 3300 Whitehaven Street NW., Washington, D.C. 20235, Telephone (202) 634–7461.

SUPPLEMENTARY INFORMATION: 50 CFR 216.24(d)(2)(i)(A)(3) and the permit issued to the American Tunaboat Association for 1978 through 1980, impose limits of four hundred (400) mortalities of the central stock and one thousand four hundred (1,400) mortalities of the southern stock common dolphin in 1979. The Assistant Administator for Fisheries, National Oceanic and Atmospheric Administration, has determined that this limit has been exceeded or will be exceeded by the effective date of this notice. Therefore, further taking of the central and southern stocks of common dolphin will be prohibited except as provided for in 50 CFR 216.24(d)(2)(i)(C) (accidental take policy), and notice of the effective date of this prohibition is hereby published in accordance with 50 CFR 216.24(d)(2)(i)(B).

Dated: May 4, 1979.

Winfred H. Meibohm,
Executive Director, National Marine Fisheries Service.

[FR Doc. 79–14537 Filed 5–9–79; 8:45 am]

BILLING CODE 3510–22–M

DEPARTMENT OF AGRICULTURE

Agricultural Marketing Service

7 CFR Part 908

Valencia Oranges Grown in Arizona and Designated Part of California; Expenses and Rate of Assessment

AGENCY: Agricultural Marketing Service, USDA.

ACTION: Final rule.

SUMMARY: This document authorizes expenses and a rate of assessment for the 1978–79 fiscal period, to be collected from handlers to support activities of the Valencia Orange Administrative Committee which locally administers the Federal marketing order covering Valencia oranges grown in Arizona and designated part of California.

DATES: November 1, 1978 through October 31, 1979.

FOR FURTHER INFORMATION CONTACT: Malvin E. McGaha, 202–447–5975.

SUPPLEMENTARY INFORMATION: *Findings.* This document is issued under the marketing agreement, as amended, and Order No. 908, as amended (7 CFR Part 908), regulating the handling of Valencia oranges grown in Arizona and designated part of California. The agreement and order are effective under the Agricultural Marketing Agreement Act of 1937, as amended (7 U.S.C. 601–674). Based upon the recommendations and information submitted by the Valencia Orange Administrative Committee established under the order, and upon other information, it is found that the expenses and rate of assessment, as hereafter provided, will tend to effectuate the declared policy of the act.

This document has not been determined significant under the USDA criteria for implementing Executive Order 12044.

§ 908.218 Expenses and rate of assessment.

(a) Expenses that are reasonable and likely to be incurred by the Valencia Orange Administrative Committee during the period November 1, 1978, through October 31, 1979, will amount to $333,630.

(b) The rate of assessment for said period payable by each handler in accordance with § 908.41 is fixed at $0.0200 per carton of Valencia oranges.

It is further found that it is impracticable and contrary to the public interest to give preliminary notice, engage in public rulemaking procedure, and postpone the effective date until 30 days after publication in the Federal Register (5 U.S.C. 553), as the order requires that the rate of assessment for a particular fiscal period shall apply to all assessable Valencia oranges handled from the beginning of such period which began November 1, 1978. To enable the committee to meet fiscal obligations which are now accruing, approval of the expenses and rate of assessment is necessary without delay. Handlers and other interested persons were given an opportunity to submit information and views on the expenses and rate of assessment at an open meeting of the committee. It is necessary to effectuate the declared purposes of the act to make these provisions effective as specified.

(Secs. 1–19, 48 Stat. 31, as amended; 7 U.S.C. 601–674)

Dated: May 4, 1979.

D. S. Kuryloski,
Acting Deputy Director, Fruit and Vegetable Division, Agricultural Marketing Service.

[FR Doc. 79–14566 Filed 5–9–79; 8:45 am]

BILLING CODE 3410–02–M

Agricultural Marketing Service

7 CFR Part 908

Valencia Oranges Grown in Arizona and Designated Part of California; Limitation of Handling

AGENCY: Agricultural Marketing Service, USDA.

ACTION: Final rule.

SUMMARY: This regulation establishes the quantity of fresh California-Arizona Valencia oranges that may be shipped to market during the period May 11–17, 1979. Such action is needed to provide for orderly marketing of fresh Valencia oranges for this period due to the marketing situation confronting the orange industry.

EFFECTIVE DATE: May 11, 1979.

FOR FURTHER INFORMATION CONTACT: Malvin E. McGaha, 202–447–5975.

SUPPLEMENTARY INFORMATION: *Findings.* This regulation is issued under the marketing agreement, as amended, and Order No. 908, as amended (17 CFR Part 908), regulating the handling of Valencia oranges grown in Arizona and designated part of California. The agreement and order are effective under the Agricultural Marketing Agreement Act of 1937, as amended (7 U.S.C. 601–674). The action is based upon the recommendations and information submitted by the Valencia Orange Administrative Committee and upon other available information. It is hereby found that the action will tend to effectuate the declared policy of the act. This regulation has not been determined significant under the USDA criteria for implementing Executive Order 12044.

The committee met on May 8, 1979, to consider supply and market conditions and other factors affecting the need for regulation and recommended a quantity of Valencia oranges deemed advisable to be handled during the specified week. The committee reports the demand for Valencia oranges is improving.

It is further found that it is impracticable and contrary to the public interest to give preliminary notice, engage in public rulemaking, and postpone the effective date until 30 days after publication in the Federal Register (5 U.S.C. 553), because of insufficient time between the date when information became available upon which this regulation is based and the effective date necessary to effectuate the declared policy of the act. Interested persons were given an opportunity to submit information and views on the regulation at an open meeting. It is necessary to effectuate the declared purposes of the act to make these regulatory provisions effective as specified, and handlers have been apprised of such provisions and the effective time.

§ 908.911 Valencia Orange Regulation 611.

Order. (a) The quantities of Valencia oranges grown in Arizona and California which may be handled during the period May 11, 1979, through May 17, 1979, are established as follows:

(1) District 1: 232,131 cartons;

(2) District 2: 109,009 cartons;

(3) District 3: 220,002 cartons.

(b) As used in this section, "handled", "District 1", "District 2", "District 3", and "carton" mean the same as defined in the marketing order.

(Secs. 1–19, 48 Stat. 31, as amended; 7 U.S.C. 601–674)

Dated: May 9, 1979.

D. S. Kuryloski,
Acting Director, Fruit and Vegetable Division, Agricultural Marketing Service.

[Valencia Orange Reg. 611]

[FR Doc. 79–14622 Filed 5–9–79; 12:20 pm]

BILLING CODE 3410–02–M

7 CFR Part 932

Olives Grown in California; Findings and Determinations With Respect to the Continuation of the Marketing Agreement and Order

AGENCY: Agricultural Marketing Service, USDA.

ACTION: Final rule.

SUMMARY: This document contains the determination with respect to continuation of the amended marketing agreement and order regulating olives grown in California. A referendum was conducted among olive growers March 31 through April 16, 1979, to ascertain if they favor termination of this regulatory program. The vote in that referendum shows that the required majority of such growers do not favor termination.

EFFECTIVE DATE: May 10, 1979.

FOR FURTHER INFORMATION OR A FINAL IMPACT STATEMENT CONTACT: Malvin E. McGaha, Fruit Branch, Fruit and Vegetable Division, AMS, USDA, Washington, D.C. 20250, Phone: (202) 447–5975.

SUPPLEMENTARY INFORMATION: *Findings.* A notice was published in the Federal Register on February 12, 1979 (44 FR 8897), directing that a referendum be conducted among California olive growers to ascertain if such growers favor continuance of the marketing agreement, as amended, and Order No. 932, as amended (7 CFR Part 932). This program is effective under the Agricultural Marketing Agreement Act of 1937, as amended (7 U.S.C. 601–674). Consistent with such notice, the referendum was conducted among growers who were engaged, in the State of California, in the production of olives during the representative period determined to be March 1 through December 31, 1978. The referendum period was March 31 through April 16, 1979.

Upon the basis of the results of the referendum, it is hereby found and determined that the termination of the marketing agreement and order is not favored by a majority of producers who produced more than 50 percent of the olives produced for market during the representative period.

Dated: May 7, 1979.

P. R. "Bobby" Smith,
Assistant Secretary for Marketing and Transportation Services.

[FR Doc. 79–14619 Filed 5–9–79; 8:45 am]

BILLING CODE 3410–02–M

Commodity Credit Corporation

7 CFR Part 1496

Procurement of Processed Agricultural Commodities for Donation

AGENCY: Commodity Credit Corporation, USDA.

ACTION: Final rule.

SUMMARY: This rule sets forth the criteria that will be considered by Commodity Credit Corporation in awarding contracts for the purchase of processed agricultural commodities for use under Title II, Pub. L. 480, including the allocation of those commodities to United States ports of exportation. The basic consideration is the purchase of commodities in a manner which results in the lowest cost to deliver the commodities to the end of ship's tackle at the port of discharge. However, deviation from a lowest landed cost

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procurement will be made when there are overriding factors affecting service to the donation programs in the country to which the commodities are being exported.

EFFECTIVE DATE: This regulation shall become effective on May 10, 1979.

FOR FURTHER INFORMATION CONTACT: Ronald L. Wilson, Chief, Donations Branch, Procurement and Sales Division, ASCS, 202–447–3995.

SUPPLEMENTARY INFORMATION: Section 201 of the Agricultural Trade Development and Assistance Act of 1954, as amended, provides that Commodity Credit Corporation (hereinafter, CCC) may furnish agricultural commodities to the President for use to meet famine or other urgent or extraordinary relief requirements; to combat malnutrition, especially in children; to promote economic and community development in friendly developing areas; and, for needy persons and non-profit school lunch and preschool feeding programs outside the United States. Section 203 provides that the CCC may, in addition to the cost of acquisition, pay with respect to commodities made available under this title costs for packaging, enrichment, preservation, and fortification; processing, transportation, handling, and other incidental costs up to the time of their delivery free on board vessels in United States ports; ocean freight charges from United States ports to designated ports of entry abroad; transportation from United States ports to designated points of entry aboard in the case (1) of landlocked countries, (2) where ports cannot be used effectively because of natural or other disturbances, (3) where carriers to a specific country are unavailable, and (4) where a substantial savings in costs or time can be effected by the utilization of points of entry other than ports; and charges for general average contribution arising out of the ocean transport of commodities transferred pursuant thereto.

The rigid use of a lowest landed cost determination in procuring and allocating commodities to U.S. ports has not always adequately serviced program needs in terms of delivery of commodities in time to meet needs and minimize losses sustained prior to delivery.

On November 3, 1978, there was published in the **Federal Register** (43 FR 51406) a proposal that CCC continue to consider the lowest landed cost, but also consider other factors that would override the lowest landed cost determination, in making Title II contract awards and port allocation decisions. Interested persons were asked to comment on the proposed rule.

A total of fifty responses was received. Three were from labor organizations; sixteen were from ports, port authorities, and/or port terminals; fifteen were from millers and/or processors; ten were from steamship lines, shipping agents, etc.; two were from other federal governmental agencies; two were received from congressional offices; one was from the governor of a State; and one was from a railroad. Responses from agents of certain interests or trade associations representing segments of commerce or industry were treated as coming from the interests they represent. Many respondents commented on several issues.

Of the responses received, all but one agreed in principle with the proposed rule or some variation thereof. They included four comments from ocean carriers; fourteen from United States ports; three from labor interests; five from millers and/or processors; one from the governor of a State; one from another agency of the United States; and one from a United States congressman.

One comment from a miller or processor was received that disagreed with the principles set forth in the proposed rule.

After consideration of the comments, it has been determined to issue a final rule altering the lowest landed cost concept to permit consideration of other factors, some of which could be overriding.

Two of the comments from ocean carriers and fourteen from millers and processors objected to the extension of the time period utilized by CCC to analyze bids and award contracts from 24 hours, as presently used, to 72 hours under the proposed rule. Some respondents suggested that if the 72 hour period is essential, bids be closed late on Thursday with awards made at least 30 minutes prior to market opening the following Monday, thereby restricting a bidder's exposure to market fluctuations to 24 hours as is now the case. Some respondents also suggested that if the additional time, as proposed, is needed to analyze the additional factors, the analyses should be made in advance of the deadline for bid submission rather than after, thereby obviating the need for extra time.

In implementing the final rule, market exposure will be limited to one market day.

One governor, eight port interests, and three labor interests commented that in considering delivery time, the total transit time from processing plant to final destination should be considered and/or that availability of, and effective use of, railcars should be considered in making procurement/allocation decisions.

Insofar as delivery time is concerned, CCC's prime objective is that the commodity be delivered to the country of distribution within a time frame that will satisfy program needs. Therefore, transit time is a factor as it relates to a final delivery date. CCC will consider total transit time, or any part thereof, in its decision making process within that context. CCC believes that the problem of availability and effective utilization of railcars will be effectively considered by bidders on procurement contracts. Provisions of the procurement contracts regarding late delivery will provide the economic incentive necessary for bidders to do so.

Eight comments from port interests and three from labor interests were received suggesting that CCC consider efficient utilization of energy resources in its procurement allocation decisions. CCC believes that the efficient use of energy resources, or the lack thereof, will impact on a bidder's cost of fulfilling a contract. Therefore, the usage of energy resources will necessarily be a consideration in arriving at the total bid price.

Several comments were received regarding the data that will be used as a basis for decision making. For example, one port interest commented that only current data should be used while another commented that only historical data should be used. One ocean carrier commented that no data should be used that will result in a contracting officer having to make a judgmental decision. Two ocean carriers, three port interests, three labor interests and one miller or processor expressed concern about the validity of the data used in the draft impact statement; the data which will be used as a basis for decision making; whether or not the data used will provide true measures of program performance; and/or how CCC will reasonably quantify the factors that will be used to override lowest landed cost.

CCC believes that efficiency in conducting program operations requires judgment and flexibility in the procurement process. In fact, one of the main purposes of the proposed rule is to increase judgment in the procurement process. The exercise of good judgment requires that it be based on the best information and most complete data available at the time decisions are made. Accordingly, CCC will use all available valid historical and current data as a basis for decision making, including evaluation and decisions regarding the physical facilities and performance of ports. Heavy reliance will be placed upon current port conditions as determined from first hand observations and reports from USDA and other reliable sources.

Comments were received from four port interests, three labor interests, and one governor concerning how CCC will judge the adequacy of ports' physical facilities. All of the comments received on this matter urged that historical performance data not be used for this purpose, but that current data, preferably based on CCC's firsthand observation of physical facilities, be used.

The primary source of historical data will be documents used in the normal course of conducting business. Sources include contract documents, ocean bills of lading, survey and/or outturn reports made by commercial cargo surveyors, claim settlement agreements, claim payment documents, etc. CCC will utilize only such data and make only those analyses that it believes will provide a valid measure of program performance.

Comments were received from two port interests and two labor interests stating that CCC should consider the economic impact on a port and its surrounding economy and industry in making allocation decisions.

CCC believes that its mandate is to obtain maximum utilization of the monies spend to the extent that program needs can be met. Thus, the overriding factors to be considered in the bid process should be limited to those which can improve or strengthen administration of the Title II, Pub. L. 480, program.

One comment was received from an ocean carrier stating that utilization of United States vessels should be maximized. The final rule will be implemented in a manner consistent with the stated policy of the Agency for International Development of the Department of State with respect to United States flag vessels carrying Title II, Pub. L. 480, commodities.

The KCCO shall be responsible for making lowest landed cost determinations. KCCO shall provide that information to an Ad Hoc Committee designated by the Administrator, ASCS, to review the lowest landed cost determinations as a result of any or all of the factors referred to herein. If, after the Committee makes its review and it is recommended that contracts should be awarded based on the additional factors which would override lowest landed cost determinations, these recommendations will be presented to the Contracting Officer for a final decision. These decisions will be fully documented and explained as to the reasons the lowest landed cost was not selected.

The remaining twenty-four comments were not sufficiently clear to determine the respondent's concern or were not germane to the specific issues of CCC's commodity procurement or port allocation activities. There were no comments received on the balance of the proposed rule.

Final Rule

Accordingly, Chapter XIV of Title 7 of the Code of Federal Regulations is amended by adding Part 1496—Procurement of Processed Agricultural Commodities for Donation under Title II, Pub. L. 480—which reads as follows:

PART 1496—PROCUREMENT OF PROCESSED AGRICULTRUAL COMMODITIES FOR DONATION UNDER TITLE II, PUB. L. 480

Sec.

1496.1 General statement.
1496.2 Administration.
1496.3 Definitions.
1496.4 Issuance of invitations.
1496.5 Consideration of bids.
1496.6 Data to be used.
1496.7 Final contract determinations.

Authority.—Secs. 201, 202 and 203, 68 Stat. 454, as amended (7 U.S.C. 1721, 1722, 1723); sec. 2, 80 Stat. 1537, as amended (7 U.S.C. 1721, 1722, 1723).

§ 1496.1 General statement.

(a) This subpart sets forth the policies, procedures and requirements governing procurement, including allocation to U.S. ports, of processed agricultural commodities for donation under Title II, Pub. L. 480.

(b) The full implementation of this rule and its administration as described herein will require the development of new automatic data processing systems and programs in order to obtain, in a timely manner, the data and information needed for making decisions. These systems are already in the process of being developed, and it is estimated that they will be operational in approximately six months.

(c) Until the new systems are operational, the rule will be implemented to the extent possible by using present data systems and the information they generate. Although present data processing programs are out of date and do not provide the information needed to fully implement the rule, every effort will be made to consider, within the limitations of the present system, factors in addition to lowest landed cost, thus making possible the exercise of judgment in the decision making process.

§ 1496.2 Administration.

(a) The program will be carried out by the Agricultural Stabilization and Conservation Service (referred to in this subpart as "ASCS") under the general supervision and direction of the Executive Vice President of CCC. The program will be administered through the office of the Deputy Administrator, Commodity Operations and the Procurement and Sales Division, ASCS, Washington, D.C.; and the Kansas City ASCS Commodity Office (KCCO), Shawnee Mission, Kansas. Procurement will be administered in accordance with requirements specified in Volume 41 of the Code of Federal Regulations, "Public Contracts and Property Management, Chapter I," in USDA-1, as amended, "General Terms and Conditions for the Procurement of Agricultural Commodities or Services," and CMO-1, as amended, "Specifications for Packaging and Packing of Dairy Products, Processed Grains, Salad Oil and Shortening."

(b) Purchases are made to fulfill commodity requests received in ASCS, Washington, D.C. from the Agency for International Development (AID), or as authorized by AID, from American Voluntary Relief Agencies, engaged in overseas relief and development, which are registered with and approved by the Advisory Committee on Voluntary Foreign Aid.

§ 1496.3 Definitions.

As used in the regulations in this subpart and in the forms and documents related thereto, the following terms shall have the meaning assigned to them in this section.

(a) "AID" means the Agency for International Development, an agency within the United States Department of State.

(b) "ASCS" means the Agricultural Stabilization and Conservation Service, an agency within the United States Department of Agriculture.

(c) "DACO" means the Deputy Administrator, Commodity Operations, ASCS.

(d) "CCC" means Commodity Credit Corporation, a corporate agency within the United States Department of Agriculture.

(e) "Commodity Office" means the Kansas City ASCS Commodity Office, the office within ASCS which is responsible for assigned inventory management, acquisition, disposition,

and related programs and activities of CCC.

(f) "F.A.S." means free alongside ship, a trade term which implies that the goods should be placed by the shipper within reach of ship's tackle in a condition fit for shipment.

(g) "Lowest Landed Cost" means the lowest combined total cost of the f.a.s. price plus ocean freight to the port of discharge.

(h) "PSD" means the Procurement and Sales Division of ASCS.

§ 1496.4 Issuance of invitations.

From time to time, CCC will issue invitations to purchase or process agricultural products for utilization in the Title II, Pub. L. 480 program. The invitations will specify the contract terms; the closing date for acceptance of bids; the date contracts will be awarded; and other pertinent information. Invitations will be issued at least 10 days prior to the deadline for submission of bids. The bid submission deadlines and contract awards will be timed so not more than one market day elapses between bid opening (bid submission deadline) and contract awards.

§ 1496.5 Consideration of bids.

(a) *Lowest landed cost.* The general principle of awarding contracts that will result in the lowest landed cost will prevail. However, the following additional factors will be considered in awarding contracts.

(b) *Availability of ocean service.* (1) Prior to receipt of offers from commodity suppliers, checks will be made of available information from sources including, but not limited to, trade journal newspapers, port publications, steamship publications, and any other available information to determine the availability of appropriate steamship service.

(2) Additional information will be gathered, if necessary by direct contact with the steamship company involved, regarding such factors as the minimum tonnage and/or revenue required to perform the service needed.

(3) Special emphasis will be placed on assuring that under normal conditions the vessels will be calling at U.S. ports to coordinate loading with cargo arrival from suppliers.

(4) Freight rates will be obtained from published ocean tariffs to make cost comparisons between various steamship companies and coastal ranges.

(5) Available service will be analyzed to ensure that the port or coastal range selected for exportation has available ocean transportation service that will provide maximum compliance with the stated policy of AID with regard to the utilization of U.S. and other flag vessels to carry commodities shipped under Title II, Pub. L. 480.

(c) *Adequacy of service.* (1) Prior to the selection of a coastal range or U.S. port from which commodities will be shipped, the ocean transportation service available may be examined to determine adequacy of service. The data utilized may include, but not necessarily be limited to, the past performance of a particular vessel or steamship line in terms of loss and/or damage to cargo when received at destination port; past performance in meeting established delivery schedules, etc. CCC may eliminate from consideration ports or coastal ranges where ocean transportation service is considered inadequate by CCC. When clearly superior service is available at another port or coastal range it may be selected over other service.

(d) *Port performance.* (1) Each port will be contacted prior to bid evaluation to determine their cargo handling capabilities for Title II, Pub. L. 480, commodities when it is reasonably expected that quantities of 1,000 tons or more may be shipped. Allocations to that port will be governed by the minimum or maximum quantities indicated.

(2) Limits of quantities purchased for delivery to a port or coastal range may also be imposed by the amount of vessel space available during the expected delivery and loading period.

(3) Prior to the final selection of a U.S. port from which commodities will be shipped, the adequacy of the port to receive, accumulate, warehouse, handle, store, and protect the cargo will be considered.

(4) Factors which will be considered in this determination will include, but are not necessarily limited to, the adequacy of building structures, proper ventilation, freedom from insects and rodents, cleanliness, and overall good housekeeping and warehousing practices.

(5) When it is determined that the U.S. port is congested, facilities are overloaded, and a vessel would not be able to dock and load cargo without delay, or when labor disputes or lack of labor will prohibit the loading of the cargo onboard a vessel in a timely manner, another coastal range or port will be considered.

(e) *Transit time.* CCC will consider total transit time, as it relates to a final delivery date, in order to satisfy program requirements.

§ 1496.6 Data to be used.

(a) CCC will use all available historical and current data as a basis for procurement considerations, including evaluations and decisions regarding the physical facilities and performance of ports. Heavy reliance will be placed upon current port conditions as determined from first hand observations and reports from USDA and other reliable sources.

(b) The primary source of historical data will be documents used in the normal course of conducting business. Sources include contract documents, ocean bills of lading, survey and/or outturn reports made by commercial cargo surveyors, claim settlement agreements, claim payment documents, etc. CCC will utilize only such data and make only those analyses that it believes will provide a valid measure of program performance.

§ 1496.7 Final contract determinations.

The KCCO shall be responsible for making lowest landed cost determinations. KCCO shall provide that information to an Ad Hoc Committee designated by the Administrator, ASCS, to review the lowest landed cost determinations as a result of any or all of the factors referred to herein. If, after the committee makes its review and it is recommended that contracts should be awarded based on the additional factors which would override lowest landed cost determinations, these recommendations will be presented to the Contracting Officer for a final decision. These decisions will be fully documented and explained as to the reasons the lowest landed cost was not selected.

Note.—This regulation has been determined significant under the USDA criteria implementing Executive Order 12044. An approved final Impact Statement is available from Ray Voelkel, ASCS, 202–447–7865.

Signed at Washington, D.C. on May 3, 1979.

Bob Bergland,

Secretary.

[FR Doc. 79-14588 Filed 5-9-79; 8:45 am]

BILLING CODE 3410-05-M

Farmers Home Administration

7 CFR Parts 1823, 1888, 1901, and 1942

Revision, Redesignation

AGENCY: Farmers Home Administration, USDA.

ACTION: Final rule with comments requested.

SUMMARY: The Farmers Home Administration (FmHA) amends and redesignates its regulations on development grants for community domestic water and waste disposal systems. The intended effect of this action is to redesignate and clarify the regulations, delete the requirement for interim financing on grant only projects and that priority be given to water facility projects, and to reflect Agency reorganization regarding responsibilities for various aspects of the development grant program. The amendment is the result of an administrative decision to reorganize program regulations, conform the regulations with Agency field office reorganization and to comply with OMB Circular A–102.

EFFECTIVE DATE: Date of publication in the Federal Register. Comments must be received on or before July 9, 1979.

ADDRESSES: Submit written comments to the Office of the Chief, Directives Management Branch, Farmers Home Administration, U.S. Department of Agriculture, Room 6346, Washington, DC 20250. All written comments made pursuant to this notice will be available for public inspection at the address given above.

FOR FURTHER INFORMATION CONTACT: Byron E. Ross, telephone (202) 447–5717.

SUPPLEMENTARY INFORMATION: Subpart P of Part 1823 of Subchapter B, Chapter XVIII, Title 7, Code of Federal Regulations is revised and redesignated as Subpart H of Part 1942 of Subchapter H, Chapter XVIII, Title 7, Code of Federal Regulations. Subpart P of Part 1823 is hereby deleted and reserved. Various references in Chapter XVIII to the deleted Subpart P of Part 1823 are also being made. Changes that have been made are for clarification purposes for overall restructuring of the regulation, and to reflect an Agency reorganization. It is the policy of this Department that rules relating to public property, loans, grants, benefits, or contracts shall be published for comment notwithstanding the exemption in 5 U.S.C. 553 with respect to such rules. This amendment, however, is not published for proposed rulemaking since the purpose of the change is merely to renumber and clarify. However, the agency is interested in receiving comments or suggestions which should be submitted to the address given above.

Accordingly, various reference changes are made, Subpart P of Part 1823 is deleted and reserved, and Subpart H of Part 1942 is added as follows:

PART 1823—SUBPART P [RESERVED]

1. Subpart P of Part 1823 is hereby deleted and reserved.

PART 1888—SPECIAL ASSISTANCE TO DROUGH STRICKEN AREAS

§ 1888.13 [Amended]

2. In § 1888.13 change the reference from "FmHA Instruction 442.13" to "Subpart H of Part 1942 of this Chapter".

3. In § 1888.13(d) change the reference from "paragraph (b), (b)(1), and (b)(2) of § 1823.472" to "§ 1942.356 (b), (b)(2) and (b)(3) of Subpart H of Part 1942".

4. In § 1888.13(e) change the reference from Subpart "P" to "H" of Part 1942".

PART 1901—PROGRAM RELATED INSTRUCTIONS

§ 1901.702 [Amended]

5. In § 1901.702 change the reference to Subpart P of Part 1823 to Subpart H of Part 1942 and "442.13" to "1942–H".

§ 1901.707 and § 1901.708 [Amended]

6. In § 1901.707(a) and 1901.708(a) change "Part 1823 Subpart P of this chapter (FmHA Instruction 442.13, Appendix A)" to "Subpart H of Part 1942 of this Chapter".

§ 1901.719 [Amended]

7. In § 1901.719(a) and paragraph 2 of Exhibit B change the reference to Subpart P of Part 1823 to Subpart H of Part 1942 and "442.13" to "1942–H".

PART 1942—ASSOCIATIONS

§§ 1942 through 1942.400, Subpart H [Added]

8. A new subpart H of Part 1942 is established and reads as follows:

Subpart H—Development Grants for Community Domestic Water and Waste Disposal Systems

Sec.

1942.351 General.
1942.352 Processing applications and docket preparation.
1942.353 Applicant eligibility and priority.
1942.354 Use of grant funds.
1942.355 Grant limitations.
1942.356 Determining the need for development grants.
1942.357 Application review and approval.
1942.358 Preparation of appraisal reports.
1942.359 Borrower contracts.
1942.360 Grant approval and obligating funds.
1942.361 Preparation for grant closing.
1942.362 Grant closing and delivery of funds.
1942.363 Planning and performing development.
1942.364 Actions subsequent to loan closing.
1942.365 Grant servicing.
1942.366 Grant cancellation.
1942.367 Subsequent grants.
1942.368 Regional Commission grants.
1942.369 Management assistance.
1942.370 State Supplements and guides.
1942.371 Delegation of authority.
1942.372 Grant-aid-information.
1942.373–1942.400 [Reserved]
Exhibit A—Memorandum of Agreement Between the Federal Cochairman of the Appalachian Regional Commission and the Administrator of the Farmers Home Administration
Exhibit B—Project Management Agreement
Exhibit C—Association Water or Sewer System Grant Agreement

Subpart H—Development Grants for Community Domestic Water and Waste Disposal Systems

§ 1942.351 General.

(a) This Subpart outlines the policies and authorizations and sets forth the procedures for making and processing grants to assist in financing the development cost of domestic water and waste disposal systems to rural communities and other associations of farmers, ranchers, rural residents, and other rural users. Farmers Home Administration (FmHA) will maintain continuous liaison and coordination with State and substate planning district officials. FmHA shall cooperate fully with appropriate State agencies in making grants in a manner which will assure maximum support of the State's strategies for development of rural areas. State and substate A–95 agencies may recommend priorities for applications. FmHA will give due consideration to all A–95 agency review comments and priority recommendations in selecting applications for funding. FmHA State Directors are reminded that funds allocated for use as prescribed in this Subpart are to be considered for use by Indian tribes within the State regardless of whether State development strategies include Indian reservations within the State's boundaries. It is essential that Indians residing on such reservations have equal opportunity to participate in the benefits of these programs on as equal a basis as other residents of the State. This is intended to include an equal application of the outreach activities of FmHA County and District Offices.

(b) It is the policy that the County Office will normally be the entry point for preapplications and applications and serve as the local contact point. However, grants will be processed to the maximum extent possible by the District Office staff. The State Office staff will monitor grant making and servicing and will provide assistance to District Office personnel to the extent

to record the determination of FmHA

waste service, for only those users in the

(5) If, after applying the formula

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necessary to assure that the activities are being accomplished in an orderly manner consistent with FmHA regulations. The District Director will supply information on grant activity within the County Office service area to the County Supervisor at key points throughout the grant making process.

(c) It is the policy of FmHA to extend its financial program without regard to race, color, religion, sex, national origin, marital status, age, or physical/mental handicap (possess capacity to enter into legal contract.)

§ 1942.352 Processing applications and docket preparation.

(a) Preapplications and applications for water and waste disposal development grants will be processed in accordance with paragraph 1942.2 of Subpart A of Part 1942 of this Chapter.

(b) Grant dockets will be prepared in accordance with this Subpart and applicable portions of §§ 1942.17, 1942.18 and 1942.19 of Subpart A of Part 1942.

§ 1942.353 Applicant eligibility and priority.

(a) *Eligibility*—Applicant eligibility shall be determined in accordance with § 1942.17(b) of Subpart A of Part 1942. Also grants shall not be made in connection with any project unless the project:

(1) Will serve a rural area which, if such project is carried out, is not likely to decline in population below that for which the project was designed.

(2) Is designed and constructed so that adequate capacity will or can be made available to serve the present population of the area to the extent feasible and to serve the reasonably foreseeable growth needs of the area. Also, water systems must have sufficient capacity to provide for reasonable fire protection.

(3) Is necessary for orderly community development consistent with a comprehensive community water, waste disposal, or other development plan of the rural area in which the project is located.

(b) *Applicant priorities.* Preference for grant funds will be given to applicants and projects in accordance with § 1942.17(c) (1) and (2) of Subpart A of Part 1942.

§ 1942.354 Use of grant funds.

Funds may be used only for the following purposes:

(a) *Domestic water and waste facilities.* Install and improve community domestic water and waste disposal facilities including:

(1) Facilities for the development, storage, treatment, purification and distribution of water.

(2) Sanitary sewer facilities including collection lines, treating plants, outfall lines, disposal fields, and stabilization ponds.

(3) Storm sewers for the collection and disposal of surface drainage.

(4) Solid waste disposal projects including facilities for the collection, treatment, or disposal of human, animal, agricultural and other wastes. Items such as garbage trucks and equipment, sanitary landfills, and incinerators are included.

(b) *Purchase or rent equipment necessary to extend, protect, develop or utilize facilities.* Such purchases or rentals must be necessary to provide efficient service, to enable the facility to remain in operation, and to fulfill the purposes and intent of the loan and/or grant. However, funds may not be used to pay any annually recurring costs, including purchases or rentals, that are normally considered to be operation and maintenance expenses.

(c) *Acquire land and rights.* Acquiring land, interest in land, and rights such as water rights, leases, permits, rights-of-way, and other evidence of land or water control which are necessary for development of the facility.

(d) *Buildings, fences, secondary facilities, and relocation.* (1) Construct buildings of modest design, size, and cost, and fences essential to the successful operation or protection of authorized facilities and to provide storage for tools and supplies needed to operate the facility.

(2) Construct secondary facilities such as gas or electric service lines to convey fuel or energy for, or utilities for, primary facilities.

(3) Construct or relocate roads, bridges, utilities, fences, and other public improvements or relocate roads, bridges, utilities, fences, and other private improvements.

(e) *Services and fees.* Pay costs incidental to establishment of such facilities or for services necessary to accomplish any of the above purposes, including, but not limited to:

(1) Paying fees or other legal expenses of establishing water rights through appropriation, agreement, permit, or court decree.

(2) Paying for other services necessary in planning and completing the facilities to be financed.

(3) Acquiring a water supply by purchasing of water stock or membership in a water users association.

(f) FmHA grant funds may be used on projects where other types of financial assistance are available on all or part of the project, provided the other assistance is on reasonable rates and terms. In such cases the maximum percentages allowed under other agencies' authorities will apply to their participation in the project. However, the FmHA grant may not exceed seventy-five percent (75%) of the eligible project development cost. The need for FmHA grant funds must meet the requirements of § 1942.356 of this Subpart after considering all project financing.

§ 1942.355 Grant limitations.

(a) Grant funds may not be used to:

(1) Pay for the construction of any new combined storm and sanitary sewer facilities.

(2) Pay any annually recurring costs that are generally considered to be operation and maintenance expenses.

(3) Construct or repair electric generating plants, electric transmission lines, or gas distribution lines to provide services for commercial sale.

(4) Purchase fire trucks, hoses, and other firefighting equipment or construct housing for such equipment.

(5) Pay rental for the use of equipment or machinery owned by the association.

(6) Pay for salesrooms or other purposes not directly related to operation and maintenance of the facility being installed or improved.

(7) Purchase existing systems.

(8) Refinance existing indebtedness.

(9) Pay any portion of the cost of a facility when the annual reserve based on a typical year exceeds one-tenth of the average annual debt service requirement unless State regulatory agencies require a larger reserve, or when it is anticipated that facility replacement costs on a relatively short-term basis will require a higher reserve.

(10) Pay interest.

(b) An FmHA development grant may not be made in excess of seventy-five percent (75%) of the eligible project development costs. Facilities previously installed will not be considered in determining the development costs.

§ 1942.356 Determining the need for development grants.

(a) FmHA District Directors are responsible for determining applicant eligibility for grants and the amount of such grants. Form FmHA 1942–51, "Water and Waste Disposal Development Grant Summary," will be used to determine the amount of FmHA grant assistance for which the applicant qualifies. A separate form will be used

to record the determination of FmHA grant assistance for each water, sewer collection and treatment, solid waste, and storm drainage project. A copy of each such form along with the letter of conditions and Form FmHA 442–45, "Project Summary—Water and Waste Disposal and Other Utility-Type Projects," will be submitted to the National Office, Attention: Water and Waste Disposal Loan Division by the State Director not later than the time of issuance of the letter of conditions.

(b) Grants will be used for water and waste disposal projects serving the most financially needy communities to reduce user costs to a reasonable level for farmers, ranchers, and rural residents. Other rural users whose needs are met or, if there is no meter, could be met by a single residential-size water meter may also be considered eligible. For example, a user on a waste system may be considered for a grant when the water needs of the waste user are met or could be met by such residential-size meter. This method of computing grants will be used for all water and waste disposal projects. Reasonable user rate is defined as that which is not less than existing prevailing rates in communities being served by an established system constructed at similar cost per user and having similar economic conditions. User costs shall include charges, taxes, and assessments attributable to the project. An exception to the reasonable user rate may be granted by the FmHA National Office in justifiable cases for areas of extremely low income when it is necessary to meet the needs of a particular community. Such an exception will only be considered when comparable systems are not available or the user rates from the comparable systems appear to be too high for the average user of the applicant, and the median income in the applicant service area is less than $4,000. When it is determined that such an exception should be considered, the FmHA State Director will submit information to the National Office concerning health conditions of the area, median income of the service area, and user rates and median incomes of other like or most similar communities in the region, employment conditions, and any other information to justify the recommendation for the exception.

(1) Grants may not exceed seventy-five percent (75%) of the eligible project development costs listed in § 1942.354 of this Subpart.

(2) Ordinarily, an applicant will be considered for grant assistance only when the debt service portion of the average user cost for either water or waste service, for only those users in the applicant service area, exceeds the following percentages of median incomes:

(i) .75 percent when the median income is under $6,000.

(ii) 1.00 percent when the median income is $6,000 to $10,000.

(iii) 1.25 percent when the median income is over $10,000.

Median income will be determined in accordance with paragraph (b)(6) of this section. Except as provided for in paragraphs (b) and (b)(4) of this section, the grant will be limited to an amount necessary to reduce the debt service portion of the user cost to the applicable percent level listed above. If the median income is not available, the average income may be used. This procedure shall not be used to result in a rate below that deemed to be reasonable as defined in paragraph (b) of this section. However, an exception to the reasonable user rate may be authorized by the FmHA National Office in accordance with paragraph (b) of this section.

(3) When the applicant will be furnishing bulk service to rural residents served by another system, a grant to such applicant may also be considered for an amount to reduce the user costs on a similar basis as provided in this section for users of such other system. An agreement between the applicant and the other system (entity) will be obtained that clearly shows that the benefit of the grant will accrue only to the users intended to be benefited by the grant. For purposes of grant determination, all other systems which will receive bulk service may either:

(i) Be considered as part of the total by averaging the median incomes of the systems involved and averaging the debt service portion for the particular service of the other systems; or

(ii) Consider the median income and the debt service portion for the particular service for each entity separately.

(4) If, after applying the formula described in paragraph (b)(2) of this section, FmHA determines that a reasonable user cost has not been achieved due to unusually high operation and maintenance costs, construction or water acquisition costs, or other factors, FmHA may proceed with a grant in an amount necessary to reduce the user cost to not below a reasonable level as defined in paragraph (b) of this section. However, an exception to the reasonable user rate may be authorized by the FmHA National Office in accordance with paragraph (b) of this section.

(5) If, after applying the formula described in paragraph (b)(2) of this section, FmHA determines that a reasonable average annual cost to the applicant for delivery of service to residential type users has not been achieved, FmHA may proceed with a grant in an amount necessary to reduce such cost to not below a reasonable user rate as defined in paragraph (b) of this section, provided this option is only available to an applicant that imposes uniform user charges for similar classes of service throughout their service area. Reasonable average annual cost to the applicant is defined as that which is not less than existing prevailing costs in communities, being served by an established system, having similar economic conditions.

(6) The median income in the applicant community or those reference communities used in comparing the proposed system with similar systems will be determined by the FmHA District Director as follows:

(i) The median income will be determined from the U.S. Department of Commerce, Bureau of the Census, Publication PC (1)–C series or from reliably extracted unpublished Bureau of Census data for individual enumeration districts; or

(ii) For those projects where the FmHA District Director has reason to believe that the census data is not an accurate representation of the median income within the area to be served, the District Director may determine the median income taking into consideration the following:

(A) Data from responsible public or private sources.

(B) The District Director's knowledge of the community based on available FmHA data gained through individual loans.

(C) The results of a survey conducted by the applicant.

(D) By using a combination of the above.

(7) Preliminary engineering reports and suggested operating budgets included herein will be prepared without taking a grant into consideration.

§ 1942.357 Application review and approval.

(a) When an FmHA loan and grant are being processed simultaneously, the application review and approval procedures outlined in § 1942.5 of Subpart A of Part 1942 will be followed. Grants will be approved in accordance with this Instruction and FmHA Instruction 1901–A which is available in any FmHA Office. When a grant only (no FmHA loan) is being made, only

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those provisions will apply which are necessary to assure:

(1) That the proposed development is completed in accordance with approved plans and specifications.

(2) That grant funds are expended for authorized purposes.

(3) That the terms of the grant agreement are complied with.

(b) Each letter of conditions involving a grant will contain the following:

(1) An item which reads:

"You shall execute the attached Form FmHA 1942–31, 'Association Water or Sewer System Grant Agreement.' "

(2) All items contained in § 1942.5 (a) (1) of Subpart A of Part 1942 applicable to the grant funding.

(3) Other relative requirements.

§ 1942.358 Preparation of appraisal reports.

When the grant approval official requires an appraisal, Form FmHA 442–10, "Appraisal Report—Water and Waste Disposal System," with appropriate supplements may be used. Appraisal reports will be prepared by the FmHA engineer or, if desired by the grant approval official, another qualified appraiser.

§ 1942.359 Borrower contracts.

The requirements of § 1942.17 (1) and (3) of Subpart A of Part 1942 will be followed when concurring in agreements between grantees and third parties.

§ 1942.360 Grant approval and obligating funds.

(a) FmHA State Directors are authorized to approve grants being made in accordance with this Subpart and Exhibit B of FmHA Instruction 1901–A which is available in any FmHA Office.

(b) State Directors may obligate funds including Regional Commission grant funds when they are available, in accordance with § 1942.5 (d) of Subpart A of Part 1942.

§ 1942.361 Preparation for grant closing.

Section 1942.6 of Subpart A of Part 1942 will be followed when preparing for grant closing.

§1942.362 Grant closing and delivery of funds.

(a) Grants will be closed in accordance with instructions received from the Office of the General Counsel (OGC). FmHA policy is not to disburse grant funds from the Treasury until they are actually needed by the applicant. Borrower funds will be disbursed before the disbursal of any FmHA grant funds.

(1) FmHA loan funds will be disbursed before the disbursal of any FmHA grant funds except when:

(i) Interim financing of the total FmHA loan amount is arranged,

(ii) All interim funds have been disbursed, and

(iii) FmHA grant funds are needed before the FmHA loan can be closed.

(2) The FmHA loan should be closed as soon as possible after the disbursal of all interim funds; however, the loan should be closed no later than construction completion. If grant funds are available from other agencies and are transferred to the Finance Office for disbursement by FmHA, these grant funds shall be disbursed in accordance with the agreement governing such agencies' participation in the grant. Any grant funds remaining will be handled in accordance with Section 1942.17 (p) (6) of Appendix A of FmHA Instruction 1942–A.

(b) When FmHA is not making a loan, FmHA grant funds will be disbursed by using multiple advances in accordance with § 1942.17 (p) (2) of Subpart A of Part 1942.

(c) Form FmHA 1942–31 will be completed and executed in accordance with the requirements of approval and closing instructions. Both District Directors and State Directors are authorized to sign the grant agreement on behalf of FmHA. For grants that supplement FmHA loan funds, the grant should be closed simultaneously with the closing of the loan. However, when grant funds will be disbursed before loan closing as provided for in paragraph (a) (1) of this section, the grant will be closed not later than the delivery date of the first advance of grant funds. The grant will be considered closed when Form FmHA 1942–31 has been properly executed. Incorporated as a part of this regulation is Form FmHA 1942–31 which appears as Exhibit C in the **Federal Register**.

§ 1942.363 Planning and performing development.

Planning and performing development will be handled in accordance with §§ 1942.9 and 1942.18 of Subpart A of Part 1942.

§ 1942.364 Actions subsequent to loan closing.

Section 1942.8 of Subpart A of Part 1942 will be followed for water and waste disposal development grants.

§ 1942.365 Grant servicing.

Grants will be serviced in accordance with paragraph XIV of FmHA Instruction 451.5.

§ 1942.366 Grant cancellation.

The District Director or State Director may prepare and execute Form FmHA 440–10, "Cancellation of Loan or Grant Check and/or Obligation," in accordance with the Forms Manual Insert. If the docket has been forwarded to OGC, that office will be notified of the cancellation by a copy of Form FmHA 440–10. The borrower's attorney and engineer, if any, should be notified of the cancellation. The borrower's attorney and engineer may be provided with a copy of the notification to the applicant.

§ 1942.367 Subsequent grants.

Subsequent grants will be processed in accordance with this Subpart.

§ 1942.368 Regional commission grants.

Grants are sometimes made by regional commissions for projects eligible for FmHA assistance. FmHA has agreed to administer such funds in a manner similar to FmHA assistance.

(a) When FmHA has funds in the project, no charge will be made for administering commission funds.

(b) When FmHA has neither loan nor grant funds in the project, an administrative charge will be made pursuant to the Economy Act of 1932 (31 U.S.C. 686). A fee of five percent (5 percent) of the first $50,000 of a regional commission grant and one percent (1 percent) of any amount over $50,000 will be paid FmHA by the commission.

(1) Appalachian Regional Commission. The attached Exhibit A will be followed in determining the responsibilities of FmHA. The Federal Cochairman and the State Director will provide each other with the necessary notification and certification.

(2) Other regional commissions. Title V of the Public Works and Economic Development Act of 1965 authorizes other commissions similar to the Appalachian Regional Commission. The attached Exhibit B will be used to develop a project management agreement between FmHA and the commission separately for each project. The agreement should be prepared by the FmHA State Director as soon as notification is received that a commission grant will be made and the amount is confirmed.

(c) Regional commission grants should be obligated as soon as possible in accordance with § 1942.5(d) of Subpart A of Part 1942 and regional commission grants will be obtained from the Finance Office in the same manner as FmHA funds are obtained.

§ 1942.369 Management assistance.

Grant recipients will be supervised to the extent necessary to assure that facilities are constructed in accordance with approved plans and specifications to assure that funds are expended for approved purposes.

§ 1942.370 State supplements and guides.

This Subpart may be supplemented by State Supplements and guides in accordance with § 1942.16 of Subpart A of 1942.

§ 1942.371 Delegation of authority.

The State Director is responsible for implementing the authorities contained in this Subpart and may redelegate such authority to appropriate FmHA employees.

§ 1942.372 Grant aid information.

Appropriate action should be taken in accordance with Subpart J of Part 1901.

§§ 1942.373–1942.400 [Reserved]

EXHIBIT A

Memorandum of Agreement Between the Federal Cochairman of the Appalachian Regional Commission and the Administrator of the Farmers Home Administration

Part I

Background and Purpose

1.1 The Appalachian Regional Development Act of 1965 (hereinafter also styled the Appalachian Act or ARDA) authorizes a special program to assist the Appalachian Region to meet its special problems and to promote its economic development. Section 214 of the Appalachian Act authorizes, among other assistance, grants for all or any part of the basic Federal contribution to projects under certain Federal grant-in-aid programs upon certain conditions and, in addition, authorizes supplemental grants to basic grants under such Federal grant-in-aid programs; *provided* that in no case shall the total Federal grant be for more than 80 percent of the project cost.

1.2 Section 306(a) of the Consolidated Farm and Rural Development Act (CFRDA) (7 USC 1926) authorizes Farmers Home Administration to make grants for up to 75 percent of the cost of water and waste facility projects. Section 310B of the CFRDA (7 USC 1932) authorizes Farmers Home Administration to make grants (not to exceed $50 million annually) to public bodies for measures designed to facilitate development of private business enterprises including the development, construction or acquisition of land, buildings, plants, equipment, access streets and roads, parking areas, utility extensions, necessary water supply and waste disposal facilities, refinancing, services and fees.

1.3 The purpose of this agreement, between the Federal Cochairman of the Appalachian Regional Commission (ARC) and the Administrator of the Farmers Home Administration (FmHA), is to establish procedures, terms and conditions to facilitate cooperation between the Commission and FmHA. Under these procedures, terms, and conditions ARC will approve grant assistance pursuant to the general provisions and procedures in Sections 214, 223 and 303 of the Appalachian Regional Development Act and will transfer funds therefor to FmHA and FmHA will award, administer, monitor and report upon such grants.

1.4 This agreement is made in furtherance of the responsibilities of the ARC Federal Cochairman under Section 104 of the ARDA and authorized under Section 106(7) of the ARDA which authorizes the ARC to enter into and perform such cooperative agreements, as may be necessary to carry out its functions.

Part II

General Provisions for Transfer of Funds for Use for Projects Approved Under the Appalachian Regional Development Act, Reporting Requirements and Administrative Expenses

2.1 The Federal Cochairman, subject to such conditions and limitations as he or she may prescribe, will from time to time transfer on SF 1151, NonExpenditure Transfer Authorizations, funds to FmHA for the award of grants under Section 214 of the Act approved by the Appalachian Regional Commission pursuant to the provisions and procedures of Section 223, through the framework authority of the CFRDA. The Federal Cochairman will likewise transfer funds for the reasonable administrative expenses of FmHA incident to special basic grants approved under this Act (see Part IV). The Federal Cochairman may withdraw the unobligated balances of any funds transferred to FmHA pursuant to this agreement, or may direct a transfer of any such balances, in whole or in part, from one program account to another.

2.2 It is understood that, notwithstanding the provisions of any other laws, Appalachian assistance may be provided up to the levels of Federal participation authorized in ARDA Section 214, as set forth in this section. ARDA Section 214 provides authority for grants of Federal financial assistance under the Appalachian Act to supplement grant assistance under other Federal grant-in-aid programs including the CFRDA. This assistance can be of two types:

(1) To supplement such Federal grants by providing Appalachian Act funds to add on to such other Federal grant thereby increasing the Federal contribution above the percentage of Federal share authorized for such grant under such basic program; or

(2) Where sufficient funds are not available under a qualifying Federal grant program, to provide Appalachian Act funds to be used for all or part of the basic (or "first dollar") grants of Federal financial assistance under such program.

In either case the total Federal contribution for projects assisted under Section 214 is limited to 80 percent of total project costs.

2.3 The Commission will inform FmHA in writing of each project to be assisted; the amount approved for each, the costs and funding plan on which it premised its approval; and any specific terms, conditions, and limitations thereon not otherwise provided for in this agreement.

2.4 For each project involving transferred funds, FmHA will incorporate, in the grant agreement or other appropriate implementing document, appropriate provisions as necessary to carry out this agreement, to insure compliance with applicable Federal laws and Commission regulations, and to effectuate grant terms and conditions approved by ARC. (See paragraph 3.6(5), Part III of this agreement.) FmHA will also incorporate in each grant agreement or other implementing document, a copy of the applicable Commission approval of Appalachian Act funding and any special conditions thereof and transmit same to the grantee.

2.5 FmHA will furnish to the Commission (a) a copy of all executed grant agreements (or other implementing documents) and amendments thereto, for each project involving transferred funds; (b) copies of such information, data documents, or other materials pertaining to projects as the Commission may require; (c) information on any unusual problems (including degree of enforcement of the Davis-Bacon Act) encountered and any ameliorative action taken; (d) a final report on the costs of each program or project, in sufficient detail to permit a reasonable review of the expenditures and which includes final total eligible project costs, total ineligible project costs, and the amounts of FmHA, ARC and non-Federal funds indicating source, i.e., State or local, used to meet such project costs, as well as FmHA certification that the reported costs are final and in accord with agency program and accounting records; and (e) progress reports, including the following:

(1) Monthly Report. SF 133 "Report on Budget Execution" (OMB Circular A–34).

(2) *Quarterly Report* on the status of the funds transferred to FmHA by ARC, providing for each project the following information:

- Both FmHA and ARC project identification number
- Location of project
- Amount of ARC funds approved by ARC for the project
- Cumulative obligations
- Unobligated balance
- Unliquidated obligation
- Accrual expenditures
- Disbursements

This report shall also provide totals of the above information items so as to show current fiscal year data consistent with amounts reported on SF–133 by FmHA. The information in the report shall be provided in the form and content specified in Attachment A to this Memorandum of Agreement.

(3) *Annual Reports*

(i) Copy of SF–220, "Statement of Financial Conditions," as required by Treasury Circular No. 966, due by October 31, for the year ending September 30.

(ii) Treasury TFS Form 2108, "Statement of Unexpended Balances of Appropriations and Funds," as required by Circular No. 965, due by October 31 for the year ending September 30.

(iii) Copy of "Report on Federal Grants-in-Aid to States," as required by Chapter 7000 of Treasury Fiscal Requirements Manual, due by November 15 for the year ending September 30. (Treasury Circular 1014)

2.6 The Commission may revoke or revise its approval of any program or project if the work intended to be undertaken is not started or placed under contract within 18 months after the date of the grant agreement or contract by FmHA.

2.7 Payments by FmHA involving transferred funds will be made in accordance with this agreement and any specific terms, conditions and limitations prescribed by the Appalachian Regional Commission.

2.8 Subject to paragraphs 2.9 and 2.10, each disbursement of funds for a project receiving assistance from more than one Federal source will be deemed to be a proportionate disbursement from each source.

2.9 (1)(a) Section 224(c) of the Appalachian Act provides that "Funds may be provided for programs and projects in a State under this Act only if the Commission determines that the level of Federal and State financial assistance under Acts other than this Act or the same type of programs or projects in that portion of the State within the region, will not be diminished in order to substitute funds authorized by this Act." (b) Further, Section 224(a)(3) requires that the ARC consider the financial resources available to the State or political subdivisions or instrumentalities thereof which seek to undertake the project (i.e., the relative ability to pay).

(2) Therefore, whenever there is, or it appears that there will be, any change in project funding cost or the project funding plan including, but not limited to, underrun cases, FmHA will inform the Commission promptly of any such change or projected change. Also because of these same provisions, whenever there is such a change, the Commission may, as a result, approve an appropriate increase or decrease in the amount of transferred funds available for such project. Generally, unless the Commission specifically provides otherwise, the provisions in 2.10 shall apply to the cases specified therein.

2.10 If the actual eligible project costs are less than the estimated costs on which the Commission based its approval of a supplemental or special basic grant (or if the non-214 basic federal grant(s) or the non-federal funds are increased for a project without any change in eligible project costs), the amount of Section 214 funds available for the project shall be reduced to the difference between the actual eligible costs and the sum of (i) the non-214 basic grant(s) and (ii) the non-federal funds shown in the approved Section 214 application unless, because of changed circumstances, the Commission directs otherwise.

Part III

Provisions Relating to Procedure for Review and Processing of Grant Applications and Construction Management

3.1 Applications for grant assistance under Section 214 of the Appalachian Regional Development Act (ARDA) will be submitted through the appropriate State Member to the Appalachian Regional Commission (ARC) and to the appropriate state office of the Farmers Home Administration (FmHA).

Where ARDA funds will be requested under the framework of the CFRDA, ARC and FmHA will receive applications for such grant assistance. Such applications will be made on the FmHA forms appropriate to such project and on ARC Form 1. Such applications shall include, but not be limited to:

(1) Description and purpose of the project;

(2) The amount of the basic grant (and the amount of the supplemental grant, where applicable) being requested;

(3) The total project cost;

(4) The amount and source of the non-Federal share, including the method of obtaining such funds; and

(5) Whether an application for the proposed project has been filed with any Federal grant-in-aid agency, the date of filing, the identification of the agency and the current status of the application.

Such applications will be processed in general accord with the applicable procedural regulations of FmHA and ARC, unless otherwise provided in accordance with Section 223 of the ARDA.

3.2 If a project proposed to the Commission appears to qualify for funding under the ARDA and CDRDA, the Commission will request in writing that FmHA provide the following:

(A) For all Grants:

A certification that the level of FmHA financial assistance which would otherwise be available for projects in that portion of the State within the Appalachian Region will not be diminished in order to substitute ARC funds; and

(B) *For Supplemental Grants—in addition to the requirement above:*

A Notification that FmHA will approve a CFRDA grant and certification of the amount of FmHA assistance to be provided and the portion of eligible project costs which that assistance will meet; and

(C) *For Special Basic Grants—in addition to the requirement of (A) above:*

(1) a certification that the project is not incompatible with the statutory provisions and objectives of the (CFRDA);

(2) a certification that there are no FmHA funds available for the projects within the current fiscal year allocations and priorities; and

(3) advice as to when FmHA grant funds are likely to or will become available for such project under its funding program.

(D) Should FmHA fail to give the certification in (C)(1) above, FmHA shall state specifically the reasons therefor.

3.3 The FmHA State office and the Commission will arrange to keep each other informed of the progress of their respective processing, will exchange appropriate information, and will advise each other of any apparent, significant problems which may cause delay in processing or which may preclude, delay or affect approval.

3.4 In accordance with Section 223 of the ARDA, the ARC will review the project application to determine that the project:

(1) meets the applicable criteria under Section 224 of the ARDA;

(2) meets the requirements of the development planning process under Section 225 of the ARDA;

(3) will contribute to the development of the Region; and

(4) is well designed to meet the goals and objectives established by the Commission for the development of the Region.

3.5 After consideration of the reviews conducted by FmHA and ARC, the ARC Federal Cochairman will approve grants under Section 214 and advise FmHA in writing as provided in paragraph 2.3 of Part II. Announcement of approval will be made by ARC at the time of this determination by the ARC Federal Cochairman.

3.6 The Administrator of the FmHA or his delegate shall make grant awards after ARC approval under paragraph 3.5 of this Part, and accept responsibility for:

(1) The payment of grant funds;

(2) The full and accurate reporting of grant expenditures by grantees;

(3) Provision of complete and accurate fiscal reports to the ARC. This shall be accomplished in accordance with grant terms and conditions jointly determined by FmHA and ARC;

(4) General grant administration; and

(5) The ensurance of compliance with all applicable laws, including, but not limited to, Title VI of the Civil Rights Act of 1964, including regulations in 15 CFR, Subtitle A, Part 8; the National Environmental Protection Act; Section 112 of the Public Works and Economic Development Act of 1971 (42 U.S.C. 3123), the Davis-Bacon Act (40 U.S.C. 27a *et seq.*); Parts II, III, IV of Executive Order 11246, regulations of the Department of Labor (41 CFR, Chapter 60); Sections 224(b), 302(e) and 402 of the Appalachian Act; and ARC Code Section 200C–1 regarding employment of local labor, and any other applicable Federal laws and regulations. Copies of Sections 224(b), 302 and 402 of the ARDA and of ARC Code Section 200C–1 are included as Attachment A to this agreement.

3.7 FmHA shall take all practical steps to insure that ARC's grants (in the combined amount of the basic and supplementary grants, where applicable) are obligated within the fiscal year in which they are approved.

3.8 FmHA will administer the projects, after the grants are made, in general accordance with its procedural regulations unless otherwise provided in accordance with Section 223 of the ARDA.

3.9 (A) The forms and format for the documents shall conform to the requirements in FmHA regulations. Generally, the following items shall be included:

(1) Contract documents

(2) Specifications

(3) Plans

(B) FmHA will approve the plans and specifications.

(C) FmHA will obtain a nonpollution certificate from the appropriate State agency for 306(a) type of assistance.

(D) FmHA will make periodic inspections.

(E) Contract change orders will not become effective until approved by FmHA.

(F) Final inspection will be conducted by FmHA.

Part IV

Administrative Expenses

(A) It is agreed that in cases where there are no FmHA funds involved, the total costs of services to be performed on each project by FmHA will be five percent of the ARC grant up to $50,000 and an additional one percent of any amount over the first $50,000 of the Commission grant.

(B) All funds for grant and administrative costs will be provided to FmHA by SF 1151.

(C) FmHA shall report administrative expenses in the manner similar to that use in Attachment B.

Dated: March 8, 1979.

Appalachian Regional Commission.

Robert W. Scott,

Federal Cochairman.

Dated: February 15, 1979.

Farmers Home Administration.

Gordon Cavanaugh,

Administrator.

§ 224 *Program development criteria.*

(b) No financial assistance shall be authorized under this Act to be used (1) to assist establishements relocating from one area to another; (2) to finance the cost of industrial plants, commercial facilities, machinery, working capital, or other industrial facilities or to enable plant subcontractors to undertake work theretofore performed in another area by other subcontractors or contractors; (3) to finance the cost of facilities for the generation, transmission, or distribution of electric energy; or (4) to finance the cost of facilities for the production, transmission, or distribution of gas (natural, manufactured, or mixed).

(c) Funds may be provided for programs and projects in a State under this Act only if the Commission determines that the level of Federal and State financial assistance under Acts other than this Act for the same type of programs or projects in that portion of the State within the region, will not be diminished in order to substitute funds authorized by this Act.

§ 302. *Grants for administrative expenses of local development districts and for research and demonstration projects.*

(a) The President is authorized—

(1) to make grants to the Commission for administrative expenses, including the development of areawide plans or action programs and technical assistance activities, of local development districts, but (A) the amount of any such grant shall not exceed 75 per centum of such expenses, (B) no grants for administrative expenses shall be made for a State agency certified as a local development district for a period of excess of three years beginning on the date the initial grant is made for such development district, and (C) the local development district contributions for administrative expenses may be in cash or in kind, fairly evaluated, including but not limited to space, equipment, and services;

(2) to make grants to the Commission for assistance to States for a period not in excess of two years to strengthen the State development planning process for the region and the coordination of State planning under this Act, the Public Works and Economic Development Act of 1965, as amended, and other Federal and State programs; and

(3) to make grants to the Commission for investigation, research, studies, evaluations, and assessments of needs, potentials, or attainments of the people of the region, technical assistance, training programs, demonstrations, and the construction of necessary facilities incident to such activities, which will further the purposes of this Act. Grant funds may be provided entirely from appropriations to carry out this section or in combination with funds available under other Federal or Federal grant-in-aid programs or from any other source. Notwithstanding any provision of law limiting the Federal share in any such other program, funds appropriated to carry out this section may be used to increase such Federal share, as the Commission determines appropriate.

(b)(1) Notwithstanding the provisions of section 224(b) (2), (3), or (4), the Commission may provide assistance under this section for demonstrations of enterprise development, including site acquisition or development where necessary for the feasibility of the project, in connection with the development of the region's energy resources and the development and stimulation of indigenous arts and crafts of the region. No more than $3,000,000 shall be obligated for such energy resource related demonstrations in any fiscal year, and no more than $2,500,000 shall be obligated for such indigenous arts and crafts demonstrations.

(2) In carrying out the purposes of this Act, including section 2(b), and in implementing this section, the Federal Energy Administration, the Energy Research and Development Administration, the Environmental Protection Agency, and other Federal agencies shall cooperate with the Commission and shall provide such assistance as the Federal Cochairman may request.

(3) The Commission shall conduct a study and report on the status of Appalachian migrants in the destinations to which they have migrated, current migration patterns and implications, and the impact which the Commission program has had, and the potential for such impact, on out-migration and the welfare of Appalachian migrants. The Commission is authorized to conduct pilot projects and demonstrations within the region in connection with such study.

(4) The Commission shall conduct a study of physical hazards which are constraints on land use in the Appalachian region (with emphasis on mudslides, landslides, sink holes, and subsidence) and the risks associated with such hazards. To the extent practicable, such study shall identify high-risk hazard areas throughout the Appalachian region. The Commission shall submit its report on such study together with recommendations for means to remove or avoid such constraints on land use, to the Congress not later than twenty-four months after the enactment of this paragraph.

(c)(1) The Commission shall, as required by the President, maintain accurate and complete records of transactions and activities financed with Federal funds and report thereon to the President. The records of the Commission shall be available for audit with respect to such grants by the President and the Comptroller General or their duly authorized representatives.

(2) Recipients of Federal assistance under the provisions of this section shall, as required by the Commission, maintain accurate and complete records of transactions and activities financed with Federal funds and report thereon to the Commission. Such records shall be available for audit by the President, the Comptroller General, and the Commission or their duly authorized representatives.

(d) Not to exceed $11,000,000 of the funds authorized in section 401 of this Act for the two-fiscal-year period ending June 30, 1960, shall be available to carry out this section. Not to exceed $3,000,000 of such authorization shall be available for the purposes of subsection (b).

(e) No part of any appropriated funds may be expended pursuant to authorization given by this Act involving any scientific or technological research or development activity unless such expenditure is conditioned upon provisions effective to insure that all information, copyrights, uses, processes, patents, and other developments resulting from that activity will be made freely available to the general public. Nothing contained in this subsection shall deprive the owner of any background patent relating to any such activity, without his consent, of any right which that owner may have under that patent. Whenever any information, copyright, use, process, patent or development resulting from any such research or development activity conducted in whole or in part with appropriated funds expended under authorization of this Act is withheld or disposed of by any person, organization, or agency in contravention of the provisions of this subsection, the Attorney General shall institute, upon his own motion or upon request made by any person having knowledge of pertinent facts, an action for the enforcement of the provisions of this subsection in the district court of the United States for any judicial district in which any defendant resides, is found, or has a place of business. Such court shall have jurisdiction to hear and determine such action, and to enter therein such orders and decrees as it shall determine to be required to carry into effect fully the provisions of this subsection. Process of the district court for any judicial district in any action instituted under this subsection may be served in any other judicial district of the United States by the United States marshal thereof. Whenever it appears to the court in which any such action is pending that other parties should be brought before the court in such action, the court may cause such other parties to be summoned from any judicial district of the United States.

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§ 402. *Applicable labor standards.*

All laborers and mechanics employed by contractors or subcontractors in the construction, alteration, or repair, including painting and decorating, of projects, buildings, and works which are financially assisted through the Federal funds authorized under this Act, shall be paid wages at rates not less than those prevailing on similar construction in the locality as determined by the Secretary of Labor in accordance with the Davis-Bacon Act, as amended. The Secretary of Labor shall have with respect to such labor standards, the authority and functions set forth in Reorganization Plan Numbered 14 of 1950, and section 2 of the Act of June 13, 1934, as amended.

Chapter 200C Other Provisions of General Application

Section 200C–1 Recommended Policy on Use of Local Labor.

Section 200C–1.1 Federal Agencies. The Commission recommends that heads of Federal Departments and Agencies administering programs of construction with the aid of funds authorized by or in connection with the Appalachian Regional Development Act of 1965 adopt regulations to assure the use of local labor, to the maximum extent practicable, in the implementation of such programs. (Res. 31)

Section 200C–1.2 Contractors. The Commission recommends that—

(1) Every contractor or subcontractor undertaking to do work on any project assisted under the Act which is or reasonably may be done as onsite work, in carrying out such contract work shall give preference to qualified persons who regularly reside in the labor area as designated by the United States Department of Labor wherein such project is situated, or the subregion, or the Appalachian counties of the State wherein such project is situated, except:

(a) To the extent that qualified persons regularly residing in the area are not available;

(b) For the reasonable needs of any such contractor or subcontractor, to employ supervisory or specially experienced individuals necessary to assure an efficient execution of the contract; or

(c) For the obligation of any such contractor or subcontractor to offer employment to present or former employees as the result of a lawful collective bargaining contract, *Provided* that in no event shall the number of non-resident persons employed under this subparagraph (c) exceed 20 percent of the total number of employees employed by such contractor and his subcontractors on such projects.

Every such contractor and subcontractor shall furnish the appropriate United States Employment Service offices with a list of all positions for which it may from time to time require laborers, mechanics and other employees; and

(3) Every such contractor and subcontractor shall be required to furnish periodic reports to the contracting agency on the extent to which local labor has been used in carrying out such contract work. (Res. 31)

Exhibit A

Attachment B.—*U.S. Department of Agriculture; Farmers Home Administration—Finance Office*

Attachment To Accompany Standard Form 133, September 30, 1978,

Appropriation: 12–11x0090—Appalachian Regional Development Program, Executive (Transfer to Agriculture)

State and Location	ARC No.	Paid	Unpaid	Obligation
Section 214				
Alabama:				
Athens	6373		$150,000	$150,000
Brent	3743			−2,601
Central	5833	$256,000		256,000
Colbert	5366		500,000	
East Lauderdale	3985	367,000		
North East Alabama	4061	513,000	72,000	
Georgia:				
Barrow	5726		89,000	
Chatsworth	3518		258,000	
Chickamauga	5836		450,000	450,000
Lavonia	6182		247,000	247,000
Pettit Creek	4810		300,000	
Union	5718		104,003	
Winder	4774	90,000		
Kentucky:				
Abbott—Little	6389		150,000	150,000
Adair	5625	271,600	378,400	
Bath	4973	105,000		
Beattyville	3706	80,000	100,000	
Benham	4064	260,000		
Booneville	6108		181,000	181,000
Campton	3269A&B	2,900		
David	4892	56,000		
			19,000	
East Clark	4807		275,000	
Fivco	4152		238,000	
Flatwoods	4908		179,500	
Garrard	5585		100,000	
Green Taylor	6253		257,000	257,000
Greenup	3824	235,000	45,000	
Harlan	4893		6,420	
Hindman	5126	123,911	72,089	
Industrial Utility	3977	40,000	50,000	
Jackson	5797		350,000	350,000
Liberty	3976	200,000		

Attachment B.—*U.S. Department of Agriculture; Farmers Home Administration—Finance Office*

State and Location	ARC No.	Paid	Unpaid	Obligation
Section 214—Continued				
London	6406		300,000	300,000
Manchester-Goose Rock	4910		220,000	
Monroe	5389		160,000	
Morehead	6407		510,600	510,000
Morris Creek	3428	21,000	29,000	
Northern Rockcastle	5560		64,000	
Quicksand	3720	16,330	36,802	
Rockcastle	3656		139,000	
Rowan	4911	42,000		
Russell	4962	135,000	20,000	
Sandy Hook	4293	310,000	187,600	
Shelby	5134		120,000	
Water Gap-Bull Creek	5459		110,000	
Western Fleming	6175		217,500	217,500
Maryland:				
Corriganville	6116		523,400	523,400
Eckhart	5340		230,000	
Friendville	2850		39,200	
Frostburg	5099		406,800	
Gorman	5640		85,500	
Kitzmiller	5638		253,000	
Mississippi:				
Alcorn County	6068		115,000	115,000
Baldwyn	4880		31,800	
Blue Mountain	6070		150,000	150,000
Booneville	4879		88,200	
Byhalia	5388 A&B	100,000	56,000	
Clay	6444		60,000	60,000
ECRU Pontotoc County	6045		41,000	41,000
	4001			
Golden Triangle:				
Lowndes			2	
Winston			−1	
Mantachie	5378		187,000	
Marshall	5409		153,346	
Northeast Collection and Disposal System	4046		38	
Okolona	6047		110,000	110,000
Oktibbeha	6445		44,000	44,000
Potts	5460		138,000	
Rienzi	4782	122,000	29,100	
Saltillo	5377	40,000	72,000	
Short-Coleman	4881		300,000	
Tippah	5030		200,000	50,000
Tishomingo	4781	180,000		
Tishomingo	6089		80,000	80,000
Tremont	6095		105,000	105,000
New York				
Cattaraugus	4281		225,160	
Cortlandville	5004	30,000		
Erwin Shell	6173		152,000	152,000
Franklinville	4914		120,000	
Hobart	6222		109,425	109,425
Hornell	5620	376,000		
Hornell	5940		400,000	400,000
Industrial waste	5663		240,000	
Kirkwood	5324	135,000		
Marathon	4283 B		67,434	
Port Dickinson	5511	104,800		
Salamanca	5006		395,000	
Schuyler	4721		15,000	
Sidney	5442		438,120	
Tompkins	3010		20,048	
Waverly	4951		400,000	
Watkins Glen	6080		48,000	48,000
Wayland	3724			−48,000
North Carolina:				
Arlington	3203	10,500	42,930	
Banner Elk	5290		311,000	
Blowing	4506	300,000		
Buncome County	5295		350,000	
Burke	4506		300,000	
Hudson	5960		45,000	45,000
Morganton	5958		264,800	264,800
Newland	4889A&B		205,000	
Salem	4513	325,000		
Valdese	5289		324,000	
Walnut Cove	3205		106,426	
Yadinville	3204	48,867	28,803	
Ohio:				
Bowerston	6119		339,000	33,000
Byesville-Cuernsey	6197		150,000	150,000
Carrollton	3021	25,000		
Greenfield—phase I	4275		200,000	
Muskingum County	4260		125,000	
North Zanesville	4246		125,000	
Perry	3741		300,000	
Village of Zoar	4563		139,000	
Washington County	4329	107,520		

Attachment B.—*U.S. Department of Agriculture; Farmers Home Administration—Finance Office*

State and Location	ARC No.	Paid	Unpaid	Obligation
Section 214—Continued				
Pennsylvania:				
Barkeyville Borough	6023		398,400	398,400
Bedford	3637		35,000	
Berlin	6013		370,000	370,000
Curryville	6103		19,000	19,000
Indiana	5489		330,000	330,000
Lewis Run	4718	346,750	181,250	
Reynoldsville	4775		225,000	
Somerset Borough	5695		181,100	
Woodland	6029		206,955	206,955
South Carolina:				
Enoree	5738	51,000		
Greer	5724		455,200	
Honea Path	6428		143,500	143,500
Walhalla	6431		480,000	480,000
Tennessee:				
Alcoa/Blount	5611		500,000	
Anderson County	4248	1,000,000		
Bean Station	6102		106,590	106,590
Big Creek	6123		261,300	261,300
Bradley	4862		490,000	
Bradley Industrial Park	6421		490,000	490,000
Bristol	5702		500,000	
Bristol	4006		625,000	
City of Clinton	4175	240,000		
Clay/Jackson	5097	98,000		
Cleveland	6211		146,390	146,390
Clinton Community Center	4891	240,000		
Clinton Wastewater	6148		146,000	146,000
Clinton Water	6146		272,000	272,000
Coffee County	4182		10	
Collegedale	5652		59,500	
Crossville	3480	150,000	50,000	
Decatur	6122		550,000	550,000
Dixie Lee	6101		143,500	143,500
Franklin Industrial	4858		522,000	
Gatlinburg	5655	395,500		
Greene County	6300		159,000	159,000
Greenville	6297		132,500	132,500
Greenville	5653		160,100	
Hamilton	5819		91,200	
Hawkins County	6100		150,000	150,000
Hermitage Springs	5824		86,250	
Jackson Industrial	5825	16,000	28,080	
Jasper	5827		500,000	
Johnson City	5826		500,000	
Johnson City, Phase II	3952		363,900	
Kingsport	6299		500,000	500,000
Knox County, Phase II	5613	199,500	380,500	
Knox County, Phase III	6150		500,000	500,000
Lafollette	6151		501,000	501,000
Lenior City, Phase II	4907		213,400	
Macon County, Part B	4913	15,000		
Madisonville	6298		400,000	400,000
Madisonville	5654	260,000		
McMinnville	6126		500,000	500,000
Morristown-Water	4906	196,200		
Mountain City	3969	258,000		
North Anderson	5701		720,000	
Oliver Springs	5822	20,000	204,000	
Pickett County	6137		463,000	463,000
Pikeville Industrial	4258	105,000		
Polk County	5704		174,245	
Rockwood Library	5890		159,100	
Rockwood Water	6147		500,000	500,000
Rutledge	5699		382,300	
Sevierville	6210		291,500	291,500
Smithville	5703		500,000	
Sneedville	4895	100,000		
South Carthage Sewer	6149		500,000	500,000
Sparta Sewer	4896		420,160	
Tri-City Airport	5612		200,000	200,000
Tullahoma Industrial	5823	59,500		
U of Tennessee Space Institute:				
Research	4193		94,200	
Water Storage	4898	26,100		
Union County	5705		281,000	
Valley Industrial	5706		276,000	
Washington	2000		54,000	
West Hamblen County	6138		500,000	500,000
Virginia:				
Bath	5773		101,300	
Big Stone	6167		1,020,200	1,020,200
Bluefield	4637		47,856	
Botetourt County	3895		350,000	
Buchanan County	5774		750,000	
Buchanan County	3897 A&B		2,416,400	
Cumberland	6170		120,200	120,200
Duffield	5964		776,377	776,377

Attachment B.—*U.S. Department of Agriculture; Farmers Home Administration—Finance Office*

State and Location	ARC No.	Paid	Unpaid	Obligation
Section 214—Continued				
Fincastle	4850	80,905	50,010	
Floyd County landfill	6384		127,300	127,300
Foote Mineral	4842		13,420	
Gate City	6168		208,100	208,100
Giles	5781		65,200	
Highland County	4841	107,000		
Hillsville	6169		259,700	259,700
Ivanhoe	6005		20,000	20,000
John Flannagan	3895		322,500	
Norton-Wise	4225		283,000	
Pound	2152		75,000	
Pulaski County	5775	743,000	257,000	
Pulaski County	4838	272,800		
Rural Retreat	6166		76,900	76,900
Troutville	5779		119,900	
Washington County	6385		958,400	958,400
West Virginia:				
Chestnut Ridge	4509	15,000		
Clay Battelle	5285		189,000	
Elkins Road	6180		522,000	522,000
Fenwick Mountain	5313	137,000	100,000	100,000
Gauley River	6192		143,500	143,500
Hamrick	4364	24,500		
Hodgesville	5314		122,000	
Masontown	4361		112,000	
Middle Bourne	6163		455,000	455,000
Muddlety-Glade	6194		446,000	446,000
Page-Kincaid	6158		582,000	582,000
Parsons	3103		194,000	
Paw Paw	4878		84,500	
Wilderness	5279		320,000	
Williamson	6000		519,000	519,000
Total grants		10,217,203	47,263,997	20,950,336
Total line 4A (+)				2,641
Administrative expenses				
12-11X0090 (schedule A)				
Current year (22 projects)		$0	$92,489	$92,489
Prior year (24 projects)		84,660	19,109	−40
12-135/62051 (schedule B) current year		0	0	0
Total				
Total line 6				$21,045,426
Total line 13C			$47,375,535	
Total line 14		10,301,863		
Administrative Expenses				
Georgia: Barrow*	5726	2,890		
Kentucky: Rockcastle*	3658		1,440	
Mississippi:				
Clay	6444		2,800	2,800
Marshall*	5409	3,533		
Oktibbeha County	6445		2,200	2,200
New York:				
Erwin Shell	6173		3,520	3,520
Franklinville*	4914	3,200		
Hobart	6222		3,094	3,094
Hornell*	5620	5,780		
Hornell	5940		6,000	6,000
Industrial Waste*	5663	4,400		
Watkins Glen	6060		2,400	2,400
Ohio: Washington County*	4329	328		
Pennsylvania: Somerset Borough*	5695	3,810		
South Carolina: Greer*	5724	8,552		
Tennessee:				
Anderson County*	4248	10,000		
Bean Station	6102		3,066	3,066
Bradley	6421		6,900	6,900
Bristol*	5702		7,000	
Clay/Jackson*	5097	2,980		
Cleveland	6211		3,464	3,464
Clinton Wastewater	6148		3,480	3,480
Clinton Water	6146		4,720	4,720
Collegedale*	5652		2,595	
Cumberland County	6209		2,175	2,175
Gatlinburg*	5655	5,955		−40
Greene County	6300		3,590	3,590
Greenville	6297		3,325	3,325
Greenville*	5653	3,601		
Hamilton*	5819	2,912		
Hawkins County	6100		3,500	3,500
Johnson*	5826	7,000		
Kingsport	6299		7,000	7,000
Knox*-Phase II	5613	7,800		

a public corporation organized and operating
19— as may be modified from time to time
have purposes consistent with those

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Attachment B.—*U.S. Department of Agriculture; Farmers Home Administration—Finance Office,*

State and Location	ARC No.	Paid	Unpaid	Obligation
Administrative Expenses				
Knox-Phase III	8150		7,000	7,000
Lenoir City*-Phase II	4907		4,134	
McMinnville	8126		7,000	7,000
Rockwood Library*	5690	3,591		
Tri-City Airport	5612		4,000	4,000
Tullahoma Industrial*	5823	2,595		
Valley Industrial*	5706	4,760		
West Hamblen County	6138		7,000	7,000
Virginia:				
Bath*	5773	3,013		
Cumberland	8170		3,202	3,202
Floyd County Landfill	6384		3,273	3,273
West Virginia: Parsons*	3103		3,940	
Total		84,680	111,598	92,449

*Prior year obligations.

FmHA Instruction 1942–H Exhibit B

Project No.

Project Management Agreement Between the ———— Regional Commission and the Farmers Home Administration, Department of Agriculture Pertaining to ————, (grantee) ———— County, ————.

I Introduction

A. The ———— Regional Commission is providing a basic grant for ———— (purpose) to ———— (grantee), and the U.S. Department of Agriculture, Farmers Home Administration (FmHA) has approved and will administer that grant. The FmHA has determined that funds cannot be made available under its funding program for this fiscal year for the project although it meets all the requisites for assistance under Section 306(a) of the Consolidated Farm and Rural Development Act, as amended (7 U.S.C. 1926). In order to accomplish these purposes, the ———— Regional Commission's Federal Cochairman and the FmHA State Director hereby enter into this Memorandum of Understanding which is in accordance with 31 U.S.C. 686.

B. This agreement is intended to cover the application phase, construction phase, and final audit.

II General

A. *Project Cost.* The project costs for the purposes of this agreement shall include the costs of construction, technical services, legal services, land acquisition, permits and rights-of-way, interest during construction, and contingencies.

B. *Grant.* The ———— Regional Commission shall make a basic grant of $———— up to but not exceeding ——% of the total cost of the project. These funds will be transferred to the Treasury Account of the Farmers Home Administration by Standard Form 1151, "Nonexpenditure Transfer Authorization."

C. The undersigned FmHA State Director on behalf of FmHA, in concurring with this Project Management Agreement, hereby assures the Federal Cochairman that: 1. The estimated cost of the project is reasonable and the basic grant, with the funds to be supplied by the applicant, is, in FmHA's judgment, sufficient to complete the project.

2. The funds to be supplied by the applicant are available or FmHA is reasonably satisfied that the applicant has the capability of supplying such funds.

3. FmHA is reasonably satisfied that the facility will be properly and efficiently administered, operated, and maintained and that the applicant will provide sufficient funds to assure the successful and continuing operation of the facility.

D. The ———— (grantee) is subject to Executive Order 11246 and will be required to evidence compliance by execution of the following:

1. Form FmHA 400–1, "Equal Opportunity Agreement."

2. Form FmHA 400–4, "Nondiscrimination Agreement."

E. The ———— (grantee) shall execute assurances of nonrelocation.

III Construction Management

A. The forms and format for the documents shall conform to the requirements in FmHA Instruction 1942–A. Generally, the following items shall be included.

1. Contract Documents
2. Specifications
3. Plans

B. FmHA will approve the plans and specifications.

C. FmHA will obtain a certification of adequacy from the Federal Environmental Protection Agency.

D. FmHA will obtain a non-pollution certificate from the ———— (state) ———— (agency).

E. FmHA will make monthly inspections.

F. Contract change orders will not become effective until approved by FmHA.

G. Final inspection will be conducted by FmHA.

IV Financial Management

A. Financial Management of the project shall be according to FmHA Instruction 1942–A.

B. FmHA will provide the ———— Regional Commission with a copy of the audit report.

C. If actual costs fall below the costs on which the grant was calculated, the Federal and non-Federal shares will be reduced proportionately.

D. FmHA will conform to the financial reporting requirements for transferred funds as required by the attached copy of "Reporting of Funds Transfer by Participating Agencies."

V Compensation

Services rendered by FmHA for the processing and administration of Commission grants in cases where neither FmHA loan nor grant funds are involved shall be on a reimburseable basis. Reimbursement will be based on five percent (5%) of the amount of the grant up to $50,000 and an additional one percent (1%) of any amount over the first $50,000 of the Commission grant. The full amount of the reimbursement will be transferred to FmHA at the time the grant funds are transferred to FmHA.

VI No provisions in this agreement shall abrogate the legal requirements of administrative responsibilities as set forth in the Consolidated Farm and Rural Development Act or Section 509 of the Public Works and Economic Development Act of 1965, as amended.

For the ———— Regional Commission.

———

(name) Federal Cochairman ————, 19—.

For the Farmers Home Administration, USDA

———

(name) State Director ————, 19—.

Exhibit C

United States Department of Agriculture
Farmers Home Administration
Association Water or Sewer System Grant Agreement

This Agreement dated ————, 19—, between

———

a public corporation organized and operating under

———

(Authorizing Statute)
herein called "Grantee," and the United States of America acting through the Farmers Home Administration, Department of Agriculture, herein called "Grantor," WITNESSETH:

WHEREAS

Grantee has determined to undertake a project of acquisition, construction, enlargement, or capital improvement of a (water) (sewer) system to serve the area under its jurisdiction at an estimated cost of $———— and has duly authorized the undertaking of such project.

Grantee is able to finance not more than $———— of the development costs through revenues, charges, taxes or assessments, or funds otherwise available to Grantee resulting in a reasonable user charge.

Said sum of $———— has been committed to and by Grantee for such project development costs.

Grantor has agreed to grant the Grantee a sum not to exceed $———— or ———— percent of said development costs, whichever is the lesser, subject to the terms and conditions established by the Grantor. Provided, however, that the proportionate share of any grant funds actually advanced and not needed for grant purposes shall be returned immediately to the Grantor. The Grantor may terminate the grant in whole, or in part, at any time before the date of completion, whenever it is determined that the Grantee has failed to comply with the Conditions of the grant.

NOW, THEREFORE, In consideration of said grant by Grantor to Grantee, to be made pursuant to Section 306(a) of The Consolidated Farm and Rural Development Act for the purpose only of defraying a part not to exceed ——— percent of the development costs, as defined by applicable Farmers Home Administration instructions.

Grantee Agrees That Grantee Will:

A. Cause said project to be constructed within the total sums available to it, including said grant, in accordance with the project plans and specifications and any modifications thereof prepared by Grantee and approved by Grantor.

B. Permit periodic inspection of the construction by a representative of Grantor during construction.

C. Manage, operate and maintain the system, including this project if less than the whole of said system, continuously in an efficient and economical manner.

D. Make the services of said system available within its capacity to all persons in Grantee's service area without discrimination as to race, color, religion, sex, national origin, age, marital status, or physical or mental handicap (possess capacity to enter into legal contract for services) at reasonable charges, including assessments, taxes, or fees in accordance with a schedule of such charges, whether for one or more classes of service, adopted by resolution date ————, 19—, as may be modified from time to time by Grantee. The initial rate schedule must be approved by Grantor. Thereafter, Grantee may make such modifications to the rate system as long as the rate schedule remains reasonable and nondiscriminatory.

E. Adjust its operating costs and service charges from time to time to provide for adequate operation and maintenance, emergency repair reserves, obsolescence reserves, debt service and debt service reserves.

F. Expand its system from time to time to meet reasonably anticipated growth or service requirements in the area within its jurisdiction.

G. Provide Grantor with such periodic reports as it may require and permit periodic inspection of its operations by a representative of the Grantor.

H. To execute Form FmHA 400–1, "Equal Opportunity Agreement," and to execute Form FmHA 400–4, "Nondiscrimination Agreement," and to execute any other agreements required by Grantor which Grantee is legally authorized to execute. If any such form has been executed by Grantee as a result of a loan being made to Grantee by Grantor contemporaneously with the making of this grant, another form of the same type need not be executed in connection with this grant.

I. Upon any default under its representations or agreements set forth in this instrument, Grantee, at the option and demand of Grantor, will repay to Grantor forthwith the original principal amount of the grant stated hereinabove with the interest at the rate of 5 percentum per annum from the date of the default. Default by the Grantee will constitute termination of the grant thereby causing cancellation of Federal assistance under the grant. The provisions of this Grant Agreement may be enforced by Grantor, at its option and without regard to prior waivers by it previous defaults of Grantee, by judicial proceedings to require specific performance of the terms of this Grant Agreement or by such other proceedings in law or equity, in either Federal or State courts, as may be deemed necessary by Grantor to assure compliance with the provisions of this Grant Agreement and the laws and regulations under which this grant is made.

J. Return immediately to Grantor, as required by the regulations of Grantor, any grant funds actually advanced and not needed by Grantee for approved purposes.

K. Use the real property including land, land improvements, structures, and appurtenances thereto, for authorized purposes of the grant as long as needed.

1. Title to real property shall vest in the recipient subject to the condition that the Grantee shall use the real property for the authorized purpose of the original grant as long as needed.

2. The Grantee shall obtain approval by the Grantor agency for the use of the real property in other projects when the Grantee determines that the property is no longer needed for the original grant purposes. Use in other projects shall be limited to those under other Federal grant progrms or programs that have purposes consistent with those authorized for support by the Grantor.

3. When the real property is no longer needed as provided in 1 and 2 above, the Grantee shall request disposition instructions from the Grantor agency or its successor Federal agency. The Grantor agency shall observe the following rules in the disposition instructions:

(a) The Grantee may be permitted to retain title after it compensates the Federal Government in an amount computed by applying the Federal percentage of participation in the cost of the original project to the fair market value of the property.

(b) The Grantee may be directed to sell the property under guidelines provided by the Grantor agency and pay the Federal Government an amount computed by applying the Federal percentage of participation in the cost of the original project to the proceeds from sale (after deducting actual and reasonable selling and fix-up expenses, if any, from the sales proceeds). When the Grantee is authorized or required to sell the property, proper sales procedures shall be established that provide for competition to the extent practicable and result in the highest possible return.

(c) The Grantee may be directed to tansfer title to the property to the Federal Government provided that in such cases the Grantee shall be entitled to compensation computed by applying the Grantee's percentage of participation in the cost of the program or project to the current fair market value of the property.

This Grant Agreement covers the following described real property (use continuation sheets as necessary).

L. Abide by the following conditions pertaining to nonexpendable personal property which is furnished by the Grantor or acquired wholly or in part with grant funds. Nonexpendable personal property means tangible personal property having a useful life of more than one year and an acquisition cost of $300 or more per unit. A Grantee may use its own definition of nonexpendable personal property provided that such definition would at least include all tangible personal property as defined above.

1. Use of nonexpendable property.

(a) The Grantee shall use the property in the project for which it was acquired as long as needed. When no longer needed for the original project, the Grantee shall use the property in connection with its other Federally sponsored activities, if any, in the following order of priority:

(1) Activities sponsored by the FmHA.

(2) Activities sponsored by other Federal agencies.

(b) During the time that nonexpendable personal property is held for use on the project for which it was acquired, the Grantee shall make it available for use on other projects if such other use will not interfere with the work on the project for which the property was originally acquired. First preference for such other use shall be given to FmHA sponsored projects. Second preference will be given to other Federally sponsored projects.

2. Disposition of nonexpendable property. When the Grantee no longer needs the property as provided in paragraph (a) above, the property may be used for other activities in accordance with the following standards:

(a) Nonexpendable property with a unit acquisition cost of less than $1,000. The Grantee may use the property for other activities without reimbursement to the Federal Government or sell the property and retain the proceeds.

(b) Nonexpendable personal property with a unit acquisition cost of $1,000 or more. The Grantee may retain the property for other uses provided that compensation is made to the original Grantor agency or its successor. The amount of compensation shall be computed by applying the percentage of Federal participation in the cost of the original project or program to the current fair market value of the property. If the Grantee has no need for the property and the property has further use value, the Grantee shall request disposition instructions from the original Grantor agency.

The Grantor agency shall determine whether the property can be used to meet the agency's requirements. If no requirement exists within that agency, the availability of the property shall be reported, in accordance with the guidelines of the Federal Property Management Regulations (FPMR), to the General Services Administration by the Grantor agency to determine whether a requirement for the property exists in other Federal agencies. The Grantor agency shall issue instructions to the Grantee no later than 120 days after the Grantee requests and the following procedures shall govern:

(1) If so instructed or if disposition instructions are not issued within 120 calendar days after the Grantee's request, the Grantee shall sell the property and reimburse the Grantor agency an amount computed by applying to the sales proceeds the percentage of Federal participation in the cost of the original project or program. However, the Grantee shall be permitted to deduct and retain from the Federal share $100 or ten percent of the proceeds, whichever is greater, for the Grantee's selling and handling expenses.

(2) If the Grantee is instructed to ship the property elsewhere the Grantee shall be reimbursed by the benefitting Federal agency with an amount which is computed by applying the percentage of the Grantee participation in the cost of the original grant project or program to the current fair market value of the property, plus any reasonable shipping or interim storage costs incurred.

(3) If the Grantee is instructed to otherwise dispose of the property, the Grantee shall be reimbursed by the Grantor agency for such costs incurred in its disposition.

3. The Grantee's property management standards for nonexpendable personal property shall also include:

(a) Property records which accurately provide for: a description of the property; manufacturer's serial number or other identification number; acquisition date and cost; source of the property; percentage (at the end of budget year) of Federal participation in the cost of the project for which the property was acquired; location, use and condition of the property and the date the information was reported; and ultimate disposition data including sales price or the method used to determine current fair market value if the Grantee reimburses the Grantor for its share.

(b) A physical inventory of property shall be taken and the results reconciled with the property records at least once every two years to verify the existence, current utilization, and continued need for the property.

(c) A control system shall be in effect to insure adequate safeguards to prevent loss, damage, or theft of the property. Any loss, damage, or theft of nonexpendable property shall be investigated and fully documented.

(d) Adequate maintenance procedures shall be implemented to keep the property in good condition.

(e) Proper sales procedures shall be established for unneeded property which would provide for competition to the extent practicable and result in the highest possible return.

This Grant Agreement covers the following described nonexpendable property (use continuation sheets as necessary).

M. Provide Financial Management Systems which will include:

1. Accurate, current, and complete disclosure of the financial results of each grant. Financial reporting will be on an accrual basis.

2. Records which identify adequately the source and application of funds for grant-supported activities. Those records shall contain information pertaining to grant awards and authorizations, obligations, unobligated balances, assets, liabilities, outlays, and income.

3. Effective control over and accountability for all funds, property and other assets. Grantees shall adequately safeguard all such assets and shall assure that they are used solely for authorized purposes.

4. Accounting records supported by source documentation.

N. Retain financial records, supporting documents, statistical records, and all other records pertinent to the grant for a period of at least three years after grant closing except that the records shall be retained beyond the three-year period if audit findings have not been resolved. Microfilm copies may be substituted in lieu of original records. The Grantor and the Comptroller General of the United States, or any of their duly authorized representatives, shall have access to any books, documents, papers, and records of the Grantee's government which are pertinent to the specific grant program for the purpose of making audits, examinations, excerpts and transcripts.

O. Provide information as requested by the Grantor to determine the need for and complete any necessary Environmental Impact Statements.

P. Provide an audit report prepared in sufficient detail to allow the Grantor to determine that funds have been used in compliance with the proposal, any applicable laws and regulations and this Agreement.

Q. Agree to account for and to return to Grantor interest earned on grant funds pending their disbursement for program purposes when the Grantee is a unit of local government. States and agencies or instrumentalities of states shall not be held accountable for interest earned on grant funds pending their disbursement.

R. Not encumber, transfer or dispose of the property or any part thereof, furnished by the Grantor or acquired wholly or in part with Grantor funds without the written consent of the Grantor except as provided in item K above.

S. To include in all contracts for construction or repair a provision for compliance with the Copeland "Anti-Kick Back" Act (18 U.S.C. 874) as supplemented in Department of Labor regulations (29 CFR, Part 3). The Grantee shall report all suspected or reported violations to the Grantor.

T. In construction contracts in excess of $2,000 and in other contracts in excess of $2,500 which involve the employment of mechanics or laborers, to include a provision for compliance with Sections 103 and 107 of the Contract Work Hours and Safety Standards Act (40 U.S.C. 327–330) as supplemented by Department of Labor regulations (29 CFR, Part 5).

U. To include in all contracts in excess of $100,000 a provision that the contractor agrees to comply with all the requirements of Section 114 of the Clean Air Act (42 U.S.C. § 1875C–9) and Section 308 of the Water Pollution Control Act (33 U.S.C. § 1318) relating to inspection, monitoring, entry, reports, and information, as well as all other requirements specified in Section 114 of the Clean Air Act and Section 308 of the Water Pollution Control Act and all regulations and guidelines issued thereunder after the award of the contract. Such regulations and guidelines can be found in 40 CFR 15.4 and 40 FR 17126 dated April 16, 1975. In so doing the Contractor further agrees:

1. As a condition for the award of contract, to notify the Owner of the receipt of any communication from the Environmental Protection Agency (EPA) indicating that a facility to be utilized in the performance of the contract is under consideration to be listed on the EPA list of Violating Facilities. Prompt notification is required prior to contract award.

2. To certify that any facility to be utilized in the performance of any nonexempt contractor subcontract is not listed on the EPA list of Violating Facilities pursuant to 40 CFR 15.20 as of the date of contract award.

3. To include or cause to be included the above criteria and the requirements in every nonexempt subcontract and that the Contractor will take such action as the Government may direct as a means of enforcing such provisions.

As used in these paragraphs the term "facility" means any building, plan, installation, structure, mine, vessel or other floating craft, location, or site of operations, owned, leased, or supervised by a Grantee, cooperator, contractor, or subcontractor, to be utilized in the performance of a grant,

agreement, contract, subgrant, or subcontract. Where a location or site of operation contains or includes more than one building, plant, installation, or structure, the entire location shall be deemed to be a facility except where the Director, Office of Federal Activities, Environmental Protection Agency, determines that independent facilities are co-located in one geographical area.

Grantor Agrees That It:

A. Will make available to Grantee for the purpose of this Agreement not to exceed $_____ which it will advance to Grantee to meet not to exceed —— percent of the development costs of the project in accordance with the actual needs of Grantee as determined by Grantor.

B. Will assist Grantee, within available appropriations, with such technical assistance as Grantor deems appropriate in planning the project and coordinating the plan with local official comprehensive plans for sewer and water and with any State or area plans for the area in which the project is located.

C. At its sole discretion and at any time may give any consent, deferment, subordination, release, satisfaction, or termination of any or all of Grantee's grant obligations, with or without valuable consideration, upon such terms and conditions as Grantor may determine to be (1) advisable to further the purpose of the grant or to protect Grantor's financial interest therein and (2) consistent with both the statutory purposes of the grant and the limitations of the statutory authority under which it is made.

Termination of This Agreement

This Agreement may be terminated for cause in the event of default on the part of the Grantee as provided in paragraph I above or for convenience of the Grantor and Grantee prior to the date of completion of the grant purpose. Termination for convenience will occur when both the Grantee and Grantor agree that the continuation of the project will not produce beneficial results commensurate with the further expenditure of funds.

In witness whereof Grantee on the date first above written has caused these presence to be executed by its duly authorized _____ and attested and its corporated seal affixed by its duly authorized

_____
_____
_____

Attest:

_____

By_____
By_____
(Title)_____
(Title)_____
UNITED STATES OF AMERICA
FARMERS HOME ADMINISTRATION
By_____
*(Title)*_____

This document has been reviewed in accordance with FmHA Instruction 1901–G "Environmental Impact Statements". It is the determination of FmHA that the proposed action does not constitute a major Federal action significantly affecting the quality of the human environment and in accordance with the National Environmental Policy Act of 1969, P.L. 91–190 an Environmental Impact Statement is not required.

A copy of the Final Impact Analysis prepared by FmHA is available in the Office of the Chief, Directives Management Branch, Room 6346, South Building, Washington, D.C. 20250. This regulation has not been determined significant under the USDA criteria implementing Executive Order 12044.

Authorities: 7 U.S.C. 1989; delegation of authority by the Sec. of Agri., 7 CFR 2.23; delegation of authority by the Asst. Sec. for Rural Development, 7 CFR 2.70.

Dated: May 4, 1979.

Gordon Cavanaugh,

Administrator Farmers Home Administration.

[FR Doc. 79-14539 Filed 5-9-79; 8:45 am]

BILLING CODE 3410-07-M

4 4 / 9 2

Proposed Rules

Federal Register
Vol. 44, No. 92
Thursday, May 10, 1979

This section of the FEDERAL REGISTER contains notices to the public of the proposed issuance of rules and regulations. The purpose of these notices is to give interested persons an opportunity to participate in the rule making prior to the adoption of the final rules.

DEPARTMENT OF AGRICULTURE

Agricultural Marketing Service

[7 CFR Parts 911 and 944]

Limes Grown in Florida and Imported Limes; Proposed Grade and Size Requirements

AGENCY: Agricultural Marketing Service, USDA.

ACTION: Proposed rule.

SUMMARY: This notice invites written comments on a proposal which would extend the current grade and size requirements for Florida limes and imported limes through April 30, 1980. Under the current regulation these requirements would expire June 17, 1979. The proposed extension of these requirements is designed to assure the continued shipment and importation of ample supplies of limes of acceptable grades and sizes for the rest of the 1979–80 season, in the interest of producers and consumers.

DATES: Comments must be received on or before June 4, 1979.

ADDRESS: Send two copies of comments to the Hearing Clerk, U.S. Department of Agriculture, Room 1077, South Building, Washington, D.C. 20250, where they will be available for public inspection during business hours (7 CFR 1.27(b)).

FOR FURTHER INFORMATION CONTACT: Malvin E. McGaha, (202) 447–5975.

SUPPLEMENTARY INFORMATION: Section 911.341 Lime Regulation 39, and § 944.206 Lime Regulation 7, which were published in the April 26, 1979, issue of the Federal Register (44 FR 24561), set forth grade and size requirements for limes grown in Florida and for limes imported into the United States for the period May 1, through June 17, 1979. The Florida lime regulation was issued under the marketing agreement, as amended, and Order No. 911, as amended (7 CFR Part 911; 43 FR 39319), regulating the handling of limes grown in Florida, effective under the Agricultural Marketing Agreement Act of 1937, as amended (7 U.S.C. 601–674). The lime import regulation was issued under § 8e (7 U.S.C. 608e–1) of this act, which requires that when specified commodities, including limes, are regulated under a federal marketing order, imports of the commodity must meet the same or comparable grade, size, quality, or maturity requirements as those for the domestically produced commodity. The regulation applicable to limes grown in Florida was based on information submitted by the Florida Lime Administrative Committee, which requested that the regulatory requirements be effective for the entire 1979–80 season, and upon other available information. This proposed rule would amend both the Florida and import lime regulations, to extend them for the rest of the 1979–80 season. These proposed amendments have not been determined significant under the USDA criteria for implementing Executive Order 12044.

Under these proposed amendments, both Florida limes and imported limes would need to continue meeting the following minimum requirements: *True "seeded" limes*—U.S. No. 2 grade, except as to color, with no minimum size; and *Persian "seedless" limes*—U.S. Combination, Mixed Color, except that stem length is not considered a factor of grade, and a minimum diameter of 1¾ inches. Florida limes shipped within the production area would be exempted from the grade requirements, if they have at least 42% juice content and are in containers not authorized for shipment of Florida limes out of the production area. Appropriate packing tolerances, with reaspect to the minimum size requirement, for limes smaller than 1¾ inches apply.

Production of Florida limes for the 1979–80 season is expected to amount to about 1,800,000 bushels, a level which indicates a complete recovery from the 1977 freeze. About 900,000 bushels of Florida limes are expected to be shipped to fresh markets in 1979–80, with the remainder of the crop being utilized in processing. Mexico is expected to continue supplying substantial quantities of limes to the U.S. market, during the 1979–80 season. More than adequate supplies of limes should be available to fill domestic fresh market demands.

The proposal is that § 911.341 Lime Regulation 39, and § 944.206 Lime Regulation 7, be amended to read as follows:

§ 911.341 Lime Regulation 39.

(a) During the period June 18, 1979, through April 30, 1980, no handler shall handle:

(1) Any limes of the group known as true "seeded" limes (also known as Mexican, West Indian, and Key limes and by other synonyms), grown in the production area, which do not meet the requirements of at least U.S. No. 2 Grade for Persian (Tahiti) Limes, except as to color: *Provided,* That true limes, grown in the production area, which fail to meet the requirements of such grade may be handled within the production area, if such limes meet all other applicable requirements of this section and the minimum juice content requirement prescribed in the U.S. Standards for Persian (Tahiti) Limes, and are handled in containers other than the containers prescribed in § 911.329 for the handling of limes between the production area and any point outside thereof;

(2) Any limes of the group known as large-fruited or Persian "seedless" limes (including Tahiti, Bearss, and similar varieties) which do not grade at least U.S. Combination, Mixed Color: *Provided,* That stem length shall not be considered a factor of grade, and tolerances for fruit affected by decay and for fruit failing to meet the requirements set forth in the U.S. Standards for Persian (Tahiti) Limes shall apply: *Provided further,* That Persian limes, grown in the production area, which fail to meet the requirements of such grade may be handled within the production area, if such limes meet all other applicable requirements of this section and meet the same minimum juice content requirement prescirbed in the U.S. Standards for such limes and are handled in containers other than the containers prescribed in § 911.329 for the handling of limes between the production area any point outside thereof; or

(3) Any limes of the group known as large-fruited or Persian "seedless" limes (including Tahiti, Bearss, and similar varieties) which are of a size smaller than 1¾ inches in diameter: *Provided,* That not more than 10 percent, by count, of the limes in any lot of containers, other than master containers of individual bags, may fail to meet the applicable minimum size requirement: *Provided further,* That no individual container of limes having a net weight of more than four pounds may have more than 15 percent, by count, of the limes which fail to meet such applicable size requirement.

(b) Terms used in this section shall have the same meaning as in the marketing order, and terms relating to grade and diameter shall have the same meaning as in the U.S. Standards for Persian (Tahiti) Limes (7 CFR 2851.1000–1016).

§ 944.206 Lime Regulation 7.

(a) *Applicability to imports.* Pursuant to § 8e of the act, Part 944—Fruits; Import Regulations, the importation into the United States of any limes is prohibited during the period June 18, 1979, through April 30, 1980, unless such limes meet the minimum grade and size requirements specified in § 911.341 Lime Regulation 39.

(b) The Federal or Federal-State Inspection Service, Fruit and Vegetable Quality Divison, Food Safety and Quality Service, United States Department of Agriculture, is designated as the governmental inspection service for certifying the grade, size, quality, and maturity of limes that are imported into the United States. Inspection by the Federal or Federal-State Inspection Service with evidence thereof in the form of an official inspection certificate, issued by the respective service, applicable to the particular shipment of limes, is required on all imports. The inspection and certification services will be available upon application in accordance with the rules and regulations governing inspection and certification of fresh fruits, vegetables, and other products (7 CFR Part 2851) and in accordance with the Procedure for Requesting Inspection and Designating the Agencies to Perform Requred Inspection of Certification (7 CFR Part 944; 43 FR 19340).

(c) *Minimum quantity exemption.* Any person may import up to 250 pounds of limes exempt from the requirements specified in this section.

Dated: May 7, 1979.

D. S. Kuryloski,
Acting Deputy Director, Fruit and Vegetable Division, Agricultural Marketing Service.

[FR Doc. 79-14621 Filed 5-8-79; 8:45 am]

BILLING CODE 3410-02-M

[7 CFR Part 912]

Grapefruit Grown in the Indian River District in Florida

AGENCY: Agricultural Marketing Service, USDA.

ACTION: Proposed rule.

SUMMARY: This notice invites written comments on a proposed amendment which would modify procedures for nominating committee members, to permit nominations by methods other than use of written ballots when only one person is nominated for a member or alternate member position on the committee. This proposed action is intended to make it easier to elect nominees in such instances, thereby facilitating the conduct of nomination meetings.

DATES: Comments must be received on or before May 25, 1979. Proposed effective date: June 4, 1979.

ADDRESS: Send two copies of comments to the Hearing Clerk, U.S. Department of Agriculture, Room 1077, South Building, Washington, D.C. 20250, where they will be available for public inspection during business hours (7 CFR 1.27(b)).

FOR FURTHER INFORMATION CONTACT: Malvin E. McGaha, (202) 447–5975.

SUPPLEMENTARY INFORMATION: *Findings.* This proposed rule is issued under the marketing agreement, as amended, and Order No. 912, as amended (7 CFR Part 912), regulating the handling of grapefruit grown in the Indian River District in Florida. The agreement and order are effective under the Agricultural Marketing Agreement Act of 1937, as amended (7 U.S.C. 601–674). This action is based upon the recommendations and information submitted by the Indian River Grapefruit Committee, and upon other available information. The committee reports that it is time consuming and not necessary to vote by written ballot when only one person is nominated for a particular position on the committee. As § 912.120 *Nomination procedure* currently requires a written ballot for each position to be filled on the committee, it is proposed that this section be amended to permit alternative methods of voting, when only one person is nominated for a particular position. The proposed rule would also make minor changes to clarify and simplify the language in § 912.120. This proposed rule has not been determined significant under the USDA criteria for implementing Executive Order 12044.

The proposal is to amend 7 CFR Part 912, Subpart-Rules and Regulations (§§ 912.100–199), by revising the introductory language and paragraphs (a), (d), (e), and (f) of § 912.120, to read as follows:

§ 912.120 Nomination procedure.

The designated representative of the Secretary shall hold or cause to be held, not later than July 10 of each year, a meeting, or meetings of growers and handlers, in accordance with the provisions of § 912.22 and § 912.24, for the purpose of making nominations for members and alternate members of the Indian River Grapefruit Committee. The manner of nominating members and alternate members of said committee shall be as follows:

(a) At each such meeting the Secretary's representative shall announce the requirements as to eligibility for voting for nominees and the procedure for voting, and shall explain the duties of the committee.

* * * * *

(d) At each meeting of handlers there shall be presented for nomination and there shall be nominated not less than six handler members, all of whom shall have the qualifications specified in § 912.20 and § 912.25, as modified by § 912.124. Any person authorized to represent a handler may cast a ballot for such handler. Each person voting at such meeting shall submit his name and address to the chairman or secretary of the meeting.

(e) Voting may be by written ballot, except that in the event there is more than one nominee for a particular position, voting shall be by written ballot for that position. If the voting method used is by written ballot, all ballots shall be delivered by a nomination meeting official to the Secretary's representative. If written ballots are not used, the meeting official shall deliver a listing of each person nominated and the number of votes cast for each and a register of eligible voters who participated in the election. For the handler nomination meetings, documentation shall also include the volume of shipments voted for each nominee.

(f) The Secretary's representative shall give reasonable notice of each meeting to be held pursuant to this section.

Dated: May 7, 1979.

D. S. Kuryloski,
Acting Deputy Director, Fruit and Vegetable Division, Agricultural Marketing Service.

[FR Doc. 79-14620 Filed 5-8-79; 8:45 am]

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[7 CFR Part 1049]

Milk in the Indiana Marketing Area; Recommended Decision and Opportunity to File Written Exceptions on Proposed Amendments to Tentative Marketing Agreement and to Order

AGENCY: Agricultural Marketing Service, USDA.

ACTION: Proposed rule.

SUMMARY: This decision recommends changes in the present order provisions based on proposals by a cooperative association that were considered at a public hearing held January 9, 1979. The proposed amendments would increase the Class I differential 6 cents and would modify the location adjustment and payment provisions of the order. The proposed changes are necessary to reflect current marketing conditions and to insure orderly marketing in the area.

DATE: Comments are due on or before May 30, 1979.

ADDRESS: Comments (four copies) should be filed with the Hearing Clerk, Room 1077, South Building, U.S. Department of Agriculture, Washington, D.C. 20250.

FOR FURTHER INFORMATION CONTACT: Martin J. Dunn, Marketing Specialist, Dairy, Division, Agricultural Marketing Service, U.S. Department of Agriculture, Washington, D.C. 20250, 202–447–7311.

SUPPLEMENTARY INFORMATION: Prior document in this proceeding:

Notice of Hearing: Issued December 14, 1978, published December 20, 1978 (43 FR 59390).

Preliminary Statement

Notice is hereby given of the filing with the Hearing Clerk of this recommended decision with respect to proposed amendments to the tentative marketing agreement and order regulating the handling of milk in the Indiana marketing area. This notice is issued pursuant to the provisions of the Agricultural Marketing Agreement Act of 1937, as amended (7 U.S.C. 601 *et seq.*), and the applicable rules of practice and procedure governing the formulation of marketing agreements and marketing orders (7 CFR Part 900).

Interested parties may file written exceptions to this decision with the Hearing Clerk, United States Department of Agriculture, Washington, D.C. 20250, on or before May 30, 1979. The exceptions should be filed in quadruplicate. All written submissions made pursuant to this notice will be made available for public inspection at the office of the Hearing Clerk during regular business hours (7 CFR 1.27(b)).

The proposed amendments set forth below are based on the record of a public hearing conducted at Indianapolis, Indiana, on January 9, 1979. Notice of such hearing was issued December 14, 1978 (43 FR 59390).

The material issues on the record of the hearing relate to:

1. Level of Class I price.
2. Location adjustments.
3. Payments to producers and to cooperative associations.

Findings and Conclusions

The following findings and conclusions on the material issues are based on evidence presented at the hearing and the record thereof:

1. *Level of Class I price.* The Class I differential (the amount added to the basic formula price of the second preceding month in computing the Class I price) should be increased from the present $1.47 to $1.53.

A cooperative association proposed a 10-cent increase in the Class I differential, to $1.57. Another cooperative supported the proposal. The cooperatives claimed that the higher Class I differential is needed to assure a continuing adequate supply of milk for the fluid milk needs of pool distributing plants under the Indiana order, and to improve the alignment of Class I prices between the Indiana and Chicago Regional markets and other nearby markets.

A spokesman for a group of milk handlers in the Indianapolis, Indiana, area opposed the proposed 10-cent increase. The witness for the group stated that some of the handlers who are regulated by the Indiana milk order compete for fluid milk sales with handlers who are regulated by the Southern Illinois and Central Illinois orders. He stated that increasing the Class I differential for the Indiana order only would place such handlers at a disadvantage in competing for fluid milk sales in part of western Indiana. The witness stated that the Class I price issue of this proceeding should be deferred until it can be considered in connection with other milk orders in the Midwest region which may also require higher Class I prices.

The witness testified further that if the Indiana Class I differential is increased on the basis of this proceeding, the increase should not exceed 6 cents per hundredweight. He stated that the Class I differentials of the Chicago Regional and Upper Midwest orders have been increased 6 cents per hundredweight in recent years, while the Indiana Class I differential remained unchanged. He testified that a 6-cent increase in the Indiana Class I differential would achieve better alignment with the Chicago Regional market and that such improvement would be a benefit to the Indiana market.

Two Wisconsin-based cooperatives that operate plants pooled on the Chicago Regional market also opposed the proposal to increase the Indiana Class I differential 10 cents. The witnesses for the cooperatives stated that the prices paid to the Indiana order producers residing in Wisconsin are higher than the prices the two cooperatives can pay to their members on the Chicago market. This, they claimed, has caused their cooperative associations to lose members to the proponent cooperative, which is then marketing their milk on the Indiana market. In their view, any increase in the Indiana Class I price which would increase producer pay prices would result in a further loss of their producer-members to the Indiana market. These spokesmen urged that any Class I price increase, or any change in location adjustment rates under the orders, be done on a regional or national basis. In their view, the question of proper Class I differentials and location adjustment rates for milk orders is an important current concern throughout the dairy industry and cannot properly be addressed in piecemeal fashion.

The Class I price under an order must be established at a level which, in conjunction with other class prices, results in sufficient returns to producers to maintain an adequate supply of milk for consumers' needs. While the class prices of individual milk orders attract milk to a particular market, such as Indiana, the aggregate result under the milk order program, in conjunction with the price support program, is an adequate supply of milk for the nation.

The present price system under Federal orders operates in such a way that it provides uniform Class I price changes in all orders. This is accomplished by adding a specific differential directly to a basic formula price (the Minnesota-Wisconsin price) that is the same under all orders. The system evolved from the necessity to coordinate Class I price changes within regions and also to provide coordination on an interregional basis.

Further, the coordination of Class I prices is needed throughout the milk order program because milk can move readily between and among Federal order markets. Without price coordination, disparities in the normal price relationships will encourage

uneconomic movement of milk and disruption of markets. Accordingly, inter-order Class I price alignment is a necessary pricing feature under the milk order program.

There is extensive overlapping of route distribution between Indiana handlers and handlers regulated by other Federal milk orders. The record evidence established that Indiana pool plants account for about 85 percent of all fluid milk products distributed in the Indiana marketing area. Handlers regulated by the Indiana order also distribute fluid milk products in seven other Federal order areas, while handlers regulated by four Federal milk orders distribute a substantial quantity of milk in the Indiana marketing area.

Also, there is a major overlapping of the Indiana order supply area with that of the Chicago Regional order which stems from circumstances unique to the Indiana market. Even though there is sufficient fluid grade milk produced in the State of Indiana to meet the fluid milk needs of handlers regulated by the Indiana order, not all of it is pooled under the Indiana order. As a result, the proponent cooperative association, which has assumed the function of supplying a major portion of the Indiana market's fluid milk needs, must import about 45 million pounds of milk each month from producers whose farms are in Wisconsin. The milk is assembled at reload stations in the supply area and delivered to Indiana pool distributing plants where it is considered as a receipt of producer milk. In 1978, this milk represented about 29 percent of all the producer milk pooled under the Indiana order.

With this incidence of overlapping sales, in which handlers regulated under nine Federal orders [1] actively compete for fluid outlets, and with a substantial proportion of the supply for the Indiana market coming from the supply area of the Chicago Regional market, it would not be possible to maintain orderly marketing over time without a close intermarket alignment of Class I prices.

The existing Class I pricing structure under the Indiana order was established at the time the order was promulgated—January 1, 1969. In the intervening period, price adjustments made in competing markets (particularly the 1970 increase in the Class I differential under the Chicago regional order from $1.20 to $1.26) were not made in the Indiana order. However, both producer and handler witnesses testified that the prices being paid in the Indiana market and in nearby Federal order markets for Class I milk currently are in relatively close alignment due to the over-order charges being paid to suppliers by handlers regulated by the respective orders. In their view, this is the reason that little or no disorderly marketing has resulted from the present relationship of order Class I differentials. Nevertheless, the existing institutional arrangements should not be the sole means of achieving continued orderly marketing. The Class I differential of the Indiana order should be increased somewhat to improve the interorder Class I price alignment that is a necessary pricing feature of the milk order program.

The Chicago milkshed has been a major source of supplemental milk supplies for markets throughout the United States, including the Indiana market. The record established that supplemental milk is supplied to Indiana order pool plants from Chicago Regional pool plants. This is in addition to the producer milk obtained from the Chicago order supply area. In some months these supplemental supplies amount to as much as 13 million pounds. To reflect the variable cost of moving milk from the Chicago milkshed to distant markets, Class I prices in Federal order markets are generally structured to increase in relation to the distance from the Chicago milkshed. Generally, the gradation of prices from market to market from north to south reflects a differential approximating 1.5 cents per hundredweight of milk per 10 miles.

The Class I differentials in some order markets reflect the variable cost of moving milk from the heavy milk production areas within the Chicago Regional market (e.g., Madison, La Crosse and other locations in Wisconsin). However, the Class I differentials in the nearby markets to the east and south of the Indiana market (Ohio Valley and Louisville-Lexington-Evansville) reflect the variable costs from the city of Chicago, Illinois. It is appropriate, as provided herein, to use Chicago as the basing point for determining the Indiana Class I differential due to the competition for retail sales between Indiana handlers and handlers regulated under the Ohio Valley, Chicago Regional and Louisville-Lexington-Evansville orders.

The Class I differential under the Chicago Regional order is $1.26. The amount computed at 1.5 cents per 10 miles for the 177 miles from Chicago to Indianapolis is 27 cents. Relating the $1.26 Chicago Regional order Class I differential to Indianapolis would indicate a Class I differential at Indianapolis of $1.53 ($1.26+.27), 6 cents above the present level. The record established that the Indiana Class I differential was established in relation to the Class I differential of the Chicago Regional order when it was $1.20.

A Class I differential of $1.53 under the Indiana order not only would improve the alignment of the Indiana Class I price with the Chicago Regional Class I price but also with the Class I prices under the orders for the neighboring Louisville-Lexington-Evansville and Ohio Valley markets. Each of these orders has a Class I differential of $1.70. A principal city in the Louisville-Lexington-Evansville market is Louisville, Kentucky, while in the Ohio Valley market a principal city is Cincinnati, Ohio. The distance from Chicago to Louisville is 292 miles and from Chicago to Cincinnati it is 267 miles. The $1.70 Class I differential at these two cities reflects the Chicago $1.26 Class I differential plus 44 cents that reflects a rate of 1.5 cents per 10 miles distance from Chicago. Louisville is 111 miles south and Cincinnati is 106 miles southeast of Indianapolis.[2] Based on the 1.5 cents per 10 mile rate, the Class I differential at Indianapolis should be 16 cents lower than at Louisville and 16.5 cents lower than at Cincinnati. Thus, the $1.70 Class I differential under these two orders would suggest a Class I differential at Indianapolis of $1.52 ($1.70−.16) and $1.535 ($1.70−.165), respectively.

In the interest of assuring market stability throughout the region, some improvement of interorder price alignment is appropriate, even though it is clear on the record that prevailing Class I prices in the Indiana and surrounding Federal order markets exceed the order prices. To this end it is concluded that the Class I differential of the Indiana order should be increased from the present $1.47 to $1.53. This will result in an Indiana Class I price level under the order that is more closely aligned with the Class I prices of neighboring Federal order markets, and particularly with the Chicago Regional market from which Indiana pool plants obtain a substantial portion of their supply. To the extent that some distributing plants may not be paying over-order charges, the possibility for disorderly marketing exists. Such condition would create economic pressures to change the existing institutional arrangements. This means

[1] Indiana, Ohio Valley, Southern Michigan, Louisville-Lexington-Evansville, Chicago Regional, Southern Illinois, Central Illinois, Iowa and Georgia orders.

[2] Official notice is taken of the "Household Goods Carriers' Bureau Mileage Guide No. 15", issued by Household Goods Carriers' Bureau, Arlington, Virginia 22201, July 1, 1973.

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that if the over-order charges that are presently being paid were discontinued, the resulting Class I price would be too low to attract needed supplies of milk for the market. The action adopted herein to raise the Class I differential would tend to mitigate this problem.

The unit cost of a 6-cent increase in the Indiana Class I differential would be one-eighth of a cent per quart or one-half cent per gallon. If the increase had been in effect in 1978, it would have raised the order Class I prices one-half of one percent. The higher order prices would have applied to 13,259,180 hundredweight of Class I milk with an additional value of $795,550. However, since the effective Class I prices in the market have exceeded minimum order prices by more than the adopted 6-cent increase, such price adjustment could have reduced by 6 cents the "over order payment" negotiated by the cooperatives, thereby resulting in no impact on consumer prices.

The cooperative supplying milk from the Wisconsin part of the Chicago market has been paying competitive prices to Indiana market producers in Wisconsin. The funds for this payment by the cooperative have been obtained by charging handlers more than the order Class I price and is consistent with the competitive supply and demand situation. With the higher Class I differential provided herein, the cooperative will not need to rely as much as heretofore on an over-order price structure to supply milk to the market.

The Class I differential should not be increased by 10 cents as was proposed by proponent. Proponent's testimony was directed mainly at justifying the proposed 6-cent increase based on price alignment with nearby markets. No testimony was offered supporting the need for a 10-cent increase. Instead, proponent testified that a much larger increase in the Class I differential was justified but that probably 10 cents was the maximum amount the Class I differential could be raised and still retain interorder price alignment. As indicated, the structure of Class I prices under Federal orders generally reflects a transportation rate of 1.5 cents per 10 miles. On this basis, raising the Indiana Class I differential 6 cents improves the alignment of Class I prices throughout the region. Within the same price framework, raising the differential an additional 4 cents would worsen the alignment of prices by that magnitude.

The adoption of a higher Class I differential should not be deferred due to the competition in western Indiana of some Indiana order handlers with handlers in other markets. The witness for the Indianapolis handlers stated that some Indiana handlers compete for fluid milk sales in western Indiana with several handlers regulated by the Central Illinois and Southern Illinois orders. His primary concern, however, appeared to be the competition of Indiana handlers with two handlers regulated under the Southern Illinois order. One of the Southern Illinois handlers operates a distributing plant at Champaign, Illinois, a major consumption center in that market. The witness testified that the territory in western Indiana in which Indiana and Southern Illinois handlers compete is about equidistant from Champaign and Indianapolis. He claimed that presently the Class I prices are in reasonable alignment because the Southern Illinois Class I differential at Champaign is $1.46, which is one cent below the Indiana Class I differential. He stated that any increase in the Indiana Class I differential would disadvantage the Indiana handlers who are competing for fluid milk sales in western Indiana.

Champaign is 135 miles south of Chicago, or about 40 miles closer to Chicago than is Indianapolis. Applying the differential of 1.5 cents per 10 miles, it would be reasonable to expect the Class I price level at Champaign to be 6 cents lower than at Indianapolis instead of the one-cent difference that applies presently. To the extent that some Indiana order handlers distribute milk in western Indiana in competition with Southern Illinois handlers, a $1.53 Class I differential at Indianapolis would increase the Indiana Class I price level for these handlers by 6 cents per hundredweight relative to the Southern Illinois Class I price level at Champaign, or to within one cent of the price alignment that results from using 1.5 cents per 10 miles from Chicago. However, the overriding purpose in establishing the higher Class I price level adopted herein is to assist the Indiana market in maintaining adequate supplies of milk. In achieving this, however, it may not be possible to assure each handler an identical procurement cost with competitors at any location in which he may choose to sell milk.

The witness for the two Wisconsin cooperative associations expressed concern that the higher uniform prices that would result from increasing the Indiana Class I differential would be reflected in the pay price to Wisconsin producers. In 1978, a 6-cent increase in the Class I differential would have raised the order uniform prices about 4 cents per hundredweight. This, they testified, would allow proponent cooperative to attract producers away from the Chicago Regional order plants of the Wisconsin assocations and put them on the Indiana market.

It does not appear, however, that this would happen as a result of increasing the Class I differential by 6 cents. A witness for the proponent cooperative testified that the individual producers pay the cost of hauling milk from their farms in Wisconsin to the Indiana pool distributing plants. Currently, he stated, the average cost for transporting the milk is 85 cents per hundredweight. In the areas of Wisconsin where producers shipping to Indiana are located, cheese plant operators pay dairy farmers more for their milk than the Indiana uniform price at Indianapolis minus the 85-cent hauling charge. For November 1978, the average price paid by cheese plants to dairy farmers at 7 locations in the Wisconsin supply area was $11.09 per hundredweight for milk of 3.5 percent content. The Zone 1 Indiana uniform price for milk from the same area less the average hauling charge was $10.29—a difference of 80 cents.

To meet this disparity in pay prices, it has been necessary for proponent cooperative to use revenue obtained from over-order prices received from Indiana distributing plants to pay a competitive price to its producers in the Wisconsin supply area. To do otherwise would jeopardize the ability of the cooperative to obtain a continuous supply of milk from the Wisconsin supply area for the Indiana market. In this circumstance, it does not appear that the limited increase in the Indiana uniform price as a result of the higher Class I differential would induce producers to shift from the Chicago Regional market to the Indiana market.

The witnesses for the Indianapolis handlers and the two Wisconsin cooperative associations urged that the present hearing be recessed and that a new hearing be held to consider increasing the Class I differentials on a regional or national basis. If such parties desire another hearing that would involve more markets and additional issues, they may, of course, petition the Department for such a hearing at any time. However, as described previously in this decision, there is sufficient reason for increasing the Indiana Class I differential 6 cents at this time. Accordingly, the request to defer such an increase until it can be considered at an expanded hearing is denied.

2. *Location adjustments.* The order should provide that when the Class I price is adjusted for the location of the plant the adjusted price shall be not less

than the Class III price for the month. The order also should provide that when adjusting the uniform price for location the adjusted uniform price plus 5 cents, which represents the amount of the advertising and promotion program deduction, shall be not less than the Class III price for the month, except for the months of April-July and September-December when an additional factor must be recognized. For the months of April through July, the order should provide that the adjusted uniform price plus 5 cents plus an additional 20 cents for the seasonal incentive plan "takeout" shall be not less than the Class III price. For the months of September through December the order should provide further that the adjusted uniform price plus 5 cents but minus the amount of the "payback" specified in § 1049.61(i) for the seasonal incentive plan shall be not less than the Class III price.

A cooperative in the market proposed that in adjusting the Class I and uniform prices for location such adjusted prices should be floored at the Class III (basic formula) price. Proponent's witness testified that the Class III price should be the minimum price under the order for all milk since dairy farmers presumably would be able to get at least this price if they were off the regulated market. There was no opposition to this proposal and it was supported by another cooperative.

Presently, there is no limit on the location adjustment applied to either the Class I price to handlers or the uniform price to producers. Even though the Class I price is equal to the basic formula price for the second preceding month plus a Class I differential of $1.47 (as presently provided in the order), there have been instances in the past few years when the Class I prices, adjusted to locations in Wisconsin, have nearly equalled the basic formula price, i.e., the Class III price for the month. This has occurred when the basic formula price (the Minnesota-Wisconsin price) has increased sharply in a two-month period.

Similarly, there have been times when the adjusted uniform price could have been less than the Class III price in cases where producer milk was diverted to manufacturing plants located in western Wisconsin. Exhibits introduced at the hearing indicated that producer milk under the Indiana order has at times been diverted to plants in western Wisconsin that are subject to a minus 75-cent location adjustment. Thus, any time the difference between the announced uniform price (the base zone price) and the Class III price is less than 75 cents, producer milk diverted to these western Wisconsin plants would be subject to a uniform price that is less than the Class III price. On 12 different occasions during the 47-month period of January 1975 through November 1978, the base zone uniform price (exclusive of the seasonal incentive plan adjustments and the 5 cents for the advertising and promotion program deduction) did not exceed the Class III price by at least 75 cents. The evidence does not indicate, however, that producer milk was diverted to these western Wisconsin plants during those 12 months.

Any Grade A milk pooled under the order should have a value equal to at least the value of manufacturing grade milk, since there are manufacturing plants throughout the Wisconsin segment of the supply area that could realize at least the manufacturing use value for such milk. Therefore, it is inappropriate to charge a handler less than the Class III price or for producers to be paid a price that is below the Class III price (except for the adjustments for the seasonal incentive plan and advertising and promotion program). If the uniform price were substantially below the Class III price, this could discourage producers from making milk available to the Indiana market for fluid use. Producers might find it more profitable to deliver their milk to an unregulated manufacturing plant and receive the manufacturing price for it. This would make it more difficult to assure distributing plants of an adequate supply of milk.

In limiting the amount the location adjustment may lower the uniform price, as provided herein, it can happen that during the "takeout" months of April through July, the pay price to a producer in outlying areas may actually be less than the Class III price by the amount of the seasonal incentive plan deduction, and the advertising program deduction (the latter being refundable on request). However, such occurrence would be at a time of year when alternative opportunities for switching markets is not readily available to producers because manufacturing plants normally are operating at capacity. If such opportunity to switch markets were available at the Class III price or better, a producer should have the option of seeking such outlet or in participating in the seasonal incentive plan.

In the fall months, when seasonal incentive payments are added to a producer's pay price, the method of adjustment adopted herein would provide the incentive in outlying areas to assure the delivery of milk to the Indiana market by providing blend prices, adjusted for location, that are above the Class III price by the amount of the seasonal incentive payment, less the refundable advertising program deduction.

In the course of proponent's testimony, it was stated that under the proposal the Class I price should not be reduced to a level that is less than the Class III price plus 90 cents. In proponent's view the 90-cent limit would be justified because 90 cents has long been accepted in the industry as the minimum fluid differential under Federal milk orders because it is the Class I differential under the Chicago Regional order at Eau Claire, Wisconsin.

In a 1977 decision the minimum Class I differential of the Chicago Regional order was established at 90 cents.[3] This was accomplished by limiting the location adjustment on Class I milk to 36 cents ($1.26 − .36 = .90). In the decision the Department found that it was necessary to limit the location adjustment to maintain proper alignment of Chicago Regional order Class I prices with Class I prices under the Upper Midwest order at the same plant locations. It was found that some distributing plants regulated by the two orders were located relatively close to one another and competed for Class I sales. There is no indication on the present record that a similar situation exists between plants regulated under the Indiana order and plants regulated under other nearby Federal orders. Accordingly, the proposal is denied.

3. *Payments to producers and to a cooperative association.* The provisions authorizing a cooperative association to collect payments on behalf of its members from a pool plant handler should be changed.

The order now provides that a cooperative association may collect such payments for producer milk if it *caused* the milk to be delivered to a pool plant and it is authorized to collect such payments for its members. The change adopted herein will permit a cooperative association to collect monies that are due a producer member of the association whether or not the cooperative actually directed the delivery of the member's milk to a pool plant.

The witness for the cooperative proposing this change testified that the cooperative markets the milk of all its members, as provided by a written membership agreement. However, he

[3] Official notice is taken of the Assistant Secretary's decision on proposed amendments to the Chicago Regional order that was issued on July 15, 1977 (42 FR 37400).

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indicated that an isolated instance might occur in which a member might shift deliveries of milk from one handler to another on the member's own initiative. The spokesman stated that even though the cooperative did not cause the milk to be delivered to the new handler it should not be precluded from collecting the proceeds for the member's deliveries and paying the member. As indicated, the present order provisions would prevent the cooperative from collecting the proceeds in the situation described.

A cooperative association normally performs certain obligations under the terms of its contract with individual producer members. For example, it bargains for the collective sale of members' milk and assures them of a market for their milk. A cooperative association normally receives payment from handlers of the money that is due individual members for the milk delivered to the handlers' plants. Receiving the payments assures the cooperative that handlers are paying their obligations fully and promptly.

Also, a cooperative performs numerous management, financial, and marketing services that are established by policy of the cooperative's elected officials. The total program is financed by members of the cooperative. By collecting the money that is due their individual members, a cooperative can implement the total market program it is obligated to carry out. This means of carrying out its marketing obligations to members should not be denied to a cooperative association over the question of whether the cooperative or the member had caused a given load of milk to be delivered to a pool plant. It is concluded that the order should be revised to provide that a cooperative association may collect from handlers on all member milk, regardless of who causes the milk to be delivered to the handler, if the association is authorized by the member producer to collect such payments.

Rulings on Proposed Findings and Conclusions

Briefs and proposed findngs and conclusions were filed on behalf of certain interested parties. These briefs, proposed findings and conclusions and the evidence in the record were considered in making the findings and conclusions set forth above. To the extent that the suggested findings and conclusions filed by interested parties are inconsistent with the findings and conclusions set forth herein, the requests to make such findings or reach such conclusions are denied for the reasons previously stated in this decision.

General Findings

The following findings and determinations supplement those that were made when the order was first issued and when it was amended. The previous findings and determinations are hereby ratified and confirmed, except where they conflict with those set forth below.

(a) The tentative marketing agreement and the order, as hereby proposed to be amended, and all of the terms and conditions thereof, will tend to effectuate the declared policy of the Act;

(b) The parity prices of milk as determined pursuant to section 2 of the Act are not reasonable in view of the price of feeds, available supplies of feeds, and other economic conditions which affect market supply and demand for milk in the marketing area, and the minimum prices specified in the tentative marketing agreement and the order, as hereby proposed to be amended, are such prices as will reflect the aforesaid factors, insure a sufficient quantity of pure and wholesome milk, and be in the public interest; and

(c) The tentative marketing agreement and the order, as hereby proposed to be amended, will regulate the handling of milk in the same manner as, and will be applicable only to persons in the respective classes of industrial and commerical activity specified in, a marketing agreement upon which a hearing has been held.

Recommended Marketing Agreement and Order Amending the Order

The recommended marketing agreement is not included in this decision because the regualtory provisions of it would be the same as those contained in the order that is proposed to be amended. The following order amending the order, as amended, regulating the handling of milk in the Indiana marketing area is recommended as the detailed and appropriate means by which the foregoing conclusions may be carried out:

1. In §1049.50, paragraph (a) is revised to read as follows:

§1049.50 Class prices.

* * * * *

(a) *Class I price.* The Class I price shall be the basic formula price for the second preceding month plus $1.53.

* * * * *

2. In §1049.52, the introductory text of paragraph (a) (immediately preceding subparagraph (1)) is revised to read as follows:

§1049.52 Plant location adjustments for handlers.

(a) For producer milk which is received at a pool plant located outside the area for which zero location adjustment is specified in paragraph (a)(1)(i) of this section, which milk is classified as Class I milk or assigned Class I location adjustment credit pursuant to paragraph (b) of this section, the price computed pursuant to §1049.50(a) shall be reduced on the basis of the applicable amount or rate for the location of such plant pursuant to paragraph (a)(1) or (2) of this section, respectively, except that in no event shall the adjustment result in a price less than the Class III price for the month. For the purpose of this section and §1049.75, the distances to be computed shall be on the basis of the shortest hard-surfaced highway distances as determined by the market administrator:

* * * * *

§1049.73 [Amended]

3. Section §1049.73(b) is amended by deleting the language, "which it caused to be delivered to such handler"

4. In §1049.75, paragraph (a) is revised as follows:

§1049.75 Plant location adjustments for producers and on nonpool milk.

(a) The uniform price for producer milk received or which is deemed to have been received at a pool plant shall be reduced according to the location of the pool plant at the rates set forth in §1049.52(a), except that the adjusted uniform price plus 5 cents, and, for the months of April through July plus an additional 20 cents, or for the months of September through December minus the amount computed pursuant to §1049.61(i), shall not be less than the class III price for the month.

* * * * *

(This recommended decision constitutes the Department's Draft Impact Analysis Statement for this proceeding.)

Signed at Washington, D.C., on: May 7, 1979.

William T. Manley,
Deputy Administrotor, Marketing Program Operations.

[Docket No. A-0-319-A29]
[FR. Doc. 79-14567 Filed 5-9-79; 8:45 am]

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DEPARTMENT OF THE TREASURY

Comptroller of the Currency

[12 CFR Part 28]

Federal Branches and Agencies of Foreign Banks

AGENCY: Comptroller of the Currency.

ACTION: Proposed rule.

SUMMARY: This proposed regulation implements the International Banking Act of 1978 (Pub L. 95–369), which for the first time authorizes foreign banks to establish Federal branches and agencies in the United States. Such Federal branches and agencies will be licensed, supervised and regulated by the Comptroller of the Currency.

DATES: Written comments must be received on or before July 10, 1979.

ADDRESSES: Comments should be addressed to Mr. John E. Shockey, Chief Counsel, Comptroller of the Currency, Washington, D.C. 20219.

FOR FURTHER INFORMATION CONTACT: Mr. William B. Glidden, Senior Attorney, Comptroller of the Currency, Washington, D.C. 20219, (202) 447–1880.

SUPPLEMENTARY INFORMATION: Except as otherwise provided in the International Banking Act of 1978 (Pub. L. 95–369; hereafter, "IBA") or any rules, regulations or orders of the Comptroller, Federal branches and agencies of foreign banks can exercise the same rights and privileges and will be subject to the same duties, restrictions, penalties, liabilities, conditions and limitations that apply to a national bank doing business at the same location. The Comptroller recently has published in other issues of the **Federal Register** a proposed policy statement on the applicability of U.S. banking laws to Federal branches and agencies of foreign banks and a revision in final form of 12 CFR Parts 4, 5 and 8 to provide for various corporate applications and for assessment of fees for such Federal branches and agencies. See, 44 FR 15728–30 and 44 FR 20063–66.

Section 4(a) of the IBA states that a foreign bank, with the approval of the Comptroller, may establish one or more Federal branches or agencies in any State in which (1) it is not already operating a State branch or agency and (2) the establishment of a branch or agency, as the case may be, by a foreign bank is not "prohibited" by State law. State law silence concerning branches and agencies of foreign banks does not amount to a prohibition. In the same vein, it cannot be said that a State prohibits such branches and agenices merely because certain restrictions or limitaions are imposed. For example, in some States a foreign bank which applies for a branch or agency must be able to demonstrate that the country under whose laws it was organized permits free access to U.S. banks. Such a reciprocity approach would not be binding upon the Comptroller's Office because it is incompatible with the national theme of the IBA and, further, it is in the nature of a condition or limitation rather than a prohibition on foreign entry.

Section 4(g) (4) of the IBA states that a foreign bank shall hold in each State in which it has a Federal branch or agency assets of such type and in such amounts as the Comptroller may prescribe. At this time, as indicated by § 28.9 of the proposed regulation, the Comptroller chooses not prescribe any general or specific asset maintenance requirements. It seems desirable to gain some experience with Federal branches and agencies of foreign banks before possibly imposing such requirements, which would necessarily be in addition to the capital equivalency deposits described in § 28.6 of the proposed regulation and any reserves that may be mandated by the Federal Reserve Board.

The proposed 12 CFR Part 28 sets forth general parameters within which Federal branches and agencies licensed by the Comptroller will be required to conduct their business. Because the Federal option for branches and agencies of foreign banks is new and untested, the Comptroller is particularly hopeful of receiving relevant comments from interested persons concerning the supervisory strategies and approaches adopted in this document.

DRAFTING INFORMATION: The principal drafters of this document were William B. Glidden, Senior Attorney, and William Ryback, National Bank Examiner, Comptroller of the Currency.

Proposed Rule

For the reasons stated above, the Comptroller proposes to adopt a new regulation at 12 CFR Part 28 to read as follows:

PART 28—FEDERAL BRANCHES AND AGENCIES OF FOREIGN BANKS

Sec.
28.1 Scope.
28.2 Definitions.
28.3 Applications.
28.4 Applicability of laws.
28.5 Limitations based upon capital stock and surplus of a foreign bank.
28.6 Capital equivalency deposits for Federal branches and agencies.
28.7 Reserves.
28.8 F.D.I.C. insurance.
28.9 Maintenance of assets; surety bond; pledge of assets.
28.10 Maintenance of accounts, books and records.
28.11 Service of process.
28.12 Obligations of management.
28.13 Regulation and supervision generally.

Authority: Secs. 4 and 13(a) of the International Banking Act of 1978 (Pub. L. 95–369, 12 U.S.C. 3101 *et seq.*).

§ 28.1 Scope.

This part implements the International Banking Act of 1978 (Pub. L. 95–369) and applies to the operations of foreign banks at Federal branches and agencies in the United States.

§ 28.2 Definitions.

(a) "Credit balances", as distinct from deposits, consist of funds, received at a Federal branch or agency incidental to or arising out of the exercise of banking powers, that are not intended to be deposits and that do not remain in the receiving institution after the transaction(s) to which they relate is completed.

(b) A "Federal agency" is an office or place of business, licensed by the Comptroller and operated by a foreign bank in any State of the United States, which can engage in the business of banking but cannot exercise fiduciary powers or accept deposits from citizens or residents of the United States. A Federal agency may, however, maintain credit balances.

(c) A "Federal branch" is an office or place of business, licensed by the Comptroller and operated by a foreign bank in any State of the United States which can engage in the business of banking including the exercise of fiduciary powers and the acceptance of deposits from citizens and residents of the United States.

(d) A "Limited Federal branch" is a Federal branch licensed by the Comptroller which, pursuant to an agreement between the parent foreign bank and the Federal Reserve Board, can receive only such deposits as would be permissible for an Edge corporation organized under section 25(a) of the Federal Reserve Act (12 U.S.C. 611). Except for this restriction a Limited Federal branch can exercise the full range of powers avaliable to any Federal branch.

(e) As a general rule of construction, the terms "foreign bank", "foreign country", and "State" have the meanings assigned to them by § 1 of the International Banking Act of 1978, Pub. L. 95–369, codified at 12 U.S.C. 3101.

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§ 28.3 Applications.

(a) *Corporate applications.* A foreign bank may apply to the Comptroller of the Currency to establish a Federal branch or agency, to convert any State branch or agency or commercial lending company to a Federal branch or agency, to relocate a Federal branch or agency or change the designation of its initial Federal branch or agency to any other Federal branch or agency, in accordance with the regulations in 12 CFR Parts 4 and 5 and any rules, instructions or forms issued thereunder.

(b) *Application to exercise fiduciary powers.* A foreign bank shall not exercise fiduciary powers at a Federal branch unless it obtains approval of the Comptroller of the Currency in accordance with 12 CFR Part 4.7b. An application to exercise fiduciary powers may be submitted by a foreign bank at the time of filing for a Federal branch license or at any subsequent date.

(c) *Application to establish a Limited Federal branch.* Before submitting to the Comptroller an application to establish a Limited Federal branch, a foreign bank shall enter into an agreement with the Federal Reserve Board to receive at such branch only those types of deposits that would be permissible for an Edge corporation organized under section 25(a) of the Federal Reserve Act (12 U.S.C. 611).

§ 28.4 Applicability of laws.

Except as otherwise provided by the International Banking Act or any rules, regulations or orders of the Comptroller, operations of a foreign bank at a Federal branch or agency shall be conducted with the same rights and privileges and subject to the same duties, restrictions, penalties, liabilities, conditions, and limitations, that would apply to a national bank at the same location.

§ 28.5 Limitations based upon capital stock and surplus of a foreign bank.

Any limitation or restriction based upon the capital stock and surplus of a national bank shall be deemed to refer, as applied to a Federal branch or agency, to the dollar equivalent of the capital stock and surplus of the foreign bank. A foreign bank's capital stock and surplus shall be defined in a manner that is consistent with Interpretive Ruling 7.1100(b) (12 CFR 7.1100(b)). Any questions with respect to the types of accounts includable within a foreign bank's capital stock and surplus shall be resolved by the Comptroller when an application for an initial Federal branch or agency is approved. If a foreign bank has more than one Federal branch or agency, the business transacted by all such branches and agencies shall be aggregated in determining compliance with limitations based upon the capital stock and surplus of the foreign bank. The foreign bank shall designate one office in the United States to maintain consolidated information on all Federal branches and agencies so that such compliance can be monitored.

§ 28.6 Capital equivalency deposits for Federal branches and agencies.

(a) *Deposit of certain assets.* Upon the opening of a Federal branch or agency in any State and thereafter, a foreign bank shall keep on deposit with a member bank, in such amount as the Comptroller specifies, dollar deposits or investment securities of the type that may be held by national banks for their own account pursuant to 12 U.S.C. 24(7). The depository bank shall be located in the State where such Federal branch or agency is located and shall be subject to approval by the Comptroller if it is a national bank or by the Federal Reserve Board if it is a state member bank. The aggregate amount of deposited dollars and investment securities (calculated on the basis of principal amount or market value, whichever is lower) for each Federal branch or agency shall, at a minimum, equal the greater of (1) The amount of capital that would be required of a national bank being organized at the same location, or (2) 5 percent of the total liabilities of such Federal branch or agency, excluding accrued expenses and amounts due and other liabilities to other offices of the foreign bank. The Comptroller may require, in individual cases or otherwise, that the capital equivalency deposits be increased to conform to generally accepted banking practices in the area where the Federal branch or agency is located.

(b) *Deposit arrangements.* The capital equivalency deposits shall be maintained pursuant to a deposit agreement entered into between the foreign bank and the depository bank on a contract form approved by the Comptroller. Funds deposited and investment securities placed in safekeeping at the depository bank to satisfy the capital equivalency requirements of the foreign bank shall be segregated on the books and records of the depository bank, shall not be diminished in aggregate value by withdrawal without the prior approval of the Comptroller, shall be pledged to the Comptroller, and shall be free from any lien, charge, right of setoff, credit or preference in connection with any claim of the depository bank against the foreign bank. So long as it continues business in the ordinary course the foreign bank shall be permitted to collect income on the securities and the funds so deposited and from time to time examine and exchange such securities.

(c) *Maintenance of capital equivalency ledger account.* Each Federal branch or agency shall maintain a capital equivalency account and shall record for each business day the amount of liabilities requiring capital equivalency coverage (total liabilities minus accrued expenses and amounts due and other liabilities to offices of the foreign bank). On the last business day of each month, the average daily balance of such liabilities shall be computed. Based upon this computation, any increase in the capital equivalency deposits that may be necessary to maintain the ratio described in paragraph (a) of this section shall be made within the first two business days of the following month. If a foreign bank has more than one Federal branch or agency in a State, the capital equivalency deposits and the amount of liabilities requiring capital equivalency coverage shall be determined on an aggregate basis for all such Federal branches or agencies in the State.

§ 28.7 Reserves.

Consistent with section 7(a) of the International Banking Act, a Federal branch or agency shall be subject to such reserve requirements as may be prescribed in rules and regulations of the Federal Reserve Board.

§ 28.8 F.D.I.C. insurance.

An uninsured Federal branch may not receive deposits of less than $100,000 unless the Comptroller determines by order or regulation that the branch is not engaged in domestic retail deposit activities requiring deposit insurance protection, taking account of the size and nature of depositors and deposit accounts.

§ 28.9 Maintenance of assets; surety bond; pledge of assets.

In addition to any capital equivalency deposits and reserves that may be required pursuant to §§ 28.6 and 28.7, a foreign bank shall hold in each State in which it has a Federal branch or agency assets of such type and in such amount as the Comptroller may prescribe by general or specific regulation or ruling. Any insured Federal branch shall comply with any pledge of assets or surety bond requirements, or maintenance of assets rule, that may be contained in general or specific regulations or rules of the Federal Deposit Insurance Corporation.

§ 28.10 Maintenance of accounts, books and records.

Each Federal branch or agency shall maintain its accounts separate from those of the foreign bank and any other Federal branch or agency. It shall keep a set of accounts and records in English, reflecting all transactions on a daily basis. In addition, a foreign bank having more than one Federal branch or agency in a State shall also designate one of these offices to maintain consolidated asset, liability, and capital equivalency accounts for all Federal branches or agencies in such State.

§ 28.11 Service of process.

A foreign bank operating at any Federal branch or agency is subject to service of process at such location. A summons and complaint, a notice, and order, a subpoena or any other legal paper may be served by delivering a copy thereof, or mailing a copy by certified mail, to any officer or managing agent at such Federal branch or agency or to any other person designated as agent for service of process by the foreign bank or by the branch or agency in a general registration or pursuant to a specific agreement. Service of process may also be accomplished in any manner prescribed by a court of competent jurisdiction in the judicial district where such Federal branch or agency is located, or in any manner whereby actual notice is given to an officer or employee of such Federal branch or agency prior to the return date.

§ 28.12 Obligations of management.

Individuals assigned to managerial responsibilities at any Federal branch or agency have the legal duty to diligently and honestly administer the affairs of such institution and to not knowingly violate or willingly permit any violation of applicable laws. Laws relevant to this concern are 12 U.S.C. 73, 93, 375, 375a, 376, 503, and 1818.

§ 28.13 Regulation and supervison generally.

A Federal branch or agency shall be examined at least once each calendar year, is subject to all the recordkeeping and reporting requirements that apply to national banks and shall comply with such additional requirements as may be prescribed in general or specific rules, regulations or instructions of the Comptroller. A Federal branch or agency, and its parent foreign bank, shall furnish any information relating to the affairs of the institution that the Comptroller may from time to time request.

Authority: Secs. 4 and 13(a) of the International Banking Act of 1978 (Pub. L. 95-369, 12 U.S.C. 1301 *et seq.*).

Dated: April 25, 1979.

John G. Heimann,
Comptroller of the Currency.

[FR Doc. 79-14625 Filed 5-9-79; 8:45 am]

BILLING CODE 4810-33-M

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

[14 CFR Part 71]

Proposed Alteration of Control Zone & Transition Area; Rochester, N.Y.

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Notice of Proposed Rule Making.

SUMMARY: This notice proposes to alter the Rochester, N.Y., transition area and Rochester-Monroe County Airport, N.Y., control zone. A review of the subject controlled airspace indicates a need to increase controlled airspace. This increase will provide protection to aircraft executing the instrument approaches by increasing the controlled airspace. An instrument approach procedure requires the designation of controlled airspace to protect instrument aircraft utilizing the instrument approach.

DATES: Comments must be received on or before June 25, 1979.

ADDRESSES: Send comments on the proposal in triplicate to: Chief, Airspace & Procedures Branch, AEA-530, Eastern Region, Federal Aviation Administration, Federal Building, Jamaica, New York 11430. The docket may be examined at the following location: FAA, Office of Regional Counsel, AEA-7, Federal Building, J.F.K. International Airport, Jamaica, New York 11430.

FOR FURTHER INFORMATION CONTACT: Charles J. Bell, Airspace & Procedures Branch, AEA-530, Air Traffic Division, Federal Aviation Administration, Federal Building, J.F.K. International Airport, Jamaica, New York 11430, Telephone (212) 995-3391.

Comments Invited

Interested parties may participate in the proposed rulemaking by submitting such written data, views or arguments as they may desire. Communications should identify the airspace docket number and be submitted in triplicate to the Director, Eastern Region, Attention: Chief, Air Traffic Division, Federal Aviation Administration, Federal Building, J.F.K. International Airport, Jamaica, New York 11430. All communications received on or before June 25, 1979, will be considered before action is taken on the proposed amendment. The proposals contained in this notice may be changed in the light of comments received. All comments submitted will be available, both before and after the closing date for comments, in the Rules Docket for examination by interested persons.

Availability of NPRM

Any person may obtain a copy of this notice of proposed rulemaking (NPRM) by submitting a request to the Chief, Airspace & Procedures Branch, AEA-530, Eastern Region, Federal Aviation Administration, Federal Building, Jamaica, New York 11430, or by calling (212) 995-3391.

Communications must identify the docket number of this NPRM. Persons interested in being placed on a mailing list for future NPRMs should also request a copy of Advisory Circular No. 11-2 which describes the application procedures.

The Proposed Amendment

Accordingly, pursuant to the authority delegated to me, the Federal Aviation Administration proposes to amend §§ 71.171 and 71.181 of Part 71 of the Federal Aviation Regulations (14 CFR Part 71) as follows:

1. Amend § 71.171 Part 71 of the Federal Aviation Regulations (44 FR 353) in its entirety the description of the Rochester Monroe County Airport, N.Y. control zone and substitute the following:

Within a 5.5-mile radius of the Rochester-Monroe County Airport, N.Y. (Latitude 43°07'11"N., Longitude 77°40'18"W); within 3.5 miles each side of the Rochester VORTAC 214° radial extending from the 5.5-mile radius zone to 9 miles southwest of the VORTAC; within 3 miles each side of the Rochester VORTAC 280° radial, extending from the 5.5-mile radius zone to 8.5 miles west of the VORTAC; within 2 miles each side of the Rochester ILS Localizer east course, extending from the 5.5-mile radius zone of the LOM.

2. Amend § 71.181 of Part 71 of the Federal Aviation Regulations (FR 44-442) in its entirety the description of the Rochester, New York 700 foot floor transition area and substitute the following:

That airspace extending upward from 700 feet above the surface within a 9.5-mile radius of the Rochester-Monroe County

Airport, N.Y. (latitude 43°07'11"N., longitude 77°40'18"W.); within 3.5 miles each side of the Rochester ILS Localizer east course, extending from the 9.5-mile radius area to 11.5 miles east of the LOM; within 5 miles each side of the 141° bearing from the Briet LOM, extending from the 9.5-mile radius area to 13 miles southeast of the LOM; within 4 miles each side of the Rochester VORTAC 214° radial extending from the 9.5-mile radius area to 10.5 miles southwest of the VORTAC; within 4 miles each side of the VORTAC 280° radial extending from the 9.5-mile radius area to 10 miles west of the VORTAC; within a 5-mile radius of the Ledgedale Airpark, Brockport, N.Y. (latitude 43°10'52"N., longitude 77°54'50"W.); excluding that airspace which overlies the Rochester, N.Y, 700 foot transition area.

(Sec. 307(a), Federal Aviation Act of 1958 (72 Stat. 749; 49 U.S.C. 1348(a)), of sec. 6(c), Department of Transportation Act (49 U.S.C. 1655(c)); 14 CFR 11.65)

NOTE.—The FAA has determined that this document involves a proposed regulation which is not considered to be significant under the procedures and criteria prescribed by Executive Order 12044 and as implemented by interim Department of Transportation guidelines (43 FR 9582; March 8, 1978).

Issued in Jamaica, New York, on April 23, 1979.

Louis J. Cardinali,
Acting Director, Eastern Region.

[Airspace Docket No. 79-EA-14]
[FR Doc. 79-14282 Filed 5-9-79; 8:45 am]
BILLING CODE 4910-13-M

[14 CFR Parts 71 and 73]

Designation of Restricted Area

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Notice of proposed rulemaking.

SUMMARY: This notice proposes to designate a restricted area at Blanding, Utah, to contain the launching and patterns of Advanced Strategic Air Launched Missiles (ASALM). The proposed action would provide for the safe and efficient use of the navigable airspace by prohibiting unauthorized flight operations within the restricted area during its time of designation.

DATES: Comments must be received on or before June 5, 1979.

ADDRESSES: Send comments on the proposed in triplicate to: Director, FAA Rocky Mountain Region, Attention: Chief, Air Traffic Division, Docket No. 78-RM-35, Federal Aviation Administration, 10455 East 25th Avenue, Aurora, Colo. 80010.

The official docket may be examined at the following location: FAA Office of the Chief Counsel, Rules Docket (AGC-24), Room 916, 800 Independence Avenue, SW., Washington, D.C. 20591.

An informal docket may be examined at the office of the Regional Air Traffic Division.

FOR FURTHER INFORMATION CONTACT:
Mr. John Watterson, Airspace Regulations Branch, (AAT-230), Airspace and Air Traffic Rules Division, Air Traffic Service, Federal Aviation Administration, 800 Independence Avenue, SW., Washington, D.C. 20591; telephone: (202) 426-8525.

SUPPLEMENTARY INFORMATION:

Comments Invited

Interested persons may participate in the proposed rulemaking by submitting such written data, views or arguments as they may desire. Communications should identify the airspace docket number and be submitted in triplicate to the Director, Rocky Mountain Region, Attention: Chief, Air Traffic Division, Federal Aviation Administration, 10455 East 25th Avenue, Aurora, Colo. 80010. All communications received on or before June 5, 1979, will be considered before action is taken on the proposed amendments. The proposals contained in this notice may be changed in the light of comments received. All comments submitted will be available, both before and after the closing date for comments, in the Rules Docket for examination by interested persons.

Availability of NPRM

Any person may obtain a copy of this notice of proposed rulemaking (NPRM) by submitting a request to the Federal Aviation Administration, Office of Public Affairs, Attention: Public Information Center, APA-430, 800 Independence Avenue, SW., Washington, D.C. 20591, or by calling (202) 426-8058. Communications must identify the docket number of this NPRM. Persons interested in being placed on a mailing list for future NPRMs should also request a copy of Advisory Circular No. 11-2 which describes the application procedures.

The Proposal

The FAA is considering amendments to § 71.151 of Part 7 and § 73.64 of Part 73 of the Federal Aviation Regulations (14 CFR Parts 71 and 73) to designate a restricted area identified as R-6410, Blanding, Utah, to contain the launching and patterns of Advance Strategic Air Launched Missiles (ASALM). Since the restricted area would penetrate the continental control area, it would be listed under § 71.151 to provide controlled airspace above 14,500 feet MSL. ASALM launchings will begin about September 1 during daylight hours. The launchings and patterns will require that the area be void of nonmission aircraft from the surface to unlimited ceiling during operations. The ASALM will be launced at about 9,500-10,000 feet MSL and climb to an excess of 60,000 feet within the proposed restricted area. Impact will occur on R-5107B, White Sands Missile Range, N. Mex. The area would be activated only long enough to clear the area of air traffic and complete the operations. Immediately thereafter the airspace would revert back to FAA. Requested airspace time should not exceed 15 minutes. The controlling agency for the proposed restricted area would be the FAA, Denver Air Route Traffic Control Center.

The U.S. Army, White Sands Missile Range, will serve as the lead agency for the purpose of compliance with the National Environmental Policy Act. Comments on land use problems may be addressed to: U.S. Army White Sands Missile Range/FE, White Sands Missile Range, New Mexico 88002.

The Proposed Amendment

Accordingly, pursuant to the authority delegated to me, the Federal Aviation Administration proposes to amend § 71.151 of Part 71 and § 73.64 of Part 73 of the Federal Aviation Regulations (14 CFR Parts 71 and 73) as republished (44 FR 344 and 713, January 2, 1979) as follows:

Under § 71.151 (44 FR 344, January 2, 1979), the following restricted area is added:

"R-6410, Blanding, Utah"

Under § 73.64 (44 FR 713), the following is added:

R-6410 Blanding Utah
Boundaries. Beginning at Lat. 37°34'08"N., Long. 109°34'16"W.; to Lat. 37°16'10"N., Long. 109°16'00"W.; to Lat. 37°11'40"N., Long. 109°25'15"W.; to Lat. 37°82'36"N., Long. 109°36'54"W.; to the point of beginning.
Designated altitudes. Surface to unlimited.
Time of designation. To be activated by NOTAM at least 12 hours in advance.
Controlling agency. Federal Aviation Administration, Denver Air Route Traffic Control Center.
Using agency. Deputy for Air Force, Armament Development and Testing Center, White Sands Missile Range, New Mex.

(Secs. 307(a) and 313(a), Federal Aviation Act of 1958 (49 U.S.C. 1348(a) and 1354(a)); sec. 6(c), Department of Transportation Act (49 U.S.C. 1655(c)); and 14 CFR 11.65.)

NOTE.—The FAA has determined that this document involves a proposed regulation which is not significant under Executive Order 12044, as implemented by DOT Regulatory Policies and Procedures (44 FR 11034; February 26, 1979). Since this regulatory action involves an established body of technical requirements for which

frequent and routine amendments are necessary to keep them operationally current and promote safe flight operations, the anticipated impact is so minimal that this action does not warrant preparation of a regulatory evaluation and a comment period of less than 45 days is appropriate.

Issued in Washington, D.C., on May 1, 1979.

William E. Broadwater,
Chief, Airspace and Air Traffic Rules Division.

[Airspace Docket No. 78-RM-35]
[FR Doc. 79-14281 Filed 5-9-79; 8:45 am]
BILLING CODE 4910-13-M

CIVIL AERONAUTICS BOARD

[14 CFR Parts 325, 385]

Evaluation of Essential Air Transportation Needs of Small Communities; Proposed Amendment of Delegation of Authority to the Director, Bureau of Pricing and Domestic Aviation

Dated: May 3, 1979.

AGENCY: Civil Aeronautics Board.

ACTION: Notice of Proposed Rulemaking.

SUMMARY: The CAB proposed procedures under a newly added section of the Federal Aviation Act for evaluating essential air transportation needs of small communities. This rule is being adopted on the Board's own initiative of provide uniform procedures for the CAB's essential air service determinations.

DATES: Comments by: June 25, 1979.

Comments and other relevant information received after this date will be considered by the Board only to the extent practicable.

ADDRESSES: Twenty copies of comments should be sent to Docket 35464, Civil Aeronautics Board, 1825 Connecticut Avenue, N.W., Washington, D.C. 20428. Individuals may submit their views as consumers without filing multiple copies. Copies may be examined in Room 711, Civil Aeronautics Board, 1825 Connecticut Avenue, N.W., Washington, D.C. as soon as they are received.

FOR FURTHER INFORMATION CONTACT:
Patrick V. Murphy, Jr., Chief, Essential Air Services Division, Bureau of Pricing and Domestic Aviation, Civil Aeronautics Board, 1825 Connecticut Avenue, N.W., Washington, D.C. 20428; 202-673-5408.

SUPPLEMENTARY INFORMATION: Section 33(a) of the Airline Deregulation Act of 1978 (Pub. L. 95-501) amends the Federal Aviation Act by adding a new section 419 "Small Community Air Service" to guarantee essential air service to all eligible points. Eligible points are those communities currently certificated for airline service, and those deleted from a section 401 certificate between July 1, 1968 and October 24, 1978, that the Board designates as eligible points. Additional eligible points in Alaska and Hawaii will be selected by the Board after January 1, 1982. Section 419 requires the Board to guarantee essential air service to small communities and authorizes it to use inducements in the form of subsidies, as well as orders to continue service, to ensure that they continue to have at least this guaranteed level of air transportation.

Our first task in implementing section 419 is to determine what is essential air service for each eligible point. Currently these determinations are being made on an ad hoc and interim basis. In PSDR-59, issued simultaneously, the Board is proposing guidelines for use in essential air service determinations. In this notice, we are proposing the procedures that are to be followed in implementing those guidelines in specific cases.

By October 24, 1979, we are required to set the essential service level for 555 eligible points that were receiving air service from one or no certificated air carriers on October 24, 1978. By July 1, 1982, we will have to make similar determinations for some of the 129 points that were deleted from a § 401 certificate after July 1, 1968. In addition, eligible points that have their air service reduced to service by no more than one certificated air carrier, and other points in Alaska and Hawaii, will require essential air service determinations. The procedures for these determinations must therefore take into account the short time available for making such decisions.

These procedures must also meet our statutory obligation to consider the views of the interested community and the State before making each determination of essential air service. We have already had public meetings in nine regions of the country. These meetings discussed the general question of what level of service should be considered essential. The procedures proposed here will provide the framework in which a community can address the question of what level of air service is essential for its specific locale.

Obtaining community advice would be initiated under § 325.4 by mailing a questionnaire to local and State officials. Initially only those communities for which the Act requires an essential level of air service to be set will be sent the questionnaire. These 555 points will receive questionnaires in May, which must be returned by July 15th. This will give communities approximately 60 days to send the Board such information as the results of any traffic studies and data on population, degree of isolation, communities of interest, alternate surface transportation, seasonal variations in traffic, and the traffic-generating potential of their point. The Board, however, specifically requests comments on less burdensome ways of acquiring the necessary data and on any duplicative requests from other Federal agencies. Because of the short time for the Board to make essential air service determinations, the communities should make every effort to meet the deadline for responses. Communities that fail to do so may have their essential service set at the statutory minimum until their situation can be fully analyzed.

In order to ensure an adequate representation of community views, we propose in § 325.4 to mail this questionnaire to the chief executive of the principal city or other unit of local government and to the individual or the entity with direct supervision over the airport at the eligible point. In the case of a hyphenated point, consisting of two or more communities, each chief executive and airport manager would be sent a questionnaire. A questionnaire would also be sent to the State agency with jurisdiction over air transportation at the point. Suggestions would be welcome concerning ways of coordinating our data gathering with just one community official. Although the Board will mail the first set of questionnaires before all comments have been received, the form itself may be revised in response to the suggestions of interested persons. Even those persons who do not receive a questionnaire would still be permitted, of course, to submit views at the same time as the designated officials. After reviewing all responses, the Board may request additional information if needed to make an accurate determination.

The determinations of essential air service levels for Alaskan points presents a special situation, because we are required under section 419 not only to consult with the communities and the State agency, but also to reach agreement with that State agency whenever the Board believes that an Alaskan point should not be guaranteed the statutory minimum level of service. The Board has already been in contact with Alaskan representatives concerning the framework for reaching these agreements, but would welcome suggestions from Alaskan commenters on an appropriate procedure.

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Under proposed § 325.5, an initial determination of the essential level of air transportation would be made for a specific community. The Board has not yet decided whether decisions concerning essential air service should be made in the first instance by the staff under delegated authority, or by the Board itself. In either case, of course, an appeal of such a decision could be made to the Board by an aggrieved party. There will be a large number of determinations (around 555) to be made in a short period of time under the statutory deadline of October 24, 1979. By either method the processing and initial drafting will be done by the staff; the question is whether each determination would be sent to the Board for final action, or would be issued by the Director, BPDA, who at his discretion would forward controversial matters to the Board for decision.

The delegated method would be administratively more efficient, with fewer decisional steps and senior personnel involved in the general run of cases. It would allow the Board to concentrate on those items selected by the staff as needing Board consideration at the initial determination stage. Such a delegation scheme might also create a greater appearance of fairness, since the initial decision and any appeal would be at different levels within the Board. On the other hand, this difference may actually be more apparent than real, since controversial cases would probably be referred to the Board at the outset. Even without delegated authority the staff could indicate to the Board those cases (probably a large majority) that are routine and non-controversial and therefore do not need detailed study by the Board Members. Under the non-delegated method the Board Members would have the opportunity to oversee, and as appropriate reverse, the staff decisions as to what matters deserved routine handling. At a minimum, this would expose the determination to review by a larger number of persons with decisional authority, and increase the chances that potential problems will be detected. The Board is hereby proposing the delegation in order to focus comments on this procedural question, while leaving it open to be decided after the comments have been received and studied.

At the regional meeting, some participants asked that the Board hold hearings in the community before setting their essential air service level. Limitations of time, staff, and money prevent us from holding meetings at every community. As explained further, any person may appeal the initial determination to the Board, which could hold an informal conference at that time.

Proposed section 325.7 states that if a community disagrees with the level of service set in the initial determination, it can by filing an appeal takes its case to the Board. The Board could then revise the initial determination. The Director, BPDA would again be given delegated authority to make revisions when the initial determination was based on a clearly erroneous factual determination. This is similar to authority that Board staff already have under § 385.53 (14 CFR Part 385.53), to reverse a decision made under delegated authority. If the dispute goes beyond a mere mistake of fact, the Board would then have several further options under the proposal: additional written submissions could be requested, or an informal conference could be held.

Section 419 requires the Board to consider "the views of any interested community and the State agency." This does not mean that formal hearings must be held. A statutory directive to hold formal hearings on a matter is normally worded that the agency will act only "after notice and a hearing." In section 419(a)(11), for example, Congress used this notice and hearing language in cases where the Board seeks to replace a carrier receiving § 406 subsidy with one who will receive § 419 subsidy. Similar language is absent from the provisions of section 419 involving essential air service determinations.

Although many participants used the word "hearing" to describe their desired method of community input, it appears that they were actually asking that informal conferences be held. The communities sought a procedure that is simple and inexpensive. They evidently do not want swearing of witnesses, formal rules of evidence or other procedures associated with formal hearings. An informal conference will provide this simplicity and allow interested persons to give the Board their views on their air service needs. These conferences would be conducted by the Board, a Board member, or senior Board staff chosen by the Board. Any reasonable procedure will be considered.

Participation by Board staff in an informal conference procedure would not pose any conflict with our separation of functions rule (14 CFR 300.4), because that rule only applies to formal hearings. There is also no violation of our ex parte rules (14 CFR Part 300). Section 300.2 (14 CFR Section 300.2) was amended by PR-192, 44 FR 4655, January 23, 1979, to permit the staff to hold discussions with community representatives when such contacts are needed in section 419 matters.

A potential problem at this stage is what level of service the Board should guarantee to a community while an appeal involving that community is pending. One possibility is to require the carrier to continue the level of service that it is currently providing to the point involved until the appeal is resolved. This would require that the essential level be defined as the existing level of service at that point. Requiring carriers to continue to provide the same service pending appeals would, however, have the effect of freezing existing service patterns, potentially for large parts of the national system.

We are therefore proposing to make an initial determination immediately effective, although it may be later modified by the Board. Even if this determination sets the essential level lower than the existing level of service, a carrier would not necessarily use the issuance as an occasion to reduce its service. Before the issuance of initial determinations, carriers have the right in any event to reduce service to the minimum level established by § 419(f) of the Act. The Board specifically requests comments on this proposal, and any alternatives.

In cases where the existing level of service was lower than that set in the initial determination, we would not seek applications for carriers to provide the additional service until appeals were resolved and service patterns were ultimately defined. We propose, however, to handle these appeals first so that service at poorly served points can be brought up to the essential level in a short period without having to institute a service pattern only to reroute it several months later.

After a final determination was made by the Board, communities would still have an opportunity to request changes in the established essential service level. In objections to a notice of termination, suspension or reduction of service, any person already can, under § 323.9 of this chapter (14 CFR Part 323), suggest a different level of essential air service for the affected point. In addition, we propose in § 325.9 to allow a person to petition for modification of the essential service level at any time. When a petition for modification is filed, any person would be allowed to file an answer, and the Board would be required to reevaluate the air service needs of that community. The Board will also conduct a periodic review of the determination for each eligible point under the same procedure used to set the original level of essential service.

At the regional meetings, several participants expressed an interest in an experimental program that would involve a large amount of initial subsidy that would gradually taper off, placing the risk of loss of service on the community if the service did not develop as expected. It was argued that, if successful, such a program could better lead to economically self-sufficient air service in their community. We are considering this and other experimental programs for certain selected points. The procedural rules could be waived for these communities. Their procedures would be set forth in the order establishing the particular experimental program.

Section 325.12 declares that any person seeking to change the essential level of air service to their community need not file the environmental evaluations and energy information usually required by 14 CFR Parts 312 and 313. In the Small Community Air Service Program, Congress has directed to Board to guarantee all eligible points essential air transportation. This, however, will not result in substantially greater traffic in a market or to a point. Also, the service will be provided by small aircraft rather than by jets. Therefore, the Board finds that the commuter aircraft used in this program will not have a significant impact on the quality of the human environment. In particular cases where larger aircraft are employed, we will consider preparing an analysis of the environmental and energy impact.

Having made this finding, we believe that the environmental evaluations would impose an undue burden on communities. However, no one would be precluded from submitting environmental information under §§ 325.4, 325.7, or 325.9.

The Civil Aeronautics Board proposes to amend Chapter II of Title 14, CFR as follows:

1. A new Part 325, *Essential Air Service Procedures*, would be added to read:

PART 325—ESSENTIAL AIR SERVICE PROCEDURES

Sec.
325.1 Purpose.
325.2 Applicability.
325.3 Definitions.
325.4 State and local participation.
325.5 Initial determinations.
325.6 Periodic reviews.
325.7 Appeal of the initial determination.
325.8 Informal conferences.
325.9 Modification of the designated level of essential air service.
325.10 Form of documents.
325.11 Service of documents.
325.12 Environmental evaluations and energy information not required.
325.13 Conformity with Subpart A of Part 302.

Authority—Sec. 204, 419 of the Federal Aviation Act of 1958, as amended, 72 Stat. 743, 92 Stat. 1732, 49 U.S.C. 1324, 1389. Reorganization Plan No. 3 of 1961, 75 Stat. 837, 5 U.S.C. Appendix.

§ 325.1 Purpose.

The purpose of this part is to establish procedures to be followed in determinations of essential air transportation levels for eligible points, and in the appeals and periodic reviews of these determinations, under section 419 of the Act.

§ 325.2 Applicability.

This part applies to essential air service determinations only for those points designated as eligible under section 419 of the Act. It applies to the gathering of data by the Board, and to the participation of State and local and other officials and other persons in the determination process. Guidelines that the Board will follow in making each essential air service determination are contained in Part 398 of this chapter.

§ 325.3 Definitions.

As used in this part, "eligible point" means—

(a) Any point in the United States, the District of Columbia, and the several territories and possessions of the United States to which any direct air carrier was authorized, under a certificate issued by the Board under section 401 of the Act, to provide air service on October 24, 1978, whether or not such service was actually provided;

(b) Any point in the United States and the several territories and possessions of the United States that was deleted from a section 401 certificate between July 1, 1968 and October 24, 1978, inclusive, and that the Board designates as an eligible point under the Act; or

(c) Any other point in Alaska or Hawaii that the Board designates as an eligible point under the Act.

§ 325.4 State and local participation.

(a) The Board will send a questionnaire to each eligible point that is served by not more than one certificated air carrier, or is designated as an eligible point under section 419(b) of the Act, or has received an essential air service determination by the Board. The questionnaire will be addressed to:

(1) The chief executive of the principal city, or other unit of local government at the affected point, that is named, or has been previoulsy named, in a qualifying section 401 certificate. For points in Alaska or Hawaii that are named by the Board as eligible points without having been listed on a section 401 certificate, the principal city is the most populous municipality at the point;

(2) The individual or entity with direct supervision over and responsibility for the airport at the eligible point; and

(3) The State agency with jurisdiction over air transportation in the State containing the eligible point. If there is no such State agency, the questionnaire will be sent to the governor of that State.

(b) Within 60 days after the date of the questionnaire, five copies of the response shall be filed in the Docket Section, unless the Board specifies another date. If no response is received within the period, essential air service for that eligible point may temporarily be set at the minimum level prescribed in section 419(f) of the Act.

(c) Any other interested person may, during the 60-day response period, submit information relevant to the essential air service level of that eligible point by filing in the Docket Section five copies of a document titled with the name of the point involved.

(d) As necessary, the Board may request additional information to supplement the questionnaire.

§ 325.5 Initial determinations.

(a) Not later than October 24, 1979, after reviewing all information submitted, the Board will issue initial determinations of the essential level of air service for eligible points that, on October 24, 1978, were served by not more than one direct air carrier holding a certificate under section 401 of the Act for scheduled service to the point.

(b) The Board will issue an initial determination of the essential level of air service for a point within 6 months after (1) it receives notice that service to an eligible point will be reduced to only one carrier that holds a section 401 certificate, (2) it designates that point as an eligible point under section 419(b) of the Act, or (3) it conducts a review of essential air service of that point under § 325.6.

§ 325.6 Periodic review.

The Board will institute a periodic review of essential air service within 1 year of the date of the previous determination of essential air service for eligible points receiving subsidized service, within 2 years of the date of the previous determination for eligible points in Alaska, and within 3 years of the date of the previous determination for eligible points without subsidized air service.

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§ 325.7 Appeal of the initial determination.

(a) Any person objecting to an initial determination may within 30 days of its issuance file a document titled "Appeal of Inital Determination."

(b) The appeal shall contain specific objections to the initial determination, including support for all such objections, and shall state the level of essential air service that should be substituted.

(c) If no appeal is filed within the 30-day period, an initial determination will become final, unless stayed by the Board.

(d) After an appeal is filed, the Board may order that an informal conference be held, or may request more information, before issuing its final determination.

(e) Pending the outcome of the appeal, the essential air service for the point involved shall be the level set by the initial determination.

§ 325.8 Informal conferences.

(a) If the appeal raises an issue that cannot be satisfactorily resolved on the basis of written submissions, the Board may order that an informal conference be held.

(b) The informal conference will be conducted by the Board, a Board member, or senior Board staff designated by the Board.

(c) Any interested person may attend the informal conference.

§ 325.9 Modification of the designated level of essential air service.

(a) Any person may file with the Board a petition titled "Petition for Modification of Essential Air Service Level," asking to modify the essential air service level at a point.

(b) The petition shall identify the point affected, and specifically state the reasons why the designated essential level is inadequate. It should contain any facts and arguments that support its requests, and state the level of essential air service that should be substituted.

(c) Any person may, within 15 days of the filing of a petition for modification, file an answer to that petition titled "Answer to Petition for Modification."

(d) After review, the Board may order an informal conference or request more information, before issuing its decision on the petition.

§ 325.10 Form of documents.

All documents filed under this part shall be filed in the Docket Section, Civil Aeronautics Board, Washington, D.C. 20428, and on their front page state:

(a) The title of the document;

(b) The name, address, and telephone number of a person who can be contacted for further information concerning the subject of the document; and

(c) In the case of a responsive document, the docket number of the document to which it responds.

§ 325.11 Service of documents.

Any person, except one filing indivudually as a consumer, who files a document under this part shall serve that document upon those listed in § 325.4(a) of this part and upon the following:

(a) The governor of the State in which the eligible point is located.

(b) Each air carrier providing scheduled service to the affected eligible point.

(c) In the case of a responsive document, the one who filed the document to which it responds.

(d) The Secretary of Transportation.

§ 325.12 Environmental evaluations and energy information not required.

Notwithstanding any provision of Part 312 or Part 313 of this chapter, a person filing a petition or appeal under this part is not required to file an environmental evaluation or energy information with the application.

§ 325.13 Conformity with Subpart A of Part 302.

Except where they are inconsistent, the provisions of Subpart A of Part 302 of this chapter shall apply to proceedings under this part.

PART 385—DELEGATIONS AND REVIEW OF ACTION UNDER DELEGATIONS; NONHEARING MATTERS

2. New paragraphs (rr) and (ss) would be added to § 385.13 of 14 CFR Part 385 to read:

§ 385.13 Delegation to the Director, Bureau of Pricing and Domestic Aviation.

* * * * *

(rr) Issue initial determinations of essential air service levels for eligible points under § 325.5 of this chapter.

(ss) Revise initial determinations of essential air service when based on a clearly erroneous factual determination.

(Sec. 204, 419 of the Federal Aviation Act of 1958, as amended, 72 Stat. 743, 92 Stat. 1732, 49 U.S.C. 1324, 1389. Reorgainzation Plan No. 3 of 1961, 75 Stat. 837, 5 U.S.C. Appendix.)

By the Civil Aeronautics Board.

Phyllis T. Kaylor,
Secretary.

[FDR-6R. ODR-17; Docket 35464]
[FR Doc. 79-14824 Filed 5-9-79; 8:45 am]
BILLING CODE 6320-01-M

[14 CFR Part 398]

Guidelines for Individual Determinations of Essential Air Transportation

AGENCY: Civil Aeronautics Board.

ACTION: Notice of Proposed Rulemaking.

SUMMARY: The CAB proposes guidelines for determining the essential air service of small communities under a newly added section of the Federal Aviation Act. Under this section, the Board is directed to determine what is essential air transportation for certain eligible points and to guarantee that this level of service is being provided, with Federal subsidy where necessary.

DATES: Comments by: June 25, 1979. Comments and other relevant relevant information received after this date will be considered by the Board only to the extent practicable.

ADDRESSES: Twenty copies of comments should be sent to Docket 34650, Civil Aeronautics Board, 1825 Connecticut Avenue, N.W., Washington, D.C. 20428. Individuals may submit their views as consumers without filing multiple copies. Copies may be examined in Room 711, Civil Aeronautics Board, 1825 Connecticut Avenue, N.W., Washington, D.C. as soon as they are received.

FOR FURTHER INFORMATION CONTACT: Patrick V. Murphy, Jr., Chief, Essential Air Services Divison, Bureau of Pricing and Domestic Aviation, Civil Aeronautics Board, 1825 Connecticut Avenue, N.W., Washington, D.C. 20428; (202) 673-5406.

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I. Statutory Mandate for Essential Air Service Program

By the Airline Deregulation Act of 1978, Public Law 95-504 (effective on October 24, 1978), Congress amended the Federal Aviation Act of 1958 to, among other things, add a new section 419, dealing with small community air service. Under this section, the Board is directed to determine what is essential air transportation for certain eligible points and to guarantee that this level of service is being provided, with Federal subsidy where necessary.

Section 419(a) defines "eligible point" as any point in the 50 States, the District of Columbia, and in U.S. Territories and possessions to which on October 24, 1978 any air carrier (1) was providing service pursuant to a certificate issued under section 401 of the Act or (2) was authorized under such certificate to provide service that was suspended on that date. Section 419(b) requires the Board to establish criteria for designating additional eligible points to be included in the guaranteed essential air transportation program from the list of points in the United States that were deleted from a section 401 certificate between July 1, 1968, and October 24, 1978, and from the list of all other points in Alaska and Hawaii.

The statute also sets a timetable for the Board to determine what is essential air transportation for these points: by October 24, 1979, for those points defined as eligible under section 419(a), that on October 24, 1978, were served by one or no certificated carriers; or within 6 months for those points for which the Board receives notice under 401(j) or 419(a)(3) that service will be provided by not more than one certificated air carrier or for those points which the Board designates as eligible under 419(b). Under section 419, we are thus required to determine essential air transportation for 555 points by October 24, 1979, including 228 points in Alaska. In addition, we are required to review periodically these essential air transportation determinations.

As guidance to the Board in making its determinations, the statute broadly defines essential air transportation and establishes minimum essential service levels. Specifically, essential transportation is defined as scheduled air transportation of persons that satisfies the needs of the community for air transportation to one or more communities of interest and insures access to the nation's air transportation system at rates, fares and charges that are not unjust, unreasonable, unjustly discriminatory, unduly preferential, or unduly prejudicial. The minimum service level for points other than those in Alaska is specified as two daily round trips, 5 days per week, or the level of service provided during calendar year 1977, whichever is less. For points in Alaska, the minimum level is two round trips per week, or the level that existed during calendar year 1976, whichever is greater. In making its determinations, the Board is directed to consider the views of the intersted community and State agency.

II. Regional Meetings

As an initial step in implementing the Small Community Air Service Program, we held a series of regional meetings around the country during January and February with regional, State and local officials, as well as interested private citizens and parties, to obtain their views on air service and thereby to help us develop a program responsive to the needs of the users, the traveling public and the communities involved. We sought advice on four major topics: determining essential air transportation, criteria for designation additional points as eligible, procedures for processing subsidy applications, and subsidy determination. Specifically, with respect to the topic of determining essential air transportation, we sought views on the following questions: (1) What is the level of service quality the Federal government should be expected to guarantee? (2) What size of aircraft, level of frequency, and number of destinations should be guaranteed? (3) How detailed should our specification of essential air service be? (For example, should minimum aircraft size and characteristics be prescribed and should time of day schedules be established?) and (4) Should the maximum number of stops be specified as well as the hubs to which the communities are linked?

The State, regional, and community officials presented a wide variety of opinions and views on essential air transportation requirements and the procedures by which we should implement the small community program. Some cities are satisfied with their existing service, and they contended that their current levels of service should be designated as the essential level. Many other communities that have not been receiving service responsive to their needs argued that essential service should be at a level above their current service. Most communities noted that good air service is vital to their economic and social development and that they should have a definite role in these determinations. Many representatives acknowledged that the present subsidy system under section 406 has not been effective in developing and assuring the maintenance of quality service to the small communities. Therefore, they argued that the new service program should be designed to insure quality of service rather than minimal service levels. They also indicated that such service should ultimately be self-sufficient, not requiring subsidy support.

The Board shares the view that small communities' air service should ultimately be economically self-sufficient, both for the sake of the community involved and to eliminate the need to subsidize air carriers with taxpayers' money. In making essential air service determinations, the Board will consider the quality of service and not merely the number of flights to be provided. This may require the Board to consider, in certain instances, aircraft size, guaranteed schedules, access to the major airline centers and access to convenient facilities at that hub. By ensuring quality, it is hoped that the service will gain community acceptance, thereby encouraging people who might otherwise drive to use air service.

Most communities stated that the Board should not impose national standards, but should make its determinations on a case-by-case basis. In fact, many officials urged the Board to hold subsequent meetings with civic officials to discuss the individual determinations either at the eligible community or at regional meetings. Some officials even felt that formal hearings should be held. In response to these requests we indicated the time constraints caused by the October 24 statutory deadline make individual meetings impossible in all cases. We want, however, to afford the communities every opportunity possible to present their views throughout the process of making essential air transportation determinations.

After considering the many views presented, both orally and in written submissions at and since the regional meetings, we have drafted tentative policy guidelines for determining essential air transportation. We propose to use these guidelines as a framework for analyzing the essential air transportation needs of each point on an individual basis. Once we have considered the comments received on this proposal, we will adopt a policy statement in light of them and proceed to make individual essential air transportation determinations based on that policy and on additional information and views about the individual points that will be requested

from community and State representatives.

It is our statutory obligation to design a program that will be responsive to the transportation needs of each community and will insure convenient and usable air service to meet the essential requirements of the traveling public. In fact, the long-term success and viability of air service to these points, which is our primary objective, depends to a large degree upon designing the essential air service in accordance with an individual community's requirements. To achieve these goals, we have tried to establish an overall policy that will be fair and equitable to all points under the program and yet will be flexible enough to accommodate varying circumstances among the points.

III. General Issues

A. *Eligibility*

Several general issues were raised at the regional meetings about the Small Communities Program. The first deals with the eligibility of communities. Some participants voiced concern about the exclusion of cities that were never certificated or were deleted prior to the July 1, 1968 cut-off date set by the Act. As stated at the meetings, we are precluded by law from including these points in the program and any change regarding the eligibility of such points would require Congressional action. It was suggested, however that perhaps such noneligible points could be included as intermediate stops or beyond points on routings serving eligible points. This linear route integration would benefit both the eligible and non-eligible communities by enabling the carrier to combine traffic and operations at several points. Although we will encourage carriers to consider providing such service, we cannot guarantee or consider such additional operations to noneligible points in determining essential air transportation levels at eligible points because essential air transportation is service to a hub.

B. *Hyphenated Points*

Another issue that has been raised is the status of hyphenated points (*i.e.*, two or more cities designated as a single point on a section 401 certificate). Several communities that are hyphenated have contended that essential air transportation determinations should be made for each of the hyphenated cities separately. We are not convinced that separate essential air transportation determinations for each city of a hyphenated point would be consistent with the Act and historic Board policy. The Act defines "eligible point" as any point at which an air carrier is authorized to provide service pursuant to a certificate issued under section 401. In this context the term "point" refers to the certificate designation, and hyphenated designations in certificates have historically been viewed as single points by the Board. Under this interpretation, the cities would not be eligible for separate essential air transportation determinations.

The Board has decided, however, that in some cases a community of a hyphenated point could be entitled to an individual essential air service determination under section 419(b) of the Act. The rationale for this is that a point that lost service at its airport as a result of being hyphenated with another point after 1968 has for practical purposes been deleted from that certificate. Under section 419(b) of the Act, any point deleted from a section 401 certificate between July 1, 1968 and October 24, 1978 may be designated as an additional eligible point if it meets the criteria that the Board will establish under section 419(b)(2) of the Act. Points that were deleted from a certificate before July 1, 1968 cannot have their air service needs considered under section 419(b), and the Board cannot make a separate determination under section 419 for communities that were hyphenated before that date.

Although receiving an essential air service determination as part of one hyphenated point, a community might still be entitled to service at its own airport. In making the essential air service determination for a hyphenated point, the Board will consider whether traffic at each community justifies requiring service to both airports. For a hyphenated point entitled to four round trips each day, for example, the Board might also require, under this proposal, that three flights serve the airport in one community while the other flight serves the other community's airport. In this way, each community would, in effect, receive service as if it were a separate point, except that the statutory minimum service level of section 419(f) could be fulfilled by the aggregate amount of service to both airports.

In assessing the need for service at one of the communities of the hyphenated point, the Board will examine the distances between the communities that comprise that point, the locations of their airports, the available ground transportation between them, the size of each, and the cities to which each has the closest economic, political and geographical ties. Similar criteria may be applied in determining whether a community considered deleted from a 401 certificate should be designated as an eligible point under section 419(b). Therefore, there may be little practical difference between a community treated as part of a hyphenated point deserving service to its own airport and a community that is considered deleted and entitled to essential service under section 419(b).

The distinction could become crucial, however, if the community was hyphenated with a city that is presently receiving service from two or more certificated air carriers. In such a case, the Act does not require the Board to make an essential air service determination as long as service to the hyphenated point is not reduced to service by one or no certificated air carriers. The smaller of the hyphenated communities would therefore probably not receive service at its own airport unless it is treated as a deleted point by the Board. These communities would be likely candidates for essential air service determinations under section 419(b) if they meet the other criteria for eligibility that the Board establishes.

C. *Cargo*

Several communities have indicated that cargo requirements should be incorporated into the essential air transportation determinations. Section 419(f) defines essential air transportation as air transportation "of persons." The Senate, House, and Conference reports do not contain any discussion on the question whether cargo needs may be taken into account. Since passenger transportation is the focus of the statutory provision, the Board has tentatively decided not to include cargo capability generally in its determinations. Given the statutory limitations and availability of surface transportation in most of the United States, it does not appear permissible or necessary for the Board to consider air cargo in deciding what air transportation services should be subsidized.

Alaska, however, is a special case. It does not have a major highway system connecting all of the certificated points, and air service is frequently the only means of transporting cargo between them. Congress recognized Alaska's special circumstances when, in section 419(f), it gave the Board authority to make exceptions for Alaskan essential air service determinations when there is agreement with the Alaskan Transportation Commission to do so. We will seek agreement from the Commission, which is most familiar with that State's needs, to take cargo needs into account in our essential air service determinations for Alaskan points. The Board specifically requests comments on whether and the extent to which cargo needs should be considered in determining essential air service in Alaska, and on our statutory authority for doing so.

D. *Development of Community Information and Responses*

Some communities have expressed concern about our using historic traffic data for assessing the amount of demand for air service and, in turn, determining the level of service required. These communities contend that in many instances historic traffic as reported in the Origin-Destination (O&D) Tables has been depressed because of the poor quality of service, the frequent schedule changes which have disrupted the development of traffic and the public's use of nearby airports at other cities where there is more service than at the local airport. Consequently, these communities contend that in assessing potential traffic we should not rely solely on our O&D data compiled from the certificated carriers' reports. Instead, it has been suggested that studies be conducted at the local level, perhaps by sampling tickets issued by travel agents, to determine the real level of traffic available in the market. We realize the problems involved in any approach for establishing the potential traffic at these points, particularly for the reasons cited by the communities. We are unable, however, to undertake individual traffic studies for all of the points involved. This is an area in which State agencies and regional commissions could be of great assistance to the Board. The staff will coordinate its data gathering with State and regional authorities to try to accurately determine potential traffic at individual points. We will also work with the affected communities and suggest that they submit any available factual information and studies about the demand for air service at their communities in their responses to our questionnaire. We will fully consider all evidence presented, along with available certificated carrier traffic data and commuter carrier traffic data for the point.

Turning to the specific policy statement, we are proposing two sets of guidelines, one for Alaska and one for the remainder of the States, the territories and possessions. Separate guidelines for Alaska are needed because of the substantially different set of circumstances in that State, and because of the different statutory provisions, particularly the section 419 definition of essential air transportation for points in Alaska.

IV. Guidelines for Individual Determinations

In determining essential air transportation for points other than in Alaska, we have tentatively decided to consider four major service factors: hubs, equipment, frequencies, including scheduling, and stops. We have attempted to design guidelines that can be used as a framework for making individual determinations, taking into account specific circumstances applicable to the individual point, while maintaining standards equitable to all eligible points.

In formulating our guidelines, we have been especially conscious of the important relationship between the quality of air service and public support for such service. As evidence of the importance of this relationship, several communities at the regional meetings indicated that the poor quality of existing service has caused many travelers not to support the air transportation at their local airports. Our determinations must therefore look to a quality of service reponsive to the needs of the community so that the traffic at that point will be fully developed and the transportation needs of the community will be met.

The proposed policy statement that follows establishes only guidelines. It is not possible or desirable to establish fixed standards that can be applicable nationwide. Communities vary and each has different air service needs. Also, the required size of equipment, the frequency of flights, and the number of stops on those flights are interrelated factors in determining essential air service. These guidelines must be flexible to account for this so that, for example, if the size of aircraft serving a point increases, fewer flights would be required or more stops permitted under our rules. The main concern is that the total available capacity for a point be sufficient to satisfy its essential air service needs. Carriers will be allowed flexibility, consistent with the guidelines, the objective of developing self-sufficient operations, and the expressed desires of the community, to determine how they will provide the point with the available capacity that is considered essential by the Board. This capacity could be provided by any combination of increased aircraft size, greater frequency of flights, or fewer stops.

A. *Hubs*

Hubs are those points enplaning 0.05 percent or more of the passengers enplaned by all certificated carriers in the United States. We propose that essential air service generally should be to one hub. It is our experience that service to one hub will meet the needs of most communities.

The size of the point and traffic levels would be used in determining whether two hubs would be designated. The Board would consider requiring service to two hubs only when there is sufficient traffic from the eligible point, the return leg otherwise would be a considerable distance, and the point has important political, commercial and geographic ties to cities in different directions. In making this determination, the Board will rely on traffic studies and O&D data to assess traffic flows, and on other information supplied by the local communities, the State agencies, and regional commissions.

A major factor in the specific designation of hubs would be the destinations that are of interest to the eligible point. It is of critical importance to ensure that air service will be available to cities meeting the community's commercial and economic needs and to hubs meeting the community's needs for access to the transportation network. In designating hubs, we will carefully examine the major markets for each eligible point and any comments and views of the civic parties to determine the important destinations for the point. Based on this information, if a significant portion of the eligible point's traffic is to a hub in the region, and the traffic levels justify direct service, we would designate that hub. If, on the other hand, a significant portion of the point's traffic requires connecting service to other areas of the country, we would designate hubs on the basis of access to the national air system and availability of connecting services. In either case, we would consider designating hubs other than the nearest one if the potential service benefits warrant overflying the nearest one. Our general policy, however, is to designate the closest hub. If a community requested designation of a more distant hub that would necessitate the use of larger aircraft, we would consider whether the traffic levels justified the use of such aircraft and whether substantial benefits clearly warranted its designation.

The issue of designating essential service through a particular airport, both at the eligible point and the hub, has been raised at the regional meetings.

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Generally, the Board has not required the carriers to provide service through a specified airport since this would deny them operating flexibility to adjust service to market conditions and operational constraints. From a practical standpoint, designation of airports, particularly at hubs, would also affect airport planning, terminal and gate allocations, slot allocations, and traffic congestion problems. Nonetheless, at the eligible point that is the subject of our essential air service determination, we would be willing to designate the airport or airports that should be used, if the community could demonstrate that service designated by airport was required to meet its essential needs. This is particularly important for hyphenated points or for points where the airport is a considerable distance from the community. With respect to the hub cities, however, we do not intend usually to designate airports. Although a community may see advantages in having its air service fly into the primary airport at the hub, we believe that airline and airport management can best make these allocative decisions where hubs are concerned. Also, by requiring service in one market through a specific airport we could potentially deprive another market of access to that airport, which would not be in the public interest. Even if it were desirable to require hub airports to accommodate flights from all eligible points, our power to do so is limited. Nevertheless, in some cases where a community's essential air service needs require service to a particular hub airport, the Board may consider designating that airport for service from that eligible point.

B. *Equipment*

We have received numerous comments from civic parties about the minimum size and type of aircraft that should be required for essential air service. They expressed considerable concern about operational and safety requirements as well as passenger amenities and comfort. Major topics raised at the regional meetings were pressurization, the size of aircraft, the shortage of available equipment, crew requirements, and passenger facilities. Several community representatives indicated the importance of the size of the equipment to the public's acceptance and support of the service, claiming that very small aircraft would not be acceptable to many passengers. The need for pressurized equipment was noted by some officials because of mountainous terrain or recurrent adverse weather conditions. There was also considerable discussion about the lack of available smaller equipment, the time lag before new equipment can be designed and manufactured, and the potential problems for assuring essential air transportation under the small communities program because of a lack of available aircraft capacity. Comments about the crew requirements included the safety aspect of having a copilot and the passenger convenience of having flight attendants.

In considering the issue of equipment, we have given considerable attention to the views presented on these subjects, since public acceptance of air service is critical to the success of the small community program. We are also aware of the Congressional concern, expressed in section 419(c) of the Act, for maintaining high safety standards in air transportation. Therefore, the Board is proposing that safety considerations should govern the size and type of aircraft that may be used to provide essential air transportation. We will rely on the standards of the Federal Aviation Administration (FAA) in making our equipment determinations for each point.

In most cases, no particular aircraft size would be specified although equipment must be large enough to accommodate passengers and accompanying baggage. At many smaller communities over the past decade, more frequent service with smaller aircraft has proven to be more successful in developing traffic than fewer flights with larger aircraft. This indicates that small aircraft can achieve community acceptance when they provide reliable and frequent service. Small aircraft, when accepted by the community, are also more likely to become economically self-sufficient because they are better suited to the traffic levels at small communities. Many community representatives at the regional meetings expressed an interest in having self-sufficient air service at their point. Finally, if the Board were to set a minimum size for aircraft, 10 seats for example, it would effectively ground a large portion of the commuter fleet and take that much longer to provide small communities with their essential air service.

For the same reasons, the Board is reluctant to prohibit essential service by single-engine or single-pilot aircraft where such equipment is considered safe by the FAA. To do so could ground part of the fleet and make it more difficult for the air service to become self-sufficient. The number of engines and pilots, however, concerns the Board becuase they affect the quality of the service, and not merely the safety. Therefore, the Board has tentatively concluded that except in unusual circumstances such as Alaskan service, or in cases where the community consents to some other arrangement, essential air service is service by at least twin-engine aircraft with a pilot and a copilot. The Board specifically requests more information on this requirement.

We have tentatively decided not to require pressurized equipment. Less than 10 percent of available commuter equipment is pressurized, so few points could receive such service now even if the Board did require it. We have fully considered the views presented by some communities that pressurized aircraft is required because of the need to fly at high altitudes, over mountainous terrain, or to avoid adverse weather conditions. Some communities have suggested that unless pressurized aircraft are operated, particularly during the winter season, a significant percentage of flights may have to be cancelled, thereby diminishing the reliability of the essential air service. We have examined the FAA regulations governing altitudes and flight durations requiring pressurization and the existing operations of commuter carriers. The relatively short-haul operations to hubs required by our essential service determinations will not usually require operations at altitudes warranting pressurization. In fact, high altitude operations on shorter flights are inefficient and costly and generally cannot be justified. Commuter airlines have been operating nonpressurized equipment over mountainous terrain, even during the winter season, and have been able to maintain high completion factors and reliable service. To the extent that routings required by essential air service determinations may result in aircraft operations at high altitudes, the FAA regulations for pressurization will be applicable, and we believe these requirements should be sufficient. We will examine the needs of each community and may require pressurized aircraft in a few cases. The Board invites comments on this issue.

C. *Frequencies*

We propose that a minimum of two daily round trips Sunday through Friday be required to each designated hub, with a lower level of service required on Saturdays depending on the amount of traffic at the point on that day. Althought the Act only requires service five days per week as a minimum, there is a considerable need for weekend service, particularly on Sundays. We also believe that two round trips to the designated hub are generally required to meet the basic transportation needs of the community and to develop service at the point effectively. Service below this amount will not insure the capability of traveling to the hub and back on the same day, an important requirement of business traffic.

We would also require that flights be operated at reasonably convenient times, geared to the nature of the traffic. Flights operated primarily for persons originating or terminating their travel at the hub should be operated in the morning and late afternoon or evening, to enable passengers to arrive at their destination in time for business and return the same day after business hours. On the other hand, if the majority of the point's traffic is connecting onto other flights at the hub, flights should be operated at times based on the "connecting banks" at the hub: i.e., periods during the day when significant numbers of inbound and outbound flights are scheduled at hubs to provide convenient connecting opportunities to various destinations around the country. We have decided not to specify when essential air service must be provided because such an approach would be excessively rigid and unjustifiably reduce operating flexibility.

Above the two-round-trip level, we would base required frequencies on traffic levels, the equipment, and the number of stops or points served beyond the eligible point on the flight itinerary. We propose to require enough flights to accommodate the passengers and accompanying baggage at no greater than 65 percent average load factors, given the size of equipment and other markets at beyond and intermediate points that are being served on the flights. This means that a point whose average daily traffic is 32 passengers, for example, might be guaranteed as many as 50 available seats (32 divided by 0.65, raised to the nearest whole number) by the Board to and from its hub. More might be guaranteed if some seats are unavailable because they are being occupied by passengers traveling to intermediate points or to communities beyond the eligible point.

In guaranteeing air service to small communities, Congress established a minimum level of service to be considered essential. No maximum service level was set. Congress stated explicitly that the domestic air transportation system is to be regulated by market forces except in those instances when market forces alone are insufficient to guarantee continous, essential service. When the marketplace will supply service *at or above* the essential level, government intervention, in Congress' view, is neither necessary nor desirable.

The commuter industry has in recent years demonstrated its willingness to serve points and markets thought to be too small for service by the certificated carriers. Most small communities exhibiting a significant demand for air service has received it from commuters without subsidy. Estimates of the threshold for unsubsidized commuter service range from about six enplanements up to 25 or 30 enplanements a day. Other factors, such as proximity to a large airport, affect a communter's decision to operate, but it is now clear that there is some level of enplanements above which service without subsidy is nearly always assured.

We believe that self-sufficient service will be provided when a point enplanes more than 40 passengers a day, and that it will seldom if ever be necessary for the government to intervene with direct subsidy at points of that size. As explained below, we propose that a ceiling of 120 available seats be adopted in administering the section 419 program, based on a maximum of 40 enplanements per day. Our reasons for proposing the ceiling—which is a guideline or a presumption, not an absolute cutoff—are (1) that Congress told us to guarantee *essential* service, not all the service a community wants regardless of cost; (2) that the program will be complicated to administer even without extending it to a multitude of points whose service may fluctuate, but which at all times will receive "essential" service; and (3) that it is more consistent with the underlying philosophy of the Deregulation Act to reply on market forces to the maximum extent, when those forces will work, in small communities.

We propose, therefore, that ordinarily not more than 60 available seats be guaranteed by the Board each day in each direction (120 seats each day altogether) for passengers and accompanying baggage at the eligible point. For example, this could be met with two round trips with 30-seat aircraft or four round trips with 15-seat aircraft or some other combination of frequencies and equipment. Sixty available seats would accommodate 40 passengers to and from the point at approximately 65 percent load factors. It is our experience that above this level, the service should be economically self-sufficient and not require Federal subsidies.

The 60-seat maximum, like all the guidelines proposed here, is flexible. In certain instances, if a community showed a real need or a temporary market failure, the Board would guarantee more than 60 available seats. If intermediate points (between the eligible point and the hub) or beyond points are served, resulting in the total available capacity of the aircraft being shared with other markets, we would either increase the number of flights required or specify turnaround operations to insure that sufficient capacity, up to 60 seats in each direction, is available for the eligible point. It should be emphasized that 60 seats is a limit and not a goal. The Board will not guarantee that much capacity if traffic at the point would not justify it. We specifically request comments on this 60-seat maximum.

The Board recognizes that some points may already be receiving self-sufficient service at a higher level than would be guaranteed them under the load factor standard described above. In other words, they receive an amount of service greater than what we would consider "essential" under section 419 and our proposed guidelines. We will not guarantee service at higher than an essential level just because a community now receives it; on the other hand, we do not want to create an incentive for airlines to reduce their service below the "essential" level when the marketplace alone will supply more. We do not want to create a system that automatically triggers federal intervention and possible subsidies whenever an operator slightly reduces its service. Such a system might create perverse incentives on the part of the operators. If we were to guarantee the current level, that would trigger subsidies whenever there was a slight drop in service, even though the decrease did not result as a practical matter in loss of "essential" service. We have therefore tentatively decided to guarantee, as essential, up to 75 percent of the service a community receives when the service is above the statutory minimum and appears to be economically self-sufficicent. Again, the upper limit of 60 available seats in each direction per day would apply here. Of course, a community itself is not prohibited from attracting more service than the Board would guarantee it.

We also recognize that some eligible points experience higher levels of traffic during certain periods of the year. Under these circumstances, we would propose a two-tier essential service determination that would establish service levels in accordance with the seasonal levels of traffic. We will be

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requesting specific information and data from communities regarding this issue.

D. *Stops*

We are aware that the range of service patterns that we allow to meet essential air transportation requirements of communities must ensure a high quality of service if the operations are to be viable and supported by the public. Usually the number of stops has a major impact on the level of traffic generated because of time and convenience factors: service with no or relatively few stops may generate significantly increased traffic. Consequently, the number of stops that we allow to be made between the eligible point and the hub will significantly influence how usable the service is to the traveling public, and how much traffic is generated. For example, if several intermediate stops are made between an eligible point and a hub located only 100 miles away, the elapsed travel time for the passenger might substantially exceed the time required to travel the distance by surface transportation. The number of stops will also affect whether a reasonable number of seats are actually available to the public at the point on each flight. Very few if any seats might be available at a intermediate stop on multi-stop flights operated with small equipment.

We propose that the maximum number of stops permited for essential air transportation operations be tied to the size of equipment and the individual circumstances of the eligible point, such as distance to its designated hub(s). Generally, we propose a two-stop maximum. We believe that this requirement will ensure convenient and usable service, and a reasonable availability of seats. It will also give carriers adequate operating flexibility to develop different service patterns, a linear system using larger equipment, or alternatively a hub-and-spoke system with smaller equipment. Several communities indicated at the regional meetings a preference for multi-stop service combining traffic from several communities on flights operated with larger equipment rather than turnaround or one-stop hub-and-spoke service which would require smaller equipment to be economically viable. We intend to consider this option in appropriate situations. The type of service that will be provided, however, most likely would depend on the geographical region and the specific carriers operating in the markets.

Although we would generally allow one-stop or two-stop service, we would specify nonstop service in cases where one-stop operations clearly would not provide reasonable service, such as those where distances are so short that a stop would make the air service unattractive.

V. Guidelines for Points in Alaska

Section 419(f)(2) of the Act states that "with respect to air transportation to any point in Alaska, essential air transportation shall not be specified at a level of service less than that which existed for such point during calendar year 1976, or two round trips per week, whichever is greater, unless otherwise specified under an agreement between the Board and the State Agency of the State of Alaska, after consultation with the community affected." This directive and the substantially different circumstances and level of development of air transportation in Alaska necessitate that there be separate guidelines for Alaskan essential air transportation determinations. Therefore, before addressing specific proposals dealing with service factors such as hub designations, frequencies, and equipment, the statutory constraints and the special circumstances require consideration.

There are approximately 20 certificated points in Alaska where there is no air service today. Some of these points are no longer populated. Others are currently receiving less than the two round trips per week or are receiving a lower level of service than during 1976. The use of 1976 as a base level for essential air transportation determinations may not represent a realistic need for essential air service today, in part because Alaska was experiencing extensive economic activity and development associated with the Alaska pipeline in 1976.

Congress recognized this problem and provided for it in section 419(f)(2) of the Act. That section states that the Board need not require two weekly round trips or the 1976 service level if the Alaska Transportation Commission, after consultation with the community affected, agrees that a lower level of service is justified. We will analyze the traffic generating potential of all points in Alaska to determine the level of demand and in turn the level of service that is actually required to meet the communities' needs. We will be forwarding questionnaires to city representatives and State officials to obtain their views on their air service needs and any available data indicating potential air traffic. Based on our analysis of this information, we will propose essential service levels to the Alaska Transportation Commission and the affected communities for their concurrence. At points where there is clearly no need for service, such as points that may no longer be populated, we would ask the Alaska Transportation Commission to agree that the essential air transportation determination should be "no service." At points where the need for service is less than the two round trip level or the 1976 service level, we would recommend lower, more realistic levels that are in line with the current and potential needs of the community. Our objective would be to insure that the service being guaranteed legitimately warrants support by the Federal government.

Consultations with and concurrence of the Alaska Transportation Commission will be important part of our effort to develop the small community program for points in Alaska. We will be working closely with representatives from the State in developing procedures for this interaction. We anticpate discussing these procedures at our meetings with State and local officials in Alaska during May and welcome any comments from the communities and State on this subject.

Another statutory issue arises if a community contends that "the level of service * * * during calendar year 1976" literally requires us to maintain the same service patterns as were provided in 1976. That would mean service between very small points and the same number of flights and stops with the same equipment. This is not required by the statute. The "level of service" in section 419(f) refers mainly to the number of flights and not to service patterns.

Furthermore, this narrow approach would be detrimental to any effort to develop new service patterns to further the small community service. As long as the essential air transportation determinations establish a level of service that is qualitatively equal to or better than the 1976 level, although perhaps with different size of equipment, stops or intermediate points, the statutory mandate has been fulfilled.

We anticipate that seasonal variations in demand and available service are more important in Alaska than in the other States. We hope that communities in Alaska will comment on this aspect of their transportation needs. If there is a seasonal variation in the essential service needs of a point, we would propose a two-tier determination of essential service, with higher service requirements during the peak season.

A. *Hubs*

There are three FAA designated hubs in Alaska: Anchorage, Fairbanks, and Juneau. In addition, there are at least twelve regional points in the state that serve as focal points for air transportation operatons: Aniak, Bethel, Cold Bay, Dillingham, Fort Yukon, Galena, Ketchikan, King Salmon, Kodiak, Kotzebue, McGrath, and Nome. The Board may designate additional regional points. All of these regional points have direct service to one or more of the three FAA hubs. We propose that essential air transportation be service to one of these regional points or an FAA hub. This will insure access to the national air transportation system as well as service to an important community in the same region of the State. In addition, we will consider requiring service to an additional point or hub if it is a community of interest and such service can be justified on the basis of potential traffic. In assessing the traffic demand we would rely on origin-destination data, available commuter carrier data, and any traffic studies or reports submitted by the State or the local communities.

B. *Equipment*

We do not propose to have an overall minimum size guideline for aircraft in Alaska. Air transportation in Alaska is at a stage of development very different from the rest of the country, and landing facilities and logistical constraints may require greater latitude in prescribing equipment to be used. Also, many of the eligible points are very small and generate low traffic levels that necessitate the use of small aircraft. Where traffic levels and logistical circumstances justify our specifying aircraft, however, we will consider doing so.

C. *Frequencies*

We would require sufficient frequencies to accommodate passengers and accompanying baggage at 65% load factors. As with our guidelines for the other States, we would have to adjust the guaranteed service limit to present traffic levels. We would also allow variations in the number of flights according to the size of aircraft operated and the number of intermediate stops or points beyond the eligible point that share available capacity on the flight with the eligible point. We will also impose an upper limit of 60 seats in each direction per day on the level of guaranteed service. As noted earlier, we believe that above this level the traffic demand should be able to attract adequate service.

D. *Stops*

In general, we propose a maximum of two stops between the eligible point and the regional point or the FAA hub. In unusual circumstances where, for example, there are linear routing constraints, extremely low traffic levels, or long distances, we would permit additional stops.

E. *Cargo*

As previously indicated, the Board will consider cargo transportation requirements in determining the essential air service level for points in Alaska when there is an agreement with the Alaska Transportation Commission to do so.

VI. Experimental Program

At the regional meetings an experimental approach for service to small communities was discussed under which the Board would pay a higher level of subsidy at first in order to subsidize a higher level of initial service. Frequent service, it was suggested, would stimulate traffic at the point and result in its service eventually becoming economically self-sufficient. Many communities indicated a willingness to try such a program despite being warned that their subsidy would taper off, and that they would be guaranteed only the statutory minimum level of service if the program did not lead to self-sufficiency as expected.

The Board has considerable interest in this and possibly other experimental programs. We share the view that the section 419 subsidy program should be designed to foster self-sufficient service and not become a permanent support for air transportation. Nevertheless, we are not sure whether the Board has authority to adopt an experimental program such as the one described above. It is also not clear how points to receive the high initial subsidy would be chosen or how the experimental program would be administered. Therefore, after giving this matter further consideration, the Board will issue another proposal requesting comments on issues involved in experimental programs.

The Board requests comments on the procedures and guidelines proposed here. Such comments should avoid discussions of the air service needs of specific communities. There will be an adequate opportunity to inform the Board of these concerns when it is determining the essential air service for each eligible point.

VII. Proposed Rule

The Civil Aeronautics Board proposes to amend Chapter II of 14 CFR by adding a new Part 398, *Guidelines for Individual Determinotions of Essential Air Transportation,* to read as follows:

PART 398—GUIDELINES FOR INDIVIDUAL DETERMINATIONS OF ESSENTIAL AIR TRANSPORTATION

Sec.

398.1 Purpose.
398.2 Number and designation of hubs.
398.3 Specific airports.
398.4 Equipment.
398.5 Frequency of flights.
398.6 Maximum available capacity to be guaranteed by the Board.
398.7 Time of flights.
398.8 Number of stops permitted.

Authority.—Secs. 204, 419 of the Federal Aviation Act of 1958, as amended, 72 Stat. 743, 92 Stat. 1732, (49 U.S.C. 1324, 1389).

§ 398.1 Purpose.

The purpose of this Part is to establish general guidelines for determination of essential air transportation for each eligible point under section 419 of the Act. Procedures for the determination of the essential air service level for a point are in Part 325 of this Chapter.

§ 398.2 Number and designation of hubs.

(a) *What is a hub?* The Board considers a hub to be any point enplaning more than 0.05 percent of the total enplanements in the United States.

(b) *How many hubs?*

(1) It is the policy of the Board to require service to only one hub.

(2) The Board will consider requiring service to two hubs if an eligible point has close commercial, geographical, and political ties to both hubs and if there is sufficient traffic from the eligible point to support two round trips per day to both hubs. If traffic is not sufficient, the Board may require one round trip per day to both hubs if the community requests such service.

(3) In no event will essential air service be service to more than two hubs.

(c) *Which hub?*

(1) The Board will require service to the hub that has the closets commercial, geographic, and political ties to the eligible point if traffic studies and origin and destination data indicate that there will be sufficient traffic there. This will require designating the nearest hub, unless there is sufficient traffic to a more distant hub and direct service there would better serve the needs of the community because of the community's stronger ties to that hub or

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because that hub offers superior connecting service.

(2) For Alaska, rather than requiring service to a hub, the Board may only require that service from an eligible point be to a focal point for traffic in the area of the eligible point that has service to a larger hub.

§ 398.3 Specific airports.

(a) Essential air service may be specified as service to a particular airport at the eligible point. In the case of hyphenated points, essential air service will be specified as service to all airports only if clearly necessary and if the multiairport service is economically feasible and justified on the basis of traffic levels at all airports.

(b) Essential air service does not usually require service to a particular airport at a hub.

§ 398.4 Equipment.

It is not generally the policy of the Board to require any specific size or type of aircraft for providing essential air transportation except that—

(a) All aircraft must be sufficient to accommodate passengers and accompanying baggage at the point;

(b) All aircraft must meet the applicable safety standards of the Federal Aviation Administration; and

(c) All aircraft, other than those serving points in Alaska or points that have agreed to some other arrangement, must have two engines and two pilots.

§ 398.5 Frequency of flights.

(a) Except in Alaska, it is the policy of the Board to require at least two round trips flights each day on six days each week (Saturday is excluded from the eligible point to the designated hub, unless the point was receiving less than that in 1977 and cannot support such service at 50 to 65 percent average load factors.

(b) In Alaska, it is the policy of the Board to require either two round trip each week to each designated hub or focal point, or the level of service that existed for the point in 1976, whichever, is greater, unless such service is clearly unnecessary and the Alaska Transportation Commission agrees that a different level of service would meet the needs of the community.

(c) An essential service level may be set at more than that stated in paragraphs (a) or (b) of this section if—

(1) Historic traffic data and studies of traffic generating potential of the point indicate that more frequent service is needed to accommodate passengers and accompanying baggage with the aircraft used at that point;

(2) More flights are needed because the capacity available to the eligible point is being shared with traffic destined for an intermediate stop or for a point beyond the eligible point; or

(3) For Alaska, the Alaska Transportation Commission agrees that more frequent service is needed to accommodate cargo traffic with the aircraft used at the eligible point.

(d) For eligible points where traffic levels vary with the season, a two-tier level of essential air service will be established with required flight frequencies changing accordingly.

§ 398.6 Maximum available capacity to be guaranteed by the Board.

(a) Only under unusual circumstances will an eligible point's essential air service be set at a number of flights that will require more than 120 seats each day to be available in that market (60 seats from the eligible point to the hub and 60 seats from the hub back to that point).

(b) Eligible points receiving self-sufficient air service will, in the event of service reductions, generally not be guaranteed more than 75 percent of their present level of service to a maximum of 60 available seats each day in each direction (120 seats total).

§ 398.7 Time of flights.

To qualify as essential air service, flights must depart at reasonable times. It is the policy of the Board to consider the reasonableness of the time in view of the purpose for which the local passengers are traveling. If travel is primarily to connect with other flights, local flight-times should be designed to link with those flights. If travel is primarily local, there should be at least one flight in the morning and one in the late afternoon or evening.

§ 398.8 Number of stops permitted.

(a) A maximum of two stops is permitted in providing essential air service between the eligible point and a hub, unless otherwise agreed with the community.

(b) The Board may require one-stop or non-stop service when that is necessary to make the service usable.

(c) Where an eligible point normally is an intermediate stop that shares available capacity with another point, it is the policy of the Board to either require additional capacity (more flights or larger aircraft) between the hub and the eligible point of to specify some turnaround operations in that route segment.

(Secs. 204, 419 of the Federal Aviation Act of 1958, as amended, 72 Stat. 743, 92 Stat. 1732, 49 U.S.C. 1324, 1389.)

By the Civil Aeronautics Board.

Phyllis T. Kaylor,
Secretary.

[PSDR-59, Docket 34050]

[FR Doc. 79-14646 Filed 5-9-79; 8:45 am]

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DEPARTMENT OF THE TREASURY

Internal Revenue Service

[26 CFR Parts 1, 20, and 25]

Exemption for Certain Amateur Athletic Organizations

AGENCY: Internal Revenue Service, Treasury.

ACTION: Notice of proposed rulemaking.

SUMMARY: This document contains proposed regulations relating to the exemption of certain amateur athletic organizations from tax and the deductibility of contributions to organizations that qualify for the exemption. Changes to the applicable tax law were made by the Tax Reform Act of 1976. The regulations affect organizations that foster national or international sports competition and provide them with guidance needed to determine whether they qualify for the exemption.

DATES: Written comments and requests for a public hearing must be delivered or mailed by July 9, 1979. The amendments are proposed to be effective on the date final regulations are published in the Federal Register.

ADDRESS: Send comments and requests for a public hearing to: Commissioner of Internal Revenue, Attention: CC:EE:T (CC:LR-172-76), Washington, D.C. 20224.

FOR FURTHER INFORMATION CONTACT: John H. Parcell of the Legislation and Regulations Division, Office of Chief Counsel, Internal Revenue Service, 202-566-3828, not a toll-free call.

SUPPLEMENTARY INFORMATION:

Background

This document contains proposed amendments to the Income Tax Regulations (26 CFR Part 1) under sections 170 and 501 of the Internal Revenue Code of 1954, the Estate Tax Regulations (26 CFR Part 20) under section 2055 of the Internal Revenue Code of 1954, and the Gift Tax Regulations (26 CFR Part 25) under section 2522 of the Internal Revenue Code of 1954. These amendments are proposed to conform the regulations to section 1313 of the Tax Reform Act of 1976 (90 Stat. 1730) and are to be issued under the authority contained in section 7805 of the Internal Revenue Code of 1954 (68A Stat. 917; 26 U.S.C. 7805).

Exemption For Amateur Athletic Organizations

Section 501(c)(3) of the Code lists as exempt an organization organized and operated exclusively to foster national or international amateur sports competition. The Code does not describe the activities that foster national or international amateur sports competition. Therefore, to provide guidance to taxpayers, these activities are listed in the proposed regulations.

An organization that provides athletic facilities or equipment does not qualify for the new exemption. Nevertheless, such an organization may qualify for exemption if it has an exempt purpose other than fostering national or international amateur sports competition. Thus, for example, an educational organization could qualify for exemption even if it provided athletic facilities or equipment.

The proposed regulations describe the activities that constitute provision of athletic facilities or equipment. They provide that this limitation applies whether the equipment or facilities are supplied directly or indirectly by the organization. Facilities or equipment are supplied indirectly when the organization pays another person for their use.

Deductibility of Contributions

Sections 170(c)(2), 2055(a), and 2522(a) of the Code permit a deduction for contributions to amateur athletic organizations described above. The proposed amendments conform the regulations to these provisions in the Code.

Comments and Requests for a Public Hearing

Before adopting these proposed regulations, consideration will be given to any written comments that are submitted (preferably six copies) to the Commissioner of Internal Revenue. All comments will be available for public inspection and copying. A public hearing will be held upon written request to the Commissioner by any person who has submitted written comments. If a public hearing is held, notice of the time and place will be published in the Federal Register.

Drafting Information

The principal author of these proposed regulations was John H. Parcell of the Legislation and Regulations Division of the Office of Chief Counsel, Internal Revenue Service. However, personnel from other offices of the Internal Revenue Service and Treasury Department participated in developing the regulation, both on matters of substance and style.

Proposed amendments to the regulations

The proposed amendments to 26 CFR Parts 1, 20 and 25 are as follows:

Income Tax Regulations

PART 1—INCOME TAX; TAXABLE YEARS BEGINNING AFTER DECEMBER 31, 1951

§ 1.170A [Deleted]

Paragraph 1. Section 1.170A is deleted.

§ 1.501(c)(3) [Deleted]

Par. 2. Section 1.501(c)(3) is deleted.

Par. 3. Section 1.501(c)(3)-1 is changed as follows:

1. The heading is revised.

2. Paragraph (d)(1)(i) is revised by deleting the word "or" at the end of (*f*), by deleting the period at the end of (*g*) and substituting in its place a comma and the word "or", and by adding a new (*h*).

3. Paragraph (d) is revised by adding new paragraph (d) (6), (7), and (8). These revised and added provisions read as follows:

§ 1.501(c)(3)-1 Organizations organized and operated for religious, charitable, scientific, testing for public safety, literary, or educational purposes, or to foster national or international amateur sports competition, or for the prevention of cruelty to children or animals.

* * * * * *

(d) *Exempt purposes*—(1) *In general.*

(i) * * *

(*f*) Educational,

(*g*) Prevention of cruelty to children or animals, or

(*h*) To foster national or international amateur sports competition (but only after October 4, 1976, and only if no part of its activities involves the provision of athletic facilities or equipment).

* * * * * *

(6) *Foster national or international amateur sports competition defined.* The term "foster national or international amateur sports competition" refers to organizations that—

(i) Prescribe rules and standards for competition in an amateur sport or represent the United States in an international body that prescribes such rules and standards;

(ii) Sponsor national championships or international competition in an amateur sport;

(iii) Sponsor local, regional, and national competition to select participants in national championships or international competition in an amateur sport;

(iv) Provide security, ticket sales, and similar administrative services at amateur sports competitions described in paragraph (d)(6) (ii) or (iii) of this section;

(v) Provide administrative, coaching, and training services to amateur athletes;

(vi) Provide medical care and insurance to amateur athletes;

(vii) Conduct equipment research for the benefit of amateur athletes;

(viii) Disseminate information to amateur athletes; or

(ix) Provide financial assistance to amateur athletes, but only if such assistance does not affect the amateur status of athletes to whom it is provided.

(7) *Amateur athletes.* For purposes of paragraph (d)(6) (v), (vi), and (ix) of this section, the term "amateur athletes" refers only to athletes who participate, or reasonably can be expected to participate, in national championships or international competition in an amateur sport.

(8) *Provision of athletic facilities or equipment.* An organization that provides athletic facilities or equipment will not qualify for exemption as an organization organized and operated exclusively to foster national or international amateur sports competition. Such an organization may qualify for exemption if it has an exempt purpose other than fostering national or international amateur sports competition. An organization provides athletic facilities or equipment if—

(i) The organization permits the use of athletic facilities or equipment that it owns;

(ii) The organization pays for or otherwise assumes the cost of the use of athletic facilities or equipment owned by any other person; or

(iii) The organization reimburses amateur athletes for the cost of athletic facilities or equipment.

* * * * * *

Estate Tax Regulations

PART 20—ESTATE TAX; ESTATES OF DESCENDENTS DYING AFTER AUGUST 16, 1954

§ 20.2055 [Deleted]

Par. 4. Section 20.2055 is deleted.

Par. 5. Subparagraph (a)(2) of § 20.2055-1 is revised to read as set forth below:

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§ 20.2055-1 Deduction for transfers for public, charitable, and religious uses; in general.

(a) *General rule.* * * *

(2) To or for the use of any corporation or association organized and operated exclusively for religious, charitable, scientific, literary, or educational purposes (including the encouragement of art), or to foster national or international amateur sports competition (but only after October 4, 1976 and only if no part of its activities involves the provision of athletic facilities or equipment), or for the prevention of cruelty to children or animals, if no part of the net earnings of the corporation or association inures to the benefit of any private stockholder or individual (other than as a legitimate object of such purposes), if no substantial part of its activities is carrying on propaganda, or otherwise attempting, to influence legislation, and if, in the case of transfers made after December 31, 1969, it does not participate in, or intervene in (including the publishing or distributing of statements), any political campaign on behalf of any candidate for public office;

* * * * *

Gift Tax Regulations

PART 25—GIFT TAX; GIFTS MADE AFTER DECEMBER 31, 1954

§ 25.2522(a) [Deleted]

Par. 6. Section 25.2522(a) is deleted.

Par. 7. Subparagraphs (a)(2) and (a)(3) of § 25.2522(a)-1 are revised to read as set forth below:

§ 25.2522(a)-1 Charitable and similar gifts; citizens or residents.

(a) * * *

(2) Any corporation, trust, community chest, fund, or foundation organized and operated exclusively for religious, charitable, scientific, literary, or educational purposes (including the encouragement of art), or to foster national or international amateur sports competition (but only after October 4, 1976 and only if no part of its activities involves the provision of athletic facilities or equipment), or for the prevention of cruelty to children or animals, if no part of the net earnings of the organization inures to the benefit of any private shareholder or individual, if no substantial part of its activities is carrying on propaganda, or otherwise attempting, to influence legislation, and if, in the case of gifts made after December 31, 1969, it does not participate in, or intervene in (including the publishing or distributing of statements), any political campaign on behalf of any candidate for public office.

(3) A fraternal society, order, or association, operating under the lodge system, provided the gifts are to be used by the society, order, or association exclusively for religious, charitable, scientific, literary, or educational purposes (including the encouragement of art), or the prevention of cruelty to children or animals.

* * * * *

Jerome Kurtz,
Commissioner of Internal Revenue.

[CC-LR-172-76]
[FR Doc. 79-14618 Filed 5-9-79; 8:45 am]
BILLING CODE 4830-01-M

DEPARTMENT OF THE INTERIOR

Geological Survey

[30 CFR Part 250]

Oil and Gas and Sulphur Operations in the Outer Continental Shelf; Public Hearings

AGENCY: U.S. Geological Survey, Department of the Interior.

ACTION: Notice of Public Hearings.

SUMMARY: Proposed revisions to 30 CFR Part 250—Oil and Gas and Sulphur Operations in the Outer Continental Shelf—to implement Section 5(a)(8) of the Outer Continental Shelf Lands Act Amendments of 1978, Pub. L. 95-372 (herein referred to as "the Act"), are published in this **Federal Register** on May 10, 1979. Section 5(a)(8) of the Act requires the Secretary of the Interior to prescribe regulations with provisions for compliance with the national ambient air quality standards pursuant to the Clean Air Act (42 U.S.C. 7401 et seq.) to the extent that activities on the Outer Continental Shelf significantly affect the air quality of any State. This document announces public hearings to receive oral comments and recommendations on the proposed revisions to 30 CFR Part 250.

DATES: June 7—Los Angeles, California; June 12—New Orleans, Louisiana; and June 14—Washington, D.C.

ADDRESSES: June 7, 1979—Los Angeles, California 9:00 a.m. to 5:00 p.m.; Airport Marina Hotel, 8601 Lincoln Boulevard, Los Angeles, California 90045.

June 12, 1979—New Orleans, Louisiana 9:00 a.m. to 5:00 p.m.; Le Pavillon Hotel, 833 Poydras St., New Orleans, Louisiana 70112.

June 14, 1979—Washington, D.C. 9:00 a.m. to 5:00 p.m.; Departmental Auditorium, Department of the Interior, 1800 "C" Street, NW., Washington, D.C. 20240.

FOR FURTHER INFORMATION CONTACT: Thomas G. McCloskey, Office of the Assistant Secretary-Energy and Minerals, U.S. Department of the Interior, Room 6637, 1800 "C" Street, NW., Washington, D.C. 20240, (202) 343-4457.

SUPPLEMENTARY INFORMATION: Interested persons are invited to make oral and written presentations regarding the proposed rules during the hearings.

Individual testimony during the hearing may be limited if the number of people asking to testify warrants. However, in no case will a testifier be allowed less than 10 minutes. Requests for time to present testimony should be made before June 1, 1979, as follows:

Persons wishing to testify in Los Angeles, California, should address their requests for time to the Area Oil and Gas Supervisor, 17744 Federal Building, 300 N. Los Angeles Street, Los Angeles, California 90012, (213) 688-2846.

Persons wishing to testify in New Orleans, Louisiana, should address their requests for time to the Conservation Manager—Gulf of Mexico Region, 336 Imperial Office Building, 3301 Causeway Boulevard, P.O. Box 7944, Metairie, Louisiana, 7001, (504) 837-4720.

Persons wishing to testify in Washington, D.C., should address their requests for time to the Conservation Manager—Eastern Region, 1725 K Street, Suite 204, Washington, D.C., (202) 254-3137.

The comments and recommendations made at the three public hearings listed above will be recorded, transcripts of the hearings will be made part of the record relating to the promulgation of final rules. Copies of the proposed rules are available from the officials listed above.

The filing of a written statement at the time of giving oral testimony would be helpful to facilitate the job of the court reporter. Submission of written statements to the Chief, Conservation Division, U.S. Geological Survey, care of the officials listed above, in advance of the hearing dates would greatly assist Department officials who will attend the hearings. Advance submissions will give these officials an opportunity to consider appropriate questions which could be asked to clarify or solicit more specific information from the person testifying. The hearing record will remain open for receipt of additional written comments until June 24, 1979.

Each of the public hearings will continue on the day identified above until all persons scheduled to speak have been heard. Persons in the audience who have not been scheduled to speak and who wish to do so will be heard at the end of scheduled speakers. The hearings will end on each day after all people scheduled to testify and persons present in the audience who wish to speak have been heard. Persons not scheduled to testify, but wishing to do so, assume the risk of having the public hearing adjourned on any given day unless they are present in the audience at the time all scheduled speakers have been heard.

Dated: May 4, 1979.

Joan M. Davenport,
Assistant Secretary—Energy and Minerals.

[FR Doc. 79-14577 Filed 5-9-79; 8:45 am]
BILLING CODE 4310-31-M

[30 CFR Part 250]

Oil and Gas and Sulfur Operations in the Outer Continental Shelf

AGENCY: U.S. Geological Survey, Department of the Interior.

ACTION: Proposed Rule.

SUMMARY: Enactment of the Outer Continental Shelf Lands Act Amendments of 1978, Pub. L. 95-372, (herein referred to as "the Act") necessitates revision of the regulations contained in 30 CFR Part 250. By proposed rule of January 17, 1979, (44 FR 3513), the Department of the Interior proposed revisions to 30 CFR 250.34 to implement those provisions of the Act which relate to (1) exploration activities on Outer Continental Shelf (OCS) oil and gas leases, (2) coordination and consultation with the Governors of affected States and the executives of affected local governments, and (3) development and production activities on OCS oil and gas leases. Revisions to the proposed 30 CFR 250.34 which are contained in this Notice of Proposed Rulemaking, are necessary to implement Section 5(a)(8) of the Act. Section 5(a)(8) requires compliance with the national ambient air quality standards pursuant to the Clean Air Act (42 U.S.C. 7401 et seq.) to the extent that activities on the OCS significantly affect the air quality of any State. A new section, 30 CFR 250.57, is also proposed; it describes the requirements lessees must meet when their activitiew are subject to the provisions of Section 5(a)(8) of the Act.

DATES: Interested persons are invited to submit written comments and recommendations with respect to the proposed regulations. Written comments and recommendations should be submitted on or before July 9, 1979.

The rulemaking proceeding initiated by this notice is being conducted independently of the proceedings under which other Part 250 regulations are being amended. By soliciting comments on these proposed regulations the Department does not intend to reopen the comment period for the 30 CFR 250.34 regulations which closed on March 16, 1979 (*see* 44 FR 3513) or for other portions of the 30 CFR Part 250 regulations which will close on May 18, 1979 (*see* 44 FR 13527).

ADDRESS: Responses should identify the subject matter and be directed to the Chief, Conservation Division, U.S. Geological Survey, National Center, Mail Stop 620, Reston, Virginia 22092.

FOR FURTHER INFORMATION CONTACT: Theresa Hooks, Office of the Solicitor, Department of the Interior, Washington, D.C. 20240, (202/343-4325).

AUTHORS: Thomas McCloskey, Office of the Assistant Secretary—Energy and Minerals, Department of the Interior (202/343-4457); Theresa Hooks, Office of the Solicitor, Department of the Interior, R. A. Karam, Office of OCS Program Coordination, Office of Assistant Secretary-Policy, Budget and Administration, Department of the Interior (202/343/9314); and E. P. Danenberger, U.S. Geological Survey, Department of the Interior (703/860-7549).

SUPPLEMENTARY INFORMATION: The Act provides that the Secretary of the Interior shall prescribe regulations with provisions for compliance with the national ambient air quality standards pursuant to the Clean Air Act (42 U.S.C. 7401 *et. seq.*), to the extent that activities authorized under this Act significantly affect the air quality of any State (Section 5(a)(8), 43 U.S.C. 1334). By Notice of December 28, 1978, (43 FR 7980) public comments were requested to assist the Department of the Interior in the identification and selection of a regulatory program to control air emissions from activities authorized under the Act which significantly affect onshore air quality. The Department received 44 responses to the Notice, including 25 from industry and trade associations, 13 from State and local governments, 4 from environmental and public interest groups and 2 from federal agencies.

In addition to soliciting written comments and recommendations through the Advance Notice of Proposed Rulemaking, representatives from the Department of Interior met informally with interested parties in Washington, D.C. and in California to discuss the air quality regulatory program for the control of air emissions from activities authorized under the Act.

All oral and written comments have been carefully considered in this proposed rulemaking; another opportunity for written comment will be provided for 60 days following the publication of these proposed regulations. In addition, public hearings on these regulations will be held in Washington, D.C., New Orleans, Louisiana, and Los Angeles, California. (A Notice will be published in the **Federal Register.**)

The Department's Mandate

Significant Onshore Effects

In enacting Section 5(a)(8) of the Act, Congress directed the Secretary to regulate emissions from activities authorized under the Act *only* when these emissions would significantly affect the air quality of any State. Some respondents to the Advance Notice suggested that the language of Section 5(a)(8) means that no regulatory action can be taken until the Department demonstrates that emissions from a given facility could significantly affect an onshore area. Under this view, a demonstrable air quality problem would have to exist before the Department could act to avoid or mitigate the problem.

The Department has rejected this interpretation of the statute. Regulations are necessary to inform lessees and the public of how the Secretary intends to fulfill the statutory responsibilities related to the protection of onshore air quality. Thus the proposed regulations describe procedures that will be followed in determining whether emissions from activities authorized under the Act must be abated and explain the criteria that will be used to identify sources of emissions which would have significant onshore impacts.

The Department agrees with those commenters who asserted that the lessee cannot be required to control emissions from activities authorized under the Act unless these emissions will significantly affect the air quality of any State. When the legislation amending the Outer Continental Shelf Lands Act of 1953 was approved by the Ad Hoc Select Committee on the Outer Continental Shelf, it contained a Section 5(a)(9) which required the Secretary to establish air quality standards for the control of air emissions to protect the quality of the air above the OCS (*see* H.R. 95-590, August 29, 1977). The Conference Committee, after discussing the feasibility and economic impacts of regulating all emissions from activities

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on the OCS whether or not the emissions affected the quality of onshore areas, decided to delete Section 5(a)(9). After this explicit omission, only Section 5(a)(8) remained. Therefore, it is clear that Congress intended that the Secretary regulate emissions from activities authorized under the Act only when these emissions significantly affect the air quality of an onshore area.

Cooperation with the Environmental Protection Agency

Some of the respondents to the Advance Notice recommended that the Department delegate responsibility for the regulation of OCS facilities to the U.S. Environmental Protection Agency (EPA). The Department rejected this suggestion because the Secretary may not delegate statutory responsibilities to other Federal Agencies (*see* Reorganization Act of 1950, 64 Stat. 1262, Note to 43 U.S.C. section 1451. Others suggested that the Department adopt's EPA's regulatory scheme and enforce it on the OCS. The Conference Report indicates that the Secretary of Interior should be "guided by the Clean Air Act, in consultation with the Environmental Protection Agency." Throughout the process of drafting these regulations the Department has been in continuous contact with EPA in developing the regulations contained in this Notice. The following proposed regulations rely heavily on standards, criteria and requirements established by the EPA under the Clean Air Act. It was necessary, however, to deviate from EPA's standards, criteria and requirements in some instances. Unlike the sources of air pollutants located onshore, OCS sources are external to the onshore areas whose air quality they may affect and therefore the EPA procedures and criteria are not entirely applicable to the Department's mandate under the Act.

Prevention of Significant Deterioration of Clean Air

In determining the proper scope of these regulations, it was necessary to decide what, if any, consideration should be given to the control of emissions from activities authorized under the Act which significantly affect the air quality of onshore areas where the air quality is better than the primary or secondary ambient air quality standards established by EPA in 40 C.F.R. Part 50 (called "attainment areas").

Some commenters asserted that the Secretary is not authorized under the Act to promulgate regulations to prevent the significant deterioration of onshore air and cite the specific language of the Act, which refers to "compliance with national ambient air quality standards," to justify their position. Others argued that the Department's regulations must insure that OCS sources will not have an adverse effect upon the air quality of attainment areas. They cite the language of the legislative history, and emphasize the economic inequities which would result if OCS sources significantly affecting attainment areas are exempt from controls. After careful consideration of the language of Section 5(a)(8) of the Act, the extent and scope of the Secretary's authority under Section 5(a) of the Act, and the legislative history, the Department decided that the proposed regulations should require compliance with standards established by EPA to prevent the significant deterioration of onshore air which is cleaner than that mandated under the primary or secondary ambient air quality standards.

The Department's decision is consistent with the language of the Act which refers to *national* standards. Part C of the Clean Air Act establishes increments and ceilings for the concentration of certain air pollutants in the ambient air of attainment areas. These increments and ceilings are related to but are distinct from the primary and secondary standards established under Section 109 of the Act. They are, nonetheless, *national* standards.

Furthermore, the Department believes its decision is consistent with the intent of Congress as expressed in the legislative history. Statements made on the House floor during the debate over the air quality provisions of the Act clearly demonstrate that Congress intended that all *applicable* aspects of the air quality regulatory program established under the Clean Air Act be extended to the program established under the Act (*see* 1978 Cong. Rec. H. 415–416, January 31, 1978). That the provisions of Part C of the Clean Air Act are "applicable" is underscored by the debates which occurred among the conferees during Conference Committee meetings. The point was emphatically made that if emissions from offshore operations are not regulated to the same extent as emissions from onshore operations, then onshore growth will be slowed in favor of offshore development (*see* Transcript of Conference Committee on OCS Lands Act Amendments, June 19, 1978). No distinction was made between attainment and non-attainment areas, strongly suggesting that Congress had no intention of creating a special exemption for offshore operations significantly affecting the air quality of an attainment area. Indeed, the legislative history indicates that once it is determined that offshore emissions significantly affect onshore areas, these emissions are to be regulated regardless of attainment status.

Finally, the decision is consistent with the Secretary's broad mandate to protect the marine, coastal and human environments (*see* Sections 102 (2), (3) and (4); 201 (g), (h) and (i); 204(a)(1); 206(c)(1); 21(b) and 25(h) of the Act). Given the breadth of this mandate, it can be argued that the Secretary has the authority to impose any reasonable regulatory scheme which would protect the quality of life of those affected, directly or indirectly, by OCS activities authorized under the Act. The decision to regulate emissions from activities authorized under the Act which significantly affect the air quality of an attainment area is consistent with this mandate.

More Stringent State Standards

In the Advance Notice, the Department raised the question of whether State ambient air quality standards that are more stringent than the national ambient air quality standards should be enforced on the OCS. The respondents were divided on the issued. Those opposing consideration of the State standards point to be express language of Section 5(a)(8) which refers to *national* standards. Those in favor of consideration of State standards point to the House Conference Report which indicates that the "* * * conferees agreed that if an approved State Implementation plan has ambient air quality standards which are more stringent than the national ambient air quality standards, the Secretary of Interior shall, with appropriate regulations, assure that offshore operations conducted pursuant to this act *do not prevent the attainment of those State standards*, if the air quality of that State is significantly affected by such offshore operations". (*see* House Conference Report No. 95–1474, p. 85) (emphasis added). Although there is no explicit reference in the proposed rules to State standards, the Department believes that the approach it has adopted will not prevent the attainment of more stringent State standards for several reasons. First, the Department is proposing a comprehensive regulatory program which applies to both existing and new activities authorized under the Act (*see* "Section-by-Section Analysis")

and covers emissions which significantly affect either non-attainment or attainment areas (*see* "Prevention of Significant Deterioration of Clean Air"). Second, the Department has granted only limited exemptions under its regulatory scheme (*see* "Exemptions"). Third, the Department has decided to use the significance measures established by EPA in its "Emission Offset Interpretive Ruling" (44 FR 3274) and "Prevention of Significant Deterioration" (43 FR 26380) regulations—i.e. "significance levels" and "travel time" to shore—to trigger the controls which will be required for OCS activities. These measures are quite stringent. The "significance levels" are approximately two percent of the ambient air quality standards, established by EPA, and the "travel time" to shore will cover OCS activities many miles from the affected onshore area. (*see* "Requirements for Activities Causing Significance Onshore Effects"). Finally, the Departments has adopted control requirements which insure that emissions from OCS activities authorized under the Act will have no net effect in non-attainment areas and will be controlled to the same extent that emissions from onshore activities are currently controlled in attainment areas (*see* "Section-by-Section Analysis").

The Department believes the approach it has adopted will not prevent the attainment of more stringent State standards and requests that persons commenting on the regulations proposed in this Notice provide specific information which supports or disproves this position. Also, the Department would like to be informed of any instances where an onshore area has dual status—i.e. "attainment" status for the ambient air quality standards established by EPA and "non-attainment" status for the State's ambient air quality standards—and to receive recommendations on how these areas should be treated.

Role of State and Local Governments

All local government respondents in California urged the Department to require the OCS lessee to obtain a local air quality permit as a prerequisite to plan approval. The local governments asserted that this would insure that all State and local standards are applied to the OCS operations. Other respondents adopted a different viewpoint. Some saw no role for State and local governments, while other urged that State and local government participation be consistent with that accorded State and local governments under Sections 11, 19 and 25 of the Act.

The Department has decided to fully integrate the regulations proposed in this Notice into the U.S. Geological Survey's ongoing regulatory program, and to rely on the mechanisms outlined in § 250.34 of Title 30 of the Code of Federal Regulations (which implements the provisions of Sections 11, 19 and 25 of the Act) for State and local government participation. In reviewing the Act and its legislative history there is no indication that Congress intended that the Secretary delegate to State and local governments responsibility for the establishment and enforcement of procedures necessary to insure that onshore air quality is not significantly affected by activities authorized under the Act. Moreover, the Federal District Court, in *California v. Exxon Corp.*, No. 78–2849–RMT (C.D.Cal. 1978), has ruled that the United States has exclusive authority to regulate air emissions from activities occurring on the OCS.

In making this decision, the Department believes that State and local governments will play an adequate an important role in the decision-making process relating to activities authorized under the Act. Besides the authority to review and comment upon exploration plans and development and production plans, a State with an approved coastal zone management program has the opportunity to consider onshore air impacts as part of its consistency review of OCS plans. Also, the Department expects a willingness on the part of lessees to consult with State and local government officials during the plan development stage.

Requiring Offsets

Another issue which the Department considered in defining the proper scope of the regulations proposed in this Notice was whether the Secretary should require lessees to obtain offsetting emission reductions (emission offsets) from existing sources. This is the technique used by EPA to insure that there is reasonable progress toward the attainment of primary and secondary ambient air quality standards in non-attainment areas.

Most of the respondents to the Advance Notice supported the use of emission offsets, but there was sharp disagreement over the use of EPA's offset requirements. Some respondents view emission offsets as nothing more than a method of abating actual emissions, and maintain that the requirement should be independent of all other considerations. Other respondents pointed out that offsets are the mechanism EPA uses to allow new sources to locate in non-attainment areas while insuring reasonable progress toward the attainment of primary and secondary standards, and argued for the full application of EPA's offset procedures.

The Department has decided to allow the use of emission offsets as a method of abating actual emissions. The lessee may use whatever mechanisms are necessary to reduce actual emissions or to offset emissions in order to reach goals required by the regulations. In effect, this is a performance standard approach, and is consistent with the approach envisioned by the U.S. Geological Survey to fulfill its obligation under Section 21(b) of the Act to require the application of the best available and safest technologies (*see* Advance Notice of Proposed Rulemaking (44 FR 7960)].

Exemptions

Several respondents to the Advance Notice recommended that the Department exempt all activities authorized under the Act with emissions under 250 tons per year. The same information the Department used to justify the exemption of activities which emit under 100 tons per year (*see* "Section-by-Section Analysis—Exemptions") indicates that sources over 100 tons may result in concentrations of air pollutants in onshore ambient air in excess of the significant levels. For this reason, the Department rejected this recommendation. Also, some respondents suggested that the Department establish an exemption for facilities located eight (8) or more miles from shore. The Department has decided that it does not have sufficient data, at this time, to create such an exemption. The Department believes, however, that there is a distance beyond which OCS activity emissions will not significantly affect the air quality of an onshore area. Information from studies and plans submitted by lessees will be evaluated and a distance exemption maybe established when sufficient data are available on the subject.

Finally, some respondents recommended that all activities related to the exploration for and development of OCS oil and gas resources be exempt because of their temporary nature. The Department considered such an exemption but decided against it for three reasons. First, it is clear that Congress intended to subject exploratory drilling to review (*see* Section 11(c)(1) of the Act). Second, the information available to the Department indicates that substantial emissions (i.e.

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in excess of 100 tons per year) for certain pollutants may be associated with uncontrolled drilling activities. Third, the precedent for exempting "temporary" activities is found in EPA regulations, which contain a requirement to install best available control technology. If the Department adopted this approach all lessees would have to apply best available control technology whether or not a significant onshore effect occured. The Department has decided to treat temporary activities differently than those associated with steady state activities. In terms of the degree of control, it will require only the application of best available control technology to temporary activities which significantly affect the air quality of a State (*see* "Section by Section Analysis—5. Control of Temporary Activities* * *").

Existing Sources

Some of the respondents questioned the Department's statutory authority to subject existing sources to regulatory review under Section 5(a)(8) of the Act. It is clearly within the Secretary of Interior's authority to develop regulations which apply to activities authorized under the Act which have already been approved by the Department and are operating on the OCS. The basis for this conclusion can be found in Section 5(a) of the Act which provides:

"The Secretary may at any time prescribe and amend such rules and regulations as he determines to be necessary and proper in order to provide for the prevention of waste and conservation of natural resources of the OCS, and the protection of correlative rights therein, and, *notwithstanding any other provisions herein, such rules and regulations shall, as of their effective date, apply to all operations conducted under a lease issued or maintained under the provisions of this Act* * * *. The regulations prescribed by the Secretary under this subsection shall include, but not be limited to, provisions—

* * * * *

(8) for compliance with the national ambient air quality standards pursuant to the Clean Air Act (42 U.S.C. 7401 *et seq.*), to the extent that activities authorized under this Act significantly affect the air quality of any State." (emphasis added)

The conference report explains that regulations promulgated pursuant to the authority of Section 5 "are to be applicable to any lease in effect at the date of promulgation, as well as to any lease to be let in the future" (*see* Conf. Rep. No. 95–1091, pg. 82). Also, Section 5(a)(8) of the Act draws no distinction between existing and proposed activities. Rather, it requires the promulgation of regulations to control emissions from OCS facilities if these emissions significantly affect the air quality of any State.

Overview of the Proposed Regulatory Program

The proposed regulations provide that the emission of pollutants from activities authorized under the Act will be controlled only when these emissions significantly affect onshore air quality. In order to identify those OCS activities which significantly affect onshore air quality, the regulations require that basic air emissions data be submitted by all lessees conducting OCS activities authorized under the Act, and, except where these activities are exempt require that the impacts on onshore air quality of the emissions be determined through the use of air quality models. Criteria set forth in the regulations are to be used by the lessee to determine whether the impact from the emissions will "significantly affect" onshore air quality. If significant effects occur, the provisions of the regulations requiring control of emissions will apply.

Decisions concerning the potential impacts on onshore air quality of emissions from activities authorized under the Act and the necessity for control or offset of those emissions will be made as part of the approval process for exploration plans and development and production plans (*see* Sections 11 and 25 of the Act). As part of the plan submission, the lessee shall identify all emissions associated with activities describe in the plan, present any air quality modelling results which may be required, and, if the onshore impacts on air quality are significant, described the methods which will be used to control the emissions so that effects on onshore air quality are avoided or satisfactorily mitigated.

As part of its review of the plan the U.S. Geological Survey will evaluate the emissions data and, if applicable, the proposed means of control. State and local governments will have opportunity to review and comment on the emissions data and proposed controls in accordance with the procedures described in 30 CFR 250.34. In addition, States with approved coastal zone management programs will have this information available to make consistency determinations. The exploration plan or development and production plan will not be approved until the Survey is satisfied that the air emissions data are accurate, that the air models have been run in accordance with EPA guidelines, and that, where applicable, the controls and other mitigating measures proposed are adequate and available.

Because the Survey has integrated the air quality regulations into its established regulatory scheme, no separate permit issuing procedure is necessary. A lessee can undertake no exploratory, development or production activities on a lease until the applicable plan is approved and required drilling permits are granted. Additionally, at any time after approval of a plan the Department has authority to suspend operations under § 250.12 of Title 30 of the Code of Federal Regulations if the lessee deviates from the approved plan. If, for instance, a lessee fails to honor a commitment to obtain an offset, or to take some other action to prevent or mitigate the effects of emissions from operations under a plan, operations can be suspended until the problem is remedied. The lessee may also be assessed substantial monetary penalties for failure to conduct activities on the OCS in accordance with the approved plan.

Section-by-Section Analysis

Definitions—§ 250.2:

The Department has decided to regulate air pollutants for which EPA has adopted standards under Section 109 of the Clean Air Act. Some respondents to the Advance Notice recommended that the Department regulate any air pollutant regulated by the affected States. In reviewing information on air emissions for activities already underway on the OCS (*see* "Atmospheric Emissions from Offshore Oil and Gas Development and Production," EA–450/3–77–026, June, 1977) the Department is convinced that, with one exception, the air pollutants covered by EPA's standards are the ones associated with activities on the OCS. The one exception is hydrogen sulfide, and this pollutant is already regulated by the Survey for health and safety reasons (*see* "OCS Operating Order No. 2").

Information Requirements—§ 250.34–3:

This portion of the proposed regulations is a further amendment of the Department's 250.34 regulations which are currently being revised to conform to the Act (44 FR 3513, Jan. 17, 1979). The proposed regulations identify information requirements which must be included in the environmental reports that accompany exploration plans and development and production plans submitted to the Geological Survey.

The purpose of this section is to insure that lessees include in the environmental reports all information

necessary for the Director to determine whether the air emissions from activities authorized under the Act will significantly affect the air quality of onshore areas The lessee, acting in accordance with agency guidelines, is the most appropriate party to prepare information concerning emissions and the onshore effects of such emissions. Such a requirement is in accordance with the lessee's obligation to provide whatever information is necessary to enable the Department to determine the specific constraints that may be needed before approval of the activities outlined in a plan can be granted.

All the information requirements called for in the proposed regulations may not apply in every situation. The amount of information required in this section is tied to the regulatory program contained in § 250.57 of Title 30, and the lessee will be required to submit only that information needed to make the requisite findings under the regulatory program.

The basic information which will generally be required of all lessees proposing exploration, development or production activities includes: an estimate of projected emissions and their frequency and duration; the distance of the proposed activity from the onshore area of impact; meteorological data; and the air quality status of the onshore area which could be adversely affected by the emissions.

If this information indicates that the proposed activity is subject to further regulatory review, the environmental report must also include information obtained from models used to determine onshore effects on air quality. The models used must be recognized by EPA in its publication entitled "Guidelines to Air Quality Modelling."

If the result of the model study indicates that measures must be taken to control the impacts of emissions from activities proposed in a plan, the environmental report must contain a description of the emission reduction control technology to be used and the reductions which will be achieved. In the cases where best available control technology (BACT) is required, the lessee must indicate which control technology constitutes BACT, justify the selection of this technology, and explain why existing technologies which would achieve a greater reduction were not chosen.

If the lessee proposes to obtain emission offsets to mitigate the onshore impacts on air quality of the activities proposed in a plan the lessee must demonstrate that the appropriate air quality control jurisdiction has been notified of the need to revise the state implementation plan (SIP) to include the information regarding the offsets; that the commitments to obtain offsets are binding; and that the offsets will be obtained from existing sources which adversely impact the air quality ot the area which will be significantly affected by the proposed activity. This latter provision has been included to allow a lessee to obtain an offset from a source which is physically located outside the affected area when that source contributes to degradation of the air quality within the area to be affected. Some of the respondents recommended that the Department include an additional requirement that the lessee must demonstrate that all existing sources owned or operated by the lessee in the State significantly affected by the lessee's proposed facilities are in compliance with all applicable emission limitations or standards required under the Clean Air Act or are on a Federally enforceable compliance schedule. The Department requests comment on the impact of this provision if it is incorporated into final regulations.

The Regulatory Program—§ 250.57–1:

Under Section 5(a)(8) of the Act the Department must regulate *all* activities authorized under the Act which significantly affect the air quality of a State. This includes proposed activities for which exploration or development and production plans have not yet been approved by the Geological Survey, activities which have been approved but have not yet commenced operations, and modifications of existing activities which must be approved under a revised exploration or development and production plan. Section 250.57–1 applies to all of these situations by imposing the information requirements on each of the following types of activities: Those covered under plans approved after the effective date of these regulations, those covered under plans approved prior to the effective date of these regulations which have not been commenced, and those covered under revised plans.

Exemptions:

Under this section, an uncontrolled source which emits air pollutants at a rate equal to or under 100 tons per year is exempt from further regulatory review. If a lessee *voluntarily* controls a source and reduces emissions of air pollutants to a rate equal to or under 50 tons per year, then the source is exempt from further regulatory review. This latter exemption is provided for those lessees, whose sources emit more that 100 tons of air pollutants per year, that want to avoid further regulatory review.

These threshold numbers are adopted from EPA's new source review regulations. (*see* 40 CFR Part 51, Appendix S—"Emission Offset Interpretive Ruling," 44 FR 3274, January 16, 1979). Before deciding to use these figures, however, the Department, in close consultation with EPA, calculated the onshore impact of a 50 ton per year source located just outside the three mile limit of a State. The assumptions used in the calculations were quite conservative and assumed a worst-case impact. The Department compared the figures for both a 50 tons per year source and a 100 tons per year source and neither source exceeded the 24-hour, 3-hour or 1-hour significance levels the Department proposes to use to determine whether emissions significantly affect the air quality of a State (*note* an annual figure was not calculated).

The decision to exempt certain sources is consistent with the Department's legislative mandate not to impose a regulatory burden on an activity which does not significantly affect the air quality of a State. The Department is reasonably certain that emissions from exempt activities will not result in concentrations of pollutants in onshore ambient air which exceed the significance levels the Department proposes to use to determine signficant effects. However, in certain instances lessees proposing otherwise exempt activities will be required to perform the modelling necessary to determine whether the expected emissions meet the "significantly affect" test. This will occur when a State, which is exercising its right to review a new or revised exploration plan or development and production plan pursuant to § 250.34–1(b) or § 250.34–2(b) of this part, submits information to the Director which demonstrates that the emissions from the otherwise exempt activities will significantly affect the air quality of an area in the State.

The "Significantly Affects" Test

As discussed above, emissions from activities located on the OCS must be converted into concentrations of pollutants in the onshore ambient air to determine whether an OCS activity significantly affects the air quality of a State. The Department has decided to use EPA's "significance levels" and "36-hour travel time" criteria to make this determination. The decision to use two separate criteria is based on information from EPA that acceptable models for calculating ozone concentrations resulting from the emission of volatile organic compounds do not exist. The "significance levels" are adopted from

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EPA's "Emission Offset Interpretive Ruling" (44 FR 3274) and "Prevention of Significant Deterioration" (43 FR 26380) regulations. These regulations establish maximum ambient concentrations for four types of pollutants (i.e. sulfur dioxide, total suspended particulates, nitrogen dioxide, and carbon monoxide). The levels are quite stringent. In fact, EPA has informed the Department that even though it is possible to inexpensively model emissions and calculate ambient concentrations down to these levels, it is difficult, if not impossible, to detect these concentrations on air quality monitors.

It should be noted that while this level of control is stringent, it will not have drastic consequences for the lessee. We know, for instance, that emissions of 100 tons per year from a hypothetical activity located exactly three miles from shore did not cause significance levels onshore to be exceeded (*see* "Section-by-Section Analysis—Exemptions"). Furthermore, preliminary data shows that as the distance of activities on the OCS from shore increases, the amount of emissions can increase without exceeding the significance levels onshore. (*see* "Environmental Impact Report-Environmental Assessment" prepared by the United States Geological Survey, the California State Lands Commission, and the Port of Long Beach, December 1, 1978, which indicates that the Shell proposed Beta Unit, located eight miles off the coast of California, will emit 400 tons of nitrogen oxides per year but will not exceed the significance levels onshore).

As was mentioned above, EPA has informed the Department that atmospheric simulation models are not adequate, at the present time, to predict the impact of a single source of volatile organic compounds upon ozone levels. As a result, EPA has developed a different approach for "modelling" emissions of volatile organic compounds. Under EPA's new source review regulations a source of volatile organic compounds will be considered to have a significant impact if it is within a 36-hour travel time of a non-attainment area for ozone under meteorological conditions associated with the non-attainment conditions of the area. (*see* 40 CFR Part 51, Appendix S—"Emission Offset Interpretive Ruling", 44 FR 3274, January 16, 1979). The EPA approach is applicable to OCS sources since they are located outside the area of non-attainment for ozone and their emissions must "travel to" the area of impact. (*note* EPA has informed the Department that it is evaluating the 36-hour figure and may change the figure in the future. If and when EPA publishes changes, the Department may adopt EPA's new figure.)

Requirements for Activities Causing Significant Onshore Effects

The preceding section describes the criteria that will be used to determine whether air emissions from OCS activities significantly affect the air quality of an onshore area. This section explains the level of control which will be required for activities which significantly affect the air quality of an onshore area.

1. Control of Air Pollutants Other than Volatile Organic Compounds Affecting Non-attainment Areas.

Any lessee proposing an activity whose air pollutants other than volatile organic compound emissions would, according to the modelling results, exceed the significance levels in a non-attainment area will be required to take whatever measures are necessary to reduce or offset the emissions from the activity so that the concentrations of the pollutants will have no effect on the non-attainment area. The level of control imposed is, by necessity, a stringent one. Non-attainment areas in a State are mandated by the Clean Air Act Amendments of 1977 to reduce pollutant concentrations to levels below the ambient air quality standards established by EPA in 40 CFR Part 50 by 1982 or suffer severe economic consequences. Thus, in these areas even the slight contribution of air pollutants aggrevates the situation and makes it more difficult for the State to achieve its air quality goals.

The regulatory scheme proposed is flexible in that it provides the lessee with the option of installing control technology, obtaining offsets, or using a combination of these methods to achieve the necessary degree of control. The Department believes that this flexibility is a reasonable and necessary feature of the program. Activities on the OCS are of varying magnitude and are located in different locations. The type and quantity of emissions differ, as does the air quality status of the onshore areas. Therefore, different degrees of control will be necessary to mitigate the effects on onshore air quality. Furthermore, OCS activities are unique in that the limited amount of space on drilling rigs and platforms may make the addition of control technology economically infeasible. In recognition of this fact, the Department has decided to allow lessees to use offsets to obtain an equivalent measure of emission reduction. The net effects on onshore air quality would, nonetheless, be the same.

2. Control of Air Pollutants Other than Volatile Organic Compounds Affecting Attainment Areas or Areas which are Unclassifiable on the Basis of Available Data.

In determining the appropriate level of control for air pollutants other than volatile organic compounds from activities authorized under the Act which affect an attainment or unclassified area, the lessee must follow a two-step approach. If the emissions would exceed the significance levels in an attainment or unclassifiable area, the lessee must identify, in the exploration or development and production plan, and subsequently must apply the best available control technology (BACT) which could be applied to reduce emissions from the source. Next, the lessee must model emissions after the application of BACT to determine whether the controlled emissions would cause the maximum allowable increases in ambient air concentrations in the attainment or unclassifiable area for sulfur dioxide or particulate matter (as established in Part C of the Clean Air Act) to be exceeded. If the modeling demonstrates that the maximum allowable increases would be exceeded, the lessee must take whatever additional measures are necessary to reduce or offset the emission of these two pollutants down to a level at which the maximum allowable increases would not be exceeded. This approach for attainment areas has been adopted for two reasons: (1) It insures that OCS lessees must, to the extent that their emissions significantly affect the air quality of onshore areas, control their emissions to the same extent as onshore emitters. By requiring the installation of BACT for all air pollutants other than volatile organic compounds which exceed the significance levels in attainment or unclassifiable areas, the Department has adopted a standard of control which parallels that imposed by EPA for onshore sources.

The Department has decided to use EPA's BACT standard for the following reasons. Unlike emissions affecting a nonattainment area where any increase in ambient concentrations is potentially significant, emissions affecting attainment or unclassifiable areas must be measured against an "allowable growth factor" (i.e. the "maximum allowable increases") to determine whether they are significant. If the Department required activities affecting attainment or unclassifiable areas to reduce emissions so that there is no net effect in these areas (i.e. the approach used when these emissions affect a non-attainment area), the benefit derived from the "allowable growth factor" would be negated. Furthermore, requiring activities authorized under the Act to meet the BACT standard insures that offshore and onshore sources will be treated in an equitable fashion. This is important because as the level of activity increases an even greater proportion of the allowable increase is exhausted. If all sources must meet the same control standard (i.e. BACT) it assures that no class of sources will use up a disproportionate share of the maximum allowable increase.

Under EPA's regulatory scheme a permit would be denied for any onshore facility which exceeds the SO_2 and particulate increases after installation of BACT unless the permittee agrees to increase the level of control or make some other modification of the facility so that the increases are not violated. Similarly, under the proposed OCS regulatory program, if the maximum allowable increments are exceeded after the application of BACT, the lessee must take further measures before the development and production plan will be approved. Such measures may include the use of more sophisticated control technology, the modification of the proposed activity, or the use of offsets from other sources.

3. Control of Volatile Organic Compounds Affecting Non-attainment Areas.

Any lessee proposing an activity which is within 36 hours travel time of an on-shore area that is non-attainment for ozone concentrations and which emits any volatile organic compound must take whatever measures are necessary to reduce or offset the emissions from the activity so that there will be no net effect on the non-attainment area. The basis for this decision is the same as that used for air pollutants other than volatile organic compounds significantly affecting a non-attainment area. However, because of the inability to accurately model the effect of volatile organic compounds which are within 36 hours travel time of a non-attainment area, no allowance is made for volatile organic compounds dissipated in transit to affected onshore areas. Thus all emissions must be reduced or offset. (*See* "Section-by-Section Analysis—1. Control of Air Pollutants Other than Volatile Organic Compounds Affecting Non-Attainment Areas"). The lessee is provided with flexibility in controlling the emissions. Either control technology or offsets equivalent to that amount of emissions which must be reduced may be used by the lessee.

4. Control of Volatile Organic Compounds Affecting Attainment Areas, or Areas which are Unclassifiable on the Basis of Existing Information.

Any lessee proposing an activity which is within 36 hours travel time of an attainment or unclassifiable area as measured by the same meteorological conditions creating a non-attainment situation in the vicinity, and which emits any volatile organic compound, must identify, and subsequently apply, BACT to the emission source.

5. Control of Temporary Activities Significantly Affecting Non-Attainment or Attainment Areas, or Areas which are Unclassified on the Basis of Existing Information.

A temporary activity is any activity authorized under the Act associated with the construction of platforms or any activity associated with the exploration for or development of OCS oil and gas resources which will occur in any one location for less than three years. This encompasses all activities except steady-state production activities. Many commenters believed that temporary activities should be exempt from all regulatory requirements, including the requirement to measure and model emissions to determine whether they cause significant onshore impacts. The Department has rejected this argument. The Act does not distinguish between temporary and permanent activities; it directs the Secretary to control *all* activities authorized under the Act that would have significant effects on onshore air quality. Thus, lessees proposing to conduct temporary activities will be required to include in their exploration or development and production plans information concerning the effects of the emissions from these activities on the air quality of onshore areas. The decision to classify construction activities as "temporary" was adopted from EPA's regulations (*see* 40 CFR Part 51, Appendix S—"Emission Offset Interpretive Ruling," 44 FR 3274, January 16, 1979). Exploration and development activities which will occur in any one location for less than three years were classified as "temporary" based on the Survey's experience with the time normally associated with developmental drilling activities.

Where modeling indicates that emissions from such a facility would significantly affect any non-attainment, attainment or unclassifiable area of a State, the lessee will be required to install BACT on the source. Further emission controls or offsets will be unnecessary. This less stringent level of control is created for temporary activities because of the limited time that the activity will emit air pollutants and the difficulties and inequities that would be involved in requiring temporary activities to obtain offsets.

Sources Which Have Commenced Operations Before the Effective Dote of These Regulations: § 250.57–2: Most respondents to the Advance Notice suggested that the Department exempt existing facilities from further regulatory review. Unfortunately, very little information exists on emissions from existing facilities and their impact onshore, but the information that does exist suggests that emissions and their impact are negligible (*see* "Atmospheric Emissions from Offshore Oil and Gas Development and Production," EPA–450/3–77–026, June, 1977). For this reason, the Department has decided to treat existing sources (i.e. those that have commenced operations prior to the effective date of those regulations) differently than those covered under 30 CFR 250.57–1. The Department will not initiate a review of an existing source unless a State can demonstrate that the source is affecting the air quality of any area within the State. The vehicle for this demonstration must be the area's official emissions inventory.

The Director shall review the information supplied by a State to insure that existing sources on the OCS are treated in an equitable fashion vis-a-vis sources located onshore. If they are, the Director shall immediately commence a process to identify which sources require controls. To insure that only those sources actually contributing to the onshore air quality problem are subjected to regulatory review, the Director shall review existing sources and identify the ones that have the potential to affect the air quality of an onshore area. The factors the Director shall consider are the available information on the facilities, meteorological data and the distance of sources from the affected onshore area. The Department has not been more specific because these factors will vary from area to area.

Once the facilities with a potential to affect the onshore area are identified they will be subjected to a regulatory review procedure similar to the one contained in 30 CFR Part 250.57–1. The level of control which would be required, when necessary, is limited to BACT. This procedure corresponds to current EPA practices.

The Department of the Interior had determined that the revision of the regulations in 30 CFR Part 250, as

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proposed in this Notice, will not have a significant impact on the quality of the human environment and, therefore, will not require preparation of an Environmental Impact Statement. The Department of the Interior has determined that this document is a significant rule but does not require a regulatory analysis under Executive Order 12044 and 43 CFR Part 14.

Dated: May 3, 1979.

Joan M. Davenport,

Assistant Secretary, Energy and Minerals.

It is proposed to further revise 30 CFR Part 250 to read as follows (proposed revisions published in 44 FR 3513 and 44 FR 13527 are not affected).

1. Section 250.2 Definitions is amended by adding the following to read as follows:

§ 250.2 Definitions.

* * * * *

(dd) "Air Pollutant" means any air pollution agent or combination of agents for which the Environmental Protection Agency (EPA) has, pursuant to Section 109 of the Clean Air Act, established national primary and secondary ambient air quality standards.

(ee) "Ambient Air" means that portion of the atmosphere, external to buildings, to which the general public has access.

(ff) "Attainment area" means, for any air pollutant, an area which is shown by monitored data or which is calculated by air quality modelling (or other methods determined by the Administrator of Environmental Protection Agency to be reliable) not to exceed any primary or secondary ambient air quality standard established by EPA in 40 CFR Part 50 for such pollutant.

(gg) "Best available control technology" ("BACT") means that degree of technology which results in the maximum reduction of each pollutant subject to control, taking into account energy, environmental, and economic impacts and other costs. BACT shall be verified on a case-by-case basis by the Director, and shall be that degree of technology which is achievable for the activity through the application of production processes and available methods, systems and techniques, including fuel cleaning or treatment or innovative fuel combustion techniques for control of each such pollutant.

(hh) "Emission offsets" means emission reductions obtained from sources, either onshore or offshore, other than the controlled activity. Emission reductions obtained through offsets must be equivalent in nature and quantity to that amount of emissions which must be controlled. The provisions of Part IV. C. of "Appendix S" of EPA's Emission Offset Interpretive Ruling (44 FR 3274, January 16, 1979) are applicable when determining offsets.

(ii) "Non-attainment area" means, for any air pollutant, an area which is shown by monitored data or which is calculated by air quality modelling (or other methods determined by the Administrator of the Environmental Protection Agency to be reliable) to exceed any primary or secondary ambient air quality standards established by EPA in 40 CFR Part 50 for such pollutant.

(jj) "Onshore area of a State" means areas of a State landward of the mean high water mark (mean higher water mark on the Pacific coast).

(kk) "State Implementation Plan" (SIP) means a plan submitted to and approved by the Environmental Protection Agency, pursuant to Section 7410 of the Clean Air Act, which provides for the implementation, maintenance, and enforcement of the national primary ambient air quality standards within such state.

(ll) "Temporary activity" means operations associated with the construction of platforms on the OCS, or activities related to exploration for or development of OCS oil and gas resources which are conducted in one location for less than three years.

(mm) "Volatile organic compound" means any organic compound which is emitted to the atmosphere as a vapor. Certain unreactive compounds specified by EPA in Table I of "Recommended Policy on Control of Volatile Organic Compounds" (42 FR 35314, July 8, 1977), as it may be amended, may be exempt from the above definition.

§ 250.34–3 [Amended]

2. Section 250.34–3(a) is amended by adding paragraph (a)(5) (i) and (ii) to read as follows:

(a) Environomental Report (Exploration). * * *

(5)(i) For onshore facilities directly associated with the proposed offshore activities, the lessee shall provide information on each source of air pollutants, listing: The source; the location of each source; the chemical composition and quantity of air pollutants; and the frequency and duration of emissions.

(ii) For activities on the OCS, the lessee shall review the requirements of § 250.57, and shall submit only that information, described below, needed to make the findings under § 250.57:

(A) Projected emissions from proposed activities, listing each source; the emission, by air pollutant, from each source expressed in tons per year and the maximum anticipated pounds per hour; and the total emissions, by air pollutant, from all sources expressed in tons per year. The lessee shall provide a detailed description of all processes, process equipment, and storage units. The description should include a schematic drawing which identifies each emission point. Also, the lessee shall provide information on fuels to be burned. All projections shall be based on the maximum rated capacity of the source unless the lessee proposes a load factor and makes a commitment not to exceed this load factor. If projections are predicated on the use of emission reduction control technology, the controls must be fully described. The basis for calculations used for all projections shall be described.

(B) The frequency and duration of emissions from each source.

(C) The distance of the proposed activities from the mean high water mark (mean higher high water mark on the Pacific Coast) of any State.

(D) Meterological data and information pursuant to the requirements specified in "Guidelines on Air Quality Models" (OAQPS 1.2–080, U.S. Environmental Protection Agency, Office of Air Quality Planning and Standards, Research Triangle Park, N.C. 27711, April, 1978).

(E) The model or models used to determine the onshore effect from activities authorized under the Act and the results obtained through the use of such model or models. The model or models used must be recognized for use by EPA.

(F) The air quality status of the onshore area potentially affected by projected emissions from the activities proposed in the plan. The area should be classified as non-attainment, attainment, or unclassifiable on the basis of available data, listing: The status of each area by pollutant; the class of attainment areas; and the air pollution control agency whose jurisdiction covers the area identified.

(G) The emission reduction control technology available to reduce emissions, listing: The source; the emission reduction control technology; the reductions achieved; and the monitoring system the lessee will use to measure emissions. If applicable, the lessee shall indicate which emission reduction control technology the lessee believes constitutes the best available control technology and the basis for that opinion. The lessee shall identify any emission reduction control technology which exists which would achieve a greater reduction in emissions, and present the reasons why the lessee should not be required to use this technology.

(H) The duration of the activity.

* * * * *

3. Section 250.34–3(b) is amended by adding paragraphs (b)(5) (i) and (ii) to read as follows:

* * * * *

(b) Environmental Report (Development/Production) * * *

(5)(i) For onshore facilities directly associated with the proposed offshore activites, the lessee shall provide information on each source of air pollutants, listing: The location of each source; the chemical composition and quantity of air pollutants; and the frequency and duration of emissions.

(ii) For activities on the OCS, the lessee shall review the requirements of § 250.57, and shall submit only that information, described below, needed to make the findings under § 250.57:

(A) Projected emissions from proposed activities, listing: each source; the emission, by air pollutant, from each source expressed in tons per year and the maximum expected pounds per hour; and the total emissions, by air pollutant, from all sources expressed in tons per year. The lessee shall provide a detailed description of all processes, process equipment, and storage units. The description should include a schematic drawing which identifies each emission point. Also, the lessee shall provide information on fuels to be burned. All projections shall be based on the maximum rated capacity of the source unless the lessee proposes a load factor and makes a commitment not to exceed this load factor. If projections are predicated on the use of emission reduction control technology, the controls must be fully described. The basis for calculations used for all projections shall be described.

(B) The frequency and duration of emissions from each source.

(C) The distance of the proposed activities from the mean high water mark (mean higher high water mark on the Pacific Coast) of any State.

(D) Meterological data and information pursuant to the requirements specified in "Guidelines on Air Quality Models" (OAQPS 1.2–080, U.S. Environmental Protection Agency, Office of Air Quality Planning and Standards, Research Triangle Park, N.C. 27711, April, 1978).

(E) The model or models used to determine the onshore effect from activities authorized under the Act and the results obtained through the use of such model or models. The model or models used must be recognized for use by EPA.

(F) The air quality status of the onshore area potentially affected by projected emissions from the activities proposed in the plan. The area should be classified as nonattainment, attainment, or unclassifiable on the basis of existing data, listing: the status of each area by pollutant; the class of attainment areas; and, the air pollution control agency whose jurisdiction covers the area identified.

(G) The emission reduction control technology available to reduce emissions, listing: The source; the emission reduction control technology; the reductions achieved; and the monitoring system the lessee will use to measure emissions. If applicable, the lessee shall indicate the emission reduction control technology the lessee believes constitutes the best available control technology and the basis for that opinion. The lessee shall identify any emission reduction control technology which exists which would achieve a greater reduction in emissions, and present the reasons why the lessee should not be required to use this technology.

(H) The potential emission offsets available from offshore and onshore sources, listing the ownership of the offsetting source or sources, and the reduction obtainable from each potential offsetting source.

(I) The duration of the activity.

2. Section 250.57 Air Quality is amended by adding Sections 250.57–1 and 250.57–2 as follows:

§ 250.57–1 Activities described in a new or modified exploration plan or development and production plan.

(a) All exploration plans and development and production plans filed after the effective date of these regulations shall include the information required to make the findings under paragraph (c) of this section.

(b)(1) All exploration plans and development and production plans filed or approved prior to the effective date of these regulations that describe any activity, having the potential to cause air emissions, which has not commenced prior to the effective date of these regulations shall be revised within 120 days of the effective date of these regulations to include the information required under § 250.34–3(a)(5) or § 250.34–3(b)(5). The lessee shall submit only that information required to make the findings under paragraph (c) of this section.

(2) All revisions to exploration plans or development and production plans which are proposed after the effective date of these regulations shall include, if the revisions describe activities which have the potential to cause air emissions, the information required under §§ 250.34–3(a)(b) or 250.34–3(b)(5). The lessee shall submit only that information required to make the findings under paragraph (c) of this section.

(c)(1) The Director shall review the information contained in a new or revised exploration plan or development and production plan and shall exempt from further regulatory review:

(i) Activities with uncontrolled emissions of each air pollutant of under 100 tons per year; or

(ii) Activities with controlled emissions of each air pollutant of under 50 tons per year.

However, if a State reviewing a new or revised exploration plan or development and production plan pursuant to 30 CFR 250.34–1(b) or 250.34–2(b) submits information to the Director which demonstrates that the emissions resulting from an otherwise exempt activity will significantly affect the air quality of an area within the State, the Director shall require the lessee to submit a revised exploration or development and production plan which includes the information required to make the findings under paragraph (c)(2) of this section and, if applicable, paragraph (c)(3) of this section.

(2) For an activity not exempt from further regulatory review under paragraph (c)(1) of this section the lessee shall determine whether the air pollutants emitted during the activity significantly affect the air quality of a State by applying the following:

(i) For each air pollutant other than volatile organic compounds the lessee shall use an air quality model to determine if the following significance levels are exceeded in any onshore area:

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Pollutant	Averaging time				
	Annual	24-hour	8-hour	3-hour	1-hour
SO_2	1.0 μg/m³	5 μg/m³		25 μg/m³	
TSP	1.0 μg/m³	5 μg/m³			
NO_2	1.0 μg/m³				
CO			0.5 μg/m³		2 μg/m³

(ii) For volatile organic compounds the lessee shall determine whether the travel time between the source and any onshore area which is non-attainment for ozone concentrations, is equal to or less than 36 hours. The lessee shall also determine whether these emissions are equal to or less than 36 hours travel time from any attainment or unclassifiable area using the same meteorological conditions that are associated with ozone non-attainment conditions in the vicinity.

(3) Any activity whose emissions exceed the significance levels for pollutants established under paragraph (c)(2)(i) of this section shall be deemed to significantly affect the air quality of the State for that pollutant, and shall be subject to the following: (i) In non-attainment areas, the lessee shall take whatever measures are necessary to fully reduce or offset the emissions so that there is no impact from these emissions in the onshore ambient air. The lessee may fully reduce emissions through the installation of emission reduction control technology or may obtain offsets equivalent in nature and quantity to the emisssions which must be reduced. If offsets are proposed the lessee must fulfill the requirements of paragraph (d) of this section.

(ii) In attainment areas or in areas which are unclassifiable on the basis of existing information, the lessee shall apply the best available control technology to activities authorized under the Act to reduce emissions which significantly affect the onshore ambient air. The lessee shall model emissions from the source after the application of the best available control technology to determine whether the ambient concentration of emissions exceeds the following maximum allowable increases in the attainment or unclassifiable area:

Pollutant	Averaging time		
	Annual Geometric Mean	24-hour	3-hour
Class I			
Particulate Matter	5 μg/m³	10 μg/m³	
Sulfur Dioxide	2 μg/m³	5 μg/m³	25 μg/m³
Class II			
Particulate Matter	19 μg/m³	27 μg/m³	
Sulfur Dioxide	20 μg/m³	91 μg/m³	512 μg/m³
Class III			
Particulate Matter	37 μg/m³	75 μg/m³	
Sulfur Dioxide	40 μg/m³	182 μg/m³	700 μg/m³

If the maximum allowable increases are exceeded the lessee shall apply whatever additional controls are necessary to reduce or offset emissions so that concentrations of particulate matter or sulfur dioxide in the onshore ambient air of an attainment or unclassifiable area do not exceed the maximum allowable increases. The provisions of 40 CFR 52.21(d), regarding ambient air ceilings, and the exclusions from increment consumption described in 40 CFR 52.21(f) apply to OCS lessees when calculating the maximum allowable increases. For any period other than an annual period, the applicable maximum allowable increase may be exceeded during one such period per year at any one location. The lessee may reduce emissions through the installation of additional emission reduction control technology or may obtain offsets equivalent in nature and quantity to the emissions which must be reduced. If offsets are proposed the lessee must fulfill the requirements of paragraph (d) of this section.

(4) Any activity emitting volatile organic compounds which is within a 36-hour travel time of an onshore area which is non-attainment for ozone concentrations or within a 36 hour travel time for attainment or unclassifiable areas subject to the same meteorological conditions that are associated with non-attainment conditions in the vicinity, and is not exempt under paragraph (c)(1)(i) or (ii) of this section shall be deemed to significantly affect the air quality of the State.

(i) When the emissions are within 36 hours travel time of a non-attainment area, the lessee shall take whatever measures are necessary to reduce or offset all emissions through the installation of emission reduction control technology or by obtaining offsets equivalent in nature and quantity to the emissions which must be reduced. If offsets are proposed, the lessee must fulfill the requirements of paragraph (d) of this section.

(ii) When the emissions are within 36 hours travel time of an attainment or unclassifiable area subject to meteorologioical conditions that are associated with non-attainment conditions in the vicinity, the lessee shall apply the best available control technology.

(5) The lessee shall apply the best available control technology to reduce emissions of each air pollutant from temporary activities which significantly affect the air quality of a State as defined in paragraphs (c)(2)(i) and (c)(2)(ii) of this section.

(d) Where emission offsets are to be obtained, the lessee must demonstrate that:

(1) A binding commitment exists between the lessee and the owner or owners of the offsetting source or sources;

(2) The appropriate air quality control jurisdiction has been notified of the need to revise the State Implementation Plan (SIP) to include the information regarding the offsets; and

(3) The offsets come from sources which affect the air quality of the area significantly affected by the lessee's activity or activities.

§ 250.57–2 Activities which have commenced operations before the effective date of these regulations.

(a)(1) The State shall notify the Director if information contained in its emissions inventory demonstrates that emissions from activities which have commenced operations before the effective date of these regulations are significantly affecting air quality in any area in the State.

(2) If the Director agrees with the State submitting information under paragraph (a)(1) of this section, the Director shall make a preliminary determination of which activities have a potential to significantly affect the air quality of a State submitting the information. The Director's determination shall be based on available information on the activities, meteorological data, and the distance of the activities from the onshore area of a State.

(3) The Director shall require lessees of activities identified under paragraph (a)(2) of this section to submit revised exploration plans or development and production plans. In revising exploration plans or development and production plans lessees shall refer to the information requirements under § 250.34–3(a)(5) or § 250.34–3(b)(5) and shall submit only that information required to make the findings under paragraph (b) of this section.

(b)(1) The Director shall review the information contained in a revised exploration plan or development and production plan and shall exempt from further regulatory review:

(i) Activities with uncontrolled emissions of each air pollutant of under 100 tons per year; or

(ii) Activities with controlled emissions of each air pollutant of under 50 tons per year.

However, if the Director determines that otherwise exempt activities may significantly affect the air quality of a State, the Director shall require the lessee to submit the information required to make the findings under paragraph (b)(2) and, if applicable, paragraph (b)(3) of this section.

(2) For an activity not exempt from further regulatory review under paragraph (b)(1) of this section the lessee shall determine whether the activity significantly affects the air quality of a State by applying the following:

(i) For each air pollutant other than volatile organic compounds the lessee shall use an air quality model to determine if the following significance levels are exceeded in any onshore area:

Pollutant	Averaging time				
	Annual	24-hour	8-hour	3-hour	1-hour
SO_2	1.0 μg/m³	5 μg/m³		25 μg/m³	
TSP	1.0 μg/m³	5 μg/m³			
NO_x	1.0 μg/m³				
CO			0.5 mg/m³		2 mg/m³

(ii) For volatile organic compounds the lessee shall determine whether the travel time between the source and any onshore area that is non-attainment for ozone concentrations, is equal to or less than 36 hours. The lessee shall also determine whether the emissions are equal to or less than 36 hours travel time from attainment or unclassifiable areas subject to the same meteorological conditions associated with non-attainment conditions in the vicinity.

(3) Any activity that results in emissions which exceed the significance levels established under paragraph (b)(2)(i) of this section in any area of a State shall be deemed to significantly affect the air quality of the State for that pollutant and shall be subject to the following:

(i) The lessee shall apply the best available control technology to reduce emissions of each air pollutant other than volatile organic compounds and shall submit a compliance schedule for the application of the best available control technology.

(ii) If the lessee must suspend operations to allow for the installation of controls the lessee shall be entitled to a suspension under the provisions of § 250.12(d).

(4) Any activity which results in the emission of volatile organic compounds at a location which is within a 36-hour travel time of an on-shore area as described in paragraph (b)(2)(ii) of this section and is not exempt under paragraph (b)(1) (i) or (ii) of this section shall be deemed to significantly affect the air quality of the State, and shall be subject to the following:

(i) The lessee shall apply the best available control technology to reduce emissions of volatile organic compounds and shall submit a compliance schedule for the application of the best available control technology.

(ii) If the lessee must suspend operations to allow for the installation of controls the lessee shall be entitled to a suspension under the provisions of § 250.12(d).

(5) The lessee shall apply the best available control technology to reduce emissions of any air pollutant from temporary sources which significantly affect the air quality of a State as defined in paragraphs (b)(3) and (b)(4) of this section. If the lessee must suspend operations to allow for the installation of controls the lessee shall be entitled to a suspension under the provisions of § 250.12(d).

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DEPARTMENT OF TRANSPORTATION

Coast Guard

[33 CFR Part 117]

Mill River and Quinnipiac River, Conn.; Drawbridge Operation Regulations

AGENCY: Coast Guard, DOT.

ACTION: Proposed rule.

SUMMARY: At the request of the City of New Haven, the Coast Guard is considering revising the regulations governing the operations of the Chapel Street bridge across the Mill River and the Ferry Street and Grand Avenue bridges across the Quinnipiac River at New Haven to require at least eight hours notice during late evening and early morning hours because of limited openings during these periods. This proposal is being made in an effort to relieve each bridge owner of the burden of having a person constantly available to open the draws.

DATE: Comments must be received by June 11, 1979.

ADDRESS: Comments should be submitted to and are available for examination at the office of the Commander (oan), Third Coast Guard District, Governors Island, New York, New York 10004.

FOR FURTHER INFORMATION CONTACT: Frank L. Teuton, Jr., Chief, Drawbridge Regulations Branch (G–WBR/73), Room 7300, Nassif Building, 400 Seventh Street, S.W., Washington, D.C. 20590 (202–426–0942).

SUPPLEMENTARY INFORMATION: Interested persons are invited to participate in this proposed rule making by submitting written views, comments, data or arguments. Persons submitting comments should include their name and address, identify the bridge, and

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give reasons for concurrence with or any recommended change in the proposal.

The Commander, Third Coast Guard District, will forward any comments received with his recommendations to the Chief, Office of Marine Environment and Systems, U.S. Coast Guard Headquarters, Washington, D.C., who will evaluate all communications received and recommend a course of final action to the Commandant on this proposal. The proposed regulations may be changed in the light of comments received.

Drafting Information

The principal persons involved in drafting this proposal are: Frank L. Teuton, Jr., Project Manager, Office of Marine Environment and Systems, and Mary Ann McCabe, Project Attorney, Office of Chief Counsel.

Discussion of the Proposed Regulations

The statistics submitted by the City of New Haven would appear to justify the city's request for restricted periods during the late evening and early morning hours. These statistics showed for the period concerned that:

For the Ferry Street bridge, mile 0.7, Quinnipiac River from October 1 through April 30.

	Total openings	From 5 a.m. to 9 p.m.	From 9 p.m. to 5 a.m.
1976	1,129	1,088—96.4%	41—3.6%
(1)			
1974	1,054	1,012—97.0%	42—3.0%
1973	986	960—97.4%	26—2.6%

[1] No statistical data were given for 1975.

The number of openings during the 9 p.m. to 5 a.m. period appears to justify requiring advance notice during these hours from October 1 through April 30.

For the Grand Avenue bridge, mile 1.3, Quinnipiac River.

	Total openings	From 7 a.m. to 11 p.m.	From 11 p.m. to 7 a.m.
1974 [1]	418	401—96%	17—4.0%
1973	427	420—98.4%	7—1.6%

[1] Figures available only for 1973 and 1974.

The optimum periods at this time for requiring advance notice appears to be from 11 p.m. to 7 a.m.

For the Chapel Street Bridge, mile 0.4, Mill River.

	Total openings	From 5 a.m. to 9 p.m.	From 9 p.m. to 5 a.m.
1974 [1]	456	449—98.5%	7—1.5%
1973	395	391—99.0%	4—1.0%

[1] Figures available only for 1973 and 1974.

The optimum periods for requiring an 8-hour advance notice appears to be from 9 p.m. to 5 a.m.

The draws of these bridges are presently required to open on signal except during peak vehicular periods. This proposal would not change the regulations governing the Tomlinson bridge. The only other proposed change in the regulations for these bridges is the acknowledging sound signal when the draw cannot open immediately or is open and must close. In the present regulations, this signal is two long blasts of a horn or whistle. It is proposed to change this signal to four short blasts of a horn or whistle.

PART 117—DRAWBRIDGE OPERATION REGULATIONS

In consideration of the foregoing, it is proposed that Part 117 of Title 33 of the Code of Federal Regulations be amended by revising § 117.120 to read as follows:

§ 117.120 New Haven Harbor, Quinnipiac and Mill Rivers, Conn.

(a) The draws of the Tomlinson bridge, mile 0.0, the Ferry Street bridge, mile 0.7, and the Grand Avenue bridge, mile 1.3, across the Quinnipiac River and the Chapel Street bridge, mile 0.4, across the Mill River shall open on signal except that:

(1) From 7:30 to 8:30 a.m., noon to 12:15 p.m., 12:45 to 1 p.m. and 4:45 to 5:45 p.m., the draws need not open.

(2) From 9 p.m. to 5 a.m. from October 1 through April 30, the draws of the Ferry Street bridge, Quinnipiac River, shall open on signal if at least 8 hours notice is given.

(3) From 11 p.m. to 7 a.m. the draw of the Grand Avenue bridge, Quinnipiac River, shall open on signal if at least 8 hours notice is given.

(4) From 9 p.m. to 5 a.m. the draw of the Chapel Street bridge, Mill River, shall open on signal if at least 8 hours notice is given.

(b) the sound signals for requesting the opening of each bridge are for:

(1) The fomlinson bridge, two short blasts of a whistle or horn.

(2) The Ferry Street bridge, one short blast of a whistle or horn.

(3) The Grand Avenue bridge, one long blast of a whistle or horn.

(4) The Chapel Street bridge, three short blasts of a whistle or horn.

(c) The draw tender shall acknowledge:

(1) When the draw will open immediately, with the same as the requesting signal.

(2) When the draw cannot open immediately, or is open and must close, with four short blasts of a whistle or horn, to be repeated until acknowledged by the vessel by the same signal.

(3) When the condition in (c)(2) above no longer exists, the drawtender shall sound the opening signal and open the draw if any vessels are waiting to pass.

(d) The following visual signals are used in addition to sound signals when sound signals may not be heard.

(1) The visual signal for requesting the opening of a draw from the vessel is a white flag by day or a white light by night swung in full circles at arm's length in full sight of the bridge and facing the draw.

(2) The acknowledging signal from the drawtender is:

(i) When the draw will open immediately, a white flag by day or a green light by night swung up and down vertically a number of times in full sight of the vessel.

(ii) When the draw cannot open immediately, or is open and must close, a red flag by day or a red light by night, swung back and forth horizontally in full sight of the vessel, to be repeated until acknowledged by the vessel by the same signal.

(e) A notice containing the substance of these regulations shall be conspicuously posted on both the upstream and downstream side of each drawbridge in such a manner that it may easily be read from an approaching vessel at any time. This notice shall state whom to contact to have the draw opened if advance notice is required.

(Sec. 5, 28 Stat. 362, as amended, sec. 6(g)(2), 80 Stat. 937; 33 U.S.C. 499, 49 U.S.C. 1655(g)(2); 49 CFR 1.46(c)(5)).

Dated: May 3, 1979.

J. B. Hayes,
Admiral, U.S. Coast Guard Commandant.

[CGD 78-168]
[FR Doc. 79-14628 Filed 5-9-79; 8:45 am]
BILLING CODE 4910-14-M

Materials Transportation Bureau

[49 CFR Parts 171, 172, 173, 174, 175, 176, 177]

Transportation of Hazardous Substances; Extension of Comment Period

AGENCY: Materials Transportation Bureau, Research and Special Programs Administration, DOT.

ACTION: Extension of time to file comments.

SUMMARY: On February 22, 1979, the Materials Transportation Bureau (MTB) published a notice of proposed rulemaking under Docket HM-145B (44 FR 10676) pertaining to the transportation of hazardous substances. This notice extends the comment period from April 23, 1979, to June 5, 1979, in order to provide additional time for persons affected by these proposals to submit their comments.

DATE: The time for filing comments is extended from April 23, 1979, to June 5, 1979.

FOR FURTHER INFORMATION CONTACT: Lee Metcalfe, Standards Division, Office of Hazardous Materials Regulation, Materials Transportation Bureau, Washington, D.C. 20590, 202-426-0656.

SUPPLEMENTARY INFORMATION: A number of commenters to Docket HM-145B have requested an extension of the comment period in order to permit additional time to evaluate the proposals contained in this docket. Considering the comprehensive nature and possible severe impact of these proposals, the MTB has determined that an extension should be granted. Most of the commenters requested a 60-day extension. If the MTB adopts regulations pertaining to hazardous substances, they should be published at approximately the same time as those of the Environmental Protection Agency which has its publication for hazardous substances (40 CFR Part 117) scheduled for the early part of July. For this reason, the MTB is granting an extension of the comment period to June 5, 1979, since a 60-day extension would not provide sufficient time for review of the comments and preparation of an amendment.

AUTHORITY: 49 U.S.C. 1804; 49 CFR 1.53, App. A to Part 1, and paragraph 1, and paragraph (a)(4) of App. A, Part 106.

Issued in Washington, D.C. on May 2, 1979.

Alan I. Roberts,
Associate Director for Hazardous Materials Regulation, Materials Transportation Bureau.

[Docket No. HM-145B; Notice No. 79-2]
[FR Doc. 79-14315 Filed 5-9-79; 8:45 am]
BILLING CODE 4910-60-M

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Notices

Federal Register
Vol. 44, No. 92
Thursday, May 10, 1979

This section of the FEDERAL REGISTER contains documents other than rules or proposed rules that are applicable to the public. Notices of hearings and investigations, committee meetings, agency decisions and rulings, delegations of authority, filing of petitions and applications and agency statements of organization and functions are examples of documents appearing in this section.

DEPARTMENT OF AGRICULTURE

Forest Service

Bull River-Clark Fork Planning Unit; Kootenai National Forest; Sanders and Lincoln Counties, Mont.; Intent To Prepare an Environmental Impact Statement

Pursuant to Section 102(2)(C) of the National Environmental Policy Act of 1969, the Forest Service, Department of Agriculture, will prepare an Environmental Impact Statement for the Bull River-Clark Fork Planning Unit. This Planning Unit is a combination of the Ibex-Engle, Bull Lake-Napoleon, and Pilgrim Planning Units. A Notice of Intent for the Pilgrim Planning Unit was filed with the Office of the Federal Register in January 1978.

This unit is presently being managed under the 1972 Kootenai Timber Stratification Report and 1967–68–69 Multiple Use Plans.

Primary issues to be considered for this unit are: wilderness, wildlife habitat, maintenance of soil productivity and water quality, timber, land adjustments, potential power transmission lines, protection of historical or prehistorical sites.

In formulating new guidelines for this unit, comments from other government agencies, public organizations, and individuals have been solicited by the Forest Service. Mailers for the three separate units have been published and distributed to interested parties. Public meetings to solicit public comments have been held at the Cabinet Ranger District Office and Troy and Heron, Montana.

Regional Forester Robert H. Torheim is the responsible official; and, Forest Supervisor Floyd J. Marita and staff will prepare the Environmental Impact Statement.

The Draft Environment Impact Statement for this plan is scheduled for completion by June 29, 1979, with a 60-day minimum review period. The Final Environmental Impact Statement is scheduled for filing with the Environmental Protection Agency in December 1979.

Comments on the Notice of Intent or on management proposals for the unit should be sent to Floyd J. Marita, Forest Supervisor, Kootenai National Forest, Libby, MT 59923.

James E. Reid,
Director, Planning, Programming, and Budgeting.
May 4, 1979.

[FR Doc. 79-14581 Filed 5-9-79; 8:45 am]
BILLING CODE 3410-11-M

Forest Plan for the Pike and San Isabel National Forests and Associated Units in Colorado and Kansas; Intent To Prepare an Environmental Impact Statement

Pursuant to Section 102(2)(C) of the National Environmental Policy Act of 1969, the Forest Service, Department of Agriculture, will prepare an Environmental Impact Statement on the Forest Plan for the Pike and San Isabel National Forests.

The Pike and San Isabel National Forests and Associated Units are located in Huerfano, Las Animas, Baca, Otero, Pueblo, Custer, El Paso, Douglas, Jefferson, Teller, Fremont, Chaffee, Lake, Clear Creek, Park, Saguache Counties in Colorado, and Morton and Stevens Counties in Kansas.

The Pike and San Isabel National Forest are composed of both Natinal Forests and National Grassland Units. The Forest Supervisor, located in Pueblo, Colorado, has administrative authority over all National Forest System lands included as part of the Pike National Forest, the San Isabel National Forest, the Comanche National Grassland located in Colorado, and the Cimarron National Grassland located in Kansas. These lands total approximately 2,634,600 acres in Colorado and 107,700 acres in Kansas.

Initial issues and concerns have been identified from public meetings, correspondence and individual contacts resulting primarily from recent and previous planning efforts initiated by the Forest.

These issues and concerns identified focus on the potential effects of land management on water quantity and quality, off-road vehicle use, dispersed recreation, wildlife populations, domestic grazing, mining activities, insect and disease control, and the impacts of all activities on the local economy.

An issue and concern statement will be prepared and made available to the public for a 30-day period beginning in May to further define issues and concerns. The issue and concern statement will be mailed to interested individuals, private organizations, special interest groups, local, State and Federal agencies. News releases will be prepared indicating the availability of the statement and requesting comments regarding the issues and concerns.

Craig Rupp, Regional Forester for Region Two, is the responsible official. R. N. Ridings is the Forest Supervisor and is responsible for preparation of the Environmental Impact Statement and Forest Plan. Robert Butler is the Staff Officer directing the team in the development of the Environmental Impact Statement and Forest Plan.

Based on the proposed regulations implementing the National Forest Management Act, it appears that the planning process will require about 2 years. The Draft Environmental Impact Statement is tentatively scheduled for completion by September 1980. A 90-day period for public review and comments will follow. The Final Environmental Impact Statement is tentatively scheduled for filing with the Environmental Protection Agency in June 1981 with implementation of the Forest Plan to begin in July 1981. These dates are subject to change based on requirements to be contained in the National Forest Management Act regulations, when finalized.

Comments on this Notice of Intent or on the Forest Plan should be sent to R. N. Ridings, Forest Supervisor, Pike and San Isabel National Forests, 910 Highway 50 West, Pueblo, Colorado 81008, phone (303) 544–5277, Ext. 321.

Dated: April 27, 1979.

Craig W. Rupp,
Regional Forester, Rocky Mountain Region.

[FR Doc. 79-14580 Filed 5-9-79; 8:45 am]
BILLING CODE 3410-11-M

Little Annie Winter Sports Site; White River National Forest, Pitkin County, Colo.; Intent To Prepare an Environmental Statement

Pursuant to Section 102(2)(C) of the National Environmental Policy Act of 1969, the Forest Service, Department of Agriculture, will prepare an environmental statement concerning development of the proposed Little Annie Winter Sports Site with a capacity of 3900 to 4500 skiers per day.

The White River National Forest Multiple Use Management Plan was adopted in 1973. One of the features of the Plan was the allocation of the Little Annie Ski Area as a winter sports study site. The proposed Little Annie Ski Area has not been recommended for Wilderness in the RARE II Final Environmental Statement.

On September 20, 1978, pursuant to Step 7 of the Colorado Review Process, a public hearing was held in Aspen, Colorado with respect to the application. No findings were made at that time with respect to the application.

On November 7, 1978 the voters of Pitkin County ratified an initiative containing each of the following determinations:

1. There is a need to plan now for additional skiing since existing facilities are nearing saturation.
2. Responding to skier demand is essential to maintain the economic viability of Aspen as a quality ski resort area.
3. The proposed location of the Little Annie Ski Area is an appropriate site to help meet tourist demands, and should be further studied for development as a ski area.
4. Subject to the consent of the other agencies involved and compliance with the preceding steps in the Joint Review Process, Pitkin County shall, within thirty (30) days from the date of adoption hereof, enter into a Site-Specific Agreement to provide for additional studies of Little Annie, including the draft Environmental Impact Statement, to determine whether or not final approval should be given.
5. Subject to the cooperation of the other agencies involved, Pitkin County shall take all appropriate action to expedite the processing of the Little Annie application through the Joint Review Process.

Each of the parties participating in the Joint Review Process concerning this proposal have agreed to accept it, conceptually, and to move to the next stage of study, that being site specific. Participating parties include the USDA, Forest Service, State of Colorado, Pitkin County, City of Aspen, and the proponent.

Subsequent to the ratification of the initiative on November 7, 1978 and conceptual approval by other parties mentioned above, several scoping sessions have been held amongst all the parties and special interest groups in an effort to develop a Memorandum of Understanding to prepare a site-specific study. At these meetings several major issues and concerns have been revealed. The State of Colorado, Department of Local Affairs, Division of Planning, has stated that the study of the Little Annie Ski Area should also include an analysis of the impacts of an expansion at Snowmass (Burnt Mountain). With respect to the analysis of both proposals, the State has listed additional concerns as follows:

1. *State Highway 82.* Any development that increases trips and traffic on State Highway 82 will result in further traffic breakdown and congestion and will result in more hours of poor level of service on the highway, particularly between Brush Creek Road and Aspen. We would expect each of the alternatives in the environmental statement to be assessed in terms of their impact on State Highway 82 and mitigating measures should be explicitly listed.

2. *Wildlife.* We are concerned over the impacts that Burnt Mountain Expansion will have on the big game herds in the area and the area and the fisheries. The proposed expansion is in an elk calving area, and both deer and elk migrate through the area going to and from their winter ranges. Human distrubance is likely to displace elk from portions of their summer and winter ranges. Changes in runoff, increases in sedimentation, and a deterioration of water quality from an increase in pollutants could adversely impact stream fisheries.

3. *Geological Hazard.* Published geologic mapping indicates that the geotechnical conditions are quite complex and could significantly influence any proposed development of the area. Among the constraints which exist on the site are: potentially unstable slopes, potential erosion and sedimentation problems, swelling soils, variable ground water conditions, and variable engineering properties and materials. Before detailed plans or final decisions are made, we recommend that the compatibility of the proposal with these physical constraints be evaluated.

4. *Historical/Archaeological Resources.* Because almost all of the area proposed for ski area expansion will be disturbed, the entire area must be surveyed for potential historical/archaeological resources. If found, any resources should be evaluated for their importance and should be protected from loss as may be directed by the State Historical Preservation Officer.

5. *Water.* The Division of Water Resources is interested in assuring that any water source for the restaurants or othe water needs of the project are obtained from a legal source and do not injure vested water rights.

6. *Water Quality.* The water quality impacts of additional sewage facilities as well as non-point sources, such as runoff and sedimentation should be consistent with the constraints of the Northwest Colorado 208 Plan.

7. *Air Quality.* The air quality impacts of the proposal must be consistent with state and federal law. The environmental statement should consider existing ambient air conditions and impacts on the air shed caused by trip generation related to expanded skiing capacity.

Pitkin County and the City of Aspen have expressed concerns relative to employee housing, transportation, wildlife, and the need for additional skiing in and around the City of Aspen/Pitkin County. Participants in the various meetings have agreed that because of the sensitive nature of the proposal, there are significant issues related to the the total physical, biological, economic, and social environment needing further study. Because of the possible significance of the changes in the environment, it has been determined to prepare an Environmental Statement.

The cost of gathering the information necessary for the preparation of the Environmental Statement will be borne primarily by the proponent with the City of Aspen and Pitkin County contributing a combined total amount of $15,000.00 for the study of selected topics.

Thomas C. Evans, the Forest Supervisor, is the responsible official, and Pat Halligan, Community Planner, will be the team leader for the Environmental Assessment and Statement.

It is anticipated that the Environmental Assessment will require about eighteeen months because of the studies required. The draft Environmental Statement is scheduled for completion by March 1980, with a two month review period, and the final Environmental Statement is scheduled for filing in July 1980. If the decision is to proceed with development, a special permit for use of public land will be issued during the winter of 1980–81 with the start of development anticipated no earlier than spring of 1981.

Comments on the Notice of Intent or on the project should be sent to Thomas C. Evans, Forest Supervisor, White River

National Forest, Glenwood Springs, Colorado 81601.

Thomas C. Evans,
Forest Supervisor.

April 3, 1979.

[FR Doc. 79-14579 Filed 5-9-79; 8:45 am]

BILLING CODE 3410-11-M

Pacific Crest National Scenic Trail; Relocation

Three segments of the Pacific Crest National Scenic Trail will be relocated to take advantage of public ownership and terrain so that this portion of the Trail meets the criteria and purpose for which it was established. These changes in location are in compliance with the provisions of Section 7(b) of the National Trails System Act (82 Stat. 919; U.S.C. 1241-1249). The official location of the Pacific Crest National Scenic Trail was pubished in the **Federal Register**, Vol. 38, No. 19, Part II, Tuesday, January 30, 1973.

An environmental analysis report relating to the relocation of each segment is on file in the Supervisor's Office, Shasta-Trinity National Forest, 2400 Washington Avenue, Redding, California 96001.

Segment A

This segment as described in the **Federal Register** is from the Klamath National Forest and Shasta-Trinity National Forest boundary to Saloon Creek. The change in location more fully meets the established criteria than the published route. The change in location is denoted by a dashed line marked as Segment A on the map entitled Pacific Crest Trail, California #2882.

The official location is amended as follows:

Page 2834, Column 3, Paragrah 6, Lines 8, 9, 10 and 11.

Delete:

"* * * and the Salmon-Trinity Alps Primitive Area. From the boundary of the Primitive Area, it heads southerly into the North Fork of Coffee Creek where it turns to a generally northeast direction traversing * * *"

The sentence will now read:

"The trail proceeds southwesterly along the main divide between the Scott and Salmon Rivers, goes through the Salmon-Trinity Alps Primitive Area for a short way, passing east of Hidden Lake, and proceeds easterly to the divide where it leave the Klamath National Forest and enters the Shasta National Forest where it traverses the upper portions of Saloon Creek and Granite Creek drainages."

Segment B

This segment as described in the **Federal Register** is from Little Castle Lake to Interstate 5. The published route does not meet grade, alinement, and location criteria. There is also a possibility of doing irreparable damage to the Castle Crags formation. The change in location is denoted by a dashed line marked as Segment B on the maps entitled Pacific Crest Trail California #2884 and Pacific Crest Trail California #2885.

The official location is amended as follows:

Page 2835, Column 1, Paragraph 1, Lines 16 through 21.

Delete:

"* * * passing just above Little Castle Lake and heads southeast into Castle Crags, goes through a part of Castle Crags State Park, and crosses Interstate 5 by way of a pedestrian undercrossing near the town of Castle Crags."

The sentence will now read:

"Here the trail swings northeast to North Fork Castle Creek and then heads southeast, passes through Castle Crags State Park and crosses Interstate 5 by way of Soda Creek undercrossing."

Page 2837, Column 2.

Delete the following described private lands:

Mount Diablo Meridian

Township, Range, and Section

38 North, 4 West, 3, 5 and 11.
39 North, 4 West, 19.

Add the following described private lands:

38 North, 4 West, 7.
38 North, 5 West, 1.

Private land ownership is involved in the change in location of Segment B. Right-of-way deeds are on file in the Supervisor's Office, Shasta-Trinity National Forest, for all of the affected private lands.

Segment C

This segment is from Squaw Valley Creek to Grizzly Peak. The published route crosses approximately 10 miles of privately-owned lands. The trail will be relocated entirely to National Forest lands. It is denoted by a dashed line marked as Segment C on maps entitled Pacific Crest Trail #2885 and Pacific Crest Trail #2886.

The official location is amended as follows:

Page 2835, Column 1, Paragraph 2, Lines 5, 6, and 7.

Delete:

"* * * descends near Skunk Hill and crosses Lake McCloud Dam. It next ascends easterly to Grizzly Peak * * *"

The sentence will now read:

"The Pacific Crest Trail then ascends southeasterly to cross the summit of Girard Ridge, descends and crosses Squaw Valley Creek, by a footbridge and continues east to Traugh Creek, descends to McCloud River at Ah-di-Na and follows near the river to Ash Camp. It next ascends easterly, crossing Butcherknife Creek and Deer Creek to Grizzly Peak, then descends down the ridge to Pigeon Hill and south of Star City Meadow and continues on the ridge top to Mushroom Rock and Bartle Gap."

Page 2837, Column 2.

Delete the following described private lands:

Mount Diablo Meridian

Township, Range, and Section

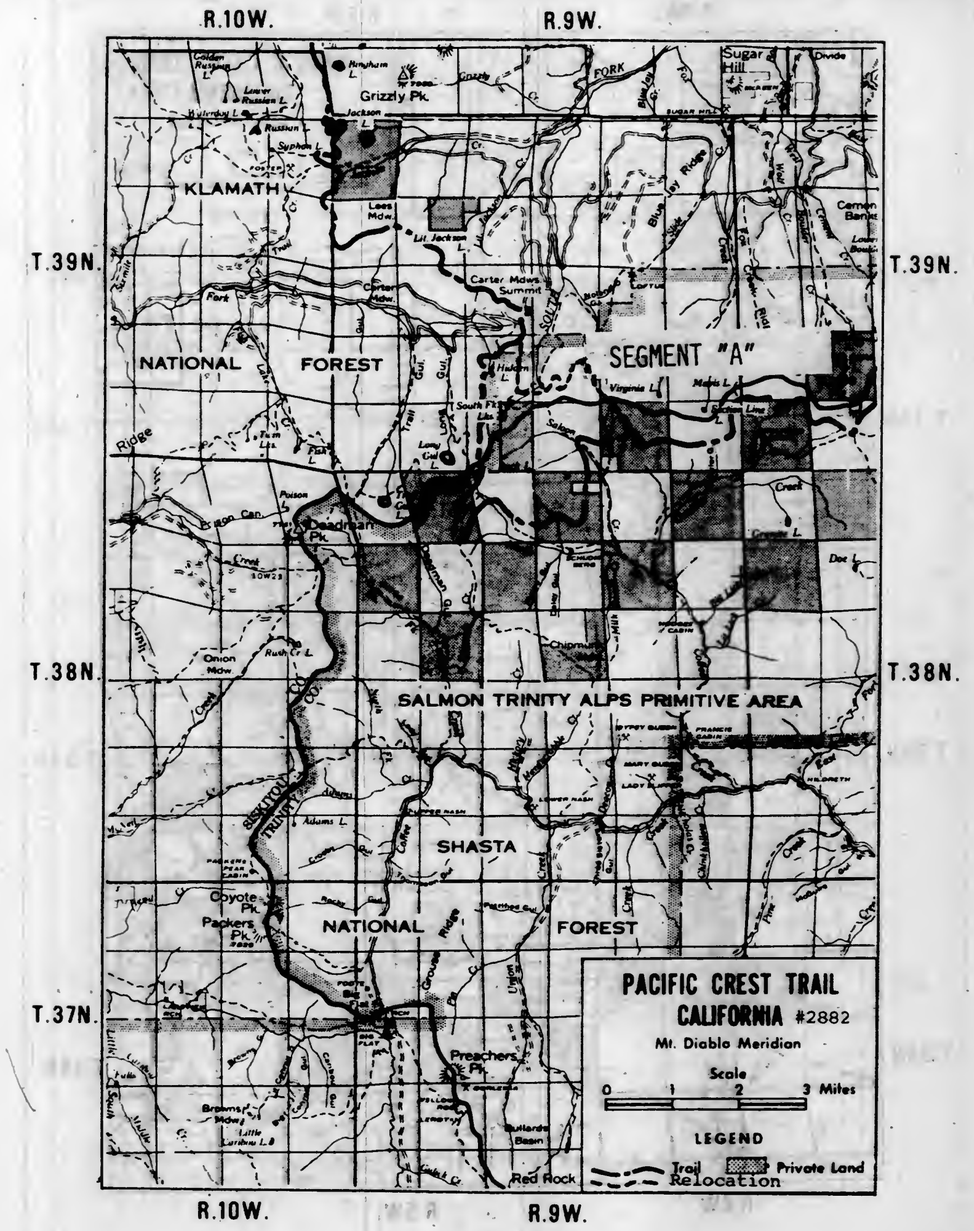
38 North, 1 West, 14, 15, 16, 17 and 18.
38 North, 2 West, 20, 22, 23, 24, 27, 28 and 29.

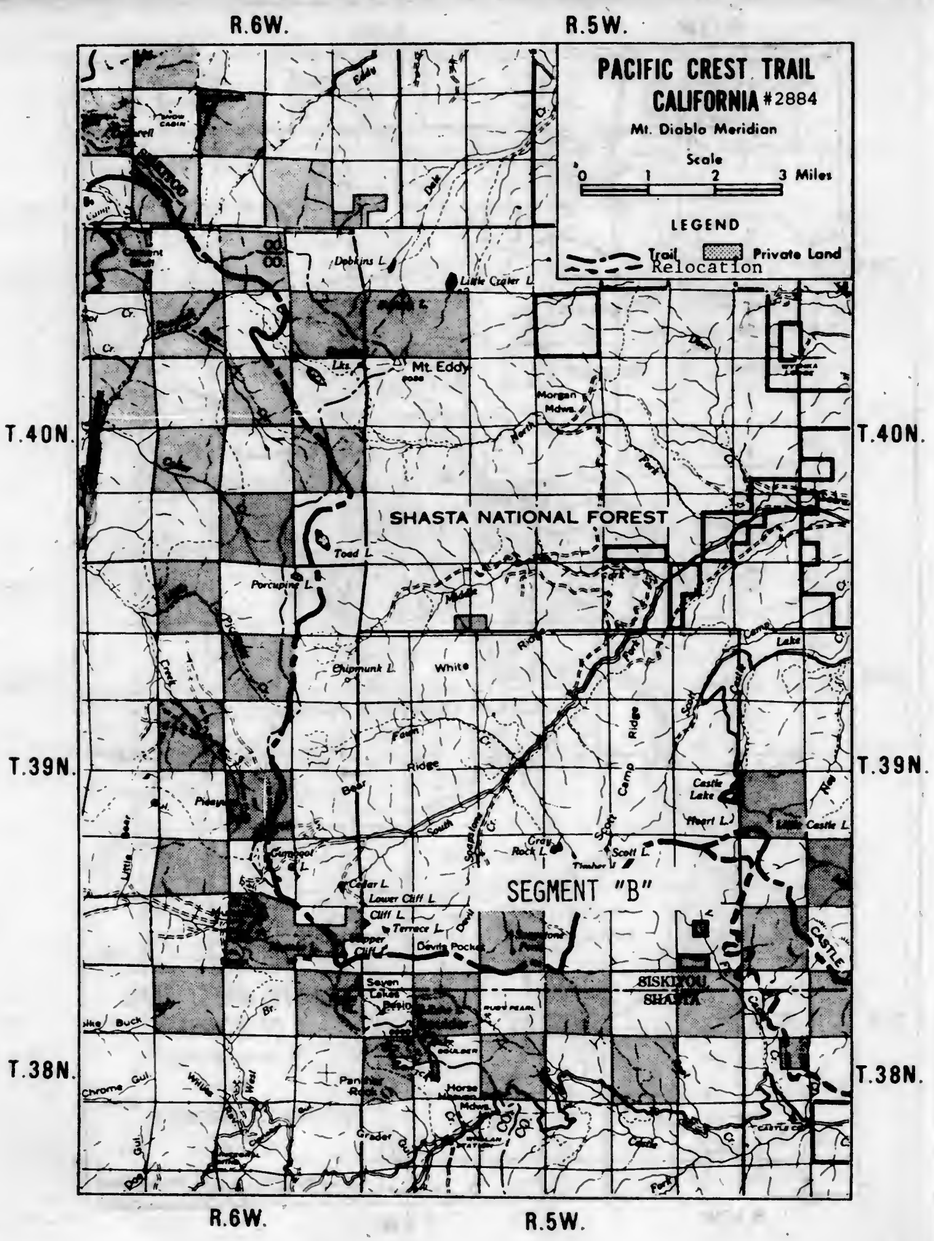
Private land ownership is not involved in the changed location of Segment C.

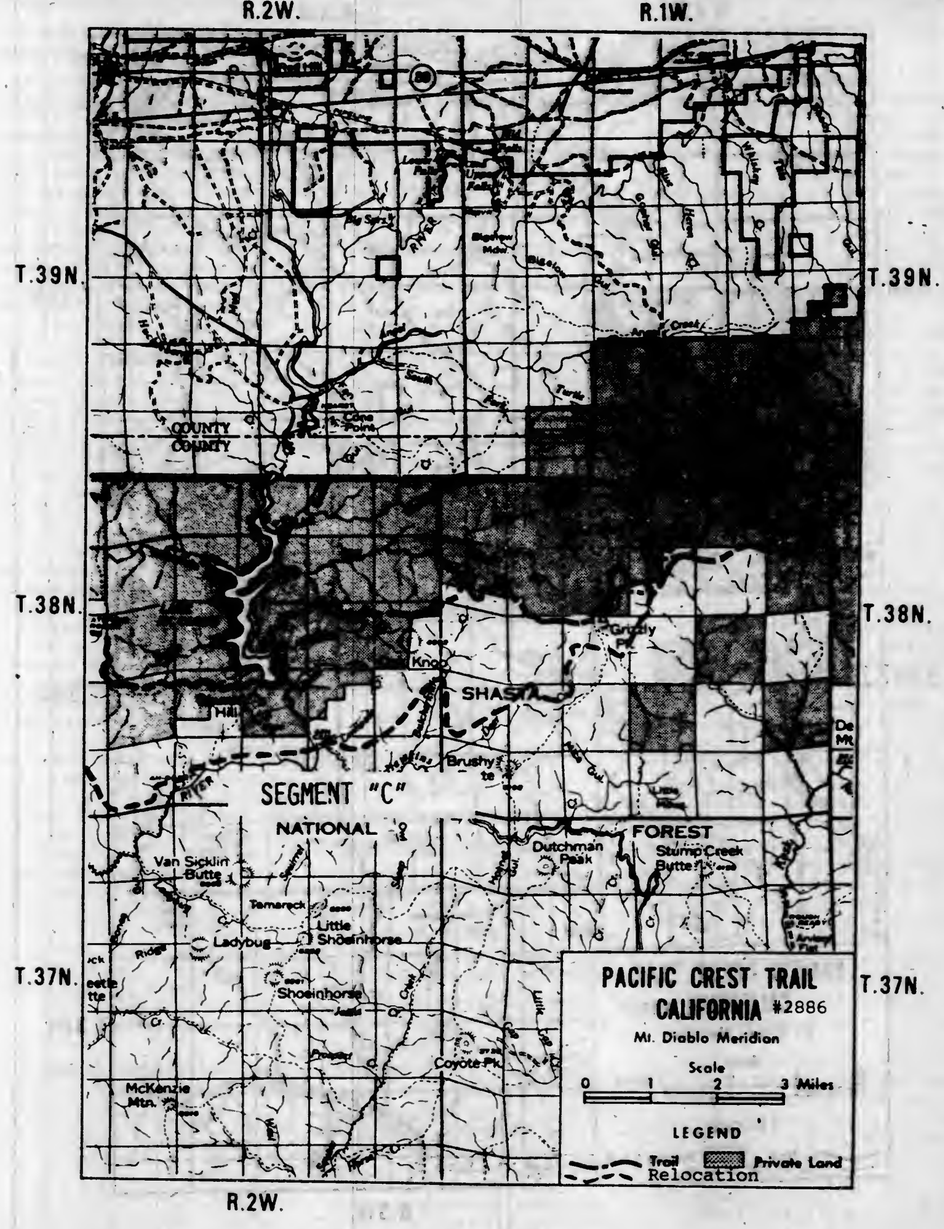
Dated: April 27, 1979.

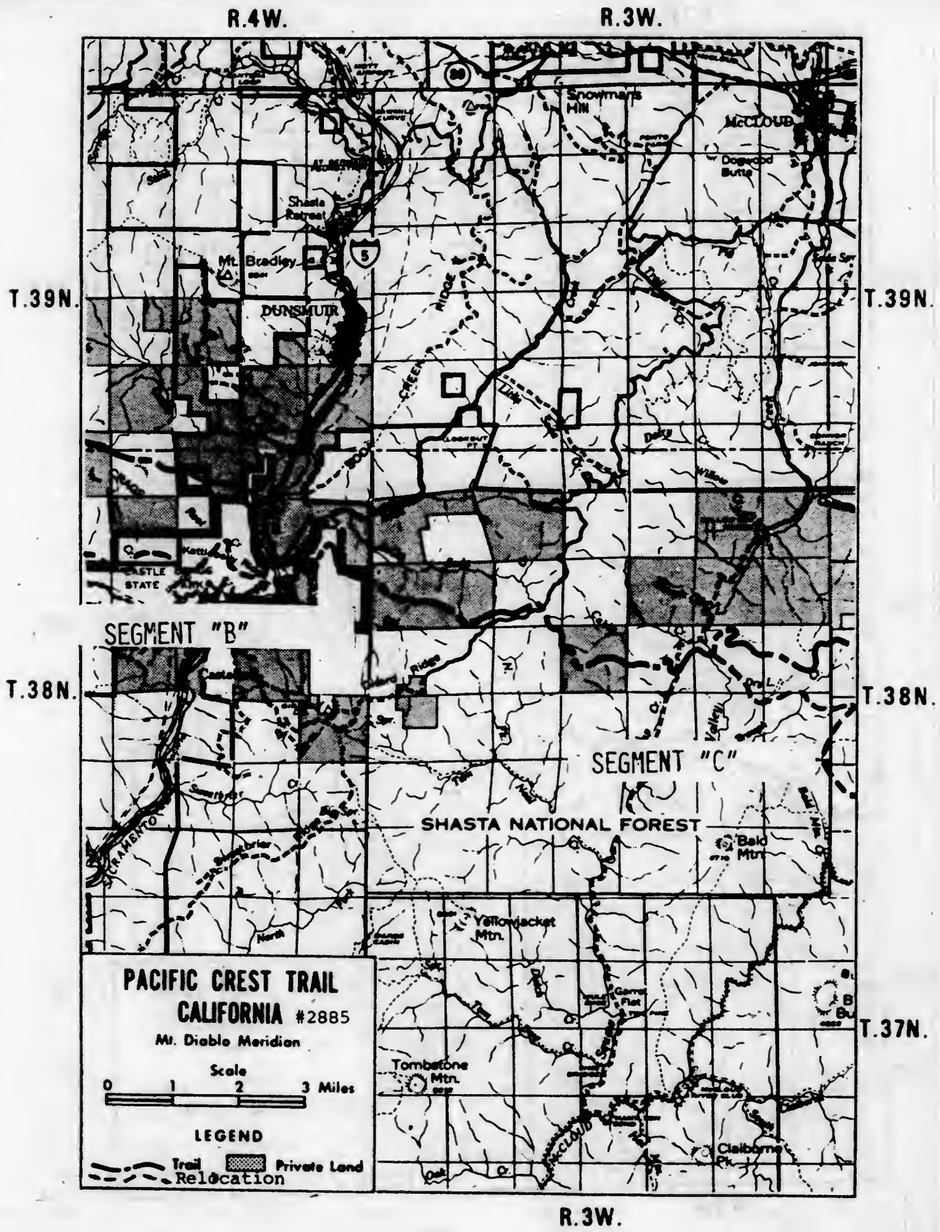
John R. McGuire,
Chief.

BILLING CODE 3410-11-M




R.6W.
R.5W.
PACIFIC CREST TRAIL
CALIFORNIA #2884
Mt. Diablo Meridian
Scale
0 1 2 3 Miles
LEGEND
Trail
Private Land
Relocation
T.40N.
T.39N.
T.38N.
SHASTA NATIONAL FOREST
SEGMENT "B"
Mt. Eddy
Debbins L.
Little Crater L.
Toad L.
Porcupine L.
Chipmunk L.
White
Castle Lake
Heart L.
Little Castle L.
Rock L.
Scott L.
Cedar L.
Lower Cliff L.
Cliff L.
Terrace L.
Davis Pocket
Seven Lakes Basin
SISKIYOU
SHASTA
Horse
Grader
R.6W.
R.5W.


R.2W.
R.1W.
T.39N.
T.38N.
T.37N.
COUNTY
COUNTY
SHASTA
SEGMENT "C"
NATIONAL
FOREST
Van Sicklin Butte
Dutchman Peak
Stump Creek Butte
Tamarack
Little Shoeinhorse
Ladybug
Shoeinhorse
Coyote Pk.
McKenzie Mtn.
PACIFIC CREST TRAIL
CALIFORNIA #2886
Mt. Diablo Meridian
Scale
0 1 2 3 Miles
LEGEND
Trail
Private Land
Relocation
R.2W.



CIVIL AERONAUTICS BOARD

American Airlines; New York-Miami/West Palm Beach Nonstop Authority

AGENCY: Civil Aeronautics Board.

ACTION: Notice of Order 79-5-28.

SUMMARY: The Board is proposing to grant New York-Miami/West Palm Beach nonstop authority to American Airlines and any other applicant whose fitness can be established by officially noticeable data. This grant includes, for the first time, service to Westchester county airport (primarily a general aviation airport). The proposed service would contravene Westchester's self-imposed restriction which limits scheduled air service to two-engine aircraft operating over length not in excess of 600 miles. The complete text of this order is available as noted below. With respect to Air Florida, the Board is proposing to find that the proposed service is consistent with the public convenience and necessity. However, it will defer on the issue of Air Florida's fitness until the conclusion of the *U.S.-Bahamas Service Investigation*, Docket 32294.

DATES: Objections: All interested persons having objections to the Board issuing the proposed authority shall file, and serve upon all persons listed below, no later than June 7, 1979, a statement of objection, together with a summary of the testimony, statistical data, and other material expected to be relied upon to support the stated objections.

Additional Data: All existing and would-be applicants who have not filed (a) illustrative service proposals, (b) environmental evaluations, and (c) an estimate of fuel to be consumed in the first year are directed to do so no later than May 23, 1979.

ADDRESSES: Objections or Additional Data should be filed in Docket 35467, Docket Section, Civil Aeronautics Board, Washington, D.C. 20428.

FOR FURTHER INFORMATION CONTACT: Lawrence R. Intravia, Bureau of Pricing and Domestic Aviation, Civil Aeronautics Board, 1825 Connecticut Ave,, Washington, D.C. 20428, (202) 673-6067.

SUPPLEMENTARY INFORMATION: Objections should be served upon the following persons: Air Florida, American Airlines, Allegheny Airlines, Eastern Air Lines, and Westchester County, New York.

The complete text of Order 79-5-28 is available from our Distribution Section, Room 516, 1825 Connecticut Avenue, N.W., Washington, D.C. Persons outside the metropolitan area may send a postcard request for Order 79-5-28 to the Distribution Section, Civil Aeronautics Board, Washington, D.C. 20428.

By the Civil Aeronautics Board, May 3, 1979.

Phyllis T. Kaylor,
Secretary.

[FR Doc. 79-14609 Filed 5-9-79; 8:45 am]

BILLING CODE 6320-01-M

COMMISSION ON CIVIL RIGHTS

Ohio Advisory Committee; Meeting

Notice is hereby given, pursuant to the provisions of the Rules and Regulations of the U.S. Commission on Civil Rights, that a planning meeting of the Ohio Advisory Committee (SAC) of the Commission will convene at 10:00 am and will end at 5:00 pm, on June 2, 1979, at the Terrace Hilton, 15 West 6th, Cincinnati, Ohio 45201.

Persons wishing to attend this open meeting should contact the Committee Chairperson, or the Midwestern Regional Office of the Commission, 230 South Dearborn, 32nd Floor, Chicago, Illinois 60604.

The purpose of this meeting is a discussion of interviews and planning for Cincinnati hearing.

This meeting will be conducted pursuant to the provisions of the Rules and Regulations of the Commission.

Dated at Washington, D.C., May 7, 1979.

John I. Binkley,
Advisory Committee Management Officer.

[FR Doc. 79-14564 Filed 5-9-79; 8:45 am]

BILLING CODE 6335-01-M

DEPARTMENT OF COMMERCE

Economic Development Administration

Petitions by 12 Producing Firms for Determinations of Eligibility To Apply for Trade Adjustment Assistance

Petitions have been accepted for filing from twelve firms: (1) Weyenberg Shoe Manufacturing Company, Inc., 234 East Reservoir Avenue, Milwaukee, Wisconsin 53201, a producer of men's footwear (accepted April 20, 1979); (2) Stutz Products Corporation, 606 South Walnut Street, Hartford City, Indiana 47348, a producer of slicing machine knieves (accepted April 20, 1979); (3) Drake Engineering and Sales Corporation, 17502 Daimler Street, Irvine, California 92714, a producer of racing car engines (accepted April 20, 1979); (4) London Knitting Company, Inc., 3799 Jasper Street, Philadelphia, Pennsylvania 19124, a producer of men's, women's and boys' sweaters (accepted April 24, 1979); (5) Intercontinental Apparel, Inc., 116 Seaview Drive, Secaucus, New Jersey 07094, a producer of men's suits, sportcoats and overcoats (accepted April 24, 1979); (6) Richmond Glove Corporation, 601 North D Street, Richmond, Indiana 47374, a producer of work gloves (accepted April 27, 1979); (7) D. B. Rosenblatt, Inc., 912 Currie Avenue, Minneapolis, Minnesota 55403, a producer of women's jackets, skirts and slacks (accepted May 1, 1979); (8) Atlantic Products Corporation, 1 Johnston Avenue, Trenton, New Jersey 08609, a producer of luggage and sports bags (accepted May 3, 1979); (9) Gopher Wonderall Company, 600 First Avenue North, Minneapolis, Minnesota 55403, a producer of children's play clothes, snow suits and jackets (accepted May 3, 1979); (10) Agenda Limited, Inc., 401 North Commerce, Lockhart, Texas 78644, a producer of automotive fuses, thermostats and tire repair materials (accepted May 3, 1979); (11) Brier Manufacturing Company, Inc., 12 Sheldon Street, Providence, Rhode Island 02906, a producer of hair goods and costume jewelry (accepted May 3, 1979); and (12) Metter Manufacturing Company, 800 East Broad Street, Metter, Georgia 30439, a producer of women's blouses, skirts, jackets and vests (accepted May 4, 1979). The petitions were submitted pursuant to Section 251 of the Trade Act of 1974 (Pub. L. 93-618) and § 315.23 of the Adjustment Assistance Regulations for Firms and Communities (13 CFR Part 315).

Consequently, the United States Department of Commerce has initiated separate investigations to determine whether increased imports into the United States of articles like or directly competitive with those produced by each firm contributed importantly to total or partial separation of the firm's workers, or threat thereof, and to a decrease in sales or production of each petitioning firm.

Any party having a substantial interest in the proceedings may request a public hearing on the matter. A request for a hearing must be received by the Chief, Trade Act Certification Division, Economic Development Administration, U.S. Department of Commerce, Washington, D.C. 20230, no later than the close of business of the

tenth calendar day following the publication of this notice.

Jack W. Osburn, Jr.,
Chief, Trade Act Certification Division, Office of Eligibility and Industry Studies.

[FR Doc. 79-14576 Filed 5-9-79; 8:45 am]

BILLING CODE 3510-24-M

DELAWARE RIVER BASIN COMMISSION

Public Hearing

Notice is hereby given that the Delaware River Basin Commission will hold a public hearing on Wednesday, May 16, 1979, commencing at 2:00 p.m. The hearing will be a part of the Commission's regular May business meeting which is open to the public. Both the hearing and the meeting will be held at the Commission's offices, 25 State Police Drive, West Trenton, N.J. The subject of the hearing will be applications for approval of the following projects as amendments to the Comprehensive Plan pursuant to Article 11 of the Compact and/or as project approvals pursuant to Section 3.8 of the Compact.

1. *Brandywine Green Water Company (D 77-112 CP (Rev.)).* Modification of a water supply project in the company's service area in West Bradford Township, Chester County, Pennsylvania. The company will delay the interconnection with the Broad Run Water Company distribution system and will utilize a second well as a standby source of supply. The standby well has a capacity of 57,000 gallons per day.

2. *Perkasie Borough Authority (D-78-75 CP).* A well water supply project to augment public water supplies in the Authority's service area in Perkasie and a portion of East Rockhill Township, Bucks County, Pa. Designated as Well No. 9, the new facility is capable of yielding 180,000 gallons per day.

3. *Texaco, Inc. (D-76-9).* A wastwater outfall line at the company's Eagle Point Refinery in the Borough of Westville, Gloucester County, New Jersey. The new outfall will be designed to insure more effective dispersion of the existing heated discharge to the Delaware River.

4. *Keystone Coke Co. (D-79-60).* Keystone Coke Co. has acquired the coke facilities of the former Alan Wood Steel Co. in Upper Merion Township, Montgomery County, Pa. Keystone will continue to use Schuylkill River water in the plant and proposed modifications to the wastewater treatment facilities. Water is withdrawn at the rate of 11.5 million gallons per day. Cooling water is returned to the Schuylkill River, and concentrated wastewaters are treated and discharged into an abandoned quarry.

5. *Publicker Industries, Inc. (D-79-86).* A bank and landfill project at the company's facility in Philadelphia, Pennsylvania. The project will fill between Piers 106, 107 and 108. The land area will initially be used for open storage of raw materials and equipment.

6. *HA RA Inc. (D 79-17).* A sewage treatment project at the company's Fernwood Resort located in Middle Smithfield Township, Monroe County, Pennsylvania. Treatment facilities will be constructed to remove approximately 95-97% of BOD from a wastewater flow of 150,000 gallons per day. Treated effluent will discharge to Bush Kill Creek.

Documents relating to the above-listed projects may be examined at the Commission's offices. Persons wishing to testify at this hearing are requested to register with the Secretary prior to the date of the hearing.

W. Brinton Whitall,
Secretary.

[FR Doc. 79-14541 Filed 5-9-79; 8:45 am]

BILLING CODE 6360-01-M

DEPARTMENT OF DEFENSE

Corps of Engineers

Notice of Intention To prepare a Draft Environmental Impact Statement (Bodega Bay Harbor Maintenance Dredging, Bodega Bay, Sonoma County, Calif.).

AGENCY: U.S. Army, Corps of Engineers, Department of Defense.

ACTION: Notice of Intent to Prepare a Draft Environmental Impact Statement (DEIS).

SUMMARY: 1. The proposed action involves hydraulically dredging approximately 80,500 c.y. of shoal material from the Federal Channel in Bodega Bay Harbor, and disposing of said material on two adjacent land sites, both historically used for past Corps dredging activities.

2. The alternatives to the proposed activity include one, that of no project (no harbor dredging). Alternative dredging methods are clamshell with barge and hopper dredging with water disposal of dredged material. An alternative method of dredged material disposal is water disposal in the Pacific Ocean; however, this alternative is not considered feasible at this time due to environmental (securing a designated disposal site) and economic (cost of dredged material rehandling and barge transport) constraints.

3. The Corps' scoping process for this activity will include as needed (since this activity is a repeat of earlier ones, some of the following will not be necessary as they were done during those earlier activities):

a. *Public Involvement*—This will be accomplished as needed by inviting, through public release of the DEIS, participation of affected government agencies, local archaeological/historical and conservation groups, and any other interested private organizations and individuals.

b. *Identification of Significant Issues and Feasible Alternatives*—To do this, public hearings, meetings with concerned agencies and/or individuals from among the above mentioned public, and site inspections to the affected area will be set up as needed. Use of impact "trees", matrices, and consultations with knowledgeable persons will also be implemented as needed to fully identify the significant issues and feasible alternatives. To insure completeness and adequacy of the discussion of necessary concerns, the DEIS will be circulated for internal review within the Corps prior to public release.

4. Scoping for the proposed activity will be accomplished through informal consultation with involved agencies, in particular fish and wildlife agencies.

5. It is estimated, given current available information, that the DEIS will be available for public release and review in September 1979.

6. Address: Questions about the proposed activity and DEIS may be answered by: Mr. Paul Portch, San Francisco District, Corps of Engineers, Environmental Branch, 211 Main Street, San Francisco, California 94105, (Telephone: 415-556-0325).

Dated: May 3, 1979.

John M. Adsit,
Colonel, CE District Engineer.

[FR Doc. 79-14542 Filed 5-9-79; 8:45 am]

BILLING CODE 3710-FS-M

Department of the Army

Shoreline Erosion Advisory Panel; Open Meeting

In accordance with Section 10(a)(2) of the Federal Advisory Committee Act (PL 92-463), notice is hereby given of a meeting of the Shoreline Erosion Advisory Panel on 5-6 June 1979.

The meeting will be held in the Holiday Inn, I-90 and Ohio Route 45, Geneva, Ohio, from 0830 hours to 1730 hours on 5 June and from 0830 hours to 1510 hours on 6 June 1979.

The 5 June session will be devoted to briefings from the responsible Districts on the status of Stuart-Jensen Causeways, Florida; Roanoke Island, North Carolina; Fontainebleau, Louisiana; Alameda, California; and Port Wing, Wisconsin demonstration sites, and a presentation of the status of the analysis of monitoring data contract for the program by the contractor and Panel discussion.

The 6 June session will be devoted to a briefing and field inspection of the Geneva State Park, Ohio, demonstration site and reports from the various working groups of the Panel.

Participation by the public is scheduled for 1420 hours on 6 June 1979.

The meeting will be open to the public subject to the following:

1. Since seating capacity of the meeting room at the Holiday Inn is limited, advance notice of intent to attend, although not required, is requested in order to assure adequate arrangements for those wishing to attend.

2. Oral participation by public attendees is encouraged during the time scheduled on the agenda; written statements may be submitted prior to the meeting or up to 30 days after the meeting.

Inquiries and notice of intent to attend the meeting may be addressed to Colonel Ted E. Bishop, Executive Secretary, Shoreline Erosion Advisory Panel, Kingman Building, Fort Belvoir, Virginia 22060; Telephone (202) 325-7000.

By Authority of the Secretary of the Army.

Dated: May 2, 1979.

Rosse D. Smyth,
Colonel, U.S. Army, Director, Administrative Management TAGCEN.

[FR Doc. 79-14582 Filed 5-9-79; 8:45 am]

BILLING CODE 3710-03-M

DEPARTMENT OF ENERGY

Energy Information Administration

Reduction of Reporting Burden

AGENCY: Energy Information Administration.

ACTION: Statement by the Energy Information Administration (EIA) concerning the Department of Energy's (DOE) continuing program to reduce energy information reporting burden on industry, small businesses and the public.

SUMMARY: The Department of Energy is committed to reducing the burden it places on private industry and individuals to submit information about their businesses or holdings. The Department uses the information it collects to review the domestic energy situation, analyze policy and program alternatives, and enforce compliance with the Department's regulations. The Energy Information Administration collects most of this energy information, and publishes much of it in periodic statistical data reports. Because the EIA collects or maintains this information on behalf of other DOE offices, including the Federal Energy Regulatory Commission and the Economic Regulatory Administration, the EIA is responsible for coordinating DOE's program to eliminate unnecessary reporting burden. This program is consistent with the goals of the President's Paperwork Reduction Program, initiated in February 1978, and the Department's Regulatory Reform Task Force, begun January 1978, and chaired by the DOE Deputy Secretary. This statement is intended to familiarize the public with the specific programs underway to reduce reporting burden and the policies that underlie those programs. It is issued in accordance with a previously published Notice (44 FR 1032, January 3, 1979) in which DOE proposed 16 new Regulatory Reform Initiatives. Specifically, this statement is a response to initiative #9. See 44 FR 1036-7.

TO COMMENT ON THIS NOTICE OR FOR FURTHER INFORMATION CONTACT: Mr. John Gross, Director (202-252-5214), Office of Energy Data Standards and Statistical Design, Energy Information Administration, Room BC-024, Forrestal Building, Washington, DC 20585.

SUPPLEMENTARY INFORMATION:

I. Background
II. The Statistical Design and Forms Clearance Process
III. The Systems Consolidation Process
IV. Public Participation.

I. Background

When the Department of Energy came into existence on October 1, 1977, there were approximately 160 forms being used by its predecessor organizations, principally the Federal Energy Administration, Federal Power Commission, and the Bureau of Mines (Department of Interior). Since that time, the Department has canceled or allowed to expire approximately 50 energy data forms, renewed, extended or revised approximately 55 forms, and approved approximately 70 new forms for use. In 1978, EIA completed internal DOE clearance for 130 forms and submitted them to the Office of Management and Budget for official clearance. Currently, these energy data forms are sent to about 285,000 respondents; their submissions are processed by either the EIA or the DOE component that has primary responsibility for the program in question.

In the first year of the Department's existence, October 1977 through September 1978, the total reporting burden on persons who must fill out DOE forms was reduced by nearly one-fourth, from 4.9 million person hours to 3.7 million person hours. This annual reporting burden is determined by multiplying the number of respondents for each form by the estimated annual number of hours it takes an average respondent to complete that form. The resulting numbers are then added to determine the overall burden of DOE reporting requirements. The estimates concerning the time necessary to complete the forms are determined primarily through pre-testing the form with a subset of potential respondents or during consultations with industry and governmental representatives.

The Department's goal for its first year was a 5 percent reduction in burden from the level on activation day; the result was approximately a 25 reduction. The Department made such significant progress through a related set of efforts designed to consolidate similar forms, cancel unnecessary ones, allow clearance of only those forms that are fully justified, clarify the wording on the instructions and the terms on forms that are used, and minimize total reporting requirements by using statistical sampling techniques wherever possible.

Another way the Department seeks to reduce its burden on respondents is by soliciting comments on major forms before submitting them to OMB for formal clearance. This helps to make the intent and scope of the form clear and to identify unnecessary, duplicative, or confusing data requests before the form is actually used. OMB also solicits the views of a wide range of interested parties, including other Federal agencies, before approving the form for official use.

These efforts will continue in the year ahead, even though new regulations required by the National Energy Act along with implementation of several major new energy reporting systems will increase total DOE reporting burden in 1979. The Energy Information Administration is committed to lowering the burden on its respondents in every reasonable way.

II. The Statistical Design and Forms Clearance Process

In accordance with the Federal Reports Act, every DOE data collection instrument that is used to gather identical information from ten or more nongovernment entities is approved for official use by the Office of Management and Budget (OMB). The clearance of any such DOE instrument that proposes to collect energy information is first reviewed within the Department to ensure that the form is properly designed from a statistical and a programmatic point of view, fully

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justified, and sufficiently clear to prevent respondent confusion. The EIA manages this review process in the Department and offers statistical and survey design, and other types of technical assistance to other DOE offices.

In this statistical and survey design process, EIA reviews and documents the objectives of the collection effort, the essential elements of information sought, the appropriate industry or population segment to be surveyed, and the frequency and method of data collection to be used. The form used to collect the data is then designed around the needs of the collection program. Each data element must be justified for inclusion in the form.

During the Departmental review process, the element-by-element justifications, the accompanying instructions to the form, and the term definitions are again reviewed to ensure that they are appropriate, clear, and comparable.

Sampling is one of the primary statistical techniques used by the EIA in reducing respondent burden, particularly if the data are to be used for statistical or analytical purposes. When selected on the basis of appropriate statistical methodology, sample units may be considered representative of all units eligible to be included in a survey. Thus, sampling techniques help reduce burden since a representative group may be chosen to respond to a particular survey, rather than the entire respondent universe. Equally important, sampling helps to reduce burden on small businesses, where the size or volume of a business is a major determinant in the survey selection process.

Three examples may be cited to show how sampling techniques reduce burden. First, the Oil and Gas Reserves Survey (Form EIA–23) seeks data from all domestic oil or gas well operators who produce more than 400,000 barrels of oil or 2 billion cubic feet of natural gas annually, and a statistically selected sample of smaller operators. Out of approximately 16,000 potential respondents, EIA has determined that only about 3,100 need be surveyed in order to get a statistically valid view of the domestic oil and gas production and reserve situation. While all of the large well operators are surveyed, only 15 percent (or approximately 2,300 operators) who produce less than 400,000 barrels of oil or 2 billion cubic feet of gas are required to respond.

Second, the Retail Motor Gasoline Station Survey (Form EIA–79) collects monthly information about prices and volumes of different grades of gasoline being sold by retail gasoline stations. There are approximately 180,000 retail gasoline stations dealers in the United States. Based on its statistical requirements, the EIA has chosen 8,000 stations on a geographical basis as being representative of the entire universe. In this case, while only about 4 percent of all U.S. service station dealers are being asked to respond, the resulting statistics may be considered representative of all 180,000 dealers.

Third, the No. 2 Heating Oil Supply/Price Monitoring Report (Form EIA–9) obtains information concerning sales volumes and prices of No. 2 heating oil from retail dealers. A stratified sampling mechanism is used to estimate totals for the United States as a whole, each of the 10 federal regions, the 22 largest consuming States, and the District of Columbia. All 200 companies whose volumes exceeds ten million gallons annually are included. Of the approximately 7, 800 companies with volumes of less than 10 million gallons annually, EIA is sampling only about 1,100.

EIA is responsible for collecting and processing most of the Federal Energy Regulatory Commission's (FERC) data. In addition to the DOE forms review and clearance process and the systems design services provided by EIA, the Commission employs similar review procedures for energy forms developed for its use. The Commission seeks to collect only those data necessary for making determinations within its jurisdiction. As a result, during FY 1978, FERC reduced its reporting burden by 13 percent.

III. Systems Consolidation Process

The Energy Information Administration began a major program in 1977 to eliminate unnecessary energy data collection activities. Each year, EIA is reviewing selected, related information systems and reporting forms to see if they should be integrated, modified, or eliminated.

Candidates for this review are proposed by the EIA, other DOE Offices, and members of the public. Each form or system under review is analyzed by the EIA staff to determine: (a) The underlying legislative authority or policy justification for its existence, (b) The information elements collected, (c) The level of the use and usefulness of reports based on the information, and (d) The impact its integration, modification, or elimination would have on the related historical data. Based upon this analysis, a formal Energy Information Administration staff proposal is made on the future of the form or the system. The staff proposal is assessed by other EIA officials and DOE program staffs, and the resulting recommended course of action is then presented to the EIA Administrator for decision. If the EIA Administrator approves a consolidation proposal, design of the replacement system/forms begins. This requires a cost-benefit analysis, an implementation schedule, and an estimate of all tasks to be accomplished. If these analyses reveal a significant increase in consolidation cost or adverse impact on the integrity of the data, the proposal may be reconsidered. If not, the new design is approved, and the changes are implemented.

In 1978, 29 forms were reviewed in the systems consolidation process. Of these, 16 forms were eliminated or consolidated, and 13 were reduced in scope. Fourteen others have been proposed for review in calendar year 1979.

In addition, EIA plans to accelerate this effort by: (a) continuing its element-by-element justification for each energy data collection form; (b) Developing energy flow diagrams to show each step from extraction through consumption of each fuel source; (c) Reviewing the relationships among all current energy data systems, forms, and component data elements; (d) Developing clear definitions for all existing energy data elements; and (e) coordinating all consolidation efforts through a single EIA office.

IV. Public Participation

Full participation by respondents and users of energy data in the preparation of a form is important to ensure that the data are accurate. The DOE normally solicits public comment on major new energy systems or forms, forms that support the regulatory process, and forms or systems being reviewed as part of the systems consolidation process. This is done through **Federal Register** notices, public hearings, survey pre-tests, pilot surveys, and consultations with industry and government experts. Since October of 1977, approximately 80 forms have been announced (and/or printed in full) in the **Federal Register** as candidates for clearance or systems consolidation; many of the major forms were the subjects of public hearings. The EIA, in coordination with the Federal Energy Regulatory Commission and other DOE offices, intends to continue and expand its efforts to seek comment from all interested persons on major new forms and on those scheduled for modification or elimination.

Next Status Report

By November 15, 1979, EIA will report on progress in reducing respondent burden for Fiscal Year 1979, which ends on September 30, 1979. In the interim, EIA welcomes queries, comments or suggestions from the public regarding this program.

Issued in Washington, D.C., May 3, 1979.

Lincoln E. Moses,
Administrator, Energy Information Administration.
[FR Doc. 79-14606 Filed 5-9-79; 8:45 am]
BILLING CODE 6450-01-M

Economic Regulatory Administration

Clark & Clark; Proposed Remedial Order

Pursuant to 10 CFR 205.192(c), the Economic Regulatory Administration (ERA) of the Department of Energy hereby gives notice of a Proposed Remedial Order which was issued to Clark & Clark, P.O. Box 98, Ardmore, Oklahoma 73401. This Proposed Remedial Order charges Clark & Clark with pricing violations in the amount of $79,084.84, connected with the sale of crude oil during the time period September 1, 1973 through March 31, 1978 in the State of Oklahoma.

A copy of the Proposed Remedial Order, with confidential information deleted, may be obtained from Wayne I. Tucker, Acting District Manager, Southwest District Enforcement, Department of Energy, Economic Regulatory Administration, P.O. Box 35228, Dallas, TX 75235, phone (214) 749–7626. On or before May 25, 1979, any aggrieved person may file a Notice of Objection with the Office of Hearings and Appeals, 2000 M Street, NW, Washington, DC 20461, in accordance with 10 CFR 205.193.

Issued in Dallas, Texas, on the 30th day of April 1979.

Wayne I. Tucker,
Acting District Manager of Enforcement, Southwest District.
[FR Doc. 79-14608 Filed 5-9-79; 8:45 am]
BILLING CODE 6450-01-M

Kirkpatrick Oil and Gas Co.; Proposed Remedial Order

Pursuant to 10 CFR 205.192(c), the Economic Regulatory Administration (ERA) of the Department of Energy hereby gives notice of a Proposed Remedial Order which was issued to Kirkpatrick Oil and Gas Company, 1300 N. Broadway, Oklahoma City, OK 73103. This Proposed Remedial Order charges Kirkpatrick with pricing violations in the amount of $187,450.42, connected with the sale of crude oil during the time period September 1, 1973 through January 31, 1977 in the State of Oklahoma.

A copy of the Proposed Remedial Order, with confidential information deleted, may be obtained from Wayne I. Tucker, Acting District Manager, Southwest District Enforcement, Department of Energy, Economic Regulatory Administration, P.O. Box 35228, Dallas, TX 75235, phone (214) 749–7626. On or before May 25, 1979, any aggrieved person may file a Notice of Objection with the Office of Hearings and Appeals, 2000 M Street, NW, Washington, DC 20461, in accordance with 10 CFR 205.193.

Issued in Dallas, Texas, on the 30th day of April 1979.

Wayne I. Tucker,
Acting District Manager of Enforcement, Southwest District.
[FR Doc. 79-14607 Filed 5-9-79; 8:45 am]
BILLING CODE 6450-01-M

Federal Energy Regulatory Commission

Iowa Public Service Company; Filing

Correction

In FR Doc. 79–12799, appearing in the issue of Wednesday, April 25, 1979, on page 24339, the docket number was inadvertently deleted from the end of the document and should be correctly added as set forth:

[Docket No. ER79-91]
BILLING CODE 1505-01-M

Kansas Power & Light Co.; Order Approving Stipulation and Agreement of Settlement

Correction

In FR Doc. 79–12800, at page 24339, in the issue of Wednesday, April 25, 1979, on page 24340, the docket numbers were inadvertently deleted from the end of the document and should be correctly added as set forth:

[Docket Nos. ER76-39, ER76-340, and ER78-383.]
BILLING CODE 1505-01-M

GENERAL SERVICES ADMINISTRATION

Public Buildings Service

Preparation of Environmental Assessments and Environments Impact Statements

AGENCY: General Services Administration, Public Buildings Service.

ACTION: Proposed service implementing procedures.

SUMMARY: This notice announces that the Public Buildings Service (PBS) is publishing internal procedures to be followed in implementing the requirements of section 102(2) of the National Environmental Policy Act of 1969, as amended, (NEPA) (42 U.S.C. 4321, *et seq.*); Executive Order 11514 of March 5, 1970, entitled "Protection and Enhancement of Environmental Quality"; and the Regulations issued by the Council on Environmental Quality (43 FR 55978).

DATE: Comments must be received on or before: June 11, 1979.

ADDRESS: Comments should be addressed to General Services Administration (PRE), Washington, DC 20405.

FOR FURTHER INFORMATION CONTACT: Mr. Carl W. Penland, Acting Director, Environmental Affairs Division, Office of Space Management, Public Buildings Service, General Services Administration, Washington, DC 20405.

Dated: May 2, 1979.

Dennis J. Kellman
Acting Commissioner, Public Buildings Service.

GSA Order

Subject: HB, PBS Preparation of environmental assessments and environmental impact statements.

1. *Purpose.* This order transmits a revised HB, Preparation of environmental assessments and environmental impact statements. This handbook is a guide for preparing environmental assessments (EA's) and environmental impact statements (EIS's) for proposed Federal projects and actions undertaken by the Public Buildings Service (PBS) in facility planning programs.

2. *Cancellation.* PBS 1095.1D and PBS P 1095.4 are canceled.

3. *Background.* This handbook facilitates the implementation of the requirements of section 102(2) of the National Environmental Policy Act of 1969, as amended, (NEPA) (42 U.S.C. 4321, *et seq.*), Executive Order 11514 of March 5, 1970, entitled "Protection and Enhancement of Environmental Quality," as amended by Executive Order 11991, relating to Protection and Enhancement of Environmental Quality; section 106 of the National Historic Preservation Act of 1966 (16 U.S.C. 470f); Executive Order 11593 of May 13, 1971, entitled "Protection and Enhancement of the Cultural Environment;" GSA Order ADM 1095.1B, entitled "Environmental considerations in decisionmaking;" GSA

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Order PBS 1022.1, entitled "Protection of Historic Properties;" and the Regulations issued by the Council on Environmental Quality (CEQ) for implementing NEPA, (hereinafter referred to as the CEQ Regulations), published in the **Federal Register** November 29, 1978 (43 FR 55978).

4. *Applicability.* The provisions of this handbook apply to all organizational elements of PBS; the PBS Regional Commissioner's office; and the PBS elements of leasing, design, construction, management, operation, and maintenance of Federal facilities. It shall also be used by consultants assisting PBS by contract in preparing EIS's for the above-referenced work areas. It is applicable to preauthorization and postauthorization project activities.

5. *Reports.* The reports control symbol PBS–123 has been assigned to report required by this directive.

Commissioner
Public Buildings Service

Office	Copies
All Regional PG's	15
Central Office, PRE	50

Figure 1. Supplemental distribution

PBS Preparation of Environmental Assessments and Environmental Impact Statements

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Chapter 1. General

Part 1. Background

1. *The National Environmental Policy Act (NEPA).* Section 102 of NEPA directs all Federal agencies to the fullest extent possible: (1) to use a systematic, interdisciplinary approach which will ensure the integrated use of the natural and social sciences and the environmental design arts in planning and decisionmaking which may have an impact on man's environment; (2) to identify and develop methods and procedures which will ensure that presently unquantified environmental amenities and values may be given appropriate consideration in decisionmaking along with economic and technical considerations; (3) to include in every recommendation or report on proposal for legislation and other major Federal actions significantly affecting the quality of the human environment, a detailed statement by the responsible official which includes to the fullest extent possible the following:

a. The environmental impact of the proposed action;

b. Any adverse environmental effects which cannot be avoided should the proposal be implemented;

c. Alternatives to the proposed action;

d. The relationship between local short-term uses of man's environment and the maintenance and enhancement of long-term productivity; and

e. Any irreversible and irretrievable commitments of resources which would be involved in the proposed action should it be implemented.

2. *The Council on Environmental Quality (CEQ) Regulations.* CEQ has issued Regulations under the authority of NEPA and Executive Order 11514 as amended by Executive Order 11991. The CEQ Regulations, which apply to all Federal agencies, mandate how Federal agencies shall comply with NEPA.

3. *Definitions.* Refer to Part 1508 of the CEQ Regulations for the definitions of terms used in this handbook.

4. *GSA policy.* The GSA policy regarding environmental affairs is established in ch. 2–11 of the HB, GSA Policy Manual (ADM P 1000.2B).

5. *The NEPA implementation process.* The implementation of NEPA is an ongoing process for coordinating active consideration of environmental concerns throughout planning, decisionmaking, action development, and review. Through serious consideration of all reasonable alternatives, adverse environmental effects shall be avoided or minimized to the fullest extent possible. Consideration of environmental impacts is a responsibility of decisionmakers at all levels of GSA management.

6. *Use of NEPA documents by decisionmakers.*

a. Environmental documents (environmental assessments and environmental impact statements) and the comments and responses that have been made on the documents shall accompany the proposed action through agency review.

b. Responsible officials shall use the environmental documents when implementing the decision and when choosing between the proposed action and alternative to the proposed action. Any alternative considered by the responsible officials shall be discussed in the environmental documents.

c. The responsible officials who make major decisions for all types of actions covered by this handbook (see par. 7, below), are identified in the Central Office and Regional Delegation's of Authority Manuals.

7. *Rulemaking.* When PBS formal rulemaking and the action requires environmental documentation, the environmental documents and the comments and responses that have been made on the documents shall become a part of the administrative record.

8. *Applicability.* This HB is applicable to PBS facility planning programs in acquisition, leasing, design, construction, management, and repair and alteration to GSA property.

9. and 10. *Reserved.*

Part 2. Responsibilities

11. *Internal PBS responsibilities.*

a. *Commissioner, Public Buildings Service.* The Commissioner acts for the Administrator on environmental and historic preservation matters except for actions involving the Federal Property Resources Service (FPRS).

b. *Assistant Commissioner, Office of Space Management (PR).* The Assistant Commissioner shall have the following responsibility to:

(1) Initiate and direct GSA'a agencywide environmental program policy, except for FPRS;

(2) Review the NEPA implementation process of other GSA services, except FPRS;

(3) Coordinate with entities outside GSA on agency environmental policy matters, except for FPRS;

(4) Provide professional and technical guidance to the Commissioner, PBS (P), Assistant Commissioners, PBS, and Regional Commissioners, PBS;

(5) Review, coordinate and consolidate the PBS EA/EIS review comments by the Office of General Counsel (L), and other appropriate service and staff offices and transmit comments to the appropriate office;

(6) Consult with the Office of General Counsel (L) on matters pertaining to compliance with environmental laws within GSA and on matters relating to environmental protection in PBS;

(7) Develop and coordinate service orders, regulations and guidance on the PBS environmental programs;

(8) Assist the regional offices in scheduling environmental considerations to preclude delays in completing those actions defined in this handbook;

(9) Review new environmental technology, research and development; and

(10) Initiate new environmental programs.

c. *Director, Environmental Affairs Division, Office of Space Management (PRE).* The Director coordinates and implements the GSA environmental program and serves as the official GSA liaison officer with the Council on Environmental Quality and the Environmental Protection Agency except for FPRS activities.

d. *Regional Administrator.* Regional Administrators shall have the following responsibilities to:

(1) Approve by signature findings of no significant impact (FONSI) prepared by the Regional Commissioners, PBS; and

(2) Transmit draft and final EIS's to the Environmental Protection Agency (EPA), heads of other Federal agencies, Governors, Senators, and Congressmen by signing appropriate transmittal letters.

e. *Regional Commissioner, PBS.* Regional Commissioners, PBS, shall have the following responsibilities to:

(1) Make the threshold decision of need for an EA/EIS, prepare EA's and prepare and sign FONSI's that require the subsequent approval of the Regional Administrator;

(2) Maintain a continuing review of activities which have potential significant environmental impact as outlined in this handbook;

(3) Establish the appropriate points in time for the reassessment of developing projects for cases not covered in this handbook;

(4) Prepare and process, through PR, draft and final EIS's and subsequently distribute the EIS's to Federal, State, and local officials, and interested individuals other than those to whom the Regional Administrator transmits the impact statement;

(5) Conduct public meetings, issue press announcements and maintain files for public review; and

(6) Prepare and monitor a schedule for environmental planning considerations to preclude delays in completing those actions defined in this HB;

(7) Review new environmental technology, research and development;

(8) Initiate new environmental programs;

(9) Develop and publish a regional service order that further implements this HB;

(10) Prepare and submit to PR quarterly reports on regional NEPA actions.

f. *Assistant Commissioners for Buildings Management (PR) and Construction Management (PC).* The Assistant Commissioners shall be responsible for maintaining program review of EIS's to ensure program activities are compatible with environmental protection and are in compliance with this HB. They are also responsible for the following:

(1) Review of new environmental technology, research and development;

(2) Initiation of new environmental programs;

(3) Development and revisions to orders, handbook specifications and directives to the field;

(4) Initiation of EA's and EIS's;

(5) Maintenance of continuing review of developing projects for environmental impact and establish the appropriate points in time for the reassessments not covered in this attachment to the order; and

(6) Establishment of continual liaison with the Office of Space Management on environmental protection programs.

12. *Responsibility for EIS preparation in multi-agency actions.*

a. Except as provided in subpar. b, below, when GSA and one or more agencies directly sponsor an action, or are directly involved in a group of actions directly related to each other because of functional interdependence and/or geographical proximity, a lead agency shall be designated to assume supervisory responsibility for preparation of the EIS. Relevant factors in the determination of the appropriate "lead agency" include the time sequence in which the agencies become involved, the magnitude of agency involvement, and agency expertise with respect to the environmental effects of the action.

b. When there is a question regarding the primary responsibility for statement preparation, the matter shall be referred to the Assistant Commissioner for Space Management (PR), for referral to CEQ for resolution. However, it is possible for a statement to be submitted jointly by all agencies concerned with the comments being returned to a single designated agency official.

c. If GSA is the "lead agency" and one or more agencies have partial responsibility for the action, the other agencies shall be requested to be cooperating agencies and to provide the responsible PBS official information that is necessary to prepare an environmental impact statement.

d. If another agency is designated to be the lead agency, the criteria for EIS preparation for that agency shall apply.

e. The General Services Administration (GSA) will serve as the lead agency in all projects involving construction of buildings by the Public Buildings Service.

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Chapter 2. Classes of PBS Actions

1. *Introduction.* Classes of PBS actions (pars. 2 thru 4) and indicators of significance (par. 5) are listed below. The indicators shall be used as a part of

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the assessment process to determine the significance of a proposed action and if an environmental impact statement is needed for an action.

2. *Class I., Actions which normally do not require either an EIS or an environmental assessment (EA).* The actions in subpars. a thru f, below are categorically excluded from the requirement to prepare an EIS or an EA under normal circumstances. However, the responsible official shall be alert to unusual conditions that would require an EIS or an EA. They are categorically excluded because they normally do not meet any of the indicators of significance and they (1) are routine, (2) will not create greater demands or loads on environmental impact areas, (3) allow the current agency action to continue, or (4) do not alter physical conditions.

a. Repair to or replacement of equipment (e.g., electrical distribution and HVAC systems) of GSA-controlled facilities.

b. Repair to or replacement in kind of components (e.g., windows, doors, roof) of GSA-controlled facilities.

c. Acquisition of less than 20,000 square feet of occupiable space in a structure that was completed prior to the solicitation for offiers.

d. Acquisition of between 20,000 square feet and 40,000 square feet if it constitutes less than 40 percent of the occupiable space in a structure that was completed prior to the solicitation for offers.

e. Lease extensions, renewals, or succeeding leases.

f. Federal construction or lease construcion of 10,000 square feet or less of occupiable space.

g. Relocation of employees into existing owned or currently leased office space.

h. Individual personnel actions, administrative actions, collective bargaining with employee unions, ministerial actions, and routine activities normally conducted to protect and maintain GSA controlled properties.

3. *Class II., Actions which normally require and EIS.* The actions in subpars. a thru d, below, normally require the preparation of an EIS because they meet the indicators of significance, they may create greater demands or loads on environmental impact areas, and they may alter physical conditions.

a. Master plans for federally-owned property.

b. Space acquisition programs projected for a given geographical area for a 3- to 5-year period.

c. Federal construction or lease construction projects in excess of 275,000 square feet of occupiable general-purpose space.

d. Actions in a coastal zone that do not comply with an approved Coastal Zone Management Plan.

4. *Class III., Actions which normally require EA's but not EIS's.* An EA must normally be prepared for these actions to determine if an EIS is necessary. This order does not arbitrarily establish the number of indicators of significance that must be exceeded before an EIS is required on an action, as the actions must be evaluated on a case-by-case basis. However, normally if two or more of the thresholds are exceeded an EIS is required.

a. Federal construction or lease construction of general-purpose office space between 10,000 and 275,000 square feet of occupiable space including those undertaken for another Federal agency.

b. Major leases for new space in existing buildings where an environmental controvesy has been identified.

c. Repair and alteration projects which:

(1) Have not been categorically excluded.

(2) Affect those characteristics which qualify a property or object as historically or culturally significant.

(3) Are for acquisition and/or alteration of space for a laboratory which will use dangerous or hazardous chemicals, drugs, or radioactive materials.

d. Construction of a prison facility where GSA is the lead agency.

e. Construction of special-purpose space.

5. *Indicators of significance.* Classes I and II were established based on the following indicators of significance. The determination of whether Class III actions require the preparation of a finding of no significant impact (FONSI) or an EIS shall be made based on these indicators.

a. Traffic generated by the action would represent a 10-percent increase in average daily traffic volume on the access roads to the site or the major arteries in the delineated area, and peak-hour congestion occurs daily on the access road to the site or on the major arteries in the delineated area.

b. May lead to a violation of Federal, State or local law or requirements imposed for the protection of the environment. For example if the action is expected to increase emissions resulting in the violation of air quality standards or construction traffic or project noise will definitely be in violation of GSA, OSHA, State, or local noise standards, and one or more types of sensitive receptors would definitely be at risk.

c. The GSA project, it contractors, and its final solid waste disposal site(s) will not be in compliance with the EPA's "Solid Waste Management Guidelines" for thermal processing and land disposal, storage and collection, source separation, and resource recovery facilities; or with any other Federal, State or local regulations, standards or health codes. The final disposal site(s) will not have adequate capacity for the solid waste from the GSA project.

d. Public utilities have insufficient capacity to provide reliable service to the project and to ensure delivery of required flow for average and peak periods.

e. The action is located on or near an active geological fault or unique geological features.

f. Wastewater generated by the new facility will represent more than 5 percent of the average daily flow to a public treatment plant.

g. The proposed project will not be compatible with the present zoning of the specific site and/or delineated area.

h. The proposed project will not conform with official local and regional plans.

i. The proposal may adversely affect an endangered or threatened species or its habitat.

j. The proposal may adversely affect parklands, prime farmlands, floodplains, wetlands, wild and scenic rivers or ecologically critical areas.

k. The proposal will result in the use of a significant amount (defined as an amount that if spillage occurs it will result in a health hazard or damage to the ecosystem; or if accidentally dumped into the sewage system will damage treatment facilities or contaminate rivers or streams) of dangerous, hazardous, or radioactive materials.

l. Will result in a 5-percent change in the permanent labor force of the SMSA or if not in an SMSA, of the political jurisdiction.

m. Cultural resources on the National Register, eligible for the National Register, and those eligible for the Register, but as yet unstudied or unidentified, will be effected by the proposed action.

n. Local community service administrators indicate that one or more community services will be inadequate to serve the project.

o. The proposed project will permanently alter an area that has been formally recommended for protection by Federal, State, regional, or local

government agencies as part of a land use or development plan.

6. and 7. *Reserved.*

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Chapter 3. Environmental Assessments and Findings of No Significant Impact

Part 1. The Environmental Assessment

1. *Data gathering and impact analysis.* The type and amount of data gathered and the level of environmental impact analysis conducted by the responsible official will vary depending upon the type and scope of the proposed action, its alternatives, and the environmental setting. The methodologies used for this process vary from the general, nonquantitative to specific and quantitative. The responsible official must be sensitive to the advantages and shortcomings of each methodology as well as the level of analysis required for each proposed action. For these reasons, no one methodology is required for PBS.

2. *Documentation of environmental analysis.* The type and amount of documentation necessary for environmental analysis will vary with the individual action studied. Ch. 2 identifies PBS actions which require environmental analysis and classifies them according to the level of analysis required. PBS environmental analysis is normally documented in one of the following formats.

a. *Environmental checklist.* (1) The environmental checklist (EC) is a useful tool in the initial stages of the planning process. It is useful in directing and organizing areas of study. The EC may be used to document the first step of environmental analysis and provide the basis for the initial decision regarding the need for an environmental assessment (EA). For actions requiring an EA, the EC will help to identify the scope of the EA by organizing the available data and highlighting the areas of impact which are of primary concern.

(2) The EC shall be completed in consultation with appropriate agency specialists. Background information, when available, shall be attached to the EC or referenced in an attachment to the EC to support the findings. If the EC is inconclusive regarding the significance of impacts or indicates that significant impacts are likely, the responsible official shall prepare an EA.

b. *The environmental assessment.* (1) The EA is an important document in the decisionmaking process because it is used with other technical and economic studies as a basis for decisions by responsible officials and it may be entered as evidence to support decisions in hearings and court actions. Therefore, the EA shall disclose all pertinent information. (See ch. 5, regarding content of the EA.)

(2) The EA is intended to briefly provide sufficient evidence and analysis for determining whether to prepare an environmental impact statement (EIS) or a finding of no significant impact (FONSI). It may also be used as evidence of compliance with NEPA when no EIS is necessary, and to facilitate preparation of an EIS when one is necessary.

c. *Environmental impact statement.* The EIS contains the most indepth environmental analysis of all environmental documents. The preparation, content, and processing of EIS's are described in chs. 4 and 5.

3. *Timing.* Preparation of the documentation of environmental impacts shall begin immediately after the initial identification of project need during the project planning stage. Preparation shall be undertaken concurrently with the initial technical and economic studies for each project. In lease actions not categorically excluded (ch. 2–2) the documentation shall be completed and a determination for the necessity of an EIS shall be made prior to the issuance of a solicitation for offers.

4. *Reassessment.* a. As the project develops, all environmental considerations shall be continually reevaluated by the appropriate officials. The EA shall be updated with a reassessment if there has been no significant change in project scope or environmental impact. If the initial assessment was made on a delineated area and resulted in a FONSI, a reassessment shall be made when a site is selected. For major repair and alteration projects and new Federal construction, a reassessment shall be made when working drawings and specifications are completed. Other reassessments shall be made as deemed necessary by the responsible official.

b. If an EA and FONSI have been prepared on a delineated area, an updated EA shall be prepared upon site selection. Should the responsible regional official conclude there are no known potential significant environmental impacts following the site selection stage, the official shall prepare and sign a FONSI. The confirmation shall have concurrence by the Regional Counsel. The confirmation of the FONSI need not be forwarded to the Central Office in these cases. However, should the updated assessment identify significant environmental impact on the quality of the human environment, the responsible regional official shall proceed with the preparation of an EIS and notify the Assistant Commissioner for Space Management (PR). In such cases, it may be necessary to reissue the solicitation for offers or invitations for bid, or defer further actions until the full EIS process is complete.

5. and 6. *Reserved.*

Part 2. The Finding of No Significant Impact

7. *Definition.* A finding of no significant impact (FONSI) is a document stating that an administrative decision has been made based upon the environmental assessment (EA) and that the proposed action is not considered a major Federal action having a significant impact on the human environment and, therefore, will not require the preparation of an environmental impact statement (EIS).

8. *Regional processing.* When an EA is completed by the regional staff, it shall be reviewed by the responsible official. If the review of the EA indicates that the proposed project is not a major Federal action significantly affecting the quality of the human environment a FONSI shall be completed. Four copies of the EA and the FONSI signed by the Regional Commissioner, PBS, shall be submitted to the Assistant Commissioner for Space Management (PR). The original EA and FONSI shall remain in the regional office.

9. *Central Office processing.* a. Upon receipt of the EA and FONSI, PR shall forward copies of them to the Office of General Counsel (L) and other appropriate offices for review. All comments shall be reviewed, coordinated and consolidated by PR and transmitted to the submitting regional office within a time period not to exceed 10 full workdays from the date of receipt of the EA and FONSI by PR. If not otherwise directed by PR within a 10-workday period, the responsible regional official may assume that the EA and FONSI are adequate. The official

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may then obtain approval of the FONSI by the Regional Administrator. The Regional Administrator shall determine that the EA adequately responds to the following questions prior to signing the FONSI: 1) Did the EA take a "hard look" at the environmental problems?; 2) Did the EA identify the relevant areas of environmental concern?; 3) As to problems studied and identified, does the EA make a convincing case that the impact is insignificant?; and 4) If there is impact of true "significance" has the EA convincingly established that changes in the project have sufficiently minimized it? No action as defined in ch. 4–19, shall be taken prior to the completion of the above process. Under no circumstance will Central Office (CO) comments of interoffice memoranda be included in an EA or FONSI without specific prior written approval of PR.

b. If the Assistant Commissioner, Office of Space Management (PR), determines that an EIS is required, PR shall advise the responsible regional official of that decison during the 10-workday review period.

10. *Propectus projects.* For proposed projects which require prospectus or 11(b) Report approval by the Public Works Committees of the Congress, the responsible official shall forward the four copies referenced in par. 8, above, of the approved FONSI and EA to PR at the same time as the draft prospectus or 11(b) Report.

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Chapter 4. Planning and Processing Environmental Impact Statements

Part 1. Types and Stages of EIS's

1. *Types of EIS's.* There are several types of EIS's which PBS may find appropriate to prepare.

a. *EIS's on administrative actions.* The scope of the subject for an administrative action EIS ranges from individual actions to a combination of broad, related actions. The advantages to preparing EIS's on a combination of related actions are that fewer EIS's are needed, staff time and money is saved, and the chance of delaying proposed action is reduced.

(1) *Individual actions.* Most EIS's are prepared to assess the impacts from a single action proposed by PBS. For example: A space acquisition action for a small, clearly defined area.

(2) *Broad actions.* There are several types of broad actions.

(a) *Geographic.* Geographic EIS's evaluate all actions in a general location such as a region, metropolitan area, or central business district (CBD). For example: A master plan, the entire facility planning program for a city, and the leasing program for a city.

(b) *Programmatic.* Programmatic EIS's evaluate new or existing programs. For example: The new construction program, the leasing program, the repair and alteration program, and the Social Security extension program.

(c) *Generic.* Generic EIS's cover ". . . actions which have relevant similarities, such as common timing, impacts, alterations, methods of implementation, media, or subject matter" (Section 1502.4(c)(2) of the Regulations). The difference of generic EIS's from programmatic EIS's is that they cover actions which are totally new, with few known specifics and scopes which are difficult to determine.

b. *EIS's on legislative proposals.* EIS's on legislative proposals are required for proposed legislation which would result in major physical action that would have significant impacts on the human environment. Refer to Section 1506.8(b)(2)(iii) of the Regulations.

2. *Stages in PBS EIS preparation.* PBS EIS's shall be prepared in four stages. In addition, they may be supplemented.

a. *Preliminary draft EIS.* The preliminary draft EIS is the final working verson of the draft EIS prepared by the responsible official and forwarded to Central Office for review. The preliminary draft EIS shall meet the substantive requirements of a draft EIS.

b. *Draft EIS.* The draft EIS must satisfy, to the fullest extent possible, the requirements for a final EIS. It shall present all reasonable alternatives and major points of view on the environmental impacts of the alternatives including the proposed action.

c. *Preliminary final EIS.* The preliminary final EIS is the working version of the final EIS prepared by the responsible official and forwarded to Central Office for review. The preliminary final EIS shall meet the substantive requirements of a final EIS.

d. *Final EIS.* The final EIS shall respond to all substantive comments made on the draft EIS and shall indicate the agency's response to issues or opposing views raised during the EIS process.

e. *Supplemental EIS.* Supplements to draft or final EIS's shall be prepared as required by Section 1502.9(c)(1) of the Regulation's if:

(i) The agency makes substantial changes in the proposed action that are relevant to environmental concerns; or

(ii) There are significant new circumstances or information relevant to environmental concerns and bearing on the proposed action or its impacts.

3 and 4. *Reserved.*

Part 2. Timing and Planning of the EIS

5. *Timing.* Section 1502.5 of the CEQ Regulations requires:

An agency shall commence preparation of an environmental impact statement as close as possible to the time the agency is developing or is presented with a proposal so that preparation can be completed in time for the final statement to be included in any recommendation or report on the proposal. The statement shall be prepared early enough so that it can serve practically as an important contribution to the decisionmaking process and will not be used to rationalize of justify decisions already made . . . .

For instance:

(a) For projects directly undertaken by Federal agencies the environmental impact statement shall be prepared at the feasibility analysis (go-no go) stage and may be supplemented at a later stage if necessary.

6. *Early planning.* Immediately after an environmental assessment or an environmental checklist has been prepared on an action and a determination has been made that the action is a major Federal action significantly affecting the human environment, one of the following actions shall be taken:

a. The Regional Commissioner shall begin the preparation of the environmental impact statement (EIS); or

b. The Commissioner of PBS shall assign responsibility for preparing the EIS if the proposed action is of national significance or crosses regional lines.

7. *Notice of intent.*

a. A notice of intent to prepare an EIS shall be prepared for publication in the Federal Register by the Regional Commissioner as the first step in planning for preparation of the EIS.

b. The notice shall be prepared according to instructions for preparing Federal Register notices which appear in ch. 12 of the draft HB, Writing GSA External Directives (OAD P 1812.1A).

c. As required by Section 1508.22 of the Regulations:

The notice shall briefly:

(a) Describe the proposed action and possible alternatives.

(b) Describe the agency's proposed scoping process including whether, when, and where any scoping meeting will be held.

(c) State the name and address of a person within the agency who can answer questions about the proposed actions and the environmental impact statement.

(See fig. 4–6 for a sample notice of intent.)

d. If a scoping meeting (see pars. 7 thru 9, below), is not planned, the notice shall request written suggestions regarding the scope of the EIS.

e. The notice shall be signed by the Regional Administrator and transmitted to the Directives Management Branch (BRAI) for submission to the Federal Register.

8. *Initiating the scoping process.* Section 1051.7 of the Regulations states, in part: "There shall be an early and open process for determining the scope of issues to be addressed and for identifying the significant issues related to a proposed action. This process shall be termed scoping * * * ." Sections 1501.7(a)(2) thru 1501.7(a)(7) lists objectives of the scoping process. (See fig. 4–5 for a diagram of the scoping process.)

a. As soon as possible after, or concurrent with, the publication of the notice of intent in the Federal Register, the Regional Administrator shall ask "* * * affected Federal, State, and local agencies, * * * the proponent of the action, and other interested persons * * *" (Section 1501.7(a)(1) of the Regulations) to participate in the scoping process. The scoping process shall be accomplished in accordance with the Regulations, OMB Circular A–95, and FPMR 101–15.100.

b. The procedures for informing the public about NEPA actions which are listed in Section 1506.6(b) of the Regulations shall be considered by the Regional Administrator as the means to inform the public about the scoping process. The procedures which are used for each action shall be selected on a case-by-case basis.

c. The Environmental Protection Agency, the A–95 Clearinghouses, the mayor, the local planning authority, and the state or local historical authority shall always be informed about the scoping meeting.

d. The mayor shall be requested to appoint an individual with environmental impact assessment expertise to attend the scoping meeting, if a meeting is planned.

e. In addition, a copy of the letter to the state clearinghouse, issued in accordance with the provisions of A–95 shall be forwarded to the Advisory Council on Historic Preservation and the Council on Environmental Quality.

9. *How to hold a scoping meeting.* Scoping meeting shall conform to the following conditions:

a. The meeting shall be opened by a GSA representative with a brief presentation on the proposed action.

b. The meeting shall not be used as a debate on the merits of the proposed action.

c. Interested participants shall be asked to register by mail or in person for an opportunity to make a presentation at the meeting. They shall be allowed to speak in the order of registration.

d. A time limit, not to exceed 10 minutes, shall be established for each oral presentation. (This condition may be abolished by the moderator of the meeting.)

e. Written comments shall be accepted for incorporation into the record at the meeting and for 10 workdays following the meeting.

f. A verbatum transcript of the meeting shall be made.

10. *Completing the scoping process.* The scoping process shall be considered complete when the provisions of Sections 1501.7(a)(2) thru 1501.7(a)(7) of the Regulations have been accomplished.

11 and 12. *Reserved.*

Part 3. Processing EIS's

13. *The draft EIS.*

a. "Environmental impact statements shall be prepared using an interdisciplinary approach which will insure the integrated use of the natural and social sciences and the environmental design arts . . ." (Section 1502.6 of the Regulations).

b. The author(s) shall strive to convey all pertinent information in nontechnical language to the extent practicable in order that it may be easily understood by the reader without unnecessary cross reference. Any technical terms or symbols should be explained briefly the first time they are used.

c. Refer to ch. 5 for detailed guidance on content and format of EIS's.

14. *Central Office review of the draft EIS.* Four copies of the preliminary draft EIS shall be transmitted to the Assistant Commissioner for Space Management (PR) for a review period of 15 workdays to begin the date of receipt by PR. Space Management shall forward copies to the Office of General Counsel (L) and other appropriate offices for review. All comments shall be reviewed, coordinated, and consolidated by PR and transmitted to the submitting office within the 15-workday period. A copy of the consolidated response shall be forwarded to the Office of General Counsel. Central Office reviews may require additional information or revisions to the statement prior to its publication. If not otherwise directed by PR with the 15-workday review period, the responsible official may assume that the EIS is adequate and may proceed with publication of the EIS. A statement number shall be assigned to the draft EIS by PR prior to publication. Under no circumstances will Central Office comments on an EIS or interoffice (Regional/Central Office) memoranda, be included in a file statement without prior written approval.

15. *Special instructions.* A draft EIS shall be submitted to Central Office with all Federal Space Situation Reports (FSSR's), Feasibility Studies, Prospectuses, and Reports of Public Building Project Survey (11(b) Reports), if the subject of the report or study is an action which requires preparation of an EIS.

16. *The final EIS.* The final EIS shall be submitted to the Congress with a prospectus or 11(b) Report. It shall reflect the data and substantive comments submitted on the draft EIS by other Federal agencies, State and local officials, individuals and groups.

a. "If changes in response to comments are minor and confined to . . . factual corrections [and explanations] why the comments do not require further agency response . . ." (Section 1503.4 of the CEQ Regulations). The final EIS filed with EPA shall be composed of:

(1) The draft EIS with a new cover sheet;

(2) Errata sheets;

(3) The comments; and

(4) The responses to the comments.

The final EIS which is circulated for public review shall be composed of a new cover sheet and the items listed in subpars. 16a (2) thru (4), above.

b. If changes in the draft EIS exceed the conditions in subpar. 16a, above, the

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following requirements apply to the final EIS:

(1) Changes and additions to the text of the draft EIS shall be marked by a vertical line in the margin, unless the final EIS differs substantially from the draft EIS.

(2) Where opposing professional views and responsible opinions have been overlooked in the draft EIS and are then brought to the agency's attention the action should be reviewed and a meaningful reference made in the final EIS to opposing views as well as GSA's position on the issues raised.

(3) All substantive comments received on the draft EIS (or summaries thereof when comments have been exceptionally voluminous) shall be attached to the final EIS whether or not the comment is considered to merit individual discussion in the text of the statement.

(4) Where appropriate, substantive comments on the draft EIS should be correlated to the text of the final EIS by placing a page or section number in the margin of the comment designating the location of the proper response.

17. *Central Office review of the final EIS.* The preliminary final EIS shall be submitted to PR for review and comment in the same manner as the preliminary draft EIS. (See par. 14.)

18. *Preparation of supplemental draft or final EIS's.*

a. Responsible regional PBS officials shall be familiar with any substantial changes in the proposed action or significant new information that becomes available concerning its environmental impacts. These circumstances shall be evaluated by the Regional Commissioner to determine if a supplemental draft or final EIS is required.

b. If a supplemental EIS is required it shall be prepared, processed, and circulated for public review in the same manner as the draft or final EIS it supplements. Exceptions to the requirements of this subparagraph are allowed only if CEQ agrees to alternative procedures which are proposed by the Assistant Commissioner for Space Management.

19. *Limits on administrative actions.*

a. Administrative action shall not be taken prior to:

(1) Ninety calendar days following publication of the notice of availability of the draft EIS in the Federal Register;

(2) Thirty calendar days after publication of the notice of availability of the final EIS in the Federal Register; and

(3) Recording the decision of that action and its availability to the public.

b. The term "action," as used in this paragraph, shall mean issuance of a notice to proceed pursuant to a construction or demolition contract, acceptance of offers to sell, vesting of title, issuance of notice to relocate within 90 days in accordance with section 301(5) and the terms of the Uniform Relocation Assistance and Real Property Acquisition Policies Act of 1970, (84 Stat. 1894), and other such activities. Certain procedures are to be excluded from this prohibition (i.e., continuance of design, contracts for appraisal reports, title evidence and surveys, and negotiations for site acquisition). The determination of whether any other action is an "action" as used in this paragraph shall be made by the Commissioner of PBS with the advice of the Office of General Counsel.

20. *Emergency conditions.* When emergency conditions make it necessary to take a major Federal action which may have a significant impact on the human environment without strictly observing the provisions of the CEQ Regulations and this handbook concerning minimum periods for public review, the Assistant Commissioner for Space Management (PR) shall obtain the concurrence of the Commissioner, PBS (P), and consult with EPA concerning alternative arrangements. Similarly, where there are overriding considerations of expense to the Government or impaired program effectiveness, PR will consult with CEQ concerning appropriate modifications of the minimum periods when such action is considered appropriate.

21. *Distribution and public review of EIS's.* For information regarding distribution and public review of EIS's refer to ch. 6.

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Chapter 5. Content and Format of Environmental Assessments and Environmental Impact Statements

Part 1. General

1. *Focus of attention.* The focus of environmental assessments (EA's) and environmental impact statements (EIS's) shall be the analysis of impacts of the proposed action and its alternatives. The brief description of the affected environment and the purpose and need for the action shall be included for the purpose of understanding the proposal, the alternatives, and the environmental consequences. The preparer shall analyze the most significant environmental impacts and concentrate on them in the text of the document.

2. *Input of the public.* EA's and EIS's shall discuss the public awareness of the proposal. They shall list the agencies, groups, and individuals consulted during the planning process in compliance with OMB Circular A–95. The text of the final EIS shall reflect responses by GSA to substantive comments made on the draft EIS by both public and private organizations and individuals.

3. *Flexibility of format.* EA's and EIS's shall be prepared according to the instructions in Part 3. The format is relatively inflexible. However, parts of the documents may vary according to the size or character of the action or the environment in which the action is proposed. There may be a need for additional information in some cases and less in others. In all cases, the amount of detail shall reflect as complete an analysis as possible.

4. *Supportive material.* Materials which add to the understanding of the document shall be used throughout and included in the appendix. For example:

a. Maps, photographs, drawings, charts, tables, and other illustrative exhibits. If there are many, a list shall be included after the table of contents and, if possible, all exhibits shall be arranged so that they are oriented in the same direction. (Preferably with the north at the top of the page). This will facilitate their location and use.

b. Lengthy technical analyses, data, and reports shall not be attached. They shall be incorporated by reference. "The incorporated material shall be cited in the statement and its content briefly described." (Section 1502.21 of the Regulations.) Material which is incorporated by reference shall be made available for public review in specific convenient locations which are listed in the document.

c. Short reports and technical analyses may be included in the appendix.

d. Copies of correspondence, including OMB Circular A–95 correspondence, shall be included in the appendix to both the draft and final EIS.

e. EIS's prepared on other Federal actions may be adopted for use by PBS to reduce paperwork and delay under the conditions outlined in Section 1506.3 of the Regulations. Portions of EIS's may be incorporated by reference in the manner shown in subpar. b., above.

5. *Publication and reproduction.* For all illustrative materials the feasibility of including certain materials, publication costs, and reproduction quality shall be considered. The paper should be 8 x 10½ inches, including maps, charts, and other material. Any legends or other identifying symbols shall be conspicuously located so as to avoid being obscured when the document is bound. The text shall always be printed black on white and on both sides of the paper. Pages shall be numbered consecutively throughout the EA or EIS. If appendices are used, they shall be labeled appendix A, B, C, etc., and also numbered.

6. and 7. *Reserved.*

Part 2. Description of Special Pages

8. *Applicability.* An EA shall have a cover sheet and, if detailed, a table of contents and an index. An EIS shall have a cover sheet, a table of contents, and an index.

9. *Cover sheet.* The cover sheet shall contain the essential bibliographic information to facilitate subsequent identification. Only the items marked with an asterisk (*) on fig. 5–9 are required for an EA. All are required for an EIS. The date of an EA shall be the date that the document is completed and submitted to the Regional Administrator. The two dates on the EIS are the date the Regional Administrator signs the letter transmitting the EIS to the Environmental Protection Agency and the date by which comments must be received.

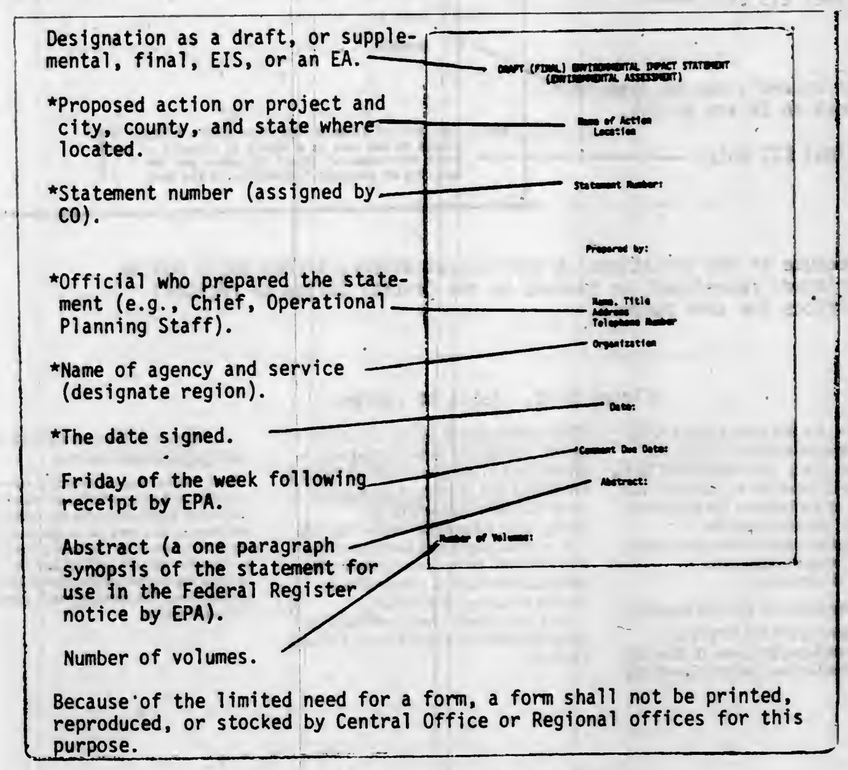


Figure 5-9. Cover page (EA and EIS)

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10. *Table of contents.* An EIS shall always include a table of contents. An EA should have one if it is longer than 15 pages. The table of contents should include at least the section titles and major subsection titles. The subject headings, as shown in fig. 5–10, may be supplemented or rearranged only if there is a compelling reason.

The table of contents should have enough detail so that searching is not necessary.

Final EIS only.

An appendix may be used in both an EA and an EIS.

Final EIS only.

TABLE OF CONTENTS

ITEM		PAGE
I.	Summary	
II.	Table of Contents	
III.	Purpose of an Need for Action	
IV.	Alternatives Including the Proposed Action	
V.	Affected Environment	
VI.	Environmental Consequences	
VII.	List of Preparers	
VIII.	Distribution List for Draft Environmental Impact Statement	
IX.	(Final only) Comments Received on Draft Environmental Impact Statement	
X.	Index	
XI.	Appendix	

NOTE: The vertical lines at the right margin indicate a change in the text as a result of comments on the Draft Environmental Impact Statement and the updating of previous information in the text.

Because of the variations in the subject matter, a form shall not be printed, reproduced, or stocked by the Central Office or regional offices for this purpose.

Figure 5-10. Table of contents

11. *Index.* An EIS shall always have an index immediately preceding the appendices *if any.* The index shall be an alphabetical list of the topics in the EIS including, at a minimum, the subjects in the table of contents and the environmental impact areas (air, noise, etc.). The format is optional.

12 thru 14. *Reserved.*

Part 3. Description of EA/EIS Sections

15. *Content of the EA/EIS.* The following paragraphs (pars. 16 thru 25) briefly describe the content of both the EA and EIS, except where otherwise noted. The figures show format and correspond to paragraphs. Each figure is an outline of a section of the EA/EIS with detailed explanatory and background information set to the left. The special pages and sections of the EA/EIS shall be used in the following order unless there is a compelling reason to change this format.

16. *Cover sheet.* The cover sheet is described and illustrated in ch. 5–9 and fig. 5–9.

17. *Summary.* Section 1502.12 of the CEQ Regulations requires:

> Each environmental impact statement shall contain a summary which adequately and accurately summarizes the statement. The summary shall stress the major conclusions, areas of controversy (including issues raised by agencies and the public), and the issues to be resolved (including the choice among alternatives). The summary will normally not exceed 15 pages.

Designate as either a draft or final EIS.

Usually, this would be the official who prepared the EIS (same as on cover sheet).

The environmental impacts of each alternative, briefly summarized in comparative form. State which alternative is environmentally preferable, which alternative is preferred overall, the areas of controversy involved, and the issues to be resolved. This is the longest and most important section of the summary.

Draft EIS only

Final EIS only

SUMMARY

( ) Draft ( ) Final Environmental Impact Statement

Name of Project
Location

RESPONSIBLE FEDERAL AGENCY: Name of agency

RESPONSIBLE OFFICIAL: Name of Official
Title
Agency

Direct inquiries to:

Name
Title
Address
Telephone Number

I. THE PURPOSE OF AND NEED FOR THE ACTION

The State, county, and city affected, a brief description of the project; and a discussion of why the action is needed.

II. THE AFFECTED ENVIRONMENT

Summarize briefly.

III. ALTERNATIVES CONSIDERED*

IV. LIST OF FEDERAL, STATE, AND LOCAL AGENCIES FROM WHICH COMMENTS HAVE BEEN RECEIVED

V. DATE DRAFT STATEMENT MADE AVAILABLE TO THE ENVIRONMENTAL PROTECTION AGENCY AND THE PUBLIC:

Draft Statement:

IV. LIST OF FEDERAL, STATE, AND LOCAL AGENCIES FROM WHICH COMMENTS HAVE BEEN RECEIVED

V. DISTRIBUTION LIST FOR THE FINAL ENVIRONMENTAL IMPACT STATEMENT

VI. DATE DRAFT AND FINAL STATEMENT MADE AVAILABLE TO THE ENVIRONMENTAL PROTECTION AGENCY AND THE PUBLIC

Draft Statement:

Final Statement:

This is the suggested format for the summary. A summary is not required for an EA.

Because of the limited need for a form, a form shall not be printed, reproduced, or stocked by the Central Office or regional offices for this purpose.

Figure 5-17. Summary

18. *Table of contents.* The table of contents is described and illustrated in ch. 5–10 and fig. 5–10.

19. *Purpose and need.* This section shall briefly give the relevant background information on the proposed action. It shall summarize the following: the purpose of the action; the social, economic, or environmental objectives; and the Federal space needs as related to the history and background of the area (fig. 5–19).

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This refers to the satisfaction of agency space needs pursuant to the Public Buildings Act of 1959, as amended, or other applicable laws and directives. Be brief.

Generally, these reflect the socio-economic and environmental objectives of Executive Orders 11514 and 12072, as amended.

Briefly, discuss Federal space needs as a function of the population, economic, and other characteristics of the area. The past, present, and projected relationships should be addressed. For information refer to the various planning documents utilized in facility planning, i.e., Federal Space Situation Report.

Also, state if there is a prospectus for the proposed action. Be sure that the information in the EA/EIS is in full agreement with the prospectus.

I. PURPOSE AND NEED

A. Purpose of Action

1. Agencies involved and number of participants/ occupants.

2. Program missions of the agencies involved.

B. Ojectives of the Action

C. History and Background of Need

1. Area Profile

2. Federal Space Situation

3. Current and Projected Need

Figure 5-19. Purpose and need section of EA/EIS

20. *Alternatives.* (See fig. 5–20.)

a. Section 1502.14 of the Regulations requires that in the alternatives section of the document agencies shall:

(a) Rigorously explore and objectively evaluate all reasonable alternatives, and for alternatives which were eliminated from detailed study, briefly discuss the reasons for their having been eliminated.

(b) Devote substantial treatment to each alternative considered in detail including the proposed action so that reviewers may evaluate their comparative merits.

(c) Include reasonable alternatives not within the jurisdiction of the lead agency.

(d) Include the alternative of no action.

(e) Identify the agency's preferred alternative or alternatives, if one or more exists, in the draft statement and identify such alternative in the final statement unless another law prohibits the expression of such a preference.

(f) Include appropriate mitigation measures not already included in the proposed action or alternatives.

b. If alternative sites are not known, the document shall discuss the delineated area as an alternative. When alternative sites are determined, they shall be added to the alternatives discussed in an updated environmental assessment or the final EIS.

c. The extent of the discussion on each alternative shall be determined by the nature of the alternative. However, particular attention shall be given to the manner in which each alternative would avoid any adverse impacts expected from the proposed action. The document shall focus on the environmental impacts of each alternative rather than on the program objectives and criteria.

This list is given to indicate the range of alternatives that should be considered.

In particular, the acquisition and renovation of buildings that are on the National Register of Historic Places should be considered, pursuant to Public Buildings Cooperative Use Act of 1976.

II. ALTERNATIVES

A. No Action

B. Postponing of action until further study

C. Renovation and/or expansion of existing facility

D. Acquisition and renovation of existing non-Federal building or facility.

E. Alternative site(s) for Federal construction, lease construction, or leasing.

F. Alternatives requiring actions of a significantly different nature which would provide similar benefits with different environmental impacts.

G. Any appropriate combination of alternatives listed above.

Figure 5-20. Section on alternatives

21. *The affected environment.* This section shall describe the various peripheral areas affected by the action as well as the specific delineated area. Relate the existing conditions of the area to those factors which will change or otherwise be affected by the proposal. Affected elements of the environment could include physical characteristics, socioeconomics, land use and land use plans, architectural and cultural amenities, utilities and services, and transportation.

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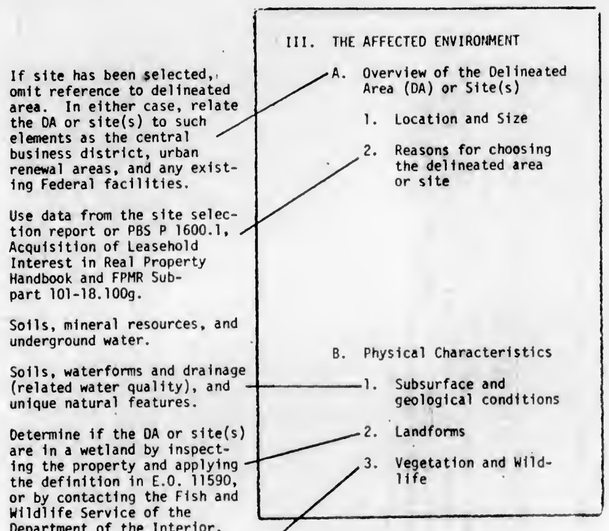


Figure 5-21. Section on affected environment
(Part 1 of 5)

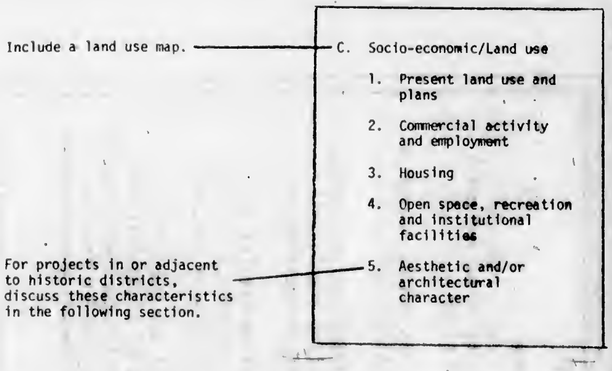


Figure 5-21. Section on affected environment
(Part 3 of 5)

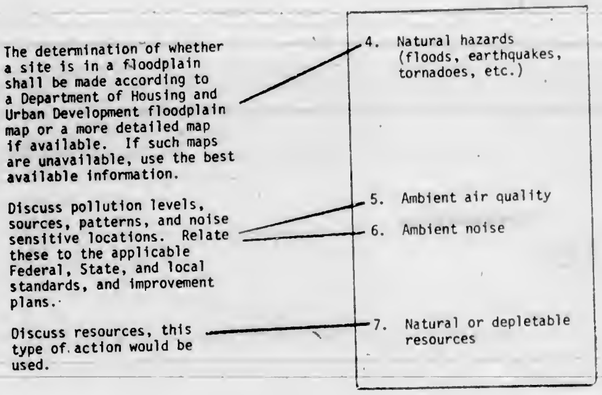


Figure 5-21. Section on affected environment
(Part 2 of 5)

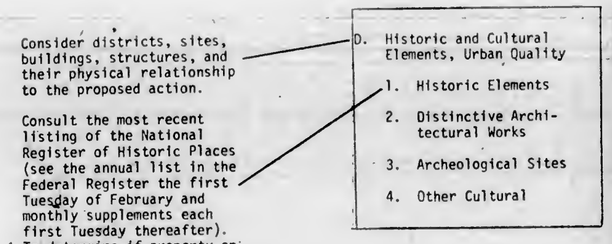


Figure 5-21. Section on affected environment
(Part 4 of 5)

E. Utilities and Service

1. Electricity

Availability at site, ownership and operation, existing load and system capacity, plans for improvements, and adequacy of supply. Federal, State, and local permits required, if any.

2. Other sources of available energy

Include natural gas, fuel oil, and solar energy. If steam is available, discuss the source and fuels used to produce it.

3. Solid waste disposal

Methods of solid waste disposal available in the area. Expected life-span of the ultimate receptor of the waste.

4. Waster

Source, treatment, quality and quantity.

5. Sewage System

Combined or separate storm and sanitary sewers in the area; primary, secondary or tertiary treatment; discharge point for treated effluent; EPA system approval.

F. Transportation and Parking

Discuss the physical proximity to the proposal; the existing usage as related to capacity; operating procedures and schedules, if any; plans to improve system.

1. Streets and Traffic

2. Parking

3. Public and private mass transit

4. Pedestrian and bicycle movement

Figure 5-21. Section on affected environment
(Part 5 of 5)

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22. *Environmental consequences.*

a. Section 1502.16 of the CEQ Regulations requires:

> The discussion will include the environmental impacts of the alternatives including the proposed action, any adverse environmental effects which cannot be avoided should the proposal be implemented, the relationship between short-term uses of man's environment and the maintenance and enhancement of long-term productivity, and any irreversible or irretrievable commitments of resources which would be involved in the proposal should it be implemented.

Therefore, the impacts of each alternative and the proposed action shall be discussed separately, covering the items listed in pars. IV A. thru IV 6. of fig. 5–22. The impact conclusions shall be presented in a manner that may be extracted for presentation in comparative form in the alternatives section (see par. 20). However, this section shall not duplicate discussions in the alternative's section.

b. The impact discussion shall include favorable and adverse impacts, primary and secondary impacts, and direct and indirect impacts.

c. The relationships of the action with other GSA actions and other Federal actions and their cumulative effects shall be discussed.

d. The description of all impacts shall be based on factual data. Personal opinion shall not be expressed.

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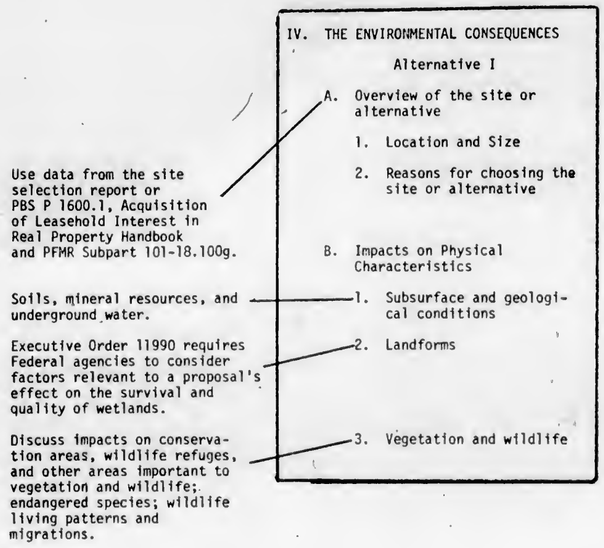


Figure 5-22. Section on the environmental consequences (Part 1 of 5)

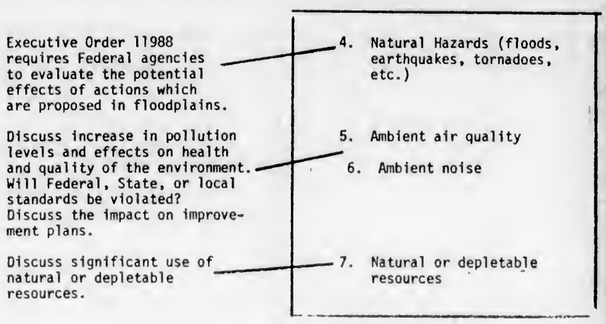


Figure 5-22. Section on the environmental consequences (Part 2 of 5)

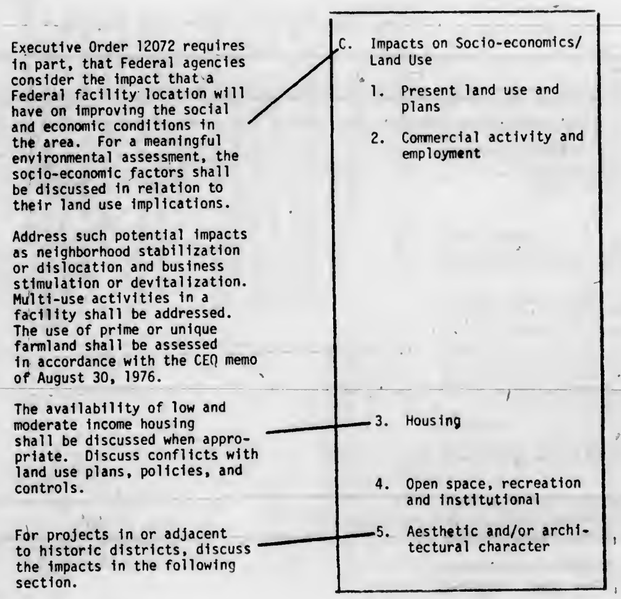


Figure 5-22. Section on the environmental consequences (Part 3 of 5)

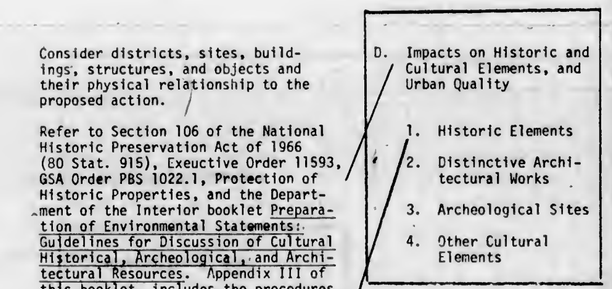


Figure 5-22. Section on the environmental consequences (Part 4 of 5)

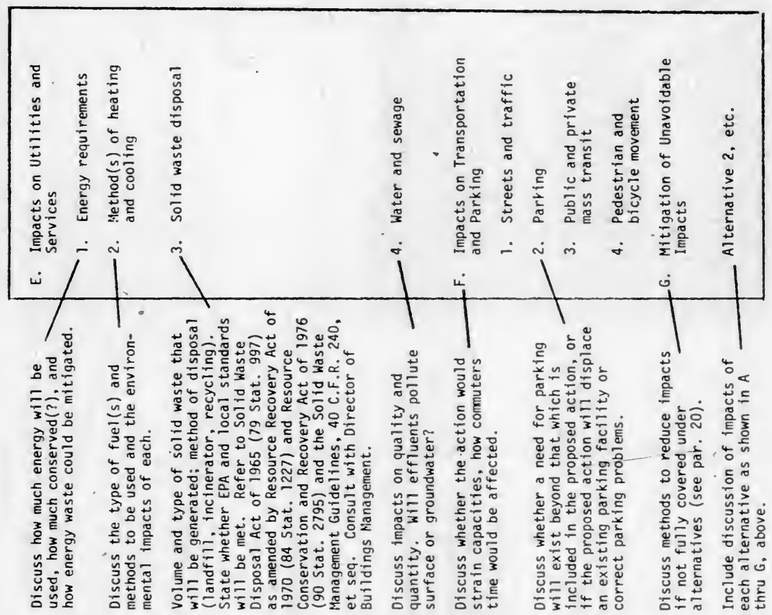


Figure 5-22. Section on the environmental consequences
(Part 5 of 5)

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23. *List of preparers.* The list of preparers shall show, by section, who prepared the EIS. The format is optional. This is not required for EA's

24. *Distribution list of draft EIS.* This section is included in draft and final EIS's, but not in AE's. It is a list of agencies and other parties which were invited to comment on the draft EIS. Refer to ch. 6 of this HB for distribution information. The format is optional.

25. *Index.* The index is described in par. 11.

26. *Appendix.* This section shall include the following in an optional format:

a. Short reports;

b. Technical data;

c. Related correspondence; and,

d. For the final EIS, all comments from Federal, State, and local agencies, organizations, and individuals on the draft EIS.

Chapter 6. Public Information and Involvement

PART 1. EA, FONSI, and EIS — *Paragraph numbers*
Paragraph Titles:
Requirement 1
Input to the environmental assessment (EA) 2
Review of the finding of no significant impact (FONSI) 3
Notice of Intent 4
List of interested groups 5
Distribution and review of the draft environmental impact statement 6
Figure 6–6. Individuals and agencies which receive GSA EIS's
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EIS availability 8
Figure 6–8.1. Sample newspaper public notice of EIS availability
Figure 6–8.2. Sample public notice of public hearing and EIS availability.
Distribution and review of the final EIS 9
Reserved ..... 10 thru 12
PART 2. OTHER PUBLIC INVOLVEMEMT
Record of decision 13
Public hearings 14
Public contact 15
Other public notice 16

Chapter 6. Public Information and Involvement

Part 1. EA, FONSI, and EIS

1. *Requirement.* The National Environmental Policy Act and the CEQ Regulations require that the public be informed about and involved in Federal actions that may significantly affect the quality of the human environment before decisions are made to implement the actions.

2. *Input to the environmental assessment (EA).* The public shall be asked to provide, to the extent possible, input to the EA.

3. *Review of the finding of no significant impact (FONSI).* If the EA results in the preparation of a FONSI, the FONSI shall be made available for public review according to the procedures in Section 1506.6 of the CEQ Regulations.

4. *Notice of intent.* If the EA shows that an EIS is needed or the action is an action which normally requires an EIS, a notice of intent to prepare an EIS shall be prepared and published as described in CH 4–7.

5. *List of interested groups.* The Regional Commissioners shall maintain a list of groups who are known to be interested in PBS activities and a list of individuals and groups who have requested an opportunity to comment on a project or action for subsequent distribution of the EIS.

6. *Distribution and review of the draft environmental impact statement.* (See fig. 6–6.)

a. The office that prepares the EIS shall have the EIS printed, prepare the appropriate transmittal letters for its distribution, and send six printed copies to PR for Central Office distribution.

b. The Regional Administrator shall sign the transmittal letters soliciting comments on the draft EIS to EPA the heads of Federal agencies, the appropriate U.S. Congressman and Senators, the Governor of the State which is affected by the proposed action and the Public Works Committees of Congress. The statement shall be sent to the Washington, D.C., offices of members of Congress.

c. The appropriate Regional or Assistant Commissioner shall, concurrently with b, above, sign transmittal letters to appropriate local officials, Federal, State, and local agencies, special interest groups and the public for review and comment. The Regional or Assistant Commissioner shall solicit the comments of appropriate State, regional or metropolitan clearinghouses in accordance with the procedures prescribed by the Office of Management and Budget Circular A–95, Revised, unless the Governor of the State involved has designated some other point for obtaining the review.

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Deputy Assistant Secretary for Environmental Affairs Department of Commerce Washington, DC 20230	Director (3) Office of Environmental Affairs Department of Health, Education and Welfare Washington, DC 20201
Assistant Director of Civil Works Environmental Programs U.S. Army Corps of Engineers DAEN-CWZ-P 1000 Independence Ave., SW Washington, DC 20314	Director, Office of Review and Compliance Historic Preservation 1522 K Street, NW Washington, DC 20005
Acting Director of Architecture and Environmental Arts Programs National Endowment for the Arts 2401 E Street, NW Washington, DC 20506	

2. Always send the final EIS to all parties who have made substantive comments on the draft EIS or who have requested the final EIS, and to the following:

a. Public Works Committees of Congress (prospectus projects only) (2)
b. Office of Management and Budget (prospectus projects only) (2)
c. U.S. Senators
d. U.S. Congressman
e. Client Agency
f. Environmental Protection Agency (5)

B. In addition, each regional office will have certain agencies, organizations, and individuals in its region to whom copies of the EIS should be sent by the Regional Commissioner. This list should include agencies such as the Environmental Protection Agency ($), Department of Housing and Urban Development, Department of Transportation, and the State and areawide A-95 Clearinghouses.

Figure 6-6. Individuals and agencies which receive 6GA EIS's (Part 2 of 2)

A. The following lists include individuals and agency headquarters offices in Washington, D.C., which receive GSA EIS's. These are individuals to whom the Regional Administrator transmits the EIS. For names and current addresses, contact the Environmental Affairs Division of the Office of Space Management.

1. Always send the draft EIS (one copy, except as noted in parenthesis) to the following:

a. U.S. Senators of appropriate State
b. U.S. Congressman of appropriate district
c. Client Agency (as appropriate, when GSA acts as the lead agency)

e.g., Director, Bureau of Prisons, Department of Justice, Washington, DC 20534 — Office of the Assistant Secretary for Administration, Department of Treasury, Washington, DC 20220

d. Agencies with special environmental concerns:

Environmental Protection Agency (A-104) (5) 401 M Street, SW Washington, DC 20460	Director (5)* Office of Environmental Programs Federal Energy Administration Washington, DC 20461
Director, Environmental Project Review (5) Department of the Interior Washington, DC 20240	Advisory on Environmental Quality Federal Power Commission 824 N. Capitol Street, NE Washington, DC 20426
Coordinator, Environmental Quality Activities Office of the Secretary Department of Agriculture Washington, DC 20250	

*Send only for major energy related actions such as heating and cooling plants).

Figure 6-6. Individuals and agencies which receive GSA EIS's (Part 1 of 2)

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d. Federal agencies which have jurisdiction by law or special expertise with respect to any environmental impact involved or which are authorized to develop and enforce environmental standards shall be asked to comment on draft EIS's.

e. In implementing the provisions of section 309 of the Clean Air Act, as amended, the responsible official shall submit five copies each of all draft EIS's to the Central Office of EPA and five copies to the appropriate regional office of EPA for review and comment.

7. *Commenting period.* A minimum of 45 calendar days shall be provided for comment on the draft EIS. The magnitude and complexity of the EIS and the extent of citizen interest in the proposed action shall be considered when the commenting period is established. Commenting periods may be extended an additional 15 days at the discretion of the responsible official. Comments not received within the allotted commenting period will not normally be responded to in the text of the final EIS.

8. *EIS availability.*

a. The Environmental Protection Agency (EPA), will publish in the **Federal Register** lists of environmental impact statements received during the preceding week which are available for public comment. The date establishing the 45-day minimum review period and advance availability of a draft EIS will be calculated from the **Federal Register** publication date of the notice of availability.

b. In addition to the **Federal Register**, a notice for a draft EIS shall be published in one or more local newspapers of general circulation by the office which prepared the EIS. The newspaper(s) may be issued weekly and may be very local in nature, if appropriate. A sample notice is included in fig. 6–8.1. If a public hearing will be held for the proposed action, the notice of the public hearing and notice of EIS availability should be combined into one notice. A sample of such a notice is included in fig. 6–8.2. EIS's shall be made available to the public without charge to the extent practicable or at a fee which is not more than the cost of reproduction. The draft EIS will also be made available for public review in PBS Central Office (PR) and Regional Commissioner's office during normal working hours.

9. *Distribution and review of the final EIS.* (See fig. 6–6).

a. The responsible official (see subpars. 6b and c), shall send copies of the final EIS, with comments attached, to all Federal, State, and local agencies and private organizations, clearinghouses, and individuals that made substantive comments on the draft statement and to individuals who requested a copy of the final EIS shall in all cases be sent to the Environmental Protection Agency to assist it in carrying out its responsibilities under section 309 of the Clean Air Act. Where the number of comments on a draft EIS is such that distribution of the final EIS to all commenting entities appears impracticable, the Assistant Commissioner for Space Management (PR) will consult with EPA concerning alternative arrangements for distribution of the statement. Six copies of the printed final EIS shall be sent to PR for Central Office distribution.

b. A minimum of 30 calendar days shall be provided for comment on the final EIS. The date the review period begins is determined in the same manner as for the draft EIS in subpar. 8a.

11 and 12. *Reserved.*

BILLING CODE 6820-23-M

Availability of Draft Environmental Impact Statement

The General Services Administration has filed with the Environmental Protection Agency and made available to other governmental and private entities a draft environmental impact statement on a proposed Federal Building and Parking Facility in Norfolk, Virginia. The project will provide a total occupiable area of about 203,500 square feet. Of this total, 133,300 square feet will be used to house about 855 employees of the Federal agencies proposed to occupy the building. The remaining 70,200 square feet will be for a parking facility for 200 official, visitor, and employee parking.

Copies of the draft environmental impact statement are available from:

Edgar I. Smith
Chief, Operational Planning Staff
General Services Administration
National Capital Area Region
Washington, DC 20407
(202) 123-4567

Council on Environmental Quality Regulations provide for a forty-five (45) day review period, which begins with the date of the Federal Register notice of the availability of the statement.

Figure 6-8.1. Sample newspaper public notice of EIS availability

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Additional copies of the DEIS and the backup informational base data are available for review and public inspection at the following locactions:

1. General Services Administration
   Business Service Center
   John W. McCormack Post Office and
   Courthouse
   Boston, Massachusetts 02109
2. Main Library
   University of Massachusetts Harbor Campus
   at Columbia Point, Dorchester, Massachusetts 02125
3. Boston Public Library (Field's Corner)
   1520 Dorchester Avenue
   Dorchester, Massachusetts 02122
4. Boston Public Library (Upham's Corner)
   500 Columbia Road
   Dorchester, Massachusetts 02125
5. Main Library
   General Services Administration
   18th & F Streets, NW
   Washington, DC 20405

Figure 6-8.2, Sample public notice of public hearing and
(Part 2 of 2) EIS availability

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EIS

Public Hearing and Availability of Draft
Environmental Impact Statement

A Draft Environmental Impact Statement (DEIS) concerning the proposed construction of the John F. Kennedy Library adjacent to the University of Massachusetts Harbor Campus at Columbia Point, Dorchester, Massachusetts, has been prepared by the General Services Administration in accordance with Section 102(2)(C) of the National Environmental Policy Act. The DEIS was released on November 22, 1976, to Federal, State, and local agencies, interested individuals and community groups. Participation by all interested public agencies, community groups and individuals in review and comment on the DEIS is invited.

A public hearing is scheduled to provide the community the opportunity to submit comments. The details of the hearing are described below. In addition, written comments on the DEIS may be submitted until January 13, 1977, and should be addressed:

General Services Administration (PRE)
Washington, DC 20405

PUBLIC HEARING:

Date : December 21, 1976

Time : 7:00 p.m.

Place : College 02 Lecture Hall
University of Massachusetts Harbor Campus at
Columbia Point, Dorchester, Massachusetts

Purpose : To receive comments concerning the environmental impacts that may result from the proposed project.

Instructions: Interested parties desiring to present oral comments at the public hearing may register at the desk outside of the auditorium on the night of the public hearing. Speakers will be heard in order of registration. Each party will be afforded five minutes of speaking time at the public hearing. Oral comments may be extended by written submissions or by continued oral presentation after the list of registered speakers is completed.

Figure 6-8.2, Sample public notice of public hearing and EIS
(Part 1 of 2) Availability

Part 2. Other Public Involvement

13. *Record of decision.* At the time of a decision to take an action, or, if appropriate, make a recommendation to the Congress, a publicly available record of decision shall be prepared in compliance with Section 1505.2 of the CEQ Regulations.

14. *Public hearings.*

a. Prior to the distribution of a draft EIS for an action, a determination shall be made by the responsible official regarding whether a public hearing should be held. This determination shall be documented and attached to the draft EIS. The following factors shall be considered in determining whether a public hearing is appropriate.

(1) The magnitude of the proposal in terms of economic costs, geographic area involved, and the uniqueness or size of commitment of resources;

(2) The degree of interest in the proposal as indicated by requests from the public and Federal, State and local authorities that a hearing be held;

(3) The complexity of the issue and the likelihood that information will be presented at the hearing which will be of assistance to the agency in fulfilling its responsibilities under NEPA; and

(4) The extent to which public involvement already has been achieved with respect to environmental concerns through other means, such as earlier public hearings, meetings with citizen representatives, and/or written comments on proposed action.

b. The draft EIS shall be made available to the public at least 15 calendar days prior to the hearing.

c. The notice of public hearing shall be issued no later than 5 workdays after distribution of the draft EIS and shall be published in a local newspaper of general circulation at least 15 calendar days prior to the date of the hearing. The notice shall contain but is not necessarily limited to the following:

(1) The date, time, place and purpose of the hearing;

(2) A description of program, the proposed project and project area;

(3) A declaration that any person or organization desiring to comment on the draft EIS will be given an opportunity to be heard;

(4) The location and times where the draft EIS will be available for review by the public; and

(5) The Federal agency or agencies sponsoring the project.

d. Verbatim transcript of the hearing shall be kept.

e. Where necessary a reasonable time limit may be established for each speaker.

f. A public hearing shall be held after publication of the draft EIS for all Bureau of Prisons projects.

g. An open meeting to acquaint and inform the public about the actions or receive information from the public may be held any time it is considered necessary.

15. *Public contact.* For information or status reports on EIS's and other elements of the NEPA process for PBS action, members of the public should contact: Director, Environmental Affairs Division (PRE), Public Buildings Service, GSA, Washington, D.C. 20405, (202) 566-1416.

16. *Other public notice.* If it is decided that an EIS is not necessary for a proposed action which (1) normally would require an EIS as set out in ch. 2-3, (2) is similar to actions for which a significant number of statements have been prepared, or (3) has previously been announced as the subject of a statement, the Regional Commissioner shall prepare a publicly available record briefly setting forth the decision and the reasons for the decision. The decision and any evaluation to support the decision shall be made available to the public upon request. The public shall be notified in the same manner that a notification of intent is publicized (see par. 8).

[CSA Order PBS P 1095.4A]
[FR Doc. 79-14540 Filed 5-9-79; 8:45 am]
BILLING CODE 6820-23-M]

DEPARTMENT OF HEALTH, EDUCATION, AND WELFARE

National Institutes of Health

Study Section Meetings

Pursuant to Public Law 92-463, notice is hereby given of the meetings of the following study sections for May and June 1979 and the individuals from whom summaries of meetings and rosters of committee members may be obtained.

These meetings will be open to the public to discuss administrative details relating to study section business for approximately one hour at the beginning of the first session of the first day of the meetings. Attendance by the public will be limited to space available. These meetings will be closed thereafter in accordance with the provisions set forth in Sections 552b(c)(4) and 552b(c)(6), Title 5, U.S. Code and Section 10(d) of P.L. 92-463, for the review, discussion and evaluation of individual grant applications. These applications and the discussions could reveal confidential trade secrets or commercial property such as patentable material, and personal information concerning individuals associated with the applications, the disclosure of which would constitute a clearly unwarranted invasion of personal privacy.

Ms. Marian Oakleaf, Grants Inquiries Office, Division of Research Grants, Westwood Building, National Institutes of Health, Bethesda, Maryland 20205, telephone area code 301-496-7441 will furnish summaries of the meetings and rosters of committee members. Substantive program information may be obtained from each Executive Secretary whose name, room number, and telephone number are listed below each study section. Anyone planning to attend a meeting should contact the Executive Secretary to confirm the exact meeting time. All times are A.M. unless otherwise specified.

Study section	May-June 1979 meetings	Time	Location
Allergy & Immunology, Dr. Morton Reitman, Rm. 320, Tel. 301-496-7380.	June 7-9	8:30	Holiday Inn, Bethesda, Md.
Applied Physiology & Orthopedics, Ms. Ileen E. Stewart, Rm. 350, Tel. 301-496-7581.	June 7-9	8:30	Room 10, Bldg. 31C, Bethesda, MD.
Bacteriology & Mycology, Dr. Milton Gordon, Rm. 218, Tel. 301-496-7340.	May 31-June 2	8:30	Holiday Inn, Bethesda, MD.
Bioanalytical & Metallobiochemistry, Mr. Richard P. Bratzel, Rm. 310, Tel. 301-496-7733.	June 7-9	9:00	Embassy Row Hotel, Washington, DC.
Biochemical Endocrinology, Dr. Norman Gold, Rm. 349, Tel. 301-496-7300.	June 25-27	8:30	Holiday Inn, Chevy Chase, MD.
Biochemistry, Dr. Adolphus P. Toliver, Rm. 318, Tel. 301-496-7516.	June 27-30	9:00	Holiday Inn, Georgetown, DC.
Biophysics & Biophysical Chemistry A, Dr. Asher Hyatt, Rm. 236, Tel. 301-496-7060.	June 8-10	9:00	Holiday Inn, Rosslyn, VA.
Biophysics & Biophysical Chemistry B, Dr. John B. Wolff, Rm. 236, Tel. 301-496-7070.	June 14-16	8:30	Room 7, Bldg. 31C, Bethesda, MD.
Bio-Psychology, Dr. A. Keith Murray, Rm. 220, Tel. 301-496-7058	June 20-23	9:00	Holiday Inn (Wellington), Washington, DC.
Cardiovascular & Pulmonary, Dr. Constance E. Weinstein, Rm. 339, Tel. 301-496-7901.	June 19-23	8:00	Linden Hill, Bethesda, MD.
Cardiovascular & Renal, Dr. Rosemary S. Morris, Rm. 339, Tel. 301-496-7901.	June 6-9	8:00	Holiday Inn, Bethesda, MD.
Cell Biology, Dr. Gerald Greenhouse, Rm. 2A-04, Tel. 301-496-7020.	June 13-16	8:30	Room 8, Bldg. 31C, Bethesda, MD.
Chemical Pathology, Dr. Edmund Copeland, Rm. 353, Tel. 301-496-7078.	June 7-10	8:30	Edgewater Inn, Seattle, WA.
Communicative Sciences, Dr. Michael Halasz, Rm. 321, Tel. 301-496-7550.	June 27-29	8:00	Room 7, Bldg. 31C, Bethesda, MD.

Study section	May–June 1979 meetings	Time	Location
Diagnostic Radiology, Dr. Catherine Wingate, Rm. 219, Tel. 301–496–7650.	June 19–21	8:30	Kenwood Club, Bethesda, MD.
Endocrinology, Mr. Morris M. Graff, Rm. 333, Tel. 301–496–7346.	June 4–7	7 p.m.	Sheraton, Silver Spring, MD.
Epidemiology & Disease Control, Dr. Ann Schluederberg, Rm. 234, Tel. 301–496–7245.	June 15–18	8:30	Sheraton-Park Plaza Hotel, New Haven, CT.
Experimental Therapeutics, Dr. Anne R. Bourke, Rm. 319, Tel. 301–496–7839.	June 20–23	9:30	Holiday Inn, Chevy Chase, MD.
Experimental Virology, Dr. Eugene Zebovitz, Rm. 206, Tel. 301–496–7474.	June 10–13	2 p.m.	Room 7, Bldg. 31C, Bethesda, MD.
General Medicine A, Dr. Harold M. Davidson, Rm. 354, Tel. 301–496–7797.	June 25–27	8:30	Room 10, Bldg. 31C, Bethesda, MD.
General Medicine B, Dr. William F. Davis, Jr., Rm. 322, Tel. 301–496–7730.	June 27–30	8:30	Linden Hill, Bethesda, MD.
Genetics, Dr. David J. Remondini, Rm. 349, Tel. 301–496–7271	June 14–16	9:00	Room 9, Bldg. 31C, Bethesda, MD.
Hematology, Dr. Clark K. Lum, Rm. 355, Tel. 301–496–7506	June 14–18	8:30	Jack Tarr Hotel, San Francisco, CA.
Human Development, Dr. Miriam F. Kelty, Rm. 232, Tel. 301–496–7025.	June 13–15	9:00	Holiday Inn, Chevy Chase, MD.
Human Embryology & Development, Dr. Arthur Hoversland, Rm. 221, Tel. 301–496–7597.	June 27–30	8:30	Linden Hill, Bethesda, MD.
Immunobiology, Dr. James H. Turner, Rm. 233, Tel. 301–496–7780.	June 6–8	8:30	Kenwood Club, Bethesda, MD.
Immunological Sciences, Dr. Lottie Kornfeld, Rm. 233, Tel. 301–496–7179.	June 6–8	8:30	Linden Hill, Bethesda, MD.
Mammalian Genetics, Dr. Halvor Aaslestad, Rm. 349, Tel. 301–496–7271.	June 7–9	9:00	Room 8, Bldg. 31C, Bethesda, MD.
Medicinal Chemistry A, Dr. Ronald J. Dubois, Rm. 425, Tel. 301–496–7286.	June 6–9	9:00	Bethesda Marriott, Bethesda, MD.
Metabolism, Dr. Robert M. Leonard, Rm. 334, Tel. 301–496–7091	June 4–6	8:30	Room 10, Bldg. 31C, Bethesda, MD.
Microbial Chemistry, Dr. Eileen Raizen, Rm. 357, Tel. 301–496–7130.	June 6–8	8:30	Linden Hill, Bethesda, MD.
Molecular Biology, Dr. Donald T. Disque, Rm. 328, Tel. 301–496–7830.	June 7–9	8:30	Holiday Inn, Bethesda, MD.
Molecular Cytology, Dr. Ramesh Nayak, Rm. 222, 301–496–7149.	June 7–9	8:30	Room 9, Bldg. 31C, Bethesda, MD.
Neurological Sciences, Dr. Edwin M. Bartos, Rm. 207, Tel. 301–496–7000.	June 7–9	8:30	Hospitality House, Arlington, VA.
Neurology A, Dr. William E. Morris, Rm. 326, Tel. 301–496–7095	June 20–23	9:00	Room 4, Bldg. 31A, Bethesda, MD.
Neurology B, Dr. Willard L. McFarland, Rm. A–23, Tel. 301–496–7422.	June 20–23	8:30	Holiday Inn (Wellington), Washington, DC.
Nutrition, Dr. John R. Schubert, Rm. 204, Tel. 301–496–7178	June 20–22	8:30	Room 9, Bldg. 31C, Bethesda, MD.
Oral Biology & Medicine, Dr. Thomas M. Tarpley, Jr., Rm. 325, Tel. 301–496–7818.	May 22–25	8:00	Linden Hill, Bethesda, MD.
Pathobiological Chemistry, Dr. Ellen G. Archer, Rm. 433, Tel. 301–496–7432.	June 20–23	8:30	Holiday Inn, Chevy Chase, MD.
Pathology A, Dr. Harold Waters, Rm. 337, Tel. 301–496–7305	June 5–8	8:30	Room 7, Bldg. 31C, Bethesda, MD.
Pathology B, Dr. Mischa Friedman, Rm. 352, Tel. 301–496–7244	June 11–13	8:30	Holiday Inn, Chevy Chase, MD.
Pharmacology, Dr. Joseph A. Kaiser, Rm. 206, Tel. 301–496–7408.	June 6–8	8:30	Holiday Inn, Bethesda, MD.
Physiological Chemistry, Dr. Harry Brodie, Rm. 338, Tel. 301–496–7837.	June 7–9	8:30	Ramada Inn, Rosslyn, VA.
Physiology, Dr. Martin Frank, Rm. 209, Tel. 301–496–7878	June 7–9	9:00	Sheraton Center, Reston, VA.
Radiation, Dr. Robert L. Straube, Rm. 219, Tel. 301–496–7073	June 13–15	9:00	Holiday Inn, Chevy Chase, MD.
Reproductive Biology, Dr. Dharam S. Dhindsa, Rm. 307, Tel. 301–496–7318.	June 4–7	8:30	Holiday Inn, Chevy Chase, MD.
Social Sciences & Population, Ms. Carol A. Campbell, Rm. 210, Tel. 301–496–7906.	June 11–14	8:30	Washington Hotel, Washington, DC.
Surgery, Anesthesiology & Trauma, Dr. Keith Kraner, Rm. 336, Tel. 301–496–7771.	June 14–15	8:30	Airport Holiday Inn, Arlington, VA.
Surgery & Bioengineering, Dr. Joe W. Atkinson, Rm. 348, Tel. 301–496–7506.	June 7–8	8:30	Linden Hill, Bethesda, MD.
Toxicology, Dr. Raymond Bahor, Rm. 226, Tel. 301–496–7570	June 13–15	8:30	Holiday Inn, Georgetown, DC.
Tropical Medicine & Parasitology, Dr. Betty June Myers, Rm. 319, Tel. 301–496–7494.	June 13–18	8:30	Connecticut Inn, Washington, DC.
Virology, Dr. Claire H. Winestock, Rm. 138, Tel. 301–496–7128	June 14–16	8:30	Room 8, Bldg. 31C, Bethesda, MD.
Visual Sciences A, Dr. Orvil E. A. Bolduan, Rm. 437, Tel. 301–496–7180.	June 13–15	9:00	Linden Hill, Bethesda, MD.
Visual Sciences B, Dr. Luigi Giacometti, Rm. 325, Tel. 301–496–7251.	June 14–17	9:00	Sheraton Inn, Silver Spring, MD.

(Catalog of Federal Domestic Assistance Program Nos. 13.333, 13.337, 13.349, 13.393–13.396, 13.386–13.844, 13.846–13.871, 13.876, National Institutes of Health, HEW)

Dated: April 30, 1979.

Suzanne L. Fremeau,

Committee Management Officer, NIH.

[FR Doc. 79–14385 Filed 5–9–79; 8:45 am]

BILLING CODE 4110–08–M

Office of Education

National Advisory Committee on Black Higher Education and Black Colleges and Universities; Meeting

AGENCY: National Advisory Committee on Black Higher Education and Black Colleges and Universities.

ACTION: Notice.

SUMMARY: This notice sets forth the schedule and proposed agenda of the tenth meeting of the National Advisory Committee on Black Higher Education and Black Colleges and Universities. Notice of this meeting is required under Section 10(a) (2) of the Federal Advisory Committee Act (5 U.S.C. Appendix 1). This document is intended to notify the general public of their opportunity to attend.

DATE: June 4, 1979, 8:30 a.m. to 4:30 p.m. and 6:30 p.m. to 8:30 p.m. June 5, 1979, 8:30 a.m. to 2:00 p.m.

ADDRESS: Tuskegee Institute, Martin Luther King Room of Tuskegee Chapel, Tuskegee Institute, Alabama 36088

FOR FURTHER INFORMATION CONTACT: Ms. Carol J. Smith, Program Delegate, National Advisory Committee on Black Higher Education and Black Colleges and Universities, Suite 706, 1100 17th Street, N.W., Washington, D.C. 20036, AC 202–653–7558.

The National Advisory Committee on Black Higher Education and Black Colleges and Universities is governed by the provisions of Part D of the General Education Provisions Act (Pub. L. 90–247 as amended; 20 U.S.C. 1233 *et seq.*) and the Federal Advisory Committee Act (Pub. L. 92–463; 5 U.S.C. Appendix I) which set forth standards for the formation and use of advisory committees.

The Committee is directed to advise the Secretary of Health, Education, and Welfare, the Assistant Secretary for Education, and the Commmissioner of Education. The Committee shall examine all approaches to higher education of Black Americans as well as the needs of historically Black colleges and universities.

The meeting on June 4 and 5, 1979, will be open to the public beginning at 8:30 a.m. each day. The meeting will be held at Tuskegee Institute, Martin Luther King Room of Tuskegee Chapel, Tuskegee Insititute, Alabama 36088

The proposed agenda will include review of the final draft of the Report on Institutional Diversity; discussion of the proposed 25-year Plan to enhance opportunities for Blacks in higher education; plans for the Committee's 1978 Annual Report; report on commissioned research; and status of activities related to the President's Directive on Black Colleges.

Records shall be kept of all Committee proceedings and shall be available for public inspection at the Office of the National Advisory Committee on Black Higher Education and Black Colleges and Universities located at 1100 17th Street, N.W., Suite 706, Washington, D.C. 20036

Signed at Washington, D.C. on May 2, 1979.

Carol J. Smith,

Program Delegate, National Advisory Committee on Black Higher Education and Black Colleges and Universities.

[FR Doc 79–14583 Filed 5–9–79; 8:45 am]

BILLING CODE 4110–12–M

Social Security Administration

Additional Redelegations of Authority for Various Certifications and Use of the Department Seal

The Commissioner of Social Security (the Commissioner), has authority to make various certifications regarding true copies of any books, records, papers or other documents on file within the Social Security Administration (SSA) and authority to cause the Seal of the Department of Health, Education, and Welfare (HEW) to be affixed or impressed to these certifications, as described at 43 FR 58871, dated December 18, 1978. These authorities supersede authorities previously placed with the Commissioner (34 FR 18049–50, dated November 7, 1969 and 35 FR 16384, dated October 20, 1970). As before, the Commissioner may redelegate these authorities. Previous redelegations by the Commissioner remain in effect until superseded. The Commissioner's previous redelegations were published at 41 FR 28818–20, dated July 13, 1976.

Notice is given that the Commissioner has approved additional redelegations of the subject authorities, as set forth below, to the position of Deputy Chief, Civil Actions Branch, Office of Appeals Operations, Office of Hearings and Appeals (OHA), SSA:

A. *Authorities*

1. Authority to certify true copies of any books, records, papers or documents on file within OHA.

2. Authority to certify extracts from material on file within OHA.

3. Authority to certify that true copies are true copies of the entire record on file within OHA.

4. Authority to certify the complete original record on file within OHA.

5. Authority to certify that particular records are not on file within OHA.

6. Authority to cause the HEW Seal to be affixed or impressed to these certifications.

B. *Further Redelegations*

Further redelegations are not authorized.

C. *Effective date*

These redelegations are effective on the date this notice is published in the **Federal Register.**

D. *Ratification of Actions Taken Prior to Effective Date of Redelegations*

If this delegate exercises any of the authorities listed above before this notice is published in the **Federal Register**, that action is affirmed and ratified.

Dated: **April 23, 1979.**

Stanford G. Ross,

Commissioner of Social Security.

[FR Doc. 79–14586 Filed 5–9–79; 8:45 am]

BILLING CODE 4110–07–M

Redelegations of Authority To Make Specified Certifications Concerning Material on File and To Cause the Department Seal To Be Affixed or Impressed to These Certifications

The Commissioner of Social Security (the Commissioner), has authority to make various certifications regarding true copies of any books, records, papers or other documents on file within the Social Security Administration (SSA) and authority to cause the Seal of the Department of Health, Education, and Welfare (HEW) to be affixed or impressed to these certifications, as described at 43 FR 58871, dated December 18, 1978. These authorities have been redelegated by the Commissioner to subordinate SSA officials, as previously documented in the following editions of the **Federal Register:** 33 FR 2613–14, dated February 6, 1968; 34 FR 13046–47, dated August 12, 1969; 37 FR 10602–3, dated May 25, 1972; 38 FR 21681, dated August 10, 1973; 40 FR 25616, dated June 17, 1975; 41 FR 28818–20, dated July 13, 1976; and 41 FR 44727–28, dated October 12, 1976.

Section 233 of the Social Security Act (the Act), which was added to the Act by section 317(a) of Pub. L. 95–216, enacted on December 20, 1977, authorizes the President of the United States to enter into agreements with foreign countries establishing totalization arrangements between the United States social security system and the social security systems of the foreign countries. Among other things, these agreements provide for the combination of social security credits earned under the United States system with credits earned under the foreign systems. At present, agreements have been negotiated with Italy and West Germany, and agreements with additional foreign countries are being contemplated.

Under the provisions of the Italian totalization agreement now in effect, applications from individuals, earnings records, evidence, benefit certifications and statistical data are to be exchanged between the United States Government and the Italian Government. Such documents must be properly authenticated by the government agency transmitting them. In the United States, overall responsibility for administration of totalization agreements rests with HEW. Within HEW, functions to facilitate the application of totalization agreements are being performed by the Division of International Operations (DIO) of the Office of Program Service Centers in SSA's Office of Central Operations. To carry out their responsibilities for exchange of documents with Italian and other foreign governmental agencies under totalization agreements, it is necessary for various DIO officials and employees to be redelegated formal authority to authenticate such documents.

Accordingly, the Commissioner has redelegated the authorities specified below to the following DIO positions, for exercise in connection with cases processed under the provisions of totalization agreements.

A. *Authorities*

1. Authority to certify true copies of any books, records, papers or other documents on file within SSA.
2. Authority to certify extracts from material on file within SSA.
3. Authority to certify that true copies are true copies of the entire record on file within SSA.
4. Authority to certify the complete original record on file within SSA.
5. Authority to certify that particular records are not on file within SSA.
6. Authority to cause the HEW Seal to be affixed or impressed to those certifications identified above.

B. *Delegates*

1. Division Director,
2. Liaison Clerks; Foreign Claims Specialists; Technical Assistants; Process Module Managers; and Assistant Module Managers, Process Branch,
3. All intervening positions in the direct line of supervision between the positions specified in item 2. above and the Division Director.

C. *Further Redelegations*

Further redelegations are not authorized.

D. *Effective Date*

These redelegations are effective on the date this notice is published in the **Federal Register.**

E. *Ratification of Actions Taken Prior to Effective Date of Redelegations*

If any delegate exercises any of the subject authorities before this notice is published in the **Federal Register**, his/her actions are affirmed and ratified. This includes any actions taken prior to the 1979 Reorganization of SSA when the Division of International Operations was organizationally located within the former Office of Program Operations.

Dated: April 23, 1979

Stanford G. Ross,
Commissioner of Social Security.

[FR Doc. 79-14587 Filed 5-9-79; 8:45 am]
BILLING CODE 4110-07-M

DEPARTMENT OF HOUSING AND URBAN DEVELOPMENT

Federal Disaster Assistance Administration

Missouri; Major Disaster and Related Determinations

AGENCY: Federal Disaster Assistance Administration.

ACTION: Notice.

SUMMARY: This is a Notice of the Presidential declaration of a major disaster for the State of Missouri (FDAA-579-DR), dated April 21, 1979, and related determinations.

DATED: April 21, 1979

FOR FURTHER INFORMATION CONTACT: John L. Perry, Program Support Staff, Federal Disaster Assistance Administration, Department of Housing and Urban Development, Washington, D.C. 20410 (202/634-7825).

Notice: Pursuant to the authority vested in the Secretary of Housing and Urban Development by the President under Executive Order 11795 of July 11, 1974, and delegated to me by the Secretary under Department of Housing and Urban Development Delegation of Authority, Docket No. D-74-285; and by virtue of the Act of May 22, 1974, entitled "Disaster Relief Act of 1974" (88 Stat. 143); notice is hereby given that, in a letter of April 21, 1979 to the Secretary, the President declared a major disaster as follows:

I have determined that the damage in certain areas of the State of Missouri resulting from tornadoes, torrential rains and flooding beginning on or about March 31, 1979, is of sufficient severity and magnitude to warrant a major disaster declaration under Public Law 93-288. I therefore declare that such a major disaster exists in the State of Missouri.

Notice is hereby given that pursuant to the authority vested in the Secretary of Housing and Urban Development under Executive Order 11795, and delegated to me by the Secretary under Department of Housing and Urban Development Delegation of Authority, Docket No. D-74-285, I hereby appoint Mr. Francis X. Tobin of the Federal Disaster Assistance Administration to act as the Federal Coordinating Officer for this declared major disaster.

I do hereby determine the following areas of the State of Missouri to have been affected adversely by this declared major disaster.

The following counties for Individual Assistance only:

Cape Girardeau, Dunklin, Jefferson, Lincoln, Mississippi, New Madrid, Pemiscot, Pulaski, St. Charles, St. Louis, Ste. Genevieve, Scott, Stoddard, Texas.

(Catalog of Federal Domestic Asst. No. 14,701, Disaster Assistance.)

William H. Wilcox,
Federal Disaster Assistance Administration.

[FDAA-579-DR; Docket No. NFD-690]
[FR Doc. 79-14589 Filed 5-9-79; 8:45 am]
BILLING CODE 4210-22-M

Missouri; Amendment to Notice of Major Disaster Declaration

AGENCY: Federal Disaster Assistance Administration.

ACTION: Notice.

SUMMARY: This Notice amends the Notice of a major disaster for the State of Missouri (FDAA-579-DR), dated April 21, 1979.

DATED: April 25, 1979

FOR FURTHER INFORMATION CONTACT: John L. Perry, Program Support Staff, Federal Disaster Assistance Administration, Department of Housing and Urban Development, Washington, D.C. 20410 (202/634-7825).

Notice: This Notice of major disaster for the State of Missouri, dated April 21, 1979, is hereby amended to include the following area among those areas determined to have been adversely affected by the catastrophe declared a major disaster by the President in his declaration of April 21, 1979.

For Individual Assistance only: St. Louis City.

(Catalog of Federal Domestic Assistance No. 14,701, Disaster Assistance.)

William H. Wilcox,
Administrator, Federal Disaster Assistance Administration.

[FDAA-579-DR; Docket No. NFD-689]
[FR Doc. 79-14590 Filed 5-9-79; 8:45 am]
BILLING CODE 4210-22-M

Texas; Amendment to Notice of Major Disaster Declaration

Note.—This document was originally scheduled to appear in the issue for Thursday, May 3, 1979. However, it was not printed in that issue and instead, FR Doc. 79-13729, also dealing with Texas, was printed twice (see 44 FR 25934, May 3, 1979). Please disregard the duplicate publication of FR Doc. 79-13729 and in its place, insert the following:

AGENCY: Federal Disaster Assistance Administration.

ACTION: Notice.

SUMMARY: This Notice amends the Notice of a major disaster for the State of Texas (FDAA-575-DR), dated April 11, 1979.

DATED: April 13, 1979.

FOR FURTHER INFORMATION CONTACT: John L. Perry, Program Support Staff, Federal Disaster Assistance Administration, Department of Housing and Urban Development, Washington, D.C. 20410 (202/634-7825).

NOTICE: The Notice of major disaster for the State of Texas dated April 11, 1979, is hereby amended to include the following areas among those areas determined to have been adversely affected by the catastrophe declared a major disaster by the President in his declaration of April 11, 1979.

For Individual Assistance Only:
Baylor County
Clay County
Foard County

(Catalog of Federal Domestic Assistance No. 14,701, Disaster Assistance.)

Thomas R. Casey,
Acting Administrator, Federal Disaster Assistance Administration.

[FDAA-575-DR; Docket No. NFD-677]
[FR Doc. 79-13730 Filed 5-2-79; 8:45 am]
BILLING CODE 1505-01-M

Acting Area Manager, Los Angeles Area Office (Region IX, San Francisco); Designation

The officers appointed to the following listed positions in the Los Angeles Area Office are hereby designated to serve as Acting Area Manager during the absence of the Area Manager with all the powers, functions, and duties redelegated or assigned to the Area Manager: Provided, That no officer is authorized to serve as Acting Area Manager unless all other officers whose titles precede his in this designation are unable to act by reason of absence:

1. Deputy Area Manager.
2. Director, Housing Division.
3. Director, Community Planning & Development Division.
4. Director, Fair Housing & Equal Opportunity Division.
5. Area Counsel.

(Delegation effective October 1, 1970, published at 36 FR 3389, February 23, 1971.)

Effective date: This designation shall be effective on March 27, 1979.

Roland E. Camfield, Jr.,
Area Manager, Los Angeles Area Office.

Emma D. McFarlin,
Regional Administrator, San Francisco Regional Office.

[Docket No. D-79-563]
[FR Doc. 79-14562 Filed 5-9-79; 8:45 am]
BILLING CODE 4210-01-M

Acting Area Manager, Region IV (Atlanta); Designation for Birmingham Area Office

AGENCY: Department of Housing and Urban Development.

ACTION: Designation.

SUMMARY: Updates the designation of officials who may serve as Acting Area Manager for the Birmingham Area Office.

EFFECTIVE DATE: April 1, 1979.

FOR FURTHER INFORMATION CONTACT: George A. Milburn, Jr., Director, Management and Budget Division, Office of Regional Administration, Atlanta Regional Office, Department of Housing and Urban Development, Room 213, 1371 Peachtree Street, N.E., Atlanta, Georgia 30309, 404-881-2584.

Designation of Acting Area Manager for Birmingham Area Office

Each of the officials appointed to the following positions is designated to serve as Acting Area Manager during the absence of, or vacancy in the position of, the Area Manager, with all the powers, functions, and duties redelegated or assigned to the Area Manager: Provided, that no official is authorized to serve as Acting Area Manager unless all officials listed before him/her in this designation are unavailable to act by reason of absence or vacancy in the position:

1. Deputy Area Manager.
2. Area Counsel.
3. Director, Housing Division.
4. Director, Community Planning and Development.
5. Deputy Director for Management, Housing Division.
6. Deputy Director for Development, Housing Division.
7. Director, Fair Housing and Equal Opportunity Division.

This designation supersedes the designation effective September 7, 1978 (43 FR 4210, September 7, 1978).

This designation shall be effective as of April 1, 1979.

John E. Wilson,
Area Manager, Birmingham Area Office.

A. Russell Marone,
Regional Administrator, Region IV (Atlanta).

[Docket No. D-79-564]
[FR Doc. 79-14560 Filed 5-9-79; 8:45 am]
BILLING CODE 4210-01-M

DEPARTMENT OF THE INTERIOR

Bureau of Land Management

Chief, Branch of Records and Data Management Division of Management Services, Idaho State Office; Redelegation of Authority

Pursuant to the authority contained in section 1.1 of BLM Order No. 701 dated July 23, 1964, as amended, authority is hereby redelegated to the Chief, Branch of Records and Data Management to take action under section 2.6(k) as to mining claim instruments filed for record with BLM under 43 CFR 3833, as follows: (1) Accept and record instruments meeting recording requirements; (2) Notify owners to take curative actions to complete defective filings; (3) Reject instruments and void claims not filed within the prescribed time periods; and (4) Reject filings and void claims located on lands not available for mineral location on dates of location.

Dated: April 20, 1979.

William L. Mathews,
State Director, Idaho.

Approved: May 3, 1979.

Arnold E. Petty,
Acting Associate Director.

[FR Doc. 79-14544 Filed 5-9-79; 8:45 am]
BILLING CODE 4310-84-M

Phoenix District; Kingman Resource Area Grazing Advisory Board Meeting

Notice is hereby given in accordance with Public Law 92-463 that a meeting of the Kingman Resource Area (Phoenix District) Grazing Advisory Board will be held on June 12, 1979.

The meeting will begin at 9:00 a.m. in the conference room of the Bureau of Land Management Office, 2475 Beverly Avenue, Kingman, Arizona 86401.

The agenda for the meeting will include:

(1) The Planning and Grazing Environmental Statement schedule.
(2) Allotment Management Plans.
(3) Impacts of the Wilderness Program on Allotment Management Plans and Range Improvements.
(4) Status of Range Improvements for FY 79.
(5) Range Improvement priorities for FY 80.
(6) Proposed Livestock Grazing Program for the Cerbat/Black Mountains Planning Units.
(7) Arrangements for future meetings, time and agenda items.

The meeting is open to the public. Anyone wishing to make oral or written statements to the Board is requested to do so through the office of the District Manager, 2929 West Clarendon Avenue, Phoenix, Arizona 85017 at least seven days prior to the meeting date.

Summary minutes of the Board meeting will be maintained in the District Office and be made available for public inspection and reproduction (during regular business hours) within 30 days following the meeting.

Dated: May 2, 1979.

W. K. Barker,
District Manager.

[FR Doc. 79-14551 Filed 5-9-79; 8:45 am]
BILLING CODE 4310-84-M

Phoenix District; Phoenix/Lower Gila Resource Areas Grazing Advisory Board Meeting

Notice is hereby given in accordance with Public Law 92-463 that a meeting of the Phoenix/Lower Gila Resource Areas (Phoenix District) Grazing Advisory Board will be held on June 14, 1979.

The meeting will begin at 9:00 a.m. in the conference room of the Bureau of Land Management Office, 2929 West

Clarendon Avenue, Phoenix, Arizona 85017.

The agenda for the meeting will include:
(1) The Planning and Grazing Environmental Statement schedule.
(2) Allotment Management Plans.
(3) Impacts of the Wilderness Program on Allotment Management Plans and Range Improvements.
(4) Status of Range Improvements for FY 79.
(5) Range Improvement priorities for FY 80.
(6) Arrangements for future meetings, timing and agenda items.

The meeting is open to the public. Anyone wishing to make oral or written statements to the board is requested to do so through the office of the District Manager at the above named address at least 7 days prior to the meeting date.

Summary minutes of the board meeting will be maintained in the District Office and be made available for public inspection and reproduction (during regular business hours) within 30 days following the meeting.

Dated: May 2, 1979.

W. K. Barker,
District Manager.

[FR Doc. 79-14550 Filed 5-9-79; 8:45 am]
BILLING CODE 4310-84-M

Susanville District Grazing Advisory Board, California; Meeting

May 2, 1979.

Notice is hereby given in accordance with Public Law 92-463 that a meeting of the Susanville District Grazing Advisory Board will be held on June 6, 1979.

The meeting will begin at 10:00 a.m. in the conference room of the Bureau of Land Management Office at 705 Hall St., Susanville, California.

The Agenda for the meeting will include:
(1) Review of Tuledad/Home Camp Allotment Management Plans
(2) Review of Cowhead/Massacre ES as related to Allotment Management Plans
(3) Review of Cal/Neva ES as related to Allotment Management Plans
(4) Wilderness as it affects Allotment Management Plans
(5) Wild Horse Program in relation to Allotment Management Plans
(6) Expenditure of range betterment funds—1979 & 1980 F.Y.
(7) Expenditure of Advisory Board Funds

The meeting is open to the public. Interested persons may make oral statements to the board between 3:30 and 4:30 p.m. or file a written statement for the board's consideration. Anyone wishing to make an oral statement must notify the District Manager, Bureau of Land Management, 705 Hall St., P.O. 1090, Susanville, California 96130, by May 30, 1979. Depending on the number of persons wishing to make oral statements, a per person time limit may be established.

Summary minutes of the board meeting will be maintained in the District Office and will be available for public inspection and reproduction (during regular business hours) within 30 days following the meeting.

C. Rex Cleary,
District Manager, Susanville.

[FR Doc. 79-14543 Filed 5-9-79; 8:45 am]
BILLING CODE 4310-84-M

New Mexico; Application

April 27, 1979.

Notice is hereby given that, pursuant to Section 28 of the Mineral Leasing Act of 1920 (30 U.S.C. 185), as amended by the Act of November 16, 1973 (87 Stat. 576), Transwestern Pipeline Company has applied for one 4-inch natural gas pipeline right-of-way across the following land:

New Mexico Principal Meridian, New Mexico
T. 18 S., R. 25 E.,
Sec. 7, NE¼SW¼.

This pipeline will convey natural gas across 0.08 of a mile of public land in Eddy County, New Mexico.

The purpose of this notice is to inform the public that the Bureau will be proceeding with consideration of whether the application should be approved, and if so, under what terms and conditions.

Interested persons desiring to express their views should promptly send their name and address to the District Manager, Bureau of Land Management, P.O. Box 1397, Roswell, New Mexico 88201.

Raul E. Martinez,
Acting Chief, Branch of Lands and Minerals Operations.

[NM 30663]
[FR Doc. 79-14545 Filed 5-9-79; 8:45 am]
BILLING CODE 4310-84-M

Wyoming; Application

April 30, 1979

Notice is hereby given that pursuant to Section 28 of the Mineral Leasing Act of 1920, as amended (30 U.S.C. 185), the Northwest Pipeline Corporation of Salt Lake City, Utah filed an application for a right-of-way to construct a 6⅝ inch O.D. pipeline as an addition to their Moxa Arch Gathering System for the purpose of transporting natural gas across the following described public lands:

Sixth Principal Meridian, Wyoming
T. 20 N., R. 111 W.,
Secs. 8 and 18.
T. 20 N., R. 112 W.,
Sec. 14.

The proposed pipeline will extend from a point of connection with Northwest Pipeline Corporation's Trunk "A" pipeline located in the SW¼NW¼ of section 14, T. 20 N., R. 112 W., to a point located in the SW¼SW¼ of section 9, T. 20 N., R. 111 W., all within Sweetwater County, Wyoming.

The purpose of this notice is to inform the public that the Bureau will be proceeding with consideration of whether the application should be approved, and if so, under what terms and conditions.

Interested persons desiring to express their views should do so promptly. Persons submitting comments should include their name and address and send them to the District Manager, Bureau of Land Management, P.O. Box 1869, Highway 187 N., Rock Springs, Wyoming 82901.

Harold G. Stinchcomb,
Chief, Branch of Lands and Minerals Operations.

[Wyoming 87299]
[FR Doc. 79-14546 Filed 5-9-79; 8:45 am]
BILLING CODE 4310-84-M

New Mexico Wilderness Inventory; Star Lake-Bisti Initial Wilderness Inventory Decision

May 3, 1979.

AGENCY: Bureau of Land Management.

ACTION: Notice of Initial Inventory Decision.

SUMMARY: The New Mexico State Office of the Bureau of Land Management announces the initial wilderness inventory decision for the public lands included in the draft Star Lake-Bisti Regional Coal Environmental Statement. All affected wilderness inventory units are located within New Mexico's Albuquerque District.

Inventory units dropped from further wilderness consideration are NM-010-05, NM-010-06, NM-010-58, the southwestern corner of NM-010-09, and all of NM-010-57 except approximately 3500 acres of public land commonly referred to as the Bisti Badlands. Additional public lands outside of identified inventory units affected by both the Star Lake Railroad and the Fruitland Coal Load Transmission Line are also dropped from further wilderness consideration. Acreage dropped from further wilderness consideration total approximately 44,330 acres.

Inventory units which will undergo an intensive wilderness inventory are: that portion of NM-010-57 commonly referred to as the Bisti Badlands, NM-010-04 and the remaining portion of NM-010-09. Acreage to undergo intensive wilderness inventory total approximately 26,980 acres.

This final decision is based upon recommendations released for a 90-day public comment period from January 10 to April 9, 1979.

The public was asked to comment on the announced recommendation of January 10, 1979 that certain inventory units clearly and obviously did not possess wilderness characteristics.

During the comment period, 316 letters and oral comments were submitted. There was overwhelming agreement that the areas that were recommended to be deleted from further consideration indeed lacked wilderness characteristics.

Conversely, by a 9 to 1 majority, the public supported the recommendations for those wilderness inventory units which were identified as requiring an intensive wilderness inventory. Copies of the public comment analysis report detailing these findings are available upon request from the New Mexico State Office, Bureau of Land Management.

ADDRESS: Send requests to: State Director (932), Bureau of Land Management, United States Post Office and Federal Building, South Federal Place, P.O. Box 1449, Santa Fe, New Mexico 87501.

FOR FURTHER INFORMATION CONTACT: Dan Wood at the above Santa Fe, New Mexico address or call 505-988-6227.

Larry L. Woodard,
Acting State Director.

[FR Doc. 79-14583 Filed 5-9-79; 8:45 am]
BILLING CODE 4310-84-M

New Mexico; Applications

May 2, 1979.

Notice is hereby given that, pursuant to Section 28 of the Mineral Leasing Act of 1920 (30 U.S.C. 185), as amended by the Act of November 16, 1973 (87 Stat. 576), El Paso Natural Gas Company has applied for four 4½-inch natural gas pipeline rights-of-way across the following lands:

New Mexico Principal Meridian, New Mexico
T. 22 S., R. 23 E.,
Sec. 34, SW¼SE¼;
T. 18 S., R. 25 E.,
Sec. 7, NW¼SW¼;
Sec. 8, NW¼SE¼.

These pipelines will convey natural gas across 0.485 of a mile of public lands in Eddy County, New Mexico.

The purpose of this notice is to inform the public that the Bureau will be proceeding with consideration of whether the applications should be approved, and if so, under what terms and conditions.

Interested persons desiring to express their views should promptly send their name and address to the District Manager, Bureau of Land Management, P.O. Box 1397, Roswell, New Mexico 88201.

Fred E. Padilla,
Chief, Branch of Lands and Minerals Operations.

[NM 36716 and 36717]
[FR Doc. 79-14603 Filed 5-9-79; 8:45 am]
BILLING CODE 4310-84-M

Utah; Wilderness Review Associated With the Intermountain Power Project in Preparation for an Environmental Statement

AGENCY: Bureau of Land Management, Interior.

ACTION: Notice.

SUMMARY: This notice updates the status of the special wilderness inventory associated with the Intermountain Power Project proposal which reaches into portions of Utah, Arizona, Nevada, and California. The inventory instructions were sent from the Washington Office on August 15, 1978. These instructions preceded the Wilderness Inventory Handbook. The instructions are basically the same, however, except for the use of manageability and the option to review portions of roadless areas possibly impacted by the proposed transmission and other utility corridors associated with the IPP proposal.

The wilderness inventory was conducted in advance of work on the environmental statement which will evaluate the impacts of the proposal as it relates to wilderness and other environmental values. The inventory was completed in September and October with public meetings being held in November and December. As a direct result of public input, the original 30-day public comment period was extended to February 16, 1979, or a total of 90 days. Also, as a direct result of public input, the option used to review only that portion of a roadless area impacted by the proposal was found not to be acceptable. The Moab District in Utah used this option. Therefore, even though the original instructions contained this option, the Moab District has been directed to review the entire roadless area associated with the alternative routes. The field work has begun on this effort with the first public meeting to review the findings being held in the latter part of May 1979. A separate Federal Register notice will be published announcing this review period.

For all other portions of Utah associated with the IPP project the inventory and associated public review have been completed. Comments are being analyzed. An announcement designating Wilderness Study Areas will be forthcoming towards the end of May 1979, along with the other states involved.

In the State of Nevada, public comments indicated that nine areas should be designated for Wilderness Study Areas. However, adjustments in the boundaries were needed. As a result of this public comment, boundaries were adjusted accordingly and an additional 30-day public comment period opened. That public comment period was concluded on May 1, 1979. The comments from this public comment period will again be reviewed and an announcement made designating those Wilderness Study Areas.

The IPP proposed routes do go into California, however, at the time the IPP proposal came into existence, California was already involved in a special inventory for wilderness connected with the California Desert Conservation Area. The instructions for this area precede the IPP proposal. The California Desert inventory has concluded with an appropriate public review period. The IPP proposal in California is subject to the findings in the California Desert Conservation Area Wilderness Inventory. Reference should be made to those documents and announcements as it concerns the wilderness inventory in California related to the IPP proposal.

The IPP proposal involved a small portion of Arizona. The inventory and public review period has been conducted and comments are being analyzed. The inventory identified a potential Wilderness Study Area which lies in both Arizona and Utah.

During the various public comment periods, maps and narratives were available at public meetings and through mail-outs to interested people on mailing lists and who requested this information.

Dated: May 3, 1979.

Paul L. Howard,
State Director.

[FR Doc. 79-14602 Filed 5-9-79; 8:45 am]
BILLING CODE 4310-84-M

Wyoming; Application

May 3, 1979.

Notice is hereby given that pursuant to Section 28 of the Mineral Leasing Act of 1920, as amended (30 U.S.C. 185), the

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Northwest Pipeline Corporation of Salt Lake City, Utah filed an application for a right-of-way to install communication equipment in an existing communication site located on the following described public lands:

Sixth Principal Meridian, Wyoming

T. 17 N., R. 104 W.,
Sec. 22, SE¼SE¼

The proposed communication site is to be used for operation and maintenance of their oil and gas pipeline facilities in the surrounding area.

The purpose of this notice is to inform the public that the Bureau will be proceeding with consideration of whether the application should be approved, and if so, under what terms and conditions.

Interested persons desiring to express their views should do so promptly. Persons submitting comments should include their name and address and send them to the District Manager, Bureau of Land Management, P.O. Box 1869, Highway 187 N., Rock Springs, Wyoming 82901.

Harold G. Stinchcomb,
Chief, Branch of Lands and Minerals Operations.

[Wyoming 67827]
[FR Doc. 79-14604 Filed 5-9-79; 8:45 am]
BILLING CODE 4310-84-M

Wyoming; Application

April 26, 1979.

Notice is hereby given that pursuant to Section 28 of the Mineral Leasing Act of 1920, as amended (30 U.S.C. 185), the Mountain Fuel Supply Company of Salt Lake City, Utah filed an amendment to their pending application for a right-of-way to construct three additional 4½ inch pipelines as a part of their Whiskey Buttes Gathering System for the purpose of transporting natural gas across the following described public lands:

Sixth Principal Meridian, Wyoming

T. 21 N., R. 112 W.,
Secs. 14, 16, 22 and 24.

The proposed additional pipelines will transport natural gas from the Whiskey Buttes Well Nos. 12, 20 and 23 to points of connection with an existing pipeline all located within T. 21 N., R. 112 W., Lincoln County, Wyoming.

The purpose of this notice is to inform the public that the Bureau will be proceeding with consideration of whether the application should be approved, and if so, under what terms and conditions.

Interested persons desiring to express their views should do so promptly. Persons submitting comments should include their name and address and send them to the District Manager, Bureau of Land Management, P.O. Box 1869, Highway 187 N., Rock Springs, Wyoming 82901.

Harold G. Stinchcomb,
Chief, Branch of Lands and Minerals Operations.

[Wyoming 66848]
FR Doc. 79-14605 Filed 5-9-79; 8:45 am]
BILLING CODE 4310-84-M

National Park Service

Redwood National Park, Associate Superintendent, Administrative Officer, Contract Specialist, Puchasing Agent; Delegation of Authority Regarding Execution of Contracts for Supplies, Equipment, or Services

Section 1. *Associate Superintendent.* The Associate Superintendent may execute and approve contracts not in excess of $50,000.00 for supplies, equipment, or services, in conformity with applicable regulations and statutory authority, and subject to availability of appropriated funds.

Section 2. *Administrative Officer.* The Administrative Officer may execute and approve contracts not in excess of $50,000.00 for supplies, equipment, or services, in conformity with applicable regulations and statutory authority, and subject to availability of appropriated funds.

Section 3. *Contract Specialist.* The Contract Specialist may execute and approve contracts not in excess of $25,000.00 for supplies, equipment, or services, in conformity with applicable regulations and statutory authority, and subject to availability of appropriated funds.

Section 4. *Purchasing Agent.* The Purchasing Agent may execute and approve contracts not in excess of $10,000.00 for supplies, equipment, or services, in conformity with applicable regulations and statutory authority, and subject to availability of appropriated funds.

Section 5. *Revocations.* This order supersedes Order No. 4, as published in Vol. 43 FR 24, dated February 3, 1978.

(National Park Service Order No. 77 (33 FR 7478) dated March 22, 1973, as amended; Order No. 7 (37 FR 6326) dated March 28, 1972, as amended)

Dated: March 19, 1979.

Robert D. Barbee,
Superintendent, Redwood National Park.

Dated: May 1, 1979.

John Davis,
Acting Regional Director, Western Region.

[Order No. 5]
[FR Doc. 79-14617 Filed 5-9-79; 8:45 am]
BILLING CODE 4310-70-M

INTERNATIONAL TRADE COMMISSION

Certain Plastic-Molding Apparatus and Components Thereof; Investigation

Notice is hereby given that a complaint was filed with the U.S. International Trade Commission on April 5, 1979, and amended on April 20, 979, under section 337 of the Tariff Act of 1930, as amended (19 U.S.C. 1337), on behalf of the I. P. Container Corporation, 864 East 25th Street, Paterson, New Jersey 07513, alleging that unfair methods of competition and unfair acts exist in the importation into the United States of apparatus which produce plastic receptacles by injection and stretch-blow molding in a single machine, or in their sale, by reason of the alleged coverage of (1) such apparatus by claims 20–23, 26, 29, and 33–35 of U.S. Letters Patent No. 4,065,246, and (2) the method of using such imported apparatus by claims 1–3 and 5–8 of U.S. Letters Patent No. 3,776,991. With regard to claims 1–3 and 5–8 of the latter patent, it is alleged that the importation of such apparatus induces and contributes to the direct infringement of those claims by domestic purchasers of the apparatus.

The complaint, as amended, alleges that the effect or tendency of the unfair methods of competition and unfair acts is to substantially injure an industry, efficiently and economically operated, in the United States, or to prevent the establishment of such an industry. Complainant requests (1) exclusion from entry into the United States, except under bond, of the imports in question during the period of the investigation, (2) permanent exclusion from entry into the United States of the imports in question after a full investigation, and (3) such other relief as is authorized by the statute.

Having considered the complaint, as amended, the Commission, on May 3, 1979, *ordered that*—

(1) Pursuant to subsection (b) of section 337 of the Tariff Act of 1930, as amended (19 U.S.C. 1337), an investigation be instituted to determine whether there is, or there is reason to believe that there is, a violation of subsection (a) of this section in the unlawful importation of certain plastic-molding apparatus and components thereof into the United States, or in their sale, because such apparatus (1) are allegedly covered by claims 20–23, 26, 29, and 33–35 of U.S. Letters Patent No. 4,065,246, and (2) allegedly contribute to and induce infringement of claims 1–3 and 5–8 of U.S. Letters Patent No. 3,776,991 as a result of such importation and sale, the effect or tendency of which is to substantially injure an industry, efficiently and economically operated, in the United States, or to prevent the establishment of such an industry;

(2) For the purpose of this investigation so instituted, the following are hereby named as parties upon which this notice of investigation shall be served:

(a) The complainant is—

I. P. Container Corporation, 864 East 25th Street, Paterson, New Jersey 07513.

(b) The respondents are the following companies alleged to be involved in the unauthorized importation of such apparatus into the United States, or in their sale, and are parties upon which the complaint and the amendment to the complaint are to be served:

Nissei Plastic Industrial Co., Ltd., Sakaki, Nagano-Ken, 389-06, Japan.

Nissei America, Inc., 9836 Alburtis Avenue, Santa Fe Springs, California 90670.

(c) Steven K. Morrison, U.S. International Trade Commission, 701 E Street NW., Washington, D.C. 20436, is hereby named Commission investigative attorney, a party to this investigation; and

(3) For the investigation so instituted, Chief Administrative Law Judge Donald K. Duvall, U.S. International Trade Commission, 701 E Street NW., Washington, D.C. 20436, shall designate the presiding Officer.

Responses must be submitted by the named respondents in accordance with section 210.21 of the Commission's Rules of Practice and Procedure, as amended (19 CFR 210.21). Pursuant to sections 201.16(d) and 210.21(a) of the rules, such responses will be considered by the Commission if received not later than 20 days after the date of service of the amended complaint. Extensions of time for submitting a response will not be granted unless good and sufficient cause therefor is shown.

Failure of a respondent to file a timely response to each allegation in the amended complaint and in this notice may be deemed to constitute a waiver of the right to appear and contest the allegations of the amended complaint and this notice, and may authorize the presiding officer and the Commission, without further notice to the respondent, to find the facts to be as alleged in the amended complaint and this notice and to enter both a recommended determination and a final determination containing such findings.

The complaint, as amended, is available for inspection by interested persons at the Office of the Secretary, U.S. International Trade Commission, 701 E Street NW., Washington, D.C. 20436, and in the Commission's New York City Office, 6 World Trade Center, New York, N.Y. 10048.

By order of the Commission.

Issued: May 4, 1979.

Kenneth R. Mason,
Secretary.

[Investigation No. 337-TA-68]
[FR Doc. 79-14633 Filed 5-9-79; 8:45 am]
BILLING CODE 7020-02-M

DEPARTMENT OF JUSTICE

Consent Judgment in Clean Water Act Enforcement Action

In accordance with Departmental Policy, 28 CFR § 50.7, 38 FR 19029, notice is hereby given that a proposed consent decree in *United States* v. *City of Gillette, Wyoming* has been lodged with the United States District Court for the District of Wyoming. The decree requires that Gillette pay a civil penalty of twenty-five hundred dollars, and install modifications to its wastewater treatment facility. Gillette is also required to operate its existing facility in an efficient manner, and faces up to seventeen thousand five hundred dollars in suspended civil penalties if it fails to carry out the requirements of the decree.

The Department of Justice will receive for a period of thirty (30) days from the date of this notice, written comments relating to the proposed consent decree. Comments should be addressed to the assistant Attorney General, Land and Natural Resources Division, Department of Justice, Washington, D.C. 20530, and should refer to *United States* v. *City of Gillette,* D. J. Ref. 90-5-1-1-1190.

The consent decree may be examined at the office of the United States Attorney, United States Courthouse, Cheyenne, Wyoming, at the United States Environmental Protection Agency, Region VIII, Denver, Colorado 80295, and at Room 2625, Pollution Control Section, Land and Natural Resources Division, Department of Justice, 9th & Pennsylvania Avenue, N.W. Washington, D.C. 20530. A copy of the proposed judgment may be obtained in person or by mail from the Pollution Control Section, Land and Natural Resources Division of the Department of Justice.

Sanford Sagalkin,
Acting Assistant Attorney General, Land and Natural Resources Division.

[FR Doc. 79-14548 Filed 5-9-79; 8:45 am]
BILLING CODE 4410-01-M

Law Enforcement Assistance Administration

Competitive Research Grant Program; Solicitation

The National Institute of Law Enforcement and Criminal Justice announces a competitive research grant program to evaluate a program test of Structured Plea Negotiation.

This proposed experimental study will be a coordinated effort within the National Institute, with the basic program's design, training and management conducted by the Institute's Office of Development, Testing and Dissemination, and the evaluation design and management conducted under the Institute's Office of Program Evaluation.

A copy of the Program Test Design, which will be provided upon request, sets forth the field test to be evaluated as well as activities considered necessary to realize a successful evaluation.

I. Background

The National Institute of Law Enforcement and Criminal Justice, the research arm of the Law Enforcement Assistance Administration, will conduct a field test of the concept of structured plea negotiation. There are three goals to be assessed in the Structured Plea Negotiation Test Design:

- Implementation of a process of plea negotiation that is equitable to all parties concerned.
- Implementation of a procedure that is efficient and benefits the court system as a whole.
- Development of an effective plea negotiation system.

The basis for the field test is a Program Test Design, a document with detailed specification of selected program elements. The goals of each field test effort are to determine the effectiveness of these elements, or program strategies, in multiple settings and to examine their transferability to other jurisdictions.

A number of single, local court systems of general jurisdictions have experimented with the development and implementation of Structured Plea

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Negotiation. In order to assess the feasibility of this concept beyond a single jurisdiction, the National Institute has designed a program test of Structured Plea Negotiation which will involve three courts of general jurisdictions. Both the processes of development and implementation, as well as their outcomes will be evaluated by this grant.

II. Evaluation Objectives of Test

The major objective of this evaluation effort is to assess qualitatively and quantitatively the nature and extent to which the selected sites have adopted the program design and have met the following program objectives:

- To produce plea agreements that are more consistent by making the process more explicit, open, fair, and subject to judicial review.
- To produce agreements that are fair to all parties by providing victims and defendants the opportunity to present their views, needs and knowledge of the case within the plea negotiation process.
- To reduce the average time between initial indictment and final case disposition.
- To reduce delays and minimize disruption of court scheduling caused by plea bargaining.
- To structure the plea negotiation process so that it becomes a standardized component of the judicial process.
- To increase victim perception of legitimacy and fairness of plea negotiations by involving victims in the process.
- To increase defendant perception of legitmacy and fairness of plea negotiations by involving defendants in the process.

These seven objectives address both the outcomes and processes of the project. The evaluator will be expected to work closely with project staff in order to collect the qualitative and quantitative data needed to address these objectives. The evaluation period will be 30 months beginning with the start of the project in each site, with a funding level of approximately $325,000.

The solicitation asks for the submission of draft proposals. A formal application will be requested following a peer review process in accordance with the criteria set forth in the solicitation. In order to be considered all papers must be postmarked no later than June 22, 1979. This grant is planned for award in September, 1979 with funding support not to exceed $325,000 for 26 months in duration.

Further information and copies of the solicitation can be obtained by contacting Rosemary Murphy or Frank Vaccarella, Office of Program Evaluation, NILECJ, 633 Indiana Ave., N.W., Washington, D.C. 20531 (301) 492-9085.

Harry M. Bratt,
Acting Director, NILECJ.
[FR Doc. 79-14584 Filed 5-9-79; 8:45 am]
BILLING CODE 4410-18-M

Grant Applications; Solicitation

The National Institute for Juvenile Justice and Delinquency Prevention (NIJJDP), Office of Juvenile Justice and Delinquency Prevention (OJJDP), U.S. Department of Justice is sponsoring an evaluation of the OJJDP/NIJJDP Law-Related Education Program.

Applications will be considered from private or public agencies and organizations or individuals. The maximum funding level for this twelve (12) month effort is $400,000. The deadline for receipt of applications is June 15, 1979. Potential applicants may obtain a copy of the solicitation by writing to: National Institute for Juvenile Justice and Delinquency Prevention, U.S. Department of Justice, 633 Indiana Avenue, N.W., Room 304, Washington, D.C. 20531, attention James C. Howell, or by calling area code (202) 724-5893.

David D. West,
Acting Associate Administrator, Office of Juvenile Justice and Delinquency Prevention.
[FR Doc. 79-14585 Filed 5-9-79; 8:45 am]
BILLING CODE 4410-18-M

LEGAL SERVICES CORPORATION

Advisory Presidential Search Committee Meeting

TIME AND DATE: 8:00 a.m., Wednesday, May 16, 1979; 9:00 a.m., Thursday, May 17, 1979.

PLACE: Arlington Hyatt House, 1325 Wilson Boulevard, Rosslyn, Va.

STATUS: Closed Meeting (As authorized by 5 U.S.C. 552b(c)(2), the meeting will relate solely to interviews with and discussion of candidates for appointment of President.)

MATTERS TO BE CONSIDERED: Interviews with and discussion of candidates for appointment as President.

CONTACT PERSON FOR MORE INFORMATION: Dellanor Young, Office of the President, telephone (202) 376-5100.

Issued: May 7, 1979.

Alice Daniel,
Acting President.
[FR Doc. 79-14645 Filed 5-9-79; 8:45 am]
BILLING CODE 6820-35-M

NUCLEAR REGULATORY COMMISSION

C. F. Braun & Co.; Standard Safety Analysis Report for Braun Sar Turbine Island Standard Design and its Relationship to the Gessar-238 Nuclear Island Standard Design; Issuance of Amendment to Preliminary Design Approval

Notice is hereby given that the staff of the Nuclear Regulatory Commission (NRC staff) has issued Amendment No. 2 to Preliminary Design Approval No. PDA-5, dated May 3, 1979, for the reference system design for the tubine island portion of a boiling water reactor nuclear power plant utilizing the General Electric Company GESSAR-238 nuclear island design, and as described in the application by C. F. Braun & Co. (BRAUN SAR). Preliminary Design Approval No. PDA-5 was issued by the staff of the Nuclear Regulatory Commission on May 7, 1976.

Amendment No. 2 to PDA-5 extends its expiration date from May 7, 1979 to May 7, 1981. This change was made as a result of the Nuclear Regulatory Commission's August 1978 policy statement on standardization of nuclear power plants which provided for an extension to five years of the effective terms for preliminary designs approvals for reference system designs which previously were set to terminate three years after issuance.

The Nuclear Regulatory Commission's August 1978 policy statement identified certain matters that PDA holders would be required to address prior to the granting of PDA extensions. These matters were identified in an NRC staff letter to the C. F. Braun & Co., R. Boyd to H. Baird, dated January 24, 1979. By letter dated March 9, 1979, C. Boice to the Director of Nuclear Reactor Regulation, C. F. Braun & Co. submitted Amendment 9 to the BRAUN SAR Turbine Island application, which addressed each of these matters. The NRC staff has reviewed Amendment 9 for competeness and has concluded that C. F. Braun & Co. has addressed each of these matters. The NRC staff considers this to be an acceptable basis for extending PDA-5 for two additional years. If the NRC staff is informed by a utility-applicant that it intends to reference the BRAUN SAR Turbine Island design after May 7, 1979, it will then perform a detailed review of Amendment 9 to assure that each of the identified matters has been acceptably resolved for the BRAUN SAR Turbine Island design. At that time, the staff will also confirm the results of an assessment by C. F. Braun & Co., of the resolution of items 14a, 14b, 14e, 14f and 15 of the post-PDA items of the GESSAR-238 Nuclear Island design, as identified in Table 1-3 in the GESSAR-238 Safety Evaluation Report (NUREG-75/110), including a description and evaluation of any changes C. F. Braun & Co. concludes are needed for the BRAUN SAR Turbine Island design.

The NRC staff has implemented this procedure for extending PDA's, in consideration of the high degree of confidence it places in reference system designs for which PDA's have been issued. This procedure permits the datailed review of the identified matters to be deferred on these designs until a utility-applicant requirement for that review is identified.

Amendment No. 2 to PDA-5 is effective as of its date of issuance and shall expire on May 7, 1981, unless earlier superseded by issuance of a final design approval for the BRAUN SAR Turbine Island design, or unless extended by the NRC staff. The expiration of PDA-5, as amended, should not affect use of the BRAUN SAR Turbine Island design for reference in any construction permit application docketed prior to such date.

A copy of Amendment No. 2 to PDA-5 dated May 3, 1979 is available for public inspection at the Nuclear Regulatory Commission's Public Document Room at 1717 H Street, N.W., Washington, D.C. 20555.

Dated at Bethesda, Maryland this 3rd day of May 1979.

For the Nuclear Regulatory Commission.

C. J. Heltemes, Jr.,
Chief, Standardization Branch, Division of Project Management, Office of Nuclear Reactor Regulation.
[Docket No. Stn 50-532]
[FR Doc. 79-14569 Filed 5-9-79; 8:45 am]
BILLING CODE 7590-01-M

Northern States Power Co.; Issuance of Amendments to Facility Operating Licenses

The U.S. Nuclear Regulatory Commission (the Commission) has issued Amendment Nos. 36 and 30 to Facility Operating License Nos. DPR-42 and DPR-60, issued to the Northern States Power Company (the licensee), which revised Technical Specifications for operation of Unit Nos. 1 and 2 of the Prairie Island Nuclear Generating Plant (the facilities) located in Goodhue County, Minnesota. The amendments are effective as of their date of issuance.

The amendments revise the Technical Specifications to require actuation of safety injection based on 2 out of 3 channels of low pressurizer pressure.

The application for amendments complies with the standards and requirements of the Atomic Energy Act of 1954, as amended (the Act), and the Commission's rules and regulations. The Commission has made appropriate findings as required by the Act and the Commission's rules and regulations in 10 CFR Chapter I, which are set forth in the license amendments. Prior public notice of these amendments was not required since the amendments do not involve a significant hazards consideration.

The Commission has determined that the issuance of these amendments will not result in any significant environmental impact and that pursuant to 10 CFR § 51.5(d)(4), an environmental impact statement or negative declaration and environmental impact appraisal need not be prepared in connection with issuance of these amendments.

For further details with respect to this action, see (1) the application for amendments dated April 26, 1979, (2) Amendment Nos. 36 and 30 to License Nos. DPR-42 and DPR-60, respectively, and (3) the Commission's related Safety Evaluation. All of these items are available for public inspection at the Commission's Public Document Room, 1717 H Street, NW., Washington, D.C., and at the Environmental Conservation Library of the Minneapolis Public Library, 300 Nicollet Mall, Minneapolis, Minnesota 55401. A single copy of items (2) and (3) may be obtained upon request addressed to the U.S. Nuclear Regulatory Commission, Washington, D.C. 20555, Attention: Director, Division of Operating Reactors.

Dated at Bethesda, Maryland, this 1st day of May.

For the Nuclear Regulatory Commission.

A. Schwencer,
Chief, Operating Reactors Branch No. 1, Division of Operating Reactors.
[Docket Nos. 50-282 and 50-306]
[FR Doc. 79-14570 Filed 5-9-79; 8:45 am]
BILLING CODE 7590-01-M

Nuclear Regulatory Commission Issuances; Availability of Semiannual Hardbound Volume

The Nuclear Regulatory Commission has issued Volume 6, Pages 525-1333, of the Nuclear Regulatory Commission Issuances, covering the period October 1, 1977, to December 31, 1977. This publication is a semiannual compilation of adjudicatory decisions and other issuances of the Commission, the Atomic Safety and Licensing Appeal Boards, the Atomic Safety and Licensing Boards, and the Administrative Law Judge.

A copy of Volume 6, Pages 525-1333, is available for inspection at the Commission's Public Document Room, 1717 H Street, N.W., Washington, D.C. The publication, designated Nuclear Regulatory Commission Issuances, Volume 6, Pages 525-1333, Opinions and Decisions, October 1, 1977 to December 31, 1977, may also be purchased at a cost of $11.00 from the Superintendent of Documents, U.S. Government Printing Office, Washington, D.C. 20402. The GPO stock number is 052010-00502-2.

Dated at Bethesda, Maryland this 3d day of May 1979.

For the Nuclear Regulatory Commission.

Joseph M. Felton,
Director, Division of Rules and Records, Office of Administration.
[FR Doc. 79-14575 Filed 5-9-79; 8:45 am]
BILLING CODE 7590-01-M

Philadelphia Electric Co., et al.; Issuance of Amendment to Facility Operating Licenses

The United States Nuclear Regulatory Commission (the Commission) has, pursuant to the Decision of the Atomic Safety and Licensing Appeal Board (ALAB-532) dated March 23, 1979, issued Amendments Nos. 52 and 52 to Facility Operating Licenses Nos. DPR-44 and DPR-56 issued to Philadelphia Electric Company, Public Service Electric and Gas Company, Delmarva Power and Light Company and Atlantic City Electric Company, for the Peach Bottom Atomic Power Station Units Nos. 2 and 3, located in York County, Pennsylvania. The amendment is effective as of its date of issuance.

The amendments substitute, for current operating license conditions pertaining to thermal discharge, two new conditions that (1) state that the revised NPDES permit governs thermal discharge matters to the extent it deals with them, and (2) establish a reporting, analysis and filing procedure for the licensees to follow in the event of modification of effluent limitations or of the NPDES permit.

For further details with respect to this action, see (1) the Stipulation Among Certain Parties and Participants filed with the Atomic Safety and Licensing Appeal Board dated September 5, 1978, (2) the Decision of the Atomic Safety and Licensing Appeal Board (ALAB-532) dated March 23, 1979, and (3) Amendments Nos. 52 and 52 to License Nos. DPR-44 and DPR-56. All of these items are available for public inspection at the Commission's Public Document Room, 1717 H Street, N.W., Washington, D.C. and at the Government Publications Section, State Library of

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Pennsylvania, Education Building, Commonwealth and Walnut Streets, Harrisburg, Pennsylvania. A copy of items (2) and (3) may be obtained upon request addressed to the U.S. Nuclear Regulatory Commission, Washington, D.C. 20555, Attention: Director, Division of Operating Reactors.

Dated at Bethesda, Maryland, this 3rd day of May 1979.

For the Nuclear Regulatory Commission.

Thomas A. Ippolito,

Chief, Operating Reactors Branch No. 3, Division of Operating Reactors.

[Docket Nos. 50-277 and 50-278]

[FR Doc. 79-14571 Filed 5-9-79; 8:45 am]

BILLING CODE 7590-01

Texas A&M University; Renewal of Facility Operating License and Negative Declaration

The U.S. Nuclear Regulatory Commission (the Commission) has issued Amendment No. 12 to Facility Operating License No. R-23, issued to the Texas A&M University (the licensee), which renews the license for operation of the AGN-201M nuclear research reactor (the facility) located in College Station, Texas. The facility is a research reactor that has been operating since August 26, 1957, and is currently licensed to operate at 5.0 watts (thermal). The amendment is effective as of its date of issuance.

The amendment extends the duration of Facility License No. R-23 until August 26, 1997.

The application for the amendment complies with the standards and requirements of the Atomic Energy Act of 1954, as amended (the Act), and the Commission's rules and regulations. The Commission has made appropriate findings as required by the Act and the Commission's rules and regulations in 10 CFR Chapter I, which are set forth in the license amendment. Notice of the proposed issuance of this action was published in the **Federal Register** on September 8, 1977 (42 FR 45046). No request for a hearing or petition for leave to intervene was filed following notice of the proposed action.

The Commission has prepared an environmental impact appraisal for the renewal of the Facility Operating License and has concluded that an environmental impact statement for this particular action is not warranted because there will be no significant environmental impact attributable to the action.

For further details with respect to this action, see (1) the application for amendment dated May 31, 1977, as supplemented September 29, December 11, December 18, 1978, and March 23, 1979, (2) Amendment No. 12 to License No. R-23 and (3) the Commission's related Safety Evaluation and Environmental Impact Appraisal. All of these items are available for public inspection at the Commission's Public Document Room, 1717 H Street, N.W., Washington, D.C.

A copy of items (2) and (3) may be obtained upon request addressed to the U.S. Nuclear Regulatory Commission, Washington, D.C. 20555, Attention: Director, Division of Operating Reactors.

Dated at Bethesda, Maryland, this 25th day of April 1979.

For the Nuclear Regulatory Commission.

Robert W. Reid,

Chief, Operating Reactors Branch No. 4, Division of Operating Reactors.

[Docket No. 50-59]

[FR Doc. 79-14572 Filed 5-9-79; 8:45 am]

BILLING CODE 7590-01-M

The Toledo Edison Co. and the Cleveland Electric Illuminating Co.; Issuance of Amendment to Facility Operating License

The U.S. Nuclear Regulatory Commission (the Commission) has issued Amendment No. 14 to Facility Operating License No. NPF-3, issued to The Toledo Edison Company and The Cleveland Electric Illuminating Company (the licensees), which revised the license for operation of the Davis-Besse Nuclear Power Station, Unit No. 1 (the facility), located in Ottawa County, Ohio. The amendment is effective as of its date of issuance.

The amendment modifies the license to include the current Commission-approved physical security plan.

The licensees' filings comply with the standards and requirements of the Atomic Energy Act of 1954, as amended (the Act), and the Commission's rules and regulations. The Commission has made appropriate findings as required by the Act and the Commission's rules and regulations in 10 CFR Chapter I, which are set forth in the license amendment. Prior public notice of this amendment was not required since the amendment does not involve a significant hazards consideration.

The Commission has determined that the issuance of this amendment will not result in any significant environmental impact and that pursuant to 10 CFR § 51.5(d)(4) an environmental impact statement or negative declaration and environmental impact appraisal need not be prepared in connection with issuance of this amendment.

The licensees' filing dated June 5, 1978, revised September 20, 1978, November 10, 1978, December 26, 1978, January 12, 1979, February 22, 1979 and March 10, 1979, and the Commission's Security Plan Evaluation Report are being withheld from public disclosure pursuant to 10 CFR 2.790(d). The withheld information is subject to disclosure in accordance with the provisions of 10 CFR § 9.12.

For further details with respect to this action, see (1) Amendment No. 14 to License No. NPF-3 and (2) the Commission's related letter to the licensee dated April 13, 1979. These items are available for public inspection at the Commission's Public Document Room, 1717 H. Street, N.W., Washington, D.C. and at the Ida Rupp Public Library, 310 Madison Street, Port Clinton, Ohio. A copy of items (1) and (2) may be obtained upon request addressed to the U.S. Nuclear Regulatory Commission, Washington, D.C. 20555, Attention: Director, Division of Operating Reactors.

Dated at Bethesda, Maryland, April 13, 1979.

For the Nuclear Regulatory Commission.

Robert W. Reid,

Chief, Operating Reactors Branch No. 4, Division of Operating Reactors.

[Docket No. 50-346]

[FR Doc. 79-14573 Filed 5-9-79; 8:45 am]

BILLING CODE 7590-01-M

Virginia Electric & Power Co. (VEPCO) (North Anna Power Station Units 1 and 2), Proposed Amendment to Operating License NPF-4; Hearing

In the Matter of Virginia Electric and Power Company (VEPCO), (North Anna Power Station Units 1 and 2).

This Notice of Hearing follows up the Order Granting Intervention, Providing for a Hearing and Designating Contentions of Intervenors, issued April 23, 1979.

Pursuant to the Atomic Energy Act of 1954, as amended, the regulations in Title 10, Code of Federal Regulations, Part 50, "Licensing of Production and Utilization Facilities," Part 51, "Licensing and Regulatory Policy and Procedures for Environmental Protection," and Part 2, "Rules of Practice," notice is hereby given that a hearing will be held before an Atomic Safety and Licensing Board (Board) to consider the application of Virginia Electric and Power Company (VEPCO), licensee, for an amendment to Facility Operating License No. NPF-4, which currently authorizes licensee to possess, use and operate the North Anna Nuclear Power Station, Unit No. 1 and Unit No. 2, located in Louisa County, Virginia. The proposed amendment would revise the provisions in the technical specifications to permit increase in fuel storage capacity from 400 to 966 fuel assemblies in the spent fuel pool of the North Anna Nuclear Power Station, Unit No. 1 and Unit No. 2.

The hearing shall be held immediately following the conclusion of a prehearing conference among the parties, the conference itself to being 9:30 in the morning, Tuesday, June 26, 1979. The hearing will continue through the rest of the work week and into the following work week, if necessary. The place of the hearing and of the prehearing conference is the Council Chambers, City Hall (2nd floor), 7th and Main Streets, Charlottesville, Virginia. The hearing and prehearing conference will be conducted by an Atomic Safety and Licensing Board which has been designated by the Chairman of the Atomic Safety and Licensing Board Panel. The Board consists of Dr. Quentin J. Stober, Mr. Ernest E. Hill, and Valentine B. Deale, Esquire, Chairman.

In the context of the merits of the proposed amendment to VEPCO's Facility Operating License No. NPF-4, the contentions at the hearing are as provided for in the referenced Order of April 23, 1979. These contentions are expected to be supported at the hearing by the intervening parties as provided in said Order, and the burden of disproving the contentions is upon VEPCO.

Any person who wishes to make an oral or written statement in this proceeding but who has not filed a petition for leave to intervene as heretofore provided for in the notice published by the Commission on May 22, 1978 in the Federal Register, 43 F.R. 21957, entitled "Proposed Issuance of Amendment to Facility Operating License," may request permission to make a limited appearance pursuant to the provisions of 10 CFR § 2.715 of the Commission's Rules of Practice. Limited appearances will be permitted in this proceeding at the discretion of the Board, within such limits and on such conditions as may be determined by the Board. Persons desiring to make a limited appearance are directed to inform the Secretary of the Commission, United States Nuclear Regulatory Commission, Washington, D.C. 20555, on or before June 11, 1979.

A person permitted to make a limited appearance does not become a party to this proceeding, but may state his or her position and raise questions which he or she would like to have answered to the extent that the questions are within the scope of the hearing as specified above. Limited appearances in this proceeding will be allowed during the above scheduled prehearing conference. Each person making a limited appearance will be limited to ten (10) minutes unless the Board has occasion to rule otherwise at the prehearing conference.

An answer to this notice, pursuant to the provisions of 10 CFR § 2.705 of the Commission's Rules of Practice, must be filed by the parties to this proceeding (other than the Regulatory Staff) on or before May 21, 1979. The requirements for filing documents in this proceeding are set out at 10 CFR § 2.708.

Should the parties find that the schedule of the evidentiary hearing herein be too tight for purposes of allowing adequate time for discovery and preparation for this hearing or for purposes of preparing and filing a motion for summary disposition, the Board is amenable to a motion to reschedule the hearing at a later date for good cause shown. Such a motion should be timely, taking into account what is being requested, and such a motion should be well-supported with a detailed description of the pertinent factual circumstances.

For further details concerning the proposed amendment to VEPCO's Facility Operating License No. NPF-4, see the application for amendment, dated May 1, 1978, which is available for public inspection at the Commission's Public Document Room, 1717 H Street, N.W., Washington, D.C. 20555, and at the Board of Supervisors' Office, Louisa County Courthouse, P.O. Box 27, Louisa, Virginia 23093, and the Alderman Library, Manuscripts Department, University of Virginia, Charlottesville, Virginia 22901.

Done May 4, 1979 at Washington, D.C.

Atomic Safety and Licensing Board.

Valentine B. Deale,

Chairman.

[Docket Nos. 50-338SP; 50-339SP]

[FR Doc. 79-14574 Filed 5-9-79; 8:45 am]

BILLING CODE 7590-01-M

NATIONAL TRANSPORTATION SAFETY BOARD

Safety Recommendations and Responses; Availability

Safety Recommendation Letters

Aviation

A-79-11.—While investigating the crash of an Antilles Air Boats, Inc., Grumman G-21A last September 2 near St. Thomas, V.I., the National Transportation Safety Board found that several aircraft logbook pages, which included entries for the day of the accident and for previous days, were missing from the maintenance logbook. Later, the Board determined that the aircraft had been flown more than 20 flight hours beyond a scheduled inspection and that some logbook pages had been falsified and had been presented as actual pages to the Federal Aviation Administration inspectors.

The Safety Board could not determine precisely how many of these logbook sheets were missing. Although there is now no requirement in the FAA regulations that aircraft maintenance logbook pages be consecutively numbered, many air carrier operators, air taxi operators, and commercial operators voluntarily number their aircraft logbook pages consecutively—a practice which the Board believes could assist operators in complying with certain recordkeeping requirements and could enhance FAA's surveillance efforts as well as the Safety Board's accident investigation and prevention efforts. Accordingly, on May 5 the Board recommended that FAA:

Require that all aircraft maintenance logbook sheets be numbered consecutively. (A-79-11)

A-79-12 through 15.—The Safety Board's investigation of the February 19, 1978, Columbia Pacific Airlines Beechcraft model B-99 accident at Richland (Wash.) Airport disclosed problems that could adversely affect the timely egress of passengers and could reduce the effectiveness of crash/fire/rescue personnel.

Although the Safety Board classfied this accident as nonsurvivable because the crash forces exceeded the tolerable limits of the human body, the outcome could well have been equally fatal had impact forces been survivable. The Board found predictable evacuation and rescue problems in the aircraft: a safety chain on the airstair door, no external markings or operating instructions for emergency exist, and the lack of training of crash/fire/rescue personnel.

In view of these findings, the Safety Board on May 1 recommended that FAA:

Issue an Airworthiness Directive to require compliance with Beechcraft Service Instruction Notice No. 0956. (A-79-12)

Evaluate the safety of removing door safety chains from other aircraft so equipped and used in passenger revenue operations with a view toward simplified exist of passengers and entry by crash/fire/rescue personnel. (A-79-13)

Amend 14 CFR 135.169 by incorporating the general provisions of 14 CFR 121.310(g) (1), (2), and (3) with regard to exit conspicuity and operability on air taxi aircraft with a capacity of 10 or more passengers. (A-79-14)

Amend 14 CFR 135 Appendix A (paragraph 32) by incorporating the general provisions of

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14 CFR 25.811(f) (1), (2), (3) with regard to exit conspicuity and operability. (A–79–15)

A–79–16 through 20.—On March 1, 1978, a Continental Airlines DC–10 overran the departure end of a runway at Los Angeles International Airport and caught fire following a rejected takeoff. Flames, radiant heat, and a girt fabric overload failure eventually resulted in total failure of all passenger evacuation systems. Thus, to escape from the burning aircraft, about 40 of the 200 occupants were forced to jump to the ground while another 15 persons used the escape rope at the first officer's sliding window. Two passengers died and 31 persons were seriously injured during the evacuation.

Because of the seriousness of these failures, the Safety Board asked FAA's National Aviation Facilities Experimental Center to examine the effects of fire and thermal radiation on evacuation slide fabrics and to determine the effectiveness of reflective and ablative coatings on slide materials. Later, FAA's Flight Standards Service requested the Systems Research and Development Service to conduct a more detailed research project on the thermal vulnerability of currently used evacuation slides and identify new and compatible slide fabrics. The Safety Board is encouraged by FAA's initiative in this area, and urges immediate funding of this project so that early regulatory changes can be made.

Further, investigation of the failure of girt fabric on one of the slide/raft units in this accident revealed that a reduced slide/raft angle, caused by the failure of the left main landing gear, resulted in an unusual and asymmetric distribution of passengers on the slide/raft which overloaded the girt fabric. The Safety Board believes that the absence of adequate critical angle test guidance in a Technical Standard Order and the adoption of arbitrary strength requirements contributed to the girt failure of the slide/raft unit.

As a result of its investigation, the Safety Board on May 1 recommended that FAA—

Fund and give highest priority to an evacuation slide fabric test project with a view toward developing and certificating fire-resistant materials for these devices. (A–79–16)

Issue an Airworthiness Directive requiring the strengthening of the girt fabric of the PICO 28-foot slide/raft to insure its reliabilty when the unit is deployed at its most critical angle. (A–79–17)

Amend Technical Standard Order C69 to address requirements for dual-lane evacuation slides and to require critical angle performance testing for these devices. (A–79–18)

Issue a Technical Standard Order for slide/raft devices. (A–79–19)

Amend 14 CFR 25.809 to require a secondary means of escape at all floor-level cabin exits currently requiring emergency escape slides. These secondary escape means could be ropes or other means demonstrated to be suitable for evacuation purposes.

A–79–27 through 30.—The Safety Board has investigated the crash on May 8, 1978 of National Airlines Flight 193, a Boeing 727–235, in Escambia Bay during its approach to the Pensacola (Fla.) Reginal Airport. There were 52 passengers and a crew of 6 aboard. 3 passengers were drowned, and 9 passengers and 2 crewmembers were seriously injured. As the aircraft descended through 500 feet altitude, its rate of descent had increased to about 2,000 feet per minute; the aircraft was also not configured for landing—the flaps were set at 25°. At this point, the ground proximity warning system (GPWS) activated and continued for five cycles, or about 9 seconds.

The captain and first officer tried to determine the cause of the GPWS warning. The cockpit voice recorder tape indicated that the first officer said, "Descent rate's keepin' it up." The captain reportedly acknowledged this and shallowed the aircraft's descent. The flight engineer, who claimed to have had difficulty hearing the cockpit conversation because of the volume of the GPWS aural alert, believed that the captain had commanded him to turn off the GPWS. As a result, he inhibited the system without the captain's knowledge. The silencing of the GPWS erroneously convinced the captain that he had solved the problem; however, the aircraft continued to descend into the water.

The GPWS in this aircraft incorporated warning lights mounted on both instrument panels and a loudspeaker mounted in the ceiling of the cockpit. A guarded and safety-wired inhibit switch was located on the flight engineer's panel. The GPWS will activate automatically if the aircraft's flightpath penetrates one or more complex, multiparameter flight envelopes. The aural and visual warning will cease only when the aircraft's flightpath is corrected satisfactorily or when the aircraft is configured properly depending on the warning conditions. However, the inhibit switch, when activated, will disable the entire system. The Safety Board believes that, regardless of the safeguards established by the applicable regulations to prevent inadvertent or voluntary deactivation of the system, the function of the inhibit switch should not cause an apparent but false problem-solving situation as it did in this accident.

In view of its findings, the Safety Board on May 1 recommended that FAA:

Amend 14 CFR 37.201 to: (1) require that ground proximity warning systems identify with aural messages the cause of the warning being given; and (2) restrict the function of the deactivation switch (if utilized on such systems) to suppress only the aural alert, but not the warning lights. (A–79–27)

Amend 14 CFR 121.360 to require after an appropriate date that all newly manufactured aircraft be equipped with ground proximity warning systems that conform to the amended Technical Standard Order. (A–79–29)

Define sound pressure levels and acoustical characteristics for ground proximity warning systems for each type of aircraft requiring these systems, consistent with ambient cockpit noise levels and with the requirements for emergency verbal communications between crewmembers. (A–79–29)

Issue an Advisory Circular specifying ground proximity warning system sound pressure levels and acoustical characteristics for each type of aircraft requiring these systems. (A–79–30)

All of the above aviation safety recommendations have been designated "Class II—Priority action."

Marine

M–79–52 through 55.—Studies of possible vessel speed limits in restricted or crowded U.S. waters were urged by the Safety Board following investigation of the near-catastrophic collision of U.S. Navy submarine tender L. Y. SPEAR and Liberian tanker ZEPHYROS in the lower Mississippi below New Orleans, La., February 22, 1978.

The L. Y. SPEAR sideswiped the tanker ZEPHYROS while overtaking it on the left just short of a bend in the river. The SPEAR's pilot had changed course to the right toward the tanker while passing it, and the SPEAR had continued to turn until it was too late to avoid a collision with a following left turn. Collision damage was moderate and there were only nine minor injuries, but there were more than 1,100 persons aboard the 22,600-ton SPEAR and the 76,700-ton ZEPHYROS was loaded with 18.3 million gallons of crude oil, which is highly volatile.

The Safety Board, after a joint investigation with the Coast Guard, determined that the civilian pilot of the SPEAR had ordered right rudder during the overtaking maneuver, and that it had been correctly applied. However, he failed to issue additional orders to steady the heading to a proper course until the commanding officer realized the SPEAR was turning too far and

questioned the pilot. The SPEAR was found to have been at flank speed, making good about 19 mph over the river bottom. The speed of the ZEPHYROS had been 11 mph, and this speed had been reduced for the SPEAR's passage.

In view of its findings, the Safety Board believes that this accident demonstrates a need for additional navigation safety efforts on restricted waterways. It may be appropriate to establish maximum speed limits and to restrict overtaking maneuvers under some conditions in certain locations for the safety of navigation. The Board does not suggest that a precisely safe speed can be calculated for all circumstances or that any particular speed is safe or unsafe. However, speed often is a critical component in navigation decisions because speed directly affects the time available for decisionmaking and maneuvering. The Board proposes that analytical techniques should be used in studies of appropriate restricted harbors and waterways in an effort to determine the maximum speeds that can be used to allow navigators enough time to make proper maneuvering decisions and for the maneuvers to be effected with the desired result. Such studies should consider the limitations of human abilities, the information provided to navigators by the aids to navigation system and other sources, and the particular characteristics of the vessels, waterways, and traffic in the locale being studied.

As a result of its analysis of this accident, the Safety Board on May 3 recommended that the U.S. Coast Guard:

Include in its ongoing study of aids to navigation systems an analytical determination of maximum safe speeds which can be accommodated by such systems when equated with the reasonable time required for navigators to perform their functions safely. (M–79–52)

Undertake further research studies in coordination with the Maritime Administration of the U.S. Department of Commerce to determine analytically if speed limits and other controls are necessary in additional restricted or congested waterways and circumstances, and prescribe appropriate measures indicated by such studies. (M–79–53)

The above recommendations are designated "Class III—Longer Term Action." Also on May 3 the Safety Board by separate letters recommended that—

U.S. Navy: Review and revise as necessary appropriate U.S. Navy directives and doctrine applicable to navigation on restricted waterways to ensure that Commanding Officers of vessels are provided adequate information and guidance regarding safe speeds and command relationships with commercial pilots. (M–79–54)

Crescent River Port Pilots Association: Reassess the practices of the Association and of member pilots to establish or reaffirm a policy that emphasizes the necessity for pilots to exercise extreme care and extraordinary caution, including the use of conservative moderate speeds, to preclude accidents involving vessels laden with crude oil or other hazardous bulk cargoes. (M–79–55)

The above two recommendations are designated "Class II—Priority Action." The formal report on the investigation is now being prepared for distribution and copies will be available in the near future.

Responses to Safety Recommendations

Aviation

A–79–1 and 2.—Letter of April 27 from the Federal Aviation Administration is in response to recommendations issued by the Safety Board on February 2 following investigation of the crash of a Hughes Model 269A helicopter near Vancouver, Wash., May 25, 1978. The recommendations asked that FAA issue a General Aviation Airworthiness Alert to all aircraft owners, operators, manufacturers, and maintenance personnel apprising them of the circumstances of this accident and the approved flight manual operating procedures for checking fuel boost pump pressures (A–79–1), and advise overhaul facilities and manufacturers that permanent identification of parts is required by 14 CFR 45.15 A—79–2). (See 44 FR 8044, February 8, 1979.)

FAA reports in response to A–79–1 that information concerning the Weldon pump will be included as an alert item in the next issue of Advisory Circular (AC) 43–16, "General Aviation Airworthiness Alerts."

With respect to A–79–2, FAA does not believe that the recommended action is appropriate in this instance. FAA notes that 14 CFR 45.15 applies to parts producer under a Parts Manufacturer Approval (PMA). Weldon Tool Company, manufacturer of the pump, is not a PMA holder but is a supplier to Hughes Helicopters, which holds an FAA Production Certificate (PC) under 14 CFR Part 21. FAA states that parts produced by, or supplied to, a PC holder are marked in accord with FAA-approved quality control procedures and/or as specified in the PC holder's design data. The marking in this instance (Part No. A–8110) by use of a vinyl type name plate and anodized coding is considered satisfactory.

Further, FAA states, the installer must ensure that replacement parts are of an FAA-approved origin and approved for the particular application. If such determination cannot be made, as where identification is defaced or removed, the part should not be installed. This is addressed in AC 20–62C, "Eligibility, Quality, and Identification of Approved Aeronautical Replacement Parts" (copy attached to FAA's letter). FAA has recommended to Hughes Helicopters and they have agreed to publish a procedure for positive identification of replacement fuel pumps in the Hughes Model 269A Maintenance Manual. FAA now has a regulatory project in process which will require uniform marking of aircraft parts. This project is scheduled for completion in 1981.

A–79–25 and 26.—FAA's letter of May 3 responds to the urgent recommendation issued by the Safety Board on April 19, 1979, the day after a Sikorsky S61L helicopter crashed on takeoff from Neward International Airport. The recommendation called on FAA to withdraw the airworthiness certificates of Sikorsky S61 helicopters until a means of detecting potential tail rotor blade failures can be devised and implementd (A–79–25) and to notify foreign operators of Sikorsky S61 aircraft of this action. (See 44 FR 24657, April 26, 1979.)

In response to A–79–25, FAA reports issuing a telegraphic Airworthiness Directive on April 20, requiring a dye penetrant inspection of the inboard 32-inch section of the tail rotor blades prior to further flight and daily not to exceed 6 hours time in service. It also requires visual and ultrasonic inspections for those blades with more than 1,200 hours in service and a one-time dye penetrant inspection of the tail rotor gear box mounting feet.

FAA notes in response to A–79–26 that all Airworthiness Directives are distributed to the Civil Aviation Authorty in each country which has notified FAA of its registration of a particular type of aircraft. This is in accordance with the ICAO Annex 8, paragraph 4, "Continuing Airworthiness of Aircraft." Also, distribution is made to countries with which the United States has specific bilateral agreements. Copies of the Airworthiness Directive, Manufacturer's Service Bulletins, and ICAO procedures are attached to FAA's response.

Highway

H–78–63.—On April 19 the Federal Highway Administration responded to the Safety Board's comments of March 7 concerning FHWA's January 22 initial response to this recommendation, issued following investigation of the June 20,

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1977, tractor-semitrailer/multiple vehicle collision near Atlanta, Ga. (See 44 FR 8045, February 2, 1979.) The recommendation called for increased surveillance of motor carrier operations.

Aware of the manpower and resource constraints under which the Bureau of Motor Carrier Safety (BMCS) is now operating, the Safety Board offered support in FHWA's request to be exempted from the partial hiring freeze so as to be able to fill the 26 positions authorized by the U.S. Congress.

The Board noted that during 1978 it investigated eight major accidents involving heavy commercial trucks operating in interstate commerce. As a result of these investigaitons, the Board developed and issued 50 safety recommendations, 18 of which dealt with specifically with the education, licensing, and control of the heavy-highway-vehicle driver. The recommendations were directed to FHWA, the National Highway Traffic Safety Administration, the 50 States, individual State motor vehicle and driver licensing agencies, and the American Trucking Associations.

The Board said it will keep H-68-63 open through 1979 to observe the proposed increase in carrier equipment and records inspections and to assure continuance of the upward trend in roadside inspections. The Board is also interested in the disposition of the Federal Motor Carrier Safety Regulation (FMCSR) violations discovered during August-October 1978. The Board asked how many of the 827 violations were cited and prosecuted, how many of the drivers were aware of the FMCSR, and what is the recidivism rate.

FHWA reports that it is presently filling 22 of the 26 positions authorized by the Congress. Of the 827 violations noted in FHWA's January 22 letter, 653 were violations of hours of service and 174 were attributed to violations of driver qualification requirements. FHWA says that when drivers are cited for a violation of FMCSR, such as hours of service, they are placed out of service and are kept out of service until their hours are in compliance. No further action is taken. A large percentage of the 653 hours of service violations concerned improper logs. To keep drivers from claiming that they do not have their logs readily available, BMCS has issued a proposed rulemaking which would allow an out of service action for failure to produce the log.

FHWA states that the qualification of driver violations are tabulated against the carrier as it is his responsibility to see that his drivers are qualified and are used to plan carrier investigation and enforcement activities. FHWA reports that BMCS will undertake several multiregional roadside inspections in the next 60 days. It is the experience of BMCS that the majority of drivers stopped at a roadside inspection are aware of the FMCSR. BMCS is not in a position to determine recidivism.

H-79-5 and 6.—Letter of April 20 from the National Highway Traffic Administration is in response to recommendations issued March 6 following investigation of the August 26, 1977, truck/van collision near Scipio, Utah. The recommenations asked NHTSA to accelerate efforts to identify the frictional properties of commercial vehicle tires at all degrees of tire yaw, under loading conditions ranging from 15 to 100 percent of rated load capacity (H-79-5), and to examine the full potential effect of fluctuating and progressively lower pavement frictional quality on vehicle performance (H-79-6). (See 44 FR 15815, March 15, 1979.)

In response, NHTSA transmitted a preprint copy of its study, "Truck Tire Braking and Cornering Traction." This study attempts to answer several specific questions regarding truck tire traction. All loads for testing were at 85 percent of the Tire and Rim Association rated loads. Another report, "Noise and Traction Characteristics of Bias-Ply and Radial Tires for Heavy Duty Trucks," discusses traction characteristics on wet surfaces for 50, 100,, and 150 percent of rated load. NHTSA plans rulemaking to establish minimum traction standards for trucks. In support of this activity they will be performing traction tests on a number of different devices for a limited sample of tires. This type of testing, one tire at one load, for braking and steering costs a minimum of $2,000 per test. NHTSA suggests that they test a particular tire for the properties the Safety Board is interested in.

Marine

M-70-3, M-70-13, and M-71-7.—The U.S. Coast Guard on April 5 provided a response to the Safety Board's letter of December 12 which commented on Coast Guard's letter of last August 4 (43 FR 42828, September 21, 1978).

Recommendation M-70-3 was issued November 10, 1970, following investigation of the collision of the SS AFRICAN STAR and the M/V MIDWEST CITIES on the Mississippi River, March 16, 1966. The recommendation dealt with the possible confusion between the "points and bends" custom, the end on approach passing rule (33 U.S.C. 203 Rule I), and the narrow channel rule (33 US.C. 210 Article 25). The Safety Board asked that Coast Guard, working with the Army Corps of Engineers and the National Oceanic and Atmospheric Administration (formerly the Coast and Geodetic Survey), consider publishing information in the "Coast Pilot" or other appropriate navigation guide, related to the "points and bends" custom on inland waterways. The Board believed it important to discuss the effect of this custom on two regulations, 33 CFR 80.4 and 80.10, which are the regulatory forms of the U.S. Code sections cited in the recommendation. Also the Board asked that other useful navigation information be published and that Coast Guard consider the need to clarify these rules in future legislation for unification of nautical rules in the United States.

The Board on December 12 referred to correspondence from the Coast Guard dated December 1, 1970, stating that the proposed legislation on rules of the road unification should resolve any rule conflicts with the "points and bends" custom. Further correspondence from Coast Guard, dated March 3, 1971, stated that the 1972 IMCO session would require a delay in the submission of the legislation for rules unification. A letter dated September 12, 1974, told the Board that the unified rules might come into effect in 1977. The August 4, 1978, letter informed that draft unified rules for submission to Congress have incorporated the "points and bends" custom and that the unified rules can be put into effect in 3 to 4 years. The Board requested a copy of the draft Unified Rules with the section pertinent to the points and bends issue highlighted.

Ten years have passed since this accident occurred and 8 years since the Safety Board identified the problem of rule confusion in a passing situation and recommended that Coast Guard alleviate that confusion. The Safety Board on December 12 expressed concern that vessels navigating on inland waters need some immediate guidance concerning the interrelationship of the three optional methods of determining manner of passing for vessels meeting on inland waters. Further, the Board will observe with interest the outcome of the light and whistle legislation regarding recommendations M-70-13 and M-71-7, which resulted from investigation of the April 6, 1969, collision of the SS UNION FAITH and the M/V WARREN J. DOUCET on the Mississippi River.

In its April 5 response, Coast Guard states that the vessel Bridge-to-Bridge Radio Telephone Act (33 U.S.C. 1201), including a common navigational frequency, has considerably reduced the possibility of similar misunderstandings of passing arrangements. With further reference to M-70-3, Coast Guard provides a copy of the draft Inland Rules for Preventing Collisions. Coast Guard is now reviewing the draft and intends to seek Department of Transportation and Administration clearance for submission to Congress in 1979. Draft rule 9(a)(ii) is applicable to this recommendation. Coast Guard recognizes that a number of delays have occurred in the development of unified navigation rules but is confident that the draft legislation will be enacted without undue delay. With an impending change in the rules, any published discussion of the existing rules could result in additional confusion, Coast Guard states.

With respect to M-70-13, Coast Guard notes that Annex III to the draft Unified Inland Rules is responsive. Annex III provides specifications for whistles, bells, and gongs, and addresses these elements: (1) Frequencies, (2) range of audibility, (3) properties, (4) position, (5) fitting of more than one whistle, (6) combined whistle systems, and (7) whistle characteristics for towing vessels. With respect to M-71-7, Annex I of the draft Unified Rules discusses the positioning and technical details of lights and shapes for vessels operating in inland waters.

M-74-3 and M-74-9.—Coast Guard on April 10 provided a further response to these recommendations, developed in early 1974. Both recommendations concerned publication and availability to towboat operators of guidelines for safe operating procedures for towing operations, including methods of preplanning a voyage, proper use of towing hawsers, and actions to be taken in various emergency situations. Recommendation M-74-3 was issued in connection with the investigation of the Tug CAROLYN and WEEKS BARGE 254 collision with the Chesapeake Bay Bridge/Tunnel on or about September 21, 1972; M-74-9 resulted from investigation of the foundering of the M/V MARYLAND in Albemarle South, N.C., December 18, 1971.

With reference to both recommendations, Coast Guard reports that on January 12, 1979, the American Waterways Operators returned the proposed towing guide to the Coast Guard, stating that they could not assume responsibility for review of the guide. Coast Guard believes that the guide should be developed by the industry, which apparently has reservations about the guide. Without industry backing, Coast Guard says this project will not be carried forward.

Railroad

R-79-3 and 4.—Letter of March 27 from the Louisville & Nashville Railroad Company (L&N) is in response to recommendations resulting from a freight train derailment in Waverly, Tenn., February 24, 1978. Recommendation R-79-3 asked L&N to correct its airbrake special instructions to comply with regulations of the Power Brake Law, 49 CFR Part 232, and recommendation R-79-4 asked L&N to determine that all freight cars are provided with proper brakeshoes before they are dispatched in trains. (See 44 FR 12784, March 8, 1979.)

L&N reports that last June 27 its Division Superintendents were instructed to issue a Bulletin Board Order correcting the special instructions pertaining to the Power Brake Law. These orders were promptly issued on all divisions. Also, the booklet containing this information is now being revised and will be issued by July 1, 1979. Further, all Division Master Mechanics have been instructed to see that proper brakeshoes are provided on all freight cars; appropriate action has been taken to see that this is accomplished.

R-79-6 through 9.—A second letter from L&N dated March 27 is in response to recommendations issued in connection with the head-on collision between L&N trains at Florence, Ala., September 18, 1978. These recommendations asked L&N to take immediate steps to insure that its train operations are conducted in accordance with its operating rules (R-79-6); to provide supervisors and employees periodic, supervised training based on a uniform understanding of rules and regulations (R-79-7); and to correct its timetable instructions on handling and placement of hazardous materials cars so that they comply with current Federal regulations (R-79-8). (See 44 FR 15616, March 15, 1979.)

In its response to these recommendations, L&N outlined the various corrective measures that have been taken or are in process of being implemented. L&N reports establishing on February 1, 1979, a Rules and Safety Compliance Department which includes seven staff officers and 15 field safety supervisors; before there were only three staff officers and no field safety supervisors. L&N expects the new department to produce an immediate and continued improvement in employee compliance with its operating rules.

Also, L&N reports that its Rules Superintendents will go annually to the vaious divisions and hold lecture and rules examinations for all transportation officers to assure that they have a thorough and uniform understanding of L&N transportation operating rules. Last October L&N issued stickers updating the instructions in current L&N timetables; these stickers comply with current Federal regulations. Also, laminated charts were distributed to employees, showing approved placards and requirements of 49 CFR 174.9, and 174.10.

Note.—Copies of the Safety Board's recommendation letters, responses, and related correspondence, are available free of charge. All requests for copies must be in writing, identified by recommendation number. Address inquiries to: Public Inquiries Section, National Transportation Safety Board, Washington, D.C. 20594.
(Secs. 304(a)(2) and 307 of the Independent Safety Board Act of 1974 (Pub. L. 93-633, 88 Stat. 2169, 2172 (49 U.S.C. 1903, 1906)))

Margaret L. Fisher,
Federal Register Liaison Officer.
May 7, 1979.

[N-AR-79-19]
[FR Doc. 79-14614 Filed 5/9/79; 8:45 am]
BILLING CODE 4910-58-M

OFFICE OF MANAGEMENT AND BUDGET

Agency Forms Under Review

Background

When executive departments and agencies propose public use forms, reporting, or recordkeeping requirements, the Office of Management and Budget (OMB) reviews and acts on those requirements under the Federal Reports Act (44 USC, Chapter 35). Departments and agencies use a number of techniques including public hearings to consult with the public on significant reporting requirements before seeking OMB approval. OMB in carrying out its responsibility under the Act also considers comments on the forms and recordkeeping requirements that will affect the public.

List of Forms Under Review

Every Monday and Thursday OMB publishes a list of the agency forms received for review since the last list was published. The list has all the entries for one agency together and grouped into new forms, revisions, or extensions. Each entry contains the following information:

The name and telephone number of the agency clearance officer;

The office of the agency issuing this form;

The title of the form;

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The agency form number, if applicable;

How often the form must be filled out;

Who will be required or asked to report;

An estimate of the number of forms that will be filled out;

An estimate of the total number of hours needed to fill out the form; and

The name and telephone number of the person or office responsible for OMB review.

Reporting or recordkeeping requirements that appear to raise no significant issues are approved promptly. In addition, most repetitive reporting requirements or forms that require one half hour or less to complete and a total of 20,000 hours or less annually will be approved ten business days after this notice is published unless specific issues are raised; such forms are identified in the list by an asterisk (*).

Comments and Questions

Copies of the proposed forms and supporting documents may be obtained from the agency clearance officer whose name and telephone number appear under the agency name. Comments and questions about the items on this list should be directed to the OMB reviewer or office listed at the end of each entry.

If you anticipate commenting on a form but find that time to prepare will prevent you from submitting comments promptly, you should advise the reviewer of your intent as early as possible.

The timing and format of this notice have been changed to make the publication of the notice predictable and to give a clearer explanation of this process to the public. If you have comments and suggestions for further improvements to this notice, please send them to Stanley F. Morris, Deputy Associate Director for Regulatory Policy and Reports Management, Office of Management and Budget, 726 Jackson Place, Northwest, Washington, D.C. 20503.

DEPARTMENT OF AGRICULTURE

Agency Clearance Officer—Donald W. Barrowman—447–6202

New Forms

Economics, Statistics, and Cooperatives Service
Young Farm Couples Cooperative Program Survey—Case
Survey
Single time
Young farm couples—GA and PA, 280 responses; 140 hours
Charles A. Ellett, 395–5080

Extensions

Food and Nutrition Service
Special Supplemental Food Program for Women, Infants and Children
FNS–283
Other (see SF–83)
State Health Depts or comparable agencies, local health, 1,600,724 responses; 273,821 hours
Charles A. Ellett, 395–5080.

DEPARTMENT OF AGRICULTURE

Agency Clearance Officer—Donald W. Barrowman—447–6202

Extensions

Food and Nutrition Service
State Outreach and Educational Activities, FSP FNS (FS) 732–6
Other (see SF–83) 41,916 responses; 287,316 hours
David P. Caywood, 395–6140
Food and Nutrition Service * Monthly Report of the School Lunch, Breakfast, and Special Milk Programs; and Worksheet
FNS–806
Monthly
Schools—Child Care Institutions, 30,000 responses; 15,000 hours
Charles A. Ellett, 395–5080

DEPARTMENT OF ENERGY

Agency Clearance Officer—Albert H. Linden—566–9021

New Forms

* Electric Vehicle Survey
CS–94
Annually
Any Telephone Household in Con. U.S. and D.C., 1,000 Responses; 333 hours
Jefferson B. Hill, 395–5867
Use of Recovered Materials
CS–153
Single Time
Selected Major Energy Consuming Manufacturers 400 Responses; 30,000 hours
Jefferson B. Hill, 395–5867

DEPARTMENT OF HEALTH, EDUCATION, AND WELFARE

Agency Clearance Officer—Peter Gness—245–7488

New Forms

Public Health Service
Pilot Study for the Revised Health Interview Survey
Questionnaire
Single Time
Sample Households Representing the Civ. Noninst. Pop. of U.S., 5,225 Responses; 1,724 hours
Off. of Federal Statistical Policy and Standard, 673–7974

Public Health Service
Minimum Data set for the Health Facilities Component of the CHSS
Other (see SF–83)
Hospitals and other Health Facilities
Off. of Federal Statistical Policy and Standard, 673–7974

Public Health Service
Minimum Data set for Health Manpower Component of the CHSS
Other (see SF–83)
Medical Doctors and Members of Health Professions
Off. of Federal Statistical Policy and Standard, 673–7974

Extensions

Health Care Financing Administration (Medicare)
*Request for Hearing—Part B Medicare Claim
HCFA–1965
On Occasion
Persons Aged 65 or Older Elig. for PT. B Medicare Bene., 25,000 Responses; 6,250 hours
Ricahrd Eisinger, 395–3214
Public Health Service
Plans for the Second Health and Nutrition Examination Survey
HRA 1204
On Occasion 16,333 Responses; 27,767 hours
Off. of Federal Statistical Policy and Standard 673–7974

DEPARTMENT OF TRANSPORTATION

Agency Clearance Officer—Bruce H. Allen—426–1887

New Forms

Federal Highway Administration
Test Program for Driver's Log Alternatives
Single Time
Drivers of Interstate Motor Carriers of Prop. and Passengers 3,500 Responses; 583 hours
Susan B. Geiger, 395–5867

Extensions

Federal Highway Administration
Drivers Daily Log
MCS–59, 139, and 139A
On Occasion
Dri. of Interstate Motor Carriers of Prop. and Passengers
Susan B. Geiger 395–5867

EQUAL EMPLOYMENT OPPORTUNITY COMMISSION

Agency Clearance Officer—Sally E. Crocker— 634–6470

Extensions

Elementary-Secondary Staff Information (EEO–5)
EEOC 168 and 168B
Annually
Public School District and Schools 82,500 Responses; 412,500 hours
C. Louis Kincannon, 395–3772

NATIONAL AERONAUTICS AND SPACE ADMINISTRATION

Agency Clearance Officer—Wallace Velander—755–3122

Extensions

*Evaluation of Uses Made of NASA Tech Brief Reports on Occasion
Industrial, Research and Educational Organizations 5,000 Responses; 1,250 hours
David P. Caywood, 395–6140

NATIONAL SCIENCE FOUNDATION

Agency Clearance Officer—Herman Fleming—634–4670

Revisions

*Survey of Earned Doctorates in U.S.
Annually
All new PH.D.'s 33,000 Responses; 11,000 hours
Richard Sheppard 395–3211

Stanley E. Morris,
Deputy Associate Director for Regulatory Policy and Reports Management.
[FR Doc. 79–14629 Filed 5–9–79; 8:45 am]
BILLING CODE 3110–01–M

SECURITIES AND EXCHANGE COMMISSION

Philadelphia Stock Exchange, Inc.; Order Approving Proposed Rule Changes

May 3, 1979.

In the matter of Philadelphia Stock Exchange, Inc.

On October 30, 1978, the Philadelphia Stock Exchange, Inc. ("Phlx") filed with the Commission, pursuant to Section 19(b)(1) of the Securities Exchange Act of 1934, 15 U.S.C. 78(s)(b)(1) (the "Act") and Rule 19b–4 thereunder, copies of proposed rule changes which make modifications to the Phlx's rules relating to the implementation and operation of an Intermarket Trading System ("ITS"). The proposed rule changes would provide an alternative method of entering commitments to trade and responses in the ITS using a terminal operated by a Phlx employee, and limit the liability of the Phlx to its own members in the event of errors or omissions by the Phlx employee.

Notice of the proposed rule changes together with the terms of substance of the proposed rule changes was given by publication of a Commission Release (Securities Exchange Act Release No. 34–15506, January 18, 1979) and by publication in the **Federal Register** (44 FR 5232, January 25, 1979). All written statements with respect to the proposed rule changes between the Commission and any person were considered and (with the exception of those statements or communications which may be withheld from the public in accordance with the provisions of 5 U.S.C. § 552) were made available to the public at the Commission's Public Reference Room.

The Commission finds that the proposed rule changes are consistent with the requirements of the Act and the rules and regulations thereunder applicable to national securities exchanges, and in particular, the requirements of Sections 6 and 11A, and the rules and regulations thereunder.

It is therefore ordered, Pursuant to Section 19(b)(2) of the Act, that the above-mentioned proposed rule changes be, and they hereby are, approved.

For the Commission by the Division of Market Regulation pursuant to delegated authority.

George A. Fitzsimmons,
Secretary.
[Rel. No. 15773; SR–PHLX–79–22]
[FR Doc. 79–14593 Filed 5–9–79; 8:45 am]
BILLING CODE 8010–01–M

Profit-Sharing Plan of Hughes Hubbard & Reed; Filing of Application for an Order Pursuant to Section 3(a)(2) of the Securities Act of 1933 Exempting From the Provisions of Section 5 of the Act Interests or Participations

April 27, 1979.

In the Matter of PROFIT-SHARING PLAN OF HUGHES HUBBARD & REED, One Wall Street, New York, NY 10005.

Notice is hereby given that the law firm of Hughes Hubbard & Reed (hereafter referred to as "Applicant"), a New York partnership, on April 4, 1979 filed an application for an exemption from the registration requirements of the Securities Act of 1933 (the "Act"), for participations or interests issued in connection with its Profit-Sharing Plan (the "Plan"). All interested persons are referred to that document, which is on file with the Commission for the facts and representations contained therein, which are summarized below.

I. Introduction

The Plan was adopted as of October 11, 1968 for the benefit of the Applicant's employees and partners. In 1977, the Plan was amended (the "1977 amendment") to provide coverage only for the Applicant's partners and for those employees of the Applicant who were participants in the Plan at the time of the 1977 amendment. Additional amendments were made in 1978 and 1979. As a result of the 1977 amendment, no further contributions by the Applicant are being made to the accounts of non-partner employees in the Plan. These accounts will be distributed to them in accordance with the Plan.

Applicant states that since the Plan is of a type, commonly referred to as a "Keogh" plan, which covers persons (in this case Applicant's partners) who are "employees" within the meaning of Section 401(c)(1) of the Internal Revenue Code of 1954, as amended (the "Code"), the exemption provided by Section 3(a)(2) of the Act is inapplicable to interests in the Plan, absent an order of exemption issued under Section 3(a)(2). In relevant part, Section 3(a)(2) provides that the Commission shall exempt from the provisions of Section 5 any interest or participation issued in connection with a pension or profit-sharing plan which covers employees, some or all of whom are employees within the meaning of Section 401(c)(1) of the Code, if and to the extent that the Commission determines this to be necessary or appropriate in the public interest and consistent with the protection of investors and the purposes fairly intended by the policy and provisions of the Act.

II. Description and Administration of the Plan

Applicant states that the Plan has been maintained since its inception as a profit-sharing plan qualified under Section 401 of the Code. The Internal Revenue Service ("IRS") has issued a ruling to the effect that the Plan as amended, continues to be a qualified plan under Section 401(a) of the Code.

Each partner becomes a participant in the Plan as of the date he first becomes a partner of the Applicant. Any non-partner employee who was a participant in the Plan at the time of the 1977 amendment will remain a participant and have his account distributed to him in accordance with the Plan. As a result of the 1977 amendment, no further contributions by the Applicant are being made to the accounts of such employees in the Plan.

The Plan provides for the Applicant to make annual contributions to a trust fund in an amount equal to the lesser of (a) $7,500, or (b) 7½% of each partner's compensation. In addition, a participant may contribute up to 10% of his compensation, subject to certain limitations.

Applicant states that it exercises substantial administrative control in

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connection with the Plan, which is administered by an Administration Committee consisting of four partners of the Applicant and an employee. The Applicant has retained full power to amend the Plan subject to the Code and to the Employee Retirement Income Security Act of 1974 ("ERISA"). Four partners of the Applicant serve as trustees under the Plan. All contributions are held by the trustees and invested, in accordance with general policy guidelines established by the Administration Committee, by an investment manager appointed by the Administration Committee. At present, the investment manager is J. & W. Seligman & Co. Although the trust instrument allows plan assets to be invested in any common, collective, or commingled trust fund, Applicant represents that the trustees have instructed the investment manager not to make any such investments and it further represents that it has no intention of requesting the investment manager to do otherwise in the future. Upon termination of service, a participant's interest may be distributed in a lump sum, used to purchase a single life or joint and survivor annuity or paid in such other manner as the Administration Committee may approve.

Applicant states that it is subject to the reporting and disclosure requirements of ERISA with respect to the Plan. Applicant states that it distributes to participants a "summary plan description" describing the Plan and distributes to participants and beneficiaries receiving benefits under the Plan a summary annual report relating to the Plan and makes available to such participants and beneficiaries, on request and at no charge, copies of reports submitted to the Department of Labor and the IRS, other basic documents relating to the Plan and a statement of such participant's or beneficiary' accrued and vested benefits under the Plan.

III. Discussion

Applicant contends that were it a corporation, rather than a partnership, interests or participations issued in connection with the Plan would be exempt from registration under Section 3(a)(2) of the Act, because no person who would be an "employee" within the meaning of Section 401(c)(1) of the Code would participate in the Plan. The Applicant argues that the mere fact that it conducts its business as a partnership rather than as a corporation should not result in a requirement that interests in the Plan be registered under the Act.

Applicant states that it is engaged in furnishing legal services of a type which necessarily involve financially sophisticated and complex matters and, for that reason as well as the extensive administrative control over the Plan maintained by the Applicant, is able to represent adequately its interests and the interests of participants in the Plan.

Applicant further argues that the characteristics of the Plan are essentially typical of those maintained by many single corporate employers and that the legislative history of the relevant language in Section 3(a)(2) of the Act does not suggest any intent on the part of Congress that interests issued in connection with single-employer Keogh plans necessarily should be registered under the Act. Rather, Congress excluded interests issued in connection with Keogh plans form the Section 3(a)(2) exemption primarily out of concern over interests or participations in commingled or collective Keogh funds which might be marketed by sponsoring financial institutions to self-employed persons unsophisticated in the securities field. The Applicant argues that its Plan is distinguishable from such funds, and that under the circumstances, granting the requested exemption would be appropriate in the public interest and consistent with the protection of investors and the purposes fairly intended by the policy and provisions of the Act.

Notice is further given that any interested person may, not later than May 25, 1979, at 5:30 P.M., submit to the Commission in writing a request for a hearing on the application accompanied by a statement of the nature of his interest, the reasons for such request, and the issues, if any, of fact or law proposed to be controverted, or he may request that he be notified if the Commission should order a hearing thereon. Any such communication should be addressed to Secretary, Securities and Exchange Commission, Washington, D.C. 20549. A copy of such request should be served personally or by mail upon the Applicant at the address stated above. Proof of such service (by affidavit or, in the case of an attorney-at-law, by certificate) should be filed contemporaneously with the request. An order disposing of the matter will be issued as of course following May 25, 1979, unless the Commission thereafter orders a hearing upon request or upon the Commission's own motion. Persons who request a hearing, or advice as to whether a hearing is ordered, will receive any notice or order issued in this matter, including the date of the hearing (if ordered) and any postponements thereof.

For the Commission, by the Division of Investment Management, pursuant to delegated authority.

George A. Fitzsimmons,
Secretary.

[Rel. No. 8064; 18-49]
[FR Doc. 79-14594 Filed 5-9-79; 8:45 am]
BILLING CODE 8010-01

Branscan, Ltd.; Order of Suspension of Trading

May 3, 1979.

In the matter of Trading in the Securities of Brascan Ltd.

It appearing to the Securities and Exchange Commission that there has been recent unusual activity in the securities of Brascan Ltd. and a resultant lack of disclosure to public investors about such activity, the Commission is of the opinion that the public interest and the protection of investors require a summary suspension of trading in the securities of Brascan Ltd.

Therefore, it is ordered, pursuant to Section 12(k) of the Securities Exchange Act of 1934, trading in such securities on a national securities exchange or otherwise is suspended, for the period from 3:50 p.m. on May 3, 1979 through midnight May 12, 1979.

By the Commission.

George A. Fitzsimmons,
Secretary.

[File No. 500-1]
[FR Doc. 79-14636 Filed 5-9-79; 8:45 am]
BILLING CODE 8010-01-M

Bullock Fund, Ltd. et al.; Filing of Application for Order Pursuant to Section 11(a) of the Act Permitting Offers of Exchange and Pursuant to Section 6(c) of the Act Granting Exemption From Section 229(d) of the Act

May 3, 1979.

In the Matter of BULLOCK FUND, LTD., BULLOCK TAX-FREE SHARES, INC., CANADIAN FUND, INC., DIVIDEND SHARES, INC., MONEY SHARES, INC., MONTHLY INCOME SHARES, INC., NATION-WIDE SECURITIES COMPANY, INC., and CALVIN BULLOCK, LTD. One Wall Street, New York, New York 10005.

Notice is hereby given that Bullock Fund, Ltd., Canadian Fund, Inc., Dividend Shares, Inc., Monthly Income Shares, Inc., and Nation-Wide Securities Company, Inc. (herein collectively referred to as the "Funds"), Bullock Tax-Free Shares, Inc. ("Tax-Free"), and Money Shares, Inc. ("Money Shares"), each registered as a diversified, open-end, management investment company under the Investment Company Act of 1940 ("Act"), and Calvin Bullock, Ltd. ("Bullock"), principal underwriter for the Funds, Tax-Free and Money Shares (Bullock, the Funds, Tax-Free and Money Shares are collectively referred to as "Applicants"), filed an application on November 10, 1977, and amendments thereto on January 11, 1977, June 5, 1978 and January 18, 1979, for an order: (1) pursuant to Section 119(a) of the Act, permitting the Funds and Bullock to offer shares of the Funds in exchange for shares of Money Shares, which shares of Money Shares were acquired in exchange for shares of Tax-Free, on a basis other than their relative net asset values per share at the time of the exchange, and (2) pursuant to Section 6(c) of the Act, exempting such exchanges of shares of Money Shares from the provisions of Section 22(d) of the Act to the extent necessary to permit the proposed exchange offer. All interested persons are referred to the application on file with the Commission for a statement of the representations contained therein, which are summarized below.

The application states that Bullock maintains a continuous public offering of shares of the Funds and Tax-Free at their respective net asset values per share plus a sales charge, and that (i) shares of the Funds are offered to the public at their respective net asset values plus a sales charge which varies, in each case, from 8.50 percent of the offering price on purchases less than $10,000, to 1.00 percent of the offering price on purchases greater than $1 million, and (ii) shares of Tax-Free are offered to the public at net asset value plus a sales charge which varies from 4.75 percent of the offering price on purchases less than $100,000, to 1.00 percent of the offering price on purchases greater than $1 million. According to the application, Bullock maintains a continuous public offering of shares of Money Shares at net asset value, without the imposition of a sales charge.

Applicants state that: (i) shares of each of the Funds, including such shares acquired through reinvestment of dividends and capital gains distributions ("Fund Reinvestment Shares"), may be exchanged for shares of any of the other Funds, Tax-Free or Money Shares, in each case, on the basis of relative net asset values per share at the time of the exchange; (ii) shares of Tax-Free, including shares acquired through reinvestment of dividends and capital gains distributions ("Tax-Free Reinvestment Shares"), may be exchanged for shares of Money Shares or, in the case of Tax-Free shares acquired in exchange for Fund shares (including Fund Reinvestment Shares) or acquired as Tax-Free Reinvestment Shares, may be exchanged for shares of the Funds, in each case, on the basis of relative net asset values per share at the time of the exchange; (iii) shares of Money Shares acquired in exchange for Fund shares (including Fund Reinvestment Shares) or acquired through reinvestment of dividends and capital gains distributions on shares of Money Shares ("Money Shares Reinvestment Shares") may be exchanged for shares of the Funds or, in the case of shares acquired in exchange for the Tax-Free shares or acquired as Money Shares Reinvestment Shares, may be exchanged for shares of Tax-Free, in each case, on the basis of relative net asset values per share at the time of the exchange; and (iv) pursuant to an order of the Commission (Investment Company Act Release No. 9676, March 14, 1977), shares of Tax-Free acquired otherwise than in exchange for shares of the Funds or as Tax-Free Reinvestment Shares, may be exchanged for shares of any of the Funds on the basis of relative net asset values per share at the time of the exchange, plus a sales charge equal to the difference between the sales charge described in the prospectus of each of the Funds, less an amount equal to the sales charge originally paid on the purchase of the Tax-Free shares being exchanged.

Applicants further state that, in the case of each of the exchanges described above, (i) the shares being exchanged must have a net asset value of at least $500 or the minimum initial amount required for investment in one of the Funds, whichever is greater, and (ii) a service charge of $5.00 is deducted by Bullock to cover its clerical and other expenses.

Each of the Funds proposes to offer its shares to shareholders of Money Shares in exchange for shares of Money Shares which were acquired in exchange for Tax-Free shares, at their relative net asset values per share at the time of the exchange, plus the sales charge described in the prospectus of each of the Funds, less an amount equal to the sales charge previously paid upon the purchase of Tax-Free shares. Applicants state that, as a result, a shareholder acquiring shares of one of the Funds through any combination of exchanges or purchases of shares of Money Shares or of Tax-Free will pay the same overall sales charge as a proportion of net asset value (or of the public offering price) that would have been paid had such shareholder directly purchased shares of one of the Funds with the same net asset value. Applicants further state that, as in the case of the other offers of exchange described above, the shares being exchanged must have a net asset value of at least the greater of $500 or the minimum initial amount required for investment in one of the Funds, and a $5.00 service charge would be deducted by Bullock on each such exchange.

According to the application, the sales charges payable on the proposed exchanges will be received by Bullock as principal underwriter for the Funds, and a portion of such sales charges may be reallowed to dealers. Applicants assert that the maximum sales charge payable on an exchange would be 3¾% of the amount exchanged because that percentage is the maximum difference between the sales charge payable upon the purchase of shares of any of the Funds and the sales charge payable upon the purchase of Tax-Free shares.

Applicants state that in the event that a shareholder desires to exchange only a portion of his shares of Money Shares, those shares which may be exchanged on the basis of relative net asset values will be exchanged first, and the remaining shares to be exchanged will be selected from those shares which are entitled to be exchanged upon payment of the lowest additional sales charge.

Section 11(a) of the Act provides, in pertinent part, that it shall be unlawful for any registered open-end investment company or any principal underwriter for such company to make or cause to be made an offer to the holder of a security of such company or of any other open-end investment company to exchange such security for a security in the same or another such company on any basis other than the relative net asset values of the respective securities to be exchanged, unless the terms of the offer have first been submitted to and approved by the Commission.

Section 22(d) of the Act provides, in pertinent part, that no registered investment company shall sell any redeemable security issued by it to any person except either to or through a principal underwriter for distribution or at a current public offering price described in the prospectus and, if such class of security is being currently offered to the public by or through an underwriter, no principal underwriter of such security and no dealer shall sell any such security to any person except a dealer, a principal underwriter, or the

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issuer, except at a current public offering price described in the prospectus.

Applicants state that the exchanges they propose would be on a basis other than relative net asset values per share, because a shareholder would be required to pay a sales charge equal to the difference between the sales charge paid on purchases of Tax-Free shares and the sales charge imposed on purchases of shares of the Funds. Applicants further state that the sales charges described in the prospectuses of each of the Funds and Tax-Free differ from and may be greater than the sales charge which would be applicable under the proposed exchange offer.

Accordingly, Applicants request an order, pursuant to Section 11(a) of the Act, permitting the Funds and Bullock to offer shares of the Funds in exchange for shares of Money Shares, which shares were acquired in exchange for shares of Tax-Free, on a basis other than their relative net asset values per share at the time of the exahange, and pursuant to Section 6(c) of the Act, exempting such exchanges from the provisions of Section 22(d) of the Act to the extent necessary to permit the proposed exchanges.

Section 6(c) of the Act provides, in part, that the Commission may, by order upon application, exempt any person, security, or transaction, or any class or classes of persons, securities, or transactions, from any provision or provisions of the Act, or of any rule or regulation thereunder, if and to the extent that such exemption is necessary or appropriate in the public interest and consistent with the protection of investors and the purposes fairly intended by the policy and provisions of the Act.

Applicants state that the proposed exchange offer is designed to permit a shareholder of Money Shares, whose shares were acquired as a result of an exchange of Tax-Free shares and who changes his investment objective, to change his investment to another investment company within the Bullock group without paying the full sales charge otherwise applicable. Applicants submit that the proposed exchange offer to such shareholders of Money Shares cannot be made on the basis of relative net asset values per share because that would inequitably benefit such a shareholder who would have paid substantially less sales charges on his intial investment than investors in the Funds who purchased shares of the Funds directly.

Applicants submit that if shares of the Funds could be acquired at net asset value in exchange for shares of Money Shares acquired as a result of an exchange of Tax-Free shares, the exchange would be in violation of Section 22(d) of the Act since an investor would be able to purchase shares of one of the Funds at a sales charge other than that described in its prospectus merely by exchanging shares of Tax-Free for shares of Money Shares and subsequently exchanging those shares at net asset value for shares of one of the Funds. Applicants further submit that (i) the proposed exchange offer is fair and equitable to shareholders of all the Funds, Tax-Free and Money Shares, and gives such shareholders flexibility in their financial planning, and (ii) and granting of the order requested would be appropriate in the public interest and consistent with the protection of investors and purposes fairly intended by the policy and provisions of the Act.

Notice is further given that any interested person may, not later than May 29, 1979, at 5:30 p.m., submit to the Commission in writing a request for a hearing on the matter accompanied by a statement as to the nature of his interest, the reason for such request, and the issues, if any, of fact or law proposed to be controverted, or he may request that he be notified if the Commission shall order a hearing thereon. Any such communication should be addressed: Secretary, Securities and Exchange Commission, Washington, D.C. 20549. A copy of such request shall be served personally or by mail upon Applicants at the address stated above. Proof of such service (by affidavit or, in case of an attorney-at-law, by certificate) shall be filed contemporaneously with the request. As provided by Rule 0–5 of the Rules and Regulations promulgated under the Act, an order disposing of the application will be issued as of course following said date unless the Commission thereafter orders a hearing upon request or upon the Commission's own motion. Persons who request a hearing, or advice as to whether a hearing is ordered, will receive any notices and orders issued in this matter, including the date of the hearing (if ordered) and any postponements thereof.

For the Commission, by the Division of Investment Management, pursuant to delegated authority.

George A. Fitzsimmons,
Secretary.

[Rel. No. 10661; 812–4221]
[FR Doc. 79–14637 Filed 5–9–79; 8:45 am]
BILLING CODE 8010–01–M

Columbia Gas System, Inc.; Proposed Issuance and Sale of Common Stock Pursuant to Dividend Reinvestment Plan

May 4, 1979.

In the matter of Columbia Gas System, Inc., 20 Montchanin Road, Wilmington, Delaware 19807.

Notice is hereby given that the Columbia Gas System, Inc. ("Columbia"), a registered holding company, has filed a declaration with this Commission pursuant to the Public Utility Holding Company Act of 1935 ("Act"), designating Sections 6 and 7 of the Act as applicable to the following proposed transaction. All interested persons are referred to the declaration, which is summarized below, for a complete statement of the proposed transaction.

Columbia proposes to issue and sell, from time to time through August 15, 1981, up to 1,000,000 shares of its authorized, but unissued, common stock, par value $10 per share ("common stock"), pursuant to its Dividend Reinvestment Plan ("Plan"), and to have Columbia Gas System Service Corporation ("Service") assume the responsibility for acting as Agent for participating stockholders.

Since March 1971, Citibank N.A. (formerly First National City Bank), New York, New York, has been administering, as Agent, the Dividend Reinvestment Plan available to all Columbia common stockholders. Dividends and optional cash payments of participating stockholders have been reinvested through the purchase, by Citibank, of Columbia common stock in the open market. Pursuant to this Commission's authorization, dated February 1, 1977 (HCAR No. 19865), proxies were solicited and the stockholders subsequently approved a proposed Charter amendment excepting dividend reinvestment plans from stockholder preemptive rights. The approximately 15,600 stockholders participating in the plan acquired 127,674 shares of Columbia common stock in the calendar year 1978 through dividend reinvestment of $2,961,288 and optional cash payments of $599,423.

Columbia proposes to implement the decision to issue stock to the Plan. The shares will be issued at a price equal to the average closing price on the New York Stock Exchange Composite Tape for the twenty consecutive trading days immediately preceding the dividend payment and/or optional cash payment investment date. Only full shares will be issued. Due to the nature and terms of the transaction, the public invitation for bids, required by Rule 50, is stated to be inappropriate and an exemption is requested.

Also, to facilitate administration, it is proposed that Service assume all recordkeeping responsibilities and act as Agent for stockholders participating in the Plan. To further facilitate administration, Chemical Bank, New York, New York, the New York Transfer Agent, will act as custodian and liquidating agent for the Plan. Chemical Bank will hold the stock certificates reflecting purchases by participants' dividends and optional cash payments and if a participant who wishes to withdraw from the Plan wishes to receive cash, Chemical will sell stock as instructed by Service.

The proposed issuance of common stock to the Plan will provide Columbia with an additional source of common equity capital. This will benefit Columbia to the extent that expected large expenditures for gas supply planned for the future will necessitate the raising of large amounts of capital, and the issuance of stock to the Plan will assist in maintaining the position of equity capital to debt capital required by Columbia's indentures.

The fees, commissions and expenses paid or to be incurred in connection with the proposed transaction will be filed by amendment. It is stated that no state commission and no federal commission, other than this Commission, has jurisdiction over the proposed transaction.

Notice is further given that any interested person may, not later than June 5, 1979, request in writing that a hearing be held on such matter, stating the nature of his interest, the reasons for such request, and the issues of fact or law raised by the filing which he desires to controvert; or he may request that he be notified if the Commission should order a hearing thereon. Any such request should be addressed: Secretary, Securities and Exchange Commission, Washington, D.C. 20549. A copy of such request should be served personally or by mail upon the declarants at the aboved-stated address, and proof of service (by affidavit or, in case of an attorney at law, by certificate) should be filed with the request. At any time after said date, the declaration, as filed, or as it may be amended, may be granted as provided in Rule 23 of the General Rules and Regulations promulgated under the Act, or the Commission may grant exemption from such rules as provided in Rules 20(a) and 100 thereof or take such other action as it may deem appropriate. Persons who request a hearing or advice as to whether a hearing is ordered will receive any notices or orders issued in this matter, including the date of the hearing (if ordered) and any postponements thereof.

For the Commission, by the Division of Corporate Regulation, pursuant to delegated authority.

George A. Fitzsimmons,
Secretary.

[Rel. No. 21038; 70–6307]
[FR Doc 79–14638 Filed 5–9–79; 8:45 am]
BILLING CODE 8010–01–M

Consolidated Natural Gas Co.; Proposed Issuance and Sale of Common Stock In Connection With Dividend Reinvestment Plan and Employee Stock Ownership Plan

May 2, 1979.

In the matter of Consolidated Natural Gas Co., 30 Rockefeller Plaza, New York, New York 10020.

Notice is hereby given that Consolidated Natural Gas Company ("Consolidated"), a registered holding company, has filed a declaration, and an amendment thereto, with this Commission pursuant to the Public Utility Holding Company Act of 1935 ("Act"), designating Sections 6(a), 7 and 12(c) of the Act and Rules 42 and 50 promulgated thereunder as applicable to the following proposed transaction. All interested persons are referred to the amended declaration, which is summarized below, for a complete statement of the proposed transaction.

By order of March 1, 1976 (HCAR No. 19409), the Commission authorized Consolidated to solicit proxies to amend its Certificate of Incorporation, the effect of which amendment was to permit Consolidated to sell authorized and unissued shares of its common stock, free of preemptive rights to (a) an employee stock ownership plan ("ESOP") whereby Consolidated would be permitted by federal tax law to fund the plan by reducing its taxes in an amount equal to such funding and/or (b) a dividend reinvestment plan ("DRP") available to Consolidated's common stock holders. Following stockholder approval of the amendment, Consolidated sought and obtained by supplemental order of the Commission, dated July 19, 1976 (HCAR No. 19616) (also see HCAR No. 20502), authority to issue and sell up to 750,000 shares of its said common stock to the DRP and ESOP.

As of February 20, 1979, Consolidated realized in excess of $19,800,000 through the sale of its common stock to the DRP and ESOP. Taking into consideration administrative and other costs, the net amount realized through these vehicles is greater than what might have been gained through the public sale of a comparable number of shares through underwriters. Accordingly, Consolidated's Board of Directors has authorized continuance of the said plans and authorized, subject to the approval of this Commission, the issuance and sale of an additional 1,000,000 shares of Consolidated's common stock for such purpose. These shares, as were the original 750,000 shares, will be registered in accordance with the requirements of the Securities Act of 1933. The terms and conditions of the DRP are unchanged from those previously set forth in File No. 70–5799. The reasons for the institution of the DRP and ESOP and descriptions of them, including the means of determining the price per common share and other information, were also set forth in the amended Declaration in File No. 70–5799.

Consolidated now seeks authorization for the issuance and sale, from time to time through December 31, 1981, of a maximum of 1,000,000 shares of its common stock, $8 par value to the Agent for the common stockholders of Consolidated participating in the DRP and to the Trustees of the ESOP. At present, Consolidated has a total authorized capital stock of 24,500,000 shares, divided into 2,500,000 shares of preferred stock of the par value of $100 each, and 22,000,000 shares of common stock of the par value of $8 each. Of the preferred stock authorized, 500,000 shares are issued and outstanding, and 19,441,677 shares of common stock were held by 70,204 stockholders as of February 28, 1979.

The fees, expenses and commissions paid or to be incurred in connection with the proposed transaction are estimated to total $99,000, including printing fees of $10,000, accountants' fees of $9,000, geologists' fees of $7,500, agents' fees of $32,500, listing fees of $4,000, service charges performed by Consolidated Natural Gas Service Company, Inc., of $25,000 and miscellaneous expenses of $1,400. It is stated that no state or federal commission, other than this Commission, has jurisdiction over the proposed transactions.

Notice is further given that any interested person may, not later than May 31, 1979, request in writing that a hearing be held on such matter, stating the nature of his interest, the reasons for such request, and the issues of fact or law raised by the post-effective amendment which he desires to controvert; or he may request that he be

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notified if the Commission should order a hearing thereon. Any such request should be addressed: Secretary, Securities and Exchange Commission, Washington, D.C. 20549. A copy of such request should be served personally or by mail upon the declarant at the above-stated address and proof of service (by affidavit or, in case of an attorney at law, by certificate) should be filed with the request. At any time after said date, the declaration, as amended or as it may be further amended, may be permitted to become effective as provided in Rule 23 of the General Rules and Regulations promulgated under the Act, or the Commission may grant exemption from such rules as provided in Rules 20(a) and 100 thereof or take such other action as it may deem appropriate. Persons who request a hearing or advice as to whether a hearing is ordered will receive any notices and orders issued in this matter, including the date of the hearing (if ordered) and any postponements thereof.

For the Commission, by the Division of Corporate Regulation, pursuant to delegated authority.

George A. Fitzsimmons,
Secretary.

[Rel. No. 21029; 70-6308]
[FR Doc. 79-14639 Filed 5-9-79; 8:45 am]
BILLING CODE 8010-01-M

Middle South Utilities, Inc.; Proposal To Enter Into a Revolving Credit Agreement With Banks

May 2, 1979.

In the matter of Middle South Utilities, Inc., 225 Baronne Street, New Orleans, Louisiana 70112.

Notice is hereby given that Middle South Utilities, Inc. ("Middle South"), a registered holding company, has filed an application-declaration with this Commission pursuant to the Public Utility Holding Company Act of 1935 ("Act"), designating Sections 6(a) and 7 of the Act and Rule 50(a)(2) promulgated thereunder as applicable to the proposed transaction. All interested persons are referred to the application-declaration, which is summarized below, for a complete statement of the proposed transaction.

Middle South proposes to enter into a $174.8 million revolving credit agreement ("credit agreement") providing for the issuance and sale by Middle South of its unsecured short-term promissory notes to a group of commercial banks headed by Manufacturers Hanover Trust Company ("MHTC").

Under the terms of the credit agreement, Middle South may borrow and reborrow until June 27, 1980 up to an aggregate principal amount of $174.8 million outstanding at any one time, to be evidenced by its unsecured promissory notes payable on June 27, 1980 ("notes"). The notes will be issued to the participating banks to the extent of their respective participations (collectively, the "commitments") as follows:

Name of bank	Maximum principal amount to be borrowed
Manufacturers Hanover Trust Company	$49,040,000
The First National Bank of Chicago	26,000,000
Bank of America National Trust and Savings Association	20,000,000
Continental Illinois National Bank and Trust Company of Chicago	16,000,000
The First National Bank of Boston	12,000,000
The Northern Trust Company	8,880,000
Irving Trust Company	8,880,000
Morgan Guaranty Trust Company of New York	6,000,000
North Carolina National Bank	6,000,000
First Pennsylvania Bank, N.A.	4,000,000
The Fidelity Bank	4,000,000
Crocker National Bank	4,000,000
Hartford National Bank and Trust Company	4,000,000
	174,800,000

Each borrowing and each payment by Middle South will be pro rata among the participating banks according to their respective original commitments, with appropriate adjustment for the interest rate differentials.

The notes issued will bear interest from the date thereof on their unpaid principal amount at a rate per annum equal to 110% of the commercial loan rate of MHTC from time to time in effect on borrowings having a 90-day maturity by its most responsible and substantial domestic corporate borrowers ("MHTC rates"). Interest on the notes will be payable quarterly on the last business day of each September, December, March and June, commencing September 28, 1979, or upon payment of the unpaid principal amount thereof.

Middle South will agree to pay to each participating bank a commitment fee for the period from June 29, 1979, to and including June 27, 1980 (or any earlier date of termination of the commitments) computed at the rate of ½ of 1% per annum on the average daily unused portion of the commitments in effect during the period for which payment is made. Such commitment fee will be payable to each participating bank quarterly on the last business day of each September, December, March and June, commencing September 28, 1979, and on the date upon which Middle South shall terminate the commitments.

Based upon an MHTC rate of 11¾% per annum, the effective interest cost of the proposed borrowings would be 12.93% per annum.

Middle South presently intends to repay the notes out of the proceeds of the sale of additional shares of its common stock. The notes will be prepayable at any time on two business days' notice in whole or in part without premium. Middle South shall have the right at any time on three business days' notice to the participating banks to terminate or, from time to time, to reduce the commitments, at which time it will prepay the notes and accrued interest thereon to the extent that the aggregate principal amount thereof then exceeds the commitments.

The initial borrowing under the credit agreement will be used for the payment of short-term notes issued by Middle South to MHTC and various commercial banks under an existing credit agreement dated as of June 29, 1978, which borrowings were approved by this Commission on June 15, 1978 (HCAR No. 20593). As of February 28, 1979, no notes were outstanding under the existing credit agreement, but it is estimated that at the time the initial borrowing is made under the credit agreement such notes payable will amount to approximately $110 million. The proceeds of the borrowings under the existing credit agreement were, or will have been, utilized by Middle South to purchase, at various times, the common stocks of certain of its subsidiary companies.

Subsequent borrowings under the credit agreement will be used by Middle South to purchase additional common stock of its subsidiaries. The issuance and acquisition of such common stock will be the subject of separate filings with this Commission by Middle South and the appropriate subsidiary, and these filings will set forth the purpose or purposes toward which the proceeds derived from the sale of such common stock will be used.

It is stated that no special or separate fees, commissions or expenses are anticipated in connection with the proposed transactions. It is further stated that no state commission and no federal commission, other than this Commission, has jurisdiction over the proposed transaction.

Notice is further given that any interested person may, not later than June 8, 1979, request in writing that a hearing be held on such matter, stating the nature of his interest, the reasons for such request, and the issues of fact or law raised by the filing which he desires to controvert; or he may request that he be notified if the Commission should order a hearing thereon. Any such request should be addressed: Secretary, Securities and Exchange Commission, Washington, D.C. 20549. A copy of such request should be served personally or by mail upon the applicants-declarants at the above-stated address, and proof of service (by affidavit) or, in case of an attorney at law, by certificate) should be filed with the request. At any time after said date, the application-declaration, as filed or as it may be amended, may be granted and permitted to become effective as provided in Rule 23 of the General Rules and Regulations promulgated under the Act, or the Commission may grant exemption from such rules as provided in Rule 20(a) and 100 thereof or take such other action as it may deem appropriate. Persons who request a hearing or advice as to whether a hearing is ordered will receive any notices or orders issued in this matter, including the date of the hearing (if ordered) and any postponements thereof.

For the Commission, by the Division of Corporate Regulation, pursuant to delegated authority.

George A. Fitzsimmons,
Secretary.

[Rel. No. 21030; 70-6304]
[FR Doc 79-14640 Filed 5-9-79; 8:45 am]
BILLING CODE 8010-01-M

Monongahela Power Co., et al.; Proposed Issuance and Sale of Short-Term Notes to Banks and to Commercial Paper Dealer and Request for Exception From Competitive Bidding

May 2, 1979.

In the Matter of Monongahela Power Company, 1310 Fairmont Avenue, Fairmont, West Virginia 26554; The Potomac Edison Company, Downsville Pike, Hagerstown, Maryland 21740; West Penn Power Company, 800 Cabin Hill Drive, Greensburg, Pennsylvania 15601.

Notice is hereby given that Monongahela Power Company ("Monongahela"), The Potomac Edison Company ("Potomac"), and West Penn Power Company ("West Penn"), each a wholly-owned electric utility subsidiary of Allegheny Power System, Inc. ("Allegheny"), a registered holding company, have filed an application with this Commission pursuant to the Public Utility Holding Company Act of 1935 ("Act"), designating Section 6(b) of the Act and Rule 50(a)(5) promulgated thereunder as applicable to the proposed transactions. All interested persons are referred to the application, which is summarized below, for a complete statement of the proposed transactions.

Monongahela, Potomac, and West Penn (collectively, the "Companies"), propose to issue, reissue, sell and renew short-term notes to banks and commercial paper to provide short-term funds for the period July 1, 1979 through December 31, 1980. It is stated that the notes and commercial paper will be issued, reissued, sold and renewed from time to time as funds may be required prior to December 31, 1980, provided that no such notes or commercial paper will mature after April 1, 1981. Accordingly, the Companies hereby request that, from the date of the granting of the application filed in this matter to December 31, 1980, the exemption from the provisions of Section 6(a) of the Act afforded to each by the first sentence of Section 6(b) thereof be increased to the extent necessary to permit the issuance and sale of notes to banks and commercial paper to dealers in commercial paper in an aggregate amount not to exceed $58,000,000 in the case of Monongahela, $54,000,000 in the case of Potomac, and $92,000,000 in the case of West Penn.

The foregoing amounts, which in each case include any notes which may remain outstanding under the Commission's Order in File No. 70-6060 represent the maximum amount of notes for which authorization is presently sought in this Application. Changes may be made in the maximum amount of notes authorized to be outstanding after the filing of a post-effective amendment setting forth such changes and upon further order of this Commission.

As of March 31, 1979, Potomac and West Penn had short-term debt outstanding of $41,200,000 and $34,420,000, respectively; Monongahela had no short-term debt outstanding. It is stated that on July 1, 1979, Monongahela, Potomac and West Penn will be expected to have about $12,500,000, $49,000,000 and $78,000,000 of short-term debt outstanding, respectively, pursuant to this Commission's order in File No. 70-6060. No additional commercial paper or notes to banks can be issued after June 30, 1979, pursuant to this Commission's order in File No. 70-6060.

Each note payable to a bank will be dated as of the date of the borrowing which it evidences, will mature not more than two hundred-seventy (270) days after the date of issuance or renewal thereof, will bear interest at the prime or comparable interest rate of the bank from which the borrowing is made, in effect at the time of issuance, or in effect from time to time, and will be prepayable at any time without premium or penalty. The name or names of the banks from which such borrowings are proposed to be effected (maximum $275 million for all Companies outstanding at any one time) and the maximum aggregate principal amount of loans which may be outstanding from each such bank to any one or more of the Companies, including Allegheny Power System, Inc., are as follows:

Citibank, N.A.	$5,000,000
The Chemical Bank	30,000,000
Mellon Bank, N.A.	70,000,000
Pittsburgh National Bank	17,500,000
Manufacturers Hanover Trust Co.	85,000,000
Irving Trust	5,000,000
Chase Manhattan Bank, N.A.	2,500,000
	275,000,000

No commitment or agreement has been made with respect to any of the approved borrowings. The maximum amount of such borrowings at any one time outstanding will not, when taken together with any commercial paper then outstanding, be in excess of $58 million in the case of Monongahela, $92 million in the case of West Penn, and $92 million in the case of Potomac, in each case including any notes or commercial paper which may be outstanding pursuant to the Order of the Commission in File No. 70-6060. Allegheny and the Companies have established lines of credit with such banks for short-term borrowing. Balances are maintained by one or more of the System companies at all of these banks to meet regular operating requirements as well as, when necessary, in connection with these lines of credit. It is stated that compensating cash balances requirements are generally either on the basis of a percentage of the line of credit extended by such bank (for example 10%), or a higher percentage of notes outstanding (for example 20%), whichever is greater, or a percentage of the line of credit (for example 10%) plus a percentage (for example 10%) of notes outstanding, in each case on an average annual basis. If such balances were maintained solely to fulfill compensating balance requirements for borrowings, the effective interest cost of issuing and selling the notes would be no more than 14.68% on the basis of a prime commercial credit rate of 11.75%.

Certain of the banks listed above have offered to substitute fees for, or to be used in conjunction with lower compensating balances than those set forth above. The fee arrangements vary. In some cases fees equal to a specific percentage of the prime commercial rate (for example 8½% of the prime commercial rate) are involved, while in another instance the arrangement provides that balances be maintained

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equal to 5% of the line of credit with an additional fee of 2½% of prime payable, rather than more burdensome balance arrangements. The Companies would not utilize the fee arrangements unless the effective cost thereof is less than the compensating balance arrangement in effect at that bank at that time. The proposed fee arrangements produce an effective interest cost of issuing and selling the notes of between 13.35 and 14.05% on the basis of a prime commercial rate of 11.75% rather than the 14.68% effective cost resulting from meeting compensating balance requirements set forth above.

The commercial paper will be in the form of promissory notes in denominations of not less than $50,000 nor more than $5,000,000, will be of varying maturities, with no maturity more than 270 days after the date of issue, and will not be prepayable prior to maturity. The commercial paper notes will be sold by each of the Companies directly to the dealer, at a discount not in excess of the discount rate per annum prevailing at the time of issuance for commercial paper of comparable quality and of the particular maturity sold by issuers to dealers in commercial paper. The dealer may reoffer the commercial paper at a discount rate of ⅛ of 1% per annum less than the discount rate to Monongahela, Potomac or West Penn. Monongahela, Potomac and West Penn may issue commercial paper notes if (1) the interest cost thereof is equal to or less than the effective interest cost at which such company could borrow the same amount from the banks named herein at that time or (2) such company cannot at that time borrow the same amount for the same period of time from the banks named herein. The dealer will reoffer the commercial paper notes to not more than 200 of its commercial and industrial customers, identified and designated in a list for each company (nonpublic) prepared in advance. It is expected that the commercial paper notes will be held by the dealer's customers to maturity, but if the customers wish to resell prior to maturity, the dealer, pursuant to a verbal repurchase agreement, will repurchase the notes and reoffer them to others on said list. Exemption from the competitive bidding requirements of Rule 50 is requested for the proposed issuance and sale of commercial paper pursuant to paragraph (a)(5) thereof, since it is not practicable to invite competitive bids for commercial paper and current rates for commercial paper for prime borrowers such as the Companies are published daily in financial publications. The Companies also request authority to file certificates under Rule 24 with respect to the issuance and sale of commercial paper on a quarterly basis.

It is stated that the proceeds from the issuance and sale of the proposed short-term borrowings will be used by each of the Companies to reimburse its corporate treasury for past expenditures made in connection with its construction program, to pay part of the cost of future construction and for other corporate purposes. The estimated gross construction expenditures for 1979 and 1980 are estimated to aggregate $141 million in the case of Monongahela, $170 million in the case of Potomac, and $249 million in the case of West Penn. Unless otherwise authorized by this Commission, any short-term debt outstanding hereunder after December 31, 1980, will be retired by each of such Companies having such short-term debt outstanding not later than April 1, 1981, from internal cash resources of, or sale of permanent debt, preferred stock or common stock or such other securities as the Commission and other regulatory authorities having jurisdiction may authorize.

It is stated that the fees and expenses to be incurred by the Companies in connection with the proposed transaction are estimated to be approximately $32,400, including credit rating fees of $30,000. It is stated that, the State Corporation Commission of Virginia has jurisdiction over the issuance and sale by Potomac of the short-term debt. It is further stated that no other state commission and no federal commission, other than this Commission, has jurisdiction over the proposed transactions.

Notice is further given that any interested person may, not later than May 30, 1979, request in writing that a hearing be held on such matter, stating the nature of his interest, the reasons for such request, and the issues of fact or law raised by said application which he desires to controvert; or he may request that he be notified if the Commission should order a hearing thereon. Any such request should be addressed: Secretary, Securities and Exchange Commission, Washington, D.C. 20549. A copy of such request should be served personally or by mail upon the applicant at the above-stated address, and proof of service (by affidavit or, in the case of an attorney at law, by certificate) should be filed with the request. At any time after said date, the application, as filed or as it may be amended, may be granted as provided in Rule 23 of the General Rules and Regulations promulgated under the Act, or the Commission may grant exemption from such rules as provided in Rules 20(a) and 100 thereof or take such other action as it may deem appropriate. Persons who request a hearing or advice as to whether a hearing is ordered will receive any notices and orders issued in this matter, including the date of the hearing (if ordered) and any potponements thereof.

For the Commission, by the Division of Corporate Regulation, pursuant to delegated authority.

George A. Fitzsimmons,
Secretary.

[Rel. No. 21027; 70-6299]
[FR Doc. 79-14641 Filed 5-9-79; 8:45 am]
BILLING CODE 8010-01-M

Northeast Utilities Co.; Filing of Post-Effective Amendment Regarding an Extension Until December 31, 1979, of the Authorization of the System Service Co.'s $3,000,000 of Bank Notes

May 2, 1979.

In the Matter of Northeast Utilities, 174 Brush Hill Avenue, West Springfield, Massachusetts 01089 Northeast Utilities Service Company, the Connecticut Light and Power Company, The Hartford Electric Light Company, Western Massachusetts Electric Company, Holyoke Water Power Company.

Notice is hereby given that Northeast Utilities ("Northeast"), a registered holding company, and its above-named subsidiary companies have filed with this Commission a post-effective amendment to the application-declaration in this proceeding pursuant to Sections 6(a), 7, and 13(b) of the Public Utility Holding Company Act of 1935 ("Act") regarding the following proposed transactions. All interested persons are referred to the amended application-declaration, which is summarized below, for a complete statement of the proposed transactions.

By order in this proceeding dated July 30, 1969 (HCAR No. 16437), Northeast Utilities Service Company ("Service Company") was authorized to purchase and inventory all materials and supplies for the central warehouse for its own account as a wholesaler and subsequently resell and deliver such supplies and materials to the four associate operating companies, when requested by them, at Service Company's actual costs. To carry out this program Service Company was authorized to issue and sell 40-year ("Notes") to Northeast and Northeast was authorized to acquire such notes. By further orders dated June 1, 1973, May 28, 1976, and June 28, 1977 (HCAR Nos. 17976, 19547, and 20094), Service Company was authorized to change its method of financing the central warehouse inventory by borrowing the funds up to $3,000,000 from a bank pursuant to a loan agreement, such borrowings to continue to June 1, 1979.

It is now proposed that Service Company continue the bank borrowings not to exceed $3,000,000 in the aggregate, as previously authorized, to December 31, 1979. The post-effective amendment states that, with the adoption by the Commission of the new Uniform System of Accounts for Mutual and Subsidiary Service Companies on February 2, 1979 (HCAR No. 20910), Service Company will no longer be permitted, after January 1, 1980, to purchase the central warehouse inventory for its own account and that, during the period from June 1, 1979, to December 31, 1979, the Northeast system companies will revise the method of financing the central warehouse inventory in order to conform to the new System of Accounts. On December 31, 1979, the inventory will be sold to The Connecticut Light and Power Company at cost and the bank borrowings will be repaid.

The post-effective amendment states that no fees or expenses will be incurred in conection with the proposed transactions and that no consent or approval of any state commission or federal commission, other than this Commission, is required in respect of the proposed transactions.

Notice is further given that any interested person may, not later than May 29, 1979, request in writing that a hearing be held on such matter, stating the nature of his interest, the reasons for such request, and the issues of fact or law raised by said post-effective amendment ot the application-declaration which he desires to controvert; or he may request that he be notified if the Commission should order a hearing thereon. Any such request should be addressed: Secretary, Securities and Exchange Commission, Washington, D.C. 20549. A copy of such request should be served personally or by mail upon the applicants-declarants at the above-stated address, and proof of service (by affidavit or, in case of an attorney at law, by certificate) should be filed with the request. At any time after said date, the application-declaration, as now amended or as it may be further amended, may be granted and permitted to become effective in the manner provided by Rule 23 of the General Rules and Regulations promulgated under the Act, or the Commission may grant exemption from such rules as provided in Rules 20(a) and 100 thereof or take such other action as it may deem appropriate. Persons who request a hearing or advice as to whether a hearing is ordered will receive any notices and orders issued in this matter, including the date of the hearing (if ordered) and any postponements thereof.

For the Commission, by the Division of Corporate Regulation, pursuant to delegated authority.

George A. Fitzsimmons,
Secretary.

[Rel. No. 21028. 37-65]
FR Doc. 79-14642 Filed 5-9-79; 8:45 am]
BILLING CODE 8010-01-M

Pennsylvania Electric Co.; Issuance and Sale of up to $50,000,000 Principal Amount of Additional First Mortgage Bonds and Request for Exemption From Competitive Bidding

In the Matter of Pennsylvania Electric Company, 1001 Broad Street, Johnstown, Pennsylvania 15907.

Notice is hereby given that Pennsylvania Electric Company ("Penelec"), an electric utility subsidiary of General Public Utilities Corporation ("GPU"), a registered holding company, has filed with this Commission an application pursuant to the Public Utility Holding Company Act of 1935 ("Act"), designating Section 6(b) of the Act and Rule 50(a)(5) promulgated thereunder as applicable to the proposed transaction. All interested persons are referred to the application, which is summarized below, for a complete statement concerning the proposed transaction.

Penelec proposes to issue and sell up to $50,000,000 principal amount of additional First Mortgage Bonds (the "New Bonds") to be issued under the Mortgage and Deed of Trust, dated as of January 1, 1942, of Penelec to Bankers Trust Company, Trustee, as heretofore supplemented and amended and as to be further supplemented and amended.

The New Bonds will contain a 5-year refunding limitation. Other terms of the New Bonds, including the interest rate, and the redemption terms, will be supplied by amendment.

The entire proceeds to be realized from the sale of the New Bonds, will be used to pay all or a portion of Penelec's short-term bank loans outstanding at the date of sale and to reimburse Penelec's treasury for funds previously expended therefrom.

Penelec requests an exemption from the competitive bidding requirements of Rule 50 pursuant to Rule 50(a)(5). It refers to the nuclear accident at Unit No. 2 of the Three Mile Island nuclear generating station ("TMI-2"), which accident occurred on March 28, 1979. Penelec owns an undivided 25% interest in TMI-2, the remainder being owned by Jersey Central Power & Light Company (25%) and Metropolitan Edison Company (50%), associate companies of Penelec. Expenditures for the clean up and repair of TMI-2 and the purchase of replacement energy will subject the GPU system including Penelec, to a serious cash drain for an indeterminable period. In view of these uncertain and exceptional conditions, Penelec believes that financing through the selling of additional securities at competitive bidding is not now feasible.

Penelec believes that it may be possible to effect such sales through private placement or a negotiated public offering, or both. Penelec proposes to explore with a group of prospective underwriters the prospects for such private or public offerings and, among other things, to obtain their recommendations for the sequence and size of such sales. It is hereby authorized to do so.

The fees and expenses to be incurred in connection with the proposed transaction will be supplied by amendment. It is stated that the Pennsylvania Public Utility Commission has jurisdiction over the proposed transaction and that no other state commission, and no federal commission, other than this Commission, has jurisdiction thereover.

Notice is further given that any interested person may, not later than May 31, 1979, request in writing that a hearing be held on such matter, stating the nature of his interest, the reasons for such request, and the issues of fact or law raised by said application which he desires to controvert; or he may request that he be notified if the Commission should order a hearing thereon. Any such request should be addressed: Secretary, Securities and Exchange Commission, Washington, D.C. 20549. A copy of such request should be served personally or by mail upon the applicant at the above-stated address, and proof of service (by affidavit or, in case of an attorney at law, by certificate) should be filed with the request. At any time after said date, the application, as filed or as it may be amended, may be granted as provided in Rule 23 of the General Rules and Regulatons promulgated under the Act, or the Commission may grant exemption from such rules as provided in Rules 20(a) and 100 thereof or take such other action as it may deem appropriate. Persons who request a hearing or advice as to whether a hearing is ordered will receive any notices and orders issued in this matter,

including the date of the hearing (if ordered) and any postponements thereof.

For the Commission, by the Division of Corporate Regulation, pursuant to delegated authority.

George A. Fitzsimmons,
Secretary.

[Rel. No. 21034; 70-6302]

[FR Doc. 79-14643 Filed 5-9-79; 8:45 am]

BILLING CODE 8010-01-M

Temporary Investment Fund, Inc.; Filing of Application Pursuant to Section 6(c) of the Act for Order Granting Exemption From Section 18(g) of the Act

May 4, 1979.

In the Matter of Temporary Investment Fund, Inc., Suite 204, Webster Building, Concord Plaza, 3411 Silverside Road, Wilmington, Delaware 19810.

Notice is hereby given that Temporary Investment Fund, Inc. ("Applicant"), registered under the Investment Company Act of 1940 ("Act") as an open-end, diversified, management investment company, filed an application on January 8, 1979, and an amendment thereto on May 2, 1979, pursuant to Section 6(c) of the Act, for an order exempting Applicant's proposed dividend policy from the provisions of Section 18(g) of the Act, to the extent such proposed policy might be deemed to result in the creation of a "senior security," the issuance of which would be prohibited by Section 18(f)(1) of the Act. All interested persons are referred to the application on file with the Commission for a statement of the representations contained therein, which are summarized below.

Applicant states that it is a "money market" fund designed as a vehicle for the short-term investment of funds held by banks and other institutions in a fiduciary, advisory, agency, custodial or similar capacity. According to the application, Applicant's investment objective is to seek current income and stability of principal through investment in a portfolio of money market instruments, including commercial paper, certificates of deposit, and government securities. Applicant states that as of January 2, 1979, it had net assets of $938,252,428, and that approximately 55% of its shares were owned by banks acting in a fiduciary or custodial capacity.

Applicant states that its net asset value per share presently is determined on each business day as of 12:00 Noon, E.S.T., and as of the close of trading on the New York Stock Exchange.

Applicant further states that: (i) it includes unrealized gains and losses on portfolio securities in its net asset value per share; (ii) it uses its best efforts to maintain a constant net asset value of $1.00 per share; and (iii) pursuant to an exemptive order issued by the Commission (Investment Company Act Release No. 10451, October 26, 1978), it calculates net asset value per share to the nearest one cent on a share value of $1.00. According to the application, dividends presently are declared from net income each business day, immediately prior to the determination of net asset value as of 12:00 Noon, E.S.T., to shareholders of record as of the close of trading on the New York Stock Exchange the previous business day, and that as a result, shares are credited with their first dividends on the day after their purchase and with their last dividends on the day of their redemption.

Applicant proposes a new dividend policy whereby it would issue two classes of its shares, each with differing record dates for the purpose of declarations of dividends. Prospective shareholders wishing to be credited with their first dividend on the day after the purchase of shares and their last dividend on the day of redemption of shares would purchase Applicant's present class of common shares ("Class A shares"), and those shareholders wishing to be credited with their first dividend on the day they purchase shares and their last dividend on the day prior to redemption would purchase a newly authorized class of common shares ("Class B shares"). Applicant states that it would continue its present policy of declaring one dividend each business day from net income, but that under the proposed dividend policy dividend net income would be determined as of 4:00 p.m., E.S.T., immediately prior to the determination of net asset value. Applicant further states that, pursuant to a standing resolution of its board of directors, dividends would also be declared on weekends and holidays.

According to the application, dividends would be declared daily in an amount equal to net income, and in per share amounts determined by dividing net income by the sum of: (i) the number of Class A shares outstanding at the close of business on the preceding day (or at 5:00 p.m. on the preceding day, if such day is not a business day), and (ii) the number of Class B shares outstanding at the close of business on the day the dividend is declared (or at 5:00 p.m. of that day, if such day is not a business day), after all redemptions and sales of Class B shares are effected. Applicant states that each day's dividends would be payable *pro rata* to Class A shares held of record at the close of business on the day prior to the declaration, and to Class B shares held of record at the close of business on the day of declaration. Applicant further states that it will continue its present policy of computing its net asset value per share each day as of 12:00 Noon, and as of the close of trading on the New York Stock Exchange. By declaring dividends seven days each week, Applicant asserts that the first dividend declared to a purchaser of Class B shares on a business day preceded by a weekend or holiday would only reflect net income earned on the day the shares were purchased. According to the application, both classes of shares would have identical voting, dividend, liquidation and other rights, and shareholders of both classes would receive the same number of dividends, depending on the number of days they are shareholders.

The application states that the proposed dividend policy is designed to facilitate the sale of Applicant's shares to banks which do not utilize Applicant's sub-accounting services, some of which banks have found the timing of the dividends pursuant to Applicant's present dividend policy to be incompatible with the computer programs they utilize. Applicant states that such banks utilize computer programs designed to account for participations in variable amount master demand notes, which, unlike Applicant's shares, begin to earn interest on the day the participation is purchased and continue to earn interest until the day before the participation is sold. According to the application, such banks would have to reprogram their computers to account for Applicant's present dividends properly.

Section 18(g) of the Act, in pertinent part, defines the term "senior security" to include any bond, debenture, note, or similar obligation or instrument constituting a security and evidencing indebtedness, and any stock of a class having priority over any other class as to distribution of assets or payment of dividends. Section 18(f)(1) of the Act, generally, makes it unlawful for any registered open-end investment company to issue any class of senior security or to sell any senior security of which it is the issuer, except under certain circumstances not here relevant.

Applicant asserts that its proposed dividend policy will not result in the creation of a senior security because neither class of its shares would have any priority over the other as to distribution of assets or payment of dividends: the respective rights of shareholders of each class would be identical and only the dates of entitlement to the first and last dividends would vary through the use of two record dates. However, Applicant requests an order, pursuant to Section 6(c) of the Act, to the extent that its proposed dividend policy might be deemed to result in the creation of a senior security within the meaning of Section 18(g) of the Act.

Section 6(c) of the Act provides, in part, that the Commission may, upon application, conditionally or unconditionally exempt any person, security or transaction, or any class or classes of persons, securities or transactions, from any of the provisions of the Act or of any rule or regulation thereunder, if and to the extent that such exemption is necessary or appropriate in the public interest and consistent with the protection of investors and the purposes fairly intended by the policy and provisions of the Act.

Applicant submits that the requested exemption is appropriate and in the public interest, that the proposed dividend policy will permit it to satisfy the accounting needs of bank trust departments investing in master note programs, and that such policy will not adversely affect the interests of any of its shareholders. Applicant states that: (i) shares of either class would be issued only after receipt of payment in federal funds or other funds immediately available to the transfer agent, and (ii) the participation of Class B shareholders in dividends declared on the day their shares are purchased will not affect the amount per share paid to other shareholders because Applicant has made arrangements which enable federal funds received from the sale of Class B shares to be invested on the date of receipt and the earnings thereon to be included in net income on that date. In addition, Applicant has agreed, as a condition to the requested order, that it will not reduce the amount of any dividend declared to its shareholders in order to maintain its net asset value per share at $1.00.

Notice is further given that any interested person may, not later than May 29, 1979, at 5:30 p.m., submit to the Commission in writing a request for a hearing on the matter accompanied by a statement as to the nature of his interest, the reason for such request, and the issues, if any, of fact or law proposed to be controverted, or he may request that he be notified if the Commission shall order a hearing thereon. Any such communication should be addressed: Secretary, Securities and Exchange Commission, Washington, D.C. 20549. A copy of such request shall be served personally or by mail upon Applicant at the address stated above. Proof of such service (by affidavit or, in the case of an attorney-at-law, by certificate) shall be filed contemporaneously with the request. As provided by Rule 0-5 of the Rules and Regulations promulgated under the Act, an order disposing of the application will be issued as of course following said date unless the Commission thereafter orders a hearing upon request or upon the Commission's own motion. Persons who request a hearing, or advice as to whether a hearing is ordered, will receive any notices and orders issued in this matter, including the date of the hearing (if ordered) and any postponements thereof.

By the Commission.

George A. Fitzsimmons,
Secretary.

[Rel. No. 10682; 812-4417]

[FR Doc. 79-14644 Filed 5-9-79; 8:45 am]

BILLING CODE 8010-01-M

SMALL BUSINESS ADMINISTRATION

Line of Succession to the Administrator

Correction

In FR Doc. 79-13647, appearing in the issue of Wednesday, May 2, 1979, on page 25717, in the middle column, the last document, the heading should be corrected to read as set forth above.

[Delegation of Authority No. 1-A (Rev. 7)]

BILLING CODE 1505-01-M

DEPARTMENT OF STATE

Agency for International Development

Board for International Food and Agricultural Development; Meeting

Pursuant to Executive Order 11769 and the provisions of Section 10(a), (2), P.L. 92-463, Federal Advisory Committee Act, notice is hereby given of the twenty-ninth meeting of the Board for International Food and Agricultural Development (BIFAD) on June 5, 1979.

The purpose of this meeting is to: receive and discuss the progress reports of the Joint Research Committee (JRC) and the Joint Committee for Agricultural Development (JCAD); discuss the status of the recommended Title XII University Strengthening Grants; discuss briefing on the President's Commission on Hunger; receive and discuss the Regional Work Groups' reports on Consultations with Countries/Missions; and discuss briefing on the Consultative Group for International Agricultural Research (CGIAR) meeting.

The meeting will begin at 9:00 a.m. and adjourn at 4:00 p.m.; and will be held in Room 1107, State Department Building, 22nd and C Streets, N.W., Washington, D.C. The meeting is open to the public. Any interested person may attend, may file written statements with the Board before or after the meeting, or may present oral statements in accordance with procedures established by the Board, and to the extent the time available for the meeting permits. An escort from the "C" Street Information Desk (Diplomatic Entrance) will conduct you to the meeting room.

Dr. Erven J. Long, Director, Office of Title XII Cordination and University Relations, Development Support Bureau, A.I.D., is designated as A.I.D. Advisory Committee Representative at the meeting. It is suggested that those desiring further information write to him in care of the Agency for International Development, State Department, Washington, D.C. 20523, or telephone him at (703) 235-8929.

Dated: May 3, 1979.

Erven J. Long,
A.I.D. Advisory Committee Representative Board for International Food and Agricultural Development.

[FR Doc. 79-14561 Filed 5-9-79; 8:45 am]

BILLING CODE 4710-02-M

Shipping Coordinating Committee; Subcommittee on Safety of Life at Sea; Meeting

The working group on standards of training and watchkeeping of the Subcommittee on Safety of Life at Sea (SOLAS), a subcommittee of the Shipping Coordinating Committee, will hold an open meeting at 9:30 a.m. on Wednesday, May 30, 1979 in Room 6200 of the Department of Transportation, 400 Seventh Street, S.W., Washington, D.C. 20590.

The purpose of the meeting will be to:

Discuss the future work program of the IMCO Subcommittee on Standards of Training and Watchkeeping in preparation for the meeting of the Subcommittee commencing on July 9, 1979 in London, England.

Requests for further information should be directed to Captain D. E. Hand, U.S. Coast Guard (G-MVP/82), Washington, D.C. 20590, telephone (202) 426-1500.

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The Chairman will entertain comments from the public as time permits.

Richard K. Bank,
Chairman, Shipping Coordinating Committee.

April 30, 1979.

[Public Notice CM–8/191]
[FR Doc. 79–14647 Filed 5–9–79; 8:45 am]
BILLING CODE 4710–01–M

Study Group 4 of the U.S. Organization for the International Telegraph and Telephone Consultative Committee (CCITT); Meeting

The Department of State announces that Study Group 4 of the U.S. Organization for the International Telegraph and Telephone Consultative Committee (CCITT) will meet on May 31, 1979, at 10:00 a.m. in Room 1408 of the Department of State, 2201 C Street, N.W., Washington, D.C. This Study Group deals with matters in telecommunications relating to the development of international digital data transmission services.

The agenda for the May 31 meeting will include consideration of the following:

1. Report on the April/May 1979 meeting of the CCITT Study Group VII Working Parties;
2. Consideration of submissions for the September 1979 meeting of the CCITT Study Group XVII Working Parties;
3. Any other business.

Members of the general public may attend the meeting and join in the discussion subject to instructions of the Chairman. Admittance of public members will be limited to the seating available. In that regard, entrance to the Department of State building is controlled and entry will be facilitated if arrangements are made in advance of the meeting. It is requested that prior to May 31, members of the general public who plan to attend the meeting so advise Mr. T. de Haas, chairman of U.S. Study Group 4. Mr. de Haas can be contacted at the Institute for Telecommunication Sciences, National Telecommunications and Information Administration, Boulder, Colorado 80303, telephone number (303) 499–1000, ext. 3728. Persons in the Washington, D.C. metropolitan area may contact Mr. Richard H. Howarth, Department of State, telephone number 632–1007. All non-Government attendees must use the C Street entrance to the building.

Dated: April 30, 1979.

Richard H. Howarth,
Chairman, U.S. CCITT National Committee.

[Public Notice CM–8/192]
[FR Doc. 79–14549 Filed 5–9–79; 8:45 am]
BILLING CODE 4710–07–M

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

Informal Airspace Meeting

AGENCY: Federal Aviation Administration (FAA), Department of Transportation (DOT).

SUMMARY: This Notice announces an informal airspace meeting to be held at Niskayuna High School, 1626 Balltown Road, Schenectady, New York, on May 31, 1979, at 7:30 P.M. on the proposed designation of the Albany, New York, Terminal Control Area (TCA) Docket No. 18605–AEA–3–ALB.

This informal airspace meeting is to give interested persons a chance to submit such written data, views, arguments as they may desire to discuss the proposed designation of the Albany, N.Y. TCA. The information obtained from this informal airspace meeting will be given consideration during the composition of the Notice of Proposed Rule Making (NPRM). All interested individuals and groups are invited to attend, but limited to space available.

FOR FURTHER INFORMATION: Mr. Eugene Bryant, Chief, Albany Airport Traffic Control Tower (ATCT), Federal Aviation Administration, Albany, N.Y. 12211, Telephone: 518–869–5474. Office hours are 8:00 A.M. to 4:30 P.M. Monday through Friday.

Issued on: April 30, 1979.

Walter H. Mitchell,
Chief, Airspace and Procedures Branch.

[FR Doc. 79–14250 Filed 5–9–79; 8:45 am]
BILLING CODE 4910–13–M

Radio Technical Commission for Aeronautics (RTCA); Special Committee 133—Airborne Weather and Ground Mapping Pulsed Radar; Meeting

Pursuant to section 10(a)(2) of the Federal Advisory Committee Act (Pub. L. 92–463; 5 U.S.C. App. I) notice is hereby given of a meeting of the RTCA Special Committee 133 on Airborne Weather and Ground Mapping Pulsed Radars to be held May 30 through June 1, 1979, in RTCA Conference Room 261, 1717 H Street, NW, Washington, D.C. commencing at 9:30 a.m.

The Agenda for this meeting is as follows: (1) Chairman's Introductory Remarks; (2) Approval of Minutes of Seventh Meeting held February 6 through 8, 1979; (3) Review of Revised Committee Terms of Reference; (4) Summary Reports from Working Group Chairmen; (5) Review of European Organization for Civil Aviation Electronics Working Group 3 Comments on RTCA Draft Report; (6) Working Groups Meet in Separate Sessions; (7) Assignment of Tasks; and (8) Other Business.

Attendance is open to the interested public but limited to space available. With the approval of the Chairman, members of the public may present oral statements at the meeting. Persons wishing to present oral statements or obtain information should contact the RTCA Secretariat, 1717 H Street, NW, Washington, D.C. 20006; (202) 296–0484. Any member of the public may present a written statement to the committee at any time.

Issued in Washington, D.C. on April 30, 1979.

Karl F. Bierach,
Designated Officer.

[FR Doc. 79–14249 Filed 5–9–79; 8:45 am]
BILLING CODE 4910–13–M

Petitions for Exemption; Summary of Petitions Received and Dispositions of Petitions Issued

AGENCY: Federal Aviation Administration (FAA) DOT.

ACTION: Notice of petitions for exemptions received and of dispositions of petitions issued.

SUMMARY: Pursuant to FAA's rulemaking provisions governing the application, processing, and disposition of petitions for exemption (14 CFR Part 11), this notice contains a summary of certain petitions seeking relief from specified requirements of the Federal Aviation Regulations (14 CFR Chapter I) and of dispositions of certain petitions previously received. The purpose of this notice is to improve the public's awareness of, and participation in, this aspect of FAA's regulatory activities. Publication of this notice and any information it contains or omits is not intended to affect the legal status of any petition or its final disposition.

DATES: Comments on petitions received must identify the petition docket number involved and must be received on or before: May 30, 1979.

ADDRESSES: Send comments on any petition in triplicate to: Federal Aviation Administration, Office of the Chief Counsel, Attn: Rules Docket (AGC–24), Petition Docket No. ———, 800 Independence Avenue, SW., Washington, D.C. 20591.

FOR FURTHER INFORMATION: The petition, any comments received and a copy of any final disposition are filed in the assigned regulatory docket and are available for examination in the Rules Docket (AGC–24), Room 916, FAA Headquarters Building (FOB 10A), 800 Independence Avenue, SW, Washington, D.C. 20591; telephone (202) 426–3644.

This notice is published pursuant to paragraphs (c), (e), and (g) of § 11.27 of Part 11 of the Federal Aviation Regulations (14 CFR Part 11).

Issued in Washington, D.C., on May 4, 1979.

Edward P. Faberman,
Acting Assistant Chief Counsel, Regulations and Enforcement Division.

Petitions for Exemptions

Docket No.	Petitioner	Regulations affected	Description of relief sought
19114	Airline Training Center	14 CFR Part 141, Appendix D(3)(c).	To allow an additional pilot to be carried during more than 50 hours of the solo practice required by this section.
11773	Border Patrol	14 CFR 91.79(c)	Petitioner requested that Exemption No. 1533A be amended to allow flight altitudes down to 200 feet above persons vessels, vehicles or structures during in-flight identification, surveillance and pursuit operations consistent with the assigned mission of the Border Patrol.

Dispositions of Petitions for Exemptions

Docket No.	Petitioner	Regulations affected	Description of relief sought—disposition
None	City of Vero Beach, Florida	14 CFR 139.65	To be exempt until June 30, 1979 from the requirements of Section 139.65 of the Federal Aviation Regulations which requires that certificated airports have appropriate safeguards against inadvertent entry of persons or large domestic animals onto any airport operations area. *Granted 4/25/79.*
18893	Overseas National Airways, Inc	14 CFR Sections 21, 181, 91.27, 91.29, and 91.165.	To permit Overseas National Airways Inc., to operate its DC–8 aircraft under Part 91 using the FAA-approved master minimum equipment list. *Granted 4/27/79.*

[Summary Notice No. PE–79–4]
[FR Doc. 79–14559 Filed 5–9–79; 8:45 am]
BILLING CODE 4910–13–M

Materials Transportation Bureau

United Nations Recommendations on the Transport of Dangerous Goods; Public Meeting

A public meeting will be held on June 14, 1979, at 9:30 a.m., in Room 3201 of the Trans Point Building, 2100 Second Street, S.W., Washington, D.C. 20590. The purpose of this meeting will be to discuss the Report of the Tenth Session of the Committee of Experts on the Transport of Dangerous Goods. In addition, the results of the Twenty-Third Session of the Group of Rapporteurs will be given. Anticipated items of discussion by the Group of Rapporteurs and the Group of Experts on Explosives include:

1. Criteria for grouping of poisons by degree of hazard (inhalation toxicity).
2. Revision of UN list of pesticides.
3. Multimodal tank containers.
4. Permanent marking of reconditionable packagings.
5. Water resistance of fiberboard packagings.
6. Consignment procedures for dangerous goods shipments.
7. Proposals to amend the definitions of classes.
8. International Convention on the Transport of Dangerous Goods by all modes.

Interested persons are invited to attend and participate in this meeting.

Alan I. Roberts,
Associate Director for Hazardous Materials Regulation, Materials Transportation Bureau.

[FR Doc. 79–14418 Filed 5–9–79; 8:45 am]
BILLING CODE 4910–60–M

DEPARTMENT OF THE TREASURY

Customs Service

American Manufacturer's Petition; Receipt of American Manufacturer's Petition Requesting the Reclassification of Plastic Netting

AGENCY: United States Customs Service, Department of the Treasury.

ACTION: Notice of receipt of American manufacturer's petition.

SUMMARY: Customs has received a petition from an American manufacturer of plastic netting requesting the reclassification of similar imported merchandise as textile articles. Plastic netting produced in an extrusion machine process in one single continuous operation is currently precluded by Customs administrative rulings from classification as textile articles.

DATES: Interested parties may comment on this petition. Comments (preferably in triplicate) must be received on or before July 9, 1979.

ADDRESS: Comments should be addressed to the Commissioner of Customs, Attention: Regulations and Legal Publications Division, Room 2335, 1301 Constitution Avenue, N.W., Washington, D.C. 20229

FOR FURTHER INFORMATION CONTACT: Donald F. Cahill, Classification and Value Division, U.S. Customs Service,

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1301 Constitution Avenue, N.W., Washington, D.C. 20229 (202–566–8181).

SUPPLEMENTARY INFORMATION:

Background

A petition has been filed under section 516 of the Tariff Act of 1930, as amended (19 U.S.C. 1516), by an American manufacturer of plastic netting. This netting is described in the petitioner's submission as a continuously extruded plastic mesh having application in industrial and consumer packaging, and as the support medium for filtering systems such as blood dialysis machines. The petitioner contends that plastic netting of this kind is properly classifiable as nonwoven textile articles, presumably under the provision for other textile articles not specially provided for, of man-made fibers, in item 389.62, Tariff Schedules of the United States (TSUS). Imported merchandise of this kind is currently classifiable under the provision for film, strips, and sheets, all the foregoing which are flexible, not of cellulosic plastic materials, other, in item 771.42, TSUS, if the netting is flexible and over 15 inches in width and over 18 inches in length, and not processed (other than surface-processed), or in item 771.55, TSUS, if the netting is not flexible and meets those dimensional requirements or consists of seamless tubing made or cut into lengths measuring over 15 inches. See headnotes 1 (b) and (c), Schedule 7, Part 12, Subpart B, TSUS. If the plastic netting is made or cut into non-rectangular shapes, or measures not over 15 inches in width, or measures not over 18 inches in length, or is ground on the edges, drilled, milled, hemmed, or otherwise processed (except surface-processed), it is classifiable under the provision for articles not specially provided for, of rubber or plastics, other, in item 774.60, TSUS. See headnote 2(iv), Schedule 7, Part 12, Subpart B, TSUS.

On the basis that a textile article must be produced from previously formed filaments, Customs has precluded from classification as textile articles plastic netting which is produced in an extrusion machine process in one single continuous operation that forms the complete product.

Comments

Pursuant to section 175.21(a) of the Customs Regulations (19 CFR 175.21(a)), the Customs Service invites written comments on this petition from all interested parties.

The American manufacturer's petition, as well as all comments recived in response to this notice, will be available for public inspection in accordance with sections 103.8(b) and 175.21(b), Customs Regulations (19 CFR 103.8(b), 175.21(b)), during regular business hours at the Regulations and Legal Publications Division, Headquarters, U.S. Customs Service, Room 2335, 1301 Constitution Avenue, N.W., Washington, D.C. 20229.

Authority

This notice is published in accordance with section 175.21(a) of the Customs Regulations (19 CFR 175.21(a)).

Dated: May 4, 1979.

Leonard Lehman,
Assistant Commissioner, Regulations and Rulings.

[521190]
[FR Doc. 79-14610 Filed 5-9-79; 8:45 am]
BILLING CODE 4810-22-M

American Manufacturer's Petition; Receipt of American Manufacturer's Petition To Reclassify Radio Remote Control Apparatus

AGENCY: United States Customs Service, Department of the Treasury.

ACTION: Notice of receipt of American manufacturer's petition.

SUMMARY: Customs has received a petition from an American manufacturer of radio remote control apparatus requesting the reclassification of imported radio remote control apparatus designed to be used with toy and model airplanes, boats, tanks, and similar articles.

DATES: Interested persons may comment on this petition. Comments (preferably in triplicate) must be received on or before July 9, 1979.

ADDRESS: Comments should be addressed to the Commissioner of Customs, Attention: Regulations and Legal Publications Division, Room 2335, 1301 Constitution Avenue, N.W., Washington, D.C. 20229.

FOR FURTHER INFORMATION CONTACT: Leon X. Ludwig, Classification and Value Division, U.S. Customs Service, 1301 Constitution Avenue, N.W., Washington, D.C. 20229 (202–566–8181).

SUPPLEMENTARY INFORMATION:

Background

A petition has been filed under section 516 of the Tariff Act of 1930, as amended (19 U.S.C. 1516), by an American manufacturer of radio remote control apparatus. The petitioner contends that radio remote control apparatus which is imported separately, but which is designed for use with toy and model airplanes, boats, tanks, and similar articles, is properly classifiable under the provision for toys, and parts of toys, not specially provided for, other, in item 737.95, Tariff Schedules of the United States (TSUS). Radio remote control apparatus is specifically provided for in item 685.60, TSUS.

In support of its contention that the radio remote control apparatus in question is properly classifiable under item 737.95, TSUS, the petitioner alleges the following:

(1) The intent of Congress was to include only extremely sophisticated military and scientific radio remote control apparatus in the provision for radio remote control apparatus in item 685.60, TSUS; and

(2) Radio remote control apparatus which is used with toy and model airplanes, boats, tanks, and similar articles, are classifiable according to their chief use, i.e., toys for the amusement of children or adults.

Comments

Pursuant to section 175.21(a) of the Customs Regulations (19 CFR 175.21(a)), the Customs Service invites written comments on this petition from all interested parties.

The American manufacturer's petition, as well as all comments received in response to this notice, will be available for public inspection in accordance with sections 103.8(b) and 175.21(b), Customs Regulations (19 CFR 103.8(b), 175.21(b)), during regular business hours at the Regulations and Legal Publications Division, Headquarters, U.S. Customs Service, Room 2335, 1301 Constitution Avenue, N.W., Washington, D.C. 20229.

Authority

This notice is published in accordance with section 175.21(a) of the Customs Regulations (19 CFR 175.21(a)).

Dated: May 4, 1979.

Leonard Lehman,
Assistant Commissioner, Regulations and Rulings.

[057755]
[FR Doc. 79-14612 Filed 5-9-79; 8:45 am]
BILLING CODE 4810-22-M

Internal Revenue Service

Director of International Operations; Delegation of Authority

AGENCY: Internal Revenue Service, Treasury.

ACTION: Delegation of authority.

SUMMARY: The Director of International Operations has been added to the list of individuals who may approve premium pay for administratively uncontrollable overtime.

This document does not meet the criteria for significant regulations set forth in paragraph 8 of the proposed Treasury Directive appearing in the Federal Register for Wednesday, May 24, 1978.

EFFECTIVE DATE: May 3, 1979.

FOR FURTHER INFORMATION CONTACT: Peter J. Keenan, 1111 Constitution Avenue NW., Room 3517, Washington, D.C. 20224, (202) 566–6240 (not toll free).

Donald R. Schumacher,
Staff Assistant to Assistant Commissioner (Compliance).

Premium Pay for Administratively Uncontrolled Overtime

Date of Issue: May 3, 1979.
Effective Date: May 3, 1979.

The authority delegated to the Commissioner of Internal Revenue in Chapter 550, Treasury Personnel Manual, to approve premium pay authorizations is hereby delegated as follows:

A. The Director, Personnel Division, is authorized to prescribe eligibility requirements for the payment of premium pay, and to resolve questions of application. This authority may not be redelegated.

B. The Assistant Commissioner (Inspection) is authorized to approve premium pay authorizations for Criminal Investigators under his/her jurisdiction in National Office and field positions who meet the eligibility requirements for premium pay. This authority may be redelegated by the Assistant Commissioner (Inspection) to the Director, Internal Security Division, and to the Regional Inspectors. This authority may not be redelegated by them.

C. The Director, Criminal Investigation Division is authorized to approve premium pay authorizations for Criminal Investigators under his/her jurisdiction (including Criminal Investigators detailed to the National Office) who meet the eligibility requirements for premium pay. This authority may not be redelegated.

D. The Director of International Operations is authorized to approve premium pay authorizations for Criminal Investigators under his/her jurisdiction who meet the eligibility requirements for premium pay. This authority may not be redelegated.

E. Regional Commissioners are authorized to approve premium pay authorizations for Criminal Investigators under their jurisdiction who meet the requirements for premium pay. This authority may be redelegated not lower than to the Chiefs of the Criminal Investigation Division in the district offices or the District Director in streamlined districts.

This Order supersedes Delegation Order No. 103 (Rev. 4), issued January 29, 1979.

William E. Williams,
Acting Commissioner.

[Delegation Order No. 103; Rev. 5]
[FR Doc. 79-14615 Filed 5-9-79; 8:45 am]
BILLING CODE 4830-01-M

Office of the Secretary

United States and Costa Rica To Discuss Income Tax Treaty

The Treasury Department today announced that representatives of the United States and Costa Rica will meet in San Jose in late May to begin preliminary discussions on an income tax treaty between the two countries. There currently is no income tax treaty between the United States and Costa Rica.

The proposed treaty is intended to prevent double taxation and to facilitate trade and investment between the two countries. It will be concerned with the taxation of income from business, investment and personal services, and with procedures for administering the provisions of the treaty.

The new treaty is expected to take into account the 1977 model income tax convention of the Organization for Economic Cooperation and Development, the May 17, 1977, United States model income tax convention, and recent treaties entered into by the United States.

The Treasury Department invites comments or suggestions concerning the forthcoming discussions to be in writing, and submitted, as soon as possible, to H. David Rosenbloom, International Tax Counsel, Room 3064, U.S. Treasury Department, Washington, D.C. 20220. Since the negotiations are likely to continue beyond the May meeting, even those comments received after that time will be considered.

Dated: May 4, 1979.

Donald C. Lubick,
Assistant Secretary (Tax Policy).

[FR Doc. 79-14552 Filed 5-9-79; 8:45 am]
BILLING CODE 4810-25-M

INTERSTATE COMMERCE COMMISSION

Motor Carrier Temporary Authority Applications

April 27, 1979.

The following are notices of filing of applications for temporary authority under Section 210(a) of the Interstate Commerce Act provided for under the provisions of 49 CFR 1131.3. These rules provide that an original and six (6) copies of protests to an application may be filed with the field official named in the Federal Register publication no later than the 15th calendar day after the date the notice of the filing of the application is published in the Federal Register. One copy of the protest must be served on the applicant, or its authorized representative, if any, and the protestant must certify that such service has been made. The protest must identify the operating authority upon which it is predicated, specifying the "MC" docket and "Sub" number and quoting the particular portion of authority upon which it relies. Also, the protestant shall specify the service it can and will provide and the amount and type of equipment it will make available for use in connection with the service contemplated by the TA application. The weight accorded a protest shall be governed by the completeness and pertinence of the protestant's information.

Except as otherwise specifically noted, each applicant states that there will be no significant effect on the quality of the human environment resulting from approval of its application.

A copy of the application is on file, and can be examined at the Office of the Secretary, Interstate Commerce Commission, Washington, D.C., and also in the ICC Field Office to which protests are to be transmitted.

Note.—All applications seek authority to operate as a common carrier over irregular routes except as otherwise noted.

Motor Carriers of Property

MC 98614 (Sub-6TA), filed March 16, 1979. Applicant: ARKANSAS TRANSPORT COMPANY, INC., 100 West Emily, North Little Rock, AR 72214. Representative: J. E. Siegler, P.O. Box 702, Little Rdck, AR 72203. *Petroleum products* in bulk in tank trucks from North Little Rock, AR to Kennett and Clarkton, MO, for 180 days. An underlying ETA seeks 90 days authority. Supporting shipper(s): Thompson Oil Company of Tulsa, Inc., 912 Philtower Building, Tulsa, OK 74103. Send protests to: William H. Land, Jr., District Supervisor, 3108 Federal Office Building, 700 West Capitol, Little Rock, AR 72201.

MC 106674 (Sub-369TA), filed February 14, 1979. Applicant: SCHILLI MOTOR LINES, INC., P.O. Box 123, U.S. Highway 24 West, Remington, IN 47977. Representative: Jerry L. Johnson, (same as applicant). *Glass containers, caps, covers and related items,* from the facilities of Glass Containers Corporation at Knox (Clarion County), Marienville (Forest County) and Parker (Armstrong County) PA to Greenville, MS, for 180 days. Supporting shipper: Glass Containers Corporation, 114 Pennsylvania, Knox, PA 16233. Send protests to: Beverly J. Williams, Transportation Assistant, ICC, 46 East

Ohio Street, Room 429, Indianapolis, IN 46204. An underlying ETA seeks 90 days authority.

MC 107515 (Sub-1219TA), filed March 7, 1979. Applicant: REFRIGERATED TRANSPORT CO., INC., P.O. Box 308, Forest Park, GA 30050. Representative: Alan E. Serby & Richard M. Tettelbaum, Fifth Floor, Lenox Towers South, 3390 Peachtree Road, N.E., Atlanta, GA 30326. *Bananas and agricultural commodities, otherwise exempt from regulations under 49 U.S.C. S10526(a)(6). in mixed loads with bananas* from Baltimore, MD to points in OH, MI, IN, IL, MO, MN, IA and Louisville, KY, for 180 days. Supporting Shipper(s): Chiquita Brands, Inc., 15 Mercedes Drive, Montvale, NJ 078645. Send protests to: Sara K. Davis, T/A, ICC, 1252 W. Peachtree, St., N.W., Rm. 300, Atlanta, GA 30309.

MC 115975 (Sub-35TA), filed March 30, 1979. Applicant: C. B. W. TRANSPORT SERVICES, INC., P.O. Box 48, Wood River, IL 62095. Representative: Ernest Brooks, II, 1301 Ambassador Bldg., St. Louis, MO 63101. Contract, irregular. Petroleum lubricating oil, in bulk, in tank vehicles, from the facilities of Mobil Oil Corporation at Beaumont, TX to Avondale, LA, under a continuing bilateral contract with Mobil Oil Corp., for 180 days. An underlying ETA seeks 90 days authority. Supporting Shipper(s): Mobil Oil Corporation, 8350 North Central Expressway, Dallas, TX 75206. Send protests to: Charles D. Little, D/S, Interstate Commerce Commission, Room 414 Leland Office Building, 527 East Capitol Avenue, Springfield, IL 62701.

MC 128024 (Sub-12TA), filed February 23, 1979. Applicant: MORGAN PORTABLE BUILDING TRANSPORT CORP., P.O. Box 4229, Irving, TX 75061. Representative: Hicks Morgan (Same address as above). Contract carrier, irregular routes, *Portable Buildings (except mobile homes) and component parts, materials, and supplies (except commodities in bulk) used in the construction and assembly of portable buildings* between points in the United States (including Alaska but excluding Hawaii). Restriction: The operations herein are limited to a transportation service to be performed under a continuing contract(s) with Morgan Portable Building Corporation, Morgan Building Systems, and Morgan Bldg. Corp., for 180 days. Underlying ETA for 90 days sought. Supporting Shipper(s): Morgan Building Systems, Inc., 10540 N. Central Expressway, Dallas, TX 75231. Morgan Building Corp., 10540 N. Central Expressway, Dallas, TX 75231. Send protests to: Opal M. Jones, Trans. Asst., Interstate Commerce Commission, 1100 Commerce Street, Room 13C12, Dallas, TX 75242.

MC 136545 (Sub-16TA), filed March 13, 1979. Applicant: NUSSBERGER BROS. TRUCKING CO., INC., 929 Railroad St., Prentice, WI 54556. Representative: Nancy Johnson, Rt. 1, Box 169C, Crandon, WI 54520. *Steel* from the facilities of Regal Tube Co. at or near Bedford Park, IL to Pepin and points in WI on and north of WI Hwy. 29 and points in MN, for 180 days. An underlying ETA seeks 90 days authority. Supporting Shipper(s): Regal Tube Co., 7401 S. Lindner Ave., Chicago, IL 60639. Send protests to: Gail Daugherty, Transportation Asst., Interstate Commerce Commission, Bureau of Operations, U.S. Federal Building & Courthouse, 517 East Wisconsin Avenue, Room 619, Milwaukee, WI 53202.

MC 138054 (Sub-33 TA), filed February 12, 1979. Applicant: CONDOR CONTRACT CARRIERS, INC., 656 Wooster Street, Lodi, OH 44254. Representative: Bradford E. Kistler, P.O. Box 82028, Lincoln, NE 68501. Contract carrier-irregular routes: *Electric motors*, from Hayti, Kennett, Ava, and St. Louis, MO, and from Paragould and Rogers, AR, to points in AZ and CA, under continuing contract(s) with Emerson Electric Company, for 180 days. Supporting Shipper(s): Emerson Electric Company, 8100 W. Florissant, St. Louis, MO 63136. Send protests to: Mary Wehner, D/S, I.C.C., 731 Federal Bldg., Cleveland, OH 44199.

MC 138824 (Sub-21 TA), filed March 15, 1979. Applicant: REDWAY CARRIERS, INC., 5910 49th St., Kenosha, WI 53140. Representative: Paul J. Maton, 10 S. LaSalle ST., Suite 1620, Chicago, IL 60603. Contract carrier; irregular routes: *Food products, dry or liquid, in containers*, between the facilities of Alaga Whitfield Foods, Inc. in Montgomery, AL on the one hand, and, on the other, points in MO, WI, IL, IN, OH, KY, AR, KS, MN & TN, for 180 days. Supporting Shipper(s): Ocean Spray Cranberries, Inc., 7600 S. 60th Ave., Kenosha, WI 53140. Send protests to: Gail Daugherty, Transportation Asst., Interstate Commerce Commission, Bureau of Operations, U.S. Federal Building & Courthouse, 517 East Wisconsin Avenue, Room 619, Milwaukee, WI 53202

MC 138844 (Sub-15 TA), filed February 21, 1979. Applicant: D.C. TRANSPORT, INC., 916 South Riverside Ave., St. Clair, MI 48079. Representative: John W. Bryant, 900 Guardian Bldg., Detroit, MI 48226. *Fabrics, textiles, urethane foam, and laminations of such items*, from the facilities of Shawmut Corporation at or near Stoughton, MA, to the facilities of Inmont Corporation, at or near Port Huron, MI, for 180 days. An underlying ETA seeks 90 days authority. Supporting Shipper(s): Inmont Corporation, 1905 Beard St., Port Huron, MI 48060. Send protests to: Tim Quinn, DS, ICC, 604 Federal Building and U.S. Courthouse, 231 W. Lafayette Blvd., Detroit, MI 48226.

MC 138844 (Sub-16 TA), filed February 21, 1979. Applicant: D.C. TRANSPORT, INC., 916 South Riverside Ave., St. Clair, MI 48079. Representative: John W. Bryant, 900 Guardian Bldg., Detroit, MI 48226. *Salt and salt products*, except in bulk, from the facilities of Diamond Crystal Salt Company at or near St. Clair, MI to points in NJ, NY and MA, for 180 days. An underlying ETA seeks 90 days authority. Supporting Shipper(s): Diamond Crystal Salt Company, 916 S. Riverside Ave., St. Clair, MI 48079. Send protests to: Tim Quinn, DS, ICC, 604 Federal Building and U.S. Courthouse, 231 W. Lafayette Blvd., Detroit, MI 48226.

MC 138875 (Sub-148 TA), filed March 26, 1979. Applicant: SHOEMAKER TRUCKING COMPANY, 11900 Franklin Road, Boise, Idaho 83705. Representative: F. L. Sigloh, 11900 Franklin Road, Boise, Idaho 83705. *Chemical*, except in bulk, from Lawrence, KS to points in Idaho, Oregon and Washington, for 180 days. An underlying ETA seeks 90 days authority. Supporting Shipper(s): Foremost-McKesson, Inc., Crocker Plaza, One Post Street, San Francisco, CA 94104. Send protests to: Barney L. Hardin, D/S, ICC, Suite 110, 1471 Shoreline Dr., Boise, ID 83706.

MC 139334 (Sub-1TA), filed March 21, 1979. Applicant: R. J. GLASS, INC., P.O. Box 245, Newry, PA 16665. Representative: John E. Fullerton, 407 N. Front Street, Harrisburg, PA 17101. *Fused alumina*, in bulk, in tank vehicles, from Niagara Falls and Tonawanda, NY to Sproul, PA, for 180 days. An underlying ETA seeks 90 days authority. Supporting Shippers(s): General Refractories Company, 50 Monument Road, Bala Cynwyd, PA 19004. Send protests to: John J. England, District Supervisor, Bureau of Operations, Interstate Commerce Commission, 2111 Federal Building, Pittsburgh, PA 15222.

MC 139434 (Sub-10TA), filed March 2, 1979. Applicant: MID AMERICA EXPRESS, INC., P.O. Box 9, Nebraska City, NE 68401. Representative: Arthur J. Cerra, P.O. Box 19251, 2100 TenMain

Center, Kansas City, MO 64141. *Meat, meat products, meat by-products and articles distributed by meat packinghouses as described in Sections A and C of Appendix I to the report in Descriptions in Motor Carrier Certificates, 61 M.C.C. 209 and 766 (except hides and commodities in bulk),* from the facilities of Armour Food Company at St. Joseph, MO to Memphis, TN and Clarksdale and Indianola, MS, for 180 days. An underlying ETA seeks 90 days authority. Supporting Shippers(s): Forrest H. Butler, Armour Food Co., P.O. Box 459, St. Joseph MO 64504. Send protests to: Max Johnston, ICC, 285 Federal Building, 100 Centennial Mall North, Lincoln, NE 68508.

MC 140205 (Sub-7TA), filed February 27, 1979. Applicant: MOUW TRANSPORTATION, INC., 307 Maple Drive, Sibley, IA 51249. Representative: Samuel Rubenstein and David Rubenstein, 301 North Fifth St., Minneapolis, MN 55403. *Meat, meat products, meat by-products and articles distributed by meat packinghouses as described in Sections A, B, and C of Appendix I to the report in Descriptions in Motor Carrier Certificates 61 M.C.C. 209 and 766 (except hides and skins and commodities in bulk)* from the facilities utilized by John Morrell & Co., at or near Sioux Falls, SD; Estherville and Sioux City, IA; and Worthington, MN, to points in AZ, CA, and NM, for 180 days. An underlying ETA seeks 90 days authority. Supporting Shippers(s): Curt Y. Hopkins, John Morrell & Co., 208 S. LaSalle St., Chicago, IL 60604. Send protests to: Carroll Russell, ICC, Suite 620, 110 No. 14th St., Omaha, NE 68102.

MC 140265 (Sub-4TA), filed March 28, 1979. Applicant: LARRY E. HICKOX d.b.a., LARRY E. HICKOX TRUCKING, Box 95, Casey, IL 62420. Representative: Michael W. O'Hara, Attorney at Law, 300 Reisch Building, Springfield, Illinois 62701. Contract, Irregular—liquid cleaning compounds for the acount of State Chemical Manufacturing Co. (a) From Cleveland, OH to Torrance, CA, Atlanta, GA and Newark, NJ. (b) From Torrance, CA to Renton, WA, for 180 days. An underlying ETA seeks 90 days authority. Supporting Shippers(s): State Chemical Manufacturing Co., 3100 Hamilton Ave., Cleveland, OH 44114. Send protests to: Charles D. Little, District Supervisor, Interstate Commerce Commission, Room 414 Leland Office Building, 527 East Capitol Avenue, Springfield, IL 62701.

MC 140464 (Sub-6TA), filed March 6, 1979. Applicant: DX TRUCKING, INC., 5660 Southwyck Blvd., Toledo, OH 43614. Representative: Michael M. Briley, Attorney at Law, 300 Madison Ave., 12th Fl., Toledo, OH 43603. *(1) Steel wire nails; (2) plastic film or sheeting, other than cellulose; and (3) wallboard or building board, built-up or combined wood or plywood,* from River Grove, IL to Butler, IN; Detroit, Flint, Jackson, Kalamazoo, Lansing, Pontiac, Walled Lake, Ypsilanti, MI (and their respective commercial zones); and all points in the state of OH; for 180 days. An underlying ETA seeks 90 days authority. Common carrier—irregular routes. Supporting Shipper(s): Metropolitan Wholesale Supply Co., 2101 West St., River Grove, IL 60171. Send protests to: Interstate Commerce Commission, Bureau of Operations, 600 Arch St., Rm. 3238, Philadelphia, PA 19106.

MC 140475 (Sub-5TA), filed March 22, 1979. Applicant: HOLCOMB TRUCKING COMPANY, INC., 313 N. Campbell St., Holcomb, MO 63852. Representative: Thomas P. Rose, P.O. Box 205, Jefferson City, MO 65102. *Fertilizer and fertilizer ingredients, dry,* from Memphis and Nashville, TN to MO, for 180 days. An underlying ETA seeks 90 days authority. Supporting Shipper(s): United States Steel Corporation, 600 Grant St., Pittsburgh, PA 15230. Send protests to: P. E. Binder, DS, ICC, Rm. 1465, 210 N. 12th St., St. Louis, MO 63101.

MC 140484 (Sub-38TA), filed March 23, 1979. Applicant: LESTER COGGINS TRUCKING, INC., 2671 E. Edison Avenue, P.O. Box 69, Fort Myers, FL 33902. Representative: Frank T. Day, same address as applicant. *Foodstuffs* (except in bulk) in vehicles equipped with mechanical refrigeration from the facilities of Kraft, Inc. at Champaign, IL to points in the states of IN, MI and OH for 180 days. An underlying ETA seeks 90 days authority. Supporting Shipper(s): Kraft, Inc., 500 Peshtigo Court, Chicago, IL 60690. Send protests to: Donna M. Jones, Transportation Assistant, Interstate Commerce Commission, Monterey Building, Suite 101, 8410 NW. 53rd Terrace, Miami, FL 33166.

MC 140615 (Sub-34TA), filed February 21, 1979. Applicant: DAIRYLAND TRANSPORT, INC., P.O. Box 1116, Wisconsin Rapids, WI 54494. Representative: Terrence D. Jones, 2033 K Street NW., Washington, D.C. 20006. *Canned Goods* from the facilities of Campbell Soup Company at Chicago, IL to WI, for 180 days. Supporting Shipper(s): Campbell Soup Company, 2550 West 35th Street, Chicago, IL 60632. Send protests to: Ronald A. Morken, District Supervisor, 212 East Washington Avenue, Room 317, Madison, WI 53703.

MC 140665 (Sub-48TA), filed March 26, 1979. Applicant: PRIME, INC., Route 1, Box 115–B, Urbana, Missouri 65767. Representative: Clayton Geer, P.O. Box 786, Ravenna, Ohio 44266. *Automotive parts and accessories*, from Rogersville and Newport, MI to the facilities of the Ford Motor Company at Pico Rivera and Milpitas, CA, for 180 days. An underlying ETA seeks 90 days authority. Supporting shipper(s): Ford Motor Company, Rotunda Drive at Southfield, Dearborn, Michigan 48121. Send protests to: John V. Barry, District Supervisor, Interstate Commerce Commission, 600 Federal Building, 911 Walnut Street, Kansas City, Missouri 64106.

MC 140665 (Sub-49TA), filed March 30, 1979. Applicant: PRIME, INC., Route 1, Box 115–B, Urbana, Missouri 65767. Representative: Clayton Geer, P.O. Box 786, Ravenna, Ohio 44266. *Roof coatings and cement, paint, petroleum oil and grease, rust preventing compounds, caulking compounds, and materials and supplies used in the marketing or distribution of the above commodities (except in bulk)* for 180 days. Supporting shipper(s): PARR, INC., 18400 Syracuse Avenue, Cleveland, OH 44110. Send protests to: John V. Barry, District Supervisor, Interstate Commerce Commission, 600 Federal Building, 911 Walnut Street, Kansas City, Missouri 64106.

MC 140665 (Sub-50TA), filed March 26, 1979. Applicant: PRIME, INC., Route 1, Box 115–B, Urbana, Missouri 65767. Representative: Clayton Geer, P.O. Box 786, Ravenna, Ohio 44266 *Automotive parts and accessories*, from Cleveland, Ohio and points in the Commercial Zone thereof to the facilities of the Ford Motor Company at Pico Rivera and Milpitas, California for 180 days. Supporting shipper(s): Ford Motor Company, Rotunda Drive at Southfield, Dearborn, Michigan 48121. Send protests to: John V. Barry, District Supervisor, Interstate Commerce Commission, 600 Federal Building, 911 Walnut Street, Kansas City, Missouri 64106.

MC 140665 (Sub-51TA), filed March 26, 1979. Applicant: PRIME, INC., Route 1, Box 115–B, Urbana, Missouri 65767. Representative: Clayton Geer, P.O. Box 786, Ravenna, Ohio 44266. *Automotive parts and accessories*, from Ellicottville, East Syracuse, and Buffalo, New York to the facilities of the Ford Motor Company in Pico Rivera and Milpitas, California, for 180 days. An underlying ETA seeks 90 days authority. Supporting shipper(s): Ford Motor company, Rotunda Drive at Southfield, Dearborn, Michigan 48121.

Send protests to: John V. Barry, District Supervisor, Interstate Commerce Commission, 600 Federal Building, 911 Walnut Street, Kansas City, Missouri 64106.

MC 140665 (Sub-52TA), filed March 1, 1979. Applicant: PRIME, INC., Rt. 1, Box 115–B, Urbana, MO 65767. Representative: Clayton Geer, P.O. Box 786, Ravenna, OH 44266. *Such commodities as are used, dealt in, or distributed by retail and wholesale, department, hardware, drug, and food stores; and equipment, materials, and supplies, used in the conduct of the businesses described above (except in bulk),* from the warehouse and storage facilities utilized by The Drackett Company located at or near Dayton, OH and Nashville, TN to points in AZ, CA, ID, MN, NV, OR, UT, and WA for 180 days. An underlying ETA seeks 90 days. Supporting Shipper(s): The Drackett Company, 5020 Spring Grove Ave., Cincinnati, OH 45232. Send protests to: DS John V. Barry, 600 Fed. Bldg., 911 Walnut, Kansas City, MO 64106.

MC 140755 (Sub-63TA), filed March 19, 1979. Applicant: BRAY TRANSPORTS, INC., 1401 N. Little Street, Cushing, OK 74023. Representative: Dudley G. Sherrill (same address as applicant). *Lubricating oils,* from Coffeyville, KS, to Rockford, Rock Island, and Chicago, IL, and Burlington, IA, for 180 days. An underlying ETA seeks 90 days authority. Supporting Shipper(s): Petroleum Sources, Inc., P.O. Box 32246, Oklahoma City, OK 73123. Send protests to: Connie Stanley, Transportation Assistant, Interstate Commerce Commission, Room 240 Old Post Office and Court House Bldg., 215 NW. 3rd, Oklahoma City, OK 73102.

MC 140914 (Sub-4TA), filed February 28, 1979. Applicant: DOBSON TRUCKING, INC., P.O. Box 498, Dobson, NC 27017. Representative: Eric Meierhoefer, Suite 423, 1511 K Street, NW., Washington, DC 20005. *Cut granite products* from Mt. Airy, NC and points in its commercial zone, to points in and east of MN, IA, MO, AR and LA, for 180 days. An underlying ETA seeks 90 days authority. Supporting Shipper(s): North Carolina Granite Corporation, Box 151, Quarry Rd., Mt. Airy, NC 27030. Send protests to: Terrell Price, District Supervisor, 800 Briar Creek Rd—Rm CC516, Mart Office Building, Charlotte, NC 28205.

MC 141205 (Sub-12TA), filed March 9, 1979. Applicant: HUSKY OIL TRANSPORTATION COMPANY, 600 South Cherry Street, Denver, CO 80222. Representative: F. Robert Reeder, P.O. Box 11898, Salt Lake City, UT 84147. Contract/irregular route, crude oil, scrubber oil and condensate from the Roughrider Oil Field near Dickinson, ND to the pipeline injection station on Portal Pipeline near Stanley, ND, Donkey Creek pipeline injection station near Gillette, WY, Butte pipeline injection station near Baker, MT and the Husky Oil Company refinery at Cheyenne, WY, for 180 days. An underlying 90 day ETA has been filed. Supporting Shipper(s): Husky Oil Company, 600 South Cherry Street, Denver, CO 80222. Send protests to: District Supervisor Herbert C. Ruoff, 492 U.S. Customs House, 721 19th Street, Denver, CO 80202.

MC 141684 (Sub-5TA), filed March 22, 1979. Applicant: COMMAND CARGO CORPORATION, 7950 E. Baltimore Street, Baltimore, MD 21224. Representative: Steven L. Weiman, Suite 145, 4 Professional DR, Gaithersburg, MD 20760. *General commodities (except articles of unusual value, Classes A and B explosives, household goods as defined by the Commission, commodities which because of size or weight require special equipment, commercial papers, documents and written instruments as are use in the business of banks and banking institutions, and stocks, bonds, securities and negotiable instruments),* between Baltimore, MD, on the one hand, and, on the other, points in VA, MD, DE, PA, WV and DC, for 180 days. *Restrictions:* (1) Restricted against the transportation of articles weighing in the aggregate more than three hundred and fifty pounds (350) from one consignor at one location to one consignee at one location, in any given day, and (2) Restricted against the transportation of tissue cultures and biological products to or from points in Howard, Frederick or Montgomery Counties, MD and DC and against the transportation of live laboratory animals. An underlying ETA seeks 90 days authority. Supporting shipper(s): James L. Shreeve, Spiegels, Regency Towers, Oak Brook, IL 60521. Send protests to: W. L. Hughes, DS, ICC, 1025 Federal Bldg., Baltimore, MD 21201.

MC 141764 (Sub–14TA), filed March 28, 1979. Applicant: BLACKHAWK ENTERPRISES, 3149 Depot Road, Hayward, CA 94545. Representative: William D. Taylor, Handler, Baker & Greene, PC, 100 Pine Street, Suite 2550, San Francisco, CA 94111, phone (415) 986–1414. *Contract carrier,* irregular routes: *film and sheeting,* other than cellulose, and chemicals when moving therewith, in temperature controlled equipment; and *paper cores and tubes,* for the account of Xidex Corporation, between Holyoke, MA, Greer and Hartsville, SC, Hopewell, VA, Sunnvale, CA, on the one hand and, on the other, New Orleans, LA under contract with Xidex Corporation, for 180 days. Supporting shipper(s): Xidex Corporation, 305 Soquel Way, Sunnyvale, CA 94080. Send protests to: A. J. Rodriguez, DS,. ICC, 211 Main Street, Suite 500, San Francisco, CA 94185.

MC 141774 (Sub–20TA), filed March 20, 1979. Applicant: R & L TRUCKING., INC., 105 Rocket Avenue, Opelika, AL 36801. Representative: Robert E. Tate, P.O. Box 517, Evergreen, AL 36401. (1) *Plastic bags, plastic can liners, plastic containers, plastic articles, plastic film, plastic sheeting, plastic drop cloths, and plastic tarpoulins,* from Lawrence County, TN to Florida, Georgia (on the south of U.S. Hwy 80), Alabama, Kentucky, Mississippi, Arkansas; and (2) *equipment, material, and supplies* used in the manufacture and/or distribution of commodities named in (1) above, from Florida, Georgia (on and south of U.S. Hwy 80), Alabama, Kenturcky, Mississippi, and Arkansas to Lawrence County, TN; (3) *plastic bags, plastic can liners, plastic containers and plastic articles,* from the facilities utilized by Bes-Pak & Company, Inc., at points in Montgomery County, AL to points in the states of North Carolina, South Carolina, and Indiana; and (4) *equipment, materials, and supplies* used in the manufacture and/or distribution of commodities named in (3) above, from points in North Carolina, South Carolina, and Indiana to the facilities utilized by Bes-Pak & Company, Inc., at points in Montgomery County, AL, for 180 days. Supporting shipper(s): Webster Industries, Inc., 58 Pulaski Street, Peabody, MA 01960. Send protest to: Mabel El Holston, Transportation Assistant, Bureau of Operation, ICC, Room 1616, 2121 Building, Birmingham, AL 35203.

MC 141804 (Sub-203TA), filed March 5, 1979. Applicant: WESTERN EXPRESS, DIVISION OF INTERSTATE RENTAL, INC., P.O. Box 3488, Ontario, California 91761. Representative: Frederick J. Coffman, same address as applicant. *General commodities, except those of unusual value; Classes A and B explosives; household goods, as defined by the Commission; commodities in bulk; and commodities requiring special equipment,* from Nashville, Greenbier, Cookeville, Murfreasboro, and McMinnville, TN, to points in CA, OR, WA, CP, NV, AZ and ID, for 180 days. Restricted to traffic moving on bills of lading of Mid-South Shippers Association, Inc., An underlying ETA seeks 90 days authority. Supporting shipper(s): Mid-South Shippers Association, Inc., 230 Willow Street, Nashville, TN 37210. Send protests to: Irene Carlos, Transportation Assistant, Interstate Commerce Commission, Room 1321 Federal Building, 300 North Los Angeles Street, Los Angeles, California 90012.

MC 141804 (Sub-204TA), filed March 7, 1979. Applicant: WESTERN EXPRESS, DIVISION OF INTERSTATE RENTAL, INC., P.O. Box 3488, Ontario, CA 91761. Representative: Frederick J. Coffman, same address as applicant. *Juice, canned goods and dried and processed fruit,* from Yuba City, CA to points in ND, SD, NE, KS, OK, TX, MN, IA, MO, AR, LA, WI, IL and MS, for 180 days. An underlying ETA seeks up to 90 days operating authority. Supporting shipper(s): Diamond/Sunsweet, Inc., P.O. Box 1727, 1050 S. Diamond Street, Stockton, CA 95201. Send protests to: Irene Carlos, Transportation Assistant, Interstate Commerce Commission, Room 1321 Federal Building, 300 North Los Angeles Street, Los Angeles, California 90012.

MC 141804 (Sub-205TA), filed February 27, 1979. Applicant: WESTERN EXPRESS, DIVISION OF INTERSTATE RENTAL, INC., P.O. Box 3488, Ontario, California 91761. Representative: Frederick J. Coffman, P.O. Box 3488, Ontario, CA 91761. *Plastic articles,* from City of Industry, CA to points in and east of ND, SD, NE, KS, OK and TX, for 180 days. An underlying ETA seeks up to 90 days operating authority. Supporting shipper(s): A & E Plastics, Division of A & E Plastik Pak, 14505 Proctor Avenue, Box 1268, Industry, CA 91749. Send protests to: Irene Carlos, Transportation Assistant, Interstate Commerce Commission, Room 1321 Federal Building, 300 North Los Angeles Street, Los Angeles, California 90012.

MC 142065 (Sub-12TA), filed March 27, 1979. Applicant: DAVID BENEUX PRODUCE & TRUCKING, INC., P.O. Drawer F, Mulberry, AR 72947. Representative: Don Garrison, P.O. Box 159, Rogers, AR 72756. *Processed meats* from Houston, TX to the facilities of Peter Eckrich and Sons, Inc., at or near Allen Township, Hillsdale County, MI, under a continuing contract or contracts with Peter Eckrich and Sons, Inc., for 180 days as a contract carrier over irregular routes. An underlying ETA seeks 90 days authority. Supporting shipper(s): Peter Eckrich & Sons, Inc., P.O. Box 388, Fort Wayne, IN 46805. Send protests to: William H. Land, Jr., District Supervisor, 3108 Federal Office Building, 700 West Capitol, Little Rock, AR 72201.

MC 142364 (Sub-11TA), filed February 26, 1979. Applicant: KENNETH SAGELY, d.b.a. SAGELY PRODUCE, 2802 Kibler Road, Van Buren, AR 72956. Representative: Don A. Smith, 510 North Greenwood, P.O. Box 43, Fort Smith, AR 72902. (1) *Aluminum and wood folding furniture and aluminum institution furniture,* from the facilities of Tucker Duck and Rubber Company at Fort Smith, AR to points in AL, AZ, CA, CO, GA, IL, IN, IA, KS, KY, LA, MI, MN, MS, MO, NE, NV, NM, NC, ND, OH, OK, SC, SD, TN, TX, UT and WI; and (2) *materials, supplies and equipment* (except in bulk) used in the fabrication and manufacture of the articles named in (1) above, from points in the states named in (1) above to the facilities of Tucker Duck and Rubber Company at Fort Smith, AR, for 180 days, as a common carrier over irregular routes. An underlying ETA seeks 90 days authority. Supporting shipper(s): Tucker Duck and Rubber Company, 2701 Kelley Highway, P.O. Box 4167, Fort Smith, AR 72914. Send protests to: William H. Land, Jr., District Supervisor, 3108 Federal Office Building, 700 West Capitol, Little Rock, AR 72201.

MC 142364 (Sub-12TA), filed March 14, 1979. Applicant: KENNETH SAGELY, d.b.a. SAGELY PRODUCE, 2802 Kibler Road, Van Buren, AR 72956. Representative: Don Garrison, P.O. Box 159, Rogers, AR 72756. *Petroleum products* in packages from Maryland Heights, MO to points in AR, OK and TX, for 180 days as a common carrier over irregular routes. An underlying ETA seeks 90 days authority. Supporting shipper(s): Pennzoil Company, P.O. Box 808, Oil City, PA 16301. Send protests to: William H. Land, Jr., District Supervisor, 3108 Federal Office Building, 700 West Capitol, Little Rock, AR 72201.

MC 142364 (Sub-13TA), filed March 27, 1979. Applicant: KENNETH SAGELY, d.b.a. SAGELY PRODUCE, 2802 Kibler Road, Van Buren, AR 72956. Representative: Don Garrison, P.O. Box 159, Rogers, AR 72756. *Canned foodstuffs* from Alma, Fort Smith and Van Buren, AR to points in IL, IN, KY, MO, OH and TX, for 180 days as a common carrier over irregular routes. An underlying ETA seeks 90 days authority. Supporting shipper(s): Allen Canning Company, P.O. Box 250, Siloam Springs, AR 72761. Send protests to: William H. Land, Jr., District Supervisor, 3108 Federal Office Building, 700 West Capitol, Little Rock, AR 72201.

MC 142464 (Sub-5TA), filed February 15, 1979. Applicant: JOHN M. CHRISTOPHER, 3444 McCarty Lane, Lafayette, IN 47905. Representative: Brent F. Clary, 68 Lafayette Bank & Trust Bldg., Lafayette, IN 47902. *Contract carrier:* irregular routes: *Iron and steel articles,* between points in IN, IL, that portion of St. Louis Commercial Zone which is in MO, KY, MI—except the upper peninsula and OH, for 180 days. RESTRICTED to a transportation service performed under a continuing contract or contracts with Bethlehem Steel Corporation. Supporting shipper: Bethlehem Steel Corporation, Box 248, Chesterton, IN 46304. Send protests to: Beverly J. Williams, Transportation Assistant, ICC, 46 East Ohio Street, Room 429, Indianapolis, IN 46204. An underlying ETA seeks 90 days authority.

MC 142485 (Sub-5TA), filed March 26, 1979. Applicant: KENDRICK MOVING AND STORAGE, INC., P.O. Box 209, Lebanon, OH 45036. Representative: James M. Burtch, 100 E. Broad St., Columbus, OH 43215. *Restaurant equipment, materials, supplies and furnishings,* from the facilities of Ken Hedge, Inc., located at Moraine, OH, and in Clear Creek Township, Warren County, OH, to points in NY, WY, MI, ND, IL, KY, IN, FL, MS, TN, MO, PA, WA, CO, KS, AZ, AL, AR, MD and VA, for 180 days. An underlying ETA seeks 90 days authority. Supporting shipper(s): Ken Hedge, Inc., Douglas S. Smith, Vice President, 2691 Lance Dr., Dayton, OH 45409. Send protests to: Bureau of Operations, ICC, Wm. J. Green, Jr., Federal Bldg., 600 Arch St., Room 63236, Philadelphia, PA 19106.

MC 142545 (Sub-1TA), filed February 6, 1979. Applicant: DICK TAZER TRUCKING, INC., 1635 N. W. Mall, Issaquah, WA 98005. Representative: Henry C. Winters, 525 Evergreen Bldg., Renton, WA 98055. *Contract carrier:* irregular routes: *Condensed milk,* from Gustine, CA to points in OR and WA for the account of Carnation Co., for 180 days. An underlying ETA seeks 90 days authority. Supporting shipper(s): Carnation Company, 5045 Wilshire Blvd., Los Angeles, CA 90036. Send protests to: Shirley M. Holmes, T/A, ICC, 858 Federal Bldg., Seattle, WA 98174.

MC 142715 (Sub-30TA), filed March 15, 1979. Applicant: LENERTZ, INC., 411 Northwestern National Bank Building, South St. Paul, MN 55101. Representative: Andrew R. Clark, 1000 First National Bank Building, Minneapolis, MN 55402. *Containers* from Green Bay, WI to Minneapolis-St. Paul, MN Commercial Zone, for 180 days. An underlying ETA seeks 90 days authority. Supporting shipper(s): Midway Can Company, 2341 Hampden Avenue, St. Paul, MN 55114. Send protests to:

Delores A. Poe. TA, ICC, 414 Federal Building & U.S. Court House, 110 South 4th Street, Minneapolis, MN 55401

MC 142715 (Sub-31TA), filed March 5, 1979. Applicant: LENERTZ, INC., P.O. Box 141, South St. Paul, MN 55075. Representative: K.O. Petrick, same address as applicant. *Bakery products (except in bulk),* from Chicago, IL to Albert Lea, Minneapolis-St. Paul, MN and points in their commercial zones and Fargo, ND, for 180 days. An underlying ETA seeks 90 days authority. Supporting shipper(s): Salerno-Megowen Biscuit Co., 7777 North Caldwell Avenue, Niles, IL 60648. Send protests to: Delores A. Poe. TA, ICC, 414 Federal Building & U.S. Court House, 110 South 4th Street, Minneapolis, MN 55401.

MC 142715 (Sub-32TA), filed March 5, 1979.Applicant: LENERTZ, INC. P.O. Box 141, South St. Paul, MN 55075. Representative: K. O. Petrick, same address as applicant. *Such commodities as are dealt in by wholesale or retail food and drugstore outlets (except commodities in bulk)* from Chicago, IL to points in IA, for 180 days. An underlying ETA seeks 90 days authority. Supporting shipper(s): Procter and Gamble Distributing Co., P.O. Box 599, Cincinnati, OH 45201. Send protests to: Delores A. Poe. TA, ICC, 414 Federal Building & U.S. Court House, 110 South 4th Street, Minneapolis, MN 55401.

MC 142715 (Sub-33TA), filed March 5, 1979. Applicant: LENERTZ, INC., P.O. Box 141, South St. Paul, MN 55075. Representative: K. O. Petrick, same address as applicant. *Foodstuffs (except commodities in bulk)* from LaPorte, IN to points in IA, KS, MN, MO, NE, ND, SD, and WI, restricted to traffic originating at the facilities of American Home Foods, LaPorte, IN and destined to points in the named states for 180 days. An underlying ETA seeks 90 days authority. Supporting shipper(s): American Home Foods Division, American Home Products Corporation, 685 Third Avenue, New York, NY 10017. Send protests to: Delores A. Poe, TA, ICC, 414 Federal Building & U.S. Court House, 110 South 4th Street, Minneapolis, MN 55401.

MC 142765 (Sub-6TA), filed March 30, 1979. Applicant: AMERICAN TRANSPORTATION, INC., 797 Amity Road, Bethany, CT 06525. Representative: Mel P. Booker, Jr., Esq., 110 South Columbus Street, Alexandria, Virginia 22314. *Contract carrier:* irregular routes: Such commodities as are dealt in or used by door-to-door sales, catalogue sale and mail order houses (except commodities in bulk), from the facilities of Avon Products, Inc., at or near Rye, NY to points in NY, RI, MA, NH, VT and ME, restricted to a transportation service to be performed under a continuing contract(s) with Avon Products, Inc. of Rye, NY, for 180 days. An underlying ETA seeks 90 days authority. Supporting shipper(s): Avon Products, Inc., Midland & Peck Avenue, Rye, New York 10580. Send protests to: District Supervisor, ICC, 428 East State Street, Room 204, Trenton, N.J. 08608.

MC 142844 (Sub-4TA), filed March 21, 1979. Applicant: DON HAUSAUER, d.b.a. DON HAUSAUER TRUCKING, Route No. 5, Carufel Addition, Bismarck, ND 58501. Representative: Charles E. Johnson, 418 East Rosser Avenue, P.O. Box 1982, Bismarck, ND 58501. *Contract carrier:* irregular routes: *Knocked down grain bins and steel buildings,* from Kansas City, MO and Galesburg, IL, to points in ND on and west of U.S. Hwy No. 281, restricted to a transportation service to be performed under a continuing contract or contracts with Dakota Building Systems, Inc., for 180 days. Supporting shipper(s): Dakota Building Systems, Inc., P.O. Box 1756, Bismarck, ND 58501. Send protests to: DS, ICC, Bureau of Operations, Room 268, Fed. Bldg. & U.S. Post Office, 657 2nd Avenue North, Fargo, ND 58102.

MC 142844 (Sub-5TA), filed March 15, 1979. Applicant: DON HAUSAUER, d.b.a. DON HAUSAUER TRUCKING, Route No. 5, Carufel Addition, Bismarck, ND 58501. Representative: Charles E. Johnson, 418 East Rosser Avenue, P.O. Box 1982, Bismarck, ND 58501. *Contract carrier:* irregular routes: *Lumber,* (1) from points in CA, WY, SD, and UT to points in MN, WI, ND, SD, NE, IA, MI, IL, and IL (2) from points in WA, OR, MT, and ID to points in ND, SD, NE, IA, IL, IN, and MI, and (3) from points in MN, WI, MI, IL, and IA to points in ND, SD, MN, WI, MT, ID, WA, OR, and MI, restricted to a transportation service to be performed under a continuing contract or contracts with Owens Forest Products, for 180 days. An underlying ETA seeks 90 days authority. Supporting shipper(s): Owens Forest Products, Inc., 2320 East First Street, Duluth, MN 55812. Send protests to: DS, ICC, Room 268, Fed. Bldg. & U.S. Post Office, 657 2nd Avenue North, Fargo ND 58102.

MC 142864 (Sub-11TA), filed March 9, 1979. Applicant: RAY E. BROWN TRUCKING, INC., P.O. Box 501, Massillon, Ohio 44646. Representative: Jerry B. Sellman, Muldoon, Pemberton & Ferris, 50 West Broad Street, Columbus, Ohio 43215. *Containers, container ends and closures* from Leetsdale, PA to points in IL. Restricted to movements originating at the facilities of the Davies Can Co. division of Van Dorn Company, located at Leetsdale, PA for 180 days. An underlying ETA seeks 90 days authority. Supporting shipper(s): The Davies Can Co., Division of Van Dorn Company, P.O. Box 6838, Cleveland, OH 44101. Send protests to: ICC, Wm. J. Green, Jr. Federal Bldg., 600 Arch St., Rm 3238, Philadelphia, PA 19106.

MC 142864 (Sub-12TA), filed March 9, 1979. Applicant: RAY E. BROWN TRUCKING, INC., P.O. Box 501, Massillon, Ohio 44646. Representative: Jerry B. Sellman, Muldoon, Pemberton & Ferris, 50 West Broad Street, Columbus, Ohio 43215. *Ice cream, ice products, milk products, yogurt and desserts, frozen and/or refrigerated,* (1) from Canton, OH, Pittsburgh, PA, and Fort Wayne, IN, to Worcester and Lunenburg, MA, Stratford, Hamden, Pollan, Hartford and Newington, CT, Johnston, RI, Woodbridge, NJ, Syracuse, Sodus, Holley, Wolcott, Buffalo and Rochester, NY, Baltimore, MD, and Detroit, MI; (2) from Pittsburgh, PA, to Dayton, Toledo, Akron, Canton, Cleveland, and Youngstown, OH; and (3) from Fort Wayne, IN to Cedar Rapids and Des Moines, IA, St. Louis and Cape Girardeau, MO, Pekin, IL, Louisville, KY, Lansing and Saginaw, MI, Milwaukee, WI, and Toledo, Dayton, Celina and Findlay, OH for 180 days. Restricted to movements originating at or destined to the facilities of Borden, Inc. An underlying ETA seeks 90 days authority. Supporting shipper(s): Borden, Inc., 180 E. Broad Street, Columbus, Ohio. Send protests to: ICC, Wm. J. Green, Jr. Federal Bldg., 600 Arch St., Rm 3238, Philadelphia, PA 19106.

MC 142864 (Sub-13TA), filed March 19, 1979. Applicant: RAY E. BROWN TRUCKING, INC., P.O. Box 501, Massillon, Ohio 44646. Representative: Jerry B. Sellman, Muldoon, Pemberton & Ferris, 50 West Broad Street, Columbus, Ohio 43215. *Foodstuffs* (except in bulk), in vehicles equipped with mechanical refrigeration from the facilities of Kraft, Inc., at Dunkirk, NY and Erie, PA to points in IL for 180 days. An underlying ETA seeks 90 days authority. Supporting shipper(s): Kraft, Inc., 500 Peshtigo Court, Chicago, IL 60690. Send protests to: ICC, Wm. J. Green, Jr. Federal Bldg., 600 Arch St., Rm 3238, Philadelphia, PA 19106.

MC 142905 (Sub-3TA), filed March 19, 1979. Applicant: PETROLEUM TRANSPORTATION CORPORATION, 9717 East 42nd Street, Tulsa, OK 74145. Representative: Thomas N. Willess, 1000 Sixteenth Street, Washington, DC 20036. *Anhydrous ammonia and liquid fertilizer,* from Hoag, NE, to points in

CO, KS, IA, MN, MO, OK, SD, & WY, for 180 days. An underlying ETA seeks 90 days authority. Supporting shipper(s): Phillips Petroleum Company, 154 Phillips Building Annex, Bartlesville, OK 74004. Send protests to: Connie Stanley, Transportation Assistant, Interstate Commerce Commission, Room 240 Old Post Office & Court House Bldg., 215 N.W. 3rd, Oklahoma City, OK 73102.

MC 143154 (Sub-5TA), filed March 5, 1979. Applicant: ARTHUR E. PAMIN and STEVEN V. BIDLAKE d.b.a. A & S TRUCKING, P.O. Box 4017, Missoula, MT 59806. Representative: Charles A. Murray, Jr., Rm. 107, 2822 Third Avenue North, Billings, MT 59101. *Imported and domestic wine and ale* from points in WA, OR and CA to points in MT and ID; and from points in OR and CA to Pullman, Clarkston and Spokane, WA, for 180 days. An underlying ETA seeks 90 days authority. Supporting shipper(s): There are 15 shippers. Their statements may be examined at the office listed below and Headquarters. Send protests to: Paul J. Labane, DS, ICC, 2602 First Avenue North, Billings, MT 59101.

MC 143214 (Sub-4TA), filed March 6, 1979. Applicant: MATUSZKO FARMS TRUCKING, INC., 19 Ball Lane, North Amherst, MA 01059. Representative: David M. Marshall, 101 State Street, Suite 304, Springfield, MA 01103. Contract carrier: irregular routes: *Fruits, berries, juices, fruit and berry products and supplies and materials* used in the manufacture, sale and distribution of juices and fruit and berry products, except commodities in bulk, between the facilities of The New England Apple Products Co., Inc., at or near Littleton, MA, on the one hand, and, on the other, points in the United States (except HI) under a continuing contract or contracts with The New England Apple Products Co., Inc., for 180 days. An underlying ETA seeks 90 days authority. Supporting shipper(s): The New England Apple Products Co., Inc., P.O. Box 425, Harwood Station, Littleton, MA 01360. Send protests to: David M. Miller, ICC, DS, 436 Dwight Street, Springfield, MA 01103.

MC 143775 (Sub-73TA), filed February 26, 1979. Applicant: PAUL YATES, INC., 6601 West Orangewood, Glendale, Arizona 85301. Representative: Edward N. Button, 1329 Pennsylvania Avenue, Hagerstown, Maryland 21740. *Hair care toiletries and hair care accessories and equipment, materials and supplies and ingredients* used in packaging, manufacturing and distribution of toiletry equipment except in bulk in temperature controlled vehicles, from Stamford, CT and its commercial zone to Dallas, TX; Portland OR, LaMirada and Camarillo, CA, Chicago, IL, Atlanta, GA and their respective commercial zones, for 180 days. An underlying ETA seeks 90 days authority. Supporting shipper(s): Clairol, Inc., 1 Blachley Road, Stamford, Connecticut 06902. Send protests to: Thomas Klobas, Acting District Supervisor, 2020 Federal Building, 230 North First Avenue, Phoenix, Arizona 85025.

MC 143775 (Sub-74TA), filed February 26, 1979. Applicant: PAUL YATES, INC., 6601 West Orangewood, Glendale, Arizona 85301. Representative: Michael R. Burke, same as applicant. *General commodities on vehicles equipped with mechanical refrigeration (except classes A and B explosives, commodities in bulk, and commodities requiring special equipment),* between the facilities of Baltimore Shippers and Receivers Association, Inc., at or near Baltimore, MD, on the one hand, and, on the other, Los Angeles and San Francisco, CA; Portland OR; and Seattle, WA, including their respective commercial zones, for 180 days. An underlying ETA seeks 90 days authority. Supporting shipper(s): Baltimore Shippers & Receivers Association, Inc., 3601 Benson Avenue, Baltimore, MD 21227. Send protests to: Thomas Klobas, Acting District Supervisor, 2020 Federal Building, 230 North First Avenue, Phoenix, Arizona 85025.

MC 143775 (Sub-75TA), filed March 5, 1979. Applicant: PAUL YATES, INC., 6601 W. Orangewood, Glendale, AZ 85301. Representative: Michael R. Burke, address same as applicant. *General commodities (except Classes A and B explosives, household goods, commodities in bulk, and commodities requiring the use of special equipment),* (1) Between Philadelphia, PA and its commercial zone on the one hand, and Marinette, WI on the other. (2) From Marinette, WI to New York, NY. Restricted to traffic moving on the bills of West Coast Shippers Assn., for 180 days. Supporting shipper(s): West Coast Shippers Assn., 200 S. 71st St., Philadelphia, PA 19142. Send protests to: Ronald R. Mau, District Supervisor, 2020 Federal Bldg., 230 N. 1st Ave., Phoenix, AZ 85025.

MC 143775 (Sub-76TA), filed March 15, 1979. Applicant: PAUL YATES, INC., 6601 W. Orangewood, Glendale, AZ 85301. Representative: Michael R. Burke, same address as applicant. *Adhesives; pastes; cleaning, preserving and sealing compounds; solvents; stains; plastic carpeting; molding and related supplies and equipment used in the installation, sale and distribution of floor and wall coverings,* from the facilities of Roberts Consolidated Industries at Kalamazoo, MI and Dayton, OH, to points in and east of ND, SD, NB, CO, OK and TX. Restricted to the use of vehicles equipped with mechanical refrigeration, for 180 days. An underlying ETA seeks 90 days authority. Supporting shipper: Roberts Consolidated Ind., 600 N. Baldwin Park Blvd. City of Industry, CA 91749. Send protests to: Ronald R. Mau, District Supervisor, 2020 Federal Bldg., 230 N. 1st Ave., Phoenix, AZ 85025.

MC 143775 (Sub-77TA), filed March 16, 1979. Applicant: PAUL YATES, INC., 6601 W. Orangewood, Glendale, AZ 85301. Representative: Charles E. Creager, 1329 Pennsylvania Ave., P.O. Box 1417, Hagerstown, MD 21740. *General commodities in vehicles equipped with mechanical refrigeration (except Classes A and B explosives, commodities in bulk, household goods and commodities requiring special equipment),* between the facilities of Baltimore Shippers and Receivers Association, Inc. at or near Baltimore, MD on the one hand, and, on the other, Denver, CO and Houston and Dallas, TX and their respective commercial zones, for 180 days. An underlying ETA seeks 90 days authority. Supporting shipper: Baltimore Shippers and Receivers Association, Inc., 3601 Benson Ave., Baltimore, MD 21227. Send protests to: Ronald R. Mau, District Supervisor, 2020 Federal Bldg., 230 N. 1st Ave., Phoenix, AZ 85025.

MC 143775 (Sub-78TA), filed March 21, 1979. Applicant: PAUL YATES, INC., 6601 W. Orangewood, Glendale, AZ 85301. Representative: Michael R. Burke, same as applicant. Toilet preparations, foodstuffs and chemicals (except in bulk) in vehicles equipped with mechanical refrigeration, between the facilities of Alberto Culver Co. in the state of IL, on the one hand, and, on the other, points in GA, MA, NV, NJ, and NY, for 180 days. An underlying ETA seeks 90 days authority. Supporting shipper(s): Alberto Culver Co., 2525 Armitage Ave., Melrose Park, IL 60160. Send protests to: Ronald R. Mau, District Supervisor, 2020 Federal Bldg., 230 N. 1st Ave., Phoenix, AZ 85025.

MC 143775 (Sub-79TA), filed March 22, 1979. Applicant: PAUL YATES, INC., 6601 W. Orangewood, Glendale, AZ 85301. Representative: Michael R. Burke, same address as applicant. *General commodities (except Classes A and B explosives, household goods, commodities in bulk and those requiring the use of special equipment),* from points in MA and VT to points in CA, CO, FL, GA, IL, IN, IA, KY, MI, MN, MO,

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NB, OH, TX and WI, restricted to traffic originating at the facilities of or used by New England Shipping Association Co-operative for 180 days. An underlying ETA seeks 90 days authority. Supporting shipper: New England Shipping Association Co-operative, 1029 Pearl St., Brockton, MA 02403. Send protests to: Ronald R. Mau, District Supervisor, 2020 Federal Bldg., 230 N. 1st Ave., Phoenix, AZ 85025.

MC 143775 (Sub-80TA), filed March 27, 1979. Applicant: PAUL YATES, INC., 6601 W. Orangewood, Glendale, AZ 85301. Representative: Michael R. Burke, same address as applicant. (1) Paint, varnish, thinners, solvents and shellacs and (2) materials and supplies used in the application, sale and distribution of (1) above, restricted to traffic originating at the facilities of Dutch Boy, Inc. and against shipments in bulk, from Vernon, CA and Baltimore, MD and their respective commercial zones, to Berkeley and Kansas City, MO, Plymouth, MN, Cheektowaga, NY, Middleburg Hts., OH, Chicago, IL and Dallas, TX, for 180 days. An underlying ETA seeks 90 days authority. Supporting shipper: Dutch Boy, Inc., 500 Central Ave., Northfield, IL 60093. Send protests to: Ronald R. Mau, District Supervisor, 2020 Federal Bldg., 230 N. 1st Ave., Phoenix, AZ 85025.

MC 143995 (Sub-14TA), filed March 7, 1979. Applicant: SLOAN TRANSPORTATION, INC., 6522 W. River Drive, Davenport, IA 52802. Representative: James M. Hodge, 1980 Financial Center, Des Moines, IA 50309. Contract, irregular routes. *Bakery goods*, from Louisville, KY to points in Arkansas, Iowa, Illinois, Indiana, Minnesota, Ohio, and Tennessee, under continuing contract(s) with Ralston Purina Company, for 180 days. An underlying ETA seeks 90 days authority. Supporting shipper: Ralston Purina Company, Checkerboard Square, St. Louis, MO 63188. Send protests to: Herbert W. Allen, DS, ICC, 518 Federal Bldg., Des Moines, IA 50309.

MC 143995 (Sub-15TA), filed March 7, 1979. Applicant: SLOAN TRANSPORTATION, INC., 6522 W. River Drive, Davenport, IA 52802. Representative: James M. Hodge, 1980 Financial Center, Des Moines, IA 50309. Contract, irregular routes. *Such merchandise as is dealt in by wholesale, retail, and chain grocery and feed business houses*, between Clinton, IA, on the one hand, and, on the other, points in IL, under continuing contract(s) with Ralston Purina Company, for 180 days. An underlying ETA seeks 90 days authority. Supporting shipper: Ralston Purina Company, Checkerboard Square, St. Louis, MO 63188. Send protests to: Herbert W. Allen, DS, ICC, 518 Federal Bldg., Des Moines, IA 50309.

MC 144144 (Sub-3TA), filed March 21, 1979. Applicant: RAINS TRUCKING SERVICE, INC., P.O. Box 73, DuQuoin, IL 62832. Representative: Donald W. Smith, Suite 945, 9000 Keystone Crossing, Indianapolis, IN 46240. Contract, Irregular, Aluminum grill castings from Sheboygan, WI to DuQuoin, IL, for 180 days. An underlying ETA seeks 90 days authority. Supporting shipper(s): Turco Manufacturing Corp., DuQuoin, IL 62832. Send protests to: Charles D. Little, District Supervisor, Interstate Commerce Commission, Room 414 LeLand Office Building, 527 East Capitol Avenue, Springfield, IL 62701.

MC 146225 (Sub-1TA), filed February 20, 1979. Applicant: EMIL BECKER, d.b.a. BECKER TRUCKING COMPANY, Box 217, Newton Falls, OH 44444. Representative: Paul F. Beery, Esq., 275 East State Street, Columbus, OH 43215. *Scrap slag iron*, in dump vehicles, (1) from the facilities of I. R. Siegel & Associates at Cleveland, OH, to Kukon, Bolivar, and Monessen, PA; (2) from Midland and Aliquippa, PA, to Cleveland, OH; and (3) from Weirton and Wheeling, WV, to Cleveland, OH, for 180 days. An underlying ETA seeks 90 days authority. Support shipper(s): I. R. Siegel & Associates, P.O. Box 18041, Cleveland Heights, OH 44120. Send protests to: Mary Wehner, D/S, ICC, 731 Federal Office Building, Cleveland, OH 44199.

MC 146375 (Sub-TA), filed February 22, 1979. Applicant: MERCER INTERNATIONAL TRANSPORTATION MANAGEMENT & CONSULTING SERVICES, INC., 500 Alta Drive, Fort Worth, TX 76107. Representative: Clayte Binion, 1108 Continental Life Bldg., Fort Worth, TX 76102. *Pipe, pipe fitting and machinery, equipment, tar, enamel, pipe line materials and supplies* incidental to, used in, or in connection with, the construction, operation, repair, servicing, maintenance, and dismantling of natural gas, petroleum, gasoline and other energy related pipelines including the stringing and picking up thereof between points in the U.S. (except HI) restricted to traffic ultimately moving to or from pipe line rights-of-way, for 180 days. Supporting shipper(s): There are approximately 11 statements of support attached to the application which may be examined at the Interstate Commerce Commission in Washington, D.C. or copies may be examined in the Field office named below. Send protests to: Robert J. Kirspel, DS, ICC, Room 9A27 Federal Bldg., 819 Taylor St., Fort Worth, TX 76102.

MC 146415 (Sub-2TA), filed February 23, 1979. Applicant: FIRSTLINE TRANSPORTATION, INC., 3435 Wilshire Boulevard, Los Angeles, California 90010. Representative: Paul M. Daniell, 235 Peachtree Street, N.E., Suite 1200, Atlanta, GA 30303. *Contract*, irregular: *(1) Building, roofing, sheathing, and wrapping paper*, from Valdosta, GA, to Arlington, TX; Bloomington, CA; Boise, ID; Bourbon, IN; Champlain, NY; Charlotte, NC; Detroit, MI; Hillsboro, KS; Beaverton, OR; Denver, CO; Malakoff, TX; New Holland, PA; New Ulm, MN; Ocala, FL; Seattle, WA; Tuscumbia, AL; Elkhart, IN; Chicago, IL; Great Falls, MT; Sweetgrass, MT; and Marshfield, WI, and *(2) Kraft paper*, from Charleston, SC, to Valdosta, GA, for 180 days. Supporting shipper(s): Firstline Corporation, 3435 Wilshire Blvd., Los Angeles, CA 90010. Send protests to: Irene Carlos, Transportation Assistant, Interstate Commerce Commission, Room 1321 Federal Building, 300 North Los Angeles Street, Los Angeles, California 90012.

MC 146634 (Sub-TA), filed March 16, 1979. Applicant: EUGENE A. HELLMAN, 119 S. Rusk Ave., Sparta, WI 54656. Representative: James A. Spiegel, 6425 Odana Rd., Madison, WI 53719. Contract carrier; irregular routes; *Malt beverages* from the facilities of G. Heileman Brewing Co. at St. Paul, MN to Sparta, WI, restricted to the transportation to be performed under a continuing contract(s) with Hellman Dohma Distributors, Inc., Sparta, WI, for 180 days. An underlying ETA seeks 90 days authority. Supporting Shipper(s): Hellman-Dohms Distributors, Inc., 119 S. Rusk Ave., Sparta, WI 54656. Send protests to: Gail Daugherty, Transportation Asst., Interstate Commerce Commission, Bureau of Operations, U.S. Federal Building & Courthouse, 517 East Wisconsin Avenue, Room 619, Milwaukee, WI 53202.

MC 146715 (Sub-TA) filed March 30, 1979. Applicant: AUTO INN, INC., 240 North Broadway, Wichita, KS 67202. Representative: Ronald K. Badger, 350 R. H. Garvey Bldg., Wichita, KS 67202. *Wrecked, disabled, or repossessed vehicles and trailers for such wrecked or disabled vehicles, in wrecker service only*; restricted, however, against trailers designed to be drawn by passenger automobiles, mobile homes, buildings in sections traveling on their own or removable undercarriages, unless they are wrecked, for 180 days,

common, irregular. Supporting Shipper(s): Ryder Truck Rental-One-Way, Inc., 310 N. Handley, Wichita, KS. M. Bruenger & Co., Inc., 6250 N. Broadway, Wichita, KS. Send protests to: Saunders Leasing Systems, Inc., 3305 South West St., Wichita, KS. M. E. Taylor, Dist. Supv., Interstate Commerce Commission, 101 Litwin Bldg., Wichita, KS 67202.

MC 146734 (Sub-TA), filed March 21, 1979. Applicant: BREITEN TRUCKING COMPANY (a division of Fred J. Breiten Company), 3155 W. Big Beaver Rd., Suite 111, Troy, MI 48034. Representative: Frank J. Kerwin, 22725 Greater Mack Ave., P.O. Box 319, St. Clair Shores, MI 48080 *Lumber, pallets, posts, poles and ties, laminated wood products, wooden boxes and crates, chipboard and flake board, woodchips, sawdust, and wood waste material*, between points in AL, AR, GA, IL, IN, KY, MI, MS, MO, NY, NC, OH, PA, SC, TN, VA, WV, and WI, for 180 days. An underlying ETA seeks 90 days authority. Supporting Shipper(s): "Their are (6) shippers. Their statements may be examined at the office listed below and Headquarters." Send Protests to: C. R. Flemming, DS. ICC 225 Federal Building, Lansing, MI 48933.

By the Commission.

H. G. Homme, Jr.,
Secretary.

[Notice No. 73]
[FR Doc. 79-14465 Filed 5-9-79; 8:45 am]
BILLING CODE 7035-01-M

Motor Carrier Transfer Proceedings

Dated: April 26, 1979.

Application filed for temporary authority under Section 11349 in connection with transfer application under Section 10926 and Transfer Rules, 49 CFR Part 1132.

MC-FC-77955, filed December 11, 1978. Transferee: ANTHONY D. FIAMINGO, doing business as FIAMINGO MOVING & STORAGE CO., R.R. 3, Box 678, Mansfield, PA 16933. Transferor: FRANK JAMES BROWN, JR., doing business as KLAVUHN TRANSFER, 203 Independence St., Cumberland, MD 21502. Representative: Thomas F. X. Foley, State Hwy 34, Colts Neck, NJ 07722. Authority sought for purchase by transferee of the operating rights of transferor, as set forth in Certificate MC-108069, issued October 31, 1969, as follows: *Household goods* as defined by the Commission, between Cumberland, MD, and points in MD, PA, and WV, within 10 miles of Cumberland, on the one hand, and, on the other, points in MD, PA, WV, and DC. Transferee presently holds authority from this Commission under MC-126900. Application has not been filed for temporary authority under 49 U.S.C. § 11349.

MC-FC 78090. By application filed April 17, 1979, TRAFIK SERVICES, INC., 11 Newark Street, Providence, RI 02908, seeks temporary authority to transfer the operating rights of PROVIDENCE-SPRINGFIELD DESPATCH, INC., 540 Huntington Avenue, Providence, RI 02907, under section 210(b). The transfer to TRAFIK SERVICES, INC., of the operating rights of PROVIDENCE-SPRINGFIELD DESPATCH, INC., is presently pending.

By the Commission.

H. G. Homme, Jr.,
Secretary.

[Notice No. 74]
[FR Doc. 79-14631 Filed 5-9-79; 8:45 am]
BILLING CODE 7035-01-M

Policy Statement on Financial and Statistical Reporting

The Commission is authorized by the Interstate Commerce Act to require annual, periodical, and special reports from carriers under its regulation and to prescribe the manner and form of such reports. To carry out this provision, the Interstate Commerce Act also authorizes the Commission to prescribe a uniform system of accounts for any class of carriers and to examine carriers' record.[1]

The information reported by these carriers is essential to many of the Commission's responsibilities including the regulation of rates, the valuation of transportation property, and the making of decisions on granting operating authorities, mergers, acquisitions, abandonments, and discontinuing services. To carry out these responsibilities, offices and bureaus of the Commission need financial and statistical information from carriers for various purposes.

Over the history of regulation, the Commission has accumulated an extensive and complex reporting system. Forty-five reports are filed with the Commission on an annual or periodic basis by carriers. Annual reports contining financial and operating statistical data are required from all carriers regulated by the Commission. Other reports specifying key items of interest to the Commission are required from certain classes of carriers on a monthly, quarterly, or semi-annual basis.

Recently, a Data Task Force of the Commission's staff made an extensive review of these reports in order to modify and improve the Commission's system for collecting, processing, and publishing information and to reduce whenever possible the paperwork burden imposed by our regulations on industry and the public. The task force determined that some data elements and reports are no longer needed and should be eliminated, while some others should be added to meet today's needs.

Based on the task force's findings, we have concluded that an overall improvement of the reporting system is necessary. Our objectives are to ensure that useful, timely, and accurate data will be collected to meet the Commission's regulatory needs and to reduce the paperwork burden upon carriers. To guide this improvement we have adopted the following policies:

(1) A basic report shall be required from all carriers regulated by the Commission. The basic report serves to identify carriers continuing in business. It will contain the following information:

(a) Name of the carrier,
(b) Address, telephone,
(c) Type of organization and mode of transportation,
(d) ICC identification number,
(e) Name of chief officer,
(f) Total revenues and total assets.

In instances in which we feel detailed information is needed in addition to data in the basic report, we plan to test the feasibility of using statistical sampling as a method of data acquisition to reduce further the paperwork burden on the carriers.

(2) Reporting requirements beyond that of the basic report shall be limited to meeting the Commission's current needs in performing regulatory functions including the compilation of essential transportation statistics and the execution of Federal laws.

(a) Periodical reports, annual or quarterly, will be required only for information needed by the Commission regularly and frequently.

(b) Information needed occasionally will be collected only when the specific needs arise.

(c) In doing certain studies, sampling methods will be used when appropriate.

(d) Standardization of report forms will be implemented whenever possible.

The Commission will ascertain, document, and review continuously the information needs of its bureaus and offices and will revise the reporting requirements according to the information needs.

(3) Information collected from carriers shall be made accessible to the public, except those contents that are considered confidential. In addition, a

[1] Sections 11141 through 11145 of Title 49, U.S.C.

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review will be made of the need for data now collected that is considered to be confidential. Whenever possible, aggregate information of this confidential data will be made available to the public.

(4) Persons and organizations outside the Commission may need information concerning carriers beyond that collected and made public by the Commission. The Commission's reporting system does not purport to meet these additional needs.

(5) Classification of carriers in certain modes serves to collect essential information from carriers which make a major impact on the transportation industry while reducing reporting burden upon smaller carriers. The Commission will continue to use this device so long as it helps to achieve the above purpose. However, the Commission will improve or select an appropriate basis of classification so that consistency in classifying carriers can be maintained and frequent changes can be avoided.

(6) The Commission shall continue to prescribe a uniform system of accounts for certain classes of carriers to ensure that the reported data is prepared on a uniform basis.

(7) The Commission directs the Office of Policy and Analysis to assist the Commission in developing financial and statistical reporting policies consistent with this statement. This responsibility includes review of information needs and suggestions to improve the Commission's data base. The Bureau of Accounts is responsible for implementing the financial and statistical reporting policies.

H. G. Homme, Jr.,
Secretary.

[FR Doc. 79-14632 Filed 5-9-79; 8:45 am]

BILLING CODE 7035-01-M

Adequacy of Railroad Revenue (1979 Determination)

AGENCY: Interstate Commerce Commission.

ACTION: Notice of institution of limited revenue adequacy proceeding.

SUMMARY: A proceeding will be conducted to make a current determination of the railroads' cost of capital.

DATES: Notices of intent to participate due, May 21, 1979; statements of railroads due, June 30, 1979; statements of other interested parties due, August 10, 1979; rebuttal statements of railroads due, August 31, 1979; Commission decision to be issued, October 31, 1979.

ADDRESSES: Send notices of intent to participate to: Office of Proceedings, Room 5342, Interstate Commerce Commission, Washington, D.C. 20423.

Send other statements to: Secretary, Interstate Commerce Commission, Washington, D.C. 20423.

FOR FURTHER INFORMATION CONTACT: Janice M. Rosenak or Harvey Gobetz, (202) 275-7693.

SUPPLEMENTARY INFORMATION: Section 1109.25 of our regulations (49 CFR 1109.25) provides that the Commission shall conduct a yearly proceeding in which it makes specified findings concerning adequate revenue levels for the Nation's railroads.

The first such proceeding was instituted July 7, 1978, as Ex Parte No. 353, *Adequacy of Railroad Revenue (1978 Determination).* The Commission issued a decision December 5, 1978, in which it found the cost of capital for the Nation's railroads. Administrative appeals of this decision were considered in a decision issued March 27, 1979. The remaining issues in Ex Parte No. 353 are currently under consideration by the Commission.

Under our regulations, the time has arrived to announce the institution of the current year's revenue adequacy proceeding. We have concluded that this proceeding should be limited in scope.

As Congress provided in section 205 of the Railroad Revitalization and Regulatory Reform Act of 1976 (4-R Act), the Commission is to "revise and maintain" its revenue adequacy standards and procedures as necessary. With the experience gained in Ex Parte No. 353, we believe that the Commission and the public will be in a position to review our initial revenue adequacy regulations and make meaningful improvements. Accordingly, at the conclusion of Ex Parte No. 353, it will be our intention to conduct a proceeding for further consideration of our revenue adequacy standards and procedures. Since that proceeding will be in progress during the latter part of 1979, no useful purpose would be served by undertaking a full-scale revenue adequacy determination during the same period.

Nonetheless, one aspect of our revenue adequacy proceedings should be repeated in 1979. Cost of capital findings are assuming an increasing importance in Commission proceedings, and it is desirable that the findings available for use in such proceedings be kept reasonable current. Accordingly, the Commission will conduct a limited new revenue adequacy proceeding in 1979 to receive current evidence on the cost of capital question.

The Nation's Class I railroads shall be respondents in the proceeding. The shall, and other interested parties may, submit such evidence as will enable the Commission to update the cost of capital findings of Ex Parte No. 353 in the light of current conditions in the capital markets.

Any person intending to participate in the proceeding shall, on or before May 21, 1979, file an original and one copy of a notice of intent to participate. Because the Commission desires to conserve time, to avoid unnecessary expense, and to limit the service of statements in this proceeding to persons who intend actively to participate, each notice of intent to participate shall include a detailed statement of (1) whether the person's interest extends merely to receiving Commission releases in this proceeding; (2) whether the person wishes to participate by filing and receiving statements, (3) whether, if the person desires to file statements, his interests can be consolidated with those of other persons by the filing of joint statements; and (4) any other pertinent information to aid in limiting the service list to be issued in this proceeding. The Commission will prepare and make available, to all persons submitting notices of intent to participate, a service list which will contain the names and addresses of all persons participating in this proceeding.

Evidentiary statements of the parties are due on or before the dates set forth in the preamble to this notice. An original and 15 copies (if possible) of each statement shall be filed with the Commission, and one copy shall be served upon each person on the service list.

Copies of this notice shall be available to the public at the office of the Secretary, and the notice shall be published in the **Federal Register.** A press release describing this matter shall be issued.

Issued at Washington, D.C., May 1, 1979.

By the Commission, Chairman O'Neal, Vice Chairman Brown, Commissioners Stafford, Gresham, Clapp, and Christian.

H. G. Homme, Jr.,
Secretary.

[Ex Parte No. 363]

[FR Doc 79-14647 Filed 5-9-79; 8:45 am]

BILLING CODE 7035-01-M

Sunshine Act Meetings

Federal Register
Vol. 44, No. 92
Thursday, May 10, 1979

This section of the FEDERAL REGISTER contains notices of meetings published under the "Government in the Sunshine Act" (Pub. L. 94-409) 5 U.S.C. 552b(e)(3).

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CIVIL AERONAUTICS BOARD.

Notice of addition of items to the May 10, 1979, meeting agenda.

TIME AND DATE: 10 a.m., May 10, 1979.

PLACE: Room 1027, 1825 Connecticut Avenue, N.W., Washington, D.C. 20428.

SUBJECT:

33a. Docket 35119, Revision of proposed ceiling for Intra-Hawaii entity in Proposed Rule extending domestic passenger-fare policies to U.S. Mainland-Hawaii and Intra-Hawaii entities. (BPDA)

34a. Dockets 35360 and 35429, Applications of TIA and World for exemption. (BPDA)

STATUS: Open.

PERSON TO CONTACT: Phyllis T. Kaylor, the Secretary, (202) 673-5068.

SUPPLEMENTARY INFORMATION: The Board must consider Item 33a so that it can be adopted in time for the public to submit comments therein along with other comments due May 29, 1979, in response to PSDR-57. TIA requests authority effective May 18, 1979, therefore, Item 34a should be added to the May 10, 1979 agenda so that the Board can act on it as soon as possible in order to provide one week's notice. Accordingly, the following Members have voted that agency business requires the addition of Items 33a and 34a to the May 10, 1979 agenda and that no earlier announcement of these additions was possible:

Chairman, Marvin S. Cohen
Member, Richard J. O'Melia
Member, Elizabeth E. Bailey
Member, Gloria Schaffer

[S-935-79 Filed 5-8-79; 3:31 pm]

BILLING CODE 6320-01-M

2

CONSUMER PRODUCT SAFETY COMMISSION.

Revised Agenda*

TIME AND DATE: 10 a.m., Wednesday, May 9, 1979.

LOCATION: Room 456, Westwood Towers, 5401 Westbard Avenue, Bethesda, Maryland.

STATUS: Part open, part closed.

MATTERS TO BE CONSIDERED:

A. Open to the Public

1. *Briefing on Amendments to Section 7 Regulations.* The staff will brief the Commission on draft proposed regulations which would reorganize and amend CPSC regulations for developing proposed safety standards. The revisions are based on recent amendments to the Consumer Product Safety Act.

2. *Briefing on Rules for Investigations.* The staff will brief the Commission on draft final rules for Investigations, Inspections and Inquiries under the Consumer Product Safety Act (also known as the Non-Adjudicative Rules).

3. *Hair Dryers/Asbestos: Status report.* The staff will present one of a series of regular reports on the status of actions it is taking to deal with possible hazards associated with asbestos in hand-held hair dryers. The last previous report was May 3.

B. Closed to the Public

4. *Selection of TAB Members.* The Commission will select members of its Toxicological Advisory Board (TAB), which Congress authorized in recent legislation to provide specific scientific and technical advice to the Commission regarding the labeling of hazardous substances. (Closed under exemption 6: possible invasion of personal privacy.)

5. *Aluminum Wiring.* The staff will present an update of a survey on aluminum wiring. (Closed under exemption 10: litigation).

CONTACT PERSON FOR ADDITIONAL INFORMATION: Sheldon Butts, Assistant Secretary, Suite 300, 1111 18th St., NW., Washington, D.C. 20207, telephone (202) 634-7700.

[S-924-79 Filed 5-8-79; 10:43 am]

BILLING CODE 6355-01-M

*Agenda approved May 1, 1979. Agenda amended May 3 to add items 3 and 5. In deciding to add these items, the Commission determined that agency business requires consideration of these items without seven days advance notice.

3

CONSUMER PRODUCT SAFETY COMMISSION.

Agenda

DATE AND TIME: 10 a.m., Wednesday, May 16, 1979.

LOCATION: Room 456, Westwood Towers, 5401 Westbard Avenue, Bethesda, Maryland.

STATUS: Open to the public.

MATTERS TO BE CONSIDERED:

1. *Briefing on Small Parts Regulation.* The staff will brief the Commission on a draft final regulation classifying certain children's products as banned hazardous substances because they present unreasonable risks of injury due to the presence of accessible small parts. The Commission proposed this regulation in October, 1978.

2. *Briefing on Harzardous Protrusions: Children's Products.* The staff will brief the Commission on its recommendation that CPSC begin research on possible hazards associated with blunt protrusions on children's products. The Commission and staff previously discussed this matter during meetings on CPSC's Operating Plan.

3. *Briefing On Upholstered Furniture Flammability.* The staff will present an update on its evaluation of the Upholstered Furniture Action Council (UFAC) voluntary program to reduce the flammability of upholstered furniture.

4. *Briefing on Section 16 Recordkeeping Regulation.* The staff will brief the Commission on issues related to a final regulation which would require manufacturers, importers, private labelers and distributors of consumer products to maintain records of consumer product safety complaints. The Commission proposed the regulation in November, 1977.

CONTACT PERSON FOR ADDITIONAL INFORMATION: Sheldon D. Butts, Assistant Secretary, Suite 300, 1111 18th St., NW., Washington, D.C. 20207, telephone (202) 634-7700.

Agenda approved May 3, 1979.

[S-925-79 Filed 5-8-79; 10:43 am]

BILLING CODE 6355-01-M

4

CONSUMER PRODUCT SAFETY COMMISSION.

TIME AND DATE: 9:30 a.m., Thursday, May 17, 1979.

LOCATION: Third Floor Hearing Room, 1111 18th St., NW., Washington, D.C.

STATUS: Open to the public.

MATTERS TO BE CONSIDERED:

1. *Coal- and Wood-Burning Stoves, Petition AP 77–2.* The Commission will consider a petition in which Adam Paul Banner of Midland, Michigan asks the Commission to issue a labeling rule for coal- and wood-burning appliances, stoves and free-standing fireplaces. The Commission previously considered the petition at a briefing March 14.

2. *Briefing on Hair Dryers/Asbestos: Status Report.* The staff will present one of a series of regular reports on the status of actions it is taking to deal with possible hazards associated with asbestos in hand-held hair dryers. The last previous report was May 9.

CONTACT PERSON FOR ADDITIONAL INFORMATION: Sheldon D. Butts, Assistant Secretary, Suite 300, 1111 18th St., NW., Washington, D.C. 20207, telephone (202) 634–7700.

Agenda approved May 3, 1979.

[S–926–79 Filed 5–8–79; 10:43 am]

BILLING CODE 6355–01–M

5

FEDERAL COMMUNICATIONS COMMISSION.

TIME AND DATE: 4:30 p.m., Wednesday, May 2, 1979.

PLACE: Room 856, 1919 M Street, N.W., Washington, D.C.

STATUS: Emergency closed meeting.

CHANGES IN THE MEETING: Additional item considered:

Internal Personnel Matter.

The prompt and orderly conduct of Commission business did not permit announcement of this meeting prior to the meeting.

Additional information concerning this meeting may be obtained from the FCC Public Affairs Office, telephone number (202) 632–7260.

Issued: May 3, 1979.

[S–927–79 Filed 5–8–79; 10:46 am]

BILLING CODE 6712–01–M

6

FEDERAL COMMUNICATIONS COMMISSION.

TIME AND DATE: 11:45 a.m., Thursday, May 3, 1979.

PLACE: Room 856, 1919 M Street., N.W., Washington, D.C.

STATUS: Emergency closed Commission meeting.

MATTER TO BE CONSIDERED: Geoffrey Cowan FOIA Request—FOIA Control No. 9–81.

The prompt and orderly conduct of Commission business did not permit announcement of this meeting prior to the meeting.

Additional information concerning this meeting may be obtained from the FCC Public Affairs Office, telephone number (202) 632–7260.

Issued: May 3, 1979.

[S–928–79 Filed 5–8–79; 10:46 am]

BILLING CODE 6712–01–M

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FEDERAL COMMUNICATIONS COMMISSION.

TIME AND DATE: 9:30 a.m., Thursday, May 10, 1979.

PLACE: Room 856, 1919 M Street NW., Washington, D.C.

STATUS: Closed Commission meeting following the open meeting.

MATTERS TO BE CONSIDERED:

Agenda, Item No., and Subject

Complaints and Compliance—1—Renewal application of Sonderling Broadcasting Corporation for Radio Station WOL, Washington, D.C.

This meeting may be continued the following workday to allow the Commission to complete appropriate action.

Additional information concerning this meeting may be obtained from the FCC Public Affairs Office, telephone number (202) 632–7260.

Issued: May 3, 1979.

[S–929–79 Filed 5–8–79; 10:46 am]

BILLING CODE 6712–01–M

8

FEDERAL COMMUNICATIONS COMMISSION.

TIME AND DATE: 9:30 a.m. Thursday, May 10, 1979.

PLACE: Room 856, 1919 M Street, N.W., Washington, D.C.

STATUS: Open Commission meeting.

MATTER TO BE CONSIDERED:

Agenda, Item No., and Subject

Hearing—1—Joint request for (1) approval of agreement, (2) authorization for reimbursement of expenses, and (3) grant of application and dismissal of competing application in the Berryville, Virginia, new FM broadcast proceeding (Docket Nos. 21185 and 21186).
General—1—Termination of Docket 21271.
General—2—Application for review of a ruling by the Chief, Common Carrier Bureau granting in part and denying in part an FOIA request by Ido E. Colantuoni for inspection of materials concerning a proposed General Telephone and Electronic Corporation merger (FOIA Control No. 9–16).
Private Radio—1—Application for review of action taken under delegated authority, submitted by Robert P. Milbert.
Private Radio—2—Petition for Review submitted by RE/MAX Suburban, Inc.
Common Carrier—1—Petitions for reconsideration of the Commission's Memorandum Opinion and Order filed by the Department of Defense and the Chesapeake and Potomac Telephone Companies.
Common Carrier—2—Petition for Reconsideration filed by the Department of Defense.
Cable Television—1—Notice of Proposed Rulemaking to adopt a short form renewal application for authorizations in the Cable Television Relay Service.
Renewal—1—Petition to deny filed by National Association for Better Broadcasting against the application of KCOP Television, Inc. for renewal of license for Station KCOP (TV), Los Angeles, California, and Informal objection filed by Twentieth Century-Fox Film Corporation against KCOP's renewal application.
Renewal—2—Renewal applications of Christian Broadcasting Association for Stations KAIM and KAIM–FM, Honolulu Hawaii, and Informal Objection filed by William E. H. Tagupa.
Renewal—3—License renewal applications for Station KJRB, Sponkane, Washington, KJR and KISW (FM), Seattle, Washington and KXL (AM) and FM, Portland, Oregon, all licensed to Kaye-Smith Enterprises; petition to deny KJRB's renewal and informal objections to the other renewal applications file by Vincent L. Hoffart; Hoffart's petition for reconsideration of the Commission's staff grant of renewal of Kaye-Smith's KISW (FM), Seattle, Washington; and application for assignment of license for KEZE–FM, Spokane, Washington from Bellevue Broadcasters to Kaye-Smith; and an application for assignment of license for KEZE (AM), Spokane, Washington, from Bellevue Broadcasters to the Great American Radio Corporation.
Renewal—4—Renewal application of KHVH, Inc. for Station KHVH, Honolulu, Hawaii, and Petition to Deny filed by William E. H. Tagupa.
Aural—1—Request for Special Temporary Authority filed by Pinellas Radio Corporation, licensee of AM Station WPLP, Pinellas Park, Florida.
Aural—2—Application for Subsidiary Communications Authorization filed by Street Broadcasing Corporation, licensee of Station WIZR–FM, Johnstown, New York (File No. BSCA–781211AV).
Aural—3—Application for construction permit filed by Golden State Broadcasting Corporation, KHYT, South Tucson, Arizona; and a petition for reconsideration and petition to deny and a petition for recision or in the alternative for stay, filed by Frederick G. Borcherdt and 37 additional parties and responsive pleadings.
Aural—4—Memorandum Opinion and Order amending Section 0.281(a)(1)(i) of the Commission's Rules regarding delegations of authority to the Chief, Broadcast Bureau.
Broadcast—1—The "one-to-a-markert" rule exception that provides for case-by-case handling of applications that involve UHF television stations. (Section 73.35(a)(1) Note 8, Section 73.240(a)(1) Note 8, and Section 73.636(a)(1) Note 8)
Broadcast—2—Revision of Financial Standards for Television.

This meeting may be continued the following work day to allow the Commission to complete appropriate action.

Additional information concerning this meeting may be obtained from the FCC Public Affairs Office, telephone number (202) 632–7260.

Issued: May 3, 1979.

[S–930–79 Filed 5–8–79; 10:46 am]

BILLING CODE 6712–01–M

9

FEDERAL DEPOSIT INSURANCE CORPORATION.

Notice of Change in Subject Matter of Agency Meeting

Pursuant to the provisions of subsection (e)(2) of the "Government in the Sunshine Act" (5 U.S.C. 552b(e)(2)), notice is hereby given that at its closed meeting held at 10:30 a.m. on Monday, May 7, 1979, the Corporation's Board of Directors voted, on motion of Chairman Irvine H. Sprague, seconded by Director John G. Heimann (Comptroller of the Currency), to withdraw the following item from the agenda for consideration at the meeting, on less than seven days' notice to the public:

Application of Wilshire Bank, Oklahoma City, Oklahoma, for Federal deposit insurance.

The Board further determined, by the same majority vote, that no earlier notice of the change in the subject matter of the meeting was practicable.

Dated: May 7, 1979.

Federal Deposit Insurance Corporation.

Hoyle L. Robinson,

Executive Secretary.

[S–936–79 Filed 5–8–79; 3:49 pm]

BILLING CODE 6714–01–M

10

FEDERAL DEPOSIT INSURANCE CORPORATION.

Notice of Changes in Subject Matter of Agency Meeting

Pursuant to the provisions of subsection (e)(2) of the "Government in the Sunshine Act" (5 U.S.C. 552b(e)(2)), notice is hereby given that at its open meeting held at 10:00 a.m. on Monday, May 7, 1979, the Corporation's Board of Directors voted, on motion of Chairman Irvine H. Sprague, seconded by Director John G. Heimann (Comptroller of the Currency), that Corporation business required the withdrawal from the agenda for consideration at the meeting, on less than seven days' notice to the public, of a memorandum proposing a new contract with Government Services, Inc., relating to the operation of the Corporation's cafeteria and dining room.

The Board then determined, on motion of Chairman Sprague, seconded by Director Heimann, that Corporation business required the addition of the following items to the agenda for consideration at the meeting, on less than seven days' notice to the public:

Memorandum and resolution proposing the final adoption of an amendment to Part 336 of the Corporation's rules and regulations, entitled "Employee Responsibilities and Conduct," to designate the Executive Secretary, rather than the Assistant to the Chairman, as the Corporation's Ethics Counselor.

Memorandum proposing the approval of an agreement between the Corporation and the Federal Savings and Loan Insurance Corporation in implementation of section 1205 of the Financial Institutions Regulatory and Interest Rate Control Act of 1978, regarding the conversion of mutural savings banks.

The Board further determined, by the same majority vote, that no earlier notice of the changes in the subject matter of the meeting was practicable.

Dated: May 7, 1979.

Federal Deposit Insurance Corporation.

Hoyle L. Robinson,

Executive Secretary.

[S–933–79 Filed 5–8–79; 1:27 pm]

BILLING CODE 6740–02–M

11

FEDERAL ENERGY REGULATORY COMMISSION.

"FEDERAL REGISTER" CITATION OF PREVIOUS ANNOUNCEMENT: (Pub. 5/7/79, 44 FR 26838).

PREVIOUSLY ANNOUNCED TIME AND DATE OF MEETING: May 9, 1979, 10:00 a.m.

CHANGE IN MEETING: The following item has been added:

Item No., Docket No., and Company

M–8(A). Notice of Well Category Determinations (Section 103) by the Railroad Commission of Texas.
M–8(B). Notice of Well Category Determination by the State of New Mexico, Oil Conservation Commission, Oil Conservation Division.

Kenneth F. Plumb,

Secretary.

[S–933–79 Filed 5–8–79; 1:27 pm]

BILLING CODE 6740–02–M

12

FEDERAL ENERGY REGULATORY COMMISSION.

"FEDERAL REGISTER" CITATION OF PREVIOUS ANNOUNCEMENT: (Pub. 5/7/79, 44 FR 26838).

PREVIOUSLY ANNOUNCED TIME AND DATE OF MEETING: May 9, 1979, 10:00 a.m.

CHANGE IN MEETING: The following items have been added:

Item No., Docket No. and Company

CP–1. CP74–192, Florida Gas Transmission Company.
CP–2. CP79–214, Transcontinental Gas Pipe Line Corporation; CP79–221, National Fuel Gas Supply Corporation; CP79–260, Tennessee Gas Pipeline Corporation; CP79–275, Transcontinental Gas Pipe Line Corporation; CP79–278, Texas Eastern Transmission Corporation.

Kenneth F. Plumb,

Secretary.

[S–923–79 Filed 5–8–79; 9:35 am]

BILLING CODE 6740–02–M

13

FEDERAL MARITIME COMMISSION.

TIME AND DATE: May 15, 1979—10:00 a.m.

PLACE: Room 12126—1100 L Street, N.W., Washington, D.C. 20573.

STATUS: Parts of the meeting will be open to the public. The rest of the meeting will be closed to the public.

MATTERS TO BE CONSIDERED:

Portions Open to the Public

1. Appeal of staff action in rejecting tariff matter of Marseilles North Atlantic U.S.A. Freight Conference.
2. Appeal of staff action in rejecting tariff matter of Atlantic and Gulf-Indonesia Conference.
3. Appeal of staff action in rejecting tariff matter of Eurobridge Lines.
4. A proposed revision of General Order 18 to require the filing with the Commission of certain cargo statistics.
5. General rate increase filed by Foss Alaska Line, Inc., between Seattle, Washington, and points in Western Alaska.

Portions To Be Closed to the Public

1. Docket No. 77–4: Agreements Nos. 9902–3, 9902–4, 9902–5 and 9902–6 (Modification of Euro-Pacific Joint Service Agreement Petition for reconsideration).
2. Docket No. 77–50: North Carolina State Ports Authority, et al. v. Dart Containerline Company, Ltd.—Consideration of the record.
3. Docket No. 76–11: In Re Agreements 150 DR–7 and 3103 DR–7—Consideration of the record.

CONTACT PERSON FOR MORE INFORMATION: Francis C. Hurney, Secretary (202) 523–5725.

[S–931–79 Filed 5–8–79; 8:45 am]

BILLING CODE 6730–01–M

14

INTERSTATE COMMERCE COMMISSION.

TIME AND DATE: 9:30 p.m., Friday, May 11, 1979.

PLACE: Hearing Room A, Interstate Commerce Commission, 12th & Constitution Avenue, N.W., Washington, D.C. 20423.

STATUS: Open Special Conference.

MATTER TO BE CONSIDERED: Compliance program discussion.

CONTACT PERSON FOR MORE INFORMATION: Douglas Baldwin, Director, Office of Communications, Telephone: (202) 275-7252.

The Commission's professional staff will be available to brief news media representatives on conference issues at the conclusion of the meeting.

[S-922-79 Filed 5-8-79; 9:35 am]

BILLING CODE 7035-01-M

15

LEGAL SERVICES CORPORATION (Committee on Appropriations and Audit).

TIME AND DATE: 10 a.m., Tuesday, May 15, 1979.

PLACE: 11th Floor Conference Room, Legal Services Corporation, 733 15th Street, N.W., Washington, D.C.

STATUS: Open meeting.

MATTERS TO BE CONSIDERED:

1. Adoption of agenda.
2. Approval of the minutes of the November 15, 1978 meeting.
3. Status of the fiscal year 1979 budget.
4. Status of the fiscal year 1980 budget request.
5. Budget procedures:
   a. Improvements in administrative budget preparation and management.
   b. Schedule for preparation of the fiscal year 1981 budget request to the Congress.
6. Status of the Financial Management Improvement Program.
7. Schedule for future meetings of the Committee.
8. Other business.

CONTACT PERSON FOR MORE INFORMATION: Peggy Bell, Office of the President, telephone (202) 376-5100.

Issued: May 8, 1979.

Alice Daniel,
Acting President.

[S-932-79 Filed 5-8-79; 1:10 pm]

BILLING CODE 6820-35-M

16

UNITED STATES PAROLE COMMISSION: National Commissioners (the Commissioners presently maintaining offices at Washington, D.C. Headquarters).

TIME AND DATE: Thursday, May 24, 1979, at 9:30 a.m.

PLACE: Room 828, 320 First Street, NW., Washington, D.C. 20537.

STATUS: Closed pursuant to a vote to be taken at the beginning of the meeting.

MATTER TO BE CONSIDERED: Referrals from Regional Commissioners of approximately 15 cases in which inmates of Federal prisons have applied for parole or are contesting revocation of parole or mandatory release.

CONTACT PERSON FOR MORE INFORMATION: A. Ronald Peterson, Analyst (202) 724-3094.

[S-934-79 Filed 5-8-79; 3:06 pm]

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federal register

Thursday
May 10, 1979

Part II

Environmental Protection Agency

Ambient Air Quality Monitoring, Data Reporting, and Surveillance Provisions

4 4 / 9 2

ENVIRONMENTAL PROTECTION AGENCY

40 CFR Parts 51, 52, 53 and 58

Air Programs; Ambient Air Quality Monitoring, Data Reporting, and Surveillance Provisions

AGENCY: Environmental Protection Agency (EPA).

ACTION: Final rulemaking.

SUMMARY: This final rulemaking sets forth ambient air quality monitoring and data reporting regulations which were proposed on August 7, 1978 (43 FR 34892). This action revokes the requirements for air quality monitoring in Part 51 and establishes a new Part 58 entitled Ambient Air Quality Surveillance. These regulations satisfy the requirements of Section 110(a)(2)(C) of the Clean Air Act (Act) by requiring ambient air quality monitoring and data reporting for purposes of State Implementation Plans (SIP). Criteria to be followed when measuring air quality and provisions for daily air pollution index reporting are established in Part 58 as required by Section 319 of the Act. Part 58 also contains requirements for reporting to EPA certain data related to air pollution episodes so that the information can be included in EPA's annual report to Congress as required by Section 313, Additional Reports to Congress, of the Act. Requirements for public notification of information related to air quality standards violations are included in Part 51 in order to meet the requirements of Section 127, Public Notification, of the Act.

DATES: These regulations take effect upon promulgation.

FOR FURTHER INFORMATION CONTACT:
William M. Cox, Monitoring and Data Analysis Division (MD–14), Office of Air Quality Planning and Standards, Environmental Protection Agency, Research Triangle Park, N.C. 27711, phone: Commercial—(919) 541–5312; FTS—629–5312.

SUPPLEMENTARY INFORMATION

Background

The preamble to the August 7, 1978, Federal Register proposal notice explained EPA's concern with the quality, completeness, and timeliness of air quality data collected at the State or local level. The monitoring regulations proposed at that time were designed to eliminate the problems associated with data currently being submitted. The regulations being promulgated today are, with the exception of changes made due to public comment, the same as those proposed. The changes made and the substantive comments received are summarized under the appropriate headings below.

History

In October 1975, the Standing Air Monitoring Work Group (SAMWG) was formed at the request of the Deputy Administrator of EPA. The request was made in response to recognition of deficiencies which existed in air quality monitoring and data reporting programs of State and local agencies. The purpose of SAMWG was to identify deficiencies and develop a program for correcting them. Accordingly, SAMWG was composed of representatives from EPA headquarters offices, EPA Regional Offices, and State and local air pollution control agencies.

In June 1977, the strategy document containing SAMWG's analysis and recommendations was published as: "Air Monitoring Strategy for State Implementation Plans," EPA–450/2–77–010, U.S. Environmental Protection Agency, Research Triangle Park, N.C. 27711, June 1977. Basically the recommendations called for optimization of monitoring networks and better controls on data collection and handling.

On August 7, 1977, the Clean Air Act was amended; one of the amendments being the addition of § 319 to the Act. This Section requires EPA to establish monitoring criteria to be followed uniformly across the nation. It also requires major urban areas to report a uniform daily index and provides that there be a national monitoring network to supplement but not duplicate monitoring for SIP purposes.

The recommendations of SAMWG and the § 319 requirements to a large extent overlap, especially in their intent, i.e., higher quality air monitoring data. The regulations proposed on August 7, 1978, therefore, addressed both SAMWG and § 319. EPA believes that the regulations being promulgated today will provide air monitoring data of acceptable quality; comparable data from all monitoring stations; optimum, cost-effective monitoring networks; and timely data submission for national assessment purposes.

General Discussion

It is apparent from reviewing the public comments on the proposal that some confusion exists with respect to the regulations. Several commenters misunderstood the concept of the monitoring network and the data reporting requirements as set forth in the regulations. It is therefore appropriate at this time to provide another explanation of the concept. EPA is revoking § 51.17 (40 CFR Part 51) which previously required SIPs to provide for monitoring air quality and is promulgating Part 58 which contains new SIP monitoring requirements. Under the new regulations a State will establish a network of monitoring stations to monitor pollutants for which National Ambient Air Quality Standards (NAAQS) have been established. This new network will actually be the existing network with appropriate modifications to conform to criteria contained in Part 58. The network will be designed such that stations are located in all areas where the State and the EPA Regional Office decide that monitoring is necessary. The stations in the network will be termed State and Local Air Monitoring Stations (SLAMS). The regulations do not specify how large the SLAMS network must be. The number and locations of the SLAMS will be jointly determined by the State and Regional Office as data needs dictate. The SIP will contain provisions for establishing and operating the SLAMS network. The data from the network will be condensed and reported annually to EPA in a summary report. The data from which the report is generated will be available to EPA upon request if more detailed data are required for some purpose. States may, however, wish to store the data in the EPA National Air Data Bank (NADB) if facilities are not available otherwise. Using the NADB for full data storage will not relieve the State of the responsibility of seeing that a summary report is submitted each year.

It is anticipated that in most instances the new SLAMS network will be smaller than existing networks. Certain stations that are in areas with air quality consistently better than the NAAQS are, in general, unnecessary. Such stations can be eliminated. The majority of stations that will be eliminated from existing networks in order to form the SLAMS network will likely be high-volume (Hi-vol) samplers for particulate matter and SO_2 bubblers. The stations remaining in operation, relocated stations, or new stations will then all be termed SLAMS and make up the SLAMS network for purposes of the SIP. If the State wishes to continue to operate any station or establish a new station which is not a SLAMS, it may do so. The station will not be considered a SLAMS and will not be subject to any requirements including data reporting. These additional stations will be termed Special Purpose Monitoring (SPM) stations. If, however, the State wishes to use data from an SPM station as support for a SIP revision or control strategy demonstration, then the requirements applicable to SLAMS, other than reporting, must be met in order that the data be of acceptable quality and comparability. The SPM stations could be used, among other things, to do special research studies, to monitor around a point source for a short period, to determine if a specific area may need a permanent SLAMS, or to monitor for pollutants for which NAAQS have not been established.

Stations used to determine the impact of a source for purposes of Prevention of Significant Deterioration (PSD) would not be part of the SLAMS network nor would they be considered SPM stations. PSD stations, in general, would be operated only for periods of up to a year and would be operated by the source owner or operator although a SLAMS could also serve as a PSD station. In order that the PSD data be of acceptable quality and comparable to SLAMS data, quality assurance requirements for PSD stations are included in Part 58.

The fourth type of station covered by the regulations is the National Air Monitoring Station (NAMS). The regulations do not require establishing a separate network of NAMS. The NAMS will be stations selected from the SLAMS network. These stations will also continue to be SLAMS and will be subject to all SLAMS requirements, including the annual summary report. The only distinguishing characteristics of NAMS will be:

1. Only continuous instruments will be used to monitor gaseous pollutants.
2. The regulations specify a minimum number of NAMS and locations for them.
3. Data from NAMS, in addition to being included in the annual SLAMS summary report, will be reported quarterly to EPA.

The NAMS concept is being established in order to provide timely data to EPA from a national network for national data analysis. The amount of data that will be reported quarterly to EPA will be considerably less than that required in 40 CFR 51.7, Reports, which is being revoked. The concept of the NAMS addresses the requirements of § 319 of the Act to establish a national network. It is inconceivable that monitoring would be required in any area for national analysis but not for SIP purposes. Any area where a NAMS is needed, therefore, would be an area which should be covered by a SLAMS. In order to avoid duplication of effort, the NAMS will simply be a subset of the SLAMS instead of a separate network measuring air quality in areas already being measured by SLAMS.

A most important point to understand is that, while there are minimum numbers of NAMS that must be established, these minimum numbers are not a minimum for the SLAMS network. There is no minimum or maximum size for the SLAMS network. The size of the SLAMS network is to be determined based on characteristics of any one area or State such as meteorology, geography, population, and emission density. The NAMS will typically be those SLAMS which represent locations such as those having high pollutant concentrations, high population exposure, or a combination of both. The NAMS are being established only for the purpose of providing EPA with timely data from the more important stations across the nation. EPA does not believe that the small number of NAMS will be adequate to meet all of the SIP monitoring objectives. It is anticipated that the number of NAMS will only be from 10% to 40% of the total number of SLAMS.

The final point to be made with respect to this subject is that EPA's use of air quality data will not be limited to NAMS. Important judgments or decisions will be based on all data available which will include SLAMS data.

In summary, there will be only one monitoring network; the SLAMS network. Any additional monitoring the State wishes to do will be SPM monitoring subject to no requirements unless used for SIP purposes. Source owners or operators will operate PSD stations, from which the data will be periodically reported to the permit granting authority. A certain number of select stations from the SLAMS network will also be termed NAMS, the data from which will be subject to an additional reporting requirement.

Reorganization of Part 51

In an effort to make Part 51 more readable and understandable, EPA is reorganizing and expanding the format of the regulations. The restructured regulations will contain numerous subparts containing material formerly organized as sections. More headings will be used and the reader will be able to more readily find appropriate requirements. Regulations being promulgated today in Subparts J, O, and Q of Part 51 are in the new format. Subsequent to this promulgation, other sections of Part 51 will be rewritten and reorganized utilizing the new format.

Ambient Monitoring for Lead

The preamble to the proposal of these monitoring regulations on August 7, 1978, stated that the regulations requiring ambient lead monitoring (43 FR 46264) would be incorporated into Part 58 in this promulgation. Those lead monitoring regulations which were promulgated October 5, 1978, in § 51.17(b) of Part 51 required the plan to provide for establishing lead monitoring stations; specified an operation schedule of one 24-hour sample every six days; required that a description of the monitoring system be available; specified a two-year time limit on station establishment; and reference a guideline, *Supplementary Guideline for Lead Implementation Plans,* which contained additional information on monitoring or siting. The lead monitoring regulations were promulgated simultaneously with the lead NAAQS.

At the time of promulgation of the lead regulations, quality assuranace criteria had not been developed for lead. Rather than incorporate the § 51.17(b) regulations alone into Part 58 in today's promulgation, EPA will propose and promulgate in Part 58 all the lead regulations in one action which will include the § 51.17(b) monitoring regulations, the siting criteria from the lead guideline, and quality assurance criteria for lead which is under development.

Accompanying the October 5, 1978, promulgation of the lead regulations and lead NAAQS was an Advance Notice of Proposed Rulemaking (ANPR) concerning ambient lead monitoring around primary and secondary lead smelters and primary copper smelters. The notice indicated that EPA was considering regulations to require such point source monitoring in order to determine if the sources were causing violations of the lead NAAQS and whether additional or alternative control strategies would therefore be necessary. The notice also indicated that a guideline would be developed covering the number of necessary monitoring stations and siting parameters for monitoring around point sources. Two quidelines have been prepared—one for short-term monitoring to obtain ambient lead air quality data essential for the development of a lead control strategy *(Guideline for Short-Term Lead Monitoring in the Vicinity of Point Sources);* the other for longer term monitoring in order to determine if point sources will cause NAAQS violations after the attainment date and to estimate the contribution of fugitive emissions to such violations *(Guideline*

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for Lead Monitoring in the Vicinity of Point Sources).

EPA has reevaluated the need for specific regulations for lead monitoring around point sources and concludes that monitoring point sources to determine NAAQS violations is an objective of the SLAMS network. In designing a lead SLAMS network, the States and Regional Offices should follow the long-term guideline *(Guideline for Lead Monitoring in the Vicinity of Point Sources)* in order to assure that emissions from the point sources are adequately monitored. An alternative would be for the State to require the point source to conduct the monitoring and report the date to the State. The data could then be used for control strategy purposes provided they were collected in accordance with the long-term point source guideline.

Until such time as the lead monitoring regulations, siting criteria, and quality assurance requirements are incorporated into Part 58, States would be expected to follow the siting and quality assurance criteria in the long-term point source monitoring guideline.

Public Comments

The object of **Federal Register** proposals is to allow comments on new regulations prior to their promulgation thereby providing an opportunity for the public to participate in rulemaking. The bulk of the regulations proposed August 7, 1978, were new regulations; however, some of the regulatory material was simply being recodified. The content or meaning of the recodified regulations was not changed; the requirements were simply restructured and placed in new sections or appendices. Eventually all of 40 CFR Part 51 will be restructured in an effort to make Part 51 more readable and easier to use. The recodification taking place in these regulations is one of the first steps toward the Part 51 restructuring.

Even though the proposal preamble specified which regulations were not being changed, other than being restructured, EPA received public comments on some of those unchanged regulations. The comments on the unchanged regulations will be noted in this preamble but EPA will not entertain suggestions for changing these regulations at this time since the object of the proposal was not to repropose the regulatory content. The comments may be used in the future to determine the need for reproposing and updating the regulations.

EPA received forty-six written comment letters on the proposal of August 7, 1978. The origin of the letters is as follows:

Federal Agencies	1
Private Citizens	1
Industry	15
State Air Pollution Control Agencies	16
Local Air Pollution Control Agencies	13
Total	46

The following discussion covers the substantive public comments from the letters and any oral comments received. The discussion is organized by subject matter. No public comments were received on certain portions of the proposed regulations; therefore, no discussion of those portions of the regulations appears in this preamble. For example, no comments were received on the regulations proposed in response to § 127, Public Notification, and § 313, Additional Reports to Congress, of the Act. This preamble primarily discusses only the public comments. Detailed discussion of the regulations can be found in the preamble to the August 7, 1978, proposal.

The full text of the letters and summaries of individual comments together with the action taken by EPA and justification for that action will be available for public inspection during normal business hours at the Public Information Reference Unit, 401 M Street, S.W., Washington, D.C. 20460.

General Comments

The comments discussed under this heading were not specific to any regulation or appendix but were general comments or were comments on some aspect of the monitoring program covered by the regulations.

One commenter requested a public hearing and an economic impact statement on § 51.24(n)(3) which requires quality assurance procedures be applied to PSD monitoring. The reasoning given for the request was based on the impact of the PSD program. These regulations are not concerned with the PSD program except to apply quality assurance requirements to PSD monitoring. The impact of just the PSD quality assurance requirements falls far short of a level that would require an economic impact statement. This comment would have been appropriately made in response to the PSD regulations which were proposed in the **Federal Register** on November 3, 1977 (42 FR 57471).

One commenter felt that EPA should store and distribute air quality data collected at PSD stations because the cost of making it available to the public is prohibitive to the States. EPA suggests that the cost of reproducing and providing data to the public could be recovered by the States through fees for such a service. Handling PSD data at the State level where it is used will be much more cost effective than EPA collecting, storing, and providing the public with data from all over the nation.

Two commenters suggested that EPA should make data from all stations (SLAMS, PSD, SPM) available to the public within 90 days of the end of each quarter. Experience with obtaining air quality data shows this to be an unworkable suggestion. One of the main purposes of the NAMS concept is to mitigate data reporting problems by striving to get just a portion of the data from the SLAMS network to EPA within 90 days. The resources it would take to get all data in within 90 days could not be justified. Also, the historical usage of data from the NADB indicates no need for availability of all SLAMS data within 90 days. Concerning SPM data, the definition of SPM stations provides that the data are primarily for the State's use. Data storage for PSD stations was discussed above.

Two commenters stated that there should be only one type of station and that all data should be used for national assessment. The reasons for the types of stations were discussed under the heading "General Discussion" above. The discussion also pointed out that all SLAMS data will be used by EPA in the course of making important decisions or assessments.

One commenter stipulated that special purpose monitoring should be used for such things as particle sizing, or background. SPM stations may be used for such purposes but EPA, because of the definition of SPM stations, will not set forth such a requirement. The factor most affecting the degree to which a State carries out special purpose monitoring is the availability of resources. EPA does not wish to interfere with the allocation of any monitoring resources available to a State above those resources needed to implement the regulations being promulgated today.

One commenter emphasized the need to analyze air quality data on the basis of geographical distinctions. EPA and the States take into account geographical, meteorological, and other characteristics of monitoring sites when evaluating ambient air quality data.

One commenter suggested that State air quality monitoring networks include stations in remote locations to determine background or general pollution levels. EPA feels that sufficient monitoring to determine background is already underway and will remain so through monitoring stations operated by EPA, States, other federal agencies, PSD sources, etc.

Eight commenters objected to the elimination of certain stations that will occur when networks are trimmed down to form a cost effective SLAMS network. The basis for the objection is that these stations have provided historical data upon which trends can be based. EPA does not feel that resources necessary to continue collecting data of questionable quality can be justified for trends purposes. In some cases the historical data quality is simply not acceptable enough to preserve the site. Even for sites which have provided good quality data, resources would be much better utilized in upgrading the entire network as these new regulations require rather than continuing to operate unnecessary stations. One solution, however, would be for the States to operate SPM stations at the sites in question.

One commenter felt that EPA should delcare valid all data collected prior to today's promulgation if the analyzers meet the requirements of 40 CFR Part 53 pertaining to reference or equivalent methods. EPA cannot make such a blanket declaration because the status of an analyzer at the time of installation is not the only factor which affects data validity. Siting of the instrument and continued proper operation of the analyzer can easily affect data quality. Also, it is not necessary to obtain EPA approval in order to use previously collected data. The preamble to the August 7, 1978, proposal discussed using historical data. To summarize that discussion, the degree to which historical data can be used depends on the intended use of the data and the degree to which various factors have affected the data quality.

One commenter was concerned that the regulations do not apply to local air pollution control agencies. It is true that the regulations are in terms of requirements on States; this reflects the language of the Clean Air Act. The States must see that regulatory requirements are met, but they can be met by a local agency to which the State has delegated certain actions. In such an instance, the State would still have the responsibility to see that requirements are met. The regulations are thereby indirectly binding on local agencies.

Three commenters stated that the material in the appendices to Part 58 should be in guideline form. One of the commenters suggested that the regulations could then require the guidelines to be followed. Such an approach would not meet EPA's intent.

Guidelines are for the purpose of indicating ways in which regulatory requirements may be carried out. Guidelines are not necessarily binding and can be deviated from or not followed at all. EPA has published guidelines on monitor siting and quality assurance but the existence of those guidelines did not prevent the current problems with data quality. EPA's intent is to establish binding criteria which will be followed. The appendices have undergone the same review procedures as the regulations and are to be considered as regulations. Also, by putting the material in regulatory form, no changes can be made without proposal for public comment in the **Federal Register**. Guidelines may be changed without any notice at all. Finally, § 319 of the Act requires that EPA promulgate air quality monitoring criteria to be uniformly used nationwide.

Two commenters felt that certain portions of the regulations should be reproposed. None of the regulations have been substantively changed enough since proposal to warrant reproposal. All significant changes that have been made are due to public comment. Accordingly, no portions will be reproposed.

Two commenters requested a public hearing on the regulations; however, these requests were later withdrawn. Since no other interest was expressed, no public hearing was held.

One commenter asked that EPA describe in the regulation a "scientific method for extrapolating the boundaries of a nonattainment area from a given ambient monitoring site." The commenter contends that there exists an adequate body of scientific knowledge to permit extrapolation of ozone nonattainment areas for many hundreds of miles. EPA disagrees and does not believe that sufficient information is now available to prescribe a scientific method for determining nonattainment boundaries around a single monitoring station.

In a related matter, EPA recently responded (43 FR 6395) to comments submitted by the State of New Jersey which challenged the Agency's policy for designating areas as attainment, nonattainment, or unclassifiable for the ozone standard. New Jersey has argued that sufficient technical evidence is available to require that EPA mandate a nonattainment designation for all areas in the eastern half of the country. In that notice, the Agency determined that the scientific information relied upon by New Jersey is not definitive enough to require that all areas in the eastern portion of the country be designated nonattainment.

The regulations being promulgated today reflect the fact that monitoring stations are representative of only a finite area within the vicinity of a station. Appendix D to Part 58 describes the concept in terms of spatial scale of representativeness which means the physical dimensions of the air parcel near it a monitoring station throughout which actual pollutant concentrations are reasonably similar. States are being asked to examine their monitoring stations and apply the concepts described in Appendix D to classify each station according to the most appropriate spatial scale of representativeness. Such a determination requires the knowledge and a case-by-case judgment of personnel who manage and operate ambient monitoring networks. Factors to be considered by agencies in making these judgments include: (1) the size and proximity of nearby sources, (2) geographical and topographical features around the station, (3) pollutant formation and transformation processes, (4) placement of the monitoring station relative to buildings, air flow obstructions, street canyons, etc. These factors have a significant impact on spatial concentration patterns and, thus, are important determinants of the size of the area around a monitoring station having reasonably homogeneous air quality.

EPA has one study underway that will attempt to determine the horizontal representativeness of ground level ozone measurements and the suitability of data collected by aircraft as an indicator of ground level ozone air quality. Ozone was chosen for this study since many ozone monitors nationally are showing days exceeding the ozone NAAQS and because of the controversy that exists over the spatial representativeness of a single ozone monitor. The results of this study will not be available for several months but will provide agencies with additional technical information for classifying SLAMS ozone stations and for reevaluating the boundaries of nonattainment areas.

In some situations, special purpose monitoring studies could be initiated by agencies to determine reasonable boundaries for which data from a station (or class of stations) are representative. Such a study might include simultaneous measurements of pollutant levels at varying distances from the station to be classified. These studies are, however, expensive to conduct and may produce results which

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are applicable only to the station being evaluated. EPA will continue to provide additional guidance to States for determining the representativeness of stations as scientific data are accumulated and analyzed.

Several commenters asked that EPA specify the minimum number of stations that are needed to define the extent of nonattainment for any given pollutant. As indicated in Appendix D, EPA does not believe that it is practical to prescribe a set of criteria for determining the number of stations that would be applicable for all States. Factors that influence the size of a network and must be considered when designing a network which includes the objective of defining the extent of nonattainment are emission inventories, climatological summaries, and local geographical characteristics. These factors can vary widely from one area to another thus prohibiting the specifications of a minimum number of stations for all States. The optimum size of a particular SLAMS network must be determined on a case-by-case basis.

Two commenters stated that some provision should be made for nonattainment areas that have been designated on the basis of data from improperly sited stations. The basic purpose for the criteria in Appendix E to Part 58 for siting monitors are twofold: (1) to promote uniformity in location of new monitoring stations, and (2) to classify existing stations in terms of the most appropriate spatial scale of representativeness. The emphasis is, thus, on improving the base of monitoring information needed for making informed judgments about air quality. Classification of existing stations according to the most appropriate scale of representativeness will make data more comparable among stations having similar classifications and will also provide an improved basis for determining the geographical scope of nonattainment. In most instances, stations not technically meeting the siting criteria given in Appendix E cannot be excluded for purposes of attainment/nonattainment. These stations are simply measuring air quality over a scale smaller than would be expected if the siting criteria were strickly adhered to. The implication is that the scope of a nonattainment area is linked to the actual spatial scale of representativeness of a monitoring station—the smaller the scale of representativeness at the station, the smaller the geographical extent of nonattainment.

In some cases, existing stations may be producing data not suitable for purposes of nonattainment decisions. On September 11, 1978, a Federal Register notice (43 FR 40412) was published which amended nonattainment area designations as required by section 107 of the Clean Air Act. The preamble to that notice discussed provisions that should be made as a result of TSP monitors not sited in accordance with EPA siting criteria.

The policy stated for TSP in that notice was that only those monitoring sites which are unduly influenced by reentrained road dust can be excluded for establishing the design values for SIP development work and for purposes of nonattainment area designation. As explained in that notice, an evaluation could be conducted to determine if roadway influence is significant enough to warrant disregarding the data from the monitor. A similar rationale could be applied for determining the appropriateness of nonattainment reclassification for other pollutants.

Resources

Several commenters pointed out the need for additional resources in order to meet the requirements of the regulation involving instrumentation, siting, and quality assurance. EPA recognizes that in many instances, additional resources are needed and have been making increased allocations to the States for monitoring through the Section 105 Grants mechanism. For example, in FY–1979, increases over FY–1978 allocations amounted to an average of 500 thousand dollars per EPA Region. This includes a total of 360 new analyzers to be purchased nationally using FY–1979 Grants and State matching funds. Similar increases in allocations are expected for FY–1980 since the total 105 Grant monies available has been increased.

Public Comments—Regulations

The following discussion covers the comments received on specific regulations.

Section 51.322 Sources subject to emissions reporting. One commenter stated that emissions from sources smaller than the cut-off size stipulated in the regulations should be allowed to be reported in the annual emissions report. The regulations only establish the lower size limit for sources which must be included in the report. The regulation does not prevent States from including smaller sources. Smaller sources are currently included in the emissions report and may continue to be.

One commenter felt that the emissions reporting effort was of little value and should be re-evaluated. Historical usage of the emissions data in the NADB indicates ample justification for emissions reporting. The emissions data in the NADB have been and are being used in conjunction with such things as establishing new NAAQS, determining the impact of New Source Performance Standards, establishing energy policies, developing national emissions trends, and formulating volatile organic compound emissions control policies in ozone nonattainment areas.

Section 51.323 Reportable emissions data and information. One commenter pointed out that the Hazardous and Trace Emissions System (HATREMS) had not been released for use. This was true at the time of proposal but the system is now ready to accept emissions data.

Two commenters stated that new emissions data for a source should not be required to be submitted unless the emissions have changed by a specified amount. EPA agrees and has revised the regulations to require reporting of new emissions data only if the emissions have changed by 5% or more since the last time the emissions were reported. The regulation continues to require a yearly update of the year of record of data which did not change. The intent of the revisions to this section is that the data in the NADB always be up-to-date either by having it submitted in the last annual report or by having the year of record of unchanged data updated.

One commenter pointed out that § 319 of the Act did not cover emissions reporting and that the new requirements would create an additional burden on States and emissions sources. It is true § 319 does not deal with emissions reporting, but only a portion of the regulations being promulgated today are in response to § 319. Some of the regulations are in response to SAMWG recommendations. The bulk of the requirements pertaining to emissions reporting, however, are not new but are simply being restructured. The emissions reporting regulations have been in effect since August 3, 1973, and have been in § 51.7 of 40 CFR Part 51. The minor revisions that are being made should actually reduce the burden on resources by changing the semi-annual report to an annual report and extending the period within which it must be submitted.

One commenter indicated that compliance with the Storage and Retrieval of Aerometric Data (SAROAD) format for emissions data would create an additional burden. The requirement to report emissions is in terms of the National Emissions Data System (NEDS) and not SAROAD. The SAROAD format is for reporting ambient air quality data.

Section 58.1 Definitions. One commenter felt that the definition of "local agency" should include Indian tribes to which the State has delegated authority to carry out a portion of the monitoring program. In response to this comment, definitions of "Indian Reservation" and "Indian Governing Body" have been added to § 58.1. Also, in § 58.3 the applicability of the regulations has been extended to Indian Governing Bodies which have been delegated authority to monitor for SIP purposes.

Section 58.14 Special purpose monitoring. One commenter felt that no SPM activity would be conducted if the data could not be used for SIP purposes. As discussed above, SPM data can be used for SIPs if the criteria applicable to SLAMS are followed. SPM activity is strictly at the discretion of the State for any purpose the State wishes.

Section 58.20 Air quality surveillance: Plan content. One commenter pointed out that this section requires submittal by January 1, 1980, of the SAROAD site Identification (ID) form for each SLAMS, but some of the SLAMS will not be located at that time and no forms will be available for those stations. An appropriate correction has been made to § 58.20 to require that on January 1, 1980, a schedule be submitted which would include a time frame for submission of site ID forms for those stations which were not in existence on January 1, 1980.

Section 58.21 SLAMS network design. One commenter stated that the Regional Offices of EPA should have no control over the design of the SLAMS network. Such a suggestion is contrary to the intent of the regulations. The purpose of EPA participation in network design is to insure that all monitoring necessary for purposes of the SIP is carried out. The reponsibilities of EPA with respect to monitoring are comparable to those responsibilities the Agency has of seeing that SIPs contain the proper control regulations. Accordingly, a statement has been added to § 58.21 that the final SLAMS network design is subject to the approval of the Regional Administrator.

Section 58.23 Monitoring network completion. One commenter suggested that SLAMS in nonattainment areas should be located and meet the monitoring criteria earlier than the January 1, 1983, compliance date established in this section. The completion date of January 1, 1983, applies to the entire SLAMS network. For those stations which will also be designated as NAMS, however, the completion date is January 1, 1981. As previously stated, the NAMS will be certain select stations from the SLAMS network and will represent such areas as those of highest pollutant concentration or high population exposure. EPA feels that through the NAMS mechanism, acceptable data will be available at the earliest date that is economically feasible in most cases. These completion dates for SLAMS and NAMS are only deadlines. If States wish to complete the network at an earlier date, they may do so.

Section 58.24 Interim network. This section was added to the regulations to provide that monitoring continue between today's date (§ 51.17 is being revoked today) and when the new monitoring plan is submitted on or before January 1, 1980. Without this section there would be no requirements for monitoring during that interim period. It has been decided, however, that this requirement is unnecessary since the existing SIPs contain monitoring provisions and those SIPs will not be revoked until the new monitoring plans are submitted. This section is therefore deleted. If any revisions to the existing monitoring plans are submitted, they will be approved only if consistent with the new requirements being promulgated today. SIP revisions which have been submitted and were being acted upon prior to today's date will be judged in light of the former requirements under which they were submitted if the State wishes. The State will, however, be notified of any inconsistencies with these new monitoring regulations.

Section 58.26 Annual SLAMS summary report. One commenter requested that the EPA Regional Office generate the annual SLAMS report. The regulations requiring the annual report place the responsibility for the annual report on the State. How or where the report is produced is at the discretion of the State. In many cases the SLAMS data from which the annual report is generated will be submitted through the Regional Office for storage in the NADB. For those States who have their own storage facilities for their SLAMS data, the Regional Office might not have access to the data and so would not be able to generate the annual report.

One commenter stated that certification of the annual report by the State program director would serve no useful purpose. The regulation has been changed to read "the senior air pollution control officer in the State or his designee." The requirement is being retained because EPA feels that it is the responsibility of the State to certify that data are accurate. Any EPA decisions based on such certified data can then be made with more confidence than would be the case if States were not required to check the accuracy of the annual report.

Section 58.35 NAMS data submittal. One commenter could not find data validation procedures in the AEROS User's Manual and another commenter requested that the validation procedures be published as an appendix and be proposed for comment. At the time of proposal the procedures had not been added to the AEROS manual but this task has now been completed. The regulation has been changed to require that data be edited and validated. The regulation then states that procedures for doing so can be found in the AEROS User's Manual. The manual, therefore, acts as a guideline. EPA does not feel it appropriate to make the editing and validation procedures regulatory. Validation procedures are too broad in scope and new procedures are evolving too rapidly to establish specific procedures. A regulatory approach would hamper innovative validation ideas.

One commenter felt that it should be made clear that the SLAMS annual report does not satisfy the requirements for a NAMS quarterly report. Hopefully, this has been done above under the heading "General Discussion."

Section 58.50 Federal monitoring. One commenter suggested that because of this section federal monitoring may be the only monitoring done in the commenter's State. The language in this section is simply a statement of an action that the Administrator may choose and reflects the language of § 319 of the Act. Section 319 requires federal monitoring to supplement but not duplicate State monitoring carried out for purposes of the SIP. This requirement does not assume that no SIP monitoring will be done.

One commenter stated that any federal monitoring should follow the criteria set forth for the States to follow and another commenter felt that renegotiation with the State should take place before federal stations are established. Any federal monitoring will follow the criteria as established in Part 58. If the possibility of federal monitoring exists, the State will be notified and given the opportunity to operate a station in the specific location under consideration.

Section 58.51 Monitoring other pollutants. One commenter thought that

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public comment would severely slow down action on the establishment of criteria for monitoring other pollutants. The regulation, however, only states that the Administrator *may* promulgate such criteria. Such criteria could be established in guideline form.

One commenter felt that such a network should not be limited to urban areas. The reference to urban areas has been removed from this section.

Public Comments—Appendices A and B

Due to the similarity in Appendices A and B, public comments on both appendices will be addressed under the following discussion.

Two commenters suggested that the appendices should allow audits of analyzers to be done with less than five audit points or concentrations per audit. Also, one commenter requested that audit concentrations include higher concentrations such as those encountered during air pollution episodes. Both appendices have been revised to require audits at only three concentration levels for normal monitoring and four concentrations in the case of extended range monitoring for high pollutant concentrations. Accuracy of monitoring data will now be assessed at each audit point rather than using all audit points to calculate a single accuracy value from a regression equation. With this modification, accuracy can be adquately assessed with a reduced number of audit points.

Two commenters stated that the allowable intervals for generating audit concentrations are too small. Both appendices have been revised to allow larger concentration intervals at each audit level. These broadened intervals will still allow accuracy to be assessed adequately and will make generation of audit values easier.

Three commenters felt that the audit rate is too frequent. EPA disagrees and feels that periodic auditing of once per quarter is needed to assess accuracy of data. Auditing less frequently than quarterly would be inadequate for accuracy assessment.

A number of different comments were addressed to the portions of Appendices A and B concerning control of the quality of data through policies and procedures. As a result of considering the public comments, the quality control portions of the appendices have been rewritten. The nature of this change is described below after the following discussion of the public comments.

Seven commenters felt that five upscale points plus zero are more than that required to accurately define a calibration curve. Eight commenters suggested that weekly span checks be performed at a higher range. Four commenters felt that the acceptable limit for span drift is too large. One commenter requested that a zero check be performed. Three commenters stated that when acceptance limits for span checks are exceeded and corrective action is performed, a span check should be performed to determine if a complete recalibration is necessary. Six commenters were concerned that the proposed appendices provided no directions on whether, and how, to adjust analyzers for zero and span drift. One commenter stated that instrument calibration in a laboratory and subsequent transportation to the field is precluded by the wording of the proposed appendices. Five commenters felt that span checks should not be required if the checks will interfere with monitoring during an air pollution episode and one commenter was concerned that no directions are given on invalidation of data as a result of span checks. One commenter suggested allowing zero, span, and calibration gases to be introduced directly into the instrument and not through a manifold.

Consideration of the above comments brought about a reanalysis of the need for the detailed quality control requirements that had been proposed in Appendices A and B. The quality assurance program now required by Appendices A and B is based on two distinct and equally important functions. The first function is quality control which consists of controlling the quality of data through policies and procedures such as calibration practices, zero and span checks and adjustments, preventive maintenance schedules, and training and expertise of operators. The second function is the assessment of the data quality in terms of their precision and accuracy. For the sake of national uniformity, the assessment function is specified quite explicitly in the appendices. From review of public comments, however, it became apparent that the explicit quality control requirements which were proposed in Appendices A and B were not appropriate due to the nature and complexity of quality control. There are many problems or situations which can better be solved at the State level and which detailed requirements cannot account for. Accordingly, the quality control requirements have been revised and are now specified in general terms. The States are required by Appendix A to develop a detailed quality control program which is acceptable to the Regional Administrator. A State can now design a quality control program which is specific to its situation and which will be approvable as long as it provides for data of acceptable quality.

Two commenters requested a definition of agency with respect to precision and accuracy reports. The concept of a "reporting organization" has been introduced in Appendix A and a definition provided. Precision and accuracy should be reported for groups of monitors having the same laboratory and field support. The concept of a reporting organization provides for such reporting.

One commenter felt that collocated monitors for manual methods should not be fixed but should be permitted to be rotated throughout a State. In order to provide for precision and accuracy analyses for each reporting organization, collocated monitors must be maintained in each area covered by a reporting organization. The requirement for two collocated sites for manual methods in each area covered by a reporting organization will be retained.

One commenter pointed out that many station site configurations will not allow collocated monitors to be three meters apart. A wording change has been made to require collocated monitors to be between two and four meters apart.

Three commenters stated that the "t" statistic should be used in equations five and six of Appendix A and equations four and five of Appendix B rather than the "z" statistic. EPA disagrees and is maintaining the "z" statistic which is appropriate for probability limits.

One commenter requested that EPA emphasize the fact that traceability of calibration and audit gases to the National Bureau of Standards (NBS) standard reference materials (SRM) does not mean using NBS SRM's as the calibration or audit standards per se. Also, one commenter suggested allowing traceability of calibration and audit gases to the same set of NBS SRM's. Language has been added to Appendices A and B to allow for these two suggestions.

One commenter stated that the quality assurance program would cause delays in data submittal due to audits and removal of suspect data. EPA disagrees that delays will occur and maintains that audits are a necessary part of quality assurance.

One commenter felt that a system audit should be required for PSD monitoring. Appendix B has been revised to allow the permit granting authority or EPA to conduct a system audit.

One commenter asked when the requirements of Appendix B take effect. The regulations have been revised to specify that for new stations, the requirements take effect when the station is established, and for existing stations, the requirements take effect at the discretion of the permit granting authority, but no later than January 1, 1980.

Public Comments—Appendix C

Since Appendix C was proposed on August 7, 1978, portions of Section 2.6 and the entire Section 4 have been rewritten. One purpose of these revisions is to allow analyzers to be used for monitoring during those times when air pollution levels rise above the ranges on which the analyzers have been designated for use as reference or equivalent methods. If higher, undesignated ranges are used, the use of the analyzer would no longer be considered a reference or equivalent method and would not be approved for use in a SLAMS. Provisions in the regulations were needed which indicated that monitoring should continue during periods of high concentrations and stipulated the acceptable ranges for use during those periods. Such provisions have been added to Appendix C in Section 2.6. Section 4 of this appendix addresses the problem of short-term particulate measurements for purposes of tracking air pollution episodes. The reference method for particulate matter, the Hi-vol sampler, is not designed to give real time data. Section 4 describes instruments that may be used for short-term measurements of particulate matter.

As revised, Section 2.6 of Appendix C allows an analyzer to be used on a range higher than that designated for the analyzer if it is an analyzer approved for use as a reference or equivalent method, or on a range higher than the range accepted for use under Section 2.5 of this appendix. Section 2.5 allows an analyzer which has not been designated for use as a reference or equivalent method to be used if it were purchased before February 18, 1975, and if it passes all the performance specifications for reference or equivalent methods except the range requirement found in Table B–1 of 40 CFR Part 53. The range accepted for use must not extend to higher than two times the range limit of Table B–1.

The higher ranges allowed by Section 2.6 are in two categories. The first category is a range less than or equal to two times the Table B–1 limit. The second category is a range more than two times the Table B–1 limit. Use of the higher ranges is limited to areas where and to periods of time when, high concentrations are likely to occur. This restriction will require the use of the most sensitive range capable of measuring any given concentration. The restriction is not meant to cause a continual switching of ranges (unless an instrument does this automatically) when concentrations frequently vary between two ranges. Through a case-by-case determination, certain analyzers may be continually operated at a higher range during seasons and in areas where concentrations occur in that range frequently enough to justify continual operation.

Section 4 requires, for purposes of particulate episode monitoring, use of methods which give real time data such as modified Hi-vol procedures, tape samplers, or any other appropriate device. In order to use methods other than the Hi-vol, however, a quantitative relationship to the Hi-vol (operated under reference method procedures) must be established at the site where the method will be used. It is necessary to establish a site-specific relationship because the relationship between Hi-vols and other methods varies with location. Procedures for establishing a quantitative relationship are contained in "Guidance for Selecting TSP Episode Monitoring Methods," OAQPS No. 1.2–114.

As now written, Appendix C provides that all pollutants for which NAAQS have been established, except lead, should be monitored during periods of high concentrations so that real-time data will be available for tracking air pollution episodes. Such short-term monitoring is not required for lead because episode levels have not been established for that pollutant.

The following discussion covers the substantive public comments received on Appendix C.

One commenter requested an explanation of Section 2.2 which allows SO_2, CO, or O_3 analyzers purchased prior to February 18, 1976, to be used until February 18, 1980, and allows NO_2 analyzers purchased prior to January 3, 1978, to be used until January 3, 1980. This section is only meant to limit the use of non-reference or non-equivalent methods until the two deadline dates. Any instrument designated for use as a reference or equivalent method may be used indefinitely unless the designation is withdrawn.

Four commenters stated that it would be too costly to replace after February 18, 1980, SO_2, CO, O_3 analyzers which have not been approved for use as reference or equivalent methods. This requirement in Section 2.2 is not a new requirement but was promulgated on February 18, 1975, in 40 CFR 51.17a. The requirement was established to allow States adequate time to replace analyzers which could not pass the equivalency requirements or for which equivalency testing would not or could not be done for various reasons.

One commenter suggested that EPA perform equivalency tests on analyzers that the manufacturers were uninterested in testing. Considering the time period that has been allowed for analyzer replacement, the number of analyzers that would have to be tested, the unreasonably costly modifications that would have to be made to some analyzers, and the resource constraints on EPA, such a suggestion cannot be justified.

One commenter felt that the range requirement for reference or equivalent methods should be increased by two. A range up to twice that allowed in Table B–1 of 40 CFR Part 53 is currently permitted under § 53.20(b).

Four commenters indicated that the current reference method for particulate matter measures large particules which do not cause health related effects. One of the commenters suggested a more comprehensive monitoring system that determines size and composition of particles. The existing NAAQS for particulate matter are for total suspended particulates as measured by the existing reference method (the Hi-vol). The regulations being promulgated today do not modify the particulate matter NAAQS nor the reference method. The standard for particulate matter is currently being re-evaluated as required by the Clean Air Act. Any changes to the standard and to the reference method will be made as a result of that re-evaluation.

One commenter was confused as to how Coefficient of Haze (COHs) will be replaced in 40 CFR 51.16 and Appendix L to Part 51. The action to remove COHs resulted from the fact that there is no single, nationally consistent relationship between the tape sampler, which provides particulate concentrations in terms of Coefficient of Haze (COHs), and the Hi-vol which provides data in terms of micrograms per cubic meter. Appendix C allows the use of tape samplers for air pollution episode monitoring, but only if a quantitative relationship to the Hi-vol is established at the use site. The tape sampler data can then be translated directly into micrograms per cubic meter, eliminating the need to express the data in terms of COHs.

Three commenters were confused as to what particulate samplers could be used for monitoring air pollution episodes. It appeared to the commenters

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that they would have to develop new methods. As stated above in the discussion of the changes to Appendix C, any method can be used for TSP episode monitoring if it provides real time data and a quantitative relationship to the Hi-vol can be established at the use site. Procedures for using a Hi-vol over short periods or staggered Hi-vols may also be used for episode monitoring.

Three commenters felt that it would be impractical to change the range of an analyzer when concentrations rose above the range limit being used and to change back to a lower range when concentrations fell. As explained above, analyzers may be used continually at higher ranges when the frequency of high concentrations justifies continual use.

Public Comments—Appendix D

The following discussion covers public comments received on the proposed Appendix D to Part 58

One commenter was concerned with calling a CO station that measures maximum concentrations a middle scale station. Since these stations in many cases would represent midblock hotspot concentrations, which is in the microscale, a microscale-CO designation has been added to Appendix D.

One commenter suggested that an urban scale station for particulate matter was needed. In response, Appendix D has been modified to indicate that the SLAMS network could contain an urban scale particulate matter station, but there is no requirement for an urban scale NAMS for particulate matter.

One commenter pointed out that while the total required number of TSP and SO_2 NAMS is given in Appendix D, no guidance is given as to how many stations should be in the maximum concentration category and how many should be in the population exposure category. The Appendix has been clarified to indicate that there should be at least one NAMS in each category for each pollutant (TSP and SO_2) but the remaining stations should be categorized based on the characteristics of the area.

One commenter pointed out that there could be difficulty in following the Appendix D instructions to minimize the impact of point sources on NAMS. EPA recognizes the difficulty in locating stations with respect to point source impact. However, EPA believes that the information contained in Appendix E and in the references cited in Appendix E is sufficient for locating stations which are not unduly influenced by any single source.

Two commenters questioned the fact that no NAMS were required for areas under 50,000 population even though there may be violations. As previously stated under the heading "General Discussion," the requirement establishing the number of NAMS necessary for certain areas is not to be considered the minimum number of stations required in the SLAMS network. The NAMS concept is meant to provide timely data from selected stations in the SLAMS network for purposes of national assessment. The national assessment needs will be met by data from areas over 50,000 population. The SLAMS network will also cover areas below 50,000, but none of those stations will be designated NAMS.

One commenter felt that more TSP and SO_2 stations are needed than are required by Appendix D. EPA feels the number of SO_2 and TSP NAMS that are required are sufficient for national data needs. EPA also believes that many more stations will be needed in the SLAMS network than the number required for NAMS. Data from all SLAMS will be considered in any important decisionmaking process.

One commenter suggested deactivating NAMS in selected areas for a year at a time on a rotational basis. This suggestion is contrary to one of the purposes of NAMS; namely, trends analysis. Also, the NAMS will be among the more important stations in the SLAMS network which is further justification for maintaining NAMS in operation.

One commenter favored the use of laser spectroscopy methods to measure TSP over a wide area. As discussed previously, the TSP standard is based on measurements of particulate matter by the TSP reference method which is the Hi-vol sampler. Use of laser spectroscopy would not be appropriate for SLAMS measurements considering the nature of the data produced. The method could, however, be used as SPM or for monitoring TSP episodes if a quantitative correlation to the Hi-vol can be established.

Two commenters felt that meteorological data should be collected at each NAMS. The collection of meteorological data at each NAMS is recommended but not required. At the present time EPA does not believe it would be cost effective to establish such a meteorological data network considering the resources that would be required.

One commenter felt that interstate and inter-regional cooperation is needed for network design. EPA agrees and is striving to attain this goal by having Regional Office involvement in SLAMS network design and by having EPA headquarters involvement in choosing NAMS sites.

Public Comments—Appendix E

The following discussion addresses the public comments received on the proposed Appendix E to Part 58.

One commenter felt that more spatial scales of representativeness were needed in order to classify all the stations in the SLAMS network. EPA agrees and has added more scales. These additional scales will allow more leeway in meeting the monitoring objectives of the SLAMS network.

One commenter requested clarification of the usage of the words "must" and "should" when applied to siting criteria. A statement has been added which stipulates that all "musts" indicate a requirement and all "shoulds" indicate criteria that do not have to be followed but which would be desirable to follow for the sake of consistency.

Eight commenters stated that the siting criteria are too restrictive and one commenter felt that waivers should be granted for some of the required siting criteria. Some of the siting criteria for CO, O_3, and NO_2 have been relaxed. Most of the siting criteria are tied to a specific monitoring scale and if the criteria are not met, the station location might represent a different scale. For those instances where it is impossible to meet a certain siting parameter, a waiver provision has been added. It is anticipated that waivers will primarily be used for existing sites and that stations in new locations will be able to meet the criteria.

Two commenters requested specifications for probe material and residence time of the air sample within the probe. A new section has been added containing probe material and residence time specifications. EPA agrees that these factors are as important as other criteria in terms of the effect on data quality and comparability.

One commenter suggested using the word "probe" instead of "monitor" when specifying siting criteria. This change has been made for clarification in the portions of Appendix E applicable to gases. For TSP it is appropriate to speak in terms of monitor siting.

One commenter felt that the curve specifying setback distances from roads for TSP stations is too restrictive. The wording has been changed to indicate

that the "acceptable zone" defined by the siting criteria is for stations designated as neighborhood, urban, regional, and for most middle scale stations. If a station is located closer to a roadway than specified in the criteria, it would represent a smaller geographical area and thus would most likely be classified as a middle scale station.

One commenter stated that the criterion specifying setback distances from roadways for TSP is ambiguous where it refers to "several thousand vehicles per day." The wording has been changed to read "approximately 3,000 vehicles per day."

One commenter noted a conflict in the criterion establishing distances from roadways for TSP and for CO. CO stations should be located near roadways because the roadway will most likely be the only source of CO. Neighborhood sites for TSP, however, are meant to represent a multisource situation and should be separated from roadways so that the air quality measurements are not totally dominated by the roadway.

One commenter felt that there should be no fixed minimum or maximum setback distances from roadways for CO. A table for neighborhood scale CO station setback distances from roadways based on average daily traffic has been added to Appendix E. This table, consisting of a range of minimum setback distances, will give more leeway for station siting and should result in data which are more comparable from location to location.

Three commenters stated that the minimum roadway setback distances for ozone are too restrictive and two commenters expressed the same opinion about the NO_2 criteria. The roadway setback distances for O_3 and NO_2 have been revised according to new data available since proposal. The criteria are now less restrictive.

One commenter pointed out that for TSP and NO_2, stations cannot be located in areas of hi-rise buildings because of the criterion specifying distance to obstacle heights. Another commenter pointed out the same for SO_2 stations. The criterion alluded to is for neighborhood scale stations. If the criterion cannot be met because a station has to be located such that the distance to an obstacle is less than twice the height of that obstacle above the probe, the station would be classified as a middle scale station.

One commenter indicated that if a monitor probe is located on the side of a building that it will be impossible to meet the criterion of unrestricted air flow in three of four cardinal wind directions. Two other commenters noted that the criterion requiring SO_2 monitor probes to be located less than 80% of the mean height of the building on which the probe is located is in conflict with the 3-wind direction criteria. The language concerning air flow has been changed to read an arc of 270° instead of three to four wind directions. In addition, a statement has been added which stipulates that a monitor probe located on the side of a building must only have unobstructed air flow for 180°. Also, the criteria concerning 80% of mean building height has been deleted since it is redundant. The situation is covered by other SO_2 siting criteria in Appendix E which limits probe height to between 3 and 15 meters.

One commenter indicated that if TSP stations are not allowed to be located in unpaved areas unless there is a vegetative ground cover, large areas around some stations will have to be paved. The criterion concerning unpaved areas is in terms of "should" and not "must". The criterion, therefore, does not have to be strictly followed.

One commenter felt that the criterion establishing minimum distances of O_3 stations from trees cannot be met. The criterion concerning separation of O_3 stations and trees has been put in terms of "should" instead of "must".

Two commenters indicated that the criteria limiting CO monitor probes to 3 meters ± ½ meter above ground is not practical and would require vandal-proof enclosures. EPA understands the concerns of these two commenters; however, the height restrictions are the best compromise that can be made between seeking to be vandal-proof and still representing the breathing zone. It has been determined that there is a significant vertical gradient for CO concentrations in the intercity, street canyon environment. For the neighborhood scale station which is more removed from traffic, the height restriction is not as critical since vertical concentration gradients are not as pronounced. Therefore, as one commenter suggested, the criteria has been changed to allow monitor probes to be located 3 to 15 meters above ground for neighborhood scale stations.

Public Comments—Appendix F

The following discussion pertains to public comments received on the proposed Appendix F of Part 58.

One commenter pointed out that gaseous pollutants as measured on continuous analyzers are in units of parts per million (ppm) and should be reported that way in the annual SLAMS report. EPA agrees and has made appropriate changes to the data reporting requirements.

One commenter requested that EPA address the inconsistency between the use of discrete versus running averages in comparing standards for CO and SO_2. The annual reporting requirements have been modified by requiring that for both CO and SO_2 the highest and second-highest nonoverlapping eight-hour and 24-hour averages, respectively, be reported. These requirements are consistent with the EPA guidance in interpretating air quality data with respect to the standards (OAQPS Guideline No. 1.2-008). Both the SO_2 and CO standards will be reviewed in 1979 and 1980, when a decision on the need to revise the standards will be made. This could change the reporting requirements for these pollutants.

One commenter questioned who would sign the annual SLAMS summary report if some of the data were provided by local agencies to the State. The regulation, § 58.26, has been revised to indicate that the senior air pollution control officer in the State or his designee will certify the accuracy of the report. The certification statement should indicate that the data were collected under regulations that were applicable during the monitoring period. Even though a local agency collects data, the State is still responsible for assuring that the data are collected according to the criteria established in Part 58. If the State is assured of correct data collection, there should be no problem with the report being certified at the State level.

One commenter requested that precision and accuracy information be included in the annual SLAMS summary report. EPA agrees and such a requirement has been added to the regulations.

One commenter felt that the monitoring operating schedule should be included in the annual report. EPA feels that such a requirement would be too burdensome to justify. Inclusion of the monitoring operating schedule in the annual report, however, is encouraged if States have the time and resources and wish to do so.

Public Comments—Appendix G

The following discussion concerns the public comments received on the proposed Appendix G to Part 58.

Nine commenters requested that the descriptor words used to identify air quality conditions for the various ranges of daily air pollution index values be changed. Because the index is for the purpose of achieving national uniformity

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of daily air quality reports as required by § 319 of the Act, the use of descriptor words other than those proposed is not permitted unless approved by the EPA Administrator . None of the suggested descriptor words appears superior to those proposed.

Two commenters indicated that the breakpoints separating the air quality index ranges should correspond to levels of State air quality standards and air pollution episodes instead of national standards, national significant harm levels, and EPA suggested episode levels. In order to achieve national uniformity, federal standards, suggested episode levels, and significant harm levels must be used. Index values of 200, 300 and 400 for the most part correspond to the federal alert, warning, and emergency episode levels given in Appendix L to Part 51. However, because many factors, including meteorological conditions, are taken into account before triggering episode control actions, reported index values and the calling of an episode do not always correspond. Variable breakpoints from State to State would not satisfy the § 319 requirements for a uniform index.

The index has been modified to reflect the new ozone NAAQS of 0.12 p.p.m. (235 $\mu g/m^3$) which was promulgated in the **Federal Register** on February 8, 1979 (44 FR 8202). The index value of 100 for ozone corresponds to this new level of the standard. The new standard replaces the previous photochemical oxidant standard level of 0.08 p.p.m. (160 $\mu g/m^3$).

Two commenters disagreed with the proposed procedure of reporting only the index of the pollutant of highest concentration (subindex). They felt that an index based on the reporting of the maximum subindex value would be insufficient and would mask the significance of other pollutants and their impact on health and environmental quality. The Appendix G requirements do not prevent a State from reporting subindices for other pollutants. Appendix G suggests that a State should report the other subindices, but it is left to the State's discretion whether it will be done.

Three commenters suggested basing the TSP subindex on COHs. As stated previously under the discussion of Appendix C, a tape sampler may be used for episode or daily index purposes if a site specific quantitative relationship to the Hi-vol is established.

Two commenters requested that the breakpoint between the good range and the moderate range for TSP and O_3 be raised to account for higher levels which are due to naturally occuring background levels of the two pollutants. EPA disagrees that the breakpoints should be changed. Air quality is good or bad because of ambient concentrations regardless of the source or cause of the concentrations. Language has been added to Appendix G, however, which recommends reporting information and causes for unusually high concentrations.

One commenter was concerned that index values would be used to compare air quality in different areas. EPA does not encourage the use of index values for air quality comparisons from area to area. The index is for the purpose of giving citizens in a specific area an idea of the quality of air they will encounter on a daily basis.

Two commenters stated that EPA should publish health effects criteria before promulgating Appendix G. Specifically, concentrations of SO_2 defined as "significant harm" should be supported by published health effects research data. The EPA Office of Public Affairs has prepared for the public a brochure with discusses the Pollutant Standards Index (PSI) and presents pollutant specific health effects. The brochure (Measuring Air Quality—The New Pollutant Standards Index, July, 1978, OPA, 11/8) is available from the Environmental Protection Agency, Library (MD–35), Research Triangle Park, N.C. 27711. Health effects associated with the significant harm level for SO_2 can be found in "Air Quality Criteria for Sulfur Oxides," U.S. Department of Health, Education, and Welfare, Washington, D.C., AP–50, April 1970. The information in the criteria document will be re-examined by EPA when the SO_2 NAAQS are reviewed during 1979 and 1980. After review of the latest data on health effects and the criteria document, a decision will be made as to the need to revise the SO_2 standards.

One commenter did not think that real-time data will be available for determining a daily index. EPA disagrees and feels that data can be made available at times when it is needed for index calculation.

One commenter felt that public acceptance of the index is doubtful. Since the PSI, which is the basis for the Appendix G index, was published, it has been generally well accepted throughout the country and has been adopted by 15 State agencies and is reported by State or local agencies in 24 States.

One commenter stated that the index is not applicable to a large metropolitan area, such as the Los Angeles Basin. Appendix G recommends that the index be reported for multiple sub-regions within a metropolitan area and should at a minimum include the region with the highest subindex.

One commenter indicated that implementation of this index would create serious administrative problems, especially the proposed recording of index values. The reporting requirements in Appendix G are minimal, requiring that the reporting agency keep annual records of the frequency with which reported index values occur in each of the index descriptor categories.

Two commenters requested that the index be reported on weekends and holidays as well as weekdays. The requirement to report the index only at least five days per week, presummable the normal workweek, does not restrict an agency from reporting every day. If an agency has the resources to do so, EPA encourages index reporting every day.

Two commenters felt that the index breakpoint of 100 for the NO_2 subindex and the subindex for the product of TSP and SO_2 should be based on State short-term standards or their equivalent because there are no short-term standards for NO_2 and the product of SO_2 and TSP. EPA is presently considering a short-term NO_2 standard. (For the other pollutants the breakpoint of 100 is based on short-term NAAQS.) The exemption provision in Appendix G allows a State or local agency to petition the Adminstrator and request such a modification to the index.

Review of Public Comments

Copies of the public comments received on the proposal of these regulations on August 7, 1978, are available for public inspection during normal business hours at the Public Information Reference Unit, 401 M Street, S.W., Washington, D.C. 20460.

Effective date: These regulations promulgated herein take effect on June 11, 1979.

Dated: April 27, 1979.

Douglas M. Costle,
Administrator.

PART 51—REGULATIONS FOR AMBIENT AIR QUALITY MONITORING AND DATA REPORTING

Part 51 of Title 40, *Code of Federal Regulations*, is amended as follows:

1. The table of contents to this part is amended by adding, Subpart J and Subpart O in the appropriate places, the following:

* * * * *

Subpart J—Ambient Air Quality Surveillance

§ 51.190 Ambient air quality monitoring requirements.

* * * * *

Subpart O—Miscellaneous Plan Content Requirements

§ 51.285 Public notification.

* * * * *

Subpart Q—Reports

Air Quality Data Reporting

§ 51.320 Annual air quality data report.

Source Emissions and State Action Reporting

§ 51.321 Annual source emissions and State action report.
§ 51.322 Sources subject to emissions reporting.
§ 51.323 Reportable emissions data and information.
§ 51.324 Progress in plan enforcement.
§ 51.325 Contingency plan actions.
§ 51.326 Reportable revisions.
§ 51.327 Enforcement orders and other State actions.
§ 51.328 Plan prescribed actions.

* * * * *

2. Section 51.3 is amended by revising the second sentence in paragraph (c) to remove the reference to § 51.17. As amended, § 51.3(c) reads as follows:

§ 51.3 Classification of regions.

* * * * *

(c) * * * The requirements applicable to Priority IA Regions shall be the same as those for other Priority I regions, except that the requirements applicable to Priority II regions under § 51.16 shall apply. * * *

3. Section 51.6 is amended by revising paragraph (e) to remove the reference to the § 51.7 semiannual report and adding a reference to the annual report required by § 51.321. As amended, § 51.6(e) reads as follows:

§ 51.6 Revisions.

* * * * *

(e) Revisions other than those covered by paragraphs (a) and (d) of this section must be identified and described in the next annual report required by § 51.321.

* * * * *

§ 51.7 and 51.17 [Reserved]

4. Sections 51.7 and 51.17 are revoked and reserved.

5. Section 51.13 is amended by revising the second sentence of paragraph (g) to read as follows:

§ 51.13 Control strategy: Sulfur oxides and particulate matter.

* * * * *

(g) * * * Actual measurements must be used where available if based on use of the measurement methods specified in Appendix C to Part 58 of this chapter. * * *

§ 51.15 [Amended]

6. Section 51.15 is amended by revoking paragraph (a)(2).

7. Section 51.16 is amended by removing the two references to "COHs" in paragraph (a). As amended, § 51.16(a) reads as follows:

§ 51.16 Prevention of air pollution emergency episodes.

(a) * * *

Particulate matter—1,000 micrograms/cubic meter; 24-hour average.

Sulfur dioxide and particulate matter combined—product of sulfur dioxide in micrograms/cubic meter, 24-hour average, and particulate matter in micrograms/cubic meter, 24-hour average, equal to 490×10^3.

* * * * *

§ 51.17a [Revoked]

8. Section 51.17a is revoked.

9. Section 51.24 is amended by adding paragraph (n)(3) to read as follows:

§ 51.24 Prevention of significant deterioration of air quality.

* * * * *

(n) * * *

(3) The owner or operator shall meet the requirements of Appendix B to Part 58 of this chapter during the operation of monitoring stations required by paragraph (n)(1) of this section as follows:

(i) No later than January 1, 1980, for existing stations, or

(ii) For new stations, at the time the station is put into operation.

§ 51.59 [Reserved]

10. Section 51.59 is revoked and reserved.

11. Subpart J consisting of § 51.190 is added to read as follows:

Subpart J—Ambient Air Quality Surveillance

§ 51.190 Ambient air quality monitoring requirements.

The requirements for monitoring ambient air quality for purposes of the plan are located in Subpart C of Part 58 of this chapter.

12. Subpart O consisting of § 51.285 is added to read as follows:

Subpart O—Miscellaneous Plan Content Requirements

§ 51.285 Public notification.

By March 1, 1980, the State shall submit a plan revision that contains provisions for:

(a) Notifying the public on a regular basis of instances or areas in which any primary standard was exceeded during any portion of the preceeding calendar year,

(b) Advising the public of the health hazards associated with such an exceedance of a primary standard, and

(c) Increasing public awarness of:

(1) measures which can be taken to prevent a primary standard from being exceeded, and

(2) ways in which the public can pasticipate in regulatory and other efforts to improve air quality.

13. Subpart Q is added to read as follows:

Subpart Q—Reports

Air Quality Data Reporting

§ 51.320 Annual air quality data report.

The requirements for reporting air quality data collected for purposes of the plan are located in Subpart C of Part 58 of this chapter.

Source Emissions and State Action Reporting

§ 51.321 Annual source emissions and State action report.

On an annual (calendar year) basis beginning with calendar year 1979, the State agency shall report to the Administrator (through the appropriate Regional Office) information as specified in Sections 51.323 through 51.326. Reports must be submitted by July 1 of each year for data collected and actions which took place during the period January 1 to December 31 of the previous year.

§ 51.322 Sources subject to emissions reporting.

(a) Point sources subject to the annual emissions reporting requirements of § 51.321 are defined as follows:

(1) For particulate matter, sulfur dioxide, hydrocarbons, and nitrogen dioxide, any facility that actually emits a total of 90.7 metric tons (100 tons) per year or more of any one pollutant.

(2) For carbon monoxide, any facility that actually emits a total of 907 metric tons (1000 tons) per year or more.

(3) For lead or lead compounds measured as elemental lead, any facility that actually emits a total of 4.5 metric tons (5 tons) per year or more.

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(b) Annual emissions reporting requirements apply only to emissions of each pollutant from any individual emission point within the facility that emits:

(1) For particulate matter, sulfur dioxide, hydrocarbons, and nitrogen dioxide, 22.7 metric tons (25 tons) per year or more.

(2) For carbon monoxide, 227 metric tons (250 tons) per year or more.

(3) For lead or lead compounds measured as elemental lead, 4.5 metric tons (5 tons) per year or more.

§ 51.323 Reportable emissions data and information.

(a) The State shall submit in the annual report the following emissions data and information:

(1) Emissions of particulate matter, sulfur dioxide, carbon nonoxide, nitrogen dioxide, and hydrocarbons as specified by AEROS Users Manual, Vol. II (EPA 450/2–76–029, OAQPS No. 1.2–039) to be coded into the National Emission Data System (NEDS) points source coding forms, and

(2) Emissions of lead or lead compounds measured as elemental lead as specified by AEROS Users Manual, Vol. II (EPA 450/2–76–029, OAQPS No. 1.2–039) to be coded into the Hazardous and Trace Emissions System (HATREMS) points source coding forms.

(b) Such emissions data and information specified in paragraph (a) of this section must be submitted on either paper forms, punched cards, or magnetic tape in the format of the NEDS point source coding forms or the HATREMS point source coding forms as appropriate.

(c) The emissions data and information specified by paragraph (a) of this section must be submitted in the annual report for any point source for which one or more of the following conditions occurs:

(1) A source achieves compliance at any time within the reporting period with any regulation of an applicable plan,

(2) A new or modified source receives approval to construct during the reporting period or begins operating during the reporting period,

(3) A source ceases operations during the reporting period, or

(4) A source's emissions have changed more than 5% from the most recently submitted emissions data.

(d) If, as determined by the State and the Regional Administrator, the emissions from any point source have not changed more than 5% from the most recently submitted emissions data, the State shall update the year of record of the previously reported data and information specified by paragraph (a) of this section.

§ 51.324 Progress in plan enforcement.

(a) For each point source, the State shall report any achievement made during the reporting period of any increment of progress of compliance schedules required by:

(1) The applicable plan, or

(2) Any enforcement order or other State action required to be submitted pursuant to Section 51.327.

(b) For each point source, the State shall report any enforcement action taken during the reporting period and not submitted under Section 51.327 which results in civil or criminal penalties.

§ 51.325 Contingency plan actions.

The State shall report any measures taken during the reporting period, and an evaluation of their effectiveness, such as those actions specified in the contingency plan required by § 51.16, to stop emissions of air pollutants causing or contributing to any incident of air pollution which corresponds to a stage of episode criteria as established in the contingency plan. The State shall also report an account of any episode stage, as established in the contingency plan, during which no action was taken by the State or local air pollution control agency and an explanation for the failure to take such action.

§ 51.326 Reportable revisions.

The State shall identify and describe all substantive plan revisions during the reporting period of the applicable plan other than revisions to rules and regulations or compliance schedules submitted in accordance with § 51.6(d). Substantive revisions shall include but are not limited to changes in stack-test procedures for determining compliance with applicable regulations, modifications in the projected total manpower needs to carry out the approved plan, and all changes in responsibilities given to local agencies to carry out various portions of the plan.

§ 51.327 Enforcement orders and other State actions.

(a) Any State enforcement order, including any State court order, must be submitted to the Administrator within 60 days of its issuance or adoption by the State.

(b) A State enforcement order or other State action must be submitted as a revision to the applicable implementation plan pursuant to § 51.6 and approved by the Administrator in order to be considered a revision to such plan.

§ 51.328 Plan prescribed actions.

(a) The State shall report on the status and progress of the following actions if the plan prescribed such action:

(1) Obtaining additional resources.

(2) Adopting new laws or regulations.

(3) Conducting studies to provide a basis for further actions directed toward the attainment and maintenance of national standards.

(4) initiating new programs or expanding existing programs for the attainment and maintenance of national standards.

(b) The State shall make the report required under paragraph (a) of this section with the annual report as described in § 51.321, commencing with the first annual reporting period following submission of the plan provision that prescribes such action and ending with the completion of the action on which the State must report.

(c) The Administrator will identify those matters on which the State must report.

Subparts F—I, K—N and P [Reserved]

14. Subparts F through I, K through N, and P are reserved.

15. Appendix L is amended by removing references to "COHs" in paragraphs 1.1(b), 1.1(c), and 1.1(d). As amended, Appendix L reads as follows:

Appendix L—Example Regulations for Prevention of Air Pollution Emergency Episodes

* * * * *

1.1 Episode criteria. * * *

(b) "Alert": * * *

Particulate—375 $\mu g/m^3$, 24-hour average.

SO_2 and particulate combined—product of $SO_2 \mu g/m^3$, 24-hour average and particulate $\mu g/m^3$, 24-hour average equal to 65×10^3.

* * * * *

(c) "Warning": * * *

Particulate—625 $\mu g/m^3$, 24-hour average.

SO_2 and particulate combined—product of $SO_2 \mu g/m^3$, 24-hour average and particulate $AG2 \mu g/m^3$, 24-hour average equal to 261×10^3.

* * * * *

(d) "Emergency": * * *

Particulate—875 $\mu g/m^3$, 24-hour average.

SO_2 and particulate combined—product of $SO_2 \mu g/m^3$, 24-hour average and particulate $\mu g/m^3$, 24-hour average equal to 393×10^3.

* * * * *

PART 52—APPROVAL AND PROMULGATION OF IMPLEMENTATION PLANS

Part 52 of Title 40, *Code of Federal Regulations*, is amended as follows:

1. Section 52.21 is amended by adding paragraph (n)(3) to read as follows:

§ 52.21 Prevention of significant deterioration of air quality.

* * * * *

(n) * * *

(3) The owner or operator shall meet the requirements of Appendix B to Part 58 of this chapter during the operation of monitoring stations required by paragraph (n)(1) of this section as follows:

(i) No later than January 1, 1980, for existing stations, or

(ii) For new stations, at the time the station is put into operation.

2. The following sections are amended by removing the reference "§ 51.7" and replacing it with the reference "§ 58.35."

§ 52.93(b), second sentence.
§ 52.93(c), second sentence.
§ 52.140(b), second sentence.
§ 52.140(c), second sentence.
§ 52.266(d), first sentence.
§ 52.479(c)(2), second sentence.
§ 52.479(c)(3), second sentence.
§ 52.734(b), second sentence.
§ 52.734(c), third sentence.
§ 52.1077(c)(2), second sentence.
§ 52.1077(c)(3), second sentence.
§ 52.1155(f), first sentence.
§ 52.1593(d), first sentence.
§ 52.2053(b), second sentence.
§ 52.2053(c), third sentence.
§ 52.2298(c), first sentence.
§ 52.2343(b), second sentence.
§ 52.2343(c), second sentence.
§ 52.2427(d)(2), second sentence.
§ 52.2427(d)(3), second sentence.
§ 52.2477(c)(2), second sentence.
§ 52.2477(c)(3), second sentence.

§§ 52.779, 52.2029, 52.2482 [Reserved]

3. Sections 52.779, 52.2029, and 52.2482 are revoked and reserved.

4. Section 52.1160 is amended by revising the last sentence in paragraph (l). As amended, § 52.1160 reads as follows:

§ 52.1160 Monitoring reports.

* * * * *

(l) * * * In addition, all air quality data collected at SLAMS will be summarized and submitted as an annual summary report to the Administrator as required by § 58.26 of this chapter.

* * * * *

5. Section 52.1175 is amended by revising paragraph (a) to read as follows:

§ 52.1175 Compliance schedules.

(a) The requirements of § 51.15(a)(2) of this chapter as of May 31, 1972, (36 FR 22398) are not met since Rule 336.49 of the Michigan Air Pollution Control Commission provides for individual compliance schedules to be submitted to the State Agency by January 1, 1974. This would not be in time for submittal to the Environmental Protection Agency with the first semiannual report.

* * * * *

PART 53—AMBIENT AIR MONITORING REFERENCE AND EQUIVALENT METHODS

Part 53 Title 40, *Code of Federal Regulations*, is amended as follows:

§ 53.16 [Amended]

Section 53.16 amended by removing the citation "§ 51.17a(a)(4)" from the third sentence of paragraph (e)(1) and from subdivision (iv) of the first sentence in paragraph (e)(2) and replacing the citations with "section 2.3 of Appendix C to Part 58 of this chapter."

Title 40, *Code of Federal Regulations*, is amended by adding a new Part 58 to read as follows:

PART 58—AMBIENT AIR QUALITY SURVEILLANCE

Subpart A—General Provisions

Sec.
58.1 Definitions.
58.2 Purpose.
58.3 Applicability.

Subpart B—Monitoring Criteria

58.10 Quality assurance.
58.11 Monitoring methods.
58.12 Siting of instruments or instrument probes.
58.13 Operating schedule.
58.14 Special purpose monitors.

Subpart C—State and Local Air Monitoring Stations (SLAMS)

58.20 Air quality surveillance: Plan content.
58.21 SLAMS network design.
58.22 SLAMS methodology.
58.23 Monitoring network completion.
58.24 [Reserved].
58.25 System modification.
58.26 Annual SLAMS summary report.
58.27 Compliance date for air quality data reporting.
58.28 Regional Office SLAMS data acquisition.

Subpart D—National Air Monitoring Stations (NAMS)

58.30 NAMS network establishment.
58.31 NAMS network description.
58.32 NAMS approval.
58.33 NAMS methodology.
58.34 NAMS network completion.
58.35 NAMS data submittal.

Subpart E—Air Quality Index Reporting

58.40 Index reporting.

Subpart F—Federal Monitoring

58.50 Federal monitoring.
58.51 Monitoring other pollutants.
Appendix A—Quality Assurance Requirements for State and Local Air Monitoring Stations (SLAMS).
Appendix B—Quality Assurance Requirements for Prevention of Significant Deterioration (PSD) Air Monitoring.
Appendix C—Ambient Air Quality Monitoring Methodology.
Appendix D—Network Design for State and Local Air Monitoring Stations (SLAMS) and National Air Monitoring Stations (NAMS).
Appendix E—Probe Siting Criteria for Ambient Air Quality Monitoring.
Appendix F—Annual SLAMS Air Quality Information.
Appendix G—Uniform Air Quality Index and Daily Reporting.

Authority: The provisions of this Part 58 are issued under sections 110, 301(a), 313, and 319 of the Clean Air Act (42 U.S.C. 7410, 7601(a), 7613, 7619).

Subpart A—General Provisions

§ 58.1 Definitions.

As used in this part, all terms not defined herein have the meaning given them in the Act:

(a) "Act" means the Clean Air Act as amended (42 U.S.C. 7401, et seq.).

(b) "SLAMS" means State or Local Air Monitoring Station(s). The SLAMS make up the ambient air quality monitoring network which is required by § 58.20 to be provided for in the State's implementation plan. This definition places no restrictions on the use of the physical structure or facility housing the SLAMS. Any combination of SLAMS and any other monitors (Special Purpose, NAMS, PSD) may occupy the same facility or structure without affecting the respective definitions of those monitoring station.

(c) "NAMS" means National Air Monitoring Station(s). Collectively the NAMS are a subset of the SLAMS ambient air quality monitoring network.

(d) "PSD station" means any station operated for the purpose of establishing the effect on air quality of the emissions from a proposed source for purposes of prevention of significant deterioration as required by § 51.24(n) of Part 51 of this chapter.

(e) "SO_2" means sulfur dioxide.

(f) "NO_2" means nitrogen dioxide.

(g) "CO" means carbon monoxide.

(h) "O_3" means ozone.

(i) "Plan" means an implementation plan, approved or promulgated pursuant to section 110 of the Clean Air Act.

(j) "Administrator" means the Administrator of the Environmental Protection Agency (EPA) or his or her authorized representative.

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(k) "Regional Administrator" means the Administrator of one of the ten EPA Regional Offices or his or her authorized representative.

(l) "State agency" means the air pollution control agency primarily responsible for development and implementation of a plan under the Act.

(m) "Local agency" means any local government agency, other than the State agency, which is charged with the responsibility for carrying out a portion of the plan.

(n) "Indian Reservation" means any Federally recognized reservation established by treaty, agreement, executive order, or act of Congress.

(o) "Indian Governing Body" means the governing body of any tribe, band, or group of Indians subject to the jurisdiction of the United States and recognized by the United States as possessing power of self-government.

(p) "Storage and Retrieval of Aerometric Data (SAROAD) system" is a computerized system which stores and reports information relating to ambient air quality.

(q) "SAROAD site identification form" is one of the several forms in the SAROAD system. It is the form which provides a complete description of the site (and its surroundings) of an ambient air quality monitoring station.

§ 58.2 Purpose.

(a) This part contains criteria and requirements for ambient air quality monitoring and requirements for reporting ambient air quality data and information. The monitoring criteria pertain to the following areas:

(1) Quality assurance procedures for monitor operation and data handling.

(2) Methodology used in monitoring stations.

(3) Operating schedule.

(4) Siting parameters for instruments or instrument probes.

(b) The requirements pertaining to provisions for an air quality surveillance system in the State Implementation Plan are contained in this part.

(c) This part also acts to establish a national ambient air quality monitoring network for the purpose of providing timely air quality data upon which to base national assessments and policy decisions. This network will be operated by the States and will consist of certain selected stations from the States' SLAMS networks. These selected stations will remain as SLAMS and will continue to meet any applicable requirements on SLAMS. The stations, however, will also be designated as National Air Monitoring Stations (NAMS) and will be subject to additional data reporting and monitoring methodology requirements as contained in Subpart D of this part.

(d) Requirements for the daily reporting of an index of ambient air quality, to insure that the population of major urban areas are informed daily of local air quality conditions, are also included in this part.

§ 58.3 Applicability.

This part applies to:

(a) State air pollution control agencies.

(b) Any local air pollution control agency or Indian governing body to which the State has delegated authority to operate a portion of the State's SLAMS network.

(c) Owners or operators of proposed sources.

Subpart B—Monitoring Criteria

§ 58.10 Quality assurance.

(a) Appendix A to this part contains quality assurance criteria to be followed when operating the SLAMS network.

(b) Appendix B to this part contains the quality assurance criteria to be followed by the owner or operator of a proposed source when operating a PSD station.

§ 58.11 Monitoring methods.

Appendix C to this part contains the criteria to be followed in determining acceptable monitoring methods or instruments for use in SLAMS.

§ 58.12 Siting of instruments or instrument probes.

Appendix E to this part contains criteria for siting instruments or instrument probes for SLAMS.

§ 58.13 Operating schedule.

Ambient air quality data collected at any SLAMS must be collected as follows:

(a) For continuous analyzers—consecutive hourly averages except during:

(1) Periods of routine maintenance,

(2) Periods of instrument calibration, or

(3) periods or seasons exempted by the Regional Administrator.

(b) For manual methods—at least one 24-hour sample every six days except during periods or seasons exempted by the Regional Administrator.

§ 58.14 Special purpose monitors.

Any ambient air quality monitoring station other than a SLAMS or PSD station from which the State intends to use the data as part of a control strategy demonstration or as support for a plan revision must meet the requirements for SLAMS described in § 58.22 and, after January 1, 1983, meet the requirements for SLAMS described in § 58.13 and Appendices A and E to this part.

Subpart C—State and Local Air Monitoring Stations (SLAMS)

§ 58.20 Air quality surveillance: Plan content.

By January 1, 1980, the State shall adopt and submit to the Administrator a revision to the plan which will:

(a) Provide for the establishment of an air quality surveillance system that consists of a network of monitoring stations designated as State and Local Air Monitoring Stations (SLAMS) which measure ambient concentrations of those pollutants for which standards have been established in Part 50 of this chapter.

(b) Provide for meeting the requirements of Appendices A, C, D, and E to this part.

(c) Provide for the operation of at least one SLAMS per pollutant during any stage of an air pollution episode as defined in the contingency plan.

(d) Provide for the review of the air quality surveillance system on an annual basis to determine if the system meets the monitoring objectives defined in Appendix D to this part. Such review must identify needed modifications to the network such as termination or relocation of unnecessary stations or establishment of new stations which are necessary.

(e) Provide for having a SLAMS network description available for public inspection and submission to the Administrator upon request. The network description must be available at the time of plan revision submittal and must contain the following information for each SLAMS:

(1) The SAROAD site identification form for existing stations.

(2) The proposed location for scheduled stations.

(3) The sampling and analysis method.

(4) The operating schedule.

(5) The monitoring objective and spatial scale of representativeness as defined in Appendix D to this part.

(6) A schedule for:

(i) locating, placing into operation, and making available the SAROAD site identification form for each SLAMS which is not located and operating at the time of plan revision submittal,

(ii) implementing quality assurance procedures of Appendix A to this part for each SLAMS for which such procedures are not implemented at the time of plan revision submittal, and

(iii) resiting each SLAMS which does not meet the requirements of Appendix E to this part at the time of plan revision submittal.

§ 58.21 SLAMS network design.

The design criteria for SLAMS contained in Appendix D to this part must be used in designing the SLAMS network. The State shall consult with the Regional Administrator during the network design process. The final network design will be subject to the approval of the Regional Administrator.

§ 58.22 SLAMS methodology.

Each SLAMS must meet the monitoring methodology requirements of Appendix C to this part at the time the station is put into operation as a SLAMS.

§ 58.23 Monitoring network completion.

By January 1, 1983:

(a) Each station in the SLAMS network must be in operation, be sited in accordance with the criteria in Appendix E to this part, and be located as described on the station's SAROAD site identification form, and

(b) The quality assurance requirements of Appendix A to this part must be fully implemented.

§ 58.24 [Reserved].

§ 58.25 System modification.

The State shall annually develop and implement a schedule to modify the ambient air quality monitoring network to eliminate any unnecessary stations or to correct any inadequacies indicated by the result of the annual review required by § 58.20(d). The State shall consult with the Regional Administrator during the development of the schedule to modify the monitoring program. The final schedule and modifications will be subject to the approval of the Regional Administrator. Nothing in this section will preclude the State, with the approval of the Regional Administrator, from making modifications to the SLAMS network for reasons other than those resulting from the annual review.

§ 58.26 Annual SLAMS summary report.

(a) The State shall submit to the Administrator (through the appropriate Regional Office) an annual summary report of all the ambient air quality monitoring data from all monitoring stations designated State and Local Air Monitoring Stations (SLAMS). The annual report must be submitted by July 1 of each year for data collected from January 1 to December 31 of the previous year.

(b) The annual summary report must contain:

(1) The information specified in Appendix F,

(2) The annual precision and accuracy information described in Section 5.2 of Appendix A, and

(3) The location, date, pollution source, and duration of each incident of air pollution during which ambient levels of a pollutant reached or exceeded the level specified by § 51.16(a) of this chapter as a level which could cause significant harm to the health of persons.

(c) The senior air pollution control officer in the State or his designee shall certify that the annual summary report is accurate to the best of his knowledge.

§ 58.27 Compliance date for air quality data reporting.

The annual air quality data reporting requirements of § 58.26 apply to data collected after December 31, 1980. Data collected before January 1, 1981, must be reported under the reporting procedures in effect before the effective date of Subpart C of this part.

§ 58.28 Regional Office SLAMS data acquisition.

The State shall submit all or a portion of the SLAMS data to the Regional Administrator upon his request.

Subpart D—National Air Monitoring Stations (NAMS)

§ 58.30 NAMS network establishment.

(a) By January 1, 1980, the State shall:

(1) Establish, through the operation of stations or through a schedule for locating and placing stations into operation, that portion of a National Ambient Air Quality Monitoring Network which is in that State, and

(2) Submit to the Administrator (through the appropriate Regional Office) a description of that State's portion of the network.

(b) Hereinafter, the portion of the national network in any State will be referred to as the NAMS network.

(c) The stations in the NAMS network must be stations from the SLAMS network required by § 58.20.

(d) The requirements of Appendix D to this part must be met when designing the NAMS network. The process of designing the NAMS network must be part of the process of designing the SLAMS network as explained in Appendix D to this part.

§ 58.31 NAMS network description.

The NAMS network description required by § 58.30 must contain the following for all stations, existing or scheduled:

(a) The SAROAD site identification form for existing stations.

(b) The proposed location for scheduled stations.

(c) Identity of the urban area represented.

(d) The sampling and analysis method.

(e) The operating schedule.

(f) The monitoring objective and spatial scale of representativeness as defined in Appendix D to this part.

(g) A schedule for:

(1) Locating, placing into operation, and submitting the SAROAD site identification form for each NAMS which is not located and operating at the time of network description submittal,

(2) Implementing quality assurance procedures of Appendix A to this part for each NAMS for which such procedures are not implemented at the time of network description submittal, and

(3) Resiting each NAMS which does not meet the requirements of Appendix E to this part at the time of network description submittal.

§ 58.32 NAMS approval.

The NAMS network required by § 58.30 is subject to the approval of the Administrator. Such approval will be contingent upon completion of the network description as outlined in § 58.31 and upon conformance to the NAMS design criteria contained in Appendix D to this part.

§ 58.33 NAMS methodology.

Each NAMS must meet the monitoring methodology requirements of Appendix C to this part applicable to NAMS at the time the station is put into operation as a NAMS.

§ 58.34 NAMS network completion.

By January 1, 1981:

(a) Each NAMS must be in operation, be sited in accordance with the criteria in Appendix E to this part, and be located as described in the station's SAROAD site identification form; and

(b) The quality assurance requirements of Appendix A to this part must be fully implemented for all NAMS.

§ 58.35 NAMS data submittal.

(a) The requirements of this section apply only to those stations designated as NAMS by the network description required by § 58.30.

(b) The State shall report quarterly to the Administrator (through the

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appropriate Regional Office) all ambient air quality data and information specified by AEROS Users Manual (EPA–450/2–76–029, OAQPS No. 1.2–039) to be coded into the SAROAD Air Quality Data forms. Such air quality data and information must be submitted on either paper forms, punched cards, or magnetic tape in the format of the SAROAD Air Quality Data forms.

(c) The quarterly reporting periods are January 1–March 31, April 1–June 30, July 1–September 30, and October 1–December 31. The quarterly report must:

(1) Be submitted within 90 days of the end of each reporting period, and

(2) Contain all data and information gathered during the reporting period.

(d) The first quarterly report will be due on or before June 30, 1981, for data collected during the first quarter of 1981.

(e) Air quality data submitted in the quarterly report must have been edited and validated so that such data are ready to be entered into the SAROAD data files. Procedures for editing and validating data are described in AEROS Users Manual (EPA–450/2–76–029, OAQPS No. 1.2–039).

(f) This section does not permit a State to exempt those SLAMS which are also designated as NAMS from all or any of the reporting requirements applicable to SLAMS in § 58.26.

Subpart E—Air Quality Index Reporting

§ 58.40 Index reporting.

(a) The State shall report to the general public on a daily basis through prominent notice an air quality index in accordance with the requirements of Appendix G to this part.

(b) Reporting must commence by January 1, 1981, for all urban areas with a population exceeding 500,000, and by January 1, 1983, for all urban areas with a population exceeding 200,000.

(c) The population of urban areas for purposes of index reporting are as defined in "1970 Census of Population; Supplementary Report: Population of Urbanized Areas Established Since the 1970 Census, for the United States; 1970," U.S. Bureau of Census, PC(S)–106, U.S. Government Printing Office, Washington, D.C., October, 1976.

Subpart F—Federal Monitoring

§ 58.50 Federal monitoring.

The Administrator may locate and operate an ambient air monitoring station if the State fails to locate, or schedule to be located, during the initial network design process or as a result of the annual review required by § 58.20(d):

(a) A SLAMS at a site which is necessary in the judgment of the Regional Administrator to meet the objectives defined in Appendix D to this part, or

(b) A NAMS at a site which is necessary in the judgment of the Administrator for meeting EPA national data needs.

§ 58.51 Monitoring other pollutants.

The Administrator may promulgate criteria similar to that referenced in Subpart B of this part for monitoring a pollutant for which a National Ambient Air Quality Standard does not exist. Such an action would be taken whenever the Administrator determines that a nationwide monitoring program is necessary to monitor such a pollutant.

Appendix A. Quality Assurance Requirements For State and Local Air Monitoring Stations (SLAMS)

1. General Information

This Appendix specifies the minimum quality assurance requirements for SLAMS networks. These requirements are regarded as the minimum necessary for the control and assessment of the quality of the ambient air monitoring data submitted to EPA. States are encouraged to develop and implement quality assurance programs more extensive than the minimum required or to continue such programs where they already exist.

The quality assurance program specified herein must be fully implemented by the dates specified in § 58.23 and § 58.34(b). Earlier implementation is encouraged.

Quality Assurance consists of two distinct and equally important functions. One function is the assessment of the quality of the monitoring data by estimating their precision and accuracy. The other function is the control, and improvement, of the quality of the monitoring data by implementation of quality control policies, procedures, and corrective actions. These two functions form a control loop: When the assessment function indicates that the data quality is inadequate, the control effort must be increased until the data quality is acceptable.

In order to provide uniformity in the assessment and reporting of data quality among all SLAMS networks, the assessment procedures are specified explicitly in sections 3, 4, and 5 of this Appendix.

In contrast, the control and corrective action function encompasses a variety of policies, procedures, specifications, standards, and corrective measures which have varying effects on the resulting data quality. The selection and degree of specific control measures and corrective actions used depend on a number of factors such as the monitoring methods and equipment used, field and laboratory conditions, the objectives of the monitoring, the level of the data quality needed, the expertise of assigned personnel, the cost of control procedures, pollutant concentration levels, etc. Accordingly, quality control requirements are specified in general terms, in section 2 of this Appendix, to allow each State to develop a quality control system which is most effective for its own circumstances.

2. Quality Control Requirements

2.1 Each State must develop and implement a quality control program consisting of policies, procedures, specifications, standards, and documentation necessary to:

(1) Provide data of adequate quality to meet monitoring objectives.

(2) Minimize loss of air quality data due to malfunctions or out-or-control conditions.

The quality control program must be described in detail, suitably documented, and approved by the Regional Administrator or his designee. The quality control program will be reviewed during the annual system audit described in section 2.4

2.2 Primary guidance for developing the quality control programs is contained in references 1 and 2, which also contain many suggested procedures, checks, and control specifications. Many specific quality control checks and specifications for manual methods are included in the respective reference methods described in Part 50 of this chapter or in the respective equivalent method descriptions available from EPA (see reference 5). Similarly, quality control procedures related to specifically designated reference and equivalent analyzers are contained in their respective operation and instruction manuals. This guidance, and any other pertinent information from appropriate sources, should be used by the States in developing their quality control programs.

As a minimum, each quality control program must have operational procedures for each of the following activities:

(1) Selection of methods, analyzers, or samplers.

(2) Installation of equipment.

(3) Calibration.

(4) Zero/span checks and adjustments of automated analyzers.

(5) Control checks and their frequency.

(6) Control limits for zero, span and other control checks, and respective corrective actions when such limits are surpassed.

(7) Calibration and zero/span checks for multiple range analyzers (see § 2.6 of Appendix C of this Part).

(8) Preventive and remedial maintenance.

(9) Quality control procedures for air pollution episode monitoring.

(10) Recording and validating data.

(11) Documentation of quality control information.

2.3 Pollutant Standards.

2.3.1 Gaseous standards (permeation tubes, permeation devices or cylinders of compressed gas) used to obtain test concentrations for CO, SO_2, and NO_2 must be working standards certified by comparison to a National Bureau of Standards (NBS) gaseous Standard Reference Material (SRM). A traceability protocol for certifying a working standard by direct comparison to an NBS SRM is given in reference 3. Direct use of an NBS SRM as a working standard is not prohibited but is discouraged because of their limited supply and expense.

2.3.2 Test concentrations for ozone must be obtained in accordance with the UV photometric calibration procedure specified in Appendix D of Part 50 of this chapter, or by means of an ozone transfer standard which has been certified. Consult reference 4 for guidance on ozone transfer standards.

2.3.3 Flow measurements must be made by a flow measuring instrument which is traceable to an authoritative volume or other standard.

2.4 National Performance and System Audit Programs

Agencies operating all or a portion of a SLAMS network are required to participate in EPA's national performance audit program and to permit an annual EPA system audit of their ambient air monitoring program. See section 1.4.16 of reference 1 and reference 6 for additional information about these programs. Agencies should contact either the appropriate EPA Regional Quality Control Coordinator or the Quality Assurance Branch, EMSL/RTP, at the address given in reference 3 for instructions for participation.

3. Data Quality Assessment Requirements

Data quality is measured (below), specified (section 4), and reported (section 5) on the basis of "reporting organizations." A reporting organization is defined as a State or subordinate organization within a State which is responsible for a set of stations which monitor the same pollutant and for which precision and accuracy assessments can be pooled. States must define one or more reporting organizations for each pollutant such that each monitoring station in the State SLAMS network is included in one, and only one, reporting organization.

Each reporting organization shall be defined such that precision and accuracy among all stations in the organization can be expected to be reasonably homogeneous, as a result of common factors. Common factors which should be considered by States in defining reporting organizations include: (1) operation by a common team of field operators, (2) common calibration facilities, and (3) support by a common laboratory or headquarters. Where there is uncertainty in defining the reporting organizations or in assigning specific sites to reporting organizations, States must consult with the appropriate EPA Regional Office for guidance.

3.1 *Automated Methods.*

3.1.1 *Precision.* A one-point precision check must be carried out at least once every two weeks on each automated analyzer used to measure SO_2, NO_2, O_3 and CO. The precision check is made by challenging the analyzer with a precision check gas of known concentration between 0.08 and 0.10 ppm for SO_2, NO_2, and O_3 analyzers, and between 6 and 10 ppm for CO analyzers. The standards from which precision check test concentrations are obtained must meet the specifications of section 2.3. Except for certain CO analyzers described below, analyzers must operate in their normal sampling mode during the precision check, and the test atmosphere must pass through all filters, scrubbers, conditioners and other components used during normal ambient sampling and as much of the ambient air inlet system as is practicable. If permitted by the associated operation or instruction manual, a CO analyzer may be temporarily modified during the precision check to reduce vent or purge flows, or the test atmosphere may enter the analyzer at a point other than the normal sample inlet, *provided that* the analyzer's response is not likely to be altered by these deviations from the normal operational mode. If a precision check is made in conjunction with a zero/span adjustment, it must be made prior to such zero and span adjustments.

The difference between the actual concentration of the precision check gas and the concentration indicated by the analyzer is used to assess the precision of the monitoring data as described in section 4.1.1. Report data only from automated analyzers that are approved for use in the SLAMS network.

3.1.2 *Accuracy.* Each calendar quarter audit at least 25 percent of the SLAMS analyzers that monitor for SO_2, NO_2, O_3 or CO such that each analyzer is audited at least once per year. If there are fewer than four analyzers for a pollutant within a reporting organization, randomly reaudit one or more analyzers so that at least one analyzer for that pollutant is audited each calendar quarter.

The audit is made by challenging the analyzer with at least one audit gas of known concentration from each of the following ranges which fall within the measurement range of the analyzer being audited:

Audit point	Concentration range, ppm	
	SO_2, NO_2, O_3	CO
1	0.03–0.08	3–8
2	0.15–0.20	15–20
3	0.40–0.45	40–45
4	0.80–0.90	80–90

The standards from which audit gas test concentrations are obtained must meet the specifications of section 2.3. Working or transfer standards and equipment used for auditing must be different from the standards and equipment used for calibration and spanning. The auditing standards and calibration standards may be referenced to the same NBS SRM or primary UV photometer. The auditor should not be the operator/analyst who conducts the routine monitoring, calibration, and analysis.

The audit shall be carried out by allowing the analyzer to analyze an audit test atmosphere in the same manner as described for precision checks in section 3.1.1. The excepting given in section 3.1.1 for certain CO analyzers does not apply for audits.

The difference between the actual concentration of the audit test gas and the concentration indicated by the analyzer is used to assess the accuracy of the monitoring data as described in section 4.1.2. Report data only from automated analyzers that are approved for use in the SLAMS network.

3.2 *Manual Methods.*

3.2.1 *Precision.* Within each reporting organization, select at least two sites for duplicate sampling and collocate two samplers at each selected site. Although only two pairs of collocated samplers are required to estimate the precision of a reporting organization, additional collocated sampling is encouraged. Sites with the highest expected geometric mean concentration must be selected or, if such sites are impractical, alternate sites approved by the Regional Administrator may be selected. The two samplers must be within 4 meters of each other, and high-volume samplers must be at least 2 meters apart to preclude airflow interference. Calibration, sampling and analysis must be the same for both collocated samplers as well as for all other samplers in the network. The collocated samplers must be operated whenever routine sampling is scheduled. For each pair of collocated samplers, designate one as the sampler which will be used to report air quality for the site and designate the other as the duplicate sampler. The differences in measured concentration ($\mu g/m^3$) between the two collocated samplers are used to calculate precision as described in section 4.2.1.

3.2.2 *Accuracy.* The accuracy of manual sampling methods is assessed by auditing a portion of the measurement process. For TSP, the flow rate during sample collection is audited. For the SO_2 and NO_2 methods, the analytical measurement is audited.

(a) *TSP Method.* (Appendix B of Part 50 of this chapter). Each calendar quarter, audit the flow rate of at least 25 percent of the high-volume samplers such that each sampler is audited at least once per year. If there are fewer than four high-volume samplers within a reporting organization, randomly reaudit one or more samplers so that one sampler is audited each calendar quarter.

Audit the flow rate at one flow rate using a reference flow device described in section 2.2.8, pages 3–5, of reference 2, or a similar transfer flow standard. The device used for auditing must be different from the one used to calibrate the flow of the high-volume sample being audited. The auditing device and the calibration device may both be referenced to the same primary flow standard. With the audit device and a normal glass fiber filter in place, operate the high-volume sampler at its normal flow rate. The difference in flow rate (in m^3/min) between the audit flow measurement and the flow indicated by the sampler's normal flow indicator are used to calculate accuracy as described in section 4.2.2.

Great care must be used in auditing high-volume samplers having flow regulators because the introduction of resistance plates in the audit device can cause abnormal flow patterns at the point of flow sensing. For this reason, the orifice of the flow audit device should be used without resistance plates in auditing flow regulated high-volume samplers, or other steps should be taken to assure that flow patterns are not perturbed at the point of flow sensing.

(b) *SO_2 Methods.* Prepare audit solutions from a working sulfite-TCM solution as described in section 6.2.9 of the SO_2 Reference Method (40 CFR 50, Appendix A). These audit samples must be prepared independently from the standardized sulfite solutions used in the routine analysis procedure. New sulfite-TCM audit samples

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must be prepared every 30 days and must be stored between 0 and 5°C.

Prepare audit samples in each of the concentration ranges of 0.2–0.3, 0.5–0.6, and 0.8–0.9 μg SO_2/ml. Analyze an audit sample in each of the three ranges at least once each day that samples are analyzed and at least twice per calendar quarter. The differences between the audit concentrations (in μg SO_2/ml) and the indicated concentrations (in μg SO_2/ml) are used to calculate accuracy as described in section 4.2.2.

(c) *NO_2 Methods.* Prepare audit solutions from a working sodium nitrite solution as described in the appropriate equivalent method (see reference 5). These audit samples must be prepared independently from the standardized nitrate solution used in the routine analysis procedure. New aqueous sodium nitrate audit samples must be prepared every three months. Prepare audit samples in each of the concentration ranges of 0.2–0.3, 0.5–0.6, and 0.8–0.9 μg NO_2/ml. Analyze an audit sample in each of the three ranges at least once each day that samples are analyzed and at least twice per calendar quarter. The differences between the audit concentrations (in μg NO_2/ml) and the indicated concentrations (in μg NO_2/ml) are used to calculate accuracy as described in section 4.2.2.

4. Calculations For Data Quality Assessment

4.1 *Automated Methods.*

4.1.1 *Precision.* Estimates of the precision are calculated from the results of biweekly precision checks as specified in section 3.1.1. At the end of each calendar quarter calculate a combined precision probability interval for all SLAMS analyzers in the reporting organization for each pollutant. Directions for calculations are given below and directions for reporting are given in section 5. DO NOT include results from non-approved analyzers in the calculation of precision estimates. If monitoring data is invalidated during the entire period represented by a given precision check, the results of that precision check shall be excluded from the calculations.

(a) *Single Analyzer Precision.*

Calculate the percentage difference (d_i) for each precision check using equation 1.

$$d_i = \frac{Y_i - X_i}{X_i} \times 100 \quad (1)$$

where:

Y_i = analyzer's indicated concentration from the i-th precision check.

X_i = known concentration of test gas used for the i-th precision check.

For each instrument, calculate the quarterly average (d_j), equation 2, and the standard deviation (S_j), equation 3.

$$\bar{d}_j = \frac{1}{n}\sum_{i=1}^{n} d_i \quad (2)$$

$$S_j = \sqrt{\frac{1}{n-1}\left[\sum_{i=1}^{n} d_i^2 - \frac{1}{n}\left(\sum_{i=1}^{n} d_i\right)^2\right]} \quad (3)$$

where n is the number of precision checks on the instrument made during the calendar quarter. For example, n should be 6 or 7 if precision checks are made biweekly during a quarter.

(b) *Precision for Reporting Organization.*

For each pollutant, calculate the average of averages (D) and pooled standard deviation (S_a) for all analyzers monitoring the pollutant using either equations 4 and 5 or 4a and 5a.

$$D = \frac{1}{k}\sum_{j=1}^{k} \bar{d}_j \quad (4)$$

$$S_a = \sqrt{\frac{1}{k}\sum_{j=1}^{k} S_j^2} \quad (5)$$

where k is the number of analyzers within the reporting organization for a single pollutant. Use equations 4 and 5 when the same number of precision checks are made for each instrument. Otherwise, use equations 4a and 5a to obtain a weighted average and a weighted standard deviation.

$$D = \frac{n_1\bar{d}_1 + n_2\bar{d}_2 + \ldots + n_j\bar{d}_j + \ldots + n_k\bar{d}_k}{n_1 + n_2 + \ldots + n_j + \ldots + n_k} \quad (4a)$$

$$S_a = \sqrt{\frac{(n_1-1)S_1^2 + (n_2-1)S_2^2 + \ldots + (n-1)S_j^2 + \ldots + (n_k-1)S_k^2}{n_1 + n_2 + \ldots + n_j + \ldots + n_k - k}} \quad (5a)$$

For each pollutant, calculate the 95 Percent Probability Limits for the precision of a reporting organization using equations 6 and 7 and record these limits on the front of Form 1 (Figure 1) under columns 22–27. (See section 5 for explanation of Form 1).

Upper 95 Percent Probability Limit = D + 1.96 S_a. (6)

Lower 95 Percent Probability Limit = D − 1.96 S_a. (7)

4.1.2 *Accuracy.* Estimates of the accuracy are calculated from the results of independent audits as described in section 3.1.2. At the end of each calendar quarter calculate a combined accuracy probability interval for all SLAMS analyzers in the reporting organization for each pollutant. Separate probability limits are calculated for each audit concentration level listed in section 3.1.2. Directions for calculations are given below (directions for reporting are given in section 5). DO NOT include results from nonapproved analyzers in the calculation.

(a) *Single Analyzer Accuracy.* Calculate the percentage difference (d_i) for each audit concentration using equation 1 where Y_i is the analyzer's indicated concentration from the i-th audit check and X_i is the known concentration of the audit gas used for the i-th audit check.

(b) *Accuracy for Reporting Organization.* Using equation 8, calculate, for each audit concentration level, the average (D) of the individual percentage differences (d_i) for all k analyzers measuring a given pollutant audited during the quarter.

$$D = \frac{1}{k}\sum_{i=1}^{k} d_i \quad (8)$$

For each concentration level, calculate the standard deviation (S_a) of all the individual percentage differences for all analyzers audited during the quarter, using equation 9. Repeat for each pollutant.

$$S_a = \sqrt{\frac{1}{k-1}\left[\sum_{i=1}^{k} d_i^2 - \frac{1}{k}\left(\sum_{i=1}^{k} d_i\right)^2\right]} \quad (9)$$

For reporting organizations having four or fewer analyzers for a particular pollutant, only one audit is required each quarter. Therefore, the average and standard deviation cannot be calculated. For such reporting units, the audit results of two consecutive quarters are required to calculate an average and a standard deviation using equations 8 and 9, and the reporting of probability limits are therefore required on a semi-annual (instead of a quarterly) basis. For each pollutant, calculate the 95 Percent Probability Limits for the accuracy of a reporting organization at each audit concentration level using equations 6 and 7 and record these limits on the front of Form 1 (Figure 1) under columns 39–62. (See section 5 for explanation of Form 1).

4.2 *Manual Methods.*

4.2.1. *Precision.* Estimates of the precision are calculated from the results obtained from collocation of two samplers as described in section 3.2.1. At the end of each calendar quarter, calculate a combined precision probability interval for all collocated samplers for each pollutant. Directions for calculation are given below and directions for reporting are given in section 5.

(a) *Single Instrument Precision.* For each of the paired measurements described in section 3.2.1, calculate the percentage difference (d_i) using equation 1 where Y_i is the concentration of pollutant measured by the duplicate sampler and X_i is the concentration of pollutant measured by the sampler reporting air quality for the site. For each site, calculate the quarterly average percentage difference (d_j), equation 2, and the standard deviation (S_j), equation 3.

At low concentrations, agreement between the measurements of collocated samplers, expressed as 95 Percent Probability Limits, may be poor. For this reason a separate count is made of the occurrence of pollutant measurements below specified levels. Count the number of samples from all collocated sites which indicate a measurement from a sampler reporting air quality for the site (See section 3.2.1) below the following limits:

TSP—less than 20 μg/m³

SO_2—less than 40 μg/m³

NO_2—less than 30 μg/m³

Report the counts on columns 20–23 of Form 1 (Back).

(b) *Precision for Reporting Organization.* For each pollutant, calculate the average percentage difference (D) and pooled standard deviation (S_a) using equations 4 and 5, or using equations 4a and 5a if different numbers of paired measurements are made at the collocated sites. For these calculations, the k of equations 4, 5, 4a and 5a is the number of samplers at collocated sites designated to report air quality. Results from all collocated sampling sites shall be reported.

Calculate the 95 Percent Probability Limits for the precision of a reporting unit, using equations 10 and 11, and record them in columns 24–29 on the back of Form 1 (See section 5 for explanation of Form 1).

Upper 95 Percent Probability Limit = D + 1.96 $S_a/\sqrt{2}$ (10)

Lower 95 Percent Probability Limit = D − 1.96 $S_a/\sqrt{2}$ (11)

4.2.2 *Accuracy.*

(a) *Single Sampler Accuracy (TSP).* For the flow rate audit described in section 3.2.2(a), let X_i represent the known flow rate and Y_i represent the indicated flow rate. Calculate the percentage difference (d_i) for each audit using equation 1.

(b) *Accuracy for Reporting Organization (TSP).* Using equation 6 calculate the average (D) of the individual percent differences for all high-volume samplers audited during the calendar quarter. Compute the standard deviation (S_a) of all the percentage differences for all of the instruments audited during the calendar quarter using equation 9.

Calculate the 95 Percent Probability Limits for the accuracy of a reporting organization using equations 6 and 7, and record these limits on the back of Form 1 under columns 46–51. Note that since the audit is conducted at only one level, columns 40–45 and 52–57 are not used. For reporting organizations having four or fewer high-volume samplers for TSP, only one audit is required each quarter. For such reporting organizations, the audit results of two consecutive quarters are required to calculate an average and a standard deviation using equations 8 and 9. Therefore, semi-annual reporting (instead of quarterly) of probability limits is required.

(c) *Single-Analysis-Day Accuracy (SO_2 and NO_2).* For each of the audits of the analysis for SO_2 or NO_2 described in section 3.2.2 (b) and (c), let X_i represent the known value of the audit sample and Y_i the indicated value of SO_2 or NO_2. Calculate the percentage difference (d_i) for each audit at each concentration level using equation 1.

(d) *Accuracy for Reporting Organization (SO_2 and NO_2).* Calculate the average (D) of the percent differences at each concentration level for all analysis days during the quarter using equation 8. Compute the standard deviation (S_a) of the individual percentage differences using equation 9. Calculate the 95 Percent Probability Limits for the accuracy for the reporting organization using equations 6 and 7 and record these limits on the back of Form 1 for each concentration level under columns 40–57.

5. Reporting Requirements

For each pollutant, prepare a list of all monitoring sites and their SAROAD site identification codes in each reporting organization and submit the list to the Regional Office, with a copy to Environmental Monitoring and Support Laboratory (MD–75), U.S. Environmental Protection Agency, Research Triangle Park, NC 27711 (EMSL/RTP). Whenever there is a change in the assignment of a monitoring site in a reporting organization, report this change to the Regional Office and to EMSL/RTP.

5.1 *Quarterly Reports.*

For each reporting organization fill out form 1 (Front) and (Back) according to the directions given below, and submit the form within 90 days of the end of the quarter to the appropriate Regional Office, with a copy to EMSL/RTP.

5.2 *Annual Reports.*

Compute simple unweighted arithmetic averages of the probability limits for precision and accuracy from the four quarterly periods of the calendar year and report them with the annual SLAMS report required by 58.26. Also include in the SLAMS annual report a listing by pollutant, of the monitoring sites in each reporting organization within the state.

5.3 *Instructions for Form 1.*

Block No.	Description
	General Information (Form 1, Front and Back)
1–2	*SAROAD State:* The two digit SAROAD State code.
3–5	*Reporting Organization:* A unique 3-digit code assigned by each State to each of its respective reporting organizations.
6–7	*Year:* Last two digits of the calendar year.
8	*Quarter:* for SLAMS/NAMS Quarterly Report: Enter 1, 2, 3 or 4 to refer to calendar quarter the monitoring data and quality assessments were made. For SLAMS *Annual* Report: Enter 0 to indicate annual SLAMS report.
	Automated Analyzers (Form 1, Front)
9–14	*Pollutant Identifiers:* Precoded.
28–33	(Rows labeled "E" are available for future additional pollutants.)
15–17	*Number of Analyzers:* Count only the number of approved analyzers in the network that report monitoring data for each pollutant.
18–21	*Number of Precision Checks:* Count the total number of precision checks included in the calculations reported.
22–24	*Lower Probability Limit, Precision:* Block 22 is either "+" or "−". Blocks 22–24 contain the percentage (round off to a whole number) obtained from equation 7.

Block No.	Automated Analyzers (Form 1, Front)—Continued
25–27	*Upper Probability Limit, Precision:* Block 25 is either "+" or "—". Blocks 26–27 contain the percentage obtained from equation 6. Note: If precision limits exceed two digits, e.g., 103% report as 99.
34–35	*Source of Audit Gas:* For accuracy determination, refer to code table, note 2, on the form.
36–38	*Number of Audits:* Report the total number of multipoint audits performed on the analyzers.
39–62	*Probability Limits, Accuracy:* The lower and upper probability limits for each pollutant concentration level of the accuracy audits are entered in blocks 39–62. Levels, their corresponding concentration ranges for each pollutant and the appropriate blocks for this information are given in the following table.

Blocks	Levels	Pollutant Concentration Range, ppm	
		NO_2, O_3, SO_2	CO
39–44	1	.03 to .06	3 to 8.
45–50	2	.15 to .20	15 to 20.
51–56	3	.40 to .45	40 to 45.
57–62	4	.80 to .90	80 to 90.

Block No.	Description
39–41, 45–47, 51–53, 57–59	*Lower Probability Limits, Accuracy:* Blocks 39, 45, 51 and 57 are either "+" or "—". Blocks 40–41, 46–47, 52–53 and 58–57 contain the percentages obtained from equation 7.
42–44, 48–50, 54–56, 60–62	*Upper Probability Limit, Accuracy:* Blocks 42, 48, 54 and 60 are either "+" or "—". Blocks 43–44, 49–50, 55–56 and 61–62 contain the percentage obtained from equation 6. NOTE: If only one audit is performed during a given quarter for a given pollutant, it is not possible to calculate probability limits for that quarter. In that case, blocks 39–62 are left blank for the first such quarter and the number 001 is reported in blocks 36–38. Probability limits are then computed and reported on a semi-annual basis (i.e., after the next quarter) from the audit data obtained during the two consecutive quarters.
	Manual Methods (Form 1, Back)
9–14	*Pollutant Identifiers:* Precoded
30–35	(Rows labeled "D" are available for future additional pollutants.)
15–17	*Number of Samplers:* Count only the number of samplers for each pollutant that is associated with an approved method and from which monitoring data are reported as part of a SLAMS network.
18–19	*Number of Collocated Sites:* Number of sites having collocated samplers. The minimum number is 2.
20–23	*Number of Collocated Samples Below the Limit:* Count the number of samples from the collocated sites where the measurements from sampler reporting air quality for the site (see section 3.2.1) are below the following limits: TSP—20 μg TSP/m³ SO_2—40 μg SO_2/m³ NO_2—30 μg NO_2/m³
24–26	*Lower Probability Limit, Precision:* Block 24 is either "+" or "—". Blocks 25–26 contain the percentage obtained from equation 11.
27–29	*Upper Probability Limit, Precision:* Block 27 is either "+" or "—". Blocks 28–29 contain the percentage obtained from equation 10. Note: If precision limits exceed two digits, e.g., 103%, report as 99.
36	*Type of Sampler:* Code from note 2 on the form. Codes A and B are intended for use with TSP to indicate whether or not samplers are equipped with automatic flow control. Code C is intended for use with SO_2 and NO_2 methods to indicate that flow control is accomplished with critical orifice.
37–39	*Number of Audits:* Count the total number of audits performed on the *entire network* for the pollutants. A single audit may consist of several audit level checks, but count only once for each audit. For example, although an audit conducted for NO_2 or SO_2 consists of checks at three different concentration levels, count this as one audit, not three.
40–57	*Probability Limits, Accuracy:* The lower and upper probability limits for each level of the accuracy audits are entered in blocks 40–57. Levels, their corresponding concentration ranges and the appropriate blocks for this information are given in the following table:

Blocks	Levels	Audit Concentrations	
		TSP cfm	SO_2, NO_2, μg/ml
40–45	1		0.2 to 0.3.
46–51	2	One within 40–60 cfm.	0.5 to 0.8.
52–57	3		0.6 to 0.9.

Block No.	Description
40–42, 46–48, 52–54	*Lower Probability Limits, Accuracy:* Blocks 40, 46 and 52 are either "+" or "—". Blocks 41–42, 47–48 and 53–54 contain the percentage obtained from equation 7.
43–45, 49–51, 55–57	*Upper Probability Limits, Accuracy:* Blocks 43, 49 and 55 are either "+" or "—". Blocks 44–45, 50–51 and 56–57 contain the percentage obtained from equation 6. Note: If accuracy limits exceed two digits, e.g., 103%, report as 99. Report, as required, all pollutants (TSP, SO_2 and NO_2) as determined by manual sampling methods. Note that only blocks 46–51 are used for TSP. NOTE: If only one audit is performed during a given quarter for a given pollutant, it is not possible to calculate probability limits for that quarter. In that case, blocks 40–57 are left blank for the first such quarter and the number 001 is reported in blocks 37–39. Probability limits are then computed and reported on a semi-annual basis (i.e., after the next quarter) from the audit data obtained during the two consecutive quarters.

References

1. "Quality Assurance Handbook for Air Pollution Measurement Systems, Volume I—Principles." EPA–600/9–76–005. March 1976. Available from U.S. Environmental Protection Agency, Environmental Monitoring and Support Laboratory (MD–77), Research Triangle Park, N.C. 27711.

2. "Quality Assurance Handbook for Air Pollution Measurement Systems, Volume II—Ambient Air Specific Methods." EPA–600/4–77–027a, May 1977. Available from U.S. Environmental Protection Agency, Environmental Monitoring and Support Laboratory (MD–77), Research Triangle Park, N.C. 27711.

3. "Traceability Protocol for Establishing True Concentrations of Gases Used for Calibration and Audits of Air Pollution Analyzers," (Protocol No. 2), June 1978. Available from U.S. Environmental Protection Agency, Environmental Monitoring and Support Laboratory, Quality Assurance Branch, (MD–77), Research Triangle Park, N.C. 27711.

4. "Transfer Standards for Calibration of Ambient Air Monitoring Analyzers for Ozone," June 1978. Available from U.S. Environmental Protection Agency, Department E (MD–77), Research Triangle Park, N.C. 27711.

5. "List of Reference and Equivalent Methods." Available from U.S. Environmental Protection Agency, Department E (MD–77), Research Triangle Park, N.C. 27711.

6. "Criteria, Procedures and Forms for the Evaluation of Ambient Air Monitoring Programs—Laboratory and Field," June 1979. Available from U.S. Environmental Protection Agency, Environmental Monitoring and Support Laboratory, Quality Assurance Branch (MD–77), Research Triangle Park, N.C. 27711.

BILLING CODE 6560–01–M

DATA ASSESSMENT REPORT

STATE | REPORTING ORGANIZATION | YEAR | QUARTER | SEND COMPLETED FORM TO REGIONAL OFFICE WITH COPY TO EMSL/RTP

1 2 3 4 5 | 6 7 | 8

NAME OF REPORTING ORGANIZATION _____

AUTOMATED ANALYZERS

PRECISION

		NO. OF ANALYZERS [1] (15-17)	NO. OF PRECISION CHECKS (18-21)	PROBABILITY LIMITS LOWER (22-27)	PROBABILITY LIMITS UPPER (22-27)
A. CO	421101 (9-14)				
B. NO_2	421602 (9-14)				
C. O_3	421401 (9-14)				
D. SO_2	421401 (9-14)				
E. ___	(9-14)				

ACCURACY

		SOURCE OF AUDIT GAS [2]	NO. OF AUDITS	PROBABILITY LIMITS LEVEL 1 LOWER (39-44)	LEVEL 1 UPPER (39-44)	LEVEL 2 LOWER (45-50)	LEVEL 2 UPPER (45-50)	LEVEL 3 LOWER (51-56)	LEVEL 3 UPPER (51-56)	LEVEL 4 LOWER (57-62)	LEVEL 4 UPPER (57-62)
A. CO	421101 (28-33)	(34-35)	(36-38)								
B. NO_2	421602 (28-33)	(34-35)	(36-38)								
C. O_3	421401 (28-33)	(34-35)	(36-38)								
D. SO_2	421401 (28-33)	(34-35)	(36-38)								
E. ___	(28-33)	(34-35)	(36-38)								

[1] COUNT ONLY REFERENCE OR EQUIVALENT MONITORING METHODS

[2] CODE USING THE FOLLOWING:

A. NBS SUPPLIED SRM
B. EMSL REFERENCE GAS
C. OTHER (IDENTIFY VENDOR) CO
D. OTHER (IDENTIFY VENDOR) NO_2
E. OTHER (IDENTIFY VENDOR) O_3
F. OTHER (IDENTIFY VENDOR) SO_2

DATA ASSESSMENT REPORT

STATE | REPORTING ORGANIZATION | YEAR | QUARTER | SEND COMPLETED FORM TO REGIONAL OFFICE WITH COPY TO EMSL/RTP

1 2 | 3 4 5 | 6 7 | 8

NAME OF REPORTING ORGANIZATION _____

MANUAL METHODS

PRECISION

		NO. OF SAMPLERS [1] (15-17)	NO. OF COLLOCATED SITES (18-19)	NO. OF COLLOCATED SAMPLES < LIMIT (20-23)	PROBABILITY LIMITS LOWER (24-29)	PROBABILITY LIMITS UPPER (24-29)
A. TSP	111101 (9-14)					
B. SO_2	142401 (9-14)					
C. NO_2	142602 (9-14)					
D.	(9-14)					

LIMITS APPLICABLE TO BLOCKS 20-23

TSP: 20 μg TSP/m^3

SO_2: 40 μg SO_2/m^3

NO_2: 30 μg NO_2/m^3

ACCURACY

		TYPE OF SAMPLER [2] (36)	NO. OF AUDITS (37-39)	PROBABILITY LIMITS LEVEL 1 LOWER (40-45)	LEVEL 1 UPPER (40-45)	LEVEL 2 LOWER (46-51)	LEVEL 2 UPPER (46-51)	LEVEL 3 LOWER (52-57)	LEVEL 3 UPPER (52-57)
A. TSP	111101 (30-35)								
B. SO_2	142401 (30-35)								
C. NO_2	142602 (30-35)								
D.	(30-35)								

[1] COUNT ONLY REFERENCE OR EQUIVALENT MONITORING METHODS

[2] CODE USING THE FOLLOWING.

A. WITH AUTOMATIC FLOW CONTROL
B. WITHOUT AUTOMATIC FLOW CONTROL
C. WITH CRITICAL OFFICE FLOW CONTROL

BILLING CODE 6560-01-C

FIGURE 1 FORM 1 (BACK)

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Appendix B. Quality Assurance Requirements for Prevention of Significant Deterioration (PSD) Air Monitoring

1. General Information

This Appendix specifies the minimum quality assurance requirements of an organization operating a network of PSD stations. These requirements are regarded as the mimimum necessary for the control and assessment of the quality of the PSD ambient air monitoring data submitted to EPA. Organizations are encouraged to develop and implement quality assurance programs more extensive than the minimum required or to continue such programs where they already exist.

Quality assurance consists of two distinct and equally important functions. One function is the assessment of the quality of the monitoring data by estimating their precision and accuracy. The other function is the control, and improvement, of the quality of the monitoring data by implementation of quality control policies, procedures and corrective actions. These two functions form a control loop: When the assessment function indicates that the data quality is inadequate, the control effort must be increased until the data quality is acceptable.

In order to provide uniformity in the assessment and reporting of data quality, the assessment procedures are specified explicitly in sections 3, 4, 5 and 6 of this Appendix.

In contrast, the control and corrective action function encompasses a variety of policies, procedures, specifications, standards, and corrective measures which have varying effects on the resulting data quality. The selection and degree of specific control measures and corrective actions used depend on a number of factors such as the monitoring methods and equipment used, field and laboratory conditions, the objectives of the monitoring, the level of data quality needed, the expertise of personnel, the cost of control procedures, pollutant concentration levels, etc. Accordingly, quality control requirements are specified in general terms, in section 2 of this Appendix, to allow each organization to develop a quality control system which is most effective for its own circumstances.

For purposes of this Appendix "organization" is defined as a source owner/operator, a government agency, or their contractor which operates an ambient air pollution monitoring network for PSD purposes.

2. Quality Control Requirements

2.1 Each organization must develop and implement a quality control program consisting of policies, procedures, specifications, standards and documentation necessary to:

(1) Meet the monitoring objectives and quality assurance requirements of the permit granting authority.

(2) Minimize loss of air quality data due to malfunctions or out-of-control conditions.

The quality control program must be described in detail, suitably documented, and approved by the permit granting authority.

2.2 Primary guidance for developing the quality control program is contained in references 1 and 2, which also contain many suggested procedures, checks, and control specifications. Method specific quality control checks and specifications for manual methods are included in the respective reference methods described in Part 50 of this chapter, or in the respective equivalent method descriptions available from EPA (see reference 5). Similarly, quality control procedures related to specifically designated reference and equivalent analyzers are contained in their respective operation and instruction manuals. This guidance, and any other pertinent information from appropriate sources, should be used by organizations in developing their quality control programs.

As a minimum each quality control program must have operational procedures for each of the following activities:

(1) Selection of methods, analyzers, or samplers.

(2) Installation of equipment.

(3) Calibration.

(4) Zero and span checks and adjustments of automated analyzers.

(5) Control checks and their frequency.

(6) Control limits for zero, span and other control checks, and respective corrective actions when such limits are surpassed.

(7) Calibration and zero/span checks for multiple range analyzers.

(8) Preventive and remedial maintenance.

(9) Recording and validating data.

(10) Documentation of quality control information.

2.3 *Pollutant Standards.*

2.3.1 Gaseous standards (permeation tubes, permeation devices or cylinders of compressed gas) used to obtain test concentrations for CO, SO_2, and NO_2 must be working standards certified by comparison to a National Bureau of Standards (NBS) gaseous Standard Reference Material (SRM). A traceability protocol for certifying a working standard by direct comparison to an NBS SRM is given in reference 3. Direct use of an NBS SRM as a working standard is not prohibited but is discouraged because of the limited supply and expense of NBS SRM's.

2.3.2 Test concentrations for ozone must be obtained in accordance with the UV photometric calibration procedure specified in Appendix D of Part 50 of this chapter, or by means of an ozone transfer standard which has been certified. Consult reference 4 for guidance on ozone transfer standards.

2.3.3. Flow measurements must be made by a flow measuring instrument which is traceable to an authoritative volume or other standard.

2.4 Performance and System Audit Programs

The organization operating a PSD monitoring network must participate in EPA's national performance audit program. The permit granting authority, or EPA, may conduct system audits of the ambient air monitoring programs of organizations operating PSD networks. See section 1.4.16 of reference 1 and reference 6 for additional information about these programs. Organizations should contact either the appropriate EPA Regional Quality Control Coordinator or the Quality Assurance Branch, EMSL/RTP, at the address given in reference 3 for instructions for participation.

3. Data Quality Assessment Requirements

3.1 *Precision of Automoted Methods.*

A one-point precision check must be carried out at least once every two weeks on each automated analyzer used to measure SO_2, NO_2, O_3 and CO. The precision check is made by challenging the analyzer with a precision check gas of known concentration between 0.08 and 0.10 ppm for SO_2, NO_2 and O_3 analyzers, and between 8 and 10 ppm for CO analyzers. The standards from which precision check test concentrations are obtained must meet the specifications of section 2.3. Except for certain CO analyzers described below, analyzers must operate in their normal sampling mode during the precision check, and the test atmosphere must pass through all filters, scrubbers, conditioners, and other components used during normal ambient sampling and as much of the ambient air inlet system as is practicable. If permitted by the associated operation or instruction manual, a CO analyzer may be temporarily modified during the precision check to reduce vent or purge flows, or the test atmosphere may enter the analyzer at a point other than the normal sample inlet, *provided that* the analyzer's response is not likely to be altered by these deviations from the normal operational mode.

If a precision check is made in conjunction with zero/span adjustment, it must be made prior to such zero and span adjustments. The difference between the actual concentration of the precision check gas and the concentration indicated by the analyzer is used to assess the precision of the monitoring data as described in section 4.1. Report data only from automated analyzers that are approved for use in the PSD network.

3.2 *Accuracy of Automated Methods.*

Each sampling quarter audit each analyzer that monitors for SO_2, NO_2, O_3 or CO at least once. The audit is made by challenging the analyzer with at least one audit gas of known concentration from each of the following range which fall within the measurement range of the analyzer being audited:

	Concentration Range, ppm	
Audit Point	SO_2, NO_2, O_3	CO
1	0.03–0.08	3–8
2	0.15–0.20	15–20
3	0.40–0.45	40–45
4	0.80–0.90	80–90

The standards from which audit gas test concentrations are obtained must meet the specifications of section 2.3. Working and transfer standards and equipment used for auditing must be different from the standards and equipment used for calibration and spanning. The auditing standards and calibration standards may be referenced to the same NBS SRM or primary UV photometer. The auditor must not be the operator/analyst who conducts the routine monitoring, calibration and analysis.

The audit shall be carried out by allowing the analyzer to analyze an audit test

atmosphere in the same manner as described for precision checks in section 3.1. The exception given in section 3.1 for certain CO analyzers does not apply for audits.

The difference between the actual concentration of the audit test gas and the concentration indicated by the analyzer is used to assess the accuracy of the monitoring data as described in section 4.2. Report data only from automated analyzers that are approved for use in the PSD network.

3.3 *Precision of Manual Methods.*

3.3.1 *TSP Method.* For a given organization's monitoring network, one sampling site must have collocated samplers. A site with the highest expected 24-hour pollutant concentration must be selected. The two samplers must be within 4 meters of each other but at least 2 meters apart to preclude airflow interference. Calibration, sampling and analysis must be the same for both collocated samplers as well as for all other samplers in the network. The collocated samplers must be operated as a minimum every third day when continuous sampling is used. When a less frequent sample schedule is used, the collocated samplers must be operated at least once each week. For each pair of collocated samplers, designate one sampler as the sampler which will be used to report air quality for the site and designate the other as the duplicate sampler. The differences in measured concentration ($\mu g/m^3$) between the two collocated samplers are used to calculate precision as described in section 5.1.

3.4 *Accuracy of Manual Methods.*

3.4.1 *TSP Method.* Each sampling quarter audit the flow rate of each high-volume sampler at least once. Audit the flow rate at one flow rate using a reference flow device described in section 2.2.6, pages 3–5, of reference 2, or a similar transfer flow standard. The device used for auditing must be different from the one used to calibrate the flow of the high-volume sampler being audited. The auditing device and the calibration device may both be referenced to the same primary flow standard. With the audit device and a normal glass fiber filter in place, operate the high-volume sampler at its normal flow rate. The difference in flow rate (in m^3/min) between the audit flow measurement and the flow indicated by the sampler's normal flow indicator are used to calculate accuracy as described in section 5.2.

Great care must be used in auditing high-volume samplers having flow regulators because the introduction of resistance plates in the audit device can cause abnormal flow patterns at the point of flow sensing. for this reason, the orfice of the flow audit device should be used without resistance plates in auditing flow regulated high-volume samplers, or other steps should be taken to assure that flow patterns are not perturbed at the point of flow sensing.

4. Calculations for Automated Methods

4.1 *Single Analyzer Precision.*

Each organization, at the end of each sampling quarter, shall calculate and report a precision probability interval for each analyzer. Directions for calculations are given below and directions for reporting are given in section 6. If monitoring data are invalidated during the period represented by a given precision check, the results of that precision check shall be excluded from the calculations. Calculate the percentage difference (d_i) for each precision check using equation 1.

$$d_i = \frac{Y_i - X_i}{X_i} \times 100 \quad (1)$$

where:

Y_i = analyzer's indicated concentration from the i-th precision check

X_i = known concentration of the test gas used for the i-th precision check.

For each instrument, calculate the quarterly average (a_j), equation 2, and the standard deviation (S_j), equation 3.

$$\bar{a}_j = \frac{1}{n}\sum_{i=1}^{n} d_i \quad (2)$$

$$S_j = \sqrt{\frac{1}{n-1}\left[\sum_{i=1}^{n} d_i^2 - \frac{1}{n}\left(\sum_{i=1}^{n} d_i\right)^2\right]} \quad (3)$$

where n is the numnber of precision checks on the instrument made during ther sampling quarter. For example, n should be 6 or 7 if span checks are made biweekly during a quarter.

Calculate the 95 percent probability limits for precision using equation 4 and 5.

Upper 95 Percent Probability Limit = $d_j + 1.96\ S_j$ (4)

Lower 95 Percent Probability Limit = $a_j - 1.96\ S_j$ (5)

4.2 *Single Analyzer Accuracy.*

Each organization, at the end of each sampling quarter, shall calculate and report the percentage difference for each audit concentration for each analyzer audited during the quarter. Directions for calculations are given below (directions for reporting are given in section 6).

Calculate and report the percentage difference (d_i) for each audit concentration using equation 1 where Y_i is the analyzer's indicated concentration from the i-th audit check and X_i is the known concentration of the audit gas used for the i-th audit check.

5. Calculations For Manual Methods

5.1 *Single Instrument Precision for TSP.*

Estimates of precision for ambient air quality measurements from the TSP method are calculated from results obtained from the collocation of two samplers at one sampling site as described in section 3.3.1. At the end of each sampling quarter calculate and report a precision probability interval using weekly collocation sampler results. Directions for calculation are given below and directions for reporting are given in section 6.

For the paired measurements described in section 3.3.1, calculate the percentage difference (d_i), using equation 1 where Y_i is the TSP concentration measured by the duplicate sampler and X_i is the TSP concentration measured by the sampler reporting air quality for the site. Calculate the quarterly average percentage difference (d_j), equation 2, standard deviation (S_j), equation 3, and upper and lower 95 percent probability limits for precision (equations 6 and 7).

Upper 95 Percent Probability Limit = $d_j + 1.96\ S_j/\sqrt{2}$ (6)

Lower 95 Percent Probability Limit = $d_j - 1.96\ S_j/\sqrt{2}$ (7)

5.2 *Single Instrument Accuracy for TSP.*

Each organization, at the end of each sampling quarter, shall calculate and report the percentage difference for each high-volume sampler audited during the quarter. Directions for calculation are given below and directions for reporting are given in section 6.

For the flow rate audit described in section 3.4, let X_i represent the known flow rate and Y_i represent the indicated flow rate. Calculate the percentage difference (d_i) using equation 1.

6. Organization Reporting Requirements

At the end of each sampling quarter, the organization must report the following data, assessment information: (1) For automated analyzers—precision probability limits from section 4.1 and percentage differences from section 4.2, and (2) For manual methods—precision probability limits from section 5.1 and percentage differences from section 5.2.

The quarterly precision and accuracy information must be submitted with the air monitoring data. All data used to calculate reported estimates of precision and accuracy including span checks, collocated sampler and audit results must be made available to the permit granting authority upon request.

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References

1. "Quality Assurance Handbook for Air Pollution Measurement Systems, Volume I—Principles." EPA–600/9–76–005, March 1976. Available from U.S. Environmental Protection Agency, Environmental Monitoring and Support Laboratory (MD–77), Research Triangle Park, North Carolina 27711.

2. "Quality Assurance Handbook for Air Pollution Measurement Systems, Volume II—Ambient Air Specific Methods." EPA–600/4–77–027a, May 1977. Available from U.S. Environmental Protection Agency, Environmental Monitoring and Support Laboratory (MD–77), Research Triangle Park, North Carolina 27711.

3. "Traceability Protocol for Establishing True Concentrations of Gases Used for Calibration and Audits of Air Pollution Analyzers." (Protocol No. 2), June 1978. Available from U.S. Environmental Protection Agency, Environmental Monitoring and Support Laboratory, Quality Assurance Branch (MD–77), Research Triangle Park, North Carolina 27711.

4. "Transfer Standards for Calibration of Ambient Air Monitoring Analyzers for Ozone," June 1978. Available from U.S. Environmental Protection Agency, Department E (MD–77), Research Triangle Park, North Carolina 27711.

5. "List of Reference and Equivalent Methods." Available from U.S. Environmental Protection Agency, Department E (MD–77), Research Triangle Park, North Carolina 27711.

6. "Criteria, Procedures, and Forms for the Evaluation of Ambient Air Monitoring Programs—Laboratory and Field," June 1978. Available from U.S. Environmental Protection Agency, Environmental Monitoring and Support Laboratory, Quality Assurance Branch (MD–77), Research Triangle Park, North Carolina 27711.

Appendix C—Ambient Air Quality Monitoring Methodology

1.0 Purpose

This appendix specifies the monitoring methods (manual methods or automated analyzers) which must be used in State ambient air quality monitoring stations.

2.0 State And Local Air Monitoring Stations (SLAMS)

2.1 Except as otherwise provided in this appendix, a monitoring method used in a SLAMS must be a reference or equivalent method as defined in § 50.1 of this chapter.

2.2 The following provisions under this subsection (2.2) apply to analyzers not covered by a current reference or equivalent method designation.

2.2.1 Any analyzer for SO_2, CO, or O_3 purchased before February 18, 1976, may be used in a SLAMS until February 18, 1980.

2.2.2 Any analyzer for NO_2 purchased before January 3, 1978, may be used in a SLAMS until January 3, 1980.

2.3 Any manual method or analyzer purchased prior to cancellation of its reference or equivalent method designation under § 53.11 or § 53.16 of this chapter may be used in a SLAMS following cancellation for a reasonable period of time to be determined by the Administrator.

2.4 Use of Nonconforming Analyzers in Certain Geographical Areas.

2.4.1 The State may use an analyzer that is not a reference or equivalent method in a SLAMS in a particular geographical area if the analyzer was purchased prior to February 18, 1975, and the Administrator determines:

2.4.1.1 That the analyzer (or the method of which the analyzer is representative) meets all the requirements of Part 53 of this chapter that would apply if an application for a reference or equivalent method determination were submitted for the method of which the analyzer is representative except: (A) the test for interference equivalent specified in § 53.23(d) of this chapter, and (B) requirements of Subpart C of Part 53 of this chapter, if applicable, to the extent that failure to meet the Subpart C requirements results from sensitivity to interferants; and

2.4.1.2 That interferants that cause or would cause the analyzer to fail the requirements of § 53.23(d) and Subpart C of Part 53 of this chapter do not occur in significant concentrations in the geographical area in which use of the analyzer is proposed. For purposes of this section (2.4), a "significant concentration" means one that would cause a measurement error equal to or greater than the lower detectable limit specification in Table B–1 in Subpart B of Part 53 of this chapter.

2.4.2 Requests for approval under this section (2.4) must meet the submittal requirements of section 2.7. Except as provided in subsection 2.7.3, each such request must contain the information specified in subsection 2.7.2 in addition to the following:

2.4.2.1 The date on which the analyzer was purchased;

2.4.2.2 An identification and description of the geographical area in which use of the analyzer is proposed;

2.4.2.3 Such data or other information as may be necessary to demonstrate that the interferants referred to in subsection 2.4.1.2 do not occur in significant concentrations in the geographical area in which use of the analyzer is proposed; and

2.4.2.4 Test data for tests conducted with the analyzer in accordance with Subpart C of Part 53 of this chapter in the geographical area in which use of the analyzer is proposed, if Subpart C would apply if an application for a reference or equivalent method determination were submitted for the method of which the analyzer is representative.

2.4.3 Any person who has obtained approval of a request under this section (2.4) shall:

2.4.3.1 Assure that the analyzer for which approval was obtained is used only in the geographical area identified in the request;

2.4.3.2 Report to the Administrator within 60 days any significant increase in concentrations of the interferants referred to in subsection 2.4.1.2 in the geographical area identified in the request and concurrently submit such new or additional information as may be necessary to supplement the demonstration required by subsection 2.4.2.3; and

2.4.3.3 On a semi-annual basis, submit reports containing such data or other information as may be necessary to demonstrate that the interferants referred to in subsection 2.4.1.2 continue to occur in insignificant concentrations in the geographical area identified in the request. Reports required by this subsection (2.4.3) shall be submitted to the address specified in subsection 2.7.1.

2.5 Use of Methods with Nonconforming Ranges.

2.5.1 The State may use in a SLAMS an analyzer that is not a reference or equivalent method if:

2.5.1.1 The analyzer was purchased prior to February 18, 1975;

2.5.1.2 The Administrator determines that the analyzer (or the method of which the analyzer is representative) meets all requirements of Part 53 of this chapter that would apply if an application for a reference or equivalent method determination were submitted for the method of which the analyzer is representative except the range requirement specified in Table B–1 in Subpart B of Part 53 of this chapter; and

2.5.1.3 The range of the analyzer does not extend to concentrations more than two times the upper range limit specified in such Table B–1, or, if the analyzer has more than one selectable range, the analyzer will not be used while operated in any range extending to such concentrations.

Note.—If the use of the analyzer is approved under section 2.6, the limitations specified in this subsection (2.5.1.3) will not apply unless the approval under section 2.6 is later withdrawn.

2.5.2 Requests for approval under this section (2.5) must meet the submittal requirements of section 2.7. Except as provided in subsection 2.7.3, each such request must contain the information specified in subsection 2.7.2 in addition to the following:

2.5.2.1 The date on which the analyzer was purchased; and

2.5.2.2 A statement that the range of the analyzer does not extend to concentrations more than two times the upper range limit specified in Table B–1 in Subpart B of Part 53 of this chapter, or, if the analyzer has more than one selectable range, that the analyzer will not be operated in any range extending to such concentrations.

Note.—If use of the analyzer is approved under section 2.6, the statements required by this subsection (2.5.2.2) will be considered inapplicable unless the approval under section 2.6 is later withdrawn.

2.5.3 Any person who has obtained approval of a request under this section (2.5) shall, if the analyzer has more than one selectable range, assure that the analyzer is not operated in any range extending to concentrations more than two times the upper range limit specified in such Table B–1.

2.6 Use of methods with higher, unapproved, or nonconforming ranges in certain geographical areas.

2.6.1 *Unapproved ranges.* Until January 1, 1983, a designated analyzer (reference or equivalent method) may be used without special approval as required by section 2.7 while operating on a range higher (broader) than the range or ranges covered by the analyzer's designation, provided that (1) the range does not extend to concentrations more than two times the upper range limit specified in Table B–1 of Part 53 of this chapter, (2) the analyzer is located in a geographical area where the pollutant to be measured is likely to occur in concentrations higher than the range for which the analyzer is designated, and (3) the unapproved range is used only during periods when those higher concentrations are likely to occur.

2.6.2 *Nonconforming ranges.* An analyzer may be used (indefinitely) on a range which extends to concentrations higher than two times the upper limit specified in Table B–1 of Part 53 of this chapter if:

2.6.2.1 The analyzer has more than one selectable range and has been designated as a reference or equivalent method on at least one of its ranges, or has been approved for use under section 2.5 (which applies to analyzers purchased before February 18, 1975);

2.6.2.2 The pollutant intended to be measured with the analyzer is likely to occur in concentrations more than two times the upper range limit specified in Table B–1 of Part 53 of this chapter in the geographical area in which use of the analyzer is proposed; and

2.6.2.3 The Administrator determines that the resolution of the range or ranges for which approval is sought is adequate for its intended use. For purposes of this section (2.6), "resolution" means the ability of the analyzer to detect small changes in concentration.

2.6.3 Requests for approval under section 2.6.2 must meet the submittal requirements of section 2.7. Except as provided in subsection 2.7.3, each request must contain the information specified in subsection 2.7.2 in addition to the following:

2.6.3.1 The range or ranges proposed to be used;

2.6.3.2 Test data, records, calculations, and test results as specified in subsection 2.7.2.2 for each range proposed to be used;

2.6.3.3 An identification and description of the geographical area in which use of the analyzer is proposed;

2.6.3.4 Data or other information demonstrating that the pollutant intended to be measured with the analyzer is likely to occur in concentrations more than two times the upper range limit specified in Table B–1 of Part 53 of this chapter in the geographical area in which use of the analyzer is proposed; and

2.6.3.5 Test data or other information demonstrating the resolution of each proposed range that is broader than that permitted by section 2.5.

2.6.4 Any person who has obtained approval of a request under this section (2.6.2) shall assure that the analyzer for which approval was obtained is used only in the geographical area identified in the request and only while operated in the range or ranges specified in the request.

2.7 Requests for Approval; Withdrawal of Approval.

2.7.1 Requests for approval under sections 2.4, 2.5, or 2.6.2 must be submitted to: Director, Environmental Monitoring and Support Laboratory, Department E (MD 75), United States Environmental Protection Agency, Environmental Research Center, Research Triangle Park, North Carolina 27711.

2.7.2 Except as provided in subsection 2.7.3, each request must contain:

2.7.2.1 A statement identifying the analyzer (e.g., by serial number) and the method of which the analyzer is representative (e.g., by manufacturer and model number); and

2.7.2.2 Test data, records, calculations, and test results for the analyzer (or the method of which the analyzer is representative) as specified in Subpart B, Subpart C, or both (as applicable) of Part 53 of this chapter.

2.7.3 A request may concern more than one analyzer or geographical area and may incorporate by reference any data or other information known to EPA from one or more of the following:

2.7.3.1 An application for a reference or equivalent method determination submitted to EPA for the method of which the analyzer is representative, or testing conducted by the applicant or by EPA in connection with such an application;

2.7.3.2 Testing of the method of which the analyzer is representative at the initiative of the Administrator under § 53.7 of this chapter; or

2.7.3.3 A previous or concurrent request for approval submitted to EPA under this section (2.7).

2.7.4 To the extent that such incorporation by reference provides data or information required by this section (2.7) or by sections 2.4, 2.5, or 2.6, independent data or duplicative information need not be submitted.

2.7.5 After receiving a request under this section (2.7), the Administrator may request such additional testing or information or conduct such tests as may be necessary in his judgment for a decision on the request.

2.7.6 If the Administrator determines, on the basis of any information available to him, that any of the determinations or statements on which approval of a request under this section (2.7) was based are invalid or no longer valid, or that the requirements of sections 2.4, 2.5, or 2.6, as applicable, have not been met, he may withdraw the approval after affording the person who obtained the approval an opportunity to submit information and arguments opposing such action.

2.8 Modifications of Methods by Users.

2.8.1 Except as otherwise provided in this section (2.8), no reference method, equivalent method, or alternative method may be used in a SLAMS if it has been modified in a manner that will, or might, significantly alter the performance characteristics of the method without prior approval by the Administrator. For purposes of this section (2.8), "alternative method" means an analyzer the use of which has been approved under sections 2.4, 2.5, or 2.6 of this appendix or some combination thereof.

2.8.2 Requests for approval under this section (2.8) must meet the submittal requirements of sections 2.7.1 and 2.7.2.1 of this appendix.

2.8.3 Each request submitted under this section (2.8) must include:

2.8.3.1 A description, in such detail as may be appropriate, of the desired modification;

2.8.3.2 A brief statement of the purpose(s) of the modification, including any reasons for considering it necessary or advantageous;

2.8.3.3 A brief statement of belief concerning the extent to which the modification will or may affect the performance characteristics of the method; and

2.8.3.4 Such further information as may be necessary to explain and support the statements required by subsections 2.8.3.2 and 2.8.3.3.

2.8.4 Within 75 days after receiving a request for approval under this section (2.8) and such further information as he may request for purposes of his decision, the Administrator will approve or disapprove the modification in question by letter to the person or agency requesting such approval.

2.8.5 A temporary modification that will or might alter the performance characteristics of a reference, equivalent, or alternative method may be made without prior approval under this section (2.8) if the method is not functioning or is malfunctioning, provided that parts necessary for repair in accordance with the applicable operation manual cannot be obtained within 45 days. Unless such temporary modification is later approved under subsection 2.8.4, the temporarily modified method shall be repaired in accordance with the applicable operation manual as quickly as practicable but in no event later than 4 months after the temporary modification was made, unless an extension of time is granted by the Administrator. Unless and until the temporary modification is approved, air quality data obtained with the method as temporarily modified must be clearly identified as such when submitted in accordance with § 58.28 or § 58.35 of this chapter and must be accompanied by a report containing the information specified in subsection 2.8.3. A request that the Administrator approve a temporary modification may be submitted in accordance with subsections 2.8.1 through 2.8.4. In such cases the request will be considered as if a request for prior approval had been made.

3.0 National Air Monitoring Stations (NAMS)

3.1 Methods used in those SLAMS which are also designated as NAMS to measure SO_2, CO, NO_2, or O_3, must be reference or equivalent methods which have the capability of providing hourly measurements.

4.0 Particulate Matter Episode Monitoring

4.1 For short-term measurements of particulate matter during air pollution episodes (see § 51.16 of this chapter) the measurement method must be:

4.1.1 Either the "Staggered High Volume Sampling" method or the "High Volume Sampling Over Short Sampling Times" method, both of which are based on the reference method for suspended particulates and are described in reference 1; or

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4.1.2 Any other method for measuring suspended particulates;

4.1.2.1 Which has a measurement range or ranges appropriate to accurately measure air pollution episode concentrations of suspended particulates,

4.1.2.2. Which has a sample period appropriate for short-term measurements, and

4.1.2.3 for which a quantitative relationship to the reference method for suspended particulates has been established at the use site. Procedures for establishing a quantitative site-specific relationship are contained in reference 1.

4.2 *Quality Assurance.* Particulate methods other than the reference method are not covered under the quality assessment requirements of Appendix A. Therefore, States must develop and implement their own quality assessment procedures for those methods allowed under this Section 4. These quality assessment procedures should be similar or analogous to those described in Section 3 of Appendix A for the particulate reference method.

5.0 References

5.1 "Guidance for Selecting TSP Episode Monitoring Methods," U.S. Environmental Protection Agency, Office of Air Quality Planning and Standards, Research Triangle Park, N.C. 27711, OAQPS No. 1.2–114, February, 1979.

APPENDIX D—NETWORK DESIGN FOR STATE AND LOCAL AIR MONITORING STATIONS (SLAMS) AND NATIONAL AIR MONITORING STATIONS (NAMS)

1. SLAMS MONITORING OBJECTIVES AND SPATIAL SCALES
2. SLAMS NETWORK DESIGN PROCEDURES
2.1 Background Information for Establishing SLAMS
2.2 Total Suspended Particulates (TSP) Design Criteria for SLAMS
2.3 Sulfur Dioxide (SO_2) Design Criteria for SLAMS
2.4 Carbon Monoxide (CO) Design Criteria for SLAMS
2.5 Ozone (O_3) Design Criteria for SLAMS
2.6 Nitrogen Dioxide (NO_2) Design Criteria for SLAMS
3. NETWORK DESIGN FOR NATIONAL AIR MONITORING STATIONS (NAMS)
3.1 Total Suspended Particulates (TSP) Design Criteria for NAMS
3.2 Sulfur Dioxide (SO_2) Design Criteria for NAMS
3.3 Carbon Monoxide (CO) Design Criteria for NAMS
3.4 Ozone (O_3) Design Criteria for NAMS
3.5 Nitrogen Dioxide (NO_2) Design Criteria for NAMS
4. SUMMARY
5. REFERENCES

1. SLAMS Monitoring Objectives and Spatial Scales

The purpose of this appendix is to describe monitoring objectives and general criteria to be applied in establishing the State and Local Air Monitoring Stations (SLAMS) networks and for choosing general locations for new monitoring stations. It also describes criteria for determining the number and location of National Air Monitoring Stations (NAMS). These criteria will also be used by EPA in evaluating the adequacy of SLAMS/NAMS networks.

The network of stations which comprise SLAMS should be designed to meet a minimum of four basic monitoring objectives. These basic monitoring objectives are: (1) To determine highest concentrations expected to occur in the area covered by the network; (2) to determine representative concentrations in areas of high population density; (3) to determine the impact on ambient pollution levels of significant sources or source categories; and (4) to determine general background concentration levels.

To a large extent, the existing State Implementation Plan (SIP) monitoring networks have been designed with these four objectives in mind. Thus, they can serve as the logical starting point for establishing the SLAMS network. This will, however, require a careful review of each existing SIP ambient network to determine the principal objectives of each station and the extent to which the location criteria presented herein are being met. It should be noted that this appendix contains no criteria for determining the total number of stations in SLAMS networks. The optimum size of a particular SLAMS network involves trade offs among data needs and available resources which EPA believes can best be resolved during the network design process.

This appendix focuses on the relationship between monitoring objectives and the geographical location of monitoring stations. Included are a rationale and set of general criteria for identifying candidate station locations in terms of physical characteristics which most closely match a specific monitoring objective. The criteria for more specifically siting the monitoring station including spacing from roadways and vertical and horizontal probe placement, are described in Appendix E of this part.

To clarify the nature of the link between general monitoring objectives and the physical location of a particular monitoring station, the concept of spatial scale of representativeness of a monitoring station is defined. The goal in siting stations is to correctly match the spatial scale represented by the sample of monitored air with the spatial scale most appropriate for the monitoring objective of the station.

Thus, spatial scale of representativeness is described in terms of the physical dimensions of the air parcel nearest to a monitoring station throughout which actual pollutant concentrations are reasonably similar. The scale of representativeness of most interest for the monitoring objectives defined above are as follows:

• *Microscale*—defines the concentrations in air volumes associated with area dimensions ranging from several meters up to about 100 meters.

• *Middle Scale*—defines the concentration typical of areas up to several city blocks in size with dimensions ranging from about 100 meters to 0.5 kilometer.

• *Neighborhood Scale*—defines concentrations within some extended area of the city that has relatively uniform land use with dimensions in the 0.5 to 4.0 kilometers range.

• *Urban Scale*—defines the overall, citywide conditions with dimensions on the order of 4 to 50 kilometers. This scale would usually require more than one site for definition.

• *Regional Scale*—defines usually a rural area of reasonably homogeneous geography and extends from tens to hundreds of kilometers.

• *National and Global Scales*—these measurement scales represent concentrations characterizing the nation and the globe as a whole.

Proper siting of a monitoring station requires precise specification of the monitoring objective which usually includes a desired spatial scale of representativeness. For example, consider the case where the objective is to determine maximum CO concentrations in areas where pedestrians may reasonably be exposed. Such areas would most likely be located within major street canyons of large urban areas and near traffic corridors. Stations located in these areas are most likely to have a microscale of representativeness since CO concentrations typically peak nearest roadways and decrease rapidly as the monitor is moved from the roadway. In this example, physical location was determined by consideration of CO emission patterns, pedestrian activity, and physical characteristics affecting pollutant dispersion. Thus, spatial scale of representativeness was not used in the selection process but was a *result* of station location.

In some cases, the physical location of a station is determined from joint consideration of both the basic monitoring objective, and a desired spatial scale of representativeness. For example, to determine CO concentrations which are typical over a reasonably broad geographic area having relatively high CO concentrations, a neighborhood scale station is more appropriate. Such a station would likely be located in a residential or commercial area having a high overall CO emission density but not in the immediate vicinity of any single roadway. Note that in this example, the desired scale of representativeness was an important factor in determining the physical location of the monitoring station.

In either case, classification of the station by its intended objective and spatial scale of representativeness is necessary and will aid in interpretation of the monitoring data.

Table 1 illustrates the relationship between the four basic monitoring objectives and the scales of representativeness that are generally most appropriate for that objective.

Table 1.—*Relationship among monitoring objectives and scale of representativeness*

Monitoring objective	Appropriate siting scales
Highest concentration	Micro, middle, neighborhood (sometimes urban).
Population	Neighborhood, urban.
Source impact	Micro, middle, neighborhood.
General/background	Neighborhood, regional.

Subsequent sections of this appendix describe in greater detail the most appropriate scales of representativeness and general monitoring locations for each pollutant.

2. Slams Network Design Procedures

The preceding section of this appendix has stressed the importance of defining the objectives for monitoring a particular pollutant. Since monitoring data are collected to "represent" the conditions in a section or subregion of a geographical area, the previous section included a discussion of the scale of representativeness of a monitoring station. The use of this physical basis for locating stations allows for an objective approach to network design.

The discussion of scales in Sections 2.2–2.6 does not include all of the possible scales for each pollutant. The scales which are discussed are those which are felt to be most pertinent for SLAMS network design.

In order to evaluate a monitoring network and to determine the adequacy of particular monitoring stations, it is necessary to examine each pollutant monitoring station individually by stating its monitoring objective and determining its spatial scale of representativeness. This will do more than insure compatibility among stations of the same type. It will also provide a physical basis for the interpretation and application of the data. This will help to prevent mismatches between what the data actually represent and what the data are interpreted to represent. It is important to note that SLAMS are not necessarily sufficient for completely describing air quality. In many situations, diffusion models must be applied to complement ambient monitoring, e.g., determining the impact of point sources or defining boundaries of nonattainment areas.

2.1 Background Information for Establishing SLAMS

Background information that must be considered in the process of selecting SLAMS from the existing network and in establishing new SLAMS includes emission inventories, climatological summaries, and local geographical characteristics. Such information is to be used as a basis for the judgmental decisions that are required during the station selection process. For new stations, the background information should be used to decide on the actual location considering the monitoring objective and spatial scale while following the detailed procedures in References 1 through 4.

Emission inventories are generally the most important type of background information needed to design the SLAMS network. The emission data provide valuable information concerning the size and distribution of large point sources. Area source emissions are usually available for counties but should be subdivided into smaller areas or grids where possible, especially if diffusion modeling is to be used as a basis for determining where stations should be located. Sometimes this must be done rather crudely, for example, on the basis of population or housing units. In general, the grids should be smaller in areas of dense population than in less densely populated regions.

Emission inventory information for point sources should be generally available for any area of the country for annual and seasonal averaging times. Specific information characterizing the emissions from large point sources for the shorter averaging times (diurnal variations, load curves, etc.) can often be obtained from the source. Area source emission data by season, although not available from the EPA, can be generated by apportioning annual totals according to degree days.

Detailed area source data are also valuable in evaluating the adequacy of an existing station in terms of whether the station has been located in the desired spatial scale of representativeness. For example, it may be the desire of an agency to have an existing CO station measuring in the neighborhood scale.

By examining the traffic data for the area and examining the physical location of the station with respect to the roadways, a determination can be made as to whether or not the station is indeed measuring the air quality on the desired scale.

The climatological summaries of greatest use are the frequency distributions of wind speed and direction. The wind rose is an easily interpreted graphical presentation of the directional frequencies. Other types of useful climatological data are also available, but generally are not as directly applicable to the site selection process as are the wind statistics.

In many cases, the meteorological data originating from the most appropriate (not necessarily the nearest) national weather service (NWS) airport station in the vicinity of the prospective siting area will adequately reflect conditions over the area of interest, at least for annual and seasonal averaging times. In developing data in complex meteorological and terrain situations, diffusion meteorologists should be consulted. NWS stations can usually provide most of the relevant weather information in support of network design activities anywhere in the country. Such information includes joint frequency distributions of winds and atmospheric stability (stability-wind roses).

The geographical material is used to determine the distribution of natural features, such as forests, rivers, lakes, and manmade features. Useful sources of such information may include road and topographical maps, aerial photographs, and even satellite photographs. This information may include the terrain and land-use setting of the prospective monitor siting area, the proximity of larger water bodies, the distribution of pollutant sources in the area, the location of NWS airport stations from which weather data may be obtained, etc. Land use and topographical characteristics of specific areas of interest can be determined from U.S. Geological Survey (USGS) maps and land use maps. Detailed information on urban physiography (building/street dimensions, etc.) can be obtained by visual observations, aerial photography, and also surveys to supplement the information available from those sources. Such information could be used in determining the location of local pollutant sources in and around the prospective station locations.

2.2 Total Suspended Particulates (TSP) Design Criteria for SLAMS

The first step in designing the TSP SLAMS network is to collect the necessary background information as discussed previously. For TSP monitoring purposes, emphasis on background information would be placed on regional and traffic maps and aerial photographs showing topography, settlements, major industries, and highways. These maps and photographs would be used to identify areas of the type that are of concern to the particular monitoring objective. After potentially suitable monitoring areas for TSP have been identified on a map, a model [8] may be used to provide an estimate of TSP concentrations throughout the area of interest.

The second step is to evaluate existing TSP stations which are candidates for SLAMS designation. Stations meeting one or more of the four monitoring objectives shown in Section 1, must be classified into one of four scales of representativeness (middle, neighborhood, urban, and regional) if the stations are to become SLAMS. In siting and classifying TSP stations, the procedures described in reference 1 should be used to evaluate existing stations and must be used to relocate an existing station or to locate any new SLAMS stations.

The following describes in detail the characteristics of each of the four scales relevant to TSP SLAMS.

• *Middle Scale.*—Much of the measurement of short-term public exposure to particulates is on this scale. People moving through downtown areas, or living near major roadways, encounter particulates that would be adequately characterized by observations of this spatial scale. Thus, measurements of this type would be appropriate for the evaluation of possible short-term public health effects of particulate pollution. This scale also includes the characteristic concentrations for other areas with dimensions of a few hundred meters such as the parking lot and feeder streets associated with indirect sources, that is, complexes that do not produce pollutants themselves but which attract a significant number of autos. Shopping centers, stadia, and office buildings are examples of indirect sources. In the case of TSP, unpaved or seldom swept parking lots associated with indirect sources could be an important source in addition to the vehicular emissions themselves.

• *Neigborhood Scale.*—Measurements in this category would represent conditions throughout some reasonably homogeneous urban subregion with dimensions of a few kilometers and generally more regularly shaped than the middle scale. Homogeneity refers to the TSP concentration, as well as the land use and land surface characteristics. In some cases, a location carefully chosen to provide neighborhood scale data would represent not only the immediate neighborhood but also neighborhoods of the same type in other parts of the city. Stations of this kind provide good information about trends and compliance with standards because they often represent conditions in

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areas where people commonly live and work for periods comparable to those specified in the NAAQS. In the sense used here, this category includes industrial and commercial neighborhoods, as well as residential.

Neighborhood scale data could provide valuable information for developing, testing, and revising models that describe the larger-scale concentration patterns, especially those models relying on spatially smoothed emission fields for inputs. The neighborhood scale measurements could also be used for neighborhood comparisons within or between cities. This is the most likely scale of measurement to meet the needs of planners.

• *Urban Scale.*—This class of measurement would be made to typify the particulate concentration over an entire metropolitan area. Such measurements would be useful for assessing trends in city-wide air quality, and hence, the effectiveness of large scale air pollution control strategies.

• *Regional Scale.*—These measurements would characterize conditions over areas with dimensions of as much as hundreds of kilometers. As noted earlier, using representative conditions for an area implies some degree of homogeneity in that area. For this reason, regional scale measurements would be most applicable to sparsely populated areas with reasonably uniform ground cover. Data characteristics of this scale would provide information about larger-scale processes of particulate emissions, losses, and transport.

2.3 *Sulfur Dioxide (SO_2) Design Criteria for SLAMS*

The spatial scales for SO_2 SLAMS monitoring are the middle, neighborhood, urban, and regional scales. Because of the nature of SO_2 distributions over urban areas, the middle scale is the most likely scale to be represented by a single measurement in an urban area, but only if the undue effects from local sources (minor or major point sources) can be eliminated. Neighborhood scales would be those most likely to be represented by single measurements in suburban areas where the concentration gradients are less steep. Urban scales would represent areas where the concentrations are uniform over a larger geographical area. Regional scale measurements would be associated with rural areas.

• *Middle Scale.*—Some data uses associated with middle scale measurements for SO_2 include assessing the effects of control strategies to reduce urban concentrations (especially for the 3-hour and 24-hour averaging times) and monitoring air pollution episodes.

• *Neighborhood Scale.*—This scale applies in areas where the SO_2 concentration gradient is relatively flat (mainly suburban areas surrounding the urban center) or in large sections of small cities and towns. In general, these areas are quite homogeneous in terms of SO_2 emission rates and population density. Thus, neighborhood scale measurements may be associated with baseline concentrations in areas of projected growth and in studies of population responses to exposure to SO_2. Also concentration maxima associated with air pollution episodes may be uniformly distributed over areas of neighborhood scale, and measurements taken within such an area would represent neighborhood, and to a limited extent, middle scale concentrations.

• *Urban Scale.*—Data from this scale could be used for the assessment of air quality trends and the effect of control strategies on urban scale air quality.

• *Regional Scale.*—These measurements would be applicable to large homogeneous areas, particularly those which are sparsely populated. Such measurements could provide information on background air quality and interregional pollutant transport.

After the spatial scale has been selected to meet the monitoring objectives for each station location, the procedures found in reference 2 should be used to evaluate the adequacy of each existing SO_2 station and must be used to relocate an existing station or to locate any new SLAMS stations. The background material for these procedures should consist of emission inventories, meteorological data, wind roses, and maps for population and topographical characteristics of specific areas of interest. Isopleth maps of SO_2 air quality as generated by diffusion models are useful for the general determination of a prospective area within which the station is eventually placed.

2.4 *Carbon Monoxide (CO) Design Criteria for SLAMS*

Micro, middle, and neighborhood scale measurements are necessary station classifications for SLAMS since most people are exposed to CO concentrations in these scales. Carbon monoxide maxima occur primarily in areas near major roadways and intersections with high traffic density and poor atmospheric ventilation. As these maxima can be predicted by ambient air quality modeling, a large fixed network of CO monitors is not required. Long-term CO monitoring should be confined to a limited number of micro and neighborhood scale stations in large metropolitan areas to measure maximum pollution levels and to determine the effectiveness of control strategies.

• *Microscale.*—Measurements on this scale would represent distributions within street canyons, over sidewalks, and near major roadways. The measurements at a particular location in a street canyon would be typical of one high concentration area which can be shown to be a representation of many more areas throughout the street canyon or other similar locations in a city. This is a scale of measurement that would provide valuable information for devising and evaluating "hot spot" control measures.

• *Middle Scale.*—This category covers dimensions from 100 meters to 0.5 kilometer. In certain cases discussed below, it may apply to regions that have a total length of several kilometers. In many cases of interest, sources and land use may be reasonably homogeneous for long distances along a street, but very inhomogeneous normal to the street. This is the case with strip development and freeway corridors. Included in this category are measurements to characterize the CO concentrations along the urban features just enumerated. When a location is chosen to represent conditions in a block of street development, then the characteristic dimensions of this scale are tens of meters by hundreds of meters. If an attempt is made to characterize street-side conditions throughout the downtown area or along an extended stretch of freeway, the dimensions may be tens of meters by kilometer.

The middle scale would also include the parking lots and feeder streets associated with indirect sources which attract significant numbers of pollutant emitters, particularly autos. Shopping centers, stadia, and office buildings are examples of indirect sources.

• *Neighborhood Scale.*—Measurements in this category would represent conditions throughout some reasonably homogeneous urban subregions, with dimensions of a few kilometers and generally more regularly shaped than the middle scale. Homogeneity refers to CO concentration, but it probably also applies to land use. In some cases, a location carefully chosen to provide neighborhood scale data, might represent not only the immediate neighborhood, but also neighborhoods of the same type in other parts of the city. These kinds of stations would provide information relating to health effects because they would represent conditions in areas where people live and work. Neighborhood scale data would provide valuable information for developing, testing, and revising concepts and models that describe the larger scale concentration patterns, especially those models relying on spatially smoothed emission fields for inputs. These types of measurements could also be used for interneighborhood comparisons within or between cities.

After the spatial scale has been determined to meet the monitoring objectives for each location, the location selection procedures, as shown in reference 3 should be used to evaluate the adequacy of each existing CO station and must be used to relocate an existing station or to locate any new SLAMS stations. The background material necessary for these procedures may include the average daily traffic on all streets in the area, wind roses for different hours of the day, and maps showing one-way streets, street widths, and building heights. If the station is to typify the area with the highest concentrations, the streets with the greatest daily traffic should be identified. If some streets are one-way, those streets that have the greatest traffic during the afternoon and evening hours should be selected as tentative locations, because the periods of high traffic volume are usually of greatest duration through the evening hours. However, the strength of the morning inversion has to be considered along with the traffic volume and pattern when seeking areas with the highest concentrations. Traffic counters near the stations will provide valuable data for interpreting the observed CO Concentrations.

Monitors should not be placed in the vicinity of possible anomalous source areas. Examples of such areas include toll gates on turnpikes, metered freeway ramps, and drawbridge approaches. Additional information on network design may be found in reference 3.

2.5 *Ozone (O_3) Design Criteria for SLAMS*

Ozone is not directly emitted into the atmosphere but results from complex photochemical reactions involving organic compounds, oxides of nitrogen, and solar radiation.

The relationships between primary emissions (precursors) and secondary pollutants (O_3) tend to produce large separations spatially and temporally between the major sources and the areas of high oxidant pollution. This suggests that the meteorological transport process and the relationships between sources and sinks need to be considered in the development of the network design criteria and placement of monitoring stations, especially in measuring peak concentration levels.

The principal spatial scales for SLAMS purposes based on the monitoring objectives are neighborhood, urban, regional, and to a lesser extent, middle scale. Since ozone requires appreciable formation time, the mixing of reactants and products occurs over large volumes of air, and this reduces the importance of monitoring small scale spatial variability.

• *Middle Scale.*—Measurement in this scale would represent conditions close to sources of NO_x such as roads where it would be expected that suppression of O_3 concentrations would occur. Measurements at these stations would represent conditions over relatively small portions of the urban area.

• *Neighborhood Scale.*—Measurements in this category represent conditions throughout some reasonably homogeneous urban subregion, with dimensions of a few kilometers. Homogeneity refers to pollutant concentrations. Neighborhood scale data will provide valuable information for developing, testing, and revising concepts and models that describe urban/regional concentration patterns. They will be useful to the understanding and definition of processes that take periods of hours to occur and hence involve considerable mixing and transport. Under stagnation conditions, a station located in the neighborhood scale may also experience peak concentration levels within the urban areas.

• *Urban Scale.*—Measurement in this scale will be used to estimate concentrations over large portions of an urban area with dimensions of several kilometers to 50 or more kilometers. Such measurements will be used for determining trends, and designing area-wide control strategies. The urban scale stations would also be used to measure high concentrations downwind of the area having the highest precursor emissions.

• *Regional Scale.*—This scale of measurement will be used to typify concentrations over large portions of a metropolitan area and even larger areas with dimensions of as much as hundreds of kilometers. Such measurements will be useful for assessing the ozone that is transported into an urban area. Data from such stations may be useful in accounting for the ozone that cannot be reduced by control strategies in that urban area.

The location selection procedure continues after the spatial scale is selected based on the monitoring objectives. The appropriate network design procedures as found in reference 4, should be used to evaluate the adequacy of each existing O_3 monitor and must be used to relocate an existing station or to locate any new O_3 SLAMS stations. The first step in the siting procedure would be to collect the necessary background material, which may consist of maps, emission inventories for nonmethane hydrocarbons and oxides of nitrogen (NO_x), climatological data, and existing air quality data for ozone, nonmethane hydrocarbons, and NO_x/NO.

For locating a neighborhood scale station to measure typical city concentrations, a reasonably homogeneous geographical area near the center of the region should be selected which is also removed from the influence of major NO_x sources. For an urban scale station to measure the high concentration areas, the emission inventories should be used to define the extent of the area of important nonmethane hydrocarbons and NO_x emissions. The most frequent wind speed and direction for periods of important photochemical activity should be determined. Then the prospective monitoring area should be selected in a direction from the city that is most frequently downwind during periods of photochemical activity. The distance from the station to the upwind edge of the city should be about equal to the distance traveled by air moving for 5 to 7 hours at wind speeds prevailing during periods of photochemical activity. Prospective areas for locating O_3 monitors should always be outside the area of major NO_x.

In locating a neighborhood scale station which is to measure high concentrations, the same procedures used for the urban scale are followed except that the station should be located closer to the areas bordering on the center city or slightly further downwind in an area of high density population.

For regional scale background monitoring stations, the most frequent wind associated with important photochemical activity should be determined. The prospective monitoring area should be upwind for the most frequent direction and outside the area of city influence.

Where ozone levels have significant fluctuations throughout the year, consideration should be given to monitoring ozone only during the seasons when levels above the NAAQS occur as documented by previous data. Additional discussion on the procedures for siting ozone stations may be found in reference 4.

2.6 *Nitrogen Dioxide (NO_2) Design Criteria for SLAMS*

The typical spatial scales of representativeness associated with nitrogen dioxide monitoring based on monitoring objectives are middle, neighborhood, and urban. Since nitrogen dioxide is primarily formed in the atmosphere from the oxidation of NO, large volumes of air and mixing times usually reduce the importance of monitoring on small scale spatial variability especially for long averaging times. However, there may be some situations where NO_2 measurements would be made on the middle scale for both long- and short-term averages.

• *Middle Scale.*—Measurements on this scale would cover dimensions from about 100 meters to 0.5 kilometer. These measurements would characterize the public exposure to NO_2 in populated areas. Also monitors that are located closer to roadways than the minimum distances specified in Table 3 of Appendix E of this part, would be represented by measurements on this scale.

• *Neighborhood and Urban Scales.*—The same considerations as discussed in Section 2.5 for O_3 would also apply to NO_2.

After the spatial scale is selected based on the monitoring objectives, then the siting procedures as found in reference 4 should be used to evaluate the adequacy of each existing NO_2 station and must be used to relocate an existing station or to locate any new NO_2 SLAMS stations. The siting procedures begin with collecting the background material. This background information may include the characteristics of the area and its sources under study, climatological data to determine where concentration maxima are most likely to be found, and any existing monitoring data for NO_2.

For neighborhood or urban scales, the emphasis in site selection will be in finding those areas where long-term averages are expected to be the highest. Nevertheless, it should be expected that the maximum NO_2 concentrations will occur in approximately the same locations as the maximum total oxides of nitrogen concentrations. The best course would be to locate the station somewhat further downwind beyond the expected point of maximum total oxides of nitrogen to allow more time for the formation of NO_2. The dilution of the emissions further downwind from the source should be considered along with the need for reaction time for NO_2 formation in locating stations to measure peak concentration. If dispersion is favorable, maximum concentrations may occur closer to the emission sources than the locations predicted from oxidation of NO to NO_2 alone. This will occur downwind of sources based on winter wind direction or in areas where there are high ozone concentrations and high density NO_2 emissions such as on the fringe of the central business district or further downwind. The distance and direction downwind would be based on ozone season wind patterns.

Once the major emissions areas and wind patterns are known, areas of potential maximum NO_2 levels can be determined. Nitrogen dioxide concentrations are likely to decline rather rapidly outside the urban area. Therefore, the best location for measuring NO_2 concentrations will be in neighborhoods near the edge of the city.

3. Network Design for National Air Monitoring Stations (NAMS)

The NAMS must be stations selected from the SLAMS network with emphasis given to urban and multisource areas. Areas to be monitored must be selected based on urbanized population and pollutant concentration levels. Generally, a larger number of NAMS are needed in more polluted urban and multisource areas. The network design criteria discussed below reflect these concepts. However, it should be emphasized that deviations from the NAMS

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network design criteria may be necessary in a few cases. Thus, these design criteria are not a set of rigid rules but rather a guide for achieving a proper distribution of monitoring sites on a national scale.

The primary objective for NAMS is to monitor in the areas where the pollutant concentration and the population exposure are expected to be the highest consistent with the averaging time of the NAAQS. Accordingly, the NAMS fall into two categories:

Category (a): Stations located in the area(s) of expected maximum concentrations (generally neighborhood scale, except micro scale for CO and urban scale for O_3);

Category (b): Stations which combine poor air quality with a high population density but not necessarily located in an area of expected maximum concentrations (neighborhood scale, except urban scale for NO_2). Category (b) monitors would generally be representative of larger spatial scales than category (a) monitors.

For each urban area where NAMS are required, both categories of monitoring stations must be established. In the case of TSP and SO_2 if only one NAMS is needed, then category (a) must be used. The analysis and interpretation of data from NAMS should consider the distinction between these types of stations as appropriate.

The concept of NAMS is designed to provide data for national policy analyses/ trends and for reporting to the public on major metropolitan areas. It is not the intent to monitor in every area where the NAAQS are violated. On the other hand, the data from SLAMS should be used primarily for nonattainment decisions/ analyses in specific geographical areas. Since the NAMS are stations from the SLAMS network, station locating procedures for NAMS are part of the SLAMS network design process.

3.1 *Total Suspended Particulates (TSP) Design Criteria for NAMS*

Table 2 indicates the approximate number of permanent stations needed in urban areas to characterize national and regional TSP air quality trends and geographical patterns. The criteria require that the number of stations in areas where urban populations exceed 500,000 and concentrations exceed the primary NAAQS range from 6 to 8 but in small urban areas, no more than two stations are required. A range of monitoring stations is specified in Table 2 because sources of pollutants and local control efforts can vary from one part of the country to another and therefore, some flexibility is allowed in selecting the actual number of stations in any one locale. For those cases where more than one station is required for an urban area, there should be at least one station for category (a) and category (b) objectives as discussed in Section 3. Where three or more stations are required, the mix of category (a) and (b) stations is determined on a case-by-case basis. The actual number of NAMS and their locations must be determined by EPA Regional Offices and the State agencies subject to the approval of EPA Headquarters (OANR). The EPA Headquarters approval is necessary to insure that individual stations conform to the NAMS selection criteria and the network as a whole is sufficient in terms of number and location for purposes of national analyses.

Table 2.—*TSP National Air Monitoring Station Criteria (Approximate Number of Stations Per Area)*[a]

Population category	High concentration[b]	Medium concentration[c]	Low concentration[d]
High population, >500,000	6–8	4–6	0–2
Medium population, 100,000–500,000	4–6	2–4	0–2
Low population, 50,000–100,000	2–4	1–2	0

[a] Selection of urban areas and actual number of stations per area will be jointly determined by EPA and the State agency.
[b] High concentration—exceeding level of the primary NAAQS by 20 percent or more.
[c] Medium concentration—exceeding secondary NAAQS.
[d] Low concentration—less than secondary NAAQS.

The estimated number of TSP NAMS required nationwide will range from approximately 600 to 700. This range of stations is based on a statistical analysis of the data and computations of the probability of detecting certain rates of change over a specific number of years. An assumption was made that the variability of the data was 20 percent, i.e., a 95 percent confidence interval around the annual mean would be 20 percent. This assumption may be regarded as a "ballpark figure." The sampling error from an every sixth-day schedule would be roughly 10 percent so an overall variability of 20 percent may be regarded as a reasonable approximation.

For TSP, it is unlikely that the same rate of change would apply throughout the nation. Regional differences in the TSP problem make it essential that the networks also be useful for regional trend assessments. In most practical applications, trends will be assessed on the basis of 3–5 years of data to minimize the impact of meteorological influences. With 60 to 70 sites in each geographical region, there is a reasonably good chance of detecting 3-year trends of more than 2 percent per year.

Using a TSP trend network of 600–700 stations there would be a reasonable chance of determining 5-year trends of more than 3 percent per year in the medium population cities with high TSP, but less than 50/50 chance of detecting 3-year trends of less than 5 percent per year in any city. Therefore, the overall range of 600–700 TSP NAMS seems to be acceptable for the purposes of national and regional trends. The actual number of monitors in any specific area would depend on local factors such as meteorology, topography, urban and regional air quality gradients, and the potential for significant air quality improvement or degradation. Generally, the greatest density of stations would occur in the northeastern States, where urban populations are large and where pollutant levels are high.

Generally, the worst air quality in an urban area should be used as the basis for determining the required number of TSP NAMS (see Table 2). This includes air quality levels, within populated parts of urbanized areas, that are affected by one or two point sources of particulates if the impact of the source(s) extends over a reasonably broad geographic scale (neighborhood or larger). Maximum air quality levels in remote unpopulated areas should be excluded as a basis for selecting TSP NAMS regardless of the sources affecting the concentration levels. Such remote areas are more appropriately monitored by SLAMS or SPM networks and/ or characterized by diffusion model calculations as necessary.

3.2 *Sulfur Dioxide (SO_2) Design Criteria for NAMS*

As with TSP monitoring, it is desirable to have a greater number of NAMS in the more polluted and densely populated urban and multisource areas. The data in Table 3 show the approximate number of permanent stations needed in urban areas to characterize the national and regional SO_2 air quality trends and geographical patterns. These criteria require that the number of NAMS in areas where urban populations exceed 500,000 and concentrations also exceed the primary NAAQS may range from 6 to 8 and that in areas where the SO_2 problem is minor, only one or two (or no) monitors are required. For those cases where more than one station is required for an urban area, there should be at least one station for category (a) and category (b) objectives as discussed in section 3. Where three or more stations are required, the mix of category (a) and (b) stations is determined on a case-by-case basis. The actual number and location of the NAMS must be determined by EPA Regional Office and the State agency, subject to the approval of EPA headquarters (OANR).

Table 3.—*SO_2 National Air Monitoring Station Criteria (Approximate Number of Stations Per Area)*[a]

Population category	High Concentration[b]	Medium Concentration[c]	Low Concentration[d]
High population, >500,000	6–8	4–6	0–2
Medium population, 100,000–500,000	4–6	2–4	0–2
Low population, 50,000–100,000	2–4	1–2	0

[a] Selection of urban areas and actual number of stations per area will be jointly determined by EPA and the State agency.
[b] High concentration—exceeding level of the primary NAAQS.
[c] Medium concentration—exceeding 60 percent of the level of the primary or 100 percent of the secondary NAAQS.
[d] Low concentration—less than 60 percent of the level of the primary or 100 percent of the secondary NAAQS.

The estimated number of SO_2 NAMS which would be required nationwide ranges from approximately 200 to 300. This range in the number of stations is less than for TSP. This is because there are more urban areas with high TSP levels than with high SO_2 levels. Also, the background air quality levels are higher for TSP than for SO_2, and thus air quality is more sensitive to SO_2 emission changes than for TSP. Therefore, fewer NAMS are needed on a national basis for SO_2 than for TSP. The actual number of stations in any specific area depends on local factors such as meteorology, topography, urban and regional air quality gradients, and the potential for significant air quality improvements or degradation. The greatest density of stations should be where urban

populations are large and where pollution levels are high. Fewer NAMS are necessary in the western States since concentrations are seldom above the NAAQS in their urban areas. Exceptions to this are in the areas where an expected shortage of clean fuels indicates that ambient air quality may be degraded by increased SO_2 emissions. In such cases, a minimum number of NAMS is required to provide EPA with a proper national perspective on significant changes in air quality.

Like TSP, the worst air quality in an urban area is to be used as the basis for determining the required number of SO_2 NAMS (see Table 3). This includes SO_2 air quality levels within populated parts of urbanized areas, that are affected by one or two point sources of SO_2 if the impact of the source(s) extends over a reasonably broad geographic scale (neighborhood or larger). Maximum SO_2 air quality levels in remote unpopulated areas should be excluded as a basis for selecting NAMS regardless of the sources affecting the concentration levels. Such remote areas are more appropriately monitored by SLAMS or SPM networks and/ or characterized by diffusion model calculations as necessary.

3.3 *Carbon Monoxide (CO) Design Criteria for NAMS*

Information is needed on ambient CO levels in major urbanized areas where CO levels have been shown or inferred to be a significant concern. At the national level, EPA will not routinely require data from as many stations as are required for TSP, and perhaps, SO_2, since CO trend stations are principally needed to assess the overall air quality progress resulting from the emission controls required by the Federal motor vehicle control program (FMVCP).

Although State and local air programs may require extensive monitoring to document and measure the local impacts of CO emissions and emission controls, an adequate national perspective is possible with as few as two stations per major urban area. The two categories for which CO NAMS would be required are: (a) peak concentration areas such as are found around major traffic arteries and near heavily traveled streets in downtown areas (micro scale); and (b) neighborhoods where concentration exposures are significant (neighborhood scale).

The peak concentration station (micro scale) is usually found near heavily traveled downtown streets (street canyons), but could be found along major arterials (corridors), either near intersections or at low elevations which are influenced by downslope drainage patterns under low inversion conditions. The peak concentration station should be located so that it is representative of several similar source configurations in the urban area, where the general population has access. Thus, it should reflect one of many potential peak situations which occur throughout the urban area. It is recognized that this does not measure air quality which represents large geographical areas. Thus, a second type of station on the neighborhood scale is necessary to provide data representative of the high concentration levels which exist over large geographical areas.

The neighborhood station (neighborhood scale) should be located in areas with a stable, high population density, projected continuity of neighborhood character, and high traffic density. The stations should be located where no major zoning changes, new highways, or new shopping centers are being considered. The station should be where a significant CO pollution problem exists, but not be under the influence of any one line source. Rather, it should be more representative of the overall effect of the sources in a significant portion of the urban area.

Because CO is generally associated with heavy traffic and population clusters, an urbanized area with a population greater than 500,000 is the principal criterion for identifying the urban areas for which pairs of NAMS for this pollutant will be required. The criterion is based on judgment that stations in urban areas with greater than 500,000 population would provide sufficient data for national analysis and national reporting to Congress and the public. Also, it has generally been shown that major CO problems are found in areas greater than 500,000 population.

3.4 *Ozone (O_3)* Design Criteria for NAMS

The criterion for selecting locations for ozone NAMS is any urbanized area having a population of more than 200,000. This population cut off is used since the sources of hydrocarbons are both mobile and stationary and are more diverse. Also, because of local and national control strategies and the complex chemical process of ozone formation and transport, more sampling stations than for CO are needed on a national scale to better understand the ozone problem. This selection criterion is based entirely on population and will include those relatively highly populated areas where most of the oxidant precursors originate.

Each urban area will generally require only two ozone NAMS. One station would be representative of maximum ozone concentrations (category (a), urban scale) under the wind transport conditions as discussed in section 2.5. The exact location should balance local factors affecting transport and buildup of peak O_3 levels with the need to represent population exposure. The second station (category (b), neighborhood scale), should be representative of high density population areas on the fringes of the central business district along the predominant summer/fall daytime wind direction. This latter station should measure peak O_3 levels under light and variable or stagnant wind conditions. Two ozone NAMS stations will be sufficient in most urban areas since spatial gradients for ozone generally are not as sharp as for other criteria pollutants.

3.5 *Nitrogen Dioxide (NO_2) Criteria for NAMS*

Nitrogen dioxide NAMS will be required in those areas of the country which have a population greater than 1,000,000. These areas will have two NO_2 NAMS. It is felt that stations in these major metropolitan areas would provide sufficient data for a national analysis of the data, and also because NO_2 problems occur in areas of greater than 1,000,000 population.

Within urban areas requiring NAMS, two permanent monitors are sufficient. The first station (category (a) neighborhood scale) would be to measure the photochemical production of NO_2 and would best be located in that part of the urban area where the emission density of NO_x is the highest. The second station (category (b) urban scale), would be to measure the NO_2 produced from the reaction of NO with O_3 and should be downwind of the area of peak NO_x emission areas.

4. Summary

Table 4 shows by pollutant, all of the spatial scales that are applicable for SLAMS and the required spatial scales for NAMS. There may also be some situations, as discussed later in Appendix E, where additional scales may be allowed for NAMS purposes.

Spatial scale	Scales applicable for SLAMS					Scales required for NAMS				
	TSP	SO_2	CO	O_3	NO_2	TSP	SO_2	CO	O_3	NO_2
Micro			✓					✓		
Middle	✓	✓	✓	✓	✓					
Neighborhood	✓	✓	✓	✓	✓	✓	✓	✓	✓	✓
Urban	✓	✓		✓	✓				✓	✓
Regional	✓	✓		✓						

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5. References

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Appendix E—Probe Siting Criteria for Ambient Air Quality Monitoring

1. Introduction
2. Total Suspended Particulates (TSP)
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1. Introduction

This appendix contains probe siting criteria to be applied to ambient air quality monitors or monitor probes after the general station location has been selected based on the monitoring objectives and spatial scale of representativeness as discussed in Appendix D of this part. Adherence to these siting criteria is necessary to ensure the uniform collection of compatible and comparable air quality data.

The probe siting criteria as discussed below must be followed to the maximum extent possible. It is recognized that there may be situations when the probe siting criteria cannot be followed. If the siting criteria cannot be met, this must be thoroughly documented with a written request for a waiver which describes how and why the siting criteria differs. This documentation should help to avoid later questions about the data. Conditions under which EPA would consider an application for waiver from these siting criteria are discussed in Section 8 of this appendix.

The spatial scales of representativeness used in this appendix, i.e., micro, middle, neighborhood, urban, and regional are defined and discussed in Appendix D of this part. The pollutant specific probe siting criteria generally apply to all spatial scales except where noted otherwise. Specific siting criteria that are prefaced with a "must" are defined as a requirement and exceptions must be approved through the waiver provisions. However, siting criteria that are prefaced with a "should" are defined as a goal to meet for consistency but are not a requirement.

2. Total Suspended Particulates (TSP)

2.1 *Vertical Placement*

The most desirable height for a TSP monitor is near the breathing zone. Practical considerations such as prevention of vandalism, security, accessibility, availability of electricity, etc., require that the sampler be elevated and that a range of acceptable heights be specified. For TSP, the air intake for a TSP monitor must be located 2 to 15 meters above ground level. The lower limit was based on a compromise between ease of servicing the sampler and the desire to avoid reentrainment from dusty surfaces. The upper limit represents a compromise between the desire to have measurements which are most representative of population exposures, and the consideration for the location of existing monitors.

2.2 *Spacing from Obstructions*

If the sampler is located on a roof or other structure, then there must be a minimum of 2 meters separation from walls, parapets, penthouses, etc. No furnace or incineration flues should be nearby. This separation distance from flues is dependent on the height of the flues, type of waste or fuel burned, and quality of the fuel (ash content). For example, if the emissions from the chimney are the result of natural gas combustion, no special precautions are necessary except for the avoidance of obstructions, i.e., at least 2 meters separation.

On the other hand, if fuel oil, coal, or solid waste is burned and the stack is sufficiently short so that the plume could reasonably be expected to impact on the sampler intake a significant part of the time, other buildings/locations in the area that are free from these types of sources should be considered for sampling. Trees provide surfaces for particulate deposition and also restrict airflow. Therefore, the sampler should be placed at least 20 meters from trees.

The sampler must also be located away from obstacles such as buildings, so that the distance between obstacles and the sampler is at least twice the height that the obstacle protrudes above the sampler. Sampling stations that are located closer to obstacles than this criterion allows should not be classified as neighborhood, urban, or regional scale, since the measurements from such a station would closely represent middle scale stations. Therefore, stations not meeting the criterion should be classified as middle scale. There must also be unrestricted airflow in an arc of at least 270° around the sampler, and the predominant wind direction for the season of greatest pollutant concentration potential must be included in the 270° arc.

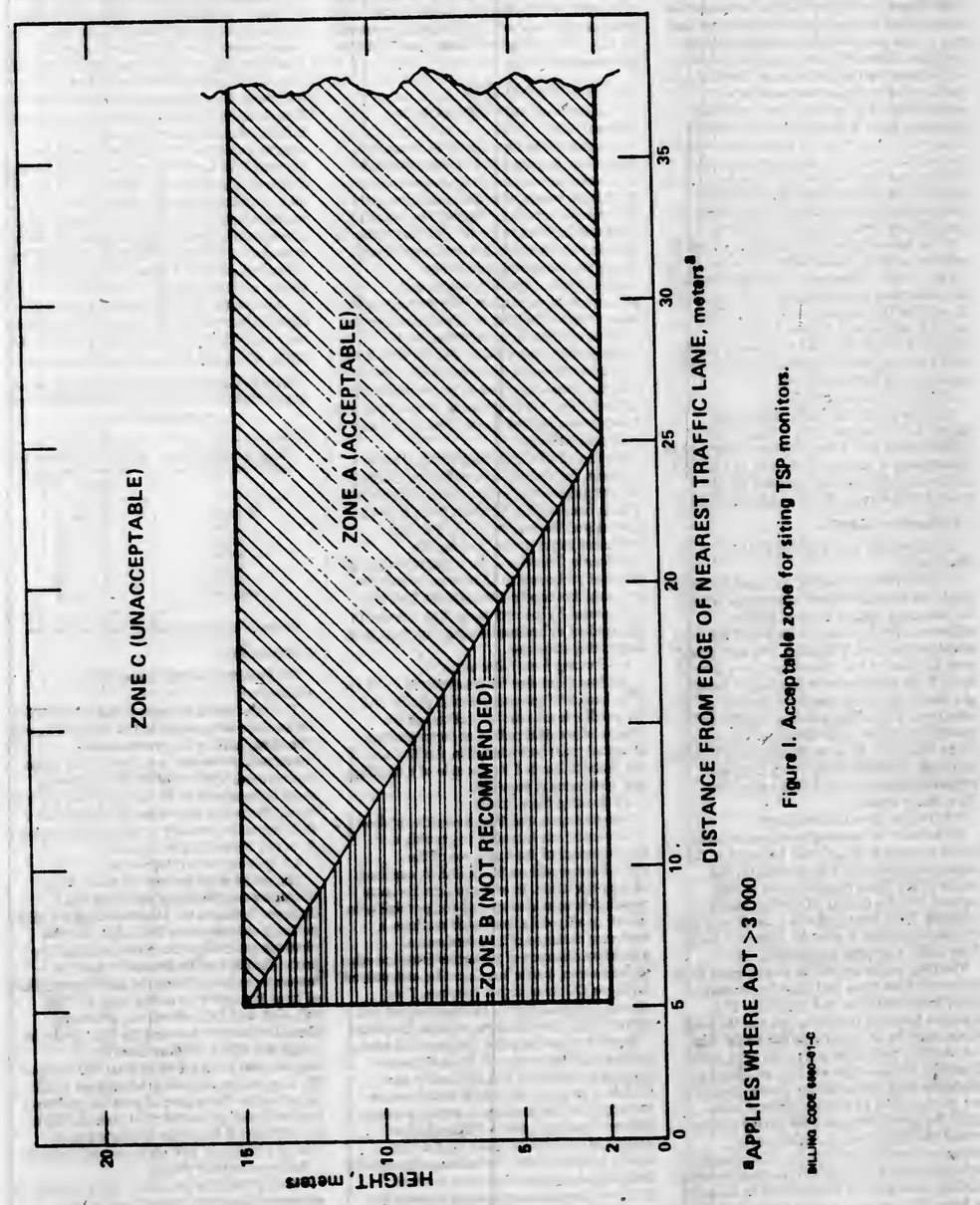
2.3 *Spacing from Roads*

A number of studies [10,8] support the conclusion that TSP concentrations decrease with increasing height of the monitor and distance from roads. Quite high concentrations have been reported at monitors located at a low elevation close to heavily traveled roads. Moreover, monitors located close to streets are within the concentrated plume of particulate matter emitted and generated by vehicle traffic. Except for special purpose monitoring studies where the monitoring objective is to determine the impact of a single source, ambient monitors should not be located so as to measure the plume of a single source. For TSP, it is appropriate that ambient monitors be located beyond the concentrated particulate plume generated by traffic, and not so close that the roadway totally dominates the measured ambient concentration.

An analysis of various monitoring studies [9] shows that a linear relationship between sampler height and distance from roadways defines a zone where the plume generated by traffic greater than approximately 3,000 vehicles per day is diminished. Figure 1 illustrates this relationship by showing two zones where TSP SLAMS could be located. Zone A represents locations which are recommended for the neighborhood, urban and regional scales and also for most middle scale locations. Zone B represents locations which should be avoided in order to minimize undesirable roadway influences.

Because of the pronounced TSP air quality gradients generally expected near roadways, SLAMS which for certain reasons cannot be located in Zone A and are located in Zone B would be classified as having a middle scale of representativeness. NAMS must be located in Zone A, and it is recommended that most SLAMS be located in Zone A.

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[a] APPLIES WHERE ADT >3 000

Figure I. Acceptable zone for siting TSP monitors.

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M Y 1 0 7 9 UMI

V 4 4 / 9 2 M Y 1 0 7 9 UMI

In light of several street canyon studies cited above, it appears that the street canyon may confine resuspended roadway dust and may not be a suitable location for ambient monitors. However, since roads with lower traffic (less than approximately 3,000 vehicles per day) generally do not generate a concentrated particulate plume, monitors located in Zone B should not be adversely influenced. Therefore, for those cases where the traffic is less than approximately 3,000 vehicles per day, the monitor must be located greater than 5 meters from the edge of the nearest traffic lane and 2 to 15 meters above ground level (either Zone A or Zone B).

In the case of elevated roadways where the monitor must be placed below the level of the roadway, then the monitor should be located no closer than approximately 25 meters from the edge of the nearest traffic lane. This separation distance applies for those situations where the road is elevated greater than 5 meters above the ground level, and applies to all traffic volumes.

2.4 *Other Considerations*

Stations should not be located in an unpaved area unless there is vegetative ground cover year round so that the impact of reentrained or fugitive dusts will be kept to a minimum. Addtional information on TSP probe siting may be found in reference 10.

3. Sulfur Dioxide (SO_2)

3.1 *Horizontal and Vertical Probe Placement*

As with TSP monitoring, the most desirable height for an SO_2 monitor inlet probe is near the breathing height. Various factors enumerated before may require that the inlet probe be elevated. Therefore, the inlet probe must be located 3 to 15 meters above ground level. If the inlet probe is located on the side of a building, then it should be located on the windward side of the building relative to the prevailing winter wind direction. The inlet probe must also be located more than 1 meter vertically or horizontally away from any supporting structure and also away from dirty, dusty areas.

3.2 *Spacing from Obstructions*

No furnace or incineration flues, or other minor sources of SO_2 should be nearby. The separation distance is dependent on the height of the flues, type of waste or fuel burned, and the quality of the fuel (sulfur content). If the inlet probe is located on a roof or other structure, it must be at least 1 meter from walls, parapets, penthouses, etc.

The inlet probe should be placed more than 20 meters from trees and must be located away from obstacles and buildings. The distance between the obstacles and the inlet probe must be at least twice the height that the obstacle protrudes above the inlet probe. Sampling stations that are located closer to obstacles than this criterion allows should not be classified as a neighborhood scale, since the measurements from such a station would closely represent middle scale stations. Therefore, stations not meeting the criterion should be classified as middle scale. Airflow must also be unrestricted in an arc of at least 270° around the inlet probe, and the predominant wind direction for the season of greatest pollutant concentration potential must be included in the 270° arc. If the probe is located on the side of a building, 180° clearance is required. Additional information on SO_2 probe siting criteria may be found in reference 11.

4. Carbon Monoxide (CO)

4.1 *Horizontal and Vertical Probe Placement*

Because of the importance of measuring population exposure to CO concentrations, air should be sampled at average breathing heights. However, practical factors require that the inlet probe be higher. The required height of the inlet probe for CO monitoring is therefore 3 ± ½ meter for a microscale site, which is a compromise between representative breathing height and prevention of vandalism. The recommended 1 meter range of heights is also a compromise to some extent. For consistency and comparability, it would be desirable to have all inlets at exactly the same height, but practical considerations often prevent this. Some reasonable range must be specified and 1 meter provides adequate leeway to meet most requirements.

For the middle and neighborhood scale stations, the vertical concentration gradients are not as great as for the microscale station. This is because the diffusion from roads is greater and the concentrations would represent larger areas than for the microscale. Therefore, the required height of the inlet probe is 3 to 15 meters for middle and neighborhood scale stations. The inlet probe must be located more than 1 meter in the vertical or horizontal direction from any supporting structure.

4.2 *Spacing from Obstructions*

Airflow must also be unrestricted in an arc of at least 270° around the inlet probe, and the predominant wind direction for the season of greatest pollutant concentration potential must be included in the 270° arc. If the probe is located on the side of a building, 180° clearance is required.

4.3 *Spacing from Roads*

Street canyon and traffic corridor stations (microscale) are intended to provide a measurement of the influence of the immediate source on the pollution exposure of the population. In order to provide some reasonable consistency and comparability in the air quality data from such stations, a minimum distance of 2 meters and a maximum distance of 10 meters from the edge of the nearest traffic lane must be maintained for these CO monitor inlet probes. This should give consistency to the data, yet still allow flexibility of finding suitable locations.

Street canyon/corridor (microscale) inlet probes must be located at least 10 meters from an intersection and preferably at a midblock location. Midblock locations are preferable to intersection locations because intersections represent a much smaller portion of downtown space than do the streets between them. Pedestrian exposure is probably also greater in street canyon/corridors than at intersections. Finally, the practical difficulty of positioning sampling inlets is less at midblock locations than at the intersection.

In determining the minimum separation between a neighborhood scale monitoring station and a specific line source, the presumption is made that measurements should not be unduly influenced by any one roadway. Computations were made to determine the separation distances, and table 1 provides the required minimum separation distance between roadways and neighborhood scale stations. Sampling stations that are located closer to roads than this criterion allows should not be classified as a neighborhood scale, since the measurements from such a station would closely represent the middle scale. Therefore, stations not meeting this criterion should be classified as middle scale. In some cases, such a monitoring station would be acceptable for SLAMS purposes, but not NAMS since no middle scale NAMS stations are required. Additional information on CO probe siting may be found in reference 12.

Table 1.—*Minimum separation distance between neighborhood scale CO stations and roadways (edge of nearest traffic lane)*

Roadway average daily traffic, vehicles per day	Minimum separation distance between stations and roadways, meters
≤ 10,000	≥10*
15,000	25
20,000	45
30,000	80
40,000	115
50,000	135
≥ 60,000	≥150

* Distances should be interpolated based on traffic flow.

5. Ozone (O_3)

5.1 *Vertical and Horizontal Probe Placement*

The inlet probe for ozone monitors should be as close as possible to the breathing zone. The complicating factors discussed previously, however, require that the probe be elevated. The height of the inlet probe must be located 3 to 15 meters above ground level. The probe must also be located more than 1 meter vertically or horizontally away from any supporting structure.

5.2 *Spacing from Obstructions*

The probe must be located away from obstacles and buildings such that the distance between the obstacles and the inlet probe is at least twice the height that the obstacle protrudes above the sampler. The probe should also be located at least 20 meters from trees. Since the scavenging effect of trees is greater for ozone than for TSP, SO_2, CO, and NO_2, strong consideration should be used in locating the inlet probe to avoid this effect. Airflow must be unrestricted in an arc of at least 270° around the inlet probe, and the predominant wind direction for the season of greatest pollutant concentration potential must be included in the 270° arc. If the probe is located on the side of a building, 180° clearance is required.

5.3 *Spacing from Roads*

It is important in the probe siting process to minimize destructive interferences from sources of nitric oxide (NO) since NO readily reacts with ozone. Table 2 provides the required minimum separation distances

between roadways and ozone monitoring stations. These distances were based on recalculations using the methodology in reference 13 and validated using more recent ambient data collected near a major roadway. Sampling stations that are located closer to roads than this criterion allows should not be classified as neighborhood or urban scale, since the measurements from such stations would more closely represent the middle scale. Accordingly, such stations should be classified as middle scale. In some cases, a middle scale station would be acceptable for SLAMS purposes, but not for NAMS since no middle scale NAMS are required. The minimum separation distance must also be maintained between an ozone station and other similar volumes of automotive traffic, such as parking lots. Additional information on ozone probe siting criteria may be found in reference 13.

Table 2.—*Minimum separation distance between neighborhood and urban scale ozone stations and roadways (edge of nearest traffic lane)*

Roadway average daily traffic, vehicles per day	Minimum separation distance between roadways and stations, meters
≤ 10,000	≥10*
15,000	20
20,000	30
40,000	50
70,000	100
≥ 110,000	≥250

* Distances should be interpolated based on traffic flow.

6. Nitrogen Dioxide (NO_2)

6.1 *Vertical and Horizontal Probe Placement*

The height of the NO_2 inlet probe must be 3 to 15 meters above the ground. This is a compromise between measuring in the breathing zone and avoidance of vandalism, finding suitable sites, etc. For NO_2, the height does not appear to be a critical factor since the NO_2 should be fairly well mixed and somewhat uniform in the vertical direction. The distance of the inlet probe from any supporting structure must be greater than 1 meter vertically or horizontally.

6.2 *Spacing from Obstructions*

Buildings, trees, and other obstacles may possibly scavenge NO_2. In order to avoid this kind of interference, the station must be located well away from such obstacles so that the distance between obstacles and the inlet probe is at least twice the height that the obstacle protrudes above the probe. Sampling stations that are located closer to obstacles than this criterion allows should not be classified in the neighborhood or urban scales, since the measurements from such stations would more closely represent the middle scale. Such stations should be classified as middle scale. For similar reasons, a probe inlet along a vertical wall is undesirable because air moving along that wall may be subject to possible removal mechanisms. The inlet probe should also be at least 20 meters from trees. There must be unrestricted airflow in an arc of at least 270° around the inlet probe, and the predominant wind direction for the season of greatest pollutant concentration potential must be included in the 270° arc. If the probe is located on the side of the building, 180° clearance is required.

6.3 *Spacing from Roads*

It is important that the monitoring probe be removed from oxides of nitrogen sources to avoid measurements being dominated by any one source and to allow time for conversion (reactions) of NO emissions to NO_2. Further, the effects of roadway sources must be minimized by using separation distances for neighborhood and urban scale stations found in Table 3. These distances were based on recalculations using the methodology in reference 13 and validated using more recent ambient data collected near a major roadway. The minimum separation distance must also be maintained between an NO_2 probe and any other similar volume of automotive traffic such as parking lots. Sampling stations that are located closer to roads than this criterion allows should not generally be classified as neighborhood or urban scales, since the measurements from such stations would more closely represent middle scale stations. Such stations should generally be classified as middle scale. In some cases, such a monitoring station would be acceptable for SLAMS purposes, but not for NAMS since no middle scale NAMS are acceptable. Additional information on NO_2 probe siting criteria may be found in reference 13.

Table 3.—*Minimum separation distance between neighborhood and urban scale NO_2 stations and roadways (edge of nearest traffic lane)*

Roadway average daily traffic, vehicles per day	Minimum separation distance between roadways and station, meters
≥ 10,000	≥ 10*
15,000	20
20,000	30
40,000	50
70,000	100
≥ 110,000	≥250

* Distances should be interpolated based on traffic flow.

7. Probe Material and Pollutant Sample Residence Time

For the reactive gases, SO_2, NO_2, and O_3, special probe material must be used. Studies [14-18] have been conducted to determine the suitability of materials such as polypropylene, polyethylene, polyvinylchloride, tygon, aluminum, brass, stainless steel, copper, pyrex glass and teflon for use as intake sampling lines. Of the above materials, only pyrex glass and teflon have been found to be acceptable for use as intake sampling lines for all the reactive gaseous pollutants. Furthermore, EPA [19] has specified borosilicate glass or FEP teflon as the only acceptable probe materials for delivering test atmospheres in the determination of reference or equivalent methods. Therefore, borosilicate glass, FEP teflon, or their equivalent must be used for existing and new NAMS or SLAMS.

No matter how nonreactive the sampling probe material is initially, after a period of use reactive particulate matter is deposited on the probe walls. Therefore, the time it takes the gas to transfer from the probe inlet to the sampling device is also critical. Ozone in the presence of NO will show significant losses even in the most inert probe material when the residence time exceeds 20 seconds. [20] Other studies [21,22] indicate that a 10-second or less residence time is easily achievable. Therefore, sampling probes for reactive gas monitors at SLAMS or NAMS must have a sample residence time less than 20 seconds.

8. Waiver Provisions

It is believed that most sampling probes or monitors can be located so that they meet the requirements of this appendix. New stations with rare exceptions, can be located within the limits of this appendix. However, some existing stations may not meet these requirements and yet still produce useful data for some purposes. EPA will consider a written request from the State Agency to waive one or more siting criteria for some monitoring stations providing that the State can adequately demonstrate the need (purpose) for monitoring or establishing a monitoring station at that location. For establishing a new station, a waiver may be granted only if both of the following criteria are met:

- The site can be demonstrated to be as representative of the monitoring area as it would be if the siting criteria were being met.
- The monitor or probe cannot reasonably be located so as to meet the siting criteria because of physical constraints (e.g., inability to locate the required type of station the necessary distance from roadways or obstructions).

However, for an existing station, a waiver may be granted if either of the above criteria are met.

Cost benefits, historical trends, and other factors may be used to add support to the above, however, they in themselves, will not be acceptable reasons for granting a waiver. Written requests for waivers must be submitted to the Regional Administrator. For those SLAMS also designated as NAMS, the request will be forwarded to the Administrator.

9. Discussion and Summary

Table 4 presents a summary of the requirements for probe siting criteria with respect to distances and heights. It is apparent from Table 4 that different elevation distances above the ground are shown for the various pollutants. The discussion in the text for each of the pollutants described reasons for elevating the monitor or probe. The differences in the specified range of heights are based on the vertical concentration gradients. For CO, the gradients in the vertical direction are very large for the microscale, so a small range of heights has been specified. For SO_2, NO_2, TSP, and O_3 (except near roadways), the vertical gradients are smaller and thus a larger range of heights can be used. The upper limit of 15 meters was specified for consistency between pollutants and to allow the use of a single manifold for monitoring more than one pollutant.

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Table 4. Summary of probe siting criteria

Pollutant	Scale	Height above ground, meters	Distance from supporting structure, meters		Other spacing criteria
			Vertical	Horizontal[a]	
TSP	All	2 - 15	—	> 2	1. Should be >20 meters from trees. 2. Distance from sampler to obstacle, such as buildings, must be at least twice the height the obstacle protrudes above the sampler.[b] 3. Must have unrestricted airflow 270° around the sampler. 4. No furnace or incineration flues should be nearby.[c] 5. Must have minimum spacing from roads. This varies with height of monitor and spatial scale (see Figure 1).
SO_2	All	3 - 15	> 1	> 1	1. Should be >20 meters from trees. 2. Distance from inlet probe to obstacle, such as buildings, must be at least twice the height the obstacle protrudes above the inlet probe.[b] 3. Must have unrestricted airflow 270° around the inlet probe, or 180° if probe is on the side of a building. 4. No furnace or incineration flues should be nearby.[c]
CO	Micro	3 ± 1/2	> 1	> 1	1. Must be >10 meters from intersection and should be at a midblock location. 2. Must be 2-10 meters from edge of nearest traffic lane. 3. Must have unrestricted airflow 180° around the inlet probe.
	Middle Neighborhood	3 - 15	> 1	> 1	1. Must have unrestricted airflow 270° around the inlet probe, or 180° if probe is on the side of a building. 2. Spacing from roads varies with traffic (see Table 1).
O_3	All	3 - 15	> 1	> 1	1. Should be >20 meters from trees. 2. Distance from inlet probe to obstacle, such as buildings, must be at least twice the height the obstacle protrudes above the inlet probe. 3. Must have unrestricted airflow 270° around the inlet probe, or 180° if probe is on the side of a building. 4. Spacing from roads varies with traffic (see Table 2).
NO_2	All	3 - 15	> 1	> 1	1. Should be >20 meters from trees. 2. Distance from inlet probe to obstacle, such as buildings, must be at least twice the height the obstacle protrudes above the inlet probe.[b] 3. Must have unrestricted airflow 270° around the inlet probe, or 180° if probe is on the side of a building. 4. Spacing from roads varies with traffic (see Table 3).

[a] When probe is located on rooftop, this separation distance is in reference to walls, parapets, or penthouses located on the roof.
[b] Sites not meeting this criterion would be classified as middle scale (see text).
[c] Distance is dependent on height of furnace or incineration flue, type of fuel or waste burned, and quality of fuel (sulfur and ash content). This is to avoid undue influences from minor pollutant sources.

BILLING CODE 6560-01-C

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Appendix F—Annual Slams Air Quality Information

1. General
2. Required information
2.1 Sulfur Dioxide (SO_2)
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2.1.2 Annual Summary Statistics
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2.3 Carbon Monoxide (CO)
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2.4 Nitrogen Dioxide (NO_2)
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2.5 Ozone(O_3)
2.5.1 Site and Monitoring Information
2.5.2 Annual Summary Statistics

1. *General*

This appendix describes information to be compiled and submitted annually to EPA for each ambient monitoring station in the SLAMS Network in accordance with § 58.26. The annual summary statistics that are described in section 2 below shall be construed as only the minimum necessary statistics needed by EPA to overview national air quality status. They will be used by EPA to convey information to a variety of interested parties including environmental groups, Federal agencies, the Congress, and private citizens upon request. As the need arises, EPA may issue modifications to these minimum requirements to reflect changes in EPA policy concerning the National Ambient Air Quality Standards (NAAQS).

As indicated in § 58.26(c), the contents of the SLAMS annual report shall be certified by the senior air pollution control officer in the State to be accurate to the best of his knowledge. In addition, the manner in which the data were collected must be certified to have conformed to the applicable quality assurance, air monitoring methodology, and probe siting criteria given in Appendices A, C, and E to this part. A certified statement to this effect must be included with the annual report. As required by § 58.26(a), the report must be submitted by July 1 of each year for data collected during the period January 1 to December 31 of the previous year.

EPA recognizes that most air pollution control agencies routinely publish air quality statistical summaries and interpretive reports. EPA encourages State and local agencies to continue publication of such reports and recommends that they be expanded, where appropriate, to include analysis of air quality trends, population exposure, and pollutant distributions. At their discretion, State and local agencies may wish to integrate the SLAMS report into routine agency publications.

2. *Required Information*

This paragraph describes air quality monitoring information and summary statistics which must be included in the SLAMS annual report. The required information is itemized below by pollutant. Throughout this appendix, the time of occurrence refers to the ending hour. For example, the ending hour of an 8-hour CO average from 12:01 a.m. to 8:00 a.m. would be 8:00 a.m.

2.1 *Sulfur Dioxide* (SO_2)

2.1.1 *Site and Monitoring Information.* City name (when applicable), county name and street address of site location. SAROAD site code. SAROAD monitoring method code. Number of hourly observations. (*1*) Number of daily observations. (*2*)

2.1.2 *Annual Summary Statistics.* Annual arithmetic mean (ppm). Highest and second highest 24-hour averages (*3*) (ppm) and dates of occurrence. Highest and second highest 3-hour averages (*1, 3*) (ppm) and dates and times (*1*) (ending hour) of occurrence. Number of exceedances of the 24-hour primary NAAQS. (*3*) Number of exceedances of the 3-hour secondary NAAQS. (*3*) Number of 24-hour average concentrations (*4*) in ranges:

Range:	Number of values
0.00 to 0.04 (ppm)	
0.05 to 0.08	
0.09 to 0.12	
0.13 to 0.16	
0.17 to 0.20	
0.21 to 0.24	
0.25 to 0.28	
Greater than .28	

2.2 *Particulates* (TSP)

2.2 *Particulates* (TSP)

2.2.1 *Site and Monitoring Information.* City name (when applicable), county name and street address of site location. SAROAD site code. Number of daily observations.

2.2.2 *Annual Summary Statistics.* Annual geometric mean (μg/m³). Highest and second highest daily values and dates of occurrence. Number of exceedances of the 24-hour primary NAAQS. Number of exceedances of the 24-hour secondary NAAQS. Number of 24-hour average concentrations in ranges:

Range:	Number of values
0 to 65 (μg/m³)	
66 to 130	
131 to 195	
196 to 260	
261 to 325	
326 to 390	
391 to 455	
Greater than 455	

2.3 *Carbon Monoxide* (CO)

2.3.1 *Site and Monitoring Information.* City name (when applicable), county name and street address of site location. SAROAD site code. SAROAD monitoring method code. Number of hourly observations.

2.3.2 *Annual Summary Statistics.* Highest and second highest 1-hour values (ppm) and date and time of occurrence. Highest and second highest 8-hour averages (*3*) (ppm) and date and time of occurrence (ending hour). Number of exceedances of the 1-hour primary NAAQS. Number of exceedances of the 8-hour average primary NAAQS. (*3*) Number of 8-hour average concentrations (*4*) in ranges:

Range:	Number of values
0 to 4 (ppm)	
5 to 8 (ppm)	
9 to 12	
13 to 16	
17 to 20	
21 to 24	
25 to 28	
Greater than 28	

2.4 *Nitrogen Dioxide* (NO_2)

2.4.1 *Site and Monitoring Information.* City name (when applicable), county name, and street address of site location. SAROAD site code. SAROAD monitoring method code. Number of hourly observations. (*1*) Number of daily observations. (*2*)

2.4.2 *Annual Summary Statistics.* Annual arithmetic mean (ppm). Highest and second highest hourly averages (*3*) (ppm) and their dates and time of occurrence. Highest and second highest 24-hour averages (*2*) and their date of occurrence (ppm). Number of hourly average concentrations in ranges. (*1*)

Range:	Number of values
.0 to .04 (ppm)	
.05 to .08	
.09 to .12	
.13 to .16	
.17 to .20	
.21 to .24	
.25 to .28	
Greater than 0.28	

2.5 *Ozone* (O_3)

2.5.1 *Site and Monitoring Information.* City name (when applicable), county name and street address of site location. SAROAD site code. SAROAD monitoring method code. Number of hourly observations.

2.5.2 *Annual Summary Statistics.* Four highest daily maximum hour values (ppm) and their dates and time of occurrence. Number of exceedances of the daily maximum 1-hour primary NAAQS. Number of daily maximum hour concentrations in ranges:

Range:	Number of values
0 to .04 (ppm)	
.05 to .08	
.09 to .12	
.13 to .16	
.17 to .20	
.21 to .24	
.25 to .28	
Greater than .28	

Footnotes

1. Continuous methods only.
2. Manual or intermittent methods only.
3. Based on nonoverlapping values computed according to procedures described in reference (1) or on individual intermittent measurements.
4. Based on overlapping running averages for continuous measurements as described in reference (1) or on individual measurement for intermittent methods.

REFERENCE

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Appendix G—Uniform Air Quality Index and Daily Reporting

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12. References.

1. General

This appendix describes the uniform air quality index to be used by States in reporting the daily air quality index required by § 58.40.

2. Definitions

a. The uniform air quality required for the daily reporting of air quality is a modified form of the Pollutant Standards Index (PSI).

b. "Reporting agency" means the applicable State agency or, in metropolitan areas, a local air pollution control agency designated by the State to carry out the provisions of § 58.40.

c. "Reporting area" means the geographical area for which the daily index is representative for the reporting period. This area(s) may be the total urban area (or subpart thereof) or each of any number of distinct geographical subregions of the urban area deemed necessary by the reporting agency for adequate presentation of local air quality conditions.

d. "Reporting day" means the calendar day during which the daily report is given.

e. "Reporting period" means the time interval for which the daily report is representative. Normally, the reporting period is the 24-hour period immediately preceding the time of the report and should coincide to the extent practicable with the reporting day. In cases where the index will be forecasted the reporting period will include portions of the reporting day for which no monitoring data are available at the time of the report.

f. "Critical pollutant" means the pollutant or pollutant combination (TSP x SO_2) with the highest subindex during the reporting period.

g. "Subindex" means the calculated index value for a single pollutant as described in section 7.

3. Monitoring Data

The monitoring data used to prepare the daily index report must be based on data obtained from the SLAMS network (or portions thereof) required under 40 CFR 58.20. Air quality measurements need not be made on reporting days for which the agency does not ordinarily schedule monitoring to occur. For example, TSP measurements are to be included in the index calculations on days for which data are required (minimum of one sample per 6 days), but may be excluded on other days. Particulate measurements from samplers other than the hi-volume sampler, may be included in index calculations provided such measurements can be quantitatively related to hi-volume measurements.

Data used to calculate the daily index (and respective subindices) should come from the most recent sampling period. The index should be based on data obtained during the 24-hour period for which the index is reported. No monitoring data are to be used for index calculations for which the end of the sampling period precedes the reporting day by more than 24-hours. To the extent practicable, agencies should forecast the index using whatever procedures are most accurate and reasonable through consideration of local meteorological and topographical conditions and the availability of data and forecasting expertise.

4. Geographic Applicability

Generally, the area contained within the geographic boundaries of the urban area is sufficient for purposes of calculating and reporting the index. The exception occurs in cases where a significant air quality problem exists (PSI greater than 100) in highly populated areas adjacent to, but outside of, the urban area. For example, ozone concentrations are often highest downwind and outside the urban area.

Agencies should report a separate air quality index for each subregion of the urban area which is likely to have air quality significantly different from other portions of the urban area if such data are readily available. At a minimum, the subregion subject to the highest index values shall be included in the index computation. This subregion shall be selected by the reporting agency after past air quality has been reviewed to determine which monitoring stations typically record the highest pollutant concentrations.

5. Daily Index Report

The daily index report must be based on the uniform air quality index described in section 7 and contain the following information: (1) The reporting area(s); (2) the reporting period; (3) the critical pollutant; (4) the subindex corresponding to the critical pollutant; and (5) the descriptor word according to the following system:

Index Range and Descriptor Category	
0 to 50	"Good"
51 to 100	"Moderate"
101 to 199	"Unhealthful"
200 to 299	"Very Unhealthful"
300 and above	"Hazardous"

Reporting agencies should, at their discretion, report additional information such as the following: (1) Pollutants other than the critical pollutants and their individual subindices; (2) subindices and respective pollutant names for each of a number of distinct reporting areas within the urban area; (3) actual pollutant concentration values; and (4) causes for unusual PSI readings, such as high background air quality levels and other natural phenomena.

6. Prominent Public Notice

The reporting agency shall make prominent public notice of the daily index report on at least 5 days per week. Prominent public notification consists of at a minimum: (1) furnishing the daily report to one or more of the appropriate news media (radio, television, newspapers); and (2) making the daily index report publicly available at one or more places of public access. Index reports also may be disseminated by means of recorded messages.

7. Uniform Air Quality Index

The uniform index is based on the pollutants standards index (PSI) structure (see section 10), which includes the five pollutants for which primary National Ambient Air Quality Standards (NAAQS) have been established. These pollutants are: total suspended particulates (TSP), sulfur dioxide (SO_2), carbon monoxide (CO), ozone (O_3) and nitrogen dioxide (NO_2). For each pollutant, a subindex is calculated from a segmented linear function that transforms ambient concentrations onto a scale extending from 0 through 500, with 100 corresponding to the primary NAAQS concentrations and 500 corresponding to the significant harm levels established in § 51.16 of this chapter. In order to achieve relative uniformity for intermediate PSI values of 200, 300, and 400 among the several pollutants, their effects were approximately normalized by using the breakpoints corresponding to the Alert, Warning and Emergency levels in the exampie episode criteria. (1) However, because many factors, including meteorological conditions, are taken into account before triggering episode control actions, the reported PSI values and the calling of an episode do not always correspond. It should be recognized that over time with new information on effects, the actual concentrations corresponding to the PSI values may change. The PSI values themselves and their health implications, however, should remain the same. Similarly, concentrations and conditions leading to administrative episode actions may change.

In addition to the five health-related pollutants, a subindex is calculated for the product TSP x SO_2 because it has both Federal episode criteria and a significant harm level. The breakpoint used in defining each of the six pollutant subindices are listed in gravimetric units (Table 1) and in volumetric units (Table 2). The individual

$$X_{i,j} \le X_i \le X_{i,j+1}:$$

$$I_i = \frac{I_{i,j+1} - I_{i,j}}{X_{i,j+1} - X_{i,j}} (X_i - X_{i,j}) + I_{i,j} \qquad (1)$$

$$\text{for } X_{i,j} \le X_i \le X_{i,j+1}$$

where X_i = observed concentration for ith pollutant
$I_{i,j}$ = PSI value for ith pollutant and jth breakpoint (Table 1 or 2)
$I_{i,j+1}$ = PSI value for ith pollutant and (j + 1)th breakpoint (Table 1 or 2)
$X_{i,j}$ = concentration for ith pollutant and jth breakpoint (Table 1 or 2)
$X_{i,j+1}$ = concentration for ith pollutant and (j + 1)th breakpoint (Table 1 or 2)

Finally, the overall index is calculated as the maximum of subindices:

$PSI = \max (I_1, I_2, \ldots, I_6, \ldots, I_n)$

where
I_i = subindex for ith pollutant
n = number of pollutants (including pollutant combinations)

7.2 Example Computation

Suppose a TSP 24-hour concentration of 283 μg/m³ is observed. The TSP subindex is calculated using equation 1 as follows. In Table 1, the observed concentration of X_i=283 μg/m³ lies between 260 and 375 μg/m³, therefore this computation is carried out for the second segment (j=2) For this segment, $X_{1,2}$=260 and $X_{1,3}$=375, with corresponding subindex values for $I_{1,2}$=100 and $I_{1,3}$=200. The computation is as follows:

$$I_f = \frac{I_{1,3} - I_{1,2}}{X_{1,3} - X_{1,2}} (283 - X_{1,2}) + I_1 =$$

$$\frac{200 - 100}{375 - 260} (283 - 260) + 100 = \frac{100}{115} \times 23 + 100 = 120$$

Therefore, the TSP subindex is I=120. If four other pollutant subindices calculated in a similar manner from observations on the same data were: I_3=0, I_5=0, I_4=20, and I_6=30. Then, the overall index is reported as the maximum of these values:

PSI=max (120, 0, 0, 20, 30)=120Q02

A typical report might contain the following statement: "Today's air quality index is 120 which is regarded as unhealthful. The responsible pollutant is suspended particulate matter. This report represents conditions prevailing over most of the downtown urban area for the previous 24-hour period ending at noon today." If the index were forecast for the next day, the following additional language might also be used: "The current forecast is for improved air quality tomorrow with the index not expected to exceed 80."

8. Exceptions

In many urban areas, a given air pollutant may exhibit low concentrations repetitively. At the discretion of the reporting agency, pollutants for which PSI values are consistently below 50 for an extended period (for example, a season or year) may be excluded in calculations of the daily index.

Because the index is for the purpose of achieving national uniformity of daily air quality reports, the following variations are not permitted unless approved by the EPA Administrator:

a. Exclusion of pollutants described in section 7 from index calculations except as permitted above.

b. Incorporation of pollutants and/or pollutant combinations into the index not described in section 7.

c. Use of breakpoints other than those given in Table 1 or 2.

d. Use of descriptor words other than those given in section 5.

9. Reporting Agency Recordkeeping

The reporting agency shall keep annual records of the frequency with which reporting index values occur in each of the index descriptor categories. These records must also indicate the pollutant monitors in the SLAMS network being used for purposes of calculating the index for each reporting area. Such records must be made available for inspection at the request of the Administrator.

10. Basis for PSI

The development and evaluation of the PSI index structure have been documented extensively. (2–12) The index was created as a result of a joint EPA/CEQ study (2) which identified problems resulting from the diversity of indices used in the United States and Canada. This report proposed design principles that could be used to develop a nationally uniform index to meet the needs of State and local agencies. The design principles on which PSI is based, along with previous versions of the index, have been presented in various scientific reports, (3, 4) articles in technical journals, (4, 5, 11) and at various scientific meetings and conferences. (7–10) Most recently, the history of the development of PSI along with its scientific rationale, has been summarized in a book. (6) In September 1976, PSI was published in the **Federal Register** (13) for use by State and local air pollution control agencies on a voluntary basis.

11. Additional Information

A variety of computational techniques have been developed to assist the user in calculating PSI in an accurate, convenient and rapid manner. (6) The primary techniques available are graphs (linear and logarithmic), nomograms, tables, and computer approaches. An EPA report (14) describes each technique, lists its advantages and disadvantages, includes examples of the methods, and provides nomograms and tables in both gravimetric and volumetric units. The nomograms are considered to be the most efficient way of competing the index and should be of greatest assistance to State and local agencies. Computer approaches for calculating PSI also are available. (15) These approaches lend themselves to applications with programmable hand calculators, minicomputers, or large-scale digital computers. A general computer program, Index Plot, used in an earlier evaluation of PSI, (11) is available from EPA and is fully documented. (15) This computer program is useful for analyzing air quality data by means of PSI over relatively long periods (a month, a season, or a year). It plots the time series of daily index values on the line printer, generates and plots a histogram and cumulative frequencies of PSI values, computes summary data by subindex and descriptor category, computes overall statistics for PSI, and inventories all missing values in the data set. Agencies can use this program to translate all historical data collected at any station into the corresponding PSI values, and, thus, retain for recordkeeping purposes a uniform retrospective record of air quality. (11, 15) Requests for these reports should be addressed to the Environmental Protection Agency, Library, MD–35, Research Triangle Park, N.C. 27711.

Additional information on descriptive language to report with the index is provided in an earlier report (1) and in the air quality criteria documents published for each air pollutant. (16–20) Additional information on meteorological forecasting services from the National Weather Service also is available in the literature. (21, 22)

Additional information on the health effects of each air pollutant used in PSI is available in a brochure entitled, "Measuring Air Quality: The New Pollutant Standards Index," Printing Management Office (PM–215), U.S. Environmental Protection Agency, 401 M Street, SW., Washington, D.C. 20460.

12. References

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16. "Air Quality Criteria for Particulate Matter," USDEHEW, PHS, CPEHS, NAPCA, Washington, D.C., January 1969, No. AP–49.

17. "Air Quality Criteria for Sulfur Oxides," USDHEW, PHS, CPEHS, NAPCA, Washington, D.C., January 1969, No. AP–50.

18. "Air Quality Criteria for Carbon Monoxide," USDHEW, PHS, CPEHS, Washington, D.C., March 1970, No. AP–42.

19. "Air Quality Criteria for Photochemical Oxidants," USDHEW, PHS, CPEHS, Washington, D.C., March 1970, No. AP–63.

20. "Air Quality Criteria for Nitrogen Dioxide," EPA, APCO, Washington, D.C., January 1971, No. AP–84.

21. *National Weather Service Operations Manual Air Pollution Weather Forecasts,* WSOM Issuance 75–13, Part C. Chapter 30, April 1975.

22. *National Weather Service Technical Procedures Bulletin* No. 122: "Air Stagnation Guidance for Facsimile and Teletype (3rd Edition)," October 21, 1974. (supercedes previous TPB's Nos. 52, 58 and 69).

Table 1.—*Breakpoints for PSI in Metric Units*[a]

PSI value (ψ)	24-hr. TSP μg/m³	24-hr. SO_2 μg/m³	TSP×SO_2 (μg/m³)²	8-hr. CO μmg/m³	1-hr. O_3 μg/m³	1-hr. NO_2 μg/m³
50	75	80	(*)	5	18	(*)
100	260	365	(*)	10	235	(*)
200	375	800	65×10^3	17	400	1,130
300	625	1,600	261×10^3	34	800	2,260
400	875	2,100	393×10^3	46	1,000	3,000
500	1,000	2,620	490×10^3	57.5	1,200	3,750

[a]At 25°C and 760 mm Hg.
[*]No index value reported at these concentration levels because there is no short-term NAAQS.

Table 2.—*Breakpoints for PSI*

[Parts per million]

PSI value (ψ)	24-hr. SO_2	TSP×SO_2 (μg/m³×ppm)	8-hr. CO	1-hr. O_3	1-hr. NO_2
50	0.03	(*)	4.5	.06	(*)
100	0.14	(*)	9	.12	(*)
200	0.30	24.82	15	0.2	0.6
300	0.60	99.66	30	0.4	1.2
400	0.80	150.1	40	0.5	1.6
500	1.00	187.1	50	0.6	2.0

[*]No index value reported at these concentration levels because there is no short-term NAAQS.

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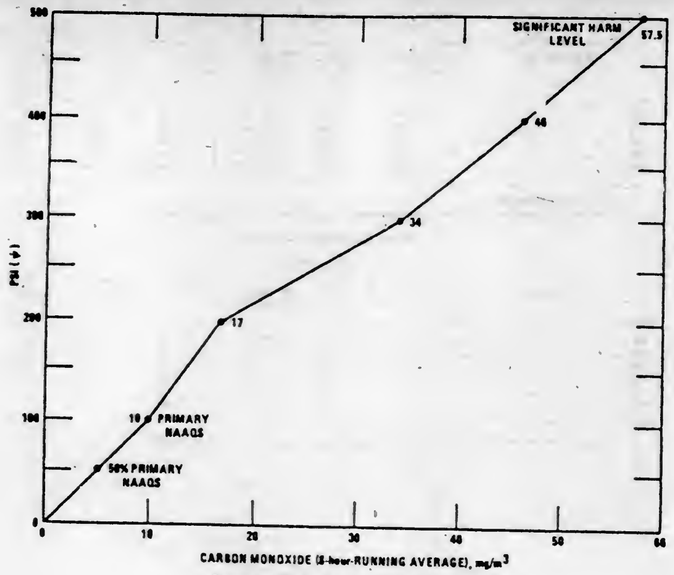


Figure 1. PSI function for carbon monoxide.

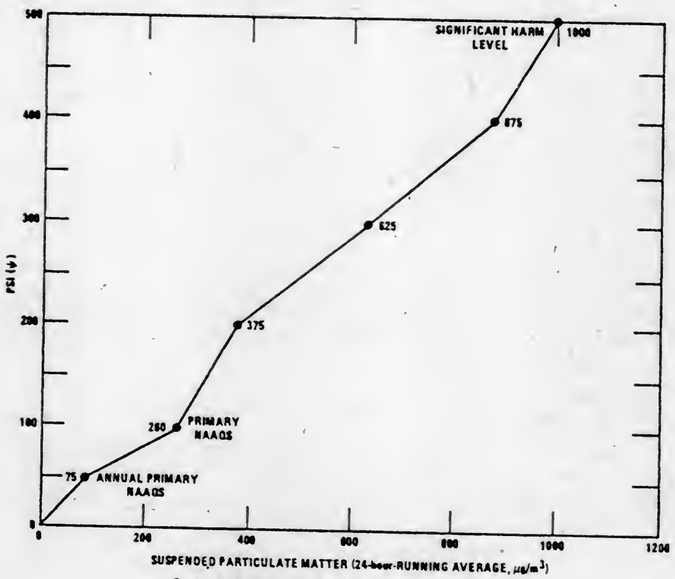


Figure 2. PSI function for suspended particulate matter.

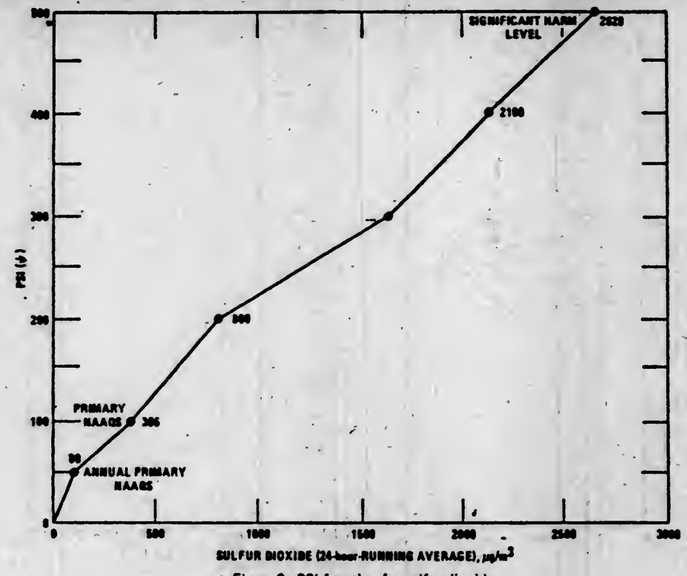


Figure 3. PSI function for sulfur dioxide.

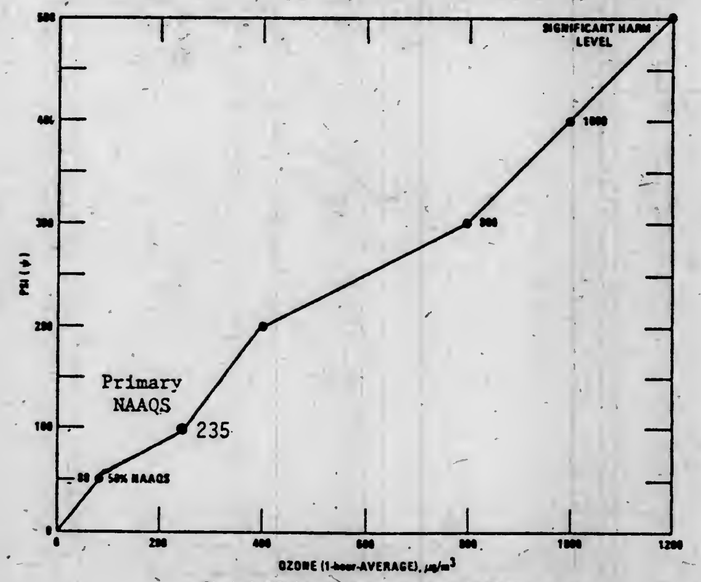


Figure 4. PSI function for photochemical oxidants.

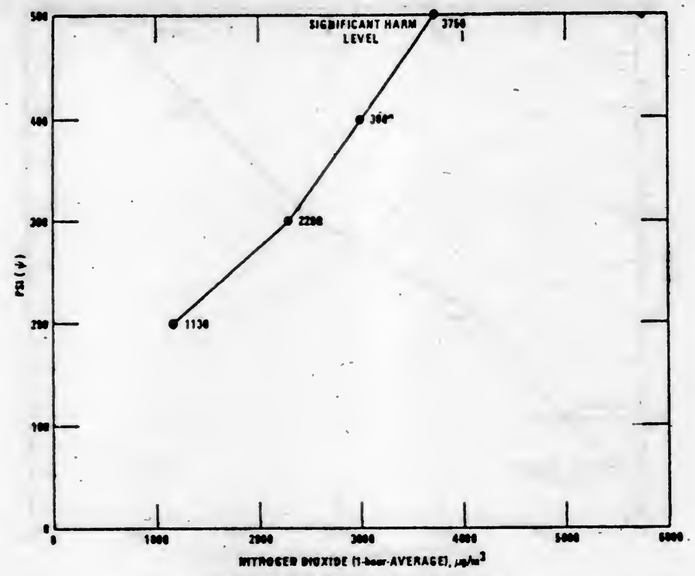


Figure 5. PSI function for nitrogen dioxide.

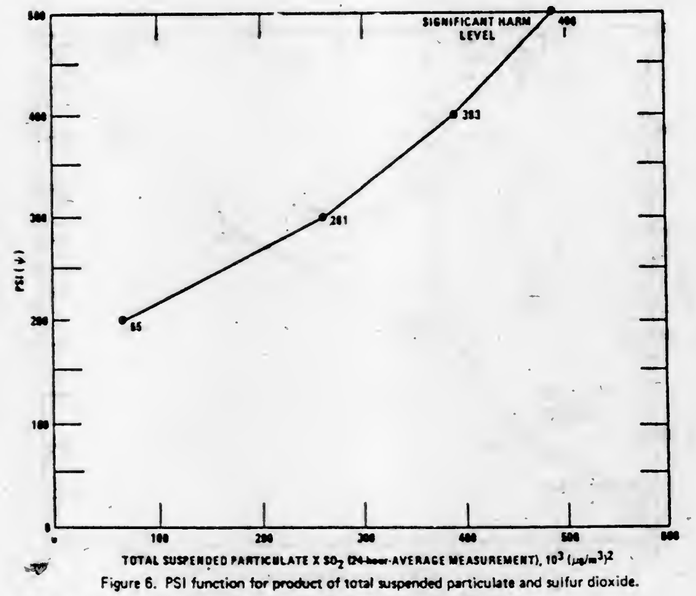


Figure 6. PSI function for product of total suspended particulate and sulfur dioxide.

[FRL 1089-3]
[FR Doc. 79-14488 Filed 5-9-79; 8:45 am]
BILLING CODE 6560-01-C

federal register

Thursday
May 10, 1979

Part III

Department of Energy

Economic Regulatory Administration

Sale and Direct Industrial Use of Natural Gas for Outdoor Lighting

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DEPARTMENT OF ENERGY

Economic Regulatory Administration

10 CFR Part 516

Sale and Direct Industrial Use of Natural Gas for Outdoor Lighting

AGENCY: Economic Regulatory Administration, Department of Energy.

ACTION: Final rule.

SUMMARY: This final rule carries out provisions of the Powerplant and Industrial Fuel Use Act of 1978 (the Act) which prohibit the installation of new or replacement natural gas outdoor lighting fixtures by local distribution companies and direct industrial customers. The Act also prohibits local distribution companies from providing natural gas to residential, commercial, and industrial customers for use in outdoor lighting, as well as prohibiting the use of natural gas by direct industrial customers for outdoor lighting. In this rule ERA delegates to the States its authority for administering prohibitions with regard to gas lighting under section 402 of the Act.

EFFECTIVE DATE: See §§ 516.20, 516.21, and 516.22.

FOR FURTHER INFORMATION CONTACT:

William L. Webb, Office of Public Information, Economic Regulatory Administration, U.S. Department of Energy, Room B–110, 2000 M Street, NW., Washington, D.C. 20461, (202) 634–2170.

Barry W. Hirsch, Office of Utility Systems, Economic Regulatory Administration, U.S. Department of Energy, 2000 M Street, NW., Washington, D.C. 20461, (202) 254–9700.

SUPPLEMENTARY INFORMATION:

I. Purpose

On November 9, 1978, the President signed into law the Powerplant and Industrial Fuel Use Act of 1978 as one part of the National Energy Act. Section 402 of the Act, "Prohibition on Use of Natural Gas for Decorative Outdoor Lighting," directs DOE (ERA) to prohibit by rule, by May 8, 1979, any local distribution company from supplying natural gas for use in outdoor lighting. The purpose of this rule is to implement this legal requirement. In addition, the Act prohibits, effective November 9, 1978, the installation of new outdoor lighting fixtures using natural gas.

Under the Act, ERA has the prerogative of fully delegating responsibility and authority for implementation of section 402 to appropriate State regulatory authorities. This rule exercises this prerogative and prescribes those conditions and requirements imposed by ERA pursuant to delegation.

II. Background

On February 13, 1979, this rule was proposed in draft form (44 FR 9570) and ERA announced that the period for public review of and comment on the proposed rule would extend for 2 months until April 16, 1979. ERA was greatly assisted by the scores of people who responded to our request for suggestions on how to best implement section 402 of the Act. ERA sought the views of hundreds of private organizations, State and local agencies, Federal agencies and other interested persons through a special mailing. Testimony was received from seven speakers at the public hearing held in Washington, D.C. on March 22, 1979. Among those represented were State utility commissioners, the natural gas industry, liquid petroleum gas retailers, and consumers.

ERA carefully reevaluated the rule in light of the comments we received, each of which was read and analyzed. When, after discussions and review ERA determined that a comment warranted changes in the rule, we altered the rule accordingly. When we decided that reasons supporting the rule were stronger than those for challenging them, we left the rule unchanged. Part III of this Preamble describes by section the more significant comments we received, and how we reponded to them.

III. Comments and ERA's Response

Subpart A—General Purpose and Scope: Definitions

Comments on § 516.11(g): Definition of "State regulatory authority." One commenter observed that the proposed definition of "State regulatory authority" would include privately-owned local distribution companies not subject to State regulation (such as liquid petroleum gas retail outlets) which does not appear to be consistent with the intent of the Act. The impact of this would be to empower such companies to grant their own exemptions, establish their own regulatory programs, and enforce their own compliance programs. In addition, these companies would be required, under the proposed definition, to file the annual report required under § 516.31. This was not ERA's intent. Our intent was to give municipalities which have the authority for determining their own rates the responsibility for program administration in their service areas. In other cases, State law may provide that some agency other than the State utility commission has jurisdiction in regard to prohibiting the use of natural gas for outdoor lighting. Our intent was to allow flexibility in such cases.

ERA changed the definition of "State regulatory authority" to preserve our original intent but to exclude privately-owned local distribution companies not subject to State rate regulation. In such a case, the State regulatory authority will be designated by the Governor.

Subpart C—Delegation of Authority

Comments on § 516.30: Scope. Many commenters responded to our proposal regarding delegation of authority for administration of section 402 of the Act to the appropriate State regulatory authorities. The overwhelming reaction was positive. Several of these comments questioned the flexibility of the State regulatory authorities in regard to those authorities and responsibilities delegated and enumerated in paragraphs (a) through (g) of § 516.30. It is our intent that the States have flexibility in administering the program within the constraints of section 402 of the Act.

ERA recognizes that 21 States have laws or regulations in place regarding prohibitions on outdoor gas lighting. In some cases, these laws or regulations may provide sufficient authority to comply with the Act. In other cases, modifications may be necessary in order to implement the added authorities delegated by this rule. We believe that the following States have laws or regulations in effect regarding prohibitions on outdoor gas lighting: Arizona, California, Connecticut, District of Columbia, Florida, Hawaii, Illinois, Iowa, Maryland, Massachusetts, Michigan, Minnesota, Nevada, New Jersey, New York, North Carolina, Ohio, Oregon, Pennsylvania, Virginia, and Wisconsin.

With regard to States with existing prohibitions on gas lighting, ERA does not envisage that the delegation of authority under this rule will require complete restructuring of an existing State program. Similarly, where State regulatory authorities in States not presently regulating outdoor gas lighting have established procedures under other programs that are adaptable to decorative gas lighting, ERA believes that these should be used to the greatest extent possible. ERA's intention is that this rule should be interpreted to minimize the addition of new State organizations or procedures where existing organizations and procedures

can be used. ERA believes this is particularly true with respect to enforcement authority. ERA recognizes the authority of the States to impose the civil penalty provisions of section 723(c) of the Act, but does not necessarily contemplate that a State will utilize any procedures other then those currently in use by a State regulatory authority.

Comments on § 516.31: Reports. Some commenters noted that the reports required to be submitted to ERA would represent a significant administrative burden to State regulatory authorities, especially those that are understaffed. A flexible approach to the reporting requirements was urged. Although we had recognized the need for such flexibility and did attempt to minimize the reporting burden, this section was re-analyzed and significantly altered to further reduce the administrative burden for reporting in three significant ways.

First, the requirement for the submission of an enforcement plan was eliminated because some of the elements required in the enforcement plan were duplicative of elements required in the annual report. Second, we now require reporting of only those changes which had occurred since submission of the previous annual report. Finally, § 516.31(d) creates a mechanism whereby a State regulatory authority may certify, to ERA, its belief that no further annual reports need to be submitted. The rationale for such a determination may be, for example, that a prohibition on the use of natural gas for outdoor lighting is already in place and all such lighting has been eliminated. The final determination as to whether or not further annual reports are required will be made by ERA. In all cases, the first annual report (due January 1, 1980) is required.

Comments on § 516.32: Rescission.. One commenter noted that the section on rescission was inadequate in terms of minimal procedural requirements to be followed by ERA prior to rescinding delegation of authority to a State. The specific recommendation was made that ERA provide the States with written notice of the intent to rescind and the reasons it believes rescission is appropriate. This comment also recommended that ERA provide an opportunity for the States to contest a rescission at a hearing. This recommendation was adopted by ERA and section 516.32 has been changed to provide for written notice and an opportunity for hearing prior to any final ERA decision to rescind a State's delegation of authority.

Subpart D—Guidance on Exemptions

Comments on § 516.41: Lighting of historical significance (proposed as § 516.42). Some commenters took exception to paragraph (b)(2) of § 516.41 because they felt it was too restrictive and that it should, at a minimum, include properties protected by local as well as State statutes. This recommendation was adopted. Comments were also submitted stating that this criterion should be broadened to include properties listed by State or local government. We did not adopt this proposal because we felt that it would not provide an adequate mechanism for insuring that only qualified properties be exempt from the prohibitions.

Comments on § 516.43: Commercial lighting of historical significance (new section). Many commenters made the observation that the proposed rule did not provide for an exemption category pursuant to section 402(c)(2) of the Act. This section provided for exemptions for natural gas outdoor lighting "* * * which is used for commercial purposes, * * * of a traditional nature, and which conforms with the cultural or architectural style of the area in which such light is located." It was not our intention to omit this exemption category. Because the legislative history identified this exemption as "similar" to that for lights of historical significance, ERA attempted to simplify the rules by combining this exemption with the exemption established by section 402(c)(1) of the Act. In order to avoid misunderstanding of ERA's intention, a new § 516.43 has been added to clearly identify a separate exemption for qualified commercial lighting.

Comments on § 516.44: Safety of persons and property. Many commenters objected to our proposed criteria for exemptions regarding the safety of persons and property, noting that the criteria should be based solely on safety considerations rather than tying the exemption to a cost criterion. ERA did not adopt this course of action in the final rule, however. We feel that it should be necessary for a petitioner to show not only that the lighting provided by the gas light fixture is necessary for safety, but also that it would represent a financial hardship or would not be cost-beneficial for him to convert his gas light to alternative lighting. By including this requirement, we feel that we will be encouraging conversion of gas lights to more efficient alternative lighting where cost-effective and while allowing exemptions for people who need outdoor lighting for safety purposes but for whom conversion would be a personal financial hardship.

Other comments. ERA received many comments regarding the usefulness of any ban on outdoor gas lighting. These comments were directed at section 402 of the Fuel Use Act itself, and not this rule; therefore, it is not within our authority to make the requested modifications.

Issued in Washington, D.C., on May 3, 1979.

David J. Bardin,

Administrator, Economic Regulatory Administration.

Part 516 is added to Title 10, Chapter II to read as follows:

PART 516—PROHIBITION ON SALE AND DIRECT INDUSTRIAL USE OF NATURAL GAS FOR OUTDOOR LIGHTING

Subpart A—General Purpose and Scope; Definitions

Sec.
516.10 General purpose and scope.
516.11 Definitions.

Subpart B—Prohibitions

516.20 General prohibition on installation of natural gas outdoor lighting fixtures.
516.21 General prohibition on sale of natural gas for use in outdoor lighting.
516.22 Prohibition on use of natural gas by direct industrial customers for outdoor lighting.

Subpart C—Delegation of Authority

516.30 Scope
516.31 Annual reports.
516.32 Rescission.

Subpart D—Guidance on Exemptions

516.40 Applicability.
516.41 Lighting of historical significance.
516.42 Memorial lighting.
516.43 Commercial lighting of historical significance.
516.44 Safety of persons and property.
516.45 Time to install substitute lighting.
516.46 Substantial expense.
516.47 Public interest.

Authority: Sec. 402, Pub. L. 95–620; 92 Stat. 3315; 42 U.S.C. 8372.

Subpart A—General Purpose and Scope; Definitions

§ 516.10 General purpose and scope.

(a) The purpose of this rule is to implement section 402 of Pub. L. 95–620, the Powerplant and Industrial Fuel Use Act of 1978 (the Act). The objective of section 402 of the Act is to eliminate the nonessential use of natural gas for outdoor lighting and to conserve such gas for the benefit of present and future generations.

(b) The rule consists of four subparts. Subpart A consists of this section, entitled "General Purpose and Scope," and § 516.11, "Definitions."

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(c) Subpart B contains the prohibitions on the installation of natural gas outdoor lighting fixtures and the sale and direct industrial use of natural gas for outdoor lighting. Section 516.20 prohibits the installation of natural gas outdoor lighting fixtures. Sections 516.21 and 516.22 prohibit local distribution companies from providing natural gas to residential, commercial, and industrial customers for use in outdoor lighting as well as prohibiting the use of natural gas by direct industrial customers for outdoor lighting.

(d) Subpart C delegates to the appropriate State regulatory authorities the responsibility and authority of the Secretary of DOE with regard to natural gas outdoor lighting. The specific authorities delegated are set forth in § 516.30. Section 516.31 sets forth the requirements for annual reports which the appropriate State regulatory authorities are required to submit to ERA. Section 516.32 provides for rescission, by ERA, of the delegation of authority as it applies to any particular State.

(e) Subpart D sets forth guidance to be followed by the appropriate State regulatory authorities in granting or denying requests for exemption in the absence of the exercise of authority by the State in promulgating its own criteria. Criteria for granting or denying exemptions are provided for each of the categories of exemption established by the Act: Lighting of historical significance (§ 516.41); memorial lighting (§ 516.42); commercial lighting of historical significance (§ 516.43); safety of persons and property (§ 516.44); time to install substitute lighting (§ 516.45); substantial expense (§ 516.46); public interest (§ 516.47).

§ 516.11 Definitions.

Unless otherwise expressly provided, for the purposes of this rule—

(a) The term "direct industrial customer" means an industrial user of natural gas who obtains the natural gas under a contract with a natural gas pipeline company, or any agent thereof.

(b) The term "local distribution company" means any person engaged in the business of interstate or intrastate transportation and local distribution of natural gas for ultimate consumption.

(c) The term "natural gas" means any fuel consisting in whole or in part of natural gas, liquid petroleum gas, or synthetic gas derived from petroleum or natural gas liquids.

(d) The term "natural gas outdoor lighting fixture" means a complete stationary natural gas outdoor lighting unit, or any parts thereof, which may include a mantle(s) together with the parts designed to distribute the light, to position and protect the mantle(s) and fuel supply lines, and to connect the mantle(s) to the fuel supply.

(e) The term "pipeline company" means any person engaged in the business of interstate or intrastate transportation of natural gas by pipeline other than as a local distribution company.

(f) The term "residence" means any single or multiple family dwelling unit, including commonly held areas associated with such unit and including multiple family dwelling units which may be classified by the local distribution company as "commercial" customers.

(g) Unless otherwise designated by ERA, upon recommendation of the Governor, the term "State regulatory authority" means that agency of any of the 50 States, the District of Columbia, Puerto Rico, or any territory or possession of the United States, which has primary or exclusive authority to fix, modify or approve rates for the sale of natural gas by local distribution companies within that State, except that:

(1) In the case of a local distribution company which is publicly-owned, and not subject to State rate regulation, references in this part to "State regulatory authority" or "State" shall be treated as references to such company; and

(2) In the case of any direct industrial customer or any local distribution company which is privately-owned, and not subject to State rate regulation, the Governor shall designate the responsible State regulatory authority.

(h) The term "substitute lighting" means outdoor lighting which does not directly burn natural gas.

Subpart B—Prohibitions

§ 516.20 General prohibition on installation of natural gas outdoor lighting fixtures.

(a) *Prohibition.* No local distribution company or direct industrial customer shall install any natural gas outdoor lighting fixture.

(b) *Effective date.* The prohibition stated in paragraph (a) of this section shall be effective beginning on November 9, 1978.

§ 516.21 General prohibition on sale of natural gas for use in outdoor lighting.

(a) *Prohibition.* No local distribution company shall supply natural gas for use in outdoor lighting.

(b) *Effective dates.* (1) In the case of any residential, commercial, or industrial customer, the prohibition stated in paragraph (a) of this section shall be effective on May 8, 1979, unless a later effective date is applicable under paragraphs (a) (2), (3), or (4) of this section.

(2) In the case of any industrial or commercial structure to which natural gas was being supplied by the local distribution company for outdoor lighting use on November 9, 1978, the prohibition stated in paragraph (a) of this section shall be effective on November 5, 1979.

(3) In the case of any municipal outdoor lighting fixture to which natural gas was being supplied by the local distribution company for outdoor lighting use on November 9, 1978, the prohibition stated in paragraph (a) of this section shall be effective January 1, 1982.

(4) In the case of any outdoor lighting fixture used in connection with a residence to which natural gas was being supplied by the local distribution company for outdoor lighting use on November 9, 1978, the prohibition stated in paragraph (a) of this section shall be effective January 1, 1982.

§ 516.22 Prohibition on use of natural gas by direct industrial customers for outdoor lighting.

(a) *Prohibition.* No direct industrial customer shall use natural gas for outdoor lighting.

(b) *Effective dates.* (1) In the case of a direct industrial customer who was using natural gas for outdoor lighting on November 9, 1978, the prohibition stated in paragraph (a) of this section shall be effective on November 5, 1979.

(2) In the case of a direct industrial customer using a natural gas outdoor lighting fixture(s) that:

(i) Was installed prior to the ban on the installation of such fixture(s) set out in § 516.20 of this rule; and

(ii) Was not using natural gas for such fixture(s) on the date this rule is issued as a final rule—

the prohibition stated in paragraph (a) of this section shall be effective on May 8, 1979.

Subpart C—Delegation of Authority

§ 516.30 Scope.

Pursuant to section 402(e) of the Act, ERA delegates to the appropriate State regulatory authorities, effective on the date this rule is issued as a final rule, the full responsibility and authority of the Secretary of DOE with regard to natural gas outdoor lighting. The authorities and responsibilities delegated by this rule to the appropriate State regulatory authorities are those enumerated in paragraphs (a) through (g) of this section. The appropriate State regulatory authorities should normally consult with the State Historic Preservation Officers for their respective States (as recognized by the U.S. Department of Interior, Heritage Conservation and Recreation Service) when fulfilling their responsibilities and authorities as set forth in this section particularly when decisions are made or options considered relating to historic preservation.

(a) *Authority to promulgate regulations.* The authority to promulgate any regulations necessary to carry out the purposes of section 402 of the Act is delegated to the appropriate State regulatory authorities.

(b) *Authority to issue orders.* The authority to issue orders exempting certain natural gas outdoor lighting fixtures from the prohibitions set forth in Subpart B of this rule is delegated to the appropriate State regulatory authorities. Such exemption orders may be issued on the basis of:

(1) Lighting of historical significance;

(2) Memorial lighting;

(3) Commercial lighting of historical significance;

(4) Lighting which is necessary to protect the safety of persons and property;

(5) The necessity to permit the installation of substitute lighting where no adequate outdoor lighting (other than that using natural gas) existed on November 9, 1978;

(6) Substantial expense which would not be cost justified; or

(7) The public interest and consistency with the purposes of the Act.

(c) *Authority to establish exemption criteria.* The authority to establish criteria to be used in making any determinations to issue any orders relating to exemptions from the prohibitions set forth in Subpart B of this rule is delegated to the appropriate State regulatory authorities.

(d) *Authority to establish exemption procedures.* The authority to establish procedures for the acceptance, processing, consideration, and grant or denial of applications and requests for exemptions from the prohibitions set forth in Subpart B of this rule is delegated to the appropriate State regulatory authorities.

(e) *Authority to establish enforcement mechanisms.* The authority to establish enforcement policies, criteria and procedures with respect to the prohibitions set forth in Subpart B of this rule is delegated to the appropriate State regulatory authorities.

(f) *Authority to enforce prohibitions and assess civil penalties.* The authority to enforce the prohibitions set forth in Subpart B of the rule, including the authority to assess civil penalties for noncompliance with such prohibitions pursuant to section 723(c) of the Act, is delegated to the appropriate State regulatory authorities.

(g) *Authority to investigate.* The authority to initiate investigations and compel the submission of data or relevant documents is delegated to the appropriate State regulatory authorities.

§ 516.31 Annual reports.

(a) *General requirements.* Pursuant to this delegation, the appropriate State regulatory authority shall submit to ERA two copies of the annual report as specified in this section. The annual report shall be submitted to: Economic Regulatory Administration, U.S. Department of Energy, Office of Utility Systems, 2000 M Street, NW., Washington, D.C. 20461, Attention: Gas Light Prohibitions.

(b) *Schedule for submission.* The appropriate State regulatory authority shall submit annually to ERA, by January 1 of each year, beginning no later than January 1, 1980, a report as specified in this section, except as provided for in paragraph (d) of this section. The last annual report shall be submitted by January 1, 1984. The appropriate State regulatory authority shall submit the annual report either separately or together with the "PURPA Annual Report on Gas Utilities" required to be submitted to DOE by November 1 of each year pursuant to requirements established by section 309 of the Public Utility Regulatory Policies Act of 1978, 92 Stat. 3117 (Pub. L. 94–617).

(c) *Contents of report.* (1) The first annual report shall contain all of the elements specified in subparagraph (2) of this paragraph. Subsequent reports shall contain only those elements or portions of elements to which there were significant changes since the last annual report was submitted.

(2) The appropriate State regulatory authority shall include in their report the following elements:

(i) A list of all local distribution companies and all direct industrial customers who use natural gas for outdoor lighting covered by the report;

(ii) Current estimated annual natural gas consumption for the local distribution companies and all direct industrial customers covered by the report attributable to outdoor lighting;

(iii) Copies of all State statutes, rules and regulations prohibiting natural gas lighting, enforcing the prohibitions, and granting or denying exemptions to the prohibitions;

(iv) A summary of exemption requests granted or denied, by category of exemption, and including the rationale for such grant or denial; and

(v) A description of the State's current or projected efforts to enforce the prohibitions set forth in Subpart B of this rule.

(d) *Optional certification of submission of final report.* An appropriate State regulatory authority may submit to ERA a certification stating that, to the best knowledge of such authority, further annual reports are unnecessary, stating the rationale for such determination. The certification must be submitted prior to the date on which the annual report is due. ERA shall be the sole determinant, however, as to whether or not annual reports are required.

§ 516.32 Recission.

This delegation as it applies to any particular State may be rescinded by ERA if, after notice and opportunity for a hearing, ERA finds that the State regulatory authority has failed to comply with any substantial provision of section 402 of the Act or this rule. Such finding and rescission shall be published in the Federal Register, and shall become effective no sooner than 15 days after the date of publication.

Subpart D—Guidance on Exemptions

§ 516.40 Applicability.

The appropriate State regulatory authority shall grant or deny a request for exemption on the basis of the guidance specified in this subpart until such time as the appropriate State regulatory authority chooses to exercise the authority to establish exemption criteria, delegated by § 516.30(c) of this rule.

§ 516.41 Lighting of historical significance.

(a) *Scope.* A Federal, State or local government agency, or an appropriate historical association, may petition the appropriate State regulatory authority for an exemption from the prohibitions set forth in §§ 516.20 and 516.21 of this rule for any property on the basis of historical significance. In the case of a petition for an exemption from the prohibition set forth in § 516.20 of this rule (General prohibition on installation of natural gas outdoor lighting fixtures), an exemption shall be granted only for replacement of a natural gas outdoor

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lighting fixture(s) that was installed prior to November 9, 1978. Such replacement shall include:

(1) Replacement of an extant original or reproduction fixture; or

(2) Installation of an original or reproduction fixture to replace a fixture which existed during the life of the specified historic property.

(b) *Criteria.* The criteria for an exemption on the basis of historic significance shall be satisfied upon certification, by the petitioner, that the specifically identified natural gas outdoor lighting fixture(s) directly contributes to the quality of significance of the specifically identified historic property or district, as applicable; and upon a finding that the specifically identified historic property:

(1) Is listed on the National Register of Historic Places maintained by the Heritage Conservation and Recreation Service, Department of Interior, or is officially determined eligible for listing by the Secretary of Interior, pursuant to the National Historic Preservation Act (16 U.S.C. 470 as amended), applicable regulations (36 CFR Parts 60 and 63), and Executive Order 11593; or

(2) Is in a district whose State or local statutes are certified as providing adequate protection of historic places by the Secretary of the Department of Interior, pursuant to the Tax Reform Act of 1976 (26 U.S.C. 191, 280B) and applicable regulations.

(c) *Stays.* An exemption request shall result in a stay from the prohibitions set forth in Subpart B of this rule if:

(1) The petitioner has certified that the specifically identified natural gas outdoor lighting fixture(s) directly contributes to the quality of significance of the specifically identified historic property or district, as applicable; and

(2) An application is pending, before the Department of Interior, for inclusion in one of the categories specified in subparagraphs (1) or (2) of paragraph (b) of this section.

§ 516.42 Memorial lighting.

(a) *Scope.* A Federal, State or local government agency, or an appropriate historical association, may petition the appropriate State regulatory authority for an exemption from the prohibitions set forth in §§ 516.20 and 516.21 of this rule on the basis of memorial lighting. In the case of a petition for an exemption from the prohibition set forth in § 516.20 of this rule (General prohibition on installation of natural gas for outdoor lighting fixtures), an exemption shall be granted only for replacement of a natural gas outdoor lighting fixture(s) that was installed prior to November 9, 1978. Such replacement shall include replacement of an extant fixture only.

(b) *Criteria.* The criteria for an exemption on the basis of memorial lighting shall be satisfied upon a finding that the specifically identified outdoor lighting fixture(s) directly contributes to preserving the memory of a deceased person or persons.

§ 516.43 Commercial lighting of historical significance.

(a) *Scope.* A person using natural gas outdoor lighting for commercial purposes may petition the appropriate State regulatory authority for an exemption from the prohibitions set forth in §§ 516.20 and 516.21 of this rule on the basis of historical significance. In the case of a petition for an exemption from the prohibition set forth in § 516.20 of this rule (general prohibition on installation of natural gas outdoor lighting fixtures), an exemption shall be granted only for replacement of a natural gas outdoor lighting fixture(s) that was installed prior to November 9, 1978. Such replacement shall include:

(1) Replacement of an extant original or reproduction fixture; or

(2) Installation of an original or reproduction fixture to replace a fixture which existed during the life of the specified historic property.

(b) *Criteria.* The criteria for an exemption on the basis of historical significance shall be satisfied upon certification, by the petitioner, that the specifically identified natural gas outdoor lighting fixture(s) directly contributes to the quality of significance of the specifically identified historic property or district, as applicable; and upon a finding that the specifically identified historic property:

(1) Is listed on the National Register of Historic Places maintained by the Heritage Conservation and Recreation Service, Department of Interior, or is officially determined eligible for listing by the Secretary of Interior, pursuant to the National Historic Preservation Act (16 U.S.C. 470 as amended), applicable regulations (36 CFR Parts 60 and 63), and Executive Order 11593; or

(2) Is in a district whose State or local statutes are certified as providing adequate protection of historic places by the Secretary of the Department of Interior, pursuant to the Tax Reform Act of 1976 (26 U.S.C. 191, 280B) and applicable regulations.

(c) *Stays.* An exemption request shall result in a stay from the prohibitions set forth in Subpart B of this rule if:

(1) The petitioner has certified that the specifically identified natural gas outdoor lightening fixture(s) directly contributes to the quality of significance of the specifically identified historic property or district, as applicable; and

(2) An application is pending, before the Department of Interior, for inclusion in one of the categories specified in subparagraphs (1) or (2) of paragraph (b) of this section.

§ 516.44 Safety of persons and property.

(a) *Scope.* A local distribution company, a direct industrial customer, or an interested person, may petition the appropriate State regulatory authority for an exemption from the prohibitions set forth in §§ 516.21 and 516.22 of this rule on the basis of the necessity to protect the safety of persons and property if such natural gas was being supplied on November 9, 1978.

(b) *Criteria.* The criteria for an exemption on the basis of the necessity to protect the safety of persons and property shall be satisfied upon a finding that:

(1) (i) Compliance with the prohibition would significantly increase the chances of bodily injury or damage to property;

(ii) Compliance with the prohibition would significantly increase the chances of the occurrence of crime; or

(iii) The lighting is necessary because other existing lighting does not provide lighting adequate to insure conformance with American National Standards Institute (ANSI) Standard No. D 12.1, "The American National Standard Practice for Roadway Lighting;" and

(2) (i) Would impose a substantial hardship on a person other than a local distribution company, a pipeline company, or a company that manufactures or supplies natural gas outdoor lighting fixtures, in terms of personal income or savings; or

(ii) Would not be justified by the savings likely to be accrued over the useful life of the substitute lighting facility.

§ 516.45 Time to install substitute lighting.

(a) *Scope.* A local distribution company, a direct industrial customer, or an interested person, may petition the appropriate State regulatory authority for a temporary exemption from the prohibitions set forth in §§ 516.21 and 516.22 of this rule. Such an exemption shall be on the basis of the time needed to permit the installation of substitute lighting where no adequate outdoor lighting (other than that using natural gas) exists, if such natural gas was being supplied on November 9, 1978.

(b) *Criteria.* The criteria for an exemption on the basis of time to install substitute lighting shall be satisfied upon a finding that:

(1) No adequate outdoor lighting (other than that using natural gas) is available at the time the applicable prohibition became effective; and

(2) The time required for installation of the substitute lighting will not extend beyond one year from the date the applicable prohibition became effective, unless facts and circumstances warrant a longer period.

§ 516.46 Substantial expense.

(a) *Scope.* A local distribution company, a direct industrial customer, or an interested person, may petition the appropriate State regulatory authority for an exemption from the prohibitions set forth in §§ 516.21 and 516.22 of this rule on the basis of substantial expense which would not be cost justified, if such natural gas was being supplied on November 9, 1978.

(b) *Criteria.* The criteria for an exemption on the basis of substantial expense which would not be cost justified shall be satisfied upon a finding that compliance with the prohibitions set forth in §§ 516.21 and 516.22 of this rule would substantially and negatively affect the profit margin, return on investment, or rates of a local distribution company or direct industrial customer.

§ 516.47 Public interest.

(a) *Scope.* A local distribution company, a direct industrial customer, or an interested person, may petition the appropriate State regulatory authority for an exemption from the prohibitions set forth in §§ 516.21 and 516.22 of this rule on the basis of the public interest and consistency with the purposes of the Act, if such natural gas was being supplied on November 9, 1978.

(b) *Criteria.* The criteria for an exemption on the basis of the public interest and consistency with the purposes of the Act shall be satisfied upon a finding that converting a specific natural gas outdoor lighting fixture(s) to substitute lighting would not reduce the use of natural gas.

[Docket No. ERA–R–79–6]
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federal register

Thursday
May 10, 1979

Part IV

Department of Health, Education, and Welfare

Social Security Administration and Office of Child Support Enforcement

Income Maintenance Research and Demonstration; Availability of Grants

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DEPARTMENT OF HEALTH, EDUCATION, AND WELFARE

Social Security Administration

Office of Child Support Enforcement

Income Maintenance Research and Demonstration Grants; Availability of Grants

The Commissioner of Social Security and the Director of the Office of Child Support Enforcement (OCSE) give notice of the availability of fiscal year (FY) 1979 funds for income maintenance and child support enforcement research and demonstration (R&D) grants supportive of public assistance programs funded under Title IV of the Social Security Act. The grants are authorized under sections 1115(a) and 1110 of the Social Security Act respectively. Applications must be received by July 6, 1979. Section 1115(a) grants are available only to the State agency responsible for administering federally aided programs of income maintenance. Section 1110 grants are available to public and nonprofit agencies and organizations including institutions of higher learning.

General Policy Considerations

The R & D activities are intended to resolve major Department of Health, Education, and Welfare (HEW) policy and program issues, and to assist States in developing new methods for improving the effectiveness of public assistance programs.

In general, the Social Security Administration (SSA) and OCSE are interested in the following types of projects: (1) Those which develop and demonstrate new financing mechanisms, administrative procedures, and technological innovations for improving the effectiveness and efficiency of public assistance programs at the State and local levels.

(2) Those which develop more knowledge on the characteristics and financial needs of a target group.

(3) Those which develop and implement analytical models for comparing the relative merits of alternative methods for carrying out the income maintenance and child support enforcement programs.

Priority Areas for R. & D. Funds

Research and demonstration projects will be directed toward priorities and strategies derived from major policy and program issues. The areas designated as high priority for R & D funding for FY 1979 are: (A) Fraud and abuse control; (B) the development analysis of innovative practices in local welfare office administration; and (C) the identification and evaluation of effective child support enforcement techniques. Proposals on other topics will be considered if funds are available.

(A) Fraud and Abuse Control

Income maintenance R & D efforts for new projects dealing with fraud control in fiscal year 1979 will concentrate on fraud prevention and detection. Several areas may be explored including:

(1) Development of techniques to measure the cost effectiveness of existing eligibility verification procedures;

(2) Testing techniques for preventing or reducing improper redemption of recipient benefits, e.g., Electronic Fund Transfer (EFT) of recipient benefits to local bank accounts;

(3) Development of techniques to promote prevention of fraud;

(4) Development of systems or methodologies for measurement of the incidence of fraud and the effectiveness of fraud prevention techniques;

(5) Development of systems for identifying cases with characteristics which represent potential "high risk" for fraud;

(6) Development of systems or methodologies that minimize employee and recipient fraud in local welfare administration procedures; and

(7) Development and testing of systems to prevent or detect "multiple registration" fraud, including the identification of primary case characteristics other than Social Security numbers to be used in intrastate or interstate file checks. In the area of Electronic Fund Transfer of recipient benefits to local bank accounts, two-year projects will be considered. The first year should be devoted to planning activities such as site selection, obtaining commitments of local banks to participate, developing an evaluation plan, arranging for an independent evaluation, recruiting volunteer recipients, and establishing control groups. The second year will be devoted to actual operation.

(B) Development and Analysis of Innovative Practices in Local Welfare Office Administration Study.

development, and analysis of innovative welfare office administration of AFDC is the second area of priority. Emphasis will be placed on the potential transferability of tested practices to other States. Applications should include—

(1) An experimental design that measures the impact of the administrative practice on the AFDC program;

(2) Provision for collection of data from at least one experimental or "model" center, and from at least one comparable "control" center with a before and after description of agency operation; and

(3) A comprehensive evaluation plan for practice(s).

Examples of areas open to innovative administrative practices include—

(a) Control procedures which insure prompt action;

(b) Improved accountability;

(c) Use of structured guides for caseworker/recipient contacts (e.g. eligibility determination); and,

(d) Training techniques.

(C) Identification and Evaluation of Effective Child Support Enforcement Techniques

Child support enforcement is a relatively new activity in the States. One project will be funded in this third priority area. This project will seek to improve the efficiency and effectiveness of State child support enforcement programs by applying a systems analysis approach to the various program functions such as paternity establishment, absent parent location, support obligation termination, and support enforcement. The approaches developed will be assessed and operational models for integrating the component activities in efficient child support enforcement should be formulated. The results of the project will be expected to impact directly on Federal Regulations, and perhaps, indirectly on State laws. One or more States may undertake the operational model as a follow-up project.

Availability and Duration of Funding

Projects in the first two areas of priority (A and B) will be financed under section 1115(a) of the Social Security Act. For fiscal year 1979, SSA has allocated a total of $200,000 for new projects in each priority area—$100,000 in special Federal project funds and $100,000 in regular Federal matching funds. At least two projects will be funded in area (A) and one in area (B). The new project on Child Support Enforcement (priority area C) will be financed under section 1110 of the Social Security Act with a total grant of $170,000. Grants will be awarded for a period of one year; and may be continued on a noncompetitive basis for up to three years if originally awarded as a multiple year project. Continuation funding is contingent upon the availability of future year funds, the

meeting of project objectives; and the continued relevance of the project to current program priorities.

Basic Criteria for Funding New Projects

The basic criteria for funding new projects include:

1. The proposal should address an area of declared interest and the anticipated results should be relevant to SSA or OCSE programs.

2. The concept to be studied must be innovative and not duplicate other efforts.

3. The knowledge, methods or technology developed must be such that a positive impact can be made on a significant portion of the AFDC program and child support enforcement.

4. The knowledge, methods or technologies developed must be replicable in whole or in part and potentially applicable in areas other than the test sites.

5. The proposed project methodology must be rigorous and consistent with what is generally agreed to be the State-of-the-Art.

6. The overall budget, the personnel resources to be used and the facilities and equipment must be appropriate for the project.

7. Section 1115 demonstration projects must have a commitment of State interest and cite conditions for State continuation if the demonstration is judged to be successful once the demonstration project terminates.

Project Requirements

In addition to meeting the basic criteria for funding new projects described above, the project proposal must meet the following requirements as detailed in the project narrative section of the grant application package:

1. The application must clearly state: measurable project goals and objectives; the project design, including the questions addressed; scientifically valid methods and data to be used; and scheduled tasks and milestones.

2. The application should list the qualifications of the project personnel and demonstrate how these qualifications make those people capable of competently performing their assigned tasks in the project. The application should also show the organization of personnel in the project, i.e., who will be responsible for which portions of the project and what lines of authority will exist.

3. The budget must be given in detail with justifications and explanations for the amounts requested. Estimated costs must be reasonable considering the anticipated results.

4. All projects must have an evaluation component which describes the date collection and analysis procedures that will be used to quantitatively assess to what degree the project's objectives are being achieved. This evaluation component must be clearly distinguished from activities designed primarily to give the project's staff feedback on their progress toward meeting the project's objectives.

5. The applicant organization must have adequate facilities and resources to carry out the project.

6. Section 1115(a) projects that require waivers must list the waivers, discuss the implications if such waivers are granted, and state the effect on Federal, State and local laws as well as the effect (beneficial or adverse) on beneficiaries enrolled in the project.

7. Plans for utilization of the project's results should be discussed along with deliverable products and the points in the project schedule when these reports or products, or both, will be available.

8. The application must assure the applicant's willingness to comply with the human subjects regulations by inclusion of a completed form HEW-596 (Rev. 1975) "Protection of Human Subjects" (45 CFR Part 46).

Review of Applications

Applications are initially screened for relevance to the interests of SSA and OCSE. Irrelevant applications are returned to the applicant. Relevant applications are reviewed and numerically rated by a review panel of not less than three experts. Written assessment of each application is made, followed by a ranking of the applications showing the suggested order for approval.

Application Procedures

1. Application forms

Application kits are available from: Social Security Administration, Division of Contracting and Procurement, Post Office Box 7696, Gwynn Oak Branch, Baltimore, Maryland 21207, Telephone: 301-594-0284, Grants Management Officer—Lawrence Pullen.

Additional information about the projects desired in the three priority areas is also available at the above address upon request. Requests should specify the type of project intended to insure receipt of the proper application and guidelines.

2. Grant Policies

Funding of grants is made through a competitive process based on a choice of proposals submitted in response to this notice. Grantee responsibilities, awarding and payment procedures, special provisions and assurances are explained in the application kit.

3. Closing Dates

In order to be considered for a grant using fiscal year 1979 funds in the priority areas, an applicaton must be received by the Division of Contracting and Procurement (at the address shown above) no later than Friday, July 6, 1979.

An application will be considered to be received on time if—

(a) the postmark shows that the application was sent by registered or certified mail no later than July 6, 1979, or (b) the application is received on or before the closing date by the Social Security Administration in Baltimore, Maryland. The date of receipt will be established by the time date stamp of the mailroom or other documentary evidence of receipt maintained by SSA.

(Catalog of Federal Domestic Assistance Program No. 13.812—Assistance Payments—Research)

Dated: April 30, 1979.

Stanford G. Ross,

Commissioner of Social Security and Director, Office of Child Support Enforcement.

[FR Doc. 79-14568 Filed 5-9-79; 8:45 am]

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Part V

Department of Housing and Urban Development

Office of the Secretary

Cost-Effective Energy Conservation Standards

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HOUSING AND URBAN DEVELOPMENT

Office of the Secretary

24 CFR Part 39

Cost-Effective Energy Conservation Standards

AGENCY: Office of the Secretary, (HUD).

ACTION: Interim rule.

SUMMARY: The Secretary is prescribing cost-effective energy conservation and efficiency standards for certain HUD programs and is inviting public comment on these standards before they become effective. With the exception of one program in which the Secretary has determined that these standards are needed as a matter of policy, adoption and implementation of the standards are required by recently enacted legislation.

COMMENT DUE: June 11, 1979.

EFFECTIVE DATE: July 9, 1979.

FOR FURTHER INFORMATION COATACT: Joseph Sherman, Director, Division of Energy, Building Technology and Standards Research, Office of Policy Development and Research, (202) 755–6443 or Duane Keplinger, Acting Director, Office of Architecture and Engineering Standards, Office of Housing, (202) 755–5718, Department of Housing and Urban Development, 451 Seventh Street, S.W., Washington, D.C. 20410.

SUPPLEMENTARY INFORMATION: The Housing and Community Development Amendments of 1978, 42 U.S.C. 1425(b) et seq., Pub. L. 95–557 (1978 Amendments) require the Secretary to prescribe cost-effective energy conservation and efficiency standards governing improvements and rehabilitation in four HUD programs. In addition, the Secretary has determined as a matter of policy that the standards are needed in a fifth program to assure conservation of energy resources. Thus, the standards, which are set forth as an Appendix to this rule, will apply to (1) rehabilitation loans under Section 312 of the Housing Act of 1964 (see Section 101(a)(7) of the 1978 Amendments); (2) rehabilitation loans under Section 203(k) of the National Housing Act (see Section 101(c)(1) of the 1978 Amendments); (3) Federal financial assistance for troubled multifamily housing projects (see Section 201(d)(6) of the 1978 Amendments); (4) Federal financial assistance for substantial rehabilitation projects under Section 8 of the United States Housing Act of 1937 (see Section 206(d)(1) of the 1978 Amendments); and (5) Federal financial assistance for moderate rehabilitation projects under Section 8 of the United States Housing Act of 1937 (Secretary's policy determination).

The Secretary has determined that the standards are urgently needed and must be adopted 60 days after publication since the 1978 Amendments prohibit Section 312 Rehabilitation loans after July 27, 1979, covering work which does not conform to the standards. Hence, the Section 312 program cannot continue unless these standards have been adopted in sufficient time to acquaint participants adequately with the cost-effective energy provisions by that date. Furthermore, the program under Section 203(k) of the National Housing Act cannot be effectively implemented until the standards have been adopted. The 1978 Amendments also require expedited implementation of the Standards for the Section 8 Substantial Rehabilitation Program and Troubled Multifamily Housing Assistance Program.

Before adopting the standards, the Secretary is providing 30 days for submittal of public comments. If as a result of comment, the Secretary determines that change in the standards is appropriate, their effectiveness will be deferred by publication in the **Federal Register**. Otherwise, unless deferred by such publication, the standards will become effective without notification by the Secretary 30 days after the close of the period allowed for public comment, that is 60 days after publication of this document. Interested parties are invited to participate in this rulemaking proceeding by submitting relevant comments and suggestions to the Rules Docket Clerk, Office of the General Counsel, Department of Housing and Urban Development, 451 Seventh Street, S.W., Washington, D.C. 20410. A substantive response will be provided as to each comment received through a notice published in the **Federal Register** or by mail.

The Secretary has determined that this amendment does not affect the quality of environment and a statement to that effect has been prepared. This statement is available for inspection and copying in the Office of the Rules Docket Clerk at the above address.

The legislative review provisions of Section 7(o) of the Department of HUD Act, 42 U.S.C. 3535(o) have been met.

Accordingly Subtitle A is amended by adding a new Part 39 to read as follows:

PART 39—COST-EFFECTIVE ENERGY CONSERVATION AND EFFECTIVENESS STANDARDS

Sec.

39.1 Title and purpose.
39.3 Authority.
39.5 Scope.
39.7 Standards.

Appendix I Cost-Effective Energy Efficiency (Conservation) Standards for Rehabilitation of Residential Properties

§ 39.1 Title and purpose.

The purpose of this Part is to set foirth cost-effective energy conservation and efficiency standards applicable to HUD programs.

§ 39.3 Authority.

This Part implements the provisions of the Housing and Community Development Amendments of 1978, 42 U.S.C. 1425(b), et seq., Pub. L. 95–557.

§ 39.5 Scope.

The standards apply to the following programs:

(a) Rehabilitation loans under Section 312 of the Housing Act of 1964.

(b) Rehabilitation loans under Section 203(k) of the National Housing Act.

(c) Operating assistance for troubled multifamily housing projects under Section 201 of the Housing and Community Development Amendments of 1978.

(b) Financial assistance for substantial rehabilitation projects under Section 8 of the United States Housing Act of 1937.

(e) Financial assistance for moderate rehabilitation projects under Section 8 of the United States Housing Act of 1937.

§ 39.7 Standards.

The standards are set forth in detail in the Appendix to this Part.

Appendix

Cost-Effective Energy Efficiency (conservation) Standards for Rehabilitation of Residential Properties

A–1. *General.* (a) These standards provide the mandatory levels of various energy-efficiency features that are considered as cost-effective in the rehabilitation of residential properties. The material is arranged to give consideration to local climatic conditions and fuel prices in determining the measures to be used.

(b) It is realized that not all of the requirements can be followed in all situations due to existing building conditions and funds available.

A–2. *Application.* (a) It is the intent of these standards to apply only to those improvements proposed as part of the rehabilitation, except those listed in A–3 below. If new material or construction is contemplated, conformance to these standards is mandatory for these features.

(b) It is not the intent to require thermal improvement of construction elements which would not ordinarily be made accessible or become exposed during the rehabilitation.

(c) The requirements contained herein must be applied judiciously. Any one or more of the requirements may be eliminated to the extent they are not practical in rehabilitation situations, considering economic feasibility, program needs and the materials and type of construction involved. (Example: The use of the following Tables for a structure of 1500 square feet located in an area of 4200 degree days with a fuel cost of 4 cents per Kwh for electricity, would require R–30 ceiling insulation for certain programs. If the structure presently had no ceiling insualtion, the savings in fuel cost would be approximately $1000 per year after adding the R–30 insulation. However, if the present ceiling contained R–19 insulation, improvement to R–30 would result in an annual reduction in fuel cost of only $170.) The reduced operating cost must be weighed against the amortization cost for the improvements to determine cost-effectiveness for the specific program terms. (The energy estimating methods contained in Chapter 43 of the 1976 Systems Handbook of the American Society of Heating, Refrigerating and Air Conditioning Engineers, Inc. were used in preparing the above comparison.)

A–3. *Additional Criteria.* (a) In addition to the measures shown in the Tables, the following shall apply to those structures which are not subjected to the energy audit procedures described in (b) below: (1) Doors and windows shall be weatherstripped to reduce infiltration of air when weatherstripping is inadequate or nonexistent.

(2) Caulk, gasket, or otherwise seal all openings, cracks, or joints in the building envelope when existing materials are inadequate. Replace all loose or brittle caulking with new elastomeric material. Leave bottom edge of siding uncaulked to allow moisture drainage.

(3) Replacement heating, ventilating and airconditioning (HVAC) system supply and return pipes and ducts shall be insulated whenever they run through unconditioned spaces. Pipe insulation shall be R–2 or greater, and duct insulation shall be R–4 or greater. Duct seams shall be tightly sealed to reduce air leakage.

(4) Replacement heating systems, burners and airconditioning systems shall be of high-efficiency design, and should be carefully sized to be no greater than 15% oversize for the critical design, hearing or cooling, except to satisfy the manufacturers' next closest nominal size.

(b) For mid-rise and high-rise structures and for many low-rise multifamily projects an energy audit must be carried out to identify and specify the energy and cost savings which are estimated to result from installing or accomplishing an energy conservation measure. All measures determined to be cost-effective, given the loan time and rate and in accordance with paragraph A–2 shall be accomplished. Amortization cost of improvements must be offset by reduced operating costs attributable to the improvements. Generally, assistance in conducting energy audits is available through local supplies, energy officials and utility companies. The energy audit shall cover all of the following energy conservation measures, to the degree feasible, except those that are not appropriate for the building types or equipment:

Installation of individual utility meters or checkmeters
Ceiling insulation
Insulation of hot water and steam pipes
Insulation of heating and cooling ducts in unheated spaces
Caulking and sealants in building joints
Weatherstripping doors and windows
Clock thermostats for units with individual heating units
Storm windows or replacement of single glazed windows with double glazed windows
Flow restrictors for hot water lines to shower heads or faucets
Thermostatic radiator valves
Replacement of incandescent fixtures in public spaces with higher efficiency lighting
Exterior insulation for water heaters located in unheated spaces
Improved burners, controls, capacitors and other improvements to mechanical systems which will lower fuel consumption or energy costs

A–4. *Use of Table 1.* In order to use the recommendations shown in Table 3, the Heating Index must be determined from Table 2. If the structure is mechanically cooled, the Cooling Index must also be selected from Table 2. In order to choose a Heating Index and a Cooling Index from Table 2 it is necessary to identify the appropriate reference column number. Table 1 presents those column reference numbers. At the top of Table 1 are unit prices for oil, gas, and electricity (electricity prices apply to resistance electric heating and air conditioning only) expressed in cents per gallon, per therm, and per Kwh, respectively. The costs used in choosing the proper reference column number should be the marginal cost—the cost of the last unit of fuel purchased in the heating or cooling season—and should include all taxes and fuel adjustment charges. Choose reference column numbers for the Heating Index by selecting the reference number directly below the fuel costs in the row representing the financing terms to be used. Similarly select a Cooling Index reference column by noting the number in the row of the applicable financing terms that is directly below the unit price of cooling energy. When fuel costs exceed those shown in the Table, use the last column on the right of the Table.

A–5. *Table 2—Selection of Heating and Cooling Indices.* At the top of Table 2 are column reference numbers. Along the left side of Table 2 are Degree Days for heating and Cooling Hours for cooling. The Heating Index is derived by reading down the correct reference column and across for the applicable Degree Day entry. The point of convergence indicates the Heating Index. The reference column for cooling and the Cooling Hours are used in the same manner to determine the Cooling Index.

A–6. *Table 3—Selection of Recommended Measures.* The levels of protection are determined by reading horizontally across the Table from the Heating Index shown on the left side of the Table. For ceiling insulation the applicable Colling Index column must be used with the appropriate Heating Index. If mechanical cooling is not contemplated, use the column for Cooling Index 1.

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Table 1

FUEL PRICES AND REFERENCE COLUMNS FOR HEATING AND COOLING INDICES

FUEL PRICES

Oil (c/Gallon)	29	33	37	42	46	51	55	64	73	82	91
Gas (c/Therm)	23	26	29	33	36	40	43	51	58	65	72
Electricity (c/Kwh)	1.6	1.8	2	2.3	2.5	2.8	3.0	3.5	4.0	4.5	5

(1) FINANCING TERMS

REFERENCE COLUMNS

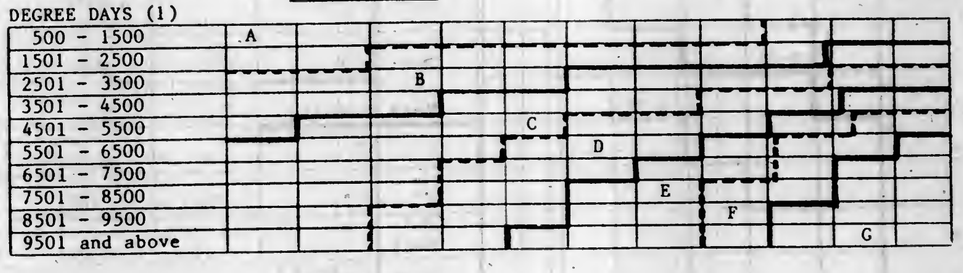
15 yrs @ 11 1/2 % or 10 yrs @ 5%	1	2	2	3	4	5	5	6	7	8	8
30 yrs @ 9 1/2% or 40 yrs @ 9 1/2%	1	2	3	4	5	6	7	8	9	10	11
20 yrs @ 6% or 40 yrs @ 7 1/2% or 40 yrs @ 8%	1	2	3	5	6	7	8	9	10	11	11
20 yrs @ 3%	1	3	4	6	7	9	10	11	11	11	11

(1) To determine the appropriate Reference Column for financing terms with rates or terms not shown, interpolate between the above Reference Columns. Use next higher reference column if interpolation yields a result between columns.

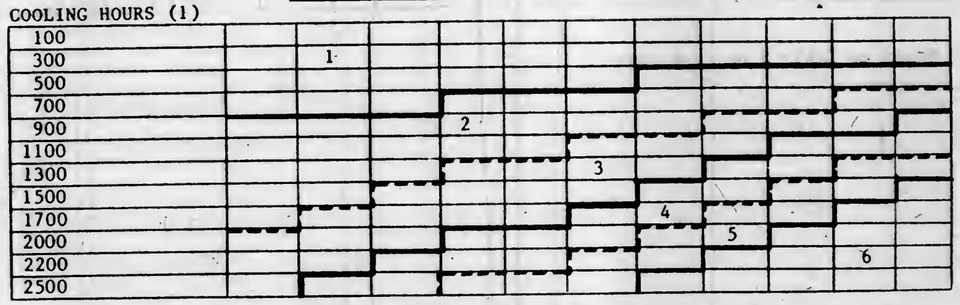
Table 2
HEATING AND COOLING INDICES

REFERENCE COLUMN	1	2	3	4	5	6	7	8	9	10	11

HEATING INDEX



COOLING INDEX



(1) Degree Day and Cooling Hour information is available in the ASHRAE Systems Handbook, from local weather stations and from local utility companies.

TABLE 3
INSULATION: R VALUES

Heating Index	CEILINGS(1) Cooling Index 1	2	3	4	5	6	WALL (2) (3)	FLOOR Over Unheated Spaces	GLASS No. of Layers	STORM DOOR OR THERMAL DOOR
A	R-19								1	No
B		R-26					R-11 to R-13	0	1	No
C				R-30				R-11	2	No
D					R-38				2	No
E									3(5)	No(6)
F							(4) R-13		3(5)	No(6)
G								R-19	3(5)	Yes(7)

Notes to Table 3 on next page.

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Notes to Table 3

(1) The addition of insulation to ceilings which presently contain insulation may not be cost-effective. If the additional insulation needed to conform to the recommendations is less than R–19, benefits are doubtful. (See example in A–2(c).)

(2) For frame construction, the R value of sheathing may be included in the insulation R value of walls.

(3) Required only when wall covering, interior or exterior, is removed and an adequate vapor barrior is applied. (When the existing wall contains any amount of insulation, additional insulation applied by blowing or pouring is not recommended.)

(4) Extra insulation, up to R–19, is recommended where practicable under the conditions of Note (3) above.

(5) Three layers of glass not typically cost-effective unless existing windows are double glazed or complete replacement of sash is contemplated. If replacing sash, should have insulating frames.

(6) Storm doors or thermal doors recommended if primary door is hollow-core or is over 25 percent glass.

(7) Applicable only to individual living unit doors opening directly to the exterior.

(Section 7(d) of the Department of Housing and Urban Development Act 42 U.S.C. 3535(d))

Issued at Washington, D.C. April 6, 1979.

Patricia Roberts Harris,

Secretary of Housing and Urban Development.

[Docket No. R–79–642]

[FR Doc. 79–14592 Filed 5–8–79; 8:45 am]

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Part VI

Department of Housing and Urban Development

Office of the Assistant Secretary of Community Planning and Development

Rehabilitation Loan Program

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DEPARTMENT OF HOUSING AND URBAN DEVELOPMENT

Office of the Assistant Secretary for Community Planning and Development

24 CFR Part 510

Rehabilitation Loan Program

AGENCY: Housing and Urban Development/Office of the Assistant Secretary for Community Planning and Development.

ACTION: Final Rule

SUMMARY: The Secretary is adopting a rule under the Section 312 Rehabilitation Loan Program that implements recently enacted law requiring HUD to adopt standards for cost effective energy conservation. Applications must meet the standards before a loan can be made under this program.

EFFECTIVE DATE: July 9, 1979.

FOR FURTHER INFORMATION CONTACT: Leonard J. Czarniecki, Rehabilitation Policy Division, Department of Housing and Urban Development, 451 Seventh Street, S.W., Room 7168, Washington, D.C. 20410 (202) 245–7576.

SUPPLEMENTARY INFORMATION: Concurrently with this rule, the Secretary is publishing in Docket No. R–79–642 Cost Effective Energy Conservation Standards applicable to certain HUD programs, among them, Rehabilitation Loans under Section 312 of the Housing Act of 1964, 42 U.S.C. 1452 (b). These standards, codified as Part 39, are scheduled to become effective on the same date as this rule. The Housing and Community Development Amendments of 1978, 42 U.S.C. 5301, require these standards to be met for each Section 312 Rehabilitation Loan made after July 27, 1979, and the Secretary is adopting them in sufficient time to acquaint participants adequately with the energy requirements before that date. Public participation is not necessary with respect to this rule since comments on the standards are being invited in Docket No. R–79–642 which prescribes Part 39. This new Part 510 is being added to Chapter V in outline form to accommodate in the future basic regulations governing the 312 loan programs, now being developed. In particular, however, the part also contains Section 510.409 implementing the basic requirements of Section 101(a)(7) of the 1978 Amendments. This legislation provides that beginning 270 days after its enactment, the Secretary may not make any loan under Section 312 without determining that the improvements to the property, upon completion of the rehabilitation, will meet cost effective Energy Conservation Standards prescribed by the Secretary. The Committee on Banking, Finance and Urban Affairs, House of Representatives has stated that: "The Committee does not intend that the total structure receiving assistance must meet cost effective Energy Conservation Standards, but it expects the Secretary will at least require that the improvements financed shall meet such standards". (Report of the House Finance and Urban Affairs Committee, No. 95–1161, May 15, 1978 at page 11). Accordingly, the Energy Conservation Standards set forth in Appendix I to Part 39 apply only to those property improvements intended as part of the rehabilitation. Furthermore, it is not the purpose of these standards to require thermal improvement of construction elements which would not ordinarily be accessible or become exposed during the rehabilitation. A finding of inapplicability with respect to environmental impact has been prepared in accordance with Procedures for Protection and Enhancement of Environmental Quality, HUD Handbook 1390.1. A copy of this finding is available for inspection and copying in the Office of the Rules Docket Clerk, Office of General Counsel, Department of Housing and Urban Development, 451 Seventh Street, S.W., Room 5218, Washington, D. C. 20410. Accordingly, it is proposed to amend 24 CFR by adding a new Part 510 as follows:

PART 510—SECTION 312 REHABILITATION LOAN PROGRAM

Sec.
510.409 Energy Conservation Standards
510.1—510.408 [Reserved]

§ 510.409 Energy conservation standards.

No loan shall be approved under Section 312, Housing Act of 1964, as amended, after July 27, 1979, unless the rehabilitation work proposed for financing under Section 312 complies with the cost effective energy efficiency (conservation) standards for rehabilitation of residential properties set forth in Appendix I to Part 39 of this Title.

Issued at Washington, D.C., April 23, 1979.

Robert C. Embry, Jr.,
Assistant Secretary for Community Planning and Development.

[Docket No. R–79–662]
[FR Doc. 79–14561 Filed 5–9–79; 8:45 am]
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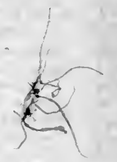
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Part VII

Department of Health, Education and Welfare

Office of Education

Population Education Program

DEPARTMENT OF HEALTH, EDUCATION AND WELFARE

Office of Education

[45 CFR Part 161m]

Population Education Program

AGENCY: Office of Education, HEW

ACTION: Proposed Regulations.

SUMMARY: The Commissioner proposes to amend Title 45 of the Code of Federal Regulations by adding a new part 161m, for the Population Education Program enacted by the Education Amendments of 1978. The proposed regulations—which were developed in consultation with the Deputy Assistant Secretary for Population Affairs—will govern the awarding of direct discretionary grants that are designed to encourage the training of educational personnel, the development and dissemination of instructional materials, and the support of elementary and secondary school programs in population education.

DATES: All comments on the proposed regulations must be received on or before July 9, 1979. Public meetings will be held in each of the ten regions on June 19, 1979. The time for these meetings is—

9 a.m.–12 noon; 1 p.m.–5 p.m.; 7 p.m.–9 p.m.

FOR FURTHER INFORMATION CONTACT:
Dr. Ernest A. Crider, (202) 245–8118. For information on regional hearings contact: The appropriate Regional Commissioner for Educational Programs listed below:

Region I, Boston, Dr. Thomas J. Burns, (617) 223–7500.
Region II, New York, Dr. William D. Green, (212) 264–4370.
Region III, Philadelphia, Dr. Albert C. Crambert, (215) 596–1001.
Region IV, Atlanta, Dr. William L. Lewis, (404) 221–2063.
Region V, Chicago, Dr. Juliette Noone Lester, (312) 353–5215.
Region VI, Dallas, Mr. Edward J. Baca, (214) 767–3626.
Region VII, Kansas City, Dr. Harold Blackburn, (816) 374–2276.
Region VIII, Denver, Dr. John Runkel, (303) 837–3544.
Region IX, San Francisco, Dr. Caroline Gillin, (415) 556–4920.
Region X, Seattle, Mr. Allen Apodaca, (206) 442–0460.

ADDRESSES: Written comments should be addressed to Dr. Ernest A. Crider, U.S. Office of Education, 400 Maryland Avenue SW., Room 2083, FOB–6, Washington, D.C. 20202.

The location of public meetings are—

Region I—Boston: Boston School Department, Administration Building, Boston Committee Hearing Room, 26 Court Street, Boston, Mass.
Region II—New York: New York University, Schimmel Auditorium, Tisch Hall, 40 West 4th Street, New York City, N.Y.
Region III—Philadelphia: University Holiday Inn, 34th & Chestnut Streets, Philadelphia, Pa.
Region IV—Atlanta: Atlanta American Motor Hotel, Spring Street at Carnegie Way, Atlanta, Ga.
Region V—Chicago: Center for Urban Education, 160 West Wendell Street (1050 North Wells), Chicago, Ill.
Region VI—Dallas: El Centro College, Performance Hall, Main and Lamar Streets, Dallas, Tex.
Region VII—Kansas City: Penn Valley Junior College, 3201 Southwest Trafficway, Room 503, Kansas City, Mo.
Region VIII—Denver: George Washington High School, Lunch Room, 655 South Monaco Street, Denver, Colo.
Region IX—San Francisco: Sutter Middle School, 3150 I Street (Alhambra Street), Sacramento, Calif.
Region X—Seattle: Sea—Mat Center, At Wilson—Pacific Special Education School, 1330 North 90th Street, Seattle, Wash.

SUPPLEMENTARY INFORMATION:

A. No Funds

The Commissioner is required by law to publish regulations for programs authorized by Congress. Please note that the Congress has not appropriated funds to operate this program in Fiscal Year 1979, and the President's budget does not request funds for Fiscal Year 1980.

A–1 Background

The purpose of the Population Education Program is to enhance an awareness and knowledge of population issues in elementary and secondary school students throughout the Nation. Consistent with the Senate and House Committee Reports on the Education Amendments of 1978 (S. Rep. No. 856, 95th Cong., 2d Sess. 44–45 (1978); H.R. Rep. No. 1137, 95th Cong., 2d Sess. 74–75 (1978)), the Population Education Program focuses on the nature and impact of population change and encourages the incorporation of population education into a broad variety of academic subjects.

The Population Education Program results from a recognition that population phenomena—such as births, deaths, migration, and characteristics relating to the size, distribution, and composition of the population—have a profound impact on the quality of life. This recognition reflects, in part, an increased understanding of the relationship between population issues and environmental issues and a growing awareness that natural resources are limited.

Recent events have contributed to an enhanced perception of how the size, rate of growth, composition, and distribution of the population affect social, economic, and political life; that is, how people affect and are affected by population trends. The following examples gives some idea of the range of issues that can be explored in population education:

(1) The effects of changing age structure upon the Social Security and pension system.

(2) The impact of immigration—both legal and illegal—upon the Nation's growth rate, the labor market, and the provision of health, educational, and social services.

(3) The impact of the post-World War II "baby boom" on a broad array of services, including education, health, housing, and employment.

(4) Changing age composition and family size and their impact on housing and other essential services.

(5) Changes in the modes and patterns of transportation and their impact on population distribution.

(6) The causes and consequences of rural-urban migration.

(7) The relationship between population growth and distribution and the availability and use of resources.

Increasing interest in, and concern about, population issues has generated activity at various levels. For example, in its 1972 report the Congressionally established Commission on Population Growth and the American Future recommended the enactment of a Population Education Act. In a special 1976 report the Subcommittee on Population Education of the Federal Interagency Committee on Education recommended that Population Education be considered a national educational priority.

The Office fo Environmental Education, within the U.S. Office of Education, has supported several curriculum development and demonstration projects in population education. At the local school level, the Baltimore City public school system has incorporated population education concepts into its curricula.

B. Overview of the Proposed Regulations

The proposed regulations state the purpose of the Population Education Program, provide a definition of "population education," describe the nature of projects that the Commissioner funds under the program, and outline the Commissioner's criteria for judging the

quality of project applications. Application content requirements for this program are being published as an appendix to these proposed regulations. While these application content requirements are being published in order to give the public an opportunity to comment, they will not be codified as part of the final regulations.

Education Division General Administrative Regulations

These proposed regulations do not contain certain types of requirements. Those regulations are covered in the Education Division General Administrative Regulations (EDGAR), which will replace the General Provisions for Office of Education Program Regulations and which have been published as a notice of proposed rulemaking (NPRM).

Anyone wanting to comment on these requirements should do so in response to the EDGAR NPRM, rather than to this NPRM.

The following items applicable to this program are now among those covered generally in EDGAR:

How to apply for a grant.
How grants are made.
Certain conditions that must be met by a grantee.
The administrative responsibilities of a grantee.
The Office of Education's procedures to assure compliance.

EDGAR was published in the Federal Register as a proposed regulation. After EDGAR takes effect as a final regulation the cross references in §§ 161m.3(a), 161m.4 and 161m.400(b) of the Population Education Program regulations will be changed to refer to EDGAR.

Major provisions of the proposed regulations include the following:

§ 161m.4 *Definition of Population Education.* In accordance with Congressional intent, "population education" is defined as including the study of issues related to the size, age, composition, and geographical distribution of the population; also fertility, mortality, migratory patterns, and pulbic and private policies that have a direct and indirect impact on population phenomena.

The proposed definition also reflects the intent of Congress that population education be incorporated into a variety of academic fields at the elementary and secondary school levels.

The Senate Committee Report indicates that "[p]opulation education is not sex education" (see S. Rep. No. 856, 95th Cong. 2d Sess. 44–45 (1978)). The Commissioner is implementing this Congressional intent by defining "population education" to exclude the teaching of the biological elements of human reproduction and techniques of contraception.

§ 161m.300 *Criteria for review of applications.* The Commissioner proposes to fund population education projects that show promise of maximum impact on curricula at the elementary and secondary school levels. Therefore, the Commissioner's criteria for review of applications include a criterion (§ 161m.300(i)) that gives up to 15 points to projects that focus primarily on one or more of the following:

(1) The development and dissemination of new teacher and student materials in population education.

(2) The adaptation of existing population education curricula and materials to new situations.

(3) The development of inservice training programs for educational personnel who will implement population education activities at the elementary and secondary school levels.

These activities constitute projects of potential national significance. For example, inservice training projects should reflect an orientation toward the development of nationally significant approaches to training. The primary objective of inservice training projects is to support the development of various approaches to training, not the training of local educational personnel.

161m.400(a) *Allowability of costs for stipends, released time and substitutes.* The Commissioner proposes to allow payments for stipends, released time, and the employment of substitutes only in those cases in which the applicant clearly demonstrates in the project application the financial need and prgorammatic necessity for that assistance.

161m.401 *Cooperation with State and local Educational agencies.* Section 392(b) of the Elementary and Secondary Education Act of 1965 specifically requires that the following population education activities be carried out in cooperation with appropriate State and local educational agencies:

(1) Development and dissemination of teacher and student educational, training, and instructional materials, including the identification, evaluation, improvement and adaptation of existing curricula and educational materials.

(2) Research support to develop curriculum content and to evaluate programs and materials for the purpose of widespread dissemination.

Section 161m.401 of the proposed regulations implements this statutory requirement.

National studies, such as the Rand report, "Federal Programs Supporting Educational Change, Vol. IV: The Findings in Review," have shown that the involvment of State and local educational agencies in the development of innovative projects substantially increases the likelihood that the projects will be incorporated into existing elementary and secondary school programs.

Therefore, in addition to requiring cooperation for the population education activities listed in § 161m.401 of the proposed regulations, the Commissioner proposes a selection criterion (§ 161m.300(h)) that gives an applicant up to 5 points for "the extent to which each population education project is developed and operated in cooperation with appropriate State and local educational agencies, as well as with other public and private organizations."

C. Public Comments and Participation

Public comments were received from a variety of organizations and individuals prior to the drafting of these regulations. These comments have addressed to definition of population education, types of activities that should be given preference in funding, and duration of grant support. These comments influenced the development of these proposed regulations, including the weighting of some criteria for review of applications.

Invitation to Comment

A public meeting on this Notice of Proposed Rulemaking will be held in each of the ten Federal regions. Since we expect to schedule public meetings for several regulations on the same day, at the same place, we need to get an idea of how many persons are interested in speaking about these regulations. If you are interested in making oral comments at a public meeting, we encourage you to call the appropriate Regional Commissioner of Education. He/she will schedule a time for your comments to be given. Persons who do not notify the Regional Commissioner of their intention to make oral comments will be given an opportunity to speak. Those persons making presentations will be called upon according to their prearranged schedule, or if not prearranged, in the order of registration.

We expect that comments on these proposed regulations will be heard first on the date of the public meeting.

Interested persons are also invited to submit written comments, suggestions,

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and recommendations regarding the proposed regulations. Comments, suggestions, and recommendations may be sent to the address given at the beginning of this document. All comments received on or before July 9, 1979, will be considered in the development of the final regulation.

All written comments submitted in response to this notice will be available for public inspection, both during and after the comment period, in Room 2083, FOB–6, 400 Maryland Avenue, S.W., Washington, D.C. between the hours of 8:30 a.m. and 4:00 p.m., Monday through Friday of each week except Federal holidays.

D. Citotions of Authority

These proposed regulations are issued under the authority of Section 392, Title III, Part M, of the Elementary and Secondary Education Act of 1965, as amended (20 U.S.C. 3062).

As required by Section 431(a) of the General Education Provisions Act (20 U.S.C. 1232(a)), a citation of statutary authority for each section of the proposed regulations has been placed in parentheses on the line following the text of each section. References to "Sec." in these citations of authority relate to sections of the Elementary and Secondary Education Act of 1965, as amended by the Education Amendments of 1978, Pub. L. 95–561.

(Catalog of Federal Domestic Assistance No. ——, Population Education Program)

Dated: March 14, 1979.

Ernest L. Boyer,

U.S. Commissioner of Education.

Approved: April 12, 1979.

Joseph A. Califano, Jr.,

Secretary of Health, Education, and Welfare.

It is proposed that Title 45 of the Code of Federal Regulations be amended by adding a new part 161m to read as follows:

PART 161m—POPULATION EDUCATION PROGRAM

Subpart A—General

Sec.

161m.1 Purpose of the Population Education Program.
161m.2 Eligible parties.
161m.3 Regulations that apply to the Population Education Program.
161m.4 Definitions that apply to the Population Education Program.

Subpart B—What Kind of Projects Does the Office of Education Assist Under This Program?

161m.100 Nature of projects.
161m.101 Project duration.

Subpart C—How Does One Apply for a Grant?

161m.200 Application requirements.

Subpart D—How Is a Grant Made?

161m.300 Criteria for review of applications.

Subpart E—What Conditions Must Be Met by a Grantee?

161m.400 Allowable costs.
161m.401 Cooperation with State and local educational agencies.
161m.402 Participation by private school children.

Appendix—Application contents.

Authority: Part M of Title III of the Elementary and Secondary Education Act of 1965, as amended by the Education Amendments of 1978, Pub. L. 95–561 (20 U.S.C. 3062).

Subpart A—General

§ 161m.1 Purpose of the population education program.

The purpose of the Population Education Program is to encourage through Federal assistance the development of population education in elementary and secondary schools.

(Sec. 392 (a) and (b); 20 U.S.C. 3062 (a) and (b))

§ 161m.2 Eligible parties.

The Commissioner may make grants to institutions of higher education, State and local educational agencies, or other nonprofit organizations and institutions.

(Sec. 392(a); 20 U.S.C. 3062(a))

§ 161m.3 Regulations that apply to the population education program.

(a) *Regulations.* The following regulations apply to the Population Education Program.

(1) The Education Division General Administration Regulations (EDGAR) in Part 100a (Direct Grant Programs) and Part 100c (Definitions).

(2) The regulations in this Part 161m.

(20 U.S.C. 1221e–3(a)(1))

§ 161m.4 Definitions that apply to the population education program.

(a) *Definitions in EDGAR.* The following terms used in this part are defined in Part 100c:

Applicant.
Application.
Commissioner.
Elementary school Project.
Secondary school.

(b) *Definitions in the Elementary and Secondary Education Act.* The following terms that are used in this part are defined in Section 1001 of the Elementary and Secondary Education Act of 1965, as amended (20 U.S.C. 3381): Local Educational Agency State Educational Agency

(c) *Program definitions.* As used in this part:

"Appropriate State and local educational agencies" means those State or local educational agencies which are representative of those State and local educational agencies that are affected, either directly or indirectly, by a project activity.

"Educational personnel" means—

(1) Teachers, teacher aides, and educational administrators and supervisors; and

(2) Other persons who teach students, train teachers, or perform professional services that are closely related to the teaching of students or to the training of teachers or educational administrators, supervisors, or planners.

"Population education" means the educational process by which an individual develops an awareness and understanding of—

(1) The nature of demographic trends, population characteristics, and population variables;

(2) The causes and consequences of population change;

(3) The political, social, economic, environmental, and cultural implications of population phenomena;

(4) The direct and indirect impact of public and private policies on population phenomena;

(5) The variety of issues and events that are related to the study of population; and

(6) Methods by which individuals, families, communities, the Nation and the world might effectively respond to and affect population processes.

Population education does not mean the teaching of the biological elements of human reproduction or techniques of contraception.

(Sec. 392(a) and (b); 20 U.S.C. 3062 (a) and (b); S. Rep. No. 856, 95th Cong. 2d Sess. 44–45 (1978))

Subpart B—What Kind of Projects Does the Office of Education Assist Under This Program?

§ 161m.100 Nature of projects.

A project assisted under this part must encourage the development or incorporation of population education in a variety of subject areas at the elementary or secondary school levels.

(Sec. 392(a) and (b); 20 U.S.C. 3062(a) and (b))

§ 161m.101 Project duration.

The Commissioner determines the duration of Federal assistance on a case-by-case basis. In general, the Commissioner does not assist projects for more than three years, and in no case does the Commissioner assist projects for more than five years.

(Sec. 392(a) and (b); 20 U.S.C. 3062(a) and (b))

Subpart C—How Does One Apply for a Grant?

§ 161m.200 Application requirements.

The Commissioner considers making a grant to an eligible applicant only if the applicant prepares and submits an application according to—

(a) Part M of Title III of the Elementary and Secondary Education Act of 1965, as amended (20 U.S.C. 3062);

(b) The regulations in this part;

(c) The procedures contained in the Notice of Closing Date for Receipt of Applications; and

(d) The instructions and program materials included in the application package.

(20 U.S.C. 1232c(b)(3))

Subpart D—How Is a Grant Made?

§ 161m.300 Criteria for review of applications.

(a) General criteria that the Commissioner uses to review applications are contained in EDGAR §§ 100a.202 through 100a.206. The general criteria comprise 35 possible points. The value assigned to each criterion indicates the relative importance the Commissioner places on that criterion.

(1) Plan of operation. (10 points)

(2) Quality of key personnel. (10 points)

(3) Budget and cost effectiveness. (5 points)

(4) Evaluation plan. (5 points)

(5) Adequacy of resources. (5 points)

(b) In addition to the general criteria in paragraph (a), the Commissioner uses criteria specific to this program to review applications. The specific criteria comprise 65 possible points.

(1) The quality of the applicant's plan to disseminate information related to the project. (5 points)

(2) The likelihood that the applicant will incorporate the results of the project into its continuing activities, or those of cooperating organizations, after Federal funding ends. (10 points)

(3) The degree to which the project involves a variety of appropriate academic fields in all phases of its development and operation. (10 points)

(4) The overall potential of the project to make a substantial qualitative contribution toward improving population education at the elementary and secondary school levels. This includes the likelihood that the results of the project will be of potential use to a variety of groups throughout the Nation. (20 points)

(5) The extent to which the project is developed and operated in cooperation with appropriate State and local educational agencies, as well as with other public and private organizations. (5 points)

(6) The extent to which the project focuses primarily on one or more of the following: (15 points)

(i) The development, field testing, and dissemination of teacher and student educational, training, and instructional materials in population education.

(ii) The identification, evaluation, improvement, and adaptation of existing population education curricula and educational materials.

(iii) The development of inservice training programs for educational personnel who will implement population education activities at the elementary and secondary school levels.

(Sec. 392(a) and (b); 20 U.S.C. 3062(a) and (b))

Subpart E—What Conditions Must Be Met by a Grantee?

§ 161m.400 Allowable costs.

The following costs are allowable: Only in exceptional cases where the applicant clearly demonstrates in the project application financial need and programmatic necessity—limited payments for stipends, released time or employment of substitutes to enable educational personnel to participate in activities of the project

(Sec. 392(a) and (b); 20 U.S.C. 3062(a) and (b))

§ 161m.401 Cooperation with State and local educational agencies.

If a project assisted under this part includes any of the following population education activities, the grantee must carry out the activity in cooperation with appropriate State and local educational agencies:

(a) Development and dissemination of teacher and student educational, training, and instructional materials, including the identification, evaluation, improvement, and adaption of existing curricula and educational materials.

(b) Research support to develop curriculum content and to evaluate programs and materials for the purpose of widespread dissemination.

(Sec. 392 (b); 20 U.S.C. 3062 (b))

§ 161m.402 Participation by private school children.

A grant to a State or local educational agency is subject to the requirements in section 302(b) of the Elementary and Secondary Education Act of 1965 concerning consultation with private school officials and participation by private school children.

(Sec. 302(b); 20 U.S.C. 2942(b))

Appendix—Application Contents

An applicant shall include the following in its application:

(1) A statement of the needs to be addressed by the project, including a description of how those needs were identified.

(2) A statement of how the project will contribute to the development of population education.

(3) A statement of the rationale for the project, data that support the approach, and the content of the approach, including the relationship of program objectives to activities and the use of resources.

(4) A description of methods the applicant intends to use for cooperating with appropriate State and local educational agencies and other organizations.

(5) A description of how the applicant is using, or plans to use, the results of the project in its continuing activities after Federal funding ends.

(6) A description of the field testing, validation, evaluation, and dissemination procedures the applicant intends to use in the project.

(7) A description of proposed staffing patterns and the qualifications of the proposed project director and professional staff, including their education, training, awards, published work, and experience in population education. If staff members are not yet named, the applicant shall include a description and required qualifications of each position. The applicant shall also include the qualifications of any consultants who may be involved in the project.

(8) A description of the proposed budget and an explanation of how it relates to the goals and objectives of the project. If the proposed budget includes stipends, released time, or payment of substitutes, the applicant shall include a detailed description of the financial need and programmatic necessity for these costs.

(9) Information that provides a basis for evaluating the application under each of the criteria in § 161m.300 of the Population Education Program regulations (45 CFR 161m.300).

(10) If the applicant is a State educational agency or local educational agency, a statement of how the development and operation of the project complies with the requirements for the involvement of private schools in Sec. 302(b), Title III, of the Elementary and Secondary Education Act of 1965, as amended (20 U.S.C. 2942(b)).

[FR Doc. 79–14623 Filed 5–9–79; 8:45 am]

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Reader Aids

Federal Register

Vol. 44, No. 92

Thursday, May 10, 1979

INFORMATION AND ASSISTANCE

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AGENCY PUBLICATION ON ASSIGNED DAYS OF THE WEEK

The following agencies have agreed to publish all documents on two assigned days of the week (Monday/Thursday or Tuesday/Friday). This is a voluntary program. (See OFR NOTICE FR 32914, August 6, 1976.)

Monday	Tuesday	Wednesday	Thursday	Friday
DOT/COAST GUARD	USDA/ASCS		DOT/COAST GUARD	USDA/ASCS
DOT/NHTSA	USDA/APHIS		DOT/NHTSA	USDA/APHIS
DOT/FAA	USDA/FNS		DOT/FAA	USDA/FNS
DOT/OHMO	USDA/FSQS		DOT/OHMO	USDA/FSQS
DOT/OPSO	USDA/REA		DOT/OPSO	USDA/REA
CSA	MSPB*/OPM*		CSA	MSPB*/OPM*
	LABOR			LABOR
	HEW/FDA			HEW/FDA

Documents normally scheduled for publication on a day that will be a Federal holiday will be published the next work day following the holiday.

Comments on this program are still invited. Comments should be submitted to the Day-of-the-Week Program Coordinator, Office of the Federal Register, National Archives and Records Service, General Services Administration, Washington, D.C. 20408

***NOTE: As of January 1, 1979, the Merit Systems Protection Board (MSPB) and the Office of Personnel Management (OPM) will publish on the Tuesday/Friday schedule. (MSPB and OPM are successor agencies to the Civil Service Commission.)**

REMINDERS

The items in this list were editorially compiled as an aid to Federal Register users. Inclusion or exclusion from this list has no legal significance. Since this list is intended as a reminder, it does not include effective dates that occur within 14 days of publication.

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21020 4–9–79 / Allowances and reimbursements for members of policy-making bodies; correction

FEDERAL COMMUNICATIONS COMMISSION

18974 3–30–79 / Authorization of use of certain frequencies by aeronautical utility mobile stations at landing areas without control towers or FAA flight service stations

21267 4–10–79 / Fee refunds and future FCC fees; first report and order

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22725 4–17–79 / Validation of Performance in automated data processing (ADP) systems and services procurements; temporary regulation

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Immigration and Naturalization Service—

21253 4–10–79 / Asylum; filing of applications in exclusion and deportation proceedings

List of Public Laws

Note: No public bills which have become law were received by the Office of the Federal Register for inclusion in today's **List of Public Laws.**

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federal register

Friday
May 11, 1979

Highlights

Telecommunications Device for the Deaf—Office of the Federal Register provides a new service for deaf or speech impaired persons who need information about documents published in the **Federal Register**. See the Reader Aids section for the telephone listing.

27635 **Drug Policy Functions** Executive order

27637 **Printing Services Within the Executive Office** Executive order

27639 **The President's Advisory Committee for Women** Executive order

27677 **Natural Gas** DOE/ERA proposes rules regarding administrative procedures for adjusting curtailment priority regulations established for essential agricultural uses; comments by 6–8–79; requests to speak by 5–16–79; hearing on 5–30–79

27642 **Food Stamp Program** USDA/FNS adopts rules regarding income eligibility standards, standard deductions, dependent care/shelter deductions, and thrifty food plan amounts; effective 7–1–79

27751 **Indochinese Refugees** HEW/SSA announces availability of funding for fiscal year 1979 grants to public and private nonprofit agencies for mental health projects; applications by 6–25–79

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FEDERAL REGISTER Published daily, Monday through Friday, (not published on Saturdays, Sundays, or on official holidays), by the Office of the Federal Register, National Archives and Records Service, General Services Administration, Washington, D.C. 20408, under the Federal Register Act (49 Stat. 500, as amended; 44 U.S.C. Ch. 15) and the regulations of the Administrative Committee of the Federal Register (1 CFR Ch. I). Distribution is made only by the Superintendent of Documents, U.S. Government Printing Office, Washington, D.C. 20402.

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Area Code 202–523–5240

Highlights

27812 **Indians and Native Americans** Labor/ETA proposes rules for programs under Comprehensive Employment and Training Act; comments by 6–11–79 (Part II of this issue)

27926 **Lower-Income Mobile Home Owners** HUD/FHC proposes amending regulations to permit assistance payments to be made through Public Housing Agencies; comments by 7–10–79 (Part V of this issue)

27922 **Federal Disaster Temporary Housing** HUD/FDAA proposes rules permitting State and local governments to assume operational and financial responsibility for program; comments by 7–10–79 (Part IV of this issue)

27749 **Special Purpose or Capacity Building Dissemination Grants** HEW/National Institute of Education announces acceptance of applications from State education agencies; new applications by 7–12–79

27644 **Rural Congregate Housing** USDA/FmHA adopts guidelines for field officers and loan applicants in implementing program; effective 5–11–79; comments by 7–10–79

27656 **Pension, Profit-sharing and Similar Plans** Treasury/IRS issues regulations relating to definition of plan administrator for income tax purposes; effective for plan year ending 9–2–79

27932 **Pesticides** EPA adopts rules on conditional registration of products and compensation for use of data submitted by other registration applicants and revokes interim policy statements on consideration of data supporting applications; effective 5–11–79 (3 documents) (Part VI of this issue)

27685 **Exportation of Noncomplying Products** CPSC proposes notification requirements to implement Consumer Product Safety Act Authorization Act; comments by 7–10–79

27663 **Physicians Employed by Federal Government** OPM proposes regulations regarding payment of comparability allowances; comments by 6–11–79

27806 **Sunshine Act Meetings**

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Title 3—

The President

Executive Order 12133 of May 9, 1979

Drug Policy Functions

By the authority vested in me as President by the Constitution and laws of the United States of America, including Section 5C of Reorganization Plan No. 1 of 1977 (42 F.R. 56101), and in order to clarify the performance of drug policy responsibilities within the Domestic Policy Staff, it is hereby ordered as follows:

1–101. The Domestic Policy Staff has been assigned to assist the President in the performance of the drug policy functions transferred by Section 5C of Reorganization Plan No. 1 of 1977 (42 F.R. 56101). (Section 2(c) of Executive Order No. 12045.)

1–102. Within the Domestic Policy Staff, the Associate Director for Drug Policy shall be primarily responsible for assisting the President in the performance of all those functions transferred from the Office of Drug Abuse Policy and its Director. In particular, the Associate Director for Drug Policy shall be primarily responsible for assisting the President in formulating policy for, and in coordinating and overseeing, international as well as domestic drug abuse functions by all Executive agencies.

1–103. The Associate Director for Drug Policy shall be directly responsible for the activities of a drug policy staff within the Domestic Policy Staff.

Jimmy Carter

THE WHITE HOUSE,
May 9, 1979.

[FR Doc. 79–15039
Filed 5–10–79; 10:18 am]
Billing code 3195–01–M

V 4 4 / 9 3 M Y 1 1 7 9 UMI

Executive Order 12134 of May 9, 1979

Printing Services Within the Executive Office

By the authority vested in me as President by the Constitution and laws of the United States of America, including Reorganization Plan No. 2 of 1970 (5 U.S.C. App. II), Section 202 of the Budget and Accounting Procedures Act of 1950 (31 U.S.C. 581c), and Reorganization Plan No. 1 of 1977 (42 F.R. 56101; 5 U.S.C. App. II), and in order to provide for the transfer of the printing and duplicating service activity from the Office of Administration in the Executive Office of the President to the Department of the Navy, it is hereby ordered as follows:

1–101. (a) The primary responsibility for performing the common and usual administrative support and services that are related to printing and duplication and that are assigned to the Office of Administration in the Executive Office of the President by Section 3(b)(5) of Executive Order No. 12028, as amended, is transferred and reassigned to the Department of the Navy.

(b) The Department of the Navy shall be primarily responsible for providing to the Office of Administration, both onsite and offsite, that common and usual administrative support and service related to printing and duplication. It shall be provided in a manner consistent with available funds and other resources, or in accord with Section 7 of the Act of May 21, 1920 (41 Stat. 613), as amended (31 U.S.C. 686, referred to as the Economy Act).

1–102. The records, property, personnel, and unexpended balances of appropriations, available or to be made available, which relate to the functions transferred or reassigned by this Order, shall be transferred to the Department of the Navy.

1–103. The Director of the Office of Management and Budget shall make such determinations, issue such orders, and take all actions necessary or appropriate to effectuate the transfers or reassignments provided by this Order, including the transfer of funds, records, property, and personnel.

1–104. Such transfers shall be effective on May 6, 1979.

Jimmy Carter

THE WHITE HOUSE,
May 9, 1979.

[FR Doc. 79–15040
Filed 5–10–79; 10:19 am]
Billing code 3195–01–M

V 4 4 / 9 3 M Y 1 1 7 9 UMI

Executive Order 12135 of May 9, 1979

The President's Advisory Committee for Women

By the authority vested in me as President by the Constitution and statutes of the United States of America, in accordance with the provisions of the Federal Advisory Committee Act (5 U.S.C. App. I), and in order to amend the organization and responsibilities of the National Advisory Committee for Women, it is hereby ordered as follows:

1–1. *Establishment of the Committee.*

1–101. The National Advisory Committee for Women is continued and redesignated the President's Advisory Committee for Women.

1–102. The President shall appoint not more than thirty individuals to serve on the Committee. The President shall designate one member to chair the Committee and may designate two members as vice-chairs.

1–2. *Functions of the Committee.*

1–201. The Committee shall advise the President on a regular basis of initiatives needed to promote full equality for American women.

1–202. The Committee shall assist in reviewing the applicability of such initiatives, including recommendations of the 1977 National Women's Conference, to particular programs and policies.

1–203. The Committee shall provide advice on appropriate ways to promote the national observance of the United Nations Decade for Women, Equality, Development and Peace (1975–1985).

1–204. The Committee shall gather information relating to its responsibilities and shall disseminate such information, through newsletters or other appropriate means, to the Executive Branch and to interested members of the public

1–205. The Committee shall consult regularly with the Interdepartmental Task Force, whose existence is continued by Section 1–402.

1–206. The Committee shall establish such procedural regulations as are necessary to carry out its responsibilities.

1–3. *Administrative Provisions.*

1–301. The Committee may request any agency of the Executive Branch of the government to furnish it with such information, advice, funds and services as may be useful for the fulfillment of the Committee's functions under this Order. Such agencies are authorized, to the extent permitted by law, to honor the Committee's requests.

1–302. Each member of the Committee may receive compensation at the maximum rate now or hereafter prescribed by law for each day such member is attending a regularly scheduled meeting of the Committee or a subcommittee thereof. Each member may receive travel expenses, including per diem in lieu of subsistence (5 U.S.C. 5702 and 5703).

1–4. *General Provisions.*

1–401. Notwithstanding the provisions of any other Executive Order, the functions of the President under the Federal Advisory Committee Act which are applicable to the Committee, except that of reporting annually to the Congress, shall be performed by the Secretary of Labor in accordance with

guidelines and procedures established by the Administrator of General Services.

1–402. The Interdepartmental Task Force (created by Section 6 of Executive Order No. 12050) is continued.

1–403. The Committee shall conclude its work and shall make a final report to the President by December 31, 1980, at which time it shall terminate.

1–404. Executive Order No. 12050, except for Section 6, and Executive Order No. 12057, are revoked.

Jimmy Carter

THE WHITE HOUSE,
May 9, 1979.

[FR Doc. 79–15041
Filed 5–10–79; 10:20 am]
Billing code 3195–01–M

Editorial Note: A White House announcement of the Chair, Vice Chair, and membership of the Committee, is printed in the Weekly Compilation of Presidential Documents (vol. 15, no. 19).

Rules and Regulations

Federal Register
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This section of the FEDERAL REGISTER contains regulatory documents having general applicability and legal effect, most of which are keyed to and codified in the Code of Federal Regulations, which is published under 50 titles pursuant to 44 U.S.C. 1510.
The Code of Federal Regulations is sold by the Superintendent of Documents. Prices of new books are listed in the first FEDERAL REGISTER issue of each month.

DEPARTMENT OF AGRICULTURE

Food and Nutrition Service

7 CFR Part 273

Food Stamp Program; Income Eligibility Standards, Standard Deductions, Dependent Care/Shelter Deductions and Thrifty Food Plan Amounts: 48 States and the District of Columbia, Alaska, Hawaii, Guam, Puerto Rico, and the Virgin Islands

AGENCY: Food and Nutrition Service, U.S. Department of Agriculture.

ACTION: Final Rule.

SUMMARY: This amendment: (1) Revises Appendix A to § 273.9 of the Food Stamp Program Regulations issued pursuant to the Food Stamp Act of 1977. This appendix provides the net monthly income eligibility standards for the 48 States, District of Columbia, Alaska, Hawaii, Guam, Puerto Rico and the Virgin Islands; (2) revises the standard deduction for the 48 States and the District of Columbia appearing in § 273.9(d)(1) of the Food Stamp Program Regulations issued pursuant to the Food Stamp Act of 1977, as well as the standard deductions applicable in Alaska, Hawaii, Guam, Puerto Rico, and the Virgin Islands appearing in Appendix B to § 273.9; (3) revises the dependent care amount for the 48 States and the District of Columbia appearing in § 273.9(d)(3) and the excess shelter deduction for the 48 States and the District of Columbia appearing in § 273.9(d)(4) of the Food Stamp Program Regulations issued pursuant to the Food Stamp Act of 1977; (4) revises Appendix C to § 273.9 of the Food Stamp Program Regulations issued pursuant to the Food Stamp Act of 1977. This appendix provides the maximum excess shelter/dependent care deductions for Alaska, Hawaii, Guam, Puerto Rico, and the Virgin Islands; and (5) revises Appendixes A through F of § 273.10 of the Food Stamp Program Regulations promulgated under the Food Stamp Act of 1977. Appendixes A through F provide the value of the allotment which State agencies are authorized to issue to households certified as eligible to participate in the Food Stamp Program in the 48 States and the District of Columbia, Alaska, Hawaii, Puerto Rico, the Virgin Islands and Guam, respectively.

EFFECTIVE DATE: July 1, 1979.

FOR FURTHER INFORMATION CONTACT: Claire Lipsman, Director of the Program Development Division, Family Nutrition Programs, Food and Nutrition Service, U.S. Department of Agriculture, Washington, D.C. 20250, 202–447–8325.

SUPPLEMENTARY INFORMATION: On October 17, 1978 (43 FR 47846), the Department published final rulemaking to implement major aspects of the Food Stamp Act of 1977 including the issuance of allotments at no cost and the eligibility criteria. The implementation schedule for the transition to the new allotment and net income calculations called for States to begin implementing the new eligibility and benefit determination rules for all new applications and recertifications on or before March 1, 1979, with the conversion of the remainder of the caseloads to the new rules not later than 120 days after beginning implementation. Because all households must be converted by June 30, 1979, no tables based on the Food Stamp Act of 1964 are provided.

Appendix A of § 273.10 of the Food Stamp Program Regulations promulgated under the Food Stamp Act of 1977 contains only the Thrifty Food Plan amounts by household size for the 48 States and the District of Columbia, Alaska, Hawaii, Guam, Puerto Rico, and the Virgin Islands rather than complete allotment tables as in previous amendments. To determine the benefits households shall receive using the eligibility determination rules promulgated under the Food Stamp Act of 1977 without the use of tables, subtract 30 percent of the household's net monthly income from the Thrifty Food Plan for that household size, as explained in § 273.10(e)(2)(ii) of the Food Stamp Program regulations. The Department has prepared tables for households with up to 8 persons. These tables will be provided to State agencies.

The Food Stamp Act of 1977 requires semiannual adjustments in the Thrifty Food Plan to reflect food price changes published by the Bureau of Labor Statistics. The Consumer Price Index (CPI) which is used in the 48 States, the District of Columbia, Alaska and Hawaii, to make these adjustments in the coupon allotments is the CPI for Urban Wage Earners and Clerical Workers. Food prices for Puerto Rico are obtained monthly from the pricing system under the Government of the Commonwealth of Puerto Rico. Food prices for the Virgin Islands are collected under special arrangements between the Department and the Bureau of Labor Statistics (BLS) and food prices for Guam are collected under special arrangements between the Department and BLS during February, May, August and November. As mandated by the Food Stamp Act of 1977, the cost of the Thrifty Food Plan is adjusted to reflect the cost of food in Puerto Rico, the Virgin Islands, and Guam but cannot exceed the cost of food in the fifty States and the District of Columbia.

Income Eligibility Standards—48 States and the District of Columbia, Alaska, Hawaii, Guam, Puerto Rico, and the Virgin Islands

The maximum allowable income standards for determining eligibility of all households, including those in which all members are included in the federally aided public assistance grant, general assistance grant, or supplemental security income benefit, appear in Appendix A to § 273.9 of the Food Stamp Program Regulations issued pursuant to the Food Stamp Act of 1977.

The income eligibility standards for the Food Stamp Program shall be uniform for the contiguous 48 States, the District of Columbia, Puerto Rico, the Virgin Islands, and Guam. The income eligibility standards are derived from the Office of Management and Budget (OMB) nonfarm income poverty guidelines for the 48 States and the District of Columbia. The income eligibility standards for Alaska and Hawaii are derived by applying scaling factors to the income eligibility standards for the 48 States and the

Appendix C—Maximum Excess Shelter/Dependent Care Deductions for the Outlying Areas

Agricultural Marketing Service

Thrifty Food Plan—48 States and the

Accordingly, 7 CFR Part 273 is

District of Columbia, in accordance with OMB procedures.

The OMB nonfarm income poverty guidelines are adjusted annually each July 1 by the change between the average CPI for the 50 States and the District of Columbia for the preceding calendar year and the CPI for March of the current year. Under this provision, an adjustment in the income eligibility standards for all households in all areas has been made.

Standard Deductions—48 States and the District of Columbia, Alaska, Hawaii, Guam, Puerto Rico, and the Virgin Islands

Section 5(e) of the Food Stamp Act of 1977 provides that a standard deduction shall be used in computing household income. Such standard deduction shall be adjusted every July 1 and January 1 to the nearest $5 for the 6 months ending the preceding March 31 and September 30, respectively, to reflect changes in the CPI for items other than food. In accordance with this law, effective July 1, 1979, the standard deduction for the 48 States and District of Columbia will be $70. Also, in accordance with the Food Stamp Act of 1977, effective July 1, 1979, the standard deductions for the outlying areas appearing in Appendix B of § 273.9 of the Food Stamp Program Regulations with be $120 in Alaska, $100 in Hawaii, $140 in Guam, $40 in Puerto Rico, and $60 in the Virgin Islands.

Dependent Care/Shelter Deductions—48 States and the District of Columbia, Alaska, Hawaii, Guam, Puerto Rico, and the Virgin Islands

Section 5(e) of the Food Stamp Act of 1977 provides that households shall also be entitled to a dependent care deduction, the maximum allowable level of which shall be the same as that for the excess shelter expense deduction. The Act also requires that the maximum amount of excess shelter deduction or dependent care deduction or a combination of both be adjusted annually each July to the nearest $5 increment to reflect changes in the shelter, fuel, and utilities component of the housing costs portion of the CPI for each 12-month period ending March 31. In accordance with the Act, effective July 1, 1979, the dependent care/excess shelter deduction for the 48 States and the District of Columbia shall be $90 and for the outlying areas appearing in Appendix C of § 273.9 of the Food Stamp Program Regulations, will be $160 in Alaska, $130 in Hawaii, $110 in Guam, $35 in Puerto Rico, and $65 in the Virgin Islands.

Thrifty Food Plan—48 States and the District of Columbia, Alaska, Hawaii, Guam, Puerto Rico, and the Virgin Islands

Section 3(o) of the Food Stamp Act of 1977 requires that the Thrifty Food Plan shall be the basis for uniform allotments for all households regardless of their actual composition, except that the Secretary shall (1) make household size adjustments taking into account economies of scale; (2) make cost adjustments in the Thrifty Food Plan for Alaska and Hawaii to reflect the cost of food in those States; (3) make cost adjustments in the separate Thrifty Food Plans for Guam, Puerto Rico and the Virgin Islands of the United States to reflect the cost of food in those States, but not to exceed the cost of food in the fifty States and the District of Columbia; and (4) adjust the cost of such diet every January 1 and July 1 to the nearest dollar increment to reflect changes in the cost of the Thrifty Food Plan for the six months ending the preceding September 30 and March 31, respectively. Under this provision an adjustment in the cost of the Thrifty Food Plan amounts by household size for all areas appearing in Appendix A of § 273.10 of the Food Stamp Program Regulations issued pursuant to the Food Stamp Act of 1977 has been made. The adjustments in all areas are based on the cost of the Thrifty Food Plan in March except that in Guam the adjustment is based on the cost of the Thrifty Food Plan in February as food price data for March is not available.

Accordingly, 7 CFR, Part 273 is revised as follows:

(1) Paragraphs 273.9(d)(1), 273.9(d)(3) and 273.9(d)(4) are revised to read as follows:

§ 273.9 Income and deductions.

* * * * *

(d) * * *

(1) *Standard deduction.* A standard deduction of $70 per household per month for the 48 contiguous States and the District of Columbia. * * *

* * * * *

(3) *Dependent care.* Payments for the actual costs for the care of a child or other dependent when necessary for a household member to accept or continue employment, seek employment in compliance with the job search criteria (or an equivalent effort by those not subject to job search), or attend training or pursue education which is preparatory to employment. This deduction shall not exceed $90 in the 48 contiguous States and the District of Columbia. * * *

(4) *Shelter costs.* Monthly shelter costs in excess of 50 percent of the household's income after all other deductions in § 273.9(d) (1), (2), and (3) have been allowed. The shelter deduction alone, or in combination with the dependent care deduction in § 273.9(d)(3), shall not exceed $90 in the 48 contiguous States and the District of Columbia. * * *

* * * * *

(2) Appendix A, B, and C to § 273.9 are revised as follows:

Appendix A.—Net Monthly Income Eligibility Standards [1]

	48 States, District of Columbia, Guam, Puerto Rico, and the Virgin Islands	Alaska	Hawaii
Household size:			
1	$306	$383	$354
2	403	504	465
3	500	625	575
4	596	745	686
5	693	866	797
6	790	987	908
7	886	1,108	1,019
8	983	1,229	1,130
Each additional member	+97	+121	+111

[1] Office of Management and Budget (OBM) Nonfarm Income Poverty Guideline adjusted by CPI factor of 1.07168 using OMB procedures.

Appendix B.—Standard Deductions for the Outlying Areas

	Previous unrounded standard deduction (January–June 1979)	Unrounded standard deduction [1] (July–December 1979)	Rounded standard deduction
Outlying areas:			
Alaska	$114.36	$119.58	$120
Hawaii	95.62	99.99	100
Guam	133.09	139.17	140
Puerto Rico	40.66	41.89	40
Virgin Islands	56.85	59.45	60

[1] CPI adjustment for the period of September 1978 to March 1979 is 1.04569.

Appendix C.—Maximum Excess Shelter/Dependent Care Deductions for the Outlying Areas

	Previous unrounded shelter deduction (July 1978)	Unrounded shelter deduction [1] (July, 1979)	Rounded shelter deduction
Outlying areas:			
Alaska	$141.68	$157.87	$160
Hawaii	116.07	131.56	130
Guam	99.34	110.69	110
Puerto Rico	29.31	32.65	35
Virgin Islands	60.26	67.15	65

[1] CPI adjustment for shelter, fuel, and utilities for the period of March 1978 to March 1979 is 1.11426.

(3) Appendixes A through F to § 273.10 are revised as follows:

§ 273.10 Determining household eligibility and benefit levels.

* * * * *

Appendix A.—Thrifty Food Plan—48 States and the District of Columbia, Alaska, Hawaii, Guam, Puerto Rico, and the Virgin Islands.

Benefit Determination. To determine the monthly allotment to be issued to households: Subtract 30 percent of the household's net monthly income from the Thrifty Food Plan amount shown below for that size household for the appropriate area involved, as set forth in § 273.10(e)(2)(ii). (All one and two-person households shall receive a minimum monthly allotment of $10.00.):

Thrifty Food Plan Amounts—March 1979

	48 States [a] and District of Columbia	Alaska [b]	Hawaii [b]	Guam [c]	Puerto Rico [d]	Virgin Islands [c]
Household size:						
1	$61	$86	$83	$98	$57	$75
2	112	157	152	157	105	138
3	161	225	218	225	150	198
4	204	286	277	286	190	251
5	242	340	329	340	226	298
6	291	408	395	408	271	358
7	321	450	436	450	299	395
8	367	515	499	515	342	452
Each additional member	+46	+65	+63	+65	+43	+57

[a] Adjusted to reflect cost of food in March and adjusted for each household size in accordance with economies of scale.
[b] Adjusted to reflect cost of food in this State based on March food price data.
[c] Adjusted to reflect cost of food in this area based on February food price data (latest data available for this semiannual adjustment for Guam), but not to exceed cost of food for the 50 States and the District of Columbia.
[d] Adjusted to reflect cost of food in this area based on March food price data, but not to exceed cost of food in the 50 States and the District of Columbia.

* * * * *

Authority.—91 Stat. 958 (7 U.S.C. 2011–2027).

Note.—The Food and Nutrition Service has determined that this document does not contain a major proposal requiring preparation of an Impact Statement **under Executive Order 12044.**

In view of the need for placing this notice into effect July 1, 1979, and the lead-time needed by State agencies for implementation, it is hereby determined that it is impracticable and contrary to the public interest to give notice of proposed rulemaking with respect to this notice.

(Catalog of Federal Domestic Assistance, No. 10.551, Food Stamps.)

Dated: May 8, 1979.

Carol Tucker Foreman,
Assistant Secretary.

[Admt. No. 184]

[FR Doc. 79-14799 Filed 5-10-79; 8:45 am]

BILLING CODE 3410-30-M

Agricultural Marketing Service

7 CFR Part 910

Lemons Grown in California and Arizona; Limitation of Handling

AGENCY: Agricultural Marketing Service, USDA.

ACTION: Final rule.

SUMMARY: This regulation establishes the quantity of fresh California-Arizona lemons that may be shipped to market during the period May 13–19, 1979. Such action is needed to provide for orderly marketing of fresh lemons for this period due to the marketing situation confronting the lemon industry.

EFFECTIVE DATE: May 13, 1979.

FOR FURTHER INFORMATION CONTACT: Malvin E. McGaha, 202–447–5975.

SUPPLEMENTARY INFORMATION: *Findings.* This regulation is issued under the marketing agreement, as amended, and Order No. 910, as amended (7 CFR Part 910), regulating the handling of lemons grown in California and Arizona. The agreement and order are effective under the Agricultural Marketing Agreement Act of 1937, as amended (7 U.S.C. 601–674). The action is based upon the recommendations and information submitted by the Lemon Administrative Committee, and upon other information. It is hereby found that this action will tend to effectuate the declared policy of the act. This regulation has not been determined significant under the USDA criteria for implementing Executive Order 12044.

The committee met on May 8, 1979, to consider supply and market conditions and other factors affecting the need for regulation and recommended a quantity of lemons deemed advisable to be handled during the specified week. The committee reports the demand for lemons is easier.

It is further found that it is impracticable and contrary to the public interest to give preliminary notice, engage in public rulemaking, and postpone the effective date until 30 days after publication in the Federal Register (5 U.S.C. 553), because of insufficient time between the date when information became available upon which this regulation is based and the effective date necessary to effectuate the

minimum of a cooktop, a refrigerator,

1. In the Table of Sections the

the following areas of major life activity:

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declared policy of the act. Interested persons were given an opportunity to submit information and views on the regulation at an open meeting. It is necessary to effectuate the declared purposes of the act to make these regulatory provisions effective as specified, and handlers have been apprised of such provisions and the effective time.

§ 910.498 Lemon Regulation 198.

Order. (a) The quantity of lemons grown in California and Arizona which may be handled during the period May 13, 1979, through May 19, 1979, is established at 290,000 cartons.

(b) As used in this section, "handled" and "carton(s)" mean the same as defined in the marketing order.

(Secs. 1–19, 48 Stat. 31, as amended; 7 U.S.C. 601–674)

D. S. Kuryloski,
Acting Director, Fruit and Vegetable Division, Agricultural Marketing Service.
[FR Doc. 79-14970 Filed 5-10-79; 8:45 am]

BILLING CODE 3410-02-M

Farmers Home Administration

7 CFR Part 1822

Rural Rental Housing Loan Policies, Procedures, and Authorizations

AGENCY: Farmers Home Administration, USDA.

ACTION: Final Rule with Comments Requested.

SUMMARY: This amendment changes Farmers Home Administration's (FmHA) regulations to provide the necessary guidance to field offices and loan applicants in implementing the congregate housing program. The amendments clarifies and modifies certain Farmers Home Administration policies and make other necessary changes. This action is taken as a result of a public law.

EFFECTIVE DATE: May 11, 1979. Comments must be received on or before July 10, 1979.

ADDRESSES: Submit written comments to the Office of the Chief, Directives Management Branch, Farmers Home Administration, U.S. Department of Agriculture, Room 6348, Washington, D.C. 20250. All written comments made pursuant to this notice will be available for public inspection at the address given above.

FOR FURTHER INFORMATION CONTACT: Mr. Lynn Voigt, Rural Rental Housing Loan Division, or Gem Middlebrooks, Multiple Family Housing Loan Specialist telephone 202–447–7207.

SUPPLEMENTARY INFORMATION: The Farmers Home Administration amends various sections of Subpart D to Part 1822, Chapter XVIII, Title 7 in the Code of Federal Regulations. This rule amends existing regulations in order to add the words "handicapped persons" and provide guidelines for use in implementing the congregate housing program. FmHA gave notice on August 2, 1978, at 43 FR 33923 that it was proposing to amend various sections of Subpart D of Part 1822, Chapter XVIII, Title 7, Code of Federal Regulations (40 FR 4278) to add the words "handicapped persons" and make provision for FmHA loans for congregate housing. The comment period closed September 1, 1978, and FmHA is now publishing the amendment as a final rule but with further comments requested.

FmHA received 6 comments in response to the proposed regulations. All comments were carefully considered, and changes have been made to the proposed regulations, as described below, based on these comments. A discussion of the principal changes implemented by this amendment follows:

1. Throughout this regulation where the words senior citizens or elderly exist the words "or handicapped persons" have been added.

2. Section 1822.83(b), has been amended to also define a handicapped person.

3. Section 1822.83 is amended by adding a new paragraph (c) to define "resident assistant".

4. Section 1822.83(f)(1) has been revised to more clearly define eligible occupants.

5. Section 1822.83(g) is amended by adding the words "congregate or completely".

6. Section 1822.83 is amended by adding a new paragraph (h) to define "congregate housing" including *"housing involving group living arrangements."*

7. Section 1822.83(i) is revised to include the words "such as a project for the handicapped" and "therapy room, special bathing room, and other special space needed by physically handicapped persons."

8. Section 1822.83(k) is revised by adding the words "Development cost is".

9. Section 1822.84(a)(2) is revised by adding item (iv) concerning central dining facilities for tenants.

10. Section 1822.84(a)(5) is amended by adding item (iii) to exclude the salary and wage of resident Assistant(s) from the FmHA operation and maintenance budget.

11. Section 1822.84(a)(8) is amended to eliminate the sexual reference "he".

12. Section 1822.85(e)(3) is amended to provide that all equipment purchased with loan funds for the central cooking and dining facilities such as stoves, refrigerators, ovens, dishwashing machines, and steam tables should be attached to the real estate in a manner to prevent easy removal. In determining whether to finance such facilities, the availability of assistance from local organizations and/or other State or Federal agencies such as the Area Agency on Aging or the local office of the State Vocational Rehabilitation Agency should be considered. If needed in the community, FmHA may permit dining facilities larger than that required solely by the tenants provided other sources of funds are available to pay a pro rata share of the cost. This section also states conditions to be met when such facilities are provided.

13. Section 1822.86(b) is amended by adding a new paragraph (4) concerning specialized equipment for training and therapy.

14. Section 1822.86(b)(7) is amended to exclude nursing homes, special care facilities, or institutional-type homes. This limitation should not, however, preclude making loans for housing which is designed for occupancy by senior citizens or handicapped persons who are capable of caring for themselves, but will not live on a totally independent basis because of a need for some supervision and central services.

15. Section 1822.86(b) is revised by adding a new item 8 concerning operating capital for a central dining facility or any items which do not become affixed to the real estate security, such as special equipment, furnishings, kitchen ware, dining ware, eating utensils, movable tables and chairs, etc.

16. Section 1822.88(a)(1) has been amended and revised by adding the words "and related facilities" and by adding a new item (a)(1)(iv).

17. Section 1822.88(a)(2) has been revised to permit, in some congregate housing cases, the use of single family dwellings for group living by senior citizens or handicapped persons needing *housing involving a group living arrangement* in a residential setting.

18. Section 1822.88(a)(3) has been revised to delete the phrase "who are capable of caring for themselves" and make other editorial revisions.

19. Section 1822.88(a)(6) is amended by adding the sentence "Congregate housing projects must contain a minimum of a cooktop, a refrigerator, and a small oven in each unit." Kitchen facilities in a single family dwelling for *housing involving group living arrangements* may be designed to meet the special needs of the tenants.

20. Section 1822.88(b) is revised by adding a new paragraph to explain how to determine per unit rental rates for a group living arrangement.

21. Section 1822.88(h) is amended by changing the word "creed" to religion, sex, marital status.

22. Section 1822.88(i)(1) is amended by adding a paragraph to include surviving family member(s) of the deceased senior citizen or handicapped person or occupant(s) under certain stated conditions. Item (4) is added to limit eligibility for *housing involving group living arrangements* to tenants who are developmentally disabled individuals. Item (5) is added to provide a guide for the selection and placement of tenants in congregate housing.

23. Section 1822.90(e) is amended by adding the words "including any licensing required" and "use, and occupancy".

24. Exhibit A, B and G have been amended to make the Exhibits applicable to senior citizens, handicapped persons or low or moderate income borrowers.

25. Exhibit F–6 item 2a. is amended by changing the word "applicant" to "tenant" and to more clearly define the area of demand for congregate housing by adding the statement "Applicants for loans to provide congregate housing must furnish a narrative statement from local, State and Government agencies supporting the need for congregate housing in the area."

26. Exhibit F–7 item 5b is amended by adding item 6 using the same language as contained in item 25 above.

27. Exhibit "J" item VI(A)(2) is amended by adding a new paragraph to provide, in the case of congregate housing, the inclusion of a statement in the major provisions of the lease agreement that the tenants ability to live independently in the project with support services available will be evaluated on a continuous basis. Tenants may be requested to vacate if a determination is made that the tenants are no longer able to live in the project without additional assistance.

PART 1822—RURAL HOUSING LOANS AND GRANTS

Therefore, various sections of Part 1822, Subpart D are added or amended as follows:

1. In the Table of Sections the following new exhibits are added:

Subpart D—Rural Rental Housing Loan Policies, Procedures, and Authorizations

* * * * * *

Exhibit F–8A—Physical Self Maintenance Scale (PSMS) (Copy available in FmHA Field Offices)
Exhibit F–8B—Instrumental Activities of Daily Living Scale (IADL) (Copy available in FmHA Field Offices)
Exhibit F–8C—Index of Independence in Activities of Daily Living (ADL) (Copy available in FmHA Field Offices)

* * * * * *

2. § 1822.83 is amended by revising the current (b) and the subsections renumbered to (f), (g), (i), (k) and (r); by adding subsections (c) and (h), by renumbering the present subsections (c)–(z) to (d)–(bb) as follows:

§ 1822.83 Definitions.

* * * * * *

(b) *Senior citizens or handicapped persons.* Any senior citizen provision in this regulation will also apply to handicapped persons. The two are defined as follows:

(1) *Senior Citizen.* A person who is 62 years of age or over and in the case of a married couple may be either the wife or husband. A person(s) younger than 62 years of age may reside with a senior citizen provided (a) the person is considered a member of the family of the senior citizen, or (b) the person's occupancy can be shown to be necessary for the well being of the senior citizen. The term "senior citizen" also includes the elderly as used in this regulation.

(2) *Handicapped Person.* A person, or in the case of a married couple either the husband or wife, who does not need constant supervision or constant medical or nursing care, but meets either of the following qualifications:

(i) A person who has an impairment which (A) is expected to be of long-continued and indefinite duration, (B) substantially impedes his or her ability to live independently, and (C) is of such a nature that such ability could be improved by more suitable housing conditions.

(ii) A person who is a developmentally disabled individual. A developmentally disabled individual is a handicapped person with a severe, chronic disability which: (A) is attributable to a mental or physical impairment or combination of mental and physical impairments; (B) is manifested before the person attains age twenty-two; (C) is likely to continue indefinitely; (D) results in substantial functional limitations in three or more of the following areas of major life activity: (*1*) self-care, (*2*) receptive and expressive language, (*3*) learning, (*4*) mobility, (*5*) self-direction, (*6*) capacity for independent living, and (*7*) economic sufficiency; and (E) reflects the person's need for a combination and sequence of special, interdisciplinary, or generic care, treatment, or other services which are of lifelong or extended duration and are individually planned and coordinated.

(c) *Resident Assistant.* A person(s) residing in the living unit who is essential to the well being and care of the senior citizen or handicapped person(s) and who is not related by blood, marriage, or operation of law to the senior citizen or handicapped person(s) residing in the unit and receiving supportive service(s).

(d) [Renumbered from (c)]

(e) [Renumbered from (d)]

(f) *Eligible occupants.* Eligible occupants in a project may be either the (1) elderly, (2) handicapped persons or (3) low and moderate income families or any combination thereof as planned for the project and shown on the applicant's loan resolution (agreement).

(1) For the purpose of a loan developed under this Regulation, the occupant(s) must generally be capable of caring for themselves. (Also see § 1822.88(i)). However, in the case of congregate housing with supportive services this may include "elderly or handicapped persons or families who require some supervision and central services, but are otherwise able to care for themselves". All occupants, however, must meet the following criteria:

(i) Not be totally dependent on others to be able to vacate the unit for their own safety in emergency situation.

(ii) Be able to provide for their own sustenance in projects that provide less than full food service.

(iii) Possess the legal capacity to enter into a lease agreement.

(2) For a direct loan or a loan developed under Plan I:

(i) A senior citizen or handicapped person with a low or moderate income, or

(ii) Any family with a low income.

(3) For the purpose of all other loans including those developed under Plan II:

(i) A senior citizen or handicapped person without regard to income.

(ii) Any family with a low or moderate income.

(g) *Housing.* Structures in a rural area which are or will be suitable for and available to eligible occupants for dwelling use to provide congregate or completely independent living on a

rental basis. The structures may include

and purchasing or improving the

reserve account attributable to the lease

mental health agency should be

§ 1822.86 Limitations.

arrangement, if the senior citizen or handicapped persons' need cannot be

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rental basis. The structures may include "related facilities" where appropriate.

(h) *Congregate Housing.* Housing that affords an assisted independent living environment that offers the senior citizen or handicapped person who may be functionally impaired or socially deprived, but in good health (not acutely physically ill), the residential accommodations, central dining facilities, related facilities, and supporting service(s) required to achieve, maintain or return to a semi-independent life style and prevent premature or unnecessary institutionalization as they grow older. Congregate housing is also:

(1) Housing which has complete kitchen facilities in each unit. However, some or all of the units may have limited kitchen facilities, such as a cooktop with a small oven and a refrigerator. In the case of group living arrangements each single family dwelling is considered a unit.

(2) *Housing involving a group living arrangement* where one or more senior citizens or handicapped persons may share *living space within a rental unit* in which a resident assistant is required. Such housing may be one or more single family dwellings or a multi-unit structure.

(i) *Related facilities.* Related facilities may consist of Community rooms or buildings, cafeterias, dining halls, appropriate recreation facilities, and other essential service facilities such as central heat, sewage, light systems, ranges and refrigerators, clothes washing machines and clothes dryers, and a safe domestic water supply. Under special conditions, such as a congregate housing project or a project housing handicapped tenants, space may be provided for cafeterias, dining areas, an infirmary, therapy room, special bathing room, and other special areas needed by the elderly and handicapped tenants when determined to be economically feasible. The cost of kitchen equipment such as stoves, ovens, steam tables and other such items may be included in the loan. However, the cost of specialized equipment such as that used for training and therapy will not be included in the RRH loan to equip these facilities. When ranges, refrigerators, dish washing machines, dryers and other kitchen equipment are included, they will be attached to the real estate in a manner to prevent easy removal.

(j) [Renumbered from (h)]

(k) *Development Cost.* Development cost is the cost of constructing, purchasing, improving, altering, or repairing housing and related facilities and purchasing or improving the necessary land. It includes necessary architectural, engineering, legal, and official fees and charges and other appropriate technical and professional fees and charges. For nonprofit organizations and State or local public agencies the development cost may include initial operating expenses up to 2 percent of the aforementioned costs. It does not include fees, charges, or commissions such as payment to brokers, negotiators, or other persons for the referral of prospective applicants or solicitation of loans.

(l)–(q) [Renumbered from (j)–(o)]

(r) *Limited profit basis.* An individual or organization applicant who, in order to obtain interest credit assistance, will agree to limit the amount of profit to be obtained. Applicants operating on this basis will be permitted to receive a return on their initial investment in accordance with the requirements outlined in § 1822.88 (1). The applicant will legally obligate itself to regulate rents, charges, rate of return, and methods of operation.

(s)–(bb) [Renumbered from (q)–(z)]

* * * * *

3. § 1822.84 is amended by adding new paragraphs (a)(2)(iv), and (a)(5)(iii), and by revising paragraphs (a)(1)(2) and (8) respectively to read as follows:

§ 1822.84 Eligibility requirements.

(a) * * *

(1) Be either an individual who is a citizen of the United States, or an organization defined in § 1822.83(n) which will provide housing for eligible occupants as defined in § 1822.83(f).

(2) Be unable to provide the housing from its own resources and with the exception of a State and local public agency, be unable to obtain the necessary credit from private or cooperative sources on terms and conditions that would enable the applicant to rent the units for amounts that are within the payment of eligible low- and moderate-income senior citizen or handicapped occupants.

* * * * *

(iv) For a loan to provide congregate housing with central dining facilities or space for other services, provided by the RRH loan, the applicant must be able to (A) Operate such facilities with its own funds other than rent or (B) Obtain such funding from other sources, or (3) Lease such facilities to an individual, organization or firm with the ability to operate the facilities. In the case of a lease, the payment to the borrower should be sufficient to cover the annual operating expenses, debt service, and reserve account attributable to the lease portion of the project.

The cost of the food and other services will not be reflected in the FmHA budget that shows operation and maintenance cost of the housing project. This will not preclude tenants who voluntarily use the service from paying a separate charge for these services.

* * * * *

(5) * * *

* * * * *

(iii) In the case of congregate housing namely, housing involving a group living arrangement, the applicant/borrower will not include in the budgeted items (Exhibit F–5 Item 12) any salary, wage or expense item to compensate the resident assistant(s). Therefore, these expense items must be provided by other sources. However, this will not preclude the resident assistant from receiving compensation for any duties performed by a resident manager or a caretaker in a typical RRH project.

* * * * *

(8) Necessary management will be provided to assure the successful operation of the project. Management services may be provided by the applicant, a management firm, or an agent. If the borrower or a member of the borrower organization does not live in the community where the housing is located, or close enough to the project to provide the general supervision, a management firm or an individual located in close proximity who is experienced and has full authority to act on behalf of the owner must be retained.

* * * * *

4. § 1822.85 is amended by revising paragraphs (e)(3)(4) and (i) to read as follows:

§ 1822.85 Loan purposes.

* * * * *

(e) * * *

* * * * *

(3) Central cooking and dining facilities when the project is large enough to justify such services to supplement the kitchen facilities in each unit. All equipment purchased with loan funds for the central cooking and dining facilities, such as stoves, refrigerators, ovens, dish washing machines and steamtables should be attached to the real estate in manner to prevent easy removal. In determining whether to financing such facilities, the long-term availability of assistance from local organizations and other State or Federal agencies such as the Area Agency on Aging or the local office of the State Vocational Rehabilitation Agency or State developmental disabilities or

mental health agency should be considered. Exhibit "S" of this Subpart is to be used as a guide in working with the Administration on Aging (AOA) and State Agencies in providing support services. If needed in the community, FmHA may permit facilities in the project larger than that required solely by the tenants provided other sources of funds are available to pay a pro rata share of the cost. Whenever such facilities are provided with loan funds the following conditions must be met:

(i) The meals to be provided must be wholesome and economical. A minimum of one cooked meal per day, at least 5 days per week, must be provided. If tenants are charged for meals, such charges must be separated from their rental charges.

(ii) If the operator of the facilities is the type of entity that is eligible to accept Food Stamps under the regulations of the Food and Nutrition Service (FNS) of the USDA, such operator must be authorized by FNS to accept Food Stamps from the tenants for the purchase of meals.

(iii) The services to be provided and the fees to be charged (if any) for those services must be fully documented by a signed statement from the applicant, if it will provide the services, or in a lease agreement, if the services will be provided by others.

Any lease agreement must be approved by the State Director or the loan approval official and contain the following statement:

This agreement shall not be effective unless and until approved by the Farmers Home Administration, U.S. Department of Agriculture, or a delegated representative.

(Date)_____

Farmers Home Administration

by _____

(Title)_____

(4) Space for a small infirmary for emergency care only when justified.

* * * * *

(i) Purchase and install essential equipment which upon installation becomes a part of the real estate. Section 1822.83(i) and 1822.86(b) contain further guidance on the use of loan funds to purchase certain equipment.

* * * * *

5. Section 1822.86 is amended by adding new paragraphs (b) (4) and (8); revising paragraphs (b)(7) as renumbered; renumbering present paragraphs (b) (4), (5) and (6) to (b) (5), (6) and (7) and renumbering present paragraphs (b)(7) through (b)(12) to (b)(9) through (b)(14) as follows:

§ 1822.86 Limitations.

* * * * *

(b) * * *

* * * * *

(4) Specialized equipment for training and therapy.

* * * * *

(7) Nursing homes, special care facilities, or institutional-type homes. This limitation should not, however, preclude making loans for housing which is designed for occupancy by senior citizens or handicapped persons who are capable of caring for themselves, but will not live on a totally independent basis because of a need for some supervision and central services. Loan funds will not be used to finance these support services.

(8) Operating capital for a central dining facility or any items which do not become affixed to the real estate security, such as special portable equipment, furnishings, kitchen ware, dining ware, eating utensils, movable tables and chairs, etc.

* * * * *

6. Section 1822.88 is amended by adding new paragraphs (a) (1) (iv), (a) (2) (i), (ii), (iii), (b), (i) (3), (4), (5), and (i) (5) (i), (ii), (ii) (A), (B) and (C); by revising introductory paragraphs (a) (1), (2), (3), (4) and (6), (h) and (i) (1) and renumbering paragraphs (b) through (t) to (c) through (u) as follows:

§ 1822.88 Special conditions.

(a) *Type of Housing.* * * *

(1) Be economical in construction and not of elaborate or extravagant design or materials. As a general rule, the square footage living area of new rental units and related facilities to be constructed with RRH loan funds should be within the guidelines listed below.

Type of unit	Maximum living area
1-Bedroom Units	570–700 sq. ft.
2-Bedroom Units	700–850 sq. ft.
3-Bedroom Units	850–1020 sq. ft.
4-Bedroom Units	1020–1200 sq. ft.

(i) * * *

(ii) * * *

(iii) * * *

(iv) When community rooms or buildings are provided as part of the related facilities, their gross square footage area should be within the guidelines set forth in the HUD Manual of Acceptable Practices (MAP) 4930.1

(2) As a general rule, consist of multi-unit type housing with two or more family units and any appropriate related facilities. However, in some congregate housing cases, single family dwellings may provide for a group living arrangement, if the senior citizen or handicapped persons' need cannot be met in multi-unit structures. Such group type single family dwellings, if financed, must meet the following requirements:

(i) Consist of single family dwellings that can be easily converted to a rental or homeownership unit for a family in the event the need for such housing by the senior citizen or handicapped person ceases.

(ii) The applicant must show that adequate support services needed by the tenants will be available on a continous long range basis. As a general rule the support services must be provided by a state or local public agency. However, a nonprofit organization with a good track record and an ongoing program may be considered capable of providing these support services.

(iii) The senior citizen or handicapped person(s) to be housed must be capable of caring for themselves except for some supervision and support services.

(3) Be residential in character and be designed to meet the needs of eligible occupants. Generally, RRH units should not be more than two-story structures. However, in some cases, especially those projects designed for occupancy by senior citizens or handicapped persons, low-rise structures with elevators can be considered on an individual case-by-case basis, with prior written authorization from the National Office, when the following conditions exist:

* * * * *

(4) Consideration must be given to safety, convenience, and comfort.

* * * * *

(6) Contain bathroom and kitchen facilities in each unit. In the case of group living arrangements each single family dwelling is considered a unit. Congregate housing projects with central dining facilities may have somewhat limited kitchen facilities but must contain as a minimum, a cooktop, a refrigerator, and a small oven in each unit. The kitchen facilities in a single family dwelling for *housing involving a group living arrangements* may be designed to meet the special needs of the tenants.

* * * * *

(b) *Determination of per unit rental rates for group living arrangements.* To determine the amount of rental payment to be collected per unit for *housing involving a group living arrangement* (and only for this particular determination) the total annual cost to operate the facility (Exhibit F–5 Item No. 12) will be divided by the total number

Exhibit F-7

evaluated on a continuous basis. Tenant may

FOR FURTHER INFORMATION CONTACT:

of units (bedrooms) to be occupied by the *tenant(s)*. [If the project also includes conventional rental apartment units (1, 2, 3, etc. bedrooms) each of these *units* (not bedrooms) will be added to the number of units (bedrooms) contained in the housing involving group living arrangements and the total number of units divided into item No. 12.] In the case of group living arrangement each bedroom will be counted as if it were one rental unit. However, the bedroom occupied by the resident assistant will be excluded from this number and will not be counted in making the determination of rental payment to be charged to all the other bedrooms occupied by the tenant(s). Once this charge per unit has been calculated, the rental payment by the tenant(s) will be determined in the usual manner.

(c)–(g) [Renumbered from (b)–(f)]

(h) Nondiscrimination in Use and Occupancy. The borrower will not discriminate, or permit discrimination by any agent, lessee, or other operator in the use or occupancy of the housing or related facilities because of race, color, religion, sex, marital status, or national origin, and will comply with FmHA Instruction 1901–E.

* * * * *

(i) * * *

(1) When a family consist of only one person, an additional person or persons may reside in the unit provided the unit has adequate space for their total needs and provided the separate income of each occupant does not exceed the levels set for the project in accordance with § 1822.83(f) and as defined in guidelines for the maximum adjusted income for low- and moderate-income families available in all FmHA offices. A resident assistant may occupy living space in a group living arrangement without regard to income. In cases involving deceased senior citizens or handicapped tenants, only the surviving number(s) of the family of the deceased senior citizen or handicapped person who was living in the unit under the above stated guidelines with the deceased senior citizen or handicapped person at the time of his or her death may continue to occupy the rental unit as a tenant. The surviving family member(s) must meet all the eligibility requirements for occupancy except that of being a senior citizen or a handicapped person. If the borrower receives interest credits, the rent paid for the unit will be based on the combined incomes of the occupants.

(2) * * *

(3) For housing projects financed with RRH loans and limited to occupancy by eligible senior citizens or handicapped tenants, the State Director is authorized to permit the borrower to rent units to other eligible low- and moderate-income families and persons, provided such units will be rented on a temporary basis and only until they can be rented to eligible senior citizens or handicapped persons.

(4) Housing involving a group living arrangement may limit occupancy of the units to eligible developmentally disable individuals. This limitation will be outlined in the applicant/borrower's management plan.

(5) In congregate housing including *housing involving group living arrangements* a further critical dimension is added by the selection and placement of tenants. This involves a determination of the ability of tenant(s) with a functional impairment to sustain relative independence, given the supportive service(s) provided. This determination can be made by the project management and can be of a highly technical fashion using scientifically developed scales of competence in the activities of daily living or social or medical sources. The functional impairments of tenants should be verified by one of the following methods:

(i) Certification by a physician, or State or local agency responsible for supportative services to the tenant as to the tenant's ability to remain independent with an assist from service(s).

(ii) By the use of any of the following three objective guides:

(A) The Physical Self Maintenance Scale—to measure a persons capacity for personal care. (Exhibit F–8A)

(B) The Instrumental Activities of Daily Living Scale—to measure a person's capacity for continued living in the community. (Exhibit F–8B)

(C) The Index of Independence in activities of Daily Living (ADL) to measure the relationship of functional capacity to the accomplishment of daily activities i.e. bathing, dressing, toilet performance, transfering (from prone to upright position and back again) continence, and eating. (Exhibit F–8C)

(j)–(u) [Renumbered from (i)–(t)]

* * * * *

7. Section 1822.90, paragraph (e) is revised as follows:

§ 1822.90 Technical, legal, and other services.

* * * * *

(e) *Compliance with Federal, State and local codes, regulations, and ordinances.* Planning construction, zoning, and operation of housing financed with the RRH loan will conform with any applicable laws, ordinances, codes, and regulations, including any licensing required governing such matters as construction, heating, plumbing electrical installation, fire prevention, health, sanitation, use, occupancy, and must meet all the applicable laws and statutes pertaining to the operation of a facility in which the occupants required some supervision and central services.

* * * * *

8. Exhibits A, B, F–6, F–7, G and J are partially amended as follows:

EXHIBITS

Exhibit A

(RRH Loan to Broadly Based Nonprofit Corporation)

Loan Resolution of , 19

Resolution of the Board of Directors of providing for borrowing $ to finance rental housing and related facilities in a rural area for (SENIOR CITIZENS, HANDICAPPED PERSONS OR FAMILIES OF LOW OR MODERATE INCOME AS APPROPRIATE) the collection, handling, and disposition of income, the issuance of installment promissory note and real estate security instrument, and related matters.

* * * * *

Exhibit B

(RRH Insured Loan to Profit Type Corporation)

Loan Resolution of , 19

Resolution of the Board of Directors of providing for borrowing $ to finance rental housing and related facilities in a rural area for (SENIOR CITIZENS, HANDICAPPED PERSONS OR FAMILIES OF LOW OR MODERATE INCOME AS APPROPRIATE) the collection, handling, and disposition of income, the issuance of installment promissory note and real estate security instrument, and related matters.

* * * * *

Exhibit F–6

Information To Be Submitted With Preapplication For Rural Rental Housing (RRH) Loan.

* * * * *

2. *Need and demand.*—a. A realistic estimate of need and demand for the number of living units of the type proposed, based on the availability of rental housing and the number of eligible tenants living in the community and its trade area willing and able to pay the proposed rental rates. Applicants for loans to provide congregate housing, namely *housing involving a group living arrangement*, with central dining area or space for support services must furnish a narrative statement from local, State, and Government agencies supporting the current and long range need for such facilities by the handicapped in the community and its trade area.

* * * * *

Exhibit F–7

Information To Be Submitted With Application For Federal Assistance (short form). * * *

* * * * *

1. A plot plan, detailed preliminary plans and specifications and any special design features for senior citizens or handicapped persons as prescribed in the construction guide.

* * * * *

5. * * *
a. * * *
b. * * *

* * * * *

(3) Characteristics of the persons eligible for occupancy of the proposed housing, such as single or couple, male or female, size of family, number of senior citizens, nonsenior citizens or handicapped persons, and income and financial condition.

* * * * *

(6) Applicants for loans to provide congregate housing, namely *housing involving a group living arrangement* with central dining area or space for support services must furnish a narrative statement from local, State and/or Federal Government agencies supporting the current and long range need for such facilities in the community and its trade area.

* * * * *

Exhibit G

(RRH Loan to Profit Type Corporation Operating on a Limited Profit Basis)

Loan Resolution of , 19

Resolution of the Board of Directors of providing for borrowing $ to finance rental housing and related facilities in a rural area for (SENIOR CITIZENS, HANDICAPPED PERSONS OR FAMILIES OF LOW OR MODERATE INCOME AS APPROPRIATE) the collection, handling, and disposition of income, the issuance of installment promissory note and real estate security instrument, and related matters.

* * * * *

Exhibit J

Interest Credits on Insured RRH and RCH Loans

* * * * *

IV. *Options of Borrowers.* * * *

A. *Plan I.*—1. Borrowers operating under this plan must agree to limit occupancy of the housing to low-income nonsenior citizens and low- and moderate-income senior citizens or handicapped persons.

* * * * *

B. *Plan II.*—1. Borrowers operating under this plan must agree to limit occupancy of the housing to low- and moderate-income families and person, and senior citizens or handicapped person of any income.

* * * * *

VI. *Speciol conditions:*

A. Leases.

1. * * *

2. The lease agreement in congregate housing cases must include in the major provisions a statement that the tenant's ability to live independently in the project with the support services available will be evaluated on a continuous basis. Tenant may be requested to vacate if a determination is made that the tenant is no longer able to live in the project without additional assistance. This would involve cases where the tenant has progressed or regressed to a state of health that requires, in the opinion of the management, a level of care not available in the congregate housing facility.

3. [Renumbered from (2) without change]

This regulation has not been determined significant under the USDA criteria implementing Executive Order 12044. A copy of the Impact Statement prepared according to these criteria is available from the Office of the Chief, Directives Management Branch, Farmers Home Administration, U.S. Department of Agriculture, Room 6346, Washington, D.C. 20250.

This document has been reviewed in accordance with FmHA Instruction 1901–G, "Environmental Impact Statements." It is the determination of FmHA that the proposed action does not constitute a major Federal action significantly affecting the quality of the human environmental, and in accordance with the National Environmental Policy of 1969, Pub. L. 91–190, an Environmental Impact Statement is not required. Authorities: 42 U.S.C. 1480, delegation of authority by the Secretary of Agriculture, 7 CFR 2.23, delegation of authority by the Assistant Secretary for Rural Development, 7 CFR 2.70.

Dated: April 27, 1979.

Gordon Cavanaugh,

Administrator, Farmers Home Administration.

[FmHA Instruction 444.5]

[FR Doc. 79-14600 Filed 5-10-79; 8:45 am]

BILLING CODE 3410-07-M

Animal and Plant Health Inspection Service

9 CFR Part 73

Scabies in Cattle; Areas Released From Quarantine

AGENCY: Animal and Plant Health Inspection Service, USDA.

ACTION: Final rule.

SUMMARY: The purpose of this amendment is to release a portion of Modoc County, a portion of San Luis Obispo County, and a portion of Fresno County in California from the areas quarantined because of cattle scabies. Surveillance activity indicates that cattle scabies no longer exists in the areas quarantined. No areas remain under quarantine in the State of California because of psoroptic cattle scabies.

EFFECTIVE DATE: May 7, 1979.

FOR FURTHER INFORMATION CONTACT: Dr. Glen O. Schubert, Chief Staff Veterinarian, Sheep, Goat, Equine, and Extoparasites Staff, USDA, APHIS, VS, Federal Building, Room 737, 6505 Belcrest Road, Hyattsville, MD 20782, 301–436–8322.

SUPPLEMENTARY INFORMATION: This amendment releases a portion of Modoc County, a portion of San Luis Obispo County, and a portion of Fresno County in California from the areas quarantined because of cattle scabies. Therefore, the restrictions pertaining to the interstate movement of cattle from quarantined areas contained in 9 CFR Part 73, as amended, will not apply to the released areas, but the restrictions pertaining to the interstate movement of cattle from nonquarantined areas contained in said Part 73 will apply to the released areas.

Part 73—Scabies in Cattle

Accordingly, Part 73, Title 9, Code of Federal Regulations, as amended, restricting the interstate movement of cattle because of scabies, is hereby amended in the following respects:

§ 73.1a [Amended]

In § 73.1a, paragraphs (c)(1), (c)(2), and (c)(3), relating to the State of California are deleted.

(Secs. 4–7, 23 Stat. 32, as amended; secs. 1 and 2, 32 Stat. 791–792, as amended; secs. 1–4, 33 Stat. 1264, 1265, as amended; secs. 3 and 11, 76 Stat. 130, 132; 21 U.S.C. 111–113, 115, 117, 120, 121, 123–126 134b, 134f; 37 FR 28464, 28477; 38 FR 19141.)

The amendment relieves restrictions no longer deemed necessary to prevent the spread of cattle scabies from certain areas which have been determined to be free of cattle scabies. This amendment should be made effective immediately in order to permit affected persons to move cattle interstate from such areas without unnecessary restrictions.

Therefore, pursuant to the administrative procedure provisions in 5 U.S.C. 553, it is found upon good cause that notice and other public procedure with respect to this final rule are impracticable and contrary to the public interest and good cause is found for making this final rule effective less than 30 days after publication of this document in the **Federal Register**.

Further, this final rule has not been designated as "significant," and is being published in accordance with the emergency procedures in Executive Order 12044 and Secretary's Memorandum 1955. It has been determined by J. K. Atwell, Assistant Deputy Administrator, Animal Health Programs, APHIS, VS, USDA, that the

emergency nature of this final rule

(Secs. 4–7, 23 Stat. 32, as amended; secs. 1

DEPARTMENT OF HOUSING AND

Index

emergency nature of this final rule warrants publication without opportunity for public comment or preparation of an impact analysis statement at this time.

This final rule implements the regulations in Part 73. It will be scheduled for review in conjunction with the periodic review of the regulations in that Part required under the provisions of Executive Order 12044 and Secretary's Memorandum 1955.

Done at Washington, D.C., this 7th day of May 1979.

M. T. Goff,

Acting Deputy Administrator, Veterinary Services.

[FR Doc. 79-14622 Filed 5-10-79; 8:45 am]

BILLING CODE 3410-34-M

Animal and Plant Health Inspection Service

9 CFR Part 82

Exotic Newcastle Disease; and Psittacosis or Ornithosis in Poultry; Area Released From Quarantine

AGENCY: Animal and Plant Health Inspection Service, USDA.

ACTION: Final Rule.

SUMMARY: The purpose of this amendment is to release a portion of Riverside County in California from the areas quarantined because of exotic Newcastle disease. Surveillance activity indicates that exotic Newcastle disease no longer exists in the area released from quarantine.

EFFECTIVE DATE: May 8, 1979.

FOR FURTHER INFORMATION CONTACT: Dr. M. A. Mixson, USDA, APHIS, VS, Federal Building, Room 748, Hyattsville, MD 20782, 301–436–8073.

SUPPLEMENTARY INFORMATION: This amendment releases a portion of Riverside County in California from the areas quarantined because of exotic Newcastle disease under the regulations in 9 CFR Part 82, as amended. Therefore, the restrictions pertaining to the interstate movement of poultry, mynah and psittacine birds, and birds of all other species under any form of confinement, and their carcasses and parts thereof, and certain other articles from quarantined areas, as contained in 9 CFR Part 82, as amended, will no longer apply to the area released.

Accordingly, Part 82, Title 9, Code of Federal Regulations, is hereby amended in the following respect:

In § 82.3(a)(1), relating to the State of California, paragraph (xiii) relating to Riverside County is deleted.

(Secs. 4–7, 23 Stat. 32, as amended; secs. 1 and 2, 32 Stat. 791–792, as amended; secs. 1–4, 33 Stat. 1264, 1265, as amended; secs. 3 and 11, 76 Stat. 130, 132; (21 U.S.C. 111–113, 115, 117, 120, 123–126, 134b, 134f); 37 FR 28464, 28477; 38 FR 19141.)

The amendment relieves certain restrictions no longer deemed necessary to prevent the spread of exotic Newcastle disease. It should be made effective immediately in order to permit affected persons to move poultry, mynah, psittacine birds, and birds of all other species under any form of confinement, and their carcasses and parts thereof, and certain other articles, interstate from such area without unnecessary restrictions. It does not appear that public participation in this rulemaking proceeding would make additional relevant information available to the Department.

Therefore, pursuant to the administrative procedure provisions in 5 U.S.C. 553, it is found upon good cause that notice and other public procedure with respect to this final rule are impracticable and contrary to the public interest and good cause is found for making this final rule effective less than 30 days after publication of this document in the **Federal Register.**

Further, this final rule has not been designated as "significant," and is being published in accordance with the emergency procedures in Executive Order 12044 and Secretary's Memorandum 1955. It has been determined by J. K. Atwell, Assistant Deputy Administrator, Animal Health Programs, APHIS, VS, USDA, that the emergency nature of this final rule warrants publication without opportunity for public comment or preparation of an impact analysis statement at this time.

This final rule implements the regulations in Part 82. It will be scheduled for review in conjunction with the periodic review of the regulations in that Part required under the provisions of Executive Order 12044 and Secretary's Memorandum 1955.

Done at Washington, D.C, this 8th day of May 1979.

E. A. Schilf

Acting Deputy Administrator, Veterinary Services.

[FR Doc. 79-14723 Filed 5-10-79; 8:45 am]

BILLING CODE 3410-34-M

DEPARTMENT OF HOUSING AND URBAN DEVELOPMENT

Office of Assistant Secretary for Neighborhoods, Voluntary Associations and Consumer Protection, Department of Housing and Urban Development

24 CFR Part 280

Mobile Home Construction and Safety Standards; Index of Current Interpretative Bulletins

AGENCY: Department of Housing and Urban Development.

ACTION: Index of Current Interpretative Bulletins.

SUMMARY: The Department is issuing this Notice to advise the public of those interpretative bulletins interpreting 24 CFR Part 280, that are currently in effect, and of those interpretative bulletins issued since publication of the last interpretative bulletin index on October 5, 1977, in the **Federal Register** at 42 FR 54385. This action is being taken pursuant to 24 CFR 3282.113(a) which requires that a current index of interpretative bulletins be published periodically in the **Federal Register.** This action assures that those interpretative bulletins that are issued by the Department, but not through the **Federal Register,** become a matter of public record.

EFFECTIVE DATE: All interpretative bulletins listed in the index are presently in effect.

FOR FURTHER INFORMATION CONTACT: Richard A. Mendlen, Chief, Standards Branch, Mobile Home Standards Division, Office of Neighborhoods, Voluntary Associations and Consumer Protection, Department of Housing and Urban Development, 451 Seventh Street, S.W., Washington, D.C. 20410, telephone (202) 426–1872.

SUPPLEMENTARY INFORMATION: Two interpretative bulletins that have been issued have been superseded by amendments to the standards. Interpretative Bulletin H–1–77–Clothes Dryer/Rough-in of Moisture Lint Exhaust Duct System has been superseded by the amendment to section 280.708 issued October 5, 1977 (FR 42 54382). Interpretative Bulletin H–1–78 has been superseded by the interim rule amending § 280.709(c) issued August 9, 1978 (FR 43 35265).

NOTICE: The following index of interpretative bulletins interpreting 24 CFR Part 280 are currently in effect:

Index

Interpretative Bulletin	Subject	Section(s)
A–1–77	Identification of Manufacturer and State of Manufacture in the Mobile Home Serial Number.	280.6
A–2–77	Durability of Information on Data Plate	280.5(a).
A–1–78	Referenced Standards	280.4(a), 280.304(b), 280.604(e), 280.703, et al.
B–1–76	Swinging Exterior Passage Door Dimensions	280.105.
B–2–76	Interior Door Construction	280.108/280.304.
B–3–76	Interior Door in a Hallway	280.113.
C–1–76	List of Material not Requiring Flame Spread Certification	280.203(a).
C–2–78	Fire Protection for Furnace and Water Heater Spaces	280.203(a)(3), 280.203(b).
C–3–76	Combustible Kitchen Cabinet Protection	280.204.
C–4–76	⅜ in. Maximum Foam Plastic Siding Backer Board	280.207(b).
C–5–76	Foam Plastic Insulating Sheating Materials	280.207(a).
C–1–77	Smoke Detector Standard, Waiver	280.208(c).
D–1–76	Allowable Design Stresses for Board Lumber	280.303(d)/280.304.
D–2–76	Carpet Application	280.305(a).
D–3–76	Structural Design Criteria, Wind Load	280.305(b).
D–4–76	Structural Design Criteria "Net" Uplift	280.305(c) (1) and (2).
D–5–76	Structural Design Criteria, Allowable Eave Deflection	280.305(d).
D–6–76	Structural Design Criteria, interior partitions	280.305(f)(2).
D–7–76	Structural Design Criteria, tie down systems	280.306(a)/280.306(f).
D–8–76	Floor covering application in areas subject to excessive moisture.	280.305(g)(2).
D–1–77	Lumber moisture content measurement and evaluation	280.304(a).
E–1–76	Alternate test procedure in lieu of testing to failure; allowable design live load determination for tested assemblies.	280.401(b).
E–2–76	Uplift testing	280.402(c)(2).
E–3–76	Egress Windows	280.404.
E–1–78	Attachment of latches required to hold open vertically opening egress windows.	280.404(b)(4)(iv).
F–1–78	Condensation control, exterior sheathing	280.504(b)(2).
F–1–77	Air infiltration at wall to wall, wall to ceiling, wall to floor connection.	280.505(a)(2).
F–2–77	Heat loss certificate	280.510(b).
G–2–76	Master cold water shut-off valve	280.609(b)(1).
G–3–76	Anti-siphon trap vent device, materials	280.611(d)(5).
G–1–77	Plastic drain line fittings	280.610(g).
G–2–77	Accessibility to plumbing fixtures	280.607(c)(1).
G–2–77(a)	Accessibility to tub or shower diverter valves	280.607(c)(1).
G–1–78	Venting requirements for systems utilizing anti-siphon trap device.	280.611(d).
G–2–78	Testing of the water system	280.612(a).
G–3–78	Insert fittings in plastic water lines	280.609 (a)(1)(f)(1) and (e)(5).
H–1–76	Provision of exterior furnace/air conditioning appliance	280.709(a)(1).
H–2–76	Preparation of mobile home for external heating/cooling systems.	280.709(e)(6).
H–3–76	Vertical clearance over cooking top	280.709(f).
H–2–77	Undercutting of bathroom doors	280.715(b) (1) and (4).
H–3–77	Location of Shut-off valves for gas appliances	280.705(1)(3).
I–1–76	Installation of "snap-in" type boxes	280.808(n).
I–2–76	Exterior lighting outlet requirements	280.813(a).
I–1–77	Location and type of outdoor receptable outlet	280.806(d)(8).
I–2–77	External heating or air-conditioning equipment wiring protection, Waiver.	280.808(k).
I–1–78	Dielectric Strength Testing	280.810(a).
J–1–76	Classification and guidance regarding transportation standards.	280.Subpart J.

The following index of interpretative bulletins interpreting 24 CFR Part 280 have been issued since October 5, 1977:

Interpretative Bulletins	Subject	Section(s)
A–1–78	Referenced Standards	280.4(a).
E–1–78	Attachment of latches required to hold open vertically opening egress windows.	280.404(b)(4)(iv).
G–2–77(a)	Accessibility to tub or shower diverter valves	280.607(c)(1).
G–1–78	Venting requirements for system utilizing anti-siphon trap vent device.	280.611(d)
G–2–78	Testing of water system	280.612(d).
G–3–78	Insert fittings in plastic water lines	280.609(a)(1), 280.609(f)(1).
H–1–78 [1]	Prevention of storage spaces in compartments containing heat-producing appliances.	280.709(c)
H–2–78	Installation of Venting Systems for Factory Installed Fuel-burning, Heat-producing Appliances.	280.707(b), 280.710(a)(2), 280.710(b).
I–1–78	Dielectric Strength Testing	280.810(a).

[1] Note.—Interpretative Bulletin H–1–78 has been superseded by the interim rule amending section 280.709(c) issued August 9, 1978 (F.R. 43–35265).

Issued at Washington, D.C., April 10, 1979.

Geno C. Baroni,

Assistant Secretary for Neighborhoods, Voluntary Associations and Consumer Protection.

[Docket No. R–79–661]

[FR Doc. 79-14595 Filed 5-10-79; 8:45 am]

BILLING CODE 4210-01-M

REGION V

V 4 4 / 9 3

Office of the Assistant Secretary for Housing—Federal Housing Commissioner

24 CFR Part 841

Prototype Cost Limits for Low-Income Public Housing

AGENCY: Office of the Assistant Secretary for Housing-Federal Housing Commissioner, Department of Housing and Urban Development (HUD).

ACTION: Notice of Prototype Cost Determination Under 24 CFR, Part 841, Appendix A.

SUMMARY: On June 22, 1978, the Department published a revised schedule of "Prototype Cost Limits for Low-Income Public Housing." After consideration of additional factual data, revisions are necessary to increase per unit prototype cost limits for two areas in the State of Ohio.

DATES: Effective May 11, 1979.

FOR FURTHER INFORMATION CONTACT: Mr. Jack R. VanNess, Director, Technical Support Division, Office of Public Housing, Room 6282, 451 7th Street, S.W., Washington, D.C. 20410 (202) 755-5880. (This is not a toll-free number.)

SUPPLEMENTARY INFORMATION: Based on information supplied by the Field Office, revised prototype per unit cost schedules are being published for two areas in the State of Ohio.

These schedules establish per unit limits on prototype costs (dwelling construction and equipment) for development of low-income public housing under the United States Housing Act of 1937. The Act provides (Section 6(b)) that the prototype costs shall become effective upon the date of publication in the **Federal Register**, and this Notice is, therefore, made effective May 11, 1979.

Timely written comments will be considered and additional amendments will be published if the Department determines that acceptance of the comments is appropriate. Comments with respect to cost limits for a given location should be sent to the address indicated above.

A Finding of Inapplicability respecting the National Environmental Policy Act of 1969, has been made in accordance with HUD procedures. A copy of this Finding of Inapplicability will be available for public inspection during regular business hours in the Office of the Rules Docket Clerk, Office of General Counsel, Room 5218, 451 7th Street, S.W., Washington, D.C. 20410.

PART 841—PUBLIC HOUSING PROGRAM: DEVELOPMENT PHASE

Appendix A [Amended]

The prototype per unit cost schedules issued under 24 CFR, Part 841, Appendix A, Prototype Cost Limits for Low-Income Housing are amended as follows: At 43 FR 27019, revise the prototype per unit cost schedules for the detached and semi-detached dwellings as shown on the prototype per unit cost schedules, Region V; Cincinnati and Dayton, Ohio.

(Sec. 7(d), Department of HUD Act, 42 U.S.C. 3535(d); Sec. 6(b), U.S. Housing Act of 1937, 42 U.S.C. 1437(d).)

Issued at Washington, D.C. on May 1, 1979.

Lawrence B. Simons,

Assistant Secretary for Housing, Federal Housing Commissioner.

BILLING CODE 4210-01-M

3 REGION V

CINCINNATI	0 BR	1 BR	2 BR	3 BR	4 BR	5 BR	6 BR
Det. & Semi-Det.	17,000	20,500	25,350	30,300	36,250	40,500	42,400
Row Dwellings							
Walk-Up							
Elevator-Structure							

DAYTON	0 BR	1 BR	2 BR	3 BR	4 BR	5 BR	6 BR
Det. & Semi-Det.	17,000	20,500	25,350	30,300	36,250	40,500	42,400
Row Dwellings							
Walk-Up							
Elevator-Structure							

	0 BR	1 BR	2 BR	3 BR	4 BR	5 BR	6 BR
Det. & Semi-Det.							
Row Dwellings							
Walk-Up							
Elevator-Structure							

	0 BR	1 BR	2 BR	3 BR	4 BR	5 BR	6 BR
Det. & Semi-Det.							
Row Dwellings							
Walk-Up							
Elevator-Structure							

	0 BR	1 BR	2 BR	3 BR	4 BR	5 BR	6 BR
Det. & Semi-Det.							
Row Dwellings							
Walk-Up							
Elevator-Structure							

[Docket No. R-79-660]
[FR Doc. 79-14596 Filed 5-10-79; 8:45 am]
BILLING CODE 4210-01-C

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The map amendments listed below

the Special Flood Hazard Area, removes

24 CFR Part 1920

Lot 14, Block A, Inez Childress Property,

EFFECTIVE DATE: May 11, 1979.

FEDERAL EMERGENCY MANAGEMENT AGENCY

24 CFR Part 1920

Letter of Map Amendment for the County of Sarasota, Fla.; Under National Flood Insurance Program

AGENCY: Office of Federal Insurance And Hazard Mitigation, FEMA [1]

ACTION: Final rule.

SUMMARY: The Federal Insurance Administrator published a list of communities for which maps identifying Special Flood Hazard Areas have been published. This list included the County of Sarasota, Florida. It has been determined by the Federal Insurance Administrator, after acquiring additional flood information and after further technical review of the Flood Insurance Rate Map for the County of Sarasota, that certain property is not within the Special Flood Hazard Area.

This map amendment, by establishing that the subject property is not within the Special Flood Hazard Area, removes the requirement to purchase flood insurance for that property as a condition of Federal or federally related financial assistance for construction or acquisition purposes.

EFFECTIVE DATE: May 11, 1979.

FOR FURTHER INFORMATION CONTACT:
Mr. Richard W. Krimm, National Flood Insurance Program, (202) 755–5581 or Toll Free Line 800–424–8872, Room 5270, 451 Seventh Street, S.W., Washington, D.C. 20410.

SUPPLEMENTARY INFORMATION: If a property owner was required to purchase flood insurance as a condition of Federal or federally related financial assistance for construction acquisition purposes, and the lender now agrees to waive the property owner from maintaining flood insurance coverage on the basis of this map amendment, the property owner may obtain a full refund of the premium paid for the current policy year, provided that no claim is pending or has been paid on the policy in question during the same year. The premium refund may be obtained through the insurance agent or broker who sold the policy, or from the National Flood Insurance Program (NFIP) at: P.O. Box 34294 Bethesda, Maryland 20034 Phone: (800) 638–6620.

The map amendments listed below are in accordance with § 1920.7 (b): Map Number H & I 125144B, Panel 38, published on June 29, 1977, in 42 FR 33223, indicates that the South 133.8 feet of the North 208.1 feet of Government Lot 5 in Section 9, Township 40 South, Range 19 East, Sarasota County, Florida being a parcel fronting 150 feet on the Gulf of Mexico and running from said Gulf of Mexico to Lemon Bay as described in the Deed recorded in Official Record 1116, Page 207 in the Office of the Recorder of Sarasota County, Florida, is within the Special Flood Hazard Area.

Map Number H & I 125144B, Panel 38 is hereby corrected to reflect that the existing structure on the above property is in Zone B and is not within the Special Flood Hazard Area identified on February 20, 1976.

(National Flood Insurance Act of 1968 (Title XIII of Housing and Urban Development Act of 1968), effective January 28, 1969 (33 FR 17804, November 28, 1968), as amended; 42 U.S.C. 4001–4128; Executive Order 12127, 44 FR 19367; and delegation of authority to Federal Insurance Administrator 44 FR 20963.)

Issued: May 2, 1979.

Gloria M. Jimenez,
Federal Insurance Administrator.

[Docket No. FI–3012]
[FR Doc. 79–14759 Filed 5–10–79; 8:45 am]
BILLING CODE 4210–01–M

[1] The functions of the Federal Insurance Administration, Department of Housing and Urban Development, were transferred to the newly established Federal Emergency Management Agency by Reorganization Plan No. 3 of 1978 (43 FR 41943, September 19, 1978) and Executive Order 12127 (44 FR 19367, April 3, 1979).

24 CFR Part 1920

Letter of Map Amendment for the City of Columbia, Mo. Under National Flood Insurance Program

AGENCY: Office of Federal Insurance and Hazard Mitigation, FEMA [1]

ACTION: Final rule.

SUMMARY: The Federal Insurance Administrator published a list of communities for which maps identifying Special Flood Hazard Areas have been published. This list included the City of Columbia, Missouri. It has been determined by the Federal Insurance Administration, after acquiring additional flood information and after further technical review of the Flood Insurance Rate Map for the City of Columbia, Missouri, that certain property is not within the Special Flood Hazard Area.

This map amendment, by establishing that the subject property is not within the Special Flood Hazard Area, removes the requirement to purchase flood insurance for that property as a condition of Federal or federally-related financial assistance for construction or acquisition purposes.

EFFECTIVE DATE: May 11, 1979.

FOR FURTHER INFORMATION CONTACT:
Mr. Richard Krimm, National Flood Insurance Program, (202) 755–5581 or Toll Free Line (800) 424–8872, Room 5270, 451 Seventh Street, S.W., Washington, D.C. 20410.

SUPPLEMENTARY INFORMATION: If a property owner was required to purchase flood insurance as a condition of Federal or federally-related financial assistance for construction or acquisition purposes, and the lender now agrees to waive the property owner from maintaining flood insurance coverage on the basis of this map amendment, the property owner may obtain a full refund of the premium paid for the current policy year, provided that no claim is pending or has been paid on the policy in question during the same policy year. The premium refund may be obtained through the insurance agent or broker who sold the policy, or from the National Flood Insurance Program (NFIP) at: P. O. Box 34294, Bethesda, Maryland 20034, Phone: (800) 638–6620.

The map amendments listed below are in accordance with § 1920.7 (b): Map No. H & I 290036A Panel 11, published on June 29, 1977 in 42 FR 33218, indicates that the structure on Lot 6 of Subdivision of Lot 19, Block 3, Quarry Heights Subdivision, Columbia, Missouri, as recorded in Book 5, Page 8, in the office of the Recorder of Deeds, Boone County, Missouri, is within the Special Flood Hazard Area.

Map No. H & I 290036A Panel 11 is hereby corrected to reflect that the above mentioned structure is not within the Special Flood Hazard Area identified on January 16, 1976. The structure is in Zone C.

(National Flood Insurance Act of 1968 (Title XIII of Housing and Urban Development Act of 1968), effective January 28, 1969 (33 FR 17804, November 28, 1968), as amended; 42 U.S.C. 4001–4128; Executive Order 12127, 44 FR 19367; and delegation of authority to Federal Insurance Administrator, 44 FR 20963).

Issued: May 2, 1979.

Gloria M. Jimenez,
Federal Insurance Administrator.

[Docket No. FI–3102]
[FR Doc. 79–14760 Filed 5–10–79; 8:45 am]
BILLING CODE 4210–01–M

[1] The functions of the Federal Insurance Administration, Department of Housing and Urban Development, were transferred to the newly established Federal Emergency Management Agency by Reorganization Plan No. 3 of 1978 (43 FR 41943, September 19, 1978) and Executive Order 12127 (44 FR 19367, April 3, 1979).

24 CFR Part 1920

Letter of Map Amendment for the City of Atlanta, Ga., Under National Flood Insurance Program

AGENCY: Office of Federal Insurance and Hazard Mitigation, FEMA [1].

ACTION: Final rule.

SUMMARY: The Federal Insurance Administrator published a list of communities for which maps identifying Special Flood Hazard Areas have been published. This list included the City of Atlanta, Georgia. It has been determined by the Federal Insurance Administrator, after acquiring additional flood information and after further technical review of the Flood Insurance Rate Map for the City of Atlanta, Georgia, that certain property is not within the Special Flood Hazard Area.

This map amendment, by establishing that the subject property is not within the Special Flood Hazard Area, removes the requirement to purchase flood insurance for that property as a condition of Federal or Federally-related financial assistance for construction or acquisition purposes.

EFFECTIVE DATE: May 11, 1979.

FOR FURTHER INFORMATION CONTACT:
Mr. Richard Krimm, National Flood Insurance Program, 202–755–5581 or toll free line 800–424–8872, room 5270, 451 Seventh Street, SW., Washington, D.C. 20410.

SUPPLEMENTARY INFORMATION:
If a property owner was required to purchase flood insurance as a condition of Federal or Federally-related financial assistance for construction or acquisition purposes, and the lender now agrees to waive the property owner from maintaining flood insurance coverage on the basis of this map amendment, the property owner may obtain a full refund of the premium paid for the current policy year, provided that no claim is pending or has been paid on the policy in question during the same policy year. The premium refund may be obtained through the insurance agent or broker who sold the policy, or from the National Flood Insurance Program (NFIP) at: P.O. Box 34294, Bethesda, Maryland 20034, phone: 800–638–6620. The map amendments listed below are in accordance with § 1920.7(b): Map No. H&I 135157A Panel 28, published on June 29, 1977, in 42 F.R. 33211, indicates that Lot 14, Block A, Inez Childress Property, Land Lot 232, 14th District, at 1528 Childress Drive, Atlanta, Georgia, is partially within the Special Flood Hazard Area. This property is recorded as being part of Lot 2, Block B, Subdivision of Mrs. S.A. Childress Est., Land Lot 232, 14th District, Fulton County, Georgia, as recorded in Plat Book 11, Page 194, in the office of the Clerk of Fulton County, Georgia. Map No. H&I 135157A Panel 28 is hereby corrected to reflect the existing structures on the above property are in Zone C and are not within the Special Flood Hazard Area identified on October 14, 1971.

(National Flood Insurance Act of 1968 (Title XIII of Housing and Urban Development Act of 1968), effective January 28, 1969 (33 F.R. 17804, November 28, 1968), as amended; 42 U.S.C. 4001–4128; Executive Order 12127, 44 FR 19367; and delegation of authority to Federal Insurance Administrator, 44 FR 20963).

Issued: May 2, 1979.

Gloria M. Jimenez,
Federal Insurance Administrator.

[Docket No. FI–3012]
[FR Doc. 79–14761 Filed 5–10–79; 8:45 am]
BILLING CODE 4210–01–M

[1] The functions of the Federal Insurance Administration, Department of Housing and Urban Development, were transferred to the newly established Federal Emergency Management Agency by Reorganization Plan No. 3 of 1978 (43 FR 41943, September 19, 1978) and Executive Order 12127 (44 FR 19367, April 3, 1979).

24 CFR Part 1920

Letter of Map Amendment for the City of Hampton, Va. Under National Flood Insurance Program

AGENCY: Office of Federal Insurance and Hazard Mitigation, FEMA [1]

ACTION: Final rule.

SUMMARY: The Federal Insurance Adminstrator published a list of communities for which maps identifying Special Flood Hazard Areas have been published. This list included the City of Hampton, Virginia. It has been determined by the Federal Insurance Administrator, after acquiring additional flood information and after further technical review of the Flood Insurance Rate Map for the City of Hampton, Virginia that certain property is not within the Special Flood Hazard Area.

This map amendment, by establishing that the subject property is not within the Special Flood Hazard Area, removes the requirement to purchase flood insurance for that property as a condition of Federal or federally related financial assistance for construction or acquisition purposes.

EFFECTIVE DATE: May 11, 1979.

FOR FURTHER INFORMATION CONTACT:
Mr. Richard W. Krimm, National Flood Insurance Program 202–755–5581 or toll free line 800–424–8872, room 5270, 451 Seventh Street, SW., Washington, D.C. 20410.

SUPPLEMENTARY INFORMATION. If a property owner was required to purchase flood insurance as a condition of Federal or federally related financial assistance for construction or acquisition purposes, and the lender now agrees to waive the property owner from maintaining flood insurance coverage on the basis of this map amendment, the property owner may obtain a full refund of the premium paid for the current policy year, provided that no claim is pending or has been paid on the policy in question during the same policy year. The premium refund may be obtained through the insurance agent or broker who sold the policy, or from the National Flood Insurance Program (NFIP) at: P.O. Box 34294, Bethesda, Maryland 20034, phone: (800) 638–6620.

The map amendments listed below are in accordance with § 1920.7(b):

Map Number H & I 515527B Panels 19, 20, 21, 25, and 26, published on June 29, 1977, in 42 F.R. 33235, indicates that structures 5, 6, 7, 8, 9, 12, 13, 31, 32 and 33, Site B. Phoebus Housing Project (Va. 17–1), Hampton, Virginia, as recorded in Deed Book 40, Page 400; Deed Book 369, Page 668; Deed Book 374, Page 217; Deed Book 374, Page 211; Deed Book 374, Page 213 and Deed Book 374, Page 215.

The Structure located in the southernmost section of Block 11; the row of townhouses situated partially in Lots 24 through 35, Block 11; the row of townhouses situated partially in Lots 26 through 28, Block 12; the two rows of townhouses located in the southern section of Block 12 and the two rows of townhouses in the southernmost section of the subdivision's Lincoln Park Public Housing Project (Va. 17–2), Hampton, Virginia, as recorded in Deed Book 36, Page 568; and

Lots 155, 157, 159, 161, 163, 165, 167, 169, 171, 173 through 184, 186 through 191, 193 through 202, 204, 206, 208, 210, 223, 225, 227, 229, 231, 233, 235, 239, 241 through 252, 254, 256, 262, 264, 266 and 268 on Freeman Drive; Lots 1, 3, 5, 7, 9, and 11 on Crenshaw Court; Lots 13, 15, 17, 19, 21, 23, 25, 27, 29, 33, 35, 37, 39, 41, 43 through 53, 55, 57 and 59 on Crenshaw Court; Lots 270, 272, 274 through 291, 298, 300, 302, 306, 308, 310, 312 and 314 on Freeman Drive; Lots 255, 257, 259, 261, 264, 266, 268, 270, 272, 276, 278, 280, 282, 284, 286, and 288, located

[1] The functions of the Federal Insurance Administration, Department of Housing and Urban Development, were transferred to the newly established Federal Emergency Management Agency by Reorganization Plan No. 3 of 1978 (43 FR 41943, September 19, 1978) and Executive Order 12127 (44 FR 19367, April 3, 1979).

between Freeman Drive and

FR 19367; and delegation of authority to

policy year. The premium refund may be

pension, profit-sharing, and similar plans

or jointly by one or more employers and one or more employee organizations

for the plan year is the person or group of persons specified in paragraph (b) of

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between Freeman Drive and Knickerbocker Circle;

Lots 224 through 237, 239 through 242, 244 through 254, 256 through 263, 265, 267, 269, 273, 275, 277, 279, 281, 292, 294, 296, 298, 300, 302 and 304 on Knickerbocker Circle; Pine Chapel Public Housing Project (Va. 17–3), Hampton, Virginia, as recorded in Deed Book 163, Page 165; all of the above recordations being located in the Office of the Clerk of the Circuit Court of the City of Hampton, Virginia, are within the Special Flood Hazard Area.

Map Number H & I 515527B Panels 19, 20, 21, 25, 26 are hereby corrected to reflect that the above properties are not within the Special Flood Hazard Area identified on June 11, 1976. The above structures and lots are located in either Zone B or Zone C.

The above mentioned Map Number H & I 515527B Panels 19, 20 21, 25, and 26, also indicate that structures 1, 3, 4, 10, 15 through 17, 23 through 28, 34, and 35 in tha above-mentioned Site B, Phoebus Housing Project (Va. 17–1);

Lots 294, 296, 318, 320, 322, 324, 326, 328, 334, 336, 338, 340 through 354, 356, 358 360, 362, 364, and 366 located on Freeman Drive; Lots 370, 372, 374, and 376 located on Pine Chapel Road; Lots 295, 297, 299, and 301 located between Freeman Drive and Knickerbocker Circle, Lots 2 through 11, 13 through 16, 18, 20, 22, 24, 26, 28, 30, 34, 36, 38, 40, 42, 46, 48, 50 through 64, 66, 68, 70 74, 76, 78, 80, 82, 86, 88, 90, 92, and 94 on Roberts Road; and Lots 290 through 303, 305 through 308, 310 through 315, 317 through 325, 327, 329, 331, 333, 335, and 337 on Frost Court in the above-mentioned Pine Chapel Public Housing Project (Va. 17–3) are within Zone B.

Map Number H & I 515527B Panels 19, 20, 21, 25, 26 are hereby corrected to reflect that the above properties are not within Zone B identified on June 11, 1976. The above structures and lots are in Zone C.

The above mentioned Map Number H & I 515527B Panel 26 indicates that structures 37 through 39, and 45 through 48, Site A, Phoebus Housing Project (Va. 17–1), Hampton, Virginia, as recorded in Deed Book 373, Page 418 in the Office of the Clerk of the Circuit Court of the City of Hampton, Virginia, are in Zone B.

Map Number H & I 515527B Panel 26 is hereby corrected to reflect that the above structures are within the Special Flood Hazard Area. The above structures are in Zone A5.

(National Flood Insurance Act of 1968 (Title XIII of Housing and Urban Development Act of 1968), effective January 28, 1969 (33 FR 17804, November 28, 1968), as amended; 42 U.S.C. 4001–4128; Executive Order 12127, 44 FR 19367; and delegation of authority to Federal Insurance Administrator 44 FR 20963).

Issued: May 2, 1979.

Gloria M. Jimenez,
Federal Insurance Administrator

[Docket No–FI–3012]
[FR Doc. 79–14762 Filed 5–10–79; 8:45 am]
BILLING CODE 4210–01–M

24 CFR Part 1920

Letter of Map Amendment for Harris County, Texas, Under the National Flood Insurance Program

AGENCY: Office of Federal Insurance and Hazard Mitigation, FEMA [1]

ACTION: Final Rule.

SUMMARY: The Federal Insurance Administrator published a list of communities for which maps identifying Special Flood Hazard Areas have been published. This list included Harris County, Texas. It has been determined by the Federal Insurance Adminstrator after acquiring additional flood information and after further technical review of the Flood Insurance Rate Map for Harris County, Texas, that certain property is not within the Special Flood Hazard Area.

This map amendment, by establishing that the subject property is not within the Special Flood Hazard Area, removes the requirement to purchase flood insurance for that property as a condition of Federal or federally-related financial assistance for construction or acquisition purposes.

EFFECITIVE DATE: May 11, 1979.

FOR FURTHER INFORMATION CONTACT: Mr. Richard Krimm, National Flood Insurance Program, (202) 755–5581 or toll free line (800) 424–8872, room 5270, 451 Seventh Street, S.W. Washington, D.C. 20410.

SUPPLEMENTARY INFORMATION: If a property owner was required to purchase flood insurance as a condition of Federal or federally-related financial assistance for construction or acquisition purposes, and the lender now agrees to waive the property owner from maintaining flood insurance coverage on the basis of this map amendment, the property owner may obtain a full refund of the premium paid for the current policy year, provided that no claim is pending or has been paid on the policy in question during the same policy year. The premium refund may be obtained through the insurance agent or broker who sold the policy, or from the National Flood Insurance Program (NFIP) at: P.O. Box 34294, Bethesda, Maryland 20034, phone: (800) 638–6620.

The map amendments listed below are in accordance with § 1920.7 (b):

Map No. H & I 480287B Panel 51, published on June 29, 1977 in 42 FR 33233, indicates that Lots 3 through 18, 25 through 28 and 33 through 41, Block 3; Lots 1 through 28 and 36 through 64, Block 4; Lots 1 through 14 and 30 through 39, Block 7; and Lot 14, Block 8; of Windfern Forests, Sections One, Two and Three, Harris County, Texas, as recorded in Volume 244, Pages 49 through 55; Volume 272, Pages 25 through 33 and Volume 277, Pages 34 through 42 of Maps, respectively, in the Office of the Clerk, Harris County, Texas, are located within the Special Flood Hazard Area.

Map No. H & I 480287B Panel 51 is hereby corrected to reflect that the above mentioned properties are not within the Special Flood Hazard Area identified on July 30, 1976. These properties are in Zone C.

(National Flood Insurance Act of 1968 (Title XIII of Housing and Urban Development Act of 1968), effective January 28, 1969 (33 FR 17804, November 28, 1968), as amended; 42 U.S.C. 4001–4128; Executive Order 12127, 44 FR 19367; and delegation of authority to Federal Insurance Administrator, 44 FR 20963.)

Issued: May 2, 1979.

Gloria M. Jimenez,
Federal Insurance Administrator.

[Docket No. FI–3012]
[FR Doc. 79–14763 Filed 5–10–79; 8:45 am]
BILLING CODE 4210–01–M

[1] The functions of the Federal Insurance Administration, Department of Housing and Urban Development, were transferred to the newly established Federal Emergency Management Agency by Reorganization Plan No. 3 of 1978 (43 FR 41943, September 19, 1978) and Executive Order 12127 (44 FR 19367, April 3, 1979).

DEPARTMENT OF THE TREASURY

Internal Revenue Service

26 CFR Part 1

Income Tax; Taxable Years Beginning After December 31, 1953; Definition of Plan Administrator

AGENCY: Internal Revenue Service, Treasury.

ACTION: Final regulations.

SUMMARY: This document provides final regulations relating to the definition of plan administrator. Changes to the applicable tax law were made by the Employee Retirement Income Security Act of 1974. These regulations provide necessary guidance to the public for compliance with the law and affect all pension, profit-sharing, and similar plans.

DATE: The regulations are effective for plan years ending after September 2, 1974.

FOR FURTHER INFORMATION CONTACT: Richard L. Johnson of the Employee Plans and Exempt Organizations Division, Office of the Chief Counsel, Internal Revenue Service, 1111 Constitution Avenue, N.W., Washington, D.C. 20224, Attention: CC:LR:T:EE–41–78, 202–566–3544 (not a toll-free number).

SUPPLEMENTARY INFORMATION:

Background

On September 18, 1975, the **Federal Register** published proposed amendments to the Income Tax Regulations (26 CFR Part 1) under section 414 (f) and (g) of the Internal Revenue Code of 1954 (40 FR 43034). The **Federal Register** published corrections to the proposed amendments on September 23, 1975 (40 FR 43735). The amendments were proposed to conform the regulations to section 1015 of the Employee Retirement Income Security Act of 1974 (88 Stat. 925). A public hearing was held on March 11, 1976. After consideration of all comments on the proposed amendments, this Treasury decision revises and adopts the proposed amendments relating to the definition of plan administrator. Regulations relating to the definition of multiemployer plan were adopted by Treasury decision 7552, adopted July 11, 1978.

Plan Administrator Definition

Section 414(g) of the Code provides for the plan administrator to be the person specifically designated as plan administrator by the plan instrument. The final regulations are revised to provide that a person or group of persons collectively may be designated as plan administrator. The designation may be made by name, by reference to a named position or positions, by reference to a procedure established by the plan instrument for designation of a plan administrator, or by reference to the person or group of persons charged with specific responsibilities of plan administrator.

If no person or group of persons is designated as plan administrator, section 414(g) provides additional rules to designate a plan administrator. The final regulations are revised to provide rules for determining the plan administrator in the case of a corporate employer and in the case of a plan that is maintained by two or more employers or jointly by one or more employers and one or more employee organizations.

Drafting Information

The principal author of this regulation was Richard L. Johnson of the Employee Plans and Exempt Organizations Division of the Office of Chief Counsel, Internal Revenue Service. However, personnel from other offices of the Internal Revenue Service and Treasury Department participated in developing the regulation, both on matters of substance and style.

Adoption of Amendments to the Regulations

1. Section 1.414(g), as set forth in the notice of proposed rulemaking of September 18, 1975, is withdrawn.

2. 26 CFR Part 1 is amended by adding the following new section immediately after § 1.414(f)–1:

§ 1.414(g)–1 Definition of plan administrator.

(a) *In general.* For purposes of part I of subchapter D of chapter 1 of the Code and the regulations thereunder, if the instrument under which the plan is operated for a plan year specifically designates a person or a group of persons as plan administrator, the person or group of persons collectively is the plan administrator for the plan year. The instrument may specifically designate a plan administrator—

(1) By name,

(2) By reference to the person or group of persons holding a named position or positions,

(3) By reference to a procedure established under the terms of the instrument pursuant to which a plan administrator is designated, or

(4) By reference to the person or group of persons charged with specific responsibilities of plan administrator. Consistent with the provisions of section 405 (c) (1) of the Employee Retirement Income Security Act of 1974 (29 U.S.C. 1105 (c) (1)), a plan may provide for the allocation of specific responsibilities of plan administrator among named persons and for named persons to designate others to carry out such responsibilities. A person or group of persons may be designated as plan administrator in accordance with the rules of this paragraph even though the person or group of persons does not carry the specific title "plan administrator". In the absence of a person or group of persons designated as the plan administrator (individually, collectively, or by designation of different specific administrative responsibilities), the plan administrator for the plan year is the person or group of persons specified in paragraph (b) of this section.

(b) *Plan administrator not specifically designated.* If no person or group of persons is specifically designated as the plan administrator for a plan year by the instrument under which the plan is operated, the plan administrator for such year is the person or group of persons determined under the following rules:

(1) *Single employer.* In the case of a plan maintained by a single employer, the employer is the plan administrator. If the employer is a corporation, the corporation is the plan administrator. However, the corporation's board of directors may authorize a person or group of persons to fulfill responsibilities of the corporation as plan administrator. In the absence of such authorization, any corporate officer authorized under law, corporate by-laws, or resolution of the board of directors to act on behalf of the corporation with respect to contracts of a value equivalent to the fair market value of the assets of the plan shall be presumed to have authority to fulfill responsibilities of the corporation as plan administrator. For purposes of this paragraph (b) (1), "employer" means the "employer" as defined in section 3 (5) of the Employee Retirement Income Security Act of 1974 (29 U.S.C. 1003.(5)).

(2) *Employee organization.* In the case of a plan maintained by an employee organization, the employee organization is the plan administrator.

(3) *Group representing the parties.* In the case of a plan maintained by two or more employers, or jointly by one or more employers and one or more employee organizations, the association, committee, joint board of trustees, or other similar group of representatives of the parties who maintain the plan, as the case may be, is the plan administrator. For purposes of this subparagraph (3), a plan shall be considered maintained by two or more employers or jointly by one or more employers and one or more employee organizations only if none of the parties has the express power, under the terms of the instrument under which the plan is operated, to terminate the plan unilaterally.

(4) *Person in control of assets.* In any case where a plan administrator may not be determined by application of paragraphs (a) and (b), (1), (2), and (3) of this section, the plan administrator is the person or persons actually responsible, whether or not under the terms of the plan, for the control, disposition, or management of the cash

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or property received by or contributed to

financial interests [1] to bring those

greater than the minimum rate of basic

financial disclosure statements shall be

purpose of law, Executive order, and

disclose information from a statement

or property received by or contributed to the plan, irrespective of whether such control, disposition, or management is exercised directly by such person or persons or indirectly through an agent or trustee designated by such person or persons.

This Treasury decision is issued under the authority contained in sections 414 (g) and 7805 of the Internal Revenue Code of 1954 (88 Stat. 927, 68A Stat. 917; 26 U.S.C. 414 (g), 7805).

Jerome Kurtz, Jr.,
Commissioner of Internal Revenue.

Approved: May 2, 1979.

Donald C. Lubick,
Assistant Secretary of the Treasury.

[TD 7618]
[FR Doc. 79-14502 Filed 5-8-79; 8:45 am]
BILLING CODE 4830-01-M

DEPARTMENT OF JUSTICE

Parole Commission

28 CFR Part 2

Parole, Release, Supervision and Recommitment of Prisoners, Youth Offenders and Juvenile Delinquents

AGENCY: United States Parole Commission.

ACTION: Correction of final rule.

SUMMARY: In FR Doc. 79-14042 appearing at page 26550 in the Federal Register of Friday, May 4, 1979, the text of the new paragraph added to 28 CFR 2.19 bears an incorrect designation as paragraph "(c)". That text is corrected to appear as paragraph "(d)".

FOR FURTHER INFORMATION CONTACT: Michael A. Stover, Office of the General Counsel, 320 First St., Northwest, Washington, D.C. Phone: (202) 724-3116.

Cecil C. McCall,
Chairman, United States Parole Commission.

[FR Doc. 79-14803 Filed 5-10-79; 8:45 am]
BILLING CODE 4410-01-M

POSTAL RATE COMMISSION

39 CFR Part 3000

Standards of Conduct; Order Amending Rules Governing Reporting Outside Employment and Financial Interests

Issued May 7, 1979.

AGENCY: Postal Rate Commission.

ACTION: Final Rule.

SUMMARY: The Postal Rate Commission is amending its rules governing the reporting of outside employment and financial interests[1] to bring those requirements into conformity with the Ethics in Government Act of 1978.[2]

EFFECTIVE DATE: May 15, 1979.

FOR FURTHER INFORMATION CONTACT: David F. Stover, Assistant General Counsel (Regulation), U.S. Postal Rate Commission, 2000 L Street, N.W., Suite 500, Washington, D.C 20268, (202) 254-3830

SUPPLEMENTARY INFORMATION: The Postal Rate Commission has reviewed its Standards of Conduct (39 CFR Part 3000) and has determined that it is appropriate to amend its standards governing the reporting of outside employment and financial interests.[3] The Commission's amendments are intended to provide uniformity between Subpart D of the Commission's Standards of Conduct relating to the reporting of outside employment and financial interests and the Ethics in Government Act of 1978.[4] An explanation of these amendments to the Standards of Conduct is provided below.

The sections governing disclosure of outside employment and financial interests presently provide that statements of employment and financial interest (financial disclosure statements) filed by employees shall be reviewed by the "Counselor and by the Chairman of the Civil Service Commission, or the designee of the Counselor or the Chairman of the Civil Service Commission."[5] The Ethics in Government Act of 1978 provides that review will be performed by the "designated agency official or Secretary concerned." To eliminate duplication and confusion, section 3000.735-405 has been amended to provide that the financial disclosure statements will be submitted to and reviewed by the "designated agency official or his designee."

The Commission's rules provide that financial disclosure statements shall be submitted by each employee who is paid basic compensation at a rate equivalent to or greater than the first step of GS-13 as adjusted under 5 U.S.C. 5305[6] and that such statements shall be maintained in confidence.[7] The Ethics in Government Act of 1978 makes public disclosure mandatory for each employee whose position is classified at GS-16 or above, or whose basic rate of pay under other pay schedules is equal to or greater than the minimum rate of basic pay fixed for a GS-16.[8] Financial disclosure statements filed pursuant to the Ethics in Government Act are to be made available to the public upon request.[9]

In order that the Commission's rules will be uniform and consistent with the Ethics in Government Act, we have concluded that all employees who are paid basic compensation at a rate equivalent to or greater than the first step of GS-13 as adjusted under 5 U.S.C. 5305, will file the same financial disclosure statements. However, financial disclosure statements of employees who are paid basic compensation at a rate equivalent to or greater than the first step of GS-16 as adjusted under 5 U.S.C. 5305, will be subject to public disclosure. The financial disclosure statements of employees with grade levels equivalent to GS 13-15 will be held in confidence.

Since the amendments herein involve matters of agency organization and procedure, the notice requirements of the Administrative Procedure Act (5 U.S.C. 553) do not apply. Accordingly, pursuant to 39 U.S.C. 3603, it is ordered that, effective May 15, 1979, 39 CFR Part 3000, Subparts B and D are hereby revised as follows:

Subpart B—General Provisions

1. Amend § 3000.735-201(f) to read as follows:

§ 3000.735-201 Definitions.

* * * * *

(f) "Counselor" or "Designated Agency Official" means, as appropriate, the official of the Commission designated in § 3000.735-203 to carry out the responsibilities referred to in that section, § 735-105(a) of the regulations of the Civil Service Commission (5 CFR 735.105(a)) and Title II of the Ethics in Government Act of 1978, Public Law 95-521, (92 Stat. 1836).

Subpart D—Reporting Outside Employment and Financial Interests

1. Amend § 3000.735-402 to read as follows:

§ 3000.735-402 Reporting employment and financial interests—regular employees.

(a) Employees designated in paragraph (b) of this section (referred to hereinafter in this subpart as "covered employees") shall submit financial disclosure statements which satisfy the disclosure requirements of section 202 of the Ethics in Government Act of 1978, Public Law 95-521 (92 Stat. 1837). These financial disclosure statements shall be furnished to covered employees by the designated agency official.

(1) A financial disclosure statement shall be filed by covered employees within 30 days of assuming a position with the Commission unless such individual has left another government position for which financial disclosure statements were filed or, with respect to Commissioners, the Commissioner filed a financial disclosure statement with the Commission in connection with his nomination to the position of Commissioner.

(2) A financial disclosure statement shall be filed by covered employees annually no later than May 15 covering the preceding calendar year.

(3) In the event of termination of employment, the terminated employee shall file a financial disclosure statement if the terminated employee (1) was at a grade level equivalent to GS-16 or above, and (2) has not in the interim accepted another position which requires a financial disclosure statement satisfying the disclosure requirements of section 202 of Public Law 95-521 (92 Stat. 1837). The financial disclosure statement for the terminated employee must be filed no later than the 30th day after termination, covering (1) the preceding calendar year if the annual May 15 report has not been filed, and (2) the portion of the present calendar year up to the date of termination.

(b) The following designated employees shall submit financial disclosure statements with the designated agency official.

(1) Commissioners. Copies of the financial disclosure statements submitted by the Commissioners and the designated agency official shall be transmitted to the Director of the Office of Government Ethics.

(2) An employee whose basic rate of pay is equivalent to or greater than the first step of grade GS-13 as adjusted under 5 U.S.C. 5305.

(3) A special employee whose basic rate of pay is equivalent to or greater than the first step of grade GS-13 as adjusted under 5 U.S.C. 5305 who is reasonably expected to perform the duties of this office or position for more than sixty days in a calendar year.

(4) An employee not required to submit a statement under paragraph (b)(2) whose position has been determined by the Chairman to have duties and responsibilities which require the incumbent to report employment and financial interests in order to avoid involvement in a possible conflicts-of-interest situation and to carry out the purpose of law, Executive order, and this part.

(c) When completing a financial disclosure statement, covered employees shall include such information relating to employment; income; gifts and reimbursements; interest in property; liabilities; purchase, sale and exchange of property; positions held and agreements as is required to be reported for the covered employee, the covered employee's spouse and dependent children by section 202 of the Ethics in Government Act, Pub. L. 95-521, (92 Stat. 1837).

(d) Precise amounts of financial interests, indebtedness, and the value of real property need not be included on a statement; however, when the reviewer determines that such precise amounts are needed to make an adequate review, the employee shall disclose the precise amounts.

(e) If any information required to be included on the financial disclosure statement, including holdings placed in trust, is not known to the employee but is known to another person, the employee shall request that other person to submit the information in his behalf, except when the trust is a blind, no-control trust in which case a copy of the trust shall be submitted for review.

(f) This section does not require an employee to submit any information relating to positions held in religious, social, fraternal, political entities and those solely of an honorary nature.

(g) The financial disclosure statements required of employees are in addition to, and not in substitution for, or in derogation of, any similar requirement imposed by law, order, or regulation. The submission of a statement by an employee does not permit him or any other person to participate in a matter in which his or the other person's participation is prohibited by law, order, or regulation.

(h) An employee who believes that his position has been improperly included as one requiring the submission of a statement is entitled to obtain a review of his complaint under the Commission's grievance procedure.

(i)(1) The designated agency official shall hold each financial disclosure statement of each employee who is paid basic compensation at a rate equivalent to or greater than the first step of GS-13 through GS-15 in confidence. The designated agency official is responsible for maintaining the financial disclosure statements in confidence and shall not allow access to, or allow information to be disclosed from a statement except to carry out the purpose of this subpart. The designated agency official may not disclose information from a statement outside the Commission except as the Chairman of the Commission may determine for good cause shown.

(2) The Commission shall make each financial disclosure statement of each employee, including Commissioners, paid basic compensation at a rate equivalent to or greater than the first step of GS-16 available to the public in accordance with the provisions of subsection (2)(A) and (2)(B) below, together with a copy of the offical position description of the Government office or position held by the reporting individual involved (if available) which shall be added to such report by such individuals' designated agency official.

(A) The Commission shall, within fifteen days after any report is received by the agency under this title, permit inspection of such report by or furnish a copy of such report to any person requesting such inspection or copy.

(B) The Chairman may require a reasonable fee to be paid in any amount which is found necessary to recover the cost of reproduction or mailing of such report excluding any salary of any employee involved in such reproduction or mailing. A copy of such report may be furnished without charge or at a reduced charge if it is determined that waiver or reduction of the fee is in the public interest.

(j) Financial disclosure statements shall be retained by the Commission. If such statements are available for public inspection under subsection (i)(2), such statements shall be made available to the public for a period of six years after receipt of the statements. All statements shall be destroyed six years after receipt unless needed in an ongoing investigation.

2. Amend § 3000.735-403 to read as follows:

§ 3000.735-403 Reporting employment and financial interests—special Government employees.

(a) At the time of appointment each special Government employee who is not reasonably expected to perform the duties of his office or position for more than sixty days in a calendar year shall submit a financial disclosure statement furnished by the designated agency official. The special Government employee shall keep his statement current during the period of his employment.

(b) Paragraphs (c), (d), (e), (f), (g), (h), (i), and (j) of § 3000.735-402 are applicable to statements submitted under this section.

3. Amend § 3000.735-404 to read as follows:

[1] 39 CFR Part 3000, Subpart D.
[2] Pub. Law 95-521, 92 Stat. 1824 (1978).
[3] 39 CFR Part 3000, Subpart D.
[4] Pub. Law 95-521, 92 Stat. 1824 (1978).
[5] 39 CFR 3000.735-405.
[6] 39 CFR 3000.735-402(h).
[7] 39 CFR 3000.735-402(j).
[8] Sec. 201(f), Pub. Law 95-521, 92 Stat. 1837 (1978).
[9] Sec. 205, *Id.*, 92 Stat. 1846 (1978).

§ 300.735-404 Reporting employment and

in this part, may include, but is not

5610, both at the following address: U.S.

which is effective under the Clean Air

Federal Regulations is amended as

2. The Order does not notify the source that

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§ 300.735.404 Reporting employment and financial interests—detailees.

(a) When a member of the uniformed services or an employee of a Government agency other than the Commission is assigned or detailed to the Commission to perform duties of a type that would require the submission of a financial disclosure statement if performed by an employee of the Commission, the individual so assigned or detailed (referred to in this section as a "detailee") shall submit a financial disclosure statement as provided in § 3000.735–402(c) on the form furnished by the designated agency official. The detailee shall submit the statement at the start of the detail and shall submit supplementary statements as may be required, by the designated agency official.

(b) Paragraphs (c), (d), (e), (f), (g), (h), (i), and (j) of § 3000.735.402 are applicable to statements submitted under this section.

4. Amend § 3000.734–405 to read as follows:

§ 3000.735–405 Reviewing statements; remedial action.

(a) Each statement submitted under this subpart shall be reviewed by the designated agency official or his designee. The review is for the purpose of determining whether there exists a conflict, or appearance of conflict, between the interests of the employee or special Government employee concerned and the performance of his service for the Commission. If the designated agency official believes that such a conflict or appearance of conflict exists, the designated agency official shall provide the employee with an opportunity to explain the conflict or appearance of a conflict. When the reviewer determines that additional information is needed to make an adequate review, the employee shall disclose such additional information. If the designated agency official concludes that remedial action should be taken, he shall refer the statement to the Chairman of the Commission with his recommendation for such action. The Chairman of the Commission, after consideration of the employee's explanation and such investigation as he considers appropriate, shall direct appropriate remedial action if he considers it necessary. If the designated agency official concludes that remedial action is not necessary he may close the matter.

(b) Remedial action pursuant to paragraph (a) of this section, or by reason of the violation of any provision in this part, may include, but is not limited to:

(1) Changes in assigned duties.

(2) Divestment by the employee of his conflicting interest.

(3) Disqualification for a particular action.

(4) Exemption pursuant to § 3000.735–302(f).

(5) Disciplinary action. (See § 3000.735–205).

(6) Termination of assignment or detail in the case of a detailee under § 3000.735–404.

By the Commission.

David F. Harris,
Secretary.

[Order No. 276—Docket No. RM79–4]

[FR Doc. 79–14794 Filed 5–10–79; 8:45 am]

BILLING CODE 7715–01–M

ENVIRONMENTAL PROTECTION AGENCY

40 CFR Part 65

Approval of a Delayed Compliance Order Issued by the Connecticut Department of Environmental Quality to New Haven Trap Rock—Tomasso

AGENCY: Environmental Protection Agency.

ACTION: Final rule.

SUMMARY: The Administrator of EPA hereby approves a Delayed Compliance Order issued by the Connecticut Department of Environmental Protection to New Haven Trap Rock—Tomasso. The Order requires the company to bring air emissions from its asphalt batching plant at Bristol, Connecticut into compliance with certain regulations contained in the federally-approved State Implementation Plan (SIP). Because of the Administrator's approval, New Haven Trap Rock—Tomasso compliance with the Order will preclude suits under the federal enforcement and citizen suit provisions of the Clean Air Act for violation(s) of the SIP regulations covered by the Order during the period the Order is in effect.

DATES: This rule takes effect on May 11, 1979.

ADDRESS: A copy of the Delayed Compliance Order, any supporting material, and any comments received in response to prior **Federal Register** notice proposing approval of the Order are available for public inspection and copying during normal business hours at the address indicated above.

FOR FURTHER INFORMATION CONTACT: Michael Gurchin at (617) 223–5061 or engineer Steven Fradkoff at (617) 223–5610, both at the following address: U.S. Environmental Protection Agency, J.F.K. Federal Building, Room 2103, Boston, MA 02203.

SUPPLEMENTARY INFORMATION: On January 19, 1979, the Regional Administrator of EPA's Region I Office published in the **Federal Register**, 44 FR 3996, a notice proposing approval of a delayed compliance order issued by the Connecticut Department of Environmental Protection to New Haven Trap Rock—Tomasso. The notice asked for public comments by February 20, 1979 on EPA's proposed approval of the Order. No public comments were received in response to the proposal notice.

Therefore, the delayed compliance order issued to New Haven Trap Rock—Tomasso is approved by the Administrator of EPA pursuant to the authority of Section 113(d)(2) of the Clean Air Act, 42 U.S.C. 7414 (d)(2). The Order places New Haven Trap Rock—Tomasso on a schedule to bring its asphalt batching plant at Bristol, Connecticut into compliance as expeditiously as practicable with Section 19–508–5(e) of the Connecticut Regulations for the Abatement of Air Pollution, a part of the federally-approved Connecticut State Implementation Plan. The Order also imposes interim requirements which meet Sections 113(d)(1)(C) and 113(d)(7) of the Act, and emission monitoring and reporting requirements. If the conditions of the Order are met, it will permit New Haven Trap Rock—Tomasso to delay compliance with the SIP regulations covered by the Order until May 15, 1979. The company is unable to immediately comply with these regulations.

Because the Order has been approved by EPA, compliance with its terms will preclude federal enforcement action under Section 113 of the Act for violations of the SIP regulations covered by the Order during the period the Order is in effect. Citizen suits under Section 304 of the Act are similarly precluded. If the Administrator determines that New Haven Trap Rock—Tomasso is in violation of a requirement contained in the Order, one or more of the actions required by Section 113(d)(9) of the Act will be initiated. Publication of this notice of final rulemaking constitutes final Agency action for the purposes of judicial review under Section 307(b) of the Act.

EPA has determined that its approval of the Order shall be effective upon publication of this notice because of the need to immediately place New Haven Trap Rock—Tomasso on a schedule which is effective under the Clean Air Act for compliance with the applicable requirement(s) of the Connecticut State Implementation Plan.
(42 U.S.C. 7413(d), 7601)

Dated: May 7, 1979.

Douglas M. Costle,
Administrator.

In consideration of the foregoing, Chapter 1 of Title 40 of the Code of Federal Regulations is amended as follows:

PART 65—DELAYED COMPLIANCE ORDERS

By adding the following entry to the table in § 65.111:

§ 65.111 EPA Approval of State delayed compliance orders issued to major stationary sources.

* * * * *

Source	Location	Order No.	SIP regulation(s) involved	Date of FR proposal	Final compliance date
New Haven Trap Rock—Tomasso.	Bristol, Conn	697	19–508–5(e)	Jan. 19, 1979	May 15, 1979

[FRL 1217–3]

[FR Doc. 79–14805 Filed 5–10–79; 8:45 am]

BILLING CODE 6560–01–M

40 CFR Part 65

Disapproval of a Delayed Compliance Order Issued by The Commonwealth of Kentucky, Department for Natural Resources and Environmental Protection, to Airco, Inc.

AGENCY: Environmental Protection Agency.

ACTION: Final rule.

SUMMARY: The Administrator of EPA hereby disapproves a Delayed Compliance Order issued by the Commonwealth of Kentucky to Airco, Inc. The Order requires Airco, Inc., to bring air emissions from its electrometallurgical facility at Calvert City, Kentucky, into compliance with certain regulations contained in the federally approved Kentucky State Implementation Plan (SIP).

DATES: This rule takes effect on May 11, 1979.

ADDRESSES: A copy of the Delayed Compliance Order, any supporting material, and any comments received in response to a prior **Federal Register** notice proposing disapproval of the Order are available for public inspection and copying during normal business hours at: U.S. Environmental Protection Agency, Region IV, Air Enforcement Branch, 345 Courtland Street, NE., Atlanta, Georgia 30308.

FOR FURTHER INFORMATION CONTACT: Richard S. DuBose, Air Enforcement Branch, U.S. Environmental Protection Agency, Region IV, 345 Courtland Street, NE., Atlanta, Georgia 30308, telephone number: (404) 881–4298.

SUPPLEMENTARY INFORMATION: On May 30, 1978, the Regional Administrator of EPA's Region IV Office published in the **Federal Register** 43 FR 23002 (1978), a notice proposing disapproval of a delayed compliance order issued by the Commonwealth of Kentucky to Airco, Inc. The notice asked for public comments by June 29, 1978, on EPA's proposed disapproval of the Order. No public comments were received in response to the proposal notice.

Therefore, the delayed compliance order issued to Airco, Inc., is disapproved by the Administrator of EPA pursuant to the authority of Section 113(d)(2) of the Clean Air Act, 42 U.S.C. 7413(d)(2). EPA has reviewed the Order and has the following specific objections to the Order:

1. The Order does not ensure that electric arc furnace Nos. 4, 6, and 9, operating singly or in combination with other furnaces, will achieve final compliance by July 1, 1979.

2. The Order does not notify the source that unless exempted under Section 120(a)(2) (B) or (C) of the Clean Air Act, it will receive a notice of noncompliance and noncompliance penalties will be assessed and collected under Section 120 in the event the source fails to achieve final compliance by July 1, 1979.

3. The Order does not contain a schedule and timetable for compliance for the fugitive dust emission points or for the metallurgical treatment ladle, in that no increments of progress are included for these points.

4. With respect to the interim control of fugitive dust emission points and the metallurgical treatment ladle, the Order does not (a) include specific interim controls which represent the best practicable system of interim emission reduction, or, in the alternative, a finding that no system of interim emission reduction is practicable, and (b) include a requirement that the source remains subject to the enforcement of applicable State and Federal emergency provisions designed to prevent an imminent and substantial endangerment to human health.

5. The Order does not include emission monitoring and reporting requirements.

6. The Order includes a "force majeure" clause which would permit noncompliance beyond July 1, 1979.

Because of the Administrator's disapproval, the Order is not effective under Section 113(d) of the Clean Air Act.

EPA has determined that its disapproval of the Order shall be effective upon publication of this notice.
(42 U.S.C. 7413(d), 7601)

Dated: May 7, 1979.

Douglas M. Costle,
Administrator.

In consideration of the forgoing, Chapter 1 of Title 40 of the Code of Federal Regulations is amended as follows:

PART 65—DELAYED COMPLIANCE ORDERS

1. By adding the following item to the table in § 65.222:

§ 65.222 EPA disapproval of State delayed compliance orders.

* * * * *

Source	Location	Order No.	SIP regulation(s) involved	Date of FR proposal	Final compliance date
Airco, Inc	Calvert City, Ky	DCO–78–4	401 KAR 3:060, Sections (4) 3 and 14.	May 30, 1978	July 1, 1979

Proposed Rules

40 CFR Part 228

Ocean Dumping; Final Revision of Regulations and Criteria; Correction

AGENCY: Environmental Protection Agency (EPA).

ACTION: Correction to final rule.

SUMMARY: Final Revisions of the Ocean Dumping Regulations and Criteria were published in the **Federal Register** on January 11, 1977 (42 FR 2462 et seq.). An omission in the list of approved interim ocean dumping sites (40 CFR 228.12), off Yabucoa Harbor in Puerto Rico, was recently brought to EPA's attention by the U.S. Army Corps of Engineers Jacksonville District. This site has been historically used for the disposal of dredged materials, and the District has requested its addition to the list.

DATES: This correction will become effective on May 11, 1979.

FOR FURTHER INFORMATION CONTACT: Mr. T. A. Wastler, Chief, Marine Protection Branch (WH–548), EPA, Washington, DC 20460; telephone (202) 245–3051.

SUPPLEMENTARY INFORMATION: In FR Doc. 77–900 appearing at page 2462 in the **Federal Register** of January 11, 1977, the following addition should be made:

On page 2485 in the first column (in § 228.12(a)) under Dredged Material Sites—Location, an additional site should be added to appear below the four Puerto Rico sites as follows:

Yabucoa Harbor, PR—18°00'54"N, 65°44'23"W; 18°01'33"N, 65°45'58"W; 18°03'12"N, 65°45'42"W; 18°02'30"N, 65°43'43"W.

Dated: May 3, 1979.

Thomas C. Jorling,

Assistant Administrator for Water and Waste Management.

[FR Doc. 79–14680 Filed 5–10–79; 8:45 am]

BILLING CODE 6560–01–M

INTERSTATE COMMERCE COMMISSION

49 CFR Part 1033

Hillsdale County Railway Co. Inc. Authorized to Operate Over Tracks of Consolidated Rail Corp.

AGENCY: Interstate Commerce Commission.

ACTION: Emergency Order (Service Order No. 1378).

SUMMARY: Service Order No. 1378 authorizes Hillsdale County Railway Company Inc., to operate over tracks of Consolidated Rail Corporation near Quincy, Michigan in order to provide essential rail service to industries ConRail is unable to serve because of a damaged bridge.

DATES: Effective 4:00 p.m., May 7, 1979. Expires 11:59 p.m., June 30, 1979.

FOR FURTHER INFORMATION CONTACT: J. Kenneth Carter, Chief, Utilization and Distribution Branch, Interstate Commerce Commission, Washington, D.C. 20423. Telephone (202) 275–7840, Telex 89–2742.

SUPPLEMENTARY INFORMATION:

Decided May 4, 1979.

Consolidated Rail Corporation (CR) is unable to operate its engines over CR Bridge No. 373.5 near Quincy, Michigan, due to weight restrictions caused by flood damage. Shippers located east of this bridge are being deprived of railroad service because of the inability of CR to switch the industries. CR can shove the rail cars across the bridge and the Hillsdale County Railway Company Inc. (HCRC) can switch the cars by operating over the tracks of CR near Quincy in order to restore essential railroad service to these industries.

It is the opinion of the Commission that an emergency exists requiring the operation of HCRC trains over these tracks of CR in the interest of the public; that notice and public procedure are impracticable and contrary to the public interest; and that good cause exists for making this order effective upon less than thirty days' notice.

It is ordered, That:

§ 1033.1378 Service Order No. 1378.

(a) *Hillsdale County Railway Company Inc. authorized to operate over tracks of Consolidated Rail Corporation.* The Hillsdale County Railway Company Inc. (HCRC) is authorized to operate over tracks of Consolidated Rail Corporation (CR) between CR milepost 378.2 and CR Bridge No. 373.5 on CR Quincy Branch near Quincy, Michigan, for the purpose of serving industries located adjacent to these tracks.

(b) *Application.* The provisions of this order shall apply to intrastate and foreign traffic.

(c) *Rates applicable.* Inasmuch as this operation by the HCRC over tracks of CR is deemed to be due to carrier's disability, the rates applicable to traffic moved by HCRC over the tracks of CR shall be the rates which were applicable on the shipments at the time of shipment as originally routed.

(d) *Effective date.* This order shall become effective at 4:00 p.m., May 7, 1979.

(e) *Expiration date.* The provisions of this order shall expire at 11:59 p.m., June 30, 1979, unless otherwise modified, changed or suspended by order of this Commission.

(49 U.S.C. 10304–10305 and 11121–11126).]

This order shall be served upon the Association of American Railroads, Car Service Division, as agent of all railroads subscribing to the car service and car hire agreement under the terms of that agreement and upon the American Short Line Railroad Association. Notice of this order shall be given to the general public by depositing a copy in the Office of the Secretary of the Commission at Washington, D.C., and by filing a copy with the Director, Office of the **Federal Register**.

By the Commission, Railroad Service Board, members Joel E. Burns, Robert S. Turkington and John R. Michael.

H. G. Homme, Jr.,

Secretary

[Service Order No. 1378]

[FR Doc. 79–14708 Filed 5–10–79; 8:45 am]

BILLING CODE 7035–01–M

Proposed Rules

Federal Register
Vol. 44, No. 93
Friday, May 11, 1979

This section of the FEDERAL REGISTER contains notices to the public of the proposed issuance of rules and regulations. The purpose of these notices is to give interested persons an opportunity to participate in the rule making prior to the adoption of the final rules.

OFFICE OF PERSONNEL MANAGEMENT

[5 CFR Part 595]

Physicians' Comparability Allowances

AGENCY: Office of Personnel Management.

ACTION: Proposed Rulemaking.

SUMMARY: Under the authority granted by Executive Order 12109, the Office of Personnel Management is proposing regulations to implement the Federal Physicians Comparability Allowance Program established under section 5948 of Title 5, United States Code. This section authorizes the payment of allowances to certain eligibile Federal physicians who enter into service agreements with their agencies. These allowances are only paid in the case of categories of physicians for which the agency is experiencing recruitment and retention problems, and are fixed at the minimum amounts necessary to deal with such problems. These regulations are intended to provide a basic framework within which each agency may establish categories for the payment of allowances to suit its particular situation. The framework also promotes sufficient uniformity to permit evaluation of this temporary program.

DATE: Comments must be received on or before June 11, 1979.

ADDRESS: Send written comments to Mr. Raymond C. Weissenborn, Director, Compensation Division, Office of Personnel Management, Washington, D.C. 20415.

FOR FURTHER INFORMATION CONTACT: Harry A. Wolf, (202) 632–6553.

SUPPLEMENTARY INFORMATION: Since agencies and physicians are still unable to enter into agreements under this temporary program and the authority to enter into agreements expires on September 30, 1979, and since, because of the limited scope of the program, the primary interested parties are already well-informed concerning the regulatory requirements which are contemplated, Alan K. Campbell, the Director of the Office of Personnel Management, has determined there is good cause to limit the period for public comment to 30 days.

Accordingly, the Office of Personnel Management is proposing to add to Title 5 of the Code of Federal Regulations a new Part 595, as set forth below:

PART 595—PHYSICIANS' COMPARABILITY ALLOWANCES

Subpart A—Statutory Authority; Regulatory Responsibility

Sec.

595.101 General.
595.102 Statute.
595.103 Regulatory responsibility.

Subpart B—Regulations of the Office of Personnel Management

595.201 General.
595.202 Coverage and exclusions.
595.203 Establishment of categories of physicians.
595.204 Determination of amount of comparability allowance.
595.205 Termination of service agreement.
595.206 Approval of agency plans.
595.207 Reports.

Authority.—5 U.S.C. 5948; E.O. 12109, 44 FR 1067, January 3, 1979.

Subpart A—Statutory Authority; Regulatory Responsibility

§ 595.101 General.

Section 5948 of title 5, United States Code, authorizes the payment of allowances to certain eligibile Federal physicians who enter into service agreements with their agencies. These allowances are only paid in the case of categories of physicians for which the agency is experiencing recruitment and retention problems, and are fixed at the minimum amounts necessary to deal with such problems. The President has delegated regulatory responsibility for this program to the Director of the Office of Personnel Management, acting in consultation with the Director of the Office of Management and Budget.

§ 595.102 Statute.

The statute under which physicians' comparability allowances are authorized is section 5948 of title 5, United States Code (referred to in this part as "5 U.S.C. 5948"). The text of this section of law follows:

"§ 5948. Physicians comparability allowances

"(a) Notwithstanding any other provision of law, and in order to recruit and retain highly qualified Government physicians, the head of an agency, subject to the provisions of this section and such regulations as the President or his designee may prescribe, may enter into a service agreement with a Government physician which provides for such physician to complete a specified period of service in such agency in return for an allowance for the duration of such agreement in an amount to be determined by the agency head and specified in the agreement, but not to exceed—

"(1) $7,000 per annum if, at the time the agreement is entered into, the Government physician has served as a Government physician for twenty-four months or less, or

"(2) $10,000 per annum if the Government physician has served as a Government physician for more than twenty-four months.

"(b) An allowance may not be paid pursuant to this section to any physician who—

"(1) is employed on less than a half-time or intermittent basis,

"(2) occupies an internship or residency training position,

"(3) is a reemployed annuitant, or

"(4) is fulfilling a scholarship obligation.

"(c) The head of an agency, pursuant to such regulations, criteria, and conditions as the President or his designee may prescribe, shall determine categories of positions applicable to physicians in such agency with respect to which there is a significant recruitment and retention problem. Only physicians serving in such positions shall be eligible for an allowance pursuant to this section. The amounts of each such allowance shall be determined by the agency head, subject to such regulations, criteria, and conditions as the President or his designee may prescribe, and shall be the minimum amount necessary to deal with the recruitment and retention problem for each such category of physicians.

"(d) Any agreement entered into by a physician under this section shall be for a period of one year of service in the agency involved unless the physician requests an agreement for a longer period of service. No agreement shall be entered into under this section later than September 30, 1979, nor shall any agreement cover a period of service extending beyond September 30, 1981.

"(e) Unless otherwise provided for in the agreement under subsection (f) of this section, an agreement under this section shall provide that the physician, in the event that such physician voluntarily, or because of misconduct, fails to complete at least one year of service pursuant to such agreement, shall be required to refund the total amount received under this section, unless the head of the agency, pursuant to such regulations as may be prescribed under this section by the

necessary for successful performance of specified in the agreement either information, and every agency using the

President or his designee, determines that such failure is necessitated by circumstances beyond the control of the physician.

"(f) Any agreement under this section shall specify, subject to such regulations as the President or his designee may prescribe, the terms under which the head of the agency and the physician may elect to terminate such agreement, and the amounts, if any, required to be refunded by the physician for each reason for termination.

"(g) For the purpose of this section—

"(1) 'Government physician' means any individual employed as a physician who is paid under—

"(A) section 5332 of this title, relating to the General Schedule;

"(B) section 5361 of this title, or similar statutory authority, relating to administratively determined pay for certain specially qualified scientific or professional personnel;

"(C) section 3 of the Tennessee Valley Authority Act of 1933 (16 U.S.C. 831b), relating to the Tenessee Valley Authority;

"(D) title 4 of the Foreign Service Act of 1946 (22 U.S.C. 861–890), relating to the Foreign Service;

"(E) section 10 of the Central Intelligence Agency Act of 1949 (50 U.S.C. 403j), relating to the Central Intelligence Agency;

"(F) section 121 of title 2 of the Canal Zone Code, relating to the Canal Zone Government and the Panama Canal Company; or

"(G) section 2 of the Act of May 29, 1959 (Public Law 86–36, as amended, 50 U.S.C. 402 note), relating to the National Security Agency; and

"(2) 'agency' means an Executive agency, as defined in section 105 of this title, and the District of Columbia government.

"(h)(1) Any allowance paid under this section shall not be considered as basic pay for the purposes of subchapter VI and section 5595 of chapter 55, chapter 81, 83, or 87 of this title, or other benefits related to basic pay.

"(2) Any allowance under this section for a Government physician shall be paid in the same manner and at the same time as the physician's basic pay is paid.

"(i) Any regulations, criteria, or conditions that may be prescribed under this section by the President or his designee shall not be applicable to the Tennessee Valley Authority, and the Tennessee Valley Authority shall have sole responsibility for administering the provisions of this section with respect to Government physicians employed by the Authority.".

§ 595.103 Regulatory responsibility.

Under Executive Order 12109 (44 FR 1067, January 3, 1979), the President has designated and empowered the Director of the Office of Personnel Management, in consultation with the Director of the Office of Management and Budget, to prescribe regulations, criteria, and conditions for the administration of the physicians' comparability allowance program under 5 U.S.C. 5948.

Subpart B—Regulations of the Office of Personnel Management

§ 595.201 General.

This subpart contains the regulations, criteria, and conditions (described collectively in this subpart as "regulations") which the Director of the Office of Personnel Management, in consultation with the Director of the Office of Management and Budget, has prescribed for the administration of the physicians' comparability allowance program. These regulations supplement and implement the provisions of 5 U.S.C. 5948 (the text of which appears above, in section 595.102 of this part), and must be read together with that section of law.

§ 595.202 Coverage and exclusions.

(a) Subsection (g)(1) of 5 U.S.C. 5948 defines those covered by the physicians' comparability allowance program as individuals employed as physicians under certain Federal pay systems listed in that subsection. For the purposes of this part, an individual is "employed as a physician" only if he or she is serving in a position the duties and responsibilities of which could not be satisfactorily performed by an incumbent who is not a physician. In addition to individuals covered by the pay systems listed in subsection (g)(1) of 5 U.S.C. 5948, the physicians' comparability allowance program covers individuals employed as physicians and paid under subchapter VIII of chapter 53 of title 5, United States Code, relating to the Senior Executive Service, or chapter 54 of that title, relating to the Merit Pay System.

(b) Subsection (b) of 5 U.S.C. 5948 prohibits the payment of physicians' comparability allowances to certain physicians, including physicians who are reemployed annuitants. For the purpose of that subsection, a "reemployed annuitant" means an individual who is receiving or is entitled to receive an annuity under any retirement program of the Government of the United States, or the government of the District of Columbia, on the basis of service as a civilian employee in the civil service.

(c) Physicians who are serving with the Government in fulfillment of a scholarship obligation are excluded from the physicians' comparability allowance program by subsection (b)(4) of 5 U.S.C. 5948. In order to provide consistency with this statutory exclusion, physicians who are serving with the Government under a loan repayment program are also hereby excluded from the physicians' comparability allowance program.

§ 595.203 Establishment of categories of physicians.

(a) Under subsection (c) of 5 U.S.C. 5948, the head of each agency employing physicians is required to determine categories of physician positions for which there is a significant recruitment and retention problem, and physicians' comparability allowances may be paid only to physicians serving in positions in such categories.

(b) In determining categories of physician positions, the head of each agency must, as a minimum, establish as separate categories the following types of positions:

(1) Positions primarily involving the practice of medicine or direct service to patients, involving the performance of diagnostic, preventive, or therapeutic services to patients in hospitals, clinics, public health programs, diagnostic centers, and similar settings, but not including positions primarily involving services to patients in occupational health programs;

(2) Positions primarily involving the conduct of medical research and experimental work, including the conduct of medical work pertaining to food, drugs, cosmetics, and devices; and

(3) Positions not described by paragraph (b)(1) or (2) of this section, including positions in occupational health programs, disability evaluation and rating, the performance of medicolegal autopsies, training activities, and the administration of medical and health programs, including the administration of patient care and medical research and experimental programs.

The agency head may establish as separate categories any additional subdivisions of these three categories of positions, based on any factors the agency head determines relevant. These may include such factors as the location, grade or level, and medical specialization of the positions.

(c) A significant recruitment and retention problem shall be considered to exist for each category of physician position established under paragraph (b) of this section only if the four following conditions are met with respect to the category:

(1) There are one or more existing vacant positions in the category which there is an urgent need to fill;

(2) The qualification requirements being used as a basis for considering candidates for the vacant positions in the category do not exceed the qualifications that are actually necessary for successful performance of the work of the positions in the category;

(3) The agency has made extraordinary efforts to recruit qualified candidates for the vacant positions in the category and to retain physicians presently employed in positions in the category; and

(4) A sufficient number of qualified candidates is not available to fill the existing vacancies in the category at the rate of pay the agency may offer if no comparability allowance is paid.

§ 595.204 Determination of amount of comparability allowance.

(a) The amount of the comparability allowance payable for each category of physician position established under section 595.203(b) of this part must be the minimum amount necessary to deal with the recruitment and retention problem identified under section 595.203(c) of this part for that category of position. In determining this amount, the agency head shall consider the relative earnings, responsibilities, expenses, workload, working conditions, conditions of employment, and personnel benefits for physicians in each category and for comparable physicians inside and outside the Federal Government.

(b) Under subsection (a) of 5 U.S.C. 5948, the comparability allowance payable to any Government physician may not exceed $7,000 per annum for a physician who has served as a Government physician for 24 months or less, or $10,000 per annum for a physician who has served as a Government physician for more than 24 months. For the purpose of determining a physician's length of service for this requirement, prior service as a Government physician need not have been continuous, but any periods of leave without pay may not be counted as service.

§ 595.205 Termination of service agreement.

Under subsection (f) of 5 U.S.C. 5948, each service agreement entered into by an agency and a physician under the comparability allowance program may prescribe the terms under which the agreement may be terminated and the amount of allowance, if any, required to be refunded by the physician for each reason for termination. As a minimum, in the case of each service agreement covering a period of service of more than one year, the service agreement must provide that, if the physician completes more than one year of service pursuant to the agreement, but fails to complete the full period of service specified in the agreement either voluntarily or because of misconduct by the physician, the physician shall be required to refund an amount of the allowance that has been received that is specified in the agreement, but such amount shall not be less than the amount of allowance the physician has received under the agreement for the 26 weeks of service immediately preceding the termination.

§ 595.206 Approval of agency plans.

(a) An agency may not enter into any service agreement under 5 U.S.C. 5948 until the agency's plan for implementing the physicians' comparability allowance program has been submitted to and approved by the Office of Management and Budget in accordance with this section and such instructions as the Office of Management and Budget may prescribe.

(b) The agency shall submit to the Office of Management and Budget a complete description of its plan for implementing the physicians' comparability allowance program, including the following:

(1) An identification of the categories of physician positions that the agency has established under section 595.203(b) of this part, and of the basis for such categories;

(2) An explanation of the determination that a recruitment and retention problem exists for each such category, in accordance with the criteria in section 595.203(c) of this part; and

(3) An explanation of the basis for the amount of comparability allowance determined necessary for each category of physician position under section 595.204(a) of this part.

(c) The Office of Management and Budget shall review each agency's description of its plan for implementing the physicians' comparability allowance program and determine if the plan is consistent with the provision of 5 U.S.C. 5948 and the requirements of this part, and if the plan is consistent, shall so advise the agency and authorize the agency to implement the plan.

§ 595.207 Reports.

Because of the experimental and temporary nature of the physicians' comparability allowance program, it will be necessary for the Office of Personnel Management to collect information on the administration of the program by the agencies, and on the effects the program has on the recruitment and retention of Government physicians. The Office of Personnel Management will prescribe the number, contents, timing, and format of the reports necessary to collect this information, and every agency using the physicians' comparability allowance program is required to submit such reports as the Office may prescribe. These reports must include, among other things, the following:

(1) A listing of the amount of allowance actually paid to the agency's physicians; and

(2) An assessment of the effect of the physicians' comparability allowance program on the agency's recruitment and retention of physicians.

Office of Personnel Management.

Beverly M. Jones,

Issuance System Manager.

[FR Doc. 79-14748 Filed 5-10-79; 8:45 am]

BILLING CODE 6325-01-M

DEPARTMENT OF AGRICULTURE

Agricultural Marketing Service

[9 CFR Part 201]

Regulations Under the Packers and Stockyard Act; Deletion and Revocation of All Regulations Pertaining to Poultry Licensees Operating in Designated Poultry Marketing Areas

AGENCY: Packers and Stockyards, Agricultural Marketing Service, Department of Agricultural.

ACTION: Proposed Rules.

SUMMARY: The Packers and Stockyards, Agricultural Marketing Service (AMS), proposed to delete and/or revoke all regulations or parts thereof issued under the Packers and Stockyards Act (7 U.S.C. 181 et seq.) which apply to poultry licensees. Since live poultry marketing in the large metropolitan areas is virtually nonexistent, the regulations pertaining to the licensees operating in the designated areas are no longer pertinent and should be deleted or revoked.

DATES: Comments must be received on or before July 16, 1979.

ADDRESSES: Send written comments to: Hearing Clerk, U.S. Department of Agriculture, Room 1077, South Building, Washington, D.C. 20250.

FOR FURTHER INFORMATION CONTACT: James D. Tuggle, Chief, Poultry Branch or E. H. Haller, Auditor, Poultry Branch Packer and Poultry Division, Packers and Stockyards, AMS, United States Department of Agriculture, Washington, D.C. 20250, Telephone: 202–447–5877.

before the close of the next business day.

Cancelled checks and drafts,

shall be actual weights obtained on

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SUPPLEMENTARY INFORMATION:

I. Background

In 1935, Congress amended the Packers and Stockyards Act by adding Title V. This title provided for the regulation of live poultry marketing in major metropolitan centers. After these areas were designated, all poultry dealers and marketing agencies operating in the designated areas were required to be licensed and appropriate regulations governing their operations were issued. These regulations, pertaining to financial and tariff requirements and marketing activities, were in most instances incorporated into the existing regulations pertaining to livestock marketing.

II. Effect on Existing Program

Live poultry dealers and handlers operating outside designated areas were not required to be licensed; however, their operations were made subject to section 202 of the Act in the 1935 amendment referred to above. Poultry regulations pertaining to all live poultry dealers and handlers operating in commerce were issued in 1971. These poultry regulations, 201.100 through 201.111, will be retained. These regulations together with the prohibitions in section 202 of the Act are considered adequate to deal with any unfair practices which may occur in the marketing of live poultry at any place including large metropolitan areas.

III. Rulemaking Procedure

The rulemaking procedure is governed by 5 U.S.C. 553. Interested persons may participate by submitting written data, views, or arguments to the address shown above. All written submissions made pursuant to this notice will be made available for public inspection at the Office of the Hearing Clerk during regular business hours (7 CFR 1.27(b)). If any information is communicated orally to personnel of the agency, which is not a matter of public record and which may influence the final decision on the proposed rulemaking, such information and its source will be reduced to writing and made available for inspection the same as written submissions in response to this notice, and the time for submission of comments will be extended if and as appropriate to permit others to reply to such information.

Dated: May 2, 1979.

Chas B. Jessings,

Deputy Administrator, Packers and Stockyards, AMS.

Accordingly, Part 201 is amended as follows:

§§ 201.8, 201.9, 201.14, 201.15, 201.16, 201.18, 201.35, 201.36, 201.37, 201.38, 201.46(b), 201.48, and 201.63 [Reserved]

The above sections are revoked and numbers reserved.

§ 201.2 [Amended]

The paragraphs listed below are deleted and redesignated.

Delete sections 201.2(i) and 201.2(k).

Section 201.2(j) is redesignated 201.2(i).

Section 201.2(l) is redesignated 201.2(j).

Section 201.2(m) is redesignated 201.2(k).

§ 201.8 [Amended]

Delete the subject title "Designation of Live Poultry Markets" preceding §201.8.

§ 201.14 [Amended]

Delete the subject title "Licensing" preceding § 201.14.

§ 201.35 [Amended]

Delete the subject title "Licensee Bonds" preceding § 201.35.

§ 201.46 [Amended]

Delete (a) in § 201.46.

The following sections and paragraphs have been rewritten and are set out below: 201.22(a), 201.24, 201.26, 201.43(a), 201.44, 201.50, 201.55, 201.79(a), and 201.81.

Section 201.22(a) is revised to read as follows:

§ 201.22 Time and place stockyard owners and market agencies are to file schedules and amendments.

(a) Duplicate copies of all schedules and rules or regulations and amendments or supplements thereto required to be filed under the Act by market agencies and stockyard owners shall be kept open for public inspection at their places of business. Unless the requirement as to filing and notice is specifically waived, as provided for in section 306(c) of the Act, all amendments to schedules or rules or regulations changing a rate or charge shall be filed with the Administrator at Washington, D.C., not less than ten (10) days before the effective date thereof. The provisions of this section apply to changes in feed charges and specified margins above cost of feed contained in basic tariff schedules: *Provided, however,* That the requirements as to filing and notice contained in section 306(c) of the Act are specifically waived with respect to changes in feed charges when (1) the basic tariff schedule provides that such feed charges are to be based on an average cost plus a specified margin, and (2) the records of the stockyard or market agency involved clearly disclose the average cost of the feed on hand, and (3) a schedule of the current feed charges computed in accordance with the basic tariff schedule and showing the effective date thereof is conspicuously posted at the stockyard and a copy is furnished to the Area Supervisor for informational purposes.

Section 201.24 is revised as follows:

§ 201.24 Prescribed rates, charges, practices, and regulations.

After the effective date of any general order issued by the Secretary prescribing rates, charges, practices, or regulations governing the rendition of stockyard services or the selling or buying of livestock on a commission basis at a stockyard, every market agency operating at such stockyard shall conform to such order.

Section 201.26 is revised as follows:

§ 201.26 Form.

The schedules of each stockyard owner and market agency operating at a stockyard, shall be substantially in the form set out below:

Tariff or Schedule of Charges No. —— or Amendment No.——to Tariff or Schedule of Charges No.——of

(Operator's Name)

(Operator's Business Address)

(Name posted stockyard where charges apply)

(Location of posted stockyard where charges apply)
Issued: ——
Effective ——
(Not less than ten days after receipt in Washington Office)

(Insert here, dividing into sections, the various classes of service performed by the stockyard owner or operator, or market agency operating at a stockyard, the kind of livestock concerning which services are performed, the nature of the services, and the terms or conditions under which the services are rendered.)
(Operator's name) ——
(Signed by) ——
(Owner, partner, or Official designation)

Section 201.43(a) is revised to read as follows:

§ 201.43 Payment and accounting for livestock.

(a) *Market agencies to make prompt accounting and transmittal of net proceeds.* Each market agency shall, before the close of the next business day following the sale of any livestock consigned to it for sale, transmit or deliver to the consignor or shipper of the livestock, or the duly authorized agent, in the absence of any knowledge that any other person, or persons, has any interest in the livestock, the net proceeds received from the sale and a true written account of such sale, showing the number, weight, and price of each kind of animal sold, the name of the purchaser, the date of sale, the commission, yardage, and other lawful charges, and such other facts as may be necessary to complete the account and show fully the true nature of the transaction.

* * * * *

Section 201.44 is revised to read as follows:

§ 201.44 Market agencies to render prompt accounting for purchases on order.

Each market agency shall, promptly following the purchase of livestock on a commission or agency basis, transmit or deliver to the person for whose account such purchase was made, or the duly authorized agent, a true written account of the purchase showing the number, weight, and price of each kind of animal purchased, the names of the persons from whom purchased, the date of purchase, the commission and other lawful charges, and such other facts as may be necessary to complete the account and show fully the true nature of the transaction.

Section 201.50 is revised to read as follows:

§ 201.50 Records; disposition.

(a) Except as otherwise provided in paragraphs (b) and (c) of this section, no stockyard owner, market agency, or dealer shall, without the consent in writing of the Administrator, destroy or dispose of any books, records, documents, or papers which contain, explain, or modify transactions in the business under the Act.

(b) Every stockyard owner, market agency or dealer may destroy or dispose of the following categories of records after they have been retained for a period of 2 full calendar years:

Stockyard Owners

All feed records.
Dipping and spraying orders.
Vaccinating and testing orders.
Orders for special services.
Routine correspondence.
Railroad advance charges.
Bills to commission firms and others.
Records of shipments by States and markets.
Deposit slips.
Bank statements.
Cancelled checks and drafts.
Check stubs.
Railroad in-bound records.
Truck-in receipt records.
Delivery records.
Yarding receipts.
Pass-out and delivery orders.
Truck shipping orders.
Railroad shipping orders.
Scale yarding records.
Scale tickets.
Scale test reports.

Market Agencies

Scale tickets.
Bills from stockyard company.
Bills for livestock purchased.
Gate tickets.
Routine correspondence.
Way-bills and truckers tickets.
Accounts of sales.
Accounts of purchases.
Bills and invoices to buyers.
Deposit slips.
Bank statements.
Cancelled checks and drafts.
Check stubs.
Scale test reports.

Dealers

Bills from stockyard company.
Bills for livestock purchased.
Accounts of sales.
Routine correspondence.
Bills to purchasers.
Scale tickets.
Deposit slips.
Bank statements.
Cancelled checks and drafts.
Check stubs.
Scale test reports.

(c) The two-year period specified in paragraph (b) of this section shall be extended if necessary to comply with any Federal, State, or local law, or if the stockyard owner, market agency, or dealer is notified in writing by the Administrator that specified records should be retained pending the completion of any investigation or proceeding under the Act.

The periods specified herein after which records may be disposed of have been approved by the Office of Management and Budget in accordance with the Federal Report Act of 1942 (56 Stat. 1078; 5 U.S.C., 139 et seq.).

Section 201.55 is revised to read as follows:

§ 201.55 Purchases and sales to be made on actual weights.

When livestock is bought or sold on a weight basis in transactions subject to the provisions of the Act, settlement therefor shall be on the basis of the weight shown on the scale ticket or correction ticket, as the case may be. Any weight figures shown on accounts of sale, accounts of purchase, invoices, bills, or statements issued in connection with transactions subject to the Act shall be actual weights obtained on scales operated or used by stockyard owners, market agencies, dealers, or packers at the place and at the time of the consummation of the transactions in question or, if not, shall be appropriately explained on the accountings, bills, or statements issued.

Section 201.79(a) is revised to read as follows:

§ 201.79 Facilities and services at stockyards.

(a) *Facilities and services at stockyards; discrimination prohibited.* No stockyard owner shall discriminate unfairly with respect to the utilization of pens, alleys, buildings, or facilities for the yarding, weighing, or handling of livestock, or of space for packing, rendering, and other establishments, or otherwise in furnishing services and facilities at the stockyard.

* * * * *

Section 201.81 is revised to read as follows:

§ 201.81 Suspended registrants.

No stockyard owner, packer, market agency, or dealer shall employ any person who has been suspended as a registrant to perform activities in connection with livestock transactions in commerce during the period of such suspension or revocation: *Provided,* That the provisions of this section shall not be construed to prohibit the employment of any person who has been suspended as a registrant until such time as the person demonstrates solvency and obtains the bond required under the Act and regulations. No such person shall be employed, however, until after the expiration of any specified period of suspension contained in the order of suspension.

(72 Stat. 1750; secs. 202, 307, 312, 42 Stat. 161 et seq., as amended; 7 U.S.C. 192, 208, 213)

§ 201.2 [Amended]

In § 201.2 (1) delete, ", market agencies, or licensees." and insert "and market agencies."

§§ 201.4, 201.53, 201.54, 201.71, 201.72, 201.73, 201.74, 201.75, 201.84, 201.94, 201.95, 201.96 [Amended]

In the sections listed above delete "dealer, or licensee" whenever it appears and insert "or dealer".

§§ 201.54, 201.63 [Amended]

In the sections listed above delete "dealer or licensee" and insert "or dealer".

§§ 201.19, 201.20, 201.21 [Amended]

a. In § 201.19 delete ", market agencies operating at a stockyard, and

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SUPPLEMENTARY INFORMATION: On April

licensees" and insert "and market agencies operating at a stockyard".

b. In §§201.19 and 201.20 delete ", market agency, or licensee" whenever it appears and insert "or market agency".

c. In §§201.20 and 201.21 delete ", market agency operating at a stockyard, and licensee" and insert "and market agency operating at a stockyard".

§§ 201.39, 201.40, 201.41, 201.42, 201.45, 201.47, 201.52, 201.58, 201.59, 201.60, 201.64 [Amended]

a. In the sections listed above delete "or licensee" whenever it appears.

In §§ 201.39, 201.41, 201.42(b), 201.45, 201.47 delete "and licensees" whenever it appears.

§ 201.25 [Amended]

In § 201.25 delete ", market agency, and licensee" and insert "and market agency".

§ 201.28 [Amended]

a. In § 201.28 delete "licensee," whenever it appears.

b. In § 201.28 delete "or a license".

c. In § 201.28 delete "licensee's."

§§ 201.23, 201.40, 201.47 [Amended]

In the sections listed above delete "or licensees" whenever it appears.

§§ 201.39, 201.40, 201.41, 201.42, 201.45, 201.47, 201.52, 201.53, 201.54, 201.58, 201.59, 201.60, 201.63, 201.64, 201.71, 201.72, 201.73, 201.74, 201.76, 201.77, 201.84 [Amended]

a. In the sections listed above delete "or live poultry" whenever it appears.

b. In § 201.42(a) delete "or poultry purchases".

c. In §§ 201.42(a) and 201.63 delete "or poultry".

d. In §§ 201.42(a) and 201.42(h) delete "or licensee's".

e. In § 201.53 delete "and live poultry."

f. In § 201.59 delete ", or licensed under the act,".

g. In § 201.63 listed below delete "or in designated areas or".

§§ 201.23, 201.42(b), 201.42(f), 201.58, 201.45 [Amended]

In the sections listed above delete "and licensee" whenever it appears.

§§ 201.46, 201.73, 201.94, 201.95 [Amended]

In the sections listed above delete "dealers, and licensees" and insert "and dealers" whenever it appears.

§ 201.76 [Amended]

In § 201.76 delete "packers, and licensees," and insert "and packers,".

§ 201.77 [Amended]

In § 201.77 delete "packer, and licensee" and insert "and packer".

§§ 201.94, 201.95, 201.97 [Amended]

In §§ 201.94, 201.95, 201.97 delete "dealer, and licensee" and insert "and dealer".

§ 201.96 [Amended]

In § 201.96 delete "dealers, or licensees" and insert "or dealers".

§ 201.95 [Amended]

In § 201.95 [Amended] delete "dealer, or licensee," and insert "or dealer,".

§ 201.23 [Amended]

In § 201.23 delete "or licensee,".

[FR Doc. 79-14758 Filed 5-10-79; 8:45 am]

BILLING CODE 3410-02-M

DEPARTMENT OF ENERGY

[10 CFR Part 440]

Weatherization Assistance Program; Correction

AGENCY: Department of Energy.

ACTION: Correction.

SUMMARY: This document corrects a proposed rule that appeared at page 22608 in the Federal Register of Monday, April 16, 1979, [44 FR 22608].

DATES: Comments on the proposed rule must be submitted by May 16, 1979.

ADDRESSES: Send comments to: Margaret Sibley, Office of Conservation and Solar Applications, Room 2221C, Department of Energy, 20 Massachusetts Avenue NW., Washington, D.C. 20545, re: Weatherization Assistance for Low-Income Persons Regulations (Docket No. CAS-RM-75-503).

FOR FURTHER INFORMATION CONTACT: Mary M. Bell (202) 376-9481.

The following corrections are made:

1. On page 22608 at the top of column one, "[10 CFR Parts 420, 440]" is corrected to read "[10 CFR Part 440]."

2. On page 22609, column one, first paragraph, "§ 420.2(a)(9)" is corrected to read "§ 440.2(a)(8)."

3. On page 22611, column one, the third full paragraph, "§ 420.17" is corrected to read "§ 440.17" and "§ 420.17(d)" is corrected to read "§ 440.17(d)."

4. On page 22646, "§ 420.7 [Amended]" is corrected to read "§ 440.17 [Amended]."

Dated: May 7, 1979.

Omi G. Walden,

Assistant Secretary, Conservation and Solar Applications

[Docket No. 79-11634]

[FR Doc. 79-14718 Filed 5-10-79; 8:45 am]

BILLING CODE 6450-01-M

Economic Regulatory Administration

[10 CFR Part 508]

Receipt of Petitions for Temporary Public Interest, Exemptions for Use of Natural Gas by Existing Powerplants Under the Powerplant and Industrial Fuel Use Act of 1978, and Proposed Order Granting the Petitions for Temporary Exemptions.

AGENCY: Economic Regulatory Administration, Department of Energy.

ACTION: Notice of Petitions and Proposed Orders.

SUMMARY: On or before May 8, 1979, petitions were filed with the Economic Regulatory Administration (ERA) of the Department of Energy (DOE) for temporary public interest exemptions for the use of natural gas as a primary energy source. Such exemptions are authorized by Section 311(e) of the powerplant and Industrial Fuel Use Act of 1978, Pub. L. 95-620, November 9, 1978 (FUA or the Act). The owners/operators of the powerplants have provided the following information.

DATES: Written comments relating to these petitions and the proposed order are due on or before June 22, 1979. Requests for a public hearing are due on or before May 29, 1979.

ADDRESSES: Requests for a public hearing and/or 10 copies of written comments shall be submitted to: Department of Energy, Case Control Unit, Box 4629, Room 2313, 2000 M Street, N.W., Room 2313, Washington, D.C. 20461.

FOR FURTHER INFORMATION CONTACT:

William L. Webb (Office of Public Information), Economic Regulatory Administration, Department of Energy, Room B-110, 2000 M Street, N.W., Washington, D.C. 20461, (202) 634-2170.

Elmer Lee (Office of Fuels Conversion), Economic Regulatory Administration, Department of Energy, Room 7219-F, 2000 M Street, N.W., Washington, D.C. 20461, (202) 254-5436.

Robert L. Davies (Office of Fuels Conversion), Economic Regulatory Administration, Department of Energy, Room 7202, 2000 M Street, N.W., Washington, D.C. 20461, (202) 254-3910.

James H. Heffernan (Office of General Counsel), Department of Energy, Room 7134, 12th & Pennsylvania Avenue, N.W., Washington, D.C. 20461, (202) 633-8820.

SUPPLEMENTARY INFORMATION: On April 9, 1979, ERA issued a final rule implementing the authority granted to DOE by Section 311(e) of FUA. This final rule, set forth in 10 CFR Part 508, establishes the policy of ERA has adopted in implementing its authority under Section 311(e) of FUA and the eligibility criteria, which petitioners for the temporary exemption must demonstrate. This temporary exemption will allow certain existing electric powerplants to use natural gas as a primary energy source in excess of the amounts which are mandated by Section 301(a) (2) and (3) of FUA.

The use of natural gas, permitted under these temporary exemptions, will allow existing electric powerplants to displace distillate and residual fuel oils as their primary energy source.

This expanded use of natural gas in these powerplants will be a significant step towards reducing our short term oil consumption. This will help the United States in meeting its goals to reduce its demand for imported oil, protect the Nation from the effects of any oil shortages, and will serve to cushion the impact of increasing world oil prices.

The owners/operators of the powerplants have provided the following information.

Petitioner's name/generating station	Unit identification	Maximum quantity of oil displaced (thousands of barrels)/type of oil displaced (distillate/residual)		Maximum quantity of coal displaced (tons)
Cincinnati Gas & Electric Company (Dick's Creek)	CT 1	467	Distillate	0
	CT 2			
	CT 3			
	CT 4			
	CT 5			
Florida Power Corp. (Avon Park)	CT 1	34	Distillate	0
	CT 2			
	#2	192	Residual	0
(Bartow)	#2	648	Residual	0
	#3			
(Higgins)	#1	176	Residual	0
	#2			
	CT 1	84	Distillate	0
	CT 2			
	CT 3			
	CT 4			
(Suwanee River)	#1	1,694	Residual	0
	#2			
	#3			
(Turner)	#3	599	Residual	
	#4			
Kansas Power and Light (Tecumseh)	#5	48	Residual	0
	#6			
	CT 1	105	Distillate	0
	CT 2			
(Lawrence)	#2	96	Residual	0
(Hutchinson)	CT 1	86	Distillate	0
	CT 2			
	CT 3			
	#4	317	Residual	0
(Abilene)	#1	127	Residual	0
	#2			
	CT 1	69	Distillate	0
Jersey Central Power & Light Co. (Sayreville)	#5	900	Residual	0
	#6			
	#7			
	#8			
(Gilbert)	CT 1	6	Distillate	0
	CT 2			
	CT 3	540	Residual	0
	CT 4			
	#1			
	#2			
	#3			
(Riegel)	CT 1	148	Distillate	0
City of Lakeland Florida (Larsen)	#1	365	Residual	0
(C. D. McIntosh)	#1	1,776	Residual	0
	#2			
Niagara Mohawk Power Company (Rotterdam)	CT 1	10	Distillate	0
	CT 2			
	CT 3			
	CT 4			
	CT 5			
	CT 6			
	CT 7			
	CT 8			
(Albany)	CT 1	18	Distillate	0
	CT 2			
	CT 3			
	CT 4			
New Orleans Public Service Inc. (Michoud)	#1	1,768	Residual	0
	#2			
	#3			
(Paterson)	#1	268	Residual	0
	#2			
	#3			
	#4			
Orange & Rocland Utilities (Hillburn)	#1	15	Distillate	0
(Bowline)	#1	1,000	Residual	0
	#2			

Petitioner's name/generating station	Unit identification	Maximum quantity of oil displaced (thousands of barrels)/type of oil displaced (distillate/residual)		Maximum quantity of coal displaced (tons)
Pennsylvania Power & Light Co. (Martins Creek)	#1	1,000	Residual	0
	#2			
(Montour)	#1	1,000	Residual	0
	#2			
Philadelphia Electric Co. (Delaware)	#1	1,000	Residual	0
	#2			
	#3			
	#4			
(Eddystone)	#1	1,000	Residual	0
	#2			
	#3			
	#4			
Public Service Electric & Gas Co. (Burlington)	#1	1,000	Residual	0
	#2			
	#3			
	#4			
(Hudson)	#1	1,000	Residual	0
	#2			
(Kearny)	#1	1,000	Residual	0
	#2			
(Linden)	#1	1,000	Residual	0
	#2			
(Mercer)	#1	1,000	Residual	0
	#2			
(Sewaren)	#1	1,000	Residual	0
	#2			
	#3			
	#4			
Rochester Gas & Electric Co. (Russell)	#1	1,000	Residual	0
	#2			
	#3			
	#4			
Southern California Edison Co. (Alamitos)	#1	1,000	Residual	0
	#2			
	#3			
	#4			
	#5			
	#6			
(Huntington Beach)	#1	1,000	Residual	0
	#2			
	#3			
	#4			
(Redondo)	#5	1,000	Residual	0
	#6			
	#7			
	#8			
Southern California Gas Co. (Long Beach)	#1	1,000	Residual	0
	#2			
	#3			
	#4			
Southern Nevada Power Co. (Reid Gardner)	#1	1,000	Residual	0
	#2			
	#3			
Tampa Electric Co. (Gannon)	#1	1,000	Residual	0
	#2			
	#3			
	#4			
	#5			
	#6			
Texas Utilities Generating Co. (Handley)	#1	1,000	Residual	0
	#2			
	#3			
	#4			
	#5			
(Morgan Creek)	#1	1,000	Residual	0
	#2			
	#3			
	#4			
	#5			
	#6			
Virginia Electric & Power Co. (Chesterfield)	#1	1,000	Residual	0
	#2			
	#3			
	#4			
	#5			
	#6			
(Yorktown)	#1	1,000	Residual	0
	#2			
	#3			
	#4			
	#5			
	#6			
Wisconsin Power & Light Co. (Nelson Dewey)	#1	1,000	Residual	0
	#2			
(Rock River)	#1	1,000	Residual	0
	#2			

Petitioner's name/generating station	Unit identification	Maximum quantity of oil displaced (thousands of barrels)/type of oil displaced (distillate/residual)		Maximum quantity of coal displaced (tons)
Wisconsin Power & Light Co. (Sheepskin)	#1	1,000	Residual	0
	#2			
(Stoughton)	#1	1,000	Residual	0
	#2			
(Sunset)	#1	1,000	Residual	0
	#2			
	#3			
	#4			
Wisconsin Public Service Corp. (Pulliam)	#1	1,000	Residual	0
	#2			
	#3			
	#4			
	#5			
	#6			
	#7			
	#8			
(Weston)	#1	1,000	Residual	0
	#2			
	#3			
	#4			
Wisconsin Power & Light Co. (Nelson Dewey)	#1	1,000	Residual	0
	#2			
(Rock River)	#1	1,000	Residual	0
	#2			
Wisconsin Power & Light Co. (Sheepskin)	#1	1,000	Residual	0
	#2			
(Stoughton)	#1	1,000	Residual	0
	#2			
(Sunset)	#1	1,000	Residual	0
	#2			
	#3			
	#4			
Wisconsin Public Service Corp. (Pulliam)	#1	1,000	Residual	0
	#2			
	#3			
	#4			
	#5			
	#6			
	#7			
	#8			
(Weston)	#1	1,000	Residual	0
	#2			
	#3			
	#4			

Petitioner's name/generating station	Unit identification	Maximum quantity of oil displaced (thousands of barrels)/type of oil displaced (distillate/residual)		Maximum quantity of coal displaced (tons)
(Shoemaker)	#1	15	Distillate	0
(Lovett)	#1	1,700	Residual	0
	#2			
	#3			
	#4			
	#5			
Fort Pierce Utilities Authorities (King)	#5	863	Residual	0
	#7			
	#8			
Southern California Edison Company (Redondo)	#1	4,560	Residual	0
	#2			
	#3			
	#5			
	#6			
	#7			
	#8			
(Ormond)	#1	40	Residual	0
	#2			
(Ellwood)	#1	1	Distillate	0
(El Segundo)	#1	3,770	Residual	0
	#2			
	#3			
	#4			
(Cool Water)	#1	1,600	Residual	0
	#2			
(Garden State)	#1	250	Distillate	0
Southern California Edison Company (Highgrove)	#1	50	Residual	0
	#2			
	#3			
	#4			
(Etiwanda)	#1	3,290	Residual	0
	#2			
	#3			
	#4			
	#5	7	Distillate	0
(Alamitos)	#1	6,620	Residual	0
	#2			
	#3			
	#4			
	#5			
	#6			
	#7	4	Distillate	0
(San Bernardino)	#1	510	Residual	0
	#2			
(Mandalay)	#1	1,950	Residual	0
	#2			
	#3			
(Huntington Beach)	#1	2,450	Residual	0
	#2			
	#3			
	#4			
	#5			
Consolidated Edison Company of New York, Inc. (Astoria)	#1	153	Distillate	0
	#2			
	#3	2,190	Residual	0
	CT 1			
	CT 2			
	CT 3			
	CT 4			
(East River)	#5	1,944	Residual	0
	#6			
	#6			
	#7			
Consolidated Edison Company of New York, Inc. (Narrows)	#1	90	Distillate	0
	#2			
(Ravonswood)	#1	4,936	Residual	0
	#2			
	#3			
	CT 1			
	CT 2			
	CT 3			
	CT 4			
	CT 5			
	CT 6			
	CT 7			
	CT 8			
	CT 9			
	CT 10			
	CT 11			
(Waterside)	#4	3,384	Residual	0
	#5			
	#6			
	#7			
Greenwood Utilities (Wright)	#1	89	Residual	0
	#2			
	#3	20	Distillate	0
	#4			
(Henderson)	#1	50	Distillate	
	#2			
	#3			
Orlando Utilities Commission (Lake Highland)	#1	100	Residual	0
	#2			
	#3			
	CT A	2	Distillate	0
	CT B			

Petitioner's name/generating station	Unit identification	Maximum quantity of oil displaced (thousands of barrels)/type of oil displaced (distillate/residual)		Maximum quantity of coal displaced (tons)
Orlando Utilities Commission (Indian River)	#1	1,280	Residual	0
	#2			
	#3			
Florida Power and Light Company (Cape Canaveral)	#1	1,123	Residual	0
	#2			
(Cutler)	#4	293	Residual	0
	#5			
	#6			
Florida Power and Light Company (Lauderdale)	#4	376	Residual	0
	#5			
	CT 1			
	CT 2			
	CT 3			
	CT 4			
	CT 5			
	CT 6			
	CT 7			
	CT 8			
	CT 9			
	CT 10	177	Distillate	0
	CT 11			
	CT 12			
	CT 13			
	CT 14			
	CT 15			
	CT 16			
	CT 17			
	CT 18			
	CT 19			
	CT 20			
	CT 21			
	CT 22			
	CT 23			
	CT 24			
Florida Power and Light Company (Port Everglades)	#1	1,294	Residual	0
	#2			
	#3			
	#4			
	CT 1			
	CT 2			
	CT 3			
	CT 4			
	CT 5			
	CT 6	94	Distillate	0
	CT 7			
	CT 8			
	CT 9			
	CT 10			
	CT 11			
	CT 12			
(Palatka)	#1	127	Residual	0
	#2			
(Riviera)	#1	979	Residual	0
	#2			
	#3			
	#4			
(Sanford)	#3	260	Residual	0
(Turkey Point)	#1	820	Residual	0
	#2			
Gainesville-Alachua County Regional Electric, Water, and Sewer Utilities Board (Deerhaven).	#1	227	Residual	0
	CT 1	15	Distillate	0
	CT 2			
(Kelly)	#6	215	Residual	0
	#7			
	#8			
	CT 1	4	Distillate	0
	CT 2			
	CT 3			
Utilities Commission City of New Smyrna Beach (W. E. Swoope)	#1	97	Residual	0
Sebring Utilities Commission (Dinner Lake Plant)	#1	148	Residual	0
Long Island Lighting Company (Glenwood)	#4	400	Residual	0
	#5			
(Far Rockaway)	#4	100	Residual	
(E. F. Barrett)	#1	2,700	Residual	0
	#2			
	CT 1	200	Distillate	0
	CT 2			
	CT 3			
	CT 4			
Wolverine Electric Cooperative, Inc. (Van Dyke)	#5	359	Distillate	0
	#6			
City of Tallahassee (Purdom)	#3	576	Residual	0
	#4			
	#5			
	#6			
	#7			
(Hopkins)	#1	1,745	Residual	0
	#2			
City of Clarksdale Mississippi (3rd Street)	#4	37	Residual	0
	#5			
(South)	#6	60	Residual	0
	#7			
	#8	250	Distillate	0
	#9			

		Maximum quantity of oil		Maximum

Case Control Number	Petitioner's Name	Generating Station	Unit Ident.	Location

Petitioner's name/generating station	Unit identification	Maximum quantity of oil displaced (thousands of barrels)/type of oil displaced (distillate/residual)		Maximum quantity of coal displaced (tons)
Bryan Municipal (Bryan)	#1	1,500	Distillate	0
	#3			
Delmarva Power & Light Company (Edge Moor)	#1	1,130	Residual	0
	#3			
	#4			
Municipal Light Commission of the City of Taunton (Clearly/Flood).		163	Distillate	0
	9	949	Residual	0
	8	64	Residual	0
Central Hudson Gas and Electric Corporation (Danskammer)	#2	494	Residual	0
Lake Worth Utilities Authority (Smith)	CGT-2/S-5	25	Distillate	0
	S-4	425	Residual	0
	S-3			
	S-2			
	S-1			

FUA became effective May 8, 1979. FUA prohibits the use of natural gas as a primary energy source in certain existing powerplants and also authorizes an exemptions procedure in regard to that and other prohibitions.

ERA intends to issue proposed orders which would grant temporary public interest exemptions to all of the petitioners enumerated above. These proposed orders would grant a temporary exemption from the prohibition against natural gas use, contained in Section 301(a) (2) and (3) of FUA, to the subject powerplants. These proposed orders to grant temporary public interest exemptions are issued under the authority of Section 311(e) of FUA and 10 CFR 508, published by ERA on April 9, 1979 (44 FR 21230).

ERA is publishing this notice of petitions filed and its proposed order to grant these exemptions, to invite interested persons to submit written comments pursuant to the requirements of FUA. In addition, any interested person may request that a public hearing be convened in regard to these petitions under the provisions of Section 701(d) of FUA.

The above listed owners/operators have filed petitions with ERA to request a temporary public interest exemption for their existing electric powerplants. ERA has reviewed their petitions and has found that the powerplants meet the eligibility criteria established in Part 508.2 of the final rule (44 FR 21230).

ERA, in its proposed order, is granting temporary public interest exemptions for the above listed powerplants.

This is not the final notice of petitions and proposed orders under the special rule. ERA will continue to comply with the requirements of Section 701(c) of FUA and will publish further notices as petitions are received.

Proposed Order Granting Special Temporary Public Interest Exemptions

The Department of Energy's (DOE) Economic Regulatory Administration (ERA) hereby sets forth its Order proposing to grant a special temporary public interest exemption from the prohibitions of Section 301 (a)(2) and (3) of the Powerplant and Industrial Fuel Use Act of 1978 (FUA), Pub. L. 95–620, authorized by Section 311(e) of FUA, and pursuant to ERA–FUA Regulations Section 501.73 and Part 508, to the following powerplant(s):

Case Control Number	Petitioner's Name	Generating Station	Unit Ident.	Location
50556-2831-21-41	Cincinnati Gas & Electric Company.	Dick's Creek	CT 1	Cincinnati, Ohio.
50556-2831-22-41			CT 2	
50556-2831-23041			CT 3	
50556-2831-24-41			CT 4	
50556-2831-25-41			CT 5	
51007-0624-21-41	Florida Power Corporation	Avon Park	CT 1	Avon Park, Florida.
51007-0624-22-41			CT 2	
51007-0624-02-41			#2	
51007-9031-02-41		Bartow	#2	Saint Petersburg, Florida.
51007-9031-03-41			#3	
51007-0630-01-41		Higgins	#1	Oldsmar, Florida.
51007-0630-02-41			#2	
51007-0630-21-41			CT 1	
51007-0630-22-41			CT 2	
51007-0630-23-41			CT 3	
51007-0630-24-41			CT 4	
51007-0638-01-41		Suwanee River	#1	Live Oak, Florida.
51007-0638-02-41			#2	
51007-0638-03-41			#3	
51007-9029-03-41		Turner	#3	Enterprise, Florida.
51007-9029-04-41			#4	
51479-1252-05-41	Kansas Power & Light	Tecumseh	#5	Tecumseh, Kansas.
51479-1252-06-41			#6	
51479-1252-21-41			CT 1	
51479-1252-22-41			CT 2	
51479-1250-02-41		Lawrence	#2	Lawrence, Kansas.
51479-1248-21-41		Hutchinson	CT 1	Hutchinson, Kansas.
51479-1248-22-41			CT 2	

Case Control Number	Petitioner's Name	Generating Station	Unit Ident.	Location
51479-1248-23-41			CT 3	
51479-1248-04-41			#4	
51479-9028-01-41		Abilene	#1	Abilene, Kansas.
51479-9028-02-41			#2	
51479-9028-21-41			CT 1	
54015-2390-05-41	Jersey Central Power & Light Company.	Sayreville	#5	
54015-2390-06-41			#6	
54015-2390-07-51			#7	
54015-2390-08-41			#8	
54015-2393-21-41		Gilbert	CT 1	Holland Township, New Jersey.
54015-2393-22-41			CT 2	
54015-2393-23-41			CT 3	
54015-2393-24-41			CT 4	
54015-2393-01-41			#1	
54015-2393-02-41			#2	
54015-2393-03-41			#3	
54015-2394-21-41		Riegel	CT 1	Milford, New Jersey.
51575-0678-01-41	City of Lakeland, Florida	Larsen	#1	Lakeland, Florida.
51575-0675-01-41		C. D. McIntosh	#1	
51575-0675-02-41			#2	
52053-2603-21-41	Niagara Mohawk Power Corp	Rotterdam	CT 1	Schenectady, New York.
52953-2603-22-41			CT 2	
52053-2603-23-41			CT 3	
52053-2603-24-41			CT 4	
52053-2603-25-41	Niagara Mohawk Power Corp	Rotterdam	CT 5	Schenectady, New York.
52053-2603-26-41			CT 6	
52053-2603-27-41			CT 7	
52053-2603-28-41			CT 8	
52053-2539-21-41		Albany	CT 1	Albany, New York.
52053-2539-22-41			CT 2	
52053-2539-23-41			CT 3	
52053-2539-24-41			CT 4	
52024-1408-01-41	New Orleans Public Service Inc.	Michaud	#1	New Orleans, Louisiana.
52024-1409-02-41			#2	
52024-1490-03-41			#3	
52024-1407-01-41	New Orleans Public Service Inc.	Paterson	#1	New Orleans, Louisiana.
52024-1407-02-41			#2	
52024-1407-03-41			#3	
52024-1407-04-41			#4	
52181-2628-01-41	Orange & Rockland Utilities	Hillburn	#1	Hillburn, New York.
52181-2625-01-41		Bowline	#1	Haverstraw, New York.
52181-2625-01-41			#2	
52181-2632-02-41		Shoemaker	#1	Hillburn, New York.
52181-2629-01-41		Lovett	#1	Tomkins Cove, New York.
52181-2629-02-41			#2	
52181-2629-03-41			#3	
52181-2629-04-41			#4	
52181-2629-05-41			#5	
51052-0658-05-41	Fort Pierce Utilities Authorities.	King	#5	Fort Pierce, Florida.
51052-0658-07-41			#7	
51052-0658-08-41			#8	
52721-0356-01-41			#1	
52721-0356-02-41			#2	
52721-0356-03-41			#3	
52721-0356-04-41			#4	
52721-0356-05-41			#5	
52721-0356-06-41	Southern California Edison Company.	Redondo	#6	Redondo Beach, California.
52721-0356-07-41			#7	
52721-0356-08-41			#8	
52721-0350-01-41		Ormond Beach	#1	Oxnard, California.
52721-0350-02-41			#2	
52721-8076-01-41		Ellwood	#1	Santa Barbara, California.
52721-0330-01-41		El Segundo	#1	El Segundo, California.
52721-0330-02-41			#2	
52721-0330-03-41			#3	
52721-0330-04-41			#4	
52721-0329-01-41		Coolwater	#1	Dagget, California.
52721-0329-02-41			#2	
52721-0333-01-41		Garden State	#1	Pomona, California.
52721-0334-02-41		Highgrove	#1	Colton, California.
52721-0334-03-41			#2	
52721-0334-04-41			#3	
52721-0334-05-41			#4	
52721-0331-01-41		Etiwanda	#1	Etiwanda, California.
52721-0331-02-41			#2	
52721-0331-03-41			#3	
52721-0331-04-41			#4	
52721-0331-05-41			#5	
52721-0315-01-41		Alamitos	#1	Long Beach, California.
52721-0315-02-41			#2	
52721-0315-03-41			#3	
52721-0315-04-41			#4	
52721-0315-05-41			#5	
52721-0315-06-41			#6	
52721-0315-07-41			#7	
52721-0358-01-41		San Bernardino	#1	Loma Linda, California.
52721-0358-02-41			#2	
52721-0345-01-41		Mandalay	#1	Oxnard, California.
52721-0345-02-41			#2	
52721-0345-03-41			#3	
52721-0335-01-41	Southern California Edison Company.	Huntington Beach	#1	Hermosa Beach, California.
52721-0335-02-41			#2	
52721-0335-03-41			#3	
52721-0335-04-41			#4	
52721-0335-05-41			#5	
50653-2491-01-41	Consolidated Edison Company of New York, Inc.	Astoria	#1	Queens, New York.
50653-2491-02-41			#2	
50653-2491-03-41			#3	
50653-2491-21-41			CT 1	

Case Control Number	Petitioner's Name	Generating Station	Unit Ident.	Location
50653-2491-22-41	Consolidated Edison Company of New York, Inc.	Astoria	CT 2	Queens, New York.
50653-2491-23-41			CT 3	
50653-2491-24-41			CT 4	
50653-2491-25-41			CT 5	
50653-2491-26-41			CT 6	

Case Control Number	Petitioner's Name	Generating Station	Unit Ident.	Location
50653-2491-22-41			CT 2	
50653-2491-23-41			CT 3	
50653-2491-24-41			CT 4	
50653-2493-05-41		East River	#5	East River, New York.
50653-2493-06-41			#6	
50653-2493-07-41			#7	
50653-2499-01-41		Narrows	#1	New York, New York.
50643-2499-02-41			#2	
50653-2500-01-41		Ravenswood	#1	Queens, New York.
50653-2500-02-41			#2	
50653-2500-03-41			#3	
50653-2500-21-41			CT 1	
50653-2500-22-41			CT 2	
50653-2500-23-41			CT 3	
50653-2500-24-41			CT 4	
50653-2500-25-41			CT 5	
50653-2500-26-41			CT 6	
50653-2500-27-41			CT 7	
50653-2500-28-41			CT 8	
50653-2500-29-41			CT 9	
50653-2500-30-41			CT 10	
50653-2500-31-41			CT 11	
50653-2502-04-41		Waterside	#4	New York, New York.
50653-2502-05-41			#5	
50653-2502-06-41			#6	
50653-2502-07-41			#7	
51186-2063-01-41	Greenwood Utilities Commission.	Wright	#1	Greenwood, Mississippi.
51186-2063-02-41			#2	
51186-2063-03-41			#3	
51186-2063-04-41			#4	
51186-2062-01-41		Henderson	#1	Greenwood, Mississippi.
51186-2062-02-41			#2	
51186-2062-03-41			#3	
52189-0684-01-41	Orlando Utilities Commission..	Lake Highland	#1	Orlando, Florida.
52189-0684-02-41			#2	
52189-0684-03-41			#3	
52189-0684-21-41			CT A	
52189-0684-22-41			CT B	
52189-0683-01-41		Indian River	#1	Titusville, Florida.
52189-0683-02-41			#2	
52189-0683-03-41			#3	
51006-0609-01-41	Florida Power & Light Company.	Cape Canaveral	#1	Cocoa, Florida.
51006-0609-02-41			#2	
51006-0610-04-41		Cutler	#4	Cutler, Florida.
51006-0610-05-41			#5	
51006-6010-06-41			#6	
51006-0613-04-41		Lauderdale	#4	Dania, Florida.
51006-0613-05-41			#5	
51006-0613-21-41			CT 1	
51006-0613-22-41			CT 2	
51006-0613-23-41			CT 3	
51006-0613-24-41			CT 4	
51006-0613-25-41			CT 5	
51006-0613-26-41			CT 6	
51006-0613-27-41			CT 7	
51006-0613-28-41			CT 8	
51006-0613-29-41			CT 9	
51006-0613-30-41			CT 10	
51006-0613-31-41			CT 11	
51006-0613-32-41			CT 12	
51006-0613-33-41			CT 13	
51006-0613-34-41			CT 14	
51006-0613-35-41			CT 15	
51006-0613-36-41			CT 16	
51006-0613-37-41			CT 17	
51006-0613-38-41			CT 18	
51006-0613-39-41			CT 19	
51006-0613-40-41			CT 20	
51006-0613-41-41			CT 21	
51006-0613-42-41			CT 22	
51006-0613-43-41			CT 23	
51006-0613-44-41			CT 24	
51006-0617-01-41		Port Everglades	#1	Port Everglades, Florida.
51006-0617-02-41			#2	
51006-0617-03-41			#3	
51006-0617-04-41			#4	
51006-0617-21-41			CT 1	
51006-0617-22-41			CT 2	
51006-0617-23-41			CT 3	
51006-0617-24-41			CT 4	
51006-0617-25-41			CT 5	
51006-0617-26-41			CT 6	
51006-0617-27-41			CT 7	
51006-0617-28-41			CT 8	
51006-0617-29-41			CT 9	
51006-0617-30-41			CT 10	
51006-0617-31-41			CT 11	
51006-0617-32-41			CT 12	
51006-0618-01-41		Palatka	#1	Palatka, Florida.
51006-0618-02-41			#2	
51006-0619-02-41		Riviera	#1	Riviera, Florida.
51006-0619-02-41			#2	
51006-0619-03-41			#3	
51006-0619-04-41			#4	
51006-0620-03-41		Sanford	#3	Sanford, Florida.
51006-0621-01-41		Turkey Point	#1	Miami, Florida.
51006-0621-02-41			#2	

Case Control Number	Petitioner's Name	Generating Station	Unit Ident.	Location
51070-0663-01-41	Gainesville-Alachua County Regional Electric, Water, and Sewer Utilities Board.	Deerhaven	#1	Hague, Florida.
51070-0663-21-41			CT 1	
51070-0663-22-41			CT 2	
51070-0664-06-41		Kelly	#6	Gainesville, Florida.
51070-0664-07-41			#7	
51070-0664-08-41			#8	
51070-0664-21-41			CT 1	
51070-0664-22-41			CT 2	
51070-0664-23-41			CT 3	
52031-0681-01-41	Utilities Commission, City of New Smyrna Beach.	W. E. Swoope	#1	New Smyrna Beach, Florida.
52605-0686-01-41	Sebring Utilities Commission..	Dinner Lake Plant	#1	Sebring, Florida.
51685-2514-04-41	Long Island Lighting Company.	Glenwood	#4	Glenwood Landing, New York.
51685-2514-05-41			#5	
51685-2513-04-41		Far Rockaway	#4	Far Rockaway, New York.
51685-2511-01-41		E. F. Barrett	#1	Island Park, New York.
51685-2511-02-41			#2	
51685-2511-21-41			CT 1	
51685-2511-22-41			CT 2	
51685-2511-23-41			CT 3	
51685-2511-24-41			CT 4	
53341-1880-05-41	Wolverine Electric Cooperative, Inc.	Vandyke	#5	Dorr, Michigan.
53341-1880-06-41			#6	
52875-0688-03-41	City Of Tallahassee	Purdom	#3	Tallahassee, Florida.
52875-0688-04-41			#4	
52875-0688-05-41			#5	
52875-0688-06-41			#6	
52875-0688-07-41			#7	
52875-0689-01-41		Hopkins	#1	Tallahassee, Florida.
52875-0689-02-41			#2	
50570-2054-04-41	City of Clarksdale, Mississippi	3rd Street	#4	Clarksdale, Mississippi.
50570-2054-05-41			#5	
50570-2060-06-41		South	#6	Clarksdale, Mississippi.
50570-2060-07-41			#7	
50570-2060-08-41			#8	
50570-2060-09041			#9	
50356-2903-01-41	Bryan Municipal	Bryan	#1	Bryan, Ohio.
50356-2903-02-41			#3	
50769-0593-01-41	Delmarva Power & Light Company.	Edge Moor	#1	Edge Moor, Delaware.
50769-0593-03-41			#3	
52885-1682-08-41	Taunton Municipal Lighting Plant.	Cleary/Flood	#4	
52885-1682-09-41			#8	Taunton, Massachusetts.
50484-2480-02-41	Central Hudson Gas & Electric Corporation.	Danskammer	#9	
64001-9014-51-41	Lakeworth Utilities Authority...	Smith	#2	Roseton, New York.
64001-9014-04-41			CGT-2/	Lakeworth, Florida.
64001-9014-03-41			S-5	
64001-9014-02-41			S-4	
64001-9014-01-41			S-3	
			S-2	
			S-1	

I. The above listed powerplants are prohibited by Section 301(a)(2) of FUA from using natural gas as a primary energy source, or are prohibited by Section 301(a)(3) from using natural gas as a primary energy source in greater quantity than their average base year.

II. Eligibility

The existing powerplants listed above have submitted petitions to ERA for a Special Temporary Public Interest Exemption and have shown that:

(a) the existing powerplant will be

(1) Prohibited on May 8, 1979 from

These proposed exemptions are

Regulatory Administration, Room 2313,

established which are available to any

(1) Prohibited on May 8, 1979 from using natural gas as a primary energy source by Section 301(a)(2) of FUA, or

(2) Prohibited from using natural gas in excess of the average base year proportion allowed in Section 301(a)(3) of FUA.

(b) The proposed use of natural gas as a primary energy source, to the extent that such use would be prohibited by Section 301(a)(2) or (3) of FUA:

(1) Will displace consumption of middle distillate or residual fuel oil; and

(2) Will not displace the use of coal or any other alternate fuel in any facility of the owner/operator utility system, including the powerplant for which the exemption was submitted.

III. Rationale

To the extent that the near term choice of fuels for certain existing powerplants is limited to petroleum or natural gas, the use of natural gas is preferred over petroleum. The expanded use of natural gas in these powerplants will be a significant step towards reducing our short term oil consumption. This increased use of natural gas will help the United States meet its commitment to reduce its demand for imported petroleum products, protect the Nation from the effects of any oil shortages, and will cushion the impact of increasing world oil prices, which have had a detrimental effect on the Nation's balance of payments and domestic inflation rate.

To the extent that this increased use of natural gas will accomplish these goals, it will reduce the importation of petroleum and further the goal of national energy self-sufficiency. This is in keeping with purposes of FUA and is in the public interest.

Since the increased use of natural gas is in keeping with the purposes of FUA and is in the public interest, and since the petitioners have demonstrated that they have met the eligibility criteria established in Section 508.2 of the Special Rule (April 9, 1979, 44 FR 21230), ERA proposes to grant the exemptions.

IV. Duration

ERA proposes to grant these temporary public interest exemptions generally for a period of two years and may extend them from one to three additional years. Certain petitioners have requested that they be granted exemptions for a period of greater than two years but less than five years, the maximum period allowed under FUA, and to the extent that these requests are in the public interest ERA will consider them.

These proposed exemptions are subject to termination by ERA, upon six months written notice, if ERA determines such termination to be in the public interest.

V. Terms and Conditions

As a term and condition of this proposed order under the provisions of Section 214 of FUA and 10 CFR 508.6, ERA will require the order recipient upon issuance of a final order to report the amount of the powerplant's base period use of natural gas as defined in Section 3019(a)(3) of FUA and the total amount of natural gas consumption by such powerplant every six months thereafter.

Issued in Washington, D.C., on May 8, 1979.

Doris Dewton,

Acting Assistant Administrator, Office of Fuels Regulation, Economic Regulatory Administration.

[FR Doc. 79-14955 Filed 5-9-79; 3:07 pm]

BILLING CODE 6450-01-M

[10 CFR Parts 580 and 585]

Proposed Rulemaking Regarding Administrative Procedures for Adjustments of Natural Gas Curtailment Priority Regulations

AGENCY: Department of Energy (Economic Regulatory Administration).

ACTION: Notice of Proposed Rulemaking.

SUMMARY: The Economic Regulatory Administration of the Department of Energy is publishing for public comment a proposed rule providing administrative procedures for the making of certain adjustments to its natural gas curtailment priority regulations in Subchapter G of Chapter II of Title 10, Code of Federal Regulations. In particular, these procedures are applicable to the curtailment priority regulations established for essential agricultural uses in 10 CFR Part 580. The proposed rule establishes procedures as required by section 502 of the Natural Gas Policy Act of 1978, including an opportunity for the oral presentation of data, views, and arguments, which would be used in conjunction with requests for interpretations, modifications, or rescissions necessary to prevent special hardship, inequity, or an unfair distribution of burdens.

DATES: Written comments are due by June 8, 1979. Requests to speak are due by May 16, 1979. Hearing to be held on May 30, 1979 at 9:30 a.m.

ADDRESSES: All written comments and requests to speak at the public hearing should be sent to the Office of Public Hearings Management, Economic Regulatory Administration, Room 2313, Docket No. ERA-R-79-24, 2000 M Street N.W., Washington, D.C. 20461.

HEARING LOCATION: Room 2105, 2000 M Street, Washington, D.C.

FOR FURTHER INFORMATION CONTACT:

Robert C. Gillette (Office of Public Hearing Management), Economic Regulatory Administration, 2000 M Street, N.W., Washington, D.C. 20461, (202) 254-5201.
William L. Webb (Office of Public Information), Economic Regulatory Administration, 2000 M Street, N.W., Room B110, Washington, D.C. 20461, (202) 634-2170.
Paula Daigneault (Division of Natural Gas Regulations), Economic Regulatory Administration, 2000 M Street, N.W., Room 3308, (202) 632-4721.
Michael T. Skinker (Office of General Counsel), Department of Energy, 12th & Pennsylvania Ave., N.W., Room 7148, Washington, D.C. 20461, (202) 633-8814.

SUPPLEMENTARY INFORMATION:

I. Background
II. Description of Proposal
III. Public Comment and Hearing Procedures
IV. Environmental and Regulatory Analyses
V. Referral to FERC

I. Background

Section 502 of the Natural Gas Policy Act of 1978 (NGPA) (Pub. L. 95-621, 92 Stat. 3350) requires the Secretary of Energy to prescribe a rule which provides for the making of "adjustments" for rules issued by the Secretary of Energy under the NGPA, as may be necessary to prevent special hardship, inequity, or unfair distribution of burdens.

Under sections 401-403 of the NGPA, the Secretary has the responsibility to issue certain rules establishing curtailment priorities for essential agricultural and industrial process and feedstock uses of natural gas. The Secretary of Energy's curtailment responsibilities have been delegated, in the Department of Energy (DOE) Delegation Order No. 0204-4 (42 FR 60726, Nov. 29, 1977), to the Administrator, Economic Regulatory Administration (ERA). ERA issued a final rule establishing curtailment priorities for essential agricultural uses in 10 CFR Part 580 on March 9, 1979 (44 FR 15642, March 15, 1979). We intend also to issue a rule in regard to the curtailment priorities of industrial process and feedstock uses of natural gas required by § 402 of the NGPA at a later time.

II. Description of Proposal

Section 502 of the NGPA requires that administrative procedures be established which are available to any person for the purpose of seeking an interpretation, modification, or rescission of, exception to, or exemption from rules issued under the NGPA. This proposed rule provides procedures for seeking interpretations, modifications, or rescissions of ERA's curtailment priority regulations for essential agricultural uses in 10 CFR Part 580 and any subsequent rules that may be issued to implement ERA's authority regarding curtailment priorities in section 402 of the Natural Gas Policy Act (relating to priorities for essential industrial process or feedstock uses) or section 402(a)(1)(E) of the Department of Energy Organization Act, Pub. L. 95-91 (DOE Act).

The proposed rule does not provide procedures for acting on requests for exceptions to or exemptions from ERA's curtailment priority regulations, but instead states that those adjustments are within the jurisdiction of the Federal Energy Regulatory Commission (FERC). The FERC has the authority, pursuant to section 403(b) of the NGPA and section 402(a)(1)(E) of the DOE Act, to implement ERA regulations on curtailment priorities. This implementation authority will likely involve a case-by-case treatment of issues that arise in situations peculiar to individual pipelines. Because exceptions to and exemptions from regulations are inextricably tied to individual implementation decisions, such adjustments to ERA's regulations on curtailment priorities fall within the jurisdiction of the FERC, and all such requests should be filed with the FERC in accordance with its applicable administrative procedures. Similarly, requests for review of a denial of an exception or exemption should be filed with the FERC.

Section 502 of the NGPA requires ERA to provide an opportunity for oral presentation of views, when considering requests for adjustments. Section 585.02 reflects that statutory mandate by granting an opportunity for oral presentation of data, views and arguments in support of any person's request for an interpretation, modification, or rescission, if the request for an oral presentation is made in writing and submitted with the request for adjustment.

Section 585.03 proposes that requests for interpretations, including requests for reconsideration of an interpretation, are to be filed with the DOE's Office of the General Counsel. Before issuing any interpretation, it would be the practice of DOE to consult with the General Counsel of the FERC. The proposed rule

contacted through the day before the

IV. Environmental and Regulatory

Subchapter G—Natural Gas (Economic

also provides that a request for an interpretation that includes, or could be construed to include, a request for an exception or exemption may be treated solely as a request for an interpretation or solely as a request for an exception or exemption. In the latter instance it would be referred to the FERC.

Section 585.04 proposes that a request for modification or rescission be treated as a petition for a rulemaking in accordance with the procedures of Subpart L of 10 CFR Part 205 and filed with the Assistant Administrator for Regulations and Emergency Planning of the ERA. The Administrator or his delegate may respond to a petition for modification or rescission by either: (1) instituting a rulemaking as proposed or as modified, in his discretion; (2) notifying the petitioner in writing that he does not intend to institute a rulemaking as proposed or as modified and stating the reasons; or (3) notifying the petitioner in writing that the matter is under continuing consideration and that no decision can be made at that time because of the inadequacy of available information, changing circumstances or other stated reasons.

In order to provide for finality of administrative action in an expeditious manner, the proposed rule provides procedures by which a request for adjustment will be considered denied. Section 585.03(c) states that an interpretation will be considered denied if: (1) the General Counsel notifies the person making the request in writing that an interpretation will not be issued; or (2) the General Counsel does not respond within 60 days to a request for an interpretation by either issuing an interpretation or by giving notice when an interpretation will be issued. Section 585.04(b) proposes that a request for a modification or rescission will be considered denied if: (1) the Administrator or his delegate notifies the petitioner in writing that he does not intend to institute a rulemaking as proposed or as modified and states the reasons therefor; or (2) the Administrator or his delegate does not respond to the request within 60 days of the date of its receipt.

Proposed § 585.05 provides procedures for the review of a denial of an interpretation, modification, or rescission and requires that a request for review be filed within 30 days of the date of the denial.

III. Public Comment and Hearing Procedures

A. Written Comments

You are invited to participate in any aspect of this rulemaking by submitting data, views, or arguments with respect to the proposals set forth in today's rulemaking. In particular, comments are requested regarding the procedural approach taken by this proposal in view of the statutory requirements of section 502 of the NGPA and the jurisdictional split in responsibilities between DOE and FERC under sections 401–403 of the NGPA and section 402(a)(1)(E) of the DOE Act. Where the comments are critical of the proposed rule, alternative language should be provided wherever possible. The rationale and any data in support of the changes should also be provided.

Written comments must be submitted by 4:30 p.m. June 8, 1979 to the address indicated in the "Addresses" section of this preamble and should be identified on the outside envelope and on the document with the designation: "Part 585—Administrative Procedures (Docket No. ERA–R–79–*24*)." Ten copies should be submitted. All comments received will be available for public inspection in the DOE Reading Room, Room GA–152, James Forrestal Building, 1000 Independence Avenue, SW, Washington, DC, 20585, and the ERA Office of Public Information, Room B–110, 2000 M Street, NW, Washington, DC 20461, between the hours of 8:00 a.m. and 4:30 p.m., Monday through Friday. All comments received by 4:30 p.m., June 8, 1979, and all other relevant information will be considered by DOE before final action is taken on this proposed regulation.

Any information or data submitted which you consider to be confidential must be so identified and submitted in writing, one copy only. We reserve the right to determine the confidential status of the information or data and to treat it according to our determination.

B. Public Hearings

1. *Procedures for Requests To Make Oral Presentation.* The time and place for the hearing are indicated in the "Dates" and "Hearing Location" sections of this preamble.

If you have any interest in the matters discussed in this proposed rulemaking, or represent a group or class of persons that has an interest, you may make a written request for an opportunity to make oral presentation by 4:30 p.m., May 16, 1979. You should provide a telephone number where you may be contacted through the day before the hearing.

If you are selected to be heard, you will be so notified before 4:30 p.m., May 21, 1979. One hundred copies of your statement are due one work day prior to the date of the hearing and should be delivered to the address indicated in the "Addresses" section. In the event any person wishing to testify cannot meet the 100 copy requirement, alternative arrangements can be made with the Office of Regulations Management in advance of the hearing by so indicating in a letter requesting an oral presentation or by calling the Office of Regulations Management at 202–254–5201.

2. *Conduct of the Hearings.* We reserve the right to schedule participants' presentations and to establish the procedures governing the conduct of the hearing. We may limit the length of each presentation, based on the number of persons requesting to be heard. We encourage groups that have similar interests to choose one appropriate spokesperson qualified to represent the views of the groups.

An ERA official will be designated to preside at the hearing. This will not be a judicial type hearing. Questions may be asked only by those conducting the hearing. At the conclusion of all initial oral statements, each person who has made an oral statement will be given the opportunity to make a rebuttal statement. The rebuttal statements will be given in the order in which the initial statements were made and will be subject to time limitations.

If you wish to have a question asked at the hearing, you may submit the question, in writing, to the presiding officer. The presiding officer will determine whether the question is relevant, and whether the time limitations permit it to be presented for answer. The question will be asked of the witness by the presiding officer. Any further procedural rules needed for the proper conduct of the hearing will be announced by the presiding officer.

A transcript of the hearing will be made and the entire record of the hearing, including the transcript, will be retained by the ERA and made available for inspection at the DOE Freedom of Information Office, Room GA–152, James Forrestal Building, 1000 Independence Avenue SW., Washington, D.C., 20585, and the ERA Office of Public Information, Room B–110, 2000 M Street NW., Washington, D.C. 20461, between the hours of 8:00 a.m. and 4:30 p.m., Monday through Friday. You may purchase a copy of the transcript from the reporter.

IV. Environmental and Regulatory Analyses

After reviewing this proposed regulation pursuant to DOE's responsibilities under the National Environmental Policy Act of 1969, Pub. L. 91–190, 83 Stat. 852 (42 U.S.C. 4321), ERA has determined the proposed action does not constitute a major Federal action significantly affecting the quality of the human environment. Therefore, ERA has determined no environmental impact statement is required for the proposed regulation.

ERA has also determined this proposed regulation is not significant within the meaning of DOE's procedures to implement Executive Order 12044 on "Improving Government Regulations" (DOE Order No. 2030.1 (44 FR 1032, January 3, 1979)). This is a procedural rule and is not expected to affect important national energy policy concerns, have adverse effects with respect to employment, economic growth, the ability of consumers to have adequate energy supplies at reasonable prices, or have more than a minimal effect on State and local governments. Hence, the preparation of a regulatory analysis is not required.

V. Referral to FERC

Pursuant to section 404 of the DOE Act a copy of this proposed rule will be referred to FERC for a determination as to whether this proposed rule may significantly affect any function within the jurisdiction of FERC pursuant to section 402(a)(1), (b), and (c)(1) of the DOE Act. FERC will have until June 8, 1979, the date the public comment period closes, to make this determination.

(Natural Gas Policy Act of 1978, Pub. L. 95–621, 92 Stat. 3350; Department of Energy Orgianzation Act, Pub. L. 95–91, 91 Stat. 565 (42 U.S.C. 7101); Administrative Procedures Act, as amended by Pub. L. 89–554, 80 Stat. 383 (5 U.S.C. 553); E.O. 12009, 42 FR 26267.)

In consideration of the foregoing, it is proposed to amend Subchapter G of Chapter II of Title 10, Code of Federal Regulations, as set forth below.

Issued in Washington, D.C. May 7, 1979.

David J. Bardin,

Administrator, Economic Regulatory Administration.

1. Part 580 of Chapter II of Title 10, Code of Federal Regulations, is amended by making the necessary changes to the heading and authorities of Part 580, to read as follows:

Subchapter G—Natural Gas (Economic Regulatory Administration)

PART 580—CURTAILMENT PRIORITIES FOR ESSENTIAL AGRICULTURAL USES

Sec.
580.01 Purpose.
580.02 Definitions.
580.03 Curtailment priorities.

Authority: Secs. 401, 403, Pub. L. 95–621, 92 Stat. 3394–3395, 3396; Secs. 301(b), 402(a), Pub. L. 95–91, Stat. 578, 594 (42 U.S.C. 7151(b), 7172(a)); E.O. 12009, 42 FR 46267.

* * * * *

2. Chapter II of Title 10, Code of Federal Regulations is amended by adding a Part 585, to read as follows:

PART 585—ADMINISTRATIVE PROCEDURES

Sec.
585.01 Purpose and scope.
585.02 Oral presentation.
585.03 Interpretation.
585.04 Modification or rescission.
585.05 Review of denials.
585.06 Judicial review.

Authority: Secs. 502, 506, Pub. L. 95–621, 92 Stat. 3397, 3405; Sec. 644, Pub. L. 95–91, 91 Stat. 599 (42 U.S.C. 7254); Pub. L. 89–554, 80 Stat. 383, (5 U.S.C. 553).

§ 585.01 Purpose and scope.

The purpose of this Part 585 is to provide procedures for the making of certain adjustments to the Economic Regulatory Administration's curtailment priority regulations in accordance with section 502(c) of the Natural Gas Policy Act of 1978, in order to prevent special hardship, inequity, or an unfair distribution of burdens. The procedures in this Part 585 apply to any person seeking an interpretation, modification, or rescission of the curtailment priority regulations in this Subchapter G. This Part 585 does not include procedures for exceptions or exemptions because those adjustments are within the jurisdiction of the Federal Energy Regulatory Commission.

§ 585.02 Oral presentation.

Any person seeking any adjustment under this Part 585 shall be given an opportunity to make an oral presentation of data, views, and arguments in support of the request for an adjustment, provided that a request to make an oral presentation is submitted in writing with the request for the adjustment.

§ 585.03 Interpretation.

(a) *Request for an Interpretation.* (1) Any person seeking an interpretation of the curtailment priority regulations in this Subchapter G shall file a formal

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written request with the General Counsel (or his delegate), Department of Energy, in accordance with the procedures, as applicable, in Subpart F of 10 CFR Part 205.

(2) A request for an interpretation that includes, or could be construed to include, a request for an exception to or exemption from the curtailment priority regulations in this Subchapter G may be treated solely as a request for an interpretation and processed as such, or may be treated solely as a request for an exception or exemption and referred to the Federal Energy Regulatory Commission for action.

(b) *Reconsideration of an interpretation.* Any person aggrieved or adversely affected by the issuance of an interpretation may request reconsideration of that interpretation by the General Counsel, in accordance with 10 CFR 205.85(f).

(c) *Denial of an interpretation.* An interpretation shall be considered denied for purpose of review of such denial under § 585.05 only if:

(1) The General Counsel (or his delegate) notifies the person making the request in writing that the request is denied and an interpretation will not be issued; or

(2) The General Counsel (or his delegate) does not respond to a request for an interpretation by issuing an interpretation or by giving notice of when an interpretation will be issued, within 60 days of the date of the receipt thereof, or within such extended time as the General Counsel (or his delegate) may prescribe by written notice within that 60 day period.

§ 585.04 Modification or rescission.

(a) *Request for a modification or rescission.* Any person seeking a modification or rescission of the curtailment priority regulations in this Subchapter G shall file a formal written request with the Assistant Administrator for Regulations and Emergency Planning, Economic Regulatory Administration, Department of Energy, at Room 8202, 2000 M Street, Washington, D.C. 20461. The request shall be filed as a petition for rulemaking and treated in accordance with the procedures, as applicable, of Subpart L of 10 CFR Part 205, the Department of Energy Organization Act and the Natural Gas Policy Act of 1978. The request should state the special hardship, inequity, or unfair distribution of burdens that will be prevented by making the adjustment.

(b) *Denial of a modification or rescission.* If the Administrator (or his delegate) denies the request in writing in accordance with 10 CFR 205.161(b)(2)(ii) or does not respond to a request for a modification or rescission in accordance with 10 CFR 205.161(b)(2) within 60 days of the date of the receipt thereof, or within such extended time as the Administrator (or his delegate) may prescribe by written notice within that 60 day period, the request shall be considered denied for the purpose of review of such denial under § 585.05.

§ 585.05 Review of denials.

(a) *Request for review.* (1) Any person aggrieved or adversely affected by a denial of a request for an interpretation under section 585.03 may request a review of the denial by the General Counsel, Department of Energy, within 30 days from the date of the denial. If no request has been filed by that time, the denial shall then constitute final agency action for the purpose of judicial review under § 585.06.

(2) Any person aggrieved or adversely affected by a denial of a request for a modification or rescission under section 585.04 of this Part 585 may request a review of the denial by the Administrator, Economic Regulatory Administration, Department of Energy, within 30 days from the date of the denial. If no request has been filed by that time, the denial shall then constitute final agency action for the purpose of judicial review under § 585.06.

(b) *Procedures.* Any request for review under § 585.05(a) shall be in writing and shall set forth the specific ground upon which the request is based. If a request for review has been timely filed then there is no final agency action for purpose of judicial review under § 585.06 until that request has been acted upon. If the request for review is not acted upon within 30 days after it is received, the request shall be deemed to have been denied. That denial shall then constitute final agency action for the purpose of judicial review under § 585.06.

§ 585.06 Judicial review.

Any person aggrieved or adversely affected by any final agency action taken on a request for adjustment under this section may obtain judicial review in accordance with section 506 of the Natural Gas Policy Act of 1978.

[Docket No. ERA-R-79-24]
[FR Doc. 79-14719 Filed 5-8-79; 2:17 pm]
BILLING CODE 6450-01-M

CIVIL AERONAUTICS BOARD

[14 CFR Part 223]

Free and Reduced-Rate Transportation

AGENCY: Civil Aeronautics Board.

ACTION: Proposed Rule.

SUMMARY: Current Board regulations provide a blanket exemption—subject to certain restrictions—permitting free or reduced-rate domestic air transportation for travel agents on promotional group familiarization tours. We propose today to amend our rule to permit carriers to offer unrestricted free or reduced-rate travel agent transportation in foreign and domestic markets. These proposed amendments will also permit carriers to offer air-sea tours familiarizing travel agents with foreign destinations. This is the first step in a generic review of our free and reduced rate policies in light of our policy to place maximum reliance on market place regulation.

DATES: Comments due by: July 9, 1979.

Comments and other relevant information received after these dates will be considered by the Board only to the extent practicable. All filed comments must include a full presentation of all evidence and arguments upon which the commenter wishes to rely in support of his position, or in rebuttal of facts relied upon by the Board. We have decided that all relevant issues can be determined on the basis of written comments, and that oral evidentiary procedures will not be required.

ADDRESSES: Twenty copies of comments should be sent to: Docket Section, Civil Aeronautics Board, 1825 Connecticut Avenue, N.W., Washington, D.C. 20428. Individuals may submit their views as consumers without filing multiple copies. Comments may be examined in Room 711, Universal Building, 1825 Connecticut Avenue, N.W., Washington, D.C., as soon as they are received.

FOR FURTHER INFORMATION CONTACT: David R. Parker, Attorney-Advisor, Civil Aeronautics Board, 1825 Connecticut Ave., N.W., Washington, D.C. 20428, 202/673-5224.

SUPPLEMENTARY INFORMATION: Section 403(b) of the Federal Aviation Act and Part 223 of the Board's Economic Regulations (14 CFR Part 223) authorize air carriers to provide free or reduced-rate transportation to a number of categories of persons. The Act makes no provision, however, for the free or reduced-rate transportation of travel agents. Currently, Part 223 provides a blanket exemption—subject to certain restrictions—permitting free or reduced-rate domestic transportation for travel agents on group familiarization tours promoting air transportation. We propose today to amend Part 223 to permit carriers to offer unrestricted free or reduced-rate travel agent transportation in foreign and domestic markets. This is the first step in a generic review of our free and reduced-rate policies.

1. Background

Prior to 1963, the Board allowed the carriers to grant individually-ticketed reduced-rate transportation to travel agents in overseas and foreign air transportation.[1] To compensate for the absence of travel agent reduced-fare privileges in interstate air transportation and to aid in the promotion of the Discover America program, the Board in 1963 adopted a policy permitting free or reduced-rate transportation for travel agents on group familiarization tours.[2] The objective was to promote tourist travel within the United States by encouraging tour programs familiarizing travel agents with different geographical areas of the nation. This policy required a carrier to apply for an individual exemption from section 403(b) of the Act for each tour provided.[3]

Standards for administering the group tour program gradually became sufficiently established to justify a rule automatically granting exemptions whenever the standards were met. ER-528 (33 FR 3631, March 1, 1968) in effect codified these criteria, and thus eliminated the need to file an individual exemption application if certain conditions are satisfied. These conditions, as set forth in paragraphs (1)-(8) of subsection 223.2(f) of the Board's Economic Regulations (14 CFR Part 223) restrict, in several respects, the offer of familiarization tours. For example, they restrict the geographical scope of the tour (only tours to domestic points qualify);[4] dictate minimum tour group size (at least 15 travel agents); prescribe the minimum and maximum duration of the tour (no less than one day, in addition to time spent on travel; no more than seven days total time; and no more than four days may be spent at any one spot);[5] regulate the tour agenda (prohibiting certain stopovers, limiting the time devoted to touring the carriers facilities and requiring meetings with local tourist promotion agencies); and impose pre- and post-tour reporting requirements (the carrier must file with the Board, 20 days before the trip, the number of participants and a full description of the tour; 30 days after completion of the tour, the carrier must file the names, addresses, and travel agencies of the tour participants). Finally, the term "travel agent" is defined in section 223.1 so that only agents continuously employed full-time by an agency for at least one year qualify for free transportation privileges under Part 223.

Certain air carriers have filed a joint petition urging the Board to institute a rulemaking amending Part 223. Specifically, they urge the Board to broaden the definition of a "domestic group familiarization tour" to include air-sea cruises which familiarize travel agents with foreign destinations. This amendment, the petitioners allege, would allow agents to become "better acquainted with this product, and as a result, encourage the sale thereof, with the concomitant sale of domestic air transportation."[6] Petitioners also request that we further amend Part 223 to set at 11 days the maximum duration of group familiarization tours involving sea cruises. Currently, Part 223 group tours are limited in duration to seven days. The petitioners state that this request "would permit familiarization not only with three- and four-day cruises, but more importantly, with the more popular seven- and ten-day cruises."[7][8]

For the reasons stated below, we tentatively conclude that the public interest justifies eliminating the conditions and limitations on group familiarization tours set forth in subsections 223.2(f) (1)-(8) and § 223.1. Further, we tentatively conclude that the public interest justifies eliminating the geographical restriction on Part 223 familiarization tours and thus permitting them in foreign as well as interstate and overseas markets.

2. Tour Restrictions

Familiarization tours, from the industry's perspective, are a useful tool for promoting the sale of air transportation. They enable travel agents to speak to consumers with first-hand knowledge, enhancing sales opportunities for the travel agents and promoting new traffic for the carriers.

From the consumer's standpoint, familiarization tours enable travel agents to pass on more complete and accurate information about travel opportunities;[9] the consumer can therefore make a more informed judgment in choosing among various travel options. These tours are merely one of several legitimate marketing tools by which carriers compete for air transportation users, and we see no reason to continue to limit carrier competition in this area by restricting the types of familiarization tours carriers are legally permitted to offer under our regulations.[10]

The Airline Deregulation Act of 1978 (ADA) support the action proposed here today. The underlying goal of this Act was to "return the air transportation industry to our free enterprise economy."[11] This involves placing the industry on the same footing as other competitive industries. Since few competitive industries are restricted in the types of incentives offered to those who promote their products, we tentatively see no public interest reason to limit the type of promotional incentives carriers offer travel agents and others who promote air transportation—especially where we find no persuasive evidence of consumer injury not offset by the obvious promotional benefits these tours provide for the carriers, the informational benefits they offer consumers, and the sales advantage they confer upon travel agents.

Most of these restrictions were drafted to assure that a tour program is actually a working trip devoted to familiarizing travel agents with domestic travel points and not a pleasure trip designed merely to entertain or ingratiate travel agents. However, we are unaware of any widespread abuse.

Further, we see no incentive for carriers to engage in totally irrational conduct and offer free transportation without countervailing benefits. A rational carrier will only offer familiarization tours when it perceives them to be a more effective or economical method of competing for air

[1] 14 C.A.B. 481 (1951).

[2] See Orders E-20120 (adopted October 24, 1963) and E-20224 (adopted December 3, 1963).

[3] See EDR-125 (32 FR 13141, September 15, 1967).

[4] ER-721 (37 FR 778, January 19, 1972) broadened the original geographical scope of subsection 223.2(f) to include tours to the Pacific Trust Territories and from Canada.

[5] ER-721, *supra*, extended the maximum duration of tours to the Pacific Trust Territories to 12 days.

[6] See Docket 33886, *Petition by Certain Air Carriers*, p. 1.

[7] *Id.*, p. 13.

[8] Answers in support of this petition were filed by the American Automobile Association, Inc. and the American Society of Travel Agents, Inc.

[8] See 14 CAB 481, 494-496 (1961).

[10] There are many marketing devices carriers can turn to in promoting air transportation including expanding ticket outlets, promoting telephone sales campaigns, and increased media advertising. These devices, like familiarization tours, serve to maximize consumer travel information. Since these other marketing devices are unregulated, we see no reason to continue to stringently regulate and monitor this particular marketing device. Nevertheless, we are open to arguments and suggestions from commenters that the Board should continue to regulate and monitor these marketing tours.

[11] S. Rept. No. 95-631, 95th Cong., 2d. Sess., p. 4.

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FEDERAL TRADE COMMISSION

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transportation users or travel agent services than other competitive options such as reducing prices, upgrading service, increasing advertising, conducting telephone sales campaigns, increasing travel agent commissions or expanding ticket sales outlets.

Thus, the very offer of such a tour reflects, *a priori*, management's expectation of long-term benefits sufficient to cover the marginal cost of the tour. We are in no position to second-guess such a decision. "In our judgment, such decisions, i.e., whether particular familiarization programs are warrented can be best and most senisbly made by the carriers in the first instance." [12]

3. Geographical Restrictions

Currently, free or reduced-rate travel agent tours pursuant to Board regulation are only permitted to interstate and overseas destinations—foreign points are totally excluded. We propose to remedy this anomaly by eliminating all geographical restrictions on familiarization tours.

Free and reduced-rate travel agent foreign familiarization tours are currently permitted pursuant to International Air Transport Association (IATA) resolutions submitted to, and approved by, the Board.[13]

These intercarrier agreements, however, contain tour restrictions akin to those in our current regulations and are far less liberal than our proposed amendments.[14] The amendments we propose permit carriers to offer foreign familiarization tours under terms more favorable to travel agents and more flexible than the uniform industry rules IATA resolutions specify.[15] As a result, carriers need no longer rely on the IATA traffic conference mechanism and may offer such tours based solely on competitive and economic considerations peculiar to each firm.[16]

The geographical restrictions on group familiarization tours were initially imposed in recognition of the Discover America program which was designed to effect a more favorable balance of payments by encouraging domestic tourism. Limiting such transportation to overseas and interstate markets served this limited purpose. We are, however, no longer promoting the Discover America program; and while concerned about balance of payments, we believe such general trade problems can be best resolved by agencies with the experience and resources to address them.[17] In any event, our proposals will have only a minor effect on balance of payments; therefore, we do not consider balance of payments to be of decisional consequence when formulating our policies under Part 223.

Whether to travel to a foreign as opposed to a domestic point is a judment best left to the consumer, and we see no reason to influence that judgment in favor of domestic travel by impeding the ability of travel agents to inform the consumer about alternative travel options abroad. In fact, attempting to do so will likely cause injury to both consumers and travel agents. If we discourage foreign familiarizion tours, we inhibit the ability of travel agents to pass on to consumers first-hand knowledge about foreign travel opportunities. To the extent this occurs, the agent loses a sales advantage, and his income suffers accordingly. To the extent a consumer is denied such relevant knowledge, he is prevented from reaching an informed decision more closely in line with this personal travel preference.

We have thus decided to apply our proposals uniformly in foreign and domestic markets to the extent foreign policy and other considerations peculiar to international aviation permit. If we limit our policy to domestic markets, we could place carriers with extensive international authority at a competitive disadvantage in bargaining for travel agent promotional services. Such carriers would be limited in the variety of tours they could offer travel agents, and we see no compelling public interest, consumer protection, or foreign policy reasons to impose such a competitive restriction upon these carriers.

Accordingly, we propose to amend Part 223 of the Board's Eonomic Regulations (14 CFR Part 223) as follows:

1. Delete from section 223.1 the paragraphs defining "domestic group familiarization tour" and "travel agent" and substitute, respectively, the following definitional paragraphs:

§ 223.1 Definitions.

* * * * *

"Familiarization tour" means a tour organized and controlled by one or more air carriers for the purpose of promoting the sale of air transportation by familiarizing a travel agent with tourist attractions, accommodations and recreational facilities.

* * * * *

"Travel agent" means a person employed in a travel agency, who devotes his employment time in the agency primarily to the promotion and sale of transportation and related services.

2. Amend section 223.2(f) to read as follows:

§ 223.2 Persons to whom free and reduced-rate transportation may be furnished.

* * * * *

(f) Any carrier is hereby exempted from section 403 of the Act and Part 221 of the Board's Economic Regulations to the extent necessary to enable it to provide free or reduced-rate transportation to travel agents on familiarization tours.

(Sec. 204, 403 and 416 of the Federal Aviation Act of 1958, as amended by Public Law 95-504; 72 Stat. 743, 758 and 771; 92 Stat. 1731; 49 U.S.C. 1324, 1373 and 1386.)

By the Civil Aeronautics Board.

Phyllis T. Kaylor,

Secretary.

[EDR-375, Docket 33886]

[FR Doc. 79-14801 Filed 5-10-79; 8:45 am]

BILLING CODE 6320-01-M

[12] Order 67-8-118, p. 3; see also Orders 78-12-10 and 78-8-15, p. 2.

[13] See IATA Resolution 203(b), approved in Order 76-8-118 and IATA Resolution 203, approved in Order E-25201 (adopted May 26, 1967).

[14] For example, Resolution 203, which governs individually-tickets tours, limits the discount to 75 percent of the applicable fare; permits only two tickets for each qualified agent at each approved agency location during a calendar year; and prevents member carriers from paying expenses (e.g., accommodation expenses) not included in the fare. Resolution 203(b) precludes individually-ticketed tours and contains a six person minimum group requirement and limits the duration of the tour.

[15] Familiarization tours to foreign points which do not conform with the rules specified in approved IATA resolutions are, nonetheless, permitted if approved by the Board on an ad hoc basis under section 223.8. This proposed rule will permit carriers to offer such nonconforming tours without applying and waiting for Board approval. Since we will no longer have to process such routine *ad hoc* requests, our proposed rule should conserve agency resources. Eliminating the pre- and post-tour reporting requirements in paragraphs (7) and (8) of subsection 223.2(f) should also have this effect.

[16] Recently, we tentatively concluded that the collective decisionmaking function of the IATA Traffic Conference is unreasonably anticompetitive, and that the Traffic Conference Resolution and related agreements are no longer in the public interest and should no longer be approved by the Board. Order 78-6-78. Since we have not yet finalized these tentative conclusions, these agreements remain in effect. However, the proposed amendments will permit carriers to offer familiarization tours under terms other than those specified in potentially anticompetitive IATA agreements. To the extent IATA carriers feel unduly restricted by these agreements, it is their responsibility to take measures to remove these restrictions which they have imposed upon themselves.

[17] Copies of this notice will be served upon the Department of Commerce and the Department of the Treasury. If our tentative assessment is incorrect, commenters are free to bring this to our attention.

FEDERAL TRADE COMMISSION

[16 CFR Part 13]

Jonathan Logan, Inc.; Consent Agreement With Analysis To Aid Public Comment

AGENCY: Federal Trade Commission.

ACTION: Consent agreement.

SUMMARY: In settlement of alleged violations of federal law prohibiting unfair acts and practices and unfair methods of competition, this consent order, accepted subject to final Commission approval, among other things, would require a Secaucus, N.J. manufacturer of wearing apparel to cease establishing, maintaining and enforcing resale prices and sale periods; and recommending resale prices for a period of three years. All price lists disseminated by the firm after that period would have to note that the prices are merely suggested. The firm would also be prohibited from policing the retail prices of its customers, and threatening or taking adverse action against recalcitrants. Additionally, the order would require the firm to reinstate former customers who were terminated for failing to adhere to established prices; and maintain applicable records for five years.

DATE: Comments must be received on or before July 10, 1979.

ADDRESS: Comments should be directed to: Office of the Secretary, Federal Trade Commission, 6th St. and Pennsylvania Ave., N.W., Washington, D.C. 20580.

FOR FURTHER INFORMATION CONTACT: Leroy Richie, Director, 8R, New York Regional Office, Federal Trade Commission, 2243-EB Federal Bldg., 26 Federal Plaza, New York, N.Y. 10007. (212) 264-1207.

SUPPLEMENTARY INFORMATION: Pursuant to Section 6(f) of the Federal Trade Commission Act, 38 Stat. 721, 15 U.S.C. 46 and § 2.34 of the Commission's Rules of Practice (16 CFR 2.34), notice is hereby given that the following consent agreement containing a consent order to cease and desist and an explanation thereof, having been filed with and accepted, subject to final approval, by the Commission, has been placed on the public record for a period of sixty (60) days. Public comment is invited. Such comments or views will be considered by the Commission and will be available for inspection and copying at its principal office in accordance with § 4.9(b)(14) of the Commission's Rules of Practice (16 CFR 4.9(b)(14)).

Before Federal Trade Commission; in the matter of Jonathan Logan, Inc., a corporation; File No. 7810020 agreement containing Consent Order to cease and desist.

The Federal Trade Commission having initiated an investigation of certain acts and practices of Jonathan Logan, Inc., a corporation, and it now appearing that said corporation, hereinafter sometimes referred to as proposed respondent, is willing to enter into an agreement containing an order to cease and desist from the use of the acts and practices being investigated;

It is hereby agreed by and between Jonathan Logan, Inc., by its duly authorized officer, and its attorney, and counsel for the Federal Trade Commission that:

1. Proposed respondent Jonathan Logan, Inc. is a corporation organized, existing and doing business under and by virtue of the laws of the State of Delaware, with its office and principal place of business located at 50 Terminal Road, Secaucus, New Jersey 07094.

2. Proposed respondent admits all the jurisdictional facts set forth in the draft of complaint here attached.

3. Proposed respondent waives:

(a) Any further procedural steps;

(b) The requirement that the Commission's decision contain a statement of findings of fact and conclusion of law; and

(c) All rights to seek judicial review or otherwise to challenge or contest the validity of the order entered pursuant to this agreement.

4. This agreement shall not become a part of the public record of the proceeding unless and until it is accepted by the Commission. If this agreement is accepted by the Commission it, together with the draft of complaint contemplated thereby, will be placed on the public record for a period of sixty (60) days and information in respect thereto publicly released. The Commission thereafter may either withdraw its acceptance of this agreement and so notify proposed respondent, in which event it will take such action as it may consider appropriate, or issue and serve its complaint (in such form as the circumstances may require) and decision, in disposition of the proceeding.

5. This agreement is for settlement purposes only and does not constitute an admission by proposed respondent that the law has been violated as alleged in the draft of complaint here attached.

6. This agreement contemplated that, if it is accepted by the Commission, and if such acceptance is not subsequently withdrawn by the Commission pursuant to the provisions of § 2.34 of the Commission's Rules, the Commission may, without further notice to proposed respondent, (1) issue its complaint corresponding in form and substance with the draft of complaint here attached and its decision containing the following order to cease and desist in disposition of the proceeding, and (2) make information public in respect thereto. When so entered, the order to cease and desist shall have the same force and effect and may be altered, modified to set aside in the same manner and within the same time provided by statute for other orders. The order shall become final upon service. Mailing of the complaint and decision containing the agreed-to order to proposed respondent's address as stated in this agreement shall constitute service. Proposed respondent waives any right it may have to any other manner of service. The complaint may be used in construing the terms of the order, and no agreement, understanding, representation, or interpretation not contained in the order or the agreement may be used to vary or contradict the terms of the order.

7. Proposed respondent has read the proposed complaint and order contemplated hereby. It understands that once the order has been issued, it will be required to file one or more compliance reports showing that it has fully complied with the order. Proposed respondent further understands that it may be liable for civil penalties in the amount provided by law for each violation of the order after it becomes final.

Order

For purposes of this Order, the following definitions shall apply:

"Reseller" is defined as any person, partnership, firm or corporations which purchases any product from respondent.

"Prospective reseller" is defined as any person, partnership, firm or corporation which requests to purchase any product from respondent.

"Resale price" is defined as any price, price floor, price ceiling, price range, or any mark-up, formula or margin of profit used by any reseller for pricing any product. Such term includes but is not limited to any suggested, established or customary resale price.

"Sale period" is defined as any break date, end of season of period for selling or advertising any product at a price other than the suggested, established or customary price.

"Product" is defined as apparel

from or discontinue advertising any

occur within thirty (30) days after first

Analysis of Proposed Consent Order To

The purpose of this analysis is to

Consumer Product Safety Commission,

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"Product" is defined as apparel including but not limited to rainwear, coats, dresses and sportswear.

I

It is ordered that respondent Jonathan Logan, Inc., a corporation, is successors and assigns, and respondent's officers, agents, representatives and employees, directly or indirectly, or through any corporation, subsidiary, division or other device, in connection with the manufacture, offering for sale, sale, distributing or advertising of any product in or affecting commerce, as "commerce" is defined in the Federal Trade Commission Act, shall forthwith cease and desist from:

1. Establishing, exacting assurances to comply with, continuing or enforcing any combination, agreement, understanding or arrangement to fix, establish, control, maintain or enforce, directly or indirectly, the price at which any product is to be resold or advertised by any reseller or prospective reseller.

2. Communicating, publishing, circulating, disseminating providing by any means any resale price or sale period to any reseller or prospective reseller for a period of three (3) years from the date of service of this order.

Provided, however, that after said three (3) year period, respondent shall not suggest resale prices or sale periods unless it is clearly and conspicuously stated on those pages of any list, book, advertising or promotional material or other document where any suggested resale price or sale period appears: "THE [RESALE PRICES OR SALE PERIODS] QUOTED HEREIN ARE SUGGESTED ONLY. YOU ARE FREE TO DETERMINE YOUR OWN [RESALE PRICES ON SALE PERIODS]."

Provided further, however, that after said three (3) year period, respondent shall not suggest resale prices on any tag, ticket or comparable marking affixed or to be affixed to any product.

3. Requiring or coercing any reseller or prospective reseller to establish, maintain, issue, adopt or adhere to any resale price or sale period.

4. Requiring or soliciting any reseller, prospective reseller, or employee or agent of respondent, either directly or indirectly, to report any reseller, prospective reseller, person or firm that does not adhere to any resale price or sale period.

5. Communicating with any reseller or prospective reseller concerning its deviation or alleged deviation from any resale price or sale period.

6. Suggesting or requiring that any reseller or prospective reseller refrain from or discontinue advertising any product at a certain resale price.

7. Stating directly or indirectly that any action may or will be taken against any reseller if it deviates from any resale price or sale period.

8. Threatening to withhold or withholding advertising allowances or any other assistance, payment, service or consideration from any reseller, or limiting or restricting the eligibility of any reseller to receive such benefits because said reseller advertises or sells any product at a certain resale price.

9. Making any payment or granting any other consideration or benefit to a reseller because another reseller has sold any product at a certain resale price.

10. Hindering or precluding the lawful use by any reseller of a brand name of respondent in conjunction with the sale or advertising of any product at any price.

11. Terminating, suspending, delaying shipments to or taking or threatening any action against any reseller because the reseller has, or was alleged to have, sold or advertised any product at a certain resale price or because the reseller may engage in any such activity in the future. Provided that respondent retains the right to terminate any reseller for lawful business reasons not inconsistent with this paragraph or any other paragraph of this Order.

12. Attempting to secure any promise or assurance from any reseller or prospective reseller regarding the price at which such reseller or prospective reseller will or may advertise or sell any product; or requesting or requiring any reseller or prospective reseller to obtain approval from respondent for any price at which such reseller or prospective reseller may or will advertise or sell any product.

II

It is further ordered that respondent, its successors and assigns, shall:

1. Within sixty (60) days after the date of service of this Order, mail under separate cover a copy of either this Order or the Federal Trade Commission's news release in this matter to every present reseller of Jonathan Logan, Inc. An affidavit of mailing shall be sworn to by an official of respondent verifying that said mailing was completed.

2. Mail a copy of either this Order or the Federal Trade Commission's news release in this matter to any reseller that purchases any product from Jonathan Logan, Inc. within five (5) years after the date of service of this Order. The mailing required by this paragraph shall occur within thirty (30) days after first purchase by said reseller.

3. Within thirty (30) days after the date of service of this Order distribute a copy of this Order to respondent's operating divisions and subsidiaries in the United States and to all officers, sales personnel, sales agents and sales representatives and secure from each entity or person a signed statement acknowledging receipt of said Order.

4. Upon written request received within six (6) months from the date of service of this Order, reinstate any reseller terminated by respondent since January 1, 1974 for failing to maintain a certain resale price or sale period, provided that such reseller meets the credit requirements applied by respondent in the retention of resellers.

5. Notify the Commission at least thirty (30) days prior to any proposed change in respondent such as dissolution, assignment or sale resulting in the emergence of a successor corporation, the creation of or dissolution of subsidiaries or any other such change in the corporation which may affect compliance obligations arising out of the Order.

6. For a period of five (5) years from the date of service of this Order maintain complete business records which fully disclose the manner and form of respondent's compliance with the Order, including but not limited to any records referring or relating in whole or in part to:

(a) Any communication between respondent and any reseller or prospective reseller relating to the price at which any reseller or prospective reseller is selling, proposes to sell, is advertising or proposes to advertise any product;

(b) The termination or suspension of any reseller for any reason;

(c) The refusal to deal with any prospective reseller for any reason, including the name and address of the prospective reseller; or

(d) Any request for reinstatement pursuant to Part II Paragraph 4 of this Order. The records required by this paragraph shall be made available to Commission staff upon reasonable notice.

7. File with the Commission within sixty (60) days after service of this Order a report, in writing, setting forth in detail the manner and form in which it has complied with this Order.

Analysis of Proposed Consent Order To Aid Public Comment, Jonathan Logan, Inc.

The Federal Trade Commission has accepted an agreement to a proposed consent order from Jonathan Logan, Inc.

The proposed consent order has been placed on the public record for sixty (60) days for reception of comments by interested persons. Comments received during this period will become part of the public record. After sixty (60) days, the Commission will again review the agreement and the comments received and will decide whether it should withdraw from the agreement or make final the agreement's proposed order.

The complaint alleges that respondent has unlawfully fixed the retail prices at which its products [women's and men's rainwear) are sold and has engaged in unfair methods of competition or unfair acts or practices in violation of the Federal Trade Commission Act.

The order is designed to foster competition in the sale of all respondent's apparel and encourage retailer independence. Among other things, its various provisions prohibit respondent from:

(1) Fixing or controlling retail prices;

(2) Suggesting or recommending retail prices to its customers for three (3) years;

(3) Issuing price lists after a period of three (3) years, unless the price lists carry a notice that the prices are suggested only.

(4) Pre-ticketing its products with suggested retail prices;

(5) Policing the retail prices of its accounts;

(6) Communicating with any customer concerning a deviation from any retail price;

(7) Threatening or taking any action against customers who do not adhere to certain retail prices.

In addition to the usual prohibitions against price fixing, the order requires respondent to reinstate any former customer who was terminated since January 1, 1974 for failing to maintain retail prices, provided that such customer meets applicable credit requirements. The respondent has to keep records regarding these requests for reinstatement for at least five (5) years, thus enabling the Commission to monitor its compliance.

Another part of the order requires respondent to mail a copy of the order or the press release in this matter to all existing accounts and to any new accounts purchasing products from respondent within the next five (5) years.

The purpose of this analysis is to facilitate public comment on the proposed order and is not intended to constitute an official interpretation of the agreement and proposed order or to modify in any way their terms.

Carol M. Thomas,
Secretary.

[File No. 781–0020]
[FR Doc. 79–14793 Filed 5–10–79; 8:45 am]
BILLING CODE 6750–01–M

[16 CFR Part 443]

Health Spas; Publication of Presiding Officer's Report Regarding Proposed Trade Regulation Rule

Correction

In FR Doc. 79–14046 appearing on page 26127 in the issue of Friday, May 4, 1979, the telephone number under "For Further Information Contact" now reading "(202)–724–1054" should have read "(202)–724–1045".

BILLING CODE 1505–01–M

CONSUMER PRODUCT SAFETY COMMISSION

[16 CFR Part 1019]

Procedures for Export of Noncomplying Products; Proposed Notification Requirements

AGENCY: Consumer Product Safety Commission.

ACTION: Proposed rule.

SUMMARY: The Commission proposes a rule to implement recently enacted legislation that requires that any person or firm intending to export from the United States any product which does not comply with an applicable Commission standard ban or regulation must notify the Commission at least 30 days before the proposed exportation and must furnish certain information to the Commission. The Commission must then notify the foreign government. The legislation, the Consumer Product Safety Act Authorization Act, became effective November 10, 1978; and the preexport notification requirements have been in effect since that date. The Commission intends this proposed rule to clarify responsibilities of exporters under this legislation.

DATE: Written comments must be submitted by July 10, 1979. The Commission proposes that the rule will become effective 30 days after publication in final form.

ADDRESS: Comments should be submitted to the Office of the Secretary, Consumer Product Safety Commission, Washington, D.C. 20207. Comments received in response to this proposal and other information concerning the proceeding may be viewed in the Office of the Secretary, Consumer Product Safety Commission, Third Floor, 1111 18th Street, N.W., Washington, D.C.

FOR FURTHER INFORMATION CONTACT: Allen F. Brauninger, Attorney, Division of Enforcement, Consumer Product Safety Commission, Washington, D.C. 20207 (301) 492–6629.

SUPPLEMENTARY INFORMATION: On November 10, 1978, the Consumer Product Safety Act Authorization Act of 1978 (Pub. L. 95–631) became law. This legislation (referred to below as the export amendments) amends the Consumer Product Safety Act (15 U.S.C. 2051, 2067), the Federal Hazardous Substances Act (15 U.S.C. 1261, 1273), and the Flammable Fabrics Act (15 U.S.C. 1191, 1202) by requiring any person or firm intending to export from the United States any product which is banned or fails to comply with an applicable standard or regulation issued under any of those acts to notify the Commission at least 30 days before exportation. Upon receiving this notification, the Commission must notify the government of the country to which the noncomplying product is being shipped and must inform that government of the basis of the ban, safety standard or regulation applicable to the product being exported. In enacting this legislation Congress intended to assure that foreign countries will be able to make informed choices about whether to permit the entry into their territories of products which do not comply with United States safety requirements.

The statutory language of the amendments might leave open the interpretation that Congress did not intend to require notification for all products which are banned or which fail to comply with an applicable standard or other regulation under any of the three statutes. However, the Commission believes that all such products are within the scope of the export notification amendments and that the legislative history is clear on this point. For example the Report of the House of Representatives, Committee on Interstate and Foreign Commerce states:

Finally, the committee has been concerned about the export of consumer products, fabrics and related materials, and hazardous substances which have been deemed unsafe for American citizens. Currently, the law permits the export of such items without informing foreign customers of the health and safety risk. It is the belief of the Committee

product. However, the Commission

The Commission believes that the

Additionally, the Commission

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that the United States government has an obligation to share the results of its safety research with countries which purchase U.S. exports. Such a policy not only affirms this nation's commitment to human rights, but also strengthens U.S. diplomatic relations and long range export prospects. (H.R. Rep. No. 95–1164, accompanying H.R. 12442 (May 15, 1978), p. 7)

The legislative history neither defines nor mentions any category of banned or noncomplying products for which the commission should not share its "safety research." Similarly, there is nothing in the legislative history which could be interpreted as limiting the scope of the notification amendments in any way. Thus, the Commission's proposed regulations provide for advance notification of export of all goods that are banned or fail to comply with an applicable safety standard, regulation or statute.

The three statutes modified by the export amendments have previously-existing provisions that require noncomplying goods intended for export to be labeled to show they are intended only for export. See section 18, Consumer Product Safety Act (15 U.S.C. 2067); sections 5(b)(3) and 6(a) of the Federal Hazardous Substances Act (15 U.S.C. 1264(b)(3) and 1265 (a)); and section 15 of the Flammable Frabrics Act (15 U.S.C. 1202). These labeling requirements continue to apply to any noncomplying goods which are intended for export.

Goods for Which Notification is Required

Proposed § 1019.1(b) describes the products for which notification of intent to export is required. Those products are:

1. Any consumer product which does not comply with an applicable consumer product safety standard issued under the Consumer Product Safety Act, or which has been declared to be banned hazardous product under the Consumer Product Safety Act;

2. Any product which is a misbranded hazardous substance because it fails to comply with an applicable labeling requirement under the Federal Hazardous Substances Act, or which has been declared to be a banned hazardous substance under the provisions of the Act.

Hazardous household substances that fail to comply with applicable standards for child-resistant packaging under the Poison Prevention Packaging Act of 1970 (PPPA) are misbranded under the Federal Hazardous Substances Act (15 U.S.C. 1261(p)). It could be argued, therefore, that notification is required of any intent to export such a substance. However, the export provisions were not made specifically applicable to products failing to comply with a PPPA rule. In addition, the Food, Drug and Cosmetic Act was not amended to require notification of intent to export drugs failing to comply with a PPPA rule. Therefore, the Commission would be faced with the anomaly of requiring notification of exportation of household substances that fail to comply with a PPPA rule, but not of drugs that similarly fail to comply with a PPPA rule. As a result, the Commission does not believe Congress intended to include PPPA noncompliance as a basis for export notification. Consequently, proposed paragraph § 1019.1(b)(2) provides that the regulations do not apply to violations of the PPPA.

3. Any fabric or related material, or any item of wearing apparel or interior furnishing made of fabric or related material, which fails to comply with any flammability standard or regulation issued under the Flammable Fabrics Act.

In addition, Section 15 of the Consumer Product Safety Act (15 U.S.C. 2064) authorizes the Commission to order the repair, replacement or refund of the purchase price of any consumer product which, after opportunity for a hearing, has been determined to present a "substantial product hazard." A product which is not subject to a consumer product safety standard or ban may present a substantial product hazard if it contains a defect which creates a substantial risk of injury to the public. The export amendments do not require the Commission to be notified before export of items that, because of a defect have been determined to present a substantial product hazard. However, as a matter of policy the Commission intends to require notification of intent to export such items in any order issued under section 15, and to seek this notification in any corrective action plan concerning disposition of products presenting a substantial product hazard which it accepts in lieu of an order for corrective action under section 15. The Commission will then promptly notify the foreign government of the intended exportation.

The Commission plans to require this notification because it believes the notification will further assist foreign governments to make informed choices about whether to permit products to enter their territories.

Exemptions

Proposed § 1019.1(c) provides that the notification requirements shall not apply to any product that is noncomplying solely because it is labeled in a language other than English, provided that the required information appears on a label in the language of the country of destination. The Commission has made this exemption because the purpose of a label is to inform the intended user Labeling in the language of the country of destination will have this effect. Therefore, the Commission believes advance notice to the Commission and the foreign country are not needed, and it believes Congress did not intend to require such notice.

An example of how this exemption operates could be under the Standard for the Flammability of Small Carpet and Rugs (16 CFR Part 1631), issued under the Flammable Fabrics Act, which requires that any small carpet or rug which is subject to that standard must either pass a prescribed flammability test, or must be labeled with the following statement: "FLAMMABLE (FAILS U.S. DEPARTMENT OF COMMERCE STANDARD FF 2–70); SHOULD NOT BE USED NEAR SOURCES OF IGNITION." If a small carpet does not pass the prescribed test and is labeled with the cautionary language required by the standard in the Spanish language rather than in English, it would not bear the labeling statement required by the standard. If such a product were exported to Mexico, however, notification is not required because the information required by the standard would appear in the language of the country to which the product is to be sent. On the other hand, notification would be required for the same product if it were to be shipped to Australia, an English-speaking country.

Proposed § 1019.1(d) exempts from the notification requirements any sample exported from the United States if the sample is conspicuously and legibly labeled with the statement, in English: "Sample only. Not for resale." The Commission also encourages exporters to label similarly their samples in the language of the importing country.

The Commission recognizes that the shipment of samples to prospective buyers is a fundamental part of the commercial process, and that samples are not intended to enter into traditional marketing channels in the foreign country. Therefore, the Commission believes Congress did not intend such transactions to be covered and is proposing to exempt samples from the notification requirements. To qualify as a sample shipment exempt from these notification requirements, the quantity of goods involved must be the minimum amount consistent with prevalent trade practices with respect to the specific

product. However, the Commission reminds exporters that if orders are received based on the noncomplying samples, all provisions of the export amendments and these regulations apply to any goods shipped in response to those orders.

The Commission specifically seeks comment on whether it should exempt samples and the scope of any exemption. The Commission is proposing the exemption because it does not want to impose undue paperwork burdens on companies that want to solicit business abroad. However, the Commission wants to limit the exemption to samples, so that it does not result in noncomplying items being shipped to foreign countries and used by their citizens, without advance notice.

Notification Requirements

The export amendments require that the notice of exportation of noncomplying products submitted to the Commission must contain the anticipated date of shipment, the country and port of destination, and the quantity of goods to be shipped. Additionally, this legislation authorizes the Commission to issue regulations to require exporters of noncomplying products to furnish additional information concerning those products in the notice of exportation.

Section 1019.4(d) of the proposed rule sets forth the information exporters must provide in the notification of intent to export noncomplying goods. That information is:

1. The name, address and telephone number of the exporter;

2. The name and address of each consignee to receive the noncomplying goods;

3. The quantity of items to be exported and a description of the goods, including brand or trade names and model number or other identifying numbers;

4. Identification of the statutes, standards or regulations applicable to the goods to be exported and a description of the manner in which the goods do not meet the applicable requirements;

5. The location of the goods to be shipped, if that location is not the same as the exporter's address;

6. The anticipated date of shipment, port of lading and port of destination; and

7. Copies, if available, of any correspondence from the government of the country to which the items are being exported that indicates whether the items may enter its territory.

The Commission believes that the information it is proposing to require from exporters is the minimum which is necessary to fully inform the Commission and foreign government. It will both allow the Commission to monitor compliance and provide foreign governments with information on which to base decisions about items to be imported to their countries.

The Commission is requesting copies of correspondence the exporter has from the foreign government regarding the entry of noncomplying goods. The Commission plans to provide copies of the correspondence with its notification to foreign governments to help the governments process the notification. The Commission hopes that this procedure will assist the foreign governments in evaluating the importation of the noncomplying goods and will enable them to initiate any direct actions they decide to take regarding the entry of noncomplying goods. The Commission believes it is good business practice for exporters to look to the exportability of their goods, and hopes exporters will increasingly provide full information to foreign countries about their goods and will determine whether they will be admitted to the countries before exporting them.

Notification Procedures

Proposed § 1019.4 establishes procedures exporters must follow to notify the Commission. It provides that the notification must be sent to the Associate Executive Director for Compliance and Enforcement. Proposed 1019.4(b) makes clear that a separate notification must be provided for each country to which noncomplying goods are to be shipped. However, it also provides that one notification may include a series of shipments of different kinds of goods to one country for a one year period. The Commission is proposing this provision in the hope that it will make reporting obligations less onerous and, at the same time, that it will provide sufficient information for the Commission and foreign governments.

Proposed § 1019.4(e) provides that the notification shall be signed by the owner of the exporting firm if the exporter is a sole proprietorship; by a partner, if the exporter is a partnership; or by a corporate officer, if the exporter is a corporation. The Commission believes this requirement will help assure that exporters will provide complete and accurate information to the Commission concerning the exportation of products which do not comply with an applicable safety requirement.

Additionally, the Commission observes that the export amendments provide that the failure to give the notification required by that legislation and the regulations proposed below shall be considered a violation of the Consumer Product Safety Act, Federal Hazardous Substances Act, or Flammable Fabrics Act and shall subject the violator to all penalties authorized by the applicable statute. The Commission believes that the potential liability of the exporter for penalties for failure to make the required notification provides further support for the requirements of proposed § 1019.4(e).

Time Notification Must Be Made

Proposed § 1019.5 establishes the time frames for notification to the Commission of intent to export. It provides that exporters may request the Associate Executive Director for Compliance and Enforcement to reduce the usual 30 day advance notification time limitation to a time between 10 and 29 days before the intended exportation. The Associate Executive Director has the authority to grant these requests, for good cause, or deny them.

Proposed § 1019.6 provides that within 2 working days of any change in the information required to be submitted, the exporter must notify the Associate Executive Director for Compliance and Enforcement. This obligation is imposed both before goods leave the U.S. and between the time they leave the U.S. customs territory of the U.S. and enter that of a foreign country. The Commission has included this provision because it believes the exporter retains responsibility for notification to the Commission until the noncomplying goods enter the customs territory of a foreign country. Thus, this notification will allow the Commission to fully inform foreign governments about the export of noncomplying goods to their countries.

Notification To Foreign Governments

The export amendments require the Commission to transmit information it receives about proposed exports of noncomplying goods to the government of the country of destination. These provisions express the concern of the Congress that the government of the United States should bring to the attention of all countries the health and safety risks posed in importing products that are prohibited from sale in the United States so that those countries will be able to make informed judgments with respect to the entry of such goods into their sovereign territories, and to

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act accordingly. Proposed § 1019.7 states

amendments became effective on

1. Any product which is a misbranded

of their intent to export from the United

qualify as a sample shipment under this

(c) *Form of notification.* The

act accordingly. Proposed § 1019.7 states that promptly after receiving notification from an exporter, the Associate Executive Director for Compliance and Enforcement shall inform the government of the country of destination.

The Commission is in the process of writing to the Washington, D.C. embassies of all countries to learn the branch of their governments that should receive notification of the export of noncomplying goods. In addition to notifying the governments directly, the Commission anticipates it will use other means of notification such as alerting the U.S. Department Subcommittee on Toxic Substances, international organizations, and the embassies in Washington, D.C.

The Commission plans that its notifications will request acknowledgement and will request the governments to inform CPSC whether they plan to permit or prohibit entry of the goods. The Commission wishes to obtain this information so it has full records of action taken in response to notification. If a foreign government intends to prohibit entry of the goods which are the subject of a notification, the Commission urges the foreign government to initiate action to prevent such entry and to notify the exporter directly of that intent. The Commission cannot function as an agent to notify exporters in cases where a foreign government does not desire to allow noncomplying goods to enter its territory.

Confidentiality

Proposed § 1019.8 provides that if an exporter believes that any of the information required by the proposed notification regulations is a trade secret or otherwise confidential, the exported shall identify that information and make any request for confidential treatment under provisions of the Commission's regulations for protection of confidential material from disclosure under the Freedom of Information Act which appear at 16 CFR Part 1015.

Effective Date

The export amendments became law on November 10, 1978, and as of that date any person or firm intending to export any of the noncomplying goods described in the statute have been required to provide the following information to the Commission at least 30 days before exporting the goods: the anticipated date of shipment; the country and port of destination; and the quantity of goods to be shipped. The notification requirements of the export amendments became effective on November 10, 1978, without the necessity for the Commission to issue any implementing regulation. Therefore, while the proposal is pending, exporters must continue to furnish the commission with the required information about any goods they intend to export that do not comply with safety standards or bans issued under the Consumer Product Safety Act, violate standards issued under the Flammable Fabrics Act, or are misbranded or banned hazardous substances under the Federal Hazardous Substances Act.

The export amendments allow the Commission to issue interpretive regulations and regulations to require exporters to furnish any information beyond that required by the amendments. In the proposed regulations the Commission has interpreted the export amendments and has proposed to require exporters to provide additional information in their pre-export notification. After evaluating all comments on the proposal, the Commission will decide whether to issue final regulations. The Commission is proposing that any final regulations become effective 30 days after they are published in the Federal Register.

Delegations and Policy Pending Final Regulations

Pending issuance of final regulations, the Commission delegates to its Associate Executive Director for Compliance and Enforcement the functions of receiving notification of intent to export, receiving requests for reductions of time for filing notice of intent to export, and notifying foreign governments of exports of noncomplying goods in accordance with the export amendments. Additionally, pending issuance of final regulations, the Commission also delegates to the Associate Executive Director for Compliance and Enforcement the authority to grant reductions of time for filing notification of intent to export where an exporter shows good cause for such reduction, and to deny such requests in all other cases. At the time the commission issues final regulations it will consider permanent delegation of this authority, as well as any other appropriate functions, using the Commission's established delegation procedures and directives system.

Additionally, pending the issuance of final regulations, the Commission states as a matter of policy that it will not enforce the notification requirements of the export amendments for the following items:

1. Any product which is a misbranded hazardous substance only because it does not comply with an applicable requirement for child-resistant packaging issued under the Poison Prevention Packaging Act.

2. Any product which fails to comply with an applicable standard or regulation issued under the Consumer Product Safety Act, the Federal Hazardous Substances Act, or the Flammable Fabrics Act only because it is labeled in a language other than English, provided that the required information appears on a label in the language of the country of destination.

3. A sample which is conspicuously and legibly labeled with the statement, in English: "Sample only. Not for resale."

The Commission adopts this enforcement policy because, as explained earlier in this preamble, the Commission believes Congress did not intend export of these items to be subject to the notification requirements.

Conclusion and Proposal

Therefore, pursuant to sections 5, 6, and 7 of the Consumer Product Safety Act Authorization Act of 1978 (Pub. L. 95–631), sections 18 and 19 of the Consumer Product Safety Act, as amended (15 U.S.C. 2067, 2068), sections 4 and 14 of the Federal Hazardous Substances Act, as amended (15 U.S.C. 1263, 1273), and sections 7 and 15 of the Flammable Fabrics Act, as amended (15 U.S.C. 1196, 1202), the Commission proposes to amend Title 16, Chapter II of the Code of Federal Regulations, by adding a new Part 1019, as follows:

PART 1019—PROCEDURES FOR EXPORT OF NONCOMPLYING PRODUCTS

Sec.

1019.1 Purpose, applicability, and exemptions.
1019.2 Definitions.
1019.3 General requirements for notifying the Commission.
1019.4 Procedures for notifying the Commission; content of notification.
1019.5 Time notification must be made to Commission; reductions of time.
1019.6 Changes to notification.
1019.7 Commission notification of foreign governments.
1019.8 Confidentiality.

Authority: Secs. 5, 6, 7, Pub. L. 95–631; 15 U.S.C. 1196, 1202, 1263, 1273, 2067 and 2068.

§ 1019.1 Purpose, applicability, and exemptions.

(a) *Purpose.* The regulations in this Part 1019 establish the procedures exporters must use to notify the Consumer Product Safety Commission of their intent to export from the United States products which are banned or fail to comply with an applicable safety standard, regulation or statute. These regulations also set forth the procedures the Commission uses in transmitting the notification of export of noncomplying products to the government of the country to which those products will be sent. The Consumer Product Safety Act Authorization Act of 1978 (Pub. L. 95–631), which became effective November 10, 1978, established these notification requirements and authorizes the Commission to issue regulations to implement them.

(b) *Applicability.* These regulations apply to any person or firm which exports from the United States any item which is:

(1) A consumer product that does not conform to an applicable consumer product safety rule issued under sections 7 and 9 of the Consumer Product Safety Act (15 U.S.C. 2056, 2058), or which has been declared to be a banned hazardous product under provisions of sections 8 and 9 of that Act (15 U.S.C. 2057, 2058); or

(2) A misbranded hazardous substance or a banned hazardous substance within the meaning of sections 2(p) and 2(q) of the Federal Hazardous Substances Act (15 U.S.C. 1261) except this does not include any violation of the Poison Prevention Packaging Act; or

(3) A fabric or related material or an item of wearing apparel or interior furnishing made of fabric or related material which fails to conform with an applicable flammability standard or regulation issued under section 4 of the Flammable Fabrics Act (15 U.S.C. 1191, 1193).

(c) *Exemption for Certain Items with Noncomplying Labeling.* The exporter of an item that fails to comply with a standard or regulation only because it is labeled in a language other than English need not notify the Commission prior to export if the product is labeled with the required information in the language of the country to which the product will be sent.

(d) *Exemption for samples.* The exporter of an item that fails to comply with a standard or regulation, but which is intended for use only as a sample and not for resale, need not notify the Commission prior to export, if the item is conspicuously and legibly labeled in English with the statement: "Sample only. Not for resale." (The Commission encourages exporters to provide this label, in addition, in the language of the importing country, but does not require the foreign language labeling.) To qualify as a sample shipment under this exemption, the quantity of goods involved must be the minimum amount consistent with prevalent trade practices with respect to the specific product.

§ 1019.2 Definitions.

As used in this Part 1019:

"consignee" means the person, partnership, corporation or entity in a foreign country to whom noncomplying goods are sent;

"export" means to send goods outside the United States or United States possessions for purposes of trade, except the term does not apply to sending goods to United States installations located outside the United States or its possessions;

"exporter" means the person, partnership, corporation or entity that initiates the export of noncomplying goods. The exporter could be the manufacturer of the goods or a broker;

"noncomplying goods" means any item described in § 1019.1(b), except for items excluded from the requirements of these regulations by § 1019.1(c) and (d).

§ 1019.3 General requirements for notifying the Commission.

Not less than 30 days before exporting any noncomplying goods described in section 1019.1(b), the exporter must file a statement with the Consumer Product Safety Commission, as described in §§ 1019.4 and 1019.5 of this Part. The exporter need not notify the Commission about the export of items described in §§ 1019.1(c) and (d). As described in § 1019.5, the exporter may request the Commission to allow the statement to be filed between 10 and 29 days before the intended export, and the request may be granted for good cause.

§ 1019.4 Procedures for notifying the Commission; content of the notification.

(a) *Where notification must be filed.* The notification of intent to export shall be addressed to the Associate Executive Director for Compliance and Enforcement, Consumer Product Safety Commission, Washington, D.C. 20207.

(b) *Coverage of notification.* An exporter must file a separate notification for each country to which noncomplying goods are to be exported. Each notification may include a variety of noncomplying goods being shipped to one country. The notification may include goods intended to be shipped to one country in any one year, unless the Associate Executive Director for Compliance and Enforcement directs otherwise in writing.

(c) *Form of notification.* The notification of intent to export must be in writing and must be entitled "Notification of Intent to Export Noncomplying Goods to (*indicate name of country*)." The Commission has no notification forms, but encourages exporters to provide the required information in the order listed in paragraph (d) of this section.

(d) *Content of notification.* The notification of intent to export shall contain the listed information. If the notification covers a variety of noncomplying goods the exporter intends to export to one country, the information required below must be clearly provided for each type of goods, and may include an estimate of the information required in paragraphs (d)(3), (5), and (6) of this section.

(1) Name, address and telephone number of the exporter;

(2) Name and address of each consignee;

(3) Quantity and description of the goods to be exported to each consignee, including brand or trade names or model or other identifying numbers;

(4) Identification of the standards, bans, regulations and statutory provisions applicable to the goods being exported, and a comprehensive description of the manner in which the goods fail to comply with applicable requirements;

(5) Precise location of the goods to be shipped, if other than at the address of the exporter;

(6) Anticipated date of shipment, port of lading and port of destination; and

(7) Copies of any correspondence from the government of the country of destination of the goods that indicates whether that the noncomplying goods may be imported into that country.

(e) *Signature.* The notification of intent to export shall be signed by the owner of the exporting firm if the exporter is a sole proprietorship, by a partner if the exporter is a partnership, or by a corporate officer if the exporter is a corporation.

§ 1019.5 Time notification must be made to Commission; reductions of time.

(a) *Time of notification.* The notification of intent to export must be received by the Commission's Associate Executive Director for Compliance and Enforcement at least 30 days before the noncomplying goods are to leave the customs territory of the United States. If the notification of intent to export includes more than one shipment of noncomplying goods to a foreign country, the Associate Executive Director for Compliance and

Enforcement must receive the

§ 1019.6 Changes to notification.

10 working days of submitting the

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Enforcement must receive the notification at least 30 days before the first shipment of noncomplying goods is to leave the customs territory of the United States.

(b) *Incomplete notification.* Promptly after receiving notification of intent to export, the Associate Executive Director will inform the exporter if the notification of intent to export is incomplete and will describe which requirements of § 1019.4 are not satisfied. The Associate Executive Director may inform the exporter that the 30 day advance notification period will not begin until the Associate Executive Director receives all the required information.

(c) *Requests for reduction in 30-day notification requirement.* Any exporter may request an exemption from the requirement of 30-day advance notification of intent to export by filing with the Commission's Associate Executive Director for Compliance and Enforcement (Washington, D.C. 20207) a written request that the time be reduced to a time between 10 and 30 days before the intended export. The request for reduction in time must be recieved by the Associate Executive Director for Compliance and Enforcement at least 3 working days before the exporter wishes the reduced time period to begin. The request must:

(1) Be in writing;

(2) Be entitled "Request for Reduction of Time to File Notification of Intent to Export Noncomplying Goods to (*indicate name of country*)";

(3) Contain a specific request for the time reduction to be requested (the notification must be made at least 10 days before the intended export, so the request must be for a reduction of the notification period to a time between 10 and 30 days before the intended export);

(4) Provide reasons for the request for reduction of time; and

(5) Contain the information required in § 1019.4(d).

(d) *Response to requests for reduction of time.* The Associate Executive Director for Compliance and Enforcement has the authority to approve or disapprove requests for reduction of time. The Associate Executive Director will promptly inform the exporter who has requested the reduction of time whether there is good cause to grant the request. If the request is granted, the Associate Executive Director shall indicate the amount of time before export that the exporter must provide the notification. If the request is not granted, the Associate Executive Director shall explain the reasons, in writing.

§ 1019.6 Changes to notification.

(a) If any of the information required in § 1019.4 changes before the noncomplying goods leave the customs territory of the United States, the exporter must notify the Associate Executive Director for Compliance and Enforcement within 2 working days, and must provide the reasons for the changes. The Associate Executive Director will promptly inform the exporter whether the 30 day advance notification period will be discontinued, and what other steps the exporter must take to comply with the advance notification requirement.

(b) If the country of destination or any other information required in § 1019.4 changes after the noncomplying goods leave the customs territory of the United States, the exporter must notify the Associate Executive Director for Compliance and Enforcement within two working days and must provide the reasons for the changes. The Associate Executive Director will promptly inform the exporter what other steps must be taken to comply with the advance notification requirement.

§ 1019.7 Commission notification of foreign governments.

Promptly after receiving notification from the exporter and any changes in notification, the Associate Executive Director for Compliance and Enforcement shall inform the appropriate government agency of the country to which the noncomplying goods are to be sent of the exportation and the basis on which the goods are banned or fail to comply with Commission standards, regulations, or statutes. The Associate Executive Director shall take whatever action is necessary to provide full information to foreign countries and shall also work with and inform the U.S. State Department, foreign embassies and international organizations, as appropriate. The Associate Executive Director shall also seek acknowledgement from the foreign government of the notification. Foreign governments intending to prohibit entry of goods that are the subject of a notification from the Commission should initiate action to prevent such entry and should notify the exporter directly of that intent.

§ 1019.8 Confidentiality.

If the exporter believes any of the information submitted should be considered trade secret or privileged or confidential commercial or financial information, the exporter must request confidential treatment, in writing, within 10 working days of submitting the information. The Commission's regulations under the Freedom of Information Act, 16 CFR 1015, govern confidential treatment of information submitted to the Commission. Section 1015.18(c) establishes the elements of the request for confidential treatment.

Interested persons are invited to submit on or before July 10 written comments regarding these proposed regulations. Written comments and any accompanying materials should be submitted, preferably in five copies, to the Secretary, Consumer Product Safety Commission, Washington, D.C. 20207. Comments received in response to this proposal will be available for public inspection in the Office of the Secretary, 3rd floor, 1111 18th Street NW., Washington, D.C., during working hours, Monday through Friday.

Dated: May 8, 1979.

Sadye E. Dunn,

Secretary, Consumer Product Safety Commission.

[FR Doc. 79-14736 Filed 5-10-79; 8:45 am]

BILLING CODE 6355-01-M

DEPARTMENT OF HEALTH, EDUCATION, AND WELFARE

Food and Drug Administration

[21 CFR Part 145]

Table Olives: Intent to Establish Standards; Extension of Comment Period

AGENCY: Food and Drug Administration.

ACTION: Extension of Comment Period.

SUMMARY: The agency is extending the comment period provided by an advance notice of proposed rulemaking that invited interested persons to review the Codex Alimentarius Commission (Codex) "Recommended International Standard for Table Olives" and to comment on the desirability and need for a U.S. standard for this food. This action is based upon a request from the California Olive Association.

DATE: Comments by May 24, 1979.

ADDRESS: Written comments to the Hearing Clerk (HFA-305), Food and Drug Administration, Rm. 4-65, 5600 Fishers Lane, Rockville, MD 20857.

FOR FURTHER INFORMATION CONTACT: F. Leo Kauffman, Bureau of Foods (HFF-414), Food and Drug Administration, Department of Health, Education, and Welfare, 200 C St. SW., Washington, DC 20204, 202-245-1164.

SUPPLEMENTARY INFORMATION: In the **Federal Register** of February 23, 1979 (44 FR 10724), the agency issued an advance notice of proposed rulemaking that invited interested persons to review the Codex Alimentarius Commission [Codex] "Recommended International Standard for Table Olives" and to comment on the desirability and need for a U.S. standard for this food. Comments were to be filed by April 24, 1979.

Subsequently, FDA received a request from the California Olive Association for a 30-day extension of the comment period. The association stated that the additional time is needed to give them the opportunity to study the implications of the notice because this is the packing season for olives in California and the industry's Technical Advisory Committee will not be available to meet to consider the notice until May 4, 1979.

The FDA concludes that the California Olive Association has given sufficient grounds to support the need for additional time to comment on the notice. Therefore, under the Federal Food, Drug, and Cosmetic Act (secs. 401, 701(e), 52 Stat. 1046 as amended, 70 Stat. 919 as amended (21 U.S.C. 341, 371(e))) and under authority delegated to the Commissioner of Food and Drugs (21 CFR 5.1), the comment period on the advance notice of proposed rulemaking for table olives is extended to May 24, 1979.

Interested persons may on or before May 24, 1979, submit to the Hearing Clerk (HFA-305), Food and Drug Administration, Rm. 4-65, 5600 Fishers Lane, Rockville, MD 20857, written comments regarding this proposal. Four copies of all comments shall be submitted, except that individuals may submit single copies of comments, and shall be identified with the Hearing Clerk docket number found in brackets in the heading of this document. Received comments may be seen in the above office between 9 a.m. and 4 p.m., Monday through Friday.

Dated: May 4, 1979.

William F. Randolph,

Acting Associate Commissioner for Regulatory Affairs.

[Docket No. 78N-0355]

[FR Doc. 79-14684 Filed 5-10-79; 8:45 am]

BILLING CODE 4110-03-M

[21 CFR Part 167]

Virgin and Refined Olive Oil and Refined Olive-Residue Oil; Intent to Establish Standards; Extension of Comment Period

AGENCY: Food and Drug Administration.

ACTION: Extension of Comment Period.

SUMMARY: The agency is extending the comment period provided by an advance notice of proposed rulemaking that invited interested persons to review the Codex Alimentarius Commission (Codex) "Recommended International Standard for Virgin and Refined Olive Oil and Refined Olive-Residue Oil" and to comment on the desirability and need for a U.S. standard for these foods. This action is based upon a request from the California Olive Association.

DATE: Comments by May 24, 1979.

ADDRESS: Written comments to the Hearing Clerk (HFA-305), Food and Drug Administration, Rm. 4-65, 5600 Fishers Lane, Rockville, MD 20857.

FOR FURTHER INFORMATION CONTACT: Eugene T. McGarrahan, Bureau of Foods (HFF-415), Food and Drug Administration, Department of Health, Education, and Welfare, 200 C St. SW., Washington, DC 20204, 202-245-1155.

SUPPLEMENTARY INFORMATION: In the **Federal Register** of February 23, 1979 (44 FR 10742), the agency issued an advance notice of proposed rulemaking that invited interested persons to review the Codex Alimentarius Commission (Codex) "Recommended International Standard for Virgin and Refined Olive Oil and Refined Olive-Residue Oil" and to comment on the desirability and need for U.S. standards for these foods. Comments were to be filed by April 24, 1979.

Subsequently, FDA received a request from the California Olive Association for a 30-day extension of the comment period. The association stated that the additional time is needed to give them the opportunity to study the implications of the notice because this is the packing season for olives in California and the industry's Technical Advisory Committee will not be available to meet to consider the notice until May 4, 1979.

The FDA concludes that the California Olive Association has given sufficient grounds to support the need for additional time to comment on the notice. Therefore, under the Federal Food, Drug, and Cosmetic Act (secs. 401, 701(e), 52 Stat. 1046 as amended, 70 Stat. 919 as amended (21 U.S.C. 341, 371(e))) and under authority delegated to the Commissioner of Food and Drugs (21 CFR 5.1), the comment period on the advance notice of proposed rulemaking for virgin and refined olive oil and refined olive-residue oil is extended to May 24, 1979.

Interested persons may, on or before May 24, 1979, submit to the Hearing Clerk (HFA-305), Food and Drug Administration, Rm. 4-65, 5600 Fishers Lane, Rockville, MD 20857, written comments regarding this proposal. Four copies of all comments shall be submitted, except that individuals may submit single copies of comments, and shall be identified with the Hearing Clerk docket number found in brackets in the heading of this document. Received comments may be seen in the above office between 9 a.m. and 4 p.m., Monday through Friday.

Dated: May 4, 1979.

William F. Randolph,

Acting Associate Commissioner for Regulatory Affairs.

[Docket No. 78 N-0364]

[FR Doc. 79-14685 Filed 5-10-79; 8:45 am]

BILLING CODE 4110-03-M

ENVIRONMENTAL PROTECTION AGENCY

[40 CFR Part 52]

Approval and Promulgation of State Implementation Plans; Proposed Rulemaking on Approval of Colorado State Implementation Plan

AGENCY: Environmental Protection Agency.

ACTION: Proposed rulemaking.

SUMMARY: Provisions of the 1977 Clean Air Act Amendments (the Act) require states to revise their State Implementation Plans (SIP) for all areas that have not attained the National Ambient Air Quality Standards (NAAQS). The Act requires that states submit the necessary plan revisions to the Environmental Protection Agency (EPA) by January 1, 1979, and that EPA publish a final determination of approvability in the **Federal Register** by June 30, 1979. The requirements for an approvable SIP are described in a general preamble published in the April 4, 1979, **Federal Register** (44 FR 20372), and will not be restated in this notice.

In this notice, key events in Colorado nonattainment SIP development are described, the SIP is summarized, and issues that affect SIP approval are discussed. It should be noted that only deficiencies with respect to Part D of the Clean Air Act are discussed. An evaluation report which describes the SIP with respect to each of the Part D requirements is available to any interested persons for inspection.

The Act presented a very complicated set of requirements which had to be met in a short time. While this notice does cite some deficiencies in the SIP, many of these were unavoidable. Further it is anticipated many of these will be corrected prior to final action by this Agency. Colorado was one of only handful of states in the nation which

submitted a SIP by the required date and is to be highly commended for the diligent effort it made in meeting this difficult deadline.

The Act also specifies that many decisions regarding strategy selection are now to be made at the local governmental level. Establishing a process to generate local governmental input to major air quality decisions has been a difficult task. The process established in Colorado has been effective in providing a meaningful method to develop plans that can be supported and advanced by local governments.

The EPA requests comments on:

(1) the approvability of the SIP with respect to those portions for which no specific deficiencies have been identified;

(2) the appropriateness of EPA's findings with respect to issues that affect SIP approval; and

(3) the approvability of the SIP with respect to such issues

This notice does not consider non-part D requirements. EPA plans to address these requirements in a separate notice.

DATES: Comments must be received by June 11, 1979.

ADDRESSES: Comments should be sent to: Robert R. DeSpain, Chief, Air Programs Branch, Environmental Protection Agency, Region VIII, 1860 Lincoln Street, Denver, CO 80295.

Comments received on this proposal, EPA's evaluation report, and the SIP submission itself will be available for review by any interested persons at:

Environmental Protection Agency, Region VIII Library, 1860 Lincoln Street, Denver, CO 80295.

Public Information Reference Unit, Room 2922, 401 M Street, S.W., Washington, D.C. 20460.

FOR FURTHER INFORMATION CONTACT:

Robert R. DeSpain, Chief, Air Programs Branch, Environmental Protection Agency, Region VIII, 1860 Lincoln Street, Denver, CO 80295, (303) 837-3741.

SUPPLEMENTARY INFORMATION:

Introduction

The information in this notice is divided into three sections entitled "Introduction," "Overview," and "Issues." This first section outlines the background relating to the development of the Colorado SIP revision. For the convenience of the reader this section also lists the key organizations participating in the Colorado SIP revision process with their abbreviations and other words and phrases used in the notice. The "Overview" section describes the Colorado SIP revision for each nonattainment area. The "Issues" section contains a discussion of the issues affecting SIP approval which ave been identified to date.

The key organizations and phrases used in this notice are as follows:

"Colorado Air Pollution Control Commission" (the Commission)—The Colorado air pollution rulemaking body.

"Colorado Air Polution Control Division" (APCD)—The technical support organization within the Colorado Department of Health responsible for implementing the SIP.

"Denver Regional Council of Governments" (DRCOG)—The organization of local elected officials designated by the Governor as responsible for developing the locally prepared plan for the Denver Region nonattainment areas.

"Larimer-Weld Regional Council of Governments" (LWRCOG)—the organization of local elected officials designated by the Governor as responsible for developing the locally prepared plan for the larimer-Weld Region nonattainment areas.

"Locally prepared plan"—The portion of the SIP developed by the local organization designated by the Governor as having local jurisdicitional responsibility.

"Pikes Peak Area Council of Governments" (PPACG)—The organization of local elected officials designated by the Governor as responsible for developing the locally prepared plan for the Colorado Springs Region nonattainment areas.

"Pueblo Area Council of Governments" (PACOG)—The organization of local elected officials responsible for developing the locally prepared plan for the Pueblo Region nonattainment area.

"Regional Transportation District" (RTD)—The public transit operator for the Denver metropolitan area.

"Transit Development Plan" (TDP)—A plan prepared by local transit authorities which outlines long-range programs (five year) for transit development. The plan is reviewed and updated annually and guides funding decisions on transit projects.

"Transportation Planning Process"—Urbanized areas that wish to receive federal assistance in planning, building, and maintaining transportation systems must establish a planning process in accordance with Department of Transportation (DOT) requirements. That process is referred to as the "transportation planning process" in this notice.

"SB 231"—The Colorado Senate Bill 231 (codified at CRS 42-4-301 et. seq.) which mandates an inspection/maintenance program for 1977 and later model year vehicles. The Bill requires an annual emission inspection to be conducted by licensed private garages.

The Colorado SIP revision was developed and submitted to EPA in response to the requirements of Part D of the Clean Air Act, as amended in 1977. In general, the SIP is required to provide for attainment and maintenance of the national ambient air quality standards (NAAQS) for all areas which have been designated "nonattainment" pursuant to Section 107 of the Clean Air Act. Specific requirements for an approvable SIP are discussed in detail in the April 4, 1979, Federal Register (44 FR 20372), the "EPA/DOT Transportation Planning Guidelines" and the "Transportation SIP Checklist."

On March 3, 1978 (43 FR 8962) and on September 11, 1978 (43 FR 40419), pursuant to Section 107 of the Act, EPA designated certain areas as nonattainment for the criteria air pollutants. The designated nonattainment areas in Colorado are displayed in Table 1.

Table 1.—*Nonattainment Areas in Colorado*

	Carbon Monoxide (CO)	Ozone (O_3)	Total suspended particulates (TSP)	Nitrogen dioxide (NO_2)
Colorado Springs	X	X	X	
Denver Region	X	X	X	X
Grand Junction			X	
Larimer-Weld Region	X	X	X	
Pueblo			X	

In accordance with Section 174 of the Act, primary responsibility for preparing carbon monoxide (CO) and ozone control plans was delegated by the Governor to organizations of local elected officials. These designated organizations are the Pikes Peak Area Council of Governments (PPACG) for the Colorado Springs nonattainment areas, the Denver Regional Council of Governments (DRCOG) for the Denver Region nonattainment areas, and the Larimer-Weld Regional Council of Governments (LWRCOG) for Larimer and Weld Counties. Agreements were developed between the Governor and the Regional planning agencies which generally describe the planning responsibilities of the designated organizations. The State was responsible for technical support to designated agencies as well as for Inspection/Maintenance (I/M) programs, stationary source control, new source review and any other programs encompassing areas beyond the authority of local governments. Designated regional planning agencies were generally responsible for transportation control plan development, which were coordinated with the transportation planning process.

The State also delegated that portion of total suspended particulates (TSP) plan development which involved transportation sources to regional planning agencies. In addition to the three named above, the Pueblo Area Council of Governments and the Grand Junction Air Quality Advisory Committee (in conjunction with the Colorado West Council of Governments) were designated lead planning agencies for TSP.

The locally prepared plans were submitted to the Commission during September 1979. Following a public hearing, the Commission adopted the SIP and submitted it to Governor Lamm. The Governor submitted the SIP to EPA on January 2, 1979.

The submittal was followed by a letter from Governor Lamm on January 5, 1979, requesting time extensions for certain areas in meeting the CO and/or ozone standards.

The Department of Transportation (DOT) has reviewed the SIP and submitted comments to EPA in accordance with the June 16, 1978, EPA-DOT Memorandum of Understanding, and the Region VIII EPA-DOT procedures on SIP review. DOT's comments were considered in preparation of this notice.

In a January 19, 1979, letter to the Governor, EPA identified several items which required clarification and others which appeared to be omitted. EPA wrote to Governor Lamm describing these items, indicating that such clarification was considered necessary to permit substantive review of the SIP.

On January 31, 1979, EPA received a preliminary response from the State, which contained information that was of assistance to EPA in its continuing review. However, the letter indicated that a number of EPA's concerns could not be addressed without substantial effort, and that others probably could not be incorporated into the SIP without formal review and submittal through the Commission and the Governor's office in accordance with State SIP development procedures. Instead, a schedule for submitting these materials was included. The letter also indicated that the State intends to reorganize the SIP by deleting unnecessary information and incorporating all supplemental submissions into a single document for improved simplicity.

In a meeting between EPA and State officials on March 13, 1979, the status of the items discussed in the January 31, 1979, letter from the State was discussed and additional issues were raised by EPA. The State submitted additional materials to EPA on March 15, 1979, as a result of the March 13 meeting. From the submittal, it appears that the State and local agencies are making every effort to respond to the issues raised in this notice while, at the same time, beginning to carry out certain aspects of the plan.

Overview

All of the nonattainment areas identified previously were designated because of existing violations of the NAAQS, which result from a combination of transportation related emissions and stationary source emissions. For this reason, the plan development responsibilities were split between the State and the designated local planning agencies. For the entire SIP to be completely approvable in a particular nonattainment area, the State portion and the locally prepared plan must meet the requirements of Part D of the Clean Air Act. In some cases, the locally prepared plan may meet the Part D requirements. However, the overall nonattainment SIP for the area may not be approvable because the strategy relies upon unacceptable provisions adopted by the State (e.g. Inspection/Maintenance, new source review, or stationary source regulations).

The following discussions describe the nature of the air quality problem, the transportation control strategy selected by the local agency, and EPA's determination of whether the locally prepared plan meets the Part D requirements. In addition, a separate discussion of the segments that were the responsibility of the State is provided.

State Provisions

The State is responsible for the development of state-wide stationary source emission controls, the operation of a new source review program, and the operation of an Inspection/Maintenance program in specific areas. In addition, the Air Pollution Control Commission reviewed each locally prepared plan and adopted them for incorporation into the SIP.

The Air Pollution Control Commission modified each locally prepared plan prior to incorporation into the SIP. The Commission deemed such changes necessary to make the various locally prepared plans consistent with each other, with State policy, or with Federal requirements. In most cases, the changes to locally prepared plans were minor, although several significant changes were made to the Denver Region plan and to the automotive inspection and maintenance program for the Front Range urban corridor (Colorado Springs area, Denver area, and Larimer and Weld Counties). Specifically, the locally prepared plans for the Front Range included a recommendation that the current automotive inspection and maintenance legislation (SB 231) be expanded to include 1968 and later model year vehicles, rather than 1977 and later model year vehicles. The Commission's recommendation calls for the program to cover 1972 and later model year vehicles.

Regulations

The Commission has promulgated eleven (11) air pollution control regulations to date. Some of these regulations respond specifically to requirements of the Clean Air Act. In general, Section 172 of the Act requires that reasonably available control technology (RACT), as defined in guidance documents published by EPA, be applied to existing stationary sources of air pollution in some nonattainment areas. Failure to mandate RACT could result in EPA promulgation and enforcement of necessary controls or, in some cases, disapproval of a SIP with subsequent economic and growth limitations.

The Common Provision Regulation contains definitions and provisions common to the other regulations of the Commission (some definitions revised).

Regulation 1, which controls particulates, visible emissions, and

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sulfur oxides from stationary sources was revised for existing sources of sulfur oxides and for existing iron and steel facilities.

Regulation 2, which controls odor emissions, is not considered part of the SIP.

Regulation 3, which includes the new stationary source review program, was revised in an attempt to be consistent with the requirements of Section 173 of the Clean Air Act to the extent that State statutory authority allows.

Regulation 4 contains requirements for the control of existing wigwam waste burners, but the regulation expired on January 1, 1978.

Regulation 5 contains requirements for the control of existing alfalfa dehydration plants.

Regulation 6 contains the provisions for new source performance standards and is consistent with 40 CFR Part 60. However, the regulation included in the SIP is a proposed regulation. State New Source Performance Standards are not treated as SIP revisions, but instead are reviewed with respect to delegations of authority.

Regulation 7, which provides for control of volatile organic compounds, was revised extensively. (See Part III of the Issues section for discussion.)

Regulation 8 includes emission standards for hazardous air pollutants. As with Regulation 6, this regulation is not treated as part of the SIP.

Regulation 9 requires large employers to offer incentives to employees to cummute to and from work in other than single occupant vehicles. The incentives include providing information on bus routes, providing preferential parking to carpools and vanpools, and providing bicycle parking facilities. Some administrative revisions were made.

Regulation 10 establishes criteria that will be used to determine whether transportation projects and programs conform to the SIP as required under Section 176(c) of the Act and pursuant to DOT regulations in 23 USC 109(j) and 23 CFR Part 770. Since this regulation addresses a process for which EPA has not completed its guidance, no official action is being taken on Regulation 10 at this time.

Regulation 11 provides requirements for the licensing and certification of inspectors, inspection facilities and emission measurement equipment for the inspection/maintenance program.

Colorado Springs Area

The Colorado Springs area violates the NAAQS for CO and TSP. When nonattainment areas were initially designated, the area was also marginally in violation of the applicable ozone standard of .08 parts per million (ppm) and the area was designated nonattainment. However, the ozone standard was recently revised from .08 ppm to .12 ppm (February 8, 1979, 44 FR 8202). Based on currently available monitoring data and the revised standard of .12 ppm, and the proposed control measures in the SIP, the ozone standard will be maintained, and the ozone SIP for Colorado Springs can be approved.

I. Carbon monoxide. The Colorado Springs SIP, using an EPA approved dispersion model, predicts attainment of the 8-hour CO standard during 1985 with implementation of the Federal Motor Vehicle Emission Control Program (FMVECP), the I/M program provided by SB 231, the Federal high altitude emission standards in model year (MY) 1981, and the transportation control measures that are currently programmed for implementation. The SIP also predicts sufficient reductions of CO to provide for reasonable further progress (RFP) toward achieving the CO NAAQS by the end of 1982. Transportation control measurés currently being implemented include transit improvements, improved carpool locator service, and traffic flow improvements.

In response to the requirement that all the transportation control measures in section 108(f) of the Act be implemented to provide for attainment of the standards as expeditiously as practicable, the PPACG conducted a preliminary screening of those measures, and determined that certain measures required more study before a specific commitment to implement them could be made. Consequently, the plan provides that some of the measures will be analyzed by March 1979, and implemented prior to 1982 if they are found to be feasible for the area. However, the remaining measures will be anlayzed as part of the long term transportation planning process with the completion of the analyses scheduled for February 1980, and implementation expected prior to 1985.

The locally prepared plan for CO appears to meet the Part D requirements. However, deficiencies in the State's portion must be corrected before final approval of the overall SIP.

II. Total suspended particulates. The Colorado Springs plan predicts attainment of the primary TSP standard by 1982 with the implementation of the following particulate control measures:

—Modified street sanding program, initiated first as a pilot program to confirm estimates of effectiveness.

—Control of mud and dirt carryout sources.

—Paving of unpaved alleys and roads.

—Control of construction and grading operations.

While the plan properly provides for attainment of the primary standard for TSP, it does not address attainment of the secondary standard. Before this plan can be approved, as required by Section 110 of the Act, it must demonstrate attainment of the secondary standard, or as discussed below, meet the requirements for an 18-month extension for submittal of the plan addressing that standard.

Commitments to implement the locally prepared plan for TSP are provided in the form of resolutions adopted by the City of Colorado Springs and by PPACG which specifically provide for plan implementation. The City Council and County Commissioners also adopted the CO plan. The schedules for developing and implementing measures that were provided in the locally prepared plan also constitute a commitment to implement the plan and to provide adequate resources.

Denver Area

The Denver area violates the NAAQS for CO, ozone, NO_2 and TSP. The content of the plan prepared by DRCOG and modified by the Commission is presented in the following sections; by pollutant.

I. Nitrogen dioxide. The Denver area plan predicts attainment of the standard by 1982 largely as a result of the FMVECP. The NO_2 prediction was made using a linear rollback model in accordance with EPA approved procedures, and is acceptable.

II. Corbon Monoxide and Ozone. Using an EPA-approved model, the analysis in the Denver plan predicts attainment of the 8-hour CO standard in 1987. This estimate apparently assumes no additional controls beyond the FMVEPC, SB 231, RTD's Transit Development Plan (TDP), and the DRCOG carpool locator service. An additional 43% reduction would be needed to achieve the standard by 1982.

Based on the same assumptions used in the CO modeling, the predicted 1987 ozone concentration exceeds the level of both the previous and the revised standard. Based on the predicted concentration in 1982, an additional reduction of about 19% would be necessary to meet the revised standard.

In response to the requirement that the transportation control measures in section 108(f) be considered and those found feasible be implemented as expeditiously as practicable, the Denver area plan identified certain of the measures as reasonably available by 1982, and certain measures as unavailable.

Those measures for which the plan includes a commitment to either implement or study are as follows:

—Expanded I/M to MY 1972 and later.

—Possible implementation of retrofit (study).

—EPA implementation of the high altitude standards.

—Smoking vehicle ordinances.

—Implementation of the TDP and analysis by RTD of alternate funding sources.

—Employer based incentives for ridesharing.

—Variable work hours (study and demonstration).

—Vanpool demonstration program.

—Expanded carpool matching service.

—Bicycle plan implementation and demonstration project.

—Revise transportation project programming process to provide priority to air quality projects.

—High Occupancy Vehicle (HOV) lane study and implementation where feasible.

—Sante Fe Drive HOV lane.

—Parking management plan.

—Land use assessment handbook (CO hotspot analysis).

Although not specifically identified in either list, the value of alternate fuels and engines was discussed in the plan and a need for additional work was identified.

However, the plan does not include detailed schedules for implementation or study of the above measures.

The Denver locally prepared plan was adopted by the Commission with several modifications. In addition to the changes in the I/M program, the Commission deleted tax incentives for automobiles equipped with high altitude emission controls, and expanded certain studies to include demonstrations.

Another notable change made by the Commission to the locally prepared Denver plan was to reverse the finding by DRCOG that auto-use restrictions should not be considered for implementation by 1982. The Commission recommended that the legislature establish a no-drive day program which would be voluntary at first becoming mandatory in 1981, if necessary. The Commission considered the action necessary to attain the ozone standard by 1987.

The Commission also made adoption of the Denver plan contingent on DRCOG obtaining resolutions adopting the plan from a majority of its member local governments. As discussed in more detail in the section on issues, the EPA is considering incorporating such conditions into any subsequent EPA approval actions.

There are several deficiencies in the Denver plans for CO and ozone which are discussed later in this notice.

III. Total suspended particulates. The predicted maximum annual average TSP concentration (using the EPA approved model) in 1982 indicates that a 29 percent reduction is necessary to achieve the primary NAAQS. The secondary standard was not addressed. Attainment of the primary standard by 1982 is predicted provided that the following recommended non-traditional particulate control measures are implemented:

Street cleaning practices;

Unpaved road controls;

Control of mud and dirt carry out sources;

Control of construction, grading excavation, and demolition; and

Paving or stablizing unpaved roads and alleys.

Demonstration projects would be conducted to ensure effectiveness prior to full scale implementation.

Schedules for the development and implementation of these measures are contained in supporting documents to the SIP, but evidence of a commitment to implement these schedules by the involved agencies is not provided. This and other deficiencies are discussed later in this notice.

Larimer-Weld Area

The Larimer-Weld area violates the current NAAQS for CO, ozone, and TSP. According to EPA policy, ozone SIPs for areas with populations less than 200,000 are not required to include transportation control measures. Therefore, the locally prepared plan for Larimer-Weld does not address that pollutant. Instead, the SIP consists only of the statewide emission limitations on stationary sources and the State operated permit program.

The plan also does not address TSP. It is EPA's understanding that the Commission is considering a recommendation to propose redesignating the area as attainment for TSP.

I. Carbon monoxide. The Larimer-Weld plan analysis predicts attainment of the CO standard by 1986 and 1984 in Fort Collins and Greeley, respectively, with implementation of the FMVECP, SB 231, and the adopted reasonably available control measures. An EPA-approved model was used.

In response to the requirement that the transportation control measures in Section 108(f) be implemented as expeditiously as practicable, the LWRCOG indicated that certain measures would be implemented while others would require further analysis.

The measures adopted for implementation by the City of Fort Collins by 1982 are improved public transit, expanded carpool locator service, bicyle lanes, and traffic flow improvements at specified locations.

The measures adopted for implementation by the City of Greeley by 1982 are improved public transit, bicycle lanes, staggered work hours, vehicle fleet controls, and traffic flow improvements.

A commitment to implement the adopted control measures and to provide the resources needed to carry out the plan is provided in the form of resolutions adopted by each city and by LRWCOG. However, the submittal lacks schedules and milestones for implementation of adopted measures and analysis of additional measures. In the submittal, LWRCOG indicated that all the necessary schedules would be provided to the Commission by March 31, 1979. It is EPA's understanding that the Commission is currently reviewing a portion of the schedules. This and other deficiencies are discussed later in this notice.

Pueblo Area

The Pueblo area violates the NAAQS for TSP. These violations are caused by a combination of stationary source emissions and transportation related fugitive dust. The plan addresses only the primary annual standard; the secondary standard is not addressed. While both the 24 hour and annual primary standards are exceeded, supporting documentation shows that a greater degree of control is necessary to attain the annual standard. Thus, a plan adequate to attain the annual standard should also attain the short term standard.

The control measures selected for implementation are:

Paving roads in Pueblo;

Paving roads outside the city;

Control mud carryout;

Pave alleys in city;

Double street sweeping/use of vacuum equipment;

Control of construction sites;

Additional emission reductions from specific stationary sources.

Adequate commitments and schedules to undertake the required studies and to develop and implement the transportation-related fugitive dust control measures are contained in the plan. There are several deficiencies in

the plan for Pueblo that are discussed later in this notice.

Grand Junction Area

The Grand Junction area violates the NAAQS for TSP. The plan addresses only the annual primary standard; however, supporting material demonstrates that a greater degree of control is required to meet the annual standard than the 24-hour standard.

Using an EPA-approved model, the plan demonstrates attainment of the primary standard. The control measures included in the strategy are a carpooling program, street cleaning, control of mud and dirt carryout, bikeways, stabilization of cleared areas, and the paving or stabilizing of unpaved roads and alleys.

While the plan properly provides for attainment of the primary standard for TSP, it does not address attainment of the secondary standard. Before this plan can be approved, as required by Section 110, it must demonstrate attainment of the secondary standard, or, as discussed below, meet the requirements for an 18-month extension to submit a plan addressing that standard.

Issues

This section contains a discussion of issues identified by EPA which could affect approval of the Colorado SIP. The discussion includes a general description of the deficiency or issue and, where possible, describes corrective actions. This section also sets forth alternative approaches to final rulemaking action with respect to these issues.

State Portion

As discussed previously, the State was responsible for developing certain statewide programs for implementation in all the nonattainment areas. The responsibilities include an Inspection/Maintenance program, stationary source controls, and a new source review program that meets the requirements of Section 173 of the Clean Air Act. The following discussions address the deficiencies in programs that are the responsibility of the State.

I. Particulate test methods. In Regulation 1 the test methods specified are different from EPA's Method 5 (40 CFR Part 60). Although EPA recognizes that modification to Method 5 may be appropriate in some circumstances, such modifications may be used only after the State has requested and received approval from EPA. In this case, the State's method has not been shown to be equivalent. The State must show equivalence or adopt Method 5.

II. New source review program. Part D of the Clean Air Act requires that permits be issued to new sources or major modifications in nonattainment areas only if specific requirements are met. The State New Source Review Program does not comply with this requirement. The specific deficiencies are:

1. Regulation 3 provides for the automatic granting of a permit without affirmative action by the State. This provision is inconsistent with the requirements of Sections 110 and 173 of the Act.

2. Regulation 3 (Sections 171, 172, 302) provides an exemption for sources increasing emissions by less than 10%. A large source may undergo changes affecting less than 10% of emissions while still incresing emissions by a large enough amount to be considered a major modificaion. This provision must be revised.

3. Regulation 3 provides an exemption from the offset requirements in nonattainment areas for sources with "actual emissions" less than 50 tons per year, 1000 pounds per day and 100 pounds per hour. This must be revised to be "allowable" emissions.

4. Regulation 3 requires new sources affecting a non-attainment area to meet emission limitations which represent the lowest achievable emission rate (LAER). However, the State's definition of LAER is potentially inconsistent with that contained in Section 171 of the Act. The State's intent should be clarified.

III. Volatile organic compounds. According to Sections 172 and 108 of the Clean Air Act and EPA guidance, stationary sources of volatile organic compounds (VOCs) located in the Larimer-Weld and Denver areas must be subjected to reasonably available control technology (RACT). EPA reviewed the State's Regulation 7 and found several major deficiencies in the State's approach to the control of VOCs from stationary sources. The specific deficiencies are:

1. The definition of volatile organic compounds (VOC) is less restrictive than EPA's definition, which could result in no control of some compounds.

2. The controls for surface coating, cutback asphalt and degreasing are less restrictive than EPA requirements as noted in the Evaluation Report.

3. The requirement for an approved balanced vapor-recovery system should specifically refer to the Colorado design criteria. These criteria represent RACT as defined by EPA.

4. The regulation provides an exemption for barometric-type condensers in use at petroleum refineries prior to the effective date of the regulation. The State must provide an evaluation of how this exemption affects the reductions achieved for this source category.

IV. Inspection/maintenance. Section 172(b)(11)(B) requires that plans for areas requiring an extension beyond 1982 for CO or ozone establish a specific schedule for implementing I/M. The Colorado plan indicates that the Larimer-Weld, Denver, and Colorado Springs areas will require such extensions, and that an I/M program will be implemented in these areas. The plan also includes adopted legislation for I/M, Senate Bill 231.

Senate Bill 231 requires that I/M begin in January 1980, for 1977 and later model year vehicles. The Bill does not provide complete authority in that the emission standards must be approved by the legislature. Such standards have not yet been approved. The Colorado plan also indicates that new I/M legislation will be sought in the 1979 session expanding the program to include 1972 and later model year vehicles.

While Regulation 11 provides some of the items specified by EPA guidance, the Colorado I/M program lacks the following:

A. Schedules (milestones, dates, responsible agency) to implement the following I/M program elements:

—A public information program.

—Certification of full legislative authority to carry out the program (including emission standards) by June 30, 1979.

—Initial notification of garages explaining program and schedule of implementation.

—Initiation of construction of referee facilities.

—Completion of construction of referee facilities.

—Adoption of procedures for certification of inspection stations.

—Completion of equipment purchase and delivery of equipment.

—Initiation of hiring and training of inspectors or licensing of garages.

—Initiation of introductory program (voluntary maintenance with either voluntary or mandatory inspection) if not previously initiated.

—Initiation of mechanics training and/or information program.

—Initiation of mandatory inspection.

—Initiation of mandatory repair for failed vehicles.

—Establishment of quality control procedures.

B. Provisions for record keeping and submittal by inspection facilities, periodic and unannounced inspections of facilities.

C. An analysis of the stringency levels and emission reduction to be provided by the emission standards in the proposed or adopted legislation. The program must provide at least a 25% reduction in light duty vehicle exhaust emissions of carbon monoxide and hydrocarbons by December 31, 1987.

V. Pueblo stationary source controls. The Pueblo plan relies upon emission reductions from certain stationary sources in its demonstration of attainment of the NAAQS. However, no legally enforceable emission reductions or compliance schedules were included in the plan. This deficiency should be addressed by the State before that plan can be approved with respect to attainment of the primary standard.

VI. Socio-economic analysis (section 172(b)(9)). The requirement for a socio-economic analysis of the plan has been addressed at least partially in each local element, and in the fiscal impact statement prepared by the State on each Regulation. There is not a summary of public comment on such analyses. However, the State has indicated that hearing transcripts would be provided as soon as they are available.

Denver Area Plan

The following discussions address the deficiencies in the adopted local plan for the Denver area.

I. Carbon monoxide an ozone. The ambient ozone concentration predicted in 1987 is 1.27 ppm, which exceeds both the previous and the revised standards. While information in the submission suggests that the recommended measures are expected to provide additional improvements, estimated 1987 ozone levels which show compliance are not provided.

The reasonable further progress displays provided by the Commission show reductions in CO emissions and reductions in ambient ozone concentrations between 1977 and 1987, and attainment for both in 1987. The plan indicates that the FMVECP, I/M and the recommended measures provide the improvements. It is EPA's view that the emission reductions for both CO and ozone must be quantified and related to the RFP line in order for the plan to be approvable. In particular, EPA considers the ozone improvement between 1982 and 1987 to lack adequate technical justification. Therefore, EPA feels that the State must demonstrate attainment of the ozone standard in the Denver area in order for the plan to be approvable. In addition, the RFP display does not provide for expeditious reduction in ozone levels particularly in the period through the end of 1982. EPA recognizes that efforts are underway which may resolve the deficiencies discussed above.

EPA and DOT consider it necessary to clarify the intent of the SIP with respect to inclusion of the TDP, so that both agencies can review future transportation planning process outputs for conformity in accordance with Section 176(c). From statements in the SIP summary and the Denver plan, it is not clear whether the SIP incorporates a goal of doubling transit ridership by 1982 or whether the SIP includes the list of projects included in the TDP. The DOT agencies have indicated that Federal funding levels in future years may not be sufficient to fully impiement the TDP. Therefore, inclusion of such projects in the SIP would indicate that funds will be obtained from other sources, although the Denver plan does not provide the funding commitments for TDP implementation as required by Section 172(b)(7). It should be noted that, if the State's intent is to include all TDP projects in the SIP, federal transportation improvement funds must be applied first to these projects or other projects included in the SIP.

The private motor vehicle use restrictions adopted by the Air Pollution Control Commission are presently unenforceable with no firm schedule for becoming mandatory. The SIP submittal indicated uncertainty as to the reasonableness of this measure. If this measure is considered reasonable, it must be legally enforceable, as required by Section 172 of the Act, and implementation schedules must be provided. On the other hand, if the measure is not considered reasonable, that fact should be demonstrated in the SIP.

The Commission conditionally approved the Denver area plan because the Commission did not consider the commitments in the plan to be adequate. Specifically, the condition requires DRCOG to obtain resolutions from a majority of local governments in its jurisdiction adopting either the locally prepared plan or the adopted SIP. If the Commission were to withdraw approval prior to final EPA action, the locally prepared Denver area plan would no longer be part of the SIP and EPA disapproval would necessarily follow.

As noted previously, the Denver area plan does not, as required by Section 172 of the Act, contain schedules for development and implementation of transportation control measures and, in some cases, the control strategy is inadequately defined. However, DRCOG recognizes the need to prepare and submit such schedules. The EPA considers it of major importance to satisfy this requirement since the agency will evaluate reasonable further progress in future years based on whether such schedules have been met. In addition, specific project descriptions and associated schedules are essential for the DOT to make funding determinations under Sections 176 (c) and (d). The information that an adequate schedule and associated strategy description should contain is:

(1) For projects and programs that are planned for implementation, but for which implementation is not complete.

(a) Strategy description:

—objective of strategy;

—means by which strategy accomplishes that objective;

—application of strategy: where, when and by whom;

—supporting technical data including assumptions used in the analysis;

—relationship to other strategies and overall effort in region to achieve CO and O_x standards.

(b) Strategy operation—actions that must be completed to implement and begin operation of strategy including dates by which those actions will be completed.

(c) Funding level and source(s) including the Federal, state, local matching ratios.

(d) Local and regional effects on CO and O_x and/or TSP concentrations:

—reasons for emission reduction such as increased traffic flow, reduced VMT through increase in transit ridership or vehicle occupancy;

—expected contribution toward reasonable further progress;

—reference to technical support and monitoring data.

(e) Other impacts—social, economic, energy, environmental.

(f) Monitoring and evaluation activities related to strategy including a description and purpose of such activities.

(2) For measures/packages of measures that are currently being evaluated and/or considered for implementation.

(a) Measure (or package) description.

(b) Brief summary of analyses performed to date.

(c) Estimate of potential emissions reductions.

(d) Schedule for comprehensive analysis:

—UPWP status for each study or analysis (e.g., if in current UPWP provide reference; if to be included in UPWP indicate date for inclusion as a milestone under 1(b), if not to be included, an explanation of reasons for exclusion.

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—Milestones and outputs of significance through completion of analyses. Include schedule (Month and Year).

—Funding levels and sources, (FHWA, UMTA, EPA, local, etc.) amounts, and status (tentative, agreed).

(3) Justification for exclusion of reasonably available measures that were not adopted.

In summary, the EPA feels that the State must resolve the following issues in order for the Denver locally prepared plan for CO and ozone to be approvable:

1. Attainment of the ozone standard must be demonstrated. Reasonable further progress must be accomplished in the interim particularly by the end of 1982.

2. The relationship of the TDP to the SIP must be clearly described.

3. Detailed schedules for the development and implementation of transportation control measures must be submitted.

II. Total suspended particulates. The EPA finds this portion of the Denver locally prepared plan acceptable with respect to the primary TSP standards with one exception. As with the ozone and carbon monoxide strategies, the TSP strategy lacks the necessary commitments from implementing agencies as required by Section 172 of the Act. To be approvable, evidence of this commitment must be submitted as part of the SIP.

Larimer-Weld Plan

The Larimer-Weld plan lacks, as required by Section 172, adequate schedules for the development and implementation of transportation measures for carbon monoxide. For this plan to be approvable, schedules as well as detailed descriptions of measures must be submitted.

The plan for Larimer-Weld does not address the NAAQS for TSP. EPA understands that the Commission is considering a proposal to redesignate the area under Section 107 of the Act. However, to meet the requirements of Part D, either the area must be redesignated by EPA before July 1, 1979, or a SIP revision for the area must be approved.

Requested Extensions for Carbon Monoxide and Ozone

Under Section 172(a)(2), if the State requests an extension of the attainment dates for CO and ozone beyond the end of 1982, the plan must meet specific requirements. In his letter of January 5, 1979, Governor Lamm requested such extensions for CO in the Denver, Colorado Springs, and Larimer-Weld areas, and for ozone in the Denver area. Therefore, the plan may not be approved unless the following requirements are met.

I. Expeditious attainment. Sections 172(a)(2) and 172(b)(11)(C) require the plan to demonstrate attainment of the standards as expeditiously as practicable, but no later than December 31, 1987. Since most of the local plans demonstrate attainment earlier than 1987, an extension could be granted only until the demonstrated attainment dates. The proposed attainment dates are shown in Table 2. Additionally, the Denver plan fails to provide sufficient measures to demonstrate attainment of the revised ozone standard by 1987 (Section 172(a)(2)). Before the plan or the extension for that area can be approved by EPA, these items must be resolved.

Table 2.—*Potential attainment dates for carbon monoxide and ozone*

Nonattainment area	CO	Ozone
Colorado Springs	1985	N/A
Denver	1987	(1)
Lanmer-Weld:		
Fort Collins	1986	N/A
Greeley	1984	N/A

[1] Not demonstrated.

II. Inspection/maintenance. Section 172(b)(11)(B) requires that plans for areas needing an extension beyond 1982 for the CO or ozone attainment dates establish a specific schedule for implementing I/M. As discussed earlier, the Colorado plan does not include an acceptable program for I/M and must be corrected.

III. Analysis of alternative sites (section 172(b)(11)(A)). For an attainment date extension to be approved, the SIP must establish a program that requires, before issuance of any permit for construction or modification or a major emitting facility, an analysis of alternative sites and other factors which demonstrates that the benefits of the proposed source signficantly outweigh any environmental and social costs.

In the SIP, the Commission states that it currently does not have the legislative authority to establish such a program, but that it intends to request such authority. It appears that Colorado House Bill 1109, which is under consideration in the Colorado Legislature, may give the Commission such authority. If such authority is granted, a schedule for establishing the program may be sufficient to satisfy the requirement.

IV. Expanded public transportation (section 110(a)(3)(D)). For an attainment date extension to be approved, the SIP must include a commitment to establish, expand, or improve public transportation measures to meet basic transportation needs as expeditiously as practicable, including a commitment to use necessary federal grants and state and local funds.

The plan noted that there currently are public transit plans in effect for the Colorado Springs and Denver areas and that the plans are being updated. However, the SIP does not include a commitment to submit the updated plans as required by the Act. Additionally, the SIP contains no commitment with regard to the Larimer-Weld area.

V. Reasonable measures. Before an extension can be approved, the plan must demonstrate that all reasonably available control measures are being required of both stationary and transportation sources. As noted previously, the revisions to the State limitations on stationary sources of volatile organic compounds do not represent reasonably available control technology.

Requested extensions for total suspended particulates. Section 110(b) of the Clean Air Act allows up to an 18-month extension for the development of a plan to attain the secondary standards. Such an extension was requested by the State for every TSP nonattainment area in State. Also, as discussed earlier, none of the nonattainment plans demonstrate attainment of the secondary standard for TSP. Before an 18-month extension can be granted, as required by 40 CFR 51.31(c), the State must show that attainment of the secondary standard will require emission reductions exceeding those which can be achieved through the application of reasonably available control technology. Because that demonstration has not been made, EPA cannot grant the 18-month extensions.

Before the TSP plans can be approved, they must either demonstrate attainment of the secondary standard or meet the requirements to received an 18-month extension.

Interested parties are invited to comment on all aspects of the approvability of the Colorado SIP. In particular, comments are requested on the appropriateness of the findings on issues discussed previously, the suggested corrective actions, and the approvability of the SIP with respect to the applicable requirements.

Comments should be submitted, preferably in triplicate, to the address listed in the front of this notice. Public comments received by (30 days following publication) will be considered in EPA's final decision in the SIP. EPA believes the available period for comments is adequate because:

(1) the SIP has been available for inspection for comment since January 25, 1979;

(2) EPA has a responsibility under the Act to take final action by July 1, 1979, if possible, and a longer period for public comments would make that deadline difficult to meet.

All comments received will be available for inspection at the Region VIII Office, 1860 Lincoln Street, Denver, Colorado 80295.

Under Executive Order 12044, EPA is required to judge whether a regulation is "significant" and therefore subject to the procedural requirements of the Order or whether it may follow other specialized development procedures. EPA labels these other regulations "specialized." I have reviewed this regulation and determined that it is a specialized regulation not subject to the procedural requirements of Executive Order 12044.

This notice of proposed rulemaking is issued under the authority of Section 110 of the Clean Air Act, as amended.

Dated: April 5, 1979.

Alan Merson,
Regional Administrator.

[FRL 1222-5]
[FR Doc. 79-14814 Filed 5-10-79; 8:45 am]
BILLING CODE 6560-01-M

[40 CFR Part 52]

Approval and Promulgation of Implementation Plans; Hawaii State Implementation Plan Revision

AGENCY: Environmental Protection Agency.

ACTION: Notice of proposed rulemaking.

SUMMARY: A revision to the Hawaii Public Health rules and regulations has been submitted to the Environmental Protection Agency (EPA) by the Governor for the purpose of revising the Hawaii State Implementation Plan (SIP). The intended effect of this revision is to update the rules and regulations in the SIP. The EPA invites public comments on this rule, especially as to its consistency with the Clean Air Act.

DATES: Comments may be submitted by June 11, 1979.

ADDRESSES: Comments may be sent to: Regional Administrator, Attn: Air & Hazardous Materials Division, Air Technical Branch, Regulatory Section (A-4), Environmental Protection Agency, Region IX, 215 Fremont Street, San Francisco CA 94105.

Copies of the proposed revision are available for public inspection during normal business hours at the EPA Region IX office at the above address and at the following locations:

Environmental Protection and Health Services Divisions, Hawaii State Department of Health, 1250 Punchbowl Street, Honolulu, HI 96813.

Public Information Reference Unit, Room 2922 (EPA Library), 401 "M" Street, S.W., Washington, D.C. 20460.

FOR FURTHER INFORMATION CONTACT: Douglas Grano, EPA, Region IX, (415) 556-2938.

SUPPLEMENTARY INFORMATION: The State of Hawaii, on February 22, 1979, submitted a regulation containing a variance from Chapter 43, Section 7(b)(5) of the Public Health Regulations. The variance allows fires to be set in order to train crashcrews in the technique of fighting aircraft fires. The State has submitted an analysis demonstrating that such burning would not interfere with the attainment and maintenance of the National Ambient Air Quality Standards.

The revision appears to be consistent with 40 CFR 51.12, and it is EPA's intention to propose approval of the variance as a revision to the SIP.

Under Section 110 of the Clean Air Act as amended, and 40 CFR Part 51, the Administrator is required to approve or disapprove the regulations submitted as revisions to the SIP. The Regional Administrator hereby issues this notice setting forth this revision as proposed rulemaking and advises the public that interested persons may participate by submitting written comments to the Region IX Office. Comments received on or before June 11, 1979, Comments received will be available for public inspection at the EPA Region IX Office and the EPA Public Information Reference Unit.

The Administrator's decision to approve or disapprove the proposed revision will be based on the comments received and on a determination whether the amendment meets the requirements of Section 110(a)(2) of the Clean Air Act and 40 CFR Part 51, Requirements for Preparation, Adoption, and Submittal of State Implementation Plans.

(Sections 110 and 301(a) of the Clean Air Act as amended (42 U.S.C. §§ 7410 and 7601(a)).)

Dated: April 30, 1979.

Sheila M. Prisciville,
Acting Regional Administrator

[FRL 1221-7]
[FR Doc. 79-14809 Filed 5-10-79; 8:45 am]
BILLING CODE 6560-01-M

[40 CFR Part 52]

Commonwealth of Virginia; Proposed Revision of the Virginia State Implementation Plan

AGENCY: Environmental Protection Agency.

ACTION: Proposed rule.

SUMMARY: The Commonwealth of Virginia has submitted a proposed revision of the State Implementation Plan (SIP) consisting of a variance request (in the form of a Consent Agreement) for Boilers No. 4 and 5 at Avtex Fibers, Inc. Front Royal Plant. The variance would permit Boilers No. 4 and 5 to continue burning coal in excess of the federally-approved Regulations for the Control and Abatement of Air Pollution in the Commonwealth of Virginia as specified in Section IV, Rule 2 (Effective date: March 17, 1972) and Rule 3 (Effective date: March 17, 1972; amended August 11, 1972) which limits visible emissions and particulate matter, respectively. The Consent Agreement requires that Avtex Fibers, Inc. achieve compliance with the above regulations on or before July 1, 1980. Prior to achieving final compliance, Avtex Fibers, Inc. shall not exceed the emission rates identified in the dispersion modeling analysis in support of the revision. Further, compliance with the terms of the Consent Agreement will ensure that, during the period of the consent Agreement before final compliance is achieved, the burning of coal will not result in emissions which will cause or contribute to a violation of the National Ambient Air Quality Standards for particulate matter.

DATE: Comments must be submitted on or before July 10, 1979.

ADDRESSES: Copies of the proposed SIP revision and the accompanying support documents are available for inspection during normal business hours at the following offices:

U.S. Environmental Protection Agency, Air Programs Branch, Curtis Building, 6th & Walnut Streets, Philadelphia, PA 19106, ATTN: Bernard E. Turlinski.

Commonwealth of Virginia, Virginia State Air Pollution Control Board, Room 1106—Ninth Street Office Building, Richmond, Virginia 23219, ATTN: John Daniel, Jr.

Public Information Reference Unit, Room 2922—EPA Library, U.S. Environmental Protection Agency, 401 M Street, S.W. (Waterside Mall), Washington, D.C. 20460.

All comments on the proposed revision submitted within 60 days of

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publication of this notice will be considered and should be directed to: Mr. Howard R. Heim, Chief, Air Programs Branch, Air & Hazardous Materials Division, U.S. Environmental Protection Agency, 6th & Walnut Streets, Philadelphia, PA 19106, ATTN: AH 014VA.

FOR FURTHER INFORMATION CONTACT: Bernard E. Turlinski, Regional Energy Coordinator (3AH13), U.S. Environmental Protection Agency, Region III, 6th & Walnut Streets, Phildelphia, Pennsylvania 19106, telephone (215) 597–9944.

SUPPLEMENTARY INFORMATION: On August 18, 1977, the Secretary of Commerce and Resources, on behalf of the Commonwealth of Virginia, submitted a variance request, in the form of a Consent Agreement, to the Administrator of the Environmental Protection Agency and requested that it be reviewed and processed as a revision of the Virginia State Implementation Plan (SIP). The variance would permit Boilers No. 4 and 5 at the Front Royal Plant of Avtex Fibers, Inc. to continue burning coal in excess of federally-approved Regulations for the Control and Abatement of Air Pollution in the Commonwealth of Virginia as specified in Section IV, Rule 2 (Emission Standards for Visible Emissions) and Rule 3 (Emission Standards for Particulate Emissions from Fuel Burning Equipment).

On August 22, 1977, the Executive Director of the State Air Pollution Control Board transmitted to the EPA six (6) copies of the revision and supporting documentation. Following a review of the information, the EPA advised the Commonwealth in April, 1978, that the variance could not be approved as a revision of the Virginia SIP due to deficiencies in the control strategy demonstration. In a letter dated April 21, 1978, the Commonwealth requested EPA to withhold any formal action until a revised demonstration could be completed to remedy the modeling deficiencies. This revised demonstration was submitted as additional support documentation by the Commonwealth on July 12, 1978. The additional documentation did demonstrate, to the satisfaction of the EPA, that the variance request will not result in violations of either the primary or secondary National Ambient Air Quality Standards for particulate matter.

A public hearing was held on July 14, 1977, in accordance with 40 CFR 51.4, to consider the variance as a revision of the Virginia SIP.

The Consent Agreement was executed on August 3, 1977, on behalf of the State Air Pollution Control Board of the Commonwealth of Virginia and Avtex Fibers, Inc. Key provisions of the Consent Agreement are summarized below:

1. On or before April 1, 1978, Avtex will overhaul and upgrade the existing mechanical collectors on Boilers No. 4 and 5. (completed)

2. On or before November 1, 1978, Avtex will select and initiate procurement of a permanent emission control system. (completed)

3. On or before March 1, 1979, Avtex will commence construction of the permanent emission control installation. (completed)

4. On or before July 1, 1980, Avtex will operate in compliance with Section IV, Rules 2 and 3 of the Regulations for the Control and Abatement of Air Pollution.

5. Avtex will insure that total particulate emissions from the power plant do not exceed 1,425 pounds per hour at any time during the period from September 1, 1977 to July 1, 1980

It is the tentative decision of the Administrator to approve the proposed revision of the Virginia State Implementation Plan.

The public is invited to submit, to the address stated above, comments on whether the variance request should be approved as a revision of the Virginia State Implementation Plan.

The Administrator's decision to approve or disapprove the proposed revision will be based on the comments received and on a determination whether the revision meets the requirements of Section 110(a)(2) of the Clean Air Act and 40 CFR Part 51, Requirements for Preparation, Adoption, and Submittal of State Implementation Plans

Under Executive Order 12044 EPA is required to judge whether a regulation is "significant" and therefore subject to the procedural requirements of the Order or whether it may follow other specialized development procedures. EPA labels these other regulations "specialized". I have reviewed this regulation and determined that it is a specialized regulation not subject to the procedural requirements of Executive Order 12044.

(42 U.S.C. 7401)

Dated: May 2, 1979.

Jack Schramm,
Regional Administrator

[FRL 1222–1]

[FR Doc. 79–14808 Filed 5–10–79; 8:45 am]
BILLING CODE 6560–01–M

[40 CFR Part 86]

Motor Vehicle Certification and Test Procedures

AGENCY: Environmental Protection Agency.

ACTION: Advance Notice of Proposed Rulemaking.

SUMMARY: The Environmental Protection Agency (EPA) is preparing to initiate a rulemaking action to establish high-altitude emission standards, and certification and test procedures for assuring compliance with those standards, applicable to new light-duty vehicles (LDV's) and light-duty trucks (LDT's) manufactured for model years 1981 through 1983.

DATES: Interested persons may submit comments on this advanced notice of proposed rulemaking. The Agency anticipates publishing the notice of proposed rulemaking (NPRM) that will formally set out the proposed standards and compliance procedures during June, 1979. The comment period will remain open until the date specified in the NPRM.

ADDRESS: Comments in response to this advanced notice of proposed rulemaking should be submitted to: Central Docket Section (A–130), Room 2903B, U.S. Environmental Protection Agency, Attn: Docket No. A–79–14, 401 M Street, SW, Washington, D.C. 20460.

FOR FURTHER INFORMATION CONTACT: Paul A. J. Wilson, Regulatory Management Staff, Office of Mobile Source Air Pollution Control (AW–455), Environmental Protection Agency, 401 M St., SW, Washington, D.C. 20460, 202–755–0596.

SUPPLEMENTARY INFORMATION: Uncompensated motor vehicles which demonstrate compliance with emission standards at low altitude produce approximately 50 percent more exhaust hydrocarbons (HC) and nearly 100 percent more carbon monoxide (CO) at elevations greater than 1219 meters (4,000 feet) above sea level. In addition, EPA has found that, in most high-altitude urban areas, light-duty vehicles account for more than half of the total HC emissions and almost 100 percent of the CO emissions. These emission levels combine with summer sunlight and stable winter atmospheric conditions to cause numerous violations of the ambient air quality standards for oxidant and CO in high-altitude metropolitan areas.

During model year 1977, EPA regulations required that new motor vehicles intended for sale at high-altitude demonstrate compliance with the applicable emission standards at high altitude. One result of this requirement was that some motor vehicle manufacturers chose not to certify or to produce for sale at high altitude all of their product lines. The limitation of the number of models that were available for sale in these areas generated adverse reaction among the affected public and automobile dealerships. With passage of the Clean Air Act Amendments of 1977, the Congress, in Section 213 of those amendments (Section 202(f) of the amended Clean Air Act), (42 U.S.C. 7521(f)) revoked the EPA regulations, prohibited the Agency from establishing any other high-altitude regulations until the 1981 model year, and required that, beginning with the 1984 model year, all new motor vehicles comply with the applicable emission standards regardless of the altitude at which they are sold.

For the interim period between model years 1981 and 1984, the Congress has given EPA authority to promulgate regulations affecting the distribution and sale of new motor vehicles at high altitude, including the establishment of high-altitude emission standards. Such standards, however, may not require a percentage reduction in vehicle emissions at high altitude that exceeds the comparable percent reduction provided by Section 202(b) of the Act for LDV's generally (for HC and CO these standards could represent a 90% reduction from the 1970 high-altitude base-level). In no event, however, may numerically more stringent standards be established for high-altitude areas than are applicable under non-high-altitude conditions.

Issues To Be Resolved

In addition to considering the appropriate high-altitude emission levels, the Agency has undertaken the studies required by Sections 202(f)(3) and 317 of the Act. These include:

An assessment of the economic impact of the proposed regulations (on consumers, on high-altitude vehicle dealerships, and on the automobile industry, including an assessment of the economic impact of the 1977 model year regulations subsequently vacated by the Congress);

An evaluation of the technology, both currently available and anticipated, that is capable of meeting the applicable emission requirements without reducing model availability; and

An assessment of the likelihood that adoption of the proposed high-altitude regulations will result in any significant air quality improvement in the area to which it applies.

The Agency must also decide on a means of implementing the proposed emission standards and of determining compliance with those standards. Three implementation options that the Agency has considered are:

(1) To permit unique high-altitude vehicle configurations to be tested and certified for sale at high altitude;

(2) To require that vehicles meet high-altitude standards at high altitude and low-altitude standards at low altitude; and

(3) To require vehicles to be capable of being modified to meet the high-altitude standards.

Option (1) is similar to the policy which the Agency had in effect for the 1977 model year. This option would pass along the cost of compliance only to the areas which are directly affected by the regulations. However, it is possible that a similar limitation in the number of models made available by the manufacturers for sale at high altitude to that seen in model year 1977 could result from the use of this option.

Option (2) would spread the compliance cost across all vehicles sold nationwide. However, EPA believes that this cost should be reasonable because most feedback-controlled 3-way catalyst systems, which the Agency expects to be used on the majority of LDV's in model year 1981, automatically compensate for changes in altitude. Other emission control systems, though, may require additional altitude compensating devices to be added.

Option (3), like Option (1), would restrict compliance costs to high-altitude areas. By requiring all vehicles to be capable of being modified to meet high-altitude standards, all the models in a manufacturer's product line should be available for sale at high-altitude, but the modifications would be required only on those vehicles which are actually sold at high-altitude. A disadvantage with this option is that cars bought at low altitude and operated at high altitude would have higher emissions. Correction of this situation would require vehicle owner incentives or some state action to assure that all newly-registered cars would have had approved high-altitude modifications performed.

The Agency also has a range of options for certifying vehicles in conformity with the high-altitude standards. These range from manufacturer self-certification to a high-altitude testing program that duplicates the low-altitude certification procedures.

Alternate options would be for the Agency to certify certain vehicles on the basis of a design review of their emission control systems, or by verification checking of a fraction of low altitude certification vehicles at high altitude. This certification program could be augmented by existing in-use compliance mechanisms such as Selective Enforcement Auditing tests at high altitude and recalls carried out under authority of section 207(c) of the Clean Air Act.

This advance notice of proposed rulemaking (ANPRM) is to inform the industry and the interested public that EPA is planning to develop regulations for model years 1981 through 1983 to establish high-altitude emission standards and to implement a program to certify vehicles intended for sale at high altitude in conformity with those standards. The Agency anticipates publishing the notice of proposed rulemaking (NPRM) that will formally set out the proposed standards and compliance procedures in the Federal Register during June, 1979.

Public Participation

In the NPRM, the Agency will formally solicit comments on the proposed rulemaking action and will announce the time and place for a public hearing at which additional information may be presented. In addition, however, any interested party may submit written comments to EPA in response to this ANPRM which address any aspect of the intended rulemaking actions.

Interested parties may also obtain single copies of the EPA document entitled "Development Plan for Promulgation of 1981–1983 Model Year High-Altitude Emission Standards," which sets forth the Agency's initial assessment of the issues involved in this rulemaking and contains the EPA's rationale for moving forward with this regulation. Copies may be obtained by writing the Office of Mobile Source Air Pollution Control at the above address.

In submitting comments, however, note that it is the Agency's intention to assure all interested parties an opportunity to study all information which may become the basis for EPA's final action in this rulemaking. Accordingly, the Agency will not consider in this rulemaking any material which cannot be made available to the public. Parties wishing to submit comments are cautioned that EPA will not consider, but will return to the commentor, any comments that are claimed, in whole or in part, to be confidential.

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Comments in response to this ANPRM should be submitted to: Central Docket Section (A–130), Room 2903B, U.S. Environmental Protection Agency, Attn: Docket No. A–79–14, 401 M Street, SW., Washington, D.C. 20460.

Comments and the Public Docket

Copies of materials relevant to this rulemaking action are contained in Public Docket No. A–79–14 at the U.S. Environmental Protection Agency, Central Docket Section, Waterside Mall Room 2903B (EPA Library), 401 M Street SW., Washington, D.C. 20460. This docket may be inspected between 8 a.m. and 4 p.m. on weekdays, and a reasonable fee may be charged for copying.

Statutory Authority: Sections 202, 206, and 301 of the Clean Air Act, as amended (42 U.S.C. 7521, 7525, 7601).

Dated: April 26, 1979.

Douglas M. Costle,
Administrator.

[Docket No. A–79–14; FRL–1032–1]
[FR Doc. 79–14661 Filed 5–10–79; 8:45 am]
BILLING CODE 6560–01–M

[40 CFR Part 762]

Fully Halogenated Chlorofluoroalkanes Toxic Substances Control Act

AGENCY: Environmental Protection Agency.

ACTION: Proposed rules.

SUMMARY: This action proposes an amendment to EPA's chlorofluorocarbon rule in order to provide relief to certain manufacturers of pyrethrin pesticides that use a chlorofluorocarbon aerosol propellant.

DATES: All comments and requests for a public hearing must be received by the Record and Hearing Clerk by June 11, 1979. EPA will hold an informal hearing only if requested. The proposed effective date is the date of publication of the final rules.

ADDRESSES: The official record of rulemaking is located in room 709, WSME, EPA Headquarters, 401 M Street, S.W., Washington, D.C. 20460. The record is available for viewing and copying from 9 a.m. to 4 p.m., Monday through Friday, excluding holidays. Send comments and requests for a public hearing to Joni T. Repasch, Record and Hearing Clerk, at the above address. Her telephone number is 202–755–6956.

FOR FURTHER INFORMATION CONTACT: James D. Silverman, Office of Toxic Substances (TS–794), Environmental Protection Agency, 401 M Street, S.W., Washington, D.C. 20460, 202–755–0920.

SUPPLEMENTARY INFORMATION: On March 17, 1978, EPA promulgated a rule prohibiting processing of fully halogenated chlorofluoroalkanes (chlorofluorocarbons) for nonessential aerosol propellant uses (40 CFR 762; 43 FR 11318, March 17, 1978). The processing prohibition became effective on December 15, 1978.

Several companies that produce pesticides have requested an exemption from the processing prohibition on the grounds that circumstances beyond their control make compliance with the December 15, 1978 date a severe economic hardship. During 1977 and early 1978 these companies ordered thousands of aerosol cans which they expected to fill with the pyrethrin/chlorofluorocarbon formulation by December 15, 1978.

Note.—Filling the aerosol cans with a pyrethrin/chlorofluorocarbon formulation is equivalent to processing of chlorofluorocarbons within the meaning of 40 CFR 762. All of the companies planned to convert to a different propellent or delivery system by December 15, 1978.

Because of a severe drought in Africa, imports of pyrethrin dropped drastically, and the companies were unable to fill all of their aerosol cans by December 15, 1978. It would be prohibitively expensive to modify these cans to use another propellent or to relabel them to use a different product. Therefore, these companies have asked EPA for permission to fill these cans with a pyrethrin/chlorofluorocarbon formulation, so as to be able to use their remaining inventory of cans which were ordered months, and sometimes more than a year, before the effective date of the processing prohibition.

In evaluating this special request, EPA considered both the economic impact on the affected businesses and the impact on the environment that would result if the request were granted. The Agency has determined that the environmental harm from granting a special exemption would be tolerable. Therefore, EPA proposes to grant a special exemption that will enable the affected pesticide companies to avoid the heavy financial loss that would occur if they could not use their existing inventories.

This exemption differs from essential use exemptions. An essential use exemption is open-ended; a processor may continue to fill aerosol cans for the exempted use until EPA amends the rule. This exemption has a built-in limitation. Only a specifically designated group of aerosol cans may be filled under this exemption. Once those aerosol cans are filled, the exemption no longer has any significance.

EPA is aware that the following pyrethrin pesticide manufacturers were unable to fill all of their aerosol cans by December 15, 1978, because of the pyrethrin shortage: Cessco, Inc., Claire Manufacturing Co., the d-Con Company, Inc., Federal Chemical Co., Inc., and the 707 Company. These companies and others similarly situated may fill their cans if they inform EPA of the number of cans, when the cans were ordered from a supplier, any serial numbers used to identify the cans, and the amount of chlorofluorocarbons necessary to fill the cans.

Based on the correspondence submitted by pesticide companies seeking an exemption and on conversations with a pyrethrin importer, EPA has determined that pesticide companies should have been aware of the pyrethrin shortage by June 30, 1978. Therefore, the proposed exemption does not permit filling of aerosol cans ordered after that date.

EPA proposes to make this exemption effective upon Final Promulgation pursuant to 5 U.S.C. § 553(d)(1).

Under Executive Order 12044 EPA is required to judge whether a regulation is "significant" and therefore subject to the procedural requirements of the Order or whether it may follow other specialized development procedures. EPA labels these other regulations "specialized". I have reviewed this regulation and determined that it is a specialized regulation not subject to the procedural requirements of Executive Order 12044.

Dated: May 7, 1979.

Douglas M. Costle,
Administrator.

EPA proposes to amend 40 CFR Part 762 as follows:

By adding § 762.23 to read as follows:

§ 762.23 Exemption for producers of pyrethrin pesticide formulations.

(a) Producers of pyrethrin pesticide formulations are exempt from § 762.12 for the purpose of processing fully halogenated chlorofluoroalkane aerosol propellants into pyrethrin aerosol propellant articles (containers) if the containers were ordered before June 30, 1978. This exemption is conditional upon notifying EPA before the chlorofluoroalkanes are processed of:

(1) The number of aerosol propellant articles (containers) to be filled,

(2) The date the aerosol containers were ordered from a supplier,

(3) Any serial numbers that can be used to identify these containers, and

(4) The quantity of fully halogenated chlorofluoroalkanes needed to fill the containers.

(b) The information specified in paragraph (a) must be sent to the Pesticides and Toxic Substances Enforcement Division (EN–342), Office of Enforcement, U.S. Environmental Protection Agency, 401 M Street, S.W., Washington, D.C. 20460.

(c) Notwithstanding sections 762.11 and 762.13 any person may manufacture or distribute in commerce fully halogenated chlorofluorocarbon aerosol propellants for processing into pyrethrin pesticide articles as authorized by paragraph (a).

(Toxic Substances Control Act, Section 6, Pub. L. 94–469, 90 Stat. 2020 (15 U.S.C. 2605).)

[FRL 1212–3, OTS–066003]
[FR Doc. 79–14807 Filed 5–10–79; 8:45 am]
BILLING CODE 6560–01–M

DEPARTMENT OF HEALTH, EDUCATION, AND WELFARE

Education Division

[45 CFR Parts 100, 100a, 100b, 100c and 100d]

Direct Grant Programs, State-Administered Programs, And General; General Administrative Regulations

Correction

In FR Doc. 79–13552 appearing on page 26297 in the issue for Friday, May 4, 1979, the subagency was inaccurately identified in the headings on both pages 26297 and 26298. The correct subagency is reflected in the heading above.

Other corrections to be made to FR Doc. 79–13552 are as follows:

(1) On page 26298, in the first column, under the heading, "ADDRESSES", the name given should be corrected to read, "Dr. Marcel DuVall".

(2) On page 26298, in the first column, under the heading, "FOR FURTHER INFORMATION CONTACT", the name given should be corrected to read, "Dr. Marcel DuVall".

(3) On page 26332, in the first column, the section heading, "§ 100b The Governor has 45 days to comment on the State plan." Should be corrected to read, "§ 100b.105 The Governor has 45 days to comment on the State plan."

(4) On page 26334, between §§ 100b.562 and 100b.581, insert § 100b.580 which appears out of numerical order on page 26335.

BILLING CODE 1505–01–M

Notices

Federal Register
Vol. 44, No. 93
Friday, May 11, 1979

This section of the FEDERAL REGISTER contains documents other than rules or proposed rules that are applicable to the public. Notices of hearings and investigations, committee meetings, agency decisions and rulings, delegations of authority, filing of petitions and applications and agency statements of organization and functions are examples of documents appearing in this section.

DEPARTMENT OF AGRICULTURE

Office of the Secretary

Advisory Committee on Foreign Animal and Poultry Diseases; Intent To Reestablish

Notice is hereby given that the Secretary of Agriculture proposes to reestablish the Advisory Committee on Foreign Animal and Poultry Diseases for a 2-year period. The Secretary has determined that the Committee is in the public interest in connection with duties imposed on the Department by law.

The purpose of the Committee will be to advise the Secretary regarding program operations and measures to prevent, suppress, control, or eradicate an outbreak of foot-and-mouth disease or other destructive foreign animal or poultry diseases in the event such diseases should enter the United States. The Committee will have a balanced membership composed of women, minorities, scientists, farmers, trade association representatives and university and government personnel.

The Chairman of the Committee will be the Assistant Secretary for Marketing and Transportation Services, United States Department of Agriculture, Washington, D.C. 20250. Plans are for the Committee to meet at least annually.

This notice is given in compliance with the Federal Advisory Committee Act (Pub. L. 92–463). Views and comments of interested persons may be submitted to the Administrator, Animal and Plant Health Inspection Service, Room 316–E, United States Department of Agriculture, Washington, D.C. 20250 until May 29, 1979. Such comments will be available for public inspection during regular business hours (7 CFR 1.27(b)).

Done at Washington, D.C., this 8th day of May, 1979.

Joan S. Wallace,
Assistant Secretary for Administration.
[FR Doc. 79-14738 Filed 5-10-79; 8:45 am]
BILLING CODE 3410-35-M

Grain Standards Act Advisory Committee; Intent To Establish

Notice is hereby given that the Secretary of Agriculture proposes to establish a Grain Standards Act Advisory Committee.

The purpose of this Advisory Committee will be to provide advice and factual information to the Administrator, Federal Grain Inspection Service, with respect to implementation of the U.S. Grain Standards Act of 1976. Almost every segment of the grain industry has indicated that the improvements made in the program by the Act—if not implemented with due care for the needs of farmers, grain consumers, and the grain industry—would hinder the orderly and timely marketing of grain. In this regard, the Secretary has determined that establishment of the Committee is necessary and in the public interest in connection with the duties imposed on the Department of Agriculture by law.

Any comments on the establishment of this Advisory Committee may be directed to Dr. Leland E. Bartelt, Administrator, FGIS, U.S. Department of Agriculture, Washington, D.C. 20250, not later than May 29, 1979. All written submissions made pursuant to this notice shall be made available for public inspection at the Office of the Administrator, FGIS, during regular business hours.

Dated: May 7, 1979.

Joan S. Wallace,
Assistant Secretary for Administration.
[FR Doc. 79-14737 Filed 5-10-79; 8:45 am]
BILLING CODE 3410-01-M

CIVIL AERONAUTICS BOARD

Applications for Certificates of Public Convenience and Necessity and Foreign Air Carrier Permits Filed Under Subpart Q of the Board's Procedural Regulations

May 7, 1979.

Notice is hereby given that, during the week ended May 4, 1979, the CAB has received the applications listed below, which request the issuance, amendment, or renewal of certificates of public convenience and necessity or foreign air carrier permits under Subpart Q of 14 CFR 302.

Answers to foreign permit applications are due 28 days after the application is filed. Answers to certificate applications requesting restriction removal are due within 14 days of the filing of the application. Answers to conforming applications in a restriction removal proceeding are due 28 days after the filing of the original application. Answers to certificate applications (other than restriction removals) are due 28 days after the filing of the application. Answers to conforming applications or those filed in conjunction with a motion to modify scope are due within 42 days after the original application was filed. If you are in doubt as to the type of application which has been filed, contact the applicant, the Bureau of Pricing and Domestic Aviation (in interstate and overseas cases) or the Bureau of International Aviation (in foreign air transportation cases).

Date filed	Docket No.	Description
April 30, 1979	35440	Hughes Air Corp., d/b/a Hughes Airwest, San Francisco International Airport, San Francisco, California 94128. Application of Hughes Air Corp., d/b/a Hughes Airwest requests the Board pursuant to Section 401 of the Act, Parts 201 and 302 of the Board's Economic Regulations, for an amendment of its certificate of public convenience and necessity for Route 76: (a) so as to authorize nonstop air transportation of persons, property and mail between Orange County-Santa Ana-Anaheim, California, and San Francisco, California, by deleting the one-stop restriction between said pair of points presently contained in condition (4) of its certificate, and; (b) to delete three-stop restriction in the Orange County-Seattle market imposed by condition (6) and substitute in lieu thereof a two-stop restriction between Orange County and Seattle in condition (5). Answers and Conforming Applications are due on May 14, 1979.
May 1, 1979	35455	Braniff Airways, Inc., P.O. Box 35001, Dallas, Texas 75235. Application of Braniff Airways, Inc. requests the Board pursuant to Section 401(e)(7)(B) of the Act for restriction removal under Subpart Q procedures, Condition (7) of Route 153: Flights serving Rio De Janeiro or Sao Paulo, Brazil, shall also serve an intermediate point south of Panama. Answers and Conforming Applications are due on May 15, 1979.
May 3, 1979	35460	Allegheny Airlines, Inc., Washington National Airport, Hanger No. 11, Washington, D.C. 20001. Application of Allegheny Airlines, Inc. requests the Board pursuant to Section 401 of the Act and Part 201 of the Board's Economic Regulations for amendment of its certificate of public convenience and necessity for Route 97 so as to authorize it to engage in scheduled nonstop air transportation of persons, property, and mail between the terminal point St. Louis, Missouri, and the terminal points Atlanta, Georgia, Memphis, Tennessee, New Orleans, Louisiana and Philadelphia, Pennsylvania. Answers and Conforming Applications are due on May 31, 1979.
May 3, 1979	35461	Allegheny Airlines, Inc., Washington National Airport, Hanger No. 11, Washington, D.C. 20001. Application of Allegheny Airlines, Inc. requests the Board pursuant to Section 401 of the Act and Part 201 of the Board's Economic Regulations for an amendment of its certificate of public convenience and necessity for Route 97 so as to authorize it to engage in scheduled nonstop air transportation of persons, property, and mail between the terminal point Las Vegas, Nevada, and the terminal point Los Angeles, California. Answers and Conforming Applications are due on May 31, 1979.
May 4, 1979	35472	Western Air Lines, Inc. 6060 Avion Drive, Los Angeles, California 90045. Application of Western Air Lines, Inc. requests the Board pursuant to Section 401 of the Act for amendment of its certificate of public convenience and necessity for Route 19 so as to authorize it to engage in nonstop air transportation between Dallas/Fort Worth, on the one hand, and Hilo or Honolulu, Hawaii, on the other hand, by including Dallas/Fort Worth as a mainland coterminal point on Segment 4. Answers and Conforming Applications are due on June 1, 1979.

Phyllis T. Kaylor,
Secretary.
[FR Doc. 79-14815 Filed 5-10-79; 8:45 am]
BILLING CODE 6320-01-M

Texas International Airlines, Inc., and Trans World Airlines, Inc.

AGENCY: Civil Aeronautics Board.

ACTION: Notice of Order 79–5–30, Albuquerque Show-Cause Proceeding.

SUMMARY: The Board is proposing to award to Texas International Airlines, Inc., and Trans World Airlines, Inc., non-stop authority in the Albuquerque, New Mexico-San Diego, California market, as well as new and improved authority to American Airlines Inc., between Albuquerque and 48 other points on its certificate, and to any other fit, willing and able applicant whose fitness can be established by officially noticeable data. The complete text of this order is available as noted below.

DATES: Objections: All interested persons having objections to the Board issuing the proposed authority shall file, and serve upon all persons listed below, no later than June 7, 1979, a statement of objections together with a summary of testimony, statistical data, and other material expected to be relied upon to support the stated objections.

Additional Data: All existing and would-be applicants who have not filed (a) illustrative service proposals, (b) environmental evaluations and (c) an estimate of fuel to be consumed in the first year are directed to do so no later than May 23, 1979.

ADDRESSES: Objections or Additional Data should be filed in Docket 35466, Docket Section, Civil Aeronautics Board, Washington, D.C. 20428.

FOR FURTHER INFORMATION CONTACT: Jacob Goldberg, Bureau of Pricing and Domestic Aviation, Civil Aeronautics Board, 1825 Connecticut Avenue, N.W., Washington, D.C. 20428 (202) 673–6067.

SUPPLEMENTARY INFORMATION: Objections should be served upon the following persons: American Airlines, Texas Interantional Airlines, Trans World Airlines, the City of Albuquerque, the City of San Diego, Continental Air Lines, Frontier Airlines and Senator Pete V. Domenici.

The complete text of order 79–5–30, is available from our Distribution Section, Room 516, 1825 Connecticut Avenue, N.W., Washington, D.C. Persons outside the metropolitan area may send a postcard request for Order 79–5–30, to the Distribution Section, Civil Aeronautics Board, Washington, D.C. 20428

By the Civil Aeronautics Board, May 3, 1979.

Phyllis T. Kaylor,
Secretary.
[FR Doc. 79-14729 Filed 5-10-79; 8:45 am]
BILLING CODE 6320-01-M

COMMISSION ON CIVIL RIGHTS

Ohio Advisory Committee; Agenda and Notice of Open Meeting

Notice is hereby given, pursuant to the provisions of the Rules and Regulations of the U.S. Commission on Civil Rights, that a factfinding meeting of the Ohio Advisory Committee (SAC) of the Commission will convene at 9:00 a.m. and will end at 5:00 p.m. (each day), on June 28–29, 1979, at U.S. Environmental Protection Agency, 26 West St. Clari, Cincinnati, Ohio 45268.

Persons wishing to attend this open meeting should contact the Committee Chairperson, or the Midwestern Regional Office, 230 South Dearborn, 32nd Floor, Chicago, Illinois 60604.

The purpose of this meeting is administration of justice—Cincinnati Police Department.

This meeting will be conducted pursuant to the provisions of the Rules and Regulations of the Commission.

Dated at Washington, D.C., May 8, 1979.

John I. Binkley,
Advisory Committee Management Officer.
[FR Doc. 79-14804 Filed 5-10-79; 8:45 am]
BILLING CODE 6335-01-M

Houston Hearing

Notice is hereby given pursuant to the provisions of the Civil Rights Act of 1957, 71 Stat. 634, as amended, that a public hearing of the U.S. Commission on Civil Rights will commence on June 12, 1979, in Krost Hall, Bates College of Law, University of Houston, 4800 Calhoun Street, Houston, Texas. An executive session, if appropriate, may be convened at any time before or during the hearing.

The purpose of the hearing is to collect information concerning legal developments constituting discrimination or a denial of equal protection of the laws under the Constitution because of race, color, religion, sex, age, handicap, or national origin, or in the administration of justice, particularly concerning police practices; to appraise the laws and policies of the Federal Government with respect to discrimination or denials of equal protection of the laws under the Constitution because of race, color, religion, sex, age, handicap, or national origin, or in the administration of justice,

particularly concerning police practices; and to disseminate information with respect to discrimination or denials of equal protection of the laws under the Constitution because of race, color, religion, sex, age, handicap, or national origin, or in the administration of justice, particularly concerning police practices.

Dated at Washington, D.C., May 7, 1979.

Arthur S. Flemming,
Chairman.

[FR Doc. 79-14887 Filed 5-10-79; 8:45 am]

BILLING CODE 6335-01-M

DEPARTMENT OF DEFENSE

Department of the Army

Armed Forces Institute of Pathology Scientific Advisory Board; Open Meeting

In order to comply with Section 10(a)(2) of the Federal Advisory Committee Act (Pub. L. 92-463), notice is hereby given of the meeting of the Armed Forces Institute of Pathology's Scientific Advisory Board, June 7-8, 1979, 0830 hours in the Director's Conference Room, Armed Forces Institute of Pathology, Washington, D.C. 20306. This meeting will be open to the public.

The proposed agenda will include professional discussion of the mission of the Armed Forces Institute of Pathology relating to consultation, education, and research. The Executive Secretary from whom substantive program information may be obtained is LTC Robert A. Bates, Executive Officer, Armed Forces Institute of Pathology, Washington, D.C. 20306, telephone 576-2900.

For the director.

Robert E. Liebmann,
CPT, MSC, USA, Adjutant.

[FR Doc. 79-14713 Filed 5-10-79; 8:45 am]

BILLING CODE 3710-08-M

DEPARTMENT OF ENERGY

Economic Regulatory Administration

Proposed Remedial Order to Standard Oil Co. of California and Chevron U.S.A., Inc.

AGENCY: Department of Energy.

ACTION: Notice of Proposed Remedial Order to Standard Oil Company of California and Chevron U.S.A. Inc. and of Opportunity for Objection.

Pursuant to 10 CFR 205.192(c), the Office of Special Counsel for Compliance (Special Counsel) of the Economic Regulatory Administration (ERA), Department of Energy, hereby gives Notice that a Proposed Remedial Order was issued to Standard Oil Company of California and Chevron U.S.A. Inc. (Chevron) on May 1, 1979. The Proposed Remedial Order sets forth findings of fact and conclusions of law concerning Chevron's pricing of crude oil, produced and sold in the United States, in excess of maximum lawful prices, in violation of the Phase IV Petroleum Price Regulations formerly at 6 CFR Part 150 and the Mandatory Petroleum Price Regulations set forth at 10 CFR Parts 210, 211, and 212. The amount of overcharges, continuing overcharges, and projected overcharges by Chevron during the period September 1973 through March 1979 totals not less than $101,618,243.07, including interest thereon.

In accordance with 10 CFR 205.192(c), any person may obtain a copy of the Proposed Remedial Order, with confidential information, if any, deleted, from the ERA.

On or before May 29, 1979, any aggrieved person may file a Notice of Objection in accordance with 10 CFR 205.193. Such Notice should be filed with:

Office of Hearings and Appeals, Department of Energy, Room 8014, 2000 M Street, NW., Washington, D.C. 20461.

Copies of the Proposed Remedial Order may be obtained by written request addressed to:

Milton Jordan, Director, Division of Freedom of Information and Privacy Act Activities, Forrestal Building, Room GB-145, 1000 Independence Avenue, SW., Washington, D.C. 20585. Attention: George W. Young, Jr.

Copies of the Proposed Remedial Order may be obtained in person from:

Office of Freedom of Information, Reading Room, Forrestal Building, Room GA-152, 1000 Independence Avenue, SW., Washington, D.C. 20585.

Issued in Washington, D.C., May 7, 1979.

Paul L. Bloom,
Special Counsel for Compliance.

[FR Doc. 79-14899 Filed 5-10-79; 8:45 am]

BILLING CODE 6450-01-M

Proposed Remedial Order to the Marathon Oil Co., Inc.

AGENCY: Department of Energy.

ACTION: Notice of Proposed Remedial Order to the Marathon Oil Company, Inc. and of Opportunity for Objection.

Pursuant to 10 CFR 205.192(c), the Office of Special Counsel for Compliance (Special Counsel) of the Economic Regulatory Administration (ERA), Department of Energy, hereby gives Notice that a Proposed Remedial Order was issued to the Marathon Oil Company, Inc. (Marathon) on May 1, 1979. The Proposed Remedial Order sets forth findings of fact and conclusions of law concerning Marathon's pricing of crude oil, produced and sold in the United States, in excess of maximum lawful prices, in violation of the Phase IV Petroleum Price Regulations formerly at 6 CFR Part 150 and the Mandatory Petroleum Price Regulations set forth at 10 CFR Parts 210, 211, and 212. The amount of overcharges, continuing overcharges, and projected overcharges by Marathon during the period September 1973 through March 1979 totals not less than $29,063,515.63, including interest thereon.

In accordance with 10 CFR 205.192(c), any person may obtain a copy of the Proposed Remedial Order, with confidential information, if any, deleted, from the ERA.

On or before May 29, 1979, any aggrieved person may file a Notice of Objection in accordance with 10 CFR 205.193. Such Notice should be filed with:

Office of Hearings and Appeals, Department of Energy, Room 8014, 2000 M Street, NW., Washington, D.C. 20461.

Copies of the Proposed Remedial Order may be obtained by written request addressed to:

Milton Jordan, Director, Division of Freedom of Information and Privacy Act Activities, Forrestal Building, Room GB-145, 1000 Independence Avenue, SW., Washington, D.C. 20585. Attention: George W. Young, Jr.

Copies of the Proposed Remedial Order may be obtained in person from:

Office of Freedom of Information, Reading Room, Forrestal Building, Room GA-152, 1000 Independence Avenue, SW., Washington, D.C. 20585.

Issued in Washington, D.C., May 7, 1979.

Paul L. Bloom,
Special Counsel for Compliance.

[FR Doc. 79-14900 Filed 5-10-79; 8:45 am]

BILLING CODE 6450-01-M

Proposed Remedial Order to the Standard Oil Co. of Indiana and the Amoco Production Co.

AGENCY: Department of Energy.

ACTION: Notice of Proposed Remedial Order to the Standard Oil Company of Indiana and the Amoco Production Company and of Opportunity for Objection.

Pursuant to 10 CFR 205.192(c), the Office of Special Counsel for Compliance (Special Counsel) of the Economic Regulatory Administration (ERA), Department of Energy, hereby gives Notice that a Proposed Remedial Order was issued to the Standard Oil Company of Indiana and the Amoco Production Company (Amoco) on May 1, 1979. The Proposed Remedial Order sets forth findings of fact and conclusions of law concerning Amoco's pricing of crude oil, produced and sold in the United States, in excess of maximum lawful prices, in violation of the Phase IV Petroleum Price Regulations formerly at 6 CFR Part 150 and the Mandatory Petroleum Price Regulations set forth at 10 CFR Parts 210, 211, and 212. The amount of overcharges, continuing overcharges, and projected overcharges by Amoco during the period September 1973 through March 1979 totals not less than $24,139,927.38, including interest thereon.

In accordance with 10 CFR 205.192(c), any person may obtain a copy of the Proposed Remedial Order, with confidential information, if any, deleted, from the ERA.

On or before May 29, 1979, any aggrieved person may file a Notice of Objection in accordance with 10 CFR 205.193. Such Notice should be filed with:

Office of Hearings and Appeals, Department of Energy, Room 8014, 2000 M Street, NW., Washington, D.C. 20461.

Copies of the Proposed Remedial Order may be obtained by written request addressed to:

Milton Jordan, Director, Division of Freedom of Information and Privacy Act Activities, Forrestal Building, Room GB-145, 1000 Independence Avenue, SW., Washington, D.C. 20585. Attention: George W. Young, Jr.

Copies of the Proposed Remedial Order may be obtained in person from:

Office of Freedom of Information, Reading Room, Forrestal Building, Room GA-152, 1000 Independence Avenue, SW., Washington, D.C. 20585.

Issued in Washington, D.C., May 7, 1979.

Paul L. Bloom,
Special Counsel for Compliance.

[FR Doc. 79-14901 Filed 5-10-79; 8:45 am]

BILLING CODE 6450-01-M

Proposed Remedial Order to the Standard Oil Co. of Ohio

AGENCY: Department of Energy.

ACTION: Notice of Proposed Remedial Order to the Standard Oil Company of Ohio and of Opportunity for Objection.

Pursuant to 10 CFR 205.192(c), the Office of Special Counsel for Compliance (Special Counsel) of the Economic Regulatory Administration (ERA), Department of Energy, hereby gives Notice that a Proposed Remedial Order was issued to the Standard Oil Company of Ohio (Sohio) on May 1, 1979. The Proposed Remedial Order sets forth findings of fact and conclusions of law concerning Sohio's pricing of crude oil, produced and sold in the United States, in excess of maximum lawful prices, in violation of the Phase IV Petroleum Price Regulations formerly at 6 CFR Part 150 and the Mandatory Petroleum Price Regulations set forth at 10 CFR Parts 210, 211, and 212. The amount of overcharges, continuing overcharges, and projected overcharges by Sohio during the period September 1973 through March 1979 totals not less than $16,969,407.47, including interest thereon.

In accordance with 10 CFR 205.192(c), any person may obtain a copy of the Proposed Remedial Order, with confidential information, if any, deleted, from the ERA.

On or before May 29, 1979, any aggrieved person may file a Notice of Objection in accordance with 10 CFR 205.193. Such notice should be filed with:

Office of Hearings and Appeals, Department of Energy, Room 8014, 2000 M Street, NW., Washington, D.C. 20461.

Copies of the Proposed Remedial Order may be obtained by written request addressed to:

Milton Jordan, Director, Division of Freedom of Information and Privacy Act Activities, Forrestal Building, Room GB-145, 1000 Independence Avenue, SW., Washington, D.C. 20585. Attention: George W. Young, Jr.

Copies of the Proposed Remedial Order may be obtained in person from:

Office of Freedom of Information, Reading Room, Forrestal Building, Room GA-152, 1000 Independence Avenue, SW., Washington, D.C. 20585.

Issued in Washington, D.C., May 7, 1979.

Paul L. Bloom,
Special Counsel for Compliance.

[FR Doc. 79-14902 Filed 5-10-79; 8:45 am]

BILLING CODE 6450-01-M

Proposed Remedial Order to Texaco, Inc.

AGENCY: Department of Energy.

ACTION: Notice of Proposed Remedial Order to Texaco Inc. and of Opportunity for Objection.

Pursuant to 10 CFR 205.192(c), the Office of Special Counsel for Compliance (Special Counsel) of the Economic Regulatory Administration (ERA), Department of Energy, hereby gives Notice that a Proposed Remedial Order was issued to Texaco Inc. (Texaco) on May 1, 1979. The Proposed Remedial Order sets forth findings of fact and conclusions of law concerning Texaco's pricing of crude oil, produced and sold in the United States, in excess of maximum lawful prices, in violation of the Phase IV Petroleum Price Regulations formerly at 6 CFR Part 150 and the Mandatory Petroleum Price Regulations set forth at 10 CFR Parts 210, 211, and 212. The amount of overcharges, continuing overcharges, and projected overcharges by Texaco during the period September 1973 through March 1979 totals not less than $888,328,899, including interest thereon.

In accordance with 10 CFR § 205.192(c), any person may obtain a copy of the Proposed Remedial Order, with confidential information, if any, deleted, from the ERA.

On or before May 29, 1979, any aggrieved person may file a Notice of Objection in accordance with 10 CFR 205.193. Such Notice should be filed with:

Office of Hearings and Appeals, Department of Energy, Room 8014, 2000 M Street, NW., Washington, D.C. 20461.

Copies of the Proposed Remedial Order may be obtained by written request addressed to:

Milton Jordan, Director, Division of Freedom of Information and Privacy Act Activities, Forrestal Building, Room GB-145, 1000 Independence Avenue, SW., Washington, D.C. 20585. Attention: George W. Young, Jr.

Copies of the Proposed Remedial Order may be obtained in person from:

Office of Freedom of Information, Reading Room, Forrestal Building, Room GA-152, 1000 Independence Avenue, SW., Washington, D.C. 20585.

Issued in Washington, D.C., May 7, 1979.

Paul L. Bloom,
Special Counsel for Compliance.

[FR Doc. 79-14903 Filed 5-10-79; 8:45 am]

BILLING CODE 6450-01-M

Proposed Remedial Order to Atlantic Richfield Co.

AGENCY: Department of Energy.

ACTION: Notice of Proposed Remedial Order to Atlantic Richfield Company and of Opportunity for Objection.

Pursuant to 10 CFR 205.192(c), the Office of Special Counsel for Compliance (Special Counsel) of the Economic Regulatory Administration (ERA), Department of Energy, hereby gives Notice that a Proposed Remedial Order was issued to the Atlantic Richfield Company (ARCO) on May 1, 1979. The Proposed Remedial Order sets forth findings of fact and conclusions of law concerning ARCO pricing of crude

oil, produced and sold in the United States, in excess of maximum lawful prices, in violation of the Phase IV Petroleum Price Regulations formerly at 6 CFR Part 150 and the Mandatory Petroleum Price Regulations set forth at 10 CFR Parts 210, 211, and 212. The amount of overcharges, continuing overcharges, and projected overcharges by ARCO during the period September 1973 through March 1979 totals not less than $42,023,718.03, including interest thereon.

In accordance with 10 CFR 205.192(c), any person may obtain a copy of the Proposed Remedial Order, with confidential information, if any, deleted, from the ERA.

On or before May 29, 1979, any aggrieved person may file a Notice of Objection in accordance with 10 CFR 205.193. Such notice should be filed with:

Office of Hearings and Appeals, Department of Energy, Room 8014, 2000 M Street, NW., Washington, D.C. 20461.

Copies of the Proposed Remedial Order may be obtained by written request addressed to:

Milton Jordan, Director, Division of Freedom of Information and Privacy Act Activities, Forrestal Building, Room GB-145, 1000 Independence Avenue, SW., Washington, D.C. 20585. Attention: George W. Young, Jr.

Copies of the Proposed Remedial Order may be obtained in person from:

Office of Freedom of Information, Reading Room, Forrestal Building, Room GA-152, 1000 Independence Avenue, SW., Washington, D.C. 20585.

Issued in Washington, D.C., May 7, 1979.

Paul L. Bloom,
Special Counsel for Compliance.

[FR Doc. 79-14904 Filed 5-10-79; 8:45 am]

BILLING CODE 6450-01-M

Proposed Remedial Order to Gulf Oil Corp. and Gulf Exploration & Production Co.

AGENCY: Department of Energy.

ACTION: Notice of Proposed Remedial Order to Gulf Oil Corporation and Gulf Exploration and Production Company and of Opportunity for Objection.

Pursuant to 10 CFR 205.192(c), the Office of Special Counsel for Compliance (Special Counsel) of the Economic Regulatory Administration (ERA), Department of Energy, hereby gives Notice that a Proposed Remedial Order was issued to Gulf Oil Corporation and Gulf Production and Exploration Company (Gulf) on May 1, 1979. The Proposed Remedial Order sets forth findings of fact and conclusions of law concerning Gulf's pricing of crude oil, produced and sold in the United States, in excess of maximum lawful prices, in violation of the Phase IV Petroleum Price Regulations formerly at 6 CFR Part 150 and the Mandatory Petroleum Price Regulations set forth at 10 CFR Parts 210, 211, and 212. The amount of overcharges, continuing overcharges, and projected overcharges by Gulf during the period September 1973 through March 1979 totals not less than $577,959,476.83, including interest thereon.

In accordance with 10 CFR 205.192(c), any person may obtain a copy of the Proposed Remedial Order, with confidential information, if any, deleted, from the ERA.

On or before May 29, 1979, any aggrieved person may file a Notice of Objection in accordance with 10 CFR 205.193. Such Notice should be filed with:

Office of Hearings and Appeals, Department of Energy, Room 8014, 2000 M Street, NW., Washington, D.C. 20461.

Copies of the Proposed Remedial Order may be obtained by written request addressed to:

Milton Jordan, Director, Division of Freedom of Information and Privacy Act Activities, Forrestal Building, Room GB-145, 1000 Independence Avenue, SW., Washington, D.C. 20585, Attention: George W. Young, Jr.

Copies of the Proposed Remedial Order may be obtained in person from:

Office of Freedom of Information, Reading Room, Forrestal Building, Room GA-152, 1000 Independence Avenue, SW., Washington, D.C. 20585.

Issued in Washington, D.C., May 7, 1979.

Paul L. Bloom,
Special Counsel for Compliance.

[FR Doc. 79-14906 Filed 5-10-79; 8:45 am]

BILLING CODE 6450-01-M

Federal Energy Regulatory Commission

Alexandria, Minnesota et al. and Otter Tail Power Co.; Complaint

May 4, 1979.

Take notice that on April 17, 1979 the Cities of Alexandria, Barnsville, Benson, Detroit Lakes, Henning, and Warren, Minnesota (Cities), municipal corporations organized and existing under the laws of the State of Minnesota, filed a complaint against Otter Tail Power Company (Otter Tail) located in Fergus Falls, Minnesota, pursuant to Section 306 of the Federal Power Act.

The Cities request that the Commission institute a proceeding in the United States District Court for the District of Columbia, pursuant to Section 314(a) of the Federal Power Act to enjoin Otter Tail from further attempts to bill Cities for alleged transmission service related to the terminated Special Municipal Electric Service Agreement entered into by Cities and Otter Tail. such attempts to bill alleged to be in violation of the Commission's Orders issued December 28, 1976, and June 2, 1977, as affirmed by the United States Court of Appeals for the Eighth Circuit and in violation of Section 205(c) of the Federal Power Act.

The Cities further request that the Commission take all necessary steps to institute proceedings against certain officers and employees of Otter Tail leading to the punishment by fine of not more than $5,000 or by imprisonment for not more than 2 years, or both, of such officers and employees pursuant to Section 316(a) of the Federal Power Act.

Any person desiring to be heard or to protest said filing should file a petition to intervene or protest with the Federal Energy Regulatory Commission, 825 North Capitol Street, N.E., Washington, D.C. 20426, in accordance with §§ 1.8 and 1.10 of the Commission's Rules of Practice and Procedure (18 CFR 1.8 and 1.10). All such petitions or protests should be filed on or before May 31, 1979. Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceeding. Any person wishing to become a party must file a petition to intervene. Copies of this filing are on file with the Commission and are available for public inspection.

Kenneth F. Plumb,
Secretary.

[Docket No. EL 79-16]

[FR Doc. 79-14659 Filed 5-10-79; 8:45 am]

BILLING CODE 6450-01-M

A & R Co., et al.; Determination by a Jurisdictional Agency Under the Natural Gas Policy Act of 1978

May 3, 1979.

On April 18, 1979, the Federal Energy Regulatory Commission received notices from the jurisdictional agencies listed below of determinations pursuant to 18 CFR 274.104 and applicable to the indicated wells pursuant to the Natural Gas Policy Act of 1978.

State of Ohio Department of Natural Resources Division of Oil and Gas

FERC Control Number: JD79-5551
API Well Number: 3416724173**14
Section of NGPA: 103
Operator: A & R Company

Well Name: John I. Eddy & Steven Bingler No. 1
Field:
County: Washington
Purchaser:
Volume: 8 MMcf

FERC Control Number: JD79-5552
API Well Number: 3401921158**14
Section of NGPA: 103
Operator: L&M Exploration
Well Name: Conotton Land Co. 1A
Field:
County: Carroll
Purchaser: Bonanza Gas Line
Volume: 1500 MMcf

FERC Control Number: JD79-5553
API Well Number: 3413321747**14
Section of NGPA: 103
Operator: Viking Resources Corporation
Well Name: Grace Unit No. 1
Field:
County: Portage
Purchaser:
Volume: 30 MMcf

FERC Control Number: JD79-5554
API Well Number: 3413321702**14
Section of NGPA: 103
Operator: Viking Resources Corporation
Well Name: H. K. Tabler No. 1
Field:
County: Portage
Purchaser:
Volume: 30 MMcf

FERC Control Number: JD79-5555
API Well Number: 3413321641**14
Section of NGPA: 103
Operator: Viking Resources Corporation
Well Name: R. Miller Unit No. 1
Field:
County: Portage
Purchaser:
Volume: 30 MMcf

FERC Control Number: JD79-5556
API Well Number: 3413321743**14
Section of NGPA: 103
Operator: Viking Resources Corporation
Well Name: Demczyk Unit No. 1
Field:
County: Portage
Purchaser:
Volume: 30 MMcf

FERC Control Number: JD79-5557
API Well Number: 3413321640**14
Section of NGPA: 103
Operator: Viking Resources Corporation
Well Name: L. C. & M. C. Know No. 1
Field:
County: Portage
Purchaser:
Volume: 30 MMcf

FERC Control Number: JD79-5558
API Well Number: 3413321730**14
Section of NGPA: 103
Operator: Viking Resources Corporation
Well Name: Burket Croft Unit No. 1
Field:
County: Portage
Purchaser:
Volume: 30 MMcf

FERC Control Number: JD79-5559
API Well Number: 3401921074**14
Section of NGPA: 103
Operator: L&M Exploration, Inc.
Well Name: Carroll Recreation 6B
Field:
County: Carrol
Purchaser: Bonanza Gas Line
Volume: 7000 MMcf

FERC Control Number: JD79-5560
API Well Number: 3401921153**14
Section of NGPA: 103
Operator: L&M Exploration
Well Name: Korns No. 4
Field:
County: Carroll
Purchaser: Bonanza Gas Line
Volume: 2700 MMcf

FERC Control Number: JD79-5561
API Well Number: 3401921052**14
Section of NGPA: 103
Operator: L&M Exploration
Well Name: Korns No. 3
Field:
County: Carroll
Purchaser: Bonanza Gas Line
Volume: 2500 MMcf

FERC Control Number: JD79-5562
API Well Number: 3401921118**14
Section of NGPA: 103
Operator: L&M Exploration
Well Name: Carson No. 2
Field:
County: Carroll
Purchaser: Bonanza Gas Line
Volume: 18000 MMcf

FERC Control Number: JD79-5563
API Well Number: 3415521158**14
Section of NGPA: 103
Operator: Mash Investment Co., a Partnership
Well Name: Mash Investment No. 1
Field:
County: Trumbull
Purchaser:
Volume: 39 MMcf

FERC Control Number: JD79-5564
API Well Number: 3401921166**14
Section of NGPA: 103
Operator: L&M Exploration, Inc.
Well Name: Puskarich No. 4
Field:
County: Carroll
Purchaser: Bonanza Gas Line
Volume: 6000 MMcf

FERC Control Number: JD79-5565
API Well Number: 3401921159**14
Section of NGPA: 103
Operator: L&M Exploration, Inc.
Well Name: Price No. 1
Field:
County: Carroll
Purchaser: Bonanza Gas Line
Volume: 2500 MMcf

FERC Control Number: JD79-5566
API Well Number: 3401921195**14
Section of NGPA: 103
Operator: L&M Exploration, Inc.
Well Name: Slutz No. 3
Field:
County: Carroll
Purchaser: Bonanza Gas Line
Volume: 8000 MMcf

FERC Control Number: JD79-5567
API Well Number: 3401921156**14
Section of NGPA: 103
Operator: L&M Exploration, Inc.
Well Name: Slutz No. 1
Field:
County: Carroll
Purchaser: Bonanza Gas Line
Volume: 8000 MMcf

FERC Control Number: JD79-5568
API Well Number: 3401921109**14
Section of NGPA: 103
Operator: L&M Exploration, Inc.
Well Name: Smith No. 2
Field:
County: Carroll
Purchaser: Bonanza Gas Line
Volume: 2500 MMcf

FERC Control Number: JD79-5569
API Well Number: 3401921165**14
Section of NGPA: 103
Operator: L&M Exploration, Inc.
Well Name: D. Eick No. 3
Field:
County: Carroll
Purchaser: Bonanza Gas Line
Volume: 2500 MMcf

FERC Control Number: JD79-5570
API Well Number: 3404520596**14
Section of NGPA: 103
Operator: Reliance Management Co.
Well Name: F. Tribble & H. Miller No. 1
Field:
County: Fairfield
Purchaser: Columbia Gas Transmission Corp.
Volume: 20 MMcf

FERC Control Number: JD79-5571
API Well Number: 3406322488**14
Section of NGPA: 103
Operator: Reliance Management Co.
Well Name: David McMillian No. 1
Field:
County: Knox
Purchaser: Columbia Gas Transmission Corp.
Volume: 3 MMcf

FERC Control Number: JD79-5572
API Well Number: 3406322444**14
Section of NGPA: 103
Operator: Reliance Management Co.
Well Name: Edgar Morton No. 1
Field:
County: Knox
Purchaser: Columbia Gas Transmission Corp.
Volume: 5.0 MMcf

FERC Control Number: JD79-5573
API Well Number: 3404520577**14
Section of NGPA: 103
Operator: Reliance Management Co.
Well Name: Wingardner Miller No. 1
Field:
County: Fairfield
Purchaser: Columbia Gas Transmission Corp.
Volume: 6 MMcf

FERC Control Number: JD79-5574
API Well Number: 3404520585**14
Section of NGPA: 103
Operator: Reliance Management Co.
Well Name: A. Love-F. Hite No. 1
Field:
County: Fairfield
Purchaser: Columbia Gas Transmission Corp.
Volume: 15 MMcf

FERC Control Number: JD79-5575
API Well Number: 3406322405**14
Section of NGPA: 103
Operator: Reliance Management Co.
Well Name: Charles Fauceit No. 1
Field:

V 4 4 / 9 3

County: Knox
Purchaser: Columbia Gas Transmission Corp.
Volume: 8 MMcf

FERC Control Number: JD79–5576
API Well Number: 3411924093**14
Section of NGPA: 103
Operator: Reliance Management Co.
Well Name: Virgil Vanden Bark No. 1
Field:
County: Muskingum
Purchaser: Columbia Gas Transmission Corp.
Volume: 20 MMcf

FERC Control Number: JD79–5577
API Well Number: 3413321219**14
Section of NGPA: 103
Operator: Viking Resources Corporation
Well Name: Fred Kirkhart No. 1
Field:
County: Portage
Purchaser:
Volume: 30 MMcf

FERC Control Number: JD79–5578
API Well Number: 3413321561**14
Section of NGPA: 103
Operator: Viking Resources Corporation
Well Name: D. Burkey Unit No. 1
Field:
County: Portage
Purchaser:
Volume: 30 MMcf

The applications for determination in these proceedings together with a copy or description of other materials in the record on which such determinations were made are available for inspection, except to the extent such material is treated as confidential under 18 CFR 275.206, at the Commission's Office of Public Information, Room 1000, 825 North Capitol Street, N.E., Washington, D.C. 20426.

Persons objecting to any of those final determinations may, in accordance with 18 CFR 275.203 and 18 CFR 275.204, file a protest with the Commission on or before May 29, 1979. Please reference the FERC Control Number in any correspondence concerning a determination.

Kenneth F. Plumb,
Secretary

[FR Doc. 79-14678 Filed 5-10-79; 8:45 am]

BILLING CODE 6450-01-M

Dalport Oil Corp., et al.; Determination by a Jurisdictional Agency Under the Natural Gas Policy Act of 1978

May 3, 1979.

On April 20, 1979, the Federal Energy Regulatory Commission received notices from the jurisdictional agencies listed below of determinations pursuant to 18 CFR 274.104 and applicable to the indicated wells pursuant to the Natural Gas Policy Act of 1978.

State of New Mexico

FERC Control Number: JD79–4133
API Well Number:
Section of NGPA: 108
Operator: Dalport Oil Corporation
Well Name: Annie L. Christmas B–1
Field: Jalmat Tansill 7 Rivers Gas
County: Lea
Purchaser: El Paso Natural Gas Co.
Volume: 5 MMcf

FERC Control Number: JD79–4134
API Well Number: 30–025–25658
Section of NGPA: 103
Operator: John Yuronka
Well Name: Thomas #2
Field: Langlie Mattix
County: Lea
Purchaser: El Paso Natural Gas Company
Volume: 19 MMcf

FERC Control Number: JD79–4135
API Well Number: 30–025–25831
Section of NGPA: 103
Operator: John Yuronka
Well Name: Thomas #3
Field: Langlie Mattix
County: Lea
Purchaser: El Paso Natural Gas Company
Volume: 106 MMcf

FERC Control Number: JD79–4136
API Well Number: 30–025–26060
Section of NGPA: 103
Operator: John Yuronka
Well Name: Harrison #1
Field: Langlie Mattix
County: Lea
Purchaser: El Paso Natural Gas Company
Volume: 144 MMcf

FERC Control Number: JD79–4137
API Well Number: 30–045–22684
Section of NGPA: 103
Operator: Manana Gas, Inc.
Well Name: Not Applicable
Field: Basin Dakota
County: San Juan
Purchaser: El Paso Natural Gas Company
Volume: N/A

FERC Control Number: JD79–4138
API Well Number: 30–045–22869
Section of NGPA: 103
Operator: Manana Gas, Inc.
Well Name: Charlie #1
Field: Aztec Pictured Cliffs
County: San Juan
Purchaser: El Paso Natural Gas Company
Volume: N/A

FERC Control Number: JD79–4139
API Well Number: 30–045–08931
Section of NGPA: 108
Operator: Northwest Pipeline Corporation
Well Name: Aztec Com A #4
Field: Aztec
County: San Juan
Purchaser: Northwest Pipeline Corporation
Volume: 5 MMcf

FERC Control Number: JD79–4140
API Well Number: 30–045–22683
Section of NGPA: 103
Operator: Manana Gas, Inc.
Well Name: Annie B #1
Field: Basin Dakota
County: San Juan
Purchaser: El Paso Natural Gas Company
Volume: N/A

FERC Control Number: JD79–4141
API Well Number: 30–045–21321
Section of NGPA: 108
Operator: Northwest Pipeline Corporation
Well Name: SJ 32–7 Unit No. 43
Field: Basin
County: San Juan
Purchaser: Northwest Pipeline Corporation
Volume: 6 MMcf

FERC Control Number: JD79–4142
API Well Number: 30–039–NA
Section of NGPA: 108
Operator: Northwest Pipeline Corporation
Well Name: Rosa Unit No. 26
Field: Blanco
County: Rio Arriba
Purchaser: Northwest Pipeline Corporation
Volume: 19 MMcf

FERC Control Number: JD79–4143
API Well Number: 30–045–20858
Section of NGPA: 103
Operator: Northwest Pipeline Corporation
Well Name; Stewart A Com B No. 3
Field: Aztec
County: San Juan
Purchaser: Northwest Pipeline Corporation
Volume: 18 MMcf

FERC Control Number: JD79–4144
API Well Number: 30–045–21533
Section of NGPA: 108
Operator: Northwest Pipeline Corporation
Well Name: Jacques Com No. 1
Field: Harris Mesa
County: San Juan
Purchaser: Northwest Pipeline Corporation
Volume: 16 MMcf

FERC Control Number: JD79–4145
API Well Number: N/A
Section of NGPA: 108
Operator: Northwest Pipeline Corporation
Well Name: Davis No. 1
Field: Gavilan
County: Rio Arriba
Purchaser: Northwest Pipeline Corporation
Volume: 11 MMcf

FERC Control Number: JD79–4146
API Well Number: 30–039–06144
Section of NGPA: 108
Operator: Northwest Pipeline Corporation
Well Name: Highsmith D No. 4
Field: Gavilan
County: Rio Arriba
Purchaser: Northwest Pipeline Corporation
Volume: 2 MMcf.

FERC Control Number: JD79–4147
API Well Number: N/A
Section of NGPA: 108
Operator: Gulf Oil Corporation
Well Name: H. T. Orcutt (NCT–H) Well No. 1
Field: Monument Tubb Drinkard
County: Lea
Purchaser: El Paso Natural Gas Company
Volume: 6 MMcf.

FERC Control Number: JD79–4148
API Well Number: N/A
Section of NGPA: 108
Operator: Northwest Pipeline Corporation
Well Name: Fee No. 3
Field: Gavilan
County: Rio Arriba
Purchaser: Northwest Pipeline Corporation
Volume: 8 MMcf.

FERC Control Number: JD79–4149
API Well Number: N/A
Section of NGPA: 108
Operator: Northwest Pipeline Corporation

Well Name: Koon No. 1
Field: Gavilan
County: Rio Arriba
Purchaser: Northwest Pipeline Corporation
Volume: 5 MMcf.

FERC Control Number: JD79–4150
API Well Number: 30–045–11453
Section of NGPA: 108
Operator: Northwest Pipeline Corporation
Well Name: SJ 32–7 Unit No. 3
Field: Los Pinos North
County: San Juan
Purchaser: Northwest Pipeline Corporation
Volume: 9 MMcf.

FERC Control Number: JD79–4151
API Well Number: 30–039–07756
Section of NGPA: 108
Operator: Northwest Pipeline Corporation
Well Name: S/J 30–5 Unit No. 16
Field: Blanco
County: Rio Arriba
Purchaser: Northwest Pipeline Corporation
Volume: 9 MMcf.

FERC Control Number: JD79–4152
API Well Number: 30–039–82388
Section of NGPA: 108
Operator: Northwest Pipeline Corporation
Well Name: S/J 31–6 Unit No. 16
Field: Blanco
County: Rio Arriba
Purchaser: Northwest Pipeline Corporation
Volume: 17 MMcf.

FERC Control Number: JD79–4153
API Well Number: 30–039–07929
Section of NGPA: 108
Operator: Northwest Pipeline Corporation
Well Name: S/J 31–06 Unit No. 10
Field: Blanco
County: Rio Arriba
Purchaser: Northwest Pipeline Corporation
Volume: 12 MMcf.

FERC Control Number: JD79–4154
API Well Number: 30–039–07472
Section of NGPA: 108
Operator: Northwest Pipeline Corporation
Well Name: S/J 29–5 Unit No. 38
Field: Blanco
County: Rio Arriba
Purchaser: Northwest Pipeline Corporation
Volume: 14 MMcf.

FERC Control Number: JD79–4155
API Well Number: 01–057–20107
Section of NGPA: 103
Operator: Enserch Exploration, Inc.
Well Name: T. Rowland No. 1
Field: Fayette West (Carter)
County: Fayette
Purchaser: Coronado Transmission Company
Volume: 40 MMcf.

FERC Control Number: JD79–4156
API Well Number: 47–039–1005
Section of NGPA: 108
Operator: Pennzoil Company
Well Name: Black Band Fuel No. 12
Field: Washington
County: Kanawha
Purchaser: Consolidated Gas Supply Corporation
Volume: 3.6 MMcf.

FERC Control Number JD79–4157
API Well Number: 47–039–1004
Section of NGPA: 108
Operator: Pennzoil Company
Well Name: Black Band Fuel No. 11
Field: Washington
County: Kanawha
Purchaser: Consolidated Gas Corporation
Volume: 8.0 MMcf.

FERC Control Number: JD79–4158
API Well Number: 47–039–0955
Section of NGPA: 108
Operator: Pennzoil Company
Well Name: Black Band Fuel No. 5
Field: Washington
County: Kanawha
Purchaser: Consolidated Gas Supply Corporation
Volume: 6.0 MMcf.

FERC Control Number: JD79–4159
API Well Number: 47–039–0999
Section of NGPA: 108
Operator: Pennzoil Company
Well Name: Black Band Fuel No. 9
Field: Washington
County: Kanawha
Purchaser: Consolidated Gas Corporation
Volume: 14.0 MMcf.

FERC Control Number: JD79–4160
API Well Number: 25–071–21591
Section of NGPA: 102
Operator: Midlands Gas Corporation
Well Name: 1261 1–1261 Scott
Field: Bowdoin
County: Phillips
Purchaser: Kansas-Nebraska Natural Gas Co., Inc.
Volume: 120 MMcf.

FERC Control Number: JD79–4161
API Well Number: 25–071–21490
Section of NGPA: 102
Operator: Midlands Gas Corporation
Well Name: 1370 1–13 Rex Burwell
Field: Bowdoin
County: Phillips
Purchaser: Kansas-Nebraska Natural Gas Co., Inc.
Volume: 36 MMcf

FERC Control Number: JD79–4162
API Well Number: 25–005–21780
Section of NGPA: 108
Operator: Tricentrol United Stated, Inc.
Well Name: Roberts 15–14–31–19
Field: Tiger Ridge
County: Blaine
Purchaser: Northern Natural Gas Company
Volume: 14.4 MMcf

FERC Control Number: JD79–4163
API Well Number: 25–005–21918
Section of NGPA: 103
Operator: Tricentrol United Stated, Inc.
Well Name: Blackwood 34–8–31–18
Field: Tiger Ridge
County: Blaine
Purchaser: Northern Natural Gas Company
Volume: 187.7 MMcf

FERC Control Number: JD79–4164
API Well Number: 25–071–21590
Section of NGPA: 102
Operator: Midlands Gas Corporation
Well Name: 1060 #1 Hellie
Field: Bowdin
County: Phillips
Purchaser: Kansas-Nebraska Natural Gas Co., Inc.
Volume: 12 MMcf

FERC Control Number: JD79–4165
API Well Number: 25–071–21539
Section of NGPA: 102
Operator: Midlands Gas Corporation
Well Name: 0270 1–2 Brown
Field: Bowdoin
County: Phillips
Purchaser: Kansas-Nebraska Natural Gas Co., Inc.
Volume: 19 MMcf

FERC Control Number: JD79–4166
API Well Number: 25–071–21563
Section of NGPA: 102
Operator: Midlands Gas Corporation
Well Name: 0161 No. 1–1 F. Anderson
Field: Bowdoin
County: Phillips
Purchaser: Kansas-Nebraska Natural Gas Co., Inc.
Volume: 84 MMcf

FERC Control Number: JD79–4167
API Well Number: 25–083–21224
Section of NGPA: 103
Operator: UV Industries, Inc.
Well Name: Obergfell 1–34
Field: Southeast Putnam
County: Richland
Purchaser: Montana-Dakota Utilities Company
Volume: 86.768 MMcf

FERC Control Number: JD79–4168
API Well Number: 25–071–21588
Section of NGPA: 102
Operator: Midlands Gas Corporation
Well Name: 2460 No. 1–24 White
Field: Bowdoin
County: Phillips
Purchaser: Kansas-Nebraska Natural Gas Co., Inc.
Volume: 36 MMcf

FERC Control Number: JD79–4169
API Well Number: 25–071–21586
Section of NGPA: 108
Operator: Midlands Gas Corporation
Well Name: 2271 1–22 Lewis Miller
Field: Bowdoin
County: Phillips
Purchaser: Kansas-Nebraska Natural Gas Co., Inc.
Volume: 8 MMcf

FERC Control Number: JD79–4170
API Well Number: 25–083–21239
Section of NGPA: 102
Operator: UV Industries, Inc.
Well Name: Obergfell 2–23
Field: Southeast Putnam
County: Richland
Purchaser: Montana-Dakota Utilities Company
Volume: 9.250 MMcf

The applications for determination in these proceedings together with a copy or description of other materials in the record on which such determinations were made are available for inspection, except to the extent such material is treated as confidential under 18 CFR 275.206, at the Commission's Office of Public Information, Room 1000, 825 North Capitol Street, N.E., Washington, D.C. 20426.

Persons objecting to any of those final determinations may, in accordance with

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18 CFR 275.203 and 18 CFR 275.204, file a protest with the Commission on or before May 29, 1979. Please reference the FERC Control Number in any correspondence concerning a determination.

Kenneth F. Plumb,
Secretary.
[FR Doc. 79-14076 Filed 5-10-79; 8:45 am]
BILLING CODE 6450-01-M

Florida Power Corp.; Filing

May 4, 1979.

The filing Company submits the following:

Take notice that on May 1, 1979, Florida Power Corporation ("Florida Power") tendered for filing an Interconnection Agreement ("Agreement") between Florida Power and Orlando Utilities Commission entered into on January 24, 1979. The Agreement provides for the following interconnection services: emergency energy, short-term firm capacity and energy, economy energy and long-term firm capacity and energy. Florida Power asks that the Agreement, in accordance with its terms, be permitted to become effective on July 1, 1979.

Any person desiring to be heard or to make any protest with reference to said filing should, on or before May 29, 1979, file with the Federal Energy Regulatory Commission, 825 North Capitol Street NE., Washington, D.C. 20426, petitions to intervene or protests in accordance with the requirements of the Commission's Rules of Practice and Procedure (18 CFR 1.8 or 1.10).

All protests filed with the Commission will be considered by it in determining the appropriate action to be taken but will not serve to make the protestants parties to the proceeding. Persons wishing to participate as a party in any hearing therein must file petitions to intervene in accordance with the Commission's Rules. The documents filed by Florida Power are on file with the Commission and available for public inspection.

Kenneth F. Plumb,
Secretary
[Docket No. ER79-343]
[FR Doc. 79-14660 Filed 5-10-79; 8:45 am]
BILLING CODE 6450-01-M

Indiana & Michigan Electric Co.; Certification

May 4, 1979.

Take notice that on April 12, 1979, Presiding Administrative Law Judge Michel Levant certified to the Commission a proposed settlement agreement in the above-noted docket.

Judge Levant indicates that the settlement proposal provides that Staff is to withdraw its objections to the filed demand rate in return for the filing of a Notice of Termination of such rate by I&ME pursuant to Section 35.15 of the Commission's Rules and Regulations. Such notice was filed by I&ME on February 2, 1979.

Judge Levant also indicates that all parties support the certification of the Settlement Proposal to the Commission.

Any person desiring to be heard or to protest said settlement agreement should file comments with the Federal Energy Regulatory Commission, 825 North Capitol Street, N.E., Washington, D.C. 20426, on or before May 28, 1979. Comments will be considered by the Commission in determining the appropriate action to be taken. Copies of this agreement are on file with the Commission and are available for public inspection.

Kenneth F. Plumb,
Secretary.
[Docket No. ER78-363]
[FR Doc. 79-14661 Filed 5-10-79; 8:45 am]
BILLING CODE 6450-01-M

Inland Drilling Co., et al.; Determination by a Jurisdictional Agency Under the Natural Gas Policy Act of 1978

May 3, 1979.

On April 18, 1979, the Federal Energy Regulatory Commission received notices from the jurisdictional agencies listed below of determinations pursuant to 18 CFR 274.104 and applicable to the indicated wells pursuant to the Natural Gas Policy Act of 1978.

FERC Control Number: JD79-5601
API Well Number: 34 133 2 1524 ** 14
Section of NGPA: 103
Operator: Inland Drilling Co., Inc.
Well Name: Drumm #1 #1524
Field: N/A
County: Portage
Purchaser: N/A
Volume: 5,023 MMcf.

FERC Control Number: JD79-5602
API Well Number: 34 133 2 1568 ** 14
Section of NGPA: 103
Operator: Inland Drilling Co., Inc.
Well Name: May #1-S #1568
Field: N/A
County: Portage
Purchaser: N/A
Volume: 5,023.

FERC Control Number: JD79-5603
API Well Number: 34 155 2 0616 ** 14
Section of NGPA: 103
Operator: Inland Drilling Co., Inc.
Well Name: Temple #7 #0616
Field: N/A
County: Trumbull
Purchaser: N/A
Volume: 6,684 MMcf.

FERC Control Number: JD79-5604
API Well Number: 34 155 2 0862 ** 14
Section of NGPA: 103
Operator: Inland Drilling Co., Inc.
Well Name: Temple #6 #0862
Field: N/A
County: Trumbull
Purchaser: None
Volume: 6,684 MMcf.

FERC Control Number: JD79-5605
API Well Number: 34 155 2 0589 ** 14
Section of NGPA: 103
Operator: Inland Drilling Co., Inc.
Well Name: Temple #4 #0589
Field: N/A
County: Trumbull
Purchaser: None
Volume: 6,684 MMcf.

FERC Control Number: JD79-5606
API Well Number: 3403123346**14
Section of NGPA: 103
Operator: Toledo Spring Co.
Well Name: Daniel Nisley #1
Field: N/A
County: Coshocton
Purchaser: None
Volume: 28 MMcf.

FERC Control Number: JD79-5607
API Well Number: 3403123345**14
Section of NGPA: 103
Operator: Toledo Spring Co.
Well Name: Daniel Nisley #2
Field: N/A
County: Coshocton
Purchaser: None
Volume: 28 MMcf.

FERC Control Number: JD79-5608
API Well Number: 3401921168**14
Section of NGPA: 103
Operator: L&M Exploration
Well Name: Conotton Land Co. #2
Field: N/A
County: Carroll
Purchaser: Bonanza Gas Line
Volume: 1500 Mcf.

FERC Control Number: JD79-5609
API Well Number: 3401921064
Section of NGPA: 103
Operator: L&M Exploration
Well Name: Ericksen #1
Field: N/A
County: Carroll
Purchaser: Bonanza Gas Line
Volume: 2000 Mcf.

FERC Control Number: JD79-5610
API Well Number: 3401921065**14
Section of NGPA: 103
Operator: L&M Exploration
Well Name: Ericksen #2
Field: N/A
County: Carroll
Purchaser: Bonanza Gas Line
Volume: 2000 Mcf.

FERC Control Number: JD79-5611
API Well Number: 3413321748**14
Section of NGPA: 103
Operator: Viking Resources Corporation
Well Name: Tabler #2
Field: N/A
County: Portage
Purchaser: None
Volume: 30 MMcf.

FERC Control Number: JD79-5612
API Well Number: 3413321748**14

Section of NGPA: 103
Operator: Viking Resources Corporation
Well Name: Grace Unit #2
Field: N/A
County: Portage
Purchaser: None
Volume: 30 MMcf.

FERC Control Number: JD79-5613
API Well Number: 3403122955**14
Section of NGPA: 103
Operator: Cyclops Corporation (Haddad & Brooks, Inc., Agent)
Well Name: Lear #1
Field: N/A
County: Coshocton
Purchaser: None
Volume: 30 MMcf.

FERC Control Number: JD79-5614
API Well Number: 3403123114**14
Section of NGPA: 103
Operator: Cyclops Corporation (Haddad & Brooks, Inc., Agent)
Well Name: Lewis #1
Field: N/A
County: Coshocton
Purchaser: None
Volume: 17.5 MMcf.

FERC Control Number: JD79-5615
API Well Number: 3403122947**14
Section of NGPA: 103
Operator: Cyclops Corporation (Haddad & Brooks, Inc., Agent)
Well Name: Kiser #1
Field: N/A
County: Coshocton
Purchaser: None
Volume: 24 MMcf.

FERC Control Number: JD79-5616
API Well Number: 3403123258**14
Section of NGPA: 103
Operator: Cyclops Corporation (Haddad & Brooks, Inc., Agent)
Well Name: Clark Unit #2
Field: N/A
County: Coshocton
Purchaser: None
Volume: 22.5 MMcf.

FERC Control Number: JD79-5617
API Well Number: 3403122942**14
Section of NGPA: 103
Operator: Cyclops Corporation (Haddad & Brooks, Inc., Agent)
Well Name: Miller-Taylor #2
Field: N/A
County: Coshocton
Purchaser: None
Volume: 9 MMcf.

FERC Control Number: JD79-5618
API Well Number: 3403122943**14
Section of NGPA: 103
Operator: Cyclops Corporation (Haddad & Brooks, Inc., Agent)
Well Name: Miller-Taylor #1
Field: N/A
County: Coshocton
Purchaser: None
Volume: 9 MMcf.

FERC Control Number: JD79-5619
API Well Number: 3401921033**14
Section of NGPA: 103
Operator: L&M Exploration, Inc.
Well Name: Scott #4
Field: N/A
County: Carroll
Purchaser: Bonanza Gas Line
Volume: 4500 Mcf.

FERC Control Number: JD79-5620
API Well Number: 3415520790**14
Section of NGPA: 103
Operator: Inland Drilling Co., Inc.
Well Name: N/A
Field: Trumbull
County: Chorba-Henry #1 0790
Purchaser: East Ohio Gas Co.
Volume: 0.448 MMcf.

FERC Control Number: JD79-5621
API Well Number: 3415520995**14
Section of NGPA: 103
Operator: Inland Drilling Co., Inc.
Well Name: Amato #1 0995
Field: N/A
County: Trumbull
Purchaser: East Ohio Gas Co.
Volume: 0.676 MMcf.

FERC Control Number: JD79-5622
API Well Number: 3415520788**14
Section of NGPA: 103
Operator: Inland Drilling Co., Inc.
Well Name: Spangler #1
Field: N/A
County: Trumbull
Purchaser: East Ohio Gas Co.
Volume: 0.676 MMcf.

FERC Control Number: JD79-5623
API Well Number: 3413321308**14
Section of NGPA: 103
Operator: Inland Drilling Co., Inc.
Well Name: #1 Gatts-Coia 1308
Field: N/A
County: Portage
Purchaser: East Ohio Gas Co.
Volume: 1.212 MMcf.

FERC Control Number: JD79-5624
API Well Number: 3415520881**14
Section of NGPA: 103
Operator: Inland Drilling Co., Inc.
Well Name: McDivitt-Reder #1 0881
Field: N/A
County: Trumbull
Purchaser: East Ohio Gas Co.
Volume: 0.660 MMcf.

FERC Control Number: JD79-5625
API Well Number: 3415520789**14
Section of NGPA: 103
Operator: Inland Drilling Co., Inc.
Well Name: Lippert-Walker-Veres Unit #1 0789
Field: N/A
County: Trumbull
Purchaser: East Ohio Gas Co.
Volume: 0.504 MMcf.

FERC Control Number: JD79-5626
API Well Number: 3413321307**14
Section of NGPA: 103
Operator: Inland Drilling Co., Inc.
Well Name: Hulak-Webb Unit #1
Field: N/A
County: Portage
Purchaser: East Ohio Gas Co.
Volume: 1.512 MMcf.

FERC Control Number: JD79-5627
API Well Number: 3415520959**14
Section of NGPA: 103
Operator: Inland Drilling Co., Inc.
Well Name: Stoneman #4 0959
Field: N/A
County: Trumbull
Purchaser: East Ohio Gas Co.
Volume: 0.416 Mcf.

FERC Control Number: JD79-5628
API Well Number: 3415520962**14
Section of NGPA: 103
Operator: Inland Drilling Co., Inc.
Well Name: Stoneman #3 0962
Field: N/A
County: Trumbull
Purchaser: East Ohio Gas Co.
Volume: 0.416 MMcf.

FERC Control Number:JD 79-5629
API Well Number: 3413321740**14
Section of NGPA: 103
Operator: Viking Resources Corporation
Well Name: C. Rufener Jr. Unit #4
Field: N/A
County: Portage
Purchaser: The East Ohio Gas Company
Volume: 30 MMcf.

FERC Control Number:JD 79-5630
API Well Number: 3413321478**14
Section of NGPA: 103
Operator: Inland Drilling Co., Inc
Well Name: Martin-Mantua #1 1478
Field: N/A
County: Portage
Purchaser: East Ohio Gas Co.
Volume: 2.308 MMcf.

FERC Control Number:JD 79-5631
API Well Number: 3413321304**14
Section of NGPA: 103
Operator: Inland Drilling Co., Inc.
Well Name: Webb #1 1304
Field: N/A
County: Portage
Purchaser: East Ohio Gas Co.
Volume: 6.708 MMcf.

FERC Control Number:JD 79-5632
API Well Number: 3401921142**14
Section of NGPA: 103
Operator: L&M Exploration, Inc.
Well Name: Carson #6
Field: N/A
County: Carroll
Purchaser: Bonanza Gas Line
Volume: 20000 Mcf.

FERC Control Number:JD 79-5633
API Well Number: 3401921124**14
Section of NGPA: 103
Operator: L&M Exploration, Inc.
Well Name: Carson #5
Field: N/A
County: Carroll
Purchaser: Bonanza Gas Line
Volume: 30000 Mcf.

FERC Control Number:JD 79-5648
API Well Number: 3401921124**14
Section of NGPA: 103
Operator: L&M Exploration, Inc.
Well Name: Carson #5
Field: N/A
County: Carroll
Purchaser: Bonanza Gas Line
Volume: 30000 Mcf.

FERC Control Number:JD 79-5634
API Well Number: 3401921130**14
Section of NGPA: 103
Operator: L&M Exploration, Inc.
Well Name: Sharp #4
Field: N/A
County: Carroll
Purchaser: Bonanza Gas Line

Volume: 3500 Mcf.
FERC Control Number:JD 79–5635
API Well Number: 3401921077**14
Section of NGPA: 103
Operator: L&M Exploration, Inc.
Well Name: Shipley-Warburton #4
Field: N/A
County: Carroll
Purchaser: Bonanza Gas Line
Volume: 9000 Mcf.
FERC Control Number:JD 79–5636
API Well Number: 3413321803**14
Section of NGPA: 103
Operator: Viking Resources Corporation
Well Name: Dickey-Traugh Unit #1
Field: N/A
County: Portage
Purchaser: None
Volume: 30 MMcf.
FERC Control Number:JD 79–5637
API Well Number: 3413322962**14
Section of NGPA: 103
Operator: Viking Resources Corporation
Well Name: J. Ellsworth #1
Field: N/A
County: Portage
Purchaser: None
Volume: 30 MMcf.
FERC Control Number: JD79–5638
API Well Number: 3413321799**14
Section of NGPA: 103
Operator: Viking Resources Corporation
Well Name: Howard #1
Field: N/A
County: Portage
Purchaser: None
Volume: 30 MMcf.
FERC Control Number: JD79–5639
API Well Number: 3413321741**14
Section of NGPA: 103
Operator: Viking Resources Corporation
Well Name: Arvil Grace Unit #4
Field: N/A
County: Portage
Purchaser: None
Volume: 30 MMcf.
FERC Control Number: JD79–5640
API Well Number: 341921061**14
Section of NGPA: 103
Operator: L&M Exploration, Inc.
Well Name: Snider #4
Field: N/A
County: Carroll
Purchaser: Bonanza Gas Line
Volume: 15000 Mcf.
FERC Control Number: JD79–5641
API Well Number: 3401921169**14
Section of NGPA: 103
Operator: L&M Exploration, Inc.
Well Name: Raeder #2
Field: N/A
County: Carroll
Purchaser: Bonanza Gas Line
Volume: 3000 Mcf.
FERC Control Number: JD79–5642
API Well Number: 3413321708**14
Section of NGPA: 103
Operator: Viking Resources Corporation
Well Name: Rufener Unit #1
Field: N/A
County: Portage
Purchaser: The East Ohio Gas Company
Volume: 30 MMcf.
FERC Control Number: JD79–5643
API Well Number: 3413321710**14
Section of NGPA: 103
Operator: Viking Resources Corporation
Well Name: C. & H. Rufener Unit #2
Field: N/A
County: Portage
Purchaser: The East Ohio Gas Company
Volume: 30 MMcf.
FERC Control Number: JD79–5644
API Well Number: 3413321729**14
Section of NGPA: 103
Operator: Viking Resources Corporation
Well Name: C. Rufener Jr. Unit #3
Field: N/A
County: Portage
Purchaser: The East Ohio Gas Company
Volume: 30 MMcf.

The applications for determination in these proceedings together with a copy or description of other materials in the record on which such determinations were made are available for inspection, except to the extent such material is treated as confidential under 18 CFR 275.206, at the Commission's Office of Public Information, Room 1000, 825 North Capitol Street, N.E., Washington, D.C. 20426.

Persons objecting to any of those final determinations may, in accordance with 18 CFR 275.203 and 18 CFR 275.204, file a protest with the Commission on or before May 29, 1979. Please reference the FERC Control Number in any correspondence concerning a determination.

Kenneth F. Plumb,
Secretary.

[FR Doc. 79–14675 Filed 5–10–79; 8:45 am]
BILLING CODE 6450–01–M

Long Island Lighting Co.; Filing

May 4, 1979.

Take notice that on April 20, 1979, Long Island Lighting Company (LILCO) filed as a rate schedule an agreement entitled Transmission Agreement dated June 18, 1976, between LILCO and the Power Authority of the State of New York (PASNY), pursuant to which LILCO transmitted power delivered to LILCO by PASNY for transmission to the three municipal utilities on Long Island: the Incorporated Villages of Freeport, Greenport & Rockville Centre.

The Company states that the Agreement was effective on June 18, 1976 and was superseded by an Agreement dated January 2, 1979, that was submitted for filing on March 1, 1979 in this docket.

The Company requests that the Commission permit this Agreement to be effective as of June 18, 1976.

Any person desiring to be heard or to protest said filing should file a petition to intervene or protest with the Federal Energy Regulatory Commission, 825 North Capitol Street, N.E., Washington, D.C. 20426, in accordance with §§ 1.8 and 1.10 of the Commission's Rules of Practice and Procedure (18 CFR 1.8, 1.10). All such petitions or protests should be filed on or before May 28, 1979. Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to protestants parties to the proceeding. Any person wishing to become a party must file a petition to intervene. Copies of this filing are on file with the Commission and are available for public inspection.

Kenneth F. Plumb,
Secretary.

[Docket No. ER79–230]
[FR Doc 79–14662 Filed 5–10–79; 8:45 am]
BILLING CODE 6450–01–M

Michigan Wisconsin Pipe Line Co.; Tariff Filing

May 4, 1979.

Take notice that on May 3, 1979 Michigan Wisconsin Pipe Line Company tendered for filing Substitute Original Sheet No. 49 to its F.E.R.C. Gas Tariff, Original Volume No. 1 to be effective May 1, 1979. Michigan Wisconsin states that Substitute Original Sheet No. 49 replaces Original Sheet No. 49 filed on April 12, 1979.

Any person desiring to be heard or to protest said filing should file a petition to intervene or protest with the Federal Energy Regulatory Commission, 825 North Capitol Street, N.E., Washington, D.C. 20426, in accordance with §§1.8 and 1.10 of the Commission's Rules of Practice and Procedure (18 CFR 1.8, 1.10). All such petitions or protests should be filed on or before May 11, 1979. Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceedings. Any person wishing to become a party must file a petition to intervene. Copies of this filing are on file with the Commission and are available for public inspection.

Kenneth F. Plumb,
Secretary.

[Docket No. RP79–43]
[FR Doc. 79–14663 Filed 5–10–79; 8:45 am]
BILLING CODE 6450–01–M

Natural Gas Pipeline Co. of America, et al.; Application

May 1, 1979.

Take notice that on april 11, 1979, Natural Gas Pipeline Company of America (Natural), 122 South Michigan Avenue, Chicago, Illinois 60603,

Columbia gulf Transmission Company (Columbia Gulf), 3805 West Alabama Avenue, Houston, Texas 77027, Northern Natural Gas Company (Northern), 2223 Dodge Street, Omaha, Nebraska 68102, and Trunkline Gas Company (Trunkline), 3000 Bissonnet, Houston, Texas 77005, (Applicants), filed in Docket No. CP79–263 an application pursuant to Section 7(c) of the Natural Gas Act for a certificate of public convenience and necessity authorizing the construction and operation of three 1100 horseposer compressors and other appurtenant facilities on the Exxon Company, U.S.A. (Exxon) production platform in West Cameron Block 616 field, offshore Louisiana, all as more fully set forth in the application which is on file with the Commission and open for public inspection.

Applicants state that through separate gas purchase contracts between Natural, Columbia Gas, Northern, Trunkline and Exxon, 100 percent of the natural gas production from the Block 616 Field, West Cameron Area, offshore Louisiana, is dedicated by Exxon in the following interest percentages; Natural 20 percent, Columbia Gas 25 percent, Northern 30 percent, Trunkline 25 percent.

Applicants state that they and Exxon have determined that compression on the West Cameron Block 616 producer platform is required to produce certain reservoirs against the line pressure required by Applicants for the natural gas to enter Applicants' joint pipeline systems. Pursuant to the gas purchase contracts, Exxon is not obligated to deliver any production which cannot be delivered by natural wellhead pressure, it is said. Applicants state that they have elected to have the necessary compression installed and estimate that the total remaining deliverability of proved natural gas reserves from the West Cameron Block 616 field is 112,000,000 Mcf without additional compression facilities; therefore, by installing the proposed three 1100 hp compressor units, Applicants estimate that the total remaining deliverability of proved reserves would be 135,000,000 Mcf, an increase of 23,000,000 Mcf.

Applicants request authorization to install or cause to be installed three 1100 hp compressor units and appurtenant facilities on the existing producer platform in West Cameron Block 616, offshore Louisiana, which platform is owned and operated by Exxon, it is said. The proposed facilities would be maintained and operated for applicants by Exxon, it is further said. The installation of the proposed compression would permit significant volumes of natural gas to be delivered into Applicants' respective pipeline systems which otherwise would not be available; thus substantially benefiting Applicants' customers.

It is stated that the installation of compression is in the public interest because it is essential to the delivery of dedicated gas to Applicants, and would significantly increase the deliverability of proved reserves. Applicants further state that in light of recent Commission orders in Docket Nos. CP77–558 and CP77–577, it is an integral part of this application that the Commission authorize the Applicants to reflect their proportionate share of the proposed compression in their jurisdictional rates.

It is said that the estimated cost of the proposed compression and appurtenant facilities is $3,618,000 and would be financed initially through revolving credit arrangements, short-term loans and from funds on hand.

Any person desiring to be heard or to make any protest with reference to said application should on or before May 23, 1979, file with the Federal Energy Regulatory Commission, Washington, D.C. 20426, a petition to intervene or a protest in accordance with the requirements of the Commission's Rules of Practice and Procedure (18 CFR 1.8 or 1.10) and the Regulations under the Natural Gas Act (18 CFR 157.10). All protests filed with the Commission will be considered by it in determining the appropriate action to be taken but will not serve to make the protestants parties to the proceeding. Any person wishing to become a party to a proceeding or to participate as a party in any hearing therein must file a petition to intervene in accordance with the Commission's Rules.

Take further notice that, pursuant to the authority contained in and subject to jurisdiction conferred upon the Federal Energy Regulatory Commission by Sections 7 and 15 of the Natural Gas Act and the Commission's Rules of Practice and Procedure, a hearing will be held without further notice before the Commission or its designee on this application if no petition to intervene is filed within the time required herein, if the Commission on its own review of the matter finds that a grant of the certificate is required by the public convenience and necessity. If a petition for leave to intervene is timely filed, or if the Commission on its own motion believes that a formal hearing is required, further notice of such hearing will be duly given.

Under the procedure herein provided for, unless otherwise advised, it will be unnecessary for Applicants to appear or be represented at the hearing.

Kenneth F. Plumb,
Secretary.

[Docket No. CP79–263]
[FR Doc. 79–14664 Filed 5–10–79; 8:45 am]
BILLING CODE 6450–01–M

Northern Natural Gas Co.; Application

May 1, 1979.

Take notice that on April 5, 1979, Northern Natural Gas Company (Applicant), 2223 Dodge Street, Omaha, Nebraska 68102, filed in Docket No. CP79–259 an application pursuant to Section 7(c) of the Natural Gas Act for a certificate of public convenience and necessity authorizing the utilization of its capacity entitlement in the Great Lakes Gas Transmission Company pipeline system, to transport gas for the account of Midwestern Gas Transmission Company (Midwestern), all as more fully set forth in the application on file with the Commission and open to public inspection.

The application indicates that Applicant has entered into a contract to purchase, on a best efforts basis, volumes of gas Midwestern proposes to purchase from TransCanada Pipeline and Great Lakes Gas Transmission Company (Great Lakes). The application further states that such gas would be delivered by Midwestern to Northern at Emerson and transported through Great Lakes' system and delivered into Applicant's pipeline at an existing delivery point at Carlton, Minnesota pursuant to a transportation agreement between Northern and Great Lakes, which is on file with the Commission as Great Lakes' T–5 Rate Schedule.

Applicant states that to the extent that other volumes transported by Great Lakes for Applicant, plus the volumes purchased by Applicant from Midwestern as proposed in Midwestern's application filed in Docket No. CP79–161, do not utilize the entire daily entitlement of Applicant of 120,000 Mcf in the Great Lakes system, such unused capacity is available to transport, for the account of Midwestern, volumes sold by Midwestern to Tennessee Gas Pipeline Company, a Division of Tenneco Inc., and Natural Gas Pipeline Company of America. Consequently Applicant requests authorization to utilize its unused capacity entitlement in the Great Lakes system to transport gas for the account of Midwestern in order for Applicant to file a rate schedule covering the transportation charges payable by Midwestern to Applicant for such transportation.

application for license while the Oil Company (CI75–684, CI75–107); served by interstate pipelines, that

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Any person desiring to be heard or to make any protest with reference to said application should on or before May 23, 1979, file with the Federal Energy Regulatory Commission, Washington, D.C. 20426, a petition to intervene or a protest in accordance with the requirements of the Commission's Rules of Practice and Procedure (18 CFR 1.8 or 1.10) and the Regulations under the Natural Gas Act (18 CFR 157.10). All protests filed with the Commission will be considered by it in determining the appropriate action to be taken but will not serve to make the protestants parties to the proceeding. Any person wishing to become a party to a proceeding or to participate as a party in any hearing therein must file a petition to intervene in accordance with the Commission's Rules.

Take further notice that, pursuant to the authority contained in and subject to jurisdiction conferred upon the Federal Energy Regulatory Commission by Sections 7 and 15 of the Natural Gas Act and the Commission's Rules of Practice and Procedure, a hearing will be held without further notice before the Commission or its designee on this application if no petition to intervene is filed within the time required herein, if the Commission on its own review of the matter finds that a grant of the certificate is required by the public convenience and necessity. If a petition for leave to intervene is timely filed, or if the Commission on its own motion believes that a formal hearing is required, further notice of such hearing will be duly given.

Under the procedure herein provided for, unless otherwise advised, it will be unnecessary for Applicant to appear or be represented at the hearing.

Kenneth F. Plumb,
Secretary.

[Docket No. CP79-259]
[FR Doc. 79-14665 Filed 5-10-79; 8:45 am]
BILLING CODE 6450-01-M

Oklahoma Natural Gas Gathering Corp.; Proposed Changes In FERC Gas Tariff

May 4, 1979.

Take notice that Oklahoma Natural Gas Gathering Corporation (Gathering Corporation), on May 1, 1979, tendered for filing proposed changes in its FERC Tariff, Original Volume No. 1, consisting of the following tariff sheets.

Seventeenth Revised Sheet PGA-1
Fifth Revised Sheet No. 4
Fifth Revised Sheet No. 59

The proposed changes would increase the level of its jurisdictional rates by 6.71 cents per Mcf, which would provide an increase in revenues from jurisdictional sales of $635,864 based on the 12-month period ending December 31, 1978, as adjusted. Gathering Corporation states that this increase amounts to a 7.5 percent increase over revenues which would result from rates that are in effect at this time.

Gathering Corporation states that this filing is being made in compliance with § 154.63(b)(3) of the Commission's regulations and does not seek to change the 9 percent rate of return originally authorized in Docket No. RP75-92; only to adjust the base sales rate to enable it to earn that rate of return. Gathering Corporation states that declining sales due to diminishing production in the contract area and increased cost of service (labor, supplies, expenses, and construction) have caused its earned rate of return to decline to a negative 4.94 percent.

Gathering Corporation proposes an effective date of June 1, 1979, and states that copies of this filing were served on each of its customers and affected state commissions.

Any person desiring to be heard or to protest said filing should file a petition to intervene or protest with the Federal Energy Regulatory Commission, 825 North Capitol Street, Washington, DC 20426, in accordance with Sections 1.8 and 1.10 of the Commission's rules of practice and procedure (18 CFR 1.8, 1.10). All such petitons or protest should be filed on or before May 18, 1979. Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceeding . Any person wishing to become a party must file a petition to intervene. Copies of this filing are on file with the Commission and are available for public inspection.

Kenneth F. Plumb,
Secretary.

[Docket No. RP79-70]
[FR Doc. 79-14666 Filed 5-10-79; 8:45 am]
BILLING CODE 6450-01-M

South Columbia Basin Irrigation District; Application for Preliminary Permit

May 4, 1979.

Take notice that on May 12, 1978, the South Columbia Basin Irrigation District filed an application for preliminary permit [pursuant to the Federal Power Act, 16 U.S.C. § 791(a)-825(r)] for a proposed water power project, to be known as the Main Canal Headworks and Summer Falls Project, FERC No. 2849, located in Grant County, Washington on the Main Canal of the Bureau of Reclamation's (BOR) Columbia Basin Irrigation Project which conveys water diverted from the Columbia River. The proposed project would utilize waters diverted from a navigable waterway (Columbia River) and would occupy lands over which the BOR holds an easement.

Correspondence with the Applicant should be directed to Mr. Russell D. Smith, Secretary-Manager, South Columbia Basin Irrigation District, P.O. Box 1006, Pasco, Washington 99301 and Mr. James Leavy, Leavy, Taber, Schultz, Bergdhal & Sweeny, Attorneys at Law, P.O. Box 891, Pasco, Washington 99301.

Description of Project—The project that would be studied during the term of the permit would consist of two developments as follows:

(a) the proposed Main Canal Headworks Powerplant would have an installed capacity of approximately 14,500 kW, would be located at the outlet works of BOR's Dry Falls Dam, and would utilize water released into the Main Canal; and

(b) The proposed Summer Falls Powerplant would have an installed capacity of 72,000 kW, would be located on the north end of BOR's Billy Clapp Lake, and would utilize water diverted from the Main Canal at a point 1400 feet before the canal enters Billy Clapp Lake, and conveyed to the powerplant via a proposed lined power tunnel.

The estimated average annual output of such a project would be 327 million kWh.

Proposed Scope and Cost of Studies Under Permit—Applicant has requested a 3-year permit to prepare a definitive project report, including preliminary designs, geological explorations, and collection of environmental data. The cost of the foregoing activities, together with preparation of an environmental impact report or environmental assessment, obtaining agreements with various Federal, state and local agencies, preparing a license application, final geologic exploration and field survey, is estimated by Applicant to be about $150,000.

Proposed Use of Project Power—Project energy would be utilized by the Applicant in the operation of irrigation facilities with excess energy being marketed within the State of Washington to publicly owned utilities, rural electric cooperatives, municipalities, or investor-owned utilities.

Purpose of Preliminary Permit—A preliminary permit does not authorize construction. A permit, if issued, gives the Permittee, during the term of the permit, the right of priority of application for license while the Permittee undertakes the necessary studies and examinations to determine the engineering and economic feasibility of the proposed project, market for the power, and all other necessary informaion for inclusion in an application for license.

Agency Comments—Federal, state, and local agencies that receive this notice through direct mailing from the Commission are invited to submit comments on the described application for preliminary permit. A copy of the application may be obtained directly from the Applicant.

Comments should be confined to substantive issues relevant to the issuance of a permit and consistent with the purpose of a permit as described in this notice. No other formal request for comments will be made.

If an agency does not file comments within the time set below, it will be presumed to have no comments.

Protests, Petitions to Intervene, and Agency Comments— Anyone desiring to be heard or to make any protest about this application should file a petition to intervene or a protest with the Federal Energy Regulatory Commission, in accordance with the requirements of the Commission's Rules of Practice and Procedure, 18 C.F.R. § 1.8 or § 1.10 (1977). In determining the appropriate action to take, the Commission will consider all protests filed, but a person who merely files a protests does not become a party to the proceeding. To become a party or to participate in any hearing, a person must file a petition to intervene in accordance with the Commission's Rules.

Any protest, petition to intervene, or agency comments must be filed on or before July 10, 1979. The Commission's address is: 825 N. Capitol Street, N.E., Washington, D.C. 20426.

The application is on file with the Commission and is available for public inspection.

Kenneth F. Plumb
Secretary.

[Project No. 2849]
[FR Doc. 79-14667 Filed 5-10-79; 8:45 am]
BILLING CODE 6450-01-M

Tenneco Oil Co., et al.; Petition for Extraordinary Relief

May 4, 1979.

In the matter of Tenneco Oil Company (Docket No. CI75-45); Placid Oil Company (CI75-59); Hunt Petroleum Corporation (CI75-66); Hunt Industries (CI75-67); Hunt Oil Company (CI75-68); Kewanee Oil Company (CI75-69); Tenneco Oil Company (CI75-105); Shell Oil Company (CI75-684, CI75-107); Ashland Oil, Inc. (CI75-122); TransOcean Oil, Inc. (CI75-138); Tennessee Gas Pipeline Company, a Division of Tenneco Inc. (CP73-339); Trunkline Gas Company (CP75-330, CP75-19); Tennessee Gas Pipeline Company (CP75-23, CP75-119, CP75-120); Trunkline Gas Company (CP75-149); Southern Natural Gas Company (CP75-316, CP75-151); Southern Natural Gas Company, United Gas Pipe Line Company and Florida Gas Transmission Company (CP75-153); Southern Natural Gas Company (CP75-163); Tennessee Gas Pipeline Company, a Division of Tenneco Inc., and Tenneco Chemicals, Inc. (CP75-258); Highland Resources (CI75-733).

Take notice that on April 23, 1979, First Mississippi Corporation filed an "emergency petition for extraordinary relief" in the above consolidated proceeding. The petition asks that the Commission sever from the proceeding the certificate applications in Dockets No. CP75-330, CP75-316, CP75-59, CI75-66, CI75-67, and CI75-68 and reconsider its disapproval of interstate pipeline transportation of specified volumes of offshore natural gas for feedstock and process gas requirements of First Mississippi's AMPRO fertilizer plant at Donaldsonville, Louisiana.

Among other things, First Mississippi alleges that the AMPRO plant is deteriorating as a result of its not being operated since its construction in 1977. First Mississippi also alleges that other than its contracted for supply of offshore gas, there are no other viable sources of gas for operating its plant. Consequently, First Mississippi asks the Commission to authorize the transportation of offshore natural gas pursuant to the related applications for certificates of public convenience and necessity.

In further support of its petition, First Mississippi says that its situation has changed since FERC Opinion No. 10 was issued, because the U.S. Department of Agriculture has certified the feedstock and process gas as an essential agricultural use within the meaning of section 401 of the Natural Gas Policy Act. Furthermore, says First Mississippi, it is economically impossible to purchase natural gas on the open market and operate an ammonia plant.

First Mississippi says that its production interests in the Green Creek Field are entirely committed to the interstate market. It says that permitting onshore gas to flow to the AMPRO plant will have a *de minimis* effect on the interstate market, that the gas at issue would otherwise go to low priority uses served by interstate pipelines, that denying access to the offshore gas will not preserve competition in the industry, and that First Mississippi committed its resources to the AMPRO facility at a time when the Commission's policy permitted the use of reserved gas by producers. Finally, First Mississippi alleges that the relief sought would have no precedential value and would have an almost exclusive effect only on the AMPRO plant.

Any person desiring to be heard or to make any protest with reference to said petition should on or before May 18, 1979, file with the Federal Energy Regulatory Commission, 825 North Capitol St. NE., Washington, D.C. 20426, a petition to intervene or a protest in accordance with the requirements of the Commission's Rules of Practice and Procedure (18 CFR 1.8 or 1.10). All protests filed with the Commission will be considered by it in determining the appropriate action to be taken but will not serve to make the protestants parties to the proceeding. Any person wishing to become a party to a proceeding or to participate as a party in any hearing therein must file a petition to intervene in accordance with the Commission's Rules.

Kenneth F. Plumb,
Secretary.

[Docket Nos. CI75-45, et al.]
[FR Doc. 79-14668 Filed 5-10-79; 8:45 am]
BILLING CODE 6450-01-M

Texas Eastern Transmission Corp.; Application

May 1, 1979.

Take notice that on April 5, 1979, Texas Eastern Transmission Corporation (Applicant), P.O. Box 2521, Houston, Texas 77001, filed in Docket No. CP79-258 an application pursuant to Section 7(c) of the Natural Gas Act for a certificate of public convenience and necessity authorizing the transportation of natural gas for Northern Natural Gas Company (Northern), all as more fully set forth in the application on file with the Commission and open to public inspection.

The application states that Northern has the right to purchase from Amerada Hess Corporation a portion of the gas reserves underlying West Cameron Block 606, offshore Louisiana (WC606), which reserves are produced from the production platform in the adjacent Block 620 and from which Applicant currently purchases gas for transportation through its own pipeline facility (WC620 Pipeline) extending from the Block 620 platform to an interconnection with the CGT-NNG 30-

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inch pipeline, in which Northern has capacity entitlements, in West Cameron Block 606. The application further states that Applicant has agreed to utilize available capacity in its WC620 pipeline to assist Northern in bringing its WC606 gas supplies to market, and that pursuant to an agreement dated April 2, 1979, between Applicant and Northern, Applicant would transport for Northern from the point of receipt at the WC620 platform up to a maximum daily quantity of 2,000 Mcf, less 1.5 percent for gas used as fuel in providing such transportation, and redeliver such quantity at the interconnection of the WC620 Pipeline and the CGT–NNG line. Northern would pay Applicant for such transportation service a monthly charge of $8,967, it is stated.

It is indicated that Northern would utilize its capacity entitlement in the CGT–NNG pipeline to transport the WC606 supplies from the redelivery point in WC606 to the termination of the CGT–NNG line in the Vermilion Block 245 and has made arrangements with other companies for further transportation and/or exchange onshore under certificated agreements.

Any person desiring to be heard or to make any protest with reference to said application should on or before May 23, 1979, file with the Federal Energy Regulatory Commission, Washington, D.C. 20426, a petition to intervene or a protest in accordance with the requirements of the Commission's rules of practice and procedure (18 CFR 1.8 or 1.10) and the Regulations under the Natural Gas Act (18 CFR 157.10). All protests filed with the Commission will be considered by it in determining the appropriate action to be taken but will not serve to make the protestants parties to the proceeding. Any person wishing to become a party to a proceeding or to participate as a party in any hearing therein must file a petition to intervene in accordance with the Commission's rules.

Take further notice that, pursuant to the authority contained in and subject to jurisdiction conferred upon the Federal Energy Regulatory Commission by sections 7 and 15 of the Natural Gas Act and the Commission's rules of practice and procedure, a hearing will be held without further notice before the Commission or its designee on this application if no petition to intervene is filed within the time required herein, if the Commission on its own review of the matter finds that a grant of the certificate is required by the public convenience and necessity. If a petition for leave to intervene is timely filed, or if the Commission on its own motion believes that a formal hearing is required, further notice of such hearing will be duly given.

Under the procedure herein provided for, unless otherwise advised, it will be unnecessary for Applicant to appear or be represented at the hearing.

Kenneth F. Plumb,
Secretary.

[Docket No. CP79–258]
[FR Doc. 14669 Filed 5–10–79; 8:45 am]
BILLING CODE 6450–01–M

Transcontinental Gas Pipe Line Corp.; Application

May 1, 1979.

Take notice that on April 23, 1979, Transcontinental Gas Pipe Line Corporation (Applicant), P.O. Box 1396, Houston, Texas 77001, filed in Docket No. CP79–282, an application pursuant to section 7(c) of the Natural Gas Act for a certificate of public convenience and necessity authorizing the transportation of up to 8,700 Mcf of natural gas per day from Block 331, Vermilion Area (Vermilion), offshore Louisiana, to points of delivery in Louisiana for Northern Natural Gas Company (Northern), all as more fully set forth in the application which is on file with the Commission and open to public inspection.

Applicant states that Northern would purchase from Amerada Hess Corporation, 25 percent of the total reserves in Block 331, Vermilion. Applicant further states that it was granted authority in Docket No. CP77–453 to construct and operate an extension of its Southeast Louisiana Gathering System from Block 66, South Marsh Island Area (SMI) to Block 106, SMI and beyond to Blocks 130 and 132, SMI and Block 331, Vermilion, and that Applicant stated in its application in said docket that such facilities would be utilized to attach new offshore gas supplies for its system and to provide capacity for transportation services for others from the offshore producing areas that would be reached by the extension.

Applicant proposes, pursuant to a transportation agreement dated March 30, 1979 between it and Northern, to transport up to 8,700 Mcf of natural gas per day for Northern from a point of receipt in Block 331, Vermilion, for a primary term of ten years. Applicant would deliver quantities thermally equivalent to those received in Block 331 (less fuel and line loss make-up and less reduction in volume and Btu due to processing, if any) to Columbia Gulf Transmission Company (Columbia Gulf) and/or Tennessee Gas Pipeline Company, a Division of Tenneco Inc. (Tennessee), for the account of northern, at the following points of delivery:

(1) the interconnection of the pipeline systems of Applicant and Columbia Gulf in Terrebonne Parish, Louisiana (Terrebonne);

(2) the interconnection between Applicant and Tennessee at mile post 489.73 on Applicant's mainline near Kinder, Allen Parish, Louisiana;

(3) the interconnection between Applicant and Tennessee at mile post 26.53 on Applicant's Central Louisiana Lateral near Crowley, Acadia Parish, Louisiana;

(4) the terminus of the Western Leg of the Blue Water Project of Columbia Gulf and Tennessee;

(5) the outlet of Continental Oil Company's Acadia Plant, Acadia Parish, Louisiana; and

(6) any other existing authorized points of interconnection between the systems of Transco and Tennessee which are mutually agreed upon from time to time.

Applicant states that the estimated initial monthly demand charge for the proposed firm transportation service for Northern would be $96,570 and a commodity charge of 1.75 cents per Mcf delivered at points of delivery other than Terrebonne. The demand charge is based, in part, on preliminary estimates of the cost of completing the facilities authorized in Docket No. CP77–453 and a daily contract demand of 8,700 Mcf per day, it is said. Applicant further states that such demand charge subsequently would be adjusted to reflect actual costs of such facilities.

Applicant states that in the event additional facilities are required to transport gas owned by Applicant and others and maintain capacity for the contract demand quantity for Northern Northern has the option of (1) terminating the transportation service, (2) reducing the contract demand quantity to a level that would eliminate the need for installation of additional facilities (and the monthly demand charge shall be adjusted to reflect such reduction), or (3) notifying Applicant to install such additional facilities as may be required to maintain capacity for Northern's contract demand quantity. If Northern exercises the latter option then Applicant would, at its option, either install such facilities to be jointly owned by Applicant and Northern, whereupon Northern would reimburse Applicant for Northern's proportionate share of the cost of such facilities and the monthly demand charge would be adjusted to reflect transportation through Northern's proportionate share of such facilities, or Applicant would install such facilities to be solely owned by Applicant, whereupon the monthly demand charge would be adjusted to reflect such additional facilities, it is alleged.

Any person desiring to be heard or to make any protest with reference to said application should on or before May 23, 1979, file with the Federal Energy Regulatory Commission, Washington, D.C. 20426, a petition to intervene or a protest in accordance with the requirements of the Commission's rules of practice and procedure (18 CFR 1.8 or 1.10) and the Regulations under the Natural Gas Act (18 CFR 157.10). All protests filed with the Commission will be considered by it in determining the appropriate action to be taken but will not serve to make the protestants parties to the proceeding. Any person wishing to become a party to a proceeding or to participate as a party in any hearing therein must file a petition to intervene in accordance with the Commission's Rules.

Take further notice that, pursuant to the authority contained in and subject to jurisdiction conferred upon the Federal Energy Regulatory Commission by Sections 7 and 15 of the Natural Gas Act and the Commission's Rules of Practice and Procedure, a hearing will be held without further notice before the Commission or its designee on this application if no petition to intervene is filed within the time required herein, if the Commission on its own review of the matter finds that a grant of the certificate is required by the public convenience and necessity. If a petition for leave to intervene is timely filed, or if the Commission on its own motion believes that a formal hearing is required, further notice of such hearing will be duly given.

Under the procedure herein provided for, unless otherwise advised, it will be unnecessary for Applicant to appear or be represented at the hearing.

Kenneth F. Plumb,
Secretary.

[Docket No. CP79–282]
[FR Doc. 79-14670 Filed 5–10–79; 8:45 am]
BILLING CODE 6450–01–M

United Gas Pipe Line Co. and Southern Natural Gas Co.; Application

May 1, 1979.

Take notice that on April 3, 1979, United Gas Pipe Line Company (United), P.O. Box 1478, Houston, Texas 77001, and Southern Natural Gas Company (Southern), P.O. Box 2563, Birmingham, Alabama 35202, filed in Docket No. CP79–252 an application pursuant to Section 7(c) of the Natural Gas Act for a certificate of public convenience and necessity authorizing the construction and operation of a pipeline and related facilities necessary to connect gas supples in Block 331, West Cameron Area, offshore Louisiana (West Cameron 331), to the pipeline system of High Island Offshore System (HIOS), all as more fully set forth in the application on file with the Commission and open to public inspection.

It is indicated that Sea Robin Pipeline Company (Sea Robin) has acquired a right to purchase Transocean Oil, Inc.'s (Transocean) 100 percent ownership interest of gas produced in West Cameron 331, and that subsequently, under an agreement dated January 28, 1979, Sea Robin assigned to United and Southern each a 50 percent interest in gas supplies in West Cameron 331. Proven and potential reserves in West Cameron 331 are presently estimated to be 8,400,000 Mcf and 8,500,000 Mcf respectively, and the average day deliverability is currently estimated to be 15,000 Mcf, it is asserted.

United and Southern propose to construct, own and operate approximately 11.20 miles of 12-inch pipeline and related facilities (West Cameron 331 Facilities) commencing in West Cameron 331 and connecting to a sub-sea tap to be installed on the HIOS 42-inch pipeline in Block 342, High Island Area, West Addition, offshore Louisiana, to effectuate deliveries to HIOS. It is stated that the total estimated cost of the proposed facilities is $4,051,234, which cost United and Southern would finance from funds on hand.

Any person desiring to be heard or to make any protests with reference to said application should on or before May 23, 1979, file with the Federal Energy Regulatory Commission, Washington, D.C. 20426, a petition to intervene or a protest in accordance with the requirements of the Commission's Rules of Practice and Procedure (18 CFR 1.8 or 1.10) and the Regulations under the Natural Gas Act (18 CFR 157.10). All protests filed with the Commission will be considered by it in determining the appropriate action to be taken but will not serve to make the protestants parties to the proceeding. Any person wishing to become a party to a proceeding or to participate as a party in any hearing therein must file a petition to intervene in accordance with the Commission's Rules.

Take further notice that, pursuant to the authority contained in and subject to jurisdiction conferred upon the Federal Energy Regulatory Commission by sections 7 and 15 of the Natural Gas Act and the Commission's Rules of Practice and Procedure, a hearing will be held without further notice before the Commission or its designee on this application if no petition to intervene is filed within the time required herein, if the Commission on its own review of the matter finds that a grant of the certificate is required by the public convenience and necessity. If a petition for leave to intervene is timely filed, or if the Commission on its own motion believes that a formal hearing is required, further notice of such hearing will be duly given.

Under the procedure herein provided for, unless otherwise advised, it will be unnecessary for Applicants to appear or be represented at the hearing.

Kenneth F. Plumb,
Secretary.

[Docket No. CP79–252]
[FR Doc. 79-14671 Filed 5–10–79; 8:45 am]
BILLING CODE 6450–01–M

United Gas Pipe Line Co.; Application

May 1, 1979.

Take notice that on April 10, 1979, United Gas Pipe Line Company (Applicant), P.O. Box 1478, Houston, Texas 77001, filed in Docket No. CP79–261 an application pursuant to Section 7(c) of the Natural Gas Act for a certificate of public convenience and necessity authorizing the construction of additional facilities to serve the Town of Tenaha (Tenaha), a municipal corporation in Shelby County, Texas, all as more fully set forth in the application on file with the Commission and open to public inspection.

Applicant indicates that it has provided natural gas service to Tenaha through a 2-inch lateral off of Applicant's Waskom-Goodrich 22-inch line, and that attached to this lateral was a single well which supplemented the supply on the Waskom-Goodrich 22-inch line utilized to serve Tenaha. Such well has watered out and is no longer available as a source of supply for Tenaha, it is said. It is stated that there is also insufficient pressure in the Waskom-Goodrich 22-inch line to meet Tenaha's peak hour requirements, which has caused pressure problems on the Tenaha system. In order to alleviate these problems and provide Tenaha with reliable natural gas service, Applicant proposes to construct and operate approximately 3.0 miles of 4-inch pipeline to loop partially the existing 2-inch pipeline from a point on Applicant's 22-inch Waskom-Goodrich line extending in a southeasterly direction for a distance of approximately 3 miles. The proposed facilities would be located in Panola

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County, Texas, it is said. Applicant states that the total estimated cost of the proposed facilities is $205,049, which cost Applicant would finance from funds on hand.

Any person desiring to be heard or to make any protest with reference to said application should on or before May 23, 1979, file with the Federal Energy Regulatory Commission, Washington, D.C. 20426, a petition to intervene or a protest in accordance with the requirements of the Commission's Rules of Practice and Procedure (18 CFR 1.8 or 1.10 and the Regulations under the Natural Gas Act (18 CFR 157.10). All protests filed with the Commission will be considered by it in determining the appropriate action to be taken but will not serve to make the protestants parties to the proceeding. Any person wishing to become a party to a proceding or to participate as a party in any hearing therein must file a petition to intervene in accordance with the Commission's Rules.

Take further notice that, pursuant to the authority contained in and subject to jurisdiction conferred upon the Federal Energy Regulatory Commission by sections 7 and 15 of the Natural Gas Act and the Commission's Rules of Practice and Procedure, a hearing will be held without further notice before the Commission or its designee on this application if no petition to intervene is filed within the time required herein, if the Commission on its own review of the matter finds that a grant of the certificate is required by the public convenience and necessity. If a petition for leave to intervene is timely filed, or if the Commission on its own motion believes that a formal hearing is required, further notice of such hearing will be duly given.

Under the procedure herein provided for, unless otherwise advised, it will be unnecessary for Applicant to appear or be represented at the hearing.

Kenneth F. Plumb,
Secretary.

[Docket No. CP79-261]
[FR Doc. 79-14672 Filed 5-10-79; 8:45 am]
BILLING CODE 6450-01-M

Viking Resources Corp., et al.; by a Jurisdictional Agency Under the Natural Gas Policy Act of 1978

May 3, 1979.

On April 18, 1979, the Federal Energy Regulatory Commission received notices from the jurisdictional agencies listed below of determinations pursuant to 18 CFR 274.104 and applicable to the indicated wells pursuant to the Natural Gas Policy Act of 1978.

State of Ohio Department of Natural Resources Division of Oil and Gas

FERC Control Number: JD 79-5579
API Well Number: 3413321574**14
Section of NGPA: 103
Operator: Viking Resources Corporation
Well Name: George A. Burkey Jr. No. 3
Field:
County: Portage
Purchaser:
Volume: 30 MMcf.

FERC Control Number: JD 79-5580
API Well Number: 3413321543**14
Section of NGPA: 103
Operator: Viking Resources Corporation
Well Name: William & Erma Benton No. 1
Field:
County: Portage
Purchaser:
Volume: 30 MMcf.

FERC Control Number: JD 79-5581
API Well Number: 3413321571**14
Section of NGPA: 103
Operator: Viking Resources Corporation
Well Name: George A. Burkey Jr. No. 2
Field:
County: Portage
Purchaser:
Volume: 30 MMcf.

FERC Control Number: JD 79-5582
API Well Number: 3415520806**14
Section of NGPA: 103
Operator: Morain Coating and Construction Inc.
Well Name: Mills No. 1
Field:
County: Trumbull
Purchaser: East Ohio Gas Co.
Volume: 25 MMcf.

FERC Control Number: JD 79-5583
API Well Number: 3415722847**14
Section of NGPA: 103
Operator: Cyclops Corporation, et al
Well Name: Scheffer No. 2
Field:
County: Tuscarawas
Purchaser: East Ohio Gas Company
Volume: 30 MMcf.

FERC Control Number: JD 79-5584
API Well Number: 3415722844**14
Section of NGPA: 103
Operator: Cyclops Corporation, et al
Well Name: Reeves Bank Realty No. 2
Field:
County: Tuscarawas
Purchaser: East Ohio Gas Company
Volume: 40 MMcf.

FERC Control Number: JD 79-5585
API Well Number: 3403123002**14
Section of NGPA: 103
Operator: Cyclops Corporation, et al
Well Name: Peabody No. 1
Field:
County: Coshocton
Purchaser:
Volume: 12.5 MMcf.

FERC Control Number: JD 79-5586
API Well Number: 3403122977**14
Section of NGPA: 103
Operator: Cyclops Corporation, et al
Well Name: Cullison No. 1
Field:
County: Coshocton
Purchaser:
Volume: 20 MMcf.

FERC Control Number: JD 79-5587
API Well Number: 34167123914**14
Section of NGPA: 103
Operator: A & R Company
Well Name: Dean E. & Bonnie J. Abicht No. 1
Field:
County: Washington
Purchaser:
Volume: 15 MMcf.

FERC Control Number: JD 79-5588
API Well Number: 3415520739**14
Section of NGPA: 103
Operator: Inland Drilling Co., Inc.
Well Name: Maitino No. 3
Field:
County: Trumbull
Purchaser: East Ohio Gas Co.
Volume: 0.387 MMcf.

FERC Control Number: JD 79-5589
API Well Number: 340312332**14
Section of NGPA: 108
Operator: Jerry Moore, Inc.
Well Name: Franklin G. Limbacher No. 1
Field: Baltic
County: Coshocton
Purchaser: East Ohio Gas Co.
Volume: 8.4 MMcf.

FERC Control Number: JD 79-5590
API Well Number: 3415520954**14
Section of NGPA: 103
Operator: Inland Drilling Co., Inc.
Well Name: Miceli No. 2-A
Field:
County: Trumbull
Purchaser:
Volume: 6,684 MMcf.

FERC Control Number: JD 79-5591
API Well Number: 3413321701**14
Section of NGPA: 103
Operator: Viking Resources Corporation
Well Name: L. D. & D. L. Haenftling No. 1
Field:
County: Portage
Purchaser:
Volume: 30 MMcf.

FERC Control Number: JD79-5592
API Well Number: 3413321419**14
Section of NGPA: 103
Operator: Viking Resources Corporation
Well Name: G. Krichbaum No. 1
Field:
County: Portage
Purchaser:
Volume: 30 MMcf.

FERC Control Number: JD79-5593
API Well Number: 3413321662**14
Section of NGPA: 103
Operator: Viking Resources Corporation
Well Name: E. Pittrman No. 3
Field:
County: Portage
Purchaser:
Volume: 30 MMcf.

FERC Control Number: JD79-5594
API Well Number: 3413321660**14
Section of NGPA: 103
Operator: Viking Resources Corporation
Well Name: E. Pittrman No. 2
Field:
County: Portage
Purchaser:
Volume: 30 MMcf.

FERC Control Number: JD79-5595
API Well Number: 3413321661**14
Section of NGPA: 103
Operator: Viking Resources Corporation
Well Name: E. Pittrman No. 1
Field:
County: Portage
Purchaser:
Volume: 30 MMcf.

FERC Control Number: JD79-5596
API Well Number: 3413321552**14
Section of NGPA: 103
Operator: Inland Drilling Co., Inc.
Well Name: Dekome No. 1
Field:
County: Portage
Purchaser:
Volume: 5,023 MMcf.

FERC Control Number: JD79-5597
API Well Number: 3413321569**14
Section of NGPA: 103
Operator: Inland Drilling Co., Inc.
Well Name: Heeter No. 1
Field:
County: Portage
Purchaser:
Volume: 5,023 MMcf.

FERC Control Number: JD79-5598
API Well Number: 3413321503**14
Section of NGPA: 103
Operator: Inland Drilling Co., Inc.
Well Name: Pochedly No. 1
Field:
County: Portage
Purchaser:
Volume: 5,023 MMcf.

FERC Control Number: JD79-5599
API Well Number: 3413321582**14
Section of NGPA: 103
Operator: Inland Drilling Co., Inc.
Well Name: Pochedly No. 4
Field:
County: Portage
Purchaser:
Volume: 5,023 MMcf.

FERC Control Number: JD79-5600
API Well Number: 3413321703**14
Section of NGPA: 103
Operator: Inland Drilling Co., Inc.
Well Name: L & P Investments No. 1
Field:
County: Portage
Purchaser:
Volume: 5,023 MMcf.

The applications for determination in these proceedings together with a copy or description of other materials in the record on which such determinations were made are available for inspection, except to the extent such material is treated as confidential under 18 CFR 275.206, at the Commission's Office of Public Information, Room 1000, 825 North Capitol Street, N.E., Washington, D.C. 20426.

Persons objecting to any of those final determinations may, in accordance with 18 CFR 275.203 and 18 CFR 275.204, file a protest with the Commission on or before May 29, 1979. Please reference the FERC Control Number in any correspondence concerning a determination.

Kenneth F. Plumb,
Secretary.

[FR Doc. 79-14679 Filed 5-10-79; 8:45 am]
BILLING CODE 6450-01-M

West Texas Utilities Co.; Initial Rate

May 4, 1979.

The filing Company submits the following:

Take notice that West Texas Utilities Company on May 2, 1979, tendered for filing an Initial Electric Rate to the City of Brady, a municipal corporation of the State of Texas. The proposed wholesale contract rate for electric service to the City of Brady provides for a minimum monthly purchase by the City of 1,500 kW and 687,500 kWh for a monthly charge of $18,462.50 plus fuel adjustment. The estimated annual revenue for the period ending June 30, 1980, will be $254,765.88 on this wholesale service to the City of Brady.

West Texas Utilities Company states that the proposed service to the City of Brady will provide the power and energy required to supplement the City's generating facilities and enable the City to meet its growing demand for electric service in the most practical and economic manner available.

West Texas Utilities Company also states that a copy of the complete filing was served upon the City of Brady, Brady, Texas.

Any person desiring to be heard or to protest that application should file a petition to intervene or protest with the Federal Energy Regulatory Commission, 825 North Capitol Street, N.E., Washington, D.C. 20426, in accordance with paragraphs 1.8 and 1.10 of the Commission's rules of practice and procedure (18 CFR 1.8, 1.10). All such petitions or protests should be filed on or before May 29, 1979. Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants party to the proceeding. Any person wishing to become a party must file a petition to intervene. Copies of this application are on file with the Commission and are available for public inspection.

Kenneth F. Plumb,
Secretary.

[Docket No. ER79-344]
[FR Doc. 79-14673 Filed 5-10-79; 8:45 am]
BILLING CODE 6450-01-M

Western Transmission Corp.; Proposed Changes

May 4, 1979.

Take notice that Western Transmission Corporation (Western), on April 30, 1979, tendered for filing as part of its FPC Gas Tariff, Original Volume No. 1, the following sheet:

Eleventh Revised Sheet No. 3-A, superseding Tenth Revised Sheet No. 3-A.

The proposed changes would decrease the monthly charges for purchased gas to Colorado Interstate Gas Company, Western's sole jurisdictional customer, pursuant to the provisions of Section 18 of Western's FPC Gas Tariff, Original Volume No. 1.

The proposed effective date of the above tariff sheet is June 1, 1979.

Copies of this filing have been served upon Colorado Interstate Gas Company.

Any person desiring to be heard or to protest said filing should file a petition to intervene or protest with the Federal Energy Regulatory Commission, 825 North Capitol Street NE., Washington, D.C. 20426, in accordance with Sections 1.8 and 1.10 of the Commission's Rules of Practice and Procedure (18 CFR 1.8, 1.10). All such petitions or protests should be filed on or before *May 21, 1979.* Protests will be considered by the Commission in determining the appropriate action to be taken but will not serve to make protestants parties to the proceedings. Any person wishing to become a party must file a petition to intervene. Copies of this filing are on file with the Commission and are available for public inspection.

Kenneth F. Plumb,
Secretary.

[Docket Nos. RP72-41 (PGA 79-2)]
[FR Doc. 79-14674 Filed 5-10-79; 8:45 am]
BILLING CODE 6450-01-M

Wray Petroleum Corp. of Ohio et. al.; Determination by a Jurisdictional Agency Under the Natural Gas Policy Act of 1978

May 3, 1979.

On April 18, 1979, the Federal Energy Regulatory Commission received notices from the jurisdictional agencies listed below of determinations pursuant to 18 CFR 274.104 and applicable to the indicated wells pursuant to the Natural Gas Policy Act of 1978.

State of Ohio Department of Natural Resources Division of Oil and Gas

FERC Control Number: JD79-5501
API Well Number: 3405320154**14
Section of NGPA: 102
Operator: Wray Petroleum Corp. of Ohio
Well Name: Waugh No. 1

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Field:
County: Gallia
Purchaser:
Volume: 36 MMcf

FERC Control Number: JD79–5502
API Well Number: 3405320167**14
Section of NGPA: 102
Operator: Wray Petroleum Corp. of Ohio
Well Name: Walker No. 2
Field:
County: Gallia
Purchaser:
Volume: 36 MMcf

FERC Control Number: JD79–5503
API Well Number: 3405320165**14
Section of NGPA: 102
Operator: Wray Petroleum Corp. of Ohio
Well Name: Walker No. 1
Field:
County: Gallia
Purchaser:
Volume: 36 MMcf

FERC Control Number: JD79–5504
API Well Number: 3405320158**14
Section of NGPA: 102
Operator: Wray Petroleum Corp. of Ohio
Well Name: Rutherford No. 1
Field:
County: Gallia
Purchaser:
Volume: 36 MMcf

FERC Control Number: JD79–5505
API Well Number: 3415520764**14
Section of NGPA: 103
Operator: Inland Drilling Co., Inc.
Well Name: Maitino No. 2
Field:
County: Trumbull
Purchaser: East Ohio Gas Company
Volume: 0, 210 MMcf

FERC Control Number: JD79–5506
API Well Number: 3407521840**14
Section of NGPA: 108
Operator: Killbuck Oil Field Service
Well Name: Gairy & Jackie Lamp No. 1B
Field: Killbuck
County: Holmes
Purchaser: Columbia Gas Transmission Corp.
Volume: 1.899 MMcf

FERC Control Number: JD79–5507
API Well Number: 3415520741**14
Section of NGPA: 103
Operator: Inland Drilling Co., Inc.
Well Name: Maitino No. 4
Field:
County: Trumbull
Purchaser: East Ohio Gas Co.
Volume: 0.387 MMcf

FERC Control Number: JD79–5508
API Well Number: 3416724253**14
Section of NGPA: 103
Operator: Wynn Oil Company
Well Name: Buckeye Drywall, Inc. No. 1
Field:
County: Washington
Purchaser: East Ohio Gas Co.
Volume: 10 MMcf

FERC Control Number: JD79–5509
API Well Number: 3408322556**14
Section of NGPA: 103
Operator: Guardian Management, Inc.
Well Name: Charles and Helen McKee No. 1–A
Field:
County: Knox
Purchaser:
Volume: 6 MMcf

FERC Control Number: JD79–5510
API Well Number: 3407522096**14
Section of NGPA: 103
Operator: Lomak Petroleum Inc.
Well Name: Coughman No. 1
Field:
County: Holmes
Purchaser:
Volume: 11 MMcf

FERC Control Number: JD79–511
API Well Number: 3407522089**14
Section of NGPA: 103
Operator: Lomak Petroleum Inc.
Well Name: Snow No. 1
Field:
County: Holmes
Purchaser:
Volume: 11 MMcf

FERC Control Number: JD79–5512
API Well Number: 3407522095**14
Section of NGPA: 103
Operator: Lomak Petroleum Inc.
Well Name: Brumme No. 1
Field:
County: Holmes
Purchaser:
Volume: 7 MMcf

FERC Control Number: JD79–5513
API Well Number: 3403123364**14
Section of NGPA: 103
Operator: Lomak Petroleum Inc.
Well Name: Botson No. 1
Field:
County: Coshocton
Purchaser:
Volume: 7 MMcf

FERC Control Number: JD79–5514
API Well Number: 3403123368**14
Section of NGPA: 103
Operator: Lomak Petroleum, Inc.
Well Name: Schonauer No. 1
Field:
County: Coshocton
Purchaser:
Volume: 7 MMcf.

FERC Control Number: JD79–5515
API Well Number: 3407522116**14
Section of NGPA: 103
Operator: Lomak Petroleum, Inc.
Well Name: A. K. Taylor No. 1
Field:
County: Holmes
Purchaser:
Volume: 10 MMcf.

FERC Control Number: JD79–5516
API Well Number: 3407522097**14
Section of NGPA: 103
Operator: Lomak Petroleum, Inc.
Well Name: Hoxworth No. 1
Field:
County: Holmes
Purchaser:
Volume: 15 MMcf.

FERC Control Number: JD79–5517
API Well Number: 3415722921**14
Section of NGPA: 103
Operator: Phoenix National Petroleum
Well Name: Burdette No. 1
Field:
County: Tuscarawas
Purchaser: Barmet Aluminum Company
Volume: 69 MMcf.

FERC Control Number: JD79–5518
API Well Number: 3415722922**14
Section of NGPA: 103
Operator: Phoenix National Petroleum
Well Name: Tusco Land Company No. 1
Field:
County: Tuscarawas
Purchaser: Barmet Industries, Inc.
Volume: 90 MMcf.

FERC Control Number: JD79–5519
API Well Number: 3411924320**14
Section of NGPA: 103
Operator: Reliance Management Co.
Well Name: Harry Kearns No. 2
Field:
County: Muskingum
Purchaser: Newzane Gas Co.
Volume: 10 MMcf.

FERC Control Number: JD79–5520
API Well Number: 3408923489**14
Section of NGPA: 103
Operator: Reliance Management Co.
Well Name: William Killworth No. 1
Field:
County: Licking
Purchaser: Newzane Gas Co.
Volume: 20 MMcf.

FERC Control Number: JD79–5521
API Well Number: 3411923965**14
Section of NGPA: 103
Operator: Reliance Management Co.
Well Name: C. A. Murrey No. 1
Field:
County: Muskingum
Purchaser: Newzane Gas Co.
Volume: 5 MMcf

FERC Control Number: JD79–5522
API Well Number: 3408923513**14
Section of NGPA: 103
Operator: Reliance Management Co.
Well Name: St. Johns Church H1A
Field:
County: Licking
Purchaser: Newzane Gas Co.
Volume: 15 MMcf.

FERC Control Number: JD79–5523
API Well Number: 3411924097**14
Section of NGPA: 103
Operator: Reliance Management Co.
Well Name: Paul Moran No. 1
Field:
County: Muskingum
Purchaser: National Gas & Oil Corp.
Volume: 5 MMcf.

FERC Control Number: JD79–5524
API Well Number: 3407322120**14
Section of NGPA: 103
Operator: Reliance Management Co.
Well Name: Sunday Creek Coal Co. No. 43–R
Field:
County: Hocking
Purchaser: Columbia Gas Transmission Corp.
Volume: 10 MMcf.

FERC Control Number: JD79–5525
API Well Number: 3403123057**14
Section of NGPA: 103
Operator: Reliance Management Co.
Well Name: Forrest Mercer No. 7
Field:
County: Coshocton

Purchaser: National Gas & Oil Corp.
Volume: 6 MMcf.

FERC Control Number: JD79–5526
API Well Number: 3408322471**14
Section of NGPA: 103
Operator: Reliance Management Co.
Well Name: Glen Kiowell No. 1
Field:
County: Knox
Purchaser: National Gas & Oil Corp.
Volume: 8 MMcf.

FERC Control Number: JD79–5527
API Well Number: 3412724145**14
Section of NGPA: 103
Operator: Reliance Management Co.
Well Name: J. Russel No. 1
Field:
County: Perry
Purchaser: National Gas & Oil Corp.
Volume: 5 MMcf.

FERC Control Number: JD79–5528
API Well Number: 3415122684**14
Section of NGPA: 103
Operator: Zenith Exploration Company
Well Name: Harry C. Eckroate No. 2
Field:
County: Stark
Purchaser: East Ohio Gas Company
Volume: 4 MMcf.

The applications for determination in these proceedings together with a copy or description of other materials in the record on which such determinations were made are available for inspection, except to the extent such material is treated as confidential under 18 CFR 275.206, at the Commission's Office of Public Information, Room 1000, 825 North Capitol Street, N.E.,, Washington, D.C. 20426.

Persons objecting to any of those final determinations may, in accordance with 18 CFR 275.203 and 18 CFR 275.204, file a protest with the Commission on or before May 29, 1979. Please reference the FERC Control Number in any correspondence concerning a determination.

Kenneth F. Plumb,
Secretary.

[FR Doc. 79–14677 Filed 5–10–79; 8:45 am]

BILLING CODE 6450–01–M

Office of Hearings and Appeals

Notice of Cases Filed; Week of March 23 through March 30, 1979

Notice is hereby given that during the week of March 23, 1979 through March 30, 1979 the appeals and applications for exception or other relief listed in the Appendix to this Notice were filed with the Office of Hearings and Appeals of the Department of Energy.

Under the DOE's procedural regulations, 10 CFR, Part 205, any person who will be aggrieved by the DOE action sought in such cases may file with the DOE written comments on the application within ten days of service of notice, as prescribed in the procedural regulations. For purposes of those regulations, the date of service of notice shall be deemed to be the date of publication of this Notice or the date of receipt by an aggrieved person of actual notice, whichever occurs first. All such comments shall be filed with the Office of Hearings and Appeals, Department of Energy, Washington, D.C. 29461.

May 3, 1979.

Melvin Goldstein,
Director, Office of Hearings and Appeals.

Date	Name and location of applicant	Case No.	Type of submission
If granted: The following firms would receive a temporary stay, a stay, and/or exception from the activation of the Standby Petroleum Product Allocation regulations with respect to motor gasoline.			
3/23/79	Billy Ray Conner, Paducah, Kentucky	DEE–2918	Allocation Exception.
3/23/79	Boss Oil Company, Jonesboro, Louisiana	DEE–2928 and DST–2928.	Allocation Exception and Request for Temporary Stay.
3/23/79	Brook Plaza Exxon Service Center, Brooksville, Florida.	DEE–2938, DES–2938, and DST–2938.	Allocation Exception, Request for Stay and Request for Temporary Stay.
3/23/79	Capitol Insulating Company, Raleigh, North Carolina.	DEE–2952	Allocation Exception.
3/23/79	Chase Oil Company, Ulysses, Pennsylvania	DEE–2953 and DES–2953.	Allocation Exception and Request for Stay.
3/23/79	Cheatham Oil Company, Wewoka, Oklahoma	DST–0043	Request for Temporary Stay.
3/23/79	Clete's 66, Fort Lauderville, Florida	DEE–2930 and DST–2930.	Allocation Exception and Request for Temporary Stay.
3/23/79	Colesville Citgo, Silver Spring, Maryland	DEE–2956	Allocation Exception.
3/23/79	College Park Shell, Miami, Florida	DEE–2965	Allocation Exception.
3/23/79	Conlee Oil Company, Clio, Michigan	DEE–2955	Allocation Exception.
3/23/79	Fast & Friendly Market, Knoxville, Tennessee	DEE–2957	Allocation Exception.
3/23/79	Frederick St. Sunoco Service, Hagerstown, Maryland.	DEE–2961	Allocation Exception.
3/23/79	Gaston Merchants Oil Company, Gastonia, North Carolina.	DEE–2963	Allocation Exception.
3/23/79	Grier's Kwik Stop, Deatsville, Alabama	DEE–2964	Allocation Exception.
3/23/79	H & H Gulf, Dallas, Texas	DEE–2926, DST–2926, and DES–2926.	Allocation Exception, Request for Temporary Stay.
3/23/79	Hilltop Services, Inc., West Bend, Wisconsin	DEE–2978	Allocation Exception.
3/23/79	Jim Wilkie Oil Company, Sarasota, Florida	DEE–2970	Allocation Exception.
3/23/79	John's Chevron, Olala, Florida	DEE–2971	Allocation Exception.
3/23/79	Kenneth Johnston, Dearborn Heights, Michigan	DEE–2973	Allocation Exception.
3/23/79	Johnson Oil Company, Gaylord, Michigan	DEE–2972	Allocation Exception.
3/23/79	Lakewood Oil Co., Inc., Lakewood, New Jersey	DEE–2974	Allocation Exception.
3/23/79	Millers Standard Service, Mukwonago, Wisconsin	DEE–2976	Allocation Exception.
3/23/79	Mowery Oil Co., Inc., Strasburg, Virginia	DEE–2979	Allocation Exception.
3/23/79	Sallie L. Nance, Detroit, Michigan	DEE–2977	Allocation Exception.
3/23/79	North Country Gulf, Rocky Point, New York	DEE–2980	Allocation Exception.
3/23/79	Oasis Petro Energy Corp., Washington, D.C.	DST–0042	Request for Temporary Stay.
3/23/79	Paul's Exxon, Daytona Beach Shores, Florida	DEE–2936 and DST–2936.	Allocation Exception and Request for Temporary Stay.
3/23/79	Phillips & Munzel Shell, Ruskin, Florida	DEE–2925, DES–2925, and DST–2925.	Allocation Exception, and Request for Stay and Temporary Stay.
3/23/79	Pollard Gulf Station, Greenville, North Carolina	DEE–3162	Allocation Relief.
3/23/79	Quick Car Wash & Gas Mart, Jacksonville, North Carolina.	DEE–2946 and DES–2946.	Allocation Exception, Request for Stay.

Date	Name and location of applicant	Case No.	Type of submission
3/23/79	Ronsick's Shell Service, Florissant, Missouri	DES-0190 and DST-0190.	Request for Temporary Stay.
3/23/79	Rose Hill Gulf, Rose Hill, Virginia	DEE-2948 and DES-2948.	Allocation Exception and Request for Stay.
3/23/79	Rusher Oil Company, Salisbury, North Carolina	DEE-2982	Allocation Exception.
3/23/79	C. V. Sangaree, Marianna, Florida	DEE-3088 and DES-3088.	Allocation Exception and Request for Stay.
3/23/79	Sears Oil Company, Somerville, New Jersey	DEE-2947 and DES-2947.	Allocation Exception and Request for Stay.
3/23/79	Sunny Service Oil Company, Perrysburg, Ohio	DEE-2984	Allocation Exception.
3/23/79	Uranich Coal & Oil, LaSalle, Illinois	DEE-2986	Allocation Exception.
3/23/79	Van Handel Oil Company, Kaukauna, Wisconsin	DEE-2987	Allocation Exception.
3/23/79	W. J. Fletcher Arco 70, Medford, New Jersey	DEE-2960	Allocation Exception.
3/23/79	Walnut Cash & Carry, Marshall, North Carolina	DEE-2937, DES-2937, and DST-2937.	Allocation Exception, Request for Temporary Stay and Stay.
3/24/79	Bonus International Corp., Carson City, Nevada	DES-2927 and DST-2927.	Request for Temporary Stay and Stay.
3/26/79	Airport Exxon, Birmingham, Alabama	DEE-2939, DES-2939, and DST-2939.	Allocation Exception, Request for Stay and Request for Temporary Stay.
3/26/79	Amerson Bowman Company, Niles, Michigan	DEE-3086	Allocation Relief.
3/26/79	B & K Johnson, Westland, Michigan	DEE-3172 and DES-3172.	Allocation Relief.
3/26/79	Bob's Station, Dallas, Texas	DEE-2959	Allocation Exception.
3/26/79	Brabham Oil Company, Inc., Bramberg, South Carolina.	DEE-2951	Allocation Exception.
3/26/79	Branyon Oil Company, Fayette, Alabama	DEE-2929 and DST-2929.	Allocation Exception, Request for Temporary Stay.
3/26/79	Clark Gas and Oil Co., Inc., Stuart, Virginia	DEE-2931 and DST-2931.	Allocation Exception, Request for Temporary Stay.
3/26/79	Corondolet Corporation, Memphis, Tennessee	DEE-2943 and DES-2943.	Allocation Exception and Request for Stay.
3/26/79	Davis Oil Company, Fort Lauderdale, Florida	DEE-2932 and DST-2932.	Allocation Exception, Request for Temporary Stay.
3/26/79	Eden Oil Company, Eden, North Carolina	DEE-3023 and DES-3023.	Allocation Exception and Request for Stay.
3/26/79	Emerald Hills Citgo, Hollywood, Florida	DEE-2940, DES-2940, and DST-2940.	Allocation Exception, Request for Temporary Stay and Stay.
3/26/79	G. D. Armstrong Company, Inc., Laytonsville, Maryland.	DEE-2962	Allocation Exception.
3/26/79	Garrott Oil Company, Memphis, Arkansas	DEE-2965 and DES-2965.	Allocation Exception and Request for Stay.
3/26/79	Gibson's Exxon, St. Pete, Florida	DEE-2966	Allocation Exception.
3/26/79	Goodall Shell Service, Dearborn, Michigan	DEE-2967	Allocation Exception.
3/26/79	Growth Industries, Inc., Old Greenwich, Connecticut	DEE-2968	Allocation Exception.
3/26/79	Preston B. Hall, Dothan, Alabama	DEE-2969	Allocation Exception.
3/26/79	Hall's Grocery, Eclectic, Alabama	DEE-2934 and DST-2934.	Allocation Exception, Request for Temporary Stay.
3/26/79	Hilltop Grand, Reno, Nevada	DEE-2944 and DES-2944.	Allocation Exception and Request for Stay.
3/26/79	Hitex Industries, Inc., Linden, New Jersey	DEE-2988	Allocation Exception.
3/26/79	Johnson's Shell, Westland, Michigan	DEE-2945 and DES-2945.	Allocation Exception and Request for Stay.
3/26/79	L. J. Wood Oil Company, Gardena, California	DST-2933 and DEE-2933.	Allocation Exception and Request for Temporary Stay.
3/26/79	Martin Petroleum Corporation, Port Everglades, Florida.	DEE-2935 and DST-2935.	Allocation Exception and Request for Temporary Stay.
3/26/79	Mid-City Exxon, Midland City, Alabama	DEE-2975	Allocation Exception.
3/26/79	Nelson Oil Company, Long Beach, California	DEE-2950	Allocation Exception.
3/26/79	Peter Carbone and Sons, Inc., Woburn, Massachusetts.	DEE-2981	Allocation Exception.
3/26/79	James W. Rowland, Harrison, Arkansas	DEE-3075	Allocation Exception.
3/26/79	State of Montana, Montana	DEE-2949 and DES-2949.	Allocation Exception and Request for Stay.
3/26/79	Tom's Standard Service, Manitowoc, Wisconsin	DEE-2958	Allocation Exception.
3/26/79	Trans-Texas Petroleum Corp., Forth Worth, Texas	DEE-2942, DES-2942, and DST-2942.	Allocation Exception, Request for Stay and Request for Temporary Stay
3/26/79	Tuckahoe Exxon, Tuckahoe, New Jersey	DEE-2941, DES-2941, and DST-2941.	Allocation Exception, Request for Temporary Stay and Stay.
3/26/79	Vickers Petroleum Corporation, Washington, D.C	DST-0045 and DEA-0351.	Appeal of Economic Regulatory Administration's Decision and Order and Request for Temporary Stay.
3/27/79	Al's Servicenter II, Coral Gables, Florida	DEE-3009	Allocation Exception.
3/27/79	Apex Oil Company, Bonita Springs, Florida	DEE-2992 and DST-2992.	Allocation Exception, Request for Temporary Stay.
3/27/79	Arnie's Arco Mini-Market, Junior, Boulder City, Nevada.	DEE-3003	Allocation Exception.
3/27/79	B-C Enterprises, Fullerton, California	DEE-3001 and DES-3001.	Allocation Exception and Request for Stay.
3/27/79	Bauserman Oil Company, Winchester, Virginia	DEE-2915, DES-2915, and DST-2915.	Allocation Exception, Request for Temporary Stay and Stay.
3/27/79	Cal's Chevron, Miami, Florida	DEE-3017	Allocation Exception.
3/27/79	Caledonia Oil Company, Inc., Caledonia, Michigan	DEE-3020	Allocation Exception.
3/27/79	Camp Bellton Plaza Gulf, Atlanta, Georgia	DEE-3010	Allocation Exception.

Date	Name and location of applicant	Case No.	Type of submission
3/27/79	Carlos A. Monreal Exxon Service, Lawndale, California.	DEE-3158	Allocation Exception.
3/27/79	Castro Valley Enterprises, Castro Valley, California	DEE-3049	Allocation Exception.
3/27/79	Central Service Station, Owosso, Michigan	DEE-2993 and DST-2993.	Allocation Exception, Request for Temporary Stay.
3/27/79	Chevron Island Car Wash, Albuquerque, New Mexico.	DEE-3018	Allocation Exception.
3/27/79	Combs Grocery, Reidsville, North Carolina	DEE-3011	Allocation Exception.
3/27/79	Douglas Gulf and Mower Service, Dallas, Texas	DEE-2996 and DES-2996.	Allocation Exception and Request for Stay.
3/27/79	Edward's Auto Service, Richmond, Virginia	DEE-2994, DES-2994, and DST-2994.	Allocation Exception, Request for Stay and Request for Temporary Stay.
3/27/79	Evans Oil Company, Lancaster, South Carolina	DEE-3005	Allocation Exception.
3/27/79	Fountain Hills Service Station, Fountain Hills, Arizona.	DEE-2995, DES-2995, and DST-2995.	Allocation Exception, Request for Stay and Request for Temporary Stay.
3/27/79	Golfair Exxon, Jacksonville, Florida	DEE-2990 and DST-2990.	Allocation Exception and Request for Temporary Stay.
3/27/79	Gonzales Truck Stop, Prairieville, Louisiana	DEE-3002 and DES-3002.	Allocation Exception and Request for Stay.
3/27/79	Green Valley Auto Service, Monrovia, Maryland	DEE-3007	Allocation Exception.
3/27/79	Gregg Self-Serv No. 1, Palestine, Texas	DEE-3000 and DES-3000.	Allocation Exception.
3/27/79	H. L. Mills Petroleum Products, Washington, D.C	DEE-2997 and DES-2997.	Allocation Exception, Request for Stay.
3/27/79	Harry's 66, Fort Myers, Florida	DEE-2989 and DST-2989.	Allocation Exception and Request for Temporary Stay.
3/27/79	Highway Oil, Inc., Topeka, Kansas	DEE-3076	Allocation Exception.
3/27/79	Malone Oil Company, Memphis, Tennessee	DEE-3019, DES-3019, and DST-3019.	Allocation Exception, Request for Temporary Stay and Stay.
3/27/79	Manet Shell Inc., Quincy, Massachusetts	DES-0191	Request for Stay.
3/27/79	Ovid Oil Company, Ovid, Michigan	DEE-3006	Allocation Exception.
3/27/79	Palmyra Standard Service, Palmyra, Wisconsin	DEE-3008	Allocation Exception.
3/27/79	Park Caldwell & Sons, Inc., Tooele, Utah	DES-0193	Request for Stay.
3/27/79	Port Petroleum, Inc., Washington, D.C	DST-0044	Request for Temporary Stay.
3/27/79	Richard Oil Corporation, West Palm Beach, Florida	DEE-3022	Allocation Exception.
3/27/79	Ruthinowski & Warner Auto Service, Riverhead, New York.	DEE-2983	Allocation Exception.
3/27/79	Sam Ammari Arco, Ingelwood, California	DEE-3012	Allocation Exception.
3/27/79	Sam's Gulf Service, West Monroe, Louisiana	DEE-2999 and DES-2998.	Allocation Exception, Request for Stay.
3/27/79	Scott's Arco Station Compton, California	DEE-3015,	Allocation Exception.
3/27/79	Smith-Rogers Oil Company, Mullins, South Carolina	DEE-3013	Allocation Exception.
3/27/79	Stophers Standard Service, Greenfield, Wisconsin	DEE-3014	Allocation Exception.
3/27/79	Suburban Sunoco Service, Cottage City, Maryland	DEE-3166	Allocation Exception.
3/27/79	Sure Enterprises, Inc., East Islip, New York	DEE-3173	Allocation Exception.
3/27/79	Tuloil, Inc., Tulsa, Oklahoma	DEE-2996, DES-2996 and DST-2996.	Allocation Exception, Request for Stay and Request for Temporary Stay.
3/27/79	W. Broward Phillips "66" Service, Fort Lauderdale, Florida.	DEE-2991 and DST-2991.	Allocation Exception, Request for Temporary Stay.
3/27/79	Walworth Standard Carwash, Walworth, Wisconsin	DEE-3165	Allocation Exception.
3/27/79	Williamson Exxon, Duncanville, Texas	DEE-3016	Allocation Exception.
3/28/79	A & M Petroleum Company, Hudsonville, Michigan	DEE-3032 and DST-3032.	Allocation Exception, Request for Temporary Stay.
3/28/79	Allison Oil Company, Ardmore, Oklahoma	DEE-3034 and DST-3034.	Allocation Exception and Request for Temporary Stay.
3/28/79	American Air Filter, Lousiville, Kentucky	DEE-3070	Allocation Relief.
3/28/79	Bakers Standard Service, Hales Corner, Wisconsin	DEE-3072	Allocation Relief.
3/28/79	Faziollah Bazarganan, Los Angeles, California	DEE-3082	Allocation Relief.
3/28/79	Beck Distributing Company, Vacaville, California	DEE-3087	Allocation Exception.
3/28/79	Berwyn Fuel, Inc., Laurel, Maryland	DEE-3061	Allocation Exception.
3/28/79	Big Stone Oil Company, Inc., Big Stone Gap, Virginia.	DEE-3024, DES-3024, and DST-3024.	Allocation Exception, Request for Temporary Stay and Stay.
3/28/79	Bouquet Exxon, Saugus, California	DEE-3074	Allocation Exception.
3/28/79	Brockbridge Exxon, Laurel, Maryland	DEE-3048	Allocation Exception.
3/28/79	Brooks Circle Exxon, Kingsport, Tennessee	DEE-3063	Allocation Exception.
3/28/79	Butch's Standard, Milwaukee, Wisconsin	DEE-3083	Allocation Exception.
3/28/79	Cascade Stop & Shop, Grand Rapids, Michigan	DEE-3064	Allocation Exception.
3/28/79	Edward Cebula, Dellflower, California	DEE-3041	Allocation Exception.
3/28/79	Charles L. Luttrell, Inc., San Leandro, California	DEE-3029 and DST-3029.	Allocation Exception, Request for Temporary Stay.
3/28/79	Clark's Ferry Auto/Truck Stop, Duncannon, Pennsylvania.	DEE-2954 and DES-2954.	Allocation Exception and Request for Stay.
3/28/79	Commerce & Hiller Shell, West Bloomfield, Michigan.	DEE-3079	Allocation Exception.
3/28/79	Crites Oil Co., Inc., Fort Worth, Texas	DEE-3025, DES-3025 and DST-3025.	Allocation Exception, Request for Temporary Stay and Stay.
3/28/79	Dundalk Exxon, Baltimore, Maryland	DEE-3026, DES-3026, andDST-3026.	Allocation Exception, Request for Temporary Stay and Stay.
3/28/79	E-Z-GO Service Gasoline, Green Bay, Wisconsin	DEE-3157	Allocation Relief.
3/28/79	Foster Oil Company, Boise, Idaho	DEE-3054	Allocation Exception.

Date	Name and location of applicant	Case No.	Type of submission
3/28/79	Fred's Exxon, Jacksonville, Florida	DEE-3027 and DST-3027.	Allocation Exception and Request for Temporary Stay.
3/28/79	Gene's Exxon, Jacksonville, Florida	DEE-3028 and DST-3028.	Allocation Exception and Request for Temporary Stay.
3/28/79	Gerald Oil Company, Inc., Gerald, Missouri	DEE-3031 and DES-3031.	Allocation Exception and Request for Stay.
3/28/79	Gilbert Oil Company, Gilbert, West Virginia	DEE-3033 and DES-3033.	Allocation Exception and Request for Stay.
3/28/79	Gulf Service Station, Lake Worth, Florida	DEE-3035 and DST-3035.	Allocation Exception and Request for Temporary Stay.
3/28/79	Hall's Exxon, Jacksonville, Florida	DEE-3036 and DST-3036.	Allocation Exception and Request for Temporary Stay.
3/28/79	Hall's Exxon, Jacksonville, Florida	DEE-3037 and DST-3037.	Allocation Exception and Request for Temporary Stay.
3/28/79	Hall's Exxon, Jacksonville, Florida	DEE-3038 and DST-3038.	Allocation Exception and Request for Temporary Stay.
3/28/79	Hall's Exxon, Jacksonville, Florida	DEE-3039 and DST-3039.	Allocation Exception and Request for Temporary Stay.
3/28/79	Hall's Exxon, Jacksonville, Florida	DEE-3040 and DST-3040.	Allocation Exception and Request for Temporary Stay.
3/28/79	Hall's Exxon, Jacksonville, Florida	DEE-3042 and DST-3042.	Allocation Exception and Request for Temporary Stay.
3/28/79	Hall's Exxon, Jacksonville, Florida	DEE-3043 and DST-3043.	Allocation Exception and Request for Temporary Stay.
3/28/79	Hall's Exxon, Jacksonville, Florida	DEE-3044 and DST-3044.	Allocation Exception and Request for Temporary Stay.
3/28/79	Hall's Exxon, Jacksonville, Florida	DEE-3045 and DST-3045.	Allocation Exception and Request for Temporary Stay.
3/28/79	Hall's Exxon, Jacksonville, Florida	DEE-3046 and DST-3046.	Allocation Exception and Request for Temporary Stay.
3/28/79	Hall's Exxon, Jacksonville, Florida	DEE-3047 and DST-3047.	Allocation Exception and Request for Temporary Stay.
3/28/79	Hall's Exxon, Jacksonville, Florida	DEE-3050 and DST-3050.	Allocation Exception and Request for Temporary Stay.
3/28/79	Hall's Exxon, Jacksonville, Florida	DEE-3051 and DST-3051.	Allocation Exception and Request for Temporary Stay.
3/28/79	Hall's Exxon, Jacksonville, Florida	DEE-3052 and DST-3052.	Allocation Exception and Request for Temporary Stay.
3/28/79	Hall's Exxon, Jacksonville, Florida	DEE-3053 and DST-3053.	Allocation Exception and Request for Temporary Stay.
3/28/79	Hall's Exxon, Jacksonville, Florida	DEE-3055 and DST-3055.	Allocation Exception and Request for Temporary Stay.
3/28/79	Hall's Exxon, Jacksonville, Florida	DEE-3056 and DST-3056.	Allocation Exception and Request for Temporary Stay.
3/28/79	Hall's Exxon, Jacksonville, Florida	DEE-3057 and DST-3057.	Allocation Exception and Request for Temporary Stay.
3/28/79	Hall's Exxon, Jacksonville, Florida	DEE-3058 and DST-3058.	Allocation Exception and Request for Temporary Stay.
3/28/79	Hall's Exxon, Jacksonville, Florida	DEE-3059 and DST-3059.	Allocation Exception and Request for Temporary Stay.
3/28/79	Hall's Exxon, Jacksonville, Florida	DEE-3060 and DST-3060.	Allocation Exception and Request for Temporary Stay.
3/28/79	Hall's Exxon, Jacksonville, Florida	DEE-3062 and DST-3062.	Allocation Exception and Request for Temporary Stay.
3/28/79	Hall's Exxon, Jacksonville, Florida	DEE-3066 and DST-3066.	Allocation Exception and Request for Temporary Stay.
3/28/79	Hall's Exxon, Jacksonville, Florida	DEE-3067 and DST-3067.	Allocation Exception and Request for Temporary Stay.
3/28/79	Hall's Exxon, Jacksonville, Florida	DEE-3068 and DST-3068.	Allocation Exception and Request for Temporary Stay.
3/28/79	Hall's Exxon, Jacksonville, Florida	DEE-3069 and DST-3069.	Allocation Exception and Request for Temporary Stay.
3/28/79	Hall's Exxon, Jacksonville, Florida	DEE-3071 and DST-3071.	Allocation Exception and Request for Temporary Stay.
3/28/79	Hall's Exxon, Jacksonville, Florida	DEE-3073 and DST-3073.	Allocation Exception and Request for Temporary Stay.
3/28/79	Hall's Exxon, Jacksonville, Florida	DEE-3075 and DST-3075.	Allocation Exception and Request for Temporary Stay.
3/28/79	Hall's Exxon, Jacksonville, Florida	DEE-3077 and DST-3077.	Allocation Exception and Request for Temporary Stay.
3/28/79	Hall's Exxon, Jacksonville, Florida	DEE-3078 and DST-3078.	Allocation Exception and Request for Temporary Stay.
3/28/79	Hall's Exxon, Jacksonville, Florida	DEE-3080 and DST-3080.	Allocation Exception and Request for Temporary Stay.
3/28/79	Hall's Exxon, Jacksonville, Florida	DEE-3081 and DST-3081.	Allocation Exception and Request for Temporary Stay.
3/28/79	Hall's Exxon, Jacksonville, Florida	DEE-3084 and DST-3084.	Allocation Exception and Request for Temporary Stay.
3/28/79	Hall's Exxon, Jacksonville, Florida	DEE-3085 and DST-3085.	Allocation Exception and Request for Temporary Stay.
3/28/79	Hall's Exxon, Jacksonville, Florida	DEE-3089 and DST-3089.	Allocation Exception and Request for Temporary Stay.
3/28/79	Hall's Exxon, Jacksonville, Florida	DEE-3090 and DST-3090.	Allocation Exception and Request for Temporary Stay.
3/28/79	Hall's Exxon, Jacksonville, Florida	DEE-3091 and DST-3091.	Allocation Exception and Request for Temporary Stay.
3/28/79	Hall's Exxon, Jacksonville, Florida	DEE-3092 and DST-3092.	Allocation Exception and Request for Temporary Stay.
3/28/79	Hall's Exxon, Jacksonville, Florida	DEE-3093 and DST-3093.	Allocation Exception and Request for Temporary Stay.
3/28/79	Hall's Exxon, Jacksonville, Florida	DEE-3094 and DST-3094.	Allocation Exception and Request for Temporary Stay.
3/28/79	Hall's Exxon, Jacksonville, Florida	DEE-3095 and DST-3095.	Allocation Exception and Request for Temporary Stay.
3/28/79	Hall's Exxon, Jacksonville, Florida	DEE-3096 and DST-3096.	Allocation Exception and Request for Temporary Stay.
3/28/79	Hall's Exxon, Jacksonville, Florida	DEE-3097 and DST-3097.	Allocation Exception and Request for Temporary Stay.
3/28/79	Hall's Exxon, Jacksonville, Florida	DEE-3098 and DST-3098.	Allocation Exception and Request for Temporary Stay.
3/28/79	Hall's Exxon, Jacksonville, Florida	DEE-3099 and DST-3099.	Allocation Exception and Request for Temporary Stay.
3/28/79	Hall's Exxon, Jacksonville, Florida	DEE-3100 and DST-3100.	Allocation Exception and Request for Temporary Stay.
3/28/79	Hall's Exxon, Jacksonville, Florida	DEE-3101 and DST-3101.	Allocation Exception and Request for Temporary Stay.
3/28/79	Hall's Exxon, Jacksonville, Florida	DEE-3102 and DST-3102.	Allocation Exception and Request for Temporary Stay.
3/28/79	Hall's Exxon, Jacksonville, Florida	DEE-3103 and DST-3103.	Allocation Exception and Request for Temporary Stay.
3/28/79	Hall's Exxon, Jacksonville, Florida	DEE-3104 and DST-3104.	Allocation Exception and Request for Temporary Stay.
3/28/79	Hall's Exxon, Jacksonville, Florida	DEE-3105 and DST-3105.	Allocation Exception and Request for Temporary Stay.
3/28/79	Hall's Exxon, Jacksonville, Florida	DEE-3106 and DST-3106.	Allocation Exception and Request for Temporary Stay.
3/28/79	Hall's Exxon, Jacksonville, Florida	DEE-3107 and DST-3107.	Allocation Exception and Request for Temporary Stay.
3/28/79	Hall's Exxon, Jacksonville, Florida	DEE-3108 and DST-3108.	Allocation Exception and Request for Temporary Stay.
3/28/79	Hall's Exxon, Jacksonville, Florida	DEE-3109 and DST-3109.	Allocation Exception and Request for Temporary Stay.
3/28/79	Hall's Exxon, Jacksonville, Florida	DEE-3110 and DST-3110.	Allocation Exception and Request for Temporary Stay.
3/28/79	Hall's Exxon, Jacksonville, Florida	DEE-3111 and DST-3111.	Allocation Exception and Request for Temporary Stay.
3/28/79	Hall's Exxon, Jacksonville, Florida	DEE-3112 and DST-3112.	Allocation Exception and Request for Temporary Stay.
3/28/79	Hall's Exxon, Jacksonville, Florida	DEE-3113 and DST-3113.	Allocation Exception and Request for Temporary Stay.
3/28/79	Hall's Exxon, Jacksonville, Florida	DEE-3114 and DST-3114.	Allocation Exception and Request for Temporary Stay.
3/28/79	Hall's Exxon, Jacksonville, Florida	DEE-3115 and DST-3115.	Allocation Exception and Request for Temporary Stay.
3/28/79	Hall's Exxon, Jacksonville, Florida	DEE-3116 and DST-3116.	Allocation Exception and Request for Temporary Stay.
3/28/79	Hall's Exxon, Jacksonville, Florida	DEE-3117 and DST-3117.	Allocation Exception and Request for Temporary Stay.
3/28/79	Hall's Exxon, Jacksonville, Florida	DEE-3118 and DST-3118.	Allocation Exception and Request for Temporary Stay.
3/28/79	Hall's Exxon, Jacksonville, Florida	DEE-3119 and DST-3119.	Allocation Exception and Request for Temporary Stay.
3/28/79	Hall's Exxon, Jacksonville, Florida	DEE-3120 and DST-3120.	Allocation Exception and Request for Temporary Stay.
3/28/79	Hall's Exxon, Jacksonville, Florida	DEE-3121 and DST-3121.	Allocation Exception and Request for Temporary Stay.
3/28/79	Hall's Exxon, Jacksonville, Florida	DEE-3122 and DST-3122.	Allocation Exception and Request for Temporary Stay.
3/28/79	Hall's Exxon, Jacksonville, Florida	DEE-3123 and DST-3123.	Allocation Exception and Request for Temporary Stay.
3/28/79	Hall's Exxon, Jacksonville, Florida	DEE-3124 and DST-3124.	Allocation Exception and Request for Temporary Stay.
3/28/79	Hall's Exxon, Jacksonville, Florida	DEE-3125 and DST-3125.	Allocation Exception and Request for Temporary Stay.
3/28/79	Hall's Exxon, Jacksonville, Florida	DEE-3126 and DST-3126.	Allocation Exception and Request for Temporary Stay.
3/28/79	Hall's Exxon, Jacksonville, Florida	DEE-3127 and DST-3127.	Allocation Exception and Request for Temporary Stay.
3/28/79	Hall's Exxon, Jacksonville, Florida	DEE-3128 and DST-3128.	Allocation Exception and Request for Temporary Stay.
3/28/79	Hall's Exxon, Jacksonville, Florida	DEE-3129 and DST-3129.	Allocation Exception and Request for Temporary Stay.
3/28/79	Hall's Exxon, Jacksonville, Florida	DEE-3130 and DST-3130.	Allocation Exception and Request for Temporary Stay.
3/28/79	Hall's Exxon, Jacksonville, Florida	DEE-3131 and DST-3131.	Allocation Exception and Request for Temporary Stay.
3/28/79	Hall's Exxon, Jacksonville, Florida	DEE-3132 and DST-3132.	Allocation Exception and Request for Temporary Stay.
3/28/79	Hall's Exxon, Jacksonville, Florida	DEE-3133 and DST-3133.	Allocation Exception and Request for Temporary Stay.
3/28/79	Hall's Exxon, Jacksonville, Florida	DEE-3134 and DST-3134.	Allocation Exception and Request for Temporary Stay.
3/28/79	Hall's Exxon, Jacksonville, Florida	DEE-3135 and DST-3135.	Allocation Exception and Request for Temporary Stay.
3/28/79	Hall's Exxon, Jacksonville, Florida	DEE-3136 and DST-3136.	Allocation Exception and Request for Temporary Stay.
3/28/79	Hall's Exxon, Jacksonville, Florida	DEE-3137 and DST-3137.	Allocation Exception and Request for Temporary Stay.
3/28/79	Hall's Exxon, Jacksonville, Florida	DEE-3138 and DST-3138.	Allocation Exception and Request for Temporary Stay.
3/28/79	Hall's Exxon, Jacksonville, Florida	DEE-3139 and DST-3139.	Allocation Exception and Request for Temporary Stay.
3/28/79	Hall's Exxon, Jacksonville, Florida	DEE-3140 and DST-3140.	Allocation Exception and Request for Temporary Stay.
3/28/79	Hall's Exxon, Jacksonville, Florida	DEE-3141 and DST-3141.	Allocation Exception and Request for Temporary Stay.
3/28/79	Hall's Exxon, Jacksonville, Florida	DEE-3142 and DST-3142.	Allocation Exception and Request for Temporary Stay.
3/28/79	Hall's Exxon, Jacksonville, Florida	DEE-3143 and DST-3143.	Allocation Exception and Request for Temporary Stay.
3/28/79	Hall's Exxon, Jacksonville, Florida	DEE-3144 and DST-3144.	Allocation Exception and Request for Temporary Stay.
3/28/79	Hall's Exxon, Jacksonville, Florida	DEE-3145 and DST-3145.	Allocation Exception and Request for Temporary Stay.
3/28/79	Hall's Exxon, Jacksonville, Florida	DEE-3146 and DST-3146.	Allocation Exception and Request for Temporary Stay.
3/28/79	Hall's Exxon, Jacksonville, Florida	DEE-3147 and DST-3147.	Allocation Exception and Request for Temporary Stay.
3/28/79	Hall's Exxon, Jacksonville, Florida	DEE-3148 and DST-3148.	Allocation Exception and Request for Temporary Stay.
3/28/79	Hall's Exxon, Jacksonville, Florida	DEE-3149 and DST-3149.	Allocation Exception and Request for Temporary Stay.
3/28/79	Hall's Exxon, Jacksonville, Florida	DEE-3150 and DST-3150.	Allocation Exception and Request for Temporary Stay.
3/28/79	Hall's Exxon, Jacksonville, Florida	DEE-3151 and DST-3151.	Allocation Exception and Request for Temporary Stay.
3/28/79	Hall's Exxon, Jacksonville, Florida	DEE-3152 and DST-3152.	Allocation Exception and Request for Temporary Stay.
3/28/79	Hall's Exxon, Jacksonville, Florida	DEE-3153 and DST-3153.	Allocation Exception and Request for Temporary Stay.
3/28/79	Hall's Exxon, Jacksonville, Florida	DEE-3154 and DST-3154.	Allocation Exception and Request for Temporary Stay.
3/28/79	Hall's Exxon, Jacksonville, Florida	DEE-3155 and DST-3155.	Allocation Exception and Request for Temporary Stay.
3/28/79	Hall's Exxon, Jacksonville, Florida	DEE-3156 and DST-3156.	Allocation Exception and Request for Temporary Stay.
3/28/79	Hall's Exxon, Jacksonville, Florida	DEE-3159 and DST-3159.	Allocation Exception and Request for Temporary Stay.
3/28/79	Hall's Exxon, Jacksonville, Florida	DEE-3160 and DST-3160.	Allocation Exception and Request for Temporary Stay.
3/28/79	Hall's Exxon, Jacksonville, Florida	DEE-3161 and DST-3161.	Allocation Exception and Request for Temporary Stay.
3/28/79	Hall's Exxon, Jacksonville, Florida	DEE-3162 and DST-3162.	Allocation Exception and Request for Temporary Stay.
3/28/79	Hall's Exxon, Jacksonville, Florida	DEE-3163 and DST-3163.	Allocation Exception and Request for Temporary Stay.
3/28/79	Hall's Exxon, Jacksonville, Florida	DEE-3164 and DST-3164.	Allocation Exception and Request for Temporary Stay.
3/28/79	Hall's Exxon, Jacksonville, Florida	DEE-3167 and DST-3167.	Allocation Exception and Request for Temporary Stay.
3/28/79	Hall's Exxon, Jacksonville, Florida	DEE-3168 and DST-3168.	Allocation Exception and Request for Temporary Stay.
3/28/79	Hall's Exxon, Jacksonville, Florida	DEE-3169 and DST-3169.	Allocation Exception and Request for Temporary Stay.
3/28/79	Hall's Exxon, Jacksonville, Florida	DEE-3170 and DST-3170.	Allocation Exception and Request for Temporary Stay.
3/28/79	Hall's Exxon, Jacksonville, Florida	DEE-3171 and DST-3171.	Allocation Exception and Request for Temporary Stay.
3/28/79	Hall's Exxon, Jacksonville, Florida	DEE-3174 and DST-3174.	Allocation Exception and Request for Temporary Stay.
3/28/79	Hall's Exxon, Jacksonville, Florida	DEE-3175 and DST-3175.	Allocation Exception and Request for Temporary Stay.
3/28/79	Hall's Exxon, Jacksonville, Florida	DEE-3176 and DST-3176.	Allocation Exception and Request for Temporary Stay.
3/28/79	Hall's Exxon, Jacksonville, Florida	DEE-3177 and DST-3177.	Allocation Exception and Request for Temporary Stay.
3/28/79	Hall's Exxon, Jacksonville, Florida	DEE-3178 and DST-3178.	Allocation Exception and Request for Temporary Stay.
3/28/79	Hall's Exxon, Jacksonville, Florida	DEE-3179 and DST-3179.	Allocation Exception and Request for Temporary Stay.
3/28/79	Hall's Exxon, Jacksonville, Florida	DEE-3180 and DST-3180.	Allocation Exception and Request for Temporary Stay.
3/28/79	Hall's Exxon, Jacksonville, Florida	DEE-3181 and DST-3181.	Allocation Exception and Request for Temporary Stay.
3/28/79	Hall's Exxon, Jacksonville, Florida	DEE-3182 and DST-3182.	Allocation Exception and Request for Temporary Stay.
3/28/79	Hall's Exxon, Jacksonville, Florida	DEE-3183 and DST-3183.	Allocation Exception and Request for Temporary Stay.
3/28/79	Hall's Exxon, Jacksonville, Florida	DEE-3184 and DST-3184.	Allocation Exception and Request for Temporary Stay.
3/28/79	Hall's Exxon, Jacksonville, Florida	DEE-3185 and DST-3185.	Allocation Exception and Request for Temporary Stay.
3/28/79	Hall's Exxon, Jacksonville, Florida	DEE-3186 and DST-3186.	Allocation Exception and Request for Temporary Stay.
3/28/79	Hall's Exxon, Jacksonville, Florida	DEE-3187 and DST-3187.	Allocation Exception and Request for Temporary Stay.
3/28/79	Hall's Exxon, Jacksonville, Florida	DEE-3188 and DST-3188.	Allocation Exception and Request for Temporary Stay.
3/28/79	Hall's Exxon, Jacksonville, Florida	DEE-3189 and DST-3189.	Allocation Exception and Request for Temporary Stay.
3/28/79	Hall's Exxon, Jacksonville, Florida	DEE-3190 and DST-3190.	Allocation Exception and Request for Temporary Stay.
3/28/79	Hall's Exxon, Jacksonville, Florida	DEE-3191 and DST-3191.	Allocation Exception and Request for Temporary Stay.
3/28/79	Hall's Exxon, Jacksonville, Florida	DEE-3192 and DST-3192.	Allocation Exception and Request for Temporary Stay.
3/28/79	Hall's Exxon, Jacksonville, Florida	DEE-3193 and DST-3193.	Allocation Exception and Request for Temporary Stay.
3/28/79	Hall's Exxon, Jacksonville, Florida	DEE-3194 and DST-3194.	Allocation Exception and Request for Temporary Stay.
3/28/79	Hall's Exxon, Jacksonville, Florida	DEE-3195 and DST-3195.	Allocation Exception and Request for Temporary Stay.
3/28/79	Hall's Exxon, Jacksonville, Florida	DEE-3196 and DST-3196.	Allocation Exception and Request for Temporary Stay.
3/28/79	Hall's Exxon, Jacksonville, Florida	DEE-3197 and DST-3197.	Allocation Exception and Request for Temporary Stay.
3/28/79	Hall's Exxon, Jacksonville, Florida	DEE-3198 and DST-3198.	Allocation Exception and Request for Temporary Stay.
3/28/79	Hall's Exxon, Jacksonville, Florida	DEE-3199 and DST-3199.	Allocation Exception and Request for Temporary Stay.
3/28/79	Hall's Exxon, Jacksonville, Florida	DEE-3200 and DST-3200.	Allocation Exception and Request for Temporary Stay.
3/28/79	Hall's Exxon, Jacksonville, Florida	DEE-3201 and DST-3201.	Allocation Exception and

Date	Name and location of applicant	Case No.	Type of submission
3/28/79	Gough Oil Company, Inc., Chester, South Carolina	DEE-3038 and DES-3038.	Allocation Exception and Request for Stay.
3/28/79	Gregory's Exxon, Lebanon, Tennessee	DEE-3038	Allocation Exception.
3/28/79	Griffin Station & Marina, Galliano, Louisiana	DEE-3156 and DES-3156.	Allocation Exception, Request for Stay.
3/28/79	H. H. Elder Oil Company, Inc., Siler City, North Carolina.	DEE-3035 and DST-3035.	Allocation Exception and Request for Temporary Stay.
3/28/79	Hall Oil Company, Sulphur Springs, Texas	DEE-3059	Allocation Exception.
3/28/79	Homestead Gulf Tire Store, Homestead, Florida	DEE-3085	Allocation Exception.
3/28/79	Hood Oil Co., Inc., Amite, Louisiana	DEE-3031 and DST-3031.	Allocation Exception, Request for Temporary Stay.
3/28/79	I-20 & Industrial Drive Gulf, Bossier City, Louisiana	DEE-3077	Allocation Exception.
3/28/79	Jim's Chevron, Battle Mountain, Nevada	DEE-3045	Allocation Exception.
3/28/79	Jim's Skelly Service, Cannon City, Colorado	DEE-3048	Allocation Exception.
3/28/79	Koester Chevron, Sherman Oaks, California	DEE-3073	Allocation Exception.
3/28/79	LeBlanc Oil Company, Rayne, Louisiana	DEE-3033 and DST-3033.	Allocation Exception and Request for Temporary Stay.
3/28/79	Martin Automotive, Inc., Milwaukee, Wisconsin	DEE-3057	Allocation Exception.
3/28/79	James F. McDevitt, Kenosha, Wisconsin	DEE-3052	Allocation Exception.
3/28/79	McKelvey Oil Company, Harrisonville, Pennsylvania	DEE-3068	Allocation Exception.
3/28/79	Moe Oil Company, Watertown, South Dakota	DEE-3163	Allocation Exception.
3/28/79	Mohr's Standard Station, Mukwonago, Wisconsin	DEE-3047	Allocation Exception.
3/28/79	Molnar's Standard, Milwaukee, Wisconsin	DEE-3069	Allocation Relief.
3/28/79	Jesse Morales, Jr., Uvalde, Texas	DEE-3084	Allocation Relief.
3/28/79	Morlan's DX Service, El Dorado Springs, Missouri	DEE-3028 and DST-3028.	Allocation Exception, Request for Temporary Stay.
3/28/79	N. E. Vincent Oil Company, Sulphur, Louisiana	DEE-3067	Allocation Exception.
3/28/79	Newark Intermodal Truck Stop, Inc., Newark, New Jersey.	DEE-3062	Allocation Exception.
3/28/79	North Central Oil Company, Gaylord, Michigan	DEE-3080	Allocation Exception.
3/28/79	North River Gulf, Atlanta, Georgia	DEE-3043	Allocation Exception.
3/28/79	Pasadena Freeway Shell Service, Pasadena, Texas	DEE-3044	Allocation Exception.
3/28/79	Pawley Oil Company, Inc., Manistique, Missouri	DEE-3042	Allocation Exception.
3/28/79	Pensacola Petroleum Company, Pensacola, Florida	DEE-3030 and DST-3030.	Allocation Exception, Request for Temporary Stay.
3/28/79	Petroleum Products Company, Salida, Colorado	DEE-3053	Allocation Exception.
3/28/79	Pfluger Service Station, Eden, Texas	DEE-3040 and DES-3040.	Allocation Exception and Request for Stay.
3/28/79	Purolator Courier Corp., Albuquerque, New Mexico	DEE-3181	Allocation Relief.
3/28/79	Pyramid Oil Company, Salt Lake City, Utah	DEE-3027 and DST-3027.	Allocation Exception, Request for Temporary Stay.
3/28/79	Ramsey's Gulf, Burnsville, North Carolina	DEE-3065	Allocation Exception.
3/28/79	Rice Street Car Wash, St. Paul, Minnesota	DEE-3050	Allocation Exception.
3/28/79	Ron's Agoura Chevron & Towing, Agoura, California	DEE-3078	Allocation Exception.
3/28/79	Rudolphs, Inc., Yoakum, Texas	DEE-3056	Allocation Exception.
3/28/79	Southeast Oil & Development Corp., Tampa, Florida.	DEE-0192	Allocation Exception.
3/28/79	Stewart Oil Company, Urbana, Illinois	DEE-3051	Allocation Exception.
3/28/79	Strickland Oil Company, Inc., Warsaw, North Carolina.	DEE-3187 and DST-3187.	Allocation Exception and Request for Temporary Stay.
3/28/79	T. C. Williams Oil Co., Inc., Memphis, Tennessee	DEE-3035	Allocation Exception.
3/28/79	Thornton Oil Corporation, Louisville, Kentucky	DEE-3081	Allocation Exception.
3/28/79	Tiger Petroleum Products, Lebanon, Illinois	DEE-3066	Allocation Exception.
3/28/79	Tyler Petroleum Company, Tyler, Texas	DEE-3071	Allocation Relief.
3/28/79	Van's Amoco, Sturteuvant, Wisconsin	DEE-3060	Allocation Relief.
3/28/79	Waterbury Petroleum Products, Inc., Waterbury, Connecticut.	DEE-3037 and DES-3037.	Allocation Exception and Request for Stay.
3/29/79	Weekly's Exxon Service Center, Montclair, California.	DEE-3036 and DST-3036.	Allocation Exception and Request for Temporary Stay.
3/28/79	White Oil Distributors, Inc., Dallas, Texas	DST-0046	Request for Temporary Stay.
3/28/79	Young Oil Company, Piedmont, Alabama	DEE-3171	Allocation Exception.
3/29/79	A.A. Grocery No. 2, Delvalle, Texas	DEE-3113	Allocation Exception.
3/29/79	A-1 Standard Service, Clinton, Mississippi	DEE-3131	Allocation Exception.
3/29/79	Ashland Oil Company, Los Angeles, California	DEE-2896	Allocation Exception.
3/29/79	Astro Oil & Gas Company, Irving, Texas	DST-0047	Request for Temporary Stay.
3/29/79	Blomstrom Oil Company, Winner, South Dakota	DEE-3114	Allocation Exception.
3/29/79	Boggs Exxon, Jacksonville, Florida	DEE-3105	Allocation Exception.
3/29/79	Thomas L. Bowman, Los Angeles, California	DEE-3092 and DES-3092.	Allocation Exception and Request for Stay.
3/29/79	Browing's Exxon, Waynesville, North Carolina	DEE-3126	Allocation Exception.
3/29/79	California 5 Minute Car Wash, Modesto, California	DEE-3107 and DES-3107.	Allocation Exception and Request for Stay.
3/29/79	Carolina Oil Company of Bishopville, Inc., Bishopville, South Carolina.	DEE-3100 and DST-3100.	Allocation Exception and Request for Temporary Stay.
3/29/79	Dodson's Texaco Service, Rockville, Maryland	DEE-3108	Allocation Exception.
3/29/79	Don's Chevron Service, Burbank, California	DEE-3106	Allocation Exception.
3/29/79	Enterprise Oil Company, Cartersville, Georgia	DEE-3134	Allocation Exception.
3/29/79	Ernest J. Short & Son, Inc., Lordsburg, New Mexico	DEE-3093 and DST-3093.	Allocation Exception and Request for Temporary Stay.
3/29/79	Fitzgerald Chevron, Roswel, Georgia	DEE-2862	Allocation Exception.
3/29/79	Food, Inc., Texas	DEE-3094 and DST-3094.	Allocation Exception and Request for Temporary Stay.
3/29/79	Foust Oil Company, Mebane, North Carolina	DEE-3089, DES-3089, and DST-3089.	Allocation Exception, Request for Stay and Temporary Stay.
3/29/79	Givan's Exxon, Watertown, Tennessee	DEE-3118	Allocation Exception.
3/29/79	Golls Standard, Milwaukee, Wisconsin	DEE-3128	Allocation Exception.
3/29/79	Grambling State University, Grambling, Louisiana	DEE-3132	Allocation Exception.
3/29/79	Haywood Oil Company, Inc., Waynesville, North Carolina.	DEE-3160	Allocation Relief.
3/29/79	I & J Gulf, Dallas, Texas	DES-0194	Request for Stay.
3/29/79	I-275 Shell, Plymouth, Michigan	DEE-3124	Allocation Exception.

Date	Name and location of applicant	Case No.	Type of submission
3/29/79	Ideal Oil Company, Smithfield, North Carolina	DEE-3097 and DST-2097.	Allocation Exception and Request for Temporary Stay.
3/29/79	J. T. Hassell Oil Company, Savannah, Tennessee	DEE-3098 and DST-3098.	Allocation Exception and Request for Temporary Stay.
3/29/79	Jackson Oil Company, Baltimore, Maryland	DEE-3164	Allocation Exception.
3/29/79	B. J. Johns, Sonora, Texas	DEE-3102 and DST-3102.	Allocation Exception and Request for Temporary Stay.
3/29/79	Jones Oil Company, Inc., Fort Smith, Arkansas	DEE-2835	Allocation Relief.
3/29/79	M & R Getty, Magnolia, New Jersey	DEE-3129	Allocation Exception.
3/29/79	Magee General Store, Terry, Mississippi	DEE-3130	Allocation Exception.
3/29/79	McCord's Exxon, Levelland, Texas	DEE-3039 and DES-3039.	Allocation Exception and Request for Stay.
3/29/79	McPhillips Exxon, Wheaton, Maryland	DEE-3121	Allocation Exception.
3/29/79	Midland Oil Company, St. Louis, Missouri	DEE-3169	Allocation Exception.
3/29/79	Robert R. L. Molkentine, Milwaukee, Wisconsin	DEE-3123	Allocation Exception.
3/29/79	Paul Newman, Memphis, Tennessee	DEE-3155	Allocation Relief.
3/29/79	Oaks Food Store, West Monroe, Louisiana	DEE-3110	Allocation Exception.
3/29/79	Oliver's Exxon, Lafayette, Tennessee	DEE-3109	Allocation Exception.
3/29/79	Oswald's Thiensville Standard, Thiensville, Wisconsin.	DEE-3122	Allocation Exception.
3/29/79	Parker Oil Company, Des Moines, Iowa	DEE-3117	Allocation Exception.
3/29/79	Pope's Exxon & Pope Oil Company, Winnsboro, South Carolina.	DEE-3166	Allocation Exception.
3/29/79	Powell Oil Co., Inc., Austell, Georgia	DEE-3120	Allocation Exception.
3/29/79	R. F. White Co., Inc., Upland, California	DEE-3119	Allocation Exception.
3/29/79	Red & Jack Oil Company, Augusta, Georgia	DEE-2502	Allocation Exception.
3/29/79	Red Bluff Mobil Service Center, Pasadena, Texas	DEE-3111	Allocation Exception.
3/29/79	Riverland "66", Fort Lauderdale, Florida	DEE-3101 and DST-3101.	Allocation Exception and Request for Temporary Stay.
3/29/79	Robert's Exxon, Sumter, South Carolina	DEE-3125	Allocation Exception.
3/28/79	Roy's Standard Service, Milwaukee, Wisconsin	DEE-3112	Allocation Exception.
3/29/79	Royal Oil Company, Johnson City, Tennessee	DEE-3096 and DST-3096.	Allocation Exception and Request for Temporary Stay.
3/29/79	Silvio A. Simi, Alameda, California	DEE-3118	Allocation Exception.
3/29/79	Sissie Car Wash, Inc., Glendale, Arizona	DEE-3135	Allocation Exception.
3/29/79	South Vienna Exxon, South Vienna, Ohio	DEE-3090, DES-3090, and DST-3090.	Allocation Exception, Request for Temporary Stay and Stay.
3/29/79	Southland Corporation, Cupertino, California	DEE-3154 and DES-3154.	Allocation Exception and Request for Stay.
3/29/79	Stanley Cooper & Sons, McKittrick, California	DEE-3099 and DST-3099.	Allocation Exception and Request for Temporary Stay.
3/29/79	Stanton's Standard Service, Whitewater, Wisconsin	DEE-3129	Allocation Exception.
3/29/79	The Country Store (Poole), Conroe, Texas	DEE-3103 and DST-3103.	Allocation Exception and Request for Temporary Stay.
3/29/79	Williams-Lopez Corp., Salado, Texas	DEE-3133	Allocation Exception.
3/29/79	White Oil Company, North Platte, Nebraska	DEE-3095 and DST-3095.	Allocation Exception and Request for Temporary Stay.
3/29/79	Lyle Whitman, Sanford, Michigan	DEE-3115	Allocation Exception.
3/30/79	Charles & 20th Exxon, Baltimore, Maryland	DST-0024	Allocation Exception.
3/30/79	Edmond's Oil Company, Statesville, North Carolina	DEE-3136 and DST-3136.	Allocation Exception and Request for Temporary Stay.
3/30/79	Mr. Grocer, Hollywood, Florida	DEE-3104 and DST-3104.	Allocation Exception and Request for Stay.
3/30/79	Yates Store, Inc., Laredo, Texas	DEE-3091, DST-3091 and DES-3091.	Allocation Exception Request for Stay and Temporary Stay.
3/26/79	United States Stove Company, Chattanooga, Tennessee.	DEE-3140	Exception to Test Procedures. If granted: United States Stove Company would be granted an exception to the requirements of the Test Procedures with respect to Vented Gas-Fired Space Heaters.
3/26/79	Western Petroleum Company, Minneapolis, Minnesota.	DEE-3137	Exception to the Entitlements Program. If granted: Western Petroleum Company would be granted an exception to the provisions of 10 CFR 211.67, the Domestic Crude Oil Entitlements Program.
3/27/79	Cities Service Company, Tulsa, Oklahoma	DEE-3138	Price Exception 212.73. If granted: Cities Service Company would be permitted to sell the crude oil produced from the Howell A Lease, located in Grant County, Oklahoma, at upper tier ceiling prices.
3/27/79	D & J Oil Company, Vernal, Utah	DEE-3159	Price Exception 212.73. If granted: D & J Oil Company would be permitted to sell the crude oil produced from the Roosevelt Unit, at upper tier ceiling prices.
3/27/79	J. M. Huber Corporation, Houston, Texas	DEE-3004	Price Exception 212.73. If granted: Huber would be permitted to increase its sales prices for crude oil produced from the Pure-State No. 1 Well located in Lea County, New Mexico.
3/27/79	Sun Company, Inc., Pennsylvania	DEA-0352	Appeal of ERA Decision and Orders issued on February 16, 1979 and February 21, 1979. If granted: The Economic Regulatory Administration's Decision and Order issued on February 16, 1979 and February 21, 1979 would be rescinded and Sun Company would not be required to supply certain companies.
3/28/79	Industrial Fuel & Asphalt of Indiana, Inc., Chicago, Illinois.	DEE-3129	Exception. If granted: Industrial Fuels & Asphalt of Indiana, Inc., would be permitted to import Canadian Light Crude Oil from the Dome Petroleum Company.
3/28/79	Kalama Chemical, Inc., Kalama, Washington	DPI-0035	Exception to License Fee Requirements. If granted: Kalama Chemical, Inc., would be permitted to import toluene on a fee-exempt basis.
3/28/79	Tresler Oil Corporation, Cincinnati, Ohio	DSG-0050	Petition for Special Redress. If granted: The Office of Special Counsel for Compliance would issue an Interim Remedial Order in regard to violations of the Mandatory Petroleum Allocation and Price Regulations, by Champlin Petroleum Company.
3/29/79	Crown Central Petroleum Corporation	DED-0020	Motion for Discovery. If granted: Discovery would be granted to Crown Central Petroleum Corporation in connection with an Application for Stay and Exception which Pilot Petroleum Associates, Inc. has filed.
3/29/79	James M. Forgotson, Sr., Washington, D.C.	DEE-3142	Price Exception 212.73. If granted: James M. Forgotson, Jr. would be permitted to sell the crude oil produced from the Iota Field, located in Acadia Parish, Louisiana, at upper tier ceiling prices.
3/29/79	Galaxy Oil Company, Williston, North Dakota	DEE-3149	Price Exception 212.73. If granted: Galaxy Oil Company would be permitted to sell the crude oil produced from Glenburn Field, located at Renville County, North Dakota, at upper tier ceiling prices.

Date	Name and location of applicant	Case No.	Type of submission
3/29/79	Mobil Oil Corporation, New York, New York	DEA-0353, DES-0353, DEA-0354, DES-0354, DEA-0355, and DES-0355.	Appeal of ERA's D&O on March 20 and March 23, 1979 and Request for Stay of the above orders. If granted: The Economic Regulatory Administration's March 20 and March 23, 1979, Decision and Orders would be rescinded and Mobil Oil Corporation would not be required to supply Farmland Industries, Midland Cooperatives, Inc. and Land-O-Lakes, Inc. with motor gasoline.
3/30/79	R. W. Tyson Producing Company, Inc., Jackson, Mississippi	DEE-3143, DEE-3144, DEE-3145, DEE-3146, and DEE-3147.	Price Exception 212.73. If granted: R. W. Tyson Producing Company, Inc. would be permitted to sell the crude oil produced from the Carter No. 3, Federal Land Bank No. 3, McClellan No. 1, McClellan-Vickers No. 1 and Vickers No. 2 leases, at upper tier ceiling prices.
3/30/79	Union Carbide Caribe, Inc., New York, New York	DEE-3148	Exception to the Entitlements Program. If granted: Union Carbide Caribe, Inc. would be granted an exception to the provisions of 10 CFR 211.67 with respect to its entitlements purchase obligations.

Notices of Objection Received

[Week of Mar. 23, 1979 to Mar. 30, 1979]

Date	Name and location of applicant	Case No.
3/29/79	Charter Oil Company, Washington, D.C.	DXE-2108
3/29/79	Energy Development of California, Inc., Beverly Hills, California	DXE-1310
3/29/79	Allied Chemical Corporation, Washington, D.C.	DEE-1470
3/27/79	Husky Oil Company, Denver, Colorado	DEE-1437
		DEE-1438
		DEE-1439
3/19/79	Beacon Oil Company Washington, D.C	DEE-2141
3/23/79	El Paso Natural Gas Co., Washington, D.C	DEE-1362
3/29/79	Sabo Oil Company, Washington, D.C	DEE-2467
3/29/79	Little America Refining Co., Washington, D.C.	DXE-2110
3/26/79	Skelton Oil Company, Midland, Texas	DEE-1861
3/27/79	Tiguex Oil Company, Inc., Albuquerque, New Mexico	DEO-0187
3/26/79	Laketon Asphalt Refining, Inc., Washington, D.C	DEX-0145

[FR Doc. 79-14696 Filed 5-10-79; 8:45 am]

BILLING CODE 6450-01-M

Notice of Cases Filed; Week of April 6 through April 13, 1979

Notice is hereby given that during the week of April 6, 1979 through April 13, 1979, the appeals and applications for exception or other relief listed in the Appendix to this Notice were filed with the Office of Hearings and Appeals of the Department of Energy.

Under the DOE's procedural regulations, 10 CFR, Part 205, any person who will be aggrieved by the DOE action sought in such cases may file with the DOE written comments on the application within ten days of service of notice, as prescribed in the procedural regulations. For purposes of those regulations, the date of service of notice shall be deemed to be the date of publication of this Notice or the date of receipt by an aggrieved person of actual notice, whichever occurs first. All such comments shall be filed with the Office of Hearings and Appeals, Department of Energy, Washington, D.C. 20461.

Dated: May 3, 1979.

Melvin Goldstein,

Director, Office of Hearings and Appeals.

List of Cases Received by the Office of Hearings and Appeals

[Week of Apr. 6 Through Apr. 13, 1979]

Date	Name and location of applicant	Case No.	Type of submission
4/6/79	Getty Oil Company, Oklahoma City, Oklahoma	DEE-3709	Price Exception (Section 212.73). If granted: Getty Oil Company would be permitted to sell the crude oil produced from the E.N. Ainsworth Well No. 4, located in Oklahoma County, Oklahoma, at upper tier ceiling prices.
4/6/79	Martin Exploration Company, Metairie, Louisiana	DEE-3707	Exception to the Reporting Requirements. If granted: Martin Exploration Company would no longer be required to file Form EIA-23, Annual Survey of Domestic Oil & Gas Reserves.
4/6/79	Norristown Heat & Fuel Company, Norristown, Pennsylvania.	DEE-3720	Exception to the Reporting Requirements. If granted: Norristown Heat & Fuel Company would no longer be required to file Form EIA-9.
4/6/79	Sun Company, Inc., Washington, D.C	DEE-3704, DES-3704.	Allocation Exception, Request for Stay. If granted: Sun Company, Inc. would receive a new allocation level of unleaded gasoline for the month of March 1979, to be distributed in the Oklahoma area. A stay would be granted pending a final determination on the Application for Exception.
4/9/79	General Electric Company, Fairfield, Connecticut	DEE-3711	Exception to the Reporting Requirements. If granted: General Electric Company would receive an exception to the Financial Reporting System with respect to Form EIA-28.
4/9/79	Irving Oil Corporation, Boston, Massachusetts	DFA-0366	Appeal of Information Request Denial. If granted: The DOE's March 5, 1979 Information Request Denial would be rescinded and Irving Oil Corporation would receive access to certain DOE documents related to an Interpretation and an Audit Notification Letter issued to the firm.
4/9/79	Texaco, Inc., White Plains, New York	DFA-0365	Appeal of Information Request Denial. If granted: The DOE's March 8, 1979 Information Request Denial would be rescinded and Texaco, Inc. would receive access to certain DOE documents concerning a draft Environmental Impact Statement prepared for the Office of Coal Utilization by Dames & Moore.
4/9/79	Texaco, Inc., White Plains, New York	DRH-0166	Motion for Evidentiary Hearing. If granted: An evidentiary hearing would be convened with respect to the Statement of Objections submitted by Texaco in response to a Proposed Remedial Order issued to the firm by the Office of Special Counsel on December 14, 1978.

List of Cases Received by the Office of Hearings and Appeals—Continued

[Week of Apr. 8 Through Apr. 13, 1979]

Date	Name and location of applicant	Case No.	Type of submission
4/10/79	Bonham, Carrington & Fox, Houston, Texas	DFA-0364	Appeal of Information Request Denial. If granted: The DOE's March 9, 1979 Information Request Denial would be rescinded and Bonham, Carrington & Fox would receive access to certain DOE documents.
4/10/79	Charter Oil Company, Jacksonville, Florida	DEX-0152	Supplemental Order. If granted: The DOE would review the level of exception relief from the provisions of 10 CFR 211.67 granted to Charter Oil Company during its fiscal year ended December 31, 1978 in light of the firm's actual financial results in order to determine whether that level of relief was appropriate.
4/10/79	Fields Field Company, Houston, Texas	DEE-3706	Price Exception (Section 212.165). If granted: Fields Field Company would be granted an exception from the provisions of 10 CFR, Part 212, Subpart K with respect to natural gas liquids which it produces.
4/10/79	Gulf Oil Corporation, Houston, Texas	DEE-3705	Price Exception (Section 212.73). If granted: Gulf Oil Corporation would be permitted to sell the crude oil produced from the E. G. Robinson Unit Well No. 1 located in Liberty County, Texas, at upper tier ceiling prices.
4/10/79	Johnson Oil Company, Inc., Salt Lake City, Utah	DEE-3708	Exception from the Entitlements Program. If granted: Johnson Oil Company, Inc. would receive an exception to the provisions of 10 CFR 211.67 with respect to its entitlement purchase obligations for the month of December 1978.
4/10/79	Laketon Asphalt Refining, Inc., Laketon, Indiana	DEX-0155	Supplemental Order. If granted: The DOE would review the entitlements exception relief granted to Laketon Asphalt Refining, Inc. during its fiscal year ended December 31, 1978 in light of the firm's actual financial results in order to determine whether that level of relief was appropriate.
4/10/79	Mohwak Petroleum Corporation, Inc., Los Angeles, California.	DXE-3174	Exception from the Entitlements Program. If granted: Mohwak Petroleum Corporation, Inc. would receive an exception from the provisions of 10 CFR 211.67 with respect to its prospective entitlement purchase obligations.
4/10/79	Vickers Petroleum Corporation, Washington, D.C	DES-0351	Request for Stay. If granted: Vickers Petroleum Corporation would receive a stay of the Economic Regulatory Administration's March 23, 1979 Decision and Order pending a final determination on an Appeal filed by the firm.
4/11/79	Fain Porter Production Company, Oklahoma City, Oklahoma.	DRX-0154	Supplemental Order. If granted: The Decision and Order issued to Fain Porter Production Company (DRA-0096) would be modified to allow the DOE Regional Office additional time to issue a revised Remedial Order.
4/11/79	Warrior Asphalt Company of Alabama, Inc., Washington, D.C.	DXE-3715	Exception from the Entitlements Program. If granted: Warrior Asphalt Company of Alabama, Inc. would receive an exception from the provisions of 10 CFR 211.67 with respect to its prospective entitlement purchase obligations.
4/12/79	Baker & Botts, Washington, D.C.	DFA-0362	Appeal of an Information Request Denial. If granted: The DOE's March 14, 1979 Information Request Denial would be rescinded and Baker & Botts would receive access to certain DOE doucments relating to the definitions of "first sale" and "netback sale" in 10 CFR 212.162.
4/12/79	Commonwealth Oil & Refining Company, Puerto Rico.	DPI-0037	Exception to Base Fee Requirements. If granted: Commonwealth Oil & Refining Company would be permitted to import crude and unfinished oils on a fee exempt basis.
4/12/79	Commonwealth Oil & Refining Company, San Antonio, Texas.	DMR-0045	Request for Modification/Rescission. If granted: The DOE's October 17, 1978 Decision and Order to Phillips Puerto Rico Core, Inc. would be modified with respect to the exception relief granted regarding Commonwealth Oil & Refining Company's use of fee-exempt licenses.
4/12/79	Continental Oil Company, Houston, Texas	DEE-3710	Price Exception (Section 212.73). If granted: Continental Oil Company would be permitted to sell the crude oil produced from the Southeast Eureka Unit, located in Alfalfa County, Oklahoma, at upper tier ceiling prices.
4/12/79	Navajo Refining Company, Dallas, Texas	DXE-3716	Exception from the Entitlements Program. If granted: Navajo Refining Company would receive an exception from the provisions of 10 CFR 211.67 with respect to its prospective entitlement purchase obligations.
4/13/79	Beacon Oil Company, Washington, D.C	DEX-0153	Supplemental Order. If granted: The DOE would review the level of entitlement exception relief granted to Beacon Oil Company during its fiscal year ended December 31, 1978 in light of the actual financial results achieved by the firm in order to determine whether that level of relief was appropriate.
4/13/79	Texaco, Inc., Los Angeles, California	DEX-0158	Supplemental Order. If granted: The DOE would provide Texaco with assurances that certain emergency expenditures it must incur would be included in the level of exception relief extended to the Alaska State Lease.

List of Cases Involving the Standby Petroleum Product Allocation Regulations for Motor Gasoline

Date	Name and location of applicant	Case No.
4/11/79	Doussan Shell Inc., New Orleans, Louisiana	DST-0054.
4/6/79	Fronk's Self Serve Shell Station, Lindale, California	DEE-3487 and DST-3487.
4/6/79	L. J. Bonnaffons, New Orleans, Louisiana	DST-0053.
4/6/79	Quality State Oil Co. Inc., Sheboygan, Wisconsin	DEE-3488 and DST-3488.
4/6/79	St. Romain Oil Co., Inc., Mansura, Louisiana	DEE-3486 and DST-3486.
4/6/79	Jay Paul Roussel, New Orleans, Louisiana	DEE-3481 and DES-3481.
4/6/79	Northlake Oil Co., Inc., Hammond, Louisiana	DEE-3480 and DES-3480.
4/6/79	San Bruno Carwash, Burlingame, California	DEE-3479 and DES-3479.
4/6/79	Vandaveer Oil Co., Inc., Shawnee, Oklahoma	DEE-3478 and DES-3478.
4/6/79	Rush Oil Co., Phoenix, Arizona	DEE-3477 and DES-3477.

List of Cases Involving the Standby Petroleum Product Allocation Regulations for Motor Gasoline—Continued

Date	Name and location of applicant	Case No.
4/6/79	Marina Carwash, Redondo Beach, California	DEE-3476 and DES-3476.
4/6/79	Watson Chevron, Ojai, California	DEE-3529.
4/6/79	Pinon Truck Stop, Pueblo, Colorado	DEE-3464.
4/6/79	Al Neary's Texaco, Nipomo, California	DEE-3463.
4/6/79	Don's Standard Service, Milwaukee, Wisconsin	DEE-3462.
4/6/79	Gillis Tire & Auto, Macon, Georgia	DEE-3461.
4/6/79	Cactus Exxon, Phoenix, Arizona	DEE-3467.
4/6/79	Gary's Standard Service, Milwaukee, Wisconsin	DEE-3460.
4/6/79	Twin Oaks Mobil, Austin, Texas	DEE-3459.
4/6/79	Mallard Oil Co., Kinston, North Carolina	DEE-3458.
4/6/79	J. E. Sharber Oil Co., Bainbridge, Georgia	DEE-3457.
4/6/79	First Avenue Conoco, Denver, Colorado	DEE-3456.
4/11/79	Sewell's Party Pak, Smithfield, North Carolina	DEE-3395.
4/5/79	Southern States Cooperative, Inc., Cambridge, Maryland	DEE-3454.
4/9/79	Snyder's 66 Service, Orange City Florida	DEE-3527 and DST-3527.
4/6/79	Redding Oil Company, Redding, California	DEE-3453.
4/9/79	South Sheridan Conoco, Denver, Colorado	DEE-3528 and DST-3528.
4/6/79	Bob's 66 Service, Indianapolis, Indiana	DEE-3452.
4/9/79	Trosler Oil Company, Washington, D.C.	DEE-3523, DES-3523, and DST-3523.
4/9/79	Saveway Super Service Stations, Washington, D.C.	DEE-3522, DES-3522 and DST-3522.
4/6/79	Gettlefinger Service Stations, Louisville, Kentucky	DEE-3451.
4/9/79	Acree Oil Co. Inc., DeLand, Florida	DEE-3525 and DST-3525.
4/9/79	West Texas Gas, Inc., Austin, Texas	DEE-3521, DES-3521, and DST-3521.
4/9/79	Yousef Safiedine, Detroit, Michigan	DEE-3628, DES-3628, and DST-3628.
4/9/79	Scroggins Gulf Service Station, Shreveport, Louisiana	DEE-3516 and DES-3516.
4/9/79	Salathe Oil Company Inc., Harvey, Louisiana	DEE-3519.
4/9/79	Tulane Avenue Gulf, New Orleans, Louisiana	DEE-3517 and DST-3517.
4/9/79	Don Elder, Healdsburg, California	DEE-3513 and DES-3513.
4/9/79	Louk Oil Co., Topeka, Kansas	DEE-3514 and DES-3514.
4/9/79	Landmark Inc., Columbus, Ohio	DEE-3515 and DES-3515.
4/9/79	Doug's Distributing Co., Gilbertsville, Kentucky	DEE-3512 and DES-3512.
4/9/79	Bob's Mini Mart, Colonie, New York	DEE-3510 and DES-3510.
4/9/79	Moore Petroleum, Banta, California	DEE-3507.
4/9/79	J. E. Meintzer & Sons, Easton, Maryland	DEE-3509.
4/9/79	Park Forest Mobil, Baton Rouge, Louisiana	DEE-3508.
4/9/79	Weaver Oil Co., Fremont, Michigan	DEE-3506.
4/9/79	William C. McClellan, Dallas, Texas	DEE-3505.
4/9/79	Ken Ruby Construction Co., Los Angeles, California	DEE-3504.
4/9/79	J. F. Wilkerson Co., Inc., Morrisville, North Carolina	DEE-3502.
4/9/79	Active Heating & Air Conditioning, Santee, California	DEE-3500
4/9/79	Siesta Shell Service, Sarasota, Florida	DEE-3501.
4/9/79	Milt's Hess Station, Cantonsville, Maryland	DEE-3499.
4/10/79	Fulton Industrial Shell, Atlanta, Georgia	DEE-3496.
4/9/79	Cal's 66 Service Station, Miami, Florida	DEE-3497.
4/9/79	Stephens Van Terminal, Inc., Miami, Florida	DEE-3494.
4/9/79	East Drive Automotive, Arbutus, Maryland	DEE-3495.

List of Cases Involving the Standby Petroleum Product Allocation Regulations for Motor Gasoline—Continued

Date	Name and location of applicant	Case No.
4/9/79	Gordon Mathews Chevron, Palm Springs, California	DEE-3494.
4/9/79	Franklin Park Sunoco, Dorchester, Massachusetts	DEE-3491.
4/9/79	Saint George Oil Corp., Los Angeles, California	DEE-3489.
4/12/79	Fed-Mart Stores, Inc., Washington, D.C.	DEE-3702 and DST-3702.
4/10/79	Blue Grass Oils, Inc., North Tazewell, Virginia	DEE-3620 and DST-3620.
4/10/79	Shelnutt, Howard L., Newman, Georgia	DEE-3919 and DST-3919.
4/6/79	Nickerson Farms, Omaha, Nebraska	DEE-3466.
4/10/79	Loethen Oil Co., Inc., Jefferson City, Missouri	DEE-3618 and DES-3618.
4/9/79	Applegate, Edward, South Orange, New Jersey	DEE-3526.
4/9/79	Pinhurst Citgo, Baltimore, Maryland	DEE-3524 and DES-3524.
4/9/79	James R. Bradshaw, Grand Prairie, Texas	DEE-3518 and DST-3518.
4/10/79	Lisi Oil Company, Millerburg, Pennsylvania	DEE-3617 and DST-3617.
4/10/79	Don Shell #2, Manhattan Beach, California	DEE-3615 and DST-3615.
4/10/79	Page Bus Company, Inc., Bartonville, Illinois	DEE-3614 and DST-3614.
4/9/79	Kingsport Fuels, Inc., Kingsport, Tennessee	DEE-3530 and DST-3530.
4/10/79	Ramrod Auto Clinic, Summerland Key, Florida	DEE-3610 and DST-3610.
4/10/79	Mountain Empire Oil Co., Johnson City, Tennessee	DEE-3612 and DES-3612.
4/10/79	Kalbow Service Center, Brenham, Texas	DEE-3611 and DES-3611.
4/10/79	R. A. Pool Oil Company, Inc., Clinton, North Carolina	DEE-3610 and DES-3610.
4/10/79	Creek Golf & Country Club, Daytona Beach, Florida	DEE-3606, DES-3606, and DST-3606.
4/10/79	Franks' Chevron, Winsted, Connecticut	DEE-3597.
4/10/79	Cypress Shell Service, Redding, California	DEE-3596.
4/10/79	Russell Cave Oil Co., Lexington, Kentucky	DEE-3595.
4/10/79	Call Carl, Washington, D.C.	DEE-3698.
4/6/79	Jenkins Construction Corp., Baton Rouge, Louisiana	DEE-3599.
4/10/79	Cotton's Bakery, Inc., West Monroe, Louisiana	DEE-3600.
4/6/79	Astro, Inc., Camden, North Carolina	DEE-3601.
4/6/79	Southland Oil Co., Savannah, Georgia	DEE-3607, DES-3607, and DST-3607.
4/10/79	Sunglo Service Inc., Austin, Texas	DEE-3605, DES-3605, and DST-3605.
4/9/79	Sav-more Oil Co., Los Angeles, California	DEE-3703 and DST-3703.
4/10/79	Patterson Oil Company, Kings Mountain, North Carolina	DEE-3701 and DST-3701.
4/11/79	St. John's Oil Company, Alexandria, Virginia	DEE-3699 and DST-3699.
4/11/79	Jim's Exxon, Auburn, Massachusetts	DEE-3700 and DST-3700.
4/10/79	Crossroads Corner Store, Greensboro, North Carolina	DEE-3693.
4/9/79	Crossroads Oil Co., Lenoir, North Carolina	DEE-3694 and DES-3694.
4/11/79	Marshall Distributing Company, Inc., Sequin, Texas	DEE-3697, DES-3697, and DST-3697.

List of Cases Involving the Standby Petroleum Product Allocation Regulations for Motor Gasoline—Continued

Date	Name and location of applicant	Case No.
4/12/79	Wheaton Manor Amoco, Wheaton, Maryland	DEE-3665.
4/9/79	Norman Harris, Atlanta, Georgia	DEE-3667.
4/10/79	The Whistle Stop, Alexandria, Virginia	DEE-3696, DES-3696, and DST-3696.
4/10/79	Quest Petroleum Co., Inc., Oklahoma City, Oklahoma	DEE-3695 and DES-3695.
4/11/79	Monarch Products Ltd., Milwaukee, Wisconsin	DEE-3666.
4/6/79	Berrell Auto Service, Abington, Pennsylvania	DEE-3675.
4/6/79	American Auto Wash, Southhampton, Pennsylvania	DEE-3674.
4/6/79	Whiz Fast Car Wash, Baltimore, Maryland	DEE-3672.
4/6/79	Jerry Hill's Amoco, Baltimore, Maryland	DEE-3671.
4/6/79	George R. Houck's Amoco, North Wales, Pennsylvania	DEE-3673.
4/6/79	Don's Exxon, Upper Darby, Pennsylvania	DEE-3670.
4/6/79	B & R Sunoco, Philadelphia, Pennsylvania	DEE-3669.
4/6/79	Strictland Exxon, Bryn Mawr, Pennsylvania	DEE-3668.
4/6/79	DelSordo's Amoco, Wilmont Park, Pennsylvania	DEE-3678.
4/6/79	Nickolas Baldin, Wilmington, Delaware	DEE-3679.
4/6/79	William Cazenza Amoco, Philadelphia, Pennsylvania	DEE-3681.
4/6/79	Robert Pleasant Amoco, Philadelphia, Pennsylvania	DEE-3680.
4/6/79	Cordingley's Amoco, Chester, Pennsylvania	DEE-3677.
4/6/79	Ernie's Sunoco, New Castle, Delaware	DEE-3690.
4/6/79	Gebbie's Exxon, Lansdale, Pennsylvania	DEE-3691.
4/6/79	Sunoco of Exton, Exton, Pennsylvania	DEE-3689
4/6/79	Auto Bath Amoco, Norristown, Pennsylvania	DEE-3676.
4/6/79	Northgate Mobil, York, Pennsylvania	DEE-3692.
4/6/79	Krewstown Amoco, Philadelphia, Pennsylvania	DEE-3687.
4/6/79	Bill's Amoco, Lima, Pennsylvania	DEE-3685.
4/6/79	Orleans Amoco, Baltimore, Maryland	DEE-3686.
4/6/79	Nicholas Spano Amoco, Philadelphia, Pennsylvania	DEE-3684.
4/6/79	Midkiff's Amoco, Philadelphia, Pennsylvania	DEE-3683.
4/6/79	Gayles & Gayles Enterprises, Inc., Philadelphia, Pennsylvania	DEE-3682.
4/5/79	Kansas City-East Union Auto/Truck Stop, Oak Grove, Missouri	DEE-3622
4/10/79	D&D Shell Service, Hawthorne, California	DEE-3712.
4/10/79	Petroleum Service Company, Wilkes-Bare, Pennsylvania	DEE-3472.
4/13/79	John Bogley, Rockville, Maryland	DEE-3630.
4/12/79	James W. & Paul A. McArthur, Alexandria, Virginia	DEE-3498.
4/9/79	Don's Shell, Culver City, California	DEE-3616 and DST-3616.
4/10/79	Nick Baldini Amoco, Christianna, Delaware	DEE-3688.
4/6/79	Dilworth's American, Rockville, Maryland	DEE-3829
4/12/79	Stechschulte Gas & Oil Co., Alexandria, Virgina	DEE-3821.
4/10/79	James Jackson, Washington, D.C.	DEE-3664.
4/12/79	Walter Abney, Washington, D.C.	DEE-3663.
4/12/79	Cost Plus Amoco, Seabrook, Maryland	DEE-3662.
4/12/79	Kenilworth Amoco, Washington, D.C.	DEE-3661
4/12/79	Mt. Vernon Amoco, Alexandria, Virginia	DEE-3660.
4/12/79	Mall Mart, Redding, California	DEE-3492.
4/9/79	T & M Arco Mini Mart, San Jose, California	DEE-3716.
4/10/79	Cunningham Oil Co., Inc., Columbus, Georgia	DEE-3490.
4/9/79	Seals Tilly Mill Chevron, Doraville, Georgia	DEE-3511 and DST-3511
4/9/79	Nimocks Oil Co., Inc., Forrest City, Arkansas	DEE-3503.
4/6/79	L.B.M. Distributors, Inc., Louisiana	DEE-3622 thru DEE-3626.
4/12/79	Cookson's Amoco, Mitchellville, Maryland	DEE-3659.
4/12/79	Roy M. Morauer, Camp Springs, Maryland	DEE-3658.
4/12/79	Consumers Gasoline Stations, Inc., Nashville, Tennessee	DEE-3698, DES-3698, and DST-3698.
4/12/79	L. E. Patrick, Jr., Washington, D.C.	DEE-3657
4/12/79	Herb's Amoco, Washington, D.C.	DEE-3656.
4/12/79	Jim's Amoco, Oxon Hill, Maryland	DEE-3655.
4/12/79	James D. Rembold, Seat Pleasant, Maryland	DEE-3654.

List of Cases Involving the Standby Petroleum Product Allocation Regulations for Motor Gasoline—Continued

Date	Name and location of applicant	Case No.
4/12/79	Amoco Service Station, Homestead, Pennsylvania	DEE-3653.
4/12/79	Fletcher's Amoco, Olney, Maryland	DEE-3651.
4/12/79	Dawson's Amoco, Arlington, Virginia	DEE-3650.
4/12/79	Savilles Amoco, Sterling, Virginia	DEE-3649.
4/12/79	Gill's Amoco, Herndon, Virginia	DEE-3648.
4/12/79	Samuel A. Captain, Rockville, Maryland	DEE-3647.
4/12/79	Wallace W. Harris, Silver Springs, Maryland	DEE-3646.
4/6/79	Robert E. Pleasant Amoco, Philadelphia, Pennsylvania	DEE-3723.
4/12/79	Ashland Oil Co., Ashland, Kentucky	DES-0199.
4/12/79	James P. Burns, Virginia Beach, Virginia	DEE-3641.
4/12/79	Holmes Amoco, Portsmouth, Virginia	DEE-3640.
4/12/79	Sonny's Amoco, Norfolk, Virginia	DEE-3642.
4/12/79	N. E. Stephenson, Norfolk, Virginia	DEE-3643.
4/12/79	Edward M. Worth, Sr., Virginia Beach, Virginia	DEE-3644.
4/12/79	Montgomery Village Service, Inc., Gaithersburg, Maryland	DEE-3645.
4/12/79	American Car Wash Corp., Landover, Maryland	DEE-3639.
4/10/79	Springfield Manor Shell, Springfield, Virginia	DEE-3693.
4/10/79	W. E. Jersey & Sons Inc., Benton Harbor, Michigan	DEE-3694.
4/12/79	JAW Inc., Fredericksburg, Virginia	DEE-3635.
4/12/79	University Amoco, Adelphi, Maryland	DEE-3636.
4/12/79	Andrew D. Ramey, Charlottesville, Virginia	DEE-3639.
4/12/79	Patrick's Amoco, Inc., Washington, D.C.	DEE-3638.
4/10/79	Wiler's Exxon & Towing Service, Vallejo, California	DEE-3592.
4/10/79	Omega Oil Company, Dayton, Ohio	DEE-3596.
4/10/79	Brown's Kerr-McGee, Tulsa, Oklahoma	DEE-3591.
4/12/79	George's Amoco, Bowie, Maryland	DEE-3633.
4/11/79	Clinton Oliver, Glennville, Georgia	DEE-3632.
4/12/79	Glyde Green, Gaithersburg, Maryland	DEE-3631.
4/10/79	Rodney E. Havens, Porterville, California	DEE-3587.
4/12/79	O.D.R. Amoco, Richmond, Virginia	DEE-3634.
4/10/79	Daniel S. Boschert, Dallas, Texas	DEE-3588.
4/10/79	Kerr-McGee Service Station, Nevada, Missouri	DEE-3589.
4/10/79	South Huntington Chevron, Huntington Beach, California	DEE-3590.
4/10/79	Mrohs City Gas Inc., Crisfield, Maryland	DEE-3578.
4/10/79	Walter G. Mitchell, Dalton, Georgia	DEE-3584.
4/12/79	King Petroleum Corp., Bridgeview, Illinois	DEE-3609 and DES-3609.
4/10/79	Bruce Dudley, New Castle, Indiana	DEE-3585.
4/10/79	Lincoln Land Oil Co., Springfield, Illinois	DEE-3583.
4/10/79	Rail Petroleum Co., Gallatin, Tennessee	DEE-3580.
4/10/79	Walters Distributing Co., Marshall, Michigan	DEE-3582.
4/10/79	A&J Mini Market, Keyport, New Jersey	DEE-3579.
4/10/79	L. S. Riggins Oil Company, Millville, New Jersey	DEE-3603, DES-3603, and DST-3603.
4/10/79	Keck, Inc., Des Moines, Iowa	DEE-3577.
4/6/79	Moo Tae Kim, Monterey, California	DEE-3573.
4/6/79	Mobile Car Repair, Inc., Phoenix, Arizona	DEE-3570.
4/6/79	Ron's Mobil Service Center, Vallejo, California	DEE-3569.
4/6/79	Gilroy Mobil, Gilroy, California	DEE-3572.
4/10/79	Krikor Chouchanian, Santa Monica, California	DEE-3564.
4/8/79	Svetomir Kojic, Phoenix, Arizona	DEE-3571.
4/6/79	Spanish Trail Resort, Tuscon, Arizona	DEE-3574.
4/10/79	The Hollar Company, Inc., Gadsden, Alabama	DEE-3575.
4/10/79	Stoltz, Wegner & Brown, Midland, Texas	DEE-3576.
4/6/79	Jerry Lantzy Standard, Dearborn Heights, Michigan	DEE-3724.
4/6/79	Leonard Perry, Raleigh, North Carolina	DEE-3725.
4/10/79	Perry Hall Mini Market, Baltimore, Maryland	DEE-3563.
4/10/79	M.R.S. Markets, Redding, California	DEE-3562.
4/10/79	S. Nuccio & W. Gebhardt, Chicago, Illinois	DEE-3559.
4/10/79	Al Whitmore's Auto & U-Haul, Bueno Park, California	DEE-3560.
4/10/79	Beacon Oil Company, Hanford, California	DEE-3561.
4/10/79	Onan Oil Company, Oklahoma City, Oklahoma	DEE-3722.
4/10/79	Hoover Oil Company, Pine Bluff, Arkansas	DEE-3565.
4/10/79	T. R. Sibley, Shreveport, Louisiana	DEE-3566.
4/10/79	Paul Marchi, Rancho Cordova, California	DEE-3567.

considered. (Seattle District) (FIS Order No.

V 4 4 / 9 3

List of Cases Involving the Standby Petroleum Product Allocation Regulations for Motor Gasoline—Continued

Date	Name and location of applicant	Case No.
4/6/79	Curt Roth, Glendale, Arizona	DEE-3568.
4/10/79	Spartan Oil Corp., Lansing, Missouri	DEE-3557.
4/10/79	Metro Servicenter, Inc., Detroit, Michigan	DEE-3558.
4/10/79	L. G. Armstrong & K. W. Davis, Campbell, California	DEE-3556.
4/10/79	Carol Davis' Mini Market, Whittier, California	DEE-3555.
4/10/79	Sam's Service Station & Grocery, Sacramento, California	DEE-3554.
4/10/79	Tate Service Center, Whittier, California	DEE-3553.
4/10/79	Danny's 66 Service Center, Miami, Florida	DEE-3552.
4/10/79	Golden Rule Oil Company, Eau Claire, Wisconsin	DEE-3551.
4/10/79	Roy W. Reeves, McDonough, Georgia	DEE-3550.
4/10/79	Murry's Mini Market, Sharon, Pennsylvania	DEE-3581.
4/10/79	Leo's Exxon, Cohasset, Massachusetts	DEE-3549.
4/10/79	Gillett Cement Products, Inc., Gillett, Wisconsin	DEE-3548.
4/10/79	A & P Mobil, Oakland, California	DEE-3547.
4/10/79	Various & Sundry Drive-Thru, Jackson, Mississippi	DEE-3546.
4/10/79	Jamison Oil Company, Boulder, Colorado	DEE-3545.
4/10/79	Vic's Shell Service, Los Angeles, California	DEE-3544.
4/10/79	Choi's Shell, Los Angeles, California	DEE-3543.
4/10/79	Seibt Shell Service, Monroe, Michigan	DEE-3542.
4/10/79	Manchester Shell, Inglewood, California	DEE-3541.
4/10/79	Vaskin's Shell Service, Torrance, California	DEE-3540.
4/6/79	Gene's Texaco Service, Norwalk, California	DEE-3539.
4/6/79	Poway Texaco Service, Poway, California	DEE-3538.
4/6/79	Greentree Exxon, Victorville, California	DEE-3537.
4/6/79	Temp Rite Engineering Co., Tucson, Arizona	DEE-3536.
4/6/79	Al Haddix Chevron USA, Santa Barbara, California	DEE-3535.
4/6/79	Jim Bowers Exxon, Wittmann, Arizona	DEE-3534.
4/6/79	Ramon Malache, Glendale, Arizona	DEE-3533.
4/6/79	Herco, Inc., Hershey, Pennsylvania	DEE-3532.
4/6/79	Mid-West Steel Building Co., Inc., Houston, Texas	DEE-3531.
4/10/79	S&S Oil Co., Lamar, Colorado	DEE-3927.

Proposed Remedial Orders

Notices of Objection Received

4/10/79	William J. O'Connor, Oklahoma City, Oklahoma	DRO-0191.
4/9/79	Brock Exploration Company, New Orleans, Louisiana	DRO-0190.
4/9/79	Bob Parker's Mobil Station, Dallas, Texas	DEO-0189.
4/10/79	Home-Stake Production Company, Tulsa, Oklahoma	DEE-1003.

[FR Doc. 79-14695 Filed 5-10-79; 8:45 am]

BILLING CODE 6450-01-M

Notice of Objections Filed

Notice is hereby given that on March 12, 1979, a Notice of Objection to a Proposed Remedial Order listed in the Appendix to this notice was filed with the Office of Hearings and Appeals of the Department of Energy.

On or before May 31, 1979, any person who wishes to participate in the proceeding which the Department of Energy will conduct concerning the Proposed Remedial Order described in the Appendix to this notice must file a request to participate, pursuant to 10 CFR 205.194 (44 FR 7926, February 7, 1979). On or before June 11, 1979, the Office of Hearings and Appeals will determine those persons who may participate on an active basis in this proceeding, and will prepare an official service list which it will mail to all persons who filed requests to participate. Persons may also be placed on the official service list as non-participants for good cause shown. All requests regarding this proceeding shall be filed with the Office of Hearings and Appeals, Department of Energy, Washington, D.C. 20461.

Issued in Washington, D.C., May 3, 1979.

Melvin Goldstein,

Director, Office of Hearings and Appeals.

Appendix

A. Tarricone, Inc., Yonkers, N.Y. DRO-0182, Crude Oil

On March 12, 1979, A Tarricone, Inc. filed a Notice of Objection to a Proposed Remedial Order that the ERA Office of Enforcement issued to the firm on February 16, 1979. In the Proposed Remedial Order the ERA found that A. Tarricone, Inc. received $115,785 in entitlements for crude oil imports reported by the firm in November 1974 to which it was not entitled pursuant to 10 CFR 211.66(j) and 211.67. Accordingly, A. Tarricone, Inc. is required by the Proposed Remedial Order to pay $115,785 plus interest to the United States Treasury.

[FR Doc. 79-14694 Filed 5-10-79; 8:45 am]

BILLING CODE 6450-01-M

Office of Assistant Secretary for International Affairs

Proposed Subsequent Arrangement

Pursuant to section 131 of the Atomic Energy Act of 1954, as amended (42 U.S.C. 2160) notice is hereby given of a proposed "subsequent arrangement" under the Additional Agreement Between the Government of the United States of America and the European Atomic Energy Community (EURATOM) concerning the Peaceful Uses of Atomic Energy.

The subsequent arrangement to be carried out under the above mentioned agreement involves the shipment of spent enriched uranium/thorium fuel from the Dutch KSTR Research Reactor to the DOE Oak Ridge facility for storage. The shipment contains approximately 6.6 kg Uranium, enriched to 90% U-235 and 19.7 kg Thorium.

In accordance with section 131 of the Atomic Energy Act of 1954, as amended, it has been determined that the acceptance of the nuclear material will not be inimical to the common defense and security. This arrangement for returning highly enriched uranium (HEU) to the U.S. is consistent with U.S. non-proliferation policy in that it serves to reduce the amount of HEU abroad.

This subsequent arrangement will take effect no sooner than May 29, 1979.

Dated: May 8, 1979.

For the Department of Energy.

Harold D. Bengelsdorf,

Director for Nuclear Affairs, International Programs.

[FR Doc 79-14693 Filed 5-10-79; 8:45 am]

BILLING CODE 6450-01-M

ENVIRONMENTAL PROTECTION AGENCY

Availability of Environmental Impact Statements

AGENCY: Office of Environmental Review, Environmental Protection Agency.

PURPOSE: This Notice lists the Environmental Impact Statements which have been officially filed with the EPA and distributed to Federal Agencies and interested groups, organizations and individuals for review pursuant to the Council on Environmental Quality's Regulations (40 CFR Part 1506.9).

PERIOD COVERED: This Notice includes EIS's filed during the week of April 30, to May 4, 1979.

REVIEW PERIODS: The 45-day review period for draft EIS's listed in this Notice is calculated from May 11, 1979 and will end on June 25, 1979. The 30-day wait period for final EIS's will be computed from the date of receipt by EPA and commenting parties.

EIS AVAILABILITY: To obtain a copy of an EIS listed in this Notice you should contact the Federal agency which prepared the EIS. This Notice will give a contact person for each Federal agency which has filed an EIS during the period covered by the Notice. If a Federal agency does not have the EIS available upon request you may contact the Office of Environmental Review, EPA for further information.

BACK COPIES OF EIS'S: Copies of EIS's previously filed with EPA or CEQ which are no longer available from the originating agency are available from the Environmental Law Institute, 1346 Connecticut Avenue, Washington, D.C. 20036.

FOR FURTHER INFORMATION CONTACT: Kathi Weaver Wilson, Office of Environmental Review A-104, Environmental Protection Agency, 401 M Street SW., Washington, D.C. 20460, (202) 755-0780.

SUMMARY OF NOTICE: Appendix I sets forth a list of EIS's filed with EPA during the week of April 30 to May 4, 1979 the Federal agency filing the EIS, the name, address, and telephone number of the Federal agency contact for copies of the EIS, the filing status of the EIS, the actual date the EIS was filed with EPA, the title of the EIS, the State(s) and County(ies) of the proposed action and a brief summary of the proposed Federal action and the Federal agency EIS number if available. Commenting entities on draft EIS's are listed for final EIS's.

Appendix II sets forth the EIS's which agencies have granted an extended review period or a waiver from the prescribed review period. The Appendix II includes the Federal agency responsible for the EIS, the name, address, and telephone number of the Federal agency contact, the title, State(s) and County(ies) of the EIS, the date EPA announced availability of the EIS in the Federal Register and the extended date for comments.

Appendix III sets forth a list of EIS's which have been withdrawn by a Federal agency.

Appendix IV sets forth a list of EIS retractions concerning previous Notices of Availability which have been made because of procedural noncompliance with NEPA or the CEQ regulations by the originating Federal agencies.

Appendix V sets forth a list of reports or additional supplemental information on previously filed EIS's which have been made available to EPA by Federal agencies.

Appendix VI sets forth official corrections which have been called to EPA's attention.

Dated: May 8, 1979.

Thomas R. Sheckells,

Acting Director, Office of Environmental Review.

Appendix I.—EIS's Filed With EPA During the Week of April 30 to May 4, 1979

U.S. ARMY CORPS OF ENGINEERS

Contact: Dr. C. Grant Ash, Office of Environmental Policy, Attn: DAEN-CWR-P, Office of the Chief of Engineers, U.S. Army Corps of Engineers, 1000 Independence Avenue, SW., Washington, D.C. 20314, (202) 693-6795.

Draft

Skagit River flood control, Sedro Woolley, Skagit County, Wash., May 1: Proposed is an improved levee system within the Skagit-Samish River Basin from the mouth of the Skagit River to the vicinity of Sedro Woolley, Skagit County, Washington. The length of the proposed project is approximately 50 miles, 5 miles of which turn away from the Skagit River and extend through farmland to form a ring dike around Burlington Landscaping, Low Development Recreation, Habitat Restoration, and Fish and Wildlife Mitigation are included as project features. Approximately seven alternatives are considered. (Seattle District) (EIS Order No. 90454).

Final

Muskegon Lake, dredging/diking, permit, Muskegon County, Mich., May 4: Proposed is the issuance of a permit to the Westran Corporation for a proposed project concerning the Muskegon Lake located in Muskegon County, Michigan. The project includes diking, dredging and filling along the southside of the lake and would be completed in three stages. In the first stage a perimeter dike would be constructed between two existing dikes. The second stage would be removal of a portion of the western spit extending beyond the dike and the final stage includes filling of the area within the perimeter, landscaping, and development of a water-management program. (Detroit District) Comments made by: EPA, USDA, DOI, DOT, DOC, State, and local agencies. (EIS Order 90462.)

Cazenovia Creek Watershed, flood management (2), New York, May 4: Proposed is a flood control project for the Cazenovia Creek Watershed located in Erie County, New York, nonstructural measures include flood plain management and participation in the national flood insurance program. Such measures are recommended for reaches 1 through 3, areas along the main stem of Cazenovia Creek between the ice retention structure and confluence of east and west branches, Tunnery Brook, and the east and west branches of Cazenovia Creek. The draft EIS concerning this project, No. 41802, filed 12-3-74 was replaced by a revised draft, No. 61181, filed 8-12-76. (Detroit District). Comments made by: DOT, USDA, DOI, EPA, HUD, HEW, State agencies, groups (EIS Order No. 90464.)

Pembilier Lake and Dam (2) Pembina, Cavalier Counties, N. Dak., April 30: The proposed project calls for the construction of a rolled earth type dam across the Pembina River about 2 miles southwest of Walhalla, North Dakota, near the Cavalier-Pembina County line. The reservoir would have a controlled storage capacity of 147,000 acre-feet of which 15,000 acre-feet would be in an 800 foot surface area conservation pool. Storage within the conservation pool would be allocated to water supply, recreation, and sedimentation, discharges during normal operation would utilize a mutiple-gated intake structure. The original draft EIS No. 51143, Filed 8-4-75 was replaced by a revised draft, No. 70570, filed 5-9-77, (St. Paul District). Comments made by: EPA, USDA, DOC, HEW, DOT, FPC, STAT, State and Local Agencies (EIS Order No. 90449.)

Muskingum R. Basin, Water Resources Development, Holmes and Richland Counties, Ohio, May 2: Proposed are two local protection projects for the village of Killbuck, Holmes County and the city of Mansfield, Richland County, both within the state of Ohio. The Killbuck project will consist of a levee-flood wall 7,000 feet in length and day use recreation. The Mansfield project will include modification of the existing channel of Rocky Fork and Touby Run for a total distance of 12,040 feet and day use recreation. The draft EIS concerning this

project. No. 40444, filed 3–25–74 was replaced by a revised draft EIS, No. 70375, filed 3–22–77 (Huntington District). Comments made by: EPA, DOI, USDA, HUD, DOC, DOT, AHP, State agencies. (EIS Order No. 90456.)

Final Supplement

Sun River Flood Protection Project (FS), Cascade County, Mont., May 1: This statement supplements a final EIS, No. 20558, filed August 1971. Proposed is the construction of: A levee, drainage structures, channel modification, placement of riprap, buried conduits to carry runoff from Watson Coulee (an interior drainage area) into the Sun River, and project beautification. The purpose of the project is to provide flood protection from the Sun River for the Great Falls area of Cascade County, Montana. The levee will be 31,800 feet long and will vary in height from 6 to 15.5 feet (Omaha District). Comments made by: EPA, DOI, HEW, DOT, HUD, USDA, FERC, State and local agencies, groups and individuals. (EIS Order No. 90453.)

DEPARTMENT OF COMMERCE

Contact: Dr. Sidney R. Galler, Deputy Assistant Secretary, Environmental Affairs, Department of Commerce, Washington, D.C. 20230, (202) 377–4335.

National Oceanic and Atmospheric Administration

Draft

Elkhorn Slough Estuarine Sanctuary, Grant, Monterey County, Calif., May 4: Proposed is the awarding of a grant to the state of California for the acquisition of approximately 1,510 acres of wetlands and uplands at Elkhorn Slough, Monterey County, California. The acquired lands will be used for research and education as an estuarine sanctuary. Other uses could include low-intensity recreation, hunting, fishing, and wildlife observation. The alternatives considered address boundaries and management structures. (EIS Order No. 90461.)

Reef Fish Resources of the Gulf of Mexico, FMP, Gulf of Mexico, May 1: Proposed is a fishery management plan for the reef fish fishery of the Gulf of Mexico. The basic objective will be to manage these stocks for their optimum yield to domestic user groups. Specific objectives are to: 1) Rebuild the declining reef fish stocks wherever they occur within the fishery, 2) establish a fishery reporting system, 3) increase habitat for reef fish to increase population and provide protection for juveniles, while protecting existing and new habitats, and 4) minimize resource and space conflicts between user groups. (EIS Order No. 90342.)

Note.—The EIS listed above has been retracted (see Appendix IV). The review period for this DEIS will terminate on June 15, 1979.

DEPARTMENT OF INTERIOR

Contact: Mr. Bruce Blanchard, Director, Environmental Project Review, Room 4256 Interior Bldg., Department of the Interior, Washington, D.C. 20240, (202) 343–3891.

Bureau of Land Management

Final

West-Central Colorado Coal Resources Development, several counties, Colo., April 30: The proposed actions of this statement are the review and consideration for approval of the needed leases and applications associated with six mining and reclamation plans to mine Federal and private coal on existing leases by 1980, 1985 and 1990. The statement contains a two-level analysis of regional impacts associated with the proposed mining and reclamation plans and site-specific analyses of the plans. Seven alternatives are considered which include a no-build and an alternative which involves a different rate of production. (USDI–FES–79–20). Comments made by: AHP, USDA, COE, EPA, HEW, HUD, DOI, State and local agencies, groups, individuals and businesses. (EIS Order No. 90450.)

Federal Coal Management Program, Programmatic, April 30: The purpose of this statement is to address various alternatives for a Federal coal management program, including a preferred program alternative, and to assess the possible impacts from the various alternatives. The statement is programmatic in scope and discusses the national and interregional impacts associated with the Federal coal management program. Included is the assessment of 12 coal supply regions, 3 production levels, 7 alternative management strategies, 2 projection periods, 5 coal production and use cycle, and 27 impact categories (FES–79–19). Comments made by: DOI, DOC, USDA, State and local agencies, groups, individuals and businesses. (EIS Order No. 90430.)

National Park Service

Draft

Lake Mead National Recreation Area, Nevada, Mohave, and Clark Counties Ariz., April 30: Proposed is the designation as wilderness of 25 units totaling 418,655 acres of land within the Lake Mead National Recreational Area in Clark County, Nevada and Mohave County, Arizona. In addition, 262,125 acres are proposed as potential wilderness additions, to be added to the wilderness system at such time as the lands qualify as such. The alternatives considered include: 1) no action, 2) less-wilderness designation, and 3) additional special provisions. This revised statement replaces a draft EIS, No. 40132, filed 8–21–72 (DES–79–12). (EIS Order No. 90291.)

Note.—The EIS listed above was retracted in the notice published in the May 4, 1979 FR. The document has been refiled and the review period is scheduled to terminate on June 29, 1979.

DEPARTMENT OF TRANSPORTATION

Contact: Mr. Martin Convisser, Director, Office of Environmental Affairs, U.S. Department of Transportation, 400 7th Street, S.W., Washington, D.C. 20590, (202) 426–4357.

Federal Highway Administration

Draft

CA–192, Shoulder widening and bridge replacement, Santa Barbara County, Calif., April 30: Proposed is the widening of CA–192 for a distance of 2.2 miles in the city and county of Santa Barbara, California, also included is replacement of the existing bridge over San Roque Canyon. The project will begin at CA–154 and end at Calle Laureles, which is a city street within Santa Barbara. Generally widening will be on both sides of the existing highway to provide for bicycle lanes, a sidewalk and an equestrian trail. Left turn lanes and traffic signals will be added at certain cross streets. The existing two-lane, capacity would be retained (FHWA–CA–EIS–79–02–D). (EIS Order No. 90445.)

Circle Boulevard, improvement-extension, Benton County, Oreg., April 30: Proposed is the improvement and extension of Circle Boulevard in the city of Corvallis, Benton County, Oregon. The route will extend from NW Harrison Boulevard to US 20. Two build alternatives are considered in addition to no build. The build alternatives consider routes of two lanes for 0.35 miles and four lanes for 4.5 miles. Both build alternatives include features such as bikepaths and left turn lanes. This statement also addresses two other projects concerning construction of 0.7 miles of NW Circle Boulevard, and the widening and improvement of 0.71 miles of NW Circle Boulevard (FHWA–OR–EIS–79–04–D). (EIS Order No. 90446.)

Walnut Boulevard, Kings Blvd. to Highland Drive, Benton County, Oreg., April 30: Proposed is completion of development of Walnut Boulevard as a continuous arterial route in the city of Corvallis, Benton County, Oregon. The project begins at Harrison Boulevard and extends to NW 9th street. The project length is 0.75 miles. The alternatives considered are build and no build. Features of the build alternative include four traffic lanes throughout its length, additional left-turn lanes at intersections with major cross streets, a bike path, and a walkway. (FHWA–OR–EIS–79–05–D). (EIS Order No. 90447.)

WY–130 (Snowy Range Road), reconstruction, Albany and Carbon Counties, Wyo., April 30: Proposed is the reconstruction of WY–130 beginning at a point 1½ miles west of Headquarters Park Access Road and continuing 13 miles eastward to the Green Rock Picnic Ground in the counties of Albany and Carbon, Wyoming. Reconstruction will include grading, installation of new drainage structures, and hot bituminous pavement. Scenic overlooks and off-road parking will be developed at various locations along this section. Existing culverts at stream crossings will be replaced and a 300-foot section of the existing channel of North French Creek will be relocated (FHWA–FPWY–EIS–79–1–D). (EIS Order No. 90448.)

Final

Keaau-Pahoa Road, Pahoa Bypass, project RS–0130 (17, Hawaii County, Hawaii, May 3:) The proposed project is located in the Puna District in the vicinity of Pahoa Village on the island of Hawaii. The existing roadway under consideration is a portion of the Keaau-Pahoa-Kalapana Road (Route FAS 130), starting from the vicinity of Kahakai Boulevard, 2.8 miles, to south of the Pahoa-Kapoho-Kalapana Junction. Two concepts were considered: (1) an improved through Pahoa town and (2) a bypass of the town. A route through town would continue to route all traffic through town along a limited right-of-way (FHWA–HI–EIS–78–01–F). Comments made by: COE, DOI, EPA, USDA, HUD, State and local agencies, groups and businesses.

GENERAL SERVICES ADMINISTRATION

Contact: Mr. Carl W. Penland, Acting Director, Environmental Affairs Division, General Services Administration, 18th and F Streets, N.W., Washington, D.C. 20405, (202) 566–1416.

Final

Federal office building and parking, Savannah, Chatham County, Ga., May 4: The proposed action involves the construction of a Federal office building and parking facility in Savannah, Chatham County, Georgia. The new facility would provide space for the COE and 10 other Government agencies presently housed in 10 general-purpose leased locations. The proposed building would provide approximately 173,000 occupiable square feet and about 99,000 square feet for parking, including motor pool space. The facility would be located in or near Savannah's central business district. A site has not yet been selected. (EGA 78000). Comments made by; DOI, COE, HUD, EPA, State agencies. (EIS Order No. 90463.)

DEPARTMENT OF HOUSING AND URBAN DEVELOPMENT

Contact: Mr. Richard H. Broun, Director, Office of Environmental Quality, Room 7274, Department of Housing and Urban Development, 451 7th Street, S.W., Washington, D.C. 20410, (202) 755–6306.

Draft

Argyle Forest New Town, Mortgage Insurance, Duval and Clay Counties, Fla., May 4: Proposed is the issuance of HUD home mortage insurance for Argyle Forest New Town. The town consists of 9610 acres and is located southwest of Jacksonville in Duval and Clay Counties, Florida. Completion is expected over a 20 year period with an ultimate occupancy of approximately 80,000 to 100,000 people in 11 village clusters around a community center. (HUD–R04–EIS–77–09–D.) (EIS Order No. 90460.)

DEPARTMENT OF AGRICULTURE

Contact: Mr. Barry Flamm, Coordinator, Environmental Quality Activities, Office of the Secretary, U.S. Department of Agriculture, Room 412A, Washington, D.C. 20250, (202) 447–3965.

Rural Electrification Administration

Draft

New Madrid-Blytheville 500KV transmission line Arkansas, New Madrid, and Mississippi Counties, Mo., April 30: Proposed is the awarding of financing assistance for the construction of a portion of the 55 mile New Madrid-Blytheville 500KV transmission line and related facilities. The transmission line would begin in New Madrid County, Missouri, pass through Pemiscott County and possibly (depending on the alternative chosen) Dunklin County, and ending at Blytheville, Mississippi County, Arkansas. The facilities include construction of a new substation in Blytheville and expansion of the existing 354KV substation at New Madrid. Assistance would apply only to the Missouri portion of the project. (USDA–REA–EIS–(ADM)–79–2–D.) (EIS Order No. 90444.)

Soil Conservation Service

Draft

Hoffa Creek Watershed, Multipurpose Project, Grenada and Tallahatchie Counties, Miss., May 3: Proposed is a multipurpose project located in Grenada and Tallahatchie Counties, Mississippi. The purpose of the project is to provide watershed protection, prevention of flooding, and drainage. The planned works include conservation land treatment and 18.2 miles of channel work. The channel work will involve enlargement and realignment by excavation of 9.8 miles of ephemeral streams and 8.4 miles of intermittent streams. Land treatment will include timber management of 400 acres under one program; and timber management on 1,250 acres and planting on 50 acres under another program. (USDA–SCS–WS–(ADM)–79–1–(D)–MS). (EIS Order No. 90459.)

Final

South Branch-Park River Watershed, Hartford County, Conn., May 3: Proposed is the completion of work remaining to be done on the South Branch-Park River Watershed in Hartford County, Connecticut. The remaining work includes a total of 3.7 miles of channel: 1.9 miles of channel on Trout Brook and Asylum Avenue Branch, including 1,200 feet of enclosed conduit in the area of Farmington Avenue and Four Bridges in West Hartford; in Mill Brook, 1.1 miles of channel work will be done, and; Piper Brook, 0.7 miles of channel work is anticipated. The modification of a total of six bridges will be required. (USDA–SCS–EIS–WS–(ADM)–79–1–F–CT.) Comments made by: USDA, HEW, EPA, State agencies. (EIS Order No. 90458.)

Lower Bayou Teche Watershed, Vermilion and Lafayette Counties, La., May 2: This statement concerns a project for the watershed protection, flood prevention, and drainage in Lafayette and Vermilion Parishes, Louisiana. The action involved will consist of adding 10 miles of channel enlargement, 3 miles of clearing and shaping, 5 miles of clearing only, and appurtenant structures for erosion control. The 18 miles of additional channel work includes 15 miles of channels with ephemeral flow and 3 miles with ponded water. (USDA–SCS–EIS–WS–ADM–78–3–F–LA). Comments made by: COE, DOI, OEO, EPA, HEW, AHP, State agencies. (EIS Order No. 90455.)

National Capitol Planning Commission

Contact: Ms. Patricia Spillenkothen, Chief, Office of Environmental Affairs, National Capitol Planning Commission, Washington, D.C. 20576, (202) 382–7200.

Final Supplement

Washington, D.C., Civic Center, Site Location, District of Columbia, May 1: This statement supplements a final EIS filed in November 1977. Proposed are site locations and the program for the Washington District of Columbia Civic Center and the transfer of jurisdiction over Reservation 174 from the National Park Service to the District of Columbia. The basic purpose of the Civic Center will be to provide a large meeting and exhibition facility. Amendments to the final EIS include: (1) Air quality, (2) natural features, (3) transportation, (4) energy/resource conservation, (5) the physical/economic character, and (6) social/demographic character. Comments made by: EPA, DOI, HUD, local agencies, businesses. (EIS Order No. 90452.)

Nuclear Regulatory Commission

Contact: Mr. Voss Moore, Assistant Director for Environmental Projects, U.S. Nuclear Regulatory Commission, Washington, D.C. 20555, (301) 492–8446.

Draft

Palo Verde Nuclear Generating Station Units 4 and 5, Maricopa County, Ariz., April 20: Proposed is the issuance of a construction permit for the Palo Verde Generating Stations, units 4 and 5 located in Maricopa County, Arizona. These pressurized water reactors will produce up to 3817 megawatts thermal each. A steam turbine generator will use this heat to provide 1270 megawatts electric each of electrical power capacity. The exhaust steam will be cooled by circular mechanical-draft cooling towers with make-up water obtained by treating piped sewage effluent from the city of Phoenix. No cooling system effluents will be discharged from the station. (NUREG–0522.) (EIS Order No. 90451.)

The above EIS should have been published in a previous issue of the Federal Register. See Appendix VI.

V 4 4 / 9 3

Statement Title Index-By State and County

State	County	Status	Statement title	Accession number	Date filed	Orig. agency number
Arizona		Draft	Lake Mead National Recreation Area	90291	04-30-79	DOI
Arkansas		Draft	New Madrid-Blytheville 500KV Transmission Line	90444	04-30-79	USDA
California	Monterey	Draft	Elkhorn Slough Estuarine Sanctuary, Grant	90461	05-04-79	DOC
	Santa Barbara	Draft	CA-192, Shoulder Widening and Bridge Replacement.	90445	04-30-79	DOT
Colorado	Several	Final	West-Central Colorado Coal Resources Development.	90450	04-30-79	DOI
Connecticut	Hartford	Final	South Branch-Park River Watershed	90458	05-03-79	USDA
District of Columbia		Final Supp	Washington D.C. Civic Center, Site Location	90452	05-01-79	NCPC
Florida	Clay	Draft	Argyle Forest New Town, Mortgage Insurance	90460	05-04-79	HUD
	Duval	Draft	Argyle Forest New Town, Mortgage Insurance	90460	05-04-79	HUD
Georgia	Chatham	Final	Federal Office Bldg and Parking, Savannah	90463	05-04-79	GSA
Gulf of Mexico		Draft	Reef Fish Resources of the Gulf of Mexico, FMP	90342	05-01-79	DOC
Hawaii	Hawaii	Final	Kaaau-Pahoa Road, Pahoa Bypass, Project RS-0130017.	90457	05-03-79	DOT
Louisiana	Lafayette	Final	Lower Bayou Teche Watershed	90455	05-02-79	USDA
	Vermilion	Final	Lower Bayou Tech Watershed	90455	05-02-79	USDA
Michigan	Muskegon	Final	Muskegon Lake, Dredging/Diking, Permit	90462	05-04-79	COE
Mississippi	Grenada	Draft	Hoffa Creek Watershed, Multipurpose Project	90459	05-03-79	USDA
Mississippi	Tallahatchie	Draft	Hoffa Creek Watershed, Multipurpose Project	90459	05-03-79	USDA
Missouri		Draft	New Madrid-Blytheville 500KV Transmission Line	90444	04-30-79	USDA
Montana	Cascade	Final Supp	Sun River Flood Protection Project	90453	04-01-79	COE
Nevada		Draft	Lake Mead National Recreation Area	90291	04-30-79	DOI
New York		Final	Cazenovia Creek Watershed, Flood Management (2).	90464	05-04-79	COE
North Dakota	Cavalier	Final	Pembilier Lake and Dam (2)	90449	04-30-79	COE
	Pembina	Final	Pembilier Lake and Dam (2)	90449	04-30-79	COE
Ohio	Holmes	Final	Muskingum River Basin, Water Resources Development.	90458	05-02-79	COE
	Richland	Final	Muskingum River Basin, Water Resources Development.	90456	05-02-79	COE
Oregon	Benton	Draft	Circle Boulevard, Improvement/Extension	90446	04-30-79	DOT
		Draft	Walnut Boulevard, Kings Blvd. to Highland Drive	90447	04-30-79	DOT
Programmatic		Final	Federal Coal Management Program	90430	04-30-79	DOI
Washington	Skagit	Draft	Skagit River Flood Control, Sedro Woolley	90454	05-01-79	COE
Wyoming	Albany	Draft	WY-130 (Snowy Range Road), Reconstruction	90448	04-30-79	DOT
	Carbon	Draft	WY-130 (Snowy Range Road), Reconstruction	90448	04-30-79	DOT

Appendix II.—*Extension/waiver of review periods on EIS's filed with EPA*

Federal agency contact	Title of EIS	Filing status/accession No.	Date notice of availability published in "Federal Register"	Waiver/ extension	Data review terminates
U.S. DEPARTMENT OF AGRICULTURE					
Mr. Barry Flamm, Coordinator, Environmental Quality Activities, Office of the Secretary, Department of Agriculture, Room 412A, Washington, D.C. 20250, (202) 447-3965.	New Madrid-Blytheville 500 kV transmission facilities.	Draft 90444	05/11/79 (see appendix I).	Extension	07/10/79

Appendix III.—*EIS's filed with EPA which have been officially withdrawn by the originating agency*

Federal agency contact	Title of EIS	Filing status/accession No.	Date notice of availability published in "Federal Register"	Date of withdrawal
DEPARTMENT OF TRANSPORTATION				
Mr. Martin Convisser, Director, Office of Environmental Affairs, Department of Transportation, 400 7th Street, S.W., Washington, D.C. 20590, (202) 426-4357.	Knife River Crossing North of Stanton, North Dakota.	Draft 90379	04/20/79	04/23/79
	Pulaski Highway (LR 1078) Philadelphia, Pennsylvania.	Draft 60442	04/02/76	03/23/79
DEPARTMENT OF HOUSING AND URBAN DEVELOPMENT				
Mr. Richard H. Broun, Director, Office of Environmental Quality, Room 7274, Department of Housing and Urban Development 451 7th Street, S.W., Washington, D.C. 20410, (202) 755-6306.	Eagle-Market Street Development Project, Asheville, Buncombe County, North Carolina.	Draft 80777	12/22/78	04/25/79

Appendix IV.—*Notice of official retraction*

Federal agency contact	Title of EIS	Status/number	Date notice published in published in "Federal Register"	Reason for retraction
DEPARTMENT OF COMMERCE				
Dr. Signey R. Gafler, Deputy Assistant Secretary, Environmental Affairs, Department of Commerce, Washington, D.C. 20230.	Reef Fish Resources of the Gulf of Mexico.	Draft 90342	4-13-79	Distribution of the draft was not made when the notice of availability was published in FR 04/13/79 and it is refiled as of 04/02/79. See appendix I. Comments are due 06/15/79.

Appendix V.—*Availability of reports/additional information relating to EIS's previously filed with EPA*

Federal agency contact	Title of report	Date made available to EPA	Accession No.
None.			

Appendix VI.—*Official correction*

Federal agency contact	Title of EIS	Filing status/ accession No.	Date notice of availability published in "Federal Register"	Correction
DEPARTMENT OF INTERIOR				
Mr. Bruce Blanchard, Director, Environmental Project Review, Room 4256 Interior Building, Department of the Interior, Washington, D.C. 20240, (202) 343-3891.	Phosphate Leasing, Osceola National Forest, Florida.	Draft supplement 90351	05/04/79	Special note below should have appeared in appendix IV of FR 05/04/79, along with the retraction notice.

SPECIAL NOTE.—In view of the newly established review period, the bureau of Land Management requests comments be received by June 5 if at all possible to enable the scheduled environmental review team to coordinate comments in accordance with established timeframes. However, the BLM will accept and consider all comments until June 12, 1979.

NUCLEAR REGULATORY COMMISSION				
Mr. Voss Moore, Assistant Director for Environmental Projects, U.S. Nuclear Regulatory Commission, Washington, D.C. 20555, (301) 492-8446.	Palo Verde Nuclear Generating Station, Units 4 and 5, Maricopa County, Arizona.	Draft 90451		Should have appeared in FR 04/27/79. Comments are due by 06/11/79. See appendix I.

[FRL 1223-1]

[FR Doc. 79-14816 Filed 5-10-79; 8:45 am]

BILLING CODE 6560-01-M

Pesticide Programs; Establishment of Temporary Tolerances; 3-Phenoxyphenylmethyl 4-chloro-0-(1-methylethyl)benzeneacetate

Shell Chemical Co., 1025 Connecticut Ave., NW, Washington, DC 20036, submitted a pesticide petition (PP 8G2105) to the Environmental Protection Agency (EPA). This petition requested that temporary tolerances be established for residues of the insecticide 3-Phenoxyphenylmethyl 4-chloro-*0*-(1-methylethyl)benzeneacetate in or on the raw agricultural commodities fat of milk and the meat, fat, and meat byproducts of cattle, goats, hogs, horses, and sheep at 0.02 part per million (p.p.m.) These temporary tolerances will permit the marketing of the above raw agricultural commodities when treated in accordance with an experimental use permit (201-EUP-64) that has been issued under the Federal Insecticide, Fungicide, and Rodenticide

President/Director Wilfred Hering, Vice

Act, as amended in 1972, 1975, and 1978 (92 Stat. 819; 7 U.S.C. 136).

An evaluation of the scientific data reported and other relevant material showed that the requested tolerances were adequate to cover residues resulting from the proposed experimental use, and it was determined that the temporary tolerances would protect the public health. The temporary tolerances have been established for the pesticide, therefore, with the following provisions:

1. The total amount of the pesticide to be used must not exceed the quantity authorized by the experimental use permit.

2. Shell Chemical Co. must immediately notify the EPA of any findings from the experimental use that have a bearing on safety. The firm must also keep records of production, distribution, and performance and on request make the records available to any authorized officer or employee of the EPA or the Food and Drug Administration.

These temporary tolerances expire April 9, 1981. Residues not in excess of 0.02 p.p.m. remaining in the fat of milk and the meat, fat, and meat byproducts of cattle, goats, hogs, horses, and sheep after this expiration date will not be considered actionable if the pesticide is legally applied during the term of and in accordance with the provisions of the experimental use permit and temporary tolerances. These temporary tolerances may be revoked if the experimental use permit is revoked or if any scientific data or experience with this pesticide indicates such revocation is necessary to protect the public health. Inquiries concerning this notice may be directed to Mr. Franklin D. R. Gee, Product Manager 17, Registration Division (TS–767), Office of Pesticide Programs, East Tower, 401 M St., SW, Washington, DC 20460 (202/426–9425).

Authority: Section 408(j) of the Federal Food, Drug, and Cosmetic Act [21 U.S.C. 346a(j)].

Dated: May 7, 1979.

Douglas D. Campt,
Director, Registration Division.

[FRL 1222–4; PP 8G2105/T202]
[FR Doc. 79–14812 Filed 5–10–79; 8:45 am]
BILLING CODE 6560–01–M

Pesticide Programs; Renewal of Temporary Tolerance; Methyl 2–[4–(2',4'–dichlorophenoxy)phenoxy]propanoate

On April 18, 1978, the Environmental Protection Agency (EPA announced (43 FR 16404) the renewal of a temporary tolerance for combined residues of the herbicide 2–[4–(2',4'[dichlorophenoxy)-phenoxy propanoate and its metabolite methyl 2–[4–(2',4'–dichlorophenoxy) phenoxy]propionic acid (determined as the parent compound) in or on the raw agricultural commodity soybeans (beans only) at 0.05 part per million (ppm). This tolerance was established (42 FR 6885) in response to a pesticide petition (PP 6G1839) submitted by American Hoechst Corp., Agricultural Chemicals Dept., Route 202–206, North Sommerville, NJ 08876. This renewal expired February 23, 1979.

American Hoechst Corp. requested a one-year renewal of this temporary tolerance both to permit continued testing to obtain additional data and to permit the marketing of the above raw agricultural commodity when treated in accordance with the provisions of the experimental use permit 8340–EUP–2 that has been renewed under the Federal Insecticide, Fungicide, and Rodenticide Act (FIFRA), as amended in 1972, 1975, and 1978 (92 Stat. 819; 7 U.S.C. 136).

The scientific data reported and all other relevant material were evaluated, and it was determined that a renewal of the temporary tolerance would protect the public health. Therefore, the temporary tolerance has been renewed on condition that the pesticide is used in accordance with the experimental use permit with the following provisions:

1. The total amount of the pesticide to be used must not exceed the quantity authorized by the experimental use permit.

2. American Hoechst Corp. must immediately notify the EPA of any findings from the experimental use that have a bearing on safety. The firm must also keep records of production, distribution, and performance and on request make the records available to any authorized officer or employee of the EPA or the Food and Drug Administration.

This temporary tolerance expires March 21, 1980. Residues not in excess of 0.05 ppm remaining in or on soybeans (beans only) after this expiration date will not be considered actionable if the pesticide is legally applied during the term of and in accordance with the provisions of the experimental use permit and temporary tolerance. This temporary tolerance may be revoked if the experimental use permit is revoked or if any scientific data or experience with this pesticide indicate such revocation is necessary to protect the public health. Inquiries concerning this notice may be directed to Ms. Willa Garner, Product Manager 23, Registration Division (TS–767), Office of Pesticide Programs, 401 M Street, SW, Washington, DC 20460 (202/755–1397).

Authority: Section 408(j) of the Federal Food, Drug, and Cosmetic Act [21 U.S.C. 346a(j)].

Dated: May 7, 1979.

Douglas D. Campt,
Director, Registration Division.

[FRL 1222–3; PP 8G1839/T204]
[FR Doc. 79–14811 Filed 5–10–79; 8:45 am]
BILLING CODE 6560–01–M

Science Advisory Board; Environmental Health Advisory Committee; Study Group on Pesticide Tolerances; Open Meeting

Under Pub. L. 92–463, notice is hereby given that a meeting of the Study Group on Pesticide Tolerances of the Science Advisory Board's Environmental Health Advisory Committee will be held at 9:00 a.m. on June 1, 1979 in Conference Room A (Room 1112), Crystal Mall Building No. 2, 1921 Jefferson Davis Highway, Arlington, Virginia.

The principal purpose of the meeting will be (1) to work on the Study Group's report to the Environmental Health Advisory Committee; and (2) to develop an appropriate response to the Agency's request for consideration and comment on a report titled, "Cancer-Causing Chemicals in Food." The Agenda will also include follow-up presentations and discussions of items relevant to completion of the Study Group's report.

Pertinent background information follows. In response to an Agency request to the Science Advisory Board, the Board's Environmental Health Advisory Committee established a Study Group on Pesticide Tolerances and charged it with assisting the Committee in an evaluation of the scientific Basis of the Agency's system for establishing tolerances for pesticide residues in agricultural crops. This is the eighth meeting of the Study Group. At a meeting on April 5, 1978, the Study Group was briefed on and discussed various aspects of the legislative authority and mandate directly or indirectly relating to the Agency's tolerance setting system. At a meeting on May 11 and 12, 1978, the Study Group was briefed on and discussed scientific issues relating to estimates of exposure. At a meeting on June 27–28, 1978, the Study Group was briefed on and discussed scientific issues relating to toxicology data and hazard evaluation. At a meeting on October 23 and 24, 1978, the Study Group heard statements from members of the public, identified and discussed issues to be addressed in the Study Group's report to the Environmental Health Advisory Committee, and began to develop positions with regard to these issues. At a meeting on December 4 and 5, 1978, the Study Group continued to identify and discuss issues to be addressed in the Study Group's report and to develop positions with regard to these issues. At a meeting on February 26, 1979, the Study Group worked on a first draft of its report to the Environmental Health Advisory Committee, was briefed on conditional registration, and began to discuss the report titled, "Cancer-Causing Chemicals in Food," referred to above.

At a subsequent meeting on March 21, 1979, the Study Group worked on a second draft of its report to the Environmental Health Advisory Committee and discussed, in particular, tolerance setting as it relates to oncogenic and mutagenic substances, and tolerance setting as it relates to conditional registration of pesticides.

The meeting will be open to the public. Any member of the public wishing to attend or present or submit a paper should contact the Secretariat, Science Advisory Board (A–101C), U.S. Environmental Protection Agency, Washington, D.C. 20460 by c.o.b. May 29, 1979. Please ask for Mr. Kenneth B. Goggin or Mrs. Ilene Stein. The telephone number is (703) 557–7720.

Dated: May 7, 1979.

Lloyd T. Taylor,
Acting Staff Director, Science Advisory Board.

[FRL 1221–6]
[FR Doc. 79–14810 Filed 5–10–79; 8:45 am]
BILLING CODE 6560–01–M

Westmoreland Resources and Amax Coal Co.; Petition To Vacate Approval

Westmoreland Resources and Amax Coal Company ("petitioners") have petitioned me to vacate my approval of the Northern Cheyenne Class I redesignation. I approved the redesignation on August 5, 1977, and notice of the approval was published at 42 FR 40695 (August 11, 1977).

Petitioners make two arguments. First, they object that, in approving the redesignation, it was improper for me to rely on the fact that PSD permits were not then required for strip mines. Instead, they argue, I should have taken account of the fact that under the bill then in Congress which became the 1977 Clean Air Act Amendments, PSD permits might be required for strip mines in the future. Second, they object that the Northern Cheyenne Air Quality Redesignation Report and Request was inadequate.

Petitioners raised substantially the same arguments in their briefs in the pending litigation challenging my approval of the redesignation. *Nancy* v. *EPA*. Nos. 77–3058 etc. (9th Cir.). My response to these arguments is the same as that presented in EPA's brief in that litigation. Briefly, the response may be summarized as follows.

On the first point, the redesignation was handled and approved under the then-established PSD regulations. Under those regulations, PSD permits were not required for strip mines. Moreover, the 1977 Amendments show that it was Congress' intent that reclassifications made or proposed under those regulations should remain valid.

On the second point, petitioners have offered no new consideration to justify changing my original decision that the Tribe "considered all of the relevant factors and have not arbitrarily and capriciously disregarded them." 42 FR 40697.[1]

The petitions are denied.

Dated: April 13, 1979.

Douglas M. Costle,
Administrator.

[FRL 1222–6]
[FR Doc. 79–14813 Filed 5–10–79; 8:45 am]
BILLING CODE 6560–01–M

[1] Both petitioners style their petitions "Petition to Vacate Approval * * * or, in the Alternative, for a Stay of the Approval * * *." Neither, however, specifically argues for a stay. I deny a stay for the same reasons that I deny the petitions to vacate the approval.

FEDERAL MARITIME COMMISSION

Independent Ocean Freight Forwarder License; Applicants

Notice is hereby given that the following applicants have filed with the Federal Maritime Commission applications for licenses as independent ocean freight forwarders pursuant to section 44(a) of the Shipping Act, 1916, (Stat. 422 and 46 U.S.C. 841(b)).

Persons knowing of any reason why any of the following applicants should not receive a license are requested to communicate with the Director, Bureau of Certification and Licensing, Federal Maritime Commission, Washington, D.C. 20573.

Lido International (John E. Diaz, dba), 2734 NW 183rd Street, #210, Miami, FL 33055.

Richmond Export Services (Richmond Transfer & Storage Co., dba), 1015 Market Avenue, Richmond, CA 94806. Officers: Bill Bottoms, President/Partner; Al Burda, Vice President; John Morken, Secretary/Treasurer; Ralph Johnson, Partner/Director.

Total Transportation Services, Inc., 802 E. Irving Park Road, Bensenville, IL 60106. Officers: Thomas P. Nolan, Jr., President/Director; Bonnie Bissett Nolan, Secretary/Director; Thomas P. Nolan, Sr., Vice President; Thomas L. Lynch, Second Vice President.

H. K. International Forwarding, Inc., P.O. Box 60929, 5717 Jetero Blvd., #4, Houston, TX 77205. Officers: Hans Knickrehm, President/Director; Wilfred Hering, Vice President/Director; John Teed, Secretary/Director.

Billie Ione Crtalic, 2215 N. Broadway, Suite 101, Santa Ana, CA 92706.

Rafiha F. Sahliyeh, dba Sea Land Air Co., 4415 Livingston Street, Dallas, TX 75205.

Continental Cargo Corp., 7074 N.W. 77th Court, Miami, FL 33166. Officers: Jose A. Roblejo, President/Director; Rosa L. Roblejo, Vice President/Director; Oscar Varona, Secretary/Treasurer/Director.

Cougar International Corporation, P.O. Box 52–3356, Miami, FL 33152. Officers: Hector A. Ferrer, President/Treasurer; Miguel A. del Pino, Vice President/Secretary; Yrmalina Rosell, Director.

Rijbataïner, Inc., 124 Fairfield Road, Fairfield, NJ 07006. Officers: Jean-Pierre Gerber, President/Director; Daniel Aubry, Vice President/Director; Claude R. Carbot, Vice President/Treasurer; Michael J. Hubert, Vice President; Margaret Vartany, Secretary; Breck P. Benja, Assistant Vice President; Roger Delorme, Director; Russell S. McNeil, Director.

Sergio E. Vasquez, 1524 W. 7th Street, Los Angeles, CA 90017.

Inter-Cargo, Inc., 100 South Biscayne Blvd., #1000, Miami, FL 33131. Officers: Flora B. Bofill, President; Maria A. Rodriguez, Vice President; Ariana M. Kumpis, Secretary/Treasurer.

Kronos International Shippers, Inc., 14814 S. Drexel Avenue, Dolton, IL 60419. Officers: Dimitrios Kouklakis, President; Rosemarie Loesher, Vice President; Haridimos Kouklakis, Secretary.

Reed Ocean Freight Forwarding (Catherine C. Reed, dba), 3724 Bancroft Street, San Diego, CA 92104.

Dated: May 8, 1979.

By the Federal Maritime Commission.

Francis C. Hurney,
Secretary.

[FR Doc. 79–14656 Filed 5–10–79; 8:45 am]
BILLING CODE 6730–01–M

FEDERAL RESERVE SYSTEM

Arapahoe County Funding Co.; Formation of Bank Holding Company

Arapahoe County Funding Company, Englewood, Colorado, has applied for the Board's approval under Section 3(a)(1) of the Bank Holding Company Act (12 U.S.C. 1842(a)(1)) to become a bank holding company by acquiring 100 percent of the voting shares, less directors' qualifying shares, of Arapahoe Bank and Trust, Englewood, Colorado. The factors that are considered in acting on the application are set forth in Section 3(c) of the Act (12 U.S.C. 1842(c)).

The application may be inspected at the offices of the Board of Governors or at the Federal Reserve Bank of Kansas City. Any person wishing to comment on the application should submit views in writing to the Secretary, Board of

Governors of the Federal Reserve System, Washington, D.C. 20551 to be received no later than June 7, 1979. Any comment on an application that requests a hearing must include a statement of why a written presentation would not suffice in lieu of a hearing, identifying specifically any questions of fact that are in dispute and summarizing the evidence that would be presented at a hearing.

Board of Governors of the Federal Reserve System, May 7, 1979.

Edward T. Mulrenin,

Assistant Secretary of the Board.

[FR Doc. 14749 Filed 5-10-79; 8:45]

BILLING CODE 6210-01-M

Citizens Bancorp.; Acquisition of Bank

Citizens Bancorporation, Sheboygan, Wisconsin, has applied for the Board's approval under section 3(a)(3) of the Bank Holding Company Act (12 U.S.C. 1842(a)(3)) to acquire 80 percent or more of the voting shares of Two Rivers Savings Bank, Two Rivers, Wisconsin. The factors that are considered in acting on the application are set forth in section 3(c) of the Act (12 US.C. 1842(c)).

The application may be inspected at the offices of the Board of Governors or at the Federal Reserve Bank of Chicago. Any person wishing to comment on the application should submit views in writing to the Secretary, Board of Governors of the Federal Reserve System, Washington, D.C. 20551, to be received not later than June 7, 1979. Any comment on an application that requests a hearing must include a statement of why a written presentation would not suffice in lieu of a hearing, identifying specifically any questions of fact that are in dispute and summarizing the evidence that would be presented at a hearing.

Board of Governors of the Federal Reserve System, May 7, 1979.

Edward T. Mulrenin,

Assistant Secretary of the Board.

[FR Doc.79-14750 Filed 5-10-79; 8:45 am]

BILLING CODE 6210-01-M

First Security Corp.; Acquisition of Bank

First Security Corporation, Salt Lake City, Utah, has applied for the Board's approval under section 3(a)(3) of the Bank Holding Company Act (12 U.S.C. 1842(a)(3)) to acquire 99.67 percent of the voting shares of the First Security State Bank of American Fork, American Fork, Utah County, Utah, a proposed *de novo* bank. The factors that are considered in acting on the application are set forth in section 3(c) of the Act (12 U.S.C. 1842(c)).

The application may be inspected at the offices of the Board of Governors or at the Federal Reserve bank of San Francisco. Any person wishing to comment on the application should submit views in writing to the Secretary, Board of Governors of the Federal Reserve System, Washington, D.C. 20551, to be received not later than June 4, 1979. Any comment on an application that requests a hearing must include a statement of why a written presentation would not suffice in lieu of a hearing, identifying specifically any questions of fact that are in dispute and summarizing the evidence that would be presented at a hearing.

Board of Governors of the Federal Reserve System, May 3, 1979.

Edward T. Mulrenin,

Assistant Secretary of the Board.

[FR Doc. 79-14753 Filed 5-10-79; 8:45 am]

BILLING CODE 6210-01-M

First Bancorp, Inc.; Acquisition of Bank

FirstBancorp, Inc., New Haven, Connecticut, has applied for the Board's approval under section 3(a)(3) of the Bank Holding Company Act (12 U.S.C. 1842(a)(3)) to acquire 100 per cent of the voting shares of New Britain Bank and Trust Company, New Britain, Connecticut, and The Terryville Trust Company, Terryville, Connecticut. The factors that are considered in acting on the application are set forth in section 3(c) of the Act (12 U.S.C. 1842(c)).

The application may be inspected at the offices of the Board of Governors or at the Federal Reserve Bank of Boston. Any person wishing to comment on the application should submit views in writing to the Secretary, Board of Governors of the Federal Reserve System, Washington, D.C. 20551, to be received not later than June 7, 1979. Any comment on an application that requests a hearing must include a statement of why a written presentation would not suffice in lieu of a hearing, identifying specifically any questions of fact that are in dispute and summarizing the evidence that would be presented at a hearing.

Board of Governors of the Federal Reserve System, May 5, 1979.

Edward T. Mulrenin,

Assistant Secretary of the Board.

[FR Doc. 79-14754 Filed 5-10-79; 8:45 am]

BILLING CODE 6210-01-M

Morris State Bancorporation, Inc.; Formation of Bank Holding Company

Morris State Bancorporation, Inc., Morris, Minnesota, has applied for the Board's approval under section 3(a)(1) of the Bank Holding Company Act (12 U.S.C. 1842(a)(1)) to become a bank holding company by acquiring 80 per cent or more of the voting shares of Morris State Bank, Morris, Minnesota. The factors that are considered in acting on the application are set forth in section 3(c) of the Act (12 U.S.C. 1842(c)).

The application may be inspected at the offices of the Board of Governors or at the Federal Reserve Bank of Minneapolis. Any person wishing to comment on the application should submit views in writing to the Secretary, Board of Governors of the Federal Reserve System, Washington, D.C. 20551 to be received no later than June 4, 1979. Any comment on an application that requests a hearing must include a statement of why a written presentation would not suffice in lieu of a hearing, identifying specifically any questions of fact that are in dispute and summarizing the evidence that would be presented at a hearing.

Board of Governors of the Federal Reserve System, May 4, 1979.

Edward T. Mulrenin,

Assistant Secretary of the Board.

[FR Doc. 79-14755 Filed 5-10-79; 8:45 am]

BILLING CODE 6210-01-M

Pacific Bancorp.; Proposed De Novo Nonbank Activities

The bank holding companies listed in this notice have applied, pursuant to section 4(c)(8) of the Bank Holding Company Act (12 U.S.C. 1843(c)(8)) and § 225.4(b)(1) of the Board's Regulation Y (12 CFR 225.4(b)(1)), for permission to engage *de novo* (or continue to engage in an activity earlier commenced *de novo*), directly or indirectly, solely in the activities indicated, which have been determined by the Board of Governors to be closely related to banking.

With respect to each application, interested persons may express their views on the question whether consummation of the proposal can "reasonably be expected to produce benefits to the public, such as greater convenience, increased competition, or gains in efficiency, that outweigh possible adverse effects, such as undue concentration of resources, decreased or unfair competition, conflicts of interest, or unsound banking practices." Any comment on an application that requests a hearing must include a statement of why a written presentation would not suffice in lieu of a hearing, identifying specifically any questions of fact that are in dispute and summarizing the evidence that would be presented at a hearing, and indicating how the party commenting would be aggrieved by approval of that proposal.

Each application may be inspected at the offices of the Board of Governors or at the Federal Reserve Bank indicated for that application. Comments and requests for hearings should identify clearly the specific application to which they relate, and should be submitted in writing and received by the appropriate Federal Reserve Bank not later than June 7, 1979.

A. *Federal Reserve Bank of San Francisco,* 400 Sansome Street, San Francisco, California 94120:

Pacific Bancorporation, Bakersfield, California (investment advisory activities; national): to engage, through its subsidiary, Pacific Bancorporation Advisory, in an investment advisory service offering specific recommendations regarding cash bonds and financial futures transactions, entry and exit timing, and implementation of hedging strategies appropriate to individual risk exposure over a complete interest rate cycle. These activities would be conducted from an office in Bakersfield, California, serving the United States.

B. Other Federal Reserve Banks: None.

Board of Governors of the Federal Reserve System, May 7, 1979.

Edward T. Mulrenin,

Assistant Secretary of the Board.

[FR Doc. 79-14752 Filed 5-10-79; 8:45 am]

BILLING CODE 6210-01-M

Peoples Holding Corp.; Formation of Bank Holding Company

Peoples Holding Corp., Winfield, Iowa, has applied for the Board's approval under section 3(a)(1) of the Bank Holding Company Act (12 U.S.C. 1842(a)(1)) to become a bank holding company by acquiring 83.9 per cent or more of the voting shares of the Peoples State Bank, Winfield, Iowa. The factors that are considered in acting on the application are set forth in section 3(c) of the Act (12 U.S.C. 1842(c)).

The application may be inspected at the offices of the Board of Governors or at the Federal Reserve Bank of Chicago. Any person wishing to comment on the application should submit views in writing to the Reserve Bank, to be received not later than June 1, 1979. Any comment on an application that requests a hearing must include a statement of why a written presentation would not suffice in lieu of a hearing, identifying specifically any questions of fact that are in dispute and summarizing the evidence that would be presented at a hearing, and indicating how the party commenting would be aggrieved by approval of that proposal.

Board of Governors of the Federal Reserve System, May 3, 1979.

Edward T. Mulrenin,

Assistant Secretary of the Board

[FR Doc. 79-14756 5-10-79; 8:45 am]

BILLING CODE 6210-01-M

Trust Co. of Georgia; Proposed Acquisition of Mortgage Banking Business of Fickling & Walker, Inc.

Trust Company of Georgia, Atlanta, Georgia, has applied, pursuant to section 4(c)(8) of the Bank Holding Company Act (12 U.S.C. 1843(c)(8)) and § 225.4(b)(2) of the Board's Regulation Y (12 CFR 225.4(b)(2)), for permission to acquire the mortgage banking operations of Fickling & Walker, Inc., Macon, Georgia.

Applicant states that the proposed subsidiary would engage in the activities of servicing residential and commercial mortgage loans; originating residential mortgage loans and placing them with permanent investors; and originating commercial mortgage loans, including construction loans, and placing them with permanent investors. These mortgage servicing activities would be performed from offices of Applicant's subsidiary in Atlanta, Georgia, while the loan origination and construction lending business would be conducted in, and the geographic areas to be served are the Standard Metropolitan Statistical Areas of Atlanta, Macon, Augusta, Columbus and Savannah, Georgia and Bradenton, St. Petersburg, Tampa, and Winter Park, Florida, and Chatanooga, Tennessee. Such activities have been specified by the Board in § 225.4(a) of Regulation Y as permissible for bank holding companies, subject to Board approval of individual proposals in accordance with the procedures of § 225.4(b).

Interested persons may express their views on the question whether consummation of the proposal can "reasonably be expected to produce benefits to the public, such as greater convenience, increased competition, or gains in efficiency, that outweigh possible adverse effects, such as undue concentration of resources, decreased or unfair competition, conflicts of interests, or unsound banking practices." Any request for a hearing on this question must be accompanied by a statement of why a written presentation would not suffice in lieu of a hearing, identifying specifically any questions of fact that are in dispute and summarizing the evidence that would be presented at a hearing, and indicating how the party commenting would be aggrieved by approval of the proposal.

The application may be inspected at the offices of the Board of Governors or at the Federal Reserve Bank of Atlanta.

Any views or requests for hearing should be submitted in writing and received by the Secretary, Board of Governors of the Federal Reserve System, Washington, D.C. 20551, not later than June 4, 1979.

Board of Governors of the Federal Reserve System, May 4, 1979.

Edward T. Mulrenin,

Assistant Secretary of the Board.

[FR Doc. 79-14757 Filed 5-10-79; 8:45 am]

BILLING CODE 6210-01-M

United Virginia Bankshares, Inc. and Old National Bancorp.; Proposed De Novo Nonbank Activities

The bank holding companies listed in this notice have applied, pursuant to section 4(c)(8) of the Bank Holding Company Act (12 U.S.C. 1843(c)(8)) and § 225.4(b)(1) of the Board's Regulation Y (12 CFR 225.4(b)(1)), for permission to engage *de novo* (or continue to engage in an activity earlier commenced *de novo*), directly or indirectly, solely in the activities indicated, which have been determined by the Board of Governors to be closely related to banking.

With respect to each application, interested persons may express their views on the question whether consummation of the proposal can "reasonably be expected to produce benefits to the public, such as greater convenience, increased competition, or gains in efficiency, that outweigh possible adverse effects, such as undue concentration of resources, decreased or unfair competition, conflicts of interest, or unsound banking practices." Any comment on an application that requests a hearing must include a statement of why a written presentation would not suffice in lieu of a hearing, identifying specifically any questions of fact that are in dispute and summarizing the evidence that would be presented at a hearing, and indicating how the party commenting would be aggrieved by approval of that proposal.

Each application may be inspected at the offices of the Board of Governors or at the Federal Reserve Bank indicated for that application. Comments and requests for hearings should identify

D. *Federal Reserve Bank of San*

Bank Holding Company Act (12 U.S.C.

NB Corp.; Acquisition of Bank

clearly the specific application to which they relate, and should be submitted in writing and received by the appropriate Federal Reserve Bank not later than June 4, 1979.

A. *Federal Reserve Bank of Richmond,* 701 East Byrd Street, Richmond, Virginia 23261:

United Virginia Bankshares Incorporated, Richmond, Virginia (finance and insurance activities; Florida): to engage, through its subsidiary, United Virginia Mortgage Corporation (doing business in Florida as United Virginia Financial Service), in originating loans as principal or agent; servicing loans for the applicant's affiliates and for non-affiliated individuals, partnerships, and corporations; selling as agent life, disability, mortgage redemption and mortgage cancellation insurance directly related to its extensions of credit; and such other activities as may be incidental to the business of a mortgage corporation. These activities would be conducted from offices in Jacksonville and Tampa, Florida, serving Florida, with primary emphasis on the greater Jacksonville and greater Tampa areas.

B. *Federal Reserve Bank of San Francisco,* 400 Sansome Street, San Francisco, California 94120:

Old National Bancorporation, Spokane, Washington (finance and insurance activities; Oregon): to engage, through its subsidiaries, Old National Financial Services, Inc., and Union Securities Co., in making or acquiring loans and other extensions of credit, including making consumer installment loans, purchasing consumer installment sales finance contracts, and making loans to small businesses; and acting as agent or broker for the sale of life, accident and health, and property and casualty insurance directly related to extensions of credit of Old National Financial Services, Inc. These activities would be conducted from an office in Portland, Oregon, serving Oregon.

C. *Other Federal Reserve Banks:* None.

Board of Governors of the Federal Reserve System, May 4, 1979.

Edward T. Mulrenin,
Assistant Secretary of the Board.
[FR Doc. 79-14731 Filed 5-10-79; 8:45 am]
BILLING CODE 6210-01-M

Akron Financial, Inc.; Formation of Bank Holding Company

Akron Financial, Inc., Akron, Indiana, has applied for the Board's approval under section 3(a)(1) of the Bank Holding Company Act (12 U.S.C. 1842(a)(1)) to become a bank holding company by acquiring 80 per cent or more of the voting shares of Akron Exchange State Bank, Akron, Indiana. The factors that are considered in acting on the application are set forth in section 3(c) of the Act (12 U.S.C. 1842(c)).

The application may be inspected at the offices of the Board of Governors or at the Federal Reserve Bank of Chicago. Any person wishing to comment on the application should submit views in writing to the Secretary, Board of Governors of the Federal Reserve System, Washington, D.C. 20551 to be received no later than June 8, 1979. Any comment on an application that requests a hearing must include a statement of why a written presentation would not suffice in lieu of a hearing, identifying specifically any questions of fact that are in dispute and summarizing the evidence that would be presented at a hearing.

Board of Governors of the Federal Reserve System, May 8, 1979.

Edward T. Mulrenin,
Assistant Secretary of the Board.
[FR Doc. 79-14732 Filed 5-10-79; 8:45 am]
BILLING CODE 6210-01-M

Bank Holding Companies; Proposed De Novo Nonbank Activities

The bank holding companies listed in this notice have applied, pursuant to section 4(c)(8) of the Bank Holding Company Act (12 U.S.C. 1843(c)(8)) and section 225.4(b)(1) of the Board's Regulation Y (12 CFR 225.4(b)(1)), for permission to engage *de novo* (or continue to engage in an activity earlier commenced *de novo*), directly or indirectly, solely in the activities indicated, which have been determined by the Board of Governors to be closely related to banking.

With respect to each application, interested persons may express their views on the question whether consummation of the proposal can "reasonably be expected to produce benefits to the public, such as greater convenience, increased competition, or gains in efficiency, that outweigh possible adverse effects, such as undue concentration of resources, decreased or unfair competition, conflicts of interest, or unsound banking practices." Any comment on an application that requests a hearing must include a statement of the reasons a written presentation would not suffice in lieu of a hearing, identifying specifically any questions of fact that are in dispute, summarizing the evidence that would be presented at a hearing, and indicating how the party commenting would be aggrieved by approval of that proposal.

Each application may be inspected at the offices of the Board of Governors or at the Federal Reserve Bank indicated for that application. Comments and requests for hearings should identify clearly the specific application to which they relate, and should be submitted in writing and received by the appropriate Federal Reserve Bank not later than May 31, 1979.

A. *Federal Reserve Bank of Cleveland,* 1455 East Sixth Street, Cleveland, Ohio 44101:

Mellon National Corporation, Pittsburgh, Pennsylvania (mortgage and insurance activities; Louisiana): to engage, through its subsidiary, Carrouth Mortgage Corporation, in general mortgage banking including acting as insurance agent with respect to the sale of life, accident and health, mortgage redemption, and certain lines of property and casualty insurance directly related to its extensions of credit. These activities would be conducted from an office in Lafayette, Louisiana, serving Lafayette Parish, Louisiana.

B. *Federal Reserve Bank of Chicago,* 230 South LaSalle Street, Chicago, Illinois 60690:

Merchants National Corporation, Indianapolis, Indiana (mortgage activities; Indiana): to engage, through its subsidiary, Merchants Mortgage Corporation, in originating mortgages on single- and multi-family residential and commercial nonresidential properties; selling the mortgages to permanent investors; servicing the loans; and assisting developers and builders in obtaining construction loans and other types of development loans. These activities would be conducted from an office in Indianapolis, Indiana, serving Indiana.

C. *Federal Reserve Bank of Kansas City,* 925 Grand Avenue, Kansas City, Missouri 64198:

Kansas Bank Corporation, Liberal, Kansas (insurance activities; Kansas): to act as agent or broker for the sale of life, accident and health, and property and casualty insurance directly related to extensions of credit by its subsidiaries, First National Bank of Liberal and First Agricultural Finance Corporation, and in the sale of any insurance for the applicant's subsidiary bank. These activities would be conducted from the subsidiary bank's premises in Liberal, Kansas, and the geographic areas to be served are Seward County, Kansas, and contiguous and adjacent counties with a 100-mile radius of Liberal, Kansas.

D. *Federal Reserve Bank of San Francisco,* 400 Sansome Street, San Franscisco, California 94120:

1. Patagonia Corporation, Tucson, Arizona (finance and leasing activities; Western United States): to engage, through its subsidiary, Patagonia Leasing Company, in making or acquiring loans and other extensions of credit (including issuing letters of credit and accepting drafts), such as would be made, for example, by a mortgage, finance, credit card, or factoring company; and leasing personal property or acting as agent, broker, or adviser in leasing such property in accordance with the Board's Regulation Y. These activities would be conducted from an office in Newport Beach, California, serving Arizona, California, Colorado, Idaho, Montana, Nevada, New Mexico, Oregon, Utah, Washington and Wyoming.

2. Wells Fargo & Company, San Francisco, California (finance and leasing activities; Illinois, Indiana, Ohio, Kentucky, Tennessee, Mississippi, Alabama, New York, Pennsylvania, West Virgina, Virginia, North Carolina, South Carolina, Georgia, Florida, Maine, Vermont, New Hampshire, Massachusetts, Connecticut, Rhode Island, New Jersey, Delaware, Maryland, District of Columbia): to engage through its subsidiary, Wells Fargo Business Credit, in making or acquiring loans and other extensions of credit, including commercial loans secured by a borrower's inventory, accounts receivable, or other assets; servicing loans; and making full payout leases of personal property to the extent permitted by the Board's Regulation Y. These activities would be conducted from an office in Atlanta, Georgia, serving the 24 states listed in the caption to this notice and the District of Columbia for the following types of accounts: finance companies, banks and other lending institutions, manufacturers, distributors, and other corporations or businesses.

E. *Other Federal Reserve Banks:* None.

Board of Governors of the Federal Reserve System, May 2, 1979.

Edward T. Mulrenin,
Assistant Secretary of the Board.
[FR Doc. 79-14731 Filed 5-10-79; 8:45 am]
BILLING CODE 6210-01-M

Center Bancshares, Inc.; Formation of Bank Holding Company

Center Bancshares, Inc., Center, Texas, has applied for the Board's approval under section 3(a)(1) of the Bank Holding Company Act (12 U.S.C. 1842(a)(1)) to become a bank holding company by acquiring 80 per cent or more of the voting shares of First National Bank in Center, Center, Texas. The factors that are considered in acting on the application are set forth in section 3(c) of the Act (12 U.S.C. 1842(c)).

The application may be inspected at the offices of the Board of Governors or at the Federal Reserve Bank of Dallas. Any person wishing to comment on the application should submit views in writing to the Reserve Bank, to be received not later than June 6, 1979. Any comment on an application that requests a hearing must include a statement of why a written presentation would not suffice in lieu of a hearing, identifying specifically any questions of fact that are in dispute and summarizing the evidence that would be presented at a hearing.

Board of Governors of the Federal Reserve System, May 8, 1979.

Edward T. Mulrenin,
Assistant Secretary of the Board.
[FR Doc. 79-14733 Filed 5-10-79; 8:45 am]
BILLING CODE 6210-01-M

GSB Bancshares, Inc.; Formation of Bank Holding Company

GSB Bancshares, Inc., Gruver, Texas, has applied for the Board's approval under section 3(a)(1) of the Bank Holding Company Act (12 U.S.C. 1842(a)(1)) to become a bank holding company by acquiring 80 per cent or more of the voting shares of Gruver State Bank, Gruver, Texas. The factors that are considered in acting on the application are set forth in section 3(c) of the Act (12 U.S.C. 1842(c)).

The application may be inspected at the offices of the Board of Governors or at the Federal Reserve Bank of Dallas. Any person wishing to comment on the application should submit views in writing to the Reserve Bank, to be received not later than June 7, 1979. Any comment on an application that requests a hearing must include a statement of why a written presentation would not suffice in lieu of a hearing, identifying specifically any questions of fact that are in dispute and summarizing the evidence that would be presented at a hearing.

Board of Governors of the Federal Reserve System, May 8, 1979.

Edward T. Mulrenin,
Assistant Secretary of the Board.
[FR Doc. 79-14734 Filed 5-10-79; 8:45 am]
BILLING CODE 6210-01-M

NB Corp.; Acquisition of Bank

NB Corporation, Charlottesville, Virginia, has applied for the Board's approval under section 3(a)(3) of the Bank Holding Company Act (12 U.S.C. 1842(a)(3)) acquire 100 percent of the voting shares of Jefferson Bank of the Valley, Fishersville, Virginia. The factors that are considered in acting on the application are set forth in section 3(c) of the Act (12 U.S.C. 1842(c)).

The application may be inspected at the offices of the Board of Governors or at the Federal Reserve Bank of Richmond. Any person wishing to comment on the application should submit views in writing to the Reserve Bank, to be received not later than June 7, 1979. Any comment on an application that requests a hearing must include a statement of why a written presentation would not suffice in lieu of a hearing, identifying specifically any questions of fact that are in dispute and summarizing the evidence that would be presented at a hearing.

Board of Governors of the Federal Reserve System, May 8, 1979.

Edward T. Mulrenin,
Assistant Secretary of the Board.
[FR Doc. 79-14735 Filed 5-10-79; 8:45 am]
BILLING CODE 6210-01-M

DEPARTMENT OF HEALTH, EDUCATION, AND WELFARE

Alcohol, Drug Abuse, and Mental Health Administration

Advisory Committees; Meetings

In accordance with Section 10(a)(2) of the Federal Advisory Committee Act (5 U.S.C. Appendix I), announcement is made of the following National advisory bodies scheduled to assemble during the month of June 1979:

Basic Behavioral Processes Research Review Committee (formerly Experimental Psychology Research Review Committee), June 6–9; 9:00 a.m., Suite 505, Holiday Inn, 2505 Wisconsin Avenue, NW., Washington, D.C. 20007. Open—June 6; 9:00–9:30 a.m. Closed—Otherwise. Contact: John T. Hammack, Parklawn Building, Room 10–95, 5600 Fishers Lane, Rockville, Maryland 20857, 301–443–3936.

Purpose: The Committee is charged with the initial review of grant applications for Federal assistance in the program areas administered by the National Institute of Mental Health relating to basic behavioral processes research and makes recommendations to the National Advisory Mental Health Council for final review.

Agenda: From 9:00–9:30 a.m., June 6, the meeting will be open for discussion of administrative announcements and program developments. Otherwise, the

Committee will be performing initial review of grant applications for Federal assistance and will not be open to the public in accordance with the determination by the Administrator, Alcohol, Drug Abuse, and Mental Health Administration, pursuant to the provisions of Section 552b(c)(6), Title 5 U.S. Code and Section 10(d) of Pub. L. 92–463 (5 U.S.C. Appendix I).

Basic Psychopharmacology and Neuropsychology Research Review Committee (formerly Preclinical Psychopharmacology and Neuropsychology Research Review Committees), June 7–8; 9:00 a.m., Connecticut Inn Motel, 4440 Connecticut Avenue, NW., Washington, D.C. 20008. Open—June 7; 9:00–9:30 a.m. Closed—Otherwise. Contact: Allyson Rowell, Room 9–97, Parklawn Building, 5600 Fishers Lane, Rockville, Maryland 20857, 301–443–3454.

Purpose: The Committee is charged with the initial review of grant applications for Federal assistance in the program areas administered by the National Institute of Mental Health relating to preclinical psychopharmacology research and neuropsychology research and makes recommendations to the National Advisory Mental Health Council for final review.

Agenda: From 9:00–9:30 a.m., June 7, the meeting will open for discussion of administrative announcements and program developments. Otherwise, the Committee will be performing initial review of grant applications for Federal assistance and will not be open to the public in accordance with the determination by the Administrator, Alcohol, Drug Abuse, and Mental Health Administration, pursuant to the provisions of Section 552b(c)(6), Title 5 U.S. Code and Section 10(d) of Pub. L. 92–463 (5 U.S.C. Appendix I).

Treatment Development and Assessment Research Review Committee (formerly Clinical Program-Projects Research Review Committee and Clinical Psychopharmacology Research Review Committee), June 10–11; 9:00 a.m., Conference Rooms K, L, and P, Parklawn Building, 5600 Fishers Lane, Rockville, Maryland 20857. Open—June 10; 9:00–10:00 a.m. Closed—Otherwise. Contact: Eileen Nugent, Room 10C–25, Parklawn Building, 5600 Fishers Lane, Rockville, Maryland 20857, 301–443–3367.

Purpose: The Committee is charged with the initial review of grant applications for Federal assistance in the program areas administered by the National Institute of Mental Health relating to clinical research and makes recommendations to the National Advisory Mental Health Council for final review.

Agenda: From 9:00–10:00 a.m., June 10, the meeting will be open for discussion of administrative announcements and program developments. Otherwise, the Committee will be performing initial review of grant applications for Federal assistance and will not be open to the public in accordance with the determination by the Administrator, Alcohol, Drug Abuse, and Mental Health Administration, pursuant to the provisions of Section 552b(c)(6), Title 5 U.S. Code and Section 10(d) of Pub. L. 92–463 (5 U.S.C. Appendix I).

Biological Psychiatry Research Review Committee (formerly Biological Psychiatry Research Review Committee and Clinical Neuropharmacology Research Review Committee), June 14–15; 9:00 a.m., Conference Room E–130, Shoreham Americana, Connecticut Avenue at Calvert Street, Washington, D.C. 20008. Open—June 14; 9:00–9:30 a.m. Closed—Otherwise. Contact: Phyllis Pinzow, Room 15–99, Parklawn Building, 5600 Fishers Lane, Rockville, Maryland 20857, 301–443–3373.

Purpose: The Committee is charged with the initial review of grant applications for Federal assistance in the program areas administered by the National Institute of Mental Health relating to community mental health issues from an ecological-social systems perspective, and makes recommendations to the National Advisory Mental Health Council for final review.

Agenda: From 9:00–9:30 a.m., June 13, the meeting will be open for discussion of administrative announcements and program developments. Otherwise, the Committee will be performing initial review of grant applications for Federal assistance and will not be open to the public in accordance with the determination by the Administrator, Alcohol, Drug Abuse, and Mental Health Administration, pursuant to the provisions of Section 552b(c)(6), Title 5 U.S. Code and Section 10(d) of Pub. L. 92–463 (5 U.S.C. Appendix I).

Cognition, Emotion, and Personality Research Review Committee (formerly Personality and Cognition Research Review Committee), June 15–17; 9:00 a.m., Connecticut Inn Motel, 4400 Connecticut Avenue, NW., Washington, D.C. 20008. Open—June 15; 9:00–10:00 a.m. Closed—Otherwise. Contact: Shirley Maltz, Room 10C–06, Parklawn Building, 5600 Fishers Lane, Rockville, Maryland 20857, 301–443–3942.

Purpose: The Committee is charged with the initial review of grant applications for Federal assistance in the program areas administered by the National Institute of Mental Health relating to research activities and makes recommendations to the National Advisory Mental Health Council for final review.

Agenda: From 9:00–10:00 a.m., June 15, the meeting will be open for discussions of administrative announcements and program developments. Otherwise, the Committee will be performing initial review of grant applications for Federal assistance and will not be open to the public in accordance with the determination by the Administrator, Alcohol, Drug Abuse, and Mental Health Administration, pursuant to the provisions of Section 552b(c)(6), Title 5 U.S. Code and Section 10(d) of Pub. L. 92–463 (5 U.S.C. Appendix I).

Mental Health Small Grant Review Committee (formerly Mental Health Small Grant Committee), June 21–23; 1:00 p.m., Club Rooms A and B, The Shoreham Americana Hotel, 2500 Calvert Street NW., Washington, D.C. 20008. Open—June 21; 1:00–2:00 p.m. Closed—Otherwise. Contact: Mary E. Enyart, Room 10C–14, Parklawn Building, 5600 Fishers Lane, Rockville, Maryland 20857, 301–443–4337.

Purpose: The Committee is charged with the initial review of small grant applications for Federal assistance in all disciplines relevant to the National Institute of Mental Health and for small grant projects submitted for support to the other Institutes of the Alcohol, Drug Abuse, and Mental Health Administration, and makes recommendations to the National Advisory Councils of the respective Institutes for final review.

Agenda: From 1:00–2:00 p.m., June 21, the meeting will be open for discussion of administrative announcements and program developments. Otherwise, the Committee will be performing initial review of grant applications for Federal assistance and will not be open to the public in accordance with the determination by the Administrator, Alcohol, Drug Abuse, and Mental Health Administration, pursuant to the provisions of Section 552b(c)(6), Title 5 U.S. Code and Section 10(d) of Pub. L. 92–463 (5 U.S.C. Appendix I).

Life Course Review Committee (formerly Developmental Problems Research Review and Social Problems Research Review Committees), June 27–29; 9:00 a.m., Lobby Room & Hancock Room, Holiday Inn, 5520 Wisconsin Avenue, Chevy Chase, Maryland 20015. Open—June 27; 9:00–10:00 a.m. Closed—Otherwise. Contact: Diana Souder, Room 10–104, Parklawn Building, 5600 Fishers Lane, Rockville, Maryland 20857, 301–443–3566.

Purpose: The Committee is charged with the initial review of grant applications for Federal assistance in the program areas administered by the National Institute of Mental Health relating to the fields of child and family and aging and makes recommendations to the National Advisory Mental Health Council for final review.

Agenda: From 9:00–10:00 a.m., June 27, the meeting will be open for discussion of administrative announcements and program developments. Otherwise, the Committee will be performing initial review of grant applications for Federal assistance and will not be open to the public in accordance with the determination by the Administrator, Alcohol, Drug Abuse, and Mental Health Administration, pursuant to the provisions of Section 552b(c)(6), Title 5 U.S. Code and Section 10(d) of Pub. L. 92–463 (5 U.S.C. Appendix I).

Substantive program information may be obtained from the contact persons listed above. The NIMH Information Officer who will furnish upon request summaries of the meeting and rosters of the Committee members is Mr. Paul Sirovatka, Acting Chief, Public Information Branch, Division of Scientific and Public Information, NIMH, Room 15–105, Parklawn Building, 5600 Fishers Lane, Rockville, Maryland 20857, 301–443–4536.

Dated: May 7, 1979.

Elizabeth A. Connolly,

Committee Management Officer, Alcohol, Drug Abuse, and Mental Health Administration.

[FR Doc. 79–14648 Filed 5–10–79; 8:45 am]

BILLING CODE 4110–88–M

Food and Drug Administration

Consumer Participation; Open Meeting

AGENCY: Food and Drug Administration.

ACTION: Notice.

SUMMARY: The Food and Drug Administration (FDA) announces a forthcoming consumer exchange meeting to be chaired by Loren Johnson, District Director, Philadelphia District Office, Philadelphia, PA.

DATE: The meeting will be held from 1:30 p.m. to 4 p.m., Wednesday, May 23, 1979.

ADDRESS: The meeting will be held at the Federal Building, Rm. 2218, 1000 Liberty Ave., Pittsburgh, PA 15220.

FOR FURTHER INFORMATION CONTACT: Louise Nestico, Consumer Affairs Technician, Food and Drug Administration, 3 Parkway Center, Suite 206, Pittsburgh, PA 15220, 412–644–2858.

SUPPLEMENTARY INFORMATION: The purpose of this meeting is to encourage dialogue between consumers and FDA officials to identify and set priorities for current and future health concerns, to enhance relationships between local consumers and FDA's Philadelphia District Office, and to contribute to the agency's policymaking decisions on vital issues.

Dated: May 4, 1979.

William F. Randolph,

Acting Associate Commissioner for Regulatory Affairs.

[FR Doc. 79–14649 Filed 5–8–79; 10:59 am]

BILLING CODE 4110–03–M

Consumer Participation; Open Meeting

AGENCY: Food and Drug Administration.

ACTION: Notice.

SUMMARY: The Food and Drug Administration (FDA) announces a forthcoming consumer exchange meeting to be chaired by Henry Roberts, District Director, Minneapolis District Office, Minneapolis, MN.

DATE: The meeting will be held at 2 p.m., Tuesday, May 15, 1979.

ADDRESS: The meeting will be held at Northwest Health Center, Conference Room, 7630 W. Mill Road, Milwaukee, WI 53209.

FOR FURTHER INFORMATION CONTACT: Blanche L. Erkel, Consumer Affairs Officer, Food and Drug Administration, 240 Hennepin Ave., Minneapolis, MN 55401, 612–725–2121.

SUPPLEMENTARY INFORMATION: The purpose of this meeting is to encourage dialogue between consumers and FDA officials and set priorities for current and future health concerns, to enhance relationships between local consumers and FDA's Minneapolis District Office, and to contribute to the agency's policymaking decisions on vital issues.

Dated: May 4, 1979.

William F. Randolph,

Acting Associate Commissioner for Regulatory Affairs.

[FR Doc. 79–14650 Filed 5–8–79; 10:59 am]

BILLING CODE 4110–03–M

Consumer Participation; Open Meeting

AGENCY: Food and Drug Administration.

ACTION: Notice.

SUMMARY: The Food and Drug Administration (FDA) announces a forthcoming consumer exchange meeting to be chaired by Loren Johnson, District Director, Philadelphia District Office, Philadelphia, PA.

DATE: The meeting will be held from 9:30 a.m. to 12 m., Wednesday, May 16, 1979.

ADDRESS: The meeting will be held at the Federal Building, Rm. 6310, 600 Arch St., Philadelphia, PA 19106.

FOR FURTHER INFORMATION CONTACT: Bob Lockett, Consumer Affairs Officer, Food and Drug Administration, Rm. 900, U.S. Customhouse, Philadelphia, PA 19106, 215–597–0837.

SUPPLEMENTARY INFORMATION: The purpose of this meeting is to encourage dialogue between consumers and FDA officials to identify and set priorities for current and future health concerns, to enhance relationships between local consumers and FDA's Philadelphia District Office, and to contribute to the agency's policymaking decisions on vital issues.

Dated: May 7, 1979.

William F. Randolph,

Acting Associate Commissioner for Regulatory Affairs.

[FR Doc. 79–14651 Filed 5–8–79; 10:59 am]

BILLING CODE 4110–03–M

Medical Device Classification Panels; Request for Nominations for Voting Members on Advisory Committees

AGENCY: Food and Drug Administration.

ACTION: Notice.

SUMMARY: This document requests nominations for voting members to serve on certain public advisory committees of the Bureau of Medical Devices. Nominations will be accepted for current vacancies and those that will or may occur on the panels or sections during the next 12 months. The Food and Drug Administration (FDA) has a special interest in ensuring that women and minority groups are adequately represented on advisory committees and, therefore, extends particular

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encouragement to nominations for appropriately qualified female and minority candidates.

DATES: Because scheduled vacancies occur on various dates throughout each year, no cutoff date is established for the receipt of nominations. However, when possible, nominations should be received at least 6 months before the date of scheduled vacancies for each year, as indicated in this notice.

ADDRESS: All nominations for the voting members of the respective advisory committee must be sent to Kay A. Levin, Bureau of Medical Devices (HFK–50), Food and Drug Administration, 8757 Georgia Ave., Silver Spring, MD 20910 (301–427–7076).

FOR FURTHER INFORMATION CONTACT: Robert S. Kennedy, Bureau of Medical Devices (HFK—410), Food and Drug Administration, Department of Health, Education, and Welfare, 8757 Georgia Ave., Silver Spring, MD 20910, 301–427–7900.

SUPPLEMENTARY INFORMATION: FDA requests nominations for voting members for the following committees:

1. Circulatory Devices Panel: one vacancy immediately; two vacancies on June 30, 1979.

2. Gastroenterology and Urology Section of the General Medical Devices Panel: one vacancy on June 30, 1979; two vacancies on December 31, 1979.

3. Ophthalmic; Ear, Nose, and Throat; and Dental Devices Panel:

a. Ophthalmic Section: two vacancies on October 31, 1979.

b. Ear, Nose, and Throat Section: two vacancies on October 31, 1979.

c. Dental Section: two vacancies immediately.

4. Respiratory and Nervous System Devices Panel:

a. Anesthesiology Section: one vacancy immediately; two vacancies on November 30, 1979.

b. Neurological Section: one vacancy immediately; two vacancies on November 30, 1979.

5. Surgical and Rehabilitation Devices Panel:

a. Orthopedic Section: one vacancy immediately.

b. Physical Medicine Section: one vacancy immediately; one vacancy on August 31, 1979.

6. Clinical Chemistry and Hematology Devices Panel:

a. Clinical Chemistry Section: one vacancy immediately.

b. Clinical Toxicology Section: three vacancies immediately.

7. Radiologic Section of the Obstetrics-Gynecology and Radiologic Devices Panel: one vacancy immediately.

FDA also requests nominations for nonvoting consultants for the panels and sections listed above as well as for the following:

1. General Hospital and Personal Use Section of the General Medical Devices Panel.

2. Obstetrics-Gynecology Section of the Obstetrics-Gynecology and Radiologic Devices Panel.

3. General and Plastic Surgery Section of the Surgical and Rehabilitation Devices Panel.

4. Hematology Section of the Clinical Chemistry and Hematology Devices Panel.

5. Immunology and Microbiology Devices Panel:

a. Immunology Section;

b. Microbiology Section.

In accordance with the Medical Device Amendments of 1976 (Pub. L. 94–295, 90 Stat. 539–583), the functions of the committees listed above are to (1) review and evaluate available data concerning the safety and effectiveness of medical devices currently in use, (2) advise the Commissioner of Food and Drugs regarding recommended classification of these devices into one of three regulatory categories, (3) recommend the assignment of a priority for the application of regulatory requirements for devices classified in the standards or premarket approval category, (4) advise on any possible risks to health associated with the use of devices, (5) advise on formulation of product development protocols and review premarket approval applications for those devices classified in the premarket approval category, (6) review classification of devices to recommend changes in classification as appropriate, (7) recommend exemption of certain devices from the application of portions of the Federal Food, Drug, and Cosmetic Act, (8) advise on the necessity to ban a device, and (9) respond to requests from the agency to review and make recommendations on specific issues or problems concerning the safety and effectiveness of devices.

Persons nominated for membership must have adequately diversified experience appropriate to the work of the committee in such fields as clinical and administrative medicine, engineering, biological and physical science, and other related professions. The nature of specialized training and experience necessary to qualify the nominee as an expert suitable for appointment may include experience in medical practice, teaching, and/or research relevant to the field of activity of the committee. The term of office is 3 years.

Any interested person may nominate one or more qualified persons for membership on one or more of the advisory committees. Nominations shall state that the nominee is aware of the nomination, is willing to serve as a member of the advisory committee, and appears to have no conflict of interest that would preclude committee membership. To permit evaluation of possible sources of conflict of interest, FDA will ask the potential candidates to provide detailed information concerning such matters as financial holdings, consultancies, and research grants and/or contracts.

This notice is issued under the Federal Advisory Committee Act (Pub. L. 92–463, 86 Stat. 770–776 [5 U.S.C. App. I]) and 21 CFR Part 14, relating to advisory committees.

Dated: May 2, 1979.

William F. Randolph,

Acting Associate Commissioner for Regulatory Affairs.

[FR Doc. 79–14377 Filed 5–10–79; 8:45 am]

BILLING CODE 4110–03–M

Medical Device Classification Panels; Request for Nominations for Nonvoting Representatives of Consumer and Industry Interests on Public Advisory Committees

AGENCY: Food and Drug Administration.

ACTION: Notice.

SUMMARY: This document requests nominations for nonvoting consumer and industry representatives to serve on certain public advisory committees of the Bureau of Medical Devices. Nominations will be accepted for current vacancies and for those that will or may occur on the panels or sections during the next 12 months. The Food and Drug Administration (FDA) has a special interest in ensuring that women, minority groups, and small businesses are adequately represented on advisory committees and, therefore, extends particular encouragement to nominations for appropriately qualified female and minority candidates and nominations from small businesses that manufacture medical devices subject to the regulations.

DATES: Nominations should be received on or before June 11, 1979, for vacancies listed in this notice.

ADDRESSES: All nominations for consumer representatives must be submitted in writing to the Special Assistant to the Commissioner for Consumer Affairs (HF–7), Office of Consumer Affairs, Food and Drug Administration, 5600 Fishers Lane, Rockville, MD 20857.

All nominations for industry representatives must be submitted in writing to Kay A. Levin, Bureau of Medical Devices (HFK–50), Food and Drug Administration, 8757 Georgia Ave., Silver Spring, MD 20910.

FOR FURTHER INFORMATION CONTACT:

For Consumer Interests:
Naomi Kulakow, Office of Consumer Affairs (HF–70), Food and Drug Administration, Department of Health, Education, and Welfare, 5600 Fishers Lane, Rockville, MD 20857, 301–443–5006.

For Industry Interests:
Robert S. Kennedy, Bureau of Medical Devices (HFK–401), Food and Drug Administration, Department of Health, Education, and Welfare, 8757 Georgia Ave., Silver Spring, MD 20910, 301–724–7900.

SUPPLEMENTARY INFORMATION: FDA requests nominations for nonvoting members representing consumer and industry interests for the following panels or sections:

Device panel/section	Approximate date representative needed	
	Consumer	Industry
1. Circulatory Systems Devices Panel	N/A	6/30/79
2. Ophthalmic Section of the Ophthalmic; Ear, Nose, and Throat; and Dental Devices Panel	10/31/79	N/A
3. Obstetrics-Gynecology Section of the Obstetrics-Gynecology and Radiologic Devices Panel	N/A	1/31/80
4. Clinical Chemistry and Hematology Devices Panel:		
a. Clinical Chemistry Section	2/28/80	N/A
b. Clinical Toxicology Section	2/28/80	N/A
5. Immunology and Microbiology Devices Panel:		
a. Immunology Section	2/28/80	N/A
b. Microbiology Section	2/28/80	N/A

In accordance with the Medical Device Amendments of 1976 (Pub. L. 94–295, 90 Stat. 539–583), the functions of the committees and sections listed above are to (1) review and evaluate available data concerning the safety and effectiveness of devices currently in use, (2) advise the Commissioner of Food and Drugs regarding recommended classification of these devices into one of three regulatory categories, (3) recommend the assignment of a priority for the application of regulatory requirements for devices, (4) advise on any possible risks to health associated with the use of the devices, (5) advise on formulation of product development protocols and review premarket approval applications for those devices classified in the premarket approval category, (6) review classification of devices to recommend changes in classification as appropriate, (7) recommend exemption of certain devices from the application of portions of the Federal Food, Drug, and Cosmetic Act, (8) advise on the necessity to ban a device, and (9) respond to requests from the agency to review and make recommendations on specific issues or problems concerning the safety and effectiveness of devices.

Section 513 of the act (21 U.S.C. 360c) provides that each medical device panel include as nonvoting members one representative of consumer interests and one representative of interests of the device manufacturing industry. Each of the sections identified in this notice will also have a representative of consumer interests and a representative of industry interests.

Any interested person may, on or before June 11, 1979, nominate one or more qualified persons as a nonvoting member of a particular advisory committee or section to represent consumer interests as identified in this notice. Any organization in the medical device manufacturing industry ("industry interests") wishing to participate in the selection of an appropriate nonvoting member of a particular committee or section may nominate one or more qualified persons to represent industry interests.

Nominations shall state that the nominee is aware of the nomination, is willing to serve as a member of an advisory committee, and, in the case of consumer representatives, appears to have no conflict of interest. If a nominee is interested only in a particular advisory committee or section, the nomination shall so state. If a nominee is interested in becoming a member of any advisory committee or section, the nomination shall also so state. A complete curriculum vitae of each nominee shall be included. The term of office is 3 years.

Regarding nominations for members representing consumer interests, the curriculum vitae for each of the selected nominees will be sent to FDA's voting consumer organizations, together with a ballot that must be filled out and returned within 30 days to the Office of Consumer Affairs (address above). Under § 14.84 (21 CFR 14.84), the selection of the consumer representative will be determined from the ballots submitted.

Regarding nominations for members representing the interests of the device manufacturing industry, a letter will be sent to each organization that has made a nomination, together with a complete list of all such organizations and the nominees. This letter will state that it is each organization's responsibility to consult with the others in selecting a single nonvoting member representing industry interests for that particular committee within 30 days after receipt of the letter.

Consistent with the President's directive of June 14, 1978, FDA has a special interest in ensuring equitable representation by small business on its advisory committees and therefore extends particular encouragement to nominations from small businesses engaged in the manufacture of devices subject to the Medical Device Amendments of 1976. The agency also has a special interest in ensuring that women and minorities are adequately represented on the committees and encourages nominations for appropriately qualified female and minority candidates.

This notice is issued under the Federal Advisory Committee Act (Pub. L. 92–463, 86 Stat. 770–776 (5 U.S.C. App. I)) and 21 CFR Part 14, relating to advisory committees.

Dated: May 21, 1979.

William F. Randolph,

Acting Associate Commissioner for Regulatory Affairs.

[FR Doc. 79–14378 Filed 5–10–79; 8:45 am]

BILLING CODE 4110–03–M

National Institute of Education

State Dissemination Grants Program—fiscal year 1979; Closing Date for Receipt of Applications

Notice is given that applications are being accepted from State education agencies (SEAs) for grants under the State Dissemination Grants Program according to the authority contained in Section 405 of the General Education Provisions Act, as amended (20 USC 1221e) and 45 CFR Part 1460.

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Social Security Administration

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This notice covers applications for awards that will be made for new special purpose or capacity building dissemination grants and for continuation of capacity building grants made in fiscal 1975, 1976 or 1978.

Closing date for new grant applications: July 12, 1979. The deadline for submitting applications for continuation grants is 90 days before the expiration date of the existing capacity building grant.

This is the final round for *new* State dissemination capacity building applications.

A. *Applications delivered by mail.* An application sent by mail must be addressed to the Proposal Clearinghouse, National Institute of Education, Attention: State Dissemination Grants Program, Room 813, 1200 19th Street, N.W., Washington, D.C., 20208. Applications will be accepted only if they are mailed on or before the closing date *and* the following proof of mailing is provided:

Proof of mailing must consist of a legible U.S. Postal Service dated postmark or a legible mail receipt with the date of mailing stamped by the U.S. Postal Service. Private metered postmarks or mail receipts will not be accepted without a legible date stamped by the U.S. Postal Service.

Note.—The U.S. Postal Service does not uniformly provide a dated postmark. Applicants should check with their local post office before relying on this method.

Applicants are encouraged to use registered or at least first-class mail.

Each late applicant will be notified that the late application will not be considered in the current competition.

B. *Applications delivered by hand.* An application that is hand-delivered must be taken to the Proposal Clearinghouse, National Institute of Education, Room 813, 1200 19th Street, N.W., Washington, D.C. The proposal Clearinghouse will accept hand-delivered applications between 8:00 a.m. and 4:30 p.m. (Washington, D.C. time) daily, except Saturdays, Sundays, and Federal holidays. Applications for new awards that are hand-delivered will not be accepted after 4:30 p.m., July 12, 1979.

C. *Program information and forms.* Information and application forms may be obtained from the Regional Program Division, Dissemination and the Improvement of Practice, National Institute of Education, Room 602, 1200 19th Street, N.W., Washington, D.C., 20208; telephone 202–254–5470.

D. *Estimated distribution of program funds.* The program has a proposed funding allocation of $600,000. It is expected that there will be about 5–8 project awards. The program will support only projects of the highest quality. Funded projects normally will not exceed 12 months in duration. Further, nothing in the announcement will commit the Institute to award any specific amount. The actual total of funds awarded may change because of a need to reserve funds for continuation of projects begun earlier, for contract or in-house research, or because of budget or staffing restrictions.

E. *Applicable regulations.* The regulations applicable to this program include the National Institute of Education General Provisions Regulations, 45 CFR Part 1400, published in the **Federal Register** on November 4, 1974, 39 FR 38992, and regulations for the State Dissemination Grants Program published in the **Federal Register** on June 16, 1975, 40 FR 2454. When the presently proposed Education Division General Administrative Regulations (EDGAR) are adopted, they will replace NIE's General Provisions and will apply to this program, as appropriate.

(Catalog of Federal Domestic Assistance Program Number 13.950., Educational Research and Development)

Dated: May 7, 1979.

Patricia Albjerg Graham,
Director, National Institute of Education.

[FR Doc. 79-14718 Filed 5-10-79; 8:45 am]

BILLING CODE 4110-39-M

Public Health Service

Food and Drug Administration; Statement of Organization, Functions, and Delegations of Authority

Part H, Chapter HF (Food and Drug Administration) of the Statement of Organization, Functions, and Delegations of Authority for the Department of Health, Education, and Welfare (35 FR 3962, February 25, 1970, as amended in pertinent part at 43 FR 16421, April 18, 1978) is amended to reflect significant changes within the Bureau of Radiological Health. The changes include: (1) The disestablishment of the Division of Radioactive Materials and Nuclear Medicine and transfer of the laboratory functions of the division to the Division of Electronic Products and the remaining functions to the Division of Training and Medical Applications, and (2) Transfer of the Nuclear Medicine liaison function to the Office of the Director; and (3) Minor editorial changes in the statements for the Office of the Director and the remaining two divisions.

Section HF-B, Organization and Functions, is amended as follows:

Delete the functional statements for the Bureau of Radiological Health in their entirety and substitute the following:

(s) *Bureau of Radiological Health (HFH).* Develops and carries out a national program designed to control unnecessary exposures of man to, and assure the safe and efficacious use of, potentially hazardous ionizing and nonionizing radiation.

Conducts an electronic product radiation control program, including the development and administration of performance standards.

Plans, coordinates, and evaluates surveillance and compliance programs relating to radiation exposure.

Plans, conducts, and supports research on the health effects of radiation exposure through contracts and grants; provides institutional support through training grants.

Develops criteria, recommendations, and standards relative to radiation use and exposure. Develops and promotes improved procedures, techniques, and users' qualifications for reducing unnecessary radiation exposure.

Provides technical and scientific support, including training, to other bureaus within FDA and to other agencies having radiological health responsibilities.

Participates in development of model codes and recommendations for guidance of industry and national, State, and local radiation-control and standard-setting agencies in order to optimize radiation control practices.

Maintains appropriate liaison with other Federal, State, and international agencies, with industry, and with consumer and professional organizations.

Serves as the coordinating and consulting point for Agencywide consumer safety statistical information.

(s–1) *Office of the Director (HFH1).* Provides leadership and direction for, and evaluation and coordination of, the total activities of the Bureau. Provides advice and consultation to the Commissioner and other FDA officials on policy matters concerning radiological health activities.

Recommends to the Office of the Commissioner changes in legislative authority.

Serves as the Bureau coordinator and liaison for health affairs (e.g., nuclear medicine, dentistry and clinical radiology).

Maintains liaison with other FDA components, other Federal, State and international agencies, industry, and consumer and professional organizations.

Directs the Bureau administrative management, program planning, and policy formulation services.

Coordinates and provides consultation for Agencywide efforts for consumer safety statistics.

(s–2) *Division of Electronic Products (HFHA).* Studies and evaluates emissions of, and conditions of exposure to, electromagnetic radiation, particles, magnetic fields, and acoustic energy emitted from electronic products or radioactive materials.

Conducts or supports research, development, tests, training, and inspections to evaluate, control, and minimize radiation emissions.

Develops, tests, and evaluates effectiveness of procedures and devices and/or components for minimizing radiation exposure.

Develops physical criteria and recommends performance standards and regulations to control radiation emissions from electronic products.

(s-3) *Division of Biological Effects (HFHB).* Plans, conducts, and supports experimental and epidemiological research on the biological effects of exposure to electromagnetic radiation, magnetic fields, and acoustic energy with special reference to emissions from electronic products.

Through workships, symposia, research, and literature review, studies and evaluates experimental, epidemiological, and clinical research to assess the health effects resulting from exposure.

Develops scientifically based biological criteria in support of exposure standards and/or performance standards to control radiation emissions.

Studies and develops techniques for the measurement of energy distribution in biological tissues in order to provide quantitative dose-effect information.

(s-4) *Division of Compliance (HFHC).* Advises the Bureau Director and other FDA officials on legal, administrative and regulatory problems and administrative policies concerning FDA's regulatory responsibilities relating to radiological health.

Develops, for FDA clearance, surveillance and compliance programs covering radiation-emitting products and materials; issues approved programs; and coordinates the establishment of priorities for compliance activities involved in such programs.

Conducts tests and inspections when necessary for regulatory purposes and evaluates industry quality control and testing programs to assure compliance with regulations.

Directs, designs, and monitors Bureau studies to develop facts necessary to support regulatory action on radiation-emitting products and materials.

Develops, or assists and provides coordination for the development of proposed criteria, standards, and related regulations for protecting the public health from injurious radiation.

Provides advice to the field/district offices in the handling of legal actions and provides headquarters case development, coordination, and contested case assistance.

Develops proposals for new or revised regulatory policy; serves as Bureau liaison point for regulatory affairs; develops and recommends regulations and standards for publication in the **Federal Register.**

Coordinates Bureau and industry programs leading to the development of voluntary electronic product standards, and provides interpretations and guidance designed to improve compliance by industry.

(s-5) *Division of Training and Medical Applications (HFHE).* Plans and conducts a nationwide program to reduce unnecessary exposure resulting from the use of radiation in the healing arts.

Identifies specific problems in medical radiation exposure through field surveillance; designs corrective action programs to reduce exposure; if appropriate, implements these programs on a national scale through education of users and consumers, setting proficiency standards and guidelines for regulation of medical radiation practice, and evaluates the impact of these programs on radiation reduction.

Provides continuing education and other training services to FDA, other Federal agencies with radiation protection responsibilities, and State and local radiation control programs.

Plans and conducts research and use control programs to assure the safe and effective use of radioactive materials in medicine, industry, and consumer products.

Plans, initiates, and coordinates all Bureau activities related to staff development and upward mobility.

Dated: May 4, 1979.

Frederick M. Bohen,
Assistant Secretary for Management and Budget.

[FR Doc. 79-14717 Filed 5-10-79; 8:45 am]

BILLING CODE 4110-03-M

Social Security Administration

Mental Health Projects for Indochinese Refugees; Availability of Funding

AGENCY: Office of Family Assistance, Social Security Administration, HEW.

ACTION: Notice of availability of funding.

SUMMARY: This document governs the award in fiscal year 1979 of grants to public and private nonprofit agencies for the purpose of operating mental health projects for Indochinese refugees in order to assist refugees in resettling in the United States and in becoming self-reliant.

FOR FURTHER INFORMATION CONTACT: Gerard R. Wynne, 202–472–2417.

DATE: Applications must be received by the Regional Commissioner, Social Security Administration, by 5 p.m. (local time) on June 25, 1979. No grant application will be accepted after this date.

I. Purpose and Scope

This notice describes the availability of national funding for special projects and programs designed to assist Indochinese refugees in coping with mental health problems. The objective of such projects and programs is to assist refugees in resettling in the United States and in gaining self-reliance.

Funding will be made available through the Special Programs Staff, Office of Family Assistance, Social Security Administration, HEW, for project grant awards to public and nonprofit private agencies.

A. Background

The Indochinese refugees, having undergone the traumas of emergency evacuation from their homelands and relocation in this (to them) alien culture, suffered considerable stress. The Refugee Task Force (now the Special Programs Staff) received in the spring and summer of 1976 consistent warnings, from Regional Refugee Coordinators and agencies involved in the resettlement program, of growing evidence of behavioral problems attributed generally to the trauma of resettlement.

In fiscal years 1976 and 1977, the Task Force approved six small grants to deal with mental health problems of the refugees. Reports from the projects confirmed the informal body of information already available. The projects found cases of depression, anxiety, alcohol and drug abuse, and wife and child abuse. The psychosomatic ailments they found

V. Eligible Projects

telephone number. A description of the

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included headaches, dizziness, and nausea.

In addition to the findings of the mental health projects, refugee employment and training projects reported that emotional problems were preventing significant numbers of enrolled refugees from securing or holding gainful employment.

It became apparent that the national objective of refugee self-sufficiency could not be achieved for those refugees suffering from mental health problems unless those problems were addressed. It also became apparent that the existing mental health services delivery system in most localities was not able to respond adequately to the problems of the refugee community.

On October 1, 1978, Special Programs, Staff, Office of Family Assistance, issued thirty-seven grant awards for mental health services to Indochinese refugees. Reports from the grantees clearly indicate a continuing need for these services.

B. Scope of Projects

To bridge the gap between existing facilities and the needs of Indochinese refugees, assuring that refugees are afforded the same mental health services available to the general population, the Special Programs Staff proposes to fund approved programs and projects as outlined in this notice. There are three major objectives of this effort:

1. To impact the existing mental health services delivery system. Included under this objective would be projects designed, through inservice training and other means, to alert mental health officials and practitioners to the scope and special nature of the refugee problems in their localities. The results of such efforts should include, both qualitatively and quantitatively, an increase of services to refugees.

2. To increase the opportunities for employment in the mental health field for the Indochinese. Included under this objective would be projects to provide on-the-job training for Indochinese as mental health workers, competent to work independently at counseling, interviewing, and rendering other direct services to Indochinese under supervision of certified or licensed professionals. (Long-term training of psychiatrists, psychologists, or other professionals is not envisioned.)

3. To create community comprehensive support systems. Included under this objective would be projects designed to work with mental health systems, to train paraprofessionals, to establish linkages among social service deliverers, and to facilitate the understanding within the refugee population of the American approach to mental health and mental health services.

It is recognized that prospective applicants for the grants may not choose to respond to all three objectives; therefore, it is allowable under this notice to propose projects which respond to one or more of the objectives. Consideration for funding will take into account the expected permanence of the change the projects will effect and the amount of direct service generated. Applications should clearly indicate which objectives the proposal will address, and in what way.

Because of funding limitations, it is not envisioned that these grants will provide direct clinical services to refugees except as that provision relates to on-the-job training.

II. Authorization

Funds for the activities listed below are authorized under section 2(c) of the Indochina Migration and Refugee Assistance Act of 1975, Pub. L. 94–23, as amended by Pub. L. 95–145 and Pub. L. 95–549. It is intended that the grants be for up to 12 months from the date of award.

III. Eligible Grantees

Section 2(c) of Pub. L. 95–145 states that special projects and programs are to be "administered in whole or in part by State or local public agencies or by private voluntary agencies participating in the Indochina refugee assistance program, to assist refugees in resettling and in gaining skills and education necessary to become self-reliant."

Eligible grantees are State and local governments, public and incorporated nonprofit private agencies, or any combination of these. Private for-profit agencies or firms are not eligible for grants.

In its FY 1979 appropriation action Congress directed that special project funds "* * * be administered primarily by the private voluntary resettlement agencies." At least fifty-one percent (51%) of FY 1979 special project funds will be awarded to private, nonprofit agencies.

IV. Allotment of Funds

Approximately $2,200,000 will be made available for the purpose of this announcement. The allocation of funds nationwide will be based on the need to generate quality mental health services for the maximum number of refugees.

V. Eligible Projects

Projects are expected to advance the mental health of the Indochinese refugee population. Such projects are to be designed primarily with the goal of placing needy refugees into effective contact with the existing mental health systems, and of enhancing the responsiveness and effectiveness of the systems in providing services to the refugees.

Allowable activities. It is allowable to propose projects which respond to one or more of the objectives listed in section I, "Purpose and Scope." The allowable activities listed here are grouped under the objectives for guidance; however, the listings are not mutually exclusive and, where warranted, a mix of activities may be proposed.

Objective 1. Impacting mental health services delivery systems.

(1) Activities designed to inform appropriate State, local, and private mental health officials and practitioners of the needs of the refugees. These could include the utilization or adaptation of resource materials and the development of training packages on such topics as Indochinese perceptions of and attitudes toward Western mental health practices and modalities of treatment for this population.

(2) Training sessions, conferences, and workshops aimed at improving mental health services provided to refugees.

(3) Short-term research to identify the scope and nature of refugee mental illness and the availability of treatment within the existing systems.

Objective 2. Increasing opportunities for employment in the mental health field for the Indochinese.

(1) Development of training projects for Indochinese individuals. These should include a reasonable mix of classroom training and on-the-job training and supervision by certified or licensed professionals designed to enable the trainees to secure employment in the mental health field.

(2) Career planning for trainees. This should include the development of career ladders leading to permanent positions and upward job mobility in the field.

Objective 3. Creating community comprehensive support systems.

(1) Development of interagency mental health forums, task forces, or committees, which include representation from the public and voluntary sectors and the refugee community to coordinate activities.

(2) Training and supervision for Indochinese paraprofessionals to function as outreach workers, counselors, or facilitators.

(3) Creation of devices, such as referral systems and public education, designed to familiarize the refugee population with services and facilities available to them, to encourage use of such services and facilities when warranted, and to carry out community mental health work in the refugee community.

Project plans must show how the proposed activities will support one or more of the objectives outlined in section I, "Purpose and Scope." A range of services and a mix of activities that reflect the individual needs of each area to be served are encouraged.

Also encouraged is concurrent and coordinated use of additional funding and support, such as State, local, or private funds, and other program participation.

Proposed projects may be regionwide, statewide, countywide, or smaller. Because of the limitation of funds, a multijurisdictional approach and consortia arrangements are permitted.

Creation of advisory boards, made up of equal numbers of representatives from among the refugee commmunity, mental health clinicians, and social services agencies, is required for all projects.

Project activities may be carried out by third parties (including profitmaking organizations) under contract from the grantee; however, the grantee may not contract out 100 percent of the services, and must in any case retain full administrative control. Intent to contract with third parties must be fully described in the grant application. If, subsequent to the grant, the grantee desires to enter into a contract with a third party, a request for prior approval must be submitted through the Regional Commissioner, SAA, and approved by the Director, Special Programs Staff, as outlined in chapter I–430 of the HEW Grants Administration Manual.

VI. Definition of a Refugee

For the purpose of participation in these projects, refugees are defined as "Aliens who: (A) Because of persecution or on account of race, religion, or political opinion, fled from Cambodia, Vietnam, or Laos; (B) cannot return there because of fear of persecution on account of race, religion, or political opinion."

To be eligible a refugee must have status as described by one of the following:

(1) An individual with parole, voluntary departure, or conditional entry status as indicated by an Immigration and Naturalization Service (INS) form I–94; (2) and individual admitted to the United States with permanent residence status on or after April 8, 1975, or an individual who has permanent residence status under Pub. L. 95–145, as indicated by INS form I–151 or I–551.

VII. Application Submission and Approval Procedures

Eligible applicants may request grant applications and information from the HEW regional offices listed at the end of this notice, or from the Special Programs Staff, Office of Family Assistance, Social Security Administration, Room 1124, Donohoe Building, HEW, 330 Independence Avenue S.W., Washington, D.C. 20201.

An original application and two copies must be received by the Regional Commissioner, Social Security Administration, by 5 p.m. (local time), June 25, 1979. No grant application will be accepted after this date.

Regional panels to be convened by the Regional Commissioners, Social Security Administration, will review, evaluate, and rank the proposals received, based on (1) the criteria outlined in Item IX of this notice; (2) the needs of the refugee population within the region; and (3) existing resources available to refugees in the target area. The review panels' recommendations and the Regional Commissioners' concurrence and/or comments will be forwarded to the Director, Special Programs Staff, Office of Family Assistance, for review and approval.

All applications are subject to the Project Notification and Review procedures required by OMB Circular A–95 part I. This circular requires applicants to notify State and area-wide clearinghouses of their intention to apply for a grant and, if requested by a clearinghouse, to submit a copy of the application. The effective date of grant awards under this announcement will be October 1, 1979.

VIII. Application Content

All applicants will use standard Form 424, "Federal Assistance" in submitting project proposals. Grant applications must also include the following:

(1) Description of the applicant organization. Description of the proposer (public agency, private nonprofit, consortium). If other than a public agency, description of its organizational mandate, funding sources, principal officers, address, and telephone number. A description of the makeup of the project's advisory board, the selection process used for its members, and the board's function must be included. If the applicant is a unit of a larger institution or government entity, assurances must be provided that the operation and objectives of the project will not be subordinated to other objectives.

(2) Applicant experience with Indochinese refuges. Description of other projects or experience which the applicant has had in serving the Indochinese refugee population.

(3) Identification of the target population. Specify the total Indochinese population in the project area, identified, where possible, by native language (Vietnamese, Cambodian, Lao, H'mong).

(4) Existing mental health systems. Brief overview of existing systems for delivery of mental health services to the general public in the area to be served by the project.

(5) Existing deliverers of services to Indochinese. Brief overview of existing services to Indochinese refugees which have bearing upon the proposed project. (Where such services are in operation, proposer should provide assurances that coordinative linkages have been arranged, or that the proposed project is not in competition with nor duplicative of, the existing services.)

(6) Project scope and objectives. A statement of the mental health needs of the target population, the objective(s) outlined in item I, "Purpose and Scope" which the project addresses, and the project's specific goals. Proposer must describe the efforts planned to assure provision of mental health services to Indochinese refugees beyond the grant period.

(7) Project description. A detailed description of a work plan designed to achieve the objectives specified in item (6) above. Describe fully the overall project approach, proposed components of the program activities, staffing, and how linkages with other service providers will be insured.

Applications proposing training projects under objective 2 should state what steps will be taken to insure the employment of the trainees in the mental health field.

IX. Criteria for Evaluating Applications

Applicants must specify how they meet the statutory requirement of "participating in the Indochina Refugee Assistance Program." It is recognized that not all applications will address themselves to all three major objectives; therefore, ratings based on the criteria

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will be made selectively according to the objectives addressed.

Project grant applications will be evaluated on the following criteria:

1. Familiarity and experience of the applicant organization with Indochinese refugee resettlement, including knowledge of the needs of the people to be served and local conditions; understanding of the cultural and institutional barriers which inhibit the normal delivery of services; understanding of the differing needs, where relevant, of the Vietnamese, Cambodian, Lao, and H'mong refugee communities.

2. Qualifications of the applicant organization in meeting the selected objectives. Applicants addressing objectives 1 or 2 should indicate their professional competence in the mental health field and in staff training, and should include the qualifications of individual professional personnel. Applicants addressing objective 3 should indicate their experience in community-based programs, especially those which cut across traditional service delivery lines.

3. The extent to which the application addresses the identified mental health needs of the target population and outlines a clear and achievable plan to interface with existing systems of service delivery. This will include the specifics of utilization of services and facilities and plans to mobilize, coordinate, and expand existing resources and activities which are providing, or could provide, services to refugees.

4. Projected impact of the proposed program. Where direct services are to be provided, the extent to which proposer quantifies anticipated results.

5. Reasonableness of estimated cost in relation to anticipated results (cost/benefit ratio).

6. Comprehensiveness and coordination of proposed project components. The extent to which proposed linkages with other institutions and agencies are supported by such evidence as proposed subcontracts, letters of commitment, or working agreements.

7. Adequacy and accessibility of facilities and other resources.

X. Records and Reports

Grantees will be required to maintain such fiscal and operational records as are necessary for Federal monitoring and auditing of the grants:

(1) Quarterly program progress reports, due 10 days after the last calendar day of each quarter.

(2) Fiscal reports; and

(3) Additional reports as required for effective Federal monitoring.

XI. Conditions of Award

All grants made under this announcement will be subjected to: (1) The following HEW regulations in 45 CFR, as amended: part 16, "Department Grants Appeals Process;" part 74, "Administration of Grants;" part 75, "Informal Grant Appeals Procedures;" and parts 80, 84, and 85 relating to non-discrimination, and (2) the HEW Grants Administration Manual.

Copies of these documents may be inspected in the offices of Regional Commissioners, SSA, or of the Special Programs Staff, Office of Family Assistance, HEW, Room 1124, Donohoe Building, 400 Sixth Street, S.W., Washington, D.C. 20201.

XII. Additional Information:

Additional information and grant applications can be obtained from the following persons in the HEW regional offices:

Region I

Tran Phuc Truong, Social Security Administration, HEW, John F. Kennedy Federal Building, Government Center, Boston, Mass. 02003, telephone 617–223–6833, FTS 223–6833.

Region II

Georgianna Gleason, Social Security Administration, HEW, 26 Federal Plaza, New York, N.Y. 10007, telephone 212–264–7202, FTS 264–7202.

Region III

Robert T. Clifford, Office of Family Assistance, Social Security Administration, HEW, P.O. Box 8788, Philadelphia, Pa. 19101, telephone 215–596–6615, FTS 596–6615.

Region IV

Hoang T. Phan, Social Security Administration, HEW, Marietta Tower, 101 Marietta Street N.W., Atlanta, GA 30323, telephone 404–221–2466, FTS 242–2466.

Region V

Gene Niewoehner, Social Security Administration, HEW, 300 South Wacker Drive, Chicago, Ill, 60606, telephone 312–353–5182, FTS 353–5182.

Region VI

Carol Sedanko, Social Security Administration, HEW 1200 Main Tower Building, Dallas, Texas 75202, telephone 214–767–4301, FTS 729–4301.

Region VII

Don Belknap, Social Security Administration, HEW, 601 East 12th Street, Kansas City, Mo. 64106, telephone 816–374–6127, FTS 758–6127.

Region VIII

Vo Van Ha, Social Security Administration, HEW, 1961 Stout Street, Denver, Colo. 80202, telephone 303–837–5591, FTS 327–5591.

Region IX

Robert Harberson, Social Security Administration, HEW, 100 Van Ness Avenue, San Francisco, Calif. 94102, telephone 415–556–8582, FTS 556–8582.

Region X

Ray Naperkowski, Social Security Administration, HEW, Arcade Plaza, 131 Second Avenue, Seattle, Wash. 98101, telephone 206–442–5734, FTS 399–5734.

(Catalog of Federal Domestic Assistance No. 13.814—Refugee Assistance—Indochinese Refugees, previously Catalog No. 13.769—Special Assistance to refugees from Cambodia, Vietnam, and Laos in the United States.)

Dated: May 7, 1979.

Stanford G. Ross,
Commissioner of Social Security.

[FR Doc. 79-14712 Filed 5-10-79; 8:45 am]

BILLING CODE 4110-07-M

DEPARTMENT OF HOUSING AND URBAN DEVELOPMENT

Federal Disaster Assistance Administration

Alabama; Amendment to Notice of Major Disaster Declaration

AGENCY: Federal Disaster Assistance Administration.

ACTION: Notice.

SUMMARY: This Notice amends the Notice of a major disaster for the State of Alabama (FDAA–578–DR), dated April 18, 1979.

DATED: April 25, 1979.

FOR FURTHER INFORMATION CONTACT: John L. Perry, Program Support Staff, Federal Disaster Assistance Administration, Department of Housing and Urban Development, Washington, D.C. 20410 (202/634–7825).

NOTICE: This Notice of major disaster for the State of Alabama dated April 18, 1979, is hereby amended to include the following areas among those areas determined to have been adversely affected by the catastrophe declared a major disaster by the President in his declaration of April 18, 1979.

For Individual Assistance only: Etowah County, Hale County, and Montgomery County.

(Catalog of Federal Domestic Assistance No. 14.701, Disaster Assistance.)

William H. Wilcox,
Administrator, Federal Disaster Assistance Administration.

[Docket No. NFD–6977; FDAA–578–DR]

[FR Doc. 79-14702 Filed 5-10-79; 8:45 am]

BILLING CODE 4210-22-M

Arkansas; Amendment to Notice of Major Disaster Declaration

AGENCY: Federal Disaster Assistance Administration.

ACTION: Notice.

SUMMARY: This Notice amends the Notice of the major disaster for the State of Arkansas (FDAA–574–DR), dated April 11, 1979.

DATED: April 30, 1979.

FOR FURTHER INFORMATION CONTACT: John L. Perry, Program Support Staff, Federal Disaster Assistance Administration, Department of Housing and Urban Development, Washington, D.C. 20410 (202/634–7825).

NOTICE: This Notice of a major disaster for the State of Arkansas dated April 11, 1979, is hereby amended to include the following area among those areas determined to have been adversely affected by the catastrophe declared a major disaster by the President in his declaration April 11, 1979.

In addition to Individual Assistance under Pub. L. 93–288, as designated previously on April 24, 1979, now designated also for Federal assistance to disaster-damaged public schools under Pub. L. 81–815 and Pub. L. 81–874, as appropriate: Jackson County.

(Catalog of Federal Domestic Assistance No. 14.701, Disaster Assistance; No. 13.477, School Construction, and No. 13.478, School Mantenance and Operation Assistance.

William H. Wilcox,
Administrator, Federal Disaster Assistance Administration.

[Docket No. NFD–693; FDAA–574–DR]

[FR Doc 79-14697 Filed 5-10-79; 8:45 am]

BILLING CODE 4210-22-M

Arkansas; Amendment to Notice of Major Disaster Declaration

AGENCY: Federal Disaster Assistance Administration.

ACTION: Notice.

SUMMARY: This Notice amends the Notice of a major disaster for the State of Arkansas (FDAA–574–DR), dated April 11, 1979.

DATED: April 24, 1979.

FOR FURTHER INFORMATION CONTACT: John L. Perry, Program Support Staff, Federal Disaster Assistance Administration, Department of Housing and Urban Development, Washington, D.C. 20410 (202/634–7825).

NOTICE: This Notice of major disaster for the State of Arkansas dated April 11, 1979, is hereby amended to include the following areas among those areas determined to have been adversely affected by the catastrophe declared a major disaster by the President in his declaration of April 11, 1979.

For Individual Assistance Only: Nevada County and Jackson County.

(Catalog of Federal Domestic Assistance No. 14.701, Disaster Assistance.)

William H. Wilcox,
Administrator, Federal Disaster Assistance Administration.

[Docket No. NFD–694; FDAA–574–DR]

[FR Doc. 79-14699 Filed 5-10-79; 8:45 am]

BILLING CODE 4210-22-M

Mississippi; Amendment to Notice of Major Disaster Declaration

AGENCY: Federal Disaster Assistance Administration.

ACTION: Notice.

SUMMARY: This Notice amends the Notice of a major disaster for the State of Mississippi (FDAA–577–DR), dated April 16, 1979.

DATED: April 25, 1979.

FOR FURTHER INFORMATION CONTACT: John L. Perry, Program Support Staff, Federal Disaster Assistance Administration, Department of Housing and Urban Development, Washington, D.C. 20410 (202/634–7325).

NOTICE: This Notice of major disaster for the State of Mississippi dated April 16, 1979, is hereby amended to include the following areas among those areas determined to have been adversely affected by the catastrophe declared a major disaster by the President in his declaration of April 16, 1979.

For Public Assistance in addition to Individual Assistance: Clark County, Lauderdale County, and Simpson County.

For both Individual and Public Assistance: Montgomery County.

(Catalog of Federal Domestic Assistance No. 14.701, Disaster Assistance.)

William H. Wilcox,
Administrator, Federal Disaster Assistance Administration.

[Docket No. NFD–692; FDAA–577–DR]

[FR Doc. 79-14698 Filed 5-10-79; 8:45 am]

BILLING CODE 4210-22-M

North Dakota; Major Disaster and Related Determinations

AGENCY: Federal Disaster Assistance Administration.

ACTION: Notice.

SUMMARY: This is a Notice of the Presidential declaration of a major disaster for the State of North Dakota (FDAA–581–DR), dated April 26, 1979.

DATED: April 26, 1979.

FOR FURTHER INFORMATION CONTACT: John L. Perry, Program Support Staff, Federal Disaster Assistance Administration, Department of Housing and Urban Development, Washington, D.C. 20410 (202) 644–7825.

NOTICE: Pursuant to the authority vested in the Secretary of Housing and Urban and Urban Development by the President under Executive Order 11795 of July 11, 1974, and delegated to me by the Secretary under Department of Housing and Urban Development Delegation of Authority, Docket No. D–74–285; and by virtue of the Act of May 22, 1974, entitled "Disaster Relief Act of 1974" (88 Stat., 143); notice is hereby given that, in a letter of April 26, 1979 to the Secretary, the President declared a major disaster as follows:

I have determined that the damage in certain areas of the State of North Dakota resulting from severe storms, snowmelt and flooding beginning on or about April 11, 1979, is of sufficient severity and magnitude to warrant a major-disaster declaration under Pub. L. 93–288. I therfore declare that such a major disaster exists in the State of North Dakota.

Notice is hereby given that pursuant to the authority vested in the Secretary of Housing and Urban Development under Executive Order 11795, and delegated to me by the Secreatary under Department of Housing and Urban Development Delegation of Authority, Docket No. D–74–285, I hereby appoint Mr. John D. Swanson of the Federal Disaster Assistance Administration to act as the Federal Coordinating Officer for this declared major disaster.

I do hereby determine the following areas of the State of North Dakota to have been affected adversely by this declared major disaster.

The Counties of: Barnes, Benson, Bottineau, Burke, Burleigh, Cass, Cavalier, Dickey, Divide, Eddy, Emmons, Foster, Grand Forks, Griggs, Kidder, LaMoure, Logan, McHenry, McLean, Mercer, Morton, Mountrail, Nelson, Oliver, Pambina, Pierce, Ramsey, Ransom, Renville, Richland, Rolette, Sargent, Steele, Stutsman, Towner, Traill, Walsh, Wells, Ward, and Williams.

(Catalog of Federal Domestic Asst. No. 14,701, Disaster Assistance.)

William H. Wilcox,
Federal Disaster Assistance Administration.

[Docket No. NED–666; FDAA–581–DR]
[FR Doc. 79–14701 Filed 5–10–79; 8:45 am]
BILLING CODE 4210–22–M

Texas; Major Disaster and Related Determinations

AGENCY: Federal Disaster Assistance Administration.

ACTION: Notice.

SUMMARY: This is a Notice of the Presidential declaration of a major disaster for the State of Texas (FDAA–580–DR), dated April 26, 1979, and related determinations.

DATED: April 26, 1979.

FOR FURTHER INFORMATION CONTACT: John L. Perry, Program Support Staff, Federal Disaster Assistance Administration, Department of Housing and Urban Development, Washington, D.C. 20410 (202) 634–7825.

NOTICE: Pursuant to the authority vested in the Secretary of Housing and Urban Development by the President under Executive Order 11795 of July 11, 1974, and delegated to me by the Secretary under Department of Housing and Urban Development Delegation of Authority, Docket No. D–74–265; and by virtue of the Act of May 22, 1974, entitled "Disaster Relief Act of 1974" (88 Stat. 143); notice is hereby given that, in a letter on April 26, 1979 to the Secretary, the President declared a major disaster as follows:

I have determined that the damage in certain areas of the State of Texas resulting from severe storms, tornadoes and flooding beginning on or about April 18, 1979, is of sufficient severity and magnitude to warrant a major-disaster declaration under Pub. L. 93–288. I therefore declare that such a major disaster exists in the State of Texas.

Notice is hereby given that pursuant to the authority vested in the Secretary of Housing and Urban Development under Executive Order 11795, and delegated to me by the Secretary under Department of Housing and Urban Development Delegation of Authority, Docket No. D–74–285, I hereby appoint Mr. Thomas P. Credle of the Federal Disaster Assistance Administration to act as the Federal Coordinating Officer for this declared major disaster.

I do hereby determine the following areas of the State of Texas to have been affected adversely by this declared major disaster.

The following Counties for Individual Assistance Only: Hardin, Harris, Jefferson, Liberty, Montgomery, and Orange.

(Catalog of Federal Domestic Asst. No. 14,701, Disaster Assistance.)

William H. Wilcox,
Federal Disaster Assistance Administration.

[Docket No. NFD–698; FDAA–580–DR]
[FR Doc. 79–14700 Filed 5–10–79; 8:45 am]
BILLING CODE 4210–22–M

DEPARTMENT OF THE INTERIOR

Bureau of Land Management

New Mexico; Notice of Application

May 1, 1979.

Notice is hereby given that, pursuant to Section 28 of the Mineral Leasing Act of 1920 (30 U.S.C. 185), as amended by the Act of November 16, 1973 (87 Stat. 576), Phillips Petroleum Company has applied for one 4½-inch natural gas pipeline right-of-way across the following land:

New Mexico Principal Meridian, New Mexico

T. 15 S., R. 29 E.,
Sec. 22, NW¼SW¼.

This pipeline will convey natural gas across 0.076 of a mile of public land in Chaves County, New Mexico.

The purpose of this notice is to inform the public that the Bureau will be proceeding with consideration of whether the application should be approved, and if so, under what terms and conditions.

Interested persons desiring to express their views should promptly send their name and address to the District Manager, Bureau of Land Management, P.O. Box 1397, Roswell, New Mexico 88201.

Fred E. Padilla,
Chief, Branch of Lands and Minerals Operations.

[NM 36678]
[FR Doc. 79–14714 Filed 5–10–79; 8:45 am]
BILLING CODE 4310–84–M

New Mexico; Notice of Application

May 2, 1979.

Notice is hereby given that, pursuant to Section 28 of the Mineral Leasing Act of 1920 (30 U.S.C. 185), as amended by the Act of November 16, 1973 (87 Stat. 576), El Paso Natural Gas Company has applied for two 4½-inch natural gas pipelines right-of-way across the following land:

New Mexico Principal Meridian, New Mexico

T. 26 S., R. 26 E.,
Sec. 30, lots 3, 4 and SW¼SE¼;
Sec. 31, lot 3 and NE¼NW¼.

These pipelines will convey natural gas across 0.875 of a mile of public land in Eddy County, New Mexico.

The purpose of this notice is to inform the public that the Bureau will be proceeding with consideration of whether the application should be approved, and if so, under what terms and conditions.

Interested persons desiring to express their views should promptly send their name and address to the District Manager, Bureau of Land Management, P.O. Box 1397, Roswell, New Mexico 88201.

Fred E. Padilla,
Chief, Branch of Lands and Minerals Operations.

[NM 36556]
[FR Doc. 79–14715 Filed 5–10–79; 8:45 am]
BILLING CODE 4310–84–M

New Mexico; Application

May 1, 1979.

Notice is hereby given that, pursuant to Section 28 of the Mineral Leasing Act of 1920 (30 U.S.C. 185), as amended by the Act of November 16, 1973 (87 Stat. 576), El Paso Natural Gas Company has applied for one 4½–inch natural gas pipeline right-of-way across the following land:

New Mexico Principal Meridian, New Mexico

T. 18 S., R. 28 E.,
Sec. 13, W½NE¼.

This pipeline will convey natural gas across 0.351 of a mile of public land in Eddy County, New Mexico.

The purpose of this notice is to inform the public that the Bureau will be proceeding with consideration of whether the application should be approved, and if so, under what terms and conditions.

Interested persons desiring to express their views should promptly send their name and address to the District Manager, Bureau of Land Management, P.O. Box 1397, Roswell, New Mexico 88201.

Fred E. Padilla,
Chief, Branch of Lands and Minerals Operations.

[NM 36545]
[FR Doc. 79–14652 Filed 5–10–79; 8:45 am]
BILLING CODE 4310–84–M

Wyoming; Application

May 2, 1979.

Notice is hereby given that pursuant to Section 28 of the Mineral Leasing Act of 1920, as amended (30 U.S.C. 185), the Cities Service Gas Company of Oklahoma City, Oklahoma filed an application for a right-of-way to construct a 6⅝ inch O.D. pipeline and anodes for the purpose of transporting

natural gas across the following described public lands:

Sixth Principal Meridian, Wyoming

T. 20 N., R. 93 W.,
Sec. 26 SW¼SW¼;
Sec. 34, N½NE¼.

The proposed pipeline will transport natural gas from the Federal 1–26 well located in the SW¼SW¼ of section 26 to a point of connection with existing pipeline facilities located in the NW¼NE¼ of section 34, all within T. 20 N., R. 93 W., Sweetwater County, Wyoming.

The purpose of this notice is to inform the public that the Bureau will be proceeding with consideration of whether the application should be approved and, if so, under what terms and conditions.

Interested persons desiring to express their views should do so promptly. Persons submitting comments should include their name and address and send them to the District Manager, Bureau of Land Management, 1300 Third Street, P.O. Box 670, Rawlins, Wyoming 82301.

Harold G. Stinchcomb,
Chief, Branch of Lands and Minerals Operations

[Wyoming 87632]
[FR Doc. 79–14654 Filed 5–10–79; 8:45 am]
BILLING CODE 4310–84–M

Wyoming; Application

May 2, 1979.

Notice is hereby given that pursuant to Section 28 of the Mineral Leasing Act of 1920, as amended (30 U.S.C. 185), the Colorado Interstate Gas Company of Colorado Springs, Colorado filed an application for a right-of-way to construct a meter station site with related facilities and an access road and will affect the following described public lands:

Sixth Principal Meridian, Wyoming

T. 24 N., R. 96 W.,
Sec. 5, lot 3.

The proposed 50' x 120' meter station site will consist of metering facilities and equipment, regulation facilities, 4½ inch O.D. pipeline and a 4' x 6' metering building. The proposed access road will serve to provide access to the proposed meter station site. All of the proposed facilities applied for in this application will be located entirely within lot 3, section 5, T. 24 N., R. 96 W., Sweetwater County, Wyoming.

The purpose of this notice is to inform the public that the Bureau will be proceeding with consideration of whether the application should be approved and, if so, under what terms and conditions.

Interested persons desiring to express their views should do so promptly. Persons submitting comments should include their name and address and send them to the District Manager, Bureau of Land Management, 1300 Third Street, P.O. Box 670, Rawlins, Wyoming 82301.

Harold G. Stinchcomb,
Chief, Branch of Lands and Minerals Operations.

[Wyoming 87639]
[FR Doc. 79–14653 Filed 5–10–79; 8:45 am]
BILLING CODE 4310–84–M

National Park Service

Cape Cod National Seashore Advisory Commission; Meeting

Notice is hereby given in accordance with Pub. L. 92–463 that a meeting of the Cape Cod National Seashore Advisory Commission will be held on Friday, June 1, 1979, at 1:30 p.m. at the Headquarters Building, Cape Cod National Seashore, Marconi Station Area, South Wellfleet, Massachusetts.

The Commission was established pursuant to Pub. L. 91–383 to meet and consult with the Secretary of the Interior on general policies and specific matters relating to the development of Cape Cod National Seashore.

The Commission will consider the following matters: 1) Proposal for an exchange of land with Eastham; and 2) Provinceton Airport Commission's request for expanded parking areas at the Airport.

The meeting is open to the public. It is expected that 15 persons will be able to attend the session in addition to Commission members.

Interested persons may make oral/written presentations to the Commission or file written statements. Such requests should be made to the official listed below at least seven days prior to the meeting.

Further information concerning this meeting may be obtained from Herbert Olsen, Superintendent, Cape Cod National Seashore, South Wellfleet, Massachusetts 02663, telephone 617–349–3785. Minutes of the meeting will be available for public information and copying four weeks after the meeting at the office of the Superintendent, Cape Cod National Seashore, South Wellfleet, Massachusetts.

Dated: May 1, 1979.

Herbert Olsen,
Superintendent, Cape Cod National Seashore.

[FR Doc. 79–14655 Filed 5–10–79; 8:45 am]
BILLING CODE 4310–70–M

Chesapeake and Ohio Canal National Historical Park Commission; Meeting

Notice is hereby given in accordance with Federal Advisory Committee Act that a meeting of the Chesapeake and Ohio Canal National Historical Park Commission will be held Saturday, June 16, 1979, at 1:00 p.m. at the Brunswick Town Hall, 20 East A Street, Brunswick, Maryland.

The Commission was established by Pub. L. 91–664 to meet and consult with the Secretary of the Interior on general policies and specific matters related to the administration and development of the Chesapeake and Ohio Canal National Historical Park.

The members of the Commission are as follows:

Mr. Donald R. Frush, Chairman, Hagerstown, Maryland
Mrs. Bonnie Troxell, Cumberland, Maryland
Miss Nancy Long, Glen Echo, Maryland
Mrs. Constance Morella, Bethesda, Maryland
Mr. Kenneth S. Rollins, Brookmont, Maryland
Mr. Vladimir A. Wahbe, Baltimore, Maryland
Mr. Edwin F. Wesely, Jr., Brookmont, Maryland
Mr. John D. Millar, Cumberland, Maryland
Mr. James B. Coulter, Annapolis, Maryland
Mrs. Dorothy Grotos, Arlington, Virginia
Mrs. Minnie Pohlmann, Dickerson, Maryland
Mr. William H. Ansel, Jr., Romney, West Virginia
Dr. James H. Gilford, Frederick, Maryland
Mr. Lorenzo W. Jacobs, Jr., Washington, D.C.
Mr. Silas F. Starry, Shepherdstown, West Virginia
Mr. Rockwood H. Foster, Washington, D.C.
Mr. R. Lee Downey, Williamsport, Maryland
Mr. John C. Frye, Gapland, Maryland

Matters to be discussed at this meeting include:

1. Palisades wayside interpretive exhibit plan
2. Access to Town of Brunswick campground
3. Great Falls development concept plan
4. Relocation of Lander maintenance shop
5. Future status of Commission (terms)
6. Sewer treatment pipeline for Rock Run (site 15)
7. Rockwood tract
8. Radio towers off Esworthy Road
9. Bridge to Olmstead Island
10. Rattling Springs Development

The meeting will be open to the public. Any member of the public may file with the Committee, a written statement concerning the matters to be discussed.

Persons wishing further information concerning this meeting, or who wish to submit written statements, may contact William R. Failor, Superintendent, C&O Canal National Historical Park, P.O. Box 4, Sharpsburg, Maryland 21782, telephone 301–948–5641 or 301–432–2231.

Minutes of the meeting will be available for public inspection four (4)

workers and former workers producing

weeks after the meeting at Park Headquarters, Sharpsburg, Maryland.

Dated: May 4, 1979.

Lowell V. Sturgill,

Acting Regional Director, National Capitol Region.

[FR Doc. 79-14727 Filed 5-10-79; 8:45 am]

BILLING CODE 4310-70-M

Gateway National Recreation Area; Public Discussion

Notice is hereby given that a series of public discussions concerning access improvements to Gateway National Recreation Area will be conducted at a series of meetings, the time and location listed below.

Pub. L. 95-344, Title III, approved on August 15, 1978, authorizes the National Park Service to develop plans and projects to improve access to units of the National Park System.

The series of meetings will be scheduled to receive public comment on improving access to Gateway National Recreation Area located in New York and New Jersey. Two sets of meetings will be held in each state in accordance with the law.

The first set of meetings will be held to inform the public on the intentions of the National Park Service and give the public an opportunity to respond and recommend plans. The schedule for this set of public discussions will take place as follows: In New York, the meetings will be held at 7:00 p.m. on Tuesday, May 29, 1979, at the Jamaica Bay Unit Conference Room, Building 272, Floyd Bennett Field, Brooklyn, New York, and at 7:00 p.m., Thursday, May 31, 1979, Restoration Complex, Community Room, 1368 Fulton Street, Brooklyn, New York.

In New Jersey, the meetings will be held at 7:00 p.m. on Tuesday, May 15, 1979, at the Sandy Hook Unit Chapel, Sandy Hook, New Jersey, and at 7:00 p.m. on Thursday, May 17, 1979, Robert Treat Hotel, 50 Park Place, Newark, New Jersey.

The second set of meetings will inform the public on proposed National Park Service plans with an additional chance for public involvement and response. The schedule for this set of public discussions will take place as follows: In New York, the meetings will be held at 7:00 p.m. on Wednesday, June 13, 1979, at the Jamaica Bay Unit Conference Room, Building 272, Floyd Bennett Field, Brooklyn, New York, and 7:00 p.m. on Thursday, June 14, 1979, Restoration Complex, Community Room, 1368 Fulton Street, Brooklyn, New York.

In New Jersey, the meetings will be held at 7:00 p.m. on Wednesday, June 6, 1979, at the Sandy Hook Unit Chapel, Sandy Hook, New Jersey, and at 7:00 p.m. on Thursday, June 7, 1979, Robert Treat Hotel, 50 Park Place, Newark, New Jersey.

All interested persons are invited to attend and participate in the discussions. However, facilities and space to accommodate members of the public are limited and persons will be accommodated on a first come, first served basis.

Individuals and/or groups who wish to speak or make a presentation, should contact the Office of External Affairs by telephone (212) 630-0393 or postcard, stating the date of the meeting they will attend. Persons wishing further information concerning these various meetings, or wish to submit written statements, may contact Herbert S. Cables, Jr., Superintendent, Gateway National Recreation Area, Headquarters, Building 69, Floyd Bennett Field, Brooklyn, New York 11234. Area Code (212) 630-0353.

Dated: April 30, 1979.

Herbert S. Cables, Jr.,

Superintendent.

[FR Doc. 79-14728 Filed 5-10-79; 8:45 am]

BILLING CODE 4310-70-M

DEPARTMENT OF LABOR

Mine Safety and Health Administration

The Anaconda Co.; Petition for Modification of Application of Mandatory Safety Standards

The Anaconda Company, R.F.D. #1, Box 79, Tooele, Utah 84074, has filed a petition to modify the application of 30 CFR 57.19-54 (rope guides) to its Carr Fork Mine located in Tooele County, Utah. The petition is filed under section 101(c) of the Federal Mine Safety and Health Act of 1977, Pub. L. 95-164.

The substance of the petition follows:

1. The petitioner requests permission to use 1⅛" Diameter 18 x 7 non-rotating guide ropes during mine development work from the fresh air shaft at the 970 level of its mine.

2. The four guide ropes were installed new in June 1976, or later, and non-destructive tests are performed on them on a regular basis.

3. The maximum suspended load on the guide ropes is 73,154 pounds. The minimum break-test strength of one rope is 118,497 pounds for an overall static safety factor of 6.48.

4. The four ropes will be replaced with lock coil ropes when development work from the fresh air shaft is completed; the change to the permanent system will be made by the end of 1979.

5. The petitioner states that the alternative will achieve no less protection for its miners than that provided by the standard.

Request for Comments

Persons interested in this petition may furnish written comments on or before June 11, 1979. Comments must be filed with the Office of Standards, Regulations and Variances, Mine Safety and Health Administration, 4015 Wilson Boulevard, Arlington, Virginia 22203. Copies of the petition are available for inspection at that address.

Dated: May 7, 1979.

Robert B. Lagather,

Assistant Secretary for Mine Safety and Health.

[Docket No. M-79-7-M]

[FR Doc 79-14766 Filed 5-10-79; 8:45 am]

BILLING CODE 4510-43-M

Island Creek Coal Co.; Petition for Modification of Application of Mandatory Safety Standard

Island Creek Coal Company, P.O. Box 11430, Lexington, Kentucky 40575, has filed a petition to modify the application of 30 CFR 75.305 (weekly examinations for hazardous conditions) to its Guyan No. 1-C Mine, located in Logan County, Kentucky. The petition is filed under section 101(c) of the Federal Mine Safety and Health Act of 1977, Pub. L. 95-164.

The substance of the petition follows:

1. The petitioner has encountered water in the return air course of the No. 3 section of its mine during retreat mining.

2. The water is found in almost the entire length of the return air course and ranges in depth from two to twelve feet.

3. Because of the depth of the water, the return air course can be inspected in its entirety only by use of a boat.

4. The return air course is not a designated escapeway.

5. The petitioner states that the inspection of the entire length of the return air course is hazardous due to the water and would result in a diminution of the safety of the examiner.

6. As an alternative method of determining that the return air course is free of obstructions or hazardous conditions that would prevent proper ventilation of its No. 3 section, the petitioner proposes, in addition to daily fan inspections, to test and verify the free flow of air through the return air course at the beginning of each shift by use of a smoke producing device.

Request for Comments

Persons interested in this petition may furnish written comments on or before June 11, 1979. Comments must be filed with the Office of Standards, Regulations and Variances, Mine Safety and Health Administration, 4015 Wilson Boulevard, Arlington, Virginia 22203. Copies of the petition are available for inspection at that address.

Dated: May 7, 1979.

6Robert B. Lagather,

Assistant Secretary for Mine Safety and Health.

[Docket No. M-79-82-C]

[FR Doc. 79-14767 Filed 5-10-79; 8:45 am]

BILLING CODE 4510-43-M

J & M Coal Co.; Petition for Modification of Application of Mandatory Safety Standard

J & M Coal Company, Post Office Box 1153, Lafollette, Tennessee 37766, has filed a petition to modify the application of 30 CFR 75.1719 (illumination), to its No. 2 Mine, located in Campbell County, Tennessee. This petition is filed under section 101(c) of the Federal Mine Safety and Health Act of 1977, Pub. L. 95-164.

The substance of the petition follows:

1. The petition concerns the installation of lighting on the petitioner's mining machines.

2. The petitioner is mining coal seams 24 to 26 inches in height.

3. The petitioner's cutting machine is 18 inches in height.

4. Due to the low ceiling, it is neither feasible nor practical to install lights on the petitioner's mining machines or on stationary fixtures.

5. The petitioner states that the installation of such lights would result in a diminution of safety because the lights would be blinding to miners and would create additional heat in the close areas in which the miners work.

6. For these reasons, the petitioner requests relief from the application of the standard.

Request for Comments

Persons interested in this petition may furnish written comments on or before June 11, 1979. Comments must be filed with the Office of Standards, Regulations and Variances, Mine Safety and Health Administration, 4015 Wilson Boulevard, Arlington, Virginia 22203. Copies of the petition are available for inspection at that address.

Dated: May 7, 1979.

Robert B. Lagather,

Assistant Secretary for Mine Safety and Health.

[Docket No. M-79-80-C]

[FR Doc. 79-14768 Filed 5-10-79; 8:45 am]

BILLING CODE 4510-43-M

Office of the Secretary

A. D. Management, Inc. et al.; Negative Determinations Regarding Eligibility To Apply for Worker Adjustment Assistance

In accordance with Section 223 of the Trade Act of 1974 (19 U.S.C. 2273) the Department of Labor herein presents the results of investigations regarding certification of eligibility to apply for worker adjustment assistance.

In order to make an affirmative determination and issue a certification of eligibility to apply for adjustment assistance each of the group eligibility requirements of Section 222 of the Act must be met. In the following determinations, at least one of the criteria has not been met.

A. D. Management, Inc., Brooklyn, N.Y.

The investigation was initiated on March 21, 1979 in response to a worker petition received on March 16, 1979 which was filed on behalf of workers and former workers producing women's evening wear at A. D. Management, Incorporated, Brooklyn, New York. The investigation revealed that the plant produces women's long evening dresses. Without regard to whether any of the other criteria have been met, the following criterion has not been met:

That increases of imports of articles like or directly competitive with articles produced by the firm or appropriate subdivision have contributed importantly to the separations, or threat thereof, and to the absolute decline in sales or production.

A Departmental survey conducted with the manufacturers that contracted work with A. D. Management, Incorporated revealed that the manufacturers did not employ any foreign contractors nor did the manufacturers import any women's long evening dresses from 1976 through 1978. Total sales of the manufacturers increased from 1977 to 1978.

Conclusion

After careful review, I determine that all workers of A. D. Management, Incorporated, Brooklyn, New York are denied eligibility to apply for adjustment assistance under Title II, Chapter 2 of the Trade Act of 1974.

A. O. Smith Corp., Automotive Division, Milwaukee, Wis.

The investigation was initiated on January 22, 1979 in response to a worker petition received on January 15, 1979 which was filed by the International Association of Machinists and Aerospace Workers on behalf of workers and former workers producing front suspension control arms at the Automotive Division of A. O. Smith Corporation, Milwaukee, Wisconsin. The investigation revealed that the fixtures (tools, dies, jigs) used in the production of control arms are also produced at the plant. Without regard to whether any of the other criteria have been met, the following criterion has not been met:

That increases of imports of articles like or directly competitive with articles produced by the firm or appropriate subdivision have contributed importantly to the separations, or threat thereof, and to the absolute decline in sales or production.

The Department conducted a survey of customers of A. O. Smith. The survey revealed that customers which purchased car frames and truck frames from A. O. Smith did not purchase imported car and truck frames. The survey also revealed that customers which reduced purchases of control arms from A. O. Smith and increased purchases of imported control arms represented an insignificant proportion of the firm's decline in sales.

Conclusion

After careful review, I determine that all workers of the Automotive Division of A. O. Smith Corporation, Milwaukee, Wisconsin are denied eligibility to apply for adjustment assistance under Title II, Chapter 2 of the Trade Act of 1974.

Bethlehem Steel Corp., Lebanon, Pa.

The investigation was initiated on March 20, 1979 in response to a worker petition received on March 15, 1979 which was filed by the United Steelworkers of America on behalf of workers and former workers producing industrial fasteners at the Lebanon, Pennsylvania plant of Bethlehem Steel Corporation. Without regard to whether any of the other criteria have been met, the following criterion has not been met:

That a significant number or proportion of the workers in the workers' firm, or an appropriate subdivision thereof, have become totally or partially separated, or are threatened to become totally or partially separately.

On August 18, 1976 the Department issued a certification of eligibility to apply for worker adjustment assistance applicable to all workers of the Lebanon, Pennsylvania plant of Bethlehem Steel Corporation (TA-W-867). That certification expired on August 18, 1978, two years after its date of issuance.

Average total employment at the Lebanon, Pennsylvania plant of

Cork Linoleum and Plastic Workers of

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Bethlehem Steel Corporation increased during August–December 1978 compared to August–December 1977 and increased during January–February 1979 compared to January–February 1978. Compared to the previous month, average monthly employment of all workers increased or remained the same during each month from August 1978 through February 1979. No layoffs occurred at the Lebanon, Pennsylvania plant during this period.

Conclusion

After careful review, I determine that all workers of the Lebanon, Pennsylvania plant of Bethlehem Steel Corporation are denied eligibility to apply for adjustment assistance under Title II, Chapter 2 of the Trade Act of 1974.

Experimental Mining of West Virginia, McDowell County, W. Va.

The investigation was initiated on March 5, 1979 in response to a worker petition received on February 23, 1979 which was filed by the United Mine Workers of America, District 29, on behalf of workers formerly producing metallurgical coal at Experimental Mining of West Virginia, Richmond, Virginia. The investigation revealed that the mine is located in Roderfield, McDowell County, West Virginia. Without regard to whether any of the other criteria have been met, the following criterion has not been met:

That increases of imports of articles like or directly competitive with articles produced by the firm or appropriate subdivision have contributed importantly to the separations, or threat thereof, and to the absolute decline in sales or production.

Evidence developed in the course of the investigation revealed that Experimental Mining of West Virginia had been in operation for less than six months at the time that it was permanently closed. Due to the short term of operation of Experimental Mining of West Virginia, it is not possible to determine trends of sales and production or to statistically measure the impact of imports. In addition, worker qualifying requirements in Section 231 of the Act would not be met by any employees of Experimental Mining of West Virginia.

Conclusion

After careful review, I determine that all workers of Experimental Mining of West Virginia, McDowell County, West Virginia are denied eligibility to apply for adjustment assistance under Title II, Chapter 2 of the Trade Act of 1974.

Signed at Washington, D.C. this 30th day of April 1979.

James F. Taylor,

Director, Office of Management, Administration and Planning.

[TA-W-5004 etc.]

[FR Doc. 79-14780 Filed 5-10-79; 8:45 am]

BILLING CODE 4510-28-M

American Motors Corp., Kenosha, Wis.; Revised Determination Regarding Eligibility To Apply for Worker Adjustment Assistance

In accordance with Section 222 of the Trade Act of 1974 and in accordance with Section 223(a) of such Act, the Department of Labor issued on July 12, 1978, a Certification Regarding Eligibility to Apply for Adjustment Assistance that applied to workers and former workers producing Pacer cars in Final Assembly and Body Assembly and stampings and forgings at the Kenosha, Wisconsin plant of the American Motors Corporation.

Pursuant to that notice, workers at the Kenosha, Wisconsin, plant were certified eligibility to apply for trade adjustment assistance. The Notice of Determinations was published in the **Federal Register** on July 21, 1978 (43 FR 31462).

Subsequent to the publication of the Certification Regarding Eligibility to Apply for Worker Adjustment Assistance, the Office of Trade Adjustment Assistance, on its own motion and in the light of additional information, reopened the investigation into the following petition of the American Motors Corporation: the Kenosha, Wisconsin plant (TA-W-3250). In the original determination issued on July 12, 1978, all workers producing the Pacer car in final assembly and body assembly and stamping and forgings were certified as eligible to apply for adjustment assistance for the following reasons: (1) The Pacer car is classified as a compact car and Pacer car production decreased during Model Year (MY) [1] 1977 compared with MY 1976 while U.S. imports of compact cars increased both absolutely and relative to domestic production during the same period; (2) workers in stamping and forging supplied a significant proportion of their output for use in the subcompact Gremlin, the compact Pacer and Hornet/Concord, and the intermediate Matador cars while U.S. imports of these car categories increased.

In other determinations relating to the Kenosha plant, the following groups of workers were certified as eligible to apply for adjustment assistance: workers in final and body assembly, except for Pacer cars (TA-W-999, expired on October 28, 1978 for final assembly and expired on November 17, 1978 for body assembly) and workers producing engines and axles and gears (TA-W-1930, revised to expire on June 27, 1980).

Corporate officials of AMC stated that AMC reduced sharply its car production capacity during 1978 and this reduction prompted most workers in each department at the Kenosha plant to exercise their union contract bumping clause so as to maintain their employment either within a particular job classification or in another capacity at the plant. The consequence of this production reduction and bumping activity was a mixing of most workers among the different production phases of all car models so that all workers are substantially employed in production importantly impacted by increased imports.

The additional information makes it possible to expand the original certification of TA-W-3250 to include all production and support workers who are engaged in employment related to the production of all cars in both Final and Body Assemblies at the Kenosha plant, not just Pacer workers. From the data in the investigation, compact cars represent over 65 percent of the output from both Final and Body Assemblies. As a car category, U.S. imports of compact cars increased both absolutely and relative to domestic production during MY 1977 compared to MY 1976 and further increased in MY 1978. Since workers are not separately identifiable and a significant proportion of the output from these departments involves compact cars, all workers in Final and Body Assemblies at the Kenosha plant are affected by increased imports of compact cars. The original certification of workers producing stampings and forgings remains unchanged.

Conclusion

Based on additional evidence, a review of the entire record and in accordance with the provisions of the Act, I make the following revised determinations:

All production and support workers at the Kenosha, Wisconsin plant of the American Motors Corporation engaged in employment related to the production of the Pacer car in Final Assembly and Body Assembly, and in stamping and forging, who became totally or partially separated from employment on or after February 9, 1977, but before June 27, 1980; and all production and support workers engaged in employment related to the production of all automobiles (except the Pacer) in Final Assembly who became totally or partially separated from employment on or after October 28, 1978 but before June 27, 1980 and in Body Assembly on or after November 17, 1978, but before June 27, 1980 are eligible to apply for adjustment assistance under Title II, Chapter 2 of the Trade Act of 1974.

[1] Model Year (MY) runs from October 1 of one year to September 30 of the following year.

It is further concluded that workers engaged in employment related to the production of engines and axles and gears at the Kenosha, Wisconsin plant are excluded from this certification, since they continue to be covered under TA-W-1930.

Signed at Washington, D.C. this 4th day of May 1979.

Herbert N. Blackman,

Associate Deputy Under Secretary for International Affairs.

[TA-W-3250]

[FR Doc. 79-14783 Filed 5-10-79; 8:45 am]

BILLING CODE 4510-28-M

Amherst Coal Co.; Certification Regarding Eligibility To Apply for Worker Adjustment Assistance

In accordance with Section 223 of the Trade Act of 1974 (19 U.S.C. 2273) the Department of Labor herein presents the results of an investigation regarding certification of eligibility to apply for worker adjustment assistance.

In order to make an affirmative determination and issue a certification of eligibility to apply for adjustment assistance, each of the group eligibility requirements of Section 222 of the Act must be met. In the following case, it is concluded that all of the requirements have been met.

Amherst Coal Co., Inc., Amherst No. 1 Preparation Plant, Fanco, W. Va.

The investigation was initiated on February 26, 1979 in response to a worker petition received on February 22, 1979 which was filed by the United Mine Workers of America on behalf of workers and former workers cleaning metallurgical coal at the Amherst No. 1 Preparation Plant in Fanco, West Virginia of the Amherst Coal Company, Incorporated. The investigation revealed that the plant cleans coal only for the Buffalo Creek Division. It is concluded that all of the requirements have been met.

U.S. imports of metallurgical coal are negligible. However, in accordance with Section 222 of the Trade Act of 1974 and 29 CFR 90.2, a domestic article may be "directly competitive" with an imported article at a later stage of processing. Coke is metallurgical coal at a later stage of processing. U.S. imports of coke increased in quantity and relative to domestic production from 1976 to 1977 and from 1977 to 1978. Imports of coke were higher in quantity in January and February, 1979, compared with the same months in 1978.

A sample survey of major customers of the Amherst Coal Company revealed that customers decreased their purchases of metallurgical coal while increasing purchases of coke during 1978 as compared with purchases during 1977.

Conclusion

After careful review of the facts obtained in the investigation, I conclude that increases of imports of articles like or directly competitive with metallurgical coal cleaned at the Amherst No. 1 Preparation Plant of the Amherst Coal Company, Incorporated contributed importantly to the decline in sales or production and to the total or partial separation of workers of that firm. In accordance with the provisions of the Act, I make the following certification:

All workers at the Amherst No. 1 Preparation Plant in Fanco, West Virginia of the Amherst Coal Company, Incorporated who became totally or partially separated from employment on or after January 1, 1979 are eligible to apply for adjustment assistance under Title II, Chapter 2 of the Trade Act of 1974.

Signed at Washington, D.C. this 27th day of April 1979.

Michael Abo,

Director, Office of Foreign Economic Research.

[TA-W-4840]

[FR Doc. 79-14771 Filed 5-10-79; 8:45 am]

BILLING CODE 4510-28-M

Armstrong Rubber Co., et al.; Certifications Regarding Eligibility To Apply for Worker Adjustment Assistance

In accordance with Section 223 of the Trade Act of 1974 (19 U.S.C. 2273) the Department of Labor herein presents the results of investigations regarding certification of eligibility to apply for worker adjustment assistance.

In order to make an affirmative determination and issue a certification of eligibility to apply for adjustment assistance, each of the group eligibility requirements of Section 222 of the Act must be met. In the following cases, it is concluded that all of the requirements have been met.

Armstrong Rubber Co., Pacific Coast Division, Hanford, Calif.

The investigation was initiated on January 10, 1979 in response to a worker petition received on January 8, 1979 which was filed by the United Rubber, Cork, Linoleum and Plastic Workers of America on behalf of workers and former workers producing tires for passenger cars, campers and pickup trucks at Armstrong Rubber Company, Pacific Coast Division, Hanford, California. The investigation revealed that the plant also produces commercial truck tires. It is concluded that all of the requirements have been met.

U.S. imports of passenger car tires increased absolutely from 1976 to 1977 and increased relative to domestic production from 1977 to 1978. Imports through Western ports of entry represented nearly 25 percent of total imports in 1977 and 1978.

U.S. imports of truck and bus tires increased absolutely from 1976 to 1977 and from 1977 to 1978.

The preponderance of production at the Hanford plant is of bias ply passenger tires, which are sold in the replacement market. Virtually all of the passenger car tires produced at the Hanford plant are sold in the Western sales region of the company.

In the national tire market, especially the original equipment market, radials are rapidly replacing traditional bias ply tires. This is reflected both in increased production of radials and increased imports which are believed to be predominantly (over 90 percent) radials. Radial tires are directly competitive with bias ply tires.

The Hanford plant is used to supply the Western region market of Armstrong. With regard to import competition, the Western market differs significantly from other markets in the United States. With respect to passenger tire imports, there appears to be a significantly higher proportion of imported articles on the West Coast than the national average. Not only are these imported passenger car tires predominantly of radial construction, they are primarily targeted for the replacement market. This impacts on the Hanford plant in two ways: the longer life of radials and the preference by consumers for imported radials which replace both domestically produced bias and radial passenger car tires.

The decline in production of passenger car tires at the Hanford plant from 1977 to 1978 can be attributed to the loss of sales to major customers on the West Coast, where imports have had a significant impact on the market.

With respect to truck tires, major customers of the Pacific Coast Division decreased purchases from the subject plant in the second half of 1978 compared to the second half of 1977 and significantly increased their purchases of imported truck tires.

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Conclusion

After careful review of the facts obtained in the investigation, I conclude that increases of imports of articles like or directly competitive with passenger car tires and truck tires produced at the Armstrong Rubber Company, Pacific Coast Division, Hanford, California contributed importantly to the decline in sales or production and to the total or partial separation of workers of that firm. In accordance with the provisions of the Act, I make the following certification:

All workers of the Armstrong Rubber Company, Pacific Coast Division, Hanford, California, who became totally or partially separated from employment on or after May 13, 1978 are eligible to apply for adjustment assistance under Title II, Chapter 2 of the Trade Act of 1974.

Granarja Novelty Corp., Brooklyn, N.Y.

The investigation was initiated on March 15, 1979 in response to a worker petition received on March 12, 1979 which was filed by a company official on behalf of workers and former workers at Granarja Novelty Corporation. The investigation revealed that the company manufactures costume and novelty jewelry. It is concluded that all of the requirements for certification under the Trade Act of 1974 have been met.

Imports of costume jewelry increased in 1977 as compared to 1976, and again in 1978 as compared to 1977.

Results of a U.S. Department of Labor survey indicated that Granarja's only customer, a producer of costume and novelty jewelry, had increased purchases of jewelry from all direct and indirect foreign sources in 1977 and 1978 as compared to 1976. In addition, the customer stated that it planned to discontinue orders with Granarja and to increase its reliance on imports in 1979.

Conclusion

After careful review of the facts obtained in the investigation, I conclude that increases of imports of articles like or directly competitive with costume and novelty jewelry produced at Granarja Novelty Corporation, Brooklyn, New York contributed importantly to the decline in sales or production and to the total or partial separation of workers of that firm. In accordance with the provisions of the Act, I make the following certification:

All workers of Granarja Novelty Corporation, Brooklyn, New York who became totally or partially separated from employment on or after March 5, 1978 are eligible to apply for adjustment assistance under Title II, Chapter 2 of the Trade Act of 1974.

Jo-Gal Shoe, Inc., Lawrence, Mass.

The investigation was initiated on March 7, 1979 in response to a worker petition received on March 1, 1979 which was filed on behalf of workers and former workers producing infants', childrens' and misses' novelty shoes at Jo-Gal Shoe, Lawrence, Massachusetts. The investigation revealed that the correct name of the firm is Jo-Gal Shoe, Incorporated and that it produces infants', children's, misses' and women's non-athletic footwear. It is concluded that all of the requirements have been met.

U.S. imports of infants' and babies' nonrubber footwear children's nonrubber, non-athletic footwear, and misses' nonrubber, non-athletic footwear, increased either absolutely or relative to domestic production in 1978 compared to the average level for 1974 through 1977.

Major customers of Jo-Gal Shoe, Incorporated which reduced their purchases in the first quarter of 1979 compared with the first quarter of 1978 were surveyed regarding their total purchases of infants', children's and misses' non-athletic footwear. Several of these customers decreased purchases from domestic sources and increased purchases of imported infants', children's and misses' non-athletic footwear in the first quarter of 1979 compared with the same period in 1978.

Conclusion

After careful review of the facts obtained in the investigation, I conclude that increases of imports of articles like or directly competitive with infants', children's and misses' non-athletic footwear produced at Jo-Gal Shoe, Incorporated, Lawrence, Massachusetts contributed importantly to the decline in sales or production and to the total or partial separation of workers of that firm. In accordance with the provisions of the Act, I make the following certification:

All workers of Jo-Gal Shoe, Incorporated, Lawrence, Massachusetts who became totally or partially separated from employment on or after April 22, 1979 are eligible to apply for adjustment assistance under Title II, Chapter 2 of the Trade Act of 1974.

Ronay Co., New York, N.Y.

The investigation was initiated on March 19, 1979 in response to a worker petition received on March 12, 1979 which was filed by the Leather Goods, Plastics, Handbags, and Novelty Workers Union on behalf of workers and former workers producing handbags at Ronay Company, New York, New York. It is concluded that all of the requirements have been met.

Imports of ladies' handbags increased absolutely and relative to domestic production in 1978 compared to 1977.

Several of Ronay's customers who were surveyed increased purchases of imported handbags from 1977 to 1978 while decreasing purchases from Ronay Company.

Conclusion

After careful review of the facts obtained in the investigation, I conclude that increases of imports of articles like or directly competitive with ladies' handbags produced at Ronay Company, New York, New York contributed importantly to the decline in sales or production and to the total or partial separation of workers of that firm. In accordance with the provisions of the Act, I make the following certification:

All workers of Ronay Company, New York, New York who became totally or partially separated from employment on or after March 7, 1978 are eligible to apply for adjustment assistance under Title II, Chapter 2 of the Trade Act of 1974.

S & S Garments, Brooklyn, N.Y.

The investigation was initiated on March 7, 1979 in response to a worker petition received on February 27, 1979 which was filed on behalf of workers and former workers producing ladies' leather coats at S and S Garments, Brooklyn, New York. It is concluded that all of the requirements have been met.

Imports of men's, women's, and children's leather coats and jackets increased absolutely in 1977 compared to 1976 and in 1978 compared to 1977. Imports relative to domestic production increased in 1978 compared to 1977.

From 1976 through 1978 S and S Garments worked exclusively as a contractor for one manufacturer. Several of that manufacturer's customers who were surveyed reduced purchases from the manufacturer while increasing purchases of imported leather coats from 1977 to 1978.

Conclusion

After careful review of the facts obtained in the investigation, I conclude that increases of imports of articles like or directly competitive with ladies' leather coats produced at S and S Garments, Brooklyn, New York contributed importantly to the decline in sales or production and to the total or partial separation of workers of that firm. In accordance with the provisions of the Act, I make the following certification:

All workers of S and S Garments, Brooklyn, New York who became totally or partially separated from employment on or after February 21, 1978 are eligible to apply for adjustment assistance under Title II, Chapter 2 of the Trade Act of 1974.

Warren Shirt Co., Lebanon, Pa.

The investigation was initiated on March 15, 1979 in response to a worker petition received on March 12, 1979 which was filed on behalf of workers and former workers producing men's and boys' jackets and ski coats at Warren Shirt Company, Lebanon, Pennsylvania. It is concluded that all of the requirements have been met.

U.S. imports of men's and boys' non-tailored outer jackets increased absolutely and relative to domestic production in 1977 compared to 1976 and increased absolutely in 1978 compared to 1977.

Warren Shirt produced exclusively for one firm. Customers of the firm for which Warren produced were surveyed concerning their purchases of men's and boys' outer jackets. The survey revealed that several surveyed customers increased purchases of imported outerwear in 1978 compared to 1977.

Conclusion

After careful review of the facts obtained in the investigation, I conclude that increases of imports of articles like or directly competitive with men's and boys' jackets and ski coats produced at Warren Shirt Company, Lebanon, Pennsylvania contributed importantly to the decline in sales or production and to the total or partial separation of workers of that firm. In accordance with the provisions of the Act, I make the following certification:

All workers of Warren Shirt Company, Lebanon, Pennsylvania who became totally or partially separated from employment on or after March 6, 1978 are eligible to apply for adjustment assistance under Title II, Chapter 2 of the Trade Act of 1974.

Signed at Washington, D.C. this 4th day of May 1979.

James F. Taylor,

Director, Office of Management, Administration, and Planning.

[TA-W-4643 etc.]

[FR Doc. 79-14776 Filed 5-10-79; 8:45 am]

BILLING CODE 4510-28-M

Brown Shoe Co., Mountain Grove, Mo.; Termination of Investigation

Pursuant to Section 221 of the Trade Act of 1974, an investigation was initiated on April 4, 1979 in response to a worker petition received on March 30, 1979 which was filed by the Footwear Division of the Retail Clerks International Union, on behalf of workers and former workers producing women's shoes at the Mountain Grove, Missouri plant of Brown Shoe Company.

The petitioning group of workers in this case was included in a determination (TA-W-2376) issued April 7, 1978 which certified as eligible to apply for adjustment assistance all workers engaged in the production of women's shoes. Since all workers separated, totally or partially, from the Mountain Grove, Missouri plant of Brown Shoe Company, on or after December 1, 1976 (impact date) and before April 7, 1980 (expiration date of the determination) are covered by an existing determination, a new investigation would serve no purpose. Consequently, the investigation has been terminated.

Signed at Washington, D.C. this 2nd day of May 1979.

Marvin M. Fooks,

Director, Office of Trade Adjustment Assistance.

[TA-W-5014]

[FR Doc. 79-14784 Filed 5-10-79; 8:45 am]

BILLING CODE 4510-28-M

Chafin Coal Co., et al.; Certifications Regarding Eligibility To Apply for Worker Adjustment Assistance

In accordance with Section 223 of the Trade Act of 1974 (19 U.S.C. 2273) the Department of Labor herein presents the results of investigations regarding certification of eligibility to apply for worker adjustment assistance.

In order to make an affirmative determination and issue a certification of eligibility to apply for adjustment assistance, each of the group eligibility requirements of Section 222 of the Act must be met. In each of the following cases, it is concluded that all of the requirements have been met.

Chafin Coal Co., Logan, W. Va.

The investigations were initiated on March 21, 1979, in response to a worker petition received on March 19, 1979, which was filed by the United Mine Workers of America, Local 9553, in part on behalf of workers and former workers mining metallurgical coal at the No. 2A Mine (TA-W-5009), the No. 4 Mine (TA-W-5010), the No. 5 Mine (TA-W-5011), the No. 6 Mine (TA-W-5012), the No. 7 Mine (TA-W-5013) and the No. 10 Mine (TA-W-5014), and in part on behalf of workers and former workers cleaning metallurgical coal at the Chafin Preparation Plant (TA-W-5015) of Chafin Coal Company, Logan, West Virgina. The petition was expanded to cover workers and former workers providing personnel and other administrative support services at the Logan, West Virginia field office of Chafin Coal Company (TA-W-5015A). It is concluded that all of the requirements have been met.

U.S. imports of metallurgical coal are negligible. However, in accordance with Section 222 of the Trade Act of 1974 and 29 CFR 90.2, a domestic article may be "directly competitive" with an imported article at a later stage of processing. Coke is metallurgical coal at a later stage of processing. Therefore, imports of coke as well as imports of metallurgical coal should be considered in determining import injury to workers producing metallurgical coal.

U.S. imports of coke increased absolutely and relative to domestic production from 1976 to 1977 and from 1977 to 1978.

A Department survey established that several major customers had reduced their purchases from Chafin Coal Company in 1978 compared to 1977 as a result of a decline in their own sales of metallurgical coal to U.S. steel producers. These customers accounted for the preponderance of the decline in Chafin Coal Company's sales from 1977 to 1978. Further investigation revealed that those steel producers who decreased purchases of metallurgical coal from Chafin's customers had increased imports of coke in 1978 compared to 1977.

Conclusion

After careful review of the facts obtained in the investigation, I conclude that increases of imports of articles like or directly competitive with metallurgical coal produced at the No. 2A Mine, the No. 4 Mine, the No. 5 Mine, the No. 6 Mine, the No. 7 Mine, the No. 10 Mine, and the Chafin Preparation Plant of Chafin Coal Company, Logan, West Virginia, contributed importantly to the decline in sales or production and to the total or partial separation of workers at the above facilities and at the Company's field office in Logan, West Virginia. In accordance with the provisions of the Act, I make the following certifications:

All workers at the No. 2A Mine, the No. 4 Mine, the No. 5 Mine, the No. 6 Mine, the No. 7 Mine, the No. 10 Mine, and the Chafin Preparation Plant of Chafin Coal Company, Logan, West Virginia, who became totally or partially separated from employment on or after November 25, 1978 are eligible to apply for adjustment assistance under Title II, Chapter 2 of the Trade Act of 1974; and

All workers at the Logan, West Virginia field office of Chafin Coal Company who became totally or partially separated from

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employment on or after January 20, 1979 are eligible to apply for adjustment assistance under Title II, Chapter 2 of the Trade Act of 1974.

Daisy's Originals, Inc., Miami, Fla.

The investigation was initiated on March 8, 1979 in response to a worker petition received on March 5, 1979 which was filed on behalf of workers and former workers producing women's pant suits, dresses, blouses and slacks at Daisy's Originals, Incorporated, Miami, Florida. The investigation revealed that the plant also produced women's skirts and jackets. It is concluded that all of the requirements have been met.

U.S. imports of women's, misses' and children's suits increased absolutely in 1978 compared to 1977.

U.S. imports of women's, misses' and children's dresses increased absolutely in 1978 compared to 1977.

U.S. imports of women's, misses' and children's blouses and shirts increased absolutely in each year from 1975 through 1978 compared to the preceding year.

U.S. imports of women's, misses' and children's slacks and shorts increased absolutely in each year from 1975 through 1978 compared to the preceding year, and increased relative to domestic production in each year from 1975 through 1977 compared to the preceding year. The import-to-domestic production ratio for 1978 is not yet available.

U.S. imports of women's, misses' and children's skirts increased absolutely in 1978 compared to 1977.

U.S. imports of women's, misses' and children's coats and jackets increased absolutely in each year from 1975 through 1978 compared to the preceding year and increased relative to domestic production in each year from 1975 through 1977 compared to the preceding year. The import-to-domestic production ratio for 1978 is not yet available.

The investigation revealed that Daisy's Originals, Incorporated produced two categories of sportswear—a "Tall" line and a regular-size line. Each line constituted a substantial proportion of the firm's total production.

A Departmental survey was conducted with retail customers of Daisy's Original's, Incorporated. The survey revealed that several customers decreased their purchases of regular-sized women's sportswear from Daisy's Originals, Incorporated and increased their purchases of imported women's sportswear from 1977 to 1978 and in the first quarter of 1979 compared to the first quarter of 1978. In aggregate, the surveyed customers increased their reliance on foreign sources for their ladies' sportswear demand in 1978 as compared to 1977.

Conclusion

After careful review of the facts obtained in the investigation, I conclude that increases of imports of articles like or directly competitive with women's pant suits, dresses, blouses, slacks, skirts and jackets produced at Daisy's Originals, Incorporated, Miami, Florida contributed importantly to the decline in sales or production and to the total or partial separation of workers of that firm. In accordance with the provisions of the Act, I make the following certification:

All workers of Daisy's Originals, Incorporated, Miami, Florida, engaged in employment related to the production of regular-sized women's sportswear, who became totally or partially separated from employment on or after February 27, 1978 are eligible to apply for adjustment assistance under Title II, Chapter 2 of the Trade Act of 1974.

International Playtex, Inc., Lafayette, Ala.

The investigation was initiated on March 8, 1979 in response to a worker petition received on March 5, 1979 which was filed on behalf of workers and former workers producing ladies' foundation garments at the Lafayette, Alabama plant of International Playtex, Incorporated. The investigation revealed that the plant primarily produces brassieres. It is concluded that all of the requirements have been met.

U.S. imports of brassieres, bralettes and bandeaux increased in 1977 from 1976 and increased in 1978 from 1977.

Although imports of brassieres by International Playtex, Incorporated increased in fiscal year 1978 from fiscal year 1977, they declined in the first quarter of fiscal year 1979 compared to the first quarter of fiscal year 1978. The primary reason for the closure of the Lafayette plant was a decline in company sales in fiscal year 1978 from fiscal year 1977 and in the first quarter of fiscal year 1979 compared to the first quarter of fiscal year 1978.

Customers of Playtex who decreased purchases of brassieres from Playtex in fiscal year 1978 from fiscal year 1977 indicated in a Department survey that they had increased purchases of imported brassieres from sources other than Playtex.

Conclusion

After careful review of the facts obtained in the investigation, I conclude that increases of imports of articles like or directly competitive with brassieres produced at the Lafayette, Alabama plant of International Playtex, Incorporated contributed importantly to the decline in sales or production and to the total or partial separation of workers of that plant. In accordance with the provisions of the Act, I make the following certification:

All workers of the Lafayette, Alabama plant of International Playtex, Incorporated who became totally or partially separated from employment on or after February 28, 1978 are eligible to apply for adjustment assistance under Title II, Chapter 2 of the Trade Act of 1974.

Signed at Washington, D.C., this 7th day of May 1979.

James F. Taylor,

Director, Office of Management, Administration, and Planning.

[TA-W-5009-5015, 5015A etc.]

[FR Doc. 79-14778 Filed 5-10-79; 8:45 am]

BILLING CODE 4510-28-M

Chrysler Corp., Trenton, Mich., Engine Plant; Negative Determination Regarding Eligibility To Apply for Worker Adjustment Assistance

In accordance with Section 223 of the Trade Act of 1974 the Department of Labor herein presents the results of TA-W-4734: investigation regarding certification of eligibility to apply for worker adjustment assistance as prescribed in Section 222 of the Act.

The investigation was initiated on January 24, 1979 in response to a worker petition received on January 15, 1979 which was filed by the International Union, United Automobile, Aerospace and Agricultural Implement Workers of America on behalf of workers and former workers producing engines for Chrysler cars and light trucks at the Trenton, Michigan Engine Plant of the Chrysler Corporation, Highland Park, Michigan.

The Notice of Investigation was published in the Federal Register on January 30, 1979 (44 FR 5952). No public hearing was requested and none was held.

The determination was based upon information obtained principally from officials of Chrysler Corporation, the U.S. Department of Commerce, the U.S. International Trade Commission, industry analysts and Department files.

In order to make an affirmative determination and issue a certification of eligibility to apply for adjustment assistance each of the group eligibility requirements of Section 222 of the Act must be met. Without regard to whether any of the other criteria have been met, the following criterion has not been met:

That increases of imports of articles like or directly competitive with articles produced by the firm or appropriate subdivision have contributed importantly to the separations, or threat thereof, and to the absolute decline in sales or production.

Evidence developed in the course of the investigation revealed that in order to meet the U.S. Government's fuel economy standards, Chrysler decided in 1978 to downsize its automobile fleet, to discontinue production of the large V-8 engine, and to offer only the mid and small size V-8 engines on 1979 model year car lines. At the same time Chrysler opted to undertake full production of a fuel efficient 4 cylinder engine. As a result of this decision, all production of large 8 cylinder engines was phased out at Trenton in the second half of 1978, causing significant layoffs at the plant. Trenton was the only Chrysler facility producing the large size 8 cylinder engines.

Chrysler began production of the 4 cylinder engines at Trenton in September 1977. Prior to that period, Chrysler did not produce these engines at any of its domestic or foreign plants. Chrysler produces the 4 cylinder engines only at its Trenton plant. To satisfy its immediate 4 cylinder engine requirements, Chrysler is purchasing semi-finished, 4 cylinder engine blocks from Volkswagen in Germany for processing at Trenton. In April 1978 Chrysler announced long-term plans to refit the Trenton plant for production of a new, Chrysler designed 4 cylinder engine. By mid-1980, when initial production is expected to start, Trenton will manufacture all parts for and perform full assembly on the new 4 cylinder engine. Chrysler does not produce 4 cylinder engines at its foreign plants in Canada and Mexico and does not import any finished 4 cylinder engines for automotive assembly in the U.S.

The 6 cylinder engine produced at Trenton is also manufactured at Chrysler's plants in Windsor, Canada and Tolùca, Mexico. During the 1976-1978 period, Chrysler imported 6 cylinder engines from both foreign plants for automotive assembly in the U.S. In July 1978, however, all production of 6 cylinder engines stopped at Windsor, and this production was transferred to Trenton. After that imports of 6 cylinder engines ceased from Windsor.

Chrysler's total imports of 6 cylinder engines decreased in quantity from 1976 to 1977 and from 1977 to 1978. The ratio of these imports to domestic 6 cylinder engine production decreased from 1977 to 1978. Production of 6 cylinder engines at Chrysler's foreign plants compared to Chrysler's domestic plants decreased from 1977 to 1978.

During the 1976-1978 period, Chrysler produced large size V-8 engines at Trenton, mid-size V-8 engines at Windsor and Toluca, and small size V-8 engines at Mound Road, Michigan. Chrysler imports the mid-size 8 cylinder engines from Windsor and Toluca for automotive assembly in the U.S. Chrysler's imports of mid-size 8 cylinder engines decreased in quantity from 1976 to 1977 and from 1977 to 1978. When compared with the same quarter of the previous year, Chrysler's imports of 8 cylinder engines declined steadily for five consecutive quarters from the third quarter of 1977 through the third quarter of 1978. Imports increased in the fourth quarter of 1978 compared to the fourth quarter of 1977.

The phaseout of the 8 cylinder engine line at Trenton was planned to coincide with the conversion of the Trenton plant to 4 cylinder engine production. These developments, plus the transfer of 6 cylinder engine production from Windsor to Trenton, resulted in higher engine production but fewer workers at Trenton in 1978 compared to 1977.

Conclusion

After careful review, I determine that all workers of the Trenton, Michigan Engine Plant of the Chrysler Corporation are denied eligibility to apply for adjustment assistance under Title II, Chapter 2 of the Trade Act of 1974.

Signed at Washington, D.C. this 4th day of May 1979.

Harry J. Gilman,

Supervisory International Economist, Office of Foreign Economic Research.

[TA-W-4734]

[FR Doc. 79-14785 Filed 5-10-79; 8:45 am]

BILLING CODE 4510-28-M

Cities Service Co.; Certification Regarding Eligibility To Apply for Worker Adjustment Assistance

In accordance with Section 223 of the Trade Act of 1974 (19 U.S.C. 2273) the Department of Labor herein presents the results of an investigation regarding certification of eligibility to apply for worker adjustment assistance.

In order to make an affirmative determination and issue a certification of eligibility to apply for adjustment assistance, each of the group eligibility requirements of Section 222 of the Act must be met. In the following case, it is concluded that all of the requirements have been met.

Cities Service Co. Copperhill Operations, Copperhill, Tenn.

The investigation was initiated on April 6, 1979 in response to a worker petition received on April 3, 1979 which was filed on behalf of workers and former workers producing iron oxide pellets at the Copperhill Operations of Cities Service Company, Copperhill, Tennessee. The investigation revealed that the petition was filed by the International Chemical Workers Union, the International Brotherhood of Electrical Workers, the International Brotherhood of Boilermakers, Iron Shipbuilders, Blacksmiths, Forgers and Helpers of America, and the International Association of Machinists and Aerospace Workers. It is concluded that all of the requirements have been met.

U.S. imports of iron ore, pellets and sinter increased in terms of quantity during the first quarter of 1979 compared with the first quarter of 1978.

Cities Service contracted to sell all pellet production to a single customer until early 1979, when the firms negotiated early termination of the contract. The customer had begun purchasing imported pellets at a price lower than the contract price, and it was determined that Cities Service was unable to supply the pellets at the lower competitive price.

Conclusion

After careful review of the facts obtained in the investigation, I conclude that increases of imports of articles like or directly competitive with iron oxide pellets produced at the Copperhill Operations of Cities Service Company, Copperhill, Tennessee, contributed importantly to the decline in sales or production and to the total or partial separation of workers of that firm. In accordance with the provisions of the Act, I make the following certification:

"All workers of the Cooperhill Operations of Cities Service Company, Copperhill, Tennessee who were engaged in employment related to the production of iron oxide pellets who became totally or partially separated from employment on or after August 1, 1978 are eligible to apply for adjustment assistance under Title II, Chapter 2 of the Trade Act of 1974."

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Signed at Washington, D.C. this 1st day of May 1979.

Harry J. Gilman,

Supervisory International Economist, Office of Foreign Economic Research.

[TA-W-5166]

[FR Doc. 79-14774 Filed 5-10-79; 8:45 am]

BILLING CODE 4510-28-M

Cluett, Peabody & Co., Inc.; Certifications Regarding Eligibility To Apply for Worker Adjustment Assistance

In accordance with Section 223 of the Trade Act of 1974 (19 U.S.C. 2273) the Department of Labor herein presents the results of investigations regarding certification of eligibility to apply for worker adjustment assistance.

In order to make an affirmative determination and issue a certification of eligibility to apply for adjustment assistance, each of the group eligibility requirements of Section 222 of the Act must be met. In each of the following cases, it is concluded that all of the requirements have been met.

Cluett, Peabody & Co., Inc., the Arrow Co. Division, Virginia, Minn., Eveleth, Minn. (Eveleth I)

The investigation was initiated on March 7, 1979 in response to a worker petition received on March 5, 1979 which was filed by the Amalgamated Clothing and Textile Workers Union on behalf of workers and former workers producing men's dress shirts at the Virginia, Minnesota (TA-W-4903) and Eveleth, Minnesota (TA-W-4904) plants of the Arrow Company Division of Cluett, Peabody and Company, Incorporated. A petition for eligibility to apply for adjustment assistance benefits has also been filed on behalf of workers producing men's underwear at a second Arrow plant in Eveleth, Minnesota (TA-W-5035). The plant which produced primarily men's dress shirts (TA-W-4904) has been designated Eveleth I, and the plant which produced men's underwear (TA-W-5035) has been designated Eveleth II. It is concluded that all of the requirements have been met.

U.S. imports of men's and boys' woven dress and business shirts increased in quantity and relative to domestic production from 1976 to 1977, and increased in quantity from 1977 to 1978.

The Department of Labor conducted a survey of the customers of the Arrow Company. From 1976 to 1977 and from 1977 to 1978, many of the customers surveyed increased purchases of imported men's dress shirts and decreased purchases of men's dress shirts from Arrow.

Conclusion

After careful review of the facts obtained in the investigation, I conclude that increases of imports of articles like or directly competitive with men's dress shirts produced at the Virginia, Minnesota and Eveleth I, Eveleth, Minnesota plants of the Arrow Company Division of Cluett, Peabody and Company, Incorporated contributed importantly to the decline in sales or production and to the total or partial separation of workers at those plants. In accordance with the provisions of the Act, I make the following certification:

"All workers at the Virginia, Minnesota plant of The Arrow Company Division of Cluett, Peabody and Company, Incorporated who became totally or partially separated from employment on or after April 1, 1978, and all workers at the Eveleth I plant, Eveleth, Minnesota of The Arrow Company Division of Cluett, Peabody and Company, Incorporated who became totally or partially separated from employment on or after August 1, 1978 are eligible to apply for adjustment assistance under Title II, Chapter 2 of the Trade Act of 1974."

Signed at Washington, D.C. this 4th day of May 1979.

Harry J. Gilman,

Supervisory International Economist, Office of Foreign Economic Research.

[TA-W-4903, 4904]

[FR Doc. 79-14773 Filed 5-10-79; 8:45 am]

BILLING CODE 4510-28-M

Florsheim Shoe Co. et al.; Certifications Regarding Eligibility To Apply for Worker Adjustment Assistance

In accordance with Section 223 of the Trade Act of 1974 (19 U.S.C. 2273) the Department of Labor herein presents the results of investigations regarding certification of eligibility to apply for worker adjustment assistance.

In order to make an affirmative determination and issue a certification of eligibility to apply for adjustment assistance, each of the group eligibility requirements of Section 222 of the Act must be met. In the following cases, it is concluded that all of the requirements have been met.

Florsheim Shoe Co., Cape Sole Leather Plant, Cape Girardeau, Mo.

The investigation was initiated on March 19, 1979 in response to a worker petition received on March 13, 1979 which was filed by the United Shoe Workers of America on behalf of workers and former workers producing men's leather shoe soles at the Cape Sole Leather Plant (North Main Street), Cape Girardeau, Missouri of the Florsheim Shoe Company. The investigation revealed that the plant primarily produces leather outsoles, insoles, heels, unit bottoms and tops. It is concluded that all of the requirements have been met.

U.S. imports of men's dress and casual footwear increased absolutely and relative to domestic production in 1977 compared to 1976 and increased relative to domestic production in 1978 compared to 1977. Imports as a percentage of domestic production exceeded 75 percent during 1976, 1977, and 1978.

The Cape Sole Leather Plant performs part of the integrated operation for production of men's shoes by Florsheim Shoe plants. Total Florsheim Shoe Company imports of men's footwear increased in 1977 compared to 1976 and in 1978 compared to 1977.

Conclusion

After careful review of the facts obtained in the investigation, I conclude that increases of imports of articles like or directly competitive with leather outsoles, insoles, heels, unit bottoms, and tops produced at the Cape Sole Leather Plant, Cape Girardeau, Missouri of the Florsheim Shoe Company contributed importantly to the decline in sales or production and to the total or partial separation of workers of that firm. In accordance with the provisions of the Act, I make the following certification:

"All workers of the Cape Sole Leather Plant (North Main Street) Cape Girardeau, Missouri of the Florsheim Shoe Company who became totally or partially separated from employment on or after March 8, 1978 are eligible to apply for adjustment assistance under Title II, Chapter 2 of the Trade Act of 1974."

Guyan Eagle Mining Co., Lyburn, West Va.

The investigation was initiated on April 4, 1979 in response to a worker petition received on April 3, 1979 which was filed by the United Mine Workers of America on behalf of workers and former workers producing metallurgical coal at Guyan Eagle Mining Company, Lyburn, West Virginia. It is concluded that all of the requirements have been met.

While U.S. imports of metallurgical coal have been negligible, U.S. imports of coke increased in 1977 compared to 1976 and in 1978 compared to 1977.

Coke is metallurgical coal at a later stage of processing. Since a domestic article may be "directly competitive" with an imported article at a later stage of processing, imports of coke can be considered in determining import injury to workers producing metallurgical coal at Guyan Eagle Mining Company.

Guyan Eagle Mining Company sells all its coal through a sales broker. A survey of the customers of this broker revealed that a significant customer stopped purchasing metallurgical coal from Guyan Eagle in December, 1978 and increased purchases of imported coke in 1978 compared to 1977. This customer continued to increase its purchases of imported coke in the first quarter of 1979.

Conclusion

After careful review of the facts obtained in the investigation, I conclude that increases of imports of articles like or directly competitive with metallugical coal produced at Guyan Eagle Mining Company, Lyburn, West Virginia contributed importantly to the decline in sales or production and to the total or partial separation of workers of that firm. In accordance with the provisions of the Act, I make the following certification:

"All workers of Guyan Eagle Mining Company, Lyburn, West Virginia who became totally or partially separated from employment on or after November 5, 1978 are eligible to apply for adjustment assistance under Title II, Chapter 2 of the Trade Act of 1974."

Leggio Coat Co., Brooklyn, N.Y.

The investigation was initiated on March 13, 1979 in response to a worker petition received on March 8, 1979 which was filed on behalf of workers and former workers producing ladies' coats at Leggio Coat Company, Brooklyn, New York. The investigation revealed that the coats produced at the firm included raincoats. It is concluded that all of the requirements have been met.

Imports of women's, misses', and children's coats and jackets, increased in terms of quantity in 1977 compared with 1976, and increased in 1978 compared with 1977. Imports of women's, girls', and infants' raincoats increased in terms of quantity in 1978 compared with 1977.

The Department conducted a survey of manufacturers who contract coat production with Leggio Coat Company. The survey revealed some manufacturers decreased contract work with Leggio Coat Company and increased purchases of imported all weather coats, including raincoats, during the period 1976 through 1978.

Conclusion

After careful review of the facts obtained in the investigation, I conclude that increases of imports of articles like or directly competitive with ladies' coats and raincoats produced at Leggio Coat company, Brooklyn, New York contributed importantly to the decline in sales or production and to the total or partial separation of workers of that firm. In accordance with the provisions of the Act, I make the following certification:

"All workers of Leggio Coat company, Brooklyn, New York who became totally or partially separated from employment on or after July 29, 1978 are eligible to apply for adjustment assistance under Title II, Chapter 2 of the Trade Act of 1974."

Malden Knitting Mills, Inc., Malden, Mass., Lawrence, Mass.

The investigation was initiated on March 19, 1979 in response to a worker petition received on March 12, 1979 which was filed on behalf of workers and former workers producing men's and women's sweaters and shirts at the Malden, Massachusetts (TA-W-4976) and Lawrence, Massachusetts (TA-W-4977) plants of Malden Knitting Mills. The investigation revealed that the Malden plant primarily produces men's sweaters and the Lawrence plant produces primarily men's knit shirts and sweaters. It is concluded that all of the requirements have been met.

Imports of men's and boys' sweaters, knit cardigans, and pullovers increased absolutely in quantity in 1978 compared to 1977. Imports of men's and boys' knit sport and knit dress shirts increased absolutely in quantity in 1978 compared to 1977.

The Department conducted a survey of customers of Malden Knitting Mills. The results of this survey revealed that some customers had decreased purchases of men's sweaters and shirts in 1978 compared to 1977 from Malden Knitting Mills and increased purchases from foreign sources during the same time period.

Conclusion

After careful review of the facts obtained in the investigation, I conclude that increases of imports of articles like or directly competitive with men's sweaters and shirts produced at Malden Knitting Mills, Malden Massachusetts (TA-W-4976) and Lawrence, Massachusetts (TA-W-4977) contributed importantly to the decline in sales or production and to the total or partial separation of workers of that firm. In accordance with the provisions of the Act, I make the following certification:

"All workers of Malden Knitting Mills, Malden, Massachusetts (TA-W-4976) and Lawrence, Massachusetts (TA-W-4977) who became totally or partially separated from employment on or after March 7, 1978 are eligible to apply for adjustment assistance under Title II, Chapter 2 of the Trade Act of 1974."

Signed at Washington, D.C. this 30th day of April 1979.

James F. Taylor,

Director, Office of Management Administration and Planning.

[TA-W-4975 etc.]

[FR Doc. 79-14781 Filed 5-10-79; 8:45 am]

BILLING CODE 4510-28-M

Ginny Jones, Inc., et al.; Certifications Regarding Eligibility To Apply for Worker Adjustment Assistance

In accordance with Section 223 of the Trade Act of 1974 (19 U.S.C. 2273) the Department of Labor herein presents the results of investigations regarding certification of eligibility to apply for worker adjustment assistance.

In order to make an affirmative determination and issue a certification of eligibility to apply for adjustment assistance, each of the group eligibility requirements of Section 222 of the Act must be met. In the following cases, it is concluded that all of the requirements have been met.

Ginny Jones, Inc., Brooklyn, N.Y.

The investigation was initiated on February 28, 1979 in response to a worker petition received on February 26, 1979 which was filed by the knitgoods Union, International Ladies' Garment Workers' Union on behalf of workers and former workers producing ladies' sportswear and men's and ladies' sweaters at Ginny Jones, Incorporated, Brooklyn, New York. The investigation revealed that the plant produces men's and ladies' sweaters. It is concluded that all of the requirements have been met.

U.S. imports of women's, misses' and children's sweaters increased both absolutely and relative to domestic production from 1975 to 1976. Imports of sweaters increased in 1977 as compared to the average level of imports for the years 1974 through 1976. The ratio of imports of sweaters to domestic production exceeded 140 percent in 1976 and in 1977. The IP ratio in 1977 was higher than the average IP ratio for the period 1974 through 1976.

U.S. imports of men's and boys' sweaters, knit cardigans and pullovers increased on an absolute basis in 1977

compared to 1976 and in 1978 compared to 1977.

The Office of Trade Adjustment Assistance conducted a survey of manufacturers who contracted ladies' and men's sweater production with Ginny Jones, Incorporated. The survey indicated that some manufacturers who accounted for the majority of Ginny Jones' decline in contracts, were also faced with declining company sales. A survey of the manufacturers' retail customers revealed that major customers decreased their purchases of ladies' sweaters from domestic sources and increased their purchases from foreign sources in 1978 as compared to 1977.

Conclusion

After careful review of the facts obtained in the investigation, I conclude that increases of imports of articles like or directly competitive with ladies' sweaters produced at Ginny Jones, Incorporated, Brooklyn, New York contributed importantly to the decline in sales or production and to the total or partial separation of workers of that firm. In accordance with the provisions of the Act, I make the following certification:

"All workers of Ginny Jones, Incorporated, Brooklyn, New York, engaged in employment related to the production of ladies' sweaters, who became totally or partially separated from employment on or after November 4, 1978 and before March 15, 1979 are eligible to apply for adjustment assistance under Title II, Chapter 2 of the Trade Act of 1974."

Rola Co., Punxsutawney, Pa., Du Bois, Pa., Hawthorne, Pa.

The investiation was initiated on February 15, 1979 in response to worker petitions received on February 9, 1979 which were filed by the United Steelworkers of America on behalf of workers and former workers producing electronic loudspeakers at the Punxsutawney (TA–W–4820) and Hawthorne (TA–W–4821) Pennsylvania plants of the Rola Company. The investigation was expanded to include workers and former workers producing electronic loudspeakers at the Du Bois, Pennsylvania (TA–W–4820A) plant of the Rola Company. It is concluded that all of the requirements have been met.

Imports of non-enclosed loudspeakers increased in quantity and value in 1978 compared to 1977. A survey conducted of customers of the Rola Company indicated that some surveyed customers reduced purchases from Rola Company while increasing purchases of imports.

Conclusion

After careful review of the facts obtained in the investigation, I conclude that increases of imports of articles like or directly competitive with electronic loudspeakers produced at the Punxsutawney, Du Bois, and Hawthorne, Pennsylvania plants of Rola Company contributed importantly to the decline in sales or production and to the total or partial separation of workers of that firm. In accordance with the provisions of the Act, I make the following certification:

"All workers of Rola Company, Punxsutawney, Pennsylvania, Du Bois, Pennsylvania and Hawthorne, Pennsylvania, who became totally or partially separated from employment on or after June 3, 1978 are eligible to apply for adjustment assistance under Title II, Chapter 2 of the Trade Act of 1974."

Signed at Washington, D.C. this 30th day of April 1979.

Harry J. Gilman,

Supervisory International Economist, Office of Foreign Economic Research.

[TA–W–4885 etc.]

[FR Doc. 79–14775 Filed 5–10–79; 8:45 am]

BILLING CODE 4510–28–M

International Knits, Inc., et al.; Negative Determinations Regarding Eligibility To Apply for Worker Adjustment Assistance

In accordance with Section 223 of the Trade Act of 1974 (19 U.S.C. 2273) the Department of Labor herein presents the results of an investigation regarding certification of eligibility to apply for worker adjustment assistance.

In order to make an affirmative determination and issue a certification of eligibility to apply for adjustment assistance, each of the group eligibility requirements of Section 222 of the Act must be met. In the following determinations at least one of the criteria has not been met.

International Knits, Inc., A.N.A. Knits International; Los Angeles, Calif.

The investigation was initiated on March 20, 1979 in response to a worker petition received on March 15, 1979 which was filed by the Southern California District Council, International Ladies' Garment Workers' Union on behalf of workers and former workers producing knit fabric at International Knits Incorporated, A/N/A Knits International, Los Angeles, California. Without regard to whether any of the other criteria have been met, the following criterion has not been met:

That increases of imports of articles like or directly competitive with articles produced by the firm or appropriate subdivision have contributed importantly to the separations, or threat thereof, and to the absolute decline in sales or production.

A Departmental survey was conducted with manufacturers for whom International knits, Incorporated produced knit fabric. The survey revealed that manufacturers did not purchase imported knit fabric in 1976, 1977 or 1978.

Conclusion

After careful review, I determine that all workers of International Knits, Incorporated, A/N/A Knits International, Los Angeles California are denied eligibility to apply for adjustment assistance under Title II, Chapter 2 of the Trade Act of 1974.

Mitey Miss, Inc., New York, N.Y.

The investigation was initiated on March 8, 1979 in response to a worker petition received on February 27, 1979 which was filed by the International Ladies garment Workers Union on behalf of workers and former workers proucing children's clothing at Mitey Miss, Incorporated, New York, New York. Without regard to whether any of the other criteria have been met, the following criterion has not been met:

That increases of imports of articles like or directly competitive with articles produced by the firm or appropriate subdivision have contributed importantly to the separations, or threat thereof, and to the absolute decline in sales or production.

The investigation revealed that Mitey Miss, Incorporated manufactured original samples of children's clothing. The majority of the corporation's sales were of girls' jeans which were produced offshore. The remainder of the company's sales were of girls' knit blouses which were manufactured by Sol Enterprises of Pennsylvania, an affiliate of Mitey Miss, Incorporated and by outside contracts.

Sales of blouses by Mitey Miss, and production by Sol Enterprises and outside contractors, increased in 1978 compared to 1977. The cessation of operations by Mitey Miss was due to the lack of management staff to continue operations of the firm.

Conclusion

After careful review, I determine that all workers of Mitey Miss, Incorporated, New York, New York are denied eligibility to apply for adjustment assistance under Title II, Chapter 2 of the Trade Act of 1974.

Opelika Manufacturing Corp., Opelika, Ala.

The investigation was initiated on August 22, 1978 in response to a worker petition received on August 21, 1978 which was filed by the Amalgamated Clothing and Textile Workers of America on behalf of workers and former workers producing aprons at plant 1 and pants, shirts, coats, dresses and children's jeans and shirts at plant 2. both plants are in Opelika, Alabama and are operated by the M. Snower Division of the Opelika Manufacturing Corporation. The investigation revealed that plant 1 also produces napkins and tablecloths and that the majority of products produced at both plants are designed for institutional kitchen use. Plant 2 also produces a line of shirts which are designed for retail consumer sales.

With respect to workers engaged in the production of napkins, tablecloths, institutional kitchen apparel and aprons, without regard to whether any of the other criteria have been met, the following criterion has not been met:

That increases of imports of articles like or directly competitive with articles produced by the firm or appropriate subdivision have contributed importantly to the separations, or threat thereof, and to the absolute decline in sales or production.

The Department conducted a survey of some customers which purchased napkins and tablecloths from the M. Snower Division of the Opelika Manufacturing Corporation. The survey indicated that customers which decreased purchases of napkins and tablecloths from the M. Snower Divison and increased purchases of imported napkins and tablecloths represented an insignificant proportion of the Divison's decline in sales of napkins and tablecloths.

Imports of institutional kitchen apparel and aprons are not separately identifiable in the official trade statistics. The Department of Labor conducted a survey of the major importers, manufacturers and distributors of institutional kitchen apparel and of the major importers of aprons. The surveys indicated that the imports of both of these items are negligible. The quality of the imported items is generally inferior to the domestically produced articles yet the price differences are insignificant.

With respect to workers engaged in the production of shirts designed for retail consumer sales, without regard to whether any of the criteria have been met, the following criterion has not been met:

That sales or production, or both, of the firm or subdivision have decreased absolutely.

Evidence developed during the course of the investigation revealed that production at plant 2 of shirts designed for retail sale increased in 1977 compared to 1976 and continued to increase in the first ten months of 1978 compared to the like 1977 period. Plant production approximates plant sales.

Conclusion

After careful review, I determine that all workers of plant 1 and 2 of the M. Snower Division of the Opelika Manufacturing Corporation, Opelika, Alabama are denied eligibility to apply for adjustment assistance under Title II, Chapter 2 of the Trade Act of 1974.

Pioneer Tanning Co., Salem, Mass.

The investigation was initiated on March 12, 1979 in response to a worker petition received on March 6, 1979 which was filed on behalf of workers and former workers performing contract tanning of sheepskin for hat leathers at Pioneer Tanning Company, Salem, Massachusetts. Without regard to whether any of the other criteria have been met, the following criterion has not been met:

That increases of imports of articles like or directly competitive with articles produced by the firm or appropriate subdivision have contributed importantly to the separations, or threat thereof, and to the absolute decline in sales or production.

Evidence developed in the course of the investigation revealed that Pioneer Tanning Company tanned sheepskins for manufacturers on a contract basis. None of the customers of Pioneer Tanning Company (manufacturers of hat sweatbands) use imported tanned sheepskins to manufacture hat sweatbands, nor do they purchase imported hat sweatbands. Imports of hat sweatbands are negligible.

In addition, sales of hat sweatbands to hat manufacturers by the customers of Pioneer have been increasing over the past year. Reduced orders for tanning to Pioneer Tanning Company by hat sweatband manufacturers were the result of the decreased use of sheepskin and the increased use of materials such as vinyl and cowhide splits to manufacture hat sweatbands.

Conclusion

After careful review, I determine that all workers of Pioneer Tanning Company, Salem, Massachusetts are denied eligibility to apply for adjustment assistance under Title II, Chapter 2 of the Trade Act of 1974.

Signed at Washington, D.C., this 4th day of May 1979.

Harry J. Gilman,

Supervisory International Economist, Office of Foreign Economic Research.

[TA–W–4993 etc.]

[FR Doc. 79–14777 Filed 5–10–79; 8:45 am]

BILLING CODE 4510–28–M

Joffery Manufacturing, et al.; Negative Determinations Regarding Eligibility To Apply for Worker Adjustment Assistance

In accordance with Section 223 of the Trade Act of 1974 (19 U.S.C. 2273) the Department of Labor herein presents the results of investigations regarding certification of eligibility to apply for worker adjustment assistance.

In order to make an affirmative determination and issue a certification of eligibility to apply for adjustment assistance each of the group eligibility requirements of Section 222 of the Act must be met. In the following determinations at least one of the criteria has not been met.

Joffery Manufacturing, New Brunswick, N.J.

The investigation was initiated on March 28, 1979 in response to a worker petition received on March 16, 1979 which was filed by the International Ladies' Garment Workers Union on behalf of former workers producing women's coats for Joffery Manufacturing, New Brunswick, New Jersey. The investigation revealed that the plant produces women's raincoats as well. Without regard to whether any of the other criteria have been met, the following criterion has not been met:

That increases of imports of articles like or directly competitive with articles produced by the firm or appropriate subdivision have contributed importantly to the separations, or threat thereof, and to the absolute decline in sales or production.

The average employment for February through October of 1978 increased when compared with the same period of 1977. The company was sold in November of 1978.

All production operations were suspended for a two-week period during April of 1978 while all company equipment, records and raw materials were moved to a new location.

Company sales (in adjusted value figures) increased in the first ten months of 1978 compared with the same period of 1977.

Conclusion

After careful review, I determine that all workers of Joffery Manufacturing.

indicated that they had increased their

Richmond Clothing Co., Richmond, Va.

New Brunswick, New Jersey are denied eligibility to apply for adjustment assistance under Title II, Chapter 2 of the Trade Act of 1974.

Interpace Corp., Lock Joint Pipe Division, East Brunswick, N.J.

The investigation was initiated on March 30, 1979 in response to a worker petition received on March 28, 1979 which was filed by the International Brotherhood of Teamsters on behalf of workers and former workers producing concrete sewer pipe at the East Brunswick, New Jersey plant of Interpace Corporation, Lock Joint Pipe Division. Without regard to whether any of the other criteria have been met, the following criterion has not been met:

That increases of imports of articles like or directly competitive with articles produced by the firm or appropriate subdivision have contributed importantly to the separations, or threat thereof, and to the absolute decline in sales or production.

U.S. imports of large-diameter concrete sewer pipe were negligible during the period 1974 to date. Also, imports of articles directly competitive with concrete sewer pipe, ductile iron pipe asbestos cement pipe and clay pipe, were negligible during the same period.

Conclusion

After careful review, I determine that all workers of the East Brunswick, New Jersey plant of Interpace Corporation, Lock Joint Pipe Division are denied eligibility to apply for adjustment assistance under Title II, Chapter 2 of the Trade Act of 1974.

Melitta Inc., Cherry Hill, N.J.

The investigation was initiated on March 7, 1979 in response to a worker petition received on February 28, 1979 which was filed by the Amalgamated Food Processors Union on behalf of workers and former workers producing coffee makers, coffee filters, and ground roast coffee at Melitta, Incorporated, Cherry Hill, New Jersey. Without regard to whether any of the other criteria have been met, the following criterion has not been met:

That increases of imports of articles like or directly competitive with articles produced by the firm or appropriate subdivision have contributed importantly to the separations, or threat thereof, and to the absolute decline in sales or production.

Layoffs that occurred at the Cherry Hill, New Jersey plant were due to the termination of eight to twelve cup electric coffeemaker production. U.S. imports of eight to twelve cup electric coffeemakers are negligible.

Sales and production of coffee and paper filters increased in quantity in 1978 compared to 1977 and in the first two months of 1979 compared to the first two months of 1978. Sales and production of manual coffeemakers increased in quantity in 1978 compared to 1977 and in the first four months of 1979 compared to the first four months of 1978.

The U.S. coffeemaker market is dominated by a domestically produced, six to twelve cup electric coffeemaker model. Melitta found it could not produce eight to twelve cup electric coffeemakers at its Cherry Hill, New Jersey plant that could compete with the dominant domestically produced coffeemaker. Melitta ceased eight to twelve cup electric coffeemaker production in 1978. In 1977, Melitta began to import one and two cup electric coffeemakers which had never been produced at the Cherry Hill, New Jersey plant.

Conclusion

After careful review, I determine that all workers of Melitta, Incorporated, Cherry Hill, New Jersey are denied eligibility to apply for adjustment assistance under Title II, Chapter 2 of the Trade Act of 1974.

Signed at Washington, D.C. this 4th day of May 1979.

James F. Taylor,
Director, Office of Management, Administration, and Planning.

[TA-W-5046 etc.]
[FR Doc. 79-14779 Filed 5-10-79; 8:45 am]
BILLING CODE 4510-28-M

Paul Hats, Inc., et al.; Certifications Regarding Eligibility To Apply for Worker Adjustment Assistance

In accordance with Section 223 of the Trade Act of 1974 (19 U.S.C. 2273) the Department of Labor herein presents the results of investigations regarding certification of eligibility to apply for worker adjustment assistance.

In order to make an affirmative determination and issue a certification of eligibility to apply for adjustment assistance, each of the group eligibility requirements of Section 222 of the Act must be met. In the following cases, it is concluded that all of the requirements have been met.

Paul Hats, Inc., Worcester, Mass.

The investigation was initiated on January 24, 1979, in response to a worker petition received on January 19, 1979, which was filed on behalf of workers and former workers producing women's hats at Paul Hats, Incorporated, Worcester, Massachusetts. It is concluded that all of the requirements have been met.

Imports of men's, boys', women's and girls' cloth hats and caps, increased in 1977 compared to 1976 and in 1978 compared to 1977. Imports of straw hats increased absolutely in 1978 compared to 1977.

A survey conducted by the Department of Paul Hats' customers revealed that customers representing a significant proportion of the subject firm's sales in 1977 increased purchases of imported women's hats and decreased purchases from the subject firm in 1978 compared to 1977.

Conclusion

After careful review of the facts obtained in the investigation, I conclude that increases of imports of articles like or directly competitive with women's hats produced at Paul Hats, Incorporated, Worcester, Massachusetts contributed importantly to the decline in sales or production and to the total or partial separation of workers of that firm. In accordance with the provision of the Act, I make the following certification:

"All workers of Paul Hats, Incorporated, Worcester, Massachusetts who became totally or partially separated from employment on or after August 26, 1978 are eligible to apply for adjustment assistance under Title II, Chapter 2 of the Trade Act of 1974."

Ralph Edwards Sportswear, Inc., Sikeston, Mo., Puxico, Mo., Cape Girardeau, Mo.

The investigation was initiated on March 13, 1979 in response to a worker petition received on March 5, 1979 which was filed by the Amalgamated Clothing and Textile Workers' Union on behalf of workers and former workers producing leather outerwear for men at the Sikeston, Missouri plant of Ralph Edwards Sportswear, Inc. The investigation was expanded to include workers and former workers producing leather outerwear for men at the Puxico (TA-W-4931A) and Cape Girardeau (TA-W-4931B), Missouri plants of Ralph Edwards Sportswear, Inc. It is concluded that all of the requirements have been met.

Imports of men's, women's, and children's leather coats and jackets increased absolutely from 1976 to 1977 and from 1977 to 1978. Imports relative to domestic production increased from 1977 to 1978.

Imports of coats by Ralph Edwards' major customers increased from January-September 1978 compared to the same period in 1977. These customers reduced purchases from Ralph Edwards in 1978 compared with 1977 and in the first quarter of 1979 compared to the same period 1978.

Conclusion

After careful review of the facts obtained in the investigation, I conclude that increases of imports of articles like or directly competitive with men's leather coats produced at the Sikeston, Puxico and Cape Girardeau, Missouri plants of Ralph Edwards Sportswear, Inc. contributed importantly to the decline in sales or production and to the total or partial separation of workers of those plants. In accordance with the provisions of the Act, I make the following certification:

"All workers of the Sikeston, Puxico and Cape Girardeau, Missouri plants of Ralph Edwards Sportswear, Inc. who became totally or partially separated from employment on or after August 4, 1978 are eligible to apply for adjustment assistance under Title II, Chapter 2 of the Trade Act of 1974."

Volunteer Leather Co., Whitewall Leather Co., Whitehall, Mich.

The investigation was intitated on February 22, 1979, in response to worker petitions received on February 12, 1979, and February 16, 1979 which were filed on behalf of workers and former workers of the Volunteer Leather Company, Milan, Tennessee, and the Whitehall Leather Company, Whitehall, Michigan. The investigation revealed that the Volunteer Leather Company and the Whitehall Leather Company comprise the Gentan Division of the Footwear Sector of Genesco, Incorporated.

Imports of women's nonrubber footwear, except athletic, increased relative to U.S. production in 1977 compared to 1976 and increased absolutely and relatively in 1978 compared to 1977.

Imports of men's dress and casual footwear, except athletic, increased absolutely and relatively in 1977 compared to 1976 and increased relative to U.S. production in 1978 compared to 1977.

Imports of athletic footwear increased absolutely and relatively in 1977 compared to 1976 and then decreased absolutely and relatively in 1978 compared to 1977.

Company imports of men's and women's footwear by Genesco increases in 1978 compared to 1977.

A Departmental survey of Genesco's customers indicated an increasing reliance on imported footwear by respondents. Some respondents indicated that they had increased their purchases of imported footwear while decreasing their purchases from Genesco from 1976 to 1977 and in the first nine months of 1978 compared to the first nine months of 1977.

Workers engaged in employment related to the production of men's and women's footwear at 32 facilities to the Footwear Sector of Genesco were certified eligible to apply for adjustment assistance by the Department on December 19, 1978. (TA-W-4166-4168, 4171-4181, 4330-4347).

Conclusion

After careful review of the facts obtained in the investigation, I conclude that increases of imports of articles like or directly competitive with men's, women's, and children's footwear produced at the Footwear Sector of Genesco, Incorporated contributed importantly to the decline in sales or production and to the total or partial separation of workers of the Volunteer Leather Company, Milan, Tennessee, and the Whitehall Leather Company, Whitehall, Michigan. In accordance with the provisions of the Act, I make the following certification:

"All workers of the volunteer Leather Company, Milan, Tennessee, and all workers of the Whitehall Leather Company, Whitehall, Michigan who became totally or partially separated from employment on or after February 5, 1978, are eligible to apply for adjustment assistance under Title II, Chapter 2 of the Trade Act of 1974."

Signed at Washington, D.C. this 30th day of April 1979.

C. Michael Aho,
Director, Office of Foreign Economic Research.

[TA-W-4739 etc.]
[FR Doc. 79-14782 Filed 5-10-79; 8:45 am]
BILLING CODE 4510-28-M

Richmond Clothing Co.; Certification Regarding Eligibility To Apply for Worker Adjustment Assistance

In accordance with Section 223 of the Trade Act of 1974 (19 U.S.C. 2273) the Department of Labor herein presents the results of an investigation regarding certification of eligibility to apply for worker adjustment assistance.

In order to make an affirmative determination and issue a certification of eligibility to apply for adjustment assistance, each of the group eligibility requirements of Section 222 of the Act must be met. In the following case, it is concluded that all of the requirements have been met.

Richmond Clothing Co., Richmond, Va.

The investigation was initiated on February 28, 1979 in response to a worker petition received on February 26, 1979 which was filed on behalf of workers and former workers producing men's suits, top coats, slacks and sportcoats. The investigation revealed that slacks are produced only as parts of suits and are not sold as separate items. Men's suits and sportcoats comprise the major portion of the company's production. The investigation also revealed that the petition was filed by the Amalgamated Clothing and Textile Workers' Union. It is concluded that all of the requirements have been met.

U.S. imports of men's and boys' tailored suits increased both absolutely and relative to domestic production from 1976 to 1977 and then declined absolutely from 1977 to 1978. The absolute level of imports in 1978 was higher than the average level of imports for the 1973-1977 period.

Imports of men's and boys' tailored dress coats and sportcoats decreased absolutely and relative to domestic production in 1977 compared to 1976 and then increased absolutely in 1978 compared to 1977.

The Department of Labor conducted a survey of the customers of Richmond Clothing Co. The survey revealed that customers reduced purchases of men's suits and sportcoats from Richmond Clothing Co. and increased purchases from foreign sources in 1978 compared with 1977.

Conclusion

After careful review of the facts obtained in the investigation, I conclude that increases of imports of articles like or directly competitive with men's suits and sportcoats produced at Richmond Clothing Company, Richmond, Virginia contributed importantly to the decline in sales or production and to the total or partial separation of workers of that firm. In accordance with the provisions of the Act, I make the following certification:

"All workers of Richmond Clothing Company, Richmond, Virginia who became totally or partially separated from employment on or after September 30, 1978 are eligible to apply for adjustment assistance under Title II, Chapter 2 of the Trade Act of 1974."

amended to increase the total

Signed at Washington, D.C. this 27th day of April 1979.

Harry J. Gilman,

Supervisory International Economist, Office of Foreign Economic Research.

[TA-W-4871]

[FR Doc. 79-14772 Filed 5-10-79; 8:45 am]

BILLING CODE 4510-28-M

Sterling Smokeless Coal Co. Inc., et al.; Determinations Regarding Eligibility To Apply for Worker Adjustment Assistance

In accordance with Section 223 of the Trade Act of 1974 (19 U.S.C. 273) the Department of Labor herein presents the results of an investigation regarding certification of eligibility to apply for worker adjustment assistance.

In order to make an affirmative determination and issue a certification of eligibility to apply for adjustment assistance each of the group eligibility requirements of Section 222 of the Act must be met. In the following determinations, at least one of the criteria has not been met at those plants or by those products identified below. In all other enumerated below, all of the criteria have been met.

Sterling Smokeless Coal Co., Inc., Whitby, W. Va., Mine No. 10, Mine No. 12, Mine No. 17, Mine No. 13, Preparation Plant

The investigation was initiated on March 5, 1979 in response to a worker petition received on February 23, 1979 which was filed filed by the United Mine Workers of America on behalf of workers and former workers producing metallurgical coal at Mine #10, Mine #12, Mine #17, Mine #13 and the Preparation Plant of Sterling Smokeless Coal Company, Incorporated, Whitby, West Virginia.

With respect to Mine #10 and Mine #12, without regard to whether any of the other criteria have been met, the following criterion has not been met:

That increases of imports of articles like or directly competitive with articles produced by the firm or appropriate subdivision have contributed importantly to the separations, or threat thereof, and to the absolute decline in sales or production.

The United Mine Workers of America, which represents all workers at Sterling Smokeless Coal Company, was on strike from December 6, 1977 to March 27, 1978. When the period from April to November, 1978, when the miners were not on strike, is compared with the same period in 1977, sales or production at Mine #10 and Mine #12 increased. Thus, the only decreases in sales or production during 1978 were caused by the strike. During the first two months of 1979, combined production for the two mines increased compared to the same period in 1977.

With respect to Mine #17, without regard to whether any of the other criteria have been met, the following criterion has not been met:

That a significant number or proportion of the workers in the workers' firm, or an appropriate subdivision thereof, have become totally or partially separated, or are threatened to become totally or partially separated.

The number of production workers at Mine #17 increased in the period from April to November, 1978, compared with the same period in 1977. There were no layoffs at the mine during 1978 and the first two months of 1979. The average monthly hours worked per employee did not change significantly during this period. There is no immediate threat of separation of workers at this mine.

With respect to Mine #13 and the Preparation Plant, it is concluded that all of the requirements have been met.

Imports of metallurgical coal are negligible. However, in accordance with section 222 of the Trade Act of 1974 and 29 CFR 90.2, a domestic article may be "directly competitive" with an imported article at a later stage of processing. Coke is metallurgical coal at a later stage of processing. U.S. imports of coke increased in quantity and relative to domestic production from 1976 to 1977 and from 1977 to 1978. Imports of coke increased in quantity in January and February, 1979 compared to the same two months of 1978.

Major customers of Sterling Smokeless Coal Company that were surveyed decreased purchases of metallurgical coal from Sterling and increased purchases of coke from foreign sources.

Conclusion

After careful review of the facts obtained in the investigation, I conclude that increases of imports of articles like or directly competitive with metallurgical coal produced at Mine #13 and the Preparation Plant of Sterling Smokeless Coal Company, Incorporated, Whitby, West Virginia contributed importantly to the decline in sales or production and to the total or partial separation of workers of those plants. In accordance with the provisions of the Act, I make the following certification:

"All workers at Mine #13 of Sterling Smokeless Coal Company, Incorporated, Whitby, West Virginia who became totally or partially separated from employment on or after March 27, 1978, and all workers at the Preparation Plant of Sterling Smokeless Coal Company, Incorporated, Whitby, West Virginia, who became totally or partially separated from employment on or after February 1, 1979 are eligible to apply for adjustment assistance under Title II, Chapter 2 of the Trade Act of 1974."

I further determine that workers at Mine #10, Mine #12, and Mine #17 of Sterling Smokeless Coal Company, Incorporated, Whitby, West Virginia are denied eligibility to apply for adjustment assistance under Title II, Chapter 2 of the Trade Act of 1974.

Signed at Washington, D.C. this 30th day of April 1979.

James F. Taylor,

Director, Office of Management, Administration, and Planning.

[TA-W-4883-7]

[FR Doc. 79-14770 Filed 5-10-79; 8:45 am]

BILLING CODE 4510-28-M

Pension and Welfare Benefit Programs

Employee Benefit Plans; Exemption From the Prohibitions for Certain Transactions Involving the Penn Dairies Retirement Plan

AGENCY: Department of Labor.

ACTION: Grant of individual exemption.

SUMMARY: This exemption permits the sale of shares or preferred stock of Penn Dairies, Inc. by the Penn Dairies Retirement Plan (the Plan) to Penn Dairies, Inc. (Penn Dairies), a party in interest with respect to the Plan.

FOR FURTHER INFORMATION CONTACT: Charles Humphrey of the Office of Fiduciary Standards, Pension and Welfare Benefit Programs, Room C-4526, U.S. Department of Labor, 200 Constitution Avenue, N.W., Washington, D.C. 20216, (202) 523-8881. (This is not a toll-free number.)

SUPPLEMENTARY INFORMATION: On March 2, 1979, notice was published in the **Federal Register** (44 FR 11862) of the pendency before the Department of Labor (the Department) of a proposal to grant an exemption from the restrictions of section 406(a)(1)(A) and (D) and 406(b)(1) of the Employee Retirement Income Security Act of 1974 (the Act) and from the taxes imposed by section 4975(a) and (b) of the Internal Revenue Code of 1954 (the Code) by reason of section 4975(c)(1)(A), (D) and (E) of the Code, for the transaction described in an application filed by the Retirement Plan Committee of the Penn Dairies Retirement Plan. The notice set forth a summary of facts and representations contained in the application for exemption and referred interested persons to the application for a complete statement of the facts and representations. The application has been available for public inspection at the Department in Washington, D.C. The notice also invited interested persons to submit comments on the requested exemption to the Department. In addition the notice stated that any interested person might submit a written request that a public hearing be held relating to this exemption. No public comments and no requests for a hearing were received by the Department.

General Information

The attention of interested persons is directed to the following: (1) The fact that a transaction is the subject of an exemption granted under section 408(a) of the Act and section 4975(c)(2) of the Code does not relieve a fiduciary or other party in interest or disqualified person with respect to a plan to which the exemption is applicable from certain other provisions of the Act and the Code. These provisions include any prohibited transactions provisions to which the exemption does not apply and the general fiduciary responsibility provisions of section 404 of the Act, which among other things require a fiduciary to discharge his or her duties respecting the plan solely in the interest of the participants and beneficiaries of the plan and in a prudent fashion in accordance with section 404(a)(1)(B) of the Act; nor does the fact the transaction is the subject of an exemption affect the requirement of section 401(a) of the Code that a plan must operate for the exclusive benefit of the employees of the employer maintaining the plan and their beneficiaries.

(2) This exemption does not extend to transactions prohibited under section 406(a)(1)(B), (C) and (E), 406(b)(2) and (3), and 407 of the Act and section 4975(c)(1)(B), (C) and (F) of the Code.

(3) This exemption is supplemental to, and not in derogation of, any other provisions of the Act and the Code, including statutory or administrative exemptions and transitional rules. Furthermore, the fact that a transaction is subject to an administrative or statutory exemption of transitional rule is not dispositive of whether the transaction is, in fact, a prohibited transaction.

Exemption

In accordance with section 408(a) of the Act and section 4975(c)(2) of the Code and the procedures set forth in ERISA Procedure 75-1 (40 FR 18471, April 28, 1975), and based upon the entire record, the Department makes the following determinations:

(a) The exemption is administratively feasible;

(b) It is in the interest of the plan and of its participants and beneficiaries; and

(c) It is protective of the rights of the participants and beneficiaries of the plan.

The restrictions of section 406(a)(1)(A) and (D) and 406(b)(1) of the Act, and the taxes imposed by section 4975(a) and (b) of the Code by reason of section 4975(c)(1)(A), (D) and (E) of the Code shall not apply to the sale of shares of preferred stock of Penn Dairies, Inc. by the Penn Dairies Retirement Plan in response to a tender offer by Penn Dairies, Inc. to purchase 50 percent of its outstanding preferred stock. The exemption shall be subject to the following conditions:

1. The tender offer must be a bona fide offer on a uniform basis to the Penn Dairies Retirement Plan and every person holding the preferred stock of Penn Dairies, Inc.

2. The Penn Dairies Retirement Plan must receive no less than the fair market value for the shares of the preferred stock of Penn Dairies, Inc. tendered, and in any event, not less than the value indicated by an independent appraisal.

The availability of this exemption is subject to the express conditions that the material facts and representations contained in the application are true and complete, and that the application accurately describes all material terms of the transaction to be consummated pursuant to this exemption.

Signed at Washington, D.C., this 3rd day of May, 1979.

Ian D. Lanoff,

Administrator for Pension and Welfare Benefit Programs, Labor-Management Services Administration, U.S. Department of Labor.

[Prohibited Transaction Exemption 79-18; Application No. D-695]

[FR Doc. 79-14722 Filed 5-10-79; 8:45 am]

BILLING CODE 4510-29-M

NATIONAL SCIENCE FOUNDATION

Amendment to the Charters of Two NSF Advisory Committees

This notice is to announce an amendment to the Advisory Committee for Environmental Biology and the Advisory Committee for Physiology, Cellular and Molecular Biology. The Committees were established on October 1, 1977, to provide advice, recommendations, and oversight concerning support for research and research-related activities in their respective areas. Both charters are being amended to increase the total authorized number of members allowed to serve on each committee and the total annual operating costs of each committee.

The charters of the two committees have been modified to reflect the revisions described above. Copies of the charter addendums are being filed with the standing committees of Congress having legislative jurisdiction of the Foundation and copies are being forwarded to the Library of Congress for public inspection and use.

Richard C. Atkinson,

Director.

May 8, 1979.

[FR Doc. 79-14732 Filed 5-10-79; 8:45 am]

BILLING CODE 7555-01-M

Mathematical Sciences Subcommittee of the Advisory Committee for Mathematical and Computer Sciences; Meeting

In accordance with the Federal Advisory Committee Act, Pub. L. 92-463, as amended, the National Science Foundation announces the following meeting:

Name: Subcommittee of the Advisory Committee for Mathematical and Computer Sciences.

Date and time: May 31, 1979—9:00 a.m. to 4:30 p.m.; June 1, 1979—9:00 a.m. to 3:00 p.m.

Place: National Science Foundation, Room 642, 1800 G Street, N.W., Washington, D.C. 20550.

Type meeting: *Part Open*—5/31/79, 9:00 a.m. to 2:30 p.m.; *Closed*—2:30 p.m. to 4:30 p.m.; *Open*—6/1/79, 9:00 a.m. to 3:00 p.m.

Contact person: Dr. William G. Rosen, Head, Mathematical Sciences Section, Room 304, National Science Foundation, Washington, D.C. 20550, Telephone: (202) 632-7377.

Summary minutes: May be obtained from the Committee Management Coordination Staff, Division of Personnel and Management, Room 248, National Science Foundation, Washington, D.C. 20550.

Purpose of subcommittee: To provide advice and recommendations concerning support for research in the Mathematical Sciences.

Agenda:

Thursday, May 31, 1979

9:00 a.m.—Introductions and Opening Remarks—Dr. William G. Rosen, Head, Mathematical Sciences Section.

9:15 a.m.—Discussion of FY 1979 Section Activities—Dr. Rosen and Staff.

10:15 a.m.—Overview of the FY 1980 Budget—Prospects for Mathematical Sciences—Dr. John R. Pasta, Director, Division of Mathematical and Computer Sciences.

11:00 a.m.—Research Needs of the Mathematical Sciences for the 1980's—Dr. Richard D. Anderson, Department of Mathematics, Louisiana State University.

12:15 p.m.—Lunch.

Date and time: May 31 and June 1, 1979; 9:00

data, such as salaries; and personal

pertinent to this review. The Subcommittee

1:30 p.m.—Trends in Employment and Graduate Enrollment—Dr. Wendell H. Fleming, Brown University.
2:30 p.m.—Review and comparison of declined proposals with successful awards under the Division of Mathematical and Computer Sciences, Mathematical Sciences Section. (Closed)
3:30 p.m.—Long Range Plan discussion—including proposed budget figures for FY 81–85. (Closed)

Friday, June 1, 1979

9:00 a.m.—Address by Retiring Committee Member Paul Sally: the Langlands Conjecture.
10:00 a.m.—Address by Retiring Committee Member Karen Uhlenbeck: Recent Work of Yau.
11:00 a.m.—Alternative Modes of Support—Dr. James A. Krumhansl, Assistant Director for Mathematical and Physical Sciences, and Engineering.
12:15 p.m.—Lunch.
1:30 p.m.—Address by Retiring Committee Member James Stansheff: Algebra in Algebraic Topoloty—Rational Homotopy Theory.
2:30 p.m.—Recommendations for New Members.
3:00 p.m.—Adjourn.

Reason for closing: The Subcommittee will be reviewing grants and declination jackets which contain the names of applicant institutions and principal investigators and privileged information contained in declined proposals. In addition the Subcommittee will be discussing long range plans for the Section which will include proposed budget figures for FY 1981 through 1985. These matters are within exemptions 4, 6, and 9(B) of 5 U.S.C. 552(c), Government in the Sunshine Act.
Authority to close meeting: This determination was made by the Director, NSF, pursuant to provisions of Section 10(d) of Pub. L. 92–463.

Dated: May 8, 1979.

M. Rebecca Winkler,
Committee Management Coordinator.
[FR Doc. 79–14790 Filed 5–10–79; 8:45 am]
BILLING CODE 7555–01–M

President's Committee on the National Medal of Science; Meeting

In accordance with the Federal Advisory Committee Act, Public Law 92–463, the National Science Foundation announces the following meeting:

Name: President's Committee on the National Medal of Science.
Date: May 29, 1979.
Time: 9:00 a.m.
Place: Room 540, National Science Foundation, 1800 G Street NW., Washington, D.C. 20550.
Type of meeting: Closed.
Contact person: Dr. Richard S. Nicholson, Director, Division of Chemistry, MPE, National Science Foundation, Washington, D.C. (202) 632–4282.
Purpose of award committee: To provide recommendations to the President concerning recipients of the National Medal of Science.
Agenda: To review nominations as part of the selection process for the Award(s).
Reason for closing: The committee will be discussing private and confidential matters in its consideration of an individual's contribution to knowledge in a particular science. Premature disclosure to the public would defeat the purposes of the Committee and the law. These discussions fall within exemption (6) of 5 U.S.C. 552b(c), Government in the Sunshine Act, which is concerned with personnel, medical,.and similar files, the disclosure of which would constitute a clearly unwarranted invasion of personal privacy.
Authority to close meeting: The determination made by the Director of the National Science Foundation pursuant to provisions of Section 19(d) of Pub. L. 92–463.

Dated: May 8, 1979.

M. Rebecca Winkler,
Committee Management Coordinator.
[FR Doc. 79–14786 Filed 5–10–79; 8:45 am]
BILLING CODE 7555–01–M

Subcommittee on Developmental Biology; Meeting

In accordance with the Federal Advisory Committee Act, as amended, Pub. L. 92–463, the National Science Foundation announces the following meeting:

Name: Subcommittee on Developmental Biology of the Advisory Committee for Physiology, Cellular and Molecular Biology.
Date and time: May 31, June 1 and 2, 1979; From 9 til 5 Each Day.
Place: Room 540, National Science Foundation, 1800 G Street, N.W., Washington, D.C. 20550.
Type of meeting: Closed.
Contact person: Dr. Mary E. Clutter, Program Director, Developmental Biology Program, Room 328, National Science Foundation, Washington, D.C. 20550, telephone (202) 632–4314.
Purpose of subcommittee: To provide advice and recommendations concerning support for research in developmental biology.
Agenda: To review and evaluate research proposals as part of the selection process for awards.
Reason for closing: The proposals being reviewed include information of a proprietary or confidential nature, including technical information; financial data, such as salaries, and personal information concerning individuals associated with the proposals. These matters are within exemptions (4) and (6) of 5 U.S.C. 552b(c), Government in the Sunshine Act.
Authority to close meeting: This determination was made by the Committee Management Officer pursuant to provisions of Section 10(d) of Pub. L. 92–463. The Committee Management Officer was delegated the authority to make such determinations by the Acting Director, NSF, on February 18, 1977.

Dated: May 8, 1979.

M. Rebecca Winkler,
Committee Management Coordinator.
[FR Doc. 79–14787 Filed 5–10–79; 8:45 am]
BILLING CODE 7555–01–M

Subcommittee on Economics; Meeting

In accordance with the Federal Advisory Committee Act, as amended, Pub. L. 92–463, the National Science Foundation announces the following meeting:

Name: Subcommittee on economics of the Advisory Committee for Social Sciences.
Date and time: June 1st and 2nd, 1979; 9:00 a.m. to 5:00 p.m. each day.
PLACE: Room 1224, National Science Foundation, 1800 G Street, N.W., Washington, D.C. 20550.
Type of meeting: Closed.
Contact person: Dr. James H. Blackman, Program Director, Economics Program, Room 312, National Science Foundation, Washington, D.C. 20550, telephone (202) 632–5968.
Purpose of subcomittee: To provide advice and recommendations concerning support for research in economics.
Agenda: To review and evaluate research proposals as part of the selection process for awards.
Reason for closing: The proposals being reviewed include information of a proprietary or confidential nature, inlcuding technical information; financial data, such as salaries; and personal information concerning individuals associated with the proposals. These matters are within exemptions (4) and (6) of 5 U.S.C. 552b(c), Government in the Sunshine Act.
Authority to close meeting: This determination was made by the Committee Management Officer pursuant to provisions of Section 10(d) of Pub. L. 92–463. The Committee Management Officer was delegated the authority to make such determinations by the Acting Director, NSF, on February 18, 1977.

Dated: May 8, 1979.

M. Rebecca Winkler,
Committee Management Coordinator.
[FR Doc. 79–14791 Filed 5–10–79; 8:45 am]
BILLING CODE 7555–01–M

Subcommittee on Metabolic Biology; Meeting

In accordance with the Federal Advisory Committee Act, as amended, Pub. L. 92–463, the National Science Foundation announces the following meeting:

Name: Subcommittee on Metabolic Biology of the Advisory Committee for Physiology, Cellular and Molecular Biology.

Date and time: May 31, and June 1, 1979; 9:00 a.m. each day.
Place: National Science Foundation, 1800 G Street, N.W., Washington, D.C., Room 338.
Type of meeting: Closed.
Contact person: Dr. Elijah B. Romanoff, Program Director for Metabolic Biology, Room 331, National Science Foundation, Washington, D.C. 20550, (202) 632–4312.
Purpose of subcommittee: To provide advice and recommendations concerning support for research in Metabolic Biology.
Agenda: To review and evaluate research proposals and projects as part of the selection process for awards.
Reason for closing: The proposals being reviewed include information of a proprietary or confidential nature, including technical information; financial data, such as salaries; and personal information concerning individuals associated with the proposals. These matters are within exemptions (4) and (6) of 5 U.S.C. 552b(c), Government in the Sunshine Act.
Authority to close meeting: This determination was made by the Committee Management Officer pursuant to provisions of Section 10(d) of Pub. L. 92–463. The Committee Management Officer delegated the authority to make such determinations by the Acting Director, NSF, on February 18, 1977.

Dated: May 8, 1979.

M. Rebecca Winkler,
Committee Management Coordinator.
[FR Doc. 79–14788 Filed 5–10–79; 8:45 am]
BILLING CODE 7555–01–M

Subcommittee on Social and Developmental Psychology; Meeting

In accordance with the Federal Advisory Committee Act, as amended, Pub. L. 92–463, the National Science Foundation announces the following meeting:

Name: Subcommittee on Social and Developmental Psychology of the Advisory Committee for Behavioral and Neural Sciences.
Date and time: May 31, 1979–June 1, 1979; 9:00 a.m. to 5:00 p.m. each day.
Place: Room 628, National Science Foundation, 1800 G Street, N.W., Washington, D.C. 20550.
Type of meeting: Closed.
Contact person: Dr. Kelly G. Shaver, Program Director, Social and Developmental Psychology, Room 317, National Science Foundation, Washington, D.C. 20550, telephone (202) 632–5714.
Purpose of subcommittee: To provide advice and recommendations concerning support for research in Social and Developmental Psychology.
Agenda: To review and evaluate research proposals as part of the selection process for awards.
Reason for closing: The proposals being reviewed include information of a proprietary or confidential nature, including technical information; financial data, such as salaries; and personal information concerning individuals associated with the proposals. These matters are within exemption (4) and (6) of 5 U.S.C. 552b(c), Government in the Sunshine Act.
Authority to close meeting: This determination was made by the Committee Management Officer pursuant to provisions of Section 10(d) of Pub. L. 92–463. The Committee Management Officer was delegated the authority to make such determinations by the Acting Director, NSF, on February 18, 1977.

Dated: May 8, 1979.

M. Rebecca Winkler,
Committee Management Coordinator.
[FR Doc. 79–14789 Filed 5–10–79; 8:45 am]
BILLING CODE 7555–01–M

NUCLEAR REGULATORY COMMISSION

Advisory Committee on Reactor Safeguards; Subcommittee on Safeguards and Security; Meeting

The ACRS Subcommittee on Safeguards and Security will hold a meeting on May 23, 1979 in Room 1046, 1717 H St., NW, Washington, DC 20555 to discuss recent safeguards events, advice from its consultants, and the 1979 Review and Evaluation of the NRC Safety Research Program. Notice of this meeting was published March 23 and April 20, 1979, (44 FR 17837 and 44 FR 23609, respectively).

In accordance with the procedures outlined in the **Federal Register** on October 4, 1978 (43 FR 45926), oral or written statements may be presented by members of the public, recordings will be permitted only during those portions of the meeting when a transcript is being kept, and questions may be asked only by members of the Subcommittee, its consultants, and Staff. Persons desiring to make oral statements should notify the Designated Federal Employee as far in advance as practicable so that appropriate arrangements can be made to allow the necessary time during the meeting for such statements.

The agenda for the subject meeting shall be as follows:

Wednesday, May 23, 1979, 8:30 a.m. Until the Conclusion of Business

The Subcommittee may meet in Executive Session, with any of its consultants who may be present, to explore and exchange their preliminary opinions regarding matters which should be considered during the meeting and to formulate a report and recommendation to the full Committee.

At the conclusion of the Executive Session, the Subcommittee will hear presentations by and hold discussions with representatives of the NRC Staff, and their consultants, pertinent to this review. The Subcommittee may then caucus to determine whether the matters identified in the initial session have been adequately covered and whether the project is ready for review by the full Committee.

In addition, it may be necessary for the Subcommittee to hold one or more closed sessions for the purpose of exploring matters involving proprietary information. I have determined, in accordance with Subsection 10(d) of Pub. L. 92–463, that, should such sessions be required, it is necessary to close these sessions to protect proprietary information (5 U.S.C. 552b(c)(4)).

Further information regarding topics to be discussed, whether the meeting has been cancelled or rescheduled, the Chairman's ruling on requests for the opportunity to present oral statements and the time allotted therefor can be obtained by a prepaid telephone call to the Designated Federal Employee for this meeting, Mr. Richard K. Major, (telephone 202–634–1414) between 8:15 a.m. and 5:00 p.m., EDT.

Background information concerning items to be considered at this meeting can be found in documents on file and available for public inspection at the NRC Public Document Room, 1717 H Street, NW, Washington, DC 20555.

Dated: May 8, 1979.

John C. Hoyle,
Advisory Committee Management Officer.
[FR Doc. 79–14703 Filed 5–10–79; 8:45 am]
BILLING CODE 7590–01–M

Advisory Committee on Reactor Safeguards; Subcommittee on Evaluation of Licensee Event Reports; Meeting

The ACRS Subcommittee on Evaluation of Licensee Event Reports will hold an open meeting on May 24 and 25, 1979 in Room 1046, 1717 H St., NW, Washington, DC 20555. Notice of this meeting was published March 23 and April 20, 1979 (44 FR 17837 and 44 FR 23609, respectively).

In accordance with the procedures outlined in the **Federal Register** on October 4, 1978 (43 FR 45926), oral or written statements may be presented by members of the public, recordings will be permitted only during those portions of the meeting when a transcript is being kept, and questions may be asked only by members of the Subcommittee, its consultants, and Staff. Persons desiring to make oral statements should notify the Designated Federal Employee as far in advance as practicable so that appropriate arrangements can be made

to allow the necessary time during the meeting for such statements.

The agenda for subject meeting shall be as follows:

Thursday and Friday, May 24 and 25, 1979, 8:30 a.m. Until the Conclusion of Business Each Day

The Subcommittee will meet, with any of its consultants who may be present, and with representatives of the NRC Staff and their consultants, to continue its review of Licensee Event Reports submitted during the period 1976–1978.

The Subcommittee will also hold one or more open Executive Sessions to discuss Licensee Event Reports and a planned Subcommittee report to the full Committee.

Further information regarding topics to be discussed, whether the meeting has been cancelled or rescheduled, the Chairman's ruling on requests for the opportunity to present oral statements and the time allotted therefor can be obtained by a prepaid telephone call to the Designated Federal Employee for this meeting, Dr. Andrew L. Bates (telephone 202/634–3267) between 8:15 a.m. and 5:00 p.m., EDT.

Background information concerning items to be considered at this meeting can be found in documents on file and available for public inspection at the NRC Public Document Room, 1717 H St., NW, Washington, DC 20555.

Dated: May 8, 1979.

John C. Hoyle,
Advisory Committee Management Officer.

[FR Doc. 79-14704 Filed 5-10-79; 8:45 am]

BILLING CODE 7590-01-M

Commonwealth Edison Co.; Issuance of Amendments to Facility Operating Licenses

The U.S. Nuclear Regulatory Commission (the Commission) has issued Amendment Nos. 49 and 46 to Facility Operating License Nos. DPR–39 and DPR–48 issued to Commonwealth Edison Company (the licensee) which revised Technical Specifications for operation of the Zion Station, Unit Nos. 1 and 2, located Zion, Illinois. The amendments are effective as of the date of issuance.

These amendments revise the Technical Specifications to require actuation of safety injection based on 2 out of 3 channels of low pressurizer pressure.

The application for the amendments complies with the standards and requirements of the Atomic Energy Act of 1954, as amended (the Act), and the Commission's rules and regulations. The Commission has made appropriate findings as required by the Act and the Commission's rules and regulations in 10 CFR Chapter 1, which are set forth in the license amendments. Prior public notice of these amendments was not required since the amendments do not involve a significant hazards consideration.

The Commission has determined that the issuance of these amendments will not result in any significant environmental impact and that pursuant to 10 CFR 51.5(d)(4) an environmental impact statement or negative declaration and environmental impact appraisal need not be prepared in connection with issuance of these amendments.

For further details with respect to this action see (1) the applications for amendments dated April 30, 1979, (2) Amendment Nos. 49 and 46 to License Nos. DPR–39 and DPR–48, and (3) the Commission's related Safety Evaluation. All of these items are available for public inspection at the Commission's Public Document Room, 1717 H Street, N.W., Washington, D.C. 20555 and at the Zion-Benton Public Library District, 2600 Emmans Avenue, Zion, Illinois 60099. A copy of items (2) and (3) may be obtained upon request addressed to the U.S. Nuclear Regulatory Commission, Washington, D.C. 20555, Attention: Director, Division of Operating Reactors.

Dated at Bethesda, Maryland, this 3rd day of May 1979.

For the Nuclear Regulatory Commission.

A. Schwencer,
Chief, Operating Reactors Branch No. 1, Division of Operating Reactors.

[Docket Nos. 50-295 and 50-304]

[FR Doc. 79-14705 Filed 5-10-79; 8:45 am]

BILLING CODE 7590-01-M

Duke Power Co.

In the matter of Duke Power Company, Oconee Nuclear Station, Units Nos. 1, 2 and 3.

Order

I

The Duke Power Company (the licensee), is the holder of Facility Operating Licenses Nos. DPR–38, DPR–47 and DPR–55 which authorize the operation of the nuclear power reactors known as Oconee Nuclear Station, Units Nos. 1, 2 and 3 (the facilities, or Oconee 1, 2 and 3), at steady state power levels not in excess of 2568 megawatts thermal (rated power) for each unit. The facilities are Babcock & Wilcox (B&W) designed pressurized water reactors (PWR's) located at the licensee's site in Oconee County, South Carolina.

II

In the course of its evaluation to date of the accident at the Three Mile Island Unit No. 2 facility, which utilizes a B&W designed PWR, the Nuclear Regulatory Commission staff has ascertained that B&W designed reactors appear to be unusually sensitive to certain off-normal transient conditions originating in the secondary system. The features of the B&W design that contribute to this sensitivity are: (1) The design of steam generators to operate with relatively small liquid volumes in the secondary side; (2) The lack of direct initiation of reactor trip upon the occurrence of off-normal conditions in the feedwater system; (3) Reliance on an integrated control system (ICS) to automatically regulate feedwater flow; (4) Actuation before reactor trip of a pilot-operated relief valve on the primary system pressurizer (which, if the valve sticks open, can aggravate the event); and (5) A low steam generator elevation (relative to the reactor vessel) which provides a smaller driving head for natural circulation.

Because of these features, B&W designed reactors place more reliance on the reliability and performance characteristics of the auxiliary feedwater system, the ICS, and the emergency core cooling system (ECCS) performance to recover from frequent anticipated transients, such as loss of offsite power and loss of normal feedwater, than do other PWR designs. This, in turn, places a large burden on the plant operators in the event of off-normal system behavior during such anticipated transients.

As a result of a preliminary review of the Three Mile Island Unit No. 2 accident chronology, the NRC staff initially identified several human errors that occurred during the accident and contributed significantly to its severity. All holders of operating licenses were subsequently instructed to take a number of immediate actions to avoid repetition of these errors, in accordance with bulletins issued by the Commission's Office of Inspection and Enforcement (IE). In addition, the NRC staff began an immediate reevaluation of the design features of B&W reactors to determine whether additional safety corrections or improvements were necessary with respect to these reactors This evaluation involved numerous meetings with B&W and certain of the affected licensees.

The evaluation identified design features as discussed above which indicated that B&W designed reactors are unusually sensitive to certain off-normal transient conditions originating in the secondary system. As a result, an additional bulletin was issued by IE which instructed holders of operating licenses for B&W designed reactors to take further actions, including immediate changes to decrease the reactor high pressure trip point and increase the pressurizer pilot-operated relief valve setting. Also, as a result of this evaluation, the NRC staff identified certain other safety concerns that warranted additional short-term design and procedural changes at operating facilities having B&W designed reactors. These were identified as items (a) through (e) on page 1–7 of the Office of Nuclear Reactor Regulation Status Report to the Commission on April 25, 1979.

After a series of discussions between the NRC staff and the licensee concerning possible design modifications and changes in operating procedures, the licensee agreed in letters dated April 25, 26, and May 4, 1979 to perform promptly the following actions:

(a) Install automatic starting of the interconnected emergency feedwater system so that all three pumps will receive a start signal from any affected unit, and test the system for stability. The emergency feedwater pump discharge flow will be connected to the interconnection headers such that each or all emergency feedwater pumps can supply water to any unit. Until these modifications and tests are completed, operating personnel have been stationed at each emergency feedwater pump with a direct communication link to that unit's control room. In addition, the following procedural changes, put into effect on April 25, 1979 to enhance the reliability of the emergency feedwater system, will remain in force:

(1) The discharges of these pumps have been tied together by alignment of manual valves such that each and all of the pumps can supply emergency feedwater to any Oconee Unit requiring it.

(2) Administrative controls have been established so that in the event of loss of both main feedwater pumps on an affected unit, that unit's emergency feedwater pump will start automatically, backed up by remote manual start from the contol room. If the pump fails to start automatically, the operator stationed at that pump will start the pump locally, and has been trained to do so. In addition, the other two available emergency feedwater pumps will be started remotely from their unit's control room or locally if required to provide two more redundant sources of feedwater to the affected unit.

(3) Emergency feedwater flow to the steam generators will be assured by the control room operator who has been trained to maintain the necessary level.

(b) Develop and implement operating procedures for initiating and controlling emergency feedwater independent of Integrated Control System control.

(c) Implement a hard-wired control-grade reactor trip on loss of main feedwater and/or turbine trip.

(d) Complete analyses for potential small breaks and develop and implement operating instructions to define operator action.

(e) All licensed reactor operators and senior reactor operators will have completed the TMI–2 simulator training at B&W.

(f) Station in the control room an additional full-time Senior Reactor Operator (SRO) (or previously licensed SRO) with Three Mile Island training for each operating unit to assist with guidance and possible manual action in case of transients until items (a) through (e) are completed.

In its letters the licensee also stated that (1) Oconee 3 would be shut down on April 28, 1979, and remain shutdown until (a) through (e) above are completed (the facility was shut down on April 28, 1979 as stated); (2) a second Oconee unit would be shut down on May 12, 1979, if items (a) through (e) have not been previously accomplished and ramain shut down until items (a) through (e) have been completed; and, (3) a third Oconee unit would be shut down on May 19, 1979, if items (a) through (e) have not been previously accomplished and will remain shut down until completion of items (a) through (e).

In addition to these modifications to be implemented promptly, the licensee has also proposed to carry out certain additional long-term actions to increase the capability and reliability of the reactors to respond to various transient events. These are:

The licensee will install two motor driven pumps for each Oconee unit, as more particularly described as Part III of a letter from W. O. Parker to the NRC of April 25, 1979, to provide greater assurance of emergency feedwater supply. The licensee will submit this system concept and analysis to the NRC staff for review.

The licensee will submit a failure mode and effects analysis of the Integrated Control System to the NRC staff as soon as practicable. The licensee states that this analysis is now underway with high priority by B&W.

The reactor trip on loss of the main feedwater and/or trip of the turbine to be installed promptly pursuant to this Order will thereafter be upgraded so that the components are safety grade. The licensee will submit this design to the NRC staff for review.

The licensee will continue reactor operator training and drilling of response procedures to assure a high state of preparedness.

The Commission has concluded that the prompt actions set forth as (a) through (e) above are necessary to provide added reliability to the reactor system to respond safely to feedwater transients and should be confirmed by a Commission order. The immediate procedural changes to assure redundant sources of auxiliary feedwater that were put into effect on April 25 at the two operating Oconee units, as described in paragraph (a) above, and the immediate additions to the operating staff, as described in paragraph (f) above, provide the bases for continued safe operation of those facilities during the interim period until May 12 and May 19, 1979, respectively. The Commission finds, however, that operation of all units should not be resumed or continued on an indefinite basis until actions described in paragraphs (a) through (e) above have been satisfactorily completed.

For the foregoing reasons, the Commission has found that the public health, safety and interest require that this Order be effective immediately.

III

Copies of the following documents are available for inspection at the Commission's Public Document Room at 1717 H Street, NW, Washington, D.C. 20555, and are being placed in the Commission's local public document room at the Oconee County Library, 201 South Spring, Walhalla, South Carolina 29691:

(1) Office of Nuclear Reactor Regulation Status Report on Feedwater Transients in B&W Plants, April 25, 1979.

(2) Letter from W. S. Lee (Duke Power Company) to Harold Denton (NRR), dated April 25, 1979.

(3) Two letters from W. O. Parker, Jr. (Duke Power Company) to Harold Denton (NRR), dated April 25, 1979.

(4) Letter from W. H. Owens (Duke Power Company) to Roger J. Mattson (NRR), dated April 25, 1979.

(5) Letter from W. S. Lee (Duke Power Company) to Harold Denton (NRR), dated April 26, 1979.

(6) Letter from W. O. Parker, Jr. (Duke Power Company) to James P. O'Reilly (IE), dated May 4, 1979.

IV

Accordingly, pursuant to the Atomic Energy Act of 1954, as amended, and the

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Commission's Rules and Regulations in 10 CFR Parts 2 and 50, *It is hereby ordered that:*

(1) The licensee shall take the following actions with respect to Oconee 1, 2 and 3:

(a) Install automatic starting of the interconnected emergency feedwater system so that all three pumps will receive a start signal from any affected unit, and test the system for stability. The emergency feedwater pump discharge flow will be connected to the interconnection headers such that each or all of the emergency feedwater pumps can supply water to any unit. Until these modifications and tests are completed, operating personnel will be stationed at each emergency feedwater pump with a direct communication link to that unit's control room. In addition, the following procedural changes, put into effect on April 25, 1979 to enhance the reliability of the emergency feedwater system, will remain in-force:

(1) The discharges of these pumps have been tied together by alignment of manual valves such that each and all of the pumps can supply emergency feedwater to any Oconee Unit requiring it.

(2) Administrative controls have been established so that in the event of loss of both main feedwater pumps on an affected unit, that unit's emergency feedwater pump will start automatically, backed up by remote manual start from the control room. If the pump fails to start automatically, the operator stationed at that pump will start the pump locally, and has been trained to do so. In addition, the other two available emergency feedwater pumps will be started remotely from their unit's control room or locally if required to provide two more sources of feedwater to the affected unit.

(3) Emergency feedwater flow to the steam generators will be assured by the control room operator who has been trained to maintain the necessary level.

(b) Develop and implement operating procedures for initiating and controlling emergency feedwater independent of Integrated Control System control.

(c) Implement a hard-wired control-grade reactor trip on loss of main feedwater and/or turbine trip.

(d) Complete analyses for potential small breaks and develop and implement operating instructions to define operator action.

(e) All licensed reactor operators and senior reactor operators assigned to the Oconee control rooms will have completed the TMI-2 simulator training at B&W.

(f) Station in the control room an additional full-time Senior Reactor Operator (SRO) (or previously licensed SRO) with Three Mile Island training for each operating unit to assist with guidance and possible manual actions unit items (a) through (e) are completed.

(2) The licensee shall maintain Oconee 3 in a shut down condition (the facility was shut down on April 28, 1979) until items (a) through (e) in paragraph (1) above are satisfactorily completed and such completion has been confirmed by the Director, Office of Nuclear Reactor Regulation.

(3) The licensee shall shut down a second of the three Oconee units on May 12, 1979, unless items (a) through (e) in paragraph (1) above have been satisfactorily completed and the completion has been confirmed by the Director, Office of Nuclear Reactor Regulation, before that date. In the event the second unit is shut down on May 12, 1979, it will remain shutdown until items (a) through (e) in paragraph (1) above are satisfactorily completed and such completion has been confirmed by the Director, Office of Nuclear Reactor Regulation.

(4) The licensee shall shut down the third of the three Oconee units on May 19, 1979, unless items (a) through (e) in paragraph (1) above have been satisfactorily completed and the completion has been confirmed by the Director, Office of Nuclear Reactor Regulation, before that date. In the event the third unit is shut down on May 19, 1979, it shall remain shut down until items (a) through (e) in paragraph (1) above are satisfactorily completed and such completion has been confirmed by the Director, Office of Nuclear Reactor Regulation.

(5) The licensee shall as promptly as practicable also accomplish the long-term modifications set forth in Section II of this Order.

Satisfactory completion of items (a) through (e) in paragraph (1) and in paragraphs (2) through (4) above will require confirmation by the Director, Office of Nuclear Reactor Regulation, that the actions specified have been taken, the specified analyses are acceptable, and the specified implementing procedures are appropriate.

V

Within twenty (20) days of the date of this Order, the licensee or any person whose interest may be affected by this Order may request a hearing with respect to this Order. Any such request shall not stay the immediate effectiveness of this Order.

Dated at Washington, D.C. this 7th day of May 1979.

For the Nuclear Regulatory Commission.

Samuel J. Chilk,

Secretary of the Commission.

[Dockets Nos. 50-269, 50-270, and 50-287]

FR Doc. 79-14706 Filed 5-10-79; 8:45 am]

BILLING CODE 7590-01-M

Indiana & Michigan Electric Co., and Indiana & Michigan Power Co.; Notice of Issuance of Amendment to Facility Operating License and Negative Declaration

The U.S. Nuclear Regulatory Commission (the Commission) has issued Amendment Nos. 28 and 10 to Facility Operating License Nos. DPR-58 and DPR-74 issued to Indiana and Michigan Electric Company, which revised the Appendix A Technical Specifications for operation of the Donald C. Cook Nuclear Plant, Unit Nos. 1 and 2 (the facilities), located in Berrien County, Michigan.

These changes authorize the removal of part-length control rods in place of the part-length rods (PLR) for Unit 1 and installation of permanent anti-rotational devices on the PLR lead screws for both Units 1 and 2. Also, part-length rods will not be installed for operation in Unit 2. All provisions for PLRs have been removed from the Unit 2 Technical Specifications.

The application for the amendments complies with the standards and requirements of the Atomic Energy Act of 1954, as amended (the Act), and the Commission's regulations. The Commission has made appropriate findings as required by the Act and the Commission's rules and regulations in 10 CFR Chapter I, which are set forth in the license amendments.

The Commission has determined that the issuance of these amendments will not result in any significant environmental impact and that pursuant to 10 CFR 51.5(d)(4) an environmental impact statement or negative declaration and environmental impact appraisal need not be prepared in connection with issuance of these amendments.

For further details with respect to this action, see (1) the application for amendments dated April 23, 1979 and related letters dated December 20, 1978 and April 4, 1979, (2) Amendment Nos. 28 and 10 to Facility Operating License Nos. DPR-58 and DPR-74, and (3) the Commission's Safety Evaluation. All of these items are available for public inspection at the Commission's Public Document Room, 1717 H Street, NW., Washington, D.C. and at the Maude

Reston Palenske Memorial Library, 500 Market Street, St. Josephs, Michigan 49085. A copy of items (2) and (3) may be obtained upon request addressed to the U.S. Nuclear Regulatory Commission, Washington, D.C. 20555, Attention: Director, Division of Operating Reactors.

Dated at Bethesda, Maryland this 2nd day of May 1979.

For the Nuclear Regulatory Commission.

A. Schwencer,

Chief, Operating Reactors Branch No. 1, Division of Operating Reactors.

[Docket Nos. 50-315 and 50-316]

[FR Doc. 79-14707 Filed 5-10-79; 8:45 am]

BILLING CODE 7590-01-M

Sacramento Municipal Utility District

In the matter of Sacramento Municipal Utility District, Rancho Seco Nuclear Generating Station.

Order

I

The Sacramento Municipal Utility District (the licensee or SMUD) is the holder of the Facility Operating License No. DPR-54 which authorizes the operation of the nuclear power reactor known as the Rancho Seco Nuclear Generating Station (the facility or Rancho Seco), at steady state power levels not in excess of 2,772 megawatts thermal (rated power). The facility is a Babcock & Wilcox (B&W) designed pressurized water reactor (PWR) located at the licensee's site in Sacramento County, California.

II

In the course of its evaluation to date of the accident at the Three Mile Island Unit No. 2 facility, which utilizes a B&W designed PWR, the Nuclear Regulatory Commission staff has ascertained that B&W designed reactors appear to be unusually sensitive to certain off-normal transient conditions originating in the secondary system. The features of the B&W design that contribute to this sensitivity are: (1) design of the steam generators to operate with relatively small liquid volumes in the secondary side; (2) the lack of direct initiation of reactor trip upon the occurrence of off-normal conditions in the feedwater system; (3) reliance on an integrated control system (ICS) to automatically regulate feedwater flow; (4) actuation before reactor trip of a pilot-operated relief valve on the primary system pressurizer (which, if the valve sticks open, can aggravate the event); and (5) a low steam generator elevation (relative to the reactor vessel) which provides a smaller driving head for natural circulation.

Because of these features, B&W designed reactors place more reliance on the reliability and performance characteristics of the auxiliary feedwater system, the integrated control system, and the emergency core cooling system (ECCS) performance to recover from frequent anticipated transients, such as loss of offsite power and loss of normal feedwater, than do other PWR designs. This, in turn, places a large burden on the plant operators in the event of off-normal system behavior during such anticipated transients.

As a result of a preliminary review of the Three Mile Island Unit No. 2 accident chronology, the NRC staff initially identified several human errors that occurred during the accident and contributed significantly to its severity. All holders of operating licenses were subsequently instructed to take a number of immediate actions to avoid repetition of these errors, in accordance with bulletins issued by the Commission's Office of Inspection and Enforcement (IE). In addition, the NRC staff began an immediate reevaluation of the design features of B&W reactors to determine whether additional safety corrections or improvements were necessary with respect to these reactors. This evaluation involved numerous meetings with B&W and certain of the affected licensees.

The evaluation identified design features as discussed above which indicated that B&W designed reactors are unusually sensitive to certain off-normal transient conditions originating in the secondary system. As a result, an additional bulletin was issued by IE which instructed holders of operating licenses for B&W designed reactors to take further actions, including immediate changes to decrease the reactor high pressure trip point and increase the pressurizer pilot-operated relief valve setting. Also, as a result of this evaluation, the NRC staff identified certain other safety concerns that warranted additional short-term design and procedural changes at operating facilities having B&W designed reactors. These were identified as items (a) through (e) on page 1-7 of the Office of Nuclear Reactor Regulation Status Report to the Commission of April 25, 1979.

After a series of discussions between the NRC staff and the licensee concerning possible design modifications and changes in operating procedures, the licensee agreed in a letter dated April 27, 1979, to perform promptly the following actions:

(a) Upgrade the timeliness and reliability of delivery from the Auxiliary Feedwater System by carrying out actions as identified in Enclosure 1 of the licensee's letter of April 27, 1979.

(b) Develop and implement operating procedures for initiating and controlling auxiliary feedwater independent of Integrated Control System control.

(c) Implement a hard-wired control-grade reactor trip that would be actuated on loss of main feedwater and/or turbine trip.

(b) Complete analyses for potential small breaks and develop and implement operating instructions to define operator action.

(e) Provide for one Senior Licensed Operator assigned to the control room who has had Three Mile Island Unit No. 2 (TMI-2) training on the B&W simulator.

In its letter the licensee also stated that Rancho Seco would be shut down on April 28, 1979 and would remain shut down until (a) through (e) above are completed (The facility was shut down on April 28, 1979 as stated).

In addition to these modifications to be implemented promptly, the licensee has also proposed to carry out certain additional long-term modifications to further enhance the capability and reliability of the reactor to respond to various transient events. These are:

The licensee will provide to the NRC staff a proposed schedule for implementation of identified design modifications which specifically relate to items 1 through 9 of Enclosure 1 to the licensee's letter of April 27, 1979, and would significantly improve safety.

The licensee will submit a failure mode and effects analysis of the Integrated Control System to the NRC staff as soon as practicable. The licensee stated that this analysis is now underway with high priority by B&W.

The reactor trip following loss of main feedwater and/or trip of the turbine to be installed promptly pursuant to this Order will thereafter be upgraded so that the components are safety grade. The licensee will submit this design to the NRC staff for review.

The licensee will continue operator training and have a minimum of two licensed operators per shift with TMI-2 simulator training at B&W by June 1, 1979. Thereafter, at least one licensed operator with TMI-2 simulator training at B&W will be assigned to the control room. All training of licensed personnel will be completed by June 28, 1979.

The Commission has concluded that the prompt actions set forth as (a) through (e) above are necessary to provide added reliability to the reactor

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system to respond safely to feedwater

that the actions specified have been

prospective applicants for extension to

Technical specifications for operation of

Washington, D.C. 20555, Attention:

SELECT COMMISSION ON

system to respond safely to feedwater transients and should be confirmed by a Commission order.

The Commission finds that operation of Rancho Seco should not be resumed until the actions described in paragraphs (a) through (e) above have been satisfactorily completed.

For the foregoing reasons, the Commission has found that the public health, safety and interest require that this Order be effective immediately.

III

Copies of the following documents are available for inspection at the Commission's Public Document Room at 1717 H Street, NW., Washington, D.C. 20555, and are being placed in the Commission's local public document room in the Business and Municipal Department, Sacramento City-County Library, 828 I Street, Sacramento, California 95814:

(1) Office of Nuclear Reactor Regulation Status Report on Feedwater Transients in B&W Plants, April 25, 1979.

(2) Letter from J. J. Mattimoe (SMUD) to Harold Denton (NRR) dated April 27, 1979.

Accordingly, pursuant to the Atomic Energy Act of 1954, as amended, and the Commission's Rules and Regulations in 10 CFR Parts 2 and 50, *it is hereby ordered that:*

(1) The licensee shall take the following actions with respect to Rancho Sec:

(a) Upgrade the timeliness and reliability of delivery from the Auxiliary Feedwater System by carrying out actions as identified in Enclosure 1 of the licensee's letter of April 27, 1979.

(b) Develop and implement operating procedures for initiating and controlling auxiliary feedwater independent of Integrated Control System control.

(c) Implement a hard-wired control-grade reactor trip that would be actuated on loss of main feedwater and/or turbine trip.

(d) Complete analyses for potential small breaks and develop and implement operating instructions to define operator action.

(e) Provide for one Senior Licensed Operator assigned to the control room who has had Three Mile Island Unit No. 2 (TMI-2) training on the B&W simulator.

(2) The licensee shall maintain Rancho Seco in a shutdown condition (the facility was shut down on April 28, 1979) until items (a) through (e) in paragraph (1) above are satisfactorily completed. Satisfactory completion will require confirmation by the Director, Office of Nuclear Reactor Regulation, that the actions specified have been taken, the specified analyses are acceptable, and the specified implementing procedures are appropriate.

(3) The licensee shall as promptly as practicable also accomplish the long-term modifications set forth in Section II of this Order.

V

Within twenty (20) days of the date of this Order, the licensee or any person whose interest may be affected by this Order may request a hearing with respect to this Order. Any such request shall not stay the immediate effectiveness of this Order.

Dated at Washington, D.C. this 7th day of May 1979.

For the Nuclear Regulatory Commission.

Samuel J. Chilk,

Secretary of the Commission.

[Docket No. 50-312]

[FR Doc. 79-14708 Filed 5-10-79; 8:45 am]

BILLING CODE 7590-01-M

Stone & Webster Engineering Corp.; Reference Safety Analysis Report for SWESSAR-P1 Balance-of-Plant Standard Design and Its Relationship to the RESAR-41 Standard Design; Issuance of Amendment to Preliminary Design Approval

Notice is hereby given that the staff of the Nuclear Regulatory Commission has issued Amendment No. 2 to Preliminary Design Approval No. PDA-4, dated May 4, 1979, for the reference system design of a balance-of-plant portion of a pressurized water reactor nuclear power plant utilizing the Westinghouse RESAR-41 nuclear steam supply system design, and as described in the application by Stone & Webster Engineering Corporation (SWESSAR-P1). Preliminary Design Approval No. PDA-4 was issued by the staff of the Nuclear Regulatory Commission on May 5, 1976.

The amendment extends the expiration date for Preliminary Design Approval No. PDA-4 from May 5, 1979 to June 5, 1979. This change was made as a result of the Nuclear Regulatory Commission's policy statement on standardization of nuclear power plants which provided for an extension to five years of the effective terms for preliminary design approvals for reference system designs issued prior to the August 1978 policy statement. The August 1978 policy statement identified certain types of safety matters that PDA holders would be required to address prior to the granting of PDA extensions. The policy statement requested prospective applicants for extension to submit their responses to the safety matters identified to them early enough " * * * so that staff review can be completed prior to the expiration date of the existing PDA or as soon thereafter as is practical."

The safety matters were identified in an NRC staff letter to the Stone & Webster Engineering Corporation, R. Boyd to W. J. L. Kennedy, dated January 24, 1979. By letter dated May 3, 1979, W. J. L. Kennedy to R. Boyd, the Stone & Webster Engineering Corporation submitted material addressing each of these matters. The staff has concluded that the time required to conduct a completeness review of the applicant's submittal will exceed the remaining time to the current PDA-4 expiration date of May 5, 1979. Accordingly, the staff has concluded that an interim administrative extension of PDA-4 to June 5, 1979 is appropriate and warranted, in order for the staff to complete its initial review of these matters prior to a decision on further extension of PDA-4 in accordance with the Commission's August 1978 policy statement.

Amendment No. 2 to PDA-4 is effective as of its date if issuance and shall expire on June 5, 1979 unless extended by the NRC staff. The expiration of PDA-4 as amended, should not affect use of PDA-4, Amendment No. 2 for reference in any construction permit application filed prior to such date.

A copy of Preliminary Design Approval No. PDA-4, Amendment No. 2 dated May 4, 1979 is available for public inspection at the Commission's Public Document Room at 1717 H Street, N.W., Washington, D.C. 20555.

Dated at Bethesda, Maryland, this 4th day of May 1979.

For the Nuclear Regulatory Commission.

C. J. Heltemes, Jr.,

Chief, Standardization Branch, Division of Project Management, Office of Nuclear Reactor Regulation.

[Docket No. STN-50-495]

[FR Doc. 79-14709 Filed 5-10-79; 8:45 am]

BILLING CODE 7590-01-M

Tennessee Valley Authority; Issuance of Amendments to Facility Operating Licenses

The U.S. Nuclear Regulatory Commission (the Commission) has issued Amendment No. 50 to Facility Operating License No. DPR-33, Amendment No. 44 to Facility Operating License No. DPR-52, and Amendment No. 22 to Facility Operating License No. DPR-68 issued to Tennessee Valley Authority (the licensee), which revised Technical specifications for operation of the Browns Ferry Nuclear Plant, Unit Nos. 1 and 2 and the license and Technical Specifications for operation of Browns Ferry Unit No. 3, (the facility) located in Limestone County, Alabama. The amendments are effective as of the date of issuance.

These amendments change the Technical Specifications to delete the interim, compensatory requirements on the Standby Gas Treatment System (SGTS) and clarify a test requirement for the SGTS. These amendments also (1) delete the existing condition in paragraph 2.E.(1) of License DPR-68 which required TVA to modify the electrical controls and instrumentation for the SGTS, since this modification has been satisfactorily completed, and (2) delete existing conditions in paragraph 2.E.(2) and 2.E.(3) relating to fire protection requirements, since these conditions have also been satisfactorily completed.

The applications for the amendments comply with the standards and requirements of the Atomic Energy Act of 1954, as amended (the Act), and the Commission's rules and regulations. The Commission has made appropriate findings as required by the Act and the Commission's rules and regulations in 10 CFR Chapter I, which are set forth in the license amendments. Prior public notice of these amendments was not required since the amendments do not involve a significant hazards consideration.

The Commission has determined that the issuance of these amendments will not result in any significant environmental impact and that pursuant to 10 CFR 51.5(d)(4) an environmental impact statement, or negative declaration and environmental impact appraisal need not be prepared in connection with issuance of these amendments.

For further details with respect to this action, see (1) the applications for amendments dated August 3, 1978 and January 10, 1979 and supplemental information dated June 28, 1978, (2) Amendment No. 50 to License No. DPR-33, Amendment No. 44 to License No. DPR-52, and Amendment No. 22 to License No. DPR-68, and (3) the Commission's related Safety Evaluation. All of these items are available for public inspection at the Commission's Public Document Room, 1717 H Street, N.W., Washington, D.C. and at the Athens Public Library, South and Forrest, Athens, Alabama 35611. A copy of items (2) and (3) may be obtained upon request addressed to the U.S. Nuclear Regulatory Commission, Washington, D.C. 20555, Attention: Director, Division of Operating Reactors.

Dated at Bethesda, Maryland, this 4th day of May 1979.

For the Nuclear Regulatory Commission.

Thomas A. Ippolito,

Chief, Operating Reactors Branch No. 3, Division of Operating Reactors.

[Docket Nos. 50-259, 50-260 and 50-296]

[FR Doc. 79-14710 Filed 5-10-79; 8:45 am]

BILLING CODE 7590-01-M

Virginia Electric & Power Co. (North Anna Unit No. 1 Surry Unit Nos. 1 and 2); Request for Revocation of Operating Licenses for North Anna and Surry Units

Notice is hereby given that by letter dated April 5, 1979, June Allen on behalf of the North Anna Environmental Coalition requested that the Commission revoke the operating licenses issued to the Virginia Electric & Power Company for operation of North Anna Unit 1 and Surry Units 1 and 2. The basis of the request is alleged nonconformance of estimated peak fuel cladding temperatures with the requirements of 10 CFR 50.46(b) of the Commission's regulations and allegedly inadequate capacity of the refueling water storage tank at North Anna. The letter also requests that the Commission investigate the role of condenser defects in causing steam generator deterioration.

This request is being treated pursuant to 10 CFR 2.206 of the Commission's regulations, and accordingly, action will be taken on the request within a reasonable time. Copies of the request are available for public inspection in the Commission's Public Document Room, 1717 H Street, NW, Washington, DC 20555, and at the local public document rooms for the North Anna (Alderman Library, University of Virginia, Charlottesville, Virginia 22901 and Louisa County Courthouse, Post Office Box 27, Louisa, Virginia 23093) and Surry (Swem Library, College of William and Mary, Williamsburg, Virginia 23185) units.

Dated at Bethesda, Maryland, this 4th day of May 1979.

For the Nuclear Regulatory Commission.

Roger S. Boyd,

Acting Director, Office of Nuclear Reactor Regulation.

[FR Doc. 79-14711 Filed 5-10-79; 8:45 am]

BILLING CODE 7590-01-M

SELECT COMMISSION ON IMMIGRATION AND REFUGEE POLICY

Correction to Meeting Notice

This is to correct the meeting notice which appeared in the **Federal Register** on Monday, May 7, 1979 (44 FR 26823).

The correction involves the meeting location.

The Select Commission on Immigration and Refugee Policy will meet on Tuesday, May 22, 1979, at 2:30 p.m. in Room 318 of the Russell Senate Office Building, Washington, D.C.

Inquiries may be directed to the Commission offices at (202) 724-7482.

Date: May 10, 1979.

Joan Arrowsmith,

Interim Coordinator.

[FR Doc. 79-15023 Filed 5-10-79; 8:51 am]

BILLING CODE 4510-23-M

SECURITIES AND EXCHANGE COMMISSION

Advance Investors Corp.; Application

May 4, 1979.

In the matter of Advance Investors Corporation, 125 High Street, Boston, Massachussets 02110.

Notice of application pursuant to section 8(f) of the Act for an order declaring that applicant has ceased to be an investment company.

Notice is hereby given that Advance Investors Corporation ("Applicant"), registered under the investment Company Act of 1940 ("Act") as an open-end, diversified management investment company, filed an application on February 14, 1979, and an amendment thereto on May 2, 1979, pursuant to Section 8(f) of the Act, for an order declaring that Applicant has ceased to be an investment company as defined by the Act. All interested persons are referred to the application on file with the Commission for a statement of the representations contained therein, which are summarized below.

Applicant registered under the Act on July 2, 1976, and when its registration statement for the public offering of its common stock was declared effective on August 30, 1976, Applicant commenced a public offering of such stock.

Applicant states that its Board of Directors approved the Articles of Transfer and Agreement and Plan of Reorganization ("Plan") between Applicant and Windsor Fund, Inc. ("Windsor"), a registered open-end, management investment company, whereby substantially all of Applicant's assets were to be exchanged for shares

number 607.5700; and ferrosilicon

6. Reduction in taxable income by the

SUMMARY: Canadian Pacific Limited (CPL), through Canellus Incorporated

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of Windsor and Applicant was to be dissolved. According to the application, Applicant's shareholders approved the plan at a special meeting held on December 27, 1978, by the majority vote of shareholders required by law. The application states that the exchange was made on the basis of the net asset values of Windsor and Applicant computed as of the close of business on the New York Stock Exchange on December 27, 1978. On December 28, 1978, Applicant asserts, the shares of Windsor received in exchange for Applicant's assets were distributed to Applicant's shareholders.

Applicant further states that its only assets consist of approximately $21,000 of cash retained to pay certain unpaid expenses in connection with winding up its business affairs. Applicant asserts that it no longer has any security holders, is not a party to any litigation or administrative proceeding, and does not propose to engage in any activity other than that necessary for winding up its business affairs.

Section 8(f) of the Act provides, in part, that when the Commission, upon application, finds that a registered investment company has ceased to be an investment company, it shall so declare by order, and that, upon the effectiveness of such order, the registration of such company shall cease to be in effect.

Notice is further given that any interested person may, not later than May 29, 1979 at 5:30 p.m., submit to the Commission in writing a request for a hearing on the matter accompanied by a statement as to the nature of his interest, the reason for such request, and the issues, if any, of fact or law proposed to be controverted, or he may request that he be notified if the Commission shall order a hearing thereon. Any such communication should be addressed: Secretary, Securities and Exchange Commission, Washington, D.C. 20549. A copy of such request shall be served personally or by mail upon Applicant at the address stated above. Proof of such service (by affidavit or, in the case of an attorney-at-law, by certificate) shall be filed contemporaneously with the request. As provided by Rule 0–5 of the Rules and Regulations promulgated under the Act, an order disposing of the application will be issued as of course following said date unless the Commission thereafter orders a hearing upon request or upon the Commission's own motion. Persons who request a hearing, or advice as to whether a hearing is ordered, will receive any notices and orders issued in this matter, including the date of the hearing (if ordered) and any postponements thereof.

For the Commission, by the Division of Investment Management, pursuant to delegated authority.

George A. Fitzsimmons,
Secretary.

[Investment Co. Act of 1940; Release No. 10683]
FR Doc. 79–4728 Filed 5–10–79; 8:45 am]
BILLING CODE 8010–01–M

SMALL BUSINESS ADMINISTRATION

Louisiana; Declaration of Disaster Loan Area

As a result of the President's major disaster declaration, I find that the following 7 parishes; Ascension, Assumption, Catahoula, East Baton Rouge, Iberville, Livingston, St. Tammany and adjacent parishes within the State of Louisiana, constitute a disaster area because of damage resulting from severe storms and flooding beginning on or about April 20, 1979. Applications will be processed under the provisions of Pub. L. 94–305. Interest rate is 7⅜ percent. Eligible persons, firms and organizations may file applications for loans for physical damage until the close of business on July 2, 1979, and for economic injury until close of business on February 4, 1980, at:

Small Business Administration, District Office, Plaza Tower—17th Floor, 1001 Howard Avenue, New Orleans, Louisiana 70113.

or other locally announced locations.

(Catalog of Federal Domestic Assistance Program Nos. 59002 and 59008.)

Dated: May 7, 1979.

William H. Mauk, Jr.,
Acting Administrator.

[Disaster Loan Area No. 1631]
[FR Doc. 79–14796 Filed 5–10–79; 8:45 am]
BILLING CODE 8025–01–M

Mississippi; Declaration of Disaster Loan Area

The above-numbered Declaration (See 44 FR 24179) and amendment #1 (See 44 FR 26232) are amended in accordance with the President's declaration of April 16, 1979, to include Montgomery County in the State of Mississippi. The Small Business Administration will accept applications for disaster relief loans from disaster victims in the above-named county, and adjacent counties within the State of Mississippi. All other information remains the same; i.e., the termination dates for filing applications for physical damage is close of business on June 15, 1979, and for economic injury until the close of business on January 15, 1980.

(Catalog of Federal Domestic Assistance Program Nos. 59002 and 59008.

Dated: May 2, 1979.

A. Vernon Weaver,
Administrator.

[Disaster Loan Area No. 1616, Amdt. No. 2]
[FR Doc. 79–14795 Filed 5–10–79; 8:45 am]
BILLING CODE 8025–01–M

DEPARTMENT OF THE TREASURY

Customs Service

Certain Ferroalloys From Brazil; Receipt of Countervailing Duty Petition and Initiation of Investigation

AGENCY: U.S. Customs Service, Treasury Department.

ACTION: Initiation of Countervailing Duty Investigation.

SUMMARY: This notice is to advise the public that a satisfactory petition has been received and a countervailing duty investigation is being initiated to determine if benefits which constitute the payment of a bounty or grant within the meaning of the countervailing duty law are paid by the Government of Brazil to manufacturers or exporters of certain ferroalloys. A preliminary determination will be made not later than October 11, 1979, and a final determination not later than April 11, 1980.

EFFECTIVE DATE: May 11, 1979.

FOR FURTHER INFORMATION CONTACT: Michael Ready, Operations Officer, Technical Branch, Duty Assessment Division, Office of Operations, United States Customs Service, 1301 Constitution Avenue, N.W., Washington, D.C. 20220, (202–566–5492).

SUPPLEMENTARY INFORMATION: A petition in satisfactory form was received on April 11, 1979, on behalf of the Ferroalloys Association, alleging that benefits conferred by the Government of Brazil upon the manufacture, production, or exportation of certain ferroalloys from Brazil constitute the payment or bestowal of a bounty or grant within the meaning of section 303, Tariff Act of 1930, as amended (19 U.S.C. 1303).

The merchandise specified in the petition includes ferrochrome containing over 3 percent by weight of carbon classified under item number 607.3100 of the Tariff Schedules of the United States Annotated (TSUSA); ferromanganese containing over 4 percent by weight of carbon under item number 607.3700; ferrosilicon manganese under item number 607.5700; and ferrosilicon containing over 60 percent but not over 80 percent by weight of silicon under item number 607.5100. All of the above products from Brazil (except the ferrochrome) are currently free of ordinary Customs duties under the Generalized System of Preferences (GSP). In the event that it becomes necessary to refer this matter to the United States International Trade Commission pursuant to section 303(a)(2), Tariff Act of 1930, as amended (19 U.S.C. 1303(a)(2)), there is evidence on record concerning injury to, or likelihood of injury to, an industry in the United States.

This information indicates that at a time of rising United States consumption of ferroalloys, increased imports of allegedly subsidized ferroalloys from Brazil have suppressed United States prices and resulted in declines in production, employment, and profitability in the United States ferroalloy industry.

Alleged bounties or grants as listed in the petition include the following:

1. The excessive remission upon export of the federal Industrial Products Tax (IPI) and the state Merchandise Circulation Tax (ICM). The Treasury Department has determined in the contrext of previous countervailing duty investigations involving Brazil that the ICM has been abolished. Therefore the latter will not be subject to investigation in this case.

2. Exemption from the payment of Customs duties and value-added taxes on the plant and equipment imported for the production of ferroalloys for export. These benefits are allegedly conferred under programs of the Industrial Development Council (CDI), the Commission for the Granting of Fiscal Benefits to Special Export Programs (BEFIEX) and the Export Incentives Commission (CIEX).

3. Regional aid assistance in the form of tax credits available to firms located in less developed areas as administered by the Superintendecy for the Development of the Northeast (SUDENE) and the Superintendency for the Development of the Amazon (SUDAM).

4. The granting of IPI credits for the purchase of Brazilian-made equipment and accelerated depreciation for facilities and equipment manufactured in Brazil for the production of ferroalloys and preferential credit arrangements for imported raw materials under CDI.

5. Export and working capital financing at rates lower than those othewise available commercially.

6. Reduction in taxable income by the percentage of total sales accounted for by export sales.

7. Reductions in the Brazilian withholding tax on remittances abroad and certain profits earned on export sales.

Pursuant to section 303(a)(4) Tariff Act of 1930, as amended (19 U.S.C. 1303(a)(4)), the Secretary of the Treasury is required to issue a preliminary determination as to whether or not any bounty or grant is being paid or bestowed within the meaning of that statute within 6 months of receipt, in satisfactory form, of a petition alleging the payment or bestowal of a bounty or grant. A final determination must be issued within 12 months of the receipt of such a petition.

Therefore, a preliminary determination on this petition will be made no later than October 11, 1979, as to whether or not the alleged payments or bestowals conferred by the Government of Brazil upon the manufacture, production or exportation of the merchandise described above constitute a bounty or grant within the meaning of section 303, Tariff Act of 1930, as amended. A final determination will be issued no later than April 11, 1980.

This notice is published pursuant to section 303(a)(3) of the Tariff Act of 1930, as amended (19 U.S.C. 1303(a)(3)), and § 159.47(c), Customs Regulations (19 CFR 159.47(c)).

Pursuant to Reorganization Plan No. 26 of 1950 and Treasury Department Order 190 (Revision 15), March 16, 1978, the provisions of Treasury Department Order 165, Revised, November 2, 1954, and section 159.47 of the Customs Regulations (19 CFR 159.47), insofar as they pertain to the initiation of a countervailing duty investigation by the Commissioner of Customs, are hereby waived.

Robert H. Mundheim,
General Counsel of the Treasury.

May 4, 1979.

[FR Doc. 79–14747 Filed 5–10–79; 8:45 am]
BILLING CODE 4810–22–M

INTERSTATE COMMERCE COMMISSION

Canadian Pacific Limited and Canellus Inc.—Control—Hutchinson and Northern Railway Co.

AGENCY: Interstate Commerce Commission.

ACTION: Notice of proposed exemption.

SUMMARY: Canadian Pacific Limited (CPL), through Canellus Incorporated (CI) and certain other non-carrier subsidiaries, proposes to acquire all of the outstanding capital stock, and thus control, of the Hutchinson and Northern Railway Company (HN). On April 6, 1979, CPL and CI filed a petition for exemption from 49 U.S.C. 11343–11347, which would otherwise require prior approval of the transaction by the Commission. The petitioners request exemption pursuant to 49 U.S.C. 10505, stating that prior Commission review is unnecessary.

DATES: Comments should be filed no later than June 11, 1979.

ADDRESS: An original and 12 copies of comments should be sent to: Interstate Commerce Commission, 12th Street and Constitution Avenue, NW, Washington, D.C. 20423.

FOR FURTHER INFORMATION CONTACT: Michael Erenberg, 202–275–7245.

SUPPLEMENTARY INFORMATION: Petitioner CPL, a Canadian corporation, operates a 16,300 mile railway system extending throughout most of Canada, and connecting with the United States rail carriers the Boston and Maine Corporation, Consolidated Rail Corporation, Chesapeake and Ohio Railway Company, Soo Line Railroad Company, Norfolk and Western Railway Company, and Burlington Northern Inc. In addition, CPL owns the following interests in United States rail carriers subject to our jurisdiction:

55.69 percent of the voting stock of the Soo Line Railroad Company, a class I railroad.
86.67 percent of the voting stock of Aroostook Valley Railroad Company, a class III railroad.
100 percent of the voting stock of the International Railway Company of Maine, the Aroostook River Railroad Company, and the Houlton Branch Railroad Company, class II railroads collectively known as the Canadian Pacific Lines in Maine.
100 percent of the voting stock of the Newport and Richford Railroad Company, a class III railroad known as the Canadian Pacific Lines in Vermont.

CPL also operates the Canadian Pacific Detroit Terminal, a class III switching and terminal facility, as an integral part of its system, and files annual reports with us for that operation and for the Canadian Pacific Lines in Maine and the Canadian Pacific Lines in Vermont. Other transportation and related enterprises of CPL including trucking, telecommunications, air transport, and shipping. As more directly pertinent to the proposed transaction, CPL owns 82.31 percent of the outstanding capital stock of

Canadian Pacific Investments Limited

Appendix

MC 126118 (Sub-91F), Crete Carrier

Canadian Pacific Investments Limited (CPI).

CPI, a Canadian corporation, is the vehicle through which CPL conducts all non-transportation related operations. According to the petitioners, neither CPL nor any company which it controls are carriers subject to the Interstate Commerce Act (recodified on October 17, 1978, as subtitle IV of title 49, United States Code, Pub. L. No. 95–473, 92 Stat. 1337) or engaged in transportation related business. CPI owns 100 percent of the outstanding capital stock of Canellus International N.V. (NV).

NV, incorporated in the Netherlands, is primarily a holding company existing for non-transportation related business purposes. NV in turn owns 100 percent of the outstanding capital stock of petitioner CI.

Petitioner CI is a holding company incorporated in Delaware. It manages certain businesses conducted through its subsidiaries in the United States, primarily rendering and manufacturing commercial china. CI owns 100 percent of the outstanding capital stock of Processed Minerals Incorporated (PMI).

PMI, a Delaware corporation, was recently organized by CI to acquire, own, and operate certain assets to be purchased from Interpace Corporation (Interpace). Those assets include 100 percent of the outstanding capital stock of HN.

HN is a class III United States rail carrier subject to our jurisdiction. HN has no employees, all of its operations being conducted by Interpace personnel. It owns 5.14 miles of track near Hutchinson, Kansas, and operates two switching locomotives. The chief users of HN's switching operation are the Missouri Pacific Railroad Company, the Atchison, Topeka and Santa Fe Railway Company, and the Chicago, Rock Island and Pacific Railroad Company. HN's tracks do not connect with, and are geographically distant from, the railroad facilities controlled by CPL.

In 1977, HN handled 676 cars in switching operations and 3,029 cars in terminal operations. The petitioners indicate that about 98 percent of its traffic derives from a Hutchinson, Kansas, salt business also being acquired from Interpace. Other traffic originates with a mobile home manufacturer and a grain elevator located along HN's track. Having recently leased 425 boxcars for sublease to others, HN is also a car utilization railroad engaged in generating per diem car hire rentals. Its unaudited gross railroad operating revenues were $115,423 in 1978, and its total assets were $177,966 on December 31, 1978.

The relationships among the petitioners, the petitioners' affiliates named above, Interpace, and HN are shown schematically in the appendix.

Proposed Transaction

Besides its ownership and operation of HN, Interpace is engaged in a number of other lines of business, including the mining and processing of salt at Hutchinson, Kansas, and wollastonite at Willsboro, New York. Under the proposed transaction, CI would purchase for cash all of the Interpace assets used in the operation of those businesses, including all of the outstanding capital stock of HN. Upon consummation, all of the described assets would be conveyed to PMI in accordance with an agreement among CI, PMI, and Interpace. No securities would be issued in connection with the proposal, and no government financial assistance would be involved.

The petitioners state that none of HN's operating personnel is subject to any national railway labor agreement, but that all participate in certain pension benefits under Interpace pension plans. The petitioners aver that under the proposed agreement among CI, PMI, and Interpace, those employees would receive pension benefits at least equal to those now provided by Interpace.

Request for Exemption

Because CPL now controls other United States rail carriers subject to our jurisdiction, control of HN through CPL's subsidiaries CPI, NV, CI, and PMI would require our approval under 49 U.S.C. 11343–11347. A request for our approval entails submission of an application complying with the Railroad Acquisition, Control, Merger, Consolidation Project, Trackage Rights and Lease Procedures, 49 CFR Part 1111 (1977), revised in part at 44 FR 2,177 (1979). CPL and CI maintain that acquisition of indirect control of HN would be completely incidental to the larger transaction involving purchase of the Interpace salt and wollastonite businesses. They submit that HN does not generate a substantial volume of rail traffic, and that the proposal would not afford a real opportunity for traffic diversion. Indicating that switching and terminal operations would continue in the same manner as presently conducted, the petitioners assert that the transaction would have no impact on shippers, employees, other carriers, or the public, nor on the operations, administration, liabilities, or obligations of HN. They state that the only benefits accruing to them would be those normally expected by the indirect owners of an operating property.

The petitioners believe that the interests of the public, connecting carriers, and the State of Kansas in the proposed transaction are insignificant. They maintain that application of the provisions of subtitle IV of title 49, United States Code, to the proposal would serve no useful purpose and would impose an unreasonable burden. They therefore request that, respecting the proposed acquisition of indirect control of HN, we exempt them from the applicable statutory provisions and from our regulations.

As pertinent here, 49 USC 10505 provides that we shall exempt a rail carrier transaction because of its limited scope when we find that application of a provision of subtitle IV of title 49, United States Code, (1) Is not necessary to carry out the national transportation policy, (2) Would place an unreasonable burden on a person, class of persons, or interstate and foreign commerce, and (3) Would serve little or no useful public purpose. We may act under 49 U.S.C. 10505 only after an opportunity for a proceeding. This notice and request for comments on the petition for exemption provides that opportunity. Comments should address the petitioners' assertions regarding the nature, scope, and effect of the transaction, or any other matters relevant to the question of exemption.

This proceeding is instituted under the authority of 49 U.S.C. 10505 pursuant to 5 U.S.C. 553.

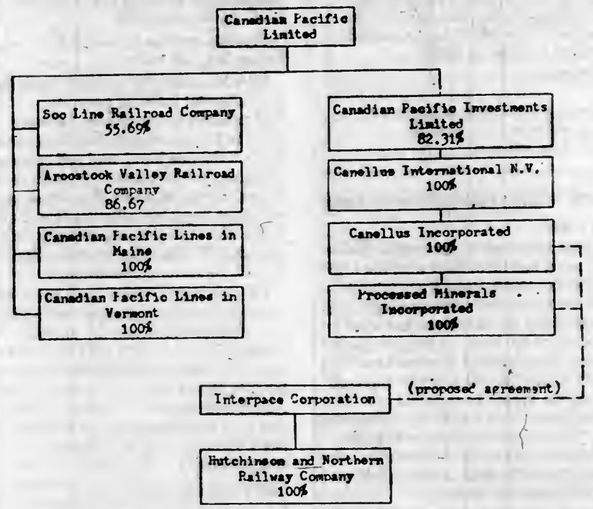
This proceeding will not significantly affect the human environment or energy consumption.

Dated: April 27, 1979.

By the Commission, Chairman O'Neal, Vice Chairman Brown, Commissioners Stafford, Gresham, Clapp and Christian. Chairman O'Neal and Commissioner Stafford absent and not participating.

H. G. Homme, Jr.,
Secretary.

Appendix



[Finance Docket No. 29010F]
[FR Doc. 79-14692 Filed 5-10-79; 8:45 am]
BILLING CODE 7035-01-M

Assignment of Hearings

May 7, 1979.

Cases assigned for hearing, postponement, cancellation or oral argument appear below and will be published only once. This list contains prospective assignments only and does not include cases previously assigned hearing dates. The hearings will be on the issues as presently reflected in the Official Docket of the Commission. An attempt will be made to publish notices of cancellation of hearings as promptly as possible, but interested parties should take appropriate steps to insure that they are notified of cancellation or postponements of hearings in which they are interested.

MC 112989 (Sub-78F), West Coast Truck Lines, Inc., now assigned June 4, 1979, at San Francisco, CA, will be held in the Holiday Inn, 750 Kearny Street; and continued to June 25, 1979, at Chicago, IL, will be held in the Marriott Hotel, 8535 W. Higgings Road.

MC 124306 (Sub-46F), Kenan Transport Company, Inc., now assigned May 14, 1979, at Washington, D.C., is postponed to May 15, 1979, at the Offices of the Interstate Commerce Commission, Washington, D.C.

MC 145034F, Sky Trucking Co., now assigned for hearing on May 23, 1979, (3 days), at Los Angeles, CA., will be held in the U.S. County Courthouse, 111 North Hill Street.

MC 113651 (Sub-287F), Indiana Refrigerator Lines, Inc., now assigned for hearing on June 11, 1979, (1 day), at Omaha, NE., in a hearing room to be later designated.

MC 135078 (Sub-35F), American Transport, Inc., now assigned for hearing on June 12, 1979, (2 days), at Omaha, NE., in a hearing room to be later designated.

MC 128118 (Sub-105F), Crete Carrier Corporation, now assigned for hearing on June 14, 1979, (2 days), at Omaha, NE., in a hearing room to be later designated.

MC 134806 (Sub-1, 2, 3, 4, 5, 6 & 7), Cape Air Freight, Incorporated, now assigned for hearing on May 15, 1979, (9 days), at Louisville, KY., is postponed and change from hearing to Prehearing Conference on May 22, 1979, at the Offices of the Interstate Commerce Commission, Washington, DC.

MC 989 (Sub-30F), Ideal Truck Lines, Inc., now assigned May 21, 1979, at Wichita, KS, will be held at the Best Western Cantebury Inn, 5805 West Kellogg.

MC 96925 (Sub-9F), Crown Motor Lines, Inc., now assigned May 21, 1979 at Tallahassee, FL, will be held in Room No. 111, Fletcher Bldg., 101 East Gaines Street.

MC 69281 (Sub-45F), The Davidson Transfer & Storage Co., a Corp., now assigned June 4, 1979, at Baltimore, MD., will be held in Room No. 1017, Fallon Federal Bldg., 311 Hopkins Plaza.

MC 119765 (Sub-64F), Eight Way Express, Inc., now assigned May 30, 1979, at Omaha, NE, will be held in room No. 616, Union Pacific Plaza, 110 N. 14th Street, 14th & Dodge.

MC 128118 (Sub-91F), Crete Carrier Corporation, now assigned June 4, 1979, at Omaha, NE, will be held in Room No. 616, Union Pacific Plaza, 110 N. 14th Street, 14th & Dodge.

MC 141921 (Sub-17F), Sav-On Transportation, Inc., now assigned May 31, 1979, at Omaha, NE, will be held in Room No. 616, Union Pacific Plaza, 110 N. 14th Street, 14th & Dodge.

MC-C-8877, Consolidated Freightways Corporation of Delaware—Investigation of and Revocation of Certificates, now assigned May 21, 1979, at Atlanta, GA., in the Sheraton Biltmore Hotel, 817 West Peachtree St., is transferred to the Riviera Hyatt House, 1630 Peachtree St., N.W., Atlanta, GA.

MC 99610 (Sub-17, 19 & 27), ross Neely Express, Inc., now assigned May 30, 1979, (3 days), in the GSA Conference Room 430, Federal Building & U.S. Court, 1800—5th Avenue North, Birmingham, AL.

I & S 8863, Switching & Minimum Carload Charges, Houston, Texas, now assigned May 30, 1979, at Houston, Texas, will be held in Room 5212, Federal Building, 515 Rusk Avenue.

No. 37095, Arthur Goldzweig, et al. v. Transport of New Jersey et al., now assigned May 14, 1979, (1 week), for continued hearing at the Marlboro Municipal Office's Meeting Room, Route 79 & Tennent Road, Marlboro Township, Marlboro, New Jersey.

MC-C-10164, B. J. McAdams, Inc., and McCormack's Highway Transportation, Inc., Investigation and Revocation of Certificates; MC-C-9647, B. J. McAdams, Inc., Eugene D. Anderson Investigation—Shipper Support Misrepresentation and Coercion; MC-C-9969, B. J. McAdams, Inc., Whirlpool Corporation Investigation—Misrepresentation; No. MC 134922 (Sub-93, 100, 101, 103, 116, 199, 235, 181, 189, 224), B. J. McAdams, Inc.; MC 19137 (Sub-21, 23, 26, 30, 31, 33, 34, 41), McCormack's Highway Transportation, Inc., Now assigned June 5, 1979, (13 days), at the Offices of the Interstate Commerce Commission, Washington, D.C.

MC 23618 (Sub-25F), McAlister Company Dba Matco, now assigned for hearing on May 8, 1979, at Dallas, Texas is canceled and application dismissed.

MC 56679 (Sub-102), Brown Transport Corporation, now assigned continued hearing June 5, 1979, at the Offices of the Interstate Commerce Commission, Washington, D.C.

MC 143762 (Sub-2F), Steve T. Allen, dba Riggs, & Allen Transportation, now assigned May 16, 1979, at Phoenix, AZ, is canceled and transferred to modified procedure.

MC 145593F, Harold Shull Trucking, Inc., now transferred to modified procedure.

MC 110098 (Sub-171F), Zero Refrigerated Lines, now assigned for hearing on June 4, 1979, at Kansas City, MO is canceled and transferred to modified procedure.

MC 145399F, Shay Distributing Co., Application dismissed.

MC 113678 (Sub-750F), Curtis, Inc., transferred to modified procedure.

MC 118159 (Sub-282), National Refrigerated

SUPPLEMENTARY INFORMATION:

1979. Grounds for relief—market

or other means—by which protestant

affecting the quality of the human

points in AL, AR, CT, DE, FL, GA, IL, IN,

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MC 118159 (Sub-282). National Refrigerated Transport, Inc., transferred to Modified Procedure.

No. 37135F, Increased Rates on Coal, BN Montana to Cohasset, Minnesota, No. 37135 (Sub-1), Increased Rates on Coal, BN, Montana to Cohasset, Minnesota, No. 37153, Minnesota Power & Light Company V. Burlington Northern, Inc., No. 37162, The Cleveland-Cliffs Iron Company v. Burlington Northern, Inc., and No. 37169, Detroit Edison Company V. Burlington Northern, Inc., now assigned hearing July 16, 1979, at the Offices of the Interstate Commerce Commission, Washington, D.C.

MC 124821 (Sub-26), William Gilchrist, and No. MC 124920 (Sub-14), La Bar's, Inc., now assigned continued hearing June 27, 1979, at the Offices of the Interstate Commerce Commission, Washington, D.C.

MC 110988 (Sub-375F), Schneider Tank Lines, Inc., now assigned June 11, 1979, at the Offices of the Interstate Commerce Commission, Washington, D.C., and continued to July 23, 1979, at the Offices of the Interstate Commerce Commission, Washington, D.C.

MC 115331 (Sub-457F), Truck Transport, Inc., now assigned continued hearing on June 19, 1979, at the Offices of Interstate Commerce Commission, Washington, D.C.

H. G. Homme, Jr.,
Secretary.

[Notice No. 84]

[FR Doc. 79-14741 Filed 5-10-79; 8:45 am]

BILLING CODE 7035-01

Gleason Brothers, Inc., Released Rate Application

AGENCY: Interstate Commerce Commission.

ACTION: Notice. Released Rates Application No. MC-1478.

SUMMARY: Gleason Bros., Inc. seeks authority to publish released rates between Northampton, MA and points in NJ, MA, SC, VA, PA, CT, ME, NY, NH and the District of Columbia on submarine periscopes, requiring special handling, and component parts of submarine periscopes, and periscope containers. The net effect will be to limit applicant's liability to a value not exceeding $5000 per ton of 2000 pounds, subject to an excess value charge of 50 cents for each $1000 or fraction thereof of value exceeding $5000 per ton of 2000 pounds.

ADDRESSES: Anyone seeking copies of this application should contact: Mr. Patrick T. Gleason, Esquire, Gleason Bros., Inc., 26 Center Street, Northampton, MA 07632, Telephone: (413) 584-9509.

FOR FURTHER INFORMATION CONTACT: Mr. Harold Ward, Bureau of Traffic, Interstate Commerce Commission, Washington, D.C. 20423, Telephone: (202) 275-7447.

SUPPLEMENTARY INFORMATION: Applicant seeks relief from 49 USC 10730, formerly Section 20(11) of the Interstate Commerce Act to publish released rates in its tariffs.

H. G. Homme, Jr.,
Secretary.

[Released Rate Application No. MC-1478]

[FR Doc. 79-14740 Filed 5-10-79; 8:45 am]

BILLING CODE 7035-01-M

Fourth Section Applications for Relief

May 8, 1979.

These applications for long-and-short-haul relief has been filed with the I.C.C.

FSA No. 43692, Hong Kong Islands Line No. 1, intermodal rates on general commodities in containers, between ports in the Far East, on the one hand, and on the other, rail carriers terminals on the United States Atlantic and Gulf Coasts via West Coast points of interchange, in its Tariffs ICC HKLU 300 and 301, to become effective May 27, 1979. Grounds for relief—water competition. Protests are due at the I.C.C. by May 24, 1979.

FSA No. 43695, Lykes Bros. Steamship Co., Inc. (No. 10), joint water-rail rates on general commodities in containers, from Ports in Japan, Korea and the Philippines, to rail carriers' terminals on the U.S. Atlantic and Gulf Coast via West Coast points of interchange, as published in Trans-Pacific Freight Conference of Japan/Korea Eastbound Intermodal Tariff No. 2, ICC TPC 111 and Lykes Bros. Steamship Co., Inc. ICC LYKU 720, to become effective May 25, 1979. Grounds for relief—water competition. Protests are due at the I.C.C. by May 24, 1979.

FSA No. 43697, Hanjin Container Lines, LTD. (No. 102), joint water-rail rates on general commodities in containers, between rail carriers' terminals on the U.S. Atlantic and Gulf Coast, and Ports in Japan and Korea via West Coast points of interchange, as published in Pacific Westbound Conference Westbound Intermodal Tariff No. ICC PWC-708A and Trans-Pacific Freight Conference of Japan/Korea Eastbound Intermodal Tariff No. 2, ICC TPF-111, to become effective May 20 and later. Ground for relief—water competition. Protests are due at the I.C.C. by May 17, 1979.

FSA No. 43696, annual volume rates on chemicals and related articles in tank carloads, between Kings Mill, Tex., on the one hand and, on the other, Bay City, Midland, Mich. and Sarnia, Ontario, as published in Southwestern Freight Bureau Agent's Tariff SWFB 4616, ICC SWFB 4616, to become effective May 29, 1979. Grounds for relief—market competition. Protests are due at the I.C.C. by May 24, 1979.

Protests are due at the I.C.C. on or before May 29, 1979.

FSA No. 43691, Eurobridge Lines No. 2, intermodal rates on general commodities in containers, between ports in Europe and the Mediterranean Sea, on the one hand, and rail carriers terminals on the United States Pacific Coast, on the other via East Coast points of interchange, in its Tariffs Nos. 2 and 3, ICC Nos. 2 and 3, respectively, to become effective May 31, 1979. Grounds for relief—water competition.

FSA No. 43693, Ibero Lines No. 1, joint water-rail rates on general commodities in containers, between rail carriers' terminals on the U.S. Gulf and Pacific Coast, and Ports in the Adriatic, Canary Islands, Spain, Portugal, Mediterranean, Africa and Near East via East Coast points of interchange, in its Tariff I.C.C. No. 1. Grounds for relief—water competition.

By the Commission.

H. G. Homme, Jr.,
Secretary.

[FR Doc. 79-14742 Filed 5-10-79; 8:45 am]

BILLING CODE 7035-01-M

Permanent Authority Decisions; Decision-Notice

Decided: April 26, 1979.

The following applications filed on or before February 28, 1979, are governed by Special Rule 247 of the Commission's *Rules of Practice* (49 CFR 1100.247). For applications filed before March 1, 1979, these rules provide, among other things, that a protest to the granting of an application must be filed with the Commission within 30 days after the date notice of the application is published in the **Federal Register.** Failure to file a protest, on or before June 11, 1979, will be considered as a waiver of opposition to the application. A protest under these rules should comply with Rule 247(e)(3) of the Rules of Practice which requires that it set forth specifically the grounds upon which it is made, contain a detailed statement of protestant's interest in the proceeding, (as specifically noted below), and shall specify with particularity the facts, matters, and things relied upon, but shall not include issues or allegations phrased generally. A protestant should include a copy of the specific portions of its authority which protestant believes to be in conflict with that sought in the application, and describe in detail the method—whether by joinder, interline, or other means—by which protestant would use such authority to provide all or part of the service proposed.

Protests not in reasonable compliance with the requirements of the rules may be rejected. The original and one copy of the protest shall be filed with the Commission, and a copy shall be served concurrently upon applicant's representative, or upon applicant if no representative is named. If the protest includes a request for oral hearing, such request shall meet the requirements of section 247(e)(4) of the special rules and shall include the certification required in that section.

On cases filed on or after March 1, 1979, petitions for intervention either with or without leave are appropriate.

Section 247(f) provides, in part, that an applicant which does not intend timely to prosecute its application shall promptly request that it be dismissed, and that failure to prosecute an application under the procedures of the Commission will result in its dismissal.

If applicant has introduced rates as an issue it is noted. Upon request an applicant must provide a copy of the tentative rate schedule to any protestant.

Further processing steps will be by Commission notice, decision, or letter which will be served on each party of record. *Broadening amendments will not be accepted after the date of this publication.*

Any authority granted may reflect administratively acceptable restrictive amendments to the service proposed below. Some of the applications may have been modified to conform to the Commission's policy of simplifying grants of operating authority.

Findings

With the exceptions of those applications involving duly noted problems (e.g., unresolved common control, unresolved fitness questions, and jurisdictional problems) we find, preliminarily, that each common carrier applicant has demonstrated that its proposed service is required by the public convenience and necessity, and that each contract carrier applicant qualifies as a contract carrier and its proposed contract carrier service will be consistent with the public interest and the transportation policy of 49 U.S.C. 10101. Each applicant is fit, willing, and able properly to perform the service proposed and to conform to the requirements of Title 49, Subtitle IV, United States Code, and the Commission's regulations. Except where specifically noted this decision is neither a major Federal action significantly affecting the quality of the human environment nor a major regulatory action under the Energy Policy and Conservation Act of 1975.

In those proceedings containing a statement or note that dual operations are or may be involved we find, preliminarily and in the absence of the issue being raised by a protestant, that the proposed dual operations are consistent with the public interest and the transportation policy of 49 U.S.C. 10101 subject to the right of the Commission, which is expressly reserved, to impose such conditions as it finds necessary to insure that applicant's operations shall conform to the provisions of 49 U.S.C. 10930(a) [formerly section 210 of the Interstate Commerce Act].

In the absence of legally sufficient protests, filed on or before June 11, 1979 (or, if the application later becomes unopposed), appropriate authority will be issued to each applicant (except those with duly noted problems) upon compliance with certain requirements which will be set forth in a notification of effectiveness of this decision-notice. To the extent that the authority sought below may duplicate an applicant's existing authority, such duplication shall not be construed as conferring more than a single operating right.

Applicants must comply with all specific conditions set forth in the grant or grants of authority within 90 days after the service of the notification of the effectiveness of this decision-notice, or the application of a non-complying applicant shall stand denied.

By the Commission, Review Board Number 1, Members Carlton, Joyce, and Jones.

H. G. Homme, Jr.,
Secretary.

MC 1239 (Sub-10F), filed February 10, 1979. Applicant: PONY TRUCKING, INC., 501 State Route 7, Steubenville, OH 43952. Representative: Maxwell A. Howell, 1100 Investment Building, 1511 K Street, NW., Washington, DC 20005. To operate as a *contract carrier*, by motor vehicle, in interstate or foreign commerce, over irregular routes, transporting (1) *iron and steel articles*, and (2) *materials and supplies* used in the manufacture of the commodities in (1) above, between (a) the facilities of Weirton Steel Division of National Steel Corporation, at or near (i) Steubenville, OH, and (ii) Weirton, WV, and (b) the facilities of Wheeling-Pittsburgh Steel Corporation, at or near (i) Martins Ferry, Mingo Junction, Steubenville, and Yorkville, OH, (ii) Allenport and Monessen, PA, and (iii) Beech Bottom, Benwood, Follansbee, and Wheeling, WV, on the one hand, and, on the other, points in AL, AR, CT, DE, FL, GA, IL, IN, KS, KY, LA, MD, MA, MI, MS, MO, NJ, NY, NC, OH, OK, PA, SC, TN, TX, VA, WV, and WI, under continuing contract(s) in (a) above with Weirton Steel Division of National Steel Corporation, of Weirton, WV, and in (b) above with Wheeling-Pittsburgh Steel Corporation, of Pittsburgh, PA. (Hearing site: Pittsburgh, PA.)

MC 40978 (Sub-54F), filed February 12, 1979. Applicant: CHAIR CITY MOTOR EXPRESS CO., a Corporation, 3321 Business 141 South, Sheboygan, WI 53081. Representative: William C. Dineen, 710 N. Plankinton Ave., Milwaukee, WI 53203. To operate as a *common carrier*, by motor vehicle, in interstate or foreign commerce, over irregular routes, transporting *such commodities as are dealt in by manufacturers of power equipment for lawn and turf care*, from the facilities of OMC Galesburg, at Manawa, WI, to points in AR, CT, DE, GA, IA, IL, IN, KY, MA, MD, MI, MN, MO, NC, NJ, NY, OH, OK, PA, RI, SC, TN, VA, WV, and DC. (Hearing site: Milwaukee, WI).

MC 48958 (Sub-171F), filed February 28, 1979. Applicant: ILLINOIS-CALIFORNIA EXPRESS, INC., 510 E. 51st Ave., P.O. Box 16404, Denver, CO 80216. Representative: Lee E. Lucero (same address as applicant). To operate as a *common carrier*, by motor vehicle, in interstate or foreign commerce, over regular routes, transporting *general commodities* (except those of unusual value), classes A and B explosives, household goods as defined by the Commission, commodities in bulk, and those requiring special equipment), between El Paso, TX, and Phoenix, AZ, over Interstate Hwy 10, serving the intermediate points of Las Cruces, NM, and Tucson, AZ, and serving Santo Tomas, NM, as an off-route point in connection with carrier's authorized regular-route operations. (Hearing site: Las Cruces, NM, or Tucson, AZ.)

Note.—Applicant intends to tack this authority with its existing regular-route authority.

MC 89369 (Sub-22F), filed February 22, 1979. Applicant: JOART TRUCKING COMPANY, a Corporation, Talmadge Rd., Edison, NJ 08817. Representative: Edward F. Bowes, 167 Fairfield Rd., Fairfield, NJ 07006. To operate as a *common carrier*, by motor vehicle, in interstate or foreign commerce, over irregular routes, transporting *soda ash and dry plastic materials*, in bulk, in hopper-type vehicles, from points in NJ, to points in CT, MA, RI, NY, PA, MD, VA, VT, NH, and NJ, restricted to the transportation of traffic having a prior

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movement by rail or water. (Hearing site: New York, NY, or Newark, NJ.)

MC 108119 (Sub-128F), filed February 23, 1979. Applicant: E. L. MURPHY TRUCKING COMPANY, a Corporation, P.O. Box 43010, St. Paul, MN 55164. Representative: Andrew R. Clark, 1000 First National Bank Bldg., Minneapolis, MN 55402. To operate as a *common carrier*, by motor vehicle, in interstate or foreign commerce, over irregular routes, transporting *cooling towers*, between points in Merced County, CA, on the one hand, and, on the other, points in the United States (including AK, but excluding HI). (Hearing site: San Francisco or Los Angeles, CA.)

MC 108119 (Sub-129F), filed February 28, 1979. Applicant: E. L. MURPHY TRUCKING COMPANY, a Corporation, P.O. Box 43010, St. Paul, MN 55164. Representative: Andrew R. Clark, 1000 First National Bank Bldg., Minneapolis, MN 55402. To operate as a *common carrier*, by motor vehicle, in interstate or foreign commerce, over irregular routes, transporting *cast iron fittings, valve boxes, fabricated pipe, manhole rings, and manhole covers*, from Fort Worth, TX, to points in AZ, CA, and ID. (Hearing site: Fort Worth or Dallas, TX.)

MC 116859 (Sub-19F), filed February 23, 1979. Applicant: CLARK TRANSFER, INC., P.O. Box 190, Burlington, NJ 08016. Representative: David A. Sutherland, 1150 Connecticut Ave. NW., Suite 400, Washington, DC 20036. To operate as a *common carrier*, by motor vehicle, in interstate or foreign commerce, over irregular routes, transporting *paperback books*, between Philadelphia, PA, and Washington, DC, on the one hand, and, on the other, points in DE, MD, PA, VA, and DC. (Hearing site: Washington, DC.)

MC 123048 (Sub-430F), filed February 26, 1979. Applicant: DIAMOND TRANSPORTATION SYSTEM, INC., 5021 21st Street, Racine, WI 53406. Representative: John L. Bruemmer, 121 West Doty Street, Madison, WI 53703. To operate as a *common carrier*, by motor vehicle, in interstate or foreign commerce, over irregular routes, transporting (1) *tractors and equipment* designed for use with tractors, and (2) *attachments and parts* for the commodities in (1) above, from points in Grayson and Harris Counties, TX, to points in the United States; and (3) *experimental and show display commodities* as described in (1) and (2) above, between points in the United States, restricted in (3) above to the transportation of traffic originating at or destined to facilities, farms, and exhibits used by Hinomoto Tractor Sales, U.S.A., Inc. (Hearing site: Houston or Dallas, TX.)

MC 126118 (Sub-131F), filed February 28, 1979. Applicant: CRETE CARRIER CORPORATION, P.O. Box 81228, Lincoln, NE 68501. Representative: Duane W. Acklie (same address as applicant). To operate as a *common carrier*, by motor vehicle, in interstate or foreign commerce, over irregular routes, transporting *clay and clay products*, from Ochlocknee, GA, and Ripley, MS, to points in AR, IL, IN, IA, KS, KY, MI, MN, MO, NE, OH, OK, PA, TX, and WI. (Hearing site: Chicago, IL, or Lincoln, NE.)

Note.—Dual operations may be at issue.

MC 126118 (Sub-132F), filed February 28, 1979. Applicant: CRETE CARRIER CORPORATION, P.O. Box 81228, Lincoln, NE 68501. Representative: Duane W. Acklie (same address as applicant). To operate as a *common carrier*, by motor vehicle, in interstate or foreign commerce, over irregular routes, transporting *such commodities as are dealt in or used by manufacturers of paper and paper products*, from points in WI, to points in AZ, CA, NV, OR, and WA. (Hearing site: Chicago, IL, or Milwaukee, WI.)

Note.—Dual operations may be at issue.

MC 127478 (Sub-15F), filed February 26, 1979. Applicant: WILLIAM M. HAYES D/B/A HAYES TRUCKING CO., P.O. Box 31, Winterville, GA 39683. Representative: Virgil H. Smith, Suite 12, 1587 Phoenix Boulevard, Atlanta, GA 30349. To operate as a *common carrier*, by motor vehicle, in interstate or foreign commerce, over irregular routes, transporting *frozen foodstuffs*, from the facilities of Kitchens of Sara Lee, (1) at New Hampton, IA, and (2) at or near Chicago, IL, to points in GA, AL, FL, and those in TN on and east of Interstate Hwy 65. (Hearing site: Atlanta, GA, or New Hampton, IA.

MC 136168 (Sub-33F), filed February 23, 1979. Applicant: WILSON CERTIFIED EXPRESS, INC., P.O. Box 3326, Des Moines, IA 50316. Representative: Donald L. Stern, Suite 610, 7171 Mercy Road, Omaha, NE 68106. To operate as a *conract carrier*, by motor vehicle, in interstate or foreign commerce, over irregualr routes, transporting *food products, citrus products, and citrus byproducs*, from the facilities of Tropicana Products, Inc., at or near Bradenton, FL, to points in AR, IL, IN, IA, KS, MN, MO, NE, ND, OK, TN, TX, SD, and WI, under continuing contract with Tropicana Products, Inc., of Bradenton, FL.

Note.—Dual operations may be involved. (Hearing site: Tampa, FL, or Chicago, IL.)

MC 140849 (Sub-20F), filed February 28, 1979. Applicant: ROBERTS TRUCKING CO., INC., U.S. Hwy 271 South, P.O. Drawer G, Poteau, OK 74953. Representative: Prentiss Shelley (same address as applicant). To operate as a contract carrier, by motor vehicle, in interstate or foreign commerce, over irregular routes, transporting *textiles and textile products, and materials, equipment, and supplies used in the manufacture or distribution of textiles and textile products*, between points in the United States (except AK and HI), under continuing contract(s) with the Kellwood Company, of Perry, GA. (Hearing site: Atlanta, GA, or Washington, DC.)

Note.—Dual operations may be at issue.

MC 142669 (Sub-8F), filed February 28, 1979. Applicant: GENE WALTERS & CLARK WURTELE, a partnership, d.b.a. M & M TRUCKING, 115 E. Brewster St., Harvey, ND 58341. Representative: Charles E. Johnson, P.O. Box 1982, Bismarck, ND 58501. To operate as a *common carrier*, by motor vehicle, in interstate or foreign commerce, over irregular routes, transporting *fertilizer spreaders and fertilizer applicators*, from Willmar, MN, to those points in the United States in and west of ND, SD, NE, KS, OK, and TX. (Hearing site: billings, MT, or Fargo, ND.)

Note.—Dual operations may be at issue.

MC 146449F, filed February 12, 1979. Applicant: ALL CITIES TRANSFER, INC., P.O. Box 90130, East Point, GA 30364. Representative: Richard M. Tettelbaum, Fifth Floor, Lenox Towers South, Atlanta, GA 30326. To operate as a *common carrier*, by motor vehicle, in interstate or foreign commerce, over regular routes, transporting *general commodities* (except those of unusual value, classes A and B explosives, household goods as defined by the Commission, commodities in bulk, and those requiring special equipment), between Atlanta, GA, and Shenandoah, GA, from Atlanta over Interstate Hwy 85 to junction GA Hwy 34, then over GA Hwy 34 to Shenandoah, and return over the same route, serving no intermediate points. (Hearing site: Atlanta, GA.)

Note.—The person or persons who appear to be engaged in common control must either file an application under 49 U.S.C. § 11343(a), or submit an affidavit indicating why such approval is unnecessary. (2) Dual operations may be at issue.

[Permanent Authority Applications Vol. No. 46]

[FR Doc. 79-14743 Filed 5-10-79; 8:45 am]

BILLING CODE 7035-01-M

Permanent Authority Decisions; Decision-Notice

Decided: May 3, 1979.

The following applications filed on or before February 28, 1979, are governed by Special Rule 247 of the Commission's *Rules of Practice* (49 CFR 1100.247). For applications filed before March 1, 1979, these rules provide, among other things, that a protest to the granting of an application must be filed with the Commission within 30 days after the date notice of the application is published in the **Federal Register.** Failure to file a protest, on or before June 11, 1979, will be considered as a waiver of opposition to the application. A protest under these rules should comply with Rule 247(e)(3) of the Rules of Practice which requires that it set forth specifically the grounds upon which it is made, contain a detailed statement of protestant's interest in the proceeding (as specifically noted below), and shall specify with particularity the facts, matters, and things relied upon, but shall not include issues or allegations phrased generally. A protestant should include a copy of the specific portions of its authority which protestant believes to be in conflict with that sought in the application, and describe in detail the method—whether by joinder, interline, or other means—by which protestant would use such authority to provide all or part of the service proposed.

Protests not in reasonable compliance with the requirements of the rules may be rejected. The original and one copy of the protest shall be filed with the Commission, and a copy shall be served concurrently upon applicant's representative, or upon applicant if no representative is named. If the protest includes a request for oral hearing, such request shall meet the requirements of section 247(e)(4) of the special rules and shall include the certification required in that section.

On cases filed on or after March 1, 1979, petitions for intervention either with or without leave are appropriate.

Section 247(f) provides, in part, that an applicant which does not intend timely to prosecute its application shall promptly request that it be dismissed, and that failure to prosecute an application under the procedures of the Commission will result in its dismissal.

If applicant has introduced rates as an issue it is noted. Upon request an applicant must provide a copy of the tentative rate schedule to any protestant.

Further processing steps will be by Commission notice, decision, or letter which will be served on each party of record. *Broodening amendments will not be accepted after the date of this publication.*

Any authority granted may reflect administratively acceptable restrictive amendments to the service proposed below. Some of the applications may have been modified to conform to the Commission's policy of simplifying grants of operating authority.

Findings

With the exceptions of those applications involving duly noted problems (e.g., unresolved common control, unresolved fitness questions, and jurisdictional problems) we find, preliminarily, that each common carrier applicant has demonstrated that its proposed service is required by the public convenience and necessity, and that each contract carrier applicant qualifies as a contract carrier and its proposed contract carrier service will be consistent with the public interest and the transportation policy of 49 U.S.C. 10101. Each applicant is fit, willing, and able properly to perform the service proposed and to conform to the requirements of Title 49, Subtitle IV, United States Code, and the Commission's regulations. Except where specifically noted this decision is neither a major Federal action significantly affecting the quality of the human environment nor a major regulatory action under the Energy Policy and Conservation Act of 1975.

In those proceedings containing a statement or note that dual operations are or may be involved we find, preliminarily and in the absence of the issue being raised by a protestant, that the proposed dual operations are consistent with the public interest and the transportation policy of 49 U.S.C. 10101 subject to the right of the Commission, which is expressly reserved, to impose such conditions as it finds necessary to insure that applicant's operations shall conform to the provisions of 49 U.S.C. 10930(a) [formerly section 210 of the Interstate Commerce Act].

In the absence of legally sufficient protests, filed on or before June 11, 1979 (or, if the application later becomes unopposed), appropriate authority will be issued to each applicant (except those with duly noted problems) upon compliance with certain requirements which will be set forth in a notification of effectiveness of this decision-notice. To the extent that the authority sought below may duplicate an applicant's existing authority, such duplication shall not be construed as conferring more than a single operating right.

Applicants must comply with all specific conditions set forth in the grant or grants of authority within 90 days after the sevice of the notification of the effectiveness of this decision-notice, or the application of a non-complying applicant shall stand denied.

By the Commission, Review Board Number 1, Members Carleton, Joyce, and Jones.

H. G. Homme, Jr.,
Secretary.

MC 200 (Sub-336F), filed February 12, 1979. Applicant: RISS INTERNATIONAL CORPORATION, 903 Grand Avenue, Kansas City, MO 64106. Representative: Ivan E. Moody (same address as applicant). To operate as a *common carrier*, by motor vehicle, in interstate or foreign commerce, over irregular routes, transporting *meats, meat products, and meat byproducts and articles distributed by meat-packing houses*, as described in sections A and C of Appendix I to the report in *Descriptions in Motor Carrier Certificates*, 61 M.C.C. 209 and 766, (except hides and commodities in bulk), from the facilities of Hygrade Food Products Corporation, at Storm Lake, IA, to points in CT, DE, FL, GA, IL, IN, KY, LA, ME, MA, MD, MI, MO, MS NE, NH, NJ, NY, NC, OH OK, PA, RI, SC, TX, VT, VA, WV, and DC, restricted to the transportation of traffic originating at the named origin. (Hearing Site: Kansas City, MO)

MC 531 (Sub-373F), filed February 8, 1979. Applicant: YOUNGER BROTHERS, INC., 4904 Griggs Road, P.O. Box 14048, Houston, TX 77021. Representative: Wray E. Hughes (same address as applicant). To operate as a *common carrier*, by motor vehicle, in interstate or foreign commerce, over irregular routes, transporting *chemicals*, in bulk in tank vehicles, from Akron, OH, to points in CA, OR, and WA. (Hearing Site: Akron or Cleveland, OH)

MC 2900 (Sub-362F), filed February 13, 1979. Applicant: RYDER TRUCK LINES, INC., 2050 Kings Road, P.O. Box 2408–R, Jacksonville, FL 32203. Representative: John Carter (same address as applicant). To operate as a *common carrier*, by motor vehicle, in interstate or foreign commerce, over irregular routes, transporting (1) *building board, wallboard, and insulating board*, and (2) *materials and supplies* used in the installation of the commodities named in (1) above (except commodities in bulk), from the facilities of Armstrong Cork Company, at or near (A) Macon, GA, to points in CT, DE, IA, IL, IN, KY, MA, MD, ME, MI, MN MO, NH, NJ, NY, OH, PA, RI, VA, VT, WV, WI, and DC.

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MC 25320 (Sub-295F), filed February [illegible] or near Tupelo, MS, as an off-route point P.O. Box 2550, Lubbock, TX 79408.

(B) Pensacola, FL, to points in AL, AR, CT, DE, GA, IR, IL, IN, KS, KY, LA, MA, MD, ME, MI, MN, MO, MS, NH, NJ, NY, NC, OH, OK PA, RI, SC, TN, TX, VA, VT, WV, WI, and DC, (C) Marietta, PA, to points in AL, AR, CO, FL, GA, IA, ID, IL, IN, KS, KY, LA, MI, MN, MO, MS, MT, NC, NE, ND, OH, OK, SC, SD, TN, TX, UT, WI, and WY, restricted in (A), (B), and (C) above, to the transportation of traffic originating at the named origins and destined to the indicated destinations. (Hearing site: Philadelphia, PA, or Jacksonville, FL)

MC 29910 (Sub-207F), filed February 9, 1979. Applicant: ARKANSAS-BEST FREIGHT SYSTEM, INC., 301 South 11th Street, Fort Smith, AR 72901. Representative: Don A. Smith, P.O. Box 43, 510 North Greenwood, Fort Smith, AR 72902. To operate as a *common carrier*, by motor vehicle, in interstate or foreign commerce, over irregular routes, transporting *uranium concentrate* (except in bulk), from uranium mine sites and mills, at points in McKinley and Valencia Counties, NM, to Gore, OK. Condition: The certificate will expire in 5 years from the date of issue. (Hearing Site: Oklahoma City, OK, OR Albuquerque, NM)

MC 11220 (Sub-165F), filed February 21, 1979. Applicant: GORDONS TRANSPORTS, INC., 185 West McLemore Ave., Memphis, TN 38101. Representative: James J. Emigh, P.O. Box 59, Memphis, TN 38101. To operate as a *common carrier*, by motor vehicle, in interstate or foreign commerce, over regular routes, transporting *general commodities* (except those of unusual value, classes A and B explosives, household goods as defined by the Commission, commodities in bulk, and those requiring special equipment), between Fort Smith, AR and Wichita, KS: from Fort Smith, AR over U.S. Hwy 64 to junction Interstate Hwy 40, then over Interstate Hwy 40 to junction Muskogee Turnpike, then over Muskogee Turnpike to Broken Arrow, OK, then over OK Hwy 51 to Tulsa, OK, then over U.S. Hwy 64 to junction Cimarron Turnpike, then over Cimarron Turnpike to junction Interstate Hwy 35, then over Interstate Hwy 35 to Wichita, KS, and return over the same route, serving no intermediate points, as an alternate route for operating convenience only. (Hearing site: Washington, DC)

MC 35320 (Sub-197F), filed February 9, 1979. Applicant: T.I.M.E.–DC, INC., P.O. Box 2550, Lubbock, TX 79408. Representative: Kenneth G. Thomas (same address as applicant). To operate as a *common carrier*, by motor vehicle, in interstate or foreign commerce, transporting *general commodities* (except those of unusual value, classes A and B explosives, household goods as defined by the Commission, commodities in bulk, those requiring special equipment, ammunition, and parts of ammunition), serving the facilities of John Harland Company, at or near O'Fallon, MO, as an off-route point in connection with applicant's otherwise authorized regular-route operations. (Hearing site: St. Louis, MO, or Washington, DC)

MC 35320 (Sub-202F), filed February 9, 1979. Applicant: T.I.M.E.–DC, INC., P.O. Box 2550, Lubbock, TX 79408. Representative: Kenneth G. Thomas (same address as applicant). To operate as a *common carrier*, by motor vehicle, in interstate or foreign commerce, transporting *general commodities* (except those of unusual value, classes A and B explosives, household goods as defined by the Commission, commodities in bulk, those requiring special equipment, ammunition, and parts of ammunition), serving the facilities of McGaw Laboratories, Division of American Hospital Supply Corp., at or near Milledgeville, GA, as an off-route point in connection with applicant's otherwise authorized regular-route operations. (Hearing site: Atlanta, GA, or Washington, DC).

MC 35320 (Sub-203F), filed February 9, 1979. Applicant: T.I.M.E.–DC, INC., P.O. Box 2550, Lubbock, TX 79408. Representative: Kenneth G. Thomas (same address as applicant). To operate as a *common carrier*, by motor vehicle, in interstate or foreign commerce, transporting *general commodities* (except those of unusual value, classes A and B explosives, household goods as defined by the Commission, commodities in bulk, those requiring special equipment, ammunition, and parts of ammunition), serving the facilities of Benchcraft, Inc., at or near Blue Mountain, MS, as an off-route point in connection with applicant's regular-route operations. (Hearing site: Memphis, TN, or Washington, DC).

MC 35320 (Sub-204F), filed February 9, 1979. Applicant: T.I.M.E.–DC, INC., P.O. Box 2550, Lubbock, TX 79408. Representative: Kenneth G. Thomas (same address as applicant). To operate as a *common carrier*, by motor vehicle, in interstate or foreign commerce, transporting *general commodities* (except those of unusual value, classes A and B explosives, household goods as defined by the Commission, commodities in bulk, those requiring special equipment, ammunition, and parts of ammunition), serving the facilities of Eminence Speaker Co., at or near Eminence, KY, as an off-route point in connection with applicant's otherwise authorized regular-route operations. (Hearing site: Louisville, KY, or Washington, DC).

MC 35320 (Sub-198F), filed February 9, 1979. Applicant: T.I.M.E.–DC, INC., P.O. Box 2550, Lubbock, TX 79408. Representative: Kenneth G. Thomas (same address as applicant). To operate as a *common carrier*, by motor vehicle, in interstate or foreign commerce, transporting *general commodities* (except those of unusual value, classes A and B explosives, household goods as defined by the Commission, commodities in bulk, and those requiring special equipment, ammunition, and parts of ammunition), serving the facilities of The Anaconda Co., Brass Division, at or near Franklin, KY, as an off-route point in connection with carrier's otherwise authorized regular-route operations. (Hearing site: Nashville, TN, or Washington, DC)

MC 35320 (Sub-199F), filed February 2, 1979. Applicant: T.I.M.E.–DC, INC., P.O. Box 2550, Lubbock, TX 79408. Representative: Kenneth G. Thomas (same address as applicant). To operate as a *common carrier*, by motor vehicle, in interstate or foreign commerce, transporting *general commodities* (except those of unusual value, classes A and B explosives, household goods as defined by the Commission, commodities in bulk, those requiring special equipment, ammunition, and parts of ammunition), serving the facilities of Tyrone Hydraulics, Inc., at or near Corinth, MS, as an off-route point in connection with applicant's otherwise authorized regular-route operations. (Hearing site: Memphis, TN or Washington, DC)

MC 35320 (Sub-201F), filed February 9, 1979. Applicant: T.I.M.E.–DC, INC., P.O. Box 2550, Lubbock, TX 79408. Representative: Kenneth G. Thomas (same address as applicant). To operate as a *common carrier*, by motor vehicle, in interstate or foreign commerce, transporting *general commodities* (except those of unusual value, classes A and B explosives, household goods as defined by the Commission, commodities in bulk, those requiring special equipment, ammunition, and

MC 35320 (Sub-205F), filed February 13, 1979. Applicant: T.I.M.E.–DC, INC., P.O. Box 2550, Lubbock, TX 79408. Representative: Kenneth G. Thomas (same address as applicant). To operate as a *common carrier*, by motor vehicle, in interstate or foreign commerce, transporting *General commodities* (except those of unusual value, classes A and B explosives, household goods as defined by the Commission, commodities in bulk, those requiring special equipment, ammunition, and parts of ammunition), between the facilities of Entek Corporation of America, at or near Irving, TX, on the one hand, and, on the other, points in the United States (except AK and HI). (Hearing site: Dallas, TX, or Washington, DC)

MC 29910 (Sub-206F), filed February 9, 1979. Applicant: ARKANSAS–BEST FREIGHT SYSTEM, INC., 301 South 11th St., Fort Smith, AR 72901. Representative: Don A . Smith, P.O. Box 43, 510 North Greenwood, Fort Smith, AR 72902. To operate as a *common carrier*, by motor vehicle, in interstate or foreign commerce, over irregular routes, transporting (1) *petroleum, petroleum products, vehicle body sealer, sound deadener compounds*, (except commodities in bulk, in tank vehicles), and *filters*, from points in Warren County, MS, to points in the United States (except AK and HI), and (2)(a) *petroleum, petroleum products, vehicle body sealer, sound deadener compounds*, and *filters*, and (b) *materials, equipment, and supplies* used in the manufacture an distribution of the commodities named in (1) above, (except commodities in bulk, in tank vehicles, from points in AL, GA, IL, IN, KY, NY, OH, OK, PA, RI, SC, VA, and WV, to points in Warren County, MS, restricted in (1) and (2)(a) and (b) above, to the transportation of traffic originating at or destined to the facilities of Quaker State Oil Refining Corp., in Warren County, MS. (Hearing site: Jackson, MS, or Memphis, TN).

MC 35320 (Sub-208F), filed February 21, 1979. Applicant: T.I.M.E.–DC, INC., P.O. Box 2550, Lubbock, TX 79408. Representative: Kenneth G. Thomas (same address as applicant). To operate as a *common carrier*, by motor vehicle, in interstate or foreign commerce, transporting *General commodities* (except those of unusual value, ammunition and parts of annumition, classes A and B explosives, household goods as defined by the Commission, commodities in bulk, and those requiring special equipment), serving the facilities of Pennsylvania Tire and Rubber Co., at or near Tupelo, MS, as an off-route point in connection with applicant's otherwise authorized regular-route operations. (Hearing site: Memphis, TN, or Washington, DC).

MC 35320 (Sub-209F), filed February 21, 1979. Applicant: T.I.M.E.-DC, INC., P.O. Box 2550, Lubbock, TX 79408. Representative: Kenneth G. Thomas (same address as applicant). To operate as a *common carrier*, by motor vehicle, in interstate or foreign commerce, transporting *general commodities* (except those of unusual value, ammunition and parts for ammunition, classes A and B explosives, household goods as defined by the Commission, commodities in bulk, and those requiring special equipment), serving the facilities of Atlantic & Pacific Manufacturing & Supply Co., Inc., at or near Hogansville, GA, as an off-route point in connection with applicant's otherwise authorized regular-route operations. (Hearing site: Atlanta, GA, or Washington, DC.)

MC 35320 (Sub-210F), filed February 21, 1979. Applicant: T.I.M.E.–DC, INC., P.O. Box 2550, Lubbock, TX 79408. Representative: Kenneth G. Thomas (same address as applicant). To operate as a *common carrier*, by motor vehicle, in interstate or foreign commerce, transporting *general commodities* (except those of unusual value, ammunition and parts for ammunition, classes A and B explosives, household goods as defined by the Commission, commodities in bulk, and those requiring special equipment), serving the facilities of J & J Machine, Inc., at or near Hampton, GA, as an off-route point in connection with applicant's otherwise authorized regular-route operations. (Hearing site: Atlanta, GA, or Washington, DC.)

MC 35320 (Sub-211F), filed February 21, 1979. Applicant: T.I.M.E.–DC, INC., P.O. Box 2550, Lubbock, TX 79408. Representative: Kenneth G. Thomas (same address as applicant). To operate as a *common carrier*, by motor vehicle, in interstate or foreign commerce, transporting *general commodities* (except those of unusual value, ammunition and parts for annumition, classes A and B explosives, household goods as defined by the Commission, commodities in bulk, and those requiring special equipment), serving the facilities of John H. Harland Co., at or near (a) Columbia, SC and (b) Clearwater, FL, as off-route points in connection with applicant's otherwise authorized regular-route operations. (Hearing site: Atlanta, GA, or Washington, DC.)

MC 35320 (Sub-212F), filed February 21, 1979. Applicant: T.I.M.E.–DC, INC., P.O. Box 2550, Lubbock, TX 79408. Representative: Kenneth G. Thomas (same address as applicant). To operate as a *common carrier*, by motor vehicle, in interstate or foreign commerce, transporting *general commodities* (except those of unusual value, ammunition and parts for ammunition, classes A and B explosives, household goods as defined by the Commission, commodities in bulk, and those requiring special equipment), serving the facilities of Phillips & Brooks, Inc., at or near Cumming, GA, as off-route points in connection with applicant's otherwise authorized regular-route operations. (Hearing site: Atlanta, GA, or Washington, DC.)

MC 35320 (Sub-214F), filed February 21, 1979. Applicant: T.I.M.E.–DC, INC., P.O. Box 2550, Lubbock, TX 79408. Representative: Kenneth G. Thomas (same address as applicant). To operate as a *common carrier*, by motor vehicle, in interstate or foreign commerce, transporting *general commodities* (except those of unusual value, ammunition and parts for ammunition, classes A and B explosives, household goods as defined by the Commission, commodities in bulk, and those requiring special equipment), serving the facilities of C & D Battery Co., at or near Pikeville, TN, as off-route point in connection with applicant's otherwise authorized regular-route operations. (Hearing site: Chattanooga or Knoxville, TN.)

MC 35831 (Sub-18F), filed February 13, 1979. Applicant: E. A. HOLDER, INC., P.O. Box 69, Kennedale, TX 76060. Representative: Billy R. Reid, P.O. Box 8335, Fort Worth, TX 76112. To operate as a *common carrier*, by motor vehicle, in interstate or foreign commerce, over irregular routes, transporting *lumber and lumber products*, from points in Polk County, TX, to points in AR, LA, OK, and TX. (Hearing site: Dallas or Houston, TX.)

MC 47171 (Sub-123F), filed February 21, 1979. Applicant: COPPER MOTOR LINES, INC., P.O. Box 2820, Greenville, SC 29602. Representative: Harris G. Andrews (same address as applicant). To operate as a *common carrier*, by motor vehicle, in interstate or foreign commerce, over irregular routes, transporting *glass containers*, from Cliffwood, NJ, to Eden, NC, and Martinsville, VA. (Hearing site: Washington, DC, or Columbia, SC.)

MC 48441 (Sub-32F), filed February 13, 1979. Applicant: R. M. E. INC., P.O. Box 418, Streator, IL 61364. Representative: E. Stephen Heisley, 805 McLachlen Bank Bldg., 666 Eleventh St., N.W.,

Washington, DC 20001. To operate as a

commerce, over irregular routes,

MC 103490 (Sub-75F), filed February

R. Sims, Jr., 915 Pennsylvania Bldg., 425

IA, KS, MI, MN, MO, ND, OH, SD, and

Washington, DC 20001. To operate as a *common carrier*, by motor vehicle, in interstate or foreign commerce, over irregular routes, transporting *metal containers* and *metal skids*, from Streator, IL, to points in MI, IN, OH, MN, KY, and WI. (Hearing site: Chicago, IL.)

MC 59640 (Sub-69F), filed February 21, 1979. Applicant: PAULS TRUCKING CORPORATION, Three Commerce Drive, Cranford, NJ 07106. Representative: Charles J. Williams, 1815 Front St., Scotch Plains, NJ 07076. To operate as a *contract carrier*, by motor vehicle, in interstate or foreign commerce, over irregular routes, transporting (1) *such commodities* as are dealt in by toy and variety stores, and (2) *materials, equipment, and supplies* used in the conduct of such businesses, (except commodities in bulk), from Cincinnati and Cuyahoga Falls, OH, and Pittsburgh and Wilkes-Barrie, PA, to points in MA, MD, NJ, NY, VA, and DC, under continuing contract(s) with Lash-Tamaron Distributors, division of Toys "R" Us, Inc., of Saddlebrook, NJ. (Hearing site: New York, NY, or Newark, NJ.)

MC 74321 (Sub-147F), filed Febru- ary 21, 1979. Applicant: B. F. WALKER, INC., P.O. Box 17–B, Denver, CO 80217. Representative: Richard P. Kissinger, Steele Park, Suite 330, 50 South Steele St., Denver, CO 80209. To operate as a *common carrier*, by motor vehicle, in interstate or foreign commerce, over irregular routes, transporting (1) *iron and steel articles*, (2) *pipe* (except iron and steel), from Conroe, TX, to points in the United States, including AK, but excluding HI; and (3) *materials, equipment, and supplies* used in the manufacture and distribution of the commodities in (1) and (2) above, in the reverse direction. (Hearing site: Denver, CO.)

MC 77061 (Sub-16F), filed February 21, 1979. Applicant: SHERMAN BROS., INC., 29534 Airport Rd., P.O. Box 706, Portland, OR 97402. Representative: Russell M. Allen, 1200 Jackson Tower, Portland, OR 97205. To operate as a *common carrier*, by motor vehicle, in interstate or foreign commerce, over irregular routes, transporting *precast concrete products*, from points in Linn County, OR to points in WA. (Hearing site: Portland or Eugene, OR.)

MC 78400 (Sub-70F), filed February 13, 1979. Applicant: BEAUFORT TRANSFER COMPANY, a corporaton, P.O. Box 151, Gerald, MO 63037. Representative: Allen A. Dieckmann, Highway 50, Gerard, MO 63037. To operate as a *common carrier*, by motor vehicle, in interstate or foreign commerce, over irregular routes, transporting *steel tubing*, from the facilities of Bull Moose Tube Co., at Gerald, MO, to points in AR, IL, IN, IA, NE, KS, and OK. (Hearing site: St. Louis, MO.)

MC 84450 (Sub-1F), filed February 8, 1979. Applicant: S.R.T. MOTOR FREIGHT, INC., 1801 South Pennsylvania Ave., Morrisville, PA 19067. Representative: Alan Kahn, 1920 Two Penn Center Plaza, Philadelphia, PA 19102. To operate as a *common carrier*, by motor vehicle, in interstate or foreign commerce, over irregualr routes, transporting *iron and steel articles*, from the facilities of Bethlehem Steel Corporation, at Sparrows Point, MD, to points in DE, CT, MA, RI, NJ, NY, and PA, restricted to the transportation of traffic originating at the named origin. (Hearing site: Washington, DC, or Philadelphia, PA.)

Note.—The purpose of this application is to substitute applicant's single-line service in place of an existing joint line arrangement.

MC 95540 (Sub-1077F), filed February 5, 1979. Applicant: WATKINS MOTOR LINES, INC., 1144 West Griffin Road, P.O. Box 1636, Lakeland, FL 33802. Representative: Benjy W. Fincher (same address as applicant). To operate as a *common carrier*, by motor vehicle, in interstate or foreign commerce, over irregular routes, transporting *foodstuffs*, between Albert Lea, MN, on the one hand, and, on the other, points in the United States (except AK an HI).

MC 95540 (Sub-1082F), filed February 12, 1979. Applicant: WATKINS MOTOR LINES, INC., 1144 West Griffin Road, P.O. Box 1636, Lakeland, FL 33802. Representative: Benjy W. Fincher (same address as applicant). To operate as a *common carrier*, by motor vehicle, in interstate or foreign commerce, over irregular routes, transporting *foodstuffs*, from Austin, Brownstown, Converse, and Franklin, IN, to points in AL, FL, GA, LA, MS, NC, SC, TN, OK, and TX. (Hearing site: Indianapolis, IN, or Washington, DC.)

MC 95540 (Sub-1083F), filed February 12, 1979. Applicant: WATKINS MOTOR LINES, INC., 1144 West Griffin Road, P.O. Box 1636, Lakeland, FL 33802. Representative: Benjy W. Fincher (same address as applicant). To operate as a *common carrier*, by motor vehicle, in interstate or foreign commerce, over irregular routes, transporting *confectionery and bakery goods* (except commodities in bulk), in vehicles equipped with mechanical refrigeration, from points in IL and WI, to points in TX, CA, and CO. (Hearing site: New York, NY, or Washington, DC.)

MC 103490 (Sub-75F), filed February 12, 1979. Applicant: PROVAN TRANSPORT CORP., 210 Mill Street, Newburgh, NY 12550. Representative: Morton E. Kiel, Suite 6193, 5 World Trade Center, New York, NY 10048. To operate as a *common carrier*, by motor vehicle, in interstate or foreign commerce, over irregular routes, transporting *chemicals*, in bulk, in tank vehicles, from Stony Point, NY, to points in the United States (except AK and HI). (Hearing site: New York, NY.)

Note.—Dual operations may be involved.

MC 104210 (Sub-72F), filed February 12, 1979. Applicant: THE TRANSPORT COMPANY, INC., P.O. Box 4726, Corpus Christi, TX 78408. Representative: Mike Cotten, P.O. Box 1148, Austin, TX 78767. To operate as a *common carrier*, by motor vehicle, in interstate or foreign commerce, over irregular routes, transporting *chemicals*, in bulk, in tank vehicles, from Amarillo, TX, to points in AZ, AR, CO, IL, IA, LA, MO, NE, NM, OK, TN, TX, and WI. (Hearing site: Dallas or Houston, TX.)

MC 107010 (Sub-68F), filed February 13, 1979. Applicant: BULK CARRIERS, INC., P.O. Box 423, Auburn, NE 68305. Representative: Bradford E. Kistler, P.O. Box 82028, Lincoln, NE 68501. To operate as a *common carrier*, by motor vehicle, in interstate or foreign commerce, over irregular routes, transporting *propane*, in bulk, in tank vehicles, from (1) points in Rice, McPherson, and Clay Counties, KS, Lancaster, Cass, and Fillmore Counties, NE, and Clay County, MO, to points in CO, WY, KS, NE, SD, ND, MO, IA, and MN, and (2) points in Converse County, WY, to points in NE and SD. (Hearing site: Lincoln, NE.) Condition.—The certificate issued in this proceeding shall be limited in points of time to a period expiring 5 years from the date of issuance of the certificate.

MC 108341 (Sub-133F), filed February 2, 1979. Applicant: MOSS TRUCKING COMPANY, INC., 3027 N. Tryon St., P.O. Box 26125, Charlotte, NC 28213. Representative: Morton E. Kiel, Suite 6193, 5 World Trade Center, New York, NY 10048. To operate as a *common carrier*, by motor vehicle, in interstate or foreign commerce, over irregular routes, transporting *aluminum and aluminum articles* (except commodities in bulk), from the facilities of Eastalco Aluminum Co., at or near Buckeystown, MD, to those points in the United States in and east of MN, IA, MO, AR, and TX. (Hearing site: Washington, DC.)

MC 110420 (Sub-802F), filed February 12, 1979. Applicant: QUALITY CARRIERS, INC., P.O. Box 186, Pleasant Prairie, WI 53158. Representative: John R. Sims, Jr., 915 Pennsylvania Bldg., 425 13th Street NW., Washington, DC 20004. To operate as a *common carrier*, by motor vehicle, in interstate or foreign commerce, over irregular routes, transporting *vegetable oils*, in bulk, in tank vehicles, from Mankato, MN, to points in the United States (except AK and HI). (Hearing site: Chicago, IL, or Minneapolis, MN.)

MC 115841 (Sub-677F), filed February 8, 1979. Applicant: COLONIAL REFRIGERATED TRANSPORTATION, INC., 9041 Executive Park Drive, Suite 110, Building 100, Khoxville, TN 37919. Representative: D. R. Beeler (same address as applicant). To operate as a *common carrier*, by motor vehicle, in interstate or foreign commerce, over irregular routes, transporting *petroleum oil* (except in bulk), from Gulfport, MS, to points in CT, IL, MI, NJ, NC, OH, VA, and WV. (Hearing site: New Orleans, LA, or Washington, DC.)

MC 115841 (Sub-678F), filed February 8, 1979. Applicant: COLONIAL REFRIGERATED TRANSPORTATION, INC., 9041 Executive Park Drive, Suite 110, Building 100, Knoxville, TN 37919. Representative: David C. Venable, 805 McLachlen Bank Building, 666 Eleventh Street NW., Washington, DC 20001. To operate as a *common carrier*, by motor vehicle, in interstate or foreign commerce, over irregular routes, transporting (1) *petroleum, petroleum products, vehicle body sealer, and sound deadener compounds* (except commodities in bulk, in tank vehicles), and *filters*, from points in Warren County, MS, to points in the United States (except AK, CT, HI, ME, MA, NH, NJ, RI, and VT); and (2) *petroleum, petroleum products, vehicle body sealer, sound deadener compounds, filters*, and *materials, supplies, and equipment* as are used in the manufacture, sale, and distribution of the commodities named in (1) above (except commodities in bulk, in tank vehicles), from points in AL, GA, IL, IN, KY, NY, OH, OK, PA, RI, SC, VA, and WV, to points in Warren County, MS, restricted in (1) and (2) above to the transportation of traffic originating at or destined to the facilities of Quaker State Oil Refining Corporation, at Warren County, MS. (Hearing site: Memphis, TN, or Washington, DC.)

MC 117820 (Sub-29F), filed February 8, 1979. Applicant: AURELIA TRUCKING CO., a Corporation, 2121 Petit Street, Port Huron, MI 48060. Representative: Robert D. Schuler, 100 West Long Lake Road-Ste. 102, Bloomfield Hills, MI 48013. To operate as a *common carrier*, by motor vehicle, in interstate or foreign commerce, over irregular routes, transporting *fruit juices* (except in bulk), in vehicles equipped with mechanical refrigeration, from the facilities of Orchard Grove Company, at or near Lansing, MI, to points in CT, DE, IL, IN, MA, MD, NJ, NY, OH, PA, RI, VA, WV, WI, and DC, restricted to the transportation of traffic originating at the named origin and destined to the indicated destinations. (Hearing site: Lansing, MI, or Washington, DC.)

MC 118130 (Sub-110F), filed February 6, 1979. Applicant: SOUTH EASTERN XPRESS, INC., P.O. Box 6965, Fort Worth, TX 76115. Representative: Billy R. Reid, P.O. Box 5335, Fort Worth, TX 76112. To operate as a *common carrier*, by motor vehicle, in interstate or foreign commerce, over irregular routes, transporting (1) *rubber articles, plastic articles, and rubber and plastic articles*, and (2) *materials, equipment, and supplies* used in the manufacture and distribution of the commodities named in (1) above (except commodities in bulk), between the facilities of Entek Corporation of America, at or near Irving, TX, on the one hand, and, on the other, points in the United States (except AK and HI). (Hearing site: Dallas or Forth Worth, TX.)

MC 118560 (Sub-10F), filed February 12, 1979. Applicant: GENERAL TRUCKING CO., INC., P.O. Box 269, Santa Fe Pike, Columbia, TN 38401. Representative: Edward C. Blank, II, Middle Tennessee Bank Bldg., P.O. Box 1004, Columbia, TN 38401. To operate as a *common carrier*, by motor vehicle, in interstate or foreign commerce, over irregular routes, transporting *silica gravel and silica sand*, in dump vehicles, from Jemison, AL, to points in Maury County, TN, restricted to the transportation of traffic originating at the named origin and destined to the indicated destinations. (Hearing Site: Columbia, TN, or St. Louis, MO.)

MC 119741 (Sub-145F), filed February 13, 1979. Applicant: GREEN FIELD TRANSPORT COMPANY, INC., 1515 Third Ave. NW., P.O. Box 1235, Fort Dodge, IA 50501. Representative: D. L. Robson (same address as applicant). To operate as a *common carrier*, by motor vehicle, in interstate or foreign commerce, over irregular routes, transporting *meats, meat products and meat byproducts and articles distributed by meat-packing houses*, as described in Sections A and C of Appendix I to the report in *Descriptions in Motor Carrier Certificates*, 61 M.C.C. 209 and 766 (except hides and commodities in bulk, in tank vehicles), from Omaha, NE, to points in CO, IL, IN, IA, KS, MI, MN, MO, ND, OH, SD, and WI, restricted to the transportation of traffic originating at the named origin facilities and destined to the indicated destinations. (Hearing site: Omaha, NE.)

MC 123091 (Sub-29F), filed February 13, 1979. Applicant: NICK STRIMBU, INC., 3500 Parkway Road, Brookfield, OH 44403. Representative: James Duvall, P.O. Box 97, 220 West Bridge St., Dublin, OH 43017. To operate as a *common carrier*, by motor vehicle, in interstate or foreign commerce, over irregular routes, transporting (1) *iron and steel articles*, from Sharon, PA, to points in AL, GA, IL, IN, IA, KY, MD, MI, MN, MO, NC, TN, VA, WV, and WI, and (2) *Materials, equipment, and supplies* used in the manufacture and distribution of iron and steel articles, in the reverse direction. (Hearing site: Pittsburgh, PA).

MC 124251 (Sub-58F), filed February 12, 1979. Applicant: JACK JORDAN, INC., P.O. Box 888, Dalton, GA 30720. Representative: Archie B. Culbreth, Suite 202, 2200 Century Parkway, Atlanta, GA 30345. To operate as a *common carrier*, by motor vehicle, in interstate or foreign commerce, over irregular routes, transporting *adhesives and adhesive compounds*, in bulk, from the facilities of Swift Adhesives and Coating Products of Unitech Chemical, Inc., at Atlanta, GA, to Cornelius, NC. (Hearing Site: Atlanta, GA.)

MC 128750 (Sub-8F), filed February 13, 1979. Applicant: RAMPLEY TRANSPORT, INC., Post Office Box 172, Augusta, IL 62311. Representative: Ronald N. Cobert, Suite 501, 1730 M Street NW., Washington, DC 20036. To operate as a *common carrier*, by motor vehicle, in interstate or foreign commerce, over irregular routes, transporting *anhydrous ammonia*, in bulk, from Niota and East Dubuque, IL, to points in NE, IA, MO, IN, WI, and MN. (Hearing Site: Dubuque, IA.)

MC 130511 (Sub-1F), filed February 13, 1979. Applicant: GENERAL MILLS, INC., 9200 Wayzata Blvd., Minneapolis, MN 55440. Representative: Gilbert B. Lessenco, 2021 L St. NW., Washington, DC 20036. To engage in operations, in interstate or foreign commerce, as a *broker*, at Los Angeles and Culver City, CA, in arranging for the transportation, by motor vehicle, of *passengers and their baggage*, in special and charter operations, between points in the United States (including AK and HI).

Note.—Applicant presently holds authority to operate at Minneapolis, MN.(*ERR20*Hearing Site: Los Angeles, CA, or Minneapolis, MN.)

MC 133591 (Sub-61F), filed February 9, 1979. Applicant: WAYNE DANIEL

TRUCK, INC., Post Office Box 303

irregular routes, transporting (1) *floor*

Corporation, near Liverpool, Brazoria

will be represented by other parties, the

TRUCK, INC., Post Office Box 303, Mount Vernon, MO 65712. Representative: Harry Ross, 58 S. Main Street, Winchester, KY 40391. To operate as a *common carrier*, by motor vehicle, in interstate or foreign commerce, over irregular routes, transporting *such commodities* as are dealt in or used by wholesale and retail discount, or variety stores (except commodities in bulk), from points in CA, OR, and WA, to Searcy and Bentonvill, AR, Springfield, MO, and those points in TX on and east of a line beginning at the junction of Interstate Hwy 35 and OK-TX State line north of Gainesville, TX, and extending along Interstate Hwy 35 to San Antonio, TX and then along Interstate Hwy 37 to Corpus Christi, TX. (Hearing Site: Kansas City, MO.)

MC 133870 (Sub-5F), filed February 9, 1979. Applicant: JOHN P. WEYER, INC., Route 1, Box 86B, Brownsville, WI 53006. Representative: Richard C. Alexander, 710 North Plankinton Ave., Milwaukee, WI 53203. To operate as a *contract carrier*, by motor vehicle, in interstate or foreign commerce, over irregular routes, transporting (1)(a) *lime and lime products*, from points in Brown, Dodge, and Fond du Lac Counties, WI, to Springfield, IL, New Ulm, MN, Omaha, NE, those points in IA on and west of U.S. Hwy 63, and those in MN on and east of U.S. Hwy 169 and on and south of U.S. Hwy 12, and (b) *pallets* in the reverse direction, (2) *paper bags*, from Peoria, IL, Des Moines, IA, Pensacola, FL, Minneapolis, MN, and St. Louis, MO, to points in Brown, Dodge, and Fond du Lac Counties, WI, and (3) *fire brick*, from Mexico, MO, to points in Brown, Dodge, and Fond du Lac Counties, WI, under continuing contract(s) with Western Lime & Cement Company, of Milwaukee, WI. (Hearing site: Milwaukee, WI, or Chicago, IL.)

MC 135410 (Sub-46F), filed February 8, 1979. Applicant: COURTNEY J. MUNSON, doing business as, MUNSON TRUCKING, North 6th Street Road, Monmouth, IL 61462. Representative: Stephen H. Loeb, Suite 200, 205 West Touhy Avenue, Park Ridge, IL 60068. To operate as a *common carrier*, by motor vehicle, in interstate or foreign commerce, over irregular routes, transporting *meats, meat products, and meat byproducts and articles* distributed by meat-packing houses, as described in sections A and C of Appendix I to the report in *Descriptions in Motor Carrier Certificates*, 61 M.C.C. 209 and 766, (except hides and commodities in bulk), from the facilities of Wilson Foods Corporation, at (1) Cedar Rapids and (2) Des Moines, IA, and (3) Monmouth and (4) Peoria, IL, to points in CA, restricted to the transportation of traffic originating at the named origins and destined to the indicated destinations. (Hearing site: Dallas, TX.)

MC 135410 (Sub-47F), filed February 8, 1979. Applicant: COURTNEY J. MUNSON, doing business as, MUNSON TRUCKING, North 6th Street Road, P.O. Box 266, Monmouth, IL 61462. Representative: Stephen H. Loeb, Suite 200, 205 West Touhy Avenue, Park Ridge, IL 60068. To operate as a *common carrier*, by motor vehicle, in interstate or foreign commerce, over irregular routes, transporting *frozen meat*, from the facilities of Hill-N-Dale Meat Co., at or near Downingtown, PA, to points in OH, IN, IL, MO, IA, NE, and WI, restricted to the transportation of traffic originating at the named origin and destined to the indicated destinations. (Hearing site: Washington, DC.)

MC 141921 (Sub-45F), filed February 12, 1979. Applicant: SAV-ON TRANSPORTATION, INC., 143 Frontage Road, Manchester, NH 03108. Representative: John A. Sykas (same address as applicant). To operate as a *common carrier*, by motor vehicle, in interstate or foreign commerce, over irregular routes, transporting *meats, meat products, and meat byproducts and articles distributed by meat-packing houses*, as described in sections A and C of Appendix I to the report in *Descriptions in Motor Carrier Certificates*, 61 M.C.C. 209 and 766, (except hides, skins, and commodities in bulk), from the facilities of Dubuque Packing Company, Inc., at or near Denison, IA, to points in CT, DE, ME, MD, MA, NH, NJ, NY, OH, PA, RI, VT, WV, and DC.

Note.—Dual operations may be involved. (Hearing site: Concord, NH, or Boston, MA.)

MC 141931 (Sub-4F), filed January 23, 1979. Applicant: A. L. COWELL TRUCKING, INC., Route 3, Morrilton, AR 72110. Representative: Thomas B. Staley, 1550 Tower Bldg., Little Rock, AR 72201. To operate as a *common carrier*, by motor vehicle, in interstate or foreign commerce, over irregular routes, transporting *wood residuals* (except commodities in bulk, in tank vehicles), from the facilities of B. G. Wilson Lumber Company, at or near Hot Springs, AR, to Kansas City, MO. (Hearing site: Little Rock, AR.)

MC 142310 (Sub-12F), filed February 8, 1979. Applicant: H. O. WOLDING, INC., Box 56, Nelsonville, WI 54458. Representative: Wayne W. Wilson, 150 East Gilman Street, Madison, WI 53703. To operate as a *common carrier*, by motor vehicle, in interstate or foreign commerce, over irregular routes, transporting *potato products* (except commodities in bulk), from the facilities of American Potato Company, at or near Flover and Beaver Dam, WI, to points in AL, AZ, AR, CA, CO, FL, GA, ID, IL, IN, IA, KS, KY, LA, MI, MN, MS, MO, MT, NE, NV, NM, NC, ND, OH, OK, OR, SC, SD, TN, TX, UT, WA, WI, and WY, restricted to the transportation of traffic originating at the named origins and destined to the indicated destinations. (Hearing site: Chicago, IL, or San Francisco, CA.)

MC 142810 (Sub-4F), filed February 9, 1979. Applicant: LEWIS TRANSPORT, INC., Municipal Bldg., P.O. Box 385, Columbia, KY 42728. Representative: Rudy Yessin, 314 Wilkinson St., Frankfort, KY 40601. To operate as a *common carrier*, by motor vehicle, in interstate or foreign commerce, over irregular routes, transporting *petroleum and petroleum products*, (1) from points in Jefferson County, KY, to points in IN, and (2) from points in Clark County, IN, to points in KY. (Hearing site: Louisville, KY.)

MC 142941 (Sub-26F), filed January 11, 1979. Applicant: SCARBOROUGH TRUCK LINES, INC., 1313 N. 25th Ave., Phoenix, AZ 85009. Representative: Lewis P. Ames, 111 W. Monroe, 10th Floor, Phoenix, AZ 85003. To operate as a *common carrier*, by motor vehicle, in interstate or foreign commerce, over irregular routes, transporting *household appliances, household utensils*, and *humidifers*, from the facilities of West Bend Company, at West Bend and Oak Creek, WI, to Sparks, NV. (Hearing site: Chicago, IL, or Sparks, NV.)

MC 142941 (Sub-34F), filed January 24, 1979. Applicant: SCARBOROUGH TRUCK LINES, INC., 1313 N. 25th Ave., Phoenix, AZ 85009. Representative: Lewis P. Ames, 111 W. Monroe, 10th Floor, Phoenix, AZ 85003. To operate as a *common carrier*, by motor vehicle, in interstate or foreign commerce, over irregular routes, transporting *paper and paper products, plastic film, and cellulose film*, from Neenah and Wausau, WI, to points in AZ, CA, CO, ID, MT, NV, NM, TX, OR, UT, WA, and WY. (Hearing site: Milwaukee, WI, or Chicago, IL)

MC 144351 (Sub-2F), filed February 13, 1979. Applicant: DON HAUSAUER, d.b.a. DON HAUSAUER TRUCKING, 56 Carlin Drive, Fort Lincoln, ND 58501. Representative: Charles E. Johnson, 418 East Rosser Ave., P.O. Box 1982, Bismarck, ND 58501. To operate as a *common carrier*, by motor vehicle, in interstate or foreign commerce, over

irregular routes, transporting (1) *floor coverings*, and (2) *materials and supplies* used in the installation of floor coverings, from points in GA and TN, to points in ND, SD, MT, WY, MN, and NE. (Hearing site: Fargo, ND, or St. Paul, MN)

Note.—Dual operations may be involved.

MC 145560 (Sub-2F), filed February 13, 1979. Applicant: NORTH ALABAMA TRANSPORTATION, INC., P.O. Box 38, Ider, AL 35981. Representative: William P. Jackson, Jr., 3426 N. Washington Blvd., P.O., Box 1240, Arlington, VA 22210. To operate as a *contract carrier*, by motor vehicle, in interstate or foreign commerce, over irregular routes, transporting *carpet backing, bagging, synthetic yarn*, and *industrial fabrics*, from the facilities of Amoco Fabrics Company, at or near (a) Bainbridge, GA, to points in CA, and (b) Nashville, GA, to points in ID, OR, and WA, under continuing contract(s) with Amoco Fabrics Company, of Hazelhurst, GA. (Hearing site: Washington, DC)

MC 145560 (Sub-3F), filed February 13, 1979. Applicant: NORTH ALABAMA TRANSPORTATION, INC., P.O. Box 38, Ider, AL 35981. Representative: William P. Jackson, Jr., 3426 N. Washington Blvd., P.O., Box 1240, Arlington, VA 22210. To operate as a *contract carrier*, by motor vehicle, in interstate or foreign commerce, over irregular routes, transporting *carpeting*, from Ringgold, Dalton, Chatsworth, Ellijay, Calhoun, Rome, Columbus, and Sugar Valley, GA, and Chattanooga, TN, to points in CA, NV, and OR, under continuing contract(s) with Apollo Sales, Inc., of Oakland, CA. (Hearing site: Washington, DC)

MC 146051 (Sub-1F), filed February 12, 1979. Applicant: WITTENBURG TRUCK LINE, INC., P.O. Box 86, Readlyn, IA 50668. Representative: Larry D. Knox, 600 Hubbell Building, Des Moines, IA 50309. To operate as a *common carrier*, by motor vehicle, in interstate or foreign commerce, over irregular routes, transporting *plastic pipe*, from New Richland, MN, and Knoxville, TN, to those points in the United States in and west of OH, KY, TN, and AL (except AK and HI). NOTE: Dual operations may be involved. (Hearing Site: St. Paul, MN)

MC 146241F, filed January 26, 1979. Applicant: CHAPA TRANSPORT, INC., 7550 Long Point Rd., Apt. 62, Houston, TX 77055. Representative: Joe G. Fender, 711 Louisiana, Suite 1150, Houston, TX 77002. To operate as a *common carrier*, by motor vehicle, in interstate or foreign commerce, over irregular routes, transporting *polypropylene pellets*, (1) from the facilities of AMOCO Chemicals Corporation, near Liverpool, Brazoria County, TX, to Laredo, TX, and (2) from Houston, TX, to Laredo, TX. (Hearing Site: Houston or Dallas, TX)

MC 146400 (Sub-1F), filed February 13, 1979. Applicant: GOLDEN STATE AGRICULTURAL CARRIERS, INC., 1422 South Garey Ave., Pomona, CA 91769. Representative: Miles L. Kavaller, 315 South Beverly Drive, Suite 315, Beverly Hills, CA 90212. To operate as a *contract carrier*, by motor vehicle, in interstate or foreign commerce, over irregular routes, transporting *iron and steel articles*, from Avis and Williamsport, PA, to Fort Smith, AR, Tupelo, MS, Guthrie, OK, Dallas and Houston, TX, Seattle, WA, Appleton, Green Bay, and Weyauwega, WI, and points in CA, under continuing contract(s) with Jersey Shore Steel, of Jersey Shore, PA. (Hearing site: Pittsburgh, PA, or Los Angeles, CA)

[Permanent Authority Decisions Vol. No. 48]
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Permanent Authority Decisions; Decision-Notice

Decided: April 26, 1979.

The following applications, filed on or after March 1, 1979, are governed by Special Rule 247 of the Commission's *Rules of Practice* [49 CFR § 1100.247). These rules provide, among other things, that a petition for intervention, either in support of or in opposition to the granting of an application, must be filed with the Commission within 30 days after the date notice of the application is published in the **Federal Register**. Protests, (such as were allowed to filings prior to March 1, 1979), *will be rejected*. A petition for intervention without leave must comply with Rule 247(k) which requires petitioner to demonstrate that it (1) holds operating authority permitting performance of any of the service which the applicant seeks authority to perform, and has the necessary equipment and facilities for performing that service, and (2) has either performed service within the scope of the application or has solicited business which is controlled by those supporting the application and which would have involved transportation performed within the scope of the application.

Persons unable to intervene under Rule 247(k) may file a petition for leave to intervene under Rule 247(l) setting forth the specific grounds upon which it is made, including a detailed statement of petitioner's interest, the particular facts, matters, and things relied upon, the extent to which petitioner's interest will be represented by other parties, the extent to which petitioner's participation may reasonably be expected to assist in the development of a sound record, and the extent to which participation by the petitioner would broaden the issues or delay the proceeding.

Petitions not in reasonable compliance with the requirements of the rules may be rejected. An original and one copy of the petition to intervene shall be filed with the Commission, and a copy shall be served concurrently upon applicant's representative, or upon applicant if no representative is named.

Section 247(f) provides, in part, that an applicant which does not intend timely to prosecute its application shall promptly request that it be dismissed, and that failure to prosecute an application under the procedures of the Commission will result in its dismissal.

If applicant has introduced rates as an issue it is noted. Upon request an applicant must provide a copy of the tentative rate schedule to any protestant.

Further processing steps will be by Commission notice, decision, or letter which will be served on each party of record. *Broadening amendments will not be accepted after the date of this publication.*

Any authority granted may reflect adminstratively acceptable restrictive amendments to the service proposed below. Some of the applications may have been modified to conform to the Commission's policy of simplifying grants of operating authority.

Findings

With the exceptions of those applications involving duly noted problems (e.g., unresolved common control, unresolved fitness questions, and jurisdictional problems) we find, preliminarily, that each common carrier applicant has demonstrated that its proposed service is required by the public convenience and necessity, and that each contract carrier applicant qualifies as a contract carrier and its proposed contract carrier service will be consistent with the public interest and the transportation policy of 49 U.S.C. 10101. Each applicant is fit, willing, and able properly to perform the service proposed and to conform to the requirements of Title 49, Subtitle IV, United States Code, and the Commission's regulations. Except where specifically noted this decision is neither a major Federal action significantly affecting the quality of the human environment nor a major regulatory action under the Energy Policy and Conservation Act of 1975.

In those proceedings containing a statement or note that dual operations are or may be involved we find, preliminarily and in the absence of the issue being raised by a petitioner, that the proposed dual operations are consistent with the public interest and the transportation policy of 49 U.S.C. 10101 subject to the right of the Commission, which is expressly reserved, to impose such conditions as it finds necessary to insure that applicant's operations shall conform to the provisions of 49 U.S.C. 10930(a) [formerly section 210 of the Interstate Commerce Act].

In the absence of legally sufficient petitions for intervention, filed on or before June 11, 1979 (or, if the application later becomes unopposed), appropriate authority will be issued to each applicant (except those with duly noted problems) upon compliance with certain requirements which will be set forth in a notification of effectiveness of the decision-notice. To the extent that the authority sought below may duplicate an applicant's existing authority, such duplication shall be construed as conferring only a single operating right.

Applicants must comply with all specific conditions set forth in the grant or grants of authority within 90 days after the service of the notification of the effectiveness of this decision-notice, or the application of a non-complying applicant shal. stand denied.

By the Commission, Review Board Number 1, Carleton, Joyce, and Jones.

H. G. Homme, Jr.,
Secretary

MC 25798 (Sub-370F), filed March 1, 1979. Applicant: CLAY HYDER TRUCKING LINES, INC., P.O. Box 1186, Auburndale, FL 33823. Representative: Tony G. Russell (same address as applicant). To operate as a *common carrier*, by motor vehicle, in interstate or foreign commerce, over irregular routes, transporting *canned and preserved foodstuffs*, (1) from Kokomo, IN, to Mechanicsburg, PA, Elwood, KS, Chattanooga, TN, and points in AL, FL, GA, and SC, and (2) from Chattanooga, TN, to points in AL, FL, GA, and SC. (Hearing site: Tampa, FL.)

MC 78228 (Sub-111F), filed March 5, 1979. Applicant: J MILLER EXPRESS, INC., 962 Greentree Road, Pittsburgh, PA 15220. Representative: Henry M. Wick, Jr., 2310 Grant Building, Pittsburgh, PA 15219. To operate as a *common carrier*, by motor vehicle, in interstate or foreign commerce, over irregular routes, transporting *pig iron*, in dump vehicles, from Camden, NJ, to points in CT, DE, ME, MD, MA, NH, NY, OH, PA, RI, VT, VA, WV, and DC. (Hearing site: Washington, DC, or Pittsburgh, PA.)

MC 98399 (Sub-8F), filed March 5, 1979. Applicant: SHULL TRUCK LINE COMPANY, INC., P.O. Box A, Savannah, TN 38372. Representative: Robert L. Baker, 618 United American Bank Bldg., Nashville, TN 37219. To operate as a *common carrier*, by motor vehicle, in interstate or foreign commerce, over regular routes, transporting *general commodities* (except those of unusual value, classes A and B explosives, household goods as defined by the Commission, commodities in bulk, and those requiring special equipment), between Adamsville and Pickwick Dam, TN, from Adamsville over U.S. Hwy 64 to junction U.S. Hwy 45, then over U.S. Hwy 45 to junction U.S. Hwy 72, then over U.S. Hwy 72 to junction MS Hwy 25, then over MS Hwy 25 to the MS–TN State line, then over TN Hwy 57 to Pickwick Dam, and return over the same route, serving all intermediate points. (Hearing site: Pickwick Dam, TN.)

Note.—Applicant intends to tack the authority granted here to its existing regular-route authority.

MC 98589 (Sub-2F), filed March 5, 1979. Applicant: WORLD TRANSPORT, INC., 56 Oak Hill Way, Brockton, MA 02401. Representative: Frank J. Weiner, 15 Court Square, Boston, MA 02108. To operate as a *common carrier*, by motor vehicle, in interstate or foreign commerce, over irregular routes, transporting (1) *general commodities* (except those of unusual value, classes A and B explosives, household goods as defined by the Commission, commodities in bulk, and those requiring special equipment), between points in MA; (2) *clothing, accessories for clothing, and materials, equipment, and supplies* used in the sale of clothing and accessories for clothing (except commodities in bulk), from West Bridgewater, Brockton, Worcester, and Taunton, MA, to points in the United States (except AK, HI, and MA); and (3) *clothing*, from Los Angeles, CA, to West Bridgewater, Worcester, and Taunton, MA. Condition.—Applicant states that by part (1) of this application it seeks to convert its Certificate of Registration No. MC–98589 (Sub-No. 1) to a Certificate of Public Convenience and Necessity. Issuance of a certificate is conditional upon applicant's written request for coincidental cancellation of its Certificate of Registration in No. MC–98589 (Sub-No. 1). (Hearing site: Boston, MA.)

MC 101219 (Sub-63F), filed March 5, 1979. Applicant: MERIT DRESS DELIVERY, INC., 524 West 36th Street, New York, NY 10018. Representative: Norman Weiss, P.O. Box 1409, 167 Fairfield Road, Fairfield, NJ 07006. To operate as a *common carrier*, by motor vehicle, in interstate or foreign commerce, over irregular routes, transporting (1) *wearing apparel and* (2) *materials, equipment, and supplies* used in the manufacture of wearing apparel, when moving in mixed loads with wearing apparel, between Andover, MA, on the one hand, and, on the other, Gaffney, SC, and Vidalia, GA. (Hearing site: New York, NY.)

MC 114569 (Sub-290F), filed March 1, 1979. Applicant: SHAFFER TRUCKING, INC., P.O. Box 418, New Kingstown, PA 17072. Representative: N. L. Cummins (same address as applicant). To operate as a *common carrier*, by motor vehicle, in interstate or foreign commerce, over irregular routes, transporting *meats, meat products, meat byproducts, and articles distributed by meat-packing houses*, as described in Sections A and C of Appendix I to the report in *Descriptions in Motor Carrier Certificates*, 61 M.C.C. 209 and 766, (except hides and commodities in bulk), from the facilities of Hygrade Food Products Corp., at or near (a) Postville, Storm Lake, Cherokee, and Sioux City, IA, (b) Omaha, NE, and (c) Fairmont, MN, to points in NY, NJ, MA, CT, RI, DE, MD, PA, VA, MI, and DC. (Hearing site: Detroit, MI, or Washington, DC.)

Note.—Dual operations may be at issue.

MC 115789 (Sub-6F), filed March 5, 1979. Applicant: LOWTHER TRUCKING COMPANY, INC., P.O. Box 3117 C.R.S., Rock Hill, SC 29730. Representative: Lawrence E. Lindeman, Suite 1032 Pennsylvania Bldg., Washington, DC 20004. To operate as a *contract carrier*, by motor vehicle, in interstate or foreign commerce, over irregular routes, transporting (1) *wire and communication equipment* and (2) *materials, equipment, and supplies* used in the manufacture and distribution of the commodities in (1) above, between the facilities of Essex Group, Inc., near Chester, SC, on the one hand, and, on the other, points in the United States (except AK and HI), under continuing contract with Essex Group, Inc., of Ft. Wayne, IN. (Hearing site: Ft. Wayne, IN.)

MC 117068 (Sub-110F), filed March 1, 1979. Applicant: MIDWEST SPECIALIZED TRANSPORTATION, INC., P.O. Box 6418, Rochester, MN 55901. Representative: Paul F. Sullivan, 711 Washington Building, Washington, DC 20005. To operate as a *common carrier*, by motor vehicle, in interstate or foreign commerce, over irregular routes, transporting (1) *utility and fire truck bodies*, and (2) *parts and accessories* for the commodities in (1) above, from Appleton, WI, to points in the United States (except AK and HI); and (3) *materials and supplies* used in the manufacture of the commodities in (1) and (2) above, (except commodities in bulk), in the reverse direction. (Hearing site: Houston or Dallas, TX.)

MC 117399 (Sub-7F), filed March 5, 1979. Applicant: LEE E. CHAMP, INC., 809 West 10th Street, Junction City, KS 66441. Representative: Arthur J. Cerra, P.O. Box 19251, 2100 TenMain Center, Kansas City, MO 64141. To operate as a *common carrier*, by motor vehicle, in interstate or foreign commerce, over irregular routes, transporting (1) *malt beverages*, from points in Jefferson County, CO, to points in KS, and (2) *materials and supplies* used in the manufacture and distribution of malt beverages, in the reverse direction. (Hearing site: Kansas City, MO.).

MC 118159 (Sub-319F), filed March 2, 1979. Applicant: NATIONAL REFRIGERATED TRANSPORT, INC., P.O. Box 51366, Dawson Station, Tulsa, OK 74151. Representative: Warren L. Troupe, 2480 E. Commercial Blvd., Fort Lauderdale, FL 33308. To operate as a *common carrier*, by motor vehicle, in interstate or foreign commerce, over irregular routes, transporting *petroleum wax* (except in bulk), from Kilgore, TX, and Barnsdall, OK, to points in CT, GA, IL, IA, IN, MD, MA, MI, MN, NJ, NY, OH, PA, TN, and WI. (Hearing site: Chicago, IL.)

MC 118959 (Sub-203F), filed March 2, 1979. Applicant: JERRY LIPPS, INC., 130 South Frederick Street, Cape Girardeau, MO 63701. Representative: Donald B. Levine, 39 South LaSalle Street, Chicago, IL 60603. To operate as a *common carrier*, by motor vehicle in interstate or foreign commerce, over irregular routes, transporting (1) *food and food products*, and (2) *materials, equipment, and supplies* used in the manufacture, distribution, and sale of the commodities in (1) above, (except commodities in bulk), between Chester and Steelville, IL, and Perryville, MO, on the one hand, and, on the other, points in the United States (except AK and HI). (Hearing site: Cape Girardeau or St. Louis, MO.)

MC 119118 (Sub-62F), filed March 1, 1979. Applicant: McCURDY TRUCKING, INC., P.O. Box 388, Latrobe, PA 15650. Representative: Paul F. Sullivan, 711 Washington Bldg., Washington, DC 20005. To operate as a *common carrier*, by motor vehicle, in interstate or foreign commerce, over irregular routes, transporting *malt beverages*, in containers, from Latrobe, PA, to points in NH and VT. (Hearing site: Pittsburgh, PA)

Note.—Dual operations may be at issue.

MC 119349 (Sub-14F), filed March 2, 1979. Applicant: STARLING TRANSPORT LINES, INC., P.O. Box 1733, Fort Pierce, FL 33450. Representative: Harry C. Ames, Jr., 805 McLachlen Bank Bldg., 666 11th St., NW., Washington, DC 20001. To operate as a *common carrier*, by motor vehicle, in interstate or foreign commerce, over irregular routes, transporting (1)(a) *petroleum, petroleum products, vehicle body sealer compounds, and sound deadener compounds*, (except commodities in bulk, in tank vehicles), and (b) *filters*, from points in Warren County, MS, to points in AL, FL, GA, LA, TX, CA, MN, CO, IL, OK, NM, AZ, NY, NJ, and PA, restricted to the transportation of traffic originating at the facilities of Quaker State Oil Refining Corporation, at points in Warren County, MS; and (2) *petroleum, petroleum products, vehicle body sealer compounds, sound deadener compounds, filters, and materials, equipment, and supplies used in the manufacture or distribution of the commodities named in (1)*, from points in AL, GA, NY, and OK, to points in Warren County, MS, restricted to the transportation of traffic destined to the facilities of Quaker State Oil Refining Corporation, at points in Warren County, MS. (Hearing site: Memphis, TN, or Washington, DC.)

Note.—Dual operations may be at issue.

MC 126118 (Sub-134F), filed March 5, 1979. Applicant: CRETE CARRIER CORPORATION, P.O. Box 81228, Lincoln, NE 68501. Representative: Duane W. Acklie (same address as applicant). To operate as a *common carrier*, by motor vehicle, in interstate or foreign commerce, over irregular routes, transporting *malt beverages*, from St. Louis, MO, to Fairbury, NE. (Hearing site: Lincoln, NE.)

Note.—Dual operations may be involved.

MC 127799 (Sub-10F), filed March 5, 1979. Applicant: LUPPES TRANSPORT COMPANY, INC., Box 101, Webster City, IA 50595. Representative: Thomas E. Leahy, Jr., 1980 Financial Center, Des Moines, IA 50309. To operate as a *common carrier*, by motor vehicle, in interstate or foreign commerce, over irregular routes, transporting *grain alcohol*, in bulk, from Decatur, IL, to Fort Dodge and Webster City, IA. (Hearing site: Chicago, IL.)

MC 129119 (Sub-3F), filed March 5, 1979. Applicant: JOHN H. SANN, d.b.a. SANN'S TRUCKING SERVICE, 1572 Annapolis Road, Drawer 280, Odenton, MD 21113. Representative: Chester A. Zyblut, 366 Executive Building, 1030 Fifteenth Street, NW., Washington, DC 20005. To operate as a *common carrier*, by motor vehicle, in interstate or foreign commerce, over irregular routes, transporting (1) *spices and mustard and mustard products*, from the facilities of The Baltimore Spice Company, at Baltimore, MD, to points in the United States (except MD, AK, and HI); and (2) *materials, equipment, and supplies* used in the manufacture and distribution of the commodities in (1) above, in the reverse direction, under continuing contract with The Baltimore Spice Company, of Baltimore, MD. (Hearing site: Washington, DC.)

MC 129379 (Sub-3F), filed March 5, 1979. Applicant: FIDELITY MOTOR BUS LINES, INC., 1920 Lincolnway East, Massillon, OH 44646. Representative: A. Charles Tell, 100 East Broad Street, Columbus, OH 43215. To operate as a *common carrier*, by motor vehicle, in interstate or foreign commerce, over irregular routes, transporting *passengers and their baggage*, in the same vehicle with passengers, in round-trip sightseeing and pleasure tours, (1) in special operations, beginning and ending at Canton, OH, and extending to points in the United States, (including AK, but excluding HI), and (2) in charter and special operations, beginning and ending at points in Holmes, Summit, and Wayne Counties, OH, and extending to points in the United States, (including AK, but excluding HI). (Hearing site: Columbus, OH.)

MC 133689 (Sub-261F), filed March 5, 1979. Applicant: OVERLAND EXPRESS, INC., 719 First Street SW., New Brighton, MN 55112. Representative: Robert P. Sack, P.O. Box 6010, West St. Paul, MN 55118. To operate as a *common carrier*, by motor vehicle, in interstate or foreign commerce, over irregular routes, transporting (1) *foodstuffs and pet food*, and (2) *materials, equipment, and supplies* used in the manufacture and distribution of the commodities in (1) above, (except commodities in bulk), between the facilities of Nabisco, Inc., at or near (a) Chicago, Danville, and Marseilles, IL, (b) Geneva, Beacon, Buffalo, and Niagara Falls, NY, (c) Charlotte, NC, (d) Wrightstown, WI, (e) Columbus and Toledo, OH, (f) Mineapolis, MN, (g) Morristown, IN, (h) Mechanicsburg, Philadelphia, and Pittsburgh, PA, (i) Richmond, VA, (j) Carthage and St.

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Louis, MO, (k) Mansfield and Cambridge, MA, (l) Fair Lawn and Moonachie, NJ, (m) Morrow and Woodbury, GA, and (n) Jacksonville, FL, on the one hand, and, on the other, those points in the United States in and east of ND, SD, NE, KS, OK, AR, and LA.

MC 138469 (Sub-117F), filed March 1, 1979. Applicant: DONCO CARRIERS, INC., P.O. Box 75354, Oklahoma City, OK 73107. Representative: Jack H. Blanshan, Suite 200, 205 W. Touhy Ave., Park Ridge, IL 60068. To operate as a *common carrier*, by motor vehicle, in interstate or foreign commerce, over irregular routes, transporting *pontoon boat kits, and parts and accessories for pontoon boats*, from the facilities of Advanced Marine Concepts, Inc., at or near Arlington, TX, to points in the United States (except AK, HI, and TX), restricted to the transportation of traffic originating at the named origin. (Hearing site: Dallas, TX.)

MC 138469 (Sub-118F), filed March 2, 1979. Applicant: DONCO CARRIERS, INC., P.O. Box 75354, Oklahoma City, OK 73107. Representative: Jack H. Blanshan, Suite 200, 205 W. Touhy Avenue, Park Ridge, IL 60068. To operate as a *common carrier*, by motor vehicle, in interstate or foreign commerce, over irregular routes, transporting *frozen foods*, from the facilities of Stouffer Foods Corporation, Division of Stouffer Corporation, at or near Cleveland, OH, to points in AZ, AR, CA, CO, ID, MT, NV, NM, OK, OR, TX, UT, WA, and WY, restricted to the transportation of traffic originating at the named origins. (Hearing site: Chicago, IL.)

MC 142059 (Sub-62F), filed March 5, 1979. Applicant: CARDINAL TRANSPORT, INC., 1830 Mound Road, Joliet, IL 60436. Representative: Jack Riley (same address as applicant). To operate as a *common carrier*, by motor vehicle, in interstate or foreign commerce, over irregular routes, transporting *aluminum alloy ingots and zinc alloy ingots*, from the facilities of Aluminum Smelting and Refining Co., Inc., and Certified Alloys Company, at Maple Heights, OH, to points in AL, CT, GA, IA, IL, IN, KY, MI, MN, MO, NC, NJ, PA, NY, SC, TN, and WI. (Hearing Site: Cleveland, OH, or Washington, DC.)

MC 142059 (Sub-63F), filed March 5, 1979. Applicant: CARDINAL TRANSPORT, INC., 1830 Mound Road, Joliet, IL 60436. Representative: Jack Riley (same address as applicant). To operate as a *common carrier*, by motor vehicle, in interstate or foreign commerce, over irregular routes, transporting (1) *pollution control equipment housing*, and (2) *parts* for the commodity in (1) above, from the facilities of Fulton Metal Mfg. Co., Inc., at or near Rochester, IN, to points in the United States (except AK and HI). (Hearing Site: Chicago, IL.)

MC 142368 (Sub-19F), filed March 2, 1979. Applicant: DANNY HERMAN TRUCKING, INC., 1415 Ninth Avenue, Pomona, CA 91766. Representative: William J. Monheim, P.O. Box 1756, Whittier, CA 90609. To operate as a *common carrier*, by motor vehicle, in interstate or foreign commerce, over irregular routes, transporting *safes*, (1) from City of Industry, CA, to Chicago, IL, Cincinnati, OH, Denville, NJ, and Florence, KY, and (2) from Cincinnati, OH, to Denville, NJ. (Hearing Site: Los Angeles, CA.)

Note.—The person or persons who appear to be engaged in common control must either file an application under 49 U.S.C. § 11343(a) (formerly Secton 5(2) of the Interstate Commerce Act), or submit an affidavit indicating why such approval is unnecessary.

MC 142669 (Sub-9F), filed March 2, 1979. Applicant: GENE WALTERS AND CLARK WURTELE, a partnership, d.b.a. M & M TRUCKING, 115 East Brewster Street, Harvey, ND 58341. Representative: Charles E. Johnson, 418 East Rosser Avenue, P.O. Box 1982, Bismarck, ND 58501. To operate as a *common carrier*, by motor vehicle, in interstate or foreign commerce, over irregular routes, transporting *dry fertilizer*, from points in MN, to points in ND and SD. (Hearing Site: St. Paul, MN, or Bismarck, ND.)

Note.—Dual operations may be involved.

MC 143059 (Sub-59F), filed March 5, 1979. Applicant: MERCER TRANSPORTATION CO., a corporation, 12th & Main Streets, P.O. Box 35610, Louisville, KY 40232. Representative: J. L. Stone (same address as applicant). To operate as a *common carrier*, by motor vehicle, in interstate or foreign commerce, over irregular routes, transporting *particleboard*, from the facilities of Ponderosa Products, at or near Albuquerque, NM, to points in AL, AR, CT, FL, GA, IA, IL, IN, KY, KS, LA, MI, MN, MO, MS, NE, NC, NM, OH, OK, PA, SC, TN, TX, and WI, restricted to the transportation of traffic originating at the named origin. (Hearing site: Louisville, KY, or Washington, DC.)

MC 144298 (Sub-7F), filed March 5, 1979. Applicant: MASTER TRANSPORT SERVICES, INC., 5000 Wyoming Avenue, Suite 203, Dearborn, MI 48126. Representative: William B. Elmer, 21635 East Nine Mile Road, St. Clair Shores, MI 48080. To operate as a *contract carrier*, by motor vehicle, in interstate or foreign commerce, over irregular routes, transporting (1) *foodstuffs* and (2) *materials and supplies* used in the manufacture and distribution of foodstuffs, (except commodities in bulk), from points in the United States (except AK, HI, and MI), to the facilities of Fred Sanders, Inc., at Detroit, MI, under continuing contract(s) with Fred Sanders, Inc., of Detroit, MI. (Hearing site: Detroit, MI.)

MC 144599 (Sub-2F), filed March 5, 1979. Applicant: TRANSFER, INC., 90 S. Ko-We-Ba Lane, Indianapolis, IN 46241. Representative: Robert W. Loser, 1009 Chamber of Commerce Bldg., Indianapolis, IN 46204. To operate as a *common carrier*, by motor vehicle, in interstate or foreign commerce, over irregular routes, transporting *dry corn starch*, in bulk, from the facilities of National Starch & Chemical Corp., at Indianapolis, IN, to points in the United States (except AK and HI), restricted to the transportation of traffic originating at the named origin. (Hearing site: Washington, DC, or Indianapolis, IN.)

[Permanent Authority Decisions Vol. No. 58]
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BILLING CODE 7035-01-M

Motor Carrier Temporary Authority Applications

May 8, 1979.

The following are notices of filing of applications for temporary authority under Section 210a(a) of the Interstate Commerce Act provided for under the provisions of 49 CFR 1131.3. These rules provide that an original and six (6) copies of protests to an application may be filed with the field official named in the **Federal Register** publication no later than the 15th calendar day after the date the notice of the filing of the application is published in the **Federal Register**. One copy of the protest must be served on the applicant, or its authorized representative, if any, and the protestant must certify that such service has been made. The protest must identify the operating authority upon which it is predicated, specifying the "MC" docket and "Sub" number and quoting the particular portion of authority upon which it relies. Also, the protestant shall specify the service it can and will provide and the amount and type of equipment it will make available for use in connection with the service contemplated by the TA application. The weight accorded a protest shall be governed by the completeness and pertinence of the protestant's information.

Except as otherwise specifically noted, each applicant states that there will be no significant effect on the quality of the human environment resulting from approval of its application.

A copy of the application is on file, and can be examined at the Office of the Secretary, Interstate Commerce Commission, Washington, D.C., and also in the ICC Field Office to which protests are to be transmitted.

Note.—All applications seek authority to operate as a common carrier over irregular routes except as otherwise noted.

Motor Carriers of Property

MC 1718 (Sub-10TA), filed April 6, 1979. Applicant: ALFRED M. FLATEGRAFF, d/b/a GARDNER TRUCK LINE, P.O. Box 22, Pine River, MN 56474. Representative: Stanley C. Olsen, Jr., 4601 Excelsior Boulevard, Minneapolis, MN 55416. *Wooden spools, wooden reels, wooden reel heads and wooden cooperage and nuts, bolts and washers used in the assembly of wooden spools and reels* from Pine River, MN to points in IL, IA, KS, MO, NE, WI and Marion, IN, for 180 days. An underlying ETA seeks 90 days authority. Supporting shipper(s): Durkee Mfg. Co., Inc., Traffic Manager, Box 67, Pine River, MN 56474. Send protests to: Delores A. Poe, TA, ICC, 414 Federal Building and U.S. Court House, 110 South 4th Street, Minneapolis, MN 55401.

MC 48409 (Sub-4TA), filed April 16, 1979. Applicant: MAHON'S EXPRESS, 67 Jabez Street, Newark, NJ 07105. Representative: George A. Olsen, P.O. Box 357, Gladstone, NJ 07934. Freight, all kinds, between Jersey City and Newark, NJ, on the one hand, and, on the other King of Prussia, PA for 180 days. An underlying ETA seeks 90 days authority. Supporting shipper(s): K Mart Corporation, 3100 W. Big Beaver Road, Troy, MI 48084. Send protests to: Irwin Rosen, TS, ICC, 9 Clinton Street, Room 618, Newark, NJ 07102.

MC 52709 (Sub-344TA), filed March 30, 1979. Applicant: RINGSBY TRUCK LINES, INC., 3980 Quebec St., P.O. Box 7240, Denver, CO 80207. Representative: Rick Barker, as above. *Petroleum and petroleum products* (except in bulk) from Kansas City, MO and its commercial zone to points in CO, UT and WY for 180 days. Underlying ETA seeks 90 days authority. Supporting Shipper(s): Chevron, USA, 575 Market St., San Francisco, CA 94105. Send protests to: D/S Roger L. Buchanan, Interstate Commerce Commission, 721 19th St., 492 U.S. Customs House, Denver, CO 80202.

MC 52709 (Sub-345TA), filed April 3, 1979. Applicant: DON WARD, INC., 241 W. 56th Ave., Denver, CO 80216. Representative: Don L. Ward, as above. *Vanadium ore concentrate, in bulk*, from Uravan, CO to Wilson Springs (Hot Springs), AR for 180 days. An underlying ETA seeks 90 days authority. Supporting Shipper(s): Union Carbide Corporation, One California St., San Francisco, CA 94111. Send protests to: D/S Roger L. Buchanan, Interstate Commerce Commission, 492 U.S. Customs House, 721 19th St., Denver, CO 80202.

MC 52579 (Sub-177TA), filed April 4, 1979. Applicant: GILBERT CARRIER CORP., One Gilbert Drive, Secaucus, NJ 07094. Representative: Julius Saltzman, One Gilbert Drive, Secaucus, NJ 07094. Wearing apparel on hangers, and in packages, along with wearing apparel accessories, supplies and equipment used in the conduct of manufacturing and selling of wearing apparel. Between: Byrdstown, TN and New York, NY and From: Byrdstown, TN to GA, IL, NJ, NY, NC, and OH, for 180 days. An underlying ETA seeks up to 90 days authority. Supporting Shipper(s): Lynn Sportswear, Inc., P.O. Box 125, Byrdstown, TN 38549. Send protests to: Robert E. Johnston, D/S, ICC, 9 Clinton St. Room 618, Newark, NJ 07102.

MC 52579 (Sub-178TA), filed April 4, 1979. Applicant: GILBERT CARRIER CORP., One Gilbert Drive, Secaucus, NJ 07094. Representative: Julius Saltzman, One Gilbert Drive, Secaucus, NJ 07094. Garments on hangers and in cartons, department store merchandise and materials and supplies used in the conduct of retail stores. Between CA, IL, NY, and TX on the one hand, and, on the other, AL, CA, CO, FL, GA, IL, IN, MI, MN, MO, NC, OH, PA, SC, TN, and TX. Supporting Shipper(s): Montgomery Ward, 210 Meadowland Parkway, Secaucus, NJ 07094. J.C. Penney Company, Inc., 1301 Avenue of the Americas, New York, NY 10019. Send protests to: Robert E. Johnston, D/S, ICC, 9 Clinton St. Room 618, Newark, NJ 07102.

MC 56679 (Sub-115TA), filed March 8, 1979. Applicant: BROWN TRANSPORT CORP., 352 University Ave., SW., Atlanta, GA 30310. Representative: Leonard S. Cassell (same address as applicant). *Internal combustion engines and parts thereof* From New Holstein, WI to McRae and Swainsboro, GA, for 180 days. An underlying ETA seeks 90 days authority. Supporting Shipper(s): Roper Lawn Products, 12052 Middleground Rd., Savannah, GA 31406. Send protests to: Sara K. Davis, T/A, ICC, 1252 W. Peachtree St., NW., Rm. 300, Atlanta, Ga 30309.

MC 56679 (Sub-116TA), filed March 29, 1979. Applicant: BROWN TRANSPORT CORP., 352 University Ave., SW., Atlanta, GA 30310. Representative: Leonard S. Cassel (same address as applicant). *Foodstuffs* from Valdosta, GA to New Orleans, LA and points in the New Orleans Commercial Zone. An underlying ETA seeks 90 days authority. Supporting Shipper(s): Crackin Good Bakers, 701 N. Forrest St., Valdosta, GA 31601. Send protests to: Sara K. Davis, T/A, ICC, 1252 W. Peachtree St., NW., Rm 300, Atlanta, Ga 30309.

MC 76649 (Sub-28TA), filed March 29, 1979. Applicant: NELSON'S EXPRESS, INC., 675 North Market Street, Millersburg, PA 17061. Representative: John W. Frame, P.O. Box 626, 2207 Old Gettysburg Road, Camp Hill, PA 17011. *Foodstuffs, requiring refrigeration*, from the facilities of Dauphin Distribution Services Company at Camp Hill and Mechanicsburg, PA, to points in the Baltimore, MD and Washington, DC commercial zones, including points in that part of Maryland bounded by a line beginning at the MD/PA State line and extending along US Hwy 1 to Baltimore, MD, then along U.S. Hwy 140 to the MD/PA State line, and then along the State line to point of beginning, including points on the indicated portions of the highways specified, for 180 days. An underlying ETA seeks 90 days authority. Supporting Shipper(s): Dauphin Distribution Services Co., 5023 E. Trindle Road, Mechanicsburg, PA 17055. Send protests to: Interstate Commerce Commission, William J. Green Jr., Federal Bldg., 600 Arch Street, Rm. 3238, Philadelphia, PA 19106.

MC 82509 (Sub-6TA), filed March 14, 1979. Applicant: RICHARD C. NOERR, JR., d.b.a. METAL TRANSPORT RD #3, Lewistown, PA 17044. Representative: John E. Fullerton, 407 N. Front Street, Harrisburg, PA 17101. Iron and steel products, aluminum products, plastic products from the facilities of Joseph T. Ryerson & Son, Inc. at Chicago, IL to its facilities at Jersey City, NJ and Philadelphia, PA, for 180 days. An underlying ETA seeks 90 days authority. Supporting Shipper(s): Joseph T. Ryerson & Son, Inc., 2621 W. 15th Place, Chicago, IL 60608. Send protests to: Interstate Commerce Commission, William J. Green Jr., Federal Bldg., 600 Arch Street, Rm 3238, Philadelphia, PA 19106.

MC 104159 (Sub-38TA), filed April 12, 1979. Applicant: KNUDSEN TRUCKING, INC., 1320 West Main Street, Red Wing,

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MN 55066. Representative: Robert D. Gisvold, 1000 First National Bank Building, Minneapolis, MN 55402. *Hexane* from Lincoln, NE to Red Wing and Mankato, MN, for 180 days. An underlying ETA seeks 90 days authority. Supporting shipper(s): Archer Daniels Midland Company, 4666 Faries Parkway, Decatur, IL 62525. Send protests to: Delores A. Poe, TA, ICC, 414 Federal Building & U.S. Court House, 110 South 4th Street, Minneapolis, MN 55401.

MC 108119 (Sub-140TA), filed April 9, 1979. Applicant: E. L. MURPHY TRUCKING COMPANY, P.O. Box 43010, St. Paul, MN 55164. Representative: Andrew R. Clark, 1000 First National Bank Building, Minneapolis, MN 55402. *Self-propelled vehicles, trailers, buildings and building components and materials, equipment and supplies used in the manufacture thereof,* between Riverside, Los Angeles and Orange Counties, CA, Forest City, IA and Asheville, NC, for 180 days. Supporting shipper(s): Winnebago Industries, P.O. Box 152, Forest City, IA 50436. Send protests to: Delores A. Poe, TA, ICC, 414 Federal Building & U.S. Court House, 110 South 4th Street, Minneapolis, MN 55401.

MC 108589 (Sub-15TA), filed January 19, 1979, and published in the **Federal Register** issue of March 5, 1979, and republished as corrected this issue. Applicant: EAGLE EXPRESS COMPANY, P.O. Box 680, Somerset, KY 20423. Representative: Michael Spurlock, 275 E. State Street, Columbus, OH 42315. Authority sought to operate as a *common carrier,* by motor vehicle, over regular routes, transporting: *General commodities,* except those of unusual value, Classes A and B explosives, commodities in bulk, household goods as defined by the Commission, and those requiring special equipment: (1) From Fonthill, KY, to Cincinnati, OH, serving the intermediate and off-route points within ten miles of Fonthill, KY, and points in the Cincinnati, OH commercial zone. From Fonthill over unnumbered highway to junction KY Hwy 80, thence over KY Hwy 80 to junction U.S. Hwy 127 (formerly KY Hwy 35), thence over U.S. Hwy 127 to Danville, KY, thence over KY Hwy 34 to junction U.S. Hwy 27, thence over U.S. Hwy 27 to Lexington, KY, and thence over U.S. Hwy 25 to Cincinnati, OH. (2) Between Russell Springs, KY and Columbia, KY, serving all intermediate points, and all points in the Columbia, KY commercial zone. From Russell Springs over KY Hwy 80 to Columbia, KY, and return over the same route, for 180 days. An underlying ETA seeks 90 days authority. Applicant intends to tack with its existing authority and to interline with other carriers at Cincinnati, OH. Supporting shipper(s): There are 20 supporting shippers to application, primarily located in Russell Springs, Columbia, and Jamestown, KY, and Knoxville, TN. Send protests to: Mrs. Linda H. Sypher, ICC, 426 Post Office Building, Louisville, KY 40202. The purpose of this republication is to show that applicant intends to tack.

MC 108649 (Sub-12TA), filed March 8, 1979. Applicant: STURM FREIGHTWAYS, INC., 8919 North University, Peoria, IL 61614. Representative: Leonard R. Kofkin, 39 South LaSalle Street, Chicago, IL 60603. *General commodities,* except those of unusual value, classes A and B explosives, household goods as defined by the Commission and those requiring special equipment, between Chicago, IL and points within its commercial zone, on the one hand, and, on the other, Des Moines, IA and points within its commercial zone, from Chicago, IL over Interstate Hwy. 55 to Junction Interstate Highway 80, then over Interstate Highway 80 to Des Moines, IA and return over the same route. An underlying ETA seeks 90 days authority. Supporting shipper(s): 27 Supporting Shippers. Send protests to: Annie Booker, Transportation Assistant, Interstate Commerce Commission, 219 South Dearborn Street, Room 1386, Chicago, IL 60604.

MC 110098 (Sub-176TA), filed April 4, 1979. Applicant: ZERO REFRIGERATED LINES, 1400 Ackerman Road, P.O. Box 20380, San Antonio, TX 78220. Representative: T. W. Cothren, 1400 Ackerman Road, San Antonio, TX 78220. Applicant applies for common carrier authority over irregular routes in the transportation of *foodstuffs* (except commodities in bulk) from the plant site and warehouse facilities of General Foods Corp. at Houston, TX to Anaheim and San Leandro, CA and Portland, OR, for 180 days. An underlying ETA seeks 90 days authority. Supporting shipper(s): General Foods Corporation, 250 North Street, White Plains, N.Y. 10625. Send protests to: Richard H. Dawkins, District Supervisor, Interstate Commerce Commission, Room B-400, Federal Bldg., 727 E. Durango St., San Antonio, TX 78206.

MC 113158 (Sub-36TA), filed March 12, 1979. Applicant: TODD TRANSPORT CO., INC., Box 158, Secretary, MD 21664. Representative: James W. Patterson, 1200 Western Savings Bank Bldg., Phila., PA 19107. *Foodstuffs,* (except commodities in bulk and frozen foods), from Winchester, VA, points in Shenandoah, Rockingham and Frederick Counties, VA and Berkeley County, WV to points in FL, GA, NC, NJ, NY and SC, for 180 days. Supporting Shipper(s): Shenandoah Apple Co-Operative, Inc., P.O.B. 435, Winchester, VA 22601; National Fruit Product Co., Inc., 550 Fairmont Ave., Winchester, VA 22601; Bowman Apple Products Co., Inc., Mount Jackson, VA 22842. Send protests to: T. M. Esposito, Trans. Asst., 600 Arch St., Room 3238, Phila., PA 19106.

MC 113678 (Sub-790TA), filed April 5, 1979. Applicant: CURTIS, INC., 4810 Pontiac St., Commerce City, CO 80022. Representative: Roger M. Shaner (same as applicant). *(1) Rubber and plastic articles (except commodities in bulk, in tank vehicles) and (2) Materials and supplies used in the manufacture of the above named articles* from the facilities of ENTEK Corp. of America at or near Irving, TX to points in AR, AZ, CA, CO, IL, IN, IA, KS, MO, NE, NM, NV, OH, OK, UT, and WY and from these destinations shown to facilities of ENTEK Corp. of America at or near Irving, TX. Underlying ETA seeking 90 days authority filed. Supporting shipper(s): ENTEK Corp. of America, P.O. Box 61048, Dallas, TX 75261. Send protests to: D/S Herbert C. Ruoff, Interstate Commerce Commission, 721 19th Street, 492 U.S. Customs House, Denver, CO 80202.

MC 113678 (Sub-791TA), filed April 5, 1979. Applicant: CURTIS, INC., 4810 Pontiac St., Commerce City, CO 80022. Representative: Roger M. Shaner, (same as applicant). *(1) Malt beverages and related advertising materials* from Jefferson County, CO to AZ, CA, ID, IA, KS, MO, MT, NE, NV, TX, UT, *(2) Empty used beverage containers for recycling, and materials and supplies used in and dealt with by breweries* from states in (1) above to Jefferson County, CO for 180 days. Underlying ETA seeking 90 days authority filed. Supporting shipper(s): Adolph Coors Company, Golden, CO 80401. Send protests to: D/S Herbert C. Ruoff, Interstate Commerce Commission, 721 19th Street, 492 U.S. Customs House, Denver, CO 80202.

MC 113678 (Sub-792TA), filed April 5, 1979. Applicant: CURTIS, INC., 4810 Pontiac St., Commerce City, CO 80022. Representative: Roger M. Shaner, (same as applicant). *Such Commodities as are manufactured, processed or dealt in by manufacturers of glass and glass products* between the facilities of anchor Hocking Corp. and its subsidiaries in the states of IN, OH, PA, & WV on the one hand and, on the other hand, points in the states of AZ, AR, CA, CO, ID, IA, KS, MO, MT, NE, NV, NM, ND, OK, OR, SD, TX, UT, WA, WI, WY, for 180 days. Underlying ETA seeking 90 days authority filed. Supporting shipper(s): Anchor Hocking Corporation, 109 N. Broad Street, Lancaster, OH 43130. Send protests to: D/S Herbert C. Ruoff, Interstate Commerce Commission, 721 19th Street, 492 U.S. Customs House, Denver, CO 80202.

MC 113678 (Sub-793TA), filed April 5, 1979. Applicant: CURTIS, INC., 4810 Pontiac St., Commerce City, CO 80022. Representative: Roger M. Shaner, (same as applicant). *Alcoholic Beverages (except in bulk)* from Lawrenceburg, IN; Lynchburg, TN; and St. Louis, MO to Wichita, KS for 180 days. Underlying ETA seeking 90 days authority filed. Supporting shipper(s): A-B Sales, Inc., 435 Eldora, Wichita, KS 67202. Send protests to: D/S Herbert C. Ruoff, Interstate Commerce Commission, 721 19th Street, 492 U.S. Customs House, Denver, CO 80202.

MC 117119 (Sub-731TA), filed April 3, 1979. Applicant: WILLIS SHAW FROZEN EXPRESS, INC., P.O. Box 188, Elm Springs, AR 72728. Representative: L. M. McLean, (same as applicant). *Lecithin* (except in bulk), in vehicles equipped with mechanical refrigeration, from Stuttgart and Helena, AR to points in MD, for 180 days as a common carrier over irregular routes. An underlying ETA seeks 90 days authority. Supporting shipper(s): American Lecithin Company, P.O. Box 4056, Atlanta, GA 30302. Send protests to: William H. Land, Jr., District Supervisor, 3108 Federal Office Building, 700 West Capitol, Little Rock, AR 72201.

MC 118159 (Sub-327TA), filed April 11, 1979. Applicant: NATIONAL REFRIGERATED TRANSPORT, INC., P.O. Box 51366, Dawson Station, Tulsa, OK 74151. Representative: Warren L. Troupe, 2460 E. Commercial Blvd., Fort Lauderdale, FL 33308. *Such commodities as are dealt in by wholesale, retail, and chain stores grocery and food business houses* (except frozen commodities and commodities in bulk). From Atlanta, GA to Houston, TX and points in their respective commercial zone; restricted to the transportation of shipments originating at or destined to the facilities of the Clorox Company at or near Atlanta, GA and Houston, TX for 180 days. Underlying ETA seeks 90 day authority. Supporting shipper(s): The Clorox Company, 1221 Broadway, Oakland, CA 94612. Send protests to: Connie Stanley, Transportation Assistant, Room 240 Old Post Office Bldg., 215 N.W. Third Street, Oklahoma City, OK 73102.

MC 118989 (Sub-216TA), filed April 2, 1979. Applicant: CONTAINER TRANSIT, INC., 5223 S. 9th St., Milwaukee, WI 53221. Representative: Rolland K. Draves, same address as applicant. *Plastic articles, fibreboard drums and steel drums,* from Addison, IL to St. Louis, MO and its commercial zone, for 180 days. An underlying ETA seeks 90 days authority. Supporting shipper(s): Container Corp. of America, 500 E. North Ave., Carol Stream, IL 60187. Send protests to: Gail Daugherty, Transportation Asst., Interstate Commerce Commission, Bureau of Operations, U.S. Federal Building & Courthouse, 517 East Wisconsin Avenue, Room 619, Milwaukee, Wisconsin 53202.

MC 119599 (Sub-4TA), filed April 5, 1979. Applicant: HARSHMAN-INDUSTRIAL CARTAGE CO., INC., 1617 Warren Ave., Niles, OH 44446. Representative: Robert W. Gardier, Jr., Esq., 100 East Broad St., Columbus, OH 43215. *Fabricated metal products,* from the facilities of the United States Gypsum Company located at or near Warren, OH, to points in the states of IL, MN, and WI, for 180 days. Supporting shipper(s): United States Gypsum Company, 101 S. Wacker Dr., Chicago, IL 60606. Send protests to: Mary A. Wehner, D/S, ICC, 731 Federal Bldg., Cleveland, OH 44199.

MC 119789 (Sub-572TA), filed April 3, 1979. Applicant: CARAVAN REFRIGERATED CARGO, INC., P.O. Box 226188, Dallas, TX 75266. Representative: James K. Newbold, Jr., same address as above. *Candy and Chewing Gum,* (1) from Holland, MI to Dallas, TX; Kansas City, MO; San Jose, CA; Milwaukie, OR; Atlanta, GA; Charlotte, NC; Jacksonville, FL; Baltimore, MD; North Bergen, NJ; and (2) Between Holland, MI, and Canajoharie, NY for 180 days. Underlying ETA for 90 days filed. Supporting shipper(s): Life Savers, Inc., Church Street, Canajoharie, NY 13317. Send protests to: Opal M. Jones, Trans. Asst., Interstate Commerce Commission, 1100 Commerce Street, Room 13C12, Dallas, TX 75242.

MC 124078 (Sub-958TA), filed April 6, 1979. Applicant: SCHWERMAN TRUCKING CO., 611 S. 28th St., Milwaukee, WI 53215. Representative: Richard Prevette, same address as applicant. *Fertilizer, in bulk,* from Maplewood, Pine Bend and St. Paul, MN to points in WI, for 180 days. Supporting shipper(s): Land O'Lakes Agricultural Services Div., 2827 8th Ave. S., Ft. Dodge, IA 50501. Send protests to: Gail Daugherty, Transportation Asst., Interstate Commerce Commission, Bureau of Operations, U.S. Federal Building & Courthouse, 517 East Wisconsin Avenue, Room 619, Milwaukee, Wisconsin 53202.

MC 124078 (Sub-959TA), filed April 13, 1979. Applicant: SCHWERMAN TRUCKING CO., 611 S. 28th St., Milwaukee, WI 53215. Representative: Richard Prevette, same address as applicant. *Cement,* in bulk, from Buffington, IN to Plainview, Long Island, NY, for 180 days. Supporting shipper(s): U.S. Steel Corporation, 600 Grant St., Pittsburgh, PA 15230. Send protests to: Gail Daugherty, Transportation Asst., Interstate Commerce Commission, Bureau of Operations, U.S. Federal Building & Courthouse, 517 East Wisconsin Avenue, Room 619, Milwaukee, Wisconsin 53202.

MC 124839 (Sub-41TA), filed April 16, 1979. Applicant: BUILDERS TRANSPORT, INC., P.O. Box 7057, Savannah, GA 31408. Representative: B. M. Shirley, same as applicant. *Contract carrier:* irregular routes: *General commodities (except articles of unusual value, Classes A and B explosives, household goods as defined by the Commission, commodities in bulk, and those requiring special equipment),* between points in DE, NJ, and PA, on the one hand, and on the other, points in AL, FL, GA, MS, NC, SC, TN and VA, under continuing contract with E. I. du Pont de Nemours and Company of Wilmington, DE for 180 days. An underlying ETA seeks 90 days authority. Supporting shipper(s): E. I. du Pont de Nemours & Co., Inc., 10th & Market Streets, Wilmington, DE 19898. Send protests to: G. H. Fauss, Jr., DS, ICC, Box 35008, 400 West Bay Street, Jacksonville, FL 32202.

MC 125368 (Sub-54TA), filed April 11, 1979. Applicant: CONTINENTAL COAST TRUCKING COMPANY, INC., P.O. Box 26, Holly Ridge, NC 28445. Representative: C. W. Fletcher, same address as applicant. *Meats, meat products, and supplies used in the manufacture of meat products* between the facilities of Dinner Bell Foods, at or near Wilson, NC, on the one hand, and, on the other, points in AL, AR, CT, DC, DE, FL, GA, IL, IN, KY, LA, ME, MD, MA, MI, MS, MO, NH, NJ, NY, OK, PA, RI, SC, TN, TX, VT, WV, and WI, for 180 days. An underlying ETA has been filed seeking 90 days authority. Supporting shipper(s): Dinner Bell Foods, Inc., P.O. Box 1639, Wilson, NC 27893. Send protests to: Mr. Archie W. Andrews, D/S, ICC, P.O. Box 26896, Raleigh, NC 27611.

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MC 126118 (Sub-147TA), filed March 30, 1979. Applicant: CRETE CARRIER CORPORATION, P.O. Box 81228, Lincoln, NE, 68501. Representative: Duane W. Acklie, same address as applicant. *Lead ingots,* from Muncie, IN and its commercial zone to Murfreesboro, TN and its commercial zone. An underlying ETA seeks 90 days authority. Supporting shipper(s): Perfect Equipment Corp., 855 Scott Street, Murfreesboro, TN 37130. Send protests to: Max H. Johnston, District Supervisor, 285 Federal Building & Court House, 100 Centennial Mall North, Lincoln, NE, 68508.

MC 126118 (Sub-148TA), filed April 12, 1979. Applicant: CRETE CARRIER CORPORATION, P.O. Box 81228, Lincoln, NE, 68501. Representative: Duane W. Acklie, same address as applicant. *Radio aerial kits, antenna systems, and equipment, materials, and supplies used in the production and distribution thereof,* between Lincoln, NE and its commercial zone, on the one hand, and, on the other, points in the United States (except AK, HI, and NE). An underlying ETA seeks 90 days authority. Supporting shipper(s): Ken Grosenbach, Traffic Manager, Hy-Gain Electronics, 8601 N.E. Highway 6, Lincoln, NE, 68505. Send protests to: Max H. Johnston, District Supervisor, 285 Federal Building & Court House, 100 Centennial Mall North, Lincoln, NE, 68508.

MC 134289 (Sub-5TA), filed March 27, 1979, and published in the **Federal Register** issue of April 27, 1979, and republished as corrected this issue. Applicant: CALDWELL TRUCK RENTALS, INC., 625 South Boulevard, Lenoir, NC 28645. Representative: Jack L. Hawn, same as above. *New furniture, crated or uncrated, and new furniture parts,* (1) from Alexander, Burke, Caldwell, Catawba Cleveland, Davidson, Gaston, Graham, Guildford, Haywood, Iredell, McDowell, Lincoln, Mecklenburg, Mitchell, Randolph, Rowan, Rutherford, Wilkes Counties, NC, to VA, MD, PA, NJ, NY, DC, DE, RI, MA, CT, VT, ME, NH, WV, OH, and MI. (2) from Goldsboro, Hillsborough, Maxton, Mocksville, Rocky Mount, Troy, Turkey, West End, Siler City, Winston-Salem, and Mebane, NC, to VA, MD, PA, NJ, NY, DC, DE, RI, MA, CT, VT, ME, NH, WV, OH and MI; and (3) *damaged or rejected shipments of new furniture* from points and places in above-specified destination territory to the counties and places listed above in NC, for 180 days. An underlying ETA seeks 90 days authority. Supporting shipper(s): There are 35 shippers. Their statements may be examined at the office listed below and Headquarters. Send protests to: Terrell Price, 800 Briar Creek Road, Room CC516, Mart Office Building, Charlotte, NC 28205. The purpose of this republication is to complete scope of application as previously omitted.

MC 135609 (Sub-6TA), filed April 6, 1979. Applicant: FRED W. MOHOLLAND, P.O. Box 98, Princeton, ME 04668. Representative: Frederick T. McGonagle, 79 State Street, Gorham, ME 04038. Contract: Irregular: *Wood pulp, paper and paper products* from Woodland, ME to Gilman, VT and points in NY and PA. Supporting shipper(s): Georgia Pacific Corp., 800 Summer St., Stamford, CT 06901. Send protests to: ICC, 76 Pearl St., Rm. 303, Portland, ME 04111.

MC 138018 (Sub-50TA), filed April 4, 1979. Applicant: REFRIGERATED FOODS, INC., P.O. Box 1018, Denver, CO 80201. Representative: Joseph W. Harvey, same address as applicant. *Cleaning, washing and scouring compounds,* except in bulk, in tank vehicles, from Joliet, IL to points in CA for 180 days. Underlying ETA seeks 90 days authority. Supporting shipper(s): Economic Laboratory, Inc., 370 Wabasha, Osborn Bldg., St. Paul, MN 55102. Send protests to: D/S Roger L. Buchanan, Interstate Commerce Commission, 721 19th St., 492 U.S. Customs House, Denver, CO 80202.

MC 138228 (Sub-8TA), filed April 10, 1979. Applicant: OGALLALA TRANSFER, INC., 165 Denargo St., P.O. Box 16412, Denver, CO 80216. Representative: Marshall Bernstein, same as applicant. *Meat, meat products, meat by-products and articles distributed by meat packinghouses* from the facilities of George A Hormel & Co., Fremont, NE and its commercial zone to points in CO, for 180 days. Underlying ETA seeks 90 days authority. Supporting shipper(s): George A Hormel & Co., P.O. Box 800, Austin, MN 55912. Send protests to: D/S Roger L. Buchanan, Interstate Commerce Commission, 492 U.S. Customs House, 721 19th St., Denver, CO 80202.

MC 138308 (Sub-66TA), filed April 5, 1979. Applicant: KLM, INC., P.O. Box 6098, Old Hwy. 49 S., Jackson, MS 39208. Representative: Donald B. Morrison, P.O. Box 22628, Jackson, MS 39205. *Foodstuffs,* except in bulk, from the facilities of Welch Foods, Inc., at or near North East, PA and Westfield, NY, to points in AR, KS, LA, MS, MO, NM, OK, TN and TX, for 180 days. Supporting shipper(s): Welch Foods, Inc., 2 S. Portage St., Westfield, NY 14787. Send protests to: Alan Tarrant, D/S, ICC, Rm. 212, 145 E. Amite Bldg., Jackson, MS 39201.

MC 138328 (Sub-86TA), filed March 28, 1979. Applicant: CLARENCE L. WERNER, d.b.a. WERNER ENTERPRISES,I–80 and Highway 50, Omaha, NE 68137. Representative: James F. Crosby, P.O. Box 37205, Omaha, NE 68137. *Crude rubber,* from Seattle and Tacoma, WA and points in their commercial zones to Des Moines, IA and points in its commercial zone, for 180 days. Restricted to shipments having a prior movement by water. An underlying ETA seeks 90 days authority. Supporting shipper(s): (1) Firestone Tire & Rubber Company, 1200 Firestone Parkway, Akron, OH; (2) Armstrong Rubber, 500 Sargent Drive, New Haven, CT 06507. Send protests to: Carroll Russell, ICC, Suite 620, 110 No. 14th St., Omaha, NE 68102.

MC 138438 (Sub-43TA), filed March 23, 1979. Applicant: D. M. BOWMAN, INC., Route 2, Box 43A1, Williamsport, MD 21795. Representative: Edward N. Button, 1329 Pennsylvania Avenue, Hagerstown, MD 21740. *Gypsum products,* from Wilmington, DE and Milford, VA and their respective commercial zones, to points in Alleghany, Frederick, Garrett and Washington Counties, MD, Adams, Franklin and Fulton Counties, PA, and Frederick County, VA and Berkeley, Grant, Hampshire, Hardy, Jefferson, Mineral and Morgan Counties, West Virginia, for 180 days. An underlying ETA seeks 90 days authority. Supporting shipper(s): Georgia Pacific Corporation, 1062 Lancaster Avenue, Rosemont, PA 19010. Send protests to: Carol Rosen, TA, ICC, 600 Arch St., Rm. 3238, Philadelphia, PA 19106.

MC 138469 (Sub-136TA), filed April 2, 1979. Applicant: DONCO CARRIERS, INC., P.O. Box 75354, Oklahoma City, OK 73107. Representative: William J. Green (same address as applicant). *Such commodities as are manufactured, dealt in and used by producers of health care products, personal care products, beauty care products and household cleaning products* (except commodities in bulk), from the facilities of Shaklee corporation at or near Hayward, CA, to the facilities of Shaklee Corporation at or near Atlanta, GA, Chicago, IL, Dallas, TX, and Dayton, NJ, restricted to traffic originating at the named origin and destined to the named destinations, for 180 days. Supporting shipper(s): Shaklee Corporation, 1900 Powell Street, Emeryville, CA 94608. Send protests to: Connie Stanley, Transportation Assistant, Interstate Commerce Commission, room 240 Old Post Office & Court House Bldg., 215 N.W. 3rd, Oklahoma City, OK 73102.

MC 138869 (Sub-19TA), filed March 23, 1979. Applicant: W. T. MYLES TRANSPORTATION CO., P.O. Box 321, Conley, GA 30027. Representative: Archie B. Culbreth, Attorney-at-Law, Suite 202, 2200 Century Parkway, Atlanta, GA 30345. *Contract Carrier, irregular routes, (1) plumbers fittings, fixtures and supplies, vanities and vanity cabinets and plastic articles, and (2) materials, equipment and supplies used in the manufacture or distribution of commodities named in (1) above (except commodities in bulk),* between the facilities of Universal-Rundle Corporation located at or near Corsicana and Hondo, TX, on the one hand, and, on the other, points in AR, IL, IA, KS, LA, MO, NE and OK. An underlying ETA seeks 90 days authority. Supporting shipper(s): Universal-Rundle Corporation, 217 N. Mill St., New Castle, PA 16101. Send protests to: Sara K. Davis, T/A, ICC, 1252 W. Peachtree St., NW., Rm. 300, Atlanta, GA 30309.

MC 139349 (Sub-12TA), filed April 2, 1979. Applicant: E Z FREIGHT LINES, Gould & E. 46th St., Bayonne, NJ 07002. Representative: Robert B. Pepper, 168 Woodbridge Avenue, Highland Park, NJ 08904. Contract, irregular. *Lighting fixtures and lamps,* and equipment, materials and supplies used in the manufacture and sale, except commodities in bulk. Between Jersey City, Kearny, Clifton, North Bergen and Secaucus, NJ; Fall River, MA; Elgin, IL; and Hammond, IN; on the one hand, and, on the other, points in the US west of the Mississippi River excluding AK, HI, LA, MN, & TX, for 180 days. Supporting shipper(s): Duro Test Corporation, 2321 Kennedy Blvd., North Bergen, NJ 07047; Lightolier, Inc. and Aluminium Processing Corp., 346 Claremont Avenue, Jersey City, NJ 07305. Send protests to: Robert E. Johnston D/S, ICC, 9 Clinton St., Newark, NJ 07101.

MC 139479 (Sub-3TA), filed April 9, 1979. Applicant: ROBERT E. PIELEMEIER, d.b.a. PIELEMEIER TRANSPORTATION, 1125 Fallen Leaf Road, Arcadia, CA 91006. Representative: William J. Monheim, P.O. Box 1756, Whittier, CA 90609. *Contract:* irregular: *Such commodities as are sold in chain supermarkets,* from points in CA (except La Habra) to points in Maricopa and Pinal Counties, AZ, and from points in CA to points in Yuma County, AZ, under a continuing contract(s) with Alpha Beta Company, for 180 days. An underlying ETA seeks up to 90 days operating authority. Supporting shipper(s): Alpha Beta Company, 777 South Harbor Blvd., La Habra, CA 90631. Send protests to: Irene Carlos, Transportation Assistant, Interstate Commerce Commission, P.O. Box 1551, Los Angeles, CA 90053.

MC 139579 (Sub-10TA), filed April 2, 1979. Applicant: GEORGE H. GOLDING, INC., 5879 Marion Drive, Lockport, NY 14094. Representative: S. MICHAEL RICHARDS, P.O. Box 225, 44 North Avenue, Webster, NY 14580. Contract carrier—Irregular routes. *Heaters, air conditioning parts and empty storage bins,* between Lockport NY and Moraine OH, for 180 days. An underlying ETA seeks 90 days authority. Supporting shipper: Harrison Radiator Division General Motors Corporation, Lockport NY 14094. Send protests to: Richard H. Cattadoris, DS, ICC, 910 Federal Building, 111 West Huron Street, Buffalo, NY 14202.

MC 140829 (Sub-220TA), filed April 12, 1979. Applicant: CARGO, INC., P.O. Box 206, U.S. Hwy 20, Sioux City, IA 51102. Representative: William J. Hanlon, Esq., 55 Madison Ave., Morristown, NJ 07960. *Printed matter, and materials and supplies used in the manufacture of printed matter (except commodities in bulk),* between the facilities of the R. R. Donnelley & Sons Co., Inc., at or near Chicago, IL, on the one hand, and on the other, points in IA, OK, TX, SD, ND, NJ, PA, and NH, for 180 days. An underlying ETA seeks 90 days authority. Supporting shipper(s): R. R. Donnelley & Sons Co., Inc., 2223 S. Martin Luther King Dr., Chicago, IL 60616. Send protests to: Carroll Russell, ICC, Suite 620, 110 No. 14th St., Omaha, NE 68102.

MC 140829 (Sub-221TA), filed April 12, 1979. Applicant: CARGO, INC., P.O. Box 206, U.S. Hwy 20, Sioux City, IA 51102. Representative: William J. Hanlon, Esq., 55 Madison Ave., Morristown, NJ 07960. *Un-cut greeting cards in sheets,* between Dallas, TX and Lawrence and Topeka, KS and Kansas City, MO, for 180 days. An underlying ETA seeks 90 days authority. Supporting shipper(s): Hallmark Cards, Inc., P.O. Box 361, Liberty, MO 64048. Send protests to: Carroll Russell, ICC, Suite 620, 110 No. 14th St., Omaha, NE 68102.

MC 140829 (Sub-222TA), filed April 12, 1979. Applicant: CARGO, INC., P.O. Box 206, U.S. Hwy 20, Sioux City, IA 51102. Representative: William H. Hanlon, Esq., 55 Madison Ave., Morristown, NJ 07960. *Meat, meat products, meat by-products, and articles distributed by meat packinghouses, as described in Sections A, C, and D of Appendix I to the report in Descriptions in Motor Carrier Certificates, 61 M.C.C. 209 and 766, and materials, equipment and supplies used by meat packers, (except hides and commodities in bulk),* between Britt and Mason City, IA, on the one hand, and, on the other, points in AR, CO, CT, DC, DE, IA, IL, IN, KS, KY, LA, ME, MD, MA, MI, MN, MO, NC, ND, NE, NH, NJ, NM, OH, OK, RI, SD, TN, TX, VA, VT, WI and WV, for 180 days. An underlying ETA seeks 90 days authority. Supporting shipper(s): Armour and Company, Greyhound Tower, Phoenix, AZ. Send protests to: Carroll Russell, ICC, Suite 620, 110 No. 14th St., Omaha, NE 68102.

MC 140829 (Sub-223TA), filed April 13, 1979. Applicant: CARGO, INC., P.O. Box 206, US Hwy 20, Sioux City, IA 51102. Representative: William H. Hanlon, Esq., 55 Madison Ave., Morristown, NJ 07960. *General commodities (except those of unusual value, Classes A and B explosives, household goods, as defined by the Commission, commodities in bulk in tank cars, and those because of their size require special equipment),* from the facilities of Charter Oaks Shippers Cooperative Association, Inc. at Berlin, CT to points in CO, IL, and TX, for 180 days. An underlying ETA seeks 90 days authority. Supporting shipper(s): Charter Oaks Shippers Cooperative Association, Inc., 1 Parkland Drive, Darien, CT 06820. Send protests to: Carroll Russell, ICC, Suite 620, 110 No. 14th St., Omaha, NE 68102..

MC 140898 (Sub-5TA), filed April 11, 1979. Applicant: KENDRICK TRUCKING CORP., P.O. Box 19097, Louisville, KY. 40219. Representative: Wm. P. Whitney, Jr., Attorney at Law, 708 McClure Building, Frankfort, KY 40601. Authority sought to operate as a *common motor carrier,* over irregular routes, in the tranportation of *Repair and maintenance parts for mining, earth-moving, quarrying equipment and vehicles used in mining, earthmoving and quarrying,* from the facilities of Lake Shore, Inc., at Louisville, KY, to points in the states of IL, IN, MO, OH, TN, VA, WV. Supporting shipper(s): Russ Newby, Eastern Region Manager, Lake Shore, Inc., 7749 National Turnpike, Louisville, KY. 40214. Send protests to: Mrs. Linda H. Sypher, District Supervisor, Interstate Commerce Commission, 426 Post Office Building, Louisville, KY. 40202.

MC 141759 (Sub-10TA), filed April 12, 1979. Applicant: OHIO PACIFIC EXPRESS, INC., 2385 High Street, Columbus, Ohio 43207. Representative: Harry F. Horak, Suite 115, 5001 Brentwood Stair Road, Fort Worth, Texas 76112. Contract irregular. *Chinaware* from Newell, WV to points

in AZ, CA, CO, OR, WA, NV, UT, ID, MT, NM, WY, TX, FL, KY and TN, under continuing contracts with The Homer Laughlin China Company. Supporting shipper(s): The Homer Laughlin China Company, Newell, WV 26050. Send protests to: ICC, Wm. Jr. Green Jr. Federal Bldg., 600 Arch Street, Philadelphia, PA 19106.

MC 141958 (Sub-12TA), filed April 10, 1979. Applicant: FEDCO FREIGHTLINES, INC., P.O. Box 422, Effingham, IL 62401. Representative: Robert T. Lawley, 300 Reisch Building, Springfield, IL 62701. Contract, irregular—*Articles dealt in by wholesale and retail food and drug chains, plastic products, compressed gases, chemicals*, for the account of Dry Storage Corporation, from Chicago and Des Plaines, IL to St. Louis and Bridgeton, MO, for 180 days. An underlying ETA seeks 90 days authority. Supporting shipper(s): Dry Storage Corporation, 2005 West 43rd Street, Chicago, IL 60609. Send protests to: Charles D. Little, ICC, Room 414 Leland Office Building, 527 East Capitol Avenue, Springfield, IL 62701.

MC 142508 (Sub-73TA), filed April 10, 1979. Applicant: NATIONAL TRANSPORTATION, INC., P.O. Box 37465, Omaha, NE 68137. Representative: Lanny N. Fauss, P.O. Box 37096, Omaha, NE 68137. *Fruit and berry products and condiments*, from the facilities of Ocean Spray Cranberries, Inc., at or near Middleboro, MA; Bordentown, NJ; and Northeast PA, to points in IN, KY, MI, MN, OH, TN, and WI, for 180 days. An underlying ETA seeks 90 days authority. Supporting shipper(s): Ocean Spray Cranberries, Inc., Water Street, Plymouth, MA 02360. Send protests to: Carroll Russell, ICC, Suite 620, 110 No. 14th St., Omaha, NE 68102.

MC 142679 (Sub-4TA), filed April 12, 1979. Applicant: S. H. MITCHELL, d.b.a. UNITED TRUCK LINES, P.O. Box 8596, Winston-Salem, NC 27106. Representative: S. H. Mitchell, 2734 Robinhood Rd., Winston-Salem, NC 27106. *Contract* Carrier-Irregular routes; *Polyurethane foam and materials and supplies used in the manufacturing, distributing and packaging of polyurethane foam* between Mecklenburg County, NC and Cadillac, Benzonia, and Ludington, MI, for 180 days. An underlying ETA seeks 90 days authority. Applicant intends to tack authority here applied for with MC-142679. Supporting shipper(s): Reeves Bros., Inc., Curon Division, PO Box 188, Cornelius, NC 28031. Send protests to: Terrell Price, District Supervisor, 800 Briar Creek Rd-Rm CC516, Mart Office Building, Charlotte, NC.

MC 143380 (Sub-5TA), filed April 3, 1979. Applicant: MERCHANTS DUTCH EXPRESS, INC., P.O. Box 2525, Monroe, Louisiana 71207. Representative: Richard M. Tettelbaum, Fifth Floor, Lenox Towers South, 3390 Peachtree Road, N.E., Atlanta, GA 30326. *Lawn care equipment* from Des Moines, IA to points in OK, TX, AR, LA, MS, AL, TN, KY, GA and FL under continuing contract or contracts with Howard Bros. Discount Stores, Inc. of Monroe, LA, for 180 days as a contract carrier over irregular routes. An underlying ETA seeks 90 days authority. Supporting shipper(s): Howard Bros. Discount Stores, Inc., 3030 Aurora Street, Monroe, LA 71201. Send protests to: William H. Land, Jr., District Supervisor, 3108 Federal Office Building, 700 West Capitol, Little Rock, AR 72201.

MC 143478 (Sub-10TA), filed April 5, 1979. Applicant: G. P. THOMPSON ENTERPRISES, INC., P.O. Box 146, Midway, AL 36053. Representative: Terry P. Wilson, 420 South Lawrence Street, Montgomery, AL 36104. Contract, irregular: *Glass containers, glass tubing, glassware, and cartons*, from Vienna, WV, to points in FL, restricted to a transportation service to be performed under a continuing contract(s) with Brockway Glass Company, Inc., for 180 days. An underlying ETA seeds 90 days authority. Supporting shipper(s): Brockway Glass Company, Inc., McCullough Avenue, Brockway, PA 15824. Send protests to: Mabel E. Holston, T/A, ICC, Room 1616, 2121 Building, Birmingham, AL 35203.

MC 143519 (Sub-2TA), filed April 2, 1979. Applicant: MALO TRANSPORT (1971) INC., 23 St Jacques Street, St Paul, Joliette, PQ, Canada. Representative: Robert D. Gunderman, 710 Statler Building, Buffalo, NY 14202. Contract carrier, irregular routes: *Lime, in bulk*, from the ports of entry on the International Boundary Line between the United States and Canada in NY, to points in DE, OH and PA, under a continuing contract or contracts with Domtar Chemicals Limited, for 180 days. An underlying ETA seeds 90 days. Supporting shipper(s): Domtar Chemicals Limited, Lime Division, 395 Maisonneuve Blvd East, Montreal, PQ, Canada. Send protests to: ICC, PO Box 548, Montpelier, VT 05602.

MC 143739 (Sub-13TA), filed April 5, 1979. Applicant: SHURSON TRUCKING CO., INC., P.O. Box 147, New Richland, MN 56072. Representative: William L. Fairbank, 1980 Financial Center, Des Moines, IA 50309. *Foodstuffs* from the facilities of Green Giant Company at St. James, MN to points in CA, for 180 days. An underlying ETA seeds 90 days authority. Supporting shipper(s): Green Giant Company, Le Sueur, MN 56058. Send protests to: Delores A. Poe, TA, ICC, 414 Federal Building & U.S. Court House, 110 South 4th Street, Minneapolis, MN 55401.

MC 144188 (Sub-4TA), filed April 13, 1979. Applicant: P. L. LAWTON, INC., P.O. Box 325, Berwick, PA 18603. Representative: John M. Musselman, P.O. Box 1146, Harrisburg, PA 17108. *Such merchandise* as is dealt in by retail, wholesale, chain grocery and food business houses, and *foodstuff ingredients* (except commodities in bulk and frozen foods), and *packing materials, display racks, machinery, advertising materials, displays, dispensing equipment, premiums*, and *office equipment and supplies*, between the facilities of Wise Foods Division of Borden Foods, Borden, Inc., in the counties of Columbia, Luzerne and Lycoming, PA, on the one hand, and, on the other, points in the U.S. in and east of ND, SD, NB, KS, OK and TX, restricted to traffic origination at the indicated origins and destined to the indicated destinations, for 180 days. Supporting shipper(s): Wise Foods Division of Borden Foods, Borden, INC., 228 Raseley St., Berwick, PA 18603. Send protests to: ICC, Wm. J. Green, Jr. Federal Bldg., 600 Arch St., Philadelphia, PA 19106.

MC 144188 (Sub-5TA), filed April 13, 1979. Applicant: P. L. LAWTON, INC., P.O. Box 325, Berwick, PA 18603. Representative: John M. Musselman, P.O. Box 1146, Harrisburg, PA 17108. *Such merchandise* as is dealt in by retail, wholesale, chain grocery, and food business houses, and *foodstuff ingredients* (except commodities in bulk and frozen foods), and *packing materials, display racks, machinery, advertising materials, displays, dispensing equipment, premiums*, and *office equipment and supplies*, between the facilities of Borden Foods Division of Borden, Inc. at Columbus, OH, and points in its commercial zone, on the one hand, and, on the other, points in AL, AR, IA, IL, IN, KY, KS, MI, MN, MO, MS, NB, NC, OH, OK, SC, WI, TN and TX, restricted to traffic originating at the indicated origins and destined to the indicated destinations, for 180 days. An underlying ETA seeks 90 days authority. Supporting shipper(s): Wise Foods Division of Borden, Borden, Inc., 228 Raseley St., Berwick, PA 18603. Send protests to: ICC, Wm. J. Green Federal Bldg., 600 Arch St., Philadelphia, PA 19106.

MC 145219 (Sub-3TA), filed April 13, 1979. Applicant: BUILDERS TRANSPORT, INC., P.O. Box 7057, Savannah, GA 31408. Representative: B. M. Shirley (same as applicant). *Tires, tread stock and tubes*, from Findlay and Rossford, OH and Texarkana, AR to points in AL, FL, GA, NC and SC for 180 days. An underlying ETA seeks 90 days authority. Supporting shipper(s): Cooper Tire & Rubber, P.O. Box 550, Findlay, OH 45840. Send protests to: G. H. Fauss, Jr., DS, ICC, Box 35008, 400 West Bay Street, Jacksonville, FL 32202.

MC 145468 (Sub-7TA), filed April 5, 1979. Applicant: K.S.S. TRANSPORTATION CORP., Route 1 and Adams Station, P.O. Box 3052, North Brunswick, NJ 08902. Representative: Arlyn L. Westergren, Suite 106, 7101 Mercy Road, Omaha, NE 68106. Liquors, beverage including beer, ale, tonic, porter, stout or others, and commodities used in the manufacture and distribution of liquors and beverages. Between Spencer, IA and St. Louis, MO for 180 days. An underlying ETA seeks 90 days authority. Supporting shipper(s): Whittenburg Distributors, Inc., 419 East Second Street, Spencer, IA 51301. Send protests to: Irwin Rosen, TS, ICC, 9 Clinton Street, Room 618, Newark, NJ 07102.

MC 145468 (Sub-8TA), filed April 11, 1979. Applicant: K.S.S. TRANSPORTATION CORP., Route 1 and Adams Station, P.O. Box 3052, North Brunswick, NJ 08902. Representative: Arlyn L. Westergren, Suite 106, 7101 Mercy Road, Omaha, NE 68106. Meats and packinghouse products. From the facilities of Wilson Foods Corporation at Cherokee, IA to points in IL for 180 days. An underlying ETA seeks 90 days authority. Supporting shipper(s): Wilson Foods Corporation, 4545 Lincoln Blvd., Oklahoma City, OK 73105. Send protests to: Irwin Rosen, T/S, ICC, 9 Clinton Street, Room 618, Newark, NJ 07102.

MC 145528 (Sub-2TA), filed April 2, 1979. Applicant: TOMKO TRUCKING, INC., 1850 Enterprise Dr., DePere, WI 54115. Representative: Wayne Wilson, 150 E. Gilman St., Madison, WI 53703. Contract carrier; irregular routes; *Malt beverages and malt beverage dispensing equipment* from St. Paul, MN to DePere, WI, under a continuing contract(s) with Kay Beer Distributing, Inc., for 180 days. An underlying ETA seeks 90 days authority. Supporting shipper(s): Kay Beer Distributing, Inc., 1850 Enterprise Dr., DePere, WI 54115. Send protests to: Gail Daugherty, Transportation Asst., Interstate Commerce Commission, Bureau of Operations, U.S. Federal Building & Courthouse, 517 East Wisconsin Avenue, Room 619, Milwaukee, Wisconsin 53202.

MC 146748TA filed March 12, 1979. Applicant: POWELL COUNTY TRUCKERS ASSOCIATION, INC., Route 2, Box 646, Stanton, KY 40380. Representative: Robert H. Kinker, P.O. Box 464, Frankfort, KY 40602. Authority sought to operate as a motor common carrier, over irregular routes, to transport COAL, in bulk, from points in KY, in and east of Boyd, Carter, Elliott, Estill, Laurel, Madison, Menifee, Morgan, Powell, Pulaski, Rockcastle and Whitley Counties, KY, to points in IN, KY, OH, TN, and WV. Applicant intends to interline with other carriers. Supporting shipper(s): Eight (6) Supporting Shippers. All Coal companies located in Kentucky. Send protests to: Mrs. Linda H. Sypher, District Supervisor, Interstate Commerce Commission, 426 Post Office Building, Louisville, KY 40202.

MC 146749TA filed April 6, 1979. Applicant: KENNETH DRINKWATER d.b.a., LITTLE CHIEF BOAT TRANSPORT, Spruce Head, Maine 04859. Representative: John G. Feehan, 178 Middle St., Portland, ME 04101. *Boats*, between points in ME, NH and MA, for 180 days. Supporting shipper(s): There are eleven (11) shippers. Their statements may be examined at the office listed below and Headquarters. Send protests to: Donald G. Weiler, District Supervisor, ICC, 76 Pearl St., Room 303, Portland, ME 04111.

By the Commission.

H. G. Homme, Jr.,
Secretary.

[Notice No. 79]

[FR Doc. 79-14746 Filed 5-10-79; 8:45 am]

BILLING CODE 7035-01-M

Sunshine Act Meetings

Sunshine Act Meetings

Federal Register
Vol. 44, No. 93
Friday, May 11, 1979

This section of the FEDERAL REGISTER contains notices of meetings published under the "Government in the Sunshine Act" (Pub. L. 94-409) 5 U.S.C. 552b(e)(3).

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CIVIL AERONAUTICS BOARD.

Deletion of item from the May 10, 1979, meeting agenda.

TIME AND DATE: 10 a.m., May 10, 1979.

PLACE: Room 1027, 1825 Connecticut Avenue NW., Washington, D.C. 20428.

SUBJECT: 15. Dockets 24817 and 30998; Agreements among the members of the Air Traffic Conference of America (ATC) relating to travel agency bonding requirements, CAB 16874-A67 and CAB 16874-A34. (Memo No. 8744, BPDA, OGC, BCP).

STATUS: Open.

PERSON TO CONTACT: Phyllis T. Kaylor, the Secretary, (202) 673-5068.

SUPPLEMENTARY INFORMATION: It has been determined that additional staff work is required in connection with Item 15 which deals with agreements among the members of the Air Traffic Conference of America relating to travel agency bonding requirements. Accordingly, the following Members have voted that agency business requires the deletion of Item 15 from the May 10, 1979 agenda and that no earlier announcement of this deletion was possible:

Chairman, Marvin S. Cohen
Member, Richard J. O'Melia
Member, Elizabeth E. Bailey
Member, Gloria Schaffer

[M-217, Amdt. 2: May 8, 1979]
[S-948-79 Filed 5-9-79; 2:47 pm]
BILLING CODE 6320-01-M

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CIVIL AERONAUTICS BOARD.

Addition and closure of meeting to the May 10, 1979, meeting agenda.

TIME AND DATE: 10 a.m., May 10, 1979.

PLACE: Room 1011, 1825 Connecticut Avenue NW., Washington, D.C. 20428.

SUBJECT: 39. Peru Negotiations.

STATUS: Closed.

PERSON TO CONTACT: Phyllis T. Kaylor, the Secretary, (202) 673-5068

SUPPLEMENTARY INFORMATION: Faucett Airlines has applied to the Board for Iquitos-Miami authority to commence on May 15. Since the next Board Meeting will not be until May 17, 1979, this item will be placed on the May 10 agenda. Accordingly, the following Members have voted that agency business requires that the Board meet on this item on less than seven days' notice and that no earlier announcement of the meeting was possible:

Member, Richard J. O'Melia
Member, Elizabeth E. Bailey
Member, Gloria Schaffer

Public disclosures, particularly to foreign governments, of opinions, evaluations, and strategies in the discussions could seriously compromise the ability of the United States Delegation to achieve an agreement which would be in the best interests of the United States. Accordingly, the following Members have voted that the meeting on this subject would involve matters the premature disclosure of which would be likely to significantly frustrate implementation of proposed agency action within the meaning of the exemption provided under 5 U.S.C. 552b(c)(9)(B) and 14 CFR 310b.5(9)(B) and that any such meeting should therefore be closed:

Member, Richard J. O'Melia
Member, Elizabeth E. Bailey
Member, Gloria Schaffer

Persons Expected To Attend

Board Members.—Chairman, Marvin S. Cohen; Member, Richard J. O'Melia; Member, Elizabeth E. Bailey; and Member, Gloria Shaffer.

Assistant to Board Members.—Mr. Sanford Rederer, Mr. David M. Kirstein, Mr. Richard Klem, Mr. Stephen H. Lachter, and Mr. James L. Deegan.
Managing Director.—Mr. Cresswerth Lander.
Executive Assistant to the Managing Director.—Mr. John R. Hancock.
Bureau of International Affairs.—Mr. Frank Murphy, Mr. David A. Levitt, Mr. Rosario J. Scibilia, Mr. Richard M. Loughlin, and Ms. Caroline Coldren.
Office of the General Counsel.—Mr. Gary J. Edles, Mr. Michael Schopf, and Mr. Peter B. Schwarzkopf.
Bureau of Pricing and Domestic Aviation.—Mr. Michael E. Levine, Mr. John Kiser, Mr. Douglas Leister, Ms. Barbara A. Clark, and Mr. Herbert P. Aswell.
Office of Economic Analysis.—Mr. Robert H. Frank and Mr. Larry Manheim.
Bureau of Consumer Protection.—Mr. Reuben Robertson and Ms. Patricia Kennedy.
Office of the Secretary.—Mrs. Phyllis T. Kaylor, Ms. Deborah A. Lee, and Ms. Louise Patrick.

General Counsel Certification

I certify that this meeting may be closed to the public under 5 U.S.C. 552b(c)(9)(B) and 14 CFR 310b.5(9)(B) and that the meeting may be closed to public observation.

Philip Bakes, Jr.,
General Counsel.

[M-217, Amdt. 3: May 8, 1979]
[S-948-79 Filed 5-9-79; 2:47 pm]
BILLING CODE 6320-01-M

3

COMMODITY FUTURES TRADING COMMISSION

TIME AND DATE: 10 a.m., May 15, 1979.

PLACE: 2033 K Street NW., Washington, D.C., 5th Floor Hearing Room.

STATUS: Open.

MATTERS TO BE CONSIDERED:

Amendment to the Definition of "Proprietary Account"
Leverage Discussion
Section 9.12—Publication of Exchange Disciplinary Actions
Application of the Chicago Mercantile Exchange for Designation as a Contract Market in Four Year U.S. Treasury Notes
Application of the Commodity Exchange for Designation as a Contract Market in 90 day Treasury Bills
Application of the Amex Commodities Exchange for Designation as a Contact Market in 90 Day Treasury Bills

CONTACT PERSON FOR MORE INFORMATION: Jane Stuckey, 254-6314.

[S-950-79 Filed 5-9-79; 3:24 pm]
BILLING CODE 6351-01-M

4

COMMODITY FUTURES TRADING COMMISSION.

TIME AND DATE: 2 p.m., May 15, 1979.

PLACE: 2033 K Street NW., Washington, D.C., 5th Floor Hearing Room.

STATUS: Closed.

MATTERS TO BE CONSIDERED: Offer of Settlements and rule enforcement review.

CONTACT PERSON FOR MORE INFORMATION: Jane Stuckey, 254-6314.

[S-951-79 Filed 5-9-79; 3:24 pm]
BILLING CODE 6351-01-M

5

COMMODITY FUTURES TRADING COMMISSION.

TIME AND DATE: 11 a.m., May 19, 1979.

PLACE: 2033 K Street NW., Washigton, D.C.

STATUS: Closed.

MATTER TO CONSIDERED: Market Surveillance Matters.

CONTACT PERSON FOR MORE INFORMATION: Jane Stuckey, 254-6314.

[S-952-79 Filed 5-9-79; 3:24 pm]
BILLING CODE 6351-01-M

6

COPYRIGHT ROYALTY TRIBUNAL.

TIME AND DATE: a.m., Friday, May 18, 1979.

PLACE: Room 538, 2033 K Street NW., Washington, D.C.

STATUS: Open.

MATTERS TO BE CONSIDERED:

1. Proposed supplemental rule with respect to Filing of Claims to Cable Royalty Fees. The Tribunal proposed the rule on April 4, 1979 (44 FR 20220).
2. Proposed rule with respect to the deduction of costs of distribution proceedings. The Tribunal proposed the rule on April 4, 1979.

CONTACT PERSON FOR MORE INFORMATION: Douglas Coulter, Chairman, Copyright Royalty Tribunal, 202-653-5175.

Douglas Coulter,
Chairman.

[S-941-79 Filed 5-9-79; 1:22 pm]
BILLING CODE 1410-01-M

7

FEDERAL COMMUNICATIONS COMMISSION.

TIME AND DATE: 9:30 a.m., Thursday, May 10, 1979.

PLACE: Room 856, 1919 M Street NW., Washington, D.C.

STATUS: Additional item to be considered at Open Commission Meeting.

MATTER TO BE CONSIDERED:

Agenda, Item No., and Subject

General—3—Re-allocation of Reserach Funds.

Additional information concerning this meeting may be obtained from the FCC Public Affairs Office, telephone number (202) 632-7260.

Issued: May 9, 1979.

[S-945-79 Filed 5-9-79; 2:47 pm]
BILLING CODE 6712-01-M

8

FEDERAL COMMUNICATIONS COMMISSION.

TIME AND DATE: 9:30 a.m., Tuesday, May 15, 1979.

PLACE: Room 856, 1919 M Street, NW., Washington, D.C.

STATUS: Special Open Commission Meeting.

MATTER TO BE CONSIDERED:

Agenda, Item No., Subject

Common Carrier—1—Docket No. 20828: "Second Computer Inquiry".
Common Carrier—2—Notice of Inquiry and Proposed Rulemaking pertaining to ratemaking guidelines for the offering of competitive common carrier services.

This meeting may be continued the following work day to allow Commission to complete appropriate action.

Additional information concerning this meeting may be obtained from the FCC Public Affairs Office, telephone number (202) 632-7260.

Issued: May 8, 1979.

[S-946-79 Filed 5-9-79; 2:47 pm]
BILLING CODE 6712-01-M

9

FEDERAL DEPOSIT INSURANCE CORPORATION.

TIME AND DATE: 2 p.m. on Monday, May 14, 1979.

PLACE: Board Room, 6th Floor, FDIC Building, 550—17th Street NW., Washington, D.C.

STATUS: Open.

MATTERS TO BE CONSIDERED:

Disposition of minutes of previous meetings.

Recommendations with respect to payment for legal services rendered and expenses incurred in connection with receivership and liquidation activities:

Hughes, Hubbard & Reed, New York, New York, in connection with the liquidation of Franklin National Bank, New York, New York.

Kaye, Scholer, Fierman, Hays & Handler, New York, New York, in connection with the liquidation of Franklin National Bank, New York, New York.

Memorandum proposing the approval of a contract with EDP Audit Controls, Inc., for technical guidelines for the selection, security, and audit of banks' in-house minicomputers.

Reports of committees and officers:

Minutes of the actions approved by the Committee on Liquidations, Loans and Purchases of Assets pursuant to authority delegated by the Board of Directors.

Reports of the Director of the Division of Bank Supervision with respect to applications or requests approved by him and the various Regional Directors pursuant to authority delegated by the Board of Directors.

Investment Management Report of the Controller for the period ending March 31, 1979.

CONTACT PERSON FOR MORE INFORMATION: Mr. Hoyle L. Robinson, Acting Executive Secretary, (202) 389-4425.

[S-942-79 Filed 5-9-79; 1:51 pm]
BILLING CODE 6714-01-M

10

FEDERAL DEPOSIT INSURANCE CORPORATION.

TIME AND DATE: 2:30 p.m. on Monday, May 14, 1979.

PLACE: Board Room, 6th Floor, FDIC Building, 550—17th Street, N.W., Washington, D.C.

STATUS: Closed.

MATTERS TO BE CONSIDERED:

Application for Federal deposit insurance:

First Fidelity Bank, a proposed new bank to be located at 319 North Merrill Avenue, Glendive, Montana, for Federal deposit insurance.

Application for consent to retire and substitute a capital note:

First Enterprise Bank, Oakland, California.

Recommendations regarding the liquidation of a bank's assets acquired by the Corporation in its capacity as receiver, liquidator, or liquidating agent of those assets:

Case No. 43,879-L—Franklin National Bank, New York, New York.
Case No. 43,899-L—Franklin National Bank, New York, New York.
Case No. 43,996-L—Chicopee Bank and Trust Company, Chicopee, Massachusetts.
Case No. 43,907—Farmers Bank of the State of Delaware, Dover, Delaware.
Case No. 43,909-L—Banco Credito y Ahorro Ponceno, Ponce, Puerto Rico.
Case No. 43,910-L—International City Bank and Trust Company, New Orleans, Louisiana.

Case No. 43,911-L—International City Bank and Trust Company, New Orleans, Louisiana.

Memorandum re: Republic National Bank of Louisiana, New Orleans, Louisiana.

Memorandum re: Banco Credito y Ahorro Ponceno, Ponce, Puerto Rico.

Recommendations with respect to the initiation or termination of cease-and-desist proceedings, termination-of-insurance proceedings, or suspension or removal proceedings against certain insured banks or officers or directors thereof:

Names of persons and names and locations of banks authorized to be exempt from disclosure pursuant to the provisions of subsections (c)(6), (c)(8), and (c)(9)(A)(ii) of the "Government in the Sunshine Act" (5 U.S.C. 552b (c)(6), (c)(8), and (c)(9)(A)(ii)).

Personnel actions regarding appointments, promotions, administrative pay increases, reassignments, retirements, separations, removal, etc.:

Names of employees authorized to be exempt from disclosure pursuant to the provisions of subsections (c)(2) and (c)(6) of the "Government in the Sunshine Act" (5 U.S.C. 552b(c)(2) and (c)(6)).

CONTACT PERSON FOR MORE INFORMATION: Mr. Hoyle L. Robinson, Acting Executive Secretary, (202) 389-4425.

[S-943-79 Filed 5-9-79; 1:51 pm]

BILLING CODE 6714-01-M

11

FEDERAL ELECTION COMMISSION.

DATE AND TIME: Wednesday, May 16, 1979 at 10 a.m.

PLACE: 1325 K Street, NW., Washington, D.C.

STATUS: This meeting will be closed to the public.

MATTERS TO BE CONSIDERED: Personnel and labor/management relations.

DATE AND TIME: Thursday, May 17, 1979 at 10 a.m.

STATUS: Portions of this meeting will be open to the public and portions will be closed.

MATTERS TO BE CONSIDERED:

Portions Open to the Public

Setting of dates for future meetings, correction and approval of minutes, Advisory Opinion 1979-11, Birch Bayh, U.S. Senator.

Senior Executive Service, 1980 Elections and related matters, regulations for Presidential Debates.

Election of FEC Officers; Pending Legislation; response to request from Senate Rules Committee RE S. 623, Management Information System, Second Quarterly Report, Appropriations and Budget, Classification Actions, Routine Administrative Matters.

Portions Closed to the Public

Any matters not concluded on May 16, 1979.

PERSON TO CONTACT FOR INFORMATION: Mr. Fred S. Eiland, Public Information Officer, Telephone: 202-523-4065.

L. Stafford,

Acting Secretary to the Commission.

[S-953-79 Filed 5-9-79; 3:30 pm]

BILLING CODE 6715-01-M

12

FEDERAL ENERGY REGULATORY COMMISSION.

"FEDERAL REGISTER" CITATION OF PREVIOUS ANNOUNCEMENT: [44 FR 26838, May 7, 1979).

PREVIOUSLY ANNOUNCED TIME AND DATE OF MEETING: May 9, 1979, 10 a.m.

CHANGE IN MEETING: The following items have been added:

Item No., Docket No., and Company

M-9. RM79- , Procedures Governing the Assessment of Civil Penalities Under the NGPA.

M-10. RM79-22, Amendment and Clarification of the Commission's Interim Regulations Implementing the Natural Gas Policy Act of 1978 and Regulations Under the Natural Gas Act.

Kenneth F. Plumb,

Secretary.

[S-938-79 Filed 5-9-79; 10:21 am]

BILLING CODE 6740-02-M

13

FEDERAL MARITIME COMMISSION.

TIME AND DATE: May 10, 1979, 9 a.m.

PLACE: Room 12126, 1100 L Street NW., Washington, D.C. 20573.

STATUS: Open.

MATTER TO CONSIDERED: Circular letter regarding bunker surcharges in the domestic offshore trades.

CONTACT PERSON FOR MORE INFORMATION: Francis C. Hurney, Secretary, (202) 523-5725.

[S-954-79 Filed 5-9-79; 3:53 pm]

BILLING CODE 6730-01-M

14

May 9, 1979.

FEDERAL MINE SAFETY AND HEALTH REVIEW COMMISSION.

TIME AND DATE: 10 a.m., May 11, 1979.

PLACE: Room 600, 1730 K Street NW., Washington, D.C.

STATUS: Open.

MATTER TO CONSIDERED: The Commission will consider and act upon the following agenda item:

4. Secretary of Labor (MSHA) v. A. J. Gilbert Construction Co., DENV 78-566-PM (Petition for Discretionary Review).

It was determined by unanimous vote of the Commissioners that Commission business required that this item be added to the May 11, 1979 agenda and that no earlier announcement of the change was possible.

CONTACT PERSON FOR MORE INFORMATION: Joanne Kelley, (202)653-5632.

[S-949-79 Filed 5-9-79; 3:09 pm]

BILLING CODE 6735-01-M

15

SECURITIES AND EXCHANGE COMMISSION.

"FEDERAL REGISTER" CITATION OF PREVIOUS ANNOUNCEMENT: [44 FR 25970 May 2, 1979].

STATUS: Open Meeting.

PLACE: Room 825, 500 North Capitol Street, Washington, D.C.

DATE PREVIOUSLY ANNOUNCED: Monday, April 30, 1979.

CHANGES IN THE MEETING: Additional item.

The following additional item will be considered at an open meeting scheduled for Wednesday, May 9, 1979 at 10:00 a.m.:

Consideration of whether to authorize a proposed payment, pursuant to Sections 6(a)(2), 7(e) and 12(c) of the Public Utility Holding Company Act of 1935, by West Texas Utilities Company, an electric utility subsidiary of Central and South West Corporation, a registered holding company, of a specific dividend of $15,000,000 and future dividends in accordance with a formula differing from that presently found in its supplemental indentures. For further information, please contact Grant G. Guthrie at (202) 523-5156.

Commissioners Loomis, Evans, Pollack and Karmel determined that Commission business required the above change and that no earlier notice thereof was possible.

May 8, 1979.

[S-939-79 Filed 5-9-79; 10:40 am]

BILLING CODE 8010-01-M

16

SECURITIES AND EXCHANGE COMMISSION.

Notice is hereby given, pursuant to the provisions of the Government in the Sunshine Act, Pub. L. 94-409, that the Securities and Exchange Commission will hold the following meetings during the week of May 14, 1979, in Room 825, 500 North Capitol Street, Washington, D.C.

Closed meetings will be held on Tuesday, May 15, 1979, at 10 a.m., on Wednesday, May 16, 1979, at 9 a.m. and 2:30 p.m. and on Thursday, May 17, 1979, after the oral arguments held at 2:30 and

3:15 p.m. and immediately following the 4 p.m. open meeting. Open meetings will be held on Thursday, May 17, 1979, at 2:30, 3:15 and 4 p.m. and on Friday, May 18, 1979 at 2:30 p.m.

The Commissioners, their legal assistants, the Secretary of the Commission, and recording secretaries will attend the closed meetings. Certain staff members who are responsible for the calendared matters may be present.

The General Counsel of the Commission, or his designee, has certified that, in his opinion, the items to be considered at the closed meetins may be considered pursuant to one or more of the exemptions set forth in 5 U.S.C. 552b(c)(4)(8)(9)(A) and (10) and 17 CFR 200.402(a)(8)(9)(i) and (10).

Commissioners Loomis, Pollack and Karmel determined to hold the aforesaid meetings in closed session.

The subject matter of the closed meeting scheduled for Tuesday, May 15, 1979, at 10 a.m., will be:

Access to investigative files by Federal, State, or Self-Regulatory Authorities.

Other litigation matters.

Formal orders of investigation.

Settlement of administrative proceedings of an enforcement nature.

Institution of administrative proceedings of an enforcement nature.

Institution of injuctive actions.

Freedom of Information Act appeal.

Chapter X proceeding.

The subject matter of the closed meeting scheduled for Wednesday, May 16, 1979, 9 a.m. and 2:30 p.m., will be:

Proposed legislation.

The subject matter of the closed meeting scheduled for Thursday, May 17, 1979, after the 2:30 and 3:15 oral arguments and immediately following the 4:00 p.m. open meeting, will be:

Post oral argument discussions.

Administrative order of an enforcement case.

The subject matter of the open meetings scheduled for Thursday, May 17, 1979 at 2:30 and 3:15 p.m., will be:

Oral argument on an application for review by Charles H. Ross, Inc., of an adverse decision by the Options Clearing Corporation. For further information, please contact R. Moshe Simon at (202) 755-1530.

Oral argument on an application for review by Cook & Co., Inc., L. Howard Cook and Edmund C. H. Hyun of an adverse decision by the National Association of Securities Dealers, Inc. For further information, please contact R. Moshe Simon at (202) 755-1530.

The subject matter of the open meeting scheduled for Thursday, May 17, 1979 at 4:00 p.m., will be:

1. Consideration of whether to approve proposed rule changes submitted by three national securities exchanges amending certain of their rules relating to the processing of securities transactions in response to the Commission's notice pursuant to Section 31(b) of the Securities Acts Amendments of 1975. For further information, please contact JoAnn Carpenter at (202) 755-8833.

2. Consideration of a request by Irvin Industries, Inc. that the Commission review the denial by the Division of Corporation Finance of Irvin's application for an extension of time within which to file its Annual Report on Form 10-K for its fiscal year ended December 29, 1978. For further information, please contact Irving D. Borochoff at (202) 755-1448.

3. Consideration of whether to publish a release withdrawing a proposed rule relating to the confidentiality of staff letters of comment and other correspondence with the Commission. For further information, please contact James H. Schropp or Linda Schneider at (202) 376-3561.

4. Consideration of what response to make to the Freedom of Information Act ("FOIA") appeal of Mr. David J. Wagstaff. The FOIA Officer denied Mr. Wagstaff's request for access to the Denver Regional Office's examination report on Wasatch Advisors, Inc., an investment adviser that is registered under the Investment Advisers Act of 1940. For further information, please contact James R. Farrand at (202) 755-1144.

The subject matter of the open meeting scheduled for Friday, May 18, 1979 at 2:30 p.m., will be:

1. Presentation and discussion with representatives of Citibank, N.A. of studies prepared by Thomas Kauper, Professor of Law, University of Michigan Law School and Alvarin Phillips, Professor of Economics, Law and Public Policy, University of Pennsylvania, regarding proposed legislation to amend the Glass-Steagall Act to permit commercial banks to underwrite state and municipal revenue bonds. For further information, please contact Michael Rogan at (202) 755-1638.

FOR FURTHER INFORMATION, CONTACT: Michael Rogan at (202) 755-1638.

May 7, 1979.

[S-940-79 Filed 5-9-79; 10:40 am]

BILLING CODE 8010-01-M

17

UNITED STATES INTERNATIONAL TRADE COMMISSION.

TIME AND DATE: 10 a.m., Wednesday, May 23, 1979.

PLACE: Room 117, 701 E Street NW., Washington, D.C. 20436.

STATUS: Parts of this meeting will be open to the public. The rest of the meeting will be closed to the public.

MATTERS TO BE CONSIDERED:

Portions Open to the Public

1. Agenda.
2. Minutes.
3. Ratifications.
4. Petitions and complaints, if necessary.
5. Sugar from Canada (Inv. AA1921—Inq.-27)—briefing and vote.
6. Any items left over from previous agenda.

Portions Closed to the Public

7. Status report on investigation 332-101 (MTN Study), if necessary.

CONTACT PERSON FOR MORE INFORMATION: Kenneth R. Mason, Secretary, (202) 523-0161.

[USITC SE-79-21]

[S-944-79 Filed 5-9-79; 2:13 pm]

BILLING CODE 7020-02-M

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federal register

Friday
May 11, 1979

Part II

Department of Labor

Employment and Training Administration

Indian and Native American Employment and Training Programs

DEPARTMENT OF LABOR

service employment activities, and new

Subpart F—Prevention of Fraud and Program Abuse

Sec.
688.220 Acceptable project activities

will result in an increase in their earned income, and to assure that training and

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DEPARTMENT OF LABOR

Employment and Training Administration

[20 CFR Part 688]

Comprehensive Employment and Training Act; Regulations for Indian and Native American Employment and Training Programs Under Titles II, III, IV, VI, and VII of the Act

AGENCY: Employment and Training Administration, Labor.

ACTION: Proposed Rules.

SUMMARY: This document proposes new rules at 20 CFR Part 688 for Indian and Native American programs under the Comprehensive Employment and Training Act.

It is the purpose of Indian and Native American programs under this Act to provide job training and employment opportunities for economically disadvantaged, unemployed, or underemployed Indian and Native American persons which will result in an increase in their earned income, and to assure that training and other services lead to maximum employment opportunities and enhanced self-sufficiency by establishing a flexible and coordinated system of programs conducted by Indian tribes, bands and groups and Native American and other organizations.

The purpose of this publication is to implement the changes made by the Comprehensive Employment and Training Act Amendments of 1978 (Pub. L. 95–524).

DATES: Comments on the proposed rulemaking are due on or before June 11, 1979.

ADDRESSES: Comments should be addressed to Alexander S. MacNabb, Director, Division of Indian and Native American Programs, U.S. Department of Labor, 601 D Street NW., Washington, D.C. 20213.

FOR FURTHER INFORMATION CONTACT: Mr. Alexander S. MacNabb, telephone: (202) 376–6102.

SUPPLEMENTARY INFORMATION:

The Comprehensive Employment and Training Act Amendments of 1978 (Pub. L. 95–524) was signed into law on October 27, 1978.

The new statute contains, in Section 4, provisions for transition from the programs in operation before the amendments to the programs authorized by the amendments. Effective on October 27, 1978 were new eligibility requirements for participation in public service employment activities, and new language amending the criminal provisions in Title 18 of the United States Code.

Ninety days after enactment (that is on January 26, 1979) new eligibility criteria for participation in all public service employment (PSE) programs, and the limitations on PSE wages and wage supplementation were implemented.

Also implemented on January 26, 1979 were the provisions relating to the prevention of fraud and abuse.

The development of the regulations has included significant and regular input from different segments of the Native American CETA system. Meetings were held in Washington, D.C. in November, December and January with representatives of Native American groups.

Major changes in new law

New eligibility requirements have been established for participants in Public Service Employment (PSE) programs funded under Titles II–D and VI of the Act. Average and maximum PSE wages have been established for all areas of the country. Provisions to prevent fraud and abuse have been strengthened. Changes have been made in the percentages of appropriated funds to be given to Native American programs under Sections 302 and 233 of the Act. A Title VII has been added to the Act to provide private sector opportunities for the economically disadvantaged.

To facilitate review, the comments on each numbered Section of the regulations should be on a separate page, with the identity and phone number of the commenter (and contact person of any commenting organization) at the top of each page.

Accordingly, Title 20 of the CFR is proposed to be amended by adding a new Part 688 to read as follows:

PART 688—INDIAN AND NATIVE AMERICAN EMPLOYMENT AND TRAINING PROGRAMS

Subpart A—Introduction

Sec.
688.1 Scope and purpose of the Indian and Native American employment and training programs under the Act.
688.2 Format for the regulations governing Indian and Native American programs under the Act
688.3 Definitions

Subpart B—Designation Procedures for Native American Grantees

688.10 Eligibility requirements for designation as a Native American grantee
688.11 Designation of Native American grantees
688.12 Alternative arrangements for the provision of services

Subpart C—Program Planning, Application and Modification Procedures

688.17 Planning process
688.18 Regional and national planning meetings
688.19 Project application content
688.20 Submission of grant applications
688.21 Comment and publication procedures
688.22 Application and approval
688.23 Application disapproval
688.24 Modification of a grant

Subpart D—Administrative Standards and Procedures

688.31 General
688.32 Payment
688.33 Letter of Credit
688.34 Payment by Request for Advance (SF 270)
688.35 Depositories for CETA funds
688.36 Financial management systems
688.37 Reserved
688.38 Maintenance and retention of records
688.39 Program income
688.40 Native American Grantee Contracts, Subgrants, and Agreements
688.41 Procurement standards
688.42 Property Management Standards
688.43 Allowable Costs under CETA
688.44 CETA Cost Allocation
688.45 Administrative cost section of Native American grantee's annual comprehensive employment and training plan
688.46 Administrative staff and personnel standards
688.47 Reporting requirements
688.48 Grant closeout procedures
688.49 Reserved
688.50 Secretary's responsibilities for assessment and evaluation
688.51 Reserved
688.52 Reallocation of funds

Subpart E—Program Design and Management

688.75 General responsibilities of Native American grantees
688.76 General responsibilities of DINAP
688.77 Program management systems
688.78 Participant eligibility determination
688.79 Program linkages
688.80 Labor organization consultation
688.81 Employment and training activities
688.82 Compensation for participants
688.83 General benefits and working conditions for program participants
688.84 Retirement benefits for program participants
688.85 Non-Federal status of participants
688.86 Termination conditions; participant limitations
688.87 Nondiscrimination and equal employment opportunity
688.88 Equitable provision of services to the eligible population and significant segments
688.89 Procedures for serving specific target groups

Subpart F—Prevention of Fraud and Program Abuse

688.115 General
688.116 Conflict of interest
688.117 Kickbacks
688.118 Commingling of funds
688.119 Charging of fees
688.120 Nepotism
688.121 Child labor
688.122 Political patronage
688.123 Political activities
688.124 Lobbying activities
688.125 Sectarian activities
688.126 Unionization and antiunionization activities/work stoppages
688.127 Maintenance of effort
688.128 Theft or embezzlement from employment and training funds; improper inducement; obstruction of investigations and other criminal provisions
688.129 Responsibilities of Native American grantees, subgrantees and contractors for preventing fraud and program Abuse and for general program management

Subpart G—Complaints, Investigations, and Sanctions

688.146 General
688.147 Review of denial of designation or rejection of comprehensive employment and training plan

Subpart H—Comprehensive Employment and Training Programs Under Title III, Section 302

688.170 Purpose
688.171 Eligibility for funds
688.172 Allocation of funds
688.173 Eligibility for participation in a Title III, section 302 program
688.174 Allowable program activities

Subpart I—Public Service Employment for the Economically Disadvantaged

688.186 Purpose
688.187 Eligibility for funds
688.188 Allocation of funds
688.189 Application for funds
688.190 Allowable activities
688.191 Participant eligibility
688.192 Special provisions
688.193 Wages and wage supplementation

Subpart J—Indian and Native American Countercyclical Public Service Employment Programs under Title VI

688.200 Purpose
688.201 Eligibility for funds
688.202 Allocation of funds
688.203 Application for funds
688.204 Allowable activities
688.205 Financial limitations
688.206 Participant eligibility
688.207 Wages and wage supplementation

Subpart K-Youth Community Conservation and Improvement Projects for Indian and Native American Youth

688.215 General
688.216 Eligibility for the allocation of funds
688.217 Native American grantees planning procedures and submission of applications
688.218 Project application approval
688.219 Eligibility for participation
688.220 Acceptable project activities
688.221 Academic credit
688.222 Supervisory personnel
688.223 Materials, equipment and supplies
688.224 Earnings disregard
688.225 Limitation on use of funds
688.226 Work limitation
688.227 Participants' wages

Subpart L—Youth Employment and Training Program

688.231 General
688.232 Eligibility for and allocation of funds
688.233 Reallocation of funds
688.234 Native American Grantees planning process and submission of applications
688.235 Allowable costs
688.236 Eligibility for participation
688.237 Allowable activities and services
688.238 In-school programs
688.239 Participants' wages
688.240 Maintenance of effort
688.241 Earning's disregard
688.242 Labor organizations' comments
688.243 Discretionary projects
688.244 Eligibility for demonstration programs

Subpart M—Summer Youth Program

688.250 General
688.251 Eligibility for funds under the Summer Youth Program
688.252 Allocation of funds
688.253 Special operating provisions
688.254 Startup of program
688.255 Program planning; planning and youth councils
688.256 Submission of Application
688.257 Eligibility for participation
688.258 Allowable Activities
688.259 Vocational exploration program
688.260 Worksite standards
688.261 Reporting requirements
688.262 Termination date for the summer program
688.263 Alternative remedies
688.264 Discretionary funds

Subpart N-Indian and Native American Private Sector Initiative Program

688.270 Scope and purpose
688.271 Private Industry Councils (PIC's)
688.272 Eligibility for funds
688.273 Distribution of funds
688.274 Grant procedures
688.275 Administrative standards and procedures
688.276 Program operations

Authority: Sec. 126 of the Comprehensive Employment and Training Act (29 U.S.C. 801 *et seq.*), unless otherwise noted.

Subpart A—Introduction

§ 688.1 Scope and purpose of the Indian and Native American employment and training programs under the Act.

(a) It is the purpose of Indian and Native American programs under this Act to provide job training and employment opportunities for economically disadvantaged, unemployed, or underemployed Indian and Native American persons which will result in an increase in their earned income, and to assure that training and other services lead to maximum employment opportunities and enhanced self-sufficiency by establishing a flexible and coordinated system of programs conducted by Indian tribes, bands and groups and Native American and other organizations. Such programs shall be administered to maximize the Federal committent to support growth and development of Indian and Native American communities and groups as determined by representatives of the communities and groups served.

(b) No provision of this Part shall abrogate in any way the trust responsibilities of the Federal government to Indian tribes, bands or groups or other Native American groups. It is the express intent of the Department of Labor that nothing contained herein shall affect any claim not arising under this Act against the United States of any Indian tribe or its members, and further that no funds made available under this Part to any Indian tribe, band or group shall be construed as the fulfillment partially or in full of any trust or treaty responsibility of the Federal government to Indian tribes, bands or groups nor shall such grant awards be offset against any debt or obligation now or in the future owed by the Federal government to such Indian tribe, band or group. (Section 302(h)).

(c) Nothing contained in this Part nor the acceptance of funds under this Part shall be construed as a waiver of sovereign immunity or consent to the jurisdiction of any court by any Indian tribe, band or group.

(d) Because of the nature of the special relationship between the Federal government and most of those served by this Part, programs shall be administered at the national level. (Section 302(b)(1).)

§ 688.2 Format for the regulations governing Indian and Native American programs under the Act.

(a) The regulations promulgated to carry out the Act are set forth in 20 CFR Parts 675–695. This Part deals with matters pertaining to the implementation and operation of Indian and Native American employment and training programs pursuant to Section 302 of Title III, Part D of Title II, Title VI, Parts A and C of Title IV and Title VII of the Act. It contains all the regulations under the Act applicable to Indian and Native American programs. In the interpretation of these regulations, Secretarial discretion shall be exercised consistent with the objectives of Section

302 of the Act including furtherance of

Contractor—means any person,

(b) Except for any person 55 years of

amounts paid to or for any individual

appointed by a duly elected official, or a

function for, public elementary or

302 of the Act including furtherance of the policy of Indian Self-Determination.

(b) The Director of DINAP, may, upon written application of a Native American grantee, waive any requirement of this Part not required by the Act. Such waiver shall be in writing, specifically stating any section(s) of this Part being waived, and the reason therefor.

§ 688.3 Definitions.

Academic Credit—means credit for education, training or work applicable toward a secondary school diploma, a post secondary degree, or an accredited certificate of completion, consistent with applicable State law and the requirements of an accredited educational agency or institution.

Act-means the Comprehensive Employment and Training Act.

Appropriate Labor Organization—means a local labor organization that represents employees in the Native American grantee's service area in the same or substantially equivalent jobs as those for which grantees provide, or propose to provide, employment and training under the Act.

Architectural Barrier—means physical conditions of a building or facility which reduce the accessibility to or usefulness of such building or facility to the physically handicapped.

Artificial Barriers to Employment—means limitations in the hiring, firing, promotion, licensing, and other terms and conditions of employment which are not directly related to an individual's fitness or ability to perform the duties required by the job. (Sec. 3(3).)

CETA—means the Comprehensive Employment and Training Act.

Community Based Organization—means private nonprofit organizations, which are representative of the Indian and Native American communities or significant segments of communities and which provide employment and/or training services or activities. (Sec. 3(4).)

Comprehensive Employment and Training Plan—means the entire grant application covering all programs under the Act and any modifications approved by DINAP.

Construction—means the erection, installation, assembly or painting of a new facility or a major addition, expansion, or extension of an existing facility, and the related site preparation, excavation, filling and landscaping or other land improvements.

Consumer Price Index—means the "All Urban Consumer Index" as determined by the Bureau of Labor Statistics (BLS).

Contractor—means any person, corporation, partnership, public agency, or other entity which enters into a contract with the DOL, a Native American Grantee or subgrantee under the Act.

Department—means the United States Department of Labor (DOL) including its agencies and organizational units.

Dependent—means any person for whom, both currently and during the previous 12 months, the participant has assumed 50 percent of their support and is:

(a) A member of the immediate household; or

(b) Not a member of the household, but a parent or child of the participant, or a relative of the participant who is unemployed because of a mental or physical disability.

Director—means the Director of DINAP.

DINAP—means the Division of Indian and Native American Programs of the Department of Labor.

Economically Disadvantaged—means a person who is either:

(a) A member of a family which receives public assistance;

(b) A member of a family whose income during the previous 6 months on an annualized basis, was such that

(1) The family would have qualified for public assistance, if it had applied for such assistance; or

(2) It does not exceed the poverty level; or

(3) It does not exceed 70 percent of the lower living standard income level;

(c) A foster child on whose behalf State or local government payments are made;

(d) A client of a sheltered workshop;

(e) A handicapped individual whose handicap presents a substantial barrier to employment.

(f) A person confined to an institution or facility providing 24 hour support such as a prison or hospital; or

(g) A regular out patient of a mental hospital, rehabilitation facility or similar institution.

Entry Level—means the lowest position in any promotional line, as defined locally by collective bargaining agreements, past practice, or applicable personnel rules. (Sec. 3(9).)

Family—means:

(a) One or more persons living in a single residence who are related to each other by blood, marriage, or adoption. A stepchild or a step-parent shall be considered to be related by marriage if he or she receives at least 50 percent of his or her support from the step-parent(s).

(b) Except for any person 55 years of age or older or a handicapped individual who is 16 years of age or older, any one claimed as a dependent on another person's Federal Income Tax return for the previous year shall be presumed, unless otherwise demonstrated, to be a part of that person's family for the current year.

(c) An individual 18 or older, except as provided in paragraph (b) of this definition, who receives less than 50 percent of his/her maintenance from the family, and who is not the head nor the spouse of the head of the household, shall not be considered a member of the family. Such an individual shall be considered a family of one living in group quarters.

Family Income—means all income received from all sources by all members of the family, except as provided below:

(a) Family income shall include:

(1) Gross wages or salary received for work performed as an employee, including wages or salary received by individuals in public service employment or on-the-job training;

(2) Net self-employment income (gross receipts minus operating expenses);

(3) Other money income received from sources such as net rents, OASI social security benefits, pensions, alimony, payments made to a dependent child, income from insurance policy annuities, and other sources of income.

(b) Family income shall exclude:

(1) Non-cash income such as food stamps, or wages received in the form of food or housing;

(2) Imputed value of owner-occupied property, i.e., rental value;

(3) Any income directly or indirectly derived from or arising out of any property held by the United States in trust for any individual;

(4) Public assistance payments;

(5) Any services, compensation, or funds provided by the United States in accordance with or generated by the exercising of any right guaranteed or protected by treaty;

(6) Cash payments received pursuant to a State plan approved under Titles I, IV, X, or XVI of the Social Security Act, or Disability Insurance payments received under Title II of the Social Security Act;

(7) Federal, State, tribal or local unemployment benefits;

(8) Per capita payments;

(9) Payments made to participants in employment and training programs, except those specifically included in (a)(1), of this definition;

(10) Any property distributed or income derived therefrom, or any

amounts paid to or for any individual member, or distributed to or for the legatees or next of kin of any member, derived from or arising out of the settlement of an Indian claim;

(11) Capital gains and losses;

(12) One-time, unearned income, such as but not limited to:

(i) Payments received from limited, fixed term income maintenance programs and supplemental (private) unemployment benefit plans;

(ii) One-time or fixed term scholarship and fellowship grants;

(iii) Accident, health, and casualty insurance proceeds;

(iv) Disability and death payments including fixed term (but not lifetime) life insurance annuities and death benefits;

(v) One-time awards and gifts;

(vi) Inheritances, including fixed term annuities;

(vii) Fixed term workers compensation awards;

(viii) Terminal leave pay;

(ix) Soil bank payments;

(x) Agriculture crop stabilization payments;

(13) Allowances or pay which were previously received by any veteran while serving on active duty in the Armed Forces;

(14) Educational assistance and compensation payments to veterans and other eligible persons under Chapters 11, 13, 31, 34, 35 and 36 of Title 38, United States Code;

(15) Payments received under the Trade Readjustment Act of 1974.

Federal Reservation—means loans as identified by the Bureau of Indian Affairs which have been set aside for use and occupation of a tribe or tribes of Indians including land for which the United States is trustee and non-trust land under tribal jurisdiction.

Financial Assistance—means any grant, loan, or any other arrangement by which the Department provides or othewise makes available assistance in the form of:

(a) funds;

(b) services of Federal personnel; or

(c) real and personal property or any interest in or use of such property, including:

(1) transfers or leases of such property for less than fair market value or for reduced consideration; and

(2) proceeds from a subsequent transfer or lease of such property if the Federal share of its fair market value is not returned to the Federal Government.

Governing Body—means a body consisting of duly elected representatives, a body appointed by duly elected representatives, a body appointed by a duly elected official, or a body selected in accordance with traditional tribal means which has the authority to provide services to, and to enter into contracts, agreements and grants under this Part on behalf of the individuals who elected them, elected the appointed official, or recognize the body selected in accordance with traditional tribal means.

Governor—means the chief executive of any State. (Sec. 3(10).)

Handicapped Individual—means any person who has a physical or mental impairment which at the time of enrollment constitutes a substantial barrier to employment and the individual is unemployed as a result of this disability as determined by the Native American grantee. (Sec. 3(11).)

Hawaiian Native—means any individual, any of whose ancestors were natives, prior to 1778, of the area which now consists of the Hawaiian Islands. (Sec. 3(12).)

Job restructuring—means:

(a) the procedure which includes:

(1) identifying the separate tasks that comprise a job or group of jobs;

(2) developing new position descriptions which retain some of the tasks of the original job; and

(3) developing a career ladder which builds upward from the new positions containing the lesser skilled tasks to regular jobs.

(b) A restructured job shall be clearly different from the original one in terms of skills, knowledge, abilities, and experience needed to perform the work. (Sec. 432(a)(3)(L).)

Local Education Agency (LEA)—means:

(a) Except for purposes of Youth Employment and Training Programs (YETP), a board of education or other legally constituted local school authority having administrative control and direction of public elementary or secondary schools in a city, county, township, school district, or political subdivision in a State, or any other public agency having administrative control and direction of a vocational education program. It shall further mean the governing bodies of any Bureau of Indian Affairs, tribal or reservation run agencies or school districts, or any non-profit agency or tribally chartered entity providing educational services to Indian and Native American persons as determined by the Native American grantee.

(b) For purposes of YETP, a public board of education or other public authority legally constituted within a State for either administrative control or direction of, or to perform a service function for, public elementary or secondary schools in a city, county, township, school district, or other political subdivision of a State, or a combination of each school districts or counties which are recognized in a State as an administrative agency for their public elementary or secondary schools. It shall further mean any Bureau of Indian Affairs, tribal or reservation run agency or school district or any other non-profit agency or tribally chartered entity providing educational services to Indian and Native American persons as determined by the Native American grantee.

Low Income Housing—means:

(a) those dwellings which are occupied by persons whose family income does not exceed 125 percent of the poverty level, and which are either:

(1) owned by the occupant;

(2) publicly owned; or

(3) owned by a private nonprofit organization.

(b) For weatherization or winterization projects funded and approved by the U.S. Department of Energy, "Low Income Housing" shall include privately owned rental housing.

Low Income Level—means $7,000 with respect to income in 1969, and for any later year means that amount which bears the same relationship to $7,000 as the Consumer Price Index for that year bears to the Consumer Price Index for 1969, rounded to the nearest $1,000.

Lower Living Standard Income Level—means that income level (adjusted for selected Standard Metropolitan Statistical Areas and regional, metropolitan, urban, and rural differences and family size) determined annually by the Secretary based upon the most recent "lower living family budget" issued by the Secretary. (Sec. 3(17).)

Offender—means any adult or juvenile who is or has been subject to any stage of the criminal justice system for whom employment and training services may be beneficial or who requires assistance in overcoming artificial barriers to employment resulting from a record of arrest or conviction. (Sec. 3(18).)

Participant—means an individual who is:

(a) declared eligible upon intake; and

(b) receiving employment, training or services funded under the Act following intake, except for an individual who receives only outreach and/or intake services.

Placement—means the act of securing unsubsidized employment for or by a participant.

Poverty Level—means that annual

collective bargaining agreements, past

Commonwealth of Puerto Rico, the

(b) Was discharged or released from

qualifications to carry out the

administer the program effectively,

Poverty Level—means that annual income level at or below which families are considered to live in poverty, as annually determined by Office of Management and Budget.

Program of Demonstrated Effectiveness—means a program which has demonstrated the capacity to achieve planned goals at reasonable costs within acceptable timeframes, and is either: (a) A program which has demonstrated to the Native American Grantee that it has performed effectively within the grantee's jurisdiction, or (b) A program which can demonstrate to the Native American Grantee that it has carried out effectively a similar program under similar circumstances in other jurisdictions and can carry out such program effectively within the Native American Grantee's jurisdiction.

Project—means:

(a) for the purpose of public service employment in Subparts I and J, a definable task or group of related tasks which will be completed within eighteen months or any extension permitted by regulation, has a public service objective, will result in a specific product or accomplishment, and would otherwise not be done with existing funds;

(b) for the purposes of Youth Community Conservation and Improvement Projects in Subpart K, an activity which provides constructive work, conducted by youth, under the guidance of skilled supervisors, which (1) results in tangible outputs or a specific product; (2) benefits the participants in terms of work habits, skills, and attainment of academic credit where applicable; and (3) will be completed within a definable period of time not to exceed 12 months (sec. 421).

Project Applicants—means States and agencies thereof, units of general local government and agencies thereof, combination or associations of such governmental units when the primary purposes of such combinations or associations is to assist such governmental units to provide public services, special purpose political subdivisions having the power to levy taxes and spend funds or serving such special purpose subdivisions within an area served by one or more units of general local government, local educational agencies, institutions of higher education, community based organizations, nonprofit groups and organizations serving Native Americans, and other private nonprofit organizations or institutions engaged in a public service.

Promotional Line—means any structure, as defined locally by collective bargaining agreements, past practice, or applicable personnel rules, which provides for the advancement or upgrading of current employees in job positions or job classifications. Promotional lines may be defined without regard to educational, skill levels or chains of command and shall be defined after giving due consideration to actual opportunity for upgrading, lack of supervisory capacity and the policies of Indian self-determination and economic self-sufficiency. A CETA job position may be regarded as the lowest position in any promotional line if all job positions having rights or preference for advancement or upgrading to such positions are also CETA job positions (Sec. 3(9) and 302(b)(3)).

Public Assistance—means Federal, State, tribal or local government cash payments for which eligibility is determined by needs or income test.

Public Service—means the type of service normally provided by government and includes, but is not limited to, work (including part-time work) in such fields as environmental quality, child care, health care, education, crime prevention and control, prisoner rehabilitation, transportation, recreation, maintenance of parks, streets and other public facilities, solid waste removal, pollution control, housing and neighborhood improvement, rural development, conservation, beautification, veterans outreach, development of alternative energy technologies, and other fields of human betterment and community improvement. It includes service performed by tribally sponsored or owned income generating enterprises, owned by Indian tribes, bands, or groups or Native Alaskan entities, provided the profits from such enterprises are used exclusively for functions normally performed by the governing body of such entities.

Secretary—means the Secretary of Labor.

Significant Segments—means the groups of the population identified in terms of the following demographic characteristics: age, sex, race, and national origin.

Special Disabled Veteran—means a person who served in the Armed Forces and was discharged or released, with other than a dishonorable discharge, and who had been given a disability rating of 30 per centum or more, or a person whose discharge or release from active duty was for a disability incurred or aggravated in the line of duty.

State—means the several States, the District of Columbia, the Commonwealth of Puerto Rico, the Virgin Islands, Guam, the Northern Marianas Islands, America Samoa, and the Trust Territory of the Pacific Islands.

State Employment Security Agency (SESA)—means the State agency which exercises control over the Unemployment Insurance Service and the Employment Service.

State Reservation—means an Indian reservation recognized as such by the State in which it is located.

Supportive Services—means services which are designed to contribute to the employability of participants, enhance their employment opportunities, assist them in retaining employment, and facilitates their movement into permanent employment, not subsidized under the Act, including, but not limited to, health care, medical and dental services, legal services, transportation, assistance in securing bonding, residential support, job orientation, counseling, child care, and financial counseling, and assistance. (Sec. 3 (36).)

Underemployed Persons—means:

(a) Persons who are working part-time but seeking full-time work; or

(b) Persons who are working full-time but receiving wages not, in excess of, the higher of either:

(1) The poverty level, or

(2) 70 percent of the lower living standard income level. (Sec. 3(27).)

Unemployed Person—means:

(a) a person who is without a job for at least seven consecutive days prior to application for participation. A person shall be considered as being without a job if, for seven consecutive days, such person:

(1) worked no more than 10 hours; and

(2) earned no more than $30; and

(3) was seeking and available for work; or

(b) a person who is:

(1) a client of a sheltered workshop;

(2) institutionalized or in a hospital or similar institution; or

(c) a person who is 18 years of age or older whose family receives public assistance, or whose family would be eligible to receive public assistance for the fact that both parents are in the home; or

(d) a person who is a veteran who has not obtained permanent unsubsidized employment since being released from active duty. Such person shall be considered to meet "unemployed" eligibility requirements regardless of the specific term of unemployment required.

Veteran—means a person who:

(a) Served on active duty for more than 180 days, and was released with other than a dishonorable discharge; or

(b) Was discharged or released from active duty for a service connected disability.

Veterans Outreach—means the recruitment, counseling, and registration of eligible veterans for participation in appropriate employment or training programs provided under the Act. (Sec. 3(30).)

Vietnam-era Veteran—means a veteran under 35 years of age who served on active duty between August 5, 1964, and May 7, 1975, and who was discharged or released with other than a dishonorable discharge.

Subpart B Designation Procedures for Native American Grantees

§ 688.10 Eligibility requirements for designation as a Native American grantee.

(a) All funds specifically identified in the Act as reserved for the benefit of Indian and Native American participants, (those in Section 302 of Title III, Part D of Title II, Title VI, Parts A and C of Title IV and Title VII) shall be allocated by DINAP only to Native American grantees designated pursuant to this Subpart.

(b) Basic eligibility criteria for designation as a Native American grantee. To be designated as a Native American grantee, an applicant must:

(1) Have a governing body;

(2) Have an Indian and/or Native American population within its designated service area of at least 1,000 individuals unless this requirement is waived by DINAP; and

(3) Have the capability of administering an Indian and Native American employment and training program. For purposes of this section "capability of administering" means that the applicant can demonstrate that it possesses, or can acquire the managerial, technical, or administrative staff with the ability to properly administer government funds, develop employment and training positions, evaluate program performance and comply with the provisions of the Act and the regulations. In judging the applicant's request for designation, consideration shall be given to factors such as:

(i) Previous experience in operating an effective employment and training program serving Indians and/or Native Americans;

(ii) The number and kind of activities of similar magnitude and complexity that the applicant has successfully completed;

(iii) The identification of staff currently or potentially in the employ of the applicant who have the qualifications to carry out the managerial, technical or administrative tasks involved in carrying out activities funded under the Act.

(c) Types of eligible Native American grantees.

(1) *Indian tribe, band or group.* DINAP shall designate as a Native American grantee an Indian tribe, band or group which meets the requirements in paragraph (b) of this section. In the case of a reservation with more than one tribe, each tribe which is independently eligible in accordance with the requirements of this section shall be entitled to separate designation.

(2) *Alaskan Native entity.* DINAP shall designate as a Native American grantee an Alaskan native entity which meets the requirements in paragraph (b) of this section.

(3) *Hawaiian Native sponsor.* DINAP may designate as a Native American grantee a private nonprofit organization or public agency which meets the requirments in paragraph (b) of this section and which DINAP determines will best meet the needs of native Hawaiians.

(4) *Public or private agencies.* DINAP may designate as a Native American grantee a private nonprofit organiation or public agency which meets the requirements in paragraph (b) of this section to serve areas where there are significant numbers of Indians and/or Native Americans, but where there are no Indian tribes, bands or groups. Alaskan native entities or Hawaiian sponsors or consortia of such sponsors eligible for designation. Where it is not feasible to designate a public agency or private nonprofit organization, DINAP may designate a private for-profit organization.

(5) *Consortium grantees.* DINAP may designate as a Native American grantee a consortium of any of the types of grantees described in paragraphs (c)(1), (2), (3) and (4) of this section which may or may not be independently eligible. All such consortia shall meet the following requirements, in addition to the requirements in paragraph (b) of this section:

(i) All the members shall be in geographic proximity to one another. A consortium may operate in more than one State.

(ii) An administrative unit shall be designated for operating the program, which may be a member of the consortium or an agency formed by the members.

(iii) The consortium shall be the Native American grantee. The consortium's administrative unit shall be delegated all powers necessary to administer the program effectively, including the power to enter into contracts and subgrants and other necessary agreements, to receive and expand funds, to employ personnel, to organize and train staff, to develop procedures for program planning, to monitor program performance, and to modify the grant agreement through agreement with DINAP. The rights of evaluating the program and reallocating funds shall be reserved to the consortium's members.

(d) In the case of Native American grantees which are not themselves Indian tribes, bands or groups or Alaska native villages or groups, but will serve such groups, DINAP shall, to the maximum extent feasible, enter into arrangements for the provision of services with other types of Native American grantees which meet with the approval of the Indian tribes, bands, groups or Alaska native villages or groups to be served. (Sec. 302(d)). In such cases, DINAP shall consult with the governing body of such Indian tribes, bands, groups or Alaska native villages or groups prior to the designation of a Native American grantee. In designating Native American grantees to serve other groups, including non-reservation Indians, DINAP shall, whenever feasible, designate grantees which are directly controlled by Indian and/or Native American people. Where it is not feasible to designate such types of grantees, DINAP shall consult with Indian and/or Native American-controlled organizations in the area with respect to the designation of a Native American grantee. DINAP shall require any such grantee not directly controlled by Indian and/or Native American people to establish a Native American Employment and Training Planning Council and to implement an Indian preference policy with respect to hiring of staff and contracting for services with regard to all funds provided pursuant to this Part. (Sec. 7(b) of the Indian Self-Determination and Education Assistance Act).

§ 688.11 Designation of Native American grantees.

(a) DINAP shall notify potential Native American grantees of the prospective availability of funds for the next fiscal year by notice not later than February 1 of each year, in the Federal Register. The notice shall describe the steps in the process of designating Native American grantees and the types of programs for which funds are expected to be available.

(b) An applicant for designation as a Native American grantee shall submit a

grantee. Such action shall be subject to

of its meetings, including meeting rooms,

designated Native American grantees

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notice of intent to apply for funds. Such notices of intent shall be postmarked by March 1 and be submitted to the Division of Indian and Native American Programs (DINAP), Office of National Programs, Employment and Training Administration, U.S. Department of Labor, 601 D Street, N.W., Washington, D.C. 20213. Notices of intent may also be delivered to that office in person not later than the close of business on March 1. Such notices of intent to apply shall be submitted on Standard Form 424 as a preapplication for federal assistance. The following information shall be included in the notice of intent:

(1) Evidence that the application meets the requirements for Native American grantees contained in § 688.10;

(2) A description of the geographic area or areas which the applicant proposes to serve, together with the Indian and Native American population in such areas, to the extent known. The description must include a list of States (if more than one, in alphabetical order, and under each State, a list of counties in alphabetical order, followed by a list of reservations (if any) in alphabetical order. If the applicant was a Native American grantee for the fiscal year prior to the one which is being applied for, the applicant must also state the counties and reservations which are being added to or deleted from the previous fiscal year's service area;

(3) A description of the applicant's organization, including the legal status of the applicant, the process of selection of the governing body and the duties and responsibilities of the governing body;

(4) Evidence of the applicant's capability to operate an Indian and/or Native American employment and training program, including a statement of the applicant's past successes in operating programs for Indians or other Native Americans and a statement of the applicant's experience in managing the types of programs and activities allowable under the Act;

(5) A description of the planning process which the applicant proposes to undertake in developing a plan for the use of funds;

(6) If the applicant is applying as a consortium, evidence that the consortium meets the requirements for a consortium in this part, including, but not limited to:

(i) Identification of the member units of the consortium;

(ii) Geographic area or areas served by the consortium; and

(iii) Population served.

(c) DINAP shall designate Native American grantees for the coming Fiscal Year. Each applicant shall be notified in writing of the determination not later than June 1. Those applicants that are not designated as Native American grantees may appeal under the complaint procedures in Subpart G. The Department shall decide such appeals, if possible, not later than August 1.

(d) DINAP shall provide each entity designated as a Native American grantee with information necessary to permit it to undertake an orderly planning process and submit its gratn application on time. Unless DINAP establishes a different date, the complete annual grant package shall be submitted not later than August 1. DINAP shall make available to each Native American grantee which does not already have them a complete and final set of all applicable regulations and necessary application materials by not later than June 1. DINAP shall also provide designated Native American grantees with a preliminary planning estimate based on the amounts available in the budget of the President or in the most recent concurrent budget resolutions under the Congressional Budget Act applicable to such forthcoming fiscal year. If for any reason DINAP cannot provide a complete and final set of all applicable regulations and necessary application materials by June 1, DINAP shall extend the date for submittal of such plan to allow the designated Native American Grantee to review such regulations and to complete such materials. During the period of time between June 1 and August 1, DINAP shall not issue any regulations or guidelines or interpretations thereof that require any change in the designated Native American grantee's plan, which is a condition of DINAP's approval or disapproval of the plan, unless DINAP allows at least one fiscal quarter for the designated Native American grantee to submit such change.

(e) A consortium designated as a Native American grantee, shall, by a date set by DINAP which is no earlier than thirty (30) days from the date of such designation, submit to DINAP a formal consortium agreement which includes: (1) A statement that the consortium shall have a period of duration at least equal to that of the grant.

(2) An identification of the consortium members.

(3) The geographic area or areas which will be served. The areas must include a list of States in alphabetical order, and under each State, first the counties and then the reservations, both in alphabetical order.

(4) A description of the population to be served.

(5) A statement from each member assuring that each signatory has the necessary legal authority to enter into a consortium agreement.

(6) A statement that the consortium agreement will be signed by the chief elected official or chief executive officer of each consortium member, or by the chief elected official or chief executive officer of one or more consortium members, or by the chief executive officer of the consortium's administrative unit.

(7) A certificate that, subject to applicable Federal, State, tribal or local law, each consortium member jointly and separately accepts responsibility for the operation of the program with regard to actions taken with such member's prior knowledge and consent.

(8) A description of the powers, functions and responsibilities reserved by the consortium members, the process by which decisions will be made, the process by which each member will review and approve the comprehensive employment and training plan; and

(9) A statement identifying the administrative unit which will operate the program and delineating its organizational structure, powers, functions, and responsibilities of those individuals who will be acting for and on behalf of the tribes, bands, or groups and how such individuals were selected.

(f) A consortium which submitted a consortium agreement in the preceding year may, in lieu of executing a new consortium agreement, attest in writing, signed by the chief elected official or chief executive officer of each consortium member, that the proposed agreement is the same or noting the complete text of any changes.

(g) DINAP shall review all consortium agreements and any supporting documentation, and shall approve the consortium agreement if it complies with the Act and the regulations. If the consortium agreement is not approved, DINAP shall:

(1) Notify the designated Native American grantee that its consortium agreement fails to meet a requirement of the Act or the regulations; and

(2) Provide the designated Native American grantee with suggestions or corrective steps to remedy any defect and provide at least thirty (30) days to remedy such defect(s).

(h) If the consortium fails to correct such defect(s) within such time, DINAP may revoke the designation of the consortium as a Native American grantee. Such action shall be subject to appeal pursuant to Subpart G.

§ 688.12 Alternative arrangements for the provision of services.

If an application is not filed or is denied, or if a grant is terminated in whole or in part during a fiscal year, DINAP may grant the funds to another Native American grantee to service the area originally to be served. If it is not feasible to use another Native American grantee, DINAP may make other arrangements for such services to be provided, including arrangements for DINAP to serve such an area directly. When it is not feasible to provide for the delivery of services through such alternative arrangements, the funds involved may be reallocated to Native American grantees serving other areas.

Subpart C Program Planning, Application and Modification Procedures

§ 688.17 Planning process.

(a) Each Native American grantee shall establish a planning process for the development of its comprehensive employment and training plan. This planning process shall involve consideration of the need for employment and training services, appropriate means of providing needed services and methods of monitoring and assessing the services provided to the extent deemed appropriate. The planning process shall provide the opportunity for involvement of the client community, service providers such as community-based organizations and educational agencies, the private business sector, tribal agencies, and other Indian and Native American organizations whose programs are relevant to employment and training services.

(b) The Native American grantee may establish an employment and training Planning Council. The Native American grantee shall appoint the members of such Planning Council and designate one of the members as the Chairperson. The members may include representatives of the client community, community-based organizations, education and training agencies, the private business sector, organized labor and tribal and other agencies whose mission and services are relevant to the provision of employment and training services. The Planning Council may make recommendations on program plans, goals, policies and procedures and the need for and effectiveness of services provided. Where such a Planning Council is appointed, the costs of its meetings, including meeting rooms, travel and per diem may be paid with grant funds. The comments and recommendations of the Planning Council should be given careful consideration in the development of program plans. However, such comments and recommendations are to be advisory only and do not relieve the Native American grantee of the responsibility for the effective planning and administration of its employment and training program. The work of the planning Council shall be closely coordinated, where applicable, with the work of any special councils created to provide advice on the conduct of youth programs under Title IV of the Act or private sector initiative programs under Title VII of the Act.

§ 688.18 Regional and national planning meetings.

(a) Native American grantees shall hold at least one meeting per year for all such grantees in each federal region.

(b) Such regional planning meetings may include, but are not limited to, the following purposes:

(1) Improving the coordination of services provided by the various Native American grantees within the region;

(2) Developing procedures by which Native American grantees can assist each other in the effective conduct and administration of their respective employment and training programs; and

(3) Considering and, where appropriate, developing common positions on issues of general concern to Indian and Native American employment and training programs.

(c) There shall be at least one national meeting per year to consider issues of interest to Native American grantees that affect such entities across regional lines.

(d) Grant funds may be used for holding regional and national meetings, subject to the restrictions on allowable costs.

§ 688.19 Project application content.

(a) An application must contain all the documentation needed to apply for all the funds (i.e., under all titles of the Act) for which the Native American grantee wishes to apply, except for the SYP program (Summer Youth Program) and for the Title VII Indian and Native American Private Sector Initiative Program. Instructions for applying for SYP funds will be sent to all eligible Native American grantees when DINAP is informed of the amount of SYP funds available. SYP funds will be added to the original grant by means of a modification. DINAP shall send all designated Native American grantees instructions on the content and prepartation of the application package, and, when requested, shall provide technical assistance to the Native American grantee.

(b) Four copies of the basic grant package must be submitted to the designated DINAP project officer. The composition of each application package for Title III Sec. 302 funds is as follows. (The additional documentation for Native American grantees receiving funds under other titles of the Act is described in the regulations for those titles. The additional documentation must be included in each copy of the package.)

(1) Grant Signature Sheet (MA 2–199).

(2) Application for Federal Assistance (SF 424).

(3) Narrative for Title III program.

(4) CETA Program Planning Summary (MA 2–202).

(5) Budget Information Summary (MA 5–145).

(6) PSE Occupational Summary (MA 2–200) (Only if there is a PSE program using Sec. 302 funds.)

(7) Summary of Subgrantees and Subcontractors.

(8) CETA Monthly Schedule (MA 202–B).

(c) In addition to the four application packages described above, the following documents must also be submitted in the same envelope:

(1) Five copies of the Request for Advance or Reimbursement (only for Native American grantees whose total grant is for less than $120,000).

(2) Two completed and signed Authorization Signature Cards for Payment Vouchers on Letter of Credit (only for Native American grantees whose total grant is for at least $120,000).

(3) Five copies of the Agreement for Special Bank Account.

(4) One copy of a surety bond.

(d) All of the signatures called for on the above documents must be original signatures.

(e) Also include copies of the following (no original signature needed):

(1) Two Grant Signature Sheets.

(2) One Grant Signature Sheet, one Application for Federal Assistance, and one copy of that section of the application requesting approval to buy or rent property, stapled together in upper left corner.

§ 688.20 Submission of grant applications.

Complete grant applications must be submitted to the designated DINAP project officer by August 1 of each year.

§ 688.21 Comment and publication

steps to remedy any defect in the

modification of the grant agreement

§ 688.36 Financial management systems.

whole or in part with Federal

misuse of CETA funds (sec. 123(i), sec.

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§ 688.21 Comment and publication procedures.

(a) In order to achieve maximum coordination of services provided by Native American grantees and other types of entities directly funded by the Secretary, each Native American grantee shall provide an opportunity for comment on its comprehensive employment and training plan. The Native American grantee shall be under no obligation to make any changes in its plan(s) as a result of any such comments. (Sec. 123(b).)

(b) An opportunity to comment shall be provided to officials of each Indian tribe, band or group or each native Alaskan village or group to be served.

(c) Comments shall be received by the Native American grantee for not less than 30 days after the date the comprehensive employment and training plan is submitted to DINAP. All written comments and responses thereto shall be transmitted to DINAP either with the plan or not less than 15 days after submission of the plan.

§ 688.22 Application approval.

(a) Within 60 days of receipt, whenever possible, a grant application shall be approved if it meets the requirements of the Act and the regulations, and if it provides for an effective and efficient program.

(b) If the application is approved, DINAP shall provide the Native American grantee with a grant agreement, consisting of the Grant Signature Sheet, the comprehensive employment and training plan, and related plans, if any, as approved and such other material necessary for the initiation of the approved programs. Funds shall then be made available as soon as possible.

(c) The Grant Signature Sheet shall specify the amount obligated by the Department to the Native American grantee and the duration of the grant and shall be signed by the Director, DINAP, and a duly designated official of the Native American grantee.

§ 688.23 Application disapproval.

(a) An application shall be disapproved if it fails to meet the requirements of the Act or the regulations or if it does not provide for an effective and efficient program.

(b) No application for a grant shall be disapproved until:

(1) The designated Native American grantee has been notified that its application fails to meet a requirement of the Act or the regulations;

(2) The Native American grantee is provided with suggestions on corrective steps to remedy any defect in the application and has been provided with at least 30 days to remedy such defect(s), but has failed to do so.

(c) When an application is disapproved, a notice of disapproval shall immediately be transmitted to the Native American grantee, accompanied by a statement of the grounds of the disapproval and a notice that a complaint may be filed pursuant to the provisions of Subpart G.

§ 688.24 Modification of a grant.

(a) A formal modification of a grant is required when:

(1) There is a change of at least 25 percent or $25,000 (whichever is greater) in any cost category,

(2) There is a change of at least 15 percent or 15 individuals (whichever is greater) in the number of individuals to be served in any category of program activity, or

(3) There is a substantial change in program design.

(b) The documentation to be submitted to DINAP requesting such a modification shall consist of a letter explaining the need for the change and four copies of the proposed modification plus three copies of the Grant Signature Sheet. Each copy of the modification will consist of a Grant Signature Sheet, a narrative (containing only the change from the original narrative) and any other documents that will differ from the documents in the original grant or a previous modification.

(c) DINAP shall notify the Native American grantee of tentative approval or disapproval within 10 calendar days of receipt of the proposed modification. DINAP shall notify the Native American grantee in writing of final approval or disapproval within 30 calendar days of the receipt of the proposed modification. Failure to provide such final notification within such time frame will constitute approval.

(d) A Native American grantee may make any change in its Program Planning Summary and Budget Information Summary which is not set out in paragraph (a) of this section without prior approval but must show any such change in the first quarterly progress report submitted to DINAP after the change has been made. At the same time this report is submitted, an updated Program Planning Summary and Budget Information Summary must also be submitted, which indicate the change.

(e) DINAP may execute unilateral modifications to extend the period of operations of a grant. Such extensions shall be followed by a jointly signed modification of the grant agreement incorporating any changes in the program.

(f) Native American grantees shall notify DINAP by a modification whenever there is a change in a name, address, or other significant information in the grant. For this purpose, four copies of the Grant Signature Sheet will suffice, with a page attached explaining the change. DINAP shall modify the grant as appropriate.

Subpart D—Administrative Standards and Procedures

§ 688.31 General.

DINAP shall provide each Native American grantee with technical assistance guides in a timely fashion to enable each grantee to comply with the requirements of Sections 688.31 through 688.54.

§ 688.31 Payment.

Advance or reimbursement payments will be made by either a letter of credit or a Request for Advance (SF 270).

§ 688.33 Letter of Credit.

Grants will be financed by means of a letter of credit when the following conditions are met:

(a) The grant is for $120,000 or more;

(b) A continuing relationship has existed between DINAP and the Native American grantee for at least 12 months;

(c) The Native American grantee can assure DINAP that the timing and amount of drawdowns will be as close as possible to disbursement; and

(d) The Native American grantee's accounting system meets the recordkeeping and reporting requirements of this Subpart.

§ 688.34 Payment by Request for Advance (SF 270)

A Native American grantee which is not paid by letter of credit will be paid by Request for Advance (SF 270). DINAP shall determine whether such payment will be made on an advance or reimbursement basis. In making such a determination, DINAP shall consider the adequacy of the Native American grantee's accounting and recordkeeping system with regard to items 3(b) and 3(c) of Attachment J of OMB Circular A-102.

§ 688.35 Depositories for CETA funds.

The standard covering the use of banks and other institutions as depositories for CETA funds are found at 41 CFR 29-70.201, "Cash Depositories."

§ 688.36 Financial management systems.

(a) Each Native American grantee, subgrantee and contractor shall maintain a financial management system which will provide accurate, current and complete disclosure of the financial transactions under each grant, subgrant or contract activity, and will enable each Native American grantee, subgrantee or contractor to evaluate the effectiveness of program activities and meet the reporting requirements of this Subpart.

(b) Each Native American grantee, subgrantee and contractor shall maintain its financial accounts so that the reports required by the Department may be prepared therefrom.

(c) To be acceptble for audit under this Subpart, a Report of Federal Cash Transactions and Financial Status Report shall be:

(1) Current as of the cut-off date of the audit;

(2) Taken directly from or linked by worksheet to the Native American grantee's books of original entry; and

(3) Traceable to source documentation of the unit transaction.

(d) In cases in which the Native American grantee's records are unauditable, the auditor shall submit a letter to the contracting officer delineating the reason therefor and delineating the action required to place the records in auditable condition.

§ 688.37 (Reserved)

§ 688.38 Maintenance and retention of records.

(a) All records, reports, documents, and files required under the provisions of theser regulations shall be the responsibility of the Native American grantee. Retention of and access to those records, etc. shall be as provided for at 41 CFR 29-70.203, "Retention and custodial requirements for records." (Sec. 133(a)(1).)

(b) Financial records relating to public services employment programs and records of the names, addresses, positions and salaries of all persons employed in public service jobs shall be maintained and made available to the public. (Sec. 122(g).)

§ 688.39 Program income.

(a) Native American grantees which are federally recognized tribal governments shall not be held responsible for interest earned on grant-in-aid funds pending their disbursement for program purposes.

(b) Proceeds from the sale of real and personal property, either provided by the Federal Government or purchased in whole or in part with Federal Government or purchased in whole or in part with Federal funds, shall be handled in accordance with the MA Property Handbook which implements Attachment N of OMB Circular A-102.

(c) Royalties received from copyright and patents during the grant period shall be retained by the grantee and be added to the funds already committed to the program. After termination or completion of the grant, the Federal share of royalties in excess of $200 received annually shall be returned to the Secretary.

(d) Income earned as a result of activities of CETA participants by a profit generating enterprise whose profit is used exclusively for governmental, charitable, education, civic, social or other traditionally nonprofit purposes, shall be retained by such enterprise and used in the same fashions as all other resources of such enterprise.

(e) All other program income earned during the grant period shall be retained by the grantee and, in accordance with the grant statement, shall be added to funds committed to the project and be used to further eligible program objectives. Expenditures of program income shall be made according to the provisions of the Title of the Act under which the income was generated.

§ 688.40 Native American Grantee Contracts, Subgrants, and Agreements.

(a) Contracts may be entered into between the Native American grantee and any party, public or private for purposes set forth in an approved comprehensive employment and training plan.

(b) Subgrants may be entered into between the Native American grantee and units of State and local general government, Indian government, public agencies or nonprofit organizations.

(c) Native American grantee responsibility for development, approval and operation of contracts and grants. The Native American grantee is responsible for the development, approval and operation of all contracts and subgrants and shall require that its contractors and subgrantees adhere to the requirements of the Act, the regulations promulgated under the Act, and other applicable law. It shall also require contractors and subgrantees to maintain effective control and accountability over all funds, property and other assets covered by the contract or subgrant.

(d) Each Native American grantee shall take action against its contractors and subrecipients to eliminate violations of these regulations, and to prevent misuse of CETA funds (sec. 123(i), sec. 106(d)(1)).

(e) Subgrantees are entitled to funding for administrative costs. The amount of such funding will be determined during the development of subgrants.

(f) In the event an agreement or subgrant is cancelled, in whole or in part, the Native American grantee shall develop procedures for ensuring continuity of service to participants.

(g) The nature of certain training programs may make it necessary for contracts or subgrants to be entered into by the Native American grantee which will extend beyond the term of the grant. The Native American grantee is authorized to enter into contracts or subgrants which extend past the termination date of the grant but such extension shall not exceed one year. In such cases, the grantee shall continue to be responsible for the administration of such contracts and subgrants.

(h) Native American grantees may exercise Indian preference in the award of contracts, subgrants or agreements. Any contract, subcontract, grant, or subgrant made by a Native American grantee shall require that to the greatest extent feasible preference and opportunities for training and employment in connection with such contract, subcontract, grant or subgrant shall be given to qualified Indians regardless of age, religion or sex. The contractor shall further comply with any Indian preference requirements established by any Tribe receiving services under the contract, subcontract, grant or subgrant. All grantees, subgrantees, contractors, and subcontractors shall include the requirements of this paragraph and Section 7(b) of the Indian Self-Determination and Education Assistance Act (Pub. L. 93-638) in all subcontracts and subgrants made by them.

(i) The Native American grantee shall ensure that contractors and subrecipients maintain and make available for review by the grantee and the Department of Labor all records pertaining to the operations of programs under such contracts and subgrants, consistent with the maintenance and retention of record requirements.

§ 688.41 Procurement standards.

(a) Native American grantees shall comply with the procurement systems and procedures found in 41 CFR 29-70.216, "Procurement Standards."

(b) Subject to the provisions of Section 688.40(h), small and minority-owned businesses, including small businesses owned by women, within the

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(3) Travel costs for administrative

immediately affect program participants

neither contribute to the general

jurisdiction of the Native American grantee, shall be provided maximum reasonable opportunity to compete for contracts for supplies and services. One means to provide for this is the use of set-asides. (Sec. 121(k).)

(c) No funds will be paid to any nongovernmental organization for the conduct of programs (other than under Title VII or on-the-job training) under the Act unless:

(1) It has submitted an acceptable proposal;

(2) Selection is performed on a merit basis;

(3) It has not been seriously deficient in its conduct of, or participation in, any Department of Labor program in the past, or is not a successor organization to one that was seriously deficient in the past, unless DINAP determines that the deficiency will be corrected and performance substantially improved; and

(4) It has the administrative capability to perform effectively (sec. 121(o)).

(d) No funds will be paid to any nongovernmental organization for the conduct of on-the-job training or Title VII programs under the Act unless:

(1) Payment is supported by a written agreement which has been evaluated and found acceptable against standards established by the grantee; and

(2) The organization has not been seriously deficient in its conduct of, or participation in, any Department of Labor program (sec. 121(o)).

§ 688.42 Property Management Standards.

Native American grantees shall comply with the property management standards set forth in 41 CFR 29–70.215.

§ 688.43 Allowable Costs under CETA.

(a) *General.* To be allowable, a cost must be necessary and reasonable for proper and efficient administration of the program and be allocable thereto under these principles.

(b) *Direct costs.* Direct costs are those that can be identified specifically with a particular cost objective. These costs may be charged directly to grants, contracts or to other programs against which costs are finally lodged. Direct costs may also be charged to cost objectives used for the accumulation of costs pending distribution in due course to grants and other ultimate cost objectives.

(c) *Indirect costs.* Indirect costs are those:

(1) incurred for a common or joint purpose benefiting more than one cost objective; and

(2) not readily assignable to the cost objectives specifically benefited, without effort disproportionate to the results achieved. The term "indirect costs," as used herein, applies to costs of this type originating in the grantee entity, as well as those incurred by other entities in supplying goods, services, and facilities, to the grantee.

(d) *Restrictions on use of funds.*

(1) The amount of funds available for any specific cost category or activity shall be limited as specified in the regulations for the specific programs.

(2) Funds made available through one Title may not be used to support costs properly chargeable to another Title with the exception that funds available for administration shall be pooled and used to cover all allowable administrative costs incurred under the grant. (Sec. 123(f).)

(e) *Allowable CETA costs.* Except as modified by these regulations, the cost principles to be used in determining allowable CETA costs are referenced in 41 CFR 29–70.103, "Cost Principles."

(1) CETA funds may be used to satisfy cost sharing or matching requirements where authorized by Federal law, other than CETA, when seeking other Federal funds and shall be subject to the provisions of 41 CFR 29–70.206, "Matching Share."

(2) Funds may be used for construction activities only to:

(i) Pay wages and fringe benefits for participants employed by Native American grantees.

(ii) Purchase equipment, materials, and supplies for use by participants while on the job and for use in the training of such participants.

(iii) Cover costs of a training program in a construction occupation, including costs such as instructors' salaries, training tools, books, and allowances and wages (sec. 123(c)).

(iv) Cover costs of material and supplies, in Titles IID and VI projects, weatherization activities and Youth Community Conservation and Improvement Projects, which become part of the construction.

(3) Costs associated with building repairs, maintenance, and capital improvements of existing facilities used primarily for programs under the Act are allowable.

(4) The cost of home repair and weatherization are allowable when:

(i) The work is performed either:

(A) On dwellings of individuals whose family income is at or below 125 percent of the poverty level and which are privately owned and owner occupied, privately owned by a Native American grantee, a nonprofit organization or are units of public housing; or

(B) In weatherization projects funded by the Community Services Administration pursuant to section 222(a)(5) of the Economic Opportunity Act of 1964 or the Department of Energy pursuant to Title IV of the Energy Conservation and Production Act of 1976; or

(C) In rehabilitation projects of housing for lower income families as defined in section 8(f)(1) of the United States Housing Act of 1937 as part of community revitalization or stabilization projects (sec. 123(c)(4)).

(ii) Such activities are supervised by an adequate number of supervisory personnel who are adequately trained in the skills needed to carry out such activities and to instruct participants in the skills needed to perform in the work involved (sec. 123(c)).

(5) Native American grantees shall not use funds under the Act, to assist, including placing participants, in an establishment which has relocated from one area to another, or located new branches, subsidiaries, or affiliates within the past two calendar years, when such relocation or location has resulted in an increase in unemployment in the area of original location or any other area.

(6) Unemployment insurance benefit costs are allowable for administrative staff hired in accordance with the administrative provisions of these regulations, and for participants in other than public service employment. Unemployment insurance benefit costs for public service employment participants including such participants who are also administrative staff, who become eligible for unemployment insurance by reason of their participation in the program shall be paid not from funds under the Act, but from available funds under Part B, Section 220(a) of Pub. L. 94–444. However, administrative costs associated with the recordkeeping requirements necessary to implement Part B, Section 220(a) of Pub. L. 94–444, shall be allowable as an administrative cost under the Act. Each shall cooperate with the SESA's in providing data necessary to implement the provisions of Part B of Pub. L. 94–444.

(f) *Travel Costs.*

(1) The cost of participants travel and staff travel necessary for the operation or administration of programs under the Act are allowable costs.

(2) Travel costs of Native American grantee officials are allowable if costs specifically relate to programs under the Act. These costs shall be charged to administration.

(3) Travel costs for administrative staff, including participants in administrative positions, are allowable when the travel is specifically related to the operation of programs under the Act.

(4) Travel costs for participants using their personal automobiles in the performance of their jobs are allowable if the employing agency normally reimburses its other employees in this way. These costs shall be charged to fringe benefits.

(5) Travel costs to enable participants to obtain employment or to participate in programs under the Act are allowable as supportive services.

§ 688.44 CETA Cost Allocation.

Allowable costs shall be charged against the following cost categories: Administration; wages; training; fringe benefits; allowances; and services.

(a) Costs are allocable to a particular cost category to the extent that benefits are received by such category.

(b) All Native American granteesshall plan, control, and report expenditures against the aforementioned cost categories.

(c) All Native American grantees are responsible for ensuring that subgrantees and contractors plan, control, and report expenditures against the aforementioned cost categories.

(d) The following principles shall be followed in classifying cost by cost category:

(1) Participants' wages shall be charged to wages. All wages paid to participants receiving on-the-job training in public or private nonprofit organizations, and all wages paid to participants in public service employment and work experience are considered wages. Cost-of-living increases are considered wages.

(2) Participants' fringe benefits shall be charged to fringe benefits. Fringe benefits costs for participants include, but are not limited to, the following: provisions for annual, sick, court and military leave pursuant to an approved leave system; employees' life and health insurance plans, unemployment insurance where applicable, workers' compensation insurance and retirement benefits; and, under public service employment programs, uniforms, tools, or other equipment ordinarily provided by the employer to its regular employees, provided these are for the benefit and ownership of the participants.

(3) Allowances paid to program participants shall be charged to allowances.

(4) Training costs consisting of goods and services which directly and immediately affect program participants in either a work environment or classroom setting shall be charged to training. Training costs include, but are not limited to, the following: salaries; fringe benefits; equipment and supplies of personnel engaged in providing training; books and other teaching aids; equipment and materials used in providing training to participants; classroom space and utility costs; and that part of tuition and entrance fees which represent instructional costs having a direct and immediate impact on participants. The compensation of individuals who both instruct and supervise other instructors shall be prorated among the training and administration cost categories on the basis of time records or other equitable means. Similarly, tuition fees, and the costs of supplies used in the course of both participant instruction and other activities should be prorated among the benefiting uses.

(5) Supportive and employment and training service costs which consist of goods and services which affect program participants shall be charged to services. Services include, but are not limited to, supportive and employment and training services and services to applicants. Services costs include, but are not limited to, salaries and fringe benefits; space, utility, equipment and travel costs, when an integral part of the job of personnel engaged in providing services to participants; and that part of single unit charges for child care, health care and other services which represent only the costs of services directly beneficial to participants. Transportation of participants, as provided in § 688.43(f)(5) is properly chargeable to services.

(6) Administrative costs shall consist of all direct and indirect costs associated with the management of the program. These costs shall include the administrative costs, both direct and indirect, of subrecipients and contractors. Administrative costs shall be limited to those necessary to effectively operate the program.

(i) Indirect administrative costs represent the general management and support functions of an organization as well as secondary management and support functions. Included are salaries and fringe benefits of personnel engaged in executive, fiscal, personnel, legal, audit, procurement, data processing, communications, maintenance, and similar functions, related materials, supplies, equipment, office space costs, and staff training.

(ii) Direct administrative costs are comprised of goods and services which neither contribute to the general management and support functions of an organization, nor directly and immediately affect participants, (e.g., training costs). Also included are salaries and fringe benefits of direct program administrative positions such as supervisors, program analysts, labor market analysts, and project directors. Additionally, all costs of clerical personnel, materials, supplies, equipment, space, utilities, and travel which are identifiable with these program administration positions shall be charged to administration. Some examples of administrative costs are: the salary of a clerical assistant to a supervisor; that part of an instructor's salary representing time spent supervising other instructors; desk-top supplies used by supervisors; and, in general, office administration, rent, depreciation or maintenance of nonclassroom space; staff training; consultant services under contract not involving direct training or services to participants; costs incurred in the establishment and maintenance of a planning or advisory council under CETA, or in publishing a grant application; and costs of monitoring and providing technical assistance to contractors and subgrantees.

(iii) Services normally chargeable to administration shall be charged to wages or fringe benefits, as appropriate, when performed by program participants.

(e)(1) Except under the optional fixed price performance agreement method provided for in paragraph (e)(2) of this section, when contractors or subgrantees bill the Native American grantee with a single unit charge containing costs which are chargeable to more than one cost category, the Native American grantee will charge these costs to the proper cost categories. For unit charges such as tuition fees for which the necessary detail cannot be provided, an estimate of the breakdown of the single unit charge among cost categories will be obtained, except when such unit charges are normally billed as a single charge and the cumulative amount of such charges does not exceed $25,000 within the grant year. These exempted charges do not need to be prorated among the benefiting categories but can be charged to the category receiving the most benefit. Any profit or loss should be prorated among all affected cost categories.

(2) This paragraph provides for an optional method, for agreements to be used only for classroom training. Under the method provided for in this paragraph, costs which are billed as a

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single unit charge do not have to be allocated or prorated among the several cost categories but may be charged entirely to training. This does not preclude the use of other methods for this purpose as long as the cost allocation requirements of this section are followed.

(i) Agreements under this paragraph must:

(A) Be fixed unit price;

(B) Stipulate that full payment for the unit price will be made only upon the completion of training by a participant and placement of the participant into unsubsidized employment in the occupation trained for and at not less than the wage specified in the agreement; and

(C) Include a payment schedule which sets out that portion, if any, of the full unit price which may be paid for less then full performance. The payment schedule that is to be used must have been approved by DINAP.

(ii) No funds under this Act may be used to pay any private-for-profit organization for training of participants under the method provided herein unless:

(A) That organization is part of (including a subsidary of) an employer; or

(B) Unless written statements of intent to hire participants trained under the contract have been obtained from employer(s).

(3) In the case of multiuse equipment there must be a proration of costs or, if there is a predominant usage relating to one cost category, a charge shall be made to that category.

(4) Any single cost, such as staff salaries and/or fringe benefits, which is properly chargeable to more than one cost category shall be prorated among the affected categories.

(f) The extent to which the cost categories are assignable to specific program activities is set forth below:

(1) *Classroom training.* Cost categories chargeable are: training, allowances; services; wages when paid to participants during classroom training; and fringe benefits (medical and accident insurance for participants only).

(2) *On-the-job training.* Cost categories are: wages and fringe benefits (attributable to public or private nonprofit employers only); training; and services.

(3) *Public service employment.* Cost categories are: wages; fringe benefits; services; and training.

(4) *Work experience.* Cost categories are: training; services; wages; and fringe benefits.

(5) *Services to participants (not part of another program activity).* Cost categories are: allowances; fringe benefits (medical and accident insurance for participants only); and services.

(6) *Other activities.* Cost categories are: wages; fringe benefits; training; allowances; and services.

§ 688.45 Administrative cost section of Native American grantee's annual comprehensive employment and training plan.

(a) All administrative funds and planned expenditures from all programs operated under separate Titles, Parts or Sections of the Act by a Native American grantee shall be described in a separate section of the grantee's annual comprehensive employment and training plan.

(b) When the administrative cost section is approved, the funds may be expended for all allowable administrative costs. There is no requirement that administrative costs be allocated back to Title or program activity.

(c) The administrative cost plan may be modified during the program year. The amount of funds in the plan may be decreased with the funds going back to the program subpart provided that no program subpart receives back more than it contributed to the administrative cost element. The administrative plan may also be increased up to the percent allowed by the regulations for each program.

(d) At the end of a grant period, unexpended administrative funds will be treated in accordance with the provisions of Section 688.48. In the new grant period, the amount of new funds which will go into the administrative cost section will be determined by using only the new obligational authority in the allocation for that fiscal year.

§ 688.46 Administrative staff and personnel standards.

(a) *Staffing.* Members of the populations to be served shall be provided maximum employment opportunities at all levels of the CETA administration. Grantees shall establish systems to enhance the recruitment and hiring of qualifed Indian and Native Americans and to provide opportunities for their further occupational training and career advancement. (Sec. 121 (b)(1)(B).)

(b) *Compensation.* Compensation for administrative staff shall be at levels consistent with generally accepted business practices. Such administrative wages, salaries, and fringe benefits are allowable administrative costs under CETA. Participants employed as administrative staff, however, are subject to the wage provisions of § 688.82.

(c) *Basic Personnel Standards.* All employees, including participants, engaged in the administration of programs under the Act shall be subject to the policies and methods of personnel administration as established by the native American grantee. This includes the administrative unit of a consortium which acts as an employing agency for the purpose of outstationing participants. Such policies and procedures may be in accordance with existing procedures.

(d) *Bonding.* Every officer, director, agent or employee of a native American grantee or subgrantee of funds who is authorized to act on behalf of the native American grantee or subgrantee for the purpose of receiving or depositing funds into program accounts or issuing financial documents, checks or other instruments of payment for program costs, shall be bonded to provide protection against loss. The provisions of the bonding arrangements shall be included in the description of the administrative systems in the grant application. Existing bond coverage of Native American grantees or subgrantees shall be considered acceptable. For all others, the amount of coverage shall be the lower of the following:

(1) $100,000; or

(2) The highest advance received through check or drawdown during the preceding grant year, or for new grantees, the highest advance through check or drawdown planned for the grant year (sec. 134).

§ 688.47 Reporting requirements.

(a) At the end of each quarter, a Native American grantee shall submit to DINAP financial and program reports on each program (other than the summer youth program). Five identical sets of the reports are required. Each set will consist of CETA Financial Status Report, CETA Program Status Summary, Quarterly Summary of Participant Characteristics and for Title II–D and Title VI programs, a Monthly Progress Report. These reports are to be submitted to DINAP no later than 30 days after the end of each quarter. Detailed descriptions of these reports are in the *Forms Preparation Handbook.*

(b) Native American grantees may from time-to-time be required to prepare and submit additional reports requested by DOL and other Federal agencies for the performance of the legal responsibilities of these agencies, except that such reports will not be required by DOL more than once each fiscal quarter (Sec. 126(o)). Grants of Native American grantees who fail to submit required reports in substantial compliance with this section through cause attributable to improper management may be suspended by DINAP until such time as the Native American grantee provides reasonable assurances that the reporting requirements will be complied with. Grants shall not be suspended if the cause for the failure to submit timely reports is attributable to an act or failure to act by DOL. In the event a grant is suspended in whole or in part pursuant to this section, DINAP shall ensure the continuity of services to participants.

§ 688.48 Grant closeout procedures.

(a) The closeout of a grant is the process by which DOL determines that all applicable administrative actions and all of the required work under the grant have been completed by the Native American grantee.

(b) Upon the completion of the grant period, or at any termination date determined by DINAP, DINAP shall provide timely guidance to the Native American grantee as to the reports, forms and other documentation required for the closeout process. The Native American grantee shall submit the documentation as required.

(c) With respect to Native American grantees that have achieved satisfactory progress in their programs conducted under the Act during the current grant period and that have been designated as Native American grantees for the coming fiscal year, it is the intention of DOL that such grantees be permitted the continued use of funds remaining at the end of a grant period. DINAP shall advise such grantees of the procedures to be followed with respect to the retention of such funds for program purposes.

(d) With respect to Native American grantees other than those described in paragraph (b) of this section:

(1) DOL shall make prompt payment for the reimbursement of any remaining allowable federal costs incurred under the grant being closed out; and

(2) Such grantees shall refund immediately to DOL any unencumbered balance of cash drawn down from the letter of credit or advanced by Treasury checks and take those actions required of grantees to cancel the letter of credit.

§ 688.49 [Reserved]

§ 688.50 Secretary's responsibilities for assessment and evaluation.

(a) As used in this Section, the term "assessment" refers to the federal review of grant applications and performance of individual Native American grantees and the term "evaluation" refers to the federal study of overall effectiveness and impact of programs and activities under the Act.

(b) The Secretary shall provide for the continuing evaluation of all programs, activities, and research and demonstration projects including their cost effectiveness in achieving the purposes of the Act, their impact on communities and participants, their implication for related programs, the extent to which they meet the needs of persons by age, sex, race, and national origin, and the adequacy of the mechanism for the delivery of services. In conducting evaluations the Secretary shall compare the effectiveness of programs conducted by Native American grantees of the same class and of different classes.

(c) The Secretary shall also arrange for obtaining the opinions of participants about the strengths and weaknesses of the programs. (Sec. 313(a).)

(d) The Secretary shall assess annually the adequacy of each Native American grantee's proposed performance and placement goals in accordance with performance standards which recognize that performance will vary with local conditions and the nature of employment barriers faced by the eligible population to be served.

(e) All assessments and evaluations carried out in accordance with this authority shall recognize and support the federal commitment to support growth and economic and social development as determined by representatives of the communities and groups served by this Part. (Sec. 302(b)(3).)

§ 688.51 [Reserved]

§ 688.52 Reallocation of funds.

(a) *General.* The Secretary may reallocate funds from a grantee under the circumstances and in accordance with the procedures described in this section.

(b) *Reallocation of funds based on nonutilization.*

(1) DINAP may make such reallocation, as it deems appropriate, or any amount of any allocation under the Act to the extent that it determined that a native American grantee will not be able to use such amount within a reasonable period of time.

(2) When DINAP determines that a reallocation is appropriate, it shall give the grantee 30-days notice of proposed action to remove funds from the grant. Such notice shall include specific reasons for the action being taken.

(3) The grantee and the affected Indian or Native American community will be invited to submit comments on proposed reallocation of funds. These comments shall be submitted to DINAP within 30 days from the date of the notice. DINAP shall notify affected Native American grantees on any decision to reallocate funds and shall have any such decision published in the Federal Register.

(4) Any reallocation of funds shall be to an alternate service deliverer to serve the same area or to Native American grantees to serve other areas. Priority shall be given first to Native Americna grantees within the same State and then to eligible applicants within other States, taking into consideration the number of eligible applicants within other States, taking into consideration the number of eligible unemployed individuals in those areas.

Subpart E—Program Design and Management

§ 688.75 General responsibilities of Native American grantees.

This Subpart sets out program operation requirements for Native American grantees including program management, linkages, coordination and consultation, allowable activities, participant benefits and duration of participation provisions. It also sets forth the responsibilities of Native American grantees with respect to nondiscrimination and the equitable provision of services.

§ 688.76 General responsibilities of DINAP.

DINAP shall be responsible for:

(a) Prompt notification of all Native American grantees of allocations of funds, proposed and final rules, guidelines and program directives.

(b) Advising all Native American grantees as to their rights and responsibilities under the Act.

(c) Designing performance standards and assessment and evaluation criteria which, to the maximum extent feasible, recognize the federal commitment to support growth and development as determined by representatives of the communities and groups served under this Part. (Sec. 302(b)(3)).

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§ 688.79 Program linkage

and activities and coordination in the

(i) On-the-job training (OJT) is training

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(d) Providing technical assistance to Native American grantees to assist them in complying with the requirements imposed by the Act, these regulations and the Department of Labor in other directives and in the effective implementation of their comprehensive employment and training plans. (Sec. 123(m).)

(e) Employing personnel having particular competence in the administration of Native American employment and training programs. (Sec. 302(e).)

(f) Consulting with appropriate Native American grantees prior to the commitment of discretionary and technical assistance funds.

§ 688.77 Program management systems.

(a) All Native American grantees shall establish management systems to assess all programs. Grantees shall take necessary corrective action to improve underperformance and to plan for more effective programs for subsequent operations. Native American grantees must institute and maintain effective systems for the overall management of programs under whatever Titles of the Act they conduct such programs, including but not limited to:

(1) Eligibility verification systems as described in § 688.78

(2) Complaint and hearing procedures as described in subpart G of this Part.

(3) Mechanisms for taking immediate corrective action where problems have been identified and for restitution of CETA funds for improper expenditures.

(b) All Native American grantees shall establish and maintain financial management and participant tracking systems in accordance with §§ 688.36 and 688.78. The principal objective of such systems shall be to provide the Native American grantee with systems necessary to effectively manage its program and to provide information necessary to design program activities and delivery mechanisms.

(c) Each Native American grantee shall establish and use procedures for the continuous, systematic assessment of program performance in relation to the goals contained in its grant.

(d) Native American grantees shall establish and use procedures whereby the information collected and assessments conducted shall be considered in the subsequent program planning and in the selection of service delivery agencies.

§ 688.78 Participant eligibility determination.

(a) Each Native American grantee, and any subgrantees or contractors delegated responsibility for the determination of participant eligibility, shall be responsible for developing and maintaining a system which reasonably ensures an accurate determination of eligibility based on the information presented at the time of application.

(b) The ultimate responsibility for the selection of participants and the maintenance of participant records rests with the Native American grantee. However, the Native American grantee may delegate the administration of this responsibility to subgrantees. The selected agency must provide adequate documentation of each participant's eligibility and retain in the participant's folder the information on which this determination is based. (Sec. 123(i).)

(c) The eligibility determination shall be based upon a signed, completed application form which records all information necessary to determine eligibility, which attests that the information on the application is true to the best of the applicant's knowledge and acknowledging that such information is subject to verification and that falsification of the application shall be grounds for the participant's termination and may subject the applicant to prosecution under law. In the case of an applicant who is a minor (except minors who are emancipated or heads of households), the signature of the parent, responsible adult or guardian is also required.

(d) Native American grantees shall maintain documentation to insure the credibility of the eligibility determination, which shall consist at a minimum of the following:

(1) A completed application for participation; and

(2) Records of all actions taken to correct deficiencies in the eligibility determination procedures.

(e) A participant determined to be ineligible shall immediately be terminated.

(f) A Native American grantee may enter into an agreement with a state employment security agency (SESA) or such other independent agency or organization as may be approved by DINAP, for the verification of applicant eligibility within 60 days of enrollment. The Native American grantee shall monitor such verification procedures to ensure that erroneous verifications are not made deliberately or with insufficient care.

(g) Participants may be transferred from one program to another provided, except for age requirements, they were eligible for the subsequent program when they were first enrolled.

§ 688.79 Program linkages.

(a) In designing programs under the Act and in selecting service deliverers, Native American grantees shall give special consideration in carrying out programs to community-based organizations of demonstrated effectiveness in the delivery of employment and training programs. (Sec. 123(1).)

(b) Consideration shall be given to making use of appropriate services currently available in the community, with or without reimbursement, which the Native American grantee has determined to be effective. Agencies which typically provide such services include, but are not limited to, the State Employment Security Agency, State Vocational Education and Rehabilitation agencies, State public assistance agencies, Bureau of Indian Affairs, Indian Health Service, local educational institutions, community based organizations and other public agencies. The purpose of this consideration shall be to avoid duplication and to obtain such services at a cost saving over establishing another such service or activity. (Sec. 121(g).)

(c) Each Native American grantee shall to the maximum extent feasible:

(1) Coordinate the employment and training services provided under its plan with those available under other programs funded through the Department of Labor (Sec. 103(a)(8));

(2) Coordinate services to veterans provided under this Act with those activities authorized by Chapter 41 of Title 38, United States Code (relating to counseling and employment services to veterans provided by SESA's) and with other similar activities carried out by other public agencies and organizations. Coordinate services with appropriate Veterans Administration facilities in utilizing the apprenticeship and other on-the-job training activities available under Section 1787 of Title 38 U.S.C. (Sec. 121(b));

(3) Notify the appropriate apprenticeship agency of any training activity in apprenticeship occupations.

(d) Native American grantees shall coordinate services to AFDC recipients with public assistance agencies and the local sponsor of the Work Incentive Program (WIN), if any.

§ 688.80 Labor organization consultation.

To ensure the most effective development of employment and training opportunities, Native American grantees should provide the opportunity for the participation of organized labor in the planning and design of programs and activities and coordination in the subsequent operation of such programs in those geographic areas where organized labor represents a significant proportion of the work force in industries and occupations available to Indian and Native American workers.

§ 688.81 Employment and training activities.

Native American grantees shall design and operate programs funded under the Act which support growth and development as determined by representatives of the Indian and Native American communities and groups served by CETA funds. (Sec. 302(b)(3).) The basic types of employment and training activities available to Native American grantees, subgrantees and contractors include, but are not limited to the following:

(a) *Classroom training.*

(1) This program activity is any training of the type normally conducted in an institutional setting, including vocational education, and designed to provide individuals with the technical skills and information required to perform a specific job or group of jobs. It may also include training designed to enhance the employability of individuals by upgrading basic skills, through the provision of courses such as remedial education, training in the primary language of persons with limited English-speaking ability, or English-as-a-second-language training.

(2) In designing and operating training programs, Native American grantees, subgrantees and contractors shall:

(i) Refer a person for occupational training only after determining that there is a reasonable expectation of employment in the occupation in which such person would be trained. (Sec. 121(f)(4).)

(ii) Not refer a person to an occupation which requires less than two weeks of preemployment training unless there are immediate employment opportunities for that person available in that occupation. (Sec. 121(f)(2).)

(iii) Train persons only for jobs which are not in industries nor occupations with lower wages than the average for nondurable goods industries in the area, as set forth in the BLS Handbook of Labor Statistics, except that training is permissible for those jobs for which there exists a training program of a specified length of time designed to teach specific skills, and for which the rate or labor turnover does not exceed substantially the rate of labor turnover in the same area. (Sec. 123(a).)

(b) *On-the-job-training.*

(1) *General.*

(i) On-the-job training (OJT) is training in the private or public sector given to a participant, who has been hired first by the employer, while he or she is engaged in productive work which provides knowledge or skills essential to the full and adequate performance of the job. This does not preclude a participant who has been hired by, and received OJT from, one employer from being ultimately placed with another employer.

(ii) OJT may involve individuals at the entry level of employment or be used to upgrade or retrain present employees in occupations requiring higher skills. OJT may be coupled with other CETA employment and training activities. As needed, OJT participants may receive any of the employment and training services and/or supportive services specified in paragraph (e) of this Section through the CETA system, through community resources, or through employer resources.

(2) *Participation.* All OJT participants must be eligible for CETA in accordance with the requirements described in the Section of these regulations governing eligibility for programs, depending on the Subpart under which the OJT positions are funded.

(3) *Selection.* From among those referred for OJT opportunities, the employer may make the final selection of participants based on suitability for the training opportunity.

(4) *Length of training.* The length of time for which payments from CETA funds may be made shall not exceed that period of time generally required for acquisition of skills needed for the position within a particular occupation. (Sec. 121(1).) Native American grantees shall develop standardized methods for determining the length of training for OJT occupations, and shall describe or identify such methods in the grant application. The Dictionary of Occupational Titles (D.O.T.), Specific Vocational Preparation (S.V.P.) codes, or other equivalent standardized tools may be used to fulfill this requirement.

(5) *Eligible jobs.* The requirements of paragraph (a)(2) of this section shall apply to OJT. In the selection of jobs for which training will be offered, Native American grantees should consider those which provide opportunities not otherwise available; lead to economic self-sufficiency, provide upward mobility, and promote the growth and development of the Indian and Native American communities and groups served.

(6) *Reimbursement.*

(i) Based upon past experience, DOL has determined that a fixed unit cost method of reimbursement based on 50 percent of the participant's wages represents the difference between the costs of recruiting and training and the costs of lower productivity associated with employing CETA participants who lack the requisite skills to perform the job, and such costs for those otherwise employed. (Sec. 121(1).)

(ii) To maximize limited available resources, recipients may choose to negotiate lower reimbursement levels with employers.

(iii)(A) Should an employer or Native American grantee feel that special circumstances warrant a reimbursement level higher than the 50 percent limitation, each circumstance, along with the specified level and its rationale, shall be presented in the Native American grantee's grant application or any modification. Native American grantees may then negotiate OJT agreements under these circumstances at the reimbursement level approved in the comprehensive employment and training plan without any further DOL approval. The circumstances and the reimbursement level in such cases should also be documented in each OJT agreement.

(B) If a circumstance not covered in the comprehensive employment and training plan arises which the grantee believes warrants reimbursement at higher than the 50 percent level, a letter specifying the circumstances and the proposed reimbursement level shall be sent to DINAP for approval prior to signing the OJT agreement. Once approved, the terms of the approval shall be incorporated into the Native American grantee's grant, and the Native American grantee may sign the OJT agreement, documenting the approved circumstances and the reimbursement level in the OJT agreement.

(C) Special circumstances are envisioned as those where the characteristics of the participant indicated greater obstacles to employment than those of the normal CETA participant or where the training would provide the participant with unusually high skills. Examples might include the following, among others: handicapped or mentally retarded participants; disabled veterans; ex-offenders; exceptionally costly programs providing an above-average quality of training; or training management level personnel for tribal enterprises.

(D) Native American grantees may provide OJT reimbursement on a declining ratio to wages over the period of training, as long as the planned average reimbursement does not exceed

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the specified reimbursement level for the planned period in which the participant is in training. Native American grantees shall monitor the declining reimbursement provisions of OJT agreements closely. Should abuse occur (i.e., significant numbers of participants leaving after the "high end of the scale" reimbursement period), the arrangements should be immediately curtailed.

(E) In addition to the reimbursement allowed by the other paragraphs of this Section, the actual costs incurred by an employer for employment and training services and supportive services for OJT participants which are different than or above the level of those normally provided by the employer to regular employees, may be paid on a cost reimbursement or fixed cost basis.

(7) *OJT Agreements.* At a minimum the OJT agreement shall contain the elements listed below. Native American grantees may place additional provisions in the OJT agreement only after a careful assessment is made of the additional burdens imposed on participating employers. Agreements may be entered into only with employers which have not been seriously deficient in their conduct of or participation in any DOL program pursuant to § 688.41 (Sec. 121(o).)

(i) Brief training outline, including the length of training and the nature of the training;

(ii) Method and maximum amount of reimbursement; justification if reimbursement amounts exceed 50 percent of participant's wages;

(iii) Number of participants to be trained;

(iv) Job description and participant wage rates;

(v) Reporting requirements;

(vi) An assurance that payroll records, time and attendance records, job duties and documentation of employment and training or supportive services costs for which the employer is being reimbursed will be subject to review;

(vii) A termination clause for nonperformance;

(viii) An assurance that the employer will comply with the Act and regulations.

(c) *Public service employment.*

(1) Public service employment is subsidized employment with public and private non-profit employers who provide services.

(2) PSE jobs shall be provided, to the extent feasible, in occupational fields which are most likely to expand within the public or private sector. (Sec. 122(m).)

(3) Except for Federal agencies, PSE jobs shall be developed where the employer has the capacity to provide the best possible employment opportunities. Worksite employers which can provide employment opportunities should do so as an employing agency. However, where the capacity of a worksite to function as an employing agency is limited by such factors as the lack of administrative capability to accommodate additional employees and lack of employment benefits, it may be considered a suitable site for outstationing. Outstationed participants are still to be considered employees of the employing agency and shall have the same working conditions and benefits as received by other similarly employed employees of the employing agency (not of the outstationed worksite). However, maximum efforts should be made by the employing agency to accommodate the outstationed worksite by coordinating work hours and holidays.

(4) PSE participants shall not be employed in building and highway construction work (except that which is normally performed by the Native American grantee, subgrantee or contractor) or in any work which does not meet the definition of public service contained in § 688.3.

(5) Except for projects under Subpart J, PSE jobs shall be entry level. (Sec. 232(a)(1) and Sec. 605(a).)

(6) To the extent feasible, the public services provided by the jobs should be designed to benefit the residents of the area. (Sec. 122(a).)

(7) Wages shall be paid for PSE participants in accordance with § 688.82(a)(3).

(8) Native American grantees shall take into account household obligations, and give special consideration to provisions for alternative working arrangements such as flexible hours of work, work-sharing and part-time jobs, particularly for older workers, and parents of young children. (Sec. 121(d)(3).)

(d) *Work experience.*

(1) Work experience is a short-term and/or part-time work assignment with a public employer or a private nonprofit employing agency. It is prohibited in the private-for-profit sector. It shall be designed to enhance the employability of individuals through the development of good work habits and basic work skills. Work experience shall be limited to persons who need assistance in becoming accustomed to basic work requirements including basic work skills, in order to be able to compete successfully in the labor market. Work experience shall not be used as a substitute for PSE. The type of individuals who could be appropriately served in this category include such persons as those who have either never worked or who have not been working for an extended period of time, such as students, youth in transition from school to employment, youth with no definite employment goals, chronically unemployed, retired persons, handicapped individuals, residents of institutions, and older workers in such programs as Operation Mainstream who have no alternative job opportunities. (Sec. 121(i).)

(2) Persons who do not satisfy the conditions of paragraph (d)(1)(i) of this section may be placed in work experience for no more than 30 days while an appropriate classroom training, OJT, PSE or unsubsidized job is being developed for them. (Sec. 211(6).)

(3) Participation in work experience shall be for a reasonable length of time, based on the needs of the participants, and subject to the restrictions set forth in § 688.86(d)(1).

(4) The provisions of paragraph (c)(9) of this section shall apply to work experience participants.

(e) *Services to participants.* This program activity is designed to provide participants with supportive services, employment and training services, and post termination services which will lead to maximum employment opportunities and retention of employment or which will facilitate participation in other employment and training program activities funded under this Act or under another Act, leading to their eventual placement in unsubsidized employment. Such services include, but are not limited to, the following:

(1) *Services to applicants:*

(i) Outreach;

(ii) Intake: This includes screening for eligibility; the initial determination as to whether the program can benefit the individual; the determination of the employment and training activities and services which would be appropriate for the applicant; the determination of the availability of an appropriate employment and training activity; a decision on selection; and dissemination of information on the program. The appropriate items on the Participant Record found in the *Forms Preparation Handbook* should be used as a guide for the intake process. All such applications should be retained, regardless of eligibility or enrollment of the applicant.

(2) *Employment and training services:*

(i) Orientation to the world of work;

(ii) Counseling. This includes employment and training related counseling and testing;

(iii) Employability Assessment (other than that involved during intake);

(iv) Job Development;

(v) Job Search Assistance. This includes transition services, such as job seeking skills instruction, individualized job search plan, labor market information, and other special activities for transition to unsubsidized employment;

(vi) Job Referral and Placement; and

(vii) Vocational Exploration Program (VEP). A grantee may conduct a VEP program to expose youth to jobs available in the private sector through observation of such jobs, instruction, and, if appropriate, limited practical experience. (Sec. 432.)

(A) A detailed curriculum shall be developed prior to enrollment in VEP.

(B) Organizations which participate in VEP through an agreement with a Native American grantee may be reimbursed for the costs incurred in the conduct of the program, except that private-for-profit organizations may be reimbursed only for costs for training which is over and above that normally provided by the organization.

(C) An individual may not be involved in any activity that contributes, or could be expected to contribute, to additional sales or profit, or results in the subsidization of wages, of a private-for-profit organization.

(D) Where a vocational exploration program funded directly by DOL operates in a Native American grantee's area, the grantee should enter into an agreement with the local representative of the program which contains arrangements for recruitment, selection, referral and eligibility certification.

(3) Supportive Services include:

(i) Health care and medical services;

(ii) Child care. Child care programs shall comply with applicable tribal standards;

(iii) Transportation;

(iv) Residential support;

(v) Assistance in securing bonds;

(vi) Family planning services. These shall be made available to a participant only on a voluntary basis and shall not be a prerequisite for participation in, or receipt of, any services or benefits from the program; and

(vii) Legal Services.

(4) *Post-termination services.* For 30 days following termination from the program, employment and training services and supportive services, as described in paragraphs (e) (2) and (3) of this section may be provided to participants who have obtained unsubsidized employment to enable them to gain or retain employment.

(f) *Other employment and training activities.* Native American grantees may conduct employment and training activities not described in paragraphs (a) through (e) of this section or employment and training related activities designed to expand job opportunities and enhance the participation of individuals who are eligible to participate in programs funded under the Act. The approved grant application shall describe the basic design of activities undertaken as "other employment and training activities" and their objectives. These activities may include, but are not limited to:

(1) Removal of artificial barriers to employment;

(2) Job restructuring;

(3) Revision or establishment of merit systems; and

(4) Development and implementation of affirmative action plans, including Indian preference plans and Tribal Employment Rights Office (TERO) programs.

(g) *Combined activities:*

(1) A participant may be simultaneously or sequentially enrolled in two or more activities.

(2)(i) Reimbursement may be up to 100 percent to employers, including private-for-profit employers, for expenditures for the costs of classroom training, employment and training services or supportive services for participants in combined activities including the costs of participants' wages paid by the employer for time spent in classroom training.

(ii) Reimbursement may be made on a cost reimbursement or fixed cost basis and shall be supported by business receipts, payrolls, or other records normally kept by the employer.

(iii) Nothing in this paragraph (3) shall allow reimbursement to private-for-profit employers for the costs of on-the-job training to exceed the amounts allowable in paragraph (b) of this section.

§ 688.82 Compensation for participants.

(a) *Payment of wages. Generol.* Except as authorized under § 688.82(a)(5), each participant in on-the-job training, work experience, and public service employment shall be paid wages.

(1) *Work experience.* Participants in work experience shall be paid at a rate not less than the highest of (Sec. 124(d)):

(i) The minimun wage rate specified in Section 6(a)(1) of the Fair Labor Standards Act;

(ii) The minimum wage rate prescribed by applicable State or local law; or

(iii) The prevailing rate established by the Secretary in accordance with the Davis-Bacon Act, when required by paragraph (a)(7) of this section.

(2) *Public service employment and OJT.*

(i) Participants in PSE and OJT shall be paid wages at rates not less than the highest of the following (Sec. 124(b)):

(A) The minimum wage rate set out in Section 6(a)(1) of the Fair Labor Standards Act;

(B) The minimum wage rate prescribed by applicable State or local law;

(C) The prevailing rate for persons employed in similar public occupations by the same employer (Sec. 124(b));

(D) The minimum entrance rate for inexperienced workers in the same occupations in the establishment, or, if the occupation is new to the establishment, the prevailing entrance rate for the occupations among other establishments in the area;

(E) The minimum rate required by an applicable collective bargaining agreement; or

(F) The prevailing rate established by the Secretary in accordance with the Davis-Bacon Act, when required by paragraph (a)(6) of this section.

(ii) The Secretary shall publish annually an area wage adjustment index, which shall include the maximum wage rates for each area. The wage adjustment index shall be based on the ratio that the annual average wages in regular public and private employment in the area.

(iii) Wages, including money received for overtime work and time on leave, paid to any public service employment participant from funds under the Act are limited to a full-time rate of $10,000 per year (or the hourly, weekly, or monthly rate which, if annualized, would equal a full-time rate of $10,000 per year), except where this maximum is adjusted upward by the Secretary to the amount set forth in the area wage adjustment index. This $10,000 shall not be adjusted upward by more than 20 percent, except for Alaska. In Alaska, the amount in the area wage adjustment index shall be computed by adjusting the $10,000 upward by the exact percentage that the area wage index exceeds the national average wage index.

(iv) Fringe benefits to any PSE participants may not exceed those regularly afforded to similarly employed non-CETA workers, and shall never exceed those afforded to non-CETA

with participation in an activity. The

(10) *Waivers of allowances.*

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workers earning an amount equal to the maximum wage.

(v) The average annual wage for public service participants hired on or after the effective date of these regulations, shall not exceed $7,200, adjusted on an area basis in accordance with the area wage adjustment index described in paragraph (a) (2) (ii) of this section. Where public service participants are also enrolled in activities other than PSE for which they receive allowances, or where they are participating in a part-time (less than a normal full-time schedule for the occupation) public service position, the average annual wage for these participants shall be computed by annualizing the PSE wages received by these participants. For fiscal year 1980 and each subsequent year, the average annual wage limitation shall be further adjusted by a percentage equal to the change in the average wage in regular employment not supported under the Act. In no case shall this wage be adjusted downward to a level that is less than 10 percent above the annualized Federal, State, or local minimum wage rate, whichever is highest. (Sec. 122(i)).

(vi) Except as provided in § 688.207 and in paragraph (a)(3)(vii), no public service employment participant may be provided wages for any public service employment job from sources other than the Act. For participants hired after September 30, 1978, this applies even if a participant is entitled to a promotion, a general salary increase or overtime pay. In such cases, such participants must be transferred to other positions or be terminated. (Sec. 122(i) (4) (A).)

(vii) Any person in public service employment on September 30, 1978, receiving wages from non-CETA sources may continue to receive such wages, so long as such person remains in the same position. However, the non-CETA portion shall not be reduced if the maximum wage has been adjusted upward above $10,000 after September 30, 1978, as long as the incumbent participant is in this position or until the next Native American grantee budgetary cycle. (Sec. 122(i)(4) (B).)

(viii) Any person in public service employment on September 30, 1978, who was receiving wages on September 30, 1978, of less than $10,000 may have such wages supplemented above $10,000 from non-CETA sources after September 30, 1978, if such increase is a bona fide cost of living increase or a scheduled raise, and the person remains in the same position.

(3) *Services to Participants.* Allowances may be paid to a participant enrolled in employment and training services when such services are combined with another activity or when such services are provided on a regularly scheduled basis.

(4) *Other employment and training activities.* Allowances may be paid to a participant enrolled in other employment and training activities as described in § 688.81(f) when such activities are a component of another activity, or when such activities are provided on a regularly scheduled basis.

(5) *Combined Activities.*

(i) *Primary Activity.* A primary activity is one in which a participant is enrolled for more than 50 percent of scheduled time. Participants enrolled in a primary activity for which wages are payable and simultaneously in an activity for which allowances are payable may, at the Native American grantee's option, be paid wages for all hours of participation, except when OJT is the non-primary component. Before placing an individual in such an activity, the Native American grantee shall request a determination from the Internal Revenue Service as to whether income from the non-primary component is taxable. Nothing in this Subsection shall authorize compensation at rates less than those required by paragraphs (a) or (b) of the section.

(ii) *Employed Participants.* Wages may be paid to a participant by the participant's employer for hours spent in classroom training, whether or not such hours constitute a primary component.

(6) Native American grantees, subgrantees and contractors are required to ensure that prevailing wages, as determined by the Secretary pursuant to the Davis-Bacon Act, are paid:

(i) By their contractors and subcontractors to laborers and mechanics, including participants, employed in construction (including alteration, repair, painting, decorating, etc.) which is federally assisted under the Act and related to a facility or building which is used primarily for programs under the Act; and

(ii) To laborers and mechanics, including participants, who are employed in construction (including alteration, repair, painting, decorating, etc.) on any project which is funded wholly or partially under a Federal statute, other than CETA, which requires the payment of prevailing wage rates determined in accordance with the Davis-Bacon Act.

(b) *Payment of training allowances.*

(1) *General.*

(i) Subject to paragraph (a)(5) of this section and § 688.81, a basic hourly allowance shall be paid to participants for time spent in classroom training. In addition, allowances may be paid for time spent in employment and training and supportive services only in accordance with § 688.81(e). (Sec. 124(a).)

(ii) No participant may receive allowances for classroom training for more than 104 weeks in a 5-year period.

(2) *The allowance payment system.* A standard system for payment of allowances shall be maintained by every Native American grantee to ensure prompt and efficient payment to all participants. (Sec. 124(a).) The standard payment system shall consist of a uniform set of procedures, but may be operated by one or more service deliverers. It shall include:

(i) Determination of entitlement and computation of amount to be paid;

(ii) Issuance and distribution of payments;

(iii) Maintenance of payment records and preparation of required reports;

(iv) Maintenance of a system to detect and collect overpayments; and

(v) Arrangements with other agencies to obtain information to minimize unauthorized payments, including arrangements with:

(A) The State Employment Security Agency for verifying the receipt of unemployment compensation by participants. (Sec. 124(a).)

(B) Appropriate agencies for verification of public assistance payments (e.g., local welfare agencies); and

(C) Training facilities for submittal of payment requests and certifications of attendance.

(3) *Selection of delivery agent.* The Native American grantee is required to provide a standard allowance payment system either directly or through an organization or organizations it considers appropriate for its particular circumstances.

(4) *Basic allowances.*

(i) A basic hourly allowance shall, except as provided in paragraphs (b) (9) and (10) of this section, equal the higher of:

(A) The minimum hourly wage prescribed by State or local law for most employment in the Native American grantee's area, multiplied by the number of hours during which the trainee attends or is absent for good cause; or

(B) The minimum hourly wage specified in Section 6(a)(1) of the Fair Labor Standards Act, multiplied by the number of hours during which the trainee attends or is absent for good cause;

(ii) To compute the number of hours of participation, the Native American grantee shall count the time spent in classroom training, and may count the time spent in employment and training services or other activities as specified in § 688.81(e) and (f);

(iii) Dependent allowances, incentive allowances, and additional allowances as described in (b) (5), (6) and (8) of this section are not to be included as part of the basic allowance.

(5) *Dependents allowances.*

(i) In the case of an individual with dependents, an additional $5 a week shall be provided for each dependent over two (2) and up to a maximum of four (4) additional dependents for participants receiving basic allowances or who would be receiving basic allowances were it not for adjustments which are permitted pursuant to paragraph (b)(9) of this section. (Sec. 124(a).)

(ii) Dependent allowances shall be reduced pro rata for absence without good cause. The methodology for making the reduction shall be described in the Native American grantee's grant application.

(6) *Incentive allowances for persons receiving public assistance.*

(i) Except for trainees receiving allowances under Subparts K and L of this Part, incentive allowances in the amount of $30 per week, in lieu of basic allowances, shall be paid to participants receiving public assistance or whose needs or income are taken into account in determining such public assistance payments to others. (Sec. 124(a) (3).)

(ii) Incentive allowances shall be reduced pro rata for absences without good cause. The methodology (e.g., daily or hourly proration) for making the reduction shall be described in the Native American grantee's grant application.

(iii) Incentive allowances shall be disregarded in determining the amount of public assistance payments individuals are entitled to receive under Federal or federally assisted public assistance programs. (Sec. 124(a)(3).)

(7) *Payments to persons in correctional institutions.* For participants who are prisoners, all or part of the allowances, as determined by the Native American grantee and the head of the institution, may be held in reserve by the institution and delivered upon the participant's release from the institution.

(8) *Additional allowances.* Additional reasonable allowances, such as allowances for transportation or subsistence, may be paid to participants to cover extraordinary costs associated with participation in an activity. The circumstances in which additional allowances will be paid shall be described in the grant application. (Sec. 124(a).)

(9) *Adjustments in allowances.*

(i) The basic allowance shall be reduced on a weekly basis by the amount of any unemployment compensation received. Where eligible, participants should be encouraged to apply for and claim unemployment compensation benefits, if they are not already receiving such benefits. The basic allowance shall not be reduced because of any unemployment compensation received prior to enrollment. If unemployment compensation is paid on a biweekly basis, it shall be prorated over the two weeks before the allowance is reduced. (Sec. 124(a).)

(ii) The basic allowance may be adjusted upward if conditions for such increases are described in the approved grant.

(iii) Periodic increases to the basic allowances may be provided as an incentive to participation when such increases are described in the approved grant.

(iv) Where a participant is employed by an employer as part of a training or employment activity under the Act, the basic hourly allowance may equal up to the hourly wage of the position in which the participant is employed.

(v)(A) The basic allowance for a participant may be reduced, at the option of the Native American grantee, on a weekly basis, by the total amount of any Basic Education Opportunity Grant (BEOG) during the period in which he or she is enrolled in classroom training divided by the number of weeks in which the participant is enrolled in the classroom training; and

(B) The Native American grantee may, however, make arrangements with the training institution to apply BEOG payment to tuition, books and related training costs normally funded by the recipient. The recipient should then pay the training institution the difference, if any, between the actual training costs and the BEOG.

(vi) The basic allowance may be reduced by the amount of wages received by classroom training participants who are also enrolled full-time during the same payment period in either work experience, PSE or OJT. The determination of whether the activity is full-time shall be based on the number of hours that constitute full-time employment for regular employees similarly employed at the employing agency or worksite.

(10) *Waivers of allowances.*

(i) The payment of all or part of the basic allowance, described in (b) paragraph (4) of this section, may be waived only in accordance with paragraphs (b)(10) (ii) or (iii) of this section under the conditions described in the grant. (Sec. 124(a).)

(ii) Waivers of basic allowances shall be allowable only when the following conditions have been met and documented, and a statement of understanding has been signed by each participant for whom allowances are being waived:

(A) That the waiver will be applied to the total enrollment in a course and will not be imposed on an individual basis, except as provided in paragraph (b)(1)(iii) of this section; and

(B) That the waiver will not have the effect of denying participation to individuals who could not participate without receipt of allowances; and

(C) That the waiver will increase the number of participants served or the level of services provided; and

(D) That the waiver will otherwise promote the purposes of the Act; and

(E) That all participants for whom allowances are waived will be so notified in writing; and

(F) That documentation of the waiver signed by the participant will be made a part of the participant's record.

(iii) In exceptional circumstances, individual waivers, when described in the plan may be granted under the following conditions:

(A) The waiver is at the written agreement of the participant; and

(B) Individual waivers may only be granted when all of the funds allocated in the Budget Information Summary for allowances have been obligated and training opportunities are still available and are unfilled.

(iv) The dependent allowances described in paragraph (b)(5) of this section may not be waived except in cases where the entire basic allowance is waived.

(v) Allowance payments may not be waived solely because a participant is a veteran and receives benefits through the Vietnam Era Veteran's Readjustment Assistance Act, as amended.

(vi) Incentive allowances shall not be waived.

(11) *Repayments.* Native American grantees shall require participants to repay the amount of any overpayment of allowances under this Part, except if the overpayment was made in the absence of fault on the part of the participant. Where the Native American grantee requires repayment, any overpayment

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deemed to be "vested" to the extent described in paragraph (i) (2) of this

would have increased during CETA

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not repaid may be set off against any future allowance or other benefits under the Act to which the participant may become entitled, but in no case shall the wage or allowance be reduced below the applicable minimum wage.

§ 688.83 General benefits and working conditions for program participants.

(a)(1) Each participant in an on-the-job training, work experience, or public service employment program under the Act shall be assured of workers' compensation at the same level and to the same extent as other employees of the employer who are covered by a State or industry workers' compensation statute. Whether provided through the State's compensation agency or a private insurance carrier, this coverage includes medical and accident insurance as well as income maintenance insurance. (Sec. 121 (d)(5).)

(2) Where a participant is employed or engaged in any CETA program activity, i.e., work experience, public service employment, on-the-job training, classroom training, services to participants and other activities where others similarly employed or engaged are not covered by an applicable workers' compensation statute, the participant shall be provided with medical and accident insurance coverage. Whether provided through the State's workers' compensation agency or a private insurance carrier, the Native American grantee shall provide such participants with coverage which is adequate and comparable to the medical and accident insurance provided under the applicable State workers' compensation statute. However, Native American grantees shall not be required to provide these participants with the income maintenance insurance coverage. (Sec. 121(d) (5).)

(b) Each participant in an on-the-job training or public service employment program shall also be provided health insurance, coverage under collective bargaining agreements, unemployment benefits and other benefits and working conditions at the same level and to the same extent as other employees working a similar length of time, doing the same type work, at the same level, and similarly classified with respect to employment status (e.g., temporary, probationary).

(1) Any such classification shall be reasonable and shall include non-federally financed employees. Where only federally subsidized employees work for an employer, classifications may be limited to them.

(2) Classifications shall not be established exclusively for CETA participants nor shall participants be placed in existing or new classifications in order to reduce or deny benefits to which they are entitled.

(3) Within a single classification, a distinction may be made between CETA participants and other employees with respect to retirement systems or plans which provide benefits based on age or service or both pursuant to § 688.84(a) and (c)(1).

(c) Conditions of employment and training shall be appropriate and reasonable, in light of such factors as the type of work, geographical region, and proficiency of the participant. (Sec. 124(d)(1).)

(d) Every participant, prior to entering upon employment or training, shall be informed of his or her rights and benefits in connection with such employment or training. This includes the information that family planning services are voluntary. Participants shall be informed of the name of their employer. (Sec. 121(a)(3).)

(e) No participant will be required or permitted to work, be trained, or receive services in buildings or surroundings or under working conditions which are unsanitary, hazardous or dangerous to his or her health or safety. Participants employed or trained for inherently dangerous occupations, e.g., fire or police jobs, shall be assigned to work in accordance with reasonable safety practices. (Sec. 121(d)(2).)

§ 688.84 Retirement benefits for program participants.

(a) *Exclusion.* CETA participants may be excluded from retirement systems or plans which provide benefits based on age or service or both which cover similarly employed, non-CETA employees (Sec. 122(k).)

(b) *Use of CETA Funds—General.* Where, however, the CETA participants are included in a retirement system or plan, CETA funds may not, except as provided in paragraph (c), be used for a contribution to such system or plan on behalf of a participant unless such contribution bears a reasonable relationship to the cost of providing benefits to that participant (Sec. 121(j).)

(c)(1) *Use of CETA Funds—Grandfather.* CETA funds may be used for contributions to retirement systems or plans on behalf of participants (for the duration of their participation):

(i) Who are enrolled in PSE or work experience on June 30, 1979; and

(ii) Who are enrolled in a retirement system or plan on June 30, 1979.

(2) For those recipients and subrecipients which are in compliance with the provisions of paragraph (b) of this section on the effective date of this regulation (April 1, 1979), and for those which come into compliance before July 1, 1979, the date of compliance shall be substituted for June 30, 1979 in paragraph (c)(1).

(d) *Description of Method Adopted.* When a recipient intends to use CETA funds for retirement contributions on behalf of participants, the method for doing so shall be described in the CETA or grant.

(e) *Extensions.* Extensions for compliance with the provisions of § 676.28 may not be granted, except that, under very limited circumstances, the RA, with the approval of the Regional Solicitor, may allow an extension to recipients until the end of the State's 1979 legislative session under the following circumstances:

(1) The State has a law prohibiting the implementation of procedures required by this section; and

(2) The State legislature did not have a session in calendar year 1978, and the calendar 1979 session will not end prior to July 1, 1979; and

(3) The recipient has made efforts to have the State legislature change the law.

(f) *Definitions.* For purposes of this section:

(1) *"Employer"* shall include any employer whose employees are covered by a retirement system or plan under which periods of CETA participation are creditable towards benefit entitlements.

(2) *"Unsubsidized Employment"* means employment for which wages are not paid from CETA funds.

(g) *Reasonable Relationship.* A contribution by an employer to a retirement system or plan shall be considered to bear a reasonable relationship to the cost of providing benefits to CETA participants if the requirements of one of the methods authorized in paragraphs (c), (d), (e), or (f), of this section are met. These methods are the following:

(1) Vesting Method;

(2) Actuarial Method;

(3) Reserve Account/Buy-Back Method;

(4) Alternative Methods.

(h) *Vesting Method.* This method is available only with respect to retirement systems or plans of other than the "defined benefit" type. An employer may use CETA funds to make a contribution to a retirement system or plan only to the extent that the contribution is allocated to the CETA participant and only to the extent that the contribution is vested at the time it is made. A contribution by an employer to a retirement system or plan shall be deemed to be "vested" to the extent that, at the time when the contribution is made, the portion of the participants account balance in the retirement system or plan derived from employer contributions is not subject to forfeiture.

(i) *Acturial Method.* This method is available only with respect to retirement systems or plans of the "defined benefit" type (a system or plan under which a specified benefit is promised to employees at retirement). Under this method an employer may use CETA funds to make a contribution to a retirement system or plan only on the basis of a separate acturial determination that there is a reasonable likelihood that CETA participants will actually receive benefits as a result of the contribution and then only in an amount sufficient to fund benefits for this group of participants. The amount of employer contributions shall be determined on the basis of reasonable actuarial assumptions which take into account the unique characteristics of CETA participants, including the short-term nature of CETA participation. The calculation shall be revised at least annually to reflect the actual experience of CETA participants. The basic rule under this method is that CETA funds expended for an employer contribution to a retirement system or plan may not exceed the present value, determined as of the date the contribution is made, of the benefits which CETA participants accure in that year, reduced by any contributions made by CETA participants during that year.

(j) *Reserve Account/Buy Back Method.*

(1) This method is available for both defined benefit and other types of retirement systems or plans. This method can only be used for CETA participants who were excluded from coverage in the retirement system or plan while they were CETA participants. Under this method, the employer may make a contribution for the previous service using funds from the then current CETA grant in an amount described in paragraph (j)(3), of this section if:

(i) A former CETA participant obtains unsubsidized employment with the employer (within a time specified in paragraph (e) of this section),

(ii) The former CETA participant is granted credit under the retirement system or plan for the period of CETA participation, and

(iii) Where employee contributions are required, the employee elects to participate in the retirement system or plan by making contributions under the reserve account or buy-back systems described in paragraph (j) (2) of this section.

(2)(i) *Buy Back.* A former CETA participant who, within 90 days after termination of the period of CETA participation, obtains unsubsidized employment with the employer in a position which entitles the individual to earn credit for the period of CETA participation under the system or plan shall be given an opportunity to make a contribution or contributions to the retirement system or plan within 18 months after obtaining unsubsidized employment. The amount of the contribution shall be no greater than the sum of:

(A) The contributions which such individual would have been required to make during the individual's period of CETA participation, in order to obtain credits for that period under the plan or system, and

(B) Interest on the amounts described in paragraph (e)(2)(i)(A) equal to the return the system or plan would have earned on the contributions.

(ii) *Reserve Account.* Any individual who is a CETA participant, and who might be eligible to receive credit under the employer's retirement system or plan for CETA service in the event that such individual obtains subsidized employment with the employer upon leaving CETA shall be permitted to authorize deduction to be made from salary or wages during CETA participation in amounts equal to the contributions to the retirement system or plan which the individual would be excluded from participation in the retirement system or plan during CETA participation. Any such deductions shall be credited to a reserve account and such account shall be credited with interest in amounts equal to the return the system or plan would have earned on the deductions. If the individual obtains unsubsidized employment with the employer in a position which entitles the individual to earn credit under the retirement system or plan immediately after termination of the period of CETA participation, and so elects, the balance in the reserve account shall be transferred to the retirement system or plan; otherwise the balance shall be distributed in full to the individual.

(3) CETA funds may be expanded for an employer contribution to the retirement system or plan under this method only to the following extent;

(i) In the case of a plan other than one of the "defined benefit" type, the amount of the contribution may be no greater than the amount by which the former CETA participant's account balance in the retirement system or plan would have increased during CETA participation as a result of employer contributions if they had been made during that period.

(ii) In the case of a plan of the "defined benefit" type, the amount of the contribution can be no greater than the present value of the additional accrued benefits which the former CETA participant accrues as a result of the credit granted for CETA participation. Present value shall be determined on the basis of reasonable actuarial assumptions, but such assumptions need not take into account the unique characteristics of former CETA participants.

(k) *Alternative Methods.* Upon the written approval of the Assistant Secretary, CETA funds may be used in accordance with methods which are combinations of the methods described in paragraphs (c), (d) and (e) of this section, or in accordance with any alternative method which assures that the employer's contribution to a retirement system or plan bears a reasonable relationship to the cost of providing benefits to the CETA participants.

(1) *Packages of Benefits*

(1) Where non-CETA, similarly employed employees are covered under a benefits package which includes retirement, CETA participants shall receive the non-retirement benefits (e.g., health), death, and disability benefit coverage), at the same level and to the same extent as other employees. CETA funds may be used to pay for those benefits in accordance with § 676.27(b).

(2) CETA funds may be used to purchase a package of benefits including retirement, provided the retirement portion of the package can be factored out of the package and adjusted according to the methods described in § 676.28.

§ 688.85 Non-Federal status of participants.

Participants shall not be deemed Federal employees and shall not be subject to the provisions of law relating to Federal employment.

§ 688.86 Termination conditions; participant limitations.

(a) Personnel procedures applicable to regular employees shall apply to any participant who is to be terminated by an employer from a position subsidized with CETA funds. Participant recourse shall be the same as that available to any other similarly employed person with the same employer. Except as noted below, termination of employment

does not require termination of

experience program under the Act (Sec.

participants in unsubsidized

§ 688.87 Nondiscrimination and equal

through assuring adequate training and

member or any organization such

does not require termination of participation under CETA.

(b) When a suitable job offer or offer of referral to a suitable job is made to and rejected by a participant, this can be acceptable grounds for termination of participant by the Native American grantee, regardless of how long the individual has been in the program. Suitable job shall mean a job which is:

(1) Comparable to the participant's CETA job in terms of working conditions and benefits; and

(2) The same or equivalent to the participant's CETA job or otherwise commensurate with his or her skill level; and

(3) Located within a commuting distance of the participant's home comparable to the distance traveled by others in the jurisdiction similarly employed; and

(4) Not vacant due to a strike, or based on a requirement that an employee must resign from a union.

(c) A Native American grantee which has not sucessfully placed a participant in appropriate unsubsidized employment or training within the established time limits for participation set forth in paragraph (d) and (e) of this section shall provide the participant with written notice of the impending termination and a contact person for questions and further information at least two (2) weeks prior to the effective date. A dated copy of the notice shall be maintained with the participant's file.

(d) Participation in individual program activities shall be limited to a maximum of:

(1) 1000 hours of work experience during any one year and 2000 hours of work experience during the five year period beginning October 1, 1978, as provided under paragraph (g) of this section. Participants in YCCIP shall not be subject to this limitation.

(2) 78 weeks of public service employment during a five year period beginning October 1, 1978. In computing this 78 weeks, Native American grantees shall include any public service participation from April 1, 1978 to October 1, 1978. (Sec. 122(h)(2).)

(e) Except as otherwise provided in paragraphs (f) and (g) of this section, Native American grantees shall limit participation in CETA by any person to a maximum of 30 months during a 5—year period beginning October 1, 1978. (Sec. 121(c)(2).)

(f) The limitation on total participation in CETA set forth in paragraph (d)(1) and (e) of this section:

(1) Shall not apply to time spent by in-school youth enrolled in a work experience program under the Act (Sec. 121(c)(2)); and

(2) May be waived by DINAP with respect to time spent by other persons enrolled in a work experience program under the Act based on the inclusion in the grant application of satisfactory evidence that, due to the lack of alternative job opportunities in the area, this limitation is impractical. Depending on the circumstances in the Native American grantee's area, the waiver may be granted for all work experience participants or for one or more subgroups, such as older workers. However, the exemption of in-school youth shall end when the youth is no longer an in-school youth. Those individuals exempt from the 30-month limitation, may continue to participate after the 30-month period has elapsed if they continue in a work experience activity. (Sec. 121(c)(2).)

(g) A temporary waiver of the limitations set forth in paragraphs (d)(2) and (e) of this section may be granted by DINAP for a limited number of PSE participants hired prior to October 1, 1978, in programs conducted by the Native American grantees described in Section 302(c)(1)(A) of the Act. (Sec. 122(h)(4)(A).)

(h) A temporary waiver of the limitation in paragraph (d)(2) of this section of not more than 12 months may be granted by DINAP for PSE participants hired on or after October 1, 1978 in the case of an area which is served by a Native American grantee described in Section 302(c)(1)(A) of the Act which has an unemployment rate of at least 7 percent and has faced unusually severe hardship in its efforts to transition public service employment participants into regular public or private employment not supported under the Act. (Sec. 122(h)(4)(B).)

(i) A Native American grantee desiring an extension under paragraphs (g) or (h) of this section for itself or for any individual portion of its service area shall make a request to DINAP. This request shall be submitted not more than 60 days prior to the scheduled termination date of any participant for whom the extension is being requested. The documentation to be supplied with such request will include:

(1) A description of labor market conditions in the area indicating the extent of difficulty in transitioning PSE participants into unsubsidized employment;

(2) The unemployment rate in the area involved in the request;

(3) A general description of the efforts which have been made to place PSE participants in unsubsidized employment;

(4) The time extension being requested; and

(5) The impact which the termination of such participants would have on services being provided within the Native American grantee's service area.

(j) In considering requests for extensions under the provisions of paragraphs (g) or (h) of the section, DINAP shall pay special attention to the limited opportunities for unsubsidized employment available in many Indian and Native American communities and to the impact which the termination of such participants may have upon the delivery of needed services in such communities.

(k) Where a Native American grantee adopts a procedure for consideration of applications for extensions for individual participants under the provisions of paragraphs (g) or (h) of this section which is determined by the Director of DINAP to provide adequate safeguards to ensure proper consideration of all such extensions with regard to the purposes and intent of the Act, such procedures shall prevail. Such procedures shall include the following minimum criteria:

(1) Full written disclosure to the governing body of the Native American grantee of the advantages, disadvantages, conflicts and other pertinent facts related to the request for extension;

(2) Documentation that the participant would benefit from continued employment or participation in programs funded under the Act; and

(3) Either:

(i) Documentation adequate in form and substance that maximum feasible efforts have been made to secure unsubsidized employment for the participant and that the Native American grantee was unable to place the individual concerned in such employment; or

(ii) Certification by the governing body that termination of the participant would severely hamper the operations of the program in which he or she is participating and/or impair the social and economic development of the community.

(l) DINAP shall notify the Native American grantee in writing of its approval or disapproval of the request for an extension. When DINAP disapproves a request for an extension, it shall include in the written notice of disapproval the specific reasons for such disapproval.

§ 688.87 Nondiscrimination and equal employment opportunity.

(a) Except as otherwise provided, no person shall on the grounds of religion, sex, national origin, age, handicap or political affiliation or belief:

(1) Be excluded from participation in, denied the benefits of, or be subjected to discrimination under any program or activity funded in whole or in part under the Act (Sec. 121(a) and 132(a)); or

(2) Be denied employment in the administration, or operation of, or in connection with any program or activity funded in whole or in part under the Act. (Sec. 121(a) and 132(a)).

(b) This section shall not be interpreted to prohibit the implementation of a policy of Indian preference by any Native American grantee. (Sec. 7(b) of the Indian Self-Determination and Education Assistance Act (25 U.S.C. 450).)

§ 688.88 Equitable provision of services to the eligible population and significant segments.

(a) Native American grantees shall ensure that all members of the eligible population within the service area for which the grantee was designated are afforded an equitable opportunity for employment and training activities and services available under each Title of the Act. (Sec. 121(b)(1) and Sec. 122(a).)

(b) When planning and developing employment and training opportunities under each title of the Act, Native American grantees shall consider the relative numbers of persons in the demographic groups within the eligible population, taking into account the needs of the significant segments. The Native American grantee's grant application under all of the relevant titles shall include a description of the proposed levels of participation for each of the demographic groups and adequate justification where those levels of participation vary from the group's incidence in the eligible population.

(c) The grantee shall take positive steps, such as active recruitment and special consideration in placement, to ensure that the planned levels of participation described in the approved grant are realized.

§ 688.89 Procedures for serving specific target groups.

(a) Native American grantees shall take appropriate steps to provide for the increased participation of qualified special disabled and Vietnam-era veterans with special emphasis on qualified veterans who served in the Indo-China theater on or after August 5, 1964, and on or before May 7, 1975, through assuring adequate training and employment opportunities for such veterans in their programs. (Sec. 121(b)(2).)

(b) Public service employment programs.

(b) Public service employment programs.

(1) Within a SE program, preference in enrollment shall be given to those who are the most severly disadvantaged in terms of length of unemployment and their prospects for finding unsubsidized employment. (Sec. 122(b)(1).)

(2) Native American grantees shall give special consideration in filling public service jobs to qualified public assistance recipients (or persons who would be eligible to receive public assistance according to established criteria if they would apply for such assistance), and special disabled and Vietnam-era veterans. (Sec. 122(b).)

(c) Native American grantees shall provide special emphasis to eligible persons who are offenders, persons of limited English language proficiency, handicapped individuals, women, single parents, displaced homemakers, youth, older workers, and individuals who lack educational credentials. (Sec. 122(b).)

Subpart F—Prevention of fraud and program abuse

§ 688.115 General.

(a) To ensure the integrity of the CETA programs special efforts are necessary to prevent fraud and other program abuses. "Fraud" includes deceitful practices and intentional misconduct, such as willful misrepresentation in accounting for the use of program funds. "Abuse" is a general term which encompasses improper conduct with may or may not be fraudulent in nature. While any violation of the Act or regulations may constitute fraud or program abuse, this Subpart F identifies and addresses those specific program problems which were of most concern to the Congress during the reauthorization of CETA.

(b) This Subpart further sets forth specific responsibilities of Native American Grantees, subgrantees and contractors and of the Secretary to prevent fraud and program abuse in CETA programs.

§ 688.116 Conflict of interest.

(a) No member of any council under the Act shall cast a vote on any matter which has a direct bearing on services to be provided by that member or any organization which such member directly represents or on any matter which would financially benefit such member or any organization such member represents. (Sec. 121(h)(2).)

(b) Each Native American Grantee, subgrantee or contractor shall avoid personal and organizational conflict of interest in awarding financial assistance and in the conduct of procurement activities involving funds under the Act in accordance with the code of conduct requirements set forth in 41 CFR 29–70.216–4. (Sec. 123(g).)

(c) Neither the Secretary nor any Native American Grantee, subgrantee or contractor shall pay funds under the Act to any nongovernmental individual, institution or organization to conduct an evaluation of any program under the Act if such individual, institution or organization is associated with that program as a consultant or technical advisor. (Sec. 121(h)(1).) Indian preference shall be exercised in the selection of any party to evaluate a program. (Sec. 7(b) of the Indian Self-Determination and Education Assistance Act.)

§ 688.117 Kickbacks.

No officer, employee or agent of any Native American Grantee, subgrantee or contractor shall solicit or accept gratuities, favors or anything of monetary value from any actual or potential subrecipient or contractor or supplier. (Sec. 123(g) and 41 CFR 29–70.214–4.)

§ 688.118 Comingling of funds.

Recipients shall comply with the applicable requirements of 41 CFR 29–70.201.2, regarding separate bank accounts. (Sec. 123(g).)

§ 688.119 Charging of fees.

(a) No funds under this Act shall be used for the payment of a fee charged to an individual for the placement of that individual in a training or employment program under the Act.

(b) No person or organization, including private placement agencies, may charge a fee to any individual for the placement or referral of that individual in or to such program.

(c) Any contract requiring the individual to pay such fees shall be void in law and the individual shall not be held liable for such fees. (Sec. 123(j).)

(d) Nothing in this section shall be interpreted as prohibiting the Native American Grantee, subgrantee or contractor from entering into an agreement for the purpose of obtaining outreach, recruitment and/or intake services, as part of its approved intake system, provided the individuals served are not charged a fee.

§ 688.120 Nepotism.

program including: all elected and

(2) Participants shall be involved, nor

seasonal workers or through contracting

placement into unsubsidized jobs or into

give up any money or thing of any value

§ 688.120 Nepotism.

(a) No Native American Grantee, subgrantee or contractor shall permit the hiring of any person in a staff position or as a participant if that person in a staff position or as a participant if that person or a member of that person's immediate family is employed in an administrative capacity by the Native American Grantee, subgrantee or contractor. The Native American Grantee may waive this requirement is adequate justification can be documented to do so. The following are examples where the nepotism provision may be waived:

(1) If there are no other persons eligible and available for participation or employment by the Native American Grantee;

(2) Where the Native American Grantee's total service population is 2,000 or less and/or where the geographical situation of an Indian or Native American community may be determined rural and isolated from other communities within the designated service area; or

(3) Where the potential participant has a history of unemployment or dependence on public assistance.

(b) Where a Native American Grantee's nepotism policy is determined to have adequate safeguards to prevent persons engaged in an administrative capacity for the Native American Grantee, its subgrantees or contractors from using such position to secure CETA services of other benefits for a member of his or her immediate family, that policy shall prevail. A satisfactory policy shall include the following minimum criteria:

(1) All formal personnel procedures shall be followed.

(2) There shall be full written disclosure to the governing body describing all advantages, conflicts and/or disadvantages which may result from the specific personnel action.

(3) No member of the immediate family of the applicant shall participate in the applicant's selection.

The Director, DINAP, may review any such policy and, where appropriate, approve or disapprove it.

(c) For purposes of this section, the term "immediate family" means wife, husband, son, daughter, mother, father, brother, and sister. The term "staff position" includes all positions such as instructors, counselors, administrators, and suppliers of training and services. The term "employed in an administrative capacity" includes those persons who have overall administrative responsibility for a program including; all elected and appointed officials who have any responsibility for the obtaining of and/or approval of any grant funded under this Part as well as other officials who have any influence or control over the administration of the program, such as the project director, deputy director and unit chiefs; and persons who have selection, hiring, placement or supervisory responsibilities for participants in a Native American employment and training program.

§ 688.121 Child labor.

All Native American Grantees, subgrantees and contractors shall comply with applicable Federal, State, tribal and local child labor laws.

§ 688.122 Political patronage.

(a) No Native American Grantee, subgrantee or contractors may select, reject, or promote a participant based on that individual's political affiliation or beliefs. The selection or advancement of employees as a reward for political services or as a form of political patronage, whether or not the political service or patronage is partisan in nature, is prohibited.

(b) There shall be no selection of subgrantees or contractors based on political affiliation. (Sec. 123(g).)

§ 688.123 Political activities.

(a) No program under the Act may involve political activities. (Sec. 131(a).)

(b) No participant may engage in partisan or nonpartisan political activities during hours for which the participant is paid with CETA funds.

(c) No participant may, at any time, engage in partisan or nonpartisan political activities in which such participant represents himself or herself as a spokesperson for the CETA program.

§ 688.124 Lobbying activities.

No funds provided under the Act may be used in any way:

(a) To attempt to influence in any manner a member of Congress to favor or oppose any legislation or appropriation by Congress (Sec. 123(g) and 18 USC 1913); or

(b) For lobbying State or local legislators. (Sec. 123(g).)

§ 688.125 Sectarian activities.

(a) The Act provides the following prohibitions regarding sectarian activity:

(1) Participants shall not be employed on the construction, operation or maintenance of so much of any facility as is used or to be used for sectarian instruction or as a place for religious worship (sec. 121(a)(2)); and

(2) Participants shall be involved, nor CETA funds expended, for religious or antireligious activities (sec. 123(g)).

(b) The Department intends to publish proposed regulations to further clarify provisions regarding sectarian activities in the near future. Prime sponsors shall present to the Assistant Secretary for approval the specific circumstances for any new hiring into positions involving sectarian institutions or facilities to assure compliance with the provisions of the Act as described in paragraph (a).

§ 688.126 Unionization and Antiunionization Activities/Work Stoppages.

(a) No funds under the Act shall be used in any way to either promote or oppose unionization. (Sec. 123(g).)

(b) No participant in work experience or public service employment may be placed into, or remain working in, any position which is affected by labor disputes involving a work stoppage. If such a work stoppage occurs during the grant period, participants in affected positions must either be relocated to positions not affected by the dispute, or be suspended through administrative leave or other means. The grantee shall make every effort to relocate participants who wish to remain working into suitable positions unaffected by the work stoppage.

(c) No person shall be referred to or placed in an on-the-job training position affected by a labor dispute involving a work stoppage and no payments may be made to employers for the training and employment of participants in on-the-job training during the periods of work stoppage.

§ 688.127 Maintenance of effort.

(a) To ensure maintenance of effort under all programs under the Act:

(1) Native American grantees, subgrantees and contractors shall ensure that such programs:

(i) Result in an increase in employment and training opportunities over those which would otherwise be available. (Sec. 121(e)(1));

(ii) Not result in the displacement of currently employed workers, including partial displacement, such as reduction in hours of non-overtime work, wages, or employment benefits. (Sec. 122(3)(2)); and

(iii) Not impair existing contracts for services or result in the substitution of Federal funds for other funds in connection with work that would otherwise be performed. (Sec. 121(e)(3) and (g)(1)), including services normally provided by temporary, part-time or seasonal workers or through contracting such services out.

(2) Funds under this Act shall supplement, and not supplant, the level of funds that would otherwise be made available from non-Federal sources for the planning and administration of programs (Sec. 121(g)(1)(c)).

(b) In addition to the requirements of paragraph (a) of this section, for public service employment programs under this Act:

(1) Native American Grantees, subgrantees and contractors shall ensure that such public service employment positions shall not:

(i) Substitute for existing federally assisted jobs (Sec. 122(e)); and

(ii) Be created in any promotional line that will infringe in any way upon promotional opportunities of persons currently in jobs not funded under the Act (Sec. 122(d));

(2) Whenever a promotional freeze affects non-CETA funded employees it shall apply to CETA participants similarly employed.

(3) No participant shall be hired into, or remain working in, any position when:

(i) The same or substantially equivalent position is vacant due to a hiring freeze, unless the Native American Grantee can demonstrate that the freeze resulted from lack of funds to sustain staff levels and was not established in anticipation of the availability of funds under the Act;

(ii) Any other person not supported under the Act or by other Federal funds (other than general revenue sharing) is on lay-off from the same or any substantially equivalent job. The same or equivalent job means any job or classification for which:

(A) Per a personnel code or practice or per a collective bargaining agreement, a recall list is maintained of former employees, who have the first right to any job vacancies occurring within a specific period of time in the classification(s).

(B) If there is no recall list, without other policy, practice or contractual obligation, one or more employees have been laid off due to a lack of funds or work from a job in the classification anytime during the last two operating years of the department or agency. (Sec. 122(c)(1).)

(4) When a termination of CETA participants is imminent due to conditions noted in (3) above, the Native American Grantee shall make every feasible attempt to place such participants into other non-affected positions or otherwise attempt placement into unsubsidized jobs or into programs under Section 302.

(5) No former employees laid off or terminated in anticipation of CETA funding of a position may be rehired under CETA into such a position.

(6) A Native American Grantee, subgrantee or contractor shall not use CETA funds to intentionally reduce, or in any manner which results in a reduction of, the customary level of public service provided by itself or another public entity in the area, by allowing PSE participants to be placed with or outstationed to private nonprofit organizations.

(c) Native American Grantees shall notify DINAP in writing of any layoff or hiring freeze and of any recall rights of employees on layoff, in a department or agency where public service employment participants are employed. Native American Grantees shall, at the direction of DINAP, submit documentation and budgetary expenditure records, revenue statements, and other available information relevant to a determination under this Section. DINAP shall not approve any plan unless the Native American Grantee has submitted, when directed by DINAP, conclusive evidence that the proposed use of funds fully meets the requirements of this section.

§ 688.128 Theft or embezzlement from employment and training funds; improper inducement; obstruction of investigations and other criminal provisions.

The criminal provision of 18 USC 665 states:

(a) Whoever, being an officer, director, agent or employee of, or connected in any capacity with, any agency receiving financial assistance under the Comprehensive Employment and Training Act knowingly hires an ineligible individual or individuals; embezzles, willfully misapplies, steals, or obtains by fraud any of the money, funds, assets, or property which are the subject of a grant or contract of assistance pursuant to such Act shall be fined not more than $10,000 or imprisoned for not more than 2 years, or both; but if the amount so embezzled, misapplied, stolen, or obtained by fraud does not exceed $100.00, such person shall be fined not more than $1,000.00 or imprisoned not more than 1 year, or both.

(b) Whoever, by threat of procuring dismissal of any person from employment, or of refusal to renew a contract of employment in connection with a grant or contract of assistance under the Comprehensive Employment and Training Act, induces any person to give up any money or thing of any value to any person (including such grantee agency) shall be fined not more than $1,000.00, or imprisoned not more than 1 year, or both.

(c) Any person whoever willfully obstructs or impedes, or endeavors to obstruct or impede, an investigation or inquiry under the Comprehensive Employment and Training Act or the regulations thereunder, shall be punished by a fine of not more than $5,000.00, or by imprisonment for not more than 1 year, or by both such fine and imprisonment.

(d) In addition to the criminal provisions set forth in paragraphs (a), (b) and (c) of this section, individuals may be held criminally liable under other Federal laws such as 18 USC sections 600 and 601 if they:

(1) Directly or indirectly, promise any employment, position, compensation, contract, appointment, or other benefit, provided for or made possible in whole or in part by funds under the Act, or any special consideration in obtaining any such benefit, to any person as consideration, favor, or reward for any political activity or for the support of, or opposition to, any candidate or any political party in connection with any general or special election to any political office, or in connection with any primary election or political convention or caucus held to select candidates for any political office (18 USC 600); or

(2) Directly or indirectly, knowingly causes or attempts to cause any person to make a contribution of a thing of value (including services) for the benefit of any candidate or any political party, by means of the denial or deprivation, or the threat of the denial or deprivation, of any employment or benefits funded under the Act (18 USC 601).

§ 688.129 Responsibilities of Native American Grantees, subgrantees and contractors for preventing fraud and program abuse and for general program management.

(a) Each Native American Grantee, subgrantee and contractor shall establish and use internal program management procedures sufficient to prevent fraud and program abuse.

The procedures to be used shall be identified in the Native American grantee's comprehensive employment and training plan.

(b) Each Native American Grantee, subgrantee and contractor shall ensure that sufficient, auditable, and otherwise adequate records are maintained which support the expenditure of all funds under the Act. Such records shall be

sufficient, to allow the Secretary to audit

days, make one of the following

accordance with Section 688.11 of these

whatever data are, in its opinion, the

and who is economically disadvantaged,

sufficient, to allow the Secretary to audit and monitor the Native American Grantees', subgrantees' and contractors' programs and shall include the maintenance of a management information system in accordance with the requirements of § 688.36.

(c) DINAP shall provide all Native American grantees with technical assistance and guidance in the development of functional procedures for the internal monitoring of all CETA programs operated by the grantees in order to prevent fraud and abuse in such programs. Such technical assistance and guidance shall give recognition to the variation in administrative structures and level of administrative funding available to individual grantees.

(d) Eligibility determination and verification. Procedures for establishing the eligibility of individuals to participate in programs supported under this Part and the verification of such eligibility shall be as set forth in § 688.78 of these regulations. DINAP shall provide all Native American Grantees with technical assistance and guidance in the development of functional procedures for documentation of participant eligibility, recognizing the variation in administrative and operational structures at the individual grantee level.

Subpart G—Complaints, Investigations and Sanctions

§ 688.146 General.

The regulations on complaints, investigations, and sanctions shall be as described in 20 CFR 676.81 through 676.93 with the following exceptions:

(a) Prime sponsor, grantee and recipient shall mean Native American grantee.

(b) Grant officer shall mean the Director, DINAP.

§ 688.147 Review of denial of designation or rejection of comprehensive employment and training plan.

(a) An applicant for designation as a Native American grantee which is refused such designation may file a Petition for Reconsideration with DINAP within 14 days of its failure to be designated as a potential grantee.

(1) A Petition for Reconsideration shall be in writing, shall be signed by a responsible official of the applicant entity, and shall enumerate the factors which the applicant entity asserts should be reviewed in reconsidering the decision of DINAP on its application.

(2) Upon receipt of the Petition for Reconsideration, DINAP shall, within 30 days, make one of the following determinations:

(i) That based on the available information from the original request for designation and information supplied in the Petition for Reconsideration, the applicant entity should be designated as a Native American grantee;

(ii) That the original determination made by DINAP was correct; or

(iii) That an informal conference between representatives of the applicant entity and DINAP shall be held at a specified time and place to discuss the Petition for Reconsideration.

(3) If an informal conference is held, the applicant entity shall have the opportunity to present any pertinent information which may further substantiate its Petition. DINAP shall notify the applicant entity of its final decision within 14 days after the informal conference is held.

(4) DINAP shall not award a grant to operate a program for the area involved to any other entity until there is a final resolution of the Petition for Reconsideration.

(5) The applicant entity may, within 30 days of the determination on its Petition for Reconsideration, request a hearing pursuant to § 676.86(d).

(b) A Native American grantee which has been designated as a grantee, but whose comprehensive employment and training plan has been rejected, may appeal such rejection. Such an appeal shall be made under the procedures described in paragraph (a) of this section.

Subpart H— Comprehensive Employment and Training Programs Under Title III, Section 302

§ 688.170 Purpose.

It is the purpose of Title III, Section 302, of the Act to provide job training and employment opportunities for economically disadvantaged, unemployed or underemployed Indians, Alaskan Natives, and Native Hawaiians and to assure that such training and other services lead to maximum employment opportunities and enhanced self-sufficiency. All programs shall be administered in such a manner as to maximize the Federal commitment to support growth and development as determined by representatives of the communities and groups served by such programs. (Section 302(b)(3).)

§ 688.171 Eligibility for funds.

DINAP shall provide funds under section 302 of the Act only to Native American grantees designated in accordance with Section 688.11 of these regulations.

§ 688.172 Allocation of funds.

(a) The Secretary shall reserve from funds available for activities under title III of the Act an amount equal to not less than 4.5% of the amount allocated to prime sponsors pursuant to Section 202(a) of the Act. (Section 302(g).) In order to insure all Indians and others of Native American descent equal accessibility to funds made available under this Subpart, funds will be allocated using the following formula:

(1) Twenty-five percent of the available funds shall be allocated on the basis of the relative number of unemployed Indians and other Native Americans within the Native American grantee's geographic service area compared to the total number of unemployed Indians and other Native Americans in the United States.

(2) Seventy-five percent of the available funds shall be allocated on the basis of the relative number of low-income Indian and other Native American families within the Native American grantee's geographic service area compared to the total number of low-income Indian and Native American families in the United States, except that:

(3) If the factors described above result in the reduction of an area's allocation from its allocation in the preceding fiscal year, DINAP shall provide each area with at least 90 percent of such area's allotment for the preceding fiscal year, provided sufficient funds are appropriated.

(b) In allocating funds, DINAP shall use whatever data are, in its opinion, the most reliable. DINAP shall notify each designated Native American grantee of the data elements used in the formula to calculate its allocation of funds. DINAP shall also provide, upon request, such information to any interested party.

(c) The allocations made to Native American grantees shall be published in the Federal Register as soon as possible after the appropriation for a fiscal year is enacted.

§ 688.173 Eligibility for participation in a Title III, Section 302 Program.

(a) An Indian, Native Alaskan, or Native Hawaiian who is economically disadvantaged, unemployed or underemployed may participate in a program offered under this Subpart.

(b) Permanent resident aliens who meet the eligibility requirements of paragraph (a) of this section may participate in a program if such participation is consistent with Indian

law or at the option of the Native American grantee.

(c) Indians and other persons of Native American descent who meet the requirements of paragraph (a) of this section and who are identified by such terms as "landless" or "terminated" are eligible to participate. Such groups and individuals include, but are not limited to: the Klamaths in Oregon, the Lumbees in North Carolina, and South Carolina, the Micmac and Maliseet in Maine, and the Eskimos and Aleuts in Alaska.

§ 688.174 Allowable program activities.

(a) Native American grantees may undertake programs and activities consistent with the purpose of the Act including, but not limited to, such programs and activities carried out under other provisions of this Act by prime sponsors designated under section 101(c) of the Act. (Sec. 302(f).)

(b) Native American Grantees are encouraged to develop innovative means of addressing the needs of unemployed, underemployed and economically disadvantaged members of their communities and of contributing to the permanent economic self-sufficiency of such communities.

Subpart I—Public Service Employment for the Economically Disadvantaged

§ 688.186 Purpose.

This program is intended to provide unemployed, economically disadvantaged persons with transitional employment in jobs providing needed public services, and to provide related training and services to enable these individuals to move into unsubsidized employment or training. (Sec. 231.)

§ 688.187 Eligibility for funds.

DINAP shall provide funds under this Subpart only to Native American grantees described in Section 302(c)(1)(A) of the Act. (Sec. 235.)

§ 688.188 Allocation of funds.

(a) The Secretary shall allocate at least two percent of the funds available for Title II, Part D of the Act to eligible Native American grantees to carry out public service employment programs under this subpart. (Sec. 233(b).)

(b) Allocations under this Subpart will be made to eligible Native American grantees on the basis of the relative number of unemployed Indians and Native Americans within each eligible Native American's grantee's service area as compared to all areas eligible for funds under this Subpart.

(c) For purposes of making allocations under this Subpart, DINAP shall use whatever data are, in its opinion, the most reliable.

(d) DINAP shall, at its discretion, reallocate funds made available under this Subpart to the extent that it determines that a Native American grantee will not be able to use such funds within the time outlined in its plan, subject to the provisions concerning reallocation of funds in § 688.52.

§ 688.189 Application for funds.

(a) In order to receive financial assistance under this Subpart, a Native American grantee shall submit the following documents with the grant application described in § 688.19:

(1) Narrative description of program;

(2) Budget Information Summary;

(3) Program Planning Summary;

(4) PSE Occupational Summary;

(5) Summary of Subgrantees and Subcontractors;

(6) CETA Monthly Schedule.

(b) Native American grantees are required to utilize the planning process as described in § 688.17 and consider existing services and facilities which are available from Federal and other agencies (including community based organizations).

§ 688.190 Allowable activities.

(a) Funds available for the purposes of this Subpart shall be utilized by Native American grantees for public service employment activities or projects carried out by project applicants.

(b) In developing transitional public service job opportunities for economically disadvantaged, unemployed persons, the following requirements shall apply. All such employment:

(1) Shall be entry level;

(2) Shall be combined with training and supportive services if such training and services are reasonably available in the area. Training and services may be offered before, during, or after the public service employment to which they are related; and

(3) Shall be designed to enable participants to move into unsubsidized employment. (Sec. 232(a).)

§ 688.191 Participant eligibility.

(a) The following criteria shall be used by Native American grantees in determining participant eligibility for persons enrolled under this Subpart. An eligible individual must be an Indian or Native American:

(1) Who has been unemployed for at least 15 of the last 20 weeks, who is unemployed at the time of enrollment, and who is economically disadvantaged, or

(2) Who is, or whose family is, receiving public assistance. (Sec. 236.)

(b) For purposes of participating in a public service employment program under this Subpart, an individual must reside within the Native American grantee's service area. (Sec. 122(a).)

(c) Notwithstanding any eligibility limitation on public service employment in these regulations, a person who on September 30, 1978 held a public service employment position under this Act may continue in such position subject to § 688.86 of these regulations. (Sec. 122(j).)

(d) No individual shall be eligible to be employed in a public service employment position, if such individual had, within 6 months immediately prior to the determination, voluntarily terminated, without good cause, his or her last previous full-time employment at a wage rate not less than the Federal minimum wage as prescribed under Section 6(a)(1) of the Fair Labor Standards Act of 1938, or the State or local minimum wage, if higher. (Sec. 122(n).)

§ 688.192 Special provisions.

Not more than 10 percent of the funds allocated to a Native American grantee in accordance with the provisions of this Subpart may be used for administrative and other allowable costs (such as supplies, materials, and equipment) incurred by the Native American grantee, subgrantees or contractors. (Sec. 232(b)(1).)

§ 688.193 Wages and wage supplementation.

(a) Wages to individuals employed in public service employment under this Subpart shall be paid in accordance with § 688.82(a)(3). (Sec. 237(a).)

(b) No wages paid to public service employment participants under this Subpart may be supplemented by the payment of any additional wages for such employment from any source whatever, except as provided in § 688.82(a)(3). (Sec. 237(b).)

Subpart J—Indian and Native American Countercyclical Public Service Employment Programs under Title VI

§ 688.200 Purpose.

This program is intended to provide temporary employment during periods of high unemployment. (Sec. 601.)

§ 688.201 Eligibility for funds.

DINAP shall provide funds under this Subpart only to Native American

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§ 688.218 Project application approval.

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grantees described in Section 302(c)(1)(A) of the Act. (Sec. 606(a)(2).)

§ 688.202 Allocation of funds.

(a) The Secretary shall allocate at least 2 percent of the funds available for Title VI to eligible Native American Grantees to carry out public service employment programs. (Sec. 604(a).)

(b) Allocations under this Subpart will be made to eligible Native American Grantees on the basis of the relative number of unemployed Indians and Native Americans within each eligible Native American Grantee's service area as compared to all areas eligible for funds under this Subpart.

(c) For purposes of making allocations under this Subpart, DINAP shall use whatever data are, in its opinion, the most reliable.

(d) DINAP may, at its discretion, reallocate funds made available under this Subpart to the extent that it determines that a Native American Grantee will not be able to use such funds within the time outlined in its plan, subject to the provisions concerning reallocation of funds in § 688.52.

§ 688.203 Application for funds.

(a) In order to receive financial assistance under this Subpart, a Native American Grantee shall submit the following documents with its grant application as described in § 688.19:

(1) Narrative description of program;
(2) Budget Information Summary;
(3) Program Planning Summary;
(4) PSE Occupational Summary;
(5) Summary of Subgrantees and Subcontractors; and
(6) CETA Monthly Schedule.

(b) Native American Grantees are required to utilize the planning process described in § 688.17 and consider existing services and facilities which are available from Federal and other agencies (including community-based organizations).

(c) In addition to the other items contained in the narrative description of the program, the description shall contain the following:

(1) A description of the extent to which the Native American Grantee will supplement wages of persons other than those who were in the program on September 30, 1978;

(2) The total amount of funds used to supplement jobs funded under this Subpart for persons other than those who were in the program on September 30, 1978; and

(3) The maximum amount of funds used to supplement any one particular job held by persons other than those who were in the program on September 30, 1978.

§ 688.204 Allowable activities.

(a) Native American grantees may use funds received under this Subpart for public service jobs in projects. Public service jobs in projects are not limited to entry level positions. (Sec. 605(a)). To the extent feasible, all public service jobs shall be provided in occupational fields which are most likely to expand. (Sec. 122(m)).

(b) In addition to providing public service employment in projects, Native American grantees may utilize funds under this Subpart for entry-level PSE not in such projects, in accordance with § 688.205.

(c) Activities other than PSE authorized under Title II, Part A of Title III, Title IV, and Title VII of the Act may be carried out with funds available under this Subpart. (Sec. 610.)

§ 688.205 Financial limitations.

(a) The following cost restrictions shall apply to the funds utilized by Native American grantees for project and non-project public service employment:

(1) At least 80 percent of such funds shall be expended for wages and fringe benefits. (Sec. 603(a).)

(2) At least 5 percent of such funds for fiscal year 1979 shall be expended for training and services to PSE participants employed in public service jobs under this Subpart. (Sec. 603(a).)

(3) Not more than 15 percent of such funds may be contributed to the administrative cost pool and used for administrative costs.

(b) The remaining funds may be used for activities authorized under Title II, Part A of Title III, Title IV and Title VII (Sec. 610). When funds under this Subpart are utilized for such purposes, not more that 20 percent of such funds may be contributed to the administative cost pool and used for administrative costs.

§ 688.206 Participant eligibility.

(a) The following criteria shall be used by Native American grantees in determining participant eligibility for persons enrolled under this Subpart. An eligible individual must be an Indian or Native American:

(1) Who is unemployed at the time of enrollment and who has been unemployed for at least 10 out of the 12 weeks immediately prior to enrollment;

(2) Who resides within the Native American grantee's service area (Sec. 122(a)); and

(3)(i) Whose family income does not exceed 100 percent of the lower living standard income level based on the three-month period prior to the person's application for participation; or

(ii) Whose family has been receiving public assistance for 10 of the last 12 weeks. (Sec. 607.)

(b) The provisions of § 688.191(e) shall apply to the eligibility of persons who voluntarily terminated their last employment. (Sec. 122(n).)

(c) The provisions of § 688.191(c) shall apply with respect to eligibility for participation under this Subpart.

§ 688.207 Wages and wage supplementation.

(a) Wages paid to public service employment participants and the supplementation of such wages shall be in accordance with § 688.82(a)(3). (Sec. 608.)

(b) Wages paid to public service employees hired on or after January 26, 1979, under this Title may be supplemented by additional wages from non-CETA sources only if:

(1) The total amount of funds used in any fiscal year to provide such supplemented wages does not exceed an amount equal to 10 percent of the Native American grantee's Title VI allocation for such fiscal year; and

(2) The wage supplementation to any public service employee does not exceed:

(i) Ten percent of the maximum wage applicable for the Native American grantee's area; or

(ii) Twenty percent of the maximum wage applicable for the Native American grantee's area in any area where the average wage (during the fiscal year preceding the beginning of the applicable fiscal year) in employment covered under Federal or State unemployment compensation laws (without regard to any limitation on the amount of such wages subject to contribution under such law) exceeds 125 percent, but does not exceed 150 percent, of the national average wage in such employment.

(c) Any public sevice employee hired between September 30, 1978, and January 26, 1979, receiving wages supplemented from non-CETA sources may continue to receive such wages after January 26, 1979, only if such supplementation is in accordance with the provisions in paragraph (b) of this section.

(d) Any person in a public service employment position on September 30, 1978, receiving wages from non-CETA sources may continue to receive such wages, so long as such person remains in the same position. These wages are not subject to the limitations of paragraph (b) of this section. However, the non-CETA portion shall not be reduced if the maximum wage has been adjusted above $10,000 after September 30, 1978, as along as the incumbent participant is in this position or until the next Native American grantee budgetary cycle. (Sec. 122(i)(4)(B).)

(e) Any person in public service employment on September 30, 1978, who was receiving wages on September 30, 1978, of less than $10,000 may have such wages supplemented above the $10,000 from non-CETA sources after September 30, 1978, if such increase is the result of a bona-fide cost of living increase or a scheduled raise, and the person remains in the same position. These wages are not subject to the limitations of paragraph (b) of this section.

(f) When a public service employment participant, hired after September 30, 1978, is eligible for a promotion, a general salary increase or overtime pay, the employer shall pay from non-CETA funding sources that amount in excess of the maximum amount payable from CETA funds as well as a pro-rata share of the increased fringe benefits, unless such payments would be in violation of the limitations on public service wage supplementation contained in paragraphs (b)(2)(i) and (ii) of this section. If such payment would be in violation, then the participants affected must be transferred to other positions or be terminated.

Subpart K—Youth Community Conservation and Improvement Projects for Indian and Native American Youth

§ 688.215 General.

(a) This subpart contains the Department of Labor's regulations governing the establishment and operation of Indian and Native American Youth Community Conservation and Improvement Projects (YCCIP) under Title IV, Part A, Subpart 2, of the Act.

(b) This program seeks to provide youth experiencing severe difficulties in obtaining employment with well-supervised work in projects that produce tangible benefits to the community. Supervision shall be provided by competent supervisors who can instill good work habits in the youth. The program emphasizes the development and provision of jobs. Any training must be directly related to the development of specific skills needed for a job. The program must be flexible enough to accommodate in-school youth, and they should be encouraged to stay in school and graduate. Participants who have not graduated from high school should be encouraged to finish their education.

§ 688.216 Eligibility for and allocation of funds.

(a) Only Native American Grantees described in Sec. 302(c)(1) of the Act are eligible for YCCIP funds.

(b) Allocation of funds.

(1) Two precent of the funds available for YCCIP shall be made available for projects for eligible Indian and Native American youth operated by Native American Grantees. (Sec. 423(b).)

(2) Funds shall be allocated to Native American Grantees eligible under this Subpart on the basis of relative number of unemployed persons within each such grantee's area as compared to all areas eligible for funds under this program.

§ 688.217 Native American Grantees planning procedures and submission of applications.

(a) *Planning.* When planning a YCCIP program, Native American Grantees shall utilize the planning process described in § 688.17 of this Part.

(b) *Grant Application.* In order to receive financial assistance under this subpart, a Native American Grantee must submit the following documents with its grant application described in § 688.19.

(1) YCCIP Narrative.

(2) YCCIP Program Planning Summary.

(3) YCCIP Budget Information Summary.

(c) *Content of YCCIP Narrative.* The narrative shall include information regarding:

(1) The types of jobs;

(2) The need for the types of work to be performed;

(3) The full-time supervisor to youth ratio;

(4) Qualifications of supervisors;

(5) Benefits participants are expected to derive;

(6) Principal job titles, brief job descriptions and hourly wages;

(7) Target groups to be served;

(8) Recruiting methods;

(9) Supportive services to be provided;

(10) The following costs:

(i) Participant wages and benefits;

(ii) Work-site supervisors wages and benefits;

(iii) Job-related training;

(iv) Materials, supplies and equipment used by participants on the job;

§ 688.218 Project application approval.

(a) To be approved a proposed YCCIP program must, in addition to the requirements of § 688.22:

(1) Provide benefits to the community as determined by representatives of the communities and groups served. No application shall be disapproved because of the goals of the community and priorities ascribed thereto;

(2) Provide benefits to participants in terms of work habits, skills, and attainment of academic credit where applicable;

(3) Assure an adequate level of supervision, taking into account the complexity of the jobs to be created; and

(4) Describe qualifications of supervisors in terms of skills and experience.

(b) Native American grantees must assure that the project will result in an increase in employment opportunities over those which would otherwise be available; and that:

(1) It will not result in the displacement of currently employed workers;

(2) It will not substitute jobs assisted under this subpart for exisitng federal assisted jobs;

(3) It will not employ any youth when any other person is on layoff by the employer from the same or any substantially equivalent job in the same area;

(4) It will not employ any person to fill a job opening created by laying off or terminating the employment or any regular employee, or otherwise reducing the regular workforce, in anticipation of filling vacancies by hiring youth to be supported under YCCIP;

(5) It will not infringe upon the promotional opportunities which would otherwise be available to persons currently employed in public service not subsidized under the Act;

(6) It will not permit a job to be filled in other than an entry-level position in each promotional line until applicable personnel procedures and collective bargaining agreements have been complied with; and

(7) Job restructuring will not occur and new classifications will not be developed solely to negate established personnel procedures or to displace currently employed workers. (Sec. 433.)

§ 688.219 Eligibility for participation.

(a) In order to participate, an individual must at time of enrollment:

(1) Be an Indian or Native American Youth 16 through 19 years of age, inclusive; and

(2) Be unemployed. (Sec. 422(3).)

(b) If at the time of enrollment into any other program under the Act, a

Administration, the U.S. Department of Energy and other agencies to provide or

§ 688.232 Eligibility for the allocation of funds.

following documents with its grant

who are not in the special component

(xiii) Community-based central intake

(b) If at the time of enrollment into any other program under the Act, a youth who is currently 16 through 19 years of age, was unemployed, that individual may be transferred into this program.

(c) Appropriate efforts shall be made to serve those youth who have severe difficulties in obtaining employment.

§ 688.220 Acceptable project activities.

(a) Projects shall insure that participants do constructive work in terms of individual and community benefits. Such employment may include, but is not limited to, the rehabilitation, construction, or improvement of public facilities (including making them accessible for the handicapped by removing architectural barriers); neighborhood improvements; weatherization and basic repairs to low income housing as defined in § 688.43(e)(4); energy conservation including solar energy projects; and conservation maintenance, or restoration of natural resources of publicly held lands, including lands held in trust for the benefit of Indian tribes, bands or groups or other land owned by Indian or Native American groups, but excluding land owned by the Federal government.

(b) Where in-school youth are served, they must be in a combination of work and education programs.

(c) Public Service Employment (PSE) projects are not permitted.

(d) Funds provided under this subpart should not be used to support make-work projects.

§ 688.221 Academic credit.

Native American Grantees may make appropriate efforts to encourage educational agencies to award academic credit for the competencies participants gain from their employment.

§ 688.222 Superisory personnel.

(a) Each project shall have an adequate number of skilled supervisors. Unless justification to the contrary is provided in the plan, there shall be at least the equivalent of one full-time supervisor to every 12 youth. Supervisors must have the skills needed to carry out the project and must be able to instruct participants in those skills.

(b) The hiring of supervisory personnel for projects shall not impede the promotional rights of existing employees.

§ 688.223 Materials, equipment and supplies.

Native American Grantees are encouraged to make use of resources from CETA, BIA, Community Service Administration, the U.S. Department of Energy and other agencies to provide or supplement materials, equipment, and supplies.

§ 688.224 Earnings disregard.

Earnings and allowances received by any youth under this subpart shall be disregarded in determining the eligibility of the youth's family for, and the amount of, any benefits based on need under any Federal or federally assisted program. (Sec. 446.)

§ 688.225 Limitation on use of funds.

No less than 65 percent of the funds awarded to each Native American Grantee may be used for participants' wages and fringe benefits. The remaining 35 percent may be divided at the Native American Grantee's discretion between administration, supervision, services, training, and the cost of materials, equipment, and supplies, except that in no case may more than 20 percent be spent on administrative costs.

§ 688.226 Work limitation.

No youth shall be employed for more than 12 months in work financed under this subpart. (Sec. 421.)

§ 688.227 Participants' wages.

The provisions of Section 688.239 concerning wages paid to participants shall apply to programs under this subpart.

Subpart L—Youth Employment and Training Program

§ 688.231 General.

(a) This subpart contains the regulations for Indian and Native American Youth Employment and Training Programs (YETP) which are authorized by Title IV, Part A, Subpart 3 of the Act.

(b) The purpose of this program is to enhance the job prospects and career opportunities of Indian and Native American youth, including employment, community service opportunities, and such training and supportive services as are necessary, to enable them to secure suitable and appropriate unsubsidized employment in the private and public sectors of the economy. It is not the purpose of this program to provide make-work activities, but rather to provide youth with the opportunities to learn and earn, which will lead to meaningful employment opportunities after they have completed the program. (Sec. 431.)

§ 688.232 Eligibility for the allocation of funds.

Eligibility for and allocation of funds shall be as described in § 688.216 of this Part.

§ 688.233 Reallocation of funds.

Funds may be reallocated as described in § 688.52 of this Part.

§ 688.234 Native American Grantees planning process and submission of applications.

(a) Native American Grantees must plan their youth programs taking into account their plans for youth in all of their CETA programs.

(b) For purposes of this subpart, the term planning council shall mean a council formed pursuant to § 688.17 of this Part or, in the absence of such a body, the governing body of the Native American Grantee.

(c) Each Native American Grantee whose combined YCCIP and YETP allocations exceed $150,000 shall establish a youth council.

(1) The Native American Grantee shall make appointments to the youth council which include individuals who are representative of the local educational agencies, the local vocational advisory council, post-secondary education institutions, business, unions, the public employment service, local governments and nongovernment agencies and organizations which are involved in meeting the special needs of youth, the community served by the Native American Grantee and the Native American Grantee. In addition, youth council members shall include youth who are participants in, or eligible for YETP. (Sec. 436(b).)

(2) The youth council may be either an entirely separate council or a subcommittee or subcouncil to any Native American Grantee's planning council, or a Native American Grantee may use existing youth councils created with respect to other programs under this Act or other Acts or programs if these councils meet the requirements set forth in this section.

(3) The youth council shall at a minimum make recommendations to the Native American Grantee with respect to the planning and review of all program activities conducted under YETP or YCCIP and shall review the proposed agreements with local educational agencies under YETP. (Sec. 436(b) and (c).)

(d) In order to receive financial assistance under this subpart, a Native American Grantee must submit the

following documents with its grant application described in § 688.19.

(1) YETP Narrative;

(2) Program Planning Summary; and

(3) Budget Information summary

(e) The narrative section of the YETP proposal shall cover the following:

(1) Objectives of the program;

(2) Local priorities;

(3) Implementation planning;

(4) Program activities and services;

(5) Management and administration;

(6) Results and benefits expected from the program;

(7) How the program will:

(i) Develop long-term and coordinated solutions to the employment problems of youth, especially the economically disadvantaged;

(ii) Enhance job propects and career opportunities for youth; and

(iii) Enable participants to secure appropriate unsubsidized employment.

(8) That identified performance goals are reasonable and can be achieved;

(9) That a youth council has been established (if required) and has participated in the planning and review process for the youth plan;

(10)That any in-school program will operate pursuant to § 688.238 of this subpart.

§ 688.235 Allowable costs.

Allowable costs are the same as those under § 688.43. Costs for administration are limited to 20 percent.

§ 688.236 Eligibility for participation.

(a) A Native American Grantee shall assure that every individual participating in the program meets the following criteria at the time of application and enrollment. (Sec. 435.)

(1) Is an Indian or Native American youth;

(2) Is unemployed or underemployed or is an in-school youth;

(3) Is 14 through 21 years of age; and

(4) Is a member of a family with total family income at or below 85 percent of the lower living standard income level.

(b) For the purpose of participating in in-school work experience, the youth must need such participation in order to improve his or her ability to make career decisions and to provide him or her with basic work skills needed for regular employment or self-employment not subsidized under this program. (Sec. 436(c).)

(c) Youth need not meet the income criteria described in § 688.236(a)(4) if they participate in a special component as described in § 688.237(f) of this subpart. (Section 435.)

(d) Youth who do not meet the income criteria defined in § 688.236(a)(4) and who are not in the special component described in § 688.237(f) may be offered employment related services but may not be offered on-the-job training, work experience, or training opportunities funded under YETP.

§ 688.237 Allowable activities and services.

(a) Programs may include any type of employment and training activity or service, including: (Sec. 432(a)):

(1) Useful work experience opportunities in community betterment activities such as rehabilitation of public properties, assistance in the weatherization of homes occupied by low-income families, demonstrations of energy-conserving measures, park establishment and upgrading, neighborhood revitalization, conservation and improvements, and removal of architectural barriers to access by handicapped individuals.

(2) Productive work experience in fields such as education, health care, neighborhood transportation services, crime prevention and control, environmental quality control (including integrated pest management activities), preservation of historic sites, and maintenance of visitor facilities;

(3) Appropriate training and services to support the purpose of this subpart, including:

(i) Outreach, assessment, and orientation;

(ii) Counseling, including occupational information and career counseling;

(iii) Activities promoting education to work transition;

(iv) Development of information concerning the labor market, and provision of occupational, education, and training information;

(v) Services to youth to help them obtain and retain employment;

(vi) Literacy training and bilingual training;

(vii) Attainment of certificates of high school equivalency;

(viii) Job sampling, including vocational exploration in the public and private sector;

(ix) Institutional and on-the-job training, including development of basic skills and job skills;

(x) Transportation assistance;

(xi) Child care and other necessary supportive services;

(xii) Job restructuring to make jobs more responsive to the objectives of this subpart, including assistance to employers in developing job ladders or new job opportunities for youths, in order to improve work relationships between employers and youths;

(xiii) Community-based central intake and information services for youth;

(xiv) Job development, direct placement, and placement assistance to secure unsubsidized employment opportunities for youth to the maximum extent feasible, and referral to employability development programs;

(xv) Programs to overcome sex-stereotyping in job development and placement; and

(xvi) Programs and outreach mechanisms to increase the labor force participation rate among minorities and women.

(b) Each participant in on-the-job training, work experience, or career employment experience shall be assured of the general benefits and working conditions for program participants provided in § 688.83 of this part.

(c) No youth may enroll in a full-time employment opportunity if the Native American Grantee determines that he or she dropped out of high school in order to participate. (Sec. 443(f).)

(d) A written job description shall be developed and maintained for all work experience and OJT positions funded under this subpart to provide a basis for determining its comparability to existing jobs of other individuals similarly employed.

(e) A Native American Grantee may design a special component using up to 10 percent of its YETP funds to serve a mixture of youth from families above and below the income level specified in Section 236(a)(4) in order to test the desirability or serving such a mix of youth. (Sec. 435.)

§ 688.238 In-school programs.

(a) *Activities and services.* An in-school program may provide for the following two classifications of services:

(1) *Transition services.* These services shall be designed to assist youth to move from school to unsubsidized jobs.

(2) *Career employment experience.* This activity is a combination of well-supervised employment (work experience or on-the-job training) and certain transition services including at a minimum, career information, counseling and guidance. Where work experience or on-the-job training is provided for in-school youth under agreements with local educational agencies, placement services must also be included.

(b) *Agreement with local educational agencies.*

(1) Native American Grantees serving in-school youth are encouraged to design programs to enhance their career opportunities and job prospects pursuant to written agreements between

measure program results against

§ 688.256 Submission of application.

(1) Adequate supervision of each

Native American Grantees and local educational agencies (LEA's).

(2) Agreements may be between the Native American Grantee and one or more local educational agencies or a combination of LEA's represented by one LEA.

(3) Each agreement may be either financial or nonfinancial, whichever is determined most appropriate by the Native American Grantee and the LEA(s) and shall:

(i) Provide a description of the activities and services to be provided to participants; and

(ii) Detail the responsibility of each party to the agreement for providing the activities and services.

(4) Additional provisions are required in those agreements which provide for career employment experience opportunities. These include:

(i) Assurances that youth will be provided constructive work experience, which will improve their ability to make career decisions and provide them with basic work skills needed for regular employment or self-employment not subsidized under this in-school program.

(ii) Assurances that such agreements have been reviewed by the youth council (if required).

(iii) Assurances that job information, counseling, guidance, and placement services will be made available;

(iv) Assurances that jobs provided under this program will be certified by the participating educational agency or institution as relevant to the educational and career goals of the youths;

(v) Assurances that the Native American Grantee will advise youth of the availability of other employment and training resources available in the local community; and

(vi) An assurance that career employment experience opportunities provided will be certified by a school-based counselor as being an appropriate component of the overall educational program of each youth.

§ 688.239 Participants' wages.

Participants receiving wages shall be paid no less than the highest of: (Sec. 442.)

(a) The minimum wage under Section 6(a)(1) of the Fair Labor Standards Act of 1938, but in the case of an individual who is 14 or 15 years old, the wage provided in accordance with the provisions of Subsection (b) of Section 14 of the Fair Labor Standards Act of 1938;

(b) The State or local minimum wage for the most nearly comparable employment, but in the case of an individual who is 14 or 15 years old the wage provided in accordance with the applicable provision of the applicable State or local minimum wage law; or

(c) The prevailing rates of pay, if any, for occupations and job classifications of individuals employed by the same employer.

§ 688.240 Maintenance of effort.

The provisions of § 688.127 of this Part proscribing substitution of Federal funds for activities previously funded through other resources apply to all activities funded under this program.

§ 688.241 Earning's disregard.

Wages and allowances received by any youth under YETP shall be disregarded in determining the eligibility of the youth's family for, and the amount of, any benefits based on need under any Federal or federally-assisted program. (Sec. 446.)

§ 688.242 Labor organizations' comments.

Where a labor organization represents employees who are engaged in similar work in the same area to that proposed to be performed under the program for which an application is being developed for submission, such organization shall be notified and shall be afforded a reasonable period of time prior to the submission of the application in which to make comments to the applicant and DINAP. (Sec. 443(d).)

§ 688.243 Discretionary projects.

Native American Grantees are eligible for and may make application to the Secretary of Labor to operate innovative and experimental programs to test new approaches for dealing with the unemployment problems of youth and to enable eligible participants to prepare for, enhance their prospects for, or secure employment in occupations through which they may reasonably be expected to advance productive working lives, in accordance with procedures established by the Secretary of Labor in accordance with Section 438 of the Act.

§ 688.244 Eligibility for demonstration programs.

Native American Grantees are eligible, if selected by the Secretary, to carry out youth employment incentive and social bonus demonstration programs authorized under Section 439 of the Act.

Subpart M—Summer Youth Program

§ 688.250 General.

This Subpart contains the policies, rules, and regulations of the Department in implementing and administering a Summer Youth Program for Indians and other Native Americans (hereinafter referred to as the Summer Program) authorized by Title IV, Part C of the Act.

§ 688.251 Eligibility for funds under the Summer Youth Program.

Only Native American Grantees described in Section 302(c)(1) of the Act are eligible for summer youth program funds allocated under § 688.252.

§ 688.252 Allocation of funds.

Allocations shall be provided to eligible Native American Grantees on the basis of the relative number of unemployed persons within each Native American Grantee's service area as compared to all areas eligible for funds in this program.

§ 688.253 Special operating provisions.

Native American Grantees shall:

(a) Provide services to those youths most in need among their economically disadvantaged population.

(b) Develop outreach and recruitment techniques aimed at all segments of the economically disadvantaged youth population; especially school dropouts, youth not likely to return to school without assistance from the summer program, and youth who remain in school but are likely to be confronted with significant employment barriers relating to work attitude, aptitude, social adjustment, and other such factors.

(c) Provide labor market orientation to all participants. This orientation may include, as appropriate, vocational exposure, counseling, testing, resume preparation, job interview preparation, providing labor market information, providing information about other training programs available in the area, including apprenticeship programs, and similar activities. It may be provided on a group or individual basis. In providing labor market orientation, skill training and remedial education, each grantee shall make maximum efforts to develop cooperative relationships with other community resources so that these activities are provided in the summer program at no cost, or at minimum cost, to the summer program.

(d) Ensure that adequate supervision from skilled supervisors is provided to participants at each worksite.

(e) Make appropriate efforts to encourage educational agencies and post-secondary institutions to award academic credit for the competencies participants gain from their participation in the summer program.

(f) Ensure that appropriate efforts are made to closely monitor the performance of the summer program and measure program results against established goals.

(g) Ensure that enrollee applications are widely available and that jobs are awarded among individuals most severly disadvantaged in an equitable fashion. Enrollment applications shall require the signature of the applicant or (in the case of minors) the parent or guardian attesting to the accuracy of the information, including income data, provided on the application.

(h) Participants shall be provided with an orientation to the program which shall include, but not be limited to: purposes of the program, the conditions and standards (including such items as hours of work, pay provisions and complaint procedures) for which activities in the program.

§ 688.254 Startup of program.

During the planning and design phase of the program and prior to the close of the school year, only those activities outlined in § 688.255(b) are permissible. These activities shall be charged as administrative costs. Individuals may not begin participation in the program before the close of school.

§ 688.255 Program planning; planning and youth councils.

(a)(1) In developing the summer program, the Native American Grantee shall coordinate the summer plan with its Title III, YETP, and YCCIP programs.

(2) Native American Grantees shall utilize the planning process, as described in § 688.17.

(b) The following planning and design activities shall be allowable beginning January 1 of each year;

(1) Hiring of staff (planners, worksite developers, intake specialists, etc.); provided, prior to the close of school all staff salaries and benefits shall be charged as administrative expenses;

(2) Development of the summer plan;

(3) Worksite development;

(4) Recruitment, intake and selection of participants.

(5) Arrangements for supportive services;

(6) Dissemination of program information;

(7) Development of coordination between schools and other services;

(8) Staff training; and

(9) Other activities that may be characterized as planning and design but not program operation.

(c) Expenses incurred in such planning and design activities may, pursuant to §§ 688.44 and 688.45, be paid from administrative funds received under other titles of the Act.

§ 688.256 Submission of application.

(a) DINAP shall promptly notify Native American Grantees of their allocation for summer youth program funds. When Native American Grantees are informed of their summer funding level by DINAP, they shall modify their grant by submitting the following documentation to DINAP.

(1) Grant Signature Sheet.

(2) Program Narrative Description.

(3) Youth Program Planning Summary (Form ETA 2237).

(4) Youth Budget Information Summary (Form ETA 2238).

(b) The narrative description shall cover the following items:

(1) Objectives and needs for assistnce. This shall include a discussion of the program's purpose in terms of the types of activities and services that will be provided to youth during the summer.

(2) Results and benefits expected. This shall include a discussion of:

(i) Specific quantifiable performance goals by program activity;

(ii) Enrollment of participants in the various program activities and the projected program results.

(3) A property list including quantity and prices of items of capital equipment to be purchased which have a unit cost greater than $1,000.

§ 688.257 Eligibility for participation.

(a) An individual shall be eligible for participation if at time of enrollment he or she is:

(1) An Indian or Native American youth;

(2) Economically disadvantaged;

(3) Either unemployed, underemployed, or in school, and

(4) Age 14 to 21 inclusive.

(b) The provisions of § 688.120 concerning nepotism, shall not apply to applicants enrolled under this subpart.

§ 688.258 Allowable activities.

Allowable activities are the same as those listed under § 688.81 of this part except that public service employment is not permitted.

§ 688.259 Vocational exploration program.

A Native American grantee may conduct a vocational exploration program for the purpose of exposing youth to the operation and types of jobs available in the private sector through observation of such jobs and instruction including, where appropriate, limited and short term practical experience.

§ 688.260 Worksite standards.

(a) Each Native American Grantee shall develop a written agreement with each worksite employer which assures (1) Adequate supervision of each participant, (2) Adequate accountability for participant time and attendance, and (3) Adherence to the rules and regulations governing the Summer Program. Such written agreements do not have to be contracts or subgrants. They may be memoranda of understanding, simple work statements or other documents which indicate an estimate of the number of participants at the worksite and any operational conditions governing the program at the worksite.

(b) Each Native American Grantee shall establish procedures for the monitoring and evaluation of each worksite to insure compliance with the worksite agreements and the terms and conditions of subgrants and contracts.

(c) No participant shall be required to work, or be compensated with CETA funds for more than 40 hours of work per week. Nothing in this section shall be construed as limiting an individual to a maximum number of total hours of employment in the Summer Program. While the Department uses a 9-week, 26-hour week job as the basis for estimating the number of youth to be served it is not intended to take away the flexibility of the Native American Grantee to establish job slots in keeping with the needs of the area and the youth to be served.

§ 688.261 Reporting requirements.

Each Native American Grantee shall submit the following reports to DINAP:

(a) A Youth Program Status Summary, as of September 30.

(b) Two Youth Financial Status Reports, as of September 30 and December 31.

(c) Quarterly Summary of Youth Characteristics report, as of September 30.

(d) The reports in this section shall be submitted to DINAP no later than 30 days after the end of the report period.

§ 688.262 Termination date for the summer program.

Allowable activities after September 30 include: report and record preparation and submittal, completion of followup activities, completion of evaluations and assessments of worksite employees and the overall program or other elements of the summer program, and audits.

§ 688.263 Alternative remedies.

(a) In addition to the remedies available to DINAP under § 688.54, whenever DINAP has reason to believe that a Native American subgrantees or contractors has materially violated the

provisions of the Act, the regulations, or

provisions of the Act, the regulations, or the terms of the summer program grant, may order a subgrant or contract suspended or terminated in whole or in part effective on the date of DINAP's order or on such other date as DINAP determines. In cases of termination, DINAP may allow the subgrantee or contractor to expend further funds only for purposes of closing out the subgrant or contract, including the transfer of participants into another program operated by the Native American Grantee or another Native American Grantee's summer program in accordance with DINAP's directions. Whenever DINAP orders a termination or suspension of a subgrantee or contractor, under this paragraph, DINAP may take whatever action is necessary, including direct legal action against the subgrantee or contractor, or an order to the Native American Grantee that it take such legal action, to reclaim misspent funds or to otherwise protect the integrity of the funds or ensure the proper operation of the summer program.

(b) Where a subgrant or contract is suspended or terminated in whole or in part, DINAP shall offer the subgrantee or contractor an opportunity for a hearing.

§ 688.264 Discretionary funds.

The Secretary shall give priority to previously funded summer youth programs of demonstrated effectiveness in the award of discretionary summer youth funds, such as, but not limited to, the Lumbees of North Carolina.

Subpart N—Indian and Native American Private Sector Initiative Program

§ 688.270 Scope and purpose.

This subpart contains the regulations for activities under Title VII of the Act conducted by Indian and Native American entities described in Section 302(c)(1) of the Act, known as the Indian and Native American Private Sector Initiative Program.

(a) Title VII of the Act is a demonstration title. It authorizes a variety of approaches to increase the involvement of the business community in employment and training activities under the Act.

(b) Title VII is designed to increase private sector employment and training opportunities for Indian and Native American persons eligible under this Subpart.

(c) As a primary vehicle to assist Native American Grantees in meeting these goals, Title VII provides for the establishment of Private Industry Councils (PIC's) which are to participate jointly with the Native American Grantee in the local development and implementation of programs under this Subpart, and to consult with the Native American Grantee on other employment and training activities.

(d) The ultimate goal of Title VII is to increase private sector employment and training opportunities under all Titles of the Act, commensurate with reduced emphasis on public and private nonprofit subsidized employment.

(e) An important thrust of the Act is to provide for maximum feasible coordination of programs under the Act with related functions supported by the Department and by other Federal, tribal and other Native American agencies. Accordingly, Native American Grantees and PIC's are encouraged to work together with agencies involved in planning and operating programs funded by or administered through the Economic Development Administration, Small Business Administration, Community Services Administration, Department of Housing and Urban Development, Department of Interior (including the Bureau of Indian Affairs), Department of Health, Education and Welfare (including the Indian Health Service) and Department of Agriculture, among others, in order to increase the effectiveness of programs under this Subpart and under the Act in securing employment for economically disadvantaged persons. (Sec. 701.)

§ 688.271 Private Industry Councils (PIC's).

(a)(1) To receive financial assistance under this Subpart, each Native American Grantee shall establish a Private Industry Council (PIC). Its purpose shall be to increase the involvement of the business community, including tribally owned enterprises and ventures owned by Native Alaskan regional and village corporations, small business, minority business enterprises and labor organizations, in employment and training activities under the Act, and to increasse private sector employment opportunities for economically disadvantaged persons. (Secs. 701, 702(b) and 704(a).)

(2) Given the diversity of local circumstances and the differing environments in which PIC's will operate, the structure, level of activity, and composition of PIC's may vary considerably from one Native American Grantee's jurisdiction to another. Title VII of the Act is designed to encourage the formulation of a local partnership between the private sector and the Native American Grantee that will most effectively satisfy the labor demand needs of the business community and enhance the economic well-being of the community.

(b)(1) Each Native American Grantee shall appoint the members of the PIC (Sec. 704). A majority of the PIC membership should be representatives of industry and business (Sec. 704(a)). Where approprite, this shall include representatives of tribally owned enterprises and ventures owned by native Alaskan regional and village corporations. The PIC should also include representatives of organizaed labor.

(2) Ultimate decisions regarding the establishment of the PIC rest with the Native American Grantee. In making such decisions, the Native Ameican Grantee shall solicit and consider the recommendations of the business and industrial community. (Sec. 704(a).)

(3) Existing local councils or committees may be designated or adapted to serve as the PIC. (Sec. 704(a).)

(4) In establishing a PIC, the Native American Grantee should consult with business and industry, labor organizations, community-based organizations, educational agencies and institutions, the apprenticeship community, and existing councils and committees where such agencies exist.

(5) Native American Grantees may also appoint to the PIC other members, such as:

(i) Representatives of community based organizations, educational agencies, and persons eligible to participate in activities under this Subpart. (Sec. 704(a)(1).)

(ii) Tribal Employment Rights Offices (TEROs), where such exist.

(iii) Tribal government and tribal or other Native American agencies actively engaged in economic development activities.

(6) The chairperson of the PIC shall be appointed by the Native American Grantee.

(7) The activities of the PIC shall be coordinated by the Native American Grantee with those of the Native American Grantee's planning council, where such a council exists. The planning council, or governing body where no planning council has been established, shall review and comment on the Title VII plan, and otherwise operate with respect to the Title VII program in the same manner as with other programs.

(c) The PIC may be staffed commensurate with its responsibilities and the level of administrative funding available to the Native American Grantee through its Title VII grant. The arrangements with respect to staff and staff support shall be determined by Native American Grantee, after consultation with the PIC. Financial incentives may be provided to Native American Grantees that make such arrangement.

(d) The Native American Grantee, in Consultation with the Private Industry Council, shall determine those functions that the PIC will perform. Those functions should include the following:

(1) The PIC should be a primary vehicle of the Native American Grantee for redirecting employment and training activities under the Act from public and private non-profit subsidized employment of CETA participants to permanent unsubsidized positions in the private sector.

(2) The PIC should serve as the business and industry contact point in the local employment and training system, to present the private sector's views and recommendations for making programs more responsive to local employment needs.

(3) The PIC should advise and provide direction to the local employment and training system on ways to increase private sector job placements for persons eligible under this Subpart. (Sections 701 and 704 (c).)

(4) The PIC should, in conjuction with the Native American Grantee, design and develop the Title VII program and application for Title VII funds. (Sec. 704(c).)

(5) In designing the Title VII plan, and on a continuing basis, the PIC should analyze private sector job opportunities, including estimates by occupation, industry and location. The analysis should survey employment demands in the private sector and training possibilities, such as apprenticeship, in order to develop projections of short and long range labor needs, and to refine employment and training programming so that it becomes increasingly responsive to private sector labor needs. In undertaking such analysis, the PIC should assess and utilize information contained in economic development plans for the area and currently available labor market information from sources already in place, such as Tribal Employment Rights Offices (TEROs).

(6) The PIC should, in conjuction with the Native American Grantee, develop specific private sector employment and training projects.

(7) The PIC should, in conjunction with the Native American Grantee, develop standards for the types of occupations to be selected for the expenditure of training funds.

(8) The PIC should, in conjunction with the Native American Grantee, develop standards and specifications for training in particular occupations.

(9) In designing the plan, the PIC and Native American Grantee should, to the extent possible, ensure that the plan is consistent with plans, funding applications and grants for programs related to private sector employment and training which are funded by other Federal agencies.

(10) The PIC should have the opportunity to review and comment on the Native American Grantee's application(s) for funds for other programs supported under the Act. (Sec. 704(c).)

(11) The PIC should actively solicit public and private support for and participation in the Indian and Native American Private Sector Initiative Program and other programs and activities designed to increase private sector employment and training opportunities for persons who are economically disadvantaged.

(12) The PIC should market and disseminate information on the Targeted Jobs Tax Credit, created by the Revenue Act of 1978 (Pub. L. 95–600), and the WIN tax credit.

(e) Nothing in this section shall be construed as authorizing activity by a PIC in violation of tribal law, ordinance or regulations.

§ 688.272 Eligibility for funds.

DINAP shall provide funds under Title VII of the Act only to Native American Grantees described in Section 302(c)(1)(A) and (B) of the Act and designated in accordance with § 688.11 of this Part.

§ 688.273 Distibution of funds.

(a) All grant awards under this Subpart shall be on a competitive basis. DINAP will issue a Solicitation for Grant Applications (SGA) which will describe the content of the application, time frame for funding and criteria to be used in the evaluation of grant applications and award of grants. The amount of funds available will be indicated in the SGA whenever such amount is known.

(b) To be eligible to respond to the SGA, a Native American Grantee must be in substantial and timely compliance with regulations pertaining to other programs it conducts under the Act.

§ 688.274 Grant procedures.

(a) The Title VII plan submitted by a native American Grantee shall contain the information and forms specified in the Solicitation for Grant Applications (SGA) issued by DINAP. The deadline for submission of such plans shall be set in the SGA.

(b) The Native American Grantee shall transmit a copy of its Title VII plan to the grantee's planning council, if any, to appropriate labor organizations, community-based organizations, educational agencies and institutions, Overall Economic Development Program committees and Tribal Employment Rights Offices (TEROs), if any. The comment and publication procedures of § 668.21 apply to plans submitted under this Subpart. (Sec. 703(b)(4) and (5).)

(c) The Title VII plan shall have the concurrence of both the PIC and the Native American Grantee in order to be approved. Therefore, the PIC chairperson as well as the Native American Grantee shall sign the plan.

§ 688.275 Administrative standards and procedures.

(a) The total amount of administrative costs incurred by a Native American Grantee in carrying out programs under this Subpart shall not exceed 30 percent of the Grantee's Title VII grant award.

(b) Payments to private-for-profit employers through methods not specifically authorized under Subparts D and E of this Part shall not be allowable unless and until the method of payment is explained in advance and authorization for its use is specifically granted by DINAP. DINAP shall make a final decision on such requests within 60 days after such a request has been submitted by a Native American Grantee. Nothing in this paragraph authorizes wage subsidies. (Sec. 703(c).)

§ 688.276 Program operations.

(a) *Eligibility.* With the exception described in the subsequent provisions of this paragraph, participants in an activity funded under this Subpart shall be Indian or Native American persons who are economically disadvantaged and unemployed or underemployed. However, a Native American Grantee may enroll participants in Title VII activities who are unemployed or underemployed and not economically disadvantaged where such participants require skill training, on-the-job training and/or special services to quality them for private sector positions involving specialized technical, managerial or supervisorial responsibilities. Unless otherwise permitted by DINAP, not more than 10 percent of the participants or 10 percent of the funds awarded under this Subpart, whichever is greater, may be non-economically

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disadvantaged or involve training and services for non-economically disadvataged participants.

(b) *Allowable activities.* Funds shall be used to provide employment and training and related activities consistent with the purposes of Title VII including:

(1) Activities authorized in Subpart H of this Part, and

(2) The following:

(i) Coordinating programs of jobs and training and education enabling individuals to work for a private employer while attending an education or training program;

(ii) Developing a small business intern program to provide practical training enabling youths and other individuals to work in small business firms to acquire first-hand knowledge and management experience about small business;

(iii) Developing relationships between employment and training programs, educational institutions, and the private sector;

(iv) Developing useful methods for collecting information about Federal Government procurement contracts with private employers, new and planned publicly supported projects such as public works, economic development and community development programs, transportation revitalization, alternative energy technology development, demonstration and utilization projects, energy conservation projects, and rehabilitation of low income housing as part of a community revitalization or stabilization effort, which provides work through private sector contractors;

(v) Conducting innovative cooperative education programs for youths in secondary and postsecondary schools designed to coordinate educational programs with work in the private sector;

(vi) Developing and marketing model contracts designed to reduce the administrative burden on the employer and model contracts to meet the needs of specific occupations and industries;

(vii) Coordinating programs under this Subpart with other job development, placement, and employment and training activities carried out by public and private agencies;

(viii) Providing on-the-job training subsidies on a declining ratio to wages over the period of training;

(ix) Providing followup services with employees placed in private employment and employers who hire recipients of services under the Act;

(x) Encouraging employers to develop job skill requirement forecasts and to coordinate such forecasts with Native American Grantees;

(xi) Using direct contracts for training and employment programs with private-for-profit and private nonprofit organizations;

(xii) Developing apprenticeship or comparable high-skill training programs for workers regardless of age in occupations where such programs do not exist presently in the area;

(xiii) Increasing opportunities for upgrading from entry level jobs by providing counseling and other services to employees and employers beyond initial training periods;

(xiv) Providing technical assistance to private employers to reduce the administrative burden of employment and training programs;

(xv) Disseminating information to private employers so that they may more fully utilize programs under the Act; and

(xvi) Other program activities which demonstrate effective approaches to the training and employment of persons eligible to participate in programs under this Subpart. (Sec. 705(a).)

Signed at Washington, D.C., the 3rd day of May 1979.

Ray Marshall,

Secretary of Labor.

[FR Doc. 79-14558 Filed 5-10-79; 8:45 am]

BILLING CODE 4510-30-M

federal register

Friday
May 11, 1979

Part III

Department of Labor

Employment Standards Administration

Minimum Wages for Federal and Federally Assisted Construction

DEPARTMENT OF LABOR

without limitation as to time and are to

encouraged to submit wage rate

Cancellation of General Wage

DEPARTMENT OF LABOR

Employment Standards Administration

Minimum wages for Federal and Federally Assisted Construction; General Wage Determination Decisions

General Wage Determination Decisions of the Secretary of Labor specify, in accordance with applicable law and on the basis of information available to the Department of Labor from its study of local wage conditions and from other sources, the basic hourly wage rates and fringe benefit payments which are determined to be prevailing for the described classes of laborers and mechanics employed in construction activity of the character and in the localities specified therein.

The determinations in these decisions of such prevailing rates and fringe benefits have been made by authority of the Secretary of Labor pursuant to the provisions of the Davis-Bacon Act of March 3, 1931, as amended (46 Stat. 1494, as amended, 40 U.S.C. 276a) and of other Federal statutes referred to in 29 CFR 1.1 (including the statutes listed at 36 FR 306 following Secretary of Labor's Order No. 24–70) containing provisions for the payment of wages which are dependent upon determination by the Secretary of Labor under the Davis-Bacon Act; and pursuant to the provisions of Part 1 of Subtitle A of Title 29 of Code of Federal Regulations, Procedure for Predetermination of Wage Rates, (37 FR 21138) and of Secretary of Labor's Orders 12–71 and 15–71 (36 FR 8755, 8756). The prevailing rates and fringe benefits determined in these decisions shall, in accordance with the provisions of the foregoing statutes, constitute the minimum wages payable on Federal and federally assisted construction projects to laborers and mechanics of the specified classes engaged on contract work of the character and in the localities described therein.

Good cause is hereby found for not utilizing notice and public procedure thereon prior to the issuance of these determinations as prescribed in 5 U.S.C. 553 and not providing for delay in effective date as prescribed in that section, because the necessity to issue construction industry wage determination frequently and in large volume causes procedures to be impractical and contrary to the public interest.

General Wage Determination Decisions are effective from their date of publication in the **Federal Register** without limitation as to time and are to be used in accordance with the provisions of 29 CFR Parts 1 and 5. Accordingly, the applicable decision together with any modifications issued subsequent to its publication date shall be made a part of every contract for performance of the described work within the geographic area indicated as required by an applicable Federal prevailing wage law and 29 CFR, Part 5. The wage rates contained therein shall be the minimum paid under such contract by contractors and subcontractors on the work.

Modifications and Supersedeas Decisions to General Wage Determination Decisions

Modifications and Supersedeas Decisions to General Wage Determination Decisions are based upon information obtained concerning changes in prevailing hourly wage rates and fringe benefit payments since the decisions were issued.

The determinations of prevailing rates and fringe benefits made in the Modifications and Supersedeas Decisions have been made by authority of the Secretary of Labor pursuant to the provisions of the Davis-Bacon Act of March 3, 1931, as amended (46 Stat. 1494, as amended, 40 U.S.C. 276a) and of other Federal statutes referred to in 29 CFR 1.1 (including the statutes listed at 36 FR 306 following Secretary of Labor's Order No. 24–70) containing provisions for the payment of wages which are dependent upon determination by the Secretary of Labor under the Davis-Bacon Act; and pursuant to the provisions of Part 1 of Subtitle A of Title 29 of Code of Federal Regulations, Procedure for Predetermination of Wage Rates (37 FR 21138) and of Secretary of Labor's Orders 13–71 and 15–71 (36 FR 8755, 8756). The prevailing rates and fringe benefits determined in foregoing General Wage Determination Decisions, as hereby modified, and/or superseded shall, in accordance with the provisions of the foregoing statutes, constitute the minimum wages payable on Federal and federally assisted construction projects to laborers and mechanics of the specified classes engaged in contract work of the character and in the localities described therein.

Modifications and Supersedeas Decisions are effective from their date of publication in the **Federal Register** without limitation as to time and are to be used in accordance with the provisions of 29 CFR Parts 1 and 5.

Any person, organization, or governmental agency having an interest in the wages determined as prevailing is encouraged to submit wage rate information for consideration by the Department. Further information and self-explanatory forms for the purpose of submitting this data may be obtained by writing to the U.S. Department of Labor, Employment Standards Administration, Office of Government Contract Wage Standards, Division of Wage Determinations, Washington, D.C. 20210. The cause for not utilizing the rulemaking procedures prescribed in 5 U.S.C. 553 has been set forth in the original General Wage Determination Decision.

New General Wage Determination Decisions

Alabama—AL79–1081.

Modifications to General Wage Determination Decisions

The numbers of the decisions being modified and their dates of publication in the **Federal Register** are listed with each State.

Alabama:	
AL79–1046	Mar. 16, 1979
California:	
CA78–5106	Aug. 25, 1978
Connecticut:	
CT79–2010, CT79–2011	Apr. 6, 1979
Georgia:	
GA78–1089	Oct. 13, 1978
Maryland:	
MD78–3002	Mar. 3, 1978
MD78–3020	Apr. 14, 1978
MD78–3046	May 19, 1978
Oklahoma:	
OK79–4023	Feb. 2, 1979

Supersedeas Decisions to General Wage Determination Decisions

The numbers of the decisions being superseded and their dates of publication in the **Federal Register** are listed with each State. Supersedeas Decision numbers are in parentheses following the numbers of the decisions being superseded.

Georgia:	
GA78–1035(GA79–1083)	Mar. 5, 1976
Illinois:	
IL78–2113(IL79–2034)	Oct. 27, 1978
IL78–2120(IL79–2035); IL78–2122(IL79–2036); IL78–2124(IL79–2038); IL78–2125(IL79–2037)	Oct. 20, 1978
Maryland:	
MD77–3086(MD79–3010)	Aug. 5, 1977
Missouri:	
MO77–4271(MO79–4063)	Sept. 30, 1977
New Hampshire:	
NH78–2100(NH79–2040); NH78–2101(NH79–2041	Oct. 6, 1978
NH78–2164(NH79–2046)	Dec. 1, 1978
North Carolina:	
NC77–1014(NC79–1082)	Feb. 4, 1977
Ohio:	
OH78–2153(OH79–2048); OH78–2154(OH79–2049)	Nov. 13, 1978
OH78–2152(OH79–2047); OH78–2156(OH79–2050)	Nov. 24, 1978

Cancellation of General Wage Determination Decisions

None

Signed at Washington, D.C., this 4th day of May, 1979.

Dorothy P. Come,

Assistant Administrator, Wage and Hour Division.

NEW DECISION

STATE: Alabama
DECISION NO.: AL79-1081
DESCRIPTION OF WORK: Residential Construction Projects consisting of single family homes and garden type apartments up to and including 4 stories.

COUNTIES: *See below
DATE: Date of Publication

*Counties: Colbert, Franklin, Lauderdale, Lawrence, Marion, and Winston

	Basic Hourly Rates	Fringe Benefits Payments			
		H & W	Pensions	Vacation	Education and/or Appr. Tr.
Air conditioning mechanics	5.30				
Bricklayers	8.30				
Carpenters	4.91				
Cement masons	5.61				
Drywall finisher	5.75				
Electricians	7.89				
Ironworkers, structural and ornamental	4.01				
Laborers:					
Laborers	3.93				
Mason tenders	3.98				
Painters, brush	5.50				
Plumbers & pipefitters	6.00				
Roofers	6.15				
Sheet metal workers	6.67				
Truck drivers	5.00				
Welders - rate for craft					
POWER EQUIPMENT OPERATORS:					
Bulldozers	6.50				
Front end loader	5.50				

MODIFICATIONS P. 1

	Basic Hourly Rates	Fringe Benefits Payments			
		H & W	Pensions	Vacation	Education and/or Appr. Tr.
Decision # AL79-1046 - Mod. # 3 (44 FR-16305 - March 16, 1979) Lawrence, Limestone, and Morgan Counties, Alabama					
Change: Plumbers, pipefitters, steamfitters Lawrence Co. (Eastern portion of Co., North from intersection of State Rt. 33 Rt. 20 to Wheeler Lake including Moulton and Wren, excluding Bankhead National Park), Limestone Co. and Morgan Co.	11.15	.55	.60		.15
DECISION NO. CA78-5106 - Mod. #3 (43 FR 38273 - August 25, 1978) Alameda, Amador, Calaveras, Contra Costa, Del Norte, El-Dorado, Humboldt, Marin, Mariposa, Merced, Monterey, Napa, Nevada, Placer, Sacramento, San Benito, San Francisco, San Joaquin, San Mateo, Santa Clara, Santa Cruz, Solano, Sonoma, Sutter, Tehama, Tuolumne, Yolo and Yuba Counties, California					
Omit: Alameda County Rehabilitation schedule originally issued					
Add:					
Bricklayers	$10.80	1.50	1.25		.05
Carpenters	12.70	1.575	1.81	1.00	.09
Carpet Layer	13.06	.85	1.65		.14
Drywall Finishers	12.97	1.35	1.71		.07
Electricians	15.16	1.30	3%+1.65		.069
Laborers	7.38	1.30	1.75		.10
Hod Carriers	8.02	1.30	1.75		.10
Lathers	10.17	1.20	2.00		.03
Painters	9.85	1.10	1.50	.80	.06
Plasterers	9.42	.74$	1.05		.12
Plumbers	12.32	1.40	2.39		.16
Sheet Metal Workers	12.65	1.03	2.11	12%	.05
Roofers	12.04	1.32	1.55	1.00	.09
Steamfitters	15.82	1.26	2.39		.02

MODIFICATIONS P. 2

	Basic Hourly Rates	Fringe Benefits Payments			
		H & W	Pensions	Vacation	Education and/or Appr. Tr.
DECISION NO. CT79-2010 - MOD #2 (44 FR 20913 - April 6, 1979) Fairfield, Litchfield and Windham Counties, Connecticut					
CHANGE: TRUCK DRIVERS (Building, Heavy & Highway Construction)					
Class 1	$ 8.11	.79	.80	a	
Class 2	8.21	.79	.80	a	
Class 3	8.31	.79	.80	a	
Class 4	8.26	.79	.80	a	
Class 5	8.36	.79	.80	a	
Class 6	8.41	.79	.80	a	

CLASS 1 - Two axle trucks; helpers
CLASS 2 - Three axle trucks; two axle ready mix
CLASS 3 - Four axle trucks; heavy duty trailer-up to 40 tons
CLASS 4 - Three axle ready-mix
CLASS 5 - Four axle ready-mix; specialized earth moving equipment other than conventional type on-the-road trucks and simi-trailer (including Euclids)
CLASS 6 - Heavy Duty trailer-40 tons and over

PAID HOLIDAYS:
A-New Year's Day; B-Memorial Day; C-Independence Day; D-Labor Day; E-Thanksgiving Day & F-Christmas Day

FOOTNOTE:
a. 7 paid holidays: A through F and Good Friday

MODIFICATIONS P. 3

	Basic Hourly Rates	Fringe Benefits Payments			
		H & W	Pensions	Vacation	Education and/or Appr. Tr.
DECISION NO. CT79-2011 - MOD #2 (44 FR 20921 - April 6, 1979) Hartford, Middlesex, New Haven, New London and Tolland Counties, Connecticut					
CHANGE: TRUCK DRIVERS (Building, Heavy & Highway Construction)					
Class 1	$ 8.11	.79	.80	a	
Class 2	8.21	.79	.80	a	
Class 3	8.31	.79	.80	a	
Class 4	8.26	.79	.80	a	
Class 5	8.36	.79	.80	a	
Class 6	8.41	.79	.80	a	

CLASS 1 - Two axle trucks; helpers
CLASS 2 - Three axle trucks; two axle ready mix
CLASS 3 - Four axle trucks; heavy duty trailer-up to 40 tons
CLASS 4 - Three axle ready-mix
CLASS 5 - Four axle ready-mix; specialized earth moving equipment other than conventional type on-the-road trucks and simi-trailer (including Euclids)
CLASS 6 - Heavy Duty trail-40 tons and over

PAID HOLIDAYS:
A-New Year's Day; B-Memorial Day; C-Independence Day; D-Labor Day; E-Thanksgiving Day & F-Christmas Day

FOOTNOTE:
a. 7 paid holidays: A through F and Good Friday

MODIFICATIONS P. 4

DECISION #GA78-1089 - Mod. #4
(43 FR 47427 - October 13, 1978)
Richmond County, Georgia

CHANGE:	Basic Hourly Rates	Fringe Benefits Payments: H & W	Pensions	Vacation	Education and/or Appr. Tr.
Roofers	$ 3.60				

DECISION #MD78-3002 - Mod. #5
(42 FR 9076 - March 3, 1978)
Allegany & Garrett Counties, Maryland

CHANGE:	Basic Hourly Rates	Fringe Benefits Payments: H & W	Pensions	Vacation	Education and/or Appr. Tr.
Bricklayers	10.89	.65	.40		
Carpenters	11.26	.50	.60		.02
Cement Masons	11.57	.50			
Electricians:					
Allegany County	11.20	.80	3%+.60		1%
Garrett County	11.60	.80	3%+.60		1%
Ironworkers:					
Structural & Reinforcing	11.36	.60	1.10		
Laborers:					
Group 1	8.48	.80	1.10		
Group 2	8.60	.80	1.10		
Group 3	8.67	.80	1.10		
Group 4	8.27	.80	1.10		
Group 5	8.78	.80	1.10		
Group 6	8.74	.80	1.10		
Group 7	8.70	.80	1.10		
Group 8	9.30	.80	1.10		
Group 9	8.94	.80	1.10		
Piledrivermen	11.55	.50	.60		.02
Truck Drivers:					
Group 1	8.41	.90	1.15		
Group 2	8.56	.90	1.15		
Group 3	8.76	.90	1.15		
Group 4	8.96	.90	1.15		
Group 5	9.19	.90	1.15		

MODIFICATIONS P. 5

DECISION #MD78-3020 - Mod. #8
(42 FR 16045 - April 14, 1978)
Counties of Anne Arundel (excluding the D. C. Training School), Baltimore, & Baltimore City, Maryland, and for Heavy Construction projects in Harford & Howard Counties, Maryland.

Change:	Basic Hourly Rates	Fringe Benefits Payments: H & W	Pensions	Vacation	Education and/or Appr. Tr.
Bricklayers	10.88	.70	.50		.07
Electricians					
Zone 1	11.10	.80	3%+1.10		½%
Zone 2	11.35	.80	3%+1.10		½%
Zone 3	11.60	.80	3%+1.10		½%
Ironworkers:					
Ironworkers, finishers, rodmen, Pre-cast, & Pre-stress erectors	10.49	.90	1.91		.06
Fence erectors	10.14	.90	1.91		.06
Sheeters	10.74	.90	1.91		.06
Laborers, Building:					
Mason Tenders	8.20	.30	.50		.075
Scaffold Builders	8.40	.30	.50		.075
Line Construction:					
Zone 1					
Linemen, cable splicers, digging & equipment operator	12.40	.60	3%		
Winch trucks & trucks with pole or steel handling	8.27	.60	3%		
Trucks without winch	7.71	.60	3%		
Groundmen	7.78	.60	3%		
Zone 2					
Linemen, cable splicers, digging & equipment operator	12.65	.60	3%		
Winch trucks & trucks with pole or steel handling	8.52	.60	3%		
Trucks without winch	7.96	.60	3%		
Groundmen	8.03	.60	3%		
Zone 3					
Linemen, cable splicers, digging & equipment operator	12.90	.60	3%		
Winch trucks & trucks with pole or steel handling	8.77	.60	3%		
Trucks without winch	8.21	.60	3%		
Groundmen	8.28	.60	3%		
Marble Setters	10.88	.70	.50		.07
Marble, Tile, & Terrazzo Workers					
Finishers	7.125	.50	.20		
Stone Masons	10.88	.70	.50		.07

MODIFICATIONS P. 6

DECISION #MD78-3020 -Mod. #8

Change:	Basic Hourly Rates	Fringe Benefits Payments: H & W	Pensions	Vacation	Education and/or Appr. Tr.
Power Equipment Operators:					
Building & Heavy Construction:					
Group 1	11.09	.95	1.00	a	.12
Group 2	10.87	.95	1.00	a	.12
Group 3	10.32	.95	1.00	a	.12
Group 4	9.78	.95	1.00	a	.12
Group 5	8.71	.95	1.00	a	.12
Group 6					
A	11.49	.95	1.00	a	.12
B	11.69	.95	1.00	a	.12
C	11.89	.95	1.00	a	.12
D	12.09	.95	1.00	a	.12
E	12.34	.95	1.00	a	.12
Truck Drivers (Excavation):					
Dump trucks	8.64	1.05	.75	d+e	
Euclid wagons & dumpsters	8.95	1.05	.75	d+e	
Drop frame, gooseneck & trailer	8.84	1.05	.75	d+e	
Pick-ups	8.43	1.05	.75	d+e	

DECISION #MD78-3046 - Mod. #5
(43 FR-21813 - May 19, 1978)
Baltimore City, Maryland

Change:	Basic Hourly Rates	Fringe Benefits Payments: H & W	Pensions	Vacation	Education and/or Appr. Tr.
Line Construction:					
Groundmen	7.78	.60	3%		

MODIFICATIONS P. 7

DECISION NO. OK79-4023 - Mod. #1
(44 FR 6881 - February 2, 1979)
Comanche County, Oklahoma

CHANGE:	Basic Hourly Rates	Fringe Benefits Payments: H & W	Pensions	Vacation	Education and/or Appr. Tr.
Bricklayers-Stonemasons	$ 9.91	.62	.50		.02
Electricians	10.85	.50	3%		1/4%
Elevator constructors	10.71	.545	.35	2½%+a+b	.02
Marble setters	10.73		.30		
PAINTERS:					
Brush-roller	8.65		.25	.70	.05
Brush & roller(structural steel)	8.90		.25	.70	.05
Spray	9.30		.25	.70	.05
Swing stage, bosun chair work	8.90		.25	.70	.05
Taping and bedding	8.95		.25	.70	.05
Sandblasting	9.00		.25	.70	.05

FOOTNOTE:
a - PAID HOLIDAYS - A through G:
A-New Years Day; B-Memorial Day; C-Independence Day; D-Labor Day; E-Thanksgiving Day; F-Day after Thanksgiving; G-Christmas Day.

SUPERSEDEAS DECISION

STATE: GEORGIA
COUNTIES: CHATTAHOOCHEE, HARRIS, MACON, MARION, MERIWETHER, MUSCOGEE, SCHLEY, STEWART, SUMTER, TALBOT, TAYLOR, TROUP, & WEBSTER.
DECISION NUMBER: GA79-1083 DATE: DATE OF PUBLICATION
Supersedes Decision Number GA76-1035, dated March 5, 1976, in 41 FR 9758.
DESCRIPTION OF WORK: RESIDENTIAL CONSTRUCTION PROJECTS - includes single family homes and garden type apartments up to and including 4 stories.

	Basic Hourly Rates	Fringe Benefits Payments			
		H & W	Pensions	Vacation	Education and/or Appr. Tr.
AIR CONDITIONING & HEATING MECHANICS	$ 5.00				
BRICKLAYERS	6.50				
CARPENTERS	5.67				
CEMENT MASONS	4.68				
DRYWALL FINISHERS	6.50				
DRYWALL RANGERS	5.52				
ELECTRICIANS	5.33				
INSULATION INSTALLERS	5.00				
LABORERS:					
UNSKILLED	3.23				
ASPHALT RAKERS	3.39				
MORTAR MIXERS	3.75				
PAINTERS	5.50				
PLASTERERS	6.50				
PLUMBERS & PIPEFITTERS	5.40				
ROOFERS	5.00				
SHEET METAL WORKERS	5.00				
SOFT FLOOR & CARPET LAYERS	5.00				
TILE SETTERS	6.13				
TRUCK DRIVERS	3.36				
WELDERS - RATE FOR CRAFT.					
POWER EQUIPMENT OPERATORS:					
ASPHALT ROLLER	3.73				
ASPHALT SCREED/SPREADER	3.70				
BACKHOE	4.57				
BULLDOZER	4.00				
FRONT END LOADER	4.12				
GREASE MAN	3.75				
MECHANIC	4.00				
MOTOR GRADER	5.00				

SUPERSEDEAS DECISION

STATE: Illinois
DECISION NUMBER: IL79-2034
COUNTIES: Christian, DeWitt, Macon, Macoupin, Moultrie, Piatt, and Shelby
DATE: Date of Publication
Supersedes Decision No. IL78-2113, dated October 27, 1978 in 43 FR 50303
DESCIPTION OF WORK: Building Construction Projects (excluding single family garden type apartments up to and including 4 stories.)

	Basic Hourly Rates	Fringe Benefits Payments			
		H & W	Pensions	Vacation	Education and/or Appr. Tr.
ASBESTOS WORKERS	$ 12.63	.80	.97		
BOILERMAKERS:					
DeWitt County	11.45	.95	1.00		.03
Remainder of Counties	11.45	.95	1.20		.03
BRICKLAYERS AND STONEMASONS:					
Macounpin County:					
East ½ of County, including Gillespie, Benld, Mt. Olive and Stauton	11.78	.70	.75		
Balance of the County	11.50	.50	.52		.02
Christian	11.25	.50	1.00		.02
DeWitt County	11.50	.70	.80		
Macon, Moultrie, Piatt and Shelby Cos.	12.30	.60	1.00		.005
CARPENTERS:					
Macoupin County:					
S.W. Corner of the County Carpenters, Soft Floor Layers, Millwrights & Piledrivermen	11.985	.60	.80		
Girard and North thereof Carpenters and Soft Floor Layers	11.95	.55	.55		.06
Millwrights & Piledrivermen	12.45	.55	.55		.06
Remaind of the County Carpenters, Soft Floor Layers, Millwrights & Piledrivermen	11.985	.60	.80		
Shelby County, Remainder of Moultrie County, Millerville, Rosamond, Radford and Pana in Christian County Carpenters and Soft Floor Layers	13.075	.55	.30		.07
Remainder of Christian County Carpenters, Piledrivermen and Soft Floor Layers	13.575	.55	.30		.07
Millwrights	11.95	.55	.55		.06
DeWitt County Carpenters and Soft Floor Layers	12.45	.55	.55		.06
Millwrights & Piledrivermen	12.61	.40	.75		.05
	13.11	.40	.75		.05

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DECISION NO. IL79-2034

	Basic Hourly Rates	Fringe Benefits Payments			
		H & W	Pensions	Vacation	Education and/or Appr. Tr.
CARPENTERS: (Cont'd)					
Macon County, Moultrie County: (Bethany, Okaw River, Lovington, Williamsbury, Lake City & all Areas north: Piatt County: (Cisco, Bement, Allerton Park and all Areas south thereof:					
Carpenters & Soft Floor Layers	12.635	.60	.70		.06
Millwright & Piledrivermen	13.535	.60	.70		.06
Remainder of Piatt County:					
Carpenters & Soft Floor Layers	13.315	.45	1.10		.13
Millwrights & Piledrivermen	12.815	.45	1.10		.13
CEMENT MASONS:					
Macoupin County	11.255	.50	.52		.02
Macon County Chtistina County: (northern part-south to a line running east and west established north of Humphrey and including Stonington): Shelby County: (Northern part including Moweaqua); Moultrie County: (Northeastern part including Lovington) Piatt County:					
(Southern portion) DeWitt County:					
(Southern half of County, including Clinton	12.80	.60	.425		
Remainder of DeWitt County	12.63	.75			
Remainder of Moultrie & Shelby Counties	12.01				
Remainder of Christian County	11.70		.65		
Northern Half of Piatt County	12.575	.45	.25		.025
ELECTRICIANS:					
Macoupin County:					
Athanville, Scottville, Girard & Areas north thereof	12.37	.50	3%+.60		.1 of 1%
Remainder of County	12.73	4%	3%+.65		.25%

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DECISION NO. IL79-2034

	Basic Hourly Rates	Fringe Benefits Payments			
		H & W	Pensions	Vacation	Education and/or Appr. Tr.
ELECTRICIANS: (CONT'D)					
Macon & Christian Counties; DeWitt County (Townships of Wapella, Barnett, Clintonia, Harp, DeWitt, Turnbridge, Texas, Creek and Nixon: Piatt County: (Goose Creek, Willow Branch, Cerro Gordo, Bement and Unity): Shelby County: (Townships of Moweaqua, Penn, Flat Branch, Pikcway, Otdds Point, Rural, Ridge, Okaw, Tower Hill, Rose, Shelbyville, Oconee, Cole, Spring, Lakewood, Clarkburg, Herrick, Dry Point and Holland); Moultrie County: (Townships of Dora, Lovington, Marrowbone and Sullivan at the Illinois Masonic Home and Farm in East Nelson	12.60	.50	3%+.40		.35%
Remainder of Moultrie & Shelby Counties	12.60	.50	3%+.40		.35%
Remainder of DeWitt County	11.95	.50	3%+.55		.002
Remainder of Piatt County	12.45	.50	3%+.40		.3%
IRONWORKERS:					
Macoupin County:					
Northern part of County	12.25	.55	1.05		.08
Southern part of County	12.10	.55	1.05		.08
Moultrie, Piatt, DeWitt (Eastern half of County) Macon (East of Decatur) Shelby (Eastern half of County	12.15	.65	1.00		.08
Christian County, DeWitt (Western half of County) Macon (Remainder of County)	12.25	.55	1.05		.08

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DECISION NO. IL79-2034

	Basic Hourly Rates	Fringe Benefits Payments			
		H & W	Pensions	Vacation	Education and/or Appr. Tr.
LABORERS:					
Macoupin County:					
Carlinville and Vicinity:					
Common	$11.60		.20		.035
All Brick and Plaster Mason Tender	12.10		.20		.035
Workmen cutting and burning w/a torch; Men working on the bottom of sewer trenches, etc.	11.85		.20		.035
Dynamite Men	13.20		.20		.035
Gillespie and Vicinity:					
Common	11.40		.40		.035
All Brick and Plaster Mason Tender	11.90		.40		.035
Workmen cutting and burning w/a torch; Men working on the bottom of sewer trenches, etc.	11.65		.40		.035
Dynamite Men	13.00		.40		.035
Mt. Olive and Vicinity:					
Common	11.50		.30		.035
All Brick and Plaster Mason Tender	12.00		.30		.035
Workmen cutting and burning w/a torch; Men working on the bottom of sewer trenches, etc.	11.75		.30		.035
Dynamite Men	13.10		.30		.035
Shipman and Vicinity:					
Common	11.35		.45		.035
All Brick and Plaster Mason Tender	11.85		.45		.035
Workmen cutting and burning w/a torch; Men working on the bottom of sewer trenches, etc.	11.60		.45		.035
Dynamite Men	12.95		.45		.035
Staunton and Vicinity:					
Common	11.20		.60		.035
All Brick and Plaster Mason Tender	11.70		.60		.035
Workmen cutting and burning w/a torch; Men working on the bottom of sewer trenches, etc.	11.45		.60		.035
Dynamite Men	12.80		.60		.035

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DECISION NO. IL79-2034

	Basic Hourly Rates	Fringe Benefits Payments			
		H & W	Pensions	Vacation	Education and/or Appr. Tr.
LABORERS: (CONT'D)					
Shelby County:					
Unskilled	11.35	.35	.40		.035
Semi-Skilled	11.55	.35	.40		.035
Skilled	11.70	.35	.40		.035
Christian County:					
Unskilled	10.34	.45	.40		.035
Semi-Skilled	10.54	.45	.40		.035
Skilled	10.69	.45	.40		.035
Macon County & the Western ½ of Moultrie County:					
Unskilled	11.25	.35	.50		.035
Semi-Skilled	11.45	.35	.50		.035
Skilled	11.60	.35	.50		.035
Ivesdale & South Thereof in Piatt County & all area east of Rt. #21 in Moultrie County					
Unskilled	11.05	.45	.60		.035
Semi-Skilled	11.25	.45	.60		.035
Skilled	11.40	.45	.60		.035
DeWitt County & the Remainder of Piatt County					
Unskilled	11.50	.30	.30		.035
Semi-Skilled	11.70	.30	.30		.035
Skilled	11.85	.30	.30		.035

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DECISION NO. IL79-2034

	Basic Hourly Rates	Fringe Benefits Payments			
		H & W	Pensions	Vacation	Education and/or Appr. Tr.
LATHERS:					
Macoupin County:					
Northern part of County	13.15				
Southern part of County	12.835			.65	.01
Christian County	13.15				
Piatt County	11.99	.45	.50		.01
PAINTERS:					
Macoupin County:					
Commerical	11.05	.55	.35		
Industrial & Tapers	11.30	.55	.35		
Christian County					
Brush and Rollers	10.15	.55	.50		
Sprau	10.65	.55	.50		
Macon, Shelby, Moultrie and Piatt & DeWitt Counties					
Brush and Roller	11.50	.60	.40		
Spray over Quart Cup	12.25	.60	.40		
PLASTERERS:					
Macoupin County: (Carlinville and Vicinity)	11.50	.50	.52		.02
Macon County, Christian County: (Norhtern part - south to a line running east and west established north of Humphrey and including Stonington); Shelby County: (Northern part including Moweawua) Moultrie County: (Northeastern part including Lovington); Piatt County: (southern portion); DeWitt County: Southern half including Clinton	13.02	.60	.425		.01
Remainder of Moultire & Shelby Counties	11.10				.01
Southern half of Christtian Co	11.70		.65		.01
Northern half of Piatt County	12.515	.45			.025
Remainder of DeWitt County	13.05				.01

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DECISION NO. IL79-2034

	Basic Hourly Rates	Fringe Benefits Payments			
		H & W	Pensions	Vacation	Education and/or Appr. Tr.
PLUMBERS and STEAMFITTERS:					
Macoupin County:					
North of Route #108	$12.43	.35	.88		.07
South of Route #108	13.60	.48	.96		.05
Macon; DeWitt; Moultrie Counties: Townships of Pana, Assumption and Radford in Christian County; West of Route #105 in Piatt County Shelby County; (East of Route #105) in Piatt County	13.00	.35	1.00		.15
Remainder of Christian County	12.43	.35	.88		.07
ROOFERS:					
Macoupin County:					
Northern half of County:					
Composition	12.93	.70			
Slate, Tile and Precast Slab	12.93	.70			
Southern half of County	10.95	.67	.55		.03
Macon; Shelby; Moultrie; DeWitt County: (Southern half of County, including Clinton); Christian County: (Townships of Assumption; Pinkle, Dollville, Mt. Auburn, Millville, Oshbernville, Owaneea, Pana, Radford, Rosamond, Stonington, Velma, Vanderville, Willeys	12.00	.30	.30		.02
Piatt County	12.39	.70	.45		.03
SHEET METAL WORKERS:					
Macoupin County	11.23	.55	.90	6%	.02
Macon, Christian, DeWitt Counties	12.93	3%+.75	.78		
Moultrie; Piatt and Shelby Counties	11.94	3%+.60	.67		.16
SPRINKLER FITTERS	12.10	.75	1.05		.08
TILE-TERRAZZO-MARBLE WORKERS:					
Macoupin County:					
Marble Setters	11.78	.70	.75		
Tile and Terrazzo Workers	11.92	.70	.75		.03
Macon and Shelby Counties	12.30	1.10	.50		.005
Christian County	11.25	.50	1.00		.02
DeWitt County	11.50	.70	.80		
Piatt County	12.30	1.10	.50		.005
WELDER - Receive rate prescribed for craft performing operation to which welding is incidental.					
FOONOTE: 3% of Gross Earnings to SASMI					

DECISION NO. IL79-2034

ILL-1-PEO-1-2-3

POWER EQUIPMENT OPERATORS: MOULTRIE COUNTY	Basic Hourly Rates	Fringe Benefits Payments: H & W	Pensions	Vacation	Education and/or Appr. Tr.
CLASS I	12.40	.55	.75		.08
CLASS II	12.30	.55	.75		.08
CLASS III	12.10	.55	.75		.08
CLASS IV	8.00	.55	.75		.08

POWER EQUIPMENT OPERATORS:

CLASS I: Master Mechanic

CLASS II: Utility Operator

CLASS III: Power cranes, Draglines, Electric overhead cranes, Shovels, Gradall, Mechanics, Repair and Maintenance of all equipment, Tractor highlift shovel, Forklifts, Tournamixer, 2 drums machine or 2 cage hoist, Cableways, Tower machines, Motor Patrol, Boom tractor, Boom or winch truck, Truck Crane, Tournapull, Tractor operating scoops, Bulldozer, Push Tractor, Finishing machine on Asphalt, Large rollers & rollers on asphalt, Gravel Macadam & Brick surface, Ross carrier or similar machine, Asphalt Plant Engineer or Pug Mill, Two (2) air compressors, Hetherington paver operator, Farm tractor with ½ yard bucket and/or backhoe attachment, Trench machines cutting over 24," Dredging equipment, Central mix plant engineer, concrete spreader, Air compressors 200 cu. ft. or over, Standard or Dinkey locomotives, Scoopmobiles, Euclid loader, Soil cement machine, Mixers 14S capacity or less, Trench Machine cutting 24" & under, Backfiller, Elevating machine, Power Blade, Asphalt Plant Engineer, Well drilling Machines, Paint Machine, Pipe Cleaning Machine, Pipe wrapping machine, Pipe Bending Machine, Apsco paver, Boring Machine, w/o winch, Head equipment, Greasers, Barber Green Loaders, Formless paver, Farm Tractor with less than half-yard bucket and other attachments except backhoe, Well Point System

CLASS IV: Power Sub-Grader, Bull Float, Form Grader, Finishing machine, Pavement breaker, Rock Crushers,One drum machine, air compressor less than 20 cu.ft. capacity, Concrete pump, Gunnite machine, Air Tuggers, Truck crane drivers, House Elevators when used for temporary heat, Small rollers on earth, Engine tenders, Fireman on pain pots, Fireman, Wagon Drill, Fexaplane, Conveyor, 2 to 4 Water Pumps, Siphon & Pulsometer, Switchman, Fireman on Asphalt plants, Distrbutor operator on trucks, Tampers, Power Broom, Post Hole Digger, Self Propelled Concrete Saw, Striping Machine (Motor Driven), Form Tamper, Seaman Tiller, Bulk Cement Plant Equipment Greaser

DECISION NO. IL79-2034

ILL-2-PEO-1-2-3

POWER EQUIPMENT OPERATORS: MACOUPIN COUNTY	Basic Hourly Rates	Fringe Benefits Payments: H & W	Pensions	Vacation	Education and/or Appr. Tr.
GROUP I	11.77	.87	1.51		.05
GROUP II	10.19	.87	1.51		.05
GROUP III	9.54	.87	1.51		.05
GROUP IV	9.44	.87	1.51		.05
GROUP V	9.19	.87	1.51		.05
GROUP VI					
a.	12.92	.87	1.51		.05
b.	13.92	.87	1.51		.05
c.	11.29	.87	1.51		.05
d.	11.79	.87	1.51		.05

POWER EQUIPMENT OPERATORS:

GROUP I Cranes, draglines, shovels, skimmer scoops, clamshells or derrick boats, pile drivers, crane-type backhoes, asphalt plant opers. plant opers., ditching machines or backfillers (requiring oilers), dredges, asphalt spreading machines, heavy duty mechanic, ass't. master mechanic, all locomotives, cableways or tower machines, hoists 2 drum or more (where oiler or fireman is required), hoists-2drum or more (where oiler or fireman is not required) Hydraulic backhoes, ditching machines or backfiller (not requiring oilers) Cherry pickers, overhead cranes, roller (Steam or gas) concrete pavers, excavators, concrete breakers, concrete pumps, bulk cement plants, cement pumps, derrick-type drills, mixers (over 3 bags) and boad oprs., (25' & over), Motor graders or pushcats, scoops or tournapulls, Bulldozers, endloaders or fork-lifts, power blade or elevating graders, winch cats, boom tractors, and pipe wrapping or painting machines, Drills (other than derrick type) 1-dum-hoists, mud jacks, mixers (2 or 3 bags), conveyors (2), air compressors (2), water pumps regardless of size (2), welding machines (2) siphons or jets (2), winch heads or apparatuses (2) and light plants (2), Mixers (under 2 bags), all tractors regardless of size (Straight tractor only), firemen on stationary boilers, automatic elevators, form grading machines, finishing machines, power-sub-grader or ribbon machine, longitudinal floats, boats oprs., (under 25', conveyors (1), distribution pors., on trucks, siphones or jets (1) winch heads or apparatuses (1), light plant (1) mixers (under 2 bags)

GROUP II Air Compressor (1), water pumps regardless of size (1) welding machines (1)

GROUP III Firemen and asphalt spreader oilers

GROUP IV Heavy equipment oilers (truck cranes, dredges, monigons, large cranes, etc.

GROUP V Oilers

GROUP VI
- a. Engineers operating under air pressure
- b. Engineers operating in air over 10 lbs pressure
- c. Oilers operating under air pressure
- d. Oilers operating in air over 10 lbs pressure

DECISION NO IL79-2034

ILL-5-PEO-1-2-3

POWER EQUIPMENT OPERATORS: Remainder of Counties	Basic Hourly Rates	Fringe Benefits Payments: H & W	Pensions	Vacation	App. Tr.
CLASS I	12.40	.70	.80		.05
CLASS II	10.85	.70	.80		.05
CLASS III	9.50	.70	.80		.05

POWER EQUIPMENT OPERATORS:

CLASS I - Asphalt screed man, Aspco concrete spreaders, Asphalt pavers, Asphalt rollers on bituminous concrete, athey loaders, backfillers, crane type, backhoes, cableways, cherry pickers, olaim shell, C.N.E. & similar type autograde formless paver, autograde placer & finisher, concrete breakers, concrete plant operators, concrete pumps, cranes, derrick, derrick boats, draglines, earth augeror boring machines, levating graders eingeers on dredge, gravel processing machines, high list or fork lists, hoist w/two drums or two or more loadlines locomotives (all) mechanics, motar graders or auto patrols, operators or levelman on dredges, operators power boat, operators pug mill (asphalt plants), orange peels, overhead cranes, paving mixers, pilsdrivers, pipe wrapping & painting machines, push dozers, or push cats, rock crushers, ross carriers or similar machines, scoops, skimmer, 2 cu. yd. capacity & under, sheep foot foller (self propelled) shovels, skimmer scoops, test holedrilling machines, tower cranes, tower machines, tower mixers, track type and loaders, track type fork lists or high lifts, track jacks & tamper, tractor, sideboom, trenching machine, ditching machine, tunnelluggers, wheel type end loaders, winch cat, scoops, all or tournapull.

CLASS II - Asphalt boosters & heaters, asphalt distributors, asphalt plant fireman, oiler on 2 paving mixers when used in tandem boom or winch truck, building elevator, bull floats or flexplanes, concrete finishing machines, concrete saws, self propeller, concrete saws, self propeller, concrete spreader machines, gravel or stone spreader, power operated, head equipment greaser, hoist automatic, hoist w/1 drum & 1 load line, mud jacks, post holediggers, mechanical, road or street sweeper-self propelled, seaman tiller, straw machine, vibratory compactor, well drill machines scissors hoist.

CLASS III - Air compressor*, air compressors, track or self-propelled, asphalt plant engineers, bulk cement batching plants, conveyors,* concrete mixers (except plant, paver, tower) firemen, generators*, greasers, helper on single paving mixer, light plants*, mechanic helpers, mechanical heaters*, oilers, power from graders, power sub-graders, pug mills, when used for other than asphalt operation, rollers (except bituminous concrete) tractors w/o power attachments regardless of size of type) truck crane oiler & driver 1 (man), water pumps*, welding machines (one 300 amp. or over*)* welding machines*

*COMBINATIONS OF ONE TO FIVE OF ANY AIR COMPRESSORS, CONVEYORS, WELDING MACHINES, WATER PUMPS, LIGHT PLANTS OR GENERATORS SHALL BE IN BATTERIES OR WITHIN 300 FT.

DECISION NO IL79-2034

ILL-82-TD-1-2-3

TRUCK DRIVERS	Basic Hourly Rates	Fringe Benefits Payments: H & W	Pensions	Vacation	Education and/or Appr. Tr.
GROUP I	10.80	.65	a20.00		
GROUP II	11.20	.65	a20.00		
GROUP III	11.40	.65	a20.00		

TRUCK DRIVERS

GROUP I: - Drivers on 2 axle trucks hauling less than 9 tons, air compressor and welding machine including those pulled by separate units, truck driver helpers, warehouseman, mechanic helpers, greasers & firemen, pick-up trucks when hauling materials, tools, or men to and from and on the jobs site; Fork lifts up to 6,000 lbs., capacity.

GROUP II: - 2 or 3 axle trucks hauling more than 9 ton, but hauling less than 16 tons; A-frame winch trucks, hydrolifts trucks, or similar equipment when used for transportaion purposes; Fork lifts over 6,000 lb. capacity; winch trucks; 4-axle combination units; ticket writers

GROUP III: - 2,3 or 4 axle trucks hauling 16 ton or more, drivers on oil diatributores, water pulls, mechanics & working foreman; 5-axle or more combination units; dispatchers

FOOTNOTES

a. Per week Per Employee

SUPERSEDEAS DECISION

STATE: Illinois

COUNTIES: Cass, Morgan and Scott

DECISION NUMBER: IL79-2035

DATE: Date of Publication

Supersedes Decision No. IL78-2120, dated October 20, 1978, in 43 FR 49184

DESCRIPTION OF WORK: Building Construction Projects, (excluding single family homes and garden type apartments up to and including 4 stories)

	Basic Hourly Rates	Fringe Benefits Payments H & W	Pensions	Vacation	Education and/or Appr. Tr.
ASBESTOS WORKERS	12.63	.80	.67		
BOILERMAKERS	11.45	.95	1.20		.03
BRICKLAYERS:					
Morgan and Scott Counties: Bricklayers, Stonemasons, Plasterers, Marble-Tile and Terrazzo Workers, Cement Block Layers-Pointers-Caulkers and Cleaners.	11.50	.50	.52		.02
Cass County: Bricklayers	11.50	.50	.52		.02
CARPENTERS:					
Carpenters and Soft Floor Layers	10.90	.55	.25		.02
Millwrights	11.15	.55	.25		.02
Piledrivermen	11.40	.55	.25		.02
CEMENT MASONS AND PLASTERERS:					
Morgan and Scott Counties: Cement Masons	11.255	.50	.52		.02
Cass County:					
Cement Masons	9.98	.35	.35		.02
Plasterers	13.26	.65	1.00		.01
ELECTRICIANS	12.37	.50	3%+bo		.1 of 1%
ELEVATOR CONSTRUCTORS:					
Morgan and Scott Counties:					
Contructors	11.34	.745	.56	a+b	.025
Helpers	70%JR	.745	.56	a+b	.02
Helpers (Prob.)	50%JR				
GLAZIERS:					
Morgan and Scott Counties	10.39	.45	.50		
IRONWORKERS	12.75	.55	1.05		.08
LABORERS:					
Unskilled	10.44	.30	.45		.035
Semi-Skilled	10.64	.30	.45		.035
Skilled	10.79	.30	.45		.035
LATHERS	13.15				
PAINTERS:					
Brush and Roller	10.15	.55	.50		
Spray	10.65	.55	.50		
PLUMBERS AND STEAMFITTERS	12.43	.35	.88		.07

DECISION NO. IL79-2035

	Basic Hourly Rates	Fringe Benefits Payments H & W	Pensions	Vacation	Education and/or Appr. Tr.
ROOFERS:					
Composition	12.93	.70			
Slate-Tile-Precast Slab	12.93	.70			
SHEET METAL WORKERS	12.93	.75+c	.78		
SPRINKLER FITTERS	12.10	.75	1.05		.08
WELDER: Receive rate prescribed for craft performing operation to which welding is incidental.					

PAID HOLIDAYS: (WHERE APPLICABLE)

A-New Year's Day; B-Memorial Day; C-Independence Day; D-Labor Day; E-Thanksgiving Day; F-Day After Thanksgiving; G-Christmas Day

FOOTNOTES:

a. Seven Paid Holidays

b. Employer contributes 8% of regular hourly rate to Vacation Pay Credit for employee who has worked in the business more than 5 years. Employer contributes 6% of regular hourly rate to Vacation Pay Credit for employees who has worked in the business less than 5 years.

c. 3% of gross earnings to SASMI.

DECISION NO IL79-2035

ILL-5-PEO-1-2-3

POWER EQUIPMENT OPERATORS:	Basic Hourly Rates	Fringe Benefits Payments H & W	Pensions	Vacation	App. Tr.
CLASS I	$12.40	.70	.80		.05
CLASS II	10.85	.70	.80		.05
CLASS III	9.50	.70	.80		.05

POWER EQUIPMENT OPERATORS:

CLASS I - Asphalt screed man, Aspco concrete spreaders, Asphalt pavers, Asphalt rollers on bituminous concrete, athey loaders, backfillers, crane type, backhoes, cableways, cherry pickers, claim shell, C.M.E. & similar type autograde formless paver, autograde placer & finisher, concrete breakers, concrete plant operators, concrete pumps, cranes, derrick, derrick boats, draglines, earth augeror boring machines, levating graders cingsers on dredge, gravel processing machines, high list or fork lists, hoist w/two drums or two or more loadlines locomotives (all) mechanics, motar graders or auto patrols, operators or levelman on dredges, operators power boat, operators pug mill (asphalt plants), orange peels, overhead cranes, paving mixers, piledrivers, pipe wrapping & painting machines, push dozers, or push cats, rock crushers, ross carriers or similar machines, scoops, skimmer, 2 cu. yd. capacity & under, sheep foot roller (self propelled) shovels, skimmer scoops, test holedrilling machines, tower cranes, tower machines, tower mixers, track type and loaders, track type fork lists or high lifts, track jacks & tamper, tractor, sideboom, trenching machine, ditching machine, tunnelluggers, wheel type end loaders, winch cat, scoops, all or tournapull.

CLASS II - Asphalt boosters & heaters, asphalt distributors, asphalt plant fireman, oiler on 2 paving mixers when used in tandem boom or winch truck, building elevator, bull floats or flexplanes, concrete finishing machines, concrete saws, self propeller, concrete saws, self propeller, concrete spreader machines, gravel or stone spreader, power operated, head equipment greaser, hoist automatic, hoist w/1 drum & 1 load line, mud jacks, post holediggers, mechanical, road or street sweeper-self propelled, seaman tiller, straw machine, vibratory compactor, well drill machines scissors hoist.

CLASS III - Air compressor*, air compressors, track or self-propelled, asphalt plant engineers, bulk cement batching plants, conveyors,* concrete mixers (except plant, paver, tower) firemen, generators*, greasers, helper on single paving mixer, light plants*, mechanic helpers, mechanical heaters*, oilers, power from graders, power sub-graders, pug mills, when used for other than asphalt operation, rollers (except bituminous concrete) tractore w/o power attachments regardless of size of type) truck crane oiler & driver 1 (man), water pumps*, welding machines (one 300 amp. or over*)* welding machines*

*COMBINATIONS OF ONE TO FIVE OF ANY AIR COMPRESSORS, CONVEYORS, WELDING MACHINES, WATER PUMPS, LIGHT PLANTS OR GENERATORS SHALL BE IN BATTERIES OR WITHIN 300 FT.

DECISION NO. IL79-2035

ILL-82-TD-1-2-3

TRUCK DRIVERS	Basic Hourly Rates	Fringe Benefits Payments H & W	Pensions	Vacation	Education and/or Appr. Tr.
GROUP I	$10.80	.65	a20.00		
GROUP II	11.20	.65	a20.00		
GROUP III	11.40	.65	a20.00		

TRUCK DRIVERS

GROUP I - Drivers on 2 axle trucks hauling less than 9 tons, air compressor and welding machine including those pulled by separate units, truck driver helpers, warehouseman, mechanic helpers, greasers & firemen, pick-up trucks when hauling materials, tools, or men to and from and on the jobs site; Fork lifts up to 6,000 lbs., capacity.

GROUP II - 2 or 3 axle truck hauling more than 9 ton, but hauling less than 16 tons; A-frame winch trucks, hydrolifts trucks, or similar equipment when used for transportation purposes; Fork lifts over 6,000 lb. capacity; winch trucks; 4-axle combination units; ticket writers

GROUP III - 2,3 or 4 axle truck hauling 16 ton or more, drivers on oil distributors, water pulls, mechanics & working foreman; 5-axle or more combination units; dispatchers

FOOTNOTES:

a. Per week Per employee

SUPERSEDEAS DECISION

STATE: Illinois
DECISION NUMBER: IL79-2036
Supersedeas Decision No. IL78-2122, dated October 20, 1978 in 43 FR 49186
DESCRIPTION OF WORK: Building (including Residential) and Dredging Construction Projects

COUNTIES: Peoria and Tazewell
DATE: Date of Publication

	Basic Hourly Rates	Fringe Benefits Payments			
		H & W	Pensions	Vacation	Education and/or Appr. Tr.
ASBESTOS WORKERS	13.01	.91	.99		.05
BOILERMAKERS	11.45	.95	1.00		.03
BRICKLAYERS AND STONEMASONS	11.70	.70	1.00		.01
CARPENTERS:					
Residential					
Peoria County:					
Chillicothe & Vicinity	10.78	.75	.70		.03
Tazewell County & Remainder of Peoria County	12.61	.40	.75		.05
Commerical					
Peoria County:					
Chillicothe & Vicinity:					
Carpenters, Piledrivermen & Soft Floor Layers	11.68	.75	.70		.03
Millwrights	11.93	.75	.70		.03
Tazewell County & Remainder of Peoria County:					
Carpenters & Soft Floor Layers	12.61	.40	.75		.05
Millwrights & Piledrivermen	13.11	.80	.90		.05
CEMENT MASONS	12.16	.50	3%+.75		3/4%
ELECTRICIANS	12.32				
ELEVATOR CONSTRUCTORS:					
Constructors	11.195	.745	.56	a+b	.025
Helpers	70%JR	.745	.56	a+b	.025
Helpers (Prob.)	50%JR				
GLAZIERS	12.33	.55	.60		.01
IRONWORKERS	12.825	.65	.925		
LATHERS	11.92	.40	.40		.01
MARBLE-TILE & TERRAZZO WORKERS	11.45	.70	1.00		.01
MARBLE & TILE FINISHERS	11.85	.60	.25		
TERRAZZO FINISHERS:					
Terrazzo Finishers & Floor Machine Operator	11.98	.60	.25		
Base Machine Operator	12.23	.60	.25		

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DECISION NO. IL79-2036

	Basic Hourly Rates	Fringe Benefits Payments			
		H & W	Pensions	Vacation	Education and/or Appr. Tr.
PAINTERS:					
Brush	11.30	.55	.30		.03
Structural Steel & Spray	11.95	.55	.30		.03
PLASTERERS	11.20	.80	.90		.03
PLUMBERS & STEAMFITTERS:					
Peoria County & North of Highway 498 in Tazewell Co.	13.56	.51	1.05		.15
Remainder of Tazewell County	13.55	.51	1.02		.11
ROOFERS	12.85	.70	.40		.025
SHEET METAL WORKERS	12.68	.65	.99		.10
SPRINKLER FITTERS	12.10	.75	1.05		.08
Welders - receive rate prescribed for craft performing operation to which welding is incidental.					

PAID HOLIDAYS: (WHERE APPLICABLE)

A-New Year's Day; B-Memorial Day; C-Independence Day; D-Labor Day; E-Thanksgiving Day; F-Day after Thanksgiving; G-Christmas Day

FOOTNOTES:

A. Six Paid Holidays; A through G

b. Employer contributes 8% of regular hourly rate to vacation pay credit for employer who has worked in business less than 5 years. Employer contributes 6% of regular hourly rate to vacation pay credit for employee who has worked in business less than 5 years.

c. Nine paid holidays, A through F plus Washington's Birthday and Good Friday and Christmas Eve providing employee has worked 45 full days during the 120 calendar days prior to the holiday, and the regular schedule work days immediately preceding and following the holiday.

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DECISION NO. IL79-2036

ILL-28-LAB-1

LABORERS: PEORIA COUNTY & THE CITY OF EAST PEORIA (TAZEWELL COUNTY)	Basic Hourly Rates	Fringe Benefits Payments			
		H & W	Pensions	Vacation	Education and/or Appr. Tr.
CLASS 1	$11.41	.55	.65		.035
CLASS 2	11.535	.55	.65		.035
CLASS 3	11.66	.55	.65		.035
CLASS 4	11.585	.55	.65		.035
CLASS 5	11.785	.55	.65		.035
CLASS 6	11.535	.55	.65		.035
CLASS 7	11.66	.55	.65		.035

CLASS 1 - Bricklayers tenders, Common Laborers, carpenter tenders, cement mason tenders, concrete form dismantler, Stone & tile derrickmen, Tool Crib men, Window washers, Wrecking & dismantling Old Buildings, wall men & house movers, Curing concrete

CLASS 2 - Cement men & sack shakers, concrete saw, drill operator, jackhammer, Kettlemen & carriers, men handling hot stuff, singalling & spotting of buckets on rig or rig men paving breaker, plasterers tenders, air tamper chain saw,

CLASS 3 - Gunnite pumpmen, sandblasting pump men, tile layers or laterial sewer, Unloading & handling of creosote materials.

CLASS 4 - Power wheel barrow or buggies

CLASS 5 - Cutting & Acetylene torch, gunnite nozzle men, sandblasting nozzle men, woodblock setters

CLASS 6 - Concrete form dismatler in composite crew with carpenters, compactor rammer type, setting up and using laser beam equipment

CLASS 7 - Setting up and using concrete burning bars, underpinning & shoring of existing buildings.

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DECISION NO. IL-79-2036

ILL-34-LAB-1

LABORERS: REMAINDER OF TAZEWELL COUNTY	Basic Hourly Rates	Fringe Benefits Payments			
		H & W	Pensions	Vacation	Education and/or Appr. Tr.
UNSKILLED	$11.41	.60	.60		.035
SEMI-SKILLED	11.61	.60	.60		.035
SKILLED	11.81	.60	.60		.035

UNSKILLED:
Carpenter Tender, Tool Cribmen, Cleaning & Oiling of Machinery, Firemen or Salamander Tenders, Flagmen, Gravel Box Men, Form Handlers, Material Handlers, Fencing Laborers, Cleaning Lumber, Pit Men, Material Checkers, Dispatchers, Landscapers, Unloading Explosives, Laying of Sod, Planting of Trees, Removal of Trees, Pile Driver Helpers, Asphalt Plant Helpers, Wrecking Laborers, Fire-proofing Laborers, Surveyors & Instrument Men Helpers, Janitors, Driving of Stakes, String Lines for all Machinery, Unloading & Laborers w/Steel Workers & Re-Bars, Mason Tenders, Scaffold Workers, Laborers with De-Watering Systems, Plaster Tenders

SEMI-SKILLED:
Handling of materials treated w/oil, crosote & asphalt, Track Laborers, Cement Handlers, Concrete Workers (Wet), Cloride Handlers, Tunnel Helpers in Free Air, Batch Dumpers, Kettle & Tar Men, Tank Cleaners, Plastic Installers, Motorized Buggies, Sewer Workers, Vibrator Operators, Mortar Mixer Operators, Cement Silica, Clay, Fly Ash, Lime & Plaster Handlers (Bulk or Bag), Cofferdam Workers, Concrete Paving, Placing, Cutting & Tying of R inforcing, Deck Hand, Dredge Hand & Shore Laborers, Bank Man on Floating Plant, Asphalt Workers & Layers w/ Machine, Grade Checker, Dumpmen, Spotter where grade is to be established, Power Tools, Chain Saw Operators, Jackhamer & Drill Operators, Air Tamping Hammerman, Tree Topping, Signalling & Spotting of Rigs & Equipment.

SKILLED:
Caisson Workers plus depth, Gunnite Nozzle Men, Leadman on Sewer Work, Welders, Cutters, Burners & Torchmen, Layout Man and/or Tile Layer, Steel Form Setters-Street & Highway, Concrete Saw Operator, Screenman on Asphalt Pavers, Front end man on Chip Spreader, Laborers tending Masons w/hot materials or foreign materials are used, Multiple Concrete Duct-Leadman, Lutemen, Curb Asphalt Machine Operator, Ready-Mix Scalemen, Permanent, Portable or Temporary Plant, Laser Beam Operator, Concrete Burning Machine & Coring Machine Operators, Underpinning and Shoring or Buildings, Dynamite Shooter.

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DECISION NO. IL79-2036

POWER EQUIPMENT OPERATORS	Basic Hourly Rates	Fringe Benefits Payments			
		H & W	Pensions	Vacation	Education and/or Appr. Tr.
GROUP 1	$13.08	.45	.80		.05
GROUP 2	12.88	.45	.80		.05
GROUP 3	12.505	.45	.80		.05
GROUP 4	12.23	.45	.80		.05
GROUP 5	11.62	.45	.80		.05

GROUP 1 - Cranes, escalated rate on crane, derricks, booms, $.01 per hour, per foot, after 80 feet or boom including jib overhead cranes, gradall, cherry pickers (and similar types, over 15 ton lifting capacity (require oiler), mechanic, central concrete mixing plant operator, road pavers (27E-dual drum-tri batchers), blacktop plant opeators and plant engineers, 3 drum joist, derricks, hydro cranes, shovels skimmer scoops, koehring scoopers, draglines, backhoe, hoptoes-crane-type that require oiler, derrick boats, pile drivers and skid rigs, clamshells, locomotive cranes, dredge (all types). motor petrol, power bladea dumore-elevating and similar types tower cranes (crawler mobile) and stationary, crane-type backfiller, drott yumbo and similar types considered as cranes, caisson rigs (require oilers) dozer, tourna-dozer, work boats, ross carrier and helicopter

GROUP 2 - Trench machine pumpcrete-belt crete-squeeze cretes-screw-type pumps and gypsum bulker and pump, dinkeys, power launches, tournapulls (all), multiple unit, earth movers, $.25 per hour for each scoop over one, scoops (all sizes), push cats, endloaders (all types), side boom, P-H one pass soil-cement machine (all similar types), wheel tractors (industrial or farm type w/dozer-hoe-end-loader or other attachments), pugmill with pump backfillers, asphalt surfacing machine, euclid loader, forklifts, formless finishing machine, jeeps w/ditching machine, or other attachments, tuneluger, rock crushers, automatic cement and gravel batching plants, mobile drills (soil and similar types), require oiler), flaherty spreader or aimilar types (require oiler), heavy equipment greaser (top greaser on spread), gurries and aimilar type), 1 and 2 drum hoists (buck hoists and similar types freight and passenger elevators chicago boom, boring machine and pipe jacking, machine, hydro boom, starting engineer on pipeline, C.M.I. and similar types (require oiler) straw blower, hydro seeder and F.W.D and similar types

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DECISION NO. IL79-2036

POWER EQUIPMENT OPERATOR (CONT'D)

GROUP 3 - Tractor (track type) without power unit pulling rollers, rollers on asphalt, brick or macadam, concrete breakers, concrete spreaders, mule pulling rollers, center stripper, cement finishing machines, barger greene or similar laoders, vibro tamper (all similar types), self-propelled, winch or boom truck, mechanical bull floats, mixer over 3 bags to 27E, tractor pullign power blade or elevating grader, porter rex rail, clary screed, pugmill (without pump) screed man on laydown machine, firemen and spray machine on paving

GROUP 4 - air compressor, all air and steam valves, power subgrader, oil distributor, straight tractor, trac-are without attachments, curb machine, truck cranes oiler, and truck type hoptoe oilers

GROUP 5 - Herman Nelson heater, Dravo, Warner, Silent glo, & similar types, one engineer will operate 1-5 and after 5, two operators will be required, self-propelled concrete saws, assistant heavy equipment greaser on spreed, roller, 5 tons and under on earth or gravel, form grader, pump 1 or 2, ganerator (1) or (2), welding machine (1) or (2) - 300 amp. or over, mixer (3) bag and under (standard capacity) bulk cement plant, crawler crane and skid rig oilers

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DECISION NO. IL79-2036 ILL-82-TD-1-2-3

TRUCK DRIVERS	Basic Hourly Rates	Fringe Benefits Payments			
		H & W	Pensions	Vacation	Education and/or Appr. Tr.
GROUP I	$10.80	.65	a20.00		
GROUP II	11.20	.65	a20.00		
GROUP III	11.40	.65	a20.00		

GROUP I - Drivers on axle trucks hauling less than 9 tons, air compressors and welding machine including those pulled by separate units, truck driver helpers, warehouseman, mechanic helpers, greasers & tiremen, pick-up trucks when hauling materials, tools, or men to and from and on the jobs site; fork lifts up to 6,000 lbs. capacity

GROUP II - 2 or 3 axle trucks hauling more than 9 ton, but hauling less than 16 tons; A-frame winch truck, hydrolifts trucks, or similar equipment when used for transportation purposes; fork liftn over 6,000 lb. capacity; winch truck; 4-axle combination units; ticket writers

GROUP III - 2,3 or 4 axle truck hauling 16 ton or more, drivers on oil distributors, water pulls, mechanics & working foreman; 5-axle or more combination units; dispatchers

FOOTNOTES:
a. Per Week Per Employee

DREDGING CONSTRUCTION:	Basic Hourly Rates	Fringe Benefits Payments			
		H & W	Pensions	Vacation	Education and/or Appr. Tr.
GROUP 1	$13.07	.45	.80		.05
GROUP 2	12.87	.45	.80		.05
GROUP 3	12.495	.45	.80		.05
GROUP 4	12.22	.45	.80		.05
GROUP 5	11.61	.45	.80		.05

GROUP 1 - Operators on hydraulic dipper or clamshell dredges, Engineers and Repairmen, Operators on work boats
GROUP 2 - Power Winches 1-2-3 Drums
GROUP 3 - Security Engineer
GROUP 4 - Cranemen on dipper dredges, operators on launches or power boats
GROUP 5 - Firemen & Oilers

SUPERSEDEAS DECISION

STATE: Illinois COUNTIES: *See bleow
DECISION NUMBER: IL79-2037 DATE: Date of Publication
Supersedes Decision No.: IL78-2125, dated October 20, 1978 in 43 FR 49192
DESCRIPTION OF WORK: Building Construction Projects (excluding single family homes and garden type apartments up to and including 4 stories).

*Counties: Alexander, Franklin, Gallitin, Hamilton, Hardin, Jackson, Jefferson, Johnson, Marion, Massac, Perry, Pope, Pulaski, Saline, Union, White & Williamson

	Basic Hourly Rates	Fringe Benefits Payments			
		H & W	Pensions	Vacation	Education and/or Appr. Tr.
ASBESTOS WORKERS:					
Alexander, Jackson, Jefferson, Marion, Perry & Unions Cos.,	$12.63	.80	.97		
REMAINDER OF Counties	11.70	.45	1.00		.03
BOILERMAKERS	11.45	.95	1.20		.03
BRICKLAYERS & STONEMASONS:					
Marion County:					
Bricklayers, Stonemasons, Marble-Tile-Terrazzo Workers, Cement Blocklayers, Pointers, Cleaners & Caulkers	10.70	.35	.50		
Remainder of Counties:					
Bricklayers, Stonemasons, Marble-Tile-Terrazzo Workers, Cement Blocklayers, Pointers, Caulkers & Cleaners	10.80	.65	.45		
CARPENTERS:					
Marion County:					
Carpenters, Piledrivermen & Soft Floor Layers	10.06	.50	.50		.03
Millwrights	10.41	.50	.50		.03
Hamilton, Jefferson & White Counties:					
Carpenters, Piledrivermen & Soft Floor Layers	10.11	.45	.50		.02
Millwrights	10.46	.45	.50		.02
Remainder of Counties:					
Carpenters, Piledrivermen, Millwrights & Soft Floor Layers	11.00	.54	.50		.05
CEMENT MASONS & PLASTERERS:					
Marion County:					
Centrailia & Vicinity					
Cement Masons	10.75				.01
Plasterers	10.85				.01
Franklin, Hamilton, Jefferson & Williamson Counties	10.70				
Saline, Gallatin, Hardin, Pope, Johnson, Massac & White Cos.	10.70				

DECISION NO. IL79-2037

	Basic Hourly Rates	Fringe Benefits Payments			
		H & W	Pensions	Vacation	Education and/or Appr. Tr.
CEMENT MASONS & PLASTERERS (CONT'D):					
Alexander, Jackson, Perry, Pulaski & Union Counties	$10.70				
ELECTRICIANS	12.50	.40	13%		1%
IRONWORKERS:					
Marion & Perry Cos: Jefferson (Mt. Vernon & All Area West thereof) County	12.10	.55	1.05		
Alexander, Franklin, Gallatin, Hardin, Jackson, Johnson, Massac, Pope, Pulaski, Union & Williamson Counties	11.60	.55	.85		.05
LABORERS:					
Marion County:					
Central & Vicinity Laborers	7.75		.30		.035
Salem & Vicinity					
Unskilled	6.80		.30		.035
Skilled	7.05		.30		.035
Pataka & Sandoula & Vicinity Laborers	9.00	.50	.30		.035
Hamilton, Jefferson & White Counties	9.00	.50	.30		.035
Remainder of Counties	8.70	.50	.30		.035
PAINTERS:					
Marion County:					
Centrailia & Vicinity					
Brush & Structural Steel	9.25				
Roller	9.50				
Spray	10.25				
Salem, Flora, Clay & Vicinity					
Brush	8.00				
Roller, Spray	9.25				
Structural Steel	10.00				
Union County:					
Commercial	8.75				
Industrial	9.25				
White County:					
Brush & roller	9.65	.65	.30		
Spray	10.65	.65	.30		
Jefferson & Hamilton Counties:					
Brush and Roller	6.80				
Structural Steel & Spray	9.00				
Massac County					
Brush and Roller	8.10	.40			
Spray	11.05	.40			

DECISION NUMBER IL79-2037

	Basic Hourly Rates	Fringe Benefits Payments			
		H & W	Pensions	Vacation	Education and/or Appr. Tr.
PAINTERS: (CONT'D)					
Jackson & Perry Counties:					
Commercial	$ 9.00				
Industrial	10.90				
Franklin & Williamson Counties:					
Commercial	9.45				
Industrial	10.20				
Gallatin, Hardin, Pope, Saline Counties:					
Brush	6.90				
Struc, Steel & Drywall	7.15				
Spray	7.25				
Alexander, Johnson, Pulaski Counties:					
Commercial	8.78				
Industrial	10.91				
PLUMBERS & STEAMFITTERS:					
Marion County	13.00	1.20	1.40		.15
White County:					
- Crossville, Phillipstown, Emma & Maurine	13.575	.50	.90		.06
Remainder of County	13.45	.50	.90		.06
Alexander, Hardin, Massac, Jackson, Johnson, Perry, Pope, Pulaski & Union Counties	13.65	.30	.55		.08
Franklin, Hamilton, Jefferson, Saline, Williamson, & Gallatin Counties	12.90	.55	.75		.08
ROOFERS:					
Gallatin, Hardin & White Cos.					
Composition	10.63	.60	.50		
Slate & Tile	10.88	.60	.50		
Remainder of Counties	9.40	.60	.20		
SHEET METAL WORKERS	11.23	.45	.20	6%	.02
SPRINKLER FITTERS	12.10	.75	1.05		.08
WELDERS - receive rate prescribed for craft performing operation to which welding is incidental.					

DECISION NO. IL79-2037

	Basic Hourly Rates	Fringe Benefits Payments			
		H & W	Pensions	Vacation	Education and/or Appr. Tr.
POWER EQUIPMENT OPERATORS					
REMAINDER OF COUNTIES					
Class 1	$12.00	.55	.60		.035
Class 2	11.00	.55	.60		.035
Class 3	10.70	.55	.60		.035
Class 4	10.40	.55	.60		.035
Class 5	9.65	.55	.60		.035
Class 6	11.00	.55	.60		.035
Class 7	10.70	.55	.60		.035
Class 8	10.20	.55	.60		.035
Class 9	10.15	.55	.60		.035
Class 10	9.55	.55	.60		.035
RIVER WORK and LEVEE WORK ON MISSISSIPPI and OHIO RIVERS					
Class 11	12.10	.55	.60		.035
Class 12	10.10	.55	.60		.035

POWER EQUIPMENT OPERATORS:

Class 1: Apsco or equal spreading machine; Backhoe; Backfiller; Boom or winch cat; Bituminous mixplace machine; Backsmith; Bituminous surfacing machine; Bulldozer; Crane; Shovel; Dragline; Truck crane; Piledriver; Concrete finishing machine or spreader machine; Concrete breaker; Concrete or pumpcrete pump; Dinky or standard locomotive; Drill well; Elevating grader; Forklifts; Rubbertired; Flex-plane; Gradall; Hi-lift; handblade, power; Hoists; Tugger type; Hoist, (2 drum) or over one; Guy-derrick; Hyster mechanic; Motor patrol; Mixer 21 cu. ft. or over; Push cat; Pulls and scrapers; Pumps; 2 well points; P&H pulverizer or pulverizer equal to pugmill; Rubber-tired farm type tractor with bulldozer or hi-lift (Over 1/2 yd.), Rubber-tired tractor w/auger; Skimmer scoops; Seaman tiller; Spreader, Jersey; Tract-air used w/drill or Hi-lift; Trenching machine; or ditching machine; Wood chipper with tractor; Self-propelled roller w/10 ft. blade; Concrete pumps; Equipment greader.

Class 2: Roller, self-propelled; Power subgrader; Elevator operator

Class 3: Rubber-tired farm type tractor w/bull dozer or hi-lift (½ yd. or less)

Class 4: Pump, one well point; All tract type tractors, pulling any type roller or disc.

Class 5: Oiler; All wheel type tractors, Oiler on 30 Hp ditches and over; Oiler; Hydra-crane with 15 ton lifting capacity or more and cranes similar to Hydra-crane w/15 ton capacity and more.

POWER EQUIPMENT OPERATORS (CONT'D)

Class 6: Air compressor w/valve driving piling air compressors, two (220 cu. ft. capacity or over); Air track drills, air track drill w/compressor; Automatic bins scales w/compressor or generator; pipeline boring machine; Bulk cement plant w/separate compressor bulk float power operator; Concrete saws, (two); Hydra-lift (single motor); Straw mulcher blower w/spout

Class 7: Backend man on bituminous surfacing machine; Boom or winch truck; Cat wagon w/or without dump; Conveyors, two; Chip spreader, self-propelled concrete saw, on self-propelled; Form grader, Heater, (motor driven); Hoist; 1 drum; Truck crane oiler; Vibrator, Self-propelled.

Class 8: Air track drill (one); Belt drag machine, Power boom; Mechanical; Plasterers applicator; Tract-air

Class 9: Air compressor (220 cu. ft. capacity or over), one; Air compressor under (220 cu. ft.), two; Automatic bins; Bulk cement plant w/built in compressor, running of same motor or electric motor; Firemen or switchmen; Form tamper, self-propelled; Light plants (two); Welding machine (two); Pumps (two); or combination or 2 pumps; Light plants, welding machines, air compressor (under 200 cu. ft.); Mud jacks or wood chipper; Mixers, less than 21 cu. ft., Motor mixer w/skip or pump; Pipeline track jack

Class 10: Air compressor, under 220 cu. ft. capacity (one); Conveyor (one); Conveyor operator on self-propelled chip spreader; Heater (one); Motor drive; Light plant (one) pump (one); Welding machine (one) Ulmac or equal spreader.

RIVER WORK and LEVEE WORK on MISSISSIPPI and OHIO RIVERS

Class 11: Crane, shovel, dragline 4 yards or more, scraper, 18 yards, struck or over, dredge, derrick and piledriver, push boat operator, mechanic or 4 yards machine or over, Engine man on dredge, Levee man on dredge.

Class 12: Oiler on crane, dragline, shovel, 4 yard machine or over; Oiler on dredge.

DECISION NO. IL79-2037 PAGE 6

ILL-2-PRO-1-2-3

JEFFERSON, PERRY, & MARION COUNTIES

POWER EQUIPMENT OPERATORS:	Basic Hourly Rates	Fringe Benefits Payments			
		H & W	Pensions	Vacation	Education and/or Appr. Tr.
GROUP I	$11.77	.87	1.51		.05
GROUP II	10.19	.87	1.51		.05
GROUP III	9.34	.87	1.51		.05
GROUP IV	9.44	.87	1.51		.05
GROUP V	9.19	.87	1.51		.05
GROUP VI					
a.	13.92	.87	1.51		.05
b.	13.92	.87	1.51		.05
c.	11.29	.87	1.51		.05
d.	11.79	.87	1.51		.05

POWER EQUIPMENT OPERATORS:

GROUP I Cranes, draglines, shovels, skimmer scoops, clamshells or derrick boats, pile drivers, crane-type backhoes, asphalt plant opers. plant opers., ditching machines or backfillers (requiring oilers), dredges, asphalt spreading machines, heavy duty mechanics, ass't. master mechanic, all locomotives, cableways or tower machines, hoists 2 drum or more (where oiler or fireman is required), hoists-2 drum or more (where oiler or firemen is not required) Hydraulic backhoes, ditching machines or backfiller (not requiring oilers) Cherry pickers, overhead cranes, roller (Steam or gas), concrete pavers, excavators, concrete breakers, concrete pumps, bulk cement plants, cement pumps, derrick-type drills, mixers (over 3 bags) and boad oprs., (25' & over), Motor graders or pushcats, scoops or tournapulls, Bulldozers, endloaders or fork-lifts, power blade or elevating graders winch cats, boom tractors, and pipe wrapping or painting machines, Drills, (other than derrick type) 1-drum hoists, mud jacks, mixers (2 or 3 bags), conveyors (2), air compressors (2), water pumps regardless of size (2), welding machines (2) siphons or jets (2), winch heads or apparatuses (2) and light plants (2), Mixers (under 2 bags), all tractors regardless of size (Stright tractor only), firemen on stationary boilers, automatic elevators, form grading machines, finishing machines, power-sub-grader or ribbon machine, longitudinal floats, boat oprs., (under 25', conveyors (1), distribution pors., on trucks, siphons or jets (1) winch heads or apparatuses (1), light plant (1) mixers (under 2 bags)

GROUP II Air compressor (1), water pumps regardless or size (1) welding machines (1)

GROUP III Firemen and asphalt spreader oilers

GROUP IV Heavy equipment oilers (truck cranes, dredges, monigans, large cranes, etc.

GROUP V Oilers

GROUP VI
a. Engineers operating under air pressure
b. Engineers operating in air over 10 lbs pressure
c. Oilers operating under air pressure
d. Oilers operating in air over 10 lbs pressure

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DECISION NO. IL79-2037

TRUCK DRIVERS	Basic Hourly Rates	Fringe Benefits Payments			
		H & W	Pensions	Vacation	Education and/or Appr. Tr.
GROUP I	$10.80	.65	a20.00		
GROUP II	11.20	.65	a20.00		
GROUP III	11.40	.65	a20.00		

TRUCK DRIVERS

GROUP I: - Drivers on 2 axle trucks hauling less than 9 tons, air compressor and welding machine including those pulled by separate units, truck driver helpers, wsrehouseman, mechanic helpers, greasers & firemen, pick-up trucks when hauling materials, tools, or men to and from and on the jobs site; Fork lifts up to 6,000 lbs., capacity.

GROUP II: - 2 or 3 axle trucks hauling more than 9 tons, but hauling less than 16 tons; A-frame winch trucks, hydrolifts trucks, or similar equipment when used for transportation purposes; Fork lifts over 6,000 lb. capacity; winch trucks; 4-axle combination units; ticket writers

GROUP III: - 2,3, or 4 axle trucks hauling 16 tons or more, drivers on oil distributores, water pulls, mechanic & working foreman; 5-axle or more combination units; dispatchers.

FOOTNOTES

a. Per week Per Employe

SUPERSEDEAS DECISION

STATE: Illinois COUNTY: Sangamon
DECISION NUMBER: IL79-2038 DATE: Date of Publication
Supersedes Decision No. IL78-2124, dated October 20, 1978 in 43 FR 49190
DESCRIPTION OF WORK: Building (Including Residential), Construction Projects

	Basic Hourly Rates	Fringe Benefits Payments			
		H & W	Pensions	Vacation	Education and/or Appr. Tr.
ASBESTOS WORKERS	$12.63	.80	.97		
BOILERMAKERS	11.45	.95	1.20		.03
BRICKLAYERS:					
Bricklayers, Stonemasons, Marble-Tile-Terrazzo Workers, Pointers, Caulkers & Cleaners	11.25	.50	1.00		.02
CARPENTERS:					
Residential					
Housing - 1 & 2 Family Dwellings (except buildings (high rise) or steel concrete construction)	8.70	.55	.45		.06
Building					
Carpenters & Soft Floor Layers	11.95	.55	.55		.06
Millwrights & Piledrivermen	12.45	.55	.55		.06
CEMENT MASONS	9.98	.35	.35		.02
ELECTRICIANS:					
Building	12.37	.50	3%+.60		.1 of 1%
Residential	8.10	.50	3%+.40		.5 of 1%
ELEVATOR CONSTRUCTORS:					
Constructors	11.34	.745	.56	a+b	.025
Helpers	70%JR	.745	.56	a+b	.025
Helpers (Prob.)	50%JR				
GLAZIERS	10.39	.45	.30		
IRONWORKERS	12.25	.55	1.05		.08
LATHERS	12.30				
PAINTERS:					
Brush & Roller	10.15	.55	.50		
Spray	10.65	.55	.50		
PLASTERERS	13.26	.65	1.00		.01
PLUMBERS & STEAMFITTERS	12.43	.35	.88		.07
ROOFERS:					
Composition	12.93	.70			
Slate-Tile & Precast Slab	12.93	.70			
SHEET METAL WORKERS					
Building	12.93	.75+d	.78		.05
Residential	7.71	.50+d	.78		.05
SPRINKLER FITTERS	12.10	.75	1.05		.08
Welders - receive rate prescribed for craft performing operation to which welding is incidental.					

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DECISION NO. IL79-2038

PAID HOLIDAYS (WHERE APPLICABLE)
A-New Year's Day; B-Memorial Day; C-Independence Day; F-Labor Day; E-Thanksgiving Day; F-Day after Thanksgiving; G-Christmas Day

FOOTNOTE:

a. Employer contributes 8% of regular hourly rate to Vacation Pay Credit for employee who has worked in business more than 5 years and 6% of regular hourly rate for employee who has worked in business more than 5 years.

b. 7 Paid Holidays: A through G

c. Nine paid holidays, A through F plus Washington's Birthday, Good Friday and Christmas Eve, providing employee has worked 45 full days during the 120 calendar days prior to the holiday, and the regular scheduled work day immediately preceding and following the holiday

d. 3% of gross earning to SASMI

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DECISION NO. IL79-2038

ILL-27-LAB-1

	Basic Hourly Rates	Fringe Benefits Payments			
		H & W	Pensions	Vacation	Education and/or Appr. Tr.
LABORERS:					
UNSKILLED	$11.35	.45	.50		.035
SEMI-SKILLED	11.55	.45	.50		.035
SKILLED	11.70	.45	.50		.035

LABORERS:

UNSKILLED All Sewer Workers plus Depth Pay, Asphalt Plant Laborers, Bankmen on Floating Plant, Batch Dumpers, Carpenter Tenders, Cleaning Lumber, Cofferdam Workers plus depth pay, Deck Hand, Dredge Hand & Shore Laborer, Dispatchers, Driving of Stakes, Stringlines for all machinery, Fencing Laborers, Firemen or Salamander Tenders, Fireproofing Fire Shop Laborers, Flagmen, Form Handlers, Gravel Box Men, Dumpmen & Spotters, Janitors, Laborers w/de-watering systems, Landscapers, Laying of Sod, Material Checkers, Material Handlers, Pit Men, Plastic Installers, Planting of Trees, Removal of Trees, Rip-Rap Men, Rod & Chairmen, Scaffold Workers, Tool Cribmen, Track Laborers, Unloading Explosives, Unloading & Carrying Lath; Unloading & Carrying of Re-Bars, Wrecking, Dismantling Buildings, Wallmen & Housemovers, Wrecking Laborers, Writer of Scale Tickets

SEMI-SKILLED Asphalt Workers with Machine, Asphalt Raker & Layers, Cement Handlers, Cement Silica, Fly Ash, Line & Plasters, Handlers (Bulk or Bag); Chain Saw, Chloride Handlers, Concrete Workers (wet), Grade Checker; Handling of materials treated with oil, creosote, asphalt and/or any foreign material harmful to skin or clothing, Kettle Tar Men, on Concrete Paving, Placing, Cutting & Typing of Reinforcing, Signal Man on Crane, Tank Cleaners, Tunnel Helpers in Free Air.

SKILLED Air Tamping Hammerman, Caisson Workers plus depth pay, Concrete Burning Machine Operator Concrete Saw Operator, Coring Machine Operator, Curb Asphalt Machine Operator, Gunnite Nozzle Men, Jackhammer & Drill Operators, Laborers handling Masterplate or similar materials, Laborers tenders Masons with hot material or where foreign materials are used for wet concrete or handling of Building Materials, Multiple Concrete Duct - Leadman; Plasterer Tenders, Ready Mix Scaleman, Portable or Temporary Plant, Screenman on Asphalt Pavers, Steel Form Setters (Street & Highway), Vibrator Operators, Cutters, Burners & Torchmen.

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DECISION NO. IL79-2038

ILL-5-PEO-1-2-3

	Basic Hourly Rates	Fringe Benefits Payments			
		H & W	Pensions	Vacation	Education and/or Appr. Tr.
POWER EQUIPMENT OPERATORS:					
CLASS I	$12.40	.70	.80		.05
CLASS II	10.85	.70	.80		.05
CLASS III	9.70	.70	.80		.05

POWER EQUIPMENT OPERATORS:

CLASS I - Asphalt screed man, Aspoc concrete spreaders, Asphalt pavers, Asphalt rollers on bituminous concrete, athey loaders, backfillers, crane type, backhoes, cableways, cherry pickers, claim shell, C.N.E. & similar type autograde formless paver, autograde placer & finisher, concrete breakers, concrete plant operators, concrete pumps, cranes, derrick, derrick boats, draglines, earth augeror boring machines, levating graders eingeers on dredge, gravel processing machines, high list or fork lists, hoist w/two drums or two or more loadlines locomotives (all) mechanics, motar graders or auto patrols, operators or levelman on dredges, operators power boat, operators pug mill (asphalt plants), orange peels, overhead cranes, paving mixers, pileadrivers, pipe wrapping & painting machines, push dozers, or push cats, rock crushers, ross carriers or similar machines, scoops, skimmer, 2 cu. yd. capacity & under, sheep foot foller (self propelled) shovels, skimmer scoops, test holedrilling machines, tower cranes, tower machines, tower mixers, track type and loaders, track type fork lists or high lifts, track jacks & tamper, tractor, sideboom, tronching machine, ditching machine, tunnelluggers, wheel type end loaders, winch cat, scoops, all or tournapull.

CLASS II - Asphalt boosters & heaters, asphalt distributors, asphalt plant fireman, oiler on 2 paving mixers when used in tandem boom or winch truck, building elevator, bull floats or flexplanes, concrete finishing machines, concrete saws, self propeller, concrete saws, self propeller, concrete spreader machines, gravel or stone spreader, power operated, head equipment greaser, hoist automatic, hoist w/1 drum & 1 load line, mud jacks, post holediggers, mechanical, road or street sweeper-self propelled, seaman tiller, straw machine, vibratory compactor, well drill machines scissors hoist.

CLASS III - Air compressor*, air compressors, track or self-propelled, asphalt plant engineers, bulk cement batching plants, conveyors,* concrete mixers (except plant, paver, tower) firemen, generators*, greasers, helper on single paving mixer, light plants*, mechanic helpers, mechanical heaters*, oilers, power from gradere, power sub-graders, pug mills, when used for other than asphalt operation, rollers (except bituminous concrete) tractors w/o power attachments regardless of size of type) truck crane oiler & driver 1 (man), water pumps*, welding machines (one 300 amp. or over*)* welding machines*

*COMBINATIONS OF ONE TO FIVE OF ANY AIR COMPRESSORS, CONVEYORS, WELDING MACHINES, WATER PUMPS, LIGHT PLANTS OR GENERATORS SHALL BE IN BATTERIES OR WITHIN 300 FT.

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DECISION NO. IL79-2038

ILL-82-TD-1-2-3

	Basic Hourly Rates	Fringe Benefits Payments			
		H & W	Pensions	Vacation	Education and/or Appr. Tr.
TRUCK DRIVERS					
GROUP I	$10.80	.60	a20.00		
GROUP II	11.20	.60	a20.00		
GROUP III	11.40	.60	a20.00		

TRUCK DRIVERS

GROUP I: - Drivers on 2 axle trucks hauling less than 9 tons, air compressor and welding machine including those pulled by separate units, truck driver helpers, warehouseman, mechanic helpers, greasers & firemen, pick-up trucks when hauling materials, tools, or men to and from and on the jobs site; Fork lifts up to 6,000 lbs., capacity.

GROUP II: - 2 or 3 axle trucks hauling more than 9 tons, but hauling less than 16 tons; A-frame winch trucks, hydrolifts trucks, or similar equipment when used for transportation purposes; Fork lifts over 6,000 lb. capacity; winch trucks; 4-axle combination units; ticket writers

GROUP III: - 2, 3 or 4 axle trucks hauling 16 tons or more, drivers on oil distributores, water pulls, mechanics & working foreman; 5-axle or more combination units; dispatchers

FOOTNOTES

a. Per week Per Employee

SUPERSEDEAS DECISION

STATE: Maryland COUNTIES: Allegany and Garrett
DECISION NO.: MD79-3010 DATE: Date of Publication
Supersedes Decision No. MD77-3086 dated August 5, 1977 in 42 FR 39880
DESCRIPTION OF WORK: Building Construction (does not include single family homes and garden type apartments up to and including 4 stories)

	Basic Hourly Rates	Fringe Benefits Payments			
		H & W	Pensions	Vacation	Education and/or Appr. Tr.
ASBESTOS WORKERS	11.10	.60	.70		
BOILERMAKERS	12.025	1.075	1.00		.02
BRICKLAYERS	10.89	.65	.40		
CARPENTERS	11.37	.50	.60		.02
CEMENT MASONS	11.81	.50			
ELECTRICIANS:					
Allegany County	10.90	.80	3%+.60		1%
Garrett County	11.30	.80	3%+.60		1%
ELEVATOR CONSTRUCTORS	11.77	.745	.5%	4%+a+b	.025
ELEVATOR CONSTRUCTORS' HELPERS	70%JR	.745	.5%	4%+a+b	.025
ELEVATOR CONSTRUCTORS' HELPERS (PROBATIONARY)	50%JR				
IRONWORKERS:					
Structural, Ornamental and Reinforcing	11.36	.60	1.10		
LATHERS	9.25		.35		.01
LINEMEN - Allegany County:					
Linemen	10.90	.80	3%+.60		
Equipment Operator	10.36	.80	3%+.60		
Truck Driver	7.09	.80	3%+.60		
Groundmen	7.09	.80	3%+.60		
LINEMEN - Garrett County:					
Linemen	11.30	.80	3%+.60		
Equipment Operator	10.76	.80	3%+.60		
Truck Driver	7.49	.80	3%+.60		
Groundmen	7.49	.80	3%+.60		
MARBLE MASONS	10.89	.65	.40		
MILLWRIGHTS	11.73	.50	.60		.02
PAINTERS:					
Brush, rollers, wall covering hangers, & installation of seamless type floors	7.95		.50		
Spray, sandblasting & use of flame burning & power tools	8.95		.50		
Toxic materials - brush & roller	8.45		.50		
Toxic materials - spray	9.45		.50		
PILEDRIVERMEN	11.67	.50	.60		.02
PLASTERERS	11.81	.50			
PLUMBERS & STEAMFITTERS	10.25	.50	.70	1.00	.05

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DECISION NO. MD79-3010

	Basic Hourly Rates	Fringe Benefits Payments			
		H & W	Pensions	Vacation	Education and/or Appr. Tr.
ROOFERS:					
Composition	9.25	.45	.40		
Mopmen - composition	9.50	.45	.40		
Slaters	9.40	.45	.40		
SHEET METAL WORKERS	11.12		.28		.02
SPRINKLER FITTERS	11.31	.65	.95		.08
STONE MASONS	10.89	.65	.40		
TERRAZZO WORKERS	10.89	.65	.40		
TILE SETTERS	10.89	.65	.40		

FOOTNOTES:

a-Paid Holidays: New Year's Day, Memorial Day, Independence Day, Labor Day, Thanksgiving Day, and Christmas Day.

b-Employer contributes 4% of basic hourly rate for 5 years of service or more and 2% of basic hourly rate for 6 months to 5 years of service as Vacation Pay Credit.

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DECISION NO. MD79-3010

	Basic Hourly Rates	Fringe Benefits Payments			
		H & W	Pensions	Vacation	Education and/or Appr. Tr.
Laborers:					
Group I	8.60	.80	1.10		
Group II	8.63	.80	1.10		
Group III	8.74	.80	1.10		
Group IV	8.80	.80	1.10		
Group V	8.85	.80	1.10		
Group VI	8.94	.80	1.10		
Group VII	9.43	.80	1.10		
Group VIII	9.05	.80	1.10		
Group IX	9.05	.80	1.10		

LABORERS CLASSIFICATION DEFINITIONS

Group I - Unskilled & landscape workers
Group II - Handy man, tool checker, dump men & spotter
Group III - Power tool operators, mortar mixer by hand, scaffold builder, hod carrier, concrete puddler, rammer, pipelayer, chainman - rodman, grade checker, masons' & plasterers' tenders, tampers, & gunnite laborers on scaffolds
Group IV - Mortar mixer by machine
Group V - Large wacker
Group VI - Blaster/dynamite, & wagon drill operators (air track)
Group VII - Tunnel workers: caisson, driller, & mucker
Group VIII - Tunnel workers: Unskilled laborers
Group IX - Gunnite workers: Nozzlemen & gun operators

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DECISION NO. MD79-3010

BUILDING CONSTRUCTION	Basic Hourly Rates	Fringe Benefits Payments			
		H & W	Pensions	Vacation	Education and/or Appr. Tr.
POWER EQUIPMENT OPERATORS					
Group 1	9.93	.85	.85		.10
Hourly additional pay for long boom cranes (including jibs), pile driver machines with leads:					
130' to 169' plus $ .40					
170' to 209' " .60					
210' to 249' " .80					
250' to 299' " 1.00					
300' and over " 1.25					
Group 2	9.50	.85	.85		.10
Group 3	9.16	.85	.85		.10
Group 4	8.92	.85	.85		.10
Group 5	8.80	.85	.85		.10
Group 6	8.45	.85	.85		.10
Group 7	10.33	.85	.85		.10

POWER EQUIPMENT OPERATORS CLASSIFICATION DEFINITIONS

Group 1 - Backfiller, backhoe, concrete mixing plants, batching plants, cable way, derrick, derrick boat, dragline, elevating grader, compressors (2 or more), space heaters, hoist (2 active drums or more), pile driving machine, power crane, power shovel, standard gauge locomotive, trenching machine, tunnel mucking machine, whirley rig, certified welders, concrete paver, double concrete pump, front end loader (over 2 yds.), over 4 welders top scale (more than 6, another man), Eimco type overhead loader, wellpoint system, mighty midget with compressor, twin engine scraper (25 yds. and over), mechanic, mechanic's welder, grader
Group 2 - Tractor with attachments (2 or more), bulldozer
Group 3 - Concrete mixer, concrete pump, one drum hoist, narrow gauge locomotive, power roller, asphalt spreader, pumps (not exceeding 4), well drill, engine driven welders (not exceeding 4) single compressors (over 210 C.F.M.), steam hammer, pile extractor, conveyor, stone crusher, hi-lift, front end loader (up to and including 2 yds.), excavating scoop
Group 4 - Finishing machine, bull float, longitudinal float, screeding machine concrete spreader, sub grader
Group 5 - Fireman, truck crane oiler, wheel tractor, grease truck operator
Group 6 - Oiler, greaser, mechanic's helper, single compressor (up to 210 C.F.M.)
Group 7 - Operators handling or setting steel, stone, prestressed concrete or machinery, tower cranes

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DECISION NO. MD79-3010

BUILDING CONSTRUCTION	Basic Hourly Rates	Fringe Benefits Payments			
		H & W	Pensions	Vacation	Education and/or Appr. Tr.
TRUCK DRIVERS					
Group 1	8.01	.70	.90		
Group 2	8.16	.70	.90		
Group 3	8.36	.70	.90		
Group 4	8.55	.70	.90		
Group 5	8.79	.70	.90		

TRUCK DRIVERS CLASSIFICATION DEFINITIONS

Group 1 - Dumpmen and flagmen
Group 2 - Pick-ups, dumps (under 5 yds., capacity), straight trucks
Group 3 - Helpers, panel trucks, straight trucks with multiple axle, dumpsters (under 5 yds., capacity, transit mix, dumps (5 to 9 yds., capacity), flatbody material trucks (straight jobs), greasers, tiremen, mechanics' helpers, rubber-tired (towing & pushing flatbody vehicles), form trucks
Group 4 - Dump trucks (10 to 15 yds., capacity)
Group 5 - Dump trucks (over 15 yds., capacity), bottom and end dump euclids, all other euclid type trucks, turnarockers, ross carriers, athey wagons, A-frame, mechanics, semi-trailers or tractor-trailers, low boys, asphalt distributors, agitator mixer, dumpcretes or batch trucks, specialized earth moving equipment, off-highway tandem back-dump, twin engine equipment and double hitched equipment (where not self-loaded)

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SUPERSEDEAS DECISION

STATE: Missouri

COUNTIES: Franklin, Jefferson, Lincoln, St. Charles, Warren & City & County of St. Louis

DECISION NO: MO79-4063

DATE: Date of Publication

Supersedes Decision No. MO77-4271 dated September 30, 1977 in 42 FR 53068

DESCRIPTION OF WORK: Building construction, (excluding single family homes and garden type apartments up to and including 4 stories).

	Basic Hourly Rates	Fringe Benefits Payments			
		H & W	Pensions	Vacation	Education and/or Appr. Tr.
ASBESTOS WORKERS:					
Asbestos workers	$12.63	.80	.97		
Swing stage of bosun's chair	12.88	.80	.97		
Asbestos workers requiring spray in application	12.88	.80	.97		
BOILERMAKERS	12.15	1.15	1.00		.02
BRICKLAYERS; STONEMASONS	11.10	.72	.70	.90	.03
CARPENTERS; MILLWRIGHTS; PILE-DRIVERMEN:					
Zone 1 - St. Louis City & County	11.66	.70	.80		
CARPENTERS:					
Zone 2 - Franklin County:					
Contracts $200,000.00 & under	9.80	.70	.80		
Contracts over $200,000.00	11.66	.70	.80		
Zone 3- Jefferson County:					
Contracts $25,000.00 & under					
Contracts over $25,000.00	11.66	.70	.80		
Zone 4 - St. Charles County:					
Contracts under $250,000.00	10.80	.70	.80		
Contracts over $250,000.00 or more	11.66	.70	.80		
	11.66	.70	.80		
Zone 5 - Lincoln & Warren Counties:					
Contracts $250,000.00 & under	10.15	.70	.80		
Contracts over $250,000.00	11.66	.70	.80		
CEMENT MASONS:					
Zone 1 - Jefferson & St. Charles Counties and St. Louis City & County	10.15	1.00	.95		
Zone 2 - Franklin, Lincoln & Warren Counties:					
Projects less than $100,000.00	9.50	1.00	.95		
Projects $100,000.00 & over	10.15	1.00	.95		
ELECTRICIANS:					
Zone I - City & County of St. Louis and St. Charles County	11.60	.70	3%+5½%	15½%	.10
Zone II - Franklin, Jefferson, Lincoln and Warren Counties where the electrical contracts exceed $15,000.00	11.60	.70	3%+5½%	15½%	.10
Zone III - Franklin, Jefferson, Lincoln and Warren Counties where the electrical contract does not exceed $15,000.00	10.85	.70	3%+5½%	15½%	.10

	Basic Hourly Rates	Fringe Benefits Payments			
		H & W	Pensions	Vacation	Education and/or Appr. Tr.
ELEVATOR CONSTRUCTORS	10.96	.745	.56	3%+a	.025
ELEVATOR CONSTRUCTORS HELPERS	70%JR	.745	.56	3%+a	.025
ELEVATOR CONSTRUCTORS HELPERS' (PROB)	50%JR				

FOOTNOTES:

a - Employer contributes 8% of basic hourly rate for over 5 years' service and 6% of basic hourly rate for 6 months to 5 years as Vacation Pay Credit, Also 6 Paid Holidays.

GLAZIERS	10.73	.45	1.13	8%+c	.01

FOOTNOTE: c-Paid Holidays; New Year's Day; Washington's Birthday; Memorial Day; Independence Day; Labor Day; Columbus Day; Veterans Day; Thanksgiving Day; Friday After Thanksgiving Day; Christmas Day; Employees Birthday.

IRONWORKERS	11.625	.55	.90		.09
LABORERS:					
Zone 1 - City & County of St. Louis					
General laborer	9.775	.45	1.00		
Wrecking	9.65	.45	1.00		
Plumber laborer	10.15	.45	1.00		
Dynamiter or powderman	10.275	.45	1.00		
Mason tenders (brick)	10.30	.45	1.00		
Residential rehabilitation work	6.05	.45	1.00		
Zone 2 - Franklin County:					
Contracts $250,000.00 or less:	8.25				
General labor	8.25	.60	.50		
Mason tenders, plumber laborer plaster tender	8.45	.60	.50		
Contracts over $250,000.00:					
General laborer	9.75	.60	.50		
Mason tenders, plumber laborer plaster tender	9.95	.60	.50		
Zone 3 - Jefferson County:					
Laborers	8.35	.50	.30		
Powderman, mason tenders, plaster tenders	8.85	.50	.30		
Zone 4 - St. Charles County:					
General laborer	10.125	.50	.30		
Dynamiter or powdermen	10.625	.50	.30		
Pier hole & creosoted materials	10.375	.50	.30		

	Basic Hourly Rates	Fringe Benefits Payments			
		H & W	Pensions	Vacation	Education and/or Appr. Tr.
LABORERS CONTD:					
Zone 5 - Lincoln & Warren Counties:					
General laborer	9.625	.50	.50		
Dynamiter or powdermen	10.125	.50	.50		
Pier hole & creosoted materials	9.875	.50	.50		
LATHERS	10.955	.57	.55		½ of 1%
MARBLE SETTERS	10.26	.785	1.17		
MARBLE SETTERS HELPERS'	10.08				
PAINTERS:					
Zone 1 - Lincoln County:					
Brush	7.85				
Spray	8.35				
Zone 2 - Franklin, Jefferson, St. Charles, Warren Counties & City & County of St. Louis					
Brush	11.24	.68	.33		.04
Spray	12.74	.68	.33		.04
PIPEFITTERS (Franklin, Jefferson, St. Charles, St. Louis & Warren Counties)	12.15	2.165	1.51		
PIPEFITTERS & PLUMBERS (Lincoln County)	12.15	2.165	1.51		
PLASTERERS	10.295	.48	.80		.03
PLUMBERS (Franklin, Jefferson, St. Charles, St. Louis and Warren Counties)	11.755	.80	.80	.80	.20
POWER EQUIPMENT OPERATORS:					
Zone 1					
Group 1	10.52	.50	1.00		
Group 2	9.97	.50	1.00		
Group 3	9.52	.50	1.00		
Group 4:					
(a)	11.32	.50	1.00		
(b)	12.07	.50	1.00		
(c)	12.52	.50	1.00		
(d)	13.27	.50	1.00		
(e)	11.02	.50	1.00		

CLASSIFICATION DEFINITIONS

POWER EQUIPMENT OPERATORS (ZONE 1)

Group 1 - Backhoe; cablewsy; crane, crawler or truck; crane, hydraulic-truck or cruiser mounted-16 tons & over; crane, locomotive; derrick; steam; derrick car & derrick boat; dragline; dredge; gradeall, crawler or tire mounted; locomotive gas, steam & other power; pile driver, land or floating; scoop, skimmer; shovel, power (steam, gas electric or other powers); switch boat; whirley; air tugger w/air compressor; anchor placing barge; asphalt spreader; athey force feed loader (self-propelled); backfilling machine; boat operator-push boat or tow boat (job site); boiler, high pressure breaking in period; boom truck, placing or erecting; boring machine, footing foundation; bullifloat; cherry picker, combination concrete hoist & mixer such as mixermobile; compressors, tow, not more than 50 ft. apart; compressor-welder combination; concrete breaker (truck or tractor mounted); concrete pump, such as pumpcrete machine; concrete spreader; conveyor, large (not self-propelled) hoisting or moving brick and concrete into, or into and on floor level, one or both; crane, hydraulic-rough terrain, self-propelled; crane hydraulic-truck or cruiser mounted-under 16 tons; drilling machines, self-powered, used for earth or rock drilling or boring (wagon drills and any hand drills obtaining power from other sources including concrete breakers, jack-hammers and barco equipment no engineer required); elevating greader; engine man, dredge; excavator or powerbelt machine; finishing machine, self-propelled oscillating screed; forklift; grader, road with power blade; highlift; hoist, concrete and brick (brick cages on concrete skips operating in or on tower, towermobile, or similar equipment); hoist, stack; hydro-hammer; lad-a-vator, hoisting brick or concrete; loading machine (such as barber-greene); mixer-mobile, mucking machine, pipe cleaning machine; pipe wrapping machine; plant, asphalt; plant, concrete producing or reading-mix-job site; plant, heating-job-site; plant-mixing-job-site; plant, power generating-job site; pumps, two self-powered, over 2" through 6"; pumps, electric submersible, one through three, over 4"; quad-track; roller, asphalt, top or subgrade; scoop tractor drawn; spreader box; subgrader; tie tamper; tractor-crawler, or wheel type with or without power unit, power take-offs, and attachments regardless of size; trenching machine, tunnel boring machine; vibrating machine, automatic, automatic propelled; welding machines (gasoline or diesel) more than one but not over four (regardless of size); well drilling machine.

Group 2 - Air tugger w/plant air; boiler, for power or heating on construction projects; boiler, temporary; compressor, air-one; compressor, air (mounted on truck); concrete saw, self-propelled; conveyor, large (not self-propelled); conveyor, large (not self-propelled) moving brick and concrete (distributing) on floor level, curb finishing machine; ditch paving machine; elevator (building construction or alteration); endless chain hoist; fireman; form grader; generator, one over 30 KW or any number developing over 30 KW; greaser; hoist, one drum regardless of size (except brick or concrete); lad-a vator, other hoisting; manlift; mixer, asphalt, over 8 cu. ft. capacity; mixer, if two or more mixers of one bag capacity or less are used by one employer on job, an operator is required; mixer, without side loader, 2 bag capacity or more; mixer with side loader, regardless of size, not paver; oiler on dredge; oiler on truck crane; pug mill operator; pump, pump-self-powered, automatic controller over 2" during use in connection with construction work; sweeper, street; welding machine, one over 400 amp.; winch operating from truck.

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CLASSIFICATION DEFINITIONS

POWER EQUIPMENT OPERATORS CONTD:
Group 3 - Boat operator-outboard motor (job-site); conveyor (such as con-vay-it); regardless of how used; oiler; sweeper, floor

Group 4 - (a)Air pressure; oiler engineer operating under ten pounds. (b)Air pressure, oiler engineer operating over ten pounds. (c)Air pressure engineer operating under ten pounds. (d)Air pressure engineer operating over ten pounds. (e)Crane-pile driving and extracting; crane using rock socket tool, dragline-7 cu. yds. & over,shovel, power-7 cu. yds. and over, crane, climbing (such as linden), derrick, diesel, gas or electric hoisting material or erecting steel 150' or more above ground, hoist, three or more drums; scoop, tandem; tractor, tandem crawler.

Crane, with boom (including jib) over 100' from pin to pin (add 1¢ per foot to maximum of 1.00) above basic rate for dranes.

Work in tunnel or tunnel shaft, .50¢ above base rate.

	Basic Hourly Rates	Fringe Benefits Payments			
		H & W	Pensions	Vacation	Education and/or Appr. Tr.
ROOFERS:					
Composition; slate and tile	11.55	.82	.60		.03
Kettlemen	9.35	.82	.60		.03
SHEET METAL WORKERS	11.94	3%+.56	.76	.96	.04
SOFT FLOOR LAYERS	8.74	.58	.35	.50	.14
SPRINKLER FITTERS	13.81	.75	1.05		.12
TERRAZZO WORKERS	12.75				
TILE SETTERS	10.23	.785	1.17		
TILE SETTERS HELPERS	8.50	.325	.40		
TRUCK DRIVERS:					
Truck or trailers of a water level capacity of 11.99 cu. yds. or less fork lift rucks, job site ambulances, pick-up trucks, flat bed trucks	6.99	d	e	f&g	
Truck or trailers of a water level capacity of 12.0 cu. yds. up to 22.0 cu. yds. including euclids, speedace & similar equipment of same capacity	7.19	d	e	f&g	
Truck or trailers of a water level of 22.0 cu. yds. & over including euclids, speedace & all floats, flat bed trailers & boom equipment of same capacity	7.29	d	e	f&g	

FOOTNOTES: d-Employer contribution of $12.50 per week; e-Employer contribution of $12.00 per week; F-Paid Holidays; New Year's Day, Memorial Day, Independence Day, Labor Day, Veterans Day, Thanksgiving Day, Friday After Thanksgiving Day, Christmas Day; g-Paid vacation of 3 days for 600 hours of service in any one contract year, 4 days paid vacation for 800 hours of service in any one contract year, 5 days paid vacation for 1,000 hours of service in any one contract year.

WELDERS - receive rate prescribed for craft performing operation to which is incidental.

SUPERSEDEAS DECISION

STATE: New Hampshire COUNTIES: Hillsboro & Merrimack
DECISION NUMBER: NH79-2040 DATE: Date of Publication
Supersedes Decision No. NH78-2100, dated October 6, 1978 in 43 FR 46466
DESCRIPTION OF WORK: Building & Heavy Construction Projects

HILLSBORO COUNTY BUILDING & HEAVY CONSTRUCTION	Basic Hourly Rates	Fringe Benefits Payments			
		H & W	Pensions	Vacation	Education and/or Appr. Tr.
ASBESTOS WORKERS	$ 12.11	1.10	1.00		.01
BOILERMAKERS	12.30	1.05	10%		.02
BRICKLAYERS, CEMENT MASONS, MARBLE SETTERS, PLASTERERS, STONE MASONS, TERRAZZO WORKERS, AND TILE SETTERS	9.39	.80	.60		.02
CARPENTERS:					
Carpenters & Soft Floor Layers	8.42	.65	.70		.01
Piledrivermen & Millwrights	9.27	.65	.70		.01
ELECTRICIANS:					
Pelham	10.02	.35	3%+.20		.02
Remainder of County	10.75	.50	3%		.03
ELEVATOR CONSTRUCTORS:					
Constructors	12.02	.895	.69	6%+a+b	.03
Helpers	8.41	.895	.69	6%+a+b	.03
Helpers (Prob.)	6.01	.895	.69	6%+a+b	.03
IRONWORKERS, Structural Ornamental & Reinforcing	10.50	1.15	1.20		.02
LATHERS	9.75	1.00	.55		
LINE CONSTRUCTION:					
Linemen	9.84	.70	3%+.50	c	3/8 of 1%
Equipment Operator	9.24				
Groundman	6.86	.70	3%+.50	c	3/8 of 1%
Driver Groundman					
PAINTERS:					
Brush	7.30	.25			
Paperhangers	7.55	.25			
Spray & Sandblasting	8.80	.25			
Open Structural Steel	8.55	.25			
Enclosed Structural Steel & Steeple jack	8.30	.25			

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	Basic Hourly Rates	Fringe Benefits Payments			
		H & W	Pensions	Vacation	Education and/or Appr. Tr.
PLUMBERS AND STEAMFITTERS:					
Hudson and Pelham	12.02	1.10	.60		.02
Remainder of County	10.90	.73	.55		.02
ROOFERS:					
Roofers	7.00				
SHEET METAL WORKERS	9.92	.65+e	.65		.02
SPRINKLER FITTERS	10.91	.75	1.05		.08

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MERRIMACK COUNTY BUILDING AND HEAVY CONSTRUCTION	Basic Hourly Rates	Fringe Benefits Payments			
		H & W	Pensions	Vacation	Education and/or Appr. Tr.
ASBESTOS WORKERS	12.11	1.10	1.00		.01
BOILERMAKERS	12.30	1.05	10%		.02
BRICKLAYERS, CEMENT MASONS, MARBLE SETTERS, PLASTERERS, STONE MASONS, TERRAZZO WORKERS, & TILE SETTERS	9.39	.80	.60		.02
CARPENTERS	8.42	.65	.70		.01
Millwrights & Piledrivers	9.27	.65	.70		.01
ELECTRICIANS:					
Hookset	10.75	.50	3%		.03
Remainder of County:					
Gen. Contracts $300,000 & over	10.70	.70	3%+.50		.02
General Contract less than $300,000	7.00	.70	3%+.50		.02
ELEVATOR CONSTRUCTORS:					
Constructors	12.02	.895	.69	6%+a+b	.03
Helpers	8.41	.895	.69	6%+a+b	.03
Helpers (Prob.)	6.01	.895	.69	6%+a+b	.03
IRONWORKERS - Structural, Ornamental and Reinforcing	10.50	1.15	1.20		.02
LATHERS	9.75	1.00	.55		
LINE CONSTRUCTION:					
Linemen	9.84	.70	3%+.50	c	3/8 of 1%
Equipment Groundman	9.24	.70	3%+.50	c	3/8 of 1%
Groundman	6.86	.70	3%+.50	c	3/8 of 1%
Driver Groundman	7.88	.70	3%+.50	c	3/8 of 1%
PAINTERS:					
Brush	7.30	.25			
Open Structural Steel work to 25'	8.55	.25			
Enclosed strucutral steel work & steeplejack	8.30	.25			
Paperhangers	7.55	.25			
Spray and Sandblasting	8.80	.25			
PLUMBERS AND STEAMFITTERS	10.90	.73	.55		.02
ROOFERS:					
Roofers	7.00				
SHEET METAL WORKERS	9.92	.65+e	.65		.02
SOFT FLOOR LAYERS	6.56	.25	.20		.01
SPRINKLER FITTERS	10.91	.75	1.05		.08

DECISION NO. NH79-2040

	Basic Hourly Rates	Fringe Benefits Payments			
		H & W	Pensions	Vacation	Education and/or Appr. Tr.
LABORERS:					
Building Construction					
Laborers	7.27	.60	.80		.10
Plasterers' Tender	7.42	.60	.80		.10
Pipelayers, fence & guard rail erectors	7.52	.60	.80		.10
Pneumatic tool ops., pavement breakers, drillers, chipping gun op., powdermen & Blasters	7.77	.60	.80		.10
All other pneumatic tool ops. on boiler and stack work	8.17	.60	.80		.10
Heavy Construction					
Laborers and pipelayers	7.12	.60	.80	d	.10
Pneumatic tool ops., drillers, concrete vibrators, & electric chipping machine	7.62	.60	.80	d	.10
Blasterers and Powdermen	7.87	.60	.80	d	.10

DECISION NO. NH79-2040

Welders - receive rate prescribed for craft performing operation to which welding is incidental.

PAID HOLIDAYS:

A-New Year's Day; B-Memorial Day; C-Independence Day; D-Labor Day; E-Thanksgiving Day; F-Christmas Day; G-Day after Thanksgiving Day

FOOTNOTES:

a. Employer contributes 8% basic hourly rate for 5 years or more of service or 6% basic houlry rate for 6 months to 5 years of service as Vacation Pay Credit.

b. Holidays: A through G

c. Holidays: A through F, provided the employee has been employed 5 working days prior to the holiday and provided the employee works the scheduled work days immediately preceding and following the holiday.

d. Holidays: B, C, E provided employee works day before and after each holiday.

e. 3% of Gross Earnings to SASMI

DECISION NO. NH79-2040

NH-1-PEO

POWER EQUIPMENT OPERATORS BUILDING CONSTRUCTION	Basic Hourly Rates	Fringe Benefits Payments			
		H & W	Pensions	Vacation	Education and/or Appr. Tr.
CLASS 1	10.10	.95	.75	a	.05
CLASS 2	9.85	.95	.75	a	.05
CLASS 3	9.65	.95	.75	a	.05
CLASS 4	8.915	.95	.75	a	.05
CLASS 5	8.89	.95	.75	a	.05
CLASS 6	8.14	.95	.75	a	.05
CLASS 7	8.34	.95	.75	a	.05
CLASS 8	11.40	.95	.75	a	.05
CLASS 9	10.90	.95	.75	a	.05

CLASS 1 - Shovel, crane, dragline, derrick, backhoe, elevator with Chicago boom, gradall, elevating grader, front end loader 6 yds. and over, cherry picker, pile driving rigs, concrete road paver, all three dum hoisting and Trenching machines.

CLASS 2 - Rotary drill with mounted compressor, compressor house (3-6 compressors), rock and earth boring machine excluding McCarthy and similar drills, graders, 4 yds. and over front end loader, two drum hoists, high fork lifts with capacity of 15' & over, scrapers, sonic hammer, vibratory hammer.

CLASS 3 - Bulldozers, push cats, scrapers (tractor drawn), asphalt paver, front end loader 3/4 to 4 yds., well drillar, mechanics, pumpcrete machines, concrete pumps and similar type pumps, engineer or firemen on high pressure boiler (on job), self loading batch plant, well point operators including installing, engineer-in-charge of powered grease truck all automatic elevators permanent or temporary operated manually or by remote controls

CLASS 4 - Single drum hoist, self-powered roller, self-propelled compactors, power pavement breakers, concrete paverment finishing machines, two bag mixers with skip, front end loaders under 3/4 yds. McCarthy and similar drills, batch plant not self loading, bulk cement plants, self-propelled material spreaders, A-frame trucks, fork lifts up to 15'

CLASS 5 - Compressor 315 cubic ft. and over, (one or two), pumps (4 inches & over total discharge) when total discharge is over 12 inches, classification 3 will be paid, tractor (without blade or bucket) drawing roller compactors or other machines.

CLASS 6 - Compressors (up to 315 cubic feet) small mixers, pumps (up to 4 inches), power heaters, welding machines (when 3 or more heaters or welding machines are used on one job, classification 4 rate will be paid), conveyor oiler including helpers on grease trucks and grease trucks with hand greasing equipment.

CLASS 7 - Oilers on truck cranes and gradails.

CLASS 8 - Cranes with boom lengths of 200 feet or more

CLASS 9 - Cranes with boom length of 150 feet or more

PAID HOLIDAYS: A-New Year's Day; B-Memorial Day; C-Independence Day; D-Labor Day; E-Thanksgiving Day; F-Christmas Day

FOOTNOTE: a. Holidays: A thru F, Veterans Day, Washington Birthday and Columbus Day

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NH-2-PEO

POWER EQUIPMENT OPERATORS HEAVY CONSTRUCTION	Basic Hourly Rates	Fringe Benefits Payments			
		H & W	Pensions	Vacation	Education and/or Appr. Tr.
CLASS 1	9.15	.85	.75	a	.05
CLASS 2	8.90	.85	.75	a	.05
CLASS 3	8.70	.85	.75	a	.05
CLASS 4	8.15	.85	.75	a	.05
CLASS 5	7.825	.85	.75	a	.05
CLASS 6	7.30	.85	.75	a	.05
CLASS 7	9.65	.85	.75	a	.05

CLASS 1 - Shovels, Crawler & Truck Cranes, Derricks, Backhoes, Trenching Machines, Elevating Graders, Gradall, Piledrivers, Concrete Pavers, Engineers on site processing plant, Dragline, Clamshell, Cableways.

CLASS 2 - Rotary drill (with mounted compressor), Compressor house (3 to 6 compressors) Rock and earth boring machines (excluding McCarthy and similar drills), Grader, Front End Loader (4 yds. or over)

CLASS 3 - Bulldozer, Push Cats, Scraper (Self propelled or tractor drawn), Self-Powered Asphalt paver, (Front end loader 3/4 to 4 yds.), Mechanics, Well driller, Pumpcrete machine, Engineer or Fireman on high pressure boiler (on job) Self-loading Batch plant (on job), Well point operators.

CLASS 4 - Hoists, conveyors, Self-powered rollers and Compactors, Self-propelled Material Spreader, Self-powered concrete finishing machine, Mixers (2 bag with skip, front end loader (under 3/4 yd.), McCarthy & similar drills, Batch plant (not self-loading), Bulk cement plant.

CLASS 5 - Compressor (315 C.F. or over-one or two), Pump 4" or over, Tractor without blades, Drawing sheeps-foot, rubber roller or other type compactor includes machines for pulverizing and aerating soil

CLASS 6 - Compressor (up to 315 C.F.), Small mixers with skip, Oiler Pumps up to 4", Grease truck, Power heaters, Welding machines (when 3 or more welding machines Class 4 rate applied), A-Frame, Forklifts, (Where agrease truck contains powered grease equipment, engineer in charge shall be paid Class 3 rate)

CLASS 7 - Crane with boom length of 200 feet or more including jib.

PAID HOLIDAYS: A-New Year's Day; B-Memorial Day; C-Independence Day; E-Thanksgiving Day; F-Christmas Day

FOOTNOTE: a. Holidays: A thru F; Washington's Birthday; Veteran's Day; Columbus Day

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NH-1-TD-1-2-3-L

TRUCK DRIVERS	Basic Hourly Rates	Fringe Benefits Payments			
		H & W	Pensions	Vacation	Education and/or Appr. Tr.
CLASS 1	5.21	.55	.40	a	
CLASS 2	5.44	.55	.40	a	
CLASS 3	5.67	.55	.40	a	

CLASS 1 - Two Axle equipment
CLASS 2 - Three axle equipment including low beds
CLASS 3 - Special earth hauling equipment other than conventional type on the road truck and semitrailers trailer dumps.

PAID HOLIDAYS: A-New Year's Day; B-Memorial Day; C-Independence Day; D-Labor day; E-Thanksgiving Day; F-Christmas Day.

FOOTNOTE: A. Holidays: A through F, plus Washington's Birthday Veteran's Day and Columbus Day; provided employee works two days in the calendar week in which the holiday falls; reports for work the last day assigned prior to the holiday and the first assigned following the holiday).

SUPERSEDEAS DECISION

STATE: New Hampshire COUNTIES: Rockingham & Strafford
DECISION NO.: NH79-2041 DATE: Date of Publication
Supersedes Decision No. NH78-2101, dated October 6, 1978 in 43 FR 46470
DESCRIPTION OF WORK: Building, Heavy and Marine Construction Projects

ROCKINGHAM COUNTY
BUILDING, HEAVY CONSTRUCTION

	Basic Hourly Rates	Fringe Benefits Payments			
		H & W	Pensions	Vacation	Education and/or Appr. Tr.
ASBESTOS WORKERS	$12.11	1.10	1.00		.01
BOILERMAKERS	12.30	1.05	10%		.02
BRICKLAYERS, CEMENT MASONS, Marble Masons, Plasterers, Stonemasons, Tile Setters & Terrazzo Workers	9.39	.80	.60		.02
CARPENTERS:					
Salem:					
Carpenters & Soft Floor Layers	11.05	.90	1.00		.05
Remainder of County:					
Carpenters & Soft Floor Layers	8.42	.65	.70		.01
Piledrivermen, Wharf & Dock Builders & Millwrights	9.27	.65	.70		.01
ELECTRICIANS:					
Twps, of Exeter, Greenland, Hampton, Hampton Falls, Portsmouth, Newington, Newmarket, Northwood, Nottingham, Rye, Seabrook Strathan & S. New Market	10.85	.75	3%+.25		.02
Kingston, Kensington, N. Kingston, Hampstead, Plaistow, Westville, Atkinson N. Salem & Salem	10.02	.35	3%+.20		.02
Remainder of County	11.25	.50	3%		.03
ELEVATOR CONSTRUCTORS:					
Constructors	12.02	.895	.69	6%+a+b	.03
Helpers	8.41	.895	.69	6%+a+b	.03
Helpers (Prob.)	6.01	.895	.69	6%+a+b	.03
IRONWORKERS:					
Structural, Ornamental and Reinforcing	10.50	1.15	1.20		.02
LABORERS, BUILDING:					
Laborers	7.27	.60	.80		.10
Plasterers Tenders	7.42	.60	.80		.10
Drillers, Pavement Breakers, Pneumatic Tool Ops., Chipping Gun Ops., Blasters & Powdermen	7.77	.60	.80		.10
All other Puneumatic Tool Ops. on Boiler & Stack Work	8.17	.60	.80		.10
Pipelayers, Fence & Guard Rail Erectors	7.52	.60	.80		.10

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STRAFFORD COUNTY BUILDING & HEAVY CONSTRUCTION	Basic Hourly Rates	Fringe Benefits Payments			
		H & W	Pensions	Vacation	Education and/or Appr. Tr.
ASBESTOS WORKERS	12.11	1.10	1.00		.01
BOILERMAKERS	12.30	1.05	10%		.02
BRICKLAYERS, CEMENT MASONS, Marble Setters, Plasterers, Stone Masons, Terrazzo Workers and Tile Setters	9.39	.80	.60		.02
CARPENTERS & SOFT FLOOR LAYERS	8.04	.50	.60		.01
ELECTRICIANS	10.85	.75	3%+.25		.02
ELEVATOR CONSTRUCTORS:					
Constructors	12.02	.895	.69	6%+a+b	.03
Helpers	8.41	.895	.69	6%+a+b	.03
Helpers (Prob.)	6.01	.895	.69	6%+a+b	.03
IRONWORKERS:					
Structural, Ornamental & Reinforcing	10.50	1.15	1.20		.02
LABORERS:					
Laborers	7.27	.60	.80		.10
Plasterers Tenders	7.42	.60	.80		.10
Boilers, Stack Work, Pneumatic Tool Op., Drillers, Pavement Breakers, Electric Chipping Ops., Blasterers & Powdermen, Creosote Work	7.77	.60	.80		.10
Pipelayers, fence & guardrail erectors	7.52	.60	.80		.10
Pneumatic Tool on Boiler & Stack Work	8.17	.60	.80		.10
LINE CONSTRUCTION:					
Linemen	9.84	.70	3%+.50	c	3/8 of 1%
Equipment Operator	9.24	.70	3%+.50	c	3/8 of 1%
Groundman	7.88	.70	3%+.50	c	3/8 of 1%
Driver Groundman	6.86	.70	3%+.50	c	3/8 of 1%
PAINTERS:					
Brush	7.00	.25	.25		
Spray and Tender	8.00	.25	.25		
Structural Steel	7.60	.25	.25		
PILEDRIVERMEN & MILLWRIGHTS	8.05	.55	.50		.01
PLUMBERS & STEAMFITTERS	10.90	.73	.55		.02
ROOFERS	7.00				
SHEET METAL WORKERS	9.92	.65+a	.65		.02
SPRINKLER FITTERS	10.91	.75	1.05		.08

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	Basic Hourly Rates	Fringe Benefits Payments			
		H & W	Pensions	Vacation	Education and/or Appr. Tr.
LABORERS, HEAVY	$ 7.12	.60	.80	d	.10
Laborers & Pipelayers					
Pneumatic Tool Op., Drillers Concrete Vibrators, & Pneumatic Breakers	7.62	.60	.80	d	.10
Blasters & Powderman	7.87	.60	.80	d	.10
LATHERS	9.75	1.00	.55		
LINE CONSTRUCTION:					
Linemen	9.84	.70	3%+.50	c	3/8 of 1%
Equipment Operator	9.24	.70	3%+.50	c	3/8 of 1%
Groundman	6.86	.70	3%+.50	c	3/8 of 1%
Driver Groundman	7.88	.70	3%+.50	c	3/8 of 1%
PAINTERS:					
Brush	7.00		.25		
Spray & Sandblasting	8.00		.25		
Open Structural Steel	7.60		.25		
Salem:					
Brush	10.96	.82	1.20		.04
Structural Steel	13.08	.82	1.20		.04
Spray & Sandblasting	11.96	.82	1.20		.04
Repaint	9.26	.82	1.20		.04
PLUMBERS & STEAMFITTERS:					
Plaistow, Atkinson, Danville, Hampstead, and Kingston	10.95	1.65	.62		.05
Salem and Windham	11.15	.87	1.00		.05
Remainder of County	10.90	.73	.55		.02
ROOFERS	7.00				
SHEET METAL WORKERS	9.92	.65+e	.65		.02
SPRINKLER FITTERS	10.91	.75	1.05		.08

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Welders - Receive rate prescribed for craft performing operation to which welding is incidental.

PAID HOLIDAYS:
A-New Year's Day; B-Memorial Day; C-Independence Day; D-Labor Day; E-Thanksgiving Day; F-Christmas Day.

FOOTNOTES:

a. Employer contributes 4% basic houly rate for 5 years or more of service or 2% of basic hourly rate for 6 months to 5 years of service as Vacation Pay Credit.

b. Holidays: A through F

c. Holidays: B through F provided employee has been employed 5 working days prior to the holiday and provided employee works the scheduled work days immediately preceding and following the holidays.

d. Holiday: B,C, & E provided employee works the scheduled work days before & after each holiday.

e. 3% of gross earning to SASMI

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BUILDING CONSTRUCTION
POWER EQUIPMENT OPERATORS

NH-1-PEO

	Basic Hourly Rates	Fringe Benefits Payments			
		H & W	Pensions	Vacation	Education and/or Appr. Tr.
CLASS 1	$10.88	1.10	1.00	a	.03
CLASS 2	10.76	1.10	1.00	a	.03
CLASS 3	10.03	1.10	1.00	a	.03
CLASS 4	9.24	1.10	1.00	a	.03
CLASS 5	8.69	1.10	1.00	a	.03
CLASS 6	8.26	1.10	1.00	a	.03

Boom lengths including jib" over 150' add $.55; over 185' add $.90; over 210' add $1.25; over 250' add $1.90; over 295' add $2.65.

CLASS 1 - Shovels, cranes, truck cranes, cherry pickers, dragline, trench hoe, backhoe, 3 drum machine, derricks, pile, elevator tower, hoist, gradall, shovel dozer (except when pushing), front end loader (except when pushing), fork lift auger, boring machine, rotery drill, post hole hammer, post hole digger, pumpcrete machine.
CLASS 2 - Sonic or vibratory hammer, grader, scraper more than 21 yds. struck, tahdem scraper, concrete pump, bulldozer, scraper 21 yds. struck or less, portable steam boiler, portable steam generator, roller, spreader, tamper, asphalt paver, Mechanics, Maintenance.
CLASS 3 - Assistant engineers (firemen).
CLASS 4 - Pumps (1-3 grouped), compressor, welding machine (1-3 groupad), generator, concrete vibrator, lighting plant, heater (power driven 1-5), wellpoint system (operating & installing), syphons-pulsometers, conc. mixers, valves controlling permanent plant air or steam conveyor, Jackson type tamper cranes & gradalls.
CLASS 5 - Oilers on truck cranes & gradalls
CLASS 6 - Oilers (other than truck cranes & gradalls)

FOOTNOTE: a, 10 paid holidays; New Year's Day; Memorial Day, Independence Day, Labor Day, Thanksgiving Day, Christmas Day, Washington's Birthday, Fast Day, Columbus Day, and Armistice Day.

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HEAVY CONSTRUCTION
POWER EQUIPMENT OPERATORS

	Basic Hourly Rates	Fringe Benefits Payments			
		H & W	Pensions	Vacation	Education and/or Appr. Tr.
CLASS 1	$10.07	1.10	1.00	a	.03
CLASS 2	10.87	1.10	1.00	a	.03
CLASS 3	9.95	1.10	1.00	a	.03
CLASS 4	8.795	1.10	1.00	a	.03
CLASS 5	9.41	1.10	1.00	a	.03
CLASS 6	8.01	1.10	1.00	a	.03
CLASS 7	8.09	1.10	1.00	a	.03

Boom length including jib: over 150' - additional $.25 per hour; over 185' additional $.50 per hour; over 220' - additional $.75 per hour; over 275' additional $1.00 per hour; over 295' additional $2.00 per hour.

CLASS - Power shovels, cranes, truck cranes, derrick, pile drivers, trenching machines, mechanical hoist, pavement breakers, cement concrete pavers, draglines,hoisting engines, three drum machines, pumpcrete machines elevating graders, shovel dozers, (when used for digging or loading), front end loaders (when used for digging or loading), mucking machines (when used as in shafts and tunnels), shaft hoists, steam engineers, backhoes, gradalls and cableways.
CLASS 2 - Master Mechanics
CLASS 3 - Grader, scrapers, more than 21 yds., struck and tandem scrapers, bulldozer, scrapers 21 yds., struck or less, grout pumps, portable steam boilers, roller, spreaders, asphalt pavers, locomotive and tampers self-propelled or tractor-drawn, Mechanics, maintenance, sonic or vibratory hammers.
CLASS 4 - Pumps (a) (1-3 grouped), compressors welding machine (a) (1-3 grouped) generators, lighting plants, heaters (power driven (105), syphons, pulsometers, concrete mixers, valves controlling pernament plant air or steam, conveyors, wellpoint systems (operating and installing).
CLASS 5 - Assistant engineers (Firemen)
CLASS 6 - Oilers (other than truck cranes and gradalls)
CLASS 7 - Oilers on truck cranes and gradalls

PAID HOLIDAYS: A-New Year's Day; B-Memorial Day; C-Independence Day; D-Labor Day; E-Thanksgiving Day; F-Christmas Day.

FOOTNOTE: a. Holidays A through F; Washington's Birthday; Columbus Day; Veterans' Day; Fast Day

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POWER EQUIPMENT OPERATORS
MARINE CONSTRUCTION

NH 5-PEO-4-F

	Basic Hourly Rates	Fringe Benefits Payments			
		H & W	Pensions	Vacation	Education and/or Appr. Tr.
CLASS 1	$11.75	1.10	1.00	a	.02
CLASS 2	11.70	1.10	1.00	a	.02
CLASS 3	11.63	1.10	1.00	a	.02
CLASS 4	11.63	1.10	1.00	a	.02
CLASS 5	10.71	1.10	1.00	a	.02
CLASS 6	9.81	1.10	1.00	a	.02
CLASS 7	8.68	1.10	1.00	a	.02
CLASS 8	9.705	1.10	1.00	a	.02
CLASS 9	9.21	1.10	1.00	a	.02

Booms over 150' including jib-additional $.25 per hour.
Booms over 185' including jib-additional $.50 per hour.
Booms 220' including jib-additional $.75 per hour.
Booms over 275' including jib-additional $1.00 per hour.

CLASS 1 - Power shovel, crane, truck crane, derrick, cherry picker, pile driver, 2 or more drum machine,lighter, derrick boat, trenching machine, mechanical hoist, pavement breaker, cement concrete paver, dragline, hoisting engine, pumpcrete machine, elevating grader, shovel dozer (except when pushing front end loader (except when pushing), backhoe, gradall, cableway, boring machine,rotary drill, post hole hammer, post hole digger, for, lift
CLASS 2 - Swinger engine
CLASS 3 - Sonic or vibratory hammer, grader, scraper (over 21 yds. struck), tandem scraper concrete pump, Bulldozer, scraper (21 yds. Struck or less).
CLASS 4 - Portable steam boiler, portable steam generstor, roller, tractor, mechanic (maintenance), concrete mixer with side loader.
CLASS 5 - Assistant engineer (fireman).
CLASS 6 - Pump, compressor, welding machine, heater (power driven), valve controlling pernament plant (air or steam), wellpoint system, auger (powered by independent engine and attached to pile driver), hydraulic saw, generator, lighting plant, syphon, pulsometer, concrete mixer,
CLASS 7 - Oiler (other than truck crane and gradall).
CLASS 8 - Oiler on scow.
CLASS 9 - Oiler on truck crane and gradall.

PAID HOLIDAYS: (WHERE APPLICABLE)
A-New Year's Day; B-Memorial Day; C-Independence Day; D-Labor Day; E- Thanksgiving Day; F-Christmas Day.

FOOTNOTE: a. Holidays: A through F; Washington's Brithday, Patriot's Day, Columbus Day; & Veteran's Day; Provided the employee has worked 3 days during the week in which the holidays falls and is availbale for work the days preceding the holidays.

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NH 1-TD-1-2-3-L

TRUCK DRIVERS	Basic Hourly Rates	Fringe Benefits Payments: H & W	Pensions	Vacation	Education and/or Appr. Tr.
CLASS 1	$ 5.21	.55	.40	a	
CLASS 2	5.44	.55	.40	a	
CLASS 3	5.67	.55	.40	a	

CLASS 1 - Two Axle Equipment
CLASS 2 - Three Axle Equipment including low beds
CLASS 3 - Special earth hauling equipment other than conventional type on the road truck and semitrailers trailer dumps.

PAID HOLIDAYS: A-New Year's Day; B-Memorial Day; C-Independence Day; D-Labor Day; E-Thanksgiving Day; F-Christmas Day.

FOOTNOTE: a. Holidays: A through F, plus Washington's Birthday, Veteran's Day and Columbus Day; (provded employee works two days in the calendar week in which the holiday falls; reports for work the last day assigned prior to the holiday and the first assigned following the holiday).

SUPERSEDEAS DECISION

STATE: NEW HAMPSHIRE COUNTIES: STATEWIDE
DECISION NUMBER: NH79-2046 DATE: DATE OF PUBLICATION
Supersedeas Decision No. NH78-2164 dated December 1, 1978 in 43 FR 56350
DESCRIPTION OF WORK: Highway Construction Projects (and Airport Runway and Taxiway Construction, but does not include bridges over Navigable Water; Tunnels; Buildings in Highway Rest Areas; and Railroad Construction)

	Basic Hourly Rates	Fringe Benefits Payments: H & W	Pensions	Vacation	Education and/or Appr. Tr.
CARPENTERS:					
Belknap, Carroll, Cheshire, Hillsboro, Strafford and Sullivan Counties	$ 7.09	.45	.30		.01
Coos and Merrimack Counties	7.45	.55	.50		.01
Grafton County	7.95	.65	.50		.01
Rockingham County	6.78				
CEMENT MASON:					
Belknap County	8.49	.75	.50		.01
Hillsboro County	8.31				
Rockingham County	8.19	.55	.40		.01
Strafford County	7.92				
Sullivan County	7.65	.45	.40		.01
ELECTRICIANS:					
Sullivan County	9.00				
IRONWORKERS:					
Cheshire, Coos, Grafton & Hillsboro Counties	9.20	.70	1.00		.02
Rockingham & Merrimack Counties	9.70	.70	1.00		.02
Sullivan County	8.65	.55	.90		.01
LABORERS:					
Belknap County	6.16	.60	.70		.10
Carroll County	5.68				
Cheshire County	5.25	.50	.45		.10
Coos, Grafton, Hillsboro, Merrimack, Strafford & Sullivan Counties	5.91	.50	.45		.10
Rockingham County	6.23				
Air Tool Operator:					
Cheshire County	5.75	.50	.45		.10
Sullivan County	6.31	.50	.45		.10
Driller:					
Hillsboro County	7.06	.50	.45		.10
Pipelayers:					
Hillsboro County	6.56	.50	.45		.10
Strafford County	6.41	.60	.70		.10
Pneumatic Tool Operator:					
Hillsboro County	5.00	.40	.40		.05
Blaster:					
Sullivan County	6.41	.50	.45		.10
Piledrivermen:					
Merrimack County	8.80	.65	.50		.01

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	Basic Hourly Rates	Fringe Benefits Payments: H & W	Pensions	Vacation	Education and/or Appr. Tr.
TRUCK DRIVERS:					
Belknap County	$ 5.50				
2 Axle					
Carroll County	3.50				
Hillsboro County	5.21				
Strafford & Sullivan Counties	4.71	.55	.25		
3 Axle					
Carroll County	3.50				
Cheshire County	5.44	.55	.40		
Coos, Grafton, Merrimack, & Sullivan Counties	4.94	.45	.25		
Hillsboro County	5.67	.55	.40		
Rockingham County	4.80				
Strafford County	4.94	.55	.25		
Earth Moving Equipment:					
Coos & Grafton Counties	5.17	.45	.25		
Strafford & Sullivan Counties	5.12	.55	.25		
Hillsboro and Merrimack Cos.	5.67	.55	.40		
Dump, Trailer Truck					
Hillsboro County	5.67	.55	.40		
POWER EQUIPMENT OPERATORS:					
Asphalt Paver:					
Belknap & Carroll Counties	9.20	1.10	1.00	a	.03
Cheshire County	6.85				
Coos & Grafton Counties	8.85				
Hillsboro County	8.30	.80	.75	a	.05
Merrimack County	8.15	.45	.60	a	.05
Strafford County	8.53	.75	.60	a	.05
Sullivan County	7.90	.45	.60	a	.05
Asphalt Roller:					
Carroll County	9.20	1.10	1.00	a	.03
Cheshire County	6.78				
Hillsboro County	7.82				
Merrimack County	8.15	.45	.60	a	.05
Strafford County	8.81	1.10	.80	a	.02
Sullivan County	7.025	.45	.60	a	.05

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	Basic Hourly Rates	Fringe Benefits Payments: H & W	Pensions	Vacation	Education and/or Appr. Tr.
POWER EQUIPMENT OPERATORS: (Cont'd)					
Backhoe:					
Belknap County	7.18				
Carroll County	9.32	1.10	1.00	a	.03
Coos, Grafton & Sullivan Cos.	8.93	1.10	.80	a	.02
Hillsboro & Merrimack Counties	9.60				
Rockingham County	8.30	.55	.60		.03
Strafford County	8.93	1.10	.80	a	.02
Sullivan County	8.35	.45	.60	a	.05
Bulldozer:					
Belknap County	6.50				
Carroll County	7.47				
Cheshire & Sullivan Counties	7.90	.45	.60	a	.05
Coos & Grafton Counties	8.53	.75	.60	a	
Rockingham County	9.20	1.10	1.00		.03
Merrimack County	10.05				
Strafford County	8.81	1.10	.80	a	.02
Sullivan County	7.90	.45	.60	a	.05
Crane:					
Hillsboro County	9.90				
Rockingham County	9.32	1.10	1.00		.03
Merrimack County	8.75	.80	.75	a	.05
Front End Loader:					
Belknap County	7.66				
Carroll County	6.76				
Coos, Grafton & Strafford Cos.	8.93	1.10	.80	a	.02
Rockingham County	8.93	1.10	1.00		.03
Up to 3/4 yds.:					
Cheshire & Sullivan Counties	7.35	.45	.60	a	.05
3/4 to 4 yds.:					
Cheshire County	8.10	.45	.60	a	.05
Hillsboro County	7.91				
Merrimack County	8.30	.80	.75	a	.05
Over 4 yds.:					
Hillsboro County	9.80				
Merrimack County	10.25				
Sullivan County	8.10	.45	.60	a	.05
Gradall:					
Hillsboro County	8.75	.80	.75	a	.05
Rockingham County	9.32	1.10	1.00		.03
Strafford County	8.93	1.10	.80	a	.02
Sullivan County	8.35	.45	.60	a	.05

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	Basic Hourly Rates	Fringe Benefits Payments			
		H & W	Pensions	Vacation	Education and/or Appr. Tr.
POWER EQUIPMENT OPERATORS: (Cont'd)					
Grader:					
Carroll County	$ 6.37				
Cheshire County	8.10	.45	.60	a	.05
Coos & Grafton Counties	8.67				
Hillsboro & Merrimack Counties	8.50	.80	.75	a	.05
Rockingham County	9.20	1.10	1.00		.03
Sullivan County	8.35	.45	.60	a	.05
Mechanic:					
Belknap County	7.39				
Carroll County	8.53	.75	.60	a	
Cheshire County	7.90	.45	.60	a	.05
Coos & Grafton Counties	8.81	1.10	.80	a	.02
Hillsboro County	8.33				
Merrimack County	8.30	.80	.75	a	.05
Rockingham County	8.95				
Sullivan County	6.43				
Oiler:					
Hillsboro County	6.90	.80	.75	a	.05
Paver:					
Rockingham County	7.00				
Roller:					
Belknap County	8.85				
Rockingham County	8.49				
Roller, Self-Powered:					
Carroll County	8.865	1.10	1.00	a	.03
Cheshire County	6.78				
Coos & Grafton Counties	8.53	.75	.60	a	
Hillsboro County	7.63				
Merrimack County	8.30	.80	.75	a	.05
Strafford County	8.81	1.10	.80	a	.02
Sullivan County	7.35	.45	.60	a	.05
Scraper:					
Hillsboro County	8.50	.80	.75	a	.05
Shovel:					
Coos & Grafton Counties	8.65	.75	.60	a	
Hillsboro County	9.15	.85	.75	a	.05

FOOTNOTE:
a. New Year's Day; Washington's Birthday; Memorial Day; Fourth of July; Labor Day; Columbus Day; Veteran's Day; Thanksgiving Day; Christmas Day.

SUPERSEDEAS DECISION

STATE: North Carolina COUNTIES: See below*
DECISION NUMBER: NC79-1082 DATE: Date of Publication
Supersedes Decision No. NC77-1014 dated February 4, 1977 in 41 FR 7065.
DESCRIPTION OF WORK: Building Construction Projects (does not include single family homes and garden type apartments up to and including 4 stories).

*Alexander, Burke, Caldwell, Catawba, and Iredell

	Basic Hourly Rates	Fringe Benefits Payments			
		H & W	Pensions	Vacation	Education and/or Appr. Tr.
AIR CONDITIONING MECHANIC	$5.75				
BRICKLAYERS	6.23				
CARPENTERS	5.04				
CEMENT MASONS	5.25				
ELECTRICIANS	6.41				
GLAZIERS	5.65				
IRONWORKERS	5.92				
LABORERS:					
Unskilled	3.51				
Mason Tenders	3.51				
Mortar mixer	4.30				
LATHERS	6.00				
PAINTERS, Brush	5.00				
PLUMBERS & PIPEFITTERS	5.66				
ROOFERS	4.45				
SHEET METAL WORKERS	5.06				
SPRINKLER FITTERS	5.50				
TERRAZZO WORKERS	4.90				
TILE SETTERS	5.00				
TRUCK DRIVERS	3.80				
WELDERS - Receive rate for craft to which welding is incidental.					
POWER EQUIPMENT OPERATORS:					
Asphalt pavers	4.36				
Backhoes	5.25				
Bulldozers	4.60				
Cranes, derricks, draglines	5.75				
Fork lifts	4.50				
Front end loaders	4.50				
Mechanics	5.57				
Motor graders	4.65				
Rollers	3.62				
Scrapers - Pans	4.00				
Screeds	5.50				
Tractors	4.30				

SUPERSEDEAS DECISION

STATE: OHIO COUNTIES: *SEE BELOW
DECISION NUMBER: OH79-2047 DATE: Date of Publication
Supersedes Decision NO.: OH78-2152, dated November 24, 1978 in 43 FR 55185
DESCRIPTION OF WORK: Building Construction Projects (Does not include family homes & garden type apartments up to and including 4 stories)

*ADAMS, BROWN, BUTLER, CHAMPAIGN, CLARK, CLERMONT, CLINTON, DARKE, DELAWARE, FAIRFIELD, FAYETTE, FRANKLIN, GALLIA, GEAUGA, GREENE, HAMILTON, HIGHLAND, LAWRENCE, LICKING, MADISON, MEIGS, MIAMI, MONTGOMERY, MUSKINGUM, PERRY, PICKAWAY, PIKE, PREBLE, ROSS, SCIOTO, SHELBY, UNION AND WARREN

	Basic Hourly Rates	Fringe Benefits Payments			
		H & W	Pensions	Vacation	Education and/or Appr. Tr.
ABESTOS WORKERS:					
Adams, Brown, Butler (excluding Middletown & vic.), Clermont, Hamilton, Highland, & Warren (excluding Twps. of Clear Creek Franklin, Massie, Turtle Creek, & Wayne) Cos.	$13.16	.75	1.00		.02
Butler (Middletown & Vic.), Champaign, Clark, Clinton, Darke, Greene, Miami, Montgomery, Preble, Shelby, & Warren (Twps. of Clear Creek, Franklin, Massie, Turtle Creek, & Wayne) Cos	13.02	.55	1.35		.02
Delaware, Fairfield, Fayette, Franklin, Licking, Madison, Muskingum, Perry, Pickaway, Ross & Union Cos.	13.07	.60	1.15		.02
Gallia, Lawrence, Meigs, Pike, & Scioto Cos.	13.10	.50	.70		.03
Geauga County	14.78				
BOILERMAKERS:					
Darke, Delaware, Shelby & Union Cos.	13.575	1.075	1.00		.03
Geauga Co.	12.68	.90	1.20		.03
Remaining Counties	10.70	1.05	1.10	1.50	.02
BRICKLAYERS; CAULKERS; CLEANERS; Marble Setters; Pointers; Stonemasons; Terrazzo Workers; & Tile Setters:					
Brown, Butler, Clermont, Hamilton, Preble (Twps. of Dixon, Ireael, Lanier, Somers, & Gratis), & Warren Cos.:					
Bricklayers; Caulkers; Cleaners; Pointers & Stonemasons	12.845	.65	.35		.02
Marble Setters	12.285	.65	.35		
Terrazzo Workers & Tile Setters	12.235	.65	.35		
Champaign, Clark & Logan Cos.:					
Bricklayers; Caulkers; Cleaners; Pointers & Stonemasons	10.72	.85	.75		.03
Marble Setters; Terrazzo Workers & Tile Settern	9.81	.85	.35		
Clinton & Highland Cos.	9.25				
Darke, Miami & Shelby Cos.	11.48	.85	.75		.03
Delaware, Franklin, Madison, Pickaway & Union Cos.:					

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BRICKLAYERS: (CONT'D)	Basic Hourly Rates	Fringe Benefits Payments			
		H & W	Pensions	Vacation	Education and/or Appr. Tr.
Bricklayers; Stonemasons	12.29	.80	1.00		.03
Rubble work	10.24	.40	.80		.01
Marble setters; Terrazzo workers & Tile setters	12.30				
Fairfield & Perry Cos.	10,43	.60	.90		.10
Fayette, Pike & Ross Cos.:					
Bricklayers; Caulkers; Cleaners; Pointers; & Stonemasons	12.20				
Gallia & Meigs Cos.	12.05	.50			
Geauga County	13.12	.60	1.00		
Greene, Montgomery, & Preble (Rem. of Co.) Cos.:					
Bricklayers; Caulkers; Cleaners; Pointers; & Stonemasons	11.93	.85	.75		.03
Marble setters; Terrazzo workers; & Tile setters	10.66	.85	.35		
Lawrence County	11.50		.50		.05
Licking & Muskingum Cos.	10.70	.60	.90		.10
CARPENTERS; Millwrights;					
Piledrivermen; & Soft floor layers:					
Adams, Fayette, Gallia, Highland, Lawrence, Meigs, Pike, Ross, & Scioto Cos.:					
Carpenters; Soft floor layers	9.24	.55	1.00		.03
Piledrivermen	9.53	.55	1.00		.03
Millwrights	10.79	.40	.37		.03
Brown, Butler, Clermont, Clinton, Hamilton & Warren Cos.:					
Carpenters; Piledrivermen	12.20	.75	.85		.075
Millwrights	12.38	.55	1.10		.10
Soft floor layers	10.55	.75	.85		.05
Champaign, Clark, Delaware, Fairfield, Franklin, Licking, Madison, Muskingum, Perry, Pickaway, & Union Cos.:					
Carpenters	11.47	.60	1.00		.04
Millwrights	12.12	.60	1.00		.04
Piledrivermen	12.12	.60	1.00		.04
Soft floor layers	11.47	.60	1.00		.04
Darke, Greene, Miami, Montgomery, Preble, & Shelby Cos.:					
Carpenters; Piledrivermen	11.55	.90	1.25		.07
Millwrights	11.61	.90	1.00		.07
Soft floor layers	10.40	.90	.90		.07

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	Basic Hourly Rates	Fringe Benefits Payments			
		H & W	Pensions	Vacation	Education and/or Appr. Tr.
Geauga Co.:					
Carpenters; Soft floor layers	12.87	.85	1.25		.03
Millwrights	12.60	.85	1.52		.03
Piledrivermen	12.60	.85	1.52		.03
CEMENT MASONS:					
Adams, Lawrence (excluding Fayette, Union, & Rome Twps.), Pike, & Scioto Cos.	12.52		.60		
Brown, Butler, Clermont, Hamilton & Warren Cos.	12.08	.80	.95		.20
Champaign, Clark, Darke, Greene Miami, Montromery, Preble, & Shelby Cos.	12.38	.60	.60		.07
Clinton & Highland Cos.	9.25				
Delaware, Fairfield, Fayette, Franklin, Licking, Madison, Muskingum, Pickaway, Ross, & Union Cos.	10.95	.60	1.00		.05
Geauga Co.	13.12	.60	1.00		
Lawrence Co. (Fayette, Union & Rome Twps.)	11.50		.50		.05
ELECTRICIANS:					
Adams, Pike (S. part), & Scioto Cos.	11.60	.50	3%+.60	1.00	.04
Brown, Clermont & Hamilton Cos.:					
Up to & incl. 18 mi. radius from Hamilton Co. court House	12.90	.70	3%+.60		½%
18 to 21 mi. radius from Hamilton Co. Court House	13.20	.70	3%+.60		½%
21 to 25 mi. radius from Hamilton Co. Court House	13.30	.70	3%+.60		½%
Over 25 mi. radius from Hamilton Co. Court House	13.45	.70	3%+.60		½%
Butler, & Warren (Twps. of Deer-Field, Hamilton, Harlan, Massie, Salem, Turtle Creek, Union, & Washington) Cos.:					
W. of Interstate #75:					
Electricians	12.35	.50	3%+.75		½%
Cable Splicers	12.85	.50	3%+.75		½%
E. of Interstate #75:					
Electricians	12.90	.50	3%+.75		½%
Cable Splicers	13.40	.50	3%+.75		½%

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ELECTRICIANS (CONT'D)	Basic Hourly Rates	Fringe Benefits Payments			
		H & W	Pensions	Vacation	Education and/or Appr. Tr.
Champaign, Clark, & Madison (Twps. of Paint, Pike, Somerford, Stokes, & Union) Cos.	$11.64	.75	3%+.90		.04
Clinton, Darke, Greene, Miami, Montgomery, Preble, & Warren (Rem. of Co.) Cos.:					
Electrical communications installers within 11 mi. radius of 3rd & Main Street, Dayton	12.43	.75	3%+1.00		.5%
Electrical communications installers beyond 11 mi. radius of 3rd & Main Street, Dayton	12.66	.75	3%+1.00		.5%
Delaware, Fairfield, Franklin, Madison (E. portion), Pickaway (N. & central portions), & Union Cos.	12.18	.38	3%+1.00		.06
Fayette, Highland, Pickaway (S. part), Pike (N. part), & Ross Cos.	12.35	.40	3%		.02
Gallia Co.	12.27	.50	3%+.80	1.00	.04
Geauga Co. (Bainbridge, Chester, & Russell Twps.)	13.75	.55	3%+.48		.02
Geauga Co. (Auburn, Middlefield, Parkman, & Troy Twps.)	13.39	.60	7%		.7%
Geauga Co. (Rem. of Co.)	13.88	.70	3%+.70		.2%
Lawrence Co.	11.82	.50	3%+.80	1.00	.04
Licking, Muskingum, & Perry Cos.	11.40	.40	3%+.85		.03
Meigs Co.	11.55	.50	3%+.80	1.25	.04
Shelby Co.	12.41	.45	3%+.37		.04
ELEVATOR CONSTRUCTORS:					
Adams, Brown, Butler, Clermont, Clinton, Darke, Hamilton, Highland, Miami, Preble, & Warren Cos.:					
Elevator Constructors	12.36	.745	.56	a+b	.035
Helpers	70%JR	.745	.56	a+b	.035
Helpers (Prob.)	50%JR				
Champaign, Clark, Delaware, Fairfield, Fayette, Franklin, Licking, Madison, Muskingum,					

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	Basic Hourly Rates	Fringe Benefits Payments			
		H & W	Pensions	Vacation	Education and/or Appr. Tr.
Perry, Pickaway, Ross, Shelby & Union Cos.:					
Elevator constructors	$12.22	.745	.56	a+b	.035
Helpers	70%JR	.745	.56	a+b	.035
Helpers (Prob.)	50%JR				
Gallia & Meigs Cos.:					
Elevator Constructors	12.06	.745	.56	a+b	.035
Helpers	70%JR	.745	.56	a+b	.035
Helpers (Prob.)	50%JR				
Geauga Co.:					
Elevator constructors	13.335	.745	.56	a+b	.035
Helpers	70%JR	.745	.56	a+b	.035
Helpers (Prob.)	50%JR				
Greene & Montgomery Cos.:					
Elevator Constructors	12.36	.745	.56	a+b	.035
Helpers	70%JR	.745	.56	a+b	.035
Helpers (Prob.)	50%JR				
Lawrence, Pike, & Scioto Cos.:					
Elevator Constructors	12.06	.745	.56	a+b	.035
Helpers	70%JR	.745	.56	a+b	.035
Helpers (Prob.)	50%JR				
GLAZIERS:					
Lawrence, & Scioto Cos.	10.60		.70		
Adams, Brown, Butler (Hamilton & Vic.), Clermont, Clinton (Southern part), Hamilton, Highland (Part), & Warren (Lebanon & south) Cos.	13.10		.60		.01
Champaign, Butler (excluding Hamilton & Vic.), Clark, Clinton (Northern Part), Darke, Fayette (Eastern Part), Greene, Highland (Part), Miami, Montgomery, Preble, Shelby (Southern Part), & Warren (North of Lebanon) Cos.	11.38		.70		.01
Delaware, Fairfield, Franklin, Licking, Madison, Muskingum, Perry, Pickaway, Pike, Ross, & Union Cos.	11.22		.57		.005
Geauga Co.	13.68	.55	.65		.01
IRONWORKERS:					
Adams (Part), Gallia, Lawrence, Pike (Part), & Scioto Cos.:					
To 10 mi. from Union Hall in Ashland, Kentucky	11.27	.90	1.05		.01

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	Basic Hourly Rates	Fringe Benefits Payments			
		H & W	Pensions	Vacation	Education and/or Appr. Tr.
10 to 15 mi. from Union Hall in Ashland, Kentucky	$11.42	.90	1.05		.01
15 to 20 mi. from Union Hall in Ashland, Kentucky	11.52	.90	1.05		.01
20 mi. & over from Union Hall in Ashland, Kentucky	11.62	.90	1.05		.01
Adams (Part), Brown, Butler (S. ½ of Co.), Clermont, Hamilton & Warren (S. ½ of Co.) Cos.:					
Ornamental; Structural	12.33	.90	1.20		.03
Reinforcing	11.53	.90	2.00		.02
Butler (N. ½ of Co.), Champaign (W. 2/3 of Co.), Clark (W 3/4), Clinton, Darke, Fayette (Part), Greene, Highland (W 4/5), Miami, Montgomery, Preble, Shelby, & Warren (N. ½) Cos.:					
Within 15 mi. radius of Local Union #290 office	10.96	.90	1.25		.04
Beyond 15 mi. radius of Local Union #290 office	11.11	.90	1.25		.04
Champaign (Rem. of Co.), Clark (E. ¼), Fayette (Part), Highland (E. 1/5), Muskingum, Perry, Pike (Part), & Ross Cos.	11.55	.90	1.95		.05
Delaware, Fairfield, Licking, Madison, Pickaway, & Union Cos.	11.45	.90	1.95		.05
Franklin Co.	11.30	.90	1.95		.05
Geauga Co.	12.72	1.05	1.30		.03
Meigs Co.	11.67	.75	.85		.01
LATHERS:					
Butler, Champaign(W½), Clinton, Darke, Fayette(W½), Greene, Miami, Montgomery, Preble, Shelby, & Warren (N. ½) Cos.	12.54		.40		.01
Champaign(E½), Clark(E½), Delaware, Fairfield, Fayette (E½), Franklin, Highland(NE Tip), Licking, Madison, Muskingum, Perry, Pickaway, Pike, Ross, & Union Cos.	12.45		.40		.01
Clermont, Hamilton, Highland, & Warren (S. ½) Cos.	13.32		.25		.025
Geauga Co.	13.38		1.50		.01
Lawrence Co.	11.725		.10		

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LINE CONSTRUCTION:	Basic Hourly Rates	Fringe Benefits Payments: H & W	Pensions	Vacation	Education and/or Appr. Tr.
Adams, Gallia, Lawrence, Meigs, Pike (Twps. of Camp Creek, Marion, Newton, Scioto, Sunfish & Union), & Scioto Cos.:					
Linemen	$12.73	.50	3%+.50	1.00	4%
Operators: All mechanized equipment	10.18	.50	3%+.50	1.00	4%
Cable splicers; linemen welder	14.00	.50	3%+.50	1.00	4%
Groundmen	8.27	.50	3%+.50	1.00	4%
Brown, Clermont, & Hamilton Cos.:					
Linemen up to & incl. 18 mi. radius from Hamilton Co. Court House, Cincinnati	12.90	.70	3%+.60		4%
Linemen over 18 to & incl. 21 mi. radius from Hamilton Co. Court House, Cincinnati	13.20	.70	3%+.60		4%
Linemen over 21 to & incl. 25 mi. radius from Hamilton Co. Court House, Cincinnati	13.90	.70	3%+.60		4%
Linemen over 25 mi. radius from Hamilton Co. Court House, Cincinnati	13.45	.70	3%+.60		4%
Butler & Warren (Twps. of Deerfield, Hamilton, Harlem, Massie, Salem, Turtle Creek, Union & Washington Twps.) Cos.:					
E. of Interstate 75:					
Linemen	12.35	.50	3%+.75		4%
Cable splicers	12.85	.50	3%+.75		4%
Groundmen:					
0-1 yr.	6.175	.50	3%+.75		4%
1-2 yrs.	7.41	.50	3%+.75		4%
Over 2 yrs.	8.645	.50	3%+.75		4%
W. of Interstate 75:					
Equipment ops.; Linemen	12.90	.50	3%+.75		4%
Cable splicers	13.40	.50	3%+.75		4%
Groundmen:					
0-1 yr.	6.65	.50	3%+.75		4%
1-2 yrs.	7.74	.50	3%+.75		4%
Over 2 yrs.	9.03	.50	3%+.75		4%

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LINE CONSTRUCTION (CONT'D)	Basic Hourly Rates	Fringe Benefits Payments: H & W	Pensions	Vacation	Education and/or Appr. Tr.
Champaign, Clark, Geauga (Bainbridge, Russell, & Chester Twps.) Cos.:					
Linemen; Cable Splicers; Equipment Operators	$13.11	.50	3%		4%
Groundmen:					
0-6 months	6.33	.50	3%		4%
6-12 months	6.71	.50	3%		4%
12-18 months	7.13	.50	3%		4%
18 months & over	7.52	.50	3%		4%
Clinton, Darke, Greene, Miami, Montgomery, Preble & Warren (Twps. of Wayne, Clear Creek, & Franklin) Cos.:					
Linemen; Cable Splicers	12.43	.75	3%+1.00		4%
Operators:					
Hole digging equipment; Crane; Hydraulic lift or bucket	12.43	.75	3%+1.00		4%
Line truck with winch or pole & steel handling	9.32	.75	3%+1.00		4%
Non-specialized truck & misc. equipment	7.46	.75	3%+1.00		4%
Groundman-Truck Driver:					
0 - 1 yr.'s experience	6.84	.75	3%+1.00		4%
Over 1 yr.'s experience	7.46	.75	3%+1.00		4%
Delaware, Madison, Pickaway (Twps. of Circleville, Darby, Harrison, Jackson, Madison, Monroe, Muhlenberg, Scioto, Walnut, & Washington), & Union Cos.:					
Cable splicers; Linemen; Equipment Operators	13.11	.50	3%		4%
Groundmen:					
Beginning	6.17	.50	3%		4%
After 6 months	6.57	.50	3%		4%
After 12 months	7.02	.50	3%		4%
After 18 months	7.44	.50	3%		4%
Fairfield & Licking Cos.:					
Cable Splicers; Linemen; Operators: All mechanized equipment	12.03	.60	3%		4%
Groundmen - Truck Drivers - over 1 yr.	9.53	.60	3%		4%
Groundmen - Truck Drivers - 0-1 yr.	8.51	.60	3%		4%

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LINE CONSTRUCTION (CONT'D)	Basic Hourly Rates	Fringe Benefits Payments: H & W	Pensions	Vacation	Education and/or Appr. Tr.
Groundmen:					
Starting	$ 6.07	.60	3%		4%
6 - 12 months	6.49	.60	3%		4%
12 - 18 months	6.92	.60	3%		4%
18 months & over	7.34	.60	3%		4%
Fayette, Highland, Pickaway (Deer Creek, Perry, Pickaway, Salt Creek, & Wayne Twps.), Pike (excluding Camp Creek, Marion, Newton, Scioto, Sunfish & Union Twps.), & Ross Cos.:					
Equipment ops.; Linemen	10.95	.28	3%		4%
Truck Drivers	6.47	.28	3%		4%
Groundman	6.17	.28	3%		4%
Franklin Co.:					
Cable Splicers; Linemen	10.88	.50	3%		4%
Operators:					
0 - ½ yr.	7.30	.50	3%		4%
½ - 1 yr.	8.52	.50	3%		4%
1 yr. or more	9.81	.50	3%		4%
Geauga (Auburn, Middlefield, Parkman, & Troy Twps.):					
Linemen; Cable splicers; Operator pole digging equipment	14.07	.45	3%		4%
Groundmen 1st 6 mos.	7.035	.45	3%		4%
Groundmen 2nd 6 mos.	8.44	.45	3%		4%
Groundmen 2nd yr.	9.85	.45	3%		4%
Groundmen 3rd yr.	10.55	.45	3%		4%
Groundmen over 3 yrs.	11.26	.45	3%		4%
Geauga (Rem. of Co.):					
Linemen; Cable splicers; Equipment operators	13.88	.70	3%+.70		4%
Truck Drivers Groundmen; Groundmen more than 2 yrs.' experience	9.02	.70	3%+.70		4%
Truck Drivers Groundmen; Groundmen less than 2 yrs.' experience	7.63	.70	3%+.70		4%

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LINE CONSTRUCTION (CONT'D)	Basic Hourly Rates	Fringe Benefits Payments: H & W	Pensions	Vacation	Education and/or Appr. Tr.
Muskingum, & Perry Cos.:					
Linemen; Cable splicers; Equipment operators	$12.13	.50	3%		4%
Groundmen:					
Beginning	6.17	.50	3%		4%
After 6 mos.	6.57	.50	3%		4%
After 12 mos.	7.02	.50	3%		4%
After 18 mos.	7.44	.50	3%		4%
Shelby Co.:					
Linemen	12.63	.60	3%		4%
Groundmen; Truck Drivers	8.44	.60	3%		4%
Equipment Operators	11.37	.60	3%		4%
MARBLE SETTERS' FINISHERS; Terrazzo Workers' Finisher; & Tile Setters' Finishers:					
Adams, Brown, Butler, Clermont, Fayette, Gallia, Hamilton, Highland, Lawrence, Meigs, Pike, Ross, Scioto, & Warren Cos.:					
Marble Setters' Finishers	11.285				
Marble Sanders; Polishers; Stockmen; Waxers; & Sawyers	11.45				
Terrazzo Workers' Finishers; & Grinders	11.235				
Terrazzo base grinders (While operating Base grinding machine)	11.655				
Tile setters' finishers	11.185				
Champaign, Clark, Darke, Greene, Miami, Montgomery, Preble & Shelby Cos.	8.34				
Delaware, Fairfield, Franklin, Madison, Pickaway & Union Cos.:					
Marble Setters' Finishers; Terrazzo Workers' Finishers; & Tile Setters' Finishers	9.70				
Terrazzo base grinders	10.05				
Terrazzo floor grinders	9.85				
Geauga Co.:					
Marble Setters' Finishers	11.76		1.50		
Terrazzo Workers' Finishers	12.62		1.20		
Tile Setters' Finishers	12.29		1.50		

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	Basic Hourly Rates	Fringe Benefits Payments			
		H & W	Pensions	Vacation	Education and/or Appr. Tr.
PAINTERS:					
Adams, Highland, Pike & Scioto Cos.:					
Brush; Paperhangers; Tapers; Wall covering, washing; Exterior buildings under 40'	$11.55		.50		
Rollers; Floor Sanding; Power Tools	12.05		.50		
Sandblasting; Steamcleaning; & Burning	12.55		.50		
Brown, Clermont, & Hamilton Cos.					
Commercial:					
Brush	12.35		.25		25.00p/yr
Spray	12.75		.25		25.00p/yr
Industrial:					
Brush	12.50		.25		
Spray	12.90		.25		
Butler & Warren Cos.:					
Commercial:					
Brush	10.58				
Spray	11.08				
Industrial:					
Brush	10.73				
Spray	11.23				
Clinton, Darke, Greene, Miami, Montgomery, & Preble Cos.:					
Brush; Roller	12.59		.80		.08
Scaffold; Structural Steel; & Swing Stage	12.99		.80		.08
Sandblasting; Spray; & Steamcleaning	13.09		.80		.08
Spackling & Finishing; & Taping	12.94		.80		.08
Steeple Jackwork	13.34		.80		.08
Delaware, Fairfield, Fayette, Franklin, Madison, Pickaway & Union Cos.:					
Brush; Paperhangers; Rollers; & Wall Washing	11.39	.65	.65		.02
Spray	11.89	.65	.56		.02
Structural Steel; & Swing Stage	11.69	.65	.65		.02
Sandblasting; Steamcleaning; & Water Tanks	12.09	.65	.65		.02
Drywall Tapers & Finishers	11.79	.65	.65		.02

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	Basic Hourly Rates	Fringe Benefits Payments			
		H & W	Pensions	Vacation	Education and/or Appr. Tr.
PAINTERS: (CONT'D)					
Gallia, Lawrence, & Meigs Cos.:					
Brush; Roller	$ 9.05			d	
Drywall Taping; Paperhangers; & Wall Washers	9.68			d	
Spray	10.15			d	
Open Structural Steel	9.70			d	
Geauga Co.:					
Brush; Paperhangers; Rollers	12.21	.67	1.00		.05
Swing Stage: Windowjack & Boe'n Chair	12.51	.67	1.00		.05
Spray	12.61	.67	1.00		.05
Tapers	12.91	.67	1.00		.05
Licking, Muskingum, & Perry Cos.					
Brush; Paperhangers	8.50				
Spray	8.95				
Ross County:					
Brush; Roller; & Taping	9.25				
Structural Steel	9.50				
Sandblast & Spray	10.00				
Shelby Co.:					
Brush; Roller; Drywall Taping	10.05	.73	.50		.03
Wallcovering; Swing Stage; Safety belts; Spiders; Cherry pickers - brush or rollers	10.30	.73	.50		.03
Spray; Sandblasting; Steam-cleaning; Mitts; High pressure water cleaning & blow down	10.55	.73	.50		.03
Stilts & automatic drywall tools	10.80	.73	.50		.03
Petroleum Storage tanks (over 30' high) brush, rollers	10.45	.73	.50		.03
Structural Steel (open skeleton) - brush or rollers	10.35	.73	.50		.03
Elevated water tanks & stacks - brush, roller or spray	11.55	.73	.50		.03

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	Basic Hourly Rates	Fringe Benefits Payments			
		H & W	Pensions	Vacation	Education and/or Appr. Tr.
PLASTERERS:					
Adams, Lawrence (except Twps. of Fayette, Union, & Rome), Pike & Scioto Cos.	$12.32		.60		
Brown, Butler, Clermont, Hamilton, & Highland & Warren Cos.	13.095		.75		.02
Champaign, Clark, Darke, Greene, Miami, Montgomery, Preble, & Shelby Cos.	12.95				
Clinton Co.	9.85				
Delaware, Fairfield, Fayette, Franklin, Licking, Madison, Muskingum, Perry, Pickaway, Ross and Union Cos.	11.94	.60	.30		.02
Gallia & Meigs cos.	12.05	.50			
Geauga County	13.12	.60	1.00		
Lawrence Co. (Twps. of Fayette, Union & Rome Twps.)	11.50		.50		.05
PLUMBERS; Steamfitters:					
Adams, Gallia, Highland, Lawrence, Pike, & Scioto Cos.:					
Within 10 mi. radius of Portsmouth	12.47	.55	.75		
10 - 20 mi. radius of Portsmouth	12.72	.50	.75		
20 - 35 mi. radius of Portsmouth	12.82	.55	.75		
Over 35 mi. radius of Portsmouth	13.07	.55	.75		
Brown, Clermont, Hamilton, & Warren (N. of Rte #63 excl. Lebanon & S. Lebanon) Cos.:					
Plumbers; Gas Fitters	12.82	1.05	1.20		.07
Pipefitters; Steamfitters	13.00	1.025	1.30		.08
Butler Co. (N. ½)	13.05	.90	1.00		.05
Butler (S. ½) & Warren (S. of Rte. #63 incl. Lebanon & S. Lebanon) Cos.	13.12	.80	1.10		.02
Champaign, Clark, Greene (Twps. of Cedarville, Ross, Jefferson, Ceasar Creek, & New Jasper), & Madison (W. of Rte. #38 incl. city of London) Cos.	12.40	.83	.85		.04
Clinton, Darke, Fayette, Greene (excl. Twps. of Miami, Cedarville, Ross, Jefferson, Ceasar Creek, & New Jasper), Miami, Montgomery & Preble Cos.	12.46	.80	1.05		.03

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	Basic Hourly Rates	Fringe Benefits Payments			
		H & W	Pensions	Vacation	Education and/or Appr. Tr.
PLUMBERS; Steamfitters: (Cont'd)					
Delaware, Fairfield, Franklin, Licking, Madison (E. of Rte. #38 not incl. city of London), Perry, Pickaway, Ross, & Union Cos.	$13.00	.93	.82		.06
Geauga Co:					
Pipefitters	13.70	1.22	1.30		.05
Plumbers	14.13	.80	1.10		.02
Meigs Co.	11.73	.52	.60		.045
Muskingum Co.	12.55	.50	.60		.08
Shelby Co.	12.80	.80	.95		.05
ROOFERS:					
Adams, Gallia, Lawrence, Meigs, Muskingum, Pike & Scioto Cos.	11.55		.50		
Brown, Butler, Clermont, Hamilton, Highland, & Warren Cos.:					
Roofers	13.32		.85		.01
Pitch	13.92		.85		.01
Champaign, Delaware, Fairfield, Fayette, Franklin, Licking, Madison, Perry, Pickaway, Ross, & Union Cos.	11.795	.60	.85		.01
Clark, Clinton, Darke, Greene, Miami, Montgomery, Preble, & Shelby Cos.:					
Slate, Tile, & Asbestos Composition, Damp & Waterproof Workers	12.47	.80	.75		
Geauga Co.	12.25	.80	.75		
SHEET METAL WORKERS:	14.03	.85	.90		
Adams, Delaware, Fairfield, Fayette, Franklin, Gallia, Lawrence, Licking, Madison, Meigs, Muskingum, Perry, Pickaway, Pike, Ross, Scioto, & Union Cos.	12.07	.86+a	1.12		.15
Brown, Clermont, Hamilton, & Highland Cos.	12.865	1.03	.85		.04
Butler, Champaign, Clark, Clinton, Darke, Greene, Miami, Montgomery, Preble, Shelby, & Warren Cos.	12.28	.95+f	1.15		.16
Geauga Co.	12.85	.60	1.33		.04

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	Basic Hourly Rates	Fringe Benefits Payments			
		H & W	Pensions	Vacation	Education and/or Appr. Tr.
SPRINKLER FITTERS:					
Geauga Co.	12.45	1.22	1.30		.05
Remainder of Counties	12.75	.75	1.05		.08

PAID HOLIDAYS:
A-New Year's Day; B-Memorial Day; C-Independence Day; D-Labor Day; E-Thanksgiving Day; & F-Christmas Day

FOOTNOTES:
a. 7 paid holidays: A through F, & Day after Thanksgiving
b. Employer contributes 8% of regular hourly rate to vacation pay credit for employee who has worked in business more than 5 years. Employer contributes 6% of regular hourly rate to vacation pay credit for employee who has worked in business less than 5 years.
c. 9 paid holidays: A through F, plus Washington's Birthday, Good Friday and Christmas Eve, providing employee who has worked 45 full days during the 120 calendar days prior to the holiday, and the regular scheduled work days immediately preceding and following the holiday.
d. 6 paid holidays: A,C,E,F, Decoration Day & Veterans' Day
e. 3% of gross earnings to SASMI
f. 3% of gross earnings to SASMI

LABORERS:					
Adams, Gallia, Highland, Lawrence, Meigs, Pike, & Scioto Cos.:					
Common laborers; Signalmen	7.77	.65	.55		.10
Sheeting & Shoring men	7.87	.65	.55		.10
Bottom men; Carpenters' tenders; Mason tenders; Mortar mixers; Plasterers' tenders; & Sewer pipe layers	7.92	.65	.55		.10
Air & machine driven tool op.; Asphalt rakers & smoothers; Burning & cutting torches; Chain saws; & Powered concrete buggies; Hand spikers	8.02	.65	.55		.10
Gunnite machine op.; Gunnite nozzlemen; Powdermen & blasters	8.34	.65	.55		.10
Brown, Clermont, Clinton, & Hamilton Cos.:					
GROUP 1	10.50	.70	.70		.10
GROUP 2	10.60	.70	.70		.10
GROUP 3	10.65	.70	.70		.10
GROUP 4	10.70	.70	.70		.10
GROUP 5	10.85	.70	.70		.10
GROUP 6	11.00	.70	.70		.10
GROUP 7	11.25	.70	.70		.10
GROUP 8	9.97	.70	.70		.10
GROUP 9	10.12	.70	.70		.10

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LABORERS: (CONT'D)	Basic Hourly Rates	Fringe Benefits Payments			
		H & W	Pensions	Vacation	Education and/or Appr. Tr.

GROUP 1: Common laborers; Cement Masons' helpers; Hand operated mechanical mule; Mechanical sweeper; Signal man
GROUP 2: Bottom man; Pipelayer
GROUP 3: Burning torch operator; Jackhammer; Mechanical & air tamper operator; Mechanical concrete buggies; Power operated mechanical mule; Concrete pump hose man; Vibrator man
GROUP 4: Plasterers' tender; Mason tender; Stone mason tender; Bottom jackhammer man
GROUP 5: Plaster mixer pump operator
GROUP 6: Tunnel laborer
GROUP 7: Gunnite nozzle operator
GROUP 8: Demolition Construction - Wrecking laborers
GROUP 9: Demolition Construction - Jackhammer man; Burner; & wall man

Butler & Warren Cos.:					
Common laborers	9.79	.70	.70		.10
Asphalt rakers; Tampers; Smoothers hand air pump; Hand air tamper chisel; Vibrator power tamper op.	9.89	.70	.70		.10
Gunnite operators; Sandblasters; Concrete pumps & hose men	10.14	.70	.70		.10
Mason tenders; Mortar mixers; & scaffold builders	10.12	.70	.70		.10
Champaign, & Clark Cos.:					
Laborers general; Carpenters' tenders; Flagman; & Signalmen	8.60	.80	.80		.10
Plasterers' tenders; Mason Tenders; Mortar mixers	9.00	.80	.80		.10
Air and Machine driven tool ops.; Jackhammer; Barko & chain saw; Sewer pipe layer; Bottom man; Wagon drill; Hand Spikers; Asphalt raker & tamper; Power concrete & buggies; Gunnite machine op. & nozzle man	8.85	.80	.80		.10
Miners & muckers for tunnel & caisson; Powdermen & blaster	9.10	.80	.80		.10
Darke, Greene, Miami, Montgomery, & Preble Cos.:					
Unskilled	9.44	.70	.70		.10
All machine & Power driven tools; Power buggies; Vibrators; Chipping hammers, & railroad spikers					

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LABORERS: (CONT'D)	Basic Hourly Rates	Fringe Benefits Payments			
		H & W	Pensions	Vacation	Education and/or Appr. Tr.
by hand; Swinging scaffold over 15'	$ 9.59	.70	.70		.10
Jackhammer; Air drill; Sand blaster; Sewer pipe layers; Non-hole builders, & bottom men	9.64	.70	.70		.10
Caisson work; Scaffold with power tools	9.69	.70	.70		.10
Torch man on wrecking	9.74	.70	.70		.10
Caisson work with jackhammer	9.89	.70	.70		.10
Gunnite op.; Wagon drill op.; & blaster-powderman	9.94	.70	.70		.10
Tenders to bricklayers & masons	10.07	.70	.70		.10
Tenders to lathers & plasterers	10.11	.70	.70		.10
Delaware Co.:					
Building & Construction laborers; Signalman; Flagman; Tool crib-man; Carpenter tender; Finisher tender; Concrete handler; Utility construction laborers; Guardrail erectors	9.36	.70	.70		.10
Bottom man; Scaffold builders; Tunnel laborers; Pipelayers; Air & power driven tools; Burner on demolition work; Swinging scaffold; Mucker; Caisson work; Cofferdam worker; Powder man & dynamite blasters; Creosote worker; Mortar Mixer tenders; Plasterers' tenders; Hod carrier; Laser beam set up man	9.56	.70	.70		.10
Gunnite op.	9.96	.70	.70		.10
Fairfield, Fayette, Franklin, Madison, Pickaway, & Union Cos.:					
Common laborers; Carpenter tenders; Pouring of all concrete; Cleaning debris; Cleaning of all material; General clean up; Landscape Sod layers; Salamander; Flagmen; Wire mesh handlers or setters; Loading & unloading all trucks; Handling & conveying all material; Washing of all					

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LABORERS (CONT'D)	Basic Hourly Rates	Fringe Benefits Payments			
		H & W	Pensions	Vacation	Education and/or Appr. Tr.
windows; A man on bucket pouring concrete; Conveyor belt	9.04	.80	.80		.10
Brick tender; Stone mason tender; Plasterers' tenders; Mortar mixers & Operator; Cement mason tender; All scaffold builders (swinging scaffolds); Jackhammer op.; Air or electrical pneumatic tool op.; Power driven tools; Power buggy op.; Power wheelbarrow ops.; Asphalt & blacktop rakers; Wall wrecker & bar man on demolition; Sand & vacuum cleaning; Gunnite nozzle man; Wagon & churn drill ops.; Concrete saw op. & brush feeders on pulverizers; Pipelayers; Bottom man; Laser gun, Burners; Sandblasting of concrete; Vibrator man; Signal man; Caisson bottom man; & Forklift op.	9.34	.80	.80		.10
Geauga Co.:					
Laborers; Equipment replacing wheelbarrow & concrete buggy	10.52	1.37	1.40		
Power driven tools & vibrators; Sewer & Utilities laborers; Pipe brick tenders	10.67	1.37	1.40		
Jackhammer; Acetylene burner mucker	10.72	1.37	1.40		
Swinging scaffold; Mason tender handling carbon block & bottom block material; Air track & Wagon drill	10.77	1.37	1.40		
Gunnite op.; Blasters & Shooters; Caisson; Well; Cylinder; Cofferdams; Mine workers w/o air	10.84	1.37	1.40		
Topman on free standing radial stack	11.02	1.37	1.40		
Acid brick tenders	10.92	1.37	1.40		

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	Basic Hourly Rates	Fringe Benefits Payments			
		H & W	Pensions	Vacation	Education and/or Appr. Tr.
LABORERS: (CONT'D)					
Licking Co.:					
Brick tender; Stonemason tender; Plasterer tender; Mortar mixer & operator; Cement mason tender; All scaffold builders; Swinging scaffolds; Jackhammer ops.; Air or electrical pneumatic tool ops.; Power driven tools; Power buggy ops.; Fork lift ops.; Power wheelbarrow ops.; Asphalt & blacktop rakers; Wall wrecker & bar man on demolition; Sandblasting; Welders on demolitions; Gunnite nozzle man; Wagon & churn drill ops.; Concrete saw ops.; Brush feeders on pulverizers; Pipe layers; Bottom man; Laser gun; Burners; Sandblasting of concrete; Vibrator man	8.49	.55	.40		.05
Common laborers; Carpenter tender; Pouring of all concrete; Cleaning of all material; General clean-up incl. vacuum cleaning; Landscape; Sod layers; All portable heaters; Loading & unloading all trucks; Handling & Conveying all materials; Washing of all windows; A man on bucket pouring concrete; Conveyor belt; Water pumps up to & incl. 4" intake	8.27	.55	.40		.05
Muskingum & Perry Cos.:					
Planters (landscape); Tree Trimmers; Plumbers' helpers; Carpenters' tender; Building & construction laborers	8.72	.70	.70		.10
Air & machine driven tool ops.; Asphalt plant aggremeter ops.; Asphalt plant mixer men; Brick slingers; Car pushers & tunnel laborers; Caulkers; Yarners & Wrenchmen; Cement handlers; Concrete puddlers (behind mixers); Curb cutters & setters;					

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	Basic Hourly Rates	Fringe Benefits Payments			
		H & W	Pensions	Vacation	Education and/or Appr. Tr.
LABORERS: (CONT'D)					
Hand spikers ops.; Jackhammer ops.; Muckers; Mason tenders; Mortar mixers; Pipe layers; Proportioning plant ops.; Pump men (under 4"); Road form setters; Sewer bottom men; stone mason tenders; Sheeting & Shoring men; Vibrator op.; Plasterers' tenders; Cutting with burning torches; Dumpmen (batch trucks)	$ 8.82	.70	.70		.10
Brick droppers; Lock tenders; Powdermen or blasters	8.97	.70	.70		.10
Ross Co.:					
Brick tenders; Stonemasons' tenders; Plasterers' tenders; Mortar mixer & ops.; Cement masons' tenders; All sceffold builders (Swinging scaffolds), Jackhammer ops.; Air or electrical pneumatic tool ops.; Power driven tools; Power buggy ops.; Fork lift ops.; Power wheelbarrow ops.; Asphalt & blacktop rakers; Wall wrecker & bar man on demolition; Sandblasting; Welders on demolition; Gunnite nozzle man; Wagon & churn drill ops.; Concrete saw ops.; Brush feeders on pulverizers; Pipe layers; Bottom man; Laser gun; Burners; Sandblasting of concrete; Vibrator man; Carpenters' tenders	8.56	.70	.70		.10
Common laborers; Pouring of all concrete; Cleaning debris; Clean-up incl. vacuum cleaning; Landscape; Sod layers; Loading & unloading all trucks; Handling & conveying all materials; Washing of all windows; A man on bucket pouring concrete; Conveyor belt; All water pumps up to & incl. 3" intake.	8.36	.70	.70		.10

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	Basic Hourly Rates	Fringe Benefits Payments			
		H & W	Pensions	Vacation	Education and/or Appr. Tr.
LABORERS: (CONT'D)					
Shelby Co.:					
Building laborers; Laser beam; Power wheelbarrow or Power buggy	$ 8.65	.80	.80		.10
Vibrators; spikers by hand (Railroad); Cement finishers helpers	8.80	.80	.80		.10
All machine driven tools (gas, electric, air); Asphalt rakers; Caisson; Cofferdam; Demolition; Packers; Pot tenders; Pump man under 4" discharge; Tampers; Torchman; Tunnel	8.80	.80	.80		.10
Blaster helper; Cylinder, shaft; Jackhammer; Man-hole builders; Mason tenders; Mortar mixers; Plasterers' tenders; Sewer bottom man; Sewer pipelayer; Sewer, water conduit, gas, oil, pipeline, except mainlines; & Wagon drill helper	8.95	.80	.80		.10
Blaster-Powderman; Gunnite ops.; Muckers & miners (Tunnel & caisson) free air; Sandblasters; & Wagon drill/operator	8.95	.80	.80		.10

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POWER EQUIPMENT OPERATORS	Geauga Co.	Remaining Cos.	Fringe Benefits Payments			
			H & W	Pensions	Vacation	Education and/or Appr. Tr.
GROUP A	$13.97	$13.41	.71	1.00		.11
GROUP B	13.82	13.25	.71	1.00		.11
GROUP C	13.47	12.89	.71	1.00		.11
GROUP D	12.69	12.11	.71	1.00		.11
GROUP E	12.37	11.78	.71	1.00		.11
GROUP F	10.19	9.58	.71	1.00		.11

GROUP A: A-frame; All rotary drills used on caisson work for foundations & sub-structure work; Boiler operator or compressor operator (when compressor or boiler is mounted on crane, piggyback Op.); Boom trucks; Cableways; Cherry pickers; Combination concrete mixer & tower; Concrete pumps; Cranes; Derricks; Draglines; Elevating grader or Euclid loader; Floating equipment; Gradalls; Helicopter op. hoisting building materials; Helicopter winch operator hoisting builders material; Hoes; Hoisting engines (2 or more drums); Lift slab or panel jack operators; Locomotives; Maintenance engineer (mechanic or welder); Mixer paving (multiple drum); Mobile concrete pumps w/booms; Panelboard (all types on site); Piledriver; Power shovels; Side booms; Slip form pavers; Straddle carriers (building construction on site); Trench machines(over 24" wide)

GROUP B: Asphalt paver; Bulldozer; CMI type equipment; End loaders; Kohlman type loaders (dirt loading); Mucking machines; Power grader; Power scoops; Power scrapers; Push cats

GROUP C: Air compressor (pressurizing shafts or tunnels); All asphalt rollers; Fork lifts; Hoist (1 drum); House elevators; Man lift; Power boilers (over 15 lbs., pressure); Pump op. installing or operating well points or other type of dewatering system; Pumps (4" & over discharge); Submersible pumps (4" & over discharge); Trenchers (24" & under)

GROUP D: Compressors on building construction; Conveyors (building material); Gunnite machines; Mixers (cap. more than 1 bag); Mixers (1 bag cap. side 1 loaders); Post driver; Post hole digger; Pavement breaker (hydraulic or cable); Road widening trencher; Rollers; Welding op.

GROUP E: Backfillers & tampers; Batch plant; Bar & joint installing machine; Bullfloats; Burlap & curing machines; Cleftplanes; Concrete spreading machines; Crushers; Drum fireman (asphalt); Farm type tractor (pulling attachments); Finishing machines; Form trenchers; High pressure pumps (over 4" discharge); Hydro seeders; Self-propelled power spreaders; Self-propelled sub-grader; Tire repairman; Tractors pulling sheep foot roller or grader; Vibratory compactors (with integral power)

GROUP F: Oiler; Helper; Signalman; Light plant operator; Power driven heaters (oil fired); Power boiler (less than 15 lbs., pressure); Pumps (under 4" discharge); Submersible pumps (under 4" discharge)

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	Basic Hourly Rates	Fringe Benefits Payments			
		H & W	Pensions	Vacation	Education and/or Appr. Tr.
TRUCK DRIVERS:					
Adams, Brown, Highland, Lawrence (W. of Coal Grove & W. of St. Rte #75), Pike, Ross, & Scioto Cos.:					
Jeep; Station Wagons; Pickups; Fuel trucks; Dumps to & incl. 2 tons; Bus drivers (incl. all equipment used for hauling men & materials)	8.96	21.50a			
Dumps over 2 tons; Tandems; Semi-tractor; Lowboys; Fork lifts (incl. mason Tending work); Euclids	9.88	21.50a			
Butler Co. (N. ½):					
Tandem axle trucks; Tandem axle dump trucks; Winch trucks; Fork lifts; Truck warehouse men	9.54	25.00b	31.00a		
Single axle trucks; Jeeps; Pickups	9.39	25.00b	31.00a		
Euclid trucks; Mechanics	9.84	25.00b	31.00a		
Lowboys & drags	9.80	25.00b	31.00a		
Semi combination & combination of hauling units	9.64	25.00b	31.00a		
Clinton, Darke, Greene, Miami, Champaign, Montgomery, & Preble Cos.:					
Straight flat & dump truck; Winch truck	6.23	21.50a	8.00a	c&e	
Ready mix dump crete	6.29	21.50a	8.00a	c&e	
Tandem truck & tractor trailer combination	6.34	21.50a	8.00a	c&e	
Euclid to 12 yds.	6.40	21.50a	8.00a	c&e	
Euclid over 12 yds.	6.76	21.50a	8.00a	c&e	
Delaware, Fayette, Franklin Madison, & Pickaway cos.:					
Dump & straight	9.71	$3.00a			
Tandem & semi-farm tractor	9.81	$3.00a			
Lowboy	9.91	$3.00a			

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	Basic Hourly Rates	Fringe Benefits Payments			
		H & W	Pensions	Vacation	Education and/or Appr. Tr.
TRUCK DRIVERS (CONT'D)					
Gallia, Lawrence (E. of Ohio St. Rte #75), & Meigs Cos.:					
Truck helpers; pickups; Station wagons; Panel trucks; Yardmen; Warehousemen; Flatbody material truck (straight job); Greasers; Washers; Firemen; Gas pump attendants; Dump trucks (up to 5 cubic yards)	$ 9.84	93.17d	60.67d	1.00	
Tank trucks (straight)	9.94	93.17d	60.67d	1.00	
Dump trucks (5 cu. yds. & over); Semi-dump trucks; Semi-trailers (whether flat, rack or pole & hauled or pushed by truck or tractors); Agitator or mixer trucks (up to 5 cu. yds.); Tank truck (semi)	10.09	93.17d	60.67d	1.00	
Low boy trailers; Winch trucks; Fork trucks; Distributor trucks (front end & back end); Truck crane; Monorail truck	10.14	93.17d	60.67d	1.00	
Material checker & receiver	10.19	93.17d	60.67d	1.00	
Agitator or mixer truck (5 cu. yds. & over)	10.24	93.17d	60.67d	1.00	
Mechanic's helper	10.19	93.17d	60.67d	1.00	
Mechanic	10.49	93.17d	60.67d	1.00	
Tri-axle dump trucks; Hydraulic lift tailgate truck & farm type tractors; End dumpsters; Turnarockers; Rosa carriers; Athey wagon or similar equipment; A-frame; Hydrolift; Dual purpose trucks	10.49	93.17d	60.67d	1.00	

FOOTNOTES:
a. per week per employee
b. per week per employee providing employee has been on payroll at least 30 days
c. 1 yr's employment - 1 wk's paid vacation; 7 yrs' employment - 2 wks' paid vacation providing the employee has been on payroll for 8 months during the previous 12 month period.
d. per month per employee
e. an employee who has been on the payroll 30 days or more & has worked his last scheduled workday within 7 calendar days before his next scheduled workday within 7 calendar days after New Yr's Day, Memorial Day, July 4th, Labor Day, Thanksgiving Day, & Christmas Day shall receive 8 hrs. pay for said holidays

SUPERSEDEAS DECISION

STATE: OHIO
COUNTIES: *SEE BELOW
DECISION NUMBER: OH79-2048
DATE: Date of Publication
Supersedes Decision No. OH78-2153, dated November 13, 1978 in 43 FR 52660
DESCRIPTION OF WORK: Building & Residential Construction

*ASHTABULA, CUYAHOGA, LAKE, LORAIN, PORTAGE, STARK, & SUMMIT

	Basic Hourly Rates	Fringe Benefits Payments			
		H & W	Pensions	Vacation	Education and/or Appr. Tr.
ASBESTOS WORKERS:					
Ashtabula (Cities of Ashtabula & Geneva), Cuyahoga, Lake, & Lorain Cos.	$14.78				
Ashtabula (Rem. of Co.)	12.89	.55	1.00		.02
Remaining Cos.	12.95	.60	.80		.02
BOILERMAKERS	12.68	.90	1.20		.03
BRICKLAYERS; Stonemasons:					
Ashtabula Co.	11.21	.95	.70		
Cuyahoga Co.	12.65	1.05	1.20		.01
Lake Co.	13.12	.60	1.00		
Lorain Co.	12.85		.60	a	.01
Portage & Summit Cos.:					
Commercial Construction	13.16	.88	.55		.02
Residential Construction	11.16	.88	.55		.02
Stark Co.	12.29	.95	.70		.01
CARPENTERS; Millwrights; Piledrivermen; Soft Floor Layers:					
Ashtabula, Cuyahoga, & Lake Cos.:					
Carpenters; Soft Floor Layers	12.87	.85	1.25		.03
Millwrights	12.60	.85	1.52		.03
Piledrivermen	12.60	.85	1.52		.03
Portage & Summit Cos.:					
Carpenters	12.85	.60	1.00		.02
Millwrights	12.60	.85	1.52		.03
Piledrivermen	12.60	.85	1.52		.03
Soft Floor Layers	10.40	.40	.70		
Stark Co.:					
Carpenters	11.88	.60	.70		.02
Millwrights; Piledrivermen	12.36	.60	.70		.02
Soft Floor Layers	11.71	.60	.70		.02
Lorain Co.:					
Carpenters; Soft Floor Layers	11.59	.85	1.00	b	.06
Millwrights; Piledrivermen	12.60	.85	1.52		.03
CEMENT MASONS:					
Ashtabula Co.	11.21	.95	.70		
Cuyahoga Co.	14.58				
Lake Co.	13.12	.60	1.00		
Lorain Co.	12.85		.60	a	.01
Portage, Stark, & Summit Cos.:					
Commercial Construction	12.39	.60	.75		.02
Residential Construction (excluding Stark Co.)	11.42	.60	.75		.02

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	Basic Hourly Rates	Fringe Benefits Payments			
		H & W	Pensions	Vacation	Education and/or Appr. Tr.
ELECTRICIANS:					
Cuyahoga & Lorain (Twp. of Columbia) Cos.	13.75	.55	3%+.48		.02
Lake Co.:					
Commercial Construction	13.88	.70	3%+.70		.2%
Residential Construction	6.50	.70	3%		1%
Lorain (Except Columbia Twp.):					
Commercial Construction	13.25	.75	3%+.80		.1%
Residential Construction	7.68	.60	3%		.1%
Portage (Twps. of Atwater, Aurora, Brimfield, Deerfield, Franklin, Mantus, Randolph, Ravenna, Rootstown, Shelbyville, Streetsboro, & Suffield), & Summit Cos.:					
Commercial Construction	12.81	.74	3%+.65		.2%
Residential Construction	8.18	.74	3%+.20		.2%
Stark County:					
Commercial Construction	12.60	.50	3%+.50		.3%
Residential Construction	8.65	.50	3%+.40		.3%
Ashtabula co. (Twps. of Colebrook, Wayne, Willaimsfield, Orwell, & Windsor) & Portage (Remainder of Co.) Co.	13.39	.60	7%		.7%
Ashtabula co. (Rem. of Co.):					
Commercial Construction	13.05	.90	3%+.85		.2%
Residential Construction	6.60		3%		.002%
ELEVATOR CONSTRUCTORS:					
Ashtabula Co.:					
Elevator Constructors	11.70	.745	.56	c+d	.035
Helpers	70%JR	.745	.56	c+d	.035
Helpers (Prob.)	50%JR				
Cuyahoga, Lake, & Lorain Cos.:					
Elevator constructors	13.335	.745	.56	c+d	.035
Helpers	70%JR	.745	.56	c+d	.035
Helpers (Prob.)	50%JR				
Portage, Stark, & Summit Cos.:					
Elevator Constructors	12.49	.745	.56	c+d	.035
Helpers	70%JR	.745	.56	c+d	.035
Helpers (Prob.)	50%JR				
GLAZIERS:					
Ashtabula, Cuyahoga, Lake & Lorain Cos.	13.68	.55	.65		.01
Portage, Stark & Summit Cos.:					
Commercial	11.79	.71	1.01		
Residential	7.19	.64	.52		

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	Basic Hourly Rates	Fringe Benefits Payments			
		H & W	Pensions	Vacation	Education and/or Appr. Tr.
IRONWORKERS:					
Ashtabula (NE ¼ of Co.)	12.00	1.86	1.01		.15
Ashtabula (except NE ¼ of Co.), Cuyahoga, Lake, Lorain, Portage (excluding Ravenna Ordnance Depot), & Summit Cos.	12.72	1.05	1.30		.03
Portage (Ravenna Ordnance Depot) Co.:					
Ornamental; Reinforcing; & Structural	12.03	.40	1.30		.07
Bucker-up	12.155	.40	1.30		.07
Sheeter	12.53	.40	1.30		.07
Stark Co.:					
Ornamental; Reinforcing; & Structural	12.58	.80	.95		.05
Bucker-up	12.705	.80	.95		.05
Sheeter-side	12.83	.80	.95		.05
Sheeter-roof	13.08	.80	.95		.05
LATHERS:					
Ashtabula, Cuyahoga, Lake, Lorain (Eastern portion), & Summit (No. part of Co.) Cos.	13.38		1.50		.01
Lorain (Rem. of Co.)	13.30				.01
Portage & Summit (So. part of Co.) Cos.	13.56	.88	.50		.01
LINE CONSTRUCTION:					
Ashtabula Co. (Twps. of Colebrook, Orwell, Wayne, Williamsfield, & Windsor); Portage Co. (Twps. of Charlestown, Edinburgh, Freedom, Hiram, Nelson, Palmyra, Paris, & Windom)					
Cable splicer op.; Linemen; Pole digging equipment op.	14.07	.45	3%		4%
Groundmen:					
Over 3 yrs.	11.26	.45	3%		4%
3rd yr.	10.55	.45	3%		4%
2nd yr.	9.85	.45	3%		4%
2nd 6 mos.	8.44	.45	3%		4%
1st 6 mos.	7.035	.45	3%		4%

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	Basic Hourly Rates	Fringe Benefits Payments			
		H & W	Pensions	Vacation	Education and/or Appr. Tr.
LINE CONSTRUCTION (CONT'D)					
Ashtabula Co. (Rem. of Co.):					
Cable splicer; Equipment Op.; Line Truck Driver; Linemen	13.05	.90	3%+.35		4%
Groundmen:					
Over 12 mos.	9.80	.90	3%+.85		4%
6 - 12 mos.	8.50	.90	3%+.85		4%
0 - 6 mos.	7.20	.90	3%+.85		4%
Cuyahoga Co.:					
Cable splicers; Equipment Ops.; Linemen	14.28	.50	3%		4%
Beginning Truck Drivers Groundmen	7.85	.50	3%		4%
Advanced Truck Drivers (winch) Groundmen	9.28	.50	3%		4%
Lorain (Columbia Twp.) Co.:					
Cable splicers; Equipment Ops.; Linemen	13.11	.50	3%		4%
Beginning Truck Driver Groundmen	6.17	.50	3%		4%
Advanced Truck Driver (winch) Groundman over 2 yrs.' experience	6.57	.50	3%		4%
Lorain (Rem. of Co.) Co.:					
Cable Splicers; Equipment ops.; & Linemen	13.25	.75	3%+.80		4%
Lake Co.:					
Equipment Operators; Linemen	13.88	.70	3%+.70		4%
Portage (Twps. of Atwater, Aurora, Brimfield, Deerfield, Franklin, Mantua, Randolph, Ravenna, Rootstown, Shalersville, Streetsboro, & Suffield), & Summit Cos.:					
Linemen	12.81	.74	3%+.65		4%
Cable Splicers	13.61	.74	3%+.65		4%
Groundmen; Truck Drivers	6.41	.74	3%+.65		4%
Equipment Operators	9.61	.74	3%+.65		4%
Stark Co.:					
Cable Splicers; Linemen	12.60	.50	3%+.50		.3%
Truck Drivers; Groundmen	7.50	.50	3%+.50		.3%
Line Equipment Ops.	11.10	.50	3%+.50		.3%
MARBLE SETTERS:					
Ashtabula Co.	11.21	.95	.70		
Cuyahoga Co.	12.65	1.05	1.20		.01
Lake Co.	13.12	.60	1.00		
Lorain Co.	12.85		.60	a	.01
Portage & Summit Cos.	12.12	.81	.50		
Stark Co.	11.22	.95	.70		

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	Basic Hourly Rates	Fringe Benefits Payments			
		H & W	Pensions	Vacation	Education and/or Appr. Tr.
MARBLE SETTERS' FINISHERS:					
Cuyahoga, Lake & Lorain Cos.	11.76		1.50		
Portage & Summit Cos.	11.62	.81	.50		
PAINTERS:					
Ashtabula, Cuyahoga, Lake, Portage (No. of East West Turnpike), & Summit (No. of East West Turnpike), Lorain (NE part):					
Brush; Rollers; Paperhangers	12.21	.67	1.00		.05
Swing Stage; Window Jack Tapers	12.51	.67	1.00		.05
	12.91	.67	1.00		.05
Lorain (Except NE part):					
Commercial Construction:					
Brush	9.70			e	
Roller; Taping	9.95			e	
Residential Construction:					
Brush	9.35			e	
Taping	9.60			e	
Portage Co. (Ravenna Ordnance Depot):					
Brush; Rollers; Waterproofing; Paperhanging; Wallwashing; Hydro jet cleaning; Steam Cleaning	11.50	.75	1.00		
Spray; Epoxy-mastic (brush or roller)	12.00	.75	1.00		
Swing; Interior scaffold (over 30 ft.); Window jacks & safety belts	11.67	.75	1.00		
Drywall Taping	11.65	.75	1.00		
Open Structural Steel	11.71	.75	1.00		
Dipping (when permitted)	11.85	.75	1.00		
Epoxy - mastic (spray)	12.50	.75	1.00		
Paperhangers (furnishing own tools)	11.75	.75	1.00		
Stark Co.: (Commercial)					
Brush; Roller	10.31	.93	.60		.02
Paperhangers	10.41	.93	.60		.02
Drywall	10.71	.93	.60		.02
Spray	10.81	.93	.60		.02
Drywall with machines	11.06	.93	.60		

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	Basic Hourly Rates	Fringe Benefits Payments			
		H & W	Pensions	Vacation	Education and/or Appr. Tr.
PAINTERS (CONT'D)					
Stark Co.: (Residential)					
Brush; Roller	9.87	.93	.60		.02
Paperhangers	9.97	.93	.60		.02
Spray	10.37	.93	.60		.02
Drywall	10.27	.93	.60		.02
Drywall with machines	10.62	.93	.60		.02
PIPEFITTERS:					
Ashtabula, Cuyahoga, Lake, & Lorain Cos.	13.70	1.22	1.30		.05
PLASTERERS:					
Ashtabula Co.	11.21	.95	.70		
Cuyahoga Co.	14.88				.01
Lake Co.	13.12	.60	1.00		
Lorain Co.	12.85		.60	a	.01
Portage & Summit Cos.	12.26	.60	.75		.01
Stark Co.	12.29	.95	.70		.01
PLUMBERS:					
Ashtabula, Cuyahoga, Lake, & Summit (No. of Rte. #303) Cos.	14.13	.90	1.10		.02
Lorain Co.	13.23	.60	.88		.05
Portage & Summit (So. of Rte. #303) Cos.	12.15	.85	1.00		.05
Stark Co.	12.12	.50	.70	f	.05
ROOFERS:					
Ashtabula, Cuyahoga, Lake, & Lorain Cos.	14.03	.25	.50		
Portage, Stark, & Summit Cos.	12.52	.94	.70		.02
SHEET METAL WORKERS:					
Ashtabula, Cuyahoga, & Lake Cos.	12.85	.60	1.33		.04
Lorain Co.	13.00	.85	.88		.04
Portage, Stark, & Summit Cos.	12.41	.81	.84		.05
SPRINKLER FITTERS:					
Ashtabula, Cuyahoga, Lake, & Lorain Cos.	13.70	1.22	1.30		.05
Lake, Portage, Stark, & Summit Cos.	12.75	.75	1.05		.08
STEAMFITTERS:					
Lorain Co.	13.23	.60	.88		.05
TERRAZZO WORKERS:					
Ashtabula Co.	11.21	.95	.70		
Cuyahoga Co.	12.65	1.05	1.20		.01
Lake Co.	13.12	.60	1.00		
Lorain Co.	12.85		.60	a	.01
Portage & Summit Cos.	12.12	.81	.50		
Stark Co.	11.14	.95	.70		

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	Basic Hourly Rates	Fringe Benefits Payments			
		H & W	Pensions	Vacation	Education and/or Appr. Tr.
TERRAZZO WORKERS' FINISHERS:					
Cuyahoga, Lake, & Lorain Cos.	12.62		1.20		
Portage & Summit Cos.	11.62	.81	.50		
Stark Co.	10.26	.95	.70		
TILE SETTERS:					
Ashtabula Co.	11.21	.95	.70		
Cuyahoga Co.	12.905		1.50		
Lake Co.	13.12	.60	1.00		
Lorain Co.	12.85		.60	a	.01
Portage & Summit cos.	12.12	.81	.50		
Stark Co.	11.05	.95	.70		
TILE SETTERS' FINISHERS:					
Cuyahoga, Lake, & Lorain Cos.	12.29		1.50		
Portage & Summit Cos.	11.62	.81	.50		
Stark Co.	10.14	.95	.70		

PAID HOLIDAYS:
A-New Year's Day; B-Memorial Day; C-Independence Day; D-Labor Day
E-Thanksgiving Day; & F-Christmas Day

FOOTNOTES:
a. 2 paid holidays: C & D
b. 2 paid holidays: B & D
c. 7 paid holidays: A through F, & Day after Thanksgiving
d. Employer contributes 8% of regular hourly rate to vacation pay credit for employee who has worked in business more than 5 years. Employer contributes 6% of regular hourly rate to vacation pay credit for employee who has worked in business less than 5 years.
e. 2 paid holidays: C & D
f. 1 paid holiday: D providing the employee has worked 5 consecutive days before and after the holiday.

LABORERS (Ashtabula County): Sheeting & Shoring Men; Ashphalt Rakers & Tampers; Dumpmen (Batch Truck); Signalmen; Concrete Workers; Building Wreckers; Tool Checkers; Carpenters' Tenders; Construction Laborers; All work not mentioned in classifications below to be paid at the rate of construction laborers	$10.45					

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	Basic Hourly Rates	Fringe Benefits Payments			
		H & W	Pensions	Vacation	Education and/or Appr. Tr.
LABORERS (CONT'D):					
Spreader Box Men (asphalt); Stone Masons' Assistant; Plasterers or Mortar Mixers; Squeegee man	10.60				
Air & Machine Driven Tool op.; Industrial Sewer Cleaning; Sewer Pipe Layers; Bottom Men (6' & over); Power Driven Wheelbarrows & Sweepers; Brick Batter & Droppers; Burning & Cutting Torches; Mud Jacking of floors	10.65				
Stackmen; Swinging Scaffold men	10.75				
Tunnel Laborers	10.85				
Gunnite ops.	10.95				
Power Blasters	11.00				
LABORERS (Cuyahoga County):					
Construction	10.52	1.37	1.40		
Sewer & Utility; Power Driven Tools & Vibratora	10.67	1.37	1.40		
Jackhammer; Acetylene Burners; Muckers	10.72	1.37	1.40		
Swinging Scaffolds	10.77	1.37	1.40		
Gunnite ops.; Blasters; Shooters; Caisson; Well Cylinders; Mine Workers w/o air; & Cofferdams	10.84	1.37	1.40		
Topman on free standing radial stack	11.02	1.37	1.40		
LABORERS (Lake County):					
Building & Construction	10.65	.55	.40		
Gunite op.; Blasters & Shooters; Caissons; Wells; Cylinder cofferdams; Mine Workers w/o air; Swing Scaffolds; Acetylene Burners; Vibrators; Top man on free standing radial stacks; Slip forms higher than 30'; Fire Brick Tenders	10.90	.55	.40		

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	Basic Hourly Rates	Fringe Benefits Payments			
		H & W	Pensions	Vacation	Education and/or Appr. Tr.
LABORERS (Lorain County): Building & Construction; Signalmen; Flagmen; Tool Crib; Carpenter Tender; Finisher Tender; Concrete Handler; Guard Rail Erector	10.63	.80	.80		.10
Bottom Men; Scaffold Builder; Tunnel Laborers; Pipelayers; Air & Power Driven Tools; Burner on demolition work; Swinging Scaffold; Mucker; Caisson Worker; Cofferdam Worker; Powder Men & Dynamite Blasters; Creosote Workers; Mortar Mixers; Form Setter; Mason Tender; Plasterers' Tenders; Hod Carrier; Laser Beam set up man	10.83	.80	.80		.10
Gunnite Operator	11.23	.80	.80		.10
LABORERS (Portage & Summit Cos.) Residential Construction	9.37	.80	.80		.16
Common Laborers; Welders' Helpers; Carpenters' Tenders; Landscape Laborers; Mason Tender; Concrete Bucket Tender	10.92	.80	.80		.16
Air Driven Boring Machine; Tamper ops.; Asphalt Raker; Paving Bed Maker; Material Mixer; Wire Mesh Handler; Hook-up man on demolition work; Scaffold Erector; Structural Precast Erector; Power Tools-Air, Gas, or electric	11.07	.80	.80		.16
Pipe Layers; Rock Drillers; Muckers--Tunnel; Burners; Form Setters; Power Saws; Jackhammer Barco Type Tampers; Bottom man; Hod Carrier; Power Buggy or Power Wheelbarrow	11.12	.80	.80		.16

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	Basic Hourly Rates	Fringe Benefits Payments			
		H & W	Pensions	Vacation	Education and/or Appr. Tr.
LABORERS (CONT'D) Gunite Nozzlemen; Tunnel Miners; Water Line Caulkers; Dynamite Men; Pump Hose Nozzlemen	11.42	.80	.80		.16
LABORERS (Stark County): Building & Construction; Signalmen; Flagmen; Tool Cribman; Carpenters' Tenders; Finisher Tenders; Concrete Handler; Utility Construction Laborer; Guard Rail Erector	9.36	.70	.70		.10
Bottom Men; Scaffold Builder; Tunnel Laborers; Pipe Layers; Air & Power Driven Tools; Burner on demolition; Swinging Scaffold; Mucker; Caisson Worker; Cofferdam Worker; Powder Men & Dynamite Blaster; Creosote Workers; Mortar Mixers; Form Setter; Mason Tender; Plasterers' Tenders; Hod Carrier; Laser Beam Set-Up Men	9.56	.70	.70		.10
Gunnite Operator	9.96	.70	.70		.10
POWER EQUIPMENT OPERATORS:					
Ashtabula, Cuyahoga, Lake, & Lorain Cos.:					
GROUP A	13.97	.71	1.00		.11
GROUP B	13.82	.71	1.00		.11
GROUP C	13.47	.71	1.00		.11
GROUP D	12.69	.71	1.00		.11
GROUP E	12.37	.71	1.00		.11
GROUP F	10.19	.71	1.00		.11
Portage, Stark, & Summit Cos.:					
GROUP A	13.69	.71	1.00		.11
GROUP B	13.53	.71	1.00		.11
GROUP C	13.18	.71	1.00		.11
GROUP D	12.37	.71	1.00		.11
GROUP E	12.04	.71	1.00		.11
GROUP F	9.83	.71	1.00		.11

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GROUP A - A-Frames; All rotary drills used on caisson work for foundations & sub-structure work; Boiler op. or compressor op. when compressor or boiler is mounted on crane (piggyback operation); Boom trucks (all types); Cableways; cherry pickers; Combination concrete mixer & tower; Concrete pumps; Cranes (all types); Derricks (all types); Draglines; Elevating grader or Euclid loader; Floating equipment; Gradalls; Helicopter op. (hoisting builders materials); Helicopter winch op.;(hoisting builders materials); Hoes (all types); Hoisting engines (two or more drums); Lift slab or panel jack ops.; Locomotives (all types); Maintenance engineer (mechanic or welder); Mixer paving (multiple drum); Mobile concrete pumps with boom; Panelboard (all types on site); Pile driver; Power shovels; Side booms; Slip form pavers; Straddle carriers (building construction site); Tower derricks; Trench machines (over 24" wide)

GROUP B - Asphalt paver; Bulldozer; CMI type equipment; Endloaders; Kohlman type loaders (dirt loading); Mucking machines; Power graders; Power scoops; Power scrapers; Push cats

GROUP C - Air compressor (pressurizing shafts or tunnels); All asphalt rollers; Fork lifts; Hoist (one drum); House elevators; Man lift; Power boiler (over 15 lbs., pressure); Pump op. installing or operating well points or other type of dewatering system; Pumps (4" & over discharge); Submersible pumps (4" & over discharge); Trenchers (24" & under)

GROUP D - Compressors on building construction; Conveyors (building material); Gunite machines; Mixers (cap., more than one bag); Mixers (one bag cap., side loader); Post driver; Post hole digger; Pavement breaker (hydraulic or cable); Road widening trencher; Rollers; Welder operator

GROUP E - Backfillers and tampers; Batch plant; Bar & joint installing machine; Bull floats; Burlap & curing machines; Clefplanes; Concrete spreading machines; Crushers; Drum fireman (asphalt); Farm type tractors (pulling attachments); Finishing machines; Form trenchers; High pressure pumps (over 3" discharge); Hydro seeders; Self-propelled power spreader; Self-propelled subgrader; Tractors (pulling sheep foot roller or grader); Tire repairman; Vibratory compactors (with integral power)

GROUP F - Oiler; Helpers; Signalman; Light plant op.; Power driven heaters (oil fired); Power boilers (less than 15 lbs. pressure); Submersible pumps (under 4" discharge); Pumps (under 4" discharge)

SUPERSEDEAS DECISION

STATE: OHIO
COUNTIES: *SEE BELOW
DECISION NO.: OH79-2049
DATE: Date of Publication
Supersedeas Decision No. OH78-2154, dated November 13, 1978, in 43 FR 52666
DESCRIPTION OF WORK: Building Construction (Does not include single family homes and garden type apartments up to and including 4 stories).

*ASHLAND, CARROLL, COLUMBIANA, COSHOCTON, HOLMES, MEDINA, TUSCARAWAS, & WAYNE

	Basic Hourly Rates	Fringe Benefits Payments			
		H & W	Pensions	Vacation	Education and/or Appr. Tr.
ASBESTOS WORKERS:					
Ashland, Coshocton, Holmes, Medina, Tuscarawas & Wayne Cos.	$12.95	.60	.80		.02
Carroll & Columbiana Counties	12.89	.55	1.00		.02
BOILERMAKERS:					
Ashland County	13.575	1.075	1.00		.03
Carroll, Coshocton, Holmes, Medina, Tuscarawas, & Wayne Counties	12.68	.90	1.20		.03
Columbiana County	11.785	7.5%	7%		.01
BRICKLAYERS; Marble Setters; Stonemasons: Terrazzo Workers; and Tile Setters:					
Ashland, Holmes & Wayne (except Milton & Chippewa Twps.) Cos.	12.23	.70	1.00		.02
Carroll, Columbiana (Twps. of Knox, Butler, West & Hanover), and Tuscarawas Counties:					
Bricklayers; Stonemasons	12.29	.95	.70		.01
Carroll and Tuscarawas Counties:					
Marble Setters	11.22	.95	.70		
Terrazzo Workers	11.14	.95	.70		
Tile Setters	11.05	.95	.70		
Columbiana (Twps. of Center, Elk Run, Fairfield, Middletown, New Waterford, Perry, Salem, and Unity) County:					
Bricklayers; Stonemasons	11.74	.75	1.00		.02
Marble Setters; Terrazzo Workers; and Tile Setters	13.055				
Columbiana (Rem. of Co.) Co.	11.15	.60	.50		
Coshocton County	10.70	.60	.90		.10
Medina (Twps. of Hinckley, Grander, Brunswick, Medina, Liverpool, Montville, and York) Co.:					
Bricklayers; Marble Setters; Stonemasons; and Terrazzo Workers	12.65	1.05	1.20		.01
Tile Setters	12.905		1.50		

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	Basic Hourly Rates	Fringe Benefits Payments			
		H & W	Pensions	Vacation	Education and/or Appr. Tr.
Medina (Twps. of Wadsworth, Guilford, Westfield, Lafayette & Sharon) & Wayne (Chippewa & Milton Twps.) Cos.:					
Bricklayers; Stonemasons	$13.16	.88	.55		.02
Marble Setters; Terrazzo Workers; & Tile Setters	12.12	.81	.50		
Medina (Twps. of Litchfield, Chatham, Harrisville, Homer, & Spencer) Co.	12.85		.60	a	.01
CARPENTERS; Millwrights; Piledrivermen; & Soft Floor Layers:					
Ashland Co.:					
Carpenters; Soft Floor Layers	11.59	.85	1.00	b	.06
Millwrights	12.60	.85	1.52		.03
Piledrivermen	12.60	.85	1.52		.03
Carroll, Tuscarawas, & Wayne Cos.:					
Carpenters	11.88	.60	.70		.02
Millwrights; Piledrivermen	12.36	.60	.70		.02
Soft Floor Layers	11.71	.60	.70		.02
Columbiana Co.:					
Carpenters	10.75	.92	.95		.02
Millwrights	11.73	.50	6%	5%	.02
Piledrivermen	11.85	5.5%	10%		.5%
Coshocton & Holmes Cos.:					
Carpenters; Soft Floor Layers	11.47	.60	1.00		.04
Millwrights	12.12	.60	1.00		.04
Piledrivermen	12.12	.60	1.00		.04
Medina Co.:					
Carpenters	12.85	.60	1.00		.02
Millwrights	12.60	.85	1.52		.03
Piledrivermen	12.60	.85	1.52		.03
CEMENT MASONS; Plasterers:					
Ashland Co.:					
Cement Masons	11.65	.60			
Plasterers	10.95				
Carroll & Tuscarawas Cos.	12.29	.95	.70		.01

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	Basic Hourly Rates	Fringe Benefits Payments			
		H & W	Pensions	Vacation	Education and/or Appr. Tr.
Columbiana Co.:					
Cement Masons	$11.80	.60	.50		.05+f
Plasterers:					
Twps. of Knox, Butler, West, & Hanover	12.29	.95	.70		.01
Remainder of Co.	12.11	.60			.03
Coshocton Co.:					
Cement Masons	10.70	.60	.90		.10
Holmes & Wayne (except Chippewa & Milton Twps.) Cos.	12.88		1.00		.02
Medina Co. (exclusive of Twps. of Homer, Harrisville, Chatham, Litchfield, & Spencer)					
Cement Masons	12.39	.60	.75		.02
Plasterers	12.26	.60	.75		.01
Medina Co. (Rem. of Co.):					
Cement Masons; Plasterer	12.85		.60	a	.01
ELECTRICIANS:					
Ashland Co.	12.30	.45	3% + .50		.1%
Carroll (N ½ incl. Pox, Harrison, Rose & Washington Twps.), Columbiana (Knox Twp.), Holmes, Tuscarawas (N. of Auburn, Clay, Rush, & York Twps.), & Wayne (S. of Baughman, Chester, Green, & Wayne Twps.) Cos.	12.60	.50	3% + .50		.3%
Carroll (Rem. of Co.) Co.	13.50	7%	10%	10%	½%
Columbiana (Twps. of Center, Elk Run, Franklin, Hanover, Liverpool, Madison, Middleton, St. Clair, Washington, Wayne, West, & Yellow Creek) Co.	11.90	.95	3% + .48		.07
Columbiana (Twps. of Butler, Fairfield, Perry, Salem, & Unity) Co.	13.03	.59	7%		.3%
Coshocton & Tuscarawas (Auburn, York, Jefferson, Clay, Rush, Oxford, Washington, Salem, Perry, & Bucks Twps.) Cos.	11.40	.40	3% + .85		.03
Medina (Twps. of Litchfield, & Liverpool) Co.	13.25	.75	3% + .80		.1%
Medina (Rem. of Co.), & Wayne (N¼ of Co.)	12.81	.74	3% + .65		.2%

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	Basic Hourly Rates	Fringe Benefits Payments			
		H & W	Pensions	Vacation	Education and/or Appr. Tr.
ELEVATOR CONSTRUCTORS:					
Ashland, Coshocton, Holmes, & Tuscarawas Cos.:					
Elevator Constructors	$12.22	.745	.56	c+d	.035
Helpers	70%JR	.745	.56	c+d	.035
Helpers (Prob.)	50%JR				
Carroll Co.:					
Elevator Constructors	10.405	.745	.56	c+d	.035
Helpers	70%JR	.745	.56	c+d	.035
Helpers (Prob.)	50%JR				
Columbiana Co.:					
Elevator Constructors	11.99	.745	.56	c+d	.035
Helpers	70%JR	.745	.56	c+d	.035
Helpers (Prob.)	50%JR				
Medina & Wayne Cos.:					
Elevator Constructors	12.49	.745	.56	c+d	.035
Helpers	70%JR	.745	.56	c+d	.035
Helpers (Prob.)	50%JR				
GLAZIERS:					
Carroll, Coshocton, Holmes, Medina (S ½), Tuscarawas, & Wayne Cos.	11.79	.71	1.01		
Medina (N ½) Co.	13.68	.55	.65		.01
IRONWORKERS:					
Ashland, Carroll, Coshocton, Holmes, Tuscarawas, & Wayne Cos.:					
Ornamental; Reinforcing; & Structural	12.58	.80	.95		.05
Sheeter-roof	13.08	.80	.95		.05
Sheeter-side	12.83	.80	.95		.05
Bucker-up	12.705	.80	.95		.05
Columbiana Co.:					
Ornamental; Reinforcing; & Structural	12.03	.40	1.30		.07
Sheeters	12.53	.40	1.30		.07
Bucker-up	12.155	.40	1.30		.07
Medina Co.	12.72	1.05	1.30		.03
LATHERS:					
Wayne Co.	13.56	.88	.50		.01

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	Basic Hourly Rates	Fringe Benefits Payments			
		H & W	Pensions	Vacation	Education and/or Appr. Tr.
MARBLE SETTERS' FINISHERS; Terrazzo Workers' Finishers; & Tile Setters' Finishers:					
Ashland, & Medina (exclu. Twps. of Wadsworth, Guilford, Westfield, Lafayette, & Sharon) Cos.:					
Marble Setters' Finishers	11.76		1.50		
Terrazzo Workers' Finishers	12.62		1.20		
Tile Setters' Finishers	12.29		1.50		
Columbiana Co.	11.455				
Medina (Rem. of Co.) & Wayne (Twps. of Milton & Chippewa)	11.62	.81	.50		
PAINTERS:					
Ashland Co.:					
Brush; Roller; Washer; Cleaner	9.80		.50		
Drywall; Paperhanger; Wall Coverer; Pot Tenders	10.55		.50		
Structural Steel Tanks & Towers; Hazardous Materials incl. epoxy or any 2 component materials	10.30		.50		
Spray; Riggers & helpers on scaffolding over 30' above base level	10.55		.50		
Sign & Pictorial	10.68		.50		
Sandblaster Cleaner	10.95		.50		
Carroll, Holmes, Tuscarawas, & Wayne Cos.:					
Brush; Roller	10.31	.93	.60		.02
Paperhanger	10.41	.93	.60		.02
Spray	10.81	.93	.60		.02
Drywall	10.71	.93	.60		.02
Drywall with machines	11.06	.93	.60		.02
Columbiana Co.:					
Brush; Rollers; Waterproofing; Paperhanging; Wallwashing; Hydro-jet cleaning; Steam cleaning	12.35	.75	1.00		
Spray; Epoxy-mastic (brush or roller)	12.85	.75	1.00		
Swing; Interior scaffold (over 30 ft.); Window jacks & safety belts	12.52	.75	1.00		

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	Basic Hourly Rates	Fringe Benefits Payments			
		H & W	Pensions	Vacation	Education and/or Appr. Tr.
Drywall taping	$12.50	.75	1.00		
Open structural steel	12.56	.75	1.00		
Dipping (when permitted)	12.70	.75	1.00		
Epoxy-mastic (spray)	13.35	.75	1.00		
Paperhangers (furnishing own tools)	12.60	.75	1.00		
Coshocton Co.:					
Brush; Paperhangers; Wall washers; Wallpaper cleaners; & Drywall tapers	6.00				
Spray	6.50				
Swing stage; Scaffold & removal of wallpaper	6.25				
PIPEFITTERS; Sprinkler fitters: Medina (No. of State Rte. #18)	13.70	1.22	1.30		.05
PLUMBERS; Steamfitters: Ashland Co.	13.23	.60	.88		.05
Carroll (Twps. of Ross, Monroe, Union, Lee, Orange, Perry, & Loudon), Coshocton, Holmes, & Tuscarawas Cos.	12.55	.50	.60		.08
Carroll (Rem. of Co.), & Wayne Cos.	12.12	.50	.70	e	.05
Columbiana (Washington & Yellow Creek Twps., & Liverpool Twps. Secs. 35 & 36 - West of County Rd. #427)	12.61	.50	8%	8%	.12
Columbiana (Rem. of Co.)	12.29	1.37	.50		.03
Medina (N. Of St. Rte. 18 & Smith Rd. incl. city of Medina) Co.: Plumbers	14.13	.90	1.10		.02
Medina (Rem. of Co.) Co.: Plumbers	12.15	.85	1.00		.05
ROOFERS	12.52	.94	.70		.02
SHEET METAL WORKERS: Ashland, Carroll, Coshocton, Holmes, Medina, Tuscarawas, & Wayne Cos.	12.41	.81	.84		.05
Columbiana Co.	12.26	.75	.79		.04
SPRINKLER FITTERS (Excluding Medina Co. (No. of State Rte 18)	12.75	.75	1.05		.08
Medina (S. of State Rte. 18)	13.70	1.22	1.30		.05

PAID HOLIDAYS:
A-New year's Day; B-Memorial Day; C-Independence Day; D-Labor Day; E-Thanksgiving Day; & F-Christmas Day

DECISION NO. OH79-2049

FOOTNOTES:
a. 2 paid holidays: C & D
b. 2 paid holidays: B & D
c. 7 paid holidays: A through F, & Day after Thanksgiving
d. Employer contributes 8% of regular hourly rate to vacation pay credit for employee who has worked in business more than 5 years. Employer contributes 6% of regular hourly rate to vacation pay credit for employee who has worked in business less than 5 years.
e. 1 paid holiday: D providing the employee has worked 5 consecutive days before and after the holiday.
f. $25.00 per year

	Basic Hourly Rates	Fringe Benefits Payments			
		H & W	Pensions	Vacation	Education and/or Appr. Tr.
LABORERS:					
Ashland Co.:					
General laborer; Carpenter tender; Concrete handler	$ 9.36	.70	.70		.10
Mason & Plasterers' tenders; Air & power driven tools; Pipelayers; Dynamite blaster; Mortar mixer; & formsetter	9.56	.70	.70		.10
Gunnite operator	9.96	.70	.70		.10
Carroll Co.:					
Building & construction; Signalmen; Flagmen; Tool crib-man; Carpenters' tenders; Finisher tenders; Concrete handler; Utility construction laborer; Guard rail erector	9.36	.70	.70		.10
Bottom men; Scaffold builder; Tunnel laborers; Pipelayers; Air & power driven tools; Burner on demolition; Swing-ing scaffold; Mucker; Caisson worker; Cofferdam worker; Powder men & dynamite blaster; Creosote workers; Mortar mixers; Form setter; Mason tender; Plasterers' tenders; Hod carrier; Laser beam set-up men	9.56	.70	.70		.10
Gunnite operator	9.96	.70	.70		.10

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	Basic Hourly Rates	Fringe Benefits Payments			
		H & W	Pensions	Vacation	Education and/or Appr. Tr.
Columbiana Co.:					
General laborers; Carpenters' tenders	$ 8.70	.70	.70		.10
Brick & cement mason tenders; Plasterers' tenders; Mortarmen	8.865	.70	.70		.10
Pipelayers; Air tool & power tool operators; Jackhammer ops.	8.90	.70	.70		.10
Coshocton, Holmes, & Tuscarawas Cos.:					
Laborers; Carpenters' tenders; Concrete handlers; Finisher tenders; Guard rail erector	9.36	.70	.70		.10
Bottom men scaffold builders; Air & power driven tools; Burners; Pipelayers; Mason & plasterers' tenders; Hod carriers; Laser beam set up men; Blasters & Dynamite man	9.56	.70	.70		.10
Gunnite operators	9.96	.70	.70		.10
Medina Co.:					
Common laborers; Welders helpers; Carpenters' tenders; Landscape laborers; Mason tender; Concrete bucket tender	10.92	.80	.80		.16
Air driven boring machine; Tamper ops.; Asphalt raker; Paving bed maker; Material mixer; Wire mesh handler; Hook-up man on demolition work; Scaffold erector; Structural precast erector; Power tools-air, gas, or electric	11.07	.80	.80		.16
Pipe layers; Rock drillers; Muckers--Tunnel; Burners; Form setters; Power saws; Jackhammer; Barco type tampers; Bottom man; Hod carrier; Power buggy or Power wheelbarrow	11.12	.80	.80		.16
Gunite nozzlemen; Tunnel miners; Water line caulkers; Dynamite men; Pump hose nozzlemen	11.42	.80	.80		.16

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	Basic Hourly Rates	Fringe Benefits Payments			
		H & W	Pensions	Vacation	Education and/or Appr. Tr.
Wayne Co.:					
Building & Construction; Signalmen; Flagmen; Tool crib-man; Carpenters' tenders; Finisher tenders; Concrete handler; Utility construction laborers; Guard rail erecter	$ 9.36	.70	.70		.10
Bottom men; Scaffold builder; Tunnel laborers; Pipe layers; Air & power driven tools; Burner on demolition; Swing-ing scaffold; Mucker; Caissen worker; Cofferdam worker; Powder men & dynamite blaster; Creosote workers; Mortar mixers; Form setters; Mason tender; Plasterers' tenders; Hod carrier; Laser beam set-up men	9.56	.70	.70		.10
Gunnite operator	9.96	.70	.70		.10
POWER EQUIPMENT OPERATORS:					
Ashland, Carroll, Coshocton, Holmes, Tuscarawas, & Wayne Cos.:					
Group A	13.69	.71	1.00		.11
Group B	13.53	.71	1.00		.11
Group C	13.18	.71	1.00		.11
Group D	12.37	.71	1.00		.11
Group E	12.04	.71	1.00		.11
Group F	9.83		1.00		.11
Medina Co.:					
Group A	13.97	.71	1.00		.11
Group B	13.82	.71	1.00		.11
Group C	13.47	.71	1.00		.11
Group D	12.69	.71	1.00		.11
Group E	12.37	.71	1.00		.11
Group F	10.19	.71	1.00		.11

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GROUP A - A-frames, air compressor on steel erection, rotary drills used on caisson work for foundations and sub-structure work, boiler or compressor operator mounted on crain (piggyback operation), boom trucks (all types), cableways, cherry pickers, combination concrete mixer and tower, concrete pumps, cranes (all types), derricks (all types), draglines, dredge (dipper, clam or suction) 3 man crew, elevating grader or euclid loader, floating equipment, gradalls, helicopter operator and helicopter winch operator when hoisting builders materials, hoes (all types), hoisting engines (two or more drums), lift slab or panel jack operator, locomotives (all types), maintenance engineer (mechanic or welder), mixer paving (multiple drum), mobile concrete pumps with boom, panelboard (all types on site), pile driver, power shovels, side booms, slip forms pavers, straddle carriers (building construction on site), hammerhead tower cranes, trench machines (over 24"wide), tug boat

GROUP B - Asphalt paver, bulldozer, C.M.I. type equipment , endloaders, Kohlman type loaders (dirt loading), lead greaseman, mucking machines, power grader, power scoops, power scrapers, push cat.

GROUP C - Air compressor (pressurizing shafts or tunnels), asphalt rollers, fork lifts, hoist (one drum), house elevators, man lift, power boilers (over 15 lbs. pressure), pump operators installing well points or other type of dewatering system, pumps (4" and over discharge), Submersible pumps (4" and over discharge), trenchers 24" and under

GROUP D - Compressors on building construction, conveyors (building material), generators, gunnite machines, mixers, (capacity more than one bag), mixers (one bag capacity; side loader), post driver, post hole digger, pavement breaker (hydraulic or cable),road widening trenchar rollers,welder operator

GROUP E - Backfillers & tampers, batch plant, bar and joint installing machines, bull floats, burlap and curing machines, clefplanes, concrete spreading mach., crushers, deck hands, drum fireman (asphalt), farm type tractors pulling attachments, finishing machines, form trenchers, high pressure pumps over 4" discharge, hydro seeders, self propelled power spreader, self propelled sub-grader, tire repairman, tractors pulling sheeps foot roller or grador, vibratory compactors (with integral power)

GROUP F - Oiler, helpers, signalman, inboard & outboard motor boat launch, light plant operator, power driven heaters (oil fired), power boilers (less than 15 lbs. presssure, pumps under 4" discharge, submerisble pumps under 4" discharge

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POWER EQUIPMENT OPERATORS
Columbiana Co.

	Basic Hourly Rates	Fringe Benefits Payments			
		H & W	Pensions	Vacation	Education and/or Appr. Tr.
CLASS I	$12.01	.65	.80		.14
CLASS II	11.32	.65	.80		.14
CLASS III	10.68	.65	.80		.14
CLASS IV	10.27	.65	.80		.14
CLASS V	10.17	.65	.80		.14
CLASS VI	12.28	.65	.80		.14

CLASS I - Asphalt planer heater; Austin western & similar type; Backhoe; Batch plant-central mix; Batch plant-portable concrete; Berm builder-automatic; Backfiller w/drag attachment; Boat derrick; Boat-tug; Boring mach. attached to tractor; Bullclam; Bulldozer; C.M.I. road buildor & similar types; Cable placer & layer; Carrier-straddle; Carryall - scraper or scoop; Chicago boom; Compactor w/blade attached; Concrete spreador finisher comb., Crane; Crane-stationary or climbing; Crane-electric overhead; Crane-side boom; Crane truck; Crane-tower; Derrick-boom; Derrick-car; Diggers-wheel (not trencher or road widener); Double nine; Drag line; Dredge; drill-Kanny or similar type; Electromatic; Fork lift; Frankie pile; Gradall; Grader-power; Gurry; Gurry-self-propelled; High lift; Hoist-monorail; Hoist-stationary & mobile tractor; Hoist-2 or 3; Jackall; Jumbo mach.; Kocal or Kuhlman; land-seagoing vehicle; Loader - Elevating; Loader-front end; Locomotive; Mechanic as welder; Metro clip harvestor w/boom; Mucking mach.; Paver-asphalt finishing mach.; Paver-road concrete; Paver-slip form; Place crete mach; Post driver; Power driven hydraulic pumps & jacks; pump crete machine; Regulator-ballast; Reiga-drilling; Shovels; Spikemaster; Stonecrusher; Tie puller & loader; tie tamper; Tractor-double boom; tractor w/attachments; Trucks-boom; Truck-tire-assigned to job; Trench mach.; Tunnel machine (Mark 21 Java or similar); Whiley

CLASS II - Asphalt plant; bending machine; Boring mach.; Chip harvester w/o boom; cleaning mach.- pipeline type; Coating Mach-pipeline type; Concrete belt placer; concrete finisher; Concrete planer or asphalt; Concrete spreader; Elevator; Fork lift walk behind; form line mach.; Grease truck op.; Grout pump; Gunnite mach.; Huck bolting Mach.; Hydraulic scaffold; Paving breaker; Pipe dream; Pot firemen; Power broom; Refrigeration plant; Saugen derrick; Seeding Mach.; Self-propelled mobile vibrator compactor or roller; Hoist-single drum; Soil stabilizer (pump type); Spray cure Mach.-Self propelled; Straw blower mach.; Sub-grader; Tube Finisher or broom C.M.I. or similar type; Tugger Hoist

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CLASS III - Batch plant-job related; Boiler op.; Compressor (125 CFM or over); Curb builder (self-propelled); Generator-steam; Jack-hydraulic driven; Mixer-concrete; Mulching Mach.; Pin puller; Pulverizer; Pump; Road finishing mach. (pulltype); roller; Saw-concrete-self propelled; signal man; spray cure mach.-motor powered; Spreader (side driver shoulder attachment); Tractor; Trencher-form; Water Blaster
CLASS IV - Brake man; Compressor under 125 CFM; Conveyor; Conveyor 12 feet or under other than servicing bricklayers; Deck hand; Drill wagon; fireman; Generator sets; Heaters-portable power (2 to 5); Helper-mechanic, Jacks Hydraulic (railroad); Ladavator; Roller (walk behind 1 ton or over); Steam jenny; Syphons; Vibrator-gasoline; Welding machines (2) (fuel burning)
CLASS V - Oiler
CLASS VI - Rigs-pile driving or caisson type

	Basic Hourly Rates	Fringe Benefits Payments			
		H & W	Pensions	Vacation	Education and/or Appr. Tr.
LINE CONSTRUCTION:					
Ashland Co.:					
Equipment operators; Linemen	$12.30	.45	3% + .50		½%
Line truck drivers	8.00	.45	3% + .50		½%
Groundman	7.38	.45	3% + .50		½%
Carroll (S. of Fox, Harrison, Rose, & Washington Twps.) Co.:					
Linemen; Line equipment ops.; & truck drivers	13.50	7%	10%	10%	½%
Groundman	8.78	7%	10%	10%	½%
Cable splicer	14.00	7%	10%	10%	½%
Carroll (Rem. of Co.), Columbiana (Knox Twp.), Holmes, Tuscarawas (N. of Auburn, Clay, Rush, & York Twps.), & Wayne (S. of Baughman, Chester, Green, & Wayne Twps.) Cos.:					
Cable splicers; Linemen	12.60	.50	3% + .50		.3%
Line equipment operators	11.10	.50	3% + .50		.3%
Groundmen; Truck Drivers	7.50	.50	3% + .50		.3%

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	Basic Hourly Rates	Fringe Benefits Payments			
		H & W	Pensions	Vacation	Education and/or Appr. Tr.
LINE CONSTRUCTION: (Cont'd)					
Columbiana Co. (Rem. of County):					
Linemen; Heavy Equipment Operator	$11.03	8%	7%		½%
Groundmen; Truck Drivers	9.97	8%	7%		½%
Cable Splicers	11.43	8%	7%		½%
Columbiana (Butler, Fairfield, Perry, Salem and Unity Twps.) Co.:					
Linemen; Cable Splicers; Operator - Pole digging equipment	14.07	.45	3%		½%
Groundman 1st 6 mos.	7.035	.45	3%		½%
Groundman 2nd 6 mos.	8.44	.45	3%		½%
Groundman 2nd yr.	9.85	.45	3%		½%
Groundman 3rd yr.	10.55	.45	3%		½%
Groundman over 3 yrs.	11.26	.45	3%		½%
Coshocton; Tuscarawas (Rem. of Co.) Co.:					
Cable Splicers; Linemen; Equipment Operators	12.13	.50	3%		½%
Groundmen:					
0 - 6 mos.	6.17	.50	3%		½%
After 6 mos.	6.57	.50	3%		½%
After 12 mos.	7.02	.50	3%		½%
After 18 mos.	7.44	.50	3%		½%
Medina (NW part) County:					
Linemen; Cable Splicers; Equipment Operators	13.25	.75	3%+.80		½%
Beginning truck driver groundman; Beginning groundman	5.96	.60	3%+.80		½%
Advanced truck driver (winch) groundman; Groundman (over 2 years' experience)	7.04	.60	3%+.80		½%
Medina (Rem. of Co.), and Wayne (N ½ of County):					
Linemen	12.81	.74	3%+.65		½%
Cable Splicer	13.61	.74	3%+.65		½%
Truck Drivers; Groundmen	6.41	.74	3%+.65		½%
Equipment Operators	9.61	.74	3%+.65		½%

SUPERSEDEAS DECISION

STATE: OHIO
COUNTIES: *SEE BELOW
DECISION NUMBER: OH79-2050
DATE: Date of Publication
Supersedes Decision No.: OH78-2156, dated November 24, 1978, in 43 FR 55197
DESCRIPTION OF WORK: Building Construction (Does not include single family homes and garden type apartments up to & including 4 stories)

* ALLEN, AUGLAIZE, CRAWFORD, DEFIANCE, ERIE, HANCOCK, HARDIN, HENRY, HURON, KNOX, LOGAN, MARION, MERCER, MORROW, OTTAWA, PAULDING, PUTNAM, RICHLAND, SANDUSKY, SENECA, VAN WERT, WILLIAMS, WOOD, & WYANDOT

	Basic Hourly Rates	Fringe Benefits Payments			
		H & W	Pensions	Vacation	Education and/or Appr. Tr.
ASBESTOS WORKERS:					
Allen, Defiance, Mercer, Paulding, Van Wert, & Williams Cos.	$12.60	.55	1.25		.02
Auglaize, & Logan Cos.	13.02	.55	1.35		
Crawford, Hardin, Knox, Marion, & Morrow Cos.	13.07	.60	1.15		.02
Erie (W ½), Hancock, Henry, Ottawa, Putnam, Sandusky, Seneca, Wood, & Wyandot Cos.	13.08	.55	1.30		.04
Erie (E ½), & Huron Cos.	14.78				
Richland Co.	12.95	.60	.80		.02
BOILERMAKERS	13.575	1.075	1.00		.03
BRICKLAYERS; Marble Setters; Stonemasons; Terrazzo Workers; & Tile Setters:					
Allen, Auglaize, Mercer, & Van Wert Cos.	12.29		.60		.02
Crawford, Hardin, Marion, Morrow, Richland, Wyandot (except Twps. of Crawford, Ridge, Richland, & Tymochtee) Cos.	12.23	.70	1.00		.02
Defiance, Henry (except Twps. of Monroe, Barlo, Liberty, Washington, Richfield, Marion, & Damascus & that part of Harrison outside city limits of city of Napoleon), Paulding, Putnam, & Williams Cos.: Bricklayers; Marble Setters; & Stonemasons	11.97	1.06	.50		
Erie, Hancock, Huron, Ottawa, Sandusky, Seneca, Wood, (Perry & Bloom Twps.), Wyandot (Tymochtee Crawford, Ridge, & Richland Twps.), & Island of Lake Erie North of Sandusky	11.84	.60	.80		.01

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	Basic Hourly Rates	Fringe Benefits Payments			
		H & W	Pensions	Vacation	Education and/or Appr. Tr.
Henry (Twps. of Washington, Damascus, Richfield, Bartlo, Liberty, Harrison, Monroe, & Marion), & Wood (Twps. of Perrysburg, Ross, Lake, Troy, Freedom, Montgomery, Webster, Center, Portage, Middleton, Plain, Liberty, Henry, Washington, Weston, Milton, Jackson, & Grand Rapids):					
Bricklayers; Marble Setters; Stonemasons	$12.425	1.06	1.30		.01
Knox Co.	10.70	.60	.90		.10
Logan Co.	10.72	.85	.75		.03
CARPENTERS:					
Allen, Auglaize, Hardin, Knox, Logan, Marion, Mercer, Morrow, Putnam, Van Wert, & Wyandot Cos.	11.47	.60	1.00		.04
Crawford, Erie, Hancock (Fostoria), Huron, Ottawa, Richland, Sandusky, Seneca, & Wood (Fostoria) Cos.	11.59	.85	1.00		.06
Defiance, Henry, Paulding, & Williams Cos.	12.26	1.06	.75		
Hancock & Wood Cos. (excluding Fostoria)	12.99	1.06	.75		.05
CEMENT MASONS:					
Allen, Auglaize, Hardin, Logan, & Mercer, Van Wert Cos.	12.35	.60			.05
Crawford, Marion, Morrow, Richland, & Wyandot Cos.	11.65	.60			
Defiance, Paulding & Williams Cos.	12.70	.60			
Erie, Huron, Ottawa, Sandusky, Seneca, Wood (Perry & Bloom Twps.), & Wyandot (Twps. of Tymochtee, Crawford, Ridge, & Richland), & Island of Lake Erie North of Sandusky	11.84	.60	.80		.01
Hancock, Henry, Putnam, & Wood (except Perry & Bloom Twps.) Cos.	14.14	.60			.02
Knox Co.	10.95	.60	1.00		.05

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	Basic Hourly Rates	Fringe Benefits Payments			
		H & W	Pensions	Vacation	Education and/or Appr. Tr.
ELECTRICIANS:					
Allen, Auglaize, Hardin, Logan, Mercer, Van Wert, & Wyandot (Twps. of Crawford, Jackson, Marseil, Mifflin, Ridgeland, Ridge, & Salem) Cos.	$12.41	.45	3%+.37		.04
Crawford, Huron (Twps. of Richmond, New Haven, Ripley, & Greenwich), Knox (Twps. of Liberty, Clinton, Union, Howard, Monroe, Middlesburg, Morris, Wayne, Berlin, Pike, Brown, & Jefferson), Marion, Morrow, Richland, & Wyandot (Twps. of Sycamore, Crane, Eden, Pitt, & Antrim) Cos.	12.30	.45	3%+.50		.1%
Defiance, Hancock, Henry, Ottawa, Paulding, Putnam, Sandusky, Seneca, Williams, & Wood Cos.	13.80	.65	3%+.55		.1%
Erie, & Huron (Twps. of Lyme, Ridgefield, Norwalk, Townsend, Wakeman, Sherman, Peru, Bronson, Hartland, Clarksfield, Norwick, Greenfield, Fairfield, Fitchville, & New London) Cos.	13.05	.73	3%		.1%
Knox (Twps. of Jackson, Clay, Morgan, Miller, Milford, Hilliard, Butler, Harrison, Pleasant, & College) Co.	11.40	.40	3%+.85		.03
ELEVATOR CONSTRUCTORS:					
Allen, Auglaize, Defiance, Mercer, Paulding, Putnam, Van Wert, & Williams Cos.:					
Elevator constructors	11.635	.745	.56	b+o	.035
Helpers	70%JR	.745	.56	b+o	.035
Helpers (Prob.)	50%JR				
Crawford, Hardin, Knox, Logan, Marion, Morrow, & Richland Cos.:					
Elevator constructors	12.22	.745	.56	b+o	.035
Helpers	70%JR	.745	.56	b+o	.035
Helpers (Prob.)	50%JR				

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	Basic Hourly Rates	Fringe Benefits Payments			
		H & W	Pensions	Vacation	Education and/or Appr. Tr.
Erie & Huron Cos.:					
Elevator constructors	$13.335	.745	.56	b+o	.035
Helpers	70%JR	.745	.56	b+o	.035
Helpers (Prob.)	50%JR				
Hancock, Henry, Ottawa, Sandusky, Seneca, Wood, & Wyandot Cos.:					
Elevator constructors	13.225	.745	.56	b+o	.035
Helpers	70%JR	.745	.56	b+o	.035
Helpers (Prob.)	50%JR				
GLAZIERS:					
Allen, Auglaize, Crawford, Hancock, Hardin, Mercer, Putnam, Van Wert, & Wyandot Cos.	9.10		.60		
Defiance, Henry, Ottawa, Sandusky, Seneca, Williams, & Wood Cos.	11.825	.55	1.00		.01
Erie, & Huron Cos.	13.68	.55	.65		.01
IRONWORKERS:					
Allen, Auglaize, Logan (W 2/3), & Mercer Cos.:					
Within 15 mi. radius of Local Union #290	10.96	.90	1.25		.04
Beyond 15 mi. radius of Local Union #290	11.11	.90	1.25		.04
Crawford, Hardin, Knox, Logan (Rem. of Co.), Marion, Morrow, & Wyandot Cos.	11.55	.90	1.95		.05
Defiance, Paulding, Putnam, Van Wert, & Williams Cos.	11.80	.90	1.45		.02
Erie, & Huron Cos.	12.72	1.05	1.30		.03
Hancock, Henry, Ottawa, Sandusky, Seneca, & Wood Cos.	12.86	1.06	1.22		.05
Richland Co.:					
Ornamental; Reinforcing; & Structural	12.58	.80	.95		.05
Sheeter-roof	13.08	.80	.95		.05
Sheeter-side	12.83	.80	.95		.05
Bucker-up	12.705	.80	.95		.05

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	Basic Hourly Rates	Fringe Benefits Payments			
		H & W	Pensions	Vacation	Education and/or Appr. Tr.
LATHERS:					
Auglaize, Logan (W ½), and Mercer Counties	$12.54		.40		.01
Crawford, Hardin, Knox, Logan (E½), Marion, Morrow, & Wyandot Cos.	12.45		.40		.01
Defiance, Hancock, Ottawa, Paulding, Sandusky, Seneca, Williams, and Wood Counties	13.05	1.06	.10		.01
Erie, and Huron Counties	13.30				.01
MARBLE SETTERS' FINISHERS; Terrazzo workers' Finishers; & Tile setters' Finishers:					
Allen, Defiance, Hancock, Henry, Ottawa, Paulding, Putnam, Sandusky, Seneca, Williams, & Wood Cos.	11.00	1.06	.40	.50	
Auglaize, Hardin, Logan, & Mercer Cos.	8.34				
Erie, Huron, & Richland Cos.:					
Marble setters' Finishers	11.76		1.50		
Terrazzo workers' Finishers	12.62		1.20		
Tile setters' Finishers	12.29		1.50		
MILLWRIGHTS:					
Allen, Auglaize, Hardin, Knox, Logan, Marion, Mercer, Morrow, Putnam, Van Wert, & Wyandot Cos.	12.12	.60	1.00		.04
Crawford, Huron, & Richland Cos.	12.60	.85	1.52		.03
Defiance, Erie (W. of B & O RR Tracks), Hancock, Henry, Ottawa, Paulding, Sandusky, Seneca, Williams, & Wood Cos.	12.99	1.06	.75		.05
Erie (E. of B & O RR Tracks)	12.60	.85	1.52		.03
PAINTERS:					
Allen, Auglaize, Defiance, Hardin, Mercer, Paulding, Putnam, Van Wert, & Williams Cos.:					
Brush; Drywall taping; & Roller Wall covering; Swing stage; Safety belts; Spiders & cherry pickers - brush or rollers	10.05	.73	.50		.03
	10.30	.73	.50		.03

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	Basic Hourly Rates	Fringe Benefits Payments			
		H & W	Pensions	Vacation	Education and/or Appr. Tr.
Sandblasting; Spray; Steam-cleaning; Mitts; High pressure water cleaning; Blow down	$ 10.55	.73	.50		.03
Stilts & automatic drywall tools	10.80	.73	.50		.03
Petroleum storage tanks (over 30 ft. high) brush, rollers	10.45	.73	.50		.03
Structural steel (open skeleton) - brush or roller	10.35	.73	.50		.03
Elevated water tanks & stacks - brush, roller or spray	11.55	.73	.50		.03
Crawford, Marion, Morrow, & Richland Cos.:					
Brush; Roller; Washer & cleaner	9.80		.50		
Drywall; Paperhangers; Wall coverer; Pot tender	10.55		.50		
Structural steel tanks & towers; Hazardous materials incl. epoxy or any 2 component materials	10.30		.50		
Spray; Riggers & helpers on scaffold over 30 ft. above base level	10.55		.50		
Sign & pictorial	10.65		.50		
Sandblaster cleaner	10.95		.50		
Erie, Hancock, Huron, Sandusky, Seneca, & Wyandot Cos.:					
Old Commercial					
Brush; Roller; Wash; Clean Drywall; Paperhanging; 30' to 60'	9.40	.50	.70		$50.00p/yr
60' or over	9.65	.50	.70		50.00p/yr
Sandblasting; Spray; Swing stage; Boatswain chair; Needle beam	10.50	.50	.70		50.00p/yr
Hazardous work & material; Stacks, Tanks, Towers over 40' in ht.	9.90	.50	.70		50.00p/yr
New Commercial	10.40	.50	.70		50.00p/yr
Brush; Roller; Wash; Clean Drywall; Paperhanging	10.15	.50	.70		50.00p/yr
Structural steel; 30' to 60'	10.40	.50	.70		50.00p/yr
60' & over	10.60	.50	.70		50.00p/yr
Sandblast; Spray; Swing stage; Needlebeam; Boatswain chair	11.00	.50	.70		50.00p/yr
Hazardous work & material; Stacks, tanks, & towers over 40' in ht.	10.65	.50	.70		50.00p/yr
	11.15	.50	.70		50.00p/yr

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	Basic Hourly Rates	Fringe Benefits Payments			
		H & W	Pensions	Vacation	Education and/or Appr. Tr.
Henry, Ottawa, & Wood Cos.:					
Brush; Paperhangers; Drywall tapers & finishers	$11.28	1.06	1.10		
Sandblasting; Spray; Pressure cleaning	11.83	1.06	1.10		
Knox Co.:					
Brush; Paperhangers	8.50				
Spray	8.95				
PILEDRIVERMEN:					
Allen, Auglaize, Hardin, Knox, Logan, Marion, Mercer, Morrow, Putnam, Van Wert, & Wyandot Cos.	12.12	.60	1.00		.04
Crawford, Huron, & Richland Cos.	12.60	.85	1.52		.03
Defiance, Erie (W. of B & O RR Tracks), Hancock, Henry, Ottawa, Paulding, Sandusky, Seneca, Williams, & Wood Cos.	12.99	1.06	.75		.05
Erie (E. of B & O RR Tracks)	12.60	.85	1.52		.03
PLASTERERS:					
Allen, Auglaize, Hardin, Knox, Logan, Mercer, & Van Wert Cos.	11.94	.60	.30		.02
Crawford, Marion, Morrow, Richland, & Wyandot (excluding Tymochtee, Crawford, Ridge, & Richland Twps.) Cos.	10.95				
Defiance, Hancock, Henry, Paulding, Williams, & Wood (excluding Perry & Bloom Twps.) Cos.	13.80	.60			.01
Erie, Huron, Ottawa, Sandusky, Seneca, Wood (Perry & Bloom Twps.), Wyandot (Tymochtee, Crawford, Ridge, & Richland Twps.), & Island of Lake Erie N. of Sandusky	11.84	.60	.80		.01

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	Basic Hourly Rates	Fringe Benefits Payments			
		H & W	Pensions	Vacation	Education and/or Appr. Tr.
PLUMBERS; Steamfitters:					
Allen, Auglaize, Hardin, Mercer, & Van Wert Cos.	12.80	.50	.75		.05
Crawford, Erie, Huron, Knox, Morrow, Richland, & Wyandot Cos.	13.23	.60	.88		.05
Defiance, Hancock, Henry, Ottawa, Paulding, Putnam, Sandusky, Seneca, Williams, & Wood Cos.	13.13	1.10	1.05		.09
Logan Co.	12.40	.83	.85		.04
Marion Co.	13.00	.93	.82		.06
ROOFERS:					
Allen, Auglaize, Hardin, Knox, Logan, Marion, Mercer, Morrow, Putnam, Van Wert, & Wyandot Cos.	11.795	.60	.65		.01
Crawford, & Richland Cos.	12.52	.94	.70		.02
Defiance, Hancock, Henry, Paulding, Williams, & Wood Cos.	12.63	1.06	1.00		.02
Erie, Huron, Ottawa, Sandusky, & Seneca Cos.	14.03	.25	.50		
SHEET METAL WORKERS:					
Allen, Auglaize, Hardin, Logan, Mercer, Van Wert, & Wyandot Cos.	12.28	.95+d	1.15		.16
Crawford, & Richland Cos.	12.41	.81	.84		.05
Defiance, Hancock, Henry, Ottawa, Paulding, Putnam, Seneca, Williams, & Wood Cos.	12.655	1.06	1.36		.045
Erie, Huron, & Sandusky Cos.	13.00	.85	.88		.04
Knox, Marion, & Morrow Cos.	12.07	.86+d	1.12		.15
SOFT FLOOR LAYERS:					
Allen, Auglaize, Hardin, Knox, Logan, Marion, Mercer, Morrow, Putnam, Van Wert, & Wyandot Cos.	11.47	.60	1.00		.04
Crawford, Erie, Hancock (Fostoria), Huron, Ottawa, Richland, Sandusky, Seneca, & Wood (Fostoria) Cos.	11.59	.85	1.00	a	.06
Defiance, Hancock (excluding Fostoria), Henry, Paulding, Williams, & Wood (excluding Fostoria) Cos.	11.32	1.06	.75		.04

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	Basic Hourly Rates	Fringe Benefits Payments			
		H & W	Pensions	Vacation	Education and/or Appr. Tr.
SPRINKLER FITTERS	$12.75	.75	1.05		.08

PAID HOLIDAYS:
A-New Year's Day; B-Memorial Day; C-Independence Day; D-Labor Day; E-Thanksgiving Day; & F-Christmas Day

FOOTNOTES:
a. 2 paid holidays: B & D
b. 7 paid holidays: A through F, & Day after Thanksgiving
c. Employer contributes 8% of regular hourly rate to vacation pay credit for employee who has worked in business more than 5 years. Employer contributes 6% of regular hourly rate to vacation pay credit for employee who has worked in business less than 5 years.
d. 3% of gross earnings to SASMI

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	Basic Hourly Rates	Fringe Benefits Payments			
		H & W	Pensions	Vacation	Education and/or Appr. Tr.
LABORERS:					
Allen, Auglaize, Mercer, Paulding, Putnam, & Van Wert Cos.:					
Building laborers; Laser beam; Power wheelbarrow or power buggy	$ 8.65	.80	.80		.10
Vibrators; Spikers by hand (Railroad); Cement finishers' helpers; All machine driven tools (gas, electric, air); Asphalt rakers; Caisson; Cofferdam; Demolition; Peckers; Pot tenders; Pump man under 4" discharge; Tampers; Torch man; & tunnel	8.80	.80	.80		.10
Blaster helper; Cylinder, shaft; Jackhammer; Man-hole builders; Mason tenders; Mortar mixers; Plasterers' tenders; Sewer bottom man; Sewer pipelayer; Sewer, water conduit, gas, oil, pipeline, except mainlines; & wagon drill helper	8.95	.80	.80		.10
Blaster-powder man; Gunite ops.; Huckers & miners (tunnel & caisson) free air; Sandblasters; & wagon drill/operator	8.95	.80	.80		.10
Crawford, Knox, Morrow, & Richland Cos.:					
General laborer; Carpenter tender; Concrete handler	9.36	.70	.70		.10
Mason & Plasterers' tenders; Air & power driven tools; Pipelayer; Dynamite blaster; Mortar mixer; & formsetter	9.56	.70	.70		.10
Gunnite operator	9.96	.70	.70		.10

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	Basic Hourly Rates	Fringe Benefits Payments			
		H & W	Pensions	Vacation	Education and/or Appr. Tr.
Defiance, Henry, & Williams Cos.:					
Unskilled laborers; Cement finishers' helpers; Carpenters' helpers; Carpenters' tenders	$ 9.27	.70	.70		.10
Mason tenders; Gunite pot man	9.39	.70	.70		.10
All power driven tools & buggies, burners, torchmen & nozzle man for concrete pump	9.42	.70	.70		.10
Plasterers' tenders	9.445	.70	.70		.10
Nozzle operator for gunite work	9.92	.70	.70		.10
Bellman; Bottom man; & Brick expeditor	9.505	.70	.70		.10
Erie, Huron, Ottawa, & Sandusky Cos.:					
Building & construction laborers; Signalman; Flagman; Tool cribman; Carpenter tenders; Finisher tenders; Concrete handler; Utility construction laborer; Guardrail erectors	10.51	.80	.80		.10
Bottom men; Scaffold; Tunnel laborers; Pipelayers; Air & power driven tools burner on demolition work; Swinging scaffold; Mucker; Caisson workers; Cofferdam worker; Power men & dynamite blasters; Creosote workers; Mortar mixers; Form setter; Mason tenders; Plasterers' tenders; Hod carrier; Laser beam set up man	10.71	.80	.80		.10
Gunnite operator	11.11	.80	.80		.10
Hancock, Hardin, Marion, Seneca, & Wyandot Cos.:					
Building & construction laborers; Signalman; Flagman; Tool cribman; Carpenter tenders; Finisher tenders; Concrete handler; Utility construction laborer; Guardrail erectors	9.36	.70	.70		.10

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	Basic Hourly Rates	Fringe Benefits Payments			
		H & W	Pensions	Vacation	Education and/or Appr. Tr.
Bottom men; Scaffold builders; Tunnel laborers; Pipelayers; Air & power driven tools; Burner on demolition work; Swinging scaffold; Mucker; Caisson work; Cofferdam worker; Powder men & dynamite blasters; Creosote workers; Mortar mixers tenders; Plasterers' tenders; Hod carriers; Laser beam set up men	$9.56	.70	.70		.10
Gunnite operators	9.96	.70	.70		.10
Logan Co.:					
Laborers, general; Carpenters' helpers	8.60	.80	.80		.10
Plasterers' tenders; Mason tenders; Mortar mixers	9.00	.80	.80		.10
Air & machine driven tools ops.: Jackhammer; Barko & chain saw; Wagon drill; Hand spikers; Power concrete & buggies; Gunnite machine ops. & nozzle man; Sewer pipe layer; Bottom man; Asphalt raker & tamper	8.85	.80	.80		.10
Powderman & blaster	9.10	.80	.80		.10
Wood Co.:					
Unskilled laborers	11.11	.70	.70		.11
Mason tenders	11.24	.70	.70		.11
Mortar mixers; Gunnite pot men	11.31	.70	.70		.11
All power driven tools & buggies	11.265	.70	.70		.11
Pipelayers	11.365	.70	.70		.11
Plasterers' Tenders	11.13	.70	.70		.11

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POWER EQUIPMENT OPERATORS

	ZONE I	ZONE II	ZONE III	Fringe Benefits Payments			
	Basic Hourly Rates	Basic Hourly Rates	Basic Hourly Rates	H & W	Pensions	Vacation	Education and/or Appr. Tr.
GROUP A	$13.69	$13.41	$13.97	.71	1.00		.11
GROUP B	13.53	13.25	13.82	.71	1.00		.11
GROUP C	13.18	12.89	13.47	.71	1.00		.11
GROUP D	12.37	12.11	12.69	.71	1.00		.11
GROUP E	12.04	11.78	12.37	.71	1.00		.11
GROUP F	9.83	9.58	10.19	.71	1.00		

ZONE I: Allen, Defiance, Hancock, Hardin, Henry, Ottawa, Paulding, Putnam, Richland, Sandusky, Seneca, Van Wert, Williams, & Wood Counties
ZONE II: Auglaize, Crawford, Knox, Logan, Marion, Mercer, Morrow, & Wyandot Counties
ZONE III: Erie & Huron Counties

GROUP A - A-frames, rotary drills used on caisson work for foundations and sub-structure work, boiler or compressor operator mounted on crane (piggy-back operation), boom trucks (all types), cableways, cherry pickers, combination concrete mixer and tower, concrete pumps, cranes (all types), derricks (all types), draglines, dredge (dipper, clam or suction) 3 man crew, elevating grader or euclid loader, floating equipment, gradalls, helicopter operator and helicopter winch operator when hoisting builders materials, hoes (all types), hoisting engines (two or more drums), lift slab or panel jack operator, locomotives (all types), maintenance engineer (mechanic or welder), mixer paving (multiple drum), mobile concrete pumps with boom, panelboard (all types on site), pile driver, power shovels, side booms, slip forms pavers, straddle carriers (building construction on site), hammerhead tower cranes, trench machines (over 24" wide), tug boat

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POWER EQUIPMENT OPERATORS (CONT'D):

GROUP B - Asphalt paver, bulldozer, C.N.I. type equipment , endloaders, Kohlman type loaders (dirt loading), lead greaseman, mucking machines, power grader, power scoops, power scrapers, push cat.
GROUP C - Air compressor (pressureizing shafts or tunnels), asphalt rollers, fork lifts, hoist (one drum), house elevators, man lift, power boilers (over 15 lbs. pressure), pump operators installing well points or other type of dewatering system, pumps (4" and over discharge), Submersible pumps (4" and over discharge), trenchers 24" and under
GROUP D - Compressors on building construction, conveyors (building material), generators, gunnite machines, mixers, (capacity more than one bag), mixers (one bag capacity, side loader), post driver, post hole digger, pavement breaker (hydraulic or cable),road widening trencher rollers,weldor operator
GROUP E - Backfillers & tampers, batch plant, bar and joint installing machines, bull floats, burlap and curing machines, clefplanes, concrete spreading mach., crushers, deck hands, drum fireman (asphalt), farm type tractors pulling attachments, finishing machines, form trenchers, high pressure pumps over 4" discharge, hydro soeders, self propelled power spreader, self propolled sub-grader, tire repairman, tractors pulling sheeps foot roller or grader, vibratory compactors (with integral power)
GROUP F - Oiler, helpers, signalman, inboard & outboard motor boat launch, light plant operator, power driven heaters (oil fired), power boilers (less than 15 lbs. presssure, pumps under 4" dischargo, submerisble pumps under 4" dischargo

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	Basic Hourly Rates	Fringe Benefits Payments			
		H & W	Pensions	Vacation	Education and/or Appr. Tr.
Advanced truck driver (winch) groundman; Advanced groundman (over 2 years' experience)	$ 8.48	.73	3%		4%
Knox Co. (Rem. of Co.):					
Linemen; Equipment operators; Cable splicers	12.03	.60	3%		4%
Groundmen:					
Beginning	6.07	.60	3%		4%
After 6 mos.	6.49	.60	3%		4%
After 12 mos.	6.92	.60	3%		4%
After 18 mos.	7.34	.60	3%		4%

FOOTNOTE:
a. 10 paid holidays: New Year's Day; Good Friday; Memorial Day; Independence Day; Labor Day; Thanksgiving Day; Christmas Day; Day after Thanksgiving Day; Christmas Eve; & New Year's Eve

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	Basic Hourly Rates	Fringe Benefits Payments			
		H & W	Pensions	Vacation	Education and/or Appr. Tr.
LINE CONSTRUCTION:					
Allen, Auglaize, Hardin, Logan, Mercer, Van Wert, & Wyandot (Twps. of Crawford, Jackson, Marsell, Mifflin, Ridgeland, Ridge, & Salem) Cos.:					
Linemen	$12.63	.60	3%		4%
Groundmen; Truck drivers	8.44	.60	3%		4%
Equipment operators	11.37	.60	3%		4%
Crawford, Huron (Twps. of Richmond, New Haven, Ripley, & Greenwich); Knox (Twps. of Liberty, Clinton, Union, Howard					
Monroe, Middleburg, Morris, Wayne, Berlin, Pike, Brown, & Jefferson), Marion, Morrow, Richland, & Wyandot (Twps. of Sycamore, Crane, Eden, Pitt, & Antrim) Cos.:					
Linemen; Equipment operators	12.30	.45	3%+.50		4%
Line truck drivers	8.00	.45	3%+.50		4%
Groundman	7.38	.45	3%+.50		4%
Defiance, Hancock, Henry, Ottawa Paulding, Putnam, Sandusky, Seneca, Williams, & Wood Cos.:					
Linemen	14.26	.50	3%	a	4%
Technicians	13.76	.50	3%	a	4%
Cable splicers	14.51	.50	3%	a	4%
Operator Class 1	11.36	.50	3%	a	4%
Operator Class 2	10.01	.50	3%	a	4%
Groundman:					
Driver 1st 6 mos.	7.16	.50	3%	a	4%
Driver 2nd 6 mos.	7.77	.50	3%	a	4%
Driver 3rd 6 mos.	8.58	.50	3%	a	4%
Erie, Huron (Twps. of Lyme, Ridgefield, Norwalk, Townsend, Wakeman, Sherman, Peru, Bronson, Hartland, Clarksfield, Norwich, Greenfield, Fairfield, Fitchville, & New London) Cos.:					
Linemen; Equipment operators; Cable splicers	13.05	.73	3%		4%
Beginning truck driver groundman; Beginning groundman	7.18	.73	3%		4%

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BILLING CODE 4610-27-C

federal register

Friday
May 11, 1979

Part IV

Department of Housing and Urban Development

Federal Disaster Assistance Administration

Temporary Housing Assistance

V 4 4 / 9 3 M Y 1 1 7 9 UMI

DEPARTMENT OF HOUSING AND URBAN DEVELOPMENT

Federal Disaster Assistance Administration

[24 CFR Part 2205]

Federal Disaster Assistance; Temporary Housing Assistance

AGENCY: Federal Disaster Assistance Administration, HUD.

ACTION: Notice of Proposed Rulemaking.

SUMMARY: This Notice of Proposed Rulemaking permits the States and local governments to assume operational and financial responsibility for the disaster temporary housing program as authorized by Section 404 of Pub. L. 93–288 for Presidentially declared disasters. This change is necessary because States and local governments have accepted this responsibility and rules have not been available for its implementation. These rules are intended to encourage increased State and local participation.

DATE: Comments due July 10, 1979.

ADDRESS: Send Comments to the Rules Docket Clerk, Office of General Counsel, Room 5218, Department of Housing and Urban Development, 451 Seventh Street, SW., Washington, D.C. 20410.

FOR FURTHER INFORMATION CONTACT: Hugh Richardson, Federal Disaster Assistance Administration, Room B–133, 451 7th Street, SW., Washington, D.C. 20410. (202–557–0437) This is not a toll-free number.

SUPPLEMENTARY INFORMATION: On June 23, 1978, 43 FR 27206, the Administrator published an Advance Notice of Proposed Rulemaking soliciting comments and background information prior to issuance of more specific proposed rulemaking concerning increased State and local government participation in disaster temporary housing porgrams. The Administrator was prompted to take this action based on his interest in providing better service to disaster victims, more efficient management of the program and making the program more truly supplemental to the efforts of the State and local governments.

Comments were received with reference to the Advanced Notice of Proposed Rulemaking from 27 States, 6 local governments or local planning bodies, the American National Red Cross and the National League of Cities. These comments were evaluated carefully and are covered in the following discussion. We look forward to equally substantive comments to this Notice.

Discussion of Major Comments

1. General Comments on State and Local Participation

All commenters agreed that State and local governments are generally incapable of providing any funds to this program. Proposed regulation changes do not *require* financial participation but do permit participation at option of State and agreement with the Administrator or his/her designee. Although comments said non-Federal entities are incapable of providing funds, experience has shown that some States have been willing to assume part of the expense as part of the State's committment to the disaster. In addition, we do not wish to accept this comment because the General Accounting Office has notified FDAA that Federal involvement in temporary housing, both operational and financial must at some point end. We have decided to maintain an option in both operational and financial responsibility so that the State may consider accepting either one at some time during the program.

Local government commenters stressed the limitations imposed by manpower and fiscal shortages at the local level. These restraints are taken into consideration in the proposed regulations as part of the evaluation of State and local government capability (2205.45(a)(1)).

Seven States felt that the Federal government should continue to administer the program with very limited State participation. The flexibility of the proposed regulation would permit States to choose not to participate.

Three commenters suggested that States be given an option in each disaster of operating the program or having the Federal government operate the program. We have been responsive to these comments in that this option is contained in the proposed regulation. No States will be forced to agree to participate if they feel they do not have the capability.

Two commenters suggested that disaster temporary housing should be a joint Federal/State effort with operational decisions being made through consultation rather than either entity having sole responsibility. The proposed regulation contains sufficient flexibility to permit joint responsibility for the overall housing program if both parties agree.

Sixteen States commented that they could operate the total disaster temporary housing program in a manageable size disaster (not defined) with full Federal reimbursement and technical assistance. Proposed regulation changes give States the option of operating the temporary housing program either with or without Federal reimbursement. Optional Federal reimbursement has been included even though commenters indicated full Federal reimbursement would always be necessary. We have experience with States which have chosen to assume some of the costs and we want to leave this option available to be used by the States, if they agree, as part of their commitment. Federal technical assistance will be provided at State request.

2. Legislative Change

Two commenters suggested changes which would require legislative action modifying the Individual and Family Grant program. Since comments were solicited regarding regulations for the disaster temporary housing program these comments will not be addressed at this time.

3. State Identification of Resources

Sixteen commenters agreed that the State government, local governments or a combination of both could develop lists of available housing resources.

One State commented that although local governments could develop such lists they would have to be continually updated which would be costly and time consuming.

One State commented that such a list would be worthless because there are no existing housing resources available.

This information was solicited in the Advance Notice to provide additional information upon which to determine whether States have the capability which would warrant offering the option of State operation of the program. While this type of procedural item is not considered appropriate for inclusion in regulations it is assumed that any non-Federal entity assuming the program may want to participate in the identification of resources. Specific assignment of this function would take place during negotiation between FDAA and the non-Federal entity.

4. Mobile Home Sites

All commenters noted that Federal moneys and technical assistance are often necessary to select and develop mobile home sites and urged that they be made available when it is obvious that State and local governments are incapable of performing this function. This provision remains unchanged in the regulations which allow a waiver to permit Federal funding when in the public interest.

One commenter suggested that the Federal government advance funds on a loan basis to facilitate rapid development of mobile home sites. This is currently possible using the project application method of reimbursement which is the only vehicle that has been used for reimbursing States when the State administers temporary housing.

Two commenters suggested that Federally-owned land be made available following a disaster to be used for mobile home sites. Legislative history on this program indicates Congressional intent that Federal lands be used when necessary.

Five commenters preferred that the Federal government provide funds to support this activity in all disasters regardless of the State capability. The regulations remain unchanged on the subject of development of mobile home sites in keeping with Section 404(a) of Pub. L. 93–288 which requires that sites be provided without charge to the United States unless waived in the public interest.

5. Determination of Rent Levels

All commenters agreed that State and local governments have access to information which would enable them to determine appropriate levels of rent after the twelve month rent-free period expires. The question was asked to provide us with information concerning this aspect of State capability and helped us to determine that all States have at least some capability which would enable them to participate in administration of the temporary housing program.

6. Identification of Potential Temporary Housing Applicants

Twelve commenters noted that the State and local governments have the capacity to identify potential temporary housing applicants through outreach, damage assessments, disaster assistance centers, and pre-identification of likely disaster sites.

One State suggested that the State and local governments would be unable to identify potential applicants any better than the Federal government. However, this will be the responsibility of the State if it is so identified in negotiations between the State and the Regional Director.

One State commented that use of the Disaster Assistance Center be replaced by use of a phone bank operation followed up by home visits for verification and inspections. This was suggested as a way to eliminate confusion. It is believed that this suggestion would not provide sufficient opportunity for applicnats to apply and get information on available assistance in most disasters, although phone banks have been used successfully as an additional service. In a few very small disasters phone banks have been used to replace DACs.

7. State and Local Participation in the Mortgage and Rental Assistance Program

Twelve States commented that they could administer the mortgage and rental assistance program with Federal funds.

Two States suggested that existing regular housing programs might be able to provide assistance to disaster victims who are unable to meet mortgage or rent payments.

Two States indicated that manpower and financial restrictions would preclude effective State operation of this program.

Proposed regulation changes will permit State operation of mortgage and rental assistance when the State assumes operation of any part of the temporary housing program and the Administrator agrees.

One State suggested that mortgage and rental assistance be made part of the IFG program. This suggestion will be considered in revising IFG regulations but would require legislative action to remove section 404(b) of Pub. L. 93–288 from the temporary housing section.

8. Minimal Repair Program

Eleven States commented that States and local governments can operate the MRP program given Federal funds.

One State commented that States have no legislative responsibility for doing minimal repair work. No State would be permitted to operate any part of the temporary housing program without appropriate authorities under State law.

One State suggested that MRP be provided through the IFG program. Provision of limited home repairs, similar in scope to the MRP has been field tested in several States with good success using the IFG program.

Two States commented that State and local contribution to MRP would be limited to outreach and identification of qualified local contractors. These restrictions would be carefully considered prior to any agreement allowing States to participate in providing minimal repairs.

One State commented that State and local participation would be limited to an advisory capacity to the Federal Government.

Proposed regulation would allow the State to operate MRP when both parties agree and the minimal repair program is authorized by the Administrator. Thus the regulation is broad enough to allow those States which feel they have the capability to participate when the Administrator agrees, without obligating any State to participate.

9. Period of Federal Responsibility

Nine States felt that the current 18 month limit on Federal responsibility in the temporary housing program could be shortened either through State and local assumption of the program with Federal reimbursement at the outset or through State and local assumption of operational and financial responsibility at some time during the program.

Eight States commented that the 18 month period of Federal responsibility should not be shortened.

Two States felt that they did not have sufficient experience to judge whether the period should be shortened.

Proposed regulation changes would allow a non-Federal entity to assume responsibility for the program before the 18 month period, even at the beginning of the program, if they so choose and the Administrator agrees.

Prior to asking for comments in the Advanced Notice a few States had attempted limited operational and financial responsibility for the program. The financial participation primarily involved assumption of administrative costs for State employee salaries and equipment.

Concurrently with the receipt of comments additional States participated and it is this experience which helped shape the proposed rule which we are now submitting. Although comments received from the Advance Notice were valuable in determining the capabilities of non-Federal entities, experience made it clear that the great variation among administering agents and among conditions in disaster areas mandated that the rules be general in nature to allow those States who wish to participate to do so as much or as little as is mutually agreed. The details of each situation would be worked out in negotiation and through the agreement between both parties.

Currently 10 States have participated in administration of the program. In some cases the States have administered temporary housing using only donated mobile homes provided through FDAA and this single resource has been sufficient. In two States, a greater variety of resources allowed the

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States to manage and operate the program and meet all housing needs with reimbursement from FDAA for salaries, administrative costs, and all program costs. The States participated financially through their 25% of the Individual and Family Grant program. In a recent disaster, a State provided limited home repairs through the Individual and Family Grant program while the Federal Government administered all other resources used including mobile homes, available rental properties and transient accommodations.

In all cases the State governments and disaster-affected citizens have expressed satisfaction with the increased State participation. The Federal Government has realized cost savings through increased efficiency when reimbursing State efforts. The Administrator is pleased with these efforts and wishes to encourage increased State and local participation when it appears that the administering party is willing and interested in participating and is capable of meeting the needs for temporary housing.

It is evident that past experiences have allowed for great flexibility on the part of States and local governments in negotiating how best to meet the needs. The proposed regulation is intended to retain this flexibility in administering the program and determining reimbursement and funding requirements so that temporary housing programs can be tailored to fit the situation for each disaster or emergency.

A Finding of Inapplicability of Section 102(2)(c) of the National Environmental Policy Act of 1969 has been made in accordance with HUD Handbook 1390.1 (38 FR 19182). It is the position of the signatories to the Finding that this amendment in itself has no significant impact on the human environment. Interested parties may inspect and obtain copies of this Finding of Inapplicability of Environmental Impact at the Office of the Rules Docket Clerk of the Department of Housing and Urban Development in Washington, D.C. 20410.

Interested persons may participate in this proposed rulemaking by submitting written data, views or arguments to the Rules Docket Clerk, Office of General Counsel, Room 5218, Department of Housing and Urban Development, 451 Seventh Street, S.W., Washington, D.C. 20410. Each person submitting a comment should identify this notice, and give reasons for any recommendations. Comments received on or before July 10, 1979, will be considered before final action is taken on this proposal. Copies of all written comments received will be available for examination by interested persons at the above address. This proposal may be changed in light of the comments received.

Accordingly, 24 CFR 2205.45 is amended by adding a new paragraph (r) and redesignating the current paragraph (r) as paragraph (s):

§ 2205.45 Temporary housing assistance.

* * * * *

(r) State operation of the temporary housing program

(1) The Administrator or his/her designee may provide disaster temporary housing through assumption of operational and/or financial responsibilties for the program on the part of State and/or local governments and/or other administering agents. The administering agent may assume the responsibilities for any or all of the types of assistance available through the temporary housing program (for example, mobile homes, mortgage and rental payments, etc. . . .), based upon a voluntary agreement with the Administrator or his/her designee. This agreement may be in the form of an approved project application or other document.

The Administrator or designee may enter into an agreement to allow participation in the temporary housing program based on an evaluation of the capabilities and commitment of the administering agent in the three primary areas:

(i) The adequacy of the administering agent's plan describing a comprehensive program for provision of temporary housing assistance;

(ii) The adequacy of staff designated by the administering agent to implement the above plan; and

(iii) The past performance of the administering agent in providing relief and assistance to individuals needing housing following a major disaster or similar occurrence.

(2) Administering agents participating in a disaster temproary housing program shall be bound by these regulations (2205.45) and pretermination regulations (24 CFR Part 470).

(3) Administering agents may be reimbursed for selected program costs and administrative expenses as agreed upon between the Administrator or his/her designee and the appropriate official for the administering agent.

(4) The representative for the administering agent may request Federal technical assistance in carrying out the provisions of the agreement to participate from the Administrator or his/her designee.

* * * * *

(Sec. 404, Pub. L. 93-288, 88 Stat. 150 (42 U.S.C. 5150). Executive Order 11795 as amended by Executive Order 11910, 39 FR 25939. Delegation of Authority, 39 FR 28227).

Issued at Washington, D.C., May 2, 1979.

William H. Wilcox,
Administrator, Federal Disaster Assistance Administration.

[Docket No. R-79-551]

[FR Doc. 79-14724 Filed 5-10-79; 8:45 am]

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Federal Register

Friday
May 11, 1979

Part V

Department of Housing and Urban Development

Office of the Assistant Secretary for Housing—Federal Housing Commissioner

Section 8 Housing Assistance Payments Program—Existing Housing; Special Provisions for Mobile Home Owners

V

DEPARTMENT OF HOUSING AND URBAN DEVELOPMENT

Office of the Assistant Secretary for Housing—Federal Housing Commissioner

[24 CFR Part 882]

Section 8 Housing Assistance Payments Program—Existing Housing; Special Provisions for Mobile Home Owners

AGENCY: Assistant Secretary for Housing-Federal Housing Commissioner.

ACTION: Proposed Rule.

SUMMARY: The Department is proposing to amend the Section 8 Existing Housing Program regulations to permit assistance payments to be made through Public Housing Agencies (PHAs) to assist lower-income mobile home owners in paying the rents for the spaces on which their mobile homes are located. This proposed rule would implement recent statutory changes.

DATE: Comments due: July 10, 1979.

ADDRESSES: Comments should include a reference to the docket number and date of publication, and be sent to: Rules Docket Clerk, Office of General Counsel, Room 5218, Department of Housing and Urban Development, 451 Seventh Street, S.W., Washington, D.C. 20410.

FOR FURTHER INFORMATION CONTACT: Roy Santos, Existing Housing Division, Office of Existing Housing and Moderate Rehabilitation Programs, Department of Housing and Urban Development, Washington, D.C. 20410, 202/755–8116. This is not a toll-free number.

SUPPLEMENTARY INFORMATION:

Section 8(j) of the U.S. Housing Act of 1937 (42 U.S.C. 1437f) (Act,) which was added by Section 206(f) of the Housing and Community Development Amendments of 1978, authorizes the Secretary to execute Annual Contributions Contracts (ACCs) with Public Housing Agencies (PHA.) for the purpose of assisting lower-income families, who own and occupy their mobile homes as their principal places of residence, in connection with rental of the space on which their mobile homes are located.

Purpose

This proposed rule specifies criteria under which assistance payments may be made on behalf of eligible families in accordance with the new Section 8(j). Except as indicated by this Subpart, the provisions of Part 882, Subparts A and B shall apply. References in Subparts A and B to units leased by the family shall be deemed in this Subpart F to refer to mobile home spaces on which mobile home units, owned and occupied by assisted families, are located.

Subparts D and E, Special Procedures for the Moderate Rehabilitation Program, published for comment on December 28, 1978, will not apply because that rule when published for effect will specifically exclude moderate rehabilitation of mobile homes.

Eligibility

This proposed rule would authorize PHAs to provide Section 8 assistance on behalf of eligible mobile home owners in leasing the spaces (commonly referred to as pads) on which their mobile homes are located. Eligible mobile home owners must occupy the unit as their principal place of residence, and must have a Certificate of Family Participation appropriate for the family size. For example, if a two-person elderly family applies for assistance payments, the maximum number of bedrooms which could be assigned on its Certificate would be two bedrooms. With such a Certificate, the family could rent a larger space but the amount of assistance would be limited to what is necessary for the appropriate size (2-bedroom) space rather than for the larger space. The Department is interested in receiving comments on whether mobile home owners who own and live in units larger than necessary for their family size should be able to qualify for the larger payment.

A family's income for eligibility shall be determined in accordance with 24 CFR § 889.103, Determination of Family Income for Eligibility, except that the value of equity in a mobile home owned by an Assisted Family shall not be counted as a family asset. Section 889.103 states that "when a family has Net Family Assets in excess of $5,000, income shall include the actual amount of income, if any, derived from all the Net Family Assets or 10 percent of the value of all such assets, whichever is greater." In many cases the Mobile Home equity would exceed $5,000, and under § 889.103, income would be counted as the larger of 10 percent of equity in the asset or actual income derived from the asset. The effect of this computation could be to increase the family's income to an amount exceeding its applicable income limit. Since the very purpose of Section 8(j) is to assist owners of mobile homes in paying the rent for their mobile home spaces, the Department has determined that the statute did not intend that the family's equity in its home be counted as an asset for this purpose.

Definitions

A definition of Mobile Home is added for purposes of the entire Existing Housing program (both owner and renter occupied mobile homes). Although this definition is based on the one in the National Mobile Home Construction and Safety Standards Act of 1974 (Standards Act), it is less restrictive than the Standards Act definition. This is because the Standards Act definition is applicable to the construction of new mobile homes subsequent to December 31, 1976, rather than to existing mobile homes constructed prior to that date.

The following are new or modified definitions, applicable only to mobile home owners who lease Mobile Home Spaces:

1. Contract Rent is the monthly rent to the Owner of the pad, including any separate fees or charges, for the leasing of the Mobile Home Space. This rent includes the maintenance and management services described in the definition of Mobile Home Space, but excludes ongoing utility charges. Separate fees of charges for other services or facilities are included in the Contract Rent only if their payment is required as a condition of the leasing of the Mobile Home Space.

2. A new definition of Fair Market Rent is to be utilized under this Subpart. Fair Market Rents include maintenance and management services consistent with the definitions of Contract Rent and Mobile Home Space. The Fair Market Rents are those which, as determined at least annually by HUD, would be required to be paid in order to obtain decent, safe and sanitary Mobile Home Spaces of modest nature with the required maintenance and management services.

3. A new definition of Family Contribution for this Subpart is also included. The Family Contribution is twenty-five percent of one-twelfth of annual income after allowances, in accordance with 24 CFR, Part 889.

HUD interprets the legislation as intending that Family Contributions of mobile home owners be based on twenty-five percent of monthly, income, after allowances are made for minors and medical and other unusual expenses as in the Section 8 program generally.

4. Definitions of Set-Up Charges and Utility Hook-Up Charges are provided for in this Subpart. Set-Up Charges, which are treated as part of the cost of purchasing the mobile home, include the cost for transporting the Mobile Home to the Mobile Home Space and the costs of assembling, skirting and anchoring the

home. Utility Hook-up Charges, which are treated as part of the cost of renting the Mobile Home Space, are the costs for connecting the Mobile Home to utilities such as water, gas, electrical and sewer lines.

5. A definition of Mobile Home Space is included in this Subpart F. This definition refers to the space, leased by an owner to an Assisted Family, on which a mobile home, owned and occupied by the Family, is located. The definition includes all maintenance and management services necessary for decent, safe and sanitary housing such as maintenance of utility lines, garbage and trash collection, and maintenance of roadways, walks and other common areas and facilities.

Allocation Process

These special provisions for mobile home owners will be implemented as a part of the Section 8 Existing Housing Program. Therefore, no additional allocation of units or of contract authority will be necessary to implement this Subpart.

Contract Rent

The Contract rent shall not exceed the applicable Fair Market Rent by more than ten percent. The prerogative to approve Contract Rents up to 20 percent above Fair Market Rents is not applicable since it is not authorized by Section 9(j) of the Act.

Fair Market Rents

Separate Fair Market Rents will be established by publication in the Federal Register for spaces suitable for various sizes (by bedroom) of mobile home units. Fair Market Rents will be developed using the Annual Housing Survey data sources for four Census Regions and sixty Standard Metropolitan Statistical Areas.

Maximum Assistance Payment

In accordance with Section 8(j) of the Act, the maximum assistance payment for the rental of a Mobile Home Space is the difference between the Family Contribution and the sum of (1) the payment by the Family to amortize the purchase price of its mobile home, (2) the utility allowance and, (3) the Contract Rent. However, the assistance payment may not exceed the Contract Rent. See § 882.603. The examples below illustrate how this limitation affects the amount of assistance:

A	
Fair market rent is:	$130
1. Mortgage payment	142
2. Utility allowance	55
3. Space rental (minus utilities)	+115
Total family cost	312
Minus family contribution	−200
Difference	112
Assistance payment is	$112

B	
Fair Market rent is:	$130
1. Mortgage payment	142
2. Utility allowance	55
3. Space rental (minus utilities)	+115
Total family cost	312
Minus family contribution	−140
Difference	172
Assistance payment is	$115

The assistance payment in Example A is $115 (cost of space rental), even though the difference between the total family cost and the family contribution is greater than the space rental. In example B, however, the computation is based on a higher family contribution of $200 so that the difference between the total family cost and family contribution is $112. In this instance, the assistance payment is limited to the $112 difference even though it is less than the space rental cost.

Amortization payments on the purchase price of the Mobile Home include principal and interest payments. The purchase price to be amortized may include the price of the home, the Set-Up Charges and other costs normally included in the purchase price of mobile homes, but may not include the purchase cost of furniture. Although furniture is frequently included in the purchase price of a Mobile Home, we have determined that it may not be included in determining the amount of assistance in the Section 8 program. Set-Up Charges may be included in the amount to be amortized, whether incurred by a Family on a newly purchased mobile home or by a Family which transports its existing mobile home to another Mobile Home Space. Set-Up Charges previously incurred may be included only to the extent that monthly payments are still being made to amortize them.

Separate utility allowances will be established for Mobile Home Owners assisted under this Subpart. The utility allowance shall be an appropriate amount for the bedroom size of the family's Mobile Home and shall include a reasonable allowance, for the first twelve months, that will assist the family in defraying its payable Utility Hook-Up Charges, including where these charges are incurred by reason of a move. The Department feels that allowances for Utility Hook-Up Charges will be necessary only in those instances where the Family actually incurs the expense and only for the first twelve months of the leasing of the Mobile Home space because this is a relatively small one-time cost which the family should be able to pay within a reasonably short time. Allowances for Utility Hook-Up charges shall not be applicable to families leasing the Mobile Home space in place.

Housing Quality Standards

All Housing Quality Standards of § 882.109 apply to this Subpart except for § 882.109(m), Congregate Housing, and § 882.109(n), Independent Group Residences. In addition, a standard would be added in a new § 882.109(o), to require mobile homes assisted under the Section 8 Existing program (both owner and renter occupied) to have at least one smoke detector. The Housing Quality standard now in effect requiring anchoring of Mobile Homes would be moved to Section 882.109(o). The Department is interested in receiving comments concerning the use of these standards and the effect on the availability of housing to be assisted under this Subpart.

Other Changes

The following provisions of Part 882 are inappropriate and would be made inapplicable. Section 882.115, Rent Reduction Incentive, does not apply because there are significantly fewer opportunities to lease mobile home spaces and correspondingly fewer opportunities for families to shop for alternative mobile home spaces. Section 882.120, Recently Completed Housing, is not applicable because the rental of the space is predominately for the rental of the land rather than improvements.

Purchase Prices of Mobile Homes

The Report of the House Committee on Banking, Finance and Urban Affairs, with respect to this legislation, included the following statement: "The Secretary should consider setting standards on the level of amortization costs which a family could include for purposes of calculating the level of assistance. The Committee does not wish to encourage a family to over extend themselves in purchasing a mobile home in expectation of Federal assistance." This proposed rule does not include standards on levels of amortization cost because HUD does not have sufficient data at this time. Comments and recommendations from interested

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groups and individuals concerning this issue are specifically invited.

NEPA

A Finding of Inapplicability regarding the National Environmental Policy Act of 1969 has been made in accordance with HUD procedures. A copy of this finding of inapplicability will be available for public inspection during regular business hours at the Office of the Rules Docket Clerk, at the address specified above.

Accordingly, 24 CFR, Part 882 is proposed to be amended as follows:

1. In § 882.102 *Definitions*, add:

§ 882.102 Definitions.

* * * * *

Mobile Home. A structure, with or without a permanent foundation, which is built on a permanent chassis, is designed for use as a principal place of residence, and meets the Housing Quality Standards set forth in Section 882.109.

* * * * *

§ 882.109 [Amended].

2. In § 882.109—Housing Quality standards, add a new paragraph (o) Mobile Home, to read:

(o) *Mobile Home.* A Mobile Home unit, whether owner or renter occupied, shall comply with the foregoing standards except for paragraph (m) of this section, Congregate Housing, and paragraph (n) of this section, Independent Group Residences. In addition, the unit shall: (1) meet the definition of a Mobile Home set forth in Section 882.102, (2) be equipped with at least one smoke detector, and (3) be securely anchored by a tiedown device which distributes and transfers the loads imposed by the unit to appropriate ground anchors so as to resist wind overturning and sliding.

3. In § 882.109(f)(2), the last sentence is deleted.

4. Subpart F, Section 8 Assistance on Behalf of Mobile Home Owners Leasing Mobile Home Spaces, is added as follows:

Subpart F—Section 8 Assistance on Behalf of Mobile Home Owners

Sec.

882.601 Applicability and scope.
882.602 Definitions for this subpart.
882.603 Assistance payments.
882.604 Maximum Contract Rent.
882.605 Schedule of Allowances for Utilities and Other Services.

Subpart F—Section Assistance on Behalf of Mobile Home Owners

§ 822.601 Applicability and scope.

This Subpart provides for the making of assistance payments on behalf of lower-income mobile home owners through Contracts executed by PHAs with owners leasing the spaces on which the mobile homes are located. The mobile homes must be used by lower-income Families as their principal places of residence. Except as indicated by this Subpart, Part 882, Subparts A and B shall apply. References made in Part 882 to dwelling units or units shall, for purposes of this Subpart F, be read as referring to Mobile Home Spaces. Subparts D and E (published for comment on December 28, 1978) shall not apply because moderate rehabilitation of mobile homes is excluded under that rule.

§ 882.602 Definitions for this subpart.

The definitions in Section 882.102 shall apply except for Contract Rents, Fair Market Rent, Gross Rent, Recently Completed Housing and Rent Reduction Incentive.

Assisted Family. A Family which qualified as an eligble lower-income Family occupies a mobile home as its principal place of residence, is issued a Certificate of Family Participation, leases but does not own the Mobile Home Space and is assisted under this Subpart. A Family's income for eligibility shall be determined in accordance with 24 CFR Section 889.103, except that the value of equity in a mobile home owned by an Assisted Family shall not be counted as a family asset.

Contract Rent. The monthly rent which an Owner is entitled to recieve for the leasing of a Mobile Home Space to an Assisted Family, including any separate fees of charges. This rent includes the maintenance and management services described in the definition of Mobile Home Space, but excludes ongoing utility charges. Separate fees or charges for services or facilities not included in the definition of Mobile Home Space shall be included in the Contract Rent only if their payment is required as a condition of the leasing of the Mobile Home Space.

Fair Market Rent. The rent which, as determined at least annually by HUD, would be required to be paid in order to obtain privately owned, decent, safe and sanitary Mobile Home Spaces of modest nature. This rent includes maintenance and management services described in the definition of Mobile Home Space, but excluded ongoing utility charges. Separate Fair Market Rents will be estabished by publication in the **Federal Register** for spaces suitable for various sizes (by bedroom) of mobile home units.

Family Contribution. The Family Contribution shall be twenty-five percent of one-twelfth of the Family's annual income after allowances in accordance with 24 CFR, Part 889. Section 882.115 and § 882.210(c) shall not apply.

Mobile Home Space. The space, leased by an owner to an Assisted Family, on which a mobile home, owned and occupied by the Family, is located. The space shall inlude all maintenance and management services necessary for decent, safe and sanitary housing, such as maintenance of utility lines, garbage and trash collection, and maintenance of roadways, walk and other common areas and facilities.

Owner. Any person or entity having the leagal right to lease or sublease the Mobile Home Space.

Set-Up Charges. Charges payable by an Assisted Family for transporting a Mobile Home to a Mobile Home Space and for assembling, skirting and anchoring the unit.

Utility Hook-Up Charges. Costs payable by an Assisted Family for connecting its Mobile Home to utilities such as water, gas, electrical and sewer lines.

§ 882.603 Assistance payments.

The provisions of § 882.105, Housing Assistance Payments to Owners, shall apply except for paragraph (a). In lieu of § 882.105(a), the following shall apply:

Assistance payments to the Owner will cover the difference between the Family Contribution and the sum of (1) the monthly payment made by the Family to amortize the purchase price of the Mobile Home, (2) the utility allowance and (3) the Contract Rent. However, the assistance payment may not exceed the Contract Rent. Amortization payments may include Set-up Charges and other costs normally included in the basic purchase price, but the purchases cost of furniture may not be included. Set-Up Charges incurred by Assisted Families who relocate their Mobile Home may be included in the monthly amortization payment made by the Family. However, Set-Up Charges incurred prior to the effective date of the Contract may be included only to the extent that monthly payments are still being made to amortize them.

§ 882.604 Maximum contract rent.

(a) The provisions of § 882.106(a)(3) and (4) 882.106(c) shall not apply.

(b) The provisions of § 882.102, concerning the Recently Completed Housing, shall not apply.

(c) The Contract Rent shall not exceed the applicable Fair Market Rent my more than ten percent, nor shall it exceed the rent reasonable limitation of § 882.106(b).

§ 882.605 Schedule of allowance of utilities and other services.

The provisions of §§ 882.116 and 882.219 relative to PHAs establishing and adjusting a Schedule of Allowances for Utilities and Other Services shall apply. Separate utility allowances shall be established for mobile home owners assisted under this Subpart, and shall be appropriate amounts for the bedroom size of the Family's Mobile Home. Allowances shall include a reasonable amount, for the first twelve months, to assist the Family in defraying its payable Utility Hook-up Charges in those instances where the Family actually incurs the expense including where charges are incurred by reason of a move. The assistance payment shall automatically be reduced by the amount of those charges at the end of the twelve months. Allowances for Mobile Home Spaces shall not cover costs payable by an Assisted Family to cover the digging of a well or installation of a septic system.

Authority: Section 7(d) Department of HUD Act (42 U.S.C. 3535(d)); Section 5(b) of the U.S. Housing Act of 1937 (42 U.S.C. 1437c(b)).

Issued at Washington, D.C., April 6, 1979.

Lawrence B. Simons,

Assistant Secretary for Housing-Federal Housing Commissioner.

[Docket No. R-79-646]

[FR Doc. 79 14725 Filed 5-10-79; 8:45 am]

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federal register

Friday
May 11, 1979

Part VI

Environmental Protection Agency

Regulations for the Enforcement of the Federal Insecticide, Fungicide and Rodenticide Act

Conditional Registration; Compensation for Use of Data; Revocation of Interim Policy Statements

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ENVIRONMENTAL PROTECTION AGENCY

40 CFR Part 162

Regulations for the Enforcement of the Federal Insecticide, Fungicide and Rodenticide Act; Interim Final Regulation Relating to Conditional Registration

AGENCY: Environmental Protection Agency, Office of Pesticide Programs.

ACTION: Interim Final Rule.

SUMMARY: This interim final regulation expands the pesticide registration program of the Environmental Protection Agency (EPA or Agency) to authorize the conditional registration of pesticide products which are identical or substantially similar to those currently registered. It also authorizes the registration of new uses of existing pesticides. This regulation sets forth the applicable definitions, the data requirements for obtaining conditional registration, the conditions under which such applications will be approved or denied, and the mechanism for cancellation of conditional registrations. The Agency is also revising § 162.7 and § 162.8 of its current registration regulation.

DATES: Effective May 11, 1979. Comments may be submitted by July 10, 1979.

ADDRESSES: Comments should be sent, in triplicate if possible, to the Federal Register Section, Program Support Division (TS-757), Office of Pesticide Programs, Environmental Protection Agency, 401 M St., S.W., Washington, D.C 20460. All comments should bear the identifying notation OPP-30024. All written comments will be available for public inspection from 8:30 a.m. to 4 p.m. Monday through Friday.

FOR FURTHER INFORMATION CONTACT: Herbert S. Harrison, Registration Division (TS-767), EPA, 401 M Street, S.W., Washington, D.C. 20460.

SUPPLEMENTARY INFORMATION: This regulation implements sections 3(c)(7)(A) and 3(c)(7)(B) of the Federal Insecticide, Fungicide, and Rodenticide Act (FIFRA or the Act), as amended by the Federal Pesticide Act of 1978 (Pub. L. 95-396, 92 Stat. 819, 7 U.S.C. 136 et seq.) as well as related provisions of FIFRA section 3(c)(5) and section 6(e). Final regulations (40 CFR Part 162) for the registration, reregistration, and classification of pesticides were published in the Federal Register on July 3, 1975 (40 FR 28242). This regulation amends Part 162 by adding new sections designated §§ 162.18-1 through 162.18-5, and by revising § 162.7 and § 162.8. Regulations implementing FIFRA section 3(c)(1)(D)(ii) appear elsewhere in this issue of the Federal Register.

Purposes of Conditional Registration

Prior to enactment of the Federal Pesticide Act of 1978, FIFRA section 3(c)(5) set forth the test for registrability of a pesticide. It states, in part:

> *Approval of registration.*—The Administrator shall register a pesticide if he determines that, when considered with any restrictions imposed * * *
>
> (A) its composition is such as to warrant the proposed claims for it;
>
> (B) its labeling and other material required to be submitted comply with the requirements of this Act;
>
> (C) it will perform its intended function without unreasonable adverse effects on the environment; and
>
> (D) when used in accordance with widespread and commonly recognized practice it will not generally cause unreasonable adverse effects on the environment.

FIFRA section 3(c)(5) requires that before the Agency registers a product, or amends an existing registration, the Agency must conclude, based on a review of sufficient data, that neither the product itself nor any of its uses would cause an unreasonable adverse effect on the environment.

Data requirements designed to allow the Agency to make section 3(c)(5) determinations have increased over the years. Moreover, the Agency has concluded that data submitted in support of earlier pesticide registrations should be subjected to validation under modern standards.

In most cases, therefore, the Agency can grant a registration under FIFRA section 3(c)(5) only after it has determined that all required data have been submitted, and only after a comprehensive review of that data has been completed. Congress has directed the Agency to conduct reevaluations of all previously-registered pesticides (a process called reregistration). The Agency intends to conduct these evaluations systematically and to issue "generic standards" setting for the Agency's regulatory posture on each pesticide.

Under the pre-1978 FIFRA, the Agency felt compelled to deny registration of new products, even those containing only "old" ingredients, until all required testing of the pesticide had been done and the results reviewed. This created major problems for firms seeking to enter the market with products essentially like those already being sold legally, and also made it very difficult to obtain approval for new uses of already-registered products. This class of problems was referred to as a "double standard," and was of great concern to both EPA and the Congress.

In addition, the Agency believes that even where most or all of the data required for a "no unreasonable adverse effects" determination are available, it is imperative that the Agency's limited resources for data review be used in the most productive manner. This requires that the scheduling of chemicals for comprehensive review be based on factors such as the type, use pattern, and volume of use of the various chemicals. The Agency does not intend to immediately conduct a comprehensive data review merely because an application for registration has been submitted. But a system which would indefinitely deny registration to products containing chemicals low on the review priority list would be unacceptable. A mechanism to overcome these various problems was needed. The Agency thus requested, and Congress in 1978 enacted, legislation "authorizing the Administrator to conditionally register * * * products in certain situations, even though certain of the data that were required for complete registration [under section 3(c)(5)] * * * had not yet been generated, or, if on file with the Agency, had not yet been reviewed for validity or sufficiency."[1]

Conditional registration is a discretionary authority with a twofold purpose: (1) to eliminate existing barriers to registration and market entry resulting from the previously mentioned double standard; and (2) to provide a needed transition phase between the case-by-case approach under which the Agency has operated in the past and the new generic standards process. The Agency's objective is that all currently registered products, which are subject to reregistration, and similar products for which new registrations are sought, should be allowed to progress in an orderly fashion into a systematic and all-encompassing standards-setting program.

These goals must, however, be pursued in a manner consistent with the Agency's fundamental mission of the protection of human health and the environment from unreasonable adverse effects of pesticides. The Agency is *authorized* to issue conditional registration, but is not *obligated* to do so, and will not do so where a

[1] Report of the Senate Committee on Agriculture, Nutrition, and Forestry. S. Rep. No. 95-334, 95th Cong., 1st Sess. (July 6, 1977), ["Senate Report"] at page 20.

conditional registration would significantly increase the risk of unreasonable adverse effects.

Conditional registration will be used to register new products and to amend existing registrations of products containing a particular active ingredient until a final generic standard for that active ingredient is published. If the generic standard states that additional data must be submitted on an active ingredient before products containing it can be unconditionally reregistered, the products containing the active ingredient may be conditionally reregistered. If the generic standard states that all required data have been submitted and evaluated, products can be reregistered unconditionally.

Under the new conditional registration authority, a product may be registered, or its registration amended, if the Agency concludes that the action would not significantly increase the risk of unreasonable adverse effects on the environment, provided certain conditions are met. These regulations describe how EPA will exercise its conditional reregistration authority under FIFRA sections 3(c)(7)(A) and 3(c)(7)(B).

FIFRA section 3(c)(7) is divided into three parts. The third, section 3(c)(7)(C), deals with conditional registration of products containing new active ingredients. The regulations issued here do not concern section 3(c)(7)(C); for the time being, applications for registration under that authority will be handled on a case-by-case basis.

Sections 162.18-1 through 162.18-5 set forth the Agency's standards and procedures for conditional registration under FIFRA sections 3(c)(7)(A) and 3(c)(7)(B). Section 162.18-1 addresses the scope of the regulations; coverage, and contains necessary definitions. Section 162.18-2 establishes data requirements for the various types of products. Section 162.18-3 sets forth the requirements for applications for conditional registration. Section 162.18-4 describes the disposition of applications for conditional registration and the criteria for approval of such applications. Section 162.18-5 describes Agency procedures for cancellation of conditional reregistrations as specified in FIFRA section 6(e).

The final portions of 40 CFR 162.7 and 162.8 are also revised to conform the existing regulations to the new conditional registration authority, delete obsolete provisions, and acknowledge that the generic standards process will be used for reregistration.

Development of This Regulation

The Administrator has determined that there are compelling public interest reasons for this regulation to be published as an interim final regulation at this time. Because this conditional registration regulation permits the Agency to eliminate the double standard for registration and resume the registration program as quickly as possible, the Administrator believes that the public interest is best served by making this regulation effective upon publication.

Because this regulation is not being published as a proposed regulation, the Agency has provided considerable opportunity for public comment on the regulation during its development. An Advance Notice of Interim Final Rulemaking, published in the Federal Register on July 25, 1978 (43 FR 32154), invited comments from interested persons on the general aspects of conditional registration, compensation, efficacy data waiver, and other prospective issues perceived in the development of regulations. A working draft of the regulation was circulated (October 6, 1978) to over 2,500 interested industry, environmental and consumer groups, state and local agencies, and agricultural organizations. Specific comments on the issues involved were solicited. Three one-day public meetings were held in Washington, D.C., on November 6, 7, and 8, 1978, to receive comments on the major issues identified in the draft regulation.

As a result of the several opportunities accorded to interested persons for commenting on this regulation, a number of valuable comments were received and have been considered in developing this document. The majority of the comments were directed to a few new or changed policies that will be established by the regulation. Comments of major concern pertaining to the conditional registration regulation have been categorized, compiled, and reviewed. These comments are addressed when necessary in the following sections of this document.

Definitions

The October 6, 1978, draft of these regulations contained the term "substantially similar product," which several commenters believed was inadequately defined. The Agency has revised 162.18-2 of the regulation so that a definition of "substantially similar product" is not necessary. All products other than "identifical products" (a defined term) are addressed together in § 162.18-2, the hazard data requirements varying to reflect the level of risk assessment associated with a greater or lesser degree of similarity of the product or use to those currently registered. Therefore the separate definitions of "substantially similar product" and "identical or substantially similar use" have been deleted.

Several commenters suggested that the terms "major food or feed crop" and "minor food or feed crop" or variations thereof be defined. It is true that the application of the statutory prohibitions of FIFRA § 3(c)(7)(B) depends in certain instances on whether a crop is deemed a "major food or feed crop" or a "minor food or feed crop." Specifically, if a new use of a pesticide under a Rebuttable Presumption Against Registration (RPAR) involves a major food or feed crop, conditional registration is prohibited. The same holds true for a minor food or feed crop unless there are no available and effective alternatives to that pesticide.

The Agency has decided not to define these terms by regulation at this time. There is no overall consensus, within or without the Agency, of definitions which would be specific enough to be useful yet still allow the necessary flexibility for making sound regulatory decisions. There is general agreement that certain crops, such as corn, wheat or alfalfa, are "major food or feed crops" and that others, such as hazelnuts, leeks, or mangoes are "minor food or feed crops." However, definitions applicable to all food or feed crops would have to relate "major" and "minor" to some criteria such as acreage or percentage of diet. These factors have in the past proven to be inadequate in addressing many crops because they fail to take into account (1) differing segments of the consuming population (a crop which constitutes a minor part of an average person's diet may be a major portion of the diet of particular minority or regional populations); (2) minor food crops which are used as major feed items on a regional basis (few crops are grown solely as feed crops—most are by-products of food crops). For the time being, then, the Agency will classify crops as major or minor on a case-by-case basis.

Other commenters suggested that the Agency define additional terms which they deemed relevant to the conditional registration process. Some of the suggested terms, such as "exclusive use data," are adequately described by the Act. Others, such as "dietary RPAR," are not explicitly used in the Act or regulations and thus no definitioin is required.

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Submission and Review of Data

As noted earlier, a conditional registration may be granted despite the fact that not all data required for a section 3(c)(5) registration have been submitted to EPA, or despite the fact that EPA has not yet reviewed all the data that have been submitted concerning the pesticide. If data required for an unconditional registration have not been submitted to the Agency, a conditional registrant must agree to submit the data when other registrants of similar pesticides must submit data—either at the time the product is reregistered or when the Administrator requires data submission.

However, the Agency will not grant even a conditional registration unless data sufficient to make the findings required by FIFRA section 3(c)(7) are available for review by the Agency.

In general, the Agency will review data for one or more of the following purposes in connection with the application for conditional registration:

1. To demonstrate that the product is identical to a currently registered product (Refer to *Incremental Risk Assessment*, Part A, Identical Products and Uses);

2. To evaluate the incremental risk posed by the product or its uses (Refer to *Incremental Risk Assessment*);

3. To establish that the product is efficacious, in certain instances (Refer to *Waiver of Efficacy Data Requirement*); or

4. To determine whether a new use should be classified for Restricted Use (Refer to *Classification*).

For these purposes, the Agency must have data available *prior to* issuance of conditional registration; such data may not be deferred under the conditional registration. It is readily apparent, and stated in § 162.18–2(d), that the formulator of an end-use product may be required to provide chemistry, efficacy, or acute toxicity data to satisfy requirements for obtaining conditional registration.

The responsibilities of end-use formulators for long-term or chronic testing are covered by FIFRA section 3(c)(2)(D). An applicant who purchases a registered manufacturing use product in order to formulate an end-use product is not responsible for the submission or citation of data pertaining to the safety of the purchased product. The formulator thus is not responsible for the development or submission or chronic toxicity data using the registered manufacturing use product. He should not assume, however, that the Agency is obligated to register his end-use product, or any product, when chronic toxicity data required to make an incremental risk assessment are lacking. *The Agency must have sufficient information to make a finding of no incremental risk before conditional registration can be issued.* (This applies to all studies; however, the exemption provisions of FIFRA section 3(c)(2)(D) are most directly relevant to chronic studies.) Whether missing data are supplied by the formulator (for formulation-related studies, this is the expected course of action), by the producer of the manufacturing use product, or by someone else, is inconsequential to the Agency. Thus the end-use formulator seeking conditional registration may find that unless he chooses to produce the data himself, he will be unable to obtain conditional registration.

For the conditional registration of identical products and identical or substantially similar uses, the Agency generally will not review again any data currently in its files. For other applications, the Agency may review data currently in its files to the extent necessary to evaluate the incremental risk associated with a new use or new product. The Agency will review all data which are required to be submitted by the applicant at the time of conditional registration in accordance with § 162.18–2.

Incremental Risk Assessment

Incremental risk assessment is central to the conditional registration program. The purposes of this section are to describe the risk assessment process and the underlying assumptions and rationales on which it is based, and to give some insight into the factors the Agency will weigh in evaluating whether the FIFRA section 3(c)(7) requirement of "no significant increase in the risk of unreasonable adverse effects" has been met.

Several commenters questioned the validity of an incremental approach to risk assessment. Such comments are not pertinent to this document because the statute provides for a conditional registration program based on incremental risk assessment rather than total risk assessment. The Agency intends to initiate a conditional registration program while addressing the risks associated with current uses of a pesticide through the generic standards program and, if necessary, the RPAR program.

Other concerns relative to risk assessment have already been addressed or are clarified in the preamble discussion which follows. These comments specifically related to the discussion of incremental risk assessment relative to food uses, the significance of incremental exposure to minor food and feed uses, and the presumption that conditional registration of "me-too" products and uses involves no significant incremental risk. No change in the regulation has been necessary as a result of these comments.

Section 3(c)(5) of the FIFRA, provides, among other things, that a pesticide shall be registered only if the product and its uses present no unreasonable adverse effects on the environment. The application of this standard was originally accomplished on an individual basis, product and uses being subject to the standard as they were submitted for registration. Because the assessment of unreasonable adverse effects required by FIFRA section 3(c)(5) resulted in a need for considerable additional data, the double standard, as discussed in the introductory section of this document, was created.

To place risk assessment on a more equitable and more manageable level and to give it the necessary priority within the registration program, the Office of the Pesticide Programs instituted the Rebuttable Presumption Against Registration (RPAR) procedure and the generic standards program.

The RPAR process was established to assess the risks and benefits of pesticides that were identified as having exceeded a threshold level of hazard. Initially, identification of RPAR candidates has been accomplished through the registration program. A pesticide placed within the RPAR system is fully evaluated relative to *all* products and uses affected to determine whether the adverse effects identified are unreasonable. In such a case, cancellation or denial of registration action may result.

In order to achieve efficient reregistration of the more than 40,000 pesticide products currently registered, the Agency has established a generic standards program. Under the generic system, EPA will systematically review pesticides, based on priorities for review consistent with the mandates of Congress and the Agency's needs. All pesticide products will be evaluated against the unreasonable adverse effects standard in an orderly manner.

The generic standards process reviews data from all sources for scientific value and regulatory utility concerning the pesticide, and identifies pesticides requiring RPAR consideration. Both generic standards and RPAR are designed to function systematically, addressing all aspects of a chemical and its registered uses, evaluating all pertinent available data and resulting in broad regulatory decisions which can thereafter be applied without further data review to the registration decision for all products of a similar nature.

There are many pesticides registered that have not yet been addressed by either the generic standards program, or the RPAR program, and thus may not have been evaluated against the unreasonable adverse effects standard of FIFRA section 3(c)(5). The Agency intends to move ahead rapidly with both programs. Nevertheless, it will be some time before a significant number of pesticides are reviewed within these systems, and an even longer time before chronic hazard studies to serve as a basis for reaching regulatory decisions are completed by registrants. During this interim period, many of the risks associated with the use of pesticides will not be identified or fully quantified. Usually this is so because the data necessary to assess the risks have not been generated by pesticide producers. Data have been submitted in the past, but most of those studies have not been reviewed in light of current regulatory and scientific standards—a task to be accomplished within the generic standards development program.

Conditional registration of products and uses will be based on the acceptance of the existing risks, both known and unknown, of pesticide products and uses already registered and in the marketplace. The Agency recognizes the potential risks but generally has no basis upon which to quantify them or to believe that they outweigh the benefits of continued use. Until the risks can be identified and addressed through the generic standards and, if necessary, the RPAR processes, little or no environmental protection is achieved by discriminating between products registered prior to 1975 and other prospective pesticide products. At such time as a pesticide is reviewed for generic standards development or RPAR, all registered products and uses will be included in the overall assessment of adverse effects. Risks and benefits will be weighed against the unreasonable adverse effects standard of FIFRA section 3(c)(5).

Sections 3(c)(7) (A) and (B) of the FIFRA direct the Agency to focus its attention only on *increased* risks (incremental risks) posed by the registration of "old" pesticides and new uses of "old" pesticides. Specifically, conditional registration of both identical/substantially similar products and uses [section 3(c)(7)(A)] and new uses [section 3(c)(7)(B)] is authorized only if the new product or use "would not significantly increase the risk of unreasonable adverse effects on the environment." Properly adminstered, this test of approval will assure adequate protection of the public and the environment from adverse effects attributable to any increased exposure that might result from the conditional registration of a pesticide.

The Agency has carefully considered how best to assess the incremental risks associated with additional pesticide use. Incremental risk becomes significant only when conditional registration would involve either exposure to non-target populations not previously exposed, or increased exposure to the populations that are at risk from current pesticide usage. As previously stated, it is clear that the Agency is required to assess the incremental risk of each product and each use as a part of the review of all applications for conditional registration. As the potential for risk from the added product or use grows, the need for new data and Agency review of such data will increase. The risk assessment program set forth below is structured to incorporate this concept.

A. *Identical Products and Uses*

The Agency has concluded that conditional registration of identical products and identical and substantially similar uses poses no risks beyond those which may be present in the existing pesticide usage. The existing pesticide market represents an essentially finite quantity of pesticide availability, governed largely by the acreages and available sites to which end-use products are to be applied, and by the demands of users for those products.

As stated in testimony before Congress,[2] we expect that the entry into the market of additional identical products and uses will divide the existing market availability among a larger number of pesticide products and registrants, but not significantly increase overall pesticide usage. No increase in risks results if existing exposure remains constant. Consequently, no further incremental risk assessment is necessary. The Agency is prepared to conditionally register products and uses of this type without individual risk assessments provided that other requirements of these conditional registration regulations are met (unless major changes in pesticide usage emerge after these regulations are effective).

The Agency recognizes that, in reality, there are few products that are "identical" to others. Moreover, applicants for new registration will not generally be able to independently ascertain identicality. The definition of identical product in § 162.18–1 is so restrictive with respect to inert ingredients that many products will not meet the criteria. Products that are repackaged from other registered products are obvious examples of identical products. There also will be instances when a registrant authorizes a second applicant to manufacture an identical product, according to precise specifications. The Agency will determine identicality by a comparison of active ingredients, inert ingredients, impurities, and uses appearing on the label.

General chemistry data are required to be submitted for all new products to enable the Agency to determine whether a product is identical to a currently registered product. If the product is not identical, these data are used in incremental risk assessment (discussed in *Incremental Risk Assessment*). For end-use products the chemistry data needed for this purpose are minimal and routine: a Confidential Statement of Formula, completely and accurately filled out, will normally suffice to meet the requirement.

Some commenters suggested deleting several items of chemistry data originally required in the draft regulation, since those data were unnecessary to a determination of identicality of products. The Agency concurs with respect to end-use products and § 162.18–2(d)(1)(i) now reflects this reduced data requirement.

The same argument does not hold true for technical and manufacturing-use products. Beyond consideration of the active ingredients, and any intentionally-added inert ingredients, the Agency is concerned about the presence of harmful impurities in such products, and thus requires information related to identity of, and analysis for, impurities. When the type and/or level of impurities differs from that found in the currently registered product, a risk assessment is required to evaluate the significance of the variation.

Data on physical and chemical properties are also required for technical and manufacturing use products. They serve as confirmatory data in the determination of identicality and subsequent risk assessment procedures. Section 162.18–2(c)(1) includes these requirements.

[2] Statement of Honorable Douglas M. Costle, Administrator, EPA, before the House Committee on Agriculture, April 27, 1977.

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B. *New Products and Uses That Are Not Identical*

Products that are not identical may result from any of a number of variations:

1. Variation in percentages of active and inert ingredients.

2. Variation in inert ingredients, including impurities in technical and manufacturing-use products.

3. Variation in formulation type.

4. Different uses (excluding "new uses" which are discussed in the next section).

For some products in these categories, risks associated with the new product will not be significantly different from those associated with the currently registered similar product. An example is a product that, although not an identical product as defined in this regulation, has a composition and uses that fall within the range of currently registered products.

Products with similar risks, together with identical products, are commonly considered "me-too" products and no data are required to be submitted for risk assessment purposes.

However, there will be a number of products that will raise questions of risk that cannot be resolved solely by comparison with currently registered products. The applicant may be required to submit acute toxicity data to determine the appropriate precautionary labeling. Products listed in items 1 through 3 above may fall into this category.

By definition, a variation in the use pattern of a product may be characterized in one of two ways: either it is a "new use" which may generate a requirement for toxic effects data which are essential to the incremental risk assessment, or it is a "substantially similar use," as listed in item 4 above. This latter category of use does not generate the same requirement for toxic effects data, since it does not involve exposure to new organisms, or exposure by different routes than currently exist.

However, when a specific "substantially similar use" (new site or pest) has never been registered in conjunction with the active ingredient contained in the new product, incremental risk assessment entails an evaluation of the additional exposure to the product, corresponding to that encountered with some new uses. Addition of a new pest on the same site or expansion of the site may significantly increase exposure to applicators, to other people, or to fish and wildlife. This aspect of risk assessment is more fully addressed in STEP 5 of the discussion of new uses below. The factors enumerated in STEP 5 of new use risk assessment will be applied to such substantially similar uses. Consequently, it is possible that the applicant may be required to submit the data described in STEP 5 on the potential for increased exposure related to the added use.

C. *New Uses*

New uses pose incremental risks, the significance of which must be assessed to determine whether the use is acceptable for conditional registration. The Agency will proceed through the following steps to evaluate incremental risk of new uses.

STEP 1: *Determine whether the new use is a food or feed use requiring the establishment of a tolerance*

If a proposed new use is a food or feed use, the Agency must determine whether the use would require establishment of a new tolerance or an increase in an already established tolerance, in which case the evaluation proceeds to STEP 2.

If the new use is not a food or feed use, the Agency will determine whether the use is a "changed use pattern" as defined in section 162.3(k) of the regulations. A changed use pattern involves significant new exposures to human or fish and wildlife populations not previously exposed or exposures by different routes than result from current use patterns. Determination that a use is a "changed use pattern" moves the risk assessment to STEP 4.

A use which is neither a new food or feed use nor a changed use pattern is by definition a similar or "me-too" use and may be conditionally registered with the less exhaustive level of risk assessment discussed in B above.

STEP 2: *Exclude new uses presenting a significant incremental risk: Apply the statutory prohibitions against conditional registration*

The FIFRA specifically prohibits conditional registration of new uses that meet certain criteria. If the new use is a major food or feed crop use, dietary exposure may be significantly increased. If RPAR evaluation has revealed that toxic effects may be expected to occur at existing levels of dietary exposure to a chemical, then increasing dietary exposure by conditionally registering a *new major food use* for the chemical is prohibited by the statute.

Minor food and feed uses under RPAR raise similar concerns, but of lesser degree since the increase in dietary exposure from a minor use compared to the existing level of exposure is likely to be insignificant. Moreover, there are offsetting benefits that accrue in making a pesticide available for a minor use. Alternative pesticides may not be available to cope with a particular pest problem on minor crops or, if available, they may not be effective. The law thus provides that where dietary exposure is low, and alternatives are either not available or not effective, conditional registration of a minor use is not automatically precluded by the existence of an RPAR for dietary effects. The law does not, however, provide that conditional registration necessarily be granted in these circumstances. The Agency will grant such registrations only if persuaded that benefits of a proposed use exceed its risks.

The statutory prohibitions apply to *issued* RPAR's, that is, where the Agency has concluded that available evidence demonstrates that risk criteria have been exceeded. The statutory prohibition does not apply to pesticides which are in the RPAR review process (candidate RPAR's), where no finding has yet been made that risk criteria have been met or exceeded.

STEP 3: *Assess the incremental dietary exposure from food uses: Can a tolerance be established?*

Tolerance-setting procedures and principles under the Federal Food, Drug & Cosmetic Act have been well established over the last two decades. An issue paper explaining the process, the underlying considerations and the scientific principles of tolerance-setting as it currently functions in the Office of Pesticide Programs was submitted to the Agency's Scientific Advisory Board in April 1977 as background for an overall evaluation of the entire tolerance process. This document is available for review from the External Affairs Unit, OPP (TS–766), EPA, 401 M Street, S.W., Washington, D.C. 20460.

Some tolerances have been established in the past without the complete set of data that are currently desirable in the proposed Registration Guidelines. The Agency will continue this practice during conditional registration. However, no additional tolerance is now granted (or will be granted) when a significant data gap exists unless the incremental residue contribution from the new use is calculated to be insignificant or unless it can be demonstrated that there are no detectable residues from application to a new crop. The Agency will generally consider as insignificant an increase in the Theoretical Maximal Residue Contribution (TMRC) of 1% or less. The TMRC is a "worst case estimate" of the exposure of the U.S. population to residues of a pesticide in food. Details on the calculation of the TMRC are included in the paper referenced above. This additional criterion of acceptability has been applied to tolerances established in the absence of a complete toxicity data base. By limiting the permissible incremental residues in this manner, the Agency can assure that significant increases in dietary exposure will not occur for a chemical whose toxicity is incompletely characterized. In some cases, the Agency will continue to require evidence that missing studies will be initiated (or are under way) before establishing a tolerance.

The need for establishment of a tolerance in conjunction with conditional registration of a new use imposes certain additional data requirements on the applicant. Generally, only residue chemistry data and certain rotational crop data to assess the potential for residue uptake by subsequent crops will be required. In most cases, the toxicity data on which previous tolerances were based will suffice to meet the requirements. Evaluation of incremental risk for chemicals which proceed through this step will be carried forward to STEP 4.

STEP 4: *Assess the risks associated with "new" toxic effects solely attributable to the new use: Are RPAR criteria exceeded?*

The Agency must also assess the toxic effects to new organisms or populations from exposures to the pesticide that would be introduced into the environment by conditional registration of a new use. The applicant must submit satisfactory data pertaining to the new use which will enable the Agency to evaluate any "new" toxic effects.

A general rule of thumb for determining which data would be required to be submitted for a particular new use is to compare proposed Guidelines requirements for all uses of the active ingredient, including the new use, with the Guidelines requirements for all existing uses. The differences between the two are those requirements that pertain solely to the new use. The results of these studies must be submitted by the applicant so the Agency can determine whether the new use will pose adverse effects.

If the new use proposes the first change from indoor to outdoor use for the active ingredient(s), new data requirements will include fish and wildlife data and environmental chemistry data. A change from terrestrial use to aquatic use will require data on toxic effects to fish and aquatic life. A change from non-domestic to domestic use will create a need for inhalation studies and long-term chronic studies because of the potential for repeated and prolonged exposure to people. A change from non-food uses to food crop uses will trigger a requirement for data necessary to establish a tolerance, including the full range of toxicity data as well as data to characterize applicator exposure. It is impossible to specify all situations that could arise. In general, if a new use can be expected to expose human sub-populations not previously exposed (such as women of child-bearing age, children, applicators, or field workers) or non-target organisms (such as fish, birds or other wildlife), data to evaluate the toxic effects of that exposure will be required.

The Agency will review the submitted data to see if the results meet or exceed any of the criteria for RPAR referral. If so, the Agency will proceed with a complete evaluation of the pesticide through the RPAR process. Referral to the RPAR process, however, does not necessarily preclude conditional registration of the new use in question or of other new uses which may be proposed. If the *new use* offers benefits which outweigh the *new risks*, the new use may proceed through the remaining steps of the risk assessment. Benefit considerations may lead to conditional registration of a minor use for which no alternatives are available, or of a pesticide product relatively less hazardous than the alternative it would displace.

If the new use is ultimately conditionally registered, its RPAR status notwithstanding, its continued registrability will be subject to the outcome of the RPAR review of the total risks and benefits of the pesticide.

STEP 5: *Assess the increase in "old" (existing) toxic effects resulting from increased exposure to the pesticide*

This last step of risk assessment involves a consideration of the known toxic effects of the pesticide to populations and organisms which have been previously exposed, and the risks associated with extending these effects by the introduction of *more* pesticide into the environment. The Agency anticipates that the bulk of the new uses proposed for conditional registration will be new crop uses. Thus the major portion of the additional exposure will be dietary exposure from pesticide application to new food crops. Establishment of tolerances, discussed earlier, will adequately cover this aspect of incremental risk assessment.

The known toxic effects of a pesticide have been identified and evaluated in conjunction with the registration of the product for previously accepted uses. Some of the effects data have been further reviewed through the RPAR process, providing greater certainty about the risks that pesticide presents.

Incremental risk assessment of "old" toxic effects may be viewed as an evaluation solely of the increased exposure to "old" non-target organisms attributable to the new use of the pesticide. Insofar as the Agency's stated intent is not to review previously submitted toxic effects data at the time of conditional registration, the toxic effects are factors that are constant in the risk equation. Incremental exposure is therefore a measure of incremental risk. Where effects data have been reviewed according to current standards, as in the RPAR process, the Agency will have greater assurance that incremental risk has been accurately characterized. Where an RPAR has been issued on the basis of a toxic effect that may be expected to result from the new use, any increased exposure takes on added significance and may preclude conditional registration.

Exposure analysis includes the use of judgmental factors. Because there is such a wide variety of types and routes of exposure, each individual new use offers a distinct exposure pattern which must be separately evaluated. In addition, most forms of exposure cannot be easily quantified or judged against a single standard of acceptability, such as exists for dietary exposure in the tolerance-setting process. The Agency sees no certain quantitative method of evaluating exposure factors for the purposes of conditional registration and therefore will assess the anticipated pattern of exposure and the relative significance of the various routes of exposure on a case-by-case basis.

In addition to the dietary exposure for food uses discussed earlier, the following types of exposure will be evaluated for each new use:

1. *Applicator Exposure.*—Registration of a new major crop may result in the exposure of a significant number of applicators not previously exposed to the pesticide. Moreover, some use patterns may require a higher concentration or more frequent application of the pesticide, resulting in individual applicators being exposed to higher levels of pesticides that did not exist for previously registered uses. The Agency may require that applicants submit information on which to base an evaluation of such increased hazards.

2. *Field Worker Exposure.*—For crops which are hand-picked or hand-cultivated routinely, determining whether there is an increased exposure to field workers may involve consideration of the preharvest interval for application to the crop. The method of application must also be considered—

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some application techniques may expose field workers more than others.

3. *Incidental Human Exposure Other Than Applicator or Field Worker Exposure.*—To some extent, incidental exposure to humans accompanies almost every use situation. Moreover, large numbers of people may be exposed to pesticides without being aware that they have been exposed or without being able to avoid such exposure: the aged or infirm in hospital environments, persons in homes and school areas, outdoor recreational areas, lakes and streams, and urban areas. Each situation offers some potential for exposure to unprotected humans. The Agency will consider such exposures in risk assessment of specific uses.

4. *Fish, Wildlife And Other Non-Target Species Exposure.*—Fish and wildlife exposure is of concern for all applications to new crops and other outdoor areas such as forest and aquatic sites. Certain croplands are important wildlife habitats. Possible harm to fish and aquatic invertebrates is of concern when a new aquatic use is proposed. The drift potential of air application, and the time of the application (spring, summer, fall) may be of great significance in determining the extent of exposure. A further consideration is the status of endangered species within the application area.

The Agency will use whatever information sources are necessary to determine the extent of incremental exposure. We anticipate that much information will be available from published sources, such as Department of Agriculture statistics for agricultural uses, or from knowledgeable experts. In the absence of complete data on incremental exposure, the scientific reviewer's knowledge and experience may on occasions be sufficient to judge the extent and significance of additional pesticide exposure from a new use.

However, the Agency may require that the applicant submit data on the extent of the proposed use to fully evaluate exposure from smaller or less easily defined uses. Market analyses or projections are the primary types of information that might be requested in this context. Such data will be eligible for trade secret protection to the extent provided by FIFRA § 10. The Agency will make every effort to obtain sufficient information from sources which are more readily accessible and available to the public, but applicants are often the only source of exposure information essential to the incremental risk assessment.

Step 6: *Issuance or deniol of conditional registration: Reduction of exposure potential*

When all of the above steps have been completed, the Agency will make a decision whether to issue or deny the conditional registration of the new use. If the decision is to issue the conditional registration, the Agency may review the labeling of the product, seeking ways to further reduce exposure. Proper labeling of the product with precautionary statements for protection of humans and fish and wildlife, use restrictions such as geographical or timing restrictions, requirements for protective clothing and respirators, reentry intervals for field workers, storage and disposal requirements and packing can be effective means of reducing the exposure potential of the product from intended application, misuse or accident.

In addition, if the product has previously been classified Restricted by regulation (a systematic review of all uses of the product—primarily involving acute human and fish and wildlife data), then the new use must be classified in accordance with § 162.11.

D. *Documentation of the Incremental Risk and Conditional Registration Decision Process*

The Agency is required by FIFRA section 3(c)(2) of the Act to make available to the public all data and other scientific information used in support of a registration, including conditional registration, consistent with the trade secret provisions of FIFRA section 10.

The establishment of tolerances under the Federal Food, Drug and Cosmetic Act requires publication in the **Federal Register.** Such publication will include a discussion of the safety of the dietary exposure resulting from a new food use. Notice of receipt of applications for changed use patterns must be published in the **Federal Register**, with comments requested. A notice of approval after registration will also be published. These provisions ensure that the public will be fully informed about the conditional registration of new uses and the factors used in evaluating the incremental risks associated with their use.

Waiver of Efficacy Data Requirement

Section 3(c)(5) of the Act provides that the Adminstrator may waive data requirements pertaining to efficacy of a product under consideraion for registration, and that if he waives the requirement for data, he may also waive the finding of efficacy required by FIFRA section 3(c)(5)(A). Since efficacy data waiver is a major deregulation action, the Agency will consider the waiver policy enunciated in these regulations as an experiment in public policy. If there is sufficient evidence to clearly establish that this deregulation is being abused (such as a significant increase in complaints from the agricultural community, other user groups, or the general public about ineffective products), the Administrator may take any steps necessary to correct the abuses, including withdrawal of any or all waivers of efficacy data requirements.

The decision to pursue efficacy waiver as an Agency policy stemmed from a need to reduce the amount of resources devoted to reviewing product performance so that additional effort could be devoted to the evaluation of health and safety data, and from a desire to reduce regulatory burdens in pesticide registration. Data review obligations placed on the Agency by the requirements for registration were important factors influencing the decision. Maintenance of a rigorous efficacy data submission and review posture for registration and reregistration would require the reevaluation of much of the 1.5 million items of product performance data that have been amassed by the EPA. Because many of these studies are quite old, their value as tools for assessing current levels of product performance is questionable in many cases. Therefore, commitment of the resources needed to fully evaluate these data for purposes of reregistration was determined to be less than an ideal use of limited resources for pesticide regulation.

The Agency's viewpoint concerning waiver of efficacy data requirements is in line with a general belief among persons in the pesticide industry, the U.S. Department of Agriculture and the agricultural community that the efficacy of agricultural pesticides can be effectively regulated by the marketplace (in conjunction with extension services and university research personnel). This opinion has subsequently received some qualified support from the findings of A.D. Little, Inc. (Draft Report: Evaluation Design for a Change in the Pesticide Regulatory Process: The Waiver of Efficacy Data). As originally proposed in the draft Conditional Registration regulation of October 6, 1978, the efficacy waiver was to apply to all product uses except for those termed "public health uses." These public health uses were restricted to certain disinfectant uses and a limited number of vertebrate and invertebrate control agents aimed at potential disease vectors such as bats, rats, and mosquitoes.

The proposal of efficacy data waiver generated a mixed response from commenters. The pesticide industry was generally supportive of the concept of efficacy waiver. On the other hand, comments from State researchers and Cooperative Extension Service personnel expressed reservations about various facets of the proposed waiver. Many commenters expressed concern over the extent of efficacy waiver, arguing that the scope of "public health" uses should be greater than that proposed. The efficacy data requirement contained in § 162.18–2 retains the concept of public health uses, but has clarified and expanded public health uses to include additional disinfectant, rodenticide and insecticide uses, and one fungicide use.

Some commenters expressed the belief that waiver of efficacy data requirements will signal an open season to unscrupulous "fly-by-night" operators who will defraud the public by marketing ineffective products, or products with exaggerated or unwarranted efficacy claims on labeling and in advertising. Undoubtedly, there will be instances in which the marketplace will fail to operate as expected. The Agency believes that foreseeable imperfections in marketplace self-regulation are acceptable tradeoffs in return for a reduction of overall Federal regulation in the efficacy area.

EPA, in cooperation with the Experimental Technology Incentives Program of the National Bureau of Standards will monitor the impacts of the efficacy waiver policy to determine if:

(1) Consumer fraud increase; or

(2) Consumer fraud is effectively reported and curtailed through existing market institutions including State regulation processes, USDA and the Extension Service, farmers associations, and the marketplace.

The Agency expects that all registrants will perform the tasks necessary to assure themselves that the products they market will perform their intended functions when applied in accordance with label directions and commonly accepted pest control practices. The Agency must rely upon the integrity of the industry, the soundness of extension service recommendations and the good judgment of pesticide users to insure that abuses seldom occur. The Administrator reserves the right to request submission of efficacy data in support of label claims for any registered product. A request may be made for any product for which a pattern of inadequate performance has been reported.

Some respondents feared that efficacy data waivers would lead to a lack of sound information on the "benefits" side of the risk/benefit analyses performed as part of the Rebuttable Presumption Against Registration (RPAR) or cancellation processes. Benefits analysis in the RPAR process entails subtantially more than reconsideration of efficacy data supporting the original registration. Concern in the benefits analysis is not with historical but with current product performance. In addition, economic factors pertaining to the current use of the pesticide and efficacy of alternative chemicals or non-chemical control practices must be considered. Front-end efficacy review does not provide useful information on the suitability of alternatives. However, when a substantial risk of unreasonable adverse effects has been identified via the RPAR or cancellation/suspension processes for *old use patterns* of a pesticide, it is incumbent upon the Agency to more carefully scrutinize *new or added uses* of the pesticide, weighing those risks with the benefits they offer. Thus, the waiver policy has been amended to include a requirement for efficacy data for *new or added uses* of products which have been RPAR'd, cancelled or suspended for adverse effects of other uses, if the identified adverse effects would also be expected to occur with the new or added use.

A. The Agency is limiting its direct concern to, and requiring efficacy data for, health-related use patterns and new and added uses of chemicals which have been identified as posing a risk of unreasonable adverse effects. Specifically, the Agency will require product performance data in support of registration for the following uses:

1. *Public Health Uses* —A public health use exists whenever the continued presence of the target pest organisms may pose a threat to human health, either by direct action or through transmittal of disease. Such uses include, but are not limited to:

a. *Disinfectant Uses* —Performance data will be required for all antimicrobial products intended to control miscroorganisms infectious to man in any area (inanimate surface) where these microorganisms may present a health hazard.

b. *Fungicide Uses*—Performance data will be required for products intended for control of organisms that produce aflatoxins.

c. *Invertebrate Uses*—Performance data will be required for: (1) Invertebrate control products intended for use in or on humans (or in or on pets for control of pests which attack humans) to control pests such as fleas, mites, lice, ticks, biting flies, and mosquitoes. (2) Invertebrate control products intended for use either in premises or in the environment to control pests of sanitary or public health significance such as mosquitoes, biting flies, ticks, fleas, houseflies, cockroaches, fire ants, hornets, wasps, poisonous spiders, scorpions, centipedes, and bedbugs.

d. *Rodenticide Uses*—Performance data will be required for: (1) Commensal rat and mouse products. (2) Products used to control or disperse birds from buildings, roosts and other areas where they present health hazards. (3) Products used to control rabies vectors such as bats, skunks, raccoons and canids. (4) Products used to control rodents considered to be significant plague vectors.

2. New uses of pesticides containing active ingredients some uses of which have been:

a. Suspended, or cancelled by the Agency for reasons of human or environmental safety (if the risks identified in the suspension/cancellation action also apply to the new use).

b. The subject of a Notice of Rebuttable Presumption Against Registration (if the risks identified in the RPAR notice also apply to the new or added use).

If efficacy data are required, the applicant may in all cases satisfy the requirement by submitting data developed in accordance with the Registration Guidelines. In some cases, the applicant may choose instead to cite all applicable data in Agency files, in accordance with §§ 162.9–1 through 162.9–8.

For disinfectant products and bait formulations of rodenticides, efficacy data, when required, must be developed and submitted for the individual formulation proposed by the applicant. The applicant may *not* rely on, and need not offer to pay compensation for, data already in our files pertaining to similar formulations. It has been the Agency's experience, borne out by efficiacy data submitted in the past and by enforcement actions, that efficacy data in the disinfectant and rodenticide bait areas cannot be transferred from one formulation to another, even though the formulations may be virtually identical. Small variations in manufacturing process, order of addition of ingredients,

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or quality and age of ingredients in bait formulations appear to radically affect the ability of the product to perform as intended. Thus each individual product must be supported by its own efficacy data.

B. Efficacy data will generally not be required for products of the following types:

1. Nearly all agricultural pesticide products (including forest and crop uses). Exceptions include products falling into category A.2 above;

2. Disinfectants—Products used to control bacteria producing odor or deterioration and spoilage of products such as paint, industrial fluids, leather, where product failure does not have human health consequences;

3. Algaecides and slimicides, herbidies, fungicides, nematicides, and rodenticides except as provided in A above. Several commenters in the public meeting requested clarification as to whether phytotoxicity data are included within the meaning of efficacy data. The Agency takes the position that data on phytotoxicity to the target site, i.e., crop or plants, are part of an efficacy evaluation and are thus waived. On the other hand, data on phytotoxicity to crops or other plants that are non-target sites are considered to be hazard data and must be submitted for all products as prescribed in the Registration Guidelines (Subpart J).

Notwithstanding the waiver of efficacy data, the Agency must have sufficient information about the use patterns proposed to permit evaluation of the hazards of the product to humans and fish and wildlife. In the past, efficacy data have served the purpose of providing supplementary information to the labeling use directions, enabling the Agency to accurately assess the hazards of the proposed use, and to label and classify the product to protect the public and the environment.

If the labeling submitted with an application for conditional registration is not sufficiently detailed as to the use pattern proposed, the Agency will request more detailed information on the use pattern. Any such information may be required to be placed on the label in the form of use directions, precautionary statements, or use restrictions if it is deemed essential to the proper use of the pesticide, or if lack of such information could potentially result in adverse effects from use of the pesticide.

Classification

Most products and uses will not be classified until reregistration under a final generic standard or by regulation under § 162.31. Under conditional registration, the Agency will classify individual products only to maintain consistency with current registrations and to avoid a double standard.

New products which are identical to products currently classified will bear the classification assigned to that identical product. Other products will be classified for Restricted Use if all products containing the same active ingredient(s) have been so classified under § 162.30.

New uses will be classified Restricted if the data submitted for the incremental risk assessment indicate that such a classification is needed. Other uses will generally not be classified separately from the uses of the product being amended. The Agency will permit "splitting" of products to separate Restricted uses from other uses, as described in § 162.30(d)(2)(iii).

There were no substantive public comments in regard to classification.

Cancellation of Conditional Registration

Section 6(e) of the amended FIFRA provides for the cancellation of conditional registrations for failure to meet the conditions imposed. Section 162.18–5 sets forth the basis for such cancellation, the procedures the Agency will use in notifying registrants and the public, and the hearing rights available to registrants and interested parties. The cancellation section generated few comments as a result of the distributed drafts and public meetings. Two specific questions related to cancellation were received. Several commenters requested clarification of the Agency policy with respect to the cancellation of products braring conditionally-registered use patterns. Whether similar or new uses. Concern focused on whether approval of an added use renders the entire product conditional or whether only the added use becomes conditional. The distinction becomes significant only when a registrant fails to meet conditions imposed on the registration, resulting in cancellation proceedings.

The Agency position is that *only* the added use accepted under FIFRA sections 3(c)(7) (A) or (B) is conditional; the remaining uses were not registered in accordance with FIFRA section 3(c)(7). In a practical sense, however, if a cancellation action is necessary under FIFRA section 6(e), it must be applicable to the entire product. The registrant may, however, avoid cancellation of the unconditional uses of his product by either meeting the conditions originally imposed, or by deleting the conditionally registered use from the labeling. Clarification of this policy does not require revision of § 162.18–5.

Several commenters pointed out that § 162.18–5 as originally proposed provided that cancellation decisions after a hearing were not subject to judicial review. They pointed out that the statute provides no basis for this interpretation of section 6(e). The Agency agrees and has deleted the statement.

Effective Date

This regulation is effective May 11, 1979. Applications for registration received after the effective date that are not in compliance with the provisions herein will be returned to the applicant without processing. Applications received prior to the effective date and currently pending or under review must be revised to comply with the regulations in § 162.8, 162.9–1 through 162.9–8 and 162.18–1 through 162.18–5 within 75 days after this date, in accordance with PR Notice 75–4. "Intrastate" products for which a valid "Notice of Intent to Register" was submitted under § 162.17 are eligible for conditional registration as new products if they meet the requirements of these regulations.

Statutory Review

This regulation was submitted for review to the Agency's Scientific Advisory Panel, which concurs unanimously in its promulgation. Copies have also been provided to the U.S. Department of Agriculture for comment in accordance with FIFRA section 25(a) and to the appropriate committees of the U.S. Congress. The comments of the U.S. Department of Agriculture and the Agency's response are provided at the end of this document as Appendices I and II.

Evaluation Plan

Section 2(d)(8) of Executive Order 12044 requires that each significant new regulation have a plan for evaluating its effectiveness. Since this regulation is interim final in nature, the Agency will review it for effectiveness within two years after promulgation.

The Environmental Protection Agency, after conducting a screening study, has determined that the regulation does not require preparation of a regulatory analysis under Executive Order 12044. The screening study indicates the following:

1. Conditional Registration will result in lower costs for registration and should increase competition in the marketplace.

2. There will be considerable annual savings in testing.

3. A significant increase in registered products will result.

4. Conditional registration will lower prices for pesticide products because of an increase in competition.

Copies of the screening study are available from the Economic Analysis Branch, Benefits and Field Studies Division (TS–768), OPP, EPA, 401 M Street, SW., Washington, D.C. 20460.

Effective Date: May 11, 1979.

Dated: May 2, 1979.

Douglas Costle,
Administrator.

(Sections 3(c)(7) and 25 of the Federal Insecticide, Fungicide, and Rodenticide Act (FIFRA), as amended in 1972, 1975 and 1978 (92 Stat. 819; 7 U.S.C. 136 et seq.).)

40 CFR Part 162 is amended as set forth below.

1. 40 CFR Part 162 is amended by adding new § 162.18–1 through 162.18–5 to read as follows:

PART 162—REGULATIONS FOR THE ENFORCEMENT OF THE FEDERAL INSECTICIDE, FUNGICIDE AND RHODENTICIDE ACT

Subpart A—Registration, Reregistration and Classification Procedures

Sec.

162.18–1 Conditional registration overview
162.18–2 Data required to be made available for agency review in support of conditional registration
162.18–3 Application for conditional registration
162.18–4 Disposition of applications
162.18–5 Cancellation of conditional registration

Authority: Sections 3(c)(7) and 25 of the Federal Insecticide, Fungicide, and Rodenticide Act (FIFRA), as amended in 1972, 1975 and 1978 (92 Stat. 819; 7 U.S.C. 136 et seq.).

§ 162.18–1 Conditional Registration overview.

(a) *General.* FIFRA Section 3(c)(7) authorizes the Adminstrator to conditionally register a pesticide product despite the fact that certain of the data required by § 162.8 and the Registration Guidelines (40 CFR Part 163) may not have been submitted or evaluated comprehensively by EPA. A conditional registration is a registration for which the submission (or Agency review) of some supporting data has been deferred to a future date. These sections describe the requirements for submission of an application for conditional registration, the disposition of applications, the conditions under which applications will be approved or denied, and the cancellation of conditional registrations.

(b) *Scope.* Sections 162.18–1 through 162.18–5 apply to all applications for registration and amended registration including those for technical, manufacturing use, and end-use products, except for:

(1) Any application for registration of a product containing a new chemical;

(2) Any application for amendment of a registration of a type listed in § 162.9–1(b) (which addresses applications which may be approved without review of data); and

(3) Any application for registration or amended registration of a product that may be unconditionally registered under § 162.7(d)(2).

(c) *Definitions.* All words and terms shall have the same meanings as given in the Act, and § 162.3. In addition, the following terms are defined for the purposes of §§ 162.18–1 through 162.18–5:

(1) The term "new chemical" means an active ingredient that is not listed in the ingredients statement of any currently registered pesticide product.

(2) The term "new use" means a use pattern, not included on labeling of any currently registered pesticide product containing the same active ingredient(s), that:

(i) Is a "changed use pattern" within the meaning of § 162.3(k); or

(ii) Is subject to the establishment of, or the increase in, a tolerance or food additive regulation for the active ingredient under the provisions of the Federal Food, Drug, and Cosmetic Act, as amended, for the active ingredient(s) involved; or

(iii) Is subject to the establishment of an exemption from the requirement of a tolerance for the active ingredient(s) involved.

(3) The term "identical product" means a product that, when compared to a currently registered product:

(i) Contains the same active and intentionally-added inert ingredients, and, in the case of a manufacturing use product, the same impurities, each ingredient being in the same percentage; and

(ii) Bears identical or substantially similar uses.

§ 162.18–2 Data Required to be Made Available for Agency Review in Support of Conditional Registration

(a) *Data Available for Review.* An item of data is available for review by Agency if:

(1) It is submitted by the applicant in support of the application, or is already in the Agency's files; and

(2) The applicant has acknowledged reliance on the item of data and the Agency may consider it in support of the application, under §§ 162.9–1 through 162.9–8.

(b) *Exclusive Use of Data.* If any data required by this section are exclusive use data as described in FIFRA section 3(c)(1)(d)(i), the applicant must submit written authorization from the original data submitter to use those data in support of his application.

(c) *Manufacturing Use Products.* Each applicant for conditional registration or amendment of a manufacturing use product shall make available to the Agency the following data:

(1) *Chemistry data specific to the product.* (i) Product identity and disclosure of ingredients, including impurities; and

(ii) A description of the manufacturing process, including composition and purity of starting and intermediate materials; and

(iii) Analytical methods and sample assays for the impurities; and

(iv) Physical and chemical properties; and

(v) If requested by the Agency, a sample of the technical product.

(2) *Hazard data.* Data sufficient to allow the Agency to determine that approval of the application would not cause a significant increase in the risk of any unreasonable adverse effect on the environment.

(i) If the Agency determines that the product is an identical product, or that it contains impurities and inert ingredients that differ from those of a registered product only in ways that would not significantly increase the risk of unreasonable adverse effects on the environment, the Administrator will not require any additional hazard data other than those data currently in the Agency files.

(ii) For any other manufacturing use product, the Administrator will review data concerning the toxicity of the product, its ingredients and impurities, and the extent of exposure of populations and organisms to the toxic effects of the product, its ingredients and impurities.

(d) *End-use products.* Each applicant for conditional registration or amendment of an end-use product shall make available to the Agency the following data in a form acceptable to the Administrator:

(1) *Chemistry data specific to the product.* (i) Product identity and disclosure of ingredients; and

(ii) If requested by the Agency, a sample of the product proposed for registration; and

conditional registration in accordance

(e) *Hearing.* (1) If a request for hearing

§ 162.8 Data in support of registration and

(iii) If any active ingredient of the formulated product is derived from any substance other than a registered product, data required by paragraph (c) of this section.

(2) *Efficacy data specific to the product.* Efficacy data specific to each product that bears a claim to control organisms that may pose a threat to human health, either directly or through transmittal of disease, including:

(i) Each antimicrobial product intended to control micro-organisms infectious to man in any area where these micro-organisms may present a health hazard; and

(ii) Each bait formulation intended to control vertebrates (such as rodents, birds, canids and skunks) that may transmit disease to man.

(3) *Other efficacy data.* (i) Efficacy data for products intended to control mosquitoes, cockroaches, fleas, ticks, lice, biting flies, houseflies, poisonous spiders, fire ants, hornets, wasps, bedbugs, scorpions, centipedes, or aflatoxin-producing fungi; and non-bait formulations intended to control vertebrates (such as rodents, birds, canids and skunks) that may transmit disease to man;

(ii) Efficacy data, in accordance with the Registration Guidelines, for each product for which a new or added use is proposed, if the product contains an active ingredient, some uses of which have been suspended, cancelled, or are the subject of a Notice of Rebuttable Presumption Against Registration (RPAR), and the risks identified in the RPAR Notice or suspension/cancellation action may reasonably be anticipated to exist as a result of the new use.

(4) *Hazard data.* Data sufficient to allow the Agency to determine that approval of the application would not cause a significant increase in the risk of unreasonable adverse effects on the environment.

(i) A product which the Agency determines to be an identical product will be regarded as one which would not cause a significant increase in the risk of any unreasonable adverse effect on the environment.

(ii) For a product which is not an identical product, the Agency normally will review data concerning the extent of additional exposure to the product that likely would result from use of the product as proposed, and the toxicity of the product or its ingredients to its ingredients to organisms that would be newly exposed to the product, or that would be exposed by routes of exposure different from those associated with already registered products or uses.

Applicants are encouraged to consult with the Agency to determine the data requirements applicable to a risk assessment of specific products and uses.

§ 162.18–3 Application for conditional registration.

(a) *General.* All provisions of §§ 162.1 through 162.17 apply to all applications submitted for conditional registration under FIFRA sections 3(c)(7) (A) and (B) except the following:

(1) Section 162.6(a)(5), *Completeness of Applications;*

(2) Section 162.6(b)(1), (2), and (5) *Applications for Registration* [under FIFRA section 3(c)(5)];

(3) Section 162.6(c), *Five-Year Cancellation;*

(4) Section 162.7(c), *Time for Action with Respect to Application;*

(5) Section 162.7(d), *Approval of Registration* [under FIFRA section 3(c)(5)];

(6) Section 162.7(f), *Denial of Registration;*

(7) Section 162.11 (a) and (b), *Rebuttable Presumption Against Registration,* except as provided in § 162.18–4(b); and

(8) Section 162.11 (c) and (d), *Use Classification,* except to the extent provided by § 162.18–3(b)(5).

(b) *Submission of applications.* (1) An application for conditional registration must be submitted (on forms provided by the Agency) for each conditional registration desired. Applications shall include the supporting information prescribed in paragraphs (b) (2)–(5) of this section.

(2) Each application must be accompanied by proposed labeling in accordance with § 162.6(b)(2)(i)(A) and § 162.10.

(3) Each application must be supported by the data prescribed in § 162.18–2, as applicable.

(4) Each application must comply with §§ 162.9–1 through 162.9–8.

(5) Classification requirements for end-use products (manufacturing use products are excluded):

(i) An end-use product must be labeled "Restricted Use":

(A) If an identical product is labeled "Restricted Use"; or

(B) If "Restricted Use" labeling is required by § 162.31.

(ii) The applicant shall request that a use not previously accepted on a registered product containing the same active ingredient be classified in accordance with § 162.11.

(iii) Applicants not required to label their products "Restricted Use" under paragraph (b)(5)(i) of this section and not seeking to add a use as described in paragraph (b)(5)(ii) of this section shall request that the product be classified at reregistration or when uses of other similar products are classified, whichever occurs sooner, and shall propose a classification for the product or added use(s).

§ 162.18–4 Disposition of applications.

(a) *Criteria for approval of conditional registration.* The Administrator shall approve a request for conditional registration under FIFRA sections 3(c)(7) (A) or (B) if he determines that, when considered with any restrictions or conditions imposed:

(1) The product is not misbranded, as defined in FIFRA section 2(q), and its labeling complies with §162.10; and

(2) The test data and other materials required to be submitted comply with the requirements of the Act, § 162.18–2, § 162.18–3, and §§ 162.9–1 through 162.9–8; and

(3) The use of the product will not cause a significant increase in the risk of unreasonable adverse effects on the environment; and

(4) Any tolerance, food additive regulation, exemption or other clearance required by the Federal, Food, Drug & Cosmetic Act (including clearance for pesticide uses which are also drug uses), has been obtained.

(b) *Conditional registration prohibition.* Notwithstanding the provisions of paragraph (a) of this section, the Administrator will not approve the conditional amended registration of any new use if:

(1) A Notice of Rebuttable Presumption Against Registration under § 162.11(a)(3)(ii) has been issued; and

(2) The new use proposed involves use on a major food or feed crop, or involves use on a minor food or feed crop for which there is an available and effective alternative pesticide registered which does not meet the criteria of § 162.11(a)(3)(ii). The determination of available and effective alternatives shall be made with the concurrence of the Secretary of Agriculture.

(c) *Conditions of conditional registration.* (1) Data not available at the time of application for conditional registration must be submitted or cited when all products containing the same active ingredient are reregistered, or at such other time as the Administrator may specify.

(2) The Administrator may establish other terms and conditions as necessary.

(3) If the terms or conditions of conditional registration are not satisfied, the Administrator will cancel the conditional registration in accordance with § 162.18–5.

(d) *Notices Regarding Changed Use Pattern.* The Agency shall promptly publish in the **Federal Register:**

(1) Notice of receipt of each application that involves a changed use pattern, as required by FIFRA § 3(c)(4); and

(2) Notice of approval of any such application.

(e) *Denial of Conditional Registration.* The Administrator shall deny conditional registration if the application for conditional registration fails to meet any of the requirements of § 162.18–4(a) or if there are insufficient data to make the required determination. Denial of conditional registration shall be in accordance with the provisions set forth in § 162.7(f).

§ 162.18–5 Cancellation of conditional registration.

(a) *General.* FIFRA section 6(e) pertains to the cancellation of conditional registration for failure to satisfy the conditions imposed by the Administrator at the time of registration. The Administrator shall issue a Notice of Intent to Cancel the conditional registration of a product if the registrant fails to meet the conditions imposed under § 162.18–4(c). Cancellation under FIFRA section 6(e) may be accomplished by means of an expedited hearing.

(b) *Notice of intent to cancel.* The Administrator shall notify the registrant by certified mail, and subsequently notify the public by **Federal Register** notice, of his intent to cancel a conditional registration. The notice shall provide that the registrant or any person adversely affected by the cancellation may, within 30 days from receipt by the registrant of the notice, request that a hearing be held.

(c) *Effective date of cancellation.* If no hearing request is received, the cancellation shall become effective at the end of the 30-day period. The Administrator will notify the registrant by certified mail of the final cancellation.

(d) *Continued sale and use of existing stocks.* The Administrator may permit the continued sale and use of existing stocks of a pesticide whose conditional registration has been cancelled under such conditions and for such uses as he may specify. The Administrator may permit such sale and use only if he determines that:

(1) Such sale and use is not inconsistent with the purposes of the Act and the regulations promulgated thereunder; and

(2) Such sale and use will not result in unreasonable adverse effects on man or the environment.

(e) *Hearing.* (1) If a request for hearing is received, the hearing shall be conducted pursuant to FIFRA section 6(d), and 40 CFR Part 164.

(2) Such hearing shall be limited to the issue of whether the registrant complied with the conditions referred to in § 162.18–4(c), and whether the Administrator's determination regarding sale and use of existing stocks of the product is correct.

(3) A hearing shall be conducted and a decision made within 75 days from receipt of a request for such hearing.

(4) The Administrator's decision upon completion of the hearing shall be final.

2. 40 CFR Part 162 is amended by redesignating § 162.7 (d)(1) and (d)(2) as § 162.7 (d)(3) and (d)(4) respectively, by redesignating § 162.7 (e) and (f) as § 162.7 (f) and (g) respectively, and by adding new paragraphs § 162.7 (d)(1), (d)(2), and (e), to read as follows:

§ 162.7 Disposition of applications.

* * * * *

(d) *Criteria for approval.* (1) *Review of data.* The Agency will conduct complete data evaluations required for issuance of unconditional registration under FIFRA section 3(c)(5) only:

(i) As part of the process of reregistering currently registered products; or

(ii) When acting on applications for registration of products containing new chemicals; or

(iii) When the Agency determines that it would otherwise serve the public interest.

(2) *Basis for approval.* The Administrator will approve a request for unconditional registration, reregistration, or amendment to registration, under FIFRA section 3(c)(5):

(i) Only after a comprehensive review of all available, pertinent data; and

(ii) Only after he has determined that the available data satisfy the minimum requirements set forth in the Registration Guidelines; and

(iii) Only after he has determined that the product meets the standard for registrability set forth in FIFRA § 3(c)(5).

* * * * *

(e) *Conditional Registration.* Any application other than those enumerated in paragraph (d)(1) of this section which requires the review of scientific data will be considered as an application for conditional registration under FIFRA section 3(c)(7). The Administrator may approve an application for the registration of a new product, or amendment of an existing product, on a conditional basis to the extent set forth in §§ 162.18–1 through 162.18–5.

3. 40 CFR Part 162 is amended by revising § 162.8 in its entirety to read as follows:

§ 162.8 Data in support of registration and classification.

(a) An applicant for registration, reregistration, or amendment of an existing registration shall, in his application and as a prerequisite to approval of his application:

(1) Furnish or refer to data adequate to demonstrate that his application may be approved in accordance with § 162.7(d) or (e); and

(2) Comply with paragraph (b) of this section; and

(3) Furnish additional information as requested by the Agency under paragraph (c) of this section.

(b) An applicant shall submit with his application any factual information regarding adverse effects of the pesticide on the environment or man that:

(1) Has been obtained by him or has come to his attention; and

(2) Insofar as he is aware, has not previously been submitted to the Agency.

Such information shall include, but shall not be limited to, published or unpublished laboratory studies and accident experience.

(c) An applicant shall submit any additional data, other than those required by this Part and the Registration Guidelines, which the Agency has requested as necessary to support the registration application. The Agency shall periodically revise the Registration Guidelines to reflect current data requirements.

4. The following Appendices I and II will not appear in the Code of Federal Regulations.

Appendix I

Department of Agriculture
Office of the Secretary, Washington, D.C. 20250.

April 6, 1979

Mr. Edwin L. Johnson (TS–766)
Deputy Assistant Administrator for Pesticide Programs, U.S. Environmental Protection Agency Washington, D.C. 20460.

Dear Mr. Johnson:

Thank you for your letter of March 16, 1979, transmitting EPA's Interim Final Regulation on the Conditional Registration of Pesticides and request for USDA comments relative to FIFRA Section 25(a)(2)(B). We note that this regulation pertains to FIFRA Section 3(c)(7), Registration Under Special Circumstances and FIFRA Section 3(c)(5)(D) Waiver of Data Requirements Pertaining to Efficacy. We appreciate the opportunity to comment on these important regulations and request that our comments be published in the **Federal Register** along with the regulation.

the spirit of cooperation that we have had

30, 1978 92 Stat. 819. In addition, a

support of the application by any other

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Regulation Implementing FIFRA Section 3(c)(7) Relating to Conditional Registration

The conditional registration provisions relative to FIFRA Section 3(c)(7) should assist in making available an adequate supply of pesticides for protection of food, feed, fiber, and humans from pests. We concur in the necessity for rapidly developing the interim final regulation so the registration process may proceed. However, the regulations, as set forth in Section 162.18–2(c) and (d) do not adequately describe data requirements for submission of an application for conditional registration. Further, the conditional registration regulation does not show clearly the stepwise relationship to full registration, nor is it apparent that the conditional registration regulations, as written, will result in lower costs for registration and related attributes, as stated in response to the need for a regulatory analysis required under Executive Order 12044. Also, the continued development of regulations, for FIFRA Section 3(c)(7)(C), conditional registration of a pesticide containing an active ingredient not contained in any currently registered pesticide, should be pursued and receive priority attention. In our opinion, the conditional registration of new materials would be of more potential value than for existing registered materials.

Regulation Implementing FIFRA Section 3(c)(5)(D), Waiver of Data Requirements

We understand this is the first regulation that speaks to the waiver of data requirements pertaining to efficacy. The USDA does not favor EPA's waiver of efficacy data requirements if it impacts on the availability of effective pest control materials or allows ineffective and/or unintended phytotoxic products to reach the market place. It is essential that adequate supplies of efficacious materials be available to meet the needs for production and protection of food, feed and fiber, and for protection of livestock and ornamental, nursery, and forest resources.

USDA is concerned that EPA's failure to review efficacy data submitted in support of registration of new uses, or the reregistration of old uses of pesticides could result in less than desirable formulations being available to users. We believe that current registration practice has been an effective mechanism for maintaining high quality formulations.

We would be pleased to discuss these comments with you if necessary to clarify our intent. We believe that an aggressive and workable conditional registration program is urgently needed.

Sincerely,

Barry R. Flamm,
Coordinator, Office of Environmental Quality Activities.

Appendix II

United States Environmental Protection Agency
Washington, D.C. 20460

Mr. Barry R. Flamm,
Environmental Activities Coordinator, U.S. Department of Agriculture, Administration Building, Room 412A, Washington, D.C. 20250.

Dear Mr. Flamm:

We have received your letter of April 6, 1979, expressing USDA's comments on EPA's Interim Final Regulation on the Conditional Registration of Pesticides and related regulation changes, written under authority of Section 3(c)(7) of the Federal Insecticide, Fungicide, and Rodenticide Act (FIFRA) as amended. As requested, your letter will be appended to the Interim Final Regulation and will be published in the **Federal Register** in accordance with Section 25(a)(2)(B), of FIFRA, with our response to the specific items of concern, which are noted below:

1. You commented that §§ 162.18–2(c) and (d) did not adequately describe the data requirements for conditional registration. We assume that your comments refer exclusively to §§ 162.18–2(c)(2) and (d)(4), both of which describe the Agency's need for hazard data to make an incremental risk assessment. Data requirements for chemistry and efficacy are spelled out in detail.

Risk assessment of individual new use patterns as required by FIFRA § 3(c)(7)(B) involves consideration not only of the toxicity characteristics of the particular pesticide, but also the varying types and levels of exposure which may be anticipated to occur. Thus, the risk assessment for an indoor space spray must take into consideration different exposure factors than an outdoor agricultural product. Each use pattern presents distinct variations in hazard and exposure, a situation which precludes a single set of hazard data requirements in the regulations.

The Agency has published in the **Federal Register** (43 FR 29686 and 43 FR 37336) proposed Guidelines for hazard data requirements, which relate data requirements to pesticide characteristics and use patterns in a broad context. In addition, the Office of Pesticide Programs is considering the development of a reference guide giving examples of the requirements applicable to specific chemicals and use patterns.

An applicant for conditional registration may initially ascertain hazard data requirements for a new use by comparing the Guidelines requirements for all his uses, including the new use, with those for the "old" uses only. The Agency also encourages applicants to consult with Agency personnel prior to submission of an application to determine specific data requirements for individual products and uses.

2. You commented that the regulation does not show clearly the stepwise relationship to full registration.

Conditional registration is an interim administrative mechanism to permit registration of products posing no additional risks over and above those already registered during the development of generic standards leading to full unconditional registration. The regulation is not intended to impute a stepwise relationship from conditional to full registration.

3. You stated that it was not apparent that the regulation will result in lower costs for registration.

The decision that a Regulatory Analysis was not needed for these regulations was based on the Economic Impact Analysis conducted by the Benefits and Field Studies Division of the Office of Pesticide Programs, available for review from that Division at the address provided in the preamble.

The analysis indicated that cost savings in conditional registration are achieved primarily because of the deferred testing provisions. Without a conditional registration mechanism, applicants are required to provide all necessary data to meet the Guidelines standards. The last three years of registration activity have demonstrated the inhibiting effect of high development costs on the attainment of registration, particularly among small formulators.

The study indicates that the cost savings are only for an initial period of time. As generic standards progress, registrants will be called upon to supply missing data. A registrant may at that time request that his conditional registration be cancelled, thereby not having to produce the data or share in its development cost. Registrants wishing to maintain their registrations are encouraged to jointly produce missing studies; to the extent that they do so, saving in cost can be achieved by eliminating duplicative testing.

4. You expressed concern about an efficacy data waiver which might lead to marketing of ineffective or iess than desirable formulations of pesticides, thereby jeopardizing the production of agricultural resources.

The Agency's waiver of efficacy data requirements for non-public health uses is clearly described in the preamble as experimental in nature. The USDA was an active partner in the development of the Administration's legislative proposal to amend FIFRA in early 1977 to incorporate the waiver provision of FIFRA § 3(c)(5). In hearings on the FIFRA amendments before Congressional committees, USDA supported this Agency in the concept of an efficacy data waiver. The policy embodied in the regulations reflects the regulatory priorities stated in our testimony from the very beginning.

The waiver policy is being implemented in the belief that the pesticide market is an effective force in regulation of non-efficacious products. We have been led to this belief by the assertions of the agricultural community itself, registrants, and by a study conducted by the A. D. Little Company under contract to the Agency. We are also motivated by a desire to reduce the regulatory burdens on pesticide registrants, and to concentrate the limited scientific resources available to the Agency on potentially harmful consequences of pesticides which are not readily apparent to users.

If the efficacy waiver fails to produce the desired benefits or abuses develop which undermine its purposes or effectiveness, the Agency will evaluate the public and private resource commitments which would be required to reinstate economic regulation of pesticides and may rescind any or all efficacy waivers to correct the situation.

We appreciate your comments on this regulation and we look forward to continuing the spirit of cooperation that we have had with you on this matter.

Sincerely yours,

Edwin L. Johnson,
Deputy Assistant Administrator for Pesticide Programs (TS–766).

[OPP–30034; FRL 1081–3]

[FR Doc. 79–14535 Filed 5–10–79; 8:45 am]

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40 CFR Part 162

Regulations for the Enforcement of the Federal Insecticide, Fungicide, and Rodenticide Act; Compensation for Use of Data

AGENCY: Environmental Protection Agency, Office of Pesticide Programs.

ACTION: Final rule.

SUMMARY: These rules implement the data compensation provisions of section 3(c)(1)(D) of the Federal Insecticide, Fungicide, and Rodenticide Act, as amended (FIFRA), 7 U.S.C. 136a(c)(1)(D).

The rules provide a system under which applicants for pesticide registrations who wish to rely on data submitted by other applicants must offer to pay for use of the data.

DATE: Effective May 11, 1979.

FOR FURTHER INFORMATION CONTACT: Edward C. Gray, Office of General Counsel (A–132), Environmental Protection Agency, 401 M Street, SW., Washington, D.C. 20460, Telephone: 202–755–0638, or Herbert S. Harrison, Registration Division (TS–767), Environmental Protection Agency, 401 M Street, SW., Washington, D.C. 20460, Telephone: 202–426–4110.

SUPPLEMENTARY INFORMATION: On June 20, 1977, the Environmental Protection Agency published proposed rules (42 FR 31284) to implement section 3(c)(1)(D) of the Federal Insecticide, Fungicide and Rodenticide Act, as amended (FIFRA), 7 U.S.C. 136 et seq.

FIFRA section 3(c)(1)(D) was originally enacted in 1972 and has since been amended twice. It imposes restrictions on the use the Agency may make of data in Agency files which have been submitted under FIFRA by one person, when the Agency is deciding whether to approve another person's application for registration, reregistration, or amended registration of a pesticide product.

The June 1977 proposal was based on the provisions of the then-current statute and on the Agency's then-current policies and perceptions. Since then, section 3(c)(1)(D) has been drastically altered by the Federal Pesticides Act of 1978 ("FPA"), Pub. L. 95–396, September 30, 1978, 92 Stat. 819. In addition, a number of useful suggestions were received in response to the June 1977 proposal and on previously circulated earlier drafts of this document. Finally, for the past several months the Agency has spent considerable time analyzing the manner in which the 1978 amendments to FIFRA could be most rapidly and smoothly implemented, and analyzing what the Agency's capabilities and resources will and will not allow in such areas as scientific review of data, data retrieval, and data cataloging.

The regulation set forth in this document reflects these developments. This regulation governs only the data compensation aspects of registration actions taken after the effective date of the FPA, September 30, 1978.

Introduction

The single most obvious difference between the June 1977 proposal and these final regulations is the absence from the latter of any rules or procedures concerning the manner by which the entitlement to compensation, and the amount and terms of payment of compensation, will be determined. Section 3(c)(1)(D), as amended by the FPA, now provides that disputes on these issues will be decided by binding arbitration under rules and procedures of the Federal Mediation and Conciliation Service.

Under the 1978 amendments to section 3(c)(1)(D), the Agency's principal remaining duty is to ensure that no application for a registration action is approved unless the applicant has taken certain steps to initiate the process of compensation. As amended, section 3(c)(1)(D) provides that an applicant for registration shall file with the Administrator an application which includes:

> • • • a full description of the tests made and the results thereof upon which the claims are based, or alternatively a citation to data that appears in the public literature or that previously had been submitted to the Administrator and that the Administrator may consider in accordance with the following provisions:
>
> (i) [This paragraph contains the so-called "exclusive use" provisions, which are not directly pertinent to this regulation.]
>
> (ii) except as otherwise provided in subparagraph (d)(i) of this paragraph, with respect to data submitted after December 31, 1969, by an applicant or registrant to support an application for registration, experimental use permit, or amendment adding a new use to an existing registration, to support or maintain in effect an existing registration, or for reregistration, the Administrator may, without the permission of the original data submitter, consider any such item of data in support of the application by any other person (hereinafter in this subparagraph referred to as the 'applicant') within the fifteen-year period following the date the data were originally submitted only if the applicant has made an offer to compensate the original data submitter and submitted such offer to the Administrator accompanied by evidence of delivery to the original data submitter of the offer * * *.

In order to carry out these obligations, and to assist applicants in filing approvable applications, the Agency must:

(1) State which kinds of applications are subject to the requirements of FIFRA section 3(c)(1)(D);

(2) Describe the data set for which applicants for various kinds of registration actions must offer to pay compensation;

(3) Describe the required wording for the offer to pay compensation;

(4) Provide that applicants furnish the compensation offer to the Agency, and to the original data submitters (to the extent they can be identified) as well;

(5) Identify the original data submitters so that the applicant will know to whom the offers to pay compensation must be furnished; and

(6) Provide some workable mechanism to ensure that if an applicant inadvertently or deliberately fails to furnish notice to an original data submitter who should have been notified, the latter will nonetheless be able to avail himself of the compensation mechanism or other rights he has under section 3(c)(1)(D).

Registration Actions to Which the Regulations Apply

The duty to comply with the provisions of section 3(c)(1)(D) applies to any applicant who seeks to register a new product, to reregister a product, or (with certain exceptions) to amend the registration of an already-registered product, as stated in § 162.9–1.

By their very nature, some kinds of proposed amendments of existing registrations normally involve neither consideration of data by the Agency nor reliance by the Agency on the fact that data was considered earlier. These types of amendments are listed in § 162.9–1(b)(1)–(16). Applicants who seek to amend an existing registration for the sole purpose of making such a change need not comply with section 3(c)(1)(D)(ii) or with 40 CFR § 162.9–2 through § 162.9–8.

In some cases the Agency *requires* registrants to submit proposed amendments to their registered label as an alternative to the Agency's initiation of cancellation proceedings against the

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pertinence of particular items of data is

increase the risk of unreasonable

registered product. The Agency has concluded that "involuntary" amendments of this type are not subject to the requirement to pay compensation under section 3(c)(1)(D). Accordingly, under 40 CFR 162.9–1(b)(17), applicants who seek to amend an existing registration for the sole purpose of complying with an Agency announcement that failure to request the amendment will result in initiation of a cancellation proceeding under FIFRA section 6(b), or a suspension proceeding under FIFRA section 6(c), need not comply with 40 CFR 162.9–2 through 162.9–8.

In a working draft version of this regulation circulated for comment in October 1978, the Agency proposed to exempt applicants from the requirements of FIFRA section 3(c)(1)(D)(ii) as to any proposed amendment to an existing registration which would not add uses to those already approved. The only comments submitted in response to this proposal stated that there is no basis in the statute for such a blanket exemption. The Agency agrees with these comments, and has revised the regulation to make the exemptions more specific.

Date Upon Which Various Kinds of Registration Decisions are Based

In the past the Agency has, for the most part, required an applicant to comply with the data requirements either by submitting data he generated or by citing specific items of data already in Agency files. The Agency's position was that it would "consider" an item of data only if the applicant requested that the Agency consider that specific item. If several studies concerning the same subject were in the Agency's files, the applicant theoretically could choose which ones he desired the Agency to "consider."

EPA no longer will allow this "pick-and-choose" approach, instead, the agency is moving toward an approach which will require the Agency to consider, and the applicant to rely on, *all* available data which are pertinent to the registrability of a particular product. Use of this new approach will be required immediately for some kinds of applications. For others, applicants will have the option of either using the new "cite-all" method or relying on data they have submitted themselves. There follows a discussion of how data will be reviewed, and the methods for complying with FIFRA section 3(c)(1)(D).

A. Unconditional registration under FIFRA section 3(c)(5).

As stated in 40 CFR 162.7(d) (as amended by another document in this issue of the **Federal Register**), the Agency will grant *unconditional* registrations under FIFRA section 3(c)(5) only when it is satisfied that the data submitted or cited are sufficient to support a finding of no unreasonable adverse effects for each of the product's intended uses. This will involve Agency determinations that all required data have been submitted, that all available data have been reviewed, and that the benefits of registration outweigh the risks.

Such in-depth data reviews will normally be done by the Agency as Part of—

—Preparation of generic standards, each covering all types of products containing a particular active ingredient;

—RPAR reviews under § 162.11; and

—Reviews of applications for registration of products containing active ingredients not contained in any currently-registered product.

By themselves these three kinds of review processes could usefully occupy more scientific resources than the Agency now has available in the pesticides program. It is important that the Agency be able to use its resources in an efficient manner and to be able to plan their use in advance so it can devote the earliest attention to pesticides which most urgently need review. It is also important, therefore, to avoid using resources for unschedulable, *ad hoc* reviews of portions of the data base concerning any one chemical.

The Agency has also concluded that it would be improper as a matter of scientific logic to operate a registration process geared to making unconditional section 3(c)(5) findings on risks and benefits while deliberately ignoring pertinent data which the applicant did not choose to have the Agency review.

In comments on a draft version of this regulation, some persons argued that language in section 3(c)(1)(D)'s introductory phrase suggests that the statute does not allow the Agency to required applicants for unconditional registration to acknowledge reliance on all pertinent data in Agency files. The introductory phase states that each applicant for registration shall file with the Administrator an application which includes:

> if requested by the Administrator, a full description of the tests made and the results thereof upon which the claims are based, or alternatively a citation to data that appears in the public literature or that previously has been submitted to the Administrator and that the Administrator may consider in accordance with [section 3(c)(1)(D)(i) and (ii)]
> * * *.

The commenters argue that this language means that an applicant has the option of submitting all required data himself or instead relying on previously-submitted data.

These comments appear to be premised on the idea that if the Agency has specified (in data guidelines or elsewhere) the *minimum* number of tests for various toxic effects that must be conducted, and the applicant has furnished test reports complying with those minimums, and showing no unreasonable adverse effect, then the Agency should unconditionally register the product based *solely* on the data submitted, even though other pertinent data are available. What this premise overlooks is that the Agency, for good reason, is unwilling to confine its section 3(c)(5) review to what the applicant presents if, in fact, a broader range of data exist. In toxicity testing, for instance, the issue often is not merely whether a pesticide causes a particular toxic effect or how toxic the pesticide is, but also *how certain* we are of the validity of a set of findings. If a second test of a pesticide for some toxic effect produces results which corroborate the findings of an earlier test, each set of test results gains credibility from the other. On the other hand, if the second test results are significantly different (as is not uncommon in some kinds of toxicity testing), careful review is required to attempt to explain the differences and to decide what the Agency's position should be. Thus, the more data of a given type there are for comparison, the more confident the Agency can be that its regulatory decision is sound.

Moreover, the quoted portion of section 3(c)(1)(D) does not direct the Agency to grant a section 3(c)(5) registration based on consideration of less than all the available pertinent data, nor do we believe Congress would desire this. We read the language in question, rather, as a Congressional recognition that in some cases (e.g., application for registration of products containing newly discovered active ingredients) the *only* available data are those which the discoverer submits with his application, and that in such a case the applicant must submit "a *full* description of the tests made and the results thereof upon which the claims are based" (emphasis added). This phrase appeared in the 1947 FIFRA, and was retained in the 1972 FIFRA amendments. A 1972 Report of Senate

Committee on Agriculture and Forestry said, in rejecting a proposed amendment to this language:

> The major purpose of the act is to protect the public from pesticides which are not efficacious or which endanger health or the environment. The Administrator should be able to request and obtain a full description of the tests upon which claims for the pesticide are based. He should not be restricted to such tests as the applicant may choose to offer. There should be no question about this. The Administrator must make a decision, which is subject to judicial review, on the basis of the information available to him. For the protection of the public and as a simple matter of reasonable administration, all relevant information should be available to him.
>
> S. Rep. No. 92–838, 92d Cong., 2d Sess., Supplement p. 34 [October 3, 1972].

It would be ironic indeed if this same "full description" language were to be transformed into a justification for obtaining unconditional registration on the basis of some *portion* of the available data chosen by the applicant.

What is newly added (by the 1978 amendments) to the introductory portion of section 3(c)(1)(D) is the language concerning support of applicatons by *citation* of data. EPA does not believe this new language was added because Congress wished to affect the scope of the scentific review EPA should conduct in connection with section 3(c)(5) registrations. EPA believes instead that Congress intended it as a way of acknowledging that most applications do in fact rely on previously-submitted data, and indicating clearly that such reliance is subject to the immediately following provisions on "exclusive use" (section 3(c)(1)(D)(i)) and data compensation (section 3(c)(1)(D)(ii)).

There remains for resolution the issue of just *which* data are scientifically pertinent to a given application for registration. With respect to manufacturing-use products, it is clear that any data from tests concerning the safety, properties, or behavior of the active ingredient of one such product generally would be scientifically pertinent to EPA's consideration of the registrability of any other such product having the same active ingredient. The only exception to this statement would arise if the Agency were to allow a product to be registered under FIFRA section 3(c)(5) for use in manufacturing end-use products, with restrictions as to the use patterns that could appear on the label of any end-use product made from that particular manufacturing-use product. EPA is considering, but has not yet adopted, such an option.

In the case of end-use products, however, the issue of scientific pertinence of particular items of data is a good deal more complex. Some types of tests must be performed using the particular formulated product as the test substance, because the product's toxicity, efficacy, or environmental behavior may depend not only on the product's active ingredient, but also on the nature and relative amounts of the various deliberately-added inert ingredients that the particular product contains. Accordingly, data from test of end-use product A may not be pertinent to the registrability of end-use product B, even though both products are intended to be used in the same way and contain the same amounts of the same active ingredients. Of course, if products A and B are sufficiently similar in composition, the product A data may be pertinent to product B's registrability.

Further complicating the matter is the fact that the formula of an end-use product on file with the Agency normally would be entitled to confidential treatment (with certain exceptions). Thus, EPA normally could not disclose the indentities or percentages of product A's deliberately-added inert ingredients to the person seeking to register product B. There thus would be no simple method for an applicant to unilaterally determine which if any end-use product data submitted by other firms may be scientifically pertinent to his application.

EPA will deal with this problem of end-use product data pertinence in establishing its system of generic standards for reregistration and registration under FIFRA section 3(c)(5).

B. Conditionol registration under FIFRA section 3(c)(7)

The other type of registration the Agency is authorized to issue is *conditional* registration under FIFRA section 3(c)(7). Issuance of conditional registrations is not required by the statute, but is within the Administrator's discretion subject to the restrictions in section 3(c)(7). Conditional registrations will be issued on the following basis:

(1) *Registrations under section 3(c)(7)(A) for products whose composition and proposed uses are identical or substantially similar to already-registered products, or which differ only in ways which would not significantly increase the risk of unreasonable adverse effects on the environment:*

In considering applications of this type, the Agency will actually review only those data necessary to establish that the product's composition and proposed uses would not significantly *increase* the risk of unreasonable adverse effects on the environment. (Under FIFRA section 3(c)(7)(A), the risks posed by already-registered uses are considered as "givens." Other procedures are available for evaluating whether those risks are acceptable, e.g., reregistration, RPAR proceedings, suspension, cancellation; and classification.) This incremental-risk review will involve examination of the identity and amount of the product's active ingredients and the type of formulation (e.g., granular) in comparison to other products, evaluation of the risks that the product's inert ingredients may pose, and evaluation of the incremental risks posed by the proposed uses. If no significant increase in risk is found, the product will be deemed registrable under section 3(c)(7)(A).

Section 3(c)(7)(A) requires an applicant to submit or cite "such data as would be required to obtain registration of a similar pesticide under [section 3(c)(5)]." The legislative history[1] makes it clear that this requirement was incorporated to protect the economic rights of original data submitters under section 3(c)(1)(D).

As discussed above, an applicant for a section 3(c)(5) registration of a technical-grade or manufacturing-use product would be required to acknowledge reliance on all scientifically-pertinent data. Accordingly, an applicant for a section 3(c)(7)(A) conditional registration must do the same.

Applicants seeking to register (or amend the registration of) an end-use product under section 3(c)(7)(A) can also satisfy their section 3(c)(1)(D)(ii) obligation by acknowledging their reliance on all scientifically-pertinent data. The Agency recognizes, however, that there are considerations favoring an alternative method of complying with section 3(c)(1)(D) for persons seeking to conditionally register or amend registration of end-use products. The problem of establishing just which data are pertinent to end-use product registrations has already been mentioned. In addition, the Agency has considered the transaction costs of using the cite-all approach (costs of identifying data submitters, making required compensation offers, and negotiating or arbitrating disputed matters). These costs generally would be proportionate to the number of data

[1] See Report to Accompany S. 1878, Report No. 95–334, Senate Committee on Agriculture, Nutrition, & Forestry, 95th Cong., 1st Sess., July 6, 1977 at 20–21; Report to Accompany H.R. 6681, Report No. 95–663, House Committee on Agriculture, 95th Cong., 1st Sess., October 5, 1977, at 28.

the properties, safety, or efficacy *of the* end-use product itself, but must

considers to be pertinent to registration fixed by arbitration awards will be compensable. The Agency expects that

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submitters an applicant would have to deal with. Because relatively large numbers of persons have submitted data to support end-use product registrations, transaction costs for registration of these products under the cite-all method could be high. In contrast, only a few persons will have submitted data concerning the safety of any particular active ingredient, and transaction costs would be correspondingly low for manufacturing-use product registrations.

Because of these problems, which are peculiar to applicants for conditional registration of end-use products, EPA is providing in § 162.9–8 an alternate method which many of these applicants may choose to use. An applicant using the alternate method of supporting an application will not be required to acknowledge reliance on all the data in EPA's files which ultimately might prove to be relevant to the merits of his application. Instead, the applicant may provide a copy of all data necessary to satisfy the minimum requirements for data pertaining to the safety, efficacy, and other properties of his own product (as these requirements are specified in the Registration Guidelines or by instructions to the applicant), including both old and new uses, and may direct EPA not to consider other data in support of the application (except data which, under FIFRA section 3(c)(2)(D), may be considered without regard to section 3(c)(1)(D). If EPA concludes that the application cannot be approved on that basis, the application will be denied, unless the applicant chooses to withdraw the application or to amend it to acknowledge reliance on all information in the Agency's files.

To qualify for the alternate method of support, the data the applicant submits must be derived from tests performed on the *applicant's own product* (in the precise formulation for which approval is sought) or on another product of *identical composition*. Results from tests on similar but unidentical formulations will not be acceptable, because to accept such results would require further and complicated evaluations of scientific pertinence. The test data that will be required will vary according to the type of product and its use pattern, but generally will cover acute mammalian toxicity, some aspects of environmental chemistry and fish and wildlife toxicity, and product chemistry.

This alternate method of supporting an application can be used by all persons who desire to conditionally register (or conditionally amend the registration of) an end-use product. It can only be used, however, to satisfy those data requirements pertaining to the properties, safety, or efficacy *of the formulated product itself*. To the extent that an applicant is not exempted by FIFRA section 3(c)(2)(D) from submitting or citing data pertaining to the safety of one or more of the product's active ingredients, the applicant must acknowledge his reliance on all available data concerning the safety of each such active ingredient, by the means set out in 40 CFR 162.9–4 and 162.9–5.

Many end-use products, however, derive their active ingredients solely from other registered products purchased by the formulator from other producers. Applicants seeking registration of such products could comply with section 3(c)(1)(D) merely by use of the alternate procedure set out in 40 CFR 162.9–8.

(2) *Amending registrations under section 3(c)(7)(B) to add previously-unregistered uses:* The Agency will actually *review* only those data which are necessary to determine whether the proposed new use would significantly increase the risk of unreasonable adverse effects. Normally, we will not review previously-submitted data which pertain to the risk posed by already-registered uses. For purposes of determining the significance of the incremental risk posed by the new use, the risk posed by "old" uses again will be regarded as a "given."

FIFRA section 3(c)(7)(B), like section 3(c)(7)(A), indicates that for data compensation purposes, an applicant must submit or cite *all* data required to obtain registration of a similar pesticide under section 3(c)(5), and states that this includes data "other than data pertaining to the proposed additional use." The Agency interprets this as meaning that the data upon which the applicant must rely for 3(c)(1)(D) purposes are the data required to obtain a section 3(c)(5) registration of a new product with uses identical to *all* uses (old and new) that the applicant's product will have if the request for the amendment is approved.

Applicants for registration under section 3(c)(7)(B) will satisfy their section 3(c)(1)(D) obligations in the same manner as applicants for section 3(c)(7)(A) applicants. Any applicant may acknowledge reliance on all pertinent data. Applicants seeking to add new uses to registered end-use products may instead use only the alternate method described in 40 CFR 182.9–8. Applicants for amendments of other end-use product registrations may use the alternate method with respect to data requirements applicable to the properties, safety and efficacy of the end-use product itself, but must acknowledge reliance on all data pertinent to safety of active ingredients to the extent that FIFRA section 3(c)(2)(D) does not exempt the applicant from this requirement.

Method of Acknowledging Reliance on Data

Under the regulations adopted here, the method of acknowledging reliance on data to be used depends on whether the product's active ingredients have or have not been covered by a published generic standard. If such a standard has been issued for an active ingredient, all the data which forms the basis for the standard will be listed in a bibliography that is part of the standard itself; applicants will merely have to indicate that they rely on all data listed in that bibliography (or on those portions of the bibliography pertinent to the uses for which the product will be labeled). However, no generic standards have yet been completed.

In other cases (except to the extent that the alternate method described in § 162.9–8 is used) the applicant is required to state that his application is based on (and that any resulting registration or amended registration should be regarded as if it were based on the Administrator's actual review of) the following categories of data:

(1) All data actually submitted or specifically cited by the applicant in support of the application; and

(2) All other data in the Agency's files which would be pertinent to the registrability of the applicant's product (with the uses appearing on the labeling for which applicant seeks approval) if EPA were to conduct a full scientific review of the registrability of that product and its uses under FIFRA section 3(c)(5) (whether or not such a review actually is conducted in connection with the particular application).

The lack of a listing, in such an application, of all the individual studies of data upon which the registration "relies" should be of no concern to the original submitters of the data relevant to the registration action. Original data submitters know (or should know) which data they have *submitted*. Once they know what active ingredients a product contains and what its uses are, they can, by reference to the Agency's data requirements, determine whether any of their data are relevant to the Agency's decision to register the product.

Over the next several months the Agency will publish listings which describe the kinds of data the Agency considers to be pertinent to registration decisions on various kinds of pesticides and their more common uses. These listings will be based primarily on the data guidelines published as proposed rules (see 43 FR 29686, July 10, 1978, and 43 FR 37336, August 22, 1978). Listings of this type should be helpful to parties in negotiation or arbitration proceedings.

Some persons have commented that applicants would be required to offer to pay for a set of data, the scope and value of which are not known to the applicant at the time registration is granted and the obligation to pay compensation becomes fixed. This, they say, makes it impossible for them to know whether the compensation payable will be too large to justify their entry into the market. There are several ways by which the applicant may reduce or eliminate this uncertainty. First, he may consult the Agency's data catalogs. Although the listings are not complete, a considerable body of information is available and the applicant can learn much about what data the Agency has on file. Second, instead of first obtaining a registration and later negotiating, he can first contact the firms that have submitted data to EPA concerning his product's active ingredients, and negotiate compensation matters *prior* to actually seeking registration.

The Agency believes that many firms in the pesticide business will find it advantageous to enter into broad, long-term negotiated agreements concerning the use of data, thereby eliminating or reducing the need for application-specific negotiations.

A third way that an applicant can reduce or eliminate uncertainty concerning the compensation payable is by obtaining a decision under the arbitration provisions of section 3(c)(1)(D)(ii), before the registration issues. This could be accomplished by furnishing the listed data submitters a notification of intent to rely on data and an offer to pay compensation, either well before the application to the Agency is made or after application is made but before the registration issues. If, within the 90-day period after the data submitter receives such a notice, the parties are unable to reach agreement, either party may request a decision by an arbitrator. The statute does not state or imply that this 90–day period may commence only upon the Agency's receipt of an application for registration. The statute and its legislative history contemplate that in some cases the arbitration decision will precede the issuance of a registration, and that the duty to pay compensation fixed by arbitration awards will be contingent upon the issuance of the registration in question.

Of course, if an applicant seeks to fix the amount and terms of compensation prior to registration, in some cases he may have to disclose to the original data submitter(s) the proposed uses of the product in question well before registration, in order that the parties can determine which data are pertinent to the application. Some applicants may wish to avoid disclosing such information at that stage.

It should be noted that an applicant may have no duty to actually *pay* compensation for much of the data upon which an application is based. The statute places in the non-compensable category all data submitted to the Agency or its predecessors prior to January 1, 1970 (and all data submitted more than 15 years before the approval of the application in question, although this provision will be meaningful only after January 1, 1985). Moreover, the only data for which compensation is due are those which were submitted by applicant or registrant, to support an application for registration, reregistration, or amendment of a registration to add new uses, to support an application for an experimental use permit, or to satisfy a requirement imposed by the Administrator. See also the discussion in the following section of FIFRA section 3(c)(2)(D). Finally, the Agency assumes that arbitration decisions will not award compensation in cases where the data submitter incurred no expense in developing (or acquiring rights to) the data (see Conference Report on the FPA, S.Rep. No. 95–1188, 95th Cong., 2d Sess., September 12, 1978, at 29).

An applicant who chooses to use solely the alternate method of supporting his application set forth in § 162.9–8 will submit copies of data sufficient to satisfy the minimum requirements for unconditional registration of his product, and will direct the Agency to consider as supporting his application only those data, plus the data pertaining to the safety of the active ingredients which are exempt from compensation under FIFRA section 3(c)(2)(D).

Nature of the Offer to Pay Compensation

Once there is an identification of the data which are relevant to the Agency's decision to approve a registration, the statute itself is quite clear regarding the persons who may be eligible to receive compensation and regarding the data which, despite their relevance, are not compensable. The Agency expects that the Federal Mediation and Concillation Service will issue rules under which the amount of compensation, the terms of payment, and related matters are to be determined by arbitration if parties cannot agree.

Accordingly, the Agency's responsibility simply is to ensure that the offer to pay compensation which accompanies the application for registration is as broad as the law requires. The regulation requires each application to include the following statement:

> [Name of applicant] hereby offers and agrees to pay compensation to other persons, with regard to the approval of this application, to the extent required by section 3(c)(1)(D) of the Federal Insecticide, Fungicide and Rodenticide Act, as amended, 7 U.S.C. § 136a(c)(1)(D).

The inclusion of a generalized offer to pay compensation in the application itself will ensure that even if, for whatever reason, the applicant fails to furnish a data submitter with an offer to pay compensation that should have been furnished, the obligation contemplated by the statute will still exist.

An applicant who uses the § 162.9–8 alternate method of support still must submit the generalized offer to pay compensation with his application, in order to protect any rights that other data submitters may have with respect to data the applicant has relied on.

Notification of Data Submitters by Applicant

A. *Applications concerning products with active ingredients for all of which a final generic standard has been published.* The generic standard will list the data upon which the standard is based, and the identify of the original data submitters. A registration or reregistration will be issued only if the applicant states he has furnished a compensation offer to each such submitter of any item of data (except for data submitted before 1970, and data with respect to which the applicant and the original submitter have reached written agreement permitting the applicant's use of the data to support the application).

B. *Applications concerning products with active ingredients for which a final generic standard has not been published.*

(1) *Applicants who have acknowledged reliance on all pertinent data.* The Agency will prepare and publish a listing called "Pesticide Data Submitters by Chemical," which will consist of a computer scan of the

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Agency's so-called "Level 2" data catalog, by active ingredient, for names of companies which, according to the computerized data base, have submitted any item of data pertaining to each particular active ingredient. This publication will be available for use by applicants, and will be updated periodically.

A registration will be issued only if the applicant has furnished to the Agency a certification that he has examined this listing, and that he has furnished a compensation offer to all persons listed as the original submitters of the data pertaining to each of the active ingredients this product contains. (Compensation offers need not be sent, of course, to any person with whom the applicant already has reached written agreement concerning the amount and terms of payment of compensation payable with regard to approval of the application.)

The compensation offer the applicant is to furnish the original data submitter(s) prior to registration must include the name of the applicant's product, identification of each of its active ingredients, its intended uses, the applicant's name, address, and telephone number, a statement that the applicant offers to pay compensation as required by FIFRA, and an offer to commence negotiations with the data submitter.

The applicant's certification concerning the compensation offers he has made to original data submitters may accompany the application when it is first sent to EPA, or the applicant may instead furnish it later. However, no application to which the requirement applies will be approved until the applicant's certification has been received.

The EPA modified FIFRA section 3(c)(2) by adding a new subparagraph (D), which states:

> No applicant for registration of a pesticide who proposes to purchase a registered pesticide from another producer in order to formulate such purchased pesticide into an end-use product shall be required to—
>
> (i) submit or cite data pertaining to the safety of such purchased product; or
>
> (ii) offer to pay reasonable compensation otherwise required by paragraph (1)(D) of this section for the use of any such data.

This provision clearly relieves certain applicants of the duty to offer to pay, or pay, for certain data for which compensation might otherwise be owed. At the present time, however, EPA's data catalogs are not complete enough to allow an applicant to ascertain whether or not a particular original data submitter has submitted *only* data which pertain solely to "the safety of [a particular] purchased product." Whether or not this provision exempts an applicant from a duty to actually pay compensation to a particular data submitter can best be determined by asking the submitter what kinds of data he submitted. EPA advises applicants not to rely on FIFRA section 3(c)(2)(D) as an exemption from the requirement that offers to pay compensation must be furnished to each person who is listed in the pertinent portion of the Listing of Pesticide Data Submitters.

(2) *Applications using the alternate method of support described in § 162.9-8:* We expect that few applicants using solely this method of satisfying FIFRA section 3(c)(1)(D) will have any duty to offer to pay compensation to other data submitters, because in most cases the data upon which the applicant relies will have been generated by the applicant himself or by someone who has already consented to the applicant's use of the data to support the application. (We expect this because the data must be derived from tests using the applicant's own product, or a product of identical composition as the substance tested.)

However, it is conceivable that an applicant using this method may rely on "compensable" data originally submitted by a firm which has not consented to its use by the applicant. To the extent the applicant knows of this, FIFRA section 3(c)(1)(D) requires him to offer to compensate the original data submitter. If the applicant does not know the data is "compensable" or does not know who originally submitted it to EPA, he need not offer to compensate for its use unless the original data submitter contacts him.

An applicant who uses the § 162.9-8 method of support but whose product contains any active ingredient other than ones derived from purchased, registered pesticide products must comply with §§ 162.9-4 and 162.9-5 insofar as each such active ingredient is concerned. Thus if a formulator/applicant intends to buy from another person a registered technical-grade product containing active ingredient A, and to combine it with another active ingredient B which the formulator himself produces in order to make an end-use product, the formulator/applicant *must* send an offer to pay compensation to each person the listing of "Pesticide Data Submitters By Chemical" shows as having submitted data concerning ingredient B, but he need *not* send offers to persons listed as having submitted data concerning ingredient A. Under FIFRA section 3(c)(2)(D), he will have an actual duty to *pay* compensation only for data concerning the safety of ingredient B, not for data pertinent only to the safety or efficacy of end-use products *containing* ingredient B.

Periodic Public Announcement of Registration Actions

EPA will publish monthly notices describing all registration actions to which §§ 162.9-2 through 162.9-8 apply. The notices will be arranged by active ingredient. Under each active ingredient will appear information concerning any product containing that ingredient, including the registration number, the product name, and the registrant's name and address. The approved labels for such products will be on file at EPA, and copies will be furnished on request. To be placed on the mailing list for the monthly notices, write to:

Process Coordination Branch, Registration Division (TS-767), Environmental Protection Agency, Washington, DC 20460.

Perusal of this listing of registration actions will allow an original data submitter to determine whether or not he has received an offer-to-pay notice with respect to each registration action involving any active ingredient for which he has submitted data to EPA. If an applicant has failed to furnish such a notice, and the data submitter believes notice should have been furnished, the data submitter can then contact that person. If the failure was inadvertent, the parties can promptly commence negotiations; if it was deliberate, the original data submitter can inform EPA of the circumstances and request that EPA initiate summary cancellation procedures with respect to the product, under amended FIFRA section 3(c)(1)(D).

Effective Date and Related Matters

Although these regulations differ significantly from those proposed in June 1977, the Agency finds that reproposal under 5 U.S.C. 553(b) would be contrary to the public interest because of the long delay that reproposal would cause in the ability of persons to obtain pesticide registrations or to know the bases upon which registration will be granted. The need to quickly remedy statutory and administrative difficulties which have nearly halted pesticide registration activity was a major reason for passage of the EPA, as the legislative history of the EPA clearly shows. Moreover, a working draft of these regulations was circulated widely in October 1978, and a public meeting to discuss their content and to obtain comments was held in November 1978. Finally, EPA will revise these regulations to the extent appropriate, as judged by Agency experience and by comments received. A review will be conducted in late 1979 to decide whether revisions are needed.

For the same reasons, the Agency finds good cause for making these regulations effective on the date of their publication in the Federal Register, in accordance with 5 U.S.C. 553(d)(3).

The Agency has received comments to the effect that persons seeking to register manufacturing-use products should also be able to obtain registration by submitting a complete set of data satisfying the minimum requirements specified in the Registration Guidelines, and that the Agency should not in such a case refer to or rely on other data to support the application. As indicated earlier in this preamble, the Agency's current thinking is that this approach would unduly restrict our decision-making. However, the Agency desires to receive further comments on this matter. We would appreciate receiving these comments within the next 60 days.

The Agency conducted an economic impact analysis of this regulation and the regulation concerning conditional registration which is published elsewhere in this issue of the Federal Register. The analysis concluded that no regulatory analysis of this regulation would be required under Executive Order 12044. Although the analysis was completed before the Agency decided to make available the alternative means of complying with FIFRA section 3(c)(1)(D) which is set forth in 40 CFR 162.9-8, the availability of that alternative cannot increase, and may decrease, any economic impact of the regulation. Accordingly, the Agency concludes that no regulatory analysis of this regulation is required.

Statutory Review

This regulation was submitted for review to the Agency's Scientific Advisory Panel, which concurs unanimously in its promulgation. Copies were also provided to the U.S. Department of Agriculture in accordance with FIFRA section 25(a) and to the appropriate committees of the U.S. Congress. The Department of Agriculture had no comment on the regulation.

Effective date: May 11, 1979.

Dated: May 2, 1979.

Douglas Costle,
Administrator.

(Sections 3, 6, and 25 of FIFRA, as amended, 7 U.S.C. § 136 et seq.)

40 CFR Part 162 is amended as follows:

1. 40 CFR § 162.2(g) is revised to read as follows:

§ 162.2 Principal statutory provisions.

* * * * *

(g) *Exclusive use of data; data compensation.* (1) *Exclusive use.* FIFRA section 3(c)(1)(D)(i) provides that data submitted in support of an application for registration of a product containing an active ingredient not contained in any currently-registered or formerly-registered product, and pertaining to that ingredient (or to a new *combination* of active ingredients) are entitled to a 10-year period of protection, commencing on the date the product is first registered. Data supporting applications which resulted in registrations on or before September 30, 1978, are not entitled to this period of protection. During the ten-year period the Administrator may not grant any application for registration which relies on the protected data unless the original submitter of the data has consented in writing. Data submitted during the 10-year period to support an application for an amendment adding a new use of such a product are entitled to the same kind of protection, for the balance of the 10-year period. However, "defensive" data, i.e., data which the Administrator has required the applicant to submit to maintain a registration, and data pertaining solely to individual ingredients which were contained in products registered on or before September 30, 1978, are not entitled to such protection.

(2) *Data compensation.* FIFRA section 3(c)(1)(D)(ii) requires that applicants whose applications rely on certain data submitted by others after December 31, 1969, in support of requests for registration, reregistration, amended registration, or experimental use permits, or to maintain in effect an existing registration, must offer to pay compensation to the original data submitter. The statute further provides a mechanism for determining the amount and terms of any such compensation. FIFRA section 3(c)(2)(D) exempts certain data from this compensation requirement when the applicant seeks a registration action concerning an end-use product produced from a purchased, registered product. The requirements for compliance with FIFRA section 3(c)(1)(D)(ii) and section 3(c)(2)(D) are set forth in §§ 162.9-1 through 162.9-8.

2. 40 CFR Part 162 is amended by deleting "§ 162.9" wherever it appears in the text and substituting "§§ 162.9-1 through 162.9-8."

§ 162.7 [Amended]

3. 40 CFR § 162.7(g) (as redesignated in FR Doc. 79-14535 elsewhere in this issue of the Federal Register) is amended by deleting the phrase "section 3(c)(1)(D) and."

4. 40 CFR Part 162 is amended by deleting the present section title for § 162.9 and by adding new §§ 162.9-1 through 162.9-8, to read as follows:

§ 162.9-1 Registration actions to which compensation requirements apply.

(a) Unless the Administrator first finds that the applicant has complied with §§ 162.9-2 through 162.9-8, the Administrator will deny any application for reregistration, for registration of a new product, or for an amendment to an existing registration, except as provided by paragraph (b) of this section.

(b) Sections 162.9-2 through 162.9-8 do not apply to applications to make only one or more of the following types of amendments to existing registrations, unless the Administrator or his designee finds that Agency consideration of scientific data would be necessary in order to approve the amendment under FIFRA § 3(c)(5):

(1) An increase or decrease in the percentage in the product of one or more of its active ingredients or deliberately-added inert ingredients;

(2) A revision of the identity or amount of impurities present in the product;

(3) The addition or deletion of one or more deliberately-added inert ingredients;

(4) The deletion of one or more active ingredients;

(5) A change in the source of supply of one or more of the active ingredients used in the product, if the new source of the active ingredient is a product which is registered under FIFRA § 3;

(6) Deletion of approved uses or claims;

(7) Redesign of the label format involving no substantive changes, express or implied, in the directions for use, claims, representations, or precautionary statements;

(8) Change in the product name or addition of an additional brand name, if no additional claims, representations, or uses are expressed or implied by the change;

(9) Clarification of directions for use;

paragraph (c) of this section) is exempt

which data are exempt from the

section was generated by (or at the

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(10) Correction of typographical errors;

(11) Changes in the registrant's name or address;

(12) Adding supplemental registrants under § 162.6(b)(4);

(13) Changes in the package or container size;

(14) Changes in warranty, warranty disclaimer, or liability limitation statements, or addition to or deletion of such statements;

(15) "Splitting" a label for the sole purpose of facilitating the marketing of a product in different geographic regions with appropriate labels, where each amended label will contain previously-approved use instructions (and related label statements) appropriate to a particular geographic region;

(16) Any other type of amendment, if the Administrator or his designee determines, by written finding, that Agency consideration of scientific data would not be necessary in order to approve the amendment under FIFRA section 3(c)(5); and

(17) Compliance with Agency regulations, adjudicatory hearing decisions, notices, or other Agency announcements that unless the registration is amended in the manner the Agency proposes, the product's registration will be suspended or cancelled, or that a hearing will be held under FIFRA section 6. (However, this paragraph does not apply to amendments designed to avoid cancellation or suspension threatened under FIFRA section 3(c)(2)(B) or because of failure to submit data.)

§ 162.9–2 Generalized offer to pay compensation.

Except as provided in § 162.9–1(b), each application for any registration action shall include the following statement:

[Name of applicant] hereby offers and agrees to pay compensation to other persons, with regard to the approval of this application, to the extent required by § 3(c)(1)(D) and § 3(c)(2)(D) of the Federal Insecticide, Fungicide and Rodenticide Act, as amended, 7 U.S.C. §§ 136a(c)(1)(D) and 136(c)(2)(D).

§ 162.9–3 Data compensation in cases where a generic standard exists for an active ingredient.

Except as provided in § 162.9–1(b), each application for any registration action concerning a product containing any active ingredient for which the Agency has published a final generic standard shall include:

(a) A citation of each such standard;

(b) The registrable uses listed in the standard(s) (or additional registrable uses, in the case of amendments) for which approval is sought;

(c) An acknowledgment that the application relies on all data which, according to the standard(s), support the registrability of each such use;

(d) A statement that the applicant has furnished to each person who, according to the cited standard(s), is an original submitter of an item of data submitted on or after January 1, 1970 which supports the registrability of applicant's product (other than persons with whom the applicant has agreed in writing on the amount and terms of payment of any compensation that may be payable under FIFRA section 3 with regard to approval of the application):

(1) A notification of the applicant's intent to apply for registration, including the proposed product name, a listing of the product's active ingredients, and the product's intended uses (or proposed additional uses, in the case of amendments);

(2) An offer to pay the person compensation, with regard to the approval of the application, to the extent required by FIFRA sections 3(c)(1)(D) and 3(c)(2)(D);

(3) An offer to commence negotiations to ascertain the amount and terms of compensation to be paid; and

(4) The applicant's name, address, and telephone number.

§ 162.9–4 Acknowledgment of reliance on data for products with active ingredients for which no generic standard exists.

Except as provided in §§ 162.9–1(b) and 162.9–8, each application for any registration action concerning a product containing any active ingredient for which EPA has not published a final generic standard shall include an acknowledgment that for purposes of FIFRA section 3(c)(1)(D) the application relies on (and any resulting registration should be regarded as if it were based on the Administrator's consideration of) the following data:

(a) All data submitted or specifically cited by the applicant in support of the registration; and

(b) Each other item of data in the Agency's files which:

(1) Concerns the properties or effects of:

(i) Applicant's product;

(ii) A product which is identical or substantially similar in composition to applicant's product; or

(iii) One or more of the active ingredients of applicant's product for which EPA has not yet published a final generic standard; and

(2) Is one of the types of data that EPA would require to be submitted for scientific review by EPA if the application sought the initial registration under FIFRA section 3(c)(5) of a product with composition and intended uses identical or substantially similar to those of the applicant's product, under the data requirements in effect on the date EPA approves applicant's present application.

§ 162.9–5 Offer of compensation in cases where § 162.9–4 applies.

Each application to which § 162.9–4 applies shall also include a statement that the applicant has carefully examined the most recently published version of the EPA publication entitled "Pesticide Data Submitters by Chemical," and has furnished to each person listed as the original submitter of any data concerning any active ingredient of applicant's product for which EPA has not yet published a final generic standard (other than persons with whom the applicant has agreed in writing on the amount and terms of payment of any compensation that may be payable under FIFRA section 3 with regard to approval of the application):

(a) A notification of the applicant's intent to apply for registration, including the proposed product name, a listing of the product's active ingredients, and the uses (or a summary of those uses) which will appear on the product's labeling if the application is approved (including previously-approved uses and proposed added uses);

(b) An offer to pay the person compensation, with regard to the approval of the application, to the extent required by FIFRA section 3(c)(1)(D) and § 3(c)(2)(D);

(c) An offer to commence negotiations to ascertain which data is subject to the compensation requirement of FIFRA section 3(c)(1)(D) and the amount and terms of compensation, if any, to be paid; and

(d) The applicant's name, address, and telephone number.

§ 162.9–6 When required statements must be furnished.

The materials required under §§ 162.9–3(d), 162.9–5, and 162.9–8(e) may be furnished to EPA with the original application or at any later time prior to EPA's approval of the application.

§ 162.9–7 Exemption.

(a) Under FIFRA section 3(c)(2)(D), an applicant who seeks registration, reregistration, or amended registration of an end-use product (as defined in paragraph (c) of this section) is exempt from the compensation requirement imposed by FIFRA section 3(c)(1)(D) with respect to data which pertain to the safety of any other registered pesticide product which the applicant purchases from another producer and uses in formulating his product.

(b) Data pertain to the safety of a purchased product if they would be scientifically pertinent to an Agency evaluation of the safety of the purchased product or one or more of its ingredients, rather than pertinent merely to an evaluation of the safety of an end-use product. To be pertinent to the purchased product's safety, the data need not have come from a test using the particular producer's product. For instance, any toxicity data from a test in which a reagent-grade, laboratory-grade, or technical-grade active ingredient was the substance tested normally would be scientifically pertinent to an evaluation of the safety of any pesticide product containing that active ingredient (with certain exceptions depending on use patterns). However, toxicity data from a test in which the substance tested was a formulated, end-use product (whether or not use-diluted) normally would pertain only to the safety of the same end-use product, closely similar end-use products, or their ingredients, but not to the safety of other end-use products.

(c) As used in this section, the term "end-use product" means a pesticide product whose labeling bears instructions for using or applying the product (as packaged and sold, or after dilution by the applicator) for controlling pests or regulating plant growth. The term excludes products whose labeling allows use of the product to formulate other pesticide products.

(d) FIFRA section 3(c)(2)(D) does not provide an exemption from the FIFRA section 3(c)(1)(D) compensation requirements to the extent that an application relies on efficacy data, or on safety data not pertinent to the purchased product's safety (e.g., data concerning the safety of similar end-use products). FIFRA sec. 3(c)(1)(D) requires the applicant to furnish a compensation offer to the original submitters of such data. The "Listing of Pesticide Data Submitters" (see § 162.9–5) does not at this time differentiate between types of data submitted. Accordingly, applicants for registration actions on end-use products should comply with the requirements in § 162.9–5 (furnish compensation offers to all listed data submitters with whom no written agreement has been reached), to avoid the risk of summary cancellation or denial as provided in FIFRA section 3(c)(1)(D)(ii). Negotiations with listed data submitters should quickly disclose which data are exempt from the compensation requirement.

§ 162.9–8 Alternate procedure for certain applicants for conditional registration.

(a) An applicant for conditional registration of a new product (or for conditional amendment of an existing registration) need not comply with §§ 162.9–4 and 162.9–5 if:

(1) Each of the product's active ingredients is contained in some product currently registered under FIFRA;

(2) The product will be labeled as an end-use product, as defined in § 162.9–7(c); and

(3) The applicant complies with paragraphs (b) through (f) of this section.

This section does not apply to other applicants.

(b) The applicant must furnish to EPA, with his application, a copy of each item of test data required to satisfy the minimum requirements for data that apply to the applicant's product and all of its uses, according to the Registration Guidelines (or instructions to the applicant by EPA), except that the applicant need furnish only data which are to be derived from tests using a formulated product as the test substance. All such data shall be derived from tests using the applicant's product (or another product with identical composition) as the substance tested.

(c) The applicant shall furnish with the data he submits a statement setting forth, to the best of his knowledge, the name and address of each person at whose expense each submitted item of data was generated, and how the applicant came into possession of each of the items of data (e.g., applicant generated the data; applicant obtained the data from another firm (identify); applicant copied data from a publication; applicant obtained a copy of the data from EPA).

(d) The applicant shall submit with his application a statement that EPA, in its evaluation of the properties, efficacy, and safety of the formulated end-use product, may not consider any data as supporting the application, except the following data:

(1) The data the applicant has submitted to EPA under paragraph (b) of this section;

(2) Other data pertaining to the safety of the product's active ingredients, rather than to the safety of the end-use product; and

(3) Existing tolerances, food additive regulations, exemptions, and other clearances issued under the Federal Food, Drug, and Cosmetic Act.

(e) If the applicant knows that any item of data he submitted under this section was generated by (or at the expense of) another person who originally submitted the data to EPA (or its predecessor, USDA) on or after January 1, 1970, to support an application for registration, experimental use permit, or amendment adding a new use to an existing registration, or for reregistration (unless the applicant and the original data submitter have reached written agreement on the amount and the terms of payment of any compensation that may be payable under FIFRA section 3(c)(1)(D)(ii) with regard to approval of the application), the applicant shall submit to EPA a statement that he has furnished to each such identified original data submitter:

(1) A notification of the applicant's intent to apply for registration, including the proposed product name;

(2) An offer to pay the person compensation, with regard to the approval of the application, to the extent required by FIFRA sections 3(c)(1)(D) and 3(c)(2)(D);

(3) An identification of the item(s) of data to which the offer applies;

(4) An offer to commence negotiations to ascertain the amount and terms of compensation to be paid; and

(5) The applicant's name, address, and telephone number.

(f) If the applicant's product contains any active ingredient other than those that are present solely because of the incorporation into the product, during formulation, of one or more other registered pesticide products purchased from another producer, then the applicant shall also comply with § 162.9–5 as to such active ingredient, and the application shall contain an acknowledgment that for purposes of FIFRA section 3(c)(1)(D) the application relies on (and any resulting registration should be regarded as if it were based on the Administrator's consideration of) the following data:

(1) All data submitted or specifically cited by the applicant in support of the registration; and

(2) Each other item of data in the Agency's files which:

(i) Concerns the properties or effects of any such active ingredient; and

(ii) Is one of the types of data that EPA would require to be submitted for scientific review by EPA if the applicant sought the initial registration under FIFRA Sec. 3(c)(5) of a product with composition and intended uses identical to those proposed for the applicant's product, under the data requirements in effect on the date EPA approves the applicant's present application.

[OPP–30025; FRL 1061–2]

[FR Doc. 79–14534 Filed 5–10–79; 8:45 am]

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ENVIRONMENTAL PROTECTION AGENCY

Consideration of Data by the Administrator in Support of Applications; Revocation of Interim Policy Statements

AGENCY: Environmental Protection Agency (EPA), Office of Pesticide Programs.

ACTION: Revocation of interim policy statements regarding section 3(c)(1)(D) of the Federal Insecticide, Fungicide, and Rodenticide Act (FIFRA).

SUMMARY: Interim policy statements regarding section 3(c)(1)(D) were publihed on November 19, 1973 (38 FR 31862) and January 22, 1976 (41 FR 3339). Since final regulations are being published today, these policy statements are hereby revoked.

DATE: Effective May 11, 1979.

FOR FURTHER INFORMATION CONTACT: Edward C. Gray, Office of General Counel (A–132), EPA, 401 M St., S.W., Washington, D.C. 20460, (202) 755–0638.

SUPPLEMENTARY INFORMATION: The Environmental Protection Agency, on November 19, 1973, published a notice in the **Federal Register** entitled "Consideration of Data by the Administrator in Support of Applications: Interim Policy". On January 22, 1976, another notice was published in the **Federal Register** amending the interim policy. Both notices concerned the Agency's interim procedures for implementing section 3(c)(1)(D) of the FIFRA; 7 U.S.C. 136a(c)(1)(D).

Since publication of these notices, FIFRA section 3(c)(1)(D) has been extensively amended (Federal Pesticide Act of 1978, Pub. L. 95–396, September 30, 1978). The Environmental Protection Agency has issued regulations implementing FIFRA section 3(c)(1)(D), as amended; these regulations appear elsewhere in today's issue of the **Federal Register.**

Accordingly, the Agency is hereby revoking the "~~Interim~~ Policy Statement" previously mentioned, insofar as they would apply to any application for registration which was not approved on or before September 30, 1978.

Dated: April 16, 1979.

Steven D. Jellinek,

Assistant Administrator for Toxic Substances.

[OPP–30027; FRL 1209–4]

[FR Doc. 79–14533 Filed 5–10–79; 8:45 am]

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federal register

Friday
May 11, 1979

Part VII

Office of Management and Budget

Cumulative Report on Rescissions and Deferrals

V

OFFICE OF MANAGEMENT AND BUDGET

Cumulative Report on Rescissions and Deferrals

May 1979.

This report is submitted in fulfillment of the requirements of Section 1014(e) of the Impoundment Control Act of 1974 (Pub. L. 93-344). Section 1014(e) provides for a monthly report listing all budget authority for this fiscal year with respect to which, as of the first day of the month, a special message has been transmitted to the Congress.

This month's report gives the status as of May 1, 1979, of 11 rescissions and 57 deferrals contained in the first nine special messages of FY 1979. These messages were transmitted to the Congress on October 2, November 30, December 7, December 12, 1978, January 31, February 14, March 15, April 4, and April 26, 1979.

Rescissions (Table A and Attachment A)

Congressional action has been completed on all FY 1979 rescission proposals. Table A summarizes the status of rescissions proposed by the President as of May 1, 1979, while Attachment A shows the history and status of each rescission proposed during FY 1979.

Deferrals (Table B and Attachment B)

As of May 1, 1979, $2,863.2 million in 1979 budget authority was being deferred from obligation and another $2.9 million in 1979 obligations was being deferred from expenditure. Table B summarizes the status of deferrals reported by the President, and Attachment B shows the history and status of each deferral reported during FY 1979.

Information from Special Messages

The special messages containing information on each of the rescissions and deferrals covered by the cumulative report are contained in the Federal Registers of:

Wednesday, October 11, 1978 (Vol. 43, No. 197, Part III)
Wednesday, December 6, 1978 (Vol. 43, No. 235, Part III)
Wednesday, December 13, 1978 (Vol. 43, No. 240, Part VI)
Monday, December 18, 1978 (Vol. 43, No. 243, Part VI)
Monday, February 5, 1979 (Vol. 44, No. 25, Part VI)
Wednesday, February 21, 1979 (Vol. 44, No. 36, Part VII)
Tuesday, March 20, 1979 (Vol. 44, No. 55, Part VIII)
Monday, April 9, 1979 (Vol. 44, No. 69, Part VI)
Tuesday, May 1, 1979 (Vol. 44, No. 85, Part V)

James T. McIntyre, Jr.,
Director.

BILLING CODE 3110-01-M

TABLE A

STATUS OF 1979 RESCISSION PROPOSALS

	Amount (in millions of dollars)
Rescissions proposed by the President	$ 908.7 a/
Accepted by the Congress	-723.6 b/
Rejected by the Congress	-185.1 c/
Pending before the Congress	-0-

* *

Table B

STATUS OF 1979 DEFERRALS

	Amount (in millions of dollars)*
Deferrals proposed by the President	$4,373.8
Routine Executive releases (-$1,493.2 million) and adjustments (-$7.8 million) through May 1, 1979)*	-1,501.1
Overturned by the Congress	-6.6
Currently before the Congress	$2,866.2 d/

a/ This amount is net of a $6.0 million reduction proposed in a Small Business Administration rescission (R79-11A).
b/ Public Law 96-7.
c/ Of this amount, $51.0 million is presently deferred (D79-55 and D79-29A).
d/ This amount includes $2.9 million in outlays for a Department of the Treasury deferral (D79-25B).
* Detail does not add to total due to rounding.

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PAGE 1 — ATTACHMENT A - STATUS OF RESCISSIONS - FISCAL YEAR 1979 — AS OF 05/07/79 17:39

AS OF MAY 1, 1979 AMOUNTS IN THOUSANDS OF DOLLARS AGENCY/BUREAU/ACCOUNT	RESCISSION NUMBER	AMOUNT PREVIOUSLY CONSIDERED BY CONGRESS	AMOUNT CURRENTLY BEFORE THE CONGRESS	DATE OF MESSAGE MO DA YR	AMOUNT RESCINDED	AMOUNT MADE AVAILABLE	DATE MADE AVAILABLE MO DA YR
DEPARTMENT OF ENERGY							
Energy Programs							
Fossil energy construction BA	R79- 2	50,000a		1 31 79			
DEPARTMENT OF ENERGY TOTAL BA		50,000					
DEPARTMENT OF HEALTH, EDUCATION AND WELFARE							
National Institutes of Health							
Buildings and facilities BA	R79- 3	37,000		1 31 79	37,000b		
Health Resources Administration							
Health resources BA	R79- 4	167,893		1 31 79	46,350b	121,543	3 28 79
Office of Education							
Special projects and training BA	R79- 5	22,365		1 31 79	12,500b	9,865	3 28 79
DEPARTMENT OF HEALTH, EDUCATION AND WELFARE TOTAL BA		227,258			95,850	131,408	
DEPARTMENT OF HOUSING AND URBAN DEVELOPMENT							
Housing Programs							
Subsidized housing programs BA	R79- 6	600,000		1 31 79	600,000b		
New Communities Development Corporation							
New community assistance grants BA	R79- 7	8,167		1 31 79	8,167b		
DEPARTMENT OF HOUSING AND URBAN DEVELOPMENT TOTAL BA		608,167			608,167		
DEPARTMENT OF THE INTERIOR							
Bureau of Mines							
Helium fund BA	R79- 8	3,127		1 31 79	3,127b		
DEPARTMENT OF THE INTERIOR TOTAL BA		3,127			3,127		
NATIONAL AERONAUTICS AND SPACE ADMINISTRATION							
Research and program management BA	R79- 9	2,400		1 31 79	2,400b		
NATIONAL AERONAUTICS AND SPACE ADMINISTRATION TOTAL BA		2,400			2,400		
OTHER INDEPENDENT AGENCIES							
Foreign Claims Settlement Commission							

PAGE 3 ATTACHMENT A - STATUS OF RESCISSIONS - FISCAL YEAR 1979 AS OF 05/07/79 17:39

AS OF MAY 1, 1979 AMOUNTS IN THOUSANDS OF DOLLARS AGENCY/BUREAU/ACCOUNT	RESCISSION NUMBER	AMOUNT PREVIOUSLY CONSIDERED BY CONGRESS	AMOUNT CURRENTLY BEFORE THE CONGRESS	DATE OF MESSAGE MO DA YR	AMOUNT RESCINDED	AMOUNT MADE AVAILABLE	DATE MADE AVAILABLE MO DA YR
Payment of Vietnam prisoner of war claims BA	R79-10	9,000c		1 31 79	8,000b	d	
Salaries and expenses BA	R79- 1	75		11 30 78		75	3 13 79
Small Business Administration							
Salaries and expenses BA	R79-11	14,665		1 31 79			
BA	R79-11A	-6,000		3 15 79	6,065b	2,600	3 28 79
OTHER INDEPENDENT AGENCIES TOTAL BA		17,740			14,065	2,675	
TOTAL BA		908,692			723,609	134,083	

FOOTNOTES

a. These funds are included in a deferral (D79-55) transmitted to the Congress on April 26, 1979.

b. Public Law 96-7.

c. This amount was initially deferred (D79-29) in a special message transmitted to the Congress on October 2, 1978.

d. $1.0 million of the $9.0 million proposed for rescission is included in a deferral (D79-29A) transmitted to the Congress on April 26, 1979.

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AMOUNTS IN THOUSANDS OF DOLLARS AGENCY/BUREAU/ACCOUNT	DEFERRAL NUMBER	AMOUNT TRANSMITTED ORIGINAL REQUEST	AMOUNT TRANSMITTED SUBSEQUENT CHANGE	DATE OF MESSAGE MO DA YR	CUMULATIVE OMB /AGENCY RELEASES	CONGRESSIONALLY REQUIRED RELEASES	CUMULATIVE ADJUSTMENTS	AMOUNT DEFERRED AS OF 05-01-79
FUNDS APPROPRIATED TO THE PRESIDENT								
International Security Assistance								
Military assistance BA	D79-31	161,875		11 30 78	-161,875a			
International military education and training BA	D79-35	24,312		12 7 78	-24,312a			
Foreign military credit sales BA	D79-45	651,000		12 12 78	-601,690			49,310
FUNDS APPROPRIATED TO THE PRESIDENT TOTAL BA		837,187			-787,877			49,310
DEPARTMENT OF AGRICULTURE								
Foreign Agricultural Service								
Salaries & expenses (special foreign currency) BA	D79- 1	415		10 2 78	-13			402
Agricultural Stabilization & Conservation Service								
Commodity credit corporation BA	D79- 2	3,530		10 2 78				
BA	D79- 2A			12 7 78	-3,530			
Forest Service								
Acquisition of lands for Wasatch National Forest BA	D79-36	209		12 7 78				209
Timber salvage sales BA	D79-37	5,500		12 7 78	-702			4,798
Expenses, brush disposal BA	D79- 3	32,225		10 2 78				
BA	D79- 3A		5,276	1 31 79				37,501

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AMOUNTS IN THOUSANDS OF DOLLARS AGENCY/BUREAU/ACCOUNT	DEFERRAL NUMBER	AMOUNT TRANSMITTED ORIGINAL REQUEST	AMOUNT TRANSMITTED SUBSEQUENT CHANGE	DATE OF MESSAGE MO DA YR	CUMULATIVE OMB /AGENCY RELEASES	CONGRESSIONALLY REQUIRED RELEASES	CUMULATIVE ADJUSTMENTS	AMOUNT DEFERRED AS OF 05-01-79
Restoration of forest lands								
BA	D79- 4	48		10 2 78				48
DEPARTMENT OF AGRICULTURE TOTAL BA		41,927	5,276		-4,245			42,958
DEPARTMENT OF COMMERCE								
National Oceanic and Atmospheric Administration								
Operations, research, and facilities								
BA	D79-47	500		1 31 79				500
Construction								
BA	D79- 5	9,830		10 2 78				
BA	D79- 5A		202	12 12 78				10,032
Promote and develop fishery products and research								
BA	D79- 6	12,060		10 2 78	-5,481	-6,579b		
Fisheries loan fund								
BA	D79- 7	5,429		10 2 78				
BA	D79- 7A		208	1 31 79				5,637
United States Fire Administration								
Facilities								
BA	D79-32	6,150		11 30 78	-6,150			
Maritime Administration								
Ship construction								
BA	D79-33	157,000		11 30 78	-134,000			23,000
DEPARTMENT OF COMMERCE TOTAL BA		190,969	410		-145,631	-6,579		39,169
DEPARTMENT OF DEFENSE-MILITARY								
Procurement								
Shipbuilding and conversion, Navy								
BA	D79-34	563,940		11 30 78				563,940

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AMOUNTS IN THOUSANDS OF DOLLARS AGENCY/BUREAU/ACCOUNT	DEFERRAL NUMBER	AMOUNT TRANSMITTED ORIGINAL REQUEST	AMOUNT TRANSMITTED SUBSEQUENT CHANGE	DATE OF MESSAGE MO DA YR	CUMULATIVE OMB /AGENCY RELEASES	CONGRESSIONALLY REQUIRED RELEASES	CUMULATIVE ADJUSTMENTS	AMOUNT DEFERRED AS OF 05-01-79
Research, Development, Test, and Evaluation								
Navy								
BA	D79-53	107,964		4 4 79	-107,964a			
Military Construction								
Military construction, all services								
BA	D79- 8	548,451		10 2 78	-384,274		374	164,551
DEPARTMENT OF DEFENSE-MILITARY TOTAL BA		1,220,355			-492,238		374	728,491
DEPARTMENT OF DEFENSE-CIVIL								
Corps of Engineers								
Alaska hydroelectric power development fund								
BA	D79-10	5,450		10 2 78				5,450
Wildlife Conservation, Military Reservations								
Wildlife conservation, all services								
BA	D79- 9	458		10 2 78				
BA	D79- 9A		130	1 31 79	-38			550
DEPARTMENT OF DEFENSE-CIVIL TOTAL BA		5,908	130		-38			6,000
DEPARTMENT OF ENERGY								
Energy Programs								
Fossil energy construction								
BA	D79-55	50,000c		4 26 79				50,000
BA	D79-56	570		4 26 79				570
Strategic Petroleum Reserve								
BA	D79-57	113,528		4 26 79				113,528
Uranium enrichment - operating expenses								
BA	D79-48	63,000		1 31 79				63,000

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AMOUNTS IN THOUSANDS OF DOLLARS / AGENCY/BUREAU/ACCOUNT	DEFERRAL NUMBER	AMOUNT TRANSMITTED ORIGINAL REQUEST	AMOUNT TRANSMITTED SUBSEQUENT CHANGE	DATE OF MESSAGE MO DA YR	CUMULATIVE OMB /AGENCY RELEASES	CONGRESSIONALLY REQUIRED RELEASES	CUMULATIVE ADJUSTMENTS	AMOUNT DEFERRED AS OF 05-01-79
DEPARTMENT OF ENERGY								
TOTAL BA		227,098						227,098
DEPARTMENT OF HEALTH, EDUCATION, AND WELFARE								
Alcohol, Drug Abuse & Mental Health Administration								
Construction & renovation, St. Elizabeths Hospital								
BA	D79-11	27,577		10 2 78				27,577
Social Security Administration								
Limitation on salaries and expenses								
BA	D79-12	1,725		10 2 78				1,725
DEPARTMENT OF HEALTH, EDUCATION, AND WELFARE								
TOTAL BA		29,302						29,302
DEPARTMENT OF THE INTERIOR								
Bureau of Land Management								
Oregon and California grant lands								
BA	D79-46	12,811		12 12 78				
BA	D79-46A		1 901	1 31 79				14,712
Heritage Conservation and Recreation Service								
Land and water conservation fund								
BA	D79-13	30,000		10 2 78				30,000
Geological Survey								
Exploration of National Petroleum Res. in Alaska								
BA	D79-54	1,792		4 4 79				1,792
Payments from proceeds, sale of water								
BA	D79-14	36		10 2 78				36
Bureau of Mines								

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AMOUNTS IN THOUSANDS OF DOLLARS / AGENCY/BUREAU/ACCOUNT	DEFERRAL NUMBER	AMOUNT TRANSMITTED ORIGINAL REQUEST	AMOUNT TRANSMITTED SUBSEQUENT CHANGE	DATE OF MESSAGE MO DA YR	CUMULATIVE OMB /AGENCY RELEASES	CONGRESSIONALLY REQUIRED RELEASES	CUMULATIVE ADJUSTMENTS	AMOUNT DEFERRED AS OF 05-01-79
Drainage of anthracite mines								
BA	D79-15	1,700		10 2 78	-363			1,337
Office of Territorial Affairs								
Administration of territories								
BA	D79-38	25,000		12 7 78	-25,000			
Trust territory of the Pacific Islands								
BA	D79-16	12,000		10 2 78	-12,000			
DEPARTMENT OF THE INTERIOR								
TOTAL BA		83,339	1 901		-37,363			47,877
DEPARTMENT OF JUSTICE								
Legal Activities								
Salaries and expenses, Community Relations Service								
BA	D79-49	572		1 31 79				572
Federal Prison System								
Buildings and facilities								
BA	D79-17	25,300		10 2 78				
BA	D79-17A		11,865	11 30 78	-160			37,005
DEPARTMENT OF JUSTICE								
TOTAL BA		25,872	11,865		-160			37,577
DEPARTMENT OF LABOR								
Employment and Training Administration								
Employment and training assistance								
BA	D79-50	122,133		1 31 79				122,133
DEPARTMENT OF LABOR								
TOTAL BA		122,133						122,133

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AGENCY/BUREAU/ACCOUNT		DEFERRAL NUMBER	AMOUNT TRANSMITTED ORIGINAL REQUEST	AMOUNT TRANSMITTED SUBSEQUENT CHANGE	DATE OF MESSAGE MO DA YR	CUMULATIVE OMB /AGENCY RELEASES	CONGRESSIONALLY REQUIRED RELEASES	CUMULATIVE ADJUSTMENTS	AMOUNT DEFERRED AS OF 05-01-79
DEPARTMENT OF STATE									
Administration of Foreign Affairs									
Acquisition, operation, & maintenance of buildings	BA	D79-39	36,787		12 7 78				36,787
Other									
Emergency refugee and migration assistance fund	BA	D79-18	2,750		10 2 78				
	BA	D79-18A		9,500	11 30 78	-10,375			1,875
DEPARTMENT OF STATE TOTAL	BA		39,537	9,500		-10,375			38,662
DEPARTMENT OF TRANSPORTATION									
Federal Aviation Administration									
Civil supersonic aircraft development termination	BA	D79-19	3		10 2 78				3
Facilities & equip. (Airport & airway trust fund)	BA	D79-20	290,176		10 2 78				
	BA	D79-20A		21,259	1 31 79				311,435
Federal Highway Administration									
Trust fund share of other highway programs	BA	D79-21	40,000		10 2 78				
	BA	D79-21A		14,169d	2 14 79				54,169
Overseas highway	BA	D79-22	13,100		10 2 78				13,100
Urban Mass Transportation Administration									
Urban mass transportation fund	BA	D79-51	968,616		1 31 79				968,616
DEPARTMENT OF TRANSPORTATION TOTAL	BA		1,311,895	35 428					1,347,323

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AGENCY/BUREAU/ACCOUNT		DEFERRAL NUMBER	AMOUNT TRANSMITTED ORIGINAL REQUEST	AMOUNT TRANSMITTED SUBSEQUENT CHANGE	DATE OF MESSAGE MO DA YR	CUMULATIVE OMB /AGENCY RELEASES	CONGRESSIONALLY REQUIRED RELEASES	CUMULATIVE ADJUSTMENTS	AMOUNT DEFERRED AS OF 05-01-79
DEPARTMENT OF THE TREASURY									
Office of the Secretary									
Antirecession financial assistance fund	BA	D79-23	2,205		10 2 78				
	BA	D79-23A		73	12 7 78	-50			2,228
	O	D79-40	5		12 7 78				
	O	D79-40A		3	1 31 79	-8			
State and local government fiscal assistance fund	BA	D79-24	78,489		10 2 78				
	BA	D79-24A		1,665	12 7 78	-517			79,637
	O	D79-25	2,404		10 7 78				
	O	D79-25A		1.562	12 7 78				
	O	D79-25B		11.835e	2 14 79	-13,666		785	2,920
Bureau of the Mint									
Construction of mint facilities	BA	D79-26	5,730		10 2 78				5,730
DEPARTMENT OF THE TREASURY TOTAL	BA		86,424	1 738		-567			87,595
TOTAL	O		2,409	13 400		-13,674		785	2,920
GENERAL SERVICES ADMINISTRATION									
Property Management and Disposal Activities									
Rare silver dollar program	BA	D79-27	2,123		10 2 78				2,123
Federal Preparedness Agency									
State and local preparedness	BA	D79-28	80		10 2 78				80
GENERAL SERVICES ADMINISTRATION TOTAL	BA		2,203						2,203

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AMOUNTS IN THOUSANDS OF DOLLARS / AGENCY/BUREAU/ACCOUNT	DEFERRAL NUMBER	AMOUNT TRANSMITTED ORIGINAL REQUEST	AMOUNT TRANSMITTED SUBSEQUENT CHANGE	DATE OF MESSAGE MO DA YR	CUMULATIVE OMB /AGENCY RELEASES	CUMULATIVE PROPOSED SIONALLY REQUIRED RELEASES	CUMULATIVE TIVE ADJUST- MENTS	CUMULATIVE AMOUNT DEFERRED AS OF 05-01-79
OTHER INDEPENDENT AGENCIES								
Foreign Claims Settlement Commission								
Payment of Vietnam prisoner of war claims		10,945		10 2 78				
BA	D79-29		1,000	4 26 79	-1,051		-9,000F	1,894
BA	D79-29A							
International Communication Agency								
Salaries & expenses	D79-41	2,095		12 7 78				2,095
Acquisition & construction of radio facilities		3,141		12 7 78				
BA	D79-42		.7,832	2 14 79				10,973
BA	D79-42A							
Interstate Commerce Commission								
Payments for directed rail service		13,990		10 2 78				13,990
BA	D79-30							
Small Business Administration								
White House conference on small business		1,600		12 7 78				1,600
BA	D79-43							
Navajo & Hopi Indian Relocation Commission								
Salaries and expenses		12,000		12 7 78				12,000
BA	D79-44							
Tennessee Valley Authority								
Tennessee Valley Authority fund		15,000		1 31 79				15,000
BA	D79-52							
OTHER INDEPENDENT AGENCIES		58,771	8,832		-1,051		-9,000	57,552
TOTAL BA								
TOTAL BA		4,282,920	75,080		-1,479,545	-6,579	-8,626	2,863,250
TOTAL O		2,403	13,400		-13,674		785	2,920

FOOTNOTES

a. This amount is net of a release of $10,831 thousand that was made prior to the transmittal of this supplementary report.

e. This amount is net of a release of $2,857 thousand that was made prior to the transmittal of this supplementary report.

f. This amount was included in a rescission proposal (R79-10) transmitted to the Congress on January 31, 1979.

[FR Doc. 79-14910 Filed 5-10-79; 8:45 am]

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AGENCY PUBLICATION ON ASSIGNED DAYS OF THE WEEK

The following agencies have agreed to publish all documents on two assigned days of the week (Monday/Thursday or Tuesday/Friday).

This is a voluntary program. (See OFR NOTICE FR 32914, August 6, 1976.)

Monday	Tuesday	Wednesday	Thursday	Friday
DOT/COAST GUARD	USDA/ASCS		DOT/COAST GUARD	USDA/ASCS
DOT/NHTSA	USDA/APHIS		DOT/NHTSA	USDA/APHIS
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CSA	MSPB*/OPM*		CSA	MSPB*/OPM*
	LABOR			LABOR
	HEW/FDA			HEW/FDA

Documents normally scheduled for publication on a day that will be a Federal holiday will be published the next work day following the holiday.

Comments on this program are still invited. Comments should be submitted to the Day-of-the-Week Program Coordinator, Office of the Federal Register, National Archives and Records Service, General Services Administration, Washington, D.C. 20408

***NOTE: As of January 1, 1979, the Merit Systems Protection Board (MSPB) and the Office of Personnel Management (OPM) will publish on the Tuesday/Friday schedule. (MSPB and OPM are successor agencies to the Civil Service Commission.)**

REMINDERS

The items in this list were editorially compiled as an aid to Federal Register users. Inclusion or exclusion from this list has no legal significance. Since this list is intended as a reminder, it does not include effective dates that occur within 14 days of publication.

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14541 3–13–79 / Bacterial products standards; BCG vaccine

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21750 4–11–79 / Section 312 Rehabilitation loan program; Legislative amendments

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21647 4–11–79 / Certification of rates or fares to cover new operating authority

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Note: No public bills which have become law were received by the Office of the Federal Register for inclusion in today's List of Public Laws.

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CODE OF FEDERAL REGULATIONS

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_____	Title 14—Aeronautics and Space (Part 1200 to End)	3.50	_____
		Total Order	$_____

[A Cumulative checklist of CFR issuances for 1979 appears in the first issue of the Federal Register each month under Title 1. In addition, a checklist of current CFR volumes, comprising a complete CFR set, appears each month in the LSA (List of CFR Sections Affected)]

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Federal Register

Monday
May 14, 1979

Highlights

Telecommunications Device for the Deaf—Office of the Federal Register provides a new service for deaf or speech impaired persons who need information about documents published in the **Federal Register**. See the Reader Aids section for the telephone listing.

Briefings on How To Use the Federal Register—See announcement in the Reader Aids Section at the end of this issue.

27969 **International Oil Program** DOE/ERA adopts a rule to establish standby mandatory allocation; comments by 6–29–79

28274 **Low Income Housing** HUD/FHC revises policies and procedures for conversion; effective 6–13–79 (Part VIII of this issue)

27982 **Mobile Homes** HUD increases the maximum allowable finance charge; effective 5–7–79

28184 **Migratory Children** HEW/OE proposes to revise educational program regulations; comments by 7–13–79 (Part II of this issue)

28109 **Career Education Program** HEW/OE provides rules for allotment of Federal funds to State education agencies; apply by 6–14–79

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There are no restrictions on the republication of material appearing in the **Federal Register**.

Area Code 202–523–5240

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28012 **Insular Areas** HEW/OE proposes rules to govern grant applications for educational programs; comments by 7–13–79

28266 **Equal Opportunity** CSA revises its policy on boards and committees of programs funded under the Act; effective 6–13–79 (Part VII of this issue)

27993 **State Postsecondary Education** HEW/OE amends the allocation formula and program guidelines

28109 **State Postsecondary Education** HEW/OE invites applications for new projects; apply by 6–11–79

28238 **Elementary and Secondary Education** HEW/OE proposes to revise regulations for improvement of resources and support; comments by 7–13–79 (Part V of this issue)

28258 **Elementary and Secondary Education** HEW/OE proposes regulations to govern the State leadership programs; comments by 6–28–79 (Part VI of this issue)

27984 **Income Tax** Treasury/IRS publishes rules relating to the filing of claims for credit or refund of certain penalties assessed

28016 **Improving Government Regulations** CSA publishes semi-annual agenda of regulations under review or development

28000 **Improving Government Regulations** State releases semi-annual agenda of regulations for review

28126 **Improving Government Regulations** DOT amends its procedures for internal updating of reporting rules which form the basis for agendas; effective 5–9–79

28104 **Pharmaceutical Reimbursement** HEW/HCFA announces maximum allowable cost limit for certain drugs under Medicaid, Medicare and other HEW programs; effective 6–28–79

28146 **Sunshine Act Meetings**

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This section of the FEDERAL REGISTER contains regulatory documents having general applicability and legal effect, most of which are keyed to and codified in the Code of Federal Regulations, which is published under 50 titles pursuant to 44 U.S.C. 1510.
The Code of Federal Regulations is sold by the Superintendent of Documents. Prices of new books are listed in the first FEDERAL REGISTER issue of each month.

DEPARTMENT OF AGRICULTURE

Agricultural Marketing Service

7 CFR Part 979

Melons Grown in South Texas, Expenses and Rate of Assessment; Correction

AGENCY: Agricultural Marketing Service, USDA.

ACTION: Final rule; correction.

SUMMARY: In FR Doc. 79–14141 appearing at page 26731 in the Federal Register of May 7, 1979, paragraph (b) of § 979.201 is corrected by deleting the words "40-pound container or equivalent quantity" and inserting in lieu thereof the word "carton."

EFFECTIVE DATE: May 7, 1979.

FOR FURTHER INFORMATION CONTACT:
Donald S. Kuryloski, Acting Director, Fruit and Vegetable Division, AMS, U.S. Department of Agriculture, Washington, D.C. 20250. Telephone: (202) 447–6393.

Dated: May 8, 1979.

D. S. Kuryloski,
Acting Deputy Director, Fruit and Vegetable Division, Agricultural Marketing Service.

[FR Doc. 79–15026 Filed 5–11–79; 8:45 am]
BILLING CODE 3410–02–M

DEPARTMENT OF ENERGY

10 CFR Part 218

Standby Mandatory International Oil Allocation

AGENCY: Department of Energy, Economic Regulatory Administration.

ACTION: Final Standby Rule.

SUMMARY: The Economic Regulatory Administration (ERA) of the Department of Energy (DOE) hereby adopts a rule to establish a standby mandatory international oil allocation program. The rule, authorized by section 251 of the Energy Policy and Conservation Act (EPCA), establishes a new Part 218 to enable the DOE to implement the obligations of the United States under Chapters III and IV of the Agreement on an International Energy Program during a severe international energy supply interruption. The rule provides for the international allocation of oil through issuance of supply orders by the DOE to firms subject to U.S. jurisdiction which are engaged in producing, transporting, refining, distributing, or storing petroleum. Supply orders would not be issued unless the voluntary international allocation of oil by oil companies contemplated by the International Energy Program failed adequately to respond to the supply interruption.

Section 251(b)(1) of the EPCA provides that the regulations adopted today cannot take effect unless the President:

(1) has transmitted such rule to Congress;

(2) has found that putting such rule into effect is required in order to fulfill obligations of the United States under the International Energy Program; and,

(3) has transmitted such finding to the Congress, together with a statement of the effective date and manner for exercise of such rule.

Because this rule establishes a standby program, and because the final rule is somewhat different from the rule proposed on February 10, 1978 (43 F.R. 6794, February 16, 1978), additional comments are hereby solicited.

DATES: Adopted May 7, 1979 in standby status. Further comments due by June 29, 1979, 4:30 p.m.

ADDRESS: All comments to: Department of Energy, Public Hearing Management, Room 2313, Docket No. ERA–R–78–7, 2000 M Street, N.W., Washington, D.C. 20461.

FOR FURTHER INFORMATION CONTACT:
William Webb, Office of Public Information, Economic Regulatory Administration, Room B–110, Washington, D.C. 20461, (202) 634–2170.

Jack M. Schick, Office of International Affairs, Room 5B–088, Forrestal Building, 1000 Independence Ave., N.W., Washington, D.C. 20585, (202) 252–6777.

Gerald P. Emmer, Office of Regulations and Emergency Planning, Economic Regulatory Administration, Room 2304, 2000 M Street, N.W., Washington, D.C. 20461 (202) 254–7200.

Martin S. Kaufman or Robert C. Goodwin, Jr., Office of General Counsel, Room 5116, 12th and Pennsylvania Ave., N.W., Washington, D.C. 20461 (202) 633–9380.

SUPPLEMENTARY INFORMATION:

I. Background
II. Discussion
1. Operative Provisions
2. Procedural and Enforcement Provisions
III. Additional Comments Requested

I. Background

On February 10, 1978, DOE issued a Notice of Proposed Rulemaking (43 F.R. 6794, February 16, 1978) which proposed a standby mandatory international oil allocation program, to implement United States obligations under the Agreement on an International Energy Program (IEP) (TIAS 8278) which the United States and 15 other nations signed November 18, 1974. The IEP established a system among the present 20 member nations to allocate equitably the IEA's available share of world crude oil supplies among the participating member nations during a severe supply interruption. The international oil allocation system established is administered by the International Energy Agency (IEA).

If an interruption does occur, each member country would submit to the IEA monthly estimates of supplies available for a five month period. The IEA would then calculate the share of supplies available to IEP participants which each IEA member is entitled to for the current allocation month based upon reference to historic oil consumption during a defined twelve month base period. A member country with oil supplies in excess of its share, as determined by the IEA, would have an "allocation obligation" to redirect that portion of its supplies deemed excess to IEA member countries with oil supplies less than their share, to fulfill their "allocation right". Each member country may obtain its share of available supplies by the voluntary action of 34 participating international

or national oil companies, who collectively account for approximately 60 percent of free world oil movement or, alternatively, by the actions of governments which would issue legal directives ordering oil companies to redirect supplies. Such directives are called suppiy orders in the United States.

The IEP emergency allocation system is implemented by three types of actions. Type I consists of each participating oil company voluntarily adjusting its own supply and distribution system or through normal commercial transactions with other oil companies balancing supplies to IEA member countries where it operates. Type II involves voluntary offers by oil companies to redirect oil shipments through transactions with other oil companies, coordinated by the Industry Supply Advisory Group (ISAG), which operates under the direction and supervision of the IEA. Type III takes place only if the IEA determines the voluntary actions of oil companies (Types I and II) do not result in a balancing of allocation rights and obligations. Type III consists of member governments ordering oil companies under their jurisdiction to sell oil to another member country to fulfill their allocation obligations. During allocation under the IEP, all three types of allocations may occur simultaneously. The regulation adopted provides for the issuance of supply orders to U.S. companies to sell oil in order to meet IEA determined U.S. allocation obligations (Type III) during activation of the IEP.

Section 251 of the EPCA authorizes promulgation of a rule that will enable the U.S. to fulfill its obligation to redirect supplies as specified in Chapters III and IV of the IEP. However, it further provides that the DOE may not exercise such authority unless the President:

(1) has transmitted such rule to Congress;

(2) has found that putting such rule into effect is required in order to fulfill obligations of the United States under the International Energy Program; and,

(3) has transmitted such finding to the Congress, together with a statement of the effective date and manner for exercise of such rule.

Subsequent to the issuance of the Notice of Proposed Rulemaking on February 10, 1978, a public hearing was held June 13, 1978 at which twelve of the 20 U.S. companies participating in the IEP provided oral or written comments, as did the Independent Gasoline Marketers Council, the Petrochemical Energy Group, the New England Power Company and a private citizen. Virtually all oil companies providing comments raised the same substantive objections to the proposed rulemaking.

The price rule did not provide for recovery of legitimate costs such as duties, tariffs, license fees, port fees, etc.

Transportation costs did not provide for real world costs during a supply interruption or costs associated with diversion or U.S. domestic shipments.

Acquisition costs did not provide for product shipments, third party or exchange purchases, royalty oil, equity oil, special purchase arrangements, U.S. domestic oil, etc.

Disallowance based on prior month averages is unrealistic.

A seller could be ordered to supply beyond his legal authority to do so, i.e., to an embargoed country, unsafe port, a port not permitted under charter terms, etc.

No one should have to comply without a prompt and fair administrative review process.

Suppliers may be subject to jurisdiction of more than one government.

Definition of person renders employees subject to penalties.

Non-oil company commenters generally addressed issues related to the IEP as opposed to the regulations proposed to implement U.S. government responsibilities under the IEP.

Discussion

A. *Operative Provision.* The rule adopted today would operate through DOE's issuance of supply orders. A supply order would specify the action to be taken by the firm to which it is issued. It is anticipated that supply orders would be issued primarily for the purpose of changing the destination or purchaser of oil owned or controlled by an oil company or owned or controlled by other firms within the jurisdiction of the United States when that oil is in transit to the United States or a foreign country, i.e., the redirection of such oil to another IEP member country rather than domestic allocation of crude oil and petroleum products which would be governed by the standby crude oil and product allocation regulations adopted in January 1979 (44 FR 3418, January 16, 1979, 44 FR 3928, January 18, 1979 of the Federal Register). The language in section 251 of the EPCA and of the rule permits the issuance of supply orders to accomplish international oil allocation in other ways.

In accordance with section 251 of the EPCA, the rule would apply to any firm engaged in producing, transporting, refining, distributing or storing oil which is subject to the jurisdiction of the United States. "Firm" is defined, as it is in other Department of Energy (DOE) regulations, to include, *inter alia,* individuals, companies and government bodies. "Oil" is defined to mean crude oil, residual fuel oil or any refined petroleum product (including any natural gas liquid and any natural gas liquid product). The rule would apply to any oil owned or controlled by firms subject to the rule, including any oil destined, directly or indirectly, for import into the United States or any foreign country, or produced in the United States.

Section 218.10(c) of the rule provides that a firm issued a supply order would not be required to sell, exchange or otherwise provide the oil specified in the order unless the firm to which the oil is to be supplied agrees in advance to submit any dispute to a mutually acceptable arbitration or other dispute settlement procedure. The provision is identical to that proposed. It received favorable comments.

Unlike this final rule, the proposed regulations contained a price rule, which would have established a "maximum allowable price", composed of the acquisition cost of the oil subject to the supply order, transportation costs computed using the "AFRA" method provided in 10 CFR § 212.85(d), and an additional amount of $0.25 per barrel. Acquisition cost was defined as the FOB price paid at the time of initial loading, net of any rebates or discounts. In addition, the proposed rule provided that DOE could disallow acquisition costs or transportation costs deemed excessive. The proposed rule provided for procedures to enable DOE to enforce the price rule, including issuance of Notice of Probable Violation or Interim Remedial Orders for Immediate Compliance.

Many of the comments asserted that the price provisions of the proposed rule were inequitable on several grounds. Some commenters stated that the use of costs at loading, as provided in the proposed rule, was unfair because it ignored acquisition of oil through complex multi-party transactions in which the acquisition cost of the firms receiving the supply order might well be substantially greater than the price at the port of loading. Another criticism expressed by several commenters was that the use of an "average acquisition cost" could work an injustice if the particular cargo diverted pursuant to a supply order were purchased at the end of a month in which prices were escalating rapidly, a distinct possibility

in a period of supply shortage. Some commenters also stated that while the additional amount of $0.25 per barrel might be reasonable at this time it might not be in the future and would not be for certain petroleum products. Oil companies generally commented that use of the AFRA rate for transportation costs was unjust, and urged use of the net cost method provided in 10 CFR § 212.85(c), particularly because vessels diverted pursuant to a supply order might have to steam longer distances than on normal point-to-point voyages.

The IEA is currently studying questions related to pricing during a supply emergency and a dispute settlement mechanism. These efforts of the IEA may affect any price rule which would be adopted, if one should prove advisable. In light of all the above mentioned considerations, we have deleted the price rule and the provisions for orders disallowing excess costs.

We do not believe that a pricing provision is essential to the operation of this rule so as to enable the United States to meet its present commitments under the IEP, although future developments could well make a price rule necessary or advisable. In the interim, until a decision on a price rule is taken, DOE has adopted the language of Article 10.1 of the IEP, prices of redirected oil should reflect those of comparable commercial transactions. If the IEA takes decisions which would require adoption of a price rule, or if we later come to believe that a price rule is otherwise necessary or appropriate, such a price mechanism can be added by amendment to the rule. A subpart has been reserved for this purpose.

The DOE anticipates that the prices charged for oil redirected by a supply order would be the result of negotiations between the party issued the supply order and the receiving party. Failing agreement by the parties, either through bilateral negotiation or IEA mediation, any price (or other) dispute arising from an oil transaction resulting from a supply order would be submitted to binding arbitration. We believe that until the IEA formally adopts a dispute settlement mechanism, Section 218.10(c), requiring agreement on a dispute settlement mechanism before the supply order need be carried out adequately protects both seller and purchaser.

The jurisdictional scope of the rule has not been changed. A number of oil companies asserted that they and their foreign affiliates could be subject to conflicting laws, regulations or orders during an allocation period. DOE recognizes this possibility. If the other governmental authority is an IEA member, any potential conflicts presumably will have been resolved by the IEA's Standing Group on Emergency Questions (SEQ), on which government representatives sit, or by the IEA Allocation Coordinator in the allocation process. If the governmental authority having conflicting laws or regulations is not an IEA member, DOE would take into account potential conflicts and attempt to accommodate the legitimate interests of the government involved and the oil company which is subject to the potentially conflicting orders. However, it would not be appropriate, nor would it be consistent with the purposes of the IEA and Section 251 of EPCA, if DOE were foreclosed from issuing supply orders in the face of conflicting requirements of a foreign government, particularly if an international oil supply interruption were political in origin, or was deemed detrimental to vital interests of the United States.

Some commenters objected to the inclusion of companies' "authorized representatives" as "persons" subject to the rule. The rule has been revised to apply to "firms" and companies' authorized representatives are not included within that definition. However, the procedural and enforcement provisions of the rule apply to "persons" and that term has been defined as it is in 10 CFR 205.2 to include companies' authorized representatives. Inclusion of this term in the procedural and enforcement provisions is consistent with the requirements of section 524 of the EPCA.

The DOE recognizes that the IEA may develop operational procedures to apply to governmental redirection of oil that are somewhat different than those applicable to voluntary oil company redirection of oil. Additionally, the possibility exists that a reporting system to facilitate issuance of supply orders may be established. Such procedural provisions could be added to the rule at a later date.

B. *Procedural and Enforcement Provisions.* A number of comments indicated that the administrative procedures set forth or incorporated by reference in the proposed rule were unduly complicated and time consuming. Because the price rule and the disallowance rule have been deleted from this final standby rule, we believe that it is possible to adopt a simple, one step administrative review procedure. This is consistent with the need to have supply orders complied with promptly, or reviewed promptly if challenged, so that mandatory allocation can be effectively implemented under the IEP. Therefore, we have replaced the procedures incorporated by reference to 10 CFR Part 205 in the proposed rule with administrative review of applications for modification or recision of a supply order under § 218.30, *et seq.* This will be a summary procedure, and would generally be completed within 20 business days from the issuance of a supply order, if review is sought. An order denying an application for review would be subject to judicial review.

In cases where immediate compliance with a supply order would cause irreparable harm, Section 218.33 provides for issuance of a stay pending determination of an application for review of the supply order. A stay would be granted in a very timely manner but would be in effect for no more than 30 days unless extended by the DOE.

Section 218.42 incorporates the criminal and civil sanctions made specifically applicable to Section 251 rules by Sections 524 and 525 of the EPCA. There would be a civil penalty of $5,000 for each violation of Part 218 or any order issued thereunder, with fines of up to $10,000 for each willful violation of Part 218 or any order issued thereunder.

Section 218.40, regarding investigations, has been changed to parallel the language in the recent amendments to 10 C.F.R. § 205.201 (44 F.R. 23199, April 19, 1979). Sections 218.41 and 218.43, regarding violations and injunctions, parallel the language of 10 C.F.R. §§ 205.202 and 205.204, respectively, and have not been changed from the proposed rule.

III. Additional Comments Requested

We recognize that the rule adopted today could have a significant impact on certain oil companies in the event it is activated. Although the rule is a standby rule subject to being activated immediately, it may not be activated until a future date. As indicated, this rule may be modified to reflect further developments in the IEA system. It is our intention to review this rule continuously prior to its activation with a view toward making additional changes, if appropriate. In this regard, the DOE and the IEA may conduct additional tests of the emergency allocation system. These tests could demonstrate the need for amendments to this standby rule and, if so, the changes will be made in the appropriate manner. Although this is a final rule, we are soliciting further written comments, through June 29, 1979, on all aspects of this rule, particularly on those provisions that represent modifications

controlled by the United States

actions specified therein relating to

writing and received by the firm to

of the proposed rule for the purpose of making any further amendments that may be appropriate. We are especially interested in receiving comments on the elimination, for the present, of the pricing rule and the elimination of the cost disallowance rule.

Comments should be submitted to the address indicated in the "Address" section of this preamble and should be indentified on the envelope with the designation "Standby Mandatory International Oil Allocation Program", Docket No. ERA-R-78-7. Fifteen copies should be submitted. All comments received by the ERA will be available for public inspection in the DOE Reading Room, Room GA-152, James Forrestal Building, 1000 Independence Avenue, S.W., between the hours of 8:00 a.m. and 4:30 p.m., Monday through Friday.

You should identify any information or data considered by you to be confidential and submit it in writing, one copy only. We reserve the right to determine the confidential status of the information or data and to treat it according to our determination.

In accord with Section 404 of the DOE Organization Act, the Federal Energy Regulatory Commission received a copy of the proposed rulemaking and did not determine that the proposed rulemaking would significantly affect any function within its jurisdiction pursuant to Section 204(a)(1), (b), and (c)(1) of the DOE Act.

We are adopting this rule immediately in standby status. In the event the rule is made effective, such action will be taken in accordance with the requirements set forth in Section 251(b)(1) of the Energy Policy and Conservation Act, Pub. L. 94-163, as amended.

(Federal Energy Administration Act of 1974, Pub. L. 93-275, as amended, Pub. L. 94-385, Energy Policy and Conservation Act, Pub. L. 94-163, as amended, Pub. L. 94-385; E.O. 11790, 39 FR 23185; Department of Energy Organization Act, Pub. L. 95-91; E.O. 12009, 42 FR 46267.)

In consideration of the foregoing, Part 218 is added to Chapter II of Title 10 of the Code of Federal Regulations as set forth below, on the day of issuance.

Issued in Washington, D.C. May 7, 1979.

David J. Bardin,
Administrator, Economic Regulatory Administration.

PART 218—STANDBY MANDATORY INTERNATIONAL OIL ALLOCATION

Subpart A—General Provisions

Sec.

218.1 Purpose and scope.
218.2 Activation/Deactivation.
218.3 Definitions.

Subpart B—Supply Orders

Sec.

218.10 Rule.
218.11 Supply orders.

[Subpart C—Reserved]

Subpart D—Procedures

218.30 Purpose and scope.
218.31 Incorporated procedures.
218.32 Review.
218.33 Stay.
218.34 Addresses.

Subpart E—Investigations, Violations, Sanctions and Judicial Actions

218.40 Investigations.
218.41 Violations.
218.42 Sanctions.
218.43 Injunctions.

Authority: Emergency Petroleum Allocation Act of 1973, 15 U.S.C. 751 *et seq.*, Pub. L. 93-159, as amended, Pub. L. 93-511, Pub. L. 94-99, Pub. L. 94-133, Pub. L. 94-163, and Pub. L. 94-385; Federal Energy Administration Act of 1974, 15 U.S.C. 787 *et seq.*, Pub. L. 93-275, as amended, Pub. L. 94-332, Pub. L. 94-385, Pub. L. 95-70, and Pub. L. 95-91; Energy Policy and Conservation Act, 42 U.S.C. 6201 *et seq.*, Pub. L. 94-163, as amended, Pub. L. 94-385, and Pub. L. 95-70; Department of Energy Organization Act, 42 U.S.C. 7101 *et seq.*, Pub. L. 95-91; E.O. 11790, 39 FR 23185; E.O. 12009, 42 FR 46267.

Subpart A—General Provisions

§ 218.1 Purpose and scope.

(a) This part implements section 251 of the Energy Policy and Conservation Act (Pub. L. 94-163) (42 U.S.C. § 6271), as amended, which authorizes the President to take such action as he determines to be necessary for performance of the obligations of the United states under Chapters III and IV of the Agreement on an International Energy Program (TIAS 8278), insofar as such obligations relate to the mandatory international allocation of oil by International Energy Program participating countries.

(b) *Applicability.* This part applies to any firm engaged in producing, transporting, refining, distributing or storing oil which is subject to the jurisdiction of the United States.

§ 218.2 Activation/Deactivation.

(a) This rule shall take effect providing:

(1) The International Energy Program has been activated; and,

(2) The President has transmitted this rule to Congress, has found putting such rule into effect is required in order to fulfill obligations of the United States under the International Energy Program and has transmitted such a finding to the Congress together with a statement of the effective date and manner for exercise of such rule.

(b) This rule shall revert to standby status no later than 60 days after the deactivation of the emergency allocation system activated to implement the International Energy Program.

§ 218.3 Definitions.

"DOE" means the Department of Energy established by the Department of Energy Organization Act (Pub. L. 95-91), and includes the Secretary of Energy or his delegate.

"EPCA" means the Energy Policy and Conservation Act (Pub. L. 94-163), as amended.

"Firm" means any association, company, corporation, estate, individual, joint-venture, partnership, or sole proprietorship or any other entity however organized including charitable, educational, or other eleemosynary institutions, and the Federal Government including corporations, departments, Federal agencies, and other instrumentalities, and State and local governments. The ERA may, in regulations and forms issued in this part, treat as a firm: (a) A parent and the consolidated and unconsolidated entities (if any) which it directly or indirectly controls, (b) a parent and its consolidated entities, (c) an unconsolidated entity, or (d) any part of a firm.

"IEA" means the International Energy Agency established to implement the IEP.

"IEP" means the International Energy Program established pursuant to the Agreement on an International Energy Program signed at Paris, France, on November 18, 1974, including (a) the Annex entitled "Emergency Reserves", (b) any amendment to such Agreement that includes another nation as a Party to such Agreement, and (c) any technical or clerical amendment to such Agreement.

"International energy supply emergency" means any period (a) beginning on any date that the President determines allocation of petroleum products to nations participating in the IEP is required by Chapters III and IV of the IEP and (b) ending on a date on which he determines such allocation is no longer required.

"Oil" means crude oil, residual fuel oil, unfinished oil, refined petroleum product and natural gas liquids, which is owned or controlled by a firm, including any petroleum product destined, directly or indirectly, for import into the United States or any foreign country, or produced in the United States but excludes any oil stored in or owned and controlled by the United States Government in connection with the Strategic Petroleum Reserve authorized in section 151, *et seq.*, of the Energy Policy and Conservation Act (Pub.L. 94-163).

"Person" means any individual, firm, estate, trust, sole proprietorship, partnership, association, company, joint-venture, corporation, governmental unit or instrumentality thereof, or a charitable, educational or other institution, and includes any officer, director, owner or duly authorized representative thereof.

"Supply order" means a written directive or a verbal communication of a written directive, if promptly confirmed in writing, issued by the DOE pursuant to Subpart B of this Part.

"United States" when used in the geographic sense means the several States, the District of Columbia, Puerto Rico, and the territories and possessions of the United States, and the outer continental shelf as defined in 43 U.S.C. 1331.

Subpart B—Supply Orders

§ 218.10 Rule.

(a) Upon the determination by the President that an international energy supply emergency exists, firms engaged in producing, transporting, refining, distributing, or storing oil shall take such actions as are determined by the DOE to be necessary for implementation of the obligations of the United States under Chapters III and IV of the IEP that relate to the mandatory international allocation of oil by IEP participating countries.

(b) Any actions required in accordance with paragraph (a) of this section shall be stated in supply orders issued by DOE.

(c) No firm to which a supply order is issued shall be required to comply with such order unless the firm to which the oil is to be provided in accordance with such supply order has agreed to a procedure for the resolution of any dispute related to the terms and conditions of the sale undertaken pursuant to the supply order. The means for resolving any such disputes may include any procedures that are mutally acceptable to the parties, including arbitration before the IEA if the IEA has established arbitration procedures, arbitration or adjudication before an appropriate body, or any other similar procedure.

§ 218.11 Supply orders.

(a) A supply order shall require that the firm to which it is issued take actions specified therein relating to supplying the stated volume of oil to a specified recipient including, but not limited to, distributing, producing, storing, transporting or refining oil. A supply order shall include a concise statement of the pertinent facts and of the legal basis on which it is issued, and shall describe the action to be taken.

(b) The DOE shall serve a copy of the supply order on the firm directed to act as stated therein.

(c) The DOE may modify or rescind a supply order on its own motion or pursuant to an application filed in accordance with § 218.32 of this Part.

(d) A supply order shall be effective in accordance with its terms, and when served upon a firm directed to act thereunder, except that a supply order shall not remain in effect (1) upon reversion of this rule to Standby status or (2) twelve months after the rule has been transmitted to Congress (whichever occurs first) or (3) to the extent that DOE or a court of competent jurisdiction directs that it be stayed, modified, or rescinded.

(e) Any firm issued a supply order pursuant to this subpart may seek modification or recission of the supply order in accordance with procedures provided in § 218.32 of this part.

§ 218.12 Pricing.

The price for oil subject to a supply order issued pursuant to this subpart shall be based on the price conditions prevailing for comparable commercial transactions at the time the supply order is served.

[Subpart C—Reserved]

Subpart D—Procedures

§ 218.30 Purpose and scope.

This subpart establishes the administrative procedures applicable to supply orders. They shall be exclusive of any other procedures contained in this chapter, unless such other procedures are specifically made applicable hereto by this subpart.

§ 218.31 Incorporated procedures.

The following subparts of Part 205 of this chapter are, as appropriate, hereby made applicable to this part:

(a) *Subpart A*—General Provisions; *Provided,* that § 205.11 shall not apply; *and Provided further,* that in addition to the methods of service specified in § 205.7 of this chapter, service shall be effective if a supply order is transmitted by telex, telecopies or other similar means of electronic transmission of a writing and received by the firm to which the supply order is addressed.

(b) *Subpart F*—Interpretation

(c) *Subpart K*—Rulings

(d) *Subpart M*—Conferences, Hearings and Public Hearings

§ 218.32 Review.

(a) *Purpose and scope.* This subpart establishes the procedures for the filing of an application for review of a supply order. An application for review is a summary proceeding which will be initiated only if the critieria described in paragraph (g)(2) of this section are satisfied.

(b) *What to file.* (1) A firm filing under this subpart shall file an "Application for Review" which should be clearly labeled as such both on the application and on the outside of the envelope in which the application is transmitted, and shall be in writing and signed by the firm filing the application. The applicant shall comply with the general filing requirements stated in 10 CFR § 205.9 in addition to the requirements stated in this section.

(2) If the applicant wishes to claim confidential treatment for any information contained in the application or other documents submitted under this subpart, the procedures set out in 10 CFR 205.9(f) shall apply.

(c) *When to file.* An application for review should be filed no later than 5 days after the receipt by the applicant of the supply order that is the subject of the application, or no later than 2 days after the occurrence of an event that results in a substantial change in the facts or circumstances affecting the applicant.

(d) *Where to file.* The application for review shall be filed with DOE Office of Hearings and Appeals (OHA), 2000 M Street, NW., Washington, D.C. 20461.

(e) *Notice.* The applicant shall send by United States mail or deliver by hand a copy of the application and any subsequent amendments or other documents relating to the application to the Administrator of the Economic Regulatory Administration of DOE, 2000 M Street, NW., Washington, D.C. 20461. Service shall be made on the ERA at same time the document is filed with OHA and each document filed with the OHA shall include certification that the applicant has complied with the requirements of this paragraph.

(f) *Contents.* (1) The application shall contain a full and complete statement of all relevant facts pertaining to the application and to the DOE action sought. Such facts shall include a complete statement of the business or other reasons that justify review of the

supply order and a full description of the

order shall become a final order of the

circumstances which support the

subject matter to be investigated as fully

(2) Any person who willfully violates

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supply order and a full description of the pertinent provisions and relevant facts contained in any relevant documents. Copies of all contracts, agreements, leases, instruments, and other documents relevant to the application shall be submitted with the application. A copy of the order of which review is sought shall be included with the application. When the application pertains to only one step of a larger integrated transaction, the facts, circumstances, and other relevant information pertaining to the entire transaction shall be submitted.

(2) The application shall include a discussion of all relevant authorities, including, but not limited to, FEA and DOE rulings, regulations, interpretations and decisions on appeal and exception relied upon to support the action sought therein.

(g) *DOE evaluation.* (1) *Processing.* (i) The DOE may initiate an investigation of any statement in an application and utilize in its evaluation any relevant facts obtained by such investigation. The DOE may solicit and accept submissions from third parties relevant to any application for review provided that the applicant is afforded an opportunity to respond to all third party submissions. In evaluating an application for review, the DOE may convene a conference, on its own initiative, if, in its discretion, it considers that a conference will advance its evaluation of the application.

(ii) If the DOE determines that there is insufficient information upon which to base a decision and if upon request the necessary additional information is not submitted, the DOE may dismiss the application without prejudice. If the failure to supply additional information is repeated or willful, the DOE may dismiss the application with prejudice. If the applicant fails to provide the notice required by paragraph (e) of this section, the DOE may dismiss the application without prejudice.

(iii) An order dismissing an application for any of the reasons specified in paragraph (g)(1)(ii) of this section shall contain a statement of the grounds for the dismissal. The order shall become final within 5 days of its service upon the applicant, unless within such 5-day period the applicant files an amendment correcting the deficiencies identified in the order. Within 5 days of the filing of such amendment, the DOE shall notify the applicant whether the amendment corrects the specified deficiencies. If the amendment does not correct the deficiencies specified in the order, the order shall become a final order of the DOE of which the applicant may seek judicial review.

(2) An application for review of an order shall be processed only if the applicant demonstrates that—

(i) There is probable cause to believe that the supply order is erroneous, inequitable, or unduly burdensome, or

(ii) There has been discovered a law, regulation, interpretation, ruling, order or decision that was in effect at the time of the application which, if it had been made known to the DOE, would have been relevant to the supply order and would have substantially altered the supply order; or

(iii) There has been a substantial change in the facts or circumstances affecting the applicant, which change has occurred during the interval between issuance of the supply order and the date of the application and was caused by forces or circumstances beyond the control of the applicant.

(h) *Decision.* (1) Upon consideration of the application and other relevant information received or obtained during the proceeding, the DOE shall issue an order granting or denying the modification or recission of the supply order requested in the application for review.

(2) The DOE shall process applications for review as expeditiously as possible. When administratively feasible, the DOE shall issue an order granting or denying the application within 20 business days after receipt of the application.

(3) The order shall include a written statement setting forth the relevant facts and the legal basis of the order. The order shall state that it is a final order of which the applicant may seek judicial review.

(4) The DOE shall serve a copy of the order upon the applicant and any other party who participated in the proceeding.

§ 218.22 Stay.

(a) The DOE may issue an order granting a stay if the DOE determines that an applicant has made a compelling showing that it would incur serious and irreparable injury unless immediate stay relief is granted pending determination of an application for review pursuant to this subpart. An application for a stay shall be labeled as such on the application and on the outside of the envelope in which the application is transmitted, and shall be in writing and signed by the firm filing the application. It shall include a description of the proceeding incident to which the stay is being sought and of the facts and circumstances which support the applicant's claim that it will incur irreparable injury unless immediate stay relief is granted. The applicant shall comply with the general filing requirements stated in 10 CFR 205.9 in addition to the requirements stated in this section. The DOE on its own initiative may also issue an order granting a stay upon a finding that a firm will incur irreparable injury if such an order is not granted.

(b) An order granting a stay shall expire by its terms within such time after issuance, not to exceed 30 days as the DOE specifies in the order, except that it shall expire automatically 5 days following its issuance if the applicant fails within that period to file an application for review unless within that period the DOE for good cause shown, extends the time during which the applicant may file an application for review.

(c) The order granting or denying a stay is not an order of the DOE subject to administrative review.

§ 218.34 Addresses.

All correspondence, petitions, and any information required by this part shall be submitted to: Administrator, Economic Regulatory Administration, Department of Energy, 2000 M Street, NW., Washington, D.C. 20461, and to the Director, Office of Hearings and Appeals, Department of Energy, 2000 M Street, NW., Washington, D.C. 20461.

Subpart E—Investigations, Violations, Sanctions and Judicial Actions

§ 218.40 Investigations.

(a) The DOE may initiate and conduct investigations relating to the scope, nature and extent of compliance by any person with the rules, regulations or statutes of the DOE or any order promulgated by the DOE under the authority of section 251 of EPCA, or any court decree.

(b) Any duly designated and authorized representative of DOE has the authority to conduct an investigation and to take such action as he deems necessary and appropriate to the conduct of the investigation including any action pursuant to § 205.8.

(c) There are no parties, as that term is used in adjudicative proceedings, in an investigation under this Subpart, and no person may intervene or participate as a matter of right in any investigation under this Subpart.

(d) Any person may request the DOE to initiate an investigation pursuant to subsection (a) of this section. A request for an investigation shall set forth the subject matter to be investigated as fully as possible and include supporting documentation and information. No particular forms or procedures are required.

(e) Any person who is requested to furnish documentary evidence or testimony in an investigation, upon written request, shall be informed of the general purpose of the investigation.

(f) DOE shall not disclose information or documents that are obtained during any investigation unless (1) DOE directs or authorizes the public disclosure of the investigation; (2) the information or documents are a matter of public record; or (3) disclosure is not precluded by the Freedom of Information Act, 5 U.S.C. 552 and 10 CFR Part 1004.

(g) During the course of an investigation any person may submit at any time any document, statement of facts or memorandum of law for the purpose of explaining the person's position or furnish evidence which the person considers relevant to a matter under investigation.

(h) If facts disclosed by an investigation indicate that further action is unnecessary or unwarranted, the investigative file may be closed without prejudice to further investigation by the DOE at any time that circumstances so warrant.

§ 218.41 Violations.

Any practice that circumvents, contravenes or results in the circumvention or contravention of the requirements of any provision of this Part 218 or any order issued pursuant thereto is a violation of the DOE regulations stated in this part and is unlawful.

§ 218.42 Sanctions.

(a) *General.* Any person who violates any provisions of this Part 218 or any order issued pursuant thereto shall be subject to penalties and sanctions as provided herein.

(1) The provisions herein for penalties and sanctions shall be deemed cumulative and not mutually exclusive.

(2) Each day that a violation of the provisions of this Part 218 or any order issued pursuant thereto continues shall be deemed to constitute a separate violation within the meaning of the provisions of this part relating to fines and civil penalties.

(b) *Penalties.* (1) Any person who violates any provision of Part 218 of this chapter or any order issued pursuant thereto shall be subject to a civil penalty of not more than $5,000 for each violation.

(2) Any person who willfully violates any provision of this Part 218 or any order issued pursuant thereto shall be subject to a fine of not more than $10,000 for each violation.

(3) Any person who knowingly and willfully violates any provision of this Part 218 or any order issued pursuant thereto with respect to the sale, offer of sale, or distribution in commerce of oil after having been subject to a civil penalty under subparagraphs (1) or (2) of this paragraph (b) for a prior violation of the provisions of this Part 218 or any order issued pursuant thereto with respect to the sale, offer of sale, or distribution in commerce of oil shall be subject to a fine of not more than $50,000 or imprisonment for not more than six months, or both, for each violation.

(4) Actions for penalties under this section are prosecuted by the Department of Justice upon referral by the DOE.

(5) When the DOE considers it to be appropriate or advisable, the DOE may compromise and settle any action under this paragraph, and collect civil penalties.

(c) *Other Penalties.* Willful concealment of material facts, or making of false, fictitious or fraudulent statements or representations, or submission of a document containing false, fictitious or fraudulent statements pertaining to matters within the scope of this Part 218 by any person shall subject such persons to the criminal penalties provided in 18 U.S.C. 1001 (1970).

§ 218.43 Injunctions.

Whenever it appears to the DOE that any firm has engaged, is engaging, or is about to engage in any act or practice constituting a violation of any regulation or order issued under this Part 218, the DOE may request the Attorney General to bring a civil action in the appropriate district court of the United States to enjoin such acts or practices and, upon a proper showing, a temporary restraining order or a preliminary or permanent injunction shall be granted without bond. The relief sought may include a mandatory injunction commanding any firm to comply with any provision of such order or regulation, the violation of which is prohibited by section 524 of the EPCA.

[Docket No. ERA-R-78-7]

[FR Doc. 79-14027 Filed 5-9-79; 1:04 pm]

BILLING CODE 6450-01-M

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

14 CFR Part 39

Airworthiness Directives; Ayres Corporation, Model S-2D, S-2R

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Final rule.

SUMMARY: This amendment adopts a new airworthiness directive (AD) which requires repetitive visual inspections of those airplanes having an installed rudder assembly with only a single upper hinge, and the modification or replacement of that rudder assembly, if necessary. This AD is prompted by three reports of failures of the single upper hinge rudder which could have resulted in the loss of the airplane directional control. This AD does not apply to S-2D and S-2R airplanes which have installed a rudder assembly with three upper hinges.

DATES: Effective May 23, 1979. Compliance schedule as prescribed in body of AD.

ADDRESSES: Service Bulletin No. SB-AG-15 and Custom Kit Instructions No. CK-AG-18 may be obtained from Ayres Corporation, P.O. Box 1748, Albany, Georgia 31706, telephone (912) 883-1440. Copies of the Service Bulletin and the Custom Kit Instructions are also located in Room 275, Engineering and Manufacturing Branch, FAA, Southern Region, 3400 Whipple Street, East Point, Georgia.

FOR FURTHER INFORMATION CONTACT: Don Buckley, Aerospace Engineer, Engineering and Manufacturing Branch, Flight Standards Division, FAA, P.O. Box 20636, Atlanta, Georgia 30320, telephone (404) 763-7407.

SUPPLEMENTARY INFORMATION: There have been three reports of the single upper hinge separating from the rudder main spar. Two of these failures caused a structural failure of the upper rudder assembly which resulted in the partial loss of directional control on Ayres S-2R airplanes. Since this condition is likely to exist or develop on other airplanes of the same type design, an AD is being issued which requires repetitive visual inspections of those S-2D and S-2R airplanes having an installed rudder assembly with only a single upper hinge and the modification of that rudder assembly to a three upper hinge configuration or the replacement of that rudder assembly with a new rudder assembly having three upper hinges, if necessary.

14 CFR Part 39

Approved Airplane Flight Manual

Since a situation exists that requires the immediate adoption of this regulation, it is found that notice and public procedure hereon are impracticable and good cause exists for making this amendment effective in less than 30 days.

Adoption of the Amendment

Accordingly, pursuant to the authority delegated to me by the Administrator, § 39.13 of Part 39 of the Federal Aviation Regulations (14 CFR 39.13) is amended by adding the following new Airworthiness Directive (AD):

Ayres Corporation (Formerly Rockwell International and Snow Aeronautical Company): Applies to all Ayres S–2D and S–2R airplanes certificated in all categories having installed the rudder assembly with the single upper hinge (P/N 54030–87). This AD does not apply to S–2D and S–2R airplanes which have installed a rudder assembly with three upper hinges.

Compliance is required as indicated unless already accomplished.

To prevent the possible separation of the single upper hinge from the rudder assembly and consequent possible loss of airplane directional control, accomplish the following:

Within 10 hours' time in service after the effective date of this AD, and at intervals not to exceed 100 hours' time in service and thereafter on all S–2D and S–2R airplanes having an installed rudder assembly with a single upper hinge (P/N 54030–87), perform the visual repetitive inspection in accordance with procedures listed in paragraph 1.

1. Inspection Procedures

(a) Remove rudder assembly from airplane. Remove rudder as outlined in the Ayres (Thrush) Maintenance Manual, Section VII.

(b) Strip fabric and dope from area around upper hinge to facilitate the inspection as shown in Figure 1.

(c) Inspect with 10 power magnification in and around weld bead on upper hinge for cracks as shown in Figure 1.

(d) If cracks are discovered, comply with paragraph 2. If no cracks are discovered, comply with paragraph 3.

2. Action required if cracks are discovered

If a crack or cracks are detected in the area of the upper hinge, accomplish any one of the available options listed below:

(a) Replace the rudder assembly having the single upper hinge (P/N 54030–87) with the rudder assembly having triple upper hinges (P/N 54030–987) prior to further flight.

(b) Modify the single upper hinge rudder assembly in accordance with Ayres Custom Kit No. CK–AG–18 prior to further flight.

(c) Replace the cracked single upper hinge rudder assembly with an airworthy single upper hinge rudder assembly prior to further flight and continue the paragraph 1. inspection at intervals not to exceed 100 hours' time in service.

(d) Repair the single upper hinge rudder assembly in accordance with the procedures of Advisory Circular (AC) 43.13–1A, Chapter 2, prior to further flight and continue the paragraph 1. inspection at intervals not to exceed 100 hours' time in service.

3. Action required if cracks are not discovered

Continue the paragraph 1. inspection at intervals not to exceed 100 hours' time in service unless options (a) or (b) of paragraph 2. are accomplished. If accomplished, the repetitive inspections may then be discontinued.

Ayres Service Bulletin SB–AG–15 also pertains to this subject.

Compliance with the provisions of this AD may be accomplished in an equivalent manner approved by the Chief, Engineering and Manufacturing Branch, FAA, Southern Region.

This amendment is effective May 23, 1979.

(Sec. 313(a), 601, and 603, Federal Aviation Act of 1958, as amended (49 U.S.C. 1354(a), 1421, and 1423); Sec. 6(c), Department of Transportation Act (49 U.S.C. 1655(c)); 14 CFR 11.89.)

Issued in East Point, Georgia, on May 2, 1979.

George R. La Caille,
Acting Director, Southern Region.

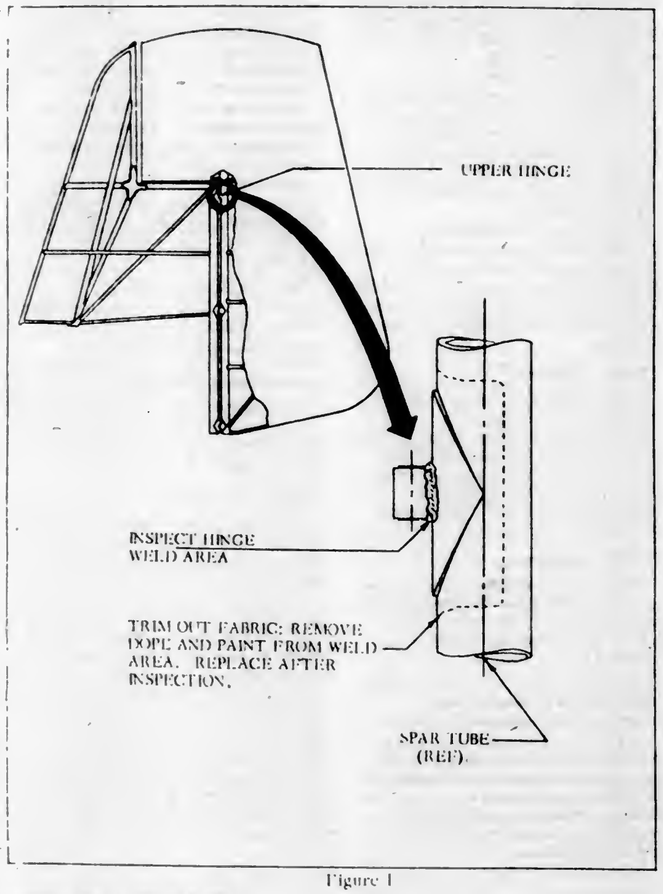


Figure 1

[Docket No. 79–SO–31; Amdt. No. 39–3469]
[FR Doc. 79–15003 Filed 5–11–79; 8:45 am]
BILLING CODE 4910–13–M

14 CFR Part 39

Airworthiness Directives; Cessna Model 441 Airplanes

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Final rule.

SUMMARY: This amendment adopts a new Airworthiness Directive (AD), applicable to Cessna Model 441 airplanes. The AD requires the incorporation of a revision to the Pilot's Operating Handbook and FAA-Approved Airplane Flight Manual which deletes authorization to use grades 80 and 100LL aviation fuel. This action is necessary to assure that the engines installed in these airplanes will produce the rated takeoff power necessary to meet flight manual performance data. Failure of the airplane to meet this performance data could result in an accident.

EFFECTIVE DATE: May 21, 1979 to all persons except those to whom it has already been made effective by airmail letter from the FAA dated April 5, 1979. Compliance: Prior to further flight.

ADDRESSES: Cessna Propjet (Customer Care) Service Information Letter Number PJ 79–8, dated April 2, 1979, applicable to this AD, may be obtained from Cessna Aircraft Company, Marketing Division, Attention: Customer Service Department, Wichita, Kansas 67201; Telephone (316) 685–9111. A copy of the Service Letter is contained in the Rules Docket, Office of the Regional Counsel, Room 1558, 601 East 12th Street, Kansas City, Missouri 64106 and at Room 916, 800 Independence Avenue, SW., Washington, D.C. 20591.

FOR FURTHER INFORMATION CONTACT: Donald L. Page, Aerospace Engineer, Engineering and Manufacturing Branch, Federal Aviation Administration, Central Region, 601 East 12th Street, Kansas City, Missouri 64106, Telephone (816) 374–3146.

SUPPLEMENTARY INFORMATION: The manufacturer determined during a test program that the engines installed in Cessna Model 441 airplanes may not develop rated takeoff power when operating on grades 80 or 100LL aviation gasoline. These fuels are presently approved in the Model 441 Pilot's Operating Handbook and FAA-Approved Airplane Flight Manual. Operation of the airplane on these fuels may result in the airplane being unable to meet approved flight manual performance data and could result in an accident. The manufacturer has issued Revision 5 to the Model 441 Pilot's Operating Handbook and FAA-Approved Airplane Flight Manual which deletes authorization to use grades 80 and 100LL aviation fuel. The FAA determined that this is an unsafe condition that could exist or develop in other airplanes of the same type design. Accordingly, AD action was warranted. It was also determined that an emergency condition existed, that immediate corrective action was required and that notice and public procedure thereon was impractical and contrary to the public interest. Therefore, the FAA notified all known registered owners of the airplanes affected by this AD by airmail letter dated April 5, 1979. The AD became effective as to these individuals upon receipt of this letter. Since the unsafe condition described herein may still exist on other Cessna Model 441 airplanes, the AD is being published in the **Federal Register** as an amendment to Part 39 of the Federal Aviation Regulations (14 CFR Part 39) to make it effective to all persons who did not receive the letter notification.

Adoption of the Amendment

Accordingly, pursuant to the authority delegated to me by the Administrator, Section 39.13 of the Federal Aviation Regulations (14 CFR Section 39.13) is amended by adding the following new Airworthiness Directive.

Cessna: Applies to Model 441 (S/N's 441–0001 through 441–0097) airplanes.

Compliance: Required as indicated unless already accomplished.

To preclude accidents resulting from the inability of the airplane to meet flight manual performance data, prior to further flight, accomplish the following:

(A) Install Revision 5 dated March 26, 1979, in the Pilot's Operating Handbook and FAA-Approved Airplane Flight Manual and operate the airplane in accordance with this revision.

(B) The airplane may be flown to a location where Paragraph A can be accomplished, provided it is not operated with aviation fuel grades 80 or 100LL.

(C) Any equivalent method of compliance with this AD must be approved by the Chief, Engineering and Manufacturing Branch, FAA, Central Region. Cessna Propjet Customer Care Service Information Letter PJ 79–8 dated April 2, 1979, covers the subject matter of this AD.

This amendment becomes effective on May 21, 1979 to all persons except those to whom it has already been made effective by an airmail letter from the FAA dated April 5, 1979.

(Secs. 313(a), 601 and 603 of the Federal Aviation Act of 1958, as amended (49 U.S.C. 1354(a), 1421 and 1423); Sec. 6(c) Department of Transportation Act (49 U.S.C. 1655(c)); Sec. 11.89 of the Federal Aviation Regulations (14 CFR Sec. 11.89).)

Note.—The FAA has determined that this document involves a regulation which is not significant under Executive Order 12044, as implemented by Department of Transportation Regulatory Policies and Procedures (44 FR 11034; February 26, 1979). A copy of the final evaluation prepared for this document is contained in the docket. A copy of it may be obtained by writing to Donald L. Page, Aerospace Engineer, Engineering and Manufacturing Branch, Federal Aviation Administration, Central Region, 601 East 12th Street, Kansas City, Missouri 64106, Telephone (816) 374–3146.

Issued in Kansas City, Missouri on May 4, 1979.

C. R. Melugin, Jr.,
Director, Central Region.

[Docket No. 79–CE–7–AD; Amdt. 39–3470]
[FR Doc. 79–15005 Filed 5–11–79; 8:45 am]
BILLING CODE 4910–13–M

14 CFR Part 39

Airworthiness Directives; EMBRAER, Model EMB–110P1

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Final rule.

SUMMARY: A telegraphic airworthiness directive (AD) was adopted on April 30, 1979, and made effective immediately upon receipt of the telegram to all known operators of EMBRAER Model EMB–110P1 airplanes. The directive required inspection of the FAFNIR Part No. SBS6ATC18–Z bearings installed in the flight control trim tab assemblies of the EMB–110P1 airplanes. The AD was needed to correct seizing or other irregularities of the bearings installed in the terminals of the control rods of the elevator, rudder and aileron trim tab

was required because failures of the

by adding the following new

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control systems, in the trim tab actuator shaft eyelets, and aileron trim tab bellcrank.

DATES: This amendment is effective May 18, 1979, and was effective upon receipt for all recipients of the April 30, 1979, telegram.

FOR FURTHER INFORMATION CONTACT: Jack Bentley, Aerospace Engineer, FAA, Southern Region, P.O. Box 20636, Atlanta, Georgia 30320, telephone (404) 763–7407.

SUPPLEMENTARY INFORMATION: There have been reports of seizing of the FAFNIR P/N SBS6ATC18–Z bearings installed in the flight control trim tab assemblies which could cause failure of the control rods of EMBRAER Model EMB–110P1 airplanes. Since this condition is likely to exist or develop on other airplanes of the same type design, a telegraphic AD was issued on April 30, 1979, which required inspection of the FAFNIR P/N SBS6ATC18–Z bearings installed in the terminals of the control rods of the elevator, rudder and aileron trim tab control systems, in the trim tab actuator shaft eyelets, and aileron trim tab bellcrank.

Since a situation existed that required immediate corrective action, it was found that notice and public procedure thereon were impractical and contrary to the public interest, and good cause existed for making the AD effective immediately to all known operators of EMBRAER Model EMB–110P1 airplanes. This condition still exists and the telegraphic AD is hereby published in the Federal Register.

Adoption of the Amendment

Accordingly, pursuant to the authority delegated to me by the Administrator, § 39.13 of Part 39 of the Federal Aviation Regulations (14 CFR 39.13) is amended by adding the following new airworthiness directive:

EMBRAER: Applies to all Model EMB–110P1 airplanes, certificated in all categories.

Within 25 hours time in service from the effective date of this AD, unless already accomplished, and thereafter at intervals not to exceed 500 hours time in service, with the attachment bolts disconnected, manually inspect for seizing or other irregularities, all the FAFNIR P/N SBS6ATC18–Z bearings installed in the terminals of the control rods of the elevator, rudder, and aileron trim tab control systems, trim tab actuator shaft eyelets, and aileron trim tab bellcrank. If seizing or other irregularities are found, replace with a new part of the same part number, and continue the inspections at intervals not to exceed 500 hours time in service.

Compliance with the provisions of this AD may be accomplished in an equivalent manner approved by the Chief, Engineering and Manufacturing Branch, FAA, Southern Region.

This amendment becomes effective May 18, 1979.

(Secs. 313(a), 601, and 603, Federal Aviation Act of 1958, as amended (49 U.S.C. 1354(a), 1421, and 1423); Sec. 6(c), Department of Transportation Act (49 U.S.C. 1655(c)); 14 CFR 11.89)

Issued in East Point, Georgia, on May 2, 1979.

George R. La Caille,
Acting Director, Southern Region.

[Docket No. 79–SO–34; Amdt. No. 39–3468]
[FR Doc. 79–15004 Filed 5–11–79; 8:45 am]
BILLING CODE 4910–13–M

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14 CFR Part 39

Airworthiness Directives; McDonnell Douglas Model DC–9 and C–9 Series Airplanes

AGENCY: Federal Aviation Administration (FAA) DOT.

ACTION: Final rule.

SUMMARY: This amendment amends an existing Airworthiness Directive (AD) applicable to McDonnell Douglas DC–9 airplanes by increasing the calendar month of repetitive inspection intervals specified in the original AD. This revision is considered appropriate and consistent with the inspection program intended by the original AD. Further, the FAA has determined that the compliance times for repetitive inspections of the fuselage frames covered by this subject AD may be safely extended, thus relieving a burden.

DATES: Effective May 18, 1979. Compliance schedule—As prescribed in the body of the AD.

FOR FURTHER INFORMATION CONTACT: Jerry Presba, Executive Secretary, Airworthiness Directive Review Board, Federal Aviation Administration, Western Region, P.O. Box 92007, World Way Postal Center, Los Angeles, California 90009. Telephone: (213) 536–6351.

SUPPLEMENTARY INFORMATION: This Notice amends Amendment 39–3176 (43 FR 14440) AD 78–7–5. After issuing the AD, and after evaluating the results of the operators' inspections and past service experience, the Federal Aviation Administration has determined that the calendar month repetitive inspection intervals specified in the AD can be increased without adversely affecting safety. Therefore, the AD is being amended to provide for an increase in the calendar month repetitive inspection intervals. Editorial changes revising "flight hours" to "hours' time in service" are also incorporated.

Since this amendment relieves a restriction and imposes no additional burden on any person, notice of public procedure hereon is unnecessary and the amendment may be made effective in less than thirty (30) days.

Adoption of the Amendment

Accordingly, pursuant to the authority delegated to me by the Administrator, § 39.13 of Part 39 of the Federal Aviation Regulations (14 CFR 39.13) is amended, by further amending Amendment 39–3176 (43 FR 14440) AD–78–7–5 as follows:

(1) Amend paragraphs (a), (b), and (d)(1) to read in pertinent part as follows:

"• • • 8,000 hours' time in service or 37 calendar months, • • •"

(2) Amend paragraph (e)(1) to read in pertinent part as follows:

"• • • 3,400 hours' time in service • • •"

(3) Amend paragraph (e)(2) to read in pertinent part as follows:

"• • • 1,700 hours' time in service • • •"

Amendment 39–3176 became effective April 6, 1978.

This amendment becomes effective May 18, 1979.

(Secs. 313(a), 601, and 603, Federal Aviation Act of 1958, as amended (49 U.S.C. 1354(a), 1421, and 1423); sec. 6(c) Department of Transportation Act (49 U.S.C. 1655(c)); and 14 CFR 11.89.)

Issued in Los Angeles, California on May 2, 1979.

Benjamin Demps, Jr.,
Acting Director, FAA Western Region.

[Docket No. 77–WE–17–AD; Amdt. 39–3467]
[FR Doc. 79–14687 Filed 5–11–79; 8:45 am]
BILLING CODE 4910–13–M

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14 CFR Part 39

Airworthiness Directives; Hughes Helicopters Model 369D Helicopters

AGENCY: Federal Aviation Administration (FAA) DOT.

ACTION: Final rule.

SUMMARY: This action publishes in the Federal Register and makes effective as to all persons an amendment adopting a new airworthiness directive (AD) which was previously made effective as to known operators of Hughes Helicopters Model 369D Helicopters by priority message dated April 9, 1979. This AD was required because failures of the lock washers in the tail rotor pitch control assembly will result in a loss of tail rotor control.

DATES: Effective May 17, 1979, except with respect to certain persons specified in the body of the AD. Compliance schedule—As prescribed in the body of the AD.

ADDRESSES: The applicable service information may be obtained from: Hughes Helicopters, Centinela and Teale Streets, Culver City, California 90230.

Also, a copy of the service information may be reviewed at, or a copy obtained from: Rules Docket in Room 916, FAA, 800 Independence Avenue, SW., Washington, D.C. 20591, or Rules Docket in Room 6W14, FAA Western Region, 15000 Aviation Boulevard, Hawthorne, California 90261.

FOR FURTHER INFORMATION CONTACT: Jerry J. Presba, Executive Secretary, Airworthiness Directive Review Board, Federal Aviation Administration, Western Region, P.O. Box 92007, World Way Postal Center, Los Angeles, California 90009. Telephone: (213) 536–6351.

SUPPLEMENTARY INFORMATION: Pursuant to the authority delegated by the Administrator, an AD was adopted on April 9, 1979 and made effective immediately by airmail letter to all known operators of Hughes Helicopters Model 369D Helicopters because of failures of the lock washers in the tail rotor pitch control assembly. This condition has caused the locknut to work loose, resulting in the loss of tail rotor pitch control. That AD required a check of the locknut and the tang washer by hand for looseness before each engine start-up. The AD also provides a terminating action for the required checks.

Since it was found that immediate corrective action was required, notice and public procedure thereon was impracticable and contrary to the public interest and good cause existed for making the AD effective immediately as to all known operators of Hughes Helicopters Model 369D Helicopter. These conditions still exist and the AD is hereby published in the Federal Register as an amendment to § 39.13 of Part 39 of the Federal Aviation Regulations to make it effective as to all persons.

Adoption of the Amendment

Accordingly, pursuant to the authority delegated to me by the Administrator, § 39.13 of Part 39 of the Federal Aviation Regulations (14 CFR 39.13) is amended, by adding the following new airworthiness directive:

HUGHES HELICOPTERS: Applies to Hughes Model 369D Helicopters certificated in all categories, except Serial Numbers 0409 and subsequent.

Compliance required as indicated.

To prevent failure of the tail rotor pitch control assembly, which could result in loss of tail rotor control, accomplish the following:

(a) Before further flight after the effective date of this AD, check the 369D21803–3 locknut and tang washer P/N MS172209 or HS1551S238 of the tail rotor pitch control assembly P/N 369D21800 as follows:

Pull back the non-rotating boot P/N 369D21806 from the tail rotor pitch control assembly P/N 369D21800 and check the locknut and tang washer by hand for looseness.

(1) If the locknut or tang washer is loose, remove and replace the tail rotor pitch control assembly with a serviceable assembly with a white dot on the locknut, before further flight.

(2) If either the locknut or tang washer is not loose, repeat the check for looseness of the locknut or tang washer before each engine startup. See (c) below for termination action.

The checks required by this AD may be performed by the pilot.

Note 1.—For the requirements regarding the listing of compliance and method of compliance with this AD in the helicopter's permanent maintenance record, see FAR 91.173.

(b) For the operators that have previously complied with Hughes Service Information Notice DN–37, dated December 1, 1978, the following applies:

(1) If the tail rotor pitch control assembly was repaired due to looseness of the locknut or tang washer, repeat the checks in (a) above and remove and replace the tail rotor pitch control assembly within 150 hours time in service after the receipt of this airmail letter.

(2) For the tail rotor pitch control assemblies for which records of repair are not known, see (b)(1) above.

(3) For the tail rotor pitch control assemblies which were repaired per DN–37 with no looseness of the locknut or tang washer, the requirements of this AD do not apply.

Note 2.—The pitch control assemblies which have loose locknut or tang washers must be overhauled per the Hughes Model 369D Helicopter Basic Handbook of Maintenance Instructions and DN–37, dated December 1, 1978, before return to service.

(c) For those assemblies which do not have loose tang washers or locknuts, per paragraph (a)(2) above, within 100 hours of time in service from the receipt of this letter, accomplish DN–37.

(d) Equivalent checks and repairs may be used when approved by the Chief, Aircraft Engineering Division, FAA Western Region.

This amendment becomes effective upon publication in the Federal Register, as to all persons except those persons to whom it was made immediately effective by the airmail letter dated April 9, 1979, which contained this amendment.

(Secs. 313(a), 601, and 603, Federal Aviation Act of 1958, as amended (49 U.S.C. 1354(a), 1421, and 1423); sec. 6(c) Department of Transportation Act (49 U.S.C. 1655(c)); and 14 CFR 11.89)

Issued in Los Angeles, California on May 2, 1979.

Benjamin Demps, Jr.,
Acting Director, FAA Western Region.

[Docket No. 79–WE–7–AD; Amdt. 39–3466]
[FR Doc. 79–14688 Filed 5–11–79; 8:45 am]
BILLING CODE 4910–13–M

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14 CFR Part 71

Designation of Federal Airways, Area Low Routes, Controlled Airspace, and Reporting Points; Alteration of Transition Area, Las Vegas, Nev.

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Final rule.

SUMMARY: This amendment alters the transition areas at Las Vegas, Nevada so as to provide additional controlled airspace for radar vector services to be provided by Nellis Range Control.

EFFECTIVE DATE: June 14, 1979.

FOR FURTHER INFORMATION CONTACT: Thomas W. Binczak, Airspace and Procedures Branch, Air Traffic Division, Federal Aviation Administration, 15000 Aviation Blvd., Lawndale, California 90261—Telephone (213) 536–6182.

SUPPLEMENTARY INFORMATION: On March 1, 1979, a Notice of Proposed Rulemaking (NPRM) was published in the Federal Register (44 FR 11558) stating that the Federal Aviation Administration proposed to alter the transition areas at Las Vegas, Nevada to provide additional controlled airspace for radar vector services to be provided by Nellis Range Control.

Interested persons were afforded an opportunity to participate in the rulemaking through submission of comments. One comment was received stating no objection. This amendment is the same as that proposed in the notice. Section 71.181 was republished in the Federal Register on January 2, 1979 (44 FR 442).

Adoption of the Amendment

Accordingly, pursuant to the authority delegated to me by the Administrator, Subpart G of Part 71 of the Federal Aviation Regulations (14 CFR Part 71) is amended, effective 0901 GMT, June 14, 1979.

§ 71.181 [Amended]

insert the following name and title of the

reduce the number of copies required in

to applications for exemptions filed with

Therefore, pursuant to the Act, and

Dated: May 7, 1979.

§ 71.181 [Amended]

Delete the period following "to point of beginning", and substitute the following: that airspace extending upward from 7,700 feet MSL beginning at latitude 36° 51' 00" N., Longitude 116° 33' 30" W., to latitude 36° 51' 00" N., longitude 116° 08' 00" W., to latitude 37° 00' 00" N., longitude 116° 08' 00" W., to latitude 37° 00' 00" N., longitude 115° 23' 00" W., to latitude 36° 58' 00" N., longitude 115° 23' 00" W., to latitude 36° 58' 00" N., longitude 115° 55' 00" W., to latitude 36° 41' 00" N., longitude 115° 55' 00" W., to latitude 36° 41' 00" N., longitude 116° 26' 30" W., to latitude 36° 46' 00" N., longitude 116° 26' 30" W., thence to point of beginning and that airspace extending upward from 9700 feet MSL beginning at latitude 36° 51' 00" N., longitude 116° 33' 30" W., thence via latitude 36° 51' 00" N., to the northeast boundary of V-135, thence north along the northeast/east boundaries of V-135 to the south boundary of V-244, thence east via the south boundary of V-244 and V-293 to the northwest boundary of V-21, thence southwest via the boundary of V-21 to latitude 36° 58' 00" N., thence via latitude 36° 58' 00" N., to longitude 115° 23' 00" W., to latitude 37° 00' 00" N., longitude 115° 23' 00" W., to latitude 37° 00' 00" N., longitude 116° 08' 00" W., to latitude 36° 51' 00" N., longitude 116° 08' 00" W., thence to point of beginning.

(Secs. 307(a) and 313(a), Federal Aviation Act of 1958 (49 U.S.C. 1348(a) and 1354(a)); Sec. 6(c), Department of Transportation Act (49 U.S.C. 1655(c)); and 14 CFR 11.69.)

Note.—The FAA has determined that this document involves a regulation which is not significant under Executive Order 12044, as implemented by DOT Regulatory Policies and Procedures (44 FR 11034; February 26, 1979). Since this regulatory action involves an established body of technical requirements for which frequent and routine amendments are necessary to keep them operationally current and promote safe flight operations, the anticipated impact is so minimal that this action does not warrant preparation of a regulatory evaluation.

Issued in Los Angeles, California, on May 1, 1979.

Benjamin Demps, Jr.,
Acting Director, Western Region.

[Airspace Docket No. 79-WE-4]
[FR Doc. 79-14686 Filed 5-11-79; 8:45 am]
BILLING CODE 4910-13-M

14 CFR Parts 121 and 135

Domestic, Flag, and Supplemental Air Carriers and Commercial Operators of Large Aircraft and Air Taxi Operators and Commercial Operators; Miscellaneous Amendments

Correction

In FR Doc. 79-13873 appearing at page 26737 in the issue for Monday, May 7, 1979, on page 26738, in the middle column, immediately beneath the paragraph "Issued in Washington * * *" insert the following name and title of the document's signer:

Langhorne Bond,
Administrator.

[Docket No. 16097; Amdt. Nos. 121-152 and 135-1]
BILLING CODE 1505-01-M

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

18 CFR Parts 2, 157, 270, 271, 273, 274, 275, 276 and 284

Filing Requirements Under Interim Regulations Implementing the Natural Gas Policy Act of 1978

AGENCY: Federal Energy Regulatory Commission.

ACTION: Revised Notice of Filing Requirements.

SUMMARY: On December 1, 1978, the Federal Energy Regulatory Commission issued regulations implementing the Natural Gas Policy Act of 1978 (NGPA). This Notice revises the filing requirements of the notice of January 26, 1979 (44 FR 6094, January 31, 1979) to reduce the number of copies required in certain instances.

EFFECTIVE DATE: May 9, 1979.

ADDRESS: Office of the Secretary, Federal Energy Regulatory Commission, 825 North Capitol Street, N.E., Washington, D.C. 20426 (Reference Docket No. RM79-3).

FOR FURTHER INFORMATION CONTACT: Marvin Hirsh, Office of Pipeline and Producer Regulation, Federal Energy Regulatory Commission, 825 North Capitol Street, N.E., Washington, D.C. 20426 (202) 275-4623.

Notice of Certain Revisions to Filing Requirements

May 9, 1979.

On January 26, 1979, a notice was issued to clarify filing requirements under the NGPA and minimize paperwork burdens on the public. Staff's experience with the filings being made indicates that an original and two conformed copies (rather than five conformed copies) is sufficient for filings under the NGPA except as noted in the following table or otherwise required by the rules and regulations of the Commission.

Section of NGPA regulations	Description	Original	Copies
157.46(b)(1)(i)	Petition Requesting Waiver	1	14
270.202(d)	Application for Adjustment	1	14
271.402(c)(3)	Petition for Special Relief	1	14
271.1105 and 271.1106	Applications for Determination, Costs, or Adjustment	1	14
274.207 (c) and (e)	Alternative Filing Requirements	1	14
275.201(d)	Protest of Determination	1	14
275.202(d)	Comments and/or Request for Informal Conference	1	14
275.204	Protest of Determination	1	14
275.205(b)	Petition to Reopen Proceedings	1	14
275.206(b)	Request for Disclosure of Confidential Information	1	14
286.102(a)	Petition for Rehearing	1	14
286.102(d)(1)	Initial or Reply Brief	1	19

Kenneth F. Plumb,
Secretary.

[Docket No. RM79-3]
[FR Doc. 79-14998 Filed 5-11-79; 8:45 am]
BILLING CODE 6450-01-M

DEPARTMENT OF JUSTICE

Drug Enforcement Administration

21 CFR Part 1308

Schedules of Controlled Substances; Exempt Chemical Preparations

AGENCY: Drug Enforcement Administration.

ACTION: Final rule.

SUMMARY: This rule exempts the below listed chemical preparations and mixtures which contain controlled substances from the application of various provisions of the Comprehensive Drug Abuse Prevention and Control Act of 1970, and from certain Drug Enforcement Administration regulations. This rule also removes some previously exempted chemical preparations and mixtures from the list of exempt chemical preparations set out in § 1308.24(i) of Title 21 of the Code of Federal Regulations. This action is in response to applications for exemptions filed with the DEA and is consistent with the needs of researchers, chemical analysts, and suppliers of these products.

DATES: This rule is effective May 11, 1979, subject to being suspended, reinstated, revoked or amended by the Administrator upon consideration of any comments or objections which raise significant issues on any findings of fact or conclusion of law supporting this order, received on or about July 13, 1979.

FOR FURTHER INFORMATION CONTACT: Howard McClain, Chief, Regulatory Control Division, telephone 202-633-1366.

SUPPLEMENTARY INFORMATION: The Administrator of the Drug Enforcement Administration has received applications pursuant to § 1308.23 of Title 21 of the Code of Federal Regulations requesting that several chemical preparations containing controlled substances be granted the exemptions provided for in § 1308.23 of Title 21 of the Code of Federal Regulations.

The Administrator hereby finds that each of the following chemical preparations and mixtures designated to be added to 21 CFR 1308.24(i) is intended for laboratory, industrial, education, or special research purposes, is not intended for general administration to a human being or other animal, and either (a) contains no narcotic controlled substances and is packaged in such a form or concentration that the package quantity does not present any significant potential for abuse, (b) contains either a narcotic or non-narcotic controlled substance and one or more adulterating or denaturing agents in such a manner, combination, quantity, proportion or concentration, that the preparation or mixture does not present any potential for abuse, or (c) the formulation of such preparation or mixture incorporates methods of denaturing or other means so that the controlled substance cannot in practice be removed, and therefore, the preparation or mixture does not present any significant potential for abuse. The Administrator further finds that exemption of the following chemical preparations and mixtures to be added to the list is consistent with the public health and safety as well as the needs of researchers, chemical analysts, and suppliers of these products.

Therefore, pursuant to the Act, and regulations of the Department of Justice and the Drug Enforcement Administration, the Administrator of the Drug Enforcement Administration hereby orders to Part 1308 of Title 21 of the Code of Federal Regulations be amended as hereinafter appears:

Dated: May 7, 1979.

Peter B. Bensinger,
Administrator.

PART 1308—SCHEDULES OF CONTROLLED SUBSTANCES

§ 1308.24 [Amended]

a. Section 1308.24(i) is amended by deleting the following:

Manufacturer or supplier	Product name and supplier's catalog No.	Form of product	Date of application
Diagnostics, Inc	(Delete this company and all entries listed under this company.)		
Instrumentation Laboratory, Inc	(Delete this company and all entries listed under this company.)		
Kallestad Labs., Inc	Buffer No. C135	Vial: 7 dram	05-19-76
Do	Osmotect Buffer No. C136	Vial: 7 dram, 7.4 gm per vial, 5 vials per package.	05-19-76
Do	Immunoelectrophoresis profile kit, catalog No. 1100.	Kit: 42 tests	06-29-77
Do	Immunoelectro film ™ kit catalog No. 1176	Kit: 42 tests	06-29-77
SGA Scientific Corp	(Delete this company and all entries listed under this company.)		
E. R. Squibb & Sons	Barbital Buffer Mixture for use with Gastrin Immunotope kit No. 09510.	Vial: 5cc	11-21-72
Do	AuSure II Barbital Buffer Powder, No. B79209.	Vial: 1.51 gm	07-26-71
Do	AuSure II CEP Plate No. B78209	Plate: 30 microliters per well	09-16-71
Do	Barbital Buffer Mixture No. 09501	Vial: 6.055 gm	12-21-72
Do	Thyrostat-4 Kit, Catalog No. 09125 to include:		02-26-73
	(a) Thyrostat-4 Standard Solution	Vial: 7 ml	
	(b) Thyrostat-4 Buffer Solution	Bottle: 60 ml	
Do	Barbital Buffer Mixture for use with Digoxin Immutope Kit No. 09360.	Vial: 2.4 g per 5 ml vial	08-06-74

b. Section 1308.24(i) is amended by adding the following:

Manufacturer or supplier	Product name and supplier's catalog No.	Form of product	Date of application
Amersham Corp	T-3 Uptake (MAA) Kit	Kit:	02-05-79
	IM 1020	50 tests	
	IM 1021	100 tests	
	IM 1024	400 tests	
BBL Microbiology Systems, Division Becton, Dickinson & Co	Positive Infectious Mononucleoses Serum	Vial: 5 ml	09-29-78
Becton, Dickinson & Co	T_3 Uptake Solid Phase Radioassay Kit (^{125}I)	Kit:	09-27-78
	Catalog No. 237116	100 tests	
	Catalog No. 237124	200 tests	
Do	T_3 Tracer Solution Catalog No. 237728	Bottle: 125 ml	09-27-78
Do	Euthyroid Reference Standard, Catalog No. 237416.	Vial: 4 ml	09-27-78
Do	T_3 Antibody Coated Tubes, Catalog No. 237213.	Box containing 100 tubes	09-27-78
DuPont & Co	PREP Sample Preparation and Analysis Kit:	Kit containing following:	09-25-78
	(1) PREP Buffer/Internal Standard and Liquid Chromatography Verifier.	Box containing following:	
	PREP Liquid Chromatography Verifier	Vial: 10 ml (1 vial/box)	
	PREP Buffer/Internal Standard	Vial: 100 ml (3 vials/box)	
	(2) PREP Calibrators	Box containing following:	
	PREP Calibrator-Level 1	Vial: 10 ml (1 vial/box)	
	PREP Calibrator-Level 2	....do	
	PREP Calibrator-Level 3	....do	
	PREP Calibrator-Level 4	....do	
	(3) PREP Controls	Box containing following:	
	PREP Control-Low Level	Vial: 10 ml (2 vials/box)	
	PREP Control-High Level	....do	
General Diagnostics Division of Warner-Lambert	Quality Assurance Serum Level I	Glass vial: 16.5 ml, 6 vials to kit.	08-17-78
Do	Quality Assurance Serum Level II	....do	08-17-78
Kallestad Labs., Inc	Buffer No. 900	Vial: 7 dram	12-26-78
Do	Barbital Buffer No. 901	Vial: 7 dram, 7.4 g per vial, 5 vials per package.	12-26-78
Do	Immunoelectrophoresis Profile Kit, Catalog No. 911.	Kit: 42 tests	12-26-78
Do	Immunoelectrofilm ™ Kit Catalog No. 912	....do	12-26-78
Miles Labs., Inc	Ciniria T-3 Uptake Test	Kit containing:	11-10-78
	(1) ^{125}I T-3 Uptake Reagent	Bottle: 200 ml	
	(2) Separating Reagent	....do	
Do	Ames Phenobarbital Assay	Kit containing:	03-01-79
	Phenobarbital Standard 60 µg/ml	Vial: 6.1 ml	
	Phenobarbital Standard 40 µg/ml	....do	
	Phenobarbital Standard 20 µg/ml	....do	
	Phenobarbital Standard 10 µg/ml	....do	
Millipore Corp	Panagel LD Isoenzyme Reagent Set	Kit containing:	02-12-79
	Catalog No. DR0047650 Panagel LD Isoenzyme Slide.	10 slides	
	Panagel LD Isoenzyme Electrode Buffer	5 pouches 11.4 g/pouch	

Manufacturer or supplier	Product name and supplier's catalog No.	Form of product	Date of application
Pantex	IMMUNO-Digoxin Kit	Kit containing:	01-04-79
	Digoxin ^{125}I	Bottle: 10 ml	
	1st Antiserum	Bottle: 20 ml	
	2nd Antiserum	Bottle: 50 ml	
	Diluent	Bottle: 5 ml	
Do	IMMUNO-Estriol Kit	Kit containing:	01-04-79
	Estriol ^{3}H RIA	Bottle: 10 ml	
	Estriol ^{3}H Recovery	Bottle: 5 ml	
	1st Antiserum	Bottle: 10 ml	
	2nd Antiserum	Bottle: 20 ml	
	Diluent	Bottle: 100 ml	
	Buffer	Bottle: 50 ml	
	Standards	Bottle: 5 ml	
Do	IMMUNO-Estriol ^{125}I Kit	Kit containing:	01-04-79
	2nd Antiserum	Bottle: 50 ml	
Do	IMMUNO-Testosterone ^{125}I Kit	Kit containing:	01-04-79
	Testosterone ^{125}I Kit	Bottle: 10 ml	
	1st Antiserum	Bottle: 10 ml	
	2nd Antiserum	Bottle: 50 ml	
	Diluent	Bottle: 100 ml	
	Standards	Bottle: 5 ml	
Do	IMMUNO-T_3 Kit	Kit containing:	01-04-79
	L-Triiodothyronine ^{125}I	Bottle: 10 ml	
	1st Antiserum	Bottle: 10 ml	
	2nd Antiserum	Bottle: 50 ml	
	Diluent	Bottle: 5 ml	
	Standards	Bottle: 3 ml	
Do	T_3 Uptake Kit	Kit containing:	01-04-79
	L-Triiodothyronine ^{125}L	Bottle: 100 ml, 1000 ml	
Do	IMMUNO-T_4 Kit	Kit containing:	01-04-79
	Thyroxine ^{125}I	Bottle: 100 ml, 1000 ml	
	1st Antiserum	Bottle: 50 ml	
	2nd Antiserum	Bottle: 100 ml	
	Diluent	Bottle: 5 ml	
	Standards	Bottle: 3 ml	
E. R. Squibb & Sons, Inc	T^4 Antiserum (List No. G8620)	Glass vial: 5 ml	02-23-79
Do	Buffer Concentrate (List No. G8330)	Bottle: 1 quart	03-07-79
Supelco, Inc	Phenobarbital No. 4-9262	Ampul: 10 ml	02-08-79
SYVA Co	EMIT®-Tox Serum Benzodiazepine Assay	Kit containing:	02-01-79
	EMIT® Enzyme Reagent B	Bottle: 3 ml	
	EMIT®-Tox Serum Calibrator-Low	do	
	EMIT®-Tox Serum Calibrator-Medium	do	
Do	EMIT® DAU Phencyclidine Assay	Kit containing:	02-01-79
	EMIT® Phencyclidine Enzyme Reagent B	Bottle: 8 ml	
Do	EMIT® DAU Phencyclidine Calibrator Set	Kit containing:	02-01-79
	EMIT® DAU Phencyclidine Calibrator-Low	Bottle: 3 ml	
	EMIT® DAU Phencyclidine Calibrator-Medium	do	

[FR Doc. 79-14802 Filed 5-10-79; 8:45 am]

BILLING CODE 4410-09-M

DEPARTMENT OF HOUSING AND URBAN DEVELOPMENT

Office of Assistant Secretary for Housing, Federal Housing Commissioner [Federal Housing Administration]

24 CFR Part 201

Mortgage and Loan Insurance Programs Under the National Housing Act; Changes in Finance Charges

AGENCY: Department of Housing and Urban Development.

ACTION: Final rule.

SUMMARY: This change in regulations increases the maximum allowable finance charge on Title I mobile home loans and combination and mobile home lot loans. The change is necessitated by the high interest rates prevalent for such loans. This action by HUD is designed to bring the maximum finance charge on these loans into line with other rates currently prevailing in the market.

EFFECTIVE DATE: May 7, 1979.

FOR FURTHER INFORMATION CONTACT: John L. Brady, Director, Title I Insured and 312 Loan Servicing Division, Office of Single Family Housing, Department of Housing and Urban Development, 451 Seventh Street, S.W., Washington, D.C. 20410 (202-755-8686).

SUPPLEMENTARY INFORMATION: The following miscellaneous amendments have been made to this chapter to increase the maximum finance charge which may be charged on loans insured by this Department. The maximum finance charge for mobile home loans has been increased from 12 percent to 12.50 percent. Under the Combination and Mobile Home Lot loan program the maximum has been raised from 10.50 percent to 11.50 percent.

The Secretary has determined that such changes are immediately necessary to meet the needs of the market, and to prevent speculation in anticipation of a change, in accordance with her authority contained in 12 U.S.C. 1709-1, as amended. The Secretary has, therefore, determined that advance notice and public procedure are unnecessary and that good cause exists for making this amendment effective. A Finding of Inapplicability respecting the National Environmental Policy Act of 1969 has been made in accordance with HUD Handbook 1390.1. A copy of this Finding of Inapplicability will be available for public inspection during regular business hours in the Office of the Rules Docket Clerk, Office of the General Counsel, Room 5218, Department of Housing and Urban Development, 451 7th Street, S.W., Washington, D.C. 20410.

Accordingly, Chapter II is amended as follows:

PART 201—PROPERTY IMPROVEMENT AND MOBILE HOME LOANS

Subpart B—Mobile Home Loans

1. In § 201.540 paragraph (a) is amended to read as follows:

§ 201.540 Financing charges.

(a) *Maximum financing charges.* The maximum permissible financing charge which may be directly or indirectly paid to, or collected by, the insured in connection with the loan transaction, shall not exceed 12½ percent simple interest per annum. No points or discounts of any kind may be assessed or collected in connection with the loan transaction, except that a one percent origination fee may be collected from the borrower. If assessed, this fee must be included in the finance charge. Finance charges for individual loans shall be made in accordance with tables of calculation issued by the Commissioner.

Subpart D—Combination and Mobile Home Lot Loans

1. In § 201.1511 paragraph (a)(1) is amended to read as follows:

§ 201.1511 Financing charges.

(a) *Maximum financing charges.*

* * * * *

(1) 11½ percent per annum.

* * * * *

(Section 3(a), 82 Stat. 113; 12 USC 1709-1; Section 7 of the Department of Housing and Urban Development Act, 42 USC 3535(d)).

Issued at Washington, D.C., May 3, 1979.

Lawrence B. Simons,

Assistant Secretary for Housing, Federal Housing Commissioner.

[Docket No. R-79-664]

[FR Doc. 79-14965 Filed 5-11-79; 8:45 am]

BILLING CODE 4210-01-M

FEDERAL EMERGENCY MANAGEMENT AGENCY

24 CFR Part 1914

Suspension of Community Eligibility Under the National Flood Insurance Program

AGENCY: Office of Federal Insurance and Hazard Mitigation, Federal Emergency Management Agency.[1]

ACTION: Final rule.

SUMMARY: This rule lists communities where the sale of flood insurance, as authorized under the National Flood Insurance Program (NFIP), will be suspended because of noncompliance with the flood plain managment requirements of the program.

EFFECTIVE DATES: The third date ("Susp.") listed in the fifth column.

FOR FURTHER INFORMATION CONTACT: Mr. Richard Krimm, National Flood Insurance Program, Room 5270, 451 Seventh Street, SW., Washington, DC 20410, (202) 755-5581 or toll-free line 800-424-8872.

SUPPLEMENTARY INFORMATION: The National Flood Insurance Program (NFIP), enables property owners to purchase flood insurance at rates made reasonable through a Federal subsidy. In return, communities agree to adopt and administer local flood plain management measures aimed at protecting lives and new construction from future flooding. Section 1315 of the National Flood Insurance Act of 1968, as amended (42 U.S.C. 4022) prohibits flood insurance coverage as authorized under the National Flood Insurance Program (42 U.S.C. 4001-4128) unless an appropriate public body shall have adopted adequate flood plain management measures with effective enforcement measures. The communities listed in this notice no longer meet that statutory requirement for compliance with program regulations (24 CFR Part 1909 et seq.). Accordingly, the communities are suspended on the effective date in the fifth column, so that as of that date subsidized flood insurance is no longer available in the community.

In addition, the Federal Insurance Administrator has identified the special flood hazard areas in these communities by publishing a Flood Hazard Boundary Map. The date of the flood map, if one has been published, is indicated in the sixth column of the table. Section 202(a) of the Flood Disaster Protection Act of 1973 (Pub. L. 93-234), as amended, provides that no direct Federal financial assistance (except assistance pursuant to the Disaster Relief Act of 1974 not in connection with a flood) may legally be provided for construction or acquisition of buildings in the identified special flood hazard area of communities not participating in the NFIP, with respect to which a year has elasped since identification of the community as having flood prone areas, as shown on the Federal Insurance Administration's initial flood insurance map of the community. This prohibition against certain types of Federal assistance becomes effective for the communities listed on the date shown in the last column.

The Federal Insurance Administrator finds that delayed effective dates would be contrary to the public interest. The Administrator also finds that notice and public procedure under 5 U.S.C. 553(b) are impracticable and unnecessary.

In each entry, a complete chronology of effective dates appears for each listed community.

PART 1914—COMMUNITIES ELIGIBLE FOR THE SALE OF INSURANCE

Section 1914.6 is amended by adding in alphabetical sequence new entries to the table.

* * * * *

State	County	Location	Community No.	Effective dates of authorization/ cancellaboin of sale of flood insurance in community	Hazard area identified	Date[1]
Massachusetts	Bristol	Norton, town of	250060-A	Mar. 20, 1974, emergency, June 1, 1979, regular, June 1, 1979, suspended.	June 28, 1974 May 10, 1977	June 1, 1979.
Washington	Kittitas	Unincorporated area	530095-A	Feb. 5, 1974, emergency, June 1, 1979, suspended.	Nov. 8, 1979	Do.

[1] Date certain Federal assistance no longer available in special flood hazard area.

[1] The functions of the Federal Insurance Administration, U.S. Department of Housing and Urban Development, were transferred to the newly established Federal Emergency Management Agency by Reorganization Plan No. 3 of 1978 (43 FR 41943, September 19, 1978) and Executive Order 12127 (44 FR 19367, April 3, 1979)

public hearing was not requested, no

Adoption of amendments to the

income tax return preparer as defined in

(National Flood Insurance Act of 1968 (title XIII of the Housing and Urban Development Act of 1968); effective Jan. 28, 1969 (33 FR 17804, Nov. 28, 1968), as amended, 42 U.S.C. 4001–4128; Executive Order 12127, 44 FR 19367; and delegation of authority to Federal Insurance Administrator, 44 FR 20963.)

Issued: May 4, 1979.

Gloria M. Jimenez,
Federal Insurance Administrator.

[Docket No. FI 5476]
[FR Doc. 79-14785 Filed 5-10-79; 8:45 am]
BILLING CODE 4210-23-M

24 CFR Part 1915

Notice of Communities With Minimal Flood Hazard Areas for the National Flood Insurance Program

AGENCY: Office of Federal Insurance and Hazard Mitigation, FEMA[1].

ACTION: Final rule.

SUMMARY: The Federal Insurance Administrator, after consultation with local officials of the communities listed below, has determined, based upon analysis of existing conditions in the communities, that these communities' Special Flood Hazard Areas are small in size, with minimal flooding problems. Because existing conditions indicate that the area is unlikely to be developed in the foreseeable future, there is no immediate need to use the existing detailed study methodology to determine the base flood elevations for the Special Flood Hazard Areas.

Therefore, the Administrator is converting the communities listed below to the Regular Program of the National Flood Insurance Program (NFIP) without determining base flood elevations.

EFFECTIVE DATE: Date listed in fourth column of List of Communities with Minimal Flood Hazard Areas.

FOR FURTHER INFORMATION CONTACT: Mr. Richard W. Krimm, National Flood Insurance Program, (202) 755–5581 or Toll Free Line 800–424–8872, Room 5270, 451 Seventh St., S.W., Washington, D.C. 20410.

SUPPLEMENTARY INFORMATION: In these communities, the full limits of flood insurance coverage are available at actuarial, non-subsidized rates. The rates will vary according to the zone designation of the particular area of the community.

Flood Insurance for contents, as well as structures, is available. The maximum coverage available under the Regular Program is significantly greater than that available under the Emergency Program.

Flood insurance coverage for property located in the communities listed can be purchased from any licensed property insurance agent or broker serving the eligible community, or from the National Flood Insurance Program. The effective date of conversion to the Regular Program will not appear in the Code of Federal Regulations except for the page number of this entry in the Federal Register.

The entry reads as follows:

§ 1915.9 List of Communities with Minimal Flood Hazard Areas.

State	County	Community name	Date of conversion to regular program
New York	Columbia	Town of Livingston	May 11, 1979.
New York	Columbia	Town of Germantown	May 11, 1979.
New York	Oswego	Village of Lacona	May 11, 1979.
New York	Cayuga	Village of Meridian	May 11, 1979.
New York	St. Laurence	Village of Waddington	May 11, 1979.
New York	Oswego	Village of Sandy Creek	May 11, 1979.
New Jersey	Burlington	Borough of Wrightstown	May 11, 1979.
New Jersey	Gloucester	Borough of Wenonah	May 11, 1979.
New Jersey	Salem	Borough of Woodstown	May 11, 1979.
New Jersey	Gloucester	City of Woodbury	May 11, 1979.
New Jersey	Burlington	Township of New Hanover	May 11, 1979.
Florida	Polk	City of Auburndale	May 11, 1979.
South Carolina	Charleston	Town of Meggett	May 11, 1979.
Texas	Denton	Town of Corinth	May 15, 1979.
New York	Erie	Village of Angola	May 18, 1979.
New York	Steuben	Village of Canisteo	May 18, 1979.
New York	Rensselaer	Village of Nassau	May 18, 1979.
New York	Washington	Village of Argyle	May 18, 1979.
New Jersey	Cape May	Borough of Woodbine	May 18, 1979.
New Jersey	Gloucester	Borough of Woodbury Heights	May 18, 1979.

(National Flood Insurance Act of 1968 (Title XIII of Housing and Urban Development Act of 1968), effective January 28, 1969 (33 FR 17804, November 28, 1968), as amended; 42 U.S.C. 4001–4128; Executive Order 12127, 44 FR 19367; and delegation of authority to Federal Insurance Administrator, 44 FR 20963.)

[1] The functions of the Federal Insurance Administration, Department of Housing and Urban Development, were transferred to the newly established Federal Emergency Management Agency by Reorganization Plan No. 3 of 1978 (43 FR 41943, September 19, 1978) and Executive Order 12127 (44 FR 19367, April 3, 1979).

Issued: May 3, 1979.

Gloria M. Jimenez,
Federal Insurance Administrator.

[Docket No. 5477]
[FR Doc. 79-14784 Filed 5-11-79; 8:45 am]
BILLING CODE 4210-23-M

DEPARTMENT OF THE TREASURY

Internal Revenue Service

26 CFR Part 1

Income Tax; Claims for Credit or Refund by Income Tax Return Preparers

AGENCY: Internal Revenue Service, Treasury.

ACTION: Final regulations.

SUMMARY: This document provides final regulations relating to the filing of claims for credit or refund of certain penalties assessed against income tax return preparers. Changes to the applicable law were made by the Tax Reform Act of 1976. These regulations affect all preparers claiming overpayment of these penalties and provide them with the guidance needed to comply with the law.

DATE: Generally, the regulations apply to claims filed after June 13, 1979. However, as provided in the preamble to the proposed regulations, the Internal Revenue Service will accept as properly filed all claims filed in accordance with the proposed and final regulations (which are essentially the same) on or after January 3, 1979 (the date the proposed regulations were filed with the Federal Register).

FOR FURTHER INFORMATION CONTACT: Mark L. Yecies of the Legislation and Regulations Division, Office of the Chief Counsel, Internal Revenue Service, 1111 Constitution Avenue, NW., Washington, D.C. 20224, Attention: CC:LR:T, 202–566–3464, not a toll-free call.

SUPPLEMENTARY INFORMATION:

Background

On January 4, 1979, the Federal Register published proposed amendments to the Income Tax Regulations (26 CFR Part 1), under section 6696 of the Internal Revenue Code of 1954, relating to the filing of claims for credit or refund of certain penalties assessed against income tax return preparers. These amendments were proposed to conform the regulations to the portion of section 1203(f) of the Tax Reform Act of 1976 which relates to the subject matter of the amendments (90 Stat. 1693). Since a public hearing was not requested, no hearing was held. After consideration of the single comment received regarding the proposed amendments (described below), those amendments are adopted as revised by this Treasury decision.

This regulation does not meet the Treasury criteria for a significant regulation under paragraph 8 of the final Treasury Directive for improving government regulations appearing in the Federal Register for Wednesday, November 8, 1978 (43 FR 52120).

Amendment of Proposed Regulations in Response to Public Comment

One comment was received regarding the proposed regulations. This comment was directed at § 1.6696–1(b), which provides that a claim for credit or refund may be filed only by the preparer (or the preparer's estate) against whom the penalty (or penalties) is assessed, and not by, for example, the preparer's employer. The commenter expressed concern that this provision may be interpreted to prohibit any participation by the preparer's employer in the preparation of the claim.

Section 1.6696–1(b) is not intended to impose restrictions on the preparation of the preparer's claim for credit or refund. The claim may be prepared by the preparer's employer or by other persons. However, § 1.6696–1(b) is intended to require that relevant information relating to the preparer is provided, and that this information is personally verified by the preparer, in writing, under penalty of perjury. Accordingly, § 1.6696–1(b) has been amended to clarify these intentions.

In addition, it was not considered necessary or appropriate to subject the preparation of this claim for others to the other, general requirements relating to income tax return preparers, established under section 1203 of the Tax Reform Act of 1976 and the implementing Treasury regulations. Accordingly, § 1.6696–1(a)(2) has been amended to exempt the preparation of this claim for others from those preparer measures.

Drafting Information

The principal author of this regulation is Mark L. Yecies of the Legislation and Regulations Division of the Office of Chief Counsel, Internal Revenue Service. However, personnel from other offices of the Internal Revenue Service and Treasury Department participated in developing the regulation, both on matters of substance and style.

Adoption of amendments to the regulations

Accordingly, the amendments to 26 CFR Part 1, as proposed, are hereby adopted, subject to the changes set forth below:

Section 1.6696–1, as set forth in the notice of proposed relemaking, is amended in the following respects:

1. Paragraph (a)(2) is amended by adding a sentence immediately after the first sentence, reading as set forth below.

2. Paragraph (b) is amended by adding three sentences immediately after the first sentence, reading as set forth below.

§ 1.6696–1 Claims for credit or refund by income tax return preparers.

(a) *Notice and demand.* • • •

(2) • • • However, a person who prepares a claim for credit or refund under this section for another person is not, with respect to that preparation, an income tax return preparer as defined in section 7701 (a)(36) and § 301.7701–15.

(b) *Claim filed by preparer.* • • •

This paragraph is not intended, however, to impose any restrictions on the preparation of this claim for credit or refund. Thus, the claim may be prepared by the preparer's employer or by other persons. In all cases, however, the claim for credit or refund shall contain the information specified in paragraph (d) of this section and, as required in that paragraph, shall be verified by a written declaration by the preparer that the information is provided under penalty of perjury.

• • • • • •

This Treasury decision is issued under the authority contained in section 6696 (c) of the Internal Revenue Code of 1954 (90 Stat. 1693; 26 U.S.C. 6696(c)) and in section 7805 of the Internal Revenue Code of 1954 (68A Stat. 917, 26 U.S.C. 7805).

Jerome Kurtz,
Commissioner of Internal Revenue.

Approved: May 3, 1979.

Donald C. Lubick,
Assistant Secretary of the Treasury.

§ 1.6696–1 Claims for credit or refund by income tax return preparers.

(a) *Notice and demand.* (1) The Internal Revenue Service shall issue to each income tax return preparer one or more statements of notice and demand for payment for all penalties assessed against the preparer under section 6694 and § 1.6694–1, or under section 6695 and § 1.6695–1.

(2) For the definition of the term "income tax return preparer" (or "preparer"), see section 7701(a)(36) and § 301.7701–15. However, a person who prepares a claim for credit or refund under this section for another person is not, with respect to that preparation, an income tax return preparer as defined in section 7701(a)(36) and § 301.7701–15.

(b) *Claim filed by preparer.* A claim for credit or refund of a penalty (or penalties) assessed against a preparer under section 6694 and § 1.6694–1, or under section 6695 and § 1.6695–1, may be filed under this section only by the preparer (or the preparer's estate) against whom the penalty (or penalties) is assessed and not by for example, the preparer's employer. This paragraph is not intended, however, to impose any restrictions on the preparation of this claim for credit or refund. Thus, the claim may be prepared by the preparer's employer or by other persons. In all cases, however, the claim for credit or refund shall contain the information specified in paragraph (d) of this section and, as required in that paragraph, shall be verified by a written declaration by the preparer that the information is provided under penalty of perjury.

(c) *Separation and consolidation of claims.* (1) Unless paragraph (c)(2) of this section applies, a preparer shall file a separate claim for each penalty asserted in each statement of notice and demand issued to the preparer.

(2) A preparer may file one or more consolidated claims for any or all penalties imposed on the preparer by a single Internal Revenue Service Center (or district director) under section 6695(a) and § 1.6695–1(a) (relating to failure to furnish copy of return to taxpayer), section 6695(b) and § 1.6695–1(b) (relating to failure to sign), section 6695(c) and § 1.6695–1(c) (relating to failure to furnish identifying number), or under section 6695(d) and § 1.6695–1(d) (relating to failure to retain copy of return or record), whether the penalties are asserted on a single or on separate statements of notice and demand. In addition, a preparer may file one consolidated claim for any or all penalties imposed on the preparer by a single Internal Revenue Service Center (or district director) under section 6695(e) and § 1.6695–1(e) (relating to failure to file correct information return), which are asserted on a single statement of notice and demand.

(d) *Content of claim.* Each claim for credit or refund of any penalty (or penalties) paid by a preparer under section 6694 and § 1.6694–1, or under section 6695 and § 1.6695–1, shall include the following information, verified by a written declaration by the preparer that the information is provided under penalty of perjury:

(1) The preparer's name.

(2) The preparer's identification number. If the preparer is—

(i) An individual (not described in subdivision (iii) of this paragraph (d)(2)) who is a citizen or resident of the United States, the preparer's social security account number shall be provided;

(ii) An individual who is not a citizen or resident of the United States and also was not employed (or engaged) by another preparer to prepare the document (or documents) with respect to which the penalty (or penalties) was assessed, the preparer's employer identification number shall be provided; or

(iii) A person (whether an individual, corporation, or partnership) who employed (or engaged) one or more persons to prepare the document (or documents) with respect to which the penalty (or penalties) was assessed, the preparer's employer identification number shall be provided.

(3) The preparer's address where the Internal Revenue Service mailed the statement (or statements) of notice and demand and, if different, the preparer's address shown on the document (or documents) with respect to which the penalty (or penalties) was assessed.

(4)(i) The address of the Internal Revenue Service Center (or district director) which issued to the preparer the statement (or statements) of notice and demand for payment of the penalty (or penalties) included in the claim; and

(ii) The date (or dates) and identifying number (or numbers) of the statement (or statements) of notice and demand.

(5)(i) The identification, by amount, type, and document to which related, of each penalty included in the claim. Each document referred to in the preceding sentence shall be identified by the form title or number, by the taxpayer's (or nontaxable entity's) name and identification number, and by the taxable year to which the document relates;

(ii) The date (or dates) of payment of the amount (or amounts) of the penalty (or penalties) included in the claim; and

(iii) The total amount claimed.

(6) A statement setting forth in detail—

(i) Each ground upon which each penalty overpayment claim is based; and

(ii) Facts sufficient to apprise the Internal Revenue Service of the exact basis of each such claim.

(e) *Form for filing claim.* Notwithstanding § 301.6402-2(c), Form 6118 is the form prescribed for making a claim as provided in this section.

(f) *Place for filing claim.* A claim filed under this section shall be filed with the Internal Revenue Service Center (or district director) which issued to the preparer the statement (or statements) of notice and demand for payment of the penalty (or penalties) included in the claim.

(g) *Time for filing cloim.* (1) Except as provided in section 6694 (c)(1) and § 1.6694–2, (a)(3)(ii) and (4), and in section 6694(d) and § 1.6694–1(c)—

(i) A claim for a penalty paid by a preparer under section 6694 and § 1.6694–1, or under section 6695 and § 1.6695–1, shall be filed within 3 years from the date the payment was made; and

(ii) A consolidated claim, permitted under paragraph (c)(2) of this section, shall be filed within 3 years from the first date of payment of any penalty included in the claim.

For purposes of this paragraph (g)(1), payment is considered made on the date payment is received by the Internal Revenue Service or, where applicable, on the date an amount is credited in satisfaction of the penalty.

(2) The rules under sections 7502 and 7503 and the regulations thereunder apply to the timely filing of a claim as provided in this section.

(h) *Application of refund to outstanding liability of income tax return preparer.* The Internal Revenue Service may, within the applicable period of limitation, credit any amount of an overpayment by a preparer of a penalty (or penalties) paid under section 6694 and § 1.6694–1, or under section 6695 and § 1.6695–1, against any outstanding liability for any tax (or for any interest, additional amount, addition to the tax, or assessable penalty) owed by the preparer making the overpayment. If a portion of an overpayment is so credited, only the balance will be refunded to the preparer.

(i) *Interest.* (1) Section 6611 and the regulations thereunder apply to the payment by the Internal Revenue Service of interest on an overpayment by a preparer of a penalty (or penalties) paid under section 6694 and § 1.6694–1, or under section 6695 and § 1.6695–1.

(2) Section 6601 and the regulations thereunder apply to the payment of interest by a preparer to the Internal Revenue Service on any penalty (or penalties) assessed against the preparer under section 6694 and § 1.6694–1 or under section 6695 and § 1.6695–1.

(j) *Suits for refund of preparer penalty.* (1) A preparer may not maintain a civil action for the recovery of any penalty paid under section 6694 and § 1.6694–1, or under section 6695 and § 1.6695–1, unless the preparer has previously filed a claim for credit or refund of the penalty as provided in this section (and the court has jurisdiction of the proceeding). See sections 6694(c) and 7422.

(2)(i) Except as provided in section 6694(c)(2) and § 1.6694–2(b), the periods of limitation contained in section 6532 and the regulations thereunder apply to a preparer's suit for the recovery of any penalty paid under section 6694 and § 1.6694–1, or under section 6695 and § 1.6695–1.

(ii) The rules under section 7503 and the regulations thereunder apply to the timely commencement by a preparer of a suit for the recovery of any penalty paid under section 6694 and § 1.6694–1, or under section 6695 and § 1.6695–1.

[T.D. 7621]

[FR Doc. 79-15013 Filed 5-11-79; 8:45 am]

BILLING CODE 4830-01-M

26 CFR Part 301

Minimum Exemption From Levy

AGENCY: Internal Revenue Service, Treasury.

ACTION: Final regulations.

SUMMARY: This document provides final regulations relating to amounts payable to a delinquent taxpayer which are exempt from a levy for the collection of unpaid tax. Changes to the applicable law were made by the Tax Reform Act of 1976. The regulations provide necessary guidance to the public for compliance with the law and principally affect employees whose wages or salary are the subject of levy, as well as their employers who must comply with the terms of the levy.

DATE: The regulations are effective for levies made after February 28, 1977.

FOR FURTHER INFORMATION CONTACT: Kyllikki Kusma of the Legislation and Regulations Division, Office of the Chief Counsel, Internal Revenue Service, 1111 Constitution Avenue, NW., Washington, D.C. 20224, Attention:CC:LR:T, 202–566–3287, not a toll-free call.

SUPPLEMENTARY INFORMATION:

Background

On August 24, 1976, the Federal Register published proposed amendments to the Income Tax Regulations (26 CFR Part 301) under sections 6331, 6332, and 6334 of the Internal Revenue Code of 1954 (Code) (43 FR 37717). The amendments were proposed to conform the regulations to section 1209 of the Tax Reform Act of 1976 (90 Stat. 1709). After consideration of all comments regarding the proposed amendments, those amendments are adopted by this Treasury decision. No requests for a public hearing were received and accordingly none was held.

Explanation of Regulations

The Tax Reform Act of 1976 amended section 6331 of the Internal Revenue Code of 1954 to provide that a levy on wages or salary is continuous from the date of the levy until the liability out of which the levy arose is satisfied or becomes unenforceable by lapse of time. These regulations reflect this amendment of section 6331 of the Code.

The legislation also amended section 6334 of the Code to provide that certain amounts payable to a taxpayer as wages, salary, or other income are exempt from levy. The regulations provide rules for determining the taxpayer's payroll period and prescribed amounts exempt from levy for each such period. Additionally, rules are provided by which the taxpayer is to determine the number of persons who are his dependents and by which he is to claim amounts which are exempt for such dependents.

Additional Considerations

These regulations are needed in order to provide guidance to the public as well as to government employees responsible for the implementation of sections 6331, 6332, and 6334 of the Code. Considering both the direct and indirect effects of these regulations, it is believed that they satisfactorily implement section 1209 of the Tax Reform Act of 1976. Evaluation of the effectiveness of the regulations after issuance will be based upon comments received from offices within the Internal Revenue Service and the Treasury Department, other governmental agencies, and the public.

Public Comments

Several comments were received in response to the proposed regulations. One expressed concern that the proposed regulations are not entirely clear as to whether the amount exempt from levy is an employee's gross salary or net salary. It was decided that the regulations do not need to be amended to reflect this comment because it is the Service's policy not to levy on gross wages. Another comment concerned the application of § 301.6334–2(c)(1). The writer questioned how an employer is to learn that an employee's second source of income is equal to or exceeds the amount of the exemption. Section 301.6334–2(c)(1) is amended to respond to this comment.

Drafting Information

The principal author of this regulation is Kyllikki Kusma of the Legislation and Regulations Division of the Office of Chief Counsel, Internal Revenue Service. However, personnel from other offices of the Internal Revenue Service and Treasury Department participated in developing the regulation, both on matters of substance and style.

Adoption of amendments to the regulations

Accordingly, the proposed amendments to the regulations (26 CFR Part 301) as published in the Federal Register on August 24, 1976 (43 FR 37717) are adopted with changes as set forth below:

Paragraph 1. Section 301.6334–1(a) is amended by revising the introductory sentence to read as follows:

§ 301.6334–1 Property exempt from levy.

(a) *Enumeration.* In addition to exemptions allowed as a matter of Internal Revenue Service policy, there shall be exempt from levy—

* * * * *

Par. 2. Section 301.6334–2(c)(1) is amended by adding a sentence immediately after the second sentence to read as follows:

§ 301.6334–2 Wages, salary and other income.

* * * * *

(c) *Payment of exempt amounts to taxpayer—(1) From wages, salary, or other income not subject to levy.* * * * The district director shall notify the employer or other person subject to the levy that no amount of the taxpayer's wages, salary, or other income is exempt from levy.* * *

* * * * *

This Treasury decision is issued under the authority in section 6334(d) and section 7805 of the Internal Revenue Code of 1954 (68A Stat. 917; 26 U.S.C. 7805).

Jerome Kurtz,
Commissioner of Internal Revenue.

Approved: May 4, 1979.

Donald C. Lubick,
Assistant Secretary of the Treasury.

Amendments to the Regulations

The amendments to 26 CFR Part 301 are as follows:

§ 301.6331 [Deleted]

Paragraph 1. Section 301.6331 is deleted.

Par. 2. Paragraph (a)(1) of § 301.6331–1 is revised to read as follows:

§ 301.633–1 Levy and distraint.

(a) *Authority to levy.—(1) In general.* If any person liable to pay any tax neglects or refuses to pay the tax within 10 days after notice and demand, the district director to whom the assessment is charged (or, upon his request, any other district director) may proceed to collect the tax by levy. The district director may levy upon any property, or rights to property, whether real or personal, tangible or intangible, belonging to the taxpayer. The district director may also levy upon property with respect to which there is a lien provided by section 6321 or 6324 for the payment of the tax. For exemption of certain property from levy, see section 6334 and the regulations thereunder. As used in section 6331 and this section, the term "tax" includes any interest, additional amount, addition to tax, or assessable penalty, together with costs and expenses. Property subject to a Federal tax lien which has been sold or otherwise transferred by the taxpayer may be seized while in the hands of the transferee or any subsequent transferee. However, see provisions under sections 6323 and 6324 (a)(2) and (b) for protection of certain transferees against a Federal tax lien. Levy may be made by serving a notice of levy on any person in possession of, or obligated with respect to, property or rights to property subject to levy, including receivables, bank accounts, evidences of debt, securities, and salaries, wages, commissions, or other compensation. Except as provided in § 301.6331–2(c) with regard to a levy on salary or wages, a levy extends only to property possessed and obligations which exist at the time of the levy. Obligations exist when the liability of the obligor is fixed and determinable although the right to receive payment thereof may be deferred until a later date. For example, if on the first day of the month a delinquent taxpayer sold personal property subject to an agreement that the buyer remit the purchase price on the last day of the month, a levy made on the buyer on the 10th day of the month would reach the amount due on the sale, although the buyer need not satisfy the levy by paying over the amount to the district director until the last day of the month. Similarly, a levy only reaches property in the possession of the person levied upon at the time the levy is made. For example, a levy made on a bank with respect to the account of a delinquent taxpayer is satisfied if the bank surrenders the amount of the taxpayer's balance at the time the levy is made. The levy has no effect upon any subsequent deposit made in the bank by the taxpayer. Subsequent deposits may be reached only a subsequent levy on the bank.

§ 301.6331–1 [Amended]

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§ 301.6331-1 [Amended]

Par. 3. Paragraph (a)(4) (i), (ii), and (iii) of § 301.6331–1 is amended by striking out "accrued" each place appears therein.

Par. 4. Paragraph (c) of § 301.6331–1 is deleted.

Par. 5. A new § 301.6331–2 is added immediately after § 301.6331–1:

§ 301.6331-2 Levy and distraint on salary and wages.

(a) *Notice of intent to levy.* Levy may be made upon the salary or wages of a taxpayer for any unpaid tax only after the district director or the director of the service center has notified the taxpayer in writing of the intent to levy. The notice must be given in person, left at the dwelling or usual place of business of the taxpayer, or be sent by mail to the taxpayer's last known address, no less than 10 days before the day of levy. The notice of intent to levy is in addition to, and may be given at the same time as, the notice and demand described in § 301.6331–1.

(b) *Jeopardy.* Paragraph (a) of this section does not apply to a levy if the district director or director of the service center has made a finding under § 301.6331–1(a)(2) that the collection of tax is in jeopardy.

(c) *Continuing effect of levy.* A levy on salary or wages is continuous from the time of the levy until the liability out of which the levy arose is satisfied or becomes unenforceable by reason of lapse of time. For this purpose, the term "salary or wages" includes compensation for services paid in the form of fees, commissions, bonuses, and similar items. The levy attaches to both salary or wages earned but not yet paid at the time of the levy, and salary or wages earned and becoming payable (or paid in the form of an advance) subsequent to the date of the levy, until the levy is released pursuant to paragraph (d) of this section. In general, salaries or wages that are the subject of a continuing levy, if not exempt from levy under section 6334(a) (8) or (9), become payable to the district director as the payor would otherwise be obligated to pay over the money to the taxpayer. For example, if the wage earner is paid on the Wednesday following the close of each workweek, a levy made upon his employer on any Monday would reach both his wages due for the prior workweek and his wages for succeeding workweeks as such wages become payable. In such a case the levy would be satisfied if the employer, on the first Wednesday after the levy and on each Wednesday thereafter, pays over to the district director wages which would otherwise be paid to the employee on such Wednesday, until the employer receives a notice of release from levy described in paragraph (d) of this section. See, however, § 301.6334–5(d) for rules which permit a delayed payment to the district director in certain cases where amounts payable to the taxpayer are exempt from levy under section 6334(a)(9) and (d).

(d) *Release and notice of release from levy.* The district director will promptly release a continuing levy on salary or wages when the liability out of which the levy arose is satisfied or becomes unenforceable by reason of lapse of time. The district director will also promptly notify the person upon whom the levy was made that it has been released.

(e) *Effective dates.* Paragraphs (a) and (b) of this section apply to levies made after March 31, 1972. Paragraphs (c) and (d) of this section apply to levies made after February 28, 1977.

§ 301.6332 [Deleted]

Par. 6. Section 301.6332 is deleted.

Par. 7. Paragraph (b)(1) of § 301.6332–1 is amended to read as follows:

§ 301.6332-1 Surrender of property subject to levy.

* * * * *

(b) *Enforcement of levy*— (1) *Extent of personal liability.* Any person who, upon demand of the district director, fails or refuses to surrender any property or right to property subject to levy is liable in his own person and estate in a sum equal to the value of the property or rights not so surrendered, together with costs and interest. The liability, however, may not exceed the amount of the taxes for the collection of which the levy was made. Interest is to be computed at the annual rate referred to in regulations under section 6621 from the date of the levy, or, in the case of a continuing levy on salary or wages (see section 6331(d)(3)), from the date the person would otherwise have been obligated to pay over the wages or salary to the taxpayer. Any amount recovered, other than cost, will be credited against the tax liability for the collection of which the levy was made.

§ 301.6333 [Deleted]

Par. 8. Section 301.6333 is deleted.

§ 301.6334 [Deleted]

Par. 9. Section 301.6334 is deleted.

Par. 10. Paragraph (a) of § 301.6334–1 is amended by revising the subparagraph heading for subparagraph (6) and by adding a new subparagraph (9). These amended and added provisions read as follows:

§ 301.6334-1 Property exempt from levy.

(a) *Enumeration.* In addition to exemptions allowed as a matter of Internal Revenue Service policy, there shall be exempt from levy—

* * * * *

(8) *Judgments for support of minor children.* * * *

(9) *Minimum exemption for wages, salary, and other income.* Amounts payable to or received by the taxpayer as wages or salary for personal services, or as other income, to the extent provided in §301.6334–2 through § 301.6334–6.

Par. 11. The following new sections are added immediately after § 301.6334–1:

§ 301.6334-2 Wages, salary, and other income.

(a) *In general.* Under section 6334 (a)(9) and (d) certain amounts payable to or received by a taxpayer as wages, salary or other income are exempt from levy. This section describes the income of a taxpayer that is eligible for the exemption from levy (paragraph (b)) and how exempt amounts are to be paid to the taxpayer (paragraph (c)). Section 301.6334–3 describes the sum which will be exempt from levy for each of the taxpayer's payroll periods. Payroll periods are described in § 301.6334–4. Amounts exempt from levy are determined in part by the number of persons claimed by the taxpayer as dependents. Section 301.6334–5 defines the term "dependent" for purposes of determining amounts exempt from levy, and describes the manner in which the taxpayer is to claim any dependent exemptions.

(b) *Eligible taxpayer income.* Only wages, salary or other income payable to the taxpayer after the levy is made on the payor may be exempt from levy under section 6334(a)(9). No amount of wages, salary or other income which is paid to the taxpayer before levy is made on the payor will be so exempt from levy. The provisions of this subparagraph may be illustrated by the following example:

Example. Delinquent taxpayer A, an individual, is employed by the M Corp. and is paid wages on the 1st and 15th day of each month. Accordingly, A is paid wages on Monday, August 15, 1977. On Wednesday, August 17, A deposits these wages in his personal checking account at Bank X. On Friday, August 19, levy is made on the M Corp. and also on Bank X. Amounts payable to A as wages on September 1, 1977, and any payday thereafter may be exempt from levy under section 6334(a)(9). No amount of the wages A deposited in his account at Bank X on August 17, 1977, are exempt from levy under section 6334(a)(9).

(c) *Payment of exempt amounts to taxpayer.*—(1) *From wages, salary or other income not subject to levy.* In the case of a taxpayer who has more than one source of wages, salary or other income, the district director may elect to levy on only one or more such sources while leaving other sources of income free from levy. If these wages, salary or other income which the district director leaves free from levy equal or exceed the amount to which the taxpayer is entitled as an exemption from levy under 6334 (a)(9) and (d) § 301.6334–3 (and are not otherwise exempt), then no amount of the taxpayer's wages, salary or other income on which the district director elects to levy is exempt from levy. The district director shall notify the employer or other person subject to levy that no amount of the taxpayer's wages, salary or other income is exempt from levy. The provisions of this subparagraph may be illustrated by the following example:

Example. Delinquent taxpayer C is a full-time employee of the X corporation and is paid wages totaling $450 on the 1st and 15th day of each month (semimonthly). C also performs services for the Y corporation and is paid a salary of $290 each month. C has one dependent as defined in § 301.6334–5. Levy is served on the X corporation with respect to wages payable to C. Levy is not served on the Y corporation. Under § 301.6334–3(d). C is entitled to an exemption from levy totaling $140.83 for each semimonthly pay period (or $281.66 per month). However, because levy has not been made on C's salary paid by the Y corporation ($290 per month) and that salary exceeds the amount to which C is entitled monthly as an exemption ($281.66), no amount of C's wages paid by the X corporation is exempt from levy.

(2) *From wages, salary, or other income subject to levy.* If the taxpayer's income upon which the district director does not levy is less than that amount to which the taxpayer is entitled as an exemption, then an amount determined pursuant to § 301.6334–3 is to be paid to the taxpayer from those wages, salary or other income which are subject to levy. The district director will designate those wages, salary or other income subject to levy from which such amount will be paid to the taxpayer. The district director will generally make this designation by delivering to the employer or other person levied upon the form upon which the taxpayer is to claim any dependent exemption. The form will accompany the notice of levy. The person receiving the form from the district director must promptly deliver it to the taxpayer. In the case of some employers having a large number of employees, however, the district director will send the form upon which an employee is to claim any dependent exemption directly to the employee. In such a case, the notice of levy will indicate that the form for claiming dependent exemptions has been sent to the taxpayer. If a notice of levy is not accompanied by the form for claiming dependent exemptions and does not indicate that the form was sent directly to the taxpayer, then the person levied upon must make payment to the district director without regard to amounts prescribed by § 301.6334–3 as exempt from levy. If a notice of levy is accompanied by the form for claiming dependent exemptions or indicates that the form was sent directly to the taxpayer, then the person levied upon is to pay over to the taxpayer amounts determined to be exempt from levy pursuant to § 301.6334–3 and § 301.6334–5 (b) and (c) (relating to the requirement that the taxpayer submit a claim for any dependent exemption). Amounts not exempt from levy are to be paid to the district director in accordance with the terms of the levy.

§ 301.6334-3 Determination of exempt amount.

Amounts payable to the taxpayer as wages, salary, or other income for each payroll period described in § 301.6334–4 are exempt from levy as follows:

(a) If the payroll period is daily: $10, plus $3 for each person who is claimed as a dependent pursuant to § 301.6334–5.

(b) If the payroll period is weekly: $50, plus $15 for each person who is claimed as a dependent pursuant to § 301.6334–5.

(c) If the payroll period is biweekly: $100, plus $30 for each person who is claimed as a dependent pursuant to § 301.6334–5.

(d) If the payroll period is semi-monthly: $108.33 plus $32.50 for each person who is claimed as a dependent pursuant to § 301.6334–5.

(e) If the payroll period is monthly: $216.67, plus $65 for each person who is claimed as a dependent pursuant to § 301.6334–5.

(f) If the payroll period is not daily, weekly, biweekly, semimonthly, or monthly: A proportionate amount based upon the sum of an annual exemption of $2,600 plus $780 for each person who is claimed as a dependent pursuant to § 301.6334–5.

§ 301.6334-4 Determination of payroll period.

For purposes of determining the amount of wages, salary or other income exempt from levy under section 6334(a)(9)—

(a) *Regularly used calendar periods.* In the case of wages, salary or other income paid to the taxpayer on the basis of an established calendar period regularly used by the employer or other person levied upon for payroll or payment purposes (e.g., daily, weekly, biweekly, semimonthly, or monthly), that period is the taxpayer's payroll period.

(b) *Amounts paid on recurrent but irregular basis.* In the case of wages, salary, or other income paid to the taxpayer on a recurrent but irregular basis, the first day of the taxpayer's payroll period is that day following the day upon which the wages, salary, or other income were last paid to the taxpayer. The last day of the payroll period is that day upon which the current payment becomes payable to him. However, in any case in which: (1) Amounts are paid to the taxpayer on a recurrent but irregular basis, and (2) the last payment was paid to the taxpayer more than 60 days before the current payment becomes payable, the current payment will be deemed a one-time payment (see paragraph (c)).

(c) *Nonrecurrent payments.* In the case of wages, salary or other income paid to the taxpayer on a one-time basis, the taxpayer's payroll period is deemed to be weekly (i.e., the 1-week period ending on the day of payment).

§ 301.6334-5 Dependent exemption.

(a) *Dependent defined.* For purposes of §§ 301.6334–2 through 301.6334–4, a person is a dependent of the taxpayer for any payroll period of the taxpayer, if—

(1) Over half of that person's support for the payroll period was received from the taxpayer, and

(2) The person is the taxpayer's spouse, or bears a relationship to the taxpayer specified in section 152(a) (1) through (9) (relating to definition of dependent) on the last day of the payroll period, and

(3) The person is not the taxpayer's minor child with respect to whom amounts are exempt from levy under section 6334(a)(8) (relating to exemption from levy for judgements for support of minor children) at any time during the payroll period.

For purposes of subparagraph (2) of this paragraph "payroll period" should be substituted for "taxable year" each place it appears in section 152(a)(9).

(b) *Claim for dependent exemption.* No amount prescribed as being exempt from levy for each person who is claimed as a dependent will be so exempt unless a claim for dependent exemption is submitted to the employer or other person levied upon. A claim for dependent exemption shall be made by either—

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(1) Completion of the form provided

(2) *Example.* The provisions of this

Dated: May 8, 1979.

due care, in view of the circumstances,

3. Parts 1901, 1902 and 1903 of Chapter

In consideration of the foregoing, Part

(1) Completion of the form provided for this purpose by the Internal Revenue Service, or

(2) A written statement that: (i) Identifies by name and by relationship to the taxpayer each person for whom a dependent exemption is claimed, (ii) is signed by the taxpayer, and (iii) contains a declaration that it is made under the penalties of perjury.

(c) *Submission of claim for dependent exemption.* The taxpayer must submit the claim for dependent exemption to the employer or other person levied upon no later than the latter of—

(1) The third day before the last day of the payroll period for which the exemption is claimed (that is, the third day before payday), or

(2) If the district director delivers the forms for claiming a dependent exemption to the employer or other person levied upon (see § 301.6334–2(c)(2)), the second day after the date the taxpayer receives the form.

For purposes of subparagraphs (1) and (2) of this paragraph, the term "day" does not include Saturdays, Sundays or a legal holiday within the meaning of section 7503. Failure on the part of the taxpayer to submit a timely claim for dependent exemption will result in the loss of the dependent exemption for the applicable pay period, except that the employer or other person levied upon may accept a claim for dependent exemption not timely submitted in accordance with this paragraph, and may prepare a disbursement to the taxpayer based upon a dependent exemption claimed therein, if payment to the district director in accordance with the levy is not thereby delayed.

(d) *Payment of amounts not exempt from levy to district director.*—(1) *Delayed payment in certain cases.* In general, wages, salary, or other income the subject of a levy are payable to the district director on the date the payor is otherwise obligated to pay the taxpayer (see § 301.6331–2(c)). If, however, as described in paragraph (c)(2) of this section, the taxpayer may submit a claim for dependent exemption after the third day before payday, amounts payable to the taxpayer on that payday, to the extent not exempt from levy, are payable to the district director on the third day following the date on which the taxpayer may timely submit the claim for dependent exemption under such paragraph (c)(2). For purposes of this rule, the term "day" does not include Saturday, Sunday or a legal holiday within the meaning of section 7503.

(2) *Example.* The provisions of this paragraph may be illustrated by the following example:

The taxpayer is paid wages on the Wednesday following the close of each work week. Levy is made on his employer on Monday. The form for claiming a dependent exemption, which accompanied the notice of levy (see § 301.6334–2(c)), is delivered to the taxpayer by the employer on the following day, Tuesday. Under paragraph (c)(2) of this section, the taxpayer may timely submit a claim for dependent exemption as late as Thursday, the day after the first payday to which the levy applies. Under this paragraph, wages payable to the taxpayer on that first Wednesday payday, to the extent not exempt from levy, are payable to the district director on the following Tuesday. Thereafter, wages payable to the employee on each Wednesday, to the extent not exempt from levy, are payable to the district director on such Wednesday (see § 301.6331–2(c)).

§ 301.6334–6 Effective dates.

Sections 301.6334–2 through 301.6334–5 apply with respect to levies on wages, salary, and other income made after February 28, 1977.

§ 301.6334–7 Supersession of temporary regulations.

Sections 301.6334–2 through 301.6334–5 supersede § 404.6334(d)–1 of the temporary regulations on procedure and administration under the Tax Reform Act of 1976.

[T.D. 7620]

[FR Doc. 79–15012 Filed 5–11–79; 8:45 am]
BILLING CODE 4830–01–M

Office of the Secretary

31 CFR Part 5

Claims Collection; Correction of Amendment of Regulations Which Govern Claims Collection Procedures

AGENCY: Department of the Treasury.

ACTION: Notification of an authority citation.

SUMMARY: This corrects an oversight in a final rule published on February 15, 1979, at 44 FR 9745, amending 31 CFR § 5.3, by adding an authority citation.

EFFECTIVE DATE: February 15, 1979.

FOR FURTHER INFORMATION CONTACT: Diane K. Smith, Attorney-Adviser, Office of the General Counsel, Department of the Treasury, Washington, D.C. 20220, Telephone 202–566–2327.

SUPPLEMENTARY INFORMATION: The authorities for 31 CFR Part 5, and for the above referenced February 15, 1979 amendment of that Part, are Sec. 3, 80 Stat. 309., 31 U.S.C. 952.

Dated: May 8, 1979.

Walter McDonald,
Acting Assistant Secretary (Administration).

[FR Doc. 79–14905 Filed 5–11–79; 8:45 am]
BILLING CODE 4810–25–M

DEPARTMENT OF DEFENSE

Department of the Navy

32 CFR Part 707

Special Rules with Respect to Additional Station and Signal Lights; Amendment

AGENCY: Department of the Navy, DOD.

ACTION: Final rule.

SUMMARY: The Department of the Navy is amending its special rules with respect to additional station and signal lights under the International Regulations for Preventing Collisions at Sea, 1972 (72 COLREGS) and the Navigation Rules for Harbors, Rivers and Inland Waters (Inland Rules) to reflect that the Secretary of the Navy has revised the special rule regarding underway-replenishment contour lights displayed by naval vessels. The purpose of this rule is to warn mariners in waters where the 72 COLREGS or the Inland Rules apply.

EFFECTIVE DATE: April 24, 1979.

FOR FURTHER INFORMATION CONTACT: Lieutenant Commander M. D. Seiders, JAGC, USN, Admiralty Division, Office of the Judge Advocate General, Navy Department, Washington, DC 20370, Telephone number (202) 694–5188.

SUPPLEMENTARY INFORMATION: Pursuant to the authority granted in Executive Order 11964 and 33 U.S.C. § 182, the Department of the Navy amends 32 CFR Part 707. This amendment to Part 707 provides notice that naval vessels may display, as a means of outlining the contour of the delivery ship during nighttime underway-replenishment operations, either red or blue lights at delivery-ship-deck-edge extremities. The amendment reflects the change from the previous situations where only red lights were authorized to be displayed. In promulgating this special rule, the Secretary of the Navy has determined that the indicated lights are located in such a fashion that, as far as possible, they cannot be mistaken for any light authorized by the 72 COLREGS or the Inland Rules. The intended effect of this rule is to avoid confusing mariners by the display of the indicated lights, and to warn them that when these lights are used a special situation exists for which due care, in view of the circumstances, should be exercised.

Moreover, it has been determined, in accordance with 32 CFR Parts 296 and 701, that publication of this amendment for public comment prior to adoption is impracticable, unnecessary and contrary to public interest since it is based on technical findings that use of the lights in a manner differently from that prescribed herein will adversely affect the ability of the ships equipped with such lights to perform their military functions. Accordingly, 32 CFR Part 707 is amended as follows:

§ 707.5 [Amended]

1. § 707.5 is amended by deleting the phrase "* * * red lights at delivery ship deck edge extremities." and inserting the new language "* * * either red or blue lights at delivery-ship-deck-edge extremities."

Effective Date: The effective date of this amendment will be April 24, 1979.

Dated: April 24, 1979.

W. Graham Claytor, Jr.

[FR Doc. 79–14912 Filed 5–11–79; 8:45 am]
BILLING CODE 3810–71–M

DEPARTMENT OF COMMERCE

Maritime Administration

32A CFR Chapters XVIII and XIX

National Shipping Authority; Control and Utilization of Ports; Transfer of Regulations

AGENCY: Maritime Administration, Department of Commerce.

ACTION: Designation and transfer of regulations.

SUMMARY: The material contained in Chapter XVIII is being designated as Subchapter A, Chapter XVIII and the material formerly contained in Chapter XIX is being designated as Subchapter B and transferred to Chapter XVIII. This action is being accomplished as a result of modification to the National Shipping Authority organization which now encompasses the control and utilization of ports in addition to its previous functions.

EFFECTIVE DATE: May 14, 1979.

FOR FURTHER INFORMATION CONTACT: Tony Ossi (202) 377–2562.

Chapter XVIII and XIX [Amended]

1. The chapter heading for Chapter XVIII is retained without change.

2. Parts 1801–1886 of Chapter XVIII are designated as Subchapter A—Shipping Operations.

3. Parts 1901, 1902 and 1903 of Chapter XIX are transferred to Chapter XVIII and are designated as Subchapter B—Control and Utilization of Ports.

4. The Table of Contents for the parts in Chapter XVIII is amended accordingly.

5. The chapter heading for Chapter XIX is deleted.

Dated: May 8, 1979.

By order of the Acting Assistant Secretary for Maritime Affairs and Acting Director, National Shipping Authority.

James S. Dawson, Jr.,
Secretary, Maritime Administration.

[FR Doc. 79–14908 Filed 5–11–79; 8:45 am]
BILLING CODE 3510–15–M

DEPARTMENT OF TRANSPORTATION

Coast Guard

33 CFR Part 127

Establishment of Security Zone in Hudson River, New York, N.Y.

AGENCY: Coast Guard, DOT.

ACTION: Final rule.

SUMMARY: This amendment to the Coast Guard's Security Zone Regulations establishes a portion of the waters of the Hudson River in New York, New York as a security zone. This security zone is established to safeguard the 30th Street Heliport and surrounding waters during the visit of the President of the United States to New York City. No vessel may enter or remain in a security zone without the permission of the Captain of the Port.

EFFECTIVE DATE: This amendment is effective on April 25, 1979.

FOR FURTHER INFORMATION CONTACT: Captain J. L. Fleishell, Captain of the Port, New York Building 109, Governors Island, New York, New York 10004, (212) 668–7917.

SUPPLEMENTARY INFORMATION: This amendment is issued without publication of a notice of proposed rule making and this amendment is effective in less than 30 days from the date of publication because the short time between scheduling of the event and its occurrence made such procedures impracticable. Local public notice has been given.

DRAFTING INFORMATION: The principal persons involved in drafting this rule are: Lieutenant Junior Grade E. L. Ristaino, Project Manager, Captain of the Port, New York, New York; and Lieutenant D. B. Stevenson, Project Attorney, Legal Office, Third Coast Guard District, New York, New York.

In consideration of the foregoing, Part 127 of Title 33 of the Code of Federal Regulations is amended by adding § 127.366 to read as follows:

§ 127.366 Hudson River, New York, New York.

The waters of the Hudson River, New York within 400 yards of the 30th Street Heliport are a security zone from 10:30 a.m., E.S.T., April 25, 1979, to 1:45 p.m., E.S.T., April 25 1979.

(Sec. 1, 40 Stat. 220, as amended (50 U.S.C. 191); 63 Stat. 503 (14 U.S.C. 91); Sec. 6(b)(1), 80 Stat. 937 (49 U.S.C. 1655)(b)(1); E.O. 10173, E.O. 10277, E.O. 10352, E.O. 11249; 3 CFR, 1949–1953 Comp. 356, 778, 873, 3 CFR, 1964–1965 Comp. 349, (33 CFR Part 6), (49 CFR 1.46(b)).)

Dated: April 25, 1979.

J. L. Fleishell,
Captain, U.S. Coast Guard, Captain of the Port, New York.

[CCGD 3–79–4–R]
[FR Doc. 79–14994 Filed 5–11–79; 8:45 am]
BILLING CODE 4910–14–M

ENVIRONMENTAL PROTECTION AGENCY

40 CFR Part 52

Approval and Promulgation of Implementation Plans; Massachusetts Revision

AGENCY: Environmental Protection Agency (EPA).

ACTION: Final rule.

SUMMARY: In this notice EPA approves a revision to the Massachusetts Implementation Plan which adds Regulation 7.17 to govern the burning of coal by New England Power Company's Brayton Point Station. The Massachusetts Implementation Plan, as approved by EPA during January, 1978 (43 FR 1793), contains a sulfur in fuel limitation of 1.21 pounds per million Btu heat release potential, and a particulate matter emission limitation of 0.12 pounds per million Btu for Units 1, 2, and 3 of the Brayton Point Power Station in the Southeastern Massachusetts Air Pollution Control District. This revision specifies for coal burning at Brayton Point Station that the sulfur in fuel limitation is to be measured on a monthly period, and establishes a daily sulfur in fuel limitation of 2.31 pounds per million Btu. Emissions of particulate matter from the facility are limited to a maximum of 0.08 pounds per million Btu heat input, an emission reduction of 33⅓ percent from the existing regulation. The regulation will remain in effect until November 1, 1988.

EFFECTIVE DATE: May 14, 1979.

FOR FURTHER INFORMATION CONTACT:

§ 52.1120 Identification of plan.

§ 413.44 [Suspended]

that limit to be determined on the basis of Energy questioned the need for the pretreatment regulation for the same

FOR FURTHER INFORMATION CONTACT: Miriam Fastag, Air Branch, EPA Region I, Room 1903, JFK Federal Building, Boston, Massachusetts 02203, (617) 223-4448.

SUPPLEMENTARY INFORMATION: On September 7, 1978, after proper notice and public hearing, the Commissioner of the Massachusetts Department of Environmental Quality Engineering (the Massachusetts Department) submitted a revision to the State Implementation Plan (SIP), Regulation 7.17, "Coal Conversion-Brayton Point Station, New England Power Company" to regulate the conversion from oil to coal at Units 1, 2, and 3 of Brayton Point Power Station in the Southeastern Massachusetts Air Pollution Control District (SEMAPCD). The coal used by the facility is to have a sulfur content not in excess of 1.21 pounds per million Btu heat release potential on the average for a monthly period (defined as a thirty day running average), and is not to exceed an average of 2.31 pounds per million Btu heat release potential in any day, as measured in accordance with procedures prescribed by the Massachusetts Department. Emissions of particulate matter from Units 1, 2, and 3 of the facility are limited to a maximum of 0.08 pounds per million Btu input, a 33⅓ percent reduction from the present regulatory limit of 0.12 pounds per million Btu. Solid fuel burning will be conducted in conformance with all other applicable laws and regulations of the SIP. The regulation will remain in effect until November 1, 1988. Since the facility was built with a capability of burning coal, the conversion is not subject to New Source Performance Standards [40 CFR 60.2(h)].

Existing Massachusetts air pollution regulations, specifically Regulation 7.05(1) "Sulfur Content of Fuels and Control Thereof" (formerly Regulation 5.1), temporarily allow specified sources in the SEMAPCD, including Brayton Point Station, to burn any fossil fuel (including coal) having a sulfur content not in excess of 1.21 pounds per million Btu heat release potential (approximately equivalent to 2.2 percent sulfur content residual fuel oil by weight or 1.5 percent sulfur content coal) until July 1, 1979. Approval of a permanent regulation was proposed by EPA on March 15, 1979 (44 FR 15738). The Massachusetts Department adopted the coal regulation to specify the conditions under which coal may be burned at New England Power Company's Brayton Point Station, while still adhering to the 1.21 pounds per million Btu sulfur limit. This regulation permits compliance with that limit to be determined on the basis of a monthly period. In EPA's view, measurement of sulfur content on a monthly basis is permissible under the currently approved SIP since no measuring time is specifically provided for in the SIP.

The policy which the Massachusetts Department adopted for sampling and analysis of solid fossil fuels is consistent with EPA proposed New Source Performance Standards (NSPS), Method 19 and EPA is approving this revision based upon use of these sampling and analysis methods. Consequently these methods cannot be substantially altered without a revision to the SIP.

The Regional Administrator published a Federal Register notice on March 7, 1979 (44 FR 12459) proposing to approve the plan revision. During the 30-day comment period following publication of the notice of proposed rulemaking three letters of comment were submitted, supporting EPA's proposed approval. One of the letters, addressed below, also questioned the need for the more stringent particulate regulation. The Regional Administrator found that the revision will not cause or substantially contribute to concentrations of pollutants in excess of National Ambient Air Quality Standards (NAAQS) for sulfur dioxide (SO_2) or total suspended particulates (TSP).

Based on extensive air quality monitoring, modeling and statistical analysis of the air impacts of sulfur-in-coal variability, provided as technical support to this revision and described in the Federal Register in which approval of this revision was proposed (44 FR 12459), it was estimated that neither the 24 hour SO_2 standard nor the 3-hour standard is expected to be exceeded more than once a year on average, nor would the annual standard be violated.

The SEMAPCD is the same geographic area as the Massachusetts portion of the Metropolitan Providence Interstate Air Quality Control Region (AQCR). EPA has designated specific portions of the SEMAPCD, including the Fall River area in the vicinity of Brayton Point Station, as "non-attainment" for the total suspended particulate secondary standard, based on secondary 24-hour TSP violations in the area (43 FR 8962). Present regulations limit particulate emissions from Brayton Point Station to 0.12 pounds per million Btu input. Because of the concern with attainment and maintenance of the TSP NAAQS, this SIP revision provides for a more restrictive emission limitation, 0.08 pounds per million Btu, whenever coal is burned in the Brayton Point facility. In a letter of comment, the U.S. Department of Energy questioned the need for the more stringent particulate emission regulation. By restricting emissions below those presently allowed, the Massachusetts Department and EPA have attempted to ensure that particulate matter attributable to this facility will be limited to a reasonable level. The Massachusetts Department and EPA share the opinion that the proposed particulate emission limitation represents the degree of stringency which this facility may reasonably be expected to achieve while burning coal.

EPA has determined that the proposed revision does not require a Prevention of Significant Deterioration (PSD) analysis. A SIP revision, allowing the burning of fuel with a sulfur content of 1.21 pounds per million Btu at specified locations in the SEMAPCD, including Brayton Point, was pending action by EPA on August 7, 1977 (40 CFR 51.24(b)(11)(i). This present revision simply specifies for coal burning that the 1.21 pounds per million Btu sulfur in fuel limit is to be measured for a monthly period. Because monthly measurement is also permissible under the existing SIP, the revision does not constitute a relaxation for SO_2 emissions, and consequently no PSD analysis is required.

An evaluation of other environmental impacts which could result from conversion to coal at Brayton Point Station has been performed by the U.S. Department of Energy and the results presented in a Draft Environmental Impact Statement (EIS) entitled Coal Conversion Program-New England Power Company. Measures to mitigate potential adverse impacts will be taken by the Company and are described in supporting material submitted by the Massachusetts Department.

After evaluation of the State's submittal, the Administrator has determined that the Massachusetts revision meets the requirements of the Clean Air Act and 40 CFR Part 51. Accordingly, this revision is approved as a revision to the Massachusetts Implementation Plan.

Authority: Section 110(a) of the Clean Air Act, as amended, 42 U.S.C. 7410.

Dated: May 8, 1979.

Barbara Blum,
Acting Administrator

Part 52 of Chapter I, Title 40, Code of Federal Regulations, is amended as follows:

Subpart W—Massachusetts

1. In Section 52.1120(c), Subparagraph (19) is added to read as follows:

§ 52.1120 Identification of plan.

* * * * *

(c) The plan revisions listed below were submitted on the dates specified.

* * * * *

(19) The addition of Regulation 7.17, for the Southeastern Massachusetts Air Pollution Control District, Coal Conversion—Brayton Point Station, New England Power Company, submitted by the Commissioner of the Massachusetts Department of Environmental Quality Engineering on September 7, 1978. Compliance with this revision shall be determined by methods consistent with New Source Performance Standards, proposed Test Method 19, as stated in a letter dated February 8, 1979 from Kenneth Hagg of the Massachusetts Department of Environmental Quality Engineering to Frank Ciavattieri of the Environmental Protection Agency.

[FRL 1223-3]
[FR Doc. 79-15030 Filed 5-11-79; 8:45 am]
BILLING CODE 6560-01-M

40 CFR Part 413

Electroplating Point Source Category; Suspension of Interim Final Regulation

AGENCY: Environmental Protection Agency (EPA).

ACTION: Suspension of regulation.

SUMMARY: The United States Environmental Protection Agency today is indefinitely suspending pretreatment standards under the Clean Water Act which establish cyanide, chromium, and pH parameters for electroplaters. This Agency action is primarily based on a request for reconsideration of the cyanide and chromium standards submitted by some affected companies. Based upon a preliminary evaluation of the request, EPA has concluded that this regulation should be suspended until the industry petition can be fully evaluated.

EFFECTIVE DATE: May 14, 1979.

FOR FURTHER INFORMATION CONTACT: Harold B. Coughlin, Effluent Guidelines Division, (WH-552) Environmental Protection Agency, 401 M Street S.W., Washington, D. C. 20460, (202) 426-2560.

SUPPLEMENTARY INFORMATION: On July 12, 1977, EPA promulgated interim final pretreatment standards for the electroplating category analogous to best practicable technology (42 FR 35834). These standards, which applied to cyanide, hexavalent chromium and pH, required compliance by July 12, 1980.

Subsequently, on February 14, 1978, the Agency published a proposed pretreatment regulation for the same category covering the above pollutants plus cadmium, lead, copper, nickel, zinc, and silver (43 FR 6560). This proposal raised a question of whether electroplaters should be required to comply with the July 12, 1977 standard of the forthcoming standard based on the February 1978 proposal, or both.

In considering this question the Agency first reviewed the comments received on the interim final regulation and the proposed regulation. These comments indicated that the interim final numerical standards for cyanide and hexavalent chromium will probably have to be modified. EPA needs more time to fully evaluate these comments. Moreover, the Agency estimates that a final regulation based on the February 1978 proposal will be promulgated within the next nine months. In view of these factors, the Agency has decided to suspend the interim final regulation indefinitely, thereby relieving electroplaters of the duty to comply with this regulation.

The situation presented by the interim final electroplating regulation is unique. In other instances where EPA has promulgated interim final pretreatment regulations analogous to best practicable technology (BPT), the Agency intends to follow-up with regulations analogous to best available technology economically achievable (BAT). See H.R. Conf. Rep. No. 95-830, 95th Cong. 1st Sess. 87 (1977). This two step process is basic to the Clean Water Act. With electroplating, however, a three step process was contemplated: (1) an interim final BPT regulation (2) a final BPT regulation (3) a BAT regulation. Suspension of the interim final regulations will condense the regulatory process into the normal two step process. The Agency has no present intention to suspend other interim final BPT regulations while BAT regulations are being promulgated.

Authority: Section 307(b) of the Clean Water Act, as amended, 33 U.S.C. § 1251, 1317(b); 86 Stat. 816 et seq.; Pub. L. 92-500.

Statement of Suspension

In consideration of the foregoing:

§ 413.14 [Suspended]

§ 413.24 [Suspended]

§ 413.44 [Suspended]

§ 413.54 [Suspended]

§ 413.64 [Suspended]

§ 413.74 [Suspended]

§ 413.84 [Suspended]

40 CFR Chapter I, Subchapter N, Part 413, Electroplating Point Source Category, is amended by suspending the following paragraphs and sections in their entirety: Subpart A, Electroplating Point Source Category, Section 413.14; Subpart B, Electroplating of Precious Metals Subcategory, Section 413.24; Subpart D, Anodizing Subcategory, Section 413.44; Subpart E, Coatings Subcategory, Section 413.54; Subpart F, Chemical Etching and Milling Subcategory, Section 413.64; Subpart G, Electroless Plating, Section 413.74; and Subpart H, Printed Circuit Board Subcategory, Section 413.84.

Dated: May 8, 1979.

Barbara Blum,
Acting Administrator.

[FRL 1214-8]
[FR Doc. 79-15029 Filed 5-11-79; 8:45 am]
BILLING CODE 6560-01-M

DEPARTMENT OF HEALTH, EDUCATION, AND WELFARE

Office of Education

45 CFR Part 199a

State Postsecondary Education Commissions Program—Intrastate Planning; Final Allocation Formula and Program Guidelines

AGENCY: Office of Education, HEW.

ACTION: Final Allocation Formula and Program Guidelines.

SUMMARY: The Commissioner amends the allocation formula and program guidelines for the State Postsecondary Education Commissions Program—Intrastate Planning. Operated as a formula grant program, the program is designed to provide assistance to State Postsecondary Education Commissions to conduct statewide comprehensive planning activities. This amendment merely deletes the date of the fiscal year of program operations.

EFFECTIVE DATE: The allocation formula and program guidelines are expected to take effect 45 days after they are transmitted to Congress. (Documents of this type are usually transmitted to Congress three to four days before they are published in the Federal Register.) However, this date is changed by statute if Congress disapproves the allocation formula and program guidelines or takes

Federal Communications Commission.

Burlington Northern Inc. (BN). These

W. H. Van Slyke, Chairman, Car Service Division, Association of American

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certain types of adjournments. If you want to know the exact effective date of the allocation formula and program guidelines, call or write the Office of Education contact person.

FOR FURTHER INFORMATION CONTACT:
Charles I. Griffith, Director, State Postsecondary Education Commissions Program, Bureau of Higher and Continuing Education, Room 4052, Regional Office Building 3, 7th and D Streets, SW., Washington, D.C. 20202. Telephone: (202) 245–2671.

SUPPLEMENTARY INFORMATION: The Commissioner finds that public comment on this amendment is unnecessary within the meaning of 5 U.S.C. 553(b). The allocation formula and program guidelines have not been changed since publication, after a comment period, in FY 1976. This document merely deletes the date of the fiscal year of program operations.

(Catalog of Federal Domestic Assistance Number 13.550; State Postsecondary Education Commissions Program—Intrastate Planning)

Dated: April 2, 1979.

John Ellis,
Acting U.S. Commissioner of Education.

Approved: May 4, 1979.

Joseph A. Califano, Jr.,
Secretary of Health, Education and Welfare.

1. The title of Part 199a of Title 45 of the Code of Federal Regulations is changed to read as follows:

PART 199a—STATE POSTSECONDARY EDUCATION Commissions Program—Intrastate Planning

§ 199a.1 [Amended]

2. Section 199a.1 of Part 199a of Title 45 of the Code of Federal Regulations is amended by changing the words "Fiscal Year 1978" to "any fiscal year".

* * * * *

[FR Doc. 79–15006 Filed 5–11–79; 8:45 am]
BILLING CODE 4110–02–M

COMMUNITY SERVICES ADMINISTRATION

45 CFR Part 1060

CSA Income Poverty Guidelines (Revised); Correction

AGENCY: Community Services Administration.

ACTION: Correction of Effective Date.

SUMMARY: The Community Services Administration is changing the effective date of the final rule on CSA Income Poverty Guidelines (Revised) appearing at 44 FR 26745 May 7, 1979 based on the requirements of Section 625(c) of the Economic Opportunity Act of 1964, as amended. The effective date will now be the date of publication in the **Federal Register** (May 7, 1979).

EFFECTIVE DATE: June 6, 1979 appearing at 44 FR 26745 is changed to read May 7, 1979.

FOR FURTHER INFORMATION CONTACT:
Mr. Phil Wall, Policy, Planning and Analysis Division, Community Services Administration, Office of Policy, Planning and Evaluation, 1200 19th Street, NW., Washington, D.C. 20506, Telephone: 202–632–6630, Teletypewriter: 202–254–6218.

Authority: The provisions of this subpart are issued under Section 602, 78 Stat. 530, 42 U.S.C. 2942.

Graciela (Grace) Olivarez,
Director.

[CSA Instruction 6004–1L]
[FR Doc. 79–14977 Filed 5–11–79; 8:45 am]
BILLING CODE 6315–01–M

FEDERAL COMMUNICATIONS COMMISSION

47 CFR Part 90

Private Land Mobile Radio Service; Simplifying Certain Procedures for Filing Applications

AGENCY: Federal Communications Commission.

ACTION: Order.

SUMMARY: Pursuant to a Petition for Reconsideration of the Commission's Report and Order in Docket 21350, the Commission has amended its rules to permit governmental entities eligible in the Commission's Special Emergency Radio Service to submit applications for mobile transmitters which will not be placed into operation within eight months of the date of grant, provided these mobiles will be placed into operation pursuant to an implementation schedule approved by the appropriate final authorities of the applicant. The Commission again declined to extend this rule to non-governmental entities.

EFFECTIVE DATE: June 18, 1979.

ADDRESSES: Federal Communications Commission, Washington, D.C. 20554.

FOR FURTHER INFORMATION CONTACT:
Eugene C. Bowler, Private Radio Bureau, (202) 632–6497.

SUPPLEMENTARY INFORMATION:
Memorandum Opinion and Order

Adopted: April 17, 1979.
Released: May 8, 1979.

By the Commission: Commissioner Jones not participating.

In the matter of Amendment of Part 90 of the Commission's rules to simplify certain procedures for filing applications. Docket No. 21350, 43 FR 59070, December 19, 1978.

1. The Associated Public Safety Communications Officers, Inc. (APCO) has petitioned for reconsideration and modification of our Report and Order in Docket No. 21350, 70 FCC 2d. 501 (1978) in order to allow governmental entities and other eligibles in the Special Emergency Radio Service the same flexibility in implementing their radio systems as the rules now provide for governmental entities eligible in the Public Safety Radio Services.

2. It was our intention, when we adopted the rules in this proceeding to extend to governmental entities which were eligible in the Special Emergency Radio Service, the benefits we were extending to governmental entities which were eligible in the Pubic Safety Radio Services. However, with the restructuring of the rules when Parts 89, 91, and 93 were consolidated into Part 90, the rule in question was not made applicable to the Special Emergency Radio Service. We appreciate APCO's bringing this matter to our attention. Accordingly, we are modifying our decision so that the rule also applies to governmental entities eligible in the Special Emergency Radio Service.

3. We will not, however, apply the rule to other entities. In our Report and Order, we specifically considered and rejected [1] expanding the scope of the rule beyond governmental entities. APCO's petition contains no reasons or arguments on this point not already presented and considered by us. Consequently, we are denying this aspect of APCO's request and are only extending the provisions of this rule to include governmental entities eligible in the Special Emergency Radio Service.

4. Accordingly, it is ordered pursuant to the authority contained in Sections 4(i) and 303(r) of the Communications Act of 1934, as amended, that Part 90 of the Commission's rules is amended as set forth in the attached Appendix effective June 18, 1979.

[1] See 70 FCC 2d 503 (1978).

Federal Communications Commission.

(Secs. 4, 303, 48 stat., as amended, 1066, 1082; (47 U.S.C. 154, 303))

William J. Tricarico,
Secretary.

Appendix

Part 90 of Chapter I of Title 47 of the Code of Federal Regulations is amended as follows:

1. Section 90.127(c)(3) is amended to read as follows:

§ 90.127 Filing of applications.

* * * * *

(c) * * *

(3) In the Public Safety Radio Services and in the Special Emergency Radio Service for governmental entities only, to transmitters on which bid orders have been or will be sought and which will be in use within eight months of the authorization date, and to transmitters to be placed in operation later than eight months of the authorization date, pursuant to a specific implementation schedule which has been adopted by the appropriate final authorities of the applicant.

(d) * * *

* * * * *

[Docket No. 21350; FCC 79–234]
[FR Doc. 79–14972 Filed 5–11–79; 8:45 am]
BILLING CODE 6315–01–M

INTERSTATE COMMERCE COMMISSION

49 CFR Part 1033

Burlington Northern Inc.; Distribution of Grain Cars

AGENCY: Interstate Commerce Commission.

ACTION: Emergency Order, Corrected Second Revised Service Order No. 1301.

SUMMARY: Paragraph (3) of Second Revised Service Order No. 1301 was corrected to read: *Exception.* Empty 40-ft., narrow-door plain boxcars owned by Burlington Northern Inc., may be loaded to any station on the lines of the Burlington Northern Inc.

DATES: Effective 11:59 p.m., April 30, 1979. Expires when modified or vacated by order of this Commission.

FOR FURTHER INFORMATION CONTACT: J. Kenneth Carter, Chief, Utilization and Distribution Branch, Interstate Commerce Commission, Washington, D.C. 20423, Telephone (202) 275–7840, Telex 89–2742.

SUPPLEMENTARY INFORMATION:

Decided: April 30, 1979.

There is an acute shortage of plain, 40-ft., narrow-door boxcars on the Burlington Northern Inc. (BN). These shortages are preventing the orderly flow of grain to markets, both domestic and export, and are causing severe economic loss to producers and shippers of grains dependent upon the BN for transporting these products to market. A portion of the BN's fleet of these cars are loaded to points on the lines of other railroads. Such cars must be returned promptly to the BN for subsequent loading by shippers dependent upon the BN for transporting their shipments. It is the opinion of the Commission that an emergency exists requiring immediate action to promote car service in the interest of the public and the commerce of the people. Accordingly, the Commission finds that notice and public procedure are impracticable and contrary to the public interest, and that good cause exists for making this order effective upon less than thirty days' notice.

It is ordered:

§ 1033.1301 Distribution of grain cars.

(a) Each common carrier by railroad subject to the Interstate Commerce Act shall observe, enforce, and obey the following rules, regulations, and practices with respect to its car service:

(1) Exclude from all loading and return to owner empty except as otherwise provided in paragraphs (a) (3) and (4) of this section, all 40-ft., narrow-door plain boxcars described in paragraph (a)(2) of this section owned by the following railroad:

Burlington Northern Inc., Reporting Marks: BN–CBQ–GN–NP–SPS

(2) The term "40-ft., narrow-door plain boxcars" as used in this order means freight cars listed in the Official Railway Equipment Register, ICC–RER No. 6410–A, issued by W. J. Trezise, or successive issues thereof, as having mechanical designation "XM" with inside length 40-ft., 6-in. or less and equipped with doors less than 9-ft. wide.

*(3) *Exception.* Empty 40-ft., narrow-door plain boxcars owned by Burlington Northern Inc., may be loaded by any railroad to any station on the lines of Burlington Northern Inc.

(4) *Exception.* For the purpose of improving car utilization and the efficiency of railroad operations, or alleviating inequities or hardships, modifications may be authorized by the Chief Transportation Officer of the car owner, or by the Director or Assistant Director of the Bureau of Operations, Interstate Commerce Commission. Modifications authorized by the car owner must be confirmed in writing to W. H. Van Slyke, Chairman, Car Service Division, Association of American Railroads, Washington, D.C., for submission to the Director or Assistant Director.

*Denotes change.

(5) Carrier named in paragraph (a)(1) of this section is prohibited from loading all 40-ft., narrow-door, plain boxcars foreign to their lines and must return such cars to the owner, either via the reverse of the service route or direct, as agreed to by the owner.

6. *Exception.* Carrier named in paragraph (a)(1) of this section is authorized to use empty 40-ft., narrow-door plain boxcars owned by other railroads which are located in the States of Colorado, Wyoming, and Montana, or west thereof, for loading to any point on its line between Kansas City, Missouri; Omaha, Nebraska; Sioux City, Iowa; Minneapolis, Minnesota; and Duluth, Minnesota; or east thereof, regardless of the provisions of Section (a)(5) of the Second Revised Service Order No. 1301.

(7) *Exception.* Carrier named in paragraph (a)(1) of this section is authorized to use 40-ft., narrow-door plain boxcars owned by any railroad which has made its cars exempt from Car Service Rules 1 and 2, which are identified in Interstate Commerce Commission Exemptions Nos. 12 and 129, or successive issues thereof.

(b) No common carrier by railroad subject to the Interstate Commerce Act shall accept from shipper any loaded car, described in this order, contrary to the provisions of the order.

(c) *Application.* The provisions of this order shall apply to intrastate, interstate, and foreign commerce.

(d) *Effective date.* This order shall become effective at 11:59 p.m., April 30, 1979.

(e) *Expiration date.* The provisions of this order shall remain in effect until modified or vacated by order of this Commission.

(49 U.S.C. (10304–10305 and 11121–11126).)

It is further ordered, That a copy of this order and direction shall be served upon the Association of American Railroads, Car Service Division, as agent of all railroads subscribing to the car service and car hire agreement under the terms of that agreement, and upon the American Short Line Railroad Association; and that notice of this order shall be given to the general public by depositing a copy in the Office of the Secretary of the Commission at Washington, D.C., and by filing it with the Director, Office of the Federal Register.

By the Commission, Railroad Service Board, members Joel E. Burns, Robert S. Turkington,

MAY 14 1979 UMI

Proposed Rules

Federal Register
Vol. 44, No. 94

and John R. Michael. Member Joel E. Burns not participating.

H. G. Homme, Jr.,
Secretary.

[Corrected Second Revised Service Order No. 1301]
[FR Doc. 79-15001 Filed 5-11-79; 8:45 am]
BILLING CODE 7035-01-M

DEPARTMENT OF THE INTERIOR

Fish and Wildlife Service

50 CFR Part 33

Opening of Certain National Wildlife Refuges to Sport Fishing: New York, New Jersey and Pennsylvania

AGENCY: United States Fish and Wildlife Service, Department of the Interior.

ACTION: Special Regulations.

SUMMARY: The Director has determined that the opening to sport fishing of certain National Wildlife Refuges in New York, New Jersey and Pennsylvania is compatible with the objectives for which the areas were established, will utilize a renewable natural resource, and will provide additional recreational opportunity to the public.

DATES: January 1, 1979 through December 31, 1979.

ADDRESSES: Contact the Refuge Manager at the address and/or telephone number listed below in the body of Special Regulations.

FOR FURTHER INFORMATION CONTACT: Howards N. Larsen, Regional Director, U.S. Fish and Wildlife Service, One Gateway Center, Suite 700, Newton Corner, Massachusetts 02158 (617–965–5100 Ext. 200).

SUPPLEMENTARY INFORMATION: Sport fishing is permitted on the National Wildlife Refuges indicated below in accordance with 50 CFR Part 33 and the following Special Regulations. Portions of refuges which are open to sport fishing are designated by signs and/or shown on maps available from the addresses indicated below and from the Regional Director, U.S. Fish and Wildlife Service, One Gateway Center, Suite 700, Newton Corner, Massachusetts 02158.

The Refuge Recreation Act of 1962 (16 U.S.C. 460k) authorizes the Secretary of the Interior to administer such areas for public recreation as an appropriate incidental or secondary use only to the extent that it is practicable and not inconsistent with the primary objectives for which the area was established. In addition, the Refuge Recreation Act requires (1) that any recreational use permitted will not interfere with the primary purpose for which the area was established: And (2) that funds are available for the development, operation, and maintenance of the permitted forms of recreation.

The recreational use authorized by these regulations will not interfere with the primary purposes for which these National Wildlife Refuges were established. This determination is based upon consideration of, among other things, the Service's Final Environmental Statement on the Operation of the National Wildlife Refuge System published in November 1976. Funds are available for the administration of the recreational activities permitted by these regulations.

Sport fishing shall be in accordance with all applicable State and Federal regulations subject to the following special conditions:

§ 33.5 Special regulations; sport fishing; for individual wildlife refuge areas.

Sport fishing is permitted on the following areas: Erie National Wildlife Refuge, RD 2, Box 191, Guys Mills, Pennsylvania 16327. Contact William McCoy, Refuge Manager, at 814–789–3585. Special conditions: Refuge areas designated by signs are open to fishing during daylight hours. Boats are permitted in Lake Creek above Sugar Lake and boats without motors are permitted above the Pool 9 dike where designated by signs. Fishing in Pools 9 and K is permitted from the second Saturday in June to September 15 only. Pools 9 and K will be open to ice fishing at the discretion of the refuge manager. Daily ice fishing permits must be secured at refuge headquarters.

Iroquois National Wildlife Refuge, RFD 1, Basom, New York 14013. Contact Edwin H. Chandler, Refuge Manager, at 716–948–9154. Special conditions: Refuge areas designated by signs are open to fishing during daylight hours only. All areas, except the Feeder Canal and Oak Orchard Creek, are closed to fishing from March 1 through July 14, 1979, and from October 1 through November 30, 1979. Ice fishing will be permitted only on Ringneck, Schoolhouse and Center Marshes. Ice fishing will only be permitted during the period December 15 through the last day of February. No boats or other flotation devices will be permitted, except that boats without motors may be used on Oak Orchard Creek from Knowlesville Road to a wire two miles westward. Firearms are not permitted in boats March 1 through September 30, 1979. With the exception of ice fishing, fishing on refuge impoundments will be limited to posted areas on dikes and roads. No wading or swimming is permitted. Leaving boats, structures, or other equipment overnight on the refuge is not permitted.

Montezuma National Wildlife Refuge, RD 1, Box 1411, Seneca Falls, New York 13148. Contact Gene Hocutt, Refuge Manager, at 315–568–5987. Special conditions: Sport fishing in state waters is permitted from the refuge at locations designated by signs.

Brigantine National Wildlife Refuge, Great Creek Road, P.O. Box 72, Oceanville, New Jersey 08231. Contact Gaylord Inman, Refuge Manager, at 609–652–1665. Special conditions: Saltwater sport fishing is permitted from the beach on Holgate peninsula and Little Beach Island, except from those areas posted as closed. Saltwater sport fishing from the auto tour route is prohibited. Freshwater sport fishing from the South Dike of the William Vogt Pool is permitted during daylight hours from July 20 through September 21, 1979. The possession of fish or minnows for use as bait is not permitted. Freshwater fishermen may park at the headquarters and South Tower parking areas only.

Oyster Bay National Wildlife Refuge, Oyster Bay, New York, under administration of Target Rock National Wildlife Refuge, Target Rock Road, RFD No. 3, Huntington, Long Island, New York 11743. Contact Roger Steelman, Refuge Manager, at 516–271–2409. Special conditions: Sport fishing from the shore of the Oyster Bay Mill Pond is permitted during daylight hours.

Tinicum National Environmental Center, Suite 104, Scott Plaza 2, Philadelphia, Pennsylvania 19113. Contact Richard Nugent, Refuge Manager, at 215–521–0662. Special conditions: Sport fishing in state waters is permitted during daylight hours only on those areas designated by signs as open to fishing. The use of boats is not permitted. No set tackle may be used.

The provisions of this special regulation supplement the regulations which govern fishing on wildlife refuge areas generally which are set forth in Title 50, Code of Federal Regulations, Part 33. The public is invited to offer suggestions and comments at any time.

Note: The Department of the Interior has determined that this document is not a significant rule and does not require a regulatory analysis under Executive Order 12044 and 43 CFR Part 14.

Gordon Nightingale,
Acting Regional Director, Fish and Wildlife Service.
May 4, 1979.
[FR Doc. 79-15002 Filed 5-11-79; 8:45 am]
BILLING CODE 4310-55-M

Proposed Rules

Federal Register
Vol. 44, No. 94
Monday, May 14, 1979

This section of the FEDERAL REGISTER contains notices to the public of the proposed issuance of rules and regulations. The purpose of these notices is to give interested persons an opportunity to participate in the rule making prior to the adoption of the final rules.

COMMODITY CREDIT CORPORATION

[7 CFR Part 1425]

Cooperative Marketing Associations; Eligibility Requirement for Price Support

AGENCY: Commodity Credit Corporation, USDA.

ACTION: Proposed rule.

SUMMARY: The Commodity Credit Corporation (CCC) proposes to amend the regulations containing eligibility requirements which cooperative marketing associations must comply with in order to participate in authorized price support programs. The amendment would clarify the intent of the regulations as they pertain to voting rights, pooling of commodities, adjustment of inventory for dispositions, definition of a member, and volume of member business. Clarification of the regulations will help to assure consistent interpretation of the regulations.

DATES: Written comments must be received on or before July 13, 1979, in order to be sure of consideration.

ADDRESS: Interested persons may send comments to Director, PSL Division, ASCS, U.S. Department of Agriculture, P.O. Box 2415, Washington, D.C. 20013.

FOR FURTHER INFORMATION CONTACT: Charlie B. Robbins (ASCS), (202) 447–4634.

SUPPLEMENTARY INFORMATION: This document proposes to amend the regulations containing the eligibility requirements which cooperative marketing associations must comply with in order to participate in authorized price support programs. The amendment would clarify the intent of the regulations as they pertain to:

A. *Voting rights.* Proposed change would specify that only active members are authorized to vote on cooperative matters.

B. *Pooling of commodities.* Proposed change would clarify that commodities acquired by the cooperative for marketing must be pooled.

C. *Adjustment of inventory for dispositions.* Proposed change would require that pool inventories of price supported commodities must be adjusted at the time such commodity is shipped or processed.

D. *Definition of a member.* Proposed change would specify that a member is one who has met the requirements for membership and is entitled to all membership rights.

E. *Member business.* Proposed change would provide that in determining price support eligibility, processed products purchased from other processors or merchandisers would not be considered in determining the volume of member buisness.

The public is invited to submit written comments on the proposal to the Director, PSL Division, ASCS. All written comments will be made available for public inspection at the Office of the Director, Room 3742 South Building during regular business hours (7 CFR 1.27(b)).

Proposed Rule

Accordingly, it is proposed to amend 7 CFR Part 1425 as follows:

PART 1425—PRICE SUPPORT

1. By amending § 1425.5 to delete the word "secret" from the title of paragraph (e) and to insert the word "active" between each and member in the first line and before members in the lastline of paragraph (f). The amended paragraphs (e) and (f) read as follows:

§ 1425.5 Charter and bylaw provisions.

* * * * *

(e) *Ballot.* Election of directors, delegates and officers shall be by balloting when there are two or more nominees for a position to be filled or more nominees than there are positions to be filled, as applicable.

(f) *Voting Rights.* Each active member of the cooperative shall have a single vote regardless of the number of shares of stock owned or controlled by such member, except that the Executive Vice President, CCC, may, in his discretion, approve some other voting method which in his opinion will adequately protect the interests of the active members of the cooperative.

* * * * *

2. By amending § 1425.7 (c) to change the third word in the first line from "and" to "or". The amended paragraph (c) would read as follows:

§ 1425.7 Operations.

* * * * *

(c) *Authorized.* The charter or bylaws of the cooperative acquiring the marketing service and the marketing agreement with its members contain necessary authority to enter into the agreement;

3. By amending § 1425.11 to provide that products such as milled parboiled rice, soybean oil and soybean meal purchased by a cooperative shall not be considered as commodity acquired by or delivered to the cooperative for marketing and such products shall not be considered in determining the volume of member and nonmember business. The amended § 1425.11 would read as follows:

§ 1425.11 Member business.

If price support is sought for a particular crop of a commodity, not less than 80 percent of such crop of the commodity that is acquired by or delivered to the cooperative for marketing must be produced by its members or by members of its member cooperatives. However, the Executive Vice President, CCC, may, for a period of two years or such lesser period of time as he determines appropriate, authorize a cooperative applying for initial approval to acquire to receive for marketing from its members a smaller quantity of such crop than 80 percent, if that quantity has a value greater than the value of the quantity acquired or received from nonmembers for marketing and if the cooperative establishes to the satisfaction of the Executive Vice President, CCC, that such authorization is necessary for the efficient operation of the cooperative and is in the best interest of the members of the cooperative. Purchase of commodities from CCC and processed products from other processors or merchandisers shall not be considered in determining the volume of member and nonmember business.

4. By amending paragraph (d) of § 1425.13 to delete from the first line the phrase "whether pooled or not". The phrase is inconsistent with the regulations contained in this subpart and tends to convey the thought that the

regulations do not require cooperatives

Signed at Washington, D.C. on May 1, 1979.

officials may be made by contacting the

of the Regional Counsel, Rock Mountain

An informal docket may be examined

Beginning at Lat. 46°09'00"N., Long.

regulations do not require cooperatives to pool commodities acquired for marketing. The amended opening phrase of paragraph (d) would read as follows:

§ 1425.13 Eligible commodity and pooling.

* * * * *

(d) *Commodity requirements.* The commodity offered for price support must:

* * * * *

5. By amending § 1425.17(b) to clarify when a cooperative shall adjust inventory for sales of eligible and ineligible commodity. The amended paragraph (b) would read as follows:

§ 1425.17 Records maintained.

* * * * *

(b) *Dispositions.* The cooperative shall maintain a record which shows each quantity of commodity disposed of, the date sold, the date shipped and the price received.

(1) *Commodities which are processed.* The inventory of an eligible pool or ineligible pool on both eligible and ineligible pools shall be adjusted when the commodity is withdrawn from inventory and is processed.

(2) *Commodities not processed.* The commodity shall be allocated to an eligible pool, an ineligible pool, or both eligible and ineligible pools and the pool inventories shall be adjusted accordingly when the commodity is shipped.

The commodity shall be allocated to eligible or ineligible pools or a combination of eligible and ineligible pools in the above manner until the entire inventory in a particular pool is depleted.

6. By adding a paragraph (c) to § 1425.21 to define the term "member". The added paragraph (c) would read as follows:

§ 1425.21 Definitions.

* * * * *

(c) *Member.* The term "member" shall mean an applicant for membership who has met all of the requirements as specified in the articles of incorporation and/or bylaws including full payment of the required membership stock or fees, either in cash or earned equity credits, is accepted by the cooperative and is entitled to all membership rights including voting and holding office.

(Secs. 4 and 5, 62 Stat. 1070, as amended (15 U.S.C. 714 b and c); secs. 101, 103, 203, 301, 401, 63 Stat. 1051, as amended (7 U.S.C. 1444(a), 1441, 1446d, 1447, 1421(a)))

Note.—This proposal has been determined not significant under the USDA criteria for implementing Executive Order 12044, "Improving Government Regulations". A Draft Impact Analysis is available from Charlie B. Robbins.

Signed at Washington, D.C. on May 1, 1979.

Ray Fitzgerald,
Executive Vice President, Commodity Credit Corporation.

[FR Doc. 79-14956 Filed 5-11-79; 8:45 am]

BILLING CODE 3410-05-M

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

[14 CFR Part 71]

Alteration of Transition Area

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Notice of Proposed Rulemaking.

SUMMARY: This notice of proposed rulemaking (NPRM) proposes to alter the Watertown, South Dakota 1,200' transition area to provide controlled airspace for a terminal transition route from Watertown, South Dakota VORTAC to the Morris, Minnesota VOR. There will be no alteration to the Watertown, South Dakota 700' transition area.

DATES: Comments must be received on or before June 21, 1979.

ADDRESSES: Send comments on the proposal to: Chief, Air Traffic Division, Attn: ARM-500, Federal Aviation Administration, 10455 East 25th Avenue, Aurora, Colorado 80010.

A public docket will be available for examination by interested persons in the office of the Regional Counsel, Federal Aviation Administration, 10455 East 25th Avenue, Aurora, Colorado 80010.

FOR FURTHER INFORMATION CONTACT: Pruett B. Helm, Airspace and Procedures Specialist, Operations, Procedures and Airspace Branch (ARM-538), Air Traffic Division, Federal Aviation Administration, Rocky Mountain Region, 10455 East 25th Avenue, Aurora, Colorado 80010; telephone (303) 837-3937.

SUPPLEMENTARY INFORMATION:

Comments Invited

Interested persons may participate in the proposed rulemaking by submitting such written data, views, or arguments as they may desire. Communications should be submitted in triplicate to the Chief, Air Traffic Division, Federal Aviation Administration, 10455 East 25th Avenue, Aurora, Colorado 80010. All communications received will be considered before action is taken on the proposed amendment. No public hearing is contemplated at this time, but arrangements for informal conferences with Federal Aviation Administration officials may be made by contacting the Regional Air Traffic Division Chief. Any data, views, or arguments presented during such conferences must also be submitted in writing in accordance with this notice in order to become part of the record for consideration. The proposal contained in this notice may be changed in the light of comments received.

Availability of NPRM

Any person may obtain a copy of this Notice of Proposed Rulemaking (NPRM) by submitting a request to the Federal Aviation Administration, Office of Public Affairs, Attention: Public Information Center, APA-430, 800 Independence Avenue, SW., Washington, DC 20591, or by calling (202) 426-8058. Communications must identify the notice number of this NPRM. Persons interested in being placed on a mailing list for future NPRM's should also request a copy of Advisory Circular No. 11-2 which describes the application procedure.

The Proposal

The Federal Aviation Administration (FAA) is considering an amendment to Subpart G of Part 71 of the Federal Aviation Regulations (14 CFR Part 71) to alter the Watertown, South Dakota 1,200' transition area to provide controlled airspace for a terminal transition route from Watertown, South Dakota VORTAC to the Morris, Minnesota VOR. This proposal is necessary as a result of the Morris, Minnesota VOR RWY 32 standard instrument approach procedure being amended and an additional terminal transition route developed. It is proposed to make the alteration of the transition area coincident with the effective date of the new standard instrument approach. Accordingly, the Federal Aviation Administration proposes to amend Subpart G of Part 71 of the Federal Aviation Regulations (14 CFR Part 71) as follows:

By amending 71.181 so as to alter the following transition area to read:

Watertown, South Dakota

"* * * and that airspace extending upward from 1,200' above the surface within 9.5 miles east and 7 miles west of the 181° radial extending from the Watertown VORTAC to 31.5 miles south; and within a 26-mile radius of the Watertown VORTAC extending clockwise from a line 7 miles west of and parallel to the 181° radial to the 238° radial; and 5 miles each side of the 053° radial from the Watertown VORTAC within the State of South Dakota."

Drafting information

The principal authors of this document are Pruett B. Helm, Air traffic Division, and Daniel J. Peterson, office of the Regional Counsel, Rock Mountain Region.

This amendment is proposed under authority of section 307(a) of the Federal Aviation Act of 1958, as amended (49 U.S.C. 1348(a)), and of section 6(c) of the Department of Transportation Act (49 U.S.C. 1655(c)).

Note.—The Federal Aviation Administration has determined that this document involves a proposed regulation which is not significant under Executive Order 12044, as implemented by DOT Regulatory Policies and Procedures (44 FR 11034; February 26, 1979). Since this regulatory action involves an established body of technical requirements for which frequent and routine amendments are necessary to keep them operationally current and promote safe flight operations, the anticipated impact is so minimal that this action does not warrant preparation of a regulatory evaluation, and a comment period of less than 45 days is appropriate.

Issued in Aurora, Colorado on May 7, 1979.

M. M. Martin,
Director, Rocky Mountain Region.

[Airspace Docket No. 79-RM-16]

[FR Doc. 79-14689 Filed 5-11-79; 8:45 am]

BILLING CODE 4910-13-M

[14 CFR Part 71]

Proposed Alteration of Additional Control Area

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Notice of proposed rulemaking.

SUMMARY: This notice proposes to reduce the width of additional control areas known as Control 1418 and Control 1419, which extend seaward from Hoquiam, Wash., and Newport, Oreg., respectively. This action will permit more extensive use of the adjacent airspace for military training without derogating the safety that is provided by the present control areas. Since nonregulatory action to change the description of the Washington Coastal Warning Area W-237 is related to the proposed control area changes, it is included in this notice for consideration.

DATES: Comments must be received on or before June 11, 1979.

ADDRESSES: Send comments on the proposal in triplicate to: Director, FAA Northwest Region, Attention: Chief, Air Traffic Division, Docket No. 78-NW-10, Federal Aviation Administration, FAA Building, Boeing Field, Seattle, Wash. 98108.

The official docket may be examined at the following location: FAA Office of the Chief Counsel, Rules Docket (AGC-24), Room 916, 800 Independence Avenue, SW., Washington, D.C. 20591.

An informal docket may be examined at the office of the Regional Air Traffic Division.

FOR FURTHER INFORMATION CONTACT: Mr. Everett L. McKisson, Airspace Regulations Branch (AAT-230), Airspace and Air Traffic Rules Division, Air Traffic Service, Federal Aviation Administration, 800 Independence Avenue, SW., Washington, D.C. 20591; telephone: (202) 426-3715.

SUPPLEMENTARY INFORMATION:

Comments Invited

Interested persons may participate in the proposed rulemaking by submitting such written data, views or arguments as they may desire. Communications should identify the airspace docket number and be submitted in triplicate to the Director, Northwest Region, Attention: Chief, Air Traffic Division, Federal Aviation Administration, FAA Building, Boeing Field, Seattle, Wash. 98108. All communications received on or before June 11, 1979, will be considered before action is taken on the proposed amendment. The proposal contained in this notice may be changed in the light of comments received. All comments submitted will be available, both before and after the closing date for comments, in the Rules Docket for examination by interested persons.

Availability of NPRM

Any person may obtain a copy of this notice of proposed rulemaking (NPRM) by submitting a request to the Federal Aviation Administration, Office of Public Affairs, Attention: Public Information Center, APA-430, 800 Independence Avenue, SW., Washington, D.C. 20591, or by calling (202) 426-8058. Communications must identify the docket number of this NPRM. Persons interested in being placed on a mailing list for future NPRMs should also request a copy of Advisory Circular No. 11-2 which describes the application procedures.

The Proposal

The FAA is considering an amendment to Part 71 of the Federal Aviation Regulations (14 CFR Part 71) that would reduce the width of Control 1418 and Control 1419 to the dimensions normally prescribed for airways. This would provide airspace within parallel boundary lines 4 nautical miles (NM) each side of a center line plus the airspace between lines diverging at angles of 4.5° from the center line at the navigational aid. This action would permit more extensive use of the adjacent airspace. The boundary of W-237 would be redefined as follows:

Beginning at Lat. 48°09'00"N., Long. 125°56'00"W.; to Lat. 48°20'00"N., Long. 124°54'00"W.; to Lat. 47°35'00"N., Long. 124°38'00"W.; to Lat. 47°35'00"N., Long. 124°27'00"W.; thence 3 NM from and parallel to the shoreline; to Lat. 47°19'30"N., Long. 124°23'00"W.; to Lat. 47°02'00"N., Long. 124°23'00"W.; to Lat. 46°50'00"N., Long. 125°24'00"W.; thence to point of beginning.

This boundary change will slightly reduce W-237 on the southeast corner and will use the same boundary as R-6707 for a segment of the east side rather than excluding the restricted area.

ICAO Considerations

As part of this proposal relates to the navigable airspace outside the United States, this notice is submitted in consonance with the International Civil Aviation Organization (ICAO) International Standards and Recommended Practices.

Applicability of International Standards and Recommended Practices by the Air Traffic Service, FAA, in areas outside domestic airspace of the United States is governed by Article 12 of and Annex 11 to the Convention of International Civil Aviation, which pertains to the establishment of air navigation facilities and services necessary to promoting the safe, orderly, and expenditious flow of civil air traffic. Their purpose is to insure that civil flying on international air routes is carried out under uniform conditions designed to improve the safety and efficiency of air operations.

The International Standards and Recommended Practices in Annex 11 apply in those parts of the airspace under the jurisdiction of a contracting state, derived from ICAO, wherein air traffic services are provided and also whenever a contracting state accepts the responsibility of providing air traffic services over high seas or in airspace of undetermined sovereignty. A contracting state accepting such responsibility may apply the International Standards and Recommended Practices to civil aircraft in a manner consistent with that adopted for airspace under its domestic jurisdiction.

In accordance with Article 3 of the Convention on International Civil Aviation, Chicago, 1944, state aircraft are exempt from the provisions of Annex 11 and its Standards and Recommended Practices. As a contracting state, the United States agreed by Article 3(d) that its state aircraft will be operated in international airspace with due regard for the safety of civil aircraft.

Since this action involves, in part, the designation of navigable airspace outside the United States, the Administrator has consulted with the Secretary of State and the Secretary of Defense in accordance with the provisions of Executive Order 10854.

The Proposed Amendment

Accordingly, pursuant to the authority delegated to me, the Federal Aviation Administration proposes to amend § 71.163 of Part 71 of the Federal Aviation Regulations (14 CFR Part 71) as republished (44 FR 347) as follows:

In § 71.163, Under Control 1418, the text is amended to read as follows:

"From Hoquiam, Wash., to the INT of the Hoquiam 232° radial and the E. boundary of the Oakland Oceanic Control Area, excluding the airspace at and below 2,000 feet MSL."

In § 71.163, Under Control 1419, the text is amended to read as follows:

"From Newport, Oreg., to the INT of the Newport 237° radial and the E. boundary of the Oakland Oceanic Control Area, excluding the airspace at and below 2,000 feet MSL."

(Secs. 307(a), 313(a), and 1110, Federal Aviation Act of 1958 (49 U.S.C. 1348(a), 1354(a) and 1510); Executive Order 10854 (24 FR 9565); Sec. 6(c), Department of Transportation Act (49 U.S.C. 1655(c); and 14 CFR 11.65.)

Note.—The FAA has determined that this document involves a proposed regulation which is not significant under Executive Order 12044, as implemented by DOT Regulatory Policies and Procedures (44 FR 11034; February 26, 1979). Since this regulatory action involves an established body of technical requirements for which frequent and routine amendments are necessary to keep them operationally current and promote safe flight operations, the anticipated impact is so minimal that this action does not warrant preparation of a regulatory evaluation and a comment period of less than 45 days is appropriate.

Issued in Washington, D.C., on May 7, 1979.

William E. Broadwater,
Chief, Airspace and Air Traffic Rules Division

[Airspace Docket No. 78-NW-10]
[FR Doc. 79-14691 Filed 5-11-79; 8:45 am]
BILLING CODE 4910-13-M

[14 CFR Part 75]

Alteration of Jet Route

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Notice of proposed rulemaking.

SUMMARY: This notice proposes to realign a segment of J-10 from Gunnison, Colo., to Denver, Colo., via the Gunnison 046° rather than the 041° magnetic radial to permit the use of lower altitudes. This action would help to reduce fuel consumption and improve descent procedures for landings at Denver.

DATES: Comments must be received on or before May 30, 1979.

ADDRESSES: Send comments on the proposal in triplicate to: Director, FAA Rocky Mountain Region, Attention: Chief, Air Traffic Division, Docket No. 79-RM-6, Federal Aviation Administration, 10455 East 25th Avenue, Aurora, Colo. 80010.

The official docket may be examined at the following location: FAA Office of the Chief Counsel, Rules Docket (AGC-24), Room 916, 800 Independence Avenue, SW., Washington, D.C. 20591.

An informal docket may be examined at the office of the Regional Air Traffic Division.

FOR FURTHER INFORMATION CONTACT: Mr. Everett L. McKisson, Airspace Regulations Branch (AAT-230), Airspace and Air Traffic Rules Division, Air Traffic Service, Federal Aviation Administration, 800 Independence Avenue, SW., Washington, D.C. 20591; telephone: (202) 426-3715.

SUPPLEMENTARY INFORMATION:

Comments Invited

Interested persons may participate in the proposed rulemaking by submitting such written data, views or arguments as they may desire. Communications should identify the airspace docket number and be submitted in triplicate to the Director, Rocky Mountain Region, Attention: Chief, Air Traffic Division, Federal Aviation Administration, 10455 East 25th Avenue, Aurora, Colo. 80010. All communications received on or before May 30, 1979, will be considered before action is taken on the proposed amendment. The proposal contained in this notice may be changed in the light of comments received. All comments submitted will be available, both before and after the closing date for comments, in the Rules Docket for examination by interested persons.

Availability of NPRM

Any person may obtain a copy of this notice of proposed rulemaking (NPRM) by submitting a request to the Federal Aviation Administration, Office of Public Affairs, Attention: Public Information Center, APA-430, 800 Independence Avenue, SW., Washington, D.C. 20591, or by calling (202) 426-8058. Communications must identify the docket number of this NPRM. Persons interested in being placed on a mailing list for future NPRMs should also request a copy of Advisory Circular No. 11-2 which describes the application procedures.

The Proposal

The FAA is considering an amendment to Part 75 of the Federal Aviation Regulations (14 CFR Part 75) that would realign a segment of J-10 to extend from Gunnison to Denver via the INT of Gunnison 060°T (046°M) and Denver 225°T (213°M) radials. This action would permit the use of lower altitudes and a descent profile into Denver that is advantageous to both the pilot and the controller.

The Proposed Amendment

Accordingly, pursuant to the authority delegated to me, the Federal Aviation Administration proposes to amend § 75.100 of Part 75 of the Federal Aviation Regulations (14 CFR Part 75) as republished (44 FR 722) as follows:

Under Jet Route No. 10 "INT Gunnison, Colo., 055°" is deleted and "INT Gunnison 060°" is substituted therefor.

(Secs. 307(a) and 313(a), Federal Aviation Act of 1958 (49 U.S.C. 1348(a) and 1354(a)); Sec. 6(c), Department of Transportation Act (49 U.S.C. 1645(c)); and 14 CFR 11.65.)

NOTE.—The FAA has determined that this document involves a proposed regulation which is not significant under Executive Order 12044, as implemented by DOT Regulatory Policies and Procedures (44 FR 11034; February 26, 1979). Since this regulatory action involves an established body of technical requirements for which frequent and routine amendments are necessary to keep them operationally current and promote safe flight operations, the anticipated impact is so minimal that this action does not warrant preparation of a regulatory evaluation and a comment period of less than 45 days is appropriate.

Issued in Washington, D.C., on May 7, 1979.

William E. Broadwater,
Chief, Airspace and Air Traffic Rules Division.

[Airspace Docket No. 79-RM-6]
[FR Doc. 79-14690 Filed 5-11-79; 8:45 am]
BILLING CODE 4910-13-M

DEPARTMENT OF STATE

[22 CFR Parts 121,122,123,124,125 126, 127, 128, and 130]

Improvement of Government Regulations; Semiannual Agenda of Regulations

AGENCY: Department of State.

ACTION: Publication of semiannual agenda of regulations (Improving Government Regulations).

SUMMARY: As required by section 2(a) of Executive Order No. 12044, Improving Government Regulations, and as provided in section 4 of the Department of State's final report for implementation of the Order (43 FR 54709, November 22, 1978), the first semiannual agenda of regulations is set forth below.

FOR FURTHER INFORMATION CONTACT: K. E. Malmborg, Assistant Legal Adviser for Management, Department of State, Room 5423, 2100 C Street, NW, Washington, D.C. 20520, telephone (202) 632-2350.

Semiannual Agenda of Regulations

The only significant regulation expected to be developed by the Department of State, prior to publication of the next semiannual agenda, will be the regulations on International Traffic in Arms, Subchapter M, Parts 121 through 128 and Part 130 of Title 22, Code of Federal Regulations.

A number of significant changes and additions to these regulations have been made in recent years and sufficient time has now elapsed since the changes to permit evaluation of the regulations in their entirety in the light of experience. The authority is found in 22 U.S.C. 2778 and 2779. Development of the regulations is now in the first preliminary stage; when completed a notice of proposed rulemaking will be published in the Federal Register for public comment.

The point of contact in the Department is Mr. William B. Robinson, Director, Office of Munitions Control, Department of State, (mailing address) 2201 C Street, N.W., Washington, D.C. 20520, telephone (202) 235-9755.

The Department plans to publish its next semiannual agenda in October 1979.

For the Secretary of State.

Dated: May 3, 1979.

Michael M. Conlin,
Acting Under Secretary of State for Management.

[Public Notice 665]
[FR Doc. 79-14997 Filed 5-11-79; 8:45 am]
BILLING CODE 4710-08-M

DEPARTMENT OF HOUSING AND URBAN DEVELOPMENT

Office of the Assistant Secretary for Housing—Federal Housing Commissioner

[24 CFR Part 880]

Section 8 Housing Assistance Payments for New Construction

AGENCY: Housing and Urban Development/Office of Assistant Secretary for Housing-Federal Housing Commissioner.

ACTION: Notice of transmittal.

SUMMARY: Under recently-enacted legislation the Chairman of the House Committee on Banking, Finance and Urban Affairs and the Senate Committee on Banking, Housing and Urban Affairs have requested the Secretary of Housing and Urban Development to provide their Committees with certain rules at least 15 days of continuous session prior to publication in the Federal Register. This Notice advises of the transmittal of specifically identified proposed rule(s) pursuant to such requests.

FOR FURTHER INFORMATION CONTACT: Burton Bloomberg, Director, Office of Regulations Office of General Counsel, 451 Seventh Street, SW., Room 5218, Washington, D.C. 20410 (202) 755-6207.

SUPPLEMENTARY INFORMATION: Concurrently with issuance of this Notice, the Secretary is forwarding to the Chairmen of both the Senate Banking, Housing and Urban Affairs Committee and the House Banking, Finance and Urban Affairs Committee the rulemaking document described below:

Part 880, Section 8 Housing Assistance Payments for New Construction.

This proposed rule would revise the Section 8 regulations to incorporate cost containment provisions, improve processing procedures, and make the regulations easier to understand and use.

(Section 7(o) of the Department of HUD Act 42 U.S.C. 3535 7(o), Section 324 of the Housing and Urban Development Amendments of 1978.)

Issued at Washington, D.C. May 7, 1979.

Patricia Roberts Harris,
Secretary, Department of Housing and Urban Development.

[Docket No. R-79-663]
[F.R. Doc. 79-14964 Filed 5-11-79; 8:45 am]
BILLING CODE 4210-01-M

DEPARTMENT OF THE TREASURY

Internal Revenue Service

[26 CFR Part 1]

Income Tax; Consolidated Returns

AGENCY: Internal Revenue Service, Treasury.

ACTION: Notice of proposed rulemaking.

SUMMARY: This document contains proposed regulations relating to the tax imposed with respect to certain accumulated earnings in the case of an affiliated group of corporations which makes a consolidated income tax return.

DATE: Written comments and requests for a public hearing must be delivered or mailed by July 13, 1979. The amendments are proposed to be effective for taxable years for which the due date (without extensions) for filing returns is after the date the Treasury decision adopting these proposed regulations is filed for public inspection by the Federal Register.

ADDRESS: Send comments and requests for a public hearing to: Commissioner of Internal Revenue, Attention: CC:LR:T (LR-1386), Washington, D.C. 20224.

FOR FURTHER INFORMATION CONTACT: Charles M. Whedbee of the Legislation and Regulations Division, Office of the Chief Counsel, Internal Revenue Service, 1111 Constitution Avenue, NW., Washington, D.C. 20224, Attention: CC:LR:T (202-566-3487, not a toll-free number).

SUPPLEMENTARY INFORMATION:

Background

This document contains proposed amendments to the Income Tax Regulations (26 CFR Part 1) under section 1502 of the Internal Revenue Code, which relates to the tax liability of an affiliated group of corporations making a consolidated return.

General Description

The proposed amendments provide rules for the application of the accumulated earnings tax imposed by section 531 of the Code on a consolidated basis. The accumulated earnings tax applies to certain corporations formed or availed of to avoid the imposition of the individual income tax on its shareholders or on the shareholders of any other corporation by permitting earnings and profits to accumulate instead of dividing or distributing them.

Prior Proposed Regulations

On July 9, 1968, there was published in the Federal Register (33 FR 9830) a notice of proposed rulemaking containing proposed amendments to the income tax regulations (26 CFR Part 1) under section 1502 of the Internal Revenue Code, relating in part to the determination of the accumulated earnings tax on a consolidated basis. This notice of proposed rulemaking also contained proposed rules under section 1502 of the Code relating to the determination of the earnings and profits of a group of corporations filing a consolidated return and proposed rules under sections 531, 532, 533, and 535 of the Code, relating to the accumulated earnings tax. A number of comments were received (most of which related to the regulations proposed under Code

§ 1.1502-43 Consolidated accumulated

than a personal holding company) that

(vi) Under section 535 (b) (6), there is

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sections 531 to 535) and a public hearing was held. On August 25, 1971, the regulations proposed to be prescribed under sections 531 and 1502 of the Code, which were published in the **Federal Register** on July 9, 1968, were withdrawn. (See 36 FR 1661). The regulations proposed to be prescribed under sections 532, 533, and 535 of the Code, which were also published in the **Federal Register** for July 9, 1968 (33 FR 9830), are also hereby withdrawn by this document.

Changes From Prior Proposed Regulations

The proposed regulations contained in this document are substantially the same as the proposed regulations relating to the application of the accumulated earnings tax on a consoldiated basis which were published in the **Federal Register** on July 9, 1968. However, revisions are made in certain provisions relating to the consolidated dividends paid deduction, deducting consolidated tax liability in computing consolidated accumulated taxable income, determining a member's earnings and profits, the consolidated accumulated earnings credit, and the definition of a mere holding or investment group. In addition, certain provisions applicable to taxable years beginning before January 1, 1976, have been deleted.

The principal change from the July 9, 1968, notice of proposed rulemaking relates to the computation of the consolidated dividends paid deduction for purposes of the accumulated earnings tax, which is discussed elsewhere in this preamble.

Formed or Availed of

Under the proposed regulations, the consolidated accumulated earnings tax applies to any affiliated group of corporations making a consolidated income tax return that is formed or availed of to avoid or prevent the imposition of the individual income tax with respect to the shareholders of any member of the group, or the shareholders of any other corporation, by failing to distribute earnings and profits. The fact that the aggregate earnings and profits (determined with certain adjustments) of all corporations that are members of the group on the last day of the taxable year exceed the total business needs of all such members is determinative of the purpose of the group to avoid the income tax with respect to shareholders, unless proven to the contrary. Thus, the group generally is treated as a single corporation in determining whether its earnings and profits have been allowed to accumulate in excess of the amount necessary to satisfy its reasonable business needs.

If it is determined that the group is formed or availed of to avoid the individual income tax with respect to its shareholders (or the shareholders of any other corporation), the tax imposed by section 531 is applied against the group's consolidated accumulated taxable income, which is defined as the excess of consolidated taxable income for the taxable year (adjusted for the items required to be taken into account under section 535(b) of the Code) over the consolidated dividends paid deduction and the consolidated accumulated earnings credit.

Personal Holding Company Member

If the personal holding company tax is computed on a separate member-by-member basis under section 542(b) (2) or (3) of the Code, liability for the consolidated accumulated earnings tax is determined without taking into account the accumulated earnings and profits or the reasonable business needs of any member that is subject to the personal holding company tax. Also, consolidated accumulated taxable income is computed by treating the personal holding company as a member, but by excluding the items of income and deduction of that member and by including dividends received from that member.

Principal Change From 1968 Proposal

Under the July 9, 1968, proposed regulations, the consolidated dividends paid deduction for accumulated earnings tax purposes did not include deductions attributable to dividends paid (or considered as paid) to other members. This rule is reproposed in this document, but with an exception. Under this exception, certain dividends paid to a personal holding company member may be taken into account in computing the consolidated dividends paid deduction. In order to avail itself of this deduction, however, the group must elect to include the dividend in the recipient's gross income for purposes of determining its undistributed personal holding company income under section 545 of the Code for the taxable year for which the deduction is taken into account. The principal purpose of this rule is to allow a group which has a common parent that is a personal holding company to be able to avoid liability for the accumulated earnings tax by making dividend distributions. (Under the rules proposed by this document, and under the July 9, 1968, proposed rules, the consolidated dividends paid deduction for accumulated earnings tax purposes does not include deductions attributable to dividends paid by a member that is a personal holding company for the taxable year for which the deduction is being computed.)

The proposed amendments are to be issued under the authority contained in sections 1502 and 7805 of the Internal Revenue Code of 1954 (68A Stat. 637, 917, 26 U.S.C. 1502, 7805).

Comments and Requests for a Public Hearing

Before adopting these proposed regulations, consideration will be given to any written comments that are submitted (preferably six copies) to the Commissioner of Internal Revenue. All comments will be available for public inspection and copying. A public hearing will be held upon written request to the Commissioner by any person who has submitted written comments. If a public hearing is held, notice of the time and place will be published in the **Federal Register**.

Drafting Information

The principal author of these proposed regulations is Charles M. Whedbee of the Legislation and Regulations Division of the Office of Chief Counsel, Internal Revenue Service. However, personnel from other offices of the Internal Revenue Service and Treasury Department participated in developing the regulation, both on matters of substance and style.

Proposed Amendments to the Regulations

The proposed amendments to 26 CFR Part 1 are as follows:

§ 1.531-1 [Amended]

Paragraph 1. The second sentence of § 1.531-1 is amended by deleting "§ 1.1502-2 (d)" and inserting in lieu thereof "§ 1.1502-43".

Par. 2. Paragraph (d) of § 1.1502-2 is revised to read as follows:

§ 1.1502-2 Computation of tax liability

* * * * *

(d) If paragraph (b) of this section does not apply, the tax imposed by section 531 on the consolidated accumulated taxable income (see § 1.1502-43);

* * * * *

Par. 3. Immediately after § 1.1502-42, strike "§ 1.1502-43 to 1.1502-74 [reserved]" and add the following:

§ 1.1502-43 Consolidated accumulated earnings tax

(a) *Group subject to tax*—(1) *General rule.* For a group filing a consolidated return for the taxable year, the accumulated earnings tax under section 531 is imposed on consolidated accumulated taxable income (as defined in paragraph (b) of this section). This tax applies to any group that is formed or availed of to avoid or prevent the imposition of the individual income tax on the shareholders of either any of its members or any other corporation by permitting earnings and profits to accumulate instead of dividing or distributing them. Section 531 and this section do not apply to a group that is treated as a "personal holding company" under section 542(a)(1) as a result of the application of section 542(b)(1). Special rules are provided for other groups which include one or more personal holding companies.

(2) *Evidence of purpose to avoid income tax.* (i) The fact that the group's earnings and profits are permitted to accumulate beyond the reasonable needs of its business is determinative of the purpose to avoid the income tax with respect to shareholders, unless the group by the preponderance of the evidence proves to the contrary.

(ii) The fact that a group is a mere holding or investment group is prima facie evidence of the group's purpose to avoid the income tax with respect to the shareholders. The activities of a member which is a personal holding company are not taken into account in determining if the group is a mere holding or investment group.

(3) *Earnings and profits.* For purposes of this paragraph (a) and paragraph (d) of this section, the following rules apply:

(i) The group's earnings and profits is the aggregate of the earnings and profits (or deficit) of each corporation (other than a personal holding company) that is a member at the close of the taxable year, determined in accordance with § 1.1502-33. (A personal holding company member, however, is treated as a member for purposes of computing the earnings and profits of other members.)

(ii) Earnings and profits resulting from the application of § 1.1502-33(c)(4)(ii) are not taken into account.

(iii) Earnings and profits resulting from the disposition of a member's stock are determined under § 1.1502-33(c)(4)(i)(*b*) whether or not it otherwise applies.

(4) *Reasonable needs of the business.* The reasonable needs of the group's business include the reasonable needs of the business of any corporation (other than a personal holding company) that is a member at the close of the taxable year. Thus, the earnings and profits of one member may be accumulated with respect to the reasonable business needs of another member. If under § 1.537-3 (b) the business of a nonmember corporation is considered the business of a member, then the earnings and profits of any member may be accumulated with respect to such nonmember's reasonable business needs.

(5) *Burden of proof.* The notification described in section 534 (b) and the statement described in section 534 (c) are made to or by the common parent corporation in accordance with § 1.1502-77.

(b) *Consolidated accumulated taxable income*—(1) *In general.* "Consolidated accumulated taxable income" is the group's consolidated taxable income determined under § 1.1502-11 adjusted in the manner provided in paragraph (b) (2) of this section, minus the sum of—

(i) The consolidated dividends paid deduction determined under paragraph (c) of this section and

(ii) The consolidated accumulated earnings credit determined under paragraph (d) of this section.

(2) *Adjustments to consolidated taxable income.* For purposes of paragraph (b) (1) of this section, consolidated taxable income is adjusted as follows:

(i) Under section 535 (b) (1), the deduction for taxes is the excess of—

(A) The consolidated liability for tax determined without § 1.1502-2 (b) through (d) and without the foreign tax credit provided by section 33, over

(B) The consolidated foreign tax credit determined pursuant to § 1.1502-4.

Foreign taxes deductible under § 1.1535-2 (a) (2) are also allowed as a deduction under section 535 (b) (1).

(ii) The consolidated charitable contributions deduction under § 1.1502-24 does not apply. Under section 535 (b) (2), there shall be allowed the aggregate charitable contributions of the members allowable under section 170, determined without section 170 (b) (2) and (d) (2).

(iii) Under section 535 (b) (3), the deductions provided in §§ 1.1502-26 and 1.1502-27 are not allowed.

(iv) Under section 535 (b) (4), the consolidated net operating loss deduction described in § 1.1502-21 (a) is not allowed.

(v) Under section 535 (b) (5), there is allowed as a deduction the consolidated net capital loss, determined under § 1.1502-22 (a).

(vi) Under section 535 (b) (6), there is allowed as a deduction an amount equal to (A) the excess of the consolidated net long-term capital gain (determined under § 1.1502-41 (a)) over the consolidated net short-term capital loss (determined under § 1.1502-41 (b)), minus (B) the taxes attributable to this excess. This consolidated net short-term capital loss is determined without the consolidated net capital loss carryovers or carrybacks to the taxable year.

(vii) Under section 535 (b) (7), the consolidated net capital loss carryovers and carrybacks are not allowed. See § 1.1502-22 (b).

(viii) Section 1.1502-15 (built-in deductions) does not apply.

(3) *Personal holding company a member.* If a member is a personal holding company for the taxable year—

(i) Consolidated accumulated taxable income is computed by treating the personal holding company as a member, but by excluding the items of income and deduction of that member and by including dividends received from that member.

(ii) In applying paragraph (b)(2)(i) of this section, consolidated liability for tax (as determined under that paragraph) is reduced by the portion thereof allocable to that member under section 1552 (a) (1), (2), (3), or (4) (or § 1.1502-33(d)), whichever is applicable. The consolidated foreign tax credit is computed by excluding the taxable income and any foreign taxes paid or accrued by that member, and foreign taxes deductible under § 1.535-2(a)(2) do not include foreign taxes attributable to that member.

(c) *Consolidated dividends paid deduction*—(1) *General rule.* For purposes of this section, the consolidated dividends paid deduction is the aggregate of the members' deductions under section 561(a) (1) and (2). This deduction is determined by excluding deductions for dividends paid to other members.

(2) *Exception for certain personal holding companies.* If a member is a personal holding company for the taxable year, then the following rules apply:

(i) The consolidated dividends paid deduction under this paragraph (c) for that year is determined by excluding deductions for dividends paid by such member.

(ii) The group may make a special election for this taxable year for a dividend (or portion thereof) paid to such member. If the special election is made: (A) The group includes, in the consolidated dividends paid deduction under this paragraph (c), a deduction for

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the amount of the dividend (or position thereof) paid to such member, and (B) solely for purposes of determining that member's separate undistributed personal holding company income under section 545 for such taxable year, this amount is included in its gross income for the taxable year.

(iii) *Application of election.* The special election is subject to the following rules:

(A) The special election applies only to the amount of the dividend (or portion thereof) that meets the requirements of section 561 for inclusion in the deduction for dividends paid. (See, *e.g.,* section 562(c), relating to preferential dividends.)

(B) It two or more members are personal holding companies for the taxable year, the dividend must be paid by a member that is not such a company to a member that is such a company.

(iv) *Manner of election.* This special election is made by including the amount of the dividend (or portion thereof) to be covered by the election in the recipient member's taxable income on Schedule PH of Form 1120 for purposes of computing its separate undistributed personal holding company income under section 545 for that taxable year. This amount is included in the recipient member's taxable income on Schedule PH before making the adjustments required by section 545(b), (c), and (d), and before taking into account the deduction for dividends paid under section 561.

(v) *Time for making election.* The special election must be made by the later of (A) the due date (including extensions) for filing the group's income tax return for the taxable year for which the election is being made or (B) the date the group's original income tax return for such taxable year is filed. Whether or not the time for making the special election has otherwise expired, the time may be extended upon application of the common parent to the district director for the internal revenue district in which is located the common parent's principal place of business (or principal office or agency). The district director will grant an extension only if it is established to the district director's satisfaction that the extension will not jeopardize the government's interests. The district director may impose any conditions (including a closing agreement) on the granting of the extension that the district director believes necessary to protect the government's interests. Generally, the interests of the government will not be considered to be jeopardized to the extent the personal holding company's deduction for dividends (other than deficiency dividends) paid to nonmembers equals or exceeds the amount of its undistributed personal holding company income (determined by including the dividends to which the election applies, and without the deduction for dividends paid), and an appropriate adjustment is made in the personal holding company's dividend carryover under section 564 to reflect the effect of the election.

(vi) *No double inclusion.* If the amount of a dividend (or portion thereof) paid in the 2-month and 15-day period after the close of the taxable year is treated, under this subparagraph (2), as includible in the recipient member's gross income for such taxable year, it is excluded from such member's gross income for purposes of applying sections 541 through 545 to the year of receipt.

(3) *Dividends paid defined.* For purposes of this paragraph (c), "dividends paid" and "dividend (or portion thereof) paid" include amounts treated as dividends paid during the taxable year under sections 562(b)(1), 563, and 565 (relating respectively to liquidating distributions, dividends paid after year end, and consent dividends).

(4) *Examples.* This paragraph (c) can be illustrated by the following examples:

Example (1) Corporations P and S constitute an affiliated group which files a consolidated return on a calendar year basis for 1979 and 1980. P owns all of S's stock and two individuals own all of P's stock. Neither member of the group is a personal holding company for 1979. Assume that on December 15, 1979, S pays a dividend (as defined in seciton 316(a)) of $100 to P, and P pays a dividend (as so defined) of $150 on January 15, 1980, to its individual shareholders. All dividends are paid in cash and are prorata, with no preference as to any shares or class of stock. For purposes of this paragraph (c), the consolidated dividends paid deduction for 1979 is $150, *i.e.,* the dividend paid on January 15, 1980, by P to its nonmember shareholders. See section 563(a). (The same result obtains for 1979 whether or not P is a personal holding company for 1980.) The $100 dividend paid by S to P is not taken into account in computing the consolidated dividends paid deduction.

Example (2). Assume the same facts as in example (1), except that P (but not S) is a personal holding company for 1979. In this case, the $150 dividend paid by P is excluded in computing the consolidated dividends paid deduction under this subparagraph (c) for 1979, whether or not P is a personal holding company for 1980. The $100 dividend paid by S to P in 1979 may be taken into account in computing the consolidated dividends paid deduction under this paragraph (c) only to the extent the group elects (under paragraph (c)(2)(ii) of this section) to include the amount thereof in P's gross income for 1979 solely for purposes of computing P's undistributed personal holding company income under section 545 for 1979. (The result set forth in the preceding sentence would also apply under the facts of this example (2) if S had paid the $100 dividend to P during the first 2 months and 15 days of 1980 instead of during 1979.)

(d) *Consolidated accumulated earnings credit—(1) Computation of consolidated accumulated earnings credit.* Under section 535(c), the consolidated accumulated earnings credit is the greater of the two following amounts:

(i) The amount by which (A) $150,000 (or, if lower, the amount allowed under section 1561) exceeds (B) the aggregate of the accumulated earnings and profits at the close of the preceding taxable year of the corporations that at the close of the current taxable year are members and are not personal holding companies.

(ii) If a group is not a mere holding or investment group, the excess (if any) of (A) its earnings and profits for the taxable year that are retained for the reasonable needs of the business of the group, over (B) the deduction under paragraph (b)(2)(vi) of this section (certain capital gains).

(2) *Special rules.* For purposes of this paragraph (d)—

(i) The group's earnings and profits and the reasonable needs of the business of the group are to be determined by applying the rules of paragraph (a) (3) and (4) of this section;

(ii) The amount of the group's earnings and profits for the taxable year that are retained is the amount by which they exceed the consolidated dividends paid deduction for the taxable year; and

(iii) The earnings and profits of a member accumulated at the close of the preceding taxable year are reduced by any dividends paid after the close of that year that are considered paid during that year under section 563(a).

§§ 1.1502-44 to 1.1502-74 [Reserved]

Jerome Kurtz,
Commissioner of Internal Revenue.

[LR-1386]

[FR Doc. 79-15014 Filed 5-11-79; 8:45 am]

BILLING CODE 4830-01-M

[26 CFR Part 1]

Proposed Minimum Participation Standards

Correction

In FR Doc. 79-12363, appearing at page 23541 in the issue of Friday, April 20, 1979, make the following changes:

1. On page 23541, column three, the CFR section cited in the fourth line of the paragraph designated "**Paragraph 1.**" should read, "§ 11.410".

2. On page 23542, first column, the fourth from last line of § 1.410(b)-1(d)(2) should be deleted.

BILLING CODE 1505-01-M

DEPARTMENT OF THE INTERIOR

Office of Surface Mining Reclamation and Enforcement

[30 CFR Chapter VII]

Surface Coal Mining and Reclamation Operations Permanent Regulatory Program; Petition to Amend Bond

AGENCY: Office of Surface Mining Reclamation and Enforcement (OSM), U.S. Department of the Interior, Washington, D.C. 20240.

ACTION: Consideration of petition to amend 30 CFR Subchapter J concerning Bonding.

SUMMARY: OSM seeks public comment on whether to grant a petition for certain amendments to regulations found in 30 CFR Subchapter J concerning bonding of surface coal mining and reclamation operations. If OSM grants the petition, a rulemaking will subsequently be commenced to consider appropriate amendments to OSM's regulations.

DATES: Comments must be received by June 15, 1979, at the address below by no later than 5 p.m. A public hearing will be held on June 5, 1979. Representatives of the Office will be available to meet with interested persons upon request between June 4, 1979 and June 15, 1979.

ADDRESSES: Written comments must be mailed or hand delivered to: Office of Surface Mining, U.S. Department of the Interior, Room 120, South Building, 1951 Constitution Avenue, N.W., Washington, D.C. 20240. The public hearing will be held in the Department of the Interior Auditorium, 18th and C. Streets, N.W., Washington, D.C. 20240. Persons wishing to testify at the hearing should contact the person listed below under "For Further Information Contact". Summaries of meetings will be prepared and made available for public review in Room 120 of the Interior South Building.

FOR FURTHER INFORMATION CONTACT: Ron Drake, Special Assistant to the Director, Office of Surface Mining, U.S. Department of the Interior, Washington, D.C. 20240 (202) 343-5371.

SUPPLEMENTARY INFORMATION: On March 13, 1979, OSM permanent program regulations which include bonding requirements in Subchapter J (44 FR 15385–15393). A petition to amend Subchapter J has been submitted to OSM by the Mining and Reclamation Council of America (MARC), Green Mountain Company and the Travelers Indemnity Company (a copy of this petition is appended to this notice as Appendix A). The petition seeks to amend certain requirements for bonding set forth in 30 CFR, Subchapter J, and contends that such amendments are necessary to insure the regulations comply with the requirements of the Act and the intent of Congress. It further contends that (1) these amendments are necessary to enable surety companies to continue to provide reclamation bonds to coal operators so that they can obtain permits under the OSM regulations; (2) that shall operators, in particilar, are having difficulty obtaining bonds; (3) these amendments will contribute to a solution to the small operators' problems; and (4) rapid clarification of this matter is needed to avoid companies being forced out of business because they fail to qualify for a bond due to unfair requirements.

OSM seeks public comment as to whether this petition should be granted in whole or part. If the petition is granted, a rulemaking proceeding will subsequently be undertaken to consider appropriate amendments to Subchapter J, in accordance with 30 CFR 700.12(d), 44 FR 15315, March 13, 1979. Publication of this petition for public consideration and comment should in no way be construed to affect the effectiveness or enforceability of the existing regulations in Subchapter J.

Public Hearing

Individual testimony at the hearing will be limited to 15 minutes. The hearing will be transcribed. Filing of a written statement at the time of giving oral testimony would be helpful and facilitate the job of the court reporter. Submission of written statements to the person identified below under "For Further Information Contact," in advance of the hearing date, whenever possible, would greatly assist OSM officials who will attend the hearing. Advance submissions will give these officials an opportunity to consider appropriate questions which could be asked to clarify or elicit more specific information from the person testifying. The record will remain open for receipt of additional written comments until June 15, 1979.

Persons in the audience who have not been scheduled to speak and wish to do so will be heard at the end of scheduled speakers. Persons not scheduled to testify, but wishing to do so, assume the risk of having the public hearing adjourned if they are not present when all scheduled speakers conclude.

Public Meetings: Representatives of the Office will be available to meet between June 4, 1979 to June 15, 1979 at the request of members of the public, State representatives, industry officials, labor representatives, and environmental organizations to receive their advice and recommendations concerning the content of the proposed regulations.

Persons wishing to meet the representatives of OSM during this time period may request to meet with Office officials at the Washington office. OSM will be available for such meetings between 9 a.m. and noon and 1 p.m. and 4 p.m., local time, Monday through Friday, excluding holidays, at this location. Summaries of meetings will be prepared and made available for public review in Room 120 of the Interior South Building at the address given above.

Public Comment Period: The comment period on the petition will extend until June 15, 1979. All written comments must be received at the OSM Headquarters, Department of the Interior, South Building, Room 120, 1951 Constitution Avenue, N.W., Washington, D.C. 20240, by 5 p.m., June 15, 1979. Comments received after that hour will not be considered or included in the administrative record on this petition. The Office cannot insure that written comments received or delivered during the comment period to any locations other than specified above will be considered and included in the administrative record on this petition.

Availability of Copies: In addition to its publication here as Appendix A, copies of the petition and copies of 30 CFR Subchapter J are available for inspection and may be obtained at the following offices:

OSM Headquarters, Department of the Interior, South Building, Room 120, 1951 Constitution Avenue, N.W., Washington, D.C. 20240 (202) 343-4728.

OSM Region I, First Floor, Thomas Hill Building, 950 Kanawha Boulevard, East Charleston, W. Va. 25301; (304) 342-8125.

OSM Region II, 530 Gay Street, S.W., Suite 500, Knoxville, Tenn. 37902; (615) 637-8060.

OSM Region III, Federal Building and U.S. Courthouse, 46 East Ohio Street, Indianapolis, IN 46204; (317) 269-2609.

OSM Region IV, 818 Grant Avenue, Scarritt Building, 5th Floor, Kansas City, Missouri 64106; 913-758-2193.

OSM Region V, Post Office Building, 1823 Stout Street, Denver, CO; 80205, 303-837-5511.

Dated: May 8, 1979.

1. The Proposed Amendments: Petitioners subject to full reclamation would be limited

authority shall notify the permittee *and*

bonding "when the applicant demonstrates to

Dated: May 8, 1979.

Walter N. Heine,

Director, Office of Surface Mining Reclamation and Enforcement.

Petition To Initiate Rulemaking

Mining and Reclamation Council of America, Petitioner.

Petition

Pursuant to the provisions of Section 201(g) of the Surface Mining Control and Reclamation Act of 1977, 30 U.S.C. 1201 *et seq.* (Supp. 1978) and the requirements of 30 CFR 700.12, The Mining and Reclamation Council of America (MARC), Green Mountain Company and The Travelers Indemnity Company hereby petition the Director of the Office of Surface Mining Reclamation and Enforcement to initiate a rulemaking proceeding to amend certain provisions of 30 CFR Subchapter J, Bond and Insurance Requirements for Surface Coal Mining and Reclamation Operations.

Petitioner Mining and Reclamation Council of America is a national trade association representing companies, individuals and state associations involved in the surface coal mining industry. MARC now has over 220 member companies from 26 states and 18 affiliate associations from 13 states with a total representation of nearly 3,000 companies who produce approximately 70% of the U.S.'s coal production. MARC's primary goal is to aid in bringing about an orderly expansion of the surface coal mining industry.

Petitioner Green Mountain Company is a multidiplinary firm aiding the coal mining industry in resource development during planning and exploration, environmental monitoring during operation, reclamation and revegetation, and finally, in support of reclamation *bond release*. Green Mountain Company has broad experience in dealing with bonding/surety companies and with state regulatory agencies in developing bonding procedures and methodologies.

Petitioner The Travelers Indemnity Company is a major underwriter of reclamation bonds for surface coal mining companies, particularly in Appalachia. Representative of the company's involvement is the Surety Department of its Pittsburgh office which handles in excess of 400 surety accounts. The ability of the company to continue to provide this service to the surface coal mining industry is dependent upon the provisions of Subchapter J.

Petitioners seek amendments to certain provisions in 30 CFR Subchapter J to insure the regulations comply with the requirements of the Act and the intent of Congress. These amendments are necessary to enable surety companies to continue to provide reclamation bonds to coal operators so that they can obtain permits under the OSM regulations. Small operators, in particular, are having a very difficult, if not impossible, time in obtaining bonds; these amendments will constribute to a solution to the small operators' problems. Rapid clarification on this matter is needed to avoid companies being needlessly forced out of business because they fail to qualify for a bond due to unfair requirements.

1. The Proposed Amendments: Petitioners request that the following changes be made to 30 CFR, Subchapter J:

Change

Part 800.11(b) Requirement to file bond page 15386, should be changed to read as follows:

"An operator shall not disturb surface acreage or extend any underground shafts, tunnels or operations prior to receipt of approval from the regulatory authority of a performance bond covering the surface acreage to be affected of the permit area."

Justification

Section 509(a) sepcifically limits the required bonded area to only the area of land covered by the permit. Further support is provided in statutory language of the Act under the definition of permit area, Section 701:

"(17) 'permit area' means the area of land indicated on the approved map submitted by the operator with his application, which area of land shall be covered by the operator's bond as required by Section 509 of this Act and shall be readily identifiable by appropriate markers on the site;"

Congress did not contemplate or provide for the requirement of bonding affected areas. Only through regulatory definition is permit area and affected area defined as being one in the same. Section 701(28)(b) definition of surface coal mining operation with reference to permitting and bonding states: "the areas upon which such activities occur or where such activities disturb the natural land surface." Additional support can be found in Section 516(b)(10) and 516(d) for recognizing the distinct differences between surface and deep mines:

Change

Part 805.11 Determination of Bond Amount page 15387, add new Part 805.11(a)(b)

The amount of performance bond may be determined on a cumulative basis rather than an individual cost per acre where the resulting bond is sufficient to cover the cost of reclaiming the full area which would be disturbed at any given time.

Justification

The basis for the bond as indicated in section 509(a) of the Act is to be sufficient in amount to assure the completion of the reclamation plan, if the work has to be performed by the regulatory authority in the event of forfeiture and not to place a burden on the operator. Therefore, on a composite basis of permitting and bonding 100 acres at a bond rate of $1,000.00 per acre the resulting $100,000 performance bond would be sufficient to assure reclamation of say a 20 acre disturbed area. The amount of disturbed acres would remain constant through the mining sequence. As new areas are being disturbed, mined areas are constantly being reclaimed. Whereas, when viewed from an individual basis, $1,000 per acre would not be sufficient to reclaim 100 acres if all 100 acres were disturbed at one time. As a result of PL95–87 and subsequent regulations requiring the operator to keep operations current, the amount of disturbed acreage which would be subject to full reclamation would be limited in most cases to a constant amount and never would the entire permit area be subject to the full reclamation standards at one time.

"(10) with respect to other surface impacts not specified in this subsection including the construction of new roads or the improvement or use of existing roads to gain access to the site of such activities and for haulage, repair areas, storage areas, processing areas, shipping areas, and other areas upon which are cited structures, facilities, or other property or materials on the surface, resulting from or incident to such activities, operate in accordance with the standards established under section 515 of this title for such effects which result from surface coal mining operation: Provided, that the Secretary shall make such modifications in the requirements imposed by this subparagraph as are necessary to accommodate the distinct difference between surface and underground coal mining;

"(d) The provisions of title V of this Act relating to State and Federal programs, permits, bonds, inspections and enforcement, public review, and administrative and judicial review shall be applicable to surface operations and surface impacts incident to an underground coal mine with such modifications to the permit application requirments as are necessary to accommodate the distinct difference between surface and underground coal mining. The Secretary shall promulgate such modifications in accordance with the rulemaking procedure established in section 501 of this Act."

Change

Part 805.13(b) Period of liability page 15387, changed to read as follows:

"In addition to the period necessary to achieve compliance with all requirements of the Act, this chapter, the regulatory program and the permit including the standards for the success of revegetation as required by 30 CFR 816.116 and 817.116, the period of liability under performance bond shall continue for a minimum period beginning with the last year of augmented seeding, fertilizing, irrigation or other work. The minimum period of liability shall continue in areas of more than 26.0 inches average annual precipitation, for not less than five years or in areas of 26 inches or less average annual precipitation, for not less than ten years. The period of liability shall begin again whenever augmented seeding, fertilizing, irrigation or other work is required or conducted on the site prior to bond release *when the regulatory authority determines that if these practices were not conducted successful vegetation could not be established. This regulation does not preclude and will not result in the period of liability beginning again when normal and reasonable good husbandry practices are being followed."*

Justification

As written the regulation is in conflict with the best available technology now being employed by many operators as a successful management practice for establishment of revegetation. This practice is not unlike that currently being used throughout the agricultural industry. As a result of penalizing an operator for using good husbandry practices, most if not all, will stop refertilizing and reseeding in their revegetation programs.

Change

Part 805.13 Period of liability page 15387, include new part 805.13(e), to read as follows:

"The period of liability in this part shall not be extended as a result of failure to complete an alternative post mining land use plan so long as all other conditions of part 807 are met."

Justification

It is unreasonable to require the surety to assume liability for completion of an alternative post mining land use plan as a condition of release of a performance bond. There is no way that a surety can guarantee that an agricultural use is implemented, houses built, or an industrial complex developed. In many cases a third party land owner who may be different than the operator would be required to develop the post mining land use and would not be held liable under performance bond by the Surety. Therefore the surety could not have any guarantee that the land owner would develop the property as part of the operators post mining land use.

Change

Part 805.14(a) Adjustment of Amount page 15387, should be changed to read as follows:

"The amount of the performance bond liability applicable to a permit should be adjusted by the regulatory authority as the acreage in the permit area is revised, methods of mining operation change, standards of reclamation change or when the cost of future reclamation, restoration or abatement work changes. The regulatory authority shall notify the permittee *and surety* of any propsed bond adjustment and provide the permittee *and surety* an opportunity for an informal conference on the adjustment. The regulatory authority shall review each outstanding performance bond at the time the permit reviews are conducted under 30 CFR 788.11, and re-evaluate those performance bonds in accordance with the standards in Section 805.11."

Justification

The surety because of the nature of the performance bond and the indefinite liability should be given the same notification and opportunity as the permittee in cases of bond adjustments and bond releases.

Change

Part 805.14 (a) & (b) Adjustment of bond amount page 15387, should be changed to read as follows:

"(a) The amount of the performance bond liability applicability to a permit shall be adjusted by the regulatory authority as the acreage in the permit area is revised, methods of mining operation change, standards of reclamation changes or when the cost of future reclamation, restoration or abatement work changes. The regulatory authority shall notify the permittee *and surety* of any proposed bond adjustment and provide the permittee *and surety* an opportunity for an informal conference on the adjustment. The regulatory authority shall review each outstanding performance bond at the time that permit reviews are conducted under 30 CFR 78.11, and re-evaluate those performance bonds in accordance with the standards in Section 805.11.

(b) A permittee *and surety* may request reduction of the required performance bond amount upon submission of evidence to the regulatory authority proving that the permittee's method of operation or other circumstances will reduce the maximum estimated cost to the regulatory authority to complete the reclamation responsibilities and therefore warrant a reduction of the bond amount." (Delete: "The request shall be considered as a request for partial bond release in accordance with the procedures of Part 807 of this Chapter.")

Justification

The surety because of the nature of the performance bond and the indefinite liability should be given the same notification and opportunity as the permittee.

Adjustment to bond amounts has a statutory basis under Section 509(e):

"(e) The amount of the bond or deposit required and the terms of each acceptance of the applicant's bond shall be adjusted by the regulatory authority from time to time as affected land acreages are increased or decreased or where the cost of future reclamation changes."

Adjustments to bond amounts are extremely unusual in surety markets and highly undesirable from the point of the surety. Coal operators could be faced with closing operations as a result of being unable to provide a sufficient financial statement that would satisfy a surety to allow extension of bond liability as a result of adjustments in bond amount. The most immediate effect of this regulation will develop during implementation of state approved programs when operators are required to submit new permit applications requiring possibly increased amounts of bond for existing bonded acreage and new bonds for areas which were previously not required to be bonded such as associated structures.

What happens to the operators who are able to comply with the performance standards of the act but are unable to financially or otherwise meet the additional bond capacity necessary to remain in business? Again, the adverse economic impacts such as loss of job, tax revenue and energy have not been properly addressed.

Change

Part 806.11(b) Form of the performance bond. Pages 15387–15389, Delete this entire section, which stipulates the conditions under which self-bonding will be approved. Section should be rewritten to require only the information specified in the Act.

Justification

The section as written goes beyond the intent of the Act which provided for self-bonding "when the applicant demonstrates to the satisfaction of the regulatory authority the existence of a suitable agent to receive service of process and a history of financial solvency and continuous operation . . ." OSM's requirements in § 806.11(b)(2) for the operator to show a net worth of six times the total self-bonded amount is clearly an arbitrary evaluation of a showing of financial solvency. Additionally, the requirements in § 806.11(b)(3) and (4) for a mortgage or security interest in real or personal property are nowhere required by the Act. Such a mortgage or interest is merely another form of collateral and should not be included under the self-bonding provisions. These requirements are clearly beyond the intent of Section 509(c) of the Act.

Change

Part 807.11(b)(7) Procedure for seeking release of performance bond page 15391, Delete:

(7) State that written comments, objections, and requests for a public hearing or informal conference may be submitted to the office of the regulatory authority provide the address of that office, and the closing date by which comments, objections, and requests must be received.

Justification

The Act under section 519(a) is specific in regards to the contents of a newspaper advertisement of application and does not list this as being one of the items. This is clearly an area where regulation has gone beyond the intent of the Act.

Change

Part 807.12 Criteria and schedule for release of performance bond, page 15392, should be deleted in its entirety and rewritten as follows:

"The regulatory authority may release portions of the liability of the performance bond applicable to the permit if the authority is satisfied that the reclamation covered by the bond or deposit or portion thereof has been accomplished as required by the Act according to the following schedule.

"(1) 60% of the total bond liability applicable to the bond area(s) shall be released upon completion of backfilling, regrading and drainage control of the disturbed area.

"(2) Additional amount(s) of bond may be periodically released after regulatory authority is satisfied that a successful permanent diverse vegetation has been established on the disturbed area. When determining the amount of bond to be released after successful revegetation has been established the regulatory authority shall retain that amount of the bond sufficient for a third party to cover the cost of reestablishing revegetation.

"(3) The full amount of the bond may not be released until the expiration of the period specified for operator responsibility in section 515 of reestablishing revegetation or so long as the lands to which the release would be applicable are contributing suspended solids to stream flow or runnoff

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outside the permit area in excess of applicable State and Federal Laws."

Justification

The regulations as written do not allow for the full release of 60% of the bond liability upon completion of backfilling, regrading and drainage control as the Act contemplated. In addition regulation § 807.12(c) precludes release of bond under § 807.12(b)(1) and (2) by restricitng the maximum performance released at any time prior to the completion of reclamation phase III on the entire permit area. The amount of release is determined by multiplying the ratio between the acreage on which reclamation phase III has been completed and the total acreage in the permit area times the total liability on the performance bonds applicable to permit times 15%. Therefore, no bond can be released until reclamation phase III is completed which includes the extended period of liability.

New Part

§ 809(a) Bonding requirements for underground coal mines, refuse areas, preparation plants, coal loading facilities and associated structures and facilities.

§ *809(a)(1) Authority.*

Sections 101, 102, 501, 516(b)(10), 516(d) and 701(28)(b).

§ *809(a)(2) Scope.*

This part sets forth applicable requirements for bonding underground coal mines, refuse areas, preparation plants, coal loading facilities and associated structures and facilities.

§ *809(a)(3) Objective.*

The objective of this part is to provide minimum standards for bonding underground coal mines, refuse areas, preparation plants, coal loading facilities and associated structures and facilities under 516(d).

§ *809(a)(4) Responsibility.*

All persons seeking to engage or engaging in surface coal mining and reclamation operations subject to this section shall comply with this part.

§ *809(a)(5) Requirements.*

a. All of the provisions of part 800 shall apply to bonding underground coal mines, refuse areas, preparation plants, coal loading facilities, and associated structures and facilities except that:

1. The regulatory authority shall recognize the specific difference between surface coal mining and underground coal mining and associated structures and facilities in determining the amount and duration of performance bond liability.

2. The period of liability for responsibility under each bond may be established for a fixed renewable period of time of not less than 5 years.

3. Nothing in this part shall exempt the regulatory authority from allowing an operator to establish an escrow account in conjunction with or separately from a performance bond to insure upon abandonment the reclamation of the disturbed area covered in the permit. Furthermore, as part of the approved reclamation plan the regulatory authority may grant variances to allow associated structures or facilities not posing an eminent danger to health, safety or well being of the environment or people of the area to remain in place upon completion of their use.

[FR Doc. 79-14995 Filed 5-11-79; 8:45 am]

BILLING CODE 4310-05-M

DEPARTMENT OF DEFENSE

Department of the Army

[32 CFR Part 633]

Individual Requests for Access or Amendment of CID Reports of Investigation

AGENCY: Department of the Army, DoD.

ACTION: Proposed rule.

SUMMARY: The Department of the Army proposes to amend its regulation on Criminal Investigation Activities (AR 195–2) to add procedures for individuals to request amendment of criminal investigation records maintained by the U.S. Army Criminal Investigation Command. This proposal will give individuals an opportunity to request amendment of investigative records pertaining to them that are exempt under Army Regulation 340–21.

DATE: Comments must be received by June 11, 1979.

FOR FURTHER INFORMATION CONTACT: Lieutenant Colonel John F. Lymburner at (202) 756–2281 or write to: Commander, USACIDC, ATTN: CIJA–RI, 5611 Columbia Pike, Falls Church, VA 22041.

SUPPLEMENTARY INFORMATION: The Army has been considering these records for amendment under Army Regulation 340–21. However, since they are exempt from the amendment provisions of the Privacy Act (5 U.S.C. 552(j)(2)), the Army plans to withdraw these records from consideration under the Privacy Act and has published the proposal in the Federal Register issue of March 28, 1979 (44 FR 18527). Therefore, in consideration of the above, it is proposed to amend 32 CFR by adding a new Subchapter I Law Enforcement and Criminal Investigation to Chapter V and a new Part 633 to read as set forth below:

PART 633—INDIVIDUAL REQUESTS FOR ACCESS OR AMENDMENT OF CID REPORTS OF INVESTIGATION

Subchapter I—Law Enforcement and Criminal Investigations

Sec.

633.11 Access to CID Reports.
633.12 Amendment to CID Reports.
633.13 Submission of Requests.

Authority: Sec. 3012, 70A Stat. 157; 10 U.S.C. 3012.

§ 633.11 Access to CID Reports.

All requests for access to CID reports made under the Privacy or Freedom of Information Acts will be processed in accordance with AR 340–21 and AR 340–17, respectively.

§ 633.12 Amendment to CID reports.

USACIDC reports of investigation (ROI) are exempt from the amendment provisions of the Privacy Act and AR 340–21. Requests for amendment will be considered only under the provisions of this regulation. Requests to amend USACIDC reports will be granted only if the individual submits new, relevant and material facts that are determined to warrant their inclusion in or revision of the ROI. The burden of proof is on the individual to substantiate the request. Requests to delete a person's name from the title block will be granted only if it is determined that there is not probable cause to believe that the individual committed the offense for which he or she is listed as a subject. It is emphasized that the decision to list a person's name in the title block of a USACIDC report of investigation is an investigative determination that is independent of whether or not subsequent judicial, nonjudicial or administrative action is taken against the individual. Within these parameters, any changes in the ROI rest within the sole discretion of the Commanding General, USACIDC, whose decision will constitute final action on behalf of the Secretary of the Army with respect to this regulation.

§ 633.13 Submission of requests.

Requests for access to or amendment of USACIDC investigative reports will be forwarded to Commander, USACIDC, ATTN: CIJA–RI, 5611 Columbia Pike, Falls Church, VA 22041.

Dated: May 2, 1979.

By authority of the Secretary of the Army.

Rome D. Smyth,
Colonel, U.S. Army, Director, Administrative Management, TAGCEN.

[AR 195–2]

[FR Doc. 79-14988 Filed 5-11-79; 8:45 am]

BILLING CODE 3710-08-M

DEPARTMENT OF TRANSPORTATION

Coast Guard

[33 CFR Part 117]

Drawbridge Operation Regulations; Clearwater Pass, Fla.

AGENCY: Coast Guard, DOT.

ACTION: Proposed rule.

SUMMARY: At the request of the City of Clearwater, the Coast Guard is considering amending the regulations governing the operation of the drawbridge across Clearwater Pass to require openings of the draw only every 15 minutes from 12 noon to 7 p.m. on Saturdays, Sundays, and holidays. This proposal may accommodate the needs of vehicular traffic while still providing for the reasonable needs of navigation.

DATE: Comments must be received on or before June 15, 1979.

ADDRESS: Comments should be submitted to and are available for examination at the office of the Commander (oan), Seventh Coast Guard District, Federal Building, 51 SW 1st Avenue, Miami, Florida 33130.

FOR FURTHER INFORMATION CONTACT: Frank L. Teuton, Jr. Chief, Drawbridge Regulations Branch (G–WBR/73), Room 7300, Nassif Building, 400 Seventh Street, SW., Washington, D.C. 20590 (202–426–0942).

SUPPLEMENTARY INFORMATION: Interested persons are invited to participate in this proposed rule making by submitting written views, comments, data or arguments. Persons submitting comments should include their name and address, identify the bridge, and give reasons for concurrence with or any recommended change in the proposal.

The Commander, Seventh Coast Guard District, will forward any comments received with his recommendations to the Chief, Office of Marine Environment and Systems, U.S. Coast Guard Headquarters, Washington, D.C., who will evaluate all communications received and recommend a course of final action to the Commandant on this proposal. The proposed regulations may be changed in the light of comments received.

Drafting Information

The principal persons involved in drafting this proposal are: Frank L. Teuton, Jr., Project Manager, Office of Marine Environment and Systems, and Coleman Sachs, Project Attorney, Office of Chief Counsel.

Discussion of the Proposed Regulations

The draw is presently required to open on signal from 7 a.m. to 11 p.m. From 11 p.m. to 7 a.m. a delay of up to 10 minutes may be expected. On Saturdays, Sundays and holidays from 12 noon to 7 p.m., the data submitted by the City of Clearwater showed that there are presently as many as nine openings within one hour and several cases where there have been three openings within a 15-minute period during this period. In an effort to assure more equitable use of this draw, the Coast Guard is putting forth this proposal for comment by those interested in or affected by this proposal.

In consideration of the foregoing, it is proposed that Part 117 of the Title 33 of the Code of Federal Regulations be amended by revising § 117.467 to read as follows:

PART 117—DRAWBRIDGE OPERATION REGULATIONS

§ 117.467 Clearwater Pass, State Road 699, Clearwater, Fla.

(a) From 12 noon to 7 p.m., Saturdays, Sundays, and legal holidays, the draw need not open except on the hour, quarter hour, half hour and three-quarter hour to allow any accumulated vessels to pass. At all other times, the draw shall open on signal except from 11 p.m. to 7 a.m. daily, a delay of up to ten minutes may be expected.

(b) The draw shall open at any time for the passage of public vessels of the United States, state or local government vessels used for public service, tugs with tows and vessels in distress. The opening signal from these vessels is four blasts of a whistle or horn or by shouting.

(c) The owner of or agency controlling the bridge shall conspicuously post notices containing the substance of these regulations, both upstream and downstream, on the bridge or elsewhere, in such a manner that they can easily be read at all times from an approaching vessel.

(Sec. 5, 28 Stat. 362, as amended, sec. 6(g)(2), 80 Stat. 937; (33 U.S.C. 499, 49 U.S.C. 1655(g)(2)); 49 CFR 1.46(c)(5).)

Dated: May 8, 1979.

J. B. Hayes,
Admiral, U.S. Coast Guard Commandant.

[CGD 79-041]

[FR Doc. 79-14992 Filed 5-11-79; 8:45 am]

BILLING CODE 4910-14-M

[33 CFR Part 117]

Drawbridge Operation Regulations; Cerritos Channel, Calif.

AGENCY: Coast Guard, DOT.

ACTION: Proposed Rule.

SUMMARY: At the request of the Port of Los Angeles, the Coast Guard is considering revising the regulations governing the operation of the Henry Ford Avenue bridge to allow the draw to remain in the open to navigation position except when a train is crossing or when maintenance is being performed. This proposal is being made because vehicular traffic is using an adjacent bridge and there are only 2–3 rail crossings daily. This action would relieve the bridge owner of the burden of having a person available to open the draw at all times.

DATE: Comments must be received on or before June 8, 1979.

ADDRESS: Comments should be submitted to and are available for examination at the office of the Commander (oan), Eleventh Coast Guard District, Union Bank Building, 300 Oceangate, Long Beach, California 90822.

FOR FURTHER INFORMATION CONTACT: Frank L. Teuton, Jr., Chief, Drawbridge Regulations Branch (G–WBR/73), Room 7300, Nassif Building, 400 Seventh Street, SW., Washington, D.C. 20590 (202–426–0942).

SUPPLEMENTARY INFORMATION: Interested persons are invited to participate in the proposed rulemaking by submitting written views, comments, data or arguments. Persons submitting comments should include their name and address, identify the bridge, and give reasons for concurrence with or any recommended change in the proposal.

The Commander, Eleventh Coast Guard District, will forward any comments received with his recommendations to the Chief, Office of Marine Environment and Systems, U.S. Coast Guard Headquarters, Washington, D.C., who will evaluate all communications received and recommend a course of final action to the Commandant on this proposal. The proposed regulations may be changed in the light of comments received.

County, North Carolina. The Order disapproved, EPA will take appropriate enforcement action

electrostatic precipitators to be installed in series with the existing electrostatic

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Drafting Information

The principal persons involved in drafting this proposal are: Frank L. Teuton, Jr., Project Manager, Office of Marine Environment and Systems, and Mary Ann McCabe, Project Attorney, Office of Chief Counsel.

Discussion of the Proposed Regulations

These proposed regulations are being presented to reflect the current usage of this bridge.

In consideration of the foregoing, it is proposed that Part 117 of the Title 33 of the Code of Federal Regulations be amended by revising § 117.711 to read as follows:

PART 117—DRAWBRIDGE OPERATION REGULATIONS

§ 117.711 Cerritos Channel, Long Beach, Calif.

(a) The draw of the Commodore Schuyler F. Heim highway bridge shall open on signal except that from 6:30 a.m. to 8 a.m. and 3:30 p.m. to 6 p.m., Monday through Friday except Federal holidays, the draw need not open for the passage of vessels.

(b) The draw of the Henry Ford Avenue bridge shall be maintained in the open to navigation position except when a train is crossing or when maintenance work is being performed.

(c) The opening signal for the Heim bridge is three long blasts. The acknowledging signal is two long blasts followed by one short blast when the draw will open immediately, and four long blasts when the draw cannot open immediately. If the draw of the Henry Ford Avenue bridge is in the open position, the vessel may go through the open draw with no further signal. If the draw of the Henry Ford Avenue bridge is in the closed position, the opening signal is one long blast. The acknowledging signal is one long blast followed by one short when the draw will open immediately, and four long blasts when the draw cannot open immediately.

(d) The owners of or agencies controlling these bridges shall keep signs showing the opening and acknowledging signals conspicuously posted on the east side of the Commodore Heim bridge and the west side of the Henry Ford Avenue bridge, in such a manner that they can easily be read from an approaching vessel.

(Sec. 5, 28 Stat. 362, as amended, sec. 6(g)(2), 80 Stat. 937; (33 U.S.C. 499, 49 U.S.C. 1655(g)(2)); 49 CFR 1.46(c)(5).)

Dated: May 1, 1979.

J. B. Hayes,
Admiral, U.S. Coast Guard Commandant.

[CGD 79-001]

[FR Doc. 79-14993 Filed 5-11-79; 8:45 am]

BILLING CODE 4910-14-M

DEPARTMENT OF HEALTH, EDUCATION, AND WELFARE

Public Health Service

[42 CFR Part 52f]

National Cancer Institute Grants for Research and Demonstration Centers; Withdrawal of Notice of Proposed Rulemaking

AGENCY: Public Health Service, DHEW.

ACTION: Withdrawal of Notice of Proposed Rulemaking.

SUMMARY: DHEW withdraws the Notice of Proposed Rulemaking published in the Federal Register October 20, 1976 (41 FR 46318). Interested persons were invited to submit written comments regarding proposed regulations for grants to plan, establish, coordinate, strengthen, and support basic operations of centers for clinical research into, training in, and demonstration of, advanced diagnostic and treatment methods relating to cancer. The Department is now carefully reviewing the justification for all regulations. The Director, National Institutes of Health, has found that sufficient regulations for this program are already in place in 42 CFR Part 52, and no more specific regulations are required. The HEW Office of the General Counsel concurs in this finding. The Department has determined that a valid justification exists for not finalizing the proposed regulations.

EFFECTIVE DATE: May 14, 1979.

FOR FURTHER INFORMATION CONTACT: Lowell D. Peart, NIH Regulations Officer, OA, DMP, Building 31, Room 3B-11, 9000 Rockville Pike, Bethesda, Maryland 20014, (301) 496-4606.

Dated: March 19, 1979.

Julius B. Richmond,
Assistant Secretary for Health.

Approved: April 24, 1979.

Joseph A. Califano, Jr.,
Secretary.

[FR Doc. 79-15022 Filed 5-11-79; 8:45 am]

BILLING CODE 4110-08-M

ENVIRONMENTAL PROTECTION AGENCY

[40 CFR Part 65]

Delayed Compliance Orders; Notice of Receipt and Proposed Action of an Administrative Order Issued by the North Carolina Environmental Management Commission to Carolina Power & Light Co., Roxboro Plant—Unit No. 3, Roxboro, Person County, N.C.

AGENCY: Environmental Protection Agency.

ACTION: Notice of Receipt and Notice of Proposed Action.

SUMMARY: EPA has received an administrative order issued by the North Carolina Environmental Management Commission to Carolina Power and Light Company, Roxboro Plant—Unit No. 3, Roxboro, North Carolina. The order requires the company to bring air emissions from its Unit No. 3, twin pulverized coal-fired boilers in Roxboro, North Carolina, into compliance with certain regulations contained in the federally approved North Carolina State Implementation Plan (SIP) by July 1, 1979. Because the order has been issued to a major source and permits a delay in compliance with provisions of the SIP, it must be approved by EPA before it becomes effective as a delayed compliance order under the Clean Air Act (the Act). If approved by EPA, the Order will constitute an addition to the SIP. In addition, a source in compliance with an approved order may not be sued under the federal enforcement or citizen suit provisions of the Act for violations of the SIP regulations covered by the Order. The purpose of this notice is to invite public comment on whether EPA should approve or disapprove the order as a Delayed Compliance Order.

DATE: Written comments must be received on or before June 13, 1979.

ADDRESSES: Comments should be submitted to Director, Enforcement Division, EPA, Region IV, 345 Courtland Street, N.E., Atlanta, Georgia 30308. The State order, supporting material, and public comments received in response to this notice may be inspected and copied (for appropriate charges) at this address during normal business hours.

FOR FURTHER INFORMATION CONTACT: Floyd Ledbetter, U.S. Environmental Protection Agency, Region IV, 345 Courtland Street, NE., Atlanta, Georgia 30308. Telephone (404) 881-4298.

SUPPLEMENTARY INFORMATION: Carolina Power and Light operates an electric generating station in Roxboro, Person

County, North Carolina. The Order under consideration addresses emissions from the Number 3 coal-fired boiler, which is subject to the North Carolina Administrative Code (NCAC) Title 15, Chapter 2D, Section .0503 and Section .0521. The regulations limit the particulate and visible emissions from fuel-burning equipment, and are part of the federally approved North Carolina State Implementation Plan. The Order requires compliance with the regulation by July 1, 1979, through the implementation of the following schedule:

(1) Submit on or before June 2, 1978, an amended Permit Application for the additional electrostatic precipitators.

(2) Start the foundations for the installation of control equipment by July 10, 1978.

(3) Begin erection of the support structure for the control equipment by September 1, 1978.

(4) Begin erection of the electrostatic precipitators by November 1, 1978.

(5) Complete erection of the electrostatic precipitators by June 1, 1979.

(6) Shut down the coal-fired boilers and begin final tie into existing electrostatic precipitators by July 1, 1979.

Because this Order has been issued to a major source of particulate and visible emissions and permits a delay in compliance with the applicable regulation, it must be approved by EPA before it becomes effective as a Delayed Compliance Order under Section 113(d) of the Clean Air Act (the Act). EPA may approve the Order only if it satisfies the appropriate requirements of this subsection. Based upon a thorough review, EPA has objections to the Order. All of the requirements for issuance of a Section 113(d) order have not been met. Under Section 113(d)(3) a source that intends to comply by means of a termination of operation must post a bond or other surety in an amount equal to the cost of actual compliance by such facility and any economic value which may accrue by reason of the failure to comply. This has not been submitted.

In view of these objections, EPA proposes to disapprove the Order. If the Order were approved by EPA, compliance with its terms would preclude federal enforcement action under Section 113 of the Act against the source for violation of the regulations covered by the Order during the period the Order is in effect. Enforcement against the source under the citizen suit provision of the Act (Section 304) would be similarly precluded. If the Order is disapproved, EPA will take appropriate enforcement action.

All interested persons are invited to submit written comments on the proposed Order. Written comments received by the date specified above will be considered in determining whether EPA may approve or disapprove the Order. After the public comment period, the Administrator of EPA will publish in the Federal Register the Agency's final action on the order in 40 CFR Part 65.

Authority: 42 U.S.C. 7413, 7601.

Dated: April 24, 1979.

John C. White,
Regional Administrator.

The text of the Order reads as follows:

Amended Special Order by Consent AQ-73-113R

North Carolina, Person County

In the matter of unauthorized discharges of air pollutants into the ambient atmosphere by Carolina Power & Light Company, Roxboro Plant-Unit No. 3, Roxboro, Person County, North Carolina.

This order by consent made and entered into pursuant to North Carolina General Statute 143-215.110 and in accordance with the requirements of Section 113 of the Clean Air Act by Carolina Power & Light Company, hereinafter referred to as the Company, with the North Carolina Environmental Management Commission, an agency of the State of North Carolina, hereinafter known as the Commission.

I. The Commission finds as follows:

A. The Company has operated and is now operating two boilers on Unit No. 3 at the Roxboro Plant near Roxboro, North Carolina.

B. The Company has operated two electrostatic precipitators since July, 1973, for the control of particulate and visible emissions from the boilers on Unit No. 3 at the Roxboro Plant. The precipitators have a design efficiency of 99.02 removal of particulate matter. However, the precipitators did not achieve compliance.

C. The Company has discharged and is now discharging particulate and visible emissions to the ambient atmosphere from the boilers on Unit No. 3 in violation of 15 NCAC 2D .0521 "Control of Visible Emissions" and 15 NCAC 2D .0503 "Control of Particulate Matter Emissions from Fuel Burning Sources."

D. The Commission issued Permit No. 3132 to the Company on April 5, 1976, for the operation of the electrostatic precipitators on the exhusts from the Unit No. 3 power boilers.

E. The Company was issued Special Order by Consent AQ-75-113 on March 12, 1976 which specified that the Company was to achieve and demonstrate compliance by December 15, 1976. Modifications proposed by the Company were completed, however, the required source test documented violation of the applicable standards.

F. The Company has begun engineering design for installation of additional electrostatic precipitators to be installed in series with the existing electrostatic precipitators.

G. The Company has begun procurement of materials and site preparation for the installation of the additional electrostatic precipitators.

II. The Company desiring to comply with the legal requirements of the Commission regarding particulate and visible emissions to the ambient atmosphere and with all pertinent provisions of the law and applicable rules and regulations of the Commission does hereby agree to do and perform the following on or before the dates hereinafter set out.

A. Submit on or before June 2, 1978 an amended Permit Application for the additional electrostatic precipitators.

B. Start the foundations for the installation of control equipment by July 10, 1978.

C. Begin erection of the support structure for the control equipment by September 1, 1978.

D. Begin erection of the electrostatic precipitators by November 1, 1978.

E. Complete erection of the electrostatic precipitators by June 1, 1979.

F. Shut down the coal-fired boilers and begin final tie in to existing electrostatic precipitators by July 1, 1979.

III. The Company shall operate and maintain its coal-fired boilers utilizing the best available engineering practice so as to minimize the impact of visible and particulate emissions during the period between the date this Order is executed by the Company and the date specified in this Order for achieving compliance with 15 NCAC 2D .0503 and 15 NCAC 2D .0521. In no case shall the particulate emissions from the coal-fired boilers exceed 1.8 pounds per million B.T.U. input except during start-ups and shut-downs. In that visible emissions periodically reach a level of 100% opacity, interim emission limitation is not specified. However, visible emissions will be monitored and reported as required in Section VI of this Special Order.

IV. On or before July 1, 1979, when visible and particulate emissions due to a malfunction are or may be in excess of those emission limits contained in Section III of this Order for more than one continuous hour, the Company shall notify the Director, Division of Environmental Management, as promptly as possible but in no case later than eighteen (18) hours following the start of such malfunction. Such notice shall specify the nature and cause of the malfunction, the time when such malfunction was first observed, the expected duration, and an estimate of the rate of emission. The term malfunction shall not be construed to include normal start-up or shut-down periods.

V. The company shall submit no later than five days after the deadline for completing each increment required in Section II, certification to the Director of the Enforcement Division, United States Environmental Protection Agency, Region IV, and to the Director, Division of Environmental Management, whether such increment has been performed. The Company shall submit no later than fifteen days after the end of each quarter, commencing with the

July 1 to September 30 quarter of 1978, a

Approved and Accepted:

regulations establish the procedures and

(c) The Commissioner may make

Domestic Assistance (CFDA), the name

July 1 to September 30 quarter of 1978, a progress report for achieving compliance with the requirements of this Special Order.

VI. The Company shall on or before October 18, 1978, install and commence operation of a continuous visible emissions monitor on the coal-fired boiler described in Section IA of this Special Order. Operation, calibration, maintenance, and performance specifications of this monitor shall be reported quarterly to the Commission in accordance with 40 CFR Part 51. Excess emissions shall be reported quarterly to the Commission in accordance with 40 CFR Part 51.

VII. In the event the Company fails to achieve final compliance with any then applicable emission limitation or emission standard under the North Carolina Implementation Plan by July 1, 1979, the Company will be required to pay a mandatory noncompliance penalty pursuant to Section 120 of the Clean Air Act, 42 U.S.C. Section 7420, or North Carolina General Statute 143-215.114(a), if the Environmental Protection Agency has delegated authority to collect and assess such a penalty to the State of North Carolina. Nothing contained herein shall prevent the United States Environmental Protection Agency from taking enforcement action pursuant to Section 113b of the Clean Air Act or the Commission from assessing a civil penalty pursuant to North Carolina General Statute 143-215.114(a) as implemented by 15 NCAC 2J or from taking other enforcement action pursuant to North Carolina General Statute 143-215.114 for violating any term or condition of this Order, including failure to achieve any compliance date which is scheduled to be achieved in this Order prior to July 1, 1979, [unless the then applicable State Implementation Plan does not require compliance by the dates set forth herein.]

VIII. The Company agrees that this Special Order shall pertain only to that equipment or source described in Section IA of this Order. Unless an applicable Special Order or Permit has been issued by the Commission, any violations of Air Quality Standards, resulting from other sources or equipment for which the Company is responsible shall subject the Company to all sanctions provided by North Carolina General Statute 143-215.114.

IX. The findings of the Commission as set forth above are not admitted or denied by the Company but the Company does submit to the jurisdiction of the Commission for the purpose of the entry of this Consent Order.

X. The Company hereby agrees to waive any rights it may have to seek judicial review to challenge this Special Order by Consent, or the Environmental Protection Agency's approval thereof.

This the 11th day of September, 1978.

Attested:

Robert M. Williams,
J. A. Jones,
Carolina Power & Light Company.

Dated: October 13, 1978.

Approved and Accepted:

H. W. Whitley,
Chairman, Environmental Management Commission.
A. F. McRorie,
Secretary, Environmental Management Commission.

[Docket No. DCO-78-43; FRL 1223-8]
[FR Doc. 79-15031 Filed 5-11-79; 8:45 am]
BILLING CODE 6560-01-M

DEPARTMENT OF HEALTH, EDUCATION, AND WELFARE

Office of Education

[45 CFR Part 100b]

Consolidated Grant Applications for Insular Areas

AGENCY: Office of Education, HEW.

ACTION: Proposed regulations.

SUMMARY: The Commissioner of Education proposes to issue regulations to govern the submission by an Insular Area of consolidated grant applications for formula-grant educational programs. This action is authorized by Title V of the Omnibus Territories Act. The proposed regulations will lessen the administrative burdens on an Insular Area and provide it with greater flexibility in making decisions regarding educational programs.

DATES: Comments must be received on or before July 13, 1979. Public meetings are not scheduled for these proposed reguations.

ADDRESSES: Interested persons are invited to submit comments, suggestions, and recommendations to be considered prior to the issuance of the final regulations. These should be sent to Stephen Thom, U.S. Office of Education, 400 Maryland Avenue, S.W. (Room 1274, HEW North Bldg.), Washington, D.C. 20202. All comments will be available for public inspection, both during and after the comment period, in Room 1274, 330 Independence Avenue, SW., Washington, D.C. between the hours of 8:30 a.m. and 4:00 p.m., Monday through Friday of each week except on Federal holidays.

FOR FURTHER INFORMATION CONTACT: Stephen Thom. Telephone: (202) 472-3739.

SUPPLEMENTARY INFORMATION:

Organization

Title V of Pub. L. 95-134 (45 U.S.C. 1469a) provides authority for the consolidation of grants to each of the Insular Areas: the Virgin Islands, Guam, American Samoa, the Trust Territory of the Pacific Islands, and the Northern Mariana Islands. These proposed regulations establish the procedures and requirements that apply to applications from Insular Areas for grants that consolidate two or more of the educational programs listed in § 100b.25 of the proposed regulations.

These proposed regulations amend Part 100b of the General Provisions for Office of Education Programs regulations. The proposed regulations, which would become § 100b.25 through § 100b.37 of part 100b, apply only to consolidated grants for Insular Areas beginning with Fiscal Year 1980 appropriations for use in school year 1980-81.

The final version of these regulations will be coordinated with the final version of the Education Division General Administrative Regulations (EDGAR), which will replace the General Provisions for Office of Education Programs regulations.

The proposed regulations contain in § 100b.25 a list of formula-grant educational programs. An Insular Area may choose any two or more of the programs for consolidation into a single grant. The amount of the grant—which is the sum of the allocations under each program in the grant—may be used to carry out one or more of the programs in the consolidated grant. It may not be used for any program not included in the approved grant application. For each program funded by a consolidated grant, the Insular Area shall comply with the substantive requirements of the statute authorizing that program and of the implementing regulations for the program.

Technical Assistance

Technical assistance will be provided with respect to the consolidation of programs listed in § 100b.25. Requests for technical assistance should be addressed to:

Executive Deputy Commissioner for Educational Programs, U.S. Office of Education, 400 Maryland Avenue, SW., FOB-6, Room 4015, Washington, D.C. 20202.

Requests should indicate the nature of assistance, including the program or programs for which assistance is sought, and provide optional dates for the provision of this assistance.

Citation of Legal Authority

As required by Section 431(a) of the General Education Provisions Act, as amended (20 U.S.C. 1232(a)), a citation of statutory or other legal authority has been placed in parentheses on the line following the text of each section.

Authority: These proposed regulations are issued under the authority of title V, Pub. L. 95-134.

Dated: March 28, 1979.

Ernest L. Boyer,
U.S. Commissioner of Education.

Approved: May 2, 1979.

Joseph A. Califano, Jr.,
Secretary, of Health, Education, and Welfare.

The Commissioner of Education proposes to amend Part 100b of Title 45 of the Code of Federal Regulations by adding new §§ 100b.23 through 100b.37 to read as follows:

Consolidated Grant Applications From Insular Areas

Scope and Applicability

Sec.

100b.25 Purpose of §§ 100b.25 through 100b.37.
100b.26 Regulations that apply.
100b.27 Purpose of a consolidated grant.
100b.28 What is consolidated grant?
100b.29 How does a consolidated grant work?
100b.30 What is the effect of a consolidated grant?
100b.31 How consolidated grants are made?
100b.32 Consolidated grant application process.
100b.33 Pre-applications for consolidated grants.
100b.34 Consolidated grant application assurances.
100b.35 Phase-in of consolidated grants.
100b.36 Reallocation authority.
100b.37 Matching.
Appendix A to Part 100b—State-Administered Programs Application Content Requirements.
Appendix B to Part 100b—State-Administered Programs Assurances

Authority: Title V, Pub. L. 95-134.

Consolidated Grant Applications From Insular Areas

Scope and Applicability

§ 100b.25 Purpose of §§ 100b.25 through 100b.37.

(a) The provisions of §§ 100b.25 through 100b.37 set forth requirements for the submission of an application by an Insular Area for the consolidation of two or more grants under the programs listed in the table in paragraph (c) of this section.

(b) For the purpose of §§ 100b.25 through 100b.37, the term "Insular Area" means the Virgin Islands, Guam, American Samoa, the Trust Territory of the Pacific Islands, or the Northern Mariana Islands.

(c) The Commissioner may make consolidated grants to assist an Insular Area in carrying out one or more of the programs in the following table. The table indicates the number given the program in the Catalog of Federal Domestic Assistance (CFDA), the name of the program, the statute that authorizes it, and the regulations that implement it.

(48 U.S.C. 1469(a))

CFDA No.	Name of program	Authorizing statute	Implementing regulations—title 45, CFR
13.428	Financial Assistance to Local Education Agencies to Meet the Special Needs of Educationally Deprived Children (except Coordination of Migrant Education and Transition of Neglected or Delinquent Children.	Title I of the Elementary and Secondary Education Act (except Sections 143 and 153) (20 U.S.C. 2701).	Parts 116, 116a.
13.427	State Operated Programs for Handicapped Children.	Sections 146-147 of the Elementary and Secondary Education Act (20 U.S.C. 2771-2772).	Parts 116, 116b.
13.431	Grants to State Agencies for Programs to Meet the Special Educational Needs of Children in Institutions for Neglected or Delinquent Children.	Sections 151-153 of the Elementary and Secondary Education Act (20 U.S.C. 2781-2783).	Parts 116, 116c.
13.429	Grants to State Educational Agencies for Programs to Meet Special Educational Needs of Migrant Children.	Sections 141-143 of the Elementary and Secondary Education Act (20 U.S.C. 2761-2763).	Parts 116, 116d.
13.430	Educationally Deprived Children—State Administration.	Title I, Section 194 of the Elementary and Secondary Education Act (20 U.S.C. 2844).	Part 116.
13.571	Improvement in Local Educational Agency Practices.	Title IV, Part C of the Elementary and Secondary Education Act (20 U.S.C. 3111-3112).	Part 134, 134b.
13.577	Guidance, Counseling, and Testing	Title IV, Part C of the Elementary and Secondary Education Act (20 U.S.C. 3121-3123).	Part 134, 134b.
13.449	Assistance to States for Education of Handicapped Children.	Education of handicapped Act, Part B (except Section 619) (20 U.S.C. 1411-1418; 1420).	Part 121a.
13.464	Grants for Public Library Services	Title I, Library Services and Construction Act (20 U.S.C. 351-354).	Part 130.
13.406	Construction of Public Libraries	Title II, Library Services and Construction Act (20 U.S.C. 355a-355c).	Part 130.
13.465	Interlibrary Cooperation Programs	Title III, Library Services and Construction Act (20 U.S.C. 355e-355e-2).	Part 130.
13.570	Instructional Materials and School Library Resources.	Title IV, Part B of the Elementary and Secondary Education Act (20 U.S.C. 3101-3102).	Parts 134, 134a.
13.400	State Adult Education Programs	Adult Education Act (except Sections 309, 317 and 318) (20 U.S.C. 1201-1211a).	Part 166.
13.493, 13.495, 13.499, 13.494.	State Vocational Education Programs	Part A of Title I, Vocational Educational Education Act (20 U.S.C. 2301-2461).	Part 104.
None	Career Education—State Allotment Program.	Career Education State Allotment Program (except Sections 10, 11, 12) (20 U.S.C. 2601-2614).	Part 161.
None	State Reading Improvement Programs	Title VII-B of the Education Amendments of 1974 (20 U.S.C. 1941-1944).	Part 162, Subpart C.
13.491	Community Services and Continuing Education Programs (except Special Programs).	Title I, Part A of the Higher Education Act (20 U.S.C. 1001-1011, except Section 106 and 20 U.S.C. 1005a).	Part 173 (except Subpart C).
13.585	Educational Information Centers Program	Title IV, Part A, Subpart 5, Section 418A and 418B of the Higher Education Act (20 U.S.C. 1070d-2-d-3).	Part 137.
*	Strenghtening Instruction in Academic Subjects for Public Schools.	Title III-A of the National Defense Education Act of 1958 (20 U.S.C. 441-444).	Part 141.

(b) The submission of an application

§ 100b.35 Phase-in of consolidated

including any anticipated carry over

CFDA No.	Name of program	Authorizing statute	Implementing regulations—title 45, CFR
None	Community Schools Programs	Title VIII, Sections 804–808 of the Elementary and Secondary Education Act (20 U.S.C. 3284–3288).	None.
None	Gifted and Talented Children Program	Title IX, Section 904 of the Elementary and Secondary Education Act (20 U.S.C. 3314).	None.
None	State Basic Skills Improvement	Title II-B, Sections 221–223 of the Elementary and Secondary Education Act (20 U.S.C. 2901–2903).	None.
None	Indochinese Refugee Children Program	Title II of the Indochina Refugee Children Assistance Act (Pub. L. 94–405).	None.
*	School Library Resources	Title II of the Elementary and Secondary Education Act.	Part 117.

*ESEA Title II and NDEA Title III authorizations are repealed but may be restored if ESEA Title IV–B consolidation is not in effect. See CFDA No. 13.570.

§ 100b.26 Regulations that apply.

The following regulations apply to programs of assistance under a consolidated grant:

(a) The regulations in this Subpart B;

(b) The regulations for each program included in a consolidated grant for which funds are used, except as described in § 100b.30; and

(c) The regulations in this part 100b.

(48 U.S.C. 1469a)

§ 100b.27 Purpose of a consolidated grant.

An Insular Area may apply for a consolidated grant for two or more of the educational programs listed in § 100b.25. This procedure is intended to—

(a) Simplify for the Insular Area the application and reporting procedures that would otherwise be required for each of the programs included in the consolidated grant; and

(b) Provide the Insular Area with the maximum degree of flexibility in distributing the funds under the consolidated grant to achieve any of the program purposes to be served by the consolidated grant.

(48 U.S.C. 1469a)

§ 100b.28 What is consolidated grant?

(a) A consolidated grant under this subpart is a single grant to an Insular Area for any two or more of the programs listed in § 100b.25. The amount of the consolidated grant is the sum of the allocations under each of the programs included in the grant.

(b) *Example.* Assume that the Virgin Islands applies for a consolidated grant that includes the State programs under the Adult Education Act and the Career Education Incentive Act, and the migrant and handicapped programs under the Elementary and Secondary Education Act. If the allocation under the formula for each of these four programs is $150,000, the consolidated grant to the Virgin Islands would be $600,000.

(48 U.S.C. 1469a)

§ 100b.29 How does a consolidated grant work?

(a)(1) An Insular Area shall use the funds it receives under a consolidated grant to carry out, in its jurisdiction, one or more of the programs included in the grant.

(b) *Example.* Assume that Guam applies for a consolidated grant under the Library Services and Construction Act, the Career Education Incentive Act, and the Adult Education Act and that the sum of its allocations under these programs is $700,000. Guam may choose to allocate this $700,000 among all of the programs authorized under the three acts. Alternatively, it may choose to allocate the entire $700,000 to one specific program under the grant; for example, the Adult Education Act Program. In any case, Guam must comply with the requirements of the statute authorizing each program to which it allocates its consolidated grant and with the implementing regulations for that program, except as described in § 100b.30.

(45 U.S.C. 1469a)

§ 100b.30 What is the effect of a consolidated grant?

(a)(1) For each program for which consolidated grant funds are to be used, an Insular Area is exempt from having to submit to the Commissioner a separate State plan, long-range plan, or other document required by the program statute or this part.

(2) In place of these plans and documents, an Insular Area shall submit in conjunction with its application for a consolidated grant—

(i) The assurance requirements in § 100b.34; and

(ii) The application content requirements in appendix A to this part.

(3) *Example.* Assume that Guam applies for a consolidated grant that includes programs under the Career Education Incentive Act and Title I of the Library Services and Construction Act. If Guam had submitted separate applications for each of these programs, it would have been required to submit a separate State plan for each program. However, under a consolidated grant application, Guam shall submit to the Commissioner only one application containing the assurance requirements in § 100b.34 and meeting the application content requirements in appendix A to this part.

(b)(1) A grantee shall comply with substantive requirements in the authorizing statute and implementing regulations for each program for which funds from the consolidated grant are used.

(2) *Example.* Assume that American Samoa uses part of a consolidated grant for the State program under the Career Education Incentive Act. American Samoa need not submit to the Commissioner a State plan that sets out policies and procedures to assure all students equal access to career education programs. However, in carrying out the program, American Samoa must meet and be able to demonstrate compliance with this equal access requirement.

(48 U.S.C. 1469a)

§ 100b.31 How consolidated grants are made.

(a) *Grant awards.* The Commissioner annually makes a consolidated grant to each Insular Area that meets the requirements of §§ 100b.25 through 100b.37 and of each program for which the grant is to be used.

(b) *Notice.* The Commissioner notifies each Insular Area of the names of the programs in § 100b.25 for which funds have been appropriated and the allotment under each program to that Insular Area. An Insular Area may submit an annual application to consolidate its award for two or more of these funded programs.

(48 U.S.C. 1469a)

§ 100b.32 Consolidated grant application process.

(a) An Insular Area that desires to apply for a grant consolidating any two or more of the programs in § 100b.25 shall submit to the Commissioner an application that—

(1) Contains the assurances in § 100b.34; and

(2) Meets the application content requirements in appendix A to this part.

(b) The submission of an application that contains these requirements and assurances is in place of submission of separate State plans or other similar documents required by this part or by the authorizing statutes for programs in the consolidated grant.

(45 U.S.C. 1469a)

§ 100b.33 Pre-applications for consolidated grants.

The Commissioner encourages an Insular Area that desires assistance in preparing its consolidated grant application to submit a pre-application. To assist the Commissioner in providing assistance, the Insular Area is encouraged to include in its pre-application—

(a) A list of programs in § 100b.25 to be included in the consolidated grant;

(b) A brief description of the proposed overall plan for carrying out one or more of the programs to be included in the consolidated grant; and

(c) A general description of the proposed allocation of funds—that is, estimated amounts including any anticipated carryover funds of the programs in the consolidated grant from the preceding fiscal year—among the programs to be included in the consolidated grant; and

(d) The name and address of a person who can be contacted for further information.

(48 U.S.C. 1469a)

§ 100b.34 Consolidated grant application assurances.

An Insular Area shall include in a consolidated grant application the following assurances relative to each of the programs for which the applicant intends to use the grant:

(a) The assurances in appendix B to this part.

(b) Assurances that the Insular Area will—

(1) Follow policies and use administrative methods and practices that will insure that non-Federal funds will not be supplanted by Federal funds made available under the authority of the programs in the consolidated grant;

(2) Evaluate, as the Commissioner prescribes, the effectiveness of the programs assisted by the grant in meeting the purposes and objectives in their respective authorizing statutes and described in the program plan required in appendix A to this part; and

(3) Comply with the substantive requirements of the authorizing statutes and implementing regulations for the programs assisted by the grant.

(48 U.S.C. 1469a)

§ 100b.35 Phase-in of consolidated grants.

(a) An Insular Area may request that a limited number of programs in § 100b.25 be included in its consolidated grant and apply separately for assistance under any of the other programs listed in § 100b.25.

(b) Those programs that an Insular Area decides to exclude from consolidation and for which it submits separate plans or applications shall be carried out in accordance with the applicable program statutes and regulations.

(48 U.S.C. 1469a)

§ 100b.36 Reallocation authority.

(a) After an Insular Area receives a consolidated grant, it may reallocate the funds in a manner different from the original allocation described in its application. However, the funds cannot be used for purposes that are not authorized under a program in the consolidated grant.

(b) *Notice.* If an Insular Area decides to reallocate the funds it receives under a consolidated grant as described in paragraph (a) of this section, it shall notify the Commissioner at least 60 days before the reallocation. This will enable the Commissioner to provide technical assistance, if necessary, to the Insular Area in carrying out its decision.

(48 U.S.C. 1469a)

§ 100b.37 Matching.

Appropriate program statutory and regulatory requirements that govern matching of Federal funds apply to programs funded by a consolidated grant. The Commissioner does not waive matching requirements for any program included in a consolidated grant even if a waiver is otherwise permitted under separate applications for individual programs.

Appendix A to Part 100b—State-Administered Programs Application Content Requirements

An Insular Area shall include the following in a consolidated grant application submitted to the Commissioner:

(a) A program plan that—

(1) Contains a list of programs in § 100b.25 to be included in the consolidated grant; and

(2) Describes the purposes and objectives for the program(s)for which the applicant will use the funds received under the consolidated grant during the fiscal year for which it submits the application.

(b) A budget that includes a description of the allocation of funds—including any anticipated carry over funds of the programs in the consolidated grant from the preceding fiscal year—among the programs to be included in the consolidated grant.

Appendix B to Part 100b—State-Administered Programs Assurances

The following assurances are required under section 435 of the General Education Provisions Act (20 U.S.C. 1232d). These assurances remain in effect for the duration of the program or programs they cover.

With respect to programs for which a consolidated grant is to be used, the Insular Area shall assure the Commissioner that it will—

(a) Provide for proper and efficient administration of each program in accordance with the authorizing statutes and implementing regulations;

(b) Provide for fiscal control and fund accounting procedures to assure proper disbursement of, and accounting for, Federal funds received under the grant;

(c) Make reports to the Commissioner, as the Commissioner may require, with respect to the programs for which the grant is used;

(d) Provide that Federal funds received under the grant will be under control of—and that title to property acquired with these funds will be in—a public agency or a nonprofit private agency, institution, or organization if the authorizing statute provides for grants to these entities. The public agency or nonprofit private agency shall administer these funds and property;

(e) Keep records and afford access to these records—as the Commissioner finds necessary—in accordance with Section 437 of the General Education Provisions Act (20 U.S.C. 1232f);

(f) Adopt and use methods of monitoring any agencies, organizations, or institutions that carry out the programs under the grant and enforce any obligations imposed on them under law;

(g) Provide technical assistance to these agencies, organizations, or institutions and encourage them to use innovative or promising educational techniques;

(h) Disseminate information on program operations that are discovered through monitoring or evaluation;

(j)(1) Evaluate the effectiveness of these programs in meeting the objectives in the authorizing statutes.

(2) Conduct these evaluations at intervals and in accordance with procedures as the Commissioner prescribes.

(3) Cooperate in carrying out any evaluation of these programs conducted

by the Secretary or other Federal

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by the Secretary or other Federal officials; and

(k) Provide reasonable opportunities for participation by local agencies, representatives of the groups affected by each program, and other interested institutions, organizations, and individuals in planning and operating each program.

[FR Doc. 79-15008 Filed 5-11-79; 8:45 am]
BILLING CODE 4110-02-M

COMMUNITY SERVICES ADMINISTRATION

[45 CFR Ch. X]

Semi-Annual Agenda; Submission Under Executive Order 12044

AGENCY: Community Services Administration.

ACTION: Semiannual Publication of Significant Regulations Under Review or Development at this time.

SUMMARY: The Community Services Administration in accordance with Executive Order 12044 hereby publishes the agenda of regulations which are under review or development at this time.

FOR FURTHER INFORMATION CONTACT:
Jack Stoehr, 202-254-5300.

William W. Allison,
Deputy Director.
May 4, 1979.

BILLING CODE 6315-01-M

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SEMI-ANNUAL AGENDA
FOR
COMMUNITY SERVICES ADMINISTRATION

TYPE OF REGULATION New	TYPE OF REGULATION Revised	SUBJECT AND DESCRIPTION	REASON FOR DEVELOPMENT OR REVISION	LEGAL BASIS	STATUS OF PROPOSED REGULATION: INITIAL ANNOUNCEMENT	STATUS OF PROPOSED REGULATION: PREVIOUSLY ANNOUNCED: WHEN	STATUS OF PROPOSED REGULATION: CURRENT STATUS	FOR FURTHER INFORMATION CONTACT
		OFFICE OF COMMUNITY ACTION						
X		CSA Instruction 6004-5, Due Process Rights for Applicants Denied Benefits Under CSA-Funded Programs	CSA has determined that applicants for assistance have a right at the operating level for a review of a decision which denies them benefits provided under the EOA	Sec. 602(n) EOA		12-14-78 43 FR 58393 Proposed rule	Final rule being drafted.	Ms. Jacqueline Lemire 254-5047
	X	CSA Instruction 6132-2a, Community Food and Nutrition Program	To inform applicants regarding FY-79 application and review process for this program.	Title II EOA		3-8-79 44 FR 12708 Proposed rule	Final rule being drafted.	Harold Gore 254-6226
	X	OEO Instruction 7570-1, Applying for a New Research or Demonstration Grant under the EOA; 7570-2, Applying for Continuation of a Research or Demonstration Grant; 7570-3, Amendment Procedures for a Research or Demonstration Grant under EOA; 7570-4, Preparing a Budget for a Research or Demonstration Grant under EOA.	These regulations will be revised in order to reflect organizational relationships, to clarify language, and include elements developed as part of the Grantee Program Management System.	Title II Sec 232		1-29-79 44 FR 5804 semi-annual agenda	Under development	Ms. Barbara Finn 254-5047
	X	CSA Instruction 6168-2b, Summer Youth Recreation Program.	This regulation is being revised in order to implement the Economic Opportunity Amendments of 1978 which amend Sec 222(a)(6) under which this program is authorized.	Title II 222(a)(6) of EOA of 1964 as amended		3-19-79 44 FR 16455 Proposed rule	Final rule being drafted	Nolan Lewis 254-5267

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SEMI-ANNUAL AGENDA

FOR

COMMUNITY SERVICES ADMINISTRATION

TYPE OF REGULATION New	TYPE OF REGULATION Revised	SUBJECT AND DESCRIPTION	REASON FOR DEVELOPMENT OR REVISION	LEGAL BASIS	STATUS OF PROPOSED REGULATION: INITIAL ANNOUNCEMENT	STATUS OF PROPOSED REGULATION: PREVIOUSLY ANNOUNCED: WHEN	STATUS OF PROPOSED REGULATION: CURRENT STATUS	FOR FURTHER INFORMATION CONTACT
X		OEO Instruction 6302-2, and Change 1 thereto: CAAs:Eligibility and Establishment	In order to implement Section 201 (c) of the EOA as amended by the Economic Opportunity Amendments of 1978.	Title II, Section 210 (c) and Title VI of the EOA		1/29/79 (44 FR 5802; Semi Annual Agenda)	Under development	Ms Jacqueline Lemire 254-5047
	X	OEO Instruction 6400-01, The Organization of Community Action Agency Boards and Committees and OEO Instruction 6402-02, Standards of Eligibility for Members of Governing Bodies and Policy Advisory Committees of Community Actions Agencies Single Purpose Agencies.	Need to simplify and update all regulations pertaining to boards of organizations funded under Title II of the EOA	Title II, EOA		11/27/78 (43 FR 55263 proposed rule)	Final rule being cleared	Timothy McTighe 254-5047
	X	OEO Instruction 6710-1, and changes thereto, Applying for a CAP Grant	Need to reduce and simplify the paper-work process by which grantees apply for Local Initiative funding under Section 221 and in the process to strengthen the capabilities and focus more sharply the efforts of both CSA and grantees on achieving the purposes of the EOA.	Title II, EOA		Proposed rule under development		Fumie Gray 254-6410

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FOR

COMMUNITY SERVICES ADMINISTRATION

TYPE OF REGULATION New	TYPE OF REGULATION Revised	SUBJECT AND DESCRIPTION	REASON FOR DEVELOPMENT OR REVISION	LEGAL BASIS	STATUS OF PROPOSED REGULATION: INITIAL ANNOUNCEMENT	STATUS OF PROPOSED REGULATION: PREVIOUSLY ANNOUNCED: WHEN	STATUS OF PROPOSED REGULATION: CURRENT STATUS	FOR FURTHER INFORMATION CONTACT
	X	CSA Instructions 6900-01, 6900-02, 6900-03, 6900-4, Personnel Policies and Procadures; 6901-1, Employment of Persons with Criminal Records; 6901-2, Assistance to Vietnam-Era Veterans; 6903-1, Policies and Procedures on $15,000 per Year Salary limitations; 6903-3, Payment for Overtime and Authorization for Compensatory Time; 6906-01, Social Security Coverage for Employees under CAP Grants; 6907-01, Policy Guidance on Lobbying Activities; 6907-2, Limitation with Respect to Unlawful Demonstrations, Rioting and Civil Disturbances; 6907-3, Employee Participation in Direct Action ; 6907-4, Outside Employment of Grantee and Delegate Agency Personnel; 6909-01, Conflicts of Interest in Community Action's Program Contracts; 6909-1, Prohibition Against Acceptance of Gifts and Gratuities	In response to Executive Order 12044 Improving Government Regulations, CSA is planning to revise its entire series of policy statements on grantee personnel management.	Section 602 (n), EOA		11/16/78	Proposed rule under development	Timothy McTighe 254-5047

SEMI-ANNUAL AGENDA

FOR

COMMUNITY SERVICES ADMINISTRATION

TYPE OF REGULATION New	TYPE OF REGULATION Revised	SUBJECT AND DESCRIPTION	REASON FOR DEVELOPMENT OR REVISION	LEGAL BASIS	STATUS OF PROPOSED REGULATION: INITIAL ANNOUNCEMENT	STATUS OF PROPOSED REGULATION: PREVIOUSLY ANNOUNCED: WHEN	STATUS OF PROPOSED REGULATION: CURRENT STATUS	FOR FURTHER INFORMATION CONTACT
	X	CSA Instruction 6802-3a, Change 1, Non-Federal Share Requirements for Title II, Sections 221, 222(a) and 231 Programs. (Under the proposed change the non-Federal share contribution for funding under Section 231 would be increased to 50%.)	This change is necessary since a reduced level of funding for Section 231 is anticipated in FY-80.	Section 602 (n), EOA		4/12/79 (44 FR 21829)	Comments being received.	Mr. John Finley 254-5670
	X	CSA Instruction 7501-1, Role of the State Offices of Economic Opportunity	To make substantive changes based on new Legislative requirements, preliminary evaluation findings, experience gained in operating programs, and need to strengthen the multiyear and state plan requirements.	Title II, Section 231, EOA		1/29/79 (44 FR 5805; semi-annual agenda)	Proposed rule being circulated within Agency for clearance.	Ms. Faye Rattner 254-5280
		OFFICE OF INTERAGENCY & EXTERNAL AFFAIRS						
X		CSA Staff Instruction Memorandum of Understanding (MOU) and Interagency Agreement (IA)	To provide guidelines and procedures for CSA offices to follow in preparing and executing programmatic and policy coordination instruments with other Federal agencies or departments	N/A	N/A	N/A	Draft	Lois James, OIEA 632-8322

SEMI-ANNUAL AGENDA

FOR

COMMUNITY SERVICES ADMINISTRATION

TYPE OF REGULATION New	TYPE OF REGULATION Revised	SUBJECT AND DESCRIPTION	REASON FOR DEVELOPMENT OR REVISION	LEGAL BASIS	STATUS OF PROPOSED REGULATION: INITIAL ANNOUNCEMENT	STATUS OF PROPOSED REGULATION: PREVIOUSLY ANNOUNCED: WHEN	STATUS OF PROPOSED REGULATION: CURRENT STATUS	FOR FURTHER INFORMATION CONTACT
		OFFICE OF ECONOMIC DEVELOPMENT						
	X	CSA Instruction 6158-3 Training, Public Service Employment, and Social Service Programs Funded by CDCs.	To eliminate the 20% maximum investment by CDCs.	Title VII EOA	10/23/75		In use being prepared	Ed Taxin 254-6180
	X	CSA Instruction 6803-1b Allowances and Reimbursements for Members of Policy Making Bodies.	To make applicable to Title VII Grantees.	Title VII EOA	1/79		In use being prepared	Ed Taxin 254-6180

[FR Doc. 79-14881 Filed 5-11-79; 8:45 am]
BILLING CODE 6315-01-C

FEDERAL MARITIME COMMISSION

[46 CFR Chapter IV]

Self-Policing of Independent Liner Operators

AGENCY: Federal Maritime Commission.

ACTION: Enlargement of Time to File Comments.

SUMMARY: The Commission's Advance Notice of Proposed Rulemaking in this proceeding allowed 30 days for interested parties to file comments (44 FR 22487; April 16, 1979). Counsel for numerous carrier conferences has requested an additional 30-day period for filing of such comments. In view of the nature of the instant proposal, and the problems cited by counsel in developing views of foreign domiciled conferences, in retrospect, an insufficient amount of time was originally allocated for comment. Accordingly, the request is hereby granted and comments shall be filed on or before June 15, 1979.

DATES: Comments on or before June 15, 1979.

ADDRESSES: Comments (original and 15 copies) to: Francis C. Hurney, Secretary, Federal Maritime Commission, 1100 L Street, NW., Washington, D.C. 20573.

FOR FURTHER INFORMATION CONTACT: Francis C. Hurney, Secretary, Federal Maritime Commission, 1100 L Street, NW., Washington, D.C. 20573, Telephone (202) 523-5725.

SUPPLEMENTARY INFORMATION: None.

By the Commission.

Francis C. Hurney,
Secretary.

[Docket No. 79-36]
[FR Doc. 79-15009 Filed 5-11-79; 8:45 am]
BILLING CODE 6730-01-M

FEDERAL COMMUNICATIONS COMMISSION

[47 CFR Part 73]

FM Broadcast Station in O'Neill, Nebr.; Proposed Changes in Table of Assignments

AGENCY: Federal Communications Commission.

ACTION: Notice of Proposed Rule Making.

SUMMARY: Action taken herein proposes the assignment of a Class C FM channel as a substitute for a Class A FM channel in O'Neill, Nebraska. The Class C channel would provide a first FM service and first and second nighttime aural service to a substantial area.

DATES: Comments must be filed on or before July 2, 1979, and reply comments must be filed on or before July 23, 1979.

ADDRESSES: Federal Communications Commission, Washington, D.C. 20554.

FOR FURTHER INFORMATION CONTACT: Mildred B. Nesterak, Broadcast Bureau, (202) 632-7792.

SUPPLEMENTARY INFORMATION:

Adopted: May 2, 1979.

Released: May 10, 1979.

In the matter of Amendment of § 73.202(b), FM Broadcast Stations. (O'Neill, Nebraska), BC Docket No. 79-113, RM-3151.

1. *Petitioner, Proposal, Comments*—(a) *Notice of Proposed Rule Making* is hereby given concerning amendment of the FM Table of Assignments (§ 73.202(b) of the Commission's rules) as it relates to O'Neill, Nebraska.

(b) A petition for rule making [1] was filed on behalf of Ranchland Broadcasting Co., Inc. ("petitioner"), licensee of daytime-only AM Station KBRX and Station KBRX-FM (Channel 224A), O'Neill, Nebraska. Petitioner proposed the substitution of Class C Channel 275 for Channel 224A in O'Neill and modification of its license to specify operation on the new channel.

(c) Petitioner states it will apply for the channel, if assigned.

2. *Demographic Data*—(a) *Location* O'Neill, seat of Holt County, is located in northeastern Nebraska, approximately 260 kilometers (162 miles) northwest of Omaha.

(b) *Population.* O'Neill—3,753; Holt County—12,933. [2]

(c) *Local Aural Broadcast Service.* O'Neill is presently served by one daytime-only AM station (KBRX) and one FM station (KBRX-FM, Channel 224A), both licensed to petitioner.

(d) *Economic Considerations.* Petitioner states that O'Neill is based on an agricultural economy and is the headquarters for a Bureau of Reclamation Project which will put some additional 77,000 acres into ditch irrigation. Petitioner points out that during the past few years O'Neill has placed new emphasis on industrial development with the opening in 1974 of a 100 acre industrial block and the recent erection of a large warehouse and shipping complex by M & R Distributing which serves S & S Stores in a three-state region. In support of its petition, petitioner has submitted information with respect to education, medical and recreational facilities, transportation and churches.

3. *Preclusion Studies.* Preclusion would be caused on all channels from 272A through 278. Eighteen communities of over 1,000 population would sustain preclusion on one or more of these channels. Twelve [3] of these have no FM channel assignments. Of the twelve, one (Ainsworth) has an AM station. A staff study verifies that channels are available for assignment to all the communities listed in footnote 3 with the exception of Atkinson, Nebraska, and Miller, Platte and Chamberlain, South Dakota. Petitioner should provide information regarding available channels for those communities (Atkinson, Miller, Platte and Chamberlain).

4. *Additional Considerations.* Petitioner states that O'Neill is located in the midst of a sparsely populated area removed from any large population center. It claims that operating on a Class C frequency would provide a first FM service to 3,562 persons in a 1,600 square kilometer (614 square miles) area, a first nighttime aural service to 2,815 persons in a 950 square kilometer (375 square miles) area, and second nighttime aural broadcast service to 254 persons in a 340 square kilometer (132 square miles) area. No second FM service would be provided.

5. It would not appear to be in the public interest to retain Channel 224A in O'Neill if it were determined to assign a Class C channel. The intermixture of classes of channels, which would result, would be undesirable in a community as small as O'Neill, and it is likely that this Class A channel would remain unapplied for. Thus, in order to permit that channel to be utilized elsewhere its deletion is being proposed along with the proposed assignment of Channel 275 to O'Neill.

6. Regarding modification of KBRX-FM's license to Channel 275, if assigned, the Commission's policy, as expressed in *Cheyenne, Wyoming*, 62 F.C.C. 2d 63 (1976), is that the public interest is best served where interested parties are afforded an opportunity to apply for such a Class C channel, newly assigned to a community. However, in the absence of such interests, the license could be modified. Since no party has yet expressed an interest in the proposed assignment of Channel 275 to O'Neill, we are proposing to modify the license of Station KBRX-FM. Should an opposition to the proposed modification, together with a proper expression of interest, be submitted in comments, appropriate consideration will be afforded to any competing application for the channel, if assigned. KBRX-FM should indicate whether it would wish to pursue its proposal if such interest were expressed.

7. An Order to Show Cause to the petitioner will not be issued since assent of the licensee of the station whose authorization is to be modified is clearly indicated by its request for the rule making proceeding.

8. In view of the above, the Commission proposes to amend the FM Table of Assignments (§ 73.202(b) of the Commission's rules) with regard to the city listed below as follows:

City	Channel No.	
	Present	Proposed
O'Neill, Nebraska	224A	275

9. The Commission's authority to institute rule making proceedings, showings required, cut-off procedures, and filing requirements are contained in the attached Appendix and are incorporated by reference herein.

Note.— A showing of continuing interest is required by paragraph 2 of the appendix before a channel will be assigned.

10. Interested parties may file comments on or before July 2, 1979, and reply comments on or before July 23, 1979.

11. For further information concerning this proceeding, contact Mildred B. Nesterak, Broadcast Bureau, (202) 632-7792. However, members of the public should note that from the time a notice of proposed rule making is issued until the matter is no longer subject to the Commission consideration or court review, all *ex parte* contacts are prohibited in Commission proceedings, such as this one, which involve channel assignments. An *ex parte* contact is a message (spoken or written) concerning the merits of a pending rule making other than comments officially filed at the Commission or oral presentation required by the Commission.

Federal Communications Commission.

Martin I. Levy,
Acting Chief, Broadcast Bureau.

Appendix

1. Pursuant to authority found in Sections 4(i), 5(d)(1), 303(g) and (r), and 307(b) of the Communications Act of 1934, as amended, and § 0.281(b)(6) of the Commission's rules, it is proposed to amend the FM Table of Assignments, § 73.202(b) of the Commission's rules and regulations, as set forth in the *Notice of Proposed Rule Making* to which this Appendix is attached.

2. *Showings required.* Comments are invited on the proposal(s) discussed in the Notice of Proposed Rule Making to which this Appendix is attached. Proponent(s) will be expected to answer whatever questions are presented in initial comments. The proponent of a proposed assignment is also expected to file comments even if it only resubmits or incorporates by reference its former pleadings. It should also restate its present intention to apply for the channel if it is assigned, and, if authorized, to build the station promptly. Failure to file may lead to denial of the request.

3. *Cut-off proceedings.* The following procedures will govern the consideration of filings in this proceeding.

(a) Counterproposals advanced in this proceeding itself will be considered, if advanced in initial comments, so that parties may comment on them in reply comments. They will not be considered if advanced in reply comments. (See § 1.420(d) of Commission rules.)

(b) With respect to petitions for rule making which conflict with the proposal(s) in this Notice, they will be considered as comments in the proceeding, and Public Notice to this effect will be given as long as they are filed before the date for filing initial comments herein. If they are filed later than that, they will not be considered in connection with the decision in this docket.

4. *Comments and reply comments; service.* Pursuant to applicable procedures set out in §§ 1.415 and 1.420 of the Commission's rules and regulations, interested parties may file comments and reply comments on or before the dates set forth in the *Notice of Proposed Rule Making* to which this Appendix is attached. All submissions by parties to this proceeding or persons acting on behalf of such parties must be made in written comments, reply comments, or other appropriate pleadings. Comments shall be served on the petitioner by the person filing the comments. Reply comments shall be served on the person(s) who filed comments to which the reply is directed. Such comments and reply comments shall be accompanied by a certificate of service. (See § 1.420(a), (b) and (c) of the Commission rules.)

5. *Number of copies.* In accordance with the provisions of § 1.420 of the Commission's rules and regulations, an original and four copies of all comments, reply comments, pleadings, briefs, or other documents shall be furnished the Commission.

6. *Public inspection of filings.* All filings made in this proceeding will be available for examination by interested parties during regular business hours in the Commission's Public Reference Room at its headquarters, 1919 M Street N.W., Washington, D.C.

[BC Docket No. 79-113; RM-3151]
[FR Doc. 79-14960 Filed 5-11-79; 8:45 am]
BILLING CODE 6712-01-M

[47 CFR Part 73]

FM Broadcast Station in Riverton, Wyo.; Proposed Changes in Table of Assignments

AGENCY: Federal Communications Commission.

ACTION: Notice of Proposed Rule Making.

SUMMARY: Action taken herein proposes the substitution of a Class C FM channel for a Class A FM channel in Riverton, Wyoming. The Class C channel would provide first and second FM service and a first and second nighttime aural service to a substantial population.

DATES: Comments must be filed on or before July 2, 1979, and reply comments must be filed on or before July 23, 1979.

ADDRESSES: Federal Communications Commission, Washington, D.C. 20554.

FOR FURTHER INFORMATION CONTACT: Mildred B. Nesterak, Broadcast Bureau, (202) 632-7792.

SUPPLEMENTARY INFORMATION:

Adopted: May 2, 1979.

Released: May 10, 1979.

In the matter of Amendment of § 73.202(b), *Table of Assignments*, FM Broadcast Stations. (Riverton, Wyoming). BC Docket No. 79-104. RM-3168.

1. *Petitioner, Proposal, Comments*—(a) *Notice of Proposed Rule Making* is hereby given concerning amendment of the FM Table of Assignments § 73.202(b) of the Commission's rules) as it relates to Riverton, Wyoming.

(b) A petition for rule making [1] was filed on behalf of Riverton Broadcasting Company ("petitioner"), licensee of full-time AM Station KVOW and Station KTAK-FM, Channel, 228A, proposing the substitution of Class C FM Channel 230 for Channel 228A, on which it operates in Riverton, Wyoming.

(c) Petitioner states it will file immediately for the channel, if assigned.

[1] Public Notice of the petition was given on August 2, 1978, Report No. 1135.

[1] Public Notice of the petition was given on July 18, 1979, Report No. 1134.

[2] Population figures are taken from the 1970 U.S. Census.

[3] *Nebraska:* Atkinson (pop. 1,406), Ainsworth (2,073), Burwell (1,341), Neligh (1,764), Albion (2,074); *South Dakota:* Chamberlain (2,626), Highmore (1,173), Miller (2,148), Ft. Pierre (1,448), Martin (1,248), Platte (1,351), Wagner (1,665).

2. *Community Data.* (a) Riverton, in

(1,416 square miles) area. It indicates

Nesterak, Broadcast Bureau, (202) 632-

2. *Community Data.* (a) Riverton. In Fremont County, is located in central Wyoming approximately 460 kilometers (285 miles) northwest of Denver, Colorado, and 380 kilometers (235 miles) northeast of Salt Lake City, Utah.

(b) *Population.* Riverton—7,995; Fremont County—28,352.[2]

(c) *Local Aural Broadcast Service.* Riverton is presently served by full-time AM Station KVOW and Station KTAK–FM (Channel 228A), both licensed to petitioner. It also receives service from noncommercial educational FM Station KCWC (Channel 201A).

(d) *Economic Considerations.* Petitioner asserts that Riverton is located in a county which is in the center of an accelerated uranium mining industry and oil and natural gas development. It points out that in an era of high energy demand and dwindling natural resources, the mineral wealth of the county is expected to increase development in the Riverton area over the next ten years. Petitioner states that the economic outlook for the Riverton area is for future prosperity and continued growth. It claims that the estimated population of Riverton in 1977 was 10,000 persons with a growth projection of 12,000 by 1980.

3. *Preclusion Studies.* Preclusion would be caused on Channels 229, 230, 231 and 232A. Twelve communities of over 1,000 population would sustain preclusion on one or more of these channels as a result of the proposed assignment. Four [3] of these communities have neither FM assignments nor AM stations. Petitioner should indicate in comments whether alternate channels are available for assignment to these four communities.

4. *Additional Considerations.* Petitioner claims that the present signal of Station KTAK–FM, operating on Channel 228A, is restricted severely to the west, north and southwest of Riverton because of the mountainous terrain. It asserts that a wide area coverage Class C facility would eliminate not only most reception difficulties, but would permit expansion of FM service to a substantial rural area surrounding Riverton, thereby providing service to areas presently unserved and underserved. Petitioner's *Roanoke Rapids/Anamosa* study shows that a first FM service would be provided to 1,791 persons in a 2,100 square kilometer (796 square miles) area and a second FM service would be provided to 9,658 persons in a 3,600 square kilometer (1,416 square miles) area. It indicates that the same figures would apply to a first and second nighttime aural service.

5. Since both Channel 228A and Channel 230 could not be assigned to Riverton because of channel spacing requirements, we are proposing the deletion of Channel 228A along with the proposed assignment of Channel 230 to that community.

6. Regarding modification of Station KTAK–FM's license to Channel 230 if assigned, the Commission's policy, as expressed in *Cheyenne, Wyoming,* 62 F.C.C. 2d 63 (1976), is that the public interest is best served where interested parties are afforded an opportunity to apply for such a Class C channel, newly assigned to a community. However, in the absence of such interest, the license could be modified. Since no person has yet expressed an interest in the proposed assignment of Channel 230 to Riverton, we are proposing to modify the license of Station KTAK–FM. Should an opposition to the proposed modification, together with a proper expression of interest be submitted in comments, appropriate consideration will be afforded to any competing application for the channel, if assigned. Riverton Broadcasting Company should indicate whether it would wish to pursue its proposal if such interest were expressed.

7. An Order to Show Cause to the petitioner will not be issued since assent of the licensee of the station whose authorization is to be modified is clearly indicated by its request for the rule making proceeding.

8. In view of the foregoing, the Commission proposed to amend the FM Table of Assignments, § 73.202(b) of the Commission's rules, with regard to the community listed below as follows:

City	Channel No.	
	Present	Proposed
Riverton, Wyoming	228A	230

9. The Commission's authority to institute rule making proceedings, showings required, cut-off procedures, and filing requirements are contained in the attached Appendix and are incorporated by reference herein.

Note.—A showing of continuing interest is required by paragraph 2 of the Appendix before a channel will be assigned.

10. Interested parties may file comments on or before July 2, 1979, and reply comments on or before July 23, 1979.

11. For further information concerning this proceeding, contact Mildred B. Nesterak, Broadcast Bureau, (202) 632–7792. However, members of the public should note that from the time a notice of proposed rule making is issued until the matter is no longer subject to Commission consideration or court review, all *ex parte* contacts are prohibited in Commission proceedings, such as this one, which involve channel assignments. An *ex parte* contact is a message (spoken or written) concerning the merits of a pending rule making other than comments officially filed at the Commission or oral presented required by the Commission.

Federal Communications Commission.

Martin I. Levy,
Acting Chief, Broadcast Bureau.

Appendix

1. Pursuant to authority found in Sections 4(i), 5(d)(1), 303(g) and (r), and 307(b) of the Communications Act of 1934, as amended, and § 0.281(b)(6) of the Commission's rules, it is proposed to amend the FM Table of Assignments, § 73.202(b) of the Commission's rules and regulations, as set forth in the *Notice of Proposed Rule Making* to which this Appendix is attached.

2. *Showing required.* Comments are invited on the proposal(s) discussed in the Notice of Proposed Rule Making to which this Appendix is attached. Proponent(s) will be expected to answer whatever questions are presented in initial comments. The proponent of a proposed assignment is also expected to file comments even if it only resubmits or incorporates by reference its former pleadings. It should also restate its present intention to apply for the channel if it is assigned, and, if authorized, to build the station promptly. Failure to file may lead to denial of the request.

3. *Cut-off procedures.* The following procedures will govern the consideration of filings in this proceeding.

(a) Counterproposals advanced in this proceeding itself will be considered, if advanced in initial comments, so that parties may comment on them in reply comments. They will not be considered if advanced in reply comments. (See § 1.420(d) of Commission rules.)

(b) With respect to petitions for rule making which conflict with the proposal(s) in this Notice, they will be considered as comments in the proceeding, and Public Notice to this effect will be given as long as they are filed before the date for filing initial comments herein. If they are filed later than that, they will not be considered in connection with the decision in this docket.

4. *Comments and reply comments; service.* Pursuant to applicable procedures set out in § 1.415 and 1.420 of the Commission's rules and regulations, interested parties may file comments and reply comments on or before the dates set forth in the *Notice of Proposed Rule Making* to which this Appendix is attached. All submissions by parties to this proceeding or persons acting on behalf of such parties must be made in written comments, reply comments, or other appropriate pleadings. Comments shall be served on the petitioner by the person filing the comments. Reply comments shall be served on the person(s) who filed comments to which the reply is directed. Such comments and reply comments shall be accompanied by a certificate of service. (see § 1.420(a), (b) and (c) of the Commission rules.)

5. *Number of copies.* In accordance with the provisions of § 1.420 of the Commission's rules and regulations, an original and four copies of all comments, reply comments, pleadings, briefs, or other documents shall be furnished the Commission.

6. *Public inspection of filings.* All filings made in this proceeding will be available for examination by interested parties during regular business hours in the Commission's Public Reference Room at its headquarters, 1919 M Street, NW., Washington, D.C.

[2] Population figures are taken from the 1970 U.S. Census.

[3] *Wyoming:* Glenrock (pop. 1,515), Greybull (1,953), Basin (1,145) and Lovell (2,371).

[BC Docket No. 79–104; RM–3166]
[FR Doc. 79–14981 Filed 5–11–79; 8:45 am]
BILLING CODE 6712–01–M

[47 CFR Part 73]

FM Broadcast Station in Stevens Point, Wis.; Proposed Changes in Table of Assignments

AGENCY: Federal Communciations Commission.

ACTION: Notice of Proposed Rule Making.

SUMMARY: Action taken herein proposes the assignment of a second FM channel to Stevens Point, Wisconsin. Petitioners, Dennis and Terrol Freund and Philip Murphy, are willing to operate a Class A channel in competition with the already present Class C FM station.

DATES: Comments must be filed on or before July 2, 1979, and reply comments must be filed on or before July 23, 1979.

ADDRESSES: Federal Communications Commission, Washington, D.C. 20554.

FOR FURTHER INFORMATION CONTACT: Mildred B. Nesterak, Broadcast Bureau, (202) 632–7792.

SUPPLEMENTARY INFORMATION:

Adopted: May 2, 1979.

Released: May 10, 1979.

In the matter of amendment of § 73.202(b), Table of Assignments, FM Broadcast Stations. (Stevens Point, Wisconsin), BC Docket No. 79–111, RM–3156.

1. *Petitioner, Proposal, Comments.* (a) A petition for rule making [1] was filed June 19, 1978, by Dennis and Terrol Freund and Philip Murphy ("petitioners"), proposing the assignment of Channel 244A to Stevens Point, Wisconsin, as its second FM assignment.

(b) The channel may be assigned without affecting any existing FM assignments in the Table. No responses to the proposal have been received.

(c) Petitioners state they will promptly file an application for authority to operate on the proposed channel, if assigned.

2. *Community Data.*—(a) *Location.* Stevens Point, seat of Portage County, is located in the center of the State of Wisconsin, approximately 120 kilometers (75 miles) west of Green Bay, Wisconsin.

(b) *Population.* Stevens Point—23,479; Portage County—47,541.[2]

(c) *Local Aural Broadcast Service.* Stevens Point presently receives service from AM daytime-only Station WXYQ, FM Station WSPT (Channel 250), and noncommercial education FM Station WWSP (Channel 210A).

(d) *Economic Considerations.* Petitioners state the county's industry is principally dependent upon the forests for raw meterials since paper and woodworking are the major manufacturing industries. We are told that over 50% of Portage County is farmland, ranking first in Wisconsin in acreage and production of potatotes. Petitioners note that the three commercial banks in Stevens Point had assets of over $143 million as of December 1977, while the seven other banks located elsewhere in Portage County has assets totalling over $60 million. Petitioners have submitted detailed information with respect to the area's school system, churches, transportation, civic organizations, and recreation in order to demonstrate the need for an additional FM assignment.

3. *Preclusion Studies.* Petitioners' engineering study shows that preclusion would occur only on the co-channel. All adjacent channels are precluded by existing assignments. Fifteen communities [3] with a population greater than 1,000 are located in the precluded area. Of these fifteen, ten (Owen, Abbottsford, Colby, Marathon, Stratford, Schofield, Weston, Rothschild, Mosinee and Neopit) have no local aural broadcast service. It has been determined that Channel 221A could be assigned to any of the precluded communities.

4. The assignment of Channel 244A to Stevens Point would result in intermixing a Class A channel with a Class C channel (Channel 250). The Commission has a policy of avoiding such intermixture in the classes of FM channel assignments, but exceptions have been made when a Class C channel is unavailable and the petitioner is willing to apply for the Class A channel in spite of the intermixture situation. *Yakima, Washington,* 42 F.C.C. 2d 548, 550 (1973); *Key West, Florida,* 45 F.C.C. 142, 145 (1974). Since no Class C channel is available and petitioners are willing to apply for and operate on Channel 244A at Stevens Point, Wisconsin, this assignment could be made.

5. Since Stevens Point is located within 402 kilometers (250 miles) of the U.S.-Canada border, the proposed assignment of Channel 244A to Stevens Point, Wisconsin, requires coordination with the Canadian Government.

6. In light of the above information and the fact that the proposed assignment would provide the community with an opportunity to develop a second local FM broadcast service, the Commission proposes to amend the FM Table of Assignments, § 73.202(b) of the Commission's rules, with regard to Stevens Point, Wisconsin:

City	Channel No.	
	Present	Proposed
Stevens Point, Wis.	250	244A, 250

7. The Commission's authority to institute rule making proceedings, showings required, cut-off procedures, and filing requirements are contained in the attached Appendix and are incorporated by reference herein.

Note.— A showing of continuing interest is required by paragraph 2 of the Appendix before a channel will be assigned.

8. Interested parties may file comments on or before July 2, 1979, and

[1] Public Notice of the petition was given on July 18, 1978, Report No. 1134.

[2] Population figures are taken from the 1970 U.S. Census.

[3] *Wisconsin:* Medford (pop. 3,454), Tomahawk (3,419), Merrill (9,502), Antigo (9,805), Owen (1,081), Abbotsford (1,375), Colby (1,178), Marathon (1,214), Stratford (1,239), Wausau (32,806), Schofield (2,577), Weston (6,351), Rothschild (3,141), Mosinee (2,395), Neopit (1,122).

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reply comments on or before July 23, 1979.

9. For further information concerning this proceeding, contact Mildred B. Nesterak, Broadcast Bureau, (202) 632-7792. However, members of the public should note that from the time a notice of proposed rule making is issued until the matter is no longer subject to Commission consideration or court review, all *ex parte* contacts are prohibited in Commission proceedings, such as this one, which involve channel assignments. An *ex parte* contact is a message (spoken or written) concerning the merits of a pending rule making other than comments officially filed at the Commission or oral presentation required by the Commission.

Federal Communications Commission.

Martin I. Levy,
Acting Chief, Broadcast Bureau.

Appendix

1. Pursuant to authority found in Sections 4(i), 5(d)(1), 303(g) and (r), and 307(b) of the Communications Act of 1934, as amended, and § 0.261(b)(6) of the Commission's rules, it is proposed to amend the FM Table of Assignments, § 73.202(b) of the Commission's rules and regulations, as set forth in the *Notice of Proposed Rule Making* to which this Appendix is attached.

2. *Showings required.* Comments are invited on the proposal(s) discussed in the Notice of Proposed Rule Making to which this Appendix is attached. Proponent(s) will be expected to answer whatever questions are presented in initial comments. The proponent of a proposed assignment is also expected to file comments even if it only resubmits or incorporates by reference its former pleadings. It should also restate its present intention to apply for the channel if it is assigned, and, if authorized, to build the station promptly. Failure to file may lead to denial of the request.

3. *Cut-off procedures.* The following procedures will govern the consideration of filings in this proceeding.

(a) Counterproposals advanced in this proceeding itself will be considered, if advanced in initial comments, so that parties may comment on them in reply comments. They will not be considered if advanced in reply comments. (See § 1.420(d) of Commission rules.)

(b) With respect to petitioners for rule making which conflict with the proposal(s) in this Notice, they will be considered as comments in the proceeding, and Public Notice to this effect will be given as long as they are filed before the date for filing initial comments herein. If they are filed later than that, they will not be considered in connection with the decision in this docket.

4. *Comments and reply comments; service.* Pursuant to applicable procedures set out in §§ 1.415 and 1.420 of the Commission's rules and regulations, interested parties may file comments and reply comments on or before the dates set forth in the *Notice of Proposed Rule Making* to which this Appendix is attached. All submissions by parties to this proceeding or persons acting on behalf of such parties must be made in written comments, reply comments, or other appropriate pleadings. Comments shall be served on the petitioner by the person filing the comments. Reply comments shall be served on the person(s) who filed comments to which the reply is directed. Such comments and reply comments shall be accompanied by a certificate of service. (See § 1.420(a), (b) and (c) of the Commission rules.)

5. *Number of copies.* In accordance with the provisions of § 1.420 of the Commission's rules and regulations, an original and four copies of all comments, reply comments, pleadings, briefs, or other documents shall be furnished the Commission.

6. *Public inspection of filings.* All filings made in this proceeding will be available for examination by interested parties during regular business hours in the Commission's Public Reference Room at its headquarters, 1919 M Street, NW., Washington, D.C.

[BC Docket No. 79-111; RM-3156]
[FR Doc. 79-14982 Filed 5-11-79; 8:45 am]
BILLING CODE 6712-01-M

[47 CFR Part 73]

FM Broadcast Station in Canadian, Tex.; Proposed Changes in Table of Assignments

AGENCY: Federal Communications Commission.

ACTION: Notice of Proposed Rule Making.

SUMMARY: Action taken herein proposes the assignment of a Class A FM channel to Canadian, Texas, as that community's first FM channel. The proposal was made in a petition filed by Cable FM Six which states the proposed station could be used to provide a first local FM broadcast service to the community.

DATES: Comments must be filed on or before July 2, 1979, and reply comments must be filed on or before July 23, 1979.

ADDRESSES: Federal Communications Commission, Washington, D.C. 20554.

FOR FURTHER INFORMATION CONTACT: Mildred B. Nesterak, Broadcast Bureau, (202) 632-7792.

SUPPLEMENTARY INFORMATION:

Adopted: May 2, 1979.

Released: May 10, 1979.

In the matter of amendment of § 73.202(b), *Table of Assignments,* FM Broadcast Stations. (Canadian, Texas), BC Docket No. 79-108, RM-3282.

1. *Petitioner, Proposal, Comments.* (a) A petition for rule making [1] was filed by Cable FM Six ("petitioner"), proposing the assignment of FM Channel 267A to Canadian, Texas, as a first FM assignment to that community. No responses to the petition have been filed.

(b) The channel can be assigned in conformity with the minimum distance separation requirements.

(c) Petitioner states that he will immediately apply for the channel, if assigned.

2. *Community Data*—(a) *Location.* Canadian, seat of Hemphill County, is located in the northeastern Texas panhandle, approximately 161 kilometers (100 miles) northeast of Amarillo, Texas.

(b) *Population.* Canadian—2,292; Hemphill County—3,084.[2]

(c) *Local Aural Broadcast Service.* There is no local aural broadcast service in Canadian.

3. *Economic Considerations.* Petitioner states that oil and gas production have played a key role in the area's economy since 1970. We are told that the population increase in recent years has been aided by the stability of the oil and gas production industry. Petitioner asserts that stability will continue for another 10-20 years. Because the area is isolated, petitioner states that an FM radio station would play a vital role in the future development of the community.

4. In view of the apparent need for a first local aural broadcast service in Canadian, the Commission believes it appropriate to propose amending the FM Table of Assignments, §73.202(b) of the rules, with respect to the community listed below:

City	Channel No.	
	Present	Proposed
Canadian, Tex.		276A

[1] Public Notice of the petition was given on January 3, 1979, Report No. 1157.
[2] Population figures are taken from the 1970 U.S. Census.

5. Authority to institute rule making proceedings, showings required, cut-off procedures, and filing requirements are contained in the attached Appendix and are incorporated by reference herein. Note: A showing of continuing interest is required by paragraph 2 of the Appendix before a channel will be assigned.

6. Interested parties may file comments on or before July 2, 1979, and reply comments on or before July 23, 1979.

7. For further information concerning this proceeding, contact Mildred B. Nesterak, Broadcast Bureau, (202) 632-7792. However, members of the public should note that from the time a notice of proposed rule making is issued until the matter is no longer subject to Commission consideration or court review, all *ex parte* contacts are prohibited in Commission proceedings, such as this one, which involve channel assignments. An *ex parte* contact is a message (spoken or written) concerning the merits of a pending rule making other than comments officially filed at the Commission or oral presentation required by the Commission.

Federal Communications Commission.

Martin I. Levy,
Acting Chief, Broadcast Bureau.

Appendix

1. Pursuant to authority found in Sections 4(i), 5(d)(1), 303 (g) and (r), and 307(b) of the Communications Act of 1934, as amended, and § 0.281(b)(6) of the Commission's rules, it is proposed to amend the FM Table of Assignments, § 73.202(b) of the Commission's rules and regulations, as set forth in the *Notice of Proposed Rule Making* to which this Appendix is attached.

2. *Showings required.* Comments are invited on the proposal(s) discussed in the Notice of Proposed Rule Making to which this Appendix is attached. Proponent(s) will be expected to answer whatever questions are presented in initial comments. The proponent of a proposed assignment is also expected to file comments even if it only resubmits or incorporates by reference its former pleadings. It should also restate its present intention to apply for the channel if it is assigned, and, if authorized, to build the station promptly. Failure to file may lead to denial of the request.

(3) *Cut-off procedures.* The following procedures will govern the consideration of filings in this proceeding.

(a) Counterproposals advanced in this proceeding itself will be considered, if advanced in initial comments, so that parties may comment on them in reply comments. They will not be considered if advanced in reply comments. (See § 1.420(d) of Commission rules.)

(b) With respect to petitions for rule making which conflict with the proposal(s) in this Notice, they will be considered as comments in the proceeding, and Public Notice of this effect will be given as long as they are filed before the date for filing initial comments herein. If they are filed later than that, they will not be considered in connection with the decision in this docket.

4. *Comments and reply comments; service.* Pursuant to applicable procedures set out in §§ 1.415 and 1.420 of the Commission's rules and regulations, interested parties may file comments and reply comments on or before the dates set forth in the *Notice of Proposed Rule Making* to which this Appendix is attached. All submissions by parties to this proceeding or persons acting on behalf of such parties must be made in written comments, reply comments, or other appropriate pleadings. Comments shall be served on the petitioner by the person filing the comments. Reply comments shall be served on the person(s) who filed comments to which the reply is directed. Such comments and reply comments shall be accompanied by a certificate of service. (See § 1.420 (a), (b) and (c) of the Commission rules.)

5. *Number of copies.* In accordance with the provisions of § 1.420 of the Commission's rules and regulations, an original and four copies of all comments, reply comments, pleadings, briefs, or other documents shall be furnished the Commission.

6. *Public inspection of filings.* All filings made in this proceeding will be available for examination by interested parties during regular business hours in the Commission's Public Reference Room at its headquarters, 1919 M Street, NW., Washington, D.C.

[BC Docket No. 79-106; RM-3282]
[FR Doc. 79-14983 Filed 5-11-79; 8:45 am]
BILLING CODE 6712-01-M

[47 CFR Part 73]

FM Broadcast Station in San Antonio, Tex.; Proposed Changes in Table of Assignments

AGENCY: Federal Communications Commission.

ACTION: Notice of Proposed Rule Making.

SUMMARY: Action taken herein proposes the assignment of noncommercial educational FM Channel 215A to San Antonio, Texas, in response to a petition filed by Classical Broadcasting Society of San Antonio. The proposed channel could be used to bring additional noncommercial educational broadcasting service to a growing area.

DATES: Comments must be filed on or before July 2, 1979, and reply comments must be filed on or before July 23, 1979.

ADDRESSES: Federal Communications Commission, Washington, D.C. 20554.

FOR FURTHER INFORMATION CONTACT: Mildred B. Nesterak, Broadcast Bureau, (202) 632-7792.

SUPPLEMENTARY INFORMATION:

Adopted: May 2, 1979.

Released: May 10, 1979.

In the matter of amendment of § 73.507(a) *Table of Assignments,* FM Broadcast Stations. (San Antonio, Texas), BC Docket No. 79-109, RM-3153.

1. The Commission here considers a petition for rule making,[1] filed on behalf of Classical Broadcasting Society of San Antonio ("petitioner"), a nonprofit corporation, which seeks the assignment of noncommercial educational FM Channel 215A to San Antonio, Texas. No oppositions to the petition have been received.

2. San Antonio (pop. 785,000), seat of Bexar County (pop. 830,460),[2] is located in southern Texas approximately 290 kilometers (180 miles) west of Houston. There are three noncommercial educational FM assignments in San Antonio: KSYM-FM operates on Channel 211A; KRTU operates on Channel 219A and two applications are pending for use of Channel 206C.

3. Petitioner states that San Antonio is the center of a major metropolitan area and the tenth largest city in the county. It notes that the city is the home of the recently established University of Texas Health Science Center, incorporating medical, dental and nursing schools. Petitioner asserts that experience in this area has demonstrated that the medical and related professional community is strongly committed to the area, and is willing to contribute financially in order to foster the development and expansion of the arts in and around San Antonio.

4. Petitioner states that it intends to utilize the proposed channel for a noncommercial educational FM station which will broadcast educational, classical and cultural music, as well as other programming devoted to the arts. It notes that preliminary studies have indicated that a noncommercial educational station with the above-

[1] Public Notice of the petition was given on July 18, 1978, Report No. 1134.
[2] Population figures are taken from the 1970 U.S. Census.

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mentioned format would be favorably received by the population which has traditionally provided financial support for such programming.

5. Petitioner claims that the transmitter site of the proposed station would not come within the purview of the U.S.-Mexico FM Broadcast Agreement because it would be located in excess of 130 miles from any present or even possible transmitter location of any FM station along the U.S.-Mexico border. However, since San Antonio is located within 320 kilometers (199 miles) of the U.S.-Mexico border, the proposed assignment requires the concurrence of the Mexican Government.

6. In view of the foregoing, we propose to amend the Table of Assignments for noncommercial educational FM channels (§ 73.507(a) of the Commission's Rules) with regard to the community listed below:[3]

City	Channel No.	
	Present	Proposed
San Antonio, Texas	206, 211A, 219A	206, 211A, 215A, 219A

7. The Commission's authority to institute rule making proceedings, showings, required cut-off procedures, and filing requirements are contained in the attached Appendix and are incorporated by reference herein.

Note.—A showing of continuing interest is required by paragraph 2 of the Appendix before a channel will be assigned.

8. Interested parties may file comments on or before July 2, 1979, adn reply comments must be filed on or before July 23, 1979.

9. For further information concerning this proceeding, contact Mildred B. Nesterak, Broadcast Bureau, (202) 632–7792. However, members of the public should note that from the time a notice of proposed rule making is issued until the matter is no longer subject to Commission or court review, all *ex parte* contacts are prohibited in Commission proceedings, such as this one, which involve channel assignments. An *ex parte* contact is a message (spoken or written) concerning the merits of a pending rule making other than comments officially filed at the Commission or oral presentation required by the Commission.

[3] In Docket No. 20735 the Commission is continuing to consider various changes in the allocations policies affecting noncommercial educational FM. The parties should be aware that future actions taken in that proceeding may have a bearing on the outcome of individual educational FM assignment cases or the use of the channels assigned. In the meantime, action on assignment proceedings is not being withheld.

Federal Communications Commission.

Martin I. Levy,

Acting Chief, Broadcast Bureau.

Appendix

1. Pursuant to authority found in Sections 4(i), 5(d)(1), 303 (g) and (r), and 307(b) of the Communications Act of 1934, as amended, and § 0.281(b)(6) of the Commission's rules, it is proposed to amend the Table of Assignments, (§ 73.507(a)) for noncommercial educational FM channels, of the rules and regulations, as set forth in the *Notice of Proposed Rule Making* to which this Appendix is attached.

2. *Showings required.* Comments are invited on the proposal(s) discussed in the Notice of Proposed Rule Making to which this Appendix is attached. Proponent(s) will be expected to answer whatever questions are presented in initial comments. The proponent of a proposed assignment is also expected to file comments even if it only resubmits or incorporates by reference its former pleadings. It should also restate its present intention to apply for the channel if it is assigned, and, if authorized, to build the station promptly. Failure to file may lead to denial of the request.

3. *Cut-off procedures.* The following procedures will govern the consideration of filings in this proceeding.

(a) Counterproposals advanced in this proceeding itself will be considered, if advanced in initial comments, so that parties may comment on them in reply comments. They will not be considered if advanced in reply comments. (See § 1.420(d) of Commission rules.)

(b) With respect to petitions for rule making which conflict with the proposal(s) in this Notice, they will be considered as comments in the proceeding, and Public Notice to this effect will be given as long as they are filed before the date for filing initial comments herein. If they are filed later than that, they will not be considered in connection with the decision in this docket.

4. *Comments and reply comments; service.* Pursuant to applicable procedures set out in §§ 1.415 and 1.420 of the Commission's rules and regulations, interested parties may file comments and reply comments on or before the dates set forth in the *Notice of Proposed Rule Making* to which this Appendix is attached. All submissions by parties to this proceeding or persons acting on behalf of such parties must be made in written comments, reply comments, or other appropriate pleadings. Comments shall be served on the petitione by the person filing the comments. Reply comments shall be served on the person(s) who filed comments to which the reply is directed. Such comments and reply comments shall be accompanied by a certificate of service. (See § 1.420 (a), (b) and (c) of the Commission rules.)

5. *Number of copies.* In accordance with the provisions of § 1.420 of the Commission's rules and regulations, an original and four copies of all comments, pleadings, reply comments, briefs, or other documents shall be furnished the Commission.

6. *Public inspection of filings.* All filings made in this proceeding will be available for examination by interested parties during regular business hours in the Commission's Public Reference Room at its headquarters, 1919 M Street, N.W., Washington, D.C.

[BC Docket No. 79–109; RM–3153]

[FR Doc. 79–14984 Filed 5–11–79; 8:45 am]

BILLING CODE 6712–01–M

[47 CFR Part 73]

Television Broadcast Station in Brunswick, Ga.; Proposed Changes in Table of Assignments

AGENCY: Federal Communications Commission.

ACTION: Notice of Proposed Rulemaking.

SUMMARY: Action taken herein proposes the assignment of a first television channel to Brunswick, Georgia, in response to a petition filed by C & O Brokerage. The proposed station could provide a first local television service to the community.

DATES: Comments must be filed on or before June 29, 1979, and reply comments must be filed on or before July 19, 1979.

ADDRESSES: Federal Commications Commission, Washington, D.C. 20554.

FOR FURTHER INFORMATION CONTACT: Mildred B. Nesterak, Broadcast Bureau, (202) 632–7792.

SUPPLEMENTARY INFORMATION:

Adopted: April 30, 1979.

Released: May 8, 1979.

In the matter of amendment of § 73.606(b), *Table of Assignments,* Television Broadcast Stations. (Brunswick, Georgia, BC Docket No. 79–99, RM–3229.

1. The Commission has under consideration a petition for rulemaking,[1] seeking the amendment of § 73.606(b) of the Commission's rules, the Television Table of Assignments. The petition was filed by C & O Brokerage ("petitioner"), requesting the assignment of UHF television Channel 21 to Brunswick, Georgia. No responses to the petition were filed.

[1] Public Notice of the petition was given on October 30, 1978, Report No. 1148.

2. Brunswick (pop. 19,585), seat of Glynn County (pop. 50,528),[2] is located in southeast Georgia, approximately 90 kilometers (55 miles) north of Jacksonville, Florida, and 105 kilometers (65 miles) south of Savannah, Georgia. There are no television assignments in Brunswick.

3. Petitioner states that the city represents the only urban center in the large area between Savannah and Jacksonville. It notes that the population of Glynn County has increased 20.4 percent between 1960–1970 with the number of households increasing 25.5 percent during the same period. Petitioner adds that Brunswick has been selected as a service port for approximately 50 oil wells to be drilled off the southeastern Georgia coast. It states that dock and service facilities are to be constructed in the area, thus providing an added potential for community growth. Petitioner claims that the closest commercial facilities capable of providing even secondary service to Brunswick are located in Jacksonville and Savannah. However, it contends, these stations cannot be expected to adequately serve the problems, needs and interests of Brunswick. Petitioner asserts that it will promptly prepare and file an application for a construction permit for Channel 21, if assigned.

4. In view of the above, the Commission is persuaded that a sufficient public interest showing has been made to warrant further consideration of petitioner's proposal in a rule making proceeding. Channel 21 can be assigned in accordance with the Commissioner's distance separation requirements and other technical criteria and would allow the community its first local television service. Therefore, we propose to consider the following revision to the Television Table of Assignments (§ 73.606(b) of the Commission's rules) with respect to the city listed below:

City	Channel No.	
	Present	Proposed
Brunswick, Georgia		21+

5. The Commission's authority to institute rulemaking proceedings, showings required, cut-off procedures, and filing requirements are contained in the attached Appendix and are incorporated by reference herein.

Note: A showing of continuing interest is required by paragraph 2 of the Appendix before a channel will be assigned.

6. Interested parties may file comments on or before June 29, 1979, and reply comments on or before July 19, 1979.

7. For further information concerning this proceeding, contact Mildred B. Nesterak, Broadcast Bureau, (202) 632–7792. However, members of the public should note that from the time a notice of proposed rulemaking is issued until the matter is no longer subject to Commission consideration or court review, all *ex parte* contacts are prohibited in Commission proceedings, such as this one, which involve channel assignments. An *ex parte* contact is a message (spoken or written) concerning the merits of a pending rulemaking other than comments officially filed at the Commission or oral presentation required by the Commission.

Federal Communications Commission.

Wallace E. Johnson,

Chief, Broadcast Bureau.

Appendix

1. Pursuant to authority found in Sections 4(i), 5(d)(1), 303(g) and (r), and 307(b) of the Communication Act of 1934, as amended, and § 0.281(b)(6) of the Commission's rules, it is proposed to amend the FM Table of Assignments, § 73.202(b) of the Commission's rules and regulations, as set forth in the *Notice of Proposed Rulemaking* to which this Appendix is attached.

2. *Showings required.* Comments are invited on the proposal(s) discussed in the Notice of Proposed Rulemaking to which this Appendix is attached. Proponent(s) will be expected to answer whatever questions are presented in initial comments. The proponent of a proposed assignment is also expected to file comments even if it only resubmits or incorporates by reference its former pleadings. It should also restate its present intention to apply for the channel if it is assigned, and, if authorized, to build the station promptly. Failure to file may lead to denial of the request.

3. *Cut-off procedures.* The following procedures will govern the consideration of filings in this proceeding.

(a) Counterproposals advanced in this proceeding itself will be considered, if advanced in initial comments, so that parties may comment on them in reply comments. They will not be considered if advanced in reply comments. (See § 1.420(d) of Commission rules.)

(b) With respect to petitions for rulemaking which conflict with the proposal(s) in this Notice, they will be considered as comments in the proceeding, and Public Notice to this effect will be given as long as they are filed before the date for filing initial comments herein. If they are filed later than that, they will not be considered in connection with the decision in this docket.

4. *Comments and reply comments; service.* Pursuant to applicable procedures set out in §§ 1.415 and 1.420 of the Commission's rules and regulations, interested parties may file comments and reply comments on or before the dates set forth in the Notice of Proposed Rulemaking to which this Appendix is attached. All submissions by parties to this proceeding or persons acting on behalf of such parties must be made in written comments, reply comments, or other appropriate pleadings. Comments shall be served on the petitioner by the person filing the comments. Reply comments shall be served on the person(s) who filed comments to which the reply is directed. Such comments and reply comments shall be accompanied by a certificate of service. (See § 1.420(a), (b) and (c) of the Commission rules.)

5. *Number of copies.* In accordance with the provisions of § 1.420 of the Commission's rules and regulations, an original and four copies of all comments, reply comments, pleadings, briefs, or other documents shall be furnished the Commission.

6. *Public inspection of filings.* All filings made in this proceeding will be available for examination by interested parties during regular business hours in the Commission's Public Reference Room at its headquarters, 1919 M Street, NW., Washington, D.C.

[BC Docket No. 79–99; RM–3229]

[FR Doc. 79–14985 Filed 5–11–79; 8:45 am]

BILLING CODE 6712–01–M

[47 CFR Part 73]

Television Broadcast Station in Marion, Va.; Proposed Changes in Table of Assignments

AGENCY: Federal Communications Commission.

ACTION: Notice of Proposed Rule Making.

SUMMARY: Action taken herein proposes the assignment of a first UHF television channel to Marion, Virginia, for noncommercial educational use.

[2] Population figures are taken from the 1970 U.S. Census.

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Petitioner, Blue Ridge ETV Association, Inc., states the proposed station could provide an unserved area in Virginia with noncommercial educational television service.

DATES: Comments must be filed on or before June 29, 1979, and reply comments on or before July 19, 1979.

ADDRESSES: Federal Communications Commission, Washington, D.C. 20554.

FOR FURTHER INFORMATION CONTACT: Mildred B. Nesterak, Broadcast Bureau, (202) 632-7792.

SUPPLEMENTARY INFORMATION:

Adopted: April 30, 1979.

Released: May 8, 1979.

In the Matter of amendment of § 73.606(b), Table of Assignments, Television Broadcast Stations. (Marion, Virginia).

By the Chief, Broadcast Bureau:

1. The Commission has before it for consideration a petition for rule making,[1] filed by Blue Ridge ETV Association, Inc. ("petitioner"), licensee of noncommercial educational television Station WBRA-TV (Channel *15), Roanoke, Virginia, and WSVN-TV (Channel *47), Norton, Virginia. The petition requests the assignment and reservation of television Channel *52 to Marion, Virginia, for noncommercial educational television use. No responses to the petition were received.

2. Marion (pop. 8,158), seat of Smyth County (pop. 31,349),[2] is located in western Virginia, approximately 145 kilometers (95 miles) west of Roanoke, Virginia. There are no television assignments in Marion. Channel *52 can be assigned to Marion in conformity with the distance separation requirements and other technical criteria of the Commission's Rules.

3. Petitioner claims there is an area encompassing Smyth County and parts of Washington, Tazewell, Bland, Grayson and Wythe Counties, which does not receive noncommercial educational television service. It states that the proposed station would essentially complete coverage in Virginia by educational television. Petitioner advises that the General Assembly of Virginia already appropriated some of the funds necessary to construct the proposed station. Petitioner asserts that although the area that Channel *52 would serve does not contain sufficient population to support a full-fledged station, it is capable of supporting a satellite station of a nearby educational broadcaster with limited local facilities. Petitioner states that it is in an excellent position to provide such service from its Roanoke station (WBRA-TV).

4. In view of the foregoing and the fact that the proposed assignment could provide Marion and the surrounding area with a first noncommercial educational television service, the Commission finds that it would serve the public interest to seek comments in rule making.

5. Accordingly, the Commission proposes to amend the Table of Television Assignments (Section 73.606(b) of the Commission's Rules) with regard to the community listed below:

City	Channel No. Present	Channel No. Proposed
Marion, Virginia		*52

6. Authority to institute rule making proceedings, showings required, cut-off procedures, and filing requirements are contained in the attached Appendix and are incorporated by reference herein. NOTE: A showing of continuing interest is required by paragraph 2 of the Appendix before a channel will be assigned.

7. Interested parties may file comments on or before June 29, 1979, and reply comments on or before July 19, 1979.

8. For further information concerning this proceeding, contact Mildred B. Nesterak, Broadcast Bureau (202) 632-7792. However, members of the public should note that from the time a notice of proposed rule making is issued until the matter is no longer subject to Commission consideration or court review, all *ex parte* contacts are prohibited in Commission proceedings, such as this one, which involve channel assignments. An *ex parte* contact is a message (spoken or written) concerning the merits of a pending rule making other than comments officially filed at the Commission or oral presentation required by the Commission.

Federal Communications Commission.

Wallace E. Johnson,
Chief, Broadcast Bureau.

Appendix

1. Pursuant to authority found in Sections 4(i), 5(d)(1), 303(g) and (r), and 307(b) of the Communications Act of 1934, as amended, and Section 0.281(b)(6) of the Commission's Rules, IT IS PROPOSED TO AMEND the Table of Assignments, Section 73.606(b) of the Commission's Rules and Regulations, as set forth in the *Notice of Proposed Rule Making* to which this Appendix is attached.

2. *Showings required.* Comments are invited on the proposal(s) discussed in the Notice of Proposed Rule Making to which this Appendix is attached. Proponent(s) will be expected to answer whatever questions are presented in initial comments. The proponent of a proposed assignment is also expected to file comments even if it only resubmits or incorporates by reference its former pleadings. It should also restate its present intention to apply for the channel if it is assigned, and, if authorized, to build the station promptly. Failure to file may lead to denial of the request.

3. *Cut-off procedures.* The following procedures will govern the consideration of filings in this proceeding.

(a) Counterproposals advanced in this proceeding itself will be considered, if advanced in initial comments, so that parties may comment on them in reply comments. They will not be considered if advanced in reply comments. (See § 1.420(d) of Commission Rules.)

(b) With respect to petitions for rule making which conflict with the proposals(s) in this Notice, they will be considered as comments in the proceeding, and Public Notice to this effect will be given as long as they are filed before the date for filing initial comments herein. If they are filed later than that, they will not be considered in connection with the decision in this docket.

4. *Comments and reply comments; service.* Pursuant to applicable procedures set out in Sections 1.415 and 1.420 of the Commission's Rules and Regulations, interested parties may file comments and reply comments on or before the dates set forth in the *Notice of Proposed Rule Making* to which this Appendix is attached. All submissions by parties to this proceeding or persons acting on behalf of such parties must be made in written comments, reply comments, or other appropriate pleadings. Comments shall be served on the petitioner by the person filing the comments. Reply comments shall be served on the person(s) who filed comments to which the reply is directed. Such comments and reply comments shall be accompanied by a certificate of service. (See § 1.420(a), (b) and (c) of the Commission Rules.)

5. *Number of copies.* In accordance with the provisions of Section 1.420 of the Commission's Rules and Regulations, an original and four copies of all comments, reply comments, pleadings, briefs, or other documents shall be furnished the Commission.

6. *Public inspection of filings.* All filings made in this proceeding will be available for examination by interested parties during regular business hours in the Commission's Public Reference Room at its headquarters, 1919 M Street, N.W., Washington, D.C.

[1] Public Notice of the petition was given on October 13, 1978, Report No. 1145.

[2] Population figures are taken from the 1970 U.S. Census.

[BC Docket No. 79-97; RM-3220]

[FR Doc. 79-14978 Filed 5-11-79; 8:45 am]

BILLING CODE 6712-01-M

[47 CFR Part 83]

Television Broadcast Station in Iron Mountain, Mich., and Suring, Wis.; Proposed Changes in Table of Assignments

AGENCY: Federal Communications Commission.

ACTION: Notice of Proposed Rule Making.

SUMMARY: Action taken herein proposes the assignment of UHF TV Channel 14 to Suring, Wisconsin, and the substitution of noncommercial educational Channel 17 for noncommercial educational Channel 14 in Iron Mountain, Michigan. This action was initiated by a petition filed by WRVM Incorporated. The proposal would provide for a station which could bring a first local television service to Suring.

DATES: Comments must be filed on or before June 29, 1979, and reply comments must be filed on or before July 19, 1979.

ADDRESSES: Federal Communications Commission, Washington, D.C. 20554.

FOR FURTHER INFORMATION CONTACT: Mildred B. Nesterak, Broadcast Bureau, (202) 632-7792.

SUPPLEMENTARY INFORMATION:

Adopted: April 30, 1979.

Released: May 8, 1979.

In the Matter of Amendment of Section 73.606(b), Table of Assignments, Television Broadcast Stations. (Iron Mountain, Michigan, and Suring, Wisconsin).

By the Chief, Broadcast Bureau:

1. *Notice of Proposed Rule Making* is hereby given concerning amendment of the Television Table of Assignments (Section 73.606(b) of the Commission's Rules) as it relates to Iron Mountain, Michigan, and Suring, Wisconsin.

Petition for rule making [1] was filed on behalf of WRVM, Incorporated ("petitioner"), licensee of Station WRVM(FM), Channel 274, Suring, Wisconsin, proposing the assignment of television Channel 14 to Suring, Wisconsin, for commercial use, the substitution of Channel *32 for Channel *14 at Iron Mountain, Michigan, and the deletion of Channel 32 from Appleton, Wisconsin.

2. On October 31, 1978, petitioner amended its petition by proposing the assignment of Channel 14 to Suring, Wisconsin, for commercial use, and the substitution of Channel *17 for noncommercial educational Channel *14 at Iron Mountain, Michigan. A letter supporting the assignment of Channel 14 to Suring was filed by the Menominee Restoration Committee. No oppositions to the proposal have been received. The proposed assignments could be made in compliance with the distance separation requirements and other technical criteria.

3. Suring (pop. 499), in Oconto County (pop. 25,553),[2] is located in northeast Wisconsin, approximately 65 kilometers (40 miles) northwest of Green Bay, Wisconsin, and 90 kilometers (55 miles) south of Iron Mountain, Michigan. Suring has no television channels assigned to it.

4. Iron Mountain (pop. 8,702), seat of Dickinson County (pop. 23,753), is located in northwest Michigan on the Wisconsin border, approximately 150 kilometers (90 miles) north of Green Bay, Wisconsin. Channels 8 and *14, both unoccupied and unapplied for, are assigned to Iron Mountain.

5. Petitioner states that Suring and the surrounding area is rural in nature. It asserts that although agriculture is the main industry in the area, there are other industries which include lumbering, farm machinery manufacturing, kitchen utensil manufacturing and wood veneer laminating. Petitioner adds that a local television station would greatly assist area residents to become aware of local needs and problems and would provide a means for local self-expression. It claims that the population of the counties to be served by the location of a UHF station in Suring numbers over 500,000, many of whom would be receiving their only Grade A signal.

6. Petitioner is the licensee of FM Station WRVM (Channel 274) in Suring. Under Section 73.636(a)(1) of the Commission's Rules, no new VHF television-FM or VHF television-AM combination may be created. However, UHF television-AM or UHF television-FM common ownership combinations, as would result in this instance, are treated on a case-by-case basis. See Note 8 of Section 73.636. Consequently, in connection with any application for a new station at Suring, Wisconsin, petitioner may be required to provide a showing that its being the licensee of both an FM and a television broadcast station in the same community would not be contrary to the public interest.

7. Since Suring, Wisconsin, and Iron Mountain, Michigan, are both located within 402 kilometers (250 miles) of the U.S.-Canada border, the proposed assignments require coordination with the Canadian Government before they can be adopted.

8. In view of the fact that the proposed assignment could provide for the establishment of a first local television service in Suring, and a substitute channel is available for assignment for noncommercial educational television use at Iron Mountain, Michigan, the Commission finds it would serve the public interest to seek comments in rule making. Accordingly, the Commission proposes to amend Section 73.606(b) of the Commission's Rules, the Television Table of Assignments, as follows:

City	Channel No. Present	Channel No. Proposed
Suring, Wisconsin		14-
Iron Mountain, Michigan	8-, *14	8-, *17+

9. The Commission's authority to institute rule making proceedings, showings required, cut-off procedures, and filing requirements, are contained in the attached Appendix and are incorporated by reference herein. NOTE: A showing of continuing interest is required by paragraph 2 of the Appendix before a channel will be assigned.

10. Interested parties may file comments on or before June 29, 1979, and reply comments on or before July 19, 1979.

11. For further information concerning this proceeding, contact Mildred B. Nesterak, Broadcast Bureau, (202) 632-7792. However, members of the public should note that from the time the notice of proposed rule making is issued until the matter is no longer subject to Commission consideration or court review, all *ex parte* contacts are prohibited in Commission proceedings, such as this one, which involve channel assignments. An *ex parte* contact is a message (spoken or written) concerning the merits of a pending rule making other than comments officially filed at the Commission or oral presentation required by the Commission.

[1] Public Notice of the petition was given on November 15, 1978, Report No. 1150.

[2] Population figures are taken from the 1970 U.S. Census.

Federal Communications Commission.

Wallace E. Johnson,

Chief, Broadcast Bureau.

Appendix

1. Pursuant to authority found in Sections 4(i), 5(d)(1), 303(g) and (r) and 307(b) of the Communications Act of 1934, as amended, and Section 0.281(b)(6) of the Commission's Rules, IT IS PROPOSED TO AMEND the TV Table of Assignments, Section 73.606(b) of the Commission's Rules and Regulations, as set forth in the *Notice of Proposed Rule Making* to which this Appendix is attached.

2. *Showings required.* Comments are invited on the proposal(s) discussed in the Notice of Proposed Rule Making to which this Appendix is attached. Proponent(s) will be expected to answer whatever questions are presented in initial comments. The proponent of a proposed assignment is also expected to file comments even if it only resubmits or incorporates by reference its former pleadings. It should also restate its present intention to apply for the channel if it is assigned, and, if authorized, to build the station promptly. Failure to file may lead to denial of the request.

3. *Cut-off procedures.* The following procedures will govern the consideration of filings in this proceeding.

(a) Counterproposals advanced in this proceeding itself will be considered, if advanced in initial comments, so that parties may comment on them in reply comments. They will not be considered if advanced in reply comments. (See § 1.420(d) of Commission Rules.)

(b) With respect to petitions for rule making which conflict with the proposal(s) in this Notice, they will be considered as comments in the proceeding, and Public Notice to this effect will be given as long as they are filed before the date for filing initial comments herein. If they are filed later than that, they will not be considered in connection with the decision in this docket.

4. *Comments and reply comments: service.* Pursuant to applicable procedures set out in Sections 1.415 and 1.420 of the Commission's Rules and Regulations, interested parties may file comments and reply comments on or before the dates set forth in the *Notice of Proposed Rule Making* to which this Appendix is attached. All submissions by parties to this proceeding or persons acting on byhalf of such parties must be made in written comments, reply comments, or other appropriate pleadings. Comments shall be served on the petitioner by the person filing the comments. Reply comments shall be served on the person(s) who filed comments to which the reply is directed. Such comments and reply comments shall be accompanied by a certificate of service. (See § 1.420(a), (b) and (c) of the Commission Rules.)

5. *Number of copies.* In accordance with the provisions of Section 1.420 of the Commission's Rules and Regulations, an original and four copies of all comments, reply comments, pleadings, briefs, or other documents shall be furnished the Commission.

6. *Public inspection of filings.* All filings made in this proceeding will be available for examination by interested parties during regular business hours in the Commission's Public Reference Room at its headquarters, 1919 M Street, N.W., Washington, D.C.

[BC Docket No. 79-98; RM-3206]

[FR Doc. 79-13979 Filed 5-11-79; 8:45 am]

BILLING CODE 6712-01-M

DEPARTMENT OF TRANSPORTATION

Materials Transportation Bureau

[49 CFR Part 178]

Shipping Container Specifications: Withdrawal of Certain Bureau of Explosives Delegations of Authority

Correction

In FR Doc. 79-13964, appearing at page 26772 in the issue for Monday, May 7, 1979, the following information should have been given on page 26778 below the signature:

[HM 163-B; Notice No. 79-7]

BILLING CODE 1505-01-M

National Highway Traffic Safety Administration

[49 CFR Part 580]

Odometer Disclosure Requirements

AGENCY: National Highway Traffic Safety Administration, Department of Transportation.

ACTION: Notice of proposed rulemaking.

SUMMARY: This notice is issued in response to a request by the American Association of Motor Vehicle Administrators (AAMVA) to amend the Federal odometer disclosure requirements (49 CFR Part 580). Section 580.4 currently allows States that wish to utilize the certificate of title in lieu of a separate odometer disclosure statement to use an abbreviated form. The amendment proposed by AAMVA would allow States to use this shortened form on all ownership documents, not merely on the certificate of title.

DATE: Comments to this notice are due on or before June 29, 1979.

ADDRESS: Comments should refer to the docket number and be sent to the Docket Section, Room 5108, National Highway Traffic Safety Administration, 400 Seventh Street, S.W., Washington, D.C. 20590.

FOR FURTHER INFORMATION CONTACT: Kathleen DeMeter, Office of Chief Counsel, National Highway Traffic Safety Administration, 400 Seventh Street, S.W., Washington, D.C. 20590, 202-426-1834.

SUPPLEMENTARY INFORMATION: Section 408 of the Motor Vehicle Information and Cost Savings Act (15 U.S.C. 1988) requires each transferor of a motor vehicle to provide to the transferee a written disclosure of the distance travelled by the vehicle. 49 CFR Part 580 prescribes the information to be included on the disclosure statement. On August 1, 1977, NHTSA amended the odometer disclosure statement (42 FR 38906). The amended statement is clearer than the former statement and less likely to be misused, but it is also longer.

NHTSA has urged inclusion of the odometer statement on the title, and six States had included the original statement. In promulgating the longer statement, NHTSA received information indicating that the title, with its size limitations, presented more problems with inclusion of the odometer statement than did other documents relating to the transfer and ownership of motor vehicles. Because of this, the 1977 amendment specifically allowed a shortened form to be used on certificates of title, but not on other ownership documents.

On June 29, 1978, AAMVA requested that NHTSA amend the Federal odometer disclosure requirements to allow the abbreviated form to be used on ownership documents other than the certificate of title. They indicated that many of the State documents used to evidence ownership of motor vehicles are also limited in size and cannot accommodate the additional information required. They emphasized that the States should not have to rely on separate odometer forms for these transfers, but should be allowed to use the shortened form on all documents which evidence ownership, not merely the title. As a result of this additional information, NHTSA is issuing a notice of proposed rulemaking which would

allow States to use the shortened odometer disclosure statement on all State documents evidencing ownership of a motor vehicle.

In light of the foregoing, it is proposed that Part 580, Odometer Disclosure Requirements, of Title 49, Code of Federal Regulations, be amended as follows:

Section 580 is amended by amending subsection (f)(1) to read as set forth below and by deleting subsection (f)(3).

§ 580.4 Disclosure of odometer information.

* * * * *

(f) * * *

(1) If the laws or regulations of the State in which the transfer occurs require the odometer disclosure to be made on the certificate of title or other State document which evidences ownership, the transferor may make the disclosure required by this section by executing the State certificate of title or such other ownership document. In order to utilize the above documents as substitutes for the Federal odometer disclosure statement, they must contain essentially the same information required by paragraphs (a), (b), (c) and (e) of this section. If the information contained thereon varies in any way from that required for the Federal form, the State must obtain approval from the National Highway Traffic Safety Administration before its certificate of title or other ownership document can be used as a substitute for the Federal form. Such approval may be obtained by submitting a copy of the proposed document to the Office of the Chief Counsel, National Highway Traffic Safety Administration, 400 Seventh Street, S.W., Washington, D.C. 20590.

* * * * *

Issued on: May 7, 1979.

(Sec. 408, Pub. L. 92-513, 86 Stat. 962, as amended by Pub. L. 94-364, 90 Stat. 983 (15 U.S.C. 1988); delegation of authority at 49 CFR 501.8(i).)

Frank Berndt,

Acting Chief Counsel.

[Docket No. 77-06; Notice 3]

[FR Doc. 79-14915 Filed 5-11-79; 8:45 am]

BILLING CODE 4910-59-M

V 4 4 / 9 4

Notices

Federal Register
Vol. 44, No. 94
Monday, May 14, 1979

This section of the FEDERAL REGISTER contains documents other than rules or proposed rules that are applicable to the public. Notices of hearings and investigations, committee meetings, agency decisions and rulings, delegations of authority, filing of petitions and applications and agency statements of organization and functions are examples of documents appearing in this section.

CIVIL AERONAUTICS BOARD

Dallas/Fort Worth-Boston Authority

AGENCY: Civil Aeronautics Board.

ACTION: Notice of Order 79–5–62.

SUMMARY: The Board is proposing to award Dallas/Fort Worth-Boston authority to Braniff Airways, Northwest Airlines, Allegheny Airlines, Continental Air Lines and Ozark Air Lines; Houston-Boston authority to Continental Air Lines; and similar authorities to any other fit, willing and able applicant, the fitness of which can be established by officially noticeable material. The complete text of the order is available as noted below.

DATES: All interested persons having objections to the Board making final the tentative findings and conclusions or to the issuance of the proposed authority shall file, and serve upon the persons listed below, no later than June 11, 1979, a statement of objections, together with a summary of testimony, statistical data, and other material expected to be relied upon to support the stated objections.

ADDRESSES: Objections to the issuance of a final order should be filed in Docket 35492 with the Dockets Section, Civil Aeronautics Board, Washington, D.C. 20428. Copies should be served on: the Mayors of the cities of Boston, Dallas, Fort Worth and Houston, the Massachusetts Port Authority, the Texas Aeronautics Commission, the Dallas/Fort Worth Regional Airport Board, the Governors of the States of Massachusetts and Texas, American Airlines, Braniff Airways, Continental Air Lines, Eastern Air Lines, Northwest Airlines, and Ozark Air Lines.

FOR FURTHER INFORMATION CONTACT: Arthur Wells, Bureau of Pricing and Domestic Aviation, Civil Aeronautics Board, 1825 Connecticut Avenue, NW., Washington, D.C. 20428, (202) 673–5045.

The complete text of Order 79–5–62 is available from our Distribution Section, Room 516, 1825 Connecticut Avenue, NW., Washington, D.C. Persons outside the metropolitan area may send a postcard request for Order 79–5–62 to the Distribution Section, Civil Aeronautics Board, Washington, D.C. 20428.

By the Civil Aeronautics Board, May 8, 1979.

Phyllis T. Kaylor,
Secretary

[Order 79–5–62]
[FR Doc. 79–14959 Filed 5–11–79; 8:45 am]
BILLING CODE 6320–01–M

CIVIL RIGHTS COMMISSION

District of Columbia Advisory Committee; Open Meeting

Notice is hereby given, pursuant to the provisions of the Rules and Regulations of the U.S. Commission on Civil Rights, that a planning meeting of the District of Columbia Advisory Committee will convene at 12:30 pm and will end at 4:00 pm, on June 5, 1979, at 1121 Vermont Avenue, NW., Fifth Floor Conference Room, Washington, D.C. 20425.

Persons wishing to attend this open meeting should contact the Committee Chairperson, or the Mid-Atlantic Regional Office of the Commission, 2120 L Street, NW., Room 510 Washington, D.C. 20037.

The purpose of this meeting is to orientate new members and discuss local civil rights issues.

This meeting will be conducted pursuant to the provisions of the Rules and Regulations of the Commission.

Dated at Washington, D.C., May 9, 1979.

John I. Binkley,
Advisory Committee Management Officer.

[FR Doc. 79–14934 Filed 5–11–79; 8:45 am]
BILLING CODE 6335–01–M

Virginia Advisory Committee; Agenda and Notice of Open Meeting

Notice is hereby given, pursuant to the provisions of the Rules and Regulations of the U.S. Commission on Civil Rights, that a planning meeting of the Virginia Advisory Committee (SAC) of the Commission will convene at 6:30 pm and will end at 9:30 pm, on May 29, 1979, at Morton's Tea Room, 2 East Franklin Street, Richmond, Virginia.

Persons wishing to attend this open meeting should contact the Committee Chairperson, or the Mid-Atlantic Regional Office of the Commission, 2120 L Street, N.W., Room 510, Washington, D.C. 20037.

The purpose of this meeting is to discuss program planning for 1979.

This meeting will be conducted pursuant to the provisions of the Rules and Regulations of the Commission.

Dated at Washington, D.C., May 9, 1979.

John I. Binkley,
Advisory Committee Management Officer.

[FR Doc. 79–14933 Filed 5–11–79; 8:45 am]
BILLING CODE 6335–01–M

DEPARTMENT OF COMMERCE

Maritime Administration

Prudential Lines, Inc.; Application

Prudential Lines, Inc. (Prudential), holder of Operating-Differential Subsidy Agreement, Contract No. MA/MSB–421, by letter of April 25, 1979, requested written permission under section 805(a) of the Merchant Marine Act, 1936, as amended, for the operation of the tanker vessel EXXON SEATTLE in domestic coastwise and intercoastal service. The vessel is presently under bareboat charter to Exxon Corporation. The bareboat charter will expire in May 1979 and the vessel will be redelivered.

The vessel is presently owned by World Wide Tankers, Inc., a Delaware corporation which is under common control with Prudential. It is expected that the vessel will be transferred to Prudential, and will be operated by Prudential under time charter to Apex Towing Company of St. Louis, Missouri, for a period of three years, with an option for Apex to extend for an additional year. It is expected that the vessel will be employed predominantly in the U.S. Gulf/U.S. Atlantic trade. Thus Prudential will require written permission under section 805(a) for operation of the tanker in domestic trade during the period of the charter to Apex.

Any person, firm, or corporation having any interest (within the meaning of section 805(a)) in such application and desiring to be heard on issues pertinent to section 805(a) and desiring

to submit comments or views concerning the application must, by close of business on May 22, 1979, file same with the Secretary, Maritime Administration, in writing, in triplicate, together with petition for leave to intervene which shall state clearly and concisely the grounds of interest, and the alleged facts relied on for relief.

If no petitions for leave to intervene are received wthin the specified time or if it is determined that petitions filed do not demonstrate sufficient interest to warrant a hearing, the Maritime Administration will take such action as may be deemed appropriate.

In the event petitions regarding the relevant section 805(a) issues are received from parties with standing to be heard, a hearing will be held, the purpose of which will be to receive evidence under section 805(a) relative to whether the proposed operations (a) could result in unfair competition to any person, firm, or corporation operating exclusively in the coastwise or intercoastal service, or (b) would be prejudicial to the objects and policy of the Act relative to domestic trade operations.

(Catalog of Federal Domestic Assistance Program No. 11.504 Operating-Differential Subsidies (ODS))

By Order of the Acting Assistant Secretary for Maritime Affairs.

Date: May 9, 1979.

James S. Dawson, Jr.,
Secretary.

[Docket No. S–641]
[FR Doc. 79–15000 Filed 5–11–79; 8:45 am]
BILLING CODE 3510–15–M

National Oceanic and Atmospheric Administration

Marine Mammals; Receipt of Application for Permit

Notice is hereby given that an Applicant has applied in due form for a Permit to take marine mammals as authorized by the Marine Mammal Protection Act of 1972 (16 U.S.C. 1361–1407), and the Regulations Governing the Taking and Importing of Marine Mammals (50 CFR Part 216).

1. Applicant:
a. Name: Dr. Kenneth S. Norris.
b. Address: Environmental Field Program, University of California, Santa Cruz, CA 95064.
2. Type of Permit: Scientific Research
3. Name and Number of Animals: Spinner dolphin (*Stenella longirostris*) 65.
4. Type of Take: The dolphins are to be captured, freezebranded, finnotched and/or tagged and released in order to study the behavior and structure of the schools. Animals may be recaptured as opportunity permits. The dolphins may be measured, have specimen materials taken and injected with tetracycline for age studies. In addition, marine mammals found dead will be collected.
5. Location of Activity: Kona coast of Hawaii.
6. Period of Activity: 2 years.

Fifteen (15) of the requested 65 spinner dolphins are presently authorized to be captured, radio or Roto tagged and released under Permit No. 219 issued to Dr. Norris on January 31, 1978. Should this permit be issued for 65 dolphins, the activities authorized in Permit No. 219 would be incorporated, and Permit No. 219 would be inactivated.

Concurrent with the publication of this notice in the Federal Register the Secretary of Commerce is forwarding copies of this application to the Marine Mammal Commission and the Committee of Scientific Advisors.

Written data or views, or requests for a public hearing on this application should be submitted to the Assistant Administrator for Fisheries, National Marine Fisheries Service, Department of Commerce, Washington, D.C. 20235, on or before June 13, 1979. Those individuals requesting a hearing should set forth the specific reasons why a hearing on this particular application would be appropriate. The holding of such hearing is at the discretion of the Assistant Administrator for Fisheries.

All statements and opinions contained in this application are summaries of those of the Applicant and do not necessarily reflect the views of the National Marine Fisheries Service.

Documents submitted in connection with the above application are available for review in the following offices:

Assistant Administrator for Fisheries, National Marine Fisheries Service, 3300 Whitehaven Street, N.W., Washington, D.C.; and

Regional Director, National Marine Fisheries Service, Southwest Region, 300 South Ferry Street, Terminal Island, California 90731.

Dated: May 8, 1979.

William Aron,
Director, Office of Marine Mammals/Endangered Species, National Marine Fisheries Service.

[FR Doc. 79–14909 Filed 5–11–79; 8:45 am]
BILLING CODE 3510–22–M

COMMITTEE FOR PURCHASE FROM THE BLIND AND OTHER SEVERELY HANDICAPPED

Procurement List 1979; Addition

AGENCY: Committee for Purchase from the Blind and Other Severely Handicapped.

ACTION: Addition to Procurement List.

SUMMARY: This action adds to Procurement List 1979 a service to be provided by workshops for the blind and other severely handicapped.

EFFECTIVE DATE: May 11, 1979.

ADDRESS: Committee for Purchase from the Blind and Other Severely Handicapped, 2009 14th Street North, Suite 610, Arlington, Virginia 22201.

FOR FURTHER INFORMATION CONTACT: C. W. Fletcher, (703) 557–1145.

SUPPLEMENTARY INFORMATION: On March 9, 1979 the Committee for Purchase from the Blind and Other Severely Handicapped published a notice (44 FR 13061) of proposed addition to Procurement List 1979, November 15, 1978 (43 FR 53151).

After consideration of the relevant matter presented, the Committee has determined that the service listed below is suitable for procurment by the Federal Government under 41 U.S.C. 46–48c, 85 Stat. 77.

Accordingly, the following service is hereby added to Procurement List 1979:

SIC 7349

Custodial Service, Federal Building, 3rd and Hill Avenue, Gallup, New Mexico.

C. W. Fletcher,
Executive Director.

[FR Doc. 79–14875 Filed 5–11–79; 8:45 am]
BILLING CODE 6820–33–M

Procurement List 1979; Proposed Deletion

AGENCY: Committee for Purchase from the Blind and Other Severely Handicapped.

ACTION: Proposed Deletion from Procurement List.

SUMMARY: The Committee has received a proposal to delete from Procurement List 1979 commodities produced by workshops for the blind or other severely handicapped.

COMMENTS MUST BE RECEIVED ON OR BEFORE: June 13, 1979.

ADDRESS: Committee for Purchase from the Blind and Other Severely Handicapped, 2009 14th Street North, Suite 610, Arlington, Virginia 22201.

FOR FURTHER INFORMATION CONTACT: C. W. Fletcher, (703) 557–1145.

related to diligence requirements for oil

MAY 14 1979 UMI

V 4 4 / 9 4

SUPPLEMENTARY INFORMATION: This notice is published pursuant to 41 U.S.C. 47(a)(2), 85 stat. 77.

It is proposed to delete the following commodities from Procurement List 1979, November 15, 1978 (43 F.R. 53151):

CLASS 7920

Mophead, Wet, 7920–00–141–5541, 7920–00–141–5542, 7920–00–141–5543, 7920–00–923–0448, 7920–00–926–5500, 7920–00–926–5503, 7920–00–245–8290.

C. W. Fletcher,
Executive director.
[FR Doc. 79–14876 Filed 5–11–79; 8:45 am]
BILLING CODE 6820–33–M

DEPARTMENT OF DEFENSE

Department of the Army

Military Traffic Management Command; Military Personal Property Symposium; Open Meeting

Announcement is made of a meeting of the Military Personal Property Symposium. This meeting will be held on 31 May 1979 at the Ramada Inn, I–395 and Seminary Road East, Alexandria, VA. and will convene at 0900 hours and adjourn at approximately 1500 hours.

Proposed Agenda

The purpose of the Symposium is to provide an open discussion and free exchange of ideas with the public on procedural changes to the Personal Property Traffic Management Regulation (DOD 4500.34-R), and the handling of other matters of mutual interest relating to the movement and/or storage of household goods and unaccompanied baggage, as well as proposed changes and innovations in the Department of Defense Personal Property Movement and Storage Program.

All interested persons desiring to submit topics to be discussed should submit them in writing to the Commander, Military Traffic Management Command, ATTN: MT-PPM, Washington, DC 20315. Topics to be discussed should be received on or before 24 May 1979.

Dated: May 3, 1979.

Robert F. Waldman,
Deputy Director, Directorate of Personal Property.
[FR Doc. 79–14947 Filed 5–11–79; 8:45 am]
BILLING CODE 3710–08–M

Corps of Engineers

Intent To Prepare a Draft Environmental Statement (DES) for the Proposed Spinney Mountain Reservoir Water Supply Project

AGENCY: U.S. Army Corps of Engineers, Omaha District.

SPONSOR: City of Aurora, Colorado.

ACTION: Notice of Intent to Prepare a DES.

SUMMARY: 1. The proposed action is to construct the Spinney Mountain Reservoir on the South Platte River approximately 30 miles southeast of Fairplay, Colorado, 10 miles east of Hartzel, and 2.5 miles upstream from Elevenmile Canyon Reservoir.

2. This project is part of a water supply system and would increase its operational efficiency. Alternatives evaluated by the applicant include:

a. Increasing capacities of existing reservoirs.

b. Construction of a new reservoir.

c. Leasing capacity in an existing reservoir.

d. A combination of leased storage and later participation in construction of a new reservoir.

e. Conservation.

Alternatives available to the Corps of Engineers include:

a. Approval of the permit.

b. Denial of the permit.

c. Approve the permit with some modification.

3. To date, public involvement has included meetings and discussions with public entities, local and State planning agencies, and concerned citizen groups. Several controversial concerns have been identified. The project will also comply with the requirements of the new CEQ Regulations on the preparation of EIS's, the Historic Preservation Act, the Endangered Species Act, the Fish and Wildlife Coordination Act, Section 404 of the 1977 Clean Water Act, Executive Order 11988 on flood plains, and Executive Order 11990 on Wetlands.

4. A scoping meeting for the DES will be held on Thursday, 24 May 1979, at 7:00 p.m. (DST) in the Council Chambers of the Municipal Building of the City of Aurora located at 1470 South Havana Street. The participation of the public and all interested Government agencies is invited.

5. The Omaha District estimates that the DES will be released for public review in October 1979.

ADDRESS: Questions about the proposed action, DES, or scoping meeting should be directed to Richard Gorton; Chief, Environmental Analysis Branch; Omaha District, CE; 6014 U.S.P.O. and Courthouse; Omaha, Nebraska 68102. Phone: (402) 221–4605.

Dated: May 4, 1979.

John E. Veiehradsky,
Chief, Planning Division, Omaha District, Corps of Engineers.
[FR Doc. 79–14948 Filed 5–11–79; 8:45 am]
BILLING CODE 3710–GW–M

Department of the Navy

Frederick N. Dyer; Limited Exclusive Patent License Granted

Pursuant to the provisions of Part 746 of title 32, Code of Federal Regulations (41 FR 55711–55714, December 22, 1976), the Department of the Navy announces that on April 17, 1979, it granted to Frederick N. Dyer of Columbus, Georgia, a revocable, nonassignable, limited exclusive license for a period of five years under Government-owned United States Patent Number 3,905,132, issued September 16, 1975, entitled "Hidden Knowledge Detector", inventor, Frederick N. Dyer.

Copies of the patent may be obtained for fifty cents ($0.50) from the Commissioner of Patents and Trademarks, Washington, D.C. 20231.

For further information concerning this notice, contact:

Dr. A. C. Williams, Staff Patent Adviser, Office of Naval Research (Code 302), Ballston Tower No. 1, 800 North Quincy Street, Arlington, VA 22217, Telephone No. 202–696–4005.

Dated: May 7, 1979.

P. B. Walker,
Captain, JAGC, U.S. Navy, Deputy Assistant Judge Advocate General (Administrative Law).
[FR Doc. 79–14879 Filed 5–11–79; 8:45 am]
BILLING CODE 3810–71–M

Poly-Scientific Litton Systems; Intent to Grant Limited Exclusive Patent License

Pursuant to the provisions of Part 746 of title 32, Code of Federal Regulations (41 FR 55711–55714, December 22, 1976) the Department of the Navy announces its intention to grant to Poly-Scientific Litton Systems, a corporation of the State of Delaware, a revocable, nonassignable, limited exclusive license for a period of five years under Government-owned United States Patent Number 4,027,945, issued June 7, 1977, entitled "Optical Sliprings", inventor, Myren L. Iverson; and United States Patent Number 4,109,997, issued August 29, 1978, entitled "Optical Sliprings", inventor, Myren L. Iverson.

This license will be granted unless on or before July 13, 1979 an application for a nonexclusive license from a responsible applicant is received by the Office of Naval Research (Code 302), Arlington, VA 22217, and the Chief of Naval Research or his designee determines that such applicant has established that he has already brought or is likely to bring the invention to the point of practical application within a reasonable period under a nonexclusive license; or the Chief of Naval Research or his designee determines that a third party has presented to the Office of Naval Research (Code 302) evidence and argument which has established that it would not be in the public interest to grant the limited exclusive license.

Any objection thereto, together with a request for an opportunity to be heard, if desired, should be directed to the Office of Naval Research (Code 302), Arlington, VA 22217 within 60 days from the publication of this notice. Also, copies of the patents may be obtained for fifty cents ($0.50) each from the Commissioner of Patents and Trademarks, Washington, D.C. 20231.

For further information concerning this notice, contact:

Dr. A. C. Williams, Staff Patent Adviser, Office of Naval Research (Code 302), Ballston Tower No. 1, 800 Noth Quincy Street, Arlington, VA 22217, Telephone No. (202) 696–4005.

Dated: May 7, 1979.

P. B. Walker,
Captain, JAGS, U.S. Navy Deputy Assistant Judge Advocate General (Administrative Law).
[FR Doc. 79–14878 Filed 5–11–79; 8:45 am]
BILLING CODE 3810–71–M

Office of the Secretary

Defense Science Board Task Force on ECM; Advisory Committee Meeting

The Defense Science Board Task Force on ECM will meet in closed session 13 June 1979 at the Pentagon, Washington, D.C.

The mission of the Defense Science Board is to advise the Secretary of Defense and the Under Secretary of Defense for Research and Engineering on scientific and technical matters as they affect the perceived needs of the Department of Defense.

The Task Force will discuss potential technical solutions to several current problems in electronic counter-measures.

In accordance with 5 U.S.C. App. I, § 10(d) (1976), it has been determined that this Defense Science Board Task Force meeting concerns matters listed in 5 U.S.C. § 552b(c)(1) (1976), and that accordingly, this meeting will be closed to the public.

Dated: May 8, 1979.

H. E. Lofdahl,
Director, Correspondence and Directives, Washington Headquarters Services, Department of Defense.
[FR Doc. 79–14888 Filed 5–11–79; 8:45 am]
BILLING CODE 3810–70–M

DEPARTMENT OF ENERGY

Voluntary Agreement and Plan of Action To Implement the International Energy Program; Meeting

In accordance with section 252(c)(1)(A)(i) of the Energy Policy and Conservation Act (Pub. L. 94–163), notice is hereby provided of the following meeting:

A meeting of the Industry Advisory Board (IAB) to the International Energy Agency (IEA) will be held on May 18, 1979, at the offices of the IEA, 2 rue Andre Pascal, Paris, France, beginning at 9:00 a.m. The purpose of this meeting is to permit attendance by representatives of the IAB at a joint meeting of the IEA Standing Group on the Oil Market (SOM). The agenda for the meeting is under the control of the SEQ and the SOM. It is expected that the following draft agenda will be followed.

1. Adoption of the preliminary agenda.

2. Record of the Second Joint Meeting of the SEQ/SOM held on April 25, 1979.

3. Developments in the international oil market:

A. Current supply/demand/stocks situtation.

B. Oil market developments.

4. Monitoring of IEA response to oil supply/demand situation. Preliminary assessment of questionnaire results.

5. Seasonality of oil supply to Denmark.

6. Future meeting date.

7. Any other business.

As provided in section 252(c)(1)(A)(ii) of the Energy Policy and Conservation Act, this meeting will not be open to the public.

Issued in Washington, D.C., May 4, 1979.

Robert C. Goodwin, Jr.,
Assistant General Counsel, International Trade and Emergency Preparedness.
[FR Doc. 79–14892 Filed 5–11–79; 8:45 am]
BILLING CODE 6450–01–M

Diligent Exploration and Development for Oil and Gas on the Outer Continental Shelf

AGENCY: Department of Energy.

ACTION: Notice of Inquiry and Request for Comments.

SUMMARY: The Department of Energy (DOE) is requesting comments on issues related to diligence requirements for oil and gas exploration and development of both new and existing Federal Outer Continental Shelf (OCS) leases to assist its analysis of the need for new and perhaps more stringent diligence requirements than presently exist as part of its responsibilities under § 302(b) of the DOE Organization Act.

DATE: Written comments are due by June 21, 1979.

ADDRESS ALL COMMENTS TO: Office of Leasing Policy Development, Department of Energy, Room 2317, Pennsylvania Avenue, N.W., Washington, D.C. 20461. Attention: Dr. Joseph A. Gribbin.

FOR FURTHER INFORMATION CONTACT: Dr. Joseph A. Gribbin, Economist (Office of Leasing Policy Development) Department of Energy, Room 7134, 12th & Pennsylvania Avenue, N.W., Washington, D.C. 20461 (202) 633–9437. James K. White (Office of General Counsel), Department of Energy, Room 2317, 12th & Pennsylvania Avenue, N.W., Washington, D.C. 20461 (202) 633–8814. Milton Jordan, Director, Division of Freedom of Information and Privacy Acts (Office of Administrative Services) Department of Energy, Mail Stop GB 145, 1000 Independence Avenue, S.W., Washington, D.C. 20585 (202) 252–5955. Fredric C. Appel, Director of Communications, (Office of the Assistant Secretary for Resource Applications) Department of Energy, Room 3309, 12th & Pennsylvania Avenue, N.W., Washington, D.C. 20461 (202) 633–9418.

SUPPLEMENTARY INFORMATION:

I. Background
II. Issues for Comment
III. Comment Procedures

I. Background

The Department of Energy Organization Act (42 U.S.C. 7101 *et seq.*) transferred to the Secretary of Energy certain authorities previously exercised by the Secretary of the Interior under five statutes, including the Outer Continental Shelf Lands Act, as amended (OCSLA, 43 U.S.C. 1331 *et seq.*). As a result the Secretary of Energy is authorized to promulgate regulations with respect to Federal leases that (1) foster competition, (2) implement alternative bidding systems, (3) establish diligence requirements, (4) set rates of production, and (5) specify the procedures, terms, and conditions for the acquisition and disposition of Federal royalty interests taken in kind (42 U.S.C. 7152(b)(1–5)).

The national goal of increasing domestic production of oil and gas in

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order to reduce this country's dependence on oil imports, improve its balance of payments and strengthen the dollar in world markets has been emphasized in a number of documents including the National Energy Plan, the OCS Lands Act Amendments of 1978 (1978 Amendments, Pub. L. No. 95–372), and the President's energy message of April 4, 1979. Diligent development of all Federal oil and gas leases will assist in the achievement of this goal.

Current regulations issued by the Department of the Interior pertaining to diligent development of oil and gas leases on the OCS are general in nature. They require that "The lessee shall exercise reasonable diligence in drilling and producing the wells herein provided for . . ." (43 CFR § 3307.3–4). Enforcement of this provision could be made by cancellation of any nonproducing lease if the lessee fails to comply 30 days after mailing a notice informing him of the violation (43 CFR § 3306.2). The limitation of the term of the lease to five years unless oil and gas are being produced in paying quantities (43 CFR § 3302.2(a)) is a further incentive to diligent development.

In response to concerns regarding diligent development of OCS leases, the 1978 Amendments specify that "due diligence requirements" be included as a term of the lease (43 U.S.C. 1337(b)(4) as enacted in § 205(a) of the 1978 Amendments), and that the Secretary of the Interior may determine whether any person is complying with all due diligence requirements on leases currently in his possession (43 U.S.C. 1337(d) as enacted in § 205(b) of the 1978 Amendments). A finding of noncompliance bars that person from bidding for additional leases. These provisions supplement sections of the original OCSLA which remain in effect, providing for the cancellation of leases for failure to comply with applicable regulations (43 U.S.C. 1334(b)).

No firm should be able to withhold resources from the OCS by improperly shutting in wells or delaying exploration or production. In deliberating the 1978 Amendments, Congress indicated that, if lessees act in conformance with their exploration and development plans, as defined by regulation and approved by the Secretary of the Interior, they would be acting with due diligence and would not be deprived of their leases, and, furthermore, in the case of joint ventures, innocent parties would not be punished by the activities of their partners (H. Rept. 95–590, p. 143).

In view of the national goal of increasing domestic production (discussed above), and DOE's authority to issue diligence regulations, it is appropriate that DOE determine whether new diligence regulations are needed and, if so, the form they should take.

II. Issues for Comment

The subject of OCS diligence is complex. To determine whether the promulgation of regulations by DOE is necessary in this area, DOE seeks the views of all interested persons. While respondents can offer comments on any topic germane to OCS due diligence, DOE is especially interested in public comment on the following issues.

(1) How should the term "due diligence" be interpreted and defined by DOE to ensure the timely exploration and development of leases?

(2) Are new regulations needed to define or adequately enforce due diligence? If so, what should be the basic approach and structure for such regulations?

(3) Should separate exploration plans be developed and approved for each lease, or can exploration plans be developed for several leases concurrently and still ensure diligent exploration of all leases? Explain the economic, engineering, geologic, and administrative considerations that affect this issue.

(4) If a firm holds a number of leases in the same area, must it drill on every lease to determine adequately and "diligently" their resource potential?

(5) How should an OCS diligence regulation allow for special problems and unique circumstances, such as: unitization agreements, regional differences, variations in climates, and State permitting delays?

(6) It appears that the factors which influence pre-production due diligence can be identified with two phases of the lease exploration and development cycle—lease issuance to the date of resource discovery, and date of a resource discovery to the date of commercial production. What factors affect the timing and completion of activities in each phase? Is this distinction reasonable and relevant to drafting due diligence regulations?

(7) There may be legitimate difficulties that prevent a lessee from meeting planned exploration or development time frames. Usually deep water, harsh climate conditions and supply shortages are examples of such difficulties. What are other examples of such obstacles? How can a regulation be drafted that does not unfairly penalize a lessee who is subject to these difficulties, and that promotes a steady, earnest, and energetic application of effort?

(8) Explain and compare actual or potential private and social costs and benefits of various government actions—regulatory and enforcement—to ensure "OCS diligence". For example, given a particular course of regulatory action by the Federal Government, quantify, where possible, the expected additional burdens to be borne by industry and the corresponding benefits accruing to society as a whole.

(9) In addition to the authority to cancel leases, how else should the Federal Government ensure compliance with due diligence requirements?

(10) One potential approach for developing and implementing due diligence regulations is a "milestone" approach, that is, DOE establishes by regulation reasonable periods of time for accomplishing various milestone activities in the lease exploration and development process. Exploration milestones could include the submission of exploration plans, evidence of completion of an exploratory well, and other accomplishments leading up to the discovery of commercially producible quantities of oil and gas. Development milestones would include the completion of one or more development wells and the construction of pipelines or barge terminals to be used in the transport of the anticipated production. If a milestone is not met, the lease could be cancelled or other remedies applied. What are the advantages, disadvantages, and implications of this approach for defining and administering OCS diligence? How does this approach affect and influence economic incentives for exploring and developing a lease?

(11) From the standpoint of State and local authorities, what problems will be solved or created by the promulgation by DOE of new due diligence regulations?

(12) How much time is needed to secure required Federal, State, and local permits to develop and explore leases?

(13) How can the permitting process (both Federal and State) be made more efficient so that firms are not needlessly delayed in their efforts to develop OCS leases?

(14) What impacts would due diligence regulations have on OCS support industries?

III. Comment Procedures

You are invited to participate in this inquiry by mailing or by hand-delivering written data, views, or arguments with respect to the issues set forth in this notice and other relevant matters to the Office of Leasing Policy Development whose address is listed at the beginning of this notice. You should submit ten copies of your comments and clearly indicate that they are in response to this notice by marking both the envelope and the comments with: "OCS Diligence, Docket No. LPD–79–01." We will consider all comments received by 4:30 p.m. of the final day for comments and other relevant information.

Any information considered to be confidential must be clearly identified, and submitted separately in one copy only. DOE reserves the right to determine the confidential status of the information and to treat the information according to this determination.

Public hearings are not required at this preliminary stage in the OCS diligence consideration process. We will provide an opportunity for oral presentation with any proposed rules.

Issued in Washington, D.C., May 4, 1979.

George S. Mclsaac,

Assistant Secretary, Resource Applicotions.

[FR Doc. 79–14891 Filed 5–11–79; 8:45 am]

BILLING CODE 6450–01–M

Proposed Consent Order With Continental Oil Co.

I. Introduction

Pursuant to 10 C.F.R. 205.199J, the Office of Special Counsel of the Department of Energy (DOE) hereby gives Notice of a Consent Order which was executed between Continental Oil Company (Conoco) and the DOE on March 12, 1979. In accordance with that Section, DOE will receive comments with respect to this Consent Order. Although DOE has signed and tentatively accepted this Consent Order, DOE may, after consideration of comments received, withdraw its acceptance and, if appropriate, attempt to negotiate an alternative Consent Order.

II. The Consent Order

Continental Oil Company is a refiner engaged in the production of crude oil, in refining, and in the marketing of petroleum products subject to DOE regulations.

On May 15, 1973 Conoco sold No. 2 oils to some consumers from its bulk plants at prices which reflected discounts customarily afforded to those consumers, and which were not offered to Conoco's other bulk plant consumers. Conoco included the consumers receiving discounted prices in the same class of purchaser at each terminal as consumers not receiving discounted prices, and calculated the weighted average May 15, 1973 selling prices for these classes without consideration of the sales made to the identifiable consumers receiving discounted prices.

As a result of Conoco's failure to treat those customers who had been receiving discounted prices as individual classes separate and apart from the regular consumer classes established at each bulk plant, and also as a result of Conoco's not considering the discounted prices in its calculations, Conoco used erroneous May 15, 1973 weighted average selling prices as the base figure to which increased costs were added in calculating prices charged to these identifiable customers.

DOE notified Conoco of the apparent error, and the company proceeded to identify three hundred fifty-five (355) customers within its bulk plant consumer classes of purchaser who should have had May 15, 1973 weighted average selling prices that reflected discounted prices. The excess revenues received by Conoco in subsequent sales caused by using these incorrect May 15, 1973 weighted average prices were $842,415.41 for the period December 1, 1973 through June 30, 1976.

Conoco attempted to bring itself into compliance with the pricing rules contained in 10 C.F.R. Sections 212.82 and 212.83 and their predecessors by treating each consumer receiving a discounted price on May 15, 1973 as a separate class of purchaser, and by refunding the differential caused by the use of the proper weighted average May 15, 1973 price. In addition to the $842,415.41 so calculated, Conoco paid interest of this amount, calculated through February 28, 1977, the day on which Conoco made the refunds. Interest was calculated at a simple rate of 6% on amounts outstanding prior to July 1, 1975; 9% on amounts outstanding from July 1, 1975 through January 31, 1976; and 7% on amounts outstanding from February 1, 1976 through January 31, 1976; and 7% on amounts outstanding from February 1, 1976 through February 28, 1977.

In resolution of the issue raised, DOE and Conoco executed a Consent Order on March 12, 1979, the significant terms of which are as follows:

(1) The Office of Special Counsel has determined that implementation of the original refund, including interest, previously described and the treatment of each customer receiving a discount on May 15, 1973 as a separate class of purchaser constitutes an appropriate remedy for those customers.

(2) Further review has indicated that additional customers should be added to the list of those entitled to refunds, and the Office of Special Counsel has determined that these additional customers should receive refunds totalling $2,350 plus interest calculated to the date of payment. Interest on this amount is to be calculated in the same manner as the original refund except that interest from February 1, 1976 to January 31, 1978 will be calculated at a simple rate of 7%; and a rate of 6% will be applied to amounts outstanding after February 1, 1978.

(3) The procedures for publication and comment set forth in 10 C.F.R. Section 205.199(J) shall apply to this document.

III. Submission of Written Comment

Interested persons are invited to comment in writing to Mr. Bill Eaton, Deputy Director-Houston, Southwest District, Office of Special Counsel, Department of Energy, One Allen Center, Suite 660, 500 Dallas Street, Houston, Texas 77002. Copies of this Consent Order may be received free of charge by written request to this same address or by calling (713) 226–5421.

Comments should be identified on the outside of the envelope and on documents submitted with the designation, "Comments on Continental Oil Company Consent Order." All comments received by 4:30 p.m. CDT, on or before the 30th calendar day following publication of this notice will be considered by DOE in evaluating the Consent Order.

Any information or data which, in the opinion of the person furnishing it, is confidential must be identified as such and submitted in accordance with the procedures outlined in 10 C.F.R. 205.9(f).

Issued in Washington, D.C. April 24, 1979.

Paul L. Bloom,

Special Counsel for Compliance.

[Case No. 660R00101]

[FR Doc. 79–14893 Filed 5–11–79; 8:45 am]

BILLING CODE 6450–01–M

Economic Regulatory Administration

Consolidated Edison Co. of New York, Inc.; Application for Certification of Use of Natural Gas To Displace Fuel Oil

Take notice that on April 9, 1979, Consolidated Edison Company of New York, Inc., (Con Ed), 4 Irving Place, New York, New York 10003, filed an application pursuant to 10 CFR Part 595 (44 FR 20398, April 5, 1979) for a certification of an eligible use of natural gas to displace fuel oil, all as more fully set forth in the application on file with the Economic Regulatory Administration (ERA) and open to public inspection between 8:00 a.m. and 4:30 p.m., Monday through Friday, except Federal holidays.

Room 6317, 2000 M Street, N.W., Washington, D.C. 20461.

In its application, Con Ed stated that it contracted to purchase approximately 100,000 dekatherms of natural gas per day from Consolidated Gas Supply Corporation. This natural gas will be used to displace an annual volume of approximately 5,997,000 barrels of oil in Con Ed's steam and electric generating facilities in New York City. The gas will not be used to displace coal as Con Ed does not own or operate any facilities which burn coal. There is pending at the Federal Energy Regulatory Commission (FERC) an applicant (Docket No. CP79-228) by Transcontinental Gas Pipe Line Corp. to transport this supply of natural gas to Con Ed. The application also relates to additional requests for certificates which may be filed with the FERC to transport fuel oil displacement gas previously purchased by Con Ed from National Fuel Gas Distribution Corporation.

The Administrator, Economic Regulatory Administration (Administrator), has carefully reviewed the Con Ed application in accordance with 10 CFR Part 595 and the policy considerations expressed in the Interim-Final Rulemaking Regarding Procedures for Certification of the Use of Natural Gas for Fuel Oil Displacement (44 FR 20398, April 5, 1979). The Administrator has determined that the Con Ed application satisfies the criteria enumerated in 10 CFR Part 595 and, therefore, has certified Con Ed's use of the natural gas as an eligible use and transmitted that certification to the FERC. The transmittal letter and the actual certification are appended to this notice.

This certification is being issued prior to public notice of this application because of the public interest in the immediate displacement of such a large volume of imported residual fuel oil proposed by Con Ed. Immediate displacement of this fuel oil will have a singificant beneficial impact on DOE's oil displacement program. In order to provide the public with as much opportunity to participate in the proceeding as is practicable under the circumstances, and in view of the ability of the Administrator to terminate a certification for good cause (see 10 CFR Section 595.06), we are inviting any person wishing to comment concerning this application to submit comments in writing to the Economic Regulatory Administration, 2000 M Street, N.W., Room 6318, Washington, D.C. 20461, Attention: Mr. Finn K. Neilsen, by May 24, 1979.

An opportunity to make an oral presentation of data, views, and arguments either against or in support of this certification may be requested by any interested person in writing within the ten (10) day comment period. The request should state the person's interest, and, if appropriate, why the person is a proper representative of a group or class of persons that has such an interest. The request should include a concise summary of the proposed oral presentation and a statement as to why an oral presentation is necessary. If ERA determines an oral presentation is required, further notice will be given to Con Ed and all persons filing comments, and filing in the **Federal Register.**

Issued in Washington, D.C., May 3, 1979.

Barton R. House,

Assistant Administrator, Fuels Regulation, Economic Regulatory Administration.

Appendix One

Department of Energy, Washington, D.C. 20461, *May 2, 1979*

Mr. Kenneth F. Plumb, Secretary,
Federal Energy Regulatory Commission, 825 North Capitol Street, NE., Washington, D.C. 20426.

Re: ERA Certification of Eligible Use, ERA Docket No. 79-CERT-002; Consolidated Edison Company of New York, Inc.

Dear Mr. Plumb: Pursuant to the provisions of 10 CFR Part 595, I am hereby transmitting the enclosed certification of an eligible use of natural gas to displace fuel oil to the FERC. This certification may be used by the FERC in its proceedings held on the appropriate application under section 7(c) of the Natural Gas Act for a certificate of public convenience and necessity authorizing the transportation of this certified natural gas in interstate commerce. A copy of the enclosed certification is also being published in the **Federal Register** and provided to the applicant.

Should the FERC have any further questions, please contact Mr. Finn K. Neilsen, Director, Import/Export Division, Economic Regulatory Administration, 2000 M Street, N.W., Room 6318, Washington, D.C. 20461, telephone (202) 254-9730. All correspondence and inquiries regarding this certification should reference ERA Docket No. 79-CERT-002.

Sincerely,

David J. Bardin,

Administrator, Economic Regulatory Administration.

Certification by the Economic Regulatory Administration to the Federal Energy Regulatory Commission of the Use of Natural Gas for Fuel Oil Displacement by the Consolidated Edison Co. of New York, Inc.

Application for Certification

Pursuant to 10 CFR 595.05, an application for certification of an eligible use of 100,000 dekatherms of natural gas per day at six steam and gas turbine electric generation facilities in New York City was filed by the Consolidated Edison Company of New York, Inc. (Con Ed) with the Administrator on April 9, 1979. Attached to the application was an affidavit stating, among other things, that the natural gas would displace 5,997,000 barrels of distillate and residual fuel oil during the period May 1, 1979-April 30, 1980. The application states the gas will be purchased from the Consolidated Gas Supply Corporation and transported to Con Ed by the Transcontinental Gas Pipe Line Corporation. There is pending at the Federal Energy Regulatory Commission an application by Transcontinental to transport this gas (FERC Docket No. CP79-228).

The application also states that Con Ed has previously purchased additional fuel oil displacement gas from National Fuel Gas Distribution Corporation. That gas is being transported pursuant to certificates issued by the Commission in Dockets CP79-221 and CP79-214, and additional transportation certificate applications may be filed by other interstate pipelines relating to that gas. The application indicates the gas purchased by Con Ed from National will displace an estimated 3,716,000 barrels of distillate and residual fuel oil on an annual basis (May 1, 1979-April 30, 1980) at Con Ed's New York City electric generation facilities. In addition, the applicant states neither the gas nor the displaced oil will be used to displace coal in applicant's facilities.

Certification

Based upon a review of the information submitted pursuant to the applicant's request, as well as other information available to ERA, the Administrator certifies, pursuant to 10 CFR 595 that the use of natural gas purchased by Con Ed from Consolidated Gas Supply Corporation and National Fuel Gas Distribution Corporation is an eligible use of gas within the meaning of 10 CFR 595.02.

Effective Date

This certification is effective upon the date of issuance, and expires one year from that date.

Issued in Washington, D.C. on April 27, 1979.

David J. Bardin,

Administrator, Economic Regulatory Administration.

[ERA Docket No. 79-CERT-002]

[FR Doc. 79-14930 Filed 5-11-79; 8:45 am]

BILLING CODE 6450-01-M

Transitional Facilities; Availability of Forms for Certifying Eligibility for Automatic Classification or Requesting Classification as an Existing Powerplant or Installation

AGENCY: Economic Regulatory Administration, Department of Energy.

SUMMARY: On March 15, 1979, the Economic Regulatory Administration (ERA) of the Department of Energy (DOE) issued the Revised Interim Rule to Permit Classification of Certain Powerplants and Installations as Existing Facilities for purposes of implementing provisions of Title II and III of the Powerplant and Industrial Fuel Use Act of 1978 (FUA) (44 FR 17464, March 21, 1979).

The Revised Interim Rule provides that eligible transitional facilities for which construction or acquisition began before November 9, 1978, may automatically, or by determination, be classified "existing" by submission of a prescribed certification or a request for classification.

ERA hereby gives notice of the issuance of the following ERA Forms to be used for certification of eligibility for automatic classification or requesting classification as "existing":

ERA 300A—Transitional Powerplant Request for Existing Facility Classification.

ERA 300B—Transitional Major Fuel Burning Installation Request for Existing Facility Classification.

ERA 300C—Transitional Powerplant and Installation Certification of Eligibility for Classification as existing.

FOR FURTHER INFORMATION CONTACT:
Alfred C. Metz, Department of Energy, Economic Regulatory Administration, Office of Fuels Conversion, Room 7216D, 2000 M Street, NW, Washington, D.C. 20461, (202) 254-7351.

SUPPLEMENTARY INFORMATION:

I. Background.
II. Obtaining Forms.

I. Background

Proposed ERA Forms 300A and 300B to be used in conjunction with transitional facilities were published for public comment in the **Federal Register** on December 4, 1978 (43 FR 56703). The forms announced herein have been revised and abbreviated as a result of comments received and to conform to the Revised Interim Rule. Also, to conform to the Revised Interim Rule, ERA Form 300C has been developed for submission of certification of eligibility for automatic classification as "existing."

II. Obtaining Forms

ERA Forms 300A, 300B, and 300C are available upon request to ERA and may be obtained by calling Mr. Alfred Metz at (202) 254-7351, or writing to:

Department of Energy, Economic Regulatory Administration, Office of Fuels Conversion, Room 7216D, (Transitional Facilities Forms), 2000 M Street NW., Washington, D.C. 20461.

Issued at Washington, D.C. on May 7, 1979.

Barton R. House,

Assistant Administrator, Fuels Regulation, Economic Regulatory Administration.

[FR Doc. 79-14889 Filed 5-11-79; 8:45 am]

BILLING CODE 6540-01-M

Phoenix Steel Corp.; Application for Certification of the Use of Natural Gas To Displace Fuel Oil

Take notice that on April 23, 1979, Phoenix Steel Corporation, (Phoenix), 4001 Philadelphia Pike, Claymont, Delaware 19703, filed an application pursuant to 10 CFR Part 595 (44 FR 20398, April 5, 1979) for a certification of an eligible use of natural gas to displace fuel oil, all as more fully set forth in the application on file with the Economic Regulatory Administration (ERA) and open to public inspection between 8:00 a.m. and 4:30 p.m., Monday through Friday, except Federal holidays, Room 6317, 2000 M Street, N.W., Washington, D.C. 20461.

In its application, Phoenix stated that the volume of natural gas subject to certification is 368,000 Mcf for the period May 1—November 1, 1979, the eligible seller is Delhi Gas Pipeline Corp., Fidelity Union Tower, Dallas, Texas 75201. This natural will be used to displace approximately 2,057,000 gallons of No. 6 (1% max. sulfur) and 450,000 of No. 2 (0.3 max. sulfur) fuel oil and will be transported by Transcontinental Gas Pipeline Corp. 2700 S. Post Oak Road, Houston, Texas 77001.

In order to provide the public with as much opportunity to participate in this proceeding as is practicable under the circumstances, we are inviting any person wishing to comment concerning this application to submit comments in writing to the Economic Regulatory Administration, Room 6318, 2000 M Street, N.W., Washington, D.C. 20461, Attention: Mr. Finn K. Neilsen, by May 24, 1979.

An opportunity to make an oral presentation of data, views, and arguments either against or in support of this application may be requested by any interested person in writing within the ten (10) day comment period. The request should state the person's interest, and, if appropriate, why the person is a proper representative of a group or class of persons that has such an interest. The request should include a summary of the proposed oral presentation and a statement as to why an oral presentation is necessary. If ERA determines an oral presentation is required, further notice will be given to Phoenix Steel Corporation, and any persons filing comments, and filed in the **Federal Register.**

Issued in Washington, D.C., May 7, 1979.

Barton R. House,

Assistant Administrator, Office of Fuels Regulation, Economic Regulatory Administration.

[FR Doc. 79-14886 Filed 5-11-79; 8:45 am]

BILLING CODE 6450-01-M

Martin Unit No. 1; Florida Power & Light Co.

AGENCY: Economic Regulatory Administration, Department of Energy.

ACTION: Notice of request for classification.

SUMMARY: On April 17, 1979, Florida Power & Light Company (FPL) requested the Economic Regulatory Administration (ERA) of the Department of Energy (DOE) to classify Martin Unit No. 1 as an existing facility pursuant to § 515.6 of the Revised Interim Rule to Permit Classification of Certain Powerplants and Installations as Existing Facilities (Interim Rule) issued by ERA on March 15, 1979 (44 FR 17464) and pursuant to the provisions of the Powerplant and Industrial Fuel Use Act of 1978, Pub. L. 95-620 (FUA). FUA, which will become effective May 8, 1979, imposes certain statutory prohibitions against the use of natural gas and petroleum by new and existing electric powerplants. ERA's decision in this matter will determine whether Martin Unit No. 1 is a new or existing powerplant. The prohibitions which apply to existing powerplants are different from those which apply to new powerplants. The purpose of this Notice is to invite interested persons to submit written comments on this matter prior to the issuance of a final decision by ERA. In accordance with § 515.25 of the Interim Rule, no public hearings will be held.

DATES: Written comments are due on or before June 4, 1979.

ADDRESSES: Ten copies of written comments shall be submitted to:
Department of Energy, Case Control Unit, Box 4629, Room 2313, 2000 M Street, N.W., Washington, D.C. 20461.

FOR FURTHER INFORMATION CONTACT:
William L. Webb (Office of Public Information), Economic Regulatory Administration, Department of Energy, 2000 M Street, N.W., Room B-110, Washington, D.C. 20461, Phone (202) 634-2170.
Charles A. Falcone, Director, Power Supply and Reliability, Economic Regulatory Administration, Department of Energy, 2000 M Street, N.W., Washington, D.C. 20461. (202) 634-5620.
James H. Heffernan (Office of the General Counsel), Department of Energy, 12th and

Pennsylvania Avenue, N.W., Room 7134, Washington, D.C. 20461, (202) 633–8814.

SUPPLEMENTARY INFORMATION: Florida Power & Light Company (FPL) is a corporation organized under the laws of the State of Florida. FPL supplies electric service in most of the territory along the east and lower west coasts of Florida.

FPL stated that it executed contracts in 1973 for the construction of a 755 MW, No. 6 residual fuel oil fired generating unit to be known as Martin No. 1, in Martin County, Florida, and that commercial operation is scheduled for May 30, 1980.

On April 17, 1979, pursuant to ERA's Revised Interim Rule to Permit Classification of Certain Powerplants and Installations as Existing Facilities (Interim Rule) issued on March 15, 1979, FPL requested that ERA classify Martin No. 1 as an existing facility. In accordance with § 515.6 of ERA's Interim Rule, a powerplant will be classified as existing if the cancellation, rescheduling or modification of the construction or acquisition of a powerplant would result in a substantial financial penalty or an adverse effect on the electric system reliability. FPL supported its request for classification by providing evidence in support of their claim that their consumers would suffer both a substantial financial penalty and that there would be a significant impairment of reliability if Martin No. 1 were not permitted to proceed as an oil-burning facility.

A summary of the evidence requirements and FPL's response to those requirements follows:

Substantial financial penalty—Pursuant to § 515.6(a) of the Interim Rule, ERA will classify a facility as existing upon a demonstration that at least 25 percent of the total projected project cost as of November 9, 1978 was expended in nonrecoverable outlays as of November 9, 1978.

In response to the evidence requirements of Section 515.7(b)(1) of the Interim Rule, FPL provided the following information:

—Total projected cost on 11/9/78 was $265,607,900
—Total project expenditures on 11/9/78 were $173,509,048
—Total claimed financial penalty (including obligations and cancellation charges as of 11/9/78) was $147,994,189
—Total recoverable expenditures were $41,336,410

FPL provided the following additional information which FPL believes ERA should consider:

—additional expenditures of approximately $29 million made between 11/9/78 and 5/8/79 when the Fuel Use Act goes into effect.
—$50 million estimated operating power costs due to unavailability of Martin Units No. 1 and 2 during reconstruction. (Martin No. 2 is a similar facility which is scheduled for operation 6/1/81.)
—$100 million carrying costs of original oil plant equipment used in conversion to alternate fuel burning facility.

Adverse effect on electric system reliability—Pursuant to § 515.6(b) of the Interim Rule, ERA will classify a facility as existing upon demonstration that the reserve margin in the electric region in which the powerplant will be located would be reduced to less than 20 percent during the 12-month period after the proposed powerplant was to begin operation, assuming that the proposed powerplant is not completed. Demonstration of an adverse effect on the utility's ability to provide service during the 12-month period following scheduled operation and/or an adverse effect on reliability after the 12-month period may also be made. In response to the evidence requirements of § 515.7(c)(1) of the Interim Rule, FPL provided the following materials:

—A description of the FPL service area, including maps. Interconnections with other utilities were listed and a State of Florida Electric System map was provided.
—Summer and winter projections of peakload for FPL and 13 other members of the Florida Electric Power Coordinating Group (FCG) were furnished. Net dependable capacity figures for FCG were also furnished, excluding Martin Units No. 1 and 2 and 371 MW of cold standby capacity (which would take several months to activate, assuming environmental requirements could be met). Base scenario reserves were determined for FCG and range from 19.4 to 9.1 percent for the 1980, 1981 and 1982 summer periods and the winters of 1980/81, 1981/82 and 1982/83.
—Additional scenarios for FCG were provided under varying assumptions, including maintenance of one and both Turkey Point nuclear units located in Southeast Florida and materialization of a high load forecast (FPL states that there is a 50 percent chance that load growth will exceed base scenario load growth—high band forecast is "worst" case). FPL also provided similar scenarios for the Southeast Florida area where over half the FPL load and 3 million people are concentrated. Reserves based on those scenarios are lower than those for FCG.

FPL cites a recent report by the Florida Public Service Commission (PSC) "Final Report on Southeast Florida's susceptibility to Blackout's (February 1, 1978) in which FPL was encouraged to speed up construction of base load generating unit additions in Southeast Florida. Further, FPL cites a PSC "Final Report of the Florida Public Service Commission" (January 8, 1979) in which system reliability is projected to decrease even with the addition of Seminole Units No. 1 and 2 in Southeast Florida. The dates for Seminole Units No. 1 and 2 were not indicated, but FPL notes that the PSC "assumes all units currently planned, including Martin Units No. 1 and 2, will be completed as scheduled".

ERA hereby invites all interested persons to submit written comments on this matter.

The public file, containing FPL's request for classification and supporting materials, is available for inspection upon request at:

ERA, Room 7202, 2000 M Street, N.W., Washington, D.C. 20461, Monday-Friday, 8:00 a.m.–4:30 p.m.

Issued in Washington, D.C. on May 7, 1979.

Barton R. House,

Assistant Administrator, Fuels Regulation, Economic Regulatory Administration.

[ERA Case No. 51006-6043-01-77]
[FR Doc. 79-14932 Filed 5-11-79; 8:45 am]
BILLING CODE 6450-01-M

Martin Unit No. 2; Florida Power & Light Co.

AGENCY: Economic Regulatory Administration, Department of Energy

ACTION: Notice of request for classification.

SUMMARY: On April 9, 1979, florida Power & Light Company (FPL) requested the Economic Regulatory Administration (ERA) of the Department of Energy (DOE) to classify Martin Unit No. 2 as an existing facility pursuant to § 515.6 of the Revised Interim Rule to Permit Classification of Certain Powerplants and Installations as Existing Facilities (Interim Rule) issued by ERA on March 15, 1979 (44 FR 17464) and pursuant to the provisions of the Powerplant and Industrial Fuel Use Act of 1978, Pub. L. 95–620 (FUA). FUA, which will become effective May 8, 1979, imposes certain statutory prohibitions against the use of natural gas and petroleum by new and esisting electric powerplants. ERA's decision in this matter will determine whether Martin Unit No. 2 is a new or existing powerplant. The prohibitions which apply to existing powerplants are different from those which apply to new powerplants.

The purpose of this Notice is to invite interested persons to submit written comments on this matter prior to the issuance of a final decision by ERA. In accordance with § 515.25 of the Interim Rule, no public hearings will be held.

DATES: Written comments are due on or before June 4, 1979.

ADDRESSES: Ten copies of written comments shall be submitted to: Department of Energy, Case Control Unit, Box 4629, Room 2313, 2000 M Street, N.W., Washington, D.C. 20461.

FOR FURTHER INFORMATION CONTACT:

William L. Webb, (Office of Public Information), Economic Regulatory Administration, Department of Energy, 2000 M Street, N.W., Room B–110, Washington, D.C. 20461, Phone (202) 634–2170.

Charles A. Falcone, Director, Power Supply and Reliability, Economic Regulatory Administration, Department of Energy, 2000 M Street, N.W., Washington, D.C. 20461, (202) 634–5620.

James H. Heffernan, (Office of the General Counsel), Department of Energy, 12th & Pennsylvania Ave., N.W., Room 7134, Washington, D.C. 20461, (202) 633–8814.

SUPPLEMENTARY INFORMATION: Florida Power & Light Company (FPL) is a corporation: organized under the laws of the State of Florida. FPL supplies electric service in most of the territory along the east and lower west coasts of Florida.

FPL stated that it executed contracts in 1973 for the construction of a 775 MW, No. 6 residual fuel oil fired generating unit, to be known as Martin No. 2, in Martin County, Florida, and that commerical operation is scheduled for June 1, 1981. On April 9, 1979, pursuant to ERA's Revised Interim Rule to Permit Classification of Certain Powerplants and Installations as Existing Facilities (Interim Rule) issued by ERA on March 15, 1979, FPL requested that ERA classify Martin No. 2 as an existing facility. A conference was held at FPL's request on Wednesday, April 18, 1979.

In accordance with § 515.6 of ERA's Interim Rule a powerplant will be classified as existing of the cancellation, rescheduling or modification of the construction or acquisition of a powerplant would result in a substantial financial penalty or an adverse effect on the electric system reliability. FPL supported its request for classification by providing evidence in support of their claim that their consumers would suffer both a substantial financial penalty and that there would be a significant impairment of reliability if Martin No. 2 were not permitted to proceed as an oil-burning facility. A summary of the evidence requirements and FPL's response to those requirements follows:

Substantial financial penalty—Pursuant to Section 515.6(a) of the Interim Rule ERA will classify a facility as existing upon a demonstration that at least 25 percent of the total projected project cost as of November 9, 1978, was expended in nonrecoverable outlays as of November 9, 1978.

In response to the evidence requirements of § 515.7(b) (1) of the Interim Rule, FPL provided the following information:

—Total projected cost on 11/9/78 was $211,797,000.
—Total project expenditures on 11/9/78 were $79,346,455.
—Total claimed financial penalty (including obligation and cancellation charges as of 11/9/78) was $79, 393,709.
—Total recoverable expenditures were $32,278,019.

FPL provided the following additional imformation which FPL believes ERA should consider:

—Additional expenditures of approximately $25 million made between 11/9/78 and 5/8/79 when the Fuel Use Act goes into effect.
—$10 million estimated purchased power costs due to unavailability of Martin No. 2 during re-construction.
—$50 million carrying costs of original oil plant equipment used in conversion to alternate fuel burning facility.

Adverse effect on electric system reliability—Pursuant to Section 515.6(b) of the Interim Rule ERA will classify a facility as existing upon a demonstration that the reserve margin in the electric region in which the powerplant will be located would be reduced to less than 20 percent during the 12-month period after the proposed powerplant was to begin operation assuming that the proposed powerplant is not completed. Demonstration of an adverse effect on the utility's ability to provide service during the 12-month period following scheduled operation and/or an adverse affect on reliability after the 12-month period may also be made. In response to the evidence requirements of § 515.7(c)(1) of the Interim Rule, FPL provided the following materials:

—A description of the FPL service area, including maps. Interconnections with other utilities were listed and a State of Florida Electric System Map was provided.
—Summer and winter projections of peakload for FPL and 13 other members of the Florida Electric Power Coordinating Group (FCG) were furnished. Net dependable capacity figures for FCG were also furnished, excluding Martin No. 2 and 371 MW of cold standby capacity (shich would take several months to activate, assuming environmental requirements could be met). Base scenario reserves were determined for FCG and range from 18.4 to 12.7 percent for the 1981 and 1982 summer periods and the winters of 1981/82 and 1982/83.
—Additional scenarios for FCG were provided under varying assumptions, including maintenance of one and both Turkey Point nuclear units located in Southeast Florida and materialization of a high band load forecast (FPL states that there is a 50 percent chance that loan growth will exceed base scenario load growth—high band forecast is "worst"case). FPL also provided similar scenarios for the Southeast Florida area where over half the FPL load and 3 million people are concentrated. Reserves based on those scenarios are lower than those for FCG.

FPL cites a recent report by the Florida Public Service Commission (PSC) " Final Report on Southeast Florida's susceptibility to Blackouts" (Feb. 1, 1978) in which FPL was encouraged to speed up construction of base load generating unit additions in Southeast Florida. Further FPL cites a PSC "Final Report of the Florida Public Service Commission" (Jan. 8, 1979) in which system reliability is projected to decrease even with the addition of Seminole Units No. 1 and 2 located in Southeast Florida. The dates for Seminole Units No. 1 and 2 were not indicated but FPL notes that the PSC "assumes all units currently planned, including Martin No. 2, will be completed as scheduled:.

ERA hereby invites all interested persons to submit written comments on this matter.

The public file containing FPL's request for classification, supporting materials and a transcript of the April 18, 1979 conference is available for inspection upon request at: ERA, Room 7202, 2000 M St., N.W., Washington, D.C. 20461, Monday-Friday, 8:00 a.m.–4:30 p.m.

Issued in Washington, D.C. on May 7, 1979.

Barton R. House,

Assistant Administrator, Fuels Regulation, Economic Regulatory Administration.

[ERA Case No. 51006-6043-02-77]
[FR Doc. 79-14931 Filed 5-11-79; 8:45 am]
BILLING CODE 6450-01-M

V 4 4 / 9 4

Federal Energy Regulatory Commission

American Petrofina Co. of Texas, et al.; Applications for Certificates, Abandonment of Service and Petitions To Amend Certificates[1]

May 4, 1979.

Take notice that each of the Applicants listed herein has filed an application or petition pursuant to Section 7 of the Natural Gas Act for authorization to sell natural gas in interstate commerce or to abandon service as described herein, all as more fully described in the respective applications and amendments which are on file with the Commission and open to public inspection.

It appears reasonable and consistent with the public interest in this case to prescribe a period shorter than 10 days for the filing of protests and petitions to intervene. Therefore, any person desiring to be heard or to make any protest with reference to said application should on or before May 17, 1979, file with the Federal Energy Regulatory Commission, Washington, D.C. 20426, a petition to intervene or a protest in accordance with the requirements of the Commission's Rules of Practice and Procedure (18 CFR 1.8 or 1.10). All protests filed with the Commission will be considered by it in determining the appropriate action to be taken but will not serve to make the protestants parties to the proceeding. Any person wishing to become a party to a proceeding or to participate as a party in any hearing therein must file a petition to intervene in accordance with the Commission's Rules.

Take further notice that, pursuant to the authority contained in and subject to the jurisdiction conferred upon the Federal Energy Regulatory Commission by Sections 7 and 15 of the Natural Gas Act and the Commission's Rules of Practice and Procedure a hearing will be held without further notice before the Commission on all applications in which no petition to intervene is filed within the time required herein if the Commission on its own review of the matter believes that a grant of the certificates or the authorization for the proposed abandonment is required by the public convenience and necessity. Where a petition for leave to intervene is timely filed, or where the Commission on its own motion believes that a formal hearing is required, further notice of such hearing will be duly given.

Under the procedure herein provide for, unless otherwise advised, it will be unnecessary for Applicants to appear or to be represented at the hearing.

Kenneth F. Plumb,
Secretary

Docket No. and date filed	Applicant	Purchaser and location	Price per Mcf	Pressure base
G-14614, C, 6/29/78	American Petrofina Company of Texas, P.O. Box 2159, Dallas, Texas 75221.	Pacific Northwest Pipeline Corporation, Blanco Basin Field, Rio Arriba County, New Mexico.	(1)	14.65
CI76-361, C, 9/14/78	Northwest Exploration Company, P.O. Box 1526, Salt Lake City, Utah 84110.	Northwest Pipeline Corporation, Philadelphia Creek Field, Rio Blanco, County, Colorado.	(1)	14.73
CI78-416, C, 11/9/78	Sun Oil Company, P.O. Box 20, Dallas, Texas 75221.	El Paso Natural Gas Company, S.W. Cheyenne Field, Roger Mills, County, Oklahoma.	(1)	14.73
CI78-617, C, 11/8/78	Atlantic Richfield Company, P.O. Box 2819, Dallas, Texas 75221.	El Paso Natural Gas Company, Millman Area, Eddy County, New Mexico.	(1)	14.73

[1] Applicant is filing under Gas Purchase Contract dated 11-27-56, amended by amendment dated 6-8-78.
[2] Applicant is willing to accept the applicable national rate pursuant to Opinion No. 770-A, as amended.

Filing code: A—Initial Service. B—Abandonment. C—Amendment to add acreage. D—Amendment to delete acreage. E—Total Succession. F—Partial Succession

[Docket Nos. C-14614 et al.]
[FR Doc. 79-14858 Filed 5-11-79; 8:45 am]
BILLING CODE 6450-01-M

Advisory Committee on Revision of Rules of Practice and Procedure, Subcommittee on Ex Parte and Separation of Functions; Meeting

May 9, 1979.

Pursuant to the provisions of the Federal Advisory Committee Act (Pub. L. 92-463, 86 Stat. 770), notice is hereby given that the Subcommittee on Ex Parte and Separation of Functions of the Advisory Committee on Revision of Rules of Practice and Procedure will meet Thursday, May 24, 1979 from 2 p.m. to 5 p.m., at the Federal Energy Regulatory Commission, 825 N. Capitol St., N.E., Room 8402, Washington, D.C.

The purpose of the subcommittee meeting is to continue discussion of a staff proposal on revising the Federal Energy Regulatory Commission's rules on ex parte and separation of functions.

The meeting is open to the public. A transcript of the meeting will be available for public review and copying at FERC's Office of Public Information, Room 1000, 825 North Capitol Street, N.E., between the hours of 8:30 a.m. and 5:00 p.m. Monday through Friday except Federal holidays. In addition, any person may purchase a copy of the transcript from the reporter.

Kenneth F. Plumb,
Secretary
[FR Doc. 79-14854 Filed 5-11-79; 8:45 am]
BILLING CODE 6450-01-M

Adams Drilling Co. et al.; Determination by a Jurisdictional Agency Under the Natural Gas Policy Act of 1978

May 1, 1979.

On April 25, 1979, the Federal Energy Regulatory Commission received notices from the jurisdictional agencies listed below of determinations pursuant to 18 CFR 274.104 and applicable to the indicated wells pursuant to the National Gas Policy Act of 1978.

Ohio Department of Natural Resources

FERC Control Number: JD79-3862
API Well Number: 3410521612**14
Section of NGPA: 108
Operator: Adams Drilling Company
Well Name: Goeglein Hysell #1
Field: NA
County: Meigs
Purchaser: Columbia Gas Transmission Corp.
Volume: 1 MMcf.

FERC Control Number: JD79-3863
API Well Number: 3410521591**14
Section of NGPA: 108
Operator: Adams Drilling Company
Well Name: Adrian Carson #1

[1] This notice does not provide for consolidation for hearing of the several matters covered herein.

Field: NA
County: Meigs
Purchaser: Columbia Gas Transmission Corp.
Volume: 3 MMcf.

FERC Control Number: JD79-3864
API Well Number: 3410520074**14
Section of NGPA: 108
Operator: Adams Drilling Company
Well Name: Simpson Ross #2
Field: NA
County: Meigs
Purchaser: Columbia Gas Transmission Corp.
Volume: 3 MMcf.

FERC Control Number: JD79-3865
API Well Number: 3410520194**14
Section of NGPA: 108
Operator: Adams Drilling Company
Well Name: Simpson Jividen #2
Field: NA
County: Meigs
Purchaser: Columbia Gas Transmission Corp.
Volume: 1 MMcf.

FERC Control Number: JD79-3866
API Well Number: 3410520572**14
Section of NGPA: 108
Operator: Adams Drilling Company
Well Name: Simpson Wilcoxen #2
Field: NA
County: Meigs
Purchaser: Columbia Gas Transmission Corp.
Volume: 2 MMcf.

FERC Control Number: JD79-3867
API Well Number: 3410520147**14
Section of NGPA: 108
Operator: Adams Drilling Company
Well Name: Simpson Wilcoxen #1
Field: NA
County: Meigs
Purchaser: Columbia Gas Transmission Corp.
Volume: 2 MMcf.

FERC Control Number: JD79-3868
API Well Number: 3410521606**14
Section of NGPA: 108
Operator: Adams Drilling Company
Well Name: Andy Doczi #3
Field: NA
County: Meigs
Purchaser: Columbia Gas Transmission Corp.
Volume: 5 MMcf.

FERC Control Number: JD79-3869
API Well Number: 3410521594**14
Section of NGPA: 108
Operator: Adams Drilling Company
Well Name: Andy Doczi #2
Field: NA
County: Meigs
Purchaser: Columbia Gas Transmission Corp.
Volume: 5 MMcf.

FERC Control Number: JD79-3870
API Well Number: 3410521596**14
Section of NGPA: 108
Operator: Adams Drilling Company
Well Name: Andy Doczi #1
Field: NA
County: Meigs
Purchaser: Columbia Gas Transmission Corp.
Volume: 5 MMcf.

FERC Control Number: JD79-3871
API Well Number: 3410521710**14
Section of NGPA: 108
Operator: Adams Drilling Company
Well Name: Robert & Roberta Musser #1
Field: NA
County: Meigs
Purchaser: Columbia Gas Transmission Corp.
Volume: ½ MMcf.

FERC Control Number: JD79-3872
API Well Number: 3410521725**14
Section of NGPA: 108
Operator: Adams Drilling Company
Well Name: Harold Brinker #1
Field: NA
County: Meigs
Purchaser: Columbia Gas Transmission Corp.
Volume: 4 MMcf.

FERC Control Number: JD79-3873
API Well Number: 3410521704**14
Section of NGPA: 108
Operator: Adams Drilling Company
Well Name: E & P Morris #1
Field: NA
County: Meigs
Purchaser: Columbia Gas Transmission Corp.
Volume: 6 MMcf.

FERC Control Number: JD79-3874
API Well Number: 3410520073**14
Section of NGPA: 108
Operator: Adams Drilling Company
Well Name: Simpson Jividen #1
Field: NA
County: Meigs
Purchaser: Columbia Gas Transmission Corp.
Volume: 1 MMcf.

FERC Control Number: JD79-3875
API Well Number: 3410521643**14
Section of NGPA: 108
Operator: Adams Drilling Company
Well Name: Robert Canady #1
Field: NA
County: Meigs
Purchaser: Columbia Gas Transmission Corp.
Volume: 4 MMcf.

FERC Control Number: JD79-3876
API Well Number: 3410521631**14
Section of NGPA: 108
Operator: Adams Drilling Company
Well Name: Edna Swick #1
Field: NA
County: Meigs
Purchaser: Columbia Gas Transmission Corp.
Volume: 4 MMcf.

FERC Control Number: JD79-3877
API Well Number: 3410521709**14
Section of NGPA: 108
Operator: Adams Drilling Company
Well Name: Kenneth & Virginia Michaels #1
Field: NA
County: Meigs
Purchaser: Columbia Gas Transmission Corp.
Volume: 2 MMcf.

FERC Control Number: JD79-3878
API Well Number: 3410521712**14
Section of NGPA: 108
Operator: Adams Drilling Company
Well Name: Ralph Stewart #1
Field: NA
County: Meigs
Purchaser: Columbia Gas Transmission Corp.
Volume: 5 MMcf.

FERC Control Number: JD79-3879
API Well Number: 3410521748**14
Section of NGPA: 108
Operator: Adams Drilling Company
Well Name: Charles Musser #1
Field: NA
County: Meigs
Purchaser: Columbia Gas Transmission Corp.
Volume: 2 MMcf.

FERC Control Number: JD79-3880
API Well Number: 3410521742**14
Section of NGPA: 108
Operator: Adams Drilling Company
Well Name: Carl Bartrum #1
Field: NA
County: Meigs
Purchaser: Columbia Gas Transmission Corp.
Volume: 5 MMcf.

FERC Control Number: JD79-3881
API Well Number: 3410521651**14
Section of NGPA: 108
Operator: Adams Drilling Company
Well Name: Louise Gravely Eden #1
Field: NA
County: Meigs
Purchaser: Columbia Gas Transmission Corp.
Volume: 2 MMcf.

FERC Control Number: JD79-3882
API Well Number: 3415721339**14
Section of NGPA: 108
Operator: Mineral Leasing Inc.
Well Name: Guspyt Jr. #1
Field: NA
County: Tuscarawas
Purchaser: Columbia Gas Transmission Corp.
Volume: 5.1 MMcf.

FERC Control Number: JD79-3883
API Well Number: 3415721343**14
Section of NGPA: 108
Operator: Mineral Leasing, Inc.
Well Name: Guspyt Sr. #1
Field: NA
County: Tuscarawas
Purchaser: Columbia Gas Transmission Corp.
Volume: 6.2 MMcf.

FERC Control Number: JD79-3884
API Well Number: 3415122401**14
Section of NGPA: 108
Operator: Jerry Moore, Inc.
Well Name: Howard Napier #5835
Field: Brewster
County: Stark
Purchaser: East Ohio Gas
Volume: 3.1 MMcf.

FERC Control Number: JD79-3885
API Well Number: 3415122391**14
Section of NGPA: 108
Operator: Jerry Moore, Inc.
Well Name: Jacob N. Wise Unit #5294
Field: Brewster
County: Stark
Purchaser: East Ohio Gas Co.
Volume: 2.9 MMcf.

FERC Control Number: JD79-3886
API Well Number: 3403122328**14
Section of NGPA: 108
Operator: Jerry Moore, Inc.
Well Name: Carrie L. Schlegel #2
Field: Baltic
County: Coshocton
Purchaser: East Ohio Gas Company
Volume: .7 MMcf.

FERC Control Number: JD79-3887
API Well Number: 3413320666**14
Section of NGPA: 108
Operator: Jerry Moore, Inc.
Well Name: Lowell L. Abbe #1
Field: Atwater
County: Portage
Purchaser: East Ohio Gas Company
Volume: 5.9 MMcf.

V 4 4 / 9 4

The applications for determination in these proceedings together with a copy or description of other materials in the record on which such determinations were made are available for inspection, except to the extent such material is treated as confidential under 18 CFR 275.206, at the Commission's Office of Public Information, Room 1000, 825 North Capitol Street, N.E., Washington, D.C. 20426

Persons objecting to any of those final determinations may, in accordance with 18 CFR 275.203 and 18 CFR 275.204, file a protest with the Commission on or before May 29, 1979. Please reference the FERC Control Number in any correspondence concerning a determination.

Kenneth F. Plumb,
Secretary
[FR Doc. 79-14842 Filed 5-11-79; 8:45 am]
BILLING CODE 6450-01-M

Allegheny & Western Energy Corp.; Determination by a Jurisdictional Agency Under the Natural Gas Policy Act of 1978

May 7, 1979.

On April 26, 1979, the Federal Energy Regulatory Commission received notices from the jurisdictional agencies listed below of determinations pursuant to 18 CFR 274.104 and applicable to the indicated wells pursuant to the Natural Gas Policy Act of 1978.

State of West Virgina, Department of Mines, Oil and Gas Division

FERC Control Number: JD79-3067.
API Well Number: 47-039-3359-R.
Section of NGPA: 103.
Operator: Allegheny & Western Energy Corp.
Well Name: Imperial Coal Co. No. 2.
Field: Cabin Creek.
County: Kanawha.
Purchaser: Columbia Gas Transmission Corp.
Volume: 45 MMcf.

FERC Control Number: JD79-3068.
API Well Number: 47-039-3355.
Section of NGPA: 103.
Operator: Allegheny & Western Energy Corp.
Well Name: Imperial Coal Co. 4R.
Field: Cabin Creek.
County: Kanawha.
Purchaser: Columbia Gas Transmission Corp.
Volume: 29 MMcf.

FERC Control Number: JD79-3069.
API Well Number: 47-039-3350.
Section of NGPA: 103.
Operator: Allegheny & Western Energy Corp.
Well Name: Eastern Associated Coal No. 15.
Field: Cabin Creek.
County: Kanawha.
Purchaser: Columbia Gas Transmission Corp.
Volume: 15 MMcf.

FERC Control Number: JD79-3070.
API Well Number: 47-039-3349.
Section of NGPA: 103.
Operator: Allegheny & Western Energy Corp.
Well Name: Eastern Associated Coal No. 14.
Field: Cabin Creek.
County: Kanawha.
Purchaser: Columbia Gas Transmission Corp.
Volume: 15 MMcf.

FERC Control Number: JD79-3071.
API Well Number: 47-039-3345.
Section of NGPA: 103.
Operator: Allegheny & Western Energy Corp.
Well Name: Eastern Associated Coal No. 13.
Field: Cabin Creek.
County: Kanawha.
Purchaser: Columbia Gas Transmission Corp.
Volume: 15 MMcf.

FERC Control Number: JD79-3072.
API Well Number: 47-039-3343.
Section of NGPA: 103.
Operator: Allegheny & Western Energy Corp.
Well Name: Eastern Associated Coal No. 12.
Field: Cabin Creek.
County: Kanawha.
Purchaser: Columbia Gas Transmission Corp.
Volume: 25 MMcf.

FERC Control Number: JD79-3073.
API Well Number: 47-039-3343.
Section of NGPA: 103.
Operator: Allegheny & Western Energy Corp.
Well Name: Eastern Associated Coal No. 11.
Field: Cabin Creek.
County: Kanawha.
Purchaser: Columbia Gas Transmission Corp.
Volume: 15 MMcf.

FERC Control Number: JD79-3074.
API Well Number: 47-039-3341.
Section of NGPA: 103.
Operator: Allegheny & Western Energy Corp.
Well Name: Eastern Associated Coal No. 10.
Field: Cabin Creek.
County: Kanawha.
Purchaser: Columbia Gas Transmission Corp.
Volume: 15 MMcf.

FERC Control Number: JD79-3075.
API Well Number: 47-039-3211-Rev.
Section of NGPA: 103.
Operator: Allegheny & Western Energy Corp.
Well Name: Eastern Associated Coal No. 7-Rev.
Field: Cabin Creek.
County: Kanawha.
Purchaser: Columbia Gas Transmission Corp.
Volume: 15 MMcf.

FERC Control Number: JD79-3076.
API Well Number: 47-039-3209-Rev.
Section of NGPA: 103.
Operator: Allegheny & Western Energy Corp.
Well Name: Eastern Associated Coal No. 2-Rev.
Field: Cabin Creek.
County: Kanawha.
Purchaser: Columbia Gas Transmission Corp.
Volume: 15 MMcf.

The applications for determination in these proceedings together with a copy or description of other materials in the record on which such determinations were made are available for inspection, except to the extent such material is treated as confidential under 18 CFR 275.206, at the Commission's Office of Public Information, Room 1000, 825 North Capitol Street, N.E., Washington, D.C. 20426.

Persons objecting to any of those final determinations may, in accordance with 18 CFR 275.203 and 18 CFR 275.204, file a protest with the Commission on or before May 29, 1979. Please reference the FERC Control Number in any correspondence concerning a determination.

Kenneth F. Plumb,
Secretary.
[FR Doc. 79-14844 Filed 5-11-79; 8:45 am]
BILLING CODE 6450-01-M

Allegheny & Western Energy Corp. and Braxton Oil & Gas Corp.; Determination by a Jurisdictional Agency Under the Natural Gas Policy Act of 1978

May 4, 1979.

On April 25, 1979, the Federal Energy Regulatory Commission received notices from the jurisdictional agencies listed below of determinations pursuant to 18 CFR 274.104 and applicable to the indicated wells pursuant to the Natural Gas Policy Act of 1978.

State of West Virginia, Department of Mines, Oil and Gas Division

FERC Control Number: JD79-3906.
API Well Number: 47-039-3210-Rev
Section of NGPA: 103.
Operator: Allegheny & Western Energy Corp.
Well Name: Eastern Associated Coal No. 5-Rev.
Field: Cabin Creek.
County: Kanawha.
Purchaser: Columbia Gas Transmission Corp.
Volume: 15 MMcf.

FERC Control Number: JD79-3907.
API Well Number: 47-039-3204.
Section of NGPA: 103.
Operator: Allegheny & Western Energy Corp.
Well Name: Eastern Associated Coal No. 9.
Field: Cabin Creek.
County: Kanawha.
Purchaser: Columbia Gas Transmission Corp.
Volume: 15 MMcf.

FERC Control Number: JD79-3908.
API Well Number: 47-039-3203.
Section of NGPA: 103.
Operator: Allegheny & Western Energy Corp.
Well Name: Eastern Associated Coal No. 8.
Field: Cabin Creek.
County: Kanawha.
Purchaser: Columbia Gas Transmission Corp.
Volume: 15 MMcf.

FERC Control Number: JD79-3909.
API Well Number: 47-039-3201.
Section of NGPA: 103.
Operator: Allegheny & Western Energy Corp.
Well Name: Eastern Associated Coal No. 4.
Field: Cabin Creek.
County: Kanawha.
Purchaser: Columbia Gas Transmission Corp.
Volume: 15 MMcf.

FERC Control Number: JD79-3910.
API Well Number: 47-039-2846.
Section of NGPA: 103.
Operator: Allegheny & Western Energy Corp.
Well Name: Eastern Associated Coal No. 1.
Field: Cabin Creek.
County: Kanawha.
Purchaser: Columbia Gas Transmission Corp.
Volume: 96 MMcf.

FERC Control Number: JD79-3911.
API Well Number: 47-021-2979.
Section of NGPA: 103.
Operator: Braxton Oil and Gas Corp.
Well Name: Stout No. 1.
Field: Sand Fork.
County: Gilmer.
Purchaser: Consolidated Gas Supply Corp.
Volume: 30 MMcf.

FERC Control Number: JD79-3912.
API Well Number: 47-021-2846.
Section of NGPA: 103.
Operator: Braxton Oil and Gas Corp.
Well Name: Pickens No. 1.
Field: Sand Fork.
County: Gilmer.
Purchaser: Consolidated Gas Supply Corp.
Volume: 16 MMcf.

FERC Control Number: JD79-3913.
API Well Number: 47-021-2836.
Section of NGPA: 103.
Operator: Braxton Oil and Gas Corp.
Well Name: Woodford No. 1.
Field: Sand Fork.
County: Gilmer.
Purchaser: Consolidated Gas Supply Corp.
Volume: 27 MMcf.

FERC Control Number: JD79-3914.
API Well Number: 47-007-1370.
Section of NGPA: 103.
Operator: Braxton Oil and Gas Corp.
Well Name: John Posey No. 1.
Field: Heaters.
County: Braxton.
Purchaser: Consolidated Gas Supply Corp.
Volume: 50 MMcf.

FERC Control Number: JD79-3915.
API Well Number: 47-007-1202.
Section of NGPA: 103.
Operator: Braxton Oil and Gas Corp.
Well Name: Toothman No. 1
Field: Aspinall-Finster
County: Braxton.
Purchaser: Equitable Gas Company
Volume: 12 MMcf

FERC Control Number: JD79-3916.
API Well Number: 47-007-1223.
Section of NGPA: 103.
Operator: Braxton Oil and Gas Corp.
Well Name: Toms No. 1.
Field: Heaters.
County: Braxton.
Purchaser: Consolidated Gas Supply Corp.
Volume: 14 MMcf.

FERC Control Number: JD79-3917.
API Well Number: 47-041-2544.
Section of NGPA: 103.
Operator: Braxton Oil and Gas Corp.
Well Name: Rollyson No. 1.
Field: Vandalia.
County: Lewis.
Purchaser:
Volume: 50 MMcf.

The applications for determination in these proceedings together with a copy or description of other materials in the record on which such determinations were made are available for inspection, except to the extent such material is treated as confidential under 18 CFR 275.206, at the Commission's Office of Public Information, Room 1000, 825 North Capitol Street, N.E., Washington, D.C. 20426.

Persons objecting to any of those final determinations may, in accordance with 18 CFR 275.203 and 18 CFR 275.204, file a protest with the Commission on or before May 29, 1979. Please reference the FERC Control Number in any correspondence concerning a determination.

Kenneth F. Plumb,
Secretary.
[FR Doc. 79-14859 Filed 5-11-79; 8:45 am]
BILLING CODE 6450-01

Allegheny Western Energy Corp. and Dennis D. Blauser; Determination by a Jurisdictional Agency Under the Natural Gas Policy Act of 1978

May 4, 1979.

On April 23, 1979, the Federal Energy Regulatory Commission received notices from the jurisdictional agencies listed below of determinations pursuant to 18 CFR 274.104 and applicable to the indicated wells pursuant to the Natural Gas Policy Act of 1978.

West Virginia Department of Mines, Oil & Gas Division

FERC Control Number: JD79-4017.
API Well Number: 47-039-3368.
Section of NGPA: 103.
Operator: Allegheny & Western Energy Corp.
Well Name: Imperial Coal Co. No. 9.
Field: Cabin Creek.
County: Kanawha, W.Va.
Purchaser: Columbia Gas Transmission Corp.
Volume: 125 MMcf.

FERC Control Number: JD79-4018
API Well Number: 47-039-3368.
Section of NGPA: 103.
Operator: Allegheny & Western Energy Corp.
Well Name: Imperial Coal Co. No. 10.
Field: Cabin Creek.
County: Kanawha, W.VA.
Purchaser: Columbia Gas Transmission Corp.
Volume: 35 MMcf.

FERC Control Number: JD79-4019
API Well Number: 47-007-2-1177-0000.
Section of NGPA: 103.
Operator: Dennis D. Blauser.
Well Name: Parkersburg Mill Co. No. 2.
Field: Birch.
County: Braxton.
Purchaser: Equitable Gas Company.
Volume: 3 MMcf.

FERC Control Number: JD79-4020
API Well Number: 47-015-2-1311-0000.
Section of NGPA: 103.
Operator: Dennis D. Blauser.
Well Name: ERC & L No. 16.
Field: Henry.
County: Clay.
Purchaser: Equitable Gas Company
Volume: 5 MMcf.

FERC Control Number: JD79-4021
API Well Number: 47-015-2-1312-0000
Section of NGPA: 103.
Operator: Dennis D. Blauser
Well Name: ERC & L No. 17
Field: Henry.
County: Clay.
Purchaser: Equitable Gas Company
Volume: 18 MMcf.

FERC Control Number: JD79-4022.
API Well Number: 47-015-2-1362-0000.
Section of NGPA: 103.
Operator: Dennis D. Blauser.
Well Name: ERC & L No. 13.
Field: Buffalo.
County: Clay.
Purchaser: Equitable Gas Company.
Volume: 12 MMcf.

FERC Control Number: JD79-4023.
API Well Number: 47-021-2-2813-0000.
Section of NGPA: 103.
Operator: Dennis D. Blauser.
Well Name: Bertie Gordon No. 3.
Field: Troy.
County: Gilmer.
Purchaser: Carnegie Natural Gas Company.
Volume: 5 MMcf.

FERC Control Number: JD79-4024
API Well Number: 47-015-2-1263-0000.
Section of NGPA: 103.
Operator: Dennis D. Blauser.
Well Name: ERC & L No. 14
Field: Henry.
County: Clay.
Purchaser: Equitable Gas Company.
Volume: 12 MMcf.

FERC Control Number: JD79-4025.
API Well Number: 47-017-2-1897-0000.
Section of NGPA: 103.
Operator: Dennis D. Blauser.
Well Name: W. Brent Maxwell No. 5.
Field: Southwest.
County: Doddridge.
Purchaser: Equitable Gas Company.
Volume: 10 MMcf.

FERC Control Number: JD79-4026
API Well Number: 47-017-2-1898-0000.
Section of NGPA: 103.
Operator: Dennis D. Blauser.
Well Name: W. Brent Maxwell No. 6.
Field: Southwest.
County: Doddridge.
Purchaser: Equitable Gas Company.
Volume: 20 MMcf.

FERC Control Number: JD79-4027.
API Well Number: 47-017-2-1902-0000.
Section of NGPA: 103.
Operator: Dennis D. Blauser.
Well Name: W. Brent Maxwell No. 6.
Field: Southwest.
County: Doddridge.
Purchaser: Equitable Gas Company.
Volume: 20 MMcf.

FERC Control Number: JD79-4028.
API Well Number: 47-017-2-1893-0000.
Section of NGPA: 103.
Operator: Dennis D. Blauser.
Well Name: W. Brent Maxwell No. 8.
Field: Southwest.
County: Doddridge.
Purchaser: Equitable Gas Company.
Volume: 20 MMcf.

The proposed Contract Demand rate

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FERC Control Number: JD79–4029.
API Well Number: 47–067–2–0426–0000.
Section of NGPA: 103.
Operator: Dennis D. Blauser.
Well Name: ERC & L No. 15.
Field: Sommersville.
County: Nicholas.
Purchaser: Equitable Gas Company.
Volume: 18 MMcf.

The applications for determination in these proceedings together with a copy or description of other materials in the record on which such determinations were made are available for inspection, except to the extent such material is treated as confidential under 18 CFR 275.206, at the Commission's Office of Public Information, Room 1000, 825 North Capitol Street, N.E., Washington, D.C. 20426.

Persons objecting to any of those final determinations may, in accordance with 18 CFR 275.203 and 18 CFR 275.204, file a protest with the Commission on or before May 29, 1979. Please reference the FERC Control Number in any correspondence concerning a determination.

Kenneth F. Plumb,
Secretary.
[FR Doc. 79–14863 Filed 5–11–79; 8:45 am]
BILLING CODE 6550–01–M

Antares Oil Corp. and Tricentrol United States, Inc.; Determination by a Jurisdictional Agency Under the Natural Gas Policy Act of 1978

May 1, 1979.

On April 10, 1979, the Federal Energy Regulatory Commission received notices from the jurisdictional agencies listed below of determinations pursuant to 18 CFR 274.104 and applicable to the indicated wells pursuant to the Natural Gas Policy Act of 1978.

Montana Department of Natural Resources and Conservation

FERC Control Number: JD79–5106
API Well Number: 25–073–21293
Section of NGPA: 102
Operator: Antares Oil Corporation
Well Name: No. 1 Christiaens (Unit 10–2)
Field:
County: Pondera
Purchaser:
Volume: 36 MMcf.

FERC Control Number: JD79–5107
API Well Number: 25–073–21260–00
Section of NGPA: 102
Operator: Antares Oil Corporation
Well Name: No. 6–24 (Robert Aiken)
Field:
County: Pondera
Purchaser:
Volume:

FERC Control Number: JD79–5108
API Well Number: 25–041–21578
Section of NGPA: 108
Operator: Tricentrol United States, Inc.
Well Name: Felton 19–11–31–15
Field: Bullhook Unit Tiger Ridge
County: Hill
Purchaser: Northern Natural Gas Company
Volume: 10.2 MMcf.

FERC Control Number: JD79–5109
API Well Number: 25–041–21162
Section of NGPA: 108
Operator: Tricentrol United States, Inc.
Well Name: Neuworth 18–10–31–15
Field: Bullhook Unit Tiger Ridge
County: Hill
Purchaser: Northern Natural Gas Company
Volume: 19.2 MMcf.

FERC Control Number: JD79–5110
API Well Number: 25–041–21573
Section of NGPA: 108
Operator: Tricentrol United States, Inc.
Well Name: Sands 6–10X–31–15
Field: Bullhook Unit Tiger Ridge
County: Hill
Purchaser: Northern Natural Gas Company
Volume: 6 MMcf.

FERC Control Number: JD79–5111
API Well Number: 25–041–21175
Section of NGPA: 108
Operator: Tricentrol United States, Inc.
Well Name: Berger 24–11–31–14
Field: Bullhook Unit Tiger Ridge
County: Hill
Purchaser: Northern Natural Gas Company
Volume: 15 MMcf.

FERC Control Number: JD79–5112
API Well Number: 25–041–21473
Section of NGPA: 108
Operator: Tricentrol United States, Inc.
Well Name: Gegle 23–10–31–15
Field: Bullhook Unit Tiger Ridge
County: Hill
Purchaser: Northern Natural Gas Company
Volume: 1.2 MMcf.

The applications for determination in these proceedings together with a copy or decription of other materials in the record on which such determinations were made are available for inspection, except to the extent such material is treated as confidential under 18 CFR 275.206, at the Commission's Office of Public Information, Room 1000, 825 North Capitol Street, N.E., Washington, D.C. 10426.

Persons objecting to any of those final determinations may, in accordance with 18 CFR 275.203 and 18 CFR 275.204, file a protest with the Commission on or before May 29, 1979. Please reference the FERC Control Number in any correspondence concerning a determination.

Kenneth F. Plumb,
Secretary.
[FR Doc. 79–14839 Filed 5–11–79; 8:45 am]
BILLING CODE 6450–01–M

Appalachian Exploration & Development, Inc. et al.; Determination by a Jurisdictional Agency Under the Natural Gas Policy Act of 1978

May 1, 1979.

On April 13, 1979, the Federal Energy Regulatory Commission received notices from the jurisdictional agencies listed below of determinations pursuant to 18 CFR 274.104 and applicable to the indicated wells pursuant to the Natural Gas Policy Act of 1978.

State of West Virginia Department of Mines Oil and Gas Division

FERC Control Number: JD79–5154
API Well Number: 47–0392–2759–0000
Section of NGPA: 103
Operator: Appalachian Exploration & Devel., Inc.
Well Name: Cannelton Coal A–10
Field: Cabin Creek
County: Kanawha
Purchaser: Cabot Corporation
Volume: 24.9 MMcf.

FERC Control Number: JD79–5155
API Well Number: 47–0392–2767–0000
Section of NGPA: 103
Operator: Appalachian Exploration & Devel., Inc.
Well Name: H. C. Dickinson A–1
Field: Cabin Creek
County: Kanawha
Purchaser: Columbia Gas Transmission Corporation
Volume: 37.9 MMcf.

FERC Control Number: JD79–5156
API Well Number: 47–0672–0438–0000
Section of NGPA: 103
Operator: Appalachian Exploration & Devel., Inc.
Well Name: C&H Corporation B–20
Field: Jefferson
County: Nicholas
Purchaser: Cabot Corporation
Volume: 15.4 MMcf.

FERC Control Number: JD79–5157
API Well Number: 47–0672–0439–0000
Section of NGPA: 103
Operator: Appalachian Exploration & Devel., Inc.
Well Name: C&H Corporation B–21
Field: Jefferson
County: Nicholas
Purchaser: Cabot Corporation
Volume: 8.2 MMcf.

FERC Control Number: JD79–5158
API Well Number: 47–085–3802
Section of NGPA: 103
Operator: Industrial Gas Association
Well Name: BEE No. 1 RIT–3802
Field: Union District
County: Ritchie
Purchaser: Consolidated Gas Supply Corporation
Volume: 32.0 MMcf.

FERC Control Number: JD79–5159
API Well Number: 47–109–20804
Section of NGPA: 103
Operator: Spartan Gas Company
Well Name: Pocahontas Land Corporation 1–S–186
Field: Barkers Ridge
County: Wyoming
Purchaser: Consolidated Gas Supply Corporation
Volume: 35 MMcf.

FERC Control Number: JD79–5160
API Well Number: 47–047–00708–0000
Section of NGPA: 103
Operator: Cities Service Company
Well Name: Geach "C" #2
Field: Bradshaw
County: McDowell
Purchaser: Columbia Gas Transmission Corporation
Volume: 91 MMcf.

FERC Control Number: JD79–5161
API Well Number: 47–047–00709–0000
Section of NGPA: 103
Operator: Cities Service Company
Well Name: Carter Land Co. "A" No. 6
Field: Bradshaw
County: McDowell
Purchaser: Columbia Gas Transmission Corporation
Volume: 12 MMcf.

FERC Control Number: JD79–5162
API Well Number: 47–067–00442–0000
Section of NGPA: 103
Operator: Cities Service Company
Well Name: Flynn Coal & Lumber Co. No. 11
Field: Gauley
County: Nicholas
Purchaser: Equitable Gas Company
Volume: 113.8 MMcf.

FERC Control Number: JD79–5163
API Well Number: 47–067–00443–0000
Section of NGPA: 103
Operator: Cities Service Company
Well Name: Flynn Coal & Lumber Co. No. 12
Field: Gauley
County: Nicholas
Purchaser: Equitable Gas Company
Volume: 62.5 MMcf.

The applications for determination in these proceedings together with a copy or description of other materials in the record on which such determinations were made are available for inspection, except to the extent such material is treated as confidential under 18 CFR 275.206, at the Commission's Office of Public Information, Room 1000, 825 North Capitol Street, N.E., Washington, D.C. 20426.

Persons objecting to any of those final determinations may, in accordance with 18 CFR 275.203 and 18 CFR 275.204, file a protest with the Commission on or before May 29, 1979. Please reference the FERC Control Number in any correspondence concerning a determination.

Kenneth F. Plumb,
Secretary.
[FR Doc. 79–14845 Filed 5–11–79; 8:45 am]
BILLING CODE 6450–01–M

Boston Edison Co.; Order Accepting for Filing and Suspending Proposed Rate Increases, Denying Motion To Reject, Establishing Hearing and Price Squeeze Procedures, and Granting Intervention

Issued April 24, 1979.

On February 27, 1979, in Docket No. ER79–216, Boston Edison Company (Edison) tendered for filing superseding rate schedules to its contracts with the Towns of Concord, Norwood, and Wellesley, Massachusetts (Towns) proposing an increase in rates for service to these three full requirements customers. On the same date, Edison tendered for filing, in Docket No. ER79–217, a superseding Contract Demand rate schedule providing for increased rates for service to its only partial requirements customer, the Town of Reading, Massachusetts (Reading). [1]

The company's case-in-chief is based on a test period consisting of the 12 months ended September 30, 1978. The total of the two increases (Full-Requirements Rate S–5 and Partial Requirements Contract Demand Tariff) will increase revenues for that period by approximately $998,218 (3.39%). Edison proposes an effective date of April 29, 1979 for both full and partial requirements rate increases. Notice of the filings was issued March 13, 1979, with all protests and petitions to intervene due on or before March 28, 1979.

The proposed full requirements rate schedules will increase revenues from the three Towns by $656,070. [2] Both the present and proposed rates contain a supplementary charge for recovery of uncollected S–4 revenues. [3]

[1] See Attachment A for designations.

[2] The proposed rate schedule S–5 (full requirements service) results in an increase of $216,993 (2.09%) to the Towns of Concord and Wellesley taking service at 14 kV, and $439,077 (6.04%) to the Town of Norwood served at 115 kV.

[3] On May 17, 1977 the United States Court of Appeals for the District of Columbia in *Boston Edison Company* v. *F.P.C.*, 557 F.2d 845 (1977) held that the Commission incorrectly rejected Edison's S–4 rate filing of August 27, 1975, and ordered that the S–4 rate become effective as of February 27, 1976, five months from the original filing date. On August 15, 1977, Edison submitted for filing in Docket No. ER77–558 a rate schedule supplement applicable to the Towns and Reading which proposed a procedure for the collection of additional revenues consisting of the difference between its suspended S–4 rate and its S–3 rate for the period from February 27, 1976, through July 23, 1976. The company proposed to collect the difference in the above rates with simple interest of 9% per annum. By order issued September 15, 1977, the Commission accepted for filing and suspended the proposed rates for five months, subject to refund, and consolidated Docket No. ER77–558 with ER76–90 for purposes of a hearing decision theron. Hearings have been held and the Commission is now waiting issuance of the Initial Decision.

The proposed Contract Demand rate schedule will increase revenues by $332,148 (2.85%) over the same test year.

On March 28, 1979, the Municipal Light Boards of Reading, Massachusetts (Reading) filed a protest, petition to intervene, request for five month suspension and request for establishing hearing procedures. Reading states that, since it purchases part of its electric power requirements from Edison under the proposed Contract Demand Tariff, it will be directly affected by the proposed change in rates. Reading suggests that a five month suspension would synchronize the instant application with Edison's retail application before the Massachusetts Department of Public Utilities. Thereby, Reading claims, the Commission could alleviate the effects on competition between Edison and its wholesale customers. In addition, Reading raises numerous cost of service issues.

The Towns petitioned for intervention in the instant dockets on March 28, 1978. Towns state that they are total requirements customers of Edison and that their vital interests in Docket No. ER76–216 may be adversely affected by Commission action. Towns also claim that Edison's Contract Demand rate has been improperly costed and may, thereby, prejudice Edison's full-requirements customers. In their petition to intervene Towns move the Commission for rejection of Edison's proposed S–5 rate because it allegedly incorporates *per se* unlawful rate design provisions. Specifically, Towns object to the requirment that they maintain a 92% power factor or incur additional demand charges. Towns also argue that Edison has provided no cost support for incorporating an 80% demand ratchet in its resale rate while having no ratchet in its comparable G–3 retail rate. In support of their request for a five month suspension period, Towns raise several cost of service issues. Towns claim that Edison's application for increased rates is totally unsupported and contrary to Commission precedent. Town allege, further, that Edison's proposed full requirements S–5 rate will preclude the Towns from competing with Edison for retail business.

On April 12, 1979, Edison filed an answer to Towns' and Reading's request for a five month supension. Edison requested that the Commission deny the Towns' motion to reject its filing. Edison claims that the demand ratchet in the S–5 rate. Edison states that the G–3 rate included and power factor provisions contained in its proposed rate schedules are *not per se* unlawful. Edison denys that discrimination between its G–3 and

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S–5 rates can be inferred from inclusion of the 80% demand ratchet features, other than a ratchet provision, which make G–3 purchases as expensive as, if not more expensive than, rate S–5 purchases. Edison claims that any difference between the G–3 rate and the proposed S–5 rate is cost justified. In response to the many cost of service issues raised by the Towns and Reading, Edison claims that its filing is fully supported and consistent with Commission precedent. In conclusion Edison renews its request for a one day suspension period, as previously requested in its transmittal letter of Februrary 27, 1979.

With regard to Towns' motion to reject Edison's proposed full requirements rate S–5 on the basis of Edison's power factor adjustment and demand ratchet, we believe the merits of these issues will more appropriately be considered in a hearing. Accordingly, Towns' motion to reject shall be denied.

Our review of Edison's filing indicates that the proposed rates have not been shown to be just and reasonable and may be unjust, unreasonable, unduly discriminatory or otherwise unlawful. However, our review does not indicate that a five month suspension period is warranted. Therefore, we shall accept the proposed rates for filing and suspend those rates for one day from sixty days after the filing date of February 27, 1979, to become effective, subject to refund on April 30, 1979. As to Towns' allegations of price discrimination resulting in anticompetitive effect, we find it appropriate that price squeeze procedures be initiated in this case.

In light of the fact that Edison simultaneously filed the S–5 rate and the Contract Demand rate as a package, that the Towns claim they may be prejudiced by the costing of the Contract Demand rate, and that there is a general identity of issues in both dockets, the Commission finds that good cause exists to consolidate Docket Nos. ER79–216 and ER79–217 for purposes of a hearing and decision.

The Commission orders: (A) The motion of Towns to reject Edison's S–5 rate filing is hereby denied.

(B) The proceedings in Docket Nos. ER79–216 and ER79–217 are hereby consolidated for purposes of a hearing and decision.

(C) Edison's proposed S–5 and Contract Demand rates are hereby accepted for filing and suspended for one day from sixty days after the filing date of February 27, 1979, to become effective on April 30, 1979, subject to refund.

(D) Pursuant to the authority contained in and subject to the jurisdiction conferred upon the Federal Energy Regulatory Commission by Section 402(a) of the DOE Act and by the Federal Power Act, and pursuant to the Commission's Rules of Practice and Procedure and the Regulations under the Federal Power Act (18 CFR, Chapter I), a public hearing shall be held concerning the justness and reasonableness of the rates proposed by Edison.

(E) Pursuant to Section 2.17 of the Commission's Regulations, we hereby order initiation of price squeeze procedures.

(F) The Staff shall serve top sheets in this proceeding on or before August 1, 1979.

(G) A Presiding Administrative Law Judge to be designated by the Chief Administrative Law Judge for that purpose shall convene a conference in this proceeding to be held within ten (10) days of the serving of top sheets in a hearing room of the Federal Energy Regulatory Commission, 825 North Capitol Street, N.E., Washington, D.C. 20426. The designated Law Judge is authorized to establish procedural dates and to rule on all motions as provided for in the Commission's Rules of Practice and Procedure. The Presiding Administrative Law Judge shall convene a prehearing conference within fifteen (15) days of the issuance of this order for the purpose of hearing intervenors' requests for data required to present their case, including a *prima facie* showing, on price squeeze issues.

(H) The petitioners, Towns and Reading, are hereby permitted to intervene in this proceeding subject to the Rules and Regulations of the Commission; *Provided, however,* that participation by such intevenors shall be limited to the matters set forth in their petitions to intervene; and *Provided, further,* that the admission of such intervenors shall not be construed as recognition by the Commission that they might be aggrieved because of any order or orders of the Commission entered in this proceeding.

(I) The Secretary shall cause prompt publication of this order to be made in the **Federal Register.**

By the Commission.

Lois D. Cashell,
Acting Secretary.

Attachment A.—*Boston Edison Company Rate Schedule Designations*

Dated: Undated.
Filed: February 27, 1979.

Designations	Descriptions
Docket No. ER79–216	
(1) Exhibit B—Fifth Revised Sheet No. 11 and Sixth Revised Sheet Nos. 12 and 13 to Rate Schedule FPC No. 47 (Supersedes Fourth Revised Sheet No. 11, Fifth Revised Sheet Nos. 12 and 13, and Original Sheet No. 12–A).	Town of Concord, Massachusetts Exhibit B—General Service for Resale Rate for all Requirements Service Rate S–5.
(2) Exhibit B—Fifth Revised Sheet No. 11 and Sixth Revised Sheet Nos. 12 and 13 to Rate Schedule FPC No. 48 (Supersedes Fourth Revised Sheet No. 11, Fifth Revised Sheet Nos. 12 and 13, and Original Sheet No. 12–A).	Town of Norwood, Massachusetts Exhibit B (as noted above).
(3) Exhibit B—Fifth Revised Sheet No. 11 and Sixth Revised Sheet Nos. 12 and 13 to Rate Schedule FPC No. 51 (Supersedes Fourth Revised Sheet No. 11, Fifth Revised Sheet Nos. 12 and 13, and Original Sheet No. 12–A).	Town of Wellesley, Massachusetts Exhibit B (as noted above).
Docket No. ER79–217	
(4) Exhibit B—Second Revised Sheet No. 1 and First Revised Sheet Nos. 2 and 3 to FPC Electric Tariff, Contract Demand Service (Supersedes Exhibit B—First Revised Sheet No. 1 and Original Sheet Nos. 2, 3 and 4 to FPC Electric Tariff, Contract Demand Service).	Exhibit B—Town of Reading, Massachusetts, only present customer for partial requirement service.

[Docket Nos. ER79–216 and ER79–217]
[FR Doc. 79–14883 Filed 5–11–79; 8:45 am]
BILLING CODE 6450–01–M

Appalachian Exploration & Development, Inc. et al.; Determination by a Jurisdictional Agency Under the Natural Gas Policy Act of 1978.

May 4, 1979.

On April 23, 1979, the Federal Energy Regulatory Commission received notices from the jurisdictional agencies listed below of determinations pursuant to 18 CFR 274.104 and applicable to the indicated wells pursuant to the Natural Gas Policy Act of 1978.

West Virginia Department of Mines, Oil & Gas Division

FERC Control Number: JD79–4030.
API Well Number: 47–0472–0754–0000.
Section of NGPA: 103.
Operator: Appalachian Exploration & Devel., Inc.
Well Name: Poca Land J–1.
Field: Sandy River.
County: McDowell.
Purchaser: Consolidated Gas Supply Corp.
Volume: 60.2 MMcf.

FERC Control Number: JD79–4031.
API Well Number: 47–0472–0715–0000.
Section of NGPA: 103.
Operator: Appalachian Exploration & Devel., Inc.
Well Name: Poca Land C–7.
Field: North Fork.
County: McDowell.
Purchaser: Cabot Corporation.
Volume: 53.1 MMcf.

FERC Control Number: JD79–4032.
API Well Number: 47–0472–0714–0000.
Section of NGPA: 103.
Operator: Appalachian Exploration & Devel., Inc.
Well Name: Poca Land C–6.
Field: North Fork.
County: McDowell.
Purchaser: Cabot Corporation.
Volume: 20.1 MMcf.

FERC Control Number: JD79–4033.
API Well Number: 47–021–2–2971–0000.
Section of NGPA: 103.
Operator: Dennis D. Blauser.
Well Name: Berry Feldman No. 1.
Field: Troy.
County: Gilmer.
Purchaser: Equitable Gas Company.
Volume: 10 MMcf.

FERC Control Number: JD79–4034.
API Well Number: 47–041–2549.
Section of NGPA: 103.
Operator: Interstate Drilling Inc.
Well Name: Butcher 4.
Field: Sassafras.
County: Lewis.
Purchaser: Consolidated Gas Supply Corp.
Volume: 8,000 MMcf.

FERC Control Number: JD79–4035.
API Well Number: 47–041–2469.
Section of NGPA: 103.
Operator: Interstate Drilling Inc.
Well Name: Casey Mertz No. 1.
Field: Alum Fork.
County: Lewis.
Purchaser: Consolidated Gas Supply Corp.
Volume: 12,000 MMcf.

FERC Control Number: JD79–4036.
API Well Number: 47–0472–0755–0000.
Section of NGPA: 103.
Operator: Appalachian Exploration & Devel., Inc.
Well Name: Poca Land J–2.
Field: Sandy River.
County: McDowell.
Purchaser: Consolidated Gas Supply Corp.
Volume: 196.4 MMcf.

FERC Control Number: JD79–4037.
API Well Number: 47–021–3392.
Section of NGPA: 103.
Operator: Interstate Drilling Inc.
Well Name: Copeland No. 1.
Field: Tanner.
County: Gilmer.
Purchaser: Consolidated Gas Supply Corp.
Volume: 9,000 MMcf.

FERC Control Number: JD79–4038.
API Well Number: 47–039–3362.
Section of NGPA: 103.
Operator: Allegheny & Western Energy Corp.
Well Name: Imperial Coal Well No. 6.
Field: Cabin Creek.
County: Kanawha, W. Va.
Purchaser: Columbia Gas Transmission Corp.
Volume: 150 MMcf.

FERC Control Number: JD79–4039.
API Well Number: 47–039–3363.
Section of NGPA: 103.
Operator: Allegheny & Western Energy Corp.
Well Name: Imperial Coal Well No. 6.
Field: Cabin Creek.
County: Kanawha, W. Va.
Purchaser: Columbia Gas Transmission Corp.
Volume: 70 MMcf.

The applications for determination in these proceedings together with a copy or description of other materials in the record on which such determinations were made are available for inspection, except to the extent such material is treated as confidential under 18 CFR 275.206, at the Commission's Office of Public Information, Room 1000, 825 North Capitol Street, N.E., Washington, D.C. 20426.

Persons objecting to any of those final determinations may, in accordance with 18 CFR 275.203 and 18 CFR 275.204, file a protest with the Commission on or before May 29, 1979. Please reference the FERC Control Number in any correspondence concerning a determination.

Kenneth F. Plumb,
Secretary.
[FR Doc. 79–14865 Filed 5–11–79; 8:45 am]
BILLING CODE 6450–01–M

Braxton Oil and Gas Corp.; Determination by a Jurisdictional Agency Under the Natural Gas Policy Act of 1978

May 4, 1979.

On April 25, 1979, the Federal Energy Regulatory Commission received notices from the jurisdictional agencies listed below of determinations pursuant to 18 CFR 274.104 and applicable to the indicated wells pursuant to the Natural Gas Policy Act of 1978.

State of West Virginia Department of Mines Oil and Gas Division

FERC Control Number: JD79–3928
API Well Number: 47–041–2493
Section of NGPA: 103
Operator: Braxton Oil and Gas Corp.
Well Name: White No. 3
Field: Vandalia
County: Lewis
Purchaser: Equitable Gas Company
Volume: 50 MMcf.

FERC Control Number: JD79–3929
API Well Number: 47–039–3202
Section of NGPA: 103
Operator: Allegheny & Western Energy Corp.
Well Name: Eastern Associated Coal No. 6
Field: Cabin Creek
County: Kanawha
Purchaser: Columbia Gas Transmission Corp.
Volume: 45 MMcf.

FERC Control Number: JD79–3930
API Well Number: 47–041–2135
Section of NGPA: 103
Operator: Braxton Oil and Gas Corp.
Well Name: White No. 1
Field: Vandalia
County: Lewis
Purchaser: Equitable Gas Company
Volume: 50 MMcf.

FERC Control Number: JD79–3931
API Well Number: 47–007–1092
Section of NGPA: 108
Operator: Braxton Oil and Gas Corp.
Well Name: Engel Heirs No. 1
Field: Chapel-German
County: Braxton
Purchaser: Consolidated Gas Supply Corp.
Volume: 2 MMcf.

FERC Control Number: JD79–3932
API Well Number: 47–021–2542
Section of NGPA: 108
Operator: Braxton Oil and Gas Corp.
Well Name: Darnall No. 2
Field: Aspinall-Finster
County: Gilmer
Purchaser: Consolidated Gas Supply Corp.
Volume: 12 MMcf.

FERC Control Number: JD79–3933
API Well Number: 47–041–2491
Section of NGPA: 103
Operator: Braxton Oil and Gas Corp.
Well Name: Horner No. 1
Field: Vandalia
County: Lewis
Purchaser:
Volume: 50 MMcf.

FERC Control Number: JD79–3934
API Well Number: 47–041–2121
Section of NGPA: 103
Operator: Braxton Oil and Gas Corp.
Well Name: Linger No. 1
Field: Lorentz
County: Lewis
Purchaser: Equitable Gas Company
Volume: 14 MMcf.

FERC Control Number: JD79–3935
API Well Number: 47–041–2125
Section of NGPA: 103
Operator: Braxton Oil and Gas Corp.
Well Name: Milo No. 1
Field: Lorentz
County: Lewis
Purchaser: Equitable Gas Company
Volume: 9 MMcf.

FERC Control Number: JD79–3936
API Well Number: 47–041–2129
Section of NGPA: 103
Operator: Braxton Oil and Gas Corp.
Well Name: Allman No. 1
Field: Lorentz
County: Lewis
Purchaser: Equitable Gas Company
Volume:

FERC Control Number: JD79–3937
API Well Number: 47–021–2830
Section of NGPA: 103

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Operator: Braxton Oil and Gas Corp.
Well Name: Marshall No. 1
Field: Sand Fork
County: Gilmer
Purchaser: Consolidated Gas Supply Corp.
Volume: 28 MMcf.

FERC Control Number: JD79-3938
API Well Number: 47-007-1205
Section of NGPA: 103
Operator: Braxton Oil and Gas Corp.
Well Name: Hallanan No. 1
Field: Aspinall-Finster
County: Braxton
Purchaser: Equitable Gas Company
Volume: 17 MMcf.

FERC Control Number: JD79-3939
API Well Number: 47-007-1349
Section of NGPA: 103
Operator: Braxton Oil and Gas Corp.
Well Name: Graff No. 1
Field: Heaters
County: Braxton
Purchaser: Consolidated Gas Supply Corp.
Volume: 48 MMcf.

FERC Control Number: JD79-3940
API Well Number: 47-021-3390
Section of NGPA: 103
Operator: Braxton Oil and Gas Corp.
Well Name: Craddock No. 2
Field: Sand Fork
County: Gilmer
Purchaser: Consolidated Gas Supply Corp.
Volume: 48 MMcf.

FERC Control Number: JD79-3941
API Well Number: 47-001-2-10630000
Section of NGPA: 103
Operator: Monitor Petroleum Corp.
Well Name: #3 O'Brien Heirs
Field: Valley
County: Barbour
Purchaser: Columbia Gas Transmission Corp.
Volume: 75 MMcf.

FERC Control Number: JD79-3942
API Well Number: 47-001-2-10750000
Section of NGPA: 103
Operator: Monitor Petroleum Corp.
Well Name: #4 O'Brien Heirs
Field: Valley
County: Barbour
Purchaser: Columbia Gas Transmission Corp.
Volume: 75 MMcf.

FERC Control Number: JD79-3943
API Well Number: 47-067-04480000
Section of NGPA: 103
Operator: Dennis D. Blauser
Well Name: ERC&L #18
Field: Summersville
County: Nicholas
Purchaser: Equitable Gas Company
Volume: 20 MMcf.

FERC Control Number: JD79-3944
API Well Number: 47-067-2-0449-0000
Section of NGPA: 103
Operator: Dennis D. Blauser
Well Name: ERC&L #19
Field: Summersville
County: Nicholas
Purchaser: Equitable Gas Company
Volume: 20 MMcf.

FERC Control Number: JD79-3945
API Well Number: 47-067-0450-000
Section of NGPA: 103
Operator: Dennis B. Blauser
Well Name: ERC&L #20
Field: Summersville
County: Nicholas
Purchaser: Equitable Gas Company
Volume: 18 MMcf.

FERC Control Number: JD79-3946
API Well Number: 47-085-2-3703-0000
Section of NGPA: 103
Operator: Dennis D. Blauser
Well Name: Bertie Gordan #1
Field: Union
County: Ritchie
Purchaser: Carnegie Natural Gas Company
Volume: 20 MMcf.

FERC Control Number: JD79-3947
API Well Number: 47-085-2-3750-0000
Section of NGPA: 103
Operator: Dennis D. Blauser
Well Name: H. D. Barker #1
Field: Murphy
County: Ritchie
Purchaser: Consolidated Gas Corporation
Volume: 15 MMcf.

FERC Control Number: JD79-3948
API Well Number: 47-085-2-3767-0000
Section of NGPA: 103
Operator: Dennis D. Blauser
Well Name: H. D. Barker #2
Field: Murphy
County: Ritchie
Purchaser: Consolidated Gas Corporation
Volume: 15 MMcf.

FERC Control Number: JD79-3949
API Well Number: 47-085-2-3772-0000
Section of NGPA: 103
Operator: Dennis D. Blauser
Well Name: Ted Rogers #1
Field: Murphy
County: Ritchie
Purchaser: Consolidated Gas Corporation
Volume: 18 MMcf.

FERC Control Number: JD79-3950
API Well Number: 47-085-2-3815-0000
Section of NGPA: 103
Operator: Dennis D. Blauser
Well Name: Ted Rogers #2
Field: Murphy
County: Ritchie
Purchaser: Consolidated Gas Corporation
Volume: 20 MMcf.

FERC Control Number: JD79-3951
API Well Number: 47-085-2-3847-0000
Section of NGPA: 103
Operator: Dennis D. Blauser
Well Name: E. E. Barker No. 2
Field: Murphy
County: Ritchie
Purchaser: Consolidated Gas Corporation
Volume: 15 MMcf.

FERC Control Number: JD79-3952
API Well Number: 47-039-3200
Section of NGPA: 103
Operator: Allegheny & Western Energy Corp.
Well Name: Eastern Associated Coal No. 3
Field: Cabin Creek
County: Kanawha
Purchaser: Columbia Gas Transmission Corp.
Volume: 15 MMcf.

FERC Control Number: JD79-3953
API Well Number: 47-041-2122
Section of NGPA: 103
Operator: Braxton Oil and Gas Corp.
Well Name: Taylor No. 1
Field: Lorentz
County: Lewis
Purchaser: Equitable Gas Company
Volume: 3 MMcf.

FERC Control Number: JD79-3954
API Well Number: 47-041-2492
Section of NGPA: 103
Operator: Braxton Oil and Gas Corp.
Well Name: White No. 2
Field: Vandalia
County: Lewis
Purchaser:
Volume: 50 MMcf.

FERC Control Number: JD79-3955
API Well Number: 47-039-3361
Section of NGPA: 103
Operator: Allegheny & Western Energy Corp.
Well Name: Imperial Coal Co. No. 1
Field: Cabin Creek
County: Kanawha
Purchaser: Columbia Gas Transmission Corp.
Volume: 25 MMcf.

FERC Control Number: JD79-3956
API Well Number: 47-039-3360-R
Section of NGPA: 103
Operator: Allegheny & Western Energy Corp.
Well Name: Imperial Coal Co. No. 5R
Field: Cabin Creek
County: Kanawha
Purchaser: Columbia Gas Transmission Corp.
Volume: 100 MMcf.

FERC Control Number: JD79-3957
API Well Number: 47-017-2158
Section of NGPA: 108
Operator: Pennzoil Company
Well Name: J. J. Adams No. 3
Field: Greenbrier
County: Doddridge
Purchaser: Consolidated Gas Supply Corp.
Volume: .172 MMcf.

FERC Control Number: JD79-3958
API Well Number: 47-017-0044
Section of NGPA: 108
Operator: Pennzoil Company
Well Name: A. W. Willis No. 1
Field: New Milton
County: Doddridge
Purchaser: Consolidated Gas Supply Corp.
Volume: 8.5 MMcf.

FERC Control Number: JD79-3959
API Well Number: 47-017-2205
Section of NGPA: 108
Operator: Pennzoil Company
Well Name: Isaac Eddy Heirs No. 6
Field: Greenbrier
County: Doddridge
Purchaser: Consolidated Gas Supply Corp.
Volume: 1.7 MMcf.

FERC Control Number: JD79-3960
API Well Number: 47-013-2744
Section of NGPA: 108
Operator: Pennzoil Company
Well Name: Wilson, F. S. No. 1
Field: Sherman
County: Calhoun
Purchaser: Consolidated Gas Supply Corp.
Volume: 21.5 MMcf.

FERC Control Number: JD79-3961
API Well Number: 47-017-2049
Section of NGPA: 108
Operator: Pennzoil Company
Well Name: J. J. Adams No. 2
Field: Greenbrier
County: Doddridge
Purchaser: Consolidated Gas Supply Corp.
Volume: .172 MMcf.

FERC Control Number: JD79-3962
API Well Number: 47-013-2816
Section of NGPA: 108
Operator: Pennzoil Company
Well Name: Meredith & Hassig No. 1
Field: Lee District
County: Calhoun
Purchaser: Consolidated Gas Supply Corp.
Volume: 0.1 MMcf.

FERC Control Number: JD79-3963
API Well Number: 47-017-1962
Section of NGPA: 108
Operator: Pennzoil Company
Well Name: J. J. Adams No. 4
Field: Greenbrier
County: Doddridge
Purchaser: Consolidated Gas Supply Corp.
Volume: .172 MMcf.

FERC Control Number: JD79-3964
API Well Number: 47-013-2817
Section of NGPA: 108
Operator: Pennzoil Company
Well Name: Meredith & Hassig No. 1
Field: Lee District
County: Calhoun
Purchaser: Consolidated Gas Supply Corp.
Volume: 0.1 MMcf.

FERC Control Number: JD79-3965
API Well Number: 47-103-0623
Section of NGPA: 108
Operator: Pennzoil Company
Well Name: F. W. Bartlett No. 6
Field: Grant District
County: Wetzel
Purchaser: Consolidated Gas Supply Corp.
Volume: 14.7 MMcf.

FERC Control Number: JD79-3966
API Well Number: 47-013-2778
Section of NGPA: 108
Operator: Pennzoil Company
Well Name: Delia Connolly No. 2
Field: Lee District
County: Calhoun
Purchaser: Consolidated Gas Supply Corp.
Volume: 0 MMcf.

FERC Control Number: JD79-3967
API Well Number: 47-017-0975
Section of NGPA: 108
Operator: Pennzoil Company
Well Name: Pearcy, A. L. No. 8
Field: New Milton
County: Doddridge
Purchaser: Consolidated Gas Supply Corp.
Volume: 3.8 MMcf.

FERC Control Number: JD79-3968
API Well Number: 47-017-1050
Section of NGPA: 108
Operator: Pennzoil Company
Well Name: Pearcy, A. L. No. 5
Field: New Milton
County: Doddridge
Purchaser: Consolidated Gas Supply Corp.
Volume: 3.8 MMcf.

FERC Control Number: JD79-3969
API Well Number: 47-013-2756
Section of NGPA: 108
Operator: Pennzoil Company
Well Name: C. R. Bee No. 1
Field: Lee District
County: Calhoun
Purchaser: Consolidated Gas Supply Corp.
Volume: 0.5 MMcf.

FERC Control Number: JD79-3970
API Well Number: 47-013-2802
Section of NGPA: 108
Operator: Pennzoil Company
Well Name: C. A. Jarvis No. 1
Field: Sherman
County: Calhoun
Purchaser: Consolidated Gas Supply Corp.
Volume: 1.0 MMcf.

FERC Control Number: JD79-3971
API Well Number: 47-013-2825
Section of NGPA: 108
Operator: Pennzoil Company
Well Name: Granville Rice No. 3
Field: Sherman District
County: Calhoun
Purchaser: Consolidated Gas Supply Corp.
Volume: 1.8 MMcf.

FERC Control Number: JD79-3972
API Well Number: 47-013-2829
Section of NGPA: 108
Operator: Pennzoil Company
Well Name: F. E. Rothlisberger No. 1
Field: Sherman District
County: Calhoun
Purchaser: Consolidated Gas Supply Corp.
Volume: 0.5 MMcf.

FERC Control Number: JD79-3973
API Well Number: 47-013-2835
Section of NGPA: 108
Operator: Pennzoil Company
Well Name: Gainer, J. N. No. 2
Field: Sherman
County: Calhoun
Purchaser: Consolidated Gas Supply Corp.
Volume: 0 MMcf.

FERC Control Number: JD79-3974
API Well Number: 47-013-2836
Section of NGPA: 108
Operator: Pennzoil Company
Well Name: Gainer, J. N. No. 3
Field: Sherman
County: Calhoun
Purchaser: Consolidated Gas Supply Corp.
Volume: 0 MMcf.

FERC Control Number: JD79-3975
API Well Number: 47-013-2838
Section of NGPA: 108
Operator: Pennzoil Company
Well Name: Gainer, J. N. No. 5
Field: Sherman
County: Calhoun
Purchaser: Consolidated Gas Supply Corp.
Volume: 0 MMcf.

FERC Control Number: JD79-3976
API Well Number: 47-017-0839
Section of NGPA: 108
Operator: Pennzoil Company
Well Name: Pearcy, A. L. No. 7
Field: New Milton
County: Doddridge
Purchaser: Consolidated Gas Supply Corp.
Volume: 3.8 MMcf.

The applications for determination in these proceedings together with a copy or description of other materials in the record on which such determinations were made are available for inspection, except to the extent such material is treated as confidential under 18 CFR 275.206, at the Commission's Office of Public Information, Room 1000, 825 North Capitol Street, N.E., Washington, D.C. 20426.

Persons objecting to any of those final determinations may, in accordance with 18 CFR 275.203 and 18 CFR 275.204, file a protest with the Commission on or before May 29, 1979. Please reference the FERC Control Number in any correspondence concerning a determination.

Kenneth F. Plumb,
Secretary.

[FR Doc. 79-14861 Filed 5-11-79; 8:45 am]

BILLING CODE 6450-01-M

Brownlie, Wallace, Armstrong & Bander; Determination by a Jurisdictional Agency Under the Natural Gas Policy Act of 1978

May 3, 1979.

On April 18, 1979, the Federal Energy Regulatory Commission received notices from the jurisdictional agencies listed below of determinations pursuant to 18 CFR 274.104 and applicable to the indicated wells pursuant to the Natural Gas Policy Act of 1978.

North Dakota State Industrial Commission Oil and Gas Division

FERC Control Number: JD79-5412
API Well Number: 33-053-00804
Section of NGPA: 102
Operator: Brownlie, Wallace, Armstrong and Bander
Well Name: Hatter No. 34-32
Field: Mondak
County: McKenzie
Purchaser: Montana Dakota Utilities Co.
Volume: 42.000 MMcf.

FERC Control Number: JD79-5413
API Well Number: 33-053-00801
Section of NGPA: 102
Operator: Brownlie, Wallace, Armstrong and Bander
Well Name: BN No. 11-21
Field: Mondak
County: McKenzie
Purchaser: Montana Dakota Utilities Co.
Volume: 5.000 MMcf.

FERC Control Number: JD79-5414
API Well Number: 33-053-00747
Section of NGPA: 102
Operator: Brownlie, Wallace, Armstrong and Bander
Well Name: Interstate Land & C. C. No. 2-14
Field: Mondak
County: McKenzie
Purchaser: Montana Dakota Utilities Co.
Volume: 37.000 MMcf.

The applications for determination in these proceedings together with a copy or description of other materials in the record on which such determinations were made are available for inspection, except to the extent such material is treated as confidential under 18 CFR

275.206, at the Commission's Office of Public Information, Room 1000, 825 North Capitol Street, N.E., Washington, D.C. 20426.

Persons objecting to any of those final determinations may, in accordance with 18 CFR 275.203 and 18 CFR 275.204, file a protest with the Commission on or before May 29, 1979. Please reference the FERC Control Number in any correspondence concerning a determination.

Kenneth F. Plumb,
Secretary.

[FR Doc. 79-14856 Filed 5-1-79; 8:45 am]

BILLING CODE 6450-01-M

Cities Service Co. et. al.; Determination by a Jurisdictional Agency Under the Natural Gas Policy Act of 1978

May 4, 1979.

On April 23, 1979, the Federal Energy Regulatory Commission received notices from the jurisdictional agencies listed below of determinations pursuant to 18 CFR 274.104 and applicable to the indicated wells pursuant to the Natural Gas Policy Act of 1978.

New Mexico Oil Conservation Division

FERC Control Number: JD79-3992
API Well Number: 30-015-22338
Section of NGPA: 102
Operator: Cities Service Company
Well Name: Polk A No. 1
Field: Wildcat Morrow
County: Eddy
Purchaser: El Paso Natural Gas Company
Volume: 556.0 MMcf.

FERC Control Number: JD79-3993
API Well Number: 30-025-01858
Section of NGPA: 108
Operator: Phillips Petroleum Company
Well Name: Ranger No. 10
Field: Ranger Lake Bough
County: Lea
Purchaser: El Paso Natural Gas Company
Volume: .2 MMcf.

FERC Control Number: JD79-3994
API Well Number: 30-025-02146
Section of NGPA: 108
Operator: Phillips Petroleum Company
Well Name: Lea No. 13
Field: Vacuum, Crayburg/San Andres
County: Lea
Purchaser: El Paso Natural Gas Company
Volume: 1 MMcf.

FERC Control Number: JD79-3995
API Well Number: 30-025-24128
Section of NGPA: 108
Operator: Phillips Petroleum Company
Well Name: Santa Fe No. 124
Field: Vacuum, North ABO
County: Lea
Purchaser: El Paso Natural Gas Company
Volume: 3.2 MMcf.

FERC Control Number: JD79-3996
API Well Number: 30-025-20526
Section of NGPA: 108
Operator: Phillips Petroleum Company
Well Name: Santa Fe No. 89
Field: Vacuum, Glorietta
County: Lea
Purchaser: El Paso Natural Gas Company
Volume: 3.6 MMcf.

FERC Control Number: JD79-3997
API Well Number: 30-025-24643
Section of NGPA: 108
Operator: Phillips Petroleum Company
Well Name: Santa Fe No. 127
Field: Vacuum Glorietta
County: Lea
Purchaser: El Paso Natural Gas Company
Volume: 1.5 MMcf.

FERC Control Number: JD79-3998
API Well Number: 30-015-22367
Section of NGPA: 103
Operator: The Petroleum Corporation of Delaware
Well Name: Parkway West Unit Well No. 5
Field: West Parkway Morrow Gas
County: Eddy
Purchaser: El Paso Natural Gas Company
Volume: 145 MMcf.

FERC Control Number: JD79-3999
API Well Number: 30-025-25536
Section of NGPA: 103
Operator: Read & Stevens, Inc.
Well Name: Quail State No. 1
Field: Quail Queen
County: Lea
Purchaser: Warren Petroleum Company
Volume: 5.124 MMcf.

FERC Control Number: JD79-4000
API Well Number: 30-025-25868
Section of NGPA: 103
Operator: Read & Stevens, Inc.
Well Name: Quail State No. 2
Field: Quail Queen
County: Lea
Purchaser: Warren Petroleum Company
Volume: 21.792 MMcf.

FERC Control Number: JD79-4001
API Well Number: 30-025-25887
Section of NGPA: 103
Operator: Read & Stevens, Inc.
Well Name: Wainoco State No. 1
Field: Quail Queen
County: Lea
Purchaser: Warren Petroleum Company
Volume: 2.732 MMcf.

FERC Control Number: JD79-4002
API Well Number: 30-005-60481
Section of NGPA: 103
Operator: Read & Stevens, Inc.
Well Name: Lula No. 3
Field: Buffalo Valley Penn
County: Chaves
Purchaser: El Paso Natural Gas Company
Volume: 180 MMcf.

FERC Control Number: JD79-4003
API Well Number: 30-015-22080
Section of NGPA: 103
Operator: Read & Stevens, Inc.
Well Name: W. R. State Com No. 1
Field: Alacron Hills Atoka Gas
County: Eddy
Purchaser: El Paso Natural Gas Company
Volume: 126 MMcf.

FERC Control Number: JD79-4004
API Well Number: 30-025-25506
Section of NGPA: 103
Operator: Read & Stevens, Inc.
Well Name: State BG No. 3
Field: Quail Queen
County: Lea
Purchaser: Warren Petroleum Company
Volume: 3.324 MMcf.

FERC Control Number: JD79-4005
API Well Number: 30-025-25804
Section of NGPA: 103
Operator: Read & Stevens, Inc.
Well Name: Scharb Com No. 1
Field: Scharb Bone Spring
County: Lea
Purchaser: Warren Petroleum Company
Volume: 28.452 MMcf.

The applications for determination in these proceedings together with a copy or description of other materials in the record on which such determinations were made are available for inspection, except to the extent such material is treated as confidential under 18 CFR 275.206, at the Commission's Office of Public Information, Room 1000, 825 North Capitol Street, N.E., Washington, D.C. 20426.

Persons objecting to any of those final determinations may, in accordance with 18 CFR 275.203 and 18 CFR 275.204, file a protest with the Commission on or before May 29, 1979. Please reference the FERC Control Number in any correspondence concerning a determination.

Kenneth F. Plumb,
Secretary.

[FR Doc. 79-14854 Filed 5-1-79; 8:45 am]

BILLING CODE 6450-01-M

Dennis D. Blauson and Pace Pipe Line Co.; Determination by a Jurisdictional Agency Under the Natural Gas Policy Act of 1978.

May 4, 1979.

On April 23, 1979, the Federal Energy Regulatory Commission received notices from the jurisdictional agencies listed below of determinations pursuant to 18 CFR 274.104 and applicable to the indicated wells pursuant to the Natural Gas Policy Act of 1978.

West Virginia Department of Mines, Oil and Gas Division

FERC Control Number: JD79-4069
API Well Number: 47085240410000
Section of NGPA: 103
Operator: Dennis D. Blauser
Well Name: E. J. Taylor No. 3
Field: Clay
County: Ritchie
Purchser: Equitable Gas Company
Volume: 15 MMCF.

FERC Control Number: JD79-4070
API Well Number: 47Dod230747017
Section of NGPA: 103
Operator: Pace Pipe Line Company
Well Name: Slusser No. 1
Field: Big Isaac
County: Doddridge

Purchser: Consolidated Gas Supply Corp.
Volume: 90,000 MMcf.

FERC Control Number: JD79-4071
API Well Number: 47021227810000
Section of NGPA: 103
Operator: Dennis D. Blauser
Well Name: Hunter Bennet No. 1
Field: Center
County: Gilmer
Purchser: Equitable Gas Company
Volume: 12 MMCF.

FERC Control Number: JD79-4072
API Well Number: 47-007-2-1231-0000
Section of NGPA: 103
Operator: Dennis D. Blauser
Well Name: Anne Hall No. 2
Field: Bitch
County: Braxton
Purchser: Equitable Gas Company
Volume: 18 MMCF.

FERC Control Number: JD79-4073
API Well Number: 47-007-2-1246-0000
Section of NGPA: 103
Operator: Dennis D. Blauser
Well Name: Anne Hall No. 4
Field: Bitch
County: Braxton
Purchser: Equitable Gas Company
Volume: 20 MMCF.

FERC Control Number: JD79-4074
API Well Number: 47-085-2-3876-0000
Section of NGPA: 103
Operator: Dennis D. Blauser
Well Name: Snow Bartlett No. 2
Field: Union
County: Ritchie
Purchser: Carnegie Natural Gas Company
Volume: 20 MCF.

FERC Control Number: JD79-4075
API Well Number: 47-085-2-4101-0000
Section of NGPA: 108
Operator: Dennis D. Blauser
Well Name: Stephen Taylor No. 1
Field: Clay
County: Ritchie
Purchser: Equitable Gas Company
Volume: 20 MMCF.

FERC Control Number: JD79-4076
API Well Number: 47-085-2-3877-0000
Section of NGPA: 103
Operator: Dennis D. Blauser
Well Name: Denley Sheets No 2
Field: Union
County: Ritchie
Purchser: Carnegie Natural Gas Company
Volume: 20 MMCF.

FERC Control Number: JD79-4077
API Well Number: 47-085-2-4099-0000
Section of NGPA: 103
Operator: Dennis D. Blauser
Well Name: Orpha Freshour No. 1
Field: Union
County: Ritchie
Purchser: Equitable Gas Company
Volume: 20 MMCF.

FERC Control Number: JD79-4078
API Well Number: 47-085-2-3771-0000
Section of NGPA: 103
Operator: Dennis D. Blauser
Well Name: Henry L. Barker No. 1
Field: Murphy
County: Ritchie
Purchser: Columbia Gas Transmission Corp.
Volume: 6 MMCF.

FERC Control Number: JD79-4079
API Well Number: 47-Gil-2957-47-021
Section of NGPA: 103
Operator: Pace Pipe Line Company
Well Name: Synder No. 2
Field: Glenville
County: Gilmer
Purchser: Carnegie Natural Gas Company
Volume: 22,000 MMCF.

The applications for determination in these proceedings together with a copy or descripiton of other materials in the record on which such determinations were made are available for inspection, except to the extent such material is treated as confidential under 18 CFR 275.206, at the Commission's Office of Public Information, Room 1000, 825 North Capitol Street, N.E., Washington, D.C. 20426

Persons objecting to any of those final determinations may, in accordance with 18 CFR 275.203 and 18 CFR 275.204, file a protest with the Commission on or before May 29, 1979. Please reference the FERC Control Number in any correspondence concerning a determination.

Kenneth F. Plumb,
Secretary.

[FR Doc. 79-14864 Filed 5-11-79; 8:45 am]

BILLING CODE 6450-01-M

Texaco Inc.; Determination by a Jurisdictional Agency Under the Natural Gas Policy Act of 1978

May 3, 1979.

On April 13, 1979, the Federal Energy Regulatory Commission received notices from the jurisdictional agencies listed below of determinations pursuant to 18 CFR 274.104 and applicable to the indicated wells pursuant to the Natural Gas Policy Act of 1978.

North Dakota Geological Survey

FERC Control Number: JD79-2783
API Well Number: 3305300706
Section of NGPA: 108
Operator: Texaco Inc.
Well Name: P. S. Thorlackson (NCT-1) No. 2
Field: Charlson-Silurian
County: McKenzie
Purchaser: Montana Dakota Utilities Co.
Volume: 564MMcf.

FERC Control Number: JD79-2784
API Well Number: 3305300729
Section of NCPA: 103
Operator: Texaco Inc.
Well Name: Sulurian Unit 1 No. 1
Field: Charlson-Silurian
County: McKenzie
Purchaser: Montana Dakota Utilities Co.
Volume: 241 MMcf.

FERC Control Number: JD79-2785
API Well Number: 3305300754
Section of NCPA: 108
Operator: Texaco Inc.
Well Name: Silurian Unit 2 No. 1
Field: Charlson-Silurian
County: McKenzie
Purchaser: Montana Dakota Utilities Co.
Volume: 241 MMcf.

The applications for determination in these proceedings together with a copy or description of other materials in the record on which such determinations were made are available for inspection, except to the extent such material is treated as confidential under 18 CFR 275.206, at the Commission's Office of Public Information, Room 1000, 825 North Capitol Street, NE., Washington, D.C. 20426.

Persons objecting to any of those final determinations may, in accordance with 18 CFR 275.203 and 18 CFR 275.204, file a protest with the Commission on or before May 29, 1979. Please reference the FERC Control Number in any correspondence concerning a determination.

Kenneth F. Plumb,
Secretary.

[FR Doc. 79-14865 Filed 5-11-79; 8:45 am]

BILLING CODE 6450-01-M

Colorado Interstate Gas Co.; Application

May 4, 1979.

Take notice that on April 16, 1979, Colorado Interstate Gas Company (CIG), P.O. Box 1087, Colorado Springs, Colorado 80944, filed in Docket No. CP79-270 an application pursuant to Section 7(c) of the Natural Gas Act for a certificate of public convenience and necessity for authorization to sell and exchange natural gas with Northwest Pipeline Corporation, (Northwest) all as more fully set forth in the application which is on file with the Commission and open for public inspection.

Pursuant to a gas gathering and transportation agreement dated February 28, 1979, between CIG and Northwest, Northwest, would gather at the wellhead and transport up to 4,000 Mcf per day from gas supplies CIG controls in the Fogarty Creek area of Wyoming to an existing interconnection between CIG and Northwest at Green River, Wyoming, it is stated. Northwest would purchase 25 percent of the natural gas delivered by CIG, it is further stated.

The said agreement would remain in effect for an initial term of 20 years and year to year thereafter, it is said.

CIG states that it has obtained control of certain new natural gas supplies in the Fogarty Creek area in Sublette County, Wyoming, from Exxon Corporation; however, this new supply is remote from CIG's existing pipeline

system. Northwest operates a pipeline which is in the proximity of CIG's Fogarty Creek area supply and Northwest would install the necessary gathering facilities to deliver the gas to its transmission system, it is said. Northwest would redeliver thermally equivalent volumes to CIG at the Green River interchange via Northwest's 26-inch pipeline, it is further said.

CIG states that the gas delivered by it to Northwest would be adjusted prior to redelivery to CIG as follows:

1. Reduced by 25 percent which is the volumes purchased by Northwest.

2. Reduced by an allowance for fuel usage on Northwest's system applicable to CIG's share of the volumes, estimated to be approximately 2 percent.

3. Redeliveries to CIG would be adjusted to achieve a thermal balance between deliveries and redeliveries.

CIG states that pursuant to the agreement, Northwest would purchase its 25 percent of the Fogarty Creek area gas from CIG at the same average price paid by CIG for such gas and CIG would pay Northwest's gathering cost-of-service charge attributable to connecting CIG's gas from the initial wellhead delivery point to Northwest's existing transmission system. This initial charge is estimated at 16.81 cents per Mcf, it is said. In addition, CIG would pay Northwest either its rolled-in system transmission charge of 20.69 cents per Mcf applicable to CIG's share of gas delivered from point of delivery to Northwest's transmission system to point of redelivery to CIG at the Green River interconnection or, for all volumes transported to Green River by displacement, 50 percent of 20.69 cents, it is said.

Any person desiring to be heard or to make any protest with reference to said application should on or before May 29, 1979, file with the Federal Energy Regulatory Commission, Washington, D.C. 20426, a petition to intervene or a protest in accordance with the requirements of the Commission's Rules of Practice and Procedure (18 CFR 1.8 or 1.10) and the Regulations under the Natural Gas Act (18 CFR 157.10). All protests filed with the Commission will be considered by it in determining the appropriate action to be taken but will not serve to make the protestants parties to the proceeding. Any person wishing to become a party to a proceeding or to participate as a party in any hearing therein must file a petition to intervene in accordance with the Commission's Rules.

Take further notice that, pursuant to the authority contained in and subject to jurisdiction conferred upon the Federal Energy Regulatory Commission by Sections 7 and 15 of the Natural Gas Act and the Commission's Rules of Practice and Procedure, a hearing will be held without further notice before the Commission or its designee on this application if no petition to intervene is filed within the time required herein, if the Commission on its own review of the matter finds that a grant of the certificate is required by the public convenience and necessity. If a petition for leave to intervene is timely filed, or if the Commission on its own motion believes that a formal hearing is required, further notice of such hearing will be duly given.

Under the procedure herein provided for, unless otherwise advised, it will be unnecessary for CIG to appear or be represented at the hearing.

Kenneth F. Plumb,
Secretary.

[Docket No. CP79-270]
[FR Doc. 79-14824 Filed 5-11-79; 8:45 am]
BILLING CODE 6450-01-M

Columbia Gas Transmission Corp.; Proposed Changes in FERC Gas Tariff

May 2, 1979.

Take notice that on April 27, 1979, Columbia Gas Transmission Corporation (Columbia) tendered for filing the following revised tariff sheets to its FERC Gas Tariff, Original Volume No. 1:

Fifth Revised Sheet No. 1
Fifth Revised Sheet No. 19
Fourth Revised Sheet No. 20
Second Revised Sheet No. 27
Fourth Revised Sheet No. 28
Fourth Revised Sheet No. 29
Fourth Revised Sheet No. 30
Second Revised Sheet No. 31
Second Revised Sheet No. 32
Fourth Revised Sheet No. 33
Third Revised Sheet No. 34
Second Revised Sheet No. 37
First Revised Sheet No. 38
Second Revised Sheet No. 43
First Revised Sheet No. 44
First Revised Sheet No. 44A
First Revised Sheet No. 44B
First Revised Sheet No. 44C
First Revised Sheet No. 44D
Sixth Revised Sheet No. 47
Seventh Revised Sheet No. 62
Second Revised Sheet No. 63
Original Sheet No. 63A
Seventh Revised Sheet No. 90

According to Columbia, the purpose of this tariff filing is to delete the seasonal curtailment provisions and Maximum Monthly Volumes contained in its interim curtailment plan under the Commission's order issued October 31, 1975, in Docket No. RP72-89, from its currently effective FERC Tariff.

Columbia claims that such provisions are no longer necessary or appropriate in view of its most recent supply/demand projections, which indicate that it will not be curtailing its customers at least through October, 1987, the last year of the forecast period. Columbia proposes to retain daily curtailment procedures and provisions protecting high-priority and essential agricultural uses on its system in the event of *force majeure* situations, including an unanticipated, temporary loss of gas supply.

Columbia requests the Commission to grant such waivers of its Regulations as it deems necessary to permit the revised tariff sheets to become effective as of April 1, 1979, and asks that, if the Commission suspends the filing, such suspension be for only one day, so that the revised tariff sheets can be made effective at the earliest possible date.

Copies of the filing were served by Columbia upon its jurisdictional customers, interested State commissions and all parties to its curtailment proceeding in Docket No. RP72-89.

It appears reasonable and consistent with the public interest in this proceeding to prescribe a period shorter than 15 days for the filing of protests and petitions to intervene. Therefore, any person desiring to be heard or to protest said filing should file a petition to intervene or protest with the Federal Energy Regulatory Commission, 825 North Capitol Street, NE., Washington, D.C. 20426, in accordance with Sections 1.8 and 1.10 of the Commission's Rules of Practice and Procedure (18 CFR 1.8, 1.10) on or before May 11, 1979. Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceeding. Any person wishing to become a party must file a petition to intervene in accordance with the Commission's Rules. This filing which was made with the Commission is available for public inspection.

Kenneth F. Plumb,
Secretary.

[Docket No. TC79-127 related to RP72-89]
[FR Doc. 79-14846 Filed 5-11-79; 8:45 am]
BILLING CODE 6450-01-M

Columbia Gulf Transmission Co.; Application

April 24, 1979.

Take notice that on April 5, 1979, Columbia Gulf Transmission Company (Applicant), 3805 West Alabama Avenue, Houston, Texas 77027, filed in Docket No. CP79-256 an application pursuant to Section 7(c) of the Natural Gas Act for a certificate of public convenience and necessity authorizing the exchange and transportation of gas with Gulf Oil Corporation (Gulf), all as more fully set forth in the application which is on file with the Commission and open to public inspection.

Gulf has advised Applicant that it has volumes of gas available for sale to Texas Eastern Transmission Corporation (Texas) from the Eugene Island Block 238 Field, offshore Louisiana but does not have facilities by which to connect such gas reserves to Texas' pipeline system. Gulf has arranged with Sea Robin Pipeline Company (Sea Robin) to transport Gulf's gas onshore to a point of interconnection with pipeline facilities of Applicant near Erath, Louisiana. Applicant states that pursuant to an exchange agreement between it and Gulf dated March 22, 1979, Applicant would deliver to Gulf at the Venice delivery point; all gas received by Applicant at the Grand Isle Processing Plant of Exxon Company, U.S.A. in Jefferson Parish, Louisiana; and all gas transported through the Project 37 pipeline of Applicant and others and delivered into Applicant's 24-inch Venice Pipeline in Lafourche Parish, Louisiana. Gulf would cause Sea Robin to deliver to Applicant at Erath, volumes of gas produced from the Eugene Island Block 238 Field on a thermally equivalent basis, to the total volumes delivered by Applicant to Gulf at Venice, Louisiana. It is stated that if Gulf cannot deliver sufficient gas volumes at Erath, Gulf would use its best efforts to have the deficiency in volumes delivered to Applicant at a mutually agreeable point on Applicant's system at no cost to Applicant. It is further stated that should Gulf be unable to achieve a balance of Erath volumes with Venice volumes, then Applicant would discontinue delivery of Project 37 gas to Gulf.

Applicant states it would charge 2.32¢ per Mcf for all Project 37 gas transported through Applicant's Venice pipeline to the delivery point to Gulf at Venice. It is stated that Gulf would bear the cost of minor adjustment to Applicant's existing measuring station at Venice to permit delivery of the gas to Gulf. The modification is estimated to cost $2,200, it is stated.

Any person desiring to be heard or to make any protest with reference to said application should on or before May 16, 1979, file with the Federal Energy Regulatory Commission, Washington, D.C. 20426, a petition to intervene or a protest in accordance with the requirements of the Commission's Rules of Practice and Procedure (18 CFR 1.8 or 1.10) and the Regulations under the National Gas Act (18 CFR 157.10). All protests filed with the Commission will be considered by it in determining the appropriate action to be taken but will not serve to make the protestants parties to the proceeding. Any person wishing to become a party to a proceeding or to participate as a party in any hearing therein must file a petition to intervene in accordance with the Commission's Rules.

Take further notice that, pursuant to the authority contained in and subject to jurisdiction conferred upon the Federal Energy Regulatory Commission by Sections 7 and 15 of the Natural Gas Act and the Commission's Rules of Practice and Procedure, a hearing will be held without further notice before the Commission or its designee on this application if no petition to intervene is filed within the time required herein, if the Commission on its own review of the matter finds that a grant of the certificate is required by the public convenience and necessity. If a petition for leave to intervene is timely filed, or if the Commission on its own motion believes that a formal hearing is required, further notice of such hearing will be duly given.

Under the procedure herein provided for, unless otherwise advised, it will be unnecessary for Applicant to appear or be represented at the hearing.

Kenneth F. Plumb,
Secretary.

[Docket No. CP79-256]
[FR Doc. 79-14823 Filed 5-11-79; 8:45 am]
BILLING CODE 6450-01-M

Continental Oil Co.; Determination by a Jurisdictional Agency Under the Natural Gas Policy Act of 1978

May 3, 1979.

On April 19, 1979, the Federal Energy Regulatory Commission received notices from the jurisdictional agencies listed below of determinations pursuant to 18 CFR 274.104 and applicable to the indicated wells pursuant to the Natural Gas Policy Act of 1978.

State of California, Resources Agency, Department of Conservation, Division of Oil and Gas

FERC Control Number: JD79-5421
API Well Number: 111-20783
Section of NGPA: 103
Operator: Continental Oil Company
Well Name: Grubb No. 367
Field: San Miguelito
County: Ventura
Purchaser: Pacific Lighting Service Co.
Volume: 16.1 MMcf.

FERC Control Number: JD79-5422
API Well Number: 111-20778
Section of NGPA: 103
Operator: Continental Oil Company
Well Name: Grubb No. 366
Field: San Miguelito
County: Ventura
Purchaser: Pacific Lighting Service Co.
Volume: 59.9 MMcf.

FERC Control Number: JD79-5423
API Well Number: 111-20758
Section of NGPA: 103
Operator: Continental Oil Company
Well Name: Grubb No. 365
Field: San Miguelito
County: Ventura
Purchaser: Pacific Lighting Service Co.
Volume: 36.1 MMcf.

FERC Control Number: JD79-5424
API Well Number: 111-20763
Section of NGPA: 103
Operator: Continental Oil Company
Well Name: Grubb No. 364
Field: San Miguelito
County: Ventura
Purchaser: Pacific Lighting Service Co.
Volume: 26.3 MMcf.

FERC Control Number: JD79-5425
API Well Number: 111-20806
Section of NGPA: 103
Operator: Continental Oil Company
Well Name: Grubb No. 300
Field: San Miguelito
County: Ventura
Purchaser: Pacific Lighting Service Co.
Volume: 0 MMcf.

FERC Control Number: JD79-5426
API Well Number: 111-20792
Section of NGPA: 103
Operator: Continental Oil Company
Well Name: Grubb No. 298
Field: San Miguelito
County: Ventura
Purchaser: Pacific Lighting Service Co.
Volume: 7.3 MMcf.

FERC Control Number: JD79-5427
API Well Number: 111-20836
Section of NGPA: 103
Operator: Continental Oil Company
Well Name: Grubb No. 202
Field: San Miguelito
County: Ventura
Purchaser: Pacific Lighting Service Co.
Volume: 4.4 MMcf.

FERC Control Number: JD79-5428
API Well Number: 111-20754
Section of NGPA: 103
Operator: Continental Oil Company
Well Name: Grubb No. 99
Field: San Miguelito
County: Ventura
Purchaser: Pacific Lighting Service Co.
Volume: 3.3 MMcf.

FERC Control Number: JD79-5429
API Well Number: 111-20767
Section of NGPA: 103
Operator: Continental Oil Company
Well Name: Grubb No. 298
Field: San Miguelito
County: Ventura
Purchaser: Pacific Lighting Service Co.
Volume: 2.9 MMcf.

The applications for determination in these proceedings together with a copy

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or description of other materials in the record on which such determinations were made are available for inspection, except to the extent such material is treated as confidential under 18 CFR 275.206, at the Commission's Office of Public Information, Room 1000, 825 North Capitol Street, NE., Washington, D.C. 20426.

Persons objecting to any of those final determinations may, in accordance with 18 CFR 275.203 and 18 CFR 275.204, file a protest with the Commission on or before May 29, 1979. Please reference the FERC Control Number in any correspondence concerning a determination.

Kenneth F. Plumb,
Secretary.

[FR Doc. 79-14850 Filed 5-11-79; 8:45 am]

BILLING CODE 6450-01-M

Dayton Power & Light Co.; Order Accepting for Filing, Suspending in Part Rate Change, Waiving Regulations, and Consolidating Proceedings

Issued: April 24, 1979.

On February 28, 1979, the Dayton Power and Light Company (Dayton) tendered for filing a rate schedule setting forth all rates and charges that Dayton and the Cincinnati Gas & Electric Company (Cincinnati) have agreed to under an *Interconnection Agreement* providing for interconnection of electric facilities, emergency energy, interchange energy, maintenance energy and conservation energy.[1] Dayton indicates that this rate schedule supersedes that contained in the Agreement between Dayton and Cincinnati dated March 1, 1950, and all modifications thereto and schedules thereunder. Cincinnati filed a Certificate of Concurrence on February 28, 1979. Dayton seeks waiver of the Notice requirement (18 CFR 35.11), to allow an effective date of March 1, 1979. Public Notice of Dayton's filing was issued on March 14, 1979, with petitions or protests due on or before March 26, 1979. No petition or protests were filed.

The proposed Interconnection Agreement adds to the March 1, 1950 agreement new rate schedules for maintenance energy, short term power and energy, limited term power and energy, and conservation energy. The filing also adds a minimum charge for emergency service.

Our review indicates that the proposed conservation energy rate has not been shown to be just and reasonable, and may be unreasonable, unduly discriminatory, preferential or otherwise unlawful. Moreover, the proposed conservation rate is similar to that filed in Docket No. ER78-292 for services provided by Cincinnati, Ohio Power Company, and I&M Electric Company.[2] Consistent with our treatment of the rate in Docket No. ER78-292, we shall suspend the proposed conservation energy rate for one day to become effective March 2, 1979, subject to refund. The balance of this filing shall be accepted without investigation. Good cause has been shown, and we shall waive notice requirements to permit an earlier effective date.

The Commission finds good cause to consolidate the instant docket with Docket Nos. ER78-292 and ER78-313. Due to the common issue of law and fact pertaining to the conservation energy rate, consolidation of these dockets will save time and expense for all parties.

The Commission orders:

(A) The proposed Interconnection Agreement is hereby accepted for filing. The conservation energy rate therein shall be suspended for one day to become effective March 2, 1979, subject to refund.

(B) Pursuant to the provisions of 18 CFR 35.11, the Notice requirements of 18 CFR § 35.3 are hereby waived to allow the rates other than the conservation energy rate to become effective on March 1, 1979.

(C) Pursuant to the authority contained in and subject to the jurisdiction conferred upon the Federal Energy Regulatory Commission by Section 402(a) of the DOE act and by the Federal Power Act, and pursuant to the Commission's Rules of Practice and Procedure and the Regulations under the Federal Power Act (18 CFR, Chapter I), a public hearing shall be held concerning the justness and reasonableness of the conservation energy rates proposed by Dayton and Cincinnati.

(D) Docket No. ER79-218 is hereby consolidated with Docket Nos. ER78-292 and ER78-313 for purposes of hearing and decision on the conservation energy rate.

(E) The Secretary shall cause prompt publication of this order in the **Federal Register**.

By the Commission.

Lois D. Cashell,
Acting Secretary.

Attachment A—Designations

Dayton Power & Light

Rate Schedule FERC No. 38 (Supersedes RS FPC No. 30)—Interchange Agreement.
Supplement No. 1 to RS No. 38—Emergency Energy
Supplement No. 2 to RS No. 38—Interchange Energy
Supplement No. 3 to RS No. 38—Maintenance Energy
Supplement No. 5 to RS No. 38—Short Term Power
Supplement No. 5 to RS No. 38—Limited Term Power
Supplement No. 6 to RS No. 38—Conservation Energy*

Cincinnati Gas & Electric

Rate Schedule FERC No. 39, C/C (Concurs in Dayton RS FERC No. 38, as supplemented). (Supersedes Cincinnati RS FPC No. 29 as supplemented.)

[Docket No. ER79-218]

[FR Doc. 79-14825 Filed 5-11-79; 8:45 am]

BILLING CODE 6450-01-M

[1] *See* Attachment A for rate schedule designations.

[2] *See* Order Accepting for Filing, Suspending Rate Increase, Waiving Regulations and Consolidating Proceedings, issued May 26, 1978. That order consolidated Docket Nos. ER78-292 and ER78-313.

East Tennessee Natural Gas Co.; Extension of Time for Meeting Refund Requirement

May 1, 1979.

In the matter of Tennessee Natural Gas Lines, Inc. (Docket No. RP71-11 (PGA 76-71)), Tennessee Public Service Commission, Camplainant (Docket No. RP76-71) v. Tennessee Natural Gas Lines, Inc., Respondent, East Tennessee Natural Gas Company, Tennessee Public Service Commission, Complainant (Docket Nos. RP71-15 and RP75-28 (PGA76-1) (DCA76-1)) v. East Tennessee Natural Gas Company, Respondent (Docket No. RP76-70).

On April 24, 1979, East Tennessee Natural Gas Company filed a motion for extension of the date for making refunds under Opinion No. 35, issued by the Commission on February 21, 1979. The motion states that East Tennessee is seeking a stay of the refund requirement from the Court of Appeals pending judicial review.

Upon consideration, notice is hereby given that an extension of time for complying with the refund requirment of Ordering Paragraph (B) of Opinion No. 35 is granted to and including May 23, 1979 or ten days after Court action on the stay, whichever is earlier.

Kenneth F. Plumb,
Secretary

[FR Doc. 79-14834 Filed 5-11-79; 8:45 am]

BILLING CODE 6450-01-M

Enserch Exploration Inc. et al.; Determination by a Jurisdictional Agency Under the Natural Gas Policy Act of 1978

May 4, 1979.

On April 25, 1979, the Federal Energy Regulatory Commission received notices from the jurisdictional agencies listed below of determinations pursuant to 18 CFR 274.104 and applicable to the indicated wells pursuant to the Natural Gas Policy Act of 1978.

State of Alabama

FERC Control Number: JD79-4105
API Well Number: 01-05720102
Section of NGPA: 103
Operator: Enserch Exploration Inc.
Well Name: Kimbrell-Flowers No. 1
Field: Fayette West (Carter)
County: Fayette.
Purchaser: Coronado Transmission Company
Volume: 75 MMcf.

FERC Control Number: JD79-4106
API Well Number: 01-057-20115
Section of NGPA: 103
Operator: Enserch Exploration Inc.
Well Name: Swanson No. 1
Field: Fayette West (Carter)
County: Fayette
Purchaser: Coronado Transmission Company
Volume: 300 MMcf.

FERC Control Number: JD79-4107
API Well Number: 01-075-20084
Section of NGPA: 102
Operator: Peninsula Resources Corporation
Well Name: C.C. Day No. 1
Field: Star Field
County: Lamar County
Purchaser: Dual in Upper Nason and Lewis
Volume: 511 MMcf.

FERC Control Number: JD79-4108
API Well Number: 01-075-20105
Section of NGPA: 102
Operator: MWJ Producing Company
Well Name: Knight-Allman Unit No. 1
Field: Wesley Chapel
County: Lamar
Purchaser: Tennessee Gas PipeLine Company
Volume: 150 MMcf.

FERC Control Number: JD79-4109
API Well Number: 01-075-20108
Section of NGPA: 102
Operator: Peninsula Resources Corporation
Well Name: Royal McGee No. 1
Field: Star Field
County: Lamar County
Purchaser: Dual in Carter and Lewis
Volume: 1277.

FERC Control Number: JD79-4110
API Well Number: 01-057-20110
Section of NGPA: 103
Operator: Enserch Exploration Inc.
Well Name: Shackelford No. 2
Field: Fayette West (Carter)
County: Fayette
Purchaser: Coronado Transmission Company
Volume: 36 MMcf.

FERC Control Number: JD79-4111
API Well Number: 01-057-20080
Section of NGPA: 103
Operator: Enserch Exploration Inc.
Well Name: Dodson-Unger No. 1
Field: Fayette West (Carter)
County: Fayette
Purchaser: Coronado Transmission Company
Volume: 195 MMcf.

FERC Control Number: JD79-4112
API Well Number: 01-057-20100
Section of NGPA: 103
Operator: Enserch Exploration Inc.
Well Name: W. O. Pinkerton No. 1
Field: Fayette West (Carter)
County: Fayette
Purchaser: Coronado Transmission Company
Volume: 135 MMcf.

FERC Control Number: JD79-4113
API Well Number: 01-075-20115
Section of NGPA: 102(c)(1)(C)
Operator: Terra Resources, Inc.
Well Name: W.R. South No. 1
Field: Blooming Grove
County: Lamar
Purchaser: Warrior Drilling & Engineering Co., Inc.
Volume: 227 MMcf.

FERC Control Number: JD79-4114
API Well Number: 01-075-20133
Section of NGPA: 102(c)(1)(C)
Operator: Terra Resources, Inc.
Well Name: A. Jones No. 1
Field: Blooming Grove
County: Lamar
Purchaser: Warrior Drilling & Engineering Co., Inc.
Volume: 150 MMcf.

FERC Control Number: JD79-4115
API Well Number: 01-057-20114
Section of NGPA: 103
Operator: Enserch Exploration Inc.
Well Name: Williams No. 1
Field: Fayette West (Carter)
County: Fayette
Purchaser: Coronado Transmission Company
Volume: 80 MMcf.

FERC Control Number: JD79-4116
API Well Number: 01-057-20037
Section of NGPA: 102
Operator: Warrior Drilling & Engineering Co., Inc.
Well Name: Williamson-Shepard Unit 28-8
Field: Betty Junction
County: Fayette
Purchaser: P/L Div. Warrior Drilling & Engineering
Volume: 64 MMcf.

FERC Control Number: JD79-4117
API Well Number: 01-075-20065
Section of NGPA: 102(c)(1)(C)
Operator: Terra Resources, Inc.
Well Name: T. McDonald No. 1
Field: Blooming Grove
County: Lamar
Purchaser: Warrior Drilling & Engineering Co., Inc.
Volume: 132 MMcf.

FERC Control Number: JD79-4118
API Well Number: 01-057-20030
Section of NGPA: 102
Operator: Warrior Drilling & Engineering Co., Inc.
Well Name: Brilliant Coal Co. DS
Field: Bakston
County: Fayette
Purchaser: Warrior Drilling & Engineering Co., Inc.
Volume: 150 MMcf.

FERC Control Number: JD79-4119
API Well Number: 01-075-20114
Section of NGPA: 108
Operator: MWJ Producing Company
Well Name: Noe Unit No. 1
Field: Wesley Chapel
County: Lamar
Purchaser: Tennessee Gas Pipeline Company
Volume: 150 MMcf.

FERC Control Number: JD79-4120
API Well Number: 01-125-20001
Section of NGPA: 102
Operator: Warrior Drilling & Engineering Co., Inc.
Well Name: Friedman-Holman
Field: Willey Dome
County: Tuscaloosa
Purchaser: Goodyear Tire & Rubber Co.
Volume: 45 MMcf.

FERC Control Number: JD79-4121
API Well Number: 01-075-20124
Section of NGPA: 102(c)(1)(C)
Operator: Terra Resources, Inc.
Well Name: Murphy-Randolph No. 1
Field: Blooming Grove
County: Lamar
Purchaser: Warrior Drilling & Engineering Co., Inc.
Volume: 368 MMcf.

FERC Control Number: JD79-4122
API Well Number: N/A
Section of NGPA: 102
Operator: Warrior Drilling & Engineering Co., Inc.
Well Name: Wiley 34-10
Field: Wiley Dome
County: Tuscaloosa
Purchaser: Goodyear Tire & Rubber Co.
Volume: 45 MMcf.

FERC Control Number: JD79-4123
API Well Number: 01-075-20162
Section of NGPA: 102
Operator: Terra Resources, Inc.
Well Name: G. West #13-3
Field: Blooming Grove
County: Lamar
Purchaser: Warrior Drilling & Engineering Co., Inc.
Volume: 86 MMcf.

FERC Control Number: JD79-4124
API Well Number: 01-075-20098
Section of NGPA: 102
Operator: Peninsula Resources Corporation
Well Name: C. C. Day #2
Field: Star
County: Lamar
Purchaser:
Volume: 730 MMcf.

FERC Control Number: JD79-4125
API Well Number: 01-057-20135
Section of NGPA: 102
Operator: Terra Resources, Inc.
Well Name: Morrison-Smith #4-13
Field: Musgrove Creek
County: Fayette
Purchaser: Warrior Drilling & Engineering Co., Inc.
Volume: 255 MMcf.

FERC Control Number: JD79-4126
API Well Number: 01-057-20022
Section of NGPA: 102

Operator: Warrior Drilling & Engineering Co., Inc.
Well Name: J. R. Williamson #1
Field: Berry Junction
County: Fayette
Purchaser: P/L Div. Warrior Drilling & Eng. Co., Inc.
Volume: 27 MMcf.

FERC Control Number: JD79–4127
API Well Number: 01–075–20063
Section of NGPA: 102
Operator: Peninsula Resources Corporation
Well Name: Leslie Cole #1
Field: Star
County: Lamar
Purchaser:
Volume: 123 MMcf.

FERC Control Number: JD79–4128
API Well Number: 01–075–20114
Section of NGPA: 102
Operator: MWJ Producing Company
Well Name: Noe Unit No. 1
Field: Wesley Chapel
County: Lamar
Purchaser: Tennessee Gas Pipeline Company
Volume: 150 MMcf.

FERC Control Number: JD79–4129
API Well Number: 01–057–20085
Section of NGPA: 102
Operator: Warrior Drilling & Engineering Co., Inc.
Well Name: C. M. Walker #1
Field: Musgrove Creek
County: Fayette
Purchaser: Warrior Drilling & Engineering Co., Inc. P/L Div.
Volume: 131 MMcf.

FERC Control Number: JD79–4130
API Well Number: 01–057–20054
Section of NGPA: 102
Operator: Warrior Drilling & Engineering Co., Inc.
Well Name: Robert W. Honeycutt 27–4
Field: Berry Junction
County: Fayette
Purchaser: Warrior Drilling & Engineering Co., Inc. P/L Div.
Volume: 26 MMcf.

FERC Control Number: JD79–4131
API Well Number: 01–057–20052
Section of NGPA: 102
Operator: Warrior Drilling & Engineering Co., Inc.
Well Name: George Cannon
Field: McCracken Mountain
County: Fayette
Purchaser: Warrior Drilling & Engineering Co., Inc. P/L Div.
Volume: 66 MMcf.

FERC Control Number: JD79–4132
API Well Number: 01–075–20150
Section of NGPA: 103
Operator: Petroleum Corporation of Texas
Well Name: W. A. Delaney Unit #1, Permit #2522
Field: Beaverton
County: Lamar.
Purchaser:
Volume:

The applications for determination in these proceedings together with a copy or description of other materials in the record on which such determinations were made are available for inspection, except to the extent such material is treated as confidential under 18 CFR 275.206, at the Commission's Office of Public Information, Room 1000, 825 North Capitol Street, NE., Washington, D.C. 20426.

Persons objecting those final determinations may, in accordance with 18 CFR 275.203 and 18 CFR 275.204, file a protest with the Commission on or before May 29, 1979. Please reference the FERC Control Number in any correspondence concerning a determination.

Kenneth F. Plumb,
Secretary.
[FR Doc. 79-14849 Filed 5-11-79; 8:45 am]
BILLING CODE 6450-01-M

Exchange Oil & Gas Corp. and Exxon Corp.; Determination by a Jurisdictional Agency Under the Natural Gas Policy Act of 1978

May 1, 1979.

On April 12, 1979, the Federal Energy Regulatory Commission received notices from the jurisdictional agencies listed below of determinations pursuant to 18 CFR 274.104 and applicable to the indicated wells pursuant to the Natural Gas Policy Act of 1978.

State of Louisiana, Department of Natural Resources, Office of Conservation

FERC Control Number: JD79–5164
API Well Number: 1705520155
Section of NGPA: 102
Operator: Exchange Oil & Gas Corporation
Well Name: Roy L. Smith No. 3
Field: Ridge
County: Lafayette
Purchaser: United Gas Pipe Line Company
Volume: 876 MMcf.

FERC Control Number: JD79–5165
API Well Number: 1705520155
Section of NGPA: 103
Operator: Exchange Oil & Gas Corporation
Well Name: Roy L. Smith No. 3
Field: Ridge
County: Lafayette
Purchaser: United Gas Pipe Line Company
Volume: 876 MMcf.

FERC Control Number: JD79–5166
API Well Number: 1711320821
Section of NGPA: 102
Operator: Exxon Corporation
Well Name: Exxon Fee Pecan Island No. 65
Field: Pecan Island
County: Vermilion
Purchaser: Columbia Gas Transmission Corporation
Volume: 1100 MMcf.

The applications for determination in these proceedings together with a copy or description of other materials in the record on which such determinations were made are available for inspection, except to the extent such material is treated as confidential under 18 CFR 275.206, at the Commission's Office of Public Information, Room 1000, 825 North Capitol Street, N.E., Washington, D.C. 20426.

Persons objecting to any of those final determinations may, in accordance with 18 CFR 275.203 and 18 CFR 275.204, file a protest with the Commission on or before May 29, 1979. Please reference the FERC Control Number in any correspondence concerning a determination.

Kenneth F. Plumb,
Secretary.
[FR Doc. 79-14838 Filed 5-11-79; 8:45 am]
BILLING CODE 6450-01-M

Jud Noble & and Associates, Inc.; Determination by a Jurisdictional Agency Under the Natural Gas Policy Act of 1978

May 1, 1979.

On April 25, 1979, the Federal Energy Regulatory Commission received notices from the jurisdictional agencies listed below of determinations pursuant to 18 CFR 274.104 and applicable to the indicated wells pursuant to the Natural Gas Policy Act of 1978.

Ohio Department of Natural Resources, Division of Oil and Gas

FERC Control Number: JD79–3738
API Well Number: 3413321738**14
Section of NCPA: 103
Operator: Jud Noble and Associates, Inc.
Well Name: Rafferty #3
Field: N/A
County: Portage
Purchaser: East Ohio Gas Company
Volume: 20 MMcf.

FERC Control Number: JD79–3739
API Well Number: 3413321733**14
Section of NCPA: 103
Operator: Jud Noble and Associates, Inc.
Well Name: Rafferty #1
Field: N/A
County: Portage
Purchaser: East Ohio Gas Company
Volume: 20 MMcf.

FERC Control Number: JD79–3740
API Well Number: 3413321734**14
Section of NCPA: 103
Operator: Jud Noble and Associates, Inc.
Well Name: Rafferty #2
Field: N/A
County: Portage
Purchaser: East Ohio Gas Company
Volume: 20 MMcf.

FERC Control Number: JD79–3741
API Well Number: 3407522110**14
Section of ACPA: 103
Operator: William F. Hill
Well Name: Longfellow #1
Field: NA
County: Holmes
Purchaser: Not Yet Determined
Volume: 14 MMcf.

Field: NA
County: Holmes
Purchaser: American Energy Service, Inc.
Volume: 2,500,000 MMcf.

FERC Control Number: JD79–3767
API Well Number: 3407521997**14
Section of NGPA: 103
Operator: W. H. Patton Drilling
Well Name: Harley & Vera Law #1
Field: NA
County: Holmes
Purchaser: American Energy Service, Inc.
Volume: 2,000,000 MMcf.

FERC Control Number: JD79–3768
API Well Number: 3407522011**14
Section of NGPA: 103
Operator: W. H. Patton Drilling Co.
Well Name: Ralph Achamire #1
Field: NA
County: Holmes
Purchaser: American Energy Service, Inc.
Volume: 2,000,000 MMcf.

FERC Control Number: JD79–3769
API Well Number: 3407522066**14
Section of NGPA: 103
Operator: W. H. Patton Drilling Co.
Well Name: Aden Burdholder #1
Field: NA
County: Holmes
Purchaser: American Energy Service, Inc.
Volume: 2,000,000 MMcf.

FERC Control Number: JD79–3770
API Well Number: 3407521998**14
Section of NGPA: 103
Operator: W. H. Patton Drilling Co.
Well Name: Ralph and John CcCluggaze #1A
Field: NA
County: Holmes
Purchaser: American Energy Service, Inc.
Volume: 1,250,000 MMcf.

The applications for determination in these proceedings together with a copy or description of other materials in the record on which such determinations were made are available for inspection, except to the extent such material is treated as confidential under 18 CFR 275.206, at the Commission's Office of Public Information, Room 1000, 825 North Capitol Street, N.E., Washington, D.C. 20426.

Persons objecting to any of those final determinations may, in accordance with 18 CFR 275.203 and 18 CFR 275.204, file a protest with the Commission on or before May 29, 1979.

Kenneth F. Plumb,
Secretary.
[FR Doc. 79-14841 Filed 5-11-79; 8:45 am]
BILLING CODE 6450-01-M

The Kansas Power & Light Co. and Mesa Petroleum Co.; Petition for Declaratory Order

May 3, 1979.

Take notice that on February 16, 1979, Kansas Power and Light Company (Petitioner), 818 Kansas Avenue, Topeka, Kansas 66612, filed in Docket No. RI79–30 (subsequently changed to Docket No. GP79–4, a petition for a declaratory order pursuant to section 1.7(c) of the Commission's Rules of Practice and Procedure. Petitioner requests that the Commission issue a declaratory order to determine the rights of petitioner and of Mesa Petroleum Company (Mesa) under three natural gas purchase contracts entered into by the parties prior to passage of the Natural Gas Policy Act of 1978 (NGPA), all as more fully set forth in the Petition, which is open for inspection in the public files of the Commission.

Petitioner states that a dispute has arisen between itself and Mesa concerning the proper interpretation of certain clauses in the three contracts.[1] Petitioner states that Mesa has demanded collection of the maximum lawful price applicable under section 102 of the NGPA. Petitioner asserts that there is no authority to collect such a price, and requests the Commission to so state.

Any person desiring to be heard or to make any protest with reference to said petition should on or before May 25, 1979 file with the Federal Energy Regulatory Commission, Washington, D.C. 20426, a petition to intervene or a protest in accordance with the requirements of the Commission's Rules of Practice and Procedure (18 CFR 1.8 or 1.10). All protests filed with the Commission will be considered by it in determining the appropriate action to be taken but will not serve to make the protestants parties to the proceeding. Any party wishing to become a party to a proceeding, or to participate as a party in any hearing therein, must file a petition to intervene in accordance with the Commission's Rules.

Kenneth F. Plumb,
Secretary.
[Docket No. GP79–4]
[FR Doc. 79-14826 Filed 5-11-79; 8:45 am]
BILLING CODE 6450-01-M

[1] The clauses are the same in each contract. The most important is as follows:

Governmental Price Regulation: If the Federal Power Commission or any successor governmental authority, or any Kansas regulatory or governmental authority, having jurisdiction in the premises shall at any time hereafter prescribe by law, rate proceeding, rulemaking procedure or a comparable procedure any price applicable to any natural gas of any vintage produced from the Hugoton-Anadarko area and sold intrastate in Kansas or in interstate commerce, which is higher than the price or prices then provided in this Article I to be paid for New Gas delivered hereunder, then the price to be paid for New Gas remaining to be sold hereunder shall be increased to equal such regulated price. In that event, the increased price shall become effective as of the date of action of the governmental or regulatory authority establishing the regulated price, or its effective date, whichever is later (subject to the provisions of paragraph (c) below), and shall remain in effect until later changed in accordance with the pricing provisions of this Agreement.

State of Louisiana, Section 103 NGPA Determination, Laterre Co., Inc., C No. 14 Well, API No. 1710921997; Preliminary Finding

Issued May 4, 1979.

On March 21, 1979, the Office of Conservation, Department of Natural Resources, State of Louisiana (Office of Conservation) submitted a notice of determination for the Laterre Company Inc. C No. 14 well (C#14), Dulac Field, Terrebonne Parish under section 103 of the Natural Gas Policy Act of 1978 (NGPA) and Commission regulations implementing that section. The Commission published notice of the determination on March 27, 1979.

To qualify as a new onshore production well under § 103 of the NGPA, the well must be spudded on or after February 19, 1977, must comply with any applicable federal or state well-spacing requirements and must not be located within an existing proration unit. Subpart C of Part 271 of Commission regulations, which implements section 103 of the NGPA, includes special rules under which wells drilled into existing proration units may qualify under section 103.

The materials accompanying the determination fail to support the applicant's assertion that state well-spacing requirements have been met. The location plat in the record submitted to the Commission indicates that the No. C14 well is approximately 600 feet from Pennzoil well No. C12. The Louisiana well-spacing rules (of which the Commission takes notice and which are materials in the public files of the Commission) provide that wells "* * * drilled in search of gas shall not be located closer than * * * 2,000 feet to any other well completed in, drilling to, or for which a permit shall have been granted to drill to, the same pool." (Statewide Order No. 29–E.)

In the absence of any explanation in the record or any indication of a waiver of the provision quoted above, it appears from the record before us that the well does not meet applicable well-spacing requirements. Thus, the statutory test for eligibility does not appear to be satisfied. Section 103 specifically provides that a qualifying well must comply with "applicable well-spacing requirements, if any." Accordingly, the Commission makes the preliminary finding described in section 503(b)(2)(A) of the NGPA.

We also note that the record does not contain a finding that the C14 well was necessary to effectively and efficiently drain a portion of the reservoir which

parties to the proceeding. Any person

FERC Control Number: JD79–3742
API Well Number: 3403123410**14
Section of ACPA: 103
Operator: William F. Hill
Well Name: Baker #1
Field: NA
County: Coshocton
Purchaser: Not Yet Determined
Volume: 18 MMcf.

FERC Control Number: JD79–3743
API Well Number: 3407522104**14
Section of ACPA: 103
Operator: William F. Hill
Well Name: Shepler #1
Field: NA
County: Holmes
Purchaser: Not Yet Determined
Volume: 3 MMcf.

FERC Control Number: JD79–3744
API Well Number: 3407522061**14
Section of ACPA: 103
Operator: William F. Hill
Well Name: C. R. McDowell #4
Field: NA
County: Holmes
Purchaser: Not Yet Determined
Volume: 2 MMcf.

FERC Control Number: JD79–3745
API Well Number: 3407521954**14
Section of ACPA: 103
Operator: William F. Hill
Well Name: Massie #2–A
Field: NA
County: Holmes
Purchaser: Columbia Gas Trans. Corp.
Volume: 2 MMcf.

FERC Control Number: JD79–3746
API Well Number: 3407521935**14
Section of ACPA: 103
Operator: William F. Hill
Well Name: Warren Massie #3
Field: NA
County: Holmes
Purchaser: Columbia Gas Transmission Corp.
Volume: 4 MMcf.

FERC Control Number: JD79–3747
API Well Number: 3403123090**14
Section of ACPA: 103
Operator: William F. Hill
Well Name: Morgan #1
Field: NA
County: Coshocton
Purchaser: Columbia Gas Transmission Corp.
Volume: 18 MMcf.

FERC Control Number: JD79–3748
API Well Number: 34–03123409**14
Section of ACPA: 103
Operator: William F. Hill
Well Name: Morgan #2
Field: NA
County: Coshocton
Purchaser: NA
Volume: 4 MMcf.

FERC Control Number: JD79–3749
API Well Number: 3407522082**14
Section of ACPA: 103
Operator: William F. Hill
Well Name: Rhees #1
Field: NA
County: Holmes
Purchaser: Columbia Gas Transmission Corp.
Volume: 35 MMcf.

FERC Control Number: JD79–3750
API Well Number: 3400523146**14
Section of ACPA: 103
Operator: Horton and Huffman
Well Name: Rena C. Heffelfinger #2
Field: NA
County: Ashland
Purchaser: Columbia Gas Transmission Corp.
Volume: 2 MMcf.

FERC Control Number: JD79–3751
API Well Number: 3408322217**14
Section of ACPA: 108
Operator: James W. Mueller
Well Name: Harry Landis #2
Field: NA
County: Knox
Purchaser: Southern Gas Company
Volume: 1.686 MMcf.

FERC Control Number: JD79–3752
API Well Aumber: 3407522062**14
Section of ACPA: 103
Operator: William F. Hill
Well Aame: Yoder Lumber Company #1
Field: NA
County: Holmes
Purchaser: Columbia Gas Transmission Corp.
Volume: 4 MMcf.

FERC Control Number: JD79–3753
API Well Number: 3403123301**14
Section of ACPA: 103
Operator: William F. Hill
Well Name: Bechtol #1–A
Field: NA
County: Coshocton
Purchaser: Columbia Gas Transmission Corp.
Volume: 4 MMcf.

FERC Control Number: JD79–3754
API Well Number: 3407522055**14
Section of ACPA: 103
Operator: William F. Hill
Well Name: Chambers #1
Field: NA
County: Holmes
Purchaser: Columbia Gas Transmission Corp.
Volume: 15 MMcf.

FERC Control Number: JD79–3755
API Well Number: 3407522028**14
Section of ACPA: 103
Operator: William F. Hill
Well Name: H. J. Tidball et al. #1
Field: NA
County: Holmes
Purchaser: Columbia Gas Transmission Corp.
Volume: 3 MMcf.

FERC Control Number: JD79–3756
API Well Number: 3407522030**14
Section of NGPA: 103
Operator: William F. Hill
Well Name: K.R. Miller #1
Field: NA
County: Holmes
Purchaser: Columbia Gas Transmission Corp.
Volume: 2 MMcf.

FERC Control Number: JD79–3757
API Well Number: 3407522029**14
Section of NGPA: 103
Operator: William F. Hill
Well Name: Falb #1
Field: NA
County: Holmes
Purchaser: Columbia Gas Transmission Corp.
Volume: 2 MMcf.

FERC Control Number: JD79–3758
API Well Number: 3407522014**14
Section of NGPA: 103
Operator: William F. Hill
Well Name: Swartzentruber #1
Field: NA
County: Holmes
Purchaser: Columbia Gas Transmission Corp.
Volume: 4 MMcf.

FERC Control Number: JD79–3759
API Well Number: 3407522009**14
Section of NGPA: 103
Operator: William F. Hill
Well Name: Reigle #1
Field: NA
County: Holmes
Purchaser: Columbia Gas Transmission Corp.
Volume: 28 MMcf.

FERC Control Number: JD79–3760
API Well Number: 3407521988**14
Section of NGPA: 103
Operator: William F. Hill
Well Name: Barner #1
Field: NA
County: Holmes
Purchaser: Columbia Gas Transmission Corp.
Volume: 14 MMcf.

FERC Control Number: JD79–3761
API Well Number: 3407521963**14
Section of NGPA: 103
Operator: William F. Hill
Well Name: Dennerll #1
Field: NA
County: Holmes
Purchaser: Columbia Gas Transmission Corp.
Volume: 2 MMcf.

FERC Control Number: JD79–3762
API Well Number: 3403123004**14
Section of NGPA: 103
Operator: William F. Hill
Well Name: Franks #1
Field: NA
County: Coshocton
Purchaser: Columbia Gas Transmision Corp.
Volume: 9 MMcf.

FERC Control Number: JD79–3763
API Well Number: 3407521965**14
Section of NGPA: 103
Operator: William F. Hill
Well Name: Wachtel #2
Field: NA
County: Holmes
Purchaser: Columbia Gas Transmission Corp.
Volume: 26 MMcf.

FERC Control Number: JD79–3764
API Well Number: 3407521962**14
Section of NGPA: 103
Operator: William F. Hill
Well Name: Maynard #1
Field: NA
County: Holmes
Purchaser: Columbia Gas Transmission Corp.
Volume: 2 MMcf.

FERC Control Number: JD79–3765
API Well Number: 3407522081**14
Section of NGPA: 103
Operator: William F. Hill
Well Name: Troyer #1
Field: NA
County: Holmes
Purchaser: Columbia Gas Transmission Corp.
Volume: 11 MMcf.

FERC Control Number: JD79–3766
API Well Number: 3407522057**14
Section of NGPA: 103
Operator: W. H. Patton Drilling Co.
Well Name: Robert & Cheryl Evans #2

cannot be so drained by any existing well.

The Commission believes that the spacing requirement referred to above creates a "proration unit" as that term is defined in section 2(8) of the NGPA; the spacing requirements represent a judgment that as a general matter a well in this area of Louisiana could effectively and efficiently drain a circular area within a radius of 1,000 feet. Under this interpretation, the C14 well is the second well within a "proration unit." In this case the special rule in 18 CFR 271.305 applies and the finding required by that regulation must be made and incorporated into the notice of the determination given to the Commission. (See 18 CFR 305 (c) and (d).) Accordingly, under the applicable rules there is a lack of substantial evidence supporting the determination with respect to the matters addressed in the special rule.

The Commission emphasizes that the remand is preliminary. We will, in accordance with 18 CFR 275.202(d), schedule an informal conference with the jurisdictional agency and other interested parties.

By direction of the Commission.

Kenneth F. Plumb,
Secretary.

[Docket No. CP79–5]
[FR Doc. 79–14827 Filed 5–11–79; 8:45 am]
BILLING CODE 6450–01–M

McCulloch Interstate Gas Corp.; Application

May 4, 1979.

Take notice that on April 10, 1979, McCulloch Interstate Gas Corporation (McCulloch), 10880 Wilshire Boulevard, Los Angeles, California 90024, filed in Docket No. CP79–265 an application pursuant to Section 7(c) of the Natural Gas Act for a certificate of public convenience and necessity authorizing the purchase and installation of facilities for certain calorimeter equipment, all as more fully set forth in the application which is on file with the Commission and open for public inspection.

McCulloch states that the proposed facilities would be utilized for accounting and billing purposes for gas purchase Btu from McCulloch Gas Processing Corporation (MGPC) pursuant to a gas purchase agreement dated February 1, 1970.

McCulloch states that the facilities involve an amount of $20,800 for the purchase and installation of a calorimeter and related necessary controls to account for the gas sales Btu from MGPC's Hilight sales delivery point to McCulloch. Also, an amount of $25,000 representing the expenditure required for the purchase and installation of a calorimeter and related controls to account for the transported and delivered gas Btu delivered to McCulloch by Atlantic Richfield Company (ARCO) at ARCO's Gillette plant and transported and redelivered by McCulloch to Montana-Dakota Utilities Company (MDU) at the Recluse delivery point, it is further stated.

McCulloch asserts that it purchased and installed the Hilight calorimeter facilities in the spring of 1975 and the Recluse calorimeter facilities in the spring of 1976 and these facilities were purchased and installed in order to account for gas on a million Btu basis in lieu of an Mcf basis in accordance with the principles and methodologies established by the Commission to assure proper billing for gas sales and gas deliveries and to monitor gas quality and control.

After an examination of overall compliance by McCulloch with the accounting and related regulations of the Commission, certain accounting and reporting exceptions were disclosed upon which McCulloch has agreed to take corrective action, it is said.

The March 16, 1979 Commission directive contained the recommendation that McCulloch file application for jurisdictional facilities, that is, the purchase and installation of certain calorimeter equipment, which are in operation and are not presently certificated, it is said.

In accordance with this recommendation, McCulloch respectfully begs the indulgence of the Commission in the inadvertence and oversight entailed in the failure of McCulloch timely to file for appropriate certificate authorization for the purchase and installation of the subject calorimeter and related facilities and respectfully requests that the Commission issue such authorization, it is asserted.

Any person desiring to be heard or to make any protest with reference to said application should on or before May 29, 1979, file with the Federal Energy Regulatory Commission, Washington, D.C. 20426, a petition to intervene or a protest in accordance with the requirements of the Commission's Rules of Practice and Procedure (18 CFR 1.8 or 1.10) and the Regulations under the Natural Gas Act (18 CFR 157.10). All protests filed with the Commission will be considered by it in determining the appropriate action to be taken but will not serve to make the protestants parties to the proceeding. Any person wishing to become a party to a proceeding or to participate as a party in any hearing therein must file a petition to intervene in accordance with the Commission's Rules.

Take further notice that, pursuant to the authority contained in and subject to jurisdiction conferred upon the Federal Energy Regulatory Commission by Sections 7 and 15 of the Natural Gas Act and the Commission's Rules of Practice and Procedure, a hearing will be held without further notice before the Commission or its designee on this application if no petition to intervene is filed within the time required herein, if the Commission on its own review of the matter finds that a grant of the certificate is required by the public convenience and necessity. If a petition for leave to intervene is timely filed, or if the Commission on its own motion believes that a formal hearing is required, further notice of such hearing will be duly given.

Under the procedure herein provided for, unless otherwise advised, it will be unnecessary for McCulloch to appear or be represented at the hearing.

Kenneth F. Plumb,
Secretary.

[Docket No. CP79–265]
[FR Doc. 79–14828 Filed 5–11–79; 8:45 am]
BILLING CODE 6450–01–M

Miller Brothers; Determination by a Jurisdictional Agency Under the Natural Gas Policy Act of 1978

May 3, 1979.

On April 18, 1979, the Federal Energy Regulatory Commission received notices from the jurisdictional agencies lisited below of determinations pursuant to 18 CFR 274.104 and applicable to the indicated wells pursuant to the Natural Gas Policy Act of 1978.

State of Michigan Department of Natural Resources

FERC Control Number: JD79–5418
API Well Number: 32171
Section of NGPA: 102
Operator: Miller Brothers
Well Name: Miller Brothers Lyke 22A
Field: Cleon 22–24N–13W
County: Manistee
Purchaser: Consumers Power Company
Volume: 200 MMcf.

FERC Control Number: JD79–5419
API Well Number: 31777
Section of NGPA: 102
Operator: Miller Brothers
Well Name: Miller Brothers Lyke Leik 27
Field: Cleon 27–24N–13W
County: Manistee
Purchaser: Consumers Power Company
Volume: 1.1 MMcf.

FERC Control Number: JD79–5420

Purchaser: N/A
Section of NGPA: 103
Operator: Wichita Industries Inc.

API Well Number: 31851
Section of NGPA: 102
Operator: Miller Brothers
Well Name: Miller Brothers Zimmerman 9A
Field: Mayfield 9-25N-11W
County: Grand Traverse
Purchaser: Consumers Power Company
Volume: 78 MMcf.

The applications for determination in these proceedings together with a copy or description of other materials in the record on which such determinations were made are available for inspection, except to the extent such material is treated as confidential under 18 CFR 275.206, at the Commission's Office of Public Information, Room 1000, 825 North Capitol Street, NE., Washington, D.C. 20426.

Persons objecting to any of those final determinations may, in accordance with 18 CFR 275.203 and 18 CFR 275.204, file a protest with the Commission on or before May 29, 1979. Please reference the FERC Control Number in any correspondence concerning a determination.

Kenneth F. Plumb,
Secretary.
[FR Doc. 79-14851 Filed 5-11-79; 8:45 am]
BILLING CODE 6450-01-M

Minuteman Exploration Co. et al.; Determination by a Jurisdictional Agency Under the Natural Gas Policy Act of 1978

May 3, 1979.

On April 18, 1979, the Federal Energy Regulatory Commission received notices from the jurisdictional agencies listed below of determinations pursuant to 18 CFR 274.104 and applicable to the indicated wells pursuant to the Natural Gas Policy Act of 1978.

Ohio Department of Natural Resources

FERC Control Number: JD79-5529
API Well Number: 3411521711**14
Section of NGPA: 103
Operator: Minuteman Exploration Company
Well Name: Rex #1
Field: N/A
County: Morgan
Purchaser: N/A
Volume: 2.555 MMcf.

FERC Control Number: JD79-5530
API Well Number: 3413321725**14
Section of NGPA: 103
Operator: Viking Resources Corporation
Well Name: L.D. & D.L. Haenfting #2
Field: N/A
County: Portage
Purchaser: N/A
Volume: 30 MMcf.

FERC Control Number: JD79-5531
API Well Number: 3413321575**14
Section of NGPA: 103
Operator: Inland Drilling Co., Inc.
Well Name: Brookover #1 #1575
Field: N/A
County: Portage
Purchaser: N/A
Volume: 5,023 MMcf.

FERC Control Number: JD79-5532
API Well Number: 3415122893**14
Section of NGPA: 5213
Operator: Belden & Blake and Co. L. P. No. 70
Well Name: Fritchley #3-857
Field: N/A
County: Stark
Purchaser: N/A
Volume: 10.95 MMcf.

FERC Control Number: JD79-5533
API Well Number: 3413321679**14
Section of NGPA: 103
Operator: Smythco, Inc.
Well Name: King-Smythe Ventures #3
Field: N/A
County: Portage
Purchaser: N/A
Volume: 20 MMcf.

FERC Control Number: JD79-5534
API Well Number: 3409321065**14
Section of NGPA: 103
Operator: Phillips Energy Corporation
Well Name: Grafton Honor Farm #2
Field: N/A
County: Lorain
Purchaser: N/A
Volume: 25 MMcf.

FERC Control Number: JD79-5535
API Well Number: 3412723821**14
Section of NGPA: 103
Operator: W. E. Shrider Co.
Well Name: Hemlock Co. #2
Field: N/A
County: Perry
Purchaser: Clinton Oil Co.
Volume: 4 MMcf.

FERC Control Number: JD79-5536
API Well Number: 34075219710014
Section of NGPA: 103
Operator: Amtex Oil and Gas, Inc.
Well Name: Flint Stone Farms No. 5
Field: N/A
County: Holmes
Purchaser: Columbia Gas Transmission Corp.
Volume: 0 MMcf.

FERC Control Number: JD79-5537
API Well Number: 3416724182**14
Section of NGPA: 103
Operator: A & R Company
Well Name: Dean E. & Bonnie J. Abicht No. 2
Field: N/A
County: Washington
Purchaser: N/A
Volume: 15 MMcf.

FERC Control Number: JD79-5538
API Well Number: 3416723861**14
Section of NGPA: 103
Operator: A & R Company
Well Name: Mueller-Abicht No. 1-U
Field: N/A
County: Washington
Purchaser: River Gas Company
Volume: 60 MMcf.

FERC Control Number: JD79-5539
API Well Number: 3415521021**14
Section of NGPA: 103
Operator: Inland Drilling Co., Inc.
Well Name: Nosse #1 #1021
Field: N/A
County: Trumbull
Purchaser: N/A
Volume: 6,684 MMcf.

FERC Control Number: JD79-5540
API Well Number: 3415520626**14
Section of NGPA: 103
Operator: Inland Drilling Co., Inc.
Well Name: L. Brook #1 #0626
Field: N/A
County: Trumbull
Purchaser: N/A
Volume: 6,684 MMcf.

FERC Control Number: JD79-5541
API Well Number: 3415520952**14
Section of NGPA: 103
Operator: Inland Drilling Co., Inc.
Well Name: Hughes-Cover Unit #1 #0952
Field: N/A
County: Trumbull
Purchaser: N/A
Volume: 6,684 MMcf.

FERC Control Number: JD79-5542
API Well Number: 3413321617**14
Section of NGPA: 103
Operator: Inland Drilling Co., Inc.
Well Name: Pochedly #5 #1617
Field: N/A
County: Portage
Purchaser: N/A
Volume: 5,023 MMcf.

FERC Control Number: JD79-5543
API Well Number: 3413321430**14
Section of NGPA: 103
Operator: Inland Drilling Co., Inc.
Well Name: F. Adams #1 #1430
Field: N/A
County: Portage
Purchaser: N/A
Volume: 5,023 MMcf.

FERC Control Number: JD79-5544
API Well Number: 3415520988**14
Section of NGPA: 103
Operator: Inland Drilling Co., Inc.
Well Name: Temple #3 #0988
Field: N/A
County: Trumbull
Purchaser: N/A
Volume: 6,684 MMcf.

FERC Control Number: JD79-5545
API Well Number: 3415520937**14
Section of NGPA: 103
Operator: Inland Drilling Co., Inc.
Well Name: Cover #1 #0937
Field: N/A
County: Trumbull
Purchaser: N/A
Volume: 6,684 MMcf.

FERC Control Number: JD79-5546
API Well Number: 3415520979**14
Section of NGPA: 103
Operator: Inland Drilling Co., Inc.
Well Name: Temple #2 #0979
Field: N/A
County: Trumbull
Purchaser: N/A
Volume: 6,684 MMcf.

FERC Control Number: JD79-5547
API Well Number: 3415520586**14
Section of NGPA: 103
Operator: Inland Drilling Co., Inc.
Well Name: Temple #1 #0586
Field: N/A
County: Trumbull
Purchaser: N/A
Volume: 6,684 MMcf.

FERC Control Number: JD79-5548
API Well Number: 3411521638**14
Section of NGPA: 103
Operator: Future Energy Corporation
Well Name: R. Lowe #1
Field: N/A
County: Morgan
Purchaser: N/A
Volume: 15 MMcf.

FERC Control Number: JD79-5549
API Well Number: 3401921250**14
Section of NGPA: 103
Operator: L&M Exploration
Well Name: (Gartrell) Watson #3
Field: N/A
County: Carroll
Purchaser: Bonanza Gas Line
Volume: 1500 MMcf.

FERC Control Number: JD79-5550
API Well Number: 3401921226**14
Section of NGPA: 103
Operator: L&M Exploration
Well Name: Frace #7
Field: N/A
County: Canton
Purchaser: Bonanza Gas Line
Volume: 2000 MMcf.

The applications for determination in these proceedings together with a copy or description of other materials in the record on which such determinations were made are available for inspection, except to the extent such material is treated as confidential under 18 CFR 275.206, at the Commission's Office of Public Information, Room 1000, 825 North Capitol Street, NE., Washington, D.C. 20426.

Persons objecting to any of those final determinations may, in accordance with 18 CFR 275.203 and 18 CFR 275.204, file a protest with the Commission on or before May 29, 1979. Please reference the FERC Control Number in any correspondence concerning a determination.

Kenneth F. Plumb,
Secretary.
[FR Doc. 79-14843 Filed 5-11-79; 8:45 am]
BILLING CODE 6450-01-M

Mobil Oil Corp. et al.; Determination by a Jurisdictional Agency Under the Natural Gas Policy Act of 1978

May 7, 1979.

On April 26, 1979, the Federal Energy Regulatory Commission received notices from the jurisdictional agencies listed below of determinations pursuant to 18 CFR 274.104 and applicable to the indicated wells pursuant to the Natural Gas Policy Act of 1978.

U.S. Department of the Interior, Geological Survey

FERC Control Number: JD79-3038
API Well Number: 15-093-20412
Purchaser: N/A
Volume: 6,684 MMcf.

FERC Control Number: JD79-3039
API Well Number: 15-093-20413
Section of NGPA: 103
Operator: Mobil Oil Corporation
Well Name: Hugoton USA "B" #2
Field: Panoma
County: Kearny
Purchaser: Cities Service Gas Co.
Volume: 70MMcf.

FERC Control Number: JD79-3040
API Well Number: 35-017-20912
Section of NGPA: 103
Operator: Texas Pacific Oil Company, Inc.
Well Name: Hall No. 1-27
Field: Watonga Trend
County: Canadian
Purchaser: Cities Service Gas Co.
Volume: 15.0MMcf.

FERC Control Number: JD79-3041
API Well Number: 35-015-20686
Section of NGPA: 103
Operator: El Paso Natural Gas Company
Well Name: Minnie Shaw #1
Field: Binger
County: Caddo
Purchaser: Oklahoma Natural Gas Company
Volume: 2,419 MMcf.

FERC Control Number: JD79-3042
API Well Number: 35-015-20711
Section of NGPA: 103
Operator: Union Oil Company of California
Well Name: Edith Keechi Estate #1-21
Field: East Binger
County: Caddo
Purchaser: Pioneer Gas Products Co.
Volume: 25 MMcf.

FERC Control Number: JD79-3043
API Well Number: 35-133-00064
Section of NGPA: 108
Operator: Continental Oil Co.
Well Name: L. Arhalokoche No. 1
Field: S. Cromwell
County: Seminole
Purchaser: Arapaho Petroleum, Inc.
Volume: 5.8 MMcf.

FERC Control Number: JD79-3044
API Well Number: 17-111-02633
Section of NGPA: 108
Operator: Lahoma Gas Company
Well Name: U.S. Government Ramsley #1
Field: Monroe Gas Rock
County: Union
Purchaser: IMC Exploration Company
Volume: 21.40 & 20.984 MMcf.

FERC Control Number: JD79-3045
API Well Number: 15-29-10597
Section of NGPA: 108
Operator: Kaiser-Francis Oil Company
Well Name: U.S.A. Boice #1
Field: Greenwood
County: Morton
Purchaser: Colorado Interstate Gas Co.
Volume: 15 MMcf.

FERC Control Number: JD79-3046
API Well Number:
Section of NGPA: 108
Operator: Wichita Industries Inc.
Well Name: Ashabelastabbi 1-A
Field: Doyle
County: Stephens
Purchaser: Aminoil USA Inc.
Volume: 12.687 MMcf.

FERC Control Number: JD79-3047
API Well Number: 35-007-35181
Section of NGPA: 108
Operator: Hunt Petroleum Corporation
Well Name: U.A.A. Well No. 1 #NM022795
Field: South Six Mile
County: Beaver
Purchaser: Phillips Petroleum Company
Volume: 7.75 MMcf.

FERC Control Number: JD79-3048
API Well Number: 35-007-35178
Section of NGPA: 108
Operator: Hunt Petroleum Corporation
Well Name: W. E. Overton Unit #2 NM-A 0148980
Field: South Six Mile
County: Beaver
Purchaser: Phillips Petroleum Company
Volume: 6 MMcf.

FERC Control Number: JD79-3049
API Well Number: 03-071-10126
Section of NGPA: 108
Operator: Santa Fe Energy Company
Well Name: Federal 31 #1-12
Field: Ozone (Orr)
County: Johnson
Purchaser: Arkansas Western Gas Company
Volume: 4.3 MMcf.

The applications for determination in these proceedings together with a copy or description of other materials in the record on which such determinations were made are available for inspection, except to the exent such material is treated as confidential under 18 CFR 275.206, at the Commission's Office of Public Information, Room 1000, 825 North Capitol Street, NE., Washington, D.C. 20426.

Persons objecting to any of those final determinations may, in accordance with 18 CFR 275.203 and 18 CFR 275.204, file a protest with the Commission on or before May 29, 1979. Please reference the FERC Control Number in any correspondence concerning a determination.

Kenneth F. Plumb,
Secretary.
[FR Doc. 79-14836 Filed 5-11-79; 8:45 am]
BILLING CODE 6450-01-M

Natural Gas Pipeline Co. of America and Inland Gas Co., Inc.; Order To File Tariff Sheets in Conformance With Section 401 of the Natural Gas Policy Act

Issued May 2, 1979.

On May 2, 1979, the Commission issued in docket No. RM79-15 a regulation for the permanent implementation of Section 401 of the Natural Gas Policy Act (NGPA). The

purpose of the rule, which amends Part

character of the company's present

Applicants request authority to

D.C. 20426, a petition to intervene or a

Purchaser: Carnegie Natural Gas Co.

Field: Baileysville
County: Wyoming

purpose of the rule, which amends Part 281 of the Commission's Regulations under the NGPA, is to protect, to the maximum extent practicable, deliveries of natural gas for essential agricultural and high priority uses.

Among other things, the rule requires the interstate pipelines listed in section 281.202 to file tariff sheets by October 1, 1979, providing for the delivery of natural gas in accordance with the other sections of the rule when the pipeline is in curtailment. Natural Gas Pipeline Company of America (Natural) and Inland Gas Company, Inc. (Inland) are not included in this list. The purpose of this exclusion is that unlike the pipelines listed in section 281.202, Natural and Inland do not have curtailment plans that are based on end-use. Instead, the tariffs in effect for each of these companies provides for a type of pro rata allocation of gas in times of curtailment.[1]

The final rule issued in Docket No. RM79-15 is crafted to provide for the modification of curtailment plans that are based at least in part on end use considerations. The rule reorders the priorities of service categories in existing curtailment plans in accordance with the priority system set forth in Section 401 of the NGPA. It was not constructed in a manner, that is applicable in a literal manner to curtailment plans based primarily on a pro rata allocation of gas.

The Commission is mindful of statement by the Conference Committee that it did not intend that the revised priority schedule of the NGPA should be implemented in a way that would throw existing curtailment plans into disarray. On the other hand, the Commission has a clear duty to see that the statutory goal of protecting high priority and essential agricultural uses is met to the maximum extent practicable. In order to meet both of these goals, we are directing Natural and Inland to file tariff sheets containing curtailment provisions that will ensure the protection of high priority and essential agricultural users, in a manner consistent with the policies embodied in the final rule in docket No. RM79-15. Although the requirements of the NGPA must take priority, we assume, for the time being, that it will be possible for each of these companies to develop a plan that both conforms to the requirements of Section 401 of the NGPA and retains the essential character of the company's present curtailment plan.

Among other things, the tariff sheets shall provide for the collection of data necessary for reclassifying high priority and essential agricultural entitlements and shall provide for the review of such data by a data verification committee.[2]

In addition, the tariff shall provide that any request for reclassification of essential agricultural requirements must be accompanied by a statement containing the data on which those calculations were based. With respect to any user that seeks to classify as an essential agricultural use natural gas for boiler fuel use in a boiler fuel facility capable of using more than 300 Mcf of natural gas on a peak day, the request must include a copy of the user's petition for alternate fuel determination, with the confidential information deleted, if such petitions are required to be filed with the Commission under Subpart C of Part 281.[3]

The Commission orders.—Natural and Inland are directed to file, by October 1, 1979, tariff sheets providing for the protection of high priority and essential agricultural uses and conforming with the requirements of Section 401 of the NGPA, as described more fully in the body of this order.

By the Commission.

Lois D. Cashell,
Acting Secretary.

[Docket Nos. TC79-124, TC79-129]
[FR Doc. 79-14829 Filed 5-11-79; 8:45 am]
BILLING CODE 6450-01-M

[1] See Natural Gas Pipeline Company of America, Docket No. RP70-42, Order Approving Settlement Agreement and Terminating Proceeding, 46 FPC 1262 (November 23, 1971); The Inland Gas Company, Docket No. RP76-3, Order Granting Extension and Modification of Interim Curtailment Plan (December 27, 1978).

[2] *Cf.* 10 C.F.R. 281.213.

[3] *See* Notice of Proposed Rulemaking, Docket No. RM79-40.

Northern Natural Gas Co. and Columbia Gulf Transmission Co.; Joint Application

May 3, 1979.

Take notice that on April 12, 1979, Northern Natural Gas Company (Northern), 2223 Dodge Street, Omaha, Nebraska 68102, and Columbia Gulf Transmission Company (Columbia Gulf), 3805 West Alabama Avenue, Houston, Texas 77027, filed in Docket No. CP79-269, a joint application pursuant to Section 7(c) of the Natural Gas Act for a certificate of public convenience and necessity authorizing the exchange of natural gas between the parties and the installation and operation of certain minor facilities required to accommodate the receipt of exchange gas by Northern, all as more fully set forth in the application which is on file with the Commission and open to public inspection.

Applicants request authority to exchange natural gas pursuant to a gas exchange agreement dated March 19, 1979, between Northern and Columbia Gulf. It is stated that Northern has acquired the right to purchase volumes of gas produced in the offshore Gulf Coast area and is negotiating with producers for additional offshore volumes. It is further stated that such gas acquisitions are remote from Northern's system and necessitate various transportation and exchange arrangements with other pipeline companies in order to cause delivery of Northern's offshore gas to its system in the most economical and efficient manner. Northern states it currently has Gulf Coast volumes of gas in excess of authorized transportation and exchange arrangements.

It is asserted that Columbia Gas Transportation Corporation (Columbia Gas), an affiliate of Columbia Gulf, has agreed to purchase up to 10,000 Mcf per day of natural gas from Texas Oil and Gas Corporation (Texas Oil) in Irion County, Texas. It is further asserted that Columbia Gulf will control the operation of the gathering facilities necessary to gather Columbia Gas' gas in Irion County, Texas.

Applicants state that they would exchange up to 10,000 Mcf of natural gas per day on a firm basis, and that volumes in excess of 10,000 Mcf would be exchanged on a best efforts basis. It is indicated that Columbia Gulf would deliver exchange volumes of gas to Northern in Irion County and that Northern would cause volumes of gas it has available in the Gulf Coast area, to be delivered to Columbia Gulf, for its account at one or more of the existing delivery points as follows:

Erath, Vermilion Parish, Louisiana, Egan, Acadia Parish, Louisiana, Garden City, St. Mary Parish, Louisiana, and North Terrebonne, Terrebonne Parish, Louisiana.

Applicants state that the proposed exchange would be on an equivalent Btu basis and that no monetary consideration would be given by either party for the exchange of gas.

In order to accommodate the receipt of gas by Northern from Columbia Gulf in Irion County, Northern proposes to install and operate a side valve and appurtenances, it is stated. Applicants state that the cost of these minor facilities is estimated to be $6,085 which would be reimbursed by Columbia Gulf.

Any person desiring to be heard or to make any protest with reference to said application should on or before May 25, 1979, file with the Federal Energy Regulatory Commission, Washington,

D.C. 20426, a petition to intervene or a protest in accordance with the requirements of the Commission's Rules of Practice and Procedure (18 CFR 1.8 or 1.10) and the Regulations under the Natural Gas Act (18 CFR 157.10). All protests filed with the Commission will be considered by it in determining the appropriate action to be taken but will not serve to make the protestants parties to the proceeding. Any person wishing to become a party a proceeding or to participate as a party in any hearing therein must file a petition to intervene in accordance with the Commission's Rules.

Take further notice that, pursuant to the authority contained in and subject to jurisdiction conferred upon the Federal Energy Regulatory Commission by Sections 7 and 15 of the Natural Gas Act and the Commission's Rules of Practice and Procedure, a hearing will be held without further notice before the Commission or its designee on this application if no petition to intervene is filed within the time required herein, if the Commission on its own review of the matter finds that a grant of the certificate is required by the public convenience and necessity. If a petition for leave to intervene is timely filed, or if the Commission on its own motion believes that a formal hearing is required, further notice of such hearing will be duly given.

Under the procedure herein provided for, unless otherwise advised, it will be unnecessary for Applicants to appear or be represented at the hearing.

Kenneth F. Plumb,
Secretary.

[Docket No. CP79-269]
[FR Doc. 79-14830 Filed 5-11-79; 8:45 am]
BILLING CODE 6450-01-M

Pace Pipe Line Co. et al.; Determination by a Jurisdictional Agency Under the Natural Gas Policy Act of 1978

May 3, 1979.

On April 23, 1979, the Federal Energy Regulatory Commission received notices from the jurisdictional agencies listed below of determinations pursuant to 18 CFR 274.104 and applicable to the indicated wells pursuant to the Natural Gas Policy Act of 1978.

State of West Virginia, Department of Mines, Oil and Gas Division

FERC Control Number: JD79-4080
API Well Number: 47-Gil-2956-47-021
Section of NGPA: 103
Operator: Pace Pipe Line Company
Well Name: Snyder No. 1
Field: Glenville
County: Gilmer
Purchaser: Carnegie Natural Gas Co.
Volume: 25.000 MMcf.

FERC Control Number: JD79-4081
API Well Number: 47-007-1220
Section of NGPA: 103
Operator: Trio Petroleum Corporation
Well Name: Carper No. 1
Field: Heater
County: Braxton
Purchaser: Consolidated Gas Supply Corp.
Volume: 25 MMcf.

FERC Control Number: JD79-4082
API Well Number: 47-017-2-2290-0000
Section of NGPA: 103
Operator: Dennis D. Blauser
Well Name: W. B. Maxwell No. 9
Field: Southwest
County: Doddridge
Purchaser: Equitable Gas Company
Volume: 20 MMcf.

FERC Control Number: JD79-4083
API Well Number: 47-017-2-2291-0000
Section of NGPA: 103
Operator: Dennis D. Blauser
Well Name: W. B. Maxwell No. 10
Field: Southwest
County: Doddridge
Purchaser: Equitable Gas Company
Volume: 20 MMcf.

FERC Control Number: JD79-4084
API Well Number: 47-0472-0712-0000
Section of NGPA: 103
Operator: Appalachian Exploration & Devel., Inc.
Well Name: Poca Land C-5
Field: Browns Creek
County: McDowell
Purchaser: Cabot Corporation
Volume: 20.1 MMcf.

FERC Control Number: JD79-4085
API Well Number: 47-085-2-3788-0000
Section of NGPA: 103
Operator: Dennis D. Blauser
Well Name: Henery L. Barker No. 2
Field: Murphy
County: Ritchie
Purchaser: Columbia Gas Transmission Corp.
Volume: 6 MMcf.

FERC Control Number: JD79-4086
API Well Number: 47-0152-1208-0000
Section of NGPA: 103
Operator: Appalachian Exploration & Devel., Inc.
Well Name: Kathleen Morton No. 1
Field: Pleasant
County: Clay
Purchaser: Cabot Corporation
Volume: 22.4 MMcf.

FERC Control Number: JD79-4087
API Well Number: 47-085-2-3866-0000
Section of NGPA: 103
Operator: Dennis D. Blauser
Well Name: G. P. Bartlett No. 2
Field: Union
County: Ritchie
Purchaser: Consolidated Gas Corporation
Volume: 20 MMcf.

FERC Control Number: JD79-4088
API Well Number: 47-1092-0808-0000
Section of NGPA: 103
Operator: Appalachian Exploration & Devel., Inc.
Well Name: Paca Land L-2
Field: Baileysville
County: Wyoming
Purchaser: Cabot Corporation
Volume: 33.5 MMcf

FERC Control Number: JD79-4089
API Well Number: 47-Mar-1956-47-033
Section of NGPA: 103
Operator: Pace Pipe Line Company
Well Name: Brohard No. 1
Field: Big Isaac
County: Harrison
Purchaser: Consolidated Gas Supply Corp.
Volume: 80,000 MMcf.

FERC Control Number: JD79-4090
API Well Number: 47-041-2518
Section of NGPA: 103
Operator: Interstate Drilling Inc.
Well Name: Casey No. 2
Field: Alum Fork
County: Lewis
Purchaser: Consolidated Gas Supply Corp.
Volume: 12,000 MMcf.

The applications for determination in these proceedings together with a copy or description of other materials in the record on which such determinations were made are available for inspection, except to the extent such material is treated as confidential under 18 CFR 275.206, at the Commission's Office of Public Information, Room 1000, 825 North Capitol Street, NE., Washington, D.C. 20426.

Persons objecting to any of those final determinations may, in accordance with 18 CFR 275.203 and 18 CFR 275.204, file a protest with the Commission on or before May 29, 1979. Please reference the FERC Control Number in any correspondence concerning a determination.

Kenneth F. Plumb,
Secretary.

[FR Doc. 79-14867 Filed 5-11-79; 8:45 am]
BILLING CODE 6450-01-M

Panhandle Eastern Pipe Line Co.; Application

May 4, 1979.

Take notice that on April 19, 1979, Panhandle Eastern Pipe Line Company (Panhandle), P.O. Box 1642, Houston, Texas 77001, filed in Docket No. CP79-279 an application pursuant to Section 7(c) of the Natural Gas Act for a certificate of public convenience and necessity authorizing the construction and operation of pipeline and related appurtenant facilities in Kingfisher County, Oklahoma, all as more fully set forth in the application which is on file with the Commission and open for public inspection.

Panhandle states that the following are the proposed facilities:

(1) The establishment of the Cashion Compressor Station to be located in Kingfisher County, Oklahoma, the

proposed Cashion Compressor Station

Pennzoil Co.; Determination by a

State of West Virginia, Department of Mines,

proposed Cashion Compressor Station would be equipped with 3,300 compressor horsepower.

(2) The establishment of the Bison Compressor Station to be located in Kingfisher County, Oklahoma. The proposed Bison Compressor Station would be equipped with 3,300 compressor horsepower.

(3) 23.3-miles of 16-inch pipeline and related facilities to be constructed in Kingfisher County, Oklahoma.

Panhandle states that the proposed facilities would allow it to attach a new source of supply directly to its pipeline system by constructing an extension of its existing gathering system.

Panhandle states that pursuant to a gas purchase and sales agreement dated March 6, 1979, with Phillips Petroleum Company (Phillips), Phillips would sell and Panhandle would purchase natural gas to be produced on Phillips' Sooner Pipeline System. The said natural gas would be delivered to Panhandle by Phillips at the tailgate of the latter's processing plant located in Kingfisher County, Oklahoma, it is said.

Panhandle further states that the agreement further provides for the dedication by Phillips to Panhandle of the production from an estimated 225 wells, as of the time initial deliveries of natural gas are made to Panhandle by Phillips. The original 225 wells to be dedicated by Phillips to the performance of the agreement would have available initial recoverable wellhead reserves of 109,500,000 Mcf of natural gas and the agreement provides for deliveries to Panhandle by Phillips of up to 60,000 Mcf of residue gas on a daily basis, it is said. The proposed facilities to be constructed and placed in service by Panhandle have been designed to accommodate a capacity of 60,000 Mcf per day, it is asserted.

Panhandle asserts that although the primary purpose for the proposed facilities is the transmission of natural gas to be purchased by Panhandle from Phillips, it is aware of additional drilling activity in Kingfisher County and in Canadian County, which is located immediately south of Kingfisher County. It is Panhandle's belief that the presence of the proposed pipeline would assist Panhandle in securing other sources of new natural gas supply situated in Kingfisher and Canadian Counties, it is further asserted.

Panhandle is temporarily purchasing certain volumes of gas which Phillips currently has available from dedicated acreage in this area and this gas is being delivered to Panhandle at an existing interconnection with Phillips in Woodward County, Oklahoma, it is said. However, the construction of the facilities proposed is an integral part of the agreement between Panhandle and Phillips whereby Phillips has agreed to connect substantial additional volumes of gas to Panhandle in this area, it is further said.

Panhandle asserts that the cost of the facilities proposed is estimated to be $10,108,000.00 and Panhandle proposes to finance this project from internally generated funds and short-term bank borrowing as necessary.

Any person desiring to be heard or to make any protest with reference to said application should on or before May 29, 1979, file with the Federal Energy Regulatory Commission, Washington, D.C. 20426, a petition to intervene or a protest in accordance with the requirements of the Commission's Rules of Practice and Procedure (18 CFR 1.8 or 1.10) and the Regulations under the Natural Gas Act (18 CFR 157.10). All protests filed with the Commission will be considered by it in determining the appropriate action to be taken but will not serve to make the protestants parties to the proceeding. Any person wishing to become a party to a proceeding or to participate as a party in any hearing therein must file a petition to intervene in accordance with the Commission's Rules.

Take further notice that, pursuant to the authority contained in and subject to jurisdiction conferred upon the Federal Energy Regulatory Commission by Sections 7 and 15 of the Natural Gas Act and the Commission's Rules of Practice and Procedure, a hearing will be held without further notice before the Commission or its designee on this application if no petition to intervene is filed within the time required herein, if the Commission on its own review of the matter finds that a grant of the certificate is required by the public convenience and necessity. If a petition for leave to intervene is timely filed, or if the Commission on its own motion believes that a formal hearing is required, further notice of such hearing will be duly given.

Under the procedure herein provided for, unless otherwise advised, it will be unnecessary for Panhandle to appear or be represented at the hearing.

Kenneth F. Plumb,
Secretary.

[Docket No. CP79-279]
[FR Doc. 79-14831 Filed 5-11-79; 8:45 am]
BILLING CODE 6450-01-M

Pennzoil Co.; Determination by a Jurisdictional Agency Under the Natural Gas Policy Act of 1978

May 4, 1979.

On April 25, 1979, the Federal Energy Regulatory Commission received notices from the jurisdictional agencies listed below of determinations pursuant to 18 CFR 274.104 and applicable to the indicated wells pursuant to the Natural Gas Policy Act of 1978.

State of West Virginia, Department of Mines Oil and Gas Division

FERC Control Number: JD79-3888.
API Well Number: 47-013-1855.
Section of NGPA: 108.
Operator: Pennzoil Company.
Well Name: Granville Rice No. 10.
Field: Sherman District.
County: Calhoun.
Purchaser: Consolidated Gas Supply Corp.
Volume: 1.5 MMcf.

FERC Control Number: JD79-3889.
API Well Number: 47-013-1902.
Section of NGPA: 108.
Operator: Pennzoil Company.
Well Name: Granville Rice No. 12.
Field: Sherman District.
County: Calhoun.
Purchaser: Consolidated Gas Supply Corp.
Volume: 4.4 MMcf.

FERC Control Number: JD79-3890.
API Well Number: 47-013-2185.
Section of NGPA: 108.
Operator: Pennzoil Company.
Well Name: Bennett, E. B. No. 5
Field: Sherman.
County: Calhoun.
Purchaser: Consolidated Gas Supply Corp.
Volume: .2 MMcf.

FERC Control Number: JD79-3891.
API Well Number: 47-013-0671.
Section of NGPA: 108.
Operator: Pennzoil Company.
Well Name: F. E. Rothlisberger No. 5.
Field: Sherman District.
County: Calhoun.
Purchaser: Consolidated Gas Supply Corp.
Volume: 0.5 MMcf.

FERC Control Number: JD79-3892.
API Well Number: 47-013-0719.
Section of NGPA: 108.
Operator: Pennzoil Company.
Well Name: F. E. Rothlisberger No. 8.
Field: Sherman District.
County: Calhoun.
Purchaser: Consolidated Gas Supply Corp.
Volume: 0.5 MMcf.

FERC Control Number: JD79-3893.
API Well Number: 47-013-0735.
Section of NGPA: 108.
Operator: Pennzoil Company.
Well Name: F. E. Rothlisberger No. 9.
Field: Sherman District.
County: Calhoun.
Purchaser: Consolidated Gas Supply Corp.
Volume: 0.5 MMcf.

FERC Control Number: JD79-3894.
API Well Number: 47-013-1608
Section of NGPA: 108.
Operator: Pennzoil Company.
Well Name: Elias Poole No. 3.
Field: Sherman.
County: Calhoun.
Purchaser: Consolidated Gas Supply Corp.
Volume: 1.0 MMcf.

FERC Control Number: JD79-3895.
API Well Number: 47-013-1730.
Section of NGPA: 108.
Operator: Pennzoil Company.
Well Name: Elias Poole No. 4.
Field: Sherman.
County: Calhoun.
Purchaser: Consolidated Gas Supply Corp.
Volume: 1.0 MMcf.

FERC Control Number: JD79-3896.
API Well Number: 47-013-1750.
Section of NGPA: 108.
Operator: Pennzoil Company.
Well Name: Granville Rice No. 7.
Field: Sherman District.
County: Calhoun.
Purchaser: Consolidated Gas Supply Corp.
Volume: 1.2 MMcf.

FERC Control Number: JD79-3897.
API Well Number: 47-013-1824.
Section of NGPA: 108.
Operator: Pennzoil Company.
Well Name: Granville Rice No. 8.
Field: Sherman District.
County: Calhoun.
Purchaser: Consolidated Gas Supply Corp.
Volume: 1.5 MMcf.

FERC Control Number: JD79-3898.
API Well Number: 47-087-2696.
Section of NGPA: 108.
Operator: Pennzoil Company.
Well Name: C. W. Radaker No. 1.
Field: Spencer District.
County: Roane.
Purchaser: Consolidated Gas Supply Corp.
Volume: 0.3 MMcf.

FERC Control Number: JD79-3899.
API Well Number: 47-017-1589.
Section of NGPA: 108.
Operator: Pennzoil Company.
Well Name: Pearcy, A. L. No. 18.
Field: New Milton.
County: Doddridge.
Purchaser: Consolidated Gas Supply Corp.
Volume: 3.8 MMcf.

FERC Control Number: JD79-3900.
API Well Number: 47-017-1140.
Section of NGPA: 108.
Operator: Pennzoil Company.
Well Name: Pearcy, A. L. No. 16.
Field: New Milton.
County: Doddridge.
Purchaser: Consolidated Gas Supply Corp.
Volume: 3.8 MMcf.

FERC Control Number: JD79-3901.
API Well Number: 47-039-3303.
Section of NGPA: 108.
Operator: Pennzoil Company.
Well Name: Black Band Fuel No. 2.
Field: Washington.
County: Kanawha.
Purchaser: Consolidated Gas Supply Corp.
Volume: 3.6 MMcf.

FERC Control Number: JD79-3902.
API Well Number: 47-039-3302.
Section of NGPA: 108.
Operator: Pennzoil Company.
Well Name: Black Band Fuel No. 1.
Field: Washington.
County: Kanawha.
Purchaser: Consolidated Gas Supply Corp.
Volume: 3.6 MMcf.

FERC Control Number: JD79-3903.
API Well Number: 47-039-2486-R.
Section of NGPA: 108.
Operator: Pennzoil Company.
Well Name: Black Band Fuel No. 29.
Field: Washington.
County: Kanawha.
Purchaser: Consolidated Gas Supply Corp.
Volume: 0 MMcf.

FERC Control Number: JD79-3904.
API Well Number: 47-039-2400.
Section of NGPA: 108.
Operator: Pennzoil Company.
Well Name: Black Band Fuel No. 28.
Field: Washington.
County: Kanawha.
Purchaser: Consolidated Gas Supply Corp.
Volume: 15.7 MMcf.

FERC Control Number: JD79-3905.
API Well Number: 47-039-2399.
Section of NGPA: 108.
Operator: Pennzoil Company.
Well Name: Black Band Fuel No. 27.
Field: Washington.
County: Kanawha.
Purchaser: Consolidated Gas Supply Corp.
Volume: 6.0 MMcf.

The applications for determination in these proceedings together with a copy or description of other materials in the record on which such determinations were made are available for inspection, except to the extent such material is treated as confidential under 8 CFR 275.206, at the Commission's Office of Public Information, Room 1000, 825 North Capitol Street, N.E., Washington, D.C. 20426.

Persons objecting to any of those final determinations may, in accordance with 18 CFR 275.203 and 18 CFR 275.204, file a protest with the Commission on or before May 29, 1979. Please reference the FERC Control Number in any correspondence concerning a determination.

Kenneth F. Plumb,
Secretary.

[FR Doc. 79-14858 Filed 5-11-79; 8:45 am]
BILLING CODE 6450-01-M

Pennzoil Co.; Determination by a Jurisdictional Agency Under the Natural Gas Policy Act of 1978

May 4, 1979.

On April 25, 1979, the Federal Energy Regulatory Commission received notices from the jurisdictional agencies listed below of determinations pursuant to 18 CFR 274.104 and applicable to the indicated wells pursuant to the Natural Gas Policy Act of 1978.

State of West Virginia, Department of Mines, Oil and Gas Division

FERC Control Number: JD79-3918.
API Well Number: 47-017-1821.
Section of NGPA: 108.
Operator: Pennzoil Company.
Well Name: Pearcy, A. L. Number 20.
Field: New Milton.
County: Doddridge.
Purchaser: Consolidated Gas Supply Corp.
Volume: 3.8 MMcf.

FERC Control Number: JD79-3919.
API Well Number: 47-017-2238.
Section of NGPA: 108.
Operator: Pennzoil Company.
Well Name: Pearcy, A. L. Number 2.
Field: New Milton.
County: Doddridge.
Purchaser: Consolidated Gas Supply Corp.
Volume: 3.8 MMcf.

FERC Control Number: JD79-3920.
API Well Number: 47-085-4060.
Section of NGPA: 108.
Operator: Pennzoil Company.
Well Name: Ayers, M. A.
Field: Murphy.
County: Ritchie.
Purchaser: Consolidated Gas Supply Corp.
Volume: 4.5 MMcf.

FERC Control Number: JD79-3921.
API Well Number: 47-017-1820.
Section of NGPA: 108.
Operator: Pennzoil Company.
Well Name: Pearcy, A. L. Number 19.
Field: New Milton.
County: Doddridge.
Purchaser: Consolidated Gas Supply Corp.
Volume: 3.8 MMcf.

FERC Control Number: JD79-3922.
API Well Number: 47-017-1591.
Section of NGPA: 108.
Operator: Pennzoil Company.
Well Name: Pearcy, A. L. Number 3.
Field: New Milton.
County: Doddridge.
Purchaser: Consolidated Gas Supply Corp.
Volume: 3.8 MMcf.

FERC Control Number: JD79-3923.
API Well Number: 47-017-1117.
Section of NGPA: 108.
Operator: Pennzoil Company.
Well Name: Pearcy, A. L. Number 10.
Field: New Milton.
County: Doddridge.
Purchaser: Consolidated Gas Supply Corp.
Volume: 3.8 MMcf.

FERC Control Number: JD79-3924.
API Well Number: 47-017-1118.
Section of NGPA: 108.
Operator: Pennzoil Company.
Well Name: Pearcy, A. L. Number 11.
Field: New Milton.
County: Doddridge.
Purchaser: Consolidated Gas Supply Corp.
Volume: 3.8 MMcf.

FERC Control Number: JD79-3925.
API Well Number: 47-017-1122.
Section of NGPA: 108.
Operator: Pennzoil Company.
Well Name: Pearcy, A. L. Number 12.
Field: New Milton.
County: Doddridge.
Purchaser: Consolidated Gas Supply Corp.
Volume: 3.8 MMcf.

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FERC Control Number: JD79–3926.
API Well Number: 47–017–1126.
Section of NGPA: 108.
Operator: Pennzoil Company.
Well Name: Pearcy, A. L. Number 13.
Field: New Milton.
County: Doddridge.
Purchaser: Consolidated Gas Supply Corp.
Volume: 3.8 MMcf.

FERC Control Number: JD79–3927.
API Well Number: 47–017–1131.
Section of NGPA: 108.
Operator: Pennzoil Company.
Well Name: Pearcy, A. L. Number 14.
Field: New Milton.
County: Doddridge.
Purchaser: Consolidated Gas Supply Corp.
Volume: 3.8 MMcf.

The applications for determination in these proceedings together with a copy or description of other materials in the record on which such determinations were made are available for inspection, except to the extent such material is treated as confidential under 18 CFR 275.206, at the Commission's Office of Public Information, Room 1000, 825 North Capitol Street, N.E., Washington, D.C. 20426.

Persons objecting to any of those final determinations may, in accordance with 18 CFR 275.203 and 18 CFR 275.204, file a protest with the Commission on or before May 29, 1979. Please reference the FERC Control Number in any correspondence concerning a determination.

Kenneth F. Plumb,
Secretary.

[FR Doc. 79–14860 Filed 5–11–79; 8:45 am]

BILLING CODE 6450–01–M

Pennzoil Co.; Determination by a Jurisdictional Agency Under the Natural Gas Policy Act of 1978

May 4, 1979.

On April 25, 1979, the Federal Energy Regulatory Commission received notices from the jurisdictional agencies listed below of determinations pursuant to 18 CFR 274.104 and applicable to the indicated wells pursuant to the Natural Gas Policy Act of 1978.

State of West Virginia, Department of Mines, Oil and Gas Division

FERC Control Number: JD79–3977.
API Well Number: 47–039–1288.
Section of NGPA: 108.
Operator: Pennzoil Company.
Well Name: Dickinson Fuel Co. No. 1.
Field: Washington.
County: Kanawha.
Purchaser: Consolidated Gas Supply Corp.
Volume: 2.4 MMcf.

FERC Control Number: JD79–3978.
API Well Number: 47–039–1167.
Section of NGPA: 108.
Operator: Pennzoil Company.
Well Name: Black Band Fuel No. 17.
Field: Washington.
County: Kanawha.
Purchaser: Consolidated Gas Supply Corp.
Volume: 4.5 MMcf.

FERC Control Number: JD79–3979.
API Well Number: 47–039–1155.
Section of NGPA: 108.
Operator: Pennzoil Company.
Well Name: Black Band Fuel No. 16.
Field: Washington.
County: Kanawha.
Purchaser: Consolidated Gas Supply Corp.
Volume: 0 MMcf.

FERC Control Number: JD79–3980.
API Well Number: 47–039–2395.
Section of NGPA: 108.
Operator: Pennzoil Company.
Well Name: Black Band Fuel No. 26.
Field: Washington.
County: Kanawha.
Purchaser: Consolidated Gas Supply Corp.
Volume: 20.0 MMcf.

FERC Control Number: JD79–3981.
API Well Number: 47–039–2303.
Section of NGPA: 108.
Operator: Pennzoil Company.
Well Name: Black Band Fuel No. 25.
Field: Washington.
County: Kanawha.
Purchaser: Consolidated Gas Supply Corp.
Volume: 3.0 MMcf.

FERC Control Number: JD79–3982.
API Well Number: 47–039–1861.
Section of NGPA: 108.
Operator: Pennzoil Company.
Well Name: Black Band Fuel No. 19.
Field: Washington.
County: Kanawha.
Purchaser: Consolidated Gas Supply Corp.
Volume: 12.0 MMcf.

FERC Control Number: JD79–3983.
API Well Number: 47–039–1841.
Section of NGPA: 108.
Operator: Pennzoil Company.
Well Name: Black Band Fuel No. 18.
Field: Washington.
County: Kanawha.
Purchaser: Consolidated Gas Supply Corp.
Volume: 3.0 MMcf.

FERC Control Number: JD79–3984.
API Well Number: 47–039–0998.
Section of NGPA: 108.
Operator: Pennzoil Company.
Well Name: Black Band Fuel No. 8.
Field: Washington.
County: Kanawha.
Purchaser: Consolidated Gas Supply Corp.
Volume: 0 MMcf.

FERC Control Number: JD79–3985.
API Well Number: 47–039–1289.
Section of NGPA: 108.
Operator: Pennzoil Company.
Well Name: Dickinson Fuel Co. No. 2.
Field: Washington.
County: Kanawha.
Purchaser: Consolidated Gas Supply Corp.
Volume: 1.3 MMcf.

The applications for determination in these proceedings together with a copy or description of other materials in the record on which such determinations were made are available for inspection, except to the extent such material is treated as confidential under 18 CFR 275.206, at the Commission's Office of Public Information, Room 1000, 825 North Capitol Street, NE., Washington, D.C. 20426.

Persons objecting to any of those final determinations may, in accordance with 18 CFR 275.203 and 18 CFR 275.204, file a protest with the Commission on or before May 29, 1979. Please reference the FERC Control Number in any correspondence concerning a determination.

Kenneth F. Plumb,
Secretary.

[FR Doc. 79–14862 Filed 5–11–79; 8:45 am]

BILLING CODE 6450–01–M

Pennzoil Co.; Determination by a Jurisdictional Agency Under the Natural Gas Policy of 1978

May 4, 1979.

On April 23, 1979, the Federal Energy Regulatory Commission received notices from the jurisdictional agencies listed below of determinations pursuant to 18 CFR 274.104 and applicable to the indicated wells pursuant to the Natural Gas Policy Act of 1978.

State of West Virginia, Department of Mines, Oil and Gas Division

FERC Control Number: JD79–4058
API Well Number: 47–039–2315
Section of NGPA: 108
Operator: Pennzoil Company
Well Name: Black Band Fuel No. 24
Field: Washington
County: Kanawha
Purchaser: Consolidated Gas Supply Corp.
Volume: 20.0 MMcf.

FERC Control Number: JD79–4059
API Well Number: 47–087–2877
Section of NGPA: 108
Operator: Pennzoil Company
Well Name: J. A. White No. 6
Field: Spencer District
County: Roane
Purchaser: Consolidated Gas Supply Corp.
Volume: 0.5 MMcf.

FERC Control Number: JD79–4060
API Well Number: 47–087–2876
Section of NGPA: 108
Operator: Pennzoil Company
Well Name: J. A. White No. 2
Field: Spencer District
County: Roane
Purchaser: Consolidated Gas Supply Corp.
Volume: .9 MMcf.

FERC Control Number: JD79–4061
API Well Number: 47–087–2715
Section of NGPA: 108
Operator: Pennzoil Company
Well Name: Smith Simmons No. 6
Field: Spencer District
County: Roane
Purchaser: Consolidated Gas Supply Corp
Volume: 0.5 MMcf.

FERC Control Number: JD79–4062
API Well Number: 47–085–4078
Section of NGPA: 108
Operator: Pennzoil Company
Well Name: Agnes Putnam No. 1
Field: Murphy
County: Ritchie
Purchaser: Consolidated Gas Supply Corp.
Volume: 2.0 MMcf.

FERC Control Number: JD79–4063
API Well Number: 47–013–2778
Section of NGPA: 108
Operator: Pennzoil Company
Well Name: W. E. Butcher No. 1
Field: Lee District
County: Calhoun
Purchaser: Consolidated Gas Supply Corp.
Volume: 0.5 MMcf.

FERC Control Number: JD79–4064
API Well Number: 47–017–2240
Section of NGPA: 108
Operator: Pennzoil Company
Well Name: G. W. Piggott No. 4
Field: McClellan
County: Doddridge
Purchaser: Consolidated Gas Suply Corp.
Volume: 1.9 MMcf.

FERC Control Number: JD79–4065
API Well Number: 47–017–2239
Section of NGPA: 108
Operator: Pennzoil Company
Well Name: G. W. Piggott No. 2
Field: McClellan
County: Doddridge
Purchaser: Consolidated Gas Supply Corp.
Volume: 1.9 MMcf.

FERC Control Number: JD79–4066
API Well Number: 47–017–2220
Section of NGPA: 108
Operator: Pennzoil Company
Well Name: Frank Kelley No. 2
Field: New Milton
County: Doddridge
Purchaser: Consolidated Gas Supply Corp.
Volume: 2.3 MMcf.

FERC Control Number: JD79–4067
API Well Number: 47–017–2206
Section of NGPA: 108
Operator: Pennzoil Company
Well Name: Isaac Eddy Heirs No. 7
Field: Greenbrier
County: Doddridge
Purchaser: Consolidated Gas Supply Corp.
Volume: 1.7 MMcf.

FERC Control Number: JD79–4068
API Well Number: 47–013–2841
Section of NGPA: 108
Operator: Pennzoil Company
Well Name: S. P. Hickman No. 1
Field: Lee District
County: Calhoun
Purchaser: Consolidated Gas Supply Corp.
Volume: 0.5 MMcf.

The applications for determination in these proceedings together with a copy or description of other materials in the record on which such determinations were made are available for inspection, except to the extent such material is treated as confidential under 18 CFR 275.206, at the Commission's Office of Public Information, Room 1000, 825 North Capitol Street, N.E., Washington, D.C. 20426.

Persons objecting to any of those final determinations may, in accordance with 18 CFR 275.203 and 18 CFR 275.204, file a protest with a Commission on or before May 29, 1979. Please reference the FERC Control Number in any correspondence concerning a determination.

Kenneth F. Plumb,
Secretary.

[FR Doc. 79–14866 Filed 5–11–79; 8:45 am]

BILLING CODE 6450–01–M

Shell Oil Co.; Determination by a Jurisdictional Agency Under the Natural Gas Policy Act of 1978

May 7, 1979.

On April 26, 1979, the Federal Energy Regulatory Commission received notices from the jurisdictional agencies listed below of determinations pursuant to 18 CFR 274.104 and applicable to the indicated wells pursuant to the Natural Gas Policy Act of 1978.

State of Louisiana, Department of Natural Resources, Office of Conservation

FERC Control Number: JD79–3065
API Well Number: 170992096
Section of NGPA: 102
Operator: Shell Oil Co.
Well Name: J. L. & S. Co. No. 89
Field: West Lake Verret
County: St. Martin
Purchaser: United Gas Pipe Line Co.
Volume: 125 MMcf.

FERC Control Number: JD79–3066
API Well Number: 172120308
Section of NGPA: 102
Operator: Shell Oil Co.
Well Name: S. L. 1007 No. 41
Field: South Pass Block
County: Plaquemines
Purchaser: Tennessee Gas Pipeline Co.
Volume: 90 MMcf.

The applications for determination in these proceedings together with a copy or description of other materials in the record on which such determinations were made are available for inspection, except to the extent such material is treated as confidential under 18 CFR 275.206, at the Commission's Office of Public Information, Room 1000, 825 North Capitol Street, N.E., Washington, D.C. 20426.

Persons objecting to any of those final determinations may, in accordance with 18 CFR 275.203 and 18 CFR 275.204, file a protest with the Commission on or before May 29, 1979. Please reference the FERC Control Number in any correspondence concerning a determination.

Kenneth F. Plumb,
Secretary.

[FR Doc. 79–14837 Filed 5–11–79; 8:45 am]

BILLING CODE 6450–01–M

State of Ohio; Natural Gas Policy Act Determination on W. E. Shrider Co., No. 3, Hemlock Co.; Preliminary Finding

Issued May 4, 1979.

On March 21, 1979, the Department of Natural Resources, Division of Oil and Gas, State of Ohio, submitted to the Federal Energy Regulatory Commission (Commission) a notice of determination that the W. E. Shrider Company No. 3 Hemlock Co. well met all the requirements of a new, onshore production well under section 103 of the Natural Gas Policy Act of 1978 (NGPA) and Commission regulations implementing that section. The Commission published notice of the determination on April 11, 1979.

Section 103(c)(1) of the NGPA provides that the surface drilling of a new, onshore production well must have begun on or after February 19, 1977, in order for the well to qualify for the section 103 maximum lawful price. However, the well completion report submitted with this determination indicates that the surface drilling of the well in question was commenced on January 19, 1977.

On the basis of our review of the record submitted with this determination, the Commission hereby makes a preliminary finding, pursuant to § 275.202(a)(1)(i) of our regulations (18 CFR 275.202(a)(1)(i)) that the determination submitted by the Department of Natural Resources, Division of Oil and Gas, State of Ohio, that the W. E. Shrider Company No. 3 Hemlock Co. well qualifies as a section 103 new, onshore production well, is not supported by substantial evidence in the record on which the determination was made.

By direction of the Commission.

Kenneth F. Plumb,
Secretary.

[API No. JD79–1781: Docket No. CP79–8]

[FR Doc. 79–14832 Filed 5–11–79; 8:45 am]

BILLING CODE 6450–01–M

Tennessee Gas Pipeline Co.; Application

May 1, 1979.

Take notice that on April 5, 1979, Tennessee Gas Pipeline Company, a Division of Tenneco Inc. (Applicant),

Regulatory Commission, Washington, that production has ceased and that CFR 274.104 and applicable to the

P.O. Box 2511, Houston, Texas 77001, filed in Docket No. CP79–257 an application pursuant to Section 7(c) of the Natural Gas Act for a certificate of public convenience and necessity authorizing the transportation of up to 1,800 Mcf [1] of natural gas per day for the United Gas Pipe Line Company (United), all as more fully set forth in the application on file with the Commission and open to public inspection.

Applicant proposes to transport gas for United pursuant to a transportation agreement February 13, 1979, between Applicant and United whereby Applicant would receive and transport for United volumes of gas through Tennessee's existing facilities, produced from the "B" production platform in South Marsh Island Block 243, offshore Louisiana (SMI 243B), to a point of delivery onshore Louisiana. It is stated that such point of delivery is near Cocodrie, Terrebonne Parish, Louisiana (Cocodrie), and/or as mutually agreed from time to time at the following point of interconnection: a point near Bayou Sale, St. Mary Parish, Louisiana (Centerville); a point near Lirette, Terrebonne Parish, Louisiana (Lirette); and/or at other existing points of exchange where gas can be delivered to or for the account of United.

It is indicated that United would pay Applicant each month for such transportation services a volume charge equal to 8.97 cents per Mcf, with provision for a minimum monthly bill based on transportation quantity. Further United would provide to Applicant daily volumes of gas equal to 1.7 percent of the volumes received for transportation each day, for Applicant's fuel and use requirements.

Any person desiring to be heard or to make any protest with reference to said application should on or before May 23, 1979, file with the Federal Energy Regulatory Commission, Washington, D.C. 20426, a petition to intervene or a protest in accordance with the requirements of the Commission's Rules of Practice and Procedure (18 CFR 1.8 or 1.10) and the Regulations under the Natural Gas Act (18 CFR 157.10). All protests filed with the Commission will be considered by it in determining the appropriate action to be taken but will not serve to make the protestants parties to the proceeding. Any person wishing to become a party to a proceeding or to participate as a party in any hearing therein must file a petition to intervene in accordance with the Commission's Rules.

[1] Applicant proposes to exercise its option to transport additional volumes of gas if such are tendered by United and accepted by Applicant.

Take further notice that, pursuant to the authority contained in and subject to jurisdiction conferred upon the Federal Energy Regulatory Commission by Sections 7 and 15 of the Natural Gas Act and the Commission's Rules of Practice and Procedure, a hearing will be held without further notice before the Commission or its designee on this application if no petition to intervene is filed within the time required herein, if the Commission on its own review of the matter finds that a grant of the certificate is required by the public conveniece and necessity. If a petition for leave to intervene is timely filed, or if the Commission on its own motion believes that a formal hearing is required, further notice of such hearing will be duly given.

Under the procedure herein provided for, unless otherwise advised, it will be unnecessary for Applicant to appear or be represented at the hearing.

Kenneth F. Plumb,
Secretary.

[Docket No. CP79–257]
[FR Doc. 79–14833 Filed 5–11–79; 8:45 am]
BILLING CODE 6450–01–M

Texaco, Inc.; Termination of Proceeding

May 3, 1979.

On March 9, 1979, Texaco, Inc. (Texaco), the petitioner in this proceeding, filed a motion to withdraw its petition for review, filed December 1, 1978, from an order issued on October 4, 1978 by the Secretary of Energy (Secretary) with respect to Texaco's applications for exceptions from the Secretary's Mandatory Petroleum Price Regulations.

The motion was deemed a notice of withdrawal under § 1.11(d) of the Commission's Rules of Practice and Procedure.[1] Since no hearing had been held or convened in this proceeding, withdrawal of the petition for review became effective 30 days after Texaco's motion was filed. Such withdrawal terminated the proceeding.

Kenneth F. Plumb,
Secretary.

[Docket No. RA 79–3]
[FR Doc. 79–14848 Filed 5–11–79; 8:45 am]
BILLING CODE 6450–01–M

[1] That section is applicable to this proceeding pursuant to Section 1.40(s)(2)(vi) of the Commission's Interim Regulations governing review of adjustment request denials.

Texas Eastern Transmission Corp.; Application

May 1, 1979.

Take notice that on April 19, 1979, Texas Eastern Transmission Corporation (Applicant), P.O. Box 2521, Houston, Texas 77001, filed in Docket No. CP79–278 an application pursuant to Section 7(c) of the Natural Gas Act for a certificate of public convenience and necessity authorizing the transportation of up to 65,000 dekatherms equivalent of natural gas, less volumes for shrinkage and fuel use, for Consolidated Edison Company of New York, Inc. (Consolidated) pursuant to a gas transportation agreement, dated April 16, 1979, all as more fully set forth in the application which is on file with the Commission and open to public inspection.

It is indicated that Consolidated has arranged to purchase natural gas from National Fuel Gas Distribution Corporation for direct electric or steam generation to displace oil. It is proposed that the gas be delivered by National Fuel Gas Supply Corporation (Supply) to Transcontinental Gas Pipe Line Corporation (Transco), Tennessee Gas Pipeline Company, a Division of Tenneco Inc., and Applicant, to the extent capacity is available on such systems. Applicant proposes to receive the subject gas at the existing point of interconnection between Applicant and Supply, in Greene County, Pennsylvania, and to transport and redeliver equal quantities, less quantities for fuel and shrinkage, to Brooklyn Union Gas Company at the existing interconnection in Richmond County, New York, and/or to Transco at the existing interconnection in Lambertville, New Jersey, or at other mutually agreeable points in Applicant's Zone D, for two years.

It is further indicated that Applicant would charge Consolidated 16.08 cents per dekatherm equivalent delivered by Applicant to or for the account of Consolidated; provided, however, that for quantities delivered by Applicant which, when added to quantities delivered by Applicant to Consolidated under Applicant's Rate Schedules TS–1 and ISS and other transportation agreements, exceed the combined total curtailment of gas sales to Consolidated under all of Applicant's firm sales rate schedules, the rate would be 16.80 cents, subject to the outcome of proceedings in Docket No. RP78–87.

Any person desiring to be heard or to make any protest with reference to said application should on or before May 23, 1979, file with the Federal Energy

Regulatory Commission, Washington, D.C. 20426, a petition to intervene or a protest in accordance with the requirements of the Commission's Rules of Practice and Procedure (18 CFR 1.8 or 1.10) and the regulations under the Natural Gas Act (18 CFR 157.10). All protests filed with the Commission will be considered by it in determining the appropriate action to be taken but will not serve to make the protestants parties to the proceeding. Any person wish to become a party to a proceeding or to participate as a party in any hearing therein must file a petition to intervene in accordance with the Commission's Rules.

Take further notice that, pursuant to the authority contained in and subject to jurisdiction conferred upon the Federal Energy Regulatory Commission by Sections 7 and 15 of the Natural Gas Act and the Commission's Rules of Practice and Procedure, a hearing will be held without further notice before the Commission or its designee on this application if no petition to intervene is filed within the time required herein, if the Commission on its own review of the matter finds that a grant of the certificate is required by the public convenience and necessity. If a petition for leave to intervene is timely filed, or if the Commission on its own motion believes that a formal hearing is required, further notice of such hearing will be duly given.

Under the procedure herein provided for, unless otherwise advised, it will be unnecessary for Applicant to appear or be represented at the hearing.

Kenneth F. Plumb,
Secretary.

[Docket No. CP79–278]
[FR Doc. 79–14847 Filed 5–11–79; 8:45 am]
BILLING CODE 6450–01–M

Texas Gas Transmission Corp.; Application

May 1, 1979.

Take notice that on April 18, 1979, Texas Gas Transmission Corporation (Applicant), P.O. Box 1160, Owensboro, Kentucky 42301, filed in Docket No. CP79–276 an application pursuant to Section 7(b) of the Natural Gas Act for permission and approval to abandon approximately 2.48 miles of 4-inch pipeline and one meter station, all as more fully set forth in the application which is on file with the Commission and open to public inspection.

Applicant states that the subject facilities were constructed in 1974 to facilitate the purchase of gas from production in the East Angelita area of San Patricio County, Texas. It is stated that production has ceased and that Applicant has been advised by its producer that no other supplies of gas are available in the area. Accordingly, states Applicant, the facilities are no longer needed in its operations.

Any person desiring to be heard or to make any protest with reference to said application should on or before May 23, 1979, file with the Federal Energy Regulatory Commission, Washington, D.C. 20426, a petition to intervene or a protest in accordance with the requirements of the Commission's Rules of Practice and Procedure (18 CFR 1.8 or 1.10) and the Regulations under the Natural Gas Act (18 CFR 157.10). All protests filed with the Commission will be considered by it in determining the appropriate action to be taken but will not serve to make the protestants parties to the proceeding. Any person wishing to become a party to a proceeding or to participate as a party in any hearing therein must file a petition to intervene in accordance with the Commission's Rules.

Take further notice that, pursuant to the authority contained in and subject to the jurisdiction conferred upon the Federal Energy Regulatory Commission by Sections 7 and 15 of the Natural Gas Act and the Commission's Rules of Practice and Procedure, a hearing will be held without further notice before the Commission or its designee on this application if no petition to intervene is filed within the time required herein, if the Commission on its own review of the matter finds that permission and approval for the proposed abandonement are required by the public convenience and necessity. If a petition for leave to intervene is timely filed, or if the Commission on its own motion believes that a formal hearing is required, further notice of such hearing will be duly given.

Under the procedure herein provided for, unless otherwise advised, it will be unnecessary for Applicant to appear or be represented at the hearing.

Kenneth F. Plumb,
Secretary.

[Docket No. CP79–276]
[FR Doc. 79–14835 Filed 5–11–79; 8:45 am]
BILLING CODE 6450–01–M

Tricentrol United States, Inc.; Determination by a Jurisdictional Agency Under the Natural Gas Policy Act of 1978

May 1, 1979.

On April 13, 1979, the Federal Energy Regulatory Commission received notices from the jurisdictional agencies listed below of determinations pursuant to 18 CFR 274.104 and applicable to the indicated wells pursuant to the Natural Gas Policy Act of 1978.

Montana Department of Natural Resources and Conservation

FERC Control Number: JD79–5167.
API Well Number: 25–041–21221.
Section of NGPA: 108.
Operator: Tricentrol United States, Inc.
Well Name: Neuworth 17–6–31–15.
Field: Bullhook Unit Tiger Ridge.
County: Hill.
Purchaser: Northern Natural Gas Company.
Volume: 10.6 MMcf.

FERC Control Number: JD79–5168.
API Well Number: 25–041–21042.
Section of NGPA: 108.
Operator: Tricentrol United States, Inc.
Well Name: State 20–11–31–16.
Field: Bullhook Unit Tiger Ridge.
County: Hill.
Purchaser: Northern Natural Gas Company.
Volume: 9.7 MMcf.

FERC Control Number: JD79–5169.
API Well Number: 25–005–21012.
Section of NGPA: 108.
Operator: Tricentrol United States, Inc.
Well Name: Roberts 27–10–31–18.
Field: Tiger Ridge.
County: Blaine.
Purchaser: Northern Natural Gas Company.
Volume: 18.6 MMcf.

FERC Control Number: JD79–5170.
API Well Number: 25–041–22010.
Section of NGPA: 103.
Operator: Tricentrol United States, Inc.
Well Name: Boyce 27–15–30–15.
Field: Bullhook Unit Tiger Ridge.
County: Hill.
Purchaser: Northern Natural Gas Company.
Volume: 219 MMcf.

FERC Control Number: JD79–5171.
API Well Number: 25–005–21472.
Section of NGPA: 108.
Operator: Tricentrol United States, Inc.
Well Name: Olson 18–8–31–18.
Field: Tiger Ridge.
County: Blaine.
Purchaser: Northern Natural Gas Company.
Volume: 12 MMcf.

FERC Control Number: JD79–5172.
API Well Number: 25–041–22006.
Section of NGPA: 103.
Operator: Tricentrol United States, Inc.
Well Name: Neuwerth 4–13–31–15.
Field: Bullhook Unit Tiger Ridge.
County: Hill.
Purchaser: Northern Natural Gas Company.
Volume: 73 MMcf.

FERC Control Number: JD79–5173.
API Well Number: 25–041–21218.
Section of NGPA: 108.
Operator: Tricentrol United States, Inc.
Well Name: Greve 12–11–31–17.
Field: Tiger Ridge.
County: Hill.
Purchaser: Northern Natural Gas Company.
Volume: 5 MMcf.

FERC Control Number: JD79–5174.
API Well Number: 25–041–21137.
Section of NGPA: 108.
Operator: Tricentrol United States, Inc.

Operator: Yates Petroleum Corporation
County: Fayette.

Well Name: Olson 29-6X-31-17.
Field: Tiger Ridge.
County: Hill.
Purchaser: Northern Natural Gas Company.
Volume: 6 MMcf.

FERC Control Number: JD79-7175.
API Well Number: 25-041-22011.
Section of NGPA: 103.
Operator: Tricentrol United States, Inc.
Well Name: Nystrom 14-11-30-15.
Field: Bullhook Unit Tiger Ridge.
County: Hill.
Purchaser: Northern Natural Gas Company.
Volume: 273.8 MMcf.

FERC Control Number: JD79-5176.
API Well Number: 25-041-21178.
Section of NGPA: 108.
Operator: Tricentrol United States, Inc.
Well Name: State 16-7-31-17.
Field: Tiger Ridge.
County: Hill.
Purchaser: Northern Natural Gas Company.
Volume: 3.5 MMcf.

FERC Control Number: JD79-5177.
API Well Number: 25-041-22004.
Section of NGPA: 103.
Operator: Tricentrol United States, Inc.
Well Name: Hegle 1-1-30-15.
Field: Bullhook Unit Tiger Ridge.
County: Hill.
Purchaser: Northern Natural Gas Company.
Volume: 219 MMcf.

The applications for determination in these proceedings together with a copy or description of other materials in the record on which such determinations were made are available for inspection, except to the extent such material is treated as confidential under 18 CFR 275.206, at the Commission's Office of Public Information, Room 1000, 825 North Capitol Street, NE., Washington, D.C. 20426.

Persons objecting to any of those final determinations may, in accordance with 18 CFR 275.203 and 18 CFR 275.204, file a protest with the Commission on or before May 29, 1979. Please reference the FERC Control Number in any correspondence concerning a determination.

Kenneth F. Plumb,
Secretary.
[FR Doc. 79-14840 Filed 5-11-79; 8:45 am]
BILLING CODE 6450-01-M

Tricentrol United States, Inc.; Determination by a Jurisdictional Agency Under the Natural Gas Policy Act of 1978

May 4, 1979.

On April 23, 1979, the Federal Energy Regulatory Commission received notices from the jurisdictional agencies listed below of determinations pursuant to 18 CFR 274.104 and applicable to the indicated wells pursuant to the Natural Gas Policy Act of 1978.

The Montana Board of Oil and Gas Conservation

FERC Control Number: JD79-4007
API Well Number: 25-005-21335
Section of NGPA: 108
Operator: Tricentrol United States, Inc.
Well Name: Williamson 31-8-26-19
Field: Sherard Unit
County: Blaine
Purchaser: Northern Natural Gas Company
Volume: 1.2 MMcf.

FERC Control Number: JD79-4008
API Well Number: 25-071-21325
Section of NGPA: 108
Operator: Midlands Gas Corporation
Well Name: 3661 State 36-36-31
Field: Bowdoin
County: Phillips
Purchaser: Kansas Nebraska Natural Gas Co., Inc.
Volume: 14 MMcf.

FERC Control Number: JD79-4009
API Well Number: 25-005-21686
Section of NGPA: 108
Operator: Tricentrol United States, Inc.
Well Name: O'Connell 83-11-25-18
Field: Sherard Unit
County: Blaine
Purchaser: Northern Natural Gas Company
Volume: 7.2 MMcf.

FERC Control Number: JD79-4010
API Well Number: 25-071-21102
Section of NGPA: 108
Operator: Midlands Gas Corporation
Well Name: 1602 Miami State 806-16 No. 1
Field: Bowdoin
County: Phillips
Purchaser: Kansas Nebraska Natural Gas Co., Inc.
Volume: 4 MMcf.

FERC Control Number: JD79-4011
API Well Number: 25-005-21877
Section of NGPA: 108
Operator: Tricentrol United States, Inc.
Well Name: State 5-16-26-19
Field: Sherard Unit
County: Blaine
Purchaser: Northern Natural Gas Company
Volume: 2 MMcf.

FERC Control Number: JD79-4012
API Well Number: 25-005-21944
Section of NGPA: 103
Operator: Tricentrol United States, Inc.
Well Name: Dehlbom 3-3-30-18
Field: Tiger Ridge
County: Blaine
Purchaser: Northern Natural Gas Company
Volume: 504.4 MMcf.

FERC Control Number: JD79-4013
API Well Number: 25-005-21946
Section of NGPA: 103
Operator: Tricentrol United States, Inc.
Well Name: Blackwood 7-1-30-18
Field: Tiger Ridge
County: Blaine
Purchaser: Northern Natural Gas Company
Volume: 269.7 MMcf.

FERC Control Number: JD79-4014
API Well Number: 25-041-21197
Section of NGPA: 108
Operator: Tricentrol United States, Inc.
Well Name: Solomon 31-7-31-17
Field: Tiger Ridge
County: Hill
Purchaser: Northern Natural Gas Company
Volume: 10.2 MMcf.

FERC Control Number: JD79-4015
API Well Number: 25-005-21948
Section of NGPA: 103
Operator: Tricentrol United States, Inc.
Well Name: Williamson 5-12-31-18
Field: Tiger Ridge
County: Blaine
Purchaser: Northern Natural Gas Company
Volume: 280.8 MMcf.

FERC Control Number: JD79-4016
API Well Number: 25-005-21904
Section of NGPA: 108
Operator: Tricentrol United States, Inc.
Well Name: Brewer 13-22-26-17
Field: Sherard
County: Blaine
Purchaser: Northern Natural Gas Company
Volume: 5 MMcf.

The applications for determination in these proceedings together with a copy or description of other materials in the record on which such determinations were made are available for inspection, except to the extent such material is treated as confidential under 18 CFR 275.206, at the Commission's Office of Public Information, Room 1000, 825 North Capitol Street, N.E., Washington, D.C. 20426.

Persons objecting to any of those final determinations may, in accordance with 18 CFR 275.203 and 18 CFR 275.204, file a protest with the Commission on or before May 29, 1979. Please reference the FERC Control Number in any correspondence concerning a determination.

Kenneth F. Plumb,
Secretary.
[FR Doc. 79-14852 Filed 5-11-79; 8:45 am]
BILLING CODE 6450-01-M

Warrior Inc.; Determination by a Jurisdictional Agency Under the Natural Gas Policy Act of 1978

May 1, 1979.

On April 16, 1979, the Federal Energy Regulatory Commission received notices from the jurisdictional agencies listed below of determinations pursuant to 18 CFR 274.104 and applicable to the indicated wells pursuant to the Natural Gas Policy of 1978.

New Mexico Oil Conservation Division

FERC Control Number: JD79-2883
API Well Number: Unavailable
Section of NGPA: 108
Operator: Warrior, Inc.
Well Name: Currie Q #1
Field: Eumont Queen Gas
County: Lea
Purchaser: Getty Oil Co
Volume: 12 MMcf.

FERC Control Number: JD79-2884
API Well Number: NA

Section of NGPA: 108
Operator: Warrior, Inc.
Well Name: Lea 407 State #4
Field: Eumont Yates Seven Rivers Queen
County: Lea
Purchaser: Phillips Petroleum Co.
Volume: NA

FERC Control Number: JD79-2885
API Well Number: NA
Section of NGPA: 108
Operator: Warrior, Inc.
Well Name: Lea 407 State #6
Field: Eumont Yates Seven Rivers Queen
County: Lea
Purchaser: Phillips Petroleum Co.
Volume: 1 MMcf.

FERC Control Number: JD79-2886
API Well Number: NA
Section of NGPA: 108
Operator: Reserve Oil, Inc.
Well Name: Dabbs #2
Field: Jalmat (Yates)
County: Lea
Purchaser: El Paso Natural Gas Co.
Volume: 8.16 MMcf.

FERC Control Number: JD79-2887
API Well Number: NA
Section of NGPA: 108
Operator: Reserve Oil, Inc.
Well Name: Dabbs #1
Field: Jalmat (Yates)
County: Lea
Purchaser: El Paso Natural Gas Co.
Volume: 8.12 MMcf.

FERC Control Number: JD79-2888
API Well Number: 3001522086
Section of NGPA: 103
Operator: Western Oil Producers, Inc.
Well Name: Hunker Comm. #1
Field: Carlsbad Morrow & Wolfcam East
County: Eddy
Purchaser: El Paso Natural Gas Company
Volume: NA

FERC Control Number: JD79-2889
API Well Number: NA
Section of NGPA: 108
Operator: Continental Oil Company
Well Name: Reed-Sanderson Unit #21
Field: New Mexico Federal Unit
County: Lea
Purchaser: Warren Petroleum (C-139)
Volume: .4 MMcf.

FERC Control Number: JD79-2890
API Well Number: NA
Section of NGPA: 108
Operator: Continental Oil Company
Well Name: McDonald State A-35 Com #1
Field: Jalmat-Langlie Mattix
County: Lea
Purchaser: El Paso Natural Gas Company
Volume: 14.2 MMcf.

FERC Control Number: JD79-2891
API Well Number: 3004510077
Section of NGPA: 108
Operator: Energy Reserves Group, Inc.
Well Name: State Gas Com B.H. #1
Field: Basin Dakota
County: San Juan
Purchaser: El Paso Natural Gas Company
Volume: 8 MMcf.

FERC Control Number: JD79-2892
API Well Number: 3001522711
Section of NGPA: 103
Operator: Yates Petroleum Corporation
Well Name: Cities "JG" State Com #1
Field: Wildcat Mississippi
County: Eddy
Purchaser: Transwestern Pipeline Company
Volume: NA

FERC Control Number: JD79-2893
API Well Number: 3001522411
Section of NGPA: 103
Operator: Cities Service Company
Well Name: State CY #1
Field: Undesignated Winchester Wolfcamp
County: Eddy
Purchaser: El Paso Natural Gas Co.
Volume: 162.4 MMcf.

FERC Control Number: JD79-2894
API Well Number: NA
Section of NGPA: 103
Operator: Maddox Energy Corporation
Well Name: Pardue Farms 27
Field: Wildcat Morrow
County: Eddy
Purchaser: El Paso Natural Gas Company
Volume: 540 MMcf.

The applications for determination in these proceedings together with a copy or description of other materials in the record on which such determinations were made are available for inspection, except to the extent such material is treated as confidential under 18 CFR 275.206, at the Commission's Office of Public Information, Room 1000, 825 North Capitol Street, N.E., Washington, D.C. 20426.

Persons objecting to any of those final determinations may, in accordance with 18 CFR 275.203 and 18 CFR 275.204, file a protest with the Commission on or before May 29, 1979. Please reference the FERC Control Number in any correspondence concerning a determination.

Kenneth F. Plumb,
Secretary.
[FR Doc. 79-14853 Filed 5-11-79; 8:45 am]
BILLING CODE 6450-01-M

Warrior Drilling & Engineering Co., Inc.; et al.; Determination by a Jurisdictional Agency Under the Natural Gas Policy Act of 1978

May 3, 1979.

On April 25, 1979, the Federal Energy Regulatory Commission received notices from the jurisdictional agencies listed below of determinations pursuant to 18 CFR 274.104 and applicable to the indicated wells pursuant to the Natural Gas Policy Act of 1978.

State Oil and Gas Board of Alabama

FERC Control Number: JD79-4091.
API Well Number: 01-057-20048.
Section of NCPA: 102.
Operator: Warrior Drilling & Engineering Co., Inc.
Well Name: Z. D. Vick No. 1.
Field: McCracken Mountain.
County: Fayette.
Purchaser: Warrior Drilling & Engineering Co., Inc.
Volume: 13 MMcf.

FERC Control Number: JD79-4092.
API Well Number: 01-057-20049.
Section of NCPA: 102.
Operator: Warrior Drilling & Engineering Co., Inc.
Well Name: H. G. Woodward No. 1.
Field: McCracken Mountain.
County: Fayette.
Purchaser: Warrior Drilling & Engineering Co., Inc.
Volume: 40 MMcf.

FERC Control Number: JD79-4093.
API Well Number: 01-075-20119.
Section of NCPA: 102.
Operator: Peninsula Resources Corporation.
Well Name: Morris Cole No. 1.
Field: Star Field.
County: Lamar County
Purchaser:
Volume: 123 MMcf.

FERC Control Number: JD79-4094.
API Well Number: 01-057-20050.
Section of NCPA: 102.
Operator: Warrior Drilling & Engineering Co., Inc.
Well Name: Cora Benton No. 1.
Field: McCracken Mountain.
County: Fayette.
Purchaser: Warrior Drilling & Engineering Co., Inc.
Volume: 69 MMcf.

FERC Control Number: JD79-4095.
API Well Number: 01-057-20154.
Section of NCPA: 103.
Operator: Warrior Drilling & Engineering Co., Inc.
Well Name: B. Hutto.
Field: West Fayette.
County: Fayette.
Purchaser: Pipeline Div. Warrior Drlg. & Eng.
Volume: 57.4 MMcf.

FERC Control Number: JD79-4096.
API Well Number: 01-057-20063.
Section of NCPA: 103.
Operator: Warrior Drilling & Engineering Co., Inc.
Well Name: R. S. Cargile.
Field: West Fayette.
County: Fayette.
Purchaser: Pipeline Div. Warrior Drlg. & Eng.
Volume: 202.0 MMcf.

FERC Control Number: JD79-4097.
API Well Number: 01-057-20130.
Section of NCPA: 103.
Operator: Warrior Drilling & Engineering Co., Inc.
Well Elvie Norris.
Field: West Fayette.
County: Fayette.
Purchaser: Pipeline Div. Warrior Drlg. & Eng. Warrior Drilling & Engineering Co., Inc.
Volume: 167.8 MMcf.

FERC Control Number: JD79-4098.
API Well Number: 01-057-20103.
Section of NCPA: 103.
Operator: Warrior Drilling & Engineering Co., Inc.
Well Name: H. O. Bridges.
Field: West Fayette.
County: Fayette.

Purchaser: Pipeline Div. Warrior Drlg. & Eng.
Volume: 78.4 MMcf.
FERC Control Number: JD79–4099.
API Well Number: 01–057–20079.
Section of NCPA: 103.
Operator: Warrior Drilling & Engineering Co., Inc.
Well Name: N. G. Norris.
Field: West Fayette.
County: Fayette.
Purchaser: Pipeline Div. Warrior Drlg. & Eng.
Volume: 331.3 MMcf.
FERC Control Number: JD79–4100.
API Well Number: 01–057–20025.
Section of NCPA: 102.
Operator: Warrior Drilling & Engineering Co., Inc.
Well Name: McCracken King Hodges No. 1.
Field: McCracken Mountain.
County: Fayette.
Purchaser: Warrior Drilling & Engineering Co., Inc.
Volume: 36 MMcf.
FERC Control Number: JD79–4101.
API Well Number: 01–057–20019.
Section of NCPA: 102.
Operator: Warrior Drilling & Engineering Co., Inc.
Well Name: Cleveland Lumber Co. 11–1.
Field: Bankston.
County: Fayette.
Purchaser: Pipeline Div. Warrior Drlg. & Eng.
Volume: 15 MMcf.
FERC Control Number: JD79–4102.
API Well Number: 01–057–20072.
Section of NCPA: 102.
Operator: Warrior Drilling & Engineering Co., Inc.
Well Name: Gilpin Butler No. 1.
Field: McCracken Mountain.
County: Fayette.
Purchaser: Warrior Drilling & Engineering Co., Inc.
Volume: 131 MMcf.
FERC Control Number: JD79–4103.
API Well Number: 01–057–20104.
Section of NCPA: 102.
Operator: Warrior Drilling & Engineering Co., Inc.
Well Name: D. Gray No. 1.
Field: McCracken Mountain.
County: Fayette.
Purchaser: Pipeline Div. Warrior Drlg. & Eng.
Volume: 408 MMcf.
FERC Control Number: JD79–4104.
API Well Number: 01–057–20088.
Section of NCPA: 103.
Operator: Enserch Exploration, Inc.
Well Name: Harkins Stanley No. 1.
Field: Fayette West (Carter).
County: Fayette.
Purchaser: Coronado Transmission Co.
Volume: 210 MMcf.

The applications for determination in these proceedings together with a copy or description of other materials in the record on which such determinations were made are available for inspection, except to the extent such material is treated as confidential under 18 CFR 275.206, at the Commission's Office of Public Information, Room 1000, 825 North Capitol Street, N.E., Washington, D.C. 20426.

Persons objecting to any of those final determinations may, in accordance with 18 CFR 275.203 and 18 CFR 275.204, file a protest with the Commission on or before May 29, 1979. Please reference the FERC Control Number in any correspondence concerning a determination.

Kenneth F. Plumb,
Secretary.

[FR Doc. 79–14857 Filed 5–11–79; 8:45 am]
BILLING CODE 6450–01–M

Office of Hearings and Appeals

Issuance of Decisions and Orders by the Office of Hearings and Appeals; Week of January 22 Through January 26, 1979

Notice is hereby given that during the week of January 22 through January 26, 1979, the Decisions and Orders summarized below were issued with respect to Appeals and Applications for Exception or other relief filed with the Office of Hearings and Appeals of the Department of Energy. The following summary also contains a list of submissions which were dismissed by the Office of Hearings and Appeals and the basis for the dismissal.

Appeals

General Motors Corporation, Petrochemical Energy Group, Northern Illinois Gas Co., Washington, D.C., Natural gas liquids, DEA–0176, DEA–0181, DEA–0174

The Northern Illinois Gas Company (NI-Gas), the Petrochemical Energy Group (PEG) and the General Motors Corporation (GM) filed Appeals from a Decision and Order that the DOE Economic Regulatory Administration (ERA) issued to NI-Gas on March 31, 1978. In the March 31 Order, the ERA assigned NI-Gas the same base period use of feedstock for its Aux Sable, Illinois synthetic natural gas (SNG) plant that it had received under prior Orders. In considering the NI-Gas Appeal, the DOE noted that the only new contention that NI-Gas raised related to future actions which the ERA might take in establishing a permanent allocation for the firm and not to the ERA's determination to continue NI-Gas' interim allocation. Consequently, the NI-Gas Appeal was denied. GM and PEG appealed the continuation of the NI-Gas allocation on the grounds that the Decision and Order contravened the standards for assignment of a base period use set forth in Section 211.29(c). Contrary to the firms' assertions, the DOE found that: (i) Section 211.29 permits the ERA to base a feedstock allocation on the finding that NI-Gas' production is necessary to serve the priority needs of its customers in future allocation periods and of other regions subject to natural gas shortages; (ii) the record contains recent evidence to support the ERA's findings that NI-Gas' production was in fact necessary to serve those needs; and (iii) NI-Gas required its full allocation, because the design demand for its priority and small boiler fuel customers for the 12-month period ending March 31, 1979, was estimated to exceed the firm's total gas supplies. Accordingly, the Appeals were denied.

In connection with its Appeal, GM filed a Motion for Discovery seeking certain information relating to the environmental review that the ERA must complete prior to taking final action on NI-Gas' petition for permanent assignment of SNG feedstock. In considering this discovery request, the DOE observed that an identical discovery request had recently been approved in connection with an appeal proceeding involving a similar SNG assignment order and that GM's Motion should be granted for the reasons set forth in that determination. *Consumers Power Company*, 2 DOE Par. 82,533 (1978). Finally, the DOE noted that the ERA had not yet completed its environmental assessment despite the passage of a considerable period of time. The DOE concluded that any further delay in preparing this assessment would improperly protract the NI-Gas SNG proceedings and might contravene the National Environmental Policy Act of 1969. Accordingly, the DOE held that any future allocation order issued to NI-Gas should take these environmental considerations into account.

USA Petroleum Corporation, Santa Monica, Calif., FIA–1380, crude oil

USA Petroleum Corporation filed an Appeal of Interpretation 1977–14, which was issued to the State of California by the Acting General Counsel of the FEA. The Interpretation concerned a series of transactions beginning in November, 1973, that involved USA, the State, and Signal Oil Company. On November 29, 1973, USA offered the State a price for royalty crude oil that was higher than the price paid by Signal, which at that time had a supplier/purchaser relationship with the State. Signal refused to match USA's price, and the State began to sell the royalty oil to USA on May 1, 1974. FEA Interpretation 1974–4 held that the price offered by USA was not a lawful price, because in effect it included a bonus above the ceiling price for old oil. Consequently, Signal was not required to meet the USA offered price to retain its supplier/purchaser relationship with the State.

In Interpretation 1977–14 the FEA held that a contract entered into on April 25, 1975, between Signal and the State constituted a valid retroactive termination of their supplier/purchaser relationship as of May 1, 1974. Further, the Interpretation stated that to the extent that the oil USA purchased was "new" and "released" oil, the prices that the State charged USA prior to February 1, 1976, did not violate FEA price regulations. In its Appeal, USA argued that the bonus price charged by the State for "new" and "released" oil constituted a retroactive price increase. Because the State had consistently charged USA the average posted price plus the bonus, the DOE rejected USA's argument. USA also argued that by validating the retroactive termination of the State-Signal supplier/purchaser relationship, the FEA improperly imposed on USA the contract obligations that were declared unlawful in Interpretation 1974–4. The DOE held that the contract obligations between USA and the State were independent of the Signal-State termination contract. In addition, neither Interpretation addressed the validity of the USA-State contract. Interpretation 1974–4 had invalidated the bonus payments with respect to old oil only, while Interpretation 1977–14 stated that the prices charged by the State for "new" and "released" oil were not unlawful under the regulations. Accordingly, the USA Appeal was denied.

Requests for Exception

E. B. Brooks, Jr., Dallas, Tex., DEE–0154, crude oil

E. B. Brooks, Jr. filed an Application for Exception from the provisions of 10 CFR, Part 212, Subpart D. In his exception application, Brooks requested retroactive exception relief which, if granted, would excuse him from his obligation to refund overcharges resulting from the sale of crude oil produced from the V. L. Neis Lease at prices that exceeded the lawful ceiling price levels specified in 10 CFR 212.73. The DOE determined that Brooks had not demonstrated that retroactive exception relief as appropriate, since he had failed to submit financial information which would establish that the repayment of the overcharges would result in severe and irreparable injury to his petroleum related business activities. Finally, the DOE found that Brooks' allegation that the purchaser of the crude oil produced at the V. L. Neis lease would be unduly benefited if Brooks were required to comply with the DOE price regulations was not a proper basis for the approval of retroactive exception relief. Accordingly, the Application was denied.

City of Long Beach, California, Long Beach, Calif., DEE–0891, crude oil

Long Beach filed an Application for Exception from the provisions of 10 CFR, Part 212, Subpart D, which, if granted, would permit the working interest owners to sell the crude oil produced from the non-unitized properties located on the Western half of the Wilmington Field at upper tier ceiling prices. On June 14, 1978, the DOE issued a Proposed Decision and Order to Long Beach in which it set forth its tentative determination that Long Beach failed to demonstrate that exception relief was necessary to provide the working interest owners with an economic incentive to continue production. That conclusion was based on the finding that the operation of the non-unitized properties was profitable if the large expenditures incurred with respect to an experimental tertiary recovery project which was cosponsored by the Energy Research and Development Administration (ERDA) at one of the properties were excluded from the analysis. In its Statement of Objections Long Beach contended that the experimental project could not be treated independently of the other non-unitized properties, and that if relief were not granted to all the non-unitized properties, the capital required to continue the experimental project would not be available and would necessitate abandonment of the project. In considering these contentions, the DOE noted that the contract between Long Beach and ERDA appears to preclude the possibility of unilateral termination on the part of Long Beach, and thus the claim that the project would have to be abandonded was without foundation. Therefore, the DOE affirmed the findings reached in the Proposed Decision and Order and directed the issuance of that determination in final form.

Decision and Order

Phillips Petroleum Co., Bartlesville, Okla., DEE–1357, crude oil

Phillips Petroleum Company filed an Application for Exception from the provisions of 10 CFR, Part 212, Subpart D, which, if granted, would permit the firm to sell the crude oil produced from the Theimer Lease located in Oklahoma County, Oklahoma, at market prices. In considering the exception request, the DOE found that Phillips' operating costs had increased to the point where the firm no longer had an economic incentive to continue the production of crude oil from the Theimer Lease. The DOE also determined that if Phillips abandoned its operations at the Theimer Lease, a substantial amount of domestic crude oil would not be recovered. On the basis of the criteria applied in previous decisions, the DOE determined that Phillips should be permitted to sell 100 percent of the crude oil produced from the Theimer Lease at market prices for the benefit of the working interest owners during the period October 17, 1978 through March 31, 1979.

Requests for Stay

Atlantic Richfield Co., San Francisco, Calif., DES–0283, crude oil

Atlantic Richfield Company (Arco) filed an Application for Stay of an Order issued to the firm on December 27, 1978 by the Office of Fuels Regulations of the Economic Regulatory Administration. In that Order, the ERA directed Arco to sell 418,500 barrels of suitable crude oil to the Rock Island Refining Corporation (Rock Island) during the period from October 1, 1978 through March 31, 1979. The Arco request, if granted, would relieve the firm of that obligation, pending the issuance of a determination by the DOE with respect to an Appeal from the December 22 Order which Arco filed. In considering the Arco request, the DOE found that (i) contrary to an argument advanced by the firm the ERA was not precluded from granting Rock Island an extension of time in which to file an application for review of its eligibility under the Buy-Sell Program; (ii) the ERA had adequately set forth the basis for its determination that Rock Island had shown good cause for the extension it was granted; (iii) Arco had not made a sufficiently strong showing that the ERA lacked authority to review Rock Island's eligibility to participate in the Buy-Sell Program; (iv) Arco had not demonstrated that the ERA had afforded the firm an insufficient period of time in which to complete arrangements for the sale of crude oil to Rock Island; (v) Arco had not made a prima facie showing that the December 27 Order contained errors of fact; and (vi) Arco had not indicated with any specificity the reasons why certain deletions that were made in the copy of the Order issued to the firm prevented it from adequately framing the arguments it presented in its Appeal. The DOE therefore determined that Arco had failed to make a sufficiently strong showing that it was likely to prevail on the merits of its Appeal. Finally, the DOE noted that Arco had not argued that it would experience irreparable injury if were not granted stay relief and that the record in the proceeding indicated that Rock Island was presently facing a crude oil shortage which immediately threatened its own viability and the viability of its customers. The DOE therefore determined that Arco had not demonstrated that it would suffer a more immediate serious hardship or gross inequity than Rock Island if a stay of the December 27 Order were not granted. Accordingly, the DOE concluded that stay relief was not warranted and denied the Arco Application for Stay.

Glenn Martin Heller, Boston, Mass., DRS–0167, motor gasoline

Glenn Martin Heller filed an Application for Stay which, if granted, would relieve him of his obligation to adhere to the provisions of an Interim Remedial Order for Immediate Compliance that the Region I Office of the Economic Regulatory Administration issued to him on December 22, 1978. In considering the stay request, the DOE determined that a finding that Heller's retail customers may not be identifiable for the purpose of refunding overcharges in the future does not constitute the type of irreparable harm necessary for the issuance of an Interim Remedial Order for Immediate Compliance pursuant to 10 CFR 205.199D(a)(2). The DOE also determined that the finding contained in the Interim Remedial Order that the integrity of the entire DOE regulatory program would be jeopardized unless an Interim Remedial Order were issued in this case was not supported by the record in the proceeding. Under these circumstances, the DOE concluded that the Heller Application for Stay should be approved to preserve the *status quo ante*.

Request for Temporary Stay

CIBRO Petroleum Products, Inc., Albany, N.Y., DST–0013, crude oil

CIBRO Petroleum Products, Inc. filed an Application for Temporary Stay of the provisions of 10 CFR 211.67 (the Entitlements Program), which, if granted, would stay the firm's entitlements purchase obligation for November 1978. CIBRO contended that the Economic Regulatory Administration (ERA) had erroneously calculated the firm's entitlements obligation in the Entitlements Notice for November 1978, and that if a stay were denied it would suffer an irreparable injury. In considering CIBRO's request, the DOE noted that it had previously determined that the ERA did not have the authority to make the starting inventory adjustment that was the basis of CIBRO's challenge to the November Entitlements Notice. *Sierra Anchor Refining Co.*, 3 DOE Par. ——— (January 19, 1979). Since it was therefore unlikely that CIBRO would succeed in its Appeal of the Entitlements Notice, the DOE denied its Application for Temporary Stay.

Interim Order

Colonial Oil Co., Jacksonville, Fla., DEN-1461, motor gasoline

Colonial Oil Company filed both an Application for Exception and an Application for Interim Relief from the provisions of 10 CFR 211.9. In its submission, Colonial requested that the DOE issue an order either assigning it a new supplier of gasoline to replace its base period supplier, American Petrofina, Inc., or requiring Fina to place Colonial in another class of purchaser. On January 22, 1979, the DOE issued a Proposed Decision and Order to Colonial in which it tentatively determined that the firm's Application for Exception should be granted. Colonial's request for interim relief, if granted, would provide the firm with exception relief on an interim basis pending the issuance of a final Decision with respect to its Application for Exception. In considering Colonial's request for interim relief, the DOE found that (i) the price that Fina charges Colonial for motor gasoline is higher than the average price at which Colonial's competitors sell gasoline to their customers; (ii) current market conditions do not permit Colonial to increase its prices to reflect its higher product costs; (iii) Colonial has experienced a decline in sales and a financial hardship so serious that its continued existence as an independent marketer is jeopardized; (iv) there is a strong likelihood that some form of exception relief would ultimately be approved in this matter; and (v) the intent of the January 22 Proposed Decision and Order, as well important national policy objectives, would be frustrated if all relief were delayed pending the issuance of a final Decision and Order in this case. The DOE noted, however, that the type of exception relief that it had tentatively determined to grant to Colonial in its January 22 Proposed Decision and Order could take considerable time to implement. The DOE therefore decided to grant Colonial, on an interim basis, exception relief of the type that the firm had been granted on six prior occasions. Accordingly, the DOE determined to assign to Colonial a new, lower priced supplier for a portion of its base period use of motor gasoline during the months of February, March and April 1979.

Supplemental Order

Texaco, Inc., White Plains, N.Y., DEX-0141, gasoline.

On its own motion, the DOE stayed Texaco's obligation to apply 1972 as the base year in allocating motor gasoline during the month of February, 1979. In a Proposed Decision and Order issued to the firm on January 26, 1979, the DOE tentatively concluded that Texaco should be permitted to allocate motor gasoline on the basis of a customer's actual purchases of motor gasoline during February 1978 or the February 1972 base period, as adjusted, whichever is greater, through February 28, 1979. Stay relief from the provisions of 10 CFR 211.10 was granted to Texaco to permit it to allocate its supplies in accordance with the terms of the Proposed Decision and Order pending issuance of the Decision in final form. This relief was necessary because of the requirement that at least ten days elapse between the date of issuance of a Proposed Decision and Order and the effective date of the final Decision and Order, and because of the tentative determination that Texaco should be allowed to use an allocation method different from that specified in Section 211.10 for the month of February 1979.

Dismissals

The following submission was dismissed following a statement by the applicant indicating that the relief requested was no longer needed:

Charles F. Haas, Corpus Christi, Tex., DEE-1449

The following submission was dismissed on the grounds that the request is now moot:

Smith & Boyd, Inc., Philadelphia, Pa., DRA-0217

The following submission was dismissed on the grounds that the Proposed Remedial Order was rescinded:

Romco Oil Co., San Francisco, Calif., DRO-0153

Copies of the full text of these Decisions and Orders are available in the Public Docket Room of the Office of Hearings and Appeals, Room B-120, 2000 M Street, N.W., Washington, D.C. 20461, Monday through Friday, between the hours of 1:00 p.m. and 5:00 p.m., e.s.t., except Federal holidays. They are also available in *Energy Management: Federal Energy Guidelines*, a commercially published loose leaf reporter system.

Melvin Goldstein,
Director, Office of Hearings and Appeals.
May 3, 1979.

[FR Doc. 79-14894 Filed 5-11-79; 8:45 am]
BILLING CODE 6450-01-M

Notice of Issuance of Decisions and Orders by the Office of Hearings and Appeals, Week of January 15 Through January 19, 1979

Notice is hereby given that during the week of January 15 through 19, 1979, the Decisions and Orders summarized below were issued with respect to Appeals and Applications for Exception or other relief filed with the Office of Hearings and Appeals of the Department of Energy. The following summary also contains a list of submissions that were dismissed by the Office of Hearings and Appeals and the basis for the dismissal.

Appeals

Cotton Petroleum Corp., Denver, Colo., FRA-1460, crude oil

Cotton Petroleum Corporation filed an Appeal from a Remedial Order which was issued to the firm by FEA Region VI on August 26, 1977. In the Remedial Order, the FEA found that during the period November 1, 1973 through December 31, 1975 Cotton had failed to regard a unitized property which it operated as a single property, and, as a result, had sold the crude oil produced from the property at prices which exceeded the ceiling price levels specified in 10 CFR 212.73. The FEA therefore directed Cotton to refund overcharges totalling $714,677.90, plus interest, to the purchasers of the crude oil. In considering the Appeal, the DOE determined that Cotton's treatment of each individual lease comprising the unitized property as a separate property was contrary to the provisions of Ruling 1975-15. The DOE rejected the firm's argument that Ruling 1975-15 constituted an impremissible retroactive change in the definition of "property" or was inconsistent with the definition of that term. Noting that a change in the property's historical rate of production decline was attributable to the implementation of an enhanced recovery project the DOE concluded that no "significant alteration in producing patterns" had occurred at the property as a result of the unitization. Finally, the DOE concluded that Cotton had failed to present any evidence that the specific amount of overcharges found by the FEA was erroneous of that the requirement that the firm calculate and refund any overcharges which occurred subsequent to the audit period was arbitrary or capricious. Accordingly, the Cotton Appeal was denied.

Paul Davidson, New Brunswick, N.J., DFA-0236, freedom of information

Paul Davidson appealed from a Decision issued by the Director of the Division of Freedom of Information and Privacy Act Activities (the Director). In the Decision, the Director deleted portions of a document that had been requested under the Freedom of Information Act, on the ground that Davidson had consented to the deletion. In considering the Appeal, the DOE determined that Davidson's request for an undeleted copy of the document should be reviewed by the Director. Accordingly, the DOE remanded the document to the Director for further consideration.

Eastern Oil Co., Tampa, FL., DRA-0063; DSG-0005 motor gasoline; kerosene; diesel fuel

Eastern Oil Company filed an Appeal from a Remedial Order which was issued to it on November 17, 1977 by DOE Region IV. In the Remedial Order, Region IV found that during the period November 1, 1973 through October 31, 1974, Eastern has failed to compute its maximum allowable selling prices in accordance with 10 CFR 212.93 and, as a result, had overcharged its customers in sales of motor gasoline, kerosene and diesel fuel. On the basis of these findings, Eastern was ordered to make restitution by reducing its retail prices and by refunding specified amounts to its wholesale customers. In its Appeal, Eastern contended that with respect to sales made directly from its suppliers' terminals, it had acted as a broker rather than a reseller, and its prices were therefore not subject to the price regulations. In considering this contention, the DOE determined that Eastern had purchased the products and resold them without substantially changing their form, and therefore it fit the regulatory definition of "reseller." The DOE also rejected Eastern's contention that the term "product in inventory" should be interpreted as applying only to the inventories in Eastern's own terminals. In this regard, the DOE noted that the price regulations require that cost of product in inventory be calculated for all covered products held for resale, regardless of location. Nevertheless, in view of the Office of Enforcement's recent policy statement that Section 219.92 does not require all reseller audits to be conducted on a firm-wide inventory basis, the Doe determined that the Remedial Order should be remanded to Region IV for reconsideration. However, the DOE rejected Eastern's argument that overcharges should be offset by certain alleged undercharges during the audit period, since Eastern had presented no evidence that it had reduced its prices below the prevailing market level for the purpose of making restitution for prior overcharges. Eastern also claimed that calculations in the Remedial Order were erroneously based on weighted average selling prices. In considering this argument, the DOE observed that although actual selling prices should generally be used in computing overcharges, the Office of Enforcement has the discretion to use weighted average selling prices when the determination of actual prices would be unduly burdensome because of a firm's failure to maintain adequate records. Nevertheless, the DOE held that Eastern should have the opportunity on remand to present evidence of its actual selling prices during the audit period.

Eastern also filed a Petition for Special Redress, in which it requested that jurisdiction over the Remedial Order be transferred to another Office in the Doe and that all work-papers involving the audit of Eastern be released to the firm. In its Petition, Eastern contended that it had not received fair and impartial treatment from the Region IV Office during the course of the enforcement proceeding. In considering the Petition, the DOE found that Region IV's actions in a separate matter were not the result of prejudice against Eastern and were not directly related to the conclusions contained in the Remedial Order. The DOE also rejected Eastern's allegation that the issuance of the Remedial Order was a retaliatory action against Eastern and an employee of Eastern who was formerly an FEA investigator. However, the DOE did grant Eastern's request that all workpapers be released to the firm prior to the issuance of a Revised Remedial Order. Accordingly, the DOE granted Eastern's Appeal and Petition in part and remanded the Remedial Order to Region IV for further consideration.

Little American Refining Co., Washington, D.C. FXA-1411 crude oil

Little America Refining Company (LARCO) filed an Appeal from a Decision and Order which was issued to it on June 28, 1977. Little America Refining Company, 6 FEA Par. 87,011 (1977). That Order required LARCO to purchase entitlements to offset excessive exception relief form the Entitlements Program that it had redeived during a portion of tis 1976 fiscal year. LARCO's Appeal, if granted, would result in an adjustment in the calculation of the firm's historical profitability for purposes of determining exception relief. In considering the LARCO request, the DOE stated that it generally does not permit adjustments to the level of profitability reported by a firm, except in certain special circumstances where a firm makes its request in a timely manner and demonstrates that an adjustment is appropriate. The DOE determined that LARCO has failed to make such a showing. LARCO also requested that the DOE adjust the firm's historical operating resuults by excluding certain years from the historical period normally used by the DOE in evaluating exception requests by small refiners. In considering this request, the DOE found that LARCO had failed to satisy the criteria established in previous cases. LARCO also asserted that the agency should be bound by an earlier error in the calculation of the firm's historical profitability. However, the DOE rejected this argument because LARCO had failed to presnet any justification for the continued use of an erroneous calculation. The LARCO Appeal was therefore denied.

Long Brothers Oil Co., Norphlet, Ark., DRA-0113, crude oil

Long Brothers Oil Company filed an Appeal from a Remedial Order which was issued to the firm on January 3, 1978 by DOE Region VI. The Remedial Order found that during the period September 1 through November 15, 1973, Long had sold crude oil produced from 14 leases at prices in excess of those permitted under 6 CFR 212.73. Accordingly, the Remedial Order directed Long to refund the overcharges to its purchasers. In its Appeal, Long noted that the 14 leases had qualified for stripper well status on November 16, 1973. It argued that Region VI had erroneously calculated the amount of new and released crude oil produced during the period November 1 through November 15, 1973 by comparing production for that period with production for the entire month of November 1972. Long contended that the amount of crude oil produced during the first fifteen days of November 1973 should have instead been compared with one-half of the production during November 1972. In considering Long's contention, the DOE noted that the pricing regulations should compare production for the same periods of different years in order to determine the amount of crude oil that can be sold at higher prices. In order to carry out that basic objective, the DOE concluded that the correct method for calculating the amount of new and released crude oil produced from November 1 through November 15, 1973 was to compare that production with actual production for the period November 1 through November 15, 1972. In addition, Long contended that the calculation of overcharges in the Remedial Order was incorrect. With respect to this contention, the DOE determined that despite numerous opportunities, Long had failed to document the alleged error. Finally, Long contended that it should not be the only party against whom a Remedial Order should be issued. In considering this issue, the DOE determined that Long had failed to rebut the presumption that a Remedial Order should be issued to the operator of a property. The Remedial Order was remanded to Region VI for further action.

New York Petroleum Corp., Adams County, Miss., FRA-1431 crude oil

New York Petroleum Corporation appealed from a Remedial Order which was issued to the firm by the Deputy Regional Administrator of FEA Region VI on July 29, 1977. In the Remedial Order, Region VI found that during the period between October 1973 and December 1975, New York had erroneously classified four leases as separate properties and two other leases as stripper properties and, as a result, had sold crude oil produced from the properties at unlawful prices. The Remedial Order therefore directed New York to refund $283,130.43 in overcharges, plus interest, to its customers. In considering the Appeal, the DOE concluded that New York should be held liable for the full amount of the overcharges since it was the operator of the properties involved. The DOE also rejected New York's contention that the Remedial Order had erroneously concluded that one of the properties was a single property. In this respect, the DOE found that the property was covered by a single lease and was not entitled to separate property treatment pursuant to Ruling 1977-1, even though there were different royalty interest owners for each of the production units. In addition, contrary to an argument raised by New York, the DOE found that one of the wells did not qualify as a separate property under Ruling 1977-1, which permits separate treatment of a very large tract with a distinct geological formation that has been separately developed. However, the DOE did conclude that the Remedial Order had erroneously found that one of the properties did not qualify for stripper well status. Specifically, the DOE determined that Region VI had incorrectly considered as crude oil production diesel fuel that was used to clean the well. In all other respects, the New York Appeal was denied.

Quincy Oil, Inc. Boston, Mass., FRA-1428 No. 6 fuel oil

Quincy filed an Appeal from a Remedial Order which FEA Region I issued to the firm on July 26, 1977. In the Remedial Order, the Regional Office concluded that during the period November 1, 1973 through September 30, 1975, Quincy sold No. 6 fuel oil to various customers at prices which exceeded the maximum permissible price levels specified in 6 CFR 150.359 and 10 CFR 212.93. In order to remedy the violation, the Remedial Order directed Quincy to refund overcharges totalling $459,421.77. In its Appeal, Quincy contended that the NOPV upon which the Remedial Order was based was not sufficiently specific to enable the firm to prepare an adequate response. In addition, Quincy contended that the FEA should have been precluded from finding overcharges on sales to the Taunton Municipal Lighting Company since the Remedial Order was factually inconsistent with a prior Remedial Order issued to Quincy. In considering these

procedural objections, the DOE noted that the Regional Office had provided Quincy with a complete set of workpapers which included details of the audit calculations, and therefore Quincy had been sufficiently apprised of the nature of the violations before the Remedial Order was issued. The DOE also found that there was no inconsistency between the violations found in the prior Remedial Order and the present one, observing that the prior Remedial Order did not constitute a final agency review of all possible regulatory violations by Quincy. Quincy also contended that the Remedial Order erroneously interpreted and applied the term "transaction" as defined in 10 CFR 212.31 in calculating the firm's May 15, 1973 prices for No. 6 fuel oil which it sold pursuant to variable price contracts. In considering this contention, the DOE found that, in accordance with Ruling 1977–5, a transaction had occurred when product was delivered rather than when the variable price contract was executed. The DOE also rejected Quincy's contention that the Remedial Order erroneously classified its new customers by placing them in preexisting customer classes, noting that those classes reflected the firm's historical pricing patterns. Finally, Quincy contended that the Remedial Order was overly broad since it included an exempt sale. The DOE noted that in *A. Johnson and Company, Inc.*, 3 FEA Par. 80,546 (1976), the FEA established a rebuttable presumption that foreign purchases of product by a U.S. domiciliary are made with an intention to import it into the U.S. and are therefore exempt sales but that resales of that product are subject to the pricing regulations. The DOE determined that Quincy had not rebutted this presumption. Nevertheless, the DOE remanded the Remedial Order for further consideration consistent with the Office of Enforcement's recent statement that in certain cases, Section 212.92 does not require a firm to calculate its maximum allowable prices on the basis of a single firm-wide inventory of product.

Dorothy Roberts, Las Vegas, Nev., DFA–0275, Freedom of Information

Dorothy Roberts appealed a denial of a Request for Information which she had submitted under the Freedom of Information Act (the Act). In her request, Roberts had sought all documents concerning litigation expenses incurred by the DOE and the Department of Justice in a current federal court proceeding in Nevada. The Deputy Manager for the Nevada Operations Office of the DOE denied Roberts' request on the grounds that it failed to satisfy the procedural requirements set forth in 10 CFR 709.6. In addition, the Deputy Manager held that the records requested were exempt from disclosure under Sections 552 (b)(4), (b)(5), and (b)(6) of the Act. In considering Roberts' Appeal, the DOE determined that 10 CFR 709.7(b) requires the responsible official to assist a requester in complying with the DOE procedural requirements. In addition, the DOE determined that a decision as to whether documents were exempt from mandatory disclosure could not be made without first identifying all responsive documents and making an individual determination as to the applicability of the Act's exemptions to each document. Therefore, the DOE remanded Roberts' request to the Nevada Operations Office for further consideration.

Sierra Anchor Refining Co., San Marino, Calif., DEA–0218, Crude Oil

Sierra Anchor Refining Company filed an Appeal from the Entitlements Notice for June 1978, in which it contested a determination by the Entitlements Program Office with respect to a request by Sierra Anchor that its entitlements obligations be adjusted to account for the firm's acquisition of crude oil inventories required for the continued operation of a new refinery in McKittrick, California. In its Appeal, Sierra Anchor contended that the Entitlements Office erred in determining the amount by which the firm's crude oil receipts should be reduced to reflect its acquisition of crude oil inventories. In considering the Appeal, the DOE found that the Economic Regulatory Administration did not have the statutory or regulatory authority to make adjustments in a firm's entitlements obligations to reflect opening inventories. Under the circumstances, the DOE concluded that Sierra Anchor's position that the adjustments which it was awarded should be increased could not be sustained. However, the DOE observed that to vacate the adjustments which Sierra Anchor had received would place the firm in a disadvantageous position relative to other refiners which had received adjustments in the past. Accordingly, the Sierra Anchor Appeal was dismissed without prejudice to a subsequent refiling. The matter was remanded to the Economic Regulatory Administration for further consideration.

Tenneco Oil Co., (Blue Flame Gas Corp.) Houston, Tex., DIA–0147, Propane

Tenneco Oil Company (Blue Flame Gas Corporation) appealed an Interpretation which the Acting General Counsel issued to Kellermyer's, Inc. on October 14, 1977. In the Interpretation, the Acting General Counsel concluded that Kellermyer was a wholesale purchaser-reseller as defined in 10 CFR 211.51. In its Appeal, Blue Flame contended that the Interpretation erroneously concluded that Kellermyer exercised a substantial degree of operational independence in the distribution of propane. In considering Blue Flame's Appeal, the DOE found that it was undisputed that Kellermyer owned the trucks used to deliver propane, hired his own employees, paid the expenses of delivery, solicited new customers, could unilaterally terminate contracts of customers who did not pay their bills, and had the contractual obligation to fully compensate Blue Flame for accounts over 90 days due. Based on these facts, the DOE concluded that the Interpretation had correctly determined that Kellermyer was a wholesale purchaser-reseller. Accordingly, the Blue Flame Appeal was denied.

Requests for Exception

BTA Oil Producers, Midland, Tex., DEE–1456, crude oil

BTA Oil Producers filed an Application for Exception from the provisions of 10 CFR, Part 212, Subpart D, which, if granted, would permit the firm to sell a portion of the crude oil produced from the Baum 704 JV–D "Com" Lease, located in Lea County, New Mexico, at prices in excess of the applicable ceiling prices. In considering the exception request, the DOE determined that a considerable capital investment would be necessary to restore the Baum lease to full production. The DOE further determined that BTA's estimates of production and operating expenses indicated that the required capital investment would be uneconomic if the crude oil produced from the property was sold at lower tier prices. The DOE therefore determined that exception relief should be granted to BTA which would provide it with a sufficient economic incentive to undertake the capital investment program. Accordingly, BTA was permitted to sell during the economic life of the project a sufficient portion of the crude oil produced as a result of the investment at upper tier ceiling price levels in order to permit the working interests to attain a 15 percent return on their investment.

Chevron U.S.A., Inc., San Francisco, Calif., FEE–4652, motor gasoline

Chevron U.S.A., Inc. filed an Application for Exception from the provisions of 10 CFR 212.83(c) which, if granted, would permit the firm to deduct from its May 1973 marketing costs the costs associated with bulk plants that Chevron has decided to divest. In considering the firm's request, the DOE found that Chevron would no longer incur direct marketing costs related to the divested properties, and therefore, in the absence of exception relief, comparability between present costs and May 1973 costs would be lost. The DOE determined that this result would seriously distort the intent of Section 212.83(c) and would result in a gross inequity to Chevron. Consequently, the DOE permitted Chevron to deduct from its May 1973 non-product marketing costs, on a monthly basis, costs directly associated with the divested properties. The DOE determined that the amount of exception relief in any month should be limited to the reduction in revenues that Chevron experiences due to changes in class of purchaser classifications resulting from the implementation of its marketing divestiture program. The DOE further determined that any person who was aggrieved as a result of the approval of exception relief would be permitted to submit a Request for Modification or Rescission.

Chevron U.S.A., Inc., San Francisco, Calif., DEE–1968, crude oil

Chevron USA, Inc. filed an Application for Exception from the provisions of 10 CFR, Part 212, Subpart D, which, if granted, would permit the firm to sell a portion of the crude oil produced from the Murphy Non-Unit, located in the Coyote West Field in Orange County, California, at prices in excess of the applicable ceiling prices. In considering the exception request, the DOE found that Chevron's operating expenses had increased to the point that the firm no longer had an economic incentive to continue the production of crude oil from the Murphy Non-Unit. On the basis of the criteria applied in previous decisions, the DOE determined that

Chevron should be permitted to sell at upper tier ceiling prices 63 percent of the crude oil produced from the property for the benefit of the working interest owners during the period October 23, 1978 through April 30, 1979.

Gulf Oil Corporation, Tulsa, Okla., DXE–2024, crude oil

Gulf Oil Corporation filed and Application for Exception from the provisions of 10 CFR, Part 212, Subpart D, which, if granted, would result in an extension of the exception relief previously granted to Gulf, thereby permitting the firm to continue to sell at upper tier ceiling prices a portion of the crude oil produced from the Northwest Graylin "D" Sand Unit, located in Logan County, Colorado. *Gulf Oil Corporation*, 2 DOE Par.————(November 16, 1978). In considering the exception application, the DOE found that the working interest owners of the property continued to incur increased operating expenses and would lack an economic incentive to continue their production activities in the absence of further exception relief. On the basis of this determination and the operating data which Gulf had submitted for the most recently completed six-month period, the DOE concluded that Gulf should be permitted to sell at upper tier ceiling prices 57.36 percent of the crude oil produced from the property for the benefit of the working interest owners for a period of six months.

Charles F. Haas, Corpus Christi, Tex., DEE–1026, DEE–1027, crude oil

Charles F. Haas filed two Applications for Exception from 10 CFR, Part 212, Subpart D, which, if granted, would relieve Haas of any obligation to make refunds for revenues obtained from sales of crude oil from two leases at prices that exceeded the applicable ceiling prices. In considering the request, the DOE noted that despite a request for additional information, Haas had failed to provide a sufficient amount of information to allow the agency to analyze the firm's financial position. Accordingly, the requests for retroactive exception relief were denied.

Hughes and Hughes Oil & Gas, Beeville, Tex., FEE–4450, crude oil

Hughes & Hughes Oil & Gas filed an Application for Exception which, if granted, would permit the firm to receive retro-active exception relief from the provisions of 10 CFR 212.72, as clarified in Ruling 1975–15. The firm also sought prospective exception relief from the provisions of 10 CFR, Part 211, Subpart D, in order to undertake an expanded waterflood project at the East Pleasanton Unit, located in Atascosa County, Texas. In considering the request for retroactive exception relief, the DOE determined that Hughes & Hughes had not presented compelling reasons or a showing of irreparable injury justifying the approval of relief. The request was therefore denied. In considering the request for prospective relief, the DOE found that if Hughes & Hughes were to undertake the expanded waterflood project and sell the crude oil production at the applicable ceiling prices, the firm would incur a signifcant deficit in net operating cash flow. In view of this fact and on the basis of the principles established in previous decisions, the DOE determined that Hughes & Hughes should be permitted to sell at market prices 96.574 percent of the working interest crude oil production in excess of certain specified production levels in each of the first seven years of the project.

Panhandle Eastern Pipeline Company, Kansas City, Mo., DXE–1492, DXE–1493, DXE–1494, natural gas liquids; natural gas liquid products

Panhandle Eastern Pipeline Company filed three Applications for Exception from the provisions of 10 CFR 212.165, which, if granted, would permit the firm to pass through increased non-product costs for the production of natural gas liquids and natural gas liquid products in excess of the costs set forth in Section 212.165. The DOE issued a Proposed Decision and Order in which it was tentatively determined that the exception relief granted to Panhandle for the period ending September 30, 1978 should be extended through October 31, 1978. The Anadarko Production Company filed a Statement of Objections in which it contended that the Decision should be issued to Anadarko, a subsidiary of Panhandle. Since an identical contention had been rejected in the previous exception proceeding, the DOE rejected the objection and issued the Proposed Decision and Order in final form.

Pennzoil Producing Company, Houston, Tex., DXE–0938, crude oil

Pennzoil Producing Company filed an Application for Exception from the provisions of 10 CFR, Part 212, Subpart D, which, if granted, would result in an extension of exception relief previously granted and would permit the firm to continue to sell a portion of the crude oil produced from the Perry Sand Waterflood Unit—North Segment, located in Yazoo County, Mississippi, at upper tier ceiling prices. In considering the exception application, the DOE found that Pennzoil had continued to incur increased operating expenses at the lease and that, in the absence of exception relief, the working interest owners would lack an economic incentive to continue to produce crude oil from the property. In view of this determination, and on the basis of the operating data which Pennzoil submitted for the most recently completed fiscal period, the DOE concluded that exception relief should be continued.

Texaco, Inc., Houston, Tex., FEE–4842, motor gasoline

Texaco, Inc. filed an Application for Exception which, if granted, would result in the termination of the firm's supplier/purchaser relationship with J. C. Varn and therby relieve it of the regulatory obligation to supply Varn with motor gasoline. In its Application, Texaco argued that as a result of fraudulent billing practices which Varn engaged in to gain an unwarranted price advantage in puchases of motor gasoline, the business relationship between the parties had deteriorated to such an extent that it should be terminated. Although it did not challenge Texaco's allegations, Varn maintained that it would experience difficulty in securing adequate supplies of product for its customers if Texaco's request were granted. In considering the Texaco Application, the DOE determined that the fact that Texaco had experienced monetary damages as a result of Varn's fraudulent practices was insufficient to warrant a termination of the supplier/purchaser relationship. In this regard, the DOE observed that the continuation of Texaco's supplier/purchaser relationship with Varn would not impose a significant burden upon Texaco, but that termination of that relationship might cause Varn's customers to experience a severe hardship. In addition, the DOE observed that Varn had already taken remedial action to prevent the recurrence of any fraudulent billing practices. Accordingly, the Texaco Application for Exception was denied.

Union Oil Company of California, Los Angeles, Calif., DXE–2016 crude oil

Union Oil Company of California filed an Application for Exception from the provisions of 10 CFR, Part 212, Subpart D, which, if granted, would permit it to continue to sell at upper tier ceiling prices a portion of the crude oil produced from the West Richfield Chapman Zone Unit in the Richfield Oil Field located in Orange County, California. In considering the exception request, the DOE found that Union had continued to incur increased operating costs in connection with the Chapman Unit and that, in the absence of continued exception relief, Union would lack an economic incentive to produce crude oil from the property. On the basis of the financial data which Union had provided for the most recent six month period and in accordance with the methodology established in previous Decisions involving California crude oil, the DOE granted exception relief which permits Union to sell at upper tier prices 29.09 percent of the crude oil produced from the Chapman Unit for the benefit of the working interest owners.

Remedial Orders

Arden A. Anderson, Pensacola, Fla., DRO–0074 crude oil

Arden A. Anderson objected to a Proposed Remedial Order that was issued to him by DOE Region IV on June 15, 1978. In the Proposed Remedial Order, Region IV found that Anderson had improperly classified certain leases as stripper well properties and had sold the crude oil produced from those properties at unlawful prices. In considering Anderson's objection, the DOE determined that in calculating average daily production for one of the properties, Region IV had failed to consider down time due to mechanical failure and maintenance. After making the appropriate calculations, the DOE determined that Anderson's classification of that lease as a stripper well property in 1974 was proper. However, the DOE rejected Anderson's contention that the unitization in December 1974 of a second property pursuant to a State agency's order entitled him to treat the crude oil produced from the property in 1975 as stripper well oil. The DOE also rejected Anderson's contentions that two other properties were stripper well properties in 1974 and 1975, since Anderson had failed to submit any evidence in support of its

contention. Except as noted above, the Proposed Remedial Order was issued as a final order.

Northland Oil & Refining Company requested that its obligations under the provisions of 10 CFR 211.67 (the Entitlements Program) be stayed for November 1978.

Request for Modification and/or Rescission

City of Long Beach, Calif., Long Beach, Calif., DMR–0034 crude oil

gasoline from Chevron and made available to Chevron foreign aviation turbine fuel which it imported under an assigned import quota. In its Statement of Objections, Chevron

information, South Hampton might be effectively precluded from pursuing its administrative remedy, (ii) the information sought was uniquely in the possession of the

supply four customers from its refineries in Denver, Colorado, and Billings, Montana, during the period between the issuance of a Proposed Decision and Order to Continental

contention. Except as noted above, the Proposed Remedial Order was issued as a final order.

Buckeye Resources, Inc., Columbus, Ohio, DRO–0026 crude oil

Buckeye Resources, Inc. filed a Statement of Objections to a Proposed Remedial Order which DOE Region V issued to the firm on March 6, 1978. In the Proposed Remedial Order, Region V found that during the period December 1, 1973 through December 31, 1975 Buckeye had improperly classified its Clifford L. Gerber Lease as a stripper well property and has sold the crude oil produced from the lease at prices which were in excess of the maximum permissible selling prices. In its Statement of Objections, Buckeye contended that the procedures followed in the proceeding were in violation of the Department of Energy Organization Act; that the property was correctly classified as a stripper well lease in 1975; and that Buckeye should be held responsible for only a portion of the overcharges. In considering Buckeye's objections, the DOE determined that the procedures that had been followed in the proceeding were in conformance with Congressional intent and had afforded Buckeye due process. The DOE further found that the actual production from the Gerber Lease in 1974 averaged more than ten barrels per day per well and therefore the property did not qualify for stripper well status in 1975. The DOE also found that no part of Buckeye's refund obligation had been discharged in bankruptcy and that Buckeye was responsible for the overcharges since the firm was the operator and a one-quarter working interest owner of the property. Finally the DOE granted buckeye's request for an extension of time to repay the overcharges. On the basis of these findings, the DOE issued the Proposed Remedial Order As modified as a final Remedial Order.

Jim Cox Oil Co., Seminole, Okla., DRO–0019 crude oil

Jim Cox Oil Company filed a Statement of Objection to a Proposed Remedial Order which was issued to the firm by DOE Region VI on March 15, 1978. In the Proposed Remedial Order, the DOE found that Cox had improperly classified the Butler Lease as a stripper well property and had sold the crude oil produced from the property at prices that violated the provisions of 10 CFR 212.73. In addition, the Regional Office found that during an earlier period Cox had improperly received a bonus in excess of the applicable lower tier price for certain volumes of crude oil produced from the Butler and the W.C. Mandler properties. In considering the Cox Objection, the DOE rejected the argument that injection wells should be regarded as producing wells for purposes of calculating a property's average daily production. The DOE also rejected the contention that the bonus should be considered part of the May 15, 1973 posted price. On the basis of these considerations, the DOE issued the Proposed Remedial Order as a final Remedial Order.

Requests for Stay

Northland Oil & Refining Co., Tulsa, Okla., DES—0142 crude oil

Northland Oil & Refining Company requested that its obligations under the provisions of 10 CFR 211.67 (the Entitlements Program) be stayed for November 1978 pending a determination on the merits of the firm's Application for Exception. In considering the Northland request, the DOE found that Northland had made a *prima facie* showing that it did not possess the financial resources which would enable it to purchase entitlements during January 1979. The DOE therefore granted the request for stay.

Standard Oil Company of Indiana, Chicago, Ill., DES–0146 synthetic natural gas

Standard Oil Company of Indiana (Amoco) filed an Application for Stay of an Order issued to Consumers Power Company by the Economic Regulatory Administration, pending a determination on the merits of an Appeal which Amoco stated it intended to file. In considering the Amoco request, the DOE noted that most of Amoco's arguments had been considered and rejected in connection with an Application for Stay of the same Order filed by Dome Petroleum Corporation. *Dome Petroleum Corporation*, 2 DOE Par. (January 10, 1979). The DOE indicated that the only new argument raised by Amoco was that the Order might cause it to encounter difficulties in performing its contract with Consumers. The DOE determined, however, that this argument did not justify the approval of a Stay. The Application for Stay was accordingly denied.

Petitions for Special Redress

Pasco Petroleum Company, Inc., Phoenix, Ariz., DSG–0040; DES–0140 petroleum products

Pasco Petroleum Company, Inc. filed a Petition for Special Redress in which it requested an order quashing a subpoena that DOE Region IX issued to the firm on August 22, 1978. Pasco also requested a stay of the provisions of the subpoena pending a final determination on its Petition. In considering the submissions, the DOE concluded that Pasco had failed to demonstrate that an immediate review was warranted to correct substantial errors of law, to prevent substantial injury to legal rights, or to cure a gross abuse of administrative discretion. The Pasco Petition was therefor dismissed and its Application for Stay was denied.

Tesoro Petroleum Corporation; Ashland Oil, Inc., San Antonio, Tex.; Ashland, Ky., DSG–0042; DSG–0041 petroleum products

Tesoro Petroleum Corporation and Ashland Oil, Inc. filed identical Petitions for Secial Redress in which they requested an order directing the Special Council of the DOE to refrain from reviewing subpoenas which had been issued to the petitioners on December 13, 1977 by the Deputy Special Counsel. In considering the firms' submissions, the DOE concluded that a Petition for Special Redress could not properly be considered by the Office of Hearings and Appeals until the contentions had been reviewed by the Special Counsel pursuant to Section 205.8(h)(2). Accordingly, the Tesoro and Ashland Petitions for Special Redress were deemed premature and were dismissed without prejudice to a refiling at a later date.

Request for Modification and/or Rescission

City of Long Beach, Calif., Long Beach, Calif., DMR–0034 crude oil

The City of Long Beach, California filed an Application for Modification of a Decision and Order which granted the City exception relief permitting it to sell 100 percent of the crude oil produced from the Upper Terminal Zone of Fault Block V–B as a result of a tertiary recovery project at upper tier ceiling prices. *City of Long Beach, California*, 3 FEA Par. 83,251 (1976). In considering the Application, the DOE determined that additional relief was necessary to allow Long Beach to earn a 15 percent rate of return on its investment. Accordingly, the DOE permitted Long Beach to sell 100 percent of the crude oil produced from the tertiary recovery project at market prices not to exceed $20.00 per barrel.

Interim Order

General Development Utilities, Inc., Miami Fla., Dev–0144 propane

General Development Utilities, Inc. (GDU) requested that it be permitted to implement immediately the exception relief specified in a Proposed Decision and Order which was issued to the firm on November 2, 1978 by DOE Region IV. In that determination, the DOE proposed to grant the firm a 3.91 cents per gallon increase in its base prices for propane but denied any relief for the period prior to November 8, 1977. In considering the present request, the DOE concluded that it would not be appropriate to implement the exception relief set forth in the Proposed Decision on an interim basis until the DOE assesses the validity of the claims advanced by several parties who have objected to the issuance of the Proposed Decision in final form. Accordingly, the GDU request was denied.

Motion for Evidentiary Hearing

HNG Oil Company, Houston, Tex., DRH–0066 crude oil

The HNG Oil Company filed a Motion for Evidentiary Hearing in connection with a Proposed Remedial Order that DOE Region IV issued to the firm on June 7, 1978. In its Motion, HNG identified two issues which it contended should be the subject of an evidentiary hearing. In considering the HNG Motion, the DOE determined that the issues identified by the firm were irrelevant to the issues presented in the remedial order proceeding. Consequently, the HNG Motion for Evidentiary Hearing was denied.

Motions for Discovery

Time Oil Company, Portland, Oreg., DRH–0083; DRD–0083 motor gasoline

Time Oil Company filed a Motion for Discovery and a Motion for Evidentiary Hearing in connection with Statements of Objections submitted by Time and Chevron U.S.A. Inc. to a Proposed Remedial Order which the DOE issued to Chevron on June 29, 1978. The factual and legal dispute in the compliance proceeding concerns the appropriate class of purchaser determination for Time subsequent to the cancellation of contracts under which Time purchased motor gasoline from Chevron and made available to Chevron foreign aviation turbine fuel which it imported under an assigned import quota. In its Statement of Objections, Chevron challenges the determination in the Proposed Remedial Order that Time should be included in the class of unbranded resellers. Time, on the other hand, claims that it should be considered either a separate class of purchaser or in the class of cargo lot purchasers. The Special Counsel for Compliance of the DOE argues that the Proposed Remedial Order correctly places Time in a class of purchaser consisting of a single wholesale firm doing business in Portland, Oregon. The Special Counsel and Chevron opposed Time's present motions on the ground that Time should not be permitted to claim that it should be placed in a class of purchaser not named in the Proposed Remedial Order, which would result in an increase in the amount of overcharges. In considering the motions, the Office of hearings and Appeals determined that Time should be permitted to raise its claim. The Office of Hearings and Appeals also concluded that there were facts in controversy which could be resolved through discovery and an evidentiary hearing. Accordingly, Time's motions were granted in part.

Crown Central Petroleum Corporation; Baltimore, Md.; Office of Special Counsel, Washington, D.C., DRD–0013; DRD–0016 propane

Crown Central Petroleum Corporation and the DOE Office of Special Counsel each filed a Motion for Discovery in connection with Crown's Statement of Objections to a Proposed Remedial Order which was issued to it on October 23, 1978. In its Motion, Crown requested that the Special Counsel be directed to respond to ten interrogatories relating to Crown's calculation of the "Y_i" factor under 10 CFR 212.83. The Special Counsel in turn requested that Crown be directed to respond to one interrogatory and a request for production of certain documents. After reviewing the Motions, the DOE determined that the information sought by both Crown and the Office of Special Counsel was relevant and material to issues raised in the Statements of Objections. The DOE also noted that no delay would occur since each party had expressed its willingness to respond to the other's interrogatories. Accordingly, the Motions for Discovery were granted.

South Hampton Company, Silsbee, Tex., DED–0011 crude oil

The South Hampton Company filed a Motion for Discovery in connection with its Statement of Objections to a Proposed Decision and Order that the DOE issued to the firm on August 23, 1978. The Motion for Discovery, if granted, would require the DOE Office of Fuels Regulation or another appropriate office to respond to eight interrogatories concerning the weighted average crude oil costs incurred by small refiners that sell entitlements or are exempt from purchasing entitlements under Special Rule No. 6. In considering the Motion, the DOE found that (i) without access to the information, South Hampton might be effectively precluded from pursuing its administrative remedy, (ii) the information sought was uniquely in the possession of the DOE, and (iii) approval of the discovery request should not unduly delay the exception proceeding. Accordingly, the Motion for Discovery was granted, with appropriate provisions to protect the confidentiality of the information.

Supreme Petroleum Company of New Jersey, Inc., Washington, D.C., DRD–0014 motor gasoline

The Supreme Petroleum Company of New Jersey, Inc. filed a Motion for Discovery in connection with an Appeal of a Remedial Order that was issued to the Champlin Petroleum Company. In the Remedial Order, it was determined that Champlin had unlawfully calculated its maximum permissible selling prices to cargo lot purchasers of motor gasoline. In its Motion, Supreme requested that it be permitted to examine documents relating to an alleged May 15, 1973 transaction between Champlin and the Marine Petroleum Company, which Supreme contended would show that it had been overcharged by Champlin in related transactions. In considering the Motion, the DOE determined that Supreme's contention was a relevant issue in the Champlin Appeal proceeding and it therefore granted Supreme's request. The DOE also directed Champlin and Marine to respond to interrogatories concerning the nature of that transaction. Supreme also requested discovery related to class of purchaser determinations by Champlin. The DOE denied this request since Supreme had failed to utilize a previous opportunity to submit materials in support of the contention which it wished to develop through discovery.

Supplemental Orders

Commonwealth Oil Refining Company, Inc., Washington, D.C., DEX–0114 crude oil

On March 20 and October 17, 1978, the DOE issued orders to the Commonwealth Oil Refining Company, Inc. (Corco) setting forth certain procedures to ensure that the exception relief which the agency had approved for Corco would be utilized as intended. The effect of those orders was to prevent Corco from selling entitlements received as a result of exception relief until it complied with the stated procedures. In the present proceeding, Corco requested that those procedures be modified, and that it be permitted to sell entitlements after submitting a bankruptcy order that incorporates safeguards to ensure that the revenue derived from the exception relief would be used as intended. In considering the request, the DOE determined that the objectives of the orders would be satisfied if Corco adhered to the provisions of a proposed bankruptcy order which the firm submitted. The firm's request was therefore granted, effective upon certification to the DOE that the bankruptcy court has issued the order.

Continental Oil Company, Houston, Tex., DEX–0139, Motor Gasoline

On its own motion, the DOE relieved Continental Oil Company of its obligation to supply four customers from its refineries in Denver, Colorado, and Billings, Montana, during the period between the issuance of a Proposed Decision and Order to Continental and its finalization. The DOE noted that such action was appropriate in view of the tentative determination made in the Proposed Decision and the considerations which had prompted the approval of stay relief for Continental on November 22, 1978.

Shell Oil Company, Houston, Tex., DEX–0138, Motor Gasoline

On its own motion, the DOE granted a stay which permitted Shell Oil company to allocate motor gasoline to its customers on the basis of their actual purchases of motor gasoline during the corresponding month of the preceding calendar year, or the 1972 base period, whichever is greater, during the period between the issuance of a Proposed Decision and Order to Shell and its finalization. The DOE noted that such action was appropriate in view of the tentative determination made in the Proposed Decision and the considerations which had prompted the approval of stay relief for Shell on December 12, 1978.

Special Counsel; Tresler Oil Company, Washington, D.C., Washington, D.C., DRX–0136, DRX–0137, DRH–0036, Motor Gasoline

The DOE Office of Special Counsel filed a Motion to Dismiss a Documentary Submission that had been filed by the Champlin Petroleum Company in connection with Champlin's Appeal of a Remedial Order. In its Motion, the Special Counsel agrued that the materials submitted by Champlin were vague, immaterial and irrelevant. In considering the Motion, the DOE noted that it would not generally be fruitful to engage in protracted controversies as to the relevance of documents submitted into the record. The DOE concluded that the interests of the Special Counsel could be duly protected by simply according no probative value to irrelevant materials submitted during the Appeal proceeding. Accordingly the Motion was dismissed. The DOE also denied a Motion to Strike filed by the Tresler Oil Company. The Tresler Motion related to affidavits submitted by Champlin. However, Tresler was given an opportunity to submit materials into the record which would rebut the statements contained in the affidavits. Tresler's alternative request for an evidentiary hearing in which the firm would be given an opportunity to cross-examine the authors of the affidavits was also denied since the time and expense of convening an evidentiary hearing for that purpose outweighed the probative value of the evidence that would be adduced.

Dismissals

The following submissions were dismissed following a statement by the applicant indicating that the relief requested was no longer needed:

Ashland Oil Company, Washington, D.C., DES–0144.

Continental Oil Company, Houston Texas, DEE–2065; DST–2085.

Archie M. Damon Enco Service, Houston Texas, DEE–1906.
Tesoro Petroleum Company, Washington, D.C., DES–0145.

Copies of the full text of these Decisions and Orders are available in the Public Docket Room of the Office of Hearing and Appeals, Room B–120, 2000 M Street, N.W., Washington, D.C. 20461, Monday through Friday, between the hours of 1:00 p.m. and 5:00 p.m., except Federal holidays. They are also available in *Energy Management: Federal Energy Guidelines*, a commercially published loose leaf reporter system.

Melvin Goldstein,
Director, Office of Hearings and Appeals.

May 3, 1979.

[FR Doc 79–14898 Filed 5–11–79; 8:45 am]
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Notice of Issuance of Decisions and Orders by the Office of Hearings and Appeals; Week of January 29 Through February 2, 1979

Notice is hereby given that during the week of January 29 through February 2, 1979, the Decisions and Orders summarized below were issued with respect to Appeals and Applications for Exception or other relief filed with the Office of Hearings and Appeals of the Department of Energy. The following summary also contains a list of submissions which were dismissed by the Office of Hearings and Appeals and the basis for the dismissal.

Appeals

J. S. Beebe, Jr., El Dorado, Ark., DRA–0103, Crude Oil

J. S. Beebe, Jr., filed an Appeal from a Remedial Order that was issued to him by the Acting Director of Enforcement, DOE Region VI. In the Remedial Order, the Regional Office found that during various periods from November 1973 through April 1977, Beebe sold the crude oil produced from six properties that he operated at prices that exceeded the applicable ceiling price levels. The Remedial Order directed Beebe to refund the resulting overcharges, plus interest, to the purchasers of the crude oil. In his Appeal, Beebe challenged a statement in the Remedial Order that he did business as a trustee. The Office of Hearings and Appeals found that this contention was irrelevant in determining Beebe's liability for refunds of overcharges since Beebe did not dispute the Regional Office's finding that he was the operator of the six properties. Beebe also asserted that his right to due process of law had been violated because he was given only three days in which to file an Appeal. The OHA determined that this contention had no merit, finding that Beebe was given a number of extensions of time in which to perfect his Appeal. Beebe also argued that the Remedial Order was deficient because it directed him to refund revenues that were received by other working or royalty interest owners of the properties. This argument was rejected since Beebe submitted no information to overcome the established presumption that a Remedial Order should be issued to the operator of a property. The Office of Hearings and Appeals also found that the enforcement proceeding was not barred by "limitations of actions," noting that it had previously been held that a state statute of limitations is inapplicable to DOE administrative enforcement proceedings. The Beebe Appeal was therefore denied.

T. Mayfield, Tulsa, Okla., DRA–0164, Crude Oil

T. Mayfield appealed from a Remedial Order issued to him by the Office of Enforcement of the Department of Energy, Region VI. In the Remedial Order, the Office of Enforcement found that Mayfield had improperly classified as a stripper well lease a property owned and operated by him and that he had consequently overcharged the purchaser of the crude oil produced from that property. In considering Mayfield's Appeal, the DOE found that certain findings on which the Remedial Order was based were inconsistent with findings contained in a Remedial Order that the Regional Office had previously issued to Mayfield with respect to the same property. In addition, the DOE found that the Office of Enforcement had erred in calculating average production from the property in question by failing to make an adjustment for base sediment and water contained in the fluids produced. The DOE therefore concluded that the findings on which the Remedial Order was based could not be sustained. Furthermore, the DOE determined that it would be inappropriate merely to remand the Remedial Order for further findings in view of the substantial delays that were found to have occurred during the compliance proceeding as a result of procedural and other errors made by the Office of Enforcement. The Mayfield Appeal was therefore granted and the Remedial Order was rescinded.

Requests for Exception

A. Johnson and Company, Inc., New York, N.Y., DEE–0101, Crude Oil

A. Johnson and Company, Inc. filed an Application for Exception which, if granted, would have permitted the firm to treat its two refineries as independent entities for purposes of the Old Oil Entitlements Program (10 CFR 211.67). On February 27, 1978, the DOE issued a Proposed Decision and Order to Johnson proposing to deny the firm's Application. In considering the Statement of Objections which the firm filed, the DOE found that the Proposed Decision issued to Johnson satisfied the requirements of the Administrative Procedure Act by indicating to Johnson the reasons why its request for exception relief was tentatively denied. With respect to the substantive aspects of the Johnson Application, the DOE found that the refining, marketing and administrative activities of Johnson's two refineries were too similar in nature to warrant the approval of exception relief which would result in the issuance of additional small refiner bias entitlements to the firm. The DOE also found that Johnson had refused to provide any firm-wide data in support of its contention that it would incur a hardship in the absence of exception relief. Noting that Johnson had acquired the second of its refineries with full knowledge of the DOE regulations, the DOE concluded that it would be inappropriate to use the exceptions process to underwrite the normal business risk that Johnson undertook at the time it acquired the second refinery. In addition, the agency found that the firm's request for retroactive exception relief was unsupported either by DOE policy or by the evidence submitted by the firm. Accordingly, the DOE issued a final Decision and Order in which it denied the firm's request.

The Budd Company, Troy, Mich., DEO–0061 propane

The Budd Company filed a Statement of Objections to a Proposed Decision and Order issued to it by the DOE Region III. In that Proposed Decision, the Regional Office tentatively denied an Application for Exception from the provisions of 10 CFR 211.12 filed by Budd. The Application, if granted, would result in the issuance by the DOE of an order increasing Budd's base period supply of propane for its truck trailer manufacturing plant located in Lebanon, Pennsylvania. In considering Budd's objections to the Proposed Decision and Order, the DOE reviewed the standards that it had previously applied in determining whether exception relief increasing a firm's base period volume of an allocated product was warranted. As an initial matter, the DOE noted that Budd indicated that it is presently able to purchase sufficient surplus propane to meet all of the requirements of its Lebanon plant. The firm further indicated that its supplier expects to be able to supply Budd with sufficient propane through 1981. The DOE therefore determined that Budd had not demonstrated that the application of the regulations resulted in any real competitive or financial disadvantage to the firm. Moreover, although Budd claimed that it would be forced to lay off employees in the event it is unable to purchase sufficient surplus propane in the future, the DOE found that this claim was purely speculative and provided no basis for exception relief. Accordingly, Budd's Application for Exception was denied.

Chevron, U.S.A. Inc., San Francisco, Calif., DEE–1963 crude oil

Chevron U.S.A., Inc., filed an Application for Exception from the provisions of 10 CFR, Part 212, Subpart D, which, if granted, would permit the firm to sell at market prices the crude oil produced from State Lease PRC 1824 South Flank Pool located offshore from Santa Barbara County, California. In considering Chevron's Application, the DOE determined that the costs of producing crude oil from the South Flank Pool had increased significantly since 1973 and that those costs per barrel now exceed the prices which Chevron is permitted to charge. Consequently, the DOE determined that Chevron does not have an economic incentive to continue production from the property. The DOE also found that if the property were abandoned, a significant quantity of otherwise recoverable domestic crude oil would not be produced. On the basis of these findings and in accordance with the methodology established in previous Decisions, the DOE permitted Chevron to sell 100 percent of the crude oil produced from the property for the benefit of the working interest owners at market prices for a period of approximately six months.

Cologne Production Company, San Antonio, Tex., DXE–1946 crude oil

Cologne Production Company filed an Application for Exception from the provisions of 10 CFR, Part 212, Subpart D. The request, if granted, would result in an extension of an exception previously granted to Cologne and would permit the firm to continue selling a portion of the crude oil produced from the Algoa Unit 4–2 and the Algoa Unit 6 located in Galveston County, Texas, at upper tier ceiling prices. *Cologne Production Co.*, 1 DOE Par. 81,114 (1978). In considering the exception request for the Algoa Unit 6, the DOE found that, as a result of a substantial reduction in operating expenses for that Unit, Cologne would be able to operate the Unit on a profitable basis even if the crude oil is sold at the applicable lower tier ceiling price. Accordingly, the DOE determined that the request for an extension of exception relief for the Algoa Unit 6 should be denied. With respect to the Algoa Unit 4–2, the DOE found that the level of operating costs had continued to increase and that, in the absence of exception relief, Cologne would have no economic incentive to maintain crude oil production at the Unit. On the basis of the operating data which the firm submitted for the two most recently completed fiscal quarters, Cologne was permitted to sell at upper tier ceiling prices 57.67 percent of the crude oil produced from the Algoa Unit 4–2 for the benefit of the working interest owners for a six-month period.

Crown Central Petroleum Corporation, Bellaire, Tex., DEE–1872

Crown Central Petroleum Corporation filed an Application for Exception from the provisions of 10 CFR, Part 212, Subpart D. The exception request, if granted, would permit the firm to sell at upper tier ceiling prices the crude oil which it produces from the Santa Ana and Fresno Land Lease located in the Raisin City Field in Fresno County, California. In considering the Application, the DOE found that the cost of producing crude oil from the Santa Ana and Fresno Land Lease had increased to a level where it now exceeds the revenues the firm can obtain from the sale of the crude oil at the lower tier ceiling price. The DOE found that Crown Central had no economic incentive to continue to produce crude oil from the lease, and that it was unlikely that the crude oil in the reservoir would be recovered by any other firm in the absence of exception relief. The DOE therefore concluded that the application of the ceiling price rule resulted in a gross inequity to Crown Central and the other working interest owners. In order to provide the working interest owners with an incentive to continue to produce, the DOE granted an exception which permits Crown Central to sell at upper tier ceiling prices 82.18 percent of the crude oil produced from the Santa Ana and Fresno Land Lease for the benefit of the working interest owners during the period November 9, 1978 through March 31, 1979.

Gary Operating Company, Englewood, Colo., DEE–1975 crude oil

Gary Operating Company filed an Application for Exception from the provisions of 10 CFR, Part 212, Subpart D. The exception request, if granted, would permit the firm to sell at upper tier ceiling prices a portion of the crude oil produced from the Ranch Creek Muddy Sand Unit (the Ranch Creek Unit), located in Powder River County, Montana. In considering the exception application, the DOE noted that Gary was not yet incurring operating losses at the Ranch Creek Unit and did not expect such losses until April 1979. The DOE found that since the firm had submitted actual operating data only for periods through June 1978, Gary had not made a convincing showing that it did not have an economic disincentive to continue crude oil extraction operations at the Ranch Creek Unit. The DOE therefore determined that the Gary exception request should be denied. The DOE also observed that Gary had based its request for exception relief on projected data, not on data showing current marginal profitability. The DOE therefore indicated that, if the firm files another Application for Exception, it must include data for the six month period ending not more than three months prior to the month in which the firm projects operating losses.

Gas garden, Cucamonga, Calif., DEO–0139 motor gasoline

Gas Garden filed an Application for Exception from the provisions of 10 CFR 211.12 which, if granted, would have resulted in the issuance of an Order by the DOE increasing the firm's base period use of motor gasoline from 180,000 gallons to 330,000 gallons per month. In its Application, Gas Garden contended that it required increased volumes of motor gasoline to meet an increased demand for the product. DOE Region IX issued a Proposed Decision and Order which determined that the Gas Garden application should be denied.

In considering the Statement of Objections filed by the firm, the DOE noted that the Regulations do not prevent Gas Garden from obtaining surplus motor gasoline and that the firm did not contest the Regional Office's finding that Gas Garden is currently able to purchase surplus gasoline. In addition, it was determined that Gas Garden had presented no evidence that its financial position is being impaired as a result of maintaining its base period allocation of gasoline and that the firm's claim that it would experience financial hardship in the absence of exception relief was speculative. Gas Garden also failed to establish that motorists in the firm's market area would be unable to obtain gasoline or would incur a serious inconvenience if the requested relief was denied. Finally, the DOE concluded that Gas Garden had not presented any substantial basis to justify exception relief which would interfere with market mechanisms. The DOE therefore determined that Gas Garden's objections to the Proposed Decision and Order were without merit, and the firm's exception application was denied.

J&W Refining, Inc., Tucker, Tex., FXE–4453 crude oil

J&W Refining, Inc., filed an Application for Exception which, if granted, would have extended exception relief previously accorded the firm and would relieve the firm of the obligation to purchase entitlements in August 1977 and succeeding months. In a Proposed Decision and Order issued to the firm on November 14, 1977, the DOE determined that a further extension of exception relief was not warranted because the factual situation which had formed the basis for prior exceptions granted to J&W had changed significantly. In the Statement of Objections which it filed, J&W contended that the DOE erred in failing to specify the standards under which its request was denied, and had departed from the standards which were used in analyzing the firm's previous requests for exception. J&W also contended that it has not yet attained the status of a competitively viable small and independent refiner, and that the DOE is obligated under the applicable statutory and adjudicatory standards to grant relief which will enhance the firm's profitability and ensure its competitive viability.

In considering J&W's Statement of Objections, the DOE initially noted that the favorable determinations on J&W's prior exception applications were based on a particular set of facts and were made for a well-defined and limited purpose, *viz.*, the removal of obstacles in the form of entitlement liabilities which would interfere with a financially distressed firm's efforts to satisfy the claims of its creditors, emerge from bankruptcy and resume a viable independent operation. The DOE observed that, for this reason, the relief awarded to J&W in the past was expressly intended to continue only so long as those specific conditions continued to exist. Upon reviewing the record, the DOE affirmed the principal finding set forth in the Proposed Decision and concluded that the purpose for which exception relief had been granted to J&W in the past was accomplished. Specifically, the DOE found that J&W had discharged the obligations which at one time had threatened its continued existence, had maintained its operations at levels which enabled it to eliminate its working capital deficit, and had emerged from the supervision of a bankruptcy court to commence independent operations.

The DOE also found that the firm had failed to provide any material which would substantiate its claims that the cash flow and other difficulties it is experiencing are primarily attributable to the requirement that it purchase entitlements. In this regard, the DOE found that the firm's financial difficulties are to a substantial degree attributable to various discretionary business decisions made by the firm and to its practices in compensating its sole stockholder. The DOE noted that exception

relief is generally not granted to compensate a firm for the consequences of such discretionary actions. On the basis of these considerations, the J&W exception request was denied.

Lundoy-Thagard Oil Company, South Gate, Calif., DXE–1057 crude oil

Lunday-Thagard Oil Company filed an Application for Exception from the provisions of 10 CFR 211.67 (the Entitlements Program). On June 22, 1978, the DOE issued a Proposed Decision and Order which tentatively granted in part the exception request. In the Proposed Decision, the DOE noted that certain small refiners, including Lunday-Thagard, has increased their old oil receipts by entering into processing agreements and thereby obtained additional entitlements exception relief. The DOE determined that it was appropriate to limit the maximum amount of exception relief for which a firm would qualify to the entitlement purchase obligation which the firm would incur during the remaining months of its current fiscal year, if its crude oil receipts and runs to stills were no greater than the average monthly receipts and runs which the firm experienced during 1975. On July 25, 1978, Lunday-Thagard filed a Statement of Objections to the proposed determination. In considering the Statement of Objections, the DOE rejected the firm's contention that the imposition of a ceiling upon the level of exception relief was arbitrary or capricious and would cause firms to decline to undertake refinery expansion program. The DOE also found that Lunday-Thagard was incorrect in contending that it had been led to believe that it would continue to receive the same or increasing levels of entitlement exception relief under the *Delta/Beacon* criteria. The DOE also determined that there was no merit to Lunday-Thagard's contention that the modification to the *Delta/Beacon* criteria should have been adopted in accordance with the rulemaking procedures of the Administrative Procedures Act and noted that this contention had previously been rejected in a Decision and Order issued to Lunday-Thagard. *See Lunday-Thagard Oil Company*, 2 DOE Par. 81,009 (1978). The firm's application was therefore granted subject to the limitation referred to above.

McCulloch Gas Processing Corporation, Los Angeles Calif., DXE–1087 (Fairview) DXE–1088 (Hilight) DXE–1089 (Jamison Prong) DXE–1090 (Tule Creek) DXE–1091 (Well Draw) natural gas liquids and products

McCulloch Gas Processing Corporation filed five Applications for Exception which, if granted, would result in an extension of the exception relief that was granted by the DOE on February 13, 1978, with respect to McCulloch's Fairview, Hilight, Jamison Prong, Tule Creek, and Well Draw gas processing plants. Based on the criteria in *Superior Oil Co.*, 2 FEA Par. 83,271 (1975), the DOE issued a Proposed Decision and Order in which it tentatively determined that McCulloch should be permitted to increase its selling prices to reflect its non-product costs in excess of the $.005 per gallon passthrough permitted under the provisions of 10 CFR 212.165 in effect at that time. McCulloch filed a Statement of Objections to the Proposed Decision in which it contended that the DOE's calculation of the amount of exception relief to be granted had improperly excluded interest costs paid to McCulloch's parent. McCulloch noted that its parent had to pay interest on the funds it loaned to McCulloch and that McCulloch also paid some interest directly to unrelated parties. The DOE concluded that McCulloch's non-product costs should include any interest that it paid directly to unrelated parties and that the portion of the interest that the parent paid on funds loaned to McCulloch was also a cost upon which exception relief should be based. The Proposed Decision and Order was modified accordingly and issued as a Final Decision and Order.

Mobil Oil Corporation, New York, N.Y., DXE–2007 crude oil

Mobil Oil Corporation filed an Application for Exception from the provisions of 10 CFR, Part 212, Subpart D. The request, if granted, would result in an extension of exception relief previously granted to Mobil and would permit the firm to continue selling at upper tier ceiling prices certain of the crude oil produced for the benefit of the working interest owners of the H&J 495–D Lease located in the North Russell Devonian Field, Gaines County, Texas. *Mobil Oil Corp.*, 2 DOE Par. ——— (September 28, 1978). In considering the exception application, the DOE found that Mobil continued to incur increased operating expenses on the Lease which were in excess of the revenues which the firm can realize from charging the applicable ceiling price. The DOE therefore found that in the absence of exception relief, the working interest owners would lack an economic incentive to continue to produce crude oil from the property. In view of these determinations, and on the basis of the operating data which Mobil had submitted for the most recently completed fiscal period, the DOE concluded that exception relief should be continued to permit Mobil to sell 64.29 percent of the crude oil produced from the Lease for the benefit of the working interest owners at upper tier ceiling prices.

Perrault Production Company, Tulsa, Okla., DXE–1943 crude oil

Perrault Production Company filed an Application for Exception from the provisions of 10 CFR, Part 212, Subpart D. The request, if granted, would permit the firm to sell the crude oil produced from the Cudjo and Varnum leases located in Seminole County, Oklahoma at exempt prices. In considering the exception request, the DOE found that Perrault's operating costs had increased to the point where the firm no longer had an economic incentive to continue production from the two leases. The DOE also determined that if Perrault abandoned its operations at the two leases, a substantial quantity of domestic crude oil would not be recovered. On the basis of the criteria applied in previous Decisions, the DOE determined that for the period December 21, 1978 to May 31, 1979, Perrault should be permitted to sell at upper tier ceiling prices 63.72 percent of the crude oil produced from the Varnum lease and 57.62 percent of the crude oil produced from the Cudjo lease for the benefit of the working interest owners.

Union Oil Company, Los Angeles, Calif., DXE–2076 crude oil

Union Oil Company filed an Application for Exception from the provisions of 10 CFR, Part 212, Subpart D. The exception request, if granted, would result in an extension of exception relief previously granted to Union and would permit the firm to continue selling at upper tier ceiling prices a portion of the crude oil produced from the State lease and the Coast Guard lease of the Point Conception Field. In considering the exception request, the DOE found that the operating costs per barrel at the two leases continued to exceed the applicable lower tier ceiling prices and that continued exception relief was therefore necessary to provide Union with an adequate economic incentive to maintain production operations. In accordance with the methodology established in previous Decisions, the DOE permitted Union to sell at upper tier prices 95.90 percent of the crude oil produced from the State lease and 58.82 percent of the crude oil produced from the Coast Guard lease for a six month period.

Waterbury Industries, Inc. d/b/a Grenier Gas Service, Waterbury, Vt., DRC–0013 propane

Waterbury Industries, Inc. d/b/a Grenier Gas Service filed an Application for Exception from the provisions of 10 CFR 212.93 which, if granted, would permit the firm to calculate its maximum allowable prices for propane on the basis of the selling prices and classes of purchaser which it established on October 1, 1973, instead of those which existed on May 15, 1973 as required by the price regulations. In a Proposed Decision and Order, DOE Region I expressed the tentative determination that the Application should be denied. In considering the firm's Statement of Objections to the Proposed Decision, the DOE found that, for purposes of evaluating the firm's profitability, the salaries paid to the owner-officers of Grenier during the fiscal year prior to the base period should have been included in the firm's operating expenses. After recalculating Grenier's profitability on this basis, the DOE found that prospective exception relief was warranted. In addition, although the Office of Enforcement, in accordance with its "small case" policy, had terminated its investigation of Grenier's pricing practices, the DOE determined that it was appropriate to grant retroactive relief in this case to remove any cloud of continuing liability for possible overcharges that may have resulted from Grenier's use of the October 1, 1973 prices and classes of purchaser prior to the submission of its Application for Exception.

Remedial Order

Robert E. Park, Casper, Wy., DRO–0046 crude oil

Robert E. Park objected to a Proposed Remedial Order which DOE Region VIII issued to him on April 21, 1978. In the Proposed Remedial Order, Region VIII found that Park had improperly classified the Boyd Miller No. 1 lease as a stripper well property and had sold the crude oil produced from the property during the period December 1, 1973 through April 30, 1976 at prices which exceeded the applicable ceiling price. In his Statement of Objections, Park contended that the Proposed Remedial Order was erroneous because it determined that the Boyd Miller No. 1 lease is a property which is separate from the remainder of a 1958 lease. In support of his position, Park asserted that the 1958 lease created a single right to produce crude oil and that therefore the entire 640 acres covered by the 1958 lease agreement constitute a single "property." In considering Park's objections, the DOE noted that under the regulations, the determination of a "property" is made on the basis of the boundaries existing in 1972. Since Park's right to produce crude oil arose out of an assignment in 1961 of an 80 acre portion of the 1958 lease, the DOE found that in 1972 those 80 acres were separate from the remainder of the 1958 lease. Consequently, the DOE concluded that during the audit period, the 80 acre tract was a separate property. On the basis of these considerations, the DOE rejected Park's objections and issued the April 21 Proposed Remedial Order as a final Remedial Order.

Requests for Stay

Milltown Skelgas, Inc., Milltown, Wis., DRS–0147 propane

Milltown Skelgas, Inc. filed an Application for Stay of a Remedial Order which the DOE issued to it on January 8, 1979. The stay was requested pending a review by the Federal Energy Regulatory Commission (FERC) of a partial denial of an Application for Exception, or alternatively, pending judicial review. In considering the request, the DOE noted that Milltown has not attempted to demonstrate that it met any of the criteria for approval of a stay. The DOE determined that Milltown has little chance of prevailing in its Petition for Review before FERC or in its judicial challenge of the Remedial Order. Accordingly, the Application for Stay was denied.

Southland Oil Company/VGS Corporation, Washington, D.C., DES–1903 crude oil

Southland Oil Company/VGS Corporation filed an Application for Stay of the provisions of 10 CFR 211.67 (the Entitlements Program). The request, if granted, would relieve Southland of a portion of its entitlements purchase obligation for its crude oil receipts and runs to stills in the months January through March 1979, pending a determination on the firm's Statement of Objections to a Proposed Decision and Order issued to the firm on December 6, 1978. In considering the Southland request, the DOE determined that the firm would not suffer a severe hardship if the request were denied. The DOE further found that the public interest would not be served if Southland were granted a stay, since the burden upon other refiners who participate in the Entitlements Program of granting such a stay would be much greater than the maximum injury Southland might suffer if its stay request was denied. Accordingly, the Southland Application was denied.

Request for Temporary Stay

Continental Oil Company, Houston, Tex., DST–2133 motor gasoline

Continental Oil Company (Conoco) filed an Application for Temporary Stay which, if granted, would suspend its obligation to furnish motor gasoline to the Gulf Oil Company during the first calendar quarter of 1979 pending a determination on an Application for Exception seeking that same relief on a permanent basis. Conoco alleged that the firm and its customers would suffer an immediate irreparable injury if it were required to supply Gulf with its base period use of gasoline because Concoco would be forced to reduce its allocation fraction. Gulf stated that it would likewise have to reduce its allocation fraction if Conoco's request were granted. Upon consideration of the record before it, the DOE determined that the Conoco Application for Temporary Stay raised significant issues affecting the public interest which would be rendered moot on February 1, 1979 if Conoco were compelled to supply Gulf with its January allocation. Therefore, the DOE concluded that a temporary stay should be granted so that an immediate hearing could be held on February 2, 1979. The DOE stated that at the conclusion of the hearing a determination would be made as to whether the temporary stay should be continued in effect. Accordingly, Conoco's request for a temporary stay was granted pending a further determination by the DOE Office of Hearings and Appeals.

Motions for Evidentiary Hearing

Mid-Continent, Inc., Little Rock, Ark., DRH–0179 fuel oil

Mid-Continent, Inc. filed a Motion for Evidentiary Hearing in connection with its Appeal of a Supplemental Remedial Order. Under the terms of the Supplemental Remedial Order, Mid-Continent is required to refund overcharges obtained by the firm in 1974 in sales of the Georgia Power Company. Mid-Continent had contended that its refund obligation should be offset by the alleged voluntary restitution which the firm instituted by lowering its prices to Georgia Power in sales from June 1974 through April 1975. In its Motion, Mid-Continent requested an opportunity to present testimony on the following issues: (i) whether Mid-Continent's prices for fuel oil to Georgia Power during the period from June 1974 through April 1975 were lower than Mid-Continent's maximum permissible selling prices or the prevailing market price for that product; and (ii) whether Mid-Continent's prices to Georgia Power were reduced during that period for the purpose of making restitution for past overcharges. In considering the firm's Motion, the DOE determined that the issues presented by Mid-Continent were relevant to the resolution of the offset issue under the terms of the remand of a previous Mid-Continent Appeal. It also noted that questions of Mid-Continent's intent were best resolved on the basis of testimony and cross-examination of the firm's officials. The Mid-Continent Motion was therefore granted.

Ross Production Company, Shreveport, La., DRH–0142 crude oil

Ross Production Company filed a Motion for Evidentiary Hearing in connection with its Statement of Objections to a Proposed Remedial Order. In considering the Motion, the DOE found that two of the propositions that Ross sought to prove in an evidentiary hearing did not raise disputed issues of fact, and the firm's request for a hearing on those issues was denied. However, it was determined that Ross's contentions concerning historical down time and the recoupment of production "lost" as a result of curtailed production do raise disputed issues of fact and are relevant to the determination of whether the firm qualified for the stripper well property exemption, a central issue in the Proposed Remedial Order. The DOE found that good cause exists to allow Ross to raise these issues at the present juncture, because the notice given to Ross concerning the nature of the Regional Office's calculations, the firm's burden of rebuttal, and the requirement that the firm raise its objections at an earlier stage of the enforcement proceeding was insufficient. Finally, the DOE concluded that presentation of oral testimony and cross-examination of witnesses would be particularly useful with respect to the factual conclusions contested by Ross. Accordingly, the DOE determined that an evidentiary hearing should be granted with respect to the issues of historical down time and recoupment of "lost" production.

Quincy oil, Inc., Quincy, Mass., Dex–0140 Fuel oil

On November 14, 1978, the Office of Hearings and Appeals of the Department of Energy granted in part a Motion for Discovery that had been filed by Quincy Oil, Inc. *Quincy Oil, Inc.*, 2 DOE Par. (November 14, 1978). Under the terms of that Order, Quincy was entitled to receive certain internal Federal Energy Admisnitration documents relating to the agency's interpretation of the term "transaction" for purposes of the FEA's regulatory program. However, the Order permitted the DOE Office of General Counsel to assert a privilege with respect to those documents and provided that the Office of Hearings and Appeals would rule whether any assertion of privilege was proper. In response to the Order, the Office of General Counsel submitted seven documents and asserted privilege with respect to one of the documents. The Office of Hearings and Appeals determined upon review of that document that the attorney-client privilege had been properly asserted and therefore withheld the document from quincy. That determination was based on the finding that the document contained the legal advice of an FEA attorney who was authorized to act for the agency with respect to the subject matter of the communication and who issued the document in connection with the FEA's exercise of its enforcement responsibilities. The Office of Hearings and Appeals determined that one of the six remaining documents was not within the scope of the November 14 Order and therefore withheld it from Quincy. The remaining five documents submitted by the Office of General Counsel

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contained proprietary financial data and were arguably exempt from mandatory disclosure under the Freedom of Information Act. However, those documents had been disclosed in an unrelated court proceeding under a Protective Order, and were therefore released to Quincy in the present case under a similar Protective Order.

Dismissals

The following submission was dismissed following a statement by the applicant indicating that the relief requested was no longer needed:

Clark and Clark Ardmore, Okla. DEE–2077 DEE–2078

The following submissions were dismissed following a determination by the DOE that the relief requested was no longer necessary:

T–W Operating Company Dallas, Tex. DRO–0134

Springfield Municipal Airport Springfield, Mo. DRO–0049 DRH–0049

The following submission was dismissed for failure to correct deficiencies in the firm's filing as required by the DOE Procedural Regulations:

Butler Fuel Corporation Oxford, Mass. DRO–0148

The following submission was dismissed on the grounds that alternative regulatory procedures existed under which relief might be obtained:

Thompson, Knight, Simmons & Bullion Dallas, Tex. DFA–0291

The following submissions were dismissed on the grounds that the requests are now moot:

Alp Oil Company, Inc., Washington, D.C. DRO–0030

Texaco, Inc. White Plains, N.Y. DST–2041 DES–2041

Copies of the full text of these Decisions and Orders are available in the Public Docket Room of the Office of Hearings and Appeals, Room B–120, 2000 M Street, N.W., Washington, D.C. 20461, Monday through Friday, between the hours of 1:00 p.m. and 5:00 p.m., e.s.t., except Federal holidays. They are also available in *Energy Management: Federal Energy Guidelines*, a commercially published loose leaf reporter system.

Melvin Goldstein,

Director, Office of Hearings and Appeals.

May 3, 1979.

[FR Doc. 79–14897 Filed 5–11–79; 8:45 am]

BILLING CODE 6450–01–M

Southeastern Power Administration

Order Confirming and Approving Extension of Power Rates for Georgia-Alabama Projects on an Interim Basis

AGENCY: Department of Energy, Southeastern Power Administration, (SEPA).

ACTION: Notice of Extension on Interim Basis of Georgia-Alabama Projects Rates

SUMMARY: On May 2, 1979, the Assistant Secretary for Resource Applications confirmed and approved, on an interim basis, the extension of existing rates for Georgia-Alabama Projects power. The extension is for a three-month period through September 30, 1979. Applicable SEPA contracts permit adjustment of rates on October 1, 1979.

DATES: Extension of approval of rates on interim basis effective July 1, 1979.

FOR FURTHER INFORMATION CONTACT:

Julian T. Brown, Jr., Chief, Division of Fiscal Operations, Southeastern Power Administration, Department of Energy, Samuel Elbert Building, Elberton, Georgia 30635.

John J. DiNucci, Office of Power Marketing Coordination, Department of Energy, 12th Street and Pennsylvania Avenue, NW., Washington, D.C. 20461.

SUPPLEMENTARY INFORMATION: The Federal Power Commission by Order issued November 29, 1976, in Docket No. E–7160, confirmed and approved Wholesale Power Rate Schedules GAMF–1–A, GAMF–2–A, ALA–1–A, MISS–1–A, SC–1 (Revised), SC–2, CAR–1 (Revised) and CAR–2 (Revised) applicable to Georgia-Alabama Projects power for a period ending June 30, 1979. The extension of rates hereby approved is subject to approval on a final basis by the Federal Energy Regulatory Commission.

Issued in Washington, D.C., May 2, 1979.

George S. McIsaac,

Assistant Secretary, Resource Applications.

Department of Energy, Assistant Secretary for Resource Applications

May 2, 1979.

In the matter of Southeastern Power Administration, Georgia-Alabama Projects Power Rates; Rate Order No. SEPA–3: Order confirming and approving extension of power rates on an interim basis.

Pursuant to Sections 302(a) and 301(b) of the Department of Energy Organization Act, Pub. L. 95–91, the functions of the Secretary of the Interior and the Federal Power Commission under Section 5 of the Flood Control Act of 1944, 16 U.S.C. 825s, relating to the Southeastern Power Administration (SEPA) were transferred to and vested in the Secretary of Energy. By Delegation Order No. 0204–33, effective January 1, 1979, 43 FR 60636 (December 28, 1978) the Secretary of Energy delegated to the Assistant Secretary for Resource Applications the authority to develop power and transmission rates, acting by and through the Administrator, and to confirm, approve, and place in effect such rates on an interim basis and delegated to the Federal Energy Regulatory Commission (FERC) the authority to confirm and approve on a final basis or to disapprove rates developed by the Assistant Secretary under the delegation. This rate order is issued pursuant to the delegation to the Assistant Secretary.

Background

Power from the nine projects* Georgia-Alabama System is presently sold under Rate Schedules GAMF–1–A, GAMF–2–A, ALA–1–A, MISS–1–A, SC–1 (Revised), SC–2, CAR–1 (Revised), and CAR–2 (Revised). These rates were confirmed and approved by the Federal Power Commission on November 29, 1976, for a period ending June 30, 1979. SEPA has requested that I approve a three-month extension of such rates to permit adjusted rates to be developed, confirmed and approved and placed in effect.

Discussion

Applicable SEPA contracts provide for adjustment of rates on October 1, 1979, and SEPA has already notified customers and the public alike that existing rates will be replaced on that date by rates which will fully meet system repayment requirements. Rates for Georgia-Alabama Projects' power have not previously been increased. Existing rate schedules are predicated upon a March 1976 repayment study and other supporting data all of which are contained in FPC Docket No. E–7160. Pending development of the revised rates, it is appropriate to confirm and approve on an interim basis an extension of existing rates as requested by SEPA.

Order

In view of the foregoing and pursuant to the authority delegated to me by the Secretary of Energy, I hereby confirm and approve on an interim basis, effective July 1, 1979, an extension of existing rate schedules GAMF–1–A, GAMF–2–A, ALA–1–A, MISS–1–A, SC–1 (Revised), SC–2, CAR–1 (Revised) and CAR–2 (Revised) for the sale of power from the Georgia-Alabama Projects. The rates shall remain in effect through September 30, 1979.

Department of the Interior, Southeastern Power Administration

Wholesale Power Rate Schedule GAMF–1–A

Availability: This rate schedule shall be available to public bodies and cooperatives (any one of which is hereinafter called the Customer) in Georgia, Alabama, southeastern Mississippi, and panhandle Florida owning

*The Georgia-Alabama System consists of the following projects: Allatoona, Buford, Carters, Clark Hill, Hartwell, Jones Bluff, Millers Ferry, Walter George and West Point.

distribution systems, to whom power may be wheeled pursuant to contracts between the Government and, respectively, the Georgia Power Company, Alabama Power Company, Mississippi Power Company, and Gulf Power Company (any one of which is hereinafter called the Company).

Applicability: This rate schedule shall be applicable to the sale at wholesale of power and accompanying energy generated at the Allatoona, Buford, Clark Hill, Walter F. George, Hartwell, Millers Ferry, West Point, Jones Bluff, and Carters Projects and sold under appropriate contracts between the Government and the Customer and to any deficiency energy purchased by the Government from the Companies.

Character of service: The electric capacity and energy supplied hereunder will be three-phase alternating current at a nominal frequency of 60 Hertz delivered at the delivery points of the Customer on the Company's transmission and distribution system. The voltage of delivery will be maintained within the limits established by the state regulatory commission.

Monthly rate: The monthly rate for capacity and energy sold under this rate schedule shall be:

Demand charge: $0.90 per kilowatt of total contract demand.

Energy charge: 3.25 mills per kilowatt-hour.

Contract demand: The contract demand is the amount of capacity in kilowatts stated in the contract which the Government is obligated to supply and the Customer is entitled to receive.

Energy to be furnished by the Government: The Government will sell to the Customer and the Customer will purchase from the Government energy each billing month equivalent to an annual energy quantity specified by contract and prorated on an equal daily amount throughout the year. The Customer's contract demand and accompanying energy will be allocated proportionately to its individual delivery points served from the Company's system.

Billing month: The billing month for power sold under this schedule shall end at 12:00 midnight on the last day of each calendar month.

Conditions of service: The Customer shall at its own expense provide, install, and maintain on its side of each delivery point the equipment necessary to protect and control its own system. In so doing, the installation, adjustment, and setting of all such control and protective equipment at or near the point of delivery shall be coordinated with that which is installed by and at the expense of the Company on its side of the delivery point.

Service interruption: When energy delivery to the Customer's system for the account of the Government is reduced or interrupted for 1 hour or longer, and such reduction or interruption is not due to conditions on the Customer's system, the demand charge for the month shall be appropriately reduced.

June 20, 1976.

Wholesale Power Rate Schedule GAMF–2–A

Availability: This rate schedule shall be available to the Georgia Power Company, the Alabama Power Company, the Mississippi Power Company, and the Gulf Power Company (any one of which is hereinafter called the Company).

Applicability: This rate schedule shall be applicable to electric capacity available from the Allatoona, Buford, Clark Hill, Walter F. George, Hartwell, Millers Ferry, West Point, Jones Bluff, and Carters Projects (hereinafter called the Projects) and sold under contract between the Government and the Company.

Character of service: Electric capacity and energy delivered to the Company will be three-phase alternating current at a nominal frequency of 60 Hertz and will be delivered at mutually agreeable points in the vicinity of the Projects' power stations at approximately 115,000 volts, except that delivery from the Hartwell and Carters Projects will be at approximately 230,000 volts or at points of interconnection between the Companies.

Monthly rate: The monthly rate for capacity sold under this rate schedule shall be: *Demand charge:* $0.90 per kilowatt per billing month for monthly dependable capacity made available to the Company for its own use.

Monthly dependable capacity is the monthly capacity, specified by contract, which based on past water records would be available for scheduling by the Companies within the energy limitations also specified by contract, except during the worst water period of record and except for a few minor short-term reductions under flood conditions.

Billing month: The billing month for power sold under this schedule shall end at 12:00 midnight on the last day of each calendar month.

Power factor: The Company shall take capacity and energy from the Government at such power factor as will best serve the Company's system from time to time, provided that the Company shall not impose a power factor of less than .85 lagging on the Government's facilities which requires operation contrary to good operating practice or results in overload or impairment of such facilities or unreasonably interferes with the delivery of capacity and energy by the Government to the Compay and to its other customers.

Service interruption: When delivery of capacity to the Company is interrupted or is reduced due to conditions on the Government's system which have not been arranged for and agreed to in advance, the demand charge for capacity made available will be reduced as to the kilowatts of such capacity which have been interrupted or reduced in accordance with the following formula:

Number of kilowatts unavailable for at least 12 hours in any calendar day × $0.90/number of days in billing month.

June 1, 1976.

Wholesale Power Rate Schedule ALA–1–A

Availability: This rate schedule shall be available to the Alabama Electric Cooperative, Incorporated (hereinafter called the Cooperative).

Applicability: This rate schedule shall be applicable to power and accompanying energy generated at the Allatoona, Buford, Clark Hill, Walter F. George, Hartwell, Millers Ferry, West Point, Jones Bluff, and Carters Projects and sold under contract between the Cooperative and the Government.

Character of Service: The electric capacity and energy supplied hereunder will be three-phase alternating current at a nominal frequency of 60 Hertz and shall be delivered at the Walter F. George Project or other points of interconnection between the Cooperative and Alabama Power Company.

Monthly rate: The monthly rate for capacity and energy sold under this rate schedule shall be:

Demand charge: $0.90 per kilowatt of total contract demand.

$0.25 per kilowatt for standby capacity made available, plus $0.03 per kilowatt per calendar day for such capacity as the Cooperative actually utilizes.

Energy charge: 2.65 mills per kilowatt-hour for scheduled energy.

Contract demand: The contract demand is the amount of capacity in kilowatts stated in the contract which the Government is obligated to supply and the Cooperative is entitled to receive.

Energy to be furnished by the government: The Government will sell to the Cooperative and the Cooperative will purchase from the Government those quantities of energy specified by contract as available to the Cooperative for scheduling on a weekly basis. Energy quantities for a billing month shall be the energy scheduled by the Cooperative for the month.

Billing month: The billing month for power sold under this schedule shall end at 12:00 midnight on the last day of each calendar month.

Power factor: The Cooperative shall take capacity and energy from the Government at such power factor as will best serve the Cooperative's system from time to time, provided, that the Cooperative shall not impose a power factor of less than .85 lagging on the Government's facilities which requires operation contrary to good operating practice or results in overload or impairment of such facilities.

Service interruption: When capacity and energy delivery to the Cooperative's system for the account of the Government is reduced or interrupted and such reduction is not due to conditions on the Cooperative's system or has not been planned and agreed to in advance, the demand charge for the month for capacity made available shall be reduced as to the kilowatts of such capcity which have been interrupted or reduced in accordance with the following formula:

Number of kilowatts unavailable for at least 12 hours in any calendar day × $0.90/ Number of days in billing month.

June 1, 1976.

Wholesale Power Rate Schedule MISS–1–A

Availability: This rate schedule shall be available to the South Mississippi Electric Power Association (hereinafter called the Cooperative).

Applicability: This rate schedule shall be applicable to power and accompanying energy generated at the Allatoona, Buford, Clark Hill, Walter F. George, Hartwell,

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Millers Ferry, West Point, Jones Bluff, and Carters Projects and sold under contract between the Cooperative and the Government.

Character of service: The electric capacity and energy supplied hereunder will be three-phase alternating current at a nominal frequency of 60 Hertz and shall be delivered at points of interconnection between the Cooperative and Mississippi Power Company.

Monthly rate: The monthly rate for capacity and energy sold under this rate schedule shall be:

Demand charge: $0.90 per kilowatt of total contract demand.

Energy charge: 3.25 mills per killowatt-hour for scheduled energy.

Contract demond: The contract demand is the amount of capacity in kilowatts stated in the contract which the Government is obligated to supply and the Cooperative is entitled to receive.

Energy to be furnished by the Government: The Government will sell to the Cooperative and the Cooperative will purchase from the Government those quantities of energy specified by contract as available to the Cooperative for scheduling on a weekly basis. Energy quantities for a billing month shall be the energy scheduled by the Cooperative for the month.

Billing month: The billing month for power sold under this schedule shall end at 12:00 midnight on the last day of each calendar month.

Power factor: The Cooperative shall take capacity and energy from the Government at such power factor as will best serve the Cooperative's system from time to time; provided, that the Cooperative shall not impose a power factor of less than .85 lagging on the Government's facilities which requires operation contrary to good operating practice or results in overload or impairment of such facilities.

Service interruption: When capacity and energy delivery to the Cooperative's system for the account of the Government is reduced or interrupted and such reduction is not due to conditions on the Cooperative's system or has not been planned and agreed to in advance, the demand charge for the month for capacity made available shall be reduced as to the kilowatts of such capacity which have been interrupted or reduced in accordance with the following formula: Number of kilowatts unavailable for at least 12 hours in any calendar day × $0.90/ Number of days in billing month.

June 1, 1976.

Wholesale Power Rate Schedule SC–1 (Revised)

Availability: This rate schedule shall be available to the South Carolina Public Service Authority (hereinafter called the Customer).

Applicability: This rate schedule shall be applicable to power and accompanying energy generated at the Clark Hill Project (hereinafter called the Project) and sold in wholesale quantities.

Character of service: Electric capacity and energy supplied hereunder will be three-phase alternating current at a nominal frequency of 60 cycles per second and shall be delivered at a nominal voltage of 115,000 volts at the 115 kv bus of the Project power plant. The actual operating voltage of the Government shall within the limits of good operating practice be suitable for operation with the Customer's system.

Monthly rate: The monthly rate for capacity and energy sold under this rate schedule shall be:

Demand charge: $0.90 per kilowatt per billing month for dependable capacity made available to the Customer for its own use.

$0.25 per kilowatt per billing month for standby capacity made available, plus $0.03 per kilowatt per calendar day (or fraction thereof) for such capacity as the Customer actually utilizes.

Energy charge: 2.65 mills per kilowatt-hour for energy declared for the peak period hours and for energy made available to meet stream flow requirements.

2.00 mills per kilowatt-hour for dump energy.

Energy sold to the customer: The Customer shall purchase and pay for all dump energy made available by the Government and accepted by the Customer. Additionally, the Customer shall purchase and pay for all energy, exclusive of dump energy, declared and made available from the Project to the Customer's system over and above such energy made available for transmission to the Government's other preference customers.

Billing month: All project energy shall be accounted for on a weekly basis and the total quantities of energy billed monthly shall be the sum of the weekly quantities. Energy declared or made available for any week which falls within 2 billing months shall be divided between the months on the basis of weekly schedules for energy delivery furnished by the Customer.

The billing month for power sold under this rate schedule shall end at midnight on the last day of each calendar month.

Power factor: The Customer shall not impose a power factor of less than .85 lagging on the Government's facilities which requires operation contrary to good operating practice or results in overload or impairment of such facilities.

Condenser operation: The Government shall, upon the request of the Customer, cause its generating units (up to the maximum number specified by contract) to be operated as condensers if, in the sole judgment of the Government, such operation is not contrary to good operating practice, is not detrimental to such generating facilities in excess of ordinary wear and tear, and does not overload such generating facilities. Such condenser operation, subject to the preceding limitations, shall be in accordance with procedures and schedules developed and agreed upon from time to time by the operating representatives of the parties hereto. The Customer shall pay the Government $5.00 per generating unit so operated for each hour that such condenser operation is requested by the Customer.

Service interruption: When capacity made available to the Customer's system is reduced or interrupted for 1 hour or longer, and such reduction or interruption is not agreed to in advance nor due to conditions on the Purchaser's system, the monthly demand charge for dependable capacity shall be reduced for each on-peak hour (the nearest number of whole hours) that such capacity is reduced or interrupted, by an amount equal to $0.90 divided by the number of peak hours in the billing month times the reduction, in kilowatts, of such capacity; and the amount of energy previously scheduled and not taken during the time of interruption shall be placed in storage to the Customer's account. If the Customer advises the Government within 1 working day after a day in which energy is placed in storage that it does not desire to retain ownership of such energy, the ownership of the energy will revert to the Government and the Customer shall not be obligated to pay for such energy.

July 1, 1968.

Wholesale Power Rate Schedule SC–2

Availability: This rate schedule shall be available to any of the following whose requirements or a portion thereof the Government shall contract to supply by delivery from the South Carolina Public Service Authority's (hereinafter called the Authority) system: a municipality or county located in part or completely within the Authority's service area, owning its own transmission or distribution system, and desiring to purchase capacity and energy from the government for resale to the public in its territory; Central Electric Cooperative, Incorporated; or an electric cooperative not a member of Central, operating under the laws of the State of South Carolina, and located in part or completely within the service area of the Authority desiring to purchase capacity and energy from the Government for resale to ultimate consumers under the provisions of said laws (any one of such municipalities, counties, or cooperatives is hereinafter called the Customer).

Applicability: this rate schedule shall be applicable to power and accompanying energy generated at the Clark Hill Project (hereinafter called the Project) and sold in wholesale quantities.

Character of service: The electric capacity and energy supplied hereunder will be three-phase alternating current at a nominal frequency of 60 cycles per second delivered at the delivery points of the Customer on the Authority's transmission and distribution system. The voltage of delivery will be maintained within the limits established by the state regulatory commission.

Monthly rate: The monthly rate for capacity and energy sold under this rate schedule shall be:

Demand charge: $0.90 per kilowatt of total contract demand.

Energy charge: 3.25 mills per kilowatt-hour.

Energy to be furnished by the Government: The Government will sell to the Customer and the Customer will purchase from the Government energy from the Project each billing month up to a total amount annually of 4,500 hours per kilowatt of contract demand.

For billing purposes, the energy allocated on an annual basis to accompany the Customer's contract demand as assigned to individual delivery points shall be allocated in equal quantities each day throughout the year. Such Customer shall be billed by the Government by delivery points for its contract demand and for its accompanying monthly energy allocation in amounts determined by multiplying its respective daily allocation by the number of days in the billing month. The quantity of energy to be billed under this rate schedule in any billing month shall be the quantity considered to have been transmitted for the account of the Government by the Authority.

Billing month: The billing month for power sold under this rate schedule shall end at 12 midnight on the last day of each calendar month.

Conditions of service: The Customer shall at its own expense provide, install, and maintain on its side of each delivery point the equipment necessary to protect and control its own system. In so doing, the installation, adjustment and setting of all such control and protective equipment at or near the point of delivery shall be coordinated with that which is installed by and at the expense of the Authority on its side of the delivery point.

Service interruption: When the energy delivery to the Customer's system for the account of the Government is reduced or interrupted for 1 hour or longer, and such reduction or interruption is not due to conditions on the Customer's system, the demand charge for the month shall be appropriately reduced.

July 1, 1968.

Wholesale Power Rate Schedule CAR–1 (Revised).

Availability: This rate schedule shall be available to public bodies and cooperatives (any one of which is hereinafter called the Customer) in North Carolina and South Carolina to whom power may be wheeled pursuant to the provisions of the contract, as amended, dated December 16, 1963, between the Duke Power Company (hereinafter called the Company) and the Government.

Applicability: This rate schedule shall be applicable to power and accompanying energy generated at the Hartwell and Clark Hill Projects (hereinafter called the Projects) and sold in wholesale quantities.

Character of service: The electric capacity and energy supplied hereunder will be three-phase alternating current at a nominal frequency of 60 cycles per second delivered at the delivery points of the Customer on the Company's transmission and distribution system. The voltage of delivery will be maintained within the limits established by the state regulatory commission.

Monthly rate: The monthly rate for capacity and energy sold under this rate schedule shall be:

Demand Charge: $0.90 per kilowatt of total contract demand.

Energy Charge: 3.25 mills per kilowatt-hour.

Energy to be furnished by the Government: The Government will sell to the Customer and the Customer will purchase from the Government energy from the Projects to the extent that it is available at the Projects each billing month up to a total amount annually of 4,500 hours per kilowatt of contract demand.

For billing purposes, the energy allocation available on an annual basis to accompany the Customer's contract demand as assigned to individual delivery points shall be allocated in equal quantities each day throughout the year. In those billing months when the quantity of energy available from the Projects, less six and one-half (6½) percent losses, is sufficient to supply the energy alllocations which accompany the total contract demands of all customers purchasing power pursuant to this rate schedule, the Customer will be billed by the Government by delivery points for its monthly energy allocation in an amount determined by multiplying the daily energy allocation by the number of days in the billing month. In those billing months when energy available from the Projects, less six and one-half (6½) percent losses, is insufficient to supply the energy allocations which accompany the total contract demands of all customers purchasing power pursuant to this rate schedule, the Customer shall be billed by the Government by delivery points for that portion of its monthly energy allocation determined by multiplying the ratio which the total energy available from the Projects for all said Customers' use during the particular billing month bears to the quantity necessary to supply the energy allocations which accompany the total contract demands of all said customers during such month by the quantity of energy necessary to meet the energy allocation of the Customer for said billing month.

Billing month: The billing month for power sold under this schedule shall end at 12 midnight on the 20th day of each calendar month.

Conditions of service: The customer shall at its own expense provide, install, and maintain on its side of each delivery point the equipment necessary to protect and control its own system. In so doing, the installation, adjustment and setting of all such control and protective equipment at or near the point of delivery shall be coordinated with that which is installed by and at the expense of the Company on its side of the delivery point.

Service interruption: When energy delivery to the Customer's system for the account of the Government is reduced or interrupted for 1 hour or longer, and such reduction or interruption is not due to conditions on the Customer's system, the demand charge for the month shall be appropriately reduced.

November 20, 1966.

Wholesale Power Rate Schedule CAR–2 (Revised)

Availability: This rate schedule shall be available to the Duke Power Company (hereinafter called the Company).

Applicability: This rate schedule shall be applicable to electric capacity and energy generated at the Hartwell and Clark Hill Projects (hereinafter called the Projects) and sold under the contract, as amended, dated December 16, 1963, between the Government and the Company.

Character of service: Electric capacity and energy delivered to the Company will be three-phase alternating current at a nominal frequency of 60 cycles per second and will be delivered at approximately 230,000 volts where the Company's transmission line is connected to the bus in the Hartwell switchyard and at approximately 115,000 volts where the Company's transmission line is connected to the bus at Clark Hill.

Monthly Rate: The monthly rate for capacity and energy sold under this rate schedule shall be:

Demand charge: $0.90 per kilowatt per billing month for dependable capacity made available to the Company for its own use.

Energy Charge: (1) 2.65 mills per kilowatt-hour for energy declared for the peak period hours.

(2) 2.00 mills per kilowatt-hour for energy declared for other than peak period hours.

(3) 2.00 mills per kilowatt-hour for dump energy.

Energy sold to the company: The Company shall purchase and pay for all dump energy made available by the Government and accepted by the Company. Additionally, the Company shall purchase and pay for all energy, exclusive of dump energy, declared and made available from the Projects to the Company's system in any billing month after first deducting 810,375 kilowatt-hours multiplied by the number of days in said billing month; provided, however, that the energy to be deducted shall first come from minimum release energy and energy declared for the eighty-four (84) peak period hours per week as specified by contract.

Billing month: The billing month for power sold under this schedule shall end at 12:00 midnight on the 20th day of each calendar month.

Power factor: The Company shall take capacity and energy from the Government at such power factor as will best serve the Company's system from time to time, provided that the Company shall not impose a power factor of less than .85 lagging on the Government's facilities which requires operation contrary to good operating practice or results in overload or impairment of such facilities or unreasonably interferes with the delivery of capacity and energy by the Government to the Company and to its other customers.

Condenser operation: The Government shall, upon the request of the Company, cause one or two of its generating units at the Projects to be operated as condensers if, in the sole judgment of the Government, such operation does not unreasonably interfere with the delivery of capacity and energy by the Government to any of its customers, is not contrary to good operating practice, is not detrimental to such generating facilities in excess of ordinary wear and tear, and does not overload such generating facilities. Such condenser operation, subject to the preceding limitations, shall be in accordance with procedures and schedules developed and agreed upon from time to time by the operating representatives of the parties hereto. The Company shall pay the Government $8.00 per generating unit for units at Hartwell and $5.00 per generating unit for units at Clark Hill each hour that

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such condenser operation is requested by the Company.

Service interruption: When delivery to the Company is interrupted or reduced due to conditions on the Government's system which have not been arranged for and agreed to in advance, the charge for dependable capacity will be reduced as to the kilowatts of such capacity which have been interrupted or reduced in the proportion that the number of declaration hours during such period of interruption or reduction bears to the total number of declaration hours during the period covered by such charge. For purposes of this rate schedule the declaration hours consist of 100 hours per week as specified in the contract.

November 20, 1966.

[FR Doc. 79-14957 Filed 5-11-79; 8:45 am]

BILLING CODE 6450-01-M

Southwestern Power Administration

Salary Adjustment for Administrator

Pursuant to section 5374 of title 5 of the United States Code, the salary of the Administrator, Southwestern Power Administration, is adjusted to $47,500 per annum effective May 20, 1979.

Issued in Washington, D.C. on May 8, 1979.

William S. Heffelfinger,
Director of Administration.

[FR Doc. 79-14890 Filed 5-11-79; 8:45 am]

BILLING CODE 6450-01-M

DELAWARE RIVER BASIN COMMISSION

Groundwater Protection, Pennsylvania-New Jersey; Public Hearings

Recent studies by the Commission and other agencies indicate that groundwater withdrawals in portions of Bucks, Chester and Montgomery Counties, Pennsylvania, and Mercer and Hunterdon Counties, New Jersey, exceed or may soon exceed the sustainable yields of local groundwater basins, resulting in lowering of groundwater tables, groundwater mining, and interference between existing and new groundwater wells. In response to this situation, the Commission is considering possible delineation of one or more "protected areas" in portions of these counties.

The Commission is authorized to delineate protected areas by Article 10 of the Delaware River Basin Compact where it determines that demands upon water supplies have developed, or threaten to develop, to such a degree as to create a water shortage. In such a protected area, the Commission would be authorized to regulate both existing and new water withdrawals in order to prevent further depletion of groundwater and to protect and balance the rights and interests of all water users in the region.

The Commission seeks public comment as to whether it should declare and delineate one or more protected areas in portions of the aforementioned counties. Three public hearings for this purpose will be held at the times and places listed opposite. Factual information, comments and suggestions are invited from interested public agencies, industries, water companies, water users and others concerned with proper management of groundwater resources in the area. Comments are sought in particular on the issues listed under section 2 of Resolution No. 79-7 adopted by the Commission on March 28, 1979. Comments are also sought on the possible management actions listed under section 3 of the Resolution, and whether and to what extent such management actions should be implemented in the potential protected areas.

Public hearings will be held at the times and places listed on the reverse side of this notice.

June 11, 1979—Holiday Inn, Lionville, Route 100, Pennsylvania (Exit 23 of Penna. Turnpike).

June 12, 1979—Holiday Inn, Kulpsville, Pennsylvania (Exit 31, NE Extension of Penna. Turnpike).

June 13, 1979—Hopewell Township Municipal Building, Washington Crossing-Pennington Roads, Titusville, New Jersey (Exit 3 of I-95, north on Scotch Road 1.2 miles).

Each hearing will run from 2:30 p.m. until 5:30 p.m., and will reconvene for an evening session beginning at 7:00 p.m.

Persons wishing to testify are requested to notify the Secretary to the Commission, by phone or in writing, prior to the hearing. Written testimony may be submitted in place of oral presentation and will be made part of the record.

Dawes Thompson,
Acting Secretary.

May 8, 1979.

[FR Doc. 79-14946 Filed 5-11-79; 8:45 am]

BILLING CODE 6360-01-M

ENVIRONMENTAL PROTECTION AGENCY

Change of Date of Bimonthly EPA/Industry Meeting

AGENCY: Environmental Protection Agency (EPA).

ACTION: Notice of change of meeting date.

SUMMARY: The bimonthly EPA/Industry meeting in Ann Arbor, Michigan scheduled for May 16, 1979, has been rescheduled for Thursday, May 24, 1979.

FOR FURTHER INFORMATION CONTACT: Mr. Robert E. Larson, Chief, Technical Support Staff, Certification Division, Motor Vehicle Emission Laboratory, 2565 Plymouth Road, Ann Arbor, Michigan 48105, Telephone: (313)668-4277.

SUPPLEMENTARY INFORMATION: Because of irresolvable scheduling conflicts, the EPA Office of Mobile Source Air Pollution Control has found it necessary to change the date of the May 16 session of the bimonthly EPA/Industry meeting. The meeting is now scheduled to convene at 10 a.m. on Thursday, May 24, 1979, at the Motor Vehicle Emission Laboratory, 2565 Plymouth Road, Ann Arbor, Michigan.

Dated: May 7, 1979.

Edward F. Tuerk,
Assistant Administrator for Air, Noise, and Radiation.

[FRL 1224-3]

[FR Doc. 79-15021 Filed 5-11-79; 8:45 am]

BILLING CODE 6560-01-M

New York Department of Environmental Conservation; Issuance of Specific Exemption To Use Chlorpyrifos To Control Onion Maggot

AGENCY: Environmental Protection Agency (EPA), Office of Pesticide Programs.

ACTION: Issuance of a specific exemption.

SUMMARY: EPA has issued a specific exemption to the New York Department of Environmental Conservation (hereafter referred to as the "Applicant") to use chlorpyrifos to control the onion maggot on 6,750 acres on onions in eight counties in New York. This exemption ends on June 30, 1979.

FOR FURTHER INFORMATION CONTACT: Emergency Response Section, Registration Division (TS-767), Office of Pesticide Programs, EPA, 401 M Street, S.W., Room E-315, Washington, D.C. 20460, Telephone: 202/755-4851. It is suggested that interested persons telephone before visiting the EPA Headquarters so that the appropriate files may be made conveniently available for review purposes.

SUPPLEMENTARY INFORMATION: Onion maggot, *Hylemya antiqua* (Meigen), is a single host pest that annually threatens onion crops grown in New York. The larvae tunnel into growing bulbs and either destroy them completely or render them unsalable. Because onion maggot is a single host pest, the entire population is exposed to the chemical being applied, resulting in eventual resistance to the chemical. According to the Applicant, fensulfothion and fonophos are the only registered pesticides still recommended for use as preventive applications at planting time before the larvae invade the plants; neither provided satisfactory control. There are no alternative cultural or biological practices.

The Applicant proposes to use two formulations containing the active ingredient (a.i.) chlorpyrifos applied simultaneously with a fungicide such as Nabam, Dithane M-45, or formaldehyde, for disease control. Approximately 6,750 pounds a.i. will be used in the counties of Madison, Ontario, Orange, Orleans, Owego, Steuben, Wayne, and Yates. The Applicant estimates that losses of up to $6 million or more could result if the onion maggot is not controlled.

EPA has concluded that residues of chlorpyrifos in onions are not expected to exceed 0.5 part per million (ppm) from the proposed use rate of one pound per acre with a 90-day pre-harvest interval. This residue level has been deemed adequate to protect the public health.

Since chlorpyrifos is toxic to both aquatic and terrestrial species, EPA has imposed precautions on the EPA labels of both products to be used. It is not anticipated that any wildlife or endangered species will be adversely affected as a result of this use.

After reviewing the application and other available information, EPA has determined that (a) a pest outbreak of onion maggot on onions has occurred or is about to occur; (b) there is not effective pesticide presently registered and available for use to control the onion maggot in New York; (c) there are no alternative means of control, taking into account the efficacy and hazard; (d) significant economic problems may result if the onion maggot is not controlled; and (e) the time available for action to mitigate the problems posed is insufficient for a pesticide to be registered for this use. Accordingly, the Applicant has been granted a specific exemption to use the pesticide noted above until June 30, 1979 to the extent and in the manner set forth in the application. The specific exemption is also subject to the following conditions:

1. The products Lorsban 4E (EPA Reg. No. 464-484) and Lorsban 15G (EPA Reg. No. 464-523) are authorized at a dosage rate of 0.029 pound a.i. per 1,000 linear foot of row or one pound per acre a.i. based on the standard fifteen-inch row width;

2. A maximum of one application is authorized. Application will be made at planting time only;

3. Applications may be made by growers State-certified as private applicators or by persons in their employ and under their supervision;

4. A maximum of 6,750 acres of dry bulb onions may be treated in the counties named above;

5. A maximum of 6,750 pounds a.i. may be applied;

6. Application may be made by (a) drench treatment, (b) a furrow spray, or (c) granules;

7. Onions with residue levels of chlorpyrifos not exceeding 0.5 ppm may enter interstate commerce. The Food and Drug Administration, U.S. Department of Health, Education, and Welfare, has been advised of this action;

8. There is to be a pre-harvest interval of not less than 90 days;

9. All applicable label directions, precautions, and restrictions must be adhered to;

10. The EPA shall be immediately informed of any adverse effects resulting from the use of chlorpyrifos in connection with this exemption; and

11. The Applicant shall be responsible for assuring that all of the provisions of this specific exemption are followed and must submit a report summarizing the results of this program by December 31, 1979.

(Section 18 of the Federal Insecticide, Fungicide, and Rodenticide Act (FIFRA), as amended in 1972, 1975, and 1978 (92 Stat. 819; 7 U.S.C. 136))

Dated: May 9, 1979.

Edwin L. Johnson,
Deputy Assistant Administrator for Pesticide Programs.

[OPP-180285; FRL 1224-2]

[FR Doc. 79-15020 Filed 5-11-79; 8:45 am]

BILLING CODE 6560-01-M

Pesticide Programs; Approval of Application to Conditionally Register Pesticide Product Containing New Active Ingredient

On March 1, 1978, notice was given (43 FR 8293) that FMC Corp., 2000 Market St., Philadelphia, PA 19103, had filed an application (EPA File Symbol No. 279-GNRU) with the Environmental Protection Agency (EPA) to register the pesticide product POUNCE 3.2 EC containing 38.4% of the active ingredient permethrin (3-phenoxyphenyl)-methyl(±)-cis,trans 3-(2,2-dichloroethenyl)-2,2-dimethylcyclopropane-carboxylate which was not previously registered at the time of submission. Notice of registration is given in accordance with 40 CFR 162.7(d)(2).

This application was approved April 11, 1979, and the product has been assigned the EPA Registration No. 279-3014. POUNCE 3.2 EC is classified for restricted use in cotton. A copy of the approved label and list of data references used to support registration are available for public inspection in the office of the Federal Register Section, Program Support Division (TS-757), Office of Pesticide Programs, Rm. 401 East Tower, 401 M St., SW, Washington, DC 20460. The data and other scientific information used to support registration, except for the material specifically protected by Section 10 of the Federal Insecticide, Fungicide, and Rodenticide Act (FIFRA) as amended in 1972, 1975, and 1978 (92 Stat. 819; 7 U.S.C. 136) will be available for public inspection in accordance with Section 3(c)(2) of FIFRA, within 30 days after registration date of April 11, 1979. Requests for data must be made in accordance with the provisions of the Freedom of Information Act and must be addressed to the Freedom of Information Office (A-101), EPA, 401 M St., SW, Washington DC 20460. Such requests should: 1) identify the product by name and registration number and 2) specify the data or information desired.

Dated: May 9, 1979.

Edwin L. Johnson,
Deputy Assistant Administrator for Pesticide Programs.

[OPP-C30142A; FRL 1224-1]

[FR Doc. 79-15019 Filed 5-11-79; 8:45 am]

BILLING CODE 6560-01-M

Regulation of "Biorational" Pesticides; Policy Statement and Notice of Availability of Background Document

AGENCY: Environmental Protection Agency (EPA or Agency), Office of Pesticide Programs.

ACTION: Proposed Agency policy on the regulation of Biorational pesticides.

SUMMARY: Biorational pesticides include biological pest control agents and certain naturally occurring biochemicals which are inherently different in their mode of action from most organic and inorganic pesticie compounds currently registered with EPA. This notice summarizes the Agency's approach to registration of biorational pesticides and the general means by which the Agency will implement an appropriate program for the regulation of these agents. EPA is in the process of evaluating the potential impact of such unconventional pest control agents on Human Safety and the

Environment for the purpose of implementing a comprehensive registration program. A detailed background document is available on request. The Administrator recognizes the broad impacts of this policy and invites the public to comment on the Agency's proposed program for the evaluation of biorational pesticides as described in this notice and the background document.

DATES: Comments should be submitted by June 13, 1979.

ADDRESS: Address all comments to Federal Register Section, Program Support Division (TS-757), Office of Pesticide Programs, EPA, 401 M Street, S.W., Washington, D.C. 20460. Comments received will be available for public inspection in Room E-401, at the address above from 8:30 a.m. to 4 p.m. Monday through Friday.

FOR FURTHER INFORMATION CONTACT: Dr. Martin Rogoff, Hazard Evaluation Division (TS-769), Office of Pesticide Programs, EPA, 401 M Street, S.W., Washington, D.C. 20460, telephone (703) 557-7357. Single copies of the background document are available from Dr. Rogoff.

SUPPLEMENTARY INFORMATION: The vast majority of the more than one thousand pesticide active ingredients regulated by EPA under the Federal Insecticide, Fungicide, and Rodenticide Act (FIFRA), as amended in 1972, 1975, and 1978 (92 Stat. 819; 7 U.S.C. 136) are man-made organic and inorganic chemicals and are innately toxic. Less than one percent of the pesticide active ingredients registered by the Agency are inherently different in their mode of action from most organic and inorganic compounds. This small group is exemplified by the living or replicable biological entities, such as viruses, bacteria, fungi and protozoans. Naturally occurring biochemicals, such as plant growth regulators and insect pheromones and hormones, also function by modes of action other than innate toxicity. This proposed policy statement addresses the regulation of these "biorational" pesticides.

Section 2(u) of the FIFRA defines a pesticide as ". . . any substance or mixture of substances intended for preventing, destroying, repelling, or mitigating any pest, and . . . any substance or mixture of substances intended for use as a plant regulator, defoliant, or desiccant. * * *" The language of FIFRA gives the Agency a very broad regulatory authority. As applied to biological pesticides, the definition includes the many diverse macroscopic life forms which can be and are utilized in programs of biological control, such as *Gambusia* fish, or birds, as insecticides, insects (*Chrysalina guadrigemia)* or aquatic mammals (manatee) as herbicides, or use of the mongoose to control rats. The Agency to date has not regulated the macroscopic biological pest agents as "pesticides" and does not intend to impose registration requirements on such macroscopic agents.

Purpose of the Proposed Policy Statement

Consistent with the Agency's responsibilities to protect human health and environmental well-being this policy statement will: set forth a working definition of biorational pesticides; set forth the general means by which the agency will implement its statutory mandate to support biologically integrated alternatives for pest control; and set forth an interim regulatory framework pending implementation of a comprhensive action plan for the EPA's biorational pesticide program during the next two years.

The plan contains several major elements including:

a. This General Statement of Policy;

b. Promulgation of Guidelines setting forth data requirements for the registration of biorational pesticides. Guidelines development will require broad input from those Federal agencies (USDA, DHEW, USDI) with related program responsibilities, as well as from other sectors with an interest in the regulation of biorationals. In addition a group of consultants with expertise in human virology, mycology and medical bacteriology is now being formed to assist in development of Human Effects Testing Guidelines;

c. Promulgation of a regulation under Section 25(b) of FIFRA to exempt life forms of a higher order than microorganisms from regulation under the Act;

d. Orientation of appropriate Agency research programs to meet the needs of the biorational pesticides program and to reflect academic and commercial trends in the development of biorational pesticides; and

e. Development of guidance for EPA personnel involved in registration of biorational pesticides during the interim two year period.

Major Issues

The major issues considered by the Agency in formulating its policy concerning the regulation of biorational pesticides are presented below. A detailed discussion of these issues is presented in the background document.

1. Over what classes of biorational pesticides should the Agency exercise its regulatory authority and which agents should be excluded from the requirement for registration?

2. What types of test data will the Agency require for adequate assessment of the hazards to man and the environment from use of biorational pesticides?

3. What research and development efforts are necessary to fill gaps in testing methodology and otherwise enable the Agency to develop an appropriate registration program for biorationals?

4. What is the Agency's role in encouraging the development and use of biorational pesticides?

Statement of Proposed Policy

In regulating biorational pesticides EPA will:

1. Recognize that biorational pesticides are inherently different from conventional pesticides, and will take steps to substantiate by scientific data the expectation that many classes of biorational control agents pose lower potential risk than conventional pesticides. Although biorational pesticide registrants will not be relieved of the burden of proof of their safety, the Agency will take into account the fundamentally different modes of action of biorationals and the consequent lower risks of adverse effects from their use.

2. Develop and implement programs to resolve outstanding safety issues and to monitor probable effects of biorational pesticides on the environment and man.

3. Develop Guidelines for human and environmental safety testing of biorational pesticides within the next 24 months. In developing the Guidelines, the Agency will encourage the participation of the public and other Federal Agencies and will actively seek recommendations on appropriate risk assessment methods and data requirements.

4. Promulgate a regulation under Section 25(b) of FIFRA to exempt from regulation under FIFRA those microscopic biological agents which are currently regulated by USDA and USDI. EPA will seek the active participation of the affected Agencies, including USDI, USDA and DHEW in drafting the regulation.

5. Facilitate the registration of environmentally acceptable biorational pesticides as alternatives to conventional pesticides by assuring that requirements for the registration of biorational agents are appropriate to their nature and are not unduly burdensome. The Registration Division will receive guidance on appropriate data requirements for implementation of this policy in the two year interim until the Guidelines are finalized.

6. Review data submitted in support of the registration of biorational pesticides and reach regulatory decisions in an expeditious manner, giving priority to innovative biorational controls in the registration process.

7. Vigorously encourage the demonstration of the practical value and safety of biorational pesticides in Agency and interagency programs as appropriate and as mandated by Section 20 of the statute.

8. Rely heavily on the expertise and program experience of other Federal Agencies whose authorities, responsibilities and programs involve biological pesticides, for the development and implementation of EPA's biorational pesticide regulations and programs.

Dated: May 8, 1979.

Steven D. Jellinek,

Assistant Administrator for Toxic Substances.

[OPP-30026; FRL 1223-8]

[FR Doc. 79-15018 Filed 5-11-79; 8:45 am]

BILLING CODE 6560-01-M

Response to Interagency Testing Committee Recommendations

AGENCY: Environmental Protection Agency.

ACTION: Notice in response to Interagency Testing Committee recommendations.

SUMMARY: Section 4(e) of the Toxic Substances Control Act (TSCA) (90 Stat. 2003, 15 U.S.C. 2601 et seq.) established an Interagency Testing Committee (ITC) to recommend to the Administrator of the Environmental Protection Agency (EPA) a list of chemicals to be considered for testing. The ITC may have up to 50 of its recommendations designated at any one time for priority consideration by EPA. TSCA requires EPA to respond to such priority recommendations within one year of their receipt by the Agency, either by initiating rulemaking proceedings under section 4(a) or by publishing in the Federal Register EPA's reasons for not having taken such action.

On April 10, 1978, the ITC transmitted its second report to EPA, in which the ITC added eight recommendations to its list. The ITC designated those recommendations for priority consideration by EPA. The Agency has not completed its review and evaluation of the April 1978 recommendations. Therefore, EPA is not initiating section 4(a) rulemaking proceedings for those recommendations at this time. EPA plans to propose test rules in December 1979, March 1980, and May 1980 that will require health effects testing of any chemicals included in the first two ITC reports that meet the requirements of section 4(a).

FOR FURTHER INFORMATION CONTACT: John B. Ritch, Jr., Director, Industry Assistance Office, Office of Toxic Substances (TS-799), Environmental Protection Agency, 401 M Street, S.W., Washington, D.C. 20460, 800-424-9065; in Washington, D.C., call 554-1404.

SUPPLEMENTARY INFORMATION:

Background

Section 4(e) of TSCA established the ITC to recommend to the Administrator of EPA, in the form of a list, chemical substances and mixtures that should be considered for test rules under section 4(a) of TSCA. In addition, the ITC may designate entries on its list for priority consideration by EPA. TSCA states that the total number of entries designated for priority consideration may not, at any one time, exceed 50. EPA must, within 12 months of priority designation, either initiate a rulemaking proceeding under Section 4(a) or publish in the Federal Register the Agency's reasons for not having initiated one.

The Act required the ITC to transmit its initial list to the Administrator by October 3, 1977, and to consider updating that list at least every six months thereafter. The ITC's initial list of four individual chemicals and six categories of chemicals was transmitted to EPA on October 4, 1977, and was subsequently published in the Federal Register (42 FR 55026, October 12, 1977). Each of the 10 recommendations on the October 1977 list was designated by the ITC for priority consideration by EPA. On October 26, 1978, the Agency published its required response to the initial ITC priority list (43 FR 50134). EPA stated at that time its reasons for not initiating rulemaking with respect to those chemicals and categories of chemicals.

On April 10, 1978, the ITC transmitted its second report to the Agency, adding four individual chemicals and four categories of chemicals to the section 4(e) list, and designated each to receive priority consideration (43 FR 16684, April 19, 1978). Those recommendations, which are the subject of this notice, are summarized below. Discussion of the public comments received by the Agency in response to publication of the second ITC report appears in the Appendix to this notice.

April 1978 Additions to the ITC Priority List

Acrylamide. The ITC recommended acrylamide for testing for carcinogenicity, mutagenicity, teratogenicity, and environmental effects and for an epidemiologic study. The recommendations are based on the possibility of this water-soluble compound's entry into surface and ground waters as a result of soil grouting, water-treatment operations, and other processes using either preformed or formed-in-place polyacrylamide; on its severe neurotoxicity, which raises the possibility of other serious effects that might result from long-term low-level exposure; and on the exposure of about 20,000 workers during its various uses in addition to potential human exposure via release to the environment.

Aryl Phosphates. The aryl phosphate category was defined by the ITC as phosphate esters of phenol or alkyl-substituted phenols, including mixed alkyl and aryl esters. Testing for carcinogenicity, mutagenicity, teratogenicity, other chronic effects (especially neurotoxicity), and environmental effects and epidemiologic studies are recommended. These recommendations are based in part on information that indicates a potential for extensive nonmanufacturing occupational exposure and environmental release. Some aryl phosphates are known neurotoxins. Limited data show that aryl phosphates may persist in the aquatic environment and bioaccumulate in aquatic species.

Chlorinated Naphthalenes. The ITC recommended that chlorinated derivatives of naphthalene be tested for carcinogenicity, mutagenicity, teratogenicity, other chronic effects, and environmental effects and that epidemiologic studies be done. There is some evidence that these compounds have biological activity, but no data were found for chronic effects. Although there is little information on quantities dispersed to the environment, their detection in stream sediments, fish, and fish-eating birds indicates their occurrence, persistence, and foodchain bioaccumulation.

Dichloromethane. The high estimates of occupational and general exposure to dichloromethane and of its release to the environment, together with the lack of data for most of the effects categories, led to recommendations for testing for carcinogenicity, mutagenicity, teratogenicity, other chronic effects, and

attempt to determine the current status of this
that this use is probably declining (ITC
water is unsupported by a citation; and the

environmental effects and for an epidemiologic study.

Halogenated Alkyl Epoxides. The ITC recommended that halogenated noncyclic aliphatic hydrocarbons with one or more epoxy functional groups be tested for carcinogenicity, mutagenicity, teratogenicity, other chronic effects, and environmental effects and that epidemiologic studies be performed. Although epichlorohydrin (1-chloro-2,3-epoxypropane) is the only such compound in wide use with a high estimated occupational exposure, other category members have the potential for expanded use. Concern for the possible ill effects of these chemicals is based on the increased potential for biological activity, which is a result of a second reactive function in an already reactive epoxide, and on the known toxic effects of epichlorohydrin and the enzyme-inhibiting properties of 1,1,1-trichloro-2,3-epoxypropane. The results of carcinogenicity studies on epichlorohydrin are equivocal, and little is known about the toxicity of the other category members.

Polychlorinated Terphenyls. The polychlorinated *ortho-*, *meta-*, and *para-*terphenyls have been imported in increasing amounts since 1972, when their production in the United States stopped. Their dispersive uses, their detection in both the environment and in human biological samples, their potential for persistence and bioaccumulation, and the lack of information on their effects led the ITC to recommend testing for carcinogenicity, mutagenicity, teratogenicity, other chronic effects, and environmental effects.

Pyridine. The ITC recommended that pyridine be tested for its carcinogenicity, mutagenicity, teratogenicity, other chronic effects, and environmental effects and that an epidemiologic study be done. Concern for the effects of pyridine was raised by its potential for human exposure and environmental release, its short-term toxicity, and the scarcity of long-term studies on the chemical.

1,1,1-Trichloroethane. The ITC recommended this compound for testing for carcinogenicity, mutagenicity, teratogenicity, and other chronic effects and for an epidemiologic study because of its very high production, the dispersive nature of its uses, and occupational exposure involving an estimated three million workers.

Statement of Reasons

EPA is not proposing a section 4(a) rule at this time for the chemicals and categories listed and designated for priority consideration by the ITC in its second report.

As discussed further below, the EPA has not yet completed full evaluation of the recommendations, which must be done before the Agency can determine whether to propose testing rules for them. In addition, the test standards that must be identified in proposing section 4 test rules have not yet been proposed for public review and comment. For these reasons the Agency is not at this time proposing section 4 test rules for the chemicals and categories included by the ITC in its second report.

In order to propose test rules for the chemicals that the ITC has recommended, the Agency must review and evaluate the available information on those chemicals according to the statutory prerequisites for requiring testing prescribed by TSCA section 4(a). The findings required by section 4(a) to propose a test rule demand substantially more detailed and more thoroughly evaluated information than is required of the ITC in making its recommendations under section 4(e). EPA needs to identify those chemicals for which sufficient data already exist to determine or predict their effects on human health or the environment so that the Agency does not require industry to perform unnecessary testing. Such determinations require the Agency to weigh a number of scientific and policy issues that concern the adequacy of existing data.

In its evaluation of the recommendations made by the ITC, EPA is reviewing and evaluating information from a variety of sources besides the ITC dossiers and their references, including (1) studies and reports identified in additional literature searches conducted by EPA, (2) the public comments received in response to publication of the ITC list in the *Federal Register*, and (3) information from the files of EPA and other Federal agencies. TSCA Section 4(b) requires EPA to provide standards for the development of test data for the chemicals that are to be tested under the test rules the Agency promulgates. EPA has been developing such standards for a variety of health and environmental effects. The test methodologies prescribed in these standards are being designed to ensure that the resulting test data will be reliable and meet the Agency's needs.

Although the standards will, as appropriate, be incorporated into test rules promulgated under section 4, they will be proposed separately in the *Federal Register* to allow for public comment specifically on the approaches to testing that the Agency considers will best allow it to assess the risks of chemicals. None of the test standards needed to implement the ITC recommendations has yet been proposed. EPA proposed standards for oncogenicity and chronic effects testing in April 1979. Testing standards for acute toxicity, subchronic toxicity, mutagenicity, teratogenicity, and reproductive effects are expected to be proposed by fall 1979.

Status of EPA's Evaluation

On the basis of its review thus far, EPA concludes that each of the eight chemicals or categories of chemicals recommended by the ITC in its second report should continue to be considered for section 4(a) rulemaking. Although the Agency considers publication of this notice to remove the designation for priority consideration of the eight recommendations in the ITC's second report, those recommendations retain high priority within EPA for section 4(a) consideration.

EPA intends to propose the first health effects test rule by the end of December 1979, to be followed by the second and third health effects test rules in March 1980 and May 1980, respectively. Together, these three rules will require appropriate health effects testing of the substances included in the first two reports of the ITC and, where possible, substances from any subsequent ITC reports, that meet the requirements of section 4(a). Where EPA finds that existing information on any of the chemicals recommended by the ITC does not support the need for a test rule, the Agency will publish a notice in the *Federal Register* stating in detail its reasons for not requiring testing.

Dated: May 8, 1979.

Barbara Blum,
Acting Administrator.

APPENDIX

Public Comments

Acrylamide

Comment 1: In a report cited by the ITC, environmental release from soil grouting applications was based on an assumption of 1% unreacted monomer. Commentor's experience indicates residual acrylamide is less than 0.03%, and release to the environment by this route may be much less than the estimate in the ITC dossier reference. Furthermore, a major supplier has withdrawn from the soil grouting market.

Discussion: EPA will need to review the potential release of acrylamide from soil grouting operations as part of its review of total release to the environment. Any data available from commentor on residual monomor concentrations will be considered during this review. The Agency will also

attempt to determine the current status of this use of the chemical.

Comment 2: The leaching of residual monomer from polyacrylamides does not pose major hazards to human and aquatic life. Commentor's standard grade of acrylamide has a specification of 0.5% residual monomer, while the grade approved by EPA for use in potable water contains a maximum of 0.05% monomer. The ITC estimate of exposure by this route is based on estimated safe levels of acrylamide after applying a safety factor of 1000 to available toxicity data and not on amounts actually available for release.

Discussion: EPA agrees that release estimates should be based as far as possible on measured or at least maximum monomer levels. The Agency is initiating field and laboratory studies on release of acrylamide from polyacrylamide samples and expects these studies to help provide realistic estimates of acrylamide release of this type.

Comment 3: ITC estimates of acrylamide discharge to the environment included release from a plant using the sulfate production process that contributed more than half the estimated discharge; this process has been discontinued. A replacement plant uses a different process with substantially reduced emissions.

Discussion: EPA is aware of recent changes in acrylamide manufacturing processes and will base its release estimate on the most recent information available.

Comment 4: Many acrylamide uses cited by the ITC, such as sewage and wastewater treatment, textile sizing, and ore processing, are uses of polyacrylamide rather than the monomer.

Discussion: EPA recognizes that the monomeric and polymeric forms must be carefully distinguished during the evaluation of acrylamide.

Aryl Phosphates

Comment 1: A recent publication discusses the relationship of structure to neurotoxic activity within this class of compounds; another shows that phosphate esters are readily biodegradable. Neither paper was cited by the ITC.

Discussion: EPA will include these studies in its evaluation of the category.

Comment 2: Several additional commercial aryl phosphates are important enough to have been specifically included in the category by the ITC. These are: *t*-butylphenyl phenyl phosphates, nonylphenyl cumylphenyl phenyl phosphate, xylenyl phosphate, 2-ethylhexyl diphenyl phosphate, isodecyl diphenyl phosphate, and dibutyl phenyl phosphate. Annual U.S. production estimates range from 3 million pounds for dibutyl phenyl phosphate to 15 million pounds for xylenyl phosphate.

Discussion: The six compounds listed in the comment fall within the ITC category definition. EPA will consider available data on all of commentor's examples as it evaluates this category.

Comment 3: Tritolyl phosphate has not been used as a lead scavenger in gasoline since the 1960s.

Discussion: The ITC's evaluation of this category member included the assumption that this use is probably declining (ITC dossier, p. II–10). Dropping this use from the list is unlikely to affect the evaluation of this category member.

Comment 4: There is considerable biological testing that has been completed or is in progress that has not been cited in the dossier and should be considered by the EPA.

Discussion: The unpublished reports sent in by the commentor were not available to the ITC in its initial review. The material will, however, be considered in the final evaluation made by the EPA.

Comment 5: An epidemiologic study has been completed at the FMC plant that produces aryl phosphates.

Discussion: The EPA will examine the protocol and results of this study when considering the preparation of a test rule.

Halogenated Alkyl Epoxides

Comment 1: The category definition is too broad; as defined by the ITC, it may group compound types that should be considered separately—for example, perfluorinated alkyl epoxides should be in a separate category.

Discussion: EPA recognizes that the definition of a category can have important implications. For this reason, Agency review of this and other categories will always include a careful consideration of what, if any, limits should be placed on them.

Comment 2: The NIOSH/NOHS estimate of 140,000 persons exposed to epichlorohydrin is probably too high.

Discussion: EPA's review of use and exposure information on epichlorohydrin generally supports the NIOSH/NOHS estimate. The commentor has supplied no information to support a lower figure.

Comment 3: Several tests are being carried out on epichlorohydrin. Additional testing, if required, can best be planned when current studies are completed.

Discussion: Although it is possible that sufficient studies have been done to assess the risk of human exposure to epichlorohydrin, the EPA will not be able to decide this point until it has evaluated further information on these studies. If the effects of epichlorohydrin are believed to have been adequately characterized, then no further tests will be required.

Pyridine

Comment 1: U.S. production of pyridine is closer to 26 million lb/yr. than 60 million lb/yr. (ITC), and 48% of this production is exported. The use of pyridine in the synthesis of agricultural chemicals and their intermediates accounts for about 54% or the U.S. sales but was not mentioned by the ITC; the percentages attributable to other uses are correspondingly lower. Occupatioanl exposure to pyridine is less than 31,000 person, rather than around 249,000 (ITC), and typical worker exposure levels are low—1 ppm (8-hour TWA) or lower. General population exposure to pyridine is negligible because its cost encourages conservation and recovery measures and because any pyridine released is degraded in soil and air. The statement in the ITC dossier that pyridine occurs in crops and fish is based on a misreading of the sources cited; the statement that it is often found in municipal waste water is unsupported by a citation; and the statement that it has been found in four water supplies is misleading, because only two of the sources were in the United States. The conclusion is that pyridine is unlikely to present an unreasonable risk to health or the environment.

Discussion: The detailed information provided by the commentor will help EPA to better assess the potential for human and environmental exposure to pyridine. The dossier information on pyridine in fish and crops was taken from abstracts; EPA will review the original articles. EPA recognizes that the statement in the dossier about pyridine in waste water is undocumented, and that information presented in the dossier on its occurrence in water supplies may be partly inaccurate. Finally, it is not entirely clear from information supplied by the commentor that degradation will occur readily in soil.

Comment 2: Because pyridine has low electrophilicity, it is unlikely to react with DNA, and so has a low degree of suspicion as a mutagen.

Discussion: It is true that pyridine itself does not normally behave as an electrophile. However, some possible metabolites, such as the N-methyl derivative cited in the ITC dossier (p. VII–10), would have greatly enhanced electrophilicity; metabolic N-oxidation, if it occurs, could also lead to electrophilic derivatives such as the N-acetoxy compound. Thus, mutagenic potential for pyridine cannot be excluded on structural grounds. However, the commentor has also cited several recent negative mutagenicity tests on pyridine, and EPA will decide whether these studies are adequate for determining mutagenic activity.

Comment 3: EPA should not act on the testing recommendations for pyridine until the ITC has had a chance to review updated information and perhaps withdraw the recommendations.

Discussion: In its October 1978 report to the EPA Administrator, the ITC made no revisions in its earlier recommendations, including pyridine. EPA is thus obliged to treat the pyridine testing recommendations with the same priority as other ITC recommendations.

Comment 4: The ITC literature search was comprehensive but not exhaustive.

Discussion: The ITC dossiers are not intended to be exhaustive, but merely to provide enough information for the ITC to make an initial assessment. When the chemical is placed on the priority list, the EPA is responsible for performing a more comprehensive information search.

Comment 5: The National Cancer Institute is conducting a bioassay of pyridine; another such test may be duplicative and unnecessary.

Discussion: The ITC was aware of this proposed study when making its recommendations. The EPA will review in detail the protocols and any results from this study when considering a test rule for pyridine. If the oncogenicity of pyridine is or will be adequately tested, no further testing will be required.

conveniently available for review

root rot of peas and that it provided

Treflan E.C. (½ pound oryzalin) in 20

Comment 6: There is no previous indication of carcinogenic potential; therefore, no testing is needed.

Discussion: By current standards, the negative or anomalous results reported by earlier experimenters are considered inadequate to judge the oncogenicity of pyridine.

Comment 7: Carcinogencity testing recommendations should not be based on the results of short-term tests.

Discussion: The EPA believes that some short-term tests are useful for predicting the oncogenic activity of chemicals. Each test for each chemical will be individually evaluated.

Comment 8: The commentor submitted several papers on the mutagenic potential of pyridine not discussed in the ITC dossier. In view of these test results, the commentor believes that no additional mutagenicity tests are needed.

Discussion: The information provided by the commentor will be assessed by the EPA in its consideration of this chemical.

Comment 9: An epidemiologic study is unnecessary because medical surveillance programs indicate no unusual medical problems among employees who produce pyridine.

Discussion: Current surveillance programs suffer from some of the same problems many so-called epidemiologic studies suffer, e.g., lack of follow-up in cases where there may be a long latency period. Therefore, a properly conducted epidemiologic study may pick up effects that surveillance might miss.

Comment 10: An epidemiologic study would not produce meaningful results because pyridine workers do not consititute a suitable cohort.

Discussion: The information provided by the commentor will be used by the EPA when considering the need for a test rule.

Comment 11: An epidemiologic study is unnecessary becuase industrial hygiene surveys show that pyridine exposures are consistently well below the TLV.

Discussion: The TLV is based on available information about a substance and may be changed on the basis of new test data. However, data available from industrial hygiene surveys will be useful in EPA's evaluation of worker exposure to the chemical.

1,1,1-Trichloroethane

Comment 1: This chemical should not be tested because if it becomes strictly controlled, more hazardous substitutes would have to be used. Other chlorinated solvents are more hazardous to human health, and ordinary hydrocarbon solvents present an explosion hazard.

Discussion: EPA is not satisified that 1,1,1-trichloroethane is the least hazardous of the chlorinated hydrocarbon solvents; any testing required on the chemical will help to decide the issue. The results of health effects tests will also help to determine what degree of control may be needed to protect those potentially exposed; regulation will not necessarily ban its use or lead to the substitution of more hazardous chemicals.

[FRL 1223-2]
[FR Doc. 79-15015 Filed 5-11-79; 8:45 am]
BILLING CODE 6560-01-M

Texas Department of Health; Crisis Exemption To Use Strychnine Sulphate To Eradicate Rabid Feral Cats

AGENCY: Environmental Protection Agency (EPA), Office of Pesticide Programs.

ACTION: Notice of temporary crisis exemption.

SUMMARY: EPA gives notice that the Texas Department of Health (hereafter referred to as "Texas") availed itself of a crisis exemption to use strychinine sulphate to eradicate rabid feral cats. The crisis exemption has expired.

FOR FURTHER INFORMATION CONTACT: Emergency Response Section, Registration Division (TS-767), Office of Pesticide Programs, EPA, 401 M Street, S.W., Room E-315, Washington, D.C. 20460, Telephone: 202/755-4850.

SUPPLEMENTARY INFORMATION: Texas reported that on March 1, 1979 in the rural community of Abner, Texas, a four-year old boy was bitten by a feral cat. On March 22, 1979, two members of another family in the community were bitten by a free-roaming pet cat. Both cats were killed and laboratory examination proved them to be rabid. Texas was invited to survey the situation and provide reommendations to control the problem. An unoccupied farm was found to the focal point of a large number of feral cats. With the consent of the community, Texas proceeded to place strychinine sulphate baits in the unoccupied premises and two adjacent barns that were close enough to ba a part of the feral colony activity. Texas considered the time element too critical to request a specific exemption because of the certainty that other cats in the area were already exposed and in all probability were in the incubation stage. There is no pesticide registered to eradicate feral cats.

Texas used 202 baits which contained 0.83 grans strychnine sulphate placed in pork tallow squares. The baits were numbered and placed in selected locations in the areas were animal activity could be detected. A flourescent painted card was used to number the baits and placed over the baits to discourage other wildlife activity from being attracted to the baits. All entrances to the area were marked with conspicious poison signs. All of the personnel involved in the preparation and placement of the baits are employees of the Texas Department of Health, Zoonosis Control Division. Domestic pets were secured to their premises during the 3-day program. All baits were removed from the baited premises after 72 hours. The remaining pork tallow and retrieved baits have been destroyed by incineration.

The carcasses to two skunks and one opossum were found following baiting however, a total of 75 baits from 202 placed were consumed by wildlife and it is assumed by Texas that a total of at least 37 wild animals were killed Live traps were left in the area in case other stray cats, that were not exposed to the baits, are still active in the community. All of the domestic pets (dogs and cats) in the community have been vaccinated with rabies vaccine. Surrounding areas also conducted special immunization clinics.

(Section 18 of the Federal Insecticide, Fungicide, and Rodenticide Act (FIFRA), as amended in 1972, 1975, and 1978 (92 Stat. 819; 7 U.S.C. 136))

Dated: May 9, 1979.

Edwin L. Johnson,
Deputy Assistant Administrator for Pesticide Programs.

[OPP-180291; FRL 1223-7]
[FR Doc. 79-15017 Filed 5-11-79; 8:45 am]
BILLING CODE 6560-01-M

Wisconsin Department of Agriculture, Trade, and Consumer Protection; Issuance of a Specific Exemption To Use Trifluralin and Oryzalin as a Tank Mixture To Control Common Root Rot in English Peas

AGENCY: Environmental Protection Agency (EPA), Office of Pesticide Programs.

ACTION: Issuance of a specific exemption.

SUMMARY: EPA has issued a specific exemption to the Wisconsin Department of Agriculture, Trade, and Consumer Protection (hereafter referred to as the "Applicant") to use a tank mixture containing trifluralin and oryzalin to control common root rot on 15,000 acres of English peas in Wisconsin. The specific exemption expires on June 15, 1979.

FOR FURTHER INFORMATION CONTACT: Emergency Response Section, Registration Division (TS-767), EPA, 401 M Street, S.W., Room E-315, Washington, D.C. 20460, Telephone: 202/755-4851. It is suggested that interested persons telephone before visiting the EPA Headquarters, so that the appropriate files may be made conveniently available for review purposes.

SUPPLEMENTARY INFORMATION: According to the Applicant, the disease root rot is usually caused by a fungi complex, but in Wisconsin, the fungus *Aphanomyces euteiches* is primarily implicated. Although low levels of this pathogenic organism are found in all Wisconsin soils, populations increase when peas are grown in a field; following several pea crops, pathogen populations reach levels in which an entire crop may be destroyed, the Applicant claimed. The Applicant stated that rotation to a different crop may temperarily reduce pathogen levels, but a return to pea production, particularly in a year with excessive soil moisture, can immediately cause the pathogen to reach a problem level. Since peas have been grown on most of the agricultural land in Wisconsin, the disease is ubiquitous in that State. Earlier in the season, cool soils limit disease development; root rot is most severe in plantings made after May 1.

The Applicant stated that this specific exemption was sought for the pea crop that is grown for the canning industry. Processors sample soil from fields and run bioassays to determine the disease potential prior to contracting fields for pea planting. The unavailability of clean fields near the canning plants has forced canners to grow peas farther from the plant site, thus increasing production costs and contributing to the poor financial state of the industry, the Applicant claimed.

According to the Applicant, the extremely wet soil conditions now existing in Wisconsin may bring economic losses in the range of $4,500,000 in 1979 without the requested treatment.

EPA Has sufficient data to indicate that the trifluralin and oryzalin tank mix of ½ pound active ingredient (a.i.) per acre of each herbicide was an effective treatment in suppressing *Aphanomyces* root rot of peas and that it provided better control than either used alone. there are no registered pesticides to control *Aphanomyces euteiches* on peas.

The Applicant proposed to use Surflan 75W (oryzalin) in a tank mix with Treflan E.C. (trifluralin) at an application rate of ⅔ pound Surflan 75W (½ pound a.i.) in combination with a pint of Treflan E.C. (½ pound a.i.) per 20 gallons water per acred on a maximum of 15,000 acres under the direct supervision of a State-certified applicator.

A permanent tolerance of 0.05 part per million (ppm) in or on green peas has been established for residues of trifluralin. Residue levels of oryzalin from this use should not exceed 0.05 ppm. EPA has judged these levels to be adequate to protect the public health. This use should not have unreasonable effect on the environment.

After reviewing the application and other available information, EPA has determined that (a) a pest outbreak of *Aphanomyces euteiches* has occured or is likely to occur; (b) there is no pesticide presently registered and available for use to control this pest in Wisconsin; (c) there is no alternative means of control, taking into account the efficacy and hazard; (d) significant economic problems may result if the pest is not controlled; and (e) the time available for action to mitigate the problems posed is insufficient for a pesticide to be registered for this use. Accordingly, the Applicant has been granted a specific exemption to use the pesticides noted above until June 15, 1979 to the extent and in the manner set forth in the application. The specific exemption is also subject to the following conditions:

1. A tank mixture containing Surflan 75W (oryzalin) and Treflan E.C. (trifluralin) is authorized;

2. Application shall be made at a rate of ⅔ pound Surflan 75W (⅔ pound oryzalin) in combination with one pint Treflan E.C. (½ pound oryzalin) in 20 gallons water/acre;

3. A maximum of 15,000 acres of pea crop may be treated;

4. A maximum of 7,500 pounds oryzalin and 7,500 pounds trifluralin may be applied;

5. The application period shall be from early April until June 15, 1979;

6. Applications may be made throughout Wisconsin but not on coarse soils with less than 1½ percent organic matter;

7. One application of the tank mix shall be made as a soil-incorporated treatment up to two weeks prior to planting;

8. Applications shall be made by or under the supervision of a State-certified applicator;

9. Green peas treated according to the above provisions are not expected to have residue levels of either oryzalin or trifluralin exceeding 0.05 ppm. Green peas with residues not exceeding these levels may enter interstate commerce. The Food and Drug Administration, U.S. Department of Health, Education, and Welfare, has been advised of this action;

10. All applicable precautions on the EPA-registered labels shall be observed;

11. The EPA shall be informed immediately of any adverse effects to man or the environment resulting from this program;

12. The Applicant will be responsible for insuring that all provisions of this specific exemption are followed; and

13. A final report summarizing the results of this program will be submitted to EPA by December 31, 1979.

(Section 18 of the Federal Insecticide, Fungicide, and Rodenticide Act (FIFRA), as amended in 1972, 1975, and 1978 (92 Stat. 819; 7 U.S.C. 136)).

Dated: May 9, 1979.

Edwin L. Johnson,
Deputy Assistant Administrator for Pesticide Programs.

[OPP—180289; FRL 1223-6]
[FR Doc. 79-15016 Filed 5-11-79; 8:45 am]
BILLING CODE 6560-01-M

FEDERAL COMMUNICATIONS COMMISSION

Canadian Broadcast Stations; Notification List

List of new stations, proposed changes in existing stations, deletions, and corrections in assignments of Canadian standard broadcast stations modifying the assignments of Canadian broadcast stations contained in the Appendix to the Recommendations of the North American Regional Broadcasting Agreement Engineering Meeting January 30, 1941.

Applications for trunked systems are SCAS, through Mobil-Tel, leased from E. specified at a later date, on the

March 28, 1979.

Canadian List No. 383

Call letters	Location	Power kW	Antenna	Schedule	Class	Antenna height (feet)	Ground system: Number of radials	Ground system: Length (feet)	Proposed date of commencement of operation
				550 kHz					
CFJC	Kamloops, British Columbia, N. 50°36'34", W. 120°27'28" (PN 10D/5N) (PO 910kHz, 10 D/1N, ND-187, N. 50°43'24", W. 120°20'26")	25D/5N	DA-2	U	III				Mar. 28, 1980.
				590 kHz					
CJCW	Sussex, New Brunswick, N. 45°41'06", W. 65°31'29" (in operation with day-time power increase)	1D/0.25N	DA-2	U	IV				Do.
				790 kHz					
CKBH	Baie Comeau, Quebec, N. 49°12'00", W. 68°11'23" (new station)	1D/0.25N	DA-1	U	III				Mar. 28, 1980.
				910 kHz					
CHRL	Roberval, Quebec, N. 48°26'25", W 72°06'47" (PO 10D/2.5N)	10	DA-N ND-D-182.5.	U	III				Do.
				1250 kHz					
CKOM	Saskatoon, Saskatchewan, N. 52°04'45", W. 106°30'38" (change of night-time radiation pattern) (Minor change of ND RMS, PO ND-D-221)		DA-N ND-D-220.	U	III				Do.
				1270 kHz					
CHWK	Chilliwack, British Columbia, N. 49°08'54", W. 121°51'06" (PO N. 49°12'05", W. 121°56'32") (minor change in night-time radiation pattern and NO RMS)	10	DA-N ND-D-190.	U	III				Do.
				1460 kHz					
CJOY	Guelph, Ontario, N. 43°29'09", W. 80°14'43" (PO 10D/5N, minor change in day-time radiation pattern)	10	DA-2	U	III				Do.
				1500 kHz					
CKAY	Duncan, British Columbia, N. 48°44'21", W. 123°41'58" (PO 5D/1N)	10D/1N	DA-2	U	II				Do.
				1490 kHz					
CKOO-1	Oliver, British Columbia, N. 49°13'16", W. 119°32'21" (correction of call sign from CHOO-1)	10D/0.25N	ND-187	U	IV	150	120	264(Ave.)	Do.
				1530 kHz					
(New)	Morden, Manitoba, N. 49°07'16", W. 98°04'01"	10D/1N	DA-2	U	II				Do.

Martin I. Levy,
Acting Chief, Broadcast Bureau, Federal Communications Commission.

[FR Doc. 79-14657 Filed 5-11-79; 8:45 am]

BILLING CODE 6712-01-M

Clarification of Policies Applicable to the Assignment of Channels to Trunked Communications Systems in the 806-821 MHz and 851-866 MHz Bands

May 4, 1979.

In the past month or so questions have been raised as to the criteria the Commission applies in making channel assignments to trunked communications systems. So that applicants understand the procedures which are applied, we are issuing this Public Notice.

We assign no more channels for a trunked system than the number of channels on which the mobile units in the system will operate. While Section 90.375(e) does not specifically provide what kind of equipment must be used on trunked systems in excess of 5 channels, which will be constructed in stages, Section 90.383 does provide that systems must use type accepted equipment. To authorize a system more channels than the number of channels for which the proposed mobile equipment has been type-accepted is inconsistent with Section 90.383. Further, the rules (Section 90.371(b)) limit licensees to one trunked system per market, and provide they may not apply for a second until the first system is loaded. To authorize more channels than the system's equipment is capable of using is contrary to Section 90.371 because, in effect, it permits a licensee to develop more than a single trunked system at a time.

Applications for trunked systems are assigned channels on the basis of the radio equipment they plan to use. The rules contemplate the assignment of no more channels to a trunked system, than the number of channels on which the type accepted mobile units which are planned to be used in the system are capable of operating. Further, because trunked system efficiency is directly related to the number of mobile units in the system which operate on all of the system's channels, only these units may be counted in determining whether a licensee meets the minimum channel loading standards. We will, however, permit licensees to use mobile units in the system which do not have full-channel capability, but these units may not be counted for channel loading purposes.

Action by the Commission May 3, 1979. Commissioners Ferris (Chairman), Lee, Quello, Washburn, Fogarty, Brown and Jones.

Federal Communications Commission.

William J. Tricarico,
Secretary.

[FCC 79-281]

[FR Doc. 79-14961 Filed 5-11-79; 8:45 am]

BILLING CODE 6712-01-M

Mobil-Tel Corp.; Application for Authorization for New Trunked Mobile Relay Facilities

In the matter of application of Mobil-Tel Corporation, 2206 Richey Drive, La Canada, California, 91001 (PR Docket No. 79-112, File No. 50394-YB-49**) for authorization for new trunked mobile relay facilities in the 806-821 and 851-866 MHz bands.

Memorandum Opinion and Order

Adopted: May 3, 1979.
Released: May 9, 1979.

By the Chief, Private Radio Bureau:

1. The Chief, Private Radio Bureau (the Bureau) has before him for consideration the above-captioned application filed April 4, 1979, by Mobil-Tel Corporation (Mobil-Tel) for authorization of new trunked mobile relay facilities in the 806-821 and 851-866 MHz bands on Mt. Lukens in Los Angeles County, California. Also before the Bureau is information concerning an investigation conducted by the Long Beach, California, District Office of the Commission's Field Operations Bureau into unlicensed operation of Business Radio Service facilities by Southern California Attorney Service, Inc. (SCAS) in Beverly Hills, California.

2. It appears from the information before the Bureau that early in 1977 SCAS, through Mobil-Tel, leased from E. F. Johnson Company equipment for use in the Business Radio Service. In April, 1977, SCAS executed an application for a license to use the radio equipment and issued a check payable to the National Association of Business and Educational Radio (NABER) to cover the latter's fee for providing the requisite frequency coordination. Both the application and the check were given to Mobil-Tel for transmittal to the Commission and NABER, respectively. There is no record that the SCAS application was received at the Commission, and the check to NABER evidently was not negotiated.

3. The radios were installed in June 1977, by an an employee or agent of Mobil-Tel. SCAS operated the equipment without a license for more than a year and until July 25, 1978, when the unlicensed operation was observed by employees of the Commission's Long Beach office. SCAS asserts that it was advised by Mobil-Tel at the time of installation that the radio system had been licensed. At frequent intervals during the year of radio operation, SCAS alleges, it requested David McKenney, principal of Mobil-Tel, to produce the SCAS license. McKenney, according to SCAS, repeatedly assured SCAS that he had been advised by the Commission that SCAS was licensed.

4. The information before the Bureau concerning SCAS' unlicensed operation raises serious questions as to whether Mobil-Tel possesses the requisite character qualifications or is sufficiently competent or shows sufficient interest with respect to the licensing and implementation of radio facilities to receive a grant of the authorization which it here seeks. Because the Bureau cannot make the necessary finding, pursuant to Section 309(a) of the Communications Act of 1934, as amended, that a grant of the above-captioned application would serve the public interest, convenience and necessity, the application must, in accordance with Section 309(e) of the Act, be designated for evidentiary hearing.

5. Accordingly, it is ordered, that in accordance with the provisions of Section 309(e) of the Communications Act of 1934, as amended (47 U.S.C. 309(e)), the above-captioned application of Mobil-Tel Corporation, File No. 50394-YB-49**, for authorization of new trunked mobile relay facilities in the 806-821 and 851-866 MHz bands is, pursuant to authority delegated in Sections 0.131(a) and 0.331 of the Commission's Rules, designated for hearing, at a time and place to be specified at a later date, on the following issues:

(a) To determine whether Mobil-Tel Corporation, through its officers and/or directors and/or stockholders and/or employees and/or agents, knowingly or willfully or negligently participated in or abetted the unlicensed radio operations of Southern California Attorney Service, Inc.

(b) To determine whether Mobil-Tel Corporation, through its officers and/or directors and/or stockholders and/or employees and/or agents, knowingly or willfully or negligently failed to perform the necessary procedures undertaken by it to obtain for Southern California Attorney Service, Inc. the requisite Commission authorization for the operation of the radio facilities which Mobil-Tel Corporation provided to Southern California Attorney Service, Inc.

(c) To determine whether Mobil-Tel Corporation, through its officers and/or directors and/or stockholders and/or employees and/or agents, knowingly or willfully or negligently misrepresented to Southern California Attorney Service, Inc. that the latter's radio operations were licensed.

(d) To determine, in light of the evidence adduced pursuant to issues (a), (b) and (c) hereinabove, whether Mobil-Tel Corporation possesses the requisite character qualifications to receive a grant of the application which is the subject of this proceeding.

(e) To determine, in light of the evidence adduced pursuant to issues (a), (b) and (c) hereinabove, whether Mobil-Tel Corporation has exhibited such lack of interest or carelessness concerning the conduct of its affairs with respect to the licensing and implementation of its customer's radio facilities that it should not be entrusted with the radio authorization which it is here seeking.

(f) To determine, in light of the evidence adduced pursuant to each of the foregoing issues, what disposition of the above-captioned application of Mobil-Tel Corporation will best serve the public interest, convenience and necessity.

6. It is further ordered, that Mobil-Tel Corporation and the Chief, Private Radio Bureau are made parties in this proceeding.

7. It is further ordered, that the burden of proceeding with the introduction of evidence and the burden of proof are, pursuant to Section 309(e) of the Communications Act of 1934, as amended, and Sections 1.254 and 1.973(e) of the Commission's Rules, upon Mobil-Tel Corporation with respect to

Agreement No. 7670-18.

Dated: May 9, 1979.

specifically any questions of fact that

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the issues set forth in paragraph 5 hereinabove.

8. It is further ordered, that each of the parties named in paragraph 6 hereinabove, in order to avail itself of the opportunity to be heard, shall within 20 days of the mailing of this notice of designation by the Secretary of the Commission, file with the Commission, in triplicate, a written notice of appearance that it will appear on the date fixed for hearing and present evidence on the issues specified in this Order, as prescribed in § 1.221 of the Commission's Rules.

9. It is further ordered, that the Secretary of the Commission shall serve a copy of this Order, by Certified Mail, Return Receipt Requested, upon Mobil-Tel Corporation at the address furnished in its applications.

Federal Communications Commission.

Carlos V. Roberts,

Chief, Private Radio Bureau.

[PR Docket No. 79-112; File No. 50394-YB-49**]
[FR Doc. 79-14980 Filed 5-11-79; 8:45 am]
BILLING CODE 6712-01-M

FEDERAL LABOR RELATIONS AUTHORITY

Scope of the Negotiated Grievance Procedures in Existing Agreements

AGENCY: Federal Labor Relations Authority.

ACTION: Notice Relating to the Scope of the Negotiated Grievance Procedures in Existing Agreements.

SUMMARY: This notice relates to the proper interpretation and application of section 7121 of the Federal Service Labor-Management Relations Statute (92 Stat. 1211) as it relates to the impact of this section on the scope of negotiated grievance procedures in existing agreements; the impact, if any, of section 7135(a)(1) of the Statute (92 Stat. 1215) on such interpretation and application; and the invitation for written comments concerning these matters.

DATE: Written comments must be submitted by the close of business on June 15, 1979 to be considered.

ADDRESS: Send written comments to the Federal Labor Relations Authority, 1900 E Street, NW., Washington, D.C. 20424

FOR FURTHER INFORMATION CONTACT: Harold D. Kessler, Deputy Executive, Director, 1900 E Street, NW., Washington, D.C. 20424, 202-632-3920.

SUPPLEMENTARY INFORMATION: The Federal Labor Relations Authority was established by Reorganization Plan No. 2 of 1978, effective January 1, 1979 (43 F.R. 36037). Since January 11, 1979, the Authority has conducted its operations under the Federal Service Labor-Management Relations Statute (92 Stat. 1191).

Upon receipt of a request and consideration thereof, the Authority has determined, in accordance with its regulations (5 C.F.R. § 2410.3(a) (1978)) and sections 7105 and 7135(b) of the Statute (92 Stat. 1196, 1215), that an interpretation is warranted concerning section 7121 of the Statute (92 Stat. 1211) as it relates to the impact of this section on the scope of negotiated grievance procedures in existing agreements. Interested persons are invited to express their views in writing on this matter, as more fully explained in the Authority's notice set forth below:

To Heads of Agencies, Presidents of Labor Organizations and Other Interested Persons:

The Authority has received a request from the National Association of Government Employees (NAGE) for a major policy determination concerning, in effect, whether, upon request by a party to an existing negotiated agreement, the parties must renegotiate the scope of the grievance procedure to include matters for which statutory appeal procedures exist, to the extent such coverage is now permitted under section 7121 of the Federal Service Labor-Management Relations Statute (92 Stat. 1211). NAGE alleges in its request that agencies are refusing to enter into such negotiations, based on section 7135(a)(1) of the Statute (92 Stat. 1215).

The Authority has also received submissions in support of the issuance of such a major policy determination from the American Federation of Government Employees and the National Federation of Federal Employees, and an opposition thereto by the Office of Personnel Management.

The Authority hereby determines, in conformity with 5 C.F.R. § 2410.3(a) (1978) and section 7135(b) of the Statute (92 Stat. 1215), as well as section 7105 of the Statute (92 Stat. 1196), that an interpretation of the Statute is warranted on the following:

"What is the proper interpretation and application of section 7121 of the Federal Service Labor-Management Relations Statute (92 Stat. 1211) as it relates to the impact of this section of the Statute on the scope of negotiated grievance procedures in existing agreements? In addressing themselves to this question of scope, interested persons are also invited to consider the impact, if any, of section 7135(a)(1) of the Statute (92 Stat. 1215) on such interpretation and application."

Before issuing an interpretation on the above, the Authority, pursuant to 5 C.F.R. § 2410.6 (1978), and section 7135(b) of the Statute (91 Stat. 1215), solicits your views in writing. You are further invited to submit your views as to whether oral argument should be granted. To receive consideration, such views must be submitted to the Authority by the close of business on June 15, 1979.

Issued, Washington, D.C., May 8, 1979.

Federal Labor Relations Authority,

Ronald W. Haughton,

Chairman.

Henry B. Frazier III,

Member.

[FR Doc. 79-14911 Filed 5-11-79; 8:45 am]
BILLING CODE 6325-01-M

FEDERAL MARITIME COMMISSION

Agreements Filed

The Federal Maritime Commission hereby gives notice that the following agreements have been filed with the Commission for approval pursuant to section 15 of the Shipping Act, 1916, as amended (39 Stat. 733, 75 Stat. 763, 46 U.S.C. 814).

Interested parties may inspect and obtain a copy of each of the agreements and the justifications offered therefor at the Washington Office of the Federal Maritime Commission, 1100 L Street, N.W., Room 10423 or may inspect the agreements at the Field Offices located at New York, N.Y.; New Orleans, Louisiana; San Francisco, California; Chicago, Illinois; and San Juan, Puerto Rico. Interested parties may submit comments on each agreement, including requests for hearing, to the Secretary, Federal Maritime Commission, Washington, D.C., 20573, on or before June 4, 1979. Comments should include facts and arguments concerning the approval, modification, or disapproval of the proposed agreement. Comments shall discuss with particularity allegations that the agreement is unjustly discriminatory or unfair as between carriers, shippers, exporters, importers, or ports, or between exporters from the United States and their foreign competitors, or operates to the detriment of the commerce of the United States, or is contrary to the public interest, or is in violation of the Act.

A copy of any comments should also be forwarded to the party filing the agreements and the statement should indicate that this has been done.

Agreement No. 7670-18.

Filing Party: Howard A. Levy, esquire, Suite 727, 17 Battery Place, New York, New York 10004.

Summary: Agreement No. 7670-18, amends the basic agreement of the North Atlantic Baltic Freight Conference to provide (1) that members may vote by proxy at regular meetings, (2) that no member may hold more than one proxy but the Chairman may hold multiple proxies and (3) that matters may be considered and acted upon between meetings by polls conducted by the Chairman by letter, telex, telephone or by any other means of communication.

Agreement No. T-3363-A.

Filing Party: Frank Wagner, Deputy City Attorney, Office of City Attorney, Harbor Division, P.O. Box 151, San Pedro, California 90733.

Summary: Agreement No. T-3363-A, between the City of Los Angeles (City) and Matson Terminals, Inc. (Matson), provides for the installation of container handling facilities at the premises now leased to Matson at Berths 206 to 209 at Terminal Island in the Port of Los Angeles. Certain of these facilities would be installed by the City at City's expense, others by the City at Matson's expense, and the remainder to be installed by City at shared expense of City and Matson. Matson agrees to provide design work for the facility, and the City agrees to pay a maximum of four million dollars for its share of the construction.

Agreement No. T-3801.

Filing Party: Andrew J. Newhouse, Foss, Whitty & Roess, Coos Head Timber Company, P.O. Box 119, 4444 N. Fourth Street, Coos Bay, Oregon 97420.

Summary: Agreement No. T-3801, between Georgia-Pacific Corporation (G-P) and Coos Head Timber Company (Coos Head), amends and restates previous agreements between the parties for the following purposes: lease of a sawmill site; joint use of steam, air and water utilities and fire protection system; lease of storage area and cargo dock at the rate of $2500.00 per month plus a percentage of handling service charges; forest products handling services by Coos Head compensated by G-P in accordance with rates set forth in the agreement; and joint use of Berth No. 1 of the leased dock for handling of chip and chemical vessels as well as wood products.

Agreement No. T-3802.

Filing Party: Gerald F. Swan, Deputy, City Attorney, City of Los Angeles, P.O. Box 151, San Pedro, California 90733.

Summary: Agreement No. T-3802, between the City of Los Angeles and the Metropolitan Stevedore Company, provides for the nonexclusive preferential use of certain berths at Los Angeles Harbor to the permittee for a five-year term for compensation as agreed to. When approved this agreement will supersede Agreement No. T-3035 between the parties.

By Order of the Federal Maritime Commission.

Dated: May 9, 1979.

Francis C. Hurney,

Secretary.

[FR Doc. 79-14967 Filed 5-11-79; 8:45 am]
BILLING CODE 6730-01-M

Agencia Maritima Intermares, Ltda.; Revocation of Certificate of Financial Responsibility for Indemnification of Passengers for Nonperformance of Transportation No. P-143 and Certificate of Financial Responsibility To Meet Liability Incurred for Death or Injury to Passengers or Other Persons on Voyages No. C-1,143;

Order of Revocation

In the matter of Agencia Maritima Intermares Ltda., Brasilio de Gama 52, Sao Paulo, Brazil.

Whereas, Agencia Maritima Intermares Ltda. has ceased to charter the passenger vessel BRASIL for voyages to and from United States ports;

It is ordered, that Certificate (Performance) No. P-143 and Certificate (Casualty) No. C-1,143 covering the BRASIL, be and are hereby revoked effective May 7, 1979.

It is further ordered, that a copy of this Order be published in the Federal Register and served on certificant.

By the Commission May 7, 1979.

Francis C. Hurney,

Secretary.

[FR Doc. 79-14966 Filed 5-11-79; 8:45 am]
BILLING CODE 6730-01-M

FEDERAL RESERVE SYSTEM

Associated Banc-Corp; Acquisition of Bank

Associated Banc-Corp, Green Bay, Wisconsin, has applied for the Board's approval under section 3(a)(3) of the Bank Holding Company Act (12 U.S.C. 1842(a)(3)) to acquire 100 per cent of the voting shares (less directors' qualifying shares) of Kimberly State Bank, Kimberly, Wisconsin. The factors that are considered in acting on the application are set forth in section 3(c) of the Act (12 U.S.C. 1842(c)).

The application may be inspected at the offices of the Board of Governors or at the Federal Reserve Bank of Chicago. Any person wishing to comment on the application should submit views in writing to the Secretary, Board of Governors of the Federal Reserve System, Washington, D.C. 20551, to be received not later than June 8, 1979. Any comment on an application that requests a hearing must include a statement of why a written presentation would not suffice in lieu of a hearing, identifying specifically any questions of fact that are in dispute and summarizing the evidence that would be presented at a hearing.

Board of Governors of the Federal Reserve System, May 9, 1979.

Edward T. Mulrenin,

Assistant Secretary of the Board.

[FR Doc. 79-15033 Filed 5-11-79; 8:45 am]
BILLING CODE 6210-01-M

Bank Holding Companies; Proposed De Novo Nonbank Activities

The bank holding companies listed in this notice have applied, pursuant to section 4(c)(8) of the Bank Holding Company Act (12 U.S.C. 1843(c)(8)) and § 225.4(b)(1) of the Board's Regulation Y (12 CFR 225.4(b)(1)), for permission to engage *de novo* (or continue to engage in an activity earlier commenced *de novo*), directly or indirectly, solely in the activities indicated, which have been determined by the Board of Governors to be closely related to banking.

With respect to each application, interested persons may express their views on the question whether consummation of the proposal can "reasonably be expected to produce benefits to the public, such as greater convenience, increased competition, or gains in efficiency, that outweigh possible adverse effects, such as undue concentration of resources, decreased or unfair competition, conflicts of interest, or unsound banking practices." Any comment on an application that requests a hearing must include a statement of the reasons a written presentation would not suffice in lieu of a hearing, identifying specifically any questions of fact that are in dispute, summarizing the evidence that would be presented at a hearing, and indicating how the party commenting would be aggrieved by approval of that proposal.

Each application may be inspected at the offices of the Board of Governors or at the Federal Reserve Bank indicated for that application. Comments and requests for hearings should identify clearly the specific application to which they relate, and should be submitted in writing and received by the appropriate Federal Reserve Bank not later than May 30, 1979.

A. *Federal Reserve Bank of Minneapolis*, 250 Marquette Avenue, Minneapolis, Minnesota 55480:

Security Bancshares of Montana, Inc., Billings, Montana (finance and mortgage activities; Idaho, Montana, North Dakota, South Dakota, Wyoming): through its subsidiary, Security Mortgage Company, to buy, sell, deal in,

invest, originate, service, and otherwise manage real estate loans and financing transactions. These activities would be conducted from an office in Billings, Montana, serving the five states listed in the caption to this notice.

B. *Other Federal Reserve Banks:* None.

Board of Governors of the Federal Reserve System, April 27, 1979.

Edward T. Mulrenin,
Assistant Secretary of the Board.
[FR Doc. 79-15036 Filed 5-11-79; 8:45 am]
BILLING CODE 6210-01-M

Citizens Bancorp; Acquisition of Bank

Citizens Bancorp, Vineland, New Jersey, has applied for the Board's approval under section 3(a)(3) of the Bank Holding Company Act (12 U.S.C. 1842(a)(3)) to acquire 100 per cent of the voting shares of Peoples Bank of South Jersey, Clayton, New Jersey. The factors that are considered in acting on the application are set forth in section 3(c) of the Act (12 U.S.C. 1842(c)).

The application may be inspected at the offices of the Board of Governors or at the Federal Reserve Bank of Philadelphia. Any person wishing to comment on the application should submit views in writing to the Reserve Bank to be received not later than May 31, 1979. Any comment on an application that requests a hearing must include a statement of why a written presentation would not suffice in lieu of a hearing, identifying specifically any questions of fact that are in dispute and summarizing the evidence that would be presented at a hearing.

Board of Governors of the Federal Reserve System, April 27, 1979.

Edward T. Mulrenin,
Assistant Secretary of the Board.
[FR Doc. 79-15035 Filed 5-11-79; 8:45 am]
BILLING CODE 6210-01-M

Drexel Bancorporation, Inc.; Formation of Bank Holding Company

Drexel Bancorporation, Inc., Chicago Illinois, has applied for the Board's approval under section 3(a)(1) of the Bank Holding Company Act (12 U.S.C. 1842(a)(1)) to become a bank holding company by acquiring 80 per cent or more of the voting shares of Drexel National Bank of Chicago, Chicago, Illinois. The factors that are considered in acting on the application are set forth in section 3(c) of the Act (12 U.S.C. 1842(c)).

The application may be inspected at the offices of the Board of Governors or at the Federal Reserve Bank of Chicago. Any person wishing to comment on the application should submit views in writing to the Secretary, Board of Governors of the Federal Reserve System, Washington, D.C. 20551 to be received not later than May 30, 1979. Any comment on an application that requests a hearing must include a statement of why a written presentation would not suffice in lieu of a hearing, identifying specifically any questions of fact that are in dispute and summarizing the evidence that would be presented at a hearing.

Board of Governors of the Federal Reserve System, May 9, 1979.

Edward T. Mulrenin,
Assistant Secretary of the Board.
[FR Doc. 79-15034 Filed 5-11-79; 8:45 am]
BILLING CODE 6210-01-M

Tri-County Co.; Formation of Bank Holding Company

Tri-County Company, Stuart, Nebraska, has applied for the Board's approval under section 3(a)(1) of the Bank Holding Company Act (12 U.S.C. 1842(a)(1)) to become a bank holding company by acquiring 80 per cent or more of the voting shares of the Tri-County Bank, Stuart, Nebraska. The factors that are considered in acting on the application are set forth in section 3(c) of the Act (12 U.S.C. 1842(c)).

The application may be inspected at the offices of the Board of Governors or at the Federal Reserve Bank of Kansas City. Any person wishing to comment on the application should submit views in writing to the Reserve Bank, to be received not later than June 6, 1979. Any comment on an application that requests a hearing must include a statement of why a written presentation would not suffice in lieu of a hearing, identifying specifically any questions of fact that are in dispute and summarizing the evidence that would be presented at a hearing.

Board of Governors of the Federal Reserve System, April 23, 1979.

Edward T. Mulrenin,
Assistant Secretary of the Board.
[FR Doc. 79-15037 Filed 5-11-79; 8:45 am]
BILLING CODE 6210-01-M

DEPARTMENT OF HEALTH, EDUCATION, AND WELFARE

Health Care Financing Administration

Pharmaceutical Reimbursement Board; Final Maximum Allowable Cost Determinations

AGENCY: Health Care Financing Administration (HCFA), HEW.

ACTION: Final Maximum Allowable Cost Determinations.

SUMMARY: In accordance with 45 CFR 19.5, the Pharmaceutical Reimbursement Board announces the following Final Maximum Allowable Cost (MAC) determinations:

Drug	MAC limit[1]
Hydrochlorothiazide 25 mg tablet	$.0250
Hydrochlorothiazide 50 mg tablet	.0306
Amoxicillin 250 mg capsule	$.2106
Amoxicillin 500 mg capsule	.3942
Amoxicillin 125 mg/5 cc oral suspension	.0232
Amoxicillin 250 mg/5 cc oral suspension	.0284

[1] These MAC limits do not apply to unit dose packaging.

DATES: The effective date of these MAC limits is June 28, 1979.

FOR FURTHER INFORMATION CONTACT: Mr. Peter Rodler, Executive Secretary, Pharmaceutical Reimbursement Board, 330 C Street, S.W., 3076 Switzer Building, Washington, D.C. 20201, 202-472-3820.

SUPPLEMENTARY INFORMATION: The Pharmaceutical Reimbursement Board has been established within the Health Care Financing Administration to set limits on payment or reimbursement for drugs under Medicaid, Medicare, and other HEW programs. On August 31, 1978 and September 12, 1978, the Board proposed MAC limits on several strengths of amoxicillin and hydrochlorothiazide. (*See* 43 FR 38941, 40547). The Board has received written comments and held public hearings concerning MAC limits on these drugs. The Board now announces final MAC determinations for the hydrochlorothiazide and amoxicillin products listed above. A summary of the written comments, the presentations at the hearings, other material on which the Board relied in determining each MAC limit, and the Board's reasons for its determinations, follows:

I. Hydrochlorothiazide 25 mg and 50 mg Tablets

On July 27, 1978, in response to the Board's request, the Food and Drug Administration notified the Board that all approved manufacturers of 25 and 50 mg hydrochlorothiazide tablets had submitted bioequivalence data and that

there were no bioequivalence or quality issues which should delay or prevent the establishment of MAC limits for the drug. On September 12, 1978, the Board announced in the Federal Register proposed MAC limits of $.0250 per 25 mg hydrochlorothiazide tablet, and $.0306 per 50 mg hydrochlorothiazide tablet.

At $.0250, the 25 mg tablet is advertised in *Red Book* as being available from Parke Davis and Lederle, the 14th and 18th largest ethical pharmaceutical manufacturers in the United States, and from 22 other suppliers. In addition, 8 of the 12 State MAC limits currently in effect are at or below the MAC limit proposed by the Board for 25 mg tablets.

For the 50 mg tablet, the Board proposed a MAC limit of $.0306 per tablet. At this price, the HCFA survey [1] reveals that the product is available from Parke Davis; also the product is advertised in *Red Book* as being available at or below this price from Lederle and 26 other suppliers. In addition, 5 of the 12 State MAC limits currently in effect are at or below the MAC limit proposed by the Board.

We received written comments from two companies. Lederle Laboratories, a distributor of hydrochlorothiazide at prices below the proposed MAC limits, stated that it could adequately distribute and supply such portion of the hydrochlorothiazide market for those who would wish to purchase the product from Lederle and that Lederle could increase its capacity to distribute hydrochlorothiazide. Lederle also submitted a study that estimated the Medicaid portion of the hydrochlorothiazide prescription market to be 18 percent. Zenith Laboratories, another supplier of hydrochlorothiazide at prices below the MAC limits, stated that it produces millions of hydrochlorothiazide tablets every month and is in a position to increase current production.

A physician wrote to state that, in his experience, there was evidence of probable therapeutic inequivalence with some sources of hydrochlorothiazide. This comment was not supported by documentation, but merely indicated this particular physician's preference for a particular brand or brands. We note that a physician may override a MAC limit if he believes a particular brand is medically necessary and indicates that on the prescription form. Beyond that, however, the Board accepts the position of FDA, which is based on extensive reviews and documentation, that there are no bioequivalence problems with marketed hydrochlorothiazide that would prevent the establishment of a MAC.

At the Public Hearing before the Board on November 1, 1978, Merck, Sharp & Dohme was the only participant on the subject of hydrochlorothiazide. Merck argued that MAC limits ought not be set for the reasons summarized below. In order to respond to new quality issues raised by Merck, the Board left the record open after the hearing so that FDA could investigate Merck's arguments. The FDA response that resulted from this investigation was included in the record and Merck was given an opportunity to comment on it.

Merck first argued that no MAC limits should be set on hydrochlorothiazide because the drug is the subject of a final rule finding it to be of known or potential bioinequivalence. Merck also insisted that since hydrochlorothiazide, together with other drugs in the thiazide class, is the subject of a pending rulemaking proceeding at FDA to set a bioequivalence requirement, a bioequivalence problem existed and that, therefore, the Board was precluded from establishing a MAC limit on hydrochlorothiazide.

In a written response dated February 28, 1979, the FDA stated "The FDA in its bioequivalence regulation published January 7, 1977 in the Federal Register did include hydrochlorothiazide oral dosage forms as having potential (but not known) bioequivalence problems. The MAC regulations provide for FDA to make two determinations. First, FDA must advise the Board of the existence of any regulatory action affecting a proposed MAC, and secondly, it must determine whether that regulatory action is a reason to delay or withhold the establishment of the MAC. With respect to drugs subject to a pending bioequivalence requirement regulation, our policy is to recommend the establishment of a MAC for such drug entities if all known manufacturers of the products have submitted adequate data to FDA demonstrating bioequivalence. Thus the regulations do not preclude either the FDA or the MAC Board from recommending or establishing a MAC limit on a drug under these circumstances. Further, that FDA's recommendation to the Board of July 27, 1978 did not specifically mention that a bioequivalence requirement is pending for hydrochlorothiazide is not in our view material, since the bioequivalence status of the drug was discussed in detail in FDA's recommendation."

Merck also argued that since hydrochlorothiazide is the subject of a formal bioequivalence standard, a "contemplated regulatory action" exists which amounts to an absolute bar to the establishment of a MAC limit. Merck also argued that studies purporting to show bioequivalence of various formulations of hydrochlorothiazide are suspect due to the difficulties with the Bratton-Marshall assay currently used. In its response FDA stated, "The fact that the bioequivalence requirement and guidelines for the studies have not been published is not critical to the MAC review conducted by FDA. The FDA found that the studies done on the marketed products are fully adequate to assess the bioequivalence of these products. Moreover, to delay a MAC limit because a better method is in the offing is simply not necessary or desirable. The science of biopharmaceutics is constantly searching for better methods and more advanced and sensitive techniques.

"The initial FDA recommendation regarding the establishment of a MAC limit for hydrochlorothiazide tablets was based in part on a review by the Division of Biopharmaceutics, Bureau of Drugs. In that review, among others, the following determinations were made:

"1. All 17 holders of approved abbreviated new drug applications (ANDA's) have submitted bioequivalence data on urinary excretion levels of unchanged drug in human subjects and *in vitro* dissolution data in support of their applications.

"2. Of the three approved new drug applications, two contain *in vivo* urinary excretion bioequivalence data. The remaining application holder conducted acceptable clinical trials to demonstrate the effectiveness of its product.

"3. A published study of 13 commercially marketed hydrochlorothiazide tableted products representing at least six manufacturers found no bioequivalence problems.

"The FDA continues to believe that it is reasonable to rely on these data and the other material in the administrative record to support a recommendation to establish a MAC limit for hydrochlorothiazide tablets. This reliance is especially valid in light of the fact that there are no documented bioequivalence problems with marketed hydrochlorothiazide products."

Merck also argued that some hydrochlorothiazide products on the market are of substandard quality when tested according to USP criteria. Also, Merck submitted directly to FDA the results of its own tests of competitive products.

[1] The HCFA survey is a survey of pharmacy invoice prices obtained by HCFA under contract with IMS America. The survey price is based on the 70th percentile of invoice prices. The survey is updated monthly.

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FDA responded, "The MAC regulations do not require that all batches of all products must always conform to compendial standards in order for a MAC limit to be established or to continue in effect. Violative products, whether or not subject to the MAC program, are dealt with on an individual basis through established regulatory procedures. However, deviations from comendial standards are viewed seriously by FDA, and, therefore, we have carefully reviewed Merck's submission to the Board of October 17, its letter to FDA of September 25, 1978 and the subsequent data submitted to FDA on November 15.

"Of the 99 lots tested by Merck, it found eight defective. Of these eight, one was found out of limits for content uniformity (not indicative of an industry wide problem) and seven were found out of limits for dissolution. Because of its potential association with bioavailability, the dissolution problem was the one of significance from the standpoint of a potential industry-wide problem sufficient to affect a MAC, so we concentrated on these deviations for our investigation. We traced each lot to its manufacturer, and we attempted to duplicate Merck's analysis. Of the seven lots found defective by Merck, we were not able to find any commercial samples, using established inspectional procedures, indicating that very little, if any of these lots remain on the market. The four lots we were able to sample from the manufacturer's reserve were all manufactured by one firm. Our finding on these lots confirmed Merck's. We sampled six more lots, each representing current production of all four manufacturers having defective batches according to the Merck data. All six of these lots passed the USP dissolution test, indicating in our view, that the problems reported by Merck were of a transient and random nature, and do not demonstrate an inherent dissolution problem with this drug. From our study and an analysis of Merck's findings, therefore, we conclude that there is no reason to delay or prevent the establishment of a MAC limit." (Documentation of the FDA study is available for Inspection in the Office of Pharmaceutical Reimbursement, 330 C Street, S.W., Washington, D.C. 20201.)

Merck also argued that the FDA reports of actual instances of bioinequivalence of hydrochlorothiazide products appear in the administrative record supplied by FDA. FDA responded as follows: "Merck cited seven reports from a printout of product problem reports supplied by FDA to the MAC Board. Such excerpts are taken from spontaneous reports supplied by pharmacists. It is not unusual to find such conclusory statements in these reports. These *ad hoc* reports, which are filed by pharmacists, not physicians, are not indicative of a widespread or serious problem, when considered in the context of similar reports for other drugs. It should be noted that Merck apparently edited the first cited report to exclude the statement that the patient was allergic to pink dye and the tablet was pink. It should also be noted that all seven reports were dated 1976 or 1977, indicating perhaps a transient problem. We continue to believe that these reports are not a reason to delay or prevent the establishment of a MAC. Indeed, the MAC program provides for rare or idiosyncratic responses by individual patients to particular products through the physician specifying medically necessary for a particular brand on the prescription."

Merck insisted that the case of *U.S.* v. *Lannett*, by holding that ANDA's may not be required for hydrochorothiazide products, undermines the FDA regulatory system. Merck argued that the impact of the *U.S.* v. *Lannett*, which was decided in August and is the subject of an appeal, clearly holds as a matter of law that a company's manufacturing techniques and the bioavailability of hydrochlorothiazide are beyond the premarketing approval authority of the FDA.

FDA responded, "While FDA recognizes the importance of the Lannett decision to its new drug program, there are a number of factors which make any precipitous changes in the MAC program in response to it both premature and unwise. First the limits of the appellate court's decision have not been established, even within the Third Circuit. We are awaiting the outcome of cases in the Third Circuit and in other judicial jurisdictions to determine what long-term effects, if any, the Lannett decision will have. Secondly, FDA has been operating on the premise that the Lannett decision is controlling only in the Third Circuit, and a program of vigorous enforcement outside that circuit is in progress. Third, FDA believes that most drug firms, both large and small, see the need for the kind of assurances and regulatory order which the ANDA system bestows upon the drug market. Thus, even in the temporary absence in the Third Circuit of a legal requirement for approved ANDA's in order to market new drugs, most firms seem willing to comply with the new drug provisions of the Federal Food, Drug, and Cosmetic Act until the legal issues have been thoroughly adjudicated, if necessary, by the Supreme Court.

"Merck submitted to the Board, on January 5, 1979, a final report on a pharmacy inventory survey purporting to show a number of firms which are manufacturing hydrochlorothiazide without the benefit of an approved new drug application. We have compared Merck's findings with our own data regarding approved manufacturers. Its study lists four fims as manufacturers which do not appear on our list of firms approved to manufacture hydrochlorothiazide tablets. These four firms were checked by our Division of Drug Labeling Compliance. All four firms were determined to be private label distributors of hydrochlorothiazide covered under approved ANDA holders. Thus there is no evidence that firms are marketing unapproved hydrochlorothiazide products in the wake of the Lannett decision."

During the Public Hearing on November 1, 1979, Merck was asked whether they had any evidence since the Lannett decision that hydrochlorothiazide is being marketed without an approved new drug application. Merck responded that they had no knowledge and no reports to that effect. (Transcript of Hearing, P. 98.)

The FDA concluded their memorandum by stating that "From our analysis of the Merck submissions, we conclude that there is no reason to alter our original recommendation to the Board regarding the establishment of MAC Limits for hydrochlorothiazide tablets."

In a written comment dated March 19, 1979, Merck reiterated all of its previous arguments in addition to arguing that the Board followed unlawful procedures in considering the proposed MACs. Specifically, Merck argued that the use of outside consultants violated the Federal Advisory Committee Act and constituted *ex parte* communications.

The MAC procedures were amended on August 9, 1978 (43 FR 35310) by abolishing the Pharmaceutical Reimbursement Advisory Committee. The Committee was abolished because we were unable to resolve the problem of potential conflicts of interest for individuals who were qualified to serve on the Committee on the basis of their knowledge, experience, and judgment in the areas of pharmacy, medicine, pharmaceutical marketing, public health, and consumer affairs. The amended regulation authorized the discretionary use of consultants to advise the Board in place of the abolished Advisory Committee. (*See* 45 CFR 19.4(b).) Because the consultants could be chosen on a case-by-case basis, we believed that conflicts of interest would be avoided.

In establishing MAC limits on hydrochlorothiazide, the Board met with two consultants on the day of the Public Hearing. The two consultants held positions as the Associate Dean for Pharmacy at a College of Pharmacy and the Chairman of a Department of Pharmacology at a College of Medicine, respectively. The consultants participated in the Public Hearing and asked questions of those making presentations.

In arguing that the use of consultants constituted *ex parte* communications, Merck relies on *Home Box Office, Inc.* v. *FCC*, 567 F. 2d 9 (D.C. Cir. 1977). However, the rule announced in that case is as follows: "Once a notice of proposed rulemaking has been issued, however, any agency official or employee who is or may reasonably be expected to be involved in the decisional process of the rulemaking proceeding, should refuse to discuss matters relating to the disposition of a rulemaking proceeding *with any interested private party*, or *an attorney or agent for any such party*, prior to the agency's decision." (Id. at 57). (Emphasis added.)

The Board's use of consultants in the present instance does not violate this rule, since the consultants were not "interested private parties," but rather, had been selected from the academic world precisely so that they would be unbiased, objective observers, without possible conflicts of interest. In fact, while assisting the Board, the consultants had the status of "special Government employee" under 18 U.S.C.§ 202, and thus the Board was free to communicate with them as with other members of its staff.

With regard to its argument that the Federal Advisory Committee Act has been violated, Merck relies on *Food Chemical News, Inc.* v. *Davis*, 378 F. Supp. 1048 (D.D.C. 1974). That case also involved meetings with interested private parties (consumers and distilled spirits industry representatives) rather than individuals chosen because of their independence and lack of financial interests, as in the present instance, and thus is not controlling. Other court decisions make it clear that the very broad, imprecise statutory definition of "advisory committee" is not intended to apply to all amorphous, ad hoc group meetings. *See Nader* v. *Barody*, 396 F. Supp. 1231 (D.D.C. 1975); *Lombardo* v. *Handler*, 397 F. Supp. 792 (D.D.C. 1975).

The Board was not convinced by any of Merck's arguments. On March 26, 1979, after reviewing the entire record, the Board voted to establish a proposed final MAC limit [2] of $.0250 per 25 mg tablet and $.0306 per 50 mg tablet of hydrochlorothiazide. The Administrator of HCFA concurred on April 25, 1979.

II. Amoxicillin 250 mg and 500 mg Capsules and Amoxicillin 125 mg/5 cc and 250mg/5 cc Oral Suspension

On July 27, 1978, in response to the Board's request, the Food, and Drug Administration notified the Board that amoxicillin is a certifiable antibiotic subject to the batch certification requirements of the Food Drug, and Cosmetic Act and that all manufacturers of currently marketed amoxicillin capsules had submitted *in vivo* bioequivalence data and that the FDA knew of no reason to recommend against the establishment of a MAC limit for amoxicillin 250 mg and 500 mg capsules and amoxicillin 125 mg/5 cc and 250 mg/5 cc oral suspension. On August 31, 1978 the Board published the following proposed MAC limits (43 FR 38941).

For the 250 mg amoxicillin capsules, the Board proposed a MAC limit of $.2316 per capsule. At this price, the HCFA survey reveals that the product is available from Squibb, the 13th largest ethical pharmaceutical manufacturer in the USA. In addition, the product is advertised in *Red Book* as being available at or below the proposed price from four other suppliers. For the 500 mg amoxicillin capsules, the Board proposed a MAC limit of $.4412 per capsule. At this price, the HCFA survey reveals that the product is available from Squibb. Additionally, four other suppliers have advertised *Red Book* prices below this price. For the amoxicillin 125 mg/5 cc oral suspension the Board proposed a MAC limit of $.0271 per cc. At this price, the HCFA survey reveals that the product is available from Robins, the 19th largest ethical pharmaceutical manufacturer in the United States and from Squibb. In addition, the product is advertised in *Red Book* as being available below this price from three other suppliers. For the amoxicillin 250 mg/5 cc oral suspension, the Board proposed a MAC level of $.0465 also based on the HCFA survey prices of Robins and Squibb.

We received two written comments concerning amoxicillin. E. R. Squibb stated that Squibb would be able to meet the demands generated by the departmentally funded programs of HEW on amoxicillin products. Beecham, Inc. claimed that Beecham Group Limited is the sole owner of the U.S. patents covering amoxicillin and that with the exception of Roche Laboratories, all other companies who are currently distributing amoxicillin in the United States are doing so without authorization from Beecham to manufacture or sell amoxicillin. The Board responded to this comment by extending the comment period for amoxicillin (*See* 43 FR 56102) and by writing directly to all of the U.S. manufacturers and distributors of amoxicillin, to request their view of Beecham's claim of patent infringement. We received responses from six companies which informed us that the issue is currently being litigated in the United States District Court for the District of Columbia, and which presented the view that Beecham's patents are invalid, unenforceable, were obtained through misconduct in the Patent Office, and had been exploited in violation of the antitrust laws of the United States.

The Board at this time expresses no view concerning the merits of Beecham's claims nor those of its competitors. We will not knowingly make use of an infringer's price in establishing MAC limits, but we do not consider the mere allegation of patent infringement to be sufficient to prevent the establishment of a MAC, particularly when the allegation is challenged by the alleged infringers. Until a court has ruled that an infringement exists, we do not consider ourselves precluded from considering the prices of product over which a patent infringement controversy exists.

In any case, circumstances made it unnecessary for the Board to decide the patent issue with regard to amoxicillin. Between the time of the announcement of proposed MAC limits on amoxicillin and the closing of the record, the updated HCFA survey revealed that Beecham itself, the 63rd largest ethical pharmaceutical manufacturer in the United States, had lowered its prices on all four strengths of amoxicillin below the proposed MAC levels. The Beecham products were being sold at: $.2108 for the 250 mg capsule; $.3942 for the 500 mg capsule; $.0232 per ml for the 125 mg/5 ml oral suspension; and $.0284 per ml for the 250 mg/5 ml oral suspension. The Board used the Beecham prices in arriving at a final MAC, and did not need to take into account the prices of the alleged infringers.

In its written comment, Beecham also argued that other amoxicillin products were not interchangeable with the Beecham product. Beecham supported its claim with a study which purported to show that with regard to the non-

[2] A proposed final MAC limit becomes final when the Administrator of HCFA concurs.

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Beecham amoxicillin products, after eight hours of stand time, a significant percentage of the amoxicillin initially suspended had deposited at the bottom of the bottle and was unavailable to the patient.

FDA reviewed Beecham's comment and responded as follows: "Beecham in their documentation is pointing out the fact that their product after reconstitution is stable and contains full potency per unit volume, whereas the competitors' product settles out and the supernate declines in unit volume potency at specified intervals. I believe that this argument is not germane to the issue at hand since the Biocraft/Robins product can be readily resuspended after shaking as per label instructions. The product then should contain the stipulated amount of active ingredient per unit volume. The issue here is one of pharmaceutical elegance, which Biocraft apparently has recognized and has corrected by having submitted an amendment to their Form 6 application to provide for reformulation with a suspending agent."

"The mere fact that the various brands of amoxicillin for oral suspension exhibit different physical characteristics in the suspensions after reconstitution of the dry powders is not surprising. It is, of course, a well known fact that most preparations, especially liquids, of a given therapeutic entity differ in appearance, viscosity, taste, resuspendablity, etc., etc., but do not differ in eliciting the desired pharmacological action within given and recognized safety/efficacy parameters. The mere fact that 'Brand A' stipulates different storage times and conditions than 'Brand B', doesn't make either preparation necessarily superior, nor does it preclude interchangeability. The storage time/condition issues raised by Beecham are more or less reminiscent of the horse power race of times past in the automotive industry. In the same vein, banana flavor isn't necessarily better than raspberry or lemon."

After reviewing the record in its entirety, on March 1978 the Board voted to establish proposed final MAC limits of $.2108 for the 250 mg capsule; $.3942 for the 500 mg capsule; $.0232 per ml for the 125 mg/5 ml oral suspension; and $.0284 per ml for the 250 mg/5 ml oral suspension, consistent with the HCFA survey prices of the Beecham products. The Administrator of HCFA concurred on April 25, 1979.

III. In reference to the erythromycin (base) tablets, the Board proposed MAC limits on August 31, 1978 (*See* 43 FR 38941). After reviewing data submitted to the FDA by Upjohn on Februrary 28, 1979, FDA advised that the Upjohn study appeared to be sound and did demonstrate that the film coated and enteric coated tablets of erythromycin (base) are bioinequivalent. Consequently, FDA revised its recommendation of July 27, 1978, and advised the Board that this demonstrated bioinequivalence is sufficient to preclude the establishment of a MAC at this time. On March 28, 1979, the Board accepted the FDA advice and voted not to establish MAC limits on erythromycin (base) 250 mg and 500 mg tablets.

Dated: April 24, 1979.

Peter J. Rodler,

Executive Secretary, Pharmoceutical Reimbursement Board.

Dated: April 25, 1979.

Leonard D. Schaeffer,

Administrator, Health Care Financing Administration.

[FR Doc. 79-14882 Filed 5-11-79; 8:45 am]

BILLING CODE 4110-35-M

Office of the Assistant Secretary for Health

Advisory Committees; Meetings

In accordance with section 10(a)(2) of the Federal Advisory Committee Act (Public Law 92-463), announcement is made of the following National Advisory bodies scheduled to meet during the month of June 1979:

Name: Health Care Technology Study Section
Date and time: June 11-13, 1979, 8:30 a.m.
Place: Georgetown Health Plan, Board Room, 4200 Wisconsin Avenue, NW., Washington, D.C. 20016.
Open: June 11, 8:30 a.m.-10:30 a.m.; closed for remainder of meeting.
Purpose: The Committee is charged with the initial review of grant applications for Federal assistance in the program areas administered by the National Center for Health Services Research.
Agenda: The open session of the meeting on June 11 will be devoted to a business meeting covering administrative matters and a presentation by the Director, NCHSR, to the Study Section. The closed portion of the meeting will be utilized in a review of health services research grant applications relating to the delivery, organization, and financing of health services. The closing is in accordance with the provisions set forth in section 552b(c)(6), Title 5, U.S. Code, and the Determination by the Assistant Secretary for Health, pursuant to Public Law 92-463.

Anyone wishing to obtain a roster of members, minutes of meetings, or other relevant information should contact Dr. Alan E. Mayers, National Center for Health Services Research, OASH, Room 7-50A, Center Building, 3700 East-West Highway, Hyattsville, Maryland 20782, Telephone (301) 436-6196.

Name: Health Services Developmental Grants Study Section
Date and time: June 20, 1979, 8 p.m.; June 21-22, 1979, 8 a.m.
Place: The Scott Room South, Gramercy Inn, 1618 Rhode Island Avenue, N.W., Washington, D.C. 20036.
Open: June 20, 8 p.m.-10 p.m.; closed for remainder of meeting.
Purpose: The Committee is charged with the initial review of grant applications for Federal assistance in the program areas administered by the National Center for Health Services Research.
Agenda: The open session of the meeting on June 20 will be devoted to a business meeting covering administrative matters and reports. During the closed sessions, the Study Section will be reviewing research grant applications relating to the delivery, organization, and financing of health services. The closing is in accordance with provisions set forth in section 552b(c)(6), Title 5, U.S. Code, and the Determination by the Assistant Secretary for health, pursuant to Public Law 92-463.

Anyone wishing to obtain a roster of members, minutes of meetings, or other relevant information should contact Mr. David McFall, National Center for Health Services Research, OASH, Room 7-50A, Center Building, 3700 East-West Highway, Hyattsville, Maryland 20782, Telephone (301) 436-6916.

Name: Health Services Research Study Section
Date and time: June 20, 1979, 2 p.m.; June 21-22, 1979, 8 a.m.
Place: Room 17-09, Conference Room B, Parklawn Building, 5600 Fishers Lane, Rockville, Maryland 20857.
Open: June 20, 2 p.m. to adjournment; closed for remainder of meeting.
Purpose: The Committee is charged with the initial review of grant applications for Federal assistance in the program areas administered by the National Center for Health Services Research.
Agenda: The open session on June 20 will be devoted to a business meeting covering administrative matters and reports. During the closed session, the Study Section will be reviewing research grant applications relating to the delivery, organization, and financing of health services. The closing is in accordance with provisions set forth in section 552b(c)(6), Title 5, U.S. Code and the Determination by the Assistant Secretary for Health, pursuant to Public Law 92-463.

Anyone wishing to obtain a roster of members minutes, of meetings, or other relevant information should contact Marco Montoya, Ph.D., National Center for Health Services Research, OASH, Room 7-50A, Center Building, 3700 East-West Highway, Hyattsville, Maryland 20782, Telephone (301) 436-6918.

Agenda items are subject to change as priorities dictate.

Wayne Richey, Jr.,

Acting Associate Director for Program Support Office of Health Research, Statistics, and Technology.

[FR Doc. 79-14926 Filed 5-11-79; 8:45 am]

BILLING CODE 4110-85-M

Office of Education

Career Education State Allotment Program; Closing Date for Transmittal of Fiscal Year 1979 Assurances

The Career Education Incentive Act of 1977, Public Law 95-207, provides for the allotment of Federal funds to State education agencies (SEA's) to assist them in developing comprehensive career education programs in local education agencies (LEA's). The Act further provides that every SEA desiring to receive funds appropriated for Fiscal Year 1979 shall submit to the U.S. Commissioner of Education a set of assurances which are specified in Section 6 of the Act.

Closing Date for Transmittal of Assurances: The closing date for transmittal of Fiscal Year 1979 assurances from SEA's desiring to receive funds under the Career Education Incentive Act is June 14, 1979. The assurances must be addressed to the U.S. Commissioner of Education, U.S. Office of Education, Washington, D.C. 20202, and must be signed by the Chief State School Officer. Assurances may be accepted only if they are mailed on or before the closing date.

Proof of mailing may consist of a legible U.S. Postal Service dated postmark or a legible mail receipt with the date of mailing stamped by the U.S. Postal Service. Private metered postmarks or mail receipts will not be accepted without a legible date stamped by the U.S. Postal Service. (NOTE: The U.S. Postal Service does not uniformly provide a dated postmark. SEA's should check with their local post office before relying on this method.) SEA's are encouraged to use registered or at least first class mail.

Available Funds: Approximately $18,700,000 are available for the Career Education State Allotment Program for Fiscal Year 1979. The funds are allotted on the basis of the population formula set forth in Section 5 of the Act. As provided in Section 5(b)(1) of the Act, funds reserved for SEA's not submitting the specified assurances by the closing date shall be reallotted by ratably increasing the allocations of each of the SEA's which have submitted the specified assurances.

Applicable Regulations: The regulations applicable to this program are:

(a) 45 CFR Parts 100 and 100b, General Provisions for Office of Education Programs.

These provisions relate to administrative, fiscal, property management, and other matters; and

(20 U.S.C. 1221 et seq.)

(b) 45 CFR Part 161, Career Education State Allotment Program, published as a notice of proposed rulemaking in the **Federal Register** on December 18, 1978.

(20 U.S.C. 2601-2614, 2502)

Further Information: For further information contact Dr. Sidney C. High, Jr., Office of Career Education, U.S. Office of Education (Room 3108-A, Regional Office Building 3), Washington, D.C. 20202, Telephone: (202) 245-2331.

(20 U.S.C. 2601-2614, 2502)

(Catalog of Federal Domestic Assistance Number 13.596; Career Education State Allotment Program)

Dated: May 8, 1979.

Ernest L. Boyer,

U.S. Commissioner of Education.

[FR Doc. 79-14958 Filed 5-11-79; 8:45 am]

BILLING CODE 4110-02-M

State Postsecondary Education Commissions Program—Intrastate Planning; Closing Date for Transmittal of Applications for Fiscal Year 1979

Applications are invited for new projects under the State Postsecondary Education Commissions Program—Intrastate Planning.

Authority for this program is contained in section 1203(a) of the Higher Education Act of 1965, as amended. (20 U.S.C. 1142b(a))

This program issues awards to State Postsecondary Education Commissions.

The purpose of the awards is to enable such State Commissions to conduct comprehensive inventories of, and studies with respect to, all public and private postsecondary educational resources in the State, including planning necessary for such resources to be better coordinated, improved, expanded, or altered so that all persons within the State who desire, and who can benefit from, postsecondary education may have an opportunity to do so.

Closing Date for Transmittal of Applications: Applications for awards must be mailed (postmarked) or hand delivered by June 11, 1979.

Applications Delivered by Mail: An application sent by mail must be addressed to the State Postsecondary Education Commissions Program Office, Bureau of Higher and Continuing Education, U.S. Office of Education, 400 Maryland Avenue S.W., Washington, D.C. 20202.

Proof of mailing must consist of a legible U.S. Postal Service dated postmark or a legible mail receipt with the date of mailing stamped by the U.S. Postal Service. Private metered postmarks or mail receipts will not be accepted unless they have been date stamped by the U.S. Postal Service. (NOTE: The U.S. Postal Service does not uniformly provide a dated postmark. Applicants should check with their local post office before relying on this method.) Applicants are encouraged to use first class and/or registered mail.

Applications Delivered by Hand: An application that is hand delivered must be taken to the U.S. Office of Education, State Postsecondary Education Commissions Program Office, Room 4052, Regional Office Building 3, 7th and D Streets S.W., Washington, D.C.

The State Postsecondary Education Commissions Program Office will accept hand delivered applications between 8:00 a.m. and 4:00 p.m. (Washington, D.C. time) daily, except Saturdays, Sundays, or Federal holidays.

Applications will not be accepted after 4:00 p.m. on the closing date.

Program Information: The allocation formula and program guidelines governing operation of this program are published in Part 199a of Title 45 of the Code of Federal Regulations.

Available Funds: $3,000,000 is available for the State Postsecondary Education Commissions Program—Intrastate Planning in Fiscal Year 1979.

These funds will support 55 State Postsecondary Education Commissions in conducting comprehensive postsecondary educational planning activities.

Application Forms: Application forms and program information packages have been mailed to the State Postsecondary Education Commissions.

Applications must be prepared and submitted in accordance with the regulations, instructions, and forms included in the program information packages.

Applicable Regulations: The regulations applicable to this program are:

(a) Office of Education General Provisions Regulations (45 CFR Parts 100 and 100a), and

(b) The allocation formula and program guidelines governing the State Postsecondary Education Commissions Program—Intrastate Planning (45 CFR Part 199a) published in the **Federal**

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Register on May 17, 1978, and revised in today's issue of the Federal Register.

Further Information: For further information contact Mr. Charles I. Griffith, Director, State Postsecondary Education Commissions Program, Bureau of Higher and Continuing Education (Room 4052, Regional Office Building 3), 400 Maryland Avenue, S.W., Washington, D.C. 20202. Telephone: (202) 245–2671.

(20 U.S.C. 1142b(a))

Dated: April 9, 1979.

(Catalog of Federal Domestic Assistance Number 13.550, State Postsecondary Education Commissions Program—Intrastate Planning)

Ernest L. Boyer,
U.S. Commissioner of Education.

[FR Doc. 79-15007 Filed 5-11-79; 8:45 am]

BILLING CODE 4110-02-M

FEDERAL COUNCIL ON THE AGING

Meeting

The Federal Council on the Aging was established by the 1973 amendments to the Older Americans Act of 1965 (Pub. L. 93–29, 42 U.S.C. 3015) for the purpose of advising the President, the Secretary of Health, Education, and Welfare, the Commissioner on Aging, and the Congress on matters relating to the special needs of older Americans.

Notice is hereby given pursuant to the Federal Advisory Committee Act (Pub. L. 92–463, 5 U.S.C. app. 1, sec. 10, 1976) that the Federal Council on the Aging will hold a meeting on May 31 from 9:30 a.m. to 5:00 p.m. and June 1, 1979 from 9:00 a.m. to 12:00 p.m., Room 5051, HEW North Building, Snow Room, 330 Independence Avenue, S.W., Washington, D.C. 20201.

The agenda will consist of discussions on developing national aging policy; the Council's policy position on age discrimination and the broad implications of the Council's mandated study to thoroughly evaluate programs under the Older Americans Act.

Statements will be given by the committees of the Council pertinent to FCA activities since the last meeting: the Workshop held in San Francisco with service providers from programs under the Older Americans Act; the hearing on Policy Issues of the Minority Elderly held in conjunction with the National Caucus on the Black Aged in Jackson, Mississippi and other items of importance to the welfare of older people from which specific policy recommendations may emerge.

Further information regarding the Council may be obtained from the Federal Council on the Aging Secretariat, 330 Independence Avenue, S.W., Room 4260 HEW–North Building, Washington, D.C. 20201, telephone (202) 245–0441.

FCA meetings are open for public observation.

Dated: May 3, 1979.

Nelson H. Cruikshank,
Chairman, Federal Council on the Aging.

[FR Doc. 79-14928 Filed 5-11-79; 8:45 am]

BILLING CODE 4110-92-M

DEPARTMENT OF THE INTERIOR

Bureau of Indian Affairs

Receipt of Petition for Federal Acknowledgment of Existence as an Indian Tribe

May 7, 1979.

This notice is published in the exercise of authority delegated by the Secretary of the Interior to the Assistant Secretary—Indian Affairs by 209 DM 8.

Pursuant to 25 CFR 54.8(a) notice is hereby given that the North Eastern United States Miami, Inter Tribal Council, c/o Mr. Frank Sanchez, 1535 Florencedale, Youngstown, Ohio 44505, has filed a petition for acknowledgment by the Secretary of the Interior that the group exists as an Indian tribe. The petition was received by the Bureau of Indian Affairs on April 9, 1979. The petition was forwarded and signed by Frank Sanchez.

This is a notice of receipt of petition and does not constitute notice that the petition is under active consideration. Notice of active consideration will be by mail to the petitioner and other interested parties at the appropriate time.

Under § 54.8(d) of the Federal regulations, interested parties may submit factual or legal arguments in support of or in opposition to the group's petition. Any information submitted will be made available on the same basis as other information in the Bureau of Indian Affairs files.

The petition may be examined by appointment in the Division of Tribal Government Services, Bureau of Indian Affairs, Department of the Interior, 18th and C Streets, N.W., Washington, D.C. 20242.

Rick Lavis,
Deputy Assitant Secretary—Indian Affairs.

[FR Doc. 79-14952 Filed 5-11-79; 8:45 am]

BILLING CODE 4310-02-M

Bureau of Land Management

Alaska Native Claims Selection

On April 3, 1975, Doyon, Limited filed selection application AA–8103–4, under the provisions of Sec. 12(c) of the Alaska Native Claims Settlement Act of December 18, 1971 (85 Stat. 688; 701; 43 U.S.C. 1601, 1611(c) (Supp. V. 1975)), for the surface and subsurface estate of certain lands withdrawn pursuant to Sec. 11(a)(1) for the Native village of Takotna. As to the lands described below, selection application AA–8103–4 submitted by Doyon, Limited, pursuant to Sec. 12(c) of the Alaska Native Claims Settlement Act, is properly filed and meets the requirements of the Alaska Native Claims Settlement Act and of the regulations issued pursuant thereto. These lands do not include any lawful entries perfected under or being maintained in compliance with laws leading to acquisition of title.

In view of the foregoing, the surface and subsurface estates of the following described lands, selected pursuant to Sec. 12(c), aggregating approximately 4,979 acres, are considered proper for acquisition by Doyon, Limited, and are hereby approved for conveyance pursuant to Sec. 14(e) of the Alaska Native Claims Settlement Act.

Kateel River Meridian, Alaska (Unsurveyed)

T. 29 S., R. 13 E.
Sec. 4, excluding Mineral Survey 1273 and Mineral Survey 1274.
Containing approximately 533 acres.

Seward Meridian, Alaska (Unsurveyed)

T. 33 N., R. 37 W.
Secs. 24, 25 and 26, all;
Containing approximately 1,920 acres.
T. 32 N., R. 38 W.
Secs. 12, 23, 31 and 32, all.
Containing approximately 2,526 acres.
Aggregating approximately 4,979 acres.

The conveyance issued for the surface and subsurface estates of the lands described above shall contain the following reservation to the United States:

1. Pursuant to Sec. 17(b) of the Alaska Native Claims Settlement Act of December 18, 1971 (85 Stat. 688, 708; 43 U.S.C. 1601, 1616(b) (Supp. V, 1975)), the following public easements, referenced by easement identification number (EIN) on the easement maps attached to this document, copies of which will be found in casefile AA–16630–4, are reserved to the United States. All easements are subject to applicable Federal, State, or municipal corporation regulation. The following is a listing of uses allowed for each type of easement. Any uses which are not specifically listed are prohibited.

50 Foot Trail—The uses allowed on a fifty (50) foot wide trail easement are: travel by foot, dogsleds, animals, snowmobiles, two and three-wheel vehicles, small and large all-terrain vehicles, track vehicles and four-wheel drive vehicles.

60 Foot Road—The uses allowed on a sixty (60) foot wide road easement are: travel by foot, dogsleds, animals, snowmobiles, two and three-wheel vehicles, small and large all-terrain vehicles, track vehicles, four-wheel drive vehicles, automobiles, and trucks.

a. (EIN 4 C3, D1, D9) An easement sixty (60) feet in width for an existing road from the Ophir Road in Sec. 24, T. 28 S., R. 13 E., Kateel River Meridian, southerly and westerly to the Ganes Creek placer mining area and public land. The uses allowed are those listed above for a sixty (60) foot wide road easement.

b. (EIN 2 C3, D1, D9) An easement for an existing access trail fifty (50) feet in width from Takotna southwesterly following the Takotna River to public lands toward the Moore Creek mining area. The uses allowed are those listed above for a fifty (50) foot wide trail easement. The season of use will be limited to winter use.

The grant of lands shall be subject to:

1. Issuance of a patent confirming the boundary description of the lands hereinabove granted after approval and filing by the Bureau of Land Management of the official plat of survey covering such lands;

2. Valid existing rights, therein, if any, including but not limited to those created by any lease (including a lease issued under Sec. 6(g) of the Alaska Statehood Act of July 7, 1958 (72 Stat. 339, 341; 48 U.S.C. Ch. 2, Sec. 6(g) (1970)), contract, permit, right-of-way, or easement and the right of the lessee, contractee, permittee, or grantee to the complete enjoyment of all rights, privileges, and benefits thereby granted to him. Further, pursuant to Sec. 17(b)(2) of ANCSA, any valid existing right recognized by ANCSA shall continue to have whatever right of access as is now provided for under existing law.

To date 848,821 acres of land, selected pursuant to Sec. 12(c) of the Alaska Native Claims Settlement Act, have been approved for conveyance to Doyon, Limited.

There are no inland water bodies considered to be navigable within the above described lands.

In accordance with Departmental regulation 43 CFR 2650.7(d), notice of this decision is being published once in the Federal Register and once a week, for four (4) consecutive weeks, in the ANCHORAGE TIMES. Any party claiming a property interest in lands affected by this decision may appeal the decision to the Alaska Native Claims Appeal Board, P.O. Box 2433, Anchorage, Alaska 99510 with a copy served upon both the Bureau of Land Management, Alaska State Office, 701 C Street, Box 13, Anchorage, Alaska 99513 and the Regional Solicitor, Office of the Solicitor, 510 L Street, Suite 408, Anchorage, Alaska 99510; also:

1. Any party receiving service of this decision shall have 30 days from the receipt of this decision to file an appeal.

2. Any unknown parties, any parties unable to be located after reasonable efforts have been expended to locate, and any parties who failed or refused to sign the return receipt shall have until June 13, 1979 to file an appeal.

3. Any party known or unknown who may claim a property interest which is adversely affected by this decision shall be deemed to have waived those rights which were adversely affected unless an appeal is timely filed with the Alaska Native Claims Appeal Board.

To avoid summary dismissal of the appeal, there must be strict compliance with the regulations governing such appeals. Further information on the manner of and requirements for filing an appeal may be obtained from the Bureau of Land Management, 701 C Street, Box 13, Anchorage, Alaska 99513.

If an appeal is taken, the adverse party to be served with a copy of the notice of appeal is:

Doyon, Limited, First and Hall Streets, Fairbanks, Alaska 99701.

Sue Wolf,
Chief, Branch of Adjudication.

[AA–8103–4]

[FR Doc. 79-14940 Filed 5-11-79; 8:45 am]

BILLING CODE 4310-84-M

Alaska Native Claims Selection

On April 3, 1975, Doyon, Limited filed selection application AA–8103–4, under the provisions of Sec. 12(c) of the Alaska Native Claims Settlement Act of December 18, 1971 (85 Stat. 688, 701; 43 U.S.C. 1601, 1611(c) (Supp. V. 1975)), for the surface and subsurface estate of certain lands withdrawn pursuant to Sec. 11(a)(1) for the Native village of Takotna. As to the lands described below, selection application AA–8103–4 submitted by Doyon, Limited, pursuant to Sec. 12(c) of the Alaska Native Claims Settlement Act, is properly filed and meets the requirements of the Alaska Native Claims Settlement Act and of the regulations issued pursuant thereto. These lands do not include any lawful entries perfected under or being maintained in compliance with laws leading to acquisition of title.

In view of the foregoing, the surface and subsurface estates of the following described lands, selected pursuant to Sec. 12(c), aggregating approximately 96,224 acres, are considered proper for acquisition by Doyon, Limited, and are hereby approved for conveyance pursuant to Sec. 14(e) of the Alaska Native Claims Settlement Act.

Kateel River Meridian, Alaska (Unsurveyed)

T. 29 S., R. 13 E.,
Secs. 5 and 6, all.
Containing approximately 1,125 acres.
T. 28 S., R. 14 E.,
Secs. 1 to 17, inclusive, all;
Secs. 21 to 27, inclusive, all;
Secs. 34, 35, and 36, all.
Containing approximately 17,261 acres.
T. 29 S., R. 15 E.,
Sec. 1, excluding the Takotna River;
Secs. 4, 5, and 6, all.
Containing approximately 2,199 acres.
T. 28 S., R. 16 E.,
Secs. 1 to 36, inclusive, excluding the Takotna River.
Containing approximately 22,540 acres.

Seward Meridian, Alaska (Unsurveyed)

T. 32 N., R. 36 W.,
Secs. 4 to 9, inclusive, all;
Secs. 10 and 11, excluding PLO 731;
Secs. 13 to 36, inclusive, all.
Containing approximately 19,816 acres.
T. 33 N., R. 37 W.,
Secs. 7 to 23, inclusive, all;
Secs. 27 to 34, inclusive, all.
Containing approximately 15,975 acres.
T. 32 N., R. 38 W.,
Secs. 1 to 11, inclusive, all;
Secs. 14 to 22, inclusive, all;
Secs. 29 and 30, all;
Sec. 36, excluding the Takotna River.
Containing approximately 14,480 acres.
T. 34 N., R. 38 W.,
Secs. 31 and 32, all;
Sec. 33, excluding Mineral Survey application AA–12496;
Secs. 34 and 35, all.
Containing approximately 2,828 acres.
Aggregating approximately 96,224 acres.

The conveyance issued for the surface and subsurface estates of the lands described above shall contain the following reservation to the United States:

1. Pursuant to Sec. 17(b) of the Alaska Native Claims Settlement Act of December 18, 1971 (85 Stat. 688, 708; 43 U.S.C. 1601, 1616(b) (Supp. V, 1975)), the following public easements, referenced by easement identification number (EIN) on the easement maps attached to this document, copies of which will be found in casefile AA–16630–4, are reserved to the United States. All easements are subject to applicable Federal, State, or municipal corporation regulation. The

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following is a listing of uses allowed for each type of easement. Any uses which are not specifically listed are prohibited.

25 Foot Trail—The uses allowed on a twenty-five (25) foot wide trail easement are: travel by foot, dogsleds, animals, snowmobiles, two and three-wheel vehicles, and small all-terrain vehicles (less than 3,000 lbs. Gross Vehicle Weight (GVW)).

50 Foot Trail—The uses allowed on a fifty (50) foot wide trail easement are: travel by foot, dogsleds, animals, snowmobiles, two and three-wheel vehicles, small and large all-terrain vehicles, track vehicles and four-wheel drive vehicles.

a. (EIN 17 D1) An easement for an existing access trail twenty-five (25) feet in width from the Ophir Road in Sec. 5, T. 28 S., R. 13 E., Kateel River Meridian, southerly along Canes Creek to public lands. The uses allowed are those listed above for a twenty-five (25) foot wide trail easement.

b. (EIN 23 C3, D1, D9) An easement for an existing access trail twenty-five (25) feet in width from the Iditarod Trail near Takotna thence northeasterly to public lands in Sec. 35, T. 28 S., R. 15 E., Kateel River Meridian. The uses allowed are those listed above for a twenty-five (25) foot wide trail easement.

c. (EIN 38 C5) An easement for a proposed access trail fifty (50) feet in width from Sec. 31, T. 28 S., R. 17 E., Kateel River Meridian, southwesterly to Sec. 1, T. 29 S., R. 16 E. Kateel River Meridian. The uses allowed are those listed above for a fifty (50) foot wide trail easement.

d. (EIN 39 C5) An easement for a proposed access trail fifty (50) feet in width from Sec. 36, T. 28 S., R. 15 E., Kateel River Meridian, southeasterly to Sec. 6, T. 29 S., R. 16 E. Kateel River Meridian. The uses allowed are those listed above for a fifty (50) foot wide trail easement.

e. (EIN 40 C5) An easement for a proposed access trail fifty (50) feet in width from Sec. 31, T. 28 S., R. 15 E., Kateel River Meridian, southwesterly to Sec. 1, T. 29 S., R. 14 E. Kateel River Meridian. The uses allowed are those listed above for a fifty (50) foot wide trail easement.

f. (EIN 49 E) An easement for a proposed access trail fifty (50) feet in width from Sec. 31, T. 32 N., R. 35 W., Seward Meridian, southwesterly to Sec. 1, T. 31 N., R. 36 W., Seward Meridian. The uses allowed are those listed above for a fifty (50) foot wide trail easement.

The grant of lands shall be subject to:

1. Issuance of a patent confirming the boundary description of the lands hereinabove granted after approval and filing by the Bureau of Land Management of the official plat of survey covering such lands;

2. Valid existing rights, therein, if any, including but not limited to those created by any lease (including a lease issued under Sec. 6(g) of the Alaska Statehood Act of July 7, 1958 (72 Stat. 339, 341; 48 U.S.C. Ch. 2, Sec. 6(g) (1970))), contract, permit, right-of-way, or easement and the right of the lessee, contractee, permittee, or grantee to the complete enjoyment of all rights, privileges, and benefits thereby granted to him. Further, pursuant to Sec. 17(b)(2) of ANCSA, any valid existing right recognized by ANCSA shall continue to have whatever right of access as is now provided for under existing law.

To date 843,842 acres of land, selected pursuant to Sec. 12(c) of the Alaska Native Claims Settlement Act, have been approved for conveyance to Doyon, Limited.

Only the following water body within the described lands is considered to be navigable:

The Takotna River.

In accordance with Departmental regulation 43 CFR 2650.7(d), notice of this decision is being published once in the Federal Register and once a week, for four (4) consecutive weeks, in the ANCHORAGE TIMES. Any party claiming a property interest in lands affected by this decision may appeal the decision to the Alaska Native Claims Appeal Board, P.O. Box 2433, Anchorage, Alaska 99510 with a copy served upon both the Bureau of Land Management, Alaska State Office, 701 C Street, Box 13, Anchorage, Alaska 99513 and the Regional Solicitor, Office of the Solicitor, 510 L Street, Suite 408, Anchorage, Alaska 99510; also:

1. Any party receiving service of this decision shall have 30 days from the receipt of this decision to file an appeal.

2. Any unknown parties, any parties unable to be located after reasonable efforts have been expended to locate, and any parties who failed or refused to sign the return receipt shall have until June 13, 1979 to file an appeal.

3. Any party known or unknown who may claim a property interest which is adversely affected by this decision shall be deemed to have waived those rights which were adversely affected unless an appeal is timely filed with the Alaska Native Claims Appeal Board.

To avoid summary dismissal of the appeal, there must be strict compliance with the regulations governing such appeals. Further information on the manner of and requirements for filing an appeal may be obtained from the Bureau of Land Management, 701 C Street, Box 13, Anchorage, Alaska 99513.

If an appeal is taken, the adverse party to be served with a copy of the notice of appeal is: Doyon, Limited, First and Hall Streets, Fairbanks, Alaska 99701.

Sue Wolf,
Chief, Branch of Adjudication.

[AA-8103-4]
[FR Doc. 79-14941 Filed 5-11-79; 8:45 am]
BILLING CODE 4310-84-M

Alaska Native Claims Selection

On October 3, 1974 and December 5, 1975, Saguyak, Incorporated filed selection applications AA-6657-D, AA-6657-E, AA-6657-H and AA-6657-A2 under the provisions of Sec. 12 of the Alaska Native Claims Settlement Act of December 18, 1971 (85 Stat. 688, 701; 43 U.S.C. 1601, 1611 (Supp. V, 1975)) (ANCSA), for the surface estate of certain lands in the Clarks Point area.

As to the lands described below, the applications, as amended, are properly filed and meet the requirements of the Alaska Native Claims Settlement Act and of the regulations issued pursuant thereto. These lands do not include any lawful entry perfected under or being maintained in compliance with laws leading to acquisition of title.

In view of the foregoing, the surface estate of the following described lands, selected pursuant to Sec. 12(a), aggregating approximately 11,520 acres, and approximately 16,885 acres, selected pursuant to Sec. 12(b) are considered proper for acquisition by Saguyak, Incorporated and is hereby approved for conveyance pursuant to Sec. 14(a) of the Alaska Native Claims Settlement Act:

Lands selected pursuant to Sec. 12(a):

Seward Meridian, Alaska (Unsurveyed)

T. 14 S., R. 54 W.,
Secs. 15 and 22, all;
Secs. 27 and 34, all.
Containing approximately 2,560 acres.

T. 15 S., R. 54 W.,
Secs. 3, 10 and 15, all;
Secs. 21, 22 and 23, all;
Secs. 25 to 28, inclusive, all;
Secs. 33 to 36, inclusive, all.
Containing approximately 8,960 acres.
Aggregating approximately 11,520 acres.
Lands selected pursuant to Sec. 12(b):

Seward Meridian, Alaska (Unsurveyed)

T. 14 S., R. 54 W.,
Secs. 13 and 14, all;
Secs. 23 to 26, inclusive, all;
Secs. 35 and 36, all.
Containing approximately 5,120 acres.

T. 15 S., R. 54 W.,
Secs. 1 and 2, all;
Secs. 11 to 14, inclusive, all;

Sec. 24, all.
Containing approximately 4,480 acres.

T. 15 S., R. 57 W.,
Secs. 5 to 8, inclusive, all;
Secs. 17, 20 and 21, all;
Secs. 22 and 27 (fractional), all;
Secs. 28, 29 and 32, all;
Secs. 33 and 34 (fractional), all.
Containing approximately 7,285 acres.
Aggregating approximately 16,885 acres.
Total aggregated acreage approximately 28,405 acres.

The conveyance issued for the surface estate of the lands described above shall contain the following reservations to the United States:

1. The subsurface estate therein, and all rights, privileges, immunities and appurtenances, of whatsoever nature, accruing unto said estate pursuant to the Alaska Native Claims Settlement Act of December 18, 1971 (85 Stat. 688, 704; 43 U.S.C. 1601, 1613(f) (Supp. V, 1975)); and

2. Pursuant to Sec. 17(b) of the Alaska Native Claims Settlement Act of December 18, 1971 (85 Stat. 688, 708; 43 U.S.C. 1601, 1616(b) (Supp. V, 1975)), the following public easements, referenced by easement identification number (EIN) on the easement maps in case file AA-6657-EE are reserved to the United States and subject to further regulation thereby:

a. (EIN 3-C5) A continuous linear easement twenty-five (25) feet in width upland of and parallel to the mean high tide line in order to provide access to and along the marine coastline and use of such shore for purposes such as beaching of watercraft or aircraft, travel along the shore, recreation, and other similar uses. Deviations from the waterline are permitted when specific conditions so require, e.g., impassable topography or waterfront obstruction. This easement is subject to the right of the owner of the servient estate to build upon such easement a facility for public or private purposes, such right to be exercised reasonably and without undue or unnecessary interference with or obstruction of the easement. When access along the marine coastline easement is to be obstructed, the owner of the servient estate will be obligated to convey to the United States an acceptable alternate access route, at no cost to the United States, prior to the creation of such obstruction.

b. (EIN 6-C5) An easement for an existing access trail twenty-five (25) feet in width from the village of Clark's Point in Sec. 25, T. 15 S., R. 56 W., Seward Meridian, Alaska, easterly to Portage Creek. The usage of roads and trails will be controlled by applicable State or Federal law or regulation.

c. (EIN 11-C4) The right of the United States to enter upon the lands hereinabove granted for cadastral, geodetic or other survey purposes is reserved, together with the right to do all things necessary in connection therewith.

These reservations have not been conformed to the Departmental easement policy announced March 3, 1978 and published as final rulemaking on November 27, 1978, 43 FR 55328. Conformance will be made at a later date in accordance with the terms and conditions of the agreement dated January 18, 1977, between the Secretary of the Interior, Bristol Bay Native Corporation, Saguyak, Incorporated and other Bristol Bay village corporations.

The grant of the above-described lands shall be subject to:

1. Issuance of a patent confirming the boundary description of the lands hereinabove granted after approval and filing by the Bureau of Land Management of the official plat of survey covering such lands;

2. Valid existing rights therein, if any, including but not limited to those created by any lease (including a lease issued under Sec. 6(g) of the Alaska Statehood Act of July 7, 1958 (72 Stat. 339, 341; 48 U.S.C Ch. 2, Sec. 6(g) (1970))), contract, permit, right-of-way, or easement, and the right of the lessee, contractee, permittee, or grantee to the complete enjoyment of all rights, privileges, and benefits thereby granted to him. Further, pursuant to Sec. 17(b)(2) of ANCSA, any valid existing right recognized by ANCSA shall continue to have whatever right of access as is now provided for under existing law;

3. Requirements of Sec. 14(c) of the Alaska Native Claims Settlement Act of December 18, 1971 (85 Stat. 688, 703; 43 U.S.C. 1601, 1613(c) (Supp. V, 1975)), that the grantee hereunder convey those portions, if any, of the lands hereinabove granted, as are prescribed in said section; and

4. The terms and conditions of the agreement dated January 18, 1977, between the Secretary of the Interior, Bristol Bay Native Corporation, Saguyak, Incorporated and other Bristol Bay village corporations. A copy of the agreement shall be attached to and become a part of the conveyance document and shall be recorded therewith. A copy of the agreement is located in the Bureau of Land Management easement case file for Saguyak, Incorporated serialized AA-6657-EE. Any person wishing to examine this agreement may do so at the Bureau of Land Management, Alaska State Office, 701 C Street, Anchorage, Alaska 99513.

Saguyak, Incorporated is entitled to conveyance of 92,160 acres of land selected pursuant to Sec. 12(a) and the reallocation of approximately 17,280 acres of land pursuant to Sec. 12(b) of the Alaska Native Claims Settlement Act. To date; approximately 88,787 acres of the 12(a) entitlement and approximately 16,885 acres of the 12(b) reallocation have been approved for conveyance. The remaining 12(a) entitlement of approximately 3,373 acres, and approximately 395 acres of the 12(b) reallocation will be conveyed at a later date.

Pursuant to Sec. 14(f) of the Alaska Native Claims Settlement Act, conveyance of the subsurface estate of the lands described above shall be granted to Bristol Bay Native Corporation when conveyance is granted to Saguyak, Incorporated for the surface estate, and shall be subject to the same conditions as the surface conveyance.

There are no inland water bodies considered to be navigable within the described lands.

In accordance with Departmental regulation 43 CFR 2650.7(d), notice of this decision is being published once in the Federal Register and once a week, for four (4) consecutive weeks, in the Anchorage Times. Any party claiming a property interest in land affected by this decision may appeal the decision to the Alaska Native Claims Appeal Board, P.O. Box 2433, Anchorage, Alaska 99510 with a copy served upon both the Bureau of Land Management, Alaska State Office, 701 C Street, Box 13, Anchorage, Alaska 99513 and the Regional Solicitor, Office of the Solicitor, 510 L Street, Suite 408, Anchorage, Alaska 99501, also:

1. Any party receiving service of this decision shall have 30 days from the receipt of this decision to file an appeal.

2. Any unknown parties, any parties unable to be located after reasonable efforts have been expended to locate, and any parties who failed or refused to sign the return receipt shall have until June 13, 1979 to file an appeal.

3. Any party known or unknown who may claim a property interest which is adversely affected by this decision shall be deemed to have waived those rights which were adversely affected unless an appeal is timely filed with the Alaska Native Claims Appeal Board.

4. If Saguyak, Incorporated or Bristol Bay Native Corporation objects to any easement which is identified herein for reservation in the conveyance, which is subject to the discretion of the State

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contract shall be open to the general

the above address on or before June 13,

Glebe Road, Arlington, Virginia, or by

Director and not reserved pursuant to an express Secretarial directive, a petition for reconsideration must be filed within 30 days from receipt of service with the State Director, Bureau of Land Management, 701 C Street, Box 13, Anchorage, Alaska 99513. A copy of the petition should be served upon the Regional Solicitor, Office of the Solicitor, 510 L Street, Suite 408, Anchorage, Alaska 99501. If a petition for reconsideration is not filed, it will be deemed that the right to contest any such easement has been waived.

To avoid summary dismissal of the appeal, there must be strict compliance with the regulations governing such appeal. Further information on the manner of and requirements for filing an appeal may be obtained from the Alaska State Office, 701 C Street, Box 13, Anchorage, Alaska 99513.

If an appeal is taken, the adverse parties to be served with a copy of the notice of appeal are:

Saguyak, Incorporated, Clarks Point, Alaska 99569.

Bristol Bay Native Corporation, P.O. Box 198, Dillingham, Alaska 99576.

Sue A. Wolf,
Chief, Branch of Adjudication.

[AA-8657-D, AA-8657-E, AA-8657-H and AA8657-A2]
[FR Doc. 79-14942 Filed 5-11-79; 8:45 am]
BILLING CODE 4310-84-M

Colorado; Grand Junction District; Redelegation of Authority to Area Managers

Under authority of Bureau Order 701, dated July 23, 1964, and as amended April 26, 1966, the Area Managers administering the Grand Junction and Glenwood Springs Resource Areas of the Grand Junction District, Colorado, are authorized to act on the following matters: Within their respective areas of responsibility in accordance with existing policies and regulations of the Department, and under direct superision of the Grand Junction District Manager, they may exercise the functions of the Bureau Director on the matters specified below subject to the limitations of Bureau Order 701, Part III.

Authority in Specific Matters

Sec. 3.3 Fiscal Affairs. The Area Manager may take action on:

(d) Trespass: Determine liability and issue notice of grazing treaspass; recommend as to acceptance of settlement offer made.

Sec. 3.6 Minerals. The Area Manager may take action on:

(m) Concurrence with Surface Use Plans for Oil and Gas Lease Exploration.

Sec. 3.7 Range Management. The Area Manager may take action on:

(a) Within grazing districts, the issuance of licenses and permits to graze or trail livestock.

(b) Outside grazing districts, the issuance of grazing leases.

(d) Soil and moisture conservation; control of halogeton glomeratus.

Sec. 3.8 Forest Management. The Area Manager may take all action on:

(a) Disposition of forest products including sales of timber not exceeding $500 in value.

Sec. 3.9 Land use. The Area Manager may take all action on:

(g) Disposition of material other than forest products, not exceeding $500 in value.

(o) Temporary land-use permits. (1) Issue temporary land-use permits for public lands within the grazing and forest districts.

(z) Issuance, collection of fees and monitoring Special Recreation Use Permits.

The District Manager may at any time temporarily reserve, restrict, or withhold any portion of the above delegated authority through the use of Form 1213-1—District Office Authority and Responsibility Guide.

This order will become effective June 4, 1979, and amends redelegation of authority published in the FR, Jan. 3, 1974, Vol. 39, No. 2, page 833.

Dated: May 7, 1979.

David A. Jones,
District Manager

Approved:

Dale R. Andrus,
State Director.

[FR Doc. 79-14950 Filed 5-11-79; 8:45 am]
BILLING CODE 4310-84-M

State Director, New Mexico; Redelegation of Authority

Under the authority of Secretarial Order No. 3003, dated April 26, 1977, subject to the limitation of section 4(b) of that order, the New Mexico State Director is authorized to issue all initial grants, permits, and amendments thereto, across public and other appropriate Federal lands for the Rocky Mountain Pipeline project and associated ancillary facilities in the States of New Mexico, Colorado, Utah, and Wyoming. The New Mexico State Director is also authorized to enforce the terms and conditions of all grants and permits, and amendments thereto, across public lands and to enter into cooperative agreements with other Federal agencies for the enforcement of terms and conditions of grants and permits, and amendments thereto, across other Federal lands for the Rocky Mountain Pipeline project and associated ancillary facilities in the States of New Mexico, Colorado, Utah, and Wyoming. These authorizations are made pursuant to section 28 of the Mineral Leasing Act of 1920, as amended, 30 U.S.C. 185.

The New Mexico State Director shall not redelegate this authority.

Frank Gregg,
Director.

April 30, 1979.

[FR Doc. 79-14951 Filed 5-11-79; 8:45 am]
BILLING CODE 4310-84-M

Bureau of Reclamation

Contract Negotiations With the El Dorado Irrigation District, Calif.; Intent to Begin Negotiations on an Amendatory Water Service Contract

The Department of the Interior, through the Bureau of Reclamation, intends to negotiate with El Dorado Irrigation District, Placerville, California, an amendment to contract No. 14-06-200-1357A pursuant to which water service is provided from Folsom Reservoir, Central Valley Project, California. The contract will be renegotiated pursuant to the Reclamation Project Act of 1939 (53 Stat. 1187) and the American River Basin Development Act (63 Stat. 852).

The district primarily serves a suburban constituency but has not experienced the population growth anticipated when service was initiated under the current contract. Pursuant to the existing contract, the district's current annual contractual entitlement of 6,116 acre-feet of water from Folsom Reservoir will be greatly reduced unless the district makes a $114,714 lump-sum payment this year for water service. This lump-sum payment will be a hardship to the district at this time. In addition, the district's population is expected to rise dramatically in the future, and the district wishes to retain water service sufficient to support such growth.

The Bureau of Reclamation proposes to amend the existing contract to establish the district's maximum annual water supply at 6,500 acre-feet. The district will be required to pay for this quantity of water each year at the initial water rate of $9.00 per acre-foot. This rate will be subject to review and adjustment every 5 years.

All meetings scheduled by the Bureau of Reclamation with the district for the purpose of discussing terms and conditions of the proposed amendatory contract shall be open to the general public as observers. Advance notice of meetings shall be furnished only to those parties having previously furnished a written request for such notice to the office identified below at least one week prior to any meetings. All written correspondence concerning the proposed contract shall be made available to the general public pursuant to the terms and procedures of the Freedom of Information Act (80 Stat. 383), as amended.

The public is invited to submit written comments on the form of the proposed contract not later than 30 days after the completed contract draft is declared to be available to the public. The Commissioner of Reclamation will review comments submitted and based on the number, source, and nature of the comments will decide whether to hold a public hearing.

For further information on scheduled negotiating sessions and the proposed amendatory contract, please contact Mrs. Betty Riley, Repayment Specialist, Division of Water and Power Resources Management, Bureau of Reclamation, 2800 Cottage Way, Sacramento, California 95825, telephone No. (916) 484-4620.

Dated: April 30, 1979.

R. Keith Higginson,
Commissioner of Reclamation.

[FR Doc. 79-13806 Filed 5-11-79; 8:45 am]
BILLING CODE 4310-09-M

Fish and Wildlife Service

Endangered Species Permit; Notice of Receipt of Application

Applicant: International Animal Exchange, 1489 E. Nine Mile Rd., Ferndale, Michigan 48220.

The applicant requests a permit to import two tigers (*Panthera tigris tigris*) from the African Lion Safari, Rockton, Ontario, Canada. These tigers will eventually be re-exported to Japan for propagation.

Humane care and treatment during transport has been indicated by the applicant.

Documents and other information submitted with this application are available to the public during normal business hours in Room 601, 1000 N. Glebe Road, Arlington, Virginia, or by writing to the Director, U.S. Fish and Wildlife Service (WPO), Washington, D.C. 20240.

This application has been assigned file number PRT 2-4170. Interested persons may comment on this application by submitting written data, views, or arguments to the Director at the above address on or before June 13, 1979. Please refer to the file number when submitting comments.

Dated: May 3, 1979.

Donald G. Donahoo,
Chief, Permit Branch, Federal Wildlife Permit Office, Fish and Wildlife Service.

[FR Doc. 79-14818 Filed 5-11-79; 8:45 am]
BILLING CODE 4310-55-M

Endangered Species Permit; Notice of Receipt of Application

Applicant: The Los Angeles Zoo, 5333 Zoo Drive, Los Angeles, California 90027.

The applicant requests a permit to purchase in interstate commerce one female Seledang (Gaur), *Bos gaurus*, from the Oklahoma City Zoo, Oklahoma, for zoological exhibition and enhancement of propagation.

Humane care and treatment during transport has been indicated by the applicant.

Documents and other information submitted with this application are available to the public during normal business hours in Room 601, 1000 N. Glebe Road, Arlington, Virginia, or by writing to the Director, U.S. Fish and Wildlife Service (WPO), Washington, D.C. 20240.

This application has been assigned file number PRT 2-4169. Interested persons may comment on this application by submitting written data, views, or arguments to the Director at the above address on or before June 13, 1979. Please refer to the file number when submitting comments.

Dated: May 3, 1979.

Donald G. Donahoo,
Chief, Permit Branch, Federal Wildlife Permit Office, Fish and Wildlife Service.

[FR Doc. 79-14820 Filed 5-11-79; 8:45 am]
BILLING CODE 4310-55-M

Endangered Species Permit; Notice of Receipt of Application

Applicant: Richard S. Rundel, 19235 Carriage Rd., Sonoma, California 95476.

The applicant requests a permit to purchase in interstate commerce three captive-bred golden parakeets (*Aratinga quaruba*) from the Oklahoma City Zoo, Oklahoma, for zoological exhibition and enhancement of propagation.

Humane care and treatment during transport has been indicated by the applicant.

Documents and other information submitted with this application are available to the public during normal business hours in Room 601, 1000 N. Glebe Road, Arlington, Virginia, or by writing to the Director, U.S. Fish and Wildlife Service (WPO), Washington, D.C. 20240.

This application has been assigned file number PRT 2-4172. Interested persons may comment on this application by submitting written data, views, or arguments to the Director at the above address on or before June 13, 1979. Please refer to the file number when submitting comments.

Dated: May 3, 1979.

Donald G. Donahoo,
Chief, Permit Branch, Federal Wildlife Permit Office, Fish and Wildlife Service.

[FR Doc. 79-14821 Filed 5-11-79; 8:45 am]
BILLING CODE 4310-55-M

Notice of Receipt of Application for Permit

Notice is hereby given that an Applicant has applied in due form for an amendment to a permit, PRT 2-319, to authorize placing tags on all sea otters taken under the authority of this permit. This application has been submitted as authorized by the Marine Mammal Protection Act of 1972 (16 U.S.C. 1361-1407), and the Regulations Governing the Taking and Importing of Marine Mammals (50 CFR Part 18).

1. Applicant:

a. Name: California Department of Fish and Game.

b. Address: 1416 Ninth St., Sacramento, California 95814.

2. Type of Permit: Marine mammal.

3. Name and Number of Animals: Sea otter (Enhydra lutris nereis) 100.

4. Type of Activity: Scientific research.

5. Location of Activity: California and adjacent Pacific coastal waters.

6. Period of Activity: Permit to expire September 30, 1980.

The purpose of this application for an amendment is to authorize: 1) the use of the anesthetics M-99 and/or Halothane when necessary; 2) tag pups that are 12 pounds or larger; 3) use a small monel ear tag; 4) use tangle nets at night as long as they can be closely monitored; 5) conduct simulated transplant experiments to study effects translocation has on the health of the otters; and 6) extend the expiration date of the permit to September 30, 1980.

Concurrent with the publication of this notice in the **Federal Register** the Federal Wildlife Permit Office is forwarding copies of this application to the Marine Mammal Commission and the Committee of Scientific Advisors.

The application has been assigned file number PRT 2-319A. Written data or views, or requests for copies of the

complete application or for a public

National Park Service

previously identified for selection,

b. *Other.* The High Commissioner shall also

complete application or for a public hearing on this application should be submitted to the Director, U.S. Fish and Wildlife Service (WPO), Washington, D.C. 20240, on or before June 13, 1979. Those individuals requesting a hearing should set forth the specific reasons why a hearing on this particular application would be appropriate. The holding of such hearing is at the discretion of the Director.

All statements and opinions contained in this application are summaries of those of the Applicant and do not necessarily reflect the views of the United States Fish and Wildlife Service.

Documents submitted in connection with the above application are available for review during normal business hours in Room 601, 1000 N. Glebe Rd., Arlington, Virginia.

Dated: May 3, 1979.

Donald G. Donahoo,

Chief, Permit Branch, Federal Wildlife Permit Office.

[FR Doc. 79-14817 Filed 5-11-79; 8:45 am]

BILLING CODE 4310-55-M

Threatened Species Permit; Notice of Receipt of Application

Permit Holder: Joseph M. Kulina, Southlake—Rd., Carmel, New York 10512.

The permittee wishes to renew his Captive-Self Sustaining Population permit authorizing the purchase and sale in interstate commerce, for the purpose of propagation, all species of pheasants listed in 50 CFR Section 17.11 as T(C/P). Humane shipment and care in transit is assured.

Documents and other information submitted with this renewal request are available to the public during normal business hours in Room 601, 1000 N. Glebe Road, Arlington, Virginia, or by writing to the Director, U.S. Fish and Wildlife Service (WPO), Washington, D.C. 20240.

This permit has been assigned file number PRT 2-231. Interested persons may comment on this application by submitting written data, views, or arguments to the Director at the above address on or before June 13, 1979. Please refer to the file number when submitting comments.

Dated: May 3, 1979.

Donald G. Donahoo,

Chief, Permit Branch, Federal Wildlife Permit Office, Fish and Wildlife Service.

[FR Doc 79-14819 Filed 5-11-79; 8:45 am]

BILLING CODE 4310-55-M

National Park Service

Availability of Environmental Assessment Land Exchange and Conveyance Agreement With Arctic Slope Regional Corporation, Gates of Arctic National Monument Alaska

Notice is hereby given that the National Park Service has prepared an environmental assessment regarding a proposed land exchange within the Gates of the Arctic National Monument, Alaska, and associated land conveyance north of Gates of the Arctic.

The assessment document is available from or may be inspected at the Area Director's Office Alaska Area Office, National Park Service, 540 West 5th Avenue, Anchorage, Alaska 99501 or Legislative Division, National Park Service, Main Interior, Room 3208, Washington, D.C. 20240, or Denver Service Center, National Park Service, 755 Parfet Street, Post Office Box 25287, Denver, Colorado 80225.

The Environmental Assessment discusses the environmental consequences of a proposed land exchange and conveyance agreement mutually developed by the Department of the Interior and the Arctic Slope Regional Corporation (ASRC) and agreed to in principle by the signing of a Statement of Principles. As part of the Statement of Principles alternative, a land exchange within the Gates of the Arctic National Monument (Alaska) would be consummated involving: a consolidation of ASRC and National Park Service (NPS) holdings near Anaktuvuk Pass (approximately 73,000 acres to ASRC and 112,000 acres to NPS), ASRC conveying to NPS its land interests and selection rights in the John River Valley (approximately 167,000 acres), the Secretary conveying the fee interest to ASRC in the Kurupa Lake area (approximately 19,000 acres) with reserved visitor access easements and protective convenants for oil and gas activities, and the Secretary conveying the subsurface estate to ASRC in the Itkillik Lake area (approximately 16,000 acres) excepting sand and gravel. The exchange would meet the needs of NPS and ASRC for a more logical land management pattern, NPS desires for land with recreational and scenic value, and ASRC desires for land with some mineral development potential, but could have some adverse environmental consequences if mineral development occurs. Also as a part of the Statement of Principles alternative, the Secretary would convey approximately 680,000 acres to ASRC north of the monument in the Killik River; land which ASRC had previously identified for selection, including some lands within the Secretary's emergency withdrawal. This conveyance would help meet ASRC's land entitlement under the Alaska Native Claims Settlement Act, but could have adverse environmental impacts if mineral development occurs. The environmental consequences of the no action alternative include perpetuation of checkerboard land management in the Monument, frustrating Native desires for land entitlements, and potential loss of Monument lands. The Statement of Principles is preferred.

Written statements regarding the environmental assessment are invited and should be addressed to Area Director, Alaska Area Office, National Park Service, 540 West 5th Avenue, Anchorage, Alaska 99501.

The official record for written comments will close on June 8, 1979.

John E. Cook,

Area Director, Alaska Area Office.

May 8, 1979.

[FR Doc. 79-14973 Filed 5-11-79; 8:45 am]

BILLING CODE 4310-70-M

Office of the Secretary

Trust Territory of the Pacific Islands

Notice is hereby given that the Secretary of the Interior has issued Order No. 3039 dated April 25, 1979, recognizing governmental entities under locally-ratified constitutions in the Trust Territory of the Pacific Islands. The Order provides for the transfer of executive, legislative, and judicial functions to three political subdivisions of the Trust Territory, namely the Federated States of Micronesia, the Marshall Islands, and Palau. The Order is published in its entirety below.

Additional information regarding the Order may be obtained from Mr. George R. Milner, Office of Territorial Affairs, U.S. Department of the Interior, Washington, D.C. 20240, telephone 202-343-4736.

Dated: May 7, 1979.

Larry E. Meierotto,

Assistant Secretary of the Interior

Order No. 3039

Subject: Recognition of Governmental Entities under Locally-Ratified Constitutions in the Trust Territory of the Pacific Islands

Sec. 1. *Purpose.* The purpose of this Order is to provide the maximum permissible amount of self-government, consistent with the responsibilities of the Secretary under Executive Order 11021, for the Federated States of Micronesia, the Marshall Islands, and Palau, pursuant to their respective constitutions as and when framed, adopted, and ratified, pending termination of the 1947 Trusteeship Agreement under which the United States of America undertook to act as Administering Authority for the Trust Territory of the Pacific Islands.

Sec. 2. *Delegation of Authority.* Until the termination of the Trusteeship Agreement and subject to the limitations contained in this Order and in existing treaties, laws, and regulations of the United States generally applicable in the Trust Territory of the Pacific Islands, executive, legislative, and judicial functions of the Government of the Trust Territory of the Pacific Islands are, except as otherwise provided herein, hereby delegated to the three political subdivisions of the Trust Territory known as the Federated States of Micronesia, the Marshall Islands, and Palau.

Sec. 3. *Retained Functions.* The following functions are retained by the United States:

a. *Administrative.* The High Commissioner of the Trust Territory of the Pacific Islands, under the general supervisory authority of the Secretary, shall continue to exercise all authority necessary to carry out the obligations and responsibilities of the United States under the 1947 Trusteeship Agreement, in order to insure that no actions are taken that would be inconsistent with the provisions of such Trusteeship Agreement, this Order, and with existing treaties, laws, regulations, and agreements generally applicable in the Trust-Territory of the Pacific Islands. This authority shall include, but not be limited to:

(1) *Budget.* All budget submissions from the Federated States of Micronesia, the Marshall Islands, and Palau for appropriations from the Congress of the United States shall be submitted to and through the High Commissioner in accordance with his rules and regulations in respect thereto. The High Commissioner shall make grants of financial assistance to the new governments and, as appropriate, to their political subdivisions in such amounts as may be appropriated and subject to such terms and conditions as he may impose.

(2) *Auditing and Accounting.* The High Commissioner, after audit, either by his own office or by the United States Government Comptroller for Guam and the Trust Territory of the Pacific Islands, shall have the authority to settle accounts or to require compliance with proper accounting principles and audit recommendations. Appeals may be taken to the Secretary.

(3) *Grant-in-Aid Programs.* All requests for participation in Federal grant-in-aid programs from the Federated States of Micronesia, the Marshall Islands, and Palau shall be made to and through the High Commissioner.

(4) *Transfer of Functions.* The High Commissioner shall arrange, by agreement with the chief executives of the Federated States of Micronesia and its respective States, the Marshall Islands, and the Palau, for the transfer, as expeditiously as possible, of executive functions not required by this Order to be retained.

(5) *Property.*

(a) *Personal and Real Property.* All real and personal property currently used or held by the Government of the Trust Territory for governmental administrative purposes in the Federated States of Micronesia and its respective States, the Marshall Islands, and Palau, shall, to the extent not needed to carry out the purposes of this Order, be transferred on an equitable basis to the Federated States of Micronesia or its respective States, the Marshall Islands, or Palau. The decisions of the High Commissioner in this respect shall be final, subject only to an appeal to the Secretary.

(b) *Public Domain.* Secretarial Order 2969, as amended, regarding the transfer of public domain property, remains in effect, except that the transfers contemplated by the Order shall be completed in the Federated States of Micronesia, the Marshall Islands, and Palau, respectively, on or before June 1, 1979. In those instances where the legislature having jurisdiction has not designated an entity to receive public domain property under the provisions of Secretarial Order 2969, such land shall be transferred to the state or district government where such land is located.

(c) *Continuity of Rights.* All contracts, lease agreements, easements, permits, licenses, and other forms of rights, privileges and obligations granted, entered into or obtained by the Government of the Trust Territory, prior to the effective date of this Order and applicable to property conveyed hereby, shall remain in full force and effect until their natural or legal termination, unless otherwise agreed to in writing by all parties, and all property conveyed shall be subject to said rights, privileges and obligations or other encumbrances of any kind or character existing on the date of conveyance.

(6) *Relations with other United States Government Agencies and Foreign Governments.* Communications and relationships with agencies of the United States Government and with foreign governments and organizations shall be through the High Commissioner and the Secretary of the Interior, except in those specific cases in which a different procedure is approved by the Secretary of the Interior. Communications with foreign governments and international organizations shall be transmitted by the Department of State to the foreign government or international organization concerned. This order does not affect communications and relationships between Micronesians and the President's Personal Representative for Micronesian Status Negotiations.

(7) *Telecommunications.* The High Commissioner shall continue to have the authority and responsibility for the operation and maintenance of telecommunications within the Trust Territory of the Pacific Islands in accordance with treaties, laws, and regulations of the United States applicable to the Trust Territory.

(8) *Staffing.* The High Commissioner shall have the authority to hire such professional and administrative staff as may be necessary to carry out his duties and responsibilities and to organize the Office of the High Commissioner so as to enable him effectively to carry out those duties and responsibilities. Actions affecting Federal personnel are subject to the limitations contained in 205 DM 8.1C(6).

b. *Other.* The High Commissioner shall also carry out such other duties as the Secretary may from time to time prescribe.

Sec. 4. *Legislative.* a. All laws of the Federated States of Micronesia, the Marshall Islands, or Palau shall be submitted to the High Commissioner within ten (10) days after being approved by the chief executive of the jurisdiction involved. If the High Commissioner decides to suspend such law, or part thereof, he shall promptly, but no later than twenty (20) days after receipt of such law, notify the chief executive of the jurisdiction for which the law was enacted of his reasons for suspending such law, or part thereof. The High Commissioner shall exercise this power only if he concludes that such law, or part thereof, is inconsistent with the provisions of this Order, the Trusteeship Agreement, with existing treaties, laws, and regulations of the United States generally applicable in the Trust Territory of the Pacific Islands, or with the Bill of Rights as set forth in the Trust Territory Code. The decisions of the High Commissioner in this respect shall be final, subject only to an appeal to the Secretary.

b. No law shall take effect until the period during which the High Commissioner may suspend the law has expired unless the High Commissioner earlier notifies the chief executive of the jurisdiction in which the law was enacted that he does not intend to exercise his authority to suspend the law. A law or any part thereof so suspended shall be null and of no effect.

c. Laws in effect in each jurisdiction on the effective date of its constitution shall continue in effect until modified or repealed pursuant to the provisions of the constitution or laws enacted thereunder.

Sec. 5. *Judicial.* a. *Pending Cases.* The present Community and District Courts and the Trial and Appellate Divisions of the High Court of the Trust Territory of the Pacific Islands shall continue to function and operate in accordance with the present procedural and jurisdictional provisions of Trust Territory law until the Federated States of Micronesia, the Marshall Islands, and Palau have established functioning Courts pursuant to the terms of their respective constitutions. The determination that such functioning courts exist shall be made in writing by the Chief Justice of the High Court of the Trust Territory of the Pacific Islands upon written request of the chief judicial officer of the respective jurisdictions. A denial of the request may be appealed to the Secretary.

Once such a determination has been made for a jurisdiction, all cases, except for suits against the Trust Territory of the Pacific Islands Government or the High Commissioner, currently pending but not in active trial before the Community Courts, the District Courts, and the Trial Division of the High Court shall be transferred to the functioning courts of such jurisdiction, provided that the legal rights of the parties in any case in controversy pending before a Community Court, a District Court, or the Trial or Appellate Division of the High Court shall in no way be impaired by this Order.

Determination as to whether a case is in

Office of Surface Mining Reclamation

Stipulations, a Coal Mining and

552b(c)(1). Further separation of

specific issues are raised; such forms are

Determination as to whether a case is in "active trial" shall be made by the Judge before whom such case is pending.

b. *Appellate Functions.* As the functions of the Community Courts, the District Courts, and the Trial Division of the High Court have been phased out and transferred to the local courts pursuant to the provisions of Section 5a of this Order, the Appellate Division of the High Court shall retain jurisdiction by *writ of certiorari* to entertain appeals from the courts of last resort of the respective jurisdictions of the Federated States of Micronesia, the Marshall Islands, and Palau.

The ruling of the High Court of the Trust Territory of the Pacific Islands upon all appeals shall be final, binding, and enforceable in accordance with their terms. All appeals now pending or taken before the determination has been made pursuant to Section 5a of this Order that functioning courts exist in a jurisdiction shall be retained by and disposed of by the High Court.

c. *Transfers.* When functioning courts have been established and certified pursuant to Section 5a of this Order, the Chief Justice of the High Court of the Trust Territory of the Pacific Islands shall in his discretion transfer to such courts the facilities and personal property of existing courts of the Trust Territory of the Pacific Islands and funds then currently budgeted for their operation.

Sec. 6. *Social Security.* Until termination of the Trusteeship Agreement, the Social Security laws of the Trust Territory shall remain in full force and effect.

Sec. 7. *Effective Date.* This Order becomes effective, as to each of them, upon the date when each of the respective jurisdictions, namely, the Federated States of Micronesia, the Marshall Islands, and Palau, have commenced a constitutional government, pursuant to their respective lawfully adopted constitutions.

Sec. 8. *Marshall Islands.* The Act of the Nitijela of the Marshall Islands District "To make transitional provisions for the purpose of enabling the Government of the Marshall Islands under the Constitution of the Marshall Islands to be conducted in conformity with the Trusteeship during the period of transition to full self-government" is confirmed. The confirmation of this Act in no way constitutes approval or disapproval of the Constitution of the Marshall Islands or the interim adjustments made thereto by the Act.

Sec. 9. *Prior Orders.* Except for the limitations on taxing authority contained in Section 2 of Part III of Secretarial Order No. 2918, as amended, Secretarial Orders No. , 2918, as amended, "Government of the Trust Territory of the Pacific Islands," and No. 3027, "Interim Transition to Governments Based on Locally Developed Constitutions-Trust Territory of the Pacific Islands," are superseded within each jurisdiction on the effective date of the respective constitution as certified by the High Commissioner.

Dated: April 25, 1979.

Cecil D. Andrus,
Secretary of the Interior.

[FR Doc. 79-14953 Filed 5-11-79; 8:45 am]

BILLING CODE 4310-93-M

Office of Surface Mining Reclamation and Enforcement

Swisher Coal Co., Huntington Canyon Mine No. 4; Availability of Proposed Decision to Approve, With Stipulations Major Modification of Coal Mining and Reclamation Plan for Public Review

AGENCY: Office of Surface Mining Reclamation and Enforcement

ACTION: Availability for Public Review of Proposed Decision to Approve, with Stipulations, a Coal Mining and Reclamation Plan

SUMMARY: Pursuant to 211.5 of Title 30, Code of Federal Regulations, notice is hereby given that the Office of Surface Mining has performed a technical review of a mining and reclamation plan and will recommend approval of the proposed plan contingent to the applicant's acceptance of stipulations. The proposed coal mining operation is described below.

Applicant	Mine name	Location of lands to be affected by modification		
		State	County	Township, range, section
Swisher Coal Co	Huntington Canyon No. 4	Utah	Emery and Carbon	T.16S, R.7E, S. 16, 17; T.15S, R.9E; 11 (coal load-out)

Office of Surface Mining Reference No.: UT-0004. The mine is located approximately 12 miles west-northwest of Huntington, Utah, within the Manti LaSal National Forest. The proposed operation involves extension of underground mining and subsequent reclamation on about 500 acres of the total lease area of 600 acres. The mine is presently not operating. The operation includes a coal load-out and preparation facility located southwest of Wellington, Utah. The proposal addresses single seam room and pillar mining of the Blind Canyon Seam, surface operations, and surface drainage control at both the mine and at the coal load-out facility. The plan briefly addresses subsequent mining of the underlying Hiawath Seam and an associated "Lower Seam Portal Yard."

The purpose of this notice is to inform the public that the Regional Director, Region V, Office of Surface Mining, has recommended, based on staff reviews and the reviews of the Utah Division of Oil, Gas, and Mining, the Forest Service, and the Geological Survey, approval of the coal mining and reclamation plan, subject to stipulations which must be accepted by the applicant in order for the approval to take effect. Any persons having an interest which is or may be adversely affected by recommended approval, may, in writing, request a public meeting to discuss their views regarding the plan.

DATES: All requests for a public meeting must be made within 20 calendar days from the date of publication of this notice in the Federal Register. No decision on the plan will be made by the Assistant Secretary, Energy and Minerals, prior to the expiration of the 20-day period.

The mining and reclamation plan and associated materials are available for review in the Region V Office of Surface Mining (Room 207, Post Office Building). Requests for a public meeting must be submitted in writing to the Regional Director, Region V, Office of Surface Mining, Room 270, Post Office Building, 1823 Stout Street, Denver, Colorado, 80202. Request must include the name and address of the requester.

FOR FURTHER INFORMATION CONTACT: John Hardaway or Murray Smith, Office of Surface Mining, Region V, Room 270, 1823 Stout Street, Denver, Colorado, 80202.

Walter N. Heine,
Director.

[Emery Coal Leases No. SL-064903, U-33545]

[FR Doc. 79-14937 Filed 5-11-79; 8:45 am]

BILLING CODE 4310-05-M

DEPARTMENT OF JUSTICE

Law Enforcement Assistance Administration

Competitive Research Grant Solicitation

The National Institute of Law Enforcement and Criminal Justice announces a competitive research grant solicitation to support a study of the relationship of staffing ratios and prison environments. The objective of the research is to gain greater understanding of the effect that differing staff-inmate ratios have on institution operations and milieu.

The solicitation requests submission of draft proposals rather than full, formal proposals. Full proposals will be requested from those applicants receiving favorable review by a peer review panel. In order to be considered a draft proposal must be post marked no later than July 15, 1979. One grant will be awarded under this announcement. A maximum of $250,000 will be awarded for a project with an expected duration of 18 months.

Additional information and copies of the solicitation may be obtained by contacting:

John Spevacek, Corrections Division, Office of Research Programs, National Institute of Law Enforcement and Criminal Justice, 633 Indiana Avenue, NW., Washington, D.C. 20531 (301) 492-9118.

Dated: May 2, 1979.

Harry M. Bratt,
Acting Director, National Institute of Law Enforcement and Criminal Justice.

[FR Doc. 79-14949 Filed 5-11-79; 8:45 am]

BILLING CODE 4410-18-M

NUCLEAR REGULATORY COMMISSION

Advisory Committee on Reactor Safeguards; Meeting With the Committee on Examination of Reactor Safety

In accordance with the purposes of Sections 29 and 182b. of the Atomic Energy Act (42 U.S.C. 2039, 2232b.), representatives of the Advisory Committee on Reactor Safeguards (ACRS) will meet with representatives of the Committee on Examination of Reactor Safety (CERS), an advisory body to the Atomic Energy Commission of Japan on May 21, 22, and 25, 1979. The meeting will be held in Tokyo, Japan.

Representatives of the ACRS and the CERS will discuss reactor safety policy and practice related to primary system pipe breaks and related emergency core cooling systems. Specific discussions will include the preliminary results of experiments being conducted by the Japanese regarding ECCS design and performance.

Members of the ACRS and the CERS will discuss information considered confidential by the Japanese government and will provide it on the basis that it will be protected from public disclosure.

I have determined in accordance with Subsection 10(d) of Public Law 92-463 that it is necessary to close this meeting to insure the security of information identified and supplied by a foreign government as confidential (5 U.S.C. 552b(c)(1)). Further separation of nonexempt material from the exempt material while this meeting is in progress is considered impractical.

Dated: May 9, 1979

John C. Hoyle,
Advisory Committee Management Officer.

[FR Doc. 79-14939 Filed 5-11-79; 8:45 am]

BILLING CODE 7590-01-M

OFFICE OF MANAGEMENT AND BUDGET

Agency Forms Under Review

Background

When executive departments and agencies propose public use forms, reporting, or recordkeeping requirements, the Office of Management and Budget (OMB) reviews and acts on those requirements under the Federal Reports Act (44 USC, Chapter 35). Departments and agencies use a number of techniques including public hearings to consult with the public on significant reporting requirements before seeking OMB approval. OMB in carrying out its responsibility under the Act also considers comments on the forms and recordkeeping requirements that will affect the public.

List of Forms Under Review

Every Monday and Thursday OMB publishes a list of the agency forms received for review since the last list was published. The list has all the entries for one agency together and grouped into new forms, revisions, or extensions. Each entry contains the following information:

The name and telephone number of the agency clearance officer;
The office of the agency issuing this form;
The title of the form;
The agency form number, if applicable;
How often the form must be filled out;
Who will be required or asked to report;
An estimate of the number of forms that will be filled out;
An estimate of the total number of hours needed to fill out the form; and
The name and telephone number of the person or office responsible for OMB review.

Reporting or recordkeeping requirements that appear to raise no significant issues are approved promptly. In addition, most repetitive reporting requirements or forms that require one half hour or less to complete and a total of 20,000 hours or less annually will be approved ten business days after this notice is published unless specific issues are raised; such forms are identified in the list by an asterisk (*).

Comments and Questions

Copies of the proposed forms and supporting documents may be obtained from the agency clearance officer whose name and telephone number appear under the agency name. Comments and questions about the items on this list should be directed to the OMB reviewer or office listed at the end of each entry.

If you anticipate commenting on a form but find that time to prepare will prevent you from submitting comments promptly, you should advise the reviewer of your intent as early as possible.

The timing and format of this notice have been changed to make the publication of the notice predictable and to give a clearer explanation of this process to the public. If you have comments and suggestions for further improvements to this notice, please send them to Stanley E. Morris, Deputy Associate Director for Regulatory Policy and Reports Management, Office of Management and Budget, 726 Jackson Place, Northwest, Washington, D.C. 20503

DEPARTMENT OF COMMERCE

Agency Clearance Officer—Edward Michaels—377-4217

New Forms

Bureau of the Census
Advance Letter to Special Places, 1980 Decennial Census
D-30
Single time
Managers of all special places in the country, 300,000 responses; 25,000 hours
Off. of Federal Statistical Policy and Standard, 673-7974

DEPARTMENT OF ENERGY

Agency Clearance Officer—Albert H. Linden—566-9021

New Forms

Information Requirements for Subpart M, Part 501 (FDA)
ERA-323
On occasion
Powerplants/MFBI's, 100 responses; 1,000 hours
Jefferson B. Hill, 395-5867
Data Gathering Provisions of Regulations for Hydroelectric Power
RA-181
On occasion
Applicants for hydro loan funding, 250 responses; 12,500 hours
Jefferson B. Hill, 395-5867

DEPARTMENT OF HEALTH, EDUCATION

On occasion

number, and personal and medical

class and publishers' controlled

Affairs, Bureau of Economic and Business

V 4 4 / 9 4

DEPARTMENT OF HEALTH, EDUCATION, AND WELFARE

Agency Clearance Office—Peter Gness—245–7488

Extensions

Office of Human Development
Instructions for Applying for Grants From HDS Programs
On occasion
Non-profit Organizations, 15,000 responses; 15,000 hours
Budget Review Division, 395–4773

DEPARTMENT OF JUSTICE

Agency Clearance Officer—Donald E. Larue—376–8283

New Forms

Drug Enforcement Administration
*Piperidine Report
DEA 420
On occasion
Chemical supply firms, 10,000 responses; 2,500 hours
Richard Sheppard, 395–3211

Law Enforcement Assistance Administration
911 System Assessment (General Form Questionnaire)
LEAA series 3000
Single time
911 system directors, 800 responses; 600 hours
Richard Sheppard, 395–3211

DEPARTMENT OF LABOR

Agency Clearance Officer—Philip M. Oliver—523–6341

New Forms

Employment and Training Administration
WIN Intensive Manpower Services survey Form (2)
MT–1069A
Single time
WIN staff, 900 responses; 367 hours
Arnold Strasser, 395–5080

Extensions

Bureau of Labor Statistics
Current Consumer Expenditure Survey
Quarterly
Households in 102 selected areas, 1,600 responses; 7,200 hours
Off. of Federal Statistical Policy and Standard, 673–7974

OFFICE OF PERSONNEL MANAGEMENT

Agency Clearance Officer—John P. Weld—632–7737

Revisions

Statement of Physical Ability for Light/Moderate Duty Work
SF–177
On occasion
Applicants for Federal employment, 148,000 responses; 24,666 hours
Marsha D. Traynham, 395–6140

RAILROAD RETIREMENT BOARD

Agency Clearance Officer—W. V. Radesk—312–751–4690

Extensions

*Employee Representatives Report of Compensation
DC–2
Annually
Employee Representative, 270 responses; 45 hours
Barbara F. Young, 395–6132

*Application for survivor benefits due estate
AA–21A
On occasion
Applicants for survivor benefits due estate, 1,500 responses; 375 hours
Barbara F. Young, 395–6132

SMALL BUSINESS ADMINISTRATION

Agency Clearance Officer—John Reidy—653–6081

Extensions

*Subcontracting Statistical Report
SBA 745
Quarterly
Government prime contractors, 4,000 responses; 1,000 hours
Richard Sheppard, 395–3211

Stanley E. Morris,
Deputy Associate Director for Regulatory Policy and Reports Management.
[FR Doc. 79–15011 Filed 5–11–79; 8:45 am]
BILLING CODE 3110–01–M

Privacy Act; Notice of New Systems

The purpose of this notice is to give members of the public an opportunity to comment on Federal agency proposals to establish or alter personal data systems subject to the Privacy Act of 1974.

The Act states that "each agency shall provide adequate advance notice to Congress and the Office of Management and Budget of any proposal to establish or alter any system of records in order to permit an evaluation of the probable or potential effect of such proposal on the privacy and other personal or property rights of individuals * * *"

OMB policies implementing this provision require agencies to submit reports on proposed new or altered systems to Congress and OMB 60 days prior to the issuance of any data collection forms or instructions, 60 days before entering any personal information into the new or altered systems, or 60 days prior to the issuance of any requests for proposals for computer and communications systems or services to support such systems—whichever is earlier.

The following reports on new or altered systems were received by OMB between April 16, 1979 and April 27, 1979. Inquiries or comments on the proposed new systems or changes to existing systems should be directed to the designated agency point-of-contact and a copy of any written comments provided to OMB. The 60 day advance notice period begins on the report date indicated.

Department of State

System Name: Security Records.
Report Date: April 10, 1979.
Point-of-Contact: Mr. Frank M. Machak, Department of State, Washington, D.C. 20520.
Summary: The State Department proposes to alter this system of records by automating the records and including information about agents serving on protective detail with the Secretary of State, U.S. government officials, and visiting foreign dignitaries. The use of automation is expected to provide a greater ability to control and track agents' availability for special assignments.

Department of Defense

System Name: Manpower/Personnel Management System.
Report Date: April 13, 1979.
Point-of-Contact: Mr. William Cavaney, Defense Privacy Board, Pomponio Plaza Building, Washington, D.C. 20301.
Summary: This is a new system of records proposed by the Defense Nuclear Agency as a consolidation and replacement of three existing systems. The new system will be used for personnel management, specifically the preparation of personnel roster, candidate selection for training and promotion, administration of grievances and appeals.

Department of Housing and Urban Development

System Name: Employee Emergency Reference File.
Report Date: April 17, 1979.
Point-of-Contact: Mr. Harold Rosenthal, Departmental Privacy Act Officer, Department of Housing and Urban Development, Washington, D.C. 20410.
Summary: This is a new manual card file which will assist in providing emergency assistance to HUD employees as needed. The records will include home address and phone number, and personal and medical information. All of this information will be obtained directly from the individual, and be disclosed to personal and medical sources identified by the individual.

David R. Leuthold,
Budget and Management Officer.
[FR Doc. 79–14830 Filed 5–11–79; 8:45 am]
BILLING CODE 3110–01–M

POSTAL SERVICE

International Postal Rates and Classification; Proposed Changes

AGENCY: Postal Service.

ACTION: Proposed changes in International Postal Rates and a change in Classification of International Mail.

SUMMARY: Pursuant to its authority under 39 U.S.C. 407, the Postal Service proposes to change certain rates of postage on international mail and to effect a classification change. As to the proposed rate changes, they are scheduled to become effective on July 6, 1979—at the same time the Postal Service implements the eighth step increase of certain domestic postage rates. The changes, as shown in the table below, affect the exceptional surface rates for printed matter to all countries. The proposed classification change would be a simplification: the two current categories of international mail printed matter known as "Publishers' second class" and "Publishers' controlled circulation" would be combined into one category to be known as "Publishers' Periodicals".

DATE: Comments must be received on or before June 13, 1979.

ADDRESS: Written comments should be directed to the Director, Office of Rates, Rates and Classification Depatment, U.S. Postal Service, Washington, D.C. 20260. Copies of all written comments will be available for public inspection and photocopying between 9 a.m. and 4 p.m., Monday through Friday, in Room 8110.

FOR FURTHER INFORMATION CONTACT: Robert J. Barry, (202) 245–4414.

SUPPLEMENTARY INFORMATION: Where indicated by an asterisk in the table below, the proposed international rate is directly related to the level of the corresponding domestic rate that will become effective on July 6, 1979. Other rates are being adjusted in light of similar increases in domestic rates on the same date.

A task force of Postal Service and mailing industry representatives recommended that publishers' second class and publishers' controlled circulation be combined into a single class, to be known as Publishers' Periodicals. The purpose of the merger is to simplify the categories of international mail.

Although 39 U.S.C. 407 does not require advance notice and opportunity for submission of comments, and the Postal Service is exempted by 39 U.S.C. 410(a) from the advance notice requirement of the Administrative Procedure Act regarding proposed rulemaking (5 U.S.C. 553), the Postal Service invites interested persons to submit written data, views, or arguments concerning the following proposed changes in rates of postage for international mail and the classification change.

(39 U.S.C. 401, 403, 404(2), 407, 410(a))

W. Allen Sanders,
Acting Deputy General Counsel.

Exceptional Surface Rates for Printed Matter

Ounces	Books and sheet music	Publishers' periodicals[1]
2	$0.59*	$0.10
4	0.59*	0.13
8	0.59*	0.24
16	0.59*	0.43
32	0.81*	0.72
64	1.25*	1.01
96	1.69*	1.51
128	2.02	2.02
Each additional 32	0.50	0.50

[1] Includes former categories "Publishers' second class" and "Publishers' controlled circulation."
* Equivalent to domestic rate.

[FR Doc. 79–14925 Filed 5–11–79; 8:45 am]
BILLING CODE 7710–12–M

DEPARTMENT OF STATE

Participation of Private-Sector Representatives on U.S. Delegations

As announced in Public Notice No. 623 (43 FR 37783), August 24, 1978, the Department is submitting the following list of U.S. Delegations accredited during the month of April, 1979, which included private-sector representatives.

Publication of this list is required by Article IV (c)(4) of the guidelines published in the Federal Register on August 24, 1978.

Dated: April 2, 1979.

Paul J. Byrnes,
Director, Office of International Conferences.

United States Delegation to the Extraordinary Session of the Assembly of Parties of the International Telecommunications Satellite Organization (INTELSAT), Manila, April 2–3, 1979

Representative

Ruth H. Phillips, Deputy Assistant Secretary for Commercial and Telecommunications Affairs, Bureau of Economic and Business Affairs, Department of State.

Private Sector Adviser

Sigrid Badinelli, Communications Satellite Corporation, Washington, D.C.

United States Delegation to the International Whaling Commission Working Group on Aboriginal/Subsistence Whaling, Washington, D.C., April 3–5, 1979

Representative

Richard A. Frank, United States Commissioner, Administrator, National Oceanic and Atmospheric Administration.

Alternate Representative

William Aron, Director, Office of Marine Mammals and Endangered Species, National Marine Fisheries Service, National Oceanic and Atmospheric Administration.

Advisers

Janice Barnes, Office of Marine Science and Technology Affairs, Bureau of Oceans and International Environmental and Scientific Affairs, Department of State.
Prudence Fox, Office of International Fisheries Affairs, National Marine Fisheries Service.
Jerry Gilliland, Special Assistant to the Secretary for Alaska, Department of the Interior.
Katherine Killman, Council on Environmental Quality, Washington, D.C.
Michael Levitt, General Counsel's Office, National Oceanic and Atmospheric Administration.
Michael Tillman, Deputy Director, Marine Mammal Division, Northwest and Alaska Fisheries Center, National Marine Fisheries Service.

Private Sector Advisers

James Scarff, National Wildlife Federation, Washington, D.C.
Rosita Worl, Assistant Professor, University of Alaska.

United States Delegation To The AD Hoc Working Group On Accounting Standards, Committee On International Investment And Multinational Enterprises, Organization For Economic Cooperation And Development (OECD), Paris, April 3–5, 1979

Representative

Richard D. Kauzlarich, Office of Investment Affairs, Bureau of Economic and Business Affairs, Department of State.

Adviser

Clarence M. Staubs, Assistant Chief Accountant, Securities and Exchange Commission.

Private Sector Adviser

Harvey Kapnick, Arthur Anderson & Company, Chicago, Illinois.

United States Delegation To The Meeting Of

Thomas H. Martin, Industrial and Strategic

Robert H. Lander, Fisheries Biologist, Marine

DATES: Written comments must be

added to system TVA–5 (Discrimination

United States Delegation To The Meeting Of The International Coffee Organization Executive Board, London, April 2–6, 1979

Representative

Thomas J. O'Donnell, American Embassy, London.

Adviser

James M. Derham, Tropical Products Division, Bureau of Economic and Business Affairs, Department of State.

Private Sector Advisers

George E. Boecklin, National Coffee Association, New York, New York (April 4–6).
John C. K. Buckley, Nestle Co., Inc., White Plains, New York (April 2–3).
Kenneth R. Dunnivant, Proctor & Gamble, Cincinnati, Ohio.
Paul J. Keating, General Foods Corporation, New York, New York.
Rhoda H. Krapatkin, Consumers Union, Mt. Vernon, New York.
Edward Rosen, Acli Coffee, White Plains, New York (April 4–6).
Andrew A. Scholtz, Scholtz and Company, New York, New York.
Marvin Schur, J. Aron & Company, New York, New York.

United States Delegation to the Second Meeting of the Panel on the Regulation of Air Transport Services of the International Civil Aviation Organization (ICAO), Montreal, April 2–12, 1979

Member

David A. Levitt, Assistant Director for Negotiations, Bureau of International Aviation, Civil Aeronautics Board

Advisers

Joseph Chesen, Economist, Civil Aeronautics Board.
James A. Mc Mahon, Economist, Bureau of Pricing and Domestic Aviation, Civil Aeronautics Board.
S. Edward Robinson, Transportation Specialist, Office of Air Transportation, Department of Transportation

Private Sector Adviser

Lisa Ray, Air Transportation Association, Washington, D.C.

United States Delegation to the United Nations Conference on Natural Rubber, United Nations Conference on Trade and Development (UNCTAD), Geneva, March 27–April 13, 1979

Representative

Richard M. Ogden, Industrial and Strategic Materials Division, Bureau of Economic and Business Affairs, Department of State.

Alternate Representative

Gordon Streeb, United States Mission, Geneva.

Advisers

Bruce Hack, Office of Raw Materials and Ocean Policy, Department of the Treasury.
Thomas H. Martin, Industrial and Strategic Materials Division, Bureau of Economic and Business Affairs, Department of State.
Paul Pilkauskas, American Embassy, London.
Fred Siesseger, International Commodities Division, Department of Commerce.

Private Sector Advisers

A. J. Ashe, B. F. Goodrich Company, Akron, Ohio (April 9–13).
Eric P. Bierrie, United Baltic Corporation, New York, New York (April 2–6).
Frank J. Raniolo, ALCA Rubber and Chemical Company, New York, New York (March 27–30).
J. J. Reidel, Goodyear Tire and Rubber Company, Akron, Ohio (April 9–13).
Amedee Felix Scheuer, Internatio, Inc., New York, New York (April 9–13).
Esther K. Shapiro, Director of Consumer Affairs, City of Detroit, Michigan (April 2–13).

United States Delegation to the Twenty-Second Annual Meeting of the North Pacific Fur Seal Commission Washington, D.C., April 9–13, 1979

Representative

C. J. Blondin, United States Commissioner, and Assistant-Director for International Fisheries, National Marine Fisheries Service, Department of Commerce.

Alternate Representative

C. H. Meacham, Deputy United States Commissioner, and Director International Fisheries and External Affairs, Office of the Governor, Juneau, Alaska.

Advisers

Raymond V. Arnaudo, Pacific Fisheries Affairs Officer, Office of Fisheries Affairs, Department of State.
Walter Kirkness, Director, Pribilof Islands Program, Northwest Region, Seattle, Washington.
William P. Jensen, Marine Mammal Program Manager, Office of Marine Mammals and Endangered Species, Department of Commerce.
Ron Naveen, Office of the General Counsel, National Oceanic and Atmospheric Administration.

Private Sector Advisers

Steven Boynton, Attorney, Boynton and Keifer, Washington, D.C.
Milton M. Kaufmann, Colonel, Monitor International, Washington, D.C.
Patrick Pletnicoff, President, Aleutian/Pribilof Islands Association, St. George Island, Alaska.
James Scarff, National Wildlife Federation, Washington, D.C.
Michael Zacharof, President, Tanadgusix Corporation, St. Paul Island, Alaska.

Scientific Advisers

George Y. Harry, Director, Marine Mammal Division, Northwest and Alaska Fisheries Center, Seattle, Washington.
Hiroshi Kajimura, Fisheries Biologist, Marine Mammal Division, National Marine Fisheries Service, Department of Commerce, Seattle, Washington.
Robert H. Lander, Fisheries Biologist, Marine Mammal Division, National Marine Fisheries Service, Department of Commerce, Seattle, Washington.
A. Y. Roppel, Wildlife Biologist, Marine Mammal Division, National Marine Fisheries Service, Department of Commerce, Seattle, Washington.

United States Delegation to the Thirteenth Session of the International Tin Council, London, April 17–20, 1979

Representative

Richard M. Ogden, Chief, Industrial and Strategic Materials Division, Bureau of Economic and Business Affairs, Department of State.

Alternate Representative

Thomas J. O'Donnell, American Embassy, London.

Advisers

Gregory Christopulos, Office of Raw Materials and Oceans Policy, Department of the Treasury.
Walter Lenahan, Industrial and Strategic Materials Division, Bureau of Economic and Business Affairs, Department of State.
William Sugg, International Commodities Division, Bureau of International Economic, Policy and Research, Department of Commerce.

Private Sector Advisers

Harold Haase, Vice President, Purchasing, United States Steel Corporation, Pittsburgh, Pennsylvania.
Stanley Marx, President, Industrial Smelting Company, Detroit, Michigan.
Malcolm Owings, Vice President, Continental Can Company USA, Chicago, Illinois.

United States Delegation to the Working Party of Steel Experts, Steel Committee, Organization for Economic Cooperation and Development (OECD), Paris, April 23–24, 1979

Representative

A. M. Brueckmann, Director, Iron and Steel Division, Department of Commerce.

Advisers

Henry Berghoef, Office of International Trade, Department of the Treasury.
Charles H. Blum, Office of International Trade Policy, Bureau of Economic and Business Affairs, Department of State.
Joseph S. Papovich, Office of Foreign Economic Policy, International Labor Affairs Bureau, Department of Labor.

Private Sector Advisers

Edward S. Flirkoski, Jr., Vice President, International Trade and Economics, American Iron and Steel Institute, Washington, D.C.
David Hawley, Director of Government Regulations, Inland Steel Company, Chicago, Illinois.
John J. Sheehan, Director, Legislative Department, United Steel Workers of America, Washington, D.C.

United States Delegation to the Third Meeting of the Advisory Group on the World Cocoa Economy, International Cocoa Organization, London, April 25–27, 1979

Representative

Paul P. Pilkauskas, American Embassy, London.

Alternate Representative

David A. Ross, Tropical Products Division, Bureau of Economic and Business Affairs, Department of State.

Private Sector Advisers

Julian Hemphill, Consultant, New York, Cocoa Exchange, New York, New York.
Glenn Trout, Hershey Foods, Inc., Hershey, Pennsylvania.

United States Delegation to the International Conference on Maritime Search and Rescue, 1979 of the Intergovernmental Maritime Consultative Oranization (IMCO), Hamburg, April 9–27, 1979

Representative

Norman C. Venzke, Rear Admiral, USCG, Chief, Office of Operations, United States Coast Guard, Department of Transportation.

Alternate Representative

Albert J. McCullough, Commander, USCG (Ret.), Chief, Liaison Staff, Office of Operations, United States Coast Guard, Department of Transportation.

Advisers

Walker Diamanti, Agency Director for Transportation and Communications, Bureau of International Organization Affairs, Department of State.
William M. Dozier, Lieutenant, USCG, Maritime and International Law Division, Office of the Chief Council, United States Coast Guard, Department of Transportation.
Lawrence A. White, Captain, USCG, Chief, Division of Search and Rescue, Office of Operations, United States Coast Guard, Department of Transportation.

Private Sector Adviser

William L. Rich, Jr., Director, Research and Training, International Organization of Masters, Mates and Pilots, AFL–CIO, New York, New York.

[Public Notice 664]
[FR Doc. 79-14880 Filed 5-11-79; 8:45 am]
BILLING CODE 4910-19-M

TENNESSEE VALLEY AUTHORITY

Privacy Act of 1974; Proposed Routine Uses

ACTION: Notice of proposed routine uses.

SUMMARY: TVA proposes revised routine uses for system TVA–5, Discrimination Complaint File, system TVA–9, Medical Record System, and system TVA–11, Payroll Records.

DATES: Written comments must be received by June 13, 1979.

ADDRESS: Send comments to Privacy Act Coordinator, Division of Personnel, Tennessee Valley Authority, Knoxville, Tennessee 37902. All comments received will be available for public inspection at the TVA Technical Library, 400 Commerce Avenue, E2B7C, Knoxville, Tennessee 37902, during normal business hours.

FOR FURTHER INFORMATION CONTACT: Sue E. Wallace, Division of Personnel, Tennessee Valley Authority, Knoxville, Tennessee 37902, (615) 632–3304.

SUPPLEMENTARY INFORMATION: On September 22, 1977, the Tennessee Valley Authority published in the Federal Register (42 FR 48230) its 1977 annual Notice of Systems of Records pursuant to subsections (e)(4) and (e)(11) of section 552a of Title 5, United States Code. The 1978 annual notice was republished by reference thereto on November 2, 1978 (43 FR 51159). TVA proposes to add three additional routine uses to its systems of records.

A routine use is proposed to TVA's Discrimination Complaint File and to its Medical Record System to allow disclosure of information in those systems to TVA consultants and contractors who are engaged in studies of TVA's administration of its equal employment opportunity and medical responsibilities or are otherwise assisting TVA in carrying out these functions. In both situations it will be desirable to have outside contractors review and evaluate these functions to improve their quality and efficiency. Certain non-employee support services may also require limited disclosure of information from these record systems.

TVA also proposes to revise the routine use of its Payroll System concerning reporting of earnings to state employment security offices to allow the filing of magnetic tape reports of earnings for purposes of determining eligibility for unemployment compensation. Each year TVA responds on an individual basis to about 19,000 requests from state employment security offices for wage and separation information. The filing of magnetic tape reports would speed the administration of benefits, reduce the considerable amount of clerical time involved and the inevitable clerical error that occurs.

In FR Doc. No. 77–27846 appearing at pages 48230–44 in the Federal Register of September 22, 1977, the following revisions are proposed:

1. On page 48233 the following additional routine use is proposed to be added to system TVA–5 (Discrimination Complaint File—TVA):

TVA—5

SYSTEM NAME:

Discrimination Complaint File—TVA

* * * * *

To TVA consultants, contractors, and subcontractors who are engaged in studies and evaluation of TVA's administration of its equal employment opportunity program or who are providing support services to the program.

* * * * *

2. On page 48236 the following additional routine use is proposed to be added to system TVA–9 (Medical Record System—TVA):

TVA—9

SYSTEM NAME:

Medical Record System—TVA

* * * * *

To TVA consultants, contractors, and subcontractors who are engaged in studies and evaluation of TVA's administration of its medical program or who are providing support sources to the program.

* * * * *

3. On page 48236 the sixth routine use to system TVA–11 (Payroll Records—TVA) which presently reads "To report earnings to the Department of Housing and Urban Development, state welfare agencies, and state employment security offices where an individual has made a claim for benefit with such agency" is proposed to be revised as follows:

TVA—11

SYSTEM NAME:

Payroll Records—TVA

* * * * *

To report earnings to the Department of Housing and Urban Development, and state welfare agencies where an individual makes a claim for benefits and to report earnings to state employment security offices in both manual and automated form for use by those offices in determining unemployment benefits.

* * * * *

All comments received by the end of the above comment period will be considered in the final adoption of this proposal.

Dated: May 3, 1979.

Leon E. Ring,
General Manager.

[FR Doc. 79-14883 Filed 5-11-79; 8:45 am]
BILLING CODE 8120-01-M

Privacy Act of 1974; Systems of Records

ACTION: Notice of Revised Systems of Records.

SUMMARY: TVA revises coverage description of two systems of records.

DATES: This notice is effective May 14, 1979.

FOR FURTHER INFORMATION CONTACT: Sue E. Wallace, Division of Personnel, Tennessee Valley Authority, Knoxville, Tennessee 37902, (615) 632–3304

SUPPLEMENTARY INFORMATION: On September 22, 1977, the Tennessee Valley Authority published in the **Federal Register** (42 FR 48230) its 1977 annual Notice of Systems of Records pursuant to subsections (e)(4) and (e)(11) of section 552a of Title 5, United States Code. The 1978 annual notice was published by reference thereto on November 2, 1978 (43 FR 51159). TVA is revising the "categories of individuals" paragraph of two system notices to explicitly cover individuals whose records will be included in the systems.

TVA's Discrimination Complaint Files contain records on all TVA employees and applicants who receive counseling or file complaints under equal employment opportunity laws and the "categories of individuals covered by the system" paragraph is revised to indicate that individuals may now file complaints on account of handicap.

TVA's Electricity Use, Rate and Services Studies system notice is revised to make explicit the coverage of individuals who are receiving assistance in energy conservation.

Because any change in the number of individuals about whom records are kept made in the above revisions does not alter the character or purpose of the systems of records, no new system report was made.

Dated: May 3, 1979

Leon E. Ring,
General Manager.

In FR Doc. No. 77–27846 appearing at pages 48230–44 in the Federal Register of September 22, 1977, the following revision is made: On page 48233, the paragraph captioned "Categories of individuals covered by the system" for system TVA–5 (Discrimination Complaint File—TVA) which presently reads "Employees or applicants who have received counseling or filed complaints of discrimination based on race, color, religion, sex, national origin, or age" is revised to read:

TVA–5

SYSTEM NAME:

Discrimination Complaint File—TVA

* * * * *

CATEGORIES OF INDIVIDUALS COVERED BY THE SYSTEM:

Employees or applicants who have received counseling or filed complaints of discrimination based on race, color, religion, sex, national origin, age or handicap.

* * * * *

In FR Doc. No. 78–31016 appearing at pages 51159–61 in the **Federal Register** of November 2, 1978, the following revision is made: On page 51160, the paragraph captioned "Categories of individuals covered by the system" for system TVA–29 (Electricity Use, Rate and Service Study Records—TVA) which presently reads "Individuals residing in households which are participating in electricity use, rate or service studies" is revised to read:

SYSTEM NAME:

Apprentice Training Record System—TVA.

* * * * *

CATEGORIES OF INDIVIDUALS COVERED BY THE SYSTEM:

Individuals residing in households which are participating in electricity use, rate and service studies including those receiving electricity conservation assistance.

* * * * *

[FR Doc. 79–14884 Filed 5–11–79; 8:45 am]
BILLING CODE 8120–01–M

DEPARTMENT OF TRANSPORTATION

Coast Guard

Chemical Transportation Advisory Committee; Personal Protection Subcommittee Meeting

Pursuant to section 10(a)(2) of the Federal Advisory Committee Act (Pub. L. 92–463; 5 U.S.C. App. I) notice is hereby given of a meeting of the Personnel Protection Subcommittee of the Chemical Tranportation Advisory Committee to be held on Wednesday 6 June 1979, beginning at 10 a.m. in Room 2330, Nassif Building, 400 7th St. S.W., Washington, D.C. 20590. This is the first meeting of the Personnel Protection Subcommittee. There will be a brief review of the current Coast Guard projects related to personnel protection, and the need for CTAC input into the development of requirements for personnel protection. The initial problem submitted to this committee, concerns the requirements for personnel entry into cargo tanks, cofferdams, pump rooms, peak tanks and other confined spaces.

Attendance is open to the interested public. With the approval of the Chairman, members of the public may present oral statements. Any member of the public may present a written statement to the Subcommittee at any time. For additional information, contact:

Captain William N. Spence, Commandant (G–MHM/83), U.S. Coast Guard, Washington, D.C. 20590, (202) 426–2306

For scheduling and for providing adequate seating, those wishing to present oral statements or attend the meeting should notify Captain Spence's office no later than the day before the meeting.

Henry H. Bell,
Rear Admiral, U.S. Coast Guard, Chief, Office of Merchant Marine Safety.

[CGD 79–069]
[FR Doc. 79–14996 Filed 5–11–79; 8:45 am]
BILLING CODE 4910–14–M

National Highway Traffic Safety Administration

General Motors Corp.; Denial of Petition for Inconsequential Noncompliance

This notice denies the petition by General Motors Corp. of Warren, Mich., to be exempted from the notification and remedy requirements of the National Traffic and Motor vehicle Safety Act (15 U.S.C. 1381 et seq.) for an apparent noncompliance with 49 CFR 571.120, Motor Vehicle Safety Standard No. 120, *Tire Selection and Rims for Motor Vehicles Other Than Passenger Cars*. The basis of the petition was that the noncompliance is inconsequential as it relates to motor vehicle safety.

Notice of receipt of the petition was published in October 15, 1978 (43 FR 47631) and an opportunity afforded for comment.

General Motors installed 48 improperly marked rims on heavy duty vehicles manufactured between August 1977 and October 1977. The rims should have been marked "22 × 7.50–5"" and were instead marked "22.5 × 7.50–5"."The rims are intended for use with tube-type tires. The company argued that safety implications were "limited to situations where the marking was used in connection with replacing a tire on these rims." Petitioner pointed out that the correct information was already provided through the placard installed in the vehicle in accordance with

Standard No. 120 and on the sidewall of the tire being replaced, both of which correctly instruct the reader to use a 22-inch tube-type tire. GM stated that there is no tube-type tire available in the 22.5 inch size and that even if a tubless tire could be mounted on the rim (which it considered improbable if not impossible) it would not be possible to inflate it because of incompatibility between tubeless tire valves and rim slots provided for tube tire valve stems.

No comments were received on the petition.

The NHTSA has decided to deny GM's request. Although the noncompliance has no effect upon the operational safety of the trucks, Standards Nos. 119 and 120 are intended to give consumer information indicating that the tire and its rim match each other, assured in the first instance by correct labeling of both tire and rim, and only secondarily by reference to the tire information placard, when tire and rim may be detached and removed during the life of the vehicle. The NHTSA continues to emphasize the importance of correct identification markings on rims to reduce the potential hazards of mismatching and misapplication. Correct marking on the GM rims will save the time and effort of many users and repair shops and remove any confusion as to the proper size of tire to be used. Because the rims in question are of multipiece construction, proper marking will also reduce the likelihood of mishandling component parts and possible consequent injuries from their explosive separation.

Accordingly, General Motors Corp. has failed to meet its burden of persuasion that the noncompliance herein described is inconsequential as it relates to motor veicle safety and its petition is hereby denied.

(Sec. 102, Pub. L. 93–492, 88 Stat. 1470 (15 U.S.C. 1417); delegations of authority at 49 CFR 1.50 and 49 CFR 501.8).

Issued on May 7, 1979.

Michael M. Finkelstein,
Associate Administrator for Rulemaking.

[Docket No. IP78–8; Notice 2]
[FR Doc. 79–14868 Filed 5–11–79; 8:45 am]
BILLING CODE 4910–59–M

Berliner Motor Corp., Motor Bikes Import Inc.; Denial of Petitions for Inconsequential Noncompliance

This notice denies the petitions by Berliner Motor Corporation of Hasbrouck Heights, New Jersey, and by Motor Bikes Import ("MBI") of Pennsauken, New Jersey, to be exempted from the notification and remedy requirements of the National Traffic and Motor Vehicle Safety Act (15 U.S.C. 1381 et seq.) for apparent noncompliances with 49 CFR 571.122 and 571.123, Motor Vehicle Safety Standards Nos. 122, *Motorcycle Brake Systems*, and 123, *Motorcycle Controls and Displays*. The basis of the petitions were that the noncompliances are inconsequential as they relate to motor vehicle safety.

Notice of Berliner's petition was published on September 22, 1977 (42 FR 17907) and that of MBI on October 25, 1977 (42 FR 56402). An opportunity was afforded for comment.

Petitioners import motor vehicles for resale and, therefore, each a "manufacturer" as defined by 15 U.S.C. 1391(5). As a manufacturer, an importer is responsible for notification of purchasers and remedy of noncompliances and safety-related defects when they exist in the imported vehicles. Petitioners have imported mopeds manufactured in Italy that do not conform to all the safety requirements for motorcycles. Paragraph S5.1.5 of Standard No. 122 requires that means be provided for visually examining the brake shoe lining thickness without removing the drum. This feature is absent on the Berliner and MBI vehicles. Table 1 of Standard No. 123 requires that the "reserve" position in the manual fuel shutoff control be reached by pushing the control upward. Berliner's does not operate in this manner, but presumably by pushing the control backward, the mode of noncompliance of MBI's control. Table 3 of Standard No. 123 requires that the choke be labeled, and Berliner has failed to do so. MBI has failed to provide a supplemental engine stop control.

Berliner argued that the noncompliance with Standard No. 122 is inconsequential as the wear pattern can be observed when the brakes are "adjusted physically." With a maximum speed of 25 mph the vehicle's linings are said to last for several years. As for the choke, it is "semi-automatic" and its use is explained in the owner's manual. It is triggered before starting and released automatically by the throttle action. Berliner provided no views why it believes that the erroneous fuel valve position is inconsequential. NHTSA's investigative file in this case is CIR 1498.

MBI argued that the noncompliance with Standard No. 122 is inconsequential because the brake linings have an "indefinite" life span due to the slow top speed (25 mph) and operating speeds (15 to 20 mph) of the vehicles. As for Standard No. 123, petitioner stated only that its fuel valves have never opened during any type of collision or mishap and that it would have difficulty in finding the machines because mopeds, unlike other vehicles, are subject to frequent changes of ownership.

One comment was received on each petition, from the California Highway Patrol which opposed them. Principally the Patrol was concerned with the fuel control valve failure; with the increase in moped rentals and lack of requirements for driver training, standardized location and method of operation of important controls is essential to safe operation of the vehicle.

NHTSA concurs with this comment. The decisions by the agency in the petitions by Cimatti Ltd (41 FR 11860) and Batavus USA Inc. (42 FR 30709) are dispositive of the agency's decision with respect to Berliner and MBI's failure to comply with Standard No. 123. As the agency commented in those decisions, the purpose of Standard No. 123 is "to minimize accidents caused by operator error in responding to the motoring environment by standardizing certain controls and displays" (S2). The manual fuel shutoff control has been standardized (Table 1). Although a motor-driven cycle is not required to have this control, if the manufacturer chooses to so equip his vehicle, the control must operate as the standard requires. Similarly, the choke, if provided, must be labeled (Table 3). Controls and displays link the operator and the machine, and if there is confusion as to their location, interpretation, or operation, a dangerous situation may result. A cyclist, especially the novice and the cyclist who has changed from one make of machine to another, must not hesitate when confronted with an emergency.

With respect to the noncompliance with Standard No. 122 and Berliner's argument that the wear pattern can be observed when the brakes are adjusted physically, the petitioner provided no specific detail of the brake adjustment mechanism or how it would alert a rider that insufficent brake friction material remained. Similarly, MBI submitted no data to support its argument that its brake linings have an "indefinite" life.

Berliner Motor Corp. and Motor Bikes Import have not met their burdens of convincing this agency that the noncompliances are inconsequential as they relate to motor vehicle safety and their petitions are hereby denied.

(Sec. 102, Pub. L. 93–492, 88 Stat. 1470 (15 U.S.C. 1417); delegations of authority at 49 CFR 1.50 and 49 CFR 501.8)

Issued on May 7, 1979.

report the results of this study by

for internal updating of the regulations

the Work Plan is approved by the head

ACTION: Revised System of Records.

the Library collection, to distribute

Issued on May 7, 1979.

Michael M. Finkelstein,
Associate Administrator for Rulemaking.

[Docket No. IP77-16; Notice 2; Dockets No. IP77-13, Notice 2]
[FR Doc. 79-14827 Filed 5-11-79; 8:45 am]
BILLING CODE 4910-59-M

National Driver Register Study; Request for Comments and Notice of Public Meetings

AGENCY: U.S. Department of Transportation, National Highway Traffic Safety Administration.

ACTION: Request for Comments and Notice of Public Meetings.

SUMMARY: The Surface Transportation Act of 1978 requires the Secretary of Transportation to report to the Congress regarding the National Driver Register. This notice announces the establishment of a docket to receive comments and to announce four public meetings relevant to the report.

CLOSING DATES FOR COMMENTS: August 1, 1979.

ADDRESS: Comments should refer to docket number and be submitted to: NHTSA, Docket No. 79-09, Room 5108, Nassif Building, 400 7th Street, S.W., Washington, D.C. 20590.

FOR FURTHER INFORMATION CONTACT: Clay J. Hall, Office of Driver and Pedestrian Programs, National Highway Traffic Safety Administration, Room 5130, 400 7th Street, S.W., Washington, D.C. 20590, 202-426-9581.

SUPPLEMENTARY INFORMATION: The National Driver Register (NDR) functions as a central point for the exchange of information between States concerning the driving records of persons who apply for drivers' licenses. A State participates by sending the NDR a record of each license revocation or suspension, and by querying the NDR before it issues a license to an applicant. In this way, the States can avoid issuing licenses to persons whose recent driving records contain violations that should keep them off the road.

Originally established by law in 1960 (Pub. L. 86-660), the NDR was made a part of the Highway Safety Act of 1966 (Pub. L. 89-564) and has operated since that time as a part of the National Highway Traffic Safety Administration. As the States have moved toward faster licensing procedures, the NDR's reliance on the mails has often made its use inconvenient. To examine this problem, and the overall question of the effectiveness of the NDR, Congress has directed the Department of Transportation to study the NDR and to report the results of this study by December 31, 1979.

The NDR study is being conducted pursuant to Section 204 of the Surface Transportation Act of 1978 (P.L. 95-599). This section requires the NHTSA to make a full and complete investigation and study of the need for an NDR and, if necessary, ways and means to assist the States in electronically exchanging information regarding motor vehicle driving records of certain individuals. The study will cover: 1) information to be placed in the register; 2) the accessibility of such information (including privacy safeguards); 3) the necessary computer electronic equipment; 4) means of keeping information current; and 5) whether an NDR system can effectively operate on a State voluntary participation basis. These specific issues will be addressed within a framework of a much broader examination of the need for and practicability of a NDR for the purpose of improving the integrity of State driver licensing systems.

In order to solicit the views of States and local officials and other interested individuals, NHTSA is holding four public meetings at the following times and places:

I.—Wednesday, May 23, 1979, Holiday Inn, East Bavarian Room, 3100 South Dirksen Parkway, Springfield, Illinois 62703, 1:00-4:00 p.m.
II.—Monday, June 18, 1979, Sheraton Sand-Key Hotel, 1160 Gulf Blvd., Clearwater Beach, Florida 33515 1:00-4:00 p.m.
III.—Tuesday, June 26, 1979, Brandywine Hilton Inn, Delaware Room, I-95 & Naamans Road, Claymont, Delaware (Wilmington), 1:00—4:00 p.m.
IV.—Friday, July 20, 1979, Del Webb's Towne House, 190 East Clarendan Avenue, Phoenix, Arizona 85013, 9:00-12:00 noon.

The agency is also soliciting written comments on the nature of the NDR study. These comments should be sent to the address above.

Issued on: May 4, 1979.

K. W. Heathington,
Associate Administrator, Traffic Safety Programs.

[Docket 79-09; Notice 1]
[FR Doc. 79-14918 Filed 5-11-79; 8:45 am]
BILLING CODE 4910-59-M

Office of the Secretary

Improving Government Regulations; Regulatory Policies and Procedures

AGENCY: Department of Transportation (DOT).

ACTION: Amendment to Regulatory Policies and Procedures.

SUMMARY: The Department of Transportation amends its procedures for internal updating of the regulations reports which form the basis for the Department's Regulations Agenda. The current procedures require bi-monthly updates in the intervening periods between the semi-annual Agendas; this amendment will change that requirement so that the updates will now be required only once in the intervening period, three months after the reports used to prepare the Agenda. Based on our experience, we believe this change will ease the burden imposed upon the DOT offices that prepare the reports without adversely affecting regulatory management.

EFFECTIVE DATE: May 9, 1979.

FOR FURTHER INFORMATION CONTACT: Neil R. Eisner, Assistant General Counsel, Office of Regulation and Enforcement, Department of Transportation, 400 7th Street, S.W., Washington, D.C. 20590, 202-426-4723.

SUPPLEMENTARY INFORMATION: On January 31, 1978, DOT issued its Policies and Procedures for Simplification, Analysis, and Review of Regulations [43 FR 9582; March 8, 1978]; these procedures took effect on March 1, 1978. Among other things, they required the preparation of semi-annual Regulations Agendas based upon regulations reports submitted from all the rulemaking initiating offices within DOT. Bi-monthly updates of these regulations reports were also required. Our current regulatory Policies and Procedures, which took effect March 1, 1979, [44 FR 11034; February 26, 1979) contain the same requirements. The semi-annual Agendas are published in the Federal Register to provide the public with information on the Department's rulemaking plans. The bi-monthly updates are intended for internal use as a management tool.

The Department's experience since March 1, 1978, indicates that a great deal of time is required to prepare and review the bi-monthly updates. That experience also indicates that the bi-monthly updates are not necessary for the effective management of the Department's rulemaking program. In this connection, our efforts to keep the semi-annual Agendas as current as possible while they are undergoing review by the DOT Regulations Council members has resulted in very little additional information having to be added to the next bi-monthly update. Also, under our new Regulatory Policies and Procedures, the rulemaking initiating offices are required to prepare a Work Plan for each significant regulation before the development of that regulation may proceed. As soon as the Work Plan is approved by the head of the initiating office, it is sent to the Department's General Counsel, who can then circulate it to members of the Regulatory Council, if necessary, for their information. This enables appropriate offices outside the rulemaking initiating office to be advised at a very early stage of proposals concerning significant regulations, thereby reducing the need for bi-monthly update reports.

For the above reasons, the Department believes that the present requirement in its Regulatory Policies and Procedures for two updating reports between each semi-annual Agenda should be changed to require only one updating report. This amendment accomplishes that change. Some of the resulting time that will be saved can then be spent in further improving the quality of the semi-annual Agendas which are published in the Federal Register.

As discussed above, the bi-monthly update reports have not been published and were intended for internal purposes. As such, they relate to a matter of agency management. Because of this and the nature of the change being made by this amendment, public notice and an opportunity for comment is not required. There is, however, an immediate need to relieve Department offices of an unnecessary burden. This amendment is, therefore, being adopted without first inviting public comment and it is being made effective upon issuance.

Issued in Washington, D.C. on May 9, 1979.

Brock Adams,
Secretary of Transportation.

The Amendment

In consideration of the foregoing, the Department of Transportation amends the second sentence of paragraph 13a. of the department's Regulatory Policies and Procedures to read as follows:

The Report is submitted to the Department Regulations Council, through the General Counsel, not later than the last working days of June and December each year and supplemented with an updating report not later than the last working days of March and September each year.

[OST Docket No. 58; Amdt. No. 1]
[FR Doc. 79-14938 Filed 5-11-79; 8:45 am]
BILLING CODE 4910-62-M

DEPARTMENT OF THE TREASURY

Privacy Act of 1974; Revised System of Records

AGENCY: Office of the Secretary, Department of Treasury.

ACTION: Revised System of Records.

SUMMARY: Pursuant to the requirements of the Privacy Act of 1974 (5 U.S.C. 552a) the Chief, Library Division, gives notice of the proposed revised system of records retitled, Document Delivery Control System (Treasury/OS 00.194). The original system, Library Circulation Control Records (Treasury/OS 00.194), has been expanded to include data required for the distribution of current news publications and the name of the system is therefore amended to reflect its expanded scope. The new data will provide information needed to improve distribution procedures and to control costs. A revised system report was filed with the Office of Management and Budget, the Speaker of the House and the President of the Senate.

DATES: Comments must be received not later than June 13, 1979. This proposed system will become effective on July 14, 1979, unless prior notice is given by this Department prior to that time.

ADDRESS: Department of the Treasury, Office of Administrative Programs Library Division, Room 5030 Main Treasury Building, 1500 Pennsylvania Avenue, N.W., Washington, D.C. 20220.

FOR FURTHER INFORMATION CONTACT: Anne E. Stewart, Chief, Library Division, Department of the Treasury, Room 5030, Main Treasury Building, 1500 Pennsylvania Avenue, N.W., Washington, D.C. 20220, 202-566-2069.

Dated: May 3, 1979.

W. J. McDonald,
Acting Assistant Secretary (Administration).

Treasury/OS 00.194

SYSTEM NAME:
Document Delivery Control System

SYSTEM LOCATION:
Department of the Treasury, Office of Administrative Programs, Library Division, Room 5030, Main Treasury Building, 1500 Pennsylvania Avenue, N.W., Washington, D.C. 20220.

CATEGORIES OF INDIVIDUALS COVERED BY THE SYSTEM:
Department employees who are library users.

CATEGORIES OF RECORDS IN THE SYSTEM:
Employees who borrow library materials or receive current news publications or library material on distribution.

AUTHORITY FOR MAINTENANCE OF THE SYSTEM:
5 U.S.C. 301

ROUTINE USES OF RECORDS MAINTAINED IN THE SYSTEM, INCLUDING CATEGORIES OF USERS AND THE PURPOSES OF SUCH USES:
The information is used by the Library staff to locate materials withdrawn from the Library collection, to distribute library periodicals and current news publications, to conduct serveys of continuing user needs, and to complete pre-exit clearance procedures for employees leaving the Department. For additional routine uses see Appendix AA.

POLICIES AND PRACTICES FOR STORING, RETRIEVING, ACCESSING, RETAINING AND DISPOSING OF RECORDS IN THE SYSTEM:

STORAGE:
Records of publications borrowed from the Library are maintained in a computer disc file or in a card file. The computer files are maintained by name of the subscribers and by office locator information, room number and office billing location. The card file is maintained in the name of the individual borrower and title of publications.

RETRIEVABILITY:
Computer files are maintained by both individual name and office locator information, such as room number and billing location, and title of publication. The card file is maintained by individual name only.

RETENTION AND DISPOSAL:
Only current data is maintained in the computer and card files. Hard copy of the computer data is kept for one year. One year is defined as the current fiscal year and one fiscal year back.

* * * * *

[FR Doc 79-14885 Filed 5-11-79; 8:45 am]
BILLING CODE 4810-25-M

VETERANS ADMINISTRATION

Basic Science Addition; VAMC, Huntington, W. Va. Finding of No Significant Impact

The proposed project provides for the construction of a Basic Science Addition at the Veterans Administration Medical Center, Huntington, West Virginia. The project proposes construction of a single building addition to be attached to the east side of Building No. 12. The building will contain facilities for the training of medical students from Marshall University School of Medicine.

The building site is presently a parking lot. As part of the described project, the displaced parking spaces will be provided for with additional parking added to the parking lots in the athletic field area. An existing station water tower will be relocated from the building site to the athletic field parking lot area.

The project will have definite impacts on the human and natural environment as they affect topography, surface runoff, erosion and the sanitary sewer

district of the City of Huntington. In addition, construction noise, dust, fumes and visual impacts will exist during construction of the project. Long term open and visual impact will result from project development. Mitigating actions include erosion control measures, slope stabilization, and onsite noise abatement methods. Compatibility of exterior architectural material will be provided for. Close coordination between the VA and the City of Huntington is necessary to determine the most appropriate course of action to follow which will result in the best solution to the overall sanitary sewer problem. An analysis of all environmental factors related to the project indicates a Finding of No Significant Impact.

The assessment is being place for public examination in the Veterans Administration office of Washington, D.C. Persons wishing to examine a copy of the document may do so at the following office: Mr. Willard Sitler, Director, Environmental Affairs Office (66), Room 950, Veterans Administration, 1425 K Street, N.W., Washington, D.C., [202–389–2526].

Questions and requests for single copies of the Environmental Assessment should be addressed to: Director, Environmental Affairs Office (66). Veterans Administration, 810 Vermont Avenue, N.W., Washington, D.C. 20420.

Dated: May 8, 1979.

By direction of the Administrator.

Maury S. Cralle, Jr.,

Assistant Deputy Administrator for Financial Management and Construction.

[FR Doc. 79-14944 Filed 5-11-79; 8:45 am]

BILLING CODE: 8320-01-M

Boiler Plant Replacement and Clinical Improvement; VAM & ROC, Sioux Falls, S. Dak.; Finding of No Significant Impact

The proposed project provides for the construction of two separate projects, a Boiler Plant and a Clinical Improvement Project at the Veterans Administration Medical and Regional Office Center in Sioux Falls, South Dakota. The Boiler Plant Replacement Project consists of the construction of a new structure (80' x 80') with three new boilers, an incinerator, a generator, various pumps and a work area. The Clinical Improvement Project provides for the possible extension of facades and the interior updating of patient areas in existing space. This would involve approximately 55,000–66,000 gross square feet of new construction at points adjacent to Building No. 5.

The projects will have impacts on the human and natural environment as they affect existing vegetation, soil stability and noise levels. Energy usage at the VA facilities will increase somewhat. Mitigating actions include implementation of erosion control measures and specific onsite noise abatement techniques. Compliance with historic coordination and planning will be undertaken.

An analysis of all environmental factors related to the proposed projects indicates a Finding of No Significant Impact.

The assessment is being placed for public examination in the Veterans Administration office of Washington, D.C. Persons wishing to examine a copy of the document may do so at the following office: Mr. Willard Sitler, Director, Environmental Affairs Office (66), Room 950, Veterans Administration, 1425 K Street, N.W., Washington, D.C., [202–389–2526].

Questions and requests for single copies of the Environmental Assessment should be addressed to: Director, Environmental Affairs Office (66), Veterans Administration, 810 Vermont Avenue, N.W., Washington, D.C. 20420.

Dated: May 8, 1979.

By direction of the Administrator.

Maury S. Cralle, Jr.,

Assistant Deputy Administrator for Financial Management and Construction.

[FR Doc. 79-14945 Filed 5-11-79; 8:45 am]

BILLING CODE 8320-01-M

Modernization and New Construction; VAMC, North Little Rock, Ark.; Finding of No Significant Impact

The proposed project provides for the construction of a 3 to 4-story replacement facility at the Veterans Administration Medical Center, North Little Rock, Arkansas. This replacement structure is envisioned as a series of "T" shaped bed/living units interconnected by a series of enclosed courts and a primary entrance "greenery" area. The new structure will occur in the open space between Buildings 63, 64, 65 and 66. This space is presently occupied, in part, by Building 165, the chapel. The new facility will be connected to Building 76, the main kitchen and dining room. The new building will provide new bed space for all 1080 beds at North Little Rock. This will vacate Buildings 63, 64, 65, 66, 67, 68 and 79. Buildings 63, 64, 67, 79 and 165 will be demolished to accommodate the replacement facility. The remaining vacant buildings will be available for expansion if needed.

Short term impacts, as a result of the replacement project, are associated with the construction phases. These include noise and the visual impact of construction and associated staging areas. Mitigating actions include noise abatement and adequate construction methods. All traffic and parking needs due to construction will be temporary, lasting only until completion of the construction project.

An analysis of all environmental factors related to the project indicates a Finding of No Significant Impact. The assessment is being placed for public examination in the Veterans Administration office of Washington, D.C. Persons wishing to examine a copy of the document may do so at the following office: Mr. Willard Sitler, Director, Environmental Affairs Office (66), Room 950, Veterans Administration, 1425 K Street, N.W., Washington, D.C., [202–389–2526].

Questions and requests for single copies of the Environmental Assessment should be addressed to: Director, Environmental Affairs Office (66), Veterans Administrination, 810 Vermont Avenue, N.W., Washington, D.C. 20420.

Dated: May 8, 1979.

By direction of the Administrator.

Maury S. Cralle, Jr.,

Assistant Deputy Administrator for Financial Management and Construction.

[FR Doc. 79-14946 Filed 5-11-79; 8:45 am]

BILLING CODE 8320-01-M

INTERSTATE COMMERCE COMMISSION

Aberdeen & Rockfish Railroad Co., et al.; Exemption Under Mandatory Car Service Rules

To all railroads:

It appearing, That certain of the railroads named below own numerous 50-ft. plain boxcars; that under present conditions, there are substantial surpluses of these cars on their lines; that return of these cars to the owners would result in their being stored idle; that such cars can be used by other carriers for transporting traffic offered for shipments to points remote from the car owners; and that compliance with Car Service Rules 1 and 2 prevents such use of these cars, resulting in unnecessary loss of utilization of such cars.

It is ordered, That, pursuant to the authority vested in me by Car Service Rule 19, 50-ft. plain boxcars described in the Official Railway Equipment Register, I.C.C.–R.E.R. 6410–A, issued by W. J. Trezise, or successive issues thereof, as having mechanical designation "XM," and bearing reporting marks assigned to the railroads named below, shall be exempt from provisions of Car Service Rules 1, 2(a), and 2(b).

Aberdeen and Rockfish Railroad Company, Reporting Marks: AR
Camino, Placerville & Lake Tahoe Railroad Company, Reporting Marks: CPLT
City of Prineville, Reporting Marks: COP
Duluth, Missabe and Iron Range Railway Company, Reporting Marks: DMIR
East Camden & Highland Railroad Company, Reporting Marks: EACH
Genessee and Wyoming Railroad Company, Reporting Marks: GNWR
Greenville and Northern Railway Company, Reporting Marks: GRN
*The Hutchinson and Northern Railway Company, Reporting Marks: HN
Lake Superior & Ishpeming Railroad Company, Reporting Marks: LSI
Lenawee County Railroad Company, Inc., Reporting Marks: LCRC
Louisiana Midland Railway Company, Reporting Marks: LOAM
Louisville and Wadley Railway Company, Reporting Marks: LW
Louisville, New Albany & Corydon Railroad Company, Reporting marks: LNAC
Manufacturers Railway Company, Reporting Marks: MRS
Middletown and New Jersey Railway Company, Inc., Reporting Marks: MNJ
*Missouri-Kansas-Texas Railroad Company, Reporting Marks: MKT–BKTY
New Orleans Public Belt Railroad, Reporting Marks; NOPB
XXX
Pearl River Valley Railroad Company, Reporting Marks: PRV
Peninsula Terminal Company, Reporting Marks: PT
Raritan River Rail Road Company, Reporting Marks: RR
Sacramento Northern Railway, Reporting Marks: SN
St. Lawrence Railroad, Reporting Marks: NSL
Savannah State Docks Railroad Company, Reporting Marks: SSDK
Sierra Railroad Company, Reporting Marks: SERA
Terminal Railway, Alabama State Docks, Reporting Marks: TASD
The Texas Mexican Railway Company, Reporting Marks: TM
Tidewater Southern Railway Company, Reporting Marks: TS
Toledo, Peoria & Western Railroad Company, Reporting Marks: TPW
Vermont Railway, Inc., Reporting Marks: VTR
WCTU Railway Company, Reporting Marks: WCTR
Youngstown & Southern Railway Company, Reporting Marks: YS
Yreka Western Railroad Company, Reporting Marks: YW
XXX Oregon & Northwestern Railroad Co., deleted.
*Addition.

Effective May 1, 1979, and continuing in effect until further order of this Commission.

Issued at Washington, D.C., April 27, 1979.

Interstate Commerce Commission.

Robert S. Turkington,

Agent.

[Ex Parte No. 241, Rule 19; 61st Rev. Exemption No. 90]

[FR Doc. 79-14091 Filed 5-11-79; 8:45 am]

BILLING CODE 7035-01-M

Permanent Authority Decisions; Decision-Notice

Correction

In FR Doc. 79–4845, appearing at page 9824 in the issue of Thursday, February 15, 1979, the following changes should be made:

1. On page 9834, second column, the seventh line under MC 135213 should read, "to operate as a contract carrier, by."

2. On page 9837, third column, the sub number for MC 145093 should read, "sub–2F."

[Permanent Authority Decisions Volume No. 9]

BILLING CODE 1505-01-M

Permanent Authority Decisions; Decision-Notice

Correction

In FR Doc. 78–33285, appearing at page 55513 in the issue for Tuesday, November 28, 1978, in the twelfth line under MC 107012, page 55516, second column, the letters "LA" should read, "OH."

[Permanent Authority Decisions Volume No. 47]

BILLING CODE 1505-01-M

Chicago & North Western Transportation Co. Abandonment Near Humboldt and LuVerne in Humboldt County, Iowa; Correction; Notice of Findings

Notice is hereby given pursuant to 49 U.S.C. § 10903 (formerly Section 1a of the Interstate Commerce Act) that by a Certificate and Decision decided April 9, 1979, a finding, which is administratively final, was made by the Commission, Review Board Number 5, stating that, subject to the conditions for the protection of railway employees prescribed by the Commission in AB–36 (Sub-No. 2) [1], *Oregon Short Line R. Co.—Abandonment Goshen* ——I.C.C. ——, decided February 9, 1979, and further that North Western shall keep intact all of the right-of-way underlying the track, including all of the bridges and culverts for a period of 120 days from the effective date of the certificate and decision to permit any state or local government agency or other interested party to negotiate the acquisition for public use of all or any portion of the right-of-way, the present and future public convenience and necessity permit the abandonment by the Chicago and North Western Transportation Company of its line of railroad extending from milepost 201.5 near Humboldt to milepost 187.8 near LuVerne, a distance of 13.7 miles, all in Hymboldt County, IA. A certificate of public convenience and necessity permitting abandonment was issued to the Chicago and North Western Transportation Company. After the investigation, the requirement of Section 1121.38(a) of the Regulations that publication of notice of abandonment decisions in the Federal Register be made only after a decision becomes administratively final was waived.

Upon receipt by the carrier of an actual offer of financial assistance, the carrier shall make available to the offeror the records, accounts, appraisals, working papers, and other documents used in preparing Exhibit I (Section 1121.45 of the Regulations). Such document shall be made available during regular business hours at a time and place mutually agreeable to the parties.

The offer must be filed and served no later than May 29, 1979. The offer, as filed, shall contain information required pursuant to Section 1121.38(b)(2) and (3) of the Regulations. If no such offer is received, the certificate of public convenience and necessity authorizing abandonment shall become effective June 28, 1979

H. G. Homme, Jr.,

Secretary.

[Docket No. AB–1 (Sub-No. 80F)]

[FR Doc. 79-14988 Filed 5-11-79; 8:45 am]

BILLING CODE 7035-01-M

[1] Republished to show correct title for AB–1 (Sub-No. 80F)

Midwest Motor Carriers Bureau, Inc.; Rate Authority

AGENCY: Interstate Commerce Commission.

ACTION: Notice. Released Rates Application No. MC–1477.

SUMMARY: Midwest Motor Carriers Bureau, Inc., of Oklahoma City, Oklahoma now has released rate authority in twenty Midwest, Southwest, and Intermountain states under RRO No. MC–661 and Amendments 1 and 2. Midwest seeks to extend this authority to, from and between points in Georgia, North Carolina, South Carolina and Virginia for the benefit of a new member, Theatres Service Company, in transporting general commodities moving in express service. The authority sought will limit the carriers' liability in

dump vehicles from Oswego, NY

Commission, 26 Federal Plaza, New

COMPANY, 4016–9th Street, Rock

the new territory for any express shipments it may lose or damage to $50.00 or 50 cents per pound, whichever be the greater, unless the shipper declares a greater value and pays a higher charge.

ADDRESSES: Anyone seeking copies of the application should contact: Mr. Max G. Morgan, P.O. Box 1540, Edmond, OK 73034, Telephone: (405) 348–7700.

FOR FURTHER INFORMATION CONTACT: Howard J. Rooney, Jr., Bureau of Traffic, Interstate Commerce Commission, Washington, DC 20423, Telephone: (202) 275–7390.

SUPPLEMENTARY INFORMATION: Relief is sought from 49 USC 10730, formerly Section 20 (11) of the Interstate Commerce Act. If the authority is granted, released value rates will be published in Midwest Motor Carriers Bureau, Inc., Agent, Tariffs.

H. G. Homme, Jr.,
Secretary.

[FR Doc. 79–14987 Filed 5–11–79; 8:45 am]

BILLING CODE 7035–01–M

Motor Carrier Temporary Authority Applications

May 3, 1979.

The following are notices of filing of applications for temporary authority under Section 210a(a) of the Interstate Commerce Act provided for under the provisions of 49 CFR 1131.3. These rules provide that an original and six (6) copies of protests to an application may be filed with the field official named in the **Federal Register** publication no later than the 15th calendar day after the date the notice of the filing of the application is published in the **Federal Register**. One copy of the protest must be served on the applicant, or its authorized representative, if any, and the protestant must certify that such service has been made. The protest must identify the operating authority upon which it is predicated, specifying the "MC" docket and "Sub" number and quoting the particular portion of authority upon which it relies. Also, the protestant shall specify the service it can and will provide and the amount and type of equipment it will make available for use in connection with the service contemplated by the TA application. The weight accorded a protest shall be governed by the completeness and pertinence of the protestant's information.

Except as otherwise specifically noted, each applicant states that there will be no significant effect on the quality of the human environment resulting from approval of its application.

A copy of the application is on file, and can be examined at the Office of the Secretary, Interstate Commerce Commission, Washington, D.C., and also in the ICC Field Office to which protests are to be transmitted.

Note.—All applications seek authority to operate as a common carrier over irregular routes except as otherwise noted.

Motor Carriers of Property

MC 531 (Sub-401TA), filed April 20, 1979. Applicant: YOUNGER BROTHERS, INC., 4904 Griggs Rd., Houston, TX 77021. Representative: Wray E. Hughes, 4904 Griggs Rd., Houston, TX 77021. Common carrier over irregular routes. *Liquid plastics,* in bulk, in tank vehicles, from San Carlos, CA to Oak Creek, WI for 180 days authority. Supporting Shipper(s): Spencer Kellogg, Div. of Textron, Inc., 956 Branston Rd., San Carlos, CA 94070. Send protests to: John F. Mensing, Interstate Commerce Commission, 515 Ruck Ave., 8610 Fed. Bldg., Houston, TX 77002.

MC 2900 (Sub-368TA), filed April 29, 1979. Applicant: RYDER TRUCK LINES, INC., P.O. Box 2408–R, Jacksonville, FL 32203. Representative: John Carter (same as applicant). *Houses or buildings and component parts,* from Wyoming, MN, to points in the United States, except AK and HI restricted to the transportation of shipments originating at named origin for 180 days. An underlying ETA seeks 90 days authority. Supporting Shipper(s): The Big Outdoors People, Inc., 26600 Fallbrook, Wyoming, MN 55092. Send protests to: G. H: Fauss, Jr., DS, ICC, Box 35008, 400 West Bay Street, Jacksonville, FL 32202.

MC 2960 (Sub-30TA), filed April 12, 1979. Applicant: ENGLAND TRANSPORTATION COMPANY OF TEXAS, INC., 2301 McKinney St., Houston, TX 77023. Representative: E. Larry Wells, Winkle and Wells, Suite 1125 Exchange Park, Dallas, TX 75245. Common carrier over irregular routes. *Synthetic rubber* from the facilities of Firestone Synthetic Rubber and Latex Co. at or near Lake Charles, LA to Houston, TX for 180 days authority. Supporting Shipper(s): Firestone Synthetic Rubber & Latex Co., P.O. Drawer 1361, Lake Charles, LA 70602. Send protests to: John F. Mensing, District Supervisor, 8610 Federal Bldg., 515 Rusk Ave., Houston, TX 77002.

MC 4810 (Sub-6TA), filed April 10, 1979. Applicant: ROCKY MOUNTAIN TRUCKING COMPANY, P.O. Box 2131, Casper, WY 82601. Representative: David E. Driggers, Jones, Meiklejohn, Kehl & Lyons, Suite 1600 Lincoln Center, 1660 Lincoln Street, Denver, CO 80264. (1) *Machinery, equipment, materials and supplies* used in or in connection with, the discovery, development, production, refining, manufacture, processing, and their products and byproducts; and (2) *Machinery, equipment, materials and supplies* used in, or in connection with, the construction, operation, repair, servicing, maintenance, and dismantling of pipelines, including the stringing and picking up thereof, (A) between points in WY, MT, CO, NE, ND, SD, UT and ID, on the one hand, and, on the other, points in KS, NM, WA and OR, (B) Between points in KS, NM, WA and OR, for 180 days. An underlying ETA seeks up to 90 days operating Authority. Supporting Shipper(s): There are (6) shippers. Their statements may be examined at the office listed below and Headquarters. Send protests to: District Supervisor Paul A. Naughton, Interstate Commerce Commission, Room 105 Federal Bldg. & Court House, 111 South Wolcott, Casper, WY 82601.

MC 5470 (Sub-183TA), filed April 5, 1979. Applicant: TAJON, INC., R.D. 5, Mercer, PA 16137. Representative: Richard W. Sahguigni (same as applicant). *Coke and coke breeze, in bulk, in dump trucks* from the facilities of Koppers Company, Inc. at Erie, PA and Toledo, OH to all points in ME, NH, VT, MA, RI, CT, NY, NJ, DE, MD, DC, VA, WV, PA, OH, KY, IN, IL, MI, WI, MN, IA and MO for 180 days. No ETA has been filed. Supporting Shipper(s): Koppers Company, Inc., 850 Koppers Building, Pittsburgh, PA 15219. Send protests to: John J. Egland, District Supervisor, Interstate Commerce Commission, 2111 Federal Building, 1000 Liberty Avenue, Pittsburgh, PA 15222.

MC 5470 (Sub-184TA), filed April 10, 1979. Applicant: TAJON, INC., R.D. #5, Mercer, PA 16137. Representative: Mary Chutz Eshenbaugh (same as applicant). *Coke, in dump vehicles* from Baltimore, MD to Niagara Falls, NY and St. Marys, PA for 180 days. An ETA seeks 90 days. Supporting shipper(s): Airco Speer Carbon-Graphite, 4861 Packard Road, Niagara Falls, NY 14302. Send protests to: John J. England, District Supervisor, Interstate Commerce Commission, 2111 Federal Building, 1000 Liberty Avenue, Pittsburgh, PA 15222.

MC 5470 (Sub-185TA), filed April 16, 1979. Applicant: TAJON, INC., R.D. 5, Mercer, PA 16137. Representative: Ronald E. Chutz (same as applicant). *Petroleum fuel oil, flue dust,* in bulk, in

dump vehicles from Oswego, NY Portsmouth VA and Strasburg, VA to Bellaire, OH and Freeport, PA for 180 days. An underlying ETA seeks 90 days authority. Supporting shipper(s): Philipp Brothers, 1221 Avenue of the Americas, New York, NY 10020. Send protests to: J. J. England, DS, ICC, 2111 Federal Bldg., Pittsburgh, PA 15222.

MC 8771 (Sub-47TA), filed March 30, 1979. Applicant: SAW MILL SUPPLY, INC., 1018 Saw Mill River Road, Yonkers, NY 10710. Representative: John R. Sims, Jr., 915 Pennsylvania Building, 425–13th Street, NW., Washington, DC 20004. *Tractors (except truck tractors),* from the facilities of Ford Motor Co. at Romeo, MI, to points in CT, DE, IL, IN, IA, KY, ME, MA, MD, MN, MO, NH, NJ, NY, OH, PA, RI, VT, VA, WI, WV, and Washington, DC. An underlying ETA seeks 90 days authority. Supporting shipper(s): Ford Motor Co.—Ford Tractor Operations, 2500 East Maple Road, Troy, MI 48084. Send protests to: Maria B. Kejss, Transportation Assistant, Interstate Commerce Commission, 26 Federal Plaza, New York, NY 10007.

MC 8771 (Sub-48TA), filed April 6, 1979. Applicant: SAW MILL SUPPLY, INC., 1018 Saw Mill River Road, Yonkers, NY 10710. Representative: John R. Sims, Jr., 915 Pennsylvania Bldg., 425–13th St., NW., Washington, DC 20004. *Iron and steel articles,* from the facilities of Commercial Shearing Inc. at or near Youngstown, OH, to (1) the jobsite of Maryland Transit Authority at or near Baltimore, MD, and (2) the jobsite of Seabrook, NH Nuclear Power Project of the Public Service Commission of New Hamphsire, at or near Seabrook, NH. An underlying ETA seeks 90 days authority. Supporting shipper(s): Commercial Shearing Inc., 1775 Logan Avenue, Youngstown, OH 44501. Send protests to: Maria B. Kejss, Transportation Assistant, Interstate Commerce Commission, 26 Federal Plaza, New York, NY 10007.

MC 8771 (Sub-49TA), filed April 19, 1979. Applicant: SAW MILL SUPPLY, INC., 1018 Saw Mill River Road, Yonkers, NY 10710. Representative: John R. Sims, Jr., Esq., 915 Pennsylvania Building, 425–13th St., NW., Washington, DC 20004. *Calcium chloride,* from Solvay, NY, to points in NH and VT. An underlying ETA seeks 90 days authority. Supporting shipper(s): James J. Lowe, 149 Porters Point Rd., POB 72, Colchester, VT 05446. Send protests to: Maria B. Kejss, Transportation Assistant, Interstate Commerce Commission, 26 Federal Plaza, New York, NY 10007.

MC 9291 (Sub-9TA), filed April 12, 1979. Applicant: CARROL BALL TRANSPORT, INC., P.O. Box 53, 312 E. Market, Centerville, KS 66014. Representative: Clyde N. Christey, Kansas Credit Union Bldg., 1010 Tyler, Suite 110L, Topeka, KS 66612. *Iron & Steel Articles,* (a) from the facilities of CF&I near Pueblo, Co to points in KS; also (b) from the facilities of Armco Steel near Kansas City, MO to points in KS and CO; *Fabricated Iron & Steel Articles,* (a) from the facilities of Lacy Steel Co., Inc. near Lawrence, KS to points in CO, MO, NE and OK; also (b) between the facilities of Lacy Steel Co. Inc near Lawrence, KS on the one hand and Kansas City, MO on the other hand; *Roof Decking & Culvert Pipe,* From the facilities of Wheeling corrugating Co. near Lenexa, KS to points in MO and CO; *Iron and Steel Articles,* from Kansas City and Gerald, MO; Tulsa, OK, St. Paul, MN, and Wilton Junction, IA and Bruning, NE to points in KS, OK and NE, for 180 days. Supporting shipper(s): Brown-Strauss Corp, A Div. of Azcon, 14th and Osage Ave, Kansas City, KS; Lacy Steel Co., Inc., Box 247, Lawrence, KS 66044; Jack G. Fast d.b.a. Tri-State Equipment Co., 607 Catalina Drive, Hutchinson, KS 67501; Wheeling Corrugating Co., 9801 Alden Rd., Lenexa, KS 66215. Send protests to: Thomas P. O'Hara, DS, ICC, 256 Federal Bldg., 444 S. E. Quincy, Topeka, KS 66683.

MC 21060 (Sub-20TA), filed April 11, 1979. Applicant: IOWA PARCEL SERVICE, INC., 3123 Delaware Ave., Des Moines, IA 50313. Representative: Harold W. Sternberg (same as applicant). *Such merchandise as is marketed by home product distributors for the account of shaklee Corporation* (except commodities in bulk) from Des Moines, IA, to points in IA, NE, and to Rock Island and Molined, IL, restricted to traffic having a prior interstate movement and further restricted to the transportation of parcels, packages, and articles weighing 200 pounds or less, and no service shall be performed in the transportation of any parcels, packages, and articles weighing in the aggregate more than 750 pounds from one consignor at one location to one consignee at one location on any one date, for 180 days. An underlying ETA seeks 90 days authority. Supporting shipper(s): Shaklee Corporation, 1900 Powell St., Emeryville, CA 94608. Send protests to: Herbert W. Allen, DS, ICC, 518 Federal Bldg., Des Moines, IA 50309.

MC 43421 (Sub-58TA), filed March 19, 1979. Applicant: DOHRN TRANSFER COMPANY, 4016–9th Street, Rock Island, IL 61201. Representative: Walter J. Leahy, 4016–9th Street, Rock Island, IL 61201. *Building materials and other articles, including Wood Windows, glass sliding doors, wood folding doors and partitions;* from the facilities of Rolscreen Company, Pella, IA to Louisville, KY; Elk Grove Village and Rock Island, IL; Indianapolis and Ft. Wayne, IN; Cincinnati, Cleveland, Kettering and Toledo, OH for 180 days. Applicant intends to tack with MC–43421 and related subs. Supporting shipper(s): Rolscreen Company, Pella, Iowa 50219. Send protests to: Annie Booker, Transportation Assistant, Interstate Commerce Commission, 219 South Dearborn Street, Room 1386, Chicago, IL 60604.

MC 52460 (Sub-242TA), filed April 11, 1979. Applicant: ELLEX TRANSPORTATION, INC., P.O. Box 9637, 1420 West 35th Street, Tulsa, Oklahoma 74107. Representative: Wilburn L. Williamson, Suite 615-East, The Oil Center, 2601 Northwest Expressway, Oklahoma City, Oklahoma 73112. *Plumbing fixtures and fittings and materials and supplies used in the manufacture thereof* (except in bulk) Between Brownwood, TX and Spartanburg, SC on the one hand, and, on the other, points in AL, AR, CO, GA, FL, KS, LA, MS, MO, NM, NC, OK, SC, TN and TX. for 180 days. An underlying ETA seeks 90 days authority. Supporting shipper(s): Kohler, Co., P.O. Box A, Kohler, WI. 53044. Send protests to: Connie Stanley, Transportation Assistant, Interstate Commerce Commission, Room 240 Old Post Office Bldg., 215 NW Third Street, Oklahoma City, Oklahoma.

MC 52861 (Sub-61TA), filed April 9, 1979. Applicant: WILLS TRUCKING, INC., 4500 Rockside Rd., Cleveland, OH 44131. Representative: John Wilson, 3185 Columbia Rd., Richfield, OH 44286. *Dry fertilizer,* from Toledo, OH, to points in NY, for 180 days. Supporting shipper(s): Wilson & George Meyer & Company, 5321 Southwyck Blvd., Toledo, OH 43614. Send protests to : Mary A. Wehner, D/S, ICC, 731 Federal Building, Cleveland, OH 44199.

MC 53841 (Sub-25TA), filed April 9, 1979. Applicant: W. H. CHRISTIE & SONS, INC., Box 517, East State Street, Knox, PA 16232. Representative: John A. Pillar, Esquire, 1500 Bank Tower, 306 Fourth Avenue, Pittsburgh, PA 15222. *Petroleum and petroleum products* (except in bulk) from Reno and Rouseville, PA to points in VA, for 180 days. An underlying ETA seeks authority for 90 days. Supporting

shipper(s): Pennzoil Company, P.O. Box 808, Oil City, PA 16301. Send protests to: John J. England, District Supervisor, Bureau of Operations, Interstate Commerce Commission, 2111 Federal Building, 1000 Liberty Avenue, Pittsburgh, PA 15222.

MC 56270 (Sub-25TA), filed April 4, 1979. Applicant: LEICHT TRANSFER & STORAGE CO., 1401–55 State St., Green Bay, WI 54306. Representative: Dennis L. Sedlacek (same address as applicant). *Paper, paper products, cellulose products and textile softeners,* between Green Bay and Marinette, WI on the one hand, and on the other, points in IL, IN, IA, MI, MN, OH, & PA, restricted to traffic originating at or destined to the facilities of Procter & Gamble, for 180 days. An underlying ETA seeks 90 days authority. Supporting shipper(s): Procter & Gamble distributing Co., P.O. Box 599, Cincinnati, OH 45201. Send protests to: Gail Daugherty, Transportation Asst., ICC, 517 East Wisconsin Ave., Milwaukee, WI 53202.

MC 56270 (Sub-26TA), filed April 4, 1979. Applicant: LEICHT TRANSFER & STORAGE CO., 1401–55 State St., Green Bay, WI 54306. Representative: Dennis L. Sedlacek (same address as applicant). *Paper, paper products and materials, equipment and supplies used in the manufacture or distribution of paper and paper products,* between Fond du Lac, Green Bay, Marinette and Oconto Falls, WI on the one hand, and on the other, points in IA, IL, IN, MI & MN, for 180 days. An underlying ETA seeks 90 days authority. Supporting shipper(s) Scott Paper Co., Scott Plaza I, Philadelphia, PA 19113 and American Can Co., P.O. Box 702, Neenah, WI 54956. Send protests to: Gail Daugherty, Transportation Asst., ICC, 517 East Wisconsin Ave., Milwaukee, WI 53202.

MC 59570 (Sub-44TA), filed April 12, 1979. Applicant: HECHT BROTHERS, INC., 2075 Lakewood road (Rt. 9), Toms River, NJ 08753. Representative: Same as above. *Dry salt, dry salt with additives, dry pepper and dry mineral mixtures,* in bags, bulk and containers, from points in NJ except those in and south of Burlington County to points in VA, for 180 days. An underlying ETA seeks 90 day authority. Supporting shipper(s): Morton Salt Co., State Street, Perth Amboy, NJ 08861. Send protests to: District Supervisor, ICC, 428 East State Street, Room 204, Trenton, N.J. 08608.

MC 61231 (Sub-141TA), filed April 12, 1979. Applicant: EASTER ENTERPRISES, INC., d.b.a. ACE LINES, INC., P.O. Box 1351, Des Moines, IA 50305. Representative: William L. Fairbank, 1980 Financial Center, Des Moines, IA 50309. *Iron and steel articles* from the facilities of Armco, Inc. at Ashland, KY and Middletown, OH to points in AR, CO, IA, KS, MN, MO, NE, OK, and TX for 180 days. Supporting Shipper(s): Armco Inc., 703 Curtis St., Middletown, OH 45043. Send protests to: Herbert W. Allen, DS, ICC, 518 Federal Bldg., Des Moines, IA 50309.

MC 85970 (Sub-25TA), filed April 16, 1979. Applicant: SARTAIN TRUCK LINE, INC., 1625 Hornbrook Street, Dyersburg, TN 38107. Representative: Mr. Larry Kilzer, (same as applicant). *General Commodities,* except those of unusual value, commodities in bulk, Classes A and B explosives, household goods as defined by the Commission, and commodities requiring special equipment, between Hickman-Fulton County Riverport at or near Hickman, KY, on the one hand, and, on the other, points in the states of AR, IL, IN, KY, TN and MO, for 180 days. Restricted to shipments having a prior or subsequent movement by water. Applicant intends to tack the authority here applied for to authority held by it in MC–85970 and subs thereunder, and further intends to interline with other carriers at Memphis, TN; Nashville, TN; St. Louis, MO; Jackson, TN; Fulton, KY; Union City, TN; Alamo, TN; Trenton, TN and Dyersburg, TN. Supporting shipper(s): Hickman-Fulton County Riverport, Riverport Office, P.O. Box 6, Hickman, KY 42050. Send protests to: Floyd A. Johnson, District Supervisor, Interstate Commerce Commission, 100 North Main Building, Suite 2006, 100 North Main Street, Memphis, TN 38103.

MC 90870 (Sub-24TA), filed March 30, 1979. Applicant: RIECHMAN ENTERPRISES. INC., Route 2, Box 137, Alhambra, IL 62001. Representative: Cecil L. Goettsch, 1100 Des Moines Bldg., Des Moines, IA 50309. Authority sought to operate as a *common carrier,* over *irregular routes,* transporting *drywall products, and materials and supplies* used in the installation and distribution thereof, from the Memphis, TN Commercial Zone to points in FL, GA, IL, IN, MO, and TX. Applicant has filed for 90 ETA authority. Supporting shipper: Double E Drywall Supply, Inc., 1641 Bartlett Rd., Memphis, TN 38134. Send protest to: Charles D. Little, District Supervisor, Interstate Commerce Commission, Room 414, Leland Office Bldg., 527 East Capitol Ave., Springfield, IL 62701.

MC 95350 (Sub-9TA), filed April 5, 1979. Applicant: R. W. JONES TRUCKING CO., P.O. Drawer "T", Vernal, UT 84078. Representative: Harry D. Pugsley, Attorney, 1283 East South Temple 501, Salt Lake City, UT 84102. *Machinery, materials, equipment and supplies* used in, or identical to, or in connection with the discovery, development, production, extraction and preservation of oil, gas and petroleum; and the construction, dismantling, repair, servicing and maintenence of facilities for the storage, operation, processing, and blending of oil, natural gas and petroleum products between points in UT, ID, WY, CO, and NV, on the one hand, and, on the other hand, points in Uintah, Duchesne, Daggett, Cache, Summit, Rich, Grand, Emery and Carbon Counties, UT; Madison, Fremont, Clark, Jefferson, Teton, Bonneville, Bingham, Bannock, Caribou, Power, Bear Lake, Oneida, and Franklin Counties, ID; Moffatt, Rio Blanco, Routt, Mesa, and Garfield Counties, CO; Sweetwater, Fremont, Teton, Uinta, Lincoln, Carbon, Sublette and Natrona Counties, Wyoming; and all of NV. Excluding transportation of petroleum products in bulk and transportation in interstate commerce between points in UT, for 180 days. Supporting Shipper(s): There are eleven supporting shippers. Their statements may be examined at the office listed below or at Headquarters. Send protests to: L. D. Helfer, DS, ICC, 5301 Federal Bldg., Salt Lake City, UT 84138

MC 95540 (Sub-1100TA), filed April 10, 1979. Applicant: WATKINS MOTOR LINES, INC., 1144 West Griffin Road, P.O. Box 1636, Lakeland, FL 33802. Representative: Benjy W. Fincher (same address as applicant). *Foodstuffs* from Dallas and Forth Worth, TX, to Memphis, TN, Birmingham, AL, Atlanta, GA, and points in AR, LA, and MS for 180 days. An underlying ETA seeks 90 days authority. Supporting Shipper(s): Collier Industries, P.O. BOX 1537, Ft. Worth, TX 76101. Send protests to: M. A. Muka, T/A, ICC—BOp Monterey Bldg., Rm 101, 8410 N.W. 53 Ter. Miami, FL 33166.

MC 95540 (Sub-1101TA), filed April 12, 1979. Applicant: WATKINS MOTOR LINES, INC., 1144 West Griffin Road, P.O. Box 1636, Lakeland, FL 33802. Representative: Benjy W. Fincher (same address as applicant). *Such merchandise as is dealt in by wholesale, retail, chain and food business houses* (except commodities in bulk, in tank vehicles) from Atlanta, GA to points in AL for 180 days. An underlying ETA seeks 90 days authority. Supporting Shippers(s): Hershey Foods Corp., Hershey, PA 17033. Send protests to: Donna M. Jones, T/A, ICC—Bop, Monterey Bldg., Suite 101, 8410 N.W. 53rd Ter., Miami, FL 33166.

MC 103051 (Sub-478TA), filed April 6, 1979. Applicant: FLEET TRANSPORT CO., INC., 934 44th Ave., North, Nashville, TN 37209. Representative: Russell E. Stone, P.O. Box 90408, Nashville, TN 37209. *Jet fuel, in bulk, in tank vehicles,* from Lynn Haven, FL to Marietta, GA, for 180 days. Supporting Shipper(s): U.S. Army Legal Services Agency, Department of the Army, Room 422, Nassif Bldg., 5611 Columbia Pike, Falls Church, VA 22041. Send protests to: Glenda Kuss, TA, ICC, Suite A–422, U.S. Court House, 801 Broadway, Nashville, TN 37203.

MC 106401 (Sub-65TA), filed April 10, 1979. Applicant: JOHNSON MOTOR LINES, INC., P.O. Box 31577, Charlotte, NC 28231. Representative: Donald B. Sweeney, Jr., 603 Frank Nelson Bldg., Birmingham, AL 35203. Authority sought to operate as a common carrier, by motor vehicle, over regular routes, transporting *general commodities* (except those of unusual value, classes A and B explosives, household goods as defined by the Commission, commodities in bulk, and commodities requiring special equipment) (1) Between Charlotte, NC, and Parkersburg, WV: from Charlotte over Interstate Highway 77 to Parkersburg, and return over the same route; (2) Between Stateville, NC, and Bluefield, VA–WV: from Statesville over U.S. Highway 21 to Bluefield, and return over the same route; (3) Between Winston-Salem, NC, and Huntington, WV: from Winston-Salem over U.S. Highway 52 to Huntington, and return over the same route; (4) Between Bluefield, WV, and Erie PA: from Bluefield over U.S. Highway 19 to Erie, and return over the same route; (5) Between Huntington, WV, and Erie, PA: from Huntington over Interstate Highway 64 to junction Interstate Highway 79 at Charleston, thence over Interstate Highway 79 to Erie, and return over the same route; (6) Between Huntington, WV, and junction Interstate Highway 70 and U.S. Highway 19: from Huntington over WV Highway 2 to junction Interstate Highway 70 to junction of Interstate Highway 70 and U.S. Highway 19, and return over the same route; and (7) Between Parkersburg, WV, and Clarksburg, WV: from Parkersburg over U.S. Highway 50 to Clarksburg and return over the same route. Service is authorized hereinabove as follows: (a) At intermediate points on the designated routes in North Carolina; (b) at points in West Virginia as intermediate or off-route points; and (c) at points in Pennsylvania, on and west of U.S. Highway 219, as intermediate or off-route points. Restriction: This authority is restricted to traffic moving from, to, or through points in North Carolina for 180 days. An underlying ETA seeks 90 days authority. Applicant intends to tack the authority applied for with MC–106401. Applicant intends to interline with other carriers. Supporting Shipper(s): There are approximately 169 shippers. Their statements may be examined at the office listed below and Headquarters. Send protests to: District Supervisor Terrell Price, 800 Briar Creek Rd.—Rm. CC516, Mart Office Building, Charlotte, NC 28205.

MC 106920 (Sub-81TA), filed April 26, 1979. Applicant: RIGGS FOOD EXPRESS, INC., P.O. Box 26, New Bremen, OH 45869. Representative: Paul E. Bundschuh (same address as applicant). *Foodstuffs, except in bulk, in vehicles equipped with mechanical refrigeration,* from Jacksonville, IL to FL, GA, IN, KY, MI, and TN, for 180 days. An underlying ETA seeks 90 days authority. Supporting Shipper(s): Anderson Clayton Foods, Inc., 7839 Churchill Way, Dallas, TX 75251. Send protests to: Interstate Commerce Commmission, Bureau of Operations, 600 Arch St., Rm. 3236, Phila., PA 19106.

MC 110191 (Sub-31TA), filed April 10, 1979. Applicant: TURNER'S EXPRESS, INC., 1300 Shelton Avenue, Norfolk, VA 23502. Representative: D. L. Turner (same address as above). *Empty beverage containers,* (1) from Havre de Grace, MD, to Norfolk, VA and Richmond, VA (2) from Henderson NC to Norfolk, VA, for 180 days. Supporting Shipper(s): Royal Crown Bottling Company, 711 W. 24th Street, Norfolk, VA. Send protests to: Paul D. Collins, DS, ICC, Room 10–502 Federal Bldg., 400 North 8th Street, Richomd, VA 23240.

MC 110191 (Sub-32TA), filed April 12, 1979. Applicant: TURNER'S EXPRESS, INCORPORATED, 1300 Shelton Avenue, Norfolk, VA 23502. Representative: D. L. Turner (same address as above). *Beverages, flavored or phosphated, non alcoholic, in containers,* from Norfolk and Richmond, VA to points in NC for 180 days. Supporting shipper(s): Royal Crown Bottling Company, 711 W. 24th Street, Norfolk, VA. Send protests to: Paul D. Collins, DS, ICC, Rm. 10–502 Federal Bldg., 400 North 8th Street, Richmond, VA 23240.

MC 110380 (Sub-12TA), filed April 9, 1979. Applicant: BERSCHENS OF MADISON, INC., 120 W. Verona Ave., Verona, WI 53593. Representative: Rolfe Hanson, 121 W. Doty St., Madison, WI 53703. *Plastic pipe, conduit, and materials, supplies and tools (except commodities in bulk) used in the installation of plastic pipe and conduit* from Albion, WI to points in IL, IN, IA, MI, MN, MO, OH & WI, for 180 days. An underlying ETA seeks 90 days authority. Supporting shipper(s): Plastic Corp., Hwy. 51, Albion, WI 53534. Send protests to: Gail Daugherty, Transportation Asst., ICC—Bureau of Operations, U.S. Federal Bldg. & Courthouse, 517 East Wisconsin Ave., Rm. 619, Milwaukee, WI 53202.

MC 110420 (Sub-809TA), filed March 26, 1979. Applicant: QUALITY CARRIERS, INC., P.O. Box 186, Pleasant Prairie, WI 53158. Representative: John R. Sims, Jr., 915 Pennsylvania Bldg., 425 13th St., NW., Washington, DC 20004. *Lacquer, varnish, paint and paint products, in bulk, in tank vehicles,* from Chicago and Waukegan, IL to points in AL, CO, OH & TX, for 180 days. An Underlying ETA seeks 90 days authority. Supporting shipper(s): Midland Div., The Dexter Corp., East Water St., Waukegan, IL 60085. Send protests to: Gail Daugherty, Transportation Asst., U.S. Federal Building and Courth House, 517 East Wisconsin Ave., Rm. 619, Milwaukee, WI 53202.

MC 110420 (Sub-814TA), filed April 5, 1979. Applicant: QUALITY CARRIERS, INC., P.O. Box 186, Pleasant Prairie, WI 53158. Representative: Michael V. Kaney (same address as applicant). *Liquid Chemicals, in bulk, in tank vehicles,* from Chicago, IL to points in AL, IN, IA, MA, MI, MN, MS, MO, NJ, NY, OH, SC and WI, for 180 days. An underlying ETA seeks 90 days authority. Supporting shipper(s): The Gillette Company, Chemical Division, 3500 16th St., North Chicago, IL 60064. Send protests to: Gail Daugherty, Transportation Asst., ICC—Bureau of Operations, U.S. Federal Building and Court House, 517 East Wisconsin Ave., Rm. 619, Milwaukee, WI 53202.

MC 110420 (Sub-815TA), filed April 9, 1979. Applicant: QUALITY CARRIERS, INC., P.O. Box 186, Pleasant Prairie, WI 53156. Representative: John Sims, Jr., 915 Pennsylvania Bldg., 425 13th St., NW., Washington, DC 20004. *Liquid chemicals, in bulk, in tank vehicles,* from Chicago and Morris, IL to points in DE, MD and PA, for 180 days. An underlying ETA seeks 90 days authority. Supporting shipper(s): Armak Co., 8201 W. 47th St., McCook, IL 60525. Send protests to: Gail Daugherty, Transportation Asst., ICC—Bureau of Operations, U.S. Federal Bldg. & Courthouse, 517 East Wisconsin Ave., Room 619, Milwaukee, WI 53202.

MC 111310 (Sub-40TA), filed April 5, 1979. Applicant: BEER TRANSIT, INC., P.O. Box 352, Black River Falls, WI

common carrier, over irregular routes, South Dearborn Street, Room 1386, 45201. Send protests to: Herbert W.

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54615. Representative: Wayne Wilson, 150 E. Gilman St., Madison, WI 53703. *Malt beverages and malt beverage dispensing equipment when shipped therewith* from St. Paul, MN to Hammond, Mishawaka and Valparaiso, IN, for 180 days. An underlying ETA seeks 90 days authority. Supporting shipper(s): Calument Breweries, 6535 Osborn Ave., Hammond, IN 46320. Valpo Beverages, Inc., P.O. Box 123, Valparaiso, IN 46383, and Gene & Martha J. Nicolini d.b.a. Valley Beverage Co., 805 S. Cleveland St., Mishawaka, IN 46544. Send protests to: Gail Daugherty, Transportation Asst., ICC—Bureau of Operations, U.S. Federal Bldg. & Courthouse, 517 East Wisconsin Ave., Room 619, Milwaukee, WI 53202.

MC 111310 (Sub-41TA), filed April 9, 1979. Applicant: BEER TRANSIT, INC., P.O. Box 352, Black River Falls, WI 54615. Representative: Wayne Wilson, 150 E. Gilman St., Madison, WI 53703. (1) *Malt beverages and malt beverage dispensing equipment when shipped therewith* from Cold Springs, MN to points in NJ, MA, FL, GA, MI, MT, NY, OH, TX, PA, and DC, (2) *Mineral water* from Cold Spring, MN to points in IN, IL, MO, WI, NE, IA, ND, SD, MT, TX, GA, OH, NY, MI, PA, FL, NJ, MA, and DC, for 180 days. An underlying ETA seeks 90 days authority. Supporting shipper(s): Cold Spring Brewing Co., 219 N. Red River Ave., Cold Spring, MN 56230. Send protests to: Gail Daugherty, Transportation Asst., ICC—Bureau of Operations, U.S. Federal Bldg. & Courthouse, 517 East Wisconsin Ave., Room 619, Milwaukee, WI 53202.

MC 112070 (Sub-18TA), filed April 9, 1979. Applicant: GRAY MOVING & STORAGE, INC., 1290 S. Pearl St., Denver, CO 80210. Representative: David R. Gray (same as applicant). *Household Goods as defined by the Commission,* (1) between all points in AL, AR, CA, CO, CT, DE, DC, FL, GA, ID, IL, IN, IA, KS, KY, LA, ME, MD, MA, MI, MN, MS, MO, MT, NE, NV, NH, NJ, NM, NY, NC, OH, OK, PA, RI, SC, SD, TN, TX, UT, VE, VA, WVA, WI and WY on the one hand, and, on the other, points in AZ, ID, ND, OR, and WA; (2) between points in AZ, WA, OR, ID, and ND, for 180 days. Underlying ETA seeking 90 days authority filed. SUPPORTING SHIPPER: 5 shippers support. Information available at field office. SEND PROTESTS TO: D/S Herbert C. Ruoff, ICC, 721 19th St., 492 U.S. Customs House, Denver, CO 80202. Supporting shipper(s): 5 shippers in support. Application can be seen in Denver field office. Send protests to: D/S Herbert C. Ruoff, ICC, 721 19th St., 492 U.S. Customs House, Denver, CO 80202.

MC 112520 (Sub-366TA), filed April 12, 1979. Applicant: MCKENZIE TANK LINES, INC., P.O. Box 1200, Tallahassee, FL 32302. Representative: Sol H. Proctor, 1101 Blackstone Building, Jacksonville, FL 32202. *Pulpmill liquids, in bulk, in tank vehicles,* from Nekoosa, WI to Panama City, FL for 180 days. An underlying ETA seeks 90 days authority. Supporting Shipper(s): Arizona Chemical Company, Wayne, NJ 047470. Send protests to: G. H. Fauss, Jr., DS, ICC, Box 35008, 400 West Bay Street, Jacksonville, FL 32202.

MC 113271 (Sub-54TA), filed April 3, 1979. Applicant: CHEMICAL TRANSPORT, P.O. Box 2644 Great Falls, MT 59403. Representative: Ray F. Koby, Box 2567, Great Falls, MT 59403. *Purification residue,* in bulk, from the facilities of Anaconda Company at or near Great Falls, MT to Mesa, AZ. Supporting Shipper(s): Metal Refiners, 255 So. Extension Road, Mesa, AZ 85251. Send protests to: Paul J. Labane, DS, ICC, 2602 First Avenue North, Billings, MT 59101.

MC 115841 (Sub-699TA), filed April 2, 1979. Applicant: COLONIAL REFRIGERATED TRANSPORTATION, INC., 9041 Executive Park Drive, Suite 110, Bldg 100, Knoxville, TN 37919. Representative: D.R. Beeler (same as applicant). *Cheese and cheese food products* from Van Wert, OH to points in AL, AR, FL, GA, LA, MS, NM, NC, OK, SC, TN and TX, for 180 days. Supporting Shipper(s): Borden Foods, Division of Borden Inc., 180 East Broad St., Cols., OH 43215. Send protests to: Glenda Kuss, TA, ICC, Suite A–422, U.S. Court House, 801 Broadway, Nashville, TN 37203.

MC 115841 (Sub-700TA), filed April 4, 1979. Applicant: COLONIAL REFRIGERATED TRANSPORTATION, INC., 9041 Executive Park Drive, Suite 110, Bldg 100, Knoxville, TN 37919. Representative: D.R. Beeler (same address as applicant). *Nuts, bolts, washers, gaskets, filters, pipe, auto lamp lenses & lamp fixtures or parts, cable terminal (elec.) and hardware cabinets* from Itasca and Elk Grove Village, IL to College Park, GA; Dallas, TX; Reno, NV; and Cranbury, NJ, for 180 days. Supporting Shipper(s): KAR Products, Inc., 1641 W. Glenlake Ave., Itasca, IL 60143. Send protests to: Glenda Kuss, TA, ICC, Suite A–422, U.S. Court House, 801 Broadway, Nashville, TN 37203.

MC 115841 (Sub-701TA), filed April 11, 1979. Applicant: COLONIAL REFRIGERATED TRANSPORTATION, INC., 9041 Executive Park Drive, Suite 110, Bldg 100, Knoxville, TN 37919. Representative: D. R. Beeler (same address as applicant). *Bananas* from Portsmouth and Hampton Rhodes, VA to points in NY, PA, OH, MI, IN, IL, WI, MN, KY, TN, AL, GA, NC, and SC, for 180 days. An underlying ETA has been filed. Supporting Shipper(s) Best Banana, Inc., 3616 E. Virginia Beach Boulevard, Norfolk, VA 23502. Send protest to: Glenda Kuss, TA, ICC, Suite A–422, U.S. Court House, 801 Broadway, Nashville, TN 37203.

MC 115841 (Sub-702TA), filed April 2, 1979. Applicant: COLONIAL REFRIGERATED TRANSPORTATION, INC., 9041 Executive Park Drive, Suite 110, Bldg. 100, Knoxville, TN 37919. Representative: D. R. Beeler (same as applicant). *Hospital supplies, drugs, health care products and non-frozen foodstuffs (except in bulk),* from Sturgis, MI to points in NC, SC and GA, for 180 days. An underlying ETA has been filed. Supporting Shipper(s): Ross Laboratories, 625 Cleveland Ave, Columbus, OH 43215. Send protests to: Glenda Kuss, TA, ICC, Suite A–422, U.S. Court House, 801 Broadway, Nashville, TN 37203.

MC 115931 (Sub-86TA), filed March 30, 1979. Applicant: BEE LINE TRANSPORTATION, INC. P.O. Box 3987, Missoula, MT 59806. Representative: Gene P. Johnson, P.O. Box 2471, Fargo, ND 58106. *Such commodities as are dealt in or used by agricultural equipment and industrial equipment dealers and manufacturers* between Racine, WI and points in the states of MT, NE, ND and SD, for 180 days. An underlying ETA seeks 90 days authority. Supporting Shipper(s): J. I. Case Company, 700 State Street, Racine, WI 53404. Send protest to: Paul J. Labane, DS, ICC, 2602 First Avenue North, Billings, MT 59101.

MC 115931 (Sub-87TA), filed April 5, 1979. Applicant: BEE LINE TRANSPORTATION, INC., P.O. Box 3987, Missoula, MT 59801. Representative: Gene P. Johnson, P.O. Box 2471, Fargo, ND 58076. *Lumber* and *lumber products* from Hulett, WY to points in IL, IN, MN, OH and WI, for 180 days. An underlying ETA seeks 90 days authority. Supporting Shipper(s): Neiman Sawmill Inc., d/b/a Devils Tower Forest Products, P.O. Box 218, Hulet, WY 82720. Send protests to: Paul J. Babane, D/S, ICC, 2602 First Avenue North, Billings, MT 59101.

MC 116740 (Sub-8TA), filed March 29, 1979. Applicant: LEE N. HICKOX, Box 637, Flora, IL. Representativer: Robert T. Lawley, 300 Reisch Bldg., Springfield, IL 62701. Authority sought to operate as a common carier, over irregular routes, transporting *aluminum wire and rod, steel wire, strand, and cable, and empty reels,* from the facility of Southwire Company in Hawesville, KY to the Facilities of Southwire Company in Flora, IL. Shipper: Southwire Co., P.O. Box 1000, Carrollton, GA 30117. Send protest to Charles Little, ICC Leland Office Bldg., Rm. 414, 527 E. Capitol Ave., Springfield, IL 62701.

MC 117730 (Sub-49TA), filed February 9, 1979. Applicant: KOUBENEC MOTOR SERVICE, INC., Route 47, Huntley, IL 60142. Representative: Stephen H. Loeb, 205 West Touhy Avenue Suite 200, Park Ridge, IL 60068. *Meats, meat products, meat by-products, and articles distributed by meat packinghouses* from the facilities of Oscar Mayer and Company, Inc. at Madison, WI to the Facilities of Oscar Mayer and Company, Inc. at Sherman, TX, for 180 days. An underlying ETA has been filed. Supporting Shipper(s): Oscar Mayer and Company, Inc. P.O. Box 7188, Madison, WI 53707. Send protests to: Annie Booker, Transportation Assistant, Interstate Commerce Commission, Everett McKinley Dirksen Building, 219 South Dearborn Street, Room 1386, Chicago,IL 60604.

MC 117730 (Sub-50TA), filed March 8, 1979. Applicant: KOUBENEC MOTOR SERVICE, INC., Route 47, Huntley, IL 60142. Representative: Stephen H. Loeb, Suite 200, 205 West Touhy Avenue, Park Ridge, IL 60068. *Frozen foods,* from the facilities of Continental Freezers of Illinois at Chicago, IL to St. Louis, MO and points in its commercial zone for 180 days. An underlying ETA has been filed. Supporting Shipper(s): Continental Freezers of Illinois, 4220 South Kildare, Chicago, IL 60632. Send protests to: Annie Booker, TA, Interstate Commerce Commission, 219 South Dearborn Street, Room 1386, Chicago, IL 60604.

MC 117730 (Sub-51TA), filed March 19, 1979. Applicant: KOUBENEC MOTOR SERVICE, INC., Route 47, Huntley, IL 60068. Representative: Stephen H. Loeb, Suite 200, 205 West Touhy Avenue, Park Ridge, IL 60068. *Petroleum products and vehicle body sealer and sound deadener compound* (except commodities in bulk); from the facilities of Quaker State Oil Refining Corp. at/near Emlenton and Farmers Valley, PA and Congo, WV to points in IL, IN, MI, MO, and WI for 180 days. An underlying ETA has been filed. Supporting Shipper(s): Quaker State Oil Refining, P.O. Box 999, Oil City, PA 16301. Send protest to: Annie Booker, Interstate Commerce Commission, 219 South Dearborn Street, Room 1386, Chicago, IL 60604.

MC 117940 (Sub-329TA), filed April 2, 1979. Applicant: NATIONWIDE CARRIERS, INC., P.O. Box 104, Maple Plain, MN 55359. Representative: Allan L. Timmerman, 5300 Highway 12, Maple Plain, MN 55359. *Iron and steel tubing (except commodities which require the use of special equipment)* from the facilities of Markin Tubing, Inc. at or near Pearl Creek, NY to Canton, SD, restricted to traffic originating at named facilities and destined to named destination, for 180 days. An underlying ETA seeks 90 days authority. Supporting shipper(s): Markin Tubing, Inc., Traffic Manager, Pearl Creek Road, Wyoming, NY 14591. Send protests to: Delores A. Poe, TA, ICC, 414 Federal Building and U.S. Court House, 110 South 4th Street, Minneapolis, MN 55401.

MC 117940 (Sub-330TA), filed April 13, 1979. Applicant: NATIONWIDE CARRIERS, INC., P.O. Box 104, Maple Plain, MN 55359. Representative: Allan L. Timmerman (same address as applicant). *Meats, meat products, meat by-products, articles distributed by meat packinghouses, and such commodities as are used by meat packers in the conduct of their business, as described in Sections A. C, and D of Appendix I to the report in Descriptions in Motor Carrier Certificates, 61 M.C.C. 209 and 766 (except hides and commodities in bulk)* between points in the U.S. in and east of ND, SD, NE, KS, OK and TX on the one hand, and, on the other, the facilities of Lauridsen Foods, Inc. at or near Britt, IA and the facilities of Armour & Company at Mason City, IA, restricted to shipments originating at or destined to the facilities utilized by Lauridsen Foods, Inc. at or near Britt, IA and Armour & Company at Mason City, IA, for 180 days. Supporting shipper(s): Armour & Company, Greyhound Tower, Phoenix, AZ 85077. Send protests to: Delores A. Poe, TA, ICC, 414 Federal Building and U.S. Court House, 110 South 4th Street, Minneapolis, MN 55401.

MC 119741 (Sub-163TA), filed March 15, 1979. Applicant: Green Field Transport Company, Inc., P.O. Box 1235, Fort Dodge, IA 50501. Representative: D. L. Robson (same as applicant). *Such commodities as are dealt in by wholesale and retail food and drug outlets* (except commodities in bulk) from the facilities of Procter & Gamble in Chicago, IL to points in IA and NE for 180 days. An underlying ETA seeks 90 days authority. Supporting shipper(s): The Procter & Gamble Distributing Company, P.O. Box 599, Cincinnati, OH 45201. Send protests to: Herbert W. Allen, DS, ICC, 518 Federal Bldg., Des Moines, IA 50309.

MC 119741 (Sub-170TA), filed February 20, 1979. Applicant: Green Field Transport Company, Inc., P.O. Box 1235, Fort Dodge, IA 50501. Representative: D. L. Robson, P.O. Box 1235, Fort Dodge, IA 50501. *Meats, meat products, meat by-products, and articles distributed by meat packinghouses, as described in Sections A and C of Appendix I to the Report in Descriptions in Motor Carrier Certificates, 61 M.C.C. 209 and 766 (except hides and commodities in bulk, in tank vehicles),* between the facilities of Dold Foods, Inc. at Wichita, KS on the one hand, and, on the other, points in IL, IA, MN, MO, NE, ND, SD, and WI restrict to traffic originating at and/or destined to the above named points for 180 days. An underlying ETA seeks 90 days authority. Supporting shipper(s): Dold Foods, Inc., 2929 North Ohio, Wichita, KS 67219. Send protests to: Herbert W. Allen, DS, ICC, 518 Federal Bldg., Des Moines, IA 50309.

MC 119741 (Sub-171TA), filed March 30, 1979. Applicant: GREEN FIELD TRANSPORT COMPANY, INC., P.O. Box 1235, Fort Dodge, IA 50501. Representative: D. L. Robson (same as applicant). *Bakery goods NOI. O/T Frozen,* from the facilities of Interbake Foods, Inc. at Battle Creek, MI to points in AR, CO, LA, MN, ND, SD, TX, and WI restricted to traffic originating at the named origin and destined to the named destinations for 180 days. An underlying ETA seeks 90 days authority. Supporting shipper(s): Interbake Foods, Inc., P.O. Box 27487, Richmond, VA 23261. Send protests to: Herbert W. Allen, DS, ICC, 518 Federal Bldg., Des Moines, IA 50309.

MC 119741 (Sub-172TA), filed April 6, 1979. Applicant: GREEN FIELD TRANSPORT COMPANY, INC., P.O. Box 1235, Fort Dodge, IA 50501. Representative: D. L. Robson (same as applicant). (1) *Animal drugs or medicines, N.O.I., animal feed, and supplement powder;* and (2) *materials, equipment and supplies* used in the conduct of business of (1) from the facilities of Fort Dodge Laboratories, Division of American Home Products Corp., Fort Dodge, IA to CA, CO, FL, GA, IA, MN, MO, MT, ND, OK, OR, TN, and TX, restricted to traffic originating at the named origin and destined to the named destinations for 180 days. An underlying ETA seeks 90 days authority. Supporting shipper(s): Fort Dodge Laboratories, Div. of American Home Products Corp., 800 Fifth Avenue, N.W., Fort Dodge, IA 50501. Send protests to:

Herbert W. Allen, DS, ICC, 518 Federal Bldg., Des Moines, IA 50309.

MC 119741 (Sub-173TA), filed April 17, 1979. Applicant: GREEN FIELD TRANSPORT COMPANY, INC., P.O. Box 1235, Fort Dodge, IA 50501. Representative: D. L. Robson (same as applicant). *Foodstuffs* (except in bulk, in tank vehicles) from the facilities of Eau Claire Packing Co. at Eau Claire, MI to AR, CO, IL, IN, IA, KS, MN, MO, NE, ND, OK, SD, TX and WI, restricted to traffic originating at the named origin and destined to the named destinations for 180 days. An underlying ETA seeks 90 days authority. Supporting shipper(s): Eau Claire Packing Co., 7600 Lynn St., Eau Claire, MI 49111. Send protests to: Herbert W. Allen, DS, ICC, 518 Federal Bldg., Des Moines, IA 50309.

MC 123061 (Sub-122TA), filed March 6, 1979. Applicant: LEATHAM BROTHERS, INC., 46 Orange Street, P.O. Box 16026, Salt Lake City, UT 84116. Representative: Harry D. Pugsley, 1283 E. South Temple No. 501, Salt Lake City, UT 84102. *Masonry products*, from Boulder, Denver and Pueblo, CO to Rawlins, Rock Springs, Green River, Evanston, and Kemmer, WY; Utah, Salt Lake, Weber and Davis Counties, UT; and points in CA, for 180 days. Supporting shipper(s): Miller Brick Sales, P.O. Box 151108, Salt Lake City, UT 84115. Send protests to: L. D. Helfer, DS, ICC, 5301 Federal Bldg., Salt Lake City, UT 84138.

MC 123061 (Sub-123 TA), filed March 12, 1979. Applicant: LEATHAM BROTHERS, INC., 46 Orange Street, P.O. Box 16026, Salt Lake City, UT 84116. Representative: Larry Smart, 419 N.W. 23rd, Portland, OR 97210. *Iron, iron and steel articles and steel pipe* between points and places in WA, OR, CA, and ID for 180 days. Supporting shipper(s): There are six supporting shippers. Their statements may be examined at the office listed below and Headquarters. Send protests to: L. D. Helfer, DS, ICC, 5301 Federal Building, Salt Lake City, UT 84138.

MC 123391 (Sub-15 TA), filed April 20, 1979. Applicant: MACHISE INTERSTATE TRANSPORTATION CO., 500 Egg Harbor Road, Hammonton, N.J. 08037. Representative: Alan Kahn, Esq., 1920 Two Penn Center Plaza, Philadelphia, Pa. 19102. *Petroleum products* in tank vehicles, between Philadelphia, PA, on the one hand, and, on the other, points in DE, for 150 days. An underlying ETA seeks 90 day authority. Supporting shipper(s): Pedroni Fuel Company, Wheat Road, Vineland, N.J. 08360. Send protests to: District Supervisor, ICC, 428 East State Street, Room 204, Trenton, N.J. 08608.

MC 123960 (Sub-5 TA), filed April 6, 1979. Applicant: MANDUS R. OLSON, an individual, 12589 Hanson Boulevard, Northwest, Anoka, MN 55303. Representative: James E. Ballenthin, 630 Osborn Building, St. Paul, MN 55102. *Automobile and truck parts, materials, equipment, supplies and advertising materials* from the facilities of Walker Manufacturing, Inc. at or near Chicago, IL to Madison, Milwaukee and Racine, WI and Minneapolis-St. Paul, MN and points in their commercial zones, for 180 days. An underlying ETA seeks 90 days authority. Supporting shipper(s): Walker Manufacturing Company, Transportation Supervisor, 701 North Kirk Road, Batavia, IL 60510. Hoffman Enterprises, Inc., Manager, 1001 West Lake Street, Minneapolis, MN 55402. M. W. Peickert, d.b.a Car-X Muffler Shop, Proprietor, 4457 Central Avenue, Northeast, Columbia Heights, MN. Jack Pike, Inc., President, 1201 White Bear Avenue, St. Paul, MN 55106. Norsk Enterprises, Inc., Secretary/Treasurer, 861 University Avenue, St. Paul, MN 55104. Gary's Automotive, a Partnership, Partner, 8640 Lyndale Avenue South, Bloomington, MN 55420. Send protests to: Delores A. Poe, TA, ICC, 414 Federal Building & U.S. Court House, 110 South 4th Street, Minneapolis, MN 55401.

MC 124160 (Sub-26 TA), filed March 14, 1979. Applicant: SAVAGE BROTHERS, INCORPORATED, 585 South 500 East, American Fork, UT 84003. Representative: Lon Rodney Kump, 333 East Fourth South, Salt Lake City, UT 84111. *Bulk calcium chloride* from Ludington, MI to Denver, CO, for 180 days. An underlying ETA seeks 90 days authority. Supporting shipper(s): Van Waters & Rogers, P.O. Box 5287, 4300 Holly Street, Denver, CO 80217. Send protests to: L. D. Helfer, DS, ICC, 5301 Federal Bldg., Salt Lake City, UT 84138.

MC 124251 (Sub-61 TA), filed March 26, 1979. Applicant: JACK JORDAN, INC., 3681 South Dixie Road, P.O. Box 689, Dalton, GA 30720. Representative: Archie B. Culbreth, Attorney-at-Law, Suite 202—2200 Century Parkway, Atlanta, GA 30345. *Liquid chemicals, in bulk in tank vehicles* from the facilities of Dow Chemical U.S.A. at or near Dalton and Tildale, GA, to Finksburg, MD. An underlying ETA seeks 90 days authority. Supporting Shipper(s): Dow Chemical U.S.A., 14955 Sprague Road, P.O. Box 36000, Strongsville, OH 44136. Send protests to: Sara K. Davis, T/A, ICC, 1252 W. Peachtree St., N.W., Rm. 300, Atlanta, GA 30309.

MC 124711 (Sub-83 TA), filed April 11, 1979. Applicant: BECKER CORPORATION, P.O. Box 1050, El Dorado, KS 67042. Representative: T. M. Brown, P. O. Box 1050, Edmond, OK 73034. *Cement* from facilities of Martin-Marietta Cement Co. at or near Tulsa, OK, to points in KS, MO, AR & points in Sheman, Hansford, Ochiltree, Lipscomb, Moore, Hutchinson, Roberts, Hemphill, Potter, Carson, Gray, Wheeler, Randall, Armstrong, Donley, Collingsworth, Childress, Hardeman, Wilbarger, and Wichita Counties, TX, for 180 days, common, irregular; Supporting Shipper(s): Martin Marietta Cement-Western Division, P.O Box 45588, Tulsa, OK.74145. Send protests to: M. E. Taylor, DS, ICC, 101 Litwin Bldg., Wichita, KS 67202.

MC 125470 (Sub-48 TA), filed April 3, 1979. Applicant: MOORE'S TRANSFER, INC., P.O. Box 1151, Norfolk, NE 68701. Representative: Lavern R. Holdeman, Peterson, Bowman, Swanson & Johanns, 521 So. 14th St., Suite 500, P.O. Box 81849, Lincoln, NE 68501. *Irrigation systems and parts, equipment, materials, and supplies used in the manufacture, sale, and distribution thereof*, from the facilities of Lindsay Manufacturing Co., located at or near Amarillo, TX, to points in the U.S. in and south of CA, NV, UT, CO, NE, MO, KY, and VA (except points in TX), for 180 days. An underlying ETA seeks 90 days authority. Supporting Shipper(s): George D. Barr, Lindsay Manufacturing Co., P.O. Box 156, Lindsay, NE. Send protests to: Carroll Russell, ICC, Suite 620, 110 No. 14th St., Omaha, NE 68102.

MC 128741 (Sub-9 TA), filed April 20, 1979. Applicant: AMERICAN TRANS-CONTINENAL VAN LINES, INC., Suite 1,4108 Progressive Avenue, Lincoln, NE 68504. Representative: Scott T. Robertson, P.O. Box 81849, Lincoln, NE 68501. *Golf carts and industrial vehicles, and related articles*, between Orange County, CA, and points in the U.S. (except AK and HI). An underlying ETA seeks 90 days authority. Supporting Shipper(s): Taylor Dunn Manufacturing Co., 2114 West Ball Road, Anaheim, CA, 92804. Send protests to: Max H. Johnston, District Supervisor, 285 Federal Building & Court House, 100 Centennial Mall North, Lincoln, NE 68508.

MC 128951 (Sub-24TA), filed March 30, 1979. Applicant: ROBERT H. DITTRICH, D.B.A. Bob Dittrich Trucking, 1000 North Front Street, New Ulm, MN 56073. Representative: Rodney H. Jeffery (same address as applicant). *Fertilizer and fertilizer ingredients, dry and in bulk*, from Minneapolis-St. Paul, MN and their Commerical Zones, to points in IA, WI, ND, SD and NE, for 180 days. An underlying ETA seeks 90 days authority. Supporting shipper(s): Farmers Union Central Exchange, Inc., a.k.a. CENEX, Traffic Supervisor—Agri-Products, P.O. Box 43089, St. Paul, MN 55164. N—ReN Corporation, Order Service Manager, P.O. Box 418, South St. Paul, MN 55075. SEND PROTESTS TO: Delores A. Poe, TA, ICC, 414 Federal Building & U.S. Court House, 110 South 4th Street, Minneapolis, MN 55401.

MC 129121 (Sub-3TA), filed April 12, 1979. Applicant: GEORGE W. CARMEAN, INC., P.O. Box 129, Georgetown, DE 19947. Representative: J. Michael May, 1447 Peachtree St., NE, Atlanta, GA 30309. *Contract carrier*; irregular routes: *Feed Ingredients*, in bulk, from the facilities of International Bakerage, Inc., at Carteret, NJ to points in DE, MD, NC and VA, under contract with International Bakerage, Inc., Atlanta, GA, for 90 days. An underlying ETA seeks 90 days. Supporting shipper(s): Paul Enns, International Bakerage, Inc., Suite 1–M, 3300 Northeast Expressway, Atlanta, GA 30341. Send protests to: W. L. Hughes, DS, ICC, 1025 Federal Bldg., Baltimore, MD 21201.

MC 129631 (Sub-67TA), filed March 28, 1979. Applicant: PACK TRANSPORT, INC., 3975 South 300 West, Salt Lake City, UT 84107. Representative: G. D. Davidson (same address as applicant). *Brick*, from Interstate Brick at or near West Jordan, UT to the site of the Missouri Basin Power River Project, Laramie River station at or near Wheatland, WY, for 180 days. An underlying ETA seeks 90 days authority. Supporting shipper(s): Interstate Brick Div. Entrada Industries, P.O. Box 517, West Jordan, UT 84084. Send protests to: L. D. Helfer, DS, ICC, 5301 Federal Bldg., Salt Lake City, UT 84138.

MC 134460 (Sub-11TA), filed April 9, 1979. Applicant: MARKET EXPRESS, INC., 3261 North Marks, Fresno, CA 93791. Representative: Jack H. Blanshan, 205 W. Touhy Ave.—Suite 200, Park Ridge, IL 60068. *Bananas and agricultural commodities* exempt from regulation under Section 10526(a)(6) of the Interstate Commerce Act when transported in mixed loads with bananas, from the facilities of Del Monte Banana Co., Port Hueneme, CA to points in AZ, CO, ID, MT, NV, NM, OR, UT, WA, and WY, for 180 days. RESTRICTED to the transportation of traffic having a prior movement by water. An underlying ETA seeks 90 days authority. SUPPORTING SHIPPER(S): Del Monte Banana Co., 1201 Brickell Ave., Miami, FL 33101. SEND PROTESTS TO: District Supervisor Michael M. Butler, 211 Main, Suite 500, San Francisco, CA 94105. Supporting shipper(s): Del Monte Banana Co., 1201 Brickell Ave., Miami, FL 33101. Send protests to: District Supervisor Michael M. Butler, 211 Main, Suite 500, San Francisco, CA 94105.

MC 135070 (Sub-46TA), filed April 13, 1979. Applicant: JAY LINES, INC., 720 N. Grand, Amarillo, TX 79120. Representative: Gailyn Larsen, P.O. Box 82816, Lincoln, NE 68501. *Appliances, air conditioners*, and parts and accessories thereof, from the facilities of Gibson Appliance Corporation; Greenville Products Corporation; Belding Products Corporation, Divisions of White Consolidated Industries, at or near Greenville, Muskegon, and Grand Rapids, MI, and Webster City, IA, to points in OK, NM, and TX, for 180 days. An underlying ETA seeks up to 90 days authority. SUPPORTING SHIPPER(S): Gibson Appliance Corp.; Greenville Products Corp., Belding Products Corp., Divisions of White Consolidated Industries, 1401 Van Deinse, Greenville, MI 48838. Send protests to: District Supervisor Haskell E. Ballard, Box F–13206 Federal Building, Amarillo, TX 79101. Supporting shipper(s): Gibson Appliance Corp.; Greenville Products Corp., Belding Products Corp., Divisions of White Consolidated Industries, 1401 Van Deinse, Greenville, MI 48838. Send protests to: Haskell E. Ballard, District Supervisor, Interstate Commerce Commission, Bureau of Operations, Box F–13206, Federal Building, Amarillo, TX 79101.

MC 135410 (Sub-53TA), filed March 23, 1979. Applicant: COURTNEY MUNSON, d.b.a. MUNSON TRUCKING, P.O. Box 266, Monmouth, IL 61462. Representative: Stephen H. Loeb, 205 West Touhy Ave. Suite 200, Park Ridge, IL 60068. Authority sought to operate as a *common carrier* over *irregular routes*, transporting *meat, meat products and articles distributed by meat packing-houses* (except commodities in bulk), (1) from the facilities of Wilson Foods Corp.) at Cedar Rapids and Des Moines, IA, to points in IN, MI, OH, and KY, (2) from the facilities of Wilson Foods Corp. at Monmouth, IL to points in IA, MN, MO, and WI. Applicant has filed for 90 days emergency authority. Supporting shipper: Wilson Foods Corp. Send protests to Charles D. Little, ICC, Rm. 414, Leland Office Bldg., 527 East Capitol Ave., Springfield, IL 62701.

MC 135410 (Sub-55TA), filed April 2, 1979. Applicant: COURTNEY J. MUNSON, d.b.a. MUNSON TRUCKING, P.O. Box 266, Monmouth, IL 61462. Representative: Daniel O. Hands, Suite 200, 205 West Touhy Ave., Park Ridge, IL 60068. *Canned and preserved foodstuffs*, from the facilities of Heinz U.S.A., Division of H. J. Heinz Co. at or near Iowa City and Muscatine, IA, to Chicago, IL, and St. Louis, MO, and points in their respective commercial zone, restricted to the transportation of traffic originating at the named origins and destined to the named destinations. An underlying ETA seeks 90 days authority. Supporting hipper(s): Heinz U.S.A., Division of, H. J. Heinz Company, P.O. Box 57, Pittsburgh, PA 15230. Send protests to: Charles D. Little, DS, ICC, Rm. 414, Leland Office Bldg., 527 East Capitol Avenue, Springfield, IL 62701.

MC 135410 (Sub-56TA), filed April 10, 1979. Applicant: COURTNEY J. MUNSON, d.b.a. MUNSON TRUCKING, P.O. Box 266, Monmouth, IL 61462. Representative: Stephen H. Lock, Suite 200, 205 West Touhy Avenue, Park Ridge, IL 60068. *Meat, meat products, and articles* distributed by meat packing houses (except commodities in bulk), from the facilities of Fischer Packing Co., a subsidiary of Wilson Foods Corp., located at Louisville, KY, to the states of CT, DE, DC, ME, MD, MA, NH, NJ, NY, PA, RI, VT, and VA. An underlying ETA seeks 90 days authority. Supporting shipper(s): Wilson Foods Corporation, 4545 Lincoln Blvd., Oklahoma City, OK 73105. Send protest to: Charles D. Little, DS, ICC, Rm. 414, Leland Office Bldg., 527 East Capitol Avenue, Springfield, IL 62701.

MC 135410 (Sub-57TA), filed April 10, 1979. Applicant: COURTNEY J. MUNSON, d.b.a., MUNSON TRUCKING, P.O. Box 266, Monmouth, IL 61462. Representative: Daniel O. Hands, Suite 200, 205 West Touhy Avenue, Park Ridge, IL 60068. *Fireplaces, fireplace parts* and *accessories and equipment, materials*, and *supplies* used in the manufacture and distribution of fireplaces, from the facilities of Heatilator Fireplaces Division of Vega Industries, Inc., at or near Centerville and Mt. Pleasant, IA, to points in CA, IL, IN, KY, MI, MN, MO, NY, OH, PA, WV, and WI (restricted to traffic originating at the named origins and destined to named destinations). Supporting Shipper(s): Heatilator Fireplaces, P.O. Box 409, Mt. Pleasant, IA 52641. Send protests to: Charles D. Little, DS, ICC—Rm 414 Leland Office Bldg., 527 East Capitol Avenue, Springfield, IL 62701.

MC 135861 (Sub-45TA), filed April 11, 1979. Applicant: LISA MOTOR LINES,

INC., P.O. Box 4550, Fort Worth, TX 76106. Representative: Billy R. Reid, P.O. Box 8335, Fort Worth, TX 76112. *Contract carrier:* irregular routes: *Foodstuffs and related advertising matter and store display racks,* from Thornton, IL, to Dallas, Houston, San Antonio, and Fort Worth, TX; and Oklahoma City, OK, for the account of Specialty Brands, Inc., South San Francisco, CA, for 180 days. An underlying ETA seeks 90 days authority. Supporting Shipper(s): Specialty Brands, Inc., 345 Allerton Ave., P.O. Box 2187, South San Francisco, CA 94080. Send protests to: Martha A. Powell, T/A, I.C.C., Room 9A27 Federal Building, 819 Taylor St., Fort Worth, TX 76102.

MC 135861 (Sub-46TA), filed April 16, 1979. Applicant: LISA MOTOR LINES, INC., P.O. Box 4550, Fort Worth, TX 76106. Representative: Billy R. Reid, 1721 Carl St., Fort Worth, TX 76103. *Contract carrier,* irregular routes: *Reproduction materials,* in refrigerated equipment from Johnson City, NY to Arlington, TX, for the account of Azon Corporation, for 180 days. An underlying ETA seeks 90 days authority. Supporting Shipper(s): Azon Corporation, P.O. Box 290, Johnson City, NY 13790. Send protests to: James H. Berry, ROD, ICC, Room 9A27 Federal Bldg., 819 Taylor St., Fort Worth, TX 76102.

MC 135861 (Sub-47TA), filed April 16, 1979. Applicant: LISA MOTOR LINES, INC., P.O. Box 4550, Fort Worth, TX 76106. Representative: Billy R. Reid, 1721 Carl Street, Fort Worth, TX 76103. *Contract carrier,* irregular routes: *Such articles dealt with by retail department stores* from Secaucus, NJ to Beaumont, TX, for the account of The Fair, Inc., for 180 days. Supporting Shipper(s): The Fair, Inc., 6640 No. 11th St., Beaumont, TX 77706. Send protests to: James H. Berry, ROD, ICC, Room 9A27 Federal Bldg., 819 Taylor St., Fort Worth, TX 76102.

MC 136220 (Sub-73TA), filed April 12, 1979. Applicant: SULLIVAN'S TRUCKING COMPANY, INC., P.O. Box, 2164 Ponca City, OK 74601. Representative: G. Timothy Armstrong, 6161 N. May Avenue, Oklahoma City, OK 73112. *Petroleum coke,* (in bulk, in dump vehicles), from Great Lakes Carbon Corp. at Kremlin, OK, to Rockdale and Port Arthur, TX, Scottsboro, AL, Alcoa, TN, Savannah, Ga, Badin, NC, Warrick, IN, New Madrid, MO, Ashtabula, OH, and Baltimore, MD, for 180 days. An underlying ETA seeks 90 days authority. Supporting shipper(s): Great Lakes Carbon Corp., 299 Park Ave., New York, NY 10017. Send protests to: Connie Stanley, Transportation Assistant, ICC, Rm. 240, Old Post Office Bldg., 215 N. W. Third Street, Oklahoma City, OK 73102.

MC 136500 (Sub-6TA), filed March 26, 1979. Applicant: SERVICE EQUIPMENT AND TRUCKING, INC., Box 162, East Route 316, Mattoon, IL 61932. Representative: Robert T. Lawley, 300 Reisch Bldg., Springfield, IL 62701. Authority sought as a *contract carrier* over irregular routes, transporting *plastic bottle or can carriers,* in rolls, on reels, in packages, from Charleston, IL to Evansville, Munster, and Indianapolis, IN; Winchester, Madisonville, Louisville, Elizabethtown and Newport, KY; Cincinnati, Columbus, Marion, OH; Memphis and Nashville, TN. Shipper Hi-Cone, 1155 N. Fifth St., Charleston, IL 61920. Send protest to Charles Little, ICC, RM. 414, Leldand Office Bldg., 527 E. Capitol Ave., Springfield, IL 62701. Applicant has filed a 90 ETA.

MC 136511 (Sub-43TA), filed March 29, 1979. Applicant: VIRGINIA APPALACHIAN LUMBER CORPORATION, 9640 Timberlake Road, Lynchburg, VA 24052. Representative: Dwight L. Koerber, Jr., 805 McLachlen Bank Building, 666 Eleventh Street N.W., Washington, D.C. 20001. *Canned and frozen fruits and products,* from Delta, CO; CA; IA; KS; MO; NE; NM; OK; TX; and UT for 180 days. An underlying ETA seeks 90 days authority. Supporting shipper(s): Skyland Food Corporation, 9th & Dodge Streets, P.O. Box 250, Delta, CO 81416. Send protests to: Paul D. Collins, DS, ICC, Room 10–502, Federal Bldg., 400 North 8th Street, Richmond, VA 23240.

MC 136511 (Sub-44TA), filed March 30, 1979. Applicant: VIRGINIA APPALACHIAN LUMBER CORPORATION, 9640 Timberlake Road, Lynchburg, VA 24502. Representative: E. Stephen Heisly, 805 McLachlen Bank Building, 666 Eleventh Street N.W., Washington, D.C. 20001. *Candy and confectionery,* from the facilities of E. J. Brach & Sons in Chicago, IL, to points in MD and VA for 180 days. An underlying ETA seeks 90 days authority. Supporting shipper(s): E. J. Brach & Sons, 4656 West Kinzie Street, Chicago, Illinois 60644. Send protests to: Charles F. Myers, DS, ICC, Room 10–502, Federal Bldg., 400 North 8th Street, Richmond, VA 23240.

MC 138420 (Sub-33 TA), filed April 12, 1979. Applicant: CHIZEK ELEVATOR & TRANSPORT, INC., P.O. Box 147, Cleveland, WI 53063. Representative: Wayne Wilson, 150 E. Gilman St., Madison, WI 53703. *Paper and paper products* from Ashland, Green Bay, Menasha, Neenah and Wausau, WI to points in IN, KY, MI, MN, MO, OH, & IL (on and south of U.S. Hwy. 136), restricted to traffic originating at the facilities of American Can Co., for 180 days. An underlying ETA seeks 90 days authority. Supporting shipper(s): American Can Company, P.O. Box 702, Neenah, WI 54956. Send protests to: Gail Daugherty, Transportation Asst., Interstate Commerce Commission, 517 East Wisconsin Ave., Rm. 619, Milwaukee, WI 53202.

MC 138420 (Sub-32 TA), filed April 10, 1979. Applicant: CHIZEK ELEVATOR & TRANSPORT, INC., Rt. 1, P.O. Box 147, Cleveland, WI 53063. Representative: Wayne Wilson, 150 E. Gilman St., Madison, WI 53703. (1) *Carbonated beverages, syrups, advertising materials and carbonated beverage dispensing equipment* from Granite City, IL to points in WI (except points in Trempealeau, Jackson, LaCrosse, Monroe, Juneau, Vernon, Richland, Sauk, Crawford, Grant, Iowa, and Lafayette Counties) and Minneapolis-St. Paul, MN and its Commercial Zone; (2) *Rejected shipments and empty carbonated beverage containers* from points in WI and Minneapolis-St. Paul, MN and its Commercial Zone to Granite City, IL, for 180 days. An underlying ETA seeks 90 days authority. Supporting shipper(s): Shasta Beverages, Inc., 26901 Industrial Blvd., Hayward, CA 94545. Send protests to: Gail Daugherty, Transportation Asst., ICC, Bureau of Operations, 517 East Wisconsin Ave., Rm. 619, Milwaukee, WI 53202.

MC 138420 (Sub-34 TA), filed April 17, 1979. Applicant: CHIZEK ELEVATOR & TRANSPORT, INC., Rt. 1, P.O. Box 147, Cleveland, WI 53063. Representative: Wayne Wilson, 150 E. Gilman St., Madison, WI 53703. *Foodstuffs* (except commodities in bulk in tank vehicles) (1) From points in WI to Arlington and Ortonville, MN; (2) From Arlington and Ortonville, MN to points in IN, KY, MI, MO, OH, WI & IL (on and south of U.S. Hwy. 136); and (3) From Bloomer, WI to points in IN, KY, MI, MN, MO, OH & IL (on and south of U.S. Hwy. 136), for 180 days. An underlying ETA seeks 90 days authority. Supporting shipper(s): Big Stone, Inc., P.O. Box 86, Chaska, MN 55318. Send protests to: Gail Daugherty, Transportation Asst., Interstate Commerce Commission, 517 East Wisconsin Ave., Rm. 619, Milwaukee, WI 53202.

MC 139380 (Sub-2 TA), filed March 30, 1979. Applicant: STIDHAM TRUCKING INC., P.O. Box 8258, Coburg, OR 97401. Representative: Michael J. O'Neill, P.O. Box 8258, 625 Van Duyn Road, Coburg, OR 97401. *Lumber, lumber mill products and wood products* (1) from points in

Multnomah, Clackamas, Hood River, Yamhill, Polk, Washington, Benten, Linn, Lane, Marion, Douglas, Josephine, Jackson, Klamath, Lake, Deschutes, Jefferson and Crook Counties, OR, to points in CA, and points in NV, and (2) points in Siskiyou, Modoc, Humbodt, Shasta, Tehama, Plumas, Placer, Sacramento, Madera, and Los Angeles Counties, CA, to points in OR. Supporting shipper(s): There are thirteen shippers. Their statements may be examined at the office listed below and Headquarters. Send protests to: A. E. Odoms, DS, ICC, 114 Pioneer Courthouse, Portland, OR 97204.

MC 140241 (Sub-50TA), filed April 3, 1979. Applicant: DALKE TRANSPORT, INC., Box 7, Moundridge, KS 67107. Representative: William B. Barker, 641 Harrison, Topeka, KS 66603. *Salt and Salt Products,* from Lyons, KS to points in AR, OK & TX. An underlying ETA has been filed. Supporting shipper(s): American Salt Company, 3142 Broadway, Kansas City, MO 64111. Send protests to: M. E. Taylor, Dist. Supv., Interstate Commerce Commission, 101 Litwin Bldg., Wichita, KS 67202.

MC 140361 (Sub-6TA), filed April 16, 1979. Applicant: COLUMBUS PARCEL SERVICE, INC., 1009 Joyce Avenue, Columbus, Ohio 43219. Representative: E. H. Deusen, P.O. Box 97, 220 West Bridge Street, Dublin, Ohio 43017. *General commodities* (except Classes A and B explosives) between points in OH. Between points in OH, on the one hand, and, on the other, points in Dearborn, Franklin, Randolph, Union and Wayne Counties, IN, Boone, Boyd, Bracken, Campbell, Greenup, Kenton, Lewis, Mason and Pendleton Counties, KY; Brooke, Cabell, Hancock, Jackson, Marshall, Mason, OH; Pleasants, Tyler, Wayne, Wetzel, and Wood Counties, WV. Between points in Dearborn, Franklin, Randolph, Union, and Wayne Counties, IN; Boone, Boyd, Bracken, Campbell, Greenup, Kenton, Lewis, Mason and Pendleton Counties, KY; Brooke, Cabell, Hancock, Jackson, Marshall, Mason, OH; Pleasants, Tyler, Wayne, Wetzel, and Wood Counties, WV. Underlying ETA seeks 90 days authority. Supporting shipper(s): United Package Delivery, Inc., 5330 East Main Street, Suite 109, Columbus, Ohio, 43215. Send protests to: ICC, WM Jr. Green Jr. Federal Bldg., 600 Arch Street, Philadelphia, PA 19106.

MC 141010 (Sub-6TA), filed April 20, 1979. Applicant: CONTRACT TRANSPORT, INC., 1433 Illinois St., Des Moines, IA 50306. Representative: James M. Hodge, 1980 Financial Center, Des Moines, IA 50309. Contract authority—*Petroleum products, paint, and lubricating equipment* (except bulk) (1) from Walcott, IA to IN, and OH, and (2) from Cleveland, OH to Walcott, IA under continuing contract(s) with Central Petroleum Company for 180 days. An underlying ETA seeks 90 days authority. Supporting shipper(s): Central Petroleum Company, 548 Standard Bldg. Cleveland, OH 44113. Send protests to: Herbert W. Allen, DS, ICC, 518 Federal Bldg., Des Moines, IA 50309.

MC 141450 (Sub-13TA), filed April 3, 1979. Applicant: OLIN WOOTEN TRANSPORT CO., INC., P.O. Box 731, Hazlehurst, GA 31539. Representative: Sol H. Proctor, 1101 Blackstone Building, Jacksonville, FL 32202. *Contract carrier:* irregular routes: *(1) glass containers, and (2) materials and supplies used in the manufacture, sale and distribution of glass containers,* (1) from Cliffwood, NJ, Warner Robbins, GA; Henryetta, OK, Terre Haute, IN, and Shakopee, MN, to points in TX, KS, NE, NM, IA, WI, MO, IL, AR, LA, MS, AL, FL, GA, SC, TN, KY, NC, VA, WV, OH, IN, MI, PA, DE, MD, NJ, NY, CT, and RI; and (2) from points in TX, KS, NE, MN, IA, WI, MO, IL, AR, LA, MS, AL, FL, GA, SC, TN, KY, NC, VA, WV, OH, IN, MI, PA, DE, MD, NJ, NY, CT and RI to Cliffwood, NJ; Warner Robbins, GA, Henryetta, OK; Terre Haute, IN, and Shakopee, MN for 180 days. Supporting shipper(s): Midland Glass Co., Inc., P.O. Box 557, Cliffwood, NJ 07721. Send protests to: G. H. Fauss, Jr., DS, ICC, Box 35008, 400 West Bay Street, Jacksonville, FL 32202.

MC 141921 (Sub-55TA) filed March 26, 1979. Applicant: SAV-ON TRANSPORTATION, INC., 143 Frontage Rd., Manchester, NH 03108. Representative: Louis N. Kolivas (Same as applicant). *Canned and preserved foodstuffs,* from the facilities of Heinz USA, Div. of H. J. Heinz Co., at or near Muscatine and Iowa City, IA, to points in St. Louis, MO and its commercial zone, restricted to traffic originating at the named facilities and destined to the named destination, for 180 days. An underlying ETA seeks 90 days authority. Supporting shipper(s): Heinz USA, Div. of H. J. Heinz Company, P.O. Box 57, Pittsburgh, PA 15230. Send protests to: Ross J. Seymour, DS, ICC, Rm. 3, 6 Loudon Rd., Concord, NH 03301.

MC 142130 (Sub-6TA) filed March 29, 1979. Applicant: CRESCENT INDUSTRIES, INC., P.O. Box 18146, Dallas, TX 75218. Representative: D. Paul Stafford, Winkle and Wells, Suite 1125 Exchange Park, P.O. Box 45538, Dallas, TX 75245. *Aircraft Engines and parts (including missiles), and Transitainers, Mobiltainers, and other shipping devices, in straight or mixed shipments,* between Sacramento County, CA and Waterloo, CO for 180 days. Underlying ETA for 90 days filed. Supporting shipper(s): U.S. Army Legal Services Agency, Falls Church, VA 22041. Send protests to: Opal M. Jones, Trans. Asst., Interstate Commerce Commission, 1100 Commerce Street, Room 13C12, Dallas, TX 75242.

MC 142181 (Sub-4TA) filed March 29, 1979. Applicant: LIBERTY CONTRACT CARRIER, INC., P.O. Box 1104, 214 Hermitage Ave., Nashville, TN 37202. Representative: Robert L. Baker, 618 United American Bank Bldg., Nashville, TN 37219. *Contract carrier:* irregular routes: *Merchandise, equipment and supplies, sold, used or distributed by a manufacturer of cosmetics,* between Atlanta, GA, on the one hand, and, on the other, Shreveport, New Orleans, and Baton Rouge, LA, for 180 days. An underlying ETA has been filed. Supporting shipper(s): Avon Products, Inc., 2200 Cotillion Drive, Atlanta, GA 30302. Send protests to: Glenda Kuss, TA, ICC, Suite A–422 U.S. Court House, 801 Broadway, Nashville, TN 37203.

MC 142330 (Sub-10TA) filed March 15, 1979. Applicant: PONY EXPRESS COURIER CORPORATION, P.O. Box 4313, Atlanta, GA 30302. Representative: Francis J. Mulcahy, P.O. Box 4313, Atlanta, GA 30303. *Commercial papers, documents and written instruments (except currency and negotiable securities) as are used in the business of banks and banking institutions* between Charlotte, NC, on the one hand, and, on the other, points in SC and VA restricted to the transportation of shipments originating at or destined for the plantsite of Automative Data Processing at Charlotte, NC, for 180 days. An underlying ETA seeks 90 days authority. Supporting shipper(s): Automatic Data Processing, P.O. Box 5471, Charlotte, NC 28225. Send protests to: Sara K. Davis, T/A, ICC, 1252 W. Peachtree St. NW., Rm. 300, Atlanta, GA 30309.

MC 142831 (Sub-16TA), filed March 21, 1979. Applicant: HAMRIC TRANSPORTATION, INC., 3318 E. Jefferson St., Grand Prairie, TX 75050. Representative: James W. Hightower, First Continental Bank Bldg., Suite 301, 5801 Marvin D. Love Freeway, Dallas, TX 75237. *Agricultural tractors and attachments,* from facilities of J. I. Case Company, Racine, WI, to the states of KS, LA, MS, OK, and TX for 180 days. Underlying ETA for 90 days filed. Supporting shipper(s): J. I. Case Company, 700 State Street Racine, WI 53404. Send protests to: Opal M. Jones, Trans. Asst., Interstate Commerce

Commission, 1100 Commerce Street, Room 13C12, Dallas, TX 75242.

MC 142941 (Sub-43TA), filed April 9, 1979. Applicant: SCARBOROUGH TRUCK LINES, INC., 1313 N. 25th Ave., Phoenix, AZ 85009. Representative: Lewis P. Ames, 111 W. Monroe, 10th Floor, Phoenix, AZ 85003. *(1) Coffee (except in bulk) and (2) materials and supplies used in the packaging of coffee,* (1) from Nogales, AZ to Chicago, IL and its commercial zone and points in CA and (2) from points in CA to Nogales, AZ, for 180 days. An underlying ETA seeks 90 days authority. Supporting shipper: Western Coffee Co., Inc., 1230 Grand Ave., Nogales, AZ 85621. Send protests to: Ronald R. Mau, District Supervisor, 2020 Federal Bldg., 230 N. 1st Ave., Phoenix, AZ 85025.

MC 143031 (Sub-12TA), filed April 16, 1979. Applicant: LLOYD PAUL MURPHY, JAMES EDWARD MURPHY, TIMOTHY PAUL MURPHY AND ERNEST STEWARD MURPHY, d.b.a., MURPHY AND SONS, Route 2, Box 139, Spring City, TN 37381. Representative: H. Stan Guthrie, Attorney, Suite 500, Dome Building, Chattanooga TN 37402. *Contract carrier:* irregular routes: *Synthetic Fiber Yarn, 15 lbs or more density per cubic foot,* from the plantsite and storage facilities of Chevron Chemical Company at or near Dayton, TN to points in GA, NJ and PA, for 180 days. Supporting shipper(s): Chevron Chemical Company, Route 4, Box 113, Piedmont, SC 29673. Send protests to: Glenda Kuss, TA, ICC, Suite A–422, U.S. Court House, 801 Broadway, Nashville, TN 37203.

MC 143031 (Sub-13A), filed April 2, 1979. Applicant: LLOYD PAUL MURPHY, JAMES EDWARD MURPHY, TIMOTHY PAUL MURPHY and ERNEST STEWARD MURPHY, d.b.a. MURPHY AND SONS, Route 2, Box 139, Spring City, TN 37381. Representative: H. Stan Guthrie, Suite 500, Dome Building, Chattanooga TN 37402. *Contract carrier:* irregular routes: (1) *Materials, equipment and supplies used in the manufacturing of stainless steel sinks and the transporting of finished stainless steel sinks* from the plantsite of Dayton Products, Inc., Dayton, TN to various points in IL and to Dayton Ogdon Corporation, Ogdon, UT. (2) *Equipment and supplies used in the manufacturing of stainless steel sinks and the transporting of finished stainless steel sinks* from Elkay Manufacturing Co., Chicago, IL and from Dayton Ogdon Corp, Ogdon, UT to Dayton Products, Inc., Dayton, TN. (3) *Materials, equipment and supplies used in the manufacturing of stainless steel sinks* from Mortell Corporation, Griffin, GA and Internation Chemical Corp, Philadelphia, PA to Dayton Products, Inc., Dayton, TN. (4) *Finished garbage disposal units* from Elkay Disposal Corporation, Chatsworth, CA, to Dayton Products, Inc., Dayton, TN, for 180 days. Supporting shipper(s): Dayton Products, Inc., 1616 N. Broadway, Dayton, TN 37321. Send protests to: Glenda Kuss, TA, ICC, Suite A–422 U.S. Court House, 801 Broadway, Nashville, TN 37203.

MC 143110 (Sub-5TA), filed April 5, 1979. Applicant: K&B EXPRESS, INC., P.O. Box 801, Union, NJ 07083. Representative: Stuart R. Mandel, Firm of Mandel & Kavaller, 315 S. Beverly Drive, Suite 315, Beverly Hills, CA 90212. Contract carrier, irregular route for 180 days. *Agricultural fertilizers, chemicals and products, supplies and raw materials* used in the manufacture, distribution and sale thereof (except in bulk) Between points in AL, AR, FL, GA, LA, MD, MS, NC, NJ, NY, OK, PA, SC, TN, TX, VA, WV, CA, under a continuing contract or contracts with Helena Chemicals Company, Memphis, TN. Supporting shipper(s): Helena Chemicals Company, 5100 Poplar Avenue, Suite 3200, Memphis, TN 38137. Send protests to: Robert E. Johnston, D/S, ICC, 9 Clinton Street, Room 618, Newark, NJ 07102.

MC 143110 (Sub-6TA), filed April 16, 1979. Applicant: K&B EXPRESS, INC., P.O. Box 801, Union, NJ 07083. Representative: A. Dayton Schell, 6 Eileen Way, Edison, NJ 08817. Contract carrier, irregular routes for 180 days. *Paper, paperstock, stationery paper and cord stock.* From Housatonic, MA to all points in the United States except to the states of AK, CT, HI, ME, MA, NH, NY, RI, and VT. Supporting shipper(s): Rising Paper Company, Housatonic, MA 01236. Send protests to: Robert E. Johnston, D/S, ICC, 9 Clinton Street, Room 618, Newark, NJ 07102.

MC 143160 (Sub-3TA), filed April 12, 1979. Applicant: JERRY INMAN TRUCKING, INC., Route 2, Box 43–A, Mounds, Oklahoma 74047. Representative: William L. Williamson, Suite 615-East, The Oil Center, 2601 Northwest Expressway, Oklahoma City, Oklahoma 73112. *Bedsprings, bedsteads, cots and cot frames, springs and spring assemblies, metal sleeper fixtures, and materials used in the manufacture of these commodities.* From the facilities of Leggett, Incorporated at Hominy, OK. to points in AZ, CA, CO, OR, UT and TX for 180 days. An underlying ETA seeks 90 days authority. Supporting shipper(s): Leggett & Platt, Inc., Box 518, Hominy, Oklahoma 74035. Send protests to: Connie Stanley, Transportation Assistant, Interstate Commerce Commission, Room 240, Old Post Office Bldg., 215 N.W. Third Street, Oklahoma City, Oklahoma 73102.

MC 143351 (Sub-2TA), filed April 2, 1979. Applicant: DANTRAC, INC., P.O. Box 92, Fair Play, SC 29643. Representative: George W. Clapp, Registered Practitioner, P.O. Box 836, Taylors, SC 29687. *Contract carriers:* irregular routes: *Synthetic chips, fiber, non-woven fabrics, pellets and yarn,* from the facilities of Phillips Fibers Corporation at or near Seneca, Spartanburg and Startex, SC, to points in AZ, CA, NM and TX, for 180 days. An underlying ETA seeks 90 days authority. Supporting shipper(s): Phillips Fibers Corporation, P.O. Box 66, Greenville, SC 29602. Send protests to: E. E. Strotheid, D/S, ICC, Rm. 302, 1400 Bldg., 1400 Pickens Street, Columbia, SC 29201.

MC 143570 (Sub-11TA), filed March 26, 1979. Applicant: D & G TRUCKING, INC., 4420 E. Overland Road, Meridian, ID 83642. Representative: David E. Wishney, P.O. Box 837, Boise, ID 83701. Authority sought as a common carrier over irregular routes transporting *chemicals,* except salt and liquid commodities in bulk in tank-type vehicles. (1) From points in Idaho on or south of the southern boundary of Idaho County to points in the states of CA, OR and WA; (2) from points in Nye, Washoe and Pershing Counties, NV, and points in Lincoln, Sweetwater and Uinta Counties, WY to points in the States of OR and WA, and (3) from points in Davis, Weber, Salt Lake, Tooele and Grand Counties, UT to points in CA. A 90 day ETA has been filed. Shipper: H. J. Stoll & Sons, Inc. Send protest to Barney Hardin, ICC, Suite 110, 1471 Shoreline Dr., Boise, ID 83706.

MC 143621 (Sub-15TA), filed April 2, 1979. Applicant: TENNESSEE STEEL HAULERS, INC., 901 5th Ave, North, Nashville, TN 37219. Representative: Sidney T. Stanley (same address as applicant). *Iron and steel articles* from Kingston Springs, TN and its commercial zone to Huntington, WV and its commercial zone, Dearborn, MI and its commercial zone, Pittsburgh, PA and its commercial zone, for 180 days. An underlying ETA has been filed. Supporting shipper(s): Boyce Steel Inc., P.O. Box B, Kingston Springs, TN 37082. Send protests to: Glenda Kuss, TA, ICC, Suite A–422, U.S. Court House, 801 Broadway, Nashville, TN 37203.

MC 143621 (Sub-16TA), filed April 9, 1979. Applicant: TENNESSEE STEEL HAULERS, INC., 901 5th Ave, North, Nashville, TN 37219. Representative: Sidney T. Stanley (same address as applicant). *Iron and steel articles* from Lenoir City, TN and its commercial zone to Chicago, IL; Rockford, IL; Milwaukee, WI; Tipton, IN; Columbus, IN; and Louisville, KY and their commercial zones, for 180 days. An underlying ETA has been filed. Supporting shipper(s): Sheffield Southern Steel, Lenoir City, TN 37771. Send protests to: Glenda Kuss, TA, ICC, Suite A–422, U.S. Court House, 801 Broadway, Nashville, TN 37203.

MC 144140 (Sub-27TA), filed March 12, 1979. Applicant: SOUTHERN FREIGHTWAYS, INC., P.O. Box 374, Eustis, FL 32726. Representative: John L. Dickerson (same as applicant). (1) *Foodstuffs* from the facilities owned or utilized by J. H. Filbert, Inc. in Cobb Fulton, De Kalb, and Clayton Counties, GA, to points in AL, IN, KY, LA, FL, MD, DC, MS, NC, SC, OH, TN, TX, VA, and WV; (2) *Foodstuffs* from the facilities owned or utilized by J. H. Filbert, Inc., Baltimore, MD and Prince Georges, Anne Arundel, Howard, Baltimore Counties, MD to points in CT, DE, ME, MA, NH, NY, PA, RI, VT, GA, IN, MI, OH, IL, VA, WV, and DC. Supporting shipper(s): J. H. Filbert, Inc., 3701 Southwestern Boulevard, Baltimore, MD 21229. Send protests to: G. H. Fauss, Jr., DS, ICC, Box 35008, 400 West Bay Street, Jacksonville, FL 32202.

MC 144140 (Sub-28TA) filed March 26, 1979. Applicant: SOUTHERN FREIGHTWAYS, INC., Highway 44 West, P.O. Box 374, Eustis, FL 32726. Representative: John L. Dickerson (same as applicant). *Beverage and citrus products, not canned and not frozen,* from points in FL to points in AL, GA, LA, MS, NC, SC, and TN for 180 days. Supporting Shipper(s): The Coca-Cola Company Foods Division, P.O. Box 247, Auburndale, FL 33823. Send protests to: G. H. Fauss, Jr., DS, ICC, Box 35008, 400 West Bay Street, Jacksonville, FL 32202.

MC 144140 (Sub-29TA) filed April 10, 1979. Applicant: SOUTHERN FREIGHTWAYS, INC., P.O. Box 374, Eustis, FL 32726. Representative: John L. Dickerson (same as applicant). *(1) Bananas and (2) commodities otherwise exempt from economic regulation when moving in mixed loads with bananas,* from Albany and New York City, NY, Baltimore, MD, and Philadelphia, PA to Cincinnati, Canton, Columbus, Lima, Akron, and Youngstown, OH, Pittsburgh, PA and Detroit, MI, for 180 days. An underlying ETA seeks 90 days authority. Supporting Shipper(s): Castle & Cook Foods, Inc., 350 Motor Parkway, Hauppauge, NY 11787. Chiquita Brands, Inc., 15 Mercedes Drive, Montvale, NY 07645. Send protests to: G. H. Fauss, Jr., DS, ICC, Box 35008, 400 West Bay Street, Jacksonville, FL 32202.

MC 144140 (Sub-30TA) filed April 10, 1979. Applicant: SOUTHERN FREIGHTWAYS, INC., P.O. Box 374, Eustis, FL 32726. Representative: John L. Dickerson (same as applicant). *Beverages and Citrus Products,* from the facilities of Adams Packing Association located at Auburndale, FL and the facilities of Doric Foods, Inc., located at Mt. Dora, FL to points in the states of AL, GA, LA, MS, and TN for 180 days. An underlying ETA seeks 90 days authority. Supporting Shipper(s): Adams Packing Association, P.O. Box 37, Auburndale, FL 33823. Doric Foods, Inc., P.O. Box 986, Mt. Dora, FL 32757. Send protests to: G. H. Fauss, Jr., DS, ICC, Box 35008, 400 West Bay Street, Jacksonville, FL 32202.

MC 144190 (Sub-3TA) filed April 5, 1979. Applicant: STORY, INC., Rt. Box 122, Henager, AL 35978. Representative: George M. Boles, 727 Frank Nelson Building, Birmingham, AL 35203. *Carpet, carpeting and rugs,* from points in Catoosa and Whitfield Counties, GA, and Calhoun and Chatworth, GA, to points in CA, WA, and OR for 180 days. Supporting Shipper(s): Coronet Industries, Inc., P.O. Box 1248, Dalton, GA 30720. Send protests to: Mabel E. Holston, T/A, ICC, Room 1616—2121 Building, Birmingham, AL 35203.

MC 144330 (Sub-53TA), filed March 2, 1979. Applicant: UTAH CARRIERS, INC., P.O. Box 1218, Freeport Center, Clearfield, UT 84016. Representative: Charles D. Midkiff (same address as applicant). *Lumber and lumber mill products* (except in bulk) from points in CO and WY to points in IL, IN, KY, MI, MN, OH, PA and TN, except TN from WY, for 180 days. Supporting shipper(s): There are six supporting shippers. Their statements may be examined at the office listed below or at Headquarters. Send protests to: L. D. Helfer, DS, ICC, 5301 Federal Bldg., Salt Lake City, UT 84138.

MC 144330 (Sub-54TA), filed March 22, 1979. Applicant: UTAH CARRIERS, INC., P.O. Box 1218, Freeport Center, Clearfield, UT 84016. Representative: Charles D. Midkiff (same address as applicant). *Iron and steel articles* (except in bulk) from the facilities of North Star Steel Company located at or near Newport and St. Paul, MN to points in AR, CO, OK and TX, for 180 days. An underlying ETA seeks 90 days authority. Supporting shipper(s): North Star Steel, P.O. Box 43189, St. Paul, MN 55164. Send protests to: L. D. Helfer, DS, ICC, 5318 Federal Bldg., Salt Lake City, UT 84138.

MC 144330 (Sub-55TA), filed March 22, 1979. Applicant: UTAH CARRIERS, INC., P.O. Box 1218, Freeport Center, Clearfield, UT 84016. Representative: Charles D. Midkiff (same address as applicant). *Iron and steel articles* (except in bulk) from the facilities of Jones & Laughlin Steel Corp. located at or near Hammond, IN to points in CA, KS, OK, TX and Kansas City, MO for 180 days. An underlying ETA requests 90 days authority. Supporting shipper(s): Jones & Laughlin Steel Corp., 1441 West 141st, Hammond, IN 46327. Send protests to: L. D. Helfer, DS, ICC, 5301 Federal Bldg., Salt Lake City, UT 84138.

MC 144330 (Sub-56TA), filed March 30, 1979. Applicant: UTAH CARRIERS, INC., P.O. Box 1218, Freeport Center, Clearfield, UT 84016. Representative: Charles D. Midkiff (same address as applicant). *Lumber and lumber mill and wood products,* (except in bulk) from points in AZ, NM, and UT to points in AR, IL, IN, KY, MI, OH, and TN, for 180 days. An underlying ETA requests 90 days authority. Supporting shipper(s): There are five supporting shippers. Their statements may be examined at the office listed below or at Headquarters. Send protests to: L. D. Helfer, DS, ICC, 5301 Federal Bldg., Salt Lake City, UT 84138.

MC 144621 (Sub-5TA), filed April 4, 1979. Applicant: CENTURY MOTOR LINES, INC., P.O. Box 15246, Santa Ana, CA 92705. Representative: James P. Beck, 717 17th Street, Suite 2600, Denver, CO 80202. *Such commodities as are dealt in or used by manufacturers and distributors of surgical supplies, medical supplies, and health care supplies (except in bulk),* from the facilities of Parke Davis Company, Inc., at or near Greenwood, SC to points in CA, ID, NM, OR, TX, and WA, for 180 days. An underlying ETA seeks up to 90 days authority. Supporting Shipper(s): Parke Davis Company, P.O. Box 368, Greenwood, SC 29646. Send protests to: Irene Carlos, Transportation, Interstate Commerce Commission, P.O. Box 1551, Los Angeles, CA 90053.

MC 144740 (Sub-12TA), filed April 4, 1979. Applicant: L. G. DE WITT, INC., P.O. Box 70, Ellerbe, NC 28338. Representative: Terrence D. Jones, 2033 K Street, NW, Suite 300, Washington, DC 20006. *Contract carrier*—Irregular routes; *Candy, confectionery and snack foods, in vehicles equipped with mechanical refrigeration,* from the facilities of or utilized by Whitman's

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Chocolates Division, Pet Incorporated, at or near Philadelphia, PA, to Chicago, IL, Cleveland, OH and their commercial zones, for 180 days. An underlying ETA seeks 90 days authority. Supporting Shipper(s): Whitmans Chocolates Division, Pet Inc., Philadelphia, PA. Send protests to: District Supervisor Terrell Price, 800 Briar Creek Rd-Rm CC516, Mart Office Building, Charlotte, NC 28205.

MC 145341 (Sub-3TA), filed April 11, 1979. Applicant: NORTH CENTRAL DISTRIBUTING CO., Box 5453, University Station, Fargo, ND 58102. Representative: Charles E. Johnson, 416 East Rosser Avenue, P.O. Box 1982, Bismarck, ND 58501. *Roofing and roofing materials*, from Minneapolis, MN and its commercial zone to the facilities of United Products Corporation at Fargo, ND, for 180 days. An underlying ETA seeks authority for 90 days. Supporting Shipper(s): United Products Corporation, 200 West Sycamore, St. Paul, MN 55117. Send protests to: DS, ICC, Bureau of Operations, Room 268 Fed. Bldg. & U.S. Post Office, 657 2nd Avenue North, Fargo, ND 58102.

MC 145441 (Sub-19TA), filed February 2, 1979, and published in the FR issue of March 8, 1979, and republished as corrected this issue. Applicant: A.C.B. TRUCKING, INC., P.O. Box 5130, North Little Rock, AR 72119. Representative: E. Lewis Coffey (same as applicant). Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Alcoholic beverages* (except in bulk), from Sonoma, CA, to points, in Connecticut, Delaware, Illinois, Indiana, Kentucky, Maryland, Massachusetts, Michigan, New York, Ohio, Pennsylvania, Rhode Island and Wisconsin, for 180 days. An underlying ETA seeks 90 days authority. Supporting Shipper(s): Sebastiani Vineyards, P.O. Box AA, 389 Fourth Street East, Sonoma, CA 95476. Send protests to: William H. Land, Jr., District Supervisor, 3108 Federal Office Building, 700 West Capitol, Little Rock, AR 72201. Ths correction issued to show full commodity description.

MC 145441 (Sub-33TA), filed April 3, 1979. Applicant: A.C.B. TRUCKING, INC., P.O. Box 5130, North Little Rock, AR 72119. Representative: E. Lewis Coffey (same as applicant). *Confectionery* (except in bulk), from Frankfort, IN and Hazelton and York, PA to points in CA (except Salinas), for 180 days as a common carrier over irregular routes. An underlying ETA seeks 90 days authority. Supporting shipper(s): Peter Paul, Inc., New Haven Road, Naugatuck, CT 06770. Send protests to: William H. Land, Jr., District Supervisor, 3108 Federal Office Building, 700 West Capitol, Little Rock, AR 72201.

MC 145441 (Sub-34TA), filed April 5, 1979. Applicant: A.C.B. TRUCKING, INC., P.O. Box 5130, North Little Rock, AR 72119. Representative: E. Lewis Coffey, P.O. Box 5130, North Little Rock, AR 72119. *Rubber and plastic articles, and housewares* From Wooster, OH to points in AZ, AR, CA, CO, FL, GA, ID, KS, LA, NV, NM, OK, OR, TX, UT and WA for 180 days as a common carrier over irregular routes. Supporting shipper(s): Rubbermaid, Inc., 1147 Akron Road, Wooster, OH 44691. Send protests to: William H. Land, Jr., District Supervisor, 3108 Federal Office Building, 700 West Capitol, Little Rock, AR 72201.

MC 145481 (Sub-9TA), filed March 30, 1979. Applicant: COYOTE TRUCK LINE, INC., P.O. Box 756, Thomasville, NC 27360. Representative: John T. Wirth, 717 17th St., Suite 2600, Denver, CO 80202. *Candy and confectionery* from the Boston, MA commercial zone to points in AZ, CA, CO, ID, NV, NM, OR, UT and WA, for 180 days. An underlying ETA seeks 90 days authority. Supporting Shipper(s): Deran Confectionery, 134 Cambridge St., Cambridge MA 02141, New England Confectionery Co., 254 Massachusetts Ave., Cambridge, MA 02139, and The Schrafft Candy Company, Sullivan Square, Boston, MA 02129. Send protests to: District Supervisor Terrell Price, 800 Briar Creek Rd., Rm. CC516, Mart Office Building, Charlotte, NC 28205.

MC 145761 (Sub-2TA), filed April 10, 1979. Applicant: A & A TRANSPORT SERVICES, INC., Maple Tree Industrial Park, Boston Road; P.O. Box 12, Palmer, MA 01069. Representative: Arlyn L. Westergren, Suite 106, 7101 Mercy Road, Omaha, Nebraska 68106. Contract carrier: irregular routes: *Soap, soap products, and cleaning compounds*, from West Warwick, RI to points in the U.S. (except AK and HI), for 180 days. An underlying ETA seeks 90 days authority. Supporting shipper(s): Original Bradford Soap, Inc., 200 Providence Street, West Warwick, RI 02893. Send protests to: David M. Miller, DS, ICC, 436 Dwight Street, Springfield, MA 01103.

MC 146001 (Sub-3TA), filed April 4, 1979. Applicant: BOB MARGOSIAN, d.b.a. BOB MARGOSIAN TRUCKING, 6885 Avenue 418, P.O. Box 395, Dinuba, CA 93618. Representative: William J. Monheim, P.O. Box 1756, Whittier, CA 90609. *Prunes, prune extract, juice in containers, dried fruits and edible nuts*, from Yuba City and Stockton, CA, to Phoenix, AZ, for 180 days. An underlying ETA seeks up to 90 days operating authority. Supporting shipper(s): Diamond/Sunsweet, Inc., 1050 So. Diamond Street, Stockton, CA 95201. Send protests to: Irene Carlos, Transportation Assistant, Interstate Commerce Commission, P.O. Box 1551, Los Angeles, CA 90053.

MC 146051 (Sub-2TA), filed March 26, 1979. Applicant: WITTENBURG TRUCK LINE INC., P.O. Box 98, Readlyn, IA 50668. Representative: Larry D. Knox, 600 Hubbell Bldg. Des Moines, IA 50309. *Plastic pipe*, from New Richland, MN, to points in the United States in and west of OH, KY, TN, and AL (except AK and HI) for 180 days. Supporting shipper(s): Vinylex Corporation, New Richland, MN 56072. Send protests to: Herbert W. Allen, DS, ICC, 518 Federal Bldg., Des Moines, IA 50309.

MC 146071 (Sub-3TA), filed March 30, 1979. Applicant: DEETZ TRUCKING, INC., Strum, WI 54770. Representative: Charles J. Kimball, 350 Capitol Life Center, 1600 Sherman St., Denver, CO 80203. *Meats, meat products, meat byproducts, and articles distributed by meat packinghouses, as described in Sections A and C of Appendix 1 to the Report in Descriptions in Motor Carrier Certificates, 61 MCC 209 and 766 (except commodities in bulk and hides)*, from Eau Claire, WI to points in ME, VT, NH, MA, CT RI, NJ, DE, PA, NY, MD, WV, VA, OH and DC, for 180 days. An underlying ETA seeks 90 days authority. Supporting shipper(s): Wisconsin Beef Industries, Inc., P.O. Box 9002, Eau Claire, WI 54701. Send protests to: Gail Daugherty, Transportation Asst., ICC, U.S. Federal Bldg. and Courthouse, 517 E. Wisc. Ave., Rm. 619, Milwaukee, Wisc. 53202.

MC 146071 (Sub-4TA), filed April 10, 1979. Applicant: DEETZ TRUCKING, INC., P.O. Box 2, Strum, WI 54770. Representative: Charles J. Kimball, 350 Capitol Life Center, 1600 Sherman St., Denver, CO 80203. *Frozen prepared foods and frozen meats* from Fairmont, MN and Eau Claire, WI to points in OH, PA, NY, NJ, ME, RI, MA, CT, NH, VA, WV, MD, KY, TN, NC, SC, GA, IL, IN, MI and DC, for 180 days. An underlying ETA seeks 90 days authority. Supporting shipper(s): Armour Food Co. Box 239, St. Paul, MN 55075. Send protests to: Gail Daugherty, Transportation Asst., ICC, U.S. Federal Bldg. and Courthouse, 517 E. Wisc. Ave., Rm. 619, Milwaukee, Wisc. 53202.

MC 146071 (Sub-5TA), filed April 16, 1979. Applicant: DEETZ TRUCKING, INC., P.O. Box 2, Strum, WI 54770. Representative: Ronald V. Dreckman, (same address as applicant). *Cheese*

from the facilities of Swift & Co. at Green Bay, WI to points in AR, MO, TX, LA, and OK, for 180 days. An underlying ETA seeks 90 days authority. Supporting shipper(s): Swift & Co., 115 W. Jackson Blvd., Chicago, IL 60604. Send protests to: Gail Daugherty, Transportation Asst., INTERSTATE COMMERCE COMMISSION, 517 E. Wisconsin Ave., Rm. 619, Milwaukee, WI 53202.

MC 146361 (Sub-1TA), filed April 12, 1979. Applicant: WOLTER TRUCK LINE, INC., R.D. 1, Greenwood, DE 19950. Representative: Chester A. Zyblut, Esq., 1030—15th St., NW., Washington, DC 20005. *Agricultural limestone products*, in bulk, in dump vehicles, from J. E. Baker Lime Company at York, PA to Milford and Laurel, DE, for 90 days. An underlying ETA seeks 90 days authority. Supporting shipper(s): Milford Fertilizer, Box 243, Milford, DE 19963 and The Reeds, Inc., P.O. Box 195, Milford, DE 19963. Send protests to: W. L. Hughes, DS, ICC, 1025 Federal Bldg., Baltimore, MD 21201.

MC 146401 (Sub-1TA), filed March 12, 1979. Applicant: NEU-WAY, INC., 3766 197th Street, Langley, B. C. V3A 7C1. Representative: Jack Waybourne, (same as applicant). *Lumber and lumber products*, between points on the International Border between WA and B.C. on the one hand and WA and OR on and West of U.S. 97 on the other hand, for 180 days. An underlying ETA seeks 90 days authority. Supporting shipper(s): B. C. Crossarm Co., 10897 Timberland Rd., Surrey, B. C., Coast Clear Wood Ltd., No. 12 636 Clyde Ave., West Vancouver, B.C., Helgason Lumber Co., Ltd., 12202—H—86th Ave., Surrey, B. C., and Orchardson Forest Products Ltd., 10897 Timberland Drive, Surrey, B. C. V3V 3T6. Send protests to: Shirley M. Holmes, T/A, ICC, 858 Federal Bldg., Seattle, WA 98174.

MC 146420 (Sub-1TA), filed March 21, 1979. Applicant: FRATE SERVICE, INC., Rural Route One, East Peoria, IL 61611. Representative: Samuel G. Harrod, Attorney at Law, Eureka Professional Building, Eureka, IL 61530. *Iron and steel articles:* from the facilities of Jones & Laughlin Steel Corp. located in the Chicago, IL commercial zone to points in IL and St. Louis, MO commercial zone and Quad City commercial zone, for 180 days. An underlying ETA was granted for 90 days authority. Supporting shipper(s): Jones & Laughlin Steel Corp., 3001 Dickey Road, East Chicago, IN 46312. Send protests to: Annie Booker, TA, Interstate Commerce Commission, 219 South Dearborn Street, Room 1386, Chicago, IL 60604.

MC 146430 (Sub-1TA), filed March 27, 1979. Applicant: ROADWAY DUMP HAULERS, INC., Star Route, Powhatan, AR 72458. Representative: Bob Tribble, Star Route, Powhatan, AR 72455. *Wood chips*. From Doniphan, MO to Wickliffe, KY., for 180 days as a contract carrier over irregular routes. An underlying ETA has been filed. Supporting Shipper(s): Wood Chippers, 802 Walnut, Doniphan, MO 63935. Send protests to: William H. Land, Jr., District Supervisor, 3108 Federal Office Building, 700 West Capitol, Little Rock, AR 72201.

MC 146500 (Sub-1TA), filed March 27, 1979. Applicant: BELL'S DELIVERY INC., 1514 Illinois St., Des Moines, IA 50314. Representative: Donald W. Bell (same as applicant). Contract authority, *Such merchandise as dealt in by retail stores* from Des Moines, IA to Ames, Atlantic, Cedar Rapids, Clinton, Davenport, Ft. Dodge, Ft. Madison, Keokuk, Marshalltown, Newton, Olwein, Oskaloosa, Ottumwa, Sioux City, and Waterloo, IA. Restricted to shipments having a prior interstate movement for 180 days. An underlying ETA seeks 90 days authority. Supporting Shipper(s): F. W. Woolworth Co., 915 Lee St., Des Plaines, IL 60016. Send protests to: Herbert W. Allen, DS, ICC, 518 Federal Bldg., Des Moines, IA 50309.

MC 146551 (Sub-1TA), filed March 27, 1979. Applicant: TAYLOR TRANSPORT, INC., 1416 Ralston Ave., Defiance, OH 43512. Representative: Tommy R. Taylor (same address as applicant). (1) *Cookies, and equipment, materials and supplies used in the manufacture, preparation and distribution thereof (except commodities in bulk)*, between McComb, OH, Philadelphia, PA, and Fairlawn, NJ, on the one hand, and, on the other, points in the United States (except AK and HI); (2) *Non-carbonated fruit beverages, applesauce and vinegar, and equipment, materials and supplies used in the manufacture, preparation and distribution thereof (except commodities in bulk)*, between Littleton, MA and Ohio City, OH, on the one hand, and, on the other, points in the United States (except AK and HI); and (3) *Such merchandise as is dealt in by wholesale, retail, chain grocery, and food business houses, institutions, catalogue show room stores and home center stores, and equipment, materials and supplies used in the manufacture, preparation and distribution thereof (except commodities in bulk)*, between Maumee and Toledo, OH, on the one hand, and, on the other, points in the United States (except AK and HI), for 180 days. An underlying ETA seeks 90 days authority. Supporting Shipper(s): New England Apple Products Co., Inc., P.O. Box 425, Harwood Station, Littleton, MA 01460; Consolidated Biscuit Co., Rader Rd., McComb, OH 45858; NABISCO, Inc., East Hanover, NJ 17936; and Seaway Foodtown, Inc., 1020 Ford St., Maumee, OH 43537. Send protests to: Interstate Commerce Commission, Bureau of Operations, 600 Arch St., Rm. 3238, Phila., PA 19106.

MC 146580 (Sub-2TA), filed March 15, 1979. Applicant: FREIGHT SYSTEMS, INC., 4200 Meridian Street, Suite 216, Bellingham, WA 98225. Representative: William H. Grady, 1100 Norton Bldg., Seattle, WA. *Contract carrier:* irregular routes: *Such merchandise, equipment and supplies as are sold, used, or distributed by manufacturers of cosmetics*, having a prior or subsequent movement in interstate commerce, between points in WA in and west of U.S. Hwy. 97, for the account of Avon Products, Inc., for 180 days. An underlying ETA seeks 90 days authority. Supporting Shipper(s): Avon Products, Inc., 2940 East Foothill Blvd., Pasadena, CA 91121. Send protests to: Shirley M. Holmes, T/A, ICC, 858 Federal Bldg., Seattle, WA 98175.

MC 146581 (Sub-1TA), filed March 22, 1979. Applicant:FRIEDMAN MINERALS, INC., Route 2, Box 90, Ronceverte, WV 24970. Representative: John M. Friedman, 2930 Putnam Ave., Hurricane, WV 25526. *Coal, in dump vehicles*, from mine sites and cleaning plants in Nicholas and Greenbrier Counties, WV to points in Allegheny County, VA, for 180 days. An underlying ETA seeks 90 days authority. Supporting Shipper(s): Energy Enterprises, P.O. Box 906, Covington, VA 24426. Send protests to: J. A. Niggemyer, DS, 416 Old P.O. Bldg., Wheeling, WV 26003.

MC 146590 (Sub-1TA), filed April 5, 1979. Applicant: JOSEPH R. PROSTKO, 1300 Island Avenue, McKees Rocks, PA 15136. Representative: John A. Pillar, Esq., 1500 Bank Tower, 307 Fourth Avenue, Pittsburgh, PA 15222. (1) *Wire Rods and cable* from Glassport, PA. Fayetteville, TN and Oswego, NY to points in the United States east of the eastern boundaries of MT, WY, CO and NM; and (2) *Equipment, material and supplies* used in the manufacture of wire, rods and cable from points in the United States east of the eastern boundaries of MT, WY, CO and NM to Glassport, PA, Fayetteville, TN and Oswego, NY, under a continuing contract or contracts with Copperweld Corp., Bimetallics Division for 180 days. An underlying ETA seeks 90 days. Supporting Shipper(s): Copperweld Corp., Bimetallics Division, Glassport,

PA 15045. Send protests to: John J.

180 days. An underlying ETA seeks 90

d.b.a. TRI HARVESTERS, P.O. Box 489,

Fourth Section Application for Relief

PA 15045. Send protests to: John J. England, District Supervisor, Interstate Commerce Commission, 2111 Federal Building, 1000 Liberty Avenue, Pittsburgh, PA 15222.

MC 146640 (Sub-1TA), filed March 29, 1979. Applicant: M & S TRUCKING, INC., 1589 East Fift Avenue, Columbus, Ohio 43215. Representative: Michael L. Moushey, Beery & Spurlock Co. L.P.A., 275 East State Street, Columbus, Ohio 43215. Contract-irregular. *Wooden pallets and materials, equipment and supplies used in the manufacture thereof* between the facilities of or used by B. F. Goodrich in Columbus, OH, on the one hand and points in IN, PA, AL, IL, TX, KS, GA, OK and KY, on the other. Underlyng ETA seeks 90 days authority. Supporting Shipper(s): The B.F. Goodrich Company, 500 S. Main Street, Akron, Ohio 44318. Send protests to: ICC, Wm. Green Jr., Federal Bldg., 600 Arch Street, Philadelphia, PA 19106.

MC 146641 (Sub-1TA), filed April 16, 1979. Applicant: ROBERT W. SMITT, d.b.a. BTL-KAL AIR SERVICE, 36900 Ferndale Street, Romulus, MI 48174. Representative: William B. Elmer, 21635 East Nine Mile Road, St. Clair Shores, MI 48080. *General Commodities,* except those of unusual value, classes A & B explosives, household goods as defined by the Commission, commodities in bulk and commodities requiring special equipment, between Willow Run and Detroit Metropolitan Airports, Wayne County, MI on the one hand, and on the other points, in MI located on and south of Interstate Hwy. 196 from Holland, MI to Grand Rapids, MI; points on and west of U.S. Hwy 127 from Lansing, MI to the OH-MI State Line, and O'Hare International Airport, Chicago, IL. Restricted to traffic having an immediate prior or subsequent movement by air. For 180 days. Supporting Shipper(s): City Air Freight, Inc., 321 E. Harrison St., Michigan City, IN 46360; Air Express International, 29300 Goddard Road, Romulus, MI 48174; Fritz Air Freight, 27150 Trolley Inc., Dr. Taylor, MI 48180 and 6 others. Send protests to: C. R. Flemming, D/S, I.C.C., 225 Federal Building, Lansing, MI 48933.

MC 146650 (Sub-1TA), filed March 30, 1979. Applicant: SHIP AGENTS, INC., 1746 E. Adams Street, Jacksonville, FL 32206. Representative: Norman J. Bolinger, 1729 Gulf Life Tower, Jacksonville, FL 32207. *Plywood, paneling, gypsum board, composition board, molding, and particle board,* from the facilities of Pan American Gyro-Tex Co. located at or near Jacksonville and Jasper, FL to points in IN, IL, and MI for 180 days. An underlying ETA seeks 90 days authority. Supporting Shipper(s): Pan American Gyro-Tex Co., 520 Cedar Bay Road, Jacksonville, FL 32218. Send protests to: G. H. Fauss, Jr., DS, ICC, Box 35008, 400 West Bay Street, Jacksonville, FL 32202.

MC 146660 (Sub-1TA), filed April 5, 1979. Applicant: GRANT'S TRUCKING SERVICE, INC., P.O. Box 10158, Goldsboro, NC 27532. Representative: Ralph McDonald, P.O. Box 2246, Raleigh, NC 27602. *Wood residuals* from Lewiston, Plymouth, and Smithfield, NC to Franklin, VA for 180 days. An underlying ETA seeking 90 days authority has been filed. Supporting Shipper(s): Weyerhaeuser Company, P.O. Box 787, Plymouth, NC 27962. Send protests to: Mr. Archie W. Andrews, D/S, ICC, P.O. Box 26896, Raleigh, NC 27611.

MC 146731 (Sub-1TA), filed March 7, 1979. Applicant: SASSARD CONSTRUCTION CO., INC., d.b.a. AIR FREIGHT EXPEDITORS, 440 Arbutus Ave., S.E., Roanoke, VA 24014. Representative: Michael D. Sassard, 5340 Carolyn Circle, Salem, VA 24153. Contract—irregular. *Commodities having immediate subsequent movement by air* except, those of unusual value, class A & B explosives, household goods, Commodities in bulk and those requiring special equipment, between Roanoke, Va. and points in Franklin, Henry, Pittsylvania, Campbell, Appomattox, Amherst, Rockbridge, Alleghany, Botetourt, Giles, Montgomery, Pulaski, Wythe, Carroll, Floyd, Roanoke, Bedford, counties, VA, for 180 days. Supporting Shipper(s): Burlington Northern Air Freight, Inc., 5405 Carolyn Circle, Salem, VA 24153. Send protests to: Paul D. Collins, DS, ICC, Room 10-502 Federal Bldg., 400 North 8th Street, Richmond, VA 23240.

MC 146741 TA, filed April 4, 1979. Applicant: DUTCH MILL TRUCKING, INC., R.R. 1, Sparta, WI 54656. Representative: Michael Wyngaard, 150 E. Gilman St., Madison, WI 53703. *Ferrous and non-ferrous metals and metal articles* from the facilities of Central Steel & Wire Co. at Chicago, IL to points in MN and points in Ashland, Bayfield, Burnett, Iron and Sawyer Counties, WI, for 180 days. An underlying ETA seeks 90 days authority. Supporting Shipper(s): Central Steel & Wire Co., 3000 W. 51st St., Chicago, IL 60632. Send protests to: Gail Daugherty, Transportation Asst., ICC, 517 East Wisconsin Ave., Milwaukee, WI 53202.

MC 146750 TA filed April 9, 1979. Applicant: EUELL L. BARNES AND STANLEY O. BARNES, a partnership, d.b.a. TRI HARVESTERS, P.O. Box 489, Queen Creek, AZ 85242. Representative: Robert L. Samson (same address as applicant). *Farm machinery,* between points in the states of AZ, CA, ID, KS, MN, MT, NB, NM, OK, SD and TX, for 180 days. Supporting Shipper(s): There are 15 shippers. Their statements may be examined at the office listed below and Headquarters. Send protests to: Ronald R. Mau, District Supervisor, 2020 Federal Bldg., 230 N. 1st Ave., Phoenix, AZ 85025.

MC 146940 TA, filed April 6, 1979. Applicant: LUMBEE TRUCKING COMPANY, INC., Route 2, Box 139, Maxton, NC 28364. Representative: Herman Locklear (same address as applicant). *Canned food products* from Maxton, NC to points in AL, FL, GA, NC, SC, TN, and VA for 180 days. Supporting Shipper(s): Campbell Soup Company, Route 2, Box 98, Maxton, NC 28364. Send protests to: Mr. Archie W. Andrews, D/S, ICC, P.O. Box 26896, Raleigh, NC 27611.

Passenger Authority

MC 146330 (Sub-1TA), filed April 20, 1979. Applicant: JAMES SMITH, AN INDIVIDUAL, d.b.a. NATIONAL TOUR LINES, P.O. Box 396, Midland City, AL 36350. Representative: James Smith (same address as applicant). *Passengers and their baggage in the same vehicles with passengers,* in special or charter operations, (1) Between Montgomery, AL, and Panama City Beach, FL. (2) Between Montgomery, AL, and Disney World, located near Orlando, FL. (3) Between Dothan, Ozark, Troy and Montgomery, AL and Six Flags Over Georgia, located near Atlanta, GA. (4) Between Montgomery, AL, and Jacksonville, FL. For 180 days. An underlying ETA has been filed. Dothan Travel Agency, 1810 Montgomery Highway, Dothan, AL 36302. Supporting Shipper(s): First Baptist Church, Dothan, AL. Ozark First Assembly of God, 321 Burmuda Street, Ozark, AL. Send protests to: Mabel E. Holston, T/A, ICC, Room 1616—2121 Building, Birmingham, AL 35203.

By the Commission.

H. G. Homme, Jr.
Secretary.

[Notice No. 77]
[FR Doc. 79-14989 Filed 5-11-79; 8:45 am]
BILLING CODE: 7035-01-M

Fourth Section Application for Relief

May 11, 1979.

This application for long-and-short-haul relief has been filed with the I.C.C. Expedited handling of this application has been requested and is being granted.

Protests are due at the Offices of the Commission in Washington, D.C., not later than noon, Friday, May 18, 1979. Telegraphic filing is acceptable.

FSA No. 43698, TEA-ERR Agent No. 3077. To establish demand-sensitive rates (seasonal discounts per car) on grain and grain products to expire with June 30, 1979, from Conrail stations in Central Territory to Trunk Line, New England, and Southern Territory. Publication to be made in Tariff ICC TEA 4044. Grounds for relief—improved car utilization.

By the Commission.

H. G. Homme, Jr.
Secretary.

[FR Doc. 15198 Filed 5-11-79; 8:45 am]
BILLING CODE 7035-01-M

Sunshine Act Meetings

Federal Register
Vol. 44, No. 94
Monday, May 14, 1979

This section of the FEDERAL REGISTER contains notices of meetings published under the "Government in the Sunshine Act" (Pub. L. 94-409) 5 U.S.C. 552b(e)(3).

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1

CIVIL AERONAUTICS BOARD.

Notice of deletion of items from the May 10, 1979 meeting agenda.

TIME AND DATE: 10 a.m., May 10, 1979.

PLACE: Room 1027, 1825 Connecticut Avenue, NW., Washington, D.C. 20428.

SUBJECT:

4. Docket 34280, Third-party complaint of Carlsbad, Clovis, and Hobbs, New Mexico; Enforcement Proceeding for the assessment of civil penalties against Texas International Airlines for failure to meet service obligations at Carlsbad, Clovis, and Hobbs, New Mexico. (Memo No. 8772, BCP, OGC, BPDA)

30. Dockets 34513, 26681, and 34565; Petition of the Port of Astoria for determination of essential air transportation; Hughes Airwest Petition for modification of orders granting temporary suspension, and notice of intent to terminate service at Astoria/Seaside, Oregon. (BPDA).

STATUS: Open.

PERSON TO CONTACT: Phyllis T. Kaylor, the Secretary, (202) 673-5068.

SUPPLEMENTARY INFORMATION: Item 4 is being deleted so that Judge Litt would have additional time to submit comments to the proposed order. Item 30 is being deleted because additional staff work is required to resolve most fairly the difficult issue raised by the civic parties' comments on minimum aircraft size. Accordingly, the following Members have voted that agency business requires that Items 4 and 30 be deleted from the May 10, 1979 agenda and that no earlier announcement of these deletions was possible:

Chairman, Marvin S. Cohen
Member, Richard J. O'Melia
Member, Elizabeth E. Bailey
Member, Gloria Schaffer

[M-217, Amdt. 4]
[S-965-79 Filed 5-10-79; 3:49 pm]
BILLING CODE 6320-01-M

2

CIVIL AERONAUTICS BOARD.

Notice of Deletion of items from the May 10, 1979 agenda.

TIME AND DATE: 10 a.m., May 10, 1979.

PLACE: Room 1011, 1825 Connecticut Avenue NW., Washington, D.C. 20428.

SUBJECT: 38. Dockets 34875 and 35010; Applications of TIA and World for exemptions to perform U.S.-Ireland scheduled service (Memo 8654-D, BIA); 39. Peru Negotiations.

STATUS: Closed.

PERSON TO CONTACT: Phyllis T. Kaylor, the Secretary, (202) 673-5068.

SUPPLEMENTARY INFORMATION: Item 38 is being deleted because the outcome of the U.S.-Ireland talks has made this item moot. Item 39 is being deleted because the Board desires to gather additional information on this situation before holding a possible discussion. Accordingly, the following Members have voted that Items 38 and 39 be deleted from the May 10 agenda and that no earlier announcement of these deletions was possible:

Chairman, Marvin S. Cohen
Member, Richard J. O'Melia
Member, Elizabeth E. Bailey
Member, Gloria Schaffer.

[M-217, Amdt. 5; May 9, 1979]
[S-966-79 Filed 5-10-79; 3:45 pm]
BILLING CODE 6320-01-M

3

EQUAL EMPLOYMENT OPPORTUNITY COMMISSION.

TIME AND DATE: 9:30 a.m. (Eastern Time), Tuesday, May 15, 1979.

PLACE: Commission Conference Room, No. 5240, on the fifth floor of the Columbia Plaza Office Building, 2401 E Street NW, Washington, D.C. 20506.

STATUS: Part will be open to the public and part will be closed to the public.

MATTERS TO BE CONSIDERED:

Open to the Public

1. Proposed Revisions of Regulations Governing EEOC Employees' Responsibilities and Conduct.
2. Report on Commission Operations by the Executive Director.

Closed to the Public

1. Litigation Authorization; General Counsel Recommendations.
2. Discussion of the Status of Particular Charges of Discrimination.

Note.—Any matter not discussed or concluded may be carried over to a later meeting.

CONTACT PERSON FOR MORE INFORMATION: Marie D. Wilson, Executive Officer, Executive Secretariat, at (202) 634-6748.

This Notice Issued May 8, 1979.

[S-955-79 Filed 5-10-79; 9:39 am]
BILLING CODE 6570-06-M

4

FEDERAL DEPOSIT INSURANCE CORPORATION.

TIME AND DATE: 2 p.m. on Monday, May 7, 1979.

PLACE: Board Room, 6th Floor, FDIC Building, 550—17th Street NW., Washington, D.C.

STATUS: Open.

MATTERS TO BE CONSIDERED:

Disposition of minutes of previous meetings.

Request by the Comptroller of the Currency for a report on the competitive factors involved in the proposed merger of The First National Bank of Maryland, Baltimore, Maryland, and The Sharpsburg Bank of Washington County, Sharpsburg, Maryland.

Recommendation regarding the liquidation of a bank's assets acquired by the Corporation in its capacity as receiver, liquidator, or liquidating agent of those assets:

Case No. 43,891-SR—Chatham Bank of Chicago, Chicago, Illinois.

Recommendations with respect to payment for legal services rendered and expenses incurred in connection with receivership and liquidation activities:

Bronson, Bronson & McKinnon, San Francisco, California, in connection with the receivership of United States National Bank, San Diego, California.

Sidley & Austin, Chicago, Illinois, in connection with the liquidation of the Drovers' National Bank of Chicago, Chicago, Illinois.

Kaye, Scholer, Fierman, Hays & Handler, New York, New York, in connection with the

liquidation of The Bank of Bloomfield, Bloomfield, New Jersey.

Memorandum proposing a new contract with Government Services, Inc., relating to the operation of the Corporation's Cafeteria and Dining Room.

Memorandum proposing the establishment of the position of Tax Manager to assist in the Corporation's Liquidation Accounting Project.

Reports of committees and officers:

Minutes of the actions approved by the Committee on Liquidations, Loans and Purchases of Assets pursuant to authority delegated by the Board of Directors.

Report of the Acting Executive Secretary regarding his transmittal of "no significant effect" competitive factor reports.

Reports of the Director of the Division of Bank Supervision with respect to applications or requests approved by him and the various Regional Directors pursuant to authority delegated by the Board of Directors.

Report of the Director of the Division of liquidation detailing all disbursements in excess of $10,000 and all sales of real estate properties, during the period February 16, 1979—April 16 1979, in connection with the Liquidation of the Hamilton National Bank of Chattanooga, Chattanooga, Tennessee.

Audit Report: Corporation Contracting and Leasing Activities.

CONTACT PERSON FOR MORE INFORMATION: Mr. Hoyle L. Robinson, Acting Executive Secretary, (202) 389-4425.

[S-960-79 Filed 5-10-79; 2:15 pm]
BILLING CODE 6714-01-M

5

FEDERAL DEPOSIT INSURANCE CORPORATION.

TIME AND DATE: 2:30 p.m. on Monday, May 7, 1979.

PLACE: Board Room, 6th Floor, FDIC Building, 550—17th Street, N.W., Washington, D.C.

STATUS: Closed.

MATTERS TO BE CONSIDERED:

Applications for Federal deposit insurance:

Colorado Bank—Tech Center, a proposed new bank to be located at the northwest corner of Tamarac Parkway and East Belleview Avenue, Denver, Colorado, for Federal deposit insurance.

Valley Bank and Trust, a proposed new bank to be located at 2290 Grand Avenue, Glenwood Springs, Colorado, for Federal deposit insurance.

Woods Mill—Forty Bank, a proposed new bank to be located at the southwest quadrant of the intersection of Woods Mill Road (Missouri Highway 141) and U.S. Highway 40, Unincorporated St. Louis County (P.O. Chesterfield), Missouri, for Federal deposit insurance.

Wilshire Bank, a proposed new bank to be located at 7901 North MacArthur Boulevard, Oklahoma City, Oklahoma, for Federal deposit insurance.

The Bank of Grays Harbor, a proposed new bank to be located at the intersection of East Market and South "H" Streets, Aberdeen, Washington, for Federal deposit insurance.

First Western Bank, a proposed new bank to be located at the intersection of 124th Avenue N.E. and N.E. 8th Street, Bellevue, Washington, for Federal deposit insurance.

Application for consent to purchase assets, assume liabilities, and establish branches:

Northeast Bank of Lewiston and Auburn, Lewiston, Maine, an insured State nonmember bank, for consent to purchase the assets of and assume the liability to pay deposit made in the Augusta and Waterville branches of Livermore Falls Trust Company, Livermore Falls, Maine, also an insured State nonmember bank, and for consent to establish the two offices of Livermore Falls Trust Company as branches of the acquiring bank.

Application for consent to merge and establish a branch:

The Eastern Ohio Bank, Union Township (P.O. Morristown), Ohio, an insured State nonmember bank, for consent to merge, under its charter and title, with The Community Savings Bank Company, Yorkville, Ohio, also an insured State nonmember bank, and for consent to establish the sole office of The Community Savings Bank Company as a branch of the resultant bank.

Application for consent to merge and establish branches:

Citizens and Farmers Bank, West Point, Virginia, an insured State nonmember bank, for consent to merge, under its charter and title, with the Colonial Bank, Providence Forge, Virginia, also an insured State nonmember bank, and for consent to establish the two offices of The Colonial Bank as branches of the resultant bank.

Request pursuant to section 19 of the Federal Deposit Insurance Act for consent to service of a person convicted of an offense involving dishonesty or a breach of trust as a director, officer, or employee of an insured bank:

Name of person and of bank authorized to be exempt from disclosure pursuant to the provisions of subsection (c)(6) of the "Government in the Sunshine Act" (5 U.S.C. 552b(c)(6)).

Recommendations regarding liquidation of a bank's assets acquired by the Corporation in its capacity as receiver, liquidator, or liquidating agent of those assets:

Case No. 43,819-L—First State Bank of Hudson County, Jersey City, New Jersey

Case No. 43,827-L—First State Bank of Hudson County, Jersey City, New Jersey

Case No. 43,884-L—International City Bank and Trust Company, New Orleans, Louisiana

Case No. 43,885-L—International City Bank and Trust Company, New Orleans, Louisiana

Case No. 43,887-L—Birmingham Bloomfield Bank, Birmingham, Michigan

Case No. 43,892-SR—American Bank & Trust Company, New York, New York

Case No. 43,893-L—Algoma Bank, Algoma, Wisconsin

Case No. 43,894-L—The Drovers' National Bank of Chicago, Chicago, Illinois

Case No. 43,895-L—Banco Credito y Ahorro Ponceno, Ponce, Puerto Rico

Case No. 43,897-SR—Franklin Bank, Houston, Texas

Recommendation with respect to payment for legal services rendered and expenses incurred in connection with receivership and liquidation activities:

Sullivan & Worcester, Boston, Massachusetts, in connection with the receivership of Surety Bank and Trust Company, Wakefield, Massachusetts.

Recommendations with respect to the initiation or termination of cease-and-desist proceedings, termination-of-insurance proceedings, or suspension or removal proceedings against certain insured banks or offices or directors thereof:

Names of persons and names and locations of banks authorized to be exempt from disclosure pursuant to the provisions of subsections (c)(6), (c)(8), and (c)(9)(A)(ii) of the "Government in the Sunshine Act" (5 U.S.C. 552b(c)(6), (c)(8), and (c)(9)(A)(ii)).

Personnel actions regarding appointments, promotions, administrative pay increases, reassignments, retirements, separations, removals, etc.:

Names of employees authorized to be exempt from disclosure pursuant to the provisions of subsections (c)(2) and (c)(6) of the "Government in the Sunshine Act" (5 U.S.C. 552b(c)(2) and (c)(6)).

Grievance Officer's report and recommendations with respect to the formal grievance of a Corporation employee.

CONTACT PERSON FOR MORE INFORMATION: Mr. Hoyle L. Robinson, Acting Executive Secretary, (202) 389-4425.

[S-961-79 Filed 5-10-79; 2:15 pm]
BILLING CODE 6714-01-M

6

FEDERAL ENERGY REGULATORY COMMISSION.

TIME AND DATE: May 16, 1979, 10 a.m.

PLACE: 825North Capitol Street, NE., Washington, D.C. 20426, Hearing Room A.

STATUS: Open.

MATTERS TO BE CONSIDERED: Agenda.

Note.—Items listed on the agenda may be deleted without further notice.

CONTACT PERSON FOR MORE INFORMATION: Kenneth F. Plumb, Secretary, Telephone, (202) 275-4166.

This is a list of matters to be considered by the Commission. It does not include a listing of all papers relevant to the items on the agenda. However, all public documents may be examined in the Office of Public Information.

Power Agenda—282nd Meeting, May 16, 1979, Regular Meeting (10 a.m.)

CAP-1. Docket No. ER79-213, Public Service Company of Indiana.

V 4 4 / 9 4

CAP–2. Docket No. ER79–258, Duke Power Company.
CAP–3. ER79–272, Commonwealth Edison Company and Indiana Michigan Electric Company
CAP–4. Docket No. ER79–208, Mid-Continent Area Power Pool.
CAP–5. Docket No. ER78–512, Wisconsin Electric Power Company.
CAP–6. Docket No. E–9572, Arizona Public Service Company.
CAP–7. Project No. 2305, Sabine River Authority of Texas and Sabine River Authority, State of Louisiana.
CAP–8. Project No. 2540, Green Mountain Power Corporation.
CAP–9. Project No. 2030, Portland General Electric Company.

Miscellaneous Agenda—292nd Meeting, May 9, 1979, Regular Meeting

CAM–1. South Beloit Water Gas & Electric Company.

Gas Agenda—292nd Meeting, May 16, 1979, Regular Meeting

CAG–1. Docket Nos. RP79–142, RP76–135, and RP78–76, (PGA No. 79–2 and AP No. 79–2), Cities Service Gas Company.
CAG–2. Docket No. RP79–63, Mountain Fuel Resources, Inc.
CAG–3. Docket No. RP79–4, Cities Service Gas Company.
CAG–4. Docket No. RP78–76 (Phase II), Gas Research Institute.
CAG–5. Docket No. RP75–8 (PGA79–3), Commercial Pipeline Company.
CAG–6. Docket No. RP75–98, McCulloch Interstate Gas Corporation.
CAG–7. Docket Nos. CI77–571 and RI77–122, Freeport Oil Company.
CAG–8. Docket No. CI76–646, Getty Oil Company. Docket Nos. CS66–5, et al., Estate of Scott B. Appleby, deceased, W. O. Anderson & Demova K. Frost. Docket Nos. CS73–273, et al., John G. Arnold, Trustee, et al. Docket No. CI77–391, Gas Producing Enterprises, Inc. Docket No. CI78–329, CIG Exploration, Inc. Docket No. CI78–366, CIG Exploration, Inc. Docket No. CS66–74, Magdalene C. Hammonds, et al. Docket No. CS79–87, Boardwalk Petroleum Incorporated. Docket No. CI78–924, Atlantic Richfield Company. Docket No. CS66–58, et al., Penrose-Zachery Operating Company (Penrose Production Co., et al.) Docket No. CS77–606, Polumbus Petroleum Corporation. Docket No. CS71–772, Grace Petroleum Corporation. Docket No. CS79–45, D. E. Weber. Docket No. CS79–59, Daymond D. Gillilland and Earl E. Fix.Docket No. CS79–286, Tenneco Oil Company. Docket No. CI60–611, Phillips Petroleum Company.
CAG–9. Docket Nos. CS78–637, et al., Barth Energy Corporation, et al.
CAG–10. Docket Nos. CI75–74, et al., Gulf Oil Corporation (successor to Kewanee Oil Company).
CAG–11. Docket No. CI78–1108, Sohio Natural Resources Company.
CAG–12. Docket Nos. G–7642, et al., Mobil Oil Corporation, et al.
CAG–13. Docket Nos. G–8812, et al., The Superior Oil Company, et al.
CAG–14. Docket No. CP79–192, United Gas Pipe Line Company.
CAG–15. Docket No. CP79–246, Northern Natural Gas Company.
CAG–16. Docket No. CP75–163, Southern Natural Gas Company. Docket No. CP75–149, Trunkline Gas Company.
CAG–17. Docket No. CP79–173, Texas Gas Transmission Corporation.
CAG–18. Docket No. CP79–183, Colorado Interstate Gas Company.
CAG–19. Docket No. CP79–164, Mid Louisiana Gas Company.
CAG–20. Docket No. CP79–137, United Gas Pipeline Company.
CAG–21. Docket No. CP73–2EE, Consolidated Gas Supply Corporation.
CAG–22. Docket No. CP69–41 and CP77–377, Algonquin Gas Transmission Company.
CAG–23. Docket No. CP78– 457, El Paso Natural Gas Company. Docket No. CS78–481, Northern Natural Gas Company.
CAG–24. Docket No. CP79–79, Transcontinental Gas Pipe Line Company and Texas Eastern Transmission Corporation,
CAG–25. Docket Nos. CP79–143, CP79–152, and CP79–178, Transcontinental Gas Pipe Line Corporation.

Power Agenda—292nd Meeting, May 16, 1979, Regular Meeting

I. Licensed Project Matters

P–1. Project No. 2896, Metropolitan Water District of Southern California.
P–2. Project Nos. 2871 and 2878, Turlock Irrigation District

II. Electric Rate Matters

ER–1. Docket No. ER79–267 and ER79–268, Union Electric Company
ER–2. Docket No. ER78–522, Virginia Electric Power Company
ER–3. Docket No. E–9408, American Electric Power Service Corporation

Miscellaneous Agenda—292nd Meeting, May 16, 1979, Regular Meeting

M–1. Docket No. RM79– , Calculation of the Working Cash Component of Working Capital Allowance for Electric Utilities
M–2. Reserved
M–3. Reserved
M–4. Notice of Well Category Determination by the Ohio Department of Natural Resources, Division of Oil and Gas
M–5. Docket No. RM79–30, Et Al., Final Part 276 Regulations Under Natural Gas Policy Act of 1978, Texaco Incorporated, Et Al.
M–6. Docket No. RM79– , Rulemaking Amending Section 274.104 of the Commission's Regulations
M–7. Report of the Alaskan Delegate on the System Design Inquiry
M–8. Docket No. RM79–34, Transportation Certificates for Natural Gas Displacement of Fuel Oil

Gas Agenda—292nd Meeting, May 16, 1979, Regular Meeting

I. Producer Certificate Matters

CI–1. Docket No. G–12446, Texas Eastern Transmission Corporation. Docket No. CI66–890, Continental Oil Company. Docket No CI66–891, Sun Oil Company. Docket No. CI66–919, General Crude Oil Company. Docket No. CI66–892, M. H. Marr.
CI–2. Docket No. CI77–777, CI77–782, CI77–789, CI78–607, CI78–608, CI78–884, CI76–1074 and CI75–1075, Mobil Oil Corporation

II. Pipeline Certificate Matters

CP–1. Docket No. CP78–123, Et Al., Northwest Alaskan Natural Transportation Company.

Kenneth F. Plumb,
Secretary.

[S–964–79 Filed 5–10–79; 3:14 pm]
BILLING CODE 6740–02–M

7

FEDERAL HOME LOAN BANK BOARD.

TIME AND DATE: 9:30 a.m., May 17, 1979.

PLACE: 1700 G Street, N.W., Sixth Floor, Washington, D.C.

STATUS: Open Meeting.

CONTACT PERSON FOR MORE INFORMATION: Franklin O. Bolling, (202–377–6677)

MATTERS TO BE CONSIDERED:

Application for Insurance of Accounts—Texas Savings Association, Hempstead, Texas
Application for Permission to Incur Debt—Guarantee Financial Corporation of California, Fresno, California
Consideration Regulations Regarding Farmers' Home Administration Rural Housing Program Guaranteed Loans
American Express Gold Bank Card Program—Dade Federal Savings and Loan Associaton of Miami, Miami, Florida
Application for Bank Membership—Washington Mututal Savings Bank, Seattle, Washington
Application for Permission to Convert to a Federal Chartered Stock Association—First Federal Savings and Loan Association of Raleigh, Raleigh, North Carolina
Application for Permission to a California Chartered Stock Association—Camino Real Federal Savings and Loan Association, San Fernando, California
Consideration of Withdrawal from Bank Membership and Termination of Insurance of Accounts—Granite Savings and Loan Association, Granite Falls, North Carolina
Consideration of Extension of Time—Peninsula Savings and Loan Association, South San Francisco, California
Application for Extension of Time to Open Branch Office—Financial Federal Savings and Loan Association of Olympia Fields, Olympia Fields, Illinois
Service Corporation Activity Application: Custodian of Accounts Established Under the Parents and Students Savings Plan of New York—West Side Federal Savings and Loan Association, New York City, New York; First Federal Savings and Loan Association of Rochester, Rochester, New York; Hudson Valley Federal Savings and Loan Association, Kingston, New York; Champlain Valley Federal Savings and Loan Association, Plattsburg, New York; and, Westchester Federal Savings and Loan Association, New Rochelle, New York
Consideration of Regulations Regarding Forwarding Commitments
No. 238, May 9, 1979

[S–959–79 Filed 5–10–79; 2:00 pm]
BILLING CODE 6720–01–M

8

FEDERAL MINE SAFETY AND HEALTH REVIEW COMMISSION.

TIME AND DATE: 10 a.m., May 15, 1979.

PLACE: 1730 K Street NW., Room 600, Washington, D.C.

STATUS: Open.

MATTER TO BE CONSIDERED: The Commission will consider and act upon the following:

Joseph D. Christian v. South Hopkins Coal Co., BARB 77–184. (Petition for Discretionary Review).

It was determined by unanimous vote of the Commissioners that Commission business required that a meeting be held on this item and that no earlier announcement of the meeting was possible.

CONTACT PERSON FOR MORE INFORMATION: Joanne Kelley, 202–653–5632.

[S–962–79 Filed 5–10–79; 2:15 pm]
BILLING CODE 6820–12–M

9

FEDERAL MINE SAFETY AND HEALTH REVIEW COMMISSION.

TIME AND DATE: 10 a.m., May 24, 1979.

PLACE: Room 600, 1730 K Street NW., Washington, D.C.

STATUS: Open.

MATTER TO BE CONSIDERED: Proposed Rules of Procedure. If this matter is not concluded on this date, this meeting may be recessed to a date and time to be announced.

CONTACT PERSON FOR MORE INFORMATION: Joanne Kelley, 202–653–5632.

[S–963–79 Filed 5–10–79; 2:15 pm]
BILLING CODE 6820–12–M

10

FEDERAL TRADE COMMISSION.

TIME AND DATE: 10 a.m. to 12:30 p.m. Friday, May 11, 1979.

PLACE: Room 432, Federal Trade Commission Building, 6th Street and Pennsylvania Avenue, N.W., Washington, D.C. 20580.

STATUS: Open.

MATTERS TO BE CONSIDERED:

Presentation, "How We Make Advertising", by the Association of National Advertisers and the American Association of Advertising Agencies, with Question & Answer period to follow.

CONTACT PERSON FOR MORE INFORMATION: Ira J. Furman, Office of Public Information: (202) 523–3830; Recorded Message: (202) 523–3806.

[S–956–79 Filed 5–10–79; 9:46 am]
BILLING CODE 6750–01–M

11

NUCLEAR REGULATORY COMMISSION.

TIME AND DATE: May 2, 3, 7 and 8, 1979.

PLACE: Commissioners' Conference Room, 1717 H St., N.W., Washington, D.C.

STATUS: Open (Changes).

MATTERS TO BE CONSIDERED:

Wednesday, May 2, 11:25 a.m.

The affirmation items postponed from Monday, April 30 (Item e, Motion in Sheron Harris; and Item f, Kranish FOIA Appeal) were affirmed at an Affirmation Session (Approximately 10 minutes—Public meeting.)

Thursday, May 3, 3 p.m.

The meeting titled Discussion of Format for Executive Branch Analysis was Postponed.

Monday, May 7, 5 p.m.

Affirmation of Commission Confirmatory Orders Regarding Shutdown of Oconee and Rancho Seco Plants (Approximately 5 minutes—Public meeting.)

ADDITIONAL INFORMATION:

The Commission voted 5–0 on May 7, that pursuant to 5 U.S.C. 552b(e)(1) and § 9.107(a) of the Commission's Rules, that Commission business requires that the above meeting be held on less than one week's notice to the public. Prompt discussion was required to permit consideration of this important issue.

Tuesday, May 8, 12 noon

Discussion of Pending Correspondence (Approximately 10 minutes—Public meeting).

ADDITIONAL INFORMATION:

The Commission (Commissioners Gilinsky & Kennedy absent) voted 3–0 on May 8 that, pursuant to 5 U.S.C. 552b(e)(1) and § 9.107(a) of the Commission's Rules, Commission business requires that the above meeting be held on less than one week's notice to the public. Prompt discussion was required to aid in the timely completion of Commission business.

CONTACT PERSON FOR MORE INFORMATION: Roger Tweed, (202) 634–1410.

Roger M. Tweed,
Office of the Secretary.

[S–957–79 Filed 5–10–79; 11:16 am]
BILLING CODE 7590–01–M

12

NUCLEAR REGULATORY COMMISSION.

TIME AND DATE: Wednesday, May 16. 1979.

PLACE: Commissioners' Conference Room, 1717 H St., N.W., Washington. D.C.

STATUS: Open.

MATTERS TO BE CONSIDERED:

Wednesday, May 16, 1:30 p.m.

1. Meeting with UCS on Petition for Reconsideration (Approximately 1½ hours—Public Meeting.)
2. Affirmation Session (Approximately 10 minutes—Public Meeting—Items are Tentative.)
a. Revision of Part 2.802. Petition for Rule Making
b. Bonding of Nuclear Operators to Ensure Decommissioning
c. Petition to Defer Implementation of Security Personnel Qualification & Equipment.

CONTACT PERSON FOR MORE INFORMATION: Roger Tweed, (202) 634–1410.

Roger M. Tweed,
Office of the Secretary.

[S–958–79 Filed 5–10–79; 11:16 am]
BILLING CODE 7590–01–M

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federal register

Monday
May 14, 1979

Part II

Department of Health, Education, and Welfare

Office of Education

Grants to State Educational Agencies to Meet the Special Educational Needs of Migratory Children

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DEPARTMENT OF HEALTH, EDUCATION, AND WELFARE

Office of Education

[45 CFR Part 116d]

Grants to State Educational Agencies to Meet the Special Educational Needs of Migratory Children

AGENCY: Office of Education, HEW.

ACTION: Notice of Proposed Rulemaking.

SUMMARY: The Commissioner proposes to revise the regulations for the program for migratory children under Sections 141–143 of Title I of the Elementary and Secondary Education Act. The revisions are required by the Education Amendments of 1978 (Pub. L. 95–561).

The revised regulations for the Migrant Education Program will—

(a) Clarify existing provisions that still apply;

(b) Reflect statutory changes with respect to adjustment of the formula count of children in summer-term projects and special funds for the coordination of migrant education activities; and

(c) Reflect proposed program management revisions with respect to the Commissioner's by-pass authority, the Commissioner's reallocation authority, and services to preschool migratory children.

DATES: Comments must be received on or before July 13, 1979.

Each of the ten regional offices of the Office of Education (OE) will hold a public meeting on this Notice of Proposed Rulemaking (NPRM). Additionally, three special public meetings on this NPRM will be held in Goldsboro, North Carolina, Moorhead, Minnesota, and Fresno, California.

These three meetings have been scheduled at sites of substantial "upsteam" migratory populations.

DATES:

City, Date and Time
Goldsboro, N.C., June 4 and 5, 1979, 9:00 a.m.–12 Noon; 2:00 p.m.–5:00 p.m.; 7:00 p.m.–10:00 p.m.
Moorhead, Minnesota, June 7 and 8, 1979, 9:00 a.m.–12 Noon; 2:00 p.m.–5:00 p.m.; 7:00 p.m.–10:00 p.m.
Fresno, California, June 11 and 12, 1979, 9:00 a.m.–12 Noon; 2:00 p.m.–5:00 p.m.; 7:00 p.m.–10:00 p.m.

The public meetings in the ten regional cities will be held on—June 18, 1979, 9:00 a.m.–12 Noon; 1:00 p.m.–5:00 p.m.; 7:00 p.m.–9:00 p.m.

ADDRESSES: Comments should be addressed to Mr. John Ridgway, U.S. Office of Education, 400 Maryland Avenue, S.W. (FOB–6, Room 2031), Washington, D.C. 20202).

Public Meetings will be held in—

Goldsboro, N.C., Wayne Community College, Administration Building, Board Room, Highway 70, East Bypass.
Moorhead, Minnesota, Thomas Edison School, Library Room, 14th Street and 12th Avenue South.
Fresno, California, State Building, 1st Floor Auditorium, (Room 1036), 2550 Mariposa Street.
Region I—Boston, Massachusetts, Boston University, George Sherman Union, Conference Auditorium, Commonwealth Avenue.
Region II—New York City, New York, New York University, Schimmel Auditorium, Tisch Hall, 40 West 4th Street.
Region III—Philadelphia, Pennsylvania, University Holiday Inn, 34th and Chestnut Streets.
Region IV—Atlanta, Georgia, Atlanta American Motor Hotel, Spring Street at Carnegie Way.
Region V—Chicago, Illinois, Center for Urban Education, 160 West Wendell Street, (1050 North Wells).
Region VI—Dallas, Texas, El Centro College, Performance Hall, Main and Lamar Streets.
Region VII—Kansas City, Missouri, Board of Education Building, Auditorium, 1211 McGee Street.
Region VIII—Denver, Colorado, Administrative Service Center, Board Room, 315 West 11th Street, Pueblo, Colorado.
Region IX—San Francisco, California, Sutter Middle School, 3150 I Street (Alhambra Street), Sacramento, California.
Region X—Seattle, Washington, Adams Elementary School (Library), 723 South 8th Street, Yakima, Washington.

FOR FURTHER INFORMATION CONTACT:

Mr. John Ridgway, U.S. Office of Education. Telephone (202) 245–2222.

For Information on Public Meetings in the Regional Office Cities, Contact the Appropriate Regional Commissioner for Education Programs: Region I, Boston, Dr. Thomas J. Burns, (617) 223–7500; Region II, New York, Dr. William D. Green, (212) 264–4370; Region III, Philadelphia, Dr. Albert C. Crambert, (215) 596–1001; Region IV, Atlanta, Dr. William L. Lewis, (404) 221–2063; Region V, Chicago, Dr. Juliette Noone Lester, (312) 353–5215; Region VI, Dallas, Mr. Edward J. Baca, (214) 767–3626; Region VII, Kansas City, Dr. Harold Blackburn, (816) 374–2276; Region VIII, Denver, Dr. John Runkel, (303) 837–3544; Region IX, San Francisco, Dr. Caroline Gillin, (415) 556–4920; Region X, Seattle, Mr. Allen Apodaca, (206) 442–0460.

SUPPLEMENTARY INFORMATION:

Background

The changes proposed in these regulations are based on the following:

(a) The Education Amendments of 1978.

(b) An Office of Education audit of the administration of the program.

(c) The Office of Education's Regulations Reform Project.

(d) The Department's Operation Common Sense.

(e) The Office of Management and Budget's Zero Base Review of Federal Planning Requirements.

Education Division General Administrative Regulations

These proposed regulations do not contain certain types of requirements. Those regulations are covered in the Education Division General Administrative Regulations (EDGAR), which will replace the General Provisions for Office of Education Program Regulations and which have been published as a notice of proposed rulemaking (NPRM).

Anyone wanting to comment on these requirements should do so in response to the EDGAR NPRM, rather than to this NPRM.

The following items applicable to this program are now among those covered generally in EDGAR:

How to apply for a grant.

How grants are made.

Certain conditions that must be met by a grantee.

The administrative responsibilities of a grantee.

The Office of Education's procedures to assure compliance.

The most notable proposed changes to the regulations for the Migrant Education Program are as follows:

Education Amendments of 1978

Special Summer Formula

Section 116d.20 has been written to include the new provision for adjusting the count of migratory children in a State during the summer months. This section explains that the adjustment is made to reflect the special needs of migratory children for summer projects and the additional costs of operating these projects. Furthermore, the proposed regulations explain that the adjustment factor that the Commissioner uses—

(a) Is based on the most accurate available information about the costs of operating summer projects;

(b) Is announced annually in the Federal Register; and

(c) May be redetermined at any time for use in the following fiscal year

Coordination of Migrant Education Activities

Section 116d.25 has been written to describe generally the new provision for special projects to coordinate migrant education activities. The regulations explain that the Commissioner may, in consultation with the States, make grants, contracts, or cooperative agreements with a State educational agency (SEA) or SEAs to—

(a) Operate a system for the transfer of school records and other information about migratory children; and

(b) Carry out other activities designed to improve the interstate and intrastate coordination of migrant education activities.

The procedures for applying for these funds will be announced in periodic notices and requests for proposals.

Management Audit

During the summer of 1978, the Office of Education conducted an extensive audit of the administration of the Migrant Education Program. The findings and recommendations of the audit were made after suggestions by Federal program staff members, State directors of migrant education programs, numerous groups of advocates, special interest groups, and interested individuals.

As a result of this management audit of the program, the following changes to the regulations are being proposed:

Commissioner's By-pass Authority

Both the title I statute and the current regulations provide the Commissioner with a special by-pass authority for the Migrant Education Program. This by-pass authority may be exercised whenever the Commissioner determines that an SEA is "unwilling" or "unable" to provide migrant education program services or that a by-pass would result in an improvement to the educational welfare of the migratory children or in more efficient and economic administration of the program. However, neither the statute nor the current regulations define precisely the basis for determining that a State is "unwilling" or "unable" to provide migrant education program services.

Section 116d.73 of these regulations proposes that the Commissioner determine that an SEA is "unwilling" if it does not submit an application by the receipt date and "unable" if it does not, after extensive technical assistance from the Commissioner, submit a program plan that satisfies the criteria for approval.

Commissioner's Reallocation Authority

Both the title I statute and the current regulations provide the Commissioner with a special reallocation authority for the Migrant Education Program. The Commissioner may exercise that authority whenever the Commissioner determines that the amount available to a State for its grant exceeds its needs.

Neither the statute nor the current regulations, however, define the basis for making a determination that funds are in excess of a State's needs.

Section 116d.22 of this NPRM proposes that the Commissioner consider reallocating part of an SEA's total amount available if that SEA carries over, for two consecutive fiscal years, more than 15 percent of its migrant education grant.

Services to Preschool Migratory Children

Both the statute and the current regulations provide that currently migratory children (presumably both school-aged and preschool) have priority for Migrant Education Program services over formerly migratory children. However, only school-aged (5 through 17 years old) migratory children generate funds under the statutory formula and are given priority—by section 142(a)(5) of title I—for services. The current regulations do not provide sufficiently precise guidance on the program's service priorities.

Therefore, in accordance with the recommendations of the management audit of the program, § 116d.58 of this NPRM proposes to clarify and order the service priorities as follows:

(a) School-aged currently migratory children.

(b) Preschool currently migratory children.

(c) School-aged formerly migratory children.

(d) Preschool formerly migratory children.

Local Parent Advisory Councils

The current regulations—requiring parent advisory councils at both the State and local levels—were written to implement the statute prior to its amendment by Pub. L. 95–561. The requirement for these councils was implemented through the Commissioner's discretionary authority under Section 427 of the General Education Provisions Act. As a result of the Education Amendments of 1978, section 142(a)(4) of title I now specifically requires State and local parent advisory councils.

This NPRM includes essentially the same language as the current regulations with no additional requirements relating to the functioning of these councils. It is believed that more prescriptive requirements relating to the composition and functioning of these councils would not be reasonable in view of the mobility of the parents.

Operation Common Sense

The program's final regulations, published on November 13, 1978, were written according to the Department's Operation Common Sense. The purpose of Operation Common Sense is to produce readable and understandable regulations that reflect Congressional intent and that do not unnecessarily regulate recipients of Federal funds, including State and local governments.

The current regulations responded to the only substantive comment received on 45 CFR Part 116d with respect to Operation Common Sense. That comment recommended deleting the requirement that SEAs routinely forward to the Commissioner copies of all approved applications of operating agencies. The recommendation was accepted and the requirement was deleted from the current regulations.

Regulations Reform Project

The Office of Education completed a review of program regulations in April 1978. That review—the Regulations Reform Project—had as its major objective the improvement of Office of Education regulations.

The proposed regulations for the Migrant Education Program have implemented the recommendations of the Regulations Reform Project in the following ways:

(a) This NPRM has been written in the newly-developed standard format for Office of Education regulations for State-administered programs.

(b) The standard assurances that apply to the Migrant Education Program will be included as part of a general State application (§ 116d.10(a)).

(c) The SEA has been given fuller authority for prescribing operating agency application procedures (subparts D and E of these proposed regulations).

Zero Base Review

The Zero Base Review of Federal Planning Requirements of the President's Office of Management and Budget was designed to identify, simplify, consolidate and, if possible, eliminate planning requirements for Federal programs. That review was completed in November 1977.

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The proposed regulations for the Migrant Education Program have been written to accomplish the following:

(a) Standard assurances and certifications that apply to the Migrant Education Program will be included as part of a general State application (§ 116d.10(a)).

(b) Standard assurances have been separated out of the annual program plan (§§ 116d.10(a) and 116d.10(c)).

(c) Section 116d.53 has been revised to follow the current statutory requirement for coordination with programs administered under Title IV of the Economic Opportunity Act of 1964 and Section 303 of the Comprehensive Employment and Training Act of 1973.

(d) Definitions of general applicability to all Office of Education programs have been deleted from these proposed regulations and will be covered by EDGAR (§ 116d.3(a)).

Citation of Legal Authority

As required by section 431(a) of the General Education Provisions Act, as amended (20 U.S.C. 1232(a)), a citation of statutory or other legal authority has been placed in parentheses on the line following the text of each section.

Invitation to Comment

A public meeting on this Notice of Proposed Rulemaking will be held in each of the ten Federal regions. We need to get an idea of how many persons are interested in speaking about these regulations. If you are interested in making oral comments at a public meeting, we encourage you to call the appropriate Regional Commissioner of Education. He/she will schedule a time for your comments to be given. Persons who do not notify the Regional Commissioner of their intention to make oral comments will be given an opportunity to speak. Those persons making presentations will be called upon according to their prearranged schedule, or if not prearranged, in the order of registration.

Interested persons are also invited to submit written comments, suggestions, and recommendations regarding the proposed regulations. Comments, suggestions, and recommendation may be sent to the address given at the beginning of this document. All comments received on or before the 60th day after publication of this document will be considered in the development of the final regulations.

All written comments submitted in response to this notice will be available for public inspection, both during and after the comment period, in Room 2031, Federal Office Building #6, 400 Maryland Avenue, S.W., Washington, D.C. between the hours of 8:30 a.m. and 4:00 p.m., Monday through Friday of each week except Federal holidays.

Under the authority contained in Section 141 of Title I of the Elementary and Secondary Education Act of 1965 (Pub. L. 89–10), as amended, the Commissioner is proposing to amend the regulations in 45 CFR Part 116d.

(Catalog of Federal Domestic Assistance No. 13.429, Educationally Deprived Children-Migrants)

Dated: January 23, 1979.

Ernest L. Boyer,
U.S. Commissioner of Education.

Approved: March 30, 1979.

Joseph A. Califano, Jr.,
Secretary of Health, Education, and Welfare.

Accordingly, 45 CFR Part 116d is proposed to be amended as stated below.

PART 116d—GRANTS TO STATE EDUCATIONAL AGENCIES TO MEET THE SPECIAL EDUCATIONAL NEEDS OF MIGRATORY CHILDREN

Subpart A—General

Sec.
116d.1 Migrant Education Program.
116d.2 Regulations that apply to the Migrant Education Program.
116d.3 Definitions that apply to the Migrant Education Program.

Subpart B—How a State Applies for a Grant

116d.10 Documents a State must submit to receive a grant.
116d.11 Condition a State must meet before submitting its annual program plan.
116d.12 Provisions required in an annual program plan.
116d.13 Procedures for submission of an annual program plan.

Subpart C—How a Grant Is Made to a State

116d.20 Determination of the amount available for a State grant.
116d.21 Determination of a State entitlement.
116d.22 Reallocation of excess funds.
116d.23 Payments to a State.
116d.24 Review of a State's annual program plan.
116d.25 Special projects for coordination of migrant education activities.

Subpart D—How to Apply to the State for a Subgrant

116d.30 Documents an applicant must submit to receive a subgrant.
116d.32 Provisions required in an application.
116d.33 Procedures for submission of an application.

Subpart E—How a Subgrant Is Made to an Applicant

116d.40 Determination of the amount of a subgrant.
116d.41 Review of an application for a subgrant.
116d.42 Conditions under which a State may make a special arrangement for services.

Subpart F—Conditions That Must Be Met by the State and Its Subgrantees

116d.50 Fiscal requirements.
116d.51 Use of funds.
116d.53 Coordination with other groups.
116d.54 Coordination among projects and with other State programs.
116d.55 Parental involvement.
116d.56 Eligibility of participating children.
116d.57 Comparable access for migratory children.
116d.58 Services to preschool and formerly migratory children.
116d.59 Supporting services.

Subpart G—Administrative Responsibilities of the State

116d.60 Application review and approval by the State.
116d.61 State monitoring and enforcement.
116d.62 Withholding of funds by the State.
116d.63 Audits and audit resolution by the State.
116d.64 Complaint resolution by the State.
116d.65 Evaluation of the State program.
116d.66 Reports by the State and its operating agencies.

Subpart H—Compliance Procedures Used by the Office of Education

116d.70 Withholding of funds by the Commissioner.
116d.71 Complaint resolution by the Commissioner.
116d.72 Audits and audit resolution by the Commissioner.
116d.73 Special arrangements by the Commissioner for services.

Authority: Subpart 1, Part B of Title I of the Elementary and Secondary Education Act of 1965, as amended by Pub. L. 95–561, unless otherwise noted.

Subpart A—General

§ 116d.1 Migrant Education Program.

(a) *General.* These regulations govern the Migrant Education Program authorized by Sections 141–143 of Title I of the Elementary and Secondary Education Act (the "Act"). The purposes of the program are to—

(1) Make Federal funds available to State educational agencies (SEAs) to establish or improve State migrant education programs designed to meet the special educational needs of migratory children of migratory agricultural workers or migratory fishers; and

(2) Enable these SEAs to coordinate their migrant education programs and local projects with similar programs and projects in other States, including the transfer of school records and other information about eligible migratory children.

(b) *Eligibility to participate.* An SEA may apply for a grant to support a State migrant education program. The SEA may operate the program directly, through subgrants to local educational agencies (LEAs) or through special arrangements with public or nonprofit private agencies. Two or more SEAs may apply jointly for a grant to support a migrant education program that benefits eligible migratory children in those States.

(20 U.S.C. 2761, 2762)

§ 116d.2 Regulations that apply to the Migrant Education Program.

(a) *Regulations.* The following regulations apply to the Migrant Education Program.

(1) The Education Division General Administrative Regulations (EDGAR) in part 100a (Direct Grant Programs) and part 100c (Definitions).

(2) The title I regulations in part 116 (general title I provisions) of this chapter.

(3) The State administration regulations in part 120 of this chapter—when applicable.

(4) The regulations in this part 116d.

§ 116d.3 Definitions that apply to the Migrant Education Program.

(a) *Definitions in EDGAR.* The following terms used in this part are defined in part 100c:

Applicant
Application
Award
Budget
Commissioner
Equipment
Local educational agency
Materials
Nonprofit
Private
Project
Public
Public agency
State
State educational agency

(20 U.S.C. 2761)

(b) *Program definitions.* The following definitions apply to the Migrant Education Program:

(1) "Agricultural activity" means—

(i) Any activity directly related to the production or processing of crops, dairy products, poultry, or livestock for initial commercial sale or as a principal means of personal subsistence;

(ii) Any activity directly related to the cultivation or harvesting of trees; or

(iii) Any activity directly related to fish farms.

(2) "Currently migratory child" means a child—

(i) Whose parent or guardian is a migratory agricultural worker or a migratory fisher; and

(ii) Who has moved within the past 12 months from one school district to another—or, in a State that is comprised of a single school district, has moved from one school administrative area to another—to enable the child, the child's guardian, or a member of the child's immediate family to obtain temporary or seasonal employment in an agricultural or fishing activity. This definition includes a child who has been eligible to be served under the requirements in the preceding sentence, and who, without the parent or guardian, has continued to migrate annually to enable him or her to secure temporary or seasonal employment in an agricultural or fishing activity.

(3) "Day care services" means the care of children or infants that—

(i) Satisfies the standards of State law; and

(ii) Is provided as a supporting service to eligible preschool or school-aged migratory children.

(4) "Fishing activity" means any activity directly related to the catching or processing of fish or shellfish for initial commercial sale or as a principal means of personal subsistence.

(5) "Formerly migratory child"

(i) Means a child who—

(A) Was eligible to be counted and served as a currently migratory child within the past five years, but is not now a currently migratory child;

(B) Lives in an area served by a migrant education project; and

(C) Has the concurrence of his or her parent or guardian to continue to be considered a migratory child.

(ii) There is a total of six years of program eligibility—a one year status as a "currently migratory child" and up to five additional years as a "formerly migratory child."

(iii) For the purpose of this definition, "area served by a migrant education project" means any portion of the geographic area—

(A) That is within the legally prescribed boundaries of a LEA or a combination of LEAs; and

(B) Within whose boundaries there are currently or fomerly migratory children who are receiving migrant education services or who will receive these services within the current grant period of the approved State migrant education program.

(6) "Guardian" means—

(i) A person who has been appointed to be the legal guardian of the child through formal proceedings in accordance with State Law; or

(ii) A person who the SEA determines would be appointed to be the legal guardian of the child under the law of the child's domiciliary State if formal guardianship proceedings were undertaken; or

(iii) A person standing in the place of a parent to the child.

(7) "Migratory agricultural worker" means a person who has moved within the past 12 months from one school district to another—or, in a State that is comprised of a single school district, from one school administrative area to another—to enable him or her to obtain temporary or seasonal employment in an agricultural activity.

(8) "Migratory fisher" means a person who has moved within the past 12 months from one school district to another—or, in a State that is comprised of a single school district, from one school administrative area to another—to enable him or her to obtain temporary or seasonal employment in a fishing activity.

(9) "Operating agency" means—

(i) An LEA to which an SEA makes a subgrant of migrant education funds; or

(ii) A public or nonprofit private agency with which an SEA makes a special arrangement to carry out a migrant education project.

(b) *Statutory definitions.* The definitions in section 198 of title I of the Act apply to the Migrant Education Program.

(20 U.S.C. 2761, 2762)

Subpart B—How a State Applies for a Grant

§ 116d.10 Documents a State must submit to receive a grant.

To receive a grant, an SEA shall submit to or have on file with the Commissioner—

(a) A general State application—as required by part 120 of this chapter—that satisfies the requirements of section 501 of title V of the Act or Section 435 of the General Education Provisions Act, whichever applies;

(b) A State monitoring and enforcement plan that satisifies the requirements of part 116 of this chapter and section 171 of title I of the Act. A State monitoring and enforcement plan need not be submitted more often than once every three years; and

(c) An annual program plan that is detailed enough to allow the Commissioner to determine whether it satisfies the requirements of the Act and all regulations that apply.

(20 U.S.C. 2761, 2762; 20 U.S.C. 3141; 20 U.S.C. 1232d)

(i) The SEA may make a request to the

(b) Carry out other activities designed

concerning coordination with other

§ 116d.11 Condition a State must meet before submitting its annual program plan.

In accordance with section 174 of title I of the Act and part 116 of this chapter, an applicant SEA may not take into consideration payments of migrant education funds in determining the eligibility of an LEA for State aid or the amount of State aid to be allocated to that agency for the free public education of its children.

(20 U.S.C. 2824)

§ 116d.12 Provisions required in an annual program plan.

An applicant SEA shall provide in its annual program plan the following:

(a) All standard information requested on the form required by § 74.124 of part 74 of this title.

(b) A description of how the SEA will expend program funds during the fiscal year for which the annual program plan is submitted, and how the proposed State migrant education program complies with the Act and all regulations that apply. This description must satisfy the requirements for the approval of annual program plans, as described in § 116d.24.

(c) A request to use, during the fiscal year for which the annual program plan is submitted, any migrant education funds made available to the SEA for the preceding fiscal year but not yet obligated.

(20 U.S.C. 2761, 2762)

§ 116d.13 Procedures for submission of an annual program plan.

(a) *General.* An Applicant SEA shall prepare its annual program plan as follows:

(1) In the form required by § 74.124 of part 74 of this title;

(2) According to the public participation requirements of section 501(b)(7) of title V of the Act or Section 435(b)(7) of the General Education Provisions Act, whichever applies;

(3) According to any other instructions provided by the Commissioner.

(b) *Receipt of program plans.* The Commissioner publishes in the **Federal Register** an announcement of the closing date for the receipt of annual program plans.

(20 U.S.C. 2761, 2762; 20 U.S.C. 3141; 20 U.S.C. 1232d)

Subpart C—How a Grant Is Made to a State

§ 116d.20 Determination of the amount available for a State grant.

(a) *General.* (1) The Commissioner determines for each fiscal year the amount of the migrant education grant for which the SEA in each State (including the District of Columbia, the Commonwealth of Puerto Rico, Guam, Ameican Samoa, the Virgin Islands, the Northern Mariana Islands, and the Trust Territory of the Pacific Islands) may apply according to sections 141(b), 156, and 157 of title I of the Act.

(2) The Commissioner determines these amounts on the basis of the number of eligible migratory children in each State as shown by the migrant student record transfer system or any other system the Commissioner believes most accurately reflects the actual number of eligible migratory children.

(b) *Special summer formula.* In determining the number of eligible migratory children in each State during the summer months, the Commissioner adjusts the number determined through use of the migrant student record transfer system or whatever other system the Commissioner has chosen. The Commissioner makes this adjustment to reflect the special needs of migratory children for summer projects and the additional costs of operating these projects. The adjustment factor that the Commissioner uses—

(1) Is based on the most accurate available information about the costs of operating summer projects;

(2) Is announced annually in the **Federal Register**; and

(3) May be redetermined at any time for use in the following fiscal year.

(20 U.S.C. 2761, 2762; 20 U.S.C. 2791; 20 U.S.C. 2792)

§ 116d.21 Determination of a State entitlement.

(a) *Estimated cost of a State migrant education program.* An applicant SEA is entitled to receive a migrant education grant in the amount the Commissioner determines necessary to carry out the activities in its annual program plan. This amount may not exceed the total amount available to that SEA as determined by the Commissioner under §§ 116d.20 and 116d.22 of these regulations.

(b) *Informational basis for determination of a State entitlement.* (1) The Commissioner determines the amount of the migrant education grant that an SEA is entitled to receive on the basis of information available at the time that the annual program plan is approved. This information includes the number of children to be served and the nature and scope of the State migrant education program.

(2) The Commissioner may adjust this amount later in the fiscal year on the basis of additional information available at that time.

(c) *Consideration of the costs of past and future activities and the amount of funds available.* The Commissioner determines the amount of the migrant education grant to which an SEA is entitled by considering the following information:

(1) The amount for which the SEA may apply, as determined under § 116d.20.

(2) The cost of completed program activities under previous grants and the number of children who were served.

(3) The estimated cost of activities not yet begun under the preceding grant and the number of children who will be served.

(4) In the case of a request for an increase in the grant that the Commissioner previously determined necessary to carry out the activities in the approved annual program plan, the estimated cost of providing additional program services before the end of the grant period and the number of children who would receive additional services.

(5) The unused amount of the SEA's preceding migrant education grant.

(20 U.S.C. 2761, 2762)

§ 116d.22 Reallocation of excess funds.

(a) *General.* If the Commissioner determines that the amount for which an SEA may apply, as determined under § 116d.20, is more than the amount needed to carry out the activities in its annual program plan, the Commissioner may allocate some or all of this excess to one or more other SEAs whose amounts under § 116d.20 would otherwise be insufficient to serve the eligible migratory children in those States.

(b) *Determination of excess funds.* The Commissioner may determine that an SEA has excess funds if any of the following circumstances occurs:

(1) The SEA determines from its own information that the amount available to it exceeds the amount it needs to carry out the activities in its annual program plan and notifies the Commissioner of the excess funds.

(2) For the preceding two fiscal years, the SEA has carried over from one year to the next more than 15 percent of its migrant education grant.

(3) The Commissioner obtains—later in the fiscal year—information that supports a redetermination of the SEA's entitlement.

(c) *Notification to the State.*

(1) *Notification.* The Commissioner notifies an SEA if part of the amount available to it is being considered for reallocation.

(2) *State's opportunity to explain.*

(i) The SEA may make a request to the Commissioner for an opportunity to explain why a reallocation is not warranted.

(ii) This request must be submitted within 15 days of the SEA's receipt of the Commissioner's notification of possible reallocation.

(3) *Reallocation decision.* If the SEA does not request an opportunity to explain, or if—after the explanation—the Commissioner determines that the total amount available to the SEA for that fiscal year exceeds the amount needed, the Commissioner may reallocate part of that total amount.

(20 U.S.C. 2761, 2762)

§ 116d.23 Payments to a State.

The Commissioner makes all payments of migrant education funds according to the requirements of subpart K of part 74 of this title.

(20 U.S.C. 2761, 2762)

§ 116d.24 Review of a State's annual program plan.

(a) *General criteria.* The Commissioner reviews an SEA's annual program plan and approves it only if the proposed State migrant education program—

(1) Is designed to meet the special educational needs of migratory children eligible to be served; and

(2) Holds reasonable promise of making substantial progress toward meeting those needs.

(b) *Review.* (1) To enable the Commissioner to evaluate the promise of a State annual program plan, that plan must comply with the informational and content requirements listed in the appendix to this part. If the Commissioner determines that the criteria for the approval of State annual program plans have not been satisfied, the Commissioner notifies the SEA and provides it with comments.

(2) The SEA shall revise those parts of its program plan that need improvement.

(3) The Commissioner reviews the revised parts of the annual program plan to determine if the criteria for approval have then been satisfied.

(20 U.S.C. 2761, 2762)

§ 116d.25 Special projects for coordination of migrant education activities.

In accordance with section 143 of title I of the Act, the Commissioner may—in consultation with the States—make grants, contracts, or cooperative agreements, with an SEA or SEAs to—

(a) Operate a system for the transfer of school records and other information about migratory children; or

(b) Carry out other activities designed to improve the interstate and intrastate coordination of migrant education projects; or

(3) Both (a) and (b).

(20 U.S.C. 2763)

Subpart D—How to Apply to the State for a Subgrant

§ 116d.30 Documents an applicant must submit to receive a subgrant.

To receive a subgrant, an LEA shall submit to the SEA the following:

(a) A general application—as required by part 120 of this chapter—that satisfies the requirements of section 502 of title V of the Act or Section 436 of the General Education Provisions Act, whichever applies.

(b) An application—for a period of not more than three years—that is detailed enough to allow the SEA to determine if the proposed project satisfies the requirements of the Act, all regulations that apply, and the provisions of the approved State annual program plan.

(20 U.S.C. 2761, 2762; 20 U.S.C. 3142; 20 U.S.C. 1232e)

§ 116d.32 Provisions required in the application.

An SEA shall require each LEA that desires to participate in the State migrant education program to submit to it the application required by § 116d.30(b) In its application the LEA shall include the following:

(a) A description of the project to be carried out by the LEA.

(b) An explanation of the relationship between the project and the State annual program plan.

(c) The objective to be achieved for each grade group.

(d)(1) The estimated number of eligible migratory children living in the area to be served by the project, and the estimated number of these children who will be served.

(2) If the LEA proposes to provide migrant education program services, other than the identification and recruitment of children and the transfer of records, to fewer eligible migratory children than the number of these eligible children living in the area, it shall explain why.

(e) A description of each service to be provided and its estimated cost.

(f) The types and number of staff to be employed.

(g) A description of how the LEA will comply with § 116d.55 of these regulations concerning parental involvement.

(h) A description of how the LEA will comply with section 124(f)(1) of the Act concerning coordination with other agencies.

(i) A description of how the LEA assures that no eligible migratory child will be prevented from benefiting fully from the project's services because he or she does not speak English or has limited English-language skills.

(j) Any other relevant information required by the SEA.

(20 U.S.C. 2761, 2762)

§ 116d.33 Procedures for submission of an application.

An LEA that applies for a subgrant shall prepare and submit to the SEA its application as follows:

(a) In the form required by the SEA.

(b) According to sections 124(i) and (j) of title I of the Act, section 502(b)(5) of title V of the Act, and Section 436(b)(5) of the General Education Provisions Act concerning the participation of parents, teachers, and local school boards in the planning of projects.

(c) According to any other instructions provided by the SEA.

(20 U.S.C. 2734; 20 U.S.C. 2761, 2762; 20 U.S.C. 3142; 20 U.S.C. 1232e)

Subpart E—How a Subgrant Is Made to an Applicant

§ 116d.40 Determination of the amount of a subgrant.

A participating SEA may determine the amount of a subgrant to an LEA based on the following criteria:

(a) The number of children to be served.

(b) The nature and scope of the proposed project.

(c) Any other criteria developed by the SEA relevant to matters of the State migrant education program, including its priorities concerning ages of children, grade levels and areas of the State to be served, and types of services to be provided.

(20 U.S.C. 2761, 2762)

§ 116d.41 Review of an application for a subgrant.

A participating SEA shall review the application of an LEA and may approve it only if it—

(a) Complies with the requirements of the Act, all regulations that apply, and the provisions of the approved State annual program plan; and

(b) Satisfies all other relevant requirements and criteria of approval that the SEA specifies.

(20 U.S.C. 2761, 2762; 20 U.S.C. 2811)

§ 116d.42 Conditions under which a State may make a special arrangement for services.

(a) A participating SEA may make a special arrangement with a public or nonprofit private agency or agencies to carry out a project if the SEA determines that—

(1) An LEA is unable or unwilling to conduct a project;

(2) The arrangement would result in more efficient and economic administration of the State migrant education program; or

(3) The arrangement would add substantially to the welfare or educational attainment of the migratory children who are eligible to be served.

(b) If a participating SEA makes a special arrangement for services through a public or nonprofit private agency, the SEA shall require that operating agency to apply for funds and administer its project in a manner consistent with the provisions relating to LEAs as subgrantees, as prescribed in subparts D, E, and F of these regulations.

(20 U.S.C. 2761, 2762)

Subpart F—Conditions That Must Be Met by the State and Its Subgrantees

§ 116d.50 Fiscal requirements.

(a) *General.* A participating SEA shall comply with the requirements of title I of the Act and part 116 of this chapter relating to the—

(1) Restriction limiting the use of program funds to the excess costs of projects;

(2) Requirement that program funds supplement and not supplant non-Federal funds;

(3) Public control of program funds; and

(4) Use of program funds for staffing, parent council activities, training, planning grants, and cooperative projects.

(b) *State control of funds.*

(1) *State rulemaking.* A participating SEA shall issue to its operating agencies a set of rules that prohibits the imprudent, wasteful, or extravagant expenditure of program funds.

(2) *Adjustment of subgrants.* To promote the efficient administration of the State migrant education program, the SEA shall include in these rules a provision that permits the SEA to make appropriate adjustments to its subgrants and special arrangements to avoid paying funds to an operating agency in excess of that agency's actual needs.

(3) *Adjustment procedures.* (i) These adjustments shall be based on the periodic reports of the operating agency's actual expenditures.

(ii) Following an adjustment, the SEA may increase the funding of one or more other operating agencies that demonstrate a need for additional funds.

(iii) An operating agency affected by an adjustment shall amend its project application to reflect that adjustment and shall note the adjustment in its final financial report.

(c) *Title and control of property.* (1) *State control.* Except as provided by paragraph (c)(2) of this section, a participating SEA shall maintain title to and control over all property that is acquired with its migrant education funds.

(2) *Special requirement.* (i) If a State law requires that an agency of the State other than the SEA maintain title to, or control over, property that is acquired with migrant education funds, the SEA shall arrange for those functions to be carried out by the appropriate agency. That State agency shall then be responsible for the exercise of those functions.

(ii) However, the SEA shall retain the right to use, move, or otherwise dispose of this property in a manner designed to carry out most effectively the State migrant education program.

(d) *Sources of funds for State administration.* (1) *State administrative funds.* In administering its title I program for migratory children, the SEA shall use funds provided under section 194 of title I of the Act or section 510 of title V of the Act, whichever applies. It shall use these funds to perform those functions that are the same or similar to the administrative functions carried out by the SEA in connection with projects under parts 116a, 116b, and 116c of this chapter. These functions include the—

(i) Preparation of the SEA's general application, monitoring and enforcement plan, and annual program plan to be submitted to the Commissioner;

(ii) Design, publication, and distribution to operating agencies of the application, evaluation, performance, and financial report forms, and the appropriate instructions;

(iii) Provision of technical assistance to operating agencies in developing their applications;

(iv) Review of the applications and reports from operating agencies;

(v) Monitoring of projects for compliance with the State migrant education program;

(vi) Design, publication, and final preparation of the evaluation, performance, and financial reports that the SEA submits to the Commissioner;

(vii) Maintenance of fiscal control and fund accounting;

(viii) Dissemination of information; and

(ix) Coordination of the State migrant education program—and facilitation of the coordination of local projects—with other public and private agencies.

(2) *Program funds.* The SEA shall use title I funds made available for State migrant education programs under section 141 of the title I of the Act only to perform those functions that are unique to the Migrant Education Program or that are the same or similar to the functions performed by LEAs in the State under part 116a of this chapter. These functions include the—

(i) State-wide identification and recruitment of eligible migratory children;

(ii) Interstate and intrastate coordination of the State migrant education program and its local projects;

(iii) Coordination of project level activities with other public and private agencies;

(iv) Implementation of the migrant student record transfer system;

(v) Processing of reports that are submitted by the operating agencies under § 116d.66(b) of these regulations;

(vi) Maintenance of inventories of property acquired with migrant education funds;

(vii) Negotiation and awarding of contracts; and

(viii) Evaluation activities of the State migrant education program other than the design of evaluation report forms and the final preparation of the SEA's evaluation report to the Commissioner.

(20 U.S.C. 2761, 2762; 20 U.S.C. 2844; 20 U.S.C. 3150)

§ 116d.51 Use of funds.

(a) *General.* A participating SEA may use funds made available for State migrant education programs under section 141 of title I of the Act only for the following:

(1) To perform the functions described in § 116d.50(d)(2) relating to administrative functions that are unique to the State migrant education program.

(2) To support approved projects designed to meet the special educational needs of eligible migratory children.

(b) *Types of services.* The projects referred to in paragraph (a)(2) of this section must be designed to meet the special educational needs of the migratory children eligible to be served, and the project's services must be supplementary to those services provided with State and local funds. These projects may include the following types of services:

(1) Remedial and compensatory instruction.

(2) Academic and vocational instruction.

(3) Bilingual and multicultural educational services.

(4) Special guidance, counseling, and testing services.

(5) Preschool services.

(6) Educational services that are not available to eligible migratory children in adequate quantity or quality.

(7) The purchase of instructional materials—such as books and other printed or audiovisual materials—and equipment.

(8) Other services that meet the purposes of the Migrant Education Program.

(20 U.S.C. 2761, 2762)

§ 116d.53 Coordination with other groups.

A participating SEA shall plan and operate the activities in its annual program plan in coordination with—

(a) Migrant and seasonal farmworker projects administered under Section 303 of the Comprehensive Employment and Training Act of 1973;

(b) Migrant and seasonal farmworker projects administered under Title IV of the Economic Opportunity Act of 1964; and

(c) Projects of any other group or agency that provides benefits or services to migrants.

(20 U.S.C. 2761, 2762; 20 U.S.C. 2734)

§ 116d.54 Coordination among projects and with other State programs.

A participating SEA shall develop and implement a plan to promote continuity in the education of eligible migratory children. The SEA shall include in this plan appropriate procedures for—

(a) Coordinating projects within the State. This may include, for example, the interdistrict exchange of course credits or the intrastate sharing of project planning, evaluation, curriculum, and staff training materials;

(b) Coordinating the State migrant education program with similar program in other States. This may include, for example, the interstate exchange of course credits or the interstate sharing of program planning, evaluation, curriculum, and staff training materials; and

(c) Using fully the migrant student record transfer system, including the transfer of the most current academic, health, enrollment, and withdrawal information available for the children served.

(20 U.S.C. 2761, 2762)

§ 116d.55 Parental involvement.

(a) *General.* A participating SEA shall take the necessary steps to assure effective parental involvement throughout the State migrant education program.

(b) *Operating agency requirements.* *(1) The SEA shall require each operating agency to—*

(i) Solicit actively parental involvement in the planning, operation, and evaluation of its project; and

(ii) Establish a parent advisory council.

(2) The operating agency shall consider the views of the council concerning the operation and evaluation of the project and the planning of future projects.

(3) The council shall be composed of people who know the needs of migratory children. A majority of the members shall be parents of children who were, are, or will be eligible to be served by that project.

(4) An operating agency that provides services on a State-wide basis need not create its own advisory council. However, the agency shall consult the State parent advisory council required by paragraph (c) of this section.

(c) *State requirements.* (1) The SEA shall—

(i) Solicit actively parental involvement in the planning, operation, and evaluation of its State migrant education program; and

(ii) Establish a parent advisory council.

(2) The SEA shall consider the views of the council concerning the opration and evaluation of the State migrant eduction program and the planning of future State programs.

(3) The State parent advisory council shall be composed of people who know the needs of migratory children. A majority of the members shall be parents of children who were, are, or will be eligible to be served by the State migrant education program.

20 U.S.C. 2761, 2762; 20 U.S.C. 2735)

§ 116d.56 Eligibility of participating children.

(a) *Basic requirement.* A participating SEA or operating agency may not count a child under § 116d.20 or provide program services to that child until the agency has—

(1) Determined that the child is either a currently or formely migratory child, as defined under § 116d.3(b); and

(2) Made a written record of the basis on which the child's eligibility was determined.

(b) *Informational basis.* (1) In determining eligibility, an SEA or a operating agency may rely on credible information from any source, including that provided by the child or his or her parent or guardian.

(2) An SEA is not required to obtain documentary proof of either the child's eligibility or civil status from the child or his or her parent or guardian.

(20 U.S.C. 2761, 2762)

§ 116d.57 Comparable access for migratory children.

(a) *Basic requirement.* (1) In order to participate in the State migrant education program, an LEA shall provide migratory children with access to State and locally funded educational facilities and services comprable to those ordinarily provided to non-migratory children living in the attendance area in which migratory children are being served.

(2) However, if the project is conducted during a time of year when the LEA is not providing State or locally funded educational facilities or services to non-migratory children, the LEA is not required to provide them to migratory children.

(b) *Relaton to other requirements.* The provisions of paragraph (a) of this section do not modify—

(1) The requirements of part 116 of this chapter relating to supplanting State and local funds and services that the applicant is required by law to provide to all children or specifically to migratory children; or

(2) The requirement in part 116a of this chapter relating to the maintenance of comparability in school attendance areas conducting projects that are funded under part 116a of this chapter and that serve migratory children.

(c) *Definition of comparable access.* The requirements of paragraph (a) are satisfied only if an LEA gives migratory children access to all State and locally funded instructional, health, nutritional, transportation, and other services on the same basis as the LEA provides to non-migratory children residing in the attendance area where migratory children are being served.

(20 U.S.C. 2761, 2762)

§ 116d.58 Services to preschool and formerly migratory children.

(a) *Preschool migratory children.* (1) A participating SEA may support a project that provides instructional or supporting services to preschool migratory children if the participation of these children does not—

(i) Prevent the participation of school-aged children of the same migratory status; or

(2) Any other report, concerning the

(2) The arrangement would result in

(c) *Needs Assessment.* An SEA shall

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(ii) Dilute the effectiveness of the State migrant education program for these school-aged children.

(2) An instructional project that is designed to meet the special educational needs of preschool migratory children—as distinguished from day care, which is a supporting sevice under § 116d.59— is a project that is—

(i) Comprised primarily of activities designed to increase the children's readiness for instruction in the basic academic skills;

(ii) Limited to children who are under the age at which public elementary eduction is provided under State law; and

(iii) Conducted by or under the direct supervision of a person who is qualified under State law to conduct the activities referred to in paragraph (a)(2)(i).

(b) *Formerly migratory children.* (1) A participating SEA may support a project that provides instructional or supporting services to formerly migratory children if the participation of those children does not—

(i) Prevent the participation of currently migratory children; or

(ii) Dilute the effectiveness of the State migrant education program for currently migratory children.

(2) A formerly migratory child may participate in a project that—

(i) Also includes currently migratory children; or

(ii) Includes only formerly migratory children.

(c) *Service priorities.* A State and an operating agency shall serve eligible migratory children—according to their needs—in the following order:

(1) School-aged currently migratory children.

(2) Preschool currently migratory children.

(3) School-aged formerly migratory children.

(4) Preschool formerly migratory children.

(20 U.S.C. 2761, 2762)

§ 116d.59 Supporting services.

(a) *General.* A participating SEA or an operating agency may provide health, nutritional, social, or other supporting services with migrant education funds if—

(1) These sevices are necessary to enable eligible migratory children to participat effectively in instructional services; and

(2) The operating agency has first—

(i) Requested assistance from the SEA in locating and using other Federal and State programs to provide these services; and

(ii) Determined that funds or services from other programs are not available or are inadequate to meet the needs of the participating migratory children.

(b) *Day care services.* (1) An SEA or an operating agency may provide day care services for eligible migratory children only as a supporting service to eligible preschool or school-age migratory children and only with the specific approval of the Commissioner.

(2) An SEA that desires to use program funds for day care services shall include a request in its annual program plan and shall provide adequate information to allow the Commissioner to determine that the proposed day care services are—

(i) Not available from any other source;

(ii) Necessary to enable eligible school-age or preschool migratory children to receive instructional services supported by title I; and

(iii) Not extravagant in relation to—

(A) The costs;

(B) The number of children who would receive day care services; and

(C) The effect that the availability of those services would have on the participation of eligible migratory children in instructional services supported by title I funds.

(20 U.S.C. 2761, 2762; 20 U.S.C. 2734)

Subpart G—Administrative Responsibilities of the State

§ 116d.60 Application review and approval by the State.

(a) A participating SEA shall review all applications from operating agencies and may approve only those that satisfy the review described in § 116d.41.

(b) If the Commissioner requests a copy of an approved application, including any amendment, the SEA shall send that copy within ten days of the request.

(20 U.S.C. 2761, 2762; 20 U.S.C. 2811)

§ 116d.61 State monitoring and enforcement.

In accordance with its monitoring and enforcement plan for the State migrant education program—submitted in accordance with the requirements in part 116 of this chapter—a participating SEA shall monitor each operating agency and enforce the compliance of each agency with—

(a) The requirements of the Act;

(b) All regulations that apply;

(c) The provisions of the approved State annual program plan; and

(d) The provisions of the agency's application or agreement with the SEA.

(20 U.S.C. 2761, 2762; 20 U.S.C. 2814; 20 U.S.C. 2821)

§ 116d.62 Withholding of funds by the State.

A participating SEA shall withhold funds from an operating agency or may enter into a compliance agreement with that agency if the agency has failed to comply substantially with—

(a) The requirements of the Act;

(b) Any regulations that apply;

(c) The provisions of the State annual program plan; or

(d) The provisions of the Agency's application or agreement with the SEA.

(20 U.S.C. 2761, 2762; 20 U.S.C. 2861; 20 U.S.C. 3148)

§ 116d.63 Audits and audit resolution by the State.

A participating SEA shall establish and implement audit procedures that meet the requirements in section 170 of title I of the Act, section 509 of title V of the Act, and parts 116 and 120 of this chapter.

(20 U.S.C. 2761, 2762; 20 U.S.C. 2817; 20 U.S.C. 3149)

§ 116d.64 Complaint resolution by the State.

A participating SEA shall develop and implement procedures for resolving complaints from agencies or persons. These procedures shall comply with all of the requirements prescribed by section 168 of title I of the Act, section 507 of title V of the Act, and parts 116 and 120 of this chapter.

(20 U.S.C. 2761, 2762; 20 U.S.C. 2815; 20 U.S.C. 3147)

§ 116d.65 Evaluation of the State program.

(a) *General.* A participating SEA shall submit to the Commissioner an annual report evaluating the effectiveness of its State-wide migrant education program.

(b) *Sampling.* To minimize the reporting burden on projects, the SEA may select each year a representative sample of projects, schools, and children to participate in the State-wide evaluation. The selection of this sample must be done in accordance with any criteria published by the Commissioner.

(20 U.S.C. 2761, 2762; 20 U.S.C. 2822; 20 U.S.C. 3141; 20 U.S.C. 1232d)

§ 116d.66 Reports by the State and its operating agencies.

(a) *State reports.* A participating SEA shall submit to the Commissioner—

(1) Performance and financial reports in accordance with the grants administration regulations in part 74 of this title; and

(2) Any other report, concerning the State migrant education program, that the Commissioner requires.

(b) *Operating agency reports.* A participating operating agency shall submit any report that is required by the SEA in order to carry out the State's responsibilities to the Commissioner.

(20 U.S.C. 2761, 2762; 20 U.S.C. 2822; 20 U.S.C. 3142; 20 U.S.C. 1232e)

Subpart H—Compliance Procedures Used by the Office of Education

§ 116d.70 Witholding of funds by the Commissioner.

If the Commissioner determines that a participating SEA has failed substantially to comply with the requirements of the Act, any regulations that apply, or the provisions of the approved annual program plan, the Commissioner—

(a) Shall withhold title I migrant education funds from that SEA in accordance with section 186(a) of title I of the Act and section 453(a) of the General Education Provisions Act;

(b) May enter into a compliance agreement with the SEA in accordance with section 186(c) of title I of the Act; or

(c) May issue a cease and desist order to the SEA in accordance with Section 454(a) of the General Education Provisions Act.

(20 U.S.C. 2761, 2762; 20 U.S.C. 2836; 20 U.S.C. 1234b, 1234c)

§ 116d.71 Complaint resolution by the Commissioner.

The Commissioner resolves complaints and appeals according to the procedures under section 184 of title I of the Act and part 116 of this chapter.

(20 U.S.C. 2761, 2762; 20 U.S.C. 2834)

§ 116d.72 Audits and audit resolution by the Commissioner.

The Commissioner resolves audits according to section 185(b) of title I of the Act and part 116 of this chapter.

(20 U.S.C. 2835)

§ 116d.73 Special arrangements by the Commissioner for services.

(a) *General.* Through a grant, contract, or a cooperative agreement, the Commissioner may make a special arrangement with a public or nonprofit private agency or agencies to carry out the purposes of the Migrant Education Program if the Commissioner determines that—

(1) An SEA is unwilling or unable to conduct an educational program for the migratory children who are eligible to be served;

(2) The arrangement would result in more efficient and economic administration of the program; or

(3) The arrangement would add substantially to the welfare or educational attainment of the migratory children who are eligible to be served.

(b) *Basis for determination.* The Commissioner determines that an SEA is unwilling or unable to conduct an educational program for the migratory children who are eligible to be served if—

(1) The SEA fails to submit an annual program plan by the date established; or

(2) The SEA fails to submit, after receiving extensive technical assistance from the Commissioner, an annual program plan that satisfies the criteria for approval.

(c) *Availability of funds.* The Commissioner may use all or part of the total amount of the migrant education grant available to the affected State under § 116d.20 to make one or more special arrangements.

(d) *Notice to the State.* The Commissioner does not make a special arrangement until after the affected SEA has had reasonable notice and an opportunity for a hearing.

(20 U.S.C. 2761, 2762; 20 U.S.C. 2832)

APPENDIX

CONTENTS OF STATE APPLICATIONS

To enable the Commissioner to evaluate the promise of a State's annual program plan, that plan must include the following information:

(a) *Identification and recruitment.* An SEA shall describe in its application its plan for identifying and recruiting all eligible migratory children in the State.

(b) *Children to be served.* An SEA shall include in its application a chart showing the estimated number of eligible migratory children expected to reside in the State during the program period and the number of these children to be served (other than with identification and recruitment services or the transfer of records) in the State program. The State shall organize the chart according to the following categories:

(1) Currently migratory school-aged children.

(2) Currently migratory preschool children.

(3) Formerly migratory school-aged children.

(4) Formerly migratory preschool children.

The SEA shall also assure that it will serve all significant concentrations of currently migratory children in the State.

(c) *Needs Assessment.* An SEA shall include in its application a brief describtion of the educational needs of the migratory children eligible to be served. That description shall include needs with respect to reading, oral language, mathematics, career awareness, and speaking ability in English.

(d) *Evaluation.* An SEA shall include in its application—

(1) The three most important objectives against which program success will be measured; and

(2) A description of how the measurement will be conducted and how the results will be reported.

(e) *Instructional services.* An SEA shall include in its application a brief description of how it will—

(1) Emphasize individualized instruction in conducting its projects; and

(2) Ensure that a migratory child is not prevented from benefiting fully from the services provided because he or she does not speak English or has limited English language skills.

(f) *Parent advisory councils.* An SEA shall include in its application a description of how the required State and local parent advisory councils have—

(1) Participated in the planning of the State's program and its local projects; and

(2) will be involved in reviewing the operation and evaluation of that approved State program and its local projects.

(g) *Parental involvement.* An SEA shall describe in its application its strategy for involving parents, at the operating agency level, in the education of their children.

(h) *Interstate and intrastate coordination.* An SEA shall describe in its application its plan for assuring continuity in the education of migratory children through—

(1) Working cooperatively with other States that serve migratory children;

(2) Requiring its operating agencies to cooperate with one another in the education of currently migratory intrastate children; and

(3) Utilizing fully the migrant student record transfer system, including the transfer of the most current enrollment, withdrawal, academic, and health information available for the children served.

(i) *Use of operating agencies.* An SEA shall describe in its application how it has given careful consideration to the most effective use of LEAs and other public or nonprofit private agencies in operating its projects. This

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determination does not preclude the possibility that only LEAs will serve as operating agencies.

(j) *Equipment and facilities.* An SEA shall describe in its application how it will assure that operating agencies make full use of existing equipment and facilities before requesting program funds for these purposes.

(k) *Interagency coordination.* An SEA shall describe in its application its efforts to coordinate its State migrant education program with the programs and services of other public or private agencies, including those projects administered under Section 303 of the Comprehensive Employment and Training Act of 1973 and Title IV of the Economic Opportunity Act of 1964.

(l) *Monitoring and enforcement.* An SEA shall include in its application a monitoring and enforcement plan (in the format prescribed by the Commissioner) or an appropriate reference to a currently-approved plan on file with the Commissioner.

(m) *Administrative funds.* An SEA shall include in its application a description of the administrative functions and staff salaries that it proposes to charge to State Title I or Title V administrative funds, whichever apply.

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federal register

Monday
May 14, 1979

Part III

Council on Environmental Quality

National Oil and Hazardous Substances Pollution Contingency Plan; Proposed Revision

revision is to improve the efficiency. Some problems were also addressed

and 7) a local organizational structure

8. Public Information. The current Plan

* Denotes new Annex material.

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COUNCIL ON ENVIRONMENTAL QUALITY

[40 CFR Part 1510]

National Oil and Hazardous Substances Pollution Contingency Plan; Proposed Revision of Regulations

AGENCY: Council on Environmental Quality, Executive Office of the President.

AGENCY: Proposed revision of regulations.

SUMMARY: These proposed regulations revising the National Oil and Hazardous Substances Pollution Contingency Plan are published for public review and comment. The proposed revisions update the Plan to conform to the Clean Water Act amendments of 1977 and restructure the Plan to simplify reading. Substantive changes include: 1) increasing the role of state participation in the Plan, 2) provision for the preparation of local contingency plans, 3) incorporation of the National Pollution Equipment Inventory System, 4) provision for Scientific Support Coordinators, 5) provision for periodic field testing, and 6) clarification of the application of the Endangered Species Act. These changes are designed to improve the efficiency, coordination and effectiveness with which Federal agencies respond to discharges or threats of discharges of oil and hazardous substances.

DATES: Comments must be received by July 16, 1979.

ADDRESSES: Comments should be addressed to: Nicholas C. Yost, General Counsel, Attention: National Contingency Plan Comments, Council on Environmental Quality, 722 Jackson Place, NW., Washington, D.C. 20006.

FOR FURTHER INFORMATION CONTACT: Foster Knight, Council on Environmental Quality (address same as above), (202) 395–4616, or Richard Hess, EPA-Coast Guard Liaison, Headquarters U.S. Coast Guard G–WEP/73, Washington, D.C. 20590, (202) 472–5444.

SUPPLEMENTARY INFORMATION:

A. Purpose

We are publishing for public review draft regulations which revise the National Oil and Hazardous Substances Pollution Contingency Plan, 40 CFR 1510 (as amended March 26, 1976). The Plan is the basis for Federal action to minimize pollution damage from discharges of oil or hazardous substances. The purpose of the proposed revision is to improve the efficiency, coordination, and effectiveness with which Federal agencies respond to a discharge or substantial threat of discharge of oil or a hazardous substance. We expect the revised regulations to improve planning by and coordination among state and federal agencies, to improve assessment of environmental damage from spills and to facilitate evaluation of response effectiveness.

B. Background

The Plan was first published as an interagency agreement in 1968. It became part of the Code of Federal Regulations in 1970 in accordance with the Water Quality Improvement Act of 1970. Section 311(c)(2) of the Clean Water Act gives the President the responsibility for issuing the Plan. By Executive Order 11735 (August, 1973), this responsibility was delegated to the Council on Environmental Quality (CEQ). In 1973 the Plan was published in its current format. The present version was published in 1975 with some minor changes incorporated in 1976.

A number of events over the past two years have identified opportunities for improving the Plan. In late December 1976, the *Argo Merchant* ran aground on Nantucket Shoals, 27 miles from Nantucket Island, Massachusetts. The resulting spill of 7.5 million gallons of oil led to the most massive spill response action ever undertaken in the United States. Although the weather conditions exceeded technological capabilities for recovery of the oil, those same conditions meant that no oil reached the Massachusetts shoreline. In April 1978, Massachusetts submitted a Petition for Rulemaking to revise the Plan, asking for specific changes. In addition, a spill of 250,000 gallons earlier in the year resulted in massive shoreline damage on the Chesapeake Bay as 27 miles of coastline were contaminated by the oil.

As a result of such incidents and continuing United States dependency on oil imported by tanker, attention from various levels of government has been continually focused on the response capabilities of the federal government. Congressional subcommittees have investigated both the response to specific incidents and the general federal scheme for coordinated action. In response to these events and as part of its revision responsibilities, proposed revisions have been submitted to CEQ by the National Response Team, the national group of federal agencies responsible for planning and coordination under this Plan.

Some problems were also addressed in the Clean Water Act amendments of 1977 (Pub. L. No. 95–217 amending 33 U.S.C. 1251 *et seq.*) which changed the jurisdiction of the Plan. The proposed revision of the Plan reflects these statutory changes.

The revised regulations also attempt to address other problems noted in the course of response actions. In October 1977, CEQ also requested information from the states on problems they had encountered in activities under the Plan. Twenty-seven states responded, generally expressing satisfaction with the Plan but offering suggestions for improvements.

C. Summary of Changes Made by Proposed Revisions

1. Changes to make the Plan track with the Clean Water Act amendments of 1977. See particularly §§ 1510.3, 1510.21. Following the Clean Water Act amendments of 1977, the proposed regulations modify the scope of the Plan (§ 1510.3) to include the expanded economic zone of the Fishery Conservation and Management Act of 1976. The proposed revisions apply the Plan to potential as well as actual discharges (§ 1510.21(b)).

2. Increasing the role of state participation in the Plan.

a) States are invited to participate as full members of Regional Response Teams (RRTs). Full participation of high level state representation is desired. See § 1510.23(a) and § 1510.34(a) and (f).

b) § 1510.23(b). EPA and the U.S. Coast Guard should explore the possibility of entering into agreements with states which will delegate to the state spill cleanup responsibilities.

c) § 1510.34(m). Provisions for RRT members (including state members) to appeal decisions of the RRT to the National Response Team (NRT) and to request further review by CEQ.

3. Local Contingency Plans. The current Plan makes no provision for local contingency plans for dealing with spills in ports or local areas.

Sections 1510.36(d) and 1510.42 provide that the On-Scene Coordinator (OSC) is responsible for developing and maintaining a local contingency plan for the OCS's area of responsibility. Local plans must identify 1) environmentally sensitive areas, 2) most probable locations for pollution incidents, 3) the kinds of resources that would be needed to respond to spill incidents, 4) where such resources can be obtained, 5) plans of action for protecting vulnerable resources, 6) sites for disposing recovered oil and hazardous substances,

and 7) a local organizational structure for spill response.

To aid the development of local contingency plans, § 1510.34(d) provides that RRTs must designate members to assist the OSC in local contingency planning.

4. National Pollution Equipment Inventory System. The current Plan does not provide for a national inventory of equipment and resources available for oil and hazardous substance spill response.

President Carter's March 1977 initiative on oil spill prevention directed the Coast Guard to prepare a national inventory that would enable the federal government to respond to an oil spill of 100,000 tons within 6 hours.

A national inventory has been established. § 1510.43 institutionalizes the national inventory system.

5. Scientific Support Coordinators. The current Plan does not provide a mechanism for coordination between the On-Scene Coordinator (OSC) and the scientific community during spills. Such a mechanism is necessary in order to provide the OSC with sound scientific advice in orderly way, so that the OSC does not have to devote scarce time to a number of different scientists who are concerned about providing cleanup advice and conducting experiments during spill cleanup operations.

Section 1510.64(b) establishes a scientific support organization headed by Scientific Support Coordinators (SSCs) who are designated by EPA for inland spills and by NOAA for coastal area spills.

6. Annual Field Exercises. The current Plan makes no provision for periodic field testing by the RRTs of their spill response equipment and people.

Section 1510.34(h) requires each coastal RRT to conduct annual training exercises in which equipment is actually deployed.

Section 1510.34(i) strongly encourages each inland RRT to conduct annual training exercises.

7. Changes Reflecting Requirements of the Endangered Species Act. The current Plan does not specifically discuss the relationship between spill response and cleanup actions and the requirements of legislation protecting endangered or threatened species.

Section 1510.36(a)(3) provides that advice to the OSC provided by DOI through the Fish and Wildlife Service or by Commerce through the National Marine Fisheries Service on the cleanup of spills that affect endangered species, shall be binding on the OSC (with specified exceptions).

8. Public Information. The current Plan provides for dissemination of public information in Annex VI.

The proposed revisions move the provisions of Annex VI to new § 1510.37. In addition, changes are made to make the Plan conform to the existing public information network which is implemented by the Coast Guard.

9. Restructuring Plan for Easier Reading. The current Plan contains considerable useful information buried in its Annexes.

The proposed revisions shift this more important material into the body of the Plan. The proposed revisions also add new Annex material (new Annexes II, VI and VIII). See attached comparison of Current Plan and CEQ Draft.

In addition, the proposed revisions eliminate duplicative material and rewrite some provisions to achieve clarity and to make minor corrections of outdated Plan information.

Current Plan	*Proposed Revisions*
Annex I (Distribution)	Remains the same
Annex II (N.R.T. functions)	NRT functions are in § 1510.32. * (Annex II-Formats For Regional and Local Contingency Plans)
Annex III (National Response Center functions)	NRC functions are in § 1510.33. (Annex III-Regions and Office Locations of Primary Agencies)
Annex IV (Office Locations of Primary Agencies)	Office locations are in Annex III. (Annex IV-Legal Authorities)
Annex V (Communication and Reports)	Reports are in § 1510.57 * (Annex V-Communication Services Available)
Annex VI (Public Information)	Public Information is in § 1510.37. * (Annex VI-Sample Collection Procedures to be followed by OSCs.)
Annex VII (Legal Authorities)	Legal Authorities are in Annex IV. (Annex VII-Technical Library)
Annex VIII (Documentation and Cost Recovery)	Documentation and Cost Recovery are in § 1510.56. (Annex VIII-Definition of Technical Terms)
Annex IX (Funding)	Funding is in § 1510.65. Annex IX (blank)
Annex X (Schedule of Chemicals and Additives For Removal of Oil and Hazardous Substances)	Remains the same
Annex XI (Non-Federal Interests)	Non-Federal interests are in § 1510.23.
Annex XII (blank)	
Annex XIII (blank)	
Annex XIV(blank)	
Annex XV (Technical Library and Definitions of Technical Terms)	Technical Library is in Annex VII; Definition of Technical Terms is in Annex VIII.

* Denotes new Annex material.

Nicholas C. Yost,
General Counsel.

May 8, 1979.

It is proposed to revise 40 CFR Part 1510 as follows:

PART 1510—NATIONAL OIL AND HAZARDOUS SUBSTANCES POLLUTION CONTINGENCY PLAN

Subpart A—Introduction

Sec.
1510.1 Purpose and Objectives.
1510.2 Authority.
1510.3 Scope.
1510.4 Abbreviations.
1510.5 Definitions (within the meaning of this Plan).

Subpart B—Policy and Responsibility

1510.21 Federal Responsibility.
1510.22 Duties of Federal Agencies.
1510.23 Non-Federal Participation.

Subpart C—Organization

1510.31 Emergency Response Activities and Coordination.
1510.32 National Responsne Team.
1510.33 National Response Center.
1510.34 Regional Response Team.
1510.35 Regional Response Center.
1510.36 On-Scene Coordinator.
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Subpart D—Plans

1510.41 Regional Contingency Plans.
1510.42 Local Contingency Plans.
1510.43 National Inventory System.

Subpart E—Operational-Response Phases

1510.51 Phase Groupings.
1510.52 Phase I—Discovery and Notification.
1510.53 Phase II—Evaluation and Initiation of Action.
1510.54 Phase III—Containment and Countermeasures.
1510.55 Phase IV—Cleanup, Mitigation and Disposal.
1510.56 Phase V—Documentation and Cost Recovery.
1510.57 Pollution Reports.
1510.58 Special Considerations.

Subpart F—Coordinating Instructions

1510.61 Delegation of Authority.
1510.62 Multi-Regional Actions.
1510.63 General Pattern of Response Actions.
1510.64 Strike Force.
1510.65 Funding.

List of Annexes

Sec. and Annex No.
1100 Distribution.....I
1200 Format of Regional and Local Contingency Plans.....II
1300 Regions and Office Locations of Primary Agencies.....III
1400 Legal Authorities.....IV
1500 Communication Services Available in National Response Center.....V

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1600 Sample Collection Procedures..... VI
1700 Technical Library..... VII
1800 Definition of Terms..... VIII
2000 Schedule of Chemicals and Other Additives..... X

Authority: Sec. 311(c)(2), Public Law 92-500, as amended; 86 Stat. 865, 33 U.S.C. 1251, *et. seq.*

Subpart A Introduction

§ 1510.1 Purpose and objectives.

This National Oil and Hazardous Substances Pollution Contingency Plan provides for coordinated Federal action to try to prevent discharges of oil and hazardous substances, and to protect the environment from damage when discharges occur. The Plan also promotes Federal-state coordination and it encourages local governments and private contractors to build capabilities for cleaning up discharges.

§ 1510.2 Authority.

This Plan was developed in compliance with Section 311(c)(2) of the Clean Water Act, as amended (33 U.S.C. 1251 *et seq.*). In Executive Order 11735, the President delegated to the Council on Environmental Quality authority and responsibility to prepare, publish, revise and amend a National Contingency Plan for the removal of oil and hazardous substances.

(b) The Plan and its Annexes, and regional and local plans, provide for:

(1) Assignment of responsibilities among Federal agencies, in coordination with State and local agencies;

(2) Identification, procurement, maintenance, and storage of equipment and supplies;

(3) Establishment or designation of

(i) A strike force to carry out the Plan and

(ii) Trained and adequately equipped emergency task forces at major ports;

(4) A system of surveillance and reporting to give responsible Federal and state agencies the earliest possible notice of discharges of oil and hazardous substances or imminent threats of such discharges;

(5) Establishment of a national center to direct operations in carrying out the Plan;

(6) Procedures for identifying, containing, dispersing, and removing oil and hazardous substances; and

(7) A schedule, prepared in cooperation with the states, identifying any dispersants or other chemicals that may be used in carrying out the Plan;

(8) A system for reimbursing states for reasonable costs incurred in removing discharges; and

(9) A procedure for coordinating scientific support of cleanup operations, assessment of damage after a spill, and research efforts.

§ 1510.3 Scope.

(a) The Plan is effective for the navigable waters of the United States and adjoining shorelines, for the contiguous zone, and the high seas beyond the contiguous zone in connection with activities under the Outer Continental Shelf Lands Act or the Deep Water Port Act of 1974, or which may affect natural resources belonging to, appertaining to, or under the exclusive management authority of the United States (including resources under the Fishery Conservation and Management Act of 1976). (See sections 311(b)(1) and 502(7) of the Clean Water Act).

(b) This Plan is applicable to all Federal agencies. Implementation of this Plan is complementary to the Joint U.S./Canadian Contingency Plan (including the annexes pertaining to the Great Lakes, Eastern and Western coastal areas); the Joint U.S./Mexican Contingency Plan; and international assistance plans and agreements, security regulations, and responsibilities based upon Federal statutes and Executive Orders.

§ 1510.4 Abbreviations.

(a) Department and Agency title abbreviations.

CEQ—Council on Environmental Quality
Commerce—Department of Commerce
Corps—U.S. Army Corps of Engineers
DHEW—Department of Health, Education and Welfare
DOD—Department of Defense
DOE—Department of Energy
DOI—Department of Interior
DOJ—Department of Justice
DOS—Department of State
DOT—Department of Transportation
EPA—Environmental Protection Agency
ERT—Environmental Response Team
FEMA—Federal Emergency Management Agency
MarAd—Maritime Administration
NOAA—National Oceanic and Atmospheric Administration
USCG—U.S. Coast Guard
USDA—Department of Agriculture
USGS—U.S. Geological Survey
USN—U.S. Navy

(b) Operational title abbreviations.

NRC—National Response Center
NRT—National Response Team
OSC—On-Scene Coordinator
PIAT—Public Information Assistance Team
SSC—Scientific Support Coordinator
RRC—Regional Response Center
RRT—Regional Response Team

§ 1510.5 Definitions under the Plan.

(a) Act—means the Clean Water Act, as amended, 33 U.S.C. 1251, *et seq.*

(b) Activation—means notification by telephone or other expeditious means to the appropriate state and local officials, to the regional or district office of each primary agency, and to the offices of advisory agencies identified in regional contingency plans, or, when required, the assembly of some or all members of the RRT.

(c) Advisory agencies—means those departments or agencies which can make contributions during the response to certain types of discharges. These Agencies are: FEMA, DHEW, Justice, DOE, and State.

(d) Coastal waters—generally means U.S. waters which are navigable by deep draft vessels, including the contiguous zone and parts of the high seas to which this Plan is applicable and other waters subject to tidal influence.

(e) Contiguous Zone—means the zone of the high seas, established by the United States under Article 24 of the Convention on the Territorial Sea and the Contiguous Zone, which is contiguous to the territorial sea and which extends 12 miles seaward from the same baseline from which the territorial sea is measured.

(f) Discharge—includes but is not limited to any spilling, leaking, pumping, pouring, emitting, emptying or dumping of oil or hazardous substances. Discharges permitted under Sections 301, 302, 306, 318, 402 or 404 of the Act or Section 102 of the Marine Protection, Research and Sanctuaries Act of 1972 (Public Law No. 92-532) are not included.

(g) Hazardous substance—means any substance designated as hazardous under subsection (b)(2) of Section 311 of the Act.

(h) Inland waters—generally means U.S. waters upstream from coastal waters.

(i) Major Disaster—means any hurricane, tornado, storm, flood, high water, wind-driven water, tidal wave, tsunami, earthquake, drought, fire or other catastrophe in the United States which the President determines to be damaging enough to warrant major disaster assistance under the Disaster Relief Act of 1974 (Public Law No. 93-288).

(j) Oil—means oil of any kind or in any form, including but not limited to petroleum, fuel oil, sludge, oil refuse and oil mixed with wastes other than dredged spoil.

(k) On-Scene Coordinator (OSC)—means the Federal official pre-designated by the EPA or the USCG to coordinate and direct Federal response to spills, and discharge removal efforts at the scene of a discharge.

(l) Phases—response actions fall into five classes or phases. Phase I is Discovery and Notification; Phase II, Evaluation and Initiation of Action; Phase III, Containment and Countermeasures; Phase IV, Removal, Mitigation and Disposal; and Phase V, Documentation and Cost Recovery. Elements of any phase may coincide with other phases. For a full description of the phases, see Subpart E, §§ 1510.51-55.

(m) Plan—means the National Oil and Hazardous Substances Pollution Contingency Plan.

(n) Potential discharge—means any accident or other circumstance which threatens to result in the discharge of oil or hazardous substance. Severity of potential discharge shall be classified according to the guidelines in subparagraph (r) below.

(o) Primary agencies—means those departments or agencies on the NRT that have the primary responsibility and provide resources for the effective operation of this Plan. These agencies are: Commerce, DOD, DOI, DOT, EPA, and USDA.

(p) Public health or welfare—includes all factors affecting the health and welfare of man, including but not limited to human health, the natural environment, fish, shellfish, wildlife, and public and private property, shorelines and beaches.

(q) Remove or removal—means the removal of oil or hazardous substance from the water and shorelines or taking necessary actions to minimize or mitigate damage to the public health or welfare. Under this Plan, removal refers to Phase III and IV response operations.

(r) Size classes of discharges—The following classifications are provided as guidance for the OSC and serve as the criteria for the actions delineated in § 1510.63. They are not meant to imply associated degrees of hazard to the public health or welfare, nor are they a measure of environmental damage. Any discharge that poses a substantial threat to the public health or welfare, or results in critical public concern shall be classed as major discharge regardless of the following quantitative measures.

1) Minor discharge—means a discharge to the inland waters of less than 1000 gallons of oil; or a discharge to the coastal waters of less than 10,000 gallons of oil; or a discharge of a hazardous substance in a quantity less than that defined as reportable by regulation (40 CFR Part 117).

2) Medium discharge—means a discharge of 1000 to 10,000 gallons of oil to the inland waters; or a discharge of 10,000 gallons to 100,000 gallons of oil to the coastal waters; or a discharge of a hazardous substance equal to or greater than a reportable quantity as defined by regulations (40 CFR Part 117).

3) Major discharge—means a discharge of more than 10,000 gallons of oil to the inland waters; or more than 100,000 gallons of oil to the coastal waters; or a discharge of a hazardous substance that poses a substantial threat to the public health or welfare, or results in critical public concern.

(s) United States—means the states, the District of Columbia, the Commonwealth of Puerto Rico, the Canal Zone, Guam, American Samoa, the Virgin Islands, and the Trust Territory of the Pacific Islands.

Subpart B—Responsibility

§ 1510.21 Federal responsibility.

(a) This Plan seeks to insure a coordinated Federal response at the scene of a discharge of oil or hazardous substance that poses a threat to the public health or welfare. In the event of a discharge, the Federal OSC shall first determine (under section 311(c)(1) of the Act) whether the person responsible for the discharge is taking proper action to remove the discharge or threat of discharge. If practicable, the OSC shall make the person responsible for the discharge aware of his financial responsibility. If the OSC determines that the person responsible for the discharge is taking proper action, the OSC shall monitor progress and provide advice. If the person responsible for the discharge does not act promptly or fails to take proper removal actions, of if the person responsible for the discharge is unknown, or if a substantial threat of discharge is considered to exist, further Federal response actions shall be undertaken in accordance with this Plan.

(b) Removal actions taken under section 311(c)(1) of the Act are limited to the areas described in § 1510.3(a). When a discharge or potential discharge that poses a threat to U.S. waters occurs outside the Plan's jurisdiction, the procedures of the Plan and those of regional and local plans apply to the extent practicable; removal will take place under other legal authorities.

(c) In accordance with section 311(d) of the Act, whenever a marine disaster in or upon the navigable waters of the United States has created a substantial threat of a pollution hazard to the public health or welfare, because of a discharge or an imminent discharge of large quantities of oil or a hazardous substance from a vessel, the United States may:

(1) Coordinate and direct all public and private efforts for the removal or elimination of the threat; and

(2) Summarily remove and, if necessary, destroy the vessel by whatever means are available without regard to any provisions of law governing the employment of personnel or the expenditure of appropriated funds. The authority for these actions has been delegated under Executive Order 11735 to the Administrator of EPA and the Secretary of the Department in which the Coast Guard is operating, respectively, for the waters for which each designates the OSC under this Plan.

(d) When the Administrator of EPA or the Secretary of the Department in which the Coast Guard is operating determines there is an imminent and substantial threat to the public health and welfare because of an actual or threatened discharge of oil or hazardous substance into or upon the waters of the United States from any onshore or offshore facility, he may require, through the Attorney General, that the U.S. Attorney of the district in which the threat occurs secure the relief necessary to abate the threat. The NRT may request EPA or the USCG to exercise this authority. The action described here is in addition to any other actions taken by a State or local government for the same purpose.

(e) Federal agencies with facilities or other resources which may be useful in a Federal response situation will make those facilities or resources available for use in accordance with this Plan and the regional and local plans. Federal resources shall be made available to the extent consistent with agencies' operational requirements, within the limits of existing statutory authority, and within the spirit of the President's and the Congress's intent to minimize discharges and their effects.

(f) Environmental pollution control techniques shall be employed in accordance with applicable regulations and guidelines, and regional and local contingency plans. In any circumstances not covered by regulations, the use of chemicals shall be in accordance with Annex X and must have the concurrence of the EPA representative or alternate representative on the RRT. In his absence, the concurrence of the appropriate EPA Regional Administrator must be obtained.

(g) Response actions to remove discharges originating from Outer Continental Shelf Lands Act operations shall be in accordance with the August, 1971 Memorandum of Understanding between DOI and DOT concerning

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respective responsibilities under this Plan.

(h) Discharges of radioactive materials shall be handled pursuant to the Interagency Radiological Assistance Plan.

§ 1510.22 Duties of Federal agencies.

(a) Each of the primary and advisory Federal agencies has duties established by Statute, Executive Order, or Presidential Directive which may be relevant to the Federal response to a pollution discharge. See Annex IV for a description of applicable legal authorities. Regional contingency plans shall call upon agencies to discharge these duties in a coordinated manner. They shall provide for:

(1) Identification of the statutory responsibilities of all agencies involved;

(2) Prompt notification of agency representatives in the event of a threatened or actual oil or hazardous substances spill;

(3) Designation of agency representatives to assist OSCs in developing local contingency plans; and

(4) Coordination of agency representatives with the OSC during a pollution incident (see § 1510.36(a)(3)).

(b) The following Federal agencies have specific duties and responsibilities which are relevant to a response to discharges of oil or hazardous substances:

(1) The Council on Environmental Quality is responsible for preparing, publishing, revising and amending the National Contingency Plan. The NRT will advise CEQ on necessary changes to the Plan and CEQ shall insure that any disagreements among members of the NRT are expeditiously settled.

(2) The Department of Agriculture provides expertise in managing forest and wilderness areas and in selecting landfill disposal sites. The Soil Conservation Service can provide to the OSC predictions of the effects of pollutants on soil and their movements over and through soil. U.S Forest Service personnel may act as OSC protem until relieved by the designated OSC.

(3) The Department of Commerce, through NOAA, provides support to the NRT, RRT, and OSC in the following areas: assisting EPA in the coordination of scientific support, including assessment of damages in the coastal regions and on the high seas; scientific expertise on living marine resources for which it is responsible, including endangered species and marine mammals (See section 1510.36(a)(3)); providing current and predicted meteorological, hydrologic, and oceanographic conditions for the high seas, coastal and inland waters; and providing maps and charts, including tides and currents for coastal and territorial waters and the Great Lakes. When requested by NRT, DOC through MarAd will provide advice on the design, construction and operation of merchant ships.

(4) The Department of Defense, consistent with its operational requirements, may provide assistance in maintaining navigation channels, in the removal of navigation obstructions and in salvage. Upon request of the OSC, NRT or USCG, the services of the Supervisor of Salvage, USN will be provided as available for the cleaning and control of major oil spills.

(5) The Department of Energy administers, implements, and coordinates the Interagency Radiological Assistance Plan (IRAP). DOE will advise the NRT when assistance is required in identifying the source and extent of radioactive contamination, and in the removal and disposal of radioactive discharges.

(6) The Department of Health, Education, and Welfare is responsible for providing expert advice and assistance on discharges or potential discharges that pose a threat to public health and safety.

(7) The Federal Emergency Management Agency (FEMA) keeps track of pollution emergencies and evaluates requests from state governors for a major disaster declaration under Pub. L. 93–288 (42 U.S.C. 4401, *et seq.*) If the President declares that a pollution emergency is a major disaster, or that a major disaster is imminent, the FEMA Administrator will coordinate and direct the Federal response.

(8) The Department of Interior, through the USGC, can provide expertise in the fields of oil drilling, producing, handling, and transportation by pipeline. The USGS supervises continuously manned facilities which can be used for command, control and surveillance of discharges occurring from operations conducted under the Outer Continental Shelf Lands Act. Through its Pollution Response Coordinators, the Fish and Wildlife Service of DOI will provide technical expertise to the OSC and RRT on fish and wildlife and their habitats, including migratory birds, marine mammals and endangered and threatened plants and animals (See 1510.36(a)(3)). DOI is responsible for American Samoa and the Trust Territory of the Pacific Islands.

(9) The Department of Justice can provide expert advice on complicated legal questions arising from discharges and Federal agency responses.

(10) The Department of Transportation provides expertise on all modes of transporting oil and hazardous substances. Through the USCG, DOT offers expertise in the domestic/international fields of port safety and security, marine law enforcement, ship navigation and construction, and the manning, operation, and safety of vessels and marine facilities. The Coast Guard also maintains continuously manned facilities which can be used for command, control, and surveillance of oil discharges occurring on the waters of the United States or the high seas. For those areas where it provides the OSC, the Coast Guard chairs the RRT and develops, implements, and revises as necessary the regional and local contingency plans.

(11) The Department of State will lead in developing joint international contingency plans. It will also help to coordinate an international response when a pollution discharge crosses international boundaries or involves foreign flag vessels.

(12) The Environmental Protection Agency provides expertise on environmental effects of pollution discharges and environmental pollution control techniques. EPA will also advise the RRT and OSC on what degree of hazard a discharge poses to the public health and safety, and will coordinate scientific support, including assessment of damages, in the inland regions. For those areas where it provides the OSC, EPA chairs the RRT and develops, implements, and revises, as necessary, regional and local contingency plans. EPA will coordinate with DOT in the preparation of regional and local contingency plans on pollution control and protection of the environment.

(c) All Federal agencies are responsible for minimizing the possibility of discharges; for developing the capability to respond promptly to discharges from facilities they operate or supervise; and for making resources available for Federal pollution response operations.

(d) In addition to their general responsibilities under paragraph (c) of this section, primary agencies are responsible for:

(1) Leading all Federal agencies in programs to minimize environmental damage associated with discharges from facilities they operate or supervise;

(2) Providing representation to the NRT and RRTs, and giving assistance to the OSCs in formulating regional and local contingency plans;

(3) Developing the operating capability for a rapid response to any pollution discharge in coordination with other Federal agencies;

(4) Making necessary information available to the NRT, RRT or OSC and

(5) Informing the NRT and RRTs (consistent with National security considerations) of changes in the availability of resources that would affect the operation of this Plan.

(e) In addition to their general responsibilities under paragraph (c) of this section, advisory agencies are responsible for:

(1) Providing representation to the NRT and, when required to the RRTs, and giving assistance to the OSCs in formulating regional and local contingency plans;

(2) Developing the operating capability to respond with their particular expertise to any pollution discharge;

(3) Making necessary information available to the NRT, RRT or OSC; and

(4) Informing the NRT and the RRTs (consistent with National security considerations) of changes in the availability of resources that would affect the operation of thia Plan.

§ 1510.23 Non-Federal participation.

(a) Every state governor is asked to assign an office or agency to represent the state on the RRT. The state's representative should participate fully In all facets of RRT activities and shall designate the element of the state government that will direct state supervised discharge removal operations. Participation of officials from municipalities with major ports and waterways is also invited in the RRT. State and local government agencies are encouraged to include contingency planning for discharge removal in all emergency and disaster planning. Federal local contingency plans required by this Plan shall provide for coordination with state and local governments. This is especially important for traffic control, land access, and disposal of pollutants in removal operations.

(b) States, industry groups, academic organizations, and others are encouraged to commit resources for removal operations. Specific commitments shall be listed in Federal regional and local contingency plans. EPA and the USCG should explore the possibility of concluding memoranda delegating responsibility to concerned states for clean-up of certain spills. Details on reimbursement to states for removal actions taken under to this Plan are contained in § 1510.65 and 33 CFR Part 153.

(c) It is particularly important to coordinate the technical information generated by scientists from the Federal and state governments, from industry, universities, and elsewhere to assist the OSC in developing clean-up strategies in environmentally sensitive areas; to assist in the performance of post spill damage assessments; and to assure that pertinent research will be undertaken to meet national needs. The scientific support aspect of this Plan is described in §1510.64.

(d) Federal local contingency plans should establish procedures to allow for well-organized and worthwhile employment of volunteers. Local plans should provide for the direction of volunteers by the OSC, or by other Federal, local or state officials knowledgeable in contingency operations and capable of providing leadership. Local plans should also identify specific areas in which volunteers can best be used such as: beach surveillance, logistical support, bird and wildlife treatment, and scientific investigations. Normally volunteers should not be used for physical removal of pollutants. If the substance discharged is toxic to humans, or if in the judgment of the OSC, other dangerous conditions exist, volunteers shall not be permitted at on-scene operations. Regional and local contingency plans should provide for routine education and training of volunteers so that training during an actual incident will not be necessary. Information on discharge and removal efforts should be provided to volunteers frequently during the course of planning to insure coordinated effort and meaningful participation.

Subpart C—Organization

§ 1510.31 Emergency response activities and coordination.

(a) In a pollution emergency, the OSC is responsible for Federal on-scene coordination. He provides reports to and receives advice from an RRT composed of representatives from the regional and district offices of the primary and advisory agencies, the states, and local municipalities.

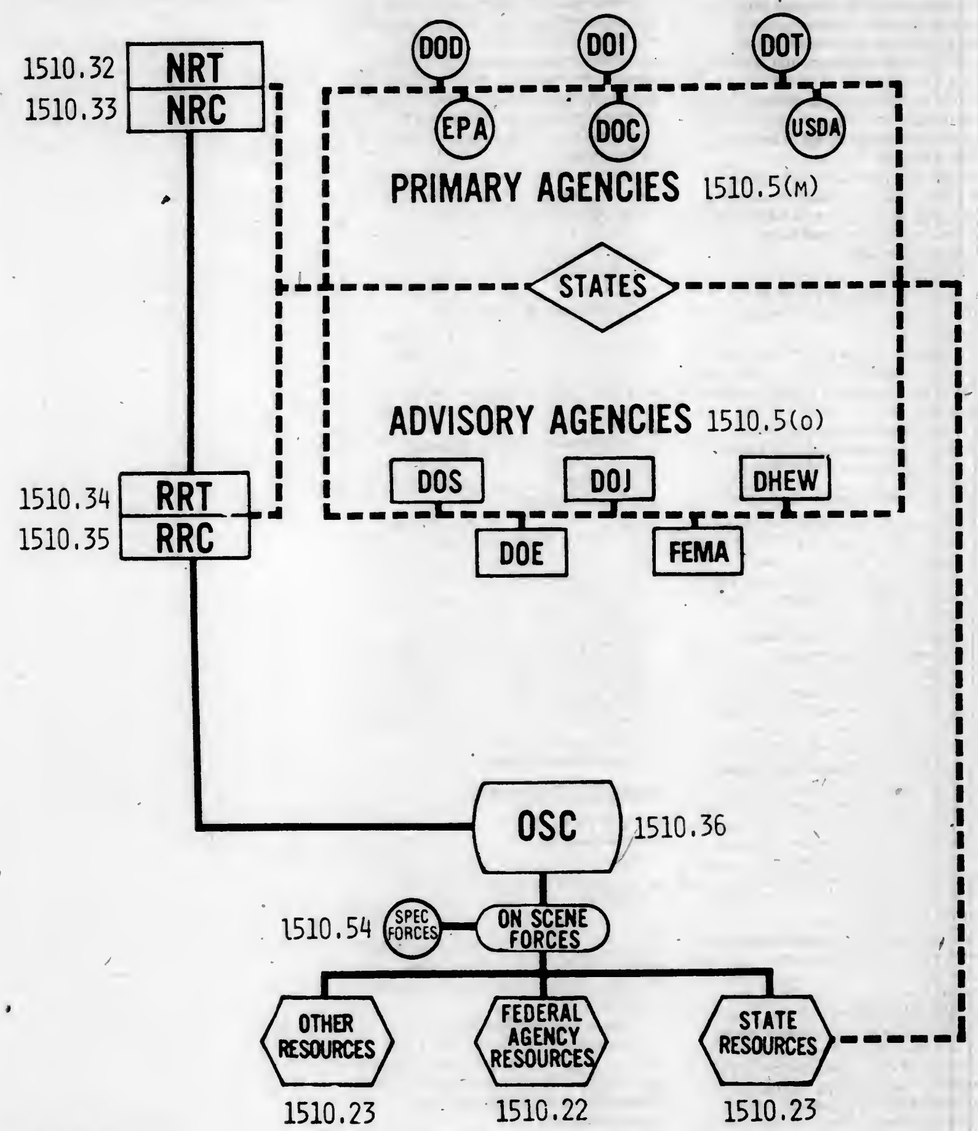
(b) National coordination is accomplished through the NRT which recieves reports from the renders advice to the RRT. Activities are coordinated through the national and regional response centers.

(c) The organization of this Plan is shown in Figure 1.

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NATIONAL CONTINGENCY PLAN CONCEPTS



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§ 1510.32 National response team.

(a) The NRT consists of representatives from the primary and advisory agencies. It is the national body for planning and preparedness before a pollution discharge and for coordination and advice during a discharge. Each primary and advisory agency shall designate a member to the team and sufficient alternates to insure representation.

(b) Except for periods of activation because of a pollution incident, the representative of EPA shall be the chairman and the representative of DOT shall be vice-chairman of NRT. The vice-chairman shall maintain records of the NRT activities along with National, regional and local plans for pollution response. When the NRT is activated for a pollution incident, the chairman shall be the representative of EPA or DOT, depending upon the area in which the response is taking place.

(c) NRT meetings are open to the public. Upon invitation of the chairman and with the consent of members, non-government observers may participate without vote in any meeting of the NRT on matters of their direct concern. They shall be provided with reports issued by the NRT. Invitations to participate shall be given to a non-Government organization if:

(1) It can reasonably be expected to make a significant contribution to the work of the Team;

(2) The organization's work, past and present, has a direct relationship to the work of the Team; and

(3) The organization is not represented at the NRT through another organization.

(d) Normally, when the NRT is not activated for a pollution incident, it shall serve as a standing committee to evaluate the preparedness of the agencies and effectiveness of plans for responding to pollution discharges, to recommend needed policy changes in the response organization, and to revise this Plan as needed.

(1) The NRT shall consider and make recommendations to appropriate agencies on the training and equipping of response teams; necessary research, development, demonstration, and evaluation to improve response capabilities; and equipment, material stockpiling, and other operational matters as the need arises. CEQ shall be advised of any agency's failure to respond adequately to these recommendations.

(2) The NRT shall maintain a committee to suggest revisions of the NRT for consideration, approval and publication by CEQ. The primary agencies shall be members of this standing committee. Advisory agencies shall participate whenever revisions or proposed amendments would affect these agencies.

(3) Two scientific advisors shall be designated, one from EPA and one from DOC–NOAA, to advise the NRT on scientific matters related to pollution response, and to coordinate and oversee the regional scientific support mechanism (see § 1510.64).

(4) The NRT shall establish and maintain a Research and Development Committee to:

(i) Provide the latest information on Federal agencies' research, development, and demonstration activities for spill response and cleanup;

(ii) Respond to NRT requests for scientific and technical information;

(iii) Identify appropriate research and development initiatives;

(iv) Provide for information exchange between agencies on spill response research, development, and demonstration projects. The committee shall report to the NRT at the June and December meetings and at other times upon request.

(5) Ad hoc committees may also be established from time to time. Representatives from the primary agencies and any advisory agencies with direct involvement shall serve on these committees.

(e) Planning and preparedness responsibilities of the NRT are to:

(1) Make a continuing review of regional responses to pollution incidents, with an evaluation of equipment readiness and coordination among responsible public agencies and private organizations.

(2) Consider necessary changes in policy on the basis of the continuing review of regional responses to pollution incidents.

(3) Develop procedures to ensure the coordination of Federal, state, local government, and private responses to pollution incidents;

(4) Review regional plans and reports of activities from RRTs, and make sure that RRTs are functioning satisfactorily.

(5) Inform the Research and Development Committee on research requirements identified during discharges of unusual materials or unique circumstances;

(6) Continuously review and act upon reports by the Research and Development Committee;

§ 1510.34 Regional response team.

(a) The RRT consists of representatives from the primary and advisory agencies. It is the regional body for planning and preparedness before a pollution discharge and for coordination and advice during a discharge. Each primary and advisory agency shall designate a member to the team and sufficient alternates to insure representation.

(b) Except for periods of activation because of a pollution incident, the representative of EPA shall be the chairman and the representative of DOT shall be vice-chairman of RRT. The vice-chairman shall maintain records of the RRT activities along with National, regional and local plans for pollution response. When the RRT is activated for a pollution incident, the chairman shall be the representative of EPA or DOT, depending upon the area in which the response is taking place.

(c) RRT meetings are open to the public. Upon invitation of the chairman and with the consent of members, non-government observers may participate without vote in any meeting of the RRT on matters of their direct concern. They shall be provided with reports issued by the RRT. Invitations to participate shall be given to a non-Government organization if:

(1) It can reasonably be expected to make a significant contribution to the work of the Team;

(2) The organization's work, past and present, has a direct relationship to the work of the Team; and

(3) The organization is not represented at the RRT through another organization.

(d) Normally, when the RRT is not activated for a pollution incident, it shall serve as a standing committee to evaluate the preparedness of the agencies and effectiveness of plans for responding to pollution discharges, to recommend needed policy changes in the response organization, and to revise this Plan as needed.

(1) The RRT shall consider and make recommendations to appropriate agencies on the training and equipping of response teams; necessary research, development, demonstration, and evaluation to improve response capabilities; and equipment, material stockpiling, and other operational matters as the need arises. CEQ shall be advised of any agency's failure to respond adequately to these recommendations.

(2) The RRT shall maintain a committee to suggest revisions of the RRT for consideration, approval and publication by CEQ. The primary agencies shall be members of this standing committee. Advisory agencies shall participate whenever revisions or proposed amendments would affect these agencies.

(3) Two scientific advisors shall be designated, one from EPA and one from DOC–NOAA, to advise the RRT on scientific matters related to pollution response, and to coordinate and oversee the regional scientific support mechanism (see § 1510.64).

(4) The RRT shall establish and maintain a Research and Development Committee to:

(i) Provide the latest information on Federal agencies' research, development, and demonstration activities for spill response and cleanup;

(ii) Respond to RRT requests for scientific and technical information;

(iii) Identify appropriate research and development initiatives;

(iv) Provide for information exchange between agencies on spill response research, development, and demonstration projects. The committee shall report to the RRT at the June and December meetings and at other times upon request.

(5) Ad hoc committees may also be established from time to time. Representatives from the primary agencies and any advisory agencies with direct involvement shall serve on these committees.

(e) Planning and preparedness responsibilities of the RRT are to:

(1) Make a continuing review of regional responses to pollution incidents, with an evaluation of equipment readiness and coordination among responsible public agencies and private organizations.

(2) Consider necessary changes in policy on the basis of the continuing review of regional responses to pollution incidents.

(3) Develop procedures to ensure the coordination of Federal, state, local government, and private responses to pollution incidents;

(4) Review regional plans and reports of activities from RRTs, and make sure that RRTs are functioning satisfactorily.

(5) Inform the Research and Development Committee on research requirements identified during discharges of unusual materials or unique circumstances;

(6) Continuously review and act upon reports by the Research and Development Committee;

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(7) Maintain readiness to respond to a nationally significant discharge of oil or other hazardous substances;

(8) Monitor incoming reports from all RRT's and activate the NRT for a pollution incident when appropriate; and

(9) As a minimum, meet monthly to review pollution emergency response actions of the preceding period, receive reports from the Committee on Revision, the R & D Committees and ad hoc committees. Information on the time and place of meetings may be obtained from the National Response Center (see § 1510.33 below).

(f) The NRT shall be activated as an emergency response team when requested by any primary agency representative or when a discharge

(i) Exceeds the response capability of the region in which it occurs;

(ii) Transects regional boundaries; or

(iii) Involves significant numbers of people or nationally significant amounts of property.

When acting as an emergency response team, the NRT shall consist of representatives from the primary and selected advisory agencies. Each representative or an appropriate alternate shall be notified immediately by telephone of the emergency activation of the NRT.

(g) When activated for a pollution incident the NRT shall meet at the call of the Chairman and shall:

(1) Monitor and evaluate reports from the OSC. The NRT may recommend to the OSC, through the RRT actions to combat the discharge.

(2) Request other Federal, state, and local government, or private agencies to consider providing resources under their existing authorities to combat a discharge or monitor response operations.

(3) Coordinate the supply of equipment, personnel, or technical advice to the affected region from other regions or districts.

(4) Prepare public information releases and transfer information between the OSC and the Washington, D.C. headquarters of the agencies concerned. Public information is discussed in § 1510.37.

(h) The NRT shall consider any matter referred to it for settlement by an RRT, when the RRT cannot resolve the matter itself. Any member of an RRT may petition the NRT to review and give advice on matters considered by the RRT. Petitioning RRT members may appear before the NRT to present their arguments but shall not have the right to vote in NRT deliberations on the disputed matter.

§ 1510.33 National Response Center.

(a) The NRC is the national communications center for activities related to pollution incidents. It is located at the Washington, D.C. Headquarters of the USCG. Notice of discharges should be made through a toll free number, a special local number, or through telephone and teletype circuits. (Details appear below and in Annex V.) The NRC relays notices of discharge to the appropriate OSC. It disseminates OSC and RRT reports to the NRT when appropriate. It provides facilities for coordinating a national pollution emergency response when required.

(b) The Commandant, U.S.C.G., Coast Guard, shall provide the necessary communications, plotting facilities, and equipment. These will include:

(1) A continuously manned communication center for receiving reports of discharges;

(2) Telephone branch lines;

(3) Teletypewriter circuits;

(4) The latest updated charts of the Departments of Commerce, Interior and Defense for the U.S. waters, the Continental Shelf and the ocean areas adjacent to the U.S. Territorial waters;

(5) Technical library on oil and hazardous substances pollution (described in Annex VII); and

(6) Plotting and display facilities to depict the geographic position, movement, and extent of the discharge.

(c) The USCG shall furnish technical manuals and materials and necessary administrative support to operate the NRC effectively and efficiently.

(d) Primary agencies may use normal communication circuits to fulfill their responsibilities under the Plan. Telephone numbers for the primary notification offices of interested agencies will be maintained in NRC and in RRCs.

(e) First notice of a pollution discharge shall be made immediately (in accordance with 33 CFR 153.203) either to Duty Officer NRC, HQ USCG Washington, D.C., toll free telephone (800) 424–8802 or 426–2675 in the Washington, D.C. local calling area, or to the regional OSC. All notices of discharges received at the NRC shall be relayed immediately by telephone to the OSC. The NRC shall evaluate incoming information and immediately advise FEMA of potential disaster situations.

(f) Pollution Reports (POLREPS) shall be submitted by the RRT to the NRC as developments occur and not later than 1600 local time on each day of a pollution response operation. Pollution Reports shall be disseminated by the NRC to NRT members.

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§ 1510.34 Regional response team.

(a) The RRT serves as the regional body for planning and preparedness actions before a pollution discharge and for coordination and advice during a pollution discharge. The RRT consists of regional representatives of the primary and selected advisory agencies, and state, local, and municipal representatives as appropriate. The full participation of high level representation from states and municipalities with major ports and waterways is desired. (See § 1510.23(a))

(b) Except when the RRT is activated for a pollution incident, the representative of EPA and DOT shall act as a co-chairmen. When the RRT is activated for a pollution incident, the chairman shall be the representatives of EPA or DOT, depending upon the area of the spill and the response.

(c) Each primary agency shall designate one member and at least one alternate member to the RRT. Participating states and local municipalities should also designate one member and at least one alternate member to the team. Each advisory agency will designate a member when it believes representation is appropriate or when requested to do so by the chairman. Agencies may also provide additional representatives as observers to meetings of the RRT. Persons representing primary and advisory agencies shall be specified in each regional contingency plan.

(d) Each RRT shall designate members from all primary and selected advisory agencies to work with OSC's in developing regional and local contingency plans, planning for the use of agency resources, and in responding to pollution incidents.

(e) The chairman of RRT shall ensure that the regional and local contingency plans adequately provide the OSC with assistance from the primary and advisory agencies commensurate with agencies' resources, capabilities and responsibilities within the region. During a pollution emergency the members of the RRT shall insure that the resources of their agencies are made available to the OSC as specified in the regional and local contingency plans.

(f) Affected states are encouraged to participate actively in all RRT activities (See § 1510.23(a), to designate representatives to work with OSCs in developing regional and local plans, planning use of state resources, and responding to pollution incidents. When the RRT is activated for a pollution emergency, affected states are invited to participate in all RRT deliberations. Any state or local government representative who participates in the RRT has the same status as any Federal member of the RRT.

(g) When not activated for a pollution incident, the RRT serves as a standing committee to recommend needed policy changes in the regional response organization, to revise the regional plan as needed, and to evaluate the preparedness of the agencies and the effectiveness of local plans for responding the pollution incidents. The RRT shall:

(1) Make a continuing review of regional and local responses to pollution incidents, with an evaluation of equipment readiness and coordination among responsible public agencies and private organizations;

(2) Recommend revisions to the National Contingency Plan to CEQ, via the NRT, on the basis of observations of response o perations;

(3) Consider necessary changes in policy on the basis of the continuing review of regional responses to pollution incidents;

(4) Develop procedures to insure the coordination of Federal, state, local government, and private responses to pollution incidents;

(5) Review the functioning of OSC's to insure that local contingency plans are developed satisfactorily;

(6) Be prepared to respond to a major discharge of oil or hazardous substances outside its region;

(7) Monitor incoming reports from all OSC's and activate the RRT when appropriate; and

(8) Meet quarterly to review response actions carried out during the preceding period, and consider changes in both regional and local contingency plans. In those regions having both coastal and inland RRTs, RRT meetings held in alternating quarters (inland in March, coastal in June, etc.) would meet this requirement.

(9) RRTs shall provide letter reports on their activities to the NRT twice a year, no later than January 31 and July 31. The reports will help to identify techniques and procedures that have worked well and subjects requiring improvement and should be passed on to other RRTs. At a minimum, reports will contain paragraphs covering—

(i) *Summary of Activities,* containing highlights of routine meetings and activations during the reporting period;

(ii) *Organizational Matters,* outlining improvements made since the last report. Organizational matters requiring NRT action should be included. RRT's are encouraged to add detailed accounts of successful procedures so that other RRT's may consider them for adoption; and

(iii) *Operations,* including recommendations, comments or observations on response methods, equipment, training or other operational matters which have not been addressed in the review of OSC reports.

(h) Each coastal RRT is required to conduct an annual training exercise in which response equipment is actually deployed. These exercises should use all existing capabilities in the local port area. Any funding required to support the exercise should be requested through the normal agency budget process. The RRT shall cooperate to the fullest extent possible in field exercises of member agencies.

(i) RRT's for inland regions are strongly encouraged to conduct an annual training exercise in which response equipment is actually deployed. RRT's for inland regions shall cooperate to the fullest extent possible in field exercises of member agencies.

(j) The RRT shall be activated as an emergency response team when a discharge—

(i) Exceeds the response capability available to the OSC in the place where it occurs;

(ii) Transects regional boundaries; or

(iii) Involves significant numbers of persons or regionally significant amounts of property. Regional Contingency Plans shall specify detailed criteria for activation of RRTs.

(k) The RRT shall be activated automatically in the event of a major or potential major discharge. The RRT may be activated during any other pollution emergency by an oral request from any RRT representative to the chairman of the team. Requests for team activation shall later be confirmed in writing. Each representative, or an appropriate alternate, shall be notified immediately by telephone when the RRT is activated. POLREPS to the NRC from RRTs shall include the time of team activation, method of activation (e.g., telephone) and place of assembly (if appropriate).

(l) When activated for a pollution incident, agency representatives shall meet at the call of the chairman and shall:

(1) Monitor and evaluate reports from the OSC. The RRT shall advise the OSC on the duration and extent of the Federal response and may recommend to the OSC specific actions to combat the discharge;

(2) Request other Federal, state or local government, or private agencies to consider providing resources under their existing authorities to combat a

of any actions that might better serve

must include information on all useful

with minimal delays in obtaining needed

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discharge or monitor response operations;

(3) Help the OSC prepare information releases to the public and for communication with the Washington, D.C. headquarters of the agencies concerned. Public information is discussed in Section 1510.37;

(4) Advise the regional head of the agency providing the OSC if the circumstances or progress of a pollution discharge indicate that a different OSC should be designated; and

(5) Submit Pollution Reports (POLREPS) to the NRC as developments occur and not later than 1600 local time on each day of the operation.

(m) If any member of the RRT dissents from a decision of the RRT on a discretionary action pursuant to the Plan, or an interpretation of the Plan, that member may appeal the decision to the NRT in accordance with § 1510.32(h). The dissenting member shall notify the chair of the NRT of its appeal. During a major pollution discharge, a member who has pursued an appeal to the NRT may request further review by CEQ.

(n) The RRT shall be deactivated by agreement between the EPA and USCG team members. The time of deactivation shall be included in POLREPS.

(o) Boundaries for regional contingency plans shall follow those of the standard regions for Federal agencies as shown in Annex III. Boundaries for local contingency plans shall coincide with those agreed upon between EPA and the USCG to determine OSC areas of responsibility.

§ 1510.35 Regional response center.

(a) The RRC is the regional center for pollution response activities. Each regional plan shall specify quarters for the RRC. The RRC provides facilities and personnel for communications, information storage, and other requirements for coordinating the response to regional pollution incidents.

§ 1510.36 On-scene coordinator.

(a) The OSC shall coordinate and direct Federal pollution control efforts at the scene of a discharge or potential discharge. The OSC shall be predesignated, as part of the planning and preparation for response to pollution incidents, by the regional or district head of the agency responsible for providing the OSC.

(1) The first official from an agency with responsibility under this Plan to arrive at the site of a discharge shall coordinate activities under the Plan until the OSC arrives.

(2) The OSC shall collect pertinent facts about discharges, such as potential impacts on human health and welfare: the nature, amount, and location of discharged materials; the probable direction and time of travel of discharged materials, the natural resources, including fish and wildlife and their habitat, and property which may be affected and the priorities for protecting them.

(3) The OSC shall direct Phase II, Phase III and Phase IV operations; that is, Evaluation and Initiation of Action, Containment and Countermeasures, and Removal, Mitigation and Disposal (all Subpart E, Sections 1510.51–55 for descriptive details). Consistent with other responsibilities, the OSC shall coordinate with agency representatives on-scene who are carrying out their agency responsibilities. Advice provided by the EPA on the use of chemicals in Phase III and Phase IV operations shall be binding on the OSC, except as provided in Annex X of this Plan. Advice provided by the Fish and Wildlife Service (DOI) or by the National Marine Fisheries Service (Commerce) on cleanup actions that may affect endangered species shall be considered at all times and shall be binding on the OSC unless in his judgment actions contrary to this advice must be taken to protect human life.

(4) The OSC shall provide necessary support and documentation for Phase V activities (Documentation and Cost Recovery).

(5) The OSC will coordinate closely with the RRT in carrying out this Plan and will keep the RRT fully informed of all activities under the Plan.

(b) EPA and the USCG shall designate OSCs for all areas in each region. The EPA shall furnish or provide for OSCs on inland waters. The USCG shall furnish or provide for OSC's for the coastal waters, and for Great Lakes waters, ports and harbors.

(c) All Federal agencies are required by Executive Order to develop emergency plans and procedures for dealing with oil and hazardous substances spills caused by facilities or vessels under their jurisdiction. All Federal agencies, therefore, are responsible for designating the offices that will coordinate response actions for spills caused by facilities or vessels under their jurisdiction and for providing means to remove or mitigate such spills in accordance with this Plan and applicable Federal regulations and guidelines. If the responsible federal agency does not act promptly or take appropriate action, to respond to a spill caused by a facility or vessels under its jurisdiction, the EPA or USCG (depending on the area where the discharge occurs) shall assume the OSC functions.

(d) The OSC is responsible for developing and maintaining a local contingency plan for the area of his responsibility.

§ 1510.37 Public information network.

(a) When a major pollution incident occurs, it is imperative to give the public prompt, accurate information on the nature of the discharge and actions underway to mitigate the damage. Prompt disclosure of the facts helps to encourage cooperation by interested parties and to check the spread of misinformation. National administration policy and the Freedom of Information Act both call for maximum disclosure of information.

(b) When an RRT is activated, or upon the request of the OSC, a regional news office will be established. This office shall be the single source of official information on a pollution incident. The office will be staffed according to regional plans and agency directives. Whenever possible the regional news office will be headed by a representative of the agency providing the OSC. Any primary agency may, by request to the RRT, place a representative on the staff of the regional news office. The OSC shall determine location of the regional news office but every effort should be made to locate it near the scene of the pollution incident.

(1) The director of the regional news office shall coordinate all public information activities for the OSC. The director's functions include

(i) Arranging news conferences for the OSC and other officials to make progress reports and respond to questions;

(ii) Keeping local and regional government officials informed of the pollution situation through contacts with their press offices or other representatives;

(iii) Keeping news media informed about the response effort and giving them as much cooperation as possible, for example, by arranging transportation to the scene of a pollution incident when possible;

(iv) Issuing and distributing daily news releases as long as public interest warrants;

(v) Giving citizens who make inquiries up-to-date information from the latest press release;

(vi) Observing public reaction to the pollution incident and advising the OSC of any actions that might better serve public information interests;

(vii) Handling queries from the general public and commercial interests properly and promptly;

(viii) Referring salesmen to technical personnel assigned to evaluate their wares;

(ix) Upon request, offering special public information services for official visitors, including notifying the news media of the time, place and purpose of official visits; making press conference arrangements; and arranging for interviews;

(x) Informing the public on the proper way to deal with individual problems and damages from the pollution incident; and

(xi) If necessary, drafting a model letter for primary agencies to use in answering mail inquiries, after the crisis has subsided. The model letter must be approved by the Chairman of the RRT.

(2) It is important for the regional news office to describe accurately in news releases each agency's contribution to the response effort, and to make sure that the various agencies assisting the OSC are represented at press conferences.

(3) The OSC on regional news office must establish contacts and a working relationship with the regional news media as part of preparation and planning before a pollution incident occurs.

(c)(1) A Public Information Assistance Team (PIAT) shall be available to help OSC's and regional agencies meet the demands for public information during a major pollution incident or threatened incident. Team members will be trained in journalism, public relations, and photography, and will have a knowledge of pollution response techniques, equipment, and the laws and regulations relating to pollution incidents. PIAT will be based at U.S. Coast Guard Headquarters and can be requested through the NRC any time.

(2) If the NRT has not been activated, the PIAT can serve as a center for answering inquiries in Washington, D.C., upon the request of the parent agency of the OSC.

Subpart D—Plans

§ 1510.41 Regional contingency plans.

(a) The RRTs shall develop regional contingency plans for each standard Federal region. The purpose of these plans is coordination of a timely, effective response to pollution incidents by various Federal agencies and other organizations. Regional contingency plans must have a broad sweep. They must include information on all useful knowledge and facilities in the region, from government, commercial, academic and other sources. To the greatest extent possible, regional plans will follow the format of the National plan. An example of the format is in Annex II.

(b) Each region includes many scientists who can make significant contributions to the response activities of the OSC and RRT. Regional SSCs shall organize and coordinate these people and their contributions to the greatest extent possible. SSCs, with advice from RRT members, shall also develop the parts of the regional plan that relate to scientific support.

§ 1510.42 Local contingency plans.

(a) Each OSC is responsible for developing a local contingency plan for his area of responsibility. The plan should provide for a well-coordinated response by many organizations. The plan shall identify environmentally sensitive areas, the probable locations for pollution incidents, the kinds of resources required to respond to pollution incidents, where such resources can be obtained, plans of action for protecting vulnerable resources, methods and sites for disposal of recovered oil and hazardous pollutants consistent with local and state plans developed under the Resource Conservation and Recovery Act (42 U.S.C. 6901 *et seq.*), and a local structure for responding to pollution incidents. To the greatest extent possible, local plans will follow the sample format in Annex II.

(b) The OSC is primarily responsible for developing local plans, but a successful planning effort depends upon the full cooperation of all agency representatives, and includes the development of local capabilities to respond to pollution incidents. The RRT must ensure proper liaison between the OSC and local representatives of RRT members.

§ 1510.43 National inventory system.

A national inventory of pollution response and support equipment (SKIM) has been developed to help OSCs and RRTs gain rapid access to resources during emergencies. This inventory is accessible through the NRC, remote data terminals at Coast Guard Districts and Marine Safety Offices, and Captain of the Port offices. The inventory shall include privately or commercially owned equipment as well as government resources. Regional and local planners shall ensure that data in the system are current and accurate, so that OSCs can make full use of it during emergencies, with minimal delays in obtaining needed resources. The Coast Guard is responsible for keeping the national inventory up to date with information from the regional offices of federal agencies.

Subpart E—Operational-Response Phases

§ 1510.51 Phase 1—Discovery and notification.

(a) A discharge or potential discharge may be discovered through: (1) a report submitted by a discharger in accordance with statutory requirements; (2) deliberate search by vessel patrols and aircrafts; and (3) random or incidental observation by government agencies or the general public.

(b) A discharge or potential discharge discovered through deliberate search should be reported directly to the RRC. Reports of random discovery may be provided by fishing or pleasure boats, policy departments, telephone operators, port authorities, news media, or others. Such reports should be made to the NRC or the nearest USCG or EPA office.

Regional and local plans shall provide for all reports to be channeled to the NRC, RRC and appropriate state agency (as agreed to with each state) as promptly as possible. Reports of major and medium discharges received by either EPA or USCG shall be expeditiously relayed by telephone to the other agency. Reports of minor discharges shall be exchanged between EPA and USCG as agreed to by the two agencies.

(c) The agency furnishing the OSC for a particular area is responsible for implementing Phase I activities in that area.

§ 1510.52 Phase II—Evaluation and initiation of action.

(a) The OSC shall ensure that a report of a discharge or potential discharge is immediately investigated. On the basis of all available information, the OSC shall: (1) Evaluate the magnitude and severity of the discharge or threat; (2) determine the feasibility of removal; and (3) assess the effectiveness of removal actions.

(b) When appropriate and as soon as possible after receipt of a report, the OSC shall advise the RRC of the need to initiate further Federal response actions. The actions may be no more than activation of the RRT, or a request for additional resources for further surveillance, or they may extend to Phase III or Phase IV containment or removal operations.

professional and volunteer groups

accordance with the applicable regional

removal is effected in accordance with

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(c) The OSC shall ensure adequate surveillance over whatever actions are initiated. If effective actions are not being taken to eliminate the threat, or if removal is not being properly done, advise the responsible party. If the responsible party does not then take proper actions, or if the discharger is unknown or is otherwise unavailable, the OSC shall, pursuant to Section 311(c)(1) of the Act, take whatever actions are necessary to eliminate the threat or remove the pollutant.

§ 1510.53 Phase III—Containment and countermeasures.

(a) Defensive actions should begin as soon as possible after a discharge or potential discharge is discovered. These actions include protection of public health and welfare; procedures to control the source of discharge; measures to keep waterfowl and other wildlife away from the polluted area; damage control or salvage operations; placement of physical barriers to deter the spread of a pollutant; use of booms or barriers to protect specific installations or areas; control of the water discharged from upstream impoundments; and the use of chemicals and other materials, in accordance with Annex X, to restrain the spread of the pollutant and mitigate its effects.

§ 1510.54 Phase IV—Cleanup, mitigation, and disposal.

(a) Actions should be taken to recover the pollutant from the water and affected shorelines. These actions include: the use of sorbents, skimmers and other collection devices for floating pollutants; the use of vacuum dredges or other devices for sunken pollutants; the use of reaeration or other methods to mitigate damage from dissolved, suspended or emulsified pollutants; special treatment techniques to protect public water supplies or wildlife resources from continuing damage.

(b) Pollutants and contaminated materials recovered in cleanup operations shall be disposed of in accordance with local contingency plans (see § 1510.42(a)).

§ 1510.55 Phase V—Documentation and cost recovery.

(a) Documentation and cost recovery may involve a variety of actions, depending on the discharge. Recovery of Federal removal costs and recovery for damage done to Federal, state or local government property is included. Damages to private citizens (including loss of earnings) are not addressed by this Plan. OSCs shall furnish documentation required by the revolving fund administrator to support Federal efforts to recover costs from responsible parties. Procedures to be followed to fulfill documentation requirements are specified in the Coast Guard directive 16450.1 series.

(b) Information and samples needed for legal and scientific purposes shall be collected during this phase. Information and samples are necessary for later identification of financially responsible parties, for scientific understanding of the environment, and for research and development. The samples and information must be gathered at the proper time during the removal operations, because otherwise wind and current may disperse the evidence.

(1) All agencies shall follow uniform procedures, described in Annex VI, for collection of samples and information.

(2) The OSC shall take necessary actions during response phases to ensure necessary collection and safeguarding of information, samples, and reports.

(c) The information and reports obtained by the OSC shall be transmitted to the RRC. Copies will then be forwarded to the NRC, members of the RRT, and others as appropriate.

§ 1510.56 Pollution reports.

(a) Within 60 days after the conclusion of a major pollution discharge and when requested by the RRT, the OSC shall submit to the RRT a complete report on the response operation and the actions taken. The OSC shall at the same time send a copy of the report to the NRT. The RRT shall review the OSCs report and submit the report and an endorsement to the NRT for review. This shall be accomplished within 30 days after the report has been received.

(b) The OSC's report shall accurately record the situation as it developed, the actions taken, the resources committed and the problems encountered. The OSC's recommendations, based on these experiences, are a source for new procedures and policy.

(c) The format for OSC's reports will be as follows:

(1) *Summary of Events.* This part is a chronological narrative of all events, including:

(i) The cause of the incident;

(ii) The initial situation;

(iii) The organization of the response; and

(iv) The resources committed.

These sections may be presented separately or included in the narrative. If applicable, the following information will also be included:

(i) The location (latitude and longitude) of the spill; whether the discharge was in connection with OCSLA or Deepwater Port Act activities; or whether it might have or actually did affect natural resources under the exclusive management authority of the U.S.;

(ii) Details of Federal or state efforts to replace or restore damaged natural resources; and

(iii) Details of any threat abatement actions taken under sections 311(c) or (d) of the Act.

(2) *Effectiveness of Response and Removal Actions.* This part should candidly and thoroughly analyze the effectiveness of the response and removal actions taken by:

(i) The discharger;

(ii) State and local forces;

(iii) Federal agencies and special forces; and

(iv) (if applicable) contractors, private groups and volunteers.

(3) *Problems Encountered.* This part should list any problems encountered and describe how they affected the response. Particular attention should be given to any problems of intergovernmental coordination that may have occurred.

(4) *Recommendations.* This section should include all recommendations of the OSC. An endorsement from the RRT shall be included. At a minimum the following areas should be covered;

(i) Means to prevent a recurrence of the incident;

(ii) Improvement of response actions.

Any recommended changes in the regional or National contingency plans should also be included.

§ 1510.57 Special considerations.

(a) Safety of personnel. Actual or potential polluting discharges threatening damage to air and water can also threaten human health and safety. The OSC should be aware of the hazards, should exercise great caution in allowing civilian or government personnel into the affected area until the nature of the substance discharged is known, and due caution should be exercised thereafter. Local contingency plans shall identify sources of information on anticipated hazards, precautions, and requirements to protect personnel during response operations. Names and phone numbers of people with relevant information shall be included.

(b) Waterfowl conservation. Oil discharges, particularly in estuarine and near shore areas, often cause severe stress to resident and migratory bird species. The DOI representatives and the state liaison to the RRT shall arrange for and coordinate actions or

professional and volunteer groups wishing to participate in waterfowl dispersal, collection, cleaning, rehabilitation, and recovery activities. Regional and local contingency plans shall, to the extent practicable, identify organizations or institutions that are willing to participate in such activities and operate such facilities. Waterfowl conservation activities will normally be included in Phase III and Phase IV response actions (§§ 1510.53 and 1510.54 of this subpart).

Subpart F—Coordinating Instructions

§ 1510.60 Delgation of authority.

(a) As provided by Annex X of this plan, EPA delegation of authority or concurrence in the use of chemical pollution control activities initially may be oral; however, written confirmation by the EPA representative on the RRT should be completed as soon as possible.

§ 1510.62 Multiregional actions.

(a) If a discharge or a potential discharge moves from the area covered by one local or regional contingency plan into another area, the authority for pollution control actions shall likewise shift if a polluting discharge or potential discharge affects areas covered by two or more regional plans, the response mechanism of both plans shall be activated. In this case, pollution control actions of all regions concerned shall be fully coordinated as detailed in the regional plans.

(b) There shall be only one OSC at any time during the course of a response operation. Should a discharge affect two or more areas, the EPA and USCG will designate the OSC, giving prime consideration to the area vulnerable to the greatest damage. The RRT shall designate the OSC if members of the EPA and USCG are unable to agree on designation. The NRT shall designate the OSC if members of one RRT or of two adjacent RRTs are unable to agree on the designation.

§ 1510.63 General pattern of response actions.

(a) When the OSC receives a report of a discharge or potential discharge, he should normally take action in the following sequence:

(1) Investigate the report to determine pertinent information such as the threat posed to public health or welfare, the type and quantity of material discharged, and the source of the discharge.

(2) Notify RRT members and the Scientific Support Coordinator, in accordance with the applicable regional plan.

(3) Determine, in accordance with section 311(c)(1) of the Act, whether the discharger (that is, the owner or operator of the vessel, onshore facility, or offshore facility from which the discharge occurs), is properly carrying out removal actions. Removal is being done properly when:

(i) The discharger's cleanup is fully sufficient to minimize or mitigate damage to the public welfare. The discharger's removal efforts are "improper" to the extent that Federal efforts are necessary to prevent further damage; and

(ii) The discharger's removal efforts are in accordance with applicable regulations and guidelines, including this Plan, especially Annex X.

(4) Officially classify the severity of the discharge and determine the course of action to be followed.

(5) Determine whether State action to effect removal is necessary within the meaning of section 311(c)(2)(H) of the Act (See § 1510.65(h)).

(b) The preliminary inquiry will probably show that the situation falls into one of five classes. These classes and the appropriate response to each are outlined below:

(1) If the investigation shows that the initial information overstated the magnitude or danger of the discharge and no environmental pollution or potential pollution is involved, the case shall be considered a false alarm and should be closed.

(2) If the investigation shows a minor discharge with the discharger taking appropriate removal action, contact should be established with the discharger. The removal action should be monitored to insure continued proper action by the discharger.

(3) If the investigation shows a minor discharge with improper removal action being taken, the following measures shall be taken;

(i) An immediate effort should be made to prevent further discharges from the source.

(ii) The discharger shall be advised of the proper action to be taken.

(iii) If the discharger does not follow this advice, warning of the discharger's liability for the cost of removal, pursuant to Section 311(f), shall be given.

(iv) The OSC shall notify appropriate state and local officials. He shall keep the RRC advised and initiate Phase III and IV operations as conditions warrant.

(v) Information shall be collected for possible recovery of removal costs when removal is effected in accordance with § 1510.55.

(4) When a report of investigation indicates that a medium discharge has occurred, or the potential for a medium discharge exists, the OSC shall follow the same general procedures as for a minor discharge. Additionally, the OSC shall make a recommendation concerning team activation to the chairman of the RRT.

(5) When a report indicates that a major discharge has occured, a potential major pollution emergency exists, or that a discharge or potential discharge which could arouse wide public concern has occurred, the OSC shall follow the same procedures as for minor and medium discharges. The RRC and NRT shall, however, be notified immediately of the situation even if the initial report has not been confirmed.

§ 1510.64 Special forces.

(a) The National Strike Force (NSF) shall be established and consist of personnel trained, prepared, and available to provide necessary services to carry out this Plan. This NSF shall be formed around the Strike Teams established by the U.S. Coast Guard on the East, West and Gulf coasts. The NSF shall provide assistance to the OSC during Phase III, IV, and V operations as the circumstances of the situation dictate. When possible, the NSF will provide training to the emergency task forces (established pursuant to section 311(c)(2)(C) of the Act and defined below) and participate with the RRT in regional contigency plan development.

(1) The Strike Teams established by the U.S. Coast Guard can provide communications support, advice and assistance for oil and hazardous substances removal. These teams also have knowledge of ship salvage, damage control, diving and removal techniques.

(2) Emergency task forces shall be established by the agency responsible for providing the OSC. They shall consist of trained personnel with adequate supplies of oil and hazardous pollution control equipment and materials and detailed discharge removal plans for their areas of responsibility.

(3) The NSF will generally respond to requests for assistance from the OSC. Requests for the NSF may be made directly to the Commanding Officer of the appropriate Strike Team, the Coast Guard member on the RRT, the appropriate area commander, USCG, or to the Commandant, USCG through the NRC.

(b) The Environmental response Team (ERT) shall be established to advise the

M Y 1 4 7 9 UMI

OSC and RRT on environmental issues

OSCs and to perform any damage

costs of Federal removal in accordance

V 4 4 / 9 4

OSC and RRT on environmental issues related to spill containment, cleanup and damage assessment. The team will have two components consisting of operations support and scientific support, and will include expertise in biology, chemistry, engineering, and, when necessary, meteorology and oceanography.

(1) Operations Support: Organized by EPA in accordance with EPA's disaster and emergency responsibilites, this segment of the team will provide advice on spill containment and cleanup, including: application of dispersants, habitat restoration, cleanup technique, cleanup priorities, disposal of contaminated material, water supply contamination, and special considerations pertaining to hazardous substances.

(2) Scientific Support: Organized by EPA and NOAA with assistance from DOI, this segment of the team will provide scientific assistance in spill damage assessment including: trajectory analysis, chemical analysis, location of environmentally sensitive regions, assessment of environmental damage and coordination of on-scene scientific activity. Science Support Coordinators (SSCs) will be designated by EPA for spills originating landward of the baseline from which the territorial sea is measured and by NOAA for spills originating seaward of the baseline from which the territorial sea is measured.

(3) In the event of a major discharge or a potential major discharge, the ERT-SSC shall be notified. Requests for the ERT operations support may be made to the EPA headquarters emergency coordinator or the appropriate regional emergency coordinator, or the EPA representative on the RRT. Requests for scientific support may be made through the procedures outlined below.

(c) EPA and NOAA, in consultation with FWS, shall designate the SSCs who will work in conjunction with each RRT to establish and maintain a scientific support structure. This standby scientific support force can assist OSCs in carrying out their responsibilities in environmentally sensitive areas, and assist the EPA and other agencies having a responsibility for performing post spill damage assessment. These regional networks form a National net which can be called into action to the extent necessary if an incident is beyond the capabilities of the affected region. The SSCs shall be designated to perform the following duties:

(1) Make contact with the scientific community in the region to determine its ability to provide scientific assistance to OSCs and to perform any damage assessments which may be necessary.

(2) Identify scientists in the region who are interested in a continuing research effort in conjunction with a spill.

(3) Develop those portions of the regional plan dealing with scientific support of OSCs and of the agencies responsible for performing damage assessment at pollutiop incidents.

(4) In cooperation with the scientific community in the region, identify the research necessary both to support the OSC in migitating impacts and to improve the existing capability to support damage assessment.

(5) Notify and coordinate scientific personnel responding to OSC requests for assistance and to agency requests through the RRT for performance of damage assessments.

(6) Evaluate the potential for research and development projects at a spill; arrange for and coordinate such efforts as necessary.

(7) Coordinate all other scientific efforts being performed in the area of the spill by Federal and state agencies and by private organizations acting under other programs or authorities.

(8) Serve as the coordinate for all advice from the scientific community to the OSC. Where minority views within the scientific community exist, the OSC will insure that they are appropriately communicated to the OSC.

(d) Requests for regional scientific support for discharges affecting areas within the baseline from which territorial seas are measures should be directed to the appropriate regional EPA SSC. Requests for regional scientific support for spills seaward of the baseline should be directed to the appropriate regional NOAA SCC. When a response is initiated, direct liaisons between OSCs and SSCs is authorized but should be followed, as soon as practicable, by contact between the relevant RRT representatives.

(e) SSCs shall advise OSCs of individuals who, during localized response actions, can provide scientific advice in identifying and assessing the effects of spills on environmentally sensitive areas.

§ 1510.65 Funding.

(a) If the person responsible for the discharge or threat of discharge does not act promptly, or take proper removal actions, or if the person responsible for the discharge is unknown, Federal discharge removal actions may begin under section 311(c)(1) of the Act. The discharger, if known, is liable for the costs of Federal removal in accordance with section 311(f) of the Act.

(b) Actions undertaken by the primary agencies in reponse to pollution shall be carried out under existing programs and authorities insofar as practicable. This Plan intends that Federal agencies will make resources available, expend funds, or participate in responses to pollution incidents under their existing authority. Authority to expend resources will be in accordance with agencies' basic statutes and, if required, through cross-servicing agreements. Specific interagency reimbursement agreements may be signed when necessary to ensure that the Federal resources will be available for a timely response to a pollution incident.

(c) A pollution revolving fund, administered by the Commandant, USCG, has been established pursuant to section 311(k) of the Act. Regulations governing the administration and use of the fund are contained in 33 CFR § 153. The OSC shall exercise adequate control of removal operations so that he can certify that reimbursement from the fund is appropriate. The OSC must take care to avoid misunderstandings by agencies about reimbursement of funds expended for removal activities. The OSC should not request services for which reimbursement is mandatory unless he knows that reimbursement funds are available. Similarly, the agency supplying a reimbursable service should determine the source of reimbursement before planning to commit resouces that require reimbursement.

(d) Funding of response actions other than removal, such as scientific investigations, or law enforcement shall be provided by the agency with legal responsibility for those specific actions.

(e) The funding of removal actions necessitated by a discharge from a Federally operated or supervised facility or vessel is the responsibility of the operating or supervising agency.

(f) The following agencies have funds available for certain discharge removal actions.

(1) The EPA can provide funds to begin timely discharge removal actions when the OSC is an EPA representative. Because EPA does not have funds authorized for this purpose, operating program funds may be used to initiate Phase III and IV activities; funding of continuing Phase III and IV actions, however, shall be determined on a case-by-case basis by the Oil and Special Materials Control Division at EPA.

(2) The U.S. Coast Guard pollution control efforts are funded under "operating expenses." These funds are

used in accordance with agency directives and applicable regional plans.

(3) The Department of Defense has two specific sources of funds which may be applicable to a pollution incident under appropriate circumstances. (This does not consider military resources which might be made available under specific conditions.)

(i) Funds required for removal of a sunken vessel or similar obstruction of navigation are available to the Corps of Engineers through Civil Functions Appropriations, Operations and Maintenance, General.

(ii) The U.S. Navy has funds available on a reimbursable basis to conduct salvage operations.

(g) Certain emergency response activities under this plan may qualify for reimbursement as disaster relief functions. In making a declaration of a "major disaster emergency," the President may allocate funds from his Disaster Relief Fund, managed by the Administrator, Federal Emergency Management Agency. The Administrator may then authorize certain reimbursements to Federal agencies for assistance provided under direction of his office. (See Title 24, CFR Chapter XIII, Part 2201, "Reimbursement of Other Federal Agencies under Pub. L. 91-606 (For use under Pub. L. 93-288 until revised).") The Administrator, FEMA, may also make financial assistance available to State governments and, through the States, to local governments (See Title 24, CFR Chapter XIII, Part 2205, "Federal Disaster Assistance").

(h) Pursuant to section 311(c)(2)(H) of the Act, the State or States affected by a discharge of oil or hazardous substance may act where necessary to remove such discharge and may, pursuant to 33 CFR Section 153, be reimbursed from the pollution revolving fund for the reasonable costs incurred in such removal.

(1) Removal by a State is necessary within the meaning of section 311(c)(2)(h) of the Act when the OSC determines that the owner or operator of the vessel, onshore facility, or offshore facility from which the discharge occurs cannot effect removal properly and that:

(i) State action is required to minimize or mitigate significant damage to the public health or welfare which Federal action cannot minimize or mitigate, or

(ii) Removal or partial removal can be done by the State at a cost which is less than or not significantly greater than the cost which would be incurred by the Federal departments or agencies.

(2) State removal actions must be in compliance with Annex X of this Plan in order to qualify for reimbursement.

(3) State removal actions are considered to be Phase III or Phase IV actions, under the same definitions applicable to Federal agencies.

(4) Actions taken by local government in support of Federal discharge removal operations are considered to be actions of the State for purposes of this section.

(i) Regional and local contingency plans shall show what funds and resources are available from participating agencies under various conditions and cost arrangements. Interagency agreements may be necessary to specify when reimbursement is required.

Annex I—1100 Distribution

1101 Plan Distribution

1101.1 This Plan will be distributed to designated offices of Primary and Advisory Agencies, State and interstate water pollution control agencies and such other Federal, State, local and private agencies and organizations which are cooperating with and participating in activities in support of the Plan.

1101.2 Included in this formal distribution are the following:

Department of Commerce
Department of Defense
Department of Energy
Department of Health, Education, and Welfare
Department of the Interior
Department of Justice
Department of State
Department of Transportation
Department of Agriculture
Federal Emergency Management Agency
All state representatives to Regional Response Teams
All state water pollution control agencies
All interstate water pollution control agencies
Other Federal, state, local and private agencies and organizations, as appropriate

1101.3 Formal distribution of the Plan and amendments will be made by the Environmental Protection Agency.

1102 Amendment, distribution and format.

1102.1 Amendments to the Plan and annexes will be made by sequentially numbered changes. Numbered changes will be effected by means of a transmittal sheet which identifies the Plan, the change number and date, the page numbers affected by the change and any other instructions deemed necessary for purposes of clarity or to make special emphasis or explanation of the change. There will be attached to the transmittal sheet the revised or added pages with the change number and current date on each page at the upper right hand corner.

1102.2 Where a change can be effected merely by pen and ink, the transmittal sheet may be used to accomplish the change without submission of revised pages. The use of pen and ink changes is limited to those cases where existing matter is being deleted or is of minor extent.

1102.3 Asterisks will be used to indicate changes. For line changes, an asterisk will be placed before and after each sentence changed in the left and right page margins. For paragraph changes, an asterisk will be placed before and after each paragraph changed and if continued on the next page, an asterisk will be placed at the top of the page and the end of the paragraph. For a paragraph deletion, an asterisk will be placed in the left margin and the paragraph number of letter will be retained in the original sequence followed by the word "Rescinded" in parentheses.

1102.4 If the Plan is completely rewritten, asterisks will not be used but supersession will be indicated at the bottom of the first page.

Annex II—Formats for Regional and Local Contingency Plans

Regional Contingency Plan

Letter of Promulgation
Record of Amendments
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102 Purpose and Objectives
103 Scope
104 Abbreviations
105 Definitions
200 Policy and Responsibility
201 Federal Policy
202 Multi-National Policy
203 Federal Responsibility
204 Non-Federal Responsibility
300 Planning and Response Organization
301 Spill Response Activity and Cooperation—General
302 Regional Response Team
303 Regional Response Center
304 On-Scene Coordination
305 Special Forces
400 Coordinating Instructions
401 Delegation of Authority
402 Notification
403 Multi-regional Responses
404 Multi-national Responses
405 Coordination with Special Forces
406 Termination of Response Activities
407 Resolufion of Disputes
500 Procedures for Reviewing and Updating the Regional and Local Contingency Plans
501 Responsibility
502 Procedures for Review
Annex I—1100 Distribution
Annex II—1200 Regional Response Team
Annex III—1300 Regional Response Center
Annex IV—1400 Geographical Boundaries
Annex V—1500 Notifications, Communications and Reports
Annex VI—1600 Public Information
Annex VII—1700 Legal Authorities
Annex VIII—1800 Documentation for Enforcement and Cost Recovery
Annex IX—1900 Funding
Annex X—2000 Cleanup Techniques and Policies
Annex XI—2100 Arrangements for Participation of Non-Federal Groups

Annex XII—2200 Interagency Support Agreements/Arrangements
Annex XIII—2300 State Contingency Plans
Annex XIV—2400 Multi-national Contingency Plans
Annex XV—2500 Regional Data Base
Annex XX—3000 National Contingency Plan

Local Contingency Plans

Letter of Promulgation
Record of Amendments
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201 Federal Policy
202 Related State Policy
203 Multi-national Policy
204 OSC Responsibility
205 Non-Federal Responsibility
300 Planning and Response Considerations
301 Oil and Hazardous Substance Transportation Pattern
302 Transfer, Storage and Processing Facilities
303 Historical Spill Considerations
304 Hydrological and Climatological Considerations
305 Local Geography
306 Highly Vulnerable Areas
307 Local Response Resources
308 Waterfowl Conservation
309 Endangered Species
400 Response Organization
500 Operational Response Actions
600 Coordination Instructions
601 Delegation of Authority
602 Notification
603 Coordination with Special Forces
604 Termination of Response Activities
605 Resolution of Disputes
700 Procedures for Reviewing and Updating the Local Contingency Plan
Annex I—1100 Distribution
Annex II—1200 Pollution Response Bill
Annex II—1300 Geographical Boundaries
Annex IV—1400 Notification, Communications, and Reports
Annex V—1500 Public Information
Annex VI—1600 Documentation for Enforcement and Cost Recovery
Annex VII—1700 Funding
Annex VIII—1800 Cleanup Techniques and Policies
Annex IX—1900 Arrangements for Non-Federal Groups
Annex X—2000 Interagency Support
Annex XI—2500 Geographic/Action Director
Annex XVI—2600 Response/Assistance Directory

Annex III—Regions and Office Locations of Primary Agencies

1300 Geographical Boundaries

Regional contingency plans shall be based upon the Standard Federal Regions. Local plans shall be based upon the subregional area, for which each OSC is responsible for responding to pollution incidents. These plans are available for inspection at EPA regional offices or U.S. Coast Guard district offices as shown in 1301 and 1302. Other agencies' addresses and telephone numbers may be found in the United States Government Manual (issued annually) or in the local telephone directories of cities shown on the maps included in this Annex. EPA, HEW, and HUD regional geographical boundaries follow this delineation.

1301 Environmental Protection Agency—Office addresses, telephone numbers, and map.
1302 Department of Transportation—United States Coast Guard district offices, addresses, telephone numbers and map.
1303 Department of Commerce
1304 Department of Defense—maps.
1304.1 U.S. Army Corps of Engineers
1304.2 U.S. Army Continental Army Commands
1304.3 U.S. Naval Districts
1304.4 U.S. Air Force Reserve Regions
1305 Department of the Interior—maps.
1305.1 Field Committee Regions
1305.2 U.S. Geological Survey—Area and District Offices.
1305.3 U.S. Fish and Wildlife Service—Regions and Regional Offices.
1306 U.S. Department of Agriculture—Forest Service Regions

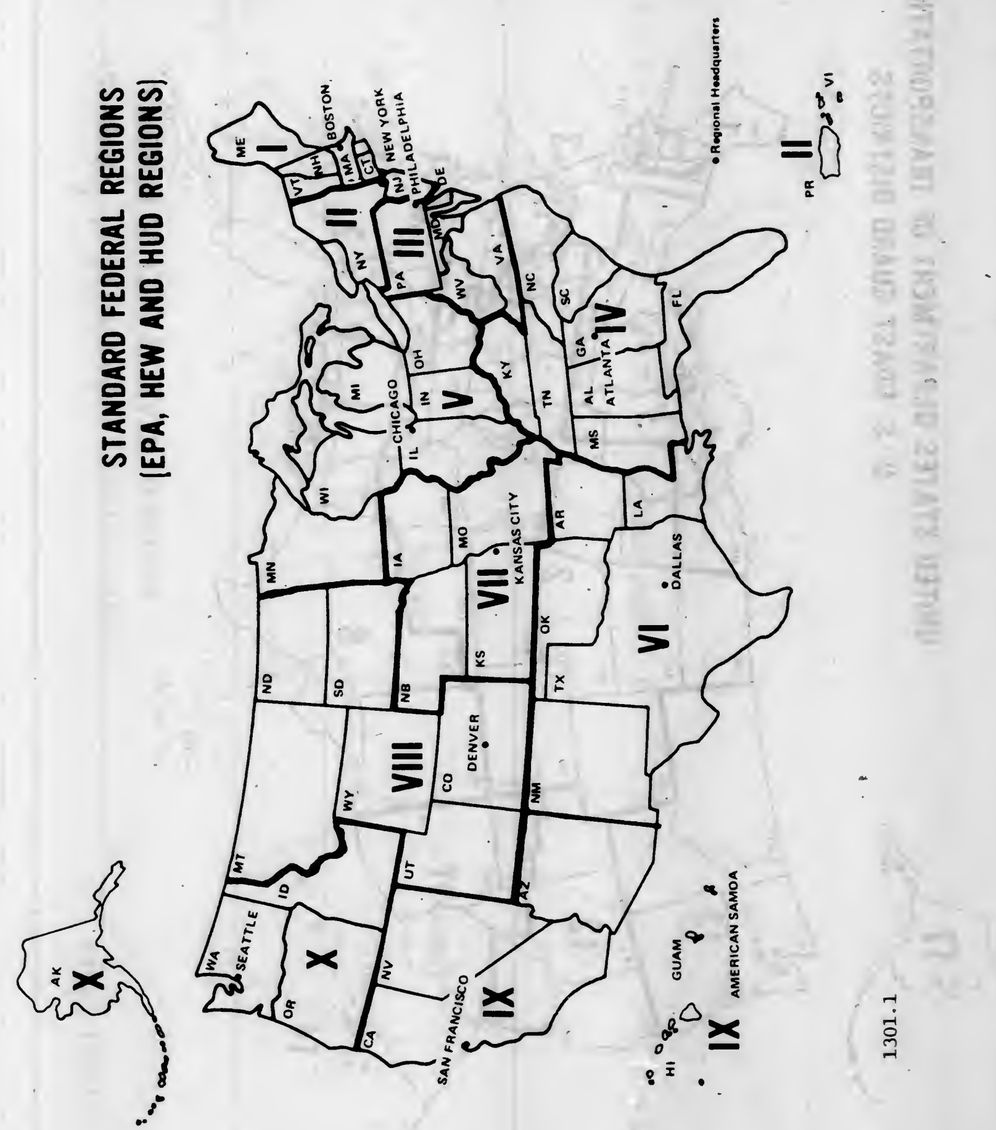
1301 Environmental Protection Agency Regional Offices

Environmental Protection Agency, Region I, Room 2303, John F. Kennedy Federal Building, Boston, MA 02203. Tel: (617)223-7265.
Environmental Protection Agency, Region II, Room 908, 26 Federal Plaza, New York, NY 10007. Tel: (201)548-8730.
Environmental Protection Agency, Region III, Curtis Bldg., 6th and Walnut Streets, Philadelphia, PA 19106. Tel: (215)597-9898.
Environmental Protection Agency, Region IV, 345 Courtland Street, Atlanta, GA 30308. Tel: (404)881-4062.
Environmental Protection Agency, Region V, 536 South Clark Street, Chicago, IL 60605. Tel: (312)896-7591.
Environmental Protection Agency, Region VI, First International Building, 1201 Elm Street, Dallas, TX 75270. Tel: (214)767-2666.
Environmental Protection Agency, Region VII, 25 Funston Road, Kansas City, MO 66115. Tel: (816)374-3778.
Environmental Protection Agency, Region VIII, Suite 900, 1860 Lincoln St., Denver, CO 80295. Tel: (303)837-3880.
Environmental Protection Agency, Region IX, 215 Fremont Street, San Francisco, CA 94105. Tel: (415)556-7858.
Environmental Protection Agency, Region X, 1200 Sixth Avenue, Seattle, WA 98101. Tel: (206)442-1200.

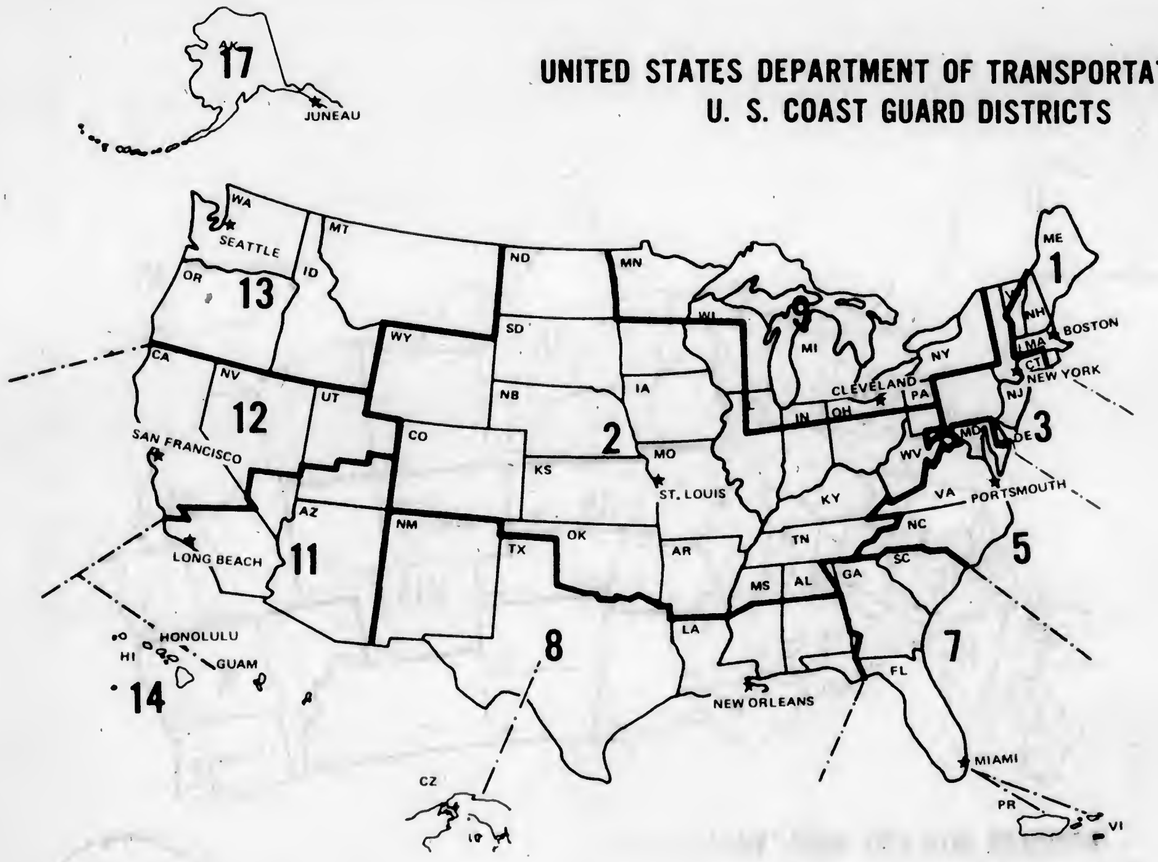
1302 Department of Transportation U.S. Coast Guard Districts

1st Coast Guard District, 150 Causeway St., Boston, MA 02114. Duty Officer: (617)223-6650.
2nd Coast Guard District, 1430 Olive St., St. Louis, MO 63101 Duty Officer (314)622-4614.
3rd Coast Guard District, Governors Island, New York, NY 10004. Duty Officer: (212)668-7055.
5th Coast Guard District, Federal Building, 431 Crawford St., Portsmouth, VA 23705. Duty Officer: (804)398-6231.
7th Coast Guard District, Room 1018, Federal Bldg., 51 SW 1st Avenue, Miami, FL 33130. Duty Officer: (305)350-5611.
8th Coast Guard District, Hale Boggs Federal Bldg., 500 Camp St., New Orleans, LA 70130. Duty Officer: (504)527-6225.
9th Coast Guard District, 1240 East 9th St., Cleveland, OH 44199. Duty Officer: (216)522-3984.
11th Coast Guard District, Union Bank Bldg., 400 Oceangate Blvd., Long Beach, CA 90822. Duty Officer: (213)590-2311.
12th Coast Guard District, 630 Sansome St., San Francisco, CA 94126. Duty Officer: (415)556-5500.
13th Coast Guard District, 915 2nd Avenue, Seattle, WA 98174. Duty Officer: (206)524-2902.
14th Coast Guard District, Prince Kalanianaole Federal Bldg., 300 Ala Moana, Honolulu, HI 96850. Duty Officer: (808)546-7109. (COMMERCIAL ONLY) AUTOVON—421-4845.
17th Coast Guard District, P.O. Box 3-5000, Juneau, AK 99802. Duty Officer: (907)586-7340. (COMMERCIAL ONLY) AUTOVON—388-1121.

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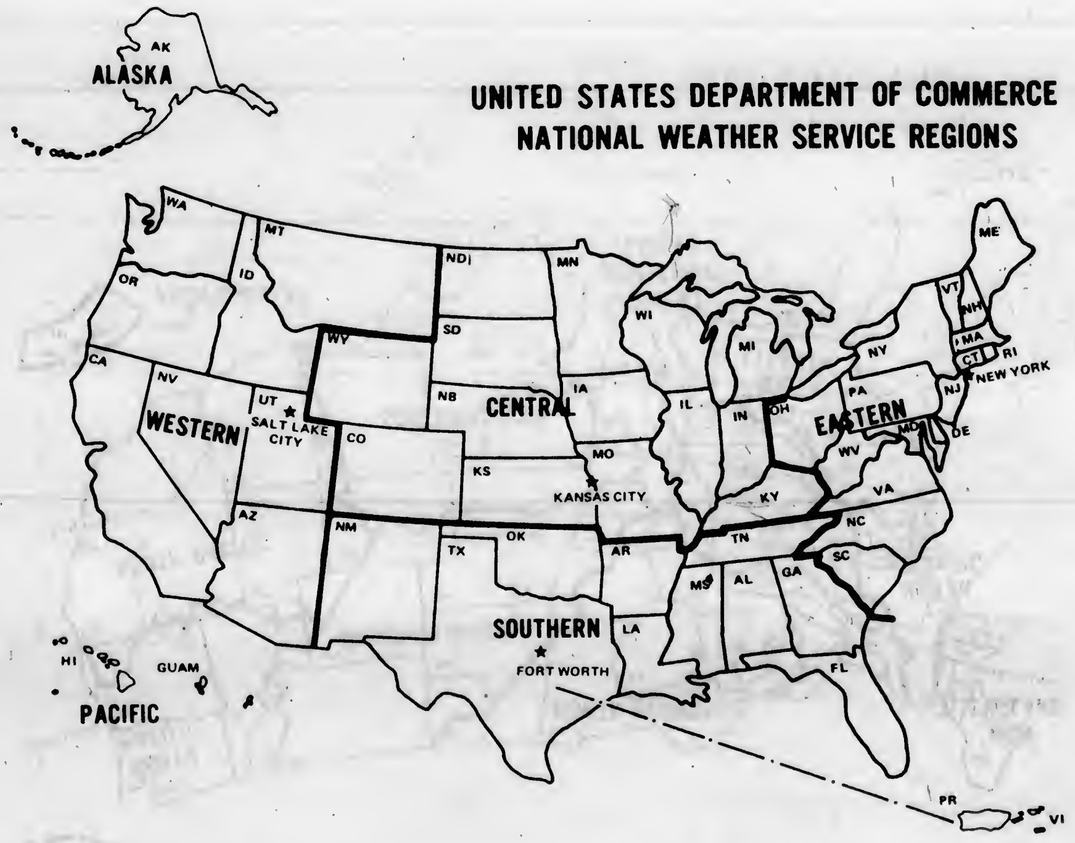


UNITED STATES DEPARTMENT OF TRANSPORTATION
U. S. COAST GUARD DISTRICTS



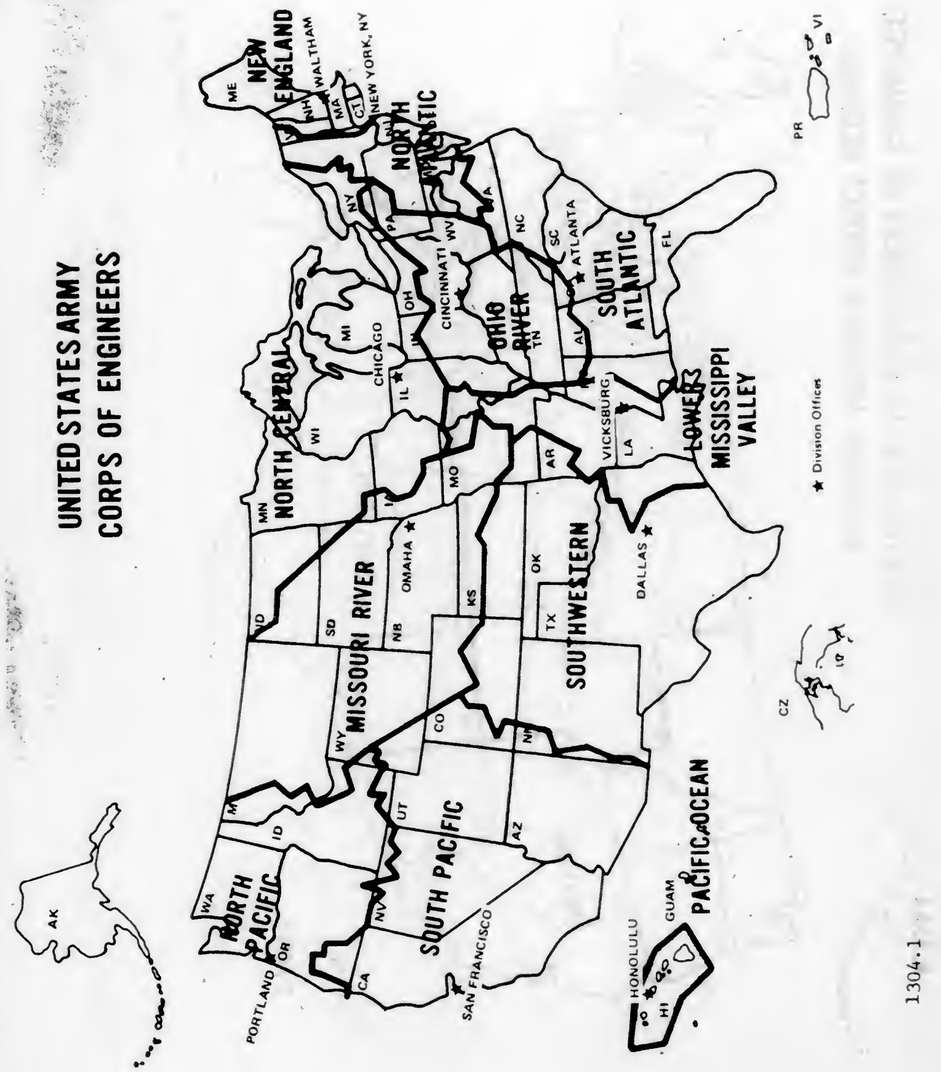
1302.1

UNITED STATES DEPARTMENT OF COMMERCE
NATIONAL WEATHER SERVICE REGIONS



1303.1

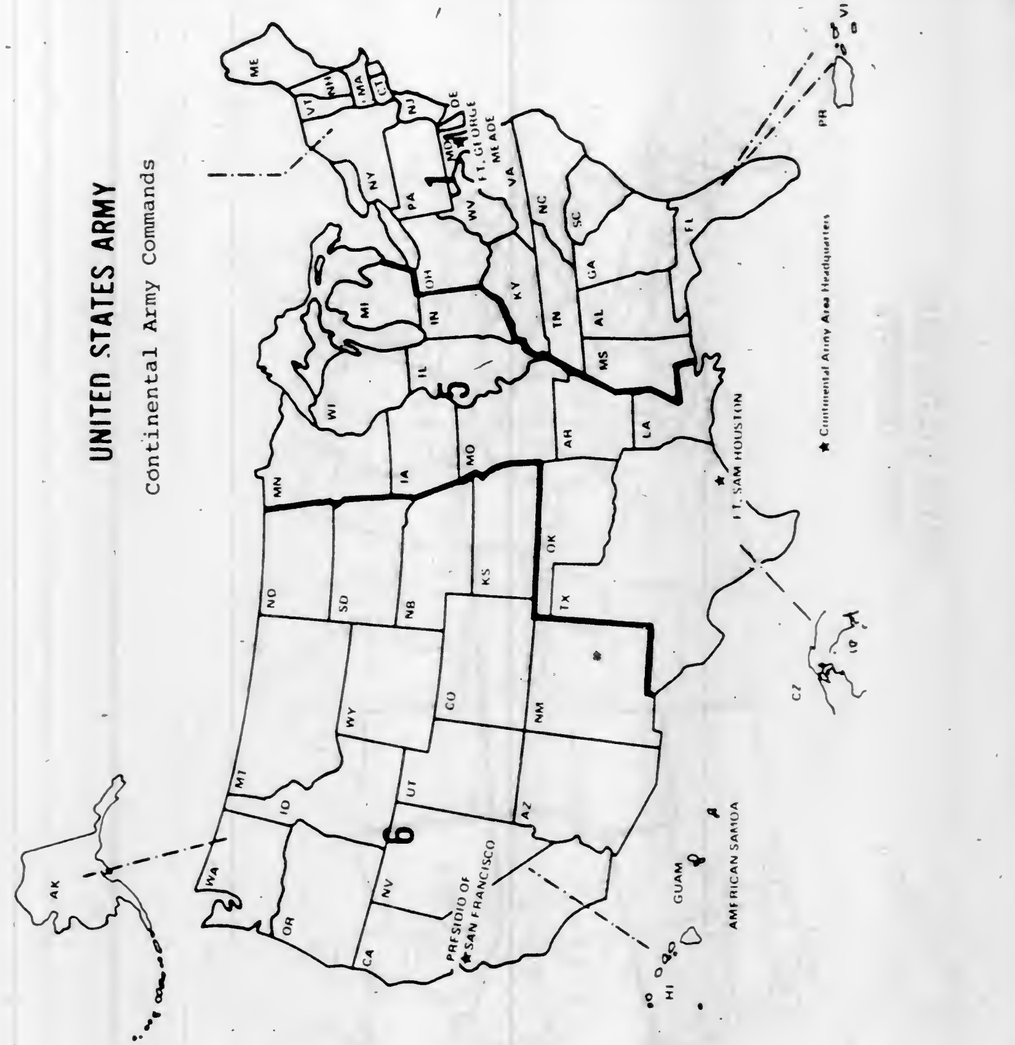
UNITED STATES ARMY
CORPS OF ENGINEERS



1304.1

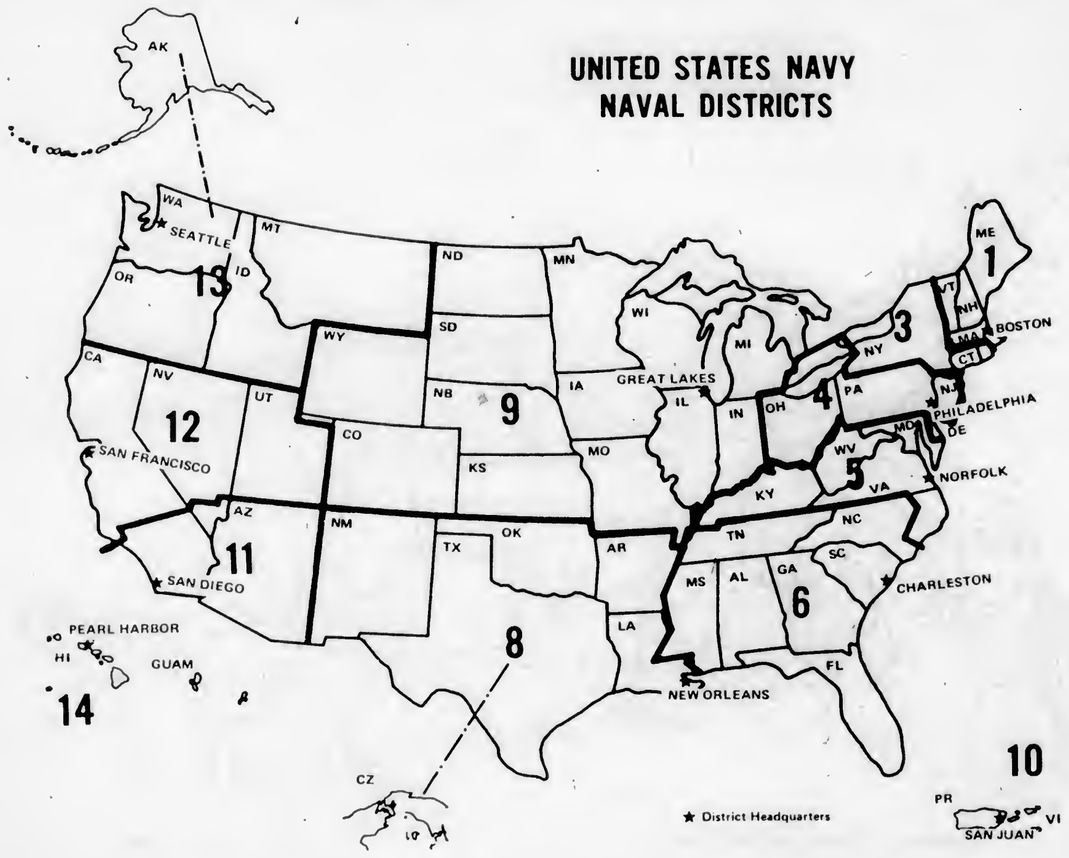
UNITED STATES ARMY

Continental Army Commands



1304.2

UNITED STATES NAVY NAVAL DISTRICTS



1304.3

UNITED STATES AIR FORCE RESERVE REGIONS

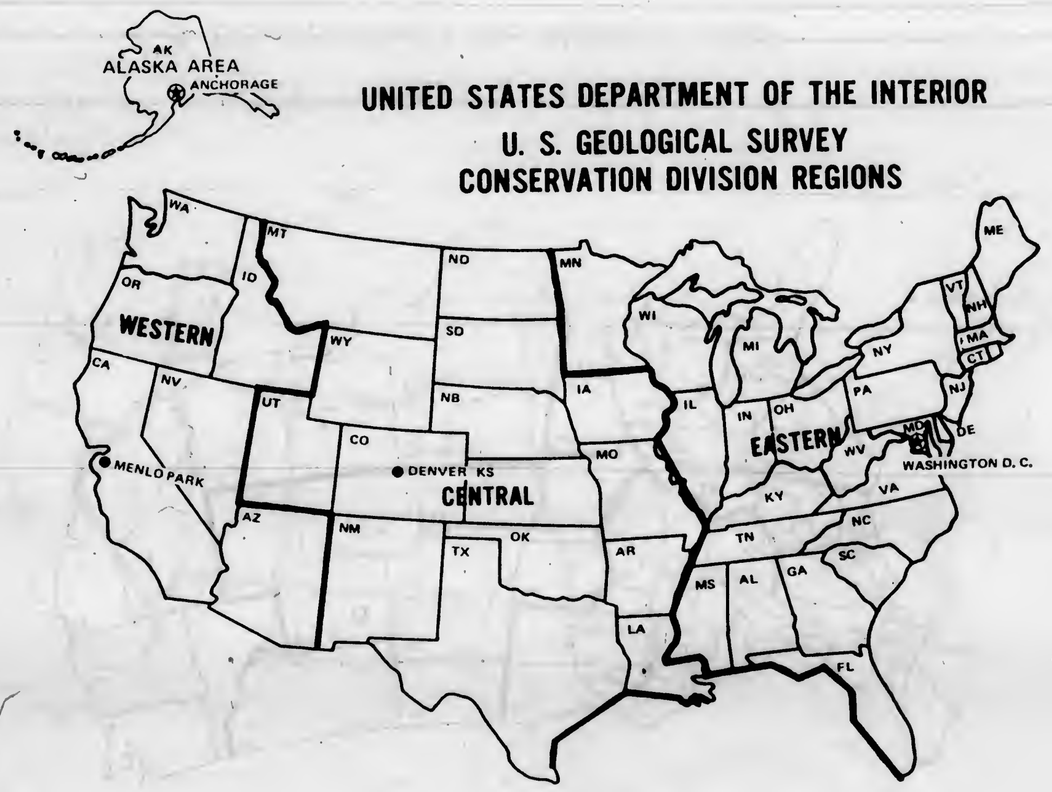


1304.4



DEPARTMENT OF THE INTERIOR
FIELD COMMITTEE REGIONS

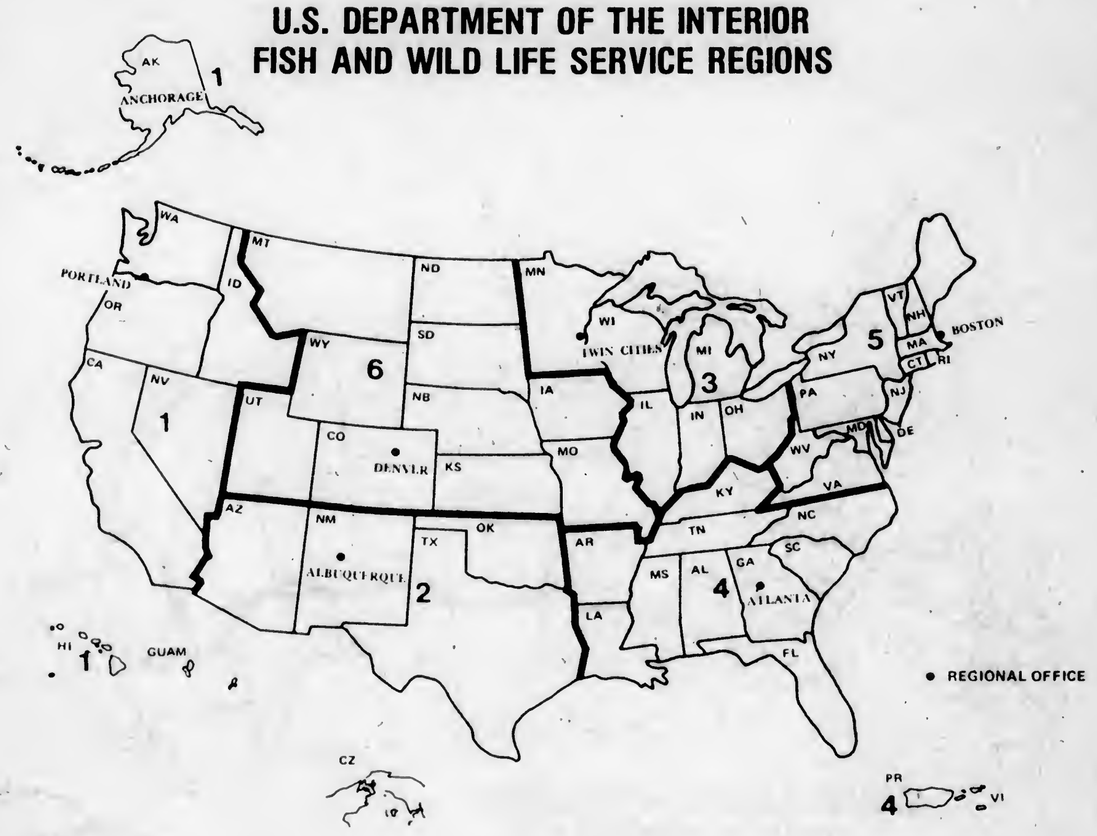
1305.1



UNITED STATES DEPARTMENT OF THE INTERIOR
U. S. GEOLOGICAL SURVEY
CONSERVATION DIVISION REGIONS

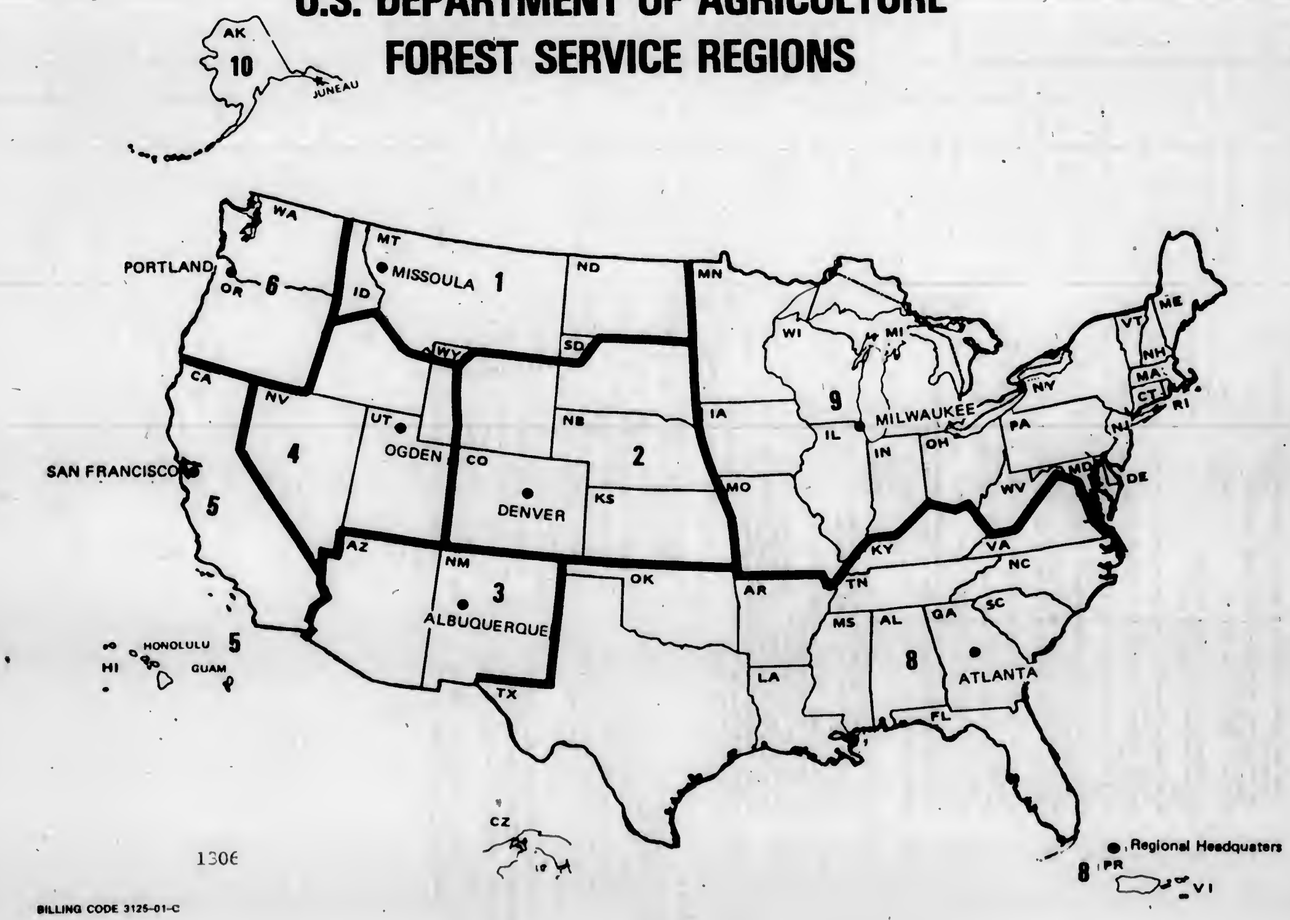
1305.2

U.S. DEPARTMENT OF THE INTERIOR
FISH AND WILD LIFE SERVICE REGIONS



1305.3

U.S. DEPARTMENT OF AGRICULTURE
FOREST SERVICE REGIONS



1306

BILLING CODE 3125-01-C

	Statute	Agency(ies)	
1411	Federal Water Pollution Control Act, as amended (33 USC 1251, et. seq.).	EPA, USCG, CORPS.	Justice
1412	Safe Drinking Water Act amendment to the Public Health Service Act (42 USC 201).	EPA	
1413	Refuse Act of 1899 (33 USC 407; 411)	CORPS, USCG.	Customs, Justice
1414	Toxic Substances Control Act, 1976 (15 USC 2601)	EPA	
1415	Resource Conservation and Recovery Act, 1976 (42 USC 6901).	EPA	
1416	Marine Protection, Research and Sanctuaries Act of 1976 (33 USC 1401 et. seq.).	EPA, USCG	NOAA, CORPS
1417	Hazardous Materials Transportation Act of 1974 (49 USC 1801 et. seq.).	DOT	
1418	Ports and Waterways Safety Act of 1972 (33 USC 1221, et. seq.).	USCG	
1419	Federal Insecticide, Fungicide and Rodenticide Act of 1972 (7 USC 121 et. seq.).	EPA	
1420	Deepwater Port Act of 1974 (33 USC 1501 et. seq.)	DOT, DOI	
1421	Outer Continental Shelf Lands Act as amended (43 USC 1331).	DOI, DOT	
1422	Oil Pollution Act of 1961, as amended (33 USC 1001-1015).	USCG, Customs	CORPS, State
1423	Endangered Species Act of 1973, as amended (16 USC 1531).	FWS, NOAA	
1424	Intervention on the High Seas Act (33 USC 1471-1487)	USCG	
1430	Related Federal statutes, not specific to oil and hazardous substances pollution control but, nonetheless, applicable to discarge prevention and cleanup in certain cases are:		
1431	Disaster Relief Act of 1974	FEMA, All Federal Agencies.	
1432	US Navy Ship Salvage Authority (10 USC 7361)	US Navy	
1440	Important International Conventions and Agreements relative to oil and hazardous substances pollution control and liability are:		
1441	International Convention for the Prevention of Pollution of the Sea by Oil, 1954, and amendments.		
1442	Convention of the Territorial Sea and the Contiguous Zone		
1443	Convention between the Government of the United States and the Government of Japan for the protection of Migratory Birds in Danger of Extinction, and Their Environment.		
1444	Convention on the Prevention of Marine Pollution by Dumping of Wastes and Other Matter.		

Annex IV

1400 Legal Authorities

1400.1 Federal statutes relative to control of pollution by oil and hazardous substances are administered by several departments and agencies. The following is a tabular summary of the most important of these authorities:

Annex V—Communication Services Available in National Response Center

1501 Telephone (voice) services available include:

1501.1 Commerical telephone available 24 hours per day, toll free (800) 424-8802 (or 426-2675 in the Washington, D.C. local calling area);

1501.2 AUTOVON (Automated Voice Network)—General purpose switched voice network of Defense Communications Systems, which serves Continental U.S., Alaska, Europe, Pacific and Panama;

1501.3 Washington Tactical Switchboard—Pentagon terminal of the tactical telephone system, operated by USAF;

1501.4 FTS—GSA operated government administrative telephone system; and

1501.5 SARTEL—Search and Rescue Command Coordination telephone network including leased Hotline telephone net extending from Halifax to New Orleans.

1502 Teletype writer services available include:

1502.1 AUTODIN—A worldwide high speed user data communications system operated for and managed by the DCA to provide both direct user-to-user and store and forward message switching service for DOD and other government agencies;

1502.2 SARLANT—Coast Guard-leased teletypewriter system extending from Massachusetts to Texas (used to control and coordinate search and rescue incidents and to handle other operational traffic and priority administrative communications);

1502.3 SARPAC—Same as 2.2 for the West Coast U.S.; and

1502.4 TELEX—Teletypewriter exchange service provided by Western Union that serves Continental U.S., industry and government offices. TELEX also permits direct connections.

1502.5 TWX—Teletypewriter exchange service provided by Western Union. Its service and capabilities are similar to those provided by TELEX.

Annex VI—Sample Collection Procedures

1601 Sample collection procedures to be followed by OSC

1601.1 Several precautions must be observed when taking and handling liquid samples for analyses as the character of the sample may be affected by a number of common conditions. These precautions concern the following: (a) The composition of the container; (b) cleanliness of the container; and, (c) manner in which the sample is taken.

1601.2 In taking such samples, the following procedures are to be followed in all cases:

1601.2-1 Glass of other appropriate containers of suitable size shall be used. The portion of the closure (sealing gasket or cap liner) which may come into contact with the sample in the container is of considerable importance. When oil or petroleum hydrocarbons are to be sampled, the closure should be made of glass, aluminum foil, or teflon. Pollutants other than oil may require special precautions such as jacketing of glass containers or different closure material. The analysis laboratory should be consulted whenever a question arises as to the appropriateness of any packaging material.

1601.2-2 Previously unused containers are preferred. Containers that have been cleaned with a strong detergent, thoroughly rinsed and dried may be used.

1601.2-3 Some explanatory notes covering the above procedures are as follows: (a) Glass or other appropriate containers always must be used because plastic containers, wit the exception of teflon, have been found in some cases to absorb organic materials from water and, in other cases, compounds have been dissolved from plastic containers; (b) as it is desirable to take a large sample of the pollutant, proper skimming techniques should be used to obtain a sufficient amount of oil for analysis; and (c) because pollution conditions change rapidly, samples should be taken promptly, and the time sequences and locations noted.

1601.2-4 Consult with the analysis laboratory personnel relative to special samples and unusual problems.

1601.2-5 Samples collected are to be transmitted for analysis, using special courier or registered mail (return receipt requested). Appropriate analytical laboratories are designed in the regional plan. Reports of laboratory analysis will be forwarded to the appropriate RRT for transmittal to counsel.

Annex VII—1700 Technical Information

1701 Technical library.

1701.1 A technical library of pertinent pollution control documents will be maintained in the NRC and in each RRC. Such information should be useful as reference information to the experienced OSC and instructional to less experienced personnel.

1702 Specific references.

1702.1 As a minimum, the following reference documents will be maintained in the NRC and in each RRC technical library.

1702.1-1 Current National Oil and Hazardous Substances Pollution Contingency Plan.

1702.1-2 Current Regional and State Oil and Hazardous Substances Pollution Contingency Plan.

1702.1-3 Current Directory of the American Council of Independent Laboratories.

1702.1-4 Encyclopedia of Chemical Technology, 22 Vol., Kirkothmer, 2nd edition c1963-1971, John Wiley & Sons, New York, New York.

1702.1-5 Chemical Data Guide for Bulk Shipment by Water (U.S. Coast Guard CG-388).

1702.1-6 U.S. Corps of Engineers' Regulations ER500-1-1 and ER 500-1-8 Emergency Employment of Army Resources (Natural Disaster Activities).

1702.1-07 Federal Disaster Assistance Program-Handbook for Applicants FDAA 3300.1, July 1973.

1702.1-8 Federal Disaster Assistance Program-Eligibility Handbook 3300.2, July 1973.

1702.1-9 Federal Disaster Assistance Program-Handbook for State and Federal Officials 3000.4, December 1973.

1702.1-10 Handbook of Toxicology (National Academy of Sciences/National Resource Council).

1702.1-11 46 CFR-146. Transportation or Storage of Explosives or Other Dangerous Articles or Substances, and Combustible Liquids on Board Vessels.

1702.1-12 33 CFR, 3, 5, 121, 122, 146-6. Security of Vessels and Waterfront Facilities (USCG CG 239).

1702.1-13 33 and 40 CFR parts implementing section 311 of the Federal Water Pollution Control Act, as amended.

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1702.2 In addition to the library specified above, the RRC should have provision, either in publications or by computer terminal, for access to the EPA Technical Assistance Data Systems (TADS) and the USCG Chemical Hazard Response Information System (CHRIS).

Annex VIII—Definitions of Terms

1801 API gravity. An empirical scale for measuring the density of liquid petroleum products, the unit being called the "degree API".

1802 Ash. Inorganic residue remaining after ignition of combustible substances determined by definite prescribed methods.

1803 Asphalts. Black, solid or semi-solid, bitumens which occur in nature or are produced as residues during petroleum refining.

1804 Bilge oil. Waste oil which accumulates, usually in small quantities, in the lower spaces in a ship, just inside the hull plating. Usually mixed with larger quantities of water.

1805 Blowout. A sudden, violent escape of gas and oil from an oil well when high pressure gas is encountered and preventive measures have failed.

1806 Boiling point. The temperature at which the vapor pressure of a liquid is equal to atmospheric pressure.

1807 Bunker "C" oil. General term used to indicate a heavy viscous fuel oil.

1808 Bunker fuel. General term for heavy oils used as fuel on ships and in industry. It often refers to No. 5 and 6 fuel oils.

1809 Bunkering. The process of loading fuel aboard ship.

1810 Coker feed (or fuel). A special fuel oil used in a coker furnace, one of the operating elements of a refinery.

1811 Conversion tables. (Approximate Conversions).

Materials	Barrel Per Ton (Long)
Crude oils	6.7–8.1
Aviation gasolines	8.3–9.2
Motor gasolines	8.2–9.1
Kerosenes	7.7–8.3
Gas oils	7.2–7.9
Diesel oils	7.0–7.9
Lubricating oils	6.8–7.6
Fuel oils	6.8–7.0
Asphaltic bitumens	5.9–6.5

(As a general rule-of-thumb, use 6.5 barrels or 250 gallons per ton of oil.)

1812 Crude oil. Petroleum as it comes from the earth. There may be several thousands of different substances in crude oil, some of which evaporate quickly while others persist indefinitely. The physical characteristics of crude oils may vary widely. Crude oils are often identified in trade jargon by their regions of origin. This identification may not relate to the apparent physical characteristics of the oil. Commercial gasoline, kerosene, heating oils, diesel oils, lubricating oils, waxes, and asphalts are all obtained by refining crude oil.

1813 Demulsibility. The resistance of an oil to emulsification, or the ability of an oil to separate from any water with which it is mixed. The better the demulsibility rating, the more quickly the oil separates from water.

1814 Density. Density is the term meaning the mass of a unit volume. Its numerical expression varies with the units selected.

1815 Emulsion. A mechanical mixture of two liquids which do not naturally mix as oil and water. Water-in-oil emulsions have the water as the internal phase and oil as the external phase. Oil in water emulsions have oil as the internal phase.

1816 Fire point. The lowest temperature at which an oil vaporizes rapidly enough to burn for at least *5 seconds* after ignition, under standard conditions.

1817 Flash point. The lowest temperature at which an oil gives off sufficient vapor to form a mixture which will ignite, under standard conditions.

1818 Fraction. Refinery term for a product of fractional distillation having a restricted boiling range.

1819 Fuel oil grade. Numerical ratings ranging from 1 to 6. The lower the grade number, the thinner the oil is and the more easily it evaporates. A high number indicates a relatively thick, heavy oil. Number 1 and Number 2 fuel oils are usually used in domestic heaters, and the others are used by industry and ships. Number 5 and Number 6 oils are semi-solids that must be liquified by heating. Kerosene, coal oil, and range oil are all Number 1 oil. Number 3 is no longer used as a standard term for fuel oil.

1820 Innage. Space occupied in a product container.

1821 In personem. An action in personem is instituted against an individual, usually through the personal service of process, and may result in the imposition of liability directly upon the person of a defendant.

1822 In rem. An action in which the vessel or thing itself is treated as the offender and made defendent without any proceeding against the owners or even mentioning their names. The decree in an action in rem is enforced directly against the condemnation and sale thereof.

1823 Load on Top (LOT). A procedure for ballasting and cleaning unloaded tankers without discharging oil. Half of the tanks are first filled with seawater while the others are cleaned by hosing. Then oil from the cleaned tanks, along with oil which has separated out in the full tanks, is pumped into a single slop tank. The clean water in the full tanks is then discharged while the freshly-cleaned tanks are filled with seawater. Ballast is thus constantly maintained.

1824 Oil films. A slick thinner than .0001 inch and may be classified as follows:

Standard term	Gallons of oil per square mile	Appearance
"Barely visible"	25	Barely visible under most favorable light conditions
"Silvery"	50	Visible as a silvery sheen on surface water
"Slightly colored"	100	First trace of color may be observed
"Brightly colored"	200	Bright bands of color are visible
"Dull"	666	Colors begin to turn dull brown
"Dark"	1332	Much darker brown

Note.—Each one-inch thickness of oil equals 5.61 gallons per square yard or 17,376,709 gallons per square mile.

1825 Outage. Space left in a product container to allow for expansion during temperature changes it may undergo during shipment and use. Measurement of space not occupied.

1826 pH. Term used to express the apparent acidity of alkalinity of aqueous solutions; values below 7 indicate acid solutions and values above 7 indicate alkaline solutions.

1827 Pour point. The lowest temperature at which an oil will flow or can be poured under specified conditions to test.

1828 Residual oil. A general term used to indicate a heavy viscous fuel oil.

1829 Scuppers. Openings around the deck of a vessel which allow water falling onto the deck to flow overboard. Should be plugged during fuel transfer.

1830 Sludge oil. Muddy impurities and acid which have settled from a mineral oil.

1831 Specific gravity. The ratio to the weight of a given volume of the material at a stated temperature to the weight of an equal volume of distilled water at a stated temperature.

1832 Spontaneous ignition temperature (S.I.T.) The temperature at which an oil ignites of its own accord in the presence of air oxygen under standard conditions.

1833 Stoke. The unit of kinematic viscosity.

1834 Tonnage. There are various tonnages applied to merchant ships. The one commonly implied is gross tonnage although in these days tankers and other bulk-carriers are often referred to in terms of deadweight.

1834.1 Gross tonnage. 100 cubic feet of permanently enclosed space is equal to one gross ton-nothing whatever to do with weight. This is usually the registered tonnage although it may vary somewhat according to the classifying authority or nationality.

1834.2 Net tonnage. The earning capacity of a ship. The gross tonnage after deduction of certain spaces, such as engine and boiler rooms, crew accommodation, stores, equipment, etc. Port and harbor dues are based on this tonnage.

1834.3 Displacement tonnage. The actual weight in tons, varying according to whether a vessel is in light or loaded condition. Warships are always spoken of by this form of measurement.

1834.4 Deadweight tonnage. The actual weight in tons of cargo, stores, etc., required to bring a vessel down to her load line, from the light condition. Cargo deadweight is, as its name implies, the actual weight in tons of the cargo when loaded, as distinct from stores, ballast, etc.

1835 Ullage. The amount by which a tank or vessel lacks being filled. (See also Outage).

1836 Viscosity. The property of liquids which causes them to resist instanteous change of shape, or instantanous rearrangement of their parts, due to internal friction. The resistance which the particles of a liquid offer to a force tending to move them in relation to each other. Viscosity of oils is usually expressed as the number of seconds at a definite temperature required for a standard quantity of oil to flow through a standard apparatus.

1837 Viscous. Thick, resistant to flow, having a high viscosity.

1838 Volatile. Evaporates easily.

Annex X—Schedule of Chemicals and Other Additives To Remove Oil and Hazardous Substances Discharges

2001 General

2001.1 This Schedule has been prepared by the U.S. Environmental Protection Agency pursuant to section 1(2) of Executive Order 11735. This Schedule applies to the waters of the United States and adjoining shorelines, the waters of the Contiguous Zone, and the high seas beyond the Contiguous Zone in connection with activities under the Outer Continental Shelf Lands Act or the Deep Water Port Act of 1974, or which may affect natural resources belonging to, appertaining to, or under the exclusive management authority of the United States (including resources under the Fishery Conservation and Management Act of 1976).

2001.2 This Schedule applies to the use of any chemicals or other additives as hereinafter defined that may be used to remove oil and remove or neutralize hazardous substances discharges. Any chemical agent or other substance not specifically defined in this schedule will be considered by EPA on a case-by-case basis for use in the removal of oil and hazardous substances discharges.

2001.3 This Schedule favors development and utilization of sorbents, skimmers, booms and other mechanical control methods to remove or mitigate oil and remove, mitigate, or neutralize hazardous substances discharges from the environment with subsequent proper disposal.

2001.4 It is the intent of this Schedule that the use of chemicals and additives to remove or mitigate the effects of oil or hazardous substances discharges shall cause the least overall environmental impact.

2001.5 In implementing this Schedule and in maintaining its relationship with other Federal and State agencies, EPA shall recognize that some States may have more stringent laws, regulations or written policies regulating the use of chemicals in the removal of oil and hazardous substance discharges, in which case such laws, regulations or policies shall govern.

2001.6 It has been determined that because of the overriding need for prompt initiation of discharge removal actions no formal permit, as provided for by Sec. 402 of the Act, shall be required before application of chemicals to mitigate the effects of a discharge. The provisions of Sec. 1510.211(f) of this Plan shall apply.

2002 Definitions

Materials applied to oil or floating hazardous substances discharges are defined as follows:

2002.1 Chemical agents are those elements, compounds, or mixtures that disperse, dissolve, emulsify, neutralize, precipitate, reduce, solubilize, oxidize, concentrate, congeal, entrap, fix, gell, make the pollutant mass more rigid or viscous, or otherwise facilitate the mitigation of deleterious effects or removal of the pollutant from the water.

2002.2 Dispersing Agents are those chemical agents which emulsify, disperse, or solubilize oil into the water column or act to further the surface spreading of oil slicks in order to facilitate dispersal of the oil into the water column.

2002.3 Surface Collecting Agents are those chemical agents which are a surface film forming chemical for controlling oil layer thickness.

2002.4 Biological Additives are microbiological cultures, enzymes, or nutrient additives that are deliberately introduced into an oil or hazardous substance spill for the specific purpose of encouraging biodegradation to mitigate the effects of a spill.

2002.5 Burning Agents are those materials which, through physical or chemical means, improve the combustibility of the materials to which they are applied.

2002.6 Sinking Agents are those materials which are applied to oil and hazardous substance spills to sink floating pollutants below the water surface.

2002.7 Mechanical removal methods include the use of pumps, skimmers, booms, earthmoving equipment, and other mechanical devices.

2002.8 Sorbents are essentially inert and insoluble materials which are used to remove oil and hazardous substances from water through a variety of sorption mechanisms. Examples include: straw, expanded perlite, polyurethane foams, reclaimed paper fibers, peat moss.

2003 Dispersing Agent Program for Spills of Oil and Applicable Hazardous Substances

2003.1 Authorization for Use of Dispersing Agents

2003.1–1 Major and medium discharges. Dispersing agents may be used in any place, at any time, and in quantities designated by the OSC when their use will:

2003.1–1.1 In the judgment of the OSC, prevent or substantially reduce hazard to human life,

2003.1–1.2 In the judgment of the EPA RRT member on a case-by-case basis, in consultation with appropriate State or Federal agencies, prevent or reduce substantial hazard to a major segment of the population(s) of vulnerable species of waterfowl; or,

2003.1–1.3 In the judgment of the EPA RRT member on a case-by-case basis, in consultation with appropriate State and Federal agencies, result in the least overall environmental damage, or interference with designated water uses.

2003.1–2 Minor discharge. The provisions of section 2003.1–1 shall apply.

2003.2 Special Restrictions on Dispersing Agent Use:

2003.2–1 Chemical agents shall not be considered for use as dispersing agents unless technical product data have been provided and accepted in accordance with 2003.3 except when in the judgment of the OSC the hazards discussed in 2003.1–1.1 are so imminent that the time delay for obtaining a dispersant agent that is in compliance with 2003.3 would be excessive.

2003.2–2 Federal officials responsible for oil and hazardous substance spill response activities at all levels shall develop effective programs to insure that dispersants that are available for use in appropriate spill response actions are dispersants with adequate technical data on file with EPA. This effort will help preclude the avoidance of the EPA technical data program by manufacturers or suppliers who might wish to take advantage of the emergency conditions provision of 2003.2–1.

2003.2–3 For all situations where dispersants are used, accurate records shall be kept on dispersant types, brands, application rates and methods, effectiveness, environmental impacts, plus any other pertinent observations.

2003.3 Technical Product Data For Dispersing Agents

2003.3–1 Technical product data as oulined in 2003.3–4 on the physical, chemical and toxicity characteristics of a dispersing agent shall be submitted to the Oil and Special Materials Control Division (WH–548), Environmental Protection Agency, Washington, D.C. 20460, at least 80 days prior to the use of the agent. Within 60 days of receipt of the data, EPA will inform, in writing, the submitter on the adequacy of the data provided. If additional information is requested or EPA desires to perform tests, the dispersing agent may not be considered for use until the additional needs have been satisfied and the submitter so notified.

2003.3–2 Information furnished in accordance with 2003.3–4 shall be maintained on file by the Environmental Protection Agency, Oil and Special Materials Control Division, (WH–548) Washington, D.C. 20460, to provide technical guidance to OSCs on the acceptable circumstances of use and dosage rates for dispersing agents. Any changes in the composition or formulation of the dispersing agent that will affect any of the data being requested in 2003.3–4 shall be immediately brought to the attention of EPA and testing of the agent will be repeated prior to the use of the revised dispersing agent.

2003.3–3 The acceptance and maintenance of product data by EPA does

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density of debris and other floating matter on

this data and other factors will result in

2004.3–4.13 Interim Test to Distinguish

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not constitute approval of the dispersing agent nor does it imply compliance with any EPA criteria or minimum standards for such agents. The OSC will determine which dispersing agent may be used for a spill event on a case-by-case basis using all available information in making such a decision. To avoid possible misinterpretation and misrepresentation of the EPA's role in this technical product data program, the manufacturer's representatives may use only the EPA letter advising compliance with 2003.3–4 in any advertisements or technical literature on the dispersing agent. The EPA letter must be used in its entirely. Failure to comply with these restrictions or any other improper reference to EPA in attempting to demonstrate EPA approval of the dispersing agent for use on spills of oil or hazardous substances shall constitute grounds for removing the technical product data from EPA files, which would preclude use of the dispersing agent except as noted in 2003.2–3 for imminent hazards.

2003.3–4 Required Technical Product Data

2003.3–4.1 Name, brand, or trademark, if any, under which the chemical agent is sold.

2003.3–4.2 Name, address and telephone number of the manufacturer, importer or vendor.

2003.3–4.3 Name, address and telephone number of primary distributers or sales outlets.

2003.3–4.4 Special handling and worker precautions for storage and field application. Maximum and minimum storage temperatures to include optimum ranges as well as temperatures that will cause phase separation, chemical changes or otherwise damage effectiveness of the chemical agent.

2003.3–4.5 Shelf Life

2003.3–4.6 Recommended application procedure(s), concentration(s) and conditions for use depending upon water salinity, water temperature and types and ages of the pollutants.

2003.3–4.7 Dispersant Toxicity—Use standard toxicity test methods described in EPA Report "Standard Dispersant Effectiveness and Toxicity Test" (EPA R2–73–201, May 1973) pages 22–34. This report may be obtained from the Oil and Special Materials Control Division (WH–548), EPA, Washington, D.C. 20460.

2003.3–4.8 Dispersant Effectiveness—Use standard effectiveness test methods in EPA R2–73–201, May 1973, pages 11–21.

2003.3–4.9 Flash Point—select appropriate method from the following: ASTM D56–70; ASTM D92–72; ASTM D93–72; ASTM D1310–67.

2003.3–4.10 Pour Point—Use ASTM D 97–66

2003.3–4.11 Viscosity—Use ASTM D 445–72

2003.3–4.12 Specific Gravity—Use ASTM D 1298–67

2003.3–4.13 pH—Use ASTM D 1293–65

2003.3–4.14 Ionic Activity—Use Weatherburn Test as described below:

Ionic activity tests (Weatherburn Test)

Reagents: 1. Dye solution: 0.03 grams methylene blue, 12 grams concentrated sulfuric acid, 50 grams anhydrous sodium sulfate dissolved in water to make a total of one liter solution.

2. Anionic surfactant solution—0.05% Aerosol OT (Sodium dioctyl sulfo succiante).

3. Chloroform

Ionic activity tests (Weatherburn Test)

Procedure: 1. Into a 25 ml. test tube, place 8 ml. of dye solution and 5 ml. chloroform. Add anionic surfactants solution drop by drop, shaking vigorously between drops and allowing phases to separare. Continue adding dropwise until the two layers are equal in color and intensity viewed in reflected light. Usually 10 to 12 drops of anionic solution are required.

2. Now add 2 ml. of 0.1% solution of the unknown and shake vigorously.

Results: 1. Chloroform phase (lower) is deeper in color and aqueous phase is mostly colorless—antionic is positive.

2. Water phase (upper) is deeper in color than the chloroform phase—cationic is positive.

3. Both phases are more or less the same color—probably a nonionic.

4. If the aqueous phase has become milkly and hence slightly lighter in color, it may still be nonionic. Soaps do not react in this procedure. If both anionics and nonionics are present, the reaction of this test will be anionic positive.

2003.3–4.15 Miscibility—Use the test described below which is a modification of military specification MIL–C–22230 (ships):

One part of the dispersing agent is mixed with 100 parts of synthetic sea water. The solution is agitated for one hour and any visible separation of the dispersing agent should be noted after this period of agitation. The test is to be performed with water temperatures at both 20°C and 0°C. The synthetic sea water shall formulated as follows: Sodium Chloride—150.0 grams; Magnesium Chloride, hexahydrate—66.0 grams; Calcium Chloride dihydrate—9.6 grams; Sodium Sulfate anhydrous—24.0 grams; Distilled water to make a total of—6.0 liters.

2003.3–4.16 Dispersing Agent Components.

Itemize by chemical name and percentage by weight of each component of the total formulation. The percentages will include maximum, minimum and average weights in order to reflect quality control variations in manufacture or formulations. At least the following major components shall be identified in complying with 2003. 3–4. 16.

(a) Surface active agents.

(b) Solvents.

(c) Additives.

If requested by the submitter, information from 2003. 3–4. 16 will be handled as trade secrets under provisions of P.L. 90–23, the Administrative Procedures Act.

2003.3–4.17 Heavy Metal and Chlorinated Hydrocarbons.

Using reliable analytical chemistry techniques, state the concentrations or upper limits of the following materials:

Arsenic, cadmium, chromium, copper, lead, mercury, nickel, zinc, plus any other metals that may be reasonably expected to be in the sample. Atomic absorption methods should be used and the detailed analytical methods and sample preparation shall be fully described;

Cyanide using standard colorimetric procedures;

Chlorinated hydrocarbons. Gas chromatography should be used and the detailed analytical methods and sample preparation shall be fully described.

2003.3–5 Analytical Laboratory Requirements for Technical Product Data:

2003.3–5.1 The required tests shall be performed by a qualified laboratory.

2003.3–5. 2 The technical product data submission shall include the identity of the laboratory, the qualifications of the laboratory staff including professional biographical information for individuals responsible for any tests, and laboratory experience with similar tests. Laboratories performing bioassay tests for dispersant or surface collecting agent toxicity must demonstrate previous bioassay experience in order for their results to be accepted. EPA will not approve the selection of laboratories by intended submitters of technical product data prior to submission of the data. It is the responsibility of the submitter to select competent analytical laboratories based on the guidelines contained herein.

2003.3–5.3 EPA reserves the right to refuse to accept a submission of technical product data because of lack of qualifications of analytical laboratory, significant variance between submitted data and any laboratory confirmation performed by EPA, or other circumstances that will result in inadequate or inaccurate environmental information on the dispersing agent.

2004 Surface Collecting Agent Program for Spills of Oil and Applicable Hazardous Substances

2004.1 Authorization for Use of Surface Collecting Agents: Major, Medium and Minor Discharges.

2004.1–1 The OSC may authorize use of surface collecting agents on a case-by-case basis when their use will:

2004.1–1.1 Result in the least overall environmental damage or interference with designated water uses, and

2004.1–1.2 Provide a key element in the most effective system for removing oil or hazardous substances discharges from the water environment.

2004.1–2 Mechanism for authorizing use. The OSC may authorize the use of a surface collecting agent verbally when on scene or by telephone prior to arriving on scene. In all cases, the OSC is obligated to comply with the provisions of 2004.2 prior to making such authorization. A review of the capabilities and expertise of the owner or operator or cleanup contractor prior to the occurrence of the spill incident would be most beneficial in situations where telephone authorization is desired or contemplated.

2004.2 Restrictions on Surface Collecting Agent Use.

2004.2–1 The OSC may authorize the use of surface collecting agents only after being informed of the environmental conditions at the point of intended use. These environmental conditions include air and water temperatures, wind conditions, wave and current conditions, presence and relative density of debris and other floating matter on the water, type and condition of the oil or hazardous substance spilled, special biological factors such as waterfowl sanctuaries, wildlife refuges, spawning or nursery grounds, shellfish beds, swamp areas, etc., and the availability of removal equipment that could be employed to remove the collected material from the water. Information on environmental conditions should be evaluated by the OSC from the standpoint that conditions such as strong winds, choppy waters, low temperatures, debris, and aquatic vegetation can adversely affect the performance of collecting agents or complicate further removal operations. The performance can also vary with types of oils or hazardous substances. The agents can be effective with thin films of light oils but have little value with thick layers of heavy, viscous oils. The agents should not be used unless adequate removal equipment is available to remove the collected oil.

2004.2–2 A chemical agent shall not be used as a surface collecting agent unless the provisions of 2004.3 are complied with and EPA has informed the manufacturer's representative that the product is acceptable for use as a surface collecting agent.

2004.3 Technical Product Data for Surface Collecting Agents.

2004.3–1 Technical product data as specified in 2004.3–4 shall be provided to the Oil and Special Materials Control Division (WH–548), EPA, Washington, D.C. 20460, at least 60 days prior to the use of the agent. The use of existing surface collecting agents may be authorized by the OSC without complying with 2004.3 for 120 days from the effective date of this Annex. Within 60 days of receipt of the data, EPA will inform, in writing, the submitter on the adequacy of the data submitted. If additional data are requested or EPA desires to perform additional tests, the surface collecting agent may not be used until these additional needs have been satisfied and the submitter so notified.

2004.3–2 Information furnished in accordance with 2004.3–4 shall be maintained on file by the EPA, Oil and Special Materials Control Division (WH–548), Washington, D.C. 20460, to provide technical guidance to OSCs on the acceptable circumstances of use, dosage rates and special problems in the use of surface collecting agent. Any changes in the composition or formulation of the surface collecting agent that will affect any of the data requested in 2004.3 shall be immediately brought to the attention of EPA and testing of the agent will be repeated prior to the use of the revised formulation of the surface collecting agent.

2004.3–3 EPA will review technical product data for surface collecting agents and will issue approvals for agents meeting certain criteria. At present, the only minimum criterion established is for solubility which is described in 2004.3–4.13. This criterion classifies the substance as a surface collecting agent but is not an indication of the effectiveness or toxicity of the material. Other product data such as toxicity, chemical components, and physical characteristics will be reviewed and, if the combined effects of this data and other factors will result in excessive hazard to the aquatic life, work safety, or other elements of the environment in the judgment of EPA, the Agency may refuse to approve the use of the agent.

EPA may, from time to time, establish minimum criteria for the data being requested and may also require additional data to assist in arriving at a judgment on the environmental acceptability of collecting agent usage.

To avoid possible misinterpretation and misrepresentation of the EPA's role in the surface collecting agent technical product data program, the manufacturer's representatives may use only the EPA letter advising compliance with 2004.3–4 in any advertisements or technical literature on the collecting agent. The EPA letter must be used in its entirety. Failure to comply with these restrictions or any other improper reference to EPA in attempting to demonstrate EPA approval of the surface collecting agent beyond that stated in the letter for use on spills of oil or hazardous substances shall constitute grounds for removing the technical product data from EPA files which would preclude use of the surface collecting agent.

2004.3–4 Required Technical Product Data.

2004.3–4.1 Name, brand, or trademark, if any, under which the surface collecting agent is sold.

2004.3–4.2 Name, address and telephone number of the manufacturer, importer or vendor.

2004.3–4.3 Name, address and telephone number of primary distributers or sales outlets.

2004.3–4.4 Special handling and worker precautions for storage and field application. Maximum and minimum storage temperatures to include optimum ranges as well as temperatures that will cause phase separation, chemical changes, or otherwise damage effectiveness of the surface collecting agent.

2004.3–4.5 Shelf Life.

2004.3–4.6 Recommended application procedure(s), concentration(s) and conditions for use depending upon water salinity, water temperature and types and ages of the pollutants.

2004.3–4.7 Surface Collecting Agent Toxicity—Use standard toxicity test methods described in EPA Report "Standard Dispersant Effectiveness and Toxicity Test" (EPA R2–73–201, May 1973) pages 22–34. This report may be obtained from the Oil and Special Materials Control Division (WH–548), EPA, Washington, D.C. 20460.

2004.3–4.8 Flash Point—Select appropriate method from the following:

ASTM D 56–70
ASTM D 92–72
ASTM D 93–72
ASTM D 1310–67

2004.3–4.9 Pour Point—Use ASTM D 97–66.

2004.3–4.10 Viscosity—Use ASTM D 445–72.

2004.3–4.11 Specific Gravity—Use ASTM D 1298–67.

2004.3–4.12 pH—Use ASTM D 1293–65.

2004.3–4.13 Interim Test to Distinguish Between Surface Collecting Agents and Other Spill Cleanup Chemicals.

In order to distinguish between surface collecting agents and other chemical materials, this interim test procedure was developed. This test procedure is not an efficiency test. It is to be used only to distinguish between surface collecting agents and dispersants.

Scope

1. Procedure to be used to determine the solubility in water under standard conditions of oil spill control chemicals.

Method Summary

2. Five (5) milliliters of the chemical under test are intimately mixed with ninety-five (95) milliliters of distilled water, allowed to stand undisturbed for one hour, and then the volume of the upper phase is determined to the nearest 1 milliliter.

Apparatus

3. (a) Mixing cylinder, 100 milliliter subdivisions and fitted with glass stoppers.

(b) Pipettes: Volumetric pipette, 5.0 milliliter.

(c) Timers

Procedure

4. Add 95 milliliters of distilled water at 22° C ± 3° C to a 100 milliliter mixing cylinder. To the surface of the water in the mixing cylinder, add 5.0 milliliters of the chemical under test. Insert the stopper and invert the cylinder 5 times in 10 seconds. Set upright for one (1) hour at 22° C ± 3° C and then measure the chemical layer at the surface of the water. The major portions of the chemical added (75%) should be at the water surface as a separate and easily distinguished layer.

2004.3–4.14 Surface Collecting Agent Components.

Itemize by chemical name and percentage by weight of each component of the total formulation. The percentages will include maximum, minimum and average weights in order to reflect quality control variations in manufacture or formulations. At least the following major components shall be identified:

(a) Surface active agents.

(b) Solvents.

(c) Additives.

If requested by the submitter, information for 2004.3–4.14 will be handled as trade secrets under provisions of P.L. 90–23, the Administrative Procedures Act.

2004.3–4.15 Heavy Metals and Chlorinated Hydrocarbons.

Using reliable analytical chemistry techniques, state the concentrations or upper limits of the following materials:

Arsenic, cadmium, chromium, copper, lead, mercury, nickel, zinc, plus any other metals that may be in the sample. Atomic absorption methods should be used and the detailed analytical methods and sample preparation shall be fully described;

Cyanide using standard colorimetric procedures;

Chlorinated hydrocarbons. Gas chromatography should be used and the

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2006.1–1.1 Prevent or substantially reduce

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detailed analytical methods and sample preparation shall be fully described.

2004.3–5 Analytical Laboratory Requirements for Technical Product Data: Follow stipulations in 2003.3–5.

2005 Biological Additive Program for Spills of Oil and Applicable Hazardous Substances

2005.1 Authorization for use of biological additives.

2005.1–1 All discharges, the OSC may authorize the use of biological additives on water or shorelines only after obtaining the approval of the EPA representative to the RRT. The EPA RRT representative is required to consult with the EPA representative to the NRT on the environmental priorities of the subject incident. The manufacturer or supplier of microbiological cultures or enzymes must obtain approval from State and local public health and pollution control officials and furnish evidence of such approval to the EPA RRT representative.

2005.2 Special Restrictions on Biological Additive Use.

2005.2–1 Microbiological cultures and enzyme mixtures shall not be considered for use as biological additives unless technical product data here been provided and accepted in accordance with 2005.3.

2005.2–2 The OSC must be supplied with the chemical composition and ratios of primary nutrients or nutrient additives prior to seeking approval for their use.

2005.3 Technical Product Data for Biological Additives.

2005.3–1 Technical product data as outlined in 2005.3–4 on the constituents of a biological additive shall be submitted to the Oil and Special Materials Control Division (WH–548), Environmental Protection Agency, Washington, D.C. 20460, at least 60 days prior to the use of the additive. Within 60 days of receipt of the data, EPA will inform in writing the submitter on the adequacy of the data provided.

If additional information is requested or EPA desires to perform tests, the biological additive may not be used until the additional needs have been satisfied and the submitter so notified.

2005.3–2 Information furnished in accordance with 2003.3–4 shall be maintained on file by EPA to provide technical guidance to OSCs on the acceptable circumstances of use and application rates for biological additives. Any changes in the composition of the biological additive that will affect any of the data being requested in 2005.3–4 shall be immediately brought to the attention of EPA, and testing of the additive will be repeated prior to the use of the revised biological additive.

2005.3–3 The acceptance and maintenance of product data by EPA does not constitute approval of the biological additive nor does it imply compliance with any EPA criteria or minimum standards for such additives. The OSC will determine which biological additive may be used for a spill event on a case-by-case basis using all available information in making such a decision. To avoid possible misinterpretation and misrepresentation of EPA's role in this technical product data program, the manufacturer's representatives may use only the EPA letter advising compliance with 2005.3–4 in any advertisements or technical literature on the biological additive. The EPA letter must be used in its entirety. Failure to comply with these restrictions or any other improper reference to EPA in attempting to demonstrate EPA approval of the biological additive for use on spills of oil or hazardous substances shall constitute grounds for removing the technical product data from EPA files which would preclude use of the biological additive.

2005.3–4 Required Technical Product Data.

2005.3–4.1 Name, brand, or trademark, if any, under which the biological additive is sold.

2005.3–4.2 Name, address and telephone number of the manufacturer, importer or vendor.

2005.3–4.3 Name, address and telephone number of primary distributers or sales outlets.

2005.3–4.4 Special handling and worker precautions for storage and field application. Maximum and minimum storage temperatures.

2005.3–4.5 Shelf Life.

2005.3–4.6 Recommended application procedure(s), concentration(s) and conditions for use depending apon water salinity, water temperature and types and ages of the pollutants.

2005.3–4.7 Statements on the expected effectiveness of the additive including degradation rates and the test conditions and data on effectiveness.

2005.3–4.8 For microbiological cultures furnish the following information:

—Listing of all microorganisms to species*
—Percentage of each species in the composition of the additive*
—Optimum pH and temperature range for use of the additive
—Special nutrient requirements, if any
—Separate listing of the following and test methods for such determinations:

Salmonella, fecal coliform, Shigella, Straphylococcus Coagulase positive, and Beta Hemolytic Streptococci.

2005.3–4.9 For enzyme additives furnish the following information:

—Enzyme name(s)
—International Union of Biochemistry (I.U.B.) number(s)
—Source of the enzyme
—Units
—Specific Activity
—Optimum pH and temperature range for the use of the additive.

2005.3–5 Laboratory Requirements for Technical Product Data: Follow stipulations in 2003.3–5.

2006 Burning Agent Program for Spills of Oil and Applicable Hazardous Substances

2006.1 Authorization for Use of Burning Agents.

2006.1–1 All discharges. The OSC may authorize the use of burning agents only when they will:

2006.1–1.1 Prevent or substantially reduce imminent threats to human life or limb or property;

2006.1–1.2 Result in the least environmental harm when compared to other removal or disposal methods.

2006.1–2. Prior to authorizing use under 2006.1–1.2, the OSC must obtain approval of the EPA RRT representative and all applicable State and local public health and pollution control officials.

2006.2 Special Restrictions on Burning Agent Use.

2006.2–1 The OSC will evaluate the suitability of burning agents on a case-by-case basis. Burning agents should be inert materials that will not, in themselves, be a water pollutant. The addition of oils (such as gasoline or solvents) as an igniter shall be avoided unless it is necessary under 2006.1–1.

2006.2–2 A technical data program for burning agents will not be established at this time.

2007 Sinking Agent Program for Spills of Oil and Applicable Hazardous Substances

2007.1 Authorization for Use of Sinking Agents.

2007.1–1 All Discharges.

Sinking agents shall not be applied to discharges of oil or hazardous substances on the navigable waters of the United States and the contiguous zone.

2007.1 Authorization for use of sinking agents.

2007.1–1 All discharges. Sinking agents shall not be applied to discharges of oil or hazardous substances on the navigable waters of the United States and the contiguous zone.

2008 Mechanical Methods and Sorbents Program for Spills of Oil and Hazardous Substances

2008.1 Authorization for Use of Mechanical Methods and Sorbents.

2008.1–1 All Discharges.

2008.1–1.1 As stated in 2001.3, it is the policy of this Schedule to favor the use of mechanical methods and sorbents for removal of oil and hazardous substances spills. The OSC has the authority to use or prohibit specific mechanical methods and sorbents on a case-by-case basis. The OSC will select methods and materials that, in his judgment, will be most effective in expeditiously removing the spilled material and mitigating the related damages, and will minimize secondary pollution from the removal or mitigation operation. Prior to authorizing the use of sorbents, the OSC shall take into consideration hydrographic and meteorological conditions as well as the characteristics of the sorbent and the availability of adequate containment and removal equipment.

2008.1–1.2 A technical data program for mechanical methods and sorbents will not be established at this time.

[FR Doc. 79–14800 Filed 5–11–79; 8:45 am]

BILLING CODE 3125–01–M

*If requested by the submitter, these items will be handled as trade secrets under provisions of P.L. 90–23, the Administrative Procedures Act.

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federal register

Monday
May 14, 1979

Part IV

Environmental Protection Agency

New York State Implementation Plan; Proposed Revision and Public Hearing

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ENVIRONMENTAL PROTECTION AGENCY

[40 CFR Part 52]

Approval and Promulgation of Implementation Plans: New York

AGENCY: Environmental Protection Agency.

ACTION: Proposed rule.

SUMMARY: This notice announces an Environmental Protection Agency proposal to promulgate a revision to the New York State Implementation Plan ("SIP"). The proposed revision establishes a set of procedures for determining compliance with Section 214.3, Title 6, Official Compilation of Codes, Rules and Regulations of the State of New York, part of the existing SIP, which limits the permissible qpacity of visible smoke emissions from by-product coke oven batteries. A recent federal District Court case resulted in a determination that the SIP does not presently include a set of procedures for such compliance determinations. The SIP is therefore deficient; this proposed revision is designed to cure that defect.

DATES: Written comments must be received on or before 30 days following the public hearing on this proposed revision. A hearing has been scheduled; a Notice setting out the time and place for the hearing appears as the second document in this Part IV of the Federal Register.

That Notice also specifies the procedures which will be followed at that hearing for the presentation of oral data, views or arguments.

ADDRESSES: All written comments should be addressed to: Eckardt C. Beck, Regional Administrator, U.S. Environmental Protection Agency, Region II Office, 26 Federal Plaza, New York, N.Y. 10007. Attn: Air Programs Branch Docket No. 2A–79–1.

FOR FURTHER INFORMATION CONTACT: Walter E. Mugdan, Attorney, General Enforcement Branch, Enforcement Division, U.S. Environmental Protection Agency, Region II Office, 26 Federal Plaza, New York, N.Y. 10007, (212) 264–4434.

Availability of supporting information: A docket (Number 2A–79–1) containing all information used by the U.S. Environmental Protection Agency in the development of the inspection procedures which are hereby proposed to be promulgated as part of the New York State Implementation Plan is available for public inspection between 8:00 a.m. and 4:00 p.m. Monday through Friday, at the Agency's Central Docket Section, Room 2903 B, Waterside Mall, 401 M Street, S.W., Washington, D.C. 20460. All written comments received will be included in the docket.

A second, identical public docket is also available for inspection between 8:00 a.m. and 4:00 p.m., Monday through Friday, at the Environmental Protection Agency's Region II Office, Air Programs Branch, Room 905, 26 Federal Plaza, New York, N.Y. 10007.

SUPPLEMENTAL INFORMATION: The New York State Implementation Plan ("SIP") includes a regulation, Section 214.3, Title 6, Official Compilation of Codes, Rules and Regulations of the State of New York ("NYCRR"), which provides that no visible smoke emissions with an opacity equal to or greater than 20% may be emitted from any by-product coke oven battery, except for a period or periods aggregating no more than three minutes out of any consecutive 60-minute period.

The New York State Department of Environmental Conservation ("DEC"), the author of the regulation in question, did not specify a procedure or methodology for determining compliance with the regulatory requirement. A regulation of the United States Environmental Protection Agency ("EPA"), 40 CFR § 51.12(c), provides that, for purposes of federal enforcement in cases where a SIP does not specify a test procedure, compliance will be tested "by means of the appropriate procedures and methods prescribed in Part 60 of this chapter, unless otherwise specified in this Part."

Reference Method 9, Appendix A, 40 CFR Part 60, is a method promulgated by the EPA for determining compliance with visible emissions limitations contained in the New Source Performance Standards established by EPA pursuant to Section 111 of the Clean Air Act. It is the only Reference Method in Part 60 applicable to visible emissions inspections. The Method establishes procedures for the training and certification of visible emissions observers; establishes mandatory requirements and advisory guidelines on the positioning of the observer before making an opacity evaluation; calls for the evaluation of smoke opacity at 15-second intervals; and establishes a data reduction technique requiring the averaging of 24 consecutive opacity estimates to arrive at an average opacity, which is then assigned to the entire 6-minute period during which the evaluations were made.

Reference Method 9 was promulgated by EPA for the specific purpose of determining compliance with certain New Source Performance Standards established by the Agency. In some respects, however, the Method is not suitable for determining compliance with 6 NYCRR § 214.3. In particular, the requirement that the average opacity of a series of 24 observations performed at 15-second intervals be assigned to each of those intervals is inconsistent with an "aggregate opacity" standard such as that created in 6 NYCRR § 214.3. Reading opacity at 15-second intervals is, itself, poorly suited to observing emissions of short duration the opacity of which may fluctuate greatly. For this reason, and pursuant to 40 CFR § 52.12(c), in order to determine compliance with the New York SIP provision, EPA selected those procedures from Reference Method 9 which, in its judgment, were appropriate for that task, and developed certain modifications of the Method to resolve the difficulties created by the inappropriate portions of the Method.

Specifically, the EPA procedures provide that certain coke battery emissions which are relatively short in duration, and the opacity of which may fluctuate greatly over a short time span, will be observed continuously rather than at 15-second intervals. Because it would be impossible for an observer to record directly his continuous opacity evaluations, even over a short time period, the opacity of these brief emissions (including pushing and charging emissions, and emissions from the quench car) is recorded through the use of an accumulating stopwatch: when the observer finds that the emissions are equal to or greater than 20% opacity, the stopwatch is activated; when the emissions are of an opacity less than 20%, it is deactivated. An accumulating stopwatch will, in this manner, yield an aggregated number of seconds during which the emissions which were being observed were of an opacity equal to or greater than 20%. Since pushing, charging and quench car emissions are of a comparatively short duration, problems of observer eye fatigue are not encountered.

The EPA procedures do not employ the data reduction techniques set forth in Section 2.5 of Method 9. The averaging of 24 consecutive emissions observations, as called for by the Method, is inappropriate for an aggregate emission limitation such as 6 NYCRR § 214.3. When averaging is used, time periods during which the actual opacity of emissions was less than 20% may be assigned an average opacity

value of greater than 20%, thus charging the source with more seconds of excess emissions than were, in fact, consumed. The converse is, of course, also true: when averaging, periods during which emissions indeed exceeded 20% opacity may be assigned a lower average opacity value, thus effectively circumventing the SIP emission limitation.

The EPA procedures provide that all periods during which emissions of an opacity of 20% or greater were observed will be aggregated, or totaled together. Where emissions are observed using an accumulating stopwatch as described above, the actual number of seconds of excess emissions recorded are included in the aggregate time tabulation. Where emissions are observed at 15-second intervals, the entire 15-second period is assigned the opacity value from the single reading; these times are also added to the aggregate tabulation. In no case will observations taken simultaneously at two or more emission points be included more than once in the aggregate tabulation.

The averaging of consecutive readings is a technique employed by EPA when it performed studies demonstrating the accuracy and reliability of Reference Method 9. EPA believes, based on some of these same studies that its procedures for determining compliance with 6 NYCRR § 214.3, to the extent they differ from Method 9, ensure a similar degree of accuracy and reliability.

In *Donner Hanna Coke Corporation* v. *Costle*, Civ. No. 77–232, D.C. W.D.N.Y., a case in which a New York coke producer challenged EPA's use of its procedures, the Agency argued that the deviations from Method 9 are relatively minor, do not adversely affect the reliability of the observations and do not prejudice the source in any way, and are a valid exercise of Agency expertise and discretion in adapting the Method to suit the SIP standard in question. EPA also argued that this adaptation was performed pursuant to 40 CFR § 52.12(c), as that regulation is interpreted by the Agency itself.

The Donner Hanna Coke Corporation argued that the EPA procedures were, because of the deviations from Method 9, inapplicable for SIP compliance determinations. The company, however, advanced an alternative inspection method which, it maintains, was implicitly endorsed by the New York DEC in the past. This alternative, which came to be called the "remote method," differs from the EPA procedures in only one significant respect: the placement of the observers when they are evaluating the opacity of topside emissions (charging emissions, and emissions from lids and offtake piping.) EPA procedures require that these emissions be evaluated from vantage points on top of a battery; the company argued that they should be evaluated from locations several hundred feet distant from its batteries. The company did not suggest that observations from the remote locations should *not* be timed using an accumulating stopwatch, or that the excess emissions *should* be averaged before being aggregated.

In its decision in this case, the court found that the EPA procedures represent a significant deviation from the provisions of Method 9, and should be the subject of formal rulemaking. The court disagreed with the Agency's contention that its adaptation of Method 9 for use in compliance inspections at New York coke batteries, without formal rulemaking, was a valid exercise of administrative expertise and discretion.

As a result of this decision, the New York SIP does not include any established method for determining compliance with 6 NYCRR § 214.3, and the EPA procedures cannot be employed unless formally promulgated. EPA considers the court's decision to apply exclusively to the New York SIP; accordingly, at this time EPA finds that Implementation Plan to be deficient to the extent that the absence of a methodology for determining compliance therewith renders that regulation unenforceable.

EPA therefore hereby proposes to revise the New York SIP by promulgating its inspection procedures in regulatory form. Persons wishing to comment on this proposal may do so by submitting written comments or by attending the public hearing.

Under Executive Order 12044 (43 *FR* 12661) EPA is required to judge when a regulation is "significant" and, therefore, subject to certain procedural requirements for regulatory rulemaking set forth in the Order, or whether it may follow other specialized development procedures. EPA labels these other regulations "specialized." I have reviewed this proposed regulation pursuant to the guidance in EPA's response to Executive Order 12044, "Improving Environmental Regulations," signed March 29, 1979 by the Administrator, and I have determined that it is a "specialized" regulation. Specialized Exclusion Category 2 includes "Minor amendments to existing regulations which do not affect the stringency, compliance costs, or the environmental (health) benefits of the regulation." I have determined that this proposed addition to 6 NYCRR § 214.3 satisfies that criterion, and is therefore not subject to Executive Order 12044.

In consideration of the foregoing, and pursuant to the authority of Section 110(c) of the Clean Air Act, 42 U.S.C. 7410(c), and the provisions of 40 CFR § 52.06, it is proposed to amend 40 CFR Chapter I as follows:

PART 52—APPROVAL AND PROMULGATION OF IMPLEMENTATION PLANS

1. By adding to subpart HH § 52.1674 as follows:

§ 52.1674 Control strategy and regulations: Particulate matter.

(a) The requirements of § 51.11(a)(2) and § 51.22 of this chapter are not met since the plan does not provide an inspection method suitable for determining source compliance with Section 214.3, Title 6, Official Compilation of Codes, Rules and Regulations of the State of New York ("NYCRR"), a regulation in the plan which limits the permissible opacity of smoke emissions from by-product coke oven batteries.

(b) *Visible Emissions Inspections at By-Product Coke Oven Batteries. The following procedures will be employed to determine compliance with 6 NYCRR § 214.3 at by-product coke oven batteries in New York State.*

(1) Inspections of by-product coke oven batteries in New York State to determine their status of compliance with 6 NYCRR § 214.3 will be performed by one or more visible emissions observers, trained and certified pursuant to Section 3, Reference Method 9, Appendix A, Part 60 of this Title. In general, an inspection team will consist of at least three observers; however, nothing in this section precludes the performance of a compliance inspection by any other number of inspectors. If fewer or more observers perform the inspection, all observations will nevertheless be performed in accordance with the following procedures.

(2) All opacity oberservations performed in the course of a compliance inspection will be made from locations which satisfy the provisions of Section 2.1 of Reference Method 9. If cloud cover is such that sunlight is significantly diffused, however, the observations need not be performed with the sun oriented in the 140° sector to the observer's back. All opacity observations will be made in accordance with the provisions of Section 2.3 of Reference Method 9.

(3) For the purposes of this section, the term "excess emissions" shall mean

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all emissions of visible smoke from a by-product coke oven battery with an opacity of 20% or greater.

(4) If an inspection is to be performed by more than one observer, the observers shall precisely synchronize watches before commencing the inspection.

(5) For all observations performed during an inspection, the observer shall record the following information:

(i) The precise time of the commencement and completion of the observation;

(ii) The location on the battery of the emission point being observed;

(iii) The observer's location;

(iv) The orientation of the sun;

(v) The extent of cloud cover, if any;

(vi) The direction and approximate speed of the wind, if any; and

(vii) The ambient temperature and relative humidity.

(6) (i) Emissions from doors, offtake piping, topside lids, and the waste heat stack will be observed at 15-second intervals. Such observations will be made at 0, 15, 30 and 45 seconds after the start of each minute. Each opacity evaluation will be recorded. (ii) Emissions from charging and pushing operations, and emissions from the quench car, will be observed continuously because of their relatively short duration. When the observer determines that the opacity of such emissions is equal to or greater than 20%, he will activate an accumulating stopwatch, and observe the emissions continuously thereafter. If the opacity of the emissions falls below 20%, he will immediately deactivate the stopwatch. If the opacity of the emissions rises to 20% or greater he will again activate the stopwatch. The observer will record the precise number of seconds totaled on the stopwatch during which excess emissions were present, and the maximum opacity of the emissions observed.

(7) All door emissions, including chuck door emissions, will be observed using the lintel of the battery as a background. All other emissions will be observed using any appropriate background; if possible, however, a background of a color which contrasts with that of the emissions being observed will be employed. Pushing emissions will be observed after they have risen above the battery (or the battery collector main, if one is located on the coke side of the battery).

(8) Pusher side door emissions, including chuck doors, will be observed from the pusher side yard. Coke side door emissions, pushing emissions, and emissions from the quench car will be observed from the coke side yard. Emissions from the waste heat stack will be observed from any appropriate locations. Charging emissions will be observed from locations on the top of the battery, generally five to ten ovens away from the larry car. Emissions from lids and offtake piping will be observed from the battery top.

(9) Data reduction.

(i) In aggregating periods during which excess emissions are present, observations of all inspectors may be included. For pushing and charging emissions, and emissions from the quench car, the actual number of seconds recorded on the accumulating stopwatch during which excess emissions were present will be included. For all other emissions, a total of 15 seconds will be added to the aggregate tabulation for each single observation in which excess emissions were recorded.

(ii) If observations taken at 15-second intervals took place during the same time period as observations using an accumulating stopwatch, or if such observations overlapped in time, or if two or more observations recorded by either method took place simultaneously, the following data reduction procedures will be employed to ensure that simultaneously occurring emissions will only be counted once in aggregating and tabulating the duration of excess emissions.

(A) If two or more observations taken at 15-second intervals, showing excess emissions, took place during the same time period, only one will be included in the aggregate excess emissions tabulation.

(B) If two or more observations recorded by use of an accumulating stopwatch took place during the same time period, only the observation showing the greater number of seconds of excess emissions will be included in the aggregate excess emissions tabulation.

(C) If observations taken at 15-second intervals overlap in time with observations recorded with an accumulating stopwatch,

(1) the 15-second interval observations may be used for all time periods before and/or after the period during which the accumulating stopwatch observations were performed; and

(2) the total number of excess emissions recorded on the stopwatch will be compared with the total number of seconds of excess emissions recorded during the same time period using 15-second interval observations, and the larger of the two numbers will be included in the aggregate excess emissions tabulation.

(10) If excess emissions were present at the battery during more than 180 seconds out of any consecutive 60 minute period, the battery may be found to be operating in violation of 6 NYCRR § 214.3.

This notice is issued as required by Section 110 of the Clean Air Act, as amended, to advise the public that comments may be submitted and that a public hearing will be held on the question of whether the proposed revision to the New York State Implementation Plan should be promulgated. The Administrator's decision regarding promulgation of this proposed plan revision will be based on whether it meets the requirements of Section 110 of the Clean Air Act and EPA regulations in 40 CFR Part 51.

(Section 110 and 301 of the Clean Air Act, as amended (42 U.S.C. 7410 and 7601).)

Dated: April 6, 1979.

Eckardt C. Beck,
Regional Administrator, Region II.

[FRL 1219-4]
[FR Doc. 79-14935 Filed 5-11-79; 8:45 am]
BILLING CODE 6560-01-M

[40 CFR Part 52]

Approval and Promulgation of Implementation Plans: New York; Public Hearing

AGENCY: Environmental Protection Agency.

ACTION: Notice of public hearing.

SUMMARY: This notice announces a public hearing to be held by the Environmental Protection Agency for the purpose of taking comments on a proposed revision to the New York State Implementation Plan ("SIP"). The proposed revision establishes a set of procedures for determining compliance with that part of the SIP which limits the permissible opacity of visible smoke emissions from by-product coke oven batteries.

DATE: The hearing will be held at 11:00 a.m. until 5:00 p.m. on Monday, June 11, 1979.

ADDRESS: The hearing will be held at: Federal Building Room 914 111 West Huron Street Buffalo, New York 14202.

FOR FURTHER INFORMATION CONTACT: Walter E. Mugdan, Attorney, General Enforcement Branch, Enforcement Division, U.S. Environmental Protection Agency, Region II, 26 Federal Plaza, New York, N.Y. 10007, (212) 264-4434.

AVAILABILITY OF SUPPORTING INFORMATION: A docket (Number 2A-79-1) containing all information used by the United States Environmental Protection Agency in the development of the inspection procedures which will be the subject of this hearing is available for public inspection between 8:00 a.m. and 4:00 p.m., Monday through Friday, at the Agency's Central Docket Section, Room 2903 B, Waterside Mall, 401 M Street, S.W., Washington, D.C. 20460.

A second, identical public docket is also available for inspection between 8:00 a.m. and 4:00 p.m., Monday through Friday, at the Environmental Protection Agency's Region II Office, Air Branch, Room 905, 26 Federal Plaza, New York, N.Y. 10007.

SUPPLEMENTARY INFORMATION: The purpose of this notice is to announce a hearing to receive comments from interested members of the public on a proposal by the Environmental Protection Agency ("EPA") to revise the New York State Implementation Plan ("SIP"). A Notice of Proposed Rulemaking describing the proposed revision in detail appears as the first document of this Part IV of the **Federal Register**. The proposed revision would establish a set of procedures for performing inspections to determine compliance with Section 214.3, Title 6, Official Compilation of Codes, Rules and Regulations of the State of New York. This regulation, a portion of the existing SIP, does not include an inspection methodology; the proposed revision would include such a methodology in the SIP for the first time.

All interested individuals are invited to attend the public hearing. Although a transcript of the hearing will be made, for the purpose of ensuring the accuracy of the record those intending to make a statement at the hearing are requested, but not required, to provide the Presiding Officer with a written copy of their remarks before the adjournment of the hearing. To the extent possible, oral statements should summarize written material so as to allow all interested persons to be heard. The Presiding Officer may limit oral statements which are unduly long or repetitious. The hearing record will be kept open for thirty days after its adjournment to provide an opportunity for submission of written rebuttal and supplementary information.

A panel of individuals from the EPA who are familiar with the proposed revision will be present at the hearing in order to answer questions; questioning may, however, be limited by the Presiding Officer if necessary to accommodate the number of individuals wishing to make statements at the hearing.

Dated: April 6, 1979.

Eckardt C. Beck,
Regional Administrator, Region II.

[FRL 1221-5]
[FR Doc. 79-14936 Filed 5-11-79; 8:45 am]
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federal register

Monday
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Part V

Department of Health, Education, and Welfare

Office of Education

Educational Improvement, Resources, and Support

Grants to State Educational Agencies

DEPARTMENT OF HEALTH

Region I—Boston—Boston School

(ESEA), as amended by Section 401 of

funding of LEA projects under part C

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DEPARTMENT OF HEALTH, EDUCATION, AND WELFARE

[45 CFR Part 134, 134a, and 134b]

Grants to State Educational Agencies for Educational Improvement, Resources, and Support

AGENCY: Office of Education HEW.

ACTION: Notice of Proposed Rulemaking.

SUMMARY: The Commissioner proposes to revise regulations for educational improvement, resources, and support under Title IV of the Elementary and Secondary Education Act (ESEA). The revisions are required by the Education Amendments of 1978 and additional program experience.

The revised title IV regulations—

(a) Clarify existing provisions that still apply;

(b) Reflect statutory changes with respect to such issues as (1) the creation of a separate part D for the guidance, counseling, and testing program, (2) the distribution of part B funds for instructional materials and school library resources program, and (3) the participation of private school children; and

(c) Reflect proposed program management revisions with respect to (1) uses of title IV funds, (2) allowable costs, (3) program evaluation, and (4) control of materials and equipment.

DATES: Comments are due on or before July 13, 1979. Public meetings will be held in each of the ten regions on June 19, 1979. The time for these meetings is—9:00 a.m.–12:00 Noon, 1:00 p.m.–5:00 p.m., 7:00 p.m.–9:00 p.m.

ADDRESSES: Comments should be addressed to:

For Part B—Instructional Materials and School Library Resources Program: Louise V. Sutherland, School Media Resources Branch (room 3125–B, ROB–3), 400 Maryland Avenue, S.W., Washington, D.C. 20202, telephone 202–245–2488.

For Part C—Improvement in Local Educational Practice Program: Allen J. King, Division of State Educational Assistance Programs (room 3010, ROB–3), 400 Maryland Avenue, S.W., Washington, D.C. 20202, telephone 202–245–2592.

For Part D—Guidance, Counseling, and Testing Program: Bryan T. Gray, Division of State Educational Assistance Programs (room 3010, ROB–3), 400 Maryland Avenue, S.W., Washington, D.C. 20202, telephone 202–472–1357.

The locations of public meetings are—

Region I—Boston—Boston School Department, Administration Building, Boston Committee hearing Room, 26 Court Street, Boston, Massachusetts.

Region II—New York—New York University, Schimmel Auditorium, Tisch Hall, 40 West 4th Street, New York City, New York.

Region III—Philadelphia—University Holiday Inn, 34th & Chestnut Streets, Philadelphia, Pennsylvania.

Region IV—Atlanta—Atlanta American Motor Hotel, Spring Street at Carnegie Way, Atlanta, Georgia.

Region V—Chicago—Center for Urban Education, 160 West Wendell Street, (1050 North Wells), Chicago, Illinois.

Region VI—Dallas—El Centro College, Performance Hall, Main and Lamar Streets, Dallas, Texas.

Region VII—Kansas City—Penn Valley Junior College, 3201 Southwest Trafficway, Room 503, Kansas City, Missouri.

Region VIII—Denver—George Washington High School, Lunch Room, 655 South Monaco Street, Denver, Colorado.

Region IX—San Francisco—Sutter Middle School, 3150 I Street (Alhambra Street), Sacramento, California.

Region X—Seattle—Sea-Mat Center, At Wilson—Pacific Special Education School, 1330 North 90th Street, Seattle, Washington.

FOR FURTHER INFORMATION CONTACT:

For Part B—Instructional Materials and School Library Resources Program: Louise V. Sutherland, telephone 202–245–2488.

For Part C—Improvement in Local Educational Practice Program: Allen J. King, telephone 202–245–2592.

For Part D—Guidance, Counseling, and Testing Program: Bryan T. Gray, telephone 202–472–1357.

FOR INFORMATION ON REGIONAL HEARINGS CONTACT: The appropriate Regional Commissioner for Educational Programs listed below:

Region I, Boston, Dr. Thomas J. Burns, (617) 223–7500.
Region II, New York, Dr. William D. Green, (212) 264–4370.
Region III, Philadelphia, Dr. Albert C. Crambert, (215) 596–1001.
Region IV, Atlanta, Dr. William L. Lewis, (404) 221–2063.
Region V, Chicago, Dr. Juliette Noone Lester, (312) 353–5215.
Region VI, Dallas, Mr. Edward J. Baca, (214) 767–3626.
Region VII, Kansas City, Dr. Harold Blackburn, (816) 374–2276.
Region VIII, Denver, Dr. John Runkel, (303) 837–3544.
Region IX, San Francisco, Dr. Caroline Gillin, (415) 556–4920.
Region X, Seattle, Mr. Allen Apodaca, (206) 442–0460.

SUPPLEMENTARY INFORMATION:

Background

Title IV of the Elementary and Secondary Education Act of 1965 (ESEA), as amended by Section 401 of the Education Amendments of 1974 (Pub. L. 93–380), provided for the consolidation of seven educational programs into two parts, Libraries and Learning Resources (Part B) and Educational Innovation and Support (Part C). Regulations implementing title IV were published in the **Federal Register** on November 18, 1975. Amendments to these regulations to incorporate changes made by Pub. L. 94–482, the Education Amendments of 1976, were published in the **Federal Register** on September 7, 1977.

The changes proposed in these regulations are based on the following:

(a) The Education Amendments of 1978, Pub. L. 95–561.

(b) The proposed regulations for ESEA Title V—State Leadership (45 CFR Parts 119 and 120).

(c) The Department's Operation Common Sense.

(d) The Office of Education's Regulations Reform Project.

(e) The Office of Management and Budget's Zero Base Review of Federal Planning Requirements.

The proposed regulations do not repeat all the requirements of the statute. For a complete understanding of these programs, interested persons must read title IV of the Elementary and Secondary Education Act, as amended by Pub. L. 95–561. To promote clarity, these regulations contain references to the title IV statute. Readers are especially encouraged to read the portions of the statute indicated by these references.

The title IV statute itself is included as a part of the Appendix.

The most notable proposed changes to the regulations are:

Education Amendments of 1978

General

Participation of Private School Children. Section 406 of the Act provides that children attending private, non-profit elementary or secondary schools are entitled to participate equitably in the title IV programs. The amendments give the Commissioner authority to "by-pass" a State educational agency (SEA) or a local educational agency (LEA) that is unwilling to provide equitably for the participation of private school children. Neither the statute nor the proposed regulations define the term "unwilling." However, § 134.81(b) *(Waiver of section 406.)* of the proposed regulations makes clear that it is the Commissioner who must determine that the SEA or LEA is unwilling to provide equitably for private school children before a by-pass may be declared.

Waiver of Maintenance of Effort Requirements. The amendments to section 431A of the General Education Provisions Act (GEPA) provide that the Commissioner may waive the maintenance of effort requirements for parts B and D when equitable to do so in light of exceptional and unforeseen circumstances. Section 134.91 of the proposed regulations clarifies that this waiver is effective for one fiscal year only and may not be repeated. Also, this section of the proposed regulations provides examples of exceptional and unforeseen circumstances. Specifically excluded from these examples is a deliberate substantial reduction of available revenue due to an act of a state or local legislature or electorate.

State Advisory Council. Section 404(b)(1) of the Act modifies the list of cultural and educational resources to be represented on the State Advisory Council. Section 134.12 of the proposed regulations provides that an individual member of the council may represent more than one of the cultural and educational resources specified by the Act.

Monitoring and Enforcement by State. Section 434 of CEPA gives the Commissioner discretionary authority to require a plan for monitoring compliance by LEAs with Federal requirements. Proposed § 134.61 requires the development of a plan and sets forth certain requirements for that plan.

State Evaluation of Title IV. Section 435(b)(4) of GEPA requires the State to evaluate—in accordance with regulations published by the Commissioner—the effectiveness of title IV programs. Section 134.62 of the proposed regulations sets forth the requirements for this evaluation.

Applications for Part B and Part D Subgrants. Section 404(a)(6) provides that an LEA shall not be required to submit an application for parts B or D funds more often than every three years. However, the proposed § 134.30 *(Documents the applicant must submit to get a subgrant)* permits a State to obtain needed supplementary information on an annual basis.

PART B—INSTRUCTIONAL MATERIALS AND SCHOOL LIBRARY RESOURCES

Formula for Distribution of Part B Funds. In general, section 422 of the Act (part B program requirements) provides for the distribution of funds to LEAs on the basis of their public and private school enrollment. However, States are required to award, in accordance with criteria specified by the Commissioner, higher per student allocations of these funds to certain LEAs whose tax effort is high, or who have large numbers of children whose education imposes a higher than average cost. Section 134.40 (*Determination of the amount of a subgrant*) of the proposed regulations defines the higher per student allocation that must be awarded to such LEAs as at least 200 percent of the amount of the per student allocation awarded to LEAs solely on the basis of enrollment.

Special Indirect Cost Rate. If requested, SEAs must negotiate with LEAs and approve a special indirect cost rate for part B projects. This rate must be related to the costs of acquisition of instructional materials and equipment.

Participation of Private School Children. Section 406 provides that if an LEA does not participate in the part B program, the SEA, if requested by the representatives of private school children in that LEA, must make arrangements to provide part B benefits to those children.

Use of Funds for Instructional Purposes. Section 421 of the Act requires that funds be expended for instructional purposes only. This requirement is implemented in § 134.4 (*Definitions as used in this part.*), § 134.63 (*Standards for part B.*), and § 134.64 (*Consultation procedures, part B.*). These sections emphasize that all equipment and materials acquired with part B funds must be used for instructional purposes only.

PART C—IMPROVEMENT IN LOCAL EDUCATIONAL PRACTICE PROGRAM

Participation of Private School Children. The Education Amendments of 1978 do not authorize the SEA to make arrangements to provide part C benefits to private school children if an LEA does not participate in the part C program. The proposed regulations, therefore, provide that private school children may receive benefits under part C only if the LEA in which their schools are located applies for and receives a grant. The regulations further provide that if the needs of private school children differ from those of public school children, an LEA shall include in its project application objectives and activities that meet those needs. This requirement applies even if there are no private school children enrolled in the grade levels to be served by the project proposed for public school children.

Multi-year Funding of Projects. Section 432 of the Act specifies that funding of LEA projects under part C may not exceed five fiscal years—excluding any period of planning—and shall decline after the third year, in accordance with criteria prescribed by the Commissioner, to ensure that successful educational practices will continue to be supported as a part of the regular school program. To implement this requirement § 134.41 of the proposed regulations provides that before an SEA makes a commitment of multi-year funding to an LEA it shall determine that the LEA intends to adopt the project activities, if successful, as a part of its regular school program. It also requires the SEA to reduce substantially the amount of the subgrant in each of the fourth and fifth years, and provides that a planning grant may not exceed one year.

Use of Funds. Section 134.52(c) of the proposed regulations prohibits the practice of awarding a subgrant to one LEA to provide title IV benefits to another. There is no statutory authority for this practice.

Also, this section limits the amount of program funds that may be used for dissemination activities. Section 501(b) of title V, ESEA and section 435(b) of GEPA clarify that dissemination of information about successful title IV projects and activities is a responsibility of the SEA. At the same time, dissemination is not included as a program purpose of title IV, part C. To disseminate such information, of course, a State may use the funds it receives—under either title IV or title V, ESEA—for its administration of the title IV program, or the funds it receives to strengthen SEA management.

PART D—GUIDANCE, COUNSELING, AND TESTING

Distribution of Part D Funds. The Education Amendments of 1978 authorize a separate program—part D—for guidance, counseling, and testing activities. The statute does not indicate whether SEAs are to distribute part D funds to LEAs on the basis of a competition or a formula, such as enrollment. The proposed § 134.40 *(Determination of the amount of a subgrant.)* has been written to provide that these funds shall be distributed in accordance with section 441(a) of the Act (program authorized) and the distribution procedures described in the State plan. This preserves the SEA's discretion to use either a formula or a competition.

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Proposed ESEA Title V Regulations—State Leadership (45 CFR Parts 119 and 120)

As a result of the Education Amendments of 1978 there are two new programs in title V, ESEA. Part A of title V is a program for the consolidated State administration of title I and title IV, ESEA programs. The Act also sets forth the SEA's administrative responsibilities with respect to audit and audit resolution, resolution of complaints, dissemination of information, and provision of technical assistance to LEAs. The additional funds to be made available under part A are intended to reflect these additional responsibilities.

All SEAs that administer the title I and title IV, ESEA programs are eligible for support under this program. The proposed regulations governing part A of title V are contained in part 120 of this title and set out procedures for general applications, applications for administrative funds, standards for evaluation and audit resolution, and the applicability of section 412(b) of GEPA to carryover funds. If there is no appropriation under title V, part A, funding for State Administration of the title IV program will be available from the title IV appropriation.

Part B of title V is a program to strengthen State educational leadership and to assist SEAs in identifying and meeting the critical educational needs of their States. All SEAs are eligible for support under part B. There is authorization for a direct appropriation of funds for this program. However, if there is no appropriation under title V, part B, funding will be available for this program from the appropriation for title IV, part C of ESEA. The regulations governing part B of title V are contained in part 119 of this title and describe the allocation of funds to the States, the ways a State can meet the State plan requirements, and the applicability of section 412(b) of GEPA.

Operation Common Sense

These proposed regulations were written according to the Department's Operation Common Sense. The purpose of Operation Common Sense is to produce readable and understandable regulations that reflect Congressional intent and that do not unnecessarily regulate recipients of Federal funds.

Regulations Reform Project

The Regulations Reform Project had as its major objective the improvement of Office of Education regulations. The proposed title IV regulations implement the recommendations of the Regulations Reform Project in the following ways:

(a) The proposed regulations have been written in the newly-developed standard format for Office of Education regulations for State-administered programs.

(b) The standard assurances that apply to the Educational Improvement, Resources, and Support Programs will be made as part of a general State application.

(c) Provisions, including definitions, common to all Office of Education programs have been deleted from these program regulations and will be covered by the Education Division's General Administrative Regulations (EDGAR).

Zero Base Review

The Zero Base Review of Federal Planning Requirements was designed by the Office of Management and Budget to identify, simplify, and consolidate planning requirements for Federal programs. The proposed regulations for the Educational Improvement, Resources, and Support Programs have been written to accomplish the following:

(a) Standard assurances and certifications that apply to the Educational Improvement, Resources, and Support Programs will be made as part of a general State application.

(b) Standard assurances have been removed from the State plan.

Education Division General Administrative Regulations

These proposed regulations do not contain certain types of requirements. Those regulations are covered in the Education Division General Administrative Regulations (EDGAR), which will replace the General Provisions for Office of Education Program Regulations and which have been published as a notice of proposed rulemaking (NPRM).

Anyone wanting to comment on these requirements should do so in response to the EDGAR NPRM, rather than to this NPRM.

The following items applicable to this program are now among those covered generally in EDGAR:

How to apply for a grant.

How grants are made.

Certain conditions that must be met by a grantee.

The administrative responsibilities of a grantee.

The Office of Education's procedures to assure compliance.

Citation of Legal Authority

As required by section 431(a) of GEPA, as amended (20 U.S.C. 1232(a)), a citation of statutory or other legal authority has been placed in parentheses on the line following the text in each section. However, for clarity, the citation of authority has been placed at the end of each subsection in some instances.

Invitation to Comment

A public meeting on this Notice of Proposed Rulemaking will be held in each of the ten Federal regions. Since we expect to schedule public meetings for several regulations on the same day, at the same place, we need to get an idea of how many persons are interested in speaking about these regulations. If you are interested in making oral comments at a public meeting, we encourage you to call the appropriate Regional Commissioner of Education, who will schedule a time for your comments. Persons who do not notify the Regional Commissioner of their intention to make oral comments will be given an opportunity to speak. Those persons making presentations will be called upon according to their prearranged schedule, or if not prearranged, in the order of registration.

We expect that comments on these proposed regulations will be heard third on the date of the public meeting, after the Health Education regulations.

In addition, interested persons are invited to submit comments, suggestions, and recommendations regarding the proposed regulations. Comments suggestions, and recommendations may be sent to the address given at the beginning of this document. All comments received on or before July 13, 1979, will be considered in the development of the final regulation.

All written comments submitted in response to this notice will be available for public inspection, both during and after the comment period, in Room 3125-B, ROB-3, 7th & D Streets, S.W., Washington, D.C. between the hours of 8:30 a.m. and 4:00 p.m., Monday through Friday of each week except Federal holidays.

Under the authority contained in Title IV of the Elementary and Secondary Education Act of 1965, as amended, the Commissioner proposes to delete 45 CFR Part 134a—Libraries and Learning Resources, delete Part 134b—Educational Innovation and Support, and proposes to amend 45 CFR Part 134 to read as follows.

Dated: March 5, 1979.

Ernest L. Boyer,
U.S. Commissioner of Education.

Approved: April 17, 1979.

Hale Champion,
Acting Secretary of Health Education, and Welfare

(Catalog of Federal Domestic Assistance No. 13-570, Libraries and Learning Resources; No. 13-571, Educational Innovation and Support; No. —— Guidance, Counseling, and Testing)

Part 134 is proposed to be revised as follows:

PART 134—EDUCATIONAL IMPROVEMENT, RESOURCES, AND SUPPORT

Subpart A—General

Sec.
134.1 Educational improvement, resources, and support.
134.2 Eligibility.
134.3 Regulations that apply to title IV.
134.4 Definitions as used in this part.

Subpart B—How a State Applies for a Grant

134.10 Documents the State must submit to get a grant.
134.11 Procedures for submission of the documents.
134.12 Conditions the State must meet before submitting a plan—State advisory council.
134.13 Conditions the State must meet before submitting a plan—maintenance of effort.

Subpart C—How a Grant Is Made to a State

134.20 Determination of the total amount available for a State grant.
134.21 Reallocation of excess funds.

Subpart D—How to Apply to the State for a Subgrant

134.30 Documents the applicant must submit to get a subgrant.
134.31 Provisions required in the documents.
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Subpart E—How a Subgrant is Made to an Applicant

134.40 Determination of the amount of the subgrant.
134.41 Multi-year part C projects.
134.42 Reallocation.

Subpart F—Conditions That Must be Met by the State and Its Subgrantees

134.50 Fiscal requirements.
134.51 Use of funds—SEAs.
134.52 Use of funds—LEAs.
134.53 Allowable costs.

Subpart G—Administrative Responsibilities of the State and Its Subgrantees

134.60 Project application review and approval by the State.
134.61 Monitoring and enforcement by the State.
134.62 Evaluation by the State, the State advisory council, and subgrantees.
134.63 Standards for part B.
134.64 Consultation procedures, part B.
Sec.
134.65 Control of instructional equipment and materials.
134.66 Audit resolution.
134.67 Part C projects for the education of handicapped children; requirements under part B of the Education of the Handicapped Act.

Subpart H—Participation of Children Enrolled in Private Schools

134.70 Responsibilities.
134.71 Consultation with representatives of private school students.
134.72 Needs; number of students; types of services
134.73 Benefits.
134.74 Expenditures.
134.75 Separate classes.
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Subpart I—Section 406 Compliance Procedures

134.80 Complaint procedure.
134.81 Waiver of section 406.
134.82 By-pass.

Subpart J—Other Compliance Procedures Used by the Office of Education

134.90 Withholding of funds; cease and desist order.
134.91 Waivers of maintenance of effort.
134.92 Effect of waiver of maintenance of effort.
134.93 Maintenance of effort waiver procedures.
Appendix
State Plan
Amendments
Title IV—Educational Improvement, Resources, and Support (Pub. L. 95-561)

Subpart A—General

§ 134.1 Educational improvement, resources, and support.

These regulations apply to the following programs authorized by Title IV of the Elementary and Secondary Education Act:

(a) Instructional Materials and School Library Resources (part B). The basic purpose of part B is to assist local educational agencies (LEAs) in the acquisition of necessary books, educational materials, library resources, and instructional equipment.

(b) Improvement in Local Educational Practice (part C). The basic purpose of part C is to strengthen the quality of elementary and secondary education through support of locally initiated projects and activities designed to improve educational practices.

(c) Guidance, Counseling, and Testing (part D). The basic purpose of part D is to strengthen and expand guidance, counseling, and testing programs in elementary and secondary schools.

(Sec. 401 of the Act)

§ 134.2 Eligibility

Title IV is a State-administered program to benefit public and private elementary and secondary school children. A State may apply for funds under title IV by submitting to the Commissioner a plan describing its programs for parts B, C, and D. Following approval of the plan, the Commissioner awards grants for these programs to the State educational agency (SEA). The SEA then awards subgrants to LEAs—or groups of LEAs—for these programs on the basis of written applications submitted to the SEA. The Department of Interior may apply for title IV funds for children and teachers in elementary and secondary schools it operates for Indian children. The Department of Defense may apply for title IV funds for children and teachers in schools it operates for overseas dependents.

(Sections 403 and 404 of the Act)

§ 134.3 Regulations that apply to title IV.

If an SEA administers title IV under the provisions of Title V, Part A of the Elementary and Secondary Education Act (ESEA), the regulations in part 120 also apply.

(Sec. 401 of the Act)

§ 134.4 Definitions as used in this part.

"Academic subjects" means, but is not limited to, the following elementary and secondary school subjects: the arts, civics, economics, English, geography, history, the humanities, industrial arts, mathematics, foreign languges, reading, and science.

(Sec. 421 of the Act).

"Act" means Title IV of the Elementary and Secondary Education Act of 1965, as amended by the Education Amendments of 1978 (Pub. L. 95-561).

(Sec. 401 of the Act)

"Handicapped children" means those children who are mentally retarded, hard of hearing, deaf, speech impaired, visually handicapped, seriously emotionally disturbed, orthopedically impaired, or other health impaired children, or children with specific learning disabilities who by reason thereof require special education and related services.

(Sec 432(c) of the Act)

"Instructional equipment" means equipment that is appropriate for use in providing education in academic subjects in elementary and secondary schools and that is used to teach or learn an academic subject. The

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eligibility of instuctional equipment is determined by its intended use and its direct relationship to instruction in an academic subject. Depending upon use, typical examples of instructional equipment include—

(a) Laboratory or other special equipment that contributes directly to the objectives of an instructional progam;

(b) Electronic or mechanical audio-visual equipment, such as audio and computer devices and T.V. monitors; and

(c) Equipment for the storage, protection, maintenance, or repair of laboratory or audio-visual materials and equipment.

The term does not include general purpose classroom or library furniture, shelving, stoves, refrigerators, band instruments, bleacher seats, gym equipment, equipment for staff offices, or other equipment not directly related to instruction in academic subjects.

(Sec. 421 of the Act and House Report No. 95-1137, 95th Congress, 2d session, at 63)

"Instructional materials" means realia, raw materials for the preparation of instructional resources, and all printed and published materials—including textbooks and school library resources—that are suitable for providing instruction in elementary and secondary schools. Instructional materials are, with reasonable care, expected to last more than one year. The term does not include furniture, supplies, or instructional equipment.

(Sec. 421 of the Act)

"Insular area" means Guam, American Samoa, the Virgin Islands, the Northern Mariana Islands, and the Trust Territory of the Pacific Islands.

(Sec. 401 of the Act)

"Part B" means the Instructional Materials and School Library Resources Program.

(Sec. 421 of the Act)

"Part C" means the Improvement in Local Educational Practice Programs.

(Sec. 431 of the Act)

"Part D" means the Guidance, Counseling, and Testing Program.

(Sec. 441 of the Act)

"Preceding fiscal year" means the twelve-month fiscal period most commonly used in the State for official reporting purposes prior to the beginning of the Federal fiscal year for which funds are available.

(Sec. 404(a)(7) of the Act)

"Private school" means a nonprofit elementary or secondary school that is operated or controlled by an organization that is not a public agency.

(Sec. 406(a)(1) of the Act)

"Realia" means artifacts, dioramas, games, models, and educational toys.

(Sec. 401 of the Act)

"School library resources" means printed and published materials that have been catalogued or organized for the instructional use of elementary and secondary school children and teachers. The term includes books, periodicals, documents, pamphlets, reproductions, pictorial or graphic works, musical scores, maps, charts, globes, sound recordings, video tapes, or any other printed or audio-visual materials of a similar nature available now or in the future.

(Sec. 421(1) of the Act)

"Second preceding fiscal year" means the second twelve-month fiscal period most commonly used in a State for official reporting purposes prior to the Federal fiscal year for which funds are available.

(Sec. 404(a)(7) of the Act)

"Testing" means the use of tests to measure abilities, educational achievements, interests, or aptitudes pertaining to an individual's educational or career development.

(Sec. 441(a) of the Act)

"Textbook" means a book, reusable workbook, or manual, whether bound or in looseleaf form, intended for use as a principal source of study materials for a given class or group of students, a copy of which is expected to be available for the individual use of each student in the class or group.

(Sec. 421(1) of the Act)

Subpart B—How a State Applies for a Grant

§ 134.10 Documents the State must submit to get a grant.

(a) To receive a grant a State shall submit to, or have on file with, the Commissioner—

(1) A general application that in the opinion of the Commissioner satisfies a single State application requirements of title V of ESEA (sec. 501) and part 120 of this chapter or of the General Education Provisions Act (GEPA) (sec. 435), whichever applies; and

(2) A State plan that describes the purposes for which the funds applied for will be spent. The State plan must be detailed enough to allow the Commissioner to determine whether it satisfies the requirements of the Act and these regulations. The State shall include in its plan the specific assurances and items of information listed in the appendix to this part. The State plan need not be submitted more often than once every three years.

(b) To receive a grant, the Department of Interior or Department of Defense shall submit to the Commissioner a program plan that describes the purposes for which the funds will be used. The program plan—

(1) Need not be submitted more often than once every three years; and

(2) Must contain the assurances and information required by the Commissioner.

(Sections 403(c) and 404(a) of the Act)

§ 134.11 Procedures for submission of the documents.

(a) A State shall submit its general application according to the requirements of title IV of ESEA (sec. 501(a)) or GEPA (sec. 435(a)), whichever applies.

(b) The State shall submit its State plan according to the requirements of title V of ESEA (sec. 501(b)(7)) or of GEPA (sec. 435(b)(7)), whichever applies.

(Sec. 404(a) of the Act)

§ 134.12 Conditions the State must meet before submitting a plan—State advisory council.

A State that desires to receive title IV funds shall establish a State advisory council that satisfies the requirements of the Act (sec. 404(b)).

(a) The State advisory council shall be broadly representative of the cultural and educational resources of the State, including those specified by the Act (sec. 404(b)(1)(A)). A single member of the council may represent more than one of these resources.

(b) The State's annual certification of council membership shall provide the name of each member of the council, including its chairperson, as well as the specific resource or resources each member represents. In addition, the State shall retain, and furnish to the Commissioner upon request, a description of the qualifications of each council member.

(2) The Commissioner notifies the SEA in writing when the certification has been accepted.

(Sec. 404(b) of the Act)

§ 134.13 Conditions the State must meet before submitting a plan—maintenance of effort.

(a) *General requirement.*

(1) To receive part B and part D funds, a State shall have expended on programs described in parts B and D, respectively, during the preceding fiscal year an amount of non-Federal funds at least equal to the amount of non-Federal funds it expended on those programs during the second preceding fiscal year.

(2) The comparison of expenditures for the two years may be made on the basis of either the aggregate non-Federal expenditures for these programs made by the State, its LEAs, and the private schools in the State, or the aggregate per student expenditures of the State, its LEAs, and private schools.

(b) *Aggregate expenditures.*

The State may measure aggregate non-Federal expenditures for programs described in parts B or D, respectively, by either of the following methods:

(1) Totalling the expenditures made by the State, all its LEAs, and the private schools in the State that enroll students who will participate during the fiscal year for which funds are available or

(2) Totalling the expenditures made by the State, its LEAs that will participate in the fiscal year for which funds are available, and the private schools in the State that enroll students who will participate in the fiscal year for which funds are available.

(c) *Aggregate per student expenditures.*

The State may measure aggregate per student non-Federal expenditures for programs described in parts B or D, respectively, by either of the following methods:

(1) Dividing the aggregate expenditures computed under paragraph (b)(1) by the total number of students in average daily attendance (ADA)—or any other basis commonly and consistently used in a State from year to year—in all the public schools in the State and in private schools that enroll students who will participate in the fiscal year for which funds are available or

(2) Dividing the aggregate expenditures computed under paragraph (b)(2) by the total number of students in ADA—or on any other basis commonly and consistently used in the State from year to year—in public schools in LEAs that will participate in the fiscal year for which funds are available and in private schools that enroll students who will participate in the fiscal year for which funds are available.

(d) *Averaging expenditures.*

(1) If non-Federal expenditures for programs described in parts B or D depend upon a State or local appropriation that is not an annual appropriation, the State may average those appropriations over the number of fiscal years for which the appropriation was made.

(2) A State that chooses to average its expenditures in this way shall continue to use this method for computing maintenance of effort for each fiscal year for which the State or local appropriation was made.

(3) A State that does not average its expenditures shall attribute all expenditures to the fiscal year in which they were incurred.

(e) *State's authority to exclude LEAs or children enrolled in private schools.* A State, by rule, may exclude from participation in parts B or D—

(1) An LEA that has failed to maintain its non-Federal expenditures, if the Commissioner declines to waive the State's requirement to maintain its expenditures, and if that LEA's failure to maintain its expenditures would prevent the State from complying with subsection (a);

(2) Students enrolled in a private school that has failed to maintain its expenditures, if the Commissioner declines to waive the State's requirement to maintain its expenditures, and if that private school's failure to maintain its expenditures would prevent the State from complying with subsection (a); or

(3) An LEA, or students enrolled in a private school, that fails to submit data that the State requires to determine compliance with this section.

(f) *Collecting and maintaining data.* The SEA shall collect and maintain data—including data from private schools—that verify the State's compliance with this section or the section of GEPA dealing with waiver of the maintenance of effort requirement (sec. 431(A)). The State shall make these data available to the Commissioner of request.

(Sec. 404(a)(7) of the Act)

Subpart C—How a Grant Is Made to a State

§ 134.20 Determination of the total amount available for a State grant.

The Commissioner determines for each fiscal year the total amount of parts B, C, and D funds for which—

(a) A State—other than an insular area—may apply according to the section of the Act dealing with allotments to States (sec. 403(a));

(b) An insular area may apply according to (1) the section of the Act dealing with allotments to insular areas (sec. 403(c)), and (2) the number of children enrolled in the elementary and secondary schools in that insular area; and

(c) The Department of Defense and the Department of Interior may each apply according to (1) the section of the Act dealing with allotments to departments (sec. 403(c)), and (2) the number of children enrolled in elementary and secondary schools operated by that department.

(Sec. 403 of the Act)

§ 134.21 Reallocation of excess funds.

The Commissioner may, for any fiscal year, determine that the amount of part B, C, or D funds made available to a State—other than an insular area—exceeds the amount of funds that the State requires to carry out projects under that part for that fiscal year. The Commissioner may then reallocate these excess funds according to the requirements of the Act (sec. 403(b)).

(Sec. 403(b) of the Act)

Subpart D—How To Apply to the State for a Subgrant

§ 134.30 Documents the applicant must submit to get a subgrant.

(a) To receive a subgrant of part B, C, or D funds, an LEA shall submit to, or have on file with, the SEA—

(1) A general application that satisfies the single LEA application requirements of title V of ESEA (sec. 502) and part 120 of this chapter or of GEPA (sec. 436), whichever applies; and

(2) A project application, in the form required by the SEA, that describes the purposes for which the funds will be spent. The LEA shall include in its project application sufficient detail to enable the SEA to determine whether the application satisfies the requirements of the Act and these regulations.

(b) To receive a subgrant of part B or D funds, an LEA need not submit a project application more often than once every three years. However, an SEA may require an LEA to supplement annually its project application for part B or D funds with the following:

(1) Enrollment and expenditure data needed by the SEA to determine if the State is maintaining its fiscal effort.

(2) Information needed by the SEA to determine whether the LEA is complying with the requiements of the Act dealing with the participation of private school children (sec. 406), and

(3) Information pertaining to any material changes in project objectives or use of funds.

(c)(1) An SEA may approve an LEA application for a multi-year part C project—subject to the availability of

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funds—in accordance with section 432(a) of the Act.

(2) Each year after the first year of the project, the LEA shall supplement its project application with the information the SEA requires to determine whether the LEA is making satisfactory progress toward meeting the objective of its project, and is complying with the requirements of the Act and these regulations.

(d) The Department of Defense, the Department of Interior, or an insular area may designate administrative units to submit project applications that are consistent with the requirements of this section.

(Sections 403(c), 404(a), and 432(a) of the Act)

§ 134.31 Provisions required in the documents.

(a)(1) In each project application it submits to the SEA, an LEA Shall clearly demonstrate that it has complied with § 134.71 (*Consultation with representatives of private school students*).

(2) In each project application it submits to the department or insular area, an administrative unit shall clearly demonstrate that it has complied with § 134.71.

(b) Each project application submitted by an LEA to an SEA—or by an administrative unit to an insular area or department—shall include—

(1) The number of public and private school children enrolled in the schools located within its boundaries;

(2) The number of public and private school children to be served by the project;

(3) A description of how the public and private school children selected to participate were chosen;

(4) A description of when and where public and private school children will be served by the project;

(5) An explanation of any differences noted in (4); and

(6) An explanation of any adjustments made in per student expenditures under section 406(b) of the Act.

(c) An SEA may require an LEA—or an insular area or department may require an administrative unit—to provide the information required by subsections (a) and (b) for each fiscal year during which the LEA or administrative unit participates in part B, C, or D of the Act.

(Sections 406(a), 406(b) and 432(d) of the Act)

§ 134.32 Procedures for submission of the documents.

(a) An LEA shall prepare and submit its project application in accordance with the instructions and procedures established by the SEA.

(b) An administrative unit shall prepare and submit its project application in accordance with the instructions and procedures established by the appropriate deparmtent or insular area.

(Sec. 404(a) of the Act)

Subpart E—How a Subgrant Is Made to an Applicant

§ 134.40 Determination of the amount of the subgrant.

(a)(1) An SEA shall make a subgrant to an LEA of part B funds in accordance with the requirements of the Act for distribution of part B funds (sec. 422(a)). For the purpose of computing the amount of a subgrant to an LEA selected by the SEA because of high tax effort (sec. 422(a)(1)), or because of a large number of high cost children (sec. 422(a)(2)), a higher per pupil allocation means a per pupil amount that is at least 200 percent of the per pupil amount—based on enrollment—the SEA awards to each LEA that it does not select under these two sections.

(Sections 422(a)(1), and 422(a)(2))

(2) An SEA may decline to award higher per pupil allocations to LEAs because of high tax effort (sec. 422(a)(1)) only if it provides enough information in its state plan to allow the Commissioner to determine that the per pupil expenditures of non-Federal funds by its LEAs are substantially equal.

(Sections 404(a)(5), and 422(a))

(b) An SEA shall make a subgrant of part C funds to an LEA on an equitable, competitive basis in accordance with section 432(a) of the Act and these regulations;

(c) An SEA shall make a subgrant of part D funds to an LEA in accordance with section 441(a) of the Act and the distribution procedures described in the State plan. These funds may be allocated on the basis of a formula, such as student enrollment, or an equitable competition.

(Sections 404(a)(5), 422(a), and 441(a) of the Act)

§ 134.41 Multi-year part C projects.

(a) Subject to the availability of funds, an SEA may make a commitment to an LEA to fund a particular project with part C funds for more than one fiscal year, but for not more than five fiscal years, excluding the period during which the LEA received a planning grant for the project. A subgrant to plan a project may be for no more than one fiscal year

(b) Before the SEA makes a commitment to multi-year funding, it shall determine that the LEA intends to adopt the project activities, if successful, as part of its regular educational program, and support them with non-Federal resources when part C funds are no longer provided.

(c)(1) If an SEA makes a subgrant to an LEA for a particular project that has been supported by part C funds during the three preceding years, the SEA shall, in comparison to the amount of the subgrant for the third fiscal year, reduce the amount of the subgrant substantially. Similarly, if an SEA makes a subgrant of part C funds to an LEA for a particular project for a fifth fiscal year, the SEA shall, in comparison to the amount of the subgrant for the fourth fiscal year, reduce the amount of the subgrant substantially.

(2) Before it makes a subgrant for the fourth or fifth year of a particular project, the SEA shall review the project carefully to assure itself that the LEA intends to incorporate the project activities into its regular educational program after part C funds are no longer provided.

(d) An LEA shall include the following information in its application for part C funds for the fourth or fifth year of a particular project—

(1) How the LEA Will compensate for the reduction of part C funds in the fourth and fifth year of the project without reducing the project's scope and quality.

(2) How the LEA will incorporate the activities of the project into its regular educational program after part C funds are no longer provided.

(3) How the LEA will continue to provide with Federal funds equitable benefits to private school children who participate in the project.

(e) For the purpose of applying the requirements of this section to multi-year part C projects already in operation for three yars prior to the effective date of these regulations, the SEA may consider the subgrant of fiscal year 1980 funds it makes to an LEA to continue such a multi-year part C project as though it were for the third year of that project.

(Sections 406(a) and 432(a) of the Act)

§ 134.42 Reallocation.

(a) An SEA may, from time to time, reallocate part B funds from an LEA that has chosen not to participate or does not choose to expend the full amount made available to it. A reallocation of funds must be consistent with the provisions of the Act dealing with the participation of private school children (sec. 406) and

with the procedure described in the State plan for determining the amount of subgrants for part B.

(b) If an SEA makes subgrants of part D funds available to LEAs on the basis of a formula, such as student enrollment, it may similarly reallocate excess part D funds as in paragraph (a).

(Sections 422(a) and 441(a) of the Act)

Subpart F—Conditions That Must Be Met by the State and Its Subgrantees

§ 134.50 Fiscal requirements.

(a) A State shall comply with fiscal requirements of title V of ESEA (sec. 501(b)(5)) or of GEPA (sec. 435(b)(5)), whichever applies.

(b) A State may not commingle State funds with the funds made available to it under the Act for any fiscal year.

(Sec. 404(a)(10) of the Act)

§ 134.51 Use of funds—SEAs.

(a) In a fiscal year in which the provisions of title V of ESEA dealing with the conditions for appropriations of State administrative funds (sec. 510(b)(2)) are not met—

(1)(i) A State—other than an insular area—may use to administer its State plan the larger of the amounts described by sections 404(a)(8) (A) and (B) of the Act (funds for State administration).

(ii) The State shall then make available to LEAs—for purposes described in (iii)—the remaining amount of its total title IV allotment—after any reallocation by the Commissioner—under the provisions dealing with allotments to States (sec. 403(a)) of the Act. However, the SEA shall exclude from the amount made available to LEAs any amount to be expended for strengthening the SEA (sec. 404(a)(9) of the Act) or for State leadership in guidance, counseling, and testing (sec. 441(b) of the Act).

(iii) An LEA shall use the amount made available under (ii) for the sole purpose of, respectively, acquiring instructional materials and equipment under part B; improving local educational practices under part C; and conducting guidance, counseling, and testing programs under part D.

(2)(i) An insular area may use no more than $75,000 to administer its State plan.

(ii) The insular area shall then use for the purposes described in (iii) the remaining amount of its total title IV allotment under section 403(c) of the Act. However, the insular area shall exclude from the amount available for (iii) any amount to be expended for strengthening the SEA (sec. 404(a)(9) of the Act) or for State leadership in guidance, counseling, and testing (sec. 441(b)).

(iii) The insular area shall use the amount made available under (ii) for the sole purpose of, respectively, acquiring instructional materials and equipment under part B; improving local educational practices under part C; and conducting guidance, counseling, and testing programs under part D.

(Sections 403(a), 403(c), 404(a)(9), and 441(b) of the Act)

(b) In a fiscal year in which the provisions of title V of ESEA dealing with the conditions for appropriations of State administrative funds (sec. 510(b)(2)) are met, all the requirements of subsection (a) apply except those pertaining to State administrative funds.

(Sections 403(a), 403(c), 404(a)(9), and 441(b) of the Act)

(c)(1) In any fiscal year the Department of Interior may use no more than $75,000 to administer its program plan.

(2) The department shall then use for the purposes described in (3) the remaining amount of its total title IV allotment for the sole purpose of, respectively, acquiring instructional materials and equipment under part B; improving local educational practice under part C; and conducting guidance, counseling, and testing programs under part D.

(Sec. 403(c) of the Act)

(d)(1) In a fiscal year in which the provisions of title V of ESEA dealing with the conditions for appropriations for SEA strengthening (sec. 523(b)) are not met, a State—including an insular area—may use the larger of the amounts described by sections 404(a)(9) (A) and (B) of the Act (funds for strengthening SEAs) to conduct the activities under section 521 that are described in the approved State plan under the section of title V of ESEA dealing with program requirements (sec. 522).

(2) In any fiscal year the Department of Defense and the Department of Interior may not use title IV funds for strengthening activities (sec. 521 of title V of ESEA) or State leadership activities (sec. 441(a)(1) of the Act).

(Sections 403(c), 404(a)(9), and 441(a)(1) of the Act)

(e)(1) In awarding subgrants of part C funds, an SEA shall comply with the sections of the Act dealing with Grants for innovative compensatory education projects (sec. 431(b)(2)), grants to improve school management (sec. 432(B)(1)), and grants for special projects for handicapped children (sec. 432(c)).

(2) An SEA may use no less than 15 percent of its part C grant—excluding funds available under section 404(a)(9) (funds for strengthening SEA)—for special projects under section 432(c) of the Act. The special projects for handicapped children funded under section 432(c) of the Act must be designed to meet the special educational needs of those children served.

(Sections 431(b), 432(b), and 432(c) of the Act)

(f)(1) An SEA may reserve a small amount of part C funds for the purpose of supplementing its subgrants for part C projects.

(2) Alternatively, if—after awarding all of its part C funds for a fiscal year for part C subgrants—the SEA determines that not all of those funds will be obligated by one or more LEAs during that grant period, the SEA may recover those funds and use them to supplement part C projects conducted by other LEAs.

(3) An SEA that intends to supplement part C projects in any way shall include in its State plan a description of the process and the competitive criteria it will use in considering an LEA's request for supplemental funding.

(4) If an SEA reserves funds for supplementation, it shall include the amount in its State plan.

(5) An SEA may not award supplementary part C funds to enable an LEA to conduct activities beyond the scope of that LEA's approved application.

(Sections 404(a)(5) and 431 of the Act)

(g) An SEA may use no more than 7½ percent of its part D grant for any fiscal year for State leadership and supervisory activities.

(Sec. 441(b) of the Act)

(h) Except under § 134.52(d), an SEA may support the statewide dissemination of information about title IV projects, but only with funds received under—

(1) Section 404(a)(8) of the Act (State administrative funds) or section 510 of title V of ESEA (State administrative funds), whichever applies;

(2) Section 404(a)(9) of the Act (funds for State strengthening) or section 523 of title V of ESEA (funds for State strengthening), whichever applies; or

(3) Section 441(b) of the Act (funds for State leadership in guidance, counseling, and testing).

(Sections 404(a)(8), 404(a)(9) and 431(a) of the Act)

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(i) In judging a competition among LEAs for part C funds, an SEA may take into consideration which of the program purposes or activities authorized by section 431(a) of the Act an LEA seeks to support. However, in judging a competition for part D funds, an SEA may not take into consideration which of the program purposes or activities authorized by section 441(a)(2) of the Act an LEA seeks to support.

(Sections 431(a), 441(a), and 442 of the Act)

(j) The Department of Defense, the Department of Interior, and each insular area shall use a substantial amount of its title IV grant to benefit children who have the greatest educational need.

(Sec. 403(c) of the Act)

§ 134.52 Use of funds—LEAs.

(a) Subject to the requirements of the Act dealing with the participation of private school children (sec. 406) an LEA that receives a subgrant of parts B or D funds shall have complete discretion in selecting which of the program purposes—authorized, respectively, by section 421 or section 441(a)(2) of the Act—it wishes to support with those funds.

(Sections 422(b) and 442 of the Act)

(b)(1) Subject to the requirements of the Act dealing with the participation of private school children (sec. 406), an LEA may, when acquiring instructional materials and equipment with part B funds, concentrate upon meeting the educational needs of children in one or more of the schools within its boundaries.

(2) An LEA that receives higher per pupil allocations of part B funds due to the presence of a large number of children whose education imposes a higher than average per pupil cost shall consider the special educational needs of those children when selecting instructional materials and equipment. However, the LEA shall make available to all children attending a school all the instructional materials and equipment acquired with part B funds and placed in that school.

(Sections 421 and 422 of the Act)

(c) An LEA that receives a subgrant of part C funds shall use those funds for activities that will improve its own educational practices. This means that an LEA that receives a subgrant of part C funds—

(1) May not transmit those funds to another LEA to pay the costs of the other LEA's project unless the LEA that receives the subgrant is acting as the agent for a group of LEAs whose joint project application for part C funds has been approved by the SEA;

(2) May not use those funds to disseminate training materials or project information to the representatives of children enrolled in schools outside the LEA, except in response to a specific request;

(3) Shall give priority to requests for training received from the representatives of children enrolled in schools within its own boundaries;

(4) May not use those funds to provide training to the representatives of school children enrolled in a school located in another State.

(d)(1) Only during the last two fiscal years it conducts a particular multi-year part C project may a LEA conduct the following activities with part C funds:

(i) Disseminate training materials and project information—including evaluation results—to representatives of children enrolled in public and private schools outside its boundaries.

(ii) Provide technical assistance and training to the representatives of children enrolled in public and private schools outside its boundaries.

(iii) Attend meetings to describe its project to representatives of children enrolled in public and private schools outside its boundaries.

(2) An LEA may use no more than 25 percent of each of its last two subgrants to conduct any or all of these activities.

(3) An LEA may not use part C funds to conduct these activities unless the SEA specifically approves. Before approving, the SEA must determine that the LEA's project activities—

(i) are successful and worthy of dissemination, and

(ii) have been adopted, where appropriate, in the schools within the LEA's boundaries.

(Sec. 431(a) of the Act)

§ 134.53 Allowable costs.

(a) Expenditures of part B funds for instructional equipment may include the cost of raw or processed materials, or component parts to be made into finished products, as well as the cost of making or assembling the instructional equipment.

(b) No administrative costs, except those properly incurred by SEAs, are allowable under part B of the Act unless the SEA approves a special indirect cost rate for use by LEAs.

(Sections 401 and 421 of the Act)

Subpart G—Administrative Responsibilities of the State and Its Subgrantees

§ 134.60 Project application review and approval by the State.

(a) An SEA shall review and approve the project applications of LEAs according to the requirements of section 503 of title V of ESEA, if applicable, and in a manner consistent with its assurances under section 435(b)(1) of GEPA.

(b) The Department of Defense, the Department of Interior, or an insular area shall review the program applications of its administrative units, if applicable. The department or the insular area may approve only those applications that comply with the requirements of the Act and these regulations, as well as with the department's program plan or the insular area's State plan.

(Sec. 404(a) of the Act)

§ 134.61 Monitoring and enforcement by the State.

In each fiscal year, the SEA shall carry out a plan for monitoring and enforcing compliance by LEAs with Federal requirements according to the following standards:

(a) The purpose of monitoring shall be—

(1) To review federally funded projects to determine whether a subgrantee is complying with applicable statutes, regulations, and grant provisions; and

(2) To review project purposes, activities, and results.

(b)(1) An SEA shall take into account the size, scope, and purpose of the project in determining the frequency of on-site visits.

(2) The SEA shall visit each multi-year part C project at least once during the duration of the project or the applicable State plan.

(3) The SEA shall visit a sample of all title IV projects annually to insure the integrity of the title IV program.

(c)(1) Within 60 days of a monitoring visit, the SEA shall provide the LEA with a written report that contains the SEA's findings.

(2) If the LEA disagrees with those findings, it may reply in writing to the SEA within 60 days of the SEA's report.

(3) The SEA shall respond in writing to the LEA within 60 days of receiving the LEA's reply.

(d) All monitoring reports, replies, and responses are public documents and shall be made available to the public by both the SEA and LEA.

(Sec. 401 of the Act and Sec. 434 of the General Education Provisions Act)

§ 134.62 Evaluation by the State, the State advisory council, and subgrantees.

(a) An SEA shall comply with the evaluation requirements of title V of ESEA (sec. 501(b)(4)) or of GEPA (sec. 435(b)(4)), whichever applies, and evaluate, at least once every three years, the effectiveness of parts B, C, and D of the title IV program in that State. The purposes of the evaluation are to determine—

(1) The extent to which educational needs are being met by parts B, C, and D;

(2) The extent to which the educational practices of participating LEAs are being improved;

(3) The quality and effectiveness of administrative activities undertaken by the SEA, such as program application review, technical assistance, dissemination, and project monitoring; and

(4) For part C projects—

(i) The extent to which LEAs are incorporating successful practices, originally supported by part C funds, into their regular district-wide educational programs;

(ii) The extent to which Part C funds are being used for the various program activities authorized under the Act; and

(iii) The extent to which the educational needs that prompted the project are still viewed as important by the LEA when Federal funding concludes.

(b) The State advisory council (SAC) shall comply with the evaluation and reporting requirement of the Act (sections 404(b)(1)(C) and (D)). At least every three years the SAC shall evaluate and report—through the SEA to the Commissioner—on the parts B, C, and D programs in that State and on all title IV projects in the State, including those conducted for children enrolled in nonprofit private elementary and secondary schools. These evaluations must reflect consideration of—

(1) The needs addressed by parts B, C, and D and by the individual LEA projects;

(2) The objectives of parts B, C, and D and of the individual LEA projects;

(3) The extent to which these objectives have been achieved;

(4) The educational improvements that have resulted from the parts B, C, and D programs and from the individual LEA projects; and

(5) In the case of a part C project, the extent to which the educational practices associated with that project have been incorporated throughout the LEA.

(Sections 401, 404(b)(1)(C), and 404(b)(1)(D) of the Act)

§ 134.63 Standards for part B.

A State shall adopt standards to be used by its LEAs—or, in the case of an insular area, by its administrative units—in acquiring instructional equipment and materials under part B of title IV of the Act. The purpose of these standards shall be to insure that all equipment and materials acquired—

(a) Are of appropriate quality and quantity for instructional use in that LEA or administrative unit; and

(b) Will be used solely for instructional purposes.

(Sec. 421 of the Act)

§ 134.64 Consultation procedures, part B.

(a) In determining how part B funds will be divided among the program purposes described in section 421 of the Act, an SEA shall insure that a participating LEA has adopted appropriate procedures to coordinate the selection of instructional equipment and materials with the curricula carried out in that LEAs schools.

(b) These procedures shall include periodic consultation with teachers, librarians, media specialists, and other professional staff in the schools and with representatives of participating private school children.

(Sec. 422(b) of the Act)

§ 134.65 Control of instructional equipment and materials.

An LEA—or other public agency—that administers a title IV project shall take whatever steps are necessary to insure that it maintains effective control over instructional equipment and materials acquired with title IV funds.

(Sections 406(c) and 421 of the Act and Sec. 436(b)(2) of the General Education Provisions Act)

§ 134.66 Audit resolution.

If an SEA administers title IV under the authority of part A of title V of ESEA, the minimum standards for audit resolution contained in part 120 of this chapter apply.

(Sec. 401 of the Act)

§ 134.67 Part C projects for the education of handicapped children; requirements under part B of the Education of the Handicapped Act (EHA).

(a) An SEA shall ensure that each project for handicapped children that is funded with title IV, part C funds—

(1) Is under the general supervision of the persons in the SEA who are responsible for educational programs for handicapped children; and

(2) Meets the SEA's educational standards.

(b) An SEA shall ensure that all title IV, part C funds it awards for projects for handicapped children will be used only in a manner consistent with a goal of providing a free appropriate public education for all handicapped children. However, this paragraph does not limit the specific requirements of the Act or these regulations.

(c) Under the withholding provisions of EHA (sec. 616), the Commissioner may withhold part C funds available for projects for handicapped children if the Commissioner determines that there has been a—

(1) Failure to comply substantially with any provision of sections 612 or 613 of EHA, or

(2) Failure in the administration of the State plan under B of EHA to comply with—

(i) Any provision of part B of EHA; or

(ii) Any requirement in the approved application under part B of an LEA or intermediate educational unit.

(d) The regulations for part B of EHA are in 45 CFR part 121a.

(Sections 612(6), 613(a)(2), and 616(a)(2)(B) of the Education of the Handicapped Act).

Subpart H—Participation of Children Enrolled in Private Schools

§ 134.70 Responsibilities.

(a) *General.* Section 406 of the Act provides that children enrolled in private schools are entitled to participate equitably in the purposes and benefits of the title IV program. This subpart establishes the rules governing their participation. For the purposes of this subpart and subpart I the term LEA includes an administrative unit of an insular area.

(b) *SEA Responsiblities.* An SEA may not make a subgrant of title IV funds that does not meet the requirements of section 406 of the Act. If an SEA carries out a title IV project directly, it shall comply with section 406 of the Act as if it were an LEA.

(c) *LEA Responsibilities.* (1) An LEA shall give children enrolled in the private schools within its boundaries genuine opportunities to participate in title IV projects. These opportunities shall be consistent with the number and needs of those children.

(2) The LEA shall maintain continuing administrative direction and control over the title IV benefits provided to children enrolled in private schools.

(Sec. 406 of the Act)

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§ 134.71 Consultation with representatives of private school students.

(a) An LEA shall consult with appropriate representatives of the children enrolled in the private schools within its boundaries. This consultation must occur before the LEA makes any decision that affects the participation of these children. The LEA shall give the representatives of these children a genuine opportunity to express their views.

(b) These are examples of decisions that require this consultation:

(1) Whether the LEA will participate in a title IV program;

(2) What children will receive benefits under that program;

(3) How the children's needs will be identified;

(4) What benefits will be provided;

(5) How the benefits will be provided; and

(6) How the project will be evaluated.

(Sec. 406(a) of the Act)

§ 134.72 Needs; number of students; types of services.

An LEA shall determine the following matters on a basis comparable to the one it uses in providing for the participation of children attending public schools:

(a) The needs of children enrolled in the private schools.

(b) The number of those students who will participate in a project.

(c) The benefits the LEA will provide to those students.

(Sec. 406 of the Act)

§ 134.73 Benefits.

(a) *General.* An LEA that receives a subgrant of title IV funds shall provide to children enrolled in private schools located within its boundaries secular, neutral, non-ideological benefits that are authorized by title IV of the Act other then section 431(a)(6) of the Act (improving school management). If the LEA determines that it is either unnecessary or not feasible to provide these benefits on the premises of one of more of those private schools, it shall make other arrangements for their provision to those children. These other arrangements must allow the private school children to participate equitably in the LEA's project.

(b) *Same or different benefits.* (1) If an LEA concentrates title IV funds on a particular group, attendance area, or grade or age level, the LEA shall insure equitable participation by children enrolled in private schools who—

(a) Have the same needs;

(b) Are in that group, attendance area, or age or grade level.

(2) An LEA shall provide title IV benefits to children enrolled in private schools that are diffenent from the title IV benefits it provides to children enrolled in public schools if the differences are necessary to meet the needs of those children enrolled in private schools. However, the title IV benefits for the children enrolled in private schools must be comparable in quality, scope and opportunity for participation to those provided for children enrolled in public schools.

(c) *Part B benefits.* (1) If no project under part B of title IV is carried out for the benefit of children enrolled in public schools within the school district of an LEA, the SEA shall—upon request by the appropriate representatives of children enrolled in private schools located within that district—make arrangements to provide benefits authorized by part B to the children enrolled in private schools.

(2) These arrangements—which may include contracts with nonprofit private agencies or organizations—must provide part B benefits to these children as if they were provided by the LEA within whose district the private schools are located.

(d) *Part C and part D benefits.* Children enrolled in private schools located within the boundaries of an LEA may receive benefits authorized by parts C or D of title IV only if:

(1) That LEA applied for and received a subgrant; and

(2) Children enrolled in the public schools within the boundaries of that LEA receive, respectively, part C or D benefits.

(Sec. 406(a) of the Act)

§ 134.74 Expenditures.

(a) Subject to subjection (b), an LEA shall spend the same average amount to title IV funds on a child enrolled in a private school who participates in the title IV project as a children enrolled in a public school who participates in that project.

(b) The LEA shall spend a different average amount of title IV benefits for a child enrolled in a private school if the costs of meeting the needs of that child are different from the costs of meeting the needs of a child enrolled in the public schools.

(Sec. 406(b) of the Act)

§ 134.75 Separate classes.

An LEA may not use title IV funds for classes that are separated on the basis of school enrollment or the religion of the children if:

(a) The classes are in a public facility; and

(b) The classes include children enrolled in public schools and children enrolled in private schools.

(Sec. 406(a) of the Act)

§ 134.76 Funds not to benefit a private school.

(a) An LEA may not use title IV funds to finance the existing level of instruction in a private school or to otherwise benefit the private schools.

(b) The LEA shall use title IV funds to meet the specific educational needs of children enrolled in private school rather than

(1) the needs of a private school or

(2) the general needs of the children enrolled in a private school.

(Sec. 406(a) of the Act)

§ 134.77 Administrative control.

(a) A public agency—usually the LEA—shall keep title to and exercise continuing administrative control over all materials and equipment that the LEA acquires with title IV funds.

(b) The public agency may place such materials or equipment on the premises of a private school for a limited period of time.

(c) The public agency shall insure that the materials or equipment placed on the premisies of a private school

(1) are used only for the purposes of the title IV program and

(2) can be removed from the private school without remodeling its facilities.

(d) The public agency shall remove the materials or equipment from the premises of a private school if

(1) the materials or equipment are no longer needed for the purposes of the program or

(2) removal is necessary to avoid use of the materials or equipment for other than title IV purposes.

(Sec. 406(c)(1) of the Act)

§ 134.78 Public employees.

An LEA may use part C or D funds to provide personal services on other than public premises only:

(a) If the persons who provide the personal services are public employees as required by section 406(c)(2) of the Act;

(b) If the personal services are not normally provided by the private school; and

(c) To the extent necessary to provide the part C or D benefits designed for children enrolled in private schools.

(Sec. 406(c)(2) of the Act)

§ 134.79 Separate compliance.

(a) Each SEA and LEA that participates in title IV shall comply with section 406 of the Act in connection with each title IV program—part B, C, or D—in which it participates.

(b) A determination that an SEA or LEA has substantially failed, or is unwilling, to provide equitably for children enrolled in private schools in connection with its participation in one part of title IV has no bearing on whether it is complying with the equitable participation requirement in connection with another part.

(Sec. 406 of the Act)

Subpart I—Section 406 Compliance Procedures

§ 134.80 Complaint procedures.

(a) In any fiscal year, any person or organization may file with an SEA a written complaint alleging that in one or more title IV projects children enrolled in private schools are not receiving benefits on an equitable basis. The written complaint must include a detailed statement of the facts upon which the allegation is made.

(b) The SEA shall, within sixty days of its receipt, investigate the complaint and submit to the Commissioner a report setting forth the nature of the complaint and the actions taken to resolve it. If the SEA believes that one or more LEAs have substantially failed, or are unwilling to provide equitably for children enrolled in private schools, it shall comply with § 134.81(b) of these regulations.

(c) If, after the sixty day period, the SEA, an affected LEA, the person or organization making the complaint, or the Commissioner believes the complaint has not been satisfactorily resolved, the Commissioner may review the matter and take appropriate action. The Commissioner determines when a complaint is finally resolved.

(Sec. 406 of the Act)

§ 134.81 Waiver of section 406.

(a) The Commissioner waives the requirements of section 406 of the Act if the Commissioner determines that an SEA is prohibited by State law from providing for the equitable participation of children enrolled in private schools. If an SEA believes that it is prohibited by State law from providing equitably for private school children, it shall promptly—

(1) Notify the Commissioner of its belief;

(2) Provide the Commissioner with a written interpretation of State law, prepared by the State Attorney General or other appropriate State legal officer;

(3) Certify in its State plan—by amendment, if necessary—that it cannot, under State law, comply with the requirements of section 406 of the Act; and

(4) Refrain from approving any project application until the Commissioner either—

(i) Waives the requirements of section 406 of the Act for that State; or

(ii) Determines that, despite the provisions of State law, the SEA is able to comply with the requirements of section 406 of the Act.

(b) The Commissioner may waive the requirements of section 406 of the Act if the Commissioner determines that an SEA or LEA has either substantially failed or is unwilling to provide for the equitable participation of children enrolled in private schools. If, at any time, an SEA believes that an LEA has substantially failed to or is unwilling to provide equitably for private school children, the SEA shall promptly—

(1) Notify both the Commissioner and the affected LEA of its belief;

(2) Provide both with a written, detailed statement of the reasons for its belief; and

(3) Notify the affected LEA that it will no longer make title IV funds available to it until the Commissioner either—

(i) Waives the requirements of section 406 for the affected LEA; or

(ii) Determines that the affected LEA is in compliance with the requirements of section 406 of the Act.

(c) A waiver under this section lasts until the Commissioner determines that there is no longer any failure or inability on the part of the SEA or affected LEA to comply with the requirements of section 406.

(Sections 406(d), 406(e), and 406(f) of the Act)

§ 134.82 Bypass.

(a) If the Commissioner waives the requirements of section 406 for a State or one or more of its LEAs, the Commissioner arranges for the equitable provision of title IV benefits to the affected private school children.

(1) Waives the requirements of section 406 of the Act for one or more LEAs; and

(2) Determines that the affected SEA is not, under State law, prohibited from complying with the requirements of section 406, the Commissioner may offer the SEA the opportunity to make an arrangement, either directly or by contract, for the equitable provision of title IV benefits to the affected private school children. The SEA shall promptly notify the Commissioner if it intends to make these arrangements.

(b) Pending the final resolution of a complaint or the results of any investigation which may lead to a waiver of the requirements of section 406 under § 134.81 of these regulations, the Commissioner may withhold from the allocation of the affected State or LEA the amount needed to pay the cost of an arrangement under subsection (a).

(c) If, after consultation with the appropriate representatives of the public and private school children—

(1) The Commissioner makes an arrangement under subsection (a), the Commissioner pays the cost of that arrangement—including necessary administrative expenses—from the appropriate title IV allotment of the affected State; or

(2) An SEA makes an arrangement under subsection (a), the SEA shall pay the cost of that arrangement from the appropriate title IV allotment of the affected LEA. If that arrangement requires the SEA to perform administrative activities it would not otherwise perform, it may pay the cost of those additional activities from the appropriate allotment of that LEA.

(Sections 406(d), 406(e), and 406(g) of the Act)

Subpart J—Other Compliance Procedures Used by the Office of Education

§ 134.90 Withholding of funds; cease and desist order.

The Commissioner may withhold funds under section 452 of GEPA or may issue a cease and desist order under section 454 of GEPA if the Commissioner—

(a) Has reason to believe that a recipient of title IV funds has failed to comply substantially with any requirement of law applicable to title IV funds; and

(b) Does not grant a waiver under § 134.82 (*By-poss.*) of these regulations.

(Sec. 406 of the Act and Sections 453 and 454 of the General Educations Provisions Act)

§ 134.91 Waivers of maintenance of effort.

Because of exceptional or unforeseen circumstances affecting one or more LEAs or private schools in a State, the Commissioner may waive the maintenance of effort requirements of the Act (sec. 404(a)(7)) and these regulations (§ 134.14), if it is equitable to do so. This waiver is effective for one fiscal year only, and may not be repeated.

(a) Examples of exceptional and unforeseen circumstances include: (1)

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An unforeseen, substantial removal of property from the tax roll due to:

(i) A natural or man-made disaster;

(ii) A government action, or

(iii) The departure of an industrial or commercial facility;

(2) An unforeseen, substantial diversion of available revenue to other purposes outside the control of the SEA or LEA due to emergency circumstances such as those resulting from a natural or man-made disaster;

(3) An unforeseen, substantial decrease in expenditures by a State, LEA, or private school due to a strike of educational or service personnel;

(4) An unforeseen, substantial decrease in expenditures by a State, LEA, or private school due to energy shortages or other emergency circumstances.

(b) Examples of circumstances the Commissioner does not consider to be exceptional and unforeseen include—

(1) A deliberate substantial reduction of available revenue due to an act of a State of local legislature or electorate in other than emergency circumstances; and

(2) The failure of an SEA or LEA to maintain its fiscal effort when it had the financial resources available to do so.

(c) In determining whether it is equitable to grant a waiver under subsection (a), the Commissioner considers—

(1) The extent to which the circumstances claimed to be exceptional and unforeseen were of the SEA's, LEA's, or private school's own making;

(2) The extent to which the SEA, LEA, or private school attempted to maintain its expenditures for programs described in parts B and D despite those circumstances; and

(3) Any other relevant factors.

(Sec. 431A of the General Education Provisions Act and House Report No. 95-1137, 95th Congress, 2d session, at 139)

§ 134.92 Effect of waiver of maintenance of effort.

(a) If the Commissioner grants a waiver of maintenance of effort under § 134.91, the Commissioner reduces the total amount a State or insular area may receive for that fiscal year by the exact proportion its expenditures for the preceding fiscal year fell short of its expenditures for the second preceding fiscal year. Those expenditures may be calculated on either an aggregate or aggregate per student basis.

(b) Subsequent determinations of whether that State or insular area has maintained its effort are made on the basis of the expenditures that would have been required had the Commissioner not granted a waiver.

(Sec. 431A(b) of the General Education Provisions Act)

§ 134.93 Maintenance of effort waiver procedures.

If a State discovers that it cannot comply with the assurance in its State plan to maintain expenditures, it shall—

(a) Promptly notify the Commissioner and request a waiver for the appropriate fiscal year; and

(b) Amend its State plan to reflect the request for a waiver.

(Sec. 404(a)(7) of the Act)

Editorial Note.—The following appendix will not appear in the Code of Federal Regulations when this document is published in final form.

Appendix

Under § 134.11 the SEA shall submit to the Commissioner a State plan that complies with each of the following requirements.

State Plan—General

As required by section 404(a) of title IV, an SEA shall submit a State plan containing that information the Commissioner considers necessary. An SEA shall include in its State plan the following information that applies generally to parts B, C, and D:

(a) Designate the SEA as the sole State agency responsible for administration of plan, as required by section 404(a)(1).

(b) Set forth a program for expenditure of funds for the purposes of parts B, C, and D, as required by section 404(a)(2). This description must include any priorities in part C program purposes or activities the SEA intends to implement. This description must also include an identification of the units responsible for administering title IV in general, and parts B, C, and D in particular, and show how the relationship among these units results in program coordination.

(c) Describes: the application review process; criteria for fund distribution; and the procedures for program monitoring, evaluation, and dissemination, as required by section 501(b) of title V of ESEA or section 435(b) of GEPA, whichever applies.

(d) Assure that it will meet the requirements pertaining to equitable participation of pupils and teachers in private schools, as required by section 404(a)(3).

(e) Submit policies and procedures, as required by section 404(a)(10), that it will follow to ensure that it will not commingle Federal funds with State funds.

(f) Explain how it will provide technical assistance to private school officials, as required by section 404(a)(11). The rules implementing this requirement are contained in § 119.10(b) (*State plan.*) of part 119 of this chapter.

(g) Present its plan to coordinate Federal, State, and local funds for pre-service and in-service education of educational personnel in the State, as required by section 404(a)(12). The rules implementing this requirment are contained in § 119.10(c) (*State plan.*) of part 119 of this chapter.

(h) Explain the activities that the State Advisory Council will conduct to carry out its advisory, evaluation, and reporting functions required by section 404(b).

(i) Describe any rule or other requirement it adopts under section 504 of title V of ESEA and the reason for its adoption.

(j) Assure that it will submit to the Commissioner each year the following information:

(1) For part B, current enrollment figures for public and private elementary and secondary schools, and State-supported special schools.

(2) For part C, information about each LEA project funded, including the following:

(i) Name of LEA and title of project.

(ii) Enrollment.

(iii) Congressional district.

(iv) Curriculum area.

(v) Target population.

(vi) Number of public and private school children, teachers, and other participants.

(vii) Grade level.

(viii) Number of years project has been in operation.

(ix) Amount of subgrant.

(x) Fiscal year source of funds.

(xi) Budget period.

(xii) Type of project (e.g., to plan and develop new and promising local educational practices; to adopt successful practices developed by other LEAs).

(3) For part D, the information in paragraph (1) if funds are distributed to LEAs on a formula basis or the information in paragraph (2) if the funds are distributed on a competive basis.

State Plan—Part B

An SEA shall include in its State plan the following assurances and other information that apply specifically to part B:

(a) Describe the administrative of the part B program, including the staffing pattern, as required by section 404(a)(2).

(b) Describe the means by which technical assistance will be provided to LEAs, as required by section 404(a)(4).

(c) Describe the procedures that LEAs will follow in submitting applications for part B funds not more often than once every three years, as required by section 404(a)(6).

(d) Assure that, for each fiscal year covered by the State plan, the amount expended per student or the aggregate expenditure by the State, its LEAs, and private schools from funds derived from non-Federal sources for programs described in part B was not less for the preceding fiscal year than the amount per student or the aggregate expediture for the second preceding fiscal year, as required by section 404(a)(7).

(e) Show what part of the funds received for administration of the State plan, as provided in section 404(a)(8), it will use for administration of part B.

(f) Explain how its distribution formula for part B funds complies with section 422(a) of the Act and § 134.40(a) of these regulations.

(g) Assure that LEAs will be given complete discretion—subject to the provisins of section 406—in determining how part B funds will be divided among the purposes described in section 421, as required by section 422(b).

(h) Assure that, as required by section 422(b), each LEA—in making its determination about the division of part B funds among the authorized program purposes—has adopted appropriate procedures to coordinate the selection of equipment and materials with curricula being carried out in the schools within that LEA. These procedures must include periodic consultation with teachers, librarians, media specialists, other professional staff in the schools, and private school officials.

State Plan—Part C

An SEA shall include in its State plan the following assurances and other information that apply specifically to part C:

(a) Describe the administration of the part C program, including the staffing pattern, as required by section 404(a)(2).

(b) Describe the means by which technical assistance will be provided to LEAs, as required by section 404(a)(4).

(c) Assure that it will distribute part C funds to LEAs on an equitable, competitive basis and assist LEAs less able to compete, as required by section 404(a)(5). The SEA shall also describe the procedures it will use to comply with these assurances.

(d) Show what part of the funds received for administration of the State plan, as provided in section 404(a)(8), it will use for administration of part C.

(e) Assure that funds it receives under section 404(a)(9) will be used to carry out the authorized activities for strengthening State educational agency management in accordance with section 521 of title V and its approved title V–B State plan.

(f) Assure that it will set aside the amount prescribed in section 431(b)(2) for the purpose of encouraging innovation and improvement in compensatory educational efforts.

(g) Describe how it will apply the criteria prescribed by the Commissioner to reduce Federal funding to LEAs during the fourth and fifth years of part C projects, as required by section 432(a) and § 134.41 of these regulations.

(h) Assure that it will set aside the amounts prescribed in section 432(b)(1) for LEA projects to coordinate Federal, State, and local resources to improve school management.

(i) Assure that it will not approve a project under section 431(a)(6) unless it has been developed in accordance with section 432(b)(2).

(j) Assure that 15 percent of the amount it receives for part C projects will be set aside for special projects for the education of handicapped children, as required by section 432(c).

(k) Describe the procedures it will use to ensure that all part C funds it awards for projects for handicapped children will be used in a manner that meets the requirements of § 134.67(b) of these regulations.

(l) Assure that it will not approve the application of an LEA for part C funds unless it has determined that the LEA has taken into account the needs of private school children, as required by section 432(d).

(m) Describe the procedures and criteria it will use to supplement the funding of LEA projects, as permitted by § 134.51(f) of these regulations.

State Plan—Part D

An SEA shall include in its State plan the following assurances and other information that apply specifically to part D:

(a) Describe the administration of the part D program, including the staffing pattern, as required by section 404(a)(2).

(b) Describe the means by which technical assistance will be provided to LEAs, as required by section 404(a)(4).

(c) Describe the means by which State leadership and supervisory services will be provided, as required by section 441(a)(1), if not described in (a) or (b).

(d) Describe the procedures that LEAs will follow in submitting applications for part D funds not more often than once every three years, as required by section 404(a)(6).

(e) Assure that, for each fiscal year covered by the State plan, the amount expended per student or the aggregate expenditures by the State, its LEAs, and private schools from funds derived from non-Federal sources for programs described in part D was not less for the preceding fiscal year than the amount per student or the aggregate expenditure for the second preceding fiscal year, as required by section 404(a)(7).

(f) Show what part of the funds will be used for State leadership and supervision, as provided by section 441(b).

(g) Show what part of the funds received for administration of the State plan, as provided in section 404(a)(8), it will use for administration of part D.

(h) Assure that LEAs will be given complete discretion—subject to the provisions of section 406—in determining how part D funds will be divided among purposes described in section 441, as required by section 442.

Amendments

Examples of occasions when an SEA is required to amend its State plan include:

(a) For part B—

(1) When changes in criteria affecting the distribution of funds are made, or

(2) When a request for a waiver of the maintenance of effort requirement is necessary.

(b) For part C—

When material changes in program administration, purposes, priorities, or funding requirements for LEA projects are made.

(c) For part D—

(1) When changes in criteria affecting the distribution of funds are made; or

(2) When material changes in program administration, purposes, priorities, or funding requirements for LEA projects are made; or

(3) When a request for a waiver of the maintenance of effort requirement is necessary.

Title IV of the Elementary and Secondary Education Act—Educational, Improvement, Resources, and Support

Part A—General Provisions Purpose

Sec. 401. It is the purpose of this title to provide financial assistance to State and local educational agencies—

(1) To strengthen the quality of elementary and secondary education through support of locally initiated projects and activities designed to improve educational practices;

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(2) To assist local educational agencies in the acquisition of necessary books, materials, library resources, and instructional equipment; and

(3) To strengthen and expand programs of counseling and guidance services and testing of students in elementary and secondary schools.

Authorization of Apropriations

Sec. 402.(a)(1) Subject to the provisions of paragraph (2), there is authorized to be appropriated such sums as may be necessary for obligation by the Commissioner during fiscal year 1980 and for each succeeding fiscal year ending prior to October 1, 1983, for the purpose of making grants under part B, relating to instructional materials and school library resources.

(2) No funds are authorized to be appropriated under this subsection for obligation by the Commissioner during any fiscal year unless—

(A)(i) The aggregate amount which would be appropriated under this subsection is at least equal to the aggregate amount appropriated for obligation by the Commissioner during the preceding fiscal year in which part B was in effect, or

(ii) In the case of appropriations under this subsection for the first fiscal year in which part B is effective, such amount is at least equal to the aggregate amount appropriated for obligation by the Commissioner for the fiscal year 1974, or for the preceding fiscal year, whichever is higher, under title II of this Act, and under title III (except for section 305) of the National Defense Education Act of 1958, and

(B) The sums appropriated pursuant to this subsection are included in an Act making appropriations for the fiscal year prior to the fiscal year in which such sums will be obligated, and are made available for expenditure prior to the beginning of such fiscal year.

(3) Whenever the requirements of paragraph (2) are not met, the Commissioner shall carry out programs under title II of this Act and under title III (except for section 305) of the National Defense Education Act of 1958 as in effect for the fiscal year 1978 (prior to the repeal or expiration thereof). In any fiscal year in which the provisions of the preceding sentence are in effect, sums equal to the sums authorized to be appropriated for such programs for fiscal year 1978 are authorized to be appropriated for such fiscal year.

(b)(1) Subject to the provisions of paragraph (2) there is authorized to be appropriated such sums as may be necessary for obligation by the Commissioner during the fiscal year 1980 and for each succeeding fiscal year ending prior to October 1, 1983, for the purpose of making grants under part C, relating to improvements in local educational practices.

(2) No funds are authorized to be appropriated under this subsection for obligation by the Commissioner during any fiscal year unless—

(A)(i) The aggregate amount which would be appropriated under this subsection is at least equal to the aggregate amount appropriated for obligation by the Commissioner during the preceding fiscal year in which part C was in effect, or

(ii) In the case of appropriations under this subsection for the first fiscal year in which part C is effective, such amount is at least equal to the aggregate amount appropriated for obligation by the Commissioner for fiscal year ending June 30, 1974, or for the preceding fiscal year, whichever is higher, under title III (except for programs of testing, guidance, and counseling), title V, and sections 807 and 808 of this Act, and

(B) The sums appropriated pursuant to this subsection are included in an Act making appropriations for the fiscal year prior to the fiscal year in which such sums will be obligated, and are made available for expenditure prior to the beginning of such fiscal year.

(3) Whenever the requirements of paragraph (2) are not met, the Commissioner shall carry out programs under title III (except for programs of testing, guidance, and counseling), title V and sections 807 and 808 of this Act in effect, for fiscal year 1978 (prior to the repeal thereof). In any fiscal year in which the provisions of the preceding sentence are in effect, sums equal to the sums authorized to be appropriated for such programs for fiscal year 1978 are authorized to be appropriated for such fiscal year.

(c)(1) Subject to the provisions of paragraph (2) there is authorized to be appropriated the sum of $50,000,000 for obligation by the Commissioner during the fiscal year 1980, and for each succeeding fiscal year ending prior to October 1, 1983, for the purpose of making grants under part D, relating to formula grants for guidance, counseling, and testing.

(2) No funds are authorized to be appropriated for obligation by the Commissioner for any fiscal year unless—

(A)(i) The aggregate amount which would be appropriated under this subsection for part D is at least equal to the aggregate amount appropriated for obligation by the Commissioner during the proceding fiscal year in which part D is in effect; or

(ii) In the case of appropriations under this subsection for the first fiscal year in which part D is in effect, the amount is at lease equal to $18,000,000, and

(B) The sums appropriated pursuant to this subsection are included in an Act making appropriations for the fiscal year prior to the fiscal year in which such sums will be obligated, and are made available for expenditure prior to the beginning of such fiscal year.

(3) Whenever the requirements of paragraph (2) are not met, the Commissioner shall carry out programs under part A of title V of the National Defense Education Act of 1958 as in effect for fiscal year 1971 (prior to the expiration thereof). In any fiscal year in which the provisions of the preceding sentence are in effect, sums equal to the sums authorized to be appropriated for such programs for fiscal year 1978 are authorized to be appropriated for such fiscal year.

(d) There are authorized to be appropriated for obligation by the Commissioner during each fiscal year ending prior to October 1, 1983, such sums as may be necessary for the purpose of increasing the allotment under section 403(a)(1) for that year to any State to a level of funding which equals the amounts of funds received by that State for the fiscal year ending June 30, 1974, for programs under title II, title III, title V, and sections 807 and 808 of this Act, and title III (except for section 305) of the National Defense Education Act of 1958.

Allotments to States

Sec. 403. (a)(1) From the amounts appropriated to carry out part B, part C, and part D of this title for any fiscal year, the Commissioner shall allot to each State from each such amount an amount which bears the same ratio to that amount as the number of children aged five to seventeen, inclusive, in the State bears to the number of those children in all the States.

(2) For the purpose of this subsection, the term "State" shall not include Guam, American Samoa, the Virgin Islands, the Northern Mariana Islands, and the Trust Territory of the Pacific Islands. The number of children aged five to seventeen inclusive, in a State and in all States shall be determined by the Commissioner on the basis of most recent satisfactory data available to him.

(b) The amount of any State's allotment under subsection (a) for any fiscal year to carry out part B, part C, or part D, which the Commissioner

determines will not be required for that fiscal year to carry out any of those parts shall be available for reallotment from time to time, on such dates during that year as the Commissioner may fix, to other States in proportion to the original allotments to those States under subsection (a) for that year but with such proportionate amount for any of those other States being reduced to the extent it exceeds the sum the Commissioner estimates that State needs and will be able to use for that year; and the total of those reductions shall be similarly realloted among the States whose proportionate amounts were not so reduced. Any amounts realloted to a State under this subsection during a year shall be deemed a part of its allotment under subsection (a) for that year.

(c) There are authorized to be appropriated for each fiscal year for the purpose of this subsection amounts equal to not more than 1 per centum of each of the amounts appropriated for such year under part B, part C, and part D of this title. The Commissioner shall allot each of the amounts appropriated pursuant to this subsection among Guam, American Samoa, the Virgin Islands, the Northern Mariana Islands, and the Trust Territory of the Pacific Islands according to their respective needs for assistance under part B, part C, and part D of this title. In addition, for each fiscal year he shall allot from each of such amounts to (A) the Secretary of the Interior the amounts necessary (including not more than $75,000 for administration) for the programs authorized by each such part for children and teachers in elementary and secondary schools operated for Indian children by the Department of the Interior, and (B) the Secretary of Defense the amounts necessary for the program authorized by each such part for children and teachers in the overseas dependents schools of the Department of Defense. The terms upon which payment for such purposes shall be made to the Secretary of the Interior and the Secretary of Defense shall be determined pursuant to such criteria as the Commissioner determines will best carry out the purposes of this title.

State Plans

Sec. 404. (a) A State shall be eligible to receive grants under this part if it has on file with the Commissioner a general State application under section 501 or section 435 of the General Education Provisions Act, whichever is applicable, and if it submits to the Commissioner a State plan at such times (not more often than once every three years) and in such detail as the Commissioner deems necessary, which—

(1) Designates the State educational agency as the State agency which shall, either directly or through arrangements with other State or local public agencies, act as the sole agency for the administration of the State plan;

(2) Sets forth a program under which funds paid to the State from its allotments under section 403 will be expended solely for the programs and purposes that meet the requirements set forth in part B, part C, and part D of this title;

(3) Provides assurances that the requirements of section 406 (relating to the participation of pupils and teachers in private elementary and secondary schools) will be met, or certifies that such requirements cannot legally be met in such State;

(4) Describes the means by which the State educational agency will provide technical assistance to local educational agencies to enable them fully to participate in programs assisted under this title;

(5) Provides assurances that funds such agency receives from appropriations made under section 402(b) will be distributed among local educational agencies on an equitable basis, recognizing the competitive nature of the grantmaking except that the State educational agency shall provide assistance in formulating proposals and in operating programs to local educational agencies which are less able to compete due to small size or lack of local financial resources to distribute funds made available under this title to local educational agencies; and describes the procedures the State will use;

(6) Provides that local educational agencies applying for funds under part B and part D shall be required to submit applications for that program not more than once every three years;

(7) Provides essurances that the aggregate amount to be expended per student or the aggregate expenditure by the State, its local educational agencies, and private schools in such State from funds derived from non-Federal sources for programs described in part B and part D, respectively, for the preceding fiscal year are not less than the amount per student expended or the aggregate expenditure for the second preceding fiscal year for each such part;

(8) Provides that, for any fiscal year in which the provisions of section 510(b)(2) are not met, of the funds the State receives under section 402 for each fiscal year, the State will use for administration of the State plan not to exceed whichever of the following is greater: (A) 5 per centum of the amount so received (75,000 in the case of Guam, American Samoa, the Virgin Islands, the Northern Mariana Islands and the Trust Territory of the Pacific Islands), excluding any part of such amount used for purposes of section 431(a), or (B) $225,000; and provides that the remainder of such funds shall be made available to local educational agencies to be used for the purposes of parts B, C, and D, respectively;

(9) Provides that, for any fiscal year in which the provisions of section 523(b) are not met, not more than the greater of (A) 15 per centum of the amount which such State receives pursuant to section 402(b) for any fiscal year, or (B) the amount available by appropriation to such State in the fiscal year ending June 30, 1973 and periods covered by section 431(a)(3) as in effect in such year, shall be used for activities described in section 421;

(10) Sets forth policies and procedures which give satisfactory assurance that Federal funds made available under this title for any fiscal year will not be commingled with State funds;

(11) Sets forth the means by which the State will make information and technical assistance available to private nonprofit school officials who desire to arrange for children in those schools to participate in Federal elementary and secondary education programs;

(12) Sets forth a comprehensive plan for the coordination of Federal and State funds for training activities for educational personnel in the State including preservice and inservice training; which plan shall be developed with the involvement of teachers, professional associations, institutions of higher education, and other interested individuals; and

(13) Provides that the State has established a State advisory council in accordance with subsection (b).

(b)(1) The State advisory council shall—

(A) Be appointed by the State educational agency or as otherwise provided by State Law and be broadly representative of the cultural and educational resources of the State and of the public, including—

(i) Teachers, principals, superintendents, and other professional employees of local educational agencies and private schools,

(ii) Teachers from institutions of higher education,

(iii) School librarians, personnel involved in operating media programs in local schools, and guidance counselors,

(iv) Individuals from fields of professional competence in dealing with children needing special education because of physical or mental handicaps, specific learning disabilities, severe educational disadvantages, and limited English proficiency or because they are gifted or talented, and of professional competence in guidance and counseling, and

(v) Parents, students and other interested members of the public;

(B) Advise the State educational agency on the preparation of, and policy matters arising in the administration of, the State plan, including the development of criteria for the distribution of funds and the approval of applications for assistance under this title;

(C) Evaluate all programs and projects assisted under this title; and

(D) Prepare at least every three years and submit through the State educational agency a report of its activities, recommendations, and evaluations, together with such additional comments as the State educational agency deems appropriate, to the Commissioner.

(2) Not less than ninety days before the beginning of any fiscal year for which funds will be available for carrying out this title, each State shall certify the establishment of, and membership of (including the name of the person designated as Chairman), its State advisory council to the Commissioner.

(3) Each State advisory council shall meet within thirty days after certification has been accepted by the Commissioner and establish the time, place, and manner, of its future meetings, except that such council shall have not less than one public meeting each year at which the public is given an opportunity to express views concerning the administration and operation of this title.

(4) Each State advisory council shall be authorized to obtain the services of such professional, technical, and clerical personnel, and to contract for such other services as may be necessary to enable them to carry out their functions under this title, and the Commissioner shall assure that funds sufficient for these purposes are made available to each council from funds available for administration of the State plan.

(c) The Commissioner shall approve any State plan and any modification thereof which complies with the provisions of subsections (a) and (b) of this section.

Payments to States

Sec. 405. From the amounts allotted to each State under section 403 for carrying out the programs authorized by part B, part C, and part D, respectively, the Commissioner shall pay to that State an amount equal to the amount expended by the State in carrying out its State plan (after withholding any amount necessary pursuant to section 406(g)).

Participation of Children Enrolled in Private Schools

Sec. 406. (a)(1) To the extent consistent with the number of children in the school district of a local educational agency which is eligible to receive funds under this title or which serves the area in which a program or project assisted under this title is located who are enrolled in private nonprofit elementary and secondary schools, such agency, after consultation with the appropriate private school officials, shall provide for the benefit of such children in such schools secular, neutral, and nonideological services, materials, and equipment including the repair, minor remodeling, or construction of public facilities as may be necessary for their provision (consistent with subsection (c) of this section), or, if such service, materials, and equipment are not feasible or necessary in one or more such private schools as determined by the local educational agency after consultation with the appropriate private school officials, shall provide such other arrangements as will assure equitable participation of such children in the purposes and benefit of this title.

(2) If no program or project is carried out under part B in the school district of a local educational agency, the State educational agency shall make arrangements, such as through contracts with nonprofit private agencies or organizations, under which children in private schools in that district are provided with services and materials under that part to the extent that would have occurred if the local educational agency had received funds under this title.

(b) Expenditures for programs pursuant to subsection (a) shall be equal (consistent with the number of children to be served) to expenditures for programs under this title for children enrolled in the public schools of the local educational agency, taking into account the needs of the individual children and other factors which relate to such expenditures, and when funds available to a local educational agency under this title are used to concentrate programs or projects on a particular group, attendance area, or grade or age level, children enrolled in private schools who are included within the group, attendance area, or grade or age level selected for such concentration shall, after consultation with the appropriate private school officials, be assured equitable participation in the purposes and benefits of such programs or projects.

(c)(1) The control of funds provided under this title and title to materials, equipment, and property repaired, remodeled, or constructed therewith shall be in a public agency for the uses and purposes provided in this title, and a public agency shall administer such funds and property.

(2) The provision of services pursuant to this section shall be provided by employees of a public agency or through contract by such public agency with a person, an association, agency, or corporation who or which in the provision of such services is independent of such private school and of any religious organizations, and such employment or contract shall be under the control and supervision of such public agency, and the funds provided under this title shall not be commingled with State or local funds.

(d) If a State is prohibited by law from providing for the participation in programs of children enrolled in private elementary and secondary schools, as required by this section, the Commissioner shall waive such requirements and shall arrange for the provisions of services to such children through arrangements which shall be subject to the requirements of this section.

(e) (1) If the Commissioner determines that a State or a local educational agency has substantially failed or is unwilling to provide for the participation on an equitable basis of children enrolled in private elementary and secondary schools as required by this section, he may waive such requirements and shall arrange for the provision of services to such children through arrangements which shall be subject to the requirements of this section.

(2) Pending final resolution of any investigation or complaint that could result in a determination under this subsection or subsection (d), the Commissioner may withhold from the allocation of the affected State or local educational agency the amount he estimates would be necessary to pay the cost of those services.

(f) Any determination by the Commissioner under this section shall continue in effect until the Commissioner determines that there will no longer be any failure or inability on the part of the State or local educational agency to meet the requirements of subsections (a) and (b).

(g) When the Commissioner arranges for services pursuant to this section, he shall, after consultation with the appropriate public and private school officials, pay the cost of such services, including the administrative costs of arranging for those services, from the appropriate allotment of the State under this title.

(h)(1) The Commissioner shall not take any final action under this section until the State educational agency and local educational agency affected by such action have had an opportunity, for at least forty-five days after receiving written notice thereof, to submit written objections and to appear before the Commissioner or his designee to show cause why that action should not be taken.

(2) If a State or local educational agency is dissatisfied with the Commissioner's final action after a proceeding under paragraph (1) of this subsection, it may within sixty days after notice of such action, file with the United States court of appeals for the circuit in which such State is located a petition for review of that action. A copy of the petition shall be forthwith transmitted by the clerk of the court to the Commissioner. The Commissioner thereupon shall file in the court the record of the proceedings on which he based this action, as provided in section 2112 of title 28, United States Code.

(3) The findings of fact by the Commissioner, if supported by substantial evidence, shall be conclusive; but the court, for good cause shown, may remand the case to the Commissioner to take further evidence, and the Commissioner may thereupon make new or modified findings of fact and may modify his previous action, and shall file in the court the record of the further proceedings. Such new or modified findings of fact shall likewise be conclusive if supported by substantial evidence.

(4) Upon the filing of such petition, the court shall have jurisdiction to affirm the action of the Commissioner or to set it aside, in whole or in part. The judgment of the court shall be subject to review by the Supreme Court of the United States upon certiorari or certification as provided in section 1254 of title 28, United States Code.

Part B—Instructional Materials and School Library Resources Activities Authorized

Sec. 241. The amounts allotted to each State under section 403 for the purposes of this part shall be used to provide assistance to local educational agencies within that State—

(1) For the acquistion of school library resources, textbooks, and other printed and published instructional materials for the use of children and teachers in public and private elementary and secondary schools which shall be used for instructional purposes only; and

(2) For the acquisition of instructional equipment and materials suitable for use in providing education in academic subjects for use by children and teachers in elementary and secondary schools which shall be used for instructional purposes only.

Program Requirements

Sec. 422. (a) Funds available to a State under this part shall be distributed among local educational agencies in that State according to the enrollments in public and nonpublic schools within the school districts of those agencies, adjusted, in accordance with criteria prescribed by the Commissioner, to provide higher per pupil allocations to (1) local educational agencies whose tax effort for education is substantially greater than the State average tax effort for education, but whose per pupil expenditure (excluding payments made under title I of this Act) is no greater than the average per pupil expenditure in the State, and (2) local educational agencies which have the greatest numbers or percentages of children whose education imposes a higher than average cost per child, such as children from low-income families, children living in sparsely populated areas, and children from families in which English is not the dominant language.

(b) Local educational agencies shall be given complete discretion (subject to the provisions of section 406) in determining how funds they receive under this part will be divided among the purposes described in section 421, except that the State educational agency shall insure that each local educational agency, in making that determination, has adopted appropriate procedures, including periodic consultation with teachers, librarians, media specialists and other professional staff in the schools, and private school officials, to coordinate the selection of equipment and materials under this part with curricula being carried out in the schools within that agency.

Part C—Improvement in Local Educational Practice Activities Authorized

Sec. 431.(a) The amounts allotted to each State under section 403 for the purpose of this part shall be used to provide assistance to local educational agencies within the State for activities that will improve the educational practices of those agencies, including—

(1) The development and demonstration of activities designed to address serious educational problems in elementary and secondary schools, including—

(A) The need for effective programs for children with special needs, such as educationally deprived children, gifted and talented children, and handicapped children,

(B) High rates of children who do not complete secondary school, and

(C) The need of children in private schools for improved educational services;

(2) Encouraging the development and demonstration of improved means of carrying out programs for educationally deprived children in school attendance areas having high concentrations of children from low-income families;

(3) Activities designed to improve the achievement of children in basic skills;

(4) Activities to encourage the participation of parents in the education of their children;

(5) The development of programs to diagnose learning problems and assess the educational achievement of children, including children in nonprofit private schools;

(6) Developing and implementing model plans to demonstrate effective means of improving school management and fully coordinating all the Federal, State, and local resources available in a school in a fashion designed to meet the individual needs of every child in that school;

(7) Professional development programs for teachers, administrators, and other instructional personnel in the schools of such agencies:

(8) Early childhood and family education programs for children not yet enrolled in kindergarten programs and below age six for activities related to the identification of potential barriers to learning, the education of parents in child development, home-based programs, and referral services; and

(9) Programs to extend the educational process beyond the school building through the use of other resources in the community, such as museums, businesses, cultural organizations, labor unions, and governmental agencies.

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(b)(1) Funds available to the State under this part shall also be used (pursuant to State plans approved under section 404) for the purpose of encouraging innovation and improvement in compensatory education efforts. Such efforts may include—

(A) Programs of grants to local educational agencies for summer bridge programs which provide students with continued academic improvement and stimulation during the summer months in order to preserve and increase the academic progress of such students in regular school year programs;

(B) Programs of parent education which enable parents to better contribute to their children's academic progress by such means as the conducting of parent education or parenting programs which promote partnership between parents and teachers and help parents develop the skills necessary to motivate and assist such children;

(C) Programs that provide retraining to improve the skills of teachers and other educational personnel to enable such personnel to meet better the specific educational needs of the children served by such personnel; and

(D) Programs to develop educational materials for use by children in the home to improve student achievement in the basic skills.

(2) Each State shall ensure that not less than 50 per centum of those funds appropriated for any fiscal year which exceed the amount appropriated for this part for the fiscal year ending September 30, 1979, will be used for the purposes of programs described in paragraph (1).

Program Requirements

Sec. 432. (a) Funds may be provided to a local educational agency under this part for a particular activity for a period of not to exceed five fiscal years (excluding any period for which such agency received a planning grant for such activity), subject to the availability of appropriations for this part of each fiscal year. The amount provided to a local educational agency for any activity under this part shall decline after the third year, in accordance with criteria prescribed by the Commissioner, in order to ensure that successful practices developed with assistance under this part will be adopted and supported as part of the regular program of such agency.

(b)(1) From sums made available to each State under this part, the following sums shall be allocated for activities under section 431(a)(6), relating to plans for improved school management and the coordinated use in schools of all available resources:

(A) In fiscal year 1980, not less than 5 percent of any amount by which the amount available for this part in fiscal year 1980 exceeds the amount so available in fiscal year 1979.

(B) In fiscal year 1981 and in each succeeding fiscal year, not less than 10 percent of any amount by which the amount available for this part in such year exceeds the amount so available in fiscal year 1979.

(2) No activity under section 431(a)(6) shall be approved by the State educational agency unless the proposal therefor has been developed in consultation with, and has been approved by, a committee composed of administrators, teachers, other staff at the school, and parents whose children attend the school.

(c) Not less than 15 per centum of the amount received by a State under this part in any fiscal year shall be used for special programs or projects meeting the purposes of this part for the education of handicapped children. For the purpose of this part, the term "handicapped children" has the meaning set forth in section 602(1) of the Education of the Handicapped Act.

(d) Subject to section 406 (d) and (e), a State educational agency shall not approve the application of a local educational agency for assistance under this part unless the State educational agency determines that in designing the proposal to which that application relates, the needs of children in nonprofit private schools have been taken into account through consultation with private school officials and other means.

Part D—Guidance, Counseling, and Testing Program Authorized

Sec. 441. (a) The Commissioner shall carry out a program for making grants to States (pursuant to State plans approved under section 404) for—

(1) State leadership and supervisory services in the fields of guidance, counseling, and testing; and

(2) Comprehensive guidance, counseling, and testing programs in elementary and secondary schools throughout the State, including such services as—

(A) Elementary and secondary school counseling,

(B) In-service training for guidance and counseling personnel,

(C) Supervision and leadership services at the local level,

(D) Program planning and development,

(E) Special guidance and counseling programs suited to meet the special needs for such programs by persons who are disadvantaged,

(F) A program of testing students in elementary and secondary schools, and

(G) Evaluation of such programs.

(b) Of the sums allotted to any State for any fiscal year for the purposes of this part, not to exceed 7½ per centum shall be available for the purpose described in clause (1) of subsection (a).

Program Requirements

Sec. 442. Each local educational agency shall be given complete discretion (subject to the provisions of section 406) in determining how funds it receives from appropriations made under section 401(c)(1)(A) will be divided among various programs described in this part.

Administration

Sec. 443. (a) The Commissioner shall establish or designate an administrative unit within the Office of Education for purposes of—

(1) Carrying out provisions of this section;

(2) Providing information regarding guidance and counseling as a profession, guidance and counseling activities of the Federal Government, and, to the extent practicable, activities of State and local programs of guidance and counseling; and

(3) Advising the Commissioner on coordinating guidance and counseling activities included in all programs which he is authorized to carry out, and, to the extent he deems practicable, how such activities may be coordinated with other programs of the Federal Government and State and local guidance and counseling programs.

(b) The Commissioner may reserve an amount not to exceed 5 per centum of the sums appropriated for this part to carry out the provisions of this section.

Effective Date

Sec. 402. The amendments and repeals made by this title shall take effect October 1, 1979.

[FR Doc. 79-14908 Filed 5-11-79; 8:45 am]
BILLING CODE 4110-02-M

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federal register

Monday
May 14, 1979

Part VI

Department of Health, Education, and Welfare

Office of Education

State Leadership Programs

DEPARTMENT OF HEALTH, EDUCATION, AND WELFARE
Office of Education
[45 CFR Parts 119 and 120]

State Leadership Programs

AGENCY: Office of Education, HEW.

ACTION Proposed Rules.

SUMMARY: The Commissioner of Education proposes regulations to govern the State leadership programs authorized by Title V of the Elementary and Secondary Education Act of 1965 (ESEA). There are two programs in ESEA Title V.

Part A of title V is a program for the consolidated State educational agency (SEA) administration of the ESEA Title I and Title IV programs. All SEAs that administer the title I and title IV programs are eligible for support under this program. The regulations governing title V–A describe procedures for general applications, applications for administrative funds, standards for evaluation and audit resolution, and the applicability of the Tydings amendment to carryover funds.

Part B of title V is a program to strengthen State educational leadership and to assist SEAs in identifying and meeting critical educational needs of their States. All SEAs are eligible for support under part B. There is authorization for direct appropriation of funds for this program. However, if there is no direct appropriation, funding will be available from the appropriation for ESEA Title IV–C.

The regulations governing title V–B describe the allocation of funds to the States, the ways a State can meet the State plan requirements, and the applicability of the Tydings amendment.

DATES: All written comments must be received on or before (the 45th day following publication of this notice in the **Federal Register**).

Public meetings will be held in each of the ten regions on June 19, 1979. The time for these meetings is—

9:00 a.m.–12:00 Noon
1:00 p.m.–5:00 p.m.
7:00 p.m.–9:00 p.m.

ADDRESSES: Comments should be sent to: Dr. David G. Phillips, Division of State Educational Assistance Programs, U.S. Office of Education, 400 Maryland Avenue, S.W. (ROB–3, Room 3010), Washington, D.C. 20202.

The location of public meetings are—

Region I—Boston: Boston School Department, Administration Building, Boston Committee Hearing Room, 26 Court Street, Boston, Massachusetts.
Region II—New York: New York University, Schimmel Auditorium, Tisch Hall, 40 West 4th Street, New York City, New York.
Region III—Philadelphia: University Holiday Inn, 34th & Chestnut Streets, Philadelphia, Pennsylvania.
Region IV—Atlanta: Atlanta American Motor Hotel, Spring Street at Carnegie Way, Atlanta, Georgia.
Region V—Chicago: Center for Urban Education, 160 West Wendell Street, 1050 North Wells, Chicago, Illinois.
Region VI—Dallas: El Centro College, Performance Hall, Main and Lamar Streets, Dallas, Texas.
Region VII—Kansas City: Penn Valley Junior College, 3201 Southwest Trafficway, Room 503, Kansas City, Missouri.
Region VIII—Denver: George Washington High School, Lunch Room, 655 South Monaco Street, Denver, Colorado.
Region IX—San Francisco: Sutter Middle School, 3150 I Street (Alhambra Street), Sacramento, California.
Region X—Seattle: Sea-Mat Center, At Wilson-Pacific Special Education School, 1330 North 90th Street, Seattle, Washington.

FOR FURTHER INFORMATION CONTACT:
Dr. David G. Phillips, Division of State Educational Assistance Programs, Telephone (202) 245–2495.

FOR INFORMATION ON REGIONAL HEARINGS CONTACT: The appropriate Regional Commissioner for Educational Programs listed below:

Region I, Boston, Dr. Thomas J. Burns, (617) 223–7500.
Region II, New York, Dr. William D. Green, (212) 264–4370.
Region III, Philadelphia, Dr. Albert C. Crambert, (215) 596–1001.
Region IV, Atlanta, Dr. William L. Lewis, (404) 221–2063.
Region V, Chicago, Dr. Juliette Noone Lester, (312) 353–5215.
Region VI, Dallas, Mr. Edward J. Baca, (214) 767–3626.
Region VII, Kansas City, Dr. Harold Blackburn, (816) 374–2276.
Region VIII, Denver, Dr. John Runkel, (303) 837–3544.
Region IX, San Francisco, Dr. Caroline Gillin, (415) 556–4920.
Region X, Seattle, Mr. Allen Apodaca, (206) 442–0460.

SUPPLEMENTARY INFORMATION: The following information is designed to help readers better understand the purpose and operation of the ESEA Title V–B program under 45 CFR Part 119, and of the ESEA Title V–A program under 45 CFR Part 120.

Title V, Part B

Background

The program of Federal financial assistance to strengthen the leadership capacity of SEAs began under the authority of the original Title V of ESEA. The "strengthening" program was continued under the Education Amendments of 1974, although it was then made part of the title IV–C program (Educational Innovation and Support). The Education Amendments of 1978 identify a number of new supportable activities and continue the strengthening program under Title V–B of ESEA.

Two new requirements have been added in the Education Amendments of 1978 as preconditions to an SEA's receiving strengthening funds. In the State plan the SEA shall describe—

(a) A plan for making information and technical assistance available to private school officials who want children in their schools to participate in federally funded programs; and

(b) A comprehensive plan for the coordination of Federal and State funds for training activities for educational personnel.

It might be noted that these two requirements also appear in section 404(a) (State Plans) of ESEA and are, therefore, also preconditions to an SEA's receiving ESEA Title IV funds.

Summary of Major Provisons

The proposed regulations for the title V–B program appear in part 119.

Section 119.1 describes the way a State's entitlement to V–B funds is determined. If the total the States received in fiscal year 1973 for strengthening SEAs—$50,850,000—is available, then each State is entitled to the amount it received in FY 1973 and each succeeding year for strengthening. If less than $50,850,000 is appropriated for any fiscal year then each State's entitlement is proportionately reduced. Any amount appropriated over $50,850,000 is reserved by the Commissioner for competitive grants.

Section 119.10 describes the information that an SEA shall include in the State plan—the application document for title V–B funding.

Section 119.21 states the funding criteria the Commissioner applies to a State plan, or an amendment to the State plan, for a title V–B grant.

Section 119.32 makes the Tydings amendment (section 412(b) of the General Education Provisions Act (GEPA) applicable to strengthening funds. Therefore, an SEA may carry over strengthening funds from one year and obligate them during a second year.

Title V, Part A

Background

Part A of Title V of ESEA is a new authority that is intended to lessen previously burdensome and duplicative administration of Federal education programs by the States. It provides for the consolidation of the separate administrative accounts for Title I and Title IV of ESEA into a single account. It provides for a single general application from the SEA containing assurances that the two programs will be administered properly. It requires a monitoring program, makes the SEA responsible for evaluation, and requires a program of technical assistance. There will be an opportunity for wide public consultation in the development of State plans.

In addition, each LEA that wishes to participate in the title I and title IV programs will submit a general application to its SEA containing assurances that the LEA will properly administer the two programs.

Title V–A authorizes an appropriation of 1.75 percent of the amount allocated to the States for titles I and IV. This appropriation will fund the consolidated administration of titles I and IV. Title V–A also authorizes up to an additional 25 percent for monitoring and enforcement purposes.

Title V–A is not in effect if there is no specific appropriation for the program. If it is not in effect, each SEA will administer the title I and title IV programs separately with administrative funds coming from each program.

Summary of Major Provisions

The proposed regulations (in part 120) provide that an SEA may submit a general application under section 435 of GEPA to meet the requirements of section 501 of title V. An LEA may submit a general application under section 436 of GEPA to meet the requirements of section 502 of title V.

Section 120.11 describes the minimum conditions that will meet the statutory requirement for publication of a State plan so that it will be circulated for comment throughout the State.

Sections 12.20 and 120.21 provide for an SEA to submit an application for its title I and title IV consolidated administrative funds.

Section 120.63 describes the minimum standards for the resolution of audit findings and recommendations with respect to title I and title IV projects.

Section 120.65 makes the Tydings amendment (section 412(b) of GEPA) applicable to administrative funds for titles I and IV. Therefore, an SEA may carry over those administrative funds and obligate them during a second fiscal year.

Education Division General Administrative Regulations

These proposed regulations do not contain certain types of requirements. Those regulations are covered in the Education Division General Administrative Regulations (EDGAR), which will replace the General Provisions for Office of Education Program Regulations and which have been published as a notice of proposed rulemaking (NPRM).

Anyone wanting to comment on these requirements should do so in response to the EDGAR NPRM, rather than to this NPRM.

The following items applicable to this program are now among those covered generally in EDGAR:

How to apply for a grant.
How grants are made.
Certain conditions that must be met by a grantee.
The administrative responsibilities of a grantee.
The Office of Education's procedures to assure compliance.

We expect that several provisions of EDGAR Part 100b will apply to Part 120. A study is occurring during the comment period to determine which parts will apply. If you have any suggestions, your comments would be appreciated.

Public Comment and Participation

A public meeting was held on September 14, 1978, by the Bureau of Elementary and Secondary Education, U.S. Office of Education, to invite interested organizations and individuals to comment on possible regulations to implement the title V–A and V–B programs. Two comments suggested that public hearings on State plans not be required. We agree. Other comments suggested that the new programs be administered as much like the old programs as possible. In addition, staff of the Division of State Educational Assistance Programs have held discussions with SEA, LEA, and private school officials.

Invitation to Comment

A public meeting on this Notice of Proposed Rulemaking will be held in each of the ten Federal regions. Since we expect to schedule public meetings for several regulations on the same day, at the same place, we need to get an idea of how many persons are interested in speaking about these regulations. If you are interested in making oral comments at a public meeting, we encourage you to call the appropriate Regional Commissioner of Education. He/she will schedule a time for your comments to be given. Persons who do not notify the Regional Commissioner of their intention to make oral comments will be given an opportunity to speak. Those persons making presentations will be called upon according to their prearranged schedule, or if not prearranged, in the order of registration.

We expect that comments on these proposed regulations will be heard fourth on the date of the public meeting, after Grants to State Educational Agencies for Education Improvement, Resources, and Support (Title IV, ESEA).

Interested persons are also invited to submit written comments, suggestions, and recommendations regarding the proposed regulations. Comments, suggestions, and recommendations may be sent to the address given at the beginning of this document. All comments received on or before July 13, 1979 will be considered in the development of the final regulation.

All written comments submitted in response to this notice will be available for public inspection, both during and after the comment period, in Room 3010, ROB–3, 7th and D Streets, S.W., Washington, D.C. between the hours of 8:30 a.m. and 4:00 p.m., Monday through Friday of each week except Federal holidays.

(Catalog of Federal Domestic Assistance No. 13.486, Strengthening State Educational Agency Management; No. 13. Administration of Education Programs)

Dated: February 13, 1979.

Ernest L. Boyer,
U.S. Commissioner of Education.

Approved: April 11, 1979.

Joseph A. Califano,
Secretary of Health, Education, and Welfare.

Part 119 Title 45 CFR is proposed to be amended as follows:

PART 119—STRENGTHENING STATE EDUCATIONAL AGENCY MANAGEMENT

Subpart A—General

Sec.
119.1 Strengthening State educational agency management.
119.2 Eligible parties.
119.3 Regulations that apply to this program.
119.4 Definitions.

Subpart B—How a State Applies for a Grant

119.10 State plan.

Subpart C—How the Commissioner Makes a Grant to a State

119.20 Grants to State educational agencies.
119.21 Criteria for assistance.

Subpart D—Conditions That the State Must Meet

119.31 Providing resources for other agencies of State government.
119.32 Carryover funds.

Authority: Title V, Part B, Elementary and Secondary Education Act of 1965, as amended.

Subpart A—General

§ 119.1 Strengthening State educational agency management.

(a) This program provides Federal financial assistance to strengthen the educational leadership resources of State educational agencies (SEAs) and to assist SEAs in identifying and meeting the critical educational needs of the States.

(b) The Commissioner allocates title V–B funds among the SEAs as follows:

(1) If the funds available for title V–B in a fiscal year equal the amount available by appropriation for title V of the Act in fiscal year 1973—$50,850,000—each SEA shall be entitled to apply for title V–B funds in an amount equal to the amount of title V funds it received in fiscal year 1973.

(2) If the funds appropriated for title V–B in a fiscal year are less than $50,850,000, each SEA shall be entitled to apply for an amount which is proportionately reduced from its entitlement in paragraph (1).

(3) The Commissioner reserves any appropriated amount over $50,850,000 to make discretionary grants to SEAs or groups of SEAs for projects that meet the purposes of title V–B.

(4) The Northern Mariana Islands shall be entitled to apply for that share of the entitlement of the Trust Territory of the Pacific Islands determined by the Commissioner.

(20 U.S.C. 3161, 3162)

§ 119.2 Eligible parties.

(a) All SEAs are eligible for support under this program.

(b) With the concurrence of all the SEAs involved, one SEA may apply for a grant on behalf of itself and other SEAs.

(20 U.S.C. 3161)

§ 119.3 Regulations that apply to this program.

The following regulations apply to this program.

(a) The Education Division General Administrative Regulations (EDGAR) in part 100a (Direct Grant Programs) for projects funded with discretionary grants, or part 100b (State-Administered Programs) for all other grants.

(b) The regulations in this part.

(20 U.S.C. 3161–3163)

§ 119.4 Definitions.

(a) As used in this part:

"Act" means the Elementary and Secondary Education Act of 1965, as amended (Pub. L. 89–10).

"Title V–B" means part B of title V of the Act.

(b) The following terms used in this part are defined in the Act:

"Commissioner"

"Local educational agency" (LEA)

"State"

"State educational agency"

(20 U.S.C. 3161–3163, and 881)

Subpart B—How a State Applies for a Grant

§ 119.10 State plan.

(a) An SEA shall describe in its State plan the activities planned for the purpose of strenghtening the SEA under title V–B. This description shall include—

(1) The purposes for which the SEA plans to spend title V–B funds;

(2) The activities or groups of related activities the SEA plans to undertake to achieve these purposes;

(3) The ways in which these activities or groups of related activities will (i) strenghten the educational leadership resources of the SEA, or (ii) assist the SEA in identifying and meeting the critical educational needs of the State; and

(4) The estimated annual cost for each program year covered by the State plan for each activity or group of related activities.

(b) An SEA shall describe in its State plan how it will make available information and technical assistance to officals of private schools who want the children in their schools to participate in federally funded programs that permit participation by children in private schools. The following are the minimum requirements:

(1) The SEA shall make available to private school officials the same publications and materials relating to those programs that the SEA provides to LEAs.

(2) The SEA shall invite officials of private schools to SEA-sponsored or conducted meetings of groups of LEAs at which those programs are to be discussed.

(3) An LEA that receives individual technical assistance from the SEA in planning projects shall invite officials of all interested private schools in its district to those technical assistance sessions that deal with those programs.

(4) An SEA shall make available appropriate technical assistance to officials of private schools upon the request of those officals. The SEA shall invite the LEAs in whose districts those private schools are located to these technical assistance sessions.

(5) An SEA is not required to make information and technical assistance available to officials of private schools that have indicated to the SEA that they do not desire to have their children participate in Federal education programs.

(c)(1) An SEA shall describe in its State plan a comprehensive plan for the coordination of Federal and State funds for training educational personnel. This comprehensive plan need not have been developed by the SEA. Neither need it have been developed for the purpose of complying with the requirements of either section 404(a)(12) or section 522 of the Act.

(2) The Commissioner accepts a comprehensive plan that was developed prior to the effective date of the title V–b State plan so long as the comprehensive plan meets the requirements of section 404(a)(12) or section 522 of the Act.

(3) The Commissioner accepts a comprehensive plan that the State is developing to meet the specific requirements of section 404(a)(12) or section 522 of the Act if the SEA submits that plan in final form as an amendment to the appropriate State plan within a year after the effective date of that State plan.

(d) An SEA shall submit its title V–B State plan in accordance with the instructions and schedules of the Commissioner. An SEA need not submit a State plan more often than once every three years.

(e) An SEA may submit amendments to its title V–B State plan so long as they conform to the requirements for amendments in part 100a or part 100b of this chapter, whichever is applicable.

(20 U.S.C. 3162 and 3084(a)(12))

Subpart C—How the Commissioner Makes a Grant to a State

§119.20 Grants to State educational agencies.

(a) The Commissioner makes grants to applicant SEAs on the basis of entitlements described in § 119.1(b) of this part.

(b)(1) If more than $50,850,000 is appropriated in a fiscal year for the purposes of title V–B, each SEA is entitled to compete for a grant award from the funds in excess of $50,850,000.

(2) To apply, an SEA shall submit an amendment to its title V–B State plan in accordance with instructions and schedules of the Commissioner.

(3) An SEA, in its State plan amendment, shall take into account the funding criteria in § 119.21 of this part.

(20 U.S.C. 3163)

§ 119.21 Criteria for assistance.

(a) General criteria that the Commissioner uses to evaluate an SEA's State plan amendment, submitted as an application for a discretionary grant award are contained in EDGAR §§ 100a.202 through §§ 100a.206. The general criteria comprise 32 possible points. The value assigned to each criterion indicates the relative importance the Commissioner places on that criterion.

(1) Plan of operation (10 points)

(2) Quality of program director (6 points)

(3) Budget and cost effectiveness (5 points)

(4) Evaluation plan (8 points)

(5) Adequacy of resources (3 points)

(b) In addition to the general criteria in paragraph (a), the Commissioner uses criteria specific to this program to review applications. The specific criteria comprise 68 possible points.

(1) Information that shows that the need for each activity or group of related activities is justified on the basis of how—

(a) The proposed activities will strengthen the educational leadership resources of the SEA; or

(b) The proposed activities will assist the SEA in identifying and meeting the critical educational needs of the State. (20 points)

(2) Information that shows that the SEA is likely to achieve results and that these results will strengthen the SEA's management. (5 points)

(3) Information that shows the quality of the plan to disseminate information related to the program. (3 points)

(4) Information that shows that program activities are limited to elementary and secondary education program management. (10 points)

(5) Information that shows that program activities will supplement and not supplant activities supported with other Federal or State program and administrative funds. (15 points)

(6) Information that shows that program activities are included in the list of eligible activities in section 521 of the Act. (15 points)

(20 U.S.C. 3161, 3162)

Subpart D—Conditions That the State Must Meet

§ 119.31 Providing resources for other agencies of State government.
§ 119.32 Carryover funds.

Subparts E and F [Reserved]

Subpart G—Administrative Responsibilities of the State

Sec.
120.60 Accounting for administrative funds.
120.61 Monitoring and enforcement.
120.62 Evaluation.
120.63 Resolution of audit findings and recommendations.
120.64 State action to withhold funds.
120.65 Carryover funds.

Authority: Title V, Part A, Elementary and Secondary Education Act of 1965, as amended.

Subpart A—General

§ 120.1 Administration of education programs and duties of the State educational agency.

(a) This program provides for the consolidated administration by the State educational agency (SEA) of the title I and title IV programs.

(b) All SEAs that administer the title I and title IV programs are eligible for support under this program.

(c) The Act describes the means of receiving Federal financial support and the regulatory responsibilities and administrative duties of SEAs and local educational agencies (LEAs).

(20 U.S.C. 3141–3150)

§ 120.2 Definitions.

(a) As used in this part:

"Act" means the Elementary and Secondary Education Act of 1965, as amended (Pub. L. 89–10).

"Title I" means title I of the Act.

"Title IV" means title IV of the Act.

(b) The following terms used in this part are defined in the Act:

"Commissioner"

"Local educational agency"

"State"

"State educational agency"

(20 U.S.C. 3141–3150, 881)

Subpart B—How a State Applies for a Grant

§ 120.10 General application.

(a) An SEA may submit its general application under the authority of either—

(1) Section 501 of the Act; or

(2) Section 435 of the General Education Provisions Act (GEPA).

(b) If an SEA submits its general application under section 435 of GEPA, that general application must specifically identify titles I and IV as covered programs to be acceptable by the Commissioner under this section.

(c) An SEA shall submit its general application in a form designed or approved by the Commissioner

(20 U.S.C. 3141, 1232d)

Part 120 Title 45 CFR is proposed to be added as follows:

PART 120—ADMINISTRATION OF EDUCATION PROGRAMS AND DUTIES OF THE STATE EDUCATIONAL AGENCY

Subpart A—General

Sec.
120.1 Administration of education programs and duties of the State educational agency.
120.2 Definitions.

Subpart B—How a State Applies for a Grant

120.10 General application.
120.11 Publication of and comment on State plan.

Subpart C—How a Grant Is Made to a State

120.20 Application for administrative funds.
120.21 Additional administrative funds.

Subpart D—General Application From a Local Educational Agency

120.30 General application for a local educational agency.

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§ 120.11 Publication of and comment on State plan.

(a)(1) An SEA shall publish and circulate throughout the State and title I migrant education annual program plan and the title IV State plan at least 60 days before submitting the plan to the Commissioner or before the effective date of the plan, whichever occurs earlier.

(2) The SEA shall indicate the date of publication on the State plan or annual program plan.

(b) Publication consists of at least items (1) and (2) or of item (3) of this paragraph:

(1) The SEA shall send a copy of the plan to each LEA or each intermediate district or each county superintendent in the State.

(2) The SEA shall arrange for the printing of an announcement, in as many newspapers as will ensure circulation throughout the State, indicating that the plan is available for review in the office of the SEA and in the offices that received copies under item (1) above.

(3) The SEA may ask for the Commissioner's approval to use other means that will accomplish effectively the purposes of this section.

(c)(1) In the publication or announcement the SEA shall identify a comment period of at least 30 days, within the 60-day period, for the receipt of comments.

(2) The SEA shall consider all written or oral comments received before the end of the comment period.

(20 U.S.C. 3141(b)(7)(B))

Subpart C—How a Grant Is Made to a State

§ 120.20 Application for administrative funds.

An SEA shall submit its application for administrative funds in accordance with the instructions and schedules of the Commissioner.

(20 U.S.C. 3150)

§ 120.21 Additional administrative funds.

(a) Section 510(c) of the Act authorizes an additional 25 percent of the 1.75 percent amount authorized for administration of titles I and IV. To qualify for this additional 25 percent, an SEA shall submit a budget for this additional amount at the time it submits its application for administrative funds under § 120.20 of this part.

(b) The SEA shall show in its budget that the additional funds will be spent for monitoring, audit resolution, enforcement, or similar activities directly and exclusively related to the enforcement of the requirements of titles I, IV, and V–A of the Act.

(c) If the State participates in the migrant education program under section 141 of the Act, then the SEA shall describe in its annual program plan its intended use of the additional administrative funds for the administration of the migrant education program.

(20 U.S.C. 3150, 2762)

Subpart D—General Application from a Local Educational Agency

§ 120.30 General application from a local educational agency.

An LEA that submits a general application ot its SEA to comply with the provisions of section 436 of GEPA shall also be considered to have met the requirements of section 502 of the Act if—

(a) The general application under section 436 specifically identifies titles I and IV as covered programs; and

(b) The assurance in section 502(b)(7)(C) of the Act—referring to the inclusion of works of art in construction projects—is also included in the general application under section 436, to the extent that this assurance applies to titles I and IV.

(20 U.S.C. 3142, 1232e)

Subparts E and F [Reserved]

Subpart G—Administrative Responsibilities of the State

§ 120.60 Accounting for administrative funds.

(a) If the Congress appropriates, under section 510(b) of the Act, a single fund for the purpose of administering the title I and title IV programs in a State, an SEA shall treat its allocation from this appropriation as a single account.

(b) If, because the Congress fails to appropriate administrative funds under section 510(b) of the Act, and SEA uses title I funds under section 194 of the Act for the administration of the title I program in that State, and if the SEA uses title IV funds under section 404(a)(8) of the Act for the administration of the title IV program in that State, the SEA shall not commingle its funds from the separate appropriations.

(c)(1) The SEA shall use its section 194 funds solely for the administration of title I.

(2) The SEA shall use its section 404(a)(8) funds solely for the administration of title IV.

(3) The SEA shall account separately for the funds in (1) and the funds in (2).

(20 U.S.C. 3150, 2844, and 3084(a)(8))

§ 120.61 Monitoring and enforcement.

(a) An SEA shall follow the rules and procedures found in § 116.61 of this chapter in its monitoring of title I projects and enforcing the requirements of title I.

(b) An SEA shall follow the rules and procedures found in § 134.62 of this chapter in its monitoring of title IV projects and enforcing the requirements of title IV.

(20 U.S.C. 3146)

§ 120.62 Evaluation.

(a) To meet its responsibility, under section 501(b)(4) of the Act, to evaluate the effectiveness of the title I and title IV programs, an SEA shall design a program for the evaluation of the management and the impact of local projects.

(b) The title I, the title I migrant education, and the title IV evaluation designs all may differ from each other.

(20 U.S.C. 3141(b)(4))

§ 120.63 Resolution of audit findings and recommendations.

If the title I and title IV programs are administered by an SEA under the authority of title V–A of the Act, the SEA shall apply the following minimum standards for the resolution of audit findings and recommendations:

(a) The SEA shall insure that it will send the final audit determination to the affected LEA, the LEA's title I district advisory council if the audited project is a title I project, and the Commissioner no later than 30 days after the completion of the audit.

(b) After an affected LEA and its district advisory council have received the final audit determination, the SEA shall allow that LEA and its district advisory council 60 days to appeal that determination.

(c) Within 60 days after receiving an appeal, the SEA or other individual or agency authorized by law to conduct hearings, shall conduct a hearing on that appeal.

(d) The SEA or other authorized individual or agency shall issue a final decision within 60 days following the hearing on the appeal.

(e) The LEA may appeal the final decision in accordance with section 509(d) of the Act.

(f) The SEA shall monitor the affected LEA to assure that the LEA carries out all corrective actions recommended in the final audit determination.

(g) The SEA shall assure the recovery of misspent or misapplied funds, either in a single payment or under the terms of a written agreement establishing repayments in specified installments over a period of not more than three years.

(20 U.S.C. 3149)

§ 120.64 State action to withhold funds.

(a) If a State holds a hearing under section 508 of the Act—which deals with the potential withholding of payments under a title I or a title IV subgrant—an impartial decsionmaker shall conduct that hearing. An impartial decisionmaker is an individual who is not an employee of the SEA or LEA involved in the hearing or a contractor of either agency, except for a contractor hired specifically for the purpose of conducting hearings.

(b)(1) Following the hearing, the impartial decisionmaker shall recommend findings of fact and conclusions of law to the SEA.

(2) The SEA shall accept the impartial decisionmaker's findings of fact if those findings are supported by substantial evidence.

(c) If the definition of an impartial decisionmaker in paragraph (a) is in conflict with State law, the SEA shall ask the Commissioner to approve an individual or class of individuals to conduct the hearings.

(20 U.S.C. 3148)

§ 120.65 Carryover funds.

(a) With respect to the carrying over of funds under section 412(b) of GEPA:

(1) The Commissioner considers the program of administering title I to be a single program, whether funds are available under section 194 of the Act or section 510(b) of the Act.

(2) The Commissioner considers the program of administering title IV to be a single program, whether funds are available under section 404(a)(9) of the Act or section 510(b) of the Act.

(b) An SEA may spend carryover administrative funds under the authority of whatever title of the Act or whatever State plan or application is in effect during the carryover period.

(20 U.S.C. 1255(b), 2844, 3084(a)(9), and 3150(b))

[FR Doc. 79-14907 Filed 5-11-79; 8:45 am]

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Part VII

Community Services Administration

Boards and Committees of Title II Programs

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COMMUNITY SERVICES ADMINISTRATION

45 CFR Part 1062

Community Action Programs; Boards and Committees of Title II Programs

AGENCY: Community Services Administration.

ACTION: Final rule.

SUMMARY: The Community Services Administration (CSA) is filing a final rule revising its policy statement on boards and committees of programs funded under Title II of the Economic Opportunity Act of 1964, as amended. The final rule simplifies, updates, and fills vacuums in CSA policy on grantee boards, and publishes the policy for the first time in the **Federal Register** (45 CFR). This one policy statement will supersede OEO Instructions 6400–01, The Organization of Community Action Agency Boards and Committees Under the Economic Opportunity Act (Section 211); 6402–01, Service by OEO Employees and Other Federal Employees With Grantees and Delegate Agencies; 6402–02, Standards of Eligibility for Members of Governing Bodies and Policy Advisory Committees of Community Action Agencies and Single-Purpose Agencies, Policy and Procedures; and 6402–1, Limitation on Terms of Board Service.

EFFECTIVE DATE: June 13, 1979.

FOR FURTHER INFORMATION CONTACT: CSA grantees please contact: The appropriate CSA administering office. All others please contact: Timothy P. McTighe, telephone 202–254–5280, teletypewriter 202–254–6218.

SUPPLEMENTARY INFORMATION: On November 27, 1978, the Community Services Administration published in the **Federal Register** a proposed rule revising its policy statement on boards and committees of programs funded under Title II of the Economic Opportunity Act of 1964, as amended. In all, we received 57 responses to the proposed rule. There were 33 from CSA funded Community Action Agencies, 1 from a Limited Purpose Agency, 3 from State Economic Opportunity Offices (SEOOs), 2 from state CAP Associations, 1 from a regional CAP Association, 2 from local governments, 9 from CSA Regional Offices, and 6 from the general public. Although the responses were for the most part positive, some changes to the rule were suggested. The major portion of the responses, however, either revealed certain misunderstandings about the content of the rule or asked the agency to modify the rule to fit particular local circumstances. Therefore we are providing a general discussion of each section of the rule not only to respond to the suggested changes, but also to explain the reasoning behind the positions we have taken in the final rule and to provide some assistance for implementing the rule when it becomes effective.

§ 1062.200–3 Community Action Agencies

(a) *Boards of Directors of Community Action Agencies.* Two respondents question the use in the proposed rule of the term "governing board." It is unclear, they argue, whether the term refers to the board of directors of a private, nonprofit corporation or of a separate public agency, or to the "governing body" of a public CAA. Both section 211(a) of the Act and the rule use "governing board" as a technical term referring to a board of directors of a private, nonprofit corporation or of a separate public agency which meets the representation requirements of section 211(b) of the Act. Neither the Act nor the rule describes the manner in which the State or local government organizes itself to operate the CAA. The confusion seems to arise when several local governments join together to form a public CAA and then establish a committee to oversee its operation. Oftentimes this committee is called a "governing board." This use of the term is incorrect, but has unfortunately been given credence through practice.

(1) *Composition of the Board.* This section of the rule is dictated completely by section 211(b) of the Act. The Director of the agency has no administrative discretion to change any of these requirements.

(2) *Selecting Members of the Board*—(i) *Public Officials.* One purpose of the 1967 Amendments to the Act was to place under the aegis of the State or local government the one-third of the seats on the board allotted to public officials. It was the intention of Congress in this manner to encourage board and government to work together in combatting poverty in the community. Thus the board cannot on its own initiative invite public officials to join it. The power to name public officials to the board belongs solely to the designating officials.

Both the 1972 and the 1978 Amendments to the Act changed the requirements for the public officials serving on the board. Now public officials must in the first instance be elected officials who are currently holding office. Only if there are not enough elected officials available and willing to serve may appointed public officials serve on the board. The rule also includes a general statement on which public offices are most appropriate for service on the board, which is drawn from the Conference Report on the 1972 Amendments (H.R. Rep. No. 1246, 92nd Cong., 2nd Sess., p. 37). The statement is necessarily general because there is such a variety of elected offices with a variety of responsibilities across the country. Whether a given public office is appropriate for service on the board can be resolved only case by case at the local level.

Each individual public official has the prerogative to name his/her own representative to the board. These representatives, one must bear in mind, act in the interest of the public officials whom they represent in matters brought before the board, and not as individuals, even though they need not be public officials themselves. Hence the representative must be authorized in some way to act for the public official.

It may happen from time to time that there are not enough public officials, either elected or appointed, who are available and willing to serve on the board (or, we might add, who are willing to name a representative to serve in their places once they have been named to the board). CSA has determined that these seats should remain vacant until public officials are willing to fill them. The board itself cannot fill these seats since it is the prerogative of the designating officials to do so.

(ii) *Representatives of the Poor.* The rule restructures the procedure for selecting representatives of the poor. It is the responsibility of the board to decide and to include in its bylaws not only how representation will be apportioned throughout the community—at large, by areas, or from groups designated by the board—but also how the selection procedure will be carried out.

One respondent notes the possibility that if representatives of the poor are chosen at large, they may all reside in a small community within a very large geographical area. We note this possibility, however improbable, and point out that the decision to choose representatives of the poor at large rests with the board. In any case, these representatives would be charged with representing the entire community.

(iii) *Representatives of Private Organizations.* Representation is to be "drawn from" private social service agencies, etc., and from among business, industry, and labor organizations. It is not necessary that every category of organization be represented on the board all the time, as one respondent worries. Rather, the plan for selecting private organizations which is to be included in the bylaws will outline what kinds of groups are eligible for selection and how groups are to be rotated from year to year in order to assure broad representation from within the community.

Several respondents suggest that public welfare and public educational institutions should be represented in this sector of the board. We emphasize, to the contrary, that organizations represented in this sector must be *private.* If and when public welfare and public educational institutions are represented on the board, they must be seated as part of the public sector.

By requiring that representatives of private organizations "be empowered to speak and act on behalf of" their organizations, CSA is not implying that the organization must endorse its representative's positions on board matters. Rather, we are requiring that the representative consider the interests of his/her organization in matters upon which the board is deliberating.

(iv) *Residence Requirement.* Section 211(b) of the Act is the source for this requirement. It applies to all members of the board, whether public officials or representatives of the poor or of private organizations, when they are selected to represent a specific geographic area within the community.

(v) *Limitations on Board Service.* Section 211(b) of the Act limits the number of years which a representative of the poor or of a private organization may serve on the board. These representatives may serve no more than five consecutive years and no more than a total of ten years on the board. The Act places no such limitation on public officials, and the Director of the agency has no authority to impose any limitation. CSA has determined that representatives of the poor and of private organizations may not serve on the board in any capacity for at least one full year after having served five consecutive years. The intent of the limitation is to assure that the many people in these sectors have the opportunity to be seated on the board. The limitation does not prevent people who have gained a certain expertise through service on the board from serving the CAA or the community in any other capacity. Moreover, the limitation will allow more people to gain that expertise for use within the larger community.

(vi) *Conflict of Interest.* Twenty respondents comment on the total exclusion from CAA boards of officers and employees of organizations contracting for components of the CAA work program. Many of these respondents suggest that the exclusion should not be total and that CSA should require only that these board members disqualify themselves in budget matters and in matters that directly concern their organizations. CSA adheres to the need for the total exclusion. Conflict of interest is not simply a matter of funding or of preferential treatment for certain organizations contracting to perform a component of the CAA work program. A more important source of conflict lies in the matter of objectivity and perspective. Too dependent a relationship between the board and its contractors may prevent the board from shifting the emphasis of its programs to meet the changing needs of the community.

In response to questions from several respondents, we have changed the wording of this exclusion to read: "No person may sit on the board who is an officer or an employee of an organization contracting to perform a component of the CAA work program funded by CSA." Note also that we are using the term "officer" in its technical sense to encompass the board of directors of the organization.

CSA recognizes that it will be difficult, as several respondents note, for some CAAs, particularly rural CAAs covering large areas, to make the adjustments required by this section of the rule. Therefore we have included in the rule a provision for a one-time exception to the requirements of this section to cover the transition. In order to be eligible for this exception, the CAA first must demonstrate, in a letter to the appropriate CSA administering office signed by the board chairperson, that immediate compliance will severely hinder the activities of the board and then must provide a plan and a step-by-step timetable for achieving compliance. All CAAs granted exceptions must be in compliance with the requirements of this section no later than one year after the rule becomes effective.

Eleven respondents questioned the need to prohibit Federal employees from serving on the board in any capacity which will require them "to represent the CAA in its dealings with CSA or with any other Federal agency." This restriction does not prohibit Federal employees from serving on a CAA board, as some respondents fear, but only from acting as an agent of or as attorney for the CAA in its dealings with Federal agencies. We have changed the wording from "represent" to "act as an agent of or an attorney for" in order to make clear exactly what activities are prohibited. Furthermore, the restriction is not administratively imposed, but is existing Federal law (cf. 18 U.S.C. 203 and 205). In sum, the law stipulates that a regular officer or employee of the Federal government may not, except in the discharge of his official duties, act as an agent of or as attorney for anyone else before a court or government agency in a matter in which the United States is a party or has an interest.

(vii) *Selection of Members of the Board vs. Formal Appointment.* This section is designed to clarify the difference between selection and formal appointment for those jurisdictions where formal appointment is required.

(3) *Powers of the Board*—(i) *Governing Board:* This section outlines those powers which a private, nonprofit corporation or a separate public agency must possess in order to be a CAA, beyond the general powers granted by its state charter.

Six respondents comment on power (A): "To appoint the Executive Director and the senior staff of the CAA." To allow the board to appoint the senior staff, they argue, would disrupt the proper lines of authority in the management of the CAA. CSA agrees with these comments and has revised this power in the final rule.

(ii) *State and Local Government.* Four respondents question the allotment to the community action board of the power "to enforce compliance with all conditions of CSA grants." Since this power is a legal condition for the receipt of the CSA grant, CSA agrees that the power properly belongs with the State or local government and has revised this section in order to make clearer the relationship between the community action board and the local government.

(iii) *Community Action Board.* This section outlines in some detail the division of responsibilities between the community action board and the State or local government.

Seven respondents challenge the legal basis for granting to community action boards the power " to participate jointly and to concur formally in the selection of the Executive Director." Citing the House debate of November 7, 1967, on section 211 of the Act, which was among the amendments passed that year, they argue that Congress did not intend community action boards to have such a power. To allow such a power to stand, one respondent concludes, would be "to create an administrative nightmare with shared authority between a local

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government and a board that is intended to be solely advisory."

To the contrary, the House debate of November 7, 1967, indicated that the purpose of section 211 was neither to subordinate the community action board to the local government nor to create a board which is simply advisory. But more significant to CSA's decision to establish this joint power are sections 201(a) and 211(a) of the Act.

First and most important, CAAs, according to section 201(a), are required to develop and to implement their program with the *maximum feasible participation* of the poor. Because the community action board is the level in a governmental CAA where the poor can influence the development and implementation of the program, it cannot be merely advisory. Furthermore, according to section 211(a), when a State or local government chooses to be the CAA, it "shall administer its program through a community action board." Since the community action board can exercise its administrative responsibility most effectively in the selection of the Executive Director, board and government must work together in the selection. Through the exercise of this joint power the poor can have an active voice in the administration of the CAA, as the Act mandates.

Since the language of this power is necessarily legal, let us explain what the power entailes. We emphasize that board and government must have equal opportunities to propose candidates and to participate in the process of selection. Further, both must agree upon the candidate selected for the position.

(b) *Contracts for Performing Components of the CAA Work Program.* Two respondents note that this section of the rule should apply only to contracts for performing those components of the CAA work program funded by CSA. The rule as a whole, we wish to point out, applies only to programs funded under Title II of the Act, but we have also added language to make that explicit here. Furthermore, this section does not apply to technical service contracts, such as those for audits or consultants, since these contracts are not concerned with the CAA work program. We are surprised that several respondents challenge the requirement for participation of the poor in this section of the rule. We remind all of our grantees that the rule merely repeats for your convenience the requirements of OEO/CSA Instruction 6005–1, which became effective on December 1, 1968.

(c) *Bylaws of the Community Action Agency.* This section of the rule comprises the legislative and administrative requirements which properly belong in the CAA bylaws. The rule outlines the procedure for drawing up these bylaws only for newly designated CAAs. Existing CAAs will have a 60 day grace period to bring their bylaws into compliance with these requirements.

(1) *Composition of the Board.* We have added this section to the final rule in order to make sure that each CAA include in its bylaws the total number of seats on the board and the allotment of those seats to the three sectors.

(2) *Selection Procedures.* In response to several comments, we have revised the elements to be included in the plan for selecting representatives of the poor. The plan must describe the apportionment of representatives throughout the community (at large, by areas, from groups, or in any combination of these); the particular selection procedure to be used (ballot, general meeting, etc.); and how eligibility to vote will be established, particularly for the poor (self-declaration, residence, etc.). The details of the selection procedure, however, such as publicity and the location of polling places, need not be included in the bylaws.

(3) *Petition by Other Groups for Adequate Representation on the Board.* Section 211(d)(2) of the Act requires each CAA to establish a procedure by which groups that feel themselves inadequately represented can petition the board for seats. The procedure is most appropriately described in the bylaws.

(4) *Removal.* Five respondents comment that the provisions for removal should extend to public officials, or at least to their representatives, particularly when they are consistently absent from board meetings. As we stated above in describing the selection of public officials, it is the prerogative of the designating officials alone to fill the seats allotted to public officials. The board can only petition the designating officials to remove public officials or their representatives for whatever cause, including absenteeism.

(5) *Alternates.* The board may allow alternates to substitute for board members when this practice is consistent with state corporate law. Representatives of public officials may not themselves have alternates because they are already acting as agents for public officials. (Note that these representatives are not alternates in the same sense as those for representatives of the poor and of private organizations, and therefore they may serve as officers of the board.) Representatives of the poor may not select their own alternates, as two respondents suggest. The alternate must be accountable to the same constituency as the representative, even though the alternate and the representative may hold different opinions on matters brought before the board. In this case accountability must take precedence over consistency of opinion.

To our surprise, four respondents comment that alternates should not be allowed, arguing that the practice diminishes the responsibility of board members. We recognize their argument, but point out that while the rule does not require boards to allow alternates, the practice may increase participation of the poor.

(6) *Vacancies.* Several respondents accuse us of having violated our own principles in the procedure for filling vacancies among representatives of the poor on the board. We plead guilty. We reasoned that it would be too cumbersome to duplicate the selection procedure used to choose the original representative. We acknowledge the error, and we have changed the rule to allow the option of repeating the selection procedure.

(7) *Quorum.* Eighteen respondents comment that the requirement that a quorum be 50% of the total seats on the board is unworkable, particularly when coupled with the possibility that some of the seats allotted to public officials may remain vacant. We recognize the difficulty and have changed the quorum requirement to 50% of the nonvacant seats on the board.

(8) *Schedule and Notice of Meetings.* Eleven respondents comment that ten days' notice of meetings is unrealistic and burdensome. When we were considering these comments, we were embarrassed to find that two previous OEO/CSA Instructions list conflicting requirements for notice of meetings. OEO/CSA Instruction 7042–1 requires ten days' notice, while OEO/CSA Instruction 6005–1 requires only five days' notice. In view of the comments, we agree to the requirement of five days' notice.

Two respondents comment that it may be difficult for rural CAAs in areas with severe winter weather to schedule meetings at least every ten weeks. We recognize the difficulty, but point out that the weight of CAA business requires that every effort be made to hold meetings at least every ten weeks. However, in the final rule the board may apply for an exception to this requirement when circumstances beyond its control prevent it from meeting at least once every ten weeks. The board chairperson shall write to the appropriate CSA administering office as soon as possible to explain the circumstances which prevent the board from meeting and to inform the office when it will meet again.

(10) *Executive Committee.* Several respondents ask why the rule does not require the full board to ratify the decisions of the executive committee. Ratification, we believe, might prevent the committee from acting in a timely manner. It is enough that the committee report to the board any actions it has taken in the interim between meetings. If the board opposes a particular decision of the committee, it may vote, where possible, to reverse the decision. And if the board is sufficiently opposed to the pattern of decision-making on the part of the committee, it can vote to change the committee's membership.

§ 1062.200–4 Limited Purpose Agencies

CSA has not established extensive structural requirements for LPA boards because, in general, the agency extends no commitment to LPAs beyond the term of their grants. Since CSA does not either by statute or by administrative regulation "recognize" LPAs, as it does CAAs, we require only that an LPA involve the poor in the direction of the project for which it has been funded. An LPA may involve the poor in either of two ways. It may already have, or may choose to establish, a board of directors which is composed of at least one-third representatives of the poor. Or it may establish an advisory committee for the project which is composed of at least a majority of democratically selected representatives of the poor.

* * * * *

We would like to thank all of you who took the time to respond to the proposed rule. Your responses, and the responses to the Notice of Proposed Rulemaking published in the **Federal Register** on June 16, 1978, contributed to a clearer rule, and one which will be of greater usefulness to all of our grantees.

PLEASE NOTE: a Spanish translation of the rule is available from the contact person, Mr. McTighe.

The regulations are hereby adopted with the changes indicated below.

Graciela (Grace) Olivarez,
Director.

45 CFR Part 1062 is amended by adding the following new Subpart J:

Subpart J—Boards and Committees of Title II Programs

Sec.
1062.200–1 Applicability.
1062.200–2 Policy.
1062.200–3 Community Action Agencies.
1062.200–4 Limited Purpose Agencies.

Authority: Sec. 602, 78 Stat. 530; 42 U.S.C. 2942.

Subpart—Boards and Committees of Title II Programs

§ 1062.200–1 Applicability.

This subpart applies to all grantees funded under Title II of the Economic Opportunity Act of 1964, as amended, when the assistance is administered by the Community Services Administration.

§ 1062.200–2 Policy.

Compliance with these requirements is a condition for receipt of funds.

§ 1062.200–3 Community Action Agencies.

(a) *Boards of Directors of Community Action Agencies.* Section 211(a) of the Economic Opportunity Act of 1964, as amended, requires that each CAA have a broadly representative board. The appropriate type for a given CAA is determined by which entity the State or local government designates to be the CAA. (CSA Instruction 6302–2 describes the formal process for the designation of a CAA.) When the State or local government designates a private nonprofit corporation or a separate public agency to serve as the CAA, the board of directors of the CAA is a *governing board.* When the State or local government serves as the CAA in its own right, it administers its program through a *community action board.* The tribal government of an Indian reservation is the community action board as well if there are no other officials or major groups and interests within the community.

(1) *Composition of the Board.*[1] Section 211(b) of the Act stipulates precise requirements for the size and composition of the board. The board consists of at least fifteen, but not more than fifty-one members. (i) Elected public officials, or their representatives, comprise one-third of the board. Only if the number of elected officials reasonably available and willing to serve is less than one-third of the membership of the board may appointed officials be counted in meeting this one-third requirement. (ii) Persons chosen to represent the poor comprise at least one-third of the board. (iii) Representatives of business, industry, labor, religious, welfare, or other private groups and interests comprise the remainder of the board.

(2) *Selecting Members of the Board.* Members of the board are selected in such a manner as to assure that they speak and act on behalf of the group or organization which they represent.

(i) *Public Officials.* The designating officials[2] of the State or local government shall select the elected public officials to serve on the board. In the event that there are not enough elected public officials reasonably available and willing to serve on the board, the designating officials may select appointed public officials to serve on the board. Both the elected and the appointed public officials selected to serve on the board shall have either general governmental responsibilities or responsibilities which require them to deal with poverty-related issues. They may not be officials with only limited, specialized, or administrative responsibilities. Each public official selected to serve on the board may choose one permanent representative to serve on the board either full-time in his/her place or whenever he/she is unable to attend a meeting. These representatives need not be public officials themselves, but they shall have full authority to act for the public officials whom they represent at meetings of the board. If the public officials, both elected and appointed, who are willing to serve do not comprise one-third of the board, then the remainder of the seats allotted to public officials shall remain vacant. However, the designating officials may fill these seats at any time, as soon as an official is willing to sit on the board.

(ii) *Representatives of the Poor:* Representatives of the poor shall be chosen in accordance with democratic selection procedures adequate to assure that they represent the poor in the area served by the CAA. They need not be poor themselves, but the selection procedure shall assure that they represent the poor. Representatives of the poor may be selected either to represent a specific area or neighborhood served by the CAA, or at large to represent the entire area served by the CAA, or to represent a particular organization designated by the board whose membership is composed predominately of poor persons. Among the selection procedures which may be used, either alone or in combination, are the following:

[1] The term "the board" refers equally to governing boards and to community action boards except in the discussion of board powers.

[2] The designating officials are the chief elected officials of the State or local government or combination of governments who collectively possess the power to designate a CAA according to the procedures outlined in CSA Instruction 6302–2.

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(A) Nominations and elections, either within neighborhoods or within the community as a whole;

(B) Selection at a meeting or conference of poor persons whose date, time, and place have been adequately publicized;

(C) Selection of representatives to a community-wide board by members of neighborhood or sub-area boards who are themselves selected by low-income neighborhood or area residents;

(D) Selection on a small area basis (such as a city block) of representatives who in turn select members for a community-wide board;

(E) Selection of representatives by existing organizations designated by the board whose membership is predominately composed of poor persons.

This list is not meant to limit the variety of selection procedures which may be used. Any democratic selection procedure which assures maximum feasible participation of the poor is potentially acceptable. However, section 211(g) of the Act prohibits any selection procedure from being held on Sabbath Day which is observed as a day of rest and worship by residents of the area served.

(iii) *Representatives of Privote Organizations.* Private organizations shall be selected in such a manner as to assure that the board will benefit from broad community involvement. The board shall draw representation not only from among private social service agencies, private educational institutions, constituencies of the poor concerned with specific problems (for example, the disabled poor), and other private organizations within the community, but also from among business, industry, and labor organizations. Once an organization is selected it shall choose the person to represent it on the board. Each representative shall be empowered to speak and act on behalf of the organization which he/she represents in connection with the board's business.

(iv) *Residence Requirement.* Section 211(b) of the Act requires that each member of the board selected to represent a specific geographic area within the community reside in the area which he/she represents.

(v) *Limitotions on Board Service.* Public officials, or their representatives, serve at the pleasure of the designating officials and as long as the public official is currently holding office. Representatives of the poor and of private organizations may serve up to five consecutive years, but no more than a total of ten years. After serving five consecutive years, a representative of the poor or of a private organization may not serve on the board in any capacity for at least one full year.

(vi) *Conflict of Interest.* No person may sit on the board who is an officer or an employee of an organization contracting to perform a component of the CAA work program funded by CSA.[3] [4] (See CSA Instruction 6909–01, Conflicts of Interest in Community Action Programs, for a complete discussion of conflicts of interest.) No employee of the CAA or of the Community Services Administration may serve on the board, and no other Federal employee may serve on the board in a capacity which will require him/her to act as an agent of or as attorney for the CAA in its dealings with CSA or with any other Federal agency.

(vii) *Selection of Members of the Board vs. Formal Appointment.* If a CAA is a State or local government or a separate public agency, its governing laws may require that members of the board be appointed by particular public officials such as the mayor of a city or the county executive. The requirements of selection set forth in this section are not intended to modify these legal requirements. However, the appointment of members of the board in these cases shall be a formal, nondiscretionary confirmation of the actual selection of the board members by those whom they will represent, in accordance with the requirements set forth in the preceding paragraphs. Likewise, the removal of board members in these cases shall be a formal, nondiscretionary confirmation of the action taken by the board itself.

(3) *Powers of the Board*—(i) *Governing Board.* The governing board of a private, nonprofit CAA, or of a CAA which is a separate public agency, has the same legal powers and responsibilities granted under its state charter as the board of directors of any private, nonprofit corporation. For example, the board must have the power to enter into legally binding agreements with any Federal, state, or local agency, or with any private funding organization for the purpose of running programs or providing services. In addition to these general corporate powers which all private, nonprofit CAAs and all CAAs which are separate public agencies possess, section 211(e) of the Act outlines the following specific powers which each of these CAAs must possess:

(A) To appoint the Executive Director of the CAA;

(B) To determine, subject to CSA policies, major personnel, organization, fiscal, and program policies;

(C) To determine overall program plans and priorities for the CAA, including provisions for evaluating progress against performance;

(D) To make final approval of all program proposals and budgets;

(E) To enforce compliance with all conditions of CSA grants;

(F) To oversee the extent and the quality of the participation of the poor in the programs of the CAA;

(G) To determine, subject to CSA policies, rules and procedures for the governing board;

(H) To select the officers and the executive committee, if any, of the governing board.

(ii) *State and Local Government.* When a State or local government serves as the CAA in its own right, the designating officials possess powers (B)–(E) outlined above and share power (A) with the community action board. They may delegate powers (B)–(D) only to the community action board, unless they are granted written approval by CSA to do otherwise. CSA will consider an alternate delegation of powers only when it will increase the participation of the poor in the program.

(iii) *Community Action Board.* Section 211(a) of the Act stipulates that when a State or local government serves as the CAA in its own right, it "shall administer its program through [the] community action board." The community action board must have the following powers:

(A) To participate jointly and to concur formally in the selection of the Executive Director of the CAA[5];

(B) To exercise all powers which the designating officials choose to delegate to the community action board:

[3] CAAs which are out of compliance with this requirement on the effective date of the rule may apply for a one-time exception. In a letter to the appropriate CSA administering office signed by the board chairperson, the board must first demonstrate that immediate compliance will severely hinder the activities of the board, and then must provide a plan and a step-by-step timetable for achieving compliance. Any CAA granted an exception must be in compliance no later than one year after the rule becomes effective.

[4] Public officials sitting on CAA boards will not be in conflict if the CAA should contract with his/her jurisdiction to perform a component of the work program funded by CSA.

[5] The governing laws of a State or local government may require that the Executive Director be appointed by a particular public official such as the mayor or county executive. The requirements of this selection process are not intended to modify these legal requirements. In these instances, however, the appointment of the Executive Director shall be a formal, nondiscretionary confirmation of the joint selection of the Executive Director by the board and the designating officials.

(C) To oversee the extent and the quality of the participation of the poor in the programs of the CAA;

(D) To determine, subject to CSA policies, rules and procedures for the community action board;

(E) To select the officers and the executive committee, if any, of the community action board.

Furthermore, according to the mandate of section 211(f) of the Act, the community action board shall deliberate upon the following matters and submit its written recommendations to the designating officials before they render a final decision whenever the designating officials have not specifically delegated these powers:

(F) Determination, subject to CSA policies, of major personnel, organization, fiscal, and program policies;

(G) Determination of overall program plans and priorities;

(H) Approval of all program proposals and budgets;

(I) Approval of all evaluation and assessment studies and reports;

(J) Approval of all arrangements for delegating the planning, conduct, or evaluation of a component of the work program.

(b) *Contracts for Performing Components of the CAA Work Program.* (1) Whenever the CAA chooses to place the responsibility for planning, conducting, or evaluating a component of its work program funded by CSA with another organization, it shall formalize the relationship with that organization in a contract which states the specific responsibilities contracted and the conditions for performance. The board may delegate these responsibilities only to organizations whose boards of directors have a membership of at least one-third representatives of the poor or which form an advisory committee at least a majority of which are democratically selected representatives of the poor.

(2) When the CAA "places the responsibility for major policy determinations with respect to the character, funding, extent, and administration of and budgeting for programs to be carried on in a particular geographic area within the community" in a subsidiary board or council, as section 211(c) of the Act states, that board or council shall have a membership of at least a majority of representatives of the poor selected according to the procedures outlined above in § 1062.200–3(a)(2)(ii). These boards shall include in their bylaws procedures for seating elected public officials who represent the area served by the board and who wish to be seated on it.

(c) *Bylaws of the Community Action Agency.* When the CAA is first designated, the designating officials establish an interim board to draw up the bylaws for the CAA. Once the CSA administering office has approved the bylaws, the interim board shall within a reasonable period of time establish a new board according to the procedures outlined in the bylaws. These bylaws must include at least the following:

(1) *Composition of the Board.* The bylaws shall set the total number of seats on the board and the allotment of seats to public officials, to representatives of the poor, and to representatives of private organizations. The board shall report any change in the total number of seats or in the allotment of seats immediately to the appropriate CSA administering office.

(2) *Selection Procedures.* The bylaws shall include the following procedures for selecting members of the board:

(i) A plan for selecting representatives of the poor which shows how the CAA will apportion representation throughout the community; by what procedure the representatives will be selected; how eligibility to vote will be established and, except where unfeasible, limited to the poor; what safeguards there will be against persons voting more than once, etc;

(ii) A plan for selecting representatives of private organizations which shows what are the criteria for selection; how representation will be balanced between private social service organizations and organizations from business and labor; and how seats will be rotated among interested organizations whenever there are more organizations willing to serve than there are seats available;

(iii) A fixed term of office for representatives of the poor and of private organizations.

The board shall report any amendment of these selection procedures immediately to the appropriate CSA administering office.

(3) *Petition by Other Groups for Adequote Representation on the Board.* Section 211(d)(2) of the Act requires CAAs to establish and include in their bylaws procedures allowing community agencies and representative groups of the poor which feel themselves inadequately represented on the board to petition for adequate representation. The board shall specify in these procedures the channels of communication to be used, the number of signatures required for a valid petition, and the action required of the board in response to a petition for more adequate representation. The board shall also include in its bylaws provisions for adjusting and realigning its composition in cases where a petition is granted in order to maintain the proper percentage of public officials and of representatives of the poor within the fifty-one member limit.

(4) *Removal.* Public officials, or their representatives, may be removed from the board only by the designating officials. However, the board shall include in its bylaws a description of the grounds for removal and the procedures to be followed in the removal of representatives of the poor and of private organizations.

(5) *Alternates.* When it is consistent with its state charter, the board may allow alternates to substitute for its members. As stated above in § 1062.200–3(a)(2)(i), each public official on the board may select a representative to serve in his/her place or in his/her absence. These representatives, however, may not select alternates to substitute for them. Alternates for representatives of the poor shall be selected in the same manner and at the same time as the representatives themselves. The voters who select the representative shall also select the alternate. The private organizations represented on the board shall select their own alternate, just as they select their own representative. As with the representative of the organization, the alternate shall be empowered to speak and act on behalf of the organization which he/she represents. Each board member may have only one alternate. Each alternate may substitute for only one board member. No alternate may serve as an officer of the board.

(6) *Vacancies.* There is a vacancy on the board when a member has been notified of his/her official removal by action of the board for cause, when a member notifies the board of his/her resignation, when the designating officials remove a public official, or when a public official leaves office. When the seat of a public official is vacant, the board shall ask the designating officials to select another public official to fill the seat. When the seat of a representative of a private organization is vacant and no alternate has been named, the board shall ask that organization to name another representative to fill out the term. When the seat of a representative of the poor is vacant and no alternate has been selected, the board may include in its bylaws either of two options. It may

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repeat the selection procedure, or it may allow the remaining representatives of the poor, acting alone, to select a person to fill out the term, with the condition that the person selected represent as much as possible the same constituency as the original representative. The board shall fill all vacancies as soon as is reasonably possible.

(7) *Quorum.* The quorum for a meeting of the board shall be at least 50 percent of the nonvacant seats on the board.

(8) *Schedule and Notice of Meetings.*—(i) *Schedule.* The board shall meet on a regular basis, at least every ten weeks.[6] The meetings shall be scheduled for the convenience of its members and of the general public.

(ii) *Notice.* The board shall provide in writing to all its members notice of and the agenda for any meeting at least five days in advance.

(9) *Minutes.* The board shall keep for each meeting written minutes which include a record of votes on all motions. Minutes of the previous meeting shall be distributed to all members before the next meeting, and shall be made available to the public upon request. The board shall also make available to the public upon request translations of the minutes in areas where a significant portion of the poverty population does not speak English.

(10) *Executive Committee.* The board may appoint an executive or steering committee composed of members of the board to transact routine and ordinary business between meetings of the full board. Section 211(d) of the Act requires that the composition of this committee fairly reflect the composition of the full board. The executive committee shall report on the actions it takes between meetings at the next meeting of the full board. The board shall establish the quorum for the executive committee, which may not be less than 50 percent of the nonvacant seats on the committee.

(11) *Other Policy-Making Committees of the Board.* The board may establish any committees it considers necessary for carrying on its business. The composition of these committees shall fairly reflect the composition of the full board.

(12) *Proxy Voting.* Voting by proxy is not permitted at meetings of the board or of its committees. This prohibition applies equally to all members of the board.

[6] The board may apply for an exception to this requirement. When circumstances beyond its control will prevent the board from meeting at least once every ten weeks, the board chairperson shall write to the appropriate CSA administering office as soon as possible to explain the circumstances which prevent the board from meeting and to inform the office when it will meet again.

(13) *Compensation.* Although allowances for the poor and reimbursements to all members of the board for expenses are permitted, regular compensation to all members for their service on the board is not permitted.

§ 1062.200–4 Limited Purpose Agencies.

CSA funds Limited Purpose Agencies to operate one or several programs whose scope is limited either functionally (for instance operating a weatherization program) or geographically (a neighborhood). They may be funded under all funding authorities under Title II of the Act except section 231. LPAs are not required to have broad community representation on their policy-making boards, but they must have either a board of directors which is composed of at least one-third representatives of the poor or an advisory committee at least a majority of which are democratically selected representatives of the poor.

[CSA Instruction 6400-01a]

[FR Doc. 79-14976 Filed 5-11-79; 8:45 am]

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Monday
May 14, 1979

Part VIII

Department of Housing and Urban Development

Office of Assistant Secretary for Housing—Federal Housing Commissioner

Lower Income Housing; Conversion of Section 23 Projects to Section 8 and Section 23 Monitoring

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DEPARTMENT OF HOUSING AND URBAN DEVELOPMENT

Office of Assistant Secretary for Housing—Federal Housing Commissioner

24 CFR Part 882

Lower Income Housing; Conversion of Section 23 Projects to Section 8 and Section 23 Monitoring

AGENCY: Office of Assistant Secretary for Housing—Federal Housing Commissioner, HUD.

ACTION: Final rule.

SUMMARY: This Rule revises the policies and procedures for the conversion of lower income housing projects assisted under Section 23 of the U.S. Housing Act of 1937 (Act) to Section 8 of the Act. The Rule also provides additional procedures for monitoring those units that remain under the Section 23 program.

EFFECTIVE DATE: June 13, 1979.

FOR FURTHER INFORMATION CONTACT: Patricia Arnaudo, Director, Existing Housing Division, Office of Existing Housing and Moderate Rehabilitation, Department of Housing and Urban Development, 451 Seventh Street, SW., Washington, D.C. 20410, (202) 755–6460. This is not a toll free number.

SUPPLEMENTARY INFORMATION: On November 2, 1977 (at 42 FR 57416), the Department published a rule proposing to amend the Section 8 Existing Housing Program Regulations regarding the conversion of the Section 23 Program to Section 8 and Section 23 Monitoring. Although this proposed rule was published together with a proposed rule for PHA management, the final rules are being published separately. The Department received 19 written comments in response to the proposed rule on Section 23 conversions and Section 23 monitoring and numerous other suggestions from meetings with PHAs, HUD Field Offices, national associations and other interested persons, all of which have been carefully considered in preparing this final rule.

Summary of Rule Proposed on November 2, 1977.

The Department proposed to revise Section 882.101(b) on conversions from the Section 23 Existing Housing Program to the Section 8 program to require PHAs to complete the orderly conversion of Section 23 Existing Housing by September 30, 1979. In light of Section 201(h) of the Housing and Community Development Act of 1977, the proposed rule would have clarified that the rights of the owner must not be affected including renewal rights under the lease, subject to the maximum term permitted by law. Consistent with the existing policy regarding evictions, the proposed rule stated that PHAs shall avoid evictions to the maximum extent possible and also stated that PHAs shall help families determined to be eligible for the Section 8 program in locating units. The proposed rule included examples of grounds on which Certificates of Family Participation could be denied and the rule emphasized a family's right to a hearing under Section 882.209(f), if it is found to be ineligible. The proposed rule restated that the Fair Market Rents for conversions are the Section 8 Existing Housing Fair Market Rents and that the conversion policy is inapplicable to the HUD Experimental Housing Allowance Program. It indicated that Section 23 New Construction and Substantial Rehabilitation projects could be converted under terms and conditions agreed to by all parties and approved by HUD Headquarters.

The rule also proposed to revise the policy on the monitoring of Section 23 units in light of an audit by HUD's Inspector General that indicated a need for more controls over these units. The proposed rule would have continued the provision that no Section 23 leases for additional units may be entered into and stated that lease extensions and renewals may only extend until September 30, 1978 for occupied units which HUD has determined are decent, safe, and sanitary, and would have continued the provision that increases be funded by the elimination from the ACC of unleased units. The proposed rule specified that PHAs shall submit with their requisitions for ACC payments a certification that the units are decent, safe and sanitary. Finally, HUD Field Offices would have been required to perform annual inspections for compliance with the terms and conditions of the lease and the ACC.

Final Rule

The final rule for Section 23 conversions and Section 23 monitoring is moved from Section 882.101(b) to a new Section 882.123 for easier reference and to highlight the policy changes which are discussed below:

1. *Definition of Section 23 Progrom*

Several commenters indicated that there was confusion regarding which units in the Section 23 program were subject to conversion to Section 8. The proposed rule provided that only Section 23 Existing units (not Section 23 New Construction or Substantial Rehabilitation units) were subject to the conversion deadline.

Therefore, to clarify which units are subject to the conversion deadline, the final rule provides that units with short term leases must be converted by September 30, 1981. Short and long term leases are defined as follows:

A short term lease is a lease between a PHA and an owner for a term which will expire on or before September 30, 1981, and is not renewable at the sole option of the owner.

A long term lease is a lease between a PHA and an owner for a term which will not expire on or before September 30, 1981, or which will so expire, but is subject to renewal at the sole option of the owner for a further term to extend beyond September 30, 1981.

2. Rights of an Owner and Family under a Lease

Several commenters were concerned whether the prior rights of an owner under a Section 23 lease will be recognized for units not converted to Section 8. HUD has responded to this concern by clarifying in Section 882.123(c) the policy of not adversely affecting the rights of owners under existing leases, as required by Section 208 of the HCD Act of 1974. Section 201(h) of the HCD Act of 1977 clarified Section 208 by inserting the phrase "including the right of renewal of such leases to the maximum term permitted by law."

Section 882.123(c) of the final rule states that rights of owners, including rights of renewal, shall not be adversely affected without their consent. Accordingly, if an owner has a unilateral right to renew, the PHA will be required to renew the lease. If renewal requires consent of the PHA, any renewal must be in accordance with the implementation of HUD's conversion policy.

Section 882.123(c) also states that conversions shall not adversely affect, except by agreement, the rights of a family under a lease.

3. Deadline for Conversions

Several commenters expressed concern and confusion about the conversion deadline of September 30, 1979. Some stated that the conversion deadline could not be met particularly due to limited funds and a few stated that they did not want to convert. In response to some of the concerns, the final rule in Section 882.123(d)(1) extends the deadline for the conversion of Section 23 units with short term leases to September 30, 1981. The rule requires that Field Offices, in conjunction with PHAs, establish a schedule to convert an appropriate portion of Section 23 units with short term leases during each of Federal Fiscal Years 1979, 1980 and 1981. (The only exception to this policy with respect to Section 23 units with short-term leases is where the PHA has an option to purchase the project or where the units are in a homeownership opportunity project.) This deadline has been determined on the basis of a projection of contract authority expected to be available for conversions. The Department plans to reserve a portion of contract authority each year for conversions. However, the rule does provide that conversions are subject to available contract authority, as a safeguard in case of an unforeseen reduction in the amount of contract authority available for conversions. It is emphasized, by definition, that owners of Section 23 units with short term leases do not have contract rights beyond September 30, 1981.

The final rule continues HUD's commitment to Congress to convert the Section 23 program to Section 8.

4. Family Eligibility in Conversions

Several commenters were concerned about the provision in the proposed rule which indicated that Section 23 families may not always be eligible for the Section 8 program. HUD has determined in Section 882.123(d)(4) that Section 23 families shall be determined eligible for Section 8 on a continued occupancy basis, e.g., Section 8 income limits do not apply and the remaining member of a family assisted under Section 23 shall also be eligible for Section 8 assistance.

5. New Construction and Substantial Rehabilitation Conversions

Owners of Section 23 New Construction and Substantial Rehabilitation projects who commented indicated that they would like to convert to a Section 8 program where the assistance is tied to the unit and where the term is extended to cover the term of their financing. These commenters also suggested that, to permit such conversions, the deadline for the use of Section 8 Recently Completed Fair Market Rents, be extended from 6 years to approximately 8 years to include these Section 23 projects built in the early 1970s.

The Department has determined in Section 882.123(f) that Section 23 units with long term leases (which includes the vast majority of the New Construction and Substantial Rehabilitation projects) will not be converted until after Federal Fiscal Year 1981 because all available contract authority will be used for the conversion of Section 23 units with short term leases. However, since the demand for conversion by such owners is usually due to the fact that many Section 23 leases do not provide for adequate rent increases, the Department is implementing a rent increase policy for Section 23 units with long term leases. The owner must document that the failure to obtain additional revenue will result in deterioration of units and loss of decent, safe and sanitary housing for lower-income families.

6. Section 23 Lease Renewals/ Extensions and Leases for Additional Units

Under the proposed rule lease extensions or renewals would be permitted only until September 30, 1978, or under special circumstances until September 30, 1979. Several commenters contended that this provision was inconsistent with Section 201(h) of the Housing and Community Development Act of 1977 which allows renewals of leases to the maximum extent permitted by law.

The final rule provides in Section 882.123(e) that the restriction on lease extensions and renewals applies to Section 23 units with short term leases which are required to be converted on or before September 30, 1981. Since owners of such units do not have renewal rights beyond that date, leases for these units may not extend beyond September 30, 1981 or an earlier date which is consistent with the PHA's conversion schedule.

Family leases (i.e. those between a PHA and a families) may not be renewed or extended except on a month-to-month basis and are subject to the lease between a PHA and an owner; however, the rule emphasizes that a family's rights under the lease may not be adversely affected during the conversion process. Section 23 units with long term leases are subject to the provisions for extensions and renewals provided under the leases.

7. Rent Increases for Section 23 Units

Several commenters were concerned that funding rent increases through the elimination of units authorized under the Section 23 ACCs but not leased would severely restrict the availability of units in the Section 23 program. Owners of Section 23 units with long term leases commented that they usually signed leases for five-year terms, which in many cases provided for no adjustment of rents to meet escalation of management costs and that, as a result, they have been unable to provide the necessary management and maintenance services.

The final rule states the policy for rent increases for the benefit of owners of Section 23 units with long term leases (i.e., those units which will not be converted). An owner may submit to the PHA a request for an increase in rents because of increases in operating costs, when the rents to the owner, after adjustments based on provisions in the lease, are insufficient to provide decent, safe and sanitary housing notwithstanding efficient management. Such a request shall be supported by an audited financial statement, and the data shall clearly show that failure to obtain additional revenue will result in deterioration of units and loss of decent, safe and sanitary housing. The PHA shall inspect the units to determine whether the units are decent, safe and sanitary.

8. PHA and HUD Inspections

Several Field Offices stated that the requirement for HUD inspection of Section 23 units both prior to approving rent increases and annually for compliance with the terms and conditions of the Lease and the ACC was too much workload for HUD staff and would severely restrict rent increases. Also, according to these comments, the annual inspection of units had been a PHA function because HUD could not administer the function properly.

The final rule requires that PHAs conduct annual inspections of all units and stipulates that HUD will monitor PHA compliance through its management reviews. The Program Handbook will require that the HUD management review include an inspection of units under the Section 23 program.

9. Actions Where Units are not in Decent, Safe, and Sanitory Condition

The final rule also contains in Section 882.123(e)(4) provisions for the suspension or reduction of payments to the owner and/or the PHA in cases where the PHA and/or HUD determines that the units are not decent, safe, and sanitary and where the party responsible under the lease for such maintenance or management functions has been given written notice and a reasonable time to correct the deficiencies.

A finding of inapplicability respecting the National Environmental Policy Act of 1968 has been made in accordance with HUD procedures. A copy of this finding of inapplicability will be available for public inspection during regular business hours at the office of the Rules Docket Clerk, Office of the General Counsel, Room 5218, Department of Housing and Urban Development, 451 Seventh Street SW., Washington, D.C. 20410.

PART 882—SECTION 8 HOUSING ASSISTANCE PAYMENTS PROGRAM—EXISTING HOUSING

Accordingly, 24 CFR Part 882 is revised as follows:

§ 882.101 [Amended]

1. Section 882.101(b) is deleted and reserved.

2. A new § 882.123 is added to read:

§ 882.123 Conversion of Section 23 Units to Section 8 and Section 23 Monitoring.

(a) *Definitions.* The following definitions apply only to units and projects in the Section 23 program: *Short term lease.* A lease between a PHA and an owner for a term which will expire on or before September 30, 1981 and which is not renewable at the sole option of the owner. *Long term lease.* A lease between a PHA and an owner for a term which will not expire on or before September 30, 1981 or which will so expire, but is subject to renewal at the sole option of the owner for a further term to extend beyond September 30, 1981.

(b) *Inapplicability of conversions to the Experimental Housing Allowance Program.* Housing under ACCs implementing the HUD Experimental Housing Allowance Program shall not be subject to the provisions of this § 882.123.

(c) *Rights of owners and families.* All conversions shall be undertaken without adversely affecting, except by agreement, the rights of an owner or a family under a lease executing pursuant to Section 23 of the Act. The rights of an owner under this paragraph include any rights to renew the lease at the sole option of the owner, subject to the maximum term permitted by law.

(d) *Conversion of Section 23 units with short term leases.*—(1) *Deadline for conversions.* Subject to the availability of contract authority, all Section 23 units with short term leases shall be converted to Section 8 Existing Housing, under Subparts A and B, on or before September 30, 1981. This paragraph (d) shall not apply to projects for which the PHA has an option to purchase or for which the units are in a homeownership opportunity project. Field Offices, in consultation with PHAs, shall establish a plan and a schedule to convert all Section 23 units with short term leases by the deadline. To the extent feasible, the conversion shall take place as of the first day of the PHA's fiscal year. The schedule shall call for conversion of an appropriate portion of the Section 23 units with short term leases during each of Federal Fiscal Years 1979, 1980 and 1981.

(2) *Eligibility of a family.* For purposes of this conversion program, a family assisted under Section 23 shall be determined to be eligible for the Section 8 Existing Housing Program on a continued occupancy basis without regard to whether the family remains in place or moves to another unit. Every such family shall be issued a Certificate of Family Participation under Section 882.209. For example, the Section 8 income limits for admission shall not apply; a family shall be income eligible for the Section 8 program if its income is such that the family cannot afford decent, safe and sanitary housing without financial assistance. Similarly, the remaining member of a family assisted under Section 23 shall also be eligible for Section 8 assistance.

(3) *Avoidance of termination of tenancies.* PHAs shall avoid the termination of tenancies as a result of conversions through such means as adjusting the conversion schedule. Where termination cannot be avoided, PHAs shall assist families in locating suitable alternative housing within the family's ability to pay for such housing.

(4) *Contract Rents for converted units.* Contract Rents for converted units shall be determined in accordance with subparts A and B of this Part 882.

(e) *Section 23 policies for units planned for conversion on or before September 30, 1981.* (1) PHAs shall not enter into new leases with owners for additional units nor shall they renew or extend leases with owners except consistent with the conversion schedules.

(2) Subject to the rights of families under existing leases, PHAs may continue to lease units to families under Section 23 only on a month-to-month basis.

(3) PHAs shall conduct annual inspections of all units to determine whether the units are decent, safe and sanitary.

(4) PHAs shall certify with their requisitions to HUD for payments under the ACC that the units are decent, safe and sanitary, or the PHA shall furnish HUD with a report of the nature of the deficiencies of the units which are not so certified. If an owner's units are not decent, safe and sanitary.

(i) Where the owner is responsible under the terms of the lease for correcting the deficiencies, the PHA shall send the owner written notification requiring the owner to take specified corrective action within a specified time. The notification shall also state that, if the owner fails to comply, rent payments will be suspended. If the owner fails to comply with the first notification, he shall be notified by the PHA of the noncompliance and rent payments shall be suspended immediately. In the event of such suspension of rent payments, the PHA shall requisition a correspondingly lower ACC payment.

(ii) Where the PHA is responsible under the terms of the lease for correcting the deficiencies, the Field Office shall send written notification requiring the PHA to take specified corrective action within a specified time. The notification shall also state that, if the PHA fails to comply, HUD will make reduced payments to the PHA only in the amount of the rent due the owner. If the PHA fails to comply with the first notification, the PHA shall be notified of the noncompliance, and the PHA shall not receive any fees for performing management functions until the PHA has complied with the Field Office request and has corrected the noted deficiencies.

(f) *Conversion of Section 23 units with long term leases.* Section 23 units with long term leases shall not be eligible for conversion to the Section 8 housing program until after September 30, 1981.

(g) *Section 23 policies for units not planned to be converted.* (1) PHAs shall not enter into new leases with owners for additional units nor shall they renew or extend leases with owners for more than one year.

(2) The provisions contained in paragraph (e) (3) and (4) of Section 882.123 shall apply.

(h) *Request for rent increases.* An owner may submit to the PHA a request for rent increase because of increases in operating cost, when the rents to the owner, after adjustments based on provisions in the lease, are insufficient to provide decent, safe and sanitary housing. Such a request shall be supported by an audited financial statement, and the data shall clearly show that failure to obtain additional revenue will result in deterioriation of units and loss of decent, safe and sanitary housing for lower-income families. The PHA shall inspect the units to determine whether the units are

decent, safe and sanitary. Where the need for an adjustment under this paragraph is shown:

(1) Subject to available contract authority and prior approval by the HUD Field Office, the PHA may grant an adjustment to the extent documented and justified for those items of expenses (excluding debt service) for which the owner is responsible under the lease.

(2) The amount of the adjustment must be reasonable when compared with similar items under the Section 8 Existing Housing program.

(3) The adjusted amount for expenses shall not exceed the result of applying the appropriate Section 8 Existing Housing Annual Adjustment Factor (24 CFR Part 888) most recently published by HUD in the **Federal Register** to the appropriate expense base in effect under the lease prior to this adjustment.

(4) The adjustment shall not be retroactive to pay for costs that the owner had previously incurred.

(5) The adjustment shall be effective for a period not to exceed one year.

(i) *HUD reviews.* HUD will review project operations at appropriate times to determine compliance with Section 882.123.

(Section 7(d), Department of HUD Act (42 U.S.C. 3535(d)); (Section 5(b), U.S. Housing Act of 1937 (42 U.S.C. 1437c(b))).)

Issued at Washington, D.C. May 7, 1979.

Lawrence B. Simons,

Assistant Secretary for Housing—Federal Housing Commissioner.

[Docket No. R-79-475]

[FR Doc. 79-14923 Filed 5-11-79; 8:45 am]

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Federal Register

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AGENCY PUBLICATION ON ASSIGNED DAYS OF THE WEEK

The following agencies have agreed to publish all documents on two assigned days of the week (Monday/Thursday or Tuesday/Friday).

This is a voluntary program. (See OFR NOTICE FR 32914, August 6, 1976.)

Monday	Tuesday	Wednesday	Thursday	Friday
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CSA	MSPB*/OPM*		CSA	MSPB*/OPM*
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Documents normally scheduled for publication on a day that will be a Federal holiday will be published the next work day following the holiday.

Comments on this program are still invited. Comments should be submitted to the Day-of-the-Week Program Coordinator, Office of the Federal Register, National Archives and Records Service, General Services Administration, Washington, D.C. 20408

***NOTE: As of January 1, 1979, the Merit Systems Protection Board (MSPB) and the Office of Personnel Management (OPM) will publish on the Tuesday/Friday schedule. (MSPB and OPM are successor agencies to the Civil Service Commission.)**

REMINDERS

The items in this list were editorially compiled as an aid to Federal Register users. Inclusion or exclusion from this list has no legal significance. Since this list is intended as a reminder, it does not include effective dates that occur within 14 days of publication.

Rules Going Into Effect Today

ENERGY DEPARTMENT

22410 4–13–79 / Consumer product sampling requirements; test procedures

ENVIRONMENTAL PROTECTION AGENCY

23828 4–23–79 / Approval and promulgation of implementation plans, Hawaii

HEALTH, EDUCATION, AND WELFARE DEPARTMENT

Food and Drug Administration—

22318 4–13–79 / Administrative practices and procedures amendments

22057 4–13–79 / Antibiotic drug rules; tetracycline; revised standard response line concentrations

22053 4–13–79 / Bacitracin and bacitracin-containing drugs; update; technical revisions

21768 4–12–79 / HUD/FHC—Method of computing adjusted monthly amount of contract rent

List of Public Laws

Last Listing April 24, 1979

This is a continuing list of public bills from the current session of Congress which have become Federal laws. The text of laws is not published in the Federal Register but may be ordered in individual pamphlet form (referred to as "slip laws") from the Superintendent of Documents, U.S. Government Printing Office, Washington, D.C. 20402 (telephone 202–375–3030).

H.R. 2283 / Pub. L. 96–10 To amend the Council on Wage and Price Stability Act to extend the authority granted by such Act to September 30, 1980, and for other purposes. (May 10, 1979; 93 Stat. 23) Price $.60.

THE FEDERAL REGISTER: WHAT IT IS AND HOW TO USE IT

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WHY: To provide the public with access to information necessary to research Federal agency regulations which directly affect them, as part of the General Services Administration's efforts to encourage public participation in Government actions. There will be no discussion of specific agency regulations.

WASHINGTON, D.C.

WHEN: May 18; June 1, 15; July 6, at 9 a.m. (identical sessions).
WHERE: Office of the Federal Register, Room 9409, 1100 L Street NW., Washington, D.C.
RESERVATIONS: Call Mike Smith, Workshop Coordinator, 202–523–5235.

TULSA, OKLAHOMA

WHEN: May 16, from 2–5 p.m.
WHERE: Aaronson Auditorium, Tulsa County Library, 400 Civic Center, Tulsa, Oklahoma.
RESERVATIONS: Call 918–581–5211.

KANSAS CITY, MISSOURI

WHEN: May 17, at 10 a.m.
WHERE: Federal Building, Room 140, 601 E. 12th Street, Kansas City, Missouri.
RESERVATIONS: Call 816–374–2466.

NEW YORK, NEW YORK

WHEN: May 29 and 30 at 9:30 a.m.
WHERE: Federal Building, Conference Room 3A, 26 Federal Plaza, New York City.
RESERVATIONS: Call Ms. Dorothy Germallo, 212–264–3514.

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Highlights

Telecommunications Device for the Deaf—Office of the Federal Register provides a new service for deaf or speech impaired persons who need information about documents published in the **FEDERAL REGISTER.** See the Reader Aids section for the telephone listing.

28606 Agriculture Production and Commercial Fishing DOE/ERA adopts amendment to provide middle distillates for period through 7–31–79; written comments on ground passenger mass transportation by 5–21–79, written comments other issues by 6–15–79, requests to speak by 5–16–79, oral statements by and hearing on 5–18–79, (Part X of this issue)

28280 Nutrition Education and Training Program USDA/FNS finalizes rules to combine requirements for implementation and operation of program; effective 5–15–79

28594 Powerplant and Industrial Fuel Use DOE/ERA establishes interim rules regarding prohibition against increase use of petroleum by existing electric powerplants; effective 6–15–79, comments by 8–15–79, (Part VIII of this issue)

28530 Powerplant and Industrial Fuel Use DOE/ERA issues interim rule regarding definitions and administrative procedures and sanctions; effective 5–8–79, comments by 8–15–79 (Part IV of this issue)

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Highlights

28588 **Federal Mine Safety and Health** Labor/MSHA establishes procedures and requirements for applying for, receiving, and administering State grants; effective 6–14–79, (Part VII of this issue)

28600 **Targeted Jobs Demonstration Program** HUD/CPD announces that letters of intent are being accepted for competition for grants; effective 5–15–79, (Part IX of this issue)

28558, 28564 **Toxic Substances Control** EPA issues Initial Inventory and interim rules regarding premanufacturing notification requirements and review procedures; comments by 6–14–79, (Part V of this issue) (2 documents)

28524 **Floodplain Management** DOD/Engineers prescribes policies and procedures; effective 5–15–79, (Part III of this issue)

28318 **Securities Investor Protection** SEC adopts rules designating financial responsibility; effective 5–15–79

28328 **Compensation Rate Increase** VA amends pension and parents' dependency and indemnity compensation rates; effective 6–1–79

28395 **Ethics in Government** Commerce/Secy publishes interim procedures for public inspection and copying of financial disclosure reports; effective 5–15–79

28286 **Food Service Equipment** USDA/FNS apportions assistance funds among States in compliance with Child Nutrition Act; effective 5–15–79

28287 **Food Program** USDA/FNS issues final decision concerning formula for determining funding level for each State agency participating in Special Supplemental Food Program for Women, Infants and Children; effective 5–15–79

28468 **Sunshine Act Meetings**

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28474 **Part II, USDA**
28524 **Part III, DOD/Engineers**
28530 **Part IV, DOE/ERA**
28558 **Part V, EPA**
28574 **Part VI, SEC**
28588 **Part VII, Labor/MSHA**
28594 **Part VIII, DOE/ERA**
28600 **Part IX, HUD/CPD**
28606 **Part X, DOE/ERA**
28612 **Part XI, Labor/ETA**

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The Code of Federal Regulations is sold by the Superintendent of Documents. Prices of new books are listed in the first FEDERAL REGISTER issue of each month.

OFFICE OF PERSONNEL MANAGEMENT

5 CFR Part 213

Excepted Service; Department of Transportation

AGENCY: Office of Personnel Management.

ACTION: Final rule.

SUMMARY: This amendment reestablishes under Schedule C one position of Special Assistant to the Director, Office of Public and Consumer Affairs. This position was formerly titled Special Assistant to the Director, Office of Public Affairs.

EFFECTIVE DATE: March 16, 1979.

FOR FURTHER INFORMATION CONTACT:
William Bohling, 202–632–4533.

Accordingly, 5 CFR 213.3394(a)(35) is reestablished as set out below:

§ 213.3394 Department of Transportation.

(a) Office of the Secretary. * * *

(35) One Special Assistant to the Director, Office of Public and Consumer Affairs.

* * * * *

(5 U.S.C. 3301, 3302; EO 10577, 3 CFR 1954–1958 Comp., p. 218)

Office of Personnel Management.
Beverly M. Jones,
Issuance System Manager.
[FR Doc. 79–15132 Filed 5–14–79; 8:45 am]
BILLING CODE 6325–01–M

5 CFR Part 213

Excepted Service; Department of Commerce; Department of Housing and Urban Development

AGENCY: Office of Personnel Management.

ACTION: Final rule.

SUMMARY: This amendment (1) excepts under Schedule C certain positions at the Department of Commerce and Department of Housing and Urban Development because they are confidential in nature and (2) changes the headnote of the National Fire Prevention and Control Administration to U.S. Fire Administration. Appointments may be made to these positions without examination by the Office of Personnel Management.

EFFECTIVE DATE: April 4, 1979.

FOR FURTHER INFORMATION CONTACT:
William Bohling, 202–632–4533.

Accordingly, the headnote of 5 CFR 213.3314(u) is amended and 213.3314(u)(4) and 213.3384(j)(6) is added as set out below:

§ 213.3314 Department of Commerce.

* * * * *

(u) *U.S. Fire Administration.* * * *

(4) One Deputy Administrator.

* * * * *

§ 213.3384 Department of Housing and Urban Development.

* * * * *

(j) *New Community Development Corporation.* * * *

(6) One Deputy General Manager.

(5 U.S.C. 3301, 3302; EO 10577, 3 CFR 1954–1958 Comp., p. 218)

Office of Personnel Management.
Beverly M. Jones,
Issuance System Manager.
[FR Doc. 79–15133 Filed 5–14–79; 8:45 am]
BILLING CODE 6325–01–M

5 CFR Part 213

Excepted Service; Federal Labor Relations Authority

AGENCY: Office of Personnel Managment.

ACTION: Final rule.

SUMMARY: This amendment excepts under Schedule C a position because it is confidential in nature. Appointments may be made to this position without examination by the Office of Personnel Management.

EFFECTIVE DATE: March 30, 1979.

FOR FURTHER INFORMATION CONTACT:
William Bohling, 202–632–4533.

Accordingly, 5 CFR 213.3392 is added as set out below:

§ 213.3392 Federal Labor Relations Authority.

(a) *Office of the Chairman.* (1) One Confidential Secretary to the Chairman.

* * * * *

(5 U.S.C. 3301, 3302; EO 10577, 3 CFR 1954–1958 Comp., p. 218)

Office of Personnel Management.
Beverly M. Jones,
Issuance System Manager.
[FR Doc. 79–15134 Filed 5–14–79; 8:45 am]
BILLING CODE 6325–01–M

5 CFR Part 213

Excepted Service; Department of Housing and Urban Development

AGENCY: Office of Personnel Management.

ACTION: Final rule.

SUMMARY: The purpose of this amendment is twofold: (1) To except under Schedule C two additional secretarial positions on the basis that they are confidential in nature and (2) to change the titles of eight existing Schedule C positions due to a change of supervisors. Appointments may be made to these positions without examination by the Office of Personnel Management.

EFFECTIVE DATE: March 9, 1979.

FOR FURTHER INFORMATION CONTACT:
William Bohling, 202–632–4533.

Accordingly, 5 CFR 213.3384(a) (9) and (12) are amended, (a) (62) and (65) are revoked and (a) (70) and (71) are added as set out below:

§ 213.3384 Department of Housing and Urban Development.

(a) *Office of the Secretary.* * * *

(9) One Special Assistant to the Under Secretary. * * *

(12) One Special Assistant to the Secretary. * * *

(62) / Revoked /. * * *

(65) / Revoked /. * * *

(70) One Secretary (Steno) to the Executive Assistant to the Secretary (Special Projects) and four Special Assistants to the Secretary (Special Projects).

(71) One Secretary (Steno) to the Executive Assistant to the Secretary (Operations) and four Special Assistants to the Secretary (Operations).

(5 U.S.C. 3301, 3302; EO 10577, 3 CFR 1954–1958 Comp., p. 218)

Office of Personnel Management.

EFFECTIVE DATE(S): Department of

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5. *Needs assessment.*—The interim

Office of Personnel Management.

Beverly M. Jones,

Issuance System Manager.

[FR Doc. 79-15135 Filed 5-14-79; 8:45 am]

BILLING CODE 6325-01-M

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5 CFR Part 213

Excepted Service; Department of Health, Education, and Welfare, Environmental Protection Agency

AGENCY: Office of Personnel Management.

ACTION: Final rule.

SUMMARY: This amendment excepts under Schedule C certain positions at the Department of Health, Education and Welfare and Environmental Protection Agency because they are confidential in nature. Appointments may be made to these positions without examination by the Office of Personnel Management.

EFFECTIVE DATE: April 3, 1979.

FOR FURTHER INFORMATION CONTACT: William Bohling, 202-632-4533.

Accordingly, 5 CFR 213.3316(a)(46) and 213.3318(b)(9) are added as set out below:

§ 213.3316 Department of Health, Education, and Welfare.

(a) *Office of the Secretary.* * * *

(48) One Confidential Assistant to the Executive Secretary.

§ 213.3318 Environmental Protection Agency.

* * * * *

(b) *Office of Legislation.* * * *

(9) One Special Assistant to the Director.

(5 U.S.C. 3301, 3302; EO 10577, 3 CFR 1954-1958 Comp., p. 218)

Office of Personnel Management.

Beverly M. Jones.

Issuance System Manager.

[FR Doc. 79-15136 Filed 5-14-79; 8:45 am]

BILLING CODE 6325-01-M

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5 CFR Part 213

Excepted Service; Department of State, General Services Administration

AGENCY: Office of Personnel Management.

ACTION: Final rule.

SUMMARY: This amendment excepts under Schedule C certain positions at the Department of State and the General Services Administration because they are confidential in nature. Appointments may be made without examination by the Office of Personnel Management.

EFFECTIVE DATE(S): Department of State—March 21, 1979; General Services Administration—March 30, 1979.

FOR FURTHER INFORMATION CONTACT: William Bohling, 202-632-4533.

Accordingly, 5 CFR 213.3304(a)(36) and 213.3337(a)(24) are added as set out below:

§ 213.3304 Department of State.

(a) *Office of the Secretary.* * * *

(36) One Staff Assistant to the Senior Advisor to the Secretary.

* * * * *

§ 213.3337 General Services Administration.

(a) *Office of the Administrator.* * * *

(24) One Confidential Assistant to the Director, Information Security Oversight Office.

(5 U.S.C. 3301, 3302; EO 10577, 3 CFR 1954-1958 Comp., p. 218)

Office of Personnel Management.

Beverly M. Jones.

Issuance System Manager.

[FR Doc. 79-15137 Filed 5-14-79; 8:45 am]

BILLING CODE 6325-01-M

DEPARTMENT OF AGRICULTURE

Food and Nutrition Service

7 CFR Part 227

Nutrition Education and Training Program; Final Regulations

AGENCY: Food and Nutrition Service, USDA.

ACTION: Final rule.

SUMMARY: These final regulations combine the requirements for the implementation and operation of the Nutrition Education and Training Program set forth in the interim regulations published in the **Federal Register** on March 24, 1978 (43 FR 12296-12299) and on June 9, 1978 (43 FR 25132).

These regulations govern the application for funds by the State agency, the needs assessment, the development of the State plan, and other operational requirements. Minor changes have been made to the interim regulations to govern the operation of the Program on a continuing basis.

DATE: These regulations shall become effective on May 15, 1979.

FOR FURTHER INFORMATION CONTACT: Audrey Maretzki, Director, Nutrition and Technical Services Division, Food and Nutrition Service, U.S. Department of Agriculture, Washington, D.C. 20250, 202-447-9081.

SUPPLEMENTARY INFORMATION:

Analysis of Comments

The interim regulations published on June 9, 1978, provided a forty-five day comment period for both the March 24 and June 9, 1978 regulations which closed on July 24, 1978.

The Department received 65 comments in response to the interim rulemaking. The comments addressed three major areas of the Program: (1) The State Coordinator's minimum qualifications, (2) the time frame for obligating fiscal year 1978 funds, and (3) the dissemination of scientifically valid information. A summary of the comments follows:

1. *The coordinator's minimum qualifications*

The Department received 28 comments regarding the minimum qualification requirements for the State Coordinator. The majority of the commentors (25) were nutritionists or dietitians who stated that the qualifications were not specific enough in regard to the academic preparation in nutrition for the Coordinator. These commentors suggested that a degree in foods and nutrition at either the undergraduate or graduate level should be required. The Department also received numerous oral comments regarding this issue. State educational agency staffs stated that the Federal Government should not be establishing qualifications for State agency personnel.

The State Coordinator's qualificaton requirements were a major concern in the development of the interim regulations. The minimum qualifications that are required in the regulations provide State agencies with the hiring authority to employ a State Coordinator but still assure that the individual appointed has knowledge and experience in areas necessary to implement the Program. Placing any additional requirements on the State Coordinator position would restrict the State agencies' hiring practices. The Department does not believe that the regulations for the State Coordinator's qualifications should be changed.

2. *Timeframes for obligation of fiscal year 1978 funds*

The Department received 13 comments regarding this issue. Section 227.5(g) of the interim regulations stated that any unobligated funds as of September 30 are to be returned to the Food and Nutrition Service (FNS). The commentors requested the Department to allow States to carry over any unused or unobligated funds into fiscal year 1979. The Department has taken action

on this issue. A policy memorandum regarding the obligation of funds in 1978 was issued on September 13, 1978, stating that all funds to which a State is entitled under a State plan approved before midnight September 30, 1978, were thereby obligated in fiscal year 1978 regardless of the State's ability to commit these funds by September 30, 1978. This policy statement addressed the commentors concerns for fiscal year 1978 and requires no regulatory action.

3. *Insure scientifically valid information is disseminated in the program*

Seven commentors raised this issue for consideration. The commentors requested that the Department require the dissemination of scientifically valid information in this Program. Their concern is that the Department will emphasize information that urges decreased consumption of red meats and that such information is not scientifically valid. The Department has no such intention. Moreover, the Department believes that the type of information disseminated through this Program is the prerogative of the State agencies.

4. *Compliance with title IX of education amendment of 1972 (20 U.S.C. 1681-82)*

The Department received one comment regarding this issue. The commentor recommended that the regulations address the applicability of title IX to this Program. State agencies will be required to comply with title IX. The U.S. Department of Agriculture and the U.S. Department of Justice have agreed to issue one set of regulations governing compliance with title VI of the Civil Rights Act and title IX of the Education Amendments of 1972. The Department plans to amend these regulations, part 227, adding a section governing title VI and title IX compliance at the time of the issuance of the regulations governing title VI and title IX.

Changes in Regulations

The interim regulations were designed to initiate the Program in two phases. Special provisions were made for the first year of operation. In order to provide State agencies with the opportunity to begin operating a Nutrition Education and Training Program as soon as possible, advance funding was made available to State agencies for hiring a Coordinator, and for conducting a needs assessment and developing a State plan. The final regulations reflect several minor revisions from the interim regulations as a result of the experience gained in the Program's first year of implementation. These revisions are as follows:

1. *Agreement form.*—The interim regulations required the State agency to submit and execute the Form AD-623 "Application for Federal Assistance (Nonconstruction Programs)." For the first year of participation in the Program the form served as the written agreement between the Department and the State. The form also provided a mechanism by which to advance funds to the State agencies for hiring a State Coordinator, and for conducting a needs assessment and developing a State plan. Since the Federal-State agreement form (FNS-74) used in all other Child Nutrition Programs administered by the Food and Nutrition Service, USDA, has been revised to include the Nutrition Education and Training Program, this form (FNS-74) will now serve as the Federal-State agreement. The State plan for Nutrition Education and Training will serve as the application document for Program funding on a fiscal year basis. However, in the first year of participation a State agency should use the Form AD-623.

2. *Responsibilities of State agencies.*—The interim regulations did not require the State agencies to comply with OMB Circular A-95, part III. OMB Circular A-95, part III requires a State agency to submit the Plan to the governor for comment or approval. This requirement has been added to the final regulations.

3. *Evaluations.*—Although the interim regulations did not contain a specific section on evaluations, further clarification is required in the final regulations. State agencies are required to conduct an ongoing need assessment. This process should serve to evaluate how effective their activities are in reaching their goals and objectives. The results of these evaluations should serve as the basis for the development of the State plan and are required as part of the State plan submission. The final regulations add a new paragraph § 227.31(c) concerning the issue.

4. *Funds.*—Funds to implement the Program are available on a Federal fiscal year basis. Therefore, for a State educational agency to receive prior to the beginning of the Federal fiscal year. The final regulations specify that State plans are to be submitted prior to the beginning of the fiscal year and that the Secretary shall designate a date by which State plans must be received by the Department. However, for the first year of participation the State agency is allowed nine months from the award of the planning and assessment grant to submit a State plan.

5. *Needs assessment.*—The interim regulations required States to conduct a needs assessment. Questions have been raised whether this is a continuous process. The final regulations specify that the needs assessment is an ongoing process. The goals and objectives of the State plans are to be based on the findings of the updated needs assessment and evaluations of previous years' plans.

6. *State coordinator.*—Due to personnel ceiling constraints, several State agencies have been unable to hire full-time coordinators. The final regulations have been made flexible to allow States to hire a State Coordinator through a contract with an individual. However, the State agency is not permitted to contract with an organization to obtain the services of a State Coordinator. The overall administration of the Program continues to be the responsibility of the State agency.

7. *State Plan Requirements.* The Form Ad-623 is being discontinued as the application form for those States which previously participated in the Program. This form provided the Department with budget information. The State plan requirements now compel States to submit a budget with their plan. The interim regulations also required States to establish management evaluations and review procedures and a financial management system. However, the regulations did not provide for description of these required components in the State plan. Accordingly, final regulations require States to provide a description of their plans to establish management evaluations and review procedures and a financial management system in their State plan. During the review of fiscal year 1978 plans, the Department determined that the information required in interim regulations § 227.37(b)(12) (i) and (ii) was repetitious with the information required in § 227.37(b) (9) and (10). Therefore, the content previously required in § 227.37(b)(12) (i) and (ii) is incorporated into the requirements for § 227.37(b) (9) and (10). The requirement under § 227.37(b)(12)(ii) is retained to obtain a description of State agency plans to conduct pilot projects not under contract.

Other Areas of Concern

The Department has received questions regarding the following areas:

1. *Definition of "Reaching all Children" § 227.37(b)(7),* Pub. L. 95-166 mandates that each State plan shall include "plans for reaching all students

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in the State with instruction in the nutritional value of foods and the relationship among food, nutrition, and health." Reaching all children with nutrition instruction is more than distribution of nutrition leaflets and brochures. Reaching children with nutrition instruction should involve direct motivational approaches that encourage the application of sound nutrition information to the improvement or maintenance of good dietary practices.

The Department recognizes that not all children within a State can be reached with nutrition instruction in one or even two years. The ultimate goal for the Nutrition Education and Training Program is to reach all children. The State plans should include a description of how many children will be reached during the fiscal year with available funds and how the State is planning to expand the Program to reach additional children in subsequent fiscal years. The States are asked to provide an estimate of the number of children that can be effectively reached with resources available.

2. *Participation of Private Schools and Child Care Institutions.* If a State agency receives funds based on all children enrolled in public and nonprofit private schools and institutions, the regulations require that the State make the Nutrition Education and Training Program available to those schools and institutions. The Department has made special efforts to insure the participation of private schools and child care institutions in the Program. Fiscal year 1978 State plans were reviewed with particular emphasis on the participation of these institutions in the State-planned activities and programs. If States did not adequately consider these institutions in their planned activities, they were required to submit additional information on how these institutions would be reached before their State plan for fiscal year 1979 could be considered for approval. In addition, the management evaluation process to be conducted for each State by the Regional Offices of the Food and Nutrition Service will assist States in reaching private schools and child care institutions with nutrition education and training activites.

3. *Definition of Training concerning "Preservice" versus "Inservice".* § 227.37(b)(2) of the regulations limits training for teachers and foodservice personnel to inservice training. Nutrition Education and Training Program funds are to be used only for training those teachers and foodservice personnel who are currently employed with the schools and institutions in that State. Training under the Program is not to include those individuals who are preparing for a career in teaching or foodservice.

4. *Use of State and Local Advisory Councils.* The State advisory council should include representatives from all the groups listed in § 227.37(b)(6), including consumer and advocacy groups concerned with child nutrition, nutrition education and training. As nutrition education and training programs are implemented by local educational agencies and sponsoring agencies, it would be desirable for such programs to form and utilize similar advisory mechanisms. Local nutrition education technical advisory groups can provide valuable information and support for nutrition education and training efforts.

Accordingly, Part 227 is revised to read as follows:

Subpart A—General

Sec.
227.1 General purpose and scope.
227.2 Definitions.
227.3 Administration.
227.4 Application and agreement.
227.5 Program funding.

Subpart B—State Agency Provisions

227.30 Responsibilities of State agencies.
227.31 Audits, Management Reviews, and Evaluations.

Subpart C—State Coordinator Provisions

227.35 Responsibilities of State Coordinator.
227.36 Requirements of Needs Assessment.
227.37 State Plan for Nutrition Education and Training.

Subpart D—Miscellaneous

227.40 Program information.
227.41 Recovery of Funds.
227.42 Grant Closeout Procedures.
227.43 Participation of Adults.
227.44 Managment Evaluations and Reviews.

Authority: Sec. 15, Pub. L. 95–166, 91 Stat. 1340 (42 U.S.C. 1788).

Subpart A—General

§ 227.1 General purpose and scope.

The purpose of these regulations is to implement section 19 of the Child Nutrition Act (added by Pub. L. 95–166, effective November 10, 1977) which authorizes the Secretary to formulate and carry out a nutrition information and education program through a system of grants to State agencies to provide for (a) the nutritional training of educational and foodservice personnel, (b) the foodservice management training of school foodservice personnel, and (c) the conduct of nutrition education activities in schools and child care institutions. To the maximum extent possible, the Program shall fully utilize the child nutrition programs as a learning experience.

§ 227.2 Definitions.

(a) "Administrative costs" means costs allowable under Federal Management Circular 74–4, other than program costs, incurred by a State agency for overall administrative and supervisory purposes, including, but not limited to, costs of financial management, data processing, recordkeeping and reporting, personnel management, and supervising the State Coordinator.

(b) "Child Care Food Program" means the program authorized by section 17 of the National School Lunch Act, as amended.

(c) "Child Nutrition Programs" means any or all of the following: National School Lunch Program, School Breakfast Program, Child Care Food Program.

(d) "Commodity only school" means a school which has entered into an agreement under § 210.15a(b) of this subchapter to receive commodities donated under Part 250 of this chapter for a nonprofit lunch program.

(e) "Department" means the U.S. Department of Agriculture.

(f) "Federal fiscal year" means a period of 12 calendar months beginning October 1 of any calendar year and ending September 30 of the following calendar year.

(g) "FNS" means the Food and Nutrition Service of the Department.

(h) "FNSRO" means the appropriate Regional Office of the Food and Nutrition Service of the Department.

(i) "Institution" means any licensed, nonschool, public or private nonprofit organization providing day care services where children are not maintained in permanent residence, including but not limited to day care centers, settlement houses, after school recreation centers, neighborhood centers, Head Start centers, and organizations providing day care services for handicapped children and includes a sponsoring organization under the Child Care Food Program regulations.

(j) "National School Lunch Program" means the lunch program authorized by the National School Lunch Act.

(k) "Needs assessment" means a systematic process for delineating the scope, extent (quantity), reach and success of any current nutrition education activities, including those relating to (1) methods and materials available inside and outside the classroom; (2) training of teachers in the principles of nutrition and in nutrition education strategies, methods, and techniques; (3) training of school foodservice personnel in the principles and practices of foodservice management; and (4) compilation of existing data concerning factors impacting on nutrition education and training such as statistics on child health and competency levels achieved by foodservice personnel.

(l) "Program costs" means costs, other than administrative costs, incurred in connection with any or all of the following: (1) The State Coordinator's salary, and related support personnel costs, including fringe benefits and travel expenses; (2) applying for assessment and planning funds; (3) the conduct of the needs assessment; (4) the development of the State Plan; and (5) the implementation of the approved State Plan, including related support services.

(m) "Program" means the Nutrition Education and Training Program authorized by Section 19 of the Child Nutrition Act of 1966, as amended.

(n) "School" means (1) An educational unit of high school grade or under operating under public or nonprofit private ownership in a single building or complex of buildings. The term "high school grade or under" includes classes of preprimary grade when they are conducted in a school having classes of primary or higher grade, or when they are recognized as a part of the educational system in the State, regardless of whether such preprimary grade classes are conducted in a school having classes of primary or higher grade. (2) With the exception of residential summer camps which participate in the Summer Food Service Program for Children and private foster homes, any distinct part of a public or nonprofit private institution or any public or nonprofit private child care institution, which (i) maintains children in residence, (ii) operates principally for the care of children and (iii) if private, is licensed to provide residential child care services under the appropriate licensing code by the State or a subordinate level of government. The term "child care institution" includes, but is not limited to: Homes for the mentally retarded, the emotionally disturbed, the physically handicapped, and unmarried mothers and their infants; group homes; halfway houses; orphanages; temporary shelters for abused children and for runaway children; long term care facilities of chronically ill children; and juvenile detention centers. (3) With respect to the Commonwealth of Puerto Rico, non-profit child care centers certified as such by the Governor of Puerto Rico.

(o) "School Breakfast Program" means the program authorized by section 4 of the Child Nutrition Act of 1966, as amended.

(p) "Foodservice personnel" means those individuals responsible for planning, preparing, serving and otherwise operating foodservice programs funded by USDA grants as provided for in the National School Lunch Act and the Child Nutrition Act of 1966.

(q) "State" means any of the 50 States, the District of Columbia, the Commonwealth of Puerto Rico, the Virgin Islands, Guam, American Samoa, the Trust Territory of the Pacific Islands, and the Northern Mariana Islands.

(r) "State agency" means the State educational agency.

(s) "State educational agency" means, as the State legislature may determine: (1) The Chief State School Officer (such as the State Superintendent of Public Instruction, Commissioner of Education, or similar officer), or (2) a board of education controlling the State Department of Education.

§ 227.3 Administration.

(a) Within the Department, FNS shall act on behalf of the Department in the administration of the Program.

(b) Within the States, responsibility for administration of the Program shall be in the State agency, except that FNSRO shall administer the Program with respect to nonprofit private schools or institutions in any State where the State agency is prohibited by law from administering the Program in nonprofit private schools or institutions.

§ 227.4 Application and agreement.

After the initial fiscal year of participation each State agency desiring to take part in the Program shall enter into a written agreement with the Department for the administration of the Program in accordance with the provisions of this Part. The State agency shall execute Form FNS–74, which shall constitute the written agreement.

§ 227.5 Program funding.

(a) *Total grant.* The total grant to each State agency for each fiscal year for Program costs and administrative costs shall consist of an amount equal to 50 cents per child enrolled in schools and institutions within the State during such year, but in no event shall be less than $75,000: *Provided, however,* That a State's total grant shall be reduced proportionately if the State does not administer the Program in nonprofit private schools and institutions. If funds appropriated for a fiscal year are insufficient to pay the amount to which each State is entitled, the amount of such grant shall be ratably reduced to the extent necessary so that the total of the amounts paid to each State does not exceed the amount of appropriated funds. Each State agency which receives funds based on all children enrolled in public and nonprofit private schools and institutions shall make the Program available to those schools and institutions. Enrollment figures shall be the latest available as certified by the Department of Health, Education, and Welfare.

(b) *First Fiscal Year Participation.*— (1) *Assessment and planning grant.* A portion of the total grant shall be made available to each State agency during its first fiscal year of participation as an assessment and planning grant for (i) employing a State Coordinator, as provided for in § 227.30, and related support personnel costs including fringe benefits and travel expenses, (ii) undertaking a needs assessment in the State, (iii) developing a State Plan for nutrition education and training within the State, and (iv) applying for the State assessment and planning grant.

(2) *Advances for the assessment and planning grant.* FNS shall make advances to any State desiring to participate in the Program, to enable the State to carry out the responsibilities set forth in paragraph (b)(1) of this section. Advances shall be made in two phases, in accordance with the following procedures: (i) Initially, State agencies may receive an advance up to $35,000 for the purpose of hiring a State coordinator, as provided for in § 227.30. Application for such an advance shall be made on Form AD–623 when the State agency applies for participation in the Program. The information required for this advance shall be set out in Part III, Budget Information, Section B, Budget Categories. The State agency shall there indicate the funds required for the salary, travel, and fringe benefits of the State Coordinator, and related personnel costs necessary to carry out the duties and responsibilities of the State Coordinator. (ii) After appointment of the State Coordinator, the State agency may receive an additional advance of up to 50 percent of the total grant to which the State agency is entitled for the first year of participation, after deduction of the advance made for the State Coordinator under § 227.5(b)(2), but not to exceed $100,000, for the purpose of undertaking a needs assessment in the State, developing a State Plan for nutrition education and training, and applying for the assessment and planning grant.

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Application for such advance shall be made by amending Part III, Budget Information, of Form AD–623.

(3) *Funds for implementing State plan.* (i) States receiving advances. Each State agency shall receive the remaining portion of its total grant in order to implement its State plan, which has been approved by FNS, if the State agency has carried out the responsibilities for which advances were received. With the submission of the State plan each State agency may apply for the funds remaining of its total grant. (ii) States previously participating. Those States which previously participated may apply for their total grant upon submission of the State Plan.

(c) *Administrative costs.* Each State agency may use up to 15 percent of its total grant for up to 50 percent of its cash expenditures for administrative costs.

(d) *Payment to State agencies.* Approval of the State plan by FNS is a prerequisite to the payment of funds to the State agency. All funds made available for the Program shall be provided through a letter of credit or check, as determined by FNS.

(e) *Unobligated funds.* The State agency will release to FNS any Federal funds made available to it under the Program which are unobligated by September 30 of each fiscal year.

(f) *Funds for existing programs.* State agencies shall maintain their present level of funding for existing nutrition education and training programs. FNS funds for the Program shall augment current nutrition education and training programs and projects. Funds made available by FNS for this Program shall not replace such funds.

Subpart B—State Agency Provisions

§ 227.30 Responsibilities of State agencies.

(a) *General.* Except to the extent that it would be inconsistent with this part, the Program shall be administered in accordance with the applicable provisions of Office of Management and Budget (OMB) Circular A–102 and Circular A–95, Part III.

(b) *Application.* For the initial fiscal year of participation States shall make application for administration of the Program on Form and are responsible for amending Form AD–623 to request advance funding. In the initial application, in connection with the request for advance funding for the State Coordinator, Part IV, Program Narrative, of Form AD–623 shall indicate the State agency's procedures for hiring a State Coordinator and contain a justification for the dollar value of salary requested. The narrative shall also indicate the time frame for hiring the State Coordinator. In amending Form AD–623 in connection with the request for advance funding for the remaining portion of the assessment and planning grant, Part IV, Program Narrative, shall set forth the details for areas of the assessment and planning grant, other than employment of the State Coordinator.

(c) *State Coordinator.* After execution of the agreement the State agency shall appoint a full-time nutrition education specialist to serve as a State Coordinator for the Program. The State Coordinator may be a State employee who reports directly or indirectly to the Chief State School Officer or an individual under contract with the State agency to serve as the State Coordinator. A State agency shall not contract with an organization to provide for the services of a State Coordinator. The State Coordinator, at a minimum, shall meet both of the following requirements: (1) The State Coordinator shall have a Masters degree or equivalent experience. Equivalent experience is experience related to the position being filled or as defined by State civil service or personnel policies. If the Masters degree is not in foods and nutrition or dietetics, the Bachelors degree shall include academic preparations in foods and nutrition or dietetics. (2) In addition, the State Coordinator shall have recognized and demonstrated skills in management and education through at least three years experience in one or more of these areas: elementary or secondary education, but not limited to classroom teaching; foodservice management and training for adults; community nutrition or public health programs; foodservice operations for children; or community action or assistance programs.

(d) *Needs assessment.* Each State agency shall conduct an ongoing needs assessment in accordance with § 227.36 The needs assessment shall be the data base utilized in formulating the State plan for each fiscal year. For the first year of participation a State agency may apply for funds in order to carry out the needs assessment in accordance with § 227.5.

(e) *Developing and submitting the State plan.* Each State agency shall submit to the Secretary a State plan for Nutrition Education and Training in accordance with § 227.37 prior to the beginning of each fiscal year. The date of submission for the State plan shall be designated by the Secretary. The Secretary shall act on the submitted State plan within 60 days after it is received. For the first year of participation the State agency shall submit to the Secretary, within nine months after the award of the planning and assessment grant, a State plan for nutrition education and training in accordance with § 227.37.

(f) *Records and reports.* (1) Each State agency shall maintain full and complete records concerning Program operations and shall retain such records in accordance with OMB Circular A–102 Attachment C. (2) Each State agency shall submit to FNS a quarterly Financial Status Report, Form SF–269, as required by OMB Circular A–102, Attachment H. (3) Each State agency shall submit a performance report (Form FNS–42) on a quarterly basis, commencing with the quarter in which funds are received. (4) Each State agency shall maintain a financial management system in accordance with Federal Management Circular 74–4 and OMB Circular A–102, Attachment G. (5) Each State agency shall comply with the requirements of OMB Circular A–102, Attachments N and O, and Federal Management Circular 74–4, for property management and the procurement of supplies, equipment and other services with these Program funds. (6) Any income accruing to a State or local agency because of the Program shall be used in accordance with OMB Circular A–102, Attachment E.

(g) *Nondiscrimination.* Each State agency shall ensure that Program operations are in compliance with the Department's nondiscrimination regulations (Part 15 of this title) issued under Title VI of the Civil Rights Act of 1964.

§ 227.31 Audits, management reviews, and evaluations.

(a) *Audits.* (1) Examinations by the State agencies in the form of audits or internal audits shall be performed in accord with OMB Circular A–102, Attachment G.

(b) *Management reviews.* The State agency is responsible for meeting the following requirements:

(1) The State agency shall establish management evaluation and review procedures to monitor compliance with the State plan for local educational agencies and land grant colleges, other institutions of higher education and public or private nonprofit educational or research agencies, institutions, or organizations.

(2) The State agency shall require participating agencies to establish program review procedures to be used

in reviewing the Agencies operations and those of subsidiaries or contractors.

(c) *Evaluations.* The State agency shall conduct formal evaluations of program activities at least annually. These evaluations shall be aimed at assessing the effectiveness of the various activities undertaken by the State and local agencies. State officials shall analyze why some activities have proved effective while others have not and shall initiate appropriate improvements. Participation in the evaluations shall not be limited to State agency staff. Representatives of State Advisory Councils and agencies that participate in the State agencies' programs as well as representatives of other groups shall be invited to participate in the evaluations. The results of the evaluations shall be used to make adjustments in ongoing activities and to plan activities and programs for the next year's State plan. The State agency shall submit a plan for evaluation of Program activities as part of the State plan in accordance with § 227.37(b)(14).

Subpart C—State Coordinator Provisions

§ 227.35 Responsibilities of State coordinator.

At a minimum, the State Coordinator shall be responsible for (a) preparation of a budget, (b) the conduct of the needs assessment, (c) development of a State plan, (d) implementation of the approved State Plan, (e) evaluation of the progress and implementation of the State Plan, (f) coordination of the Program with the Child Nutrition Programs at the State and local levels, (g) coordination of the Program with other nutrition education and training programs conducted with Federal or State funds, (h) communication of needs and accomplishments of State nutrition education and training programs to parents and the community at large, (i) use of Program funds in compliance with all regulations, instructions, or other guidance material provided by FNS, (j) coordinating the submission and preparation of the Program financial status report (SF–269), and (k) annual evaluation of the effectiveness of the State Plan.

§ 227.36 Requirements of needs assessment.

(a) The needs assessment is an ongoing process which identifies the discrepancies between "what should be" and "what is" and shall be applied to each category listed below to enable State agencies to determine their nutrition education and training needs for each year. The needs assessment shall identify the following as a minimum: (1) Children, teachers, and foodservice personnel in need of nutrition education and training; (2) existing State or federally funded nutrition education and training programs including their: (i) Goals and objectives; (ii) source and level of funding; (iii) any available documentation of their relative success or failure; and (iv) factors contributing to their success or failure; (3) offices or agencies at the State and local level designated to be responsible for nutrition education and training of teachers and school foodservice personnel; (4) any relevant State nutrition education mandates; (5) funding levels at the State and local level for preservice and inservice nutrition education and training of foodservice personnel and teachers; (6) State and local individuals, and groups conducting nutrition education and training; (7) materials which are currently available for nutrition education and training programs, and determine for each: (i) Subject area and content covered; (ii) grade level; (iii) how utilized; (iv) acceptability by user; (v) currency of materials; (8) any major child nutrition related health problems in each State; (9) existing sources of primary and secondary data, including any data that has been collected for documenting the State's nutrition education and training needs; (10) available documentation of the competencies of teachers in the area of nutrition education; (11) available documentation of the competencies of foodservice personnel; (12) problems encountered by schools and institutions in procuring nutritious food economically and in preparing nutritious appetizing meals and areas where training can assist in alleviating these problems; (13) problems teachers encounter in conducting effective nutrition education activities and areas where inservice training or materials can assist in alleviating these problems; (14) problems in dietary habits of children and areas where nutrition education may assist in positive changes; (15) problems encountered in coordinating the nutrition education by teachers with the meal preparation and activities of the foodservice facility and areas where training might alleviate these problems.

(b) The needs assessment should be an ongoing process and provide not only data on current activities but also a description of the problems and needs in each category and whether training or materials would help alleviate the identified problems.

§ 227.37 State Plan for Nutrition Education and Training.

(a) *General.* Each fiscal year the State agency shall submit a State plan for Nutrition Education and Training for approval to FNS. The State plan shall be based on the needs identified from the ongoing needs assessment and evaluation of the State plans from previous years. The State plan shall be submitted in accordance with Section 227.30(e). Guidance for the preparation and submission of the State plan shall be provided by FNS.

(b) *Requirements for the State Plan.* The State plan shall provide the following: (1) Description of the ongoing needs assessment conducted within the State; (2) the findings of the needs assessment within the State used to determine the goals and objectives of the State plan and results of the evaluation of the previous years' State plans for: (i) Inservice training of foodservice personnel, (ii) nutrition education of children, (iii) inservice training in nutrition education for teachers; (3) goals and objectives of the State Plan, (4) identification of the priority populations to be reached during the fiscal year; (5) provisions for coordinating the nutrition education and training programs carried out with funds made available under this part with any related publicly supported programs being carried out within the State to include: (i) Identification of existing programs that may be utilized, (ii) description of how representatives of such groups are to be involved in the planning and implementation of the State program; (iii) criteria and procedure for selection of such representatives; (6) plans to establish and description of the functions of a State level advisory council which solicits the advice and recommendations of the National Advisory Council on Child Nutrition, and includes representatives from other offices within the State agency, interested teachers, food and nutrition professionals and paraprofessionals, school foodservice personnel, administrators, representatives from consumer groups, parents, and other individuals concerned with the improvement of child nutrition; (7) plans, including a timetable, for reaching all children in the State with instruction in the nutritional value of foods and the relationship among food, nutrition and health, for inservice training of foodservice personnel in the principles and skills of foodservice management

Statement under Executive Order 11821 and

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and nutrition and for inservice instruction for teachers in sound principles of nutrition education: (8) any plans for using, on a priority basis, the resources of the land-grant colleges eligible to receive funds under the Act of July 2, 1862 (12 Stat. 503; 7 U.S.C. 301–305, 307, and 308) or the Act of August 30, 1890 (26 Stat. 417, as amended; 7 U.S.C. 312–326 and 328), including the Tuskegee Institute; (9) a brief description of the Program or activities to be contracted with land-grant colleges, described above, and other institutions of higher education, and other public or private nonprofit educational or research agencies, institutions or organizations for carrying out nutrition education and training activities; (10) a brief description of pilot projects, including objectives, subject matter and expected outcomes, to be contracted with the land-grant colleges described above, other institutions of higher education, public and nonprofit educational or research agencies, institutions, or organizations for but not limited to projects for development, demonstration, testing and evaluation of curricula for use in early childhood, elementary, and secondary education programs; (11) identification of schools, school districts, and sponsoring agencies which may agree to participate in the nutrition education and training program; (12) a brief description of (i) State agency sponsored pilot projects including objectives, subject matter and anticipated outcomes and (ii) nutrition education and training programs to be conducted by schools, school districts, and sponsoring agencies receiving funds under this provision including objectives, subject matter and expected outcomes; (13) time frame and milestones for implementation of State plans; (14) plans to evaluate program activities including an evaluation component for each objective of the State plan; (15) description of staff available to perform State agency responsibilities of the State nutrition education and training program which includes: (i) Definition of duties and responsibilities, (ii) minimum professional qualifications, (iii) number and classification of personnel; (16) a description of the procedures used to comply with the requirements of Title VI of the Civil Rights Act of 1964, including racial and ethnic participation data collection, public notification procedures and the annual civil rights compliance review process; (17) plans for the conduct of audits in accordance with § 227.31; (18) a budget detailing the use of Program funds; (19) description of the financial management system in accordance with § 227.30(e); (20) description of the management evaluation and review procedures established in accordance with § 227.31(b); and (21) other components that the States determine necessary.

Subpart D—Miscellaneous

§ 227.40 Program information.

Persons desiring information concerning the Program may write to the appropriate State agency or Regional Office of FNS as indicated below:

(a) In the States of Connecticut, Maine, Massachusetts, New Hampshire, Rhode Island, and Vermont: New England Regional Office, FNS, U.S. Department of Agriculture, 33 North Avenue, Burlington, Mass. 01803.

(b) In the States of Delaware, District of Columbia, Maryland, New Jersey, New York, Pennsylvania, Puerto Rico, Virginia, Virgin Islands, and West Virginia: Mid-Atlantic Regional Office, FNS, U.S. Department of Agriculture, One Vahlsing Center, Robbinsville, N.J. 08691.

(c) In the States of Alabama, Florida, Georgia, Kentucky, Mississippi, North Carolina, South Carolina, and Tennessee: Southeast Regional Office, FNS, U.S. Department of Agriculture, 1100 Spring Street NW., Atlanta, Ga. 30309.

(d) In the States of Illinois, Indiana, Michigan, Minnesota, Ohio, and Wisconsin: Midwest Regional Office, FNS, U.S. Department of Agriculture, 536 South Clark Street, Chicago, Ill. 60605.

(e) In the States of Colorado, Iowa, Kansas, Missouri, Montana, Nebraska, North Dakota, South Dakota, Utah, and Wyoming: Mountain Plains Regional Office, FNS, U.S. Department of Agriculture, 2420 West 26th Avenue, Room 430D, Denver, Colo. 80211.

(f) In the States of Arkansas, Louisiana, New Mexico, Oklahoma, and Texas: Southwest Regional Office, FNS, U.S. Department of Agriculture, 1100 Commerce Street, Room 5–C–30, Dallas, Tex. 75242.

(g) In the States of Alaska, American Samoa, Arizona, California, Guam, Hawaii, Idaho, Nevada, Oregon, Trust Territory of the Pacific Islands, the Northern Mariana Islands, and Washington: Western Regional Office, FNS, U.S. Department of Agriculture, 550 Kearny Street, Room 400, San Francisco, Calif. 94108.

§ 227.41 Recovery of funds.

(a) FNS may recover funds from a State agency under any of the following conditions:

(1) If FNS determines, through a review of the State agency's reports, program, or financial analysis, monitoring, audit or otherwise, that the State agency's performance is inadequate or that the State agency has failed to comply with this part or FNS instructions and guidelines.

(2) If FNS determines that the State agency is not expending funds at a rate commensurate with the amount of funds distributed or provided for expenditure under the Program.

(3) If FNS determines that a State agency is not providing full and timely reports.

(b) FNS shall effect such recoveries of funds through adjustments in the amount of funds provided under the Program.

§ 227.42 Grant closeout procedures.

The requirements of OMB Circular A–102, Attachment L, are applicable in the termination of any grant under this Part.

§ 227.43 Participation of Adults.

Nothing in this Part shall prohibit a State or local educational agency from making available or distributing to adults education materials, resources, activities or programs authorized by this Part.

§ 227.44 Management evaluations and reviews.

FNS shall establish evaluation procedures to determine whether State agencies carry out the purpose and provisions of this Part, the State agency plan and FNS guidelines and instructions. To the maximum extent possible the State's performance shall be reviewed and evaluated by FNS on a regular basis including the use of public hearings.

Note.—The Food and Nutrition Service has determined that this document does not contain major proposals requiring preparation of an Economic Impact statement under Executive Order 11821 and OMB Circular A–107. The reporting and/or recordkeeping requirements contained herein have been approved by the Office of Management and Budget in accordance with the Federal Reports Act of 1942.

Dated: May 10, 1979.

Carol Tucker Foreman,

Assistant Secretary for Food and Consumer Services.

[FR Doc. 79-15219 Filed 5-14-79; 8:45 am]

BILLING CODE 3410-30-M

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7 CFR Part 230

Food Service Equipment Assistance Program; Apportionment of Funds for Fiscal year 1979

AGENCY: Food and Nutrition Service, USDA.

ACTION: Final rule.

SUMMARY: This action apportions food service equipment assistance funds (formerly nonfood assistance funds) among States in compliance with subsections 5 (b) and (e) of the Child Nutrition Act.

EFFECTIVE DATE: May 15, 1979.

FOR FURTHER INFORMATION CONTACT: Margaret O'K Glavin, School Programs Division, Food and Nutrition Service, U.S. Department of Agriculture, Washington, D.C. 20250 (202–447–8130).

7 CFR Part 230 is amended by adding the following appendix:

Appendix—Initial Apportionment of Food Service Equipment Funds Pursuant to Child Nutrition Act of 1966, for Fiscal Year 1979

Pursuant to sections 5 (b) and (e) of the Child Nutrition Act of 1966, Pub. L. 89–642, 80 Stat. 887, as amended, food service equipment assistance funds available for the fiscal year ending September 30, 1979, are apportioned among the States as follows:

Section 5(b)

State	Total Apportionment	State Agency	Withheld for Private Schools
Connecticut	$170,894	$170,894	
Maine	86,725	82,332	$4,393
Massachusetts	440,368	440,368	
New Hampshire	60,211	60,211	
Rhode Island	48,590	48,590	
Vermont	35,387	35,387	
Delaware	47,184	45,768	1,416
District of Columbia	40,159	40,159	
Maryland	250,337	250,337	
New Jersey	431,667	431,667	
New York	1,010,409	1,010,409	
Pennsylvania	824,423	824,423	
Puerto Rico	288,399	288,399	
Virginia	438,288	431,529	6,759
Virgin Islands	12,660	12,660	
West Virginia	145,399	145,399	
Alabama	359,274	352,743	6,531
Florida	643,006	643,006	
Georgia	568,737	568,382	355
Kentucky	324,677	324,677	
Mississippi	265,189	265,189	
North Carolina	582,307	582,307	
South Carolina	303,836	299,022	4,814
Tennessee	385,483	380,135	5,348
Illinois	859,894	859,894	
Indiana	409,246	409,246	
Michigan	432,776	432,776	
Minnesota	358,000	358,000	
Ohio	695,859	651,877	43,982
Wisconsin	319,538	319,538	
Arkansas	201,922	198,091	3,831
Louisiana	451,484	451,484	
New Mexico	110,531	110,531	
Oklahoma	228,104	228,104	
Texas	998,682	975,571	23,111
Colorado	177,305	172,844	4,461
Iowa	284,491	284,491	
Kansas	195,031	195,031	
Missouri	380,278	378,796	1,482
Montana	57,439	57,439	
Nebraska	124,861	114,489	10,372
North Dakota	57,356	52,684	4,672
South Dakota	62,832	62,832	
Utah	133,505	133,505	
Wyoming	28,856	28,856	
Alaska	15,446	15,446	
American Samoa	5,253	5,253	

Section 5(b)—Continued

State	Total Apportionment	State Agency	Withheld for Private Schools
Arizona	160,908	160,908	
California	1,089,540	1,089,540	
Guam	11,038	11,038	
Hawaii	96,726	90,827	5,899
Idaho	65,493	65,493	
Nevada	37,799	37,799	
Oregon	155,491	155,491	
Trust Territory	12,789	12,789	
Washington	217,918	210,429	7,489
Total	18,000,000	15,865,085	134,915

Section 5(e)

State	Total Apportionment	State Agency	Withheld for Private Schools
Connecticut	$182,360	$182,360	
Maine	42,720	35,180	$7,540
Massachusetts	148,899	148,899	
New Hampshire	11,459	11,459	
Rhode Island	18,559	18,559	
Vermont	18,819	16,819	
Delaware	10,840		10,840
District of Columbia	13,893	13,893	
Maryland	143,837	143,837	
New Jersey	597,678	597,678	
New York	1,175,433	1,175,433	
Pennsylvania	264,196	264,196	
Puerto Rico	35,925	35,925	
Virginia	57,734	1,065	56,669
Virgin Islands	2,138	2,138	
West Virginia	14,840	14,840	
Alabama	41,976	70	41,906
Florida	11,705	11,705	
Georgia	11,394	11,394	
Kentucky	16,070	16,070	
Mississippi	24,500	24,500	
North Carolina	35,993	35,993	
South Carolina	59,298		59,296
Tennessee	4,713	522	4,191
Illinois	1,144,952	1,144,952	
Indiana	173,181	173,181	
Michigan	481,148	481,148	
Minnesota	20,494	20,494	
Ohio	275,566	62,047	213,519
Wisconsin	291,297	291,297	
Arkansas	3,015	205	2,810
Louisiana	73,508	73,508	
New Mexico	3,892	3,892	
Oklahoma	490	490	
Texas	158,198	125,368	32,830
Colorado	24,397	9,075	15,322
Iowa	14,290	14,290	
Kansas	46,028	46,028	
Missouri	37,416	36,921	495
Montana	33,132	33,132	
Nebraska	57,025	47,555	9,470
North Dakota	3,932	2,100	1,832
South Dakota	4,910	4,910	
Utah	2,364	2,364	
Wyoming	7,428	7,428	
Alaska	32,162	32,162	
American Samoa	600	600	
Arizona	51,665	51,665	
California	1,881,093	1,881,093	
Guam	540	540	
Hawaii	6,191		6,191
Idaho	9,597	9,597	
Nevada	9,290	9,290	
Oregon	35,942	35,942	
Trust Territory	10,715	10,715	
Washington	164,763	137,548	27,215
Total	8,000,000	7,509,872	490,128

(Secs. 2, 5, 6 and 9 through 16, 80 Stat. 885–790; (42 U.S.C. 1771, 1774, 1775, 1778–1785))

Note.—The Food and Nutrition Service has determined that this document does not contain a major proposal requiring preparation of an Economic Impact Statement under Executive Order 11821 and OMB Circular A–107.

Dated: April 21, 1979.

Robert Greenstein,

Acting Administrator.

[FR Doc. 79-15010 Filed 5-14-79; 8:45 am]

BILLING CODE 3410-30-M

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7 CFR Part 246

Special Supplemental Food Program for Women, Infants, and Children; Administrative Funding Formula

AGENCY: Food and Nutrition Service.

ACTION: Final Administrative Funding Formula for the Special Supplemental Food Program for Women, Infants and Children. (7 CFR Part 246.)

SUMMARY: The U.S. Department of Agriculture is publishing its final decision concerning a formula to be used in determining the administrative funding level for each State agency participating in the Special Supplemental Food Program for Women, Infants and Children (WIC). The final administrative funding formula will not be republished in the Code of Federal Regulations.

EFFECTIVE DATE: May 15, 1979.

FOR FURTHER INFORMATION CONTACT: Jennifer R. Nelson, Director, Supplemental Food Programs Division, Food and Nutrition Service, USDA, Washington, D.C. 20250, (202) 447–8206.

SUPPLEMENTARY INFORMATION: On December 12, 1978, the Department published at 43 FR 58106 a notice describing a proposed formula for use in determining the administrative funding level for those State agencies participating in the Special Supplemental Food Program for Women, Infants and Children (WIC). Although the proposed formula was utilized for the second quarter of fiscal year 1979, the December 12, 1978, notice was published to allow the opportunity for public comment. The 60 day comment period ended February 12, 1979.

I. Discussion of the Comments

A total of 212 comment letters were received within the official comment period. The commentors included 41 State Agencies, 82 Local Agencies, 60 Individuals, 13 Public Interest Groups, 5 Congressmen, 6 Regional Offices, 2 Special Interest Groups and 3 Medical Groups. Commentors from several States apparently organized their efforts to emphasize their suggestions. A large number of comments received were very similar to one another or, were signed copies of form letters.

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During the review of the comments a count was made of those that supported or opposed a particular component of the formula. Alternative suggestions presented by the commentors were also analyzed. Comments were varied and covered all phases of the procedure. To provide an orderly discussion of the comments received, that will be grouped according to the component they address.

General.—A considerable number of comments were made that did not apply to any particular component of the formula so these were grouped under the General category. Many of the comments concerned the reallocation process. For example, some commentors suggested not reallocating administrative funds while others did not want any WIC funds, administrative or program, to be reallocated. There was support for, as well as opposition to, the guarantee of 75 percent of administrative funds. One commentor wanted 100 percent of administrative funds guaranteed to States with a total population under 1 million. It was also suggested that funds be reallocated only once a year.

Some commentors suggested increasing the funding for two State agencies. Other commentors dealt with the procedure or with the interim use of the formula during the second quarter of fiscal year 1979. A great number of commentors opposed the interim use of the formula during the comment period and prior to its issuance in final form.

Suggestions were made that special consideration be given to Hawaii and Alaska and to urban areas because of the high cost of living and, in urban areas, of the presumed decrease of in-kind services. Other comments included giving greater consideration to State agencies as individual entities, having State agencies submit annual budgets with justifications, updating data annually, having FNS contract with migrant agencies directly to relieve State agencies of the duty, and using statisticians to develop the formula. Some local agencies wanted the Regional Office to become more involved in the funding process.

Suggestions concerning alternative formulas include convening the funding panel annually, convening the panel to review the comments and to develop an alternative formula, finalizing the formula by March of each year in order for State agencies to include budgets in their State Plans, and reverting back to the 25 percent of food costs method until a new formula acceptable to the commentors is developed and critically evaluated. One commentor opposed the whole formula but offered no alternative formulas. Two other commentors recommended using migrant data to assure sufficient program (food) funds to meet migrant farmworker needs.

In response to the comments concerning the reallocation, the Department believes that the current reallocation procedure is the most prudent on a nationwide basis. Given past problems with State agencies not knowing the level of their administrative funding, it is necessary to assure the State agencies of a level of funding upon which they can develop their budget. However, the total allocation should not be guaranteed at the time of the initial allocation since that may tie up funds in a State which is not spending them while another State agency is able to utilize additional monies. Therefore, the reallocation procedure will remain as proposed.

Various mathematical procedures and data sources suggested in the comments have been discussed with the Department's statisticians to determine which options were the most viable and which were proper methods to use in comparing data elements. Pub. L. 95–627 mandates the use of a formula for allocating administrative funds, therefore, the Department must implement Pub. L. 95–627. Previous funding procedures such as using 25 percent of food expenditures to obtain administrative funding levels could not continue to be used since the 25 percent method did not constitute a formula application and also was not the result of a formula application.

Minimum grant: There was unanimous support for this concept. A few comments were made which suggested raising or lowering the level; however, due to the favorable number of comments received, the Department decided that $30,000 is the most appropriate minimum grant level.

Fixed grant: While there was overwhelming support for the fixed grant component of the formula, most of the comments received suggested increasing the fixed grant level, especially for small agencies receiving $3 million or less food funds or with a participation of 5,000 or less. For these small agencies the commentors believed that 25 percent of fiscal year 1979 food funds should be provided. Other percentage levels suggested included 24 percent of fiscal year 1979 food funds for all except minimum grant agencies and an apportionment according to agency size—18 percent for large agencies, 20 percent for medium agencies and 22 percent for small agencies. Some alternative components of the formula suggested included program size and number of local agencies. Some alternative procedures included increasing funding based on previous performance, and providing funds on a per enrollee basis.

The suggestions for increased fixed grant levels were a result of the increased requirements contained in the WIC Program Proposed Regulations, the expense of installing automated data systems, and inflation. Commentors felt that increasing the fixed grant level would provide them with a more stable grant with which to budget. Additionally, they felt that smaller agencies should be assured at least 20 percent of their total grant for administration, since they must meet the same requirements as larger agencies with less money.

The Department would not be able to provide 24 percent of food costs to all except minimum grant agencies and still have remaining funds with which to apply a formula. Additionally, the use of varying percentages could prove arbitrary in determining agency size categories.

By using a set percentage applied to food funds to determine the fixed grant level, the formula is taking program size and the number of local agencies into account.

Remaining Funds Formula

a. *Rurality factor*—A number of commenters felt that factors affecting rurality should be included in the formula but felt that to use rural counties as a factor was invalid. Alternatives most often mentioned were the number of rural births and population per square mile. Another alternative was the use of percentage of rural counties within the State. Some felt that other indicators of rurality should be considered, such as, for example, geography and physical barriers, or the degree of decentralization of a State program. There was some agreement with the proposed procedure for determining rurality, but not with the percentage of the remaining funds allocated for distribution based on rural areas (25 percent). Some commentors felt that the percentage allotted was too high and others believed it to be too low.

After a review of the comments, the Department decided that an alternative procedure for determining rurality must be used in the formula. The percentage of rural births in the State will therefore be considered a factor to be included in the formula.

b. *Migrant factor*—As with the rurality factor, many commentors disagreed with the inclusion of high migrant impact counties as a factor in the formula. However, there was more opposition to the use of this factor than to the use of rurality factor. Some suggested alternatives made by the commentors supporting the high migrant impact counties factor included the use of the number of migrants in the county, the number of service areas rather than counties and a comparison of migrant influx to stable population to determine impact. It was also suggested that DHEW data used in conjunction with farmworker organization and State statistics, and that the most current data be collected. While most commentors wanted the percentage of remaining funds allocated to high migrant impact counties left at 25 percent, others suggested a reduction to 10 or 15 percent or an increase to 35 percent. One commentor suggested that a comparison be done to indicate the relationship between migrants and the programs serving their needs to determine if the service of migrants is increasing the State's costs. A similar comment was made about rural programs. As stated above, there was considerable opposition to the inclusion of the high migrant impact counties factor and specifically to its application to the total years' grant. Most of the State agencies serving migrants will do so only during a portion of the April to October migrant season. Therefore, commentors felt that is was inappropriate to consider migrants at all in the formula. Additionally, several comments stated that as migrant and rural counties are often the same counties, the formula gave double weight to some counties. It was, therefore, the Department's decision that to provide additional administrative funds without providing corresponding food funds was not an effective means to enhance service to migrants.

In its April 1, 1979, reallocation of food and administrative funds, the Department provided a mechanism by which State agencies could request additional funds to serve migrants within their service area. Such requests are made through the appropriate Food and Nutrition Service Regional Office and provide information on the number of migrants the State agency plans to serve, how many new local agencies will be opened or existing agencies will be expanded, the number of migrants being served or previously served, and the food package cost.

Based on analysis of this information, program (food) funds were provided to each requesting State agency. These food amounts were then totaled and multiplied by 25 percent to determine total administrative funds to be distributed. The administrative formula described below was then applied to this total administrative fund to determine the administrative grant for these State agencies.

c. *Unfunded areas factor*—There was great opposition to the use of this factor as well as to the method utilizing the factor. The largest group of commentors discussing this factor felt that the factor should not be used at all. Another large group of commentors thought that the unfunded areas should be classified or categorized. A number of alternatives were suggested including the use of percentage of unfunded areas within a State, a split of the 50 percent of remaining funds allocated for unfunded areas into 25 percent for unfunded and 25 percent for underfunded, the use of unfunded population, the number of clinics to be opened given food money limitations, and the use of population per square mile to weight unfunded areas.

Suggestions were also made to change the percentage of remaining funds allocated to unfunded areas. One commentor wanted the percentage reduced to 25 percent while another wanted it changed to 25–40 percent. The use of current data was suggested along with recommendations to contact State agencies directly for the most current data on unfunded areas.

One commentor felt that two additional factors should be added; these were a timeframe within which the State must open new local agencies with the money allocated for this purpose by the formula and a correlation between the food and administrative formulas to assure that those State agencies receiving additional funds for starting up programs in additional areas have sufficient food monies to serve additional participants.

Since there was such a great deal of opposition to the unfunded area factor and of emphasis on the need to tie start-up funds to additional food funds, the Department decided to increase the fixed grant percentage rather than consider a separate indicator for unfunded or underfunded areas. The lack of an easily accessible, current standardized data base was also a factor in this decision. By providing a set percentage rather than basing funds on a variable indicator States will be encouraged to open new areas.

Alternative administrative funding formulas.—An organized comment effort came from two States and included signed copies of form comment letters. One group of commentors suggested either providing 19.99 percent of the total WIC grant to all agencies over minimum grant, or funding based on a State's past expenditure rate to a maximum of 19.99 percent. Any State below the 19.99 percent level would be given a two percent increase and each State agency would be allowed to justify its need for more money. The second group of commentors felt that a cost of living factor should be included in the formula. Other recommendations dealing with percentage bases included providing all State agencies with 20 percent of their total grant for administration, providing 20 percent to those agencies that spent all of their fourth quarter allotment, and giving every State agency the same percentage. Some alternative procedures were suggested such as basing quarterly allotments on incremental projected increases in enrollment; considering each State's need (i.e., current spending level, population density of the geographical area, etc.); giving 20 percent of the formula funds to the local agencies with less than 600 participants; matching cost per client to indicators such as reduction in number of low birth weight infants, size of program, and rural/urban areas. There was also a recommendation to eliminate the possible double weight of rurality and migrant factors. The one native American State agency commenting suggested a separate formula for Tribal States. This formula would guarantee the minimum grant and provide additional funds based on a budget submitted by the State agency. Approval of the budget would be based on consideration of various applicable factors (i.e., in-kind resources available, travel rquired, etc.).

The use of a formula for determining administrative funds is mandated by Pub. L. 95–627. The use of a straight percentage of total grant would not take into account the varying needs of State agencies. The Department feels that an indicator of cost differences between States is a valid factor to use in comparing State agencies. Since, according to the Department's Administrative Cost Study, salaries comprise the majority of administrative expenses, it was believed that this factor should also be included in the formula.

II. Description of Final Administrative Funding Formula

Minimum grant factor.—The minimum grant of $30,000 to every State agency remains unchanged from the proposed formula. As stated in the **Federal Register** notice of December 12, 1978, the

Indian agency is located. The

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and Economic Statistics Administration,

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$30,000 level was computed to allow the equivalent of two to three person years, depending on salary scales used, for operations of a small WIC Program. From the comments received we believe that this figure provides an adequate minimum grant to all State agencies.

The minimum 20 percent level for agencies with a quarterly food grant of $750,000 or less is a new factor included in the final formula to assist those small agencies that are over the minimum grant level but too small to be able to meet all the current WIC requirements with the present funding levels. For the second quarter of fiscal year 1979, 36 State agencies had a quarterly food grant level of $750,000 or less. Several of these State agencies received an administrative percentage of less than 20 percent of their total grant in the proposed formula. Due to their small size, these States previously gained few additional funds in the remaining funds formula. The funds allocated were so minimal that they were not always able to meet basic operating expenses. Therefore, the provision was made that any State agency with a quarterly (the quarter being funded) food grant of $750,000 or less will be given a minimum of 20 percent of its total quarterly grant for administrative funds.

Maximum grant.—This provision remains unchanged from the proposed formula. No State agency may receive more than 25 percent of its total grant for administrative funds, unless they are receiving the $30,000 minimum grant.

Fixed grant.—The fixed grant factor of the proposed administrative funding formula was intended to accomplish two objectives: (1) insure that State agencies did not receive decreases from the previous fiscal quarter in their administrative funding levels; and (2) provide incremental administrative funding to correspond to the additional food funding for those State agencies which were not held harmless under the program (food) funding formula.

Although these two objectives were partially met, it became apparent from the comments received that there were some inequities in the results. Under the proposed formula State agencies were given either 25 percent of the previous fiscal year's fourth quarter food allocation or 22 percent of the current fiscal year quarterly (quarter to be funded) food grant.

Therefore, State agencies who were held harmless under the food grant always were given 25 percent of their previous fiscal year's fourth quarter food level which equates to 22.7 percent of the current fiscal year's quarterly food grant or 18.5 percent of the total grant. On the other hand, States who were not held harmless and were given additional food allocations received 22 percent of the current fiscal year's quarterly food grant which equates to only 18 percent of the total quarterly grant.

In effect, the Department's intent to insure adequate administrative funds to those States which received increased food funds and which, therefore, should experience the greatest expansion and the concurrent need for additional funds for local agency administrative startup costs was not met.

This inequity has been addressed in the final formula by providing either: (1) 25 percent of the previous fiscal year's fourth quarter food allocation; or (2) 23 percent of the current fiscal year's quarterly (quarter to be funded) food grant. This insures that the fixed administrative grant is proportionate to the increased food grant and will provide a more equitable administrative base. For hold harmless State agencies, the 23 percent of the current fiscal year's quarterly (quarter to be funded) food grant provides a base administrative grant which provides the previous fiscal year's fourth quarter level plus a slight increase which may help to offset inflation.

Remaining funds formula.—While the intent of the fixed administrative grant is to provide State agencies with an administrative base related to the number of participants, the remaining funds distribution is intended to provide funds based on factors related to higher administrative costs within the State irrespective of population size. Therefore, in the remaining funds formula 70 percent of the funds remaining after the determination of fixed grants will be apportioned among the State agencies based on the percentage of rural births for each State agency (number of rural births in each State divided by the total number of births in each State). The percentages of all State agencies are then totaled and each State's percentage is divided by the sum of all States' percentages to arrive at a percentage of funds each State will receive from these remaining funds. As the rurality of a State, in the Department's opinion, is significantly related to higher operating costs, the rurality factor was a necessary component of the formula. The Department considered using the number of rural births, however, this factor is directly tied to overall population. Since the fixed grant is based on food funds which in turn are based on population, it was decided that to use the number of rural births would place too much emphasis on the population of a State. Consequently, to eliminate the population bias which the number of rural births would impose, the Department decided to use the percentage of rural births as a factor in the remaining funds formula. It is important to emphasize the difference between the use of the number of rural births and the use of the percentage of rural births. The total number of rural births would distribute funds to those States larger in size, even though the number of rural births in that State might represent a small percentage of the total births in the State. The use of the precentage of rural births more accurately shows the rurality of each State. A State which has an equal balance of urban to rural births is able to allocate administrative funds between urban and rural local agencies. The State may give a higher percentage to the rural local agency because the urban local agency may need a lower percentage. A State which is predominately rural, however, cannot utilize such balances, and therefore usually needs a higher overall administrative fund percentage.

Thirty percent of the remaining funds formula is based on a salary differential. This decision was made because many comments received expressed concern that the proposed formula gave little consideration to States which had extremely high operating expenses due to high salaries and high cost of living. After considerable review of the effects of salary levels on a State's needs, the Department determined that use of a salary differential for those States which had salaries above the national average was an important factor to use in the remaining funds formula. Since the fixed grant already relates to participation levels, it was believed that the salary differential should apply irrespective of participation levels. Accordingly, by using a salary average of all full-time State and local government employees in each State, and determining which State agencies have average salaries above the national average, States could then be allocated funds based on the difference between their average salary and the national average. Twenty-one State agencies had a salary average above the national average and funds will be distributed proportionally among these State agencies based on the difference between the State's salary and the national average.

As data is not available on average salaries for Indian State agencies, the salary differential for an Indian agency will be the same as the salary differential for the State in which the Indian agency is located. The Department felt that to attract competent employees a native American State agency would have to pay a salary comparable to the salaries throughout the State, and therefore would need the same administrative funds increase.

75 percent administrative funds guarantee.—The Department has decided that each State agency should have 75 percent of its administrative funds guaranteed. Therefore, 75 percent of the administrative funds allocated to each State agency will not be subject to withdrawal during reallocations.

Data Bases for Remaining Funds Formula

(a) *Percentage of rural births.* Data from the National Center for Health Statistics was used in the formula. Rural births data was extracted from a report from the U.S. Bureau of the Census entitled *Vital Statistics of the U.S., Vol. 1, Natality, 1976.* Each year the natality data in the Report is updated. The 1976 Report is not yet published but all available data can be obtained from the U.S. Bureau of the Census. The data is compiled based on live births in urban areas and in "balance of area" which is considered rural. For WIC purposes we use the total number of live births by place of residence of the person giving birth for each "balance of area" in each State.

Beginning in 1970, vital statistics data for cities and certain other urban places are classified according to the population included in the 1970 Census of Population. Data for the remaining areas not specifically identified are shown in Census tables under the heading "balance of area" or "balance of county."

Urban places are designated in the Report as being within one of the following categories.

1. Urban places in metropolitan counties are those with populations of 10,000 or more; urban places in nonmetropolitan counties are those with populations of 10,000 or more but less than 50,000. Independent cities and counties included in standard metropolitan statistical areas (SMSA's) or in New England metropolitan State economic areas (MSEA's) are included in data for metropolitan counties; all other counties are classified as nonmetropolitan. The SMSA's used in all but one table in the Report are those established for 1970 by the Office of Management and Budget and used by the U.S. Bureau of the Census except in the New England States. In table 1.46 of Section 1 of the Report which we have not used, the SMSA's are those established for 1975.

Except in the New England States, an SMSA is a county or a group of contiguous counties containing at least one city of 50,000 inhabitants or more or "twin cities" with a combined population of at least 50,000.

In addition to the county or counties containing such a city or cities, contiguous counties are included in an SMSA if, according to specified criteria, they are essentially metropolitan in character and are socially and economically integrated with the central city or cities.

In the New England States, the Office of Management and Budget used towns and cities rather than counties as geographic components of SMSA's. The National Center for Health Statistics cannot, however, use the SMSA classification for these States because its data is not coded to identify all towns. Instead, MSEA's are used. They are established by the Bureau of the Census and are made up of county units.

For metropolitan areas around New York City and Chicago, several contiguous SMSA's and additional counties that do not appear to meet the formal integration criteria for SMSA's but do have strong interrelationships of other kinds with New York City and Chicago have been combined into the New York Northeastern New Jersey and the Chicago Northwestern Indiana Standard Consolidated areas.

2. Urban places other than incorporated cities for which vital statistics data are shown in the Report included the following:

(a) Each town in New England and each township in New Jersey and Pennsylvania that had no incorporated municipality as a subdivision and had either 25,000 inhabitants or more, or a population of 10,000 to 25,000 and a density of 1,500 persons or more per square mile is considered an urban place;

(b) Each county in States other than the New England States, New Jersey, and Pennsylvania that had no incorporated municipality within its boundary and had a density of 1,500 persons or more per square mile is considered an urban place. Arlington County, Virginia, is the only county classified as urban under this rule.

For Puerto Rico and Indian State agencies, some assumptions were made by the Department. For Puerto Rico, total births were available but were not separated as occurring in urban places and balances of area. Consequently, rural births were identified by utilizing the U.S Department of Commerce, Social and Economic Statistics Administration, Bureau of the Census; 1970 Census of Population, Volume 1 Characteristics of the Population, Part 53–7, which indicated that 41.9 percent of Puerto Rico's population was rural. The Department assumed, therefore, that 41.9 percent of the births in Puerto Rico were rural.

For Indian State agencies, the Department considered that all births were rural, as reservations are generally sparsely populated and off-reservation tribes often live primarily in rural areas. Therefore, all Indian State agencies are considered to have 100 percent rural births. Although this provides Indian State agencies with a rurality percentage higher than any State, the provision that no State agency may receive more than 25 percent of their total grant in administrative funds is applied and the funds which would have been applied to the Indian State agencies in excess of 25 percent are recovered and redistributed among the other State agencies.

(b) Salary Differential

Data for the average State and local salaries was taken from the U.S. Department of Commerce, Bureau of the Census, 1978, publication, specifying the number of employees and payrolls of State and local governments, by type of government and by State. The report is published annually and the 1978 publication contains 1977 data. Data for the State governments shown in the report resulted from a complete canvass of all State Departments, agencies and institutions. Local government data was estimated from a random sample of approximately 16,000 local units nationally. Using the 1970 population as a base, the local sample included all county governments having 50,000 or more inhabitants and all municipalities having 25,000 or more population. The sample also included local governments whose relative importance in their State was above a specified amount based on expenditure or debt. A random selection of the remaining units was made from a compilation of all local governments within selected large standard metropolitan statistical areas (SMSA's), other major counties, and the balance of the State, further grouped by type and size of government. From this list a random sample was chosen using probabilities that were based on the ratio of each government's annual expenditure or indebtedness to the State total.

Estimates of standard errors in this local sample based on standard errors found in 1979 data were found generally

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agency and the State agency is provided for the base administrative grant as well

State	Total food grant 3rd qtr.	Total adm. grant 3rd qtr.

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within 2 percent of the estimated figure, and less than 1 percent for 37 States, for local government totals of full-time employees, full-time employee payrolls and full-time equivalent employment. Sampling errors of the 1977 data are expected to be of the same order of magnitude since the same panel and same survey procedures were used in the 1977 and 1974 surveys. State government figures are not subject to sampling.

For the 1977 survey, employee and payroll figures reported by State and local government officials are generally accepted as being substantially correct by the Bureau of the Census. In some cases, varying interpretations of the instructions or deficiencies in governmental employment and payroll records may make it difficult for officials to render complete and accurate reports of their governments. These difficulties are dealt with by (1) careful definitions of terms and detailed instructions in difficult cases, (2) supplementary correspondence and telephone followup to officials, and (3) intensive examination of data collected—i.e., verification of internal consistency and comparison with previous reports, and other sources of data. Errors that may be introduced during processing (input preparation, etc.) were minimized through the use of intensive computer editing of the data at various stages of the processing system.

Unfortunately, the Bureau of the Census salary data source does not contain data for the Virgin Islands or for Puerto Rico. However, in reviewing the 1978 Civil Service Commission's *State Salary Survey*, it was found that both of these territories consistently indicated salaries substantially below States on the continant. Therefore, they are considered to have salaries below the national average.

In order to compute the salary differentials the Department used data from Table 8 of the Bureau of the Census Salary Data Report—The Average Earnings of All Full-Time Employees. A monthly salary average for the U.S. ($1,078) is given and each State's salary average for State and local government employees is recorded. Each State with an average salary above the national average participates in the salary differential funds distribution, including Indian State agencies if the State in which they are located participates. A total is computed of all State agencies whose average salaries are above the national average. Each State agency's average salary in those States where the average salary is above the national average is then divided by the total of all the above average salaries to determine that State agency's percent share of the funds.

Data Base Charts

(a) Number of Rural Births and Total Births.

Source: National Center for Health Statistics, *Vital Statistics of the U.S., Volume 1 Natality*, 1976; Table 2–2, Live Births by Attendant and Place of Delivery and by Birth Weight, by Race for Population-Size Groups in Metropolitan and Nonmetropolitan Counties: United States and Each State, 1976; Table 039, Live Births by Attendant and Place of Delivery: Puerto Rico and Each Municipio, 1976; Table 040, Live Births by Attendant and Place of Delivery and Race, Virgin Islands by Island and Specified Urban Places, and Guam, 1978.

(b) Above Average Salaries.

Source: Public Employment in 1977, U.S. Department of Commerce, Bureau of the Census, GE 77 No. 1; Table 8, Employment and Payrolls of State and Local Governments by Type of Government and by State: October 1977.

Administrative Data Base

State	Above average salaries [1]	Total births	Rural births	Percent rural births
New England:				
Connecticut	1066	35,606	12,245	34.4
Maine		15,012	10,945	72.9
Massachusetts	1114	66,012	22,035	33.4
New Hampshire		11,217	6,833	60.9
Rhode Island	1081	10,806	2,603	24.1
Vermont		8,737	5,932	88.1
Mid-Atlantic:				
Delaware		8,087	6,251	77.3
Maryland	1127	52,714	36,366	69.0
New Jersey	1157	90,800	29,367	32.3
New York	1255	235,688	86,197	36.6
Pennsylvania		148,289	82,745	55.8
Puerto Rico		71,888	30,121	41.9
Seneca Nat., NY	1255	144	144	100.0
Virginia		70,038	39,815	56.9
Virgin Islands		2,343	607	25.9
West Virginia		28,569	22,462	78.6
Southeast:				
Alabama		57,974	34,729	59.9
Florida		104,655	48,674	46.5
Georgia		79,258	51,627	65.1
Kentucky		55,198	39,825	72.2
Mississippi		42,943	29,786	69.4
North Carolina		80,594	58,371	72.4
South Carolina		47,788	38,934	81.5
Tennessee		82,582	32,811	52.4
Seminoles, FL		29	29	100.0
Choctaws, MS		170	170	100.0
E. Cherokee, NC		140	140	100.0
Southwest:				
Arkansas		34,162	21,126	61.8
Louisiana		69,754	38,114	54.8
New Mexico		22,054	10,882	49.3
Oklahoma		43,705	19,002	43.5
Texas		218,746	68,734	31.4
Acoma, NM		48	48	100.0
N. Pueblo, NM		157	157	100.0
Isleta Pueblo, NM		432	432	100.0
Santa Domingo, NM		64	64	100.0
Six Sandoval, NM		262	262	100.0
WCD Ent., OK		150	150	100.0
Choctaws, OK		364	364	100.0
Cherokee, OK		1,258	1,258	100.0
Chickasaw, OK		199	199	100.0
Tonkawa, OK		191	191	100.0
Potawatami, OK		771	771	100.0
Zuni, NM		4,881	4,881	100.0

Administrative Data Base—Continued

State	Above average salaries [1]	Total births	Rural births	Percent rural births
Midwest:				
Illinois	1206	170,257	54,328	31.9
Indiana		80,713	39,541	49.0
Michigan	1258	131,370	60,695	46.2
Minnesota	1152	56,598	29,380	51.9
Ohio		155,491	68,576	44.1
Wisconsin	1087	64,915	32,956	50.8
Mountain Plains:				
Colorado	1087	41,003	16,423	40.1
Iowa		41,635	24,068	57.9
Kansas		35,419	15,497	43.8
Missouri		68,879	38,259	55.6
Montana		12,600	8,660	68.7
Nebraska		23,804	12,867	53.3
North Dakota		10,692	6,738	63.0
South Dakota		11,671	8,115	69.5
Utah		35,273	19,762	56.0
Shos & Ara., WY		118	118	100.0
Ute Mt. Tribe, CO	1087	87	87	100.0
Winnebago, Neb		121	121	100.0
Cheyenne Rv., SD		153	153	100.0
Rosebud, SD		294	294	100.0
Standing Rock, NO		155	155	100.0
Western:				
Alaska	1721	7,942	5,791	72.9
Arizona	1107	39,969	15,030	37.6
California	1360	332,256	83,804	25.2
Hawaii	1211	16,377	7,021	42.9
Idaho		17,347	11,089	63.9
Nevada	1114	9,659	3,656	37.9
Oregon	1140	34,863	21,687	62.2
Washington	1206	52,987	30,968	58.4
ITCN	1114	245	245	100.0
Total [2]		24,925	3,235,372	1,512,503	5030.9

[1] National Salary Average—$1078.
[2] Nationwide.

III. Final Administrative Formula Calculation

The total amount of funds available for administrative grants is determined by taking 20 percent of the total funds available for allocation for the current quarter. Eighty percent of the funds available for allocation for the quarter is designated for distribution through the use of the program funding formula for the food grant. After the total amount available for administrative funds for the quarter is determined and each State agency's quarterly food grant is determined, each State agencies' share of the total amount for administration can be calculated by use of the administrative funds formula.

The administrative funds formula involves several steps in determining the total amount of administrative funds to be allocated to each State agency operating the WIC Program. For the fixed administrative grant three calculations are carried out: First, the funds equaling 25 percent of each State agency's previous fiscal year's fourth quarter food level is determined. Secondly, the funds which equal 23 percent of each State agency's quarterly food grant (quarter being considered) is calculated. Third, these two figures are compared to each other for each State

agency and the State agency is provided the greater amount for its fixed grant. All of the amounts for each State agency's fixed grant are then added and the total is subtracted from the total amount of funds available for administrative grants.

With the remaining funds, the remaining funds formula is employed. This formula divides the remaining funds into two portions, one containing 70 percent of the total remaining funds and the other containing 30 percent. The 70 percent portion is allocated among State agencies on the basis of the data on percent of rural births. The 30 percent portion is allocated among State agencies on the basis of the data on salary differential. Each State agency's allocations for both are then added together with the agency's fixed administrative grant. After all administrative funds allocations have been determined, each State agency is checked to determine whether: (1) all State agencies are receiving at least $7,500 ($30,000 minimum grant divided by four) for administrative funds, (2) any State receiving a quarterly food grant of $750,000 or less is allocated at least 20 percent of its total grant for administrative costs, (3) any State is receiving more than 25 percent of its total grant for administrative funds. If a State agency's allocation violates any of these three constraints, the amount of funds is increased or decreased as necessary to conform with the three constraints. Consequently, those States which have been determined to receive a minimum quarterly administrative grant of $7,500, or have been brought up to 20 percent of their total grant for administrative costs, or which are limited to 25 percent of their total grant are taken out of the next formula run. The total amount of funds subtracted from State agencies receiving over 25 percent of their total grant to bring them into compliance with this constraint is redistributed by the remaining funds formula to the remaining State agencies. The total amount of funds needed to bring State agencies up to their minimum grant level is subtracted proportionately from the other State agencies according to the remaining funds formula.

This comparison of every State agency's administrative funding against the three constraints and the resulting redistribution process continues until no State agency violates any of the three constraints and all administrative funds are allocated.

The final administrative funding formula was used in the third quarter of FY '79 to calculate administrative grants for the base administrative grant as well as for the reallocation and migrant grants for those States which were eligible to receive those grants. The amount of administrative funds each State agency is allocated for the third quarter of FY '79 is listed below. Also included is the food grant allocation for the third quarter of FY '79 as this figure is the basis for computing the fixed administrative grants.

State	Total food grant 3rd qtr.	Total adm. grant 3rd qtr.
New England:		
Connecticut	2,458,106	636,757
Maine	744,000	209,772
Massachusetts	2,126,484	558,733
New Hampshire	345,006	111,425
Rhode Island	515,154	172,760
Vermont	1,212,873	323,634
Mid-Atlantic:		
Delaware	272,469	89,313
Maryland	2,124,495	568,047
New Jersey	2,781,967	727,769
New York	8,316,431	1,993,008
Pennsylvania	5,070,525	1,200,282
Puerto Rico	2,693,026	636,974
Seneca Nat., NY	33,117	11,566
Virginia	3,001,887	726,867
Virgin Islands	183,326	53,384
West Virginia	1,406,181	401,058
Southeast:		
Alabama	2,709,039	861,360
Florida	3,696,813	874,331
Georgia	3,572,290	854,672
Kentucky	3,138,506	765,926
Mississippi	2,722,071	668,439
North Carolina	5,139,443	1,226,342
South Carolina	3,571,637	873,563
Tennessee	6,190,405	766,929
Seminoles, FL	21,930	7,648
Choctaws, MS	59,247	19,749
E. Cherokee, NC	58,860	19,620
Southwest:		
Arkansas	1,878,303	474,985
Louisiana	3,390,130	813,585
New Mexico	681,414	181,750
Oklahoma	1,380,006	352,056
Texas	8,676,459	2,015,653
Acoma, NM	27,246	9,082
N. Pueblo, NM	30,787	10,481
Isleta Pueblo, NM	23,332	7,777
Santa Domingo, NM	22,066	7,514
Six Sandoval, NM	53,832	18,153
WCD Ent., OK	155,425	51,808
Choctaws, OK	95,628	31,876
Cherokee, OK	256,562	86,595
Chickasaw, OK	47,029	8,117
Tonkawa, OK	39,600	13,738
Potawatami, OK	26,191	8,730
Zuni, NM	11,684	7,500
Midwest:		
Illinois	5,186,339	1,267,865
Indiana	1,456,176	470,155
Michigan	4,084,321	1,025,894
Minnesota	1,818,893	457,687
Ohio	6,331,506	1,484,431
Wisconsin	1,813,137	498,718
Mountain Plains:		
Colorado	1,106,843	348,561
Iowa	1,266,793	326,706
Kansas	844,394	212,718
Missouri	2,876,355	695,500
Montana	873,614	244,686
Nebraska	509,827	144,315
North Dakota	501,065	153,506
South Dakota	330,072	110,023
Utah	1,183,119	306,300
Shos & Ara., WY	44,625	14,875
Ute Mtn.Tribe, CO	7,963	7,580
Winnebago, Neb	29,106	9,702
Cheyenne Rv., SD	60,195	20,065
Rosebud, SD	72,080	24,026
Standing Rock, NO	78,558	26,186
Western:		
Alaska	149,943	49,980
Arizona	3,034,417	769,807
California	8,230,966	1,974,669
Hawaii	317,510	106,011
Idaho	720,696	232,972
Nevada	523,969	174,661
Oregon	1,622,416	464,537
Washington	2,111,742	578,626
ITCN	45,480	15,160
Total	124,994,922	31,477,254
Nationwide Total Food and Administrative Grant 3rd Qtr.	156,472,178	

Signed in Washington, D.C. on May 9, 1979.

Carol Tucker Foreman,
Assistant Secretary.

[FR Doc. 79-14998 Filed 5-14-79; 8:45 am]

BILLING CODE 3410-30-M

Agricultural Stabilization and Conservation Service

7 CFR Part 718

Determination of Acreage and Compliance; Flue-Cured Tobacco

AGENCY: Agricultural Stabilization and Conservation Service, Department of Agriculture.

ACTION: Final Rule.

SUMMARY: Rules for determining acreage and compliance (7 CFR Part 718) were revised for 1978 and subsequent years on May 8, 1979 (44 FR 26848). This amendment further revises the rules by (1) changing the flue-cured tobacco acreage limitation effective for the 1979 crop to conform to the decision announced by amendment to regulations applicable to the tobacco loan program at 7 CFR Part 1464 (44 FR 15993) and (2) making the measurement variance rules applicable only with respect to 1978 crops.

EFFECTIVE DATE: May 15, 1979.

FOR FURTHER INFORMATION CONTACT: James Davis, Production Adjustment Division, ASCS, USDA, 3636 South Building, P.O. Box 2415, Washington, D.C. 20013, (202) 447–7641.

SUPPLEMENTARY INFORMATION: Flue-cured tobacco producers who have entered into an agreement with the local county ASC committee not to harvest the bottom 4 leaves of the stalk are allowed to plant more than 100 percent of their acreage allotment and still retain eligibility for price support. For the 1978 crop the limitation was 120 percent of their allotment. The limitation is lowered to 110 percent for the 1979 crop since the bottom 4 leaves constitute closer to 10 to 12 percent of the plant rather than 20 percent of the plant.

Since producers are planting their 1979 crop acreages and since the flue-cured acreage limitation has been

identified on the certificate are not

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previously the subject of rulemaking (44 FR 9393 and 44 FR 15993), I have determined that compliance with the public rulemaking requirements of 5 U.S.C. 553 is impracticable and contrary to the public interest. I have further determined that it is not possible to publish these regulations in proposed form and allow 60 days for comment in accordance with the provisions of Executive Order 12044. Therefore, these amendments shall become effective upon publication in the **Federal Register**. Accordingly, 7 CFR Part 718 is amended to read as follows:

Final Rule

§§ 718.5, 718.6 and 718.9 [Amended]

1. Sections 718.5, 718.6, and 718.9 are amended by changing the phrase "120 percent" to read "110 percent" wherever it appears.

2. Section 718.6 is revised by changing the title of paragraph (c) to read as follows:

§ 718.6 Determining farm operator adherence to program requirements.

* * * * *

(c) *Measurement variance—Applicable only to 1978 crops.* * * *

(Sec. 314, 373, 375, 52 Stat 48, as amended, 65, as amended, 66, as amended; (7 U.S.C. 1314, 1373, 1375))

Note.—The Agricultural Stabilization and Conservation Service has determined that this document does not contain a significant proposal requiring preparation of an impact statement.

Signed at Washington, D.C., on May 11, 1979.

Ray Fitzgerald,

Administrator, Agricultural Stabilization and Conservation Service.

[Amdt. 3]

[FR Doc. 79-15230 Filed 5-14-79; 8:45 am]

BILLING CODE 3410-05-M

7 CFR Part 729

Acreage Allotments, Marketing Quotas, and Poundage Quotas for 1978 and Subsequent Crops of Peanuts

Corrections

In FR Doc. 79-13293 appearing at page 25404 in the issue for Tuesday, May 1, 1979, make the following changes:

1. On page 25406, first column, tenth line from the top, delete the "a" between "segregation" and "1"; and in the third line of paragraph (b) of § 729.59, "balanced" should read "balance".

BILLING CODE 1505-01-M

Animal and Plant Health Inspection Service

9 CFR Part 75

Contagious Equine Metritis (CEM); Quarantine

AGENCY: Animal and Plant Health Inspection Service, USDA.

ACTION: Final rule.

SUMMARY: The purpose of these amendments is to quarantine certain equidae on various premises in the State of Missouri because of the existence of contagious equine metritis (CEM). CEM, a communicable disease of equidae has been diagnosed in various breeds of horses in the State of Missouri. In order to protect the equine industry of the United States from this highly contagious communicable disease and the integrity of the export of equidae from the United States, it is necessary to quarantine certain premises in the State of Missouri and to provide exceptions for the movement of certain equidae from or through areas quarantined; and to specify conditions under which certain equidae may move interstate from or through the areas quarantined when such movements can be made without undue risk of spreading CEM. The intended effect of these amendments is to stop the spread of CEM in the United States.

EFFECTIVE DATE: May 8, 1979.

FOR FURTHER INFORMATION CONTACT: Dr. Ralph C. Knowles, USDA, APHIS, VS, Federal Building, Room 738, Hyattsville, MD 20782, 301-436-8433.

SUPPLEMENTARY INFORMATION: Contagious equine metritis (CEM), a highly contagious, communicable disease of equidae, has been diagnosed in various breeds of horses on certain premises in Boone County, of the State of Missouri. Also, certain horses in Calloway County, of the State of Missouri, have been exposed to CEM. Heretofore, CEM has only been diagnosed in the State of Kentucky among breeding horses of the thoroughbred breed. In order to protect the equine population of the United States from the spread of this highly contagious disease of equidae, it is necessary to quarantine the areas of Missouri in which animals known to be affected or exposed to CEM exist and to regulate the movement of certain animals from and through the areas quarantined.

Definitions of the terms "breeding animal" and "artificial insemination" are added to §75.5 of the regulations for the purpose of clarifying the meaning of these terms as used in the regulations.

A "breeding animal" is defined in § 75.5(l) of the regulations as any mare or stallion more than 731 days old on the date of interstate movement.

The term "artifical insemination" is defined in § 75.5(m) of the regulations as the collection of semen from a stallion through use of an artificial vagina and the introduction of semen collected by that means into the female reproductive organs of a mare without sexual contact. The purpose of that definition is to insure that semen use in artificial insemination is collected by use of an artificial vagina and introduced into the female reproductive organs of a mare without sexual contact in order to prevent the possible spread of disease through such contact.

In order to differentiate the paragraphs concerning CEM in Part 75 from the other portions of said part concerning Dourine in Horses and Asses and Equine Infectious Anemia (Swamp Fever), a new heading is added after § 75.4 and prior to § 75.5 to read "Contagious Equine Metritis (CEM)." The heading of § 75.8 is amended to read *"Restrictions on the Interstate Movement from or through Kentucky."* The change in heading was made necessary because of the addition of § 75.9 which concerns restrictions on interstate movement from or through Missouri.

A new § 75.7(b) of the regulations is added to give notice that animals in areas of Boone and Callaway Counties, Missouri, are affected with or exposed to CEM, and that certain premises therein are quarantined as a result thereof.

Section 75.9(a) of the regulations prohibits the interstate movement of animals from or through the quarantined areas specified in § 75.7(b) except in accordance with the conditions set forth in § 75.9(a)(1)–(8) and except as provided in § 75.9(b). This prohibition of movement from or through the quarantined areas of Missouri is necessary to prevent the spread of CEM from the quarantined areas. The eight conditions under which an animal may be moved interstate from or through the quarantined areas (§ 75.9(a)(1)–(8)) are discussed below. They allow the movement of certain animals under conditions which will not present an undue risk of the spread of CEM from the areas quarantined.

Section 75.9(a)(1) of the regulations is added to permit the interstate movement of geldings from or through quarantined areas in Missouri without restriction. CEM is a breeding disease of equidae, and since geldings are not used for breeding purposes, they are excepted from restrictions on movement from or through such areas.

Section 75.9(a)(2) of the regulations is added to permit the interstate movement of weanlings or yearlings from or through a quarantined area in Missouri if accompanied by a certificate. These animals are not used for breeding purposes and, therefore, if not affected or exposed to CEM, do not pose a threat to spread CEM. Information required on the certificate is for the purpose of confirming the fact that the animals identified on the certificate are not affected or exposed animals and to establish the fact that the animals being moved are the same as those listed on the certificate, thereby insuring that such animals are eligible to move under the regulations.

Section 75.9(a)(3) of the regulations is added to permit the interstate movement of breeding animals which are not affected or exposed to CEM from a quarantined area in Missouri for other than breeding purposes when accompanied by a certificate. Such movements are permitted because the incidental contact between animals at races, exhibitions and for purposes other than breeding is negligible and is not likely to spread CEM.

Section 75.9(a)(4) of the regulations is added to permit breeding animals which are not affected or exposed to CEM to be moved interstate from a quarantined area in Missouri for breeding by artificial insemination in the presence of and certified to by a State or Federal Veterinary Services Inspector if such animals are accompanied by a certificate. Such movement for breeding by artificial insemination is allowed because such breeding, if properly conducted, is highly unlikely to spread CEM. The requirement that the breeding by artificial insemination be done in the presence of and certified to on the certificate by a State or Federal Veterinary Services Inspector is necessary to insure that the breeding is in fact done by artificial insemination in a proper manner to prevent the spread of CEM.

Sections 75.9(a)(5)–(7) of the regulations is added to permit the interstate movement of certain mares and stallions as described below from the quarantined areas in Missouri if it has been determined by a State or Veterinary Services Inspector through epidemiological investigation that such animals are not affected or exposed animals and they are accompanied by a certificate. The Department believes that such an epidemiological investigation by a State or Veterinary Services Inspector will insure that the animals to be moved are not affected or exposed to CEM. The interstate movement of such animals from the quarantined areas of Missouri will not pose an undue risk of the spread of CEM from those areas. The purpose of the certificate accompanying these animals is to confirm the fact that the animals identified on the certificate are not affected or exposed animals and to establish the fact that the animals being moved are the same as those listed on the certificate, thereby insuring that such animals are eligible to move under the regulations.

Section 75.9(a)(5) of the regulations is added to permit the interstate movement of a mare after February 1, 1978, on a known infected premises from a quarantined area in Missouri if it has been determined by a State or Veterinary Services Inspector through epidemiological investigation that she is not an affected or exposed animal and she is accompanied by a certificate. February 1, 1978, is the date on which the Department believes CEM was introduced into Missouri.

Section 75.9(a)(6) of the regulations is added to permit the interstate movement of a mare not bred on a known infected premises from a quarantined area in Missouri if it has been determined by a State or Veterinary Services Inspector through epidemiological investigation that she is not an affected or exposed animal and she is accompanied by a certificate.

Section 75.9(a)(7) of the regulations is added to permit the interstate movement of a mare or stallion bred on a premises which is not a known infected premises from a quarantined area if it has been determined by a State or Veterinary Services Inspector through epidemiological investigation that the animal is not an affected or exposed animal and it is accompanied by a certificate.

Section 75.9(a)(8) of the regulations is added to permit an animal which is not an affected or exposed animal to move interstate through the quarantined area if accompanied by a certificate and if moved through such area without contact with other animals in such area. Animals which are not affected or exposed present no undue disease risk. The purpose of preventing contact of such animals moving through the quarantined area is to prevent the animals from becoming affected or exposed animals while in the quarantined area. The purpose of the certificate accompanying these animals is to confirm the fact that the animals identified on the certificate are not affected or exposed animals and to establish the fact that the animals being moved are the same as those listed on the certificate, thereby insuring that such animals are eligible to move under the regulations.

Section 75.9(b)(1) of the regulations is added to require that affected or exposed animals shall not be moved interstate except for immediate slaughter directly to a federally inspected slaughtering establishment operated under the provisions of the Federal Meat Inspection Act (21 U.S.C. 601 *et seq.*) or to a State inspected slaughtering establishment which has inspection by a State inspector at the time of slaughter and if accompanied by a permit. This requirement has been established because such animals obviously pose a threat to disseminate CEM and therefore must only be permitted to move interstate for immediate slaughter. The reason the types of slaughtering establishments are specified is that such establishments have Federal or State officials present who will insure that the animals are received and slaughtered. A permit is required because it will provide a means of identifying and tracing the particular animal.

Section 75.9(b)(2) is added to require that nonaffected and nonexposed animals may move interstate for immediate slaughter only if they comply with the provisions for affected or exposed animals moved for slaughter.

This requirement is necessary in order to provide a means of identifying the origin of such animals and to trace the movement of such animals which may be established at the time of slaughter to be affected with CEM.

Section 75.9(c) is added to establish cleaning and disinfection requirements for means of conveyance used to transport affected or exposed animals interstate to slaughter. Such requirements are necessary to prevent the spread of CEM because CEM may be transmitted by the animal to the means of conveyance or articles in the means of conveyance. Therefore, in order to prevent any other animals which the means of conveyance may subsequently transport from coming in contact with CEM, the means of conveyance must be cleaned and disinfected.

PART 75—COMMUNICABLE DISEASES IN HORSES, ASSES, PONIES, MULES, AND ZEBRAS

Accordingly, Part 75, Title 9, Code of Federal Regulations, is amended as follows:

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1. A new heading is added after § 75.4 and prior to § 75.5 to read *"Contagious Equine Metritis (CEM)."*

2. In § 75.5, new paragraphs (l) and (m) are added to read:

§ 75.5 Definitions.

* * * * *

(l) *Breeding animal.* Any mare or stallion more than 731 days old on the date of interstate movement.

(m) *Artifical insemination.* The collection of semen from a stallion through use of an artifical vagina and the introduction of semen collected by that means into the female reproductive organs of a mare without sexual contact.

3. In § 75.7, a new paragraph (b) is added to read:

§ 75.7 Areas quarantined.

* * * * *

(b) Notice is hereby given that because of the existence of CEM in various breeds of horses in certain areas of Missouri and because of the nature and extent of such disease, the following areas are hereby quarantined:

(1) *Missouri.*

(i) *Boone County.*

(A) The premises of Barr Trak Farm, Inc., located in Cedar Township in the west one-half of sec. 16, T. 47S., R. 13 W.

(B) The premises of William B. Goodson located in Perche Township in the southwest one-fourth of sec. 13, and the east one-half of the southeast one-fourth of sec. 14, T. 49 N., R. 14 W.

(ii) *Callaway County.* The premises of Carl Block located in sec. 34, T. 48 N., R. 11 W.

4. The heading of § 75.8 is amended to read:

§ 75.8 Restrictions on interstate movement from or through Kentucky.

5. A new § 75.9 is added to read:

§ 75.9 Restrictions on interstate movement from or through Missouri.

(a) Except as provided in paragraph (b) of this section, no animal shall be moved interstate from or thorough any quarantined area specified in § 75.7(b) of this part except in accordance with the following conditions:

(1) A gelding may be moved interstate without restriction;

(2) A weanling or yearling may be moved interstate if accompanied by a certificate;

(3) A breeding animal which is not an affected or exposed animal may move interstate from a quarantined area for other than breeding purposes if accompanied by a certificate; or

(4) A breeding animal which is not an affected or exposed animal may be moved interstate from a quarantined area for breeding purposes if such breeding will be performed only by artifical insemination in the presence of and certified to by a State or Veterinary Services Inspector and if such animal is accompanied by a certificate which contains, in addition to the information required in § 75.5(d), the certification by the State or Veterinary Services Inspector that the breeding of the animal was properly performed by artifical insemination.

(5) A mare bred after February 1, 1978, on a known infected premises may move from the quarantined area if it has been determined by a State or Veterinary Services Inspector through epidemiological investigation that she is not an affected or exposed animal and she is accompanied by a certificate;

(6) A mare not bred on a known infected premises may move from the quarantined area if it has been determined by a State or Veterinary Services Inspector through epidemiological investigation that she is not an affected or exposed animal and she is accompanied by a certificate;

(7) A mare or stallion bred on a premises which is not a known infected premises may move from a quarantined area if it has been determined by a State or Veterinary Services Inspector through epidemiological investigation that the animal is not an affected or exposed animal and if the animal is accompanied by a certificate; or

(8) An animal which is not an affected or exposed animal may move interstate through the quarantined area if accompanied by a certificate and if moved through such area without contact with other animals while in such area.

(b) *Movement of animals for immediate slaughter.*

(1) No affected or exposed animal shall be moved interstate except for immediate slaughter directly to a Federally inspected slaughtering establishment operated under the provisions of the Federal Meat Inspection Act (21 U.S.C. 601 *et seq.*) or to a State-inspected slaughtering establishment which has inspection by a State inspector at the time of slaughter and only if accompanied by a permit.

(2) An animal other than an affected or exposed animal may be moved interstate for immediate slaughter only if it complies with all of the provisions for movement of affected or exposed animals for slaughter in subparagraph (b)(1) of this section.

(c) *Cleaning and disinfection.* Any means of conveyance used to transport an affected or exposed animal interstate shall be thoroughly cleaned and disinfected after such movement in accordance with the provisions of §§ 71.6, 71.7, 71.10, 71.11, and 71.12 of the regulations in this subchapter.

(Secs. 4–7, 23 Stat. 32, as amended, secs. 1 and 2, 32 Stat. 791–792, as amended, secs. 1–4, 33 Stat. 1264, 1265, as amended; (21 U.S.C. 111–113, 115, 117, 120, 121, 123–126), 37 FR 28464, 28477; 38 FR 19141.)

In view of the nature of the disease and circumstances under which it is disseminated and in order to prevent the interstate spread of the disease, it is necessary to quarantine portions of the State of Missouri and to permit the interstate movement of certain animals only under the above specified conditions. These amendments must be made effective immediately to accomplish their purpose in the public interest.

Therefore, pursuant to the administrative procedure provisions in 5 U.S.C. 553, it is found upon good cause that notice and other public procedure with respect to this final rule are impracticable and contrary to the public interest and good cause is found for making this final rule effective less than 30 days after publication of this document in the **Federal Register.**

Further, this final rule has not been designated as "significant," and is being published in accordance with the emergency procedures in Executive Order 12044 and Secretary's Memorandum 1955. It has been determined by Dr. J. K. Atwell, Assistant Deputy Administrator, APHIS, VS, that the emergency nature of this final rule warrants publication without opportunity for public comment and preparation of an impact analysis statement at this time.

This final rule will be scheduled for review under provisions of Executive Order 12044 and Secretary's Memorandum 1955.

Done at Washingotn, D.C., this 8th day of May, 1979.

Pierre A. Chaloux,

Deputy Administrator, Veterinary Services.

[FR Doc. 79-14974 Filed 5-14-79; 8:45 am]

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9 CFR Part 82

Exotic Newcastle Disease and Psittacosis or Ornithosis in Poultry; Area Released From Quarantine

AGENCY: Animal and Plant Health Inspection Service, USDA.

ACTION: Final rule.

SUMMARY: The purpose of this amendment is to release a portion of Orange County in California from the areas quarantined because of exotic Newcastle disease. Surveillance activity indicates that exotic Newcastle disease no longer exists in the area released from quarantine.

EFFECTIVE DATE: May 8, 1979.

FOR FURTHER INFORMATION CONTACT: Dr. M. A. Mixson, USDA, APHIS, VS, Federal Building, Room 748, Hyattsville, MD 20782, 301–436–8073.

SUPPLEMENTARY INFORMATION: This amendment releases a portion of Orange County in California from the areas quarantined because of exotic Newcastle disease under the regulations in 9 CFR Part 82, as amended. Therefore, the restrictions pertaining to the interstate movement of poultry, mynah and psittacine birds, and birds of all other species under any form of confinement, and their carcasses and parts thereof, and certain other articles from quarantined areas, as contained in 9 CFR Part 82, as amended, will no longer apply to the area released.

PART 82—PSITTACOSIS OR ORNITHOSIS IN POULTRY

Accordingly, Part 82, Title 9, Code of Federal Regulations, is hereby amended in the following respect:

In § 82.3(a)(1), relating to the State of California, paragraph (viii) relating to Orange County is deleted.

(Secs. 4–7, 23 Stat. 32, as amended; secs. 1 and 2, 32 Stat. 791–792, as amended; secs. 1–4, 33 Stat. 1264, 1265, as amended; secs. 3 and 11, 76 Stat. 130, 132; (21 U.S.C. 111–113, 115, 117, 120, 123–126, 134b, 134f); 37 FR 28464, 28477; 38 FR 19141.)

The amendment relieves certain restrictions no longer deemed necessary to prevent the spread of exotic Newcastle disease. It should be made effective immediately in order to permit affected persons to move poultry, mynah, psittacine birds, and birds of all other species under any form of confinement, and their carcasses and parts thereof, and certain other articles, interstate from such area without unnecessary restrictions. It does not appear that public participation in this rulemaking proceeding would make additional relevant information available to the Department.

Therefore, pursuant to the administrative procedure provisions in 5 U.S.C. 553, it is found upon good cause that notice and other public procedure with respect to this final rule are impracticable and contrary to the public interest and good cause is found for making this final rule effective less than 30 days after publication of this document in the **Federal Register.**

Further, this final rule has not been designated as "significant," and is being published in accordance with the emergency procedures in Executive Order 12044 and Secretary's Memorandum 1955. It has been determined by J. K. Atwell, Assistant Deputy Administrator, Animal Health Programs, APHIS, VS, USDA, that the emergency nature of this final rule warrants publication without opportunity for public comment or preparation of an impact analysis statement at this time.

This final rule implements the regulations in Part 82. It will be scheduled for review in conjunction with the periodic review of the regulations in that Part required under the provisions of Executive Order 12044 and Secretary's Memorandum 1955.

Done at Washington, D.C., this 8th day of May 1979.

Pierre A. Chaloux,

Deputy Administrator, Veterinary Services.

[FR Doc. 79-14975 Filed 5-14-79; 8:45 am]

BILLING CODE 3410-34-M

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9 CFR Part 82

Exotic Newcastle Disease and Psittacosis or Ornithosis in Poultry; Area Released From Quarantine

AGENCY: Animal and Plant Health Inspection Service, USDA.

ACTION: Final rule.

SUMMARY: The purpose of this amendment is to release a portion of Macomb County in Michigan from the areas quarantined because of exotic Newcastle disease. Surveillance activity indicates that exotic Newcastle disease no longer exists in the area released from quarantine. No areas in the State of Michigan remain under quarantine.

EFFECTIVE DATE: May 9, 1979.

FOR FURTHER INFORMATION CONTACT: Dr. M. A. Mixson, USDA, APHIS, VS, Federal Building, Room 748, Hyattsville, MD 20782, 301–436–8073.

SUPPLEMENTARY INFORMATION: This amendment releases a portion of Macomb County in Michigan from the areas quarantined because of exotic Newcastle disease under the regulations in 9 CFR Part 82, as amended. Therefore, the restrictions pertaining to the interstate movement of poultry, mynah and psittacine birds, and birds of all other species under any form of confinement, and their carcasses and parts thereof, and certain other articles from quarantined areas, as contained in 9 CFR Part 82, as amended, will no longer apply to the area released.

Accordingly, Part 82, Title 9, Code of Federal Regulations, is hereby amended in the following respect:

§ 82.3 [Amended]

In § 82.3(a), paragraph (7), relating to the State of Michigan is deleted.

(Secs. 4–7, 23 Stat. 32, as amended; secs. 1 and 2, 32 Stat. 791–792, as amended; secs. 1–4, 33 Stat. 1264, 1265, as amended; secs. 3 and 11, 76 Stat. 130, 132 (21 U.S.C. 111–113, 115, 117, 120, 123–126, 134b, 134f); 37 FR 28464, 28477; 38 FR 19141)

The amendment relieves certain restrictions no longer deemed necessary to prevent the spread of exotic Newcastle disease. It should be made effective immediately in order to permit affected persons to move poultry, mynah, psittacine birds, and birds of all other species under any form of confinement, and their carcasses and parts, thereof, and certain other articles, interstate from such area without unnecessary restrictions. It does not appear that public participation in this rulemaking proceeding would make additional relevant information available to the Department.

Therefore, pursuant to the administrative procedure provisions in 5 U.S.C. 553, it is found upon good cause that notice and other public procedure with respect to this final rule are impracticable and contrary to the public interest and good cause is found for making this final rule effective less than 30 days after publication of this document in the **Federal Register.**

Further, this final rule has not been designated as "significant," and is being published in accordance with the emergency procedures in Executive Order 12044 and Secretary's Memorandum 1955. It has been determined by J. K. Atwell, Assistant Deputy Administrator, Animal Health Programs, APHIS, VS, USDA, that the emergency nature of this final rule warrants publication without opportunity for public comment or preparation of an impact analysis statement at this time.

This final rule implements the regulations in Part 82. It will be scheduled for review in conjunction with the periodic review of the regulations in that Part required under the provisions of Executive Order 12044 and Secretary's Memorandum 1955.

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Done at Washington, D.C., this 9th day of May 1979.

M. T. Goff,
Acting Deputy Administrator, Veterinary Services.

[FR Doc. 79-15093 Filed 5-14-79; 8:45 am]

BILLING CODE 3410-34-M

9 CFR Part 91

Inspection and Handling of Livestock for Exportation; Mexican and Canadian Ports of Embarkation

AGENCY: Animal and Plant Health Inspection Service, USDA.

ACTION: Final rule.

SUMMARY: This document amends the animal export regulations by deleting the provisions relating to certain Mexican and all Canadian border ports of embarkation. These border ports of embarkation are no longer necessary for the exportation of animals to Mexico and Canada because both countries have ports of entry and require inspection of animals prior to their importation into their respective countries, and this country inspects such animals at their point of origin.

These amendments remove the requirements that animals be exported to Mexico and Canada through specified border ports of embarkation and correct oversights and typographical errors in the present export regulations.

EFFECTIVE DATE: May 15, 1979.

FOR FURTHER INFORMATION CONTACT: Dr. H. A. Waters, USDA, APHIS, VS, Room 826, Federal Building, 6505 Belcrest Road, Hyattsville, MD 20782, 301-436-8383.

SUPPLEMENTARY INFORMATION: On January 30, 1979, the Animal and Plant Health Inspection Service published a proposed rule in the **Federal Register** (44 FR 5896-5899) proposing to amend certain portions of Part 91. Interested persons were given until April 2, 1979, to submit data, views, and arguments regarding the proposed rule. No written comments were received.

It does not appear that further public participation in this rulemaking proceeding would make additional information available to the Department.

These amendments relieve certain unnecessary restrictions presently imposed and should be made effective promptly to be of maximum benefit to affected persons. Therefore, good cause is found for making the amendments effective less than 30 days after publication in the **Federal Register**.

Done at Washington, D.C., this 8th day of May 1979.

Note.—This final rule has been reviewed under the USDA criteria established to implement E.O. 12044, "Improving Government Regulations", and has not been designated "significant." An approved Final Impact Analysis Statement has been prepared and is available from Program Services Staff, Room 870, Federal Building, 6505 Belcrest Road, Hyattsville, MD 20782, 301-436-8695.

E. A. Schilf,
Acting Deputy Administrator, Veterinary Services.

1. In § 91.3, the second sentence of paragraph (a), is amended; (a)(3) is amended; (a)(4) is deleted; paragraph (b) is amended; a sentence is added to the end of (c)(1), and the first two sentences of (c)(3) are amended as follows:

§ 91.3 Ports of embarkation and export inspection facilities.

(a) * * * All animals, except animals being exported to Mexico or Canada, shall be exported through said ports or through ports designated in special cases under paragraph (b) of this section:

* * * * *

(3) *Border ports.* Brownsville, Laredo, Eagle pass, Del Rio, and El Paso, Texas.

(4) [Deleted]

* * * * *

(b) In special cases, other ports may be designated as ports of embarkation by the Deputy Administrator, with the concurrence of the Director of Customs, when the exporter can show to the satisfaction of the Deputy Administrator that the animals to be exported would suffer undue hardship if they are required to be moved to a port of embarkation listed in § 91.3(a). Such ports shall be designated only if the inspection facilities are approved as meeting the requirements of paragraph (c) of this section.

* * * * *

(c) * * *

(1) *Materials.* * * * The facility shall have a roof adequate to protect the animals from inclement weather over at least three-fourths of the pens and alleys and over all of the inspection area.

* * * * *

(3) *Inspection implements.* The facility shall have a separate area available for inspection and identification of the animals. Pens and animal restraining devices shall be provided in this area which are sufficient for the inspection and identification of each animal. * * *

2. In § 91.4, paragraphs (a), (b), and (d) are revised. Paragraph (c) is amended by changing the reference to "§ 915" to read "§ 91.5", and the last sentence (including footnote 3) is amended as set forth below, and in paragraph (e) the first sentence is amended as set forth below:

§ 91.4 General export requirements.

(a) All animals intended for exportation to a foreign country, except animals intended for exportation to Mexico or Canada, shall be accompanied from the State of origin of the export movement to the port of embarkation by an origin health certificate. All animals intended for exportation to Mexico or Canada shall be accompanied from the State of origin of the export movement to the border of the United States by an origin health certificate. The origin health certificates shall certify that the animals were inspected within the 30 days prior to the date of the movement of the animals for export, and were found to be sound, healthly, and free from evidence of communicable disease and exposure thereto. The origin health certificates shall be endorsed by an authorized Veterinary Services veterinarian in the State of origin. The origin health certificates shall individually identify the animals in the shipment as to species, breed, sex, and age, and if applicable shall also show registration name and number, tattoo markings, or other natural or acquired markings.

(b) *Inspection.* All animals in each export shipment, except animals intended for export to Mexico or Canada, shall have been inspected, tested, or treated in the manner prescribed in this Part prior to the movement of the export shipment to the export inspection facility. All animals in each export shipment intended for export to Mexico or Canada shall have been inspected, tested, or treated in the manner prescribed in this Part prior to the movement of the animals from the State of origin. The Deputy Administrator may, upon request of the appropriate animal health official of the country of destination, waive the tuberculosis and brucellosis tests referred to in §§ 91.5(a) (1) and (2), 91.5(b), and 91.5(c) of this Part when he finds such tests are not necessary to prevent the exportation of diseased animals from the United States.

* * * * *

(c) *Testing.* * * * The test for brucellosis shall be conducted in a cooperating State-Federal laboratory [3] in accordance with the Recommended Brucellosis Eradication Uniform Methods and Rules.[1]

(d) *Movement in cleaned and disinfected carriers or containers.* The origin health certificate accompanying animals shall be accompanied by a statement from the issuing accredited

[1] * * *

[2] * * *

[3] A list of cooperating State-Federal laboratories may be obtained from the Deputy Administrator, Veterinary Services, Animal and Plant Health Inspection Service, United States Department of Agriculture, Hyattsville, Md. 20782.

veterinarian or inspector that the means of conveyance or container has been cleaned and disinfected since last used for animals with a disinfectant approved under § 71.10 of this Chapter, prior to loading, or that the carrier or container has not previously been used in transporting animals.

(e) *Clean and disinfected facilities for unloading animals.* Animals intended for exportation to Mexico or Canada or enroute to a port of embarkation shall be unloaded only into a facility which shall have been cleaned and disinfected with a disinfectant approved under § 71.10 of this Chapter, under the supervision of an inspector or an accredited veterinarian prior to such unloading. * * *

3. Section 91.5(a)(2) is amended to read:

§ 91.5 Specific export requirements.

(a) * * *

(2) *Brucellosis.* All cattle over six months of age shall be negative to a test for brucellosis conducted as prescribed in "Standard Agglutination Test Procedures for the Diagnosis of Brucellosis" [4] or "Supplemental Test Procedures for the Diagnosis of Brucellosis"; [4] except, that such tests are not required for official vaccinates of dairy breeds under 20 months of age, official vaccinates of beef breeds under 24 months of age, or steers and spayed heifers.

4. Section 91.6(a) is amended to read as follows, and (d) is deleted.

§ 91.6 Inspection of animals for export.

(a) All animals offered for exportation to any foreign country, except Mexico or Canada, shall be inspected by a Veterinary Services veterinarian at an export inspection facility at a port designated in § 91.3(a), or at a port or inspection facility designated by the Deputy Administrator in a special case under § 91.3(b).

* * * * *

(d) [Deleted]

(Sec. 10, 26 Stat. 417; sec. 4, 23 Stat. 32, as amended; sec. 5, 23 Stat. 32, as amended; sec. 11, 38 Stat. 734, as amended; sec. 1, 32 Stat. 791, as amended; sec. 3, 76 Stat. 130; sec. 11, 76 Stat. 132; sec. 12, 34 Stat. 1263, as amended; sec. 13, 34 Stat. 1263, as amended; sec. 14, 34 Stat. 1263, as amended; sec. 18, 34 Stat. 1263, as amended; sec. 1, 26 Stat. 833; as amended; sec. 2, 26 Stat. 833, as amended; (21 U.S.C. 105, 112, 113, 114a, 120, 121, 134b, 134f, 612, 613, 614, 618; 46 U.S.C. 466a, 466b); 37 FR 28464, 28477; 38 FR 19141.)

[FR Doc. 79-14797 Filed 5-14-79; 8:45 am]

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[4] * * *

9 CFR Part 92

Bird Identification

AGENCY: Animal and Plant Health Inspection Service, USDA.

ACTION: Final rule.

SUMMARY: This document deletes the requirement for individual identification of birds prior to their importation into the United States; requires identification of all psittacine birds during quarantine; and requires records of such identification to be maintained by the quarantine facility operator for a period of 12 months following the date of release of only psittacine birds from quarantine. At this time it appears that the individual identification of psittacine birds only at the quarantine facility will be necessary as an additional aid to prevent the introduction of exotic Newcastle disease into the United States. The intended effect of this action is to require the individual identification of all psittacine birds and a record of such birds legally imported into the United States so that they may be differentiated from birds smuggled into the United States and to aid in the tracing of such birds moved into the United States.

EFFECTIVE DATE: May 15, 1979.

FOR FURTHER INFORMATION CONTACT: Dr. George P. Pierson, USDA, APHIS, VS, Import-Export Staff, Room 817, Federal Building, 6505 Belcrest Road, Hyattsville, Maryland 20782, 301-436-8170.

SUPPLEMENTARY INFORMATION: On April 18, 1978, there was published in the **Federal Register** (43 FR 16346-16347), a proposed amendment to the regulations (9 CFR 92) which would delete the requirement for individual identification of birds prior to their importation into the United States and would substitute therefor the requirement that such birds be identified by the quarantine facility operator within 72 hours of the time the birds enter the quarantine facility using identification devices supplied by the Department at cost, upon request to the Deputy Administrator. Additionally, the quarantine facility operator would be required to make and maintain for 12 months following the release of the birds from quarantine a record of birds so identified. It was further proposed that birds imported through a USDA quarantine facility would also be so identified and that the Department would make and maintain the same records required by a private quarantine facility operator.

A 60-day comment period was provided which expired June 20, 1978. A total of 13 comments were received by the Department, which are summarized as follows:

Six of the comments received were from bird quarantine facility operators, and one each was received from The American Federation of Aviculture, International Bird Institute, Virginia Poultry Federation, Inc., The Humane Society of the United States, Environmental Defense Fund, California Department of Health and a Department employee.

A summary of relevant comments received and the Department's response to these comments is as follows:

1. Four of the comments received endorsed the proposal as written.

2. Five comments objected to the identification of all birds, and particularly finches and other small delicate birds. These objections were based on increased operating costs, the necessity to handle small birds which may cause injury and stress, the additional time required to identify such birds and record those birds released from quarantine, the fact that velogenic viscerotropic Newcastle disease among finches and other small species of birds is significantly less than among psittacine birds, and the fact that smuggling of small type birds is not a problem as compared to smuggling of psittacine birds.

3. Three comments stated that individual identification of the birds should not be required within 72 hours of placement of the birds into the quarantine facility, but should only be required prior to their release from quarantine.

4. Four comments stated that birds would be injured by the legbands catching on the cage or other objects or by self-inflicted injury resulting from efforts to remove the identification device.

5. Four comments pointed out that individual identification is not required to be retained on birds after their release from quarantine.

6. Two comments stated that individual identification devices should be coded to identify the quarantine facility in addition to the individual serial numbering required on each device.

7. One comment received stated that only birds from Central America should be identified; one stated that recordkeeping would be expensive; one stated that it is not necessary to record both common and scientific names; and one stated that most smuggling only involved birds of the psittacine family.

means of identification shall be supplied

approved by the Office of Management and

suspending the Regulation Q early

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8. One comment suggested that present regulations be retained without change, and a second comment suggested that record retention should be required for a period of 2 or 3 years.

After due consideration of all the comments received, the Department has decided to require identification of only psittacine birds and, as provided in the proposal, such identification is to be made within 72 hours of the arrival of such birds at a quarantine facility. The Department believes that identifying small birds may cause injury and stress on the birds and may require great amounts of time to identify such birds. Further, the current information which the Department has available indicates that, unlike psittacine birds, non-psittacine birds do not present a substantial threat to introduce exotic Newcastle disease into the United States or to be smuggled into the United States, so that they should be required to be identified. However, the Department will be continually investigating this situation, and if such birds are determined to become a significant threat, the Department will seek to require the identification of such birds. Additionally, the Department believes that reguiring psittacine birds to be identified at the quarantine facility is more effective to insure that the birds be identified while in quarantine rather than having identification numbers applied prior to presentation for entry.

In response to comments received concerning the potential danger of injury resulting from the application of identification devices to birds, as noted above the identification requirements will only apply to psittacine birds. Due to their size, psittacine birds will be less likely to be injured by identification devices than smaller birds. While no effective identification device presently exists which would guarantee that use of the device could not injure the bird, the Department would only approve those devices which would appear to present the least risk to injure a bird and which would be effective in identifying the bird. Further, the final rule indicates that such identification devices may be legbands approved by the Deputy Administrator, Veterinary Services, upon written request to him. The Department believes that these present the least likelihood to injure the bird and still be effective in identifying the birds. However, the regulations also allow for the use of other types of identification devices upon written request to and upon approval of the Deputy Administrator of Veterinary Services. This would permit the utilization of a similar effective and safe identification device by an importer in lieu of legbands.

The Department believes that the birds should be identified as soon as possible at the time the birds enter the quarantine facility rather than at the time the birds are released from the facility. This will enable the Department to keep better track of the birds so as to insure against the unlawful removal of the birds from quarantine.

The proposed rule indicated that identifying devices used to identify birds would be supplied to the quarantine facility operator at cost upon request to the Deputy Administrator. The Department has determined that the identifying devices used to identify psittacine birds in the approved quarantine facility can be purchased by the quarantine facility operator directly from the manufacturer with greater speed and at no expense to the Department. Only identification devices approved in advance by the Deputy Administrator shall be used. It should be noted that with respect to USDA quarantine facilities, the Department will provide the identification devices at cost to the importer since USDA is the quarantine facility operator at such facilities.

The suggestions received that the quarantine facility code be required on the identification device is adopted in the final rule. This should aid in tracing the movement of the birds from the time they enter the quarantine station.

In response to the comment received that identification devices will be removed from birds after they are released from quarantine, owners of such birds are encouraged to retain such devices in place permanently for the purpose of identification and tracing to origin should this be required.

In response to the comment received which suggested that birds from Central America only be identified, birds from other countries present a similar threat of disease introduction as do birds from Central America. Therefore, this suggestion was not adopted.

In response to the comment received that recordkeeping will be expensive, the Department admits that there is a cost in maintaining any record. However, such records are necessary to trace the movement of birds into the United States and to account for birds which enter the United States through quarantine facilities. Therefore, such records will be required.

The comment received that objected to the recording of both common and scientific names of birds imported was not adopted since this information is believed to be necessary to identify birds in a particular shipment as well as to effectuate the provisions of section 7 of the Endangered Species Act (16 U.S.C. 1536) which mandates that Federal agencies utilize their authorities in furtherance of the purposes of that Act. Requiring such information should help determine whether a bird being imported is subject of the provisions of the Endangered Species Act.

The comment received which suggested that present regulations be retained without change is rejected since the identification requirements of these regulations have proven to be impractical and unsatisfactory. Likewise, the suggestion that records of identification devices applied be retained for a 2 or 3 year period is rejected because to require the retention of such records for such a period is believed to be unduly burdensome on the importer.

These final rules impose identification requirements on psittacine birds. These rules should enable the Department to keep better track of birds entering the United States through USDA or approved quarantine facilities.

PART 92—IMPORTATION OF CERTAIN ANIMALS AND POULTRY AND CERTAIN ANIMAL AND POULTRY PRODUCTS; INSPECTION AND OTHER REQUIREMENTS FOR CERTAIN MEANS OF CONVEYANCE AND SHIPPING CONTAINERS THEREON

Accordingly, Part 92, Title 9, Code of Federal Regulations, is amended in the following respects:

§ 92.5 [Amended]

1. Section 92.5(c) is amended by deleting the phrase "such birds were individually identified by serially numbered legbands (or by other suitable means of identification approved by the Deputy Administrator, Veterinary Services, upon request to him) and " appearing after the first semicolon in the first sentence in said section.

§ 92.11 [Amended]

2. The following sentences are added between the first and second sentences of § 92.11(e): "At a USDA quarantine facility each psittacine bird shall be individually identified by the Department within 72 hours of the entry of the bird into the bird quarantine facility with a serially numbered legband which has been coded to the quarantine facility or by other suitable means of identification. The identification device must be approved by the Deputy Administrator, Veterinary Services, before it shall be used to identify birds under this section. Such means of identification shall be supplied by the Department at cost to the importer. The Department shall make an identification record at the time such bird is so identified containing the species of the bird, including the common and scientific name, and the number of the identification device placed on the bird. The daily log and the identification record shall be maintained for 12 months following the date of the release of the bird from quarantine."

3. Section 92.11(f)(3)(ii)(E) is amended by deleting the period at the end of the first sentence of the section and adding the following in lieu thereof: "; and it shall be the responsibility of the facility operator to identify individually each psittacine bird within 72 hours of the entry of the bird into the quarantine facility with a serially numbered legband which has been coded to the quarantine facility or by other suitable means of identification. Any identification device must be approved by the Deputy Administrator, Veterinary Services, upon written request to him, before it shall be used to identify birds under this section. Such means of identification shall be supplied by the facility operator, and the facility operator shall insure that each bird is so identified at the time the bird is released from the facility."

4. Section 92.11(f)(3)(iii) is amended by deleting the last sentence of said section and inserting in lieu thereof the following:

The operator of the facility shall also make an identification record, at the time each psittacine bird is identified, containing the species of the bird, including the common and scientific name and the number of the identification device placed on each psittacine bird. The daily log and the identification record shall be maintained for 12 months following the date of release of the bird from quarantine and shall be made available to Veterinary Services personnel upon request.

(Sec. 2, 32 Stat. 792, as amended, and sec. 4, 76 Stat. 130 (21 U.S.C. 111 and 134c).)

This final rule has been reviewed under the USDA criteria established to implement Executive Order 12044, "Improving Government Regulations." A determination has been made that this action should not be classified "significant" under those criteria. A final Impact Statement has been prepared and is available from Program Services Staff, Room 870, 6505 Belcrest Road, Federal Building, Hyattsville, MD 20782. 301–436–8695.

Note.—The recordkeeping and reporting requirements contained herein have been approved by the Office of Management and Budget in accordance with the Federal Reports Act of 1942.

Done at Washington, D.C., this 10th day of May 1979.

Pierre A. Chaloux,
Deputy Administrator, Veterinary Services.

[FR Doc. 79-15116 Filed 5-14-79; 8:45 am]

BILLING CODE 3410-34-M

FEDERAL RESERVE SYSTEM

12 CFR Part 265

Rules Regarding Delegation of Authority

AGENCY: Board of Governors of the Federal Reserve System.

ACTION: Final rule.

SUMMARY: In order to expedite and facilitate the performance of certain of its functions, the Board of Governors has delegated to the Secretary of the Board authority to permit member banks to waive the penalty for early withdrawal of a time deposit in § 217.4(d) of Regulation Q for depositors suffering emergency-related losses in areas declared an emergency area by the President.

EFFECTIVE DATE: Immediately.

FOR FURTHER INFORMATION CONTACT: Paul S. Pilecki, Attorney, Board of Governors of the Federal Reserve System, Washington, D.C. 20551 (202/452–3281).

SUPPLEMENTARY INFORMATION: Section 217.4(d) of Regulation Q (12 CFR § 217.4(d)) provides that where a time deposit, or any portion thereof, is paid before maturity, a member bank may pay interest on the amount withdrawn at a rate not to exceed that currently prescribed for a savings deposit and that the depositor shall forfeit three months of interest payable at such rate. The Board of Governors has amended its Rules Regarding Delegation of Authority to authorize the Secretary of the Board to permit member banks to waive the early withdrawal penalty in those situations in which the President of the United States, pursuant to section 301 of the Disaster Relief Act of 1974 (42 U.S.C. § 5141) and Executive Order No. 11795 of July 11, 1974, has designated an area an emergency area. The Board regards a Presidential declaration of an emergency area as recognition by the Federal government that loss and hardship of major proportions has occurred and under such circumstances believes it appropriate to provide an additional measure of assistance to emergency victims by temporarily suspending the Regulation Q early withdrawal penalty. The Board previously has authorized the Secretary to permit member banks to waive the early withdrawal penalty in connection with Presidentially-declared major disasters. Pursuant to this delegation, a waiver of the early withdrawal penalty will be limited in effectiveness to depositors suffering emergency-related losses in a geographical area designated an emergency area by a Presidential declaration.

The provisions of § 553 of Title 5, United States Code, relating to notice and public participation and deferred effective date are not followed in connection with this amendment because the change involved therein is procedural in nature and does not constitute a substantive rule subject to the requirements of such section.

Effective April 26, 1979, § 265.2(a)(18) is amended to read as follows:

§ 265.2 Specific functions delegated to Board employees and Federal Reserve Banks.

* * * * *

(2) The Secretary of the Board (or, in the Secretary's absence, the Acting Secretary) is authorized:

* * * * *

(18) Under the provisions of section 19(j) of the Federal Reserve Act (12 U.S.C. § 371b) and §§ 217.4 (a) and (d) of Regulation Q (12 CFR §§ 217.4 (a) and (d)) to permit member banks to waive the penalty for early withdrawal of a time deposit in § 217.4(d) (Regulation Q), if all of the following conditions are met:

(i) The President of the United States declares an area a major disaster area or an emergency area pursuant to section 301 of the Disaster Relief Act of 1974 (42 U.S.C. § 5141) and Executive Order No. 11795 of July 11, 1974.

(ii) A waiver is limited in effectiveness to depositors suffering disaster or emergency-related losses in the officially designated disaster or emergency area.

(iii) The appropriate Reserve Bank recommends approval.

(iv) All relevant divisions of the Board's staff recommend approval.

By order of the Board of Governors of the Federal Reserve System, April 26, 1979.

Theodore E. Allison,
Secretary of the Board.

[Docket No. R-0223]

[FR Doc. 79-15117 Filed 5-14-79; 8:45 am]

BILLING CODE 6210-01-M

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12 CFR Part 217

Interest on Deposits; Temporary Suspension of Early Withdrawal Penalty

AGENCY: Board of Governors of the Federal Reserve System.

ACTION: Temporary suspension of the Regulation Q penalty normally imposed upon the withdrawal of funds from time deposits prior to maturity

SUMMARY: The Board of Governors of the Federal Reserve System has suspended the Regulation Q penalty for the withdrawal of time deposits prior to maturity from member banks for depositors affected by the severe storms beginning on or about March 29, 1979, in the State of Iowa.

EFFECTIVE DATE: April 6, 1979.

FOR FURTHER INFORMATION CONTACT: Paul S. Pilecki, Attorney, Legal Division, Board of Governors of the Federal Reserve System, Washington, D.C. 20551 (202/452-3281).

SUPPLEMENTARY INFORMATION: On April 6, 1979, pursuant to section 301 of the Disaster Relief Act of 1974 (42 U.S.C. § 5141) and Executive Order 11795 of July 11, 1974, the President, acting through the Administrator of the Federal Disaster Assistance Administration, designated the following counties of the State of Iowa an emergency area: Madison, Page, Taylor, Union and Warren. The Board regards the President's action as recognition by the Federal government that an emergency of major proportions has occurred. The President's designation enables victims of the disaster to qualify for special emergency financial assistance. The Board believes it appropriate to provide an additional measure of assistance to victims by temporarily suspending the Regulation Q early withdrawal penalty.[1] The Board's action permits a member bank, wherever located, to pay a time deposit before maturity without imposing this penalty upon a showing that the depositor has suffered property or other financial loss in the emergency area as a result of the severe storms. A member bank should obtain from a depositor seeking to withdraw a time deposit pursuant to this action a signed statement describing fully the emergency-related loss. This statement should be approved and certified by an officer of the bank. This action will be retroactive to April 6, 1979, and will remain in effect until 12 midnight September 30, 1979.

Section 19(j) of the Federal Reserve Act (12 U.S.C. § 371b) provides that no member bank shall pay any time deposit before maturity except upon such conditions and in accordance with such rules and regulations as may be prescribed by the Board. The Board has determined it to be in the overriding public interest to suspend the penalty provision in § 217.4(d) of Regulation Q for the benefit of depositors suffering emergency-related losses within those geographical areas of the State of Iowa officially designated an emergency area by the President. The Board, in granting this temporary suspension, encourages member banks to permit penalty-free withdrawal before maturity of time deposits for depositors who have suffered emergency-related losses within the designated areas.

In view of the urgent need to provide immediate assistance to relieve the financial hardship being suffered by persons directly affected by the severe damage and destruction occasioned by the storms and tornadoes in the designated counties of Iowa, the Board finds that good cause exists for dispensing with notice and public participation referred to in section 553(b) of Title 5 of the United States Code with respect to this action and that public procedure with regard to this action would be contrary to the public interest. Because of the need to provide assistance as soon as possible and because the Board's action relieves a restriction, the Board finds that there is good cause to make the action effective immediately.

By order of the Board of Governors, April 26, 1979.

Theodore E. Allison,
Secretary of the Board.

[Regulation Q, Docket No. R-0222]
[FR Doc. 79-15118 Filed 5-14-79; 8:45 am]
BILLING CODE 6210-01-M

[1] Sec. 217.4(d) of Regulation Q provides that where a time deposit, or any portion thereof, is paid before maturity, a member bank may pay interest on the amount withdrawn at a rate not to exceed that currently prescribed for a savings deposit and that the depositor shall forfeit 3 months of interest payable at such rate.

CIVIL AERONAUTICS BOARD

14 CFR Part 302

Rules of Practice in Economic Proceedings

Adopted by the Civil Aeronautics Board at its office in Washington, D.C.

AGENCY: Civil Aeronautics Board.

ACTION: Editorial Amendment.

SUMMARY: The CAB makes clear that violations of any of its rules may be the subject of enforcement proceedings, by deleting the word "economic" from the phrase "economic enforcement proceedings" in its rules of practice (14 CFR Part 302).

DATES: Effective: June 4, 1979. Adopted: May 9, 1979.

FOR FURTHER INFORMATION CONTACT: David Schaffer, Office of the General Counsel, Rules and Legislation, Civil Aeronautics Board, 1825 Connecticut Avenue, N.W., Washington, D.C. 20428; 202-673-5442.

SUPPLEMENTARY INFORMATION: In Part 302 (14 CFR Part 302), Board proceedings are called "Economic enforcement proceedings." Inclusion of the word "economic" is a holdover from the time when the Board had safety, as well as economic, responsibilities. Now it is no longer necessary to retain this word, and its continued inclusion is misleading because the Board issues, in addition to regulations labeled "Economic", others labeled "Special", "Procedural", and "Organization." Enforcement proceedings may be conducted regarding any Board regulations according to their terms. In fact, § 300.20 (14 CFR Part 300.20) authorizes the Board to conduct enforcement proceeding to enforce its rules of conduct. The word "economic" is therefore being deleted to make clear that enforcement proceedings under Part 302 may encompass violations of any rules, including rules of conduct.

We are also taking this opportunity to rewrite §§ 302.200 and 302.201, 302.202, 302.210, 302.211 and 302.215(a) in clearer language.

This editorial amendment is issued under the delegation of authority from the Board to the General Counsel in 14 CFR 385.19. Procedures for review of this amendment are set forth in Subpart C of Part 385 (14 CFR §§ 385.50 through 385.54).

The Board hereby amends 14 CFR Part 302, *Rules of Practice in Economic Proceedings*, as follows:

1. Part 302 is renamed by replacing the word "economic" with the word "Board" so that it reads:

PART 302—RULES OF PRACTICE IN BOARD PROCEEDINGS

2. The table of contents is amended by deleting the word "economic" from the title of Subpart B so that it reads:

* * * * *

Subpart B—Rules Applicable to Enforcement Proceedings

* * * * *

3. In § 302.3, paragraph (c) is amended so that it reads:

§ 302.3 Filing of documents.

* * * * *

(c) *Number of copies.* Unless otherwise specified, an executed original and nineteen (19) true copies of each document required or permitted to be filed under these rules shall be filed with the Docket Section, except that an original and five (5) copies of third party complaints, answers, documents dealing with discovery, and motions addressed to an administrative law judge may be filed in proceedings under Subpart B—Rules Applicable to Enforcement Proceedings. In any route proceeding that affects a point in Alaska, the person filing shall send an additional copy to: Civil Aeronautics Board, 701 C Street, Box 27, Anchorage, Alaska 99513. The copies need not be signed but the name of the person signing the document, as distinguished from the firm or organization he or she represents, shall also be typed or printed on all copies below the space provided for signature.

* * * * *

4. Subpart B is renamed by deleting the word "economic" in the title so that it reads:

Subpart B—Rules Applicable to Enforcement Proceedings

5. In § 302.200, paragraph (a) is amended so that it reads:

§ 302.200 Applicability of this subpart.

(a) *In general.* This subpart contains the specific rules that apply to Board proceedings to enforce the act and the rules, regulations, orders and other requirements issued by the Board. Subpart A of this part contains other rules that apply to these proceedings.

* * * * *

6. § 302.201 is amended so that it reads:

§ 302.201 Formal complaints.

Any person may make a formal complaint to the Board about any violation of the economic regulatory provisions of the act or of the Board's rules, regulations, orders, or other requirements. Every formal complaint shall conform to the requirements of § 302.3, concerning the form and filing of documents. The filing of a complaint shall result in a formal enforcement proceeding only if the Director of the Bureau of Consumer Protection issues a notice instituting an enforcement proceeding as to all or part of the complaint under § 302.206(a) or the Chief Administrative Law Judge does so under § 302.206(b). A formal complaint may be amended at any time before service of an answer to the complaint. After service of an answer but before institution of an enforcement proceeding, the complaint may be amended with the permission of the Director of the Bureau of Consumer Protection. After institution of an enforcement proceeding, the complaint may be amended only on grant of a motion filed under § 302.18.

7. § 302.202 is amended so that it reads:

§ 302.202 Subcription and verification.

Every formal complaint, supplemental complaint, answer, or other pleading filed in an enforcement proceeding shall be signed by the party filing it, or by a duly authorized officer, agent or attorney of the party. The person signing the pleading shall also verify it under oath or under penalty of perjury, stating that he has read the pleading and the attached exhibits, if any, and knows their contents, and that the contents are true or, if stated on information and belief, that he believes them to be true. If the pleading is signed or verified by anyone other than the party filing it or an officer or attorney of the party, the reason must be stated and that person's power of attorney or other authority to sign or verify the pleading must be filed with the pleading.

8. § 302.210 is amended so that it reads:

§ 302.210 Parties.

The parties to an enforcement proceeding shall be the Bureau of Consumer Protection, the respondent, any person whose formal complaint alleged violations that were later covered by the notice of enforcement, and any other person permitted to intervene under § 302.15.

9. § 302.211 is amended so that it reads:

§ 302.211 Prehearing conference.

A prehearing conference may be held in an enforcement proceeding whenever the Board or the administrative law judge believes that the fair and expeditious disposition of the proceeding requires one. If a prehearing conference is held, it shall be conducted in accordance with § 302.23.

10. In § 302.215, paragraph (a) is amended so that it reads:

§ 302.215 Offers of settlement.

(a) Any respondent to an enforcement proceeding may submit offers of settlement at any time before final decision. Every settlement offer shall be submitted in writing to the Director of the Bureau of Consumer Protection, who will promptly advise the respondent whether the offer is acceptable to the Bureau. Whenever the Director finds the offer acceptable as a basis for terminating all or part of the proceeding, he will transmit the offer to the presiding administrative law judge, serving all parties to the proceeding. The administrative law judge shall consider the views of all parties and, if the offer appears to be in the public interest, shall issue an initial decision in accordance with § 302.27 approving the offer. If the Director of the Bureau of Consumer Protection finds the offer unacceptable or the administrative law judge determines that it is not in the public interest, no interlocutory review will be permitted except in extraordinary circumstances and with the consent of the Director or the administrative law judge, as appropriate. The submission of an offer of settlement shall not alter or delay the course of the proceeding unless so ordered by the administrative law judge or the Board.

* * * * * *

(Section 204 of the Federal Aviation Act of 1958, as amended, 72 Stat. 743; 49 U.S.C. 1324).

By the Civil Aeronautics Board.

Gary J. Edles,
Acting General Counsel.

[Regulation PR-205; Amdt. 56]
[F.R. Doc. 79-15160 Filed 5-14-79; 8:45 am]
BILLING CODE 6320-01-M

NATIONAL AERONAUTICS AND SPACE ADMINISTRATION

14 CFR Part 1203

Establishment of NASA Information Security Program Committee

AGENCY: National Aeronautics and Space Administration.

ACTION: Final rule.

SUMMARY: This revision is necessary to comply with the provisions of Section 5-404(b), Executive Order 12065, "National Security Information," dated July 3, 1978. The purpose of the revision is to establish the NASA Information Security Program Committee as a part of the permanent administrative structure of NASA pursuant to E.O. 12065 and the provisions of the National Aeronautics and Space Act of 1958 as amended (42 U.S.C. 2451 et seq.).

EFFECTIVE DATE: May 15, 1979.

ADDRESS: Director, Security Division, National Aeronautics and Space Administration, Washington, D.C. 20546.

FOR FURTHER INFORMATION CONTACT: Ben B. Pagac, Security Division, Telephone (202) 755-3400, National

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[Docket No. C-2523]

"Other real property" shall mean a house

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Aeronautics and Space Administration, Washington, D.C. 20546.

SUPPLEMENTARY INFORMATION: This regulation involves a national security function and is exempt from the procedures of 5 U.S.C. 553.

1. In 14 CFR Chapter V, Part 1203, Subpart G is redesignated as Subpart I and revised to read as follows:

Subpart I—NASA Information Security Program Committee

Sec.
1203.900 Establishment.
1203.901 Responsibilities.
1203.902 Membership.
1203.903 Ad hoc committees.
1203.904 Meetings.

Authority: 42 U.S.C. 2473

Subpart I—NASA Information Security Program Committee

§ 1203.900 Establishment.

Pursuant to Executive Order 12065, "National Security Information" and the National Aeronautics and Space Act of 1958, as amended, there is established a NASA Information Security Program Committee (hereinafter referred to as the Committee) as part of the permanent adminstrative structure of NASA. The Director, DOD Affairs Division, is designated to act as the Chairperson of the Committee. The Chief, Classification Management and Physical Security Branch, Security Division, is designated to act as the Committee Executive Secretary.

§ 1203.901 Responsibilities.

(a) The Chairperson reports to the Administrator concerning the management and direction of the NASA Information Security Program as provided for in Subpart B of this part. In this connection, the Chairperson is supported and advised by the Committee.

(b) The Committee shall act on all appeals from denials of declassification requests and on all suggestions and complaints with respect to administration of the NASA Information Security Program as provided for in Subpart B of this part.

(c) The Executive Secretary of the Committee shall maintain all records produced by the Committee, its subcommittees, and its ad hoc panels.

(d) The Security Division, NASA Headquarters, will provide staff assistance and support services for the Committee.

§ 1203.902 Membership.

The Committee will be comprised of the Chairperson, Executive Secretary, and one member designated by each of the following NASA officials:

(a) Associate Administrators for:

(1) Aeronautics and Space Technology,

(2) Space Science,

(3) Space and Terrestrial Applications,

(4) Space Transportation Systems,

(5) Space Tracking and Data Systems,

(6) Management Operations,

(7) External Relations.

(b) Assistant for Special Projects.

(c) General Counsel.

§ 1203.903 Ad hoc committees.

The Chairperson is authorized to establish such ad hoc panels or subcommittees as may be necessary in the conduct of the Committee's work.

§ 1203.904 Meetings.

(a) Meetings will be held at the call of the Chairperson.

(b) Records of the minutes of each meeting will be made and maintained by the Executive Secretary.

Subpart 1203.G [Reserved]

2. Subpart 1203.G is reserved.

Robert Frosch,
Administrator.

[FR Doc. 79-15119 Filed 5-14-79; 8:45 am]

BILLING CODE 7510-01-M

FEDERAL TRADE COMMISSION

16 CFR Part 13

Prohibited Trade Practices and Affirmative Corrective Actions; Huk-A-Poo Sportswear, Inc., et al.

AGENCY: Federal Trade Commission.

ACTION: Final order.

SUMMARY: In settlement of alleged violations of federal law prohibiting unfair acts and practices and unfair methods of competition, this consent agreement, among other things, requires two New York City wearing apparel manufacturers to cease establishing, maintaining or enforcing resale price agreements; suggesting retail prices or issuing price lists for a three-year period; pre-ticketing products with recommended retail prices; soliciting the identity of non-conformers and taking any adverse action against them. Additionally, the companies are required to reinstate customers who were terminated since January 1, 1974 for failing to maintain suggested prices; and keep records regarding reinstatement requests for five years.

DATES: Complaint and order issued April 25, 1979.[1]

FOR FURTHER INFORMATION CONTACT: Leroy Richie, Director, 8R, New York Regional Office, Federal Trade Commission, 2243-EB Federal Bldg., 26 Federal Plaza, New York, N.Y. 10007. (212) 264-1207.

SUPPLEMENTARY INFORMATION: On Friday, February 16, 1979, there was published in the **Federal Register**, 44 FR 10074, a proposed consent agreement with analysis In the Matter of Huk-A-Poo Sportswear, Inc., a corporation, and Pranx Fashions, Inc., a corporation, for the purpose of soliciting public comment. Interested parties were given sixty (60) days in which to submit comments, suggestions or objections regarding the proposed form of order.

No comments having been received, the Commission has ordered the issuance of the complaint in the form contemplated by the agreement, made its jurisdictional findings and entered its order to cease and desist, as set forth in the proposed consent agreement, in disposition of this proceeding.

The prohibited trade practices and/or corrective actions, as codified under 16 CFR Part 13, are as follows: Subpart-Coercing and Intimidating: § 13.350 Customers or prospective customers; § 13.358 Distributors. Subpart-Combining or Conspiring: § 13.395 To control marketing practices and conditions; § 13.425 To enforce or bring about resale price maintenance; § 13.430 To enhance, maintain or unify prices; § 13.497 To terminate or threaten to terminate contracts, dealings, franchises, etc. Subpart-Corrective Actions and/or Requirements: § 13.533 Corrective actions and/or requirements; 13.533-45 Maintain records; 13.533-65 Renegotiation and/or amendment of contracts. Subpart-Cutting Off Supplies or Service: § 13.610 Cutting off supplies or service; § 13.655 Threatening disciplinary action or otherwise. Subpart-Discriminating Between Customers: § 13.685 Discriminating between customers; 13.685-10 Federal Trade Commission Act. Subpart-Maintaining Resale Prices: § 13.1145 Discrimination; 13.1145-5 Against price cutters; 13.1145-45 In favor of price maintainers; § 13.1155 Price schedules and announcements; § 13.1160 Refusal to sell; § 13.1165 Systems of espionage; 13.1165-80 Requiring information of price cutting.

[1] Copies of the Complaint and Decision and Order filed with the original document.

(Sec. 6, 38 Stat. 721; (15 U.S.C. 46). Interprets or applies sec. 5, 38 Stat. 719, as amended; (15 U.S.C. 45))

Carol M. Thomas,
Secretary.

[Docket No. C-2962]

[FR Doc. 79-15128 Filed 5-14-79; 8:45 am]

BILLING CODE 6750-01-M

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16 CFR Part 13

Prohibited Trade Practices and Affirmative Corrective Actions; GAC Corp., et al.

AGENCY: Federal Trade Commission.

ACTION: Modification of order to cease and desist.

SUMMARY: This order modifying an Order to Cease and Desist issued on July 23, 1974, requires incorporation of the terms of the 1974 order within any GAC plan of reorganization under provisions of the Bankruptcy Act confirmed by the Bankruptcy Court. Upon such confirmation, the modified order requires the company to establish a $10,000,000 accrual Reserve Fund to be used to defray costs of building individual septic tanks or wells in the northern section of Golden Gate Estates, and to reimburse those whose land is found to be unsuitable for homesites. Because of GAC's poor financial condition, the company is only required to develop a portion of Golden Gate Estates, rather than the entire subdivision, as previously mandated; and is provided with additional time in which to fulfill its contractual obligations to land owners. The modified order further requires GAC to provide financial compensation or alternate homesites to those owning property in the area to be left undeveloped.

DATES: Decision issued July 23, 1974. Modifying order issued April 17, 1979.

FOR FURTHER INFORMATION CONTACT: FTC/P, Albert H. Kramer, Washington, D.C. 20580. 202-523-3727.

SUPPLEMENTARY INFORMATION: In the Matter of GAC Corporation, GAC Properties, Inc., and GAC Properties, Inc. of Arizona, corporations and their subsidiaries. The prohibited trade practices and/or corrective actions, as codified under 16 CFR Part 13, appears at 39 FR 34021, and remains unchanged.

(Sec. 6, 38 Stat. 721; (15 U.S.C. 46). Interprets or applies sec. 5, 38 Stat. 719, as amended; (15 U.S.C. 45))

The order modifying order to cease and desist, is as follows:

[Docket No. C-2523]

Order Modifying Order To Cease and Desist

The Commission on February 13, 1979, issued its order to show cause why this proceeding should not be reopened and its order of July 23, 1974 (hereafter sometimes referred to as "the Commission Order of 1974"), modified.

Respondents having filed an answer consenting to the proposed changes of the Commission Order of 1974, and the Commission having considered the comments filed by interested persons,

Now, therefore, it is hereby ordered, That the aforesaid order to cease and desist be, and it hereby is, modified in accordance with the show cause order subject to, and contingent upon, satisfaction of all of the following conditions:

(1) The incorporation of the terms of the Commission Order of 1974, as modified, within any plan of reorganization of the respondent confirmed by the bankruptcy Court in the aforesaid Chapter X proceedings (hereafter referred to as the "plan of reorganization") such incorporation to be without any alterations, substitutions, changes or deletions of the Commission Order of 1974, as modified;

(2) The incorporation of an express provision within any plan of reorganization of the respondent confirmed by the Bankruptcy Court in the aforesaid Chapter X proceedings that the reorganized company which is created thereby shall be subject to the requirements of the Commission Order of 1974, as modified;

(3) The incorporation of an express provision within any plan of reorganization of the respondent, confirmed by the Bankruptcy Court in the aforesaid Chapter X proceedings, that the reorganized company shall stipulate and agree to the enforcement as provided by law, including, but not limited to, as provided under Section 45(1), Title 15, United States Code. *Provided further,* That nothing contained in the order modifying the Commission Order of 1974, and no action taken by the Bankruptcy Court in the aforesaid Chapter X proceedings, shall in any way restrict the right of any lot purchaser or title holder who chooses to reject the alternatives provided in the Commission Order of 1974, as modified, from filing any claim he or she may otherwise have against the respondent in the aforesaid Chapter X proceedings; however, the acceptance of any of the alternatives provided shall act as a bar to the filing of any other claims relating to the same land of the lot purchaser or titleholder or the contract applicable thereto prior to confirmation of the plan of reorganization.

Upon full satisfaction of all of the above conditions, the Commission Order of 1974 shall be modified, without necessity of further action by the Commission, as follows:

Order

For purposes of this Order the following definitions shall be applicable:

"Land" shall mean real property subdivided into parcels without any house or building constructed thereon, but shall not include anything defined below as "other real property."

"Other real property" shall mean a house or building constructed for residential purposes and the land upon which it is situated, including land upon which, pursuant to a purchase agreement or contract, a house or building is to be constructed within 12 months and with respect to which no consideration will pass to respondents until closing other than moneys held in escrow or a minimal earnest-money deposit.

"Consumer" shall mean a natural person to whom respondents offer to sell or sell land or other real property; *Provided, however,* That the term "consumer" shall not include a natural person who purchases land in a single transaction for a sum in excess of $50,000.

As used in this Section of the Order, a requirement to cease and desist from representing or misrepresenting shall unless otherwise indicated, include representing or misrepresenting directly or by implication, and by any manner or means.

It is ordered, That respondents GAC Corporation, GAC Properties, Inc. and GAC Properties, Inc., of Arizona, corporations, and their officers, and their subsidiaries and the said subsidiaries' officers, and respondents' successors, assigns, agents, representatives and employees, directly or through any corporate or other device in connection with the advertising, offering for sale, or sale of land and other real property to consumers in commerce, as "commerce" is defined in the Federal Trade Commission Act, do forthwith cease and desist from:

1. (a) Failing to disclose, clearly and conspicuously, in any written or oral invitation or other initial communication to consumers concerning any event or activity, including but not limited to dinner parties or other gatherings, contests, awards of free or low cost gifts or vacations, and sightseeing tours, or for any other goods or services, which invitation or communication is in any manner a part of a plan or procedure to sell land, the following statement:

"The purpose of [the event or activity] is to attempt to sell you land presently undeveloped in [name of State in which land is located]."

(b)(i) If the invitation or communication is in writing, such disclosure shall be in writing and shall be made clearly and conspicuously and in conjunction with the invitation or communication; (ii) if the invitation or communication is oral and delivered in person, such disclosure shall be both oral and in writing and shall be made clearly and conspicuously and in the conjunction with the invitation or communication; and (iii) if the invitation or communication is made by telephone, such disclosure shall be made orally and clearly and conspicuously in conjunction with the telephone invitation or communication and in writing by mail to be received by the prospective purchaser at least 24 hours prior to the event or activity: *Provided, however,* With respect to subpart (iii) above, that if the event or activity is a sales presentation to be conducted in the home of the consumer, such written disclosure may be made at any time prior to the sales presentation, but in no event shall such disclosure be made later than the

General Warranty Deed in recordable form.

said mailing if such purchasers are to obtain

(b) That real estate is a good or safe

introductory remarks of the salesman; and further provided, with respect to subpart (iii) above that if the invitation or communication is received at a place other than the consumer's residence or place of employment, such written disclosure may be made at any time prior to the consumer's attendance at the sales presentation.

2. Misrepresenting the true nature and purpose of any event or activity, including but not limited to dinner parties or other gatherings, contests, awards of free or reduced gifts or vacations, and sightseeing tours.

3. Failing to furnish the purchaser with a fully completed copy of the contract at the time of its signing by the purchaser, which is in the same language as that principally used in the oral sales presentation, if any, and which shows the date of the transaction and contains the name and address of the respondent: *Provided, however,* That a foreign language copy of the contract need not be furnished if the purchaser is literate in the English language: *And further provided,* That the contract need not at this time contain the signature of respondents.

4. Failing to set forth as the title of any contract for the purchase of land, in boldface type, the following language: "Contract for Deed for the Purchase of Land."

5. (a) Failing to print clearly and conspicuously in 12-point boldface type on the top half of the first page of all contracts for the sale of land, in addition to that language required by Paragraph 4 above, the following:

"This is a contract by which you agree to purchase land. You have 10 days in which to determine whether to continue this contract cancel it with full refund. See the attached notice of cancellation form for an explanation of this right. Use this time to examine with care the property report (sometimes called a public offering statement) which must be given to you at or before the time you sign this contract.

The future value of this land, like all undeveloped real estate, is uncertain. It is unlikely that a purchaser will be able to resell his land without substantial community development and population growth, which may not occur for a number of years after you have completed your contract payments, if at all. It is suggested that you have both this contract and the property report reviewed by a lawyer, realtor or other qualified professional."

(b) In addition, there shall appear, in the form and place described in subparagraph (a) such of the following statements as are applicable:

(i) For contracts for the sale of lots to which respondents are not obligated to make a central sewer system available at the time title passes to the purchaser, add the following, including the second and third sentence only where applicable:

"A central sewer system will not be available when you have completed your contract payments. Installation of septic tank would be at your expense. However, the use of a septic tank on your lot is contingent on passing a soil test and approval by governmental authorities."

(ii) For contracts for the sale of lots to which respondents are not obligated to make a central water system available at the time title passes to the purchaser, add the following, including the second sentence only where applicable:

"A central water system will not be available when you have completed your contract payments. Installation of a well would be at your expense."

(iii) For contracts for the sale of lots to or on which respondents are not obligated to provide any improvements, add the following in lieu of any of the above:

"This completely undeveloped land is being sold "as is." No improvements are planned for this subdivision. Your lot is probably inaccessible by conventional means of transportation, and has no use in the present or in the forseeable future."

6. Failing to include in any contract for the sale of land a provision whereby the seller agrees not to create during the contract term, without the express written permission of the purchaser, by sale, lease, or any other means, any restriction, easement or reservation of any kind which can substantially limit the purchaser's use or enjoyment of his lot after the maturity date of said contract.

7. Including in any contract for the sale of land, or in any document shown or provided to purchasers or prospective purchasers of land, whether or not signed by such purchasers or prospective purchasers, language stating expressly or by implication:

(a) That no express or implied representations have been made in connection with the sale of respondents' land, or that any particular representation has not been made in connection therewith; and

(b) That the purchaser has had an opportunity to examine or understand any property report, offering statement or similar document required by state or federal law to be made available to him; provided, however, that such language may be included when authorized by the Interstate Land Sales Full Disclosure Act, presently codified at 15 U.S.C. 1701–20 (1970).

8. Changing a contract in any respect after signature by the purchaser unless such change is made by mutual agreement in writing, and unless it is clearly and conspicuously disclosed to the purchaser that he can refuse to accept such change and in lieu thereof receive a full refund of all moneys paid under the contract.

9. Making any Statement or representation concerning the rights or obligations of respondents or the purchaser which differs in any material respect from the rights or obligations of the parties as stated in the contract.

10. (a) Representing that respondents will provide, or that respondents' subdivisions will have available, any recreational facility, improvement (roads or drainage) or utility (central sewage and water systems, electricity, or telephone service), unless respondents' contracts at the time of the representation contain a legal obligation on the part of respondents to provide or make available (i) said recreational facilities and improvements at a date certain, not later than 12 years from the date of purchase, set out clearly and conspicuously in the contract; (ii) said utilities within 90 days after respondents' receipt of written notification of the issuance of a building permit: *Provided,* That, if so represented, the time for installation of central water and sewer systems may be stated in the contract in terms of population density rather than as a specific date or time; and (iii) without, in the case of improvements or utilities, any cost to the purchaser in excess of the purchase price stated in the contract, except hook-up or installation charges for utilities as estimated in the contract on a current cost basis, subject to future local adjustments in accordance with regulations of and tariffs filed with appropriate public authorities.

(b) Failing to express the aforesaid contractual obligation set out in subparagraph (a) above in the contract with the purchaser in the following manner:

(i) An adequate description of each improvement, utility or recreational facility to be provided;

(ii) A provision that in the event any of the improvements, utilities or recreational facilities specified in the contract are not available to the lot which is the subject of the contract or are not completed within six months of the time provided in the contract, respondents will immediately, upon the expiration of said six-month period, provide the purchaser by certified mail, return receipt requested, with notice of such unavailability of or failure to complete the aforesaid improvements, utilities or recreational facilities and of the purchaser's right to exercise within 30 days of receipt of said notice his option to receive an exchange or to cancel and receive a full refund as set out in subparagraph (iii) below;

(iii) An option to the purchaser stated substantially as follows:

In the event that any of the improvements, utilities or recreational facilities specified by the seller in this contract are not available to the lot which is the subject of this contract or are not completed within six months of the time provided in this contract, the buyer may elect, at his option, to (1) receive an exchange acceptable to the buyer of the contracted-for homesite property for another of at least equal price, equivalent size, with equivalent zoning classification and same promised improvements and utilities, and located in the same general geographic area of the subdivision, or (2) cancel this contract and receive from the seller a full refund of all moneys paid under the contract. To exercise this option, the buyer must give notice to the seller by registered or certified mail within 30 days after receipt of notice from the seller of such unavailability of or failure to complete the aforesaid improvements, utilities or recreational facilities. Where the buyer has received a deed or other evidence of interest in the contracted-for property other than this contract, the buyer must, as a condition of obtaining an exchange or a refund hereunder, reconvey to the seller such evidence of interest in the title to such property by

General Warranty Deed in recordable form. In the event only the contract has been recorded in the Public Records, the buyer must quit claim in recordable form his interest to the seller to remove any clouds on the title to said property.

(c) Failing to make the exchange or refund requested by a purchaser under the terms of this Paragraph of the Order within 60 days of receipt of notification from the purchaser.

(d) Soliciting or obtaining the purchaser's assent to or otherwise imposing any condition, waiver or limitation upon the right of a purchaser to an exchange or a refund as set forth in this Paragraph of the Order: *Provided, however,* That respondents may require purchasers to request an exchange or a refund within a stated time period of not less than 30 days after receipt by the purchaser of the notice required by subparagraph (b)(ii) above.

11. (a) Failing to furnish each purchaser of land, at the time he signs the contract, with a completed form in duplicate, captioned "Notice of Cancellation," which shall contain in boldface type of a minimum size of 10 points the following statement:

Notice of Cancellation

_____

(Date of transaction) _____

_____

(Print purchasers' names) _____

You may cancel this transaction, without any penalty or obligation, at any time prior to midnight of the tenth (10th) day after the above date.

If you cancel, any payments made by you under the contract will be refunded within ten (10) business days following receipt by the seller of your cancellation notice.

To cancel this transaction, mail or deliver a signed copy of this cancellation notice or any other written notice, or send a telegram, to *(name of respondent),* at *(address of respondent's place of business)* not later than midnight of

(Date) _____

I (we) hereby cancel this transaction. (Each purchaser must sign this notice):

_____

(Date) _____

(Purchasers' signatures) _____

(b) Failing, before furnishing copies of the "Notice of Cancellation" to the purchaser, to complete both copies by entering the name of the respondent, the address of the respondent's place of business, the date of the transaction, and the date, not earlier than the tenth day following the date of the transaction, by which the purchaser may give notice of cancellation.

12. Failing, in any instance where a timely notice of cancellation as required by Paragraph 11 above is received, and said notice is not properly signed, and respondents do not intend to honor the notice, immediately to notify the purchaser by certified mail, return receipt requested, enclosing the notice, informing the purchaser of his error, and stating clearly and conspecuously that a notice signed by each purchaser must be mailed by midnight of the third day following the purchaser's receipt of said mailing if such purchasers are to obtain a refund.

13. Failing or refusing to honor any signed and timely notice of cancellation by a purchaser, including any such notice received in accordance with Paragraph 12 above, and within ten business days after the receipt of such notice, to (i) refund all payments collected under the contract, and/or (ii) cancel and return any negotiable instrument executed by the purchaser and retained by respondents in connection with the contract.

14. Negotiating, transferring, selling or assigning any note or other evidence of indebtedness of a purchaser of land to a finance company or other third party prior to midnight of the fifteenth business day following the day the contract was signed.

15. Whenever the signature of a prospective purchaser of land is solicited during the course of a sales presentation, failing to inform each purchaser orally, prior to or at the time he signs the contract, of his right to cancel as provided for in Paragraph 11 above.

16. Requiring the purchaser to make a personal inspection of his lot, the subdivision in which it is located, or any other property, as a condition precedent to the cancellation of any contract or the refund of any moneys paid thereunder, unless respondents (a) allow such purchaser two business days following the date of inspection within which to cancel, and (b) provide the purchaser at the time of inspection with a notice which clearly and conspicuously states (i) that the purchaser has two business days within which to cancel, (ii) that, in order to cancel, the purchaser must give respondents written notification by registered or certified mail of his desire to cancel, (iii) the final date by which the purchaser must mail such notice of cancellation, and (iv) the address where such notice must be sent: *Provided, however,* That nothing in this Paragraph of the Order shall permit respondents to condition any other cancellation rights provided for in this Order on the purchaser's inspection of any property.

17. Failing to comply with § 226.9 of Regulation Z, 12 CFR 226.9, or its successor regulation.

18. Failing to disclose, clearly and conspicuously, in all promotional materials and advertisements relating to the sale of land, the following statement: "Since land values are uncertain, you should consult a qualified professional before purchasing." *Provided, however,* That the above statement shall not be required in the following: (a) Billboards;

(b) Radio and television advertisements of ten seconds or less;

(c) The following advertisements when limited to soliciting requests for information through the mail: (i) Magazine advertisements of ¼ page or less in size;

(ii) Newspaper advertisements of ⅛ page or less in size;

(iii) Radio advertisements of more than ten seconds but not more than 45 seconds in duration.

19. Representing: (a) That the purchase of a lot in one of respondents' subdivisions is a way to insure financial security or to become wealthy;

(b) That real estate is a good or safe investment, or that the purchase of a lot in one of respondents' subdivisions is a good or safe investment;

(c) That land is becoming scarce; or

(d) That the value of any land, including lots being offered for sale or previously sold by respondents, has increased, or will or may increase, or that purchasers have made, or will or may in the future make, a profit by reason of having purchased respondents' land.

20. Misrespresenting the past, present or future sales price of lots in respondents' subdivisions.

21. Making any representation in connection with the sale of land which in any manner refers to or concerns, directly or by implication, investment in stocks, insurance, banks, or any other form of investment other than respondents' land.

22. (a) Directly stating that airports, Walt Disney World, tourism or industry may or will increase the price or value of any land or other real property sold or being offered for sale by respondents.

(b) Representing data or statistics concerning the growth or development of any geographic area or the business or industry in any geographic area, unless such representations are true and respondents have at the time of making such representations, and maintain for three years thereafter, adequate substantiation for such representations: *Provided, however,* That in the event such substantiation consists of data or statistics compiled by any governmental agency which are readily available to respondents, respondents need not retain such substantiation in their possession.

23. (a) Representing in any written promotional or advertising materials relating to the sale of respondents' land, including written materials prepared for use by respondents' salesmen in oral sales presentations, that the population of any geographic area other than respondents' subdivisions has increased, is increasing, or will increase unless respondents have, at the time of making such representation, and maintain for three years thereafter, a valid study or report which demonstrates that respondents' subdivisions within such geographic area or in the general vicinity thereof will materially benefit from said population increase.

(b) Making any representation concerning the population of any geographic area, including the representations referred to in subparagraph (a) above, unless such is the fact and unless respondents have at the time of making such representation, and maintain for three years thereafter, substantiating data which shall consist of a valid census or other valid report or study: *Provided, however,* That in the event such substantiation consists of data or statistics compiled by any governmental agency which are readily available to respondents, respondents need not retain such substantiation in their possession.

24. Representing that respondents will buy back lots from or resell lots for purchasers, unless such is the fact.

refund all moneys paid by such purchaser

III.

building permit) in the Poinciana subdivision

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25. Representing that respondents will provide, or that respondents' subdivisions will have available, any recreational facility, without clearly disclosing in immediate conjunction therewith and with the same conspicuousness as such representation (a) the year by which such recreational facility will be completed, and (b) the current approximate cost to purchasers and to their families of membership in and use of such facilities; or misrepresenting the recreational facilities available at respondents' subdivision generally or from individual lots therein.

26. Representing that waterfront property provides access by boat to the Atlantic Ocean, Gulf of Mexico, or any other body of water, or that canals are navigable or can be used for any recreational activity, unless such is the fact and unless all significant qualifications pertaining to such access, navigability or use are clearly disclosed in immediate conjunction therewith and with the same conspicuousness as such representation.

27. Representing that Golden Gate: (a) has shopping facilities or stores without clearly disclosing in immediate conjunction therewith and with the same conspicuousness as such representation the nature or extent of these facilities;

(b) has resort facilities without clearly disclosing in immediate conjunction therewith and with the same conspicuousness as such representation that Golden Gate does not have beaches or fishing and boating facilities, unless the contrary is in fact true.

28. Representing: (a) That River Ranch Acres or Remuda Ranch Grants will be developed in any manner;

(b) That all purchasers of lots in River Ranch Acres or Remuda Ranch grants can make substantial use of their lots in the present or in the future; or

(c) That purchasers of land have the right to lease to third persons or otherwise have any rights of enjoyment or possession during the contract term in the lots which they have agreed to purchase, unless such is the fact.

29. Assigning similar names to new subdivisions in which the facilities, improvements, and utilities available in such subdivisions are not substantially identical.

30. (a) Making any representation concerning Cape Coral or any other homesite subdivision at a sales presentation at which one or more lots not located in a homesite subdivision are being offered for sale; or

(b) Making any representation concerning any improvement, utility or recreational facility at one subdivision at a sales presentation for another subdivision at which respondents have not provided and are not obligated to provide similar improvements, utilities, or recreational facilities unless respondents disclose in immediate conjunction therewith and with the same conspicuousness as such representation that similar improvements, utilities, or recreational facilities will not be provided at the subdivision to which the advertisement or sales presentation is directed.

31. Misrepresenting the amount, proportion or magnitude of roads or canals completed or under construction in any subdivision.

32. Misrepresenting the qualities, characteristics, location or state of present or planned development of any subdivision or portion thereof.

33. Making any statement or representation concerning the proximity of any city or place to a subdivision or a part thereof without clearly disclosing in immediate conjunction therewith and with the same conspicuousness as such representation the approximate distance in road miles from the geographic center of the subdivision or part thereof to the other city or place referred to.

34. Making any statement or representation concerning the purchase price of land without clearly disclosing in immediate conjunction therewith and with the same conspicuousness as such statement or representation the nature and estimated amount of any additional payments, including but not limited to payments for property taxes, which must be made by the purchaser to respondents or to any third party in order to purchase such land.

35. Representing that central sewage and/or water systems will be available in a subdivision when a given level of population density is reached unless it is clearly disclosed in immediate conjunction therewith and with the same conspicuousness as such representation that purchasers will be required to install, at their own expense, wells and septic tanks until said level of population density is reached.

36. (a) Representing that free or low cost transportation to or accommodations at respondents' subdivisions will be provided unless such is the fact and without clearly disclosing in immediate conjunction therewith and with the same conspicuousness as such representation all conditions or limitations applicable thereto.

(b) Failing to provide the aforesaid transportation or accommodations on the date or within the time period stated or agreed upon: *Provided, however,* That it shall not be a violation of this Paragraph of the Order if such transportation or accommodations are not available due to conditions beyond the control of respondents.

(c) In the event the aforesaid transportation or accommodations are not provided on the date or within the time period stated or agreed upon, failing within 30 days to offer to refund and, upon request by the purchaser, to refund all moneys paid (i) under a contract entered into prior to said failure to provide such transportation or accommodations, and (ii) toward such transportation or accommodations: *Provided, however,* That respondents shall not be required to make refunds under subpart (i) above if such transportation or accommodations are not available due to conditions beyond the control of respondents.

37. Making any statement concerning any credit, refund or other monetary benefit or remuneration to purchasers or prospective purchasers unless such is the fact and without clearly disclosing in immediate conjunction therewith and with the same conspicuousness as such statement all conditions and limitations applicable to such credit, refund, benefit, or remuneration.

38. Referring to any instrument or document as a "credit check" or otherwise representing that a credit toward a purchaser's account is an actual payment to the purchaser in the form of cash, check, or other negotiable instrument.

39. Representing that persons being solicited to purchase respondents' land are being asked to take the first step, or are reserving the land, or are not making a final decision, or are not buying the land; or otherwise misrepresenting the legal signficance of signing a contract.

40. Representing that prospective purchasers must sign a contract immediately in order to assure purchasing property in a choice location, or that property similar to that being offered for sale may not or will not be available or available at the same price in the foreseeable future, unless such is the fact.

41. In connection with the sale of land: (a) Representing that increasing the amount of the monthly payment will speed up passage of title, unless such is the fact;

(b) Representing that increasing the amount of the monthly payment will speed up completion of improvements; or

(c) Misrepresenting the benefits to be obtained by increasing the amount of the monthly payment or by completing payment of the purchase price prior to the date the final payment is due under the contract.

42. Representing that any document, sales presentation, advertisement or promotional material has been filed with or approved by any State, the Federal Department of Housing and Urban Development, the Armed Forces, or any other governmental agency, unless such is the fact; or representing that governmental regulation means that respondents' representations are true, complete, or should be relied upon; or representing that respondents are affiliated in any manner with the Armed Forces of the United States or any government or governmental agency.

43. Including in any contract or other document any waiver, limitation or condition on the right of a purchaser to cancel a transaction or receive a refund under any provision of this Order, except as such waiver, limitation or condition is by this Order expressly allowed: *Provided, however,* That this Paragraph shall not be construed as prohibiting respondents from conditioning the purchaser's right to cancel and receive a refund under any provision of this Order on the purchaser's relinquishing and, where appropriate, reconveying to respondents his interest in the land which is the subject of the transaction being cancelled.

44. Misrepresenting the right of a purchaser to cancel a transaction or receive a refund under any provision of this Order or any applicable statute or regulation.

45. Making any representation or taking any action which is inconsistent with or detracts from the effectiveness of this Order.

It is further ordered, That respondents, upon receipt of a complaint from a purchaser alleging facts that indicate this Order may have been violated and requesting a refund or cancellation of the purchaser's contract,

refund all moneys paid by such purchaser where respondents determine, after a good faith investigation, that one or more of the paragraphs in Section I of this Order have been violated in connection with such purchaser's transactions with respondents: *Provided, however,* That in the event respondents refund any money pursuant to this Paragraph of the Order, the sole fact of such refund shall not be admissible against respondents in any proceeding brought to recover penalties for alleged violation of any other Paragraph of this Order: *And further provided,* That this Paragraph shall not be applicable to transactions in which the contract was entered into prior to the date this Order became final.

II.

It is further ordered, In connection with the refund of moneys forfeited under contracts in default prior to the date this Order becomes final:

A. That respondent compile a list of the last known name and address of all persons entering into contracts for the purchase of respondent's land who defaulted on said contracts and forfeited monies paid in excess of the sum of the downpayment plus an amount equal to 30 standard monthly payments as stated in the contract, said list to contain all such forfeitures from July 1, 1968 to October 11, 1974: *Provided, however,* That for contracts which were entered into or amended as a result of an exchange by which land purchased pursuant to a single contract was exchanged for land with a higher total price, the terms of the original contract entered into by the purchaser prior to such exchange shall be used to compute the sum of the downpayment and an amount equal to 30 standard monthly payments.

B. That the refund payments due to purchasers pursuant to this section shall be scheduled by the Co-Trustees and shall be provided for in a confirmed plan or reorganization as general unsecured claims entitled to payment at no less a rate or preference than any other general unsecured claims, including claims of bond and debenture holders. All such purchasers shall be notified of the disposition of their claims in conjunction with the notices and plan materials required to be mailed to creditors under Bankruptcy Rule 10–303(e). Upon the return of any notices undelivered, the purchasers affected shall receive notice as directed by the Bankruptcy Court pursuant to Bankruptcy Rule 10–405, fixing a time not less than five (5) years after the final decree closing the estate within which such purchasers may claim the distribution provided for them under the Plan. Upon the expiration of such period, any distribution unclaimed by such purchasers shall revert to the reorganized company, but the fair market value as of such date shall be added to the accrual Reserve Fund provided for under Section III of the Commission Order of 1974, as herein modified.

C. Respondents shall maintain, for a period of five (5) years after the date of the confirmation of the plan of reorganization all records which disclose respondent's compliance with this section of the order, as modified.

III.

It is further ordered, In connection with lot purchasers or titleholders holding contracts for or title to parcels of land in Golden Gate Estates (for purpose of this section, "titleholders" shall not include persons who acquired such title from Collier County, Florida by tax deed):

A. That respondent shall make available to each lot purchaser or titleholder of parcels of land in Golden Gate Estates which are *South* of Stewart Boulevard the choice of one of the following alternatives:

1. Each lot purchaser or title holder may choose to deed his property to respondent upon the Co-Trustees' scheduling his or her claim for all principal and interest paid to respondent and the provision for such claims as unsecured claims in a confirmed plan of reorganization. Claims hereunder shall be allowed in full, or in *pro rata* amounts totalling not more than $18,000,000 which is the maximum amount of claims that will be allowed under this paragraph. Claims under this paragraph shall be treated as follows:

a. Payments made by lot purchasers or titleholders subsequent to December 12, 1975 shall be granted priority status and, in the event of a successful reorganization plan, shall be paid in cash;

b. The remainder of claims under this paragraph shall be allowed *pro rata* after deducting the claims paid under subparagraph (a) of this paragraph from the allowable maximum of $18,000,000 as general unsecured claims entitled to payment at no less a rate or preference than any other general unsecured claims including claims of bond and debenture holders.

2. Each lot purchaser or titleholder may choose an exchange into River Ranch Acres, on a two-for-one basis, so that each lot purchaser or titleholder will receive double the acreage in River Ranch Acres as is presently owned in Golden Gate Estates. The selection of this alternative shall be limited to the inventory of land in River Ranch Acres owned by respondent as of May 1, 1978, depleted only by the acreage used by respondent to comply with Section IV of this Order. In the event a lot purchaser or titleholder who has elected this alternative is unable to receive the double acreage in River Ranch Acres as provided by this paragraph, respondent shall notify each such lot purchaser or titleholder in writing within thirty (30) days after such fact becomes known to respondent that the lot purchaser or titleholder must select one of the remaining alternatives in this Section.

Each lot purchaser or titleholder who chooses this option shall remain obligated for any sums remaining due on an existing contract.

3. Each single parcel lot purchaser or titleholder, such lot comprising approximately 1¼ acres, may choose an exchange for a developed homesite lot (which for purposes of this Order shall be deemed to include improvements consisting of paved streets and drainage, with central water and sewage service to the property line of such homesite; standard electrical service shall be available, at nominal charge, to each homesite within 180 days of the issuance of a building permit) in the Poinciana subdivision with the lot purchaser or titleholder to pay development costs of $2,300. The development costs to be paid by the lot purchaser or titleholder shall be in addition to any sums due under any existing contract with respondent. The development costs may be paid, at the option of the lot purchaser or titleholder, either in a lump sum or in deferred payments over not more than seven (7) years at the rate of 7.5 percent interest per annum. Although development costs may be payable over a seven (7) year period, the homesites shall be developed by respondent over a three (3) year period commencing immediately upon confirmation of a plan of reorganization. If the development costs are paid in a lump sum, respondent shall immediately issue a deed to the homesite and cause to be issued a policy of title insurance, subject only to the respondent's inventory of completed homesites in the Poinciana subdivision at the time the development costs are paid in a lump sum.

4. Each multi-parcel lot purchaser or titleholder may choose an exchange for each 2½ acre lot in Golden Gate Estates to one developed homesite lot in the Poinciana subdivision at no additional cost to the lot purchaser or titleholder except for a charge of $1,150 for water and sewer betterment fees. The water and sewer betterment fees shall be in addition to any sums due under any existing contract with respondent. The betterment fees may be paid, at the option of the lot purchaser or titleholder, either in a lump sum or in deferred payments over not more than seven (7) years at the rate of 7.5 percent interest per annum. Although such betterment fees may be payable over a seven (7) year period, the homesite shall be developed over a three (3) year period commencing immediately upon confirmation of a plan of reorganization. If such betterment fees are paid in a lump sum, respondent shall immediately issue a deed to the homesite and cause to be issued a policy of title insurance, subject only to the respondent's inventory of completed homesites in the Poinciana subdivision at the time the betterment fees are paid in a lump sum. After selecting this option of one developed homesite lot in the Poinciana subdivision, each multiparcel lot purchaser or titleholder may choose other alternatives in this section in exchange for any remaining lands in excess of the 2½ acre lot exchanged pursuant to this paragraph.

5. Each lot purchaser or titleholder may choose an exchange toward the land portion only of a "Housing Construction Package" at any on-going development project of the respondent, each lot purchaser or titleholder being entitled to full credit for all paid-in principal and interest, limited, however, to payments made to respondent on not more than one 2½ acre parcel of Golden Gate Estates per exchanging lot purchaser or titleholder. If a lot purchaser or titleholder has two or more Golden Gate Estates parcels, he or she may choose two or more "Housing Construction Packages" or one or more packages for each 2½ acres and choose other alternatives in this section in exchange for the remaining land. Lot purchasers or titleholders choosing this option shall have

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a. Perform such remedial work as is

(b) A purchaser of 1 or 2 lots may exchange

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five (5) years from the date of confirmation of a plan of reorganization within which to contract for a housing construction package at the terms (including price) and conditions being offered by the respondent at the time such contract is executed.

B. For all lot purchasers or titleholders of parcels of land in Golden Gate Estates *North* of Stewart Boulevard, respondent shall on the date of confirmation of a plan of reorganization establish an accrual Reserve Fund in the amount of $10,000,000. This Reserve Fund shall be maintained by respondent for a period of five (5) years following confirmation of a plan of reorganization or until the Reserve Fund has been depleted or exhausted, whichever event occurs first. After the fifth year, the funds under Section II which revert to the accrual Reserve Fund shall be immediately available for use under this section to pay any claim filed prior to the expiration of the five (5) year period. All claims payable under this section shall be paid in full on a first come, first served basis.

1. At any time after the date of confirmation of a plan of reorganization of the respondent, and no later than five (5) years after such date, each lot purchaser or titleholder of parcels of land in Golden Gate Estates *North* of Stewart Boulevard may, at his own expense, have a test or tests made to determine the percolation of his lot and/or the availability of an adequate supply of potable water. The lot purchaser or titleholder shall then provide respondent with such test report or reports, prepared by a Registered Professional Engineer or Registered Analytical Laboratory, certifying the failure of the lot to pass a percolation test or the inability to obtain potable water. For purposes of this order, "potable water" shall be defined as drinkable water that poses no threat to health by exceeding the maximum contaminant levels set by regulations of the U.S. Environmental Protection Agency under the Safe Water Drinking Act, as provided in 40 CFR Part 141 as of the date of this Order modifying the Commission Order of 1974, for inorganic and organic chemicals and coliform bacteria, and complies with all other applicable Federal, state and local standards for individual water supply systems.

2. With respect to any lot or parcel of land requiring expenditures for remedial work for percolation of less than $2,500, the first $1,000 of the expenditures for remedial work, which amount shall include the cost of having the test or tests made, shall be the responsibility of the lot purchaser or titleholder. Each lot purchaser or titleholder shall present to respondent a test report or reports certified by a Registered Professional Engineer that the remedial work will exceed $1,000 but not be more than $2,500. Within thirty (30) days after receipt of the certified report or reports from the lot purchaser or titleholder, respondent shall at its option:

a. Pay the excess of $1,000 to the lot purchaser or titleholder and charge such payment to the Reserve Fund; or

b. Request that the lot purchaser or titleholder pay to respondent the actual cost of doing the work, but not more than $1,000, less the cost of the test or tests paid by the lot purchaser or titleholder, and subsequently do the remedial work itself within sixty (60) days and charge the Reserve Fund with the difference, if any, between $1,000 and the actual cost of doing the work. Such charge to the Reserve Fund shall not exceed $1,500.

3. With respect to any lot or parcel of land requiring expenditures for remedial work for percolation in excess of $2,500, each lot purchaser or titleholder shall present to respondent a test report or reports certified by a Registered Professional Engineer that the remedial work will exceed $2,500. Within thirty (30) days after receipt of the certified report or reports from the lot purchaser or titleholder, respondent shall:

a. Exchange the lot purchaser or titleholder into a Golden Gate Estates land parcel *North* of Stewart Boulevard of equal size as the lot purchaser's or titleholder's existing parcel and provide the lot purchaser or titleholder with a Registered Professional Engineer's certificate certifying the percolation of such lot in its existing state without remedial work and the availability of an adequate supply of potable water in a well existing on such parcel as of the date of exchange; or

b. If respondent has no lots with adequate percolation and with an adequate supply of potable water available to offer under subparagraph (a) of this paragraph, respondent may do remedial work for a cost of not more than $3,000 per lot (including well-drilling) on available inventory of land *North* of Stewart Boulevard in order to certify both percolation and the availabilty of an adequate supply of potable water in an existing well on such parcel. Thereafter, respondent may charge a lot purchaser or titleholder exchanged into such lot the actual cost of the remedial percolation work or $1,000, whichever is less (minus the amount paid by such lot purchaser or titleholder for remedial percolation work on the parcel to be exchanged by such lot purchaser or titleholder) and the actual cost of well-drilling or $500, whichever is less (unless the lot purchaser or titleholder has previously had a well drilled on his former lot, in which case no charge shall be made for well-drilling). Respondent may thereafter charge one-half (½) the cost of remedial work and the full cost of well-drilling up to $500, less the amount received from the lot purchaser or titleholder, to the Reserve Fund; or

c. If no parcels in respondent's inventory remain which qualify for exchange under subparagraphs (a) or (b) above, refund to the lot purchaser or titleholder, in cash, from the Reserve Fund all principal paid in to respondent. In conjunction with the offer of such refund, or if no funds are available for such refund, respondent shall also offer the lot purchaser or titleholder, in lieu thereof, the choices provided in subparagraphs (A) (3)–(5) of this Section.

In the event of a lot exchange or cash refund pursuant to this paragraph, the lot purchaser or titleholder shall be required to deed his or her property to respondent.

4. With respect to any lot purchaser or titleholder who provides respondent with certification of the inability to obtain an adequate supply of potable water, respondent shall:

a. Perform such remedial work as is necessary to obtain an adequate supply of potable water, including the deepening or shallowing of the existing well or the drilling of an additional well on the same site. The cost of such work shall be borne by the respondent, but no more than $500 of the cost of such work may be charged to the Reserve Fund;

b. If the remedial work under subparagraph (a) of this paragraph cannot be performed for less than $500 or if an adequate supply of potable water is not produced thereby, exchange the lot purchaser or titleholder into a Golden Gate Estates land parcel *North* of Stewart Boulevard of equal size as that of the lot purchaser or titleholder and provide a certificate of a Registered Professional Engineer that the parcel passes a percolation test in its existing state without remedial work and that an adequate supply of potable water is available in a well existing on such parcel as of the date of the exchange. If the lot purchaser or titleholder has not had a well drilled, respondent may, as part of the exchange, require a payment of not more than $500 from the lot purchaser or titleholder to cover the actual cost of drilling the well.

c. If respondent has no lots with adequate percolation and with an adequate supply of potable water available to offer under subparagraph (b) of this paragraph, it may do remedial work for a total cost of not more than $3,000 per lot (including well-drilling) on available inventory *North* of Stewart Boulevard in order to certify both the percolation and availability of an adequate supply of potable water in a well existing on such parcel as of the date of exchange. Thereafter, respondent may charge a lot purchaser or titleholder exchanged into such parcel the cost of the remedial percolation work or $1,000, whichever is less (minus the amount paid by such lot purchaser or titleholder for remedial percolation work on the parcel to be exchanged by such lot purchaser or titleholder). Respondent may thereafter charge the Reserve Fund for one-half (½) the actual cost of the remedial work and the full cost of well-drilling up to $500, less the payment received from the lot purchaser; or

d. In the event that the remedial work or exchanges required by subparagraphs (a)–(c) of this paragraph cannot be performed as specified therein, refund to the lot purchaser or titleholder, in cash, from the Reserve Fund, all principal paid in to respondent. In conjunction with the offer of such refund, or if no funds are available for such refund, respondent shall also offer the lot purchaser or titleholder, in lieu thereof, the choices provided in subparagraphs (A) (3)–(5) of this Section.

C. The appropriate letter, as set forth in Appendices (1) or (2) of this Order modifying the Commission Order of 1974, shall be sent by respondent to all persons holding contracts for or title to land in Golden Gate Estates along with the claims bar order to be entered by the Bankruptcy Court fixing the claims deadline for claims relating to Golden Gate Estates. Respondent shall take all reasonable measures to obtain the current mailing address of such persons, including

obtaining current addresses from the tax rolls of Collier County, Florida for the Golden Gates Estates subdivision.

D. Respondent shall, on the date the Commission accepts the Order provisionally modifying the Commission Order of 1974, immediately establish an accrual fund in the amount of $200,000 to be used, as directed by the Federal Trade Commission or its representative, to notify by any means, including advertising by newspaper, magazine or television, persons holding contracts for or title to land in Golden Gate Estates of the options provided in this Section, and persons entitled to refunds under Section II of the Commission Order of 1974, as modified. No charges for mailing letters under paragraph (C) of this Section shall be charged to this fund. The amount required to be available under this paragraph shall remain available until five (5) years after the date of confirmation of a plan of reorganization or until exhausted, or until released by the Commission, whichever first occurs. Any funds charged to the fund established by this paragraph shall be subsequently charged to the accrual Reserve Fund established pursuant to paragraph (B) of this Section. If the accrual Reserve Fund is exhausted before the fund established in this paragraph is exhausted, no further funds will be available under this paragraph.

E. Respondent shall maintain, for a period of seven (7) years after the date of confirmation of a plan of reorganization, all records which disclose respondent's compliance with this Section of the Order, as modified.

IV.

For purposes of this section of the Order, the following definitions shall be applicable:

When used in reference to land at Remuda Ranch Grants or River Ranch Acres, "lot" shall mean a parcel of land approximately 1¼ acres in size, and "lots" shall mean a parcel or parcels of land purchased pursuant to a single contract with respondent GAC Properties Inc. or its predecessor Gulf American Corporation, the total acreage of which is a multiple of the approximately 1¼ acre parcel comprising a lot.

It is further ordered, In connection with the exchange of land purchased in Remuda Ranch Grants and River Ranch Acres:

A. That respondents compile a list containing the last known name and address of the purchaser and date of purchase for each contract for the purchase of a lot or lots in Remuda Ranch Grants or River Ranch Acres where the purchaser is either deeded or has an outstanding contract not in default, said list to be arranged in chronological order by subdivision and grouped according to the number of lots purchased.

B. That respondents send a letter as set out in Appendix A or B, as applicable, within six (6) months of the date this Order becomes final and thereafter in accordance with Paragraph C below, by certified mail, return receipt requested, to the following of the purchasers referred to in Paragraph A above: (1) All purchasers whose date of purchase is January 1, 1969 or later; (2) all purchasers of 3 or more lots whose date of purchase is prior to January 1, 1969; and (3) as many purchasers of 1 or 2 lots whose date of purchase is prior to January 1, 1969 as the inventory of lots set aside for this exchange offer will permit, in accordance with the schedule set out in subparagraph E(6) below.

C. That respondents enclose together with the letter referred to in Paragraph B above the following material:

1. A notice of acceptance form as set out in Appendix C;

2. A document listing (a) the contract number and date of purchase for the lot or lots in which the purchaser's interest will be relinquished if the exchange offer is accepted, and (b) the legal and/or other adequate description and approximate size concerning both the lot or lots being offered in exchange and the lot or lots in which the purchaser's interest will be relinquished if the exchange offer is accepted;

3. The applicable property report for the lot or lots being offered in exchange; and

4. A map or maps showing the location in the subdivision and, where available, the block or unit of the lot or lots being offered in exchange.

D. That with respect to any letter referred to in Paragraph B above which is returned to respondents undelivered, respondents, within 60 days of receipt of such undelivered letter, shall take measures which are reasonably calculated to obtain the current address of the purchaser and shall deliver said letter to him: *Provided, however*, That in the event respondents are unable to deliver such letter within said 60-day period, said offer of exchange shall be deemed rejected by the purchaser for purposes of this Order.

E. That respondents, upon receipt of a notice of acceptance of the exchange offer provided for in this section of the Order, shall exchange the lot or lots purchased in Remuda Ranch Grants and/or River Ranch Acres for land in certain of respondents' other subdivisions according to the following schedule:

1. Remuda Ranch Grants—date of purchase January 1, 1969 or later:

(a) A purchaser of 3 or more lots may exchange such lots for lots in Cape Coral which had, or would have had if offered for sale, a selling price on July 1, 1973 equal to or greater than the purchase price of his lots as stated in the contract of purchase: *Provided, however*, That no such pruchaser shall be offered less than 2 adjacent Cape Coral lots (1 homesite) in exchange for the lots he has purchased.

(b) A purchaser of 1 or 2 lots may exchange such lots for 1 homesite lot in Golden Gate Estates.

2. River Ranch Acres—date of purchase January 1, 1969 or later:

(a) A purchaser of 3 or more lots may exchange such lots for lots in Cape Coral which had, or would have had if offered for sale, a selling price on July 1, 1973 equal to or greater than the purchase price of his lots as stated in the contract of purchase: *Provided, however*, That no such purchaser shall be offered less than 2 adjacent Cape Coral lots (1 homesite) in exchange for the lots he has purchased.

(b) A purchaser of 1 or 2 lots may exchange such lot or lots for 1 homesite lot in River Ranch Shores.

3. Date of purchase prior to January 1, 1969:

(a) Remuda Ranch Grants—A purchaser of 3 or more lots may exchange such lots for lots in Gloden Gate Estates which had, or would have had if offered for sale, a selling price on July 1, 1973 equal to or greater than the purchase price of his lots as stated in the contract of purchase; *Provided, however*, That no such purchaser shall be offered less than 1 Golden Gate Estates lot in exchange for all the lots he has purchased.

(b) River Ranch Acres—A purchaser of 3 or more lots may exchange such lots for lots in Cape Coral which had, or would have had if offered for sale, a selling price on July 1, 1973 equal to or greater than the purchase price of his lots as stated in the contract of purchase; *Provided however*, That no such purchaser shall be offered less than 2 adjacent Cape Coral lots (1 homesite) in exchange for the lots he has purchased.

(c) Remuda Ranch Grants and River Ranch Acres—A purchaser of 1 or 2 lots may exchange lot or lots for 1 lot to be located in either Golden Gate Estates or River Ranch Shores at the discretion of respondents, subject to the inventory of lots set aside for the exchange offer as provided for in subparagraph 4 below.

4. For purposes of the exchange offer provided for in that section, respondents shall make available 3,429 lots in Golden Gate Estates, 7,058 lots in River Ranch Shores, and enough lots in Cape Coral to meet the demands of subparts 1(a), 2(a), and 3(b) above: *Provided, however*, That in the event respondents' inventory of lots in Cape Coral should prove insufficient to meet the demands of the exchange offer provided for in this section, lots in Poinciana shall be substituted: *And further provided*, That in the event any governmental regulation prevents the use of any portion of Golden Gate Estates as provided for in this section of the Order, respondents may offer to the applicable purchasers an alternative exchange, acceptable to the Commission, of a homesite lot in another subdivision.

5. (a) The lots in Golden Gate Estates to be offered in exchange pursuant to this section of the Order shall be developed in accordance with Section III above.

(b) The lots in Cape Coral, River Ranch Shores, and Poinciana to be offered in exchange pursuant to this section of the Order shall be developed in accordance with the most recent applicable property report on file on the date this Order becomes final with the Office of Interstate Land Sales Registration of the U.S. Department of Housing and Urban Development: *Provided, however*, That in the event no property report is on file with the Office of Interstate Land Sales Registration with respect to any lot in Cape Coral, River Ranch Shores, or Poinciana which is being offered in exchange pursuant to this section of the Order, such lot shall be developed in accordance with the most recent applicable property report or offering statement on file with the State of Florida.

6. For purposes of the exchange offer set out in subpart 3(c) above, such exchanges

for dissemination is obtained, whichever

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shall be made until the inventory of lots in Golden Gate Estates and River Ranch Shores set out in subparagraph 4 above is exhausted, subject to the following conditions:

(a) the exchanges shall be offered to all purchasers of 2 lots prior to being offered to purchasers of 1 lot; and

(b) the exchanges shall be offered to purchasers by date of purchase in reverse chronological order (most recent purchase exchanged first).

F. That in the event a purchaser fails to mail a notice of acceptance to respondents within 60 days of his receipt of the letter referred to in Paragraph B above, then for purposes of this Order such purchaser shall be deemed to have rejected the exchange offer.

G. That within 120 days of the initial exchange offer set out in Paragraph B above, respondents shall offer all lots referred to in subparagraph E(4) above for which an exchange offer has been rejected to the next purchasers eligible to receive said exchange offer in accordance with subparagraph E(6) above; and respondents shall thereafter continue, at intervals not to exceed 120 days, to offer all lots for which an exchange offer has been rejected to the next eligible purchasers until either all the aforesaid lots have been exchanged or the list of purchasers eligible to receive the exchange offer has been exhausted.

H. That the ten-day right of cancellation provided for in Paragraphs 6 through 10 of Section I of this Order shall not be applicable to lots exchanged pursuant to this section of the Order.

I. That respondents may condition the exchange offer under this section of the Order on the purchaser's execution of a quit-claim deed and/or other documents necessary to release his interest in the lot or lots being given up in exchange, such document or documents to be prepared by respondents.

J. That respondents maintain, for three years after the final exchange is made pursuant to this section of the Order records which are adequate to disclose respondents' compliance with this section of the Order, such records to be furnished by respondents to the Federal Trade Commission upon request.

K. That it shall be deemed full compliance with the provisions of this section if respondent (1) sends a letter, as set forth in Appendices (3) or (4), as appropriate, to the Order modifying the Commission Order of 1974, within ninety (90) days after a plan of reorganization has been confirmed by the Bankruptcy Court, by certified mail, return receipt requested, to the lotholders or titleholders who remain entitled to an exchange under Section IV of the Commission Order of 1974, such mailing to continue until 924 Remuda Ranch Grants lot purchasers or titleholders and 3,858 River Ranch Acres lot purchasers or titleholders acknowledge receipt thereof; and (2) provides the lot purchaser or titleholder with the option selected. Each such lot purchaser or titleholder shall be offered the choice of the following options:

(1) For those in River Ranch Acres, additional unimproved land in River Ranch Acres equal to their present acreage in size; for those in Remuda Ranch Grants, an exchange into River Ranch Acres, on a two-for-one basis, so that each lot purchaser or titleholder will receive double the acreage in River Ranch Acres as is presently owned in Remuda Ranch Grants; subject only to the availability of respondent's inventory of such land as of May 1, 1978. For those already holding title to or contracts for land in River Ranch Acres, the additional acreage offered hereunder shall be contiguous to the extent possible. Offers of land under this section shall take priority over exchanges offered under Section III of the Commission Order of 1974, as modified.

(2) An exchange to a homesite lot in the Poinciana subdivision under the conditions as set forth in Section III(A)(3)–(4) of the Commission Order of 1974, as modified.

(3) An exchange to a Housing Construction Package at any on-going GAC development project under the conditions as set forth in Section III(A)(5) of the Commission Order of 1974, as modified.

In the event any lot purchaser or titleholder who acknowledges receipt of a letter mailed pursuant to this section has not responded within sixty (60) days, such recipient shall be deemed to have rejected the alternatives provided by this section.

L. Respondent shall maintain, for a period of five (5) years after the date of confirmation of the plan of reorganization, all records which disclose respondent's compliance with this section of the Order, as modified.

V

For purposes of this section of the Order, the following definition shall be applicable:

"Residential property" shall mean land located in a subdivision in which the majority of lots are sold or offered for sale for use as homesites.

It is further ordered:

A. (1) That respondents shall include the following language, or words of similar import and meaning, in all installment contracts for the sale of residential property to consumers which are entered into after the date this Order becomes final, and shall make refunds in accordance therewith:

In the event of Buyer's default, Seller shall refund to Buyer within 160 days of the date of default principal payments (not interest, finance charges or taxes) made pursuant to this contract in accordance with the following schedule of refunds:

a. If Buyer's total principal payments do not exceed 30% of the cash price, Buyer shall not receive any refund whatsoever.

b. If Buyer's total principal payments exceed 30% but are less than 66⅔% of the cash price, Buyer shall receive a refund of two-thirds of all principal payments made in excess of 30% of the cash price.

c. If Buyer's total principal payments are in excess of 66⅔% of the cash price, Buyer shall receive a refund of one-half of all principal payments made in excess of 66⅔% of the cash price, together with and in addition to all sums refundable to Buyer under subpart B above.

(2) That in the event the rate of default for all contracts for the sale of respondents' land to consumers in which the amount of principal paid exceeds 30% of the cash price due thereunder, which are entered into during the ten-year period after the date this Order becomes final, does not exceed by more than ten percent the rate of default, computed in the same manner, for all such contracts for the three-year period immediately preceding the date this Order becomes final, the following schedule of refunds shall be included by respondents in all installment contracts for the sale of residential property to consumers which are entered into more than 90 days after the expiration of said ten-year period, in lieu of the schedule of refunds set out in subparagraph A(1) above:

a. If Buyer's total principal payments do not exceed 30% of the cash price, Buyer shall not receive any refund whatsoever.

b. If Buyer's total principal payments exceed 30% of the cash price, Buyer shall receive a refund of 75% of all principal payments made in excess of 30% of the cash price.

(3) That respondents submit to the Federal Trade Commission, within 90 days after the date this Order becomes final, data disclosing the rate of default referred to in subparagraph A(2) above for the three-year period immediately preceding the date this Order becomes final, and documentation in support thereof.

B. That respondents shall include the following language, or words of similar import and meaning, in all installment contracts for the sale of land other than residential property to consumers which are entered into after the date this Order becomes final, and shall make refunds in accordance therewith:

In the event of Buyer's default, Seller shall refund to Buyer within 180 days of the date of default principal payments (not interest, finance charges or taxes) made pursuant to this contract in accordance with the following schedule of refunds:

1. If Buyer's total principal payments do not exceed 30% of the cash price, Buyer shall not receive any refund whatsoever.

2. If Buyer's total principal payments exceed 30% of the cash price, Buyer shall receive a refund of 75% of all principal payments made in excess of 30% of the cash price.

C. That respondents may condition their payment of refunds under this section of the Order on the purchaser's execution of a quit-claim deed and/or other documents necessary to release his interest in the land purchased from respondents pursuant to the contract in default, such document or documents to be prepared by respondents.

D. That in the event the Federal Trade Commission promulgates a valid Trade Regulation Rule applicable to respondent's sale of land to consumers which regulates the amount or percentage of moneys paid by a purchaser which may be retained by the seller in the event of the purchaser's default, then this section of the Order shall be deemed modified by said Trade Regulation Rule: *Provided, however,* That this Paragraph shall not be construed as waiving or in any way limiting respondents' legal rights or standing to challenge or otherwise contest such a Trade Regulation Rule.

VI

It is further ordered:

(a) That in the event respondents fail to correct any default under a contract entered into prior to the effective date of this Order within six months after receiving notice in writing from the purchaser of said default, respondents shall, within ten days after completion of said six-month period, notify the purchaser that, at his option, he may receive a refund of all moneys paid under the contract or an exchange acceptable to him of the contracted-for property for another of at least equal price, equivalent size, with equivalent zoning classification and same promised improvements and utilities, and located in the same general geographic area of the subdivision.

Provided, however, That respondent shall not be considered in default of any contract hereunder if all contractual obligations covered by this section are assumed by the company in a plan of reorganization confirmed by the Bankruptcy Court and such obligations are performed within the dates provided in the confirmed plan of reorganization but no later than 1985.

(b) That respondents shall make the exchange or refund requested by the purchaser under the terms of Paragraph (a) above within 60 days of receipt of the purchaser's acceptance of said exchange or refund: *Provided, however,* That in the event the purchaser has received a deed or other evidence of interest in the contracted-for property other than the contract, the purchaser must, as a condition of obtaining such refund or exchange, reconvey to the seller such evidence of interest by General Warranty Deed in recordable form: *And further provided,* That in the event only the contract has been recorded in the Public Records, the purchaser must quit-claim in recordable form his interest to the seller to remove any clouds on the title to such property.

VII.

It is further ordered:

(a) That respondents herein deliver, by hand or by certified mail, a copy of Sections I and VI through X of this Order to each of their present or future salesmen, independent brokers, and employees who sell or promote the sale of land or other real property to consumers, and all others so engaged;

(b) That respondents provide each person so described in Paragraph (a) above with a form, returnable to respondents, clearly stating his intention to be bound by and to conform his sales practices to the requirements of this Order;

(c) That respondents inform each person described in Paragraph (a) above that respondents shall not use any such party, or the services of any such party, unless such party agrees to and does file notice with respondents that it will be bound by the provisions contained in this Order;

(d) That in the event such party will not agree to so file notice with respondents and to be bound by the provisions of this Order, respondents shall not use such party, or the services of such party;

(e) That respondents so inform the persons described in Paragraph (a) above that respondents are obligated by this Order to discontinue dealing with those persons who engage on their own in the acts or practices prohibited by this Order;

(f) That respondents institute a program of continuing surveillance adequate to reveal whether the sales practices of each of said persons described in Paragraph (a) above conform to the requirements of this Order; and

(g) That respondents discontinue dealing with any person described in Paragraph (a) above, revealed by the aforesaid program of surveillance, who engages on his own in the acts or practices prohibited by this Order: *Provided, however,* That violation of any provision of this Order by present or future employees of independent brokers shall not be deemed a violation of this Order by respondents unless respondents, upon knowledge of such violation, fail to take, within a reasonable time, corrective action to insure that such act or practice is terminated: *And further provided,* That in the event remedial action is taken, the sole fact of such dismissal or termination shall not be admissible against respondents in any proceeding brought to recover penalties for alleged violation of any other paragraph of this Order.

VIII.

It is further ordered:

(a) That in the event the Interstate Land Sales Full Disclosure Act, presently codified at 15 U.S.C. 1701–20 (1970), or any regulation promulgated pursuant thereto by the Office of Interstate Land Sales Registration of the U.S. Department of Housing and Urban Development, requires an act or practice which is prohibited by any provision of this Order, such Order prohibition shall be inoperative.

(b) That in the event any provision of this Order requires an act or practice which is prohibited by the Interstate Land Sales Full Disclosure Act, presently codified at 15 U.S.C. 1701–20 (1970), or any regulation promulgated pursuant thereto by the Office of Interstate Land Sales Registration of the U.S. Department of Housing and Urban Development, such Order requirement shall be inoperative.

IX.

It is further ordered, That this Order shall become effective in accordance with standard Commission procedure: *Provided, however,* That all written advertising and promotional materials, and form contracts, which must be filed with and accepted for dissemination by state or federal agencies, shall not be subject to the provisions of this Order, except for those provisions which prohibit or limit the use of any statement, representation, or misrepresentation, for a period of six months from the date this Order becomes final or until said acceptance for dissemination is obtained from all applicable state or federal agencies, whichever occurs first: *And further provided,* That until said six-month period expires or said acceptance for dissemination is obtained, whichever occurs first, respondents shall file with the Federal Trade Commission monthly reports detailing respondents' progress toward obtaining the aforementioned acceptance for dissemination by the applicable state or federal agencies.

X.

It is further ordered, That respondent corporations shall forthwith distribute a copy of this Order to each of their operating divisions engaged in the sale of land or other real property to consumers.

It is further ordered, That respondents herein shall, within six months after the date of confirmation of a plan of reorganization, and annually for five (5) years thereafter, file with the Commission a report in writing setting forth in detail the manner and form in which they have complied with this Order.

It is further ordered, That respondents notify the Commission at least 30 days prior to any proposed change in the corporate respondents, such as dissolution, assignment or sale resulting in the emergence of a successor corporation, the creation or dissolution of subsidiaries or any other change in the corporation which may affect compliance obligations arising out of this Order.

Federal Trade Commission, Bureau of Consumer Protection

Appendix 1

Dear Golden Gate Estates Customer: As you probably know, GAC Properties, Inc. (formerly Gulf American Corporation) is in bankruptcy. In an effort to protect your intersts, as much as possible, the Federal Trade Commission has entered into a new agreement with GAC which gives you a chance to select one of five choices. GAC's records indicate your land is located *south* of Stewart Boulevard in Golden Gate Estates. Stewart Boulevard is five (5) miles south of Alligator Alley (Florida State Road 858) and is one of the main east-west roads in Golden Gate Estates.

In deciding which choice you should make, you should be aware that most of the land *south* of Stewart Boulevard in Golden Gate Estates is subject to *excessive flooding during Florida's "wet season" and brush fires during the "dry season."* Furthermore, *Golden Gate Estates will not be developed beyond the limited improvements (roads and canals) that have already been made.* Note that there is no central water and sewer system. Telephone and electrical hookups may be very expensive.

The new agreement gives you the right to select one of the following choices:

Choice No. 1: You can deed back your property in Golden Gate Estates to GAC and the GAC Trustees will have a claim scheduled for you in the Bankruptcy Court for all of the principal and interest you have paid to GAC on your contract. If you made payments to GAC after December 12, 1975, these payments will be refunded to you in cash. The balance of your payments will be scheduled as unsecured claims to be shared on a *pro rata basis* with other purchasers of property *south* of Stewart Boulevard from a

request that you pay to GAC the actual cost

In the event of a lot exchange or cash

maximum amount of $18 million in claims, less the cash payments refunded. The unsecured claims may not be paid in cash but could be paid by the delivery of stock in the reorganized company.

Choice No. 2: You can deed back your property in Golden Gate Estates to GAC and the company will deed to you twice as much land in River Ranch Acres. The parcels deeded to you in River Ranch Acres might not be next to one another. *The land in River Ranch Acres will not be developed in any way and in most areas there are no roads.* If you are still paying for your property in Golden Gate Estates and you select this choice, you will still have to make the payments due on your existing contract.

There is no sure way of knowing whether land in River Ranch has any significant value now, or will ever have any significant value. There have been no sales of this land in the last few years. The land is *not* suitable for homesite use in its present condition.

Please Note: There is limited land available in River Ranch Acres. If you select this choice and there is no land available, you wil be notified and given a chance to select one of the other choices in this letter.

Choice No. 3: You can exchange each 1¼ acres of your property in Golden Gate Estates for a fully developed homesite lot in Poinciana. Poinciana is a GAC homesite subdivision in central Florida. A brochure describing Poinciana has been sent to you by GAC. If you select this choice, GAC will select a lot for you, and you must pay development costs of $2,300 which may be paid at one time or paid over a seven (7) year period at 7½% ANNUAL PERCENTAGE RATE. GAC advises that payment over seven (7) years will require 84 consecutive monthly payments of $35.38 each, your FINANCE CHARGE will be $671.92 on the $2,300 amount financed, and your total of payments will be $2,971.92. In addition, regardless of whether you pay at one time or over a seven (7) year period, you will be required to pay annual property taxes plus a monthly association maintenance fee which is presently $10 per month. This association maintenance fee is a standard condition of all contracts and deeds in the Poinciana subdivision. GAC also pays annual property taxes and association maintenance fees on the property its owns in Poinciana. Of course, you will still have to pay any amount due on your existing contract.

If you pay the development costs of $2,300 all at once, you will immediately be given full title to a developed homesite lot in Poinciana, unless GAC does not have enough developed lots immediately available. GAC has over 1,000 fully developed lots available right now.

If you choose to spread your payments over time, you will not receive a deed until you are finished making all payments.

Before taking this option, you should understand that your ability to resell land in Poinciana, without a house built on the property, is uncertain at this time.

Take this option only if you want homesite property for residential use, not as an investment.

Choice No. 4: You can exchange each 2½ acres of your property in Golden Gate Estates for a fully developed homesite lot in Poinciana which will be selected for you by GAC for an additional payment of $1,150 for water and sewer betterment fees.

This payment will be in addition to any money still due on your existing contract with GAC. You may pay this additional $1,150 at one time or it may be paid over a seven (7) year period at 7½% ANNUAL PERCENTAGE RATE. GAC advises that payment over seven (7) years will require 84 consecutive monthly payments of $17.64 each, your FINANCE CHARGE will be $331.76 on the $1,150 amount financed, and your total of payments will be $1,481.76. In addition, regardless of whether you pay at one time or over a seven (7) year period, you will be required to pay annual property taxes plus a monthly association maintenance fee which is presently $10 per month. This association maintenance fee is a standard condition of all contracts and deeds in the Poinciana subdivision. GAC also pays annual property taxes and association maintenance fees on the property it owns in Poinciana.

If you pay the development costs of $1,150 all at once, you will immediately be given full title to a developed homesite lot in Poinciana, unless GAC does not have enough developed lots immediately available. GAC has over 1,000 fully developed lots available right now.

If you choose to spread your payments over time, you will not receive a deed until you are finished making all payments.

Before taking this option, you should understand that your ability to resell land in Poinciana, without a house built on the property, is uncertain at this time.

Take this option only if you want homesite property for residential use, not as an investment.

Choice No. 5: You can exchange your land for a GAC "Housing Construction Package." All of the principal and interest you have paid to GAC, limited to payments made on no more than 2½ acres, will be credited to the land portion only of your "Housing Construction Package." A brochure describing GAC's present "Housing Construction Package" has been sent to you by GAC. If you select this choice, you have up to five (5) years within which to contract with GAC for a "Housing Construction Package", at the terms (including price) and conditions being offered by GAC at the time such contract is executed.

If you are still making payments on your property, you have two (2) choices if you take this option for a housing package.

—You can stop making your payments. You will lose your land, but you will have a full credit for all the money you have paid if and when you sign a contract for a housing package. Or . . .

—You can continue to make your payments and hold onto your property. Later, if you wish, you can exchange your property for a housing package with a full credit for all the money you have paid.

If you have already fully paid for your property, you will keep it until you decide whether to exchange for a housing construction package.

This option is offered only for those who, within the next five years, want a home in Florida. As a residential investment, the value of this option is highly speculative.

To accept one of the choices listed as 1 through 5 above, you must sign and return to GAC the enclosed NOTICE OF ACCEPTANCE to be received no later than July 1, 1979.

Each of these choices is more fully explained in Section III of the Federal Trade Commission's "SHOW CAUSE ORDER" which is being mailed to you. *You should read this corefully.*

Right To File a Claim

If you don't want to make any of the above choices, you may file a claim for whatever rights you think you have against GAC. The Trustees will still have a right to object to your claim. If such objection is filed, a hearing on the objection would be held before the Bankruptcy Court in Miami and you, or your lawyer, would then be required to prove your claim. As stated in the CLAIMS BAR ORDER which is also being mailed to you, your claim will have to be filed with the Bankruptcy Court, P.O. Box 010230, Miami, Florida 33101 to be received no later than July 1, 1979. If you are unable to obtain Official Bankruptcy Form No. 15 (Proof of Claim) from a bankruptcy court, an office supply or a stationery store in your area, you may call GAC at its toll free number given below, and request a form which they will send to you.

If you have any doubts concerning this matter, the FTC recommends that you speak to an attorney to help you decide what to do. The FTC makes no recommendation whatsoever as to whether you should accept one of the choices offered under the FTC Order or whether you should file a claim instead. *You,* and *only you,* can decide whether you are better off filing a claim or accepting one of the choices under the FTC Order.

If you have any questions regarding this letter, you may direct such questions to GAC by calling its toll free number (800–327–8776) or by writing to the Federal Trade Commission/PC, Bureau of Consumer Protection, Compliance Division, Washington, D.C. 20580.

By direction of the Commission.

Notice of Acceptance

Contract Number_____

I accept the following offer described in the letter sent to me by the Federal Trade Commission:

	Check One
Choice No. 1:	Trustees may schedule my claim and I will deed my property to GAC ____
Choice No. 2:	I will deed my Golden Gate Estates property to GAC in exchange for double acreage in River Ranch Acres ____
Choice No. 3:	I will pay the $2,300 extra costs for a developed homesite in Poinciana ____
Choice No. 4:	I will pay the $1,150 extra water and sewer betterment fees for a developed homesite in Poinciana ____
Choice No. 5:	Within five (5) years, I have a right to contract for a GAC "Housing Construction Package" ____

Date _____

Purchaser's Signature_____

Purchaser's Signature_____

Remember: This Notice of Acceptance must be received no later than July 1, 1979 by: GAC Corporation, 201 Alhambra Circle, Coral Gables, Florida 33134.

Federal Trade Commission, Bureau of Consumer Protection

Appendix 2

Dear Golden Gate Estates Customer: As you probably know, GAC Properties, Inc. (formerly Gulf American Corporation) is in bankruptcy. In an effort to protect your interests, as much as possible, the Federal Trade Commission has entered into a new agreement with GAC. GAC's records indicate your land is located *north* of Stewart Boulevard in Golden Gate Estates. Stewart Boulevard is five (5) miles south of Alligator Alley (Florida State Road 858) and is one of the main east-west roads in Golden Gate Estates.

You should be aware that *Golden Gate Estates will not be developed beyond the limited improvements (roads and canals) that have already been made by GAC.* Collier County is now responsible for the maintenance of all roads and canals in Golden Gate Estates. Note there is no central water and sewer system. Telephone and electrical hookups may be very expensive in some isolated areas.

For lot purchasers *north* of Stewart Boulevard, GAC has agreed to establish an accrual Reserve Fund in the amount of $10 million to be used over a period of five (5) years. All claims payable from this Reserve Fund shall be paid on a first come basis.

The purpose of this Reserve Fund is to help make sure that your property in Golden Gate Estates is suitable for homesite building. This means you should be able to install an adequate system for the disposal of sewage and have an adequate supply of potable water. The costs for obtaining electrical service to the property must be paid by the lot owner.

Under this agreement, *after reorganization,* you may, *at your expense,* have a test or tests made to determine the percolation of your land (suitability for installation of a septic tank system) and the availability of an adequate supply of potable water. The test or tests should be certified by a Registered Professional Engineer or Registered Analytical Laboratory. If the results of the test or tests indicate that the land failed to pass a percolation test or that there is no adequate supply of potable water available, these certified reports should be submitted to GAC.

Percolation Test

If your land fails to pass a percolation test, your certified report should disclose the reason for the failure, the remedial work suggested, and the estimated costs to perform the remedial work. You will be required to pay for the first $1,000 of remedial work which includes the amount you have paid for the test or tests.

If the remedial work is more than $1,000, but not more than $2,500, GAC, at its option, may: (1) pay you the excess of $1,000 or (2) request that you pay to GAC the actual cost of doing the work, up to, but not to exceed $1,000, and thereafter do the remedial work itself within sixty (60) days.

If the remedial work is more than $2,500, GAC must, within thirty (30) days after receiving such certified report or reports, exchange you into another parcel of land of equal size to your existing parcel of land and provide you with a certificate certifying the percolation of such land in its existing state without remedial work and the adequate availability of potable water as of the date of the exchange.

If GAC has no lots in its inventory which can percolate without remedial work, it may do the remedial work in order to certify both the percolation and availability of potable water and charge you for the remedial work for percolation up to $1,000 and charge you up to $500 for well drilling, less any amounts you have paid for remedial work and well drilling on your former land.

If GAC has no lots in its inventory with which to make an exchange, you will be offered a cash refund of all principal paid to GAC. When GAC makes this offer, you will also be given the choice of exchanging for land in various other GAC subdivisions with full credit for the principal and interest you have paid the company. GAC will give you full details of these various options at the time you qualify for a cash refund.

In the event of a lot exchange or refund, you will be required to deed back your land to GAC.

Potable Water Test

If you have drilled a well and your test report certifies that there is no adequate supply of potable water (as defined in the new agreement) available, GAC will have to perform such remedial work, including deepening or shallowing an existing well or drilling an additional well on the same land, and such costs shall be paid by GAC. However, if the cost of remedial work exceeds $500, GAC may exchange you into another parcel of land of equal size to your existing parcel of land and provide you with a certificate certifying the percolation of such land in its existing state without remedial work and certifying that there is an adequate supply of potable water available as of the date of the exchange.

If GAC has no lots in its inventory which can percolate with an adequate supply of potable water available without remedial work, GAC may do the remedial work in order to certify both the percolation and availability of an adequate supply of potable water and charge you for the remedial percolation work up to $1,000 and $500 for well drilling, less any amounts you have paid for such remedial percolation work and well drilling on your former land.

If GAC, has no lots in its inventory with which to make an exchange, you will be offered a cash refund of all principal paid to GAC. When GAC makes this offer, you will also be given the choice of exchanging for land in various other GAC subdivisions with full credit for the principal and interest you have paid the company. GAC will give you full details of these various options at the time you qualify for a cash refund.

In the event of a lot exchange or cash refund, you will be required to deed back your land to GAC.

Right to File a Claim

If you don't want to make any of the above choices, you may file a claim for whatever rights you think you have against GAC. The Trustees will still have a right to object to your claim. If such objection is filed, a hearing on the objection would be held before the Bankruptcy Court in Miami and you, or your lawyer, would then be required to prove your claim. As is stated in the CLAIMS BAR ORDER which is also being mailed to you, your claim will have to be filed with the Bankruptcy Court, P.O. Box 010230, Miami, Florida 33101 to be received no later than July 1, 1979. If you are unable to obtain Official Bankruptcy Form No. 15 (Proof of Claim) from a bankruptcy court, an office supply or a stationery store in your area, you may call GAC at its toll free number given below, and request a form which they will send to you.

If you have any doubts concerning this matter, the FTC recommends that you speak to an attorney to help you decide what to do. The FTC makes no recommendation whatsoever as to whether you should accept one of the choices offered under the FTC Order or whether you should file a claim instead. *You,* and *only you,* can decide whether you are better off filing a claim or accepting one of the choices under the FTC Order.

You should also be aware that the government of Collier County is opposed to uncontrolled development in Golden Gate Estates. In comments filed with the FTC, the county says that the roads and canals are deteriorating. The county also says that it may not spend the money necessary to maintain these structures.

If the county does decide to perform necessary maintenance the county says it may try to put the tax burden for maintenance in Golden Gate Estates on lotowners there. If the county can legally do this, taxes in Golden Gate Estates might rise.

The county is also concerned about pollution from septic tanks. The county says that if too many people try to put septic tanks in Golden Gate Estates, the county may find it necessary to make it harder to get a building permit.

The FTC cannot be sure what the county will or will not do to provide maintenance for Golden Gate Estates or to control its development.

If you have any questions regarding this letter, you may direct such questions to GAC by calling this toll free number (800–327–8776) or by writing to the Federal Trade Commission/PC, Bureau of Consumer Protection, Compliance Division, Washington, D.C. 20580.

By direction of the Commission.

Federal Trade Commission, Bureau of Consumer Protection

Appendix 3

Dear Remuda Ranch Grants Customer: As you probably know, GAC Properties, Inc. (formerly Gulf American Corporation) is in

required to make the payments due on your existing contract.

If you pay the development costs of $2,300 all at once, you will immediately be given full title to a developed homesite lot in Poinciana, unless GAC does not have enough developed lots immediately available. GAC has over 1,000 fully developed lots available right now.

If you choose to spread your payments over time, you will not receive a deed until you are finished making all payments.

Before taking this option, you should understand that your ability to resell land in Poinciana, without a house built on the property, is uncertain at this time.

Take this option only if you want homesite property for residential use, not as an investment.

Choice No. 4: You can exchange each 2½ acres of your property in Golden Gate Estates for a fully developed homesite lot in Poinciana which will be selected for you by GAC for an additional payment of $1,150 for water and sewer betterment fees.

This payment will be in addition to any money still due on your existing contract with GAC. You may pay this additional $1,150 at one time or it may be paid over a seven (7) year period at 7½% ANNUAL PERCENTAGE RATE. GAC advises that payment over seven (7) years will require 84 consecutive monthly payments of $17.64 each, your FINANCE CHARGE will be $331.76 on the $1,150 amount financed, and your total of payments will be $1,481.76. In addition, regardless of whether you pay at one time or over a seven (7) year period, you will be required to pay annual property taxes plus a monthly association maintenance fee which is presently $10 per month. This association maintenance fee is a standard

Protection, Compliance Division,

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bankruptcy. In an effort to protect your interests, as much as possible, the Federal Trade Commission has entered into a new agreement with GAC which gives you a chance to select one of three choices.

In deciding which choice you should make, you should be aware that *Remuda Ranch Grants will not be developed in any way. Most of the land in Remuda Ranch Grants is under water. In most areas there are no roads.*

Choice No. 1: You can deed back your land in Remuda Ranch Grants to GAC and the company will deed to you twice as much land in River Ranch Acres. *The land in River Ranch Acres will not be developed in any way and in most areas in River Ranch Acres there are no roads.* The parcels deeded to you might not be next to one another. If you are still paying for your property in Remuda Ranch Grants and you select this choice, you will still be required to make payments due on your existing contract.

There is no way of knowing whether land in River Ranch has any significant value now, or will ever have any significant value. There have been no sales of this land in the last few years. The land is *not* suitable for homesite use in its present condition.

Choice No. 2: You can exchange each 1¼ acres of your property in Remuda Ranch Grants for a fully developed homesite lot in Poinciana. Poinciana is a GAC homesite subdivision in central Florida. A brochure describing Poinciana has been sent to you by GAC. If you select this choice, GAC will select a lot for you, and you must pay development costs of $2,300 which may be paid at one time or paid over a seven (7) year period at 7⅛% ANNUAL PERCENTAGE RATE. GAC advises that payment over seven (7) years will require 84 consecutive monthly payments of $35.38 each, your FINANCE CHARGE will be $671.92 on the $2,300 amount financed, and your total of payments will be $2,971.92. In addition, regardless of whether you pay at one time or over a seven (7) year period, you will be required to pay annual property taxes plus a monthly association maintenance fee which is presently $10 per month. This association maintenance fee is a standard condition of all contracts and deeds in the Poinciana subdivision. GAC also pays annual property taxes and association maintenance fees on the property it owns in Poinciana. Of course, you will still have to pay any amount due on your existing contract.

If you pay the development costs of $2,300 all at once, you will immediately be given full title to a developed homesite lot in Poinciana, unless GAC does not have enough developed lots immediately available. GAC has over 1,000 fully developed lots available right now.

If you choose to spread your payments over time, you will not receive a deed until you are finished making all payments.

Before taking this option, you should understand that your ability to resell land in Poinciana, without a house built on the property, is uncertain at this time.

Take this option only if you want homesite property for residential use, not as an investment.

Choice No. 3: You can exchange each 2½ acres of your property in Remuda Ranch Grants for a fully developed homesite lot in Poinciana which will be selected for you by GAC for an additional payment of $1,150 for water and sewer betterment fees.

This payment will be in addition to any money still due on your existing contract with GAC. You may pay this additional $1,150 at one time or it may be paid over a seven (7) year period at 7⅛% ANNUAL PERCENTAGE RATE. GAC advises that payment over seven (7) years will require 84 consecutive monthly payments of $17.64 each, your FINANCE CHARGE will be $331.76 on the $1,150 amount financed, and your total of payments will be $1,481.76. In addition, regardless of whether you pay at one time or over a seven (7) year period, you will be required to pay annual property taxes plus a monthly association maintenance fee which is presently $10 per month. This association maintenance fee is a standard condition of all contracts and deeds in the Poinciana subdivision. GAC also pays annual property taxes and association maintenance fees on the property it owns in Poinciana.

If you pay the development costs of $1,150 all at once, you will immediately be given full title to a developed homesite lot in Poinciana, unless GAC does not have enough developed lots immediately available. GAC has over 1,000 fully developed lots available right now.

If you choose to spread your payments over time, you will not receive a deed until you are finished making all payments.

Before taking this option, you should understand that your ability to resell land in Poinciana, without a house built on the property, is uncertain at this time.

Take this option only if you want homesite property for residential use, not as an investment.

Choice No. 4: You can exchange your land for a GAC "Housing Construction Package". All of the principal and interest you have paid to GAC, limited to payments made on no more than 2½ acres, will be credited to the land portion only of your "Housing Construction Package". A brochure describing GAC's present "Housing Construction Package" has been sent to you by GAC. If you select this choice you have up to five (5) years within which to contract with GAC for a "Housing Construction Package", at the terms (including price) and conditions being offered by GAC at the time such contract is executed.

If you are still making payments on your property, you have two (2) choices if you take this option for a housing package.

You can stop making your payments. You will lose your land, but you will have a full credit for all the money you have paid if and when you sign a contract for a housing package. Or . . . .

You can continue to make your payments and hold onto your property. Later, if you wish, you can exchange your property for a housing package with a full credit for all the money you have paid.

If you have already fully paid for your property, you will keep it until you decide whether to exchange for a housing construction package.

This option is offered *only for those who, within the next five years, want a home in Florida. As a residential investment, the value of this option is highly speculative.*

To accept one of the choices listed in this letter, you must sign and return to GAC the enclosed NOTICE OF ACCEPTANCE no later than sixty (60) days after you have received this letter. If you do not answer in sixty (60) days, you will be deemed to have rejected the choices offered to you by this letter.

Each of these choices is more fully explained in Section IV of the Federal Trade Commission's "SHOW CAUSE ORDER" which is being mailed to you along with this letter. *You should read this carefully.*

If you have any questions regarding this letter, you may direct such questions to GAC by calling its toll free number (800–327–8776) or by writing to the Federal Trade Commission/PC, Bureau of Consumer Protection, Compliance Division, Washington, D.C. 20580.

By direction of the Commission.

Notice of Acceptance

Contract Number_____

I accept the following offer described in the letter sent to me by the Federal Trade Commission:

	Check One	
Choice No. 1:	I will deed my Remuda Ranch Grants property to GAC in exchange for double acreage in River Ranch Acres	____
Choice No. 2:	I will pay the $2,300 extra costs for a developed homesite in Poinciana	____
Choice No. 3:	I will pay the $1,150 extra water and sewer betterment fees for a developed homesite in Poinciana	____
Choice No. 4:	Within five (5) years, I have a right to contract for a GAC "Housing Construction Package"	____

Date_____

Purchaser's Signature_____

Purchaser's Signature_____

Remember: This Notice of Acceptance must be returned within sixty (60) days after receipt of this letter to: GAC Corporation, 201 Alhambra Circle, Coral Gables, Florida 33134.

Federal Trade Commission, Bureau of Consumer Protection

Appendix 4

Dear River Ranch Acres Customer: As you probably know, GAC Properties, Inc. (formerly Gulf American Corporation) is in bankruptcy. In an effort to protect your interests, as much as possible, the Federal Trade Commission has entered into a new agreement with GAC which gives you a chance to select one of three choices.

In deciding which choice you should make, you should be aware that *River Ranch Acres will not be developed in any way. In most areas in River Ranch Acres there are no roads.*

Choice No. 1: You can get added unimproved land in River Ranch Acres which will double your holdings. Wherever possible, the additional acreage will be next to your present land. If you are still paying for your property in River Ranch Acres and you select this choice, you will still be required to make the payments due on your existing contract.

There is no sure way of knowing whether land in River Ranch has any significant value now, or will ever have any significant value. There have been no sales of this land in the last few years. The land is *not* suitable for homesite use in its present condition.

Choice No. 2: You can exchange each 1¼ acres of your property in River Ranch Acres for a fully developed homesite lot in Poinciana. Poinciana is a GAC homesite subdivision in central Florida. A brochure describing Poinciana has been sent to you by GAC. If you select this choice, GAC will select a lot for you, and you must pay development costs of $2,300 which may be paid at one time or paid over a seven (7) year period at 7⅛ percent ANNUAL PERCENTAGE RATE. GAC advises that payment over seven (7) years will require 84 consecutive monthly payments of $35.38 each, your FINANCE CHARGE will be $671.92 on the $2,300 amount financed, and your total of payments will be $2,971.92. In addition, regardless of whether you pay at one time or over a seven (7) year period, you will be required to pay annual property taxes plus a monthly association maintenance fee which is presently $10 per month. This association maintenance fee is a standard condition of all contracts and deeds in the Poinciana subdivision. GAC also pays annual property taxes and association maintenance fees on the property it owns in Poinciana. Of course, you will still have to pay any amount due on your existing contract.

If you pay the development costs of $2,300 all at once, you will immediately be given full title to a developed homesite lot in Poinciana, unless GAC does not have enough developed lots immediately available. GAC has over 1,000 fully developed lots available right now.

If you choose to spread your payments over time, you will not receive a deed until you are finished making all payments.

Before taking this option, you should understand that your ability to resell land in Poinciana, without a house built on the property, is uncertain at this time.

Take this option only if you want homesite property for residential use, not as an investment.

Choice No. 3: You can exchange each 2½ acres of your property in River Ranch Acres for a fully developed homesite lot in Poinciana which will be selected for you by GAC for an additional payment of $1,150 for water and sewer betterment fees.

This payment will be in addition to any money still due on your existing contract with GAC. You may pay this additional $1,150 at one time or it may be paid over a seven (7) year period at 7⅛ percent ANNUAL PERCENTAGE RATE. GAC advises that payment over seven (7) years will require 84 consecutive monthly payments of $17.64 each, your FINANCE CHARGE will be $331.76 on the $1,150 amount financed, and your total of payments will be $1,481.76. In addition, regardless of whether you pay at one time or over a seven (7) year period, you will be required to pay annual property taxes plus a monthly association maintenance fee which is presently $10 per month. This association maintenance fee is a standard condition of all contracts and deeds in the Poinciana subdivision. GAC also pays annual property taxes and association maintenance fees on the property it owns in Poinciana.

If you pay the development costs of $1,150 all at once, you will immediately be given full title to a developed homesite lot in Poinciana, unless GAC does not have enough developed lots immediately available. GAC has over 1,000 fully developed lots available right now.

If you choose to spread your payments over time, you will not receive a deed until you are finished making all payments.

Before taking this option, you should understand that your ability to resell land in Poinciana, without a house built on the property, is uncertain at this time.

Take this option only if you want homesite property for residential use, not as an investment.

Choice No. 4: You can exchange your land for a GAC "Housing Construction Package". All of the principal and interest you have paid to GAC, limited to payments made on no more than 2½ acres, will be credited to the land portion only of your "Housing Construction Package". A brochure describing GAC's present "Housing Construction Package" has been sent to you by GAC. If you select this choice, you have up to five (5) years within which to contract with GAC for a "Housing Construction Package", at the terms (including price) and conditions being offered by GAC at the time such contract is executed.

If you are still making payments on your property, you have two (2) choices if you take this option for a housing package.

You can stop making your payments. You will lose your land, but you will have a full credit for all the money you have paid if and when you sign a contract for a housing package. Or. . . .

You can continue to make your payments and hold onto your property. Later, if you wish, you can exchange your property for a housing package with a full credit for all the money you have paid.

If you have already fully paid for your property, you will keep it until you decide whether to exchange for a housing construction package.

This option is offered *only for those who, within the next five years, want a home in Florida. As a residential investment, the value of this option is highly speculative.*

To accept one of the choices listed in this letter, you must sign and return to GAC the enclosed NOTICE OF ACCEPTANCE no later than sixty (60) days after you have received this letter. If you do not answer in sixty (60) days, you will be deemed to have rejected the choices offered to you by this letter.

Each of these choices is more fully explained in Section IV of the Federal Trade Commission's "SHOW CAUSE ORDER" which is being mailed to you along with this letter. *You should read this carefully.*

If you have any questions regarding this letter, you may direct such questions to GAC by calling its toll free number (800–327–8776) or by writing to the Federal Trade Commission/PC, Bureau of Consumer Protection, Compliance Division, Washington, D.C. 20580.

By direction of the Commission.

Notice of Acceptance

Contract Number_____

I accept the following offer described in the letter sent to me by the Federal Trade Commission:

	Check One	
Choice No. 1:	I choose to have my River Ranch Acres holdings doubled in acreage	____
Choice No. 2:	I will pay the $2,300 extra costs for a developed homesite in Poinciana	____
Choice No. 3:	I will pay the $1,150 extra water and sewer betterment fees for a developed homesite in Poinciana	____
Choice No. 4:	Within five (5) years, I have a right to contract for a GAC "Housing Construction Package"	____

Date_____

Purchaser's Signature_____

Purchaser's Signature_____

Remember: This NOTICE OF ACCEPTANCE must be returned within sixty (60) days after receipt of this letter to: GAC Corporation, 201 Alhambra Circle, Coral Gables, Florida 33134.

By the Commission.

Carol M. Thomas,

Secretary.

[Docket No. C–2523]

[FR Doc. 79–15127 Filed 5–14–79; 8:45 am]

BILLING CODE 6750–01–M

SECURITIES AND EXCHANGE COMMISSION

17 CFR Part 200

Delegation of Authority to the Director of the Division of Market Regulation

AGENCY: Securities and Exchange Commission.

ACTION: Final rule.

SUMMARY: The Commission is amending its regulations to delegate authority to the Director of the Division of Market Regulation to approve amendments to joint industry plans filed by self-regulatory organizations, which plans have been previously approved by the Commission.

EFFECTIVE DATE: May 9, 1979.

FOR FURTHER INFORMATION CONTACT: Brandon Becker, Division of Market Regulation, Securities and Exchange Commission, Room 321, 500 North Capitol Street, Washington, D.C. 20549, (202) 755–8749.

SUPPLEMENTARY INFORMATION: The Commission finds, in accordance with the Administrative Procedure Act ("APA") (5 U.S.C. 553(b)(3)(B)), that the foregoing amendment relates solely to

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agency organization, procedure or practice and that notice and procedure pursuant to the APA are therefore not necessary and that such amendment shall be adopted, effective immediately.

Accordingly, 17 CFR Chapter II is amended by adding a new paragraph (a)(29) to § 200.30–3 reading as follows:

§ 200.30–3 Delegation of authority to Director of Division of Market Regulation.

* * * * *

(a) * * *

(29) To issue supplemental orders modifying the terms upon which self-regulatory organizations are authorized to act jointly in planning, developing, operating or regulating facilities of a national market system in accordance with the terms of amendments to plans which plans have been previously approved by the Commission under Section 11A(a)(3)(B) of the Securities Exchange Act of 1934.

(Pub. L. 87–592, 76 Stat. 394 (15 U.S.C. 78d–1, 78d–2).)

By the Commission.

George A. Fitzsimmons,
Secretary.

May 9, 1979.

[Release No. 34–15806]
[FR Doc. 79–15079 Filed 5–14–79; 8:45 am]
BILLING CODE 8010–01–M

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17 CFR Part 240

New Rule Designating Financial Responsibility Rules for Purposes of the Securities Investor Protection Act of 1970

AGENCY: Securities and Exchange Commission.

ACTION: Final rules.

SUMMARY: The Commission is adopting a new rule in conjunction with the 1978 amendments to the Securities Investor Protection Act of 1970 ("SIPA"). The new rule designates "financial responsibility rules" for purposes of the SIPA.

EFFECTIVE DATE: Immediately May 11, 1979.

FOR FURTHER INFORMATION CONTACT: Gregory N. Smith, Division of Market Regulation, Securities and Exchange Commission, 500 North Capitol Street, Washington, D.C. 20549. (202) 755–7484.

SUPPLEMENTARY INFORMATION: Section 16 of the Securities Investor Protection Act Amendments of 1978 (15 U.S.C. 78aaa) amended Section 3(a) of the Securities Exchange Act of 1934 by adding a new paragraph defining "financial responsibilities rules" as "the rules and regulations of the Commission or the rules and regulations prescribed by any self-regulatory organization relating to financial responsibility and related practices which are designated by the Commission, by rule or regulation, to be financial responsibility rules."

That term is relevant to two sections of SIPA. Under Section 5 of SIPA, the court may enter a protective decree on behalf of customers of a broker-dealer if the court finds, among other things, that the debtor broker-dealer is not in compliance with applicable requirements under the Securities Exchange Act or rules of the Commission or of any self-regulatory organization with respect to financial responsibility or if the debtor broker-dealer is unable to make such computations as may be necessary to establish compliance. Section 13 of SIPA refers to financial responsibilities rules in connection with inspections of broker-dealers which are members of the Securities Investor Protection Corporation ("SIPC").

New Rule 3a40–1 under the Securities Exchange Act [1] designates as "financial responsibility rules" all rules and regulations adopted by the Commission pursuant to Sections 8, 15(c)(3), 17(a) or 17(e)(1)(A) of the Securities Exchange Act, all rules and regulations adopted by the Commission relating to hypothecation or lending of customer securities, all rules adopted by self-regulatory organizations relating to capital, margin, recordkeeping, hypothecation, or lending requirements, and any other rule adopted by the Commission or a self-regulatory organization relating to the protection of funds or securities. The Commission's intention in paragraph (d) of the new rule is not to sweep into coverage all of its rules or those of the self-regulatory organizations which indirectly protect funds or securities but only rules which are akin to those specified in paragraphs (a) through (c) and which are cutomarily described as "financial responsibility" rules.

The Commission has determined that this new rule should be effective immediately upon publication in the **Federal Register** pursuant to 5 U.S.C. 553(d). The Commission finds good cause for making the rule effective immediately in that the rule clarifies the power of SIPC pursuant to Section 5 of SIPA to seek protective decrees, clarifies the power of the self-regulatory organizations in connection with inspections, and requires no modification of conduct by the public. Moreover, the rule was proposed for comment more than 30 days before adoption. Only one comment letter, which was favorable to the proposed rule, was received.

[1] The rule was proposed in Securities Exchange Act Release No. 15452 (January 2, 1979).

Statutory Basis and Competitive Considerations

The Securities and Exchange Commission, acting pursuant to the Securities Exchange Act of 1934, and particularly Sections 3, 15(c)(3), 17(a) and 23 thereof (15 U.S.C. 78c, 78o, 78q(a) and 78u), hereby adopts new Rule 3a40–1 designating "financial responsibility rules" for purposes of customer protection under SIPA as set forth below.

It appears to the Commission that no burden will be imposed on competition by adoption of the above mentioned rule. If there is any burden on competition, it is necessary and appropriate in furtherance of the purposes of the Act, particularly in furtherance of the Commission's obligation to designate financial responsibility rules.

Text of the Rule

Accordingly, 17 CFR Part 240 is amended by adding § 240.3a40–1 reading as follows:

§ 240.3a40–1 Designation of financial responsibility rules.

The term "financial responsibility rules" for purposes of the Securities Investor Protection Act of 1970 shall include:

(a) Any rule adopted by the Commission pursuant to Sections 8, 15(c)(3), 17(a) or 17(e)(1)(A) of the Securities Exchange Act of 1934;

(b) Any rule adopted by the Commission relating to hypothecation or lending of customer securities;

(c) Any rule adopted by any self-regulatory organization relating to capital, margin, recordkeeping, hypothecation or lending requirements; and

(d) Any other rule adopted by the Commission or any self-regulatory organization relating to the protection of funds or securities.

By the Commission.

Dated: May 4, 1979.

George A. Fitzsimmons,
Secretary.

[Release No. 34–15777]
FR Doc. 79–15142 Filed 5–14–79; 8:45 am]
BILLING CODE 8010–01–M

DEPARTMENT OF THE TREASURY

Customs Service

19 CFR Part 159

Final Countervailing Duty Determination; Viscose Rayon Staple Fiber From Sweden

AGENCY: U.S. Customs Service, Treasury Department.

ACTION: Final Countervailing Duty Determination.

SUMMARY: This notice is to inform the public that a countervailing duty investigation has resulted in a final determination that the Government of Sweden has given benefits considered to be bounties or grants within the meaning of the countervailing duty law on the manufacture or exportation of viscose rayon staple fiber from Sweden.

EFFECTIVE DATE: May 15, 1979.

FOR FURTHER INFORMATION CONTACT: Mary S. Clapp, Duty Assessment Division, U.S. Customs Service, 1301 Constitution Avenue, N.W., Washington, D.C. 20229, telephone (202) 566–5492.

SUPPLEMENTARY INFORMATION: On January 31, 1979, a "Preliminary Countervailing Duty Determination" was published in the **Federal Register** (44 FR 6245). That notice stated that it had been preliminarily determined that bounties or grants within the meaning of section 303, Tariff Act of 1930, as amended (19 U.S.C. 1303) (referred to as the "Act") are being paid or bestowed, directly or indirectly, by the Government of Sweden upon the manufacture or exportation of viscose rayon staple fiber. Further information has been obtained since that time regarding the various programs under consideration.

The imports from Sweden covered by this investigation are classified under item numbers 309.4320 and 309.4325, Tariff Schedules of the United States Annotated (TSUSA). Both regular and high-wet modulus ("modal") viscose rayon staple fiber are included within the scope of this investigation.

The programs considered in this investigation are discussed below:

A. The program under which the Government of Sweden provides funds to producers of merchandise to encourage the continued employment of older workers in certain regions of the country was preliminarily determined to constitute a bounty or grant. The sole Swedish producer of the investigated merchandise, Svenska Rayon AB ("Svenska"), was determined to be eligible to participate in this program. Its objective is to reduce the number of dismissals faced by workers over the age of 50 who have greater difficulty than younger workers in finding substitute employment when laid off. It is not a program in any way related to the exportation of the merchandise produced by the company.

In order to qualify under this plan a company must agree that it will not dismiss any workers, regardless of age, during the period in which it is accepting government compensation, or that it will withdraw any pending dismissals. The company must then establish the number of employees over age 50 on its payroll and the estimated number of working hours of these workers during the period for which funds are sought. A government agency determines monthly the actual number of hours worked by the older workers and compensation is paid based on a fixed hourly rate for such employees. Total compensation cannot exceed a maximum allowable percentage of the company's total labor costs.

The costs involved in not laying off redundant workers will vary from company to company, and the compensation provided by the Government of Sweden is not always sufficient to induce companies to take part in the program. However, Svenska has elected to participate. The costs incurred in maintaining redundant, older workers on the payroll have been calculated, and in December 1978 these costs exceeded the payments received by the company.

Accordingly, it is hereby determined that a bounty or grant is paid or bestowed within the meaning of section 303 of the Act on the manufacture or exportation of viscose rayon staple fiber (both regular and modal) by reason of this program. Because payments received under this program are currently offset by the extra expenses borne by Svenska, however, the rate of countervailing duty that applies to the product as a result is zero. However, a change in business conditions may alter this balance. The Swedish producer will, therefore, be requested to supply periodic, current information in order to enable Treasury to determine whether any net countervailable benefit is being received. If so, appropriate countervailing duties would then be assessed on the subject merchandise.

B. Interest-free loans provided by the Government of Sweden to Svenska for the acquisition of machinery and equipment for the production of modal fiber not exported to the United States were preliminarily determined not to constitute a bounty or grant. At that time, it was stated that further information would be obtained regarding these loans.

The interest-free loans are provided under programs broadly defined to aid national economic security. Modal fiber represents a technological advance over regular fiber, the currently prevalent form of viscose rayon staple fiber. The preliminary determination implied that a countervailable benefit would exist only if an indirect benefit was conferred on the production or export of the regular fiber which is, in fact, currently exported to the United States. However, as discussed below, a countervailable benefit also exists if a benefit is conferred on the production and exportation of modal fiber.

The development of modal fiber production capacity began in 1975. The government provided loans for up to 75 percent of approved capital expenditures, and adopted procedures to ensure that the funds thus supplied were used solely for the purpose for which intended. The modal fiber facility is a physically separate unit of Svenska's operation, and shares only general supporting facilities with the regular fiber production line. Thus, the question of whether any indirect benefit is conferred upon the latter centers on the dual notions of fungibility of money and the potential of conversion of the modal production line to regular fiber.

With regard to fungibility, it has been determined in a previous investigation that the mere provision of capital to a company producing a number of goods does not necessarily constitute a bounty or grant on the production or export of particular products. (See *Papermaking Machinery from Finland*, February 20, 1979, 44 FR 10451). It is necessary to ascertain how closely related to the purpose for which the funds are provided are the products or operations being analyzed in order to resolve this issue. In the instant case, both regular and modal fiber are "viscose rayon staple fiber," but the latter is of better quality and is more expensive to produce. The finer merchandise can usually be used in the place of the lower quality one, but purchasers who would normally use regular fiber would not substitute modal for regular fiber merely because it is possible to do so. On the other hand, textile production that requires modal fiber could not use regular fiber and yield the same final product. Therefore, the payments limited and solely applied to modal production should not be considered as a benefit to production of regular fiber. Further, there is no way to measure the effect of "fungible" money for the many products

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some companies make. Thus, from an administrative, as well as a commercial, point of view, it seems impossible accurately to quantify any indirect benefits for a particular product merely because another was directly benefited.

Notwithstanding this conclusion concerning the lack of a benefit to regular fiber, as such, the benefits provided for acquiring modal fiber *machinery* might have been considered a benefit applicable to regular fiber production, if it had been shown that modal machinery could easily be adapted to the production of regular fiber. However, conversion appears to be impractical from both the commercial and technical points of view. Therefore, it would be improper to allocate portions of the benefits associated with the production of modal fiber to the production of regular fiber.

Accordingly, the benefit derived from the interest-free loans must be associated solely with the production of modal fiber. When a purely domestic (rather than an export) subsidy is involved, as is the case here, a countervailable benefit is deemed to exist only if a preponderance of production is exported, unless the *ad valorem* benefit is so large that trade distortion is likely to result. Even though virtually no modal fiber was exported by Svenska to the United States in 1978, the company did export the bulk of its total production of modal fiber to other countries, thus satisfying the preponderance criterion cited above. Accordingly, since a preponderance of production is exported, it is determined that a bounty or grant is paid or bestowed within the meaning of section 303 of the Act on the manufacture or exportation of modal viscose rayon staple fiber by reason of the interest-free loans. However, it is also determined this program confers no benefit on the manufacture or exportation of regular viscose rayon staple fiber.

The true benefit associated with the interest-free loans must be evaluated in light of the terms of these loans. When this is done, it appears that the loans will never be paid and, therefore, should be considered an outright grant to Svenska. The current, *ad valorem* benefit associated with the grants received to date is calculated by spreading their total amount over 10 years (which is the minimum period designated by the Government of Sweden for writing off the grants) and then dividing this figure by the total production of modal fiber in 1978. This yields an *ad valorem* benefit of 8.6 percent on the modal fiber. The Department will adjust this figure should it become necessary to do so.

C. The grant of funds through a government program devised to stockpile raw materials and maintain extra production capacity for national defense purposes was preliminarily determined not to constitute a bounty or grant. More information regarding this plan was obtained before making this final determination.

The Government of Sweden, in response to its perceived need to maintain adequate defense in both the military and economic fields, has established a plan whereby strategic stockplies and minimum production capacity deemed essential to national security are maintained. Among the numerous products included in this plan is the subject mechandise. The company is paid only for the extra expenses it incurs by cooperating with its government's plan. Machinery is maintained in storage for possible future need and fiber itself is kept in a rotating stockpile in order to ensure its freshness. Strategic stockpiles are set at a given level and may not be used for commerical purposes and, in the same manner, commerical inventories may not be used by the company to meet its defense obligations. Given this strict management of the government program and the fact that Svenska receives no net benefit owing to its participation, this program is determined not to constitute a bounty or grant.

Interested parties were invited to submit relevant data, views, or arguments orally or in writing with respect to the preliminary determinations. Such data, views or arguments have been taken into account in rendering this determination.

Accordingly, notice is hereby given that viscose rayon staple fiber which is imported directly or indirectly from Sweden, if entered, or withdrawn from warehouse, for consumption on or after May 15, 1979, will be subject to the payment of countervailing duties equal to the net amount of any bounty or grant determined or estimated to have been paid or bestowed. Since it has been determined that no bounty or grant is presently being paid or bestowed with respect to regular fiber, imports of such merchandise from Sweden shall be subject to a zero rate countervailing duty.

In accordance with section 303 of the Act and until further notice, the net amount of such bounties or grants on the f.o.b. value of the modal fiber has been ascertained and determined to be 8.6 percent. Therefore effective on or after (publication date of this notice), and until further notice, upon the entry, or withdrawal from warehouse, for consumption of such modal viscose rayon staple fiber imported directly or indirectly from Sweden, which benefit from these bounties or grants, there shall be collected, in addition to any other duties estimated or determined to be due, countervailing duties in the amount ascertained in accordance with the above declaration. To the extent that it can be established to the satisfaction of the Commissioner of Customs that imports of modal fiber from Sweden are benefiting from a bounty or grant smaller than the amount which otherwise would be applicable under the above declaration, the smaller amount so established shall be assessed and collected.

Any merchandise subject to the terms of this order shall be deemed to have benefitted from a bounty or grant, if such bounty or grant has been or will be credited or bestowed, directly or indirectly, upon the manufacture, production or exporation of viscose rayon staple fiber from Sweden.

The table in § 159.47(f) of the Customs Regulations (19 CFR 159.47(f)) is amended by inserting after the last entry for "Sweden", the words "viscose rayon staple fiber" in the column headed "Commodity", the number of this Treasury Decision in the column headed "Treasury Decision" and the words "Bounty Declared-Rate" in the column headed "Action."

(R.S. 251, as amended, secs. 303, as amended, 624, 46 Stat. 687, as amended, 759 (19 U.S.C. 66, 1303, 1624)).

This final determination is published pursuant to section 303(a) of the Tariff Act of 1930, as amended (19 U.S.C. 1303(a)).

Pursuant to Reorganization Plan No. 26 of 1950 and Treasury Department Order 190 (Revision 15) March 16, 1978, the provisions of Treasury Department Order No. 165, Revised, November 2, 1954, and § 154.47 of the Customs Regulations (19 CFR 159.47), insofar as they pertain to the issuance of a final contervailing duty determination by the Commissioner of Customs, are hereby waived.

David R. Brennan,
Acting General Counsel of the Treasury.

May 8, 1979.

[T.D. 79-141]
[FR Doc. 79-15126 Filed 5-14-79; 8:45 am]
BILLING CODE 4810-22-M

DEPARTMENT OF HEALTH, EDUCATION, AND WELFARE

Food and Drug Administration

21 CFR Part 14

Bacterial Vaccines and Toxoids Panel; Deletion From List of Standing Advisory Committees

AGENCY: Food and Drug Administration.

ACTION: Final rule.

SUMMARY: The Food and Drug Administration (FDA) announces the termination of the Panel on Review of Bacterial Vaccines and Toxoids and amends the regulations to delete it from the list of standing advisory committees. The Panel was terminated because it had completed its work.

EFFECTIVE DATE: May 15, 1979.

FOR FURTHER INFORMATION CONTACT: Jack Gertzog, Bureau of Biologics (HFB-5) Food and Drug Administration, Department of Health, Education, and Welfare, 8800 Rockville Pike, Bethesda, Md. 20014, 301-443-5455.

SUPPLEMENTARY INFORMATION: The Panel's functions were to review and evaluate available data concerning the safety, effectiveness, and adequacy of labeling for bacterial vaccines and toxoids. The Panel has completed its report and will submit its conclusions and recommendations on the safety, effectiveness, and labeling of these products to the Commissioner of Food and Drugs in the near future. These conclusions and recommendations will be published in a future issue of the **Federal Register.**

Accordingly, the purpose of the Panel has been served, and the Panel is no longer needed. On April 16, 1979, the charter for the Panel expired.

Therefore, under the Federal Food, Drug, and Cosmetic Act (sec. 701(a), 52 Stat. 1055 (21 U.S.C. 371(a))) and under authority delegated to the Commissioner (21 CFR 5.1), Part 14 is amended in § 14.100 *List of standing advisory committees* by deleting paragraph (b)(1)(ii) *Bacterial Vaccines and Toxoids Panel* and marking it reserved.

Effective Date. Because this is a technical conforming amendment to Part 14, the Commissioner finds that there is good cause for the rule to be effective immediately upon publication in the **Federal Register,** (May 15, 1979).

(Sec. 701(a), 52 Stat. 1055 (21 U.S.C. 371(a)))

Dated: May 8, 1979.

William F. Randolph,
Acting Associate Commissioner for Regulatory Affairs.

[FR Doc. 79-14917 Filed 5-14-79; 8:45 am]
BILLING CODE 4110-03-M

21 CFR Part 14

Viral Vaccines and Rickettsial Vaccines Panel; Deletion from List of Standing Advisory Committees

AGENCY: Food and Drug Administration.

ACTION: Final rule.

SUMMARY: The Food and Drug Administration (FDA) announces the termination of the Panel on Review of Viral Vaccines and Rickettsial Vaccines and amends the regulations to delete it from the list of standing advisory committees. The Panel was terminated because it had completed its work.

EFFECTIVE DATE: May 15, 1979.

FOR FURTHER INFORMATION CONTACT: Jack Gertzog, Bureau of Biologics (HFB-5), Food and Drug Administration, Department of Health, Education, and Welfare, 8800 Rockville Pike, Bethesda, MD. 20014, 301-443-5455.

SUPPLEMENTARY INFORMATION: The Panel's functions were to review and evaluate available data concerning the safety, effectiveness, and adequacy of labeling for viral vaccines and rickettsial vaccines. The Panel has submitted its conclusions and recommendations on the safety, effectiveness, and labeling of these products to the Commissioner of Food and Drugs. These conclusions and recommendations will be published in a future issue of the **Federal Register.**

Accordingly, the purpose of the Panel has been served, and the Panel is no longer needed. On April 16, 1979, the charter for the Panel expired.

Therefore, under the Federal Food, Drug, and Cosmetic Act (sec. 701(a), 52 Stat. 1055 (21 U.S.C. 371(a))) and under authority delegated to the Commissioner (21 CFR 5.1), Part 14 is amended in § 14.100 *List of standing advisory committees* by deleting paragraph (b)(1)(iii) *Viral Vaccines and Rickettsial Vaccines Panel* and marking it reserved.

Effective date. Because this is a technical conforming amendment to Part 14, the Commissioner finds that there is good cause for the rule to be effective immediately upon publication in the **Federal Register,** (May 15, 1979).

Dated: May 8, 1979.

William F. Randolph,
Acting Associate Commissioner for Regulatory Affairs.

[FR Doc. 79-14914 Filed 5-14-79; 8:45 am]
BILLING CODE 4110-03-M

21 CFR Part 73

Listing of Color Additives Exempt From Certification; Ferric Ammonium Ferrocyanide

AGENCY: Food and Drug Administration.

ACTION: Final rule.

SUMMARY: The Food and Drug Administration (FDA) revises the specifications for ferric ammonium ferrocyanide by increasing tolerances for water soluble cyanide, total cobalt, and total nickel, as proposed in the **Federal Register** of August 15, 1978 (43 FR 36110). After considering a comment received in response to the proposal, the agency is also revising the total iron specification of the additive.

DATES: Effective June 15, 1979; objections by June 14, 1979.

ADDRESS: Written objections to the Hearing Clerk (HFA-305), Food and Drug Administration, Rm. 4-65, 5600 Fishers Lane, Rockville, MD 20857.

FOR FURTHER INFORMATION CONTACT: Gerad L. McCowin, Bureau of Foods (HFF-334), Food and Drug Administration, Department of Health, Education, and Welfare, 200 C St. SW., Washington, DC 20204, 202-472-5740.

SUPPLEMENTARY INFORMATION: In the **Federal Register** of August 15, 1978 (43 FR 36110), FDA proposed to amend the specifications for ferric ammonium ferrocyanide by increasing the tolerances for water soluble cyanide, total cobalt, and total nickel and adding specifications for water soluble cobalt and water soluble nickel. These proposed revisions were clarifications of the regulation published on July 29, 1977 (42 FR 38562) for use of ferric ammonium ferrocyanide in externally applied drugs and cosmetics, including those intended for use in the area of the eye. These proposed revisions were in response to supplementary letters to an objection and a subsequent citizen petition (8CP0138), submitted by manufacturers of the color additive.

Data submitted in support of the revised cobalt and nickel specifications are on file at the office of the Hearing Clerk, FDA, address given above, and may be seen from 9 a.m. to 4 p.m., Monday through Friday. These data indicate that there are no detectable levels of water soluble cobalt or water soluble nickel in samples of ferric

any time on or before June 14, 1979, file

(HFF-415), Food and Drug

hydrogenated fish oil approved by

(b) Hydrogenation of fish oils results

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ammonium ferrocyanide spiked with up to 200 parts per million (ppm) of both cobalt and nickel. Thus, the proposed tolerances for water soluble cobalt and water soluble nickel are superfluous and have been deleted.

In response to the proposal, one comment was received from the manufacturer. The manufacturer requested a broader specification for total iron in ferric ammonium ferrocyanide than the one published in the July 1977 regulation. This request was based on the variability in water content in samples of the color additive. The agency has evaluated this request and concludes that a better alternative would be to correct for the weight of volatile material in the sample in determining the total iron value. This would be consistent with the total iron specification for ferric ferrocyanide as published in the **Federal Register** of November 21, 1978 (43 FR 54235).

Therefore, under the Federal Food, Drug, and Cosmetic Act (sec. 706(b), (c), and (d), 74 Stat. 399–403 as amended (21 U.S.C. 376(b), (c), and (d))) and under authority delegated to the Commissioner of Food and Drugs (21 CFR 5.1), Part 73 is amended in § 73.1298 by revising paragraph (b) to read as follows:

PART 73—LISTING OF COLOR ADDITIVES EXEMPT FROM CERTIFICATION

§ 73.1298 Ferric ammonium ferrocyanide.

* * * * *

(b) *Specifications.* Ferric ammonium ferrocyanide shall conform to the following specifications and shall be free of impurities other than those named to the extent that the other impurities may be avoided by good manufacturing practice:

Oxalic acid or its salts, not more than 0.1 percent.
Water soluble matter, not more than 3 percent.
Water soluble cyanide, not more than 10 parts per million.
Volatile matter, not more than 4 percent.
Lead (as Pb), not more than 20 parts per million.
Arsenic (as As), not more than 3 parts per million.
Nickel (as Ni), not more than 200 parts per million.
Cobalt (as Co), not more than 200 parts per million.
Mercury (as Hg), not more than 1 part per million.
Total iron (as Fe corrected for volatile matter), not less than 33 percent and not more than 39 percent.

* * * * *

Any person who will be adversely affected by the foregoing order may at any time on or before June 14, 1979, file with the Hearing Clerk (HFA–305), Food and Drug Administration, Rm. 4–65, 5600 Fishers Lane, Rockville, MD 20857, written objections to this order. Objections shall show how the person filing will be adversely affected by the order, specify with particularity the provisions of the order deemed objectionable, and state the grounds for the objections. Objections shall be filed in accordance with the requirements of § 71.30 (21 CFR 71.30). If a hearing is requested, the objections shall state the issues for the hearing, shall be supported by grounds factually and legally sufficient to justify the relief sought, and shall include a detailed description and analysis of the factual information intended to be presented in support of the objections if a hearing is held. Four copies of all documents shall be filed and should be identified with the Hearing Clerk docket number found in brackets in the heading of this document. Received objections may be seen in the Hearing Clerk's office from 9 a.m. to 4 p.m., Monday through Friday.

Effective date: This regulation is effective June 15, 1979, except as to any provisions that may be stayed by the filing of proper objections. Notice of the filing of objections or lack thereof will be announced by publication in the **Federal Register.**

(Sec. 706 (b), (c), and (d), 74 Stat. 399–403 as amended (21 U.S.C. 376 (b), (c) and (d)).)

Dated: May 7, 1979.

William F. Randolph,
Acting Associate Commissioner for Regulatory Affairs.

[Docket No. 77C–0206]
[FR Doc. 79–14919 Filed 5–14–79; 8:45 am]
BILLING CODE 4110–03–M

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21 CFR Part 131

Standard of Identity for Dry Cream; Confirmation of Effective Date of Amendment to Final Regulation

AGENCY: Food and Drug Administration.

ACTION: Final rule.

SUMMARY: This document confirms the effective date of an amendment to the final regulation of May 9, 1978, which established a standard of identity for dry cream. The amendment makes the description of dry cream consistent with descriptions of related products.

DATES: Voluntary compliance may have begun February 20, 1979; mandatory compliance for all products initially introduced into interstate commerce begins July 1, 1979.

FOR FURTHER INFORMATION CONTACT: Eugene T. McGarrahan, Bureau of Foods (HFF–415), Food and Drug Administration, Department of Health, Education, and Welfare, 200 C St. SW., Washington, DC 20204, 202–245–1155.

SUPPLEMENTARY INFORMATION: In the **Federal Register** of May 9, 1978 (43 FR 19834), the Food and Drug Administration issued a final regulation that established standards of identity for lowfat dry milk, dry whole milk, and dry cream (21 CFR 131.123, 131.147, and 131.149, respectively) and amended the standards of identity for nonfat dry milk and nonfat dry milk fortified with vitamins A and D (21 CFR 131.125 and 131.127, respectively) based on the recommended international standards for these foods. In the **Federal Register** of January 19, 1979 (44 FR 3964), the agency confirmed the effective date of that final regulation and amended the description for dry cream to provide for the manufacture of dry cream by dry-blending dry cream with other dry milk products. The amendment also makes the description of dry cream in § 131.149(a) consistent with the descriptions for lowfat dry milk in § 131.123(a) and dry whole milk in § 131.147(a) and allows flexibility without restricting future manufacturing processes for dry cream.

The January 19, 1979 document announced that any person who would be adversely affected by the amendment could file, on or before February 20, 1979, written objections to the amendment to the final regulation and request a hearing on the stated objections. No objections were received.

Therefore, under the Federal Food, Drug, and Cosmetic Act (secs. 401, 701(e), 52 Stat. 1046 as amended, 70 Stat. 919 as amended (21 U.S.C. 341, 371(e))) and under authority delegated to the Commissioner of Food and Drugs (21 CFR 5.1), notice is given that no objections were received. Compliance with the amendment to the final regulations may have begun on February 20, 1979, and all products initially introduced into interstate commerce on or after July 1, 1979 shall fully comply.

Dated: May 7, 1979.

William F. Randolph,
Acting Associate Commissioner for Regulatory Affairs.

[Docket No. 77N–0119]
[FR Doc. 79–14921 Filed 5–14–79; 8:45 am]
BILLING CODE 4110–03–M

21 CFR Parts 182 and 186

Substances Generally Recognized as Safe and Indirect Food Substances Affirmed as Generally Recognized as Safe; Hydrogenated Fish Oil

AGENCY: Food and Drug Administration.

ACTION: Final rule.

SUMMARY: The Food and Drug Administration (FDA) affirms the generally recognized as safe (GRAS) status of hydrogenated fish oil as an indirect human food ingredient. The safety of this ingredient has been evaluated under the agency's comprehensive review of substances considered to be GRAS or subject to a prior sanction.

EFFECTIVE DATE: June 14, 1979.

FOR FURTHER INFORMATION CONTACT: Corbin I. Miles, Bureau of Foods (HFF–335), Food and Drug Administration, Department of Health, Education, and Welfare, 200 C St. SW., Washington, D.C. 20204, 202–472–4750.

SUPPLEMENTARY INFORMATION: In the **Federal Register** of July 14, 1978 (43 FR 30300), FDA proposed to affirm the GRAS status of hydrogenated fish oil for use as an indirect human food ingredient. The proposal was based on safety information developed by the Select Committee on GRAS Substances and was published as part of the agency's review of the safety of GRAS and prior-sanctioned food ingredients.

Under § 170.35 (21 CFR 170.35), concerning the affirmation of GRAS food ingredients, copies of the scientific literature review on fish oils and the report of the Select Committee on GRAS Substances on hydrogenated fish oil have been made available for public review in the office of the Hearing Clerk (address above). Copies of these documents have also been made available for public purchase from the National Technical Information Service as announced in the proposal.

In addition to proposing to affirm the GRAS status of hydrogenated fish oil, FDA advised in the July 1978 proposal that it was unaware of any prior-sanctioned food ingredient use for this ingredient other than for the proposed condition of use. Persons asserting additional or extended uses, in accordance with approvals granted by the U.S. Department of Agriculture or FDA before September 6, 1958, were given notice to submit proof of the sanction so that the safety of the prior-sanctioned use could be determined. That notice was also an opportunity to have prior-sanctioned uses of hydrogenated fish oil approved by issuance of an appropriate regulation under Part 181—Prior-Sanctioned Food Ingredients (21 CFR Part 181), provided the prior-sanctioned use could be affirmed as safe on the basis of currently available data. Notice was also given that failure to submit proof of an applicable prior sanction in response to the proposal would constitute a waiver of the right to assert the sanction at any future time.

No reports of a prior-sanctioned use for hydrogenated fish oil were submitted in response to the proposal. Therefore, in accordance with that proposal, any right to assert a prior sanction for a use of hydrogenated fish oil under conditions different from those set forth in this regulation has been waived.

No written comments were received in response to the agency's proposal and supporting data and information on hydrogenated fish oil. Several verbal inquiries were made, however, requesting further information regarding direct food uses of this ingredient. In accordance with the proposal, these parties were told that hydrogenated fish oils are not approved for direct food use in the United States and that a food additive petition, in accordance with section 409(b) of the Federal Food, Drug, and Cosmetic Act (21 U.S.C. 348(b)) and § 171.1 (21 CFR 171.1), must be submitted for such use.

Therefore, under the Federal Food, Drug, and Cosmetic Act (secs. 201(s), 409, 701(a), 52 Stat. 1055, 72 Stat. 1784–1788 as amended (21 U.S.C. 321(s), 348, 371(a))) and under authority delegated to the Commissioner of Food and Drugs (21 CFR 5.1), Parts 182 and 186 are amended as follows:

§ 182.70 [Amended]

1. Part 182 is amended in § 182.70 *Substances migrating from cotton and cotton fabrics used in dry food packaging* by deleting the listing entry for "fish oil (hydrogenated)."

2. Part 186 is amended by adding new § 186.1551 to read as follows:

§ 186.1551 Hydrogenated fish oil.

(a) Hydrogenated fish oil (CAS Reg. No. 8016–14–6) is a class of oils produced by partial hydrogenation of oils expressed from fish, primarily menhaden, and secondarily herring or tuna. Hydrogenation of fish oils uses catalysts composed of either elemental nickel, elemental copper, or a mixture of these elements. The crude hydrogenated fish oil is further processed by alkali refining, bleaching, and deodorization by steam stripping.

(b) Hydrogenation of fish oils results in a final product with a melting point greater than 32°C as determined by Section Cc 1–25, Official and Tentative Methods of the American Oil Chemists' Society method (1964) [1] or equivalent. The product has an approximate fatty acid composition of 30 to 45 percent saturated fatty acids, 40 to 55 percent monoenoic fatty acids, 7 to 15 percent dienoic fatty acids, 3 to 10 percent trienoic fatty acids, and less than 2 percent tetraenoic or higher polyenoic fatty acids. The approximate percentages of total fatty acids by carbon chain length are 15 to 30 percent each of C_{16}, C_{18}, C_{20}, C_{22}, less than 10 percent C_{14} or lower carbon chain length, and less than 1 percent C_{24} or higher carbon chain length fatty acids.

(c) The ingredient is used as a constituent of cotton and cotton fabrics used for dry food packaging.

(d) The ingredient is used at levels not to exceed good manufacturing practice in accordance with § 186.1(b)(1).

(e) Prior sanctions for this ingredient different from the use established in this section do not exist or have been waived.

Effective Date. This regulation shall be effective June 14, 1979.

(Secs. 201(s), 409, 701(a), 52 Stat. 1055, 72 Stat. 1784–1788 as amended (21 U.S.C. 321(s), 348, 371(a)).)

Dated: May 8, 1979.

William F. Randolph,
Acting Associate Commissioner for Regulatory Affairs.

[Docket No. 78N–0152]
[FR Doc. 79–15071 Filed 5–14–79; 8:45 am]
BILLING CODE 4110–03–M

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21 CFR Part 520

Oral Dosage Form New Animal Drugs Not Subject to Certification; Trimethoprim and Sulfadiazine Tablets

AGENCY: Food and Drug Administration.

ACTION: Final Rule.

SUMMARY: The Food and Drug Administration (FDA) amends the animal drug regulations to reflect approval of a new animal drug application (NADA) filed by Diamond Laboratories, Inc., providing for safe and effective use of a combination antibacterial drug for treating infections of dogs.

EFFECTIVE DATE: May 15, 1979.

FOR FURTHER INFORMATION CONTACT: Henry C. Hewitt, Bureau of Veterinary Medicine (HFV–114), Food and Drug Administration, Department of Health,

[1] Copies may be obtained from: American Oil Chemists' Society, 508 S. 6th St., Champaign, IL 61820.

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Education, and Welfare, 5600 Fishers Lane, Rockville, MD 20857, 301–443–3420.

SUPPLEMENTARY INFORMATION: Diamond Laboratories, Inc., c/o Syntex Agribusiness, Inc., 3401 Hillview Ave., Palo Alto, CA 94304, filed NADA 115–578 providing for use of trimethoprim-sulfadiazine tablets in dogs for control of bacterial infection during treatment of acute urinary tract infections, acute bacterial complications of distemper, acute respiratory tract infections, acute alimentary tract infections, wound infections, and abscesses. This approval covers use of tablets containing both 120 milligrams (mg) (20 mg trimethoprim and 100 mg sulfadiazine) and 480 mg (80 mg trimethoprim and 400 mg sulfadiazine).

This product is identical to one approved for Burroughs Wellcome Co. in NADA 95–614. Data and information supporting NADA 95–614 are used to support approval of NADA 115–578, under authorization from Burroughs Wellcome Co.

In accordance with the provisions of Part 20 (21 CFR Part 20) promulgated under the Freedom of Information Act (5 U.S.C. 552) and § 514.11(e)(2)(ii) of the animal drug regulations (21 CFR 514.11(e)(2)(ii)), a summary of safety and effectiveness data and information submitted to support approval of this application is available for public examination at the office of the Hearing Clerk (HFA–305), Rm. 4–65, Food and Drug Administration, 5600 Fishers Lane, Rockville, MD 20857, from 9 a.m. to 4 p.m., Monday through Friday.

Therefore, under the Federal Food, Drug, and Cosmetic Act (sec. 512(i), 82 Stat. 347 (21 U.S.C. 360b(i))) and under authority delegated to the Commissioner of Food and Drugs (21 CFR 5.1) and redelegated to the Director of the Bureau of Veterinary Medicine (21 CFR 5.83), Part 520 is amended in § 520.2610 by revising paragraph (b) to read as follows:

§ 520.2610 Trimethoprim and sulfadiazine tablets.

* * * * *

(b) *Sponsor.* See Nos. 000081 and 013947 in § 510.600(c) of this chapter.

* * * * *

Effective date. This regulation is effective May 15, 1979.

(Sec. 512(i), 82 Stat. 347 (21 U.S.C. 360b(i)).)

Dated: May 4, 1979.

Terence Harvey,

Acting Director, Bureau of Veterinary Medicine.

[FR Doc. 79–15075 Filed 5–14–79; 8:45 am]

BILLING CODE 4110–03–M

FEDERAL EMERGENCY MANAGEMENT AGENCY

24 CFR Part 1915

Communities With No Special Hazard Areas for the National Flood Insurance Program

AGENCY: Office of Federal Insurance and Hazard Mitigation, FEMA.[1]

ACTION: Final Rule.

SUMMARY: The Federal Insurance Administrator, after consultation with local officials of the communities listed below, has determined, based upon analysis of existing conditions in the communities, that these communities would not be inundated by the 100-year flood. Therefore, the Administrator is converting the communities listed below to the Regular Program of the National Flood Insurance Program without determining base flood elevations.

EFFECTIVE DATE: Date listed in fourth column of List of Communities with No Special Flood Hazards.

FOR FURTHER INFORMATION CONTACT: Mr. Richard W. Krimm, National Flood Insurance Program (202) 755–5581 or Toll Free Line 800–424–8872, Room 5270, 451 Seventh St., S.W., Washington, D.C. 20410.

SUPPLEMENTARY INFORMATION: In these communities, there is no reason not to make full limits of coverage available. The entire community is now classified as zone C. In a zone C, insurance coverance is available on a voluntary basis at low actuarial nonsubsidized rates. For example, under the Emergency Program in which your community has been participating the rate for a one-story 1–4 family dwelling is $.25 per $100 of coverage. Under the Regular Program, to which your community has been converted, the equivalent rate is $.01 per $100 coverage. Contents insurance is also available under the Regular Program at low actuarial rates. For example, when all contents are located on the first floor of a residential structure, the premium rate is $.05 per $100 of coverage.

In addition to the less expensive rates, the maximum coverage available under the Regular Program is significantly greater than that available under the Emergency Program. For example, a single family residential dwelling now can be insured up to a maximum of $185,000 coverage for the structure and $60,000 coverage for contents.

Flood insurance policies for property located in the communities listed can be obtained from any licensed property insurance agent or broker serving the eligible community, or from the National Flood Insurance Program.

The effective date of conversion to the Regular Program will not appear in the Code of Federal Regulations except for the page number of this entry in the **Federal Register**.

The entry reads as follows:

§ 1915.8 List of communities with no special flood hazard areas.

State	County	Community name	Date of conversion to regular program
California	Los Angeles	City of Bellflower	April 30, 1979.
California	Los Angeles	City of San Marino	April 30, 1979.

(National Flood Insurance Act of 1968 (Title XIII of Housing and Urban Development Act of 1968), effective January 28, 1969 (33 FR 17804, November 28, 1968), as amended: (42 U.S.C. 4001–4128); Executive Order 12127, 44 FR 19367; and delegation of authority to Federal Insurance Administrator, 44 FR 20963.)

Issued: May 4, 1979.

Gloria M. Jimenez,

Federal Insurance Administrator.

[Docket No. 5481]

[FR Doc. 79–15087 Filed 5–14–79; 8:45 am]

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[1] The functions of the Federal Insurance Administration, Department of Housing and Urban Development, were transferred to the newly established Federal Emergency Management Agency by Reorganization Plan No. 3 of 1978 (43 FR 41943, September 19, 1978) and Executive Order 12127 (44 FR 19367, April 3, 1979).

DEPARTMENT OF LABOR

Occupational Safety and Health Administration

29 CFR Part 1952

Approval of Supplements to Maryland State Plan

AGENCY: Occupational Safety and Health Administration, Department of Labor.

ACTION: Final rule.

SUMMARY: This notice announces completion of the three remaining developmental steps in the Maryland State Plan's developmental schedule as published in the **Federal Register** of July 5, 1973 (38 FR 17834) and amended on October 15, 1976 (41 FR 45564). Approved are the review and appeal procedures used by the Maryland program. Also approved are the amended developmental step requiring the inspection and enforcement of agriculture standards by the Maryland Division of Labor and Industry and the developmental step requiring that the State conduct an occupational health study.

EFFECTIVE DATE: May 15, 1979.

FOR FURTHER INFORMATION CONTACT: Dennis Lubow, Office of State Programs, Occupational Safety and Health Administration, Room N–3101, 3rd Street and Constitution Avenue, NW., Washington, D.C. 20210. Phone: 202–653–5373.

SUPPLEMENTAL INFORMATION:

Background

Part 1953 of Title 29, Code of Federal Regulations, provides procedures under Section 18 of the Occupational Safety and Health Act of 1970 (29 U.S.C. 667) (hereinafter called the Act) for review of changes and progress in the development and implementation of State plans which have been approved in accordance with Section 18(c) of the Act and 29 CFR Part 1902. On July 5, 1973, a notice was published in the **Federal Register** (38 FR 17834) of the approval of the Maryland Plan and the adoption of Subpart O of Part 1952 containing the decision and describing the plan. By letters dated August 31, 1976, July 29, 1977, July 19, 1978, August 31, 1978, and September 5, 1978, from Harvey A. Epstein, Commissioner of the Maryland Division of Labor and Industry, to David H. Rhone, Regional Administrator, the State of Maryland submitted developmental change supplements.

Following regional review, the supplements were forwarded to the Assistant Secretary for Occupational Safety and Health (hereinafter referred to as the Assistant Secretary) for determination as to whether they should be approved. The supplements are described below:

Description of Supplements

1. *Review and Appeal Procedures.* In accordance with the requirement of the developmental step set forth in 29 CFR 1952.213(g), on August 31, 1976, the State of Maryland submitted a supplement to its plan concerning the State's review procedures. The plan change revised the procedures for formal and informal conferences so that no informal conference would be held following receipt of a notice of contest. By subsequent letter dated August 31, 1978, the State submitted a plan change assuring participation of the inspector in any settlement agreement, and required mandatory follow-up of any such agreement.

On July 19, 1978, the State transmitted to OSHA a draft amendment to the Maryland OSH legislation, with an assurance that the Division of Labor and Industry would recommend enactment of the amendment by the State legislature. Existing State law provides that after a contested case is heard and decided by a hearing examiner, the affected employer, employee or employee representative may request a review of the proceedings by the Commissioner of Labor and Industry, who may issue an order affirming, modifying, or vacating the citation and penalty, or directing other appropriate relief. The amendment would authorize the Commissioner to conduct such review on his own motion.

2. *Enforcement of Agricultural Standards.* The decision initially approving the Maryland State Plan provided that agricultural standards would be enforced by the Maryland Department of Agriculture by agreement with the Division of Labor and Industry. By a letter dated April 29, 1975, the designated agency indicated that the agreement with the Department of Agriculture had been terminated and that agricultural standards were being enforced by the Division of Labor and Industry. This change was put out for public comment in the **Federal Register** of January 28, 1976 (41 FR 4035), and the original developmental step providing for the enforcement of agricultural standards by the Maryland Department of Agriculture was amended in the **Federal Register** of October 15, 1976 (41 FR 45563). The revised step required enforcement of agricultural standards by the Maryland Division of Labor and Industry. Subsequent monitoring by the Occupational Safety and Health Administration (OSHA) has found State enforcement of agricultural standards to be adequate.

3. *Occupational Health Study.* In accordance with the requirement of the developmental step set forth in 29 CFR 1952.213(a), the State of Maryland submitted an occupaional health study conducted by the Johns Hopkins University School of Hygiene and Public Health on January 12, 1973. The State occupational health plan was subsequently approved in the **Federal Register** of October 15, 1976 (41 FR 45563).

Location of the Plan and its Supplements for Inspection and Copying

Copies of the supplements, along with the approved plan, may be inspected and copied during normal business hours at the following locations; Office of the Director of Federal Compliance and State Programs, Occupational Safety and Health Administration, U.S. Department of Labor, 3rd Street and Constitution Avenue, N.W., Washington, D.C., 20210; Technical Data Center, Occupational Safety and Health Administration, U.S. Department of Labor, Room N–2439, 3rd Street and Constitution Avenue, N.W., Washington, D.C. 20210; Office of the Regional Administrator, Occupational Safety and Health Administration, U.S. Department of Labor, Room 2100, Gateway Center, Philadelphia, Pennsylvania 19104; and the Office of the Commissioner, Division of Labor and Industry, 203 East Baltimore Street, Baltimore, Maryland 21202.

Public Participation: No public comments or requests for a hearing were received in response to the January 28, 1976, **Federal Register** notice (41 FR 4035). Under § 1952.2(c) of this chapter, the Assistant Secretary may prescribe alternative procedures to expedite the review process or for any other good cause which may be consistent with applicable law. The Assistant Secretary finds that the Maryland plan supplements described above are consistent with commitments contained in the approved plan and amendments which were previously made available for public comment. Accordingly, it is found that further public comment and notice is unnecessary.

Decision: After careful consideration, the Maryland plan supplements outlined above are approved under Part 1953. This decision incorporates the requirements of the Act and implementing regulations applicable to State plans generally. Section 1952.214 of 29 CFR is accordingly amended to

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reflect the completion of three developmental steps by adding paragraphs (m), (n), and (o) to the list of completed developmental steps as follows:

§ 1952.214 Completed developmental steps.

* * * * *

(m) In accordance with 29 CFR 1952.213(a), the State submitted an occupational health study, and the State's occupational health plan is being implemented.

(n) In accordance with 29 CFR 1952.213(g), the State established a staff of hearing examiners and review procedures.

(o) In accordance with 29 CFR 1952.213(k), agricultural standards are being enforced by the Maryland Department of Labor and Industry.

(Sec. 18, Pub. L. 91–596, 84 Stat. 1608 (29 U.S.C. 667)).

Signed at Washington, D.C. this 8th day of May, 1979.

Eula Bingham,
Assistant Secretary of Labor.

[FR Doc. 79–15164 Filed 5–14–79; 8:45 am]

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29 CFR Part 1952

Approval of Supplements to Maryland State Plan

AGENCY: Occupational Safety and Health Administration.

ACTION: Final rule.

SUMMARY: Various supplements to the Maryland State Plan are approved. Supplements representing completion of developmental steps include: an updated compliance manual; amended rules and regulations for standard-setting procedures and for the adoption of standards; amended regulations for the modification, revocation and renewal of variances; a public sector plan and a public sector self-inspection compliance manual; and a review of job qualifications. Other supplements being approved are a safety inspection scheduling system and a change which eliminates elevator inspections from coverage under the Maryland plan. The compliance manual was made available for public comment in a **Federal Register** notice published June 15, 1976 (41 FR 24154). Other supplements were put out for public comment in the **Federal Register** of January 28, 1976 (41 FR 4035).

EFFECTIVE DATE: May 15, 1979.

FOR FURTHER INFORMATION CONTACT: Dennis Lubow, Office of State Programs, Occupational Safety and Health Administration, Room N–3101, 3rd Street and Constitution Avenue, N.W., Washington, D.C. 20210, (202) 653–5373.

SUPPLEMENTARY INFORMATION:

Background

Part 1953 of Title 29, Code of Federal Regulations, provides procedures under section 18 of the Occupational Safety and Health Act of 1970 (29 U.S.C. 667) (hereinafter called the Act) for review of changes and progress in the development and implementation of State plans which have been approved in accordance with section 18(c) of the Act and 29 CFR Part 1902. On July 5, 1973, a notice was published in the **Federal Register** (38 FR 17834) of the approval of the Maryland Plan and the adoption of Subpart O of Part 1952 containing the decision and describing the plan. By letters dated August 21, 1975; September 26, 1975; October 2, 1975; October 21, 1975; October 24, 1975; January 9, 1976; February 3, 1976; March 16, 1976; April 21, 1976; December 6, 1976; July 29, 1977; September 26, 1977; January 10, 1978; and August 31, 1978; from Harvey A. Epstein, Commissioner of the Maryland Department of Labor and Industry, to David H. Rhone, Regional Administrator, the State of Maryland submitted State initiated and developmental change supplements.

Following regional review, the supplements were forwarded to the Assistant Secretary for Occupational Safety and Health (hereinafter referred to as the Assistant Secretary) for determination as to whether they should be approved. The supplements are described below.

Description of the Supplements

1. *Compliance Manual.* In accordance with the requirement of the developmental step set forth in 29 CFR 1952.213(b), on April 21, 1976, the State of Maryland submitted a supplement to its plan concerning the State's Compliance Operations Manual. Upon review by OSHA, a number of problems were found and transmitted to the State. Those problems dealt with advance notice of inspections, imminent danger procedures, repeat and failure to abate violations, variance procedures and exclusion of certain working conditions covered under Federal law. The State submitted changes to its compliance manual by letters dated December 6, 1976; July 29, 1977; December 8, 1977; and January 10, 1978. These plan changes corrected the defects found in the Maryland occupational safety and health program's compliance manual. The Compliance Manual consists of two parts. Part I, "Administrative Procedure," contains instructions pertaining to such matters as preparing citations, classification of violations, proposing penalties, and procedures for handling workplace safety and health complaints, accident investigations, and follow-up inspections. Part II, "Field Operations," concerns procedures for the conduct of inspections and covers such matters as advance notice, preparation for inspections, opening and closing conferences, inspection of construction sites, and imminent danger procedures. The manual also contains procedures for consultation services which are rendered by the designated agency.

2. *Standard-Setting Procedures.* In accordance with the requirement of the developmental step set forth in 29 CFR 1952.213(e), the designee has promulgated rules and regulations for standard-setting procedures. On June 1, 1974, Maryland promulgated various rules and regulations pursuant to the Maryland Occupational Safety and Health Act of 1973. By an additional letter dated August 21, 1975, the State submitted a supplement to its plan which provided for participation of any interested person in the promulgation, modification or revocation of any standard.

3. *Adoption of Standards.* By a letter dated September 26, 1975, from Harvey A. Epstein to David H. Rhone, the State of Maryland submitted changes to its plan indicating that the State would adopt and promulgate "at least as effective as" standards within six months of new or revised Federal standards. Revisions to Federal standards will be considered by the Maryland Occupational Safety and Health Advisory Board and "at least as effective as" standards will be adopted by the Commissioner of the Division of Labor and Industry within six months of promulgation of Federal standards revision. By an additional letter dated January 9, 1976, the State gave additional assurances that emergency standards would be promulgated.

4. *Review of Job Qualifications.* In accordance with the requirement of the developmental step set forth in 29 CFR 1952.213(j), the State of Maryland conducted a review of job qualifications of State plan personnel. This review was completed and by letters dated October 2, 1975, and October 24, 1975, the State submitted updated job specifications to replace Appendix E of the original approved plan. The U.S. Civil Service Commission reviewed the submissions and, by a letter dated June 10, 1977, confirmed that the Maryland Division of Labor and Industry was in substantial conformity with the intergovernmental merit system standards.

5. *Public Employee Program.* In accordance with the requirement of the developmental step set forth in 29 CFR 1952.213(m), the State of Maryland submitted by a letter dated October 21, 1975, from Harvey A. Epstein to David H. Rhone, a supplement providing for an occupational safety and health program for public employees. The program included provisions for the inspection of places of public employment by the Department of Labor and Industry in the same manner as the private sector, and for the issuance of citations and orders requiring the abatement of hazards. No monetary penalties are provided in the public sector. State agencies and political subdivisions may establish self-inspection programs subject to the approval of the Commissioner of Labor and Industry. The self-inspection programs are a supplement to, not a substitute for, a fully effective enforcement program conducted by the Department of Labor and Industry. The designated agency in Maryland retains the authority and responsibility to conduct inspections and other compliance activity with respect to workplaces having self-inspection programs so as to assure coverage as effective as that provided workplaces in the private sector. Assurances have been given by the State that regular random inspections will be made by the Department of Labor and Industry at all public sector workplaces. Assurances have also been given that the Department of Labor and Industry will respond in a manner identical to private sector coverage to all public sector employee complaints, and to all reports of fatalities and accidents involving public employees. All complaints of discrimination against employees will be handled by the Department of Labor and Industry in the same manner as in the private sector. A Public Sector Self-Inspection Compliance Manual was submitted on March 16, 1976, with amendments submitted on April 29, 1976. Additional clarification and assurances were given in letters dated March 4, 1977; March 28, 1977; May 18, 1977; December 8, 1977; January 2, 1979; and January 22, 1979. Because the effectiveness of certain features of the program have not yet been fully tested, notably the lack of monetary sanctions and the self-inspection program, the Assistant Secretary's continued approval of the Maryland Public Sector Plan is subject to the results of Federal OSHA monitoring of actual operations.

6. *Variances.* On June 1, 1974, Maryland promulgated various rules and regulations pursuant to the Maryland Occupational Safety and Health Act of 1973. The State was informed of deficiencies found by OSHA review with regard to the regulations concerning modification, revocation and renewal of variance orders. By a letter dated September 26, 1977, the State submitted an amendment to its rules and regulations which contained satisfactory provisions alleviating the deficiencies. The Maryland variance regulations now provide that an employer seeking a variance must meet a burden of proof similar to that required for the granting of a Federal variance. Affected employees and other interested persons must be notified and provided an opportunity to participate; a hearing may be requested by the employer or employees. Variances are to have only future effect and may be modified or revoked in the manner prescribed for their issuance.

7. *Safety Inspection Scheduling System.* By a letter dated August 21, 1975, the State of Maryland submitted a revised system of scheduling safety inspections. Scheduling was to consist of two parts: Target Health Industry Programming and General Scheduling. Upon review by OSHA, there was found to be insufficient documentation justifying the State's target industry program and a lack of detail in describing the method of general scheduling. By an additional letter dated February 3, 1976, the State submitted further documentation which justified its safety inspection scheduling. Subsequent semi-annual evaluation reports have shown the State to be adequately scheduling safety inspections.

8. *Elevator Inspections.* The decision approving the Maryland State plan provided that the State would conduct elevator inspections. By a letter dated April 18, 1978, the State announced that all elevator inspection activity was being deleted from coverage under the State plan effective July 1, 1978. On August 31, 1978, the State submitted a supplement to its plan which removed all elevator inspections from the Maryland plan.

Location of the Plan and its Supplements for Inspection and Copying

Copies of the supplements, along with the approved plan, may be inspected and copied during normal business hours at the following locations: Office of the Director of Federal Compliance and State Programs, Occupational Safety and Health Administration, U.S. Department of Labor, 3rd Street and Constitution Avenue, N.W., Washington, D.C. 20210; Technical Data Center, Occupational Safety and Health Administration, U.S. Department of Labor, Rm N2439, 3rd Street and Constitution Avenue, N.W., Washington, D.C. 20210; Office of the Regional Administrator, Occupational Safety and Health Administration, U.S. Department of Labor, Room 2100, Gateway Center, Philadelphia, Pennsylvania 19104; and the Office of the Commissioner, Division of Labor and Industry, 203 East Baltimore Street, Baltimore, Maryland 21202.

Public Participation

No public comments or requests for a hearing were received in response to the January 28, 1976, and June 15, 1976, **Federal Register** notices. Under § 1953.2(c) of this chapter, the Assistant Secretary may prescribe alternative procedures to expedite the review process or for any other good cause which may be consistent with applicable law. The Assistant Secretary finds that the Maryland plan supplements described above are consistent with commitments contained in the approved plan and amendments which were previously made available for public comment. Accordingly, it is found that further notice and public comment is unnecessary.

Decision

After careful consideration, the Maryland plan supplements outlined above are approved under Part 1953. This decision incorporates the requirements of the Act and implementing regulations applicable to State plans generally. In addition, 29 CFR 1952.214 is amended to reflect the completion of five developmental steps by adding paragraphs (h), (i), (j), (k), and (l) to the list of completed developmental steps as follows:

§ 1952.214 Completed developmental steps.

* * * * *

(h) In accordance with 29 CFR 1952.213(b), Maryland completed development of a Compliance Manual.

(i) In accordance with 29 CFR 1952.213(e), the State has promulgated acceptable standard-setting procedures.

(j) In accordance with 29 CFR 1952.213(h), Maryland promulgated acceptable variance procedures and emergency temporary standard-setting procedures.

(k) In accordance with 29 CFR 1952.213(j), review of the job qualifications of State personnel was conducted by the State.

(l) In accordance with 29 CFR 1952.213(m), the State of Maryland has developed and implemented a safety and health program for public employees.

Signed in Washington, D.C., this 8th day of May 1979.

(Sec. 18, Pub. L. 91–596, 84 Stat. 1608 (29 U.S.C. 667)).

Eula Bingham,

Assistant Secretary of Labor.

[FR Doc. 79–15165 Filed 5–14–79; 8:45 am]

BILLING CODE 4510–26–M

VETERANS ADMINISTRATION

38 CFR Part 3

Pension and Parents' Dependency and Indemnity Compensation Rate Increases

AGENCY: Veterans Administration.

ACTION: Notice of Pension and Parents' DIC Rate Increases.

SUMMARY: The Veterans' and Survivors' Pension Improvement Act of 1978, Pub. L. 95–588, 92 Stat. 2497, provides that whenever there is a cost-of-living increase under section 215(i) of Title II of the Social Security Act, the Veterans Administration shall, effective on the date the cost-of-living increase becomes effective, increase by the same percentage (1) the maximum annual rates of pension authorized by Pub. L. 95–588, (2) the maximum annual income limitations applicable to the pension programs in effect on June 30, 1960, and December 31, 1978, (3) the amount of the exclusion of a veteran's spouse's income in determining a couple's countable income under the provisions of the pension program in effect on December 31, 1978, and (4) the maximum annual income limitations and rate formulae applicable to parents' dependency and indemnity compensation (DIC). The Social Security Administration reports that the cost-of-living increase will be 9.9 percent and the aforementioned rates and income limitations are being increased by that percentage.

EFFECTIVE DATE: These increases will be effective June 1, 1979, the effective date of the Social Security cost-of-living increase.

FOR FURTHER INFORMATION CONTACT: T. H. Spindle (202–389–3005).

The increased rates and income limitations are set forth below.

Approved: May 4, 1979.

By direction of the Administrator.

Rufus H. Wilson,

Deputy Administrator.

Note.—On Thursday, March 8, 1979 (44 FR 12694) the Veterans Administration published proposed rules that would amend 38 CFR Part 3. When the proposed rules are made final the increased rates and income limitations will be changed to reflect the rates and limitations set forth in this document.

Maximum Annual Rates of Pension Payable on June 1, 1979, Under Pub. L. 95–588

(1) *Veterans permanently and totally disabled (38 U.S.C. 521):*
(a) Veteran with no dependents, $3,902.
(b) Veteran with one dependent, $5,112.
(c) For each additional dependent, $660.
(2) *Veterans in need of aid and attendonce:*
(a) Veteran with no dependents, $6,243.
(b) Veteran with one dependent, $7,453.
(c) For each additional dependent, $660.
(3) *Veterans who are housebound:*
(a) Veteran with no dependents, $4,770.
(b) Veteran with one dependent, $5,980.
(c) For each additional dependent, $660.
(4) *Two veterans married to one another—combined rates:*
(a) Neither veteran in need of aid and attendance or housebound, $5,112.
(b) Either veteran in need of aid and attendance, $7,453.
(c) Both veterans in need of aid and attendance, $9,794.
(d) Either veteran housebound, $5,980.
(e) Both veterans housebound, $6,848.
(f) One veteran housebound and one veteran in need of aid and attendance, $8,321.
(g) For each child, $660.
(5) *Surviving spouses (38 U.S.C. 541):*
(a) Surviving spouse alone, $2,615
(b) Surviving spouse and one child, $3,425.
(c) For each additional child, $660.
(6) *Surviving spouses in need of aid and attendance:*
(a) Surviving spouse alone, $4,183.
(b) Surviving spouse with one child, $4,993.
(c) For each additional child, $660.
(7) *Surviving spouses who are housebound:*
(a) Surviving spouse alone, $3,196.
(b) Surviving spouse and one child, $4,006.
(c) For each additional child, $660.
(8) *Child not in custody of veteran's surviving spouse, or child if no living surviving spouse of the veteran. (38 U.S.C. 542):*
(a) Child alone, $660.
(b) Each additional child, $660.
(c) Limitation on amount payable to child in custody of person legally responsible for support, $660.

Maximum Annual Income Limitations, Effective June 1, 1979, Applicable to Persons in Receipt of Pension Under the Pension Laws in Effect on December 31, 1978

(1) Veteran or surviving spouse with no dependents, $4,438.
(2) Veteran or surviving spouse with one or more dependents, $5,968.
(3) Child (no entitled veteran or surviving spouse), $3,626.
(4) Amount of spouse's income exclusion (see 38 CFR 3.262(b)(2)), $1,413.

Maximum Annual Income Limitations Effective June 1, 1979, Applicable to Persons in Receipt of Pension Under the Pension Laws in Effect on June 30, 1960

(1) Veteran or surviving spouse without dependents, $3,884.
(2) Veteran or surviving spouse with one or more dependents, $5,603.

Parents' DIC Maximum Annual Income Limitations and Rate Formula Effective June 1, 1979

(1) *One parent.* Except as provided in paragraph (2), if there is only one parent the monthly rate of DIC paid to such parent shall be $179 reduced on the basis of the parent's annual income according to the following formula:

For Each $1 of Annual Income

The $179 monthly rate shall be reduced by	Which is more than	But not more than
$0.00	$0	$800
.03	800	900
.04	900	1,000
.06	1,000	1,200
.07	1,200	1,500
.08	1,500	4,438

No DIC is payable under this paragraph if annual income exceeds $4,438.

(2) *One porent who has remarried.* If there is only one parent and the parent has remarried and is living with the parent's spouse, DIC shall be paid under paragraph (1) or under paragraph (4), whichever shall result in the greater benefit being paid to the veteran's parent. In the case of remarriage, the total combined annual income of the parent and the parent's spouse shall be counted in determining the monthly rate of DIC.

(3) *Two parents not living together.* The rates in this paragraph apply to (1) two parents who are not living together, or (2) an unremarried parent when both parents are living and the other parent has remarried. The monthly rate of DIC paid to each such parent shall be $126, reduced on the basis of each parent's annual income, according to the following formula:

For Each $1 of Annual Income of Each Parent

The $126 monthly rate shall be reduced by	Which is more than	But not more than
$0.00	$0	$800
.02	800	1,000
.04	1,000	1,100
.05	1,100	1,400
.06	1,400	2,000
.07	2,000	2,700
.08	2,700	4,438

No DIC is payable under this paragraph if annual income exceeds $4,438.

(4) *Two parents living together or remorried porents living with spouses.* The rates in this paragraph apply to (1) each parent living with another parent; and (2) each remarried parent, when both parents are alive. The monthly rate of DIC paid to such parents will be $120, reduced on the basis of the combined annual income of the two parents living together or the remarried parent or parents and spouse or spouses, as computed under the following formula:

For Each $1 of Combined Annual Income

The $120 monthly rate shall be reduced by	Which is more than	But not more than
$0.00	$0	$1,000
.02	1,000	1,700
.03	1,700	2,300
.04	2,300	3,300
.05	3,300	5,968

No DIC is payable under this paragraph if combined annual income exceeds $5,968.

The rates in paragraph (4) are also applicable in the case of one surviving parent who has remarried, computed on the basis of the combined income of the parent and spouse, if this would be a greater benefit than that specified in paragraph (1) for one parent.

(5) The monthly rate of DIC payable to a parent shall be increased by $94 if such parent is (a) a patient in a nursing home, or (b) helpless or blind, or so nearly helpless or blind as to need or require the regular aid and attendance of another person.

(6) The monthly rate of DIC payable to any parent shall not be less than $5.

[FR Doc. 79–14990 Filed 5–14–79; 8:45 am]

BILLING CODE 8320–01–M

DEPARTMENT OF THE INTERIOR

Office of the Secretary

41 CFR Part 114–50

Uniform Relocation Assistance and Real Property Acquisition Policies

AGENCY: Office of the Secretary, Interior.

ACTION: Final regulation.

SUMMARY: This regulation amends Departmental regulations pertaining to implementation and administration of Pub. L. 91–646 (Uniform Relocation Assistance and Real Property Acquisition Policies Act of 1970) activities. Under the regulations, whenever the acquisition of real property will result in the displacement of any person, business, or farm operation moving expenses with certain exceptions, may be allowed. One non-allowable moving expense is for improvements to the replacement site, except when those improvements are required by law. This document removes that condition and allows the Department to exclude payments for such improvements even though they may have been required by law.

EFFECTIVE DATE: May 15, 1979.

FOR FURTHER INFORMATION CONTACT: James O. Wyatt, Chief, Division of Property Management, Office of Administrative and Management Policy (PM/PAM), Room 5310, Department of the Interior, Washington, D.C. 20240, (202) 343–3185.

SUPPLEMENTARY INFORMATION: This action is being taken to achieve uniformity in program administration with other federal agencies with substantial Pub. L. 91–646 programs. Such program uniformity is mandated by Pub. L. 91–646.

Note.—The Department of the Interior has determined that this document is not a significant rule and does not require a regulatory analysis under Executive Order 12044 and 43 CFR Part 14. The primary author of this document is George Sandberg, Real Property Officer, Office of Administrative and Management Policy, telephone number (202) 343–3185.

Dated: May 4, 1979.

William L. Kendig,

Acting Deputy Assistant Secretary of the Interior.

41 CFR Part 114–50 is amended as follows:

Subpart 114–50.6—Moving and Related Expenses

Amend § 114–50.601–2(c) to read as follows:

§ 114–50.601–2 Nonallowable moving expenses and losses.

* * * * *

(c) Improvements to the Replacement Site.

* * * * *

(5 U.S.C. 301, and section 213 of the Uniform Relocation Assistance and Real Property Acquisition Policies Act of 1970, 84 Stat. 1894, 1900 (42 U.S.C. 4601, 4633).)

[FR Doc. 79–15149 Filed 5–14–79; 8:45 am]

BILLING CODE 4310–10–M

LEGAL SERVICES CORPORATION

45 CFR Part 1611

Poverty Guidelines; Maximum Income Levels

AGENCY: Legal Services Corporation.

ACTION: Final Rule; revised Appendix.

SUMMARY: The Legal Services Corporation is required by law to establish maximum income levels for individuals eligible for legal assistance. This document revises specified income levels to reflect amendments to the Official Poverty Threshold as defined by the Office of Management and Budget.

EFFECTIVE DATE: May 15, 1979.

FOR FURTHER INFORMATION CONTACT: Barbara Allen, Legal Services Corporation, 733 15th Street, NW., Suite 700, Washington, D.C. 20005, 202–376–5113.

SUPPLEMENTARY INFORMATION: Section 1007(a)(2) of the Legal Services Corporation Act, 42 U.S.C. 2996f(a)(2), requires the Corporation to establish maximum income levels for individuals eligible for legal assistance, and the Act provides that income shall be taken into account along with other specified factors. Section 1611.3(b) of Corporation Regulations establishes a maximum income level equivalent to one-hundred and twenty-five percent (125%) of the Official Poverty Threshold as defined by the Office of Management and Budget. That definition was revised on May 7, 1979. 44 FR 26745–46 (May 7, 1979). The revised figures equivalent to 125% of the Official Poverty Threshold are as follows:

Appendix A to part 1611 is revised to read as follows:

Legal Services Corporation Poverty Guidelines

[For All States Except Alaska and Hawaii]

Size of family unit	Non-farm family	Farm family
1	$4,250	$3,638
2	5,525	4,800
3	7,000	5,963
4	8,375	7,125
5	9,750	8,288
6	11,125	9,450
For family units with more than six members, add $1,375 for each additional member in a non-farm family and $1,163 for each additional member in a farm family.		
For Alaska		
1	5,338	4,563
2	7,050	6,013
3	8,763	7,463
4	10,475	6,913
5	12,188	10,363
6	13,900	11,813
For each family unit with more than six members, add $1,713 for each additional member in a non-farm family and $1,450 for each additional member in a farm family.		
For Hawaii		
1	4,913	4,188
2	6,488	5,525
3	8,063	6,863
4	9,638	8,200
5	11,213	9,538
6	12,788	10,875
For family units with more than six members, add $1,575 for each additional member in a non-farm family and $1,338 for each additional member in a farm family.		

Stephen S. Walters,

Acting General Counsel, Legal Services Corporation.

[FR Doc. 79–15130 Filed 5–14–79; 8:45 am]

BILLING CODE 6820–35–M

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DEPARTMENT OF THE INTERIOR

Fish and Wildlife Service

50 CFR Part 26

Public Entry and Use; Chassahowitzka National Wildlife Refuge Florida

AGENCY: Fish and Wildlife Service, Department of the Interior.

ACTION: Special regulations.

SUMMARY: The Service proposes to restrict boat speeds in designated areas within the boundaries of the Chassahowitzka National Wildlife Refuge to minimize potential harm to manatees. The intent is to make boating on the Chassahowitzka River consistent with the primary purposes for which the refuge was established.

DATES: The regulations will be effective from the date of publication through August 15, 1979. Enforcement will not begin until appropriate signs have been posted.

FOR FURTHER INFORMATION CONTACT: John C. Oberheu, Area Office, U.S. Fish and Wildlife Service, 900 San Marco Boulevard, Jacksonville, Florida 32207. Telephone (904) 791–2267.

SUPPLEMENTARY INFORMATION: The primary author of this document is John C. Oberheu.

Background

Recent observations and surveys by the U.S. Fish and Wildlife Service have shown that limited numbers of manatees utilize the Chassahowitzka River during the months of April through July. The reaches of the river most frequently used by these endangered animals are within the boundaries of the Chassahowitzka National Refuge. The river is used by fishermen and pleasure boaters for access to the open waters of the Gulf. Research by the National Fish and Wildlife Laboratory has shown that boat-related accidents are responsible for 34 percent of those manatee mortalities where cause of death could be determined. When given adequate time, manatees can move out of the path of approaching boats and thereby avoid being struck. Therefore, to minimize the risk of manatee mortality from collision with boats or boat propellers, boat speeds will be restricted to "Slow Speed/Minimum Wake" in the Chassahowitzka River from the east boundary of the refuge downstream to the Hernando County line, a distance of about 2 miles. Maps delineating the restricted areas are available at the Refuge Headquarters. The restriction zone will be conspicuously posted with signs.

The Refuge Recreation Act of 1962 (16 U.S.C. 460k) authorizes the Secretary of the Interior to administer certain areas for public recreation (as an appropriate incidental or secondary use), only to the extent that it is practicable and not inconsistent with the primary objectives for which the refuge was established. In addition, the Refuge Recreation Act required (1) that any recreational use permitted will not interfere with the primary purpose for which the refuge was established; and (2) that funds are available for the development, operation, and maintenance of the permitted forms of recreation.

Discussion

The recreational use authorized by these regulations will not interfere with the primary purposes for which the Chassahowitzka National Wildlife Refuge was established. This determination is based upon consideration of, among other things, the Service's Final Environmental Statement on the Operation of the National Wildlife Refuge System published in November 1976, and the Refuge Manager's analysis of compatibility dated March 30, 1979. Funds are available for the administration of the recreational activities permitted by these regulations.

The provisions for these special regulations supplement the regulations which cover boating on National Wildlife Refuge areas which are set forth in Title 50, Code of Federal Regulations, § 27.32. Part 27 of 50 CFR provides that U.S. Coast Guard Regulations, Titles 33 and 46 CFR, are also applicable on navigable waters.

A public meeting was held in the town of Chassahowitzka on March 20, 1979, to inform the public about the proposed regulations, and to seek public views regarding them. The 45 persons attending questioned the necessity for restrictions since no manatee mortality from boat collision has been documented in the Chassahowitzka River. It was explained that boat strikes have been documented. Though hazards to manatees in the refuge are no greater than for other waters frequented by similar numbers of manatees, refuge habitat must provide greater security, especially for endangered species. The Service is compelled by law to permit only those public uses that do not conflict with refuge objectives, in this instance, protection of an endangered wildlife species.

Several individuals questioned whether the regulations would apply in case of emergencies involving foul weather or risk to human life. An exception has been added to the regulations to accommodate any such emergency.

The proposed regulations have been coordinated with the Florida Department of Natural Resources, the Florida Game and Fresh Water Fish Commission, the U.S. Army Corps of Engineers and the U.S. Coast Guard. Several suggestions of the Coast Guard have been incorporated in the definition of "Slow-Speed/Minimum Wake".

As provided by 50 CFR 26.33, the Service hereby issues the following regulations:

§ 26.34 Special regulations concerning public access, use and recreation for Chassahowitzka National Wildlife Refuge, Florida.

Beginning on May 15, 1979 and continuing through August 15, 1979, all power boats will be restricted to SLOW SPEED/MINIMUM WAKE on the main channel of the Chassahowitzka River between the east refuge boundary and the Hernando County line. The restricted area will be posted with signs reading "MANATEE PROTECTION AREA, SLOW SPEED—MINIMUM WAKE." This speed restriction may be exceeded if it is reasonably necessary to prevent the loss of human life due to weather conditions or other reasonably unforeseen circumstances. Maps showing the restricted area are available from the Refuge Manager.

For the purpose of this regulation, the term "SLOW SPEED—MINIMUM WAKE" is defined as any through-the-water speed (not over-the-bottom speed) less than 8 MPH and slow enough that the boat is neither "planing" nor moving with an elevated bow. Through-the-water speed is created by a boat's power and is independent of any movement caused by water currents. A boat that is "on plane" is not at slow speed. A boat that has slowed until it is "off plane" but is still moving with an elevated bow is making an exaggerated wake, not "minimum wake." When the moving position of a shallow-draft boat is similar to its normal resting position, it is moving at "slow speed" *and* "minimum wake."

The provisions of this regulation supplement the regulations which govern public access, use and recreation on wildlife refuges generally, which are set forth in Title 50, Code of Federal Regulations Part 26. The public is invited to offer suggestions and comments at any time.

Dated: May 7, 1979.

John C. Oberheu,
Acting Area Manager.

[FR Doc. 79-15129 Filed 5-14-79; 8:45 am]

BILLING CODE 4310-55-M

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Proposed Rules

Federal Register
Vol. 44, No. 95
Tuesday, May 15, 1979

This section of the FEDERAL REGISTER contains notices to the public of the proposed issuance of rules and regulations. The purpose of these notices is to give interested persons an opportunity to participate in the rule making prior to the adoption of the final rules.

DEPARTMENT OF AGRICULTURE

Food Safety and Quality Service

[9 CFR Part 318]

Substances Used in Preparation of Bacon

AGENCY: Food Safety and Quality Service USDA.

ACTION: Notice.

SUMMARY: Action with respect to a final rule to require bacon to be prepared with 40 parts per million (ppm) sodium nitrite or 49 ppm potassium nitrite, 0.26 percent potassium sorbate, and 550 ppm sodium ascorbate or sodium erythorbate (isoascorbate), will not be taken without a further publication in the **Federal Register**.

EFFECTIVE DATE: May 15, 1979.

FOR FURTHER INFORMATION CONTACT: Mr. Irwin Fried, Acting Director, Meat and Poultry Standards and Labeling Division, Compliance, Food Safety and Quality Service, U.S. Department of Agriculture, Washington, D.C. 20250, (202) 447–6042.

SUPPLEMENTARY INFORMATION: On May 16, 1978, 43 FR 21007 the Department proposed to amend the Federal meat inspection regulations by requiring that 40 parts per million (ppm) of sodium nitrite or an equivalent amount of potassium nitrite (49 ppm) be added to bacon and by requiring that 0.26 percent potassium sorbate by weight of bacon be added to bacon. On September 1, 1978, 43 FR 39119, the proposal was amended to propose to require (in addition to the substances specified in the first proposal) that 550 ppm sodium ascorbate or sodium erthorbate (isoascorbate) be added to bacon. If promulgated as a final rule, the provisions of the proposal, as amended, would supersede the current provisions requiring that bacon contain 120 ppm sodium nitrite or an equivalent amount of potassium nitrite (148 ppm), and 550 ppm sodium ascorbate or sodium erthorbate (isoascorbate).

The document of May 16, 1978, provided that, if additional studies and other available information substantiate the findings that bacon produced under the conditions specified in the proposal, as amended, is free of botulinal hazard and does not contain confirmable levels of nitrosamines, "this proposal will become a final rule at a maximum of one year from the date of this publication." Numerous persons have questioned whether this indicated that the proposed rule would become effective without publication of an additional document.

The document was not intended to reflect that the proposal would become effective as a final rule without a further publication in the **Federal Register**. This matter was clarified by the document of September 1, 1978, which provided that "action will be taken to promulgate this proposal as a final rule if at all possible within a maximum of one year from May 16, 1978."

In all likelihood, the additional studies referred to above will not be completed by May 16, 1979. Accordingly, it does not appear that action with respect to a final rule will be taken by that date.

Done at Washington, D.C. on May 11, 1979.

Donald L. Houston,
Acting Administrator, Food Safety and Quality Service.

[FR Doc. 79-15249 Filed 5-14-79; 8:45 am]

BILLING CODE 3410-37-M

DEPARTMENT OF HEALTH, EDUCATION, AND WELFARE

Food and Drug Administration

[21 CFR Part 155]

Canned Vegetables; Proposed Establishment of Standards of Identity and Quality for Asparagus

AGENCY: Food and Drug Administration.

ACTON: Reopening of Comment Period.

SUMMARY: The agency is reopening the comment period on a proposed rule that would amend the standard of identity for "certain other canned vegetables" to delete those provisions applicable to canned asparagus and to establish separate standards of identity and quality for this food based on consideration of international standards for canned asparagus. This action is based upon requests from the Canners League of California and the National Food Processors Association.

DATE: Comments by September 14, 1979.

ADDRESS: Written comments to the Hearing Clerk (HFA–305), Food and Drug Administration, Rm. 4–65, 5600 Fishers Lane, Rockville, MD 20857.

FOR FURTHER INFORMATIN CONTACT: F. Leo Kauffman, Bureau of Foods (HFF–414), Food and Drug Administration, Department of Health, Education, and Welfare, 200 C St. SW., Washington, DC 20204, 202–245–1164

SUPPLEMENTARY INFORMATION: A proposal to establish standards of identity and quality for canned asparagus (21 CFR 155.110) was published in the **Federal Register** of December 15, 1978 (43 FR 58580). Comments were to be filed by February 13, 1979.

Subsequently, the FDA received requests from the Canners League of California (CLC) and the National Food Processors Association (NFPA) for an extension of the comment period. Both associations stated that the additional time is needed to give them the opportunity to study the implications of the proposal and to permit adequate testing of its impact on this year's asparagus pack.

The NFPA stated that several of its canner members have indicated that the changes proposed in the standards would cause substantial hardship to the industry. It stated that initial review of the data from past years' asparagus packs indicated that a large portion of the pack could not meet several of the provisions of the proposed quality standard. The NFPA stated that although some data already exist to demonstrate that the proposed regulation will cause undue hardship, it is evident that it and its member asparagus canners will need additional time to gather data to demonstrate the "unacceptability" of the proposed regulation. The NFPA requested that the comment period be extended until September 14, 1979 to allow time to develop data during the 1979 pack season which runs from March until August.

The CLC indicated that because that because the proposal represents a new standard an additional 6 months will allow its member canners to review the

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proposal with more precision during the upcoming asparagus season.

The FDA concludes that CLC and NFPA have given sufficient grounds to support the need for additional time to comment on the proposal. Therefore, under the Federal Food, Drug, and Cosmetic Act (secs. 401, 701(e), 52 Stat. 1046 as amended, 70 Stat. 919 as amended (21 U.S.C. 341, 371(e))) and under authority delegated to the Commission of Food and Drugs (21 CFR 5.1), the comment period on the proposal to establish standards of identity and quality for canned asparagus is reopened and extended to September 14, 1979.

Interested persons may on or before September 14, 1979, submit to the Hearing Clerk (HFA–305), Food and Drug Administration, Rm. 4–65, 5600 Fishers Lane, Rockville, MD 20857, written comments regarding this proposal. Four copies of all comments shall be submittted, except that individuals may submit single copies of comments, and shall be identified with the Hearing Clerk docket number found in brackets in the heading of this document. Received comments may be seen in the above office between 9 a.m. and 4 p.m., Monday through Friday.

Dated: May 7, 1979.

William F. Randolph,

Acting Associate Commissioner for Regulatory Affoirs.

[Docket No. 78N–0103]

[FR Doc. 79–14913 Filed 5–14–79; 8:45 am]

BILLING CODE 4110–03–M

[21 CFR Part 163]

Cocoa Butters: Advance Notice of Proposed Rulemaking; Extension of Comment Period

AGENCY: Food and Drug Administration.

ACTION: Advance Notice of Proposed Rulemaking.

SUMMARY: The agency is extending the comment period on an advance notice of proposed rulemaking that invited interested persons to review the Codex Alimentarius Commission (Codex) "Recommended International Standard for Cocoa Butters" and to comment on the desirability and need for a U.S. standard for this food. This action is based upon a request from the Chocolate Manufacturers Association (CMA).

DATE: Comments by May 24, 1979.

ADDRESS: Written comments to the Hearing Clerk (HFA–305), Food and Drug Administration, Rm. 4–65, 5600 Fishers Lane, Rockville, MD 20857.

FOR FURTHER INFORMATION CONTACT: P. G. Harrill, Bureau of Foods (HFF–411) Food and Drug Administration, Department of Health, Education, and Welfare, 200 C St. SW., Washington, DC 20204, 202–245–1164.

SUPPLEMENTARY INFORMATION: An advance notice of proposed rulemaking that invited interested persons to review the Codex Alimentarius Commission (Codex) "Recommended International Standard for Cocoa Butters" and to comment on the desirability and need for a U.S. standard for this food was published in the **Federal Register** on February 23, 1979 (44 FR 10740). Comments were to be filed by April 24, 1979.

Subsequently, the Food and Drug Administration (FDA) received a request from CMA for a 30-day extension of the comment period. The association stated that the additional time is needed because it will be holding several meetings at which cocoa butters will be discussed in April and May 1979. Information received at these meetings will enable CMA to give FDA a more constructive comment on the Codex standard for cocoa butters.

FDA concludes that CMA has given sufficient grounds to support the need for additional time to comment on the notice. Therefore, under the Federal Food, Drug, and Cosmetic Act (secs. 401, 701(e), 52 Stat. 1046 as amended, 70 Stat. 919 as amended (21 U.S.C. 341, 371(e))) and under authority delegated to the Commissioner of Food and Drugs (21 CFR 5.1), the comment period on the advance notice of proposed rulemaking for cocoa butters is extended to May 24, 1979.

Interested persons may, on or before May 24, 1979, submit to the Hearing Clerk (HFA–305), Food and Drug Administration, Rm 4–65, 5600 Fishers Lane, Rockville, MD 20857, written comments regarding this advance notice of proposed rulemaking. Four copies of all comments shall be submitted, except that individuals may submit single copies of comments, and shall be identified with the Hearing Clerk docket number found in brackets in the heading of this document. Received comments may be seen in the above office between 9 a.m. and 4 p.m., Monday through Friday.

Dated: May 8, 1979.

William F. Randolph,

Acting Associate Commissioner for Regulatory Affoirs.

[Docket No. 78N–0361]

[FR Doc. 79–14916 Filed 5–14–79; 8:45 am]

BILLING CODE 4110–03–M

[21 CFR Part 182]

Corn Silk; Removal From GRAS Status as a Direct Human Good Ingredient

AGENCY: Food and Drug Administration.

ACTION: Proposed rule.

SUMMARY: The Food and Drug Administration (FDA) proposes to remove the generally recognized as safe (GRAS) status of corn silk as a direct human food ingredient because of insufficient information concerning its identify and its safety as a human food ingredient. The safety of this substance has been evaluated as part of the agency's comprehensive safety review of all GRAS ingredients. The proposal would delete corn silk from the list of direct food substances that are GRAS.

DATE: Coments on or before July 16, 1979.

ADDRESS: Written comments to the Hearing Clerk (HFA–305), Food and Drug Administration, Rm. 4–65, 5600 Fishers Lane, Rockville, MD 20857.

FOR FURTHER INFORMATION CONTACT: Corbin I. Miles, Bureau of Foods (HFF–335), Food and Drug Administration, Department of Health, Education, and Welfare, 200 C St. SW., Washington, DC 20204, 202–472–4750.

SUPPLEMENTARY INFORMATION: FDA is conducting comprehensive safety review of human food ingredients classified as GRAS or subject to a prior sanction. The agency has issued several notices and proposals initiating this review (see the **Federal Register** of July 26, 1973 (38 FR 20040)). As part of this review, the safety of corn silk has been evaluated. In accordance with the provisions of § 170.35 (21 CFR 170.35), FDA proposes to remove this ingredient from GRAS status.

Corn silk (Zea) consists of fresh styles and stigmas Zea mays Linn. (fam. Gramineae). It is found on all continents except Antarctica and occurs as masses of slender filaments whose color ranges from purplish red through pink, reddish oranges, brown, and yellowish brown to greenish yellow. Each filament is approximately 10 to 20 centimeters (cm) in length and 400 microns in diameter, and consists of a long (up to 30 cm) style and a slender, short (up to 3 millimeter (mm)) bifid stigma. This filamentous meterial is processed to yield the corn silk that is added directly to food. No information is available, however, regarding the process or solvent(s) that are used to manufacture commercial corn silk, and the composition of the dervied product. Analyses have indicated that the silk of corn is composed of a variety of substances, most of which have not been characterized.

Corn silk is listed in § 182.20 (21 CFR 182.20) among the essential oils, oleoresins (solvent-free), and natural extractives (including distillates) of plants that are GRAS for their intended use, under regulations published in the **Federal Register** of June 10, 1961 (26 FR 5221). Reports indicate that corn silk is an ingredient of maple, nut, and root beer flavors. Foods in which it is used include baked goods, candy, ice cream, and ices, as well as nonalcoholic beverages.

The agency surveyed a respresentative cross-section of food manufacturers to determine the specific foods in which corn silk was used and the levels of usage. Information obtained from surveys of consumption was combined with the manufacturing information to estimate consumer exposure to corn silk added to food. The total amount of corn silk used in food in 1970 was reported to be 675 pounds.

Corn silk has been the subject of a search of the scientific literature from 1920 to the present. The criteria used in the search were chosen to discover any articles that considered (1) chemical toxicity, (2) occupational hazards, (3) metabolism, (4) reaction products, (5) degradation products, (6) any reported carcinogenicity, teratogenicity, or mutagenicity, (7) dose response, (8) reproductive effects, (9) histology, (10) embryology, (11) behavioral effects, (12) detection, and (13) processing. Thirty-eight articles were reviewed, and 16 particularly pertinent reports have been summarized in a scientific literature review.

The scientific literature review shows the following information as summarized in the report of the Select Committee on GRAS Substances (the Select Committee), chosen by the Life Sciences Research Office of the Federation of American Societies for Experimental Biology:

It is not possible to relate the few biological studies reported in the literature for various extracts or components of the silk of corn to possible consequences of using commercial corn silk in foods because of the absence of any information concerning the nature and composition of the commercial product. However, it is to be noted that administration of extracts or components of the silk of corn have been found to have no biological effects under some conditions and to elicit biological responses under others.

Dzhamalieva intubated two dogs (breed and sex not indicated) with aqueous infusions of corn silk. The infusions were prepared by placing 3, 5, 10, or 20 g samples of corn silk (age and moisture not indicated) in 100 ml of water, autoclaving for 30 minutes, and filtering to provide what were regarded as 3, 5, 10, and 20 percent infusions of corn silk. One dog received 163 ml of the 10 percent infusion (20 ml per kg body weight) and the second the equivalent of 44 ml per kg. No disturbances in the dogs' behavior were noted after five hours.

Thereafter, both dogs received an additional 60 ml per kg without adverse effects and they continued to be normal, with small weight gains, 10 days after intubation of the corn silk infusion was terminated. Total dose of the 10 percent infusion was 223 ml for one dog, 104 ml for the other. Parenteral studies were also conducted on guinea pigs and rabbits. Four guinea pigs injected subcutaneously with a single dose of 7 to 10 ml of the 20 percent infusion (17 to 25 ml per kg body weight) followed by a similar dose after four days, showed no adverse effects when observed over a period of 12 days. Similarly, five rabbits given single intravenous doses of 5 ml per kg body weight of the 20 percent corn silk infusion, repeated after five hours, showed no ill effects when observed over a period of 10 days. It was also observed that none of the corn silk infusions exerted any *in vitro* bactericidal or bacteriostatic effect on *Staphylococcus, Streptococcus* and a number of other pathogenic microorganisms.

Wastl studied the effects of corn silk extract on 12 normal, adult rats and on 28 adult rats with experimentally induced hypertension. Some animals in both groups were white Wistar and others were a piebald strain, not otherwise identified. The method of preparing the corn silk extract was not described but, in context, it appears that it was an aqueous or aqueous alcohol extract, subsequently dried. A dilute aqueous solution of the dried material was injected intraperitoneally for four consecutive days in daily doses of 0.1 mg of dried corn silk extract per kg body weight. Daily blood pressure measurements were made on each of four consecutive days prior to the dosing with corn silk extract, on each of the four consecutive experimental days, and on each of four consecutive days following the last dose. No effect on the blood pressure of normal rats was observed, but a decrease of 17 to 82 percent was observed in the hyertensive animals. Water injection under the same conditions had no effect on the blood pressure of either the normal or hypertensive rats. Blood pressure of the hypertensive rats injected with corn silk extract returned to pretreatment levels by the second day following cessation of the treatment. There was no evidence of adverse effects in any of the treated animals. The author indicated that the same blood pressure reducing effect on hypertensive animals could be elicited by oral administration of the corn silk extract.

Starks *et al.* and subsequently McMillian *et al.* found aqueous extracts of corn silk to contain a feeding stimulant for corn earworm larvae. The active principle was not identified but it was found to be heat stable, water soluble, and insoluble in organic solvents.

Corn silk and corn silk fluid extract have apparently long been among the folk medicines believed to be helpful in such disorders as diabetes, gout, edema, obesity, and kidney stones, but the therapeutic values attributed to these materials are essentially without proof.

Qualified scientists of the Select Committee have carefully evaluated all the available safety information on corn silk. In the Select committee's opinion:

The silk of the corn contains a wide variety of compounds, many present in very small amounts; included are sugar, tannins, saponins, flavones, glucosides, fats, alkaloids, and various aromatic components of the essential oil fraction. The composition of the commercial product (corn silk) that is added to foods will obviously depend on the procedures used for extraction of the silk of corn and the subsequent concentration and fractionation of the extract. The Select Committee has not been able to obtain any information concerning the method of preparation of the commercial product or its composition, or to find any reports of biological studies on the commercial product. In the absence of such information, it is not possible to related the few reported biological studies on corn silk extracts and components to the possible consequences of using corn silk as a food ingredient.

There are no known specifications for food-grade corn silk. Considering the origin of the product, specifications are needed to establish limits for possible variations in its composition and for the presence of incidental contaminants such as pesticidal chemicals.

Consequently, the Select Committee concludes that, in view of the lack of information on the identity of the product used in foods and of relevent biological studies concerning it, there is

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enhancer or sweetener synergist.

proposed amendment may later submit

FR 39119) to amend Parts 182 and 184 is

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insufficient data upon which to base an evaluation of corn silk when it is used as a food ingredient. Based upon its own evaluation of all information available on the ingredient, FDA agrees with this conclusion.

Subsequent inquiries of food manufacturers also failed to produce the necessary identity and toxicity information on the corn silk product that is added to food. Because this information is not available, the safety of corn silk as a direct human food ingredient cannot be ascertained. Consequently, affirming corn silk as GRAS would not be in the public interest, and FDA therefore concludes that corn silk should be removed from GRAS status. Future consideration for the use of this ingredient in food can be obtained in several ways. The agency will consider the GRAS status of corn silk if information concerning the identity of the extractive added to food and adequate biological studies on the extractive are submitted as comments on this proposal. Alternatively, consideration for its use can be obtained through petition procedures as outlined in § 170.35 or 171.1 (21 CFR 170.35 or 171.1).

Copies of the scientific literature review of corn silk and the report of the Select Committee are available for review at the office of the Hearing Clerk (HFA–305), Food and Drug Administration, Rm. 4–65, 5600 Fishers Lane, Rockville, MD 20857, and may be purchased from the National Technical Information Service, 5285 Port Royal Road, Springfield, VA 22161, as follows:

Title and order number	Price code	Price [1]
Corn silk: scientific literature review (PB–234–900/AS)	AO3	$4.50
Corn silk: Select Committee report (PB–278–158/AS)	AO2	4.00

[1] Price subject to change.

This proposed action does not affect the current use of corn silk in pet food or animal feed.

§ 182.20 [Amended]

Therefore, under the Federal Food, Drug, and Cosmetic Act (secs. 201(s), 409, 701(a), 52 Stat. 1055, 72 Stat. 1784–1788 as amended (21 U.S.C. 321(s), 348, 371(a))) and under authority delegated to the Commissioner of Food and Drugs (21 CFR 5.1), it is proposed that Part 182 be amended in § 182.20 *Essential oils, oleoresins (solvent-free), and natural extractions (including distillates)* by deleting the entry for "Corn silk."

FDA is unaware of any prior sanction of the use of this ingredient in food. Any person who intends to assert or rely on such a sanction shall submit proof of its existence in response to this proposal. The proposed regulation will constitute a determination that the excluded uses would result in adulteration of the food in violation of section 402 of the act (21 U.S.C. 342), and the failure of any person to come forward with proof of an applicable prior sanction in response to this proposal constitutes a waiver of the right to assert or rely on the sanction later. This notice also constitutes a proposal to establish a regulation under Part 181 (21 CFR Part 181), incorporating the same provisions, if such a regulation is determined to be appropriate as a result of submission of proof of an applicable prior sanction in response to this proposal.

Interested persons may, on or before July 16, 1979, submit to the Hearing Clerk (HFA–305), Food and Drug Administration, Rm. 4–65, 5600 Fishers Lane, Rockville, MD 20857, written comments regarding this proposal. Four copies of all comments shall be submitted, except that individuals may submit single copies of comments, and shall be identified with the Hearing Clerk docket number found in brackets in the heading of this document. Received comments may be seen in the above office between the hours of 9 a.m. and 4 p.m., Monday through Friday.

In accordance with Executive Order 12044, the economic effects of this proposal have been carefully analyzed, and it has been determined that the proposed rulemaking does not involve major economic consequences as defined by that order.

Dated: May 8, 1979.

William F. Randolf,

Acting Associate Commissioner for Regulatory Affairs.

[Docket No. 79N–0068]

[FR Doc. 79–15073 Filed 5–14–79; 8:45 am]

BILLING CODE 4110–03–M

[21 CFR Part 184]

Amoniated Glycyrrhizin; Proposed Affirmation of GRAS Status as Direct Human Food Ingredient With Specific Limitations; Amendment

AGENCY: Food and Drug Administration.

ACTION: Amendment of Proposed Rule.

SUMMARY: The Food and Drug Administration (FDA) amends an earlier proposal to affirm the generally recognized as safe (GRAS) status of licorice, glycyrrhiza, ammoniated glycyrrhizin. In light of new data and information received by the agency, this proposal amends the earlier GRAS affirmation proposal to emphasize that ammoniated glycyrrhizin is GRAS only for historical uses as a flavor agent to produce licorice flavor in certain foods and when used as a surfaceactive agent in nonalcoholic beverages. The proposal is also amended by adding additional food categories for use of ammoniated glycyrrhizin, but eliminating the "all other foods" category.

DATE: Comments on or before July 16, 1979.

ADDRESS: Written comments to the Hearing Clerk (HFA–305), Food and Drug Administration, Rm. 4–65, 5600 Fishers Lane, Rockville, MD 20857.

FOR FURTHER INFORMATION CONTACT: Corbin I. Miles, Bureau of Foods (HFF–335), Food and Drug Administration, Department of Health, Education, and Welfare, 200 C St. SW., Washington, DC 20204, 202–472–4750.

SUPPLEMENTARY INFORMATION: FDA is conducting a comprehensive safety review of human food ingredients classified as GRAS or subject to a prior sanction. Under this review, the agency issued a proposed GRAS affirmation regulation in the **Federal Register** of August 2, 1977 (42 FR 39117) for limited uses of licorice, glycyrrhiza, and ammoniated glycyrrhizin in food. That proposal also summarized the available safety information regarding the identity, manufacture, and uses of these food ingredients.

The Select Committee on GRAS Substances, chosen by the Life Sciences Research Office of the Federation of American Societies for Experimental Biology, evaluated available safety information for these ingredients and concluded that the consumption of licorice, glycyrrhiza, and ammoniated glycyrrhizin at current levels (i.e., those reported for 1970) posed no hazard to the public health, but that it was not possible to evaluate the safety of increased consumption of these ingredients. The agency agreed with the Select Committee's findings and concluded that specific limitations on the use of the ingredients were required to prevent increased consumption. FDA therefore proposed that licorice, glycyrrhiza, and ammoniated glycyrrhizin be affirmed as GRAS with specific limitations on their use in food.

However, new information and comments on the August 2, 1977 proposal indicate that one of the ingredients, ammoniated glycyrrhizin, has recently been used to achieve additional functional effects. It is reported to be used as a sweetener, synergist for sucrose, and flavor enhancer for nonlicorice-flavored foods. When the ingredient is used as flavor enhancer or sweetener synergist, reported levels of use are too low to produce a distinct licorice flavor. Authorization for these effects, however, was not intended by the proposal.

The proposal's intent was to permit the use of ammoniated glycyrrhizin as a flavor ingredient primarily to impart a licorice flavor to food. This use would be self-limiting, as evidenced by the relatively few foods containing such a flavor. However, use of ammoniated glycyrrhizin as a sweetener, flavor enhancer, or sweetening synergist would not be similarly self-limiting and could result in food use not contemplated by the proposal. Should this occur, it could greatly expand expected consumption of the ingredient, a condition that cannot be supported by existing safety data. Therefore, based upon this new information, FDA concludes that the ammoniated glycyrrhizin provisions of the August 2, 1977 GRAS affirmation proposal need to by amended so that expanded use of the ingredient, beyond those contemplated by this proposal, cannot take place without additional safety data.

The proposed rule would have permitted ammoniated glycyrrhizin to be used as a flavor agent at a maximum level, as served, of 0.4 percent in chewing gum, 0.24 percent in soft candy, and 0.17 percent in "all other food categories," as well as a suface-active agent in all food categories except chewing gum and soft candy. However, after assessing this new information, FDA concludes that ammoniated glycyrrhizin should be GRAS for use only as an agent to produce licorice flavor and as a surface-active agent in only those food categories reported during the National Academy of Sciences/National Research Council survey of food manufacturers. This amended proposal has therefore adopted these changes.

Although FDA is further limiting the technical effect and food categories of use for ammoniated glycyrrhizin in this amended proposal, the agency will evaluate the safety and effectiveness of nonlicorice flavoring uses of this ingredient, if data are submitted showing the actual levels of use of this ingredient in nonlicorice-flavored foods, the functional effect achieved, the foods in which it is used, and evidence of history of such uses in food. The agency solicits these data, which may result in inclusion of such uses in the final regulation, as comments to this amended proposal. Alternatively, any person wishing to use ammoniated glycyrrhizin in food under conditions different from those listed in this proposed amendment may later submit a GRAS affirmation or food additive petition as described in § 170.35 or 171.1 (21 CFR 170.35 or 171.1).

Therefore, under the Federal Food, Drug, and Cosmetic Act (secs. 201(s), 409, 701(a), 52 Stat. 1055, 72 Stat. 1784–1788 as amended (21 U.S.C. 321(s), 348, 371(a))) and under the authority delegated to the Commissioner (21 CFR 5.1), the proposal of August 2, 1977 (42 FR 39119) to amend Parts 182 and 184 is amended in proposed § 184.1408 by revising paragraph (b)(3) to read as follows:

§ 184.1408 Licorice.

* * * * *

(b) * * *

(3) The ingredient is used in food in accordance with § 184.1(b)(2) under the following conditions:

Maximum Usage Levels Permitted

Food (as served)	Percent	Function
Baked goods, § 170.3(n)(1) of this chapter	0.01	Flavor agent, § 170.3(o)(12) of this chapter to produce licorice flavor only.
Alcoholic beverages, § 170.3(n)(2) of this chapter	0.006	Do.
Nonalcoholic beverages, § 170.3(n)(3) of this chapter	0.01	Flavor agent, § 170.3(o)(12) of this chapter to produce licorice flavor only.
Do.	0.002	Surface-active agent, § 170.3(o)(29) of this chapter.
Chewing gum, § 170.3(n)(6) of this chapter	0.4	Flavor agent, § 170.3(o)(12) of this chapter to produce licorice flavor only.
Confections and frostings, § 170.3(n)(9) of this chapter	0.06	Do.
Frozen dairy desserts, § 170.3(n)(20) of this chapter	0.01	Do.
Gelatins and puddings, § 170.3(n)(22) of this chapter	0.01	Do.
Hard candy, § 170.3(n)(25) of this chapter	0.13	Do.
Soft candy, § 170.3(n)(36) of this chapter	0.24	Do.

Interested persons may, on or before July 16, 1979, submit to the Hearing Clerk (HFA–305), Food and Drug Administration, Rm. 4–65, 5600 Fishers Lane, Rockville, MD 20857, written comments regarding this proposal. Four copies of all comments shall be submitted, except that individuals may submit single copies of comments, and shall be identified with the Hearing Clerk docket number found in brackets in the heading of this document. Received comments may be seen in the above office between the hours of 9 a.m. and 4 p.m., Monday through Friday.

In accordance with Executive Order 12044, the economic effects of this proposal have been carefully analyzed, and it has been determined that the proposed rulemaking does not involve major economic consequences as defined by that order.

Dated: May 8, 1979.

William F. Randolph,

Acting Associate Commissioner for Regulatory Affairs.

[Docket No. 77N–0034]

[FR Doc. 79–15070 Filed 5–14–79; 8:45 am]

BILLING CODE 4110–03–M

[21 CFR PARTS 182, 184, and 186]

Cellulose Derivatives; Affirmation of GRAS Status as Direct and Indirect Human Food Ingredients; Extension of Comment Period

AGENCY: Food and Drug Administration.

ACTION: Extension of Comment Period.

SUMMARY: The agency extends the comment period on its proposal to affirm the generally recognized as safe (GRAS) status of cellulose derivatives as direct and indirect human food ingredients. This action is taken in response to a request for extension of the comment period.

DATE: Written comments by June 25, 1979.

ADDRESS: Written comments to the Hearing Clerk (HFA–305), Food and Drug Administration, Rm. 4–65, 5600 Fishers Lane, Rockville, MD 20857.

FOR FURTHER INFORMATION CONTACT: Corbin I. Miles, Bureau of Foods (HFF–335), Food and Drug Administration, Department of Health, Education, and Welfare, 200 C St. SW., Washington, D.C. 20204, 202–472–4750.

SUPPLEMENTARY INFORMATION: In the **Federal Register** of February 23, 1979 (44 FR 10751), the Food and Drug Administration proposed to affirm the GRAS status of cellulose derivatives as direct and indirect human food ingredients. Interested persons were invited to submit comments on the proposal by April 24, 1979.

On March 19, 1979, a letter was received from the Dow Chemical Co. The firm requested an extension of the comment period for the GRAS

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affirmation proposal for cellulose

ADDRESS: Written comments to the

A representative cross-section of food

The *in vitro* Hydrolysis of

suggested experimental atherosclerosis

mechanism the authors proposed was

affirmation proposal for cellulose derivatives for an additional 60 days, to June 25, 1979, to allow sufficient time to prepare comments on the proposed rule.

The agency considers the opportunity to comment on GRAS affirmation proposals to be an important part of the GRAS review process. It has decided that an extension of the comment period for this proposal would be appropriate, and that the additional time should be extended to all interested parties.

Therefore, under the Federal Food, Drug, and Cosmetic Act (secs. 201(s), 409, 701(a), 52 Stat. 1055, 72 Stat. 1784–1788 as amended (21 U.S.C. 321(s), 348, 371(a))) and under authority delegated to the Commissioner of Food and Drugs (21 CFR 5.1), the comment period for the GRAS affirmation proposal for cellulose derivatives is extended for an additional 60 days.

Accordingly, interested persons may, on or before June 25, 1979, submit to the Hearing Clerk (HFA–305), Food and Drug Administration, Rm. 4–65, 5600 Fishers Lane, Rockville, MD 20857, written comments (preferably four copies and identified with the Hearing Clerk docket number found in brackets in the heading of this document) regarding the proposal. The envelope containing the comments should be prominently marked "Cellulose Derivatives." Received comments may be seen in the above office between 9 a.m. and 4 p.m., Monday through Friday.

Dated: May 8, 1979.

William F. Randolph,

Acting Associate Commissioner to Regulatory Affairs.

[Docket No. 78N–0144]
[FR Doc. 79–15074 Filed 5–14–79; 8:45 am]
BILLING CODE 4110–03–M

[21 CFR Parts 182 and 184]

Glycerophosphates; Proposed Affirmation and Deletion of GRAS Status

AGENCY: Food and Drug Administration.

ACTION: Proposed rule.

SUMMARY: The Food and Drug Administation (FDA) proposes to affirm calcium glycerophosphate as generally recognized as safe (GRAS) as a direct human food ingredient and to delete manganese and postassium glycerophosphates from the GRAS list. The safety of these ingredients and magnesium glycerophosphate has been evaluated under the comprehensive safety review being conducted by the agency.

DATE: Comments on or before July 16, 1979.

ADDRESS: Written comments to the Hearing Clerk (HFA–305), Food and Drug Administration, Rm. 4–65, 5600 Fishers Lane, Rockville, MD 20857.

FOR FURTHER INFORMATION CONTACT: Corbin I. Miles, Bureau of Foods (HFF–335), Food and Drug Adminnistration, Department of Health, Education, and Welfare, 200 C St. SW., Washington, DC 20204, 202–472–4750.

SUPPLEMENTARY INFORMATION: A comprehensive study of human food ingredients classified as generally recognized as safe (GRAS) or subject to a prior sanction is being conducted by FDA. The Commissioner of Food and Drugs has issued several notices and proposed regulations, published in the **Federal Register** of July 26, 1973 (38 FR 20040), initiating this review, under which the safety of calcium, magnesium, manganese, and potassium glycerophosphates has been evaluated. In accordance with the provisions of § 170.35 (21 CFR 170.35), the Commissioner proposes to affirm the GRAS status of calcium glycerophosphate as a direct human food ingredient and to delete manganese and potassium glycerophosphates from the GRAS list.

Glycerophosphates are the salts of glycerophosphoric acid which occurs in three isomeric forms: the β-glycerophosphoric acid and the D(+) and L(−) forms of the α-glycerophosphoric acid. The salts are prepared by neutralizing glycerophosphoric acid with the appropriate metallic hydroxide. Commercial preparations of the glycerophosphates are a mixture of the three isomers.

Calcium glycerophosphate (§ 182.5201 (21 CFR 182.5201)), manganese glycerophosphate (§ 182.5455 (21 CFR 182.5455)), and potassium glycerophosphate (§ 182.5628 (21 CFR 182.5628)) are listed as GRAS for use as nutrients and/or dietary supplements by regulation published in the **Federal Register** of January 31, 1961 (26 FR 938). Calcium glycerophosphate and magnesium glycerophosphate are listed in § 181.29 (21 CFR 181.29) as specific prior-sanctioned food ingredients for use as stabilizers in the manufacture of food-packaging materials. Calcium and magnesium glycerophosphates are also listed in § 175.300(b)(3)(xxxiii) (21 CFR 175.300(b)(3)(xxxiii)) as miscellaneous materials employed in the production of resinous and ploymeric coatings for food-contact use. In addition, magnesium glycerophosphate is listed in § 175.105 (21 CFR 175.105) for use as a component of adhesives.

A representative cross-section of food manufacturers was surveyed to determine the specific foods in which various glycerophosphates are used and the levels of usage. No reports were received indicating that glycerophosphate salts other than calcium glycerophosphate are added to foods. Calcium glycerophosphate is reportedly used in pudding mixes at a level equivalent to 0.12 to 0.85 gram (g) per serving.

Between 1965 and 1973, imports of glycerophosphoric acid and its derivatives (including calcium, magnesium, and manganese salts) ranged from 30,800 to 59,400 pounds per year. No trend in increasing or decreasing usage was apparent. If all of these imports were added directly to foods, the per capita daily consumption would be less than 0.4 milligram (mg). The agency therefore believes that glycerophosphates as direct food ingredients do not contribute significantly to the intake of calcium, manganese, or potassium and that only trace amounts of calcium and magnesium glycerophosphates could migrate to food from packaging material.

Glycerophosphates have been the subject of a search of the scientific literature from 1920 to the present. The criteria used in the search were chosen to discover any articles that considered (1) chemical toxicity, (2) occupational hazards, (3) metabolism, (4) reaction products, (5) degradation products, (6) any reported carcinogenicity, teratogenicity, or mutagenicity, (7) dose response, (8) reproductive effects, (9) histology, (1) embryology, (11) behavioral effects, (12) detection, and (13) processing. A total of 421 abstracts on glycerophosphates were reviewed and 21 particularly pertinent reports from the literature survey have been summarized in a scientific literature review.

The scientific literature review shows, among other studies, the following information as summarized in the report of the Select Committee on GRAS Substances (the Select Committee), chosen by the Life Sciences Research Office of the Federation of American Societies for Experimental Biology:

While several feeding studies have reported the use of glycerophosphates as antirachitic agents, no reports of acute oral toxicity, few feeding studies, and no reports of teratogenicity, mutagenicity, and carcinogenicity testing specifically designed to demonstrate the safety of using glycerophosphates in food have been found by the Select Committee in its search of scientific reference material.

The *in vitro* Hydrolysis of glycerophosphate by cat and dog intestinal enzymes suggested that orally administered glycerophosphates would be largely hydrolyzed to glycerol and phosphate before absorption. Other reports of the Select Committee have considered the health aspects of glycerol and certain phosphates as food ingredients. Oral doses of 0.3 to 1.2 g of calcium glycerophosphate were reported as a medical use to provide calcium and phosphorus dietary supplements.

Anghileri reported on the fate in the rate of the following intravenously administered β-glycerophosphate: ^{51}Cr, ^{64}Cu, ^{56}Mn, ^{140}La, ^{65}Zn, and ^{85}Sr. Most of the radioactivity was accumulated in the liver, kidney, and spleen; the main excretory route was via the urine. All compounds tested had similar patterns of cation distribution and excretion.

The efficacy of calcium glycerophosphate as a dietary calcium supplement to rachitogenic diets was greater than calcium carbonate, dicalcium phosphate, tricalcium phosphate and calcium lactate when fed to weanling female mice. The α- and β-glycerophosphates of sodium, calcium and magnesium were comparable to monocalcium phosphate as antirachitic agents in rats. The subcutaneous injection of 0.1 to 0.5 g of potassium glycerophosphate into guinea pigs (estimated dose of 0.1 to 0.5 g per kg body weight) resulted in an increase in blood glycerophosphatase activity within 30 minutes.

The addition of calcium glycerophosphate (50 mg per kg) to a high cholesterol diet (0.5 g per kg per day) resulted in an earlier onset of hypercholesterolemia and higher aortic cholesterol levels in experimental than in control rabbits receiving cholesterol to produce atherosclerosis. The addition of glycerin to the high cholesterol diet produced similar results. In another study involving rabbits fed a high cholesterol (0.5 g per kg body weight per day) diet, the addition of calcium glycerophosphate (0.1 g per kg body weight per day) resulted in a higher serum level of esterified cholesterol but no effect on free cholesterol in blood.

In a five-month feeding study of a mixture of α- and β-isomers of calcium glycerophosphate (200 mg per kg), treated rabbits had a slightly increased blood cholesterol level, a decreased blood protein-bound cholesterol level, and an increase in the deposition of total lipids and cholesterol in liver, lung and kidney tissues. No atherosclerotic changes were noted in blood vessels, although changes in other organs suggested experimental atherosclerosis to the author.

Calcium glycerophosphate (50 mg per kg per day) was reported to decrease the respiration rate in rabbit brain, liver and heart muscle after a five-month feeding period with or without the addition of cholesterol to the diet. Cera and Bellini reported that the absorption of neutral fats in rats is enhanced by the addition of sodium glycerophosphate to the fat.

The only reported study concerned with the effects of glycerophosphate on reproduction and/or teratology is that of Landauer and Sopher. Using fertilized chicken eggs, they reported that sodium DL-α-glycerophosphates inhibited the teratogenic effects of 3-acetylpyridine and 6-aminoni-cotinamide, but potentiated the teratogenic effects of acetazolamide and insulin.

Bowen reported that the feeding of 1 percent calcium β-glycerophosphate (a 75:25 mixture of the β-isomer and α-isomers) in a cariogenic diet to monkeys for 30 months resulted in a marked decrease in the incidence of caries. The effectiveness of calcium and sodium α- or β-glycerophosphate as an anticaries agent in rats fed a cariogenic diet was reported by Regolati and Hotz. In this study calcium glycerophosphate at a level of 0.6 percent phosphorus added to the diet caused reduced feed and water intake and retarded growth in weanling rats. The daily intake of calcium glycerophosphate tetrahydrate was about 3 g per kg body weight. Federov reported that calcium glycerophosphate was an active anticaries toothpaste component when tested in rats fed a cariogenic diet.

The intravenous administration of sodium β-glycerophosphate to rabbits with fractured right radii resulted in accelerated healing and larger callouses as compared to control animals. These authors reported that administration of the following doses did not elicit any adverse effect: the intravenous administration of 100 mg (50 per kg body weight) into a rabbit daily for 55 days, and 10 daily intravenous injections of 10 g to a 17 kg dog. However, the intrapertioneal administration of 1.5 to 3 g per kg for two to five days to rabbits was fatal.

In a review of some of the general pharmacological effects of sodium glycerophosphate, Velazquez noted its uterine spasmolytic and respiratory stimulatory properties. Aragon also demonstrated the spasmolytic action of sodium-β-glycerophosphate on uterine smooth muscle. A hypoglycemic effect of subcutaneously injected sodium-β-glycerophosphate in rabbits was reported by Fernandez and Aguilar. The mechanism the authors proposed was that of insulin reinforcement attributable to the phosphoric acid moiety as an activator of glycolysis.

The simultaneous administration of sodium glycerophosphate with aureomycin to rats and guinea pigs resulted in a two to threefold increase in serum levels of the drug when compared to controls. Citric acid, trisodium citrate, malic acid, tartaric acid, tricarballylic acid, monosodium phosphate, malonic acid, pyruvic acid, and lactic acid produced larger increases, but calcium glycerophosphate did not produce an increase. The "Lamson glucose effect" (intraperitoneal injection of certain solutions into an animal just awakening from barbiturate-induced sleep causes the animal to return to sleep) also was induced with β-glycerophosphate in guinea pigs. Sodium-β-glycerophosphate, intravenously administered, was reported to enhance the hypertensive effects of epinephrine; similar doses of sodium-α-glycerophosphate did not.

Qualified scientists of the Select Committee have carefully evaluated all of the available safety information on glycerophosphate salts. In the Select Committee's opinion,

The glycerophosphate salts that are considered to be GRAS could provide absorbable sources of glycerol, phosphate, and their respective cations. However, glycerophosphates are not now widely used in foods. The Select Committee believes that the the level of consumer exposure is very low and that use under limitations as a nutrient or dietary supplement will not present a hazard to the public. In previous evaluations of glycerol and certain phosphates no evidence was found of a hazard to the public from the hyrolysis products of the glycerophosphates.

The Select Committee concludes that there is no evidence in the available information on calcium glycerophosphate, potassium glycerophosphate, and manganese glycerophosphate that demonstrates, or suggests reasonable grounds to suspect, a hazard to the public when they are used as nutrient supplements or as they might reasonably be expected to be so used in the future. There is no evidence in the available information on calcium glycerophosphate and magnesium glycerophosphate that demonstrates, or suggests reasonable grounds to suspect, a hazard to the public when they are used in food packaging materials as now practiced or as they might be expected to be used for such purposes in the future. Based upon his own evaluation of all available information on the

calcium, magnesium, manganese, and

PART 184—DIRECT FOOD

copies of all comments shall be

Accordingly, it is proposed to publish

national defense, it does so in a manner

assessments and statements and assign,

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calcium, magnesium, manganese, and potassium salts of glycerophosphoric acid, the Commissioner agrees with this conclusion and therefore finds that no change in the present GRAS status of calcium glycerophosphate is justified. Because no information was submitted on current food uses for manganese and potassium glycerophosphates in response to the survey of food manufacturers, the Commissioner concludes that insufficient data and information are available to affirm the GRAS status of these ingredients. The Commissioner proposes, therefore, to delete manganese and potassium glycerophosphate as GRAS direct human food ingredients unless information is provided that includes human food uses (levels of addition, intended technical effects, and food to which the substance is added) of both ingredients. This information should be submitted as comments on this proposal during the comment period.

Copies of the scientific literature review of glycerophosphates, and the report of the Select Committee are available for review at the office of the Hearing Clerk (HFA–305), Food and Drug Administration, Rm. 4–65, 5600 Fishers Lane, Rockville, MD 20857, and may be purchased from the National Technical Information Service, 5285 Port Royal Road, Springfield, VA 22161, as follows:

Title and order number	Price code	Price [1]
Glycerophosphates: scientific literature review (PB–228–543/AS)	A04	$5.25
Glycerophosphates: Select Committee report (PB–265–506/AS)	A02	4.00

[1] Price subject to change.

The prior-sanctioned use of calcium or magnesium glycerophosphate as a stabilizer in packaging materials is not affected by this proposal. This proposal also does not affect the present use of the glycerophosphate salts for pet food or animal feed.

Therefore, under the Federal Food, Drug, and Cosmetic Act (secs. 201(s), 409, 701(a), 52 Stat. 1055, 72 Stat. 1784–1788 as amended (21 U.S.C. 321(s), 348, 371(a))) and under authority delegated to the Commissioner (21 CFR 5.1), it is proposed that Parts 182 and 184 be amended as follows:

PART 182—SUBSTANCES GENERALLY RECOGNIZED AS SAFE

§§ 182.5201, 182.5455, 182.5628 [Deleted]

1. By deleting § 182.5201 *Calcium glycerophosphate*, § 182.5455 *Manganese glycerophosphate*, and § 182.5628 *Potassium glycerophosphate.*

PART 184—DIRECT FOOD SUBSTANCES AFFIRMED AS GENERALLY RECOGNIZED AS SAFE

2. In Part 184 by adding new § 184.1201 to read as follows:

§ 184.1201 Calcium glycerophosphate.

(a) Calcium glycerophosphate ($C_3H_7CaO_6P$, CAS Reg. No. 27214–00–2) is a fine, white, odorless, almost tasteless, slightly hydroscopic powder. It is prepared by neutralizing glycerophosphoric acid with calcium hydroxide or calcium carbonate. The commercial product is a mixture of calcium β– and D and L–α–glycerophosphates.

(b) The ingredient meets the specifications of the Food Chemicals Codex, 2d Ed. (1972), which is incorporated by reference.[1]

(c) The ingredient is used as a nutrient supplement as defined in § 170.3(o)(20) of this chapter.

(d) The ingredient is used in food at levels not to exceed good manufacturing practice in accordance with § 184.1(b)(1). Current good manufacturing practice results in a maximum levels, as served, of 0.4 percent for gelatins, puddings, and fillings as defined in § 170.3(n)(22) of this chapter.

The Commissioner hereby gives notice that he is unaware of any prior sanction for the use of these ingredients in food under conditions different from those proposed herein or those listed in Part 181 (21 CFR Part 181). Any person who intends to assert or rely on such a sanction shall submit proof of its existence in response to this proposal. The regulations proposed above will constitute a determination that excluded uses would result in adulteration of the food in violation of section 402 of the act, and the failure of any person to come forward with proof of such an applicable prior sanction in response to this proposal constitutes a waiver of the right to assert or rely on the sanction at any later time. This notice also constitutes a proposal to establish a regulation under Part 181 incorporating the same provisions, if such a regulation is determined to be appropriate as a result of submission of proof of such an applicable prior sanction in response to this proposal.

Interested persons may, on or before July 16, 1979, submit to the Hearing Clerk (HFA–305), Food and Drug Administration, Rm. 4–65, 5600 Fishers Lane, Rockville, MD 20857, written comments regarding this proposal. Four copies of all comments shall be submitted, except that individuals may submit single copies of comments, and shall be identified with the Hearing Clerk docket number found in brackets in the heading of this document. Received comments may be seen in the above office between the hours of 9 a.m. and 4 p.m., Monday through Friday.

In accordance with Executive Order 12044, the economic effects of this proposal have been carefully analyzed, and it has been determined that the proposed rulemaking does not involve major economic consequences as defined by that order.

Dated: May 8, 1979.

William F. Randolph,

Acting Associate Commissioner for Regulatory Affairs.

[Docket No. 78–0335]

[FR Doc. 79–15073 Filed 5–14–79; 8:45 am]

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[1] Copies may be obtained from the National Academy of Sciences, 2101 Constitution Ave. NW., Washington, DC 20037.

DEPARTMENT OF DEFENSE

Office of the Secretary

[32 CFR Part 214]

Environmental Effects in the United States of DoD Actions, DoD Directive 6050.[1]

AGENCY: Office of the Secretary of Defense.

ACTION: Proposed rule.

SUMMARY: This rule establishes Department of Defense (DoD) policies and procedures to supplement the Council on Environmental Quality (CEQ) Regulations For Implementing the Procedural Provisions of the National Environmental Policy Act, November 29, 1978 (40 CFR Parts 1500–1508). The CEQ regulations provide that Federal agencies shall adopt implementing procedures by July 30, 1979. This rule provides implementing procedures and guidance to the DoD components and assigns responsibilities as required by the CEQ regulation.

DATES: Comments must be received on or before June 14, 1979.

ADDRESSES: Office of the Deputy Assistance Secretary of Defense (Energy, Environment and Safety), The Pentagon, Room 3D 823, Washington, D.C. 20301.

FOR FURTHER INFORMATION CONTACT: Colonel C. D. Sadler, USA, Telephone: 695–0221.

[1] Copies may be obtained, if needed, from the U.S. Naval Publications and Forms Center, 5801 Tabor Avenue, Philadelphia, PA. 19120 Attention: Code 301.

Accordingly, it is proposed to publish a revision to 32 CFR Part 214, reading as follows:

Sec.

214.1 Reissuance and purpose.
214.2 Applicability and scope.
214.3 Definitions.
214.4 Policy.
214.5 Responsibilities.
Enclosure 1, DoD Implementing Procedures.

Authority: 42 U.S.C. 4321 et seq., Executive Order 11514 as amended by EO 11991.

§ 214.1 Reissuance and purpose.

This Part implements the Council on Environmental Quality (CEQ) regulations (National Environmental Policy Act Regulations, 43 FR 55978 (1978)) and provides policy and procedures to enable Department of Defense (DoD) officials to be informed of and take into account environmental considerations when authorizing or approving major DoD actions that significantly affect the environment in the United States. The Council on Environmental Quality regulations implement the procedural provisions, section 102(2), of the National Environmental Policy Act (of 1969, as amended (Pub. L. 91–190, 42 U.S.C. 4321 et. seq.)), and Executive Order 11514, as amended (35 FR 4247 (1970)), amended by Executive Order 11991, 42 FR 26967 (1977).

§ 214.2 Applicability and scope.

(a) The provisions of this part apply to the Office of the Secretary of Defense, the Military Departments, the Organization of the Joint Chiefs of Staff, Unified and Specified Commands, and the Defense Agencies (hereinafter referred to as "DoD Components").

(b) The provisions of this part are limited to DoD actions with environmental effects in the United States.

§ 214.3 Definitions.

(a) *United States* means all states, territories, and possessions of the United States; and all waters and airspace subject to the territorial jurisdiction of the United States. The territories and possessions of the United States include the Commonwealth of Puerto Rico, the Virgin Islands, American Samoa, Guam, and the Trust Territory of the Pacific Islands.

(b) Other terms used in this part are defined in Part 1508 of the CEQ regulations.

§ 214.4 Policy.

(a) The Department of Defense must act with care to assure that, in carrying out its mission of providing for the national defense, it does so in a manner consistent with national environmental policies. Care must be taken to assure, consistent with other considerations of national policy and with national security requirements, that all practical means and measures are used to protect, restore, and enhance the quality of the environment, to avoid or minimize adverse environmental consequences, and to attain the objectives of:

(1) Achieving the fullest possible use of the environment without degradation, or undesirable and unintended consequences;

(2) Preserving important historic, cultural, and natural aspects of our national heritage and maintaining where possible an environment that supports diversity and variety of individual choice;

(3) Achieving a balance between resource use and development within the sustained carrying capacity of the ecosystem involved; and

(4) Enhancing the quality of renewable resources and working toward the maximum attainable recycling of depletable resources.

(b) The Department of Defense shall:

(1) Assess environmental consequences of DoD actions that affect the environment in accordance with enclosure 1 and Part 1508 of the CEQ regulations.

(2) Use a systematic, interdisciplinary approach that will insure the integrated use of the natural and social sciences, and environmental considerations, in planning and decision-making where there is a potential for significant environmental impact;

(3) Insure that presently unmeasured environmental amenities are considered in the decision-making process;

(4) Consider reasonable alternatives to recommended courses of action in any proposal that involves unresolved conflicts concerning alternative uses of resources; and

(5) Make available to states, counties, municipalities, institutions, and individuals advice and information useful in restoring, maintaining, and enhancing the quality of the environment.

§ 214.5 Responsibilities.

(a) The Assistant Secretary of Defense (Manpower, Reserve Affairs, and Logistics) shall:

(1) Serve as responsible official for all DoD environmental matters within the United States;

(2) Modify or supplement the enclosures of this part, as required.

(3) Provide assistance in the preparation of environmental assessments and statements and assign, in consultation with the Defense Department Secretary's principal staff assistants concerned and the Defense Agencies' directors, lead agency responsibility in preparing environmental documentation when more than one DoD component is involved.

(4) Direct the preparation of environmental documents for specific actions when required;

(5) Provide, when appropriate, consolidated Department of Defense comments requested by other Federal agencies on draft and final environmental impact statements;

(6) Review issuances of the Office of the Secretary of Defense that have environmental implications;

(7) Maintain liaison with the Council on Environmental Quality, the Environmental Protection Agency, the Office of Management and Budget, other Federal agencies, and State and local groups, with respect to environmental analyses for DoD actions affecting the environment in the United States.

(b) The General Counsel, DoD, shall provide advice and assistance concerning the requirements of this part.

(c) The heads of the DoD Components shall:

(1) Assess environmental consequences of proposed and continuing program and actions within their respective DoD component;

(2) Prepare and process environmental documents as required by this part.

(3) Integrate environmental considerations into their decision-making processes.

(4) Insure that regulations and other major policy issuances are reviewed for consistency with the requirements of this part;

(5) Provide comments on environmental impact statements for actions within their area of expertness or concern;

(6) Designate a single point of contact for matters pertaining to this part.

Enclosure 1—DOD Implementing Procedures

A. *General*

1. Section 1507.3, Council on Environmental Quality Regulations (National Environmental Policy Act Regulations, 43 FR 55978 (1978)) directs that Federal agencies shall adopt procedures to supplement the CEQ Regulations. This enclosure provides detailed DoD implementing procedures to supplement the CEQ Regulations.

2. The provisions of this part must be read together with those of the CEQ

Regulations and the Act as a whole when applying the NEPA process.

3. This enclosure is organized sequentially from early planning to final implementation of an action. Section references throughout this enclosure refer to the appropriate section in the CEQ Regulations.

B. *Planning Consideration*

1. *Early Planning.* DoD Components shall integrate the NEPA process with other planning at the earliest possible time to insure that planning and decisions reflect environmental values, to avoid delays later in the process, and to head off potential conflicts.

2. *Lead Agency.* To determine the lead agency for actions in which more than one DoD Component is involved or another federal agency is involved, DoD Components shall apply the criteria defined in Sections 1501.5 and 1501.6. If there is disagreement, DoD Components shall forward a request for lead agency determination to ASD (MRA&L).

a. The ASD (MRA&L) will determine lead agency responsibility among DoD Components.

b. In those cases involving a DoD Component and another Federal agency, the ASD (MRA&L) will attempt to resolve the differences. If unsuccessful, the ASD (MRA&L) will file the request with the Council for determination.

3. *Assistance to Applicants.* Section 1501.2(d) provides for advising private applicants or other non-federal entities when DoD involvement is reasonably foreseeable. Actions involving applications by private persons or state and local agencies are limited within the DoD and pertain primarily to permits, leases, and related actions concerning the use of DoD lands and property.

a. The following are types of actions initiated by private persons, state or local agencies, and other non-DoD entities for which DoD involvement may be reasonably foreseeable.

(1) Easements and right-of-ways on DoD lands

(2) Graziang and timber leases

(3) Permits, licenses, use agreements or other grants of real property for use by non-DoD entities.

b. Public notices or other means used to inform or solicit applicants for permits, leases, or related actions will describe the studies or information foreseeably required for later DoD Component action and will advise of the assistance available to applicants by the DoD Component.

c. When DoD owned land is leased or otherwise provided to non-DoD entities, the DoD Component will initiate the NEPA process as early as possible and will ensure that appropriate consideration is given to environmental conservation factors such as waste disposal, necessary mitigation and long term restoration measures.

4. *Determination of Requirement for EIS.* The first step in applying the NEPA process is to determine whether to prepare an environmental impact statement. Early determination will help ensure that necessary environmental documentation is prepared and integrated with the decisionmaking process. In determining whether to prepare an environmental impact statement, a DoD Component will determine whether the proposal is one which:

a. Normally requires an environmental impact statement, or

b. Normally does not require either an environmental impact statement or an environmental assessment (categorical exclusion), or

c. Normally requires an environmental assessment but not necessarily an environmental impact statement.

5. *Actions That Normally Require an EIS.* DoD Components will determine if a proposal is one that normally requires an environmental impact statement. In some cases, it will be readily apparent that a proposed action will have a significant impact on the environment. In that event, an environmental assessment is not required and the DoD Component will begin preparation of the environmental impact statement. To assist in determining those actions that normally do require the preparation of an environmental impact statement, the following criteria and categories of actions are provided:

a. *Criteria.* The criteria used to determine those categories of actions that normally do require an environmental impact statement include:

(1) Potential for significant degradation of environmental quality.

(2) Significant real estate alteration.

(3) Potential for threat or hazard to the public.

(4) Similarity to previous actions determined to require an environmental impact statement.

b. *Categories of Actions.* The following categories of actions normally do require an environmental impact statement.

(1) Construction of major defense installations.

(2) Demilitarization of chemical warfare agents.

(3) Large dredging projects.

(4) Development of major weapons systems involving site specific or fixed deployment.

(5) Major land acquisition or disposal actions that significantly change land use.

(6) Redeployment of division or equivalent sized units during peacetime.

c. In any case involving actions that normally do require an environmental impact statement, a DoD Component may prepare an environmental assessment to determine if an environmental impact statement is required.

6. *Categorical Exclusion.* The CEQ Regulations provide for the categorical exclusion (Section 1508.4) of actions which do not individually or cumulatively have a significant effect on the human environment and for which, therefore, neither an environmental assessment nor an environmental impact statement is required. Full implementation of this concept will help DoD Components to avoid unnecessary or duplicative effort and concentrate resources on significant environmental issues.

a. *Criteria.* The criteria used for determination of those categories of actions that normally do not require either an environmental impact statement or an environmental assessment include:

(1) Minimal or no effect on evnironmental quality.

(2) No significant change to existing environmental conditions.

(3) No significant cumulative environmental impact.

(4) Social and economic effects only.

(5) Similarity to actions previously assessed to have no significant environmental impact.

b. *List of Categorical Exclusion.* Categories of actions that have been determined by DoD to have no significant effect on the human environment and are, therefore, categorically excluded from the preparation of environmental impact statements and environmental assessments are identified in Annex A to this enclosure.

c. *Changes to the List of Categorical Exclusion.* (1) The DoD List of Categorical Exclusion will be continually reviewed and refined as additional categories are identified and experience is gained in the categorical exclusion process. DoD Components may, at any time, recommend additions or changes to the DoD List of Categorical Exclusion.

(2) DoD Components are encouraged to develop, in their regulations implementing this part additional categories of exclusion necessary to meet their unique operational and mission requirements. Categories of exclusion identified by one DoD Component which may be applicable to other DoD Components will be submitted to ASD for review.

d. *Extraordinary Circumstances.* The determination of whether a proposal can be categorically excluded is a three step process in which the DoD Component will:

(1) Determine the scope of the proposal and identify elements that may effect the environment.

(2) Determine if the proposal is encompassed by one of the categories of actions on either the DoD or DoD Component lists of categorical exclusion.

(3) Determine if there are extraordinary circumstances that may have a significant environmental impact. If extraordinary circumstances that may have a significant environmental impact do exist, an environmental assessment will be prepared. Extraordinary circumstances that may have a significant environmental impact include:

(a) Greater scope or size than normally experienced for a particular category of action.

(b) Actions in highly populated or congested areas.

(c) Potential for degradation, even though slight, of already existing poor environmental conditions.

(d) Employment of unproven technology.

(e) Presence of endangered species, archeological remains, or other protected resources.

(f) Use of hazardous or toxic substances.

e. *Documentation.* DoD Components will prepare and maintain an administrative record of each proposal that is determined to be categorically excluded from the preparation of an environmental impact statement or an environmental assessment.

7. *Actions That Normally Require and Environmental Assessment.* When a proposal is not one that normally requires an environmental impact statement and does not qualify for categorical exclusion, the DoD Component will determine if an environmental assessment is required. To assist in the determination of whether to prepare an environmental assessment, the following criteria and categories of actions are provided:

a. *Criteria.* The criteria used to determine those categories of actions that normally require an environmental assessment but not necessarily an environmental impact statement include:

(1) Potential for minor degradation of environmental quality.

(2) Potential for cumulative impact on environmental quality.

(3) Presence of hazardous or toxic substances.

(4) Potential for violation of pollution abatement laws.

(5) Potential for impact on protected resources.

b. *Categories of Actions.* The following categories of actions normally require the preparation of an environmental assessment. DoD Components may identify other categories of actions that normally require an environmental assessment.

(1) Field training exercises on non-DoD lands.

(2) Major (over $500,000) military construction.

(3) Wetland construction.

(4) Disposal of hazardous or toxic wastes.

(5) Cumulative use of pesticides.

(6) Preparation of regulations, directives, manuals, or other guidance that have a potential for significant impact on the environment.

(7) Significant changes to established installation land use.

(8) Major weapons system development and acquisition.

(9) Development of installation master plans.

(10) Real estate withdrawals of federal property.

(11) Disposal of DoD real estate.

C. *Environmental Assessment Phase*

1. *When to Prepare.* DoD Components will begin preparation of an environmental assessment as early as possible after the determination that an assessment is required. DoD Components may prepare an environmental assessment at any time to assist planning and decisionmaking.

2. *Content and Format.* The environmental assessment is a concise public document to determine whether to prepare an environmental impact statement, aiding in compliance with the Act when no environmental impact statement is necessary, and facilitating preparation of a statement when one is necessary. Preparation of an environmental assessment generally will not require extensive research or lengthy documentation. The environmental assessment shall contain brief discussions of the following:

a. Purpose and need for the proposed action.

b. Description of the proposed action.

c. Alternatives considered.

d. Environmental impact of the proposed action and alternatives.

e. Listing of agencies and persons consulted.

f. Conclusion of whether to prepare an environmental impact statement.

3. *Public Participation.* DoD Components shall involve environmental agencies, applicants, and the public, to the extent practicable, in preparing environmental assessments. In determining "to the extent practicable," DoD Components will consider:

a. Magnitude of the proposal.

b. Likelihood of public interest.

c. Need to act quickly.

d. Likelihood of meaningful public comment.

e. National security classification issues.

f. Need for permits.

g. Statutory authority of environmental agencies regarding the proposal.

4. *Finding of No Significant Impact.* If a DoD Component determines on the basis of the environmental assessment not to prepare an environmental impact statement, the DoD Component shall prepare a finding of no significant impact in accordance with Section 1501.4(e) and make the finding of no significant impact available to the public as specified in Section 1506.6. A finding of no significant impact is not required when the decision not to prepare an environmental impact statement is based on categorical exclusion.

5. *Notice of Intent.* When a DoD Component decides to prepare an environmental impact statement, it shall publish a notice of intent in the **Federal Register.** The notice of intent shall be published before initiation of the scoping process.

D. *Environmental Impact Statement Phase*

1. *Scoping.* After determination that an environmental impact statement will be prepared and publication of the notice of intent, the DoD Component will initiate the scoping process in accordance with Section 1501.7.

2. *Preparation.* Based on the scoping process, the DoD Component will begin preparation of the environmental impact statement. Detailed procedures for preparation of the environmental impact statement are provided in Part 1502, CEQ Regulations.

3. *Supplemental Environmental Impact Statements.* DoD Components may at any time supplement a draft or final environmental impact statement. DoD Components shall prepare a supplement to either the draft or final environmental impact statement when required under the criteria set forth in

U.S. Environmental Protection Agency

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Section 1502.9(c). DoD Components will prepare, circulate, and file a supplement to a statement in the same fashion (exclusive of scoping) as a draft or final statement and will introduce the supplement into their formal administrative record.

4. *Information on the NEPA Process.* Information or status reports on environmental impact statements and other elements of the NEPA process shall be provided to interested persons upon request.

a. Each DoD Component shall designate in its regulation implementing this part—where interested persons can get information.

b. For those actions related to the Office of the Secretary of Defense, information is available by writing the Assistant Secretary of Defense (Manpower, Reserve Affairs, and Logistics), Washington, D.C. 20301.

5. *Circulation of Environmental Impact Statements.* DoD Components shall circulate draft and final environmental impact statements as prescribed in paragraph 1502.19. In addition, DoD Components shall provide one copy of each draft and each final statement to the Assistant Secretary of Defense (Manpower, Reserve Affairs, and Logistics).

6. *Classified Material.* It may be necessary for DoD Components to include classified material in environmental documentation. Classified environmental impact statements shall be prepared, safeguarded, and disseminated in accordance with Executive Order 12065 as implemented by DoD Regulation 5200.1–R (32 FR 159). The requirements for circulation (section 1502.19) and public involvement (Section 1506.6) do not apply to classified environmental documents except where circulation and involvement can be accomplished in accordance with the provisions of DoD Regulation 5200.1–R. When feasible, environmental documents shall be organized in such a manner that classified portions can be included as annexes so that unclassified portions can be made available to the public in the normal manner.

E. *Pre-Implementation Actions*

1. *Decisionmaking.* DoD Components shall ensure that decisions are made in accordance with the policies and procedures of the Act and that the NEPA process is integrated into the decisionmaking process. Because of the size and diversity of the Department of Defense, it is not feasible to describe in this part the decisionmaking process for each of the various DoD programs. Proposals and actions may be initiated at any level down to and including the installations. Similarly, review and approval authority may be exercised at various levels depending on the nature of the action, available funding, and statutory authority. DoD Components may provide further guidance, commensurate with their programs and organization, for integration of environmental considerations into the decisionmaking process. In accordance with Section 1505.1, such guidance shall include the following procedures:

a. As a minimum, DoD Components shall consider environmental effects at the following major decision points.

(1) Decision by initiating organization or agency to forward a proposal to the approval authority.

(2) Decision by any intermediate review authority to forward a proposal to the approval authority.

(3) Decision by approval authority to implement a proposal.

b. Relevant environmental documents, comments, and responses shall be made part of the record in formal rulemaking or adjudicatory proceedings.

c. Relevant environmental documents, comments, and responses shall accompany a proposal through existing DoD Component review processes so that DoD Component decisionmakers use the environmental documents in making decisions.

d. The alternatives considered by the decisionmaker shall encompass the range of alternatives discussed in relevant environmental documents. The decisionmaker shall consider the alternatives described in the environmental impact statement.

2. *Record of Decision.* In those cases requiring environmental impact statements, DoD Components at the time of their decision or, if appropriate, their recommendation to Congress, shall prepare a concise public record of decision. The record of decision is not intended to be an extensive, detailed document for the purpose of justifying the decision. Rather, it is a concise document that sets forth the decision and describes the alternatives and relevant factors considered as specified in section 1505.2. The record of decision will normally be less than three pages in length.

3. *Mitigation.* Throughout the NEPA process, DoD Components shall consider mitigation measures to avoid or minimize environmental harm. Mitigation measures or programs will be identified, when appropriate, in the environmental impact statement and made available to decisionmakers. Mitigation and other conditions established in the environmental impact statement or during its review and committed as part of the decision shall be implemented by the DoD Component.

4. *Monitoring.* If a DoD Component determines that monitoring is applicable for established mitigation, a monitoring program will be adopted to assure the mitigation measures are accomplished. DoD Components shall provide monitoring information, upon request, as specified in Section 1505.3. This does not, however, include standing or blanket requests for period reporting.

5. *Emergencies.* In the event of an emergency, DoD Components may be required to take immediate action with significant environmental impact. DoD Components shall notify the ASD (MRA&L) of the emergency action at the earliest possible time so that the ASD (MRA&L) may consult with the Council. In no event, shall DoD Components delay an emergency action necessary to the preservation of national security or preservation of human life for the purpose of complying with the provision of this directive or the CEQ Regulations.

Annex A—DOD List of Categorical Exclusion

1. Preparation of regulations, directives, manuals, or other guidance that implement, without substantial change, the regulations, directives, manuals, or other guidance of higher headquarters or another federal agency.

2. Preparation of regulations, directives, manuals, and other guidance related to actions which qualify for categorical exclusion.

3. Training activities and training exercises conducted on DoD installations in accordance with established procedures and land use designations.

4. Procurement activities that provide goods and services for routine installation operations and support.

5. Routine installation maintenance and groundskeeping activities.

6. Minor construction conducted in accordance with approved installation master plans that does not significantly alter land use and provided that the operation of the project when completed would not of itself have a significant environmental impact.

7. Routine operation of ships, aircraft and mobile equipment in accordance with prescribed service regulations.

8. Reduction in force resulting from workload adjustments, reduced personnel or funding levels, skill imbalances, or other similar causes.

9. Studies that involve no commitment of resources other than manpower and funding.

H. E. Lofdahl

Director, Correspondence and Directives, Washington Headquarters Services, Department of Defense.

May 10, 1979.

[DoD Directive 8050.1]

[FR Doc. 79-15089 Filed 5-14-79; 8:45 am]

BILLING CODE 3810-70-M

ENVIRONMENTAL PROTECTION AGENCY

[40 CFR Part 65]

Proposed Delayed Compliance Order for the City of Dover, Ohio, Municipal Power Plant

AGENCY: U.S. Environmental Protection Agency.

ACTION: Proposed Rule.

SUMMARY: U.S. EPA proposes to issue an Administrative Order to the City of Dover, Ohio. The Order requires the City to bring boiler #4 at the Municipal Power Plant (the source) into compliance with Regulations AP–3–07 and AP–3–11, part of the federally approved Ohio State Implementation Plan (SIP). Because the City is unable to comply with these regulations at this time, the proposed Order would establish an expeditious schedule requiring final compliance by July 1, 1979. Source compliance with the Order would preclude suits under the Federal enforcement and citizen suit provisions of the Clean Air Act (the Act) for violation of the SIP regulations covered by the Order. The purpose of this notice is to invite public comment and to offer an opportunity to request a public hearing on U.S. EPA's proposed issuance of the Order.

DATES: Written comments must be received on or before June 14, 1979. Notice and requests for a public hearing must be received on or before May 30, 1979. All requests for a public hearing should be accompanied by a statement of why the hearing would be beneficial and a text or summary of any proposed testimony to be offered at the hearing. If there is significant public interest in a hearing, it will be held after twenty-one days prior notice of the date, time, and place of the hearing has been given in this publication.

ADDRESSEES: Comments and requests for a public hearing should be submitted to Director, Enforcement Division, U.S. Environmental Protection Agency, Region V, 230 South Dearborn Street, Chicago, Illinois 60604. Material supporting the Order and public comments received in response to this notice may be inspected and copied (for appropriate charges) at this address during normal business hours.

FOR FURTHER INFORMATION CONTACT: Mr. Arthur E. Smith, Jr., Attorney, Enforcement Division, U.S. Environmental Protection Agency, 230 South Dearborn Street, Chicago, Illinois 60604, at (312) 353–2082.

SUPPLEMENTARY INFORMATION: The City of Dover, Ohio, owns and operates the Municipal Power Plant. The proposed Order addresses emissions from Boiler #4 at this facility, which is subject to Ohio AP–3–07 and AP–3–11 of the Ohio Implementation Plan. The regulations limit the emissions of particulate matter and are part of the federally approved Ohio State Implementation Plan. The Order requires final compliance with the regulations by July 1, 1979, and the source has consented to its terms.

The proposed Order satisifies the applicable requirements of Section 113(d) of the Act. If the Order is issued, source compliance with its terms would preclude further U.S. EPA enforcement action under Section 113 of the Act against the source for violations of the regulations covered by the Order during the period the Order is in effect. Enforcement against the source under the citizen suit provisions of the Act (Section 304) would be similarly precluded.

Comments received by the date specified above will be considered in determining whether U.S. EPA should issue the Order. Testimony given at any public hearing concerning the Order will also be considered. After the public comment period and any public hearing, the Administrator of U.S. EPA will publish in the **Federal Register** the Agency's final action on the Order in 40 CFR Part 65.

Dated: April 23, 1979.

John McGuire,

Regional Administrator, Region V.

1. In consideration of the foregoing, it is proposed to amend 40 CFR Chapter I, as follows:

PART 65—DELAYED COMPLIANCE ORDERS

§ 65.400 [Amended]

By adding an entry to the table § 65.400, *Federal Delayed Compliance Orders issued under Section 113(d)(1), (3), and (4) of the Act,* to reflect approval of the following order.

2. The order reads as follows:

U.S. Environmental Protection Agency Region V

Order No. ———

In the matter of City of Dover, Dover Municipal Power Plant, Dover, Ohio. Proceeding pursuant to Section 113(d) of the Clean Air Act, as Amended (42 U.S.C. Section 7413(d)).

The ORDER is issued this date pursuant to Section 113(d) of the Clean Air Act, as amended, 42 U.S.C. Section 7401 *et seq.* (Act). This ORDER contains a schedule for compliance, interim control requirements, and monitoring and reporting requirements. Public notice, opportunity for a public hearing, and thirty days notice to the State of Ohio have been provided pursuant to Section 113(d)(1) of the Act.

Findings

1. On January 12, 1978, the United States Environmental Protection Agency (U.S. EPA) issued a Notice of Violation, pursuant to Section 113(a)(1) of the Act, to the City of Dover, notifying the City of Dover that Boiler #4 was in violation of Ohio AP–3–11, a part of the applicable Implementation Plan defined in Section 110(d) of the Act. This finding was based upon emission factor calculations derived from data submitted to U.S. EPA by the subject facility. In addition, Boiler #4 was found to be in violation of Ohio AP–3–07, a part of the applicable Implementation Plan. This finding was based on visible observations made on May 19, 1977, and December 6, 1977.

2. The Dover Municipal Power Plant has a total of four boilers identified as Boilers #1, #2, #3, and #4. Boiler #4 is the newest and largest of the boilers, provides power for the largest generator, and is the principal source of steam in the plant.

3. In satisfaction of Section 113(a)(4) of the Act, opportunity to confer with the Administrator's delegate was given to the City, and on March 6, 1978, a conference was held.

4. It has been determined that the City is unable to immediately comply with the applicable Implementation Plan.

After a thorough investigation of all relevant facts, including public comment, it is determined that the schedule for compliance set forth in this ORDER is as expeditious as practicable, and that the terms of this ORDER comply with Section 113(d) of the Act. Therefore, it is hereby ORDERED:

Order

I. That the City of Dover will comply with the Ohio Implementation Plan regulations AP–3–07 and AP–3–11 in accordance with the following schedule on or before the dates specified therein.

In regard to the Dover Municipal Power Plant Boiler #4:

1. Achieved—The City of Dover shall submit final control plans to U.S. EPA.

2. Achieved—The City of Dover shall award contracts for the control equipment for Boiler #4.

3. Achieved—The City of Dover shall initiate on-site construction for the control equipment for Boiler #4.

which covers State solid waste

taking action against environmentally damaging acts that violate Federal

the Congressional intent that the inventory be published promptly and

4. July 1, 1979—The City of Dover shall complete on-site construction and achieve final compliance with Ohio Implementation Plan regulations AP–3–07 and AP–3–11 for Boiler #4.

5. Within 2 months after July 1, 1979—Pursuant to Sections 113(a) and 114, the City of Dover shall demonstrate that Boiler #4 operates in compliance with Ohio Implementation Plan regulations AP–3–07 and AP–3–11.

II. That the City of Dover, Boiler #4 shall use the best practicable interim system of emission reduction so as to minimize particulate emissions; avoid any imminent and substantial endangerment to the health of persons; comply with the requirements of the applicable implementation plan insofar as it is able to; and, comply with the following interim requirements:

A. The City shall operate amd maintain existing control equipment to maximize reliability and efficiency during the interim period preceding final compliance.

B. After July 10, 1978, all boiler controls shall be set for the most efficient opertion at the upper 25 percent of boiler capacity to minimize particulate emmissions from the boiler.

C. The City shall operate and maintain the boiler to minimize particulate matter emissions during the interim period preceding final compliance.

D. The City shall submit to U.S. EPA operation and maintenance procedures within one month of the effective date of this Order detailing the practices followed to maintain reliability and efficiency of the boiler and control equipment.

III. That the City of Dover, Boiler #4, shall comply with the following emission monitoring and reporting requirements:

A. *Emission Monitoring*

Pursuant to Sections 113(a) and 114, the City shall install a continuous monitoring system for the measurement of opacity at all stacks venting flue gas generated by Boiler #4 not later than July 1, 1979. The continuous monitoring system shall be installed, calibrated, maintained, and operated in accordance with the procedures set forth in Appendix B of 40 CFR Part 60. Data recorded by the monitoring system shall be retained by the City for a period of two years after it is obtained.

B. *Reporting Requirements*

1. No later than fifteen days after any date for achievement of an incremental step for final compliance, specified in this ORDER, the City of Dover shall notify U.S. EPA in writing of its compliance, or noncompliance and reasons therefore, with the requirement. If delay is anticipated in meeting any requirement of this ORDER, the City of Dover shall immediately notify U.S. EPA in writing of the anticipated delay and reasons therefore. Notification to U.S. EPA of an anticipated delay does not excuse delay.

2. Beginning three months after the date for achievement of the first increment of progress specified in this Order, the City shall submit a status report to U.S. EPA detailing the progress made during that quarter. These reports shall be submitted quarterly until the schedule for compliance has been completed.

3. The City shall notify U.S. EPA in writing at least thirty (30) days in advance of performing the stack test required to demonstrate compliance.

4. Pursuant to Sections 113(a) and 114, a quarterly report shall be sent to the U.S. EPA after July 1, 1979, reporting all 6-minute data averages (reduced as specified in 40 CFR 60.13(h)) in excess of 20 percent.

5. All submittals and notifications to U.S. EPA pursuant to this ORDER shall be made to Chief, Compliance Section, Enforcement Division, U.S. EPA, 230 South Dearborn, Chicago, Illinois 60604. A copy of all submittals and notifications shall be sent to the Southeast District, Ohio EPA, 2195 Front Street, Logan, Ohio 43138.

IV. Nothing herein shall affect the responsibility of the City of Dover to comply with State or local regulations, or other Federal regulations.

V. The City of Dover is hereby notified that its failure to achieve final compliance by July 1, 1979, at Boiler #4 may result in a requirement to pay a noncompliance penalty under Section 120. In the event of such failure, the City of Dover will be formally notified, pursuant to Section 120(b)(3) and any regulations promulated thereunder, of its noncompliance.

VI. This ORDER is effective upon final publication in the Federal Register.

Date———————.

———————

Administrator, U.S. Environmental Protection Agency.

Waiver of Rights to Challenge Order

Although the City of Dover does not admit any violation of AP–3–07 and AP–3–11, the City, by the duly authorized undersigned, hereby consents to the provisions of this ORDER and waives any and all rights under any provisions of law to challenge this ORDER.

Date———————.

———————

(Signature of authorized representative of source)

[FR. 1222–6]

[FR Doc. 79–15032 Filed 5–14–79; 8:45 am]

BILLING CODE 6560–01–M

[40 CFR Part 256]

Guidelines for Development and Implementation of State Solid Waste Management Plans

AGENCY: Environmental Protection Agency (EPA).

ACTION: Supplemental Notice of Proposed Rulemaking.

SUMMARY: In response to a recent petition, EPA is soliciting public comment on one issue relating to proposed guidelines for state solid waste plans under § 4002(b) of the Resource Conservation and Recovery Act. The issue is whether the guidelines should require notice and a hearing opportunity before a disposal facility is included in the "open dump" inventory. EPA proposed these guidelines on August 28, 1978 and intends to finalize them by the end of June.

DATE: Written public comments should be submitted to the person named below by June 14, 1979.

ADDRESS: Written public comments should be submitted to: Ms. Susan Absher, Office of Solid Waste (WH–564), Environmental Protection Agency, 401 M Street SW., Washington, D.C. 20460.

FOR FURTHER INFORMATION CONTACT: Ms. Susan Absher (202) 755–9125.

SUPPLEMENTARY INFORMATION:

I. Purpose

On August 28, 1978, EPA proposed Guidelines for the Development and Implementation of State Solid Waste Managment Plans (43 FR 38534) under section 4002(b) of the Solid Waste Disposal Act, as amended by the Resource Conservation and Recovery Act of 1976 (the Act). On April 24, 1979, the National Solid Waste Managment Association [NSWMA) filed a petition under section 7004(a) of the Act asking that EPA publish regulations setting forth procedures for notice and a hearing which must precede the inclusion of a disposal facility in the "open dump" inventory. If EPA promulgates the regulations requested by NSWMA, such regulations will be directed to the states under authority of section 4002(b). Therefore, NSWMA's petition for rulemaking is being considered as part of the ongoing rulemaking for the section 4002(b) guidelines.

Public comment on this issue will be beneficial because it was not fully explored in the August 28 proposal or the public comments which followed. Because EPA is under court order to promulgate the section 4002(b) guidelines by June 30, 1979, EPA is providing only a 30-day comment period. Due to the court order, EPA will be unable to extend the public comment period deadline. EPA believes that such a period is fully adequate because only one basic legal issue is involved.

The petition filed by NSWMA argues that some form of notice and hearing is required by the Act, the Administrative Procedure Act and/or the United States Constitution before a disposal facility may be included in the "open dump" inventory under the Act. EPA is attaching NSWMA's petition to this notice to give the public an opportunity to examine the complete argument.

It should be noted that today's action bears only upon Subtitle D of the Act, which covers State solid waste programs. This supplemental notice does not relate to EPA's hazardous waste proposals (Subtitle C) of December 18, 1978 (43 FR 58946).

II. EPA's Current Position

While EPA will actively consider the NSWMA petition and the comments generated by this supplemental notice, EPA's current position is that nothing in Federal statutory or Constitutional law requires notice and hearing before a facility is listed on the open dump inventory. EPA's position is based upon its interpretation of the role which the open dump inventory plays in the administration of the Act.

Under section 4004 of the Act, EPA is to promulgate criteria for determining which solid waste disposal facilities should be classified as sanitary landfills and which should be classified as open dumps. Those criteria are to serve as the basis for each state's inventory that identifies "open dumps." EPA believes that the states should conduct this inventory, as the first stage in their solid waste management planning effort, because they will ultimately be responsible for taking any enforcement action against unacceptable sites.

Under Section 4005(b) EPA is responsible for publishing an inventory of "open dumps." The inventory performs two functions: (1) It provides information to Congress, the states and the public about the dimensions of the environmental problem presented by non-hazardous wastes; and (2) it identifies for the states the set of disposal sites which should be the focus of their solid waste management planning effort.

NSWMA's arguments apparently stem from confusion that has arisen over the relationship between the section 4005(b) inventory and the Federal prohibition of open dumping contained in section 4005(c) of the Act.[1] EPA believes that this prohibition and the inventory perform different functions in the statutory scheme.

The section 4005(c) prohibition covers environmentally damaging acts, wherever they may occur. Such acts may occur at existing solid waste disposal facilities, however classified, or at locations not within the site classification scheme (e.g. along a highway.) The purpose of the section 4005(c) prohibition is to give states and citizens, through the citizen suit provision in section 7002, a means for taking action against environmentally damaging acts that violate Federal criteria. There is no provision in the Act for Federal enforcement of the prohibition.

The section 4005(b) inventory was not designed to constitute the first step in the enforcement of the section 4005(c) prohibition. The inventory is an informational planning tool which identifies priorities for state planning programs. Inclusion on the list does not constitute an administrative determination by EPA that a facility is engaging in illegal acts. The issue of whether a person is engaging in open dumping is a question for the Federal courts to resolve after full consideration of all legal and factual matters related to the individual case. Information generated from the inventory could be used in such suits, but its admissibility and weight would be a question for the court to determine. The focus in such a suit would be on the acts of the alleged dumper. The location of the dumping activity would be a relevant concern for the court, but the site's particular status in the state planning inventory scheme would not be determinative of whether open dumping acts had occurred.

Under EPA's current interpretation, the inventory is essentially an informational exercise and inclusion on the list does not invoke any particular legal sanctions against the facility or involve any deprivation of individual rights. Thus, a federal hearing would not be required as a matter of Federal statute or Constitutional law. There may be a right to a hearing before enforcement action could be taken by the state, but that is a matter to be resolved in the context of state laws and regulations.

The NSWMA petition also suggests, in the alternative, that notice and opportunity for public comment should precede EPA's publication of the inventory. This argument is also based on a misunderstanding of EPA's role in the state planning process. EPA establishes general definitions and guidelines which aid in the development of state programs. It is then up to the states to implement that program. In publishing the inventory of "open dumps," EPA is merely reporting to the public on the states' actions in the first stage of their planning programs. The inventory is conducted by the states, and EPA will publish the lists it receives from the states without assessing the validity of the classifications made by the states. In such a context a notice and comment period at the Federal level would be superfluous. Moreover, to add a Federal lawyer of review would defeat the Congressional intent that the inventory be published promptly and that the implementation of Subtitle D of the Act be left to the states.

EPA has accordingly reached the tentative conclusion that neither hearings nor public comment proceedings are necessary for the publication of the open dump inventory. In addition to soliciting public comment on EPA's position and the arguments advanced in the NSWMA petition, EPA would also be interested in public comment, particularly from the states, concerning administrative problems that may arise with either EPA's current approach or NSWMA's proposed approach.

Dated: May 9, 1979.

Thomas C. Jorling,

Assistant Administrator for Water and Waste Management.

April 24, 1979.

The Honorable Douglas M. Costle,
Administrator
United States Environmental Protection Agency, 401 M Street, S.W., Washington, D.C. 20460.

Dear Mr. Costle: I am transmitting to you with this letter a Petition for Rulemaking Under the Solid Waste Disposal Act, Section 7004(a), pertaining to the conduct of the inventory of solid waste land disposal facilities required under Section 4005(b) of the act. Specifically, our petition asks you to publish regulations setting forth procedures for notice and public hearing prior to the listing of a site as an "open dump" under the meaning of the Act.

NSWMA contends that this opportunity for "due process" is a matter of constitutional right, notwithstanding the opinion given informally to us by EPA that inclusion of any site on a list of open dumps does not, in and of itself, constitute a prohibition or trigger an enforcement action. Arguments to support our contention are included in the petition.

Lest our intentions be misinterpreted, let me state unequivocally that we support the objectives of RCRA including termination of the practice of open dumping of solid wastes. We are not confident, however, that the inventory of disposal sites under Subtitle D as now conceived will accomplish this objective. Not only has the task become much more complicated and the sites to be examined more numerous than originally anticipated, but also the resources and time in which to conduct the inventory have been severely constrained. As a result, we are concerned that the inventory will be conducted superficially or incompletely, perhaps by persons with inadequate training and experience.

Our petition therefore requests that EPA provide a mechanism through administrative regulation whereby disposal site operators have an opportunity to receive due process before any site is listed in the inventory of open dumps.

We trust you will act expeditiously on this matter since the date for the publication of the Sanitary Landfill Criteria and the

[1] Section 4005(c) states, "Any solid waste management practice or disposal of solid waste or hazardous waste which constitutes the open dumping of solid waste or hazardous waste is prohibited * * *".

beginning of the investigation is fast

NSWMA submits that any action by the

owner/operator is entitled to notice and

on cable carriage of television signals

1972,[3] and a number of less extensive

beginning of the investigation is fast approaching.

Sincerely yours,

Eugene J. Wingerter,

Executive Director.

To: The Honorable Douglas M. Costle, Administrator, United States Environmental Protection Agency, 401 M Street, S.W., Washington, D.C. 20460.

Petition For Rulemaking Under the Solid Waste Disposal Act

April 10, 1979.

Submitted by National Solid Wastes Management Association On Behalf of Its Member Companies

Introduction

On behalf of its member companies, the National Solid Wastes Management Association (NSWMA) hereby petitions the United States Environmental Protection Agency (EPA), pursuant to Section 7004(a) of the Solid Waste Disposal Act, as amended by the Resource Conservation and Recovery Act, (SWDA), 42 U.S.C. 6974(b), and Section 4(e) of the Administrative Procedures Act (APA), 5 U.S.C. 553(e), to publish regulations setting forth its procedures for notice and opportunity for hearing prior to publication of its inventory list designating solid management facilities (SWMF's) as either "open dumps" or "sanitary landfills," as required by Section 4005(b) of the SWDA, 42 U.S.C. 6945.

On February 6, 1978, the EPA published proposed criteria for classifying an SWMF an open dump or a sanitary landfill, as required by Section 4004 of the SWDA. 43 FR 4941 (Feb. 6, 1978). EPA is currently under a judicial, as well as a legislative, mandate to finalize those criteria by July 31, 1979, and complete the open dump/sanitary landfill inventory (hereinafter inventory) by July 31, 1980.

In the preamble to its open dump/sanitary landfill classification criteria (hereinafter criteria) at page 4944, the EPA states that any SWMF failing to met the criteria will be designated in the inventory as an open dump and will be subject to regulatory action in states with solid waste management plans approved by EPA under Section 4003 of the SWDA. The EPA also states that such an SWMF will come within the prohibition against open dumping contained in Section 4005, and, therefore, it will be subject to enforcement actions through suits brought by any citizen under Section 7002 of the SWDA, 42 U.S.C. 6972, or suits brought by the EPA under Section 7003 of the SWDA, 42 U.S.C. 6973.

Pursuant to Section 7004(b) of the SWDA, the EPA has promulgated regulations providing guidance for insuring public participation in all regulatory actions under the SWDA. 40 CFR Part 25. 44 FR 10285 (Feb. 16, 1979). However, these regulation do not contain any provisions setting forth the required procedures for notice and opportunity for hearing prior to designating any SWMF as an open dump. Nor has EPA published any other regulations setting forth such required procedures.

NSWMA submits that any action by the EPA to classify an SWMF as an open dump or sanitary landfill, and include that SWMF in its inventory list, must be preceded by notice to the SWMF owner/operator, and he must be afforded an opportunity for a hearing prior to publication of any such inventory list. As discussed in more detail below, NSWMA believes that such notice and opportunity for hearing is required by the Fifth Amendment to the Constitution of the United States, and Sections 4, 7, 8 and 9 of the APA. U.S. Const. Fifth Amendment and 5 U.S.C. 553, 556, 557 and 558. Finally, NSWMA also believes that such notice and opportunity for a hearing is required by Section 7004(b) of the SWDA. 42 U.S.C. 6974(b).

1. *The APA Mandates That EPA Provide An SWMF Owner/Operator With Notice And Opportunity For Hearing Before Designating The SWMF As An Open Dump.*

a. *The APA Requires The EPA To Afford An SWMF Owner/Operator An Opportunity For An "Adjudicatory Hearing" Before Designation As An Open Dump.* Section 9 of the APA, 5 U.S.C. 558, requires the EPA to provide all its licensees with an opportunity for an adjudicatory hearing in conformance with Sections 7 and 8 of the APA, 5 U.S.C. 556 and 557, prior to the initial issuance, denial, revocation, or modification of a license. *Marathon Oil Co.* v. *EPA*, 564 F.2d 1253, 12 ERC 1098 (9th Cir. 1977); and *U.S. Steel* v. *Train*, 556 F.2d 822, 10 ERC 1001 (7th Cir. 1977). NSWMA submits that the EPA, in the act of inventorying all SWMF's and listing them as open dumps or sanitary landfills as required by Section 4005 of the SWDA, is performing a licensing procedure as that term is defined by Section 2(e) of the APA. 5 U.S.C. 551(8) and (9). *New York Pathological and X-Ray Laboratories, Inc.* v. *Immigration and Naturalization Service*, 523 F.2d 79 (2d Cir. 1975); and *Blackwell College of Business* v. *U.S. Attorney General*, 454 F.2d 928 (2d Cir. 1971). *See also, Dow Chemical Co.* v. *Consumer Product Safety Commission*, F. Supp. (E.D. La. 1978).* Therefore, prior to being listed as an open dump pursuant to Section 4005 of the SWDA, every SWMF owner/operator is entitled to notice and opportunity for an adjudicatory hearing as required by Sections 7, 8 and 9 of the APA.

b. *At a Minimum, the APA Requires the EPA to Publish Notice Of Any Proposed Inventory List and Allow for Public Comment/Hearings Before Finalizing any Such List.* In the alternative, and without waiving any right of its member companies to assert entitlement to notice and opportunity for an adjudicatory hearing pursuant to Sections 7, 8 and 9 of the APA, the NSWMA also submits that, at a minimum, Section 4 of the APA, 5 U.S.C. 553, requires the EPA to publish notice of any proposed inventory list in the **Federal Register** and afford an opportunity for public comment/hearing thereon before finalizing any such list. *Buckeye Power Co.* v. *EPA*, 481 F.2d 162, 5 ERC 1611 (6th Cir. 1973).

2. *Public Participation Through Notice and Opportunity To Comment On Any Proposed Inventory List Is Mandated by Section 7004(b) of the SWDA.* Section 7004(b) of the SWDA states, *inter alia*, that the EPA shall provide for "public participation in the development, revision, implementation and enforcement of any regulation, guideline, information or program under this Act." With respect to any determination regarding any proposed inventory list under Section 4005(b), in order to comply with this mandate, prior notice and an opporunity to comment must be afforded the public before proceeding to finalize any such list. *Cf.*, 40 CFR 25.10(a).

3. *In Order To Afford An SWMF Owner/Operator Effective Procedural Due Process Mandated By The Fifth Amendment Of The U.S. Constitution, The EPA Must Issue Notice And Provide Opportunity For A Hearing With Right Of Cross Examination Before Designating An SWMF As An Open Dump.* NSWMA submits that any failure by the EPA to afford any SWMF operator notice and opportunity for a hearing before designating his facility as an open dump will not only be violative of the APA and the SWDA, but also will constitute a denial of his procedural due process rights guaranteed by the Fifth Amendment. Clearly, each SWMF owner/operator has a vested property interest in his facility which will undeniably be jeopardized by any action by the EPA in designating it as an open dump. As stated by the EPA in its preamble to the criteria, such an SWMF will be subject to state and federal enforcement actions, as well as potential citizen's suits. Consequently, before such a designation may occur, "some kind of prior hearing is paramount." *Board of Regents of State Colleges* v. *Roth*, 408 U.S. 564, 570 (1972).**

* The EPA has disclosed to NSWMA that it intends to ask the states to perform the field inventory for it, and that it will accept *pro formo* any state designation of an SWMF as an open dump or sanitary landfill. NSWMA submits that the EPA's interpretation of its responsibilites under Section 4005 is untenable. The EPA's responsibilities under Section 4005 to inventory and publish a list of SWMF's which are open dumps or sanitary landfills constitute nondelegatable duties. Nowhere in Section 4005 (or anywhere else in the SWDA) is it stated that the EPA may delegate these responsibilities to the states or to anyone else. This is not, or course, to say that the data for that determination may not be gathered by the states, or by anyone else acting as a contractor for EPA. Nevertheless, for purposes of the Section 4005 prohibition against open dumping and the inventory required therein, the EPA is the ultimate decision maker who must weigh and balance the facts from the threshold. The EPA is not bound by law to accept the state's designation. As stated in this petition, the EPA is required to offer an SWMF owner/operator an opportunity to be heard regarding any such decision. *Consolidation Coal Co.* v. *EPA*, F.2d , 9ERC 1056 (4th Cir. 1976); and *Decision of General Counsel On Matters Of Law Pursuant to 40 CFR 125.36(m)*, No. 14 (May 21, 1975).

** In recent public meetings between the EPA and the NSWMA, the EPA had indicated that, as it now interprets the SWDA, the prohibition against open dumping in Section 4005(c) will not result in any SWMF designated by it as an open dump being placed in jeopardy of suits under Sections 7002 or 7003 for injunctive relief or damages, etc. NSWMA does not feel as confident as EPA that this interpretation will be sustained by the courts. As pointed out in those public meetings, the language in Sections 4005(c), 7002 and 7003 may be sufficiently broad enough to lead a court to rule contrary to EPA's interpretation. Regardless, an SWMF owner/operator will sustain sufficient economic damages by being included on that list (whether or not such suits may be filed) merely by losing business as a

Footnotes continued on next page

The type of hearing required will, of course, depend upon the circumstances, *Board of Regents* v. *Roth*, *supra*, at p. 570, n.8. Nevertheless, it is clear that "what is required in all instances * * * is 'the reality of an opportunity to submit an effective presentation.' " *Appalachian Power Co.* v. *EPA*, 477 F.2d 142, 5 ERC 1222, 1228 (4th Cir. 1973). In circumstances such as the inventory, where the issues are complex and the impact upon the SWMF owner/operator is rather substantial, the right of cross examination must be afforded. *Appalachian Power Co.* v. *EPA*, *supra*; and *International Harvester* v. *Ruckelshaus*, F.2d , 4 ERC 2041 (D.C. Cir. 1973).

Conclusion

Based upon the legislative and judicial authorities cited in this petition, the EPA must grant the petition and promulgate the requred regulations "within a reasonable time following receipt" of this petition. SWDA, Section 7004(a). 42 U.S.C. 6974(a). Since the inventory is scheduled to begin on or near July 31, 1979, it would appear that the regulations petitioned herein must be promulgated not later than July 30, 1979.

The NSWMA recognizes the EPA is under court order to finalize its Section 4004 regulations and commence its inventory by July 31, 1979. The NSWMA stands ready to assist the EPA in promulgating the regulations sought in this petition in any way requested. We hope to be meeting, in the near future, with members of your agency responsible for the Section 4004–4005 program to discuss approaches to expediting promulgation of the regulations sought by this petition.

[FRL 1225–8]

[FR Doc. 79–15147 Filed 5–14–79; 8:45 am]

BILLING CODE 6560–01–M

FEDERAL COMMUNICATIONS COMMISSION

[47 CFR Part 76]

Cable Television Syndicated Program Exclusivity Rules; Inquiry Into the Economic Relationship Between Television Broadcasting and Cable Television

AGENCY: Federal Communications Commission.

ACTION: Notice of Proposed Rulemaking in Dockets 21284 and 20988.

SUMMARY: Commission considers elimination of the cable television distant signal carriage rules and syndicated program exclusivity rules and denies petitions for rulemaking on a cable television retransmission consent proposal and on regulatory restrictions on cable carriage of television signals distributed by satellite.

DATES: Comments must be received on or before July 17, 1979, and reply comments on or before August 16, 1979.

ADDRESSES: Office of the Secretary, Federal Communications Commission, 1919 M Street, NW., Washington, D.C. 20554.

FOR FURTHER INFORMATION CONTACT: Bill Johnson or Steve Bailey, Cable Television Bureau (202) 632–6468.

SUPPLEMENTARY INFORMATION:

In the matter of cable television syndicated program exclusivity rules and an inquiry into the economic relationship between television broadcasting and cable television; notice of Proposed Rule Making.

Adopted: April 25, 1979.

Released: May 7, 1979.

By the Commission: Commissioners Ferris (Chairman), Fogarty and Brown issuing separate statements; Commissioner Lee dissenting and issuing a statement; Commissioners Quello and Washburn issuing a joint separate statement; Commissioner Washburn issuing a concurring statement.

1. With this *Notice* we are commencing a proceeding that looks toward a complete re-evaluation of those of our rules that restrict cable television carriage of distant television broadcast stations' signals or syndicated programs constituting part of such signals.

2. This *Notice of Proposed Rule Making* is adopted in conjunction with our *Report in Docket 20988*, FCC 79–242, —— FCC2d ——, (hereafter *Syndicated Exclusivity Report)* and *Report in Docket 21284*, FCC 79–241, —— FCC2d ——, (hereinafter *Economic Inquiry Report*). Those Reports are incorporated by reference here and, with the discussion that follows, constitute the premises for our conclusion that the distant signal and program exclusivity limits should be deleted from our rules.

Introduction

3. The Commission has been either directly or indirectly regulating the carriage of television broadcast signals by cable systems since 1962.[1] The Commission began exercising direct jurisdiction over cable television signal carriage in 1966.[2] The signal carriage rules were revised in major respects in 1972,[3] and a number of less extensive revisions were made over the course of the next seven years.[4] The rules affecting signals carried on cable now in force are of the following types:

—rules that mandate carriage of particular signals,

—rules that limit the carriage of distant commercial signals or noncommercial educational signals,

—rules that require the deletion of particular network or syndicated programs from signals that are carried, and

—rules that require deletion of particular sports programs from signals that are carried.

4. The need for these rules has been widely questioned and the economic facts underlying them challenged. Accordingly, in November of 1976 we issued our *Notice of Inquiry in Docket 20988* commencing a detailed review of the rules that limit cable television carriage of syndicated programs on distant signals.[5] We followed this in June of 1977, with our *Notice of Inquiry in Docket 21284* which commenced a more general review of the economics of the relationship between television broadcasting and cable television.[6]

5. We have also received petitions for rule making from the National Cable Television Association (RM–2721 and RM–2919) requesting the elimination of Commission signal carriage regulation, from the National Telecommunications and Information Administration of the Department of Commerce (RM–3324) proposing changes in the syndicated exclusivity rules and the imposition of a requirement that new or expanded cable television operations only be permitted to carry distant signals with the consent of the originating station, and from the National Association of Broadcasters (RM–3346) asking that we take some type of regulatory action with respect to what is described as the "superstation

Footnotes continued from last page

result of the adverse publicity which will arise therefrom. This has been deemed sufficient jeopardy to give rise to a right to a hearing. *See, Dow Chemical Co.* v. *Consumer Product Safety Commission*, F.Supp. (E.D. La. 1976).

[1] *Carter Mountain Transmission Corp.*, FCC 62–177, 32 FCC 459 (1962).

[2] *Second Report and Order In Dockets 14895, 15233, and 15971*, FCC 66–220, 2 FCC 2d 725 (1966).

[3] *Cable Television Report and Order*, FCC 72–108, 36 FCC 2d 143 (1972).

[4] *See, e.g., First Report and Order in Docket 19995*, FCC 75–413, 52 FCC 2d 519, (1975) (revising network nonduplication rules); *Report and Order in Docket 20467*, FCC 75–1409, 57 FCC 2d 625 (1975) (revising "leapfrogging" rules); *First Report and Order in Docket 20553*, FCC 76–188, 58 FCC 2d 442 (1976) (exempting "specialty" stations from the signal carriage limitations); *Report and Order in Docket 20496*, FCC 77–480, 65 FCC 2d 218 (1977) (authorizing wider carriage of UHF stations signals); *Second Report and Order in Docket 20561*, FCC 78–288, 68 FCC 2d 18 (1977) (exempting cable television systems with fewer than 1,000 subscribers from the signal carriage limitations).

[5] *Notice of Inquiry in Docket 20988*, FCC 76–1025, 61 FCC 2d 746 (1976).

[6] *Notice of Inquiry in Docket 21284*, FCC 77–407, 65 FCC 2d 9 (1977).

9. In accordance with priorities

68 stations with construction permits

problem." [7] The rule making petitions and the two Inquiry proceedings all relate to the same general subject matter and will therefore be considered together. We do not propose to consider in this proceeding any changes in the network nonduplication, manadatory carriage, or sports blackout rules. Each of these may warrant review on its own merits but since different considerations are involved, we believe it administratively efficient to consider these rules separately.

6. The discussion below is organized into the following sections:

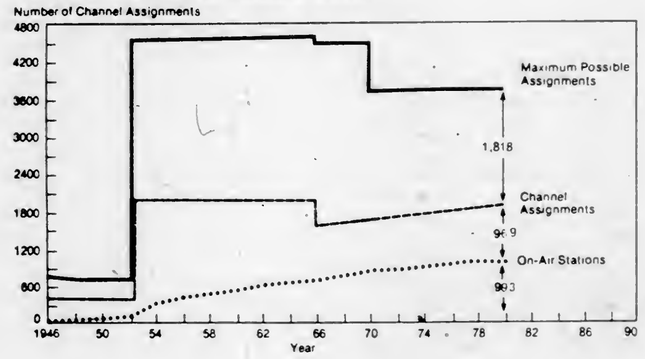
—description of the broadcast, cable and programming industries;
—basis for regulation;
—results of Inquiries;
—alternative proposals and considerations:
National Telecommunications and Information Administration petition
National Association of Broadcasters petition
—conclusions.

Description of the Broadcast, Cable, and Programming Industries

7. The Commission's regulation of both broadcasting and cable television is ultimately concerned with the quantity and quality of video and telecommunications service that the public receives and not—apart from the effect upon consumers—with shifting or safeguarding revenues or profits, or with the success or failure of any particular firm, industry, or technology. While it is the individual consumer with whom we are concerned, it is, of course, the business firm, broadcast licensee, cable system, and program producer and distributor, which supply the consumer and whose incentives and abilities to supply the consumer are affected by our rules. Thus, we take as our starting point a brief description of the groups involved.

8. *Broadcast Television:* The Commission has assigned 1,962 channels in 883 communities for television broadcast use. Of these assignments, 731 are in the VHF band and 1,231 are in the UHF band. Approximately one-third (702) of the assignments are reserved for noncommercial uses.[8] Because the table of assignments is "unsaturated" it does not exhaust all of the available spectrum space. The following graph shows the relationship between on-air stations and the existing and theoretically feasible assignments: [9]

Television Channel Assignments and On-Air Stations, 1946-1979



[7] The term "superstation" is generally applied to a station whose signal is distributed by space satellite to cable television systems. It might also include any station whose signal is widely distributed on cable television systems outside its local service area.

[8] 47 CFR § 73.606(b) as of March 1, 1979. Excluded are the channels not presently available for use due to sharing with land mobile services.

[9] As to the unsaturated nature of The Table of Assignments, see *Sixth Report and Order in Dockets 8736 et al.*, 41 FCC 148, 169 paragraph 68 (1952). The major changes reflected on the graph are the addition of the UHF channels in 1952, the reallocation of channel 37 for radio astronomy use in 1966, and of channels 70–83 for land mobile services in 1970. The number of channels shown on the graph as possible but not yet assigned is based on a theoretical calculation that, using present assignment standards, 55 channel assignments can be made on each of the 55 UHF channels and that space for an additional 24 VHF channel assignments could be found. Many of these channels would, of course, be in very sparsely populated areas of the country.

9. In accordance with priorities established when the allocations plan was adopted, larger communities received the greatest number of channels with the smaller communities receiving only one channel. As summarized in the initial allocations decision, channels were assigned as follows: [10]

Population of central city	Number of channels
1,000,000 and above	6 to 10.
250,000 to 1,000,000	4 to 6.
50,000 to 250,000	2 to 4.
Under 50,000	1 to 2.

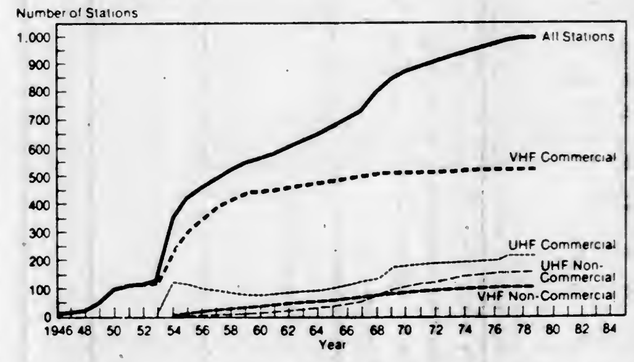
The Table of Assignments reflects the interference avoidance standards, social priorities and range of available technological alternatives in 1952. There is no assumption that all assignments are economically viable. For example, a VHF channel is assigned in one instance to a town with a population of only 629. [11]

10. There are now some 993 television stations on the air: 516 VHF commercial, 212 UHF commercial, 102 VHF noncommercial and 158 UHF noncommercial. [12] A total of 1061 stations have been authorized including 68 stations with construction permits that are not yet operational. The chart at page 7A sets forth the existing situation by market size and in comparison with the allocations available.

11. Of the operating commercial licensees, 602 have primary affiliations with one or more of the three national television networks (ABC, CBS, NBC). Fifty-nine of these stations are satellites—that is, stations on allocated channels that primarily rebroadcast the programming of a commonly owned station and originate little programming locally. [13] Of the other commercial stations 76 are independent, 36 are specialty stations (primarily religious or non-English language as defined in 46 CFR § 76.5(kk) of the rules), and four are subscription television stations. [14]

12. Since the Commission first commenced licensing TV stations there has been a steady growth in the number of stations operating. There was, however, considerable difficulty with operations in the UHF band during the middle 1950's when a number of such stations commenced operation but proved unviable. Broadcast station growth since 1946 is reflected in the following graph:

VHF and UHF On-Air Television Stations, 1946-1979
(As of January 1 Each Year)



[10] *Sixth Report and Order in Dockets 8736 et al.*, 41 FCC 148, 169 paragraph 68 (1952).

[11] This town, Goldfield, Nevada, was apparently the smallest town to which a channel allocation was made. *See Sixth Report and Order, supra,* dissenting opinion of Commissioner Jones at page 608.

[12] As of March 1, 1979. Monthly report of the FCC Broadcast Bureau License Division. Stations using commercial assignments for noncommercial purposes are counted as commercial stations in this report.

[13] Technically speaking a "satellite" station is one that has been exempted from those of the Commission's rules that prohibit common ownership of two or more television stations with overlapping service areas. *See* Section 47 CFR § 73.636 note 9.

[14] The nine stations in Puerto Rico are included in the independent total.

V 4 4 / 9 5 M Y 1 5 7 9 UMI

7A

Use of Television Channels Summarized as of December 31, 1978

Channel Status	Market Designations a/ 1-50		51-100		Total 1-100		101-150		151-200		Total 101-200		201-605		Total U.S. b/		Commonwealth and Possession 606-622	
	V	U	V	U	V	U	V	U	V	U	V	U	V	U	V	U	V	U
Commercial Channels																		
Total Allocated c/	160	182	107	145	267	327	105	94	60	75	165	169	132	497	424	176	75	25
Licensed d/	160	71	107	55	267	126	102	34	55	16	157	50	424	176	499	201	10	1
Construction Permit e/	--	26	--	13	--	39	--	3	1	--	1	6	1	45	4	45	1	--
Application	--	42	--	9	--	51	--	14	2	9	2	23	1	76	5	90	--	1
Vacant	--	43	--	68	--	111	3	43	2	47	5	90	6	200	62	296	1	21
Non-Commercial Channels																		
Total Allocated c/	28	98	20	77	48	175	20	54	15	45	35	99	83	274	135	564	6	7
Licensed d/	26	55	19	31	45	86	15	20	11	11	26	31	71	117	102	165	4	--
Construction Permit e/	1	2	--	3	1	5	2	1	--	--	2	1	3	6	6	10	--	--
Application	--	4	--	4	--	8	1	2	1	2	2	4	2	12	4	14	--	--
Vacant	1	37	1	39	2	76	2	31	3	32	5	63	7	139	23	375	2	7

a/ The market designations are those used in the FCC industry market reports of television broadcast financial data. The markets numbered 1-209 are in approximate Arbitron rank by prime-time audience, 1977. Additional markets numbered 210-605 are listed alphabetically by states; the markets in Alaska and Hawaii are included in this group. The markets in Guam, Puerto Rico and the Virgin Islands are numbered 606-622.

b/ Excludes 25 UHF Channels assigned for land mobile use and not available until further FCC action.

c/ VHF and UHF Channels allocated for commercial use but reserved or used for non-commercial use are included with non-commercial channels.

d/ May include stations licensed but not on the air.

e/ May include stations not licensed but on the air with program test authority.

Source: Preliminary report by the FCC Broadcast Bureau.

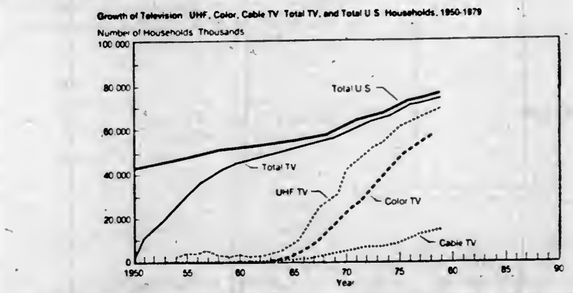
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13. Room for additional stations is still available. There are, for example, 131 television markets with four or more assigned channels. In 90 of these markets the fourth commercial allocation is unoccupied. There are now on file approximately 233 applications for new stations, including competing applications for the same channel as well as noncommercial educational stations. In addition, there are 61 applications pending to operate subscription television stations, some of which propose to convert existing advertiser supported stations to subscription use.

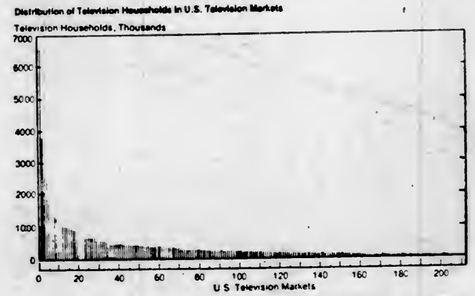
14. Existing stations are supplemented and their service areas extended by the operations of 3589 television translators, 2382 VHF and 1187 UHF.[15]

15. There are approximately 73.9 million homes in the United States that are supplied service by these television stations—97 percent of all households. Television set usage per home averages over six hours per day.[16] Some estimates place the public investment in television receivers as in excess of $38 billion.[17]

16. The number of television households increased rapidly during the 1950's and has continued to increase with population increases and as the population per household has decreased. Household growth in comparison with growth in TV, UHF equipped, color equipped, and cable television receiving households is shown below:[18]



17. Television viewing households, reflecting the population of the United States, are heavily concentrated in a small number of major urban areas. Thirty-three percent of the 73.9 million television homes are in the ten largest television markets, 86 percent fall within the 100 largest markets. The three largest markets (New York, Los Angeles, and Chicago) contain roughly the same number of television households as the 123 smallest markets.[19] The distribution of television households by market size is reflected in the following graph:



18. According to estimates from the Television Bureau of Advertising, approximately $8.97 billion was spent for television advertising during 1978, representing an 18 percent increase over 1977. It is estimated that television advertising expenditures will have increased 29.4 percent by 1980 to $11.61 billion.[20]

19. The most recent available information from the official broadcast station financial reports to the Commission indicate 1977 television advertising expenditure of $6.84 billion which represents, after subtraction of commissions paid to advertising and representative agencies, some $5.9 billion in television network and station revenues.[21] Average revenues per television household were approximately $82 in 1977.

20. As indicated graphically below, television gross advertising revenues have been increasing consistently and substantially in recent years. In only one year (1971) in the last twenty years have

[15] Translators are stations that rebroadcast the programming of another station and generally originate no local programming. Unlike satellite stations, they need not be on assigned channels, are subject to having their operations terminated if they interfere with existing or new stations on allocated channels, and are subject to somewhat less stringent technical requirements than regular stations. *See* Section 74, Subpart G.

[16] A.C. Nielsen.

[17] Report of the Television Broadcasting Service Working Group of the Broadcast Bureau in preparation for the 1979 World Administrative Radio Conference, page 4, June 1, 1978.

[18] Information on this graph comes from Arbitron Television, Advertising Research Foundation, NBC Corporate Planning Department, National Association of Broadcasters, U.S. Bureau of the Census, and Television Digest. UHF set penetration estimates are based to some extent on audience survey reports of ability to receive a UHF signal as well as on the TV set's capacity to receive UHF signals. Due to limitations in source material, estimates for TV households from 1969 to 1974 include Hawaii but not Alaska; for 1975 neither Alaska nor Hawaii; and for 1976–1979, Alaska but not Hawaii.

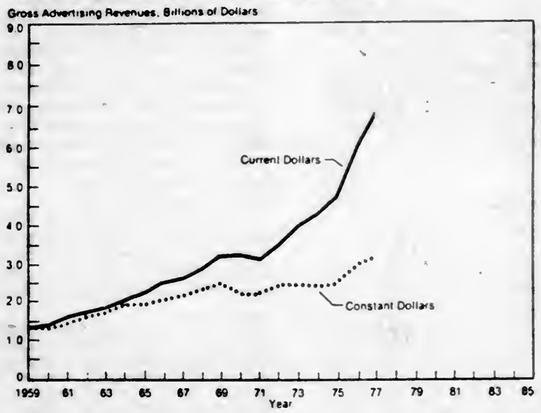
[19] The data here and in the following graph is from The Arbitron Company, *Television Markets and Rankings Guide*, 1977–78. The term market as used here refers to an Arbitron defined "area of dominant influence" which defines an area that generally consists of the counties in which the home market stations receive a majority of viewing. The term "television market" has many other meanings depending on the precise concept that is being discussed. For example, a market for purposes of the cable television rules is generally one or more 35-mile radius zones around a station or group of stations (47 CFR § 76.5 (g) and (l)).

[20] *Broadcasting*, April 2, 1979, page 60; *Television Digest*, April 2, 1979, page 6. According to annual reports to the Securities and Exchange Commission (Form 10–K), in 1978 revenues from the broadcast interests (including radio) of ABC, CBS, and NBC rose 20 percent (to $1,546.6 million), 12.5 percent (to $1,327.5 million), and 11 percent (to $1,214.8 million), respectively, above 1977 revenues. Their respective pre-tax profits reported were $310.9 million (up 14 percent), $225.7 million (up 3.6 percent), and $122.1 million (down 20 percent). NBC attributed its decline in pre-tax profits to the most ambitious campaign of program development ever undertaken. *See Broadcasting*, issues Mar. 26, 1979 (ABC), Feb. 19, 1979 (CBS), and Mar. 12, 1979 (NBC).

[21] FCC, TV Broadcast Financial Data—1977, released August 14, 1978, Mimeo No. 3686. Since 1969, Commissions paid to advertising agencies have averaged 16 percent of advertising expenditures and revenues from sources other than advertising have averaged 3 percent of gross revenues. The Television Bureau of Advertising estimates include the cost of producing commercials and are thus not comparable to those provided by the FCC financial reports.

revenues not increased. This was the first year following the ban on cigarette advertising.[22] After discounting for the effects of inflation, gross advertising revenues increased 144.7 percent from 1959 to 1977.[23] That is, gross advertising revenues in 1977, after adjusting for inflation were 2.4 times larger than in 1959. Without removing inflation effects, 1977 revenues were 5.1 times as large as in 1959. Between 1967 and 1977 the growth in constant dollars was $1.51 billion or a compound annual rate of approximately 4 percent above the rate of inflation.

Gross Advertising Revenues, 1959-1977, In Current and Constant Dollars



21. Total pre-tax profits for the television broadcasting industry were $1.40 billion in 1977, consisting of $406.1 million (29%) from network operations, $149.3 million (11%) from the 15 network owned stations, and $845.7 million (60%) from all other commercial stations in the industry. Thirteen percent of all stations reporting showed no profits, including 32 percent of all independent UHF stations and 20 percent of all stations outside of the 100 largest television markets. Thirty-nine percent earned profits of over $1,000,000; 77% earned profits in excess of $100,000.[24]

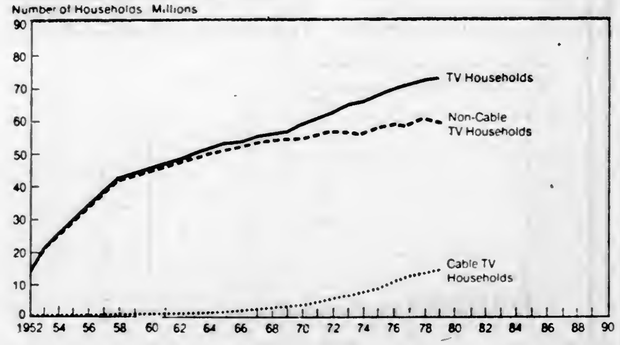
22. *Cable Television:* In contrast to broadcast television, where there is a central federal allocations plan to determine the distribution of facilities, cable television operations are franchised at the state or local level and have developed in response to consumer demands for better television reception and increased choice of television programming or, more probably, some combination of these.

23. Although the first cable television systems commenced operation in the late 1940's, the industry as a whole grew slowly at first and the million subscriber mark was not passed until about 1964. At approximately that point industry growth rates increased dramatically with the second million subscribers being connected in only three more years. Since that time, the number of systems commencing operation each year has varied with changing economic and regulatory conditions but the growth in absolute numbers of subscribers has been steady.

24. There are now some 3997 cable television systems in existence serving 9895 separate communities. Applications to commence cable television operations are pending in an additional 570 communities. These systems are estimated to provide service to some approximately 14.1 million households—perhaps 40 million people. Approximately 19 percent of all TV households receive cable TV service. Some 28 million households, or about one-third of all households, are estimated to have access to cable television service—that is, there is cable in their community and wires pass their homes.[25]

25. Cable TV subscriber growth in comparison to the growth in total TV households is shown on the following graph:

Growth of Television and Cable Television



The dashed line "Non-Cable TV Households" in addition expresses the fact that annual growth in television households has, until recently, generally exceeded the growth in CATV households. This point is made also in the following graph which compares annual increases in TV and cable TV households:

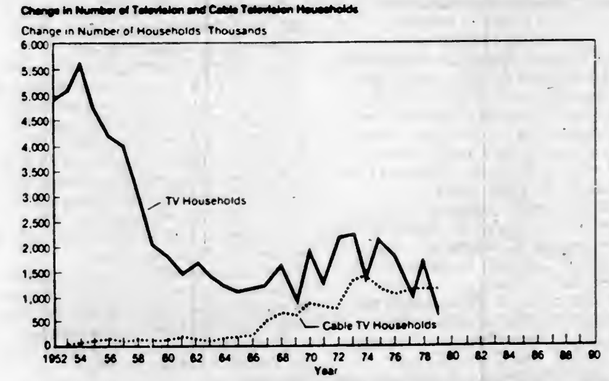
[22] The ban took effect on January 2, 1971. It is perhaps of some significance that the basic cable television rules that are being reconsidered in this proceeding were developed and adopted during the period in which the broadcast financial downturn was being experienced.

[23] The Gross National Product implicit price deflator has been used here to express revenues in terms of 1959 dollars. Note, however, that it may not be ideal for measuring purchasing factors peculiar to the television broadcasting industry.

[24] Profit information from the reports made to the Commission should be used with care due to the differences in accounting and reporting methodology.

[25] Cable Addenda to *Television Factbook*, No. 48, April 9, 1979.

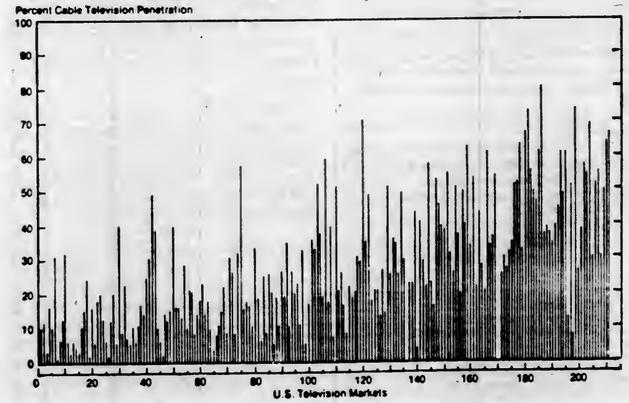
Change in Number of Television and Cable Television Households



26. Because cable television growth is strongly influenced by factors relating to terrain and the quality and availability of local television service, cable growth patterns have been uneven and the progression of development has been the opposite of the growth of television broadcasting. Broadcasting began with the largest markets and greatest population concentration; cable began with the more isolated markets that had no broadcast service. Where local television service is the most difficult to obtain by ordinary home reception means but can easily be made available by a cable television system, cable growth has been the most rapid. As a result cable penetration varies from less than one percent, for example in the Las Vegas, Nevada market, to as much as 80 percent in the Palm Springs, California market.[26] As shown below, cable television has had the most penetration in smaller markets where broadcast service over-the-air is limited and where the costs per subscriber of cable construction tend to be lower.

[26] The term market as used here is defined by Arbitron as "Area of Dominant Influence." See note 19, *supra*. Cable subscriber counts are taken from FCC Form 324 information as of December 31, 1977; television household counts are from *Television Markets and Rankings Guide*, 1977–1978.

Distribution of Cable Television Subscribers in Television Markets



27. Cable television systems typically have the technical capacity to deliver between 12 and 20 channels of television programming. Higher channel capacity is also well within the present state of the art. The service delivered on these channels consists largely of television broadcast signals although a variety of nonbroadcast services, including automated time and weather, news and stockmarket ticker services, information or entertainment programming produced in the community or purchased by the cable operator, also are provided. Public, educational, government and leased access programming may also be distributed. In recent years the distribution of subscription or pay cable programming—mostly sports and recent feature films for which a separate channel or program charge is made—has emerged as an important cable service. It was not until 1973 that significant numbers of pay cable subscribers were first obtained. However, subscriber growth since that time has been rapid with subscribership increasing from some 16,000 subscribers in March of 1973 to approximately 3,430,000 at present.[27]

28. Domestic space satellite communications systems have contributed significantly to expanding the supply of programming available to

[27] *TVC*, February 15, 1979, page 38.

V 4 4 / 9 5

cable systems. At this point the cable television industry is one of the principal users of domestic satellite communications. The first satellite ground station was authorized by the Commission for cable television system use in August of 1975.[28] In December 1978 the commission decided to allow cable television system operators to use smaller, less expensive satellite receiving stations, further facilitating cable television use of satellite communications.[29] Some 1300 earth stations have been licensed by the Commission to receive and distribute video programming. Over half of these were granted for the purpose of delivering programming for cable television system use.

29. Included in the material presently distributed by satellite are the pay cable television services of five different suppliers, three channels of religious programming, five channels of broadcast programming either on a full or part time basis, and a channel of sports and entertainment programming that is available for use on either a pay or regular cablecast basis. A consortium of cable television companies now makes available live gavel-to-gavel coverage of the U.S. House of Representatives and two program services specifically directed to children are also available.

30. Cable television operating revenues for 1977 totaled $1.2 billion. The average monthly regular subscriber rate was $6.85. Total assets had a book value of $2.45 billion, pre-tax net income reached $133.7 million and pay cable service yielded revenues of $85.8 million or 7 percent of total revenues.[30]

31. Until January 1, 1978, cable television system operators were under no obligation to pay copyright license fees for the television broadcast signals they carried.[31] With the passage of the new copyright law [32] cable operators are subject to copyright liability for such signals but need not negotiate copyright licenses for individual programs carried if they comply with the terms of the compulsory licensing system included in the new law. Under this system, the cable operator deposits with the Register of Copyrights a percentage of his gross receipts in accordance with a schedule included in the statute. This money is then disbursed by the Copyright Royalty Tribunal to the owners of the programs carried.

32. The fees payable are to some extent variable according to system size but the schedule for the larger systems provides roughly that 0.675 of 1 per centum of the system's gross revenues must be paid for the first distant signal, 0.425 of 1 per centum for the second, third and fourth signals, and 0.2 of 1 per centum for the fourth and each additional signal.[33] Under this law the cable industry as a whole deposited approximately $12 million with the Register of Copyright for the signals carried during 1978.[34]

33. This money is distributed by the Copyright Royalty Tribunal to the copyright holders whose programming was carried. This Tribunal is also responsible for revising the fee structure as changes are made in the Commission's rules and in certain other circumstances.

34. *The Television Program Production Industry.* On the average only about ten percent of the programming broadcast by commercial television stations in the United States is produced locally. About 75 percent of all programming is either sports or other entertainment programming.[35]

35. While it is difficult to briefly capsulize the status and structure of the organizations that create and supply programming for broadcast use, the programming can be roughly divided into the following types: feature films, sports and made for television programming. That programming made specifically for television use consists of programming made by or for the three national television networks and that programming distributed in the syndication market, including both first-run programming and that which has reached the syndication market after initial television network use.

36. Because most corporations involved in the production of programming specifically for television broadcast use are large diversified firms in which program production constitutes only a portion of their total business, detailed information on their television activities is not always readily available.

37. However, in order to develop a general idea of the financial trends within the industry, we have analyzed the broadcast revenues of ten of the largest publicly owned companies involved in program production.

38. It was found that the percentage of industry-wide programming revenues obtained by these ten companies remained relatively stable from 1971 to 1977 and that tv program revenues grew by approximately 130 percent. The 1971 to 1977 comparisons for the ten companies are shown on the table that appears on the following page.[36]

39. It appears from financial information filed with the Commission by the three national networks and television broadcasters that payments to producers for programming increased approximately 100 percent during this period.

[28] *Florida Cablevision*, FCC 75–95, 54 FCC 2d 881 (1975).

[29] *American Broadcasting Companies, Inc.* FCC 76–1169, 62 FCC 2d 901 (1977).

[30] FCC News release, December 26, 1977, mimeo. no. 10768.

[31] *Fortnightly Corporation v. United Artists Television*, 392 U.S. 3290 (1968); *Teleprompter Corp. v. CBS, Inc.*, 415 U.S. 394 (1974).

[32] General Revision of the Copyright Law, P.L. 94–553, 17 U.S.C. §§ 101 *et seq.* (1976).

[33] To be more precise, these are the fees paid by a system with annual gross subscriber revenues of over $320,000 (roughly 3800 subscribers) for each "distant signal equivalent." Each independent station is one distant signal equivalent. Each distant network or noncommercial educational station is one quarter of a distant signal equivalent. Section 111(f).

[34] Information obtained from Licensing Division, Copyright Office.

[35] FCC, *Television Broadcast Programming Data*, April 27, 1978, Memo. 99127. The actual figures from the 1977 composite week are 9.3% local programming and 24.6% non-entertainment/non-sports programming.

[36] Identification of ten largest program producers was derived by cross-referencing several sources: Owen, Beebe, and Manning, *Television Economics*, 1974; "The Top 100 Companies in Electronic Communications," *Broadcasting*, June 26, 1978 p. 31; and data derived from Form 10–K reports to the Securities and Exchange Commission.

	1971	1977	Percent growth
Total Production Costs*	$1,488,000	$2,878,000	93
As Percent of Total Broadcast Expenses	63%	64%	
As Percent of Total Broadcast Revenues	54%	49%	
Cost of Packaged Programs**	$747,000	$1,482,000	98
As Percent of Total Broadcast Expenses	32%	33%	
As Percent of Total Broadcast Revenues	27%	25%	
As Percent of Total Production Costs	50%	51%	

*Total production costs of all three networks and all television stations includes all expenses of programming both internal and external, including the salaries of employees engaged in production.

**Cost of packaged programs includes the expenses of purchasing TV programs from outside producers only.

Revenue Data From 10 Major Publicly Owned Television Program Producers

TV program producer (parent)	TV program revenues, 1971 (in millions of dollars)	Total corporation revenues, 1971 (in millions of dollars)	TV revenues as percent of corporation revenues, 1971	TV program revenues, 1977 (in millions of dollars)	Total corporation revenues, 1977 (in millions of dollars)	TV revenues as percent of corporation revenues, 1977	Percent growth in TV program revenues, 1971–77
Universal Television (MCA, Inc.)	$123.5	$333.7	37	$292.9	877.6	33	137
Columbia Pictures Industries, Inc.	46.4	233.2	20	104.4	298.3	35	125
Paramount (Gulf & Western)	44.9	1,566.3	3	82.0	3,642.9	2	86
Warner Communications	[3]33.6	373.8	[3]9	99.8	1,144.0	9	196
20th Century Fox	28.3	176.8	16	47.9	506.7	9	69
United Artists TV (Transamerica)	18.5	1,643.5	1	[3]41.0	3,209.9	1	122
MGM TV (Metro-Goldwyn-Mayer)	13.3	169.4	8	28.4	288.5	10	114
Viacom International Inc.	13.2	20.9	63	22.7	58.4	39	72
Hanna-Barbera Prod. (Taft)	20.7	48.8	22	[3]32.9	138.3	24	207
Walt Disney Productions	6.0	175.6	5	22.8	629.8	4	185
Totals	[4]339.5	4,742.0	7	[4]774.6	10,794.4	7	128

[1] Estimated based on 1977 Percentages of Revenues derived from TV Program Production.
[2] Transamerica Reported Revenues of $82 million for TV program Production during 1977–78 Combined. An estimate of fifty percent was allocated to 1977.
[3] Includes revenues from distribution.
[4] The major publicly-owned program producers received approximately 45% of the expenditures for TV program production in 1971 and 52% in 1977.

40. We also surveyed the number of television series programs available for use in 1971 as compared with 1977 and found major increases in the numbers of programs available.

Old and New Television Series Available 1971 and 1978

Length of episode	Old series			New series		
	1971	1978	Growth	1971	1978	Growth
1 Hour or Longer Series	919	1,820	98%	77	274	256%
½ Hour Series	1,397	2,296	64%	105	241	130%
¼ Hour or Shorter Series	451	753	67%	14	41	193%

Source: *Series, Serials, and Packagers*, Broadcast Information Bureau, Inc., Summer-Fall, 1971 and 1978.

41. Two types of programs, feature films and sports, although they derive considerable economic support from television uses, are primarily created for nonbroadcast purposes. The major producers of feature films are well known and include Allied Artists Pictures Corporation, Avco Embassy Pictures Corporation, Columbia Pictures Industries, Walt Disney Productions, Metro-Goldwyn-Mayer, Inc., Paramount Pictures Corporation, Twentieth Century-Fox Film Corporation, United Artists Corporation, Universal Pictures, and Warner Brothers, Inc.

42. 1978 represented a very good year for the motion picture industry as a whole, with box office receipts estimated at $2,653.1 million, their highest level in 17 years.[37]

43. The remaining major source of television broadcast programming is sports events. In addition to the major professional sports—baseball, football, basketball, and hockey—there are innumerable other professional and nonprofessional events broadcast. Of all regular season games of Major League Baseball, the National Football League, the National Basketball Association, and the National Hockey League, roughly half are telecast. Information is most readily available on the broadcasting of professional football and baseball games. That information suggests that, like other suppliers of broadcast programming, sports teams and leagues have been receiving increased broadcast revenues in recent years. Baseball broadcast rights (including radio), for example, grew from $37,800,000 in 1970 to an estimated $54,500,000 for 1979.[38] Football rights have risen rapidly in recent years with professional teams and colleges estimated to receive more than $200,000,000 from broadcasting during the past football season.[39]

[37] Between 1946 and approximately 1971 feature film box office revenues, in terms of constant dollars, were declining. Since 1971 revenues have increased from approximately $1.35 billion to the present $2.65 billion. Data from Motion Picture Association of America.

[38] "Baseball rights: a slow, rising curve," *Broadcasting*, March 12, 1979, p. 115.

[39] "Football price goes right out of the stadium," *Broadcasting*, August 7, 1978, p. 36. These revenues, which results from the signing of new multi-year broadcast contracts, are estimated to be a 142% increase over 1977 broadcast revenues.

Basis for Regulation

44. The competitive juxtaposition of these important elements of our economy's communications sector has produced numerous demands on the Congress and this Commission for the imposition of economic regulation. Broadcasters have sought limitations on both the broadcast and nonbroadcast activities of cable television systems.[41] both the broadcast and nonbroadcast activities of cable television systems.[40] Program suppliers have pressed the Congress for changes in the copyright law and the Commission for copyright surrogates and other limitations on cable television signal carriage.[41] Cable operators have sofught, in the context of the existing regulatory structures, limitations on the contractual program exclusivity that broadcast stations and networks would be permitted to purchase.[42]

45. The Commission's determination that cable television signal carriage should be restricted has historically been rationalized on one of four grounds: (1) as a means of assuring the public against a net loss of television service as a consequence of cable-created audience losses which would undermine the economic support of television stations and in the process deprive the poor and those living in areas unserved by cable of video

[40] The history of the Commission's response to these requests is set forth in some detail in the *Economic Inquiry Report, supra.*, paras. 31–66.

[41] *See, e.g., Cable Television Report and Order*, FCC 72–108, 36 FCC 2d 143, 163, para. 54 (1972), and *Motion Picture Association of America*, FCC 78–289, 68 FCC 2d 57 (1978).

[42] *Report and Order in Docket 20402*, FCC 77–857, 52 FCC 2d 87, 41 R.R. 2d 839 (1977). *See also* comments filed in response to the Commission's *Second Further Notice of Proposed Rule Making in Docket 18178*, FCC 72–306, 28 FCC 2d 348 (1972).

service;[43] (2) as necessary to support the broadcast television station allocations policy with its emphasis on local service,[44] (3) as a means of eliminating what was perceived to be the unfair means by which cable television systems competed with local broadcasters,[45] and (4) as necessary to assure against injury to the continued production of television programming.[46]

46. Cable television growth, it was feared, would harm the public through its competitive effect on commercial broadcasting. At least three undesirable consequences of unrestricted cable television operations were identified:

(1) Because cable television did not appear able to serve rural areas due to the high costs involved in providing cable in areas of low population density, urban cable subscribers might gain additional service from cable, but rural residents could lose service.

(2) There are substantial numbers of people who either cannot afford or do not wish to pay for television service so that if cable television supplanted over-the-air service these persons would either lose service or be forced to pay for it.

(3) Because cable television systems initially did not generally serve as an outlet for community self-expression, an adverse impact on local television broadcast service would have denied both cable subscribers and non-cable subscribers alike the benefits of programming designed to serve the needs and interests of the local area.[47]

For these reasons, among others, the Commission tended to view cable as only a "supplementary" service to broadcast television which should be regulated to limit its impact on over-the-air service.

47. The Commission relied heavily on these considerations in asserting jurisdiction to regulate cable television. In affirming this exercise of jurisdiction the Supreme Court stated:

> The Commission has been charged with broad responsibilities for the orderly development of an appropriate system of local television broadcasting. The significance of its efforts can scarcely be exaggerated, for broadcasting is demonstrably a principal source of information and entertainment for a great part of the Nation's population. The Commission has reasonably found that the successful performance of these duties demands prompt and efficacious regulation of community antenna television systems.[48]

48. Going beyond the concerns that cable distant signal carriage would disrupt the broadcast station allocations systems or impact on the public service or survival of particular stations, were the notions related to copyright and program acquisition. For example, in asserting jurisdiction to regulate cable television, the Commission expressed the view that because of "the disparate position of broadcasters and CATV systems in acquiring programs in the TV program distribution market" the competition involved is "of a patently unfair nature."[49] Broadcast-cable competition was throught to be "unfair" and "anomalous" because cable systems do not enter the market for programming when they carry distant signals, as would a competing broadcaster. Both provide the public with access to the same basic product yet only the broadcaster must obtain access to the product in the program distribution market with its various restrictions and conditions. The cable systems, in contrast, need not enter this market at all, need not complete for network affiliations, nor for access to syndicated programs, feature films, or sports events. Thus the Commission concluded "we cannot regard a CATV system's duplication of local programming via the signals of distant stations as a fair method of competition." "(T)he unfair competitive effect is a significant one, in view of the very significant penetration figure, and therefore should be eliminated under the public interest standard of the Communications Act."[50]

49. Finally, concerns have been expressed that cable television operators not be permitted to adversely impact on the economic incentives that result in a continued supply of programming for both broadcast and cable television use. Thus, for example, in the 1972 *Cable Television Report and Order* the Commission indicated its concern with respect to "the effect of distant signal carriage on the supply of television programming"[51] and particularly indicated its view that the syndicated exclusivity rules would operate "to insure the continued supply of programming."[52]

Results of the Inquiries

50. In our *Economic Inquiry Report*,[53] and our *Syndicated Exclusivity Report*[54] we articulated three criteria against which to measure the appropriateness of our cable television policies: consumer welfare, distributional equity, and external effects. The three criteria correspond in some respect to those used in earlier Commission decisions relating to cable television but frame the issues in somewhat more precise economic terms.

51. Briefly, our concern with localism in the context of broadcasting may be characterized as a concern with externalities—that is, the true value of local news and public affairs programing may not be reflected in the number of individuals who view it or the value they place on it but in the value it has to our society as a whole and especially in the functioning of our democratic institutions.

52. Distributional equity is related to the allocation between various segments of society of the costs and benefits of a particular policy. Cable television service, in contrast with broadcast service, must be paid for directly and is generally not available to residents of low population density areas or urban centers where demand is low and construction costs are high. Thus, even if the effect of a policy change to consumers as a whole proved beneficial, some groups might be less well off as a consequence of that policy change.

53. Consumer welfare is grounded in our responsibility to assure "efficient" communication service, 47 U.S.C. § 151. It is reflected in our concern with assuring that policies adopted tend toward the creation of a communications system that increases the net video service supplied to the public or otherwise maximizes the value the public receives from society's overall investment in the video distribution system.

54. This set of values and the factual information developed in our *Syndicated Exclusivity* and *Economic Inquiry* proceedings provide the basic ingredients for a re-examination of our cable television policies.

55. The purpose of the *Economic Inquiry* was to permit qualitative and quantitative analysis into the competitive relationship of the television broadcasting and cable television industries. As our *Economic*

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[43] *See* para. 58, *infra*.
[44] *See* para. 60, *infra*.
[45] *See* para. 61, *infra*.
[46] *See* para. 62, *infra*.
[47] *See Carter Mountain Transmission Corp., supra*, n. 1 at para. 16; *Second Report and Order in Docket 14894, 15233, and 15971, supra*, n. 2 at 775 (para. 124); *U.S. v. Southwestern Cable Co.*, 392 U.S. 157, at n. 43 (1968).
[48] *U.S. v. Southwestern Cable Co.*, 392 U.S. 157, 177 (1968).
[49] *Notice of Proposed Rule Making and Notice of Inquiry in Docket 18397*, 15 FCC 2d 417 at paragraph 33 (1968) citing *Second Report and Order in Dockets 14895 et al., supra* at 770–781.
[50] *Notice of Proposed Rule Making in Docket 18397, supra* at 431, para. 36. The "penetration figure" referred to was an estimate that cable penetration in major markets would be "[on] the order of 50 percent." *Id.*
[51] 36 FCC 2d at 168, para. 68.
[52] *Id.* at 169, para. 73.
[53] *Supra*, paras. 8–14.
[54] *Supra*, paras. 11–14.

Inquiry Report indicates, we feel the purpose has been accomplished. We have far better information now than has been available at previous important junctures in our broadcast-cable regulatory effort. The *Economic Inquiry* has permitted us to review and re-evaluate the theoretical concerns which led to our regulatory intervention in the light of experience and new quantitive information.

56. The *Syndicated Exclusivity Inquiry* overlapped with the *Economic Inquiry* in both purpose and scope. The purpose was to permit qualitative and quantitative analysis of the ramifications of cable carriage of distant broadcast signals on the television program production[55] and the television broadcasting industries. As our *Syndicated Exclusivity Report* indicates, we feel that purpose also has been accomplished. Although the comments filed in the *Syndicated Exclusivity Inquiry* supplied far less quantitative information than those filed in the *Economic Inquiry* and although we have been able independently to find far less relevant information on the program production industry than on the television broadcasting industry, the close relationship between the cable-broadcasting competitive phenomenon we examined in the *Economic Inquiry* and the program supply questions we analyzed in the *Syndicated Exclusivity Inquiry* has permitted us to review our syndicated exclusivity rules in the light of improved factual information as well.

57. Both Reports note the significant sacrifices in consumer welfare occasioned by the distant signal and syndicated exclusivity limits[56] and essentially inquire whether there are benefits which outweigh these costs. As the Reports make clear, all available evidence indicates that our rules limiting the quantity and composition of distant broadcast signals carried on cable systems are not only unnecessary, but counterproductive. No evidence has been adduced to indicate that the markets linking consumers with the cable, broadcasting, and program production industries would be unable to satisfactorily serve the interests of consumers of video services if we eliminate our regulatory restrictions. Finding no material benefits in the continuation of the distant signal and syndicated programming rules, we propose that they be eliminated.[57]

56. We have carefully considered whether continuation of the limitations on cable carriege of distant broadcast signals is necessary to avoid undesirable distributional effects. As we explained in the *Economic Inquiry Report*,[58] this consideration traditionally has been very important in our calculation of the public interest and was an important motivating element in our regulatory intervention in the cable-broadcast relationship. In Sections III and IV of the *Economic Inquiry Report* we assessed the effects of cable carriage of distant signals on the distribution of audiences within local television markets and found them to be far less significant than we imagined they would be when we first embarked upon the general regulation of cable television fourteen years ago. On the basis of econometric analysis and case studies of the actual experience of broadcast licensees confronting extensive cable competition, we were able to conclude that the risk that consumers dependent upon broadcast television by virtue of income level, location, or unwillingness to pay for video services would be harmed by the unrestricted cable carriage of broadcast signals is negligible. We believe that existing levels of service to the public are secure, "that it is extremely unlikely that any viewer will be significantly harmed" by elimination of the distant signal rules.[59]

59. We have considered as well whether there are external or spillover effects of a positive nature which would be jeopardized by discontinuing the limitations on cable carriage of distant signals. As we explained in the *Syndicated Exclusivity Report*, we thought it important to gauge whether permitting cable consumers to choose among a wider range of signals and programs would threaten programming which is "nonremunerative yet in the public interest."[60]

60. In Section V of the *Economic Inquiry Report* we assessed the effects of cable signal carriage deregulation on broadcasters' ability to engage in such local and merit programming. We concluded that additional competition would not cause the supply of such programming to diminish materially. We were able to document only a weak relationship between local and public service minutes and broadcast station revenues. In other words, substantial increases in broadcast licensee revenues produce little increase in local and merit programming and, conversely, substantial decreases in licensee revenues produce little decrease in such programming.

61. We found a third element which contributed to the Commission's imposition of regulatory restraints on the cable industry little more than a historical curiosity. As we related in the Reports,[61] the sense that the cable industry was engaged in some form of "unfair competition" with the broadcasting industry to the disadvantage of the program production industry afflicted our early efforts to formulate cable regulations. We have long since recognized that the "unfair competition" concept of the 1960's was coexistensive with the issue of the cable industry's copyright liability. As such, it was a matter settled by the courts and Congress. We have no trouble concluding that "unfair competition" poses no barrier to lifting our distant signal and syndicated exclusivity rules.[62]

62. Finally, we have analyzed the desirability of continuing these restrictions in terms of their effect on the production of television programs in Section III of the *Syndicated Exclusivity Report*. Drawing upon quantitative analyses undertaken in the *Economic Inquiry*, we were able to conclude confidently that cable deregulation would visit no negative near-term effects upon the supply of television programming. We also estimated that there is little likelihood that the elimination of the rules requiring blackouts of syndicated programs under contract to local market broadcasters would adversely affect the supply of television programming at any point in the foreseeable future.

63. Overall, we have concluded on the basis of the data and analyses contained in the *Economic Inquiry*

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[55] Just as in our *Syndicated Exclusivity Report*, we refer in this proceeding to "program production" and "producers". Where appropriate, these terms encompass "program distribution" and "distributors". *Syndicated Exclusivity Report, supra*, n. 11.
[56] *Economic Inquiry Report, supra*, paras. 10, 30, 71–72, 144; *Syndicated Exclusivity Report, supra*, paras. 89, 91–93.
[57] *Economic Inquiry Report, supra*, para. 145; *Syndicated Exclusivity Report, supra*, para. 96.
[58] *Economic Inquiry Report, supra*, para. 31.
[59] *Id.* at para. 143.
[60] *Syndicated Exclusivity Report, supra*, para. 43.
[61] *Economic Inquiry Report, supra*, para. 50 and n. 49; *Syndicated Exclusivity Report, supra*, paras. 19, 22, 26, 29, 30, 51, 52.
[62] As the Court of Appeals said in the context of the limitations on pay cable programming:

> [W]e do not perceive any public benefit to be achieved by hobbling cable television to correct the sort of unfair competition alleged by the Commission.

The Supreme Court has found that cable's free use of broadcast signals does not affect the amount of compensation paid to copyright holders. *Teleprompter Corp. v. Columbia Broadcasting System, Inc.*, 415 U.S. 394, 412, 413, and there can be no doubt that the absence of a charge "serve[s] the cause of promoting broad public availability of literature, music, and the other arts." *Twentieth Century Music Corp. v. Aiken*, 422 U.S. 151, 156 [1975]. [Footnote omitted] *Home Box Office, Inc. v. FCC*, 567 F.2d 9, 42 [D.C. Cir. 1977], *cert. denied* 434 U.S. 829 [1977].

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Report and *Syndicated Exclusivity Report* that the public interest would be better served by the deletion of the distant signal constraints [63] and the syndicated exclusivity limitations.[64] Our examination of the distant signal prohibitions, extending almost two years, and of the syndicated exclusivity limitations, extending well over two years, leads us to conclude in short that none of the four problems [65] which these rules ostensibly address in fact exists. Under the circumstances, our obligation to rescind the rules is clear. [66]

64. We invite public comment on the two Reports which form the basis for this conclusion and upon the conclusion itself. We have no desire to limit the scope of the comments, but we also have no desire to replicate our experience with the comments received in the *Syndicated Exclusivity Inquiry*. In that proceeding, the importance of which we announced in some detail,[67] no proponent of maintaining or enlarging the rules thought it necessary to present economic evidence of harm to program producers as a predicate for the argument that assurance of program supply depends upon our continuing intervention in the marketplace. If any party wishes to dissuade us from taking the deregulatory steps enunciated in our Reports, it will have to provide an adequate factual base to support its policy arguments. On the basis of the record before us today, there is ample reason to conclude that consumers will benefit from elimination of the rules and almost none to conclude that they will be injured. Thus, the burden upon those who would maintain the rules is to show by means of economic evidence that the rules protect the public from an identifiable harm.

65. At the conclusion of our *Syndicated Exclusivity Report* we suggested our willingness to consider grandfathering program supply contracts written in contemplation of the continuation of the syndicated exclusivity rules. We propose under the grandfathering provision that the existing rules cover each program exhibition license in effect today and extend for a period of three years or until expiration of the contract, whichever occurs sooner. We believe this will permit a transition period in which windfall gains or losses by either broadcasting or program interests will be minimized. We invite comment on this proposal.

Alternative Proposals and Considerations

66. We have found in the two Inquiries that consumers derive no benefit from the rules restricting the supply and type of programming available to cable subscribers. There are two matters recently brought to our attention by petition that are, so the petitioners maintain, so closely related to our deliberations in Dockets 20988 and 21284 as to warrant consideration with them.

67. First, in February we received a petition for rule making from the National Telecommunications and Information Administration (NTIA) of the United States Department of Commerce in substance urging that new or expanded cable television operations only be permitted to carry distant television signals with the consent of the originating station (RM–3324). This is a regulatory proposal which has been rejected by the Commission in the past.[68] It is, however, a proposal for regulation which deserves serious consideration because it has been suggested by the President's chief advisor on matters of telecommunications policy. In addition, last month we received a petition from the National Association of Broadcasters urging that the Commission take some regulatory action "to curb the harmful impact of superstation development on broadcast program service to the public." (RM–3346). This too is a matter which the Commission has considered in the past and rejected.[69] It too warrants some further consideration in this context, however, because it focuses our attention more specifically on the possible effects of cable carriage on the station whose signal is carried rather than on the station faced with additional competition from that station and because it resurrects claims conceptually similar to those rejected in the Inquiry Reports that broadcasters and program suppliers require shelter from the workings of the marketplace if the public is to be well served with respect to viedo home entertainment and information services.

A. NTIA Petition

68. The regulatory proposal advanced by NCTA contains the following basic elements: (a) retention of the mandatory signal carriage and network program nonduplication rules for all cable systems: (b) retention of the Commission's distant signal carriage limitations and the Copyright Act's compulsory licensing arrangement for existing cable systems; (c) extension of the syndicated program exclusivity restrictions presently applicable in markets 1–50 to markets 51–100 for the operations of existing systems; (d) adoption of a requirement that new systems or existing systems adding new signals or expanding operations into new communities obtain the consent of the originating station for retransmission of non-network programs; and (e) regulatory supervision and oversight of program exclusivity agreements if necessary.

69. In support of its petition, NTIA states that there is "an economic approach that relies upon the marketplace, results in fair competition or dealing among all the interests, and properly allows the Commission to eliminate much of its complex regulatory approach." According to NTIA, the present regulatory scheme is neither sound nor effective mainly because (1) cable's use of broadcast signals is "crabbed and hedged in" by government regulation and (2) the copyright owner's compensation for cable carriage of non-network programs is determined by government fiat, not the marketplace. Because the present approach constitutes an abandonment of the marketplace, anomalies occur. For example, a cable system is not restricted from carrying a sports program under present circumstances even though the right to broadcast this program is denied to a subscription television station or commercial broadcaster. As a consequence, cable systems are permitted to operate outside the television program marketplace whereas others are compelled to operate within this marketplace

70. To remedy the flaws that now exist, NTIA proposes that the Commission adopt a retransmission consent approach not unlike the rebroadcasting requirements applicable to television translators and others under Section 325(a) of the Communications Act. Retransmission consent would require new cable systems and existing cable systems expanding their operations to obtain the consent of the originating station for the retransmission of non-network programs.[70] Under this approach, the

[63] 47 CFR §§ 76.59(b)–(e), 76.61(b)–(f), 76.63.
[64] 47 CFR §§ 76.151–76.161.
[65] *See* para. 45, *supra*.
[66] *See Home Box Office, Inc. v. FCC, supra*.
[67] *Syndicated Exclusivity Report, supra*, paras. 8–10.
[68] *Notice of Proposed Rule Making and Notice of Inquiry in Docket 18397*, FCC 68–1176, 15 FCC 2d 417 (1968); *Cable Television Report and Order, supra*, at paragraph 59.
[69] *Motion Picture Association of America*, FCC 78–289, 68 FCC 2d 57 (1978).
[70] NTIA asserts that retransmission consent for cable carriage of network programming is not

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distribution of this type of programming could be left to the marketplace. It would enable the Commission to eliminate control and supervision of cable carriage of non-network programming except that necessary to protect against "warehousing" practices. In addition, it would enable the copyright owner to control the distribution of his programming and enable the copyright owner to receive full compensation. According to NTIA, the "core problem" of cable television standing outside the competitive television program market would be resolved under its recommended approach. As a consequence, "cable would be brought into the marketplace, the same market rules would apply to all, and their application would be clearly understood."

71. NTIA asserts that "retransmission consent is an idea" whose "time has come" because there is a "great difference between 1979 and the situation in 1968–1972" when the Commission proposed and abandoned such a requirement. Since then, NTIA asserts, the satellite has come into the picture. In addition, there are "interested stations like WTCG (some of which have the rights to popular sports programming), interested systems, interested sellers of film and interested middlemen." Moreover, it states that its approach constitutes "a reasonable and workable reconciliation" of the disparity in treatment between the two basic delivery systems for non-network programs—commercial broadcasting and cable television—and thus would treat cable television and broadcasting equally to the extent they vie for non-network programs.

72. NTIA also states that complete deregulation of cable television signal carriage from the Commission's standpoint would not constitute a marketplace solution but would create worse anomalies. According to NTIA, Commission deregulation would merely shift government regulation to another part of the government, the Copyright Royalty Tribunal, which does not represent a marketplace solution.

Moreover, it would not be sound for the Commission to abandon its present regulatory program and expect Congress to resolve copyright matters relating to cable carriage of non-network programming because even though legislation would be the preferable way to proceed, it is not assured. Further, the Commission would not be acting responsibly in this manner because, NTIA claims, the "health of the copyright owner is an important part of the public interest 'in the larger and more effective use of radio' (Subsection 303(g) of the Act)." A retransmission consent requirement, however, would alleviate "anomalies which exist under the present rules and others that might arise from complete deregulation." In addition, NTIA contends that it would constitute "a marked step toward sound disengagement" of cable television regulation.

But in order to insure that program exclusivity rights are reasonable and to avoid adverse effects on the "public's interest in having reasonable access to programs," NTIA recommends that the Commission exercise oversight of the program marketplace to avoid unreasonable "warehousing" of programs. According to NTIA, the Commission has "ample authority" to do so not only with respect to retransmission of programs by cable systems but also rebroadcasting of programs by translators and other broadcast licensees.

73. Broadcast interests were generally receptive to NTIA's proposal.[71] They contend that the present marketplace is distorted because cable television is permitted to function outside the television program distribution marketplace and indicate that a retransmission consent policy might be a constructive, workable approach to bring cable into this marketplace. They agree with NTIA that complete deregulation of cable television would merely result in worse anomalies in the marketplace and aggravate the existing problems created by satellite retransmission of broadcast stations to cable systems. These commenters indicate that the Commission has the obligation to assure that cable competes fairly with broadcasters and the responsibility to create a "rational marketplace" by establishing rules for the operation of the marketplace under which the concept of exclusivity is recognized and pursuant to which cable systems are required, as are broadcasters, to negotiate in the marketplace for rights to television programming. Thus, for example, INTV perceives a retransmission consent requirement "as an acceptable form of copyright regulation." Metromedia, however, in offering only "qualified support" for the proposal, does not believe that such a policy should be accompanied by deletion of the distant signal carriage and syndicated exclusivity rules because it contends that "there will continue to be sound public policy reasons to preserve the viability of local broadcast stations." In addition, some disagree with the proposal to the extent it seeks to "grandfather" existing systems. They argue that existing sytems should also be subject to marketplace forces and should not receive "preferential treatment." The National Association of Broadcasters neither supports nor opposes NTIA's proposal at this time because its members have not had a sufficient opportunity to consider carefully this "fundamentally different approach" to cable regulation of signal carriage.

74. Program supplier interest also support the petition[72] expressing concern over cable television's operation outside the traditional television program distribution marketplace and making many of the same arguments advanced in the broadcast comments. MPAA alleges that it is necessary that cable television be brought into the broadcast programming marketplace and that cable's failure to

Footnotes continued from last page
needed because the copyright owner has sold such programming for viewing by the entire nation and thus has received full compensation. This, it is said, accords with the view of Congress in adopting the Copyright Law Revision:

Similarly, the retransmission of network programming, including network programming which is broadcast in "distant" markets, does not injure the copyright owner. The copyright owner contracts with the network on the basis of his programming reaching all markets served by the network and is compensated accordingly.

H.R. Rep. No. 94–1496, 94th Cong., 2d Sess. 90 (1976).

[71] Comments and/or reply comments were received from Metromedia, Inc., the National Association of Broadcasters (NAB), Association of Independent Television Stations (INTV), Klix Corporation, Taft Broadcasting Company *et al.*, The Licensees of Television Broadcast Stations KOB–TV *et al.*, Chartwell Communications Group, the Association of Maximum Service Telecasters, American Broadcasting Companies and Television Broadcast Licensees (Bahia De San Francisco Television Company *et al.*) Several of these parties requested that the Commission consolidate this proceeding with other pending Commission proceedings relating to cable television distant signal carriage (*e.g.*, Dockets 20988 and 21284). We hereby grant those requests. In addition, Metromedia and the National Association of Independent Television Producers and Distributors (NAITPD) have asked us to suspend any and all authorizations granted pursuant to Section 214 of the Communications Act for satellite retransmission of television broadcast signals to cable television systems. To the extent the issues raised in these requests are the same as those presented in RM–3324 and RM–3346 these issues will be considered here. There may, however, be separate common carrier related issues presented so that we will not formally rule on the NAITPD and Metromedia requests at this time.

[72] Comments and/or reply commeots were filed by the Motion Picture Association of America (MPAA), the National Association of Independent Television Producers and Distributors (NAITPD), Tandem Productions, Inc., Madison Square Garden, Inc. (MSG), National Basketball Association (NBA), National Football League (NFL), National Collegiate Athletic Association (NCAA) and the Commissioner of Baseball.

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pay copyright fees equivalent to marketplace fees will diminish the supply of television programming in the long run. In a similar vein, NAITPD states that "copyright royalties do not solve the market problems created by unrestricted cable retransmission." According to NAITPD, the Commission is authorized to deal with the deleterious effects of cable retransmission and satellite technology under *United States* v. *Southwestern Cable Co.*, 392 U.S. 157 (1968). Neither the new copyright law or its legislative history was intended to preclude the Commission from altering its rules or to preserve and enhance the marketplace, NAITPD contends.

75. Professional sports interests also support NTIA's proposal. They argue that at present they are denied the basic right to control the distribution of their product and to require cable systems to negotiate with them for cable carriage of their sports programming on distant signals. While Section 76.67 of the Commission's Rules prevents cable systems from importing a sports program of a local team when the program will not be shown by a local broadcast station in that market, it does not prevent cable systems from importing other sports programs which do not involve a local team or club. As a consequence, cable carriage of sports programs on distant signals results in oversaturation of sports programming in a market which not only injures the program supplier but reduces the value of telecasting rights of the sports owner for network, regional, and local sports presentation as well as affects the sports club's local attendance at the gate. Madison Square Garden, Inc. also alleges that unrestricted cable importation of Television Broadcast Station WOR-TV, New York, New York, which broadcasts New York Knicks and New York Rangers away games, would result in competition with its sports programming package of Knicks and Rangers home games which it offers to cable systems. A retransmission consent policy, however, would restore the basic right to negotiate freely in the marketplace over the terms and conditions surrounding the licensing of their product, as the Commissioner of Baseball puts it. The National Football League states that retransmission consent should not be limited solely to non-network programming because it is engaged in regional network programming of football games which it would have to abandon if unrestricted cable importation is allowed.

76. Comments from cable interests oppose the petition.[73] They allege that Congress rejected the concept of retransmission consent as early as 1960 and the Commission also considered and rejected this concept in 1972 as an answer to cable television regulation. Moreover, they allege that implementation of "retransmission consent" would be contrary to copyright policy established by the Copyright Law Revision's provision of compulsory licenses for cable carriage of distant television broadcast signals. Cable interests state that Congress had the choice of providing no copyright liability at all or providing full liability but instead chose a compulsory license system because it would be impractical and unduly burdensome to require negotiation with each copyright owner for each program retransmitted by a cable system. For the Commission to adopt a transmission consent policy would intrude upon the exclusive domain of Congress over copyright matters. To the extent that the petition seeks to protect the interests of copyright owners and program suppliers, cable interests say, it addresses matters beyond the Commission's jurisdiction.

77. In addition, cable interests indicate that this proposal has serious implications for cable operators and viewers under the First Amendment which should be seriously considered by the Commission in evaluating petitoner's proposal. They allege that a retransmission consent policy which would require the cable operator to secure approval from both the originating station and copyright owners of programming broadcast on the station would significantly restrict the availablility of programming for cable subscribers and, accordingly, the Commission should take into account First Amendment restrictions on those regulations which limit the provision of broadcast programs to the public. For example, Jim R. Smith and Company, Inc. argues that the public interest must be of sufficient importance to override the First Amendment rights of cable operators and viewers' rights to diverse sources of information. It states that the economic status of copyright owners and television stations is "an inadequate interest when pitted against the First Amendment rights of cable systems and subscribers," citing *Home Box Office, Inc. v. FCC*, 567 F. 2d 9 (D.C. Cir. 1977). According to Cape Cod Cablevision Corporation, if cable television is viewed as a multi-channel publisher, then "the First Amendment would seem to mandate that there be no government regulations." [74] In addition, the joint comments of 27 Cable Companies contend that meaningful relaxation of the restrictive cable television policies, rather than imposition of retransmission consent would serve "both the important 'First Amendment goal of achieving the widest possible dissemination if information from diverse and antagonistic sources' (Associated Press v. United States, 326 U.S. 1, 20 (1944)) and futher the Commission's statutorily mandated objective 'to make available, so far as possible, to all the people of the United States a rapid, efficient, Nationwide . . . radio communication service.'" Thus, cable interests consider the transmission consent proposal as impractical, illogical, and unlawful as well as a way in which television networks, television stations and program suppliers can restrict competition by cable in the marketplace.

78. We have carefully examined the petition and believe, on balance, that we should deny it. We agree with the general thrust of the petition that wherever possible marketplace solutions are preferable to approaches which rely heavily on governmental intervention. While the petition recommends the retransmission consent concept as a vehicle for achieving cable-broadcast programming markets free of most governmental interference, the proposal encompasses considerably more which appears less consistent with reliance on the marketplace. The proposal recommends that the Commission refrain from deregulating the present distant signal carriage and syndicated program exclusivity restrictions, absent adoption of a retransmission consent policy, and that for the existing operations of the cable industry, we extend syndicated exclusively protection for television stations in the second fifty television markets. The proposal also requests that the Commission consider retaining the network nonduplication rules and mandatory signal carriage rules.[75]

79. We do not believe that consideration of the retransmission consent concept compels that we refrain from or postpone pursuing the recommendations of our *Economic Inquiry Report* and *Syndicated Exclusivity Report*. Indeed, to the extent that the proposal as a whole disfavors deregulation of cable television, absent adoption of a retransmission approach, and would continue to place distant signal carriage restrictions and syndicated program exclusivity restrictions on cable television systems and their subscribers, it is inconsistent with our conclusions, enunciated in the Reports, clearly endorsing increased competition in the marketplace. A major objective of these proceedings was to determine from available economic evidence whether Commission regulation of the competition between cable and television broadcasting continued to be supportable on public interest grounds or whether a marketplace approach would produce better results for consumers of video services. The Reports adopted today indicate quite clearly that increased competition in the marketplace for video entertainment and information services would not adversely affect consumers of video services.

80. In light of these findings and the previous unsuccessful effort to implement a retransmission consent program, we do not believe we could justify withholding action on the distant signal carriage and syndicated exclusivity restrictions as suggested by NTIA. Especially in view of our experience with a similar proposal, we are extremely reticent to forbear from proceeding on the evidence and recommendations of the Reports absent compelling evidence that substantial injury now or in the foreseeable future would occur to the public. We disagree with the argument of petitioner that we must act on its proposal now "before there is a plethora of new operations with grandfathering expectations." If our investigation of marketplace opportunities, deficiencies, and supplements so warrants, we are confident we will be able to take appropriate action at a later time.

81. We do, however, agree with the trust of the NTIA proposal that a market solution to the problems of compensating owners of programming materials for their commercial use is desirable. The existing compulsory license system substitutes regulatory judgment about the proper treatment of program rights for the normal market process that rewards holders of copyrights. So, too, does the retransmission consent proposal prejudge the type of market institutions that can best deal with the protection of equities. It is argued that if broadcasters succeed in raising advertising rates to reflect distant audiences, imported stations will want to have their signals retransmitted even if no retransmission fee is paid. Should this be true, the key equity issue, then, is whether the fees paid by the imported station for program rights will reflect the increase in advertising revenues to the imported station for the distant audiences. We solicit comment on this possibility and its economic effects. It may be the case that the normal market process will work without regulatory or legislative intervention. It may also be necessary to take actions that will facilitate the development of market institutions that will protect and adequately reward holders of program rights. Retransmission consent, full copyright liability, and pre-retransmission notification are among the ways to address this issue. The Commission's preference would be to give markets the opportunity to work and to impose regulatory judgments on how transactions should take place only on demonstration that a private market will not work. Nevertheless, on *a priori* grounds it might be the case that further Commission policy should be developed in this area. Therefore, the Commission invites further comment on how the markets in program rights might develop, and what actions, if any, the Commission can legally take that would serve that end.

82. While we believe that our action taken today compels our rejection of the NTIA proposal as a whole, nevertheless, we believe that we should examine independently the retransmission consent aspect of the proposal to the extent not inconsistent with the approach we are proposing today. We solicit comment on all aspects of retransmission consent including details on how it might work. In additon we invite comments on retransmission notification and any other way to allow the market process to work with the least amount of intervention. We are confident that a wider ranging examination of all relevant information on cable-broadcasting programming markets free of the complications imported by NTIA's specific two-tier, grandfathered plan will prove more fruitful than concentrating on a single, concrete proposal. Because of our refection of NTIA's proposal on policy-related grounds, we need not—and do not—resolve the various jurisdictional issues presented by it. However, since we are interested in a full discussion of what options we might have to encourage marketplace solutions in lieu of government regulation, we have set forth below the arguments presented to us that we lack authority to adopt proposals such as that advanced by NTIA.

83. The idea that cable television system operators should obtain the counsent of the stations carried is not a new one, having been given formal consideration by the Commission at least as early as 1959.[76] It, and its functional counterpart, full cable television copyright liability, have some considerable theoretical attractiveness as a policy response to aspects of the cable television signal carriage controversy. In particular it would, if fully implemented, eliminate the function of the Copyright Royalty Tribunal and restore to the marketplace the function of establishing the rates cable operators pay for the broadcast programming they carry. Moreover, it has been urged by some leading scholars that full copyright liability would permit consumers to better express the intensity of their program preferences to program suppliers with the result that programmers, cable systems, and broadcasters would more fully respond to consumer preferences.[77]

84. Considerable doubt has been expressed, however, about our jurisdiction to adopt this proposal. Congress in its recent revision of the copyright laws has provided that cable television systems need not negotiate individually for rights to the programs on broadcast signals they carry, but

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[73] Comments and/or reply comments were filed by the National Cable Television Association (NCTA), Community Antenna Television Association (CATA), Jim R. Smith and Company, Inc., Florida Cable Television Association, Cape Cod Cablevision Corporation, American Video Corp. *et al.*, and Visions, Ltd.

Comments in opposition were also filed by United Video, Inc. and the Secretary of Defense. Since the Secretary's comments were filed out of time, we shall treat them as informal comments.

[74] Cape Cod Cablevision also suggests "an alternative public policy proposal" which includes a condition that television broadcast licensees in accepting their licenses shall be deemed to have consented to retransmission of any material broadcast over the public spectrum. We decline, however, to specifically consider the proposal except as it relates to our discussion in para. 82, *infra*.

[75] We have previously indicated, however, that changes in these rules should be considered separately except as they are relevant to the question of distant signal carriage. *See* para. 5, *infra*.

[76] *Report and Order in Docket 12433*, 26 FCC 403, 438 (1959).

[77] This appears to be a principal thrust of a frequently cited article which suggests that the compulsory licensing system established by the Congress was a mistake and should be replaced by full copyright liability. Besen, Manning, Jr., and Mitchell, "Copyright Liability for Cable Television: Compulsory Licensing and the Coase Theorem," 21 *Journal of Law and Economics* 67 (1978). The proposal raises interesting analytical and empirical questions which Congress will be considering in H.R. 3333, 96th Cong., 1st Sess. (1979). Essentially, these questions center upon whether full copyright liability is practicable—a matter which turns principally upon an estimate of the magnitude of transactions costs—and whether it is necessary to assure the correct volume, quality, and variety of television programming—a matter which turns importantly on the structure of the programming industry and upon the efficiency with which the existing compensation mechanism can make consumers' preferences known to the programming industry.

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rather must pay for such programming by contributions to a central copyright fund pursuant to a compulsory licensing system. As described in more detail below, we believe NTIA's proposal might be more appropriate for consideration by Congress rather than by us.

85. Several factors tend to support the proposition that NTIA's proposal is more appropriately considered by the Congress. For example, although not entirely free from doubt, it appears that unless retransmission consents were obtained for every program carried, local as well as distant, network as well as non-network, cable operators would continue to have payment obligations under the compulsory licensing system even though, as under the NTIA proposal, distant non-network programs were negotiated and paid for individually.[78] Thus, unless our mandatory carriage rules were eliminated and cable operators commenced paying for network programs, there would still be cable operator payment obligations under the copyright law.[79]

86. NTIA cites as some support for the validity of its proposal, the inclusion of a similar requirement in recently introduced legislation to revise the Communications Act (H.R. 3333, 96th Congress, 1st Session).[80] This legislation, however, would also completely eliminate cable television subscriber rate regulation. To the extent the retransmission consent requirement might require general increases in subscription fees for its effective operation, there is a logical tie to granting the system operator greater control over his rates.

87. The fundamental reason asserted for doubting the Commission's authority to adopt this proposal, however, is Congress' explicit rejection of it and its enactment of a differing allocation of property rights as between copyright owners and cable systems and subscribers less than three years ago.

88. Except for a brief and unsuccessful *excursus* in the late 1960's, the Commission has been cognizant of the Congress' role with matters so fundamental as the allocation of property rights in copyrighted material, especially in the face of a new technology which was altering the value of the material and redistributing some of the wealth attributable to it.

89. Initial consideration of the retransmission concept in the cable television area focused on whether Section 325, 47 U.S.C. § 325,[81] should be amended to apply to cable television systems. Section 325 of the Communications Act requires broadcasters that rebroadcast the signals of other stations to obtain the permission of those stations. Its function is "to protect the rights of those having property rights in programs."[82]

90. When the issue of whether Section 325 should be applied to cable television operations came before the Commission, we stated:

> It may well be that Congress would desire to protect the property right of a broadcaster as against CATV retransmission as well as against rebroadcasting. For this reason, as well as because of the competitive impact involved here, we intend to recommend to Congress that an appropriate amendment to Section 325(a) be enacted * * * By other broadcasters * * * we are asked to recognize the existence of a property right, and to affirm it by rule; then, it is said, we would be in a position to issue "cease and desist order" against any CATV system rebroadcasting a signal without permission. This course of action we do not believe appropriate. This is not the forum in which the existence or nonexistence of a private property right can be adjudicated. * * *[83]

91. This legislative proposal was made to the Congress and was rejected by both the Senate and House Committees with responsibility for its consideration. The report of the House Committee stated:

> The Committee has considered the question raised by the Commission on its legislative recommendation of whether Section 325 of the Communications Act should be amended so as to prohibit transmission by CATV systems of any broadcast signals except with the express authority of the broadcast stations. In view of the pendency of copyright legislation, it is the view of the Committee that the recognition and protection of any property rights in programs broadcast by radio and television stations should more appropriately be determined within the framework of copyright legislation rather than within the framework of communications legislation. Therefore, the Committee decides against amending Section 325. * * *[84]

92. We considered the subject of retransmission consent again in the *First Report and Order in Dockets 14895 and 15233*, 38 FCC 683 (1965), which established minimum signal carriage requirements for microwave-served cable systems.[85] There, we were requested to "construe the microwave carriage and distribution of signals by or for the benefit of CATV's as a single transaction which, in effect, constitutes 'rebroadcasting' under the existing provisions of Sec. 325." *Id.* at 706 n. 37. We stated, however, that "the proposed construction is a strained one, which we are not at liberty to adopt." *Id.* In this *Report*, we recognized that cable television "stands outside of the program distribution process" and that, therefore, "the usual competitive situation" is not present. Nevertheless, we reiterated that cable television had not been found subject to the requirements of Section 325 and that Congress had not seen fit to adopt our recommendation that "restrictions on rebroadcasting embodied in Section 325 of the Communications Act should be extended to the distribution of broadcast signals by CATV's."[86]

93. The *Second Report and Order in Dockets 14895, 15233 and 15971*, 2 FCC 2d 725 (1966), in which we ultimately decided to exercise general jurisdiction over cable television also addressed the question of retransmission consent.[87] We stated:

> As a general approach encompassing all stations, we are proposing to the Congress that it consider the question of extending the rebroadcast concept of Section 325(a) to CATV. It may be that regulation of this nature would prove a preferable and more effective means of achieving fair recognition of the exclusivity contracts of the program marketplace.

Id. at 748. We also pointed out the "anomalies which result" from the situation in which broadcasters must negotiate for programming whereas cable systems do not and expressed our concern how this could affect the economic base of a television station serving as an outlet for local expression for all the people in its service area. *Id.* at 778–781. We concluded, as we had

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[78] In this respect it is important to note that cable operators make some payments for the "privilege" of carrying distant signal programming even if none is actually carried. *See* 17 U.S.C. § 111(d)(2)(B)(i).

[79] Under this legislative proposal, consent would have to be obtained either from the originating station or the owner of the program to be carried or from "the person who owns or controls the exclusive rights to the program involved." H.R. 3333, § 453(a)(2).

[80] H.R. 3333, 453(a)(2).

[81] Section 325(a): ". . . nor shall any broadcasting station rebroadcast the program or any part thereof of another broadcasting station without the express authority of the originating station."

[82] *Report on Amendment of Rebroadcasting Rules*, 1 R.R. (Pt. 3) 91:1131, at 91:1134, May 15, 1952.

[83] *Report and Order in Docket 12433*, 26 FCC 403, 430 (1959).

[84] *Report of the House Committee on Interstate and Foreign Commerce on H.R. 13286, H.R. Rep. No. 89–1635*, 89th Cong., 2d Sess. at 11 (1966).

[85] *See Economic Inquiry Report, supra*, paras. 41–43; Syndicated Exclusivity Report, *supra*, paras. 18–19.

[86] 38 FCC at 706 n. 37. We also pointed out pending copyright litigation in which program suppliers were seeking to establish their right to control the use by CATV systems of signals carrying their programs but declined to express or even to intimate any view as to the merit of this litigation since it fell "beyond our jurisdiction." *Id.* at 705 n. 32.

[87] *See Economic Inquiry Report, supra*, paras. 44–47; Syndicated Exclusivity Report, *supra*, paras. 20–24.

earlier in Docket 12433, that we should urge Congress to consider whether a provision similar to Section 325(a) should be made applicable to cable television including whether, to what extent, and under what circumstances cable systems should be required to obtain the consent of the originating broadcast station. In suggesting this approach, we observed:

> We are not in a position to state whether a Section 325(a) approach would be effective and fully consistent with the public interest. We think that this is a matter warranting Congressional (and Commission) consideration, including such aspects as how a "retransmission consent" requirement would function as a practical matter, whether systems in small communities should be dealt with specially, and whether grandfathering is appropriate and the nature of any such grandfathering.[88]

94. The Commission last considered this proposal in connection with its *Notice of Proposed Rule Making and Notice of Inquiry in Docket 18397*, FCC 68–1176, 15 FCC 2d 417 (1968), in which the Commission itself proposed to apply such a requirement to the carriage of distant commercial stations on cable television systems in the 100 largest television markets and to those signals carried by cable systems in the smaller markets that were necessary to provide subscribers with signals beyond the three national television networks and one independent station.[89]

95. In making this proposal the Commission indicated that it would forbear acting until the Congress had an opportunity to act on pending copyright legislation which it was hoped would resolve the unfair competition aspect of the retransmission consent proposal and provide "the legislative guideline which the Commission has long sought."[90] As the Commission noted, the retransmission proposal "necessarily also embodies considerations like copyright in its practical applications."[91]

96. After considering the various comments filed relating to this proposal and having undertaken some limited experimentation with operation under it, the Commission rejected it stating "experience has indicated that it will simply not achieve our basic objectives."[92]

97. Congress resolved the cable-copyright controversy by adopting the General Revision of the Copyright Law, Pub. L. 94–553, 17 U.S.C. § 101 *et seq.* (1976).

98. Congress chose to allow cable operators to obtain programming pursuant to a compulsory license process and thereby to avoid the necessity to negotiate exhibition licenses individually. Under this process cable operators may retransmit the programs on the signals they carry if they comply with Section 111, 17 U.S.C. § 111, which provides, among other things, that cable operators make payment of a prescribed royalty fee for this privilege.[93]

99. The legislative history shows that Congress was fully aware that the cable compulsory license constituted a major departure from traditional copyright practices. On this point the *Report of the House Committee on the Judiciary, Copyright Law Revision, H.R. Rep. No. 94–1476*, 94th Cong., 2d Sess. 89 (1976), stated:

> In general, the Committee believes that cable systems are commercial enterprises whose basic retransmission operations are based on the carriage of copyrighted program material and that copyright royalties should be paid by cable operators to the creators of such programs. The Committee recognizes, however, that it would be impractical and unduly burdensome to require every cable system to negotiate with every copyright owner whose work was retransmitted by a cable system. Accordingly, the Committee has determined to maintain the basic principle of the Senate bill to establish compulsory copyright license for the retransmission of those over-the-air broadcast signals that a cable system is authorized to carry pursuant to the rules and regulations of the FCC.[94]

100. Accordingly, Congress was cognizant that a compulsory licensing procedure would exempt cable television operators from the responsibility to negotiate with copyright owners for individual program clearances and that this procedure did not represent a conventional copyright solution,[95] but nevertheless concluded

> "In more familiar transactions in property there is no need for Government to intervene. In the free market buyers and sellers are able to bargain for and to reach prices which are acceptable to all concerned. The same is true in the case of business transactions involving copyrighted properties. However, the unique character and role of cable television is such that the Committee has been compelled to depart from traditional practices."
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> "We wished to permit and encourage the broader dissemination of communications through cable while being fair and equitable to the owners and users of copyrighted materials and at the same time protecting the public interest. The Committee process is now complete and the Committee has presented a bill which gives cable a compulsory license to intercept and retransmit—secondarily transmit—television and radio broadcasts."
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> "It may seem that a compulsory license is a drastic invasion of the rights of private property. Yet, when we remember that a cable system is passive in its program selection and must intercept and distribute whatever the primary transmitter transmits then we must recognize that it is impossible and impractical for the cable system to negotiate for a license with the copyright owner in advance of transmitting the programming. At the same time item-by-item negotiating between users and owners of copyright prior to each performance would be so burdensome as to destroy this valuable means of communication and would also effectively deny a valuable market to the copyright owners."

See also remarks of Senator John V. Tunney, 122 Cong. Rec. 3144–45 (Feb. 16, 1976) recommending adoption of Section 111:

> "The vast majority of copyrighted works enter the stream of commerce after the expense of manufacturing and distribution, or has licensed someone else to do so in exchange for a negotiated royalty. In the latter case, the copyright owner is free to bargain for the terms and conditions which best meets the author's concepts and goals. . . . Compulsory licenses are an exception to that method of operation and, as such, require, in my opinion, an extraordinary justification for Government intervention in an area that is best served by private parties negotiating with each other in their own best interests."
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> "In my opinion, the concepts of compulsory licenses and the Royalty Tribunal are only appropriate under circumstances that clearly indicate that they are more desirable than the negotiation process. The Committee on the Judiciary has determined that four industries have such needs that the compulsory license procedure is the most sensible method to resolve the licensing problems."
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> I would ask my fellow Senators to consider the nature of the task before us in Section 111. As I indicated earlier, in the compulsory license area the Congress and the Copyright Royalty Tribunal are called upon to act as arbitrators between conflicting economic interests. I strongly urge that you consider the equities involved and support Section 111 as reported by the Judiciary Committee.

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[88] 2 FCC 2d at 788.

[89] 15 FCC 2d 417, 433 (1968), para. 39.

[90] *Id.* at para. 40.

[91] *See Economic Inquiry Report, supra*, paras. 49–52; Syndicated Exclusivity Report, *supra*, paras. 25–27.

[92] 36 FCC 2d 165. The comments responsive to this proposal and the nature of the experiment conducted are discussed in the *Cable Television Report and Order*, *Id.* at 150–154, paras. 20–26.

[93] Although this resolution made it unnecessary for the Commission to further discuss its jurisdiction, others did question whether the matter was properly within the Commission's authority. For example, the Register of Copyrights stated that this requirement was precisely what the Supreme Court had held was unnecessary in the *Fortnightly* decision, the necessity to get retransmission consent. What the FCC had done—I am expressing my own opinion, but I honestly believe that—in the guise of administrative regulation of what it called unfair competition was to impose copyright liability where the Supreme Court had held it did not exist and to create a situation where Congress has so far declined to act. It was hardly surprising that the approach failed * * *. Testimony of Barbara Ringer, Register of Copyrights, *Hearings on H.R. 2223 Before the Subcommittee on Courts, Civil Liberties, and the Administration of Justice of the House Judiciary Committee*, 94th Cong., 1st Sess., ser. 36, pt. 3, at 1816 (1975).

[94] It should be noted that the payment system adopted is not unlike one suggested by the Commission. *See Second Further Notice of Proposed Rule Making in Docket 18397–A*, FCC 70–676, 24 FCC 2d 580, para. 11 and Appendix A (1970).

[95] *See also* the remarks of Congressman George E. Danielson, 122 Cong. Rec. 10,904 (daily ed. Sept. 22, 1976):

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that a compulsory license procedure for cable would best serve the purposes underlying the copyright laws.[96] It is argued in establishing a compulsory licensing scheme for cable television Congress has in effect determined that the interest of the public in the dissemination of copyrighted works outweighs the interest of the copyright owner in having exclusive dominion over the dissemination of its works.

101. It is asserted that this history demonstrates that Congress specifically considered and rejected the proposal that cable television system operators individually negotiate and pay for the programs carried on broadcast signals. It has been suggested that this action was taken entirely in a copyright context and should not be taken as limiting the Commission's authority to adopt the proposal in order to carry out its Communications Act responsibilities.[97]

102. For our purposes, it is sufficient to observe that nothing in the NTIA petition or the comments thereon has altered the tentative conclusions we enunciated in the Inquiry Reports. We believe the public will be well served by prompt consideration of the proposals to delete the distant signal and syndicated exclusivity restrictions from our rules.

National Association of Broadcasters Petition

103. On March 22, 1979, the National Association of Broadcasters (NAB) filed a petition requesting the Commission to commence rulemaking leading toward the adoption of rules designed to insure that local television broadcast service is not harmed by the development of "superstations" and further requesting that the Commission give expedited consideration to this matter.[98] Those supporting the petition request were primarily broadcast and program supplier interests. Those opposing the petition were primarily cable television interests but included as well resale common carriers presently engaged in the distribution of television signals via satellite and a television station licensee whose signal is presently being delivered by satellite to receive only earth stations for use by cable television systems.

104. We have examined the NAB petition and the related comments with care and have concluded that they fail to produce any evidence whatsoever that a regulatory problem either now exists or is being fomented. Accordingly, we deny the petition.

105. In support of its request, NAB alleges that (1) superstations are being created and that (2) their creation is harmful to the concept of local broadcast service to the public and, accordingly, the Commission should act consistent with its statements in *Report and Order in Docket 20487*, 57 FCC 2d 625, 645 (1975) and *Memorandum Opinion and Order in RM–2952*, 68 FCC 2d 57, 59 (1978) that it would take appropriate action if in fact adverse effects on the public interest from superstation development do occur.

106. To establish its viewpoint that superstations do in fact exist, NAB points to the development of television station WTCG, Atlanta, Georgia, since the distribution of its signal by satellite, and its predicted development in the future. According to NAB, the station's own officials have reportedly predicted that by 1980 the out of market viewing of WTCG will have increased from the current 60% figure to 75% of its total audience and that by 1989 its revenues will have increased from $31 million in 1978 to 138 million with annual pretax profits rising from 1.1 million to 62 million in the same time period.[99] NAB asserts that the station has opened advertising sales offices in New York and Chicago and has attracted national sales from major advertisers at rates in excess of what a station serving a market the size of Atlanta alone would attract. Relying upon WTCG's promotional information, NAB states that the station frequently averages, during certain days and day-parts, 30 to 40% of the total viewing of distant cable households and 10 to 15% of the total market viewing in certain areas with 25 to 50% cable penetration. It is NAB's view that WTCG has achieved the status of a superstation in terms of cable subscribers reached and total audience delivered and that other superstations are not far behind, most notably, television broadcast stations KTVU, Oakland, California and WGN–TV, Chicago, Illinois, which are already being distributed via satellite, and stations WOR–TV, WCBS–TV, and WPIX, all New York, New York, KTTV, Los Angeles, California, and WSBK–TV and WCVB–TV, Boston, Massachusetts, which are intended for satellite distribution very shortly.

107. NAB asserts that superstation development can be traced to several actions taken by the Commission: (1) the deletion of the "anti-leapfrogging" signal carriage rules in *Report and Order in Docket 20487*, 57 FCC 2d 625 (1975), (2) an "open entry" policy for satellite-to-cable distribution of broadcast signals established in *Southern Satellite Systems, Inc.*, 62 FCC 2d 153 (1976), and (3) the amendment of the Commission's rules to allow the use of small-diameter receive-only earth stations in *American Broadcasting Companies, Inc.*, 62 FCC 2d 901 (1977). These actions, according to NAB, have "opened the door to superstation development."

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compensation to be made to copyright owners is evident from the legislative hearings on the House version of the copyright bill. One example is the following colloquy between Congressman Herman Badillo and Jack Valenti, President of the Motion Picture Association of America:

Mr. Badillo: Would it be possible for us to merely say that it is a copyright and then leave the question of the amount to be paid to be settled in the marketplace?

Mr. Valenti: In all honesty, I have to tell you that I think there would be administrative difficulties in the free play of the marketplace. That is what the compulsory license was created to avoid—such an administrative difficulty; a compulsory license covering all signals, lessening paperwork, lessening everything.

Hearings on H.R. 2223 Before the Subcomm. on Courts, Civil Liberties, and the Administration of Justice of the House Judiciary Comm., 94th Cong., 1st Sess., ser. 36, pt.3, at 758 (1975).

[96] Congress' purpose in enacting copyright legislation has been to provide for the dissemination of works for the benefit of the public and, secondarily, to remunerate the author for his works. *See, e.g., Mazer v. Stein*, 347 U.S. 201 (1954) and *Fox Film Corp. v. Doyal*, 286 U.S. 123 (1932). *See also* J. E. Esezobor, "Concepts in Copyright Protection," 23 *Bulletin of Copyright Society* 258, 263–266 (1976), indicating that "[t]he rights granted to the author became regarded [under copyright law] as a means to an end, the end being the overall welfare of society" and that copyright "now assumes the role of balancing the needs of society versus the interests of the author."

[97] The argument is made by NTIA that the Commission now has the same authority it had in 1978 when the Commission proposed to adopt a retransmission consent requirement under its existing authority. It is not altogether clear that we had jurisdiction then. As the Supreme Court said in *Teleprompter Corp. v. CBS, Inc.*, 415 U.S. 394 406 n. 11 (1974):

The FCC has consistently contended that it is without power to alter rights emanating from other sources, including the Copyright Act. * * * This position is consistent with the terms of the Communications Act of 1934, the source of the Commission's regulatory power * * *.

Whether or not the Commission had the authority then, it is clear that subsequently enacted law must prevail to the extent of any inconsistency. 1A Sutherland, *Statutes and Statutory Construction* 23.09 (4th ed. D. Sands 1972). *See, e.g., Posadas v. National City Bank*, 296 U.S. 497 (1935); *United States v. Yuginovich*, 256 U.S. 450 (1922); *Anderson Hotels of Oklahoma v. Baker*, 190 F.2d 741, *cert. denied*, 342 U.S. 869 (1951). *See generally* E. Crawford, *The Construction of Statutes* § 137 (1940); 73 Am. Jur. 2d § 401; 82 C.J.S. §§ 290–91.

[98] By Order of the Chief, Cable Television Bureau, release date March 28, 1979, the time for filing comments in response to this petition (RM–3346) was set at April 6, 1979, with reply comments due April 13, 1979, less than the normal comment periods for this type of petition, in order that the Commission might be able to consider the issues raised by the petition in conjunction with other pending cable television related proceedings.

[99] Turner Communications Corp., in its comments, states that revenues from the publicly held company, not just from WTCG, were $29 million for 1977 and that the 1978 financial report for the company has not yet been published.

108. In support of its viewpoint that the development of superstations is detrimental to the public, NAB asserts that the formation of superstations negates the benefits of locally oriented broadcast service and undermines the Commission's efforts to promote local television broadcast service, the linchpin of the Commission's television frequency allocation policy in the *Sixth Report and Order*.[100]

According to NAB, WTCG has done little to provide more locally oriented programming since setting out to become a superstation and, as evidence thereof, NAB submits information derived from Commission records[101] which allegedly shows the limited amount of local programming on the Atlanta station as compared with other stations, both in the same market and nationally. The other satellite distributed superstations, specifically WGN and KTVU, on the other hand, have maintained their focus on their communities, NAB says. This evidence suggests to NAB that once a station sets out to become a superstation, it apparently loses sight of its local community to the detriment of the Commission's goal of locally oriented television broadcast service and that, in view of the promise of economic rewards, stations selected for nationwide distribution may find it more difficult to maintain a purely local orientation. NAB adds that the Commission further encourages potential superstations to minimize local programming by allowing cable operators to delete local programs under distant signals.[102] NAB therefore argues that "competition" among present and potential superstations shortchanges local viewers who rely on these stations as an additional local voice. In addition, NAB argues that superstations are an unhealthy development because they not only mean a loss of local programming choices but because they effectively remove themselves from the market for local advertising which results not merely in a loss of local advertising channels to the detriment of local advertisers but to the detriment of consumers as well who rely on this advertising.[103]

109. NAB also contends that problems arise for those stations who do not set out to become superstations. NAB alleges that they become hampered in their ability to serve their local communities because program suppliers refuse to sell program product to these stations or decide to withhold their product entirely from these markets. This hurts the other stations serving the market, according to NAB, but, most importantly, the viewing public. To substantiate its claim, NAB points to the withdrawal of broadcast rights to NCAA basketball games featuring area teams to WGN–TV, "obstensibly" in view of its superstation status. NAB claims that, as a result, the station's image as the local sports station was tarnished. Accordingly, NAB believes that superstation status will put stations at a distinct competitive disadvantage vis-a-vis their competitors in the program acquisition marketplace and will weaken their ability to provide programming their communities want. Additionally, NAB states that the combination of cable growth and formation of superstations will increase the reluctance of program suppliers to deal with superstations.

110. NAB states that superstation development is unhealthy for the development of UHF because it encourages new UHF applicants to begin operation in competition with some of the most attractive independent stations in the country which in NAB's opinion is an invitation to struggle and, perhaps, ultimately fail at the expense of local broadcast service. NAB alleges that the economic evidence submitted on its behalf in Docket 21284, which estimates substantial audience losses for local UHF is six independents are imported into the market, already shows that UHF stations are less likely to succeed, much less provide an additional source of local information and quality entertainment programs in the presence of severe cable competition. Removal of the distant signal carriage limitations and continued inaction on the development of superstations by the Commission would, according to NAB, be contrary to Commission efforts to promote locally oriented broadcast service and more and better UHF television service.

111. NAB also claims that superstation development now threatens to injure seriously the program production industry to the detriment of broadcasters, cable operators, their viewers and subscribers and the Commission's commitment to a wider diversity of program options for the public. According to NAB, the television program production industry has already been affected by cable's free ride to broadcast programming under the Commission's rules and the revised Copyright Act and that the situation will become more acute as superstations develop. If signal importation of superstations continues, NAB alleges, the very source for all cable-carried and broadcast programs may be severely threatened. NAB contends that superstations magnify, by geometric proportions, the degree to which program suppliers have lost control over their product. As a result of syndicators not being able to guarantee exclusive presentation rights, syndicators are faced with the difficult choice of foregoing sales to superstations or to markets to which these stations are licensed or losing prospects of selling their program product in those other markets which have already been cable-invaded with the same program and in return receiving miniscule payments under the copyright act, NAB alleges. In particular, superstation development will make it extremely difficult for the syndicator of first-run program product to recoup the costs of production, according to NAB. NAB states that speculation has been supplanted by specific factual evidence of harm and, in support of this proposition, alleges that MCA TV, one of the largest syndicators of motion pictures and television series, has refused to sell anything to station WTCG as reported by *Variety* magazine and others are reportedly bypassing the Atlanta market. Additionally, NAB refers to the denial of NCAA basketball broadcast rights to WGN–TV. According to NAB, the degree of marketplace competition by such cable carriage is not enhanced but is in fact diminished as a result of broadcast markets not sold and individual programs not produced.

112. Having concluded that the public has been already harmed, NAB states that the Commission has the authority and Congressionally mandated duty to equitably allocate use of the broadcast spectrum in such a manner as to insure that local broadcast service is preserved and, pursuant to this responsibility, to anticipate and "plan in advance of foreseeable events"[104] to insure that the

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[100] *Sixth Report and Order in Dockets 8736, 8975, 8976, and 9175*, 41 FCC 148 (1952).

[101] *FCC Television Broadcast Programming Data*, 1973–1977.

[102] *E.g.*, Section 76.61(b)(2) of the Commission's Rules provides in pertinent part as follows: Whenever, pursuant to Subpart F of this part, a community unit is required to delete a television program on an independent signal carried pursuant to this section, or a program on such a signal is primarily of local interest to the distant community (e.g., a local news or public affairs program) such community unit may, consistent with the program exclusivity rules of Subpart F of this part, substitute a program from any other television broadcast station.

[103] NAB also alleges that superstations create problems for national and cooperative advertisers because those advertisements intended to reach only the local market of the station may be considered "highly deceptive" to audiences reached outside the station's normal market.

[104] *United States v. Southwestern Cable Co.*, 392 U.S. 157, 177 (1968).

120. As indicated above, at no point in

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public is not harmed by the development.

113. Broadcast interests generally were in support of the petition.[105] One broadcaster contends that, as an interim measure, the Commission require all satellite carriers of television broadcast signals to obtain prior written consent of the broadcasters whose signals are being distributed. Others assert that the Commission temporarily suspend authorizations for satellite retransmission of television programs to cable systems including those previously granted which are still subject to reconsideration pending resolution of the superstation problem and related matters. In addition, ABC states that the Commission should redirect its resources to reduce the backlog for television station applications, especially those for new UHF and subscription television stations, and to expedite the Commission's inquiry into the roles of television translators and low power television broadcast stations in Docket 78-253 in order to provide for increased conventional over-the-air television service rather than reoccupy itself with dismantling the very carefully-balanced cable regulatory plan. The Association of Maximum Service Telecasters adds, in its comments, that superstations are contrary to the policy underlying the Commission's multiple ownership rules, which seek to promote diversity of viewpoints in communications media. AMST also states that a retransmission consent requirement would not be an efficacious solution to the superstation problem, as others might suggest, because it might not be effective in minimizing the danger of impairing local service and impeding new television broadcast service. Broadcast interests also assert that recent Commission actions such as its decision in *Arlington Telecommunications Corp. d/b/a ARTEC,* 69 FCC 2d 1923 (1976), *recons., denied,* —— FCC 2d —— (1979), *appeal docketed,* Nos. 79-7043, *et al* (9th Cir. January 31, 1979), have increased the need for Commission consideration of superstation problems. Turner Communications Corporation, licensee of television station WTCG, was opposed to the petition.

114. Program supplier interests were generally in support of the petition.[106] For example, Tandem Productions, Inc., in joint comments with Chartwell Communications Group, states that it is in agreement with "all of the premises of the NAB petition" and, in addition, suggests that the expeditions resolution of the superstation problem lies in the imposition of a retransmission consent requirement. Other program supplier interests suggest that the retransmission consent concept might be a suitable solution to this problem because it relies on the marketplace rather than governmental intervention. In addition, MPAA says that the Commission is required to set forth a consistent policy between localism and superstations. Sports interests, such as the National Basketball Association, state that superstation development leads to oversaturation of sports events in many television markets and, as a consequence, dilutes the value of their program product and, accordingly, also urge the Commission to address this matter.

115. Cable interest were opposed to the petition.[107] They state that the Commission has previously addressed the subject of satellite retransmission of television broadcast signals in its *Southern Satellite Systems, Inc., supra,* and *Memorandum Opinion and Order in RM-2952, supra,* and determined that such service would be consistent with the public interest. They emphasize that no new facts have been presented in the petition which justify a change in Commission policy. Jim R. Smith and Company additionally states that the petition is premature because the Commission stated in 1976 in *Southern Satellite Systems, Inc., supra,* at 161, that, in view of its limited regulatory experience with this new type of service, it would limit the satellite authorization to five years and at the end of that time review the authorization "in light of our actual experiences with this form of service." Oceanic Cablevision, Inc., cable operator of systems in Hawaii, says that satellite is the only feasible way it can provide its subscribers with the same program diversity cable systems in other communities of comparable size are able to provide their subscribers. Cape Cod Cablevision Corporation is supportive of the NAB petition to the extent that it would require a general investigation of all signal carriage rules governing cable but suggests an investigation of the entire emerging marketplace for commercial video programming. It is opposed, however, to consolidation of the NAB petition with the Commission's pending proceedings in *Dockets 21284 and 20988.* United Video, Inc., a resale common carrier engaged in satellite distribution of WGN-TV for use by cable systems, says that there has been no demonstration of harm to the public but, instead, a significant increase in the diversity of independent television programming available to cable viewers. It adds that national distribution of a television signal is not contrary to the Commission's overall goal of localism, otherwise the national television networks would be much more restricted in their domination of television programming in this country. Southern Satellites Systems Inc., which is engaged in satellite retransmission of WTCG, states that the issues raised by NAB in its petition are virtually the same as those raised in the *Memorandum Opinion and Order in RM-2952, supra,* and, accordingly, should be rejected for the same reasons stated in that case in which the petitioner failed to support its allegations of impact on local broadcast service, interference with the policy of localism and reduction in available television programming.

116. In *Southern Satellite Systems, Inc.,* 62 FCC 2d 153, 159 (1976), we granted the first application for authority to engage in satellite distribution of a television broadcast signal to cable television systems and other entities throughout the United States. We described this application as "an innovative combination of new technology and established practices." *Id.* In that decision, we pointed out several benefits which we envisioned this new service would provide: (1) a more efficient utilization of high capacity domestic satellite facilities by carriers with a special expertise in certain communications submarkets; (2) an increase in the diversity of cable television programming available to the public; and (3) the availability of a service that cannot be efficiently or economically provided by terrestrial

[105] Broadcast interest filing comments and/or reply comments included the Association of Maximum Service Telecasters, Turner Farror, Inc., WBNS-TV, Inc., and Video Indiana, Inc., American Broadcasting Companies, Inc., Television Broadcast Licensees (KDTV *et al.*), Rustcraft Broadcasting Company, Springfield Television Corporation, Metromedia, Inc., Turner Communications Corp. and WGN Continental Broadcasting Co.

[106] Program supplier interests filing comments and/or reply comments included Tandem Productions, Inc. and Chartwell Communications Group, National Association of Independent Television Producers and Distributors, Commissioner of Baseball, National Hockey League, National Basketball Association, National Football League, Madison Square Garden Center, Inc. and the Motion Picture Association of America, Inc.

[107] Cable interest filing comments and/or reply comments included Cape Cod Cablevision, National Cable Television Association and Community Antenna Television Association, Jim R. Smith & Co., Inc., and Oceanic Cablevision, Inc. In addition, opposition comments or reply comments were filed by Southern Satellite Systems, Inc., Visions, Ltd., United Video, Inc.

means.[108] Since that decision we have subsequently received and approved other applications for this type of service.[109]

117. We have been asked to review once again our policy approving satellite dissemination of broadcast signals on the basis that establishment of this service may prove inimical to local broadcast service to the public interest. Only last year, we considered a petition for rulemaking similar to the present one which urged us "to determine whether restrictions should be placed upon the dissemination of broadcast signals to cable systems via satellites." *Memorandum Opinion and Order in RM-2952,* 66 FCC 2d (1976). We declined to take action unless it could be established that (1) superstations are being created and (2) their creation is harmful to the public.[110] We stated that "the burden of proof lies on those who would restrict service to the public." *Id.* at 59. We concluded that "[n]othing unforeseen has happened since that decision and that no new facts have been presented."

Id. We also indicated that the petition was "premature" in view of the fact that the authorization granted to Southern Satellite Systems, Inc. was for a five year period at the end of which we would review it "for the express purpose of re-evaluating this form of service in light of our experience at that time." *Id.* That five year period has not yet expired.

118. We have carefully considered the arguments contained in the petition herein and the supporting comments and have concluded that no new evidence has been presented to show that the public has been injured that would justify a departure from our decision in *Memorandum Opinion and Order in RM-2952, supra,* less than a year ago. We have examined extensively the impact of distant signal carriage on broadcasters' ability to serve the public in the *Economic Inquiry* Report. We have concluded that complete removal of the distant signal carriage rules will not cause significant risk of loss or broadcast service to non-cable viewers. This conclusion applies to the importation of programming of the current signals distributed by satellite as well as the programming of other stations' signals that may be distributed by satellite to cable systems in the foreseeable future.

119. Our analysis of the economics of the programming marketplace leads us to believe that superstations will not be able to compete effectively with the national networks in purchasing the programming which is most appealing to large audiences. Therefore, we do not expect that the growth of superstations will alter the impact on local broadcasters' audiences estimated in the *Economic Inquiry Report.* For example, in Section II of that report, we found that no more than approximately 48 percent of the television homes in the nation will subscribe to cable television in the foreseeable future, even in the unlikely occurrence that every home is passed by cable. Accordingly, given that each network will have a much larger audience base than any superstation, the networks will continue to purchase programming which more effectively attracts mass audiences. For example, even assuming that superstations will attract equal audiences as the networks in cable homes, that 48 percent of the homes in the nation will subscribe to cable, that there will be only five superstations, and that each of these stations will have acess to every cable household in the nation, each superstation will still have only about one-fourth the audience base of a national network.[111] Once again, it is clear that the superstations will not be able to bid effectively against the networks for programming and thus will attract smaller audiences. While cable carriage of independent stations may marginally improve the quality of their programming, we do not believe that it will cause additional significant impact on local stations' ability to serve the public interest or, more specifically, on their ability to provide locally oriented programming to their local viewing audiences, a primary concern articulated in the NAB petition.

120. As indicated above, at no point in the foreseeable future will superstations be able to compete as effectively as the networks for television programming. Moreover, the evidence indicates that not all superstations will be as effective in competing with the networks for audience as certain of the large market independents. These large market independents reach a larger number of homes than the entire current potential audience of the most widely-discussed of the superstations (WTCG, Atlanta). For example, WNEW-TV, New York, has a net weekly circulation [112] of 5,880,500 households whereas WTCG is said to reach approximately 3,000,000 cable homes [113] in addition to having a net weekly circulation of 686,900 households in its local market.[114]

121. We also do not believe that satellite distribution of a station's signal on a regional or national basis necessarily compels the conclusion that it will lead to a decrease in locally oriented programming on that station or in the station's market to the detriment of the viewing public. There are ample regulatory measures to guard against such occurrences, if they do in fact occur. As we pointed out in *Memorandum Opinion and Order in RM-2952,* "a station being distributed via satellite is still required to ascertain the needs and interests of its local community and to program to meet these needs." [115] Our license renewal process, which scrutinizes a broadcast licensee's performance once every three years, also provides an opportunity for citizens to determine whether the station licensee has shunted its public interest obligation to serve the needs and interests of its community of license and to express their concerns in this regard to the Commission. The risk which a station takes if it abdicates its public trustee responsibility to its community of license is a substantial one. We tend to doubt that television

[108] *Id.* at 159-160. Commissioner Washburn, in a separate statement, added: Today, we have made a unique and historic decision permitting Southern Satellite Systems, Inc. to serve as a common carrier to disseminate broadcast signals to cable systems via satellite. It could turn out to be the first step on the road to a fourth network. This decision, coupled with our action of yesterday authorizing small earth station receive-only antennae, represents very significant progress toward fulfillment of our commitment to deliver the benefits of satellite technology to the public. [footnotes omitted) 63 FCC 2d at 163.

[109] *See United Video, Inc.,* FCC 78-766, —— FCC 2d —— (1978), *recons. pending.*

[110] *See also Report and Order in Docket 20487,* 57 FCC 2d 625, 645 (1975).

[111] That is, assuming that each of five superstations and that each of the three networks receive equal audiences in the cable households (i.e., 48 percent of all television households), the potential audience for each is 8 percent of the nation's homes. Of the remaining 52 percent of the nation's homes which do not subscribe to cable, each network will have access to what accounts for approximately 17 percent of the potential audience in the nation. The combination of these percentages leaves each network with 23 percent of the potential viewing, while each superstation has access to only 6 percent of the potential viewing in the nation.

[112] Net weekly circulation is the number of different television households viewing a station at least once per week.

[113] NAB Petition for Rulemaking [RM-3346], p. 9.

[114] Net weekly circulation data derived from *Television Factbook, Stations Volume,* 1978 Ed.

[115] *Id.* at 58. [footnote omitted). *See also Primer on Ascertainment of Community Problems by Broadcast Applicants,* 27 FCC 2d 650 (1971) and *First Report and Order in Docket 19715,* 57 FCC 2d 418 (1976) concerning television broadcast station licensee responsibilities to serve their communities. A station licensee's obligation to provide service in meeting viewer needs, interests, and preferences is not confined or limited to the presentation of local programming. For example, in *Programming Policy Report,* 20 R.R. 1901, 1914 (1960), we recognized programming provided by "chains" of stations and then by networks "as of great value to the station licensee in providing a well-rounded community service."

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station licensees will take lightly their responsibilities in this area whether they are network affiliated or their signals are distributed by satellite.[116] While NAB appears to be satisfied with the local service provided by stations WGN–TV and KTVU, whose signals are presently being distributed by satellite to cable systems, it appears to be less than satisfied with the performance of WTCG.[117] We believe, however, that the license renewal process is the appropriate forum in which to determine whether that station licensee's performance meets our public interest standards for broadcast licensees rather than a proceeding such as this. In sum, we believe that the risk of a diminution of local programming on satellite distributed signals is speculative at best.

122. We also find that NAB or the supporting comments have not demonstrated that stations whose signals are distributed by satellite are placed at a distinct competitive disadvantage vis-a-vis their competitors in the program acquisition marketplace and thus will be hampered in their ability to serve their local community. Although the instant petition claims that one syndicator has refused to sell its program product to station WTCG and that other program syndicators are allegedly considering similar action including by-passing the Atlanta market completely, this hardly constitutes proof that superstations will be impeded in their efforts to provide programming their viewing audiences want. Nor do we consider this information as evidence that injury to the public has in fact occurred upon which to base a decision on whether regulatory action is needed. The only concrete evidence provided in the petition is a reference to a single instance of a program supplier withdrawing broadcast rights for NCAA basketball games to WGN–TV. On this score, NAB notes that the broadcast rights to this programming was obtained by one of the station's competitors. Moreover, we have not been presented with any evidence from the station licensees of WGN–TV or WTCG that they have encountered problems in obtaining programming to serve their local communities.[118]

123. We also seriously doubt that program suppliers will decline to offer their products for sale in those television markets where superstations are licensed to the detriment of other market stations and the viewing public especially in view of the fact that stations subject to satellite delivery are usually located in the larger markets where substantial revenues are derived by program suppliers. Even if some program suppliers permanently withdraw their products from these markets, about which we are highly skeptical, their action would merely open the door for other syndicators to fill the void. It is also unlikely that the ability of these stations to provide locally oriented programming will be impaired.

124. While the petition and the supporting comments allege that satellite distribution of broadcast signals threatens to adversely affect the program production industry to the detriment of viewers, both off-the-air and cable subscribers, we have been presented with no evidence to that effect. Although program suppliers' control over the distribution of their program product is reduced by cable distant signal carriage, a phenomenon applicable to the distribution of television broadcast signals by terrestrial microwave facilities as well as by satellite retransmission, they are compensated in some measures for the effects of such carriage on the marketability and value of their programs under the Copyright Law Revision. Further, as pointed out in the *Syndicated Exclusivity Report*, it is not inconceivable that the total payments to program producers may remain unchanged, or may even increase, as a result of distant signal carriage on cable. In short, no evidence has been submitted to show that the television program production industry has suffered or will suffer adverse affects in the foreseeable future from satellite distribution of television signals.

125. In sum, we conclude that NAB and its supporting commenters have not demonstrated that the creation of superstations is inimical to the public. On the contrary, our experience to date indicates that consumers are being benefited by this new type of service. As pointed out by Oceanic Cablevision, Inc. as well as others filing comments in this proceeding, satellite dissemination of broadcast signals is making available to consumers of video services programming not otherwise being offered by local television stations in many instances and not capable of being delivered economically and efficiently to them by other means. The number of consumers already being reached by this service indicates the existence of a strong demand for additional television programming options by consumers which has only been partially met. We believe new video opportunities such as those presented by satellite technology may prove partially responsible to some of consumers' demands.[119] Accordingly, we should be extremely hesitant to halt developments such as the one we are asked to review here unless it can be clearly shown that the detriments to the public resulting from this particular use of satellite technology outweigh the benefits to be derived by consumers. In this case, it has not been shown that the development of superstations has produced any injury to local television broadcasters or, more specifically, to the public they are obligated to serve.

Conclusions

126. We have before us a wealth of information and analysis from our *Syndicated Exclusivity* and *Economic Inquiry* reports. We have, in addition, given careful consideration to the rulemaking petitions of the National Telecommunications and Information Administration and the National Association of Broadcasters and the comments filed in response thereto. We are now persuaded that the cable television distant signal and syndicated exclusivity rules can be deleted without undue risks and that the public will benefit by this action. We are, accordingly, issuing this *Notice of Proposed Rule Making* seeking comment on the proposed elimination of these rules.

127. Parties commenting in this proceeding will have a full opportunity to subject to detailed examination all of the policy criteria, information, and economic analysis relied on. Particularly for those who would have us continue regulatory restrictions, it should be clear that such regulations cannot stand unless the need therefore has been documented. *See Home Box Office v. FCC*, 567 F.2d 9 (D.C. Cir. 1977) cert. denied, 434 U.S. 829 (1977). We would accordingly urge that all commenting parties address themselves to supplying the evidence on which an informed decision can be made. This is of particular importance with respect to those issues where relevant information is uniquely in the possession of the commenting parties.

[116] *See* para. 34 n. 35, *supra*, which indicates a national average of 9.2% for local programs from sign-on to sign-off for television broadcast licensee. The 8.1% figure for WTCG, Atlanta, compares favorably with those of a number of non-UHF non-independent television station licensees who submitted comments. *See FCC Television Broadcast Programming Data*, 1977.

[117] Indeed, there is some basis for believing that on average the more successful a licensee, the more inclined to engage in local and merit programming. *Syndicated Exclusivity Report*, *supra*, para. 43.

[118] Although Metromedia, Inc., licensee of television broadcast station KTTV, Los Angeles, California, alleges that some program distributors intend to re-negotiate the terms of that station's program licenses and that others have insisted upon the right to terminate program licenses if the station's signal is distributed by satellite, it would be speculative to consider restrictions on satellite delivery of broadcast signals on this basis particularly in the absence of substantial concrete evidence that stations presently being distributed by satellite have encountered similar difficulties to the detriment of the public. Moreover, it should be clear that we do not regard "freezing existing economic arrangements" in the licensing of program exhibitions as indisputably in the public interest. *Cf. Teleprompter v. CBS*, *supra*, 415 U.S. at 414 n.15.

[119] *See Economic Inquiry Report*, *supra*, para. 65.

Orders, Authority, and Comment Filing Procedures

128. Accordingly, it is ordered, That the petitions for rulemaking filed by the National Cable Television Association (RM–2721 and RM–2919) and the motion of consolidation filed by the National Association of Broadcasters are granted to the extent indicated above and are otherwise denied.

129. *It is further ordered*, That the petitions for rulemaking filed by the National Telecommunications and Information Administration (RM–3324) and the Natonal Association of Broadcasters (RM–3346) are denied.

130. Authority for the rulemaking proposed herein is contained in Sections 1, 2, 3, 4(i) and (j), 301, 303, 307, 308, 309 and 403 of the Communications Act of 1934, as amended.

131. All interested persons are invited to file written comments on or before July 17, 1979 and reply comments on or before August 16, 1979.

132. In accordance with the provisions of Section 1.419 of the Commission's Rules and Regulations, an original and 5 copies of all comments, reply comments, pleadings, briefs, or other documents shall be furnished the Commission. Participants filing the required copies who also wish each Commissioner to have a personal copy of the comments may file an additional 6 copies. Members of the general public who wish to express their interest by participanting informally in the rule making proceeding may do so by submitting one copy of the comments, without regard to form, provided only that the Docket Number is specified in the heading. Responses will be available for public inspection during regular business hours in the Commission's Docket Reference Room at its Headquarters, 1919 M Street NW., Washington, D.C. Further information on the procedures to be followed or on the status of this proceeding may be obtained from Stephen Bailey or William Johnson, Cable Television Bureau, Federal Communications Commission, 202–632–6468.

Federal Communications Commission.*

William J. Tricarico,
Secretary.

Separate Statement of Chairman Charles D. Ferris

Cable Television/Broadcasting Economic Inquiry (Docket 21284), Inquiry Into Cable Television Syndicated Program Exclusivity Rules (Docket 20988), and Notice of Proposed Rulemaking on Cable Television Syndicated Exclusivity and Signal Carriage Rules (Dockets 20988 and 21284)

April 25, 1979.

Today's action by the Commission marks a milestone for the FCC not only in its policy decision making in the broadcast/cable area in particular, but in its processes generally, I regard it as a watershed.

The FCC has been moving toward the zero-based analysis of all its regulatory programs. In this case, that analysis clearly indicated that the signal carriage and syndicated exclusivity rules contribute little if anything to helping viewers of over-the-air television while substantially penalizing subscribers to cable services.

But perhaps most significantly in terms of the Commission's process, the Reports establish a full economic predicate upon which the recommendations in the Notice of Proposed Rulemaking can be and are solidly based. The Commission can now confidently move in a deregulatory direction, designed to serve the American consumer, because a thorough economic analysis has been applied as part of our mandate to serve the public interest.

While our minds are not closed to new data or arguments, those who would have us retain this regulation carry a heavy burden to reverse the weight of the evidence in the Reports. All parties have already had ample opportunity for close to two years to supply contrary data.

The documents adopted today make it emphatic that the Commission's concern is for the welfare of the consumer. The FCC has an obligation to maximize the well being of the public. Sometimes we do this by adopting affirmative rules, and in other cases by removing rules that impede consumer choice as offered by a free marketplace.

In some cases, however, we recognize a change in our rules may help more people than it may harm, but the people who may be hurt are severely hurt. Therefore, we have considered distributional equity—who will be hurt or helped—inreaching our intial conclusions.

Commission staff, contract researchers, and commenters have drawn upon previous academic research and an unusually large body of factual evidence to prepare extensive and complementary economic analyses. To a degree not frequently experienced in social public policy matters, the findings consistently conclude that the risk of harm to any element of the public from deletion of our distant signal carriage and syndicated exclusivity rules is not significant.

Finally, the Commission recognized that some factors which are important to us may not be fully explored in the above two tests. Often raised as an example of such a social external benefit is local, public affairs programming. We have thoroughly examined whether such "merit" programming would be harmed if restrictions on cable are eliminated. Again, the evidence supports the conclusion that the rules are not warranted on the basis of such concerns.

During my year and a half here, I have attempted to increase the role of economic analysis at the Commission. I think this increase is necessary to correct an underweighting in the past. We are, after all, an eocnomic regulatory agency.

Today's items demonstrate the value of economic reasoning in aiding our processes. I believe that decisions on major issues in our other Bureaus can benefit no less from the application of economic analysis.

An economic perspective contributes in at least two important ways in determining where the public interest lies. First, it focuses our attention on the public—the consumer or the user of the goods and services offered by the entities we regulate.

I am often dismayed by what appears to be a confusion of the public interest with the self interests of one or more of the private parties participating in Commission actions. I appreciate the reasons for this, but I do not believe that the interest of the public can be always presumed to be identified necessarily with any of the industries we regulate. I am hopeful that greater use of economic analysis will enable the Commission to make our public interest findings with greater accuracy and impartiality.

Second, economics forces us to look at secondary and indirect consequences of our actions in addition to the direct effects. We all recognize the complexity of communications issues, but I fear that lack of the appropriate tools may have sometimes led the FCC to consider only the direct, easily discernible effects of its actions and fail to appreciate their more distant and subtle ramifications. Economics provides one tool to help us correct this deficiency.

The issues we voted on today exhibit another more general phenomenon with respect to matters coming before the Commission. To an increasing extent, major policy questions are arising because of advancing technology. Regulated industries often seem to perfer the familiarity of the status quo to the uncertainty of a dynamic marketplace. They frequently beseech the FCC—as they do other government entities—to referee between competing technologies. My own thinking convinces me that this is an inappropriate and futile role for us to fill.

I believe that the inherent process of technological advance is closely intertwined with benefit to the public. Such advances historically have led to lower prices, greater diversity, or increased innovation.

Certainly changes in technology will continue to have profound influence on the areas of Commission involvement. But I think

* See Separate Statement of Chairman Perris, Dissenting Statement of Commissioner Lee, Separate Statement of Commissioners Quello and Washburn, Separate Statement of Commissioner Fogarty, Concurring Statement of Commissioner Washburn and Separate Statement of Commiasioner Brown below.

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we must exercise caution in seeking to respond in automatic regulatory modes.

First, by impeding technology or by arbitrating between competing technologies, we may disserve the public by depriving it of alternatives that would otherwise be available. Second, as technological progress develops, efforts on our part to restrict different modes will become increasingly futile.

To a large extent, our regulation of cable has been an example of this. That is, we have attempted to put our finger in one hole of a dike which is looking more and more like a seive, as over the air pay TV, video cassettes and discs, teletext an viewdata are all beginning to offer more video diversity.

In the Economic Inquiry Report, staff analyses of "worst cases" and other specific stations/markets indicate that television revenues and income have at least kept pace with inflation. I think it is important to remind ourselves that our ultimate concern is with service to the public, not with broadcaster profits. Although the evidence points to continued financial success for broadcasters, it seems unlikely that even reduced profits of a level predicted as even remotely possible in the Economic Inquiry would drive television stations off the air.

Rates of return in television broadcasting are far above average. Allowing market in which broadcasting operates to become more competitive may very well reduce the profit or selling price of stations somewhat. But our reports show that service to the public will not be harmed.

In the formulation and evolution of its cable television rules, the Commission has moved with an abundance of caution. Securing the public interest is a serious charge and now that must be exercised with care. Nevertheless, our own actions have favored the status quo and may have impeded the implementation of new technology.

I hope that the items adopted today demonstrate that this Commission has recognized that the markets in which our regulatees operate is a dynamic one, that innovation in technology makes possible new services for the public to choose among and also causes change to existing participants in those markets, and that this change does not necessarily serve as a basis for protectionist regulation. It may be cause for the Commission to take a "wait and see" attitude with respect to how the public is faring. But we will not go leaping into markets just because they are changing.

Dissenting Statement of Commissioner Robert E. Lee in re: Notice of Proposed Rulemaking on Cable Television Syndicated Exclusivity and Signal Carriage Rules (Dockets 20988 and 21284)

Act in Haste, Repent at Leisure

The underpinnings of the Commission's action today looking toward substantial deregulation of cable are two economic studies prepared by a distinguished group of outside experts aided and abetted by our able staff. The studies seem to conclude that there will be no substantial impact on TV if cable is deregulated. I am in no position to dispute this analysis which seems to have substantial endorsement within the staff. There may be, however, other experts on the outside who could reach a different conclusion. It seems to me that when you are projecting the future, there is a great deal of subjective judgment in the ultimate conclusion.

In spite of the tone of certainty in this Notice, there are a lot of assumptions which underlie the conclusions of the two studies. One assumption is that the program market we know little about will stay healthy. Another is that everyone can adequately adjust to changes in competition and that the result will be in the public interest.

These assumptions may be too glib, however, because there is a serious problem, which affects competitive responses in the marketplace: All the players do not play under the same rules. The present copyright arrangement does not provide for a competitive marketplace.

We have been living with this problem for several years. However, with the development of so-called "superstations," this problem may become more serious. We don't know enough today to judge this.

As a regulator with statutory responsiblity for the public interest, I cannot pass this off as someone else's problem. It is mine.

When the Commission proposes to set in motion major changes in markets, it has the responsibility to be as sure as it can that the competitive marketplace it relies on is able to function competitively. If it cannot, the Commission has the responsibility to fashion appropriate regulations to compensate for impediments to fair competition.

Rather than leap to a rulemaking proposal so heavily weighted toward one result, I would like to have public comment on the two studies. I would like to test the assumptions of the reports. I would like to know whether those competing in the marketplace think the competitive markets will function as described. I would like to know whether I as a regulator should referee adjustments to changes in the marketplace for any period of time and, if I should, how I should do it. Maybe the answer is retransmission consent, although I have serious reservations about this regulatory device. Maybe it is something else. I would like to stimulate thought, at this stage, not cut it off.

I would also like to know how this complete elimination of distant signal and syndicated exclusivity rules will affect broadcasting on UHF channels. I hope we are not creating still another obstacle to UHF development which is finally recovering from the error we made twenty-seven years ago of intermixing the allocations table.

I dissent.

Separate Statement of FCC Commissioners James H. Quello and Abbott Washburn

Re: NTIA Petition for Retransmission Consent

We are concerned by the action of the Commission dismissing the NTIA Petition for Retransmission Consent.

There were substantial differences of opinion among Commissioners and valid arguments advanced for seeking comments on this open question from all affected parties, the public and from diverse legal experts.

We believe that the Copyright Revision Act does not bar FCC judgments on communications policy to address new problems or issues.

We believe FCC not only has the jurisdiction but the responsibility of establishing and updating policy to deal with new major developments that pose a potential of gross inequities or an ultimate threat to an established, orderly, allocations system.

In view of the broad nature of this proceeding, the Commission decided to provide an opportunity for interested parties and the public to file comments and viewpoints on the legality and desirability of requesting retransmission consent for cable operations and related matters. We look forward to carefully reviewing comments so that we will have the benefit of diverse and expert viewpoints before making a final decision in the public interest.

Separate Statement of Commissioner Joseph R. Fogarty

In re: Report on the Inquiry into the Economic Relationship Between Television Broadcasting and Cable Television—Docket 21284; Report on the Inquiry into the Coble Television Syndicated Program Exclusivity Rules—Docket 20988; and Notice of Proposed Rulemaking on Cable Television Syndicated Exclusivity and Signal Carriage Rules—Docket 20988 and 21284.

By these actions, the Commission begins to remedy a serious mistake of regulatory judgment. With the adoption of the 1972 cable rules, the Commission embarked on a policy of attempting to "integrate" cable television into the over-the-air broadcasting status quo. It did so ostensibly in the interest of preserving the "localism" principle of our broadcast allocation and assignment policies and according to an intuitive notion of the public interest. The Commission's regulation of cable's carriage of distant signals has thus been premised on preventing diversion of local broadcasters' audience in order to prevent diminution of their revenues and in turn their ability to serve the public. In effect, this policy and regulation assumed harm to the public interest before it materialized and placed a heavy burden of proof on new technology and additional services to show that they would not injure the status quo.

The evidence adduced in these Inquiries clearly demonstrates that this regulatory approach and policy has been misguided from the standpoint of economic reality, consumer welfare, and the larger public interest. As the Inquiry Reports make plain, something more than mere conjecture or intuitive assumptions should be required before we impose regulatory constraints and burdens on one industry or technology in favor of another. In an era of explosive technological innovation, the public interest is better served by regulatory deference to the marketplace and competitive forces until experience, rather than speculation, demonstrates the existence of problems or inadequacies. With these actions, the burden of proof is now where it properly belongs: on those seeking protection against competition, diversity, and innovation.

It is fitting and proper to acknowledge two significant contributions to this process. The Court of Appeals for the District of Columbia Circuit has provided principled direction to our re-examination of the cable rules with the admonition that " '* * * regulation perfectly reasonable and appropriate in the face of a given problem is highly capricious if that problem does not exist.' "[1] The House Communications Subcommittee Staff Report on cable television[2] has provided a similar stimulus for our reevaluation of the legal, economic, and social premises and effects of our cable regulation. Finally, however, it is to the credit of the Commission as a responsible institution of Government that it has undertaken this candid and forthright reassessment and has proposed the reversal of policy that now is so clearly warranted by the record and mandated by the public interest.

Concurring Statement of Commissioner Abbott Washburn

Syndicated Exclusivity Portion of Cable-TV Deregulation Rulemaking

Adopted: April 25, 1979.

With today's rulemaking, the Commission continues on the cable-TV deregulatory course set in 1974. In that year we repealed parts of the mandatory origination requirement.[1] In 1975 we began to review our access requirements which led to their revision.[2] In 1976 we deleted the "leap-frogging" restrictions.[3] And in 1977 we initiated the present proceedings. As the Report on the Inquiry into the Economic Relationship between Television Broadcasting and Cable Television points out (pages 31–33), we have steadily eliminated restrictions in the signal carriage and exclusivity rules.

Syndicated Exclusivity

I voted today to seek comments on the complete deletion of the syndicated exclusivity rules because, as now written, these rules are excessively complicated and exceedingly difficult to comply with in daily operations. However, I am not yet persuaded that the philosophy behind these rules should be scrapped entirely. For that reason I am concurring on this portion of the action.

My concern stems in part from the lack of attention and study given to the impact which removing these rules could have on potential new UHF stations. How discouraging would be the presence of other channels in the market with the same program? Would discarding exclusivity tend to make putting a new independent commercial UHF station on the air a predestined failure?

Would a group of citizens in a community without an educational TV station be less willing to undertake establishing a UHF ETV if the local cable system were bringing in two or more ETVs from other points?

These questions, I hope, will be addressed in the comments. If by the deletion of these rules we would be contributing to the slowing down of UHF development, then the Commission would have to give serious consideration to modifying the final result of today's rulemaking proposal. We would need to balance our interest in increased program diversity against our longstanding commitment to the development of UHF.

I hope, also, that the comments will provide more factual data on the impact of the deletion of these rules on existing UHF stations, including marginal stations, both in small markets and in urban markets.

UHF provides the only avenue to expand television broadcasting outlets in this country. We are working hard to bring UHF up to technical comparability with VHF. If deletion of these rules would result in hindering UHF's progress even to a small degree, the Commission must take the final action with its eyes open and with as many facts as possible before it.

It is possible that, at the end of this rulemaking and in light of further evidence and analysis, the Commission may wish to consider a much simplified set of syndicated exclusivity rules. We could, for example, limit program deletion to times when both the local and distant programs are presented in prime time or both are presented in non-prime time hours. That is, we could limit syndicated exclusivity to the same "day-part."

Retransmission Consent

Though it turned down the NTIA petition, a majority of the Commission voted to ask for comment on "all aspects of retransmission consent. . . . preretransmission notification and any other way to allow the market process to work with the least amount of intervention" (para. 82). I urged the inclusion of this language in this rulemaking because so little is now known, under present conditions of superstations and satellite transmission, about how retransmission consent might serve to bring the various "players" equitably into the program-rights marketplace. The players—i.e., cable system operators, TV broadcasters, program producers, copyright owners, superstation operators, and satellite carriers—are not now, as we know, on an equal footing in that market.

We say, in this rulemaking, that we want to "encourage marketplace solutions in lieu of government regulation" (para. 82). We will need, therefore, from all interested parties and the public, the fullest possible response to our request for "details on how it [retransmission consent] might work" (para. 82). Questions requiring answers include:

Does the Commission have jurisdiction to adopt a retransmission consent rule? Is there a communications need which would be served by such a rule? Have circumstances markedly changed since last we considered such a proposal (1968–1972)? If so, with what new consequences? To which markets would the rule apply? Should we grandfather pre-existing systems? Should we provide for exemptions? What effect would such a rule have on the supply and distribution of programming, on cable systems, on broadcast licensees? Would such a rule serve the public interest?

Superstations' Impact on Marketploce

In our action in 1976 we explicitly limited to five years the authorization of Southern Satellite Systems, the satellite carrier of superstation WTCG, Atlanta.[4] The comments in response to today's rulemaking may lead us to reexamine the superstation question prior to the 1981 expiration of Southern Satellite's authorization. Therefore all comments on how the advent of superstations has impacted on, or is likely to change, the program marketplace are very pertinent.

Separate Statement of Commissioner Tyrone Brown

Re: Cable Television and Broadcasting Economic Inquiry, Inquiry Into Cable Television Syndicated Program Exclusivity Rules, and Notice of Proposed Rulemaking on Coble Television Syndicated Exclusivity and Signal Carriage Rules

Over two year ago, the Commission began an economic inquiry to determine if an economic justification for our cable signal carriage rules existed. Analysis in the resulting *Reports* suggests that our rules cannot be so justified. Thus, I join the Commission's decision to undertake this rulemaking.

The Notice of Proposed Rulemaking indicates (p.—) that the Commission is inclined to reject the retransmission consent proposal of the National Telecommunications and Information Administration (NTIA) in part because of the Commission's prior experience with a retransmission consent approach. In my judgment, our past experience with retransmission consent was too insubstantial, and occurred under market conditions too different from those which now prevail, for us to give that experience significant weight. A brief restatement of the extent of the Commission's entire experience with the retransmission consent proposal is instructive.

In 1968 the Commission issued a Notice of Proposed Rulemaking[1] proposing to remove all restrictions on the carriage of distant signals for which cable systems had obtained the consent of the originating station.[2] It was during the pendency of this rulemaking that we first expressed a willingness to experiment with the retransmission consent proposal. Two experiments subsequently were authorized.

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[1] *Home Box Office v. FCC*, 567 F.2d 9, 36 (D.C. Cir. 1977), *cert. denied*, 434 U.S. 829 (1977), *quoting City of Chicago v. FPC*, 458 F.2d 731, 742 (D.C. Cir. 1971), *cert. denied*, 405 U.S. 1074 (1972).

[2] Staff of Subcomm. on Communications of House Comm. on Interstate and Foreign Commerce, Cable Television: Promise Versus Regulatory Performance (1976) (Subcomm. Print).

[1] *Report and Order in Docket 19996*, 49 F.C.C. 2d 1090 (1974).

[2] *Report and Order in Docket 20508*, 59 F.C.C. 2d 294 (1976).

[3] *Report and Order in Docket 20487*, 57 F.C.C. 2d 625 (1976).

[4] *Southern Satellite Systems, Inc.*, 62 F.C.C. 2d 153 (1976).

[1] 33 F.R. 17855 (1968).

[2] Such consent was required on a program-by-program basis.

In Top Vision Cable Company[1] we

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modified slightly to conform with the proposed regulations.

drawn from a point on the southern coast of Massachusetts extending due

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In *Top Vision Cable Company,*[3] we authorized the Owensboro, Kentucky system to conduct a six-month experiment. During its experiment, some stations, two networks, and a number of program owners and music licensors refused conent. However, consent for some programs was obtained. Similarly, in *Tri-Cities Cable TV, Inc.,*[4] another six-month experiment was authorized for the Petersburg, Virginia system to carry WYAH–TV, Portsmouth, Virginia. That experiment was terminated before completion because WYAH–TV increased its power, thereby placing a predicted Grade B contour over the cable community.[5] WYAH–TV thus became a local signal and could thereafter be carried without retransmission consent.

The above suggests to me that the Commission's "experience" with retransmission consent proposals is very limited. Moreover, a new phenomenon, the "superstations", which actively seek carriage on distant cable systems, did not exist in 1968–1970. Thus, I would not reject NTIA's proposal based on past experience. Rather, I am inclined to reject retransmission consent because, as a matter of communications policy, there is no justification for it in the light of the finding in the *Reports* issued today that deletion of our distant signal carriage and syndicated rules is unlikely to have a significant impact on the ability of television licenses to serve the public interest in their broadcast of informational and entertainment programming.

[Docket Nos. 20988, RM–2721; 21284, RM–2919, RM–3324, RM–3346; FCC 79–243]
[FR Doc. 79–14971 Filed 5–14–79; 8:45 am]

BILLING CODE: 6712–01–M

DEPARTMENT OF COMMERCE

National Oceanic and Atmospheric Administration

[50 CFR Part 285]

Atlantic Bluefin Tuna; Proposed Regulations

AGENCY: National Oceanic and Atmospheric Administration/ Commerce.

ACTION: Proposed Regulations

SUMMARY: These regulations would amend the present Atlantic bluefin tuna regulations by: (1) Decreasing the purse seine quota of school tuna from 1,000 short tons (st) to 650 st; (2) increasing the purse seine quota for giant tuna from 180 st to 300 st; (3) increasing the giant quota for the handgear fishery from 2,250 fish to 1,218 st (approximately 3,240 fish); (4) establishing vessel categories for full and part time vessels and charter boats for the handgear fishery in the Northern Area for which fishermen would apply; (5) dividing the handgear quota of giants for the Northern Area (1,128 st) among these categories based upon their historical participation in the fishery, i.e., 684 fish (full-time vessels) 342 fish (part-time vessels) and 102 fish (charter boats); (6) setting different catch rates for the various categories to reflect the differences in their operations, i.e., five fish per week per full-time vessel, two per week per part-time vessel, and one per day per charter boat; (7) requiring all dealers in Atlantic bluefin tuna to obtain licenses; and (8) allowing anglers to take more than one young school tuna as part of their daily catch limit.

The regulations have also been reworded for clarity, and the prohibitions and penalities sections have been expanded to refer specifically to the substantive requirements of the regulations.

DATES: Comments are invited until June 4, 1979. Public hearings will be held at the times and places announced.

May 21, 1979—Portsmouth, New Hampshire.
May 22, 1979—Plymouth, Massachusetts.
May 23, 1979—Plainview, New York.

ADDRESSES: Written comments may be sent to Dr. Robert H. Hanks, Acting Regional Director, Northeast Region, National Marine Fisheries Service, Federal Building, 14 Elm Street, Gloucester, Massachusetts 01930.

Public hearings will be held at the following times and locations:

May 21, 1979, 7 p.m.–9 p.m.—Holiday Inn, 300 Woodbury Avenue, Portsmouth, New Hampshire 03801, (603) 431–8000.
May 22, 1979, 7 p.m.–9 p.m.—Governor Carver Motor Inn, 25 Summer Street, Plymouth, Massachusetts 02360, (617) 746–7100.
May 23, 1979, 7 p.m.–9 p.m.—Holiday Inn, Sunnyside Boulevard, Plainview, New York 11803, (516) 433–7400.

FOR FURTHER INFORMATION CONTACT: Dr. Robert H. Hanks, Phone: (617) 291–3600.

SUPPLEMENTARY INFORMATION: On March 21, 1969, the International Convention for the Conservation of Atlantic Tunas (the Convention, 20 UST 2887; TIAS 6767) entered into force. The United States as a party to that Convention implemented its obligations thereunder by enacting the Atlantic Tunas Convention Act of 1975 (the Act, 16 U.S.C. Sections 971–971h.)

The Act, among other things, directs the Secretary of Commerce to promulgate regulations which implement recommendations adopted by the Commission established under the provisions of the Convention. Those recommendations implemented by the regulations are as follows:

(1) To prohibit any taking and landing of bluefin tuna weighing less than 6.4 kg. (14 pounds) except for a 15 percent incidental catch allowance;

(2) To limit fishing mortality to recent levels.

In view of the varying mortality rates for different classes of Atlantic bluefin tuna, the regulations were written in a manner which reflects the relationship of recent fishing mortality levels to a particular size tuna (i.e., young school—under 14 lbs; school—14 to 115 lbs; medium—115 to 299 lbs; and giant tuna—300 pounds or more).

The Secretary, through the National Marine Fisheries Service (NMFS) of the National Oceanic and Atmospheric Administration (NOAA) has continually monitored the stock levels of bluefin tuna in order to meet the obligations of the United States to implement the recommendations of the Commission. Both the Convention and the Act are directed towards "maintaining the populations of Atlantic bluefin tuna at levels which will permit the maximum sustainable catch of food and other purposes" (Preamble to the Convention). Since the bluefin tuna recreational fishery is utilized by tens of thousands of domestic fishermen, and results in a source of protein for United States and foreign markets, the Secretary has attempted to ensure the broadest possible access to the fishery while preventing serious economic dislocations as a result of any management scheme she might impose. This approach has received support from the courts (*Tri Coastal Seafood Cooperative, Inc.* v. *Elliot L. Richardson, et al.,* No. 76–2316G (D. Mass., 1976)).

In an effort to develop a management scheme which permits growth of the Atlantic bluefin tuna stock and which is equitable to participants in the fishery, the NMFS held a number of informational meetings (44 FR 2397) to inform the public of certain management schemes under consideration and to receive responses. At those meetings, a variety of options were discussed which involved the following management measures: (a) Vessel allocations; (b) fixed categories or classes of fishermen; (c) varying catch rates; (d) increasing, reducing, or eliminating quotas for particular size classes of bluefin tuna; (e) size limits; (f) limited seasons; and (g) lotteries.

After considering the anticipated effects of various management schemes and the public comments received in response to those proposals, the NMFS has maintained its intent to shift effort away from school tuna and into the fishery for giants. Although the NMFS believes that eliminating the purse seine fishery for school tuna would serve best to rehabilitate the Atlantic bluefin tuna stocks in the short term, such a measure may result in unknown long-term consequences. The NMFS intends to undertake a study to ascertain the effects of totally eliminating the purse seine fishery for school tuna. The present proposal embodies the intent of the NMFS to shift some fishing effort away from school tuna, in order to meet the objective of maintaining fishery mortality of bluefin tuna at recent levels.

Current biological data indicates that the purse seine fishery for school tuna continues to have an adverse effect upon the overall bluefin tuna population in the Northwestern Atlantic Ocean. The current purse seine quota of 1,000 short tons results in a removal from the population of between 30,000 and 80,000 juvenile bluefin tuna each year. This rate of removal is due in part to the fact that the purse seine quota for school tuna is exceeded each year by amounts as high as 30 percent of the quota. This results from the capacity of the fleet to harvest the quota within a few days and the inability of the NMFS to contact vessels at the precise time at which the quota is reached. The number of fish removed in fisheries pursuing the other size classes of Atlantic bluefin tuna usually amounts to less than 5,000. Due to the fishing effort exerted on school tuna and a trend of smaller size year classes since 1963, the average size of the tuna caught has decreased. This has resulted in a higher mortality level due to the fact that more bluefin tuna must be caught to meet a particular weight quota. In order to obtain the optimum yield from the fishery, individual tuna should be harvested at the optimal size. Therefore, the average size of bluefin tuna must be increased. This can be accomplished by decreasing the catch of juvenile bluefin tuna (i.e., school tuna), thereby allowing more tuna to mature and spawn.

In addition to the foregoing, the regulations in 50 CFR Part 285 Subpart B (Atlantic bluefin tuna) have been rewritten in order to integrate the buy boat amendment (43 FR 39107) and to be more concise and understandable to the general public. The following is a brief summary of the proposed major changes in the regulations:

Definitions

The following definitions would be added to clarify the intent of the regulations: (a) "Authorized Officer;" (b) "Buy boat;" (c) "Metal tag;" (d) "Plastic tag;" (e) "Regulated species;" and (f) "Vessel of the United States." Certain other definitions would be eliminated or modified slightly to conform with the proposed regulations.

Dealer License

This section would formalize the practice of the NMFS of issuing individually numbered dealer report forms in response to the requirements of the present regulations. Anyone receiving or purchasing Atlantic bluefin tuna for commercial purposes would be required to obtain a dealer license. The numbers appearing on these report forms have come to be regarded as dealer license numbers. This system would enable the NMFS to monitor more effectively the identity of those dealers submitting reports and would act as an aid in enforcing the regulations. This license would have to be renewed each year to remain valid. There would be no license fee.

Purse Seine Vessel Gear Restrictions and Inspections

This regulation provides that an exemption from the mesh restrictions could be granted only by the Regional Director if he determines that the net sought to be exempted will not result in significant injury or mortality to Atlantic bluefin tuna which are originally encircled by the net but manage to escape.

Permitted Fishing

This section contains a general statement of fishing permitted and prohibited under these regulations. It sets specific dates for the commencement of fishing for various size classes of Atlantic bluefin tuna, but permits the Regional Director to change the commencement of fishing for any size class of Atlantic bluefin tuna if he determines that such a measure will enable scientific research on the status of the stock and its mortality level to be advanced and will not prevent the quotas for the affected fishery from being caught based upon historical catch data. The section further provides for closure of fishing when applicable quotas are reached. The section from previous regulations entitled Open and Closed Seasons is submitted under this section and has been deleted.

Quotas

The purse seine quotas would be 650 short tons of school tuna and 300 short tons of giant tuna. The quota of giant tuna taken by fishing gear other than purse seines would be 1,218 short tons (approximately 3,240 fish). Of this quota, 1,128 short tons (approximately 2,970 fish) could be taken in the Northern Area (the area north and east of a line drawn from a point on the southern coast of Massachusetts extending due south through Gay Head Light, Massachusetts into the Atlantic Ocean), and 90 short tons (approximately 270 fish) in the Southern Area (the area west and south of the above-described line, including Narragansett Bay). A research quota not to exceed 225 short tons of all Atlantic bluefin tuna would be reserved for scientific purposes.

Three categories would be established for the Northern Area for purposes of dividing into sub-quotas the total quota of giant tuna taken by gear other than purse seines. A person would indicate on his application the category in which he wishes to fish. No person could fish in more than one category in any season. However, a person could change his category by sending a written request to the NMFS before the beginning of the season. The categories and their sub-quotas would be as follows:

(a) Full-time vessels—684 short tons (approx. 1,800 fish).
(b) Part-time vessels—342 short tons (approx. 900 fish).
(c) Charter vessels—102 short tons (approx. 270 fish).

These sub-quotas are based on historical catch, and can be reallocated during the year based on criteria stated in the regulations. No categories would be established in the Southern Area.

Catch Limitations

The following catch limitations would apply in the Northern Area to the various categories established therein:

(a) Full-time vessels—one giant tuna per day per vessel through July 31. From August 1 until the sub-quota is reached no more than five giant tuna per week per vessel could be taken.

(b) Part-time vessels—two giant tuna per week per vessel until the sub-quota is reached; and

(c) Charter boats—one giant tuna per day per vessel until the sub-quota is reached, provided that there is a bona fide charter party on board the vessel.

All vessels fishing with gear other than purse seiners in the Southern Area would be limited to five giant tuna per week per vessel.

Anglers would be able to take four young school, school or medium Atlantic bluefin tuna per day at any time during the year. Only one medium Atlantic bluefin tuna would be permitted within this daily catch limit.

Written comments on the proposed regulations are requested. They should be sent to the Regional Director on or before June 4, 1979. In addition, public hearings will be held to discuss the

[3] 18 FCC 2d 1051 (1969).
[4] 22 FCC 2d 533 (1970).
[5] 27 FCC 2d 432 (1970).

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proposed regulations and to receive any written or verbal comments.

Based upon an environmental assessment prepared by the NMFS, the Assistant Administrator for Fisheries, NOAA, has determined that the proposed regulations do not constitute a major Federal action significantly affecting the quality of the human environment. That assessment is on file with the Agency and may be obtained by sending a written request to the Regional Director. It has also been determined that the changes in these regulations do not constitute significant regulatory action under Executive Order 12044, as implemented by Department of Commerce Administrative Order DAO 218-7.

Signed at Washington, D.C., this 4th day of May 1979.

Winfred H. Meibohm,
Executive Director, National Marine Fisheries Service.

It is proposed to amend 50 CFR Part 285 by revising Subparts A and B to read as follows:

Subpart A—General

Sec.
285.1 Definitions.
285.7 Persons and vessels exempt.

Subpart B—Atlantic Bluefin Tuna (Thunnus thynnus thynnus)

285.20 Effective period of regulations.
285.21 Vessel certificates.
285.22 Dealer license.
285.23 Recordkeeping and reporting.
285.24 Metal tags.
285.25 Prohibitions.
285.26 Presumptions.
285.27 Penalties.
285.28 Purse seine vessel gear restrictions and inspection.
285.29 Permitted Fishing.
285.30 Quotas.
285.31 Incidental Catch.
285.32 Catch limits.
285.33 Tag and Release Program.

Authority: Atlantic Tunas Convention Act of 1975 (16 U.S.C. 971–971h).

Subpart A—General

§ 285.1 Definitions.

In addition to the meaning ascribed by the Act, if any, the following terms shall mean:

"Act" means the Atlantic Tunas Convention Act of 1975, 16 U.S.C. 971–971h.

"Albacore" means *Thunnus alalunga.*

"Angling" means fishing for, catching or taking or the attempted fishing for, catching or taking of fish by any person (angler) with a barbed hook attached to a line which is hand held or by rod and reel designed and manufactured for that purpose.

"Assistant Administrator" means the Assistant Administrator for Fisheries, National Oceanic and Atmospheric Administration.

"Atlantic bluefin tuna" means *Thunnus thynnus thynnus.* The following class size designations are made for Atlantic bluefin tuna:

(a) Young school tuna—less than 14 pounds;

(b) School tuna—14 pounds and more, but less than 115 pounds;

(c) Medium tuna—115 pounds and more, but less than 300 pounds; and

(d) Giant tuna—300 pounds and more.

"Atlantic bonito" means *Sarda Chiliensis* or *Sarda sarda.*

"Authorized Officer" means:

(a) Any commissioned, warrant, or petty officer of the United States Coast Guard;

(b) Any certified enforcement officer or special agent of the NMFS;

(c) Any officer designated by the head of any Federal or State agency which has entered into an agreement with the Secretary to enforce the provisions of the Act;

(d) Any Coast Guard personnel accompanying and acting under the direction of any person described in paragraph (a) of this definition.

"Bigeye tuna" means *Thunnus obesus.*

"Buy boat" means any vessel of the United States used by a dealer in purchasing or receiving Atlantic bluefin tuna from any person or fishing vessel engaged in fishing for such tuna.

"Cargo vessel" means any fishing vessel used for transporting fish or fish products.

"Commercial activity" means any activity, other than fishing, of industry, trade, and commerce including but not limited to the buying or selling of a regulated species and activities conducted for the purpose of facilitating such buying and selling.

"Commission" means the International Commission for the Conservation of Atlantic Tunas established pursuant to Article III of the Convention.

"Convention" means the International Convention for the Conservation of Atlantic Tunas, signed at Rio de Janeiro May 14, 1966, 20 U.S.T. 2887, including any amendments or protocols thereto, which are binding upon the United States.

"Council" means the Council established within the Commission pursuant to Article V of the Convention.

"Dealer" means any person who engages in a commercial activity with respect to a regulated species or parts thereof.

"Dressed weight" means the weight of a fish after it has been gilled, gutted, beheaded, and definned.

"Fishing" means the catching, taking, or fishing for, or the attempted catching, taking, or fishing for, any species of fish covered by the Convention, or any activities in support thereof.

"Fishing trip" means the period between the time a fishing vessel departs from any port after being inspected by a designated agent of the NMFS to carry out fishing operations and the time such vessel unloads any of its catch.

"Fishing vessel" means any vessel engaged in fishing or transporting fish loaded on the high seas, or any vessel outfitted for such activities.

"Metal tag" means the flexible, self-locking ribbon of metal issued by the NMFS for the identification of Atlantic bluefin tuna as provided in § 285.24.

"NMFS" means the National Marine Fisheries Service, National Oceanic and Atmospheric Administration.

"Person" means any individual, partnership, corporation, or association subject to the jurisdiction of the United States.

"Plastic tag" means the plastic or combination plastic and metal marker which is issued with a tag and release permit by the NMFS pursuant to § 285.33(b).

"Purse seining" means fishing for, catching or taking a regulated species by means of an encircling net and associated gear used in commercial fishing operations.

"Quota" means the amount of fish measured either by number or weight which may be retained as prescribed in sections 285.29 and 285.30 of Subpart B and any other sections of this Part.

"Regional Director" means:

(a) For purposes of Atlantic bluefin tuna—the Regional Director, Northeast Region, National Marine Fisheries Service, Federal Building, 14 Elm Street, Gloucester, Massachusetts 01930; and

(b) For purposes of yellowfin tuna—the Regional Director, Southwest Region, National Marine Fisheries Service, 300 South Ferry Street, Terminal Island, California 90731.

"Regulated species" means Atlantic bluefin, yellowfin, skipjack, albacore, or bigeye tuna.

"Regulatory area" means all waters of the Atlantic Ocean including adjacent seas, except the waters over which the individual States exercise jurisdiction unless the Assistant Administrator has determined otherwise in accordance with this Part.

"Round weight" means the weight of a fish prior to gilling, gutting, beheading, and definning.

"Secretary" means the Secretary of Commerce or her designee.

"Short ton" means 2000 pounds (907 kilograms).

"Skipjack tuna" means *Katsuwonus pelamis.*

"State" means the States of the United States, the District of Columbia, the Commonwealth of Purerto Rico and territories and possessions of the United States.

"Tuna" means Atlantic bluefin, yellowfin, skipjack, albacore or bigeye tuna.

"Yellowfin tuna" means *Thunnus albocares.*

"Vessel of the United States" means:

(a) Any vessel documented or numbered by the Coast Guard under United States law; or

(b) Any vessel under 5 net tons which is registered under the laws of any State.

§ 285.7 Persons and vessels exempt.

This Part does not apply to any person or vessel authorized by the Commission, the Regional Director, or any State upon approval by the Regional Director, to engage in fishing for research purposes, except that §§ 285.23 and 285.30(c) shall apply to persons or vessels engaging in research authorized by the Regional Director or the Director of the Southeast Fisheries Center, NMFS, under § 285.30(c).

Subpart B—Atlantic Bluefin Tuna (Thunnus thynnus thynnus)

§ 285.20 Effective period of regulations.

These regulations shall remain in effect until superseded, amended, or otherwise suspended.

§ 285.21 Vessel certificates.

(a) *General.* Any vessel of the United States which fishes for, catches or takes Atlantic bluefin tuna, except vessels operated by anglers fishing for young school or school Atlantic bluefin tuna, must have an appropriate certificate issued under this section. Any vessel to which a certificate has been issued under this section shall travel to and from the area where it will be fishing under its own power and the operator thereof shall bring under his control with no assistance from other vessels any Atlantic bluefin tuna, except in circumstances where the safety of the vessel or crew is jeopardized or due to other circumstances beyond the control of the operator.

(b) *Buy boats.* Any buy boat must have a certificate for that purpose issued under this section. No vessel to which a valid certificate has been issued under paragraph (a) of this section may be issued a buy boat certificate. No buy boat certificate shall be issued to any vessel unless the owner or operator thereof agrees in writing to allow an agent authorized by the Regional Director to accompany the vessel on any trip to observe operations. The Regional Director shall provide reasonable notice to the owner or operator of any buy boat that an agent will be placed on board the vessel. The Regional Director shall reimburse the owner of any buy boat for any expenses which the Regional Director determines to be reasonable and which are directly related to the placement of such observer on that vessel.

(c) *Application.* An application for a certificate under this section shall be submitted and signed by the vessel owner on an appropriate form which may be obtained from the Regional Director. The application shall be submitted to the Regional Director at least 30 days prior to the date on which the applicant desires to have the certificate made effective. The application shall state the name and address of the vessel owner, the name of the vessel, the port where the vessel is docked, the registration or documentation number, the length of the vessel, the tonnage (if known), and the area to be fished.

(d) *Issuance.* (1) Upon receipt of a completed application, the Regional Director shall issue a certificate within 30 days.

(2) Upon receipt of an incomplete or improperly executed application, the Regional Director shall notify the applicant of the deficiency in the application. If the applicant fails to correct the deficiency within ten days following the date of notification, the application shall be considered abandoned.

(e) *Expiration.* Certificates issued under paragraph (a) of this section expire when the owner or name of the vessel changes or the vessel is retired from the Atlantic bluefin tuna fishery. Certificates issued under paragraph (b) of this section expire when one of the above conditions is met or on December 31 of the year for which it is issued, whichever is earlier.

(f) *Duration.* A certificate issued under this section continues in full force and effect until it expires or is revoked.

(g) *Alteration.* Any certificate issued under this section which is substantially altered, erased, or mutilated is invalid.

(h) *Replacement.* Replacement certificates may be issued by the Regional Director. An application for a replacement certificate shall not be considered a new application.

(i) *Transfer.* Certificates issued under this section are not transferable or assignable. A certificate is valid only for the vessel for which it is issued.

(j) *Display.* Any certificate issued under this section must be carried on board the vessel at all times. The certificate shall be displayed for inspection upon request of any Authorized Officer or any employee of the NMFS designated by the Regional Director for such purpose.

(k) *Revocation.* Certificates issued under this section may be modified, suspended, or revoked by the Assistant Administrator for violations of the Act, or any regulation promulgated thereunder. Any revocation, suspension, or modification shall be in accordance with the procedures set forth in 50 CFR Part 621.

(l) *Fees.* No fee is required for any certificate issued under this seciton.

(m) *Change in application information.* Any change in the information contained in an application submitted for a certificate under this section shall be reported in writing to the Regional Director within 15 days of the change.

§ 285.22 Dealer license.

(a) *General.* Any person purchasing or receiving Atlantic bluefin tuna for a commercial purpose from any person or vessel fishing for such tuna shall have a valid license under this section.

(b) *Application.* An application for a dealer license shall be made in writing, signed by the applicant and submitted to the Regional Director at least 30 days prior to the date upon which the applicant desires to have the license made effective. Applications shall provide all of the following information:

(1) The name, mailing address, and telephone number of the applicant; and

(2) The expected disposition of Atlantic bluefin tuna purchased (e.g., foreign or domestic markets).

(c) *Issuance.* (1) Upon receipt of a completed application, the Regional Director shall issue a license within 30 days.

(2) Upon receipt of an incomplete or improperly executed application, the Regional Director shall notify the applicant of the deficiency in the application. If the applicant fails to correct the deficiency within 15 days following the date of notification, the application shall be considered abandoned.

(d) Fish for, take or catch Atlantic

(r) Fail to report to the Regional

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(d) *Expiration.* Any license issued under this section expires on December 31 of the year for which it was issued.

(e) *Duration.* Any license issued under this section continues in full force and effect until it is suspended, revoked, or expires.

(f) *Alteration.* Any license which is substantially altered, erased, or mutilated is invalid.

(g) *Replacement.* Replacement licenses may be issued by the Regional Director. An application for a replacement license shall not be considered a new application.

(h) *Transfer.* Licenses issued under this section are not transferable or assignable. A license shall be valid only for the person to whom it is issued.

(i) *Inspection.* A license issued under this section must be kept at the principal place of business of the dealer. The license shall be displayed for inspection upon request of any Authorized Officer, or any employee of the NMFS designated by the Regional Director for that purpose.

(j) *Revocation.* Licenses issued under this section may be revoked or suspended by the Assistant Administrator for violations of the Act, other regulations promulgated thereunder, or this subpart. Any revocation, suspension or modification shall be in accordance with the procedures set forth in 50 CFR Part 621.

(k) *Fees.* No fee is required for any license issued under this section.

(l) *Change in application information.* Any change in the information specified in this section shall be reported in writing to the Regional Director within 15 days of the change.

§ 285.23 Recordkeeping and reporting.

(a) *Fishing vessel records.*—(1) *Vessels using other than purse seine gear.* (i) The owner or operator of any fishing vessel to which a certificate has been issued under § 285.21(a) which fishes for, catches or takes giant Atlantic bluefin tuna with gear other than purse seines shall maintain an accurate and complete fishing logbook on forms supplied by the Regional Director in accordance with this section, and shall submit to the Regional Director weekly logsheets covering all fishing during each month. Such logsheets shall be submitted to the Regional Director within 10 days after the end of each month during which fishing is permitted under § 285.29. Logsheets shall specify for each reporting week the date, number, round or dressed weight and fork length of each giant Atlantic bluefin tuna landed, the type of gear used, the area fished, metal tag numbers used, and the amount of the time fished. (ii) In addition, such owner or operator shall report within 48 hours the taking of each giant Atlantic bluefin tuna by completing and returning one of the cards provided for this purpose in the logbook. Each card shall show the Atlantic bluefin tuna vessel certificate number, metal tag number affixed to the fish, the date landed, the port where landed, the round or dressed weight, the fork length, gear used, and area where caught. If no fish were caught or a vessel did not engage in fishing operations in any reporting week during whch fishing was permitted under § 285.29 a report to that effect shall be submitted.

(2) *Purse Seining.* (i) The owner or operator of any fishing vessel to which a certificate has been issued under § 285.21(a) which fishes for, catches or takes school or giant Atlantic blufin tuna with purse seine gear shall maintain an accurate and complete fishing logbook on forms supplied by the Regional Director in accordance with this section, and shall submit weekly logsheets to the Regional Director covering all fishing during each month. Such logsheets shall be submitted within 10 days after the end of each month during which fishing is permitted under § 285.29. Logsheets shall specify the date, number of sets, location, and approximate weight of fish landed. (ii) In addition, the owner, operator or designated representative shall notify the NMFS of the catch of such vessel by 8 p.m. every day during which the vessel has engaged in fishing. Such reports shall be made by telephoning (617) 992–7711. The call will be recorded automatically. The report shall include the name of the person calling, the name of the vessel, the Atlantic blufin tuna vessel certificate number, and the estimated catch of tuna by weight on board the vessel at the time the call is made.

(3) Fishing logbooks required under this section shall be made available for inspection by an Authorized Officer or any employee of the NMFS designated by the Regional Director to make such inspection at any time during or after a fishing trip.

(4) The owner of a vessel to which a certificate has been issued under § 285.21 shall retain in his possession any logbook required by this section for one year after the date of the last entry in the logbook.

(5) Vessels participating in the NMFS statistical programs or in authorized research under § 285.30(c) may be exempt from the logbook and reporting requirements of this section. Requests for exemption shall be made to the Regional Director.

(b) *Dealer reports.* Any person issued a dealer license under § 285.22 shall:

(1) Maintain an accurate and complete daily report on forms supplied by the NMFS and file it within two days after the end of each reporting week with the Regional Director. Each report shall specify the number of tuna purchased or received; the disposition of the tuna (names, addresses and, where applicable, country of destination); the source of the tuna (names, addresses and, where applicable, country of origin); metal tag numbers (where applicable); round or dressed weight (by individual fish for giant tuna); and any other information requested by the Regional Director;

(2) Permit an Authorized Officer, or any employee of the NMFS designated by the Regional Director to inspect any records of transfers, purchases, or receipts of Atlantic bluefin tuna; and

(3) Retain in his possession a copy of each weekly report for a period of two years from the date on which it was submitted to the Regional Director.

(c) *Buy boat reports.* (1) Any person who operates a buy boat to which a certificate has been issued under § 285.21(b) shall maintain a complete and accurate daily report of every Atlantic bluefin tuna received or purchased on forms supplied by the NMFS, and file it within two days after the end of each reporting week with the Regional Director. For each such tuna the report shall include the metal tag number, location where the tuna was caught, date and precise time when received, fork length, whole or dressed weight, and the name of the person catching the fish as well as that of the fishing vessel and its Atlantic blufin tuna certificate number.

(2) Each person specified in paragraph (c)(1) of this section shall notify the NMFS of any off-loading and request a vessel inspection at least six hours prior to such off-loading. Arrangements shall be made by calling (617) 281–3600, extension 252, between the hours of 8 a.m. and 4:30 p.m., Monday through Friday, local time, or at all other times during the day and weekends, by calling (617) 992–7711. In making the request for inspection, the owner or operator of the buy boat or his designated representative shall provide his name, the buy boat name and certificate number, the number of tuna received, and the location and anticipated time of landing at port.

(3) Each person specified in paragraph (c)(1) of this section shall retain in his possession a copy of each weekly report

for a period of two years from the date on which it was submitted to the Regional Director.

(d) *Reporting week.* For the purpose of this section the reporting week begins at 12 midnight on Sunday, and ends at 12 midnight the following Sunday.

§ 285.24 Metal tags.

(a) *Issuance of tags.* Any person receiving a vessel certificate under the provisions of § 285.21(A), except for those purse seine vessels fishing exclusively for school tuna, shall be issued numbered metal tags by the NMFS. Tag numbers shall be recorded by the NMFS under the certificate of the vessel to which they are issued.

(b) *Transfer of tags.* Tags issued under paragraph (a) of this section are not transferable.

(c) *Affixing tags.* Any person who catches a giant Atlantic bluefin tuna shall affix to that tuna between the fifth dorsal finlet and the keel, a tag issued under paragraph (a) of this section at the time the tuna has been brought under control and either brought aboard the vessel or secured to the vessel (See figure 1).

(d) *Removal of tags.* A metal tag affixed to any giant Atlantic bluefin tuna shall remain on the tuna until the tuna is either cut into portions for commercial purposes or sold for export from the United States. If the tag is removed from the tuna for either of these purposes, the tag number must be written legibly and indelibly on the outside of any package or container which holds the tuna or parts thereof and which is being exported or transported domestically for commercial use. If a giant tuna is packed for export, the tag shall also be attached to the container until it is shipped from the United States.

§ 285.25 Prohibitions.

It shall be unlawful for any person subject to the jurisdiction of the United States to:

(a) Fish for, take or catch Atlantic bluefin tuna without a valid certificate issued under § 285.21(a) and carried onboard the vessel;

(b) Fish for, take or catch Atlantic bluefin tuna after fishing has been closed or before fishing has commenced under § 285.29, except under the provisions of §§ 285.31, 285.32(c)(2) or 285.33;

(c) Fish for, take or catch Atlantic bluefin tuna in excess of the quotas or sub-quotas specified in § 285.30 except under the provisions of § 285.31 or § 285.33;

(d) Fish for, take or catch Atlantic bluefin tuna in excess of the catch limits specified in § 285.32'

(e) Fish for, take or catch Atlantic bluefin tuna with nets other than those specified in § 285.28;

(f) Fish for, take or catch Atlantic bluefin tuna with a buy boat;

(g) Land any Atlantic bluefin tuna in forms other than round, or eviscerated with the head removed;

(h) Retain any Atlantic bluefin tuna caught under a tag and release permit issued under § 285.33;

(i) Transfer any Atlantic bluefin tuna to another vessel not holding a valid buy boat certificate;

(j) Engage in fishing with a vessel holding a certificate under § 285.21(a) unless the vessel travels to and from the area where it will be fishing under its own power and the person operating that vessel brings under control any Atlantic bluefin tuna (secured to the catching vessel or boated) with no assistance from other vessels, except in circumstances where the safety of the vessel or crew is jeopardized or due to other circumstances beyond the control of the operator;

(k) Fail to release immediately with a minimum of injury any Atlantic bluefin tuna which will not be retained;

(l) Fail to affix to any giant tuna between the fifth dorsal finlet and the keel an individually numbered metal tag as soon as possible after the tuna has been brought under control and either brought aboard the vessel or secured to the vessel;

(m) Remove any metal tag affixed to a tuna pursuant to § 285.24 before permitted under that section, or fail to write the tag number on the package as prescribed by that section;

(n) Begin fishing or off-loading from any purse seine vessel to which a certificate has been issued under § 285.21(a) any Atlantic bluefin tuna without first requesting an inspection of the vessel by an agent of the NMFS in accordance with § 285.28;

(o) Ship, transport, purchase, sell, offer for sale, import, export, or have in custody, possession or control any Atlantic bluefin tuna which he knew or should have known was taken in violation of this subpart;

(p) Purchase or receive Atlantic bluefin tuna taken on board from a person or vessel engaged in fishing for such tuna without a valid buy boat certificate;

(q) Fail to report the taking of any Atlantic bluefin tuna to which a plastic tag has been affixed under a bona fide tag and release program conducted by the NMFS or its contractors;

(r) Fail to report to the Regional Director in writing any change in the information contained in an application for any certificate for a vessel within 15 days of any such change;

(s) Falsify or fail to make, keep, maintain, or submit any logbook, or other record or report required by this subpart;

(t) Refuse to permit an Authorized Officer, or any employee of the NMFS designated by the Regional Director for such purposes to make inspections for the purpose of checking any logbooks or records relating to the taking, catching, harvesting, landing, purchase or sale of any Atlantic bluefin tuna;

(u) Make any false statement, oral or written, to an Authorized Officer or an employee of the NMFS designated by the Regional Director to make inspections concerning the taking, catching, harvesting, landing, purchase, sale, or transfer of any Atlantic bluefin tuna;

(v) Refuse to permit an Authorized Officer or any person designated by the Regional Director for such purposes to board a fishing vessel or buy boat subject to such person's control for purposes of conducting any search or inspection in connection with the enforcement of this Act, this subpart, or any other regulation promulgated under the Act;

(w) Violate any other provision of this Subpart, the Act, or any other regulation promulgated pursuant thereto.

§ 285.26 Presumptions.

(a) For any Atlantic bluefin tuna which is landed eviscerated with the head removed, there shall be a rebuttable presumption for purposes of this subpart that the tuna when caught fell into a weight class in accordance with the following table. For this purpose, all measurements must be taken in a straight line from the middle of the lateral surface (if the fish has been beheaded) to the fork of the tail.

Table I

Original weight class	Length with head off
Young school tuna less than 14 lbs. (6.4 kg)	Less than 18 in. (46 cm)
School tuna equal to 14 lbs. (6.4 kg) but less than 115 lbs (53.3 kg)	18 in. (46 cm) but less than 39 in. (100 cm)
Medium tuna equal to 115 lbs. (53.3 kg) but less than 300 lbs (136.4 kg)	39 in. (100 cm) but less than 53 in. (135 cm)
Giant tuna 300 lbs. and over (136.4 kg)	53 in. (135 cm) and over

§ 285.27 Penalties.

(a) Any person who violates paragraphs (a) through (p), inclusive, of

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§ 285.25 shall be assessed a civil penalty of not more than $25,000, and for a subsequent violation shall be assessed a civil penalty of not more than $50,000.

(b) Any person who violates paragraphs (q) through (v), inclusive, of § 285.25 shall be assessed a civil penalty of not more than $1,000, and for a subsequent violation shall be assessed a civil penalty of not more than $5,000.

(c) Any person who violates paragraph (w) of § 285.25 shall be assessed a civil penalty in accordance with the criteria set forth in 16 U.S.C. § 971e.

§ 285.28 Purse seine vessel gear restrictions and inspection.

(a) *Mesh Size.* Any owner or operator of a vessel with a certificate issued under § 285.21(a) conducting a directed fishery for Atlantic bluefin tuna with nets, other than a trap net, shall use a net with a mesh size equal to or smaller than 4.5 inches in the main body (stretched when wet) and which has at least 24 count thread throughout the net.

(b) *Exemption.* The Regional Director may exempt any person from the mesh restrictions in paragraph (a) of this section if he determines that the net sought to be excluded will not result in significant injury or mortality to Atlantic bluefin tuna which are encircled by the net but manage to escape.

(c) *Inspection.* Any owner or operator of a purse seine vessel with a certificate issued under § 285.21(a) shall request an inspection of the vessel and fishing gear by an agent of the NMFS prior to commencing any fishing trip and prior to offloading any Atlantic bluefin tuna. Requests for such inspection shall be made by calling (617) 281–3600 extension 252; or (617) 992–7711. Requests shall be made at least 12 hours prior to commencement of a fishing trip or offloading.

§ 285.29 Permitted Fishing.

(a) *School and Giant Atlantic Bluefin Tuna.*—(1) *Commencement.* Fishing for, catching or taking giant Atlantic bluefin by vessels using purse seine gear in the regulatory area may commence on August 15 of each calendar year. Fishing for, catching or taking giant Atlantic bluefin tuna by vessels using gear other than purse seines, and fishing for, catching or taking school Atlantic bluefin tuna by vessels using purse seines or gear other than purse seines in the regulatory area may commence on January 1 of each calendar year; *Provided,* That, consistent with the Convention, the Act, and this part, the Regional Director may change the commencement of fishing under this section for any size class of Atlantic bluefin tuna for any area and vessel gear type if he determines that such a measure will enable scientific research on the status of the stock and will not prevent the quotas for the affected fishery from being caught based upon historical catch data. The Regional Director shall publish a notice in the **Federal Register** of any change in the commencement of fishing under this section.

(2) *Closure.* The Regional Director shall monitor catch and landing statistics of Atlantic bluefin tuna. On the basis of these statistics, he shall project a date when the total incidental and directed catch of school or giant Atlantic bluefin tuna will exhaust any quota or sub-quota under § 285.30, and shall publish a notice in the **Federal Register** stating that fishing for school or giant tuna by the type of vessels subject to the quota or sub-quota in the area affected must cease on that date at a specified hour. After closure of fishing under this section for a specified weight class of tuna, that weight class of tuna may be caught by the specified type of vessels in the affected area only as an incidental catch under § 285.31; *Provided,* That anglers may continue to catch school tuna as specified in § 285.32(c)(2), and to fish for giant tuna under a tag and release program in accordance with § 285.33.

(b) *Young School and Medium Atlantic Bluefin Tuna.* Fishing for, catching or taking young school or medium Atlantic bluefin tuna by vessels using purse seines or gear other then purse seines in the regulatory area shall be limited at all times during the year to incidental catch in accordance with § 285.31, except that anglers may fish for, catch or take young school and medium tuna at any time in accordance with the limitations specified in § 285.32(c)(2).

§ 285.30 Quotas.

(a) *Purse Seining.*—(1) *School tuna.* The total amount of school Atlantic bluefin tuna which may be caught in the regulatory area by vessels using purse seine gear before fishing is closed under § 285.29(a)(2) is 650 short tons.

(2) *Giant tuna.* The total amount of giant Atlantic bluefin tuna which may be caught in the regulatory area by vessels using purse seine gear before fishing is closed under § 285.29(a)(2) is 300 short tons.

(b) *Fishing by other than purse seining.*—(1) *Total Quota.* The total amount of giant Atlantic bluefin tuna which may be caught in the regulatory area by vessels using gear other than purse seines before fishing is closed under § 285.29(a)(2) is 1,218 short tons (approximately 3,240 fish).

(2) *Northern Area.* No more than 1,128 short tons of the total quota in this paragraph may be caught in the Northern Area (the area north and east of a line drawn from a point on the southern coast of Massachusetts extending due south through Gay Head Light, Massachusetts, into the Atlantic Ocean) (see figure 2).[1] This quota shall be divided into three sub-quotas as follows:

(i) Full-time vessels—684 short tons (±1,800 fish)

(ii) Part-time vessels—342 short tons (±900 fish)

(iii) Charter boats—102 short tons. (±270 fish)

Each applicant for a vessel certificate under § 285.21(a) shall specify the sub-quota under which he wishes to fish. No vessel may be entered in more than one sub-quota in any season. An applicant may change his designated sub-quota category by submitting a written request to the Regional Director on or before June 1 of any year. If the Regional Director determines, based upon historical catch statistics and expected participation in the fishery during the current season, that any of the sub-quotas will not be harvested, he may reallocate the remainder equally between the other sub-quota categories. The Regional Director shall publish a notice to that effect in the **Federal Register.**

(3) *Southern Area.* No more than 90 short tons of the total quota for vessels fishing by other than purse seining in this paragraph may be caught in the Southern Area (the area west and south of the line drawn through Gay Head Light including the waters of Narragansett Bay) (see figure 2).

(c) *Research.* In addition to the quotas set forth in paragraphs (a) and (b) of this section, a scientific quota not to exceed 225 short tons of Atlantic bluefin tuna is established for the purposes of tagging and obtaining age, sex, and other scientific research data. Any research activity shall be authorized by the Director, Southeast Fisheries Center, the Regional Director or their representatives.

(d) *Incidental Catches.* Atlantic bluefin tuna taken incidentally shall be included in the quotas and sub-quotas of this section.

[1] Figure 2, "Boundary Line Separating North and South Areas" is not published in the Code of Federal Regulations. Copies may be obtained by writing to Dr. Robert H. Hanks, Northeast Region, National Marine Fisheries Service, Federal Building, 14 Elm Street, Gloucester, Mass. 01930.

§ 285.31 Incidental catch.

(a) *Purse seine vessels.*—(1) *Giant tuna.* Purse seine vessels fishing for giant tuna in the regulatory area may take incidentally, during any fishing trip, Atlantic bluefin tuna weighing less than 300 pounds round weight: *Provided,* That the amount of such tuna taken shall not exceed 3 percent, by weight, of the total amount of giant Atlantic bluefin tuna on board the vessel at the end of the fishing trip.

(2) *School tuna.* Purse seine vessels fishing for school tuna in the regulatory area may take incidentaly, during any fishing trip, Atlantic bluefin tuna outside that weight class; *Provided.* That the amount of such tuna taken shall not exceed 3 percent, by weight, of the total amount of school tuna on board the vessel at the end of the fishing trip.

(b) *Herring, mackerel* and *menhaden purse seine vessels* and *vessels using fixed gear other than traps* (pounds, weirs, gill-nets and longlines). Any person operating a vessel fishing principally for species of fish other than Atlantic bluefin tuna, and possessing an Atlantic bluefin certificate under § 285.21(a) may take, during any fishing trip, Atlantic bluefin tuna of any size class; *Provided.* That the amount of Atlantic Bluefin tuna taken does not exceed 2 percent, by weight, of all other fish on board the vessel at the end of the fishing trip.

(c) *Traps.* Any person operating a vessel with a certificate issued under § 285.21(a), which takes Atlantic bluefin tuna incidentally while fishing with traps, may retain such Atlantic bluefin tuna; *Provided.* That such tuna do not exceed 2 percent, by weight, of the total amount of all other fish species taken within the preceding 30-day period.

§ 285.32 Catch limits.

(a) *Northern Area.* In the Northern area, as defined in § 285.30(b), vessels fishing for, catching or taking giant Atlantic bluefin tuna with gear other than purse seines shall limit their catches as follows:

(1) *Full-time vessels.* (i) From the commencement of fishing under § 285.29 through July 31, no more than one giant tuna per day per vessel may be caught; (ii) From August 1 until the sub-quota as established in section 285.30(b) for full-time vessels is reached, no more than five giant tuna per week per vessel may be taken;

(2) *Part-time vessels.* From the commencement of fishing under § 285.29 until the sub-quota in § 285.30(b), for part-time vessels is reached, no more than two giant tuna per week per vessel may be caught; and

(3) *Charter boats.* From the commencement of fishing under § 285.29 until the sub-quota for charter boats in § 285.30(b) is reached, one giant tuna per day per vessel may be taken if a *bona fide* charterparty is on board the vessel.

(b) *Southern Area.* In the Southern Area, as defined in § 285.30(b), vessels fishing for, catching or taking giant Atlantic bluefin tuna with gear other then purse seines may take five giant tuna per week per vessel from the commencement of fishing under § 285.29 until the sub-quota for the southern area in § 285.30(b) is reached.

(c) *Angling*—(1) *Giant tuna.* Vessels angling for giant Atlantic bluefin tuna in the regulatory area shall be subject to the catch limits contained in paragraphs (a) and (b) of this section.

(2) *Young school, school and medium tuna.* Vessels angling for young school, school or medium Atlantic bluefin tuna in the regulatory area may take no more than four young school, school or medium Atlantic bluefin tuna each day at any time during the year: *Provided* That only one of the four may be a medium Atlantic bluefin tuna.

§ 285.33 Tag and release program.

(a) *Tag and Release Permits.* Any angler who wishes to fish for giant Atlantic bluefin tuna after the sub-quota under which his vessel has been issued a certificate has been reached and fishing closed under § 285.29, may fish for giant tuna only with a valid tag and release permit, and tags issued by the NMFS under pargraph (b) of this section. A tag and release permit may be obtained by sending an application after fishing has been closed under § 285.29 to the Center Director, Southeast Fisheries Center, NMFS, 75 Virginia Beach Drive, Miami, Florida 33149. Such application shall include the name of the vessel, official Coast Guard or State number(s), name(s) of the owner and master, vessel Atlantic bluefin tuna certificate number, and the general area(s) in which the tag and release activity will be carried out. Upon receipt of a completed application, the Center Director shall issue a tag and release permit.

(b) *Plastic tags.* Anglers receiving a tag and release permit under paragraph (a) of this section shall also be issued plastic tags and detailed instructions for their use. All giant Atlantic bluefin tuna caught under a tag and release permit shall be tagged before they are released. Such tuna shall be released immediately with a minimum of injury.

Table II.—*The quotas, allocations, and catch limits prescribed in §§ 285.30, 285.31, and 285.32 are summarized in the following table:*

QUOTAS, ALLOCATIONS, AND CATCH LIMITS

[Weights in short tons]

A. Vessels Fishing With Other Than Purse Seine Gear (Hand Gear Fishery and Recreational Angling)

Size class	Permitted fishery			
Atlantic bluefin tuna	Southern area[1]	Northern area[1]		
	Vessel categories			
	Full-time		Part-time	Charter
Giant:				
Quota	90 tons (±270 fish)	684 tons (±1,800 fish)	342 tons (±900 fish)	102 tons (±279 fish).
Catch limit	5 per week per vessel until quota is reached.	1 per day per vessel thru July; 5 per week per vessel from Aug. 1 until quota is reached.	2 per week per vessel until quota is reached.	1 per day per vessel until quota reached.
Medium:				
Quota	None		None	
Catch limit[2]	1 per angler per day.		1 per day	
Young school and school:				
Quota	None		None.	
Catch limit[2]	4 per angler per day (1 of which may be a medium)		4 per angler per day (1 of which may be a medium).	

[1] See figure 2.

[2] An angler is permitted to take no more than four young school, school or medium size tuna per day: *Provided,* That only one of the four may be a medium tuna.

A. Purse Seine Vessels

A. Purse Seine Vessels

Size class	Permitted fishery
Giant:	
Quota	300 tons (±900 fish).
Catch limit	None.
Medium:	
Quota	None
Catch limit	Incidental only.
School:	
Quota	650 tons (±32,500 fish).
Catch limit	None.
Young school:	
Quota	None.
Catch limit	Incidental only.

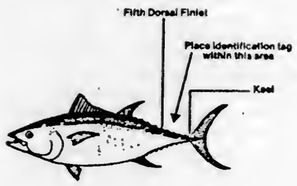


Figure 1

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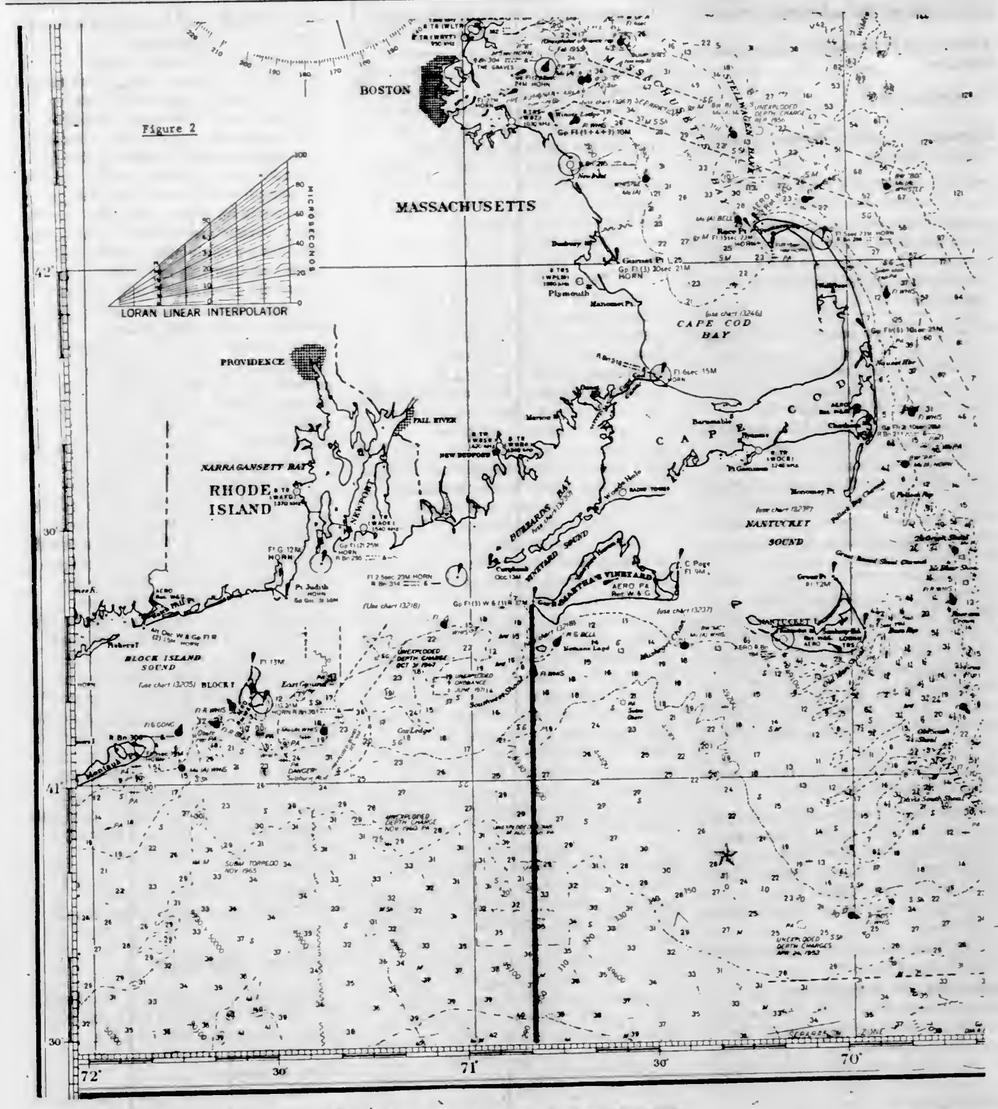


Figure 2. Boundary Line Separating North and South Areas

[FR Doc. 79-14739 Filed 5-14-79; 8:45 am]
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DEPARTMENT OF AGRICULTURE

disclosure could adversely affect any aircraft which would exclude Lonpac

Done at Washington, D.C., this 10th day of

ADDRESS: Interested persons may

DEPARTMENT OF AGRICULTURE

Animal and Plant Health Inspection Service

[7 CFR Part 301]

Proposal To Amend Japanese Beetle Program Manual

AGENCY: Animal and Plant Health Inspection Service, USDA.

ACTION: Proposal to amend the Japanese beetle administrative procedural manual incorporated by reference in the Japanese Beetle Quarantine and regulations.

SUMMARY: It is proposed to amend the Japanese Beetle Program Manual, an administrative procedural manual incorporated by reference in the Japanese Beetle Quarantine and regulations. It is proposed to amend the manual by, among other things, changing the application rate for the pesticides d-phenothrin and carbaryl for their use in controlling the Japanese beetle. It is also proposed to include in the manual procedures relating to mechancial treatments used for preventing the entry of Japanese beetles into the passenger compartments of aircraft. These mechanical treatments would have the effect of reducing the use of pesticides in the program while maintaining control of the beetle and preventing its spread into Western States. The manual would be further amended by correcting typographical errors.

DATE: Comments must be received on or before Monday, June 4, 1979.

ADDRESS: Submit written data, views, or arguments to: H. V. Autry, Regulatory Support Staff, Plant Protection and Quarantine Programs, Animal and Plant Health Inspection Service, U.S. Department of Agriculture, Hyattsville, Md 20782.

FOR FURTHER INFORMATION CONTACT: H. V. Autry, 301–436–8247.

SUPPLEMENTARY INFORMATION: All written submissions made pursuant to this notice will be made available for public inspection in Room 633, Federal Building, Hyattsville, MD 20782, during regular hours of business, unless the person makes the submission to the Regulatory Support Staff, Plant Protection and Quarantine Programs, and requests that it be held confidential. A determination will be made whether a proper showing in support of the request has been made on grounds that its disclosure could adversely affect any person by disclosing information in the nature of trade secrets or commercial or financial information obtained from any person and privileged or confidential. If it is determined that a proper showing has been made in the support of the request, the material will be held confidential; otherwise, notice will be given of denial of such request and an opportunity afforded for withdrawal of the submission. Requests for confidential treatment will be held confidential (78 CFR 1.27(c)).

The Plant Protection and Quarantine Programs of the Animal and Plant Health Inspection Service issues instructional manuals containing treatments and administratively authorized procedures used in implementing plant pest regulatory and control programs. These manuals are referenced in plant quarantine regulations promulgated under Title 7 of the Code of Federal Regulations (CFR). The Japanese Beetle Program Manual is referenced in the Japanese Beetle Quarantine and regulations (7 CFR 301.48–1) and was approved for incorporation by reference by the Director of the Federal Register on June 20, 1978 (43 FR 26411).

It is proposed to amend the provisions of the manual, which were incorporated by reference, by changing the rate for applying d-phenothrin (10 percent) in aircraft from 5 grams to 8 grams per 1,000 cubic feet because Departmental tests show that the 8-gram rate is necessary to ensure that any Japanese beetles in the aircraft will be killed. Copies of test data demonstrating the efficacy of d-phenothrin application at these dosage levels may be obtained from the Agricultural Research of the Department's Science and Education Administration. Also, the rate for applying carbaryl by mist blower would be changed from 2 pounds to 1 pound actual insecticide per acre to conform with the usage rate on the registered label, since this lower dosage rate is considered to be efficacious. Approval has been obtained for these changes from the Environmental Protection Agency in accordance with the requirements of the Federal Insecticide, Fungicide, and Rodenticide Act (7 U.S.C. 136 *et seq.*)

An additional means of certifying the movement of aircraft is proposed which would not involve the use of chemicals in passenger compartments. A new paragraph d. would be added to section III. C. 1. of the manual providing procedures for mechanical treatment of aircraft which would exclude Japanese beetles from the passenger compartments of aircraft where enclosed walkways (jetways) are used to board aircraft directly from the terminal or where bus-type vehicles load passengers directly onto aircraft through an enclosed walkway that fits around the aircraft entrance. In addition, the cockpit windows and exterior galley door would have to remain closed or the galley entrance would have to be sealed between the cabin area and the galley. These requirements are designed to ensure the proper sealing off of the passenger area to assure that beetles will not enter the area, thereby necessitating insecticide treatment. Additional safeguards would be provided by the requirement of 100 percent inspection of the galley area, especially the floor, and thorough inspections of the area within 10 feet of the entrance door, especially on the floor or window sills. Past program experience has indicated that these are the areas where the beetles are most likely to be found. In the galley areas the beetles have been found to congregate on the floor and not on the walls or ceilings, since these ssurfaces are primarily made of metal, and the beetles cannot cling to them. It has also been found that the beetles remain within approximately 10 feet of the point of entry of the passenger compartment of aircraft where they cling to the window sills or floors, since they are not inclined to fly down the long dark aisle which is found in most aircraft configurations. This is due to the fact that the bettles are most active in the brightest daylight and are not usually active on cloudy days or in other such darkened situations.

The manual would be further amended by correcting typographical errors.

PART 330—[AMENDED]

Accordingly, it is proposed to amend 7 CFR Part 330 by revising the Japanese Beetle Program Manual, which is incorporated by reference, in the following respects:

1. On page 12 of the manual, under the heading of "Dosage" in section III. C. 1. a., the language would be amended to read: "Apply at the rate of 8 grams per 1000 cubic feet."

2. On page 40 of the manual, in the table provided in section IV. C., the listing of the dosage rate for the ground application by mistblower of carbaryl would be amended to read: "1.12 kg per hectare (1 lbs. per acre)."

3. Beginning on page 16a of the manual, a new section III. C. 1. d. would be added to read as follows:

(d). *Mechanical Exclusion of Japonese Beetles.* Mechanical exclusion of Japanese beetles from the passenger compartments of aircraft mayf be utilized if enclosed walkways or bus-tpye vehicles are used for the loading and unloading of passengers, and the enclosed walkways or vehicles fit tightly against the aircraft around the door. Cargo and baggage pits cannot be handled in this way since airlines do not currently provide methods for the enclosed loading of these areas. Consequently, they must be treated with pesticides.

Aircraft that have been parked for cleaning or other purposes that require exterior doors to remain open at a regulated airport will not be eligible for mechanical treatment and will require treatment with a pesticide.

At airports that may have to be regulated, PPQ personnel should contact local management personnel of airlines that fly into areas to be protected and discuss the procedures outlined in this section. The airline will then develop the specific approach to be used if the airport is regulated. PPQ employees should assist the airline in developing appropriate procedures if requested.

If mechanical treatments do not effectively prevent the entry of Japanese beetles into passenger compartments of aircraft, as determined by PPQ personnel, treatment with pesticides will be required (see Sec. III. C. 1. a, b, and c. of this manual).

Procedures for mechanically excluding beetles are as follows: (1) The walkways or bus doors must fit tightly against the aircraft to prevent entry of beetles into the aircraft.

(2) Cockpit windows must remain closed.

(3) The exterior galley door must remain closed unless the galley area is sealed between the passenger compartment and the galley to prevent beetles which may enter the galley area from entering the passenger compartment. After catered products are loaded aborad the airplane, a 100 percent inspection must be made by airline personnel of the galley area (especially the floor) to determine if beetles are present. If any are found, the beetles must be removed from the aircraft.

(4) After passengers are on board, a thorough inspection must be made within 10 feet of the passenger entrance door, especially on the floor or window sills. If any beetles are found, they must be removed from the aircraft.

Done at Washington, D.C., this 10th day of May 1979.

This proposal has been reviewed under the USDA criteria established to implement E.O. 12044, "Improving Government Regulations." A determination has been made that this action should not be classified as "significant" under those criteria. An addendum to the Environmental Impact Statement regarding the Japanese beetle program has been prepared and this addendum meets the requirements of an Impact Analysis Statement in accordance with the requirements of E.O. 12044 and Secretary's Memorandum 1955. Copies of this addendum are available from Plant Protection and Quarantine Programs, Animal and Plant Health Inspection Service, Room 633, Federal Building, Hyattsville, MD 20782.

James O. Lee, Jr.,

Deputy Administrator, Plant Protection and Quarantine Programs, Animal and Plant Health Inspection Service.

[FR Doc. 79-15306 Filed 5-15-79; 8:45 am]

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Rural Electrification Administration

[7 CFR Part 1701]

Environmental Policies and Procedures; Proposed REA Bulletin 20–21:320–21

AGENCY: Rural Electrification Administration.

ACTION: Notice of Proposed Rulemaking and Public Hearings.

SUMMARY: The Rural Electrification Administration (REA) proposes to issue a revised REA Bulletin 20–21:320–21, Environmental Policies and Procedures. This revised bulletin provides for compliance with the National Environmental Policy Act (NEPA) and the Council on Environmental Quality (CEQ) regulations (40 CFR Parts 1500–1508) implementing the procedural provisions of NEPA, as well as implementing REA's compliance with other laws, regulations, Executive Orders, and Secretary's Memoranda regarding environmental protection.

The proposed bulletin will replace the current REA Bulletin 20–21:320–21, National Environmental Policy Act, which was last revised May 20, 1974.

On issuance of Bulletin 20–21:320–21, Appendix A to Part 1701 will be modified accordingly.

DATE: Public comments must be received by REA no later than: July 16, 1979. Dates and locations of hearings will be published at a later date.

ADDRESS: Interested persons may submit written data, views and comments to the Director, Environmental and Energy Requirements Division, Rural Electrification Administration, Room 3863, South Building, U.S. Department of Agriculture, Washington, D.C. 20250. All written submissions made pursuant to this notice will be made available for public inspection in the Office of the Director, Environmental and Energy Requirements Division, during regular business hours.

HEARINGS: Public hearings will be held to discuss the proposed revision. Dates and locations will be noticed at a later date.

FOR FURTHER INFORMATION CONTACT: Mr. Joseph R. Binder, Director, Environmental and Energy Requirements Division, Rural Electrification Administration, Room 3863, South Building, United States Department of Agriculture, Washington, D.C. 20250, telephone number 202–447–5755.

SUPPLEMENTARY INFORMATION:

1. Format

REA Bulletin 20–21:320–21 will consist of three parts, "Part One" being the only portion which is published herein today. Part One contains REA's procedures to implement and supplement the CEQ regulations. It includes Appendices which provide a graphic illustration of the REA EIS process (Appendix A) and forms of notice for public involvement in REA's NEPA process (Appendices B and C).

Part One as published in bulletin form will contain a reprint of the CEQ regulations with REA's implementing or supplemental procedures following the pertinent CEQ section. This format was chosen to give borrowers a single document to which to refer when dealing with the REA environmental review process. The draft bulletin, in the form described above, is being mailed to all REA and Rural Telephone Bank borrowers. Others may secure a copy in person or by writing the Director, Environmental and Energy Requirements Division.

Because of the general availability of the draft bulletin and CEQ regulations, and in order to avoid costly duplication in the **Federal Register**, REA is publishing herein only the text of its implementing procedures. The pertinent CEQ section is identified in brackets immediately above the REA section. Those who do not obtain the draft bulletin from REA may refer to 43 FR

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55978 *et seq.* (November 29, 1978) for the full text of the CEQ regulations.

Part Two of the bulletin will be reserved for related environmental procedures. These procedures will be separately published, as appropriate, as draft and final rulemaking. One set of procedures, implementing the Executive Orders on Floodplains and Wetlands, was proposed in draft August 22, 1978, and will be published as a final rule shortly.

Part Three of the bulletin will provide specific guidance to REA borrowers in such areas as preparation of technical support documents which REA may utilize in preparing an EIS and environmental reports which may be used by REA as its environmental assessment. Part Three represents informal guidance only and will not be published as a proposed or final rule. A draft of Part Three will be available upon request. Parts Two and Three will be distributed as part of the complete Bulletin 20–21:320–21, when Part One is published in final form.

2. Categorical Exclusions

Section 1507.3 of the CEQ regulations require an agency's implementing procedures to include specific criteria for and identification of those typical classes of actions which normally do require an EIS, which normally do not require an EIS or EA (categorical exclusions), and which normally require an EA but not necessarily an EIS. REA has categorized borrower projects which require REA administrative actions in its Section IV to Part One of the bulletin.

Among the REA actions included in the categorical exclusion is financial assistance for an REA borrower's participation in a generation or transmission project which is to be constructed by a private utility when REA finds (1) that the project has been substantially constructed or would be completed regardless of REA financing, and (2) the borrower has no control over the design and construction of the project.

REA is considering the establishment of a presumption that total REA borrower participation up to a certain percentage of the project would normally fit under this exclusion. REA has had experience with participation projects of various sizes. Our experience has shown that normally when the borrower's share is 10 percent or less, the borrower has no control over the project. When the share has been 50 percent or more, the borrower normally has some control over the project. REA believes the percentage could be set at something greater than 10 percent but less than 50 percent. Public comment is solicited as to whether there should be a presumption and if so, at what percentage figure.

This action has been determined to be significant under the criteria set forth in Secretary's Memorandum No. 1955 and Executive Order 12044. A draft impact analysis has been prepared and is available for public inspection in the Office of the Director, Environmental and Energy Requirements Division, during regular business hours.

Date: May 10, 1979.

Joseph Vellone,
Acting Administrator.

U.S. Department of Agriculture, Rural Electrification Administration

REA Bulletin 20–21:320–31

SUBJECT: Environmental Policies and Procedures.

PART ONE

[**Editor's note**—the pertinent section of the CEQ Regulations is indicated in brackets above the REA Provision which implements or supplements it.]

[§ 1500.1]

I. *Purpose*

Besides implementing NEPA and the Council on Environmental Quality (CEQ) Regulations for Implementing the Procedural Provisions of NEPA (40 C.F.R. Parts 1500–1508), this Bulletin also implements REA's compliance with other laws, regulations, and Executive Orders having special relevance to NEPA, including, but not limited to the National Historic Preservation Act (16 U.S.C. § 470); Advisory Council on Historic Preservation Regulations, 36 C.F.R. Part 800; Executive Order 11593, "Protection and Enhancement of the Cultural Environment"; Executive Order 11514, "Protection and Enhancement of Environmental Quality"; Clean Air Act, as amended (42 U.S.C. § 1857 *et seq.*); Fish and Wildlife Coordination Act (16 U.S.C. § 661 *et seq.*); Federal Water Pollution Control Act (33 U.S.C. § 1151 *et seq.*); Wild and Scenic Rivers Act of 1973 (16 U.S.C. § 1271 *et seq.*); Endangered Species Act of 1973, as amended (16 U.S.C. §§ 1531–1543) and the related Interagency Cooperation Regulations, 50 C.F.R. Part 402; Executive Orders 11990, "Protection of Wetlands," and 11988, "Floodplain Management"; and Secretary's Memorandum No. 1827, Revised, "Statement on Land Use Policy."

Besides the language in the CEQ regulations and in the body of this bulletin, specific procedures for the protection of floodplains and wetlands can be found in Part Two of this bulletin. Specific procedures to assist REA compliance with the Historic Preservation Act for projects which normally do not require an Environmental Impact Statement may also be found in Part Two in the future.

Additional guidance to borrowers on environmental procedures for specific types of projects can be found in Part Three of this bulletin.

[§ 1500.3]

II. *Mandate—Procedural Modification and Trivial Violations*

The Administrator may determine that the procedural requirements of this bulletin may be modified where the purposes of the procedure have otherwise been served and where such modifications is consistent with the requirements of NEPA and the CEQ regulations. Further, it is the intent of REA that a trial violation of this bulletin not give rise to any independent course of action.

[§ 1501.2]

III. *Apply NEPA Early in the Process*

Initial planning efforts and environmental evaluation for power related facilities (*i.e.* power plants, transmission lines, coal or other fuel development) are interrelated and should take place simultaneously. The borrower should consult with REA at the earliest stages of planning. A guide to the timing of borrower and REA actions during the NEPA process can be found in Appendix A to this Part One of Bulletin 20–21:320–21.

[§ 1501.4]

IV. *Whether to Prepare an EIS—Administrative Actions Requiring Environmental Review*

REA gives consideration to environmental effects of all of its proposed actions. Examples of actions which might have an environmental effect include, but are not limited to, loans and loan guarantees, major reclassifications of loan funds, lien accommodations, and approvals of the use of general funds. As used in this bulletin, the terms loan and loan guarantee include all actions required of REA.

A. *Projects Normally Requiring an EIS.*—An EIS will normally be required in connection with the consideration of any REA loan or loan guarantee for the construction of the following type of facilities and the applicant shall provide REA with the information outlined in Part Three of this bulletin:

1. The addition of steam electric generating capacity of more than 25,000 kW (nameplate rating) when the REA borrower has control over construction of the project.

2. The addition of bulk electric transmission lines and associated facilities designed for or capable of operation at nominal voltage of 230 kilovolts or more (high side) which form the bulk transmission grids for overall power and energy supply, when the REA borrower has control over construction of the project.

3. Contracts for fuel or the acquisition of fuel when the REA borrower exerts control over the mining/drilling operation (*e.g.*, captive mine or purchase of mining equipment).

B. *Projects Normally Requiring an Environmental Assessment but not Necessarily an EIS.*—REA will normally prepare an environmental assessment for the following projects and based upon the assessment (a) make a finding of no significant impact or (b) proceed to prepare an EIS:

1. The borrower's construction of electric generating facilities not included in Section A. above (*e.g.*, combustion turbines).

2. Participation in electric generation projects not categorically excluded in Section C. below.

3. Projects designed to reduce the amount of pollutants released into the environment (*e.g.*, precipitators, baghouse or scrubber installation).

C. *Projects Normally Requiring Neither an EIS or an EA (Categorical Exclusions).*—1. Electric transmission and distribution lines and facilities not covered by Section A. above.

2. Telephone lines and facilities.

3. Participation by REA borrowers in a generation or transmission project which is not to be constructed by an REA-financed system and for which REA has found:

a. the project has been substantially constructed or would be completed regardless of REA financing, and

b. the borrower exerts no control over the design and construction of the project.

This is normally when the total REA borrower participation will be less than —— percent of the project.

4. Other miscellaneous projects such as coal washing plants, microwave facilities and cooperative headquarters, etc., or contracts for fuels, goods and services under which the borrower has no control over the contractor's actions. These projects are generally local in nature.

5. Agreements for purchase of power from other utilities.

6. Purchase of existing facilities where use or operation would remain unchanged.

7. Internal administrative actions (*e.g.* personnel actions, procurement, issuance of bulletins).

Note.—In those instances where a proposed action is not included among those categorized above, the Administrator may determine into which category the action should be placed.

[§ 1501.5]

V. *Lead Agencies*

It is REA's policy to utilize the lead agency process whenever possible so that a single EIS will be prepared to cover all Federal agency actions and sufficient information will be provided to enable all Federal agencies to assess their actions adequately for NEPA purposes.

Where REA borrowers are planning to participate in projects and there is uncertainty as to whether REA or some other Federal agency should be the "lead agency" for environmental purposes, the borrower should contact REA for advice. The Office of the Coordinator of Environmental Quality Activities in the Office of the Secretary will assist in resolving lead agency questions where REA and one or more other Federal agencies are involved.

[§ 1501.6]

VI. *Cooperating Agencies*

It is REA's policy to act as a cooperating agency whenever possible.

[§ 1501.7]

VII. *Scoping*

REA has developed a general approach to the entire NEPA process, including scoping, which is described and presented graphically in Appendix A to this Part One of Bulletin 20–21; 320–21. In isolated cases some variation may be permitted if there are good reasons for the variance, and such variance is consistent with NEPA and the CEQ regulations.

A. *Early Federal, State, and Local Involvement.*—Prior to REA's commencing the formal scoping process, the borrower should periodically consult with expert and interested agencies as early planning takes place.

B. *Notice of Intent To Prepare an EIS.*—1. *REA Notice(s).*—As soon as practicable, REA will publish its notice of intent (see § 1508.22) in the **Federal Register** in the form of notice in Appendix B to this Part One of Bulletin 20–21; 320–21. If the timing of the notice makes it difficult to project when the scoping meeting will be held, a second notice in the form attached in Appendix B will be published in the **Federal Register** no later than 30 days before the meeting.

2. *Borrower Notice(s).*—In addition to the REA notice(s), the borrower shall have published a legal notice and a news article and/or advertisement to attract the attention of the general public. The legal notice(s) should be substantially in the form attached in Appendix B and placed in newspaper(s) of general circulation in the county in which the borrower's principal office is located and in the county or counties in which the proposed project and reasonable alternatives may be located. If the first notice is published before the scoping meeting is set, a second notice giving the time, and location of the meeting shall be published in a like manner no later than 15 days before the meeting.

C. *Scoping Meeting.*—This meeting will be held in the vicinity of the proposed project and reasonable alternatives or such other place which REA determines will best afford an opportunity for public involvement.

The borrower is encouraged to hold additional public information meetings in the general location of proposed project after the public announcement of the intent to prepare an EIS is published in local newspapers, when such borrower meetings will make the scoping more meaningful. A summary of the comments made at such meetings should be submitted to REA.

[§ 1502.4]

VII. *Major Federal Actions Requiring the Preparation of Environmental Impact Statements—Responsible Official*

The Assistant Administrators, Electric and Telephone, are responsible for determining the need for and the preparation of EIS's. Final EIS's will be issued by the Administrator.

[§ 1502.5]

IX. *Timing*

See Appendix A to this Part One of Bulletin 20–21; 320–21 for guidance as to timing of the EIS preparation.

[§ 1502.9]

X. *Draft, Final, and Supplemental Statements—Procedures for Supplements*

A. *Supplement to Draft EIS.*—This supplement shall be circulated in the same manner as the Draft EIS, and then integrated into one Final EIS.

B. *Supplement to Final EIS.*—This supplement shall be prepared and

circulated in the same manner as the draft EIS (exclusive of scoping).

C. *Information Supplement to Final EIS.*—There are instances where the borrower proposes certain changes in a project for which a final EIS already has been issued, but the conditions of neither § 1502.9(c)(1)(i) or (ii) are met. In such a case, REA, at its discretion, may issue an information supplement to the final EIS where REA determines that the purposes of NEPA will be furthered by doing so. Notice of the availability of the information supplement will be placed in the Federal Register and in a local newspaper of general circulation covering the project area by the borrower. REA shall take no final action on any project modification discussed in the information supplement until 30 days after the notice of availability is published in the Federal Register by EPA.

[§ 1502.14]

XI. *Alternatives Including the Proposed Action*

An example of an alternative which might be eliminated from detailed study would be participating in a private utility's proposed project if that utility refused to allow the REA borrower to become a partner.

[§ 1502.18]

XII. *Appendix*

Where REA prepares the Federal EIS, the Environmental Analysis (see Section XX *infra*) which is prepared by the borrower under REA guidance and discretion will generally be attached as an appendix to the EIS or referenced by the EIS.

[§ 1502.19]

XIII. *Circulation of the Environmental Impact Statement*

Draft and Final EIS's (or Summaries) shall also be circulated to the appropriate state, regional, and metropolitan clearinghouses and will be available upon request to any interested person. In addition, copies will be available for public examination in REA's offices in Washington, D.C., the principal office of the applicant, and seleced libraries in the area(s) of reasonable alternatives, including the preferred alternative.

All background information will be available to the public as provided by the Freedom of Information Act (P.L. 89–487, 5 U.S.C. 552).

[§ 1503.1]

XIV. *Inviting Comments*

A. *REA Notice of Availability of Draft or Final EIS.*—REA will publish notice in the Federal Register of the availability of the Draft EIS and Final EIS, giving a brief description of the nature, location, and extent of the alternatives, including the preferred alternative; and stating where copies of the EIS are available for public inspection (see Section XIII *supra.*) or to whom requests for copies should be addressed.

A list of REA administrative actions for which EIS's are being prepared or are contemplated, will be available for public inspection on request at REA's Washington, D.C., office.

B. *Borrower's Notices.*—Upon receipt of a draft or final EIS, the borrower will publish a legal notice and a news article and/or advertisement to attract the attention of the general public announcing the availability of the statement for public review at its offices and selected local libraries in the proposed project area and the area of the reasonable alternatives. The notice should be published in a newspaper or newspapers of general circulation in the county in which the principal office of the borrower is located and in the counties in which the proposed construction including reasonable alternatives may take place. It is important that the people at the local level who may be most directly affected by the proposed construction be made aware of the EIS and have the opportunity to review and comment on it.

[§ 1503.2]

XV. *Duty to Comment*

Pursuant to Secretary's Memorandum No. 1695 REA will comment, to the extent practicable, on all EIS's sent to it.

[§ 1505.2]

XVI. *Record of Decision in Cases Requiring EIS*

Normally the REA loan recommendation will contain REA's record of decision.

REA will include, among its essential considerations of national policy, national economic development objectives and the National Energy Plan.

[§ 1506.1]

VII. *Limitations on Actions During the NEPA Process-Minimal Expenditures Not Affecting the Environment*

In determining which borrower activities related to a project normally requiring an EIS may be approved prior to completion of its NEPA process, REA will require of the borrower proof that:

A. The activity will not affect the environment. For example, purchase of water rights, optioning or transfer of land title, or continued use of land as historically employed would not have an environmental effect. However, site preparation or construction at or near the proposed site (*e.g.* rail spur) or development of a related facility (*e.g.* opening a captive mine) would normally affect the environment.

B. The expenditure is "minimal". To be minimal the expenditure

1. must not exceed the amount the loss of which the borrower could absorb without jeopardizing the government's security interest in the event the proposed project is not approved by the Administrator; and

2. must not compromise the objectivity of REA's environmental review. Notwithstanding other considerations, normally expenditures up to 10% of the proposed project cost would not compromise REA's objectivity.

Nothing in this definition precludes approval of expenditures for testing work conducted by the borrower (§ 1506.1(d)).

[§ 1506.2]

XVIII. *Elimination of Duplication with State and Local Procedures*

Where state law requires state agencies to control siting of plants or routing of transmission lines, REA will also coordinate with those state agencies in determining the siting options.

[§ 1506.3]

XIX. *Adoption*

A. *Policy.*—REA borrowers sometimes participate in projects where other Federal agencies have already prepared an EIS. These projects include, but are not limited to nuclear or some coal-fired generating stations and coal mining facilities. REA will adopt the existing EIS if it can do so pursuant to § 1506.3.

B. *Adoption in Final.*—1. If REA did act as a cooperating agency, and was adequately identified as such in the EIS, the statement may be adopted as a final EIS without circulation. The notice provisions in Section XIV. A. *supra* may be satisfied by the lead agency notice if it mentions REA involvement.

2. If REA was not a cooperating agency but determines that another federal agency's EIS is adequate it will adopt the EIS as its final EIS. The Administrator shall determine whether the adopted EIS is still generally available. This detemination will be based on consultation with other

agencies and consideration of such factors as project size and initial date of issuance of the adopted EIS.

A. If the adopted EIS is available, REA will

(1) circulate, pursuant to Section XIII *supra*, its written finding that the adopted statement meets the standards for an adequate EIS;

(2) advise that copies of the EIS will be sent to any person or agency who so requests; and

(3) make the adopted statement available for public examination as described in Section XIII *supra.*

b. If the adopted EIS is not generally available REA will circulate its written finding that the adopted statement is an adequate EIS along either (1) the adopted EIS or (2) a summary thereof, in accordance with § 1502.12.

C. *Adoption in Draft.*—If REA wishes to adopt another agency's EIS in whole or in part, but determines that supplementary information is required to meet the standards of an adequate statement the Administrator will determine whether the adopted EIS is still generally available.

1. If the EIS is still available, REA will

a. circulate only the REA Supplement as a draft and final supplement (see Section X and XIII, *supra);*

b. advise that copies of the adopted EIS will be sent to any person or agency who so requests; and

c. make the adopted statement available for public examination as described in Section XIII, *supra.*

2. If the EIS is not generally available, REA will circulate its supplement along with either (a) the adopted EIS of (b) a summary thereof pursuant to § 1502.12.

[§ 1506.5]

XX. *Agency Responsibility—Borrower's and Contractors' Submission of Environmental Documents.*

A. *Project Requiring an EIS.*—1. Electric Generation Facilities—REA will require the borrower to submit three environmental studies:

a. Siting Study—(see guidance for preparation in Part Three—Exhibit A to this Bulletin 20–21; 320–21).

b. Alternative Evaluation—(see guidance for preparation in Part Three—Exhibit B).

c. Environmental Analysis—this document, prepared under the direction of REA staff, and subject to REA's independent verification, shall provide the basis for preparation of the EIS (see guidance for preparation in Part Three—Exhibit C). The Analysis will normally become an Appendix to the REA EIS. Generally the borrower will be required to provide REA with 200 revised copies of the document after it has undergone REA evaluation.

2. Transmission Facilities—REA will require the borrower to submit the following environmental studies:

a. Macro corridor study

b. Alternative Evaluation—(see guidance for preparation in Part Three—Exhibit D).

c. Environmental Analysis—see explanation of analysis above (guidance for preparation in Part Three—Exhibit E).

B. *Projects Not Normally Requiring an EIS.*—For those projects which so not normally require an EIS, including any borrower's project included under categorical exclusions, the borrower shall submit a Borrower's Environmental Report (see Part Three—Exhibit F of this Bulletin 20–21;320–21 for guidance in preparation). The BER may serve as REA's assessment for projects not categorically excluded. For borrower's projects within the categorical exclusion, the BER will assist REA in identifying the extraordinary circumstance in which a normally excluded action may have a significant environmental effect.

C. *Contractor—Prepared EIS.*—In individual situations upon mutual agreement between REA and the borrower, the Environmental Impact Statement may be prepared by an independent contractor. The contractor must be chosen solely at the discretion of REA and/or other cooperating agencies, although the borrower may recommend potential parties to fulfill these duties.

[§ 1506.6]

XXI. *Public Involvement*

A. *Actions Normally Requiring an EIS.*—REA has provided for public involvement as follows:

1. Notice of Intent—(see Section VII. B. *supra*),

2. Scoping Meeting—(see Section VII. C. *supra*),

3. Notice of Availability of Draft and Final EIS—(see Section XIV *supra*),

4. Borrower Notices—(see Sections VII.B. and XIV. B *supra*),

5. Additional Public Information Meetings—(see Section VII.C. *supra*),

6. Availability of Supporting Information—(see Section VIII. *supra*),

7. Agency Contact Person—shall be the Assistant Administrators-Electric or Telephone, U.S. Department of Agriculture, South Building, Washington, D.C. 20250.

8. Hearing(s):

a. Hearing(s) may be held anytime, but normally, if held, they will occur after the publication of either the draft of final EIS. Public hearing(s) will be held concerning environmental aspects of a proposed action for which an EIS is required under the provisions of this bulletin in all cases where, in the Administrator's opinion, the need for hearing(s) is indicated in order to bring out adequately significant environmental implications of the proposed action. In cases where hearing(s) are held, notice of the hearings will be published in the Federal Register at least thirty (30) days in advance of the hearings. The draft or final EIS as applicable will be made available to the public at least fifteen (15) days in advance of the hearing(s).

b. The applicant will also publish a notice similar to REA's and a news article and/or advertisement to attract the attention of the general public in a newspaper or newspapers of general circulation in a county in which the principal office of the borrower is located and in the counties in which the proposed construction may take place, announcing that hearing(s) will be held.

c. All persons desiring to make statements at the hearing(s) will be invited to submit a copy of their proposed statement, in writing, but such submission will not be required. The hearing(s) will normally be informal and will generally be confined to the environmental aspects of the proposed loan, although economic and technical comments may be included.

B. *Actions Requiring an Assessment.*—In connection with such proposed projects, public involvement shall be as follows:

1. Borrower Notices—The borrower shall have published a legal notice (substantially in the form attached as Appendix C to this Part One of Bulletin 20–21;320–21) and a news articles and/or advertisement to attract the attention of the general public in a newspaper or newspapers of general circulation in the county in which the principal office of the borrower is located and in the counties in which the proposed construction will take place. This notice shall generally describe the nature, location and extent of the proposed action and indicate the availability and location of additional information. The notice shall invite comments with respect to environmental effects of the proposed construction, to be submitted to the borrower or REA within thirty (30) days of publication of the notice.

2. Consideration of Comments.—The borrower and REA shall give proper consideration to all comments received. A copy of the notice together with all comments received shall be forwarded to REA, together with the borrower's

to the borrower, REA may begin

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recommendations. If no comments are received, this should be so stated.

C. *Actions Categorically Excluded.*—To assist REA in identifying those extraordinary circumstances in which the normally excluded action might have a significant environmental effect, the borrower shall follow the provisions in Section B. above for all projects involving construction of electric transmission lines or substations designed for or capable of operation at a nominal voltage of 69,000 kilovolts or more (in the case of substations this applies to the low voltage side of the substation).

[§ 1506.10]

XXII. *Timing of Agency Action*

A. Where an agency action requires an EIS, the action will not be approved or commitments executed before expiration of the thirty (30) day-period starting with notice in the **Federal Register** by EPA that the final EIS, together with comments on the draft EIS, is available.

B. For budgetary purposes some loans may be approved conditionally with a stipulation that no funds will be advanced to the borrower or contracts of guarantee executed until the NEPA process is completed. Except under emergency circumstances where waiver is secured from the Council on Environmental Quality, no funds will be advanced nor contracts of guarantee executed until the later of the following:

1. Ninety (90) days after notice of a draft EIS is published in the **Federal Register** by EPA, or

2. Thirty (30) days after notice of a final EIS is published in the **Federal Register** by EPA.

[§ 1506.11]

XXIII. *Emergencies*

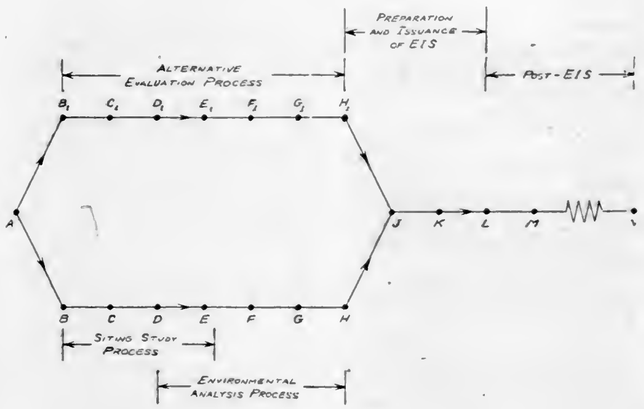
If there should be emergency circumstances which make it necessary for REA to take an action with significant environmental impact without observing the provisions of this bulletin concerning minimum periods for agency review and advance availability of EIS's, REA will consult with the Council on Environmental Quality before waiving the requirements.

XXIV. *Miscellaneous Provisions*

A. *Use of Metric Units.*—The United States is committed to a long-term program to convert all measurements to the metric system. Borrowers are urged to have environmental documents prepared using metric units with British system equivalents placed in parentheses.

APPENDIX A

PROCEDURE FOR PROPOSALS WHICH NORMALLY REQUIRE AN EIS



→ On-going activity in the EIS process

B, C, D Discrete events in the Siting Study and Environmental Analysis path

B_1, C_1 Discrete events in the Alternative Study

As the diagram illustrates, there will be two separate but interrelated study processes leading to the preparation of the EIS. One process B_1 through H_1 will examine alternatives to building a generating (or transmission) facility. The other process, B through H will examine a range of potentially acceptable sites for a generating (or transmission) facility.

In order to facilitate long-range planning and reduce delays, a borrower may undertake preliminary evaluations of alternative means of providing power and begin the study of a range of potentially acceptable sites for a generation (or transmission) facility before demonstrating a need for power. The obligation to show a need for power would still remain, however, before REA financial assistance could be obtained.

Equal spacing between points on the diagram is not meant to suggest equal time intervals. Where two letters are the same (except for subscripts), generally the two indicated events should occur within the same time frame. For BD and B_1D_1 this is only true where the applicant initiates site selection at a time when there is a specific need to be filled. For major transmission projects, references to events occurring during the Corridor Study are analogous to the generation siting procedures.

The flow diagram is intended to indicate the normal sequence of events although some variance may be acceptable in individual cases if good cause is demonstrated.

Discrete Events

A. An updated power requirements study (or similar document) which shows a need for generated or transmitted power is undertaken, utilizing REA procedures. This must be approved by REA before any loan is made.

B and B_1: The borrower consults with REA on the procedures and general parameters for the Siting Study and on potential alternative ways to meet the need, including guidance on preparing the Alternative Evaluation. Consultation may be initiated even if a specific need has not been identified.

BC: Work is performed on Siting Study by borrower and/or consultant. This includes "macroanalysis" in which general criteria, literature search and consultation are used to identify a reasonable range of potentially acceptable sites. (See Part III of this Bulletin for additional guidance.)

Borrower/consultant contact Soil Conservation Service (SCS), Environmental Protection Agency (EPA), Fish and Wildlife Service (FWS), Army Corps of Engineers (COE), Federal land use agencies and State agencies for early guidance and input.

As soon as practicable during this period, REA publishes its "Notice of Intent" in the **Federal Register** and the borrower publishes similar information in local newspapers. (See Part One, Section VII.B.)

B_1C_1: Borrower also does research and consultation, contacts other utilities, etc., to determine whether there are reasonable alternatives to a new generating (or transmission) facility.

The Alternative Evaluation should include discussion, as appropriate, of joint projects, alternate fuels, alternate energy sources, conservation, etc. (more guidance is in Part III of this Bulletin.) Alternatives eliminated from detailed study should be identified and reasons given for the elimination. The borrower should also indicate which alternatives are reasonably available to it if its preferred alternative is not approved.

C and C_1: Borrower submits draft of Siting Study and Alternative Evaluation to REA for review. REA reviews each draft for major flaws. If such flaws are not present, REA submits draft Siting Study and Alternative Evaluation to EPA, SCS, COE, FWS and other potentially involved Federal and State agencies for review and comment.

D and D_1: REA invites other Federal and State agencies to make a field investigation of potentially acceptable siting areas discussed in the draft Siting Study, critique the study methodology, and point out potential problems with these alternative siting areas. Borrowers will at this time present non-specific alternatives included in the alternative evaluation to these agencies for their comments. Participating agencies may critique alternative means of meeting the need. The agencies set up a strategy for conducting the scoping process and tentatively identify the lead agency for the EIS.

DE: Federal agencies are given the opportunity to comment on the potentially acceptable alternatives to point out fatal flaws. During this stage the borrower may secure land, water or other critical factors for potentially acceptable sites by option or other means (subject to the limitations in Section XVII of Part One of the Bulletin). If REA's notice of intent and the borrower's notice did not give the date and time of the scoping meeting, second, more specific notices are published now.

E and E_1: Scoping meeting(s) held to receive input from the public, interested parties, and Federal, State, and local officials and agencies. Among the topics for discussion should be reasonable alternatives to meet the need, such as potentially acceptable sites, participation projects or conservation; significant issues to be addressed in the EIS; the need for the project; and designation of a lead agency.

EF: Borrower submits revised Siting Study to REA for review after revising it to reflect input from scoping meeting. Borrower prepares the draft Environmental Analysis which includes a fatal flaw study of potentially acceptable sites and a "microanalysis" in which detailed field work is conducted on the borrower's preferred site(s). The borrower continues consultation with REA and other interested Federal, State, and local agencies and the public and reflects their comments in the analysis.

C_1F_1: Borrower updates and expands as necessary, the Alternative Evaluation on the basis of comments received from Federal, State and local officials and agencies, input from participants at the scoping meeting(s) and new developments (*e.g.* negotiations with other electric power utilities).

F and F_1: The borrower submits draft Environmental Analysis to REA for review and comment. REA distributes copies of the Analysis to cooperating agencies for review. Borrower also submits expanded Alternative Evaluation, which has been updated after the scoping meeting, and also includes any new alternatives if any, which have developed. REA submits updated Alternative Evaluation to requesting cooperating agencies.

G and G_1: REA and cooperating agencies independently evaluate, for accuracy, scope and content, the information submitted to them. REA collates responses and transmits them to the borrower. REA may begin writing the draft EIS at this point.

H and H_1: Borrower submits as appropriate a final revised Environmental Analysis and Alternative Evaluation to REA.

HJ and H_1J: REA independently evaluates the revised documents and verifies the information therein, before using it in the EIS. During this time, REA prepares the draft EIS, utilizing the borrower-supplied data; inter-agency expertise, and other information.

J: REA issues draft EIS for public review and comment after publishing notice of availability in the **Federal Register.**

K: Public comment period ends on draft EIS. This date may be extended in certain instances.

KL:REA (and cooperating agencies as appropriate) review comments received on draft EIS and respond, by modifying alternatives; developing alternatives not previously given serious consideration; supplementing, improving or modifying the analyses; etc. A final EIS or supplemental draft EIS is prepared as appropriate, with cooperating agencies' assistance.

L: REA issues final EIS with notice of availability published in **Federal Register.**

M: REA will take no final action on any loan, loan guarantee, etc. sooner than 30 days after issuance of the final Federal EIS.

MN: Mitigation measures are checked by REA and other Federal, State, and local agencies during construction and operation of the project.

Appendix B

U.S. Department of Agriculture, Rural Electrification Administration, Notice of Intent To Prepare Draft Environmental Impact Statement

Notice is hereby given that the Rural Electrification Administration, if lead agency, intends to prepare a Draft Environmental Impact Statement, in order to fulfill its requirements under the National Environmental Policy Act of 1969 in connection with a possible loan guarantee commitment to (borrower's name and address) for the construction of certain generation and related transmission facilities. The borrower tentatively proposes that the generating facilities be located in the State of (name) and is investigating possible sites in the counties of (name).

The sites are being investigated for a possible (size) MW of coal-fired

generation with possible capability for expansion to ultimately support (size) MW of generating capacity. Associated with the proposed generating station will be (identify major facilities such as fuel handling, waste disposal, bulk transmission facilities, cooling reservoir, etc) and other ancillaries.

Alternatives to be considered by REA and the borrower are described in REA Bullentin 20–21:320–21 and may include (a) no project, (b) conservation measures, (c) purchase power from other utilities, (d) shared generating units with other utilities, (e) alternative sites for the generating plant and transmission lines, (f) alternatives fuels, and (g) alternative methods of generation.

A field investigation will be held on (time and date) at (location). Federal, state, and local agencies are invited to attend. Issues to be discussed include, but are not limited to, tentative (a) designation of the lead Federal agency, (b) determination of the project scope and identification of the significant environmental issues, (c) elimination of issues which are not significant from detailed study, (d) identification of cooperating agencies and allocating assignments to them for the EIS process, (g) identification of other environmental review, consultation, and study requirements so the lead and cooperating agencies may prepare other required analyses and studies concurrently with the EIS, (h) identification of exclusive areas and/or other potential sites, and (i) Federal, state, and local coordination.

A formal scoping meeting or meetings will be held as soon as is practicable after the field investigation, when specific alternative sites and other pertinent data have been developed. All agencies, groups, and individuals are requested to indicate their interest in attending this scoping meeting(s) when the date and location have been set. All others will be invited by a future notice or notices in the Federal Register and a local paper(s) of general circulation serving the affected area(s). Governmental agencies, other organizations, and the public are invited to participate in the planning and analysis of this proposed project at an early stage. All of the subject area discused in the field investigation will be open to comment. The participants will be invited to critique specific alternative sites identified as well as propose other potential alternatives including no action. Inquiries and comments should be forwared to the Assistant Administrator—Electric, USDA, REA, Agriculture-South Building, Washington, D.C. 20250.

The Rural Electrification Administration's financing assistance to (borrower's name) will be subject to, and release of funds thereunder will be contignet upon, REA's arriving at satisfactory conclusions with respect to environmental effects and final action will be taken only after compliance with environmental impact statement precedures required by the National Environmental Policy Act of 1969.

Dated at Washington, D.C., this 10th day of May 1979.

Joseph Vellone,
Acting Administrator.

Appendix C

Sample Announcement—Financial Assistance Not Requiring an EIS

The (Name and Address of Borrower) announces that it (has made) (is making) and application for a loan (loan guarantee) from the Rural Electrification Administration which will provide for the construction of approximately ——— kilometers (——— Miles) of ——— volt transmission line. The facilities covered by the announcement will consist of ——— kilometers (——— miles) of (single pole) (H-frame) transmission line running on a ——— meter (——— foot) wide right-of-way from ——— in ——— County (via ———) in a ——— direction to a (terminal) (connection) (substation) near ——— in ———county.

The (terminal) (substation will be a ———KVa ——— volt to ——— volt facility which normally requires a ——— hectare (——— acre) site.

If there are any comments on the environmental aspects of the proposed construction, they should be submitted to the cooperative within thirty (30) days of the publication of this notice. Additional information may be obtained at the cooperative's office at the above address.

General

The above descritpion of the facilities to be constructed is indicative of the information that should be included. However, each project will have its own particular facilities that should be described. Specific reference should be made to any features of special environmental interest and more specific information should be given as to the location of facilities to be constructed to the extent practicable. The borrower may include additional information in the announcement if it wishes to do so. If the project will be located in or impact upon floodplains and/or wetlands, this fact must be stated in the announcement together with the location of the affected floodplains and wetlands.

[FR Doc. 79–15161 Filed 5–14–79; 8:45 am]

BILLING CODE 3510–15–M

Notices

Federal Register
Vol. 44, No. 95
Tuesday, May 15, 1979

This section of the FEDERAL REGISTER contains documents other than rules or proposed rules that are applicable to the public. Notices of hearings and investigations, committee meetings, agency decisions and rulings, delegations of authority, filing of petitions and applications and agency statements of organization and functions are examples of documents appearing in this section.

DEPARTMENT OF AGRICULTURE

Agricultural Stabilization and Conservation Service

Feed Grain Donations for the Northern Cheyenne Indian Tribe in Montana

Pursuant to the authority set forth in Section 407 of the Agricultural Act of 1949, as amended (7 U.S.C. 1427) and Executive Order 11336, I have determined that:

1. The chronic economic distress of the needy members of the Northern Cheyenne Indian Tribe in Montana has been materially increased and become acute because of heavy and prolonged snow cover making range forage unavailable, thereby creating a serious shortage of feed because of abnormal feeding of livestock. This reservation is designated for Indian use and is utilized by members of the Indian tribe for grazing purposes.

2. The use of feed grain or products thereof made available by the Commodity Credit Corporation for livestock feed for such needy members of the tribe will not displace or interfere with normal marketing of agricultural commodities.

3. Based on the above determinations, I hereby declare the reservation and grazing lands of this tribe to be acute distress areas and authorize the donation of feed grain owned by the Commodity Credit Corporation to livestock owners who are determined by the Bureau of Indian Affairs, Department of the Interior, to be needy members of the tribe utilizing such lands. These donations by the Commodity Credit Corporation may commence upon signature of this notice and shall be made available through June 15, 1979, or to such other time as may be stated in a notice issued by the Department of Agriculture.

Signed at Washington, D.C., on May 4, 1979.

Stewart N. Smith,
Acting Administrator, Agricultural Stabilization and Conservation Service.

[FR Doc. 79–14924 Filed 5–14–79; 8:45 am]

BILLING CODE 3410–05–M

Animal and Plant Health Inspection Service

Japanese Beetle; Availability of the Addendum to the 1978 Environmental Impact Statement

AGENCY: Animal and Plant Health Inspection Service, USDA.

ACTION: Notice of availability of the addendum to the 1978 environmental impact statement on the control of the Japanese beetle at airports.

SUMMARY: This gives notice that the Department has prepared an addendum to the 1978 environmental impact statement (EIS) on the control of the Japanese beetle at airports. The addendum to the 1978 EIS (USDA–APHIS–ADM–78–1–F) was sent to the Environmental Protection Agency (EPA) on MAY 9, 1979, pursuant to section 102(2)(C) of the National Environmental Policy Act of 1969, by the Plant Protection and Quarantine Programs, Animal and Plant Health Inspection Service.

ADDRESS: Requests for a copy of the addendum to the EIS should be addressed to the Animal and Plant Health Inspection Service, Plant Protection and Quarantine Programs, Regulatory Support Staff, U.S. Department of Agriculture, Federal Building, Hyattsville, MD 20782.

Copies are available for public inspection at the following locations.

Plant Protection and Quarantine Programs, Animal and Plant Health Inspection Service, U.S. Department of Agriculture, Room 302–E, Administration Building, 14th Street and Independence Avenue SW., Washington, DC 20250

Plant Protection and Quarantine Programs, Animal and Plant Health Inspection Service, U.S. Department of Agriculture, 3505 25th Avenue, Gulfport, MS 39501

Plant Protection and Quarantine Programs, Animal and Plant Health Inspection Service, U.S. Department of Agriculture, 505 South Lenola Road, Blason II, First Floor, Moorestown, NJ 08057

Plant Protection and Quarantine Programs, Animal and Plant Health Inspection Service, U.S. Department of Agriculture, Room 103, Building 2B, 620 Central Avenue, Alameda, CA 94501

Plant Protection and Quarantine Programs, Animal and Plant Health Inspection Service, U.S. Department of Agriculture, 2100 Boca Chica Boulevard, Suite 400, Brownsville, TX 78520

FOR FURTHER INFORMATION CONTACT: H. V. Autry, 301–436–8247.

SUPPLEMENTARY INFORMATION: A notice of the Department's intent to prepare a draft environmental impact statement (DEIS) on the control of the Japanese beetle at airports, including treatment of aircraft interiors using insecticides, was published in the Federal Register (43 FR 17515) on April 25, 1978. After consideration of comments received in response to this notice, a preliminary DEIS was prepared and a notice of availability of the preliminary DEIS for review was published in the Federal Register (43 FR 21709) on May 19, 1978.

The public was given the opportunity to participate in the development of the draft EIS (43 FR 26089). All comments received were considered in the development of the final EIS. The availability of the final EIS was published in the Federal Register (43 FR 52755) on November 14, 1978.

The program for retarding the artificial movement of the Japanese beetle from the infested area to the noninfested Western States of Arizona, California, Idaho, Nevada, Oregon, Utah, Washington, and the foreign countries of Canada, England, France, and West Germany has been carefully monitored. As a result of tests and trial methods, adjustments are being made in the program and an addendum to the EIS has been prepared which discusses and analyzes these adjustments. In accordance with procedures being considered for use during the 1979 program, physical barriers would be used to prevent the entry of Japanese beetles into the passenger compartments of aircraft. This would decrease the use of pesticides in passenger compartments. Changes would be made in the application rate for the pesticides d-phenothrin and carbaryl for their use in controlling the beetle. The rate for applying d-phenothrin (10 percent) in aircraft would be changed from 5 grams to 8 grams per 1,000 cubic feet because tests show that the 8-gram rate is necessary to ensure that any Japanese

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beetles in the aircraft will be killed. This increased dosage rate was approved by EPA. The rate for applying carbaryl by mist blower would be changed from 2 pounds to 1 pound actual insecticide per acre to conform with the usage rate on the registered label. The addendum to the EIS discusses these changes and the alternatives considered.

Done at Washington, D.C., this 9th day of May 1979.

James O. Lee, Jr.,

Deputy Administrator, Plant Protection and Quarantine Programs, Animal and Plant Health Inspection Service.

[FR Doc. 79-15077 Filed 5-14-79; 8:45 am]

BILLING CODE 3410-34-M

Soil Conservation Service

Knob Creek Watershed, Texas; Deauthorization of Federal Funding

Pursuant to the Watershed Protection and Flood Prevention Act, Pub. L. 83-566, and the Soil Conservation Service Guidelines (7 CFR Part 622), Federal funding for the Knob Creek Watershed, Bell County, Texas, is hereby deauthorized.

A notice of intent not to file an environmental impact statement for deauthorization of Federal funding was published on February 1, 1979. Appropriate committees of Congress and concerned local, State, and Federal agencies were notified of the proposed deauthorization at least 60 days prior to the effective date. No objections to deauthorization or expressions of support to complete the project have been made known to the Soil Conservation Service.

(Catalog of Federal Domestic Assistance Program No. 10.904, Watershed Protection and Flood Prevention Program, Pub. L. 83-566, 16 U.S.C. 1001-1008)

Dated: April 30, 1979.

R. M. Davis,

Administrator, Soil Conservation Service.

[FR Doc. 79-15027 Filed 5-14-79; 8:45 am]

BILLING CODE 3410-16-M

Office of the Secretary

Intent To Reestablish Agricultural Advisory Committees for the Multilateral Trade Negotiations

Notice is hereby given that the Secretary of Agriculture, after consultation with the Special Representative for Trade Negotiations, proposes to reestablish the following advisory committees: Agricultural Policy Advisory Committee for Trade Negotiations, and the eight separate Agricultural Technical Advisory Committees for Trade Negotiations on: Cotton, Dairy, Fruits and Vegetables, Grain and Feed, Livestock and Livestock Products, Oilseeds and Products, Poultry and Eggs, and Tobacco.

The purpose of these committees is to provide advice to the Secretary and the Special Representative for Trade Negotiations in respect to multilateral trade negotiations pursuant to Section 135(c) of the Trade Act fo 1974. (Pub. L. 93-618).

The reestablishment of such committees is in the public interest in connection with the duties of the Department imposed by the Trade Act of 1974.

Comments may be submitted to George White, Advisory Committee Control Officer, FAS, U.S. Department of Agriculture, room 5057 South Building, Washington, D.C. 20250 until May 30, 1979.

Joan S. Wallace,

Assistant Secretary for Administration

May 10, 1979

[FR Doc. 79-15141 Filed 5-14-79; 8:45 am]

BILLING CODE 3410-10-M

CIVIL AERONAUTICS BOARD

Atlantida Linea Aerea Sudamericana, S.A.; Application

AGENCY: Civil Aeronautics Board.

ACTION: Notice of Order to Show Cause: ORDER 79-5-68.

SUMMARY: The Board proposes to approve the following application: Applicant: Atlantida Linea Aerea Sudamericana, S.A. Application date: February 22, 1978. Docket: 32153. Authority sought: Foreign Air Carrier Cargo Permit authorizing nonscheduled transportation of property between Uruguay and the United States (Miami, New York and Houston) via specified intermediate countries in Central and South America.

OBJECTIONS: All interested persons having objections to the Board's tentative findings and conclusions that this authority should be granted, as described in the order cited above, shall, no later than May 31, 1979, file a statement of such objections with the Civil Aeronautics Board (20 copies) and mail copies to the applicant, the Department of Transportation, the Department of State, and the Ambassador of Uruguay in Washington, D.C. A statement of objections must cite the docket number and must include a summary of testimony, statistical data, or other such supporting evidence.

If no objections are filed, the Secretary of the Board will enter an order which will, subject to disapproval by the President, make final the Board's tentative findings and conclusions and issue the proposed permit or certificate.

ADDRESSES FOR OBJECTIONS:

Docket 32153, Docket Section, Civil Aeronautics Board, Washington, D.C. 20428.

A.L.A.S., c/o Thomas J. Whalen, Condon & Forsyth, 1001 Connecticut Avenue NW., Washington, D.C. 20036.

To get a copy of the complete order, request it from the C.A.B. Distribution Section, Room 516, 1825 Connecticut Avenue NW., Washington, D.C. 20428. Persons outside the Washington metropolitan area may send a postcard request.

FOR FURTHER INFORMATION CONTACT: The Regulatory Affairs Division of the Bureau of International Aviation, Civil Aeronautics Board; (202) 673-5880.

By the Civil Aeronautics Board, May 9, 1979.

Phyllis T. Kaylor,

Secretary.

[Order 79-5-68; Docket 32153]

[FR Doc. 79-15138 Filed 5-14-79; 8:45 am]

BILLING CODE 6320-01-M

Pacific Alaska Airlines, Inc., and Fleming International Airways, Inc.; Order Dismissing Applications and Instituting Formal Proceedings

Adopted by the Civil Aeronautics Board at ist office in Washington, D.C. on the 9th day of May, 1979.

In the matter of Applications of Pacific Alaska Airlines, Inc. Fleming International Airways, Inc. for All-Cargo certificates under section 418 (Dockets 33977, 34031); fitness investigation of Fleming International Airways (Docket 35507); fitness investigation of Pacific Alaska Airlines (Docket 35508); order dismissing applications and instituting formal proceedings.

Pacific Alaska Airlines and Fleming International Airlines, two FAR Part 121 operators, have applied for certificates for all-cargo air service under Section 418(a)(4) of the Act. Their applications, dated November 9, 1978, and November 15, 1978, respectively, were among the first all-cargo applications received from carriers not eligible under the "grandfather" provisions of Section 418(a)(1)-(3).[1]

One answer was received, from Zantop International Airlines, in opposition to Fleming's application; Fleming replied to the answer. No one

[1] The other applicants, to which we have issued certificates, are: Trans Continental Airlines, Conner Air Lines, Rosenbalm Aviation, Emery Air Freight, and Air Express International Airlines. (Order 79-5-44).

responded to Pacific Alaska's application.

Section 418 was signed into law by the President on November 9, 1977, as Pub. L. 95-163. Section 418(a)(4) permits any citizen to apply, beginning one year after the date of enactment, for a certificate authorizing all-cargo air service. Section 418(b)(1)(B) requires us to issue a certificate under subsection (a)(4) not later than 180 days after a complete application is filed, unless we find that the applicant is not fit, willing and able to provide all-cargo service and to comply with any orders and regulations we issue.

We have considered all of the material contained in the subject applications and answer, plus the safety and compliance evaluations and other material submitted by the Federal Aviation Administration,[2] and have decided, for the reasons set forth below, to deny the applications of Pacific Alaska and Fleming. The evidence now available to us casts doubt on the willingness of these carriers to comply with our rules and regulations and their ability to provide their services safely. We will, however, institute formal proceedings for the purpose of obtaining more evidence on these questions. On the basis of the information we now have, we must find that Pacific Alaska and Fleming are not fit, willing and able within the meaning of section 418. The formal proceedings we are instituting will give them an opportunity to demonstrate their fitness.

Pacific Alaska

Pacific Alaska's application and documents from the files of the FAA reveal a history checkered with frequent charges of violations of safety regulations. The FAA has assessed Pacific Alaska more than $15,000 in civil penalties during the five years since it began service as a Part 121 commercial operator.

In December of 1975, the FAA charged Pacific Alaska with violation of numerous provisions of the Federal Aviation Regulations (FAR). The first of these charges alleged that airline personnel had been improperly trained in refueling procedures, thus risking fuel contamination. The charge alleged that, as a result, contaminated fuel was used in the refueling of a flight on February 16, 1975, causing the crash of the plane and the death of two persons and injury of a third. These circumstances constituted a violation of FAR Sections 121.135(b)(18) and 91.9. Other charges alleged failure to report major alterations of the aircraft, failure to make alterations in conformity with approved technical data, failure to report malfunctions of the landing gear, and failure to make needed repairs.[3] These failures rendered the aircraft unairworthy. The action brought against the airline for these violations was settled in December 1977, by payment of a $6,000 civil penalty without admission of guilt.

More recently, Pacific Alaska was faced with suspension of its Commercial Operators Operating Certificate as a result of further charges brought by the FAA. The President and General Manager of the Airline, Donald G. Gilbertson, was charged with making intentionally false and fraudulent entries in a logbook, record or report required to be kept or made to show compliance with the regulations. Mr. Gilbertson was said to have altered flight logs to increase the number of landings for the purpose of exaggerating the operating record of one of the airline's pilots. He was said to have falsely certified that he personally had completed a required six-month proficiency check, to have flown as a crewmember without having received this check, and, on seven occasions in July 1978, to have flown as a crewmember after having been aloft as a crewmember more than 120 hours during the preceding 30 consecutive days. The chief pilot and check airman, Kenneth R. Martin, was also accused of having made the false certification that D. G. Gilbert had satisfactorily completed the six-month proficiency check. For these alleged violations, the FAA revoked the Airline Transport Pilot Certificates of both men on an emergency basis.[4]

The charges relating to Gilbertson and Martin were included in charges brought against Pacific Alaska in December 1978. Also alleged were the use of an unqualified crewmember during flights on April 14 and 15, 1978, and 305 violations of flight time limitations on crewmembers during the period from July 10 to September 1, 1978. The FAA concluded that Pacific Alaska:

> [H]as failed to at all times exercise the degree of care, judgment, and responsibility required to enable it to adequately conduct safe operations in accordance with Part 121 and is therefore not presently qualified to be the holder of a Commercial Operator Operating Certificate.[5]

All charges then pending against the airline were settled on February 9, 1979, with the payment of a civil penalty of $7,500, and Mr. Gilbertson's agreement not to assume, for a period of one year, any of the following positions at Pacific Alaska: General Manager, Chief Pilot or Chief Inspector. He is also free to reapply for an Airline Transport Pilot Certificate. The settlement did not constitute an admission of guilt by the airline or its president.

Fleming International

The history of Fleming International also gives us serious reservations about its fitness. It too has a record of numerous violations of the Federal Aviation Regulations relating to safety. Since October 1973, Fleming has paid $2100 in civil penalties, and $22,500 in assessed civil penalties are still pending.

Unfortunately, we are in possession of very limited information regarding Fleming's alleged violations. The FAA has not yet supplied us with the pertinent records, and we are relying upon a list of violations contained in Exhibit FL-9 of Fleming's application. Among the more serious violations cited in this list are the operation of components beyond approved time limits (October 10, 1973 and February 1, 1975), operation of two flights without radio and navigation equipment (November 30, 1977), operation of aircraft on several flights with an inoperative pitot heat warning light for the captain's pitot system (February 3, 1978), and two unspecified "hazardous material" violations (March 26 and April 27, 1978) for which a total of $18,000 in civil penalties are now pending.

Also, like Pacific Alaska, Fleming has experienced a fatal air crash. On July 6, 1977, one of its Lockheed L-188C's crashed shortly after takeoff at St. Louis, resulting in the death of three crewmembers. A brief description of the accident by the National Transportation Safety Board [6] described the "type of accident" as "propeller/rotor failure", and listed ten "probable causes". These included "pilot in command attempted operation w/known deficiencies in equipment" and "inadequate maintenance and inspection".

Determination of Unfitness

We consider the allegations made by the FAA, discussed above, to bear heavily on the question of the carriers'

[2] Copies of the safety and compliance evaluations have been placed in the respective dockets.

[3] These alleged acts constitute violations of FAR Sections 121.709(a), 121.707, 91.29(a), and 43.13 (a) and (b).

[4] Case numbers AL-78-OC-14-E and AL-78-OC-12-E, respectively.

[5] Notice of Proposed Certificate Action. Case NOs. AL-78-OC-3 and AL-78-OC-15, FAA Alaskan Region. December 19, 1978.

[6] Supplied by Zantop in its answer as Exhibit 21A-104.

fitness. The preponderance of the evidence now before us indicates that Fleming and Pacific Alaska lack the disposition to comply with the Act and applicable regulations and operate safely.[7] We make this determination in the absence of more information. The Act's 180-day deadline compels us to decide in the affirmative or the negative on the applications by May 9, 1979, in Pacific Alaska's case and May 15, 1979, in Fleming's and we cannot find otherwise on the basis of the information we now possess.

We do not regard the matter to be closed, however. We will require the carriers to submit new applications, thus initiating additional 180-day periods, if they remain interested in pursuing all-cargo authority. To facilitate the resolution of the fitness issues, we are instituting formal proceedings.[8] The applicants should refile in the appropriate dockets within thirty (30) days of the service of this order. Failure to file within this period will result in the termination of the formal proceedings.

The separate proceedings will be confined entirely to the issue of the fitness of each of the applicants. We urge the Administrative Law Judges assigned to these proceedings to set the hearings at the earliest convenience of the parties, and to confer with the parties on means of expedition.[9]

We believe, given the circumstances of these cases, that fitness hearings will be the best and most expeditious way to acquire all relevant facts and resolve possible factual disputes. We also believe that parties should have the benefit of oral testimony, cross-examination, and rebuttal of evidence.

At the heart of our determination to hold hearings lie doubts as to the applicants' abilities to comply with the regulations which help to assure safe operations. We stated in a previous case that the Act "requires the application of the highest safety standards in the course of regulating new entry into the industry."[10] Yet operational safety is primarily the responsibility of the FAA,[11] and we do not possess its expertise in evaluating a carrier's safety potential. In a case such as this, we need the expert opinions of the FAA, as well as all relevant facts in its possession. To this end, we are making the Federal Aviation Administration a party to both of the formal cases which we are instituting. We expect that it will participate actively and render valuable assistance in resolving the difficult issues before us.

Accordingly, 1. We deny the applications of Pacific Alaska Airlines and Fleming International Airways in Dockets 33977 and 34031, respectively, for certificates for all-cargo authority under Section 418(a)(4) of the Act;

2. We institute formal proceedings entitled *Fitness Investigation of Pacific Alaska Airlines, Inc.* in Docket 35508, and *Fitness Investigation of Fleming International Airways, Inc.* in Docket 35507;

3. We direct Pacific Alaska and Fleming to file new applications in the appropriate dockets, along with all information previously submitted, updated to reflect any changes by June 11, 1979;

4. All issues relating to the fitness of the applicants will be heard before Administrative Law Judges at places and times to be determined later; and

5. We make the Federal Aviation Administration a party to the proceedings instituted in paragraph 3.

We will publish this order in the **Federal Register**.

By the Civil Aeronautics Board.[12]

Phyllis T. Kaylor,
Secretary.
[Order 79-5-69; Dockets 33977, 34031, 35507, 35508]
[FR Doc. 79-15139 Filed 5-14-79; 8:45 am]
BILLING CODE 6320-01-M

[7] There is also a factual dispute as to the financial fitness of Fleming. Zantop, in its answer, raises questions regarding Fleming's dependence on credit extended by its suppliers, and its long-term financial future. While we are making no judgment on Fleming's financial fitness here, we wish to inquire more fully into the question through the procedures set forth below.

[8] The Docket for Pacific Alaska's application is Docket 35508; Fleming should file in Docket 35507.

[9] For our convenience and that of the Judges and the parties, applicants should resubmit all required evidence, updated to reflect any changes which have transpired since the original data were filed. The Bureau of Pricing and Domestic Aviation will submit evidence requests for any further information which is needed, and consistent with customary practice, the Judges assigned to the proceedings will rule on any disputes concerning the evidence that should be required.

[10] *Application of Federal Express, supra.* fn. 7, at 7.

[11] *Transcontinental, supra.* fn. 7, at 25.

[12] All members concurred.

CIVIL RIGHTS COMMISSION

California Advisory Committee; Agenda and Notice of Open Meeting

Notice is hereby given, pursuant to the provisions of the Rules and Regulations of the U.S. Commission on Civil Rights, that a planning meeting of the California Advisory Commission (SAC) of the Commission will convene at 7:00 pm and will end at 9:00 pm, on June 1, 1979, at the Jack Tar Hotel, Van Ness at Geary, San Francisco, California 94101.

Persons wishing to attend this open meeting should contact the Committee Chairperson, or the Western Regional Office of the Commission, 312 North Spring Street, Room 1015, Los Angeles, California 90012.

The purpose of this meeting is to review the remainder of fiscal year 1979 and fiscal year 1980 projects.

This meeting will be conducted pursuant to the provisions of the Rules and Regulations of the Commission.

Dated at Washington, D.C., May 9, 1979.

John I. Binkley,
Advisory Committee Management Officer.
[FR Doc. 79-15144 Filed 5-14-79; 8:45 am]
BILLING CODE 6335-01-M

Delaware Advisory Committee; Agenda and Notice of Open Meeting

Notice is hereby given, pursuant to the provisions of the Rules and Regulations of the U.S. Commission on Civil Rights, that a planning meeting of the Delaware Advisory Commission (SAC) of the Commission will convene at 1:00 pm and will end at 5:00 pm, on June 5, 1979, at the Union Baptist Community Service Agency, 2601 North Pine Street, Wilmington, Delaware.

Persons wishing to attend this open meeting should contact the Committee Chairperson, or the Mid-Atlantic Regional Office of the Commission, 2120 L Street, N.W., Room 510, Washington, D.C. 20037.

The purpose of this meeting is the consideration of reports from agenda-planning subcommittee.

This meeting will be conducted pursuant to the provisions of the Rules and Regulations of the Commission.

Dated at Washington, D.C., May 9, 1979.

John I. Binkley,
Advisory Committee Management Officer.
[FR Doc. 79-15145 Filed 5-14-79; 8:45 am]
BILLING CODE 6335-01-M

New York Advisory Committee; Meeting Change

Notice is hereby given, pursuant to the provisions of the Rules and Regulations of the U.S. Commission on Civil Rights that a planning meeting of the New York Advisory Committee (SAC) of the Commission originally scheduled for May 18–19, 1979 has been changed, (FR Doc. 79-10622) on page 20735.

The meeting now will be held on May 18, 1979, beginning at 3:00 pm and will end at 6:00 pm, at Phelps Stokes Fund, Inc., 10 East 87 Street, New York, New York.

Dated at Washington, D.C., May 10, 1979.

John I. Binkley,
Advisory Committee Management Officer.
[FR Doc. 79-15146 Filed 5-14-79; 8:45 am]
BILLING CODE 6335-01-M

DEPARTMENT OF COMMERCE

National Oceanic and Atmospheric Administration

Maine Coastal Management Program; Intent to Approve Amendment

Notice is hereby given of the intent by the Office of Coastal Zone Management (OCZM) to approve amendments to the Maine Coastal Management Program by the addition of procedures to cover three areas:

1. Coastal Shorefront Access and Protection.

2. Shoreline Erosion Assessment and Mitigation.

3. Energy Facility Siting.

Interested parties have 30 days from the issuance of this notice to submit comments. If no serious disagreement of that action is raised during this comment period, the Assistant Administrator for Coastal Zone Management intends to give formal approval to these amendments. Comments should be addressed to:

Dick O'Connor, Deputy North Atlantic Regional Manager, Office of Coastal Zone Management, 3300 Whitehaven Street, N.W., Washington, D.C. 20235.

A full text of the proposed amendments to the Maine Coastal Management Program has been distributed to all Federal agencies. Interested parties wishing to obtain copies of the refinements may request copies from OCZM at the above address.

Dated: May 8, 1979.

M. P. Snidero,
Acting Assistant Administrator for Administration.
[FR Doc. 79-15082 Filed 5-14-79; 8:45 am]
BILLING CODE 3510-08-M

Public Hearings on Draft Environmental Impact Statement

Notice is hereby given that the Office of Coastal Zone Management, National Oceanic and Atmospheric Administration (NOAA), U.S. Department of Commerce, will hold a public hearing for the purpose of receiving comments on the Draft Environmental Impact Statement (DEIS) Prepared on the Proposed Apalachicola Estuarine Sanctuary.

The hearing will begin at 7:00 p.m. on Thursday, June 7, 1979. It will be held at the Franklin County Courthouse in Apalachicola, Florida.

The views of interested persons and organizations on the adequacy of the impact statement and the proposed Apalachicola Estuarine Sanctuary, are solicited, and may be expressed orally or in written statements. Persons or organizations wishing to be heard on this matter should contact the Office of Coastal Zone Management (OCZM), National Oceanic and Atmospheric Administration, 3300 Whitehaven Street, N.W., Washington, D.C. 20235 (phone: 202/634–4253), so that an appearance schedule may be prepared. In addition, requests for presentations will be accepted immediately prior to the hearing. Presentations are scheduled on a first-come, first-served basis, and should be limited to ten minutes in order to assure that all views can be heard. Office of Coastal Zone Management staff may wish to question speakers following the conclusion of their statements. If time permits, additional statements (and general discussion) may be scheduled at the conclusion of presentations. No verbatim transcript of the hearing will be prepared; but staff present will record the general thrust of the remarks. As part of his review of the Proposed Estuarine Sanctuary, the Assistant Administrator for Coastal Zone Management will consider fully all comments received at this hearing, as well as written statements submitted to, and received by OCZM on or before June 19, 1979. As part of the procedures leading toward designation of this sanctuary, a Final Environmental Impact Statement, reflecting his consideration of these comments, will be prepared pursuant to the National Environmental Policy Act of 1969 and its implementing guidelines. All written comments received by OCZM prior to the deadline will be included in the FEIS.

Dated: May 8, 1979.

M. P. Snidero,
Assistant Administrator for Administration.
[FR Doc. 79-15081 Filed 5-15-79; 8:45 am]
BILLING CODE 3510-08-M

Office of the Secretary

Financial Disclosure Reports; Interim Procedures for Public Inspection and Copying

1. *Purpose*

Pursuant to title II of the Ethics in Government Act of 1978 (the Act) each executive agency is to make available to the public for inspection and copying the financial disclosure reports which certain of its officers and employees are to file under the Act. These reports, together with a position description or equivalent paper describing the reporting individual's job, are to be made publicly available within fifteen days of their receipt by the agency. This notice is to inform the public of the Department of Commerce procedures for examining and obtaining copies of those reports.

2. *Scope*

These procedures are initially directed to implement the first annual filing of financial reports by Department of Commerce officers and employees under section 201(d) of the Act. These reports cover the calendar year 1978 and are to be filed by May 15, 1979, unless an extension of time has been granted to particular individuals for good cause. The financial disclosure reports are made on Standard Form 278, which was developed and made available by the Office of Government Ethics under section 203(g) of the Act. However, these procedures will apply also to other financial reports which are required to be filed with the Department under title II of the Act, until further rules may be formalized on the basis of experience and public comments.

3. *Public Inspection*

Copies of the financial disclosure reports filed by officers and employees of the Department of Commerce under title II of the Act, together with the relevant official position descriptions, will be available for public inspection in the Central Reference and Records Inspection Facility, Room 5319, Department of Commerce, 14th Street between Constitution Avenue and E Street, Northwest, Washington, D.C. 20230. The Facility is open to the public Monday through Friday of each week, except on official holidays of the United States Government, between the hours of 9 a.m. and 4:30 p.m. The telephone number of the Facility is (202) 377–4217.

4. *Copying*

a. Persons who are inspecting reports at the Facility may obtain copies upon payment of the fees set forth in paragraph 5.a. below.

b. Persons may obtain copies of reports and position descriptions by writing to the Facility. The request shall specify the name and/or position title of each officer or employee whose report is being sought. The request shall be signed by the individual requester, identify his or her organization, and include the appropriate fee for copying and mailing calculated under paragraph 5.b. below.

c. Normally only one copy of the same report will be provided. Additional

copies will be provided only upon a showing of demonstrated need.

5. *Fees*

a. In person, copies may be obtained at a cost of $.07 per page, or the charge of a coin operated machine, as available.

b. Individuals requesting copies to be sent by mail shall include a fee of $1.00 for each report and position description (usually 10 pages), to cover the cost of reproduction and mailing, payable by check or money order to "U.S. Department of Commerce".

6. *Unlawful Use of Reports*

a. The Act makes it unlawful for any person to obtain or use a report or the information in it (a) for any unlawful purpose; (b) for any commercial purpose, other than by news and communication media for dissemination to the general public; (c) for determining or establishing the credit rating of any individual; or (d) for use, directly or indirectly, in the soliciation of money for any political, charitable, or other purpose. Persons violating this provision are subject to civil fines as well as other remedial action.

b. For administrative purposes, persons who seek to examine or receive copies of financial reports shall identify themselves and their organizations.

7. *Designation*

The Secretary of Commerce has designated the General Counsel of the Department, who is also its Ethics Counsellor, as the person to administer the provisions of the Act within the Department of Commerce.

8. *Comments*

Individuals are encouraged to provide suggestions or comments on these procedures, which should be sent to the Facility at the address given in paragraph 3. above.

9. *Effective Date*

This notice shall become effective May 15, 1979.

William V. Skidmore,
Acting General Counsel.
[FR Doc. 79-15042 Filed 5-14-79; 8:45 am]
BILLING CODE 3510-17-M

COMMITTEE FOR PURCHASE FROM THE BLIND AND OTHER SEVERELY HANDICAPPED

Procurement List 1979 Additions

AGENCY: Committee for Purchase from the Blind and Other Severely Handicapped.

ACTION: Additions to Procurement List

SUMMARY: This action adds to Procurement List 1979 commodities to be produced by workshops for the blind or other severely handicapped.

EFFECTIVE DATE: May 15, 1979.

ADDRESS: Committee for Purchase from the Blind and Other Severely Handicapped, 2009 14th Street North, Suite 610, Arlington, Virginia 22201.

FOR FURTHER INFORMATION CONTACT: C. W. Fletcher, (703) 557-1145.

SUPPLEMENTARY INFORMATION: On February 9, 1979 and March 9, 1979 the Committee for Purchase from the Blind and Other Severely Handicapped, published notices (44 FR 8324 and 44 FR 13061) of proposed additions to Procurement List 1979, November 15, 1978 (43 FR 53151).

After consideration of the relevant matter presented, the Committee has determined that the commodities listed below are suitable for procurement by the Federal Government under 41 U.S.C. 46-48c, 85 Stat. 77.

Accordingly, the following commodities are hereby added to Procurement List 1979:

Class 7210

Tablecloth
7210-00-492-8381

Class 7910

Pad, Floor Polishing Machine Buffing (fine)
Class 1
7910-00-685-6686
7910-00-685-6687
7910-00-685-3908
7910-00-685-6671
7910-00-685-6909
7910-00-685-6672
7910-00-685-3910
Scrubbing (medium) Class 2
7910-00-685-6656
7910-00-685-6657
7910-00-685-3912
7910-00-685-6659
7910-00-685-3915
7910-00-685-6660
7910-00-685-3914
Stripping (coarse) Class 3
7910-00-685-4239
7910-00-685-4240
7910-00-685-4242
7910-00-685-4243
7910-00-685-4241
7910-00-685-4244
7910-00-685-4245

Class 7920

Pad, Scouring
7920-00-151-6120

C. W. Fletcher,
Executive Director.
[FR Doc. 79-15092 Filed 5-14-79; 8:45 am]
BILLING CODE 6820-33-M

DEPARTMENT OF DEFENSE

DOD Advisory Group on Electron Devices; Advisory Committee Meeting

The DoD Advisory Group on Electron Devices (AGED) will meet in closed session on 20 June 1979, at 201 Varick Street, 9th floor, New York, New York 10014.

The mission of the Advisory Group is to provide the Under Secretary of Defense for Research and Engineering, the Director, Defense Advanced Research Projects Agency and the Military Departments with technical advice on the conduct of economical and effective research and development programs in the area of Electron Devices.

The AGED meeting will be limited to review of research and development programs which the Military Departments propose to initiate with industry, universities or in their laboratories. The agenda for this meeting will include programs on Radiation Hardened Devices, Microwave Tubes, Displays and Lasers. The review will include details of classified defense programs throughout.

In accordance with 5 U.S.C. App. 1 10(d) (1976), it has been determined that this Advisory Group meeting concerns matters listed in 5 U.S.C. 552b(c)(1) (1976), and that accordingly, this meeting will be closed to the public.

H. E. Lofdahl,
Director, Correspondence and Directives, Washington Headquarters Services, Department of Defense.
May 10, 1979.
[FR Doc. 79-15140 Filed 5-14-79; 8:45 am]
BILLING CODE 3810-70-M

DEPARTMENT OF ENERGY

Sales of Lithium Compounds Enriched in the Isotope Lithium-7

In compliance with general Department of Energy (DOE) policy not to compete with private industry, DOE is considering withdrawing from sales of lithium hydroxide monohydrate enriched in the isotope lithium-7 (Li-7) to an isotopic purity of 99.9% or higher, in order to encourage development of commercial capability in lithium isotope enrichment.

For the past several years, DOE has sold limited quantities of highly-enriched Li-7 through the Oak Ridge National Laboratory Stable Isotope Sales Office at Oak Ridge, Tennessee. The material has been used in nuclear reactor operations, because the isotope Li-7 has a very low neutron absorption cross-section, making its compounds

useful as a coolant-water corrosion inhibitor in pressurized water reactors.

The lithium isotope separation facilities at Oak Ridge, where the DOE inventory of enriched Li-7 was produced, were placed in standby condition in 1963. In 1974 the facilities were dismantled after it was determined that restart of the standby facility would be more costly and more difficult than construction of a new plant of the smaller size suitable to serve reactor needs. The remaining stocks of DOE-owned high-purity Li-7 are limited. If private industry does not build a separation plant, then in about four to six years either (1) new government facilities will have to brought into production, (2) high-purity Li-7 will have to be purchased from foreign suppliers, or (3) industry will have to use less desirable materials.

Enriched Li-7 of 99.9% purity or greater now can be purchased by domestic or foreign customers from commercial sources. If the proposed policy is adopted, highly-enriched Li-7 of 99.9% purity or greater in the form of lithium hydroxide monohydrate will continue to be available through the ORNL Stable Isotopes Sales Office for research purposed at 50 cents per gram in lots not to exceed 50 grams to any one customer in any 12-month period.

A supply of Li-7 of an isotopic purity of 98.4% also will continue to be available for use in startup of new reactors and for other miscellaneous activities. Enough of this material will be made available for such purposes to constitute at least a ten-year supply at current consumption rates. Additional stocks of 98.4% Li-7 will be reserved to furnish feedstocks to supply at last two isotopic enrichment facilities for up to ten years at forecast demand rates.

The DOE contingency reserve of enriched Li-7 of 99.9% purity or greater in the form of lithium hydroxide monohydrate also will be available for release if potential domestic purchasers petition DOE, and DOE determines that material of this quality is not available from commercial sources on terms and conditions, including prices, that are reasonable.

All parties who desire to submit written comments on this notice should send them to Mr. George B. Pleat, Office of Nuclear Materials Production, A-362, U.S. Department of Energy, Washington, D.C., 20545, by June 15, 1979. Comments received after that date will be considered if it is practicable to do so, but assurance of consideration cannot be given except as to comments filed within the period specified. Answers to questions concerning this notice can be obtained by writing to Mr. Pleat at the above address or by calling Mr. Richard D. Hahn, at 301-353-3782.

The proposed notice, hereby issued for comment follows:

1. The Department of Energy (DOE) hereby withdraws from the sale of lithium-7 (Li-7) in the form of lithium hydroxide monohydrate having an isotopic purity of 99.9% or greater other than the sale in gram lots, not to exceed 50 grams to any purchaser in any 12-month period, which will continue to be priced at 50 cents per gram.

2. DOE will reserve its stocks of Li-7 in the form of lithium fluoride having an isotopic purity of 99.9% or greater for sale at $260 per kilogram to an industry source which wishes to process it to the form of lithium hydroxide monohydrate; provided that such sale shall be made only upon a determinaton by DOE that it will serve to foster private domestic competition in the isotopic separation of lithium.

3. DOE will continue to sell Li-7 having an isotopic purity of 98.4% or lower, in any of the forms available to DOE, at a price of $51.00 per kilogram, except that DOE will reserve from sale approximately 440,000 kg of Li-7 in the form of lithium hydroxide monohydrate having an isotopic purity of 98.4% for sale to industries desiring to use it, upon a showing to DOE's satisfaction that such material will be used as feed stock for a plant to enrich lithium to an isotopic purity of Li-7 of 99.9% or greater. DOE will sell not more than 220,000 kg of the reserved material to any one entity. This restriciton will provide sufficient feed stocks for two lithium enrichers should the market opportunity for two enrichers develop.

4. If at any time after the effective date of this notice a person who is a user or potential user of lithium hydroxide monohydrate, enriched in Li-7 to an isotopic purity of 99.9% or greater, is unable to reach agreement with a commercial U.S supplier of such material and if such person considers that terms and conditions, including prices, for the material offered by the commercial U.S. supplier are unreasonable, DOE, upon such person's request, will review the proposed terms and conditions including prices. If after the review DOE determines the required material is not available at reasonable terms and conditions, including prices, DOE to the extent it has stocks available, will sell to such person lithium hydroxide monohydrate enriched in Li-7 to an isotopic purity of 99.9% or greater in amounts DOE determines to be appropriate at a price which DOE at that time determines to be reasonable.

5. The notice published in the **Federal Register** at 42 FR 28912 on June 6, 1977, entitled "Lithium-7 Sales, Revision of Charges," as well as all previous notices dealing with the sales of lithium-7, are hereby superseded.

Dated at Washington, D.C. this 7th day of May 1979.

For the U.S. Department of Energy.

Duane C. Sewell,
Assistant Secretary for Defense Programs.
[FR Doc. 79-15090 Filed 5-14-79; 8:45 am]
BILLING CODE 6450-01-M

Economic Regulatory Administration

Greenwood Energy Center Unit 1; Detroit Edison Co.

AGENCY: Economic Regulatory Administration, Department of Energy.

ACTION: Notice of request for classification.

SUMMARY: On April 18, 1979, Detroit Edison Company requested the Economic Regulatory Administration (ERA) of the Department of Energy (DOE) to classify Greenwood Energy Center Unit 1 as an existing facility pursuant to § 515.6 of the Revised Interim Rule to Permit Classification of Certain Powerplants and Installations as Existing Facilities (Interim Rule) issued by ERA on March 15, 1979 (44 FR 17464) and pursuant to the provisions of the Powerplant and Industrial Fuel Use Act of 1978, Pub. L. 95-620 (FUA). FUA, which is effective May 8, 1979, imposes certain statutory prohibitions against the use of natural gas and petroleum by new and existing electric powerplants. ERA's decision in this matter will determine whether Greenwood Energy Center Unit 1 is a new or existing powerplant. The prohibitions which apply to existing powerplants are different from those which apply to new powerplants. The purpose of this Notice is to invite interested persons to submit written comments on this matter prior to the issuance of a final decision by ERA. In accordance with § 515.25 of the Interim Rule, no public hearings will be held.

DATES: Written comments are due on or before June 6, 1979.

ADDRESSES: Ten copies of written comments shall be submitted to:

Department of Energy, Case Control Unit, Box 4629, 2000 M Street, NW., Room 2313, Washington, D.C. 20461.

FOR FURTHER INFORMATION CONTACT:

William L. Webb (Office of Public Information), Economic Regulatory Administration, Department of Energy,

County: San Juan

2000 M Street, NW., Room B-110, Washington, D.C. 20461, (202) 634-2170.
Charles A. Falcone, Director, Power Supply and Reliability, Economic Regulatory Administration, Department of Energy, 2000 M Street, NW., Washington, D.C. 20461, (202) 634-5620.
James H. Heffernan (Office of the General Counsel), Department of Energy, 12th & Pennsylvania Avenue, NW., Room 7134, Washington, D.C. 20461, (202) 633-8814.
Robert L. Davies, Deputy Assistant Administrator, Office of Fuels Regulation, Economic Regulatory Administration, 2000 M Street, NW., Room 7202, Washington, D.C. 20461, (202) 254-3910.

SUPPLEMENTARY INFORMATION: Detroit Edison Company is a corporation organized under the laws of the State of Michigan. Detroit Edison supplies electric service to southeastern Michigan.

Detroit Edison stated that contracted engineering activities for Greenwood Energy Center Unit 1 began on April 30, 1971. Construction of the 800 MW residual fuel oil fired generating unit began on May 1, 1972. Greenwood Unit 1 was originally scheduled for operation on April 1, 1979. Detroit Edison has confirmed by phone that the unit at this time is not commercially operational but is synchronized with the utility's system. The company has not provided a revised date for commercial operation of Unit 1.

On April 18, 1979, pursuant to ERA's Revised Interim Rule to Permit Classification of Certain Powerplants and Installations as Existing Facilities (Interim Rule) issued on March 15, 1979, Detroit Edison requested that ERA classify Greenwood Energy Center Unit 1 as an existing facility.

In accordance with Section 515.6 of ERA's Interim Rule, a powerplant will be classified as existing if the cancellation, rescheduling or modification of the construction or acquisition of a powerplant would result in a substantial financial penalty or an adverse effect on the electric system reliability. Detroit Edison supported its request for classification by providing evidence in support of its claim that prohibiting the company from burning petroleum products in Greenwood Unit 1 would result in a substantial financial penalty to the company.

A summary of the evidence requirements and Detroit Edison's response to those requirements follows:

Substantial Financial Penalty—Pursuant to Section 515.6(a) of the Interim Rule, ERA will classify a facility as existing upon a demonstration that at least 25 percent of the total projected project cost as of November 9, 1978 was expended in nonrecoverable outlays as of November 9, 1978.

In response to the evidence requirements of Section 515.7(b)(1) of the Interim Rule, Detroit Edison provided the following information:

—Total projected cost on 11/9/78 was $369,500,000;

—Total project expenditures on 10/31/78 were $215,847,664.87;

Total net nonrecoverable outlay (including contract liability costs as of 9/3/78) was $140,984,000;

—Total recoverable outlays were $75,273,000.

There appears to be a reasonable likelihood that Greenwood Energy Center Unit 1 will be determined to be an existing facility. ERA hereby invites all interested persons to submit written comments on this matter.

The public file, containing Detroit Edison's request for classification and supporting materials, is available for inspection upon request at:

ERA, Room 7202, 2000 M Street, NW., Washington, D.C. 20461, Monday-Friday, 8:00 a.m.-4:30 p.m.

Issued in Washington, D.C., on May 9, 1979.

Doris J. Dewton,
Acting Assistant Administrator, Fuels Regulation, Economic Regulatory Administration.

[ERA Case No. 50782-6035-01-77]
[FR Doc. 79-15091 Filed 5-14-79; 8:45 am]
BILLING CODE 6450-01-M

Federal Energy Regulatory Commission

Champlin Petroleum Co. et al.; Determination by a Jurisdictional Agency Under the Natural Gas Policy Act of 1978

May 7, 1979.

On April 26, 1979, the Federal Energy Regulatory Commission received notices from the jurisdictional agencies listed below of determinations pursuant to 18 CFR 274.104 and applicable to the indicated wells pursuant to the Natural Gas Policy Act of 1978.

State of Utah, Department of Natural Resources, Board of and Division of Oil, Gas and Mining

FERC Control Number: JD79-3050
API Well Number: 4304330048
Section of NGPA: 103
Operator: Champlin Petroleum Company
Well Name: #2 Newton Sheep 32-9 NWNE 9-2N-7E
Field: Pineview
County: Summit
Purchaser: Mountain Fuel Supply Company
Volume: 120 MMcf.

FERC Control Number: JD79-3051
API Well Number: 43-037-3044
Section of NGPA: 103
Operator: Texaco Inc.
Well Name: Aneth Unit Well No. G116
Field: Aneth
County: San Juan
Purchaser: El Paso Natural Gas Company
Volume: 8 MMcf.

FERC Control Number: JD79-3052
API Well Number: 43-047-30268
Section of NGPA: 103
Operator: Belco Petroleum Corporation
Well Name: Chapita Wells Unit 39-16 30268
Field: Chapita Wells
County: Uintah
Purchaser: Mountain Supply Co.
Volume:

FERC Control Number: JD79-3053
API Well Number: 43-037-11356
Section of NGPA: 102
Operator: Cordillera Corporation
Well Name: Cordillera State #1
Field: Little Valley
County: San Juan
Purchaser: N/A
Volume: 730,000 MMcf.

FERC Control Number: JD79-3054
API Well Number: 43-033-30003
Section of NGPA: 102
Operator: American Quasar Petroleum Co.
Well Name: Hogback Ridge #20-1
Field: 1980 FSL & 660 FEL SEC. 20-13N-7E
County: Rich
Purchaser: Mountain Fuel Supply Co.
Volume: 5,475 MMcf.

FERC Control Number: JD79-3055
API Well Number: 43-043-30075
Section of NGPA: 103
Operator: American Quasar Petroleum Co.
Well Name: Blonquist 26-1
Field: 660 FSL & 1997 FWL 26-2N-6E
County: Summit
Purchaser: Mountain Fuel Supply
Volume: 180 MMcf.

FERC Control Number: JD79-3056
API Well Number: 43-043-30061
Section of NGPA: 103
Operator: American Quasar Petroleum Co.
Well Name: Judd 34-1
Field: 1900 FWL & 660 FSL 34-3N-7E
County: Summit
Purchaser: Mountain Fuel Supply
Volume: 180 MMcf.

FERC Control Number: JD79-3057
API Well Number: 43-043-30077
Section of NGPA: 103
Operator: American Quasar Petroleum Co.
Well Name: Pineview 4-3
Field: 772' FSL 663' FEL 4-2N-7E
County: Summit
Purchaser: Mountain Fuel Supply Co.
Volume: 180 MMcf.

FERC Control Number: JD79-3058
API Well Number: 43-043-30071
Section of NGPA: 103
Operator: American Quasar Petroleum Co.
Well Name: Clark 4-1
Field: 3300 FEL & 660 FSL Sec. 4-2N-7E
County: Summit
Purchaser: Mountain Fuel Supply Co.
Volume: 180 MMcf.

FERC Control Number: JD79-3059
API Well Number: 43-043-30035
Section of NGPA: 103
Operator: American Quasar Petroleum Co.
Well Name: UPRR 3-5
Field: 1969 FWL, 673 FSL 3-2N-7E
County: Summit
Purchaser: Mountain Fuel Supply
Volume: 180 MMcf.

FERC Control Number: JD79-3060
API Well Number: 43-043-30036
Section of NGPA: 103
Operator: American Quasar Petroleum Co.
Well Name: UPRR 3-6
Field: 656 FEL 665 FSL 3-2N-7E
County: Summit
Purchaser: Mountain Fuel Supply
Volume: 180 MMcf.

FERC Control Number: JD79-3061
API Well Number: 43-043-30033
Section of NGPA: 103
Operator: American Quasar Petroleum Co.
Well Name: Bingham 2-3
Field: 2126 FWL & 561 FSL 2-2N-7E
County: Summit
Purchaser: Mountain Fuel Supply
Volume: 180 MMcf.

FERC Control Number: JD79-3062
API Well Number: 43-043-30038
Section of NGPA: 103
Operator: American Quasar Petroleum Co.
Well Name: Bingham 2-4
Field: 2055 FWL & 2084 FNL 2-2N-7E
County: Summit
Purchaser: Mountain Fuel Supply
Volume: 180 MMcf.

FERC Control Number: JD79-3063
API Well Number: 43-043-30004
Section of NGPA: 103
Operator: American Quasar Petroleum Co.
Well Name: UPRR 5-1
Field: 3120 FSL & FEL 5-2N-7E
County: Summit
Purchaser: Mountain Fuel Supply
Volume: 180 MMcf.

FERC Control Number: JD79-3064
API Well Number: 43-043-30047
Section of NGPA: 103
Operator: American Quasar Petroleum Co.
Well Name: 1949.5' FNL & 1828.5' FEL 19-2N-7E
Field: UPRR 19-1
County: Summit
Purchaser: Mountain Fuel Supply
Volume: 180 MMcf.

The applications for determination in these proceedings together with a copy or description of other materials in the record of which such determinations were made are available for inspection, except to the extent such material is treated as confidential under 18 CFR 275.206, at the Commission's Office of Public Information. Room 1000, 825 North Capitol Street, N.E., Washington, D.C. 20426.

Persons objecting to any of those final determinations may, in accordance with 18 CFR 275.203 and 18 CFR 275.204, file a protest with the Commission, on or before May 30, 1979. Please reference the FERC Control Number in any correspondence concerning a determination.

Kenneth F. Plumb,
Secretary.

[FR Doc. 79-15047 Filed 5-14-79; 8:45 am]
BILLING CODE 6450-01-M

Connecticut Light & Power Co.; Transmission Agreement

May 8, 1979.

The filing Company submits the following:

Take notice that on May 4, 1979, The Connecticut Light and Power Company (CL&P) tendered for filing a proposed rate schedule with respect to Transmission Agreement dated March 13, 1979 between (1) CL&P, The Hartford Electric Light Company (HELCO) and Western Massachusetts Electric Company (WMECO) and (2) Long Island Lighting Company (LILCO).

CL&P states that the Transmission Agreement provided for a transmission service to LILCO during the period from April 1, 1979 to November 30, 1979.

The transmission charge rate is a monthly rate equal to one-twelfth of the annual average cost of transmission service on the Northeast Utilities system determined in accordance with Section 13.9 (Determination of Amount of Pool Transmission Facilities (PTF) Costs) of the New England Power Pool (NEPOOL) Agreement and the uniform rules adopted by the NEPOOL Executive Committee. The transmission charge is the product of (i) the monthly transmission charge rate and (ii) the number of kilowatts which LILCO is entitled to receive.

CL&P requests an effective date of April 1, 1979 for the Transmission Agreement.

HELCO and WMECO have filed certificates of concurrence in this docket.

CL&P states that copies of this rate schedule have been mailed or delivered to CL&P, Hartford, Connecticut, HELCO, Hartford, Connecticut, WMECO, West Springfield, Massachusetts and LILCO, Hicksville, New York.

CL&P further stated that the filing is in accordance with Section 35 of the Commission's Regulations.

Any person desiring to be heard or to protest said application should file a petition to intervene or protest with the Federal Energy Regulatory Commission, 825 North Capital Street, N.E., Washington, D.C. 20426, in accordance with §§ 1.8 and 1.10 of the Commission's rules of practice and procedures (18 CFR 1.8, 1.10). All such petitions or protests should be filed on or before May 29, 1979. Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceedings. Any person wishing to become a party must file a petition to intervene. Copies of this application are on file with the Commission and are available for public inspection.

Kenneth F. Plumb,
Secretary.

[Docket No. ER79-350]
[FR Doc. 79-15048 Filed 5-14-79; 8:45 am]
BILLING CODE 6450-01-M

Consolidated Gas Supply Corp.; Application

May 4, 1979.

Take notice that on April 16, 1979, Consolidated Gas Supply Corporation (Applicant), 445 West Main Street, Clarksburg, West Virginia 26301, filed in Docket No. CP79-272 an application pursuant to Section 7(c) of the Natural Gas Act and § 157.7(b) of the Regulations thereunder (18 CFR 157.7(b)) for a certificate of public convenience and necessity authorizing the construction, during the 12-month period ending May 6, 1980, and operation of facilities pipeline system natural gas which would be purchased from producers or other similar sellers thereof, all as more fully set forth in the application on file with the Commission and open to public inspection.

The stated purpose of this budget-type application is to augment Applicant's ability to act with reasonable dispatch in connecting to its pipeline system supplies of natural gas which may become available from various producing areas generally coextensive with its pipeline system or the systems of other pipeline companies which may be authorized to transport gas for the account of or exchange gas with Applicant.

Applicant states that the total cost of the proposed facilities would not exceed $8,000,000 with no single onshore project to exceed $1,500,000 and no single offshore project to exceed $2,500,000. Applicant states that the proposed facilities would be financed from funds on hand and funds to be obtained from Applicant's parent corporation, Consolidated Natural Gas Company.

Any person desiring to be heard or to make any protest with reference to said application should on or before May 29, 1979, file with the Federal Energy Regulatory Commission, Washington, D.C. 20426, a petition to intervene or a protest in accordance with the requirements of the Commission's Rules of Practice and Procedure (18 CFR 1.8 or 1.10) and the Regulations under the

New Bedford Gas and Edison Light

Natural Gas Act (18 CFR 157.10). All protests filed with the Commission will be considered by it in determining the appropriate action to be taken but will not serve to make the protestants parties to the proceeding. Any person wishing to become a party to a proceeding or to participate as a party in any hearing therein must file a petition to intervene in accordance with the Commission's Rules.

Take further notice that, pursuant to the authority contained in and subject to jurisdiction conferred upon the Federal Energy Regulatory Commission by Sections 7 and 15 of the Natural Gas Act and the Commission's Rules of Practice and Procedure, a hearing will be held without further notice before the Commission or its designee on this application if no petition to intervene is filed within the time required herein, if the Commission on its own review of the matter finds that a grant of the certificate is required by the public convenience and necessity. If a petition for leave to intervene is timely filed, or if the Commission on its own motion believes that a formal hearing is required, further notice of such hearing will be duly given.

Under the procedure herein provided for, unless otherwise advised, it will be unnecessary for Applicant to appear or be represented at the hearing.

Kenneth F. Plumb,

Secretary.

[Docket No. CP79-272]

[FR Doc. 79-15050 Filed 5-14-79; 8:45 am]

BILLING CODE 6450-01-M

John E. Dolan; Filing

May 8, 1979.

Take notice that on April 23, 1979, John E. Dolan, (Applicant) filed an application pursuant to Section 305(b) of the Federal Power Act to hold the following positions:

Director: Indiana & Michigan Electric Company—Electric utility.
Director: Kanawha Valley Power Company—Electric utility.
Director: Kingsport Power Company—Electric utility.
Director: Michigan Power Company—Electric utility.
Director: Ohio Electric Company—Electric utility.

Any person desiring to be heard or to protest said application should file a petition to intervene or protest with the Federal Energy Regulatory Commission, 825 North Capitol Street, N.E., Washington, D.C. 20426, in accordance with §§ 1.8 and 1.10 of the Commission's Rules of Practice and Procedure (18 CFR 1.8, 1.10). All such petitions or protests should be filed on or before May 29, 1979. Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceeding. Any person wishing to become a party must file a petition to intervene. Copies of this application are on file with the Commission and are available for public inspection.

Kenneth F. Plumb,

Secretary.

[Docket No. ID-1735]

[FR Doc. 79-15056 Filed 5-14-79; 8:45 am]

BILLING CODE 6450-01-M

Duquesne Light Co. and West Penn Power Co.; Termination

May 8, 1979.

Take notice that Allegheny Power Service Corporation (APS), on behalf of Duquesne Light Company and West Penn Power Company, on April 26, 1979, tendered for filing a notice of termination indicating that the Elizabeth Interchange point described in the Interchange Agreement between West Penn Power Company and Duquesne Light Company (West Penn FERC Schedule No. 24 and Duquesne Light FERC Schedule No. 9) has been terminated.

APS indicates that the reason for the termination is that the interconnection point is no longer required.

Any person desiring to be heard or to protest said filing should file a petition to intervene or protest with the Federal Energy Regulatory Commission, 825 North Capitol Street, N.E., Washington, D.C 20426, in accordance with the Commission's Rules of Practice and Procedure (18 CFR 1.8, 1.10). All such petitions or protests should be filed on or before May 25, 1979. Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceeding. Any person wishing to become a party must file a petition to intervene. Copies of this filing are on file with the Commission and are available for public inspection.

Kenneth F. Plumb,

Secretary.

[Docket No. ER79-346]

[FR Doc. 79-15051 Filed 5-14-79; 8:45 am]

BILLING CODE 6450-01-M

East Tennessee Natural Gas Co.; Extension of Time

May 4, 1979.

On April 26, 1979 a joint motion was filed by Commission staff and East Tennessee Natural Gas Company for an extension of the briefing schedule on the initial decision issued in this proceeding on April 6, 1979. The motion states that additional time is needed to analyze complex issues in the case and that no party opposes the request.

Upon consideration, an extension of time for filing briefs on exceptions is granted to and including June 6, 1979. Briefs opposing exceptions shall be filed on or before June 26, 1979.

Kenneth F. Plumb,

Secretary.

[Docket No. RP79-12]

[FR Doc. 79-15052 Filed 5-14-79; 8:45 am]

BILLING CODE 6450-01-M

Florida Power & Light Co.; Filing

May 8, 1979.

The filing Company submits the following:

Take notice that Florida Power & Light Company (FPL), on May 4, 1979, tendered for filing an Agreement, entitled "Agreement To Provide Specified Transmission Service Between Florida Power & Light Company and New Smyrna Beach Utilities Commission." FPL states that under the Agreement, FPL will transmit power and energy for New Smyrna Beach Utilities Commission (New Smyrna) as is required by New Smyrna in the implementation of its interchange agreements with the Orlando Utilities Commission, the City of Homestead, Ft. Pierce Utilities Authority and Lake Worth Utilities Authority. A letter from New Smyrna requesting that the Agreement be filed is attached.

FPL requests and effective date of no later than 60 days after the date of filing. According to FPL copies of this filing were served on New Smyrna's Director of Utilities.

Any person desiring to be heard or to protest said filing should file a petition to intervene or protest with the Federal Energy Regulatory Commission, 825 North Capitol Street, NE., Washington, D.C. 20426, in accordance with 1.8 and 1.10 of the Commission's Rule of Practice and Procedure (18 CFR 1.8, 1.10). All such petitions or protests should be filed on or before June 1, 1979. Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceeding. Any person wishing to become a party must file a petition to intervene. Copies of this filing are on file with the Commission and are available for public inspections.

Kenneth F. Plumb,

Secretary.

[Docket No. ER 79-352]

[FR Doc. 79-15053 Filed 5-14-79; 8:45 am]

BILLING CODE 6450-01-M

Idaho Power Co.; Compliance Filing

May 8, 1979.

The filing Company submits the following:

Take notice that on May 4, 1979, the Idaho Power Company tendered for filing in compliance with the Federal Energy Regulatory Commission's Order of October 7, 1978, a summary of sales made under the Company's 1st Revised FERC Electric Tariff, Volume No 1 (Supersedes Original Volume No. 1) during March, 1979, along with cost justification for the rate charged.

Any person desiring to be heard or to protest said filing should file a protest with the Federal Energy Regulatory Commission, 825 North Capitol Street, NE., Washington, DC 20426, in accordance with §§ 1.8 and 1.10 of the Commission's Rules of Practice and Procedure (18 CFR 1.8, 1.10). All such petitions or protests should be filed on or before *May 29, 1979.* Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceeding. Copies of this filing are on file with the Commission and are available for public inspection.

Kenneth F. Plumb,

Secretary.

[Docket No. ER79-347]

[FR Doc. 79-15054 Filed 5-14-79; 8:45 am]

BILLING CODE 6450-01-M

Iowa Power & Light Co.; Proposed Rate Change

May 8, 1979

The filing Company submits the following:

Take notice that Iowa Power and Light Company (Iowa Power) on May 3, 1979, tendered for filing an Electric Interchange Agreement with Montezuma Municipal Light and Power (City), which is intended as a change in Rate Schedule to supersede Rate Schedule FPC No. 16. The additional services under the new Agreement provide the City with several opportunities for exchanging capacity through interconnections with Iowa Power. These include:

(1) Purchase of participation type power and energy generated by Iowa Power's base load units;

(2) Delivery of power and energy through Iowa Power's transmission facilities to the City's electric system;

(3) Purchase of replacement energy for energy temporarily unavailable;

(4) Purchase of equalization power and energy for the purpose of equalizing reserve responsibilities;

(5) Sale of excess economy peaking capacity to Iowa Power;

(6) Purchase of energy to repalce more expensive energy;

(7) Purchase of transmission service to deliver power and energy to the City.

In addition, this Agreement provides the City with the opportunity to purchase dispatching service, under which Iowa Power would act as agent for the City in performing normal dispatching functions.

Iowa Power states that the Interchange agreement was entered into for the purpose of interconnecting facilities and co-ordinating operations of the two systems so that the systems themselves, the respective areas served, and the public interest generally might benefit from more effective use of generating facilities, economies in the production of electric energy, and improved service reliability.

Iowa Power requests the Commission waive the prior notice requirements and accept the filing with an effective date of December 18, 1978. Iowa Power states that copies of the filing have been served upon the City and the Iowa State Commerce Commission.

Any person desiring to be heard or protest said filing should file a petition to intervene or protest with the Federal Power Commission, 825 North Capitol Street, N.E., Washington, D.C. 20426, in accordance with §§ 1.8 and 1.10 of the Commission's Rules of Practice and Procedure (18 CFR 1.8, 1.10). All such petitions or protests should be filed on or before May 29, 1979. Protest will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceeding. Any person wishing to become a party must file a petition to intervene. Copies of this application are on file with the Commission and are available for public inspection.

Kenneth F. Plumb,

Secretary.

[Docket No. ER79-348]

[FR Doc. 79-15055 Filed 5-14-79; 8:45 am]

BILLING CODE 6450-01

New Bedford Gas and Edison Light Co.; Amendment to Unit Sale Agreement

May 8, 1979.

The filing company submits the following:

Take notice that on May 3, 1979 New Bedford Gas and Edison Light Company ("New Bedford") filed, pursuant to Section 205 of the Federal Power Act and the implementing provisions of Section 35.13 of the Commission's Regulations thereunder, an amendment to its currently effective Rate Schedule FERC No. 35.

By the tendered amendatory agreement, New Bedford proposes to make available to the Electric Light Department of the Town of Braintree, Massachusetts certain increased quantities of capacity and related energy from New Bedford's entitlement in Canal Electric Company Unit No. 2.

New Bedford requests that the Commission's notice requirements be waived pursuant to Section 35.11 of the Commission's Regulations in order to allow said filing to become effective May 1, 1979.

Copies of this filing have been served by New Bedford upon Buyer and the Massachusetts Department of Public Utilities.

Any person wishing to be heard to protest said filing should file a petition to intervene or protest with the Federal Energy Regulatory Commission, 825 North Capitol Street, N.E., Washington, D.C. 20426, in accordance with § § 1.8 and 1.10 of the Commission's rules of Practice and Procedure (18 CFR 1.8, 1.10). All such petitions or protests should be filed on or before May 29, 1979. Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceeding. Any person wishing to become a party must file a petition to intervene. Copies of this filing are on file with the Commission and are available for public inspection.

Kenneth F. Plumb,

Secretary.

[Docket No. ER79-345]

[FR Doc. 79-15057 Filed 5-14-79; 8:45 am]

BILLING CODE 6450-01-M

Niagara Mohawk Power Corp.; Applications for Amendment of License and for Major License

May 3, 1979.

Take notice that Niagara Mohawk Power Corporation filed two related applications on February 6, 1978, affecting the existing Oswego Project

The project would consist of: (a)

No. 2474. One application seeks to remove the existing Granby hydroelectric development from the Oswego River Project No. 2474. That development is located in the City of Fulton and the Town of Granby on the Oswego River, in the County of Oswego, New York. The other application seeks authorization to reconstruct the existing Granby hydroelectric development under a new 50-year license as a separate project (FERC No. 2837). The Applicant has conditioned its filing of the amendment of license to allow for the removal of the Granby development from the Oswego Project upon granting of its application for license for the redeveloped Granby project. Correspondence concerning the applications should be sent to: John H. Terry, Senior Vice-President, General Counsel and Secretary, Niagara Mohawk Power Corporation, 300 Erie Boulevard West, Syracuse, New York 13202.

The Oswego River Project No. 2474 consists of four developments which are located upstream from Lake Ontario on the Oswego River. The license for the Oswego River Project was issued on May 27, 1968, and terminates December 31, 1993. The Granby facility is currently rated at 3,052 kW. If the two applications are approved, the Granby development would be removed from the Oswego Project, and a new fifty-year license would be issued authorizing the redevelopment of the Granby Project to allow for the installed generating capacity to be increased from 3,052 kW to 10,000 kW.

The redevelopment of the Granby project would consist of: (1) a concrete substructure and steel frame powerhouse containing two generating units each rated at 5,000 kilowatts under a design head of 26.5 feet; (2) a substation, and switchyard; and (3) water intake and discharge conduits adjoining the proposed powerhouse. The State of New York-owned Fulton Tower Dam No. 4 would continue to provide hydraulic head to the project but is not described in the application as a facility to be licensed. Applicant estimates that project construction would cost $10,000,000.

There are no existing recreational facilities at the project. The Applicant states in its application that it does not intend to undertake any recreational development at the project site due to the current commercial nature of the area and the lack of adequate land and suitable access.

The power generated would be used for public utility purposes in upstate New York.

Anyone desiring to be heard or to make any protest about this application should file a protest or a petition to intervene with the Federal Energy Regulatory Commission, in accordance with the requirements of the Commission's Rules of Practice and Procedure ("Rules"), 18 CFR § 1.10 or § 1.8 (1978). In determining the appropriate action to take, the Commission will consider all protests filed, but a person who merely files a protest does not become a party to the proceeding. To become a party or to participate in any hearing, a person must file a petition to intervene in accordance with the Commission's Rules. Any protest or petition to intervene must be filed on or before July 9, 1979. The Commission's address is: 825 N. Capitol Street, N.E., Washington, D.C. 20426.

The application is on file with the Commission and is available for public inspection.

Kenneth F. Plumb,
Secretary.

[Projects Nos. 2474, 2837]
[FR Doc. 79-15058 Filed 5-14-79; 8:45 am]
BILLING CODE 6450-01

Northwest Pipeline Corp.'s Petition To Amend

May 4, 1979.

Take notice that on April 11, 1979, Northwest Pipeline Corporation (Northwest), P.O. Box 1526, Salt Lake City, Utah 84110, filed in Docket No. CP78-415, a petition to amend the order of October 27, 1978, issued in said docket pursuant to Section 7(c) of the Natural Gas Act so as to permit Northwest to augment its ability to make sales of natural gas on an as available basis to Southwest Gas Corporation (Southwest) through the utilization of underground storage capability, all as more fully set forth in the petition to amend, which is on file with the Commission and open to public inspection.

Northwest requests authority to sell and deliver to Southwest volumes of natural gas which may be withdrawn from the Clay Basin Storage Field on an as available basis and which are surplus to the volumes of working gas in the Clay Basin Storage Field required to protect the requirements of Northwest's on-system customers. It is said that the total maximum delivery of as available gas to Southwest of 50 billion Btu's equivalent of gas as presently authorized, would remain unchanged.

Northwest states that in order to effectuate the aforementioned proposal, it and Southwest have amended their agreement of April 28, 1978 to provide an augmentation to the present as available service to Southwest by Northwest.

It is said that the amendment to the agreement provides the following types of as available service covering gas tendered by Northwest to Southwest:

(a) *Type A.* Type A service would be under the April 28, 1978 contract, it is stated. No changes are contemplated in such service which would for all purposes be considered to be the first through the meter when any gas is delivered to El Paso Natural Gas Company for Southwest's account pursuant to the existing contract, states Northwest.

(b) *Type B.* Type B service would be any gas which is tendered by Northwest to Southwest as specifically coming from the Clay Basin Storage Field and which Southwest would accept, it is asserted. Northwest states that there would be an additional charge for any gas tendered and accepted under Type B service.

It is stated that on any day when as available gas is tendered by Northwest to Southwest, Southwest would be required to accept all Type A service prior to Type B gas being delivered and that in no event can the combined service under Type A and B exceed 50 billion Btu's on any day.

Northwest indicates that it would charge Southwest the same rate for Type B service as Southwest is currently paying for Type A service plus 39.0 cents per Mcf to cover the utilization of storage facilities and proposes to flow through any revenues from Type B service to its customers through its purchased gas adjustment clause.

Northwest states that to the extent that the Clay Basin Storage volumes are not required for system requirements on a given day, the difference between the available supply from Clay Basin and that required for system supply could be made available to Southwest.

Any person desiring to be heard or to make any protest with reference to said petition should on or before May 29, 1979, file with the Federal Energy Regulatory Commission, Washington, D.C. 20426, a petition to intervene or a protest in accordance with the requirements of the Commission's Rules of Practice and Procedure (18 CFR 1.8 or 1.10) and the Regulations under the Natural Gas Act (18 CFR 157.10). All protests filed with the Commission will be considered by it in determining the appropriate action to be taken but will not serve to make the protestants parties to the proceeding. Any person wishing to become a party to a proceeding or to participate as a party in any hearing therein must file a petition to intervene in accordance with the Commission's Rules.

Kenneth F. Plumb,
Secretary.

[Docket No. CP78-415]
[FR Doc. 79-15059 Filed 5-14-79; 8:45 am]
BILLING CODE 6450-01-M

Phillips Petroleum Co.; Determination by a Jurisdictional Agency Under the Natural Gas Policy Act of 1978

May 7, 1979.

On April 24, 1979, the Federal Energy Regulatory Commission received notices from the jurisdictional agencies listed below of determinations pursuant to 18 CFR 274.104 and applicable to the indicated wells pursuant to the Natural Gas Policy Act of 1978.

New Mexico Oil Conservation Division

FERC Control Number: JD79-3986.
API Well Number: 30-025-25077.
Section of NGPA: 108.
Operator: Phillips Petroleum Company.
Well Name: MARG-C No. 1.
Field: Flying M South Atoka.
County: Lea.
Purchaser: Gas Co. of New Mexico.
Volume: 19.3 MMcf.

FERC Control Number: JD79-3987.
API Well Number: 30-025-09675.
Section of NGPA: 108.
Operator: Phillips Petroleum Company.
Well Name: Woolworth, C. D. No. 12.
Field: Jalmat Yates Gas.
County: Lea.
Purchaser: El Paso Natural Gas Co.
Volume: 3.3 MMcf.

FERC Control Number: JD79-3988.
API Well Number: 30-025-09711.
Section of NGPA: 108.
Operator: Phillips Petroleum Company.
Well Name: Vernon No. 1.
Field: Jalmat Yates Gas.
County: Lea.
Purchaser: El Paso Natural Gas Company.
Volume: 9.2 MMcf.

FERC Control Number: JD79-3989.
API Well Number: 30-025-24542.
Section of NGPA: 108.
Operator: Phillips Petroleum Company.
Well Name: Leamex No. 18.
Field: Maljamar Grayburg/San Andres.
County: Lea.
Purchaser: El Paso Natural Gas Company.
Volume: 1 MMcf.

FERC Control Number: JD79-3990.
API Well Number: 30-025-01857.
Section of NGPA: 108.
Operator: Phillips Petroleum Company.
Well Name: Ranger No. 7.
Field: Ranger Lake Bough.
County: Lea.
Purchaser: El Paso Natural Gas Company.
Volume: .2 MMcf.

FERC Control Number: JD79-3991.
API Well Number: 30-015-21030.
Section of NGPA: 108
Operator: Phillips Petroleum Company.
Well Name: Malaga-A No. 1.
Field: Malaga Morrow.
County: Eddy.
Purchaser: El Paso Natural Gas Company.
Volume: 22.4 MMcf.

The applications for determination in these proceedings together with a copy or description of other materials in the record on which such determinations were made are available for inspection, except to the extent such material is treated as confidential under 18 CFR 275.206, at the Commission's Office of Public Information, Room 1000, 825 North Capitol Street, N.E., Washington, D.C. 20426.

Persons objecting to any of those final determinations may, in accordance with 18 CFR 275.203 and 18 CFR 275.204, file a protest with the Commission on or before May 30, 1979. Please reference the FERC Control Number in any correspondence concerning a determination.

Kenneth F. Plumb,
Secretary.
[FR Doc. 79-15046 Filed 5-14-79; 8:45 am]
BILLING CODE 6450-01-M

City of Redding, Calif.; Application for Preliminary Permit

May 3, 1979.

Take notice that on November 16, 1978, the City of Redding (City) filed an application for preliminary permit [pursuant to the Federal Power Act, 16 U.S.C. Section 791(a)-825(r)] for a proposed water power project to be known as the Whiskeytown Power Project, FERC No. 2888, on Clear Creek in Shasta County, California. The proposed project would occupy lands of the United States managed by the Bureau of Reclamation (USBR) for the Whiskeytown Dam and Lake which is a part of the UBR's Central Valley Project.

Corresponsence with the Applicant should be directed to: Mr. W. Brickwood, City Manager, City of Redding, 760 Parkview Avenue, Redding, California 96001 and Mr. Martin McDonough Esq., Attorney at Law, 555 Capital Mall, Sacramento, California 95814.

Project Description—The proposed project would have a total installed capacity of 4,000 kW and would be located approximately 500 feet downstream of the USBR's existing Whiskeytown Dam and Lake. The project would utilize waters (50 cfs or more) released from the Lake for fish and domestic use purposes. The head for the project would be 240 feet maximum.

The project would consist of: (a) concrete powerhouse, located at the existing outlet of the Whiskeytown Dam, containing a Pelton turbine and generating unit discharging into Clear Creek adjacent to the powerhouse; and (b) a tap to the existing pacific Gas and Electric Company's (PG&E) 12-kV transmission line, at a point 300 feet northeast of the powerhouse.

Proposed Scope and Cost of Work Under Permit—The Applicant seeks a preliminary permit for a period of 36 months to study the feasibility of installing generating facilities at the proposed site.

Work under the permit would include: (1) analyzing the City's electric energy requirements as they relate to sizing of the power plant: (2) assessing the impact of the proposed project on fish and wildlife and recreational resources of the project area; (3) obtaining a State water rights permit; (4) conducting negotiations with the U.S. Bureau of Reclamation concerning use of its facilities at Whiskeytown Dam, and with Pacific Gas and Electric Company concerning a wheeling agreement; and (5) developing maps and other data required for the filing of an application for license. The Applicant estimates the cost of the studies to be $100,000.

Purpose of Project—Project energy would be delivered to PG&E's transmission system for wheeling to the City's distribution network which serves domestic and industrial customers within the City of Redding.

Purpose of Preliminary Permit—A preliminary permit does not authoriuze construction. A permit, if issued, gives the Permittee, during the term of the permit, the right of priority of application for license while the Permittee undertakes the necessary studies and examinations to determine the engineering, economic, and environmental feasibility of the proposed project, the market for power, and all other necessary information for inclusion in an application for license. In this instance, Applicant seeks a 36-month permit.

Agency Comments—Federal, State, and local agencies that receive this notice through direct mailing from the Commission are invited to submit comments on the described application for preliminary permit. (A copy of the application may be obtained directly from the Applicant.) Comments should be confined to substantive issues relevant to the issuance of a permit and consistent with the purpose of a permit as described in this notice. No other formal request for comments will be made. If an agency does not file

Capitol St. N.E., Washington, D.C. 20426,

comments within the time set below it will be presumed to have no comments.

Protests, Petitions to Intervene, and Agency Comments—Anyone desiring to be heard or to make a protest about this application should file a petition to intervene or a protest with the Federal Energy Regulatory Commission, in accordance with the requirements of the Commission's Rules of Practice and Procedure, 18 C.F.R. Section 1.8 or Section 1.10 (1978). In determining the appropriate action to take, the Commission will consider all protests filed, but a person who merely files a protest does not become a party to the proceeding. To become a party or to participate in any hearing, a person must file a petition to intervene in accordance with the Commission's Rules. Any protest, petition to intervene, or agency comment must be filed on or before July 9, 1979. Commission's address is: 825 N. Capitol Street, N.E., Washington, D.C. 20425. The application is on file with the Commission and is available for public inspection.

Kenneth F. Plumb,
Secretary.

[Project No 2888]
[FR Doc. 79-15048 Filed 5-14-79; 8:45 am]
BILLING CODE 6450-01-M

South Columbia Basin Irrigation District; Application for Preliminary permit

May 4, 1979.

Take notice that on May 12, 1978, the South Columbia Basin Irrigation District filed an application for Preliminary permit [pursuant to the Federal Power Act, 16 U.S.C. § 791(a)–825(r)] for a proposed water power project, to be known as the Main Canal Headworks and Summer Falls Project, FERC No. 2849, located in Grant County, Washington on the Main Canal of the Bureau of Reclamation's (BOR) Columbia Basin Irrigation Project which conveys water diverted from the Columbia River. The proposed project would utilize waters diverted from a navigable waterway (Columbia River) and would occupy lands over which the BOR holds an easement.

Correspondence with the Applicant should be directed to Mr. Russell D. Smith, Secretary-Manager, South Columbia Basin Irrigation District, P.O. Box 1006, Pasco, Washington 99301 and Mr. James Leavy, Leavy, Taber Schultz, Bergdhal & Sweeney, Attorneys at Law, P.O. Box 891, Pasco, Washington 99301.

Description of Project—The project that would be studied during the term of the permit would consist of two developments as follows:

(a) The proposed Main Canal Headworks Powerplant would have an installed capacity of approximately 14,500 kW, would be located at the outlet works of BOR's Dry Falls Dam, and would utilize water released into the Main Canal; and

(b) The proposed Summer Falls Powerplant would have an installed capacity of 72,000 kW, would be located on the north end of BOR's Billy Clapp Lake, and would utilize water diverted from the Main Canal at a point 1400 feet before the canal enters Billy Clapp Lake, and conveyed to the powerplant via a proposed lined power tunnel.

The estimated average annual output of such a project would be 327 million kWh.

Proposed Scope and Cost of Studies Under Permit—Applicant has requested a 3-year permit to prepare a definitive project report, including preliminary designs, geological explorations, and collection of environmental data. The cost of the foregoing activities, together with preparation of an environmental impact report or environmental assessment, obtaining agreements with various Federal, state and local agencies, preparing a license application, final geologic exploration and field survey, is estimated by Applicant to be about $150,000.

Proposed Use of Project Power—Project energy would be utilized by the Applicant in the operation of irrigation facilities with excess energy being marketed within the State of Washington to publicly owned utilities, rural electric cooperatives, municipalities, or investor-owned utilities.

Purpose of Preliminary Permit—A preliminary permit does not authorize construction. A permit, if issued, gives the Permittee, during the term of the permit, the right of priority of application for license while the Permittee undertakes the necessary studies and examinations to determine the engineering and economic feasibility of the proposed project, market for the power, and all other necessary information for inclusion in an application for license.

Agency Comments—Federal, state, and local agencies that receive this notice through direct mailing from the Commission are invited to submit comments on the described application for preliminary permit. A copy of the application may be obtained directly from the Applicant.

Comment should be confined to substantive issues relevant to the issuance of a permit and consistent with the purpose of a permit as described in this notice. No other formal request for comments will be made.

If an agency does not file comments within the time set below, it will be presumed to have no comments.

Protests, Petitions to Intervene, and Agency Comments—Anyone desiring to be heard or to make any protest about this application should file a petition to intervene or a protest with the Federal Energy Regulatory Commission, in accordance with the requirements of the Commission's Rules of Practice and Procedure, 18 CFR § 1.8 or §1.10 (1977). In determining the appropriate action to take, the Commission will consider all protests filed, but a person who merely files a protest does not become a party to the proceeding. To become a party or to participate in any hearing, a person must file a petition to intervene in accordance with the Commission's Rules.

Any protest, petition to intervene, or agency comments must be filed on or before July 10, 1979. The Commission's address is: 825 N. Capitol Street, NE., Washington, D.C. 20426.

The application is on file with the Commission and is available for public inspection.

Kenneth F. Plumb,
Secretary.

[Project No. 2849]
[FR Doc. 79-15061 Filed 5-14-79; 8:45 am]
BILLING CODE 6450-01-M

Southern California Edison Co.; Filing of Initial Rate Schedule and Request for Waiver of Prior Notice Requirements

May 8, 1979.

The filing Company submits the following:

Take notice that on May 4, 1979, Southern California Edison Company ("Edison") tendered for filing, as an initial rate schedule, an agreement, dated March 15, 1979, with the Department of Water and Power of the City of Los Angeles ("Los Angeles"). This agreement is entitled "Edison-Los Angeles Midway-Sylmar Interruptible Transmission Service Agreement".

Under the terms of this Agreement, Edison will provide interruptible transmission service for energy purchased by Los Angeles from the Pacific Gas and Electric Company. Edison will charge Los Angeles for transmission, dispatching and scheduling services. Transmission losses in delivery of such energy shall be reimbursed by Los Angeles in kind at a rate of 1.8% of the hourly scheduled deliveries of energy.

Edison requests that this Agreement be made effective 60 days after the day of filing with the Commission. Upon acceptance for filing by the Federal Energy Regulatory Commission, the Agreement will become effective and service may commence. The Agreement will then continue in effect until terminated on 30-day advance notice.

Copies of this filing were served upon the Public Utilities Commission of the State of California and Department of Water and Power of the City of Los Angeles.

Any person desiring to be heard or to protest this application should file a petition to intervene or protest with the Federal Energy Regulatory Commission, 825 North Capitol Street, N.E., Washington, D.C., 20426, in accordance with § 1.8 and § 1.10 of the Commission's rules of practice and procedure (18 CFR 1.8, 1.10). All such petitions or protests should be filed on or before May 29, 1979. Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceeding. Any person wishing to become a party must file a petition to intervene. Copies of this application are on file with the Commission and are available for public inspection.

Kenneth F. Plumb,
Secretary.

[Docket No. ER 79-351]
[FR Doc. 79-15080 Filed 5-14-79; 8:45 am]
BILLING CODE 6450-01-M

Tenneco Oil Co., et al.; Petition for Extraordinary Relief

May 4, 1979.

In the matter of Tenneco Oil Company, CI75-45; Placid Oil Company, CI75-59; Hunt Petroleum Corporation, CI75-66; Hunt Industries, CI75-67; Hunt Oil Company, CI75-68; Kewanee Oil Company, CI75-69; Tenneco Oil Company, CI75-105; Shell Oil Company, CI75-684, CI75-107; Ashland Oil, Inc., CI75-122; TransOcean Oil, Inc., CI75-138; Tennessee Gas Pipeline Company, a Division of Tenneco Inc., CP73-339; Trunkline Gas Company, CP75-330, CP75-19; Tennessee Gas Pipeline Company, CP75-23, CP75-119, CP75-120; Trunkline Gas Company, CP75-149; Southern Natural Gas Company, CP75-316, CP75-151; Southern Natural Gas Company, United Gas Pipe Line Company and Florida Gas Transmission Company, CP75-153; Southern Natural Gas Company, CP75-183; Tennessee Gas Pipeline Company, a Division of Tenneco Inc., and Tenneco Chemicals, Inc., CP75-258; and Highland Resources, CI75-733.

Take notice that on April 23, 1979, First Mississippi Corporation filed an "emergency petition for extraordinary relief" in the above consolidated proceeding. The petition asks that the Commission sever from the proceeding the certificate applications in Dockets No. CP75-330, CP75-316, CP75-59, CI75-66, CI75-67, and CI75-68 and reconsider its disapproval of interstate pipeline transportation of specified volumes of offshore natural gas for feedstock and process gas requirements of First Mississippi's AMPRO fertilizer plant at Donaldsonville, Louisiana.

Among other things, First Mississippi alleges that the AMPRO plant is deteriorating as a result of its not being operated since its construction in 1977. First Mississippi also alleges that other than its contracted for supply of offshore gas, there are no other viable sources of gas for operating its plant. Consequently, First Mississippi asks the Commission to authorize the transportation of offshore natural gas pursuant to the related applications for certificates of public convenience and necessity.

In further support of its petition, First Mississippi says that its situation has changed since FERC Opinion No. 10 was issued, because the U.S. Department of Agriculture has certified the feedstock and process gas as an essential agricultural use within the meaning of section 401 of the Natural Gas Policy Act. Furthermore, says First Mississippi, it is economically impossible to purchase natural gas on the open market and operate an ammonia plant.

First Mississippi says that its production interests in the Green Creek Field are entirely committed to the interstate market. It says that permitting onshore gas to flow to the AMPRO plant will have a *de minimis* effect on the interstate market, that the gas at issue would otherwise go to low priority uses served by interstate pipelines, that denying access to the offshore gas will not preserve competition in the industry, and that First Mississippi committed its resources to the AMPRO facility at a time when the Commission's policy permitted the use of reserved gas by producers. Finally, first Mississippi alleges that the relief sought would have no precedential value and would have an almost exclusive effect only on the AMPRO plant.

Any person desiring to be heard or to make any protest with reference to said petition should on or before May 18, 1979, file with the Federal Energy Regulatory Commission, 825 North Capitol St. N.E., Washington, D.C. 20426, a petition to intervene or a protest in accordance with the requirements of the Commission's Rules of Practice and Procedure (18 CFR 1.8 or 1.10). All protests filed with the Commission will be considered by it in determining the appropriate action to be taken but will not serve to make the protestants parties to the proceeding. Any person wishing to become a party to a proceeding or to participate as a party in any hearing therein must file a petition to intervene in accordance with the Commission's Rules.

Kenneth F. Plumb,
Secretary.
[FR Doc. 79-15082 Filed 5-14-79; 8:45 am]
BILLING CODE 6450-01-M

Tennessee Gas Pipeline Co.; Application

May 9, 1979.

Take notice that on April 16, 1979, Tennessee Gas Pipeline Company, a Division of Tenneco Inc. (Applicant), P.O. Box 2511, Houston, Texas 77001, filed in Docket No. CP79-271 and application pursuant to Section 7(c) of the Natural Gas Act for a certificate of public convenience and necessity authorizing the transportation of natural gas for Columbia Gas Transmission Corporation (Columbia), all as more fully set forth in the application on file with the Commission and open to public inspection.

Applicant requests authorization to transport for Columbia natural gas produced from the Bonus Field, Wharton County, Texas, pursuant to a gas transportation agreement dated March 21, 1979, between the two Companies. Applicant states that it would receive, to the extent operating conditions permit, up to 3,000 Mcf of natural gas per day for Columbia at a point of interconnection Columbia proposes to construct, without cost to Applicant, on Applicant's existing mainline facilities near Milepost 15-1 plus 4.8 miles in Wharton County, and that it would transport and deliver such gas to Columbia at an existing point of interconnection between the facilities of Applicant and Columbia Gulf Transmission Company (Columbia Gulf) near Egan in Acadia Parish, Louisiana, and/of other mutually agreeable points of exchange where gas can be delivered to or for the account of Columbia. It is indicated that Applicant would have the right but not the obligation to accept volumes in excess of the transportation quantity which are tendered by Columbia.

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The application states that Columbia would pay Applicant each month for the proposed transportation service a volume charge equal to 10.53 cents per Mcf, with a provision for a minimum monthly bill based on transportation quantity. Further, Columbia would provide to Applicant daily volumes of gas equal to 3.0 percent of the volumes received for transportation each day, for applicant's fuel and use requirements, it is said.

Any person desiring to be heard or to make any protest with reference to said application should on or before May 30, 1979, file with the Federal Energy Regulatory Commission, Washington, D.C. 20426, a petition to intervene or a protest in accordance with the requirements of the Commission's Rules of Practice and Procedure (18 CFR 1.8 or 1.10) and the Regulations under the Natural Gas Act (18 CFR 157.10. All protests filed with the Commission will be considered by it in determining the appropriate action to be taken but will not serve to make the protestants parties to the proceeding. Any person wishing to become a party to a proceeding or to participate as a party in any hearing therein must file a petition to intervene in accordance with the Commission's rules.

Take further notice that, pursuant to the authority contained in and subject to jurisdiction conferred upon the Federal Energy Regulatory Commission by Sections 7 and 15 of the Natural Gas Act and the Commission's Rules of Practice and Procedure, a hearing will be held without further notice before the Commission or its designee on this application if no petition to intervene is filed within the time required herein, if the Commission on its own review of the matter finds that grant of the certificate is required by the public convenience and necessity. If a petition for leave to intervene is timely filed, or if the Commission on its own motion believes that a formal hearing is required, further notice of such hearing will be duly given.

Under the procedure herein provided for, unless otherwise advised, it will be unnecessary for Applicant to appear or be represented at the hearing.

Kenneth F. Plumb,
Secretary.

[Docket No. CP79-271]
[FR Doc. 79-15064 Filed 5-14-79; 8:45 am]
BILLING CODE 6450-01-M

Tennessee Gas Pipeline Co.; Tariff Filing

May 8, 1979.

Take notice that on April 30, 1979, Tennessee Gas Pipeline Company, a Division of Tenneco Inc. (Tennessee), tendered for filing proposed tariff sheets to its FERC Gas Tariff, Sixth Revised Volume No. 2, consisting of the following: Original Sheet Nos. 299C through 299C19; Original Sheet Nos. 299D through 299D18; Original Sheet Nos. 299E through 299E21; Original Sheet Nos. 299F through 299F18; Original Sheet Nos. 299G through 299G19;

Tennessee states that these tariff sheets constitute its Rate Schedules T-80, T-81, T-82, T-83, and T-84. These rates schedules are applicable to transportation services Tennessee will render for Berkshire Gas Company, Bay State Gas Company, Brooklyn Union Gas Company, Haverhill Gas Company, and Connecticut Gas Company.

Any person desiring to be heard or to protest said filing should file a petition to intervene or protest with the Federal Energy Regulatory Commission, 825 North Capitol Street, N.E., Washington, D.C. 20426, in accordance with §§ 1.8 and 1.10 of the Commission's Rules of Practice and Procedure (18 CFR 1.8, 1.10). All such petitions or protests should be filed on or before May24, 1979. Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceeding. Any person wishing to become a party must file petition to intervene. Copies of this filing are on file with the Commission and are available for public inspection.

Kenneth F. Plumb,
Secretary.

[Docket Nos. CP78-490, CP78-499, CP78-523, and CP78-543, CP79-81]
[FR Doc. 79-15063 Filed 5-14-79; 8:45 am]
BILLING CODE 6450-01-M

Terra Bella Irrigation District; Application for Preliminary Permit

May 3, 1979.

Take notice that on December 8, 1978, the Terra Bella Irrigation District filed an application for a preliminary permit [pursuant to the Federal Power Act, 16 U.S.C. § 791(a)—825(r)] for a proposed water power project to be known as the Friant Dam Hydroelectric Project, FERC No. 2892, located on the San Joaquin River in Fresno County, California. The project would utilize water released from the U.S. Bureau of Reclamation's (BOR) Millerton Lake. Correspondence with the Applicant should be directed to: Mr. John Boudreau, Manager, 24790 Avenue 95, Terra Bella, California, 93270, and Paul R. Minasian, Esq., Minasian, Minasian, Minasian, Spruance & Baber, Attorneys at Law, P.O. Box 1679, Oroville, California, 95965.

Description of Project—The project to be studied under the permit would consist of three powerplants to be constructed at the base of BOR's Friant Dam as follows: (a) the Downstream Powerplant, containing one 2,700-kW generating unit, would utilize approximately 50,000 acre-feet of water currently released downstream annually into the San Joaquin River through an outlet pipe; (b) the Friant-Kern Canal Powerplant, containing one 15,000-kW generating unit, would be located at the outlet works to the Friant-Kern Canal and would utilize approximately 1,420,000 acre-feet of water currently released into the canal annually; and (c) the Madera Canal Powerplant, containing one 5,000-kW generating unit, would be located at the outlet works to the Madera Canal and would utilize approximately 348,000 acre-feet of water currently released into the canal annually. The estimated average annual output of the proposed project would be 130 million kWh.

Proposed Scope and Cost of Studies Under Permit—Applicant has requested a 3-year permit to prepare a definitive project report, including preliminary designs, geological explorations, and collection of environmental data. The cost of the foregoing activities, together with preparation of an environmental impact report or environmental assessment, obtaining agreements with various Federal, State, and local agencies, preparing a license application, final geologic exploration and field surveys, is estimated by Applicant to be about $800,000.

Proposed Use of Project Power—Project energy would be utilized by the Applicant and other State agencies who have contracted with the U.S. Bureau of Reclamation for the use of the water from the Friant Dam. Any remaining energy would be sold to other public agencies and/or public utilities.

Purpose of Preliminary Permit—A preliminary permit does not authorize construction. A permit, if issued, gives the Permittee, during the term of the permit, the right of priority of application for license while the Permittee undertakes the necessary studies and examinations to determine the engineering, economic and environmental feasibility of the proposed project, the market for power, and all other necessary information for inclusion in an application for a license.

Agency Comments—Federal, State, and local agencies that receive this notice through direct mailing from the Commission are invited to submit comments on the described application for preliminary permit. (A copy of the application may be obtained directly from the Applicant.) Comments should be confined to substantive issues relevant to the issuance of a permit as described in this notice. No other formal request for comments will be made. If an agency does not file comments within the time set below, it will be presumed to have no comments.

Protests, Petitions To Intervene, And Agency Comments—Anyone desiring to be heard or to make any protest about this application should file a petition to intervene or a protest with the Federal Energy Regulatory Commission in accordance with the requirements of the Commission's Rules of Practice and Procedure 18 CFR § 1.8 or § 1.10 (1978). In determining the appropriate action to take, the Commission will consider all protests filed, but a person who merely files a protest does not become a party to the proceeding. To become a party or to participate in any hearing, a person must file a petition to intervene in accordance with the Commission's Rules.

Any protest, petition to intervene, or agency comments must be filed on or before *July 5, 1979*. The Commission's address is: 825 N. Capitol Street, NE., Washington, D.C., 20426. The application is on file with the Commission and is available for public inspection.

Kenneth F. Plumb,
Secretary.

[Project No. 2892]
[FR Doc. 79-15065 Filed 5-14-79; 8:45 am]
BILLING CODE 6450-01-M

Texas Gas Transmission Corp.; Application

May 4, 1979.

Take notice that on April 25, 1979, Texas Gas Transmission Corporation (Applicant), P. O. Box 1160, Owensboro, Kentucky 42301, filed in Docket No. CP79-287 an application pursuant to Section 7 of the Natural Gas Act for a certificate of public convenience and necessity authorizing the construction and operation of certain facilities and for permission and approval to abandon certain other facilities, all as more fully set forth in the application on file with the Commission and open to public inspection.

Applicant requests permission to abandon two segments of 6-inch pipeline totaling approximately 7,417 feet in Clay County, Indiana. The application states that the facilities proposed to be abandoned have deteriorated to the point where they cannot be operated and meet the requirements of Natural Gas Pipeline Safety Act of 1968 and the regulations promulgated thereunder, and that during a recent reconditioning program two sections of pipeline, one of 3,761 feet and another of 3,656 feet, which totals the 7,417 feet for which abandonment is requested, were in congested areas and could not be removed and reconditioned and it was, therefore, necessary to relocate around the congested areas. Thirty farm tap customers of Indiana Gas Company, Inc. (Indiana Gas) are located on the two sections of pipeline, and the customers are presently being served through temporary connections at each of the isolated sections of pipeline, it is stated. Applicant states that Indiana Gas, a cutomer of Applicant, would like to acquire the two sections of pipeline in order to maintain service to its customers. Applicant further states that if the abandonment is approved, the 7,417 feet of pipeline would be conveyed to Indiana Gas at a minimal consideration and Indiana Gas would operate the facilities at low pressure to serve the farm taps.

Applicant also requests authorization to construct and operate two assemblies to render service to the customer for resale to the existing farm taps. The cost of the facilities proposed to be constructed is estimated to be $1,130.00 and would be financed from cash on hand, it is stated.

Any person desiring to be heard or to make any protest with reference to said application should on or before May 29, 1979, file with the Federal Energy Regulatory Commission, Washington, D.C. 20426, a petition to intervene or a protest in accordance with the requirements of the Commission's Rules of Pratice and Procedure (18 CFR 1.8 or 1.10) and the Regulations under the Natural Gas Act (18 CFR 157.10). All protests filed with the commission will be considered by it in determining the appropriate action to be taken but will not serve to make the protestants parties to the proceeding. Any person wishing to become a party to a proceeding or to participate as a party in any hearing therein must file a petition to intervene in accordance with the commission's Rules.

Take further notice that, pursuant to the authority contained in and subject to the jurisdiction conferred upon the Federal Energy Regulatory Commission by Section 7 and 15 of the Natural Gas Act and the commission's Rules of Practice and Procedure, a hearing will be held without further notice before the Commission or its designee on this application if no petition to intervene is filed within the time required herein, if the commission on its own review of the matter finds that a grant of the certificate and permission and approval for the proposed abandonment are required by the public convenience and necessity. If a petition for leave to intervene is timely filed, or if the Commission on its own motion believes that a formal hearing is required, further notice of such hearing will be duly given.

Under the procedure herein provided for, unless otherwise advised, it will be unnecessary for Applicant to appear or be represented at the hearing.

Kenneth F. Plumb,
Secretary.

[Docket No. CP79-287]
[FR Doc. 79-15066 Filed 5-14-79; 8:45 am]
BILLING CODE 6450-01-M

Transcontinental Gas Pipe Line Corp.; Application

May 4, 1979.

Take notice that on April 10, 1979, Transcontinental Gas Pipe Line Corporation (Applicant), P.O. Box 1396, Houston, Texas 77001, filed in Docket No. CP79-282 an application pursuant to Section 7(c) of the Natural Gas Act for a certificate of public convenience and necessity authorizing the transportation of natural gs for Columbia Gas Transmission Corporation (Columbia Gas), all as more fully set forth in the application on file with the Commission and open to public inspection.

Applicant requests authorization to transport for Columbia Gas natural gas to be produced from Block 99, Eugene Island Area, offshore Louisiana, pursuant to a gas transportation agreement dated November 22, 1978, between the two companies. Applicant states that it would receive up to 1,000 Mcf of natural gas per day for Columbia Gas at its Southeast Louisiana Gathering System in Block 100 and would deliver a thermally equivalent quantity to Columbia Gas' transportation affiliate, Columbia Gulf Transmission Company (Columbia Gulf), at existing authorized points of exchange between Applicant and Columbia Gulf at the terminus of the Western Leg of the Blue Water Project of Columbia Gulf and Tennessee Gas Pipeline Company, a Division of Tenneco Inc., near Egan, Acadia Parish,

Louisiana (Egan), and at the outlet of Continental Oil Company's Acadia Plant, Acadia Parish, Louisiana (Acadia).

It is stated that Columbia Gulf would pay Applicant initially a monthly charge of $3.12 per Mcf of daily contract demand quantity. Applicant states that it would retain initially 1.2 percent of the gas transported for compressor fuel and line loss makeup.

Any person desiring to be heard or to make any protest with reference to said application should on or before May 29, 1979, file with the Federal Energy Regulatory Commission, Washington, D.C. 20426, a petition to intervene or a protest in accordance with the requirements of the Commission's Rules of Practice and Procedure (18 CFR 1.8 or 1.10) and the Regulations under the Natural Gas Act (18 CFR 157.10). All protests filed with the Commission will be considered by it in determining the appropriate action to be taken but will not serve to make the protestants parties to the proceeding. Any person wishing to become a party to a proceeding or to participate as a party in any hearing therein must file a petition to intervene in accordance with the Commission's Rules.

Take further notice that, pursuant to the authority contained in and subject to jurisdiction conferred upon the Federal Energy Regulatory Commission by Sections 7 and 15 of the Natural Gas Act and the Commission's Rules of Practice and Procedure, a hearing will be held without further notice before the Commission or its designee on this application if no petition to intervene is filed within the time required herein, if the Commission on its own review of the matter finds that a grant of the certificate is required by the public convenience and necessity. If a petition for leave to intervene is timely filed, or if the Commission on its own motion believes that a formal hearing is required, further notice of such hearing will be duly given.

Under the procedure herein provided for, unless otherwise advised, it will be unnecessary for Applicant to appear or be represented at the hearing.

Kenneth F. Plumb,
Secretary.

[Docket No. CP79-282]
[FR Doc. 79-15067 Filed 5-14-79; 8:45 am]
BILLING CODE 6450-01-M

Transcontinental Gas Pipe Line Corp.; Application

May 4, 1979.

Take notice that on April 20, 1979, Transcontinental Gas Pipe Line Corporation (Transco), P.O. Box 1396, Houston, Texas 77001, filed in Docket No. CP79-281 an application pursuant to Section 7(c) of the Natural Gas Act for a certificate of public convenience and necessity for authorization to transport 20,000 Mcf of natural gas per day, on a firm basis, for Natural Gas Pipeline Company of America (Natural), all as more fully set forth in the application which is on file with the Commission and open for public inspection.

Transco states that it would transport natural gas to be produced from Block 272, Ship Shoal area, offshore Louisiana and delivered into Transco's Southeast Louisiana Gathering System in Block 269. It is indicated that pursuant to a transportation agreement with Natural, Transco would receive for Natural a daily contract demand quantity of up to 20,000 Mcf and deliver a thermally equivalent quantity to the following points of delivery:

(1) The point to interconnection between Natural's system and the terminus of U-T Offshore System in Cameron Parish, Louisiana,

(2) The outlet side of Mobil Oil Corporation's La Gloria Plant in Jim Wells County, Texas,

(3) The point of interconnection between Natural's system and South Texas Natural Gas Company's system in Jim Wells County, Texas,

(4) The outlet side of Mobil Oil Corporation's Cameron Meadows Processing Plant, Cameron Parish, Louisiana, and

(5) Any other mutually agreeable point.

It is stated that for this firm transportation service, Natural would pay Transco, initially, a monthly charge of $92,800 and to provide for onshore compressor fuel and line loss make-up, Transco would retain, initially, 1.2 percent of the gas received.

The volumes of gas available to Natural at Ship Shoal Black 292, which can reach Natural's system by means of the transportation service proposed would help to maintain as adequate and reliable service as possible in Natural's marketing areas, it is asserted.

Any person desiring to be heard or to make any protest with reference to said application should on or before May 29, 1979, file with the Federal Energy Regulatory Commission, Washington, D.C. 20426, a petition to intervene or a protest in accordance with the requirements of the Commission's Rules of Practice and Procedure (18 CFR 1.8 or 1.10) and the Regulations under the Natural Gas Act (18 CFR 157.10). All protests filed with the Commission will be considered by it in determining the appropriate action to be taken but will not serve to make the protestants parties to the proceeding. Any person wishing to become a party to a proceeding or to participate as a party in any hearing therein must file a petition to intervene in accordance with the Commission's Rules.

Take further notice that, pursuant to the authority contained in and subject to jurisdiction conferred upon the Federal Energy Regulatory Commission by Sections 7 and 15 of the Natural Gas Act and the Commission's Rules of Practice and Procedure, a hearing will be held without further notice before the Commission or its designee on this application if no petition to intervene is filed within the time required herein, if the Commission on its own review of the matter finds that a grant of the certificate is required by the public convenience and necessity. If a petition for leave to intervene it timely filed, or if the Commission on its own motion believes that a formal hearing is required, further notice of such hearing will be duly given.

Under the procedure herein provided for, unless otherwise advised, it will be unnecessary for Transco to appear or be represented at the hearing.

Kenneth F. Plumb,
Secretary.

[Docket No. CP79-281]
[FR Doc. 79-15068 Filed 5-14-79; 8:45 am]
BILLING CODE 6450-01-M

Western Massachusetts Electric Co.; Purchase Agreement

May 8, 1979.

The filing Company submits the following: Take notice that on May 4, 1979, Western Massachusetts Electric Company (WMECO) tendered for filing a proposed Purchase Agreement with Respect to Gas Turbine Units, dated May 1, 1979 between WMECO and Vermont Electric Cooperative, Inc. (VEC).

WMECO states that the Purchase Agreement provides for a sale to VEC of a specified percentage of capacity and energy from two gas turbine generating units during the summer period from May 1, 1979 to October 31, 1979.

WMECO requests the Commission, pursuant to Section 35.11 of its regulations, waive the customary notice period and permit the rate schedule filed to become effective on May 1, 1979 in order for VEC to meet its Capability Responsibility as a result of changes to their generation mix.

WMECO states that the capacity charge for the proposed service is a negotiated rate, and the variable and additional maintenance charges were derived from historical costs.

WMECO states that copies of this rate schedule have been mailed or delivered to WMECO, West Springfield, Massachusetts and VEC, Johnson, Vermont.

WMECO further states that the filing is in accordance with Part 35 of the Commission's Regulations.

Any person desiring to be heard or to protest said application should file a petition to intervene or protest with the Federal Energy Regulatory Commission, 825 North Capital Street, N.E., Washington, D.C. 20426, in accordance with §§ 1.8 and 1.10 of the Commission's Rules of Practice and Procedures (18 CFR 1.8, 1.10). All such petitions or protests should be filed on or before May 29, 1979. Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceedings. Any person wishing to become a party must file a petition to intervene. Copies of this application are on file with the Commission and are available for public inspection.

Kenneth F. Plumb,
Secretary.

[Docket No. ER79-349]
[FR Doc. 79-15069 Filed 5-14-79; 8:45 am]
BILLING CODE 6450-01-M

ENVIRONMENTAL PROTECTION AGENCY

National Emission Standard for Vinyl Chloride; Delegation of Authority to Commonwealth of Pennsylvania

On October 21, 1976 (40 FR 46560), pursuant to Section 112 of the Clean Air Act, as amended, the Administrator of the Environmental Protection Agency (EPA) promulgated a National Emission Standard for Vinyl Chloride, a hazardous air pollutant. Section 112(d) directs the Administrator to delegate his authority to implement and enforce National Emission Standards for Hazardous Air Pollutants (NESHAPS) to any State which has submitted adequate procedures. Nevertheless, the Administrator retains concurrent authority to implement and enforce the standards following delegation of authority to the State. EPA previously delegated the authority for three NESHAPS pollutants to Commonwealth of Pennsylvania on September 30, 1976.

On September 20, 1978, Maurice K. Goddard, then Secretary of the Pennsylvania Department of Environmental Resources, submitted to the EPA Region III Office a request for delegation of authority for vinyl chloride, the fourth NESHAPS pollutant. Included in that request was a copy of the Pennsylvania regulations which incorporated by reference the Federal emission standards and testing procedures set forth in 40 CFR Part 61.60 *et seq.* These regulations do not adopt the procedures for waivers of compliance and waiver of emission tests published in the Code of Federal Regulations, Title 40, Part 61, Subpart §§ 61.10, 61.11 and 61.13, and provide that all requests for any such waiver shall be addressed to EPA, who retains all authority to grant such waivers. However, the regulations provide that waivers granted to EPA under 40 CFR §§ 61.11 and 61.13 will be recognized by the Department in administering its regulations.

Also included were references to Pennsylvania statutes and regulations which provide the Commonwealth with the requisite authority to enforce the vinyl chloride standard. After a thorough review of that request, the Acting Director of the Enforcement Division has determined that delegation is appropriate for vinyl chloride subject to the conditions set forth in the following letter to Secretary Jones.

May 4, 1979

Certified Mail
Return Receipt Requested

The Honorable Clifford L. Jones, Secretary,
Pennsylvania Department of
Environmental Resources, P.O. Box 1467,
Harrisburg, Pennsylvania 17120.

Re: Delegation of Authority of National Emission Standards for Vinyl Chloride pursuant to Section 112(d), Clean Air Act, as amended

Dear Secretary Jones: This is in response to Maurice K. Goddard's letter of September 20, 1978, requesting delegation of authority for implementation and enforcement of the National Emission Standard for Vinyl Chloride to the Commonwealth of Pennsylvania for all areas except for Allegheny and Philadelphia Counties, excluded by Section 12 of the Pennsylvania Air Pollution Control Act, 35 P.S. §§ 4001 *et seq.*

We have reviewed the pertinent laws of the Commonwealth and the rules and regulations of the Pennsylvania Department of Environmental Resources and have determined that they provide an adequate and effective procedure for implementation and enforcement of the vinyl chloride regulations by the Department of Environmental Resources through its Bureau of Air Quality Control, and the Commonwealth. Therefore, we hereby delegate authority to administer and enforce the vinyl chloride regulations to the Commonwealth of Pennsylvania, and the Commonwealth shall have authority for all sources located in the Commonwealth of Pennsylvania (excepting Allegheny and Philadelphia Counties) subject to the National Emission Standard for Hazardous Air Pollutants promulgated in 40 CFR Part 61 as of the date of the request for delegation.

This delegation is based upon the following conditions:

1. Quarterly reports will be submitted to EPA by the Pennsylvania Department of Environmental Resources including:

(a) Vinyl chloride sources in areas affected by this delegation, granted a permit to construct;

(b) Vinyl chloride sources in areas affected by this delegation, inspected during that quarter and their compliance status.

2. Enforcement of the vinyl chloride regulations in the areas of the Commonwealth of Pennsylvania affected by this delegation will be the primary responsibility of the Pennsylvania Department of Environmental Resources. Where the Department determines that such enforcement is not feasible and so notifies EPA, or where the Department acts in a manner inconsistent with the terms of this delegation, EPA will exercise its concurrent enforcement authority pursuant to Section 113 of the Clean Air Act, as amended, with respect to sources affected by this delegation within the Commonwealth of Pennsylvania and subject to the National Emission Standard for Vinyl Chloride.

3. Acceptance of this delegation of the National Emission Standard for Vinyl Chloride does not commit the Commonwealth of Pennsylvania to request or accept delegation of future standards and requirements. A new request for delegation will be required for any standards not included in the Commonwealth's request of September 20, 1978.

4. The Pennsylvania Department of Environmental Resources will at no time grant a waiver of compliance under the vinyl chloride regulations.

5. This delegation to the Commonwealth of Pennsylvania does not include the authority to implement and enforce vinyl chloride regulations for facilities owned or operated by the United States which are located in areas of the Commonwealth affected by this delegation. This condition in no way relieves any Federal facility from meeting the requirements of 40 CFR Part 61.

6. The Pennsylvania Department of Environmental Resources will not grant a variance from compliance with the vinyl chloride regulations if such variance delays compliance with the Federal standards (Part 61). Should the Pennsylvania Department of Environmental Resources grant such a variance, EPA will consider the source receiving the variance to be in violation of the applicable Federal regulation and may initiate enforcement action against the source pursuant to Section 113 of the Clean Air Act. The granting of such variance by the Department shall also constitute grounds for revocation of delegation by EPA.

7. The Pennsylvania Department of Environmental Resources and EPA will develop a system of communication sufficient to guarantee that each office is always fully informed regarding the interpretation of

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applicable regulations. In instances where there is a conflict between a Commonwealth interpretation and a Federal interpretation of applicable regulations, the Federal interpretations must be applied if it is more stringent than that of the Commonwealth.

8. If at any time there is a conflict between a Commonwealth regulation and a Federal regulation (40 CFR Part 61), the Federal regulation must be applied if it is more stringent than that of the Commonwealth. If the Commonwealth does not have the authority to enforce the more stringent Federal regulation, this portion of the delegation may be revoked.

9. The Pennsylvania Department of Environmental Resources will utilize the methods specified in 40 CFR Part 61 in performing source tests pursuant to the regulations.

10. If the Enforcement Division Director determines that the Commonwealth's program for enforcing or implementing the vinyl chloride regulations in areas affected by this delegation is inadequate, or is not being effectively carried out, this delegation may be revoked in whole or in part. Any such revocation shall be effective as of the date specified in a Notice of Revocation to the Pennsylvania Department of Environmental Resources.

A Notice announcing this delegation will be published in the **Federal Register** in the near future. The Notice will state, among other things, that, effective immediately, all reports required pursuant to the Federal Vinyl Chloride regulations by sources located in affected areas of the Commonwealth of Pennsylvania should be submitted to the Pennsylvania Department of Environmental Resources, Bureau of Air Quality Control, P.O. Box 2063, Harrisburg, Pennsylvania 17120, in addition to EPA Region III. Any such reports which have been or may be received by EPA, Region III will be promptly transmitted to the Pennsylvania Department of Environmental Resources.

Since this delegation is effective immediately, there is no requirement that the Commonwealth notify EPA of this acceptance. Unless EPA receives from the Commonwealth written notice of objections within 10 days of receipt of thia letter, the Commonwealth of Pennsylvania will be deemed to have accepted all of the terms of the delegation.

Sincerely yours,

Thomas C. Voltaggio,
Acting Director, Enforcement Division.

Therefore, pursuant to the authority delegated to him by the Administrator, the Director, Enforcement Division notified Clifford L. Jones, Secretary of the Pennsylvania Department of Environmental Resources, on May 4, 1979, that authority to implement and enforce the National Emission Standard for Vinyl Chloride was delegated to the Commonwealth of Pennsylvania.

Copies of that request for delegation of authority are available for public inspection at the Environmental Protection Agency, Region III Office, 6th & Walnut Streets, Philadelphia, Pennsylvania 19106.

Effective immediately, all reports required pursuant to the National Emission Standard for Vinyl Chloride should be submitted to the Pennsylvania Department of Environmental Resources, Bureau of Air Quality Control, P.O. Box 2063, Harrisburg, Pennsylvania 17120, with copies to EPA, Region III.

This Notice is issued under the authority of Section 112 of the Clean Air Act, as amended, 42 U.S.C. 7412(d)(1).

Dated: May 4, 1979.

Thomas C. Voltaggio,
Acting Director, Enforcement Division.

[FRL 1225-3]
[FR Doc. 79-15148 Filed 5-14-79; 8:45 am]
BILLING CODE 6560-01-M

Toxic Substances; Premanufacturing Notices; Monthly Status Report

AGENCY: Environmental Protection Agency (EPA).

ACTION: Summary of Premanufacturing Notices for April 1979.

SUMMARY: Section 5(d)(3) of the Toxic Substances Control Act (TSCA) requires that a list be published in the **Federal Register** at the beginning of each month reporting the premanufacturing notices (PMN's) received and under review and the PMN's for which the review period has expired. This is the first such report.

ADDRESS: As stated in the **Federal Register** document announcing receipt of the PMN's, interested parties wishing to file written comments on specific chemicals should submit them before June 19, 1979, to the Document Control Officer (TS-793), Office of Toxic Substances, EPA, 401 M Street, SW., Washington, D.C. 20460.

Nonconfidential portions of the notice and other documents in the public record are available for public inspection from 9 a.m. to 4 p.m., Monday through Friday (excluding holidays), in Room 709, East Tower, at the address above.

FOR FURTHER INFORMATION CONTACT: Robert Smith, Premanufacture Review Division (TS-794), Office of Toxic Substances, EPA, Washington, D.C. 20460. (202) 472-3500.

SUPPLEMENTARY INFORMATION: Under Section 5 of TSCA, any person who intends to manufacture or import a new chemical substance for commercial purposes in the United States must submit a notice to EPA at least 90 days before he begins such manufacture or importation. A new chemical substance is any chemical substance that is not on the Inventory of existing chemical substances compiled by EPA under Section 8(b) of TSCA. The § 5 requirements are effective 30 days after first publication of the Inventory, which EPA expects to publish June 1, 1979. According to section 5(a)(1), EPA must review these notices within 90 days from the date they are received, unless it is decided to extend the review period for up to an additional 90 days for good cause.

The monthly status report required under section 5(d)(3) will eventually indicate (a) each chemical substance for which a PMN has been received and for which the review period has not expired; (b) each chemical substance for which the premanufacture review period has expired; (c) each "new" chemical substance which has been in the review process for less than 30 days; and (d) after first publication of the Inventory, each chemical substance that has been added to the published Inventory since the last monthly report.

In the future, these reports will be generated by computer as part of a larger management "tracking" system. As the reports develop, attempts will also be made to have a corresponding growth in usefulness of the information in the lists.

(Section 5 of the Toxic Substances Control Act (90 Stat. 2012; 15 U.S.C. 2604))

Dated: May 8, 1979.

Steven D. Jellinek,
Assistant Administrator for Toxic Substances.

Premanufacture Notices Received During April 1979

PMN No.	Identity/generic name	FR citation	Expiration date
5AHQ0479-0002-1	Isobutyric acid carbomonocyclic ester	44 FR 23310 (4/19/79).	July 4, 1979.*
5AHQ0479-0002-2	Propiophenone, ring substituted-2-methyl	do	Do.
5AHQ0479-0002-3	Butyronitrile, 2-(substituted phenyl)-3-methyl	do	Do.
5AHQ0479-0002-4	Benzyl alcohol, ring substituted-alpha-isopropyl	do	Do.

*EPA is considering extending the premanufacture review period under section 5(c)(1) of TSCA, because EPA did not receive sufficient information to complete its analysis within the 90 day period specified. Such a determination will be published as a separate document in the FEDERAL REGISTER.

[FRL 1224-4; OTS-530001]
[FR Doc. 79-15115 Filed 5-14-79; 8:45 am]
BILLING CODE 6560-01-M

FEDERAL COMMUNICATIONS COMMISSION

Cable TV Syndicated Program Exclusivity Rules; Action in Docket Case

April 25, 1979.

The Commission has concluded there would be no substantial economic impact on broadcast stations if it deleted its rules requiring provision of syndicated program exclusivity by cable television system. The commission also found no evidence that the elimination of the rules would threaten the supply of programing used by television stations.

The rules, which affect only cable systems with at least 1,000 subscribers commencing operation after 1972, afford local broadcast stations in the top 100 markets protection against duplication of their syndicated program on cable television systems serving communities in their markets. Therefore, a cable system has to delete syndicated programing carried on a distant station if a local station has contracted for the same programing and requests the protection.

In the first 50 markets protection is provided for the duration of the contract between a program producer and a local broadcaster, whether or not the broadcaster shows the program during the contract term. Copyright holders also are benefited by the restriction of carriage of first-run, syndicated programs for one year after the first syndicated sale, even if no local station has rights to exhibit it.

In the second 50 markets, the rules are not so restrictive. Protection can be requested in these markets (1) for off-network series, beginning with the first showing until the completion of the first run, but no longer than one year; (2) for first-run syndicated series, beginning with the first showing and for two years thereafter; (3) for feature films and first-run, non-series syndicated programs, beginning with the availability date and for two years thereafter; and (4) for other programing beginning with purchase and until one day after the first run, but no longer than one year. In these markets, cable systems are not required to delete a program broadcast in prime time if the local station does not also broadcast the program in prime time.

The Commission noted it had received over 60 sets of comments in response to the notice of inquiry and the comments by broadcast interests almost unanimously urged that the present exclusivity protection be expanded substantially. The cable television and public interest comments, however, argued for total abandonment of syndicated exclusivity protection.

The Commission noted that about 230 private citizens also expressed opposition to requiring deletions of any syndicated programing. Copyright interests argued that any change should be in the direction of expanded protection.

The Commission said its analysis revealed the potential of the syndicated exclusivity rules to impose significant burdens on the consuming public. It said these burdens were of two types—a direct loss of programing to cable subscribers and the loss the public suffers from whatever effect these rules may have in terms of retarding the growth of cable television systems for which consumers would otherwise be willing to pay.

The FCC said that although it was true that almost all of the programing subject to deletion under these rules would appear at some time on the broadcasts of local stations, this was not reason enough to find that the rules had little effect because the public appears to value highly the "time diversity" that cable television service makes available.

The second negative aspect of the syndicated exclusivity rules from the point of view of the consumer, the FCC said, was the impediment the rules create to the development of new cable systems. This deprives potential subscribers not only of the programing that would be deleted under the rules but of whatever other benefits they might have through access to cable television service. The Commission noted that sometimes the operation of these rules could cause reductions in the demand for cable services that make cable service unavailable or delay its provision to the public.

The Commission said it found that the syndicated exclusivity rules did not appear to enable local broadcasters to serve the viewing public better and elimination of the rules would result in no more than about a 1 percent reduction in local station audiences under present conditions.

It said since the effect of the syndicated exclusivity rules on program supply was derivative of the effect on local broadcast stations, it followed that the rules have very little impact on program supply. Thus, it said, the rules did not confer any present benefits to the public in the form of an expanded supply of programing.

On the other hand, it said, any long-term negative effect of eliminating the syndicated exclusivity rules on program supply had not been shown. It said to the extent that broadcast stations would receive compensation for the audiences in distant cable communities, the total payments to program producers could remain unchanged, or may even increase, due to the growth of cable television.

It noted that, even assuming the worst possible consequences for the program production industry, Congress has established a regulatory body empowered to mitigate any adverse reallocation of resources from program producers to cable systems and their subscribers.

Finally, the Commission said, the long-term financial outlook for television program production was good, with continued increases in revenues and profits expected for the industry, even with complete deregulation of cable television.

The Commission said these results suggested that non-cable viewers would not be disadvantaged by the elimination of the syndicated exclusivity rules. No evidence had been presented, it said, that demonstrated significant adverse impact on broadcasters or on the supply of television programing.

On the other hand, it noted, the subscribers and potential subscribers of cable television would benefit significantly from the increased fare of television programing in the absence of the rules.

As a result, the Commission said, "assessing the facts developed in this Report against our criteria for ascertaining the public interest points unambiguously toward the elimination of the rules."

In a separate but related action the Commission has determined that elimination of the cable TV distant signal carriage rules would pose no threat to television service (Docket 21284).

Action by the Commission April 25, 1979, by Report (FCC 79-242). Commissioners Ferris (Chairman), Lee, Quello, Washburn, Fogarty, Brown and Jones.

The text of the FCC's Report has been released publicly May 7, 1979. The document consists of 98 pages. Because of the cost of printing so voluminous a text it will not be published in the

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Federal Register. However, the FCC has prepared a limited number of copies that are available upon request (Report, FCC 79–242, Docket No. 20988, adopted April 25, 1979, "In the Matter of Cable Television Syndicated Program Exclusivity Rules") at its Information Office, Room 202, 1919 M Street, NW., Washington, D.C. 20554. The Report is also available for inspection at the Commission's Docket Reference Room.

Federal Communications Commission.

William J. Tricarico,

Secretary.

[Report No. 14920; Docket No. 20988]

[FR Doc. 79–14962 Filed 5–14–79; 8:45 am]

BILLING CODE 6712–01–M

Cable TV Distant Signal Carriage Rules; Action in Docket Case

April 25, 1979.

The Commission has found that elimination of all restrictions on the kind and number of distant signals cable television systems may carry will not significantly harm any viewer of over-the-air television.

In a report on its inquiry on the economic relationship between cable and broadcast television, the Commission said the inquiry involved a study of "the typical problem of regulatory policy," which is: "

* * * whether and to what extent to retard technological progress in order to protect those who may be harmed by change."

While it found it was impossible to say that no broadcaster or viewer would be harmed by elimination of the distant signal carriage restrictions, the Commission found that it was unlikly that either would be harmed significantly.

By contrast, however, it said the benefits of relaxation of those restrictions were obvious—an increase in the opportunity for diversity and competition both in the economic marketplace and the marketplace of ideas.

Since 1972, a cable system's choice of signals has been governed by the system's geographic location, its size, any grandfather rights the system might possess, and by the availability of local market stations, the FCC said.

In providing a basic complement of network and independent signals to cable subscribers located in established television markets, the Commission said the current rules require system operators to select first from locally available stations (all systems regardless of location or size are required to carry all local or significantly-viewed commercial and local noncommercial stations). Cable systems in a specified market may carry any distant educational station except on a showing by the local stations that the additional competition would adversely affect their ability to serve the public, it added.

If sufficient local signals are unavailable to a system in a television market, the Commission pointed out that distant signals may be imported to fill the relevant network or independent signal complement. Also where major market systems fill their signal complements locally, the Commission noted that they are entitled to two "bonus" independents. The FCC added, however, that under the current rules only cable systems outside all markets or with fewer than 1,000 subscribers may import distant signals without limitation.

The Commission said the criteria used in the analysis conducted in its inquiry for ascertaining the extent to which current and proposed cable television policies serve the public interest tend to fall into three general categories—consumer welfare, distributional equity and external or spillover effects.

First, it said, the broadcasting and cable industries, like any other, should be evaluated in part on the basis of the economic value placed on their products by consumers. It noted that the standard economic measure of the value of a product to the consumer is "consumer surplus"—the difference between the maximum amount consumers are willing to pay for the current quality and quantity of a product and the amount they actually pay. It said the important lesson from economic theory is that competition produces prices and outputs that maximize consumer surplus.

In broadcasting, the FCC pointed out, consumers do not pay directly for programing so there is no natural way to infer the economic value they place on available programing. It said the principal source of information on the economic value of programing to consumers is found in the history of cable and pay television, because subscribers to those services do pay for the programing they receive.

The most important benefit from cable television is that cable allows more program services to compete for consumer time and money, the FCC said, adding that as the number of services increases, the economic welfare of subscribers increases—as evidenced by the growth in the number of subscribers.

Therefore, it said, to the extent that existing regulations inhibit the growth of cable television services which the public would be willing to pay for, the welfare of subscribers and potential subscribers is being sacrificed. On the other hand, it said, to the extent existing regulations protect off-the-air viewers from losing service, the welfare of those who would not or could not subscribe is being preserved.

Thus, it said, an important issue in the dabate over cable television policy is the relative size of these two effects.

Noting that policy changes affect the distribution of wealth, the Commission said a second criterion for evaluating broadcasting and cable is the effect of alternative policies on such distribution. It said wealthy consumers may spend more for any given amount of service than poor consumers, and therefore, a change in policy that systemically benefits higher income groups at the expense of lower income groups might be judged undesirable even if the net economic value of the change to all consumers, taken as a whole, proved to be positive.

Similar arguments could be made with respect to other segments of the population, i.e., urban dwellers versus residents of rural areas, children compared to adults, and non-English compared to English-speaking viewers. However, it said, these judgments were not reached because, on analysis, no adverse distributional effects are expected to occur as a result of cable deregulation.

The Commission said the third criterion for evaluating broadcasting and cable policies deals with consequences that are not necessarily taken into account by viewers in making individual economic decisions—i.e., the effect of programing on the operation of a democratic society. It noted that television programing may have an important effect in shaping the attitudes and values of citizens, in making the electorate more informed and responsible and in contributing to greater understanding and respect among different racial and ethnic groups.

While none of these social values are affected much by the viewing decisions of any one person, the Commission said individuals are likely to pay little attention to these issues in deciding which programs to view. But to the extent that a change in broadcast-cable policy would dramatically alter the amount by which local news, public affairs and instructional programing are not only broadcast but viewed, the FCC said these issues could be an important component of the policy debate.

It said it was generally assumed that the type of programing the Commission has tried to encourage—news, public affairs and instructional—is not economical and therefore relatively high profits must be earned on conventional programing to offset losses on programs of greater merit. Thus, more competition in broadcasting could, by reducing profits, also reduce this so-called merit programing, it said. The Commission added, however, that more competition means more independent voices. For these reasons, it said, there is no necessary inconsistency between expanded competition and the supply of merit programing.

In conclusion, the Commission said "the benefits of our current rules are small, and these benefits go mainly to broadcasters whose incomes thereby rise faster than they otherwise would." It said the current regulations cost potential and existing cable subscribers in the terms of denial of an increase in freedom of choice. It added that the costs of the existing regulations also fall on society as a whole to the extent they inadvertently stifle some participants in the system of freedom of expression.

In finding that elimination of the distant signal carriage rules will not harm over-the-air broadcasting, the Commission pointed out that it had taken account of the submission of parties, analyzed existing academic work in the field, and conducted its own economic studies.

The Commission said that its efforts have provided a significant improvement in its understanding of the competitive relationship between broadcast television and cable. It noted that in 1966 it had substantial doubt as to cable's impact, adding that in 1972 when cable subscribers had doubled, that doubt had lessened and it allowed importation of a small number of distant signals into television markets.

Today, the Commission noted, the number of cable subscribers has again doubled and, based on its analysis of all available evidence, that doubt had diminished to a level which is uncommon in matters of public policy.

Action by the Commission April 25, 1979, by Report (FCC 79–241). Commissioners Ferris (Chairman), Lee, Quello, Washburn, Fogarty, Brown and Jones.

The text of the FCC's Report has been released publicly May 7, 1979. The document consists of 497 pages. Because of the cost of printing so voluminous a text, it will not be published in the **Federal Register**. However, the FCC has prepared a limited number of copies that are available upon request (Report, FCC 79–241, Docket No. 21284, adopted April 25, 1979 "Inquiry into the Economic Relationship Between Television Broadcasting and Cable Television") and its Information Office, Room 202, 1919 M Street, N.W., Washington, D.C. 20554. The Report is also available for inspection at the Commission's Docket Reference Room.

Federal Communications Commission.

William J. Tricarico,

Secretary.

[Report No. 14919; Docket No. 21284]

[FR Doc. 79–14963 Filed 5–14–79; 8:45 am]

BILLING CODE 6712–01–M

DEPARTMENT OF HEALTH, EDUCATION, AND WELFARE

Office of Education

National Advisory Council on the Education of Disadvantaged Children; Amendment No. 2, Meeting Relocated

This notice is an amendment to the notice of the meeting of the National Advisory Council on the Education of Disadvantaged Children which appeared in the **Federal Register** on Monday, May 7, 1979, page 26798. The Council meeting scheduled to be held on May 18 and 19, 1979 in the council office will now be held at the Hyatt House Hotel, Ravensworth East Room, located at 1325 Wilson Boulevard, Arlington, Virginia, (703) 841–9595. The dates of the meeting will remain the same. For any further information regarding this meeting, please contact the council office at (202) 724–0114.

The National Advisory Council on the Education of Disadvantaged Children is established under section 148 of the Elementary and Secondary Education Act (20 U.S.C. 2411) to advise the President and the Congress on the effectiveness of compensatory education to improve the educational attainment of disadvantaged children.

Signed at Washington, D.C. on May 10, 1979.

Gloria B. Strickland,

Acting Executive Director.

[FR Doc. 79–15080 Filed 5–14–79; 8:45 am]

BILLING CODE 4110–02–M

Food and Drug Administration

Advisory Committees Meetings

AGENCY: Food and Drug Administration

ACTION: NOTICE

SUMMARY: This notice announces forthcoming meetings of public advisory committees of the Food and Drug Administration (FDA). This notice also sets forth a summary of the procedures governing committee meetings and methods by which interested persons may participate in open public hearings conducted by the committees and is issued under section 10(a)(1) and (2) of the Federal Advisory Committee Act (Pub. L. 92–463, 86 Stat. 770–776 (5 U.S.C. App. I)), and FDA regulations (21 CFR Part 14) relating to advisory committees. The following advisory committee meetings are announced:

Committee name	Date, time, and place	Type of meeting and contact person
1. Radiopharmaceutical Drugs Advisory Committee	June 1, 9 a.m., Conference Rm. F, Parklawn Bldg., 5600 Fishers Lane, Rockville, MD.	Open committee discussion 9 a.m. to 11:30 a.m.; open public hearing 11:30 a.m. to 12:30 p.m.; open committee discussion 12:30 p.m. to 4:45 p.m.; Ermona McGoodwin (HFD–150), 5600 Fishers Lane, Rockville, MD 20857, 301–443–4250.

General function of the Committee. The Committee reviews and evaluates available data on the safety and effectiveness of marketed and investigational prescription drugs for use in the practice of nuclear medicine.

Agenda—Open public hearing. Any interested persons may present data, information, or views, orally or in writing, on issues pending before the Committee.

Open committee discussion. The Committee will discuss radiobiologic efficacy reviews; update on pediatric labeling of radiopharmaceutical drugs; investigational new drugs, new drug applications, and Radioactive Drug Research Committee status.

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Committee name	Date, time, and place	Type of meeting and contact person
2. Miscellaneous Internal Drug Products Panel	June 2 and 3, 9 a.m., Holiday Inn, Bethesda, MD	Open public hearing June 2, 9 a.m. to 10 a.m.; open committee discussion June 2, 10 a.m. to 4:30 p.m.; June 3, 8:30 a.m. to 3:30 p.m.; Armond Welch (HFD-510), 5600 Fishers Lane, Rockville, MD 20857, 301-443-4960.

General function of the Committee. The Committee reviews and evaluates available data concerning the safety and effectiveness of nonprescription drug products.

Agenda—Open public hearing. Any interested persons may present data, information, or views, orally or in writing, on issues pending before the Committee. Those who desire to make such a presentation should notify the contact person before May 29, 1979, and submit a brief statement of the general nature of the data, information, or views they wish to present, the names and addresses of proposed participants, and an indication of the approximate time desired for their presentation.

Open committee discussion. The Panel will review data submitted in response to the over-the-counter (OTC) review's call for data for this Panel (see also 21 CFR 330.10(a)(2)). The Panel will be reviewing, voting upon, and modifying the content of summary minutes and categorization of ingredients and claims.

Committee name	Date, time, and place	Type of meeting and contact person
3. Psychopharmacologic Drugs Advisory Committee	June 4 and 5, 9 a.m., Conference Rm. G-H, Parklawn Bldg., 5600 Fishers Lane, Rockville, MD.	Open public hearing, June 4, 9 a.m. to 10 a.m.; open committee, discussion, June 4, 10 a.m. to 4:30 p.m.; June 5, 9 a.m. to 4:30 p.m.; Robert C. Nelson, (HFD-120), 5600 Fishers Lane, Rockville, MD 20857, 301-443-3800.

General function of the Committee. The Committee reviews and evaluates available data on the safety and effectiveness of marketed and investigational prescription drugs for use in the practice of psychiatry and related fields.

Agenda—Open public hearing. Any interested persons may present data, information, or views, orally or in writing, on issues pending before the Committee.

Open committee discussion. The Committee will discuss Ludiomil (NDA 17-534) Ciba-Geigy Co., an evaluation for safety and efficacy; review of "Guidelines for Prospective Studies of Growth Related Effects of Stimulant Medication in Hyperactive Children"; preliminary report on long-term studies with pemoline (Cylert) Abbott Labs; and review of "Guidelines for the Evaluation of Drugs in the Demented and Non-Demented Elderly Patient."

Committee name	Date, time, and place	Type of meeting and contact person
4. Oncologic Drugs Advisory Committee	June 7 and 8, 9 a.m., Conference Rm. G, Parklawn Bldg., 5600 Fishers Lane, Rockville, MD.	Open committee discussion June 7, 9 a.m. to 1:30 p.m.; open public hearing June 7, 1:30 p.m. to 2:30 p.m.; open committee discussion June 7, 2:30 p.m. to 5 p.m.; June 8, 9 a.m. to 5 p.m.; Joyce Creamer (HFD-150), 5600 Fishers Lane, Rockville, MD 20857, 301-443-4260.

General function of the Committee. The Committee reviews and evaluates available data on the safety and effectiveness of marketed and investigational prescription drugs for use in the treatment of cancer.

Agenda—Open public hearing. Any interested persons may present data, information, or views, orally or in writing, on issues pending before the Committee.

Open committee discussion. The Committee will discuss safety and efficacy of Estramustine (NDA 18-045), Hydroxyurea (HDA 16-293), Dacarbazine (NDA 17-575), High Dose Thymidine (IND 14-794), High Dose Thymidine (IND 14-723); labeling for Group C drugs; and consideration of revision of guidelines for antineoplastic drugs.

Committee name	Date, time, and place	Type of meeting and contact person
5. Antimicrobial	June 8 and 9, 9 a.m., Conference Rm. K, Parklawn Bldg., 5600 Fishers Lane, Rockville, MD, (June 8); Holiday Inn, Bethesda, MD, (June 9).	Open public hearing, June 8, 9 a.m. to 10 a.m.; open committee discussion June 8, 10 a.m. to 4:30 p.m.; June 9, 9 a.m. to 4:30 p.m.; Lee Geismar (HFD-510), 5600 Fishers Lane, Rockville, MD 20857, 301-443-6057.

General function of the Committee. The Committee reviews and evaluates available data concerning the safety and effectiveness of nonprescription drug products.

Agenda—Open public hearing. Any interested persons may present data, information, or views, orally or in writing, on issues pending before the Committee. Those who desire to make such a presentation should notify the contact person before June 5, 1979, and submit a brief statement of the general nature of the data, information, or views they wish to present, the names and addresses of proposed participants, and an indication of the approximate time desired for their presentation.

Open committee discussion. The Committee will review data submitting in response to the over-the-counter (OTC) review's call for data for this panel (see also 21 CFR 330.10(a)(2)). The Panel will be reviewing, voting upon, and modifying the content of summary minutes and categorization of ingredients and claims.

Committee name	Date, time, and place	Type of meeting and contact person
6. Ad Hoc Subcommittee of the Drug Abuse Advisory Committee to Study the "Effects of Scheduling".	June 11, 9 a.m., Conference Rm. A, Parklawn Bldg., 5600 Fishers Lane, Rockville, MD.	Open public hearing 9 a.m. to 10 a.m.; open committee discussion 10 a.m. to 4:30 p.m.; Robert C. Nelson (HFD-120), 5600 Fishers Lane, Rockville, MD 20857, 301-443-3800.

General function of the Committee. The Committee advises on the scientific and medical evaluation of information gathered by the Department of Health, Education, and Welfare and the Department of Justice on the safety, efficacy, and abuse potential of drugs and recommends actions to be taken on the marketing, investigation, and control of such drugs.

Agenda—Open public hearing. Any interested persons may present data, information, or views, orally or in writing, on issues pending before the Committee.

Open committee discussion. This Subcommittee is charged with the study of "Effects of Scheduling" and will continue its examination of various information sources by inviting representatives from various government agencies and the pharmaceutical industry to cooperate in this information assessment process.

Committee name	Date, time, and place	Type of meeting and contact person
7. Cardiovascular and Renal Drugs Advisory Committee	June 21 and 22, 9 a.m., Conference Rm. M, Parklawn Bldg., 5600 Fishers Lane, Rockville, MD.	Open public hearing, June 21, 9 a.m. to 10 a.m.; open committee discussion June 21, 10 a.m. to 5 p.m.; June 22 9 a.m. to 3 p.m.; Joan Standaert (HFD-110), 5600 Fishers Lane, Rockville, MD 20857, 301-443-4730.

General function of the Committee. The Committee reviews and evaluates available data on the safety and effectiveness of marketed and investigational prescription drugs for use in cardiovascular and renal disorders.

Agenda—Open public hearing. Any interested persons may present data, information, or views, orally or in writing, on issues pending before the Committee.

Open committee discussion. The Committee will discuss the safety and efficacy of Lidoflazine, an anti-anginal agent (NDA 18-220) (Janssen), and reports of the animal carcinogenicity of reserpine.

Committee name	Date, time, and place	Type of meeting and contact person
8. Device Good Manufacturing Practices Advisory Committee	June 29, 9 a.m., Plaza Ball Room, Holiday Inn, 8777 Georgia Ave., Silver Spring, MD.	Open public hearing 9 a.m. to 10 a.m.; open committee discussion 10 a.m. to 4:30 a.m.; Lincoln I. Gluscevich (HKF-132), 8757 Georgia Ave., Silver Spring, MD 20910, 301-427-7194.

General function of the Committee. The Committee reviews proposed good manufacturing practice regulations (GMP's) governing the methods used in, and the facilities and controls used for, the manufacture, packing, storage, and installation of devices and makes recommendations on the feasibility and reasonableness of the proposed regulations.

Agenda—Open public hearing. Interested persons are encouraged to present information pertinent to good manufacturing practice regulations to Lincoln I. Gluscevich. Those desiring to make formal presentations should notify Lincoln I. Gluscevich by May 31, 1979, and submit a brief statement of the general nature of the evidence or arguments they wish to present, the names and addresses of proposed participants, references to any data to be relied on, and also an indication of the approximate time required to make their comments.

Open committee discussion. The Committee will discuss guidelines for submission of GMP exemptions and variances; additions to the critical device list; GMP inspections; Class I device GMP exemption status report; and status report and determination of GMP economic impact.

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FDA public advisory committee meetings may have as many as four separable portions: (1) An open public hearing, (2) an open committee discussion, (3) a closed presentation of data, and (4) a closed committee deliberation. Every advisory committee meeting shall have an open public hearing portion. Whether or not it also includes any of the other three portions will depend upon the specific meeting involved. There are no closed portions for the meetings announced in this notice. The dates and times reserved for the open portions of each committee meeting are listed above.

The open public hearing portion of each meeting shall be at least 1 hour long unless public participation does not last that long. It is emphasized, however, that the 1 hour time limit for an open public hearing represents a mininum rather than a maximum time for public participation, and an open public hearing may last for whatever longer period the committee chairman determines will facilitate the committee's work.

Meetings of advisory committees shall be conducted, insofar as is practical, in accordance with the agenda published in this **Federal Register** notice. Changes in the agenda will be announced at the beginning of the open portion of a meeting.

Any interested person who wishes to be assured of the right to make an oral presentation at the open public hearing portion of a meeting shall inform the contact person listed above, either orally or in writing, prior to the meeting. Any person attending the hearing who does not in advance of the meeting request an opportunity to speak will be allowed to make an oral presentation at the hearing's conclusion, if time permits, at the chairman's discretion.

Persons interested in specific agenda items to be discussed in open session may ascertain from the contact person the approximate time of discussion.

A list of committee members and summary minutes of meetings may be obtained from the Public Records and Documents Center (HFC–18), 5600 Fishers Lane, Rockville, MD 20857, between the hours of 9 a.m. and 4 p.m., Monday through Friday. The FDA regulations relating to public advisory committees may be found in 21 CFR Part 14.

Dated: May 8, 1979.

William F. Randolph,

Acting Associate Commissioner for Regulatory Affairs.

[FR Doc. 79–14872 Filed 5–14–79; 8:45 am]

BILLING CODE 4110–03–M

Advisory Committees Meetings

AGENCY: Food and Drug Administration.

ACTION: Notice.

SUMMARY: This notice announces forthcoming meetings of public advisory committees of the Food and Drug Administration (FDA). This notice also sets forth a summary of the procedures governing committee meetings and methods by which interested persons may participate in open public hearings conducted by the committees and is issued under section 10(a)(1) and (2) of the Federal Advisory Committee Act (Pub. L. 92–463, 86 Stat. 770–776 (5 U.S.C. App. I)), and FDA regulations (21 CFR Part 14) relating to advisory committees. The following advisory committee meetings are announced:

Committee name	Date, time, and place	Type of meeting, and contact person
1. Gastroenterology-Urology Devices Section of the General Medical Devices Panel.	June 1, 9 a.m., Rm. 529A, 200 Independence Ave. SW., Washington, DC.	Open public hearing 9:30 a.m. to 10:30 a.m.; closed committee deliberations 10:30 a.m. to 3:30 p.m.; Dennis J. Cotter (HFK–420), 8757 Georgia Ave., Silver Spring, MD 20910, 301–427–7750.

General function of the Committee. The Committee reviews and evaluates available data concerning the safety and effectiveness of devices currently in use and makes recommendations for their regulation.

Agenda—Open public hearing. Interested persons are encouraged to present information pertinent to classification of gastroenterology-urology devices to Dennis J. Cotter. Submission of data relative to tentative classification findings is also invited. Those desiring to make formal presentations should notify Dennis J. Cotter by May 22, 1979, and submit a brief statement of the general nature of the evidence or arguments they wish to present, the names and addresses of proposed participants, references to any data to be relied on, and also an indication of the approximate time required to make their comments.

Closed committee deliberations. The Committee will discuss premarket approval applications. This portion of the meeting will be closed to permit discussion of trade secret data (5 U.S.C. 552b(c)(4)).

Committee name	Date, time, and place	Type of meeting and contact person
2. Orthopedic Devices Section of the Surgical and Rehabilitation Devices Panel.	June 7, 9 a.m., Rm. 339A, 200 Independence Ave. SW., Washington, DC.	Open public hearing 9 a.m. to 10 a.m.; closed committee deliberations 10 a.m. to 5 p.m.; James G. Dillon (HFK–410), 8757 Georgia Ave., Silver Spring, MD 20910, 301–427–7238.

General function of the Committee. The Committee reviews and evaluates available data concerning the safety and effectiveness of devices currently in use and makes recommendations for their regulation.

Agenda—Open public hearing. Interested persons are encouraged to present information pertinent to classification of orthopedic devices to James G. Dillon. Submission of data relative to tentative classification findings is also invited. Those desiring to make formal presentations should notify James G. Dillon by May 25, 1979, and submit a brief statement of the general nature of the evidence or arguments they wish to present, the names and addresses of proposed participants, references to any data to be relied on, and also an indication of the approximate time required to make their comments.

Closed committee deliberations. The Committee will review three premarket approval applications. This portion of the meeting will be closed to permit discussion of trade secret data (5 U.S.C. 552b(c)(4)).

Committee name	Date, time, place	Type of meeting, and contact person
3. Circulatory Systems Devices Panel	June 29, 9 a.m., Rm. 1409, 200 C St. SW., Washington, DC.	Open public hearing, 9 a.m. to 10 a.m.; open committee discussion 10 a.m. to 11 a.m.; closed committee deliberations 11 a.m. to 4 p.m.; Glenn A. Rahmoeller (HFK–450), 8757 Georgia Ave., Silver Spring, MD 20910, 301–427–7559.

General function of the Committee. The Committee reviews and evaluates available data concerning the safety and effectiveness of devices currently in use and makes recommendation for their regulation.

Agenda—Open public hearing. Interested persons are encouraged to present information pertinent to classification of circulatory systems devices to Glenn A. Rahmoeller. Submission of data relative to tentative classification findings is also invited. Those desiring to make formal presentations should notify Glenn A. Rahmoeller by June 22, 1979, and submit a brief statement of the general nature of the evidence or arguments they wish to present, the names and addresses of proposed participants, references to any data to be relied on, and also an indication of the approximate time required to make their comments.

Open committee discussion. The Committee will discuss comments submitted to FDA concerning the proposed classification regulations for cardiovascular devices.

Closed committee deliberations. The Committee will discuss premarket approval applications. This portion of the meeting will be closed to permit discussion of trade secret data (5 U.S.C. 552b(c)(4)).

Each public advisory committee meeting listed above may have as many as four separable portions: (1) An open public hearing, (2) an open committee discussion, (3) a closed presentation of data, and (4) a closed committee deliberation. Every advisory committee meeting shall have an open public hearing portion. Whether or not it also includes any of the other three portions will depend upon the specific meeting involved. The dates and times reserved for the separate portions of each committee meeting are listed above.

The open public hearing portion of each meeting shall be at least 1 hour long unless public participation does not last that long. It is emphasized, however, that the 1 hour time limit for an open public hearing represents a minimum rather than a maximum time for public participation, and an open public hearing may last for whatever longer period the committee chairman determines will facilitate the committee's work.

Meetings of advisory committees shall be conducted, insofar as is practical, in accordance with the agenda published in this **Federal Register** notice. Changes in the agenda will be announced at the beginning of the open portion of a meeting.

Any interested person who wishes to be assured of the right to make an oral presentation at the open public hearing portion of a meeting shall inform the contact person listed above, either orally or in writing, prior to the meeting. Any person attending the hearing who does not in advance of the meeting request an opportunity to speak will be allowed to make an oral presentation at the hearing's conclusion, if time permits, at the chairman's discretion.

Persons interested in specific agenda items to be discussed in open session may ascertain from the contact person the approximate time of discussion.

A list of committee members and summary minutes of meetings may be obtained from the Public Records and Documents Center (HFC–18), 5600 Fishers Lane, Rockville, MD 20857, between the hours of 9 a.m. and 4 p.m., Monday through Friday. The FDA regulations relating to public advisory committees may be found in 21 CFR Part 14.

The Commissioner, with the concurrence of the Chief Counsel, has determined for the reasons stated that those portions of the advisory committee meetings so designated in this notice shall be closed. The Federal Advisory Committee Act (FACA), as amended by the Government in the Sunshine Act (Pub. L. 94–409), permits such closed advisory committee meetings in certain circumstances. Those portions of a meeting designated as closed, however, shall be closed for the shortest possible time, consistent with the intent of the cited statutes.

The FACA, as amended, provides that a portion of a meeting may be closed where the matter for discussion involves a trade secret; commercial or financial information that is privileged or confidential; information of a personal nature, disclosure of which would be a clearly unwarranted invasion of personal privacy; investigatory files compiled for law enforcement purposes; information the premature disclosure of which would be likely to significantly frustrate implementation of a proposed agency action; and information in certain other instances not generally relevant to FDA matters.

Examples of portions of FDA advisory committee meetings that ordinarily may be closed, where necessary and in accordance with FACA criteria, include the review, discussion, and evaluation of drafts of regulations or guidelines or similar preexisting internal agency documents, but only if their premature disclosure is likely to significantly frustrate implementation of proposed agency action; review of trade secrets and confidential commercial or financial information submitted to the agency; consideration of matters involving investigatory files compiled for law enforcement purposes; and review of matters, such as personnel records or individual patient records, where disclosure would constitute a clearly unwarranted invasion of personal privacy.

Examples of portions of FDA advisory committee meetings that ordinarily shall not be closed include the review, discussion, and evaluation of general preclinical and clinical test protocols and procedures for a class of drugs or devices; consideration of labeling requirements for a class of marketed drugs or devices; review of data and information on specific investigational or marketed drugs and devices that have previously been made public; presentation of any other data or information that is not exempt from

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public disclosure pursuant to the FACA, as amended; and, notably deliberative sessions to formulate advice and recommendations to the agency on matters that do not independently justify closing.

Dated: May 8, 1979.

Donald Kennedy,
Commissioner of Food and Drugs.

[FR Doc. 79-14871 Filed 5-14-79; 8:45 am]
BILLING CODE 4110-03-M

Color Additives; Denial of Petition to Prohibit Color Additives in Dog and Cat Food

AGENCY: Food and Drug Administration.

ACTION: Notice.

SUMMARY: The Food and Drug Administration (FDA) is denying a petition to prohibit the use of color additives in dog and cat food because the petition lacks an adequate basis to support the proposed action.

DATE: Objections by June 14, 1979.

ADDRESS: Hearing Clerk (HFA-305), Food and Drug Administration, Rm. 4065, 5600 Fishers Lane, Rockville, MD 20857.

FOR FURTHER INFORMATION CONTACT: Gerad L. McCowin, Bureau of Foods (HFF-334), Food and Drug Administration, Department of Health, Education, and Welfare, 200 C St. SW., Washington, D.C. 20204, 202-472-5740.

SUPPLEMENTARY INFORMATION: Glenn M. W. Scott, 6211 Orion Road, Louisville, KY 40222, submitted a petition to amend Parts 73 and 74 of the color additive regulations (21 CFR Parts 73 and 74) to prohibit the use of color additives in dog and cat food. According to the petition, the prohibition would enable a purchaser to make an accurate judgement of the quality and value of the product by visual examination. A notice of filing of the petition (CAP 8CP0134) was published in the **Federal Register** of December 23, 1977 (42 FR 64440). The agency has reviewed the petition and concludes that it does not sufficiently support the proposed action. Each of the petitioner's points and the agency's conclusions are explained in the following analysis:

Analysis of Petition

1. The petitioner asserts that section 706(b)(6) of the Federal Food, Drug, and Cosmetic Act (the act) (21 U.S.C. 376(b)(6)) supports the proposed action. That provision states that "the Secretarty shall not list a color additive under this subsection for a proposed use if the data before him show that such proposed use would promote deception of the consumer in violation of this chapter [Act] ***." The petitioner states that artificial coloring in dog and cat food deceives a purchaser of these products.

As used in section 706 of the act, "deception of the consumer" is a narrowly defined term. When Congress enacted the Color Additive Amendments of 1960 (Pub. L. 86-618), it made the judgment that color additives that have been proved safe may be used to enhance the attractiveness of food, including pet food, and that such use should not of itself be considered deceptive, provided that the presence of artificial coloring is properly listed on the ingredient label of the product. Deception of the consumer was considered to involve only those uses of artificial coloring that conceal damage to, or inferiority of, a product, thereby causing it to appear to be of greater value than it is. The examples of coloring practices cited by the Congress in the legislative history of the Color Additive Amendments (106 CONG. REC. 13309 (June 25, 1960)) that would constitute deception of the consumer are as follows:

(1) The use of artificial color in egg noodles to hide a deficiency in eggs.

(2) The use of artificial color on immature apples or oranges to make the fruit appear to be mature.

(3) The use of artificial color in tomato catsup or juice or canned tomatoes prepared from immature raw material.

(4) The use of artificial color in stale red meat to make it appear fresh.

Thus, deception has generally been interpreted as occurring in those situations where the use of color cannot be readily discerned and the use of a label declaration of its presence would not prevent deception of the consumer.

Section 403(k) of the Federal Food, Drug, and Cosmetic Act (21 U.S.C. 343(k)) requires the presence of color additives in food to be disclosed on the label of the food. Further, § 501.22(c) of the animal food labeling regulations (21 CFR 501.22(c)) requires that animal foods containing artificial coloring have a statement of artificial coloring on the container or wrapper, and that this statement be so placed as to render it "likely to be read by the ordinary individual under customary conditions of purchase and use of such food."

Artificial coloring used in dog and cat food does not, under the statute and implementing regulations, deceive a purchaser if its presence is listed on the label.

2. The petitioner states that meat and meat byproducts are often mixed with legumes, cereals, and other grains, whose natural colors differ from the natural colors of meat and meat byproducts. The petitioner concludes that the presence of artificial coloring in the product deceives a purchaser because "the degree to which the product contains meat and meat derivatives is inevitably masked by the artificial color."

Most pet foods are processed foods containing a variety of different ingredients of varying percentages. As noted above, the addition of artificial coloring to enhance the appearance of wholesome foods is permitted under the act if the presence of the coloring is disclosed in the labeling. Section 403(i)(2) of the act requires that every food bear a true and accurate statement of its ingredients, and § 501.4(a) of the animal food labeling regulations (21 CFR 501.4(a)) requires that ingredients declared on the label of pet food be listed in descending order of predominance by weight. Thus, under the statute and implementing regulations, the product label is the means for ascertaining the degree to which a product contains meat and meat byproducts in comparison with other ingredients.

Furthermore, the ingredient collectively termed "meat byproducts" does not include what is normally considered meat, i.e., striated muscle tissue. The term "meat byproducts" may include various kinds of epithelial tissue such as beef gullets, beef tripe, ox lips, pork liver, and beef lungs. The natural color of some of these tissues may be similar to the natural color of some grains or cereals. Therefore, it is unlikely that a purchaser could readily distinguish a product composed of meat byproducts from one containing grains and other ingredients even if artificial coloring were not present.

3. The petitioner asserts that color additives mask and disguise the "true quality and value" of the dog and cat foods in which they are used. However, he does not provide a definition of the terms "quality" and "value." He appears to relate quality and value with meat content, as when he states that "An important determinant of the quality and value of such products is the extent to which such products contain meat and meat derivatives."

This is not true for all types of dog and cat food. The domesticated dog or cat may be nourished by almost everything its owner eats, including fruits, vegetables, and cereals. Meat and meat byproducts, alone or in combination, do not provide nutrients in the proper balance for dogs and cats. Products made solely from animal tissues may cause nutritional diseases from nutrient excess, deficiency, or imbalance. The quality and value of a dog or cat food is determined by the blending of a variety of ingredients of animal, vegetable, mineral, or synthetic origin to formulate a balanced, nutritious ration for the appropriate stage of the pet's life. In such a food product, the presence or absence of color additives is irrelevant in assessing quality and value.

Comments

In response to the notice of filing, the agency received 108 comments from pet owners, pet food purchasers, veterinarians, and a trade association. These comments and the agency's conclusions are summarized below.

1. Many of the pet owners and pet food purchasers who responded agreed with the action proposed in the petition and expressed a general dislike for color additives in all foods. Several pet owners specifically complained about the problem of stains caused either directly by colored pet food, or indirectly by regurgitated pet food that contained artificial coloring.

None of these comments, however, presented any evidence to support the claim that color additives in dog and cat food are "deceptive," as that term is defined in the legislative history of the Color Additive Amendments of 1960. The matter of stains caused by color additives in food is not subject to FDA's jurisdiction.

2. One veterinarian supported the action proposed in the petition. He commented that hundreds of pet food items have red dyes in them to make the products look like meat when they are mostly water, coloring, cereal, and sucrose.

A pet food purchaser, by reading the ingredient listing on the food label, may determine before purchasing a product the relative quantities of meat, grains, and other ingredients present and whether there is artificial coloring that might lead him or her to discount the appearance of the product. Many pet foods also contain detailed information concerning their nutritional composition. While labels of some pet foods may be of only limited usefulness in determining overall nutritional value because of insufficient information, this problem is not pertinent to the issues at hand, i.e., the question of the deceptiveness of color additives.

3. A second veterinarian commented that the meat content of dog food is not a measure of the nutritional completeness of a dog's diet, and that an artificially colored dog food based on cereal or grain is nutritionally better for a dog than one based on red meat.

The agency understands that there is disagreement among veterinarians and nutritionists about whether a meat-based or cereal-based diet is nutritionally preferable. The petitioner's contention is based not on the nutritional controversy among experts, but on his perception that a purchaser equates meat with high quality. Therefore, the meat-based versus cereal-based pet food issue is not germane to the petitioner's basis for claiming deception.

4. One comment from a trade association pointed out that the use of color additives in dog and cat food does not differ significantly from the use of color additives in food generally, and, in addition to the requirements of the Federal Food, Drug, and Cosmetic Act, pet foods are also subject to requirements imposed by State authorities under commercial feed laws.

It is true that dog and cat foods are subject not only to Federal requirements, but also to State laws modeled on the pet food regulations of the American Association of Feed Control Officials. Whether or not the product is artificially colored, these regulations, plus the nutritional guarantees that are present on labels of most pet foods, can assure the purchaser that the nutritional quality of the food complies with label claims.

Summary

For the reasons above, the Food and Drug Administration is denying the petition to prohibit the use of color additives in dog and cat food. The reasons for this denial are summarized as follows:

1. The use of color additives in dog and cat food is not deceptive if, as required by section 403(k) of the act, the label of the pet food product discloses the presence of artificial coloring, and if the artificial coloring does not conceal damage to, or inferiority of, the product.

2. No evidence has been submitted to demonstrate that the use of color additives in dog and cat food disguises the extent to which these products contain meat and meat by-products, if, as required by § 501.4(a), the label of the product lists the ingredients in descending order of predominance by weight.

Any person who will be adversely affected by the foregoing order may at any time on or before June 14, 1979, file with the Hearing Clerk, Food and Drug Administration, Rm. 4-65, 5600 Fishers Lane, Rockville, MD 20857, written objections. Objections shall show how the person filing them will be adversely affected by the order, specify the provisions of the order considered objectionable, and state the grounds for the objections. Objections shall be filed in accordance with the requirements of § 71.30 (21 CFR 71.30). If a hearing is requested, the objections shall state the issues for the hearing, shall be supported by grounds factually and legally sufficient to justify the relief sought, and shall include a detailed description and analysis of the factual information intended to be presented in support of the objections in the event that a hearing is held. Five copies of all documents shall be filed and identified with the Hearing Clerk docket number found in brackets in the heading of this order. Received objections may be seen in the above office between 9 a.m. and 4 p.m., Monday through Friday.

This notice is issued under the Federal Food, Drug, and Cosmetic Act (secs. 701, 706, 52 Stat. 1055-1058 as amended, 74 Stat. 399-403 (21 U.S.C. 371, 376)) and under authority delegated to the Commissioner of Food and Drugs (21 CFR 5.1).

Dated: May 7, 1979

William F. Randolph,
Acting Associate Commissioner for Regulatory Affairs.

[Docket No. 77c-0385]
[FR Doc. 79-14920 Filed 5-14-79; 8:45 am]
BILLING CODE 4110-03-M

Consumer Participating Open Meeting

AGENCY: Food and Drug Administration.

ACTION: Notice.

SUMMARY: The Food and Drug Administration (FDA) announces a forthcoming consumer exchange meeting to be chaired by Abraham I. Kleks, District Director, Los Angeles District Office, Los Angeles, CA.

DATE: The meeting will be held at 9:30 a.m., Tuesday, June 5, 1979.

ADDRESS: The meeting will be held at the Los Angeles District Office, Food and Drug Administration, Conference Room, 1521 W. Pico Blvd., Los Angeles, CA 90015.

FOR FURTHER INFORMATION CONTACT: Elaine Roentgen or Irene Caro, Consumer Affairs Officers, Food and Drug Administration, 1521 W. Pico Blvd., Los Angeles, CA 90015. 213-688-4395.

SUPPLEMENTARY INFORMATION: The purpose of this meeting is to encourage dialogue between consumers and FDA officials to identify and set priorities for current and future health concerns, to enhance relationships between local consumers and FDA's Los Angeles District Office, and to contribute to the

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agency's policymaking decisions on vital issues.

Dated: May 8, 1979.

William F. Randolph,

Acting Associate Commissioner for Regulatory Affairs.

[FR Doc. 79-14874 Filed 5-14-79; 8:45 am]

BILLING CODE 4110-03-M

Gastrointestinal Drugs Advisory Committee Meeting; Agenda Change

AGENCY: Food and Drug Administration.

ACTION: Notice.

SUMMARY: The agenda for the Gastrointestinal Drugs Advisory Committee meeting announced by notice in the **Federal Register** of April 17, 1979 (44 FR 22814) for May 31 and June 1, 1979, has been amended to include discussion of NDA 18-290 (Secretin) Kabi Group, Inc., for diagnosis of pancreatic disorders.

FOR FURTHER INFORMATION CONTACT: Joan C. Standaert, Bureau of Drugs (HFD-110), Food and Drug Administration, Department of Health, Education, and Welfare, 5600 Fishers Lane, Rockville, MD 20857, 301-443-4730.

Dated: May 8, 1979.

William F. Randolph,

Acting Associate Commissioner for Regulatory Affairs.

[FR Doc. 79-14873 Filed 5-14-79; 8:45 am]

BILLING CODE 4110-03-M

Peripheral and Central Nervous System Drugs Advisory Committee; Meeting Cancellation

AGENCY: Food and Drug Administration.

ACTION: Notice.

SUMMARY: The Peripheral and Central Nervous System Drugs Advisory Committee meeting scheduled for May 23, 1979, and announced by notice in the **Federal Register** of April 17, 1979 (44 FR 22814), has been cancelled.

FOR FURTHER INFORMATION CONTACT: Robert C. Nelson, Bureau of Drugs (HFD-120), Food and Drug Administration, Department of Health, Education, and Welfare, 5600 Fishers Lane, Rockville, MD 20857, 301-443-3520.

Dated: May 9, 1979

William F. Randolph,

Acting Associate Commissioner for Regulatory Affairs.

[FR Doc. 79-15025 Filed 5-14-79; 8:45 am]

BILLING CODE 4110-03-M

Tomato Juice Deviating From Identity Standard; Extension and Amendment of Temporary Permit for Market Testing

AGENCY: Food and Drug Administration.

ACTION: Notice.

SUMMARY: The Food and Drug Administration (FDA) announces the amendment and extension of a temporary permit issued to the Del Monte Corp. to market test tomato juice from concentrate in which the vitamin C content is raised to a level of 100 percent of the U.S. Recommended Daily Allowance (U.S. RDA) per 6-fluid-ounce serving. This action will enable the Del Monte Corp. to further its experimental marketing survey.

DATES: This amended permit is effective May 15, 1979 and shall terminate either on the effective date of an affirmative order ruling on the FDA proposal to amend the identity standard for tomato juice, which was published in the **Federal Register** of May 9, 1978 (43 FR 19864), or 30 days after a negative order ruling on the proposal, whichever the case may be.

FOR FURTHER INFORMATION CONTACT: F. Leo Kauffman, Bureau of Foods (HFF-414), Food and Drug Administration, Department of Health, Education, and Welfare, 200 C St. SW., Washington, DC 20204, 202-245-1164.

SUPPLEMENTARY INFORMATION: The original permit was issued to the Del Monte Corp. under 21 CFR 130.17, concerning temporary permits to facilitate market testing of foods deviating from the requirements of the standards of identity promulgated under section 401 of the Federal Food, Drug, and Cosmetic Act (21 U.S.C. 341). Notice of the issuance of the permit was published in the **Federal Register** of May 17, 1977, (42 FR 25380). The permit covered limited interstate marketing tests of tomato juice from concentrate that deviated from the standard of identity prescribe for tomato juice under 21 CFR 156.145. The test product is prepared by adding water to concentrated tomato liquid complying with the tomato paste requirements of 21 CFR 155.191(a)(1). The finished product contains not less than 5.5 percent by weight of tomato soluble solids, which is equivalent to a single-strength tomato juice normally found in the marketplace. In addition, ascorbic acid is added in a quantity sufficient to raise the vitamin C level to 100 percent of the U.S. RDA in a 6-fluid-ounce serving. All ingredients are to be declared on the label by their common or usual name.

The original permit provided for the market testing of a total of 120,000 cases of twelve 46-ounce cans of the product to be distributed in the States of Arkansas, Illinois, and Tennessee and in the metropolitan areas of Indianapolis, Indiana; Louisville and Paducah, Kentucky; Detroit and Grand Rapids, Michigan; St. Louis, Missouri; and Dayton, Ohio.

The Del Monte Corp. has requested that the temporary permit issued to it on May 17, 1977, be amended to increase the amount of the product to be market tested and to expand the areas of distribution. The company stated that the limited testing areas of the quantity of 120,000 cases of twelve 46-ounce cans of the test product, as originally provided for by the permit, was insufficient to obtain adequate data to assess the product's acceptance fully by a representative segment of U.S. consumers.

The Del Monte Corp. has requested that its temporary permit be extended for the duration of the administrative proceedings in the May 1978 proposal to amend the standard of identity for tomato juice. The proposed amendment would, among other things, (1) permit the use of concentrated tomato juice to prepare a single-strength tomato juice product, (2) require the name "tomato juice from concentrate" when concentrated tomato juice is used in the preparation of the canned juice, (3) establish in the identity standard a minimum tomato soluble solids requirements of 5.5 percent, by weight, for the product made from concentrate, and (4) require declaration of all optional ingredients.

FDA concludes that it will be in the interest of consumers to extend the time period of the temporary permit and to permit further market testing of 25,000 cases of twelve 46-ounce cans of tomato juice from concentrate per month, in all States except Alaska, Arizona, California, Colorado, Hawaii, Idaho, Nevada, Oregon, Utah, Washington, and Wyoming, as requested. Under § 130.17, all interested persons may participate in the market test under the conditions that apply to the Del Monte Corp., including the labeling requirements and the amounts to be distributed.

Any interested person who elects to participate in the extended market test shall notify FDA in writing of that fact, the amount to be distributed, and the area of distribution, and shall submit the labeling under which the food will be distributed.

This permit extension, as issued to the Del Monte Corp. and such others who participate in accordance with the provisions set forth in this notice, is effective on May 15, 1979, and expires either on the effective date of an affirmative order ruling on the FDA proposal of May 9, 1978, or 30 days after a negative order ruling on the proposal, whichever the case may be.

Dated: May 7, 1979.

William F. Randolph,

Acting Associate Commissioner for Regulatory Affairs.

[Docket No. 76P-0429]

[FR Doc. 79-14869 Filed 5-14-79; 8:45 am]

BILLING CODE 4110-03-M

Tomato Juice Deviating From Identity Standard; Extension and Amendment of Temporary Permit for Market Testing

AGENCY: Food and Drug Administration.

ACTION: Notice.

SUMMARY: The Food and Drug Administration (FDA) announces the amendment and extension of a temporary permit issued to Juice Bowl Products, Inc., to market test tomato juice from concentrate. This action will enable Juice Bowl Products, Inc., to further its experimental marketing survey.

DATES: This amended permit is effective May 15, 1979 and shall terminate either on the effective date of an affirmative order ruling on the FDA proposal of May 9, 1978, to amend the identity standard for tomato juice or 30 days after a negative order ruling on the proposal, whichever the case may be.

FOR FURTHER INFORMATION CONTACT: F. Leo Kauffman, Bureau of Foods (HFF-414), Food and Drug Administration, Department of Health, Education, and Welfare, 200 C St. SW., Washington, DC 20204, 202-245-1164.

SUPPLEMENTARY INFORMATION: The original permit was issued to Juice Bowl Products, Inc., under § 130.17 (21 CFR 130.17), concerning temporary permits to facilitate market testing of foods deviating from the requirements of the standard of identity promulgated under section 401 of the Federal Food, Drug, and Cosmetic Act (21 U.S.C. 341). Notice of the issuance of the permit was published in the **Federal Register** of March 28, 1978 (43 FR 12949). The permit covered limited interstate marketing tests of tomato juice from concentrate that deviated from the standard of identity prescribed for tomato juice under § 156.145 (21 CFR 156.145). The test product is prepared by adding water to tomato paste and concentrated tomato juice that comply with the requirements of §§ 151.191(a)(1) and 151.192(b)(2) (21 CFR 155.191(a)(1) and 155.192(b)(2)), respectively. The finished product contains not less than 5.5 percent by weight of tomato soluble solids, which is equivalent to a single-strength tomato juice normally found in the marketplace. All ingredients are to be declared on the label by their common or usual names.

The original permit provided for the temporary marketing of 250,000 cases of forty-eight 6-ounce cans of the product to be distributed in all the States except Alaska, Hawaii, Montana, North Dakota, Oregon, and South Dakota.

Juice Bowl Products, Inc., has requested that its existing temporary permit be amended to provide for market testing on a monthly basis of 3,500 cases of twelve 46-ounce cans along with 17,000 cases of forty-eight 6-ounce cans of the product. The company stated that "with the modification allowing the marketing of the product in larger can sizes, consumer acceptance and convenience to the consumer provided by the large size can now be measured and compared with the small size can." In regard to the request for a monthly distribution, the company stated that in consideration of the pending finalization of the FDA proposal to amend the identity standard for tomato juice (see the **Federal Register** of May 9, 1978 (43 FR 19864)), "it would appear to be more meaningful to provide for the temporary marketing permit to provide a monthly distribution limit of product as opposed to a fixed amount for the entire fifteen month period." It has asked that the temporary permit be extended during the duration of the administrative proceedings regarding the May 1978 proposal to amend the standard of identity for tomato juice. The proposed amendment of the standard would, among other things, (1) permit the use of concentrated tomato juice to prepare a single-strength tomato juice product, (2) require the name "tomato juice from concentrate" when concentrated tomato juice is used in the preparation of the canned juice, (3) establish in the identity standard a minimum tomato soluble solids requirement of 5.5 percent, by weight, for the product made from concentrate, and (4) require label declaration of all optional ingredients.

FDA concludes that it will be in the interest of consumers to extend the time period of the temporary permit and to permit further market testing of 17,000 cases of forty-eight 6-ounce cans and to begin market testing of 3,500 cases of twelve 46-ounce cans of tomato juice from concentrate per month in all the states except Alaska, Hawaii, Montana, North Dakota, Oregon, and South Dakota, as requested. Under § 130.17, all interested persons may participate in the market test under the conditions that apply to Juice Bowl Products, Inc., including the labeling requirements and the amounts to be distributed.

Any interested person who elects to participate in the extended market test shall notify FDA in writing of that fact, the amount to be distributed, and the area of distribution, and shall submit the labeling under which the food will be distributed.

This permit extension, as issued to Juice Bowl Products, Inc., and such others who participate in accordance with the provisions set forth in this notice, is effective on May 15, 1979, and expires either on the effective date of an affirmative order ruling on the FDA proposal of May 9, 1978, or 30 days after a negative order ruling on the proposal, whichever the case may be.

Dated: May 7, 1979.

William F. Randolph,

Acting Associate Commission for Regulatory Affairs.

[Docket No. 77P-0293]

[FR Doc. 79-14870 Filed 5-14-79; 8:45 am]

BILLING CODE 4110-03-M

Wien Laboratories; Request for Data and Information on Petition for Reclassification

AGENCY: Food and Drug Administration.

ACTION: Notice.

SUMMARY: The Food and Drug Administration (FDA) invites interested persons to submit information, data, and views on a petition seeking reclassification of a medical device from class III (premarket approval) into class II (performance standards). The petition was submitted by Wien Laboratories, Inc., Succasunna, NJ 07876, for a device used in the quantitative determination of antidepressant drugs. Material submitted will be forwarded to members of the Clinical Toxicology Device Classification Panel, who will make a recommendation on the petition to FDA.

DATE: Information, data, and views should be submitted by June 14, 1979.

ADDRESSES: Copies of the petition are available at the office of the Hearing Clerk (HFA-305), Food and Drug Administration, Rm. 4-65, 5600 Fishers Lane, Rockville, MD 20857. Information, data, and views should be submitted (preferably five copies) to Eugene W. Rice, Panel Section Leader, Clinical Toxicology Device Classification Panel (address below).

FOR FURTHER INFORMATION CONTACT: Eugene W. Rice, Bureau of Medical Devices (HFK-440), Food and Drug

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Administration, Department of Health, Education, and Welfare, 8757 Georgia Ave., Silver Spring, MD 20910, 301–427–7550.

SUPPLEMENTARY INFORMATION: On July 5, 1978, Wien Laboratories, Inc., Succasunna, NJ 07876, submitted under section 510(k) of the Federal Food, Drug, and Cosmetic Act (21 U.S.C. 360(k)), a premarket notification of its intent to market a device for the quantitative determination of antidepressant drugs. The manufacturer calls the device "Tri-Cy Test Set." The product utilizes radiolabeled imipramine and charcoal separation for the quantitative determination of imipramine, desipramine, amitriptyline, nortriptyline, protriptyline, or doxepin in serum by radioimmunoassay.

The agency has determined that the device is not substantially equivalent to any device that was in commercial distribution before May 28, 1976, nor is the device substantially equivalent to a device that has been placed in commercial distribution since that date and subsequently reclassified. Therefore, the device is classified automatically into class III under section 513(f)(1) of the act (21 U.S.C. 360c(f)(1)).

On August 14, 1978, Wien Laboratories, Inc., submitted to FDA a reclassification petition for the device under section 513(f)(2) of the act. On November 8, 1978, the Clinical Toxicology Section of the Clinical Chemistry and Hematology Device Classification Panel reviewed the petition and recommended that the device not be reclassified into class II. The agency published a notice of this panel recommendation in the Federal Register of March 20, 1979 (44 FR 16961). Interested persons were given until April 19, 1979, to comment on the Panel's recommendation. The petitioner submitted a new petition for reclassification of this device on January 22, 1979. The agency has reviewed the petition and determined that it is not deficient.

Under section 515(a)(2) of the act (21 U.S.C. 360e (a)(2)), before a device that is in class III under section 513(f)(1) of the act can be marketed, it must either be reclassified under section 513(f)(2) of the act or have an approval of an application for premarket approval under section 515 of the act unless there is in effect for the device an investigational device exemption under section 502(f) of the act (21 U.S.C. 360j(g)).

Section 513(f) of the act requires FDA to submit the petition to a device classification panel for recommendation concerning classification. The panel is required to make its recommendation to FDA within 90 days after the petition is referred to the panel. Ordinarily, the petition would be discussed in an open panel meeting before the panel makes its recommendation. However, a meeting of the Clinical Toxicology Device Classification Panel could not be scheduled so as to enable the Panel to make its recommendation within the required 90-day period. Therefore, this petition has been mailed to the voting members of the Panel for their review and recommendation to FDA. The Panel will make its recommendation to FDA by mail.

Section 513(f) of the act also requires FDA to provide an opportunity for interested persons to provide information, data, and views to the Panel before it makes its recommendation. Information, data, and views will be mailed to the Panel members for their consideration before they make their recommendation. Then each voting member will send the executive secretary of the Panel a completed supplemental data sheet and a completed classification questionnaire applicable to the device for which a recommendation is sought. The Panel recommendation will be published in the Federal Register. A period for public comment will follow and then FDA will issue a final order approving or denying the petition.

Dated: May 9, 1979.

William F. Randolph,

Acting Associate Commissioner for Regulatory Affairs.

[Docket No. 78P-0287]

[FR Doc. 79-15024 Filed 5-14-79; 8:45 am]

BILLING CODE 4110-03-M

Drug Products Containing Papaverine or Ethaverine and Similar or Related Drugs; Postponement of Hearing

AGENCY: Food and Drug Administration.

ACTION: Notice of Postponement of Hearing.

SUMMARY: The agency announces its postponement of the May 23, 1979 public hearing before the Peripheral and CNS Drugs Advisory Committee on the issue of the safety and effectiveness of papaverine, ethaverine, and similar or related drugs. The agency also clarifies the scope of matters to be considered at the hearing and the time permitted for submission of certain written materials.

DATE: Written notices of participation by July 13, 1979.

ADDRESSES: Communications forwarded in response to this notice should be directed to the attention of the appropriate office named below:

Written notices of participation (identify with Docket Number 76N–0064): Hearing Clerk (HFA–305), Food and Drug Administratrion, Rm. 4–65, 5600 Fishers Lane, Rockville, MD 20857. (To facilitate identification, label the envelope "Papaverine Hearing.").

Requests for opinion of the applicability of this notice to a specific product: Division of Drug Labeling Compliance (HFD–310), Bureau of Drugs, Food and Drug Administration, 5600 Fishers Lane, Rockville, MD 20857.

FOR FURTHER INFORMATION CONTACT:

Ronald Kartzinel, Bureau of Drugs (HFD–120), Food and Drug Administration, Department of Health, Education, and Welfare, 5600 Fishers Lane, Rockville, MD 20857, 301–443–4020; or

Tenny Neprud, Jr., Regulations Policy Staff (HFC–10), Food and Drug Administration, Department of Health, Education, and Welfare, 5600 Fishers Lane, Rockville, Md 20857, 301–443–3480.

SUPPLEMENTARY INFORMATION: In a notice published in the Federal Register of April 5, 1976 (41 FR 14405), the Food and Drug Aministration (FDA) requested data on the safety, effectiveness, and legal status of drug products containing papaverine or ethaverine, and similar or related drugs. These drug products have been used for many years for the relief of spasm in certain blood vessels of the body but have never been evaluated in accordance with the new drug provisions of the Federal Food, Drug, and Cosmetic Act. Whether there is adequate support for the claims made for these products is questionable. In order to determine the scientific validity of the claims being made for these drugs and their legal status ("new drugs," "not new drugs," or "grandfathered drugs"), the agency requested manufacturers to submit evidence in support of all of the claims as well as evidence to support any other contention.

In the Federal Register of April 13, 1979 (44 FR 22180), the agency announced its conclusions that the data submitted in response to the April 5, 1976 notice and reviewed in the April 13 notice fail to show any of the products to be safe and effective or exempt from the new drug provisions of the act. The agency further concluded that it would be in the public interest to hold a hearing before an advisory committee pursuant to the provisions of 21 CFR Part 14 to receive oral and written information and views from interested persons on the issue of the safety and effectiveness of the drug products.

The April 13 notice provided that persons wishing to comment or present views must file by May 14, 1979, (1) a written notice of participation under 21 CFR 14.29(b), and (2) any new data, information, and analyses on which the person relies which were not previously submitted pursuant to the April 5, 1976 notice, with the Hearing Clerk (HFA–305), Food and Drug Administration. The notice also provided that the hearing would be held on May 23, 1979.

The agency has received, to date, requests on behalf of several manufacturers of drug products containing papeverine or ethaverine to postpone the hearing date. The requests argued that additional time was needed to analyze and prepare comments on the contents of the April 13 notice or to accumulate new data and information as to the safety and effectiveness of the drug products. The requests are on file under Docket No. 76N–0064 and available for public review in the office of the FDA Hearing Clerk

In view of the many requests for additional time, the agency has decided to postpone the hearing date and the date for submissions. The agency is setting July 13, 1979, as the date for the filing of notices of participation in the hearing and for the submission of new data and all other information or comments relating to this matter, including any comments on the April 13 notice of hearing, and any legal analyses of the "grandfather" issue or any other matter. This submission of all the material being relied on will permit the advisory committee to become fully familiar with relevant safety and effectiveness material in advance of the hearing, and facilitate a thorough review of legal issues by the agency.

The requests for an extension of time have asked for at least a 60-day postponement of the hearing. The extension being granted by the agency for the submission of all material provides a 60-day extension from the May 14 date originally set for the submission of new data, and it provides well over 60 days from the April 13 notice of hearing. While the actual hearing date has not yet been determined, the hearing will not be scheduled before July 23, 1979, and thus the date will fall at least 60 days after the original May 23 date for the hearing. A notice of the hearing date and location will be published in the Federal Register as soon as a rescheduled date is determined.

One of the manufacturers listed in the April 13 notice of hearing, B. F. Ascher & Co., Inc., Kansas City, MO, submitted studies and information to support its marketed product, Ethaquin. This submission was inadvertently omitted from the material placed on file with the FDA Hearing Clerk at the time the April 13 notice published. The submission is being reviewed in the Bureau of Drugs. When this review is completed, a separate Federal Register notice will announce the agency's conclusions about the applicability of the April 13 notice to Ethaquin. If the Agency concludes that Ethaquin is subject to the April 13 notice of hearing, B. F. Ascher & Co. will be provided 60 days from the date of the separate notice for filing a notice of participation and any new data, information, or comments relating to this matter.

Dated: May 10, 1979.

William F. Randolph,

Acting Associate Commissioner for Regulatory Affairs.

[Docket No. 76N-0064]

[FR Doc. 79-15175 Filed 5-11-79; 10:16 am]

BILLING CODE 4110-03-M

DEPARTMENT OF HEALTH, EDUCATION, WELFARE

Office of the Secretary

Cost-of-Living Increase in Social Security Benefits and in Income Limitations for Beneficiaries Under the Supplemental Security Income Program

I hereby determine and announce a cost-of-living increase of 9.9 percent in benefits under titles II and XVI of the Social Security Act.

Under title II, old-age, survivors, and disability insurance benefits will increase by 9.9 percent beginning with the June 1979 benefits which are payable on July 3, 1979. This increase is based on the authority contained in section 215(i) of the Social Security Act (42 U.S.C 415(i)), as amended by section 201 of Pub. L. 95–216 enacted December 20, 1977.

Under title XVI, supplemental security income payment levels will increase by 9.9 percent effective for payments made on June 29, 1979. This is based on the authority contained in section 1617 of the Social Security Act (42 U.S.C. 1382f).

Title II Benefits

Title II benefits are payable under the Federal old-age, survivors, and disability insurance program. Individuals entitled under this program include insured workers, wives, husbands, children, widows, widowers, mothers, fathers, and parents.

In accordance with section 215(i)(4) of the Social Security Act (the Act), the primary insurance amounts and the maximum family benefits shown in columns, IV and V of the revised benefi table (table 1) set forth below were obtained by increasing by 9.9 percent of the corresponding amounts established by: (1) the last cost-of-living increase; and (2) the extension of the benfit table made under section 215(i)(4) and published on November 16, 1978 at FR 53504. The table applies only to those persons who attained age 62, become disabled, or died before January 1979 and is deemed to appear in section 215(a) of the Act. Note that this table does not apply to those individuals who become elegible for retirement benefits, become disabled, or die after 1978; for persons first becoming eligible for benefits in 1979, benefits will generally be determined by a new benefit formula provide by the Social Security Amendments of 1977 (Pub. L. 95–216), and will also be increased by 9.9 percent beginning with the June 1979 benefits.

Section 215(i)(2)(D) of the Act also requires that, when the Secretary determines a cost-of-living increase in social security benefits, he shall publish in the Federal Register a revision of the range of the primary insurance amounts, and corresponding maximum family benefits, based on the dollar amount and other provisions described in section 215(a)(1)(C)(i)(II). These benefits are referred to as "special minimum benfits; and are payable to certain inviduals with long periods of relatively low earnings. In accordance with section 215(a)(1)(C)(i)(II), the attached table 2 shows the revised range of primary insurance amounts and corresponding maximum family benefit amounts after the 9.9 benefit increase.

Section 227 of the Act provides limited benefits to a worker who became age 72 before 1969 and was not insured under the usual requirements, and to his wife or widow. Section 228 of the Act provides similar benefits at age 72 for certain uninsured persons. The current monthly benefit amounts of $83.70 and $41.90 established under sections 227 and 228, respectively, of the Act are increased by 9.9 percent to obtain the new amounts of $92.00 and $46.10.

Title XVI Benefits

Section 1617 of the Act provides that whenever title II benefits are increased under section 215(i), the amounts in sections 1611(a)(1)(A), 1611(a)(2)(A), and 1611(b) of the Act and in section 211(a)(1)(A) of Pub. L. 93–66 shall be increased. The new amounts are effective for months after the month in

which the title II increase is effective. The percentage increase is the same as the title II benefit increase and the annual payment amount is rounded, when not a multiple of $1.20, to the next higher multiple of $1.20.

In accordance with section 1617, Federal Supplemental Security Income (SSI) gurantees for the aged, blind, and disabled are increased effective with July 1979 by 9.9 percent. The current Federal SSI guarantees of $2,272.80 and $3,409.20 per year are thereby increased to $2,498.40 and $3,747.60 respectively. The actual monthly payment received by the individual is the Federal SSI gurantee less any countable income. The actual monthly payment received by the individual is one-twelfth of the annual SSI guarantee, less any countable income assigned to that month. The current Federal SSI guarantee amount of $1,137.60 per year to essential persons under section 211(a)(1)(A) of Pub. L. 93–66 is also increased by 9.9 percent of obtain a new amount of $1,250.40.

Automatic Benefit Increase Determination

Section 215(i) of the Act requires that when certain conditions are met in the first calendar quarter of a year, the Secretary shall determined that a cost-of-living increase in benefits it due. Section 215(i) of the Act also specifies the formula for determing the amount of any cost-of-living increase in benefits. This formula utilizes the Consumer Price Index for urban wage earners and clerical workers reported by the Department of Labor.

Section 215(i)(2)(A) of the Act requires the Secretary to determine each year, whether there is a cost-of-living computation quarter in that year. If he so determines, he shall, effective with June of that year, increase benefits for individuals entitled under section 227 and 228 of the Act, and shell increase the primary insurance amounts of all other individuals entitled under title II of the Act, subject to the limitations provided in section 215(i)(2)(A) of the Act. The percentage increase is equal to the percentage increase in the Consumer Price Index for the cost-of-living computation quarter over the index for the most recent cost-of-living computation quarter.

Section 215(i)(1) of the Act defines a base quarter as a calendar quarter ending on March 31 in each year after 1974, or any other calendar quarter in which occurs the effective month of a general benefit increase. Section 215(i)(1) also defines a cost-of-living computation quarter as a base quarter in which the Consumer Price Index prepared by the Department of Labor exceeds by not less than 3 percent the index in the later of (1) the last prior cost-of-living computation quarter or (2) the most recent calendar quarter in which a general benefit increase was effective. It is specified, however, that there shall be no cost-of-living computation quarter in any calendar year if, in the prior year, a general benefit increase was enacted or becomes effect. Section 215(i)(1) of the Act also provides that the Consumer Price Index for a cost-of-living computation quarter shall be the arithmetical mean of such index for the 3 months in that quarter.

The Department of Labor's revised Consumer Price Index for urban wage earners and clerical workers for each month in the quarter ending March 31, 1978, was: for January 1978, 187.1; for February 1978, 188.4; for March 1978, 189.7. The arithmetical mean for that calendar quarter was 188.4. The corresponding Consumer Price Index for each month in the quarter ending March 31, 1979, was: for January 1979, 204.7; for February 1979, 207.1; for March 1979, 209.3. The arithmental mean for this calendar quarter is 207.0. The increase for the calendar quarter ending March 31, 1979, is 9.9 percent. Thus, since the percentage of increase in the Consumer Price Index from the calendar quarter ending March 31, 1978, to the calendar quarter ending March 31, 1979, is not less than 3 percent, the quarter ending March 31, 1979, is a cost-of-living computation quarter. Consequently, a cost-of-living benefit increase of 9.9. percent is effective for benefits under title II of the Act beginning June 1979.

(Catalog of Federal Domestic Assistance Programs Nos. 13.802–5, and 13.807 Social Security Programs.)

Dated: May 8, 1979.

Hale Champion,

Acting Secretary of Health, Education, and Welfare.

BILLING CODE 4110-07-M

TABLE 1—Continued

TABLE FOR DETERMINING PRIMARY INSURANCE AMOUNT AND MAXIMUM FAMILY BENEFITS

I	II	III	IV	V
If an individual's primary insurance benefit is determined under subsec. (d) in—	or his primary insurance amount effective for June 1978	average monthly wage	primary insurance amount	maximum family benefits
but not more than—	at least—			and the portion of benefits payable as tax-free income in accordance with the basis of the calculations prescribed by this clause shall be—
$35.00	$209.10	175	$209.90	$314.90
35.01 35.40	211.70 212.90	176 178	211.70 212.90	317.60 319.40
35.41 37.00	214.30 217.20	179 182	214.30 217.20	321.50 325.80
37.01 37.40	219.90 222.50	184 186	219.90 222.50	329.90 333.80
37.41 37.80	225.10 227.80	188 190	225.10 227.80	337.70 341.80
37.81 38.21	230.40 233.00	192 194	230.40 233.00	345.70 349.60
38.22 39.69	235.70 237.40	196 199	235.70 237.40	353.60 356.20
39.70 41.13	239.10 245.80	200 206	239.10 245.80	358.70 368.80
41.14 42.42	247.50 251.20	207 210	247.50 251.20	371.30 376.90
42.43 43.71	253.00 258.20	211 216	253.00 258.20	379.60 387.40
43.72 44.99	260.70 266.40	218 223	260.70 266.40	391.10 399.70
45.00	268.30	224	268.30	402.50

I	II	III	IV	V
If an individual's primary insurance benefit is determined under subsec. (d) in—	or his primary insurance amount effective for June 1978	average monthly wage	primary insurance amount	maximum family benefits
but not more than—	at least—			and the portion of benefits payable as tax-free income in accordance with the basis of the calculations prescribed by this clause shall be—
16.20	122.80	77	122.80	184.20
16.21 16.40	123.70 124.40	78 79	123.70 124.40	185.60 186.70
16.41 17.00	125.10 126.00	80 84	125.10 126.00	187.70 189.00
17.01 17.20	126.70 127.40	85 86	126.70 127.40	190.10 191.10
17.21 17.60	128.10 129.00	87 89	128.10 129.00	192.20 193.50
17.61 18.00	130.50 131.20	90 92	130.50 131.20	195.80 196.80
18.01 18.40	132.70 133.60	93 95	132.70 133.60	199.10 200.40
18.41 18.80	134.80 135.50	96 97	134.80 135.50	202.20 203.30
18.81 19.20	136.70 138.00	98 100	136.70 138.00	205.10 207.00
19.21 19.60	139.40 140.10	101 103	139.40 140.10	209.10 210.20
19.61 20.00	141.60 142.90	104 106	141.60 142.90	212.40 214.40
20.01 20.40	144.20 145.10	107 109	144.20 145.10	216.30 217.70
20.41 20.80	146.00 147.30	110 112	146.00 147.30	219.00 221.00
20.81 21.20	148.20 149.10	113 115	148.20 149.10	222.30 223.70
21.21 21.60	150.50 151.80	116 118	150.50 151.80	225.80 227.70
21.61 22.00	152.70 154.00	119 121	152.70 154.00	229.10 231.00
22.01 22.40	155.40 156.10	122 124	155.40 156.10	233.10 234.10
22.41 22.80	157.30 158.60	125 127	157.30 158.60	236.00 238.00
22.81 23.20	159.70 161.00	128 130	159.70 161.00	239.60 241.60
23.21 23.60	162.20 163.10	131 133	162.20 163.10	243.40 244.70
23.61 24.00	164.00 165.30	134 136	164.00 165.30	246.10 248.00
24.01 24.40	166.80 167.70	137 139	166.80 167.70	250.30 251.60
24.41 24.80	168.60 169.90	140 142	168.60 169.90	253.00 254.90
24.81 25.20	171.10 172.00	143 145	171.10 172.00	256.70 258.00
25.21 25.60	173.40 174.30	146 148	173.40 174.30	260.20 261.50
25.61 26.00	175.80 176.60	149 151	175.80 176.60	263.80 264.90
26.01 26.40	177.50 178.90	152 154	177.50 178.90	266.30 268.40
26.41 26.80	180.20 181.10	155 157	180.20 181.10	270.40 271.70
26.81 27.20	182.00 183.40	158 160	182.00 183.40	273.10 275.20
27.21 27.60	184.30 185.20	161 163	184.30 185.20	276.50 277.90
27.61 28.00	186.10 187.50	164 166	186.10 187.50	279.20 281.30
28.01 28.40	188.40 189.30	167 169	188.40 189.30	282.70 284.00
28.41 28.80	190.80 192.20	170 172	190.80 192.20	286.30 288.40
28.81 29.20	193.10 194.00	173 175	193.10 194.00	289.70 291.00
29.21 29.60	195.50 196.30	176 178	195.50 196.30	293.30 294.50
29.61 30.00	197.40 198.80	179 181	197.40 198.80	296.10 298.20
30.01 30.40	200.10 201.00	182 184	200.10 201.00	300.20 301.50
30.41 30.80	202.50 203.40	185 187	202.50 203.40	303.80 305.10
30.81 31.20	204.70 206.10	188 190	204.70 206.10	307.10 309.20
31.21 31.60	207.00 208.40	191 193	207.00 208.40	310.50 312.60
31.61 32.00	209.80 210.70	194 196	209.80 210.70	314.70 316.10
32.01 32.40	212.10 213.50	197 199	212.10 213.50	318.10 320.20
32.41 32.80	214.80 216.20	200 202	214.80 216.20	322.20 324.30
32.81 33.20	217.10 218.50	203 205	217.10 218.50	325.70 327.80
33.21 33.60	219.90 221.30	206 208	219.90 221.30	329.90 332.00
33.61 34.00	222.60 223.50	209 211	222.60 223.50	333.90 335.30
34.01 34.40	224.90 226.30	212 214	224.90 226.30	337.40 339.50
34.41 34.80	227.70 229.10	215 217	227.70 229.10	341.60 343.70
34.81 35.20	230.50 231.90	218 220	230.50 231.90	345.80 347.90
35.21 35.60	232.80 234.20	221 223	232.80 234.20	349.20 351.30
35.61 36.00	235.60 236.50	224 226	235.60 236.50	353.40 354.80
36.01 36.40	237.90 239.30	227 229	237.90 239.30	356.90 359.00
36.41 36.80	240.70 242.10	230 232	240.70 242.10	361.10 363.20
36.81 37.20	243.50 244.90	233 235	243.50 244.90	365.30 367.40
37.21 37.60	246.20 247.10	236 238	246.20 247.10	369.30 370.70
37.61 38.00	248.60 250.00	239 241	248.60 250.00	372.90 375.00
38.01 38.40	251.40 252.80	242 244	251.40 252.80	377.10 379.20
38.41 38.80	254.20 255.10	245 247	254.20 255.10	381.30 382.70
38.81 39.20	256.60 258.00	248 250	256.60 258.00	384.90 387.00
39.21 39.60	259.40 260.30	251 253	259.40 260.30	389.10 390.50
39.61 40.00	261.80 263.20	254 256	261.80 263.20	392.70 394.80
40.01 40.40	264.60 265.50	257 259	264.60 265.50	396.90 398.30
40.41 40.80	266.90 268.30	260 262	266.90 268.30	400.40 402.50
40.81 41.20	269.70 271.10	263 265	269.70 271.10	404.60 406.70
41.21 41.60	272.00 272.90	266 268	272.00 272.90	408.00 409.40
41.61 42.00	274.40 275.80	269 271	274.40 275.80	411.60 413.70
42.01 42.40	277.20 278.10	272 274	277.20 278.10	415.80 417.20
42.41 42.80	279.60 281.00	275 277	279.60 281.00	419.40 421.50
42.81 43.20	282.40 283.30	278 280	282.40 283.30	423.60 425.00
43.21 43.60	284.80 286.20	281 283	284.80 286.20	427.20 429.30
43.61 44.00	287.60 288.50	284 286	287.60 288.50	431.40 432.80
44.01 44.40	289.90 291.30	287 289	289.90 291.30	434.90 437.00
44.41 44.80	292.70 294.10	290 292	292.70 294.10	439.10 441.20
44.81 45.20	295.50 296.40	293 295	295.50 296.40	443.30 444.60
45.21 45.60	297.80 299.20	296 298	297.80 299.20	446.70 448.80
45.61 46.00	300.60 301.50	299 301	300.60 301.50	450.90 452.20
46.01 46.40	302.90 304.30	302 304	302.90 304.30	454.30 456.40
46.41 46.80	305.70 307.10	305 307	305.70 307.10	458.50 460.60
46.81 47.20	308.50 309.40	308 310	308.50 309.40	462.70 464.00
47.21 47.60	310.80 312.20	311 313	310.80 312.20	466.10 468.20
47.61 48.00	313.60 314.50	314 316	313.60 314.50	470.30 471.70
48.01 48.40	315.90 317.30	317 319	315.90 317.30	473.80 475.90
48.41 48.80	318.70 320.10	320 322	318.70 320.10	477.90 480.00
48.81 49.20	321.50 322.40	323 325	321.50 322.40	481.20 482.50
49.21 49.60	323.80 325.20	326 328	323.80 325.20	484.70 486.80
49.61 50.00	326.60 327.50	329 331	326.60 327.50	488.90 490.20
50.01 50.40	328.90 330.30	332 334	328.90 330.30	492.30 494.40
50.41 50.80	331.70 333.10	335 337	331.70 333.10	496.50 498.60
50.81 51.20	334.50 335.40	338 340	334.50 335.40	500.70 502.00
51.21 51.60	336.80 338.20	341 343	336.80 338.20	504.10 506.20
51.61 52.00	339.60 340.50	344 346	339.60 340.50	508.30 509.70
52.01 52.40	341.90 343.30	347 349	341.90 343.30	511.80 513.90
52.41 52.80	344.70 346.10	350 352	344.70 346.10	515.90 518.00
52.81 53.20	347.50 348.40	353 355	347.50 348.40	519.20 520.50
53.21 53.60	349.80 351.20	356 358	349.80 351.20	522.70 524.80
53.61 54.00	352.60 353.50	359 361	352.60 353.50	526.90 528.20
54.01 54.40	354.90 356.30	362 364	354.90 356.30	530.40 532.50
54.41 54.80	357.70 359.10	365 367	357.70 359.10	534.60 536.70
54.81 55.20	360.50 361.40	368 370	360.50 361.40	538.80 540.10
55.21 55.60	362.80 364.20	371 373	362.80 364.20	542.20 544.30
55.61 56.00	365.60 366.50	374 376	365.60 366.50	546.40 547.80
56.01 56.40	367.90 369.30	377 379	367.90 369.30	549.90 552.00
56.41 56.80	370.70 372.10	380 382	370.70 372.10	554.10 556.20
56.81 57.20	373.50 374.40	383 385	373.50 374.40	557.30 558.60
57.21 57.60	375.80 377.20	386 388	375.80 377.20	561.70 563.80
57.61 58.00	378.60 379.50	389 391	378.60 379.50	565.90 567.20
58.01 58.40	380.90 382.30	392 394	380.90 382.30	569.40 571.50
58.41 58.80	383.70 385.10	395 397	383.70 385.10	573.60 575.70
58.81 59.20	386.50 387.40	398 400	386.50 387.40	577.20 578.50
59.21 59.60	388.80 390.20	401 403	388.80 390.20	580.70 582.80
59.61 60.00	391.60 392.50	404 406	391.60 392.50	584.90 586.20
60.01 60.40	393.90 395.30	407 409	393.90 395.30	588.40 590.50
60.41 60.80	396.70 398.10	410 412	396.70 398.10	592.60 594.70
60.81 61.20	399.50 400.40	413 415	399.50 400.40	596.80 598.10
61.21 61.60	401.80 403.20	416 418	401.80 403.20	600.20 602.30
61.61 62.00	404.60 405.50	419 421	404.60 405.50	603.90 605.20
62.01 62.40	406.90 408.30	422 424	406.90 408.30	607.40 609.50
62.41 62.80	409.70 411.10	425 427	409.70 411.10	611.60 613.70
62.81 63.20	412.50 413.40	428 430	412.50 413.40	615.80 617.10
63.21 63.60	414.80 416.20	431 433	414.80 416.20	619.20 621.30
63.61 64.00	417.60 418.50	434 436	417.60 418.50	622.70 624.80
64.01 64.40	419.90 421.30	437 439	419.90 421.30	626.90 628.20
64.41 64.80	422.70 424.10	440 442	422.70 424.10	630.40 632.50
64.81 65.20	425.50 426.40	443 445	425.50 426.40	634.60 636.70
65.21 65.60	427.80 429.20	446 448	427.80 429.20	638.80 640.10
65.61 66.00	430.60 431.50	449 451	430.60 431.50	642.20 644.30
66.01 66.40	432.90 434.30	452 454	432.90 434.30	645.70 647.80
66.41 66.80	435.70 437.10	455 457	435.70 437.10	649.90 652.00
66.81 67.20	438.50 439.40	458 460	438.50 439.40	653.10 654.40
67.21 67.60	440.80 442.20	461 463	440.80 442.20	656.60 658.70
67.61 68.00	443.60 444.50	464 466	443.60 444.50	660.80 662.10
68.01 68.40	445.90 447.30	467 469	445.90 447.30	664.20 666.30
68.41 68.80	448.70 450.10	470 472	448.70 450.10	667.70 669.80
68.81 69.20	451.50 452.40	473 475	451.50 452.40	671.90 673.20
69.21 69.60	453.80 455.20	476 478	453.80 455.20	675.40 677.50
69.61 70.00	456.60 457.50	479 481	456.60 457.50	679.60 681.70
70.01 70.40	458.90 460.30	482 484	458.90 460.30	683.10 684.40
70.41 70.80	461.70 463.10	485 487	461.70 463.10	686.50 688.60
70.81 71.20	464.50 465.40	488 490	464.50 465.40	690.70 692.00
71.21 71.60	466.80 468.20	491 493	466.80 468.20	694.10 696.20
71.61 72.00	469.60 470.50	494 496	469.60 470.50	698.30 699.70
72.01 72.40	471.90 473.30	497 499	471.90 473.30	701.80 703.90
72.41 72.80	474.70 476.10	500 502	474.70 476.10	705.90 708.00
72.81 73.20	477.50 478.40	503 505	477.50 478.40	709.20 710.50
73.21 73.60	479.80 481.20	506 508	479.80 481.20	712.70 714.80
73.61 74.00	482.60 483.50	509 511	482.60 483.50	716.90 718.20
74.01 74.40	484.90 486.30	512 514	484.90 486.30	720.40 722.50
74.41 74.80	487.70 489.10	515 517	487.70 489.10	724.60 726.70
74.81 75.20	490.50 491.40	518 520	490.50 491.40	728.80 730.10
75.21 75.60	492.80 494.20	521 523	492.80 494.20	732.20 734.30
75.61 76.00	495.60 496.50	524 526	495.60 496.50	735.70 737.80
76.01 76.40	497.90 499.30	527 529	497.90 499.30	739.90 741.20
76.41 76.80	500.70 502.10	530 532	500.70 502.10	743.40 745.50
76.81 77.20	503.50 504.40	533 535	503.50 504.40	747.60 748.90
77.21 77.60	505.80 507.20	536 538	505.80 507.20	751.10 753.20
77.61 78.00	508.60 509.50	539 541	508.60 509.50	754.30 755.70
78.01 78.40	510.90 512.30	542 544	510.90 512.30	757.80 759.90
78.41 78.80	513.70 515.10	545 547	513.70 515.10	761.90 764.00
78.81 79.20	516.50 517.40	548 550	516.50 517.40	765.20 766.50
79.21 79.60	518.80 520.20	551 553	518.80 520.20	768.70 770.80
79.61 80.00	521.60 522.50	554 556	521.60 522.50	772.90 774.20
80.01 80.40	523.90 525.30	557 559	523.90 525.30	776.40 778.50
80.41 80.80	526.70 528.10	560 562	526.70 528.10	780.60 782.70
80.81 81.20	529.50 530.40	563 565	529.50 530.40	784.80 786.10
81.21 81.60	531.80 533.20	566 568	531.80 533.20	788.20 790.30
81.61 82.00	534.60 535.50	569 571	534.60 535.50	791.70 793.80
82.01 82.40	536.90 538.30	572 574	536.90 538.30	795.90 797.20
82.41 82.80	539.70 541.10	575 577	539.70 541.10	799.40 801.50
82.81 83.20	542.50 543.40	578 580	542.50 543.40	803.60 804.90
83.21 83.60	544.80 546.20	581 583	544.80 546.20	807.10 809.20
83.61 84.00	547.60 548.50	584 586	547.60 548.50	810.30 811.70
84.01 84.40	549.90 551.30	587 589	549.90 551.30	813.80 815.90
84.41 84.80	552.70 554.10	590 592	552.70 554.10	817.90 820.00
84.81 85.20	555.50 556.40	593 595	555.50 556.40	821.20 822.50
85.21 85.60	557.80 559.20	596 598	557.80 559.20	824.70 826.80
85.61 86.00	560.60 561.50	599 601	560.60 561.50	828.90 830.20
86.01 86.40	562.90 564.30	602 604	562.90 564.30	832.40 834.50
86.41 86.80	565.70 567.10	605 607	565.70 567.10	836.60 838.70
86.81 87.20	568.50 569.40	608 610	568.50 569.40	840.80 842.10
87.21 87.60	570.80 572.20	611 613	570.80 572.20	844.20 846.30
87.61 88.00	573.60 574.50	614 616	573.60 574.50	847.70 849.80
88.01 88.40	575.90 577.30	617 619	575.90 577.30	851.90 853.20
88.41 88.80	578.70 580.10	620 622	578.70 580.10	855.40 857.50
88.81 89.20	581.50 582.40	623 625	581.50 582.40	859.60 860.90
89.21 89.60	583.80 585.20	626 628	583.80 585.20	863.10 865.20
89.61 90.00	586.60 587.50	629 631	586.60 587.50	866.30 867.70
90.01 90.40	588.90 590.30	632 634	588.90 590.30	869.80 871.90
90.41 90.80	591.70 593.10	635 637	591.70 593.10	873.90 876.00
90.81 91.20	594.50 595.40	638 640	594.50 595.40	877.20 878.50
91.21 91.60	596.80 598.20	641 643	596.80 598.20	880.70 882.80
91.61 92.00	599.60 600.50	644 646	599.60 600.50	884.90 886.20
92.01 92.40	601.90 603.30	647 649	601.90 603.30	888.40 890.50
92.41 92.80	604.70 606.10	650 652	604.70 606.10	892.60 894.70
92.81 93.20	607.50 608.40	653 655	607.50 608.40	896.80 898.10
93.21 93.60	609.80 611.20	656 658	609.80 611.20	900.20 902.30
93.61 94.00	612.60 613.50	659 661	612.60 613.50	903.90 905.20
94.01 94.40	614.90 616.30	662 664	614.90 616.30	907.40 909.50
94.41 94.80	617.70 619.10	665 667	617.70 619.10	911.60 913.70
94.81 95.20	620.50 621.40	668 670	620.50 621.40	915.80 917.10
95.21 95.60	622.80 624.20	671 673	622.80 624.20	919.20 921.30
95.61 96.00	625.60 626.50	674 676	625.60 626.50	922.70 924.80
96.01 96.40	627.90 629.30	677 679	627.90 629.30	926.90 928.20
96.41 96.80	630.70 632.10	680 682	630.70 632.10	930.40 932.50
96.81 97.20	633.50 634.40	683 685	633.50 634.40	934.60 935.90
97.21 97.60	635.80 637.20	686 688	635.80 637.20	938.10 940.20
97.61 98.00	638.60 639.50	689 691	638.60 639.50	941.30 942.70
98.01 98.40	640.90 642.30	692 694	640.90 642.30	944.80 946.90
98.41 98.80	643.70 645.10	695 697	643.70 645.10	948.90 951.00
98.81 99.20	646.50 647.40	698 700	646.50 647.40	952.20 953.50
99.21 99.60	648.80 650.20	701 703	648.80 650.20	955.70 957.80
99.61 100.00	651.60 652.50	704 706	651.60 652.50	958.90 960.20
100.01 100.40	653.90 655.30	707 709	653.90 655.30	962.40 964.50
100.41 100.80	656.70 658.10	710 712	656.70 658.10	966.60 968.70
100.81 101.20	659.50 660.40	713 715	659.50 660.40	970.80 972.10
101.21 101.60	661.80 663.20	716 718	661.80 663.20	974.20 976.30
101.61 102.00	664.60 665.50	719 721	664.60 665.50	977.70 979.80
102.01 102.40	666.90 668.30	722 724	666.90 668.30	981.90 983.20
102.41 102.80	669.70 671.10	725 727	669.70 671.10	985.40 987.50
102.81 103.20	672.50 673.40	728 730	672.50 673.40	989.60 990.90
103.21 103.60	674.80 676.20	731 733	674.80 676.20	993.10 995.20
103.61 104.00	677.60 678.50	734 736	677.60 678.50	996.30 997.70
104.01 104.40	679.90 681.30	737 739	679.90 681.30	999.80 1001.90
104.41 104.80	682.70 684.10	740 742	682.70 684.10	1003.90 1006.00
104.81 105.20	685.50 686.40	743 745	685.50 686.40	1007.20 1008.50
105.21 105.60	687.80 689.20	746 748	687.80 689.20	1010.70 1012.80
105.61 106.00	690.60 691.50	749 751	690.60 691.50	1014.90 1016.20
106.01 106.40	692.90 694.30	752 754	692.90 694.30	1018.40 1020.50
106.41 106.80	695.70 697.10	755 757	695.70 697.10	1022.60 1024.70
106.81 107.20	698.50 699.40	758 760	698.50 699.40	1026.80 1028.10
107.21 107.60	700.80 702.20	761 763	700.80 702.20	1030.20 1032.30
107.61 108.00	703.60 704.50	764 766	703.60 704.50	1033.70 1035.80
108.01 108.40	705.90 707.30	767 769	705.90 707.30	1037.90 1039.20
108.41 108.80	708.70 710.10	770 772	708.70 710.10	1041.40 1043.50
108.81 109.20	711.50 712.40	773 775	711.50 712.40	1045.60 1046.90
109.21 109.60	713.80 715.20	776 778	713.80 715.20	1049.10 1051.20
109.61 110.00	716.60 717.50	779 781	716.60 717.50	1052.30 1053.70
110.01 110.40	718.90 720.30	782 784	718.90 720.30	1055.80 1057.90
110.41 110.80	721.70 723.10	785 787	721.70 723.10	1059.90 1062.00
110.81 111.20	724.50 725.40	788 790	724.50 725.40	1063.20 1064.50
111.21 111.60	726.80 728.20	791 793	726.80 728.20	1066.70 1068.80
111.61 112.00	729.60 730.50	794 796	729.60 730.50	1070.90 1072.20
112.01 112.40	731.90 733.30	797 799	731.90 733.30	1074.40 1076.50
112.41 112.80	734.70 736.10	800 802	734.70 736.10	1078.60 1080.70
112.81 113.20	737.50 738.40	803 805	737.50 738.40	1082.80 1084.10
113.21 113.60	739.80 741.20	806 808	739.80 741.20	1086.20 1088.30
113.61 114.00	742.60 743.50	809 811	742.60 743.50	1089.70 1091.80
114.01 114.40	744.90 746.30	812 814	744.90 746.30	1093.90 1095.20
114.41 114.80	747.70 749.10	815 817	747.70 749.10	1097.40 1099.50
114.81 115.20	750.50 751.40	818 820	750.50 751.40	1101.60 1102.90
115.21 115.60	752.80 754.20	821 823	752.80 754.20	1105.10 1107.20
115.61 116.00	755.60 756.50	824 826	755.60 756.50	1108.30 1109.70
116.01 116.40	757.90 759.30	827 829	757.90 759.30	1111.80 1113.90
116.41 116.80	760.70 762.10	830 832	760.70 762.10	1115.90 1118.00
116.81 117.20	763.50 764.40	833 835	763.50 764.40	1119.20 1120.50
117.21 117.60	765.80 767.20	836 838	765.80 767.20	1122.70 1124.80
117.61 118.00	768.60 769.50	839 841	768.60 769.50	1126.90 1128.20
118.01 118.40	770.90 772.30	842 844	770.90 772.30	1130.40 1132.50
118.41 118.80	773.70 775.10	845 847	773.70 775.10	1134.60 1136.70
118.81 119.20	776.50 777.40	848 850	776.50 777.40	1138.80 1140.10
119.21 119.60	778.80 780.20	851 853	778.80 780.20	1142.20 1144.30
119.61 120.00	781.60 782.50	854 856	781.60 782.50	1145.70 1147.80
120.01 120.40	783.90 785.30	857 859	783.90 785.30	1149.90 1151.20
120.41 120.80	786.70 788.10	860 862	786.70 788.10	1153.40 1155.50
120.81 121.20	789.50 790.40	863 865	789.50 790.40	1157.60 1158.90
121.21 121.60	791.80 793.20	866 868	791.80 793.20	1161.10 1163.20
121.61 122.00	794.60 795.50	869 871	794.60 795.50	1164.30 1165.70
122.01 122.40	796.90 798.30	872 874	796.90 798.30	1167.80 1169.90
122.41 122.80	799.70 801.10	875 877	799.70 801.10	1171.90 1174.00
122.81 123.20	802.50 803.40	878 880	802.50 803.40	1175.20 1176.50
123.21 123.60	804.80 806.20	881 883	804.80 806.20	1178.70 1180.80
123.61 124.00	807.60 808.50	884 886	807.60 808.50	1182.90 1184.20
124.01 124.40	809.90 811.30	887 889	809.90 811.30	1186.40 1188.50
124.41 124.80	812.70 814.10	890 892	812.70 814.10	1190.60 1192.70
124.81 125.20	815.50 816.40	893 895	815.50 816.40	1194.80 1196.10
125.21 125.60	817.80 819.20	896 898	817.80 819.20	1198.20 1200.30
125.61 126.00	820.60 821.50	899 901	820.60 821.50	1201.70 1203.80
126.01 126.40	822.90 824.30	902 904	822.90 824.30	1205.90 1207.20
126.41 126.80	825.70 827.10	905 907	825.70 827.10	1209.40 1211.50
126.81 127.20	828.50 829.40	908 910

TABLE 1—Continued

TABLE FOR DETERMINING PRIMARY INSURANCE AMOUNT AND MAXIMUM FAMILY BENEFITS

I (PRIMARY INSURANCE BENEFIT UNDER 1939 ACT AS MODIFIED)	II (PRIMARY INSURANCE AMOUNT EFFECTIVE FOR JUNE 1978)	III (AVERAGE MONTHLY WAGE)		IV (PRIMARY INSURANCE AMOUNT)	V (MAXIMUM FAMILY BENEFITS)
IF AN INDIVIDUAL'S PRIMARY INSURANCE BENEFIT (AS DETERMINED UNDER SUBSEC. (d) IS—	OR HIS PRIMARY INSURANCE AMOUNT (AS DETERMINED UNDER SUBSEC. (d) IS—	OR HIS AVERAGE MONTHLY WAGE (AS DETERMINED UNDER SUBSEC. (b)) IS—		THE AMOUNT REFERRED TO IN THE PRECEDING PARAGRAPHS OF THIS SUBSECTION SHALL BE—	AND THE MAXIMUM AMOUNT OF BENEFITS PAYABLE (AS PROVIDED IN SEC. 203(a)) ON THE BASIS OF HIS WAGES AND SELF-EMPLOYMENT INCOME SHALL BE—
AT LEAST— / BUT NOT MORE THAN—		AT LEAST	BUT NOT MORE THAN—		
	$358.40	$961	$965	$393.90	$736.10
	360.80	966	970	396.60	740.10
	363.50	971	974	399.50	745.30
	365.90	975	979	402.20	747.50
	368.30	980	984	404.80	751.50
	370.60	985	988	407.30	755.20
	373.50	989	993	410.50	759.20
	376.60	994	997	413.80	763.40
	378.00	998	1002	415.50	766.60
	380.70	1003	1007	418.40	771.10
	383.10	1008	1012	421.10	775.30
	385.50	1013	1016	423.70	778.60
	388.20	1017	1021	426.70	782.60
	390.80	1022	1026	429.20	786.70
	392.90	1027	1031	431.80	790.70
	395.30	1032	1036	434.50	794.40
	398.00	1037	1041	437.50	798.70
	400.30	1042	1046	440.00	803.00
	402.70	1047	1051	442.60	806.10
	405.60	1052	1056	445.80	810.10
	407.70	1057	1061	448.10	813.50
	410.20	1062	1066	450.90	817.80
	412.80	1067	1071	453.70	821.90
	415.30	1072	1076	456.50	826.10
	417.60	1077	1081	459.00	828.60
	419.60	1082	1086	461.20	831.90
	421.90	1087	1091	463.70	834.50
	424.10	1092	1096	466.10	837.80
	426.50	1097	1101	468.80	840.20
	428.50	1102	1106	471.00	843.30
	430.70	1107	1111	473.40	846.20
	432.70	1112	1116	475.60	849.40
	435.00	1117	1121	478.10	852.00
	436.90	1122	1126	480.70	855.30
	439.50	1127	1131	483.40	857.60
	441.60	1132	1136	485.40	861.10
	443.80	1137	1141	487.80	863.40
	446.00	1142	1146	490.20	867.10
	448.10	1147	1151	492.50	869.50
	450.30	1152	1156	494.90	872.70
	452.60	1157	1161	497.50	875.40
	454.70	1162	1166	499.80	878.70
	456.80	1167	1171	502.10	882.00
	459.10	1172	1176	504.60	884.50
	461.20	1177	1181	507.10	887.90
	463.40	1182	1186	509.50	891.00
	465.60	1187	1191	511.70	895.40
	467.80	1192	1196	514.20	899.60
	470.00	1197	1201	516.70	903.90
	472.10	1202	1206	519.30	907.90
	474.40	1207	1211	521.80	912.30
	476.50	1212	1216	523.70	916.50
	477.80	1217	1221	525.20	918.90
	479.20	1222	1226	526.70	921.50
	480.90	1227	1231	528.60	924.90
	482.60	1232	1236	530.40	928.70
	484.90	1237	1241	532.40	931.30

TABLE 1—Continued

TABLE FOR DETERMINING PRIMARY INSURANCE AMOUNT AND MAXIMUM FAMILY BENEFITS

I (PRIMARY INSURANCE BENEFIT UNDER 1939 ACT AS MODIFIED)	II (PRIMARY INSURANCE AMOUNT EFFECTIVE FOR JUNE 1978)	III (AVERAGE MONTHLY WAGE)		IV (PRIMARY INSURANCE AMOUNT)	V (MAXIMUM FAMILY BENEFITS)
IF AN INDIVIDUAL'S PRIMARY INSURANCE BENEFIT (AS DETERMINED UNDER SUBSEC. (d) IS—	OR HIS PRIMARY INSURANCE AMOUNT (AS DETERMINED UNDER SUBSEC. (b)) IS—	OR HIS AVERAGE MONTHLY WAGE (AS DETERMINED UNDER SUBSEC. (b)) IS—		THE AMOUNT REFERRED TO IN THE PRECEDING PARAGRAPHS OF THIS SUBSECTION SHALL BE—	AND THE MAXIMUM AMOUNT OF BENEFITS PAYABLE (AS PROVIDED IN SEC. 203(a)) ON THE BASIS OF HIS WAGES AND SELF-EMPLOYMENT INCOME SHALL BE—
AT LEAST— / BUT NOT MORE THAN—		AT LEAST	BUT NOT MORE THAN—		
		486.10	676	$34.10	$36.70
		487.80	681	$36.10	$38.00
		489.70	686	$38.20	$41.20
		491.20	691	$39.50	$44.80
		492.80	696	$41.70	$48.00
		494.70	701	$43.70	$51.30
		496.40	706	$45.60	$54.60
		498.20	711	$47.60	$57.80
		500.00	716	$49.50	$61.20
		501.70	721	$51.40	$64.50
		503.40	726	$53.30	$67.90
		505.10	731	$55.20	$71.30
		506.90	736	$57.10	$74.50
		$508.50	741	$58.90	$78.00
		$510.10	746	$60.60	$81.10
		$511.70	751	$62.40	$84.10
		$513.30	756	$64.10	$86.70
		$514.70	761	$65.70	$89.60
		$516.00	766	$67.10	$92.40
		$517.40	771	$68.70	$95.10
		$518.90	776	$70.30	$97.80
		$520.40	781	$72.00	$100.60
		$521.70	786	$73.40	$103.30
		$523.10	791	$74.90	$106.10
		$524.60	796	$76.60	$108.90
		$526.20	801	$78.30	$111.70
		$527.50	806	$79.80	$114.40
		$529.00	811	$81.40	$117.30
		$530.40	816	$83.00	$119.90
		$531.90	821	$84.60	$122.80
		$533.30	826	$86.10	$125.50
		$534.70	831	$87.70	$128.40
		$536.10	836	$89.20	$131.00
		$537.60	841	$90.90	$134.00
		$538.90	846	$92.30	$136.40
		$540.50	851	$94.10	$139.40
		$541.90	856	$95.60	$142.00
		$543.40	861	$97.20	$144.90
		$544.80	866	$98.80	$147.60
		$546.30	871	$100.40	$150.40
		$547.60	876	$101.90	$153.10
		$549.10	881	$103.50	$156.00
		$550.70	886	$104.90	$158.60
		$551.90	891	$106.60	$161.70
		$553.40	896	$108.20	$164.20
		$554.90	901	$109.90	$167.10
		$556.30	906	$111.40	$169.90
		$557.80	911	$113.10	$172.70
		$559.30	916	$114.70	$176.20
		$560.60	921	$116.10	$178.20
		$561.90	926	$117.60	$180.80
		$563.40	931	$119.20	$183.60
		$564.90	936	$120.90	$186.40
		$566.30	941	$122.40	$189.20
		$567.70	946	$124.00	$191.90
		$569.30	951	$125.10	$194.80
		$570.80	956	$127.40	$197.50

TABLE 1—Continued

TABLE FOR DETERMINING PRIMARY INSURANCE AMOUNT AND MAXIMUM FAMILY BENEFITS

I (PRIMARY INSURANCE BENEFIT UNDER 1939 ACT AS MODIFIED)	II (PRIMARY INSURANCE AMOUNT EFFECTIVE FOR JUNE 1978)	III (AVERAGE MONTHLY WAGE)		IV (PRIMARY INSURANCE AMOUNT)	V (MAXIMUM FAMILY BENEFITS)
IF AN INDIVIDUAL'S PRIMARY INSURANCE BENEFIT (AS DETERMINED UNDER SUBSEC. (d) IS—	OR HIS PRIMARY INSURANCE AMOUNT (AS DETERMINED UNDER SUBSEC. (b)) IS—	OR HIS AVERAGE MONTHLY WAGE (AS DETERMINED UNDER SUBSEC. (b)) IS—		THE AMOUNT REFERRED TO IN THE PRECEDING PARAGRAPHS OF THIS SUBSECTION SHALL BE—	AND THE MAXIMUM AMOUNT OF BENEFITS PAYABLE (AS PROVIDED IN SEC. 203(a)) ON THE BASIS OF HIS WAGES AND SELF-EMPLOYMENT INCOME SHALL BE—
AT LEAST— / BUT NOT MORE THAN—		AT LEAST	BUT NOT MORE THAN—		
	$372.30	961	965	$39.00	$100.10
	$373.40	966	970	$39.20	$103.00
	$374.90	971	974	$39.30	$104.90
	$376.40	976	980	$39.60	$108.80
	$377.90	981	985	$39.20	$111.20
	$379.20	986	990	$38.40	$114.80
	$380.70	991	995	$38.20	$116.90
	$382.20	996	1000	$39.80	$119.50
	$383.80	1001	1005	$41.90	$121.80
	$384.60	1006	1010	$42.40	$123.50
	$386.00	1011	1015	$40.10	$126.90
	$387.40	1016	1020	$40.40	$129.80
	$388.60	1021	1025	$40.90	$131.90
	$389.40	1026	1030	$40.30	$134.40
	$391.20	1031	1035	$39.80	$137.00
	$392.40	1036	1040	$40.10	$139.40
	$393.80	1041	1045	$40.40	$142.00
	$394.20	1046	1050	$40.20	$144.40
	$395.60	1051	1055	$40.30	$146.70
	$397.10	1056	1060	$40.40	$149.40
	$398.00	1061	1065	$40.80	$151.80
	$400.30	1066	1070	$39.80	$154.50
	$401.60	1071	1075	$41.20	$156.90
	$402.90	1076	1080	$42.50	$159.40
	$404.70	1081	1085	$40.10	$161.80
	$405.10	1086	1090	$40.40	$164.20
	$406.90	1091	1095	$40.30	$166.90
	$408.20	1096	1100	$40.40	$169.40
	$409.70	1101	1105	$39.80	$171.70
	$410.60	1106	1110	$39.10	$174.30
	$412.00	1111	1115	$38.60	$176.70
	$413.20	1116	1120	$38.00	$179.40
	$414.60	1121	1125	$38.60	$181.80
	$415.80	1126	1130	$38.30	$184.50
	$417.10	1131	1135	$38.20	$186.60
	$418.40	1136	1140	$39.70	$189.40
	$419.80	1141	1145	$41.20	$191.80
	$421.10	1146	1150	$42.60	$194.30
	$422.50	1151	1155	$43.80	$196.60
	$423.60	1156	1160	$44.80	$199.20
	$424.90	1161	1165	$40.80	$201.70
	$426.20	1166	1170	$40.70	$204.30
	$427.80	1171	1175	$40.70	$206.60
	$429.10	1176	1180	$41.40	$209.20
	$429.90	1181	1185	$42.30	$211.40
	$431.20	1186	1190	$43.70	$213.70
	$432.50	1191	1195	$44.90	$216.10
	$433.50	1196	1200	$46.30	$218.40
	$434.70	1201	1205	$47.60	$220.60
	$436.00	1206	1210	$49.00	$223.10
	$437.10	1211	1215	$00.20	$225.30
	$438.30	1216	1220	$01.50	$227.60
	$439.60	1221	1225	$02.90	$229.80
	$440.80	1226	1230	$04.30	$232.20
	$441.90	1231	1235	$05.50	$234.40
	$443.10	1236	1240	$06.80	$236.90
	$444.40	1241	1245	$08.20	$239.20

TABLE 1—Continued

TABLE FOR DETERMINING PRIMARY INSURANCE AMOUNT AND MAXIMUM FAMILY BENEFITS

I (PRIMARY INSURANCE BENEFIT UNDER 1939 ACT AS MODIFIED)	II (PRIMARY INSURANCE AMOUNT EFFECTIVE FOR JUNE 1978)	III (AVERAGE MONTHLY WAGE)		IV (PRIMARY INSURANCE AMOUNT)	V (MAXIMUM FAMILY BENEFITS)
IF AN INDIVIDUAL'S PRIMARY INSURANCE BENEFIT (AS DETERMINED UNDER SUBSEC. (d) IS—	OR HIS PRIMARY INSURANCE AMOUNT (AS DETERMINED UNDER SUBSEC. (b)) IS—	OR HIS AVERAGE MONTHLY WAGE (AS DETERMINED UNDER SUBSEC. (b)) IS—		THE AMOUNT REFERRED TO IN THE PRECEDING PARAGRAPHS OF THIS SUBSECTION SHALL BE—	AND THE MAXIMUM AMOUNT OF BENEFITS PAYABLE (AS PROVIDED IN SEC. 203(a)) ON THE BASIS OF HIS WAGES AND SELF-EMPLOYMENT INCOME SHALL BE—
AT LEAST— / BUT NOT MORE THAN—		AT LEAST	BUT NOT MORE THAN—		
	$445.50	1246	1250	$09.50	$241.50
	$446.70	1251	1255	$10.80	$243.70
	$447.90	1256	1260	$12.10	$246.10
	$449.20	1261	1265	$13.50	$248.40
	$450.30	1266	1270	$14.70	$250.70
	$451.50	1271	1275	$16.00	$252.90
	$452.70	1276	1280	$17.40	$255.30
	$453.70	1281	1285	$18.50	$257.40
	$454.90	1286	1290	$19.80	$259.60
	$456.10	1291	1295	$21.10	$261.70
	$457.20	1296	1300	$22.30	$263.90
	$458.30	1301	1305	$23.50	$266.10
	$459.40	1306	1310	$24.70	$268.30
	$460.60	1311	1315	$26.00	$270.60
	$461.70	1316	1320	$27.30	$272.60
	$462.80	1321	1325	$28.50	$274.70
	$464.00	1326	1330	$29.80	$277.00
	$465.00	1331	1335	$30.90	$279.10
	$466.20	1336	1340	$32.20	$281.30
	$467.40	1341	1345	$33.50	$283.40
	$468.40	1346	1350	$34.80	$285.60
	$469.90	1351	1355	$35.90	$287.70
	$470.70	1356	1360	$37.10	$289.90
	$471.90	1361	1365	$38.50	$291.00
	$473.90	1366	1370	$39.60	$293.30
	$474.10	1371	1375	$40.90	$295.40
	$475.20	1376	1380	$42.10	$297.60
	$476.40	1381	1385	$43.40	$300.00
	$477.50	1386	1390	$44.70	$302.00
	$478.70	1391	1395	$45.50	$304.70
	$479.60	1396	1400	$46.70	$306.80
	$480.90	1401	1405	$47.90	$308.80
	$481.50	1406	1410	$49.00	$310.80
	$482.60	1411	1415	$50.20	$312.90
	$483.70	1416	1420	$51.40	$315.00
	$484.70	1421	1425	$52.50	$317.00
	$485.80	1426	1430	$53.70	$319.10
	$486.90	1431	1435	$54.00	$321.00
	$487.90	1436	1440	$56.10	$323.10
	$489.00	1441	1445	$57.30	$325.10
	$490.10	1446	1450	$58.50	$327.30
	$491.10	1451	1455	$59.80	$329.30
	$492.20	1456	1460	$60.90	$331.40
	$493.30	1461	1465	$62.00	$333.40
	$494.30	1466	1470	$63.10	$335.40
	$495.40	1471	1475	$64.30	$337.40
	$496.40	1476	1480	$65.40	$339.40
	$497.40	1481	1485	$66.50	$341.40
	$498.40	1486	1490	$67.60	$343.20
	$499.40	1491	1495	$68.70	$345.20
	$500.40	1496	1500	$69.80	$347.10
	$501.40	1501	1505	$70.90	$349.10
	$502.40	1506	1510	$72.00	$350.90
	$503.40	1511	1515	$73.10	$352.90
	$504.40	1516	1520	$74.20	$354.80
	$505.40	1521	1525	$75.30	$356.80
	$506.40	1526	1530	$76.40	$358.60

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TABLE 1—Continued

TABLE FOR DETERMIN. NO PRIMARY INSURANCE AMOUNT AND MAXIMUM FAMILY BENEFITS

I	II	III	IV	V
IF AN INDIVIDUAL'S PRIMARY INSURANCE BENEFIT IS DETERMINED UNDER SUBSEC. (d)(1)—	(PRIMARY INSURANCE AMOUNT EFFECTIVE FOR JUNE 1978)	AVERAGE MONTHLY WAGES	(PRIMARY INSURANCE AMOUNT)	(MAXIMUM FAMILY BENEFITS)
AT LEAST— / BUT NOT MORE THAN—		OR HIS AVERAGE MONTHLY WAGE AS DETERMINED UNDER SUBSEC. (b)(3)(C)— AT LEAST / BUT NOT MORE THAN	THE AMOUNT DEFERRED IN THE PRECEDING PARAGRAPHS OF THIS SUBSECTION SHALL BE—	AND THE MAXIMUM AMOUNT OF BENEFITS PAYABLE (AS PROVIDED IN SEC. 203(a)(1) ON THE BASIS OF HIS WAGES AND SELF-EMPLOYMENT INCOME SHALL BE—
766.40	1316	1260	840.10	1310.20
767.40	1318	1274	842.30	1314.00
768.40	1320	1288	842.50	1314.00
769.40	1321	1302	843.40	1316.00
770.40	1323	1316	844.50	1317.90
771.40	1324	1330	845.60	1319.90
772.40	1326	1344	846.70	1321.70
773.40	1328	1358	847.80	1323.70
774.40	1329	1372	848.90	1325.60
775.40	1331	1386	850.00	1327.50
776.40	1332	1400	851.10	1329.40
777.40	1334	1414	852.30	1331.30
778.40	1336	1428	853.40	1333.20
779.40	1337	1442	854.50	1335.20
780.40	1339	1456	855.60	1337.10
781.40	1340	1470	856.70	1339.10
782.40	1342	1484	857.80	1341.00
783.40	1344	1498	858.90	1342.90
784.40	1345	1512	860.00	1344.90
785.40	1347	1526	861.10	1346.80
786.40	1348	1540	862.30	1348.80
787.40	1350	1554	863.40	1350.70
788.40	1352	1568	864.50	1352.70
789.40	1353	1582	865.60	1354.60
790.40	1355	1596	866.70	1356.60
791.40	1356	1610	867.80	1358.50
792.40	1358	1624	868.90	1360.50
793.40	1359	1638	870.00	1362.50
794.40	1361	1652	871.10	1364.40
795.40	1363	1666	872.30	1366.40
796.40	1364	1680	873.40	1368.30
797.40	1366	1694	874.50	1370.30
798.40	1367	1708	875.60	1372.20
799.40	1369	1722	876.70	1374.20
800.40	1371	1736	877.80	1376.00
801.40	1372	1750	878.90	1377.90
802.40	1374	1764	880.00	1379.80
803.40	1375	1778	881.10	1381.70
804.40	1377	1792	882.30	1383.70
805.40	1378	1806	883.40	1385.60
806.40	1380	1820	884.50	1387.50
807.40	1382	1834	885.60	1389.40
808.40	1383	1848	886.70	1391.40
809.40	1385	1862	887.80	1393.30
810.40	1386	1876	888.90	1395.20
811.40	1388	1890	890.00	1397.10
812.40	1389	1904	891.10	1399.10
813.40	1391	1918	892.30	1401.00
814.40	1392	1932	893.40	1402.90
815.40	1394	1946	894.50	1404.80

TABLE 2

9.9% GENERAL BENEFIT INCREASE

TABLE FOR DETERMINING PRIMARY INSURANCE AMOUNT AND MAXIMUM FAMILY BENEFITS UNDER SUBPARAGRAPH (C)(i)(II) OF SUBSECTION 215(a)(1) BEGINNING JUNE 1979

I	II	III
(Years of coverage)	(Primary insurance amount)	(Maximum family benefits)
If an individual's years of coverage (as determined under sec. 215(a)(1)(C)(ii)) are—	The amount referred to in sec. 215(a)(1)(C)(i)(II) shall be—	And the maximum amount of benefits payable (as provided in sec. 215(i)(2)(D)) on the basis of his or her wages and self-employment income shall be—
11	$ 12.70	$ 19.10
12	25.30	38.00
13	38.00	57.00
14	50.60	75.90
15	63.20	94.90
16	75.90	113.90
17	88.50	132.80
18	101.20	151.80
19	113.80	170.70
20	126.40	189.60
21	139.10	208.70
22	151.70	227.60
23	164.40	246.60
24	177.00	265.50
25	189.60	284.50
26	202.30	303.50
27	214.90	322.40
28	227.50	341.30
29	240.20	360.30
30	252.80	379.20

NOTE: The amounts shown in the above table for years of coverage less than 21 are not payable because the corresponding values shown in column II are less than the minimum primary insurance amount of $133.90.

[FR Doc. 79-14929 Filed 5-14-79; 8:45 am]

BILLING CODE 4110-07-C

TABLE 1—Continued

TABLE FOR DETERMIN. NO PRIMARY INSURANCE AMOUNT AND MAXIMUM FAMILY BENEFITS

I	II	III	IV	V
IF AN INDIVIDUAL'S PRIMARY INSURANCE BENEFIT IS DETERMINED UNDER SUBSEC. (d)(1)—	(PRIMARY INSURANCE AMOUNT EFFECTIVE FOR JUNE 1978)	AVERAGE MONTHLY WAGES	(PRIMARY INSURANCE AMOUNT)	(MAXIMUM FAMILY BENEFITS)
AT LEAST— / BUT NOT MORE THAN—		OR HIS AVERAGE MONTHLY WAGE AS DETERMINED UNDER SUBSEC. (b)(3)(C)— AT LEAST / BUT NOT MORE THAN	THE AMOUNT DEFERRED IN THE PRECEDING PARAGRAPHS OF THIS SUBSECTION SHALL BE—	AND THE MAXIMUM AMOUNT OF BENEFITS PAYABLE (AS PROVIDED IN SEC. 203(a)(1) ON THE BASIS OF HIS WAGES AND SELF-EMPLOYMENT INCOME SHALL BE—
707.40	1531	1484	977.50	1560.60
708.40	1534	1540	978.60	1562.50
709.40	1536	1596	979.70	1564.50
710.40	1538	1652	980.80	1566.50
711.40	1541	1708	981.90	1568.30
712.40	1543	1764	983.00	1570.20
713.40	1545	1820	984.10	1572.20
714.40	1547	1876	985.20	1574.00
715.40	1549	1932	986.30	1575.90
716.40	1551	1988	987.40	1577.90
717.40	1553	2044	988.50	1579.80
718.40	1556	2100	989.60	1581.70
719.40	1558	2156	990.70	1583.70
720.40	1560	2212	991.80	1585.60
721.40	1562	2268	992.90	1587.50
722.40	1564	2324	994.00	1589.40
723.40	1566	2380	995.10	1591.40
724.40	1568	2436	996.20	1593.30
725.40	1570	2492	997.30	1595.20
726.40	1572	2548	998.40	1597.10
727.40	1574	2604	999.50	1599.10
728.40	1576	2660	1000.60	1600.90
729.40	1578	2716	1001.70	1602.80
730.40	1580	2772	1002.80	1604.80
731.40	1582	2828	1003.90	1606.80
732.40	1584	2884	1005.00	1608.60
733.40	1586	2940	1006.10	1610.60
734.40	1588	2996	1007.20	1612.50
735.40	1590	3052	1008.30	1614.50
736.40	1592	3108	1009.40	1616.30
737.40	1594	3164	1010.50	1618.30
738.40	1596	3220	1011.60	1620.20
739.40	1598	3276	1012.70	1622.20
740.40	1600	3332	1013.80	1624.00
741.40	1602	3388	1014.90	1626.00
742.40	1604	3444	1016.00	1627.90
743.40	1606	3500	1017.10	1629.80
744.40	1608	3556	1018.20	1631.80
745.40	1610	3612	1019.30	1633.70
746.40	1612	3668	1020.40	1635.60
747.40	1614	3724	1021.50	1637.60
748.40	1616	3780	1022.60	1639.40
749.40	1618	3836	1023.70	1641.40
750.40	1620	3892	1024.80	1643.30
751.40	1622	3948	1025.90	1645.20
752.40	1624	4004	1027.00	1647.10
753.40	1626	4060	1028.10	1649.10
754.40	1628	4116	1029.20	1651.00
755.40	1630	4172	1030.30	1652.90
756.40	1632	4228	1031.40	1654.90
757.40	1634	4284	1032.50	1656.80
758.40	1636	4340	1033.60	1658.60
759.40	1638	4396	1034.70	1660.60
760.40	1640	4452	1035.80	1662.50
761.40	1642	4508	1036.90	1664.50
762.40	1644	4564	1038.00	1666.30
763.40	1646	4620	1039.10	1668.30
764.40	1648	4676	1040.20	1670.20
765.40	1650	4732	1041.30	1672.20
766.40	1652	4788	1042.40	1674.00
767.40	1654	4844	1043.50	1675.90
768.40	1656	4900	1044.60	1677.90
769.40	1658	4956	1045.70	1679.80
770.40	1660	5012	1046.80	1681.70
771.40	1662	5068	1047.90	1683.70
772.40	1664	5124	1049.00	1685.60
773.40	1666	5180	1050.10	1687.50
774.40	1668	5236	1051.20	1689.40
775.40	1670	5292	1052.30	1691.30
776.40	1672	5348	1053.40	1693.30
777.40	1674	5404	1054.50	1695.20
778.40	1676	5460	1055.60	1697.10
779.40	1678	5516	1056.70	1699.10
780.40	1680	5572	1057.80	1701.00
781.40	1682	5628	1058.90	1702.90
782.40	1684	5684	1060.00	1704.80

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Public Health Service

Health Maintenance Organizations

Correction

In FR Doc. 79–13077 appearing at page 25266 in the issue for Monday, April 30, 1979, make the following changes:

1. On page 25268, in the second table of zip codes for *Los Angeles County*, first column of the table, delete the asterisk after "90242", and in the second table of zip codes for *Orange County*, sixth column of the table, insert an asterisk after "92624".

2. On page 25269, first table of zip codes for *San Bernadino County*, fifth column of the table, "91843" should read "91743".

BILLING CODE 1505-01-M

DEPARTMENT OF THE INTERIOR

Bureau of Land Management

Ely District; Nevada Grazing Advisory Board Meeting

Notice is hereby given, in accordance with Pub. L. 94–579 that a meeting of the Ely District Grazing Advisory Board will be held on Wednesday, June 20, 1979.

The meeting will commence at the Ely District Office at 8:00 a.m. (PDT) and consist of a field tour of the Moorman Allotment and a meeting period to be held at a field location during the tour. The tour and meeting period Agenda will include: (1) A discussion of management problems of the Moorman Allotment, (2) water right filings on public lands, (3) proposed range improvement projects for Fiscal Year 1980, (4) a discussion of the expenditure of range betterment funds, (5) public comment period, (6) Advisory Board recommendations, and (7) Ely Grazing Board Charter provisions.

The tour and meeting are open to the public. Interested persons may make oral statements to the Board beginning at 2:00 p.m. on June 20, 1979, or file written statements for the Board's consideration.

Anyone wishing to make an oral statement must notify the District Manager, Bureau of Land Management, Star Route 5, Box 1, Ely, Nevada 89301 by June 19, 1979.

Depending on the number of persons wishing to make oral statements a time limit per person will be established by the Ely District Manager.

A summary of minutes of the Board's tour and meeting will be on file at the District Office and will be available for public inspection and reproduction during regular hours within 30 days following the meeting.

Date signed: May 7, 1979.

Neil B. McCleery,
District Manager.

[FR Doc. 79–15112 Filed 5–14–79; 8:45 am]

BILLING CODE 4310–84–M

Environmental Impact Statement; Mountain Foothills Grazing Management

1. Purpose of the Action

The Mountain Foothills Grazing Management Environmental Impact Statement (EIS) for public lands within the Dillon Resource Area, Montana (Beaverhead, Deer Lodge, Madison, & Silverbow Counties) will be written to analyze implementation of 138 proposed allotments management plans (AMPs) revising 22 AMPs, and sustaining 26 existing AMPs. Non-allocated acreage also will be addressed. Supportive measures required to achieve grazing management program goals consists primariliy of fencing and water developments and may include seeding, burning brush control, and erosion control sturctures.

Alternatives to the proposed action include: (1) No action (continuation of the present grazing management program); (2) elimination of livestock grazing from public lands within the area; (3) a watershed/wildlife effective option, involving reduced livestock use to enhance watershed values and wildlife habitat; and (4) accelerated livestock forage development.

2. Scoping Process

The scoping process for this EIS consists of meetings with individual operators, interest groups, and affected agencies and public input through submission of written suggestions for the purpose of indentifying the significant issues and alternatives related to the proposed action. Affected federal, state, and local agencies and other interested persons are requested to submit written statements and suggestions on the scope of the statement on or before June 1, 1979 to:

Jack A. McIntosh, District Manager, BLM, Butte District, 220 N. Alaska, Butte, Montana 59701.

Jack A McIntosh,
District Manager.

[FR Doc. 79–15111 Filed 5–14–79; 8:45 am]

BILLING CODE 4310–84–M

Utah; Application

May 7, 1979.

Notice is hereby given that pursuant to Section 28 of the Mineral Leasing Act of 1920 as amended (30 U.S.C. 185) the Northwest Pipeline Corporation has applied for 4½-inch natural gas pipeline rights-of-way across the following lands:

Salt Lake Meridian, Utah

T. 20 S., R. 21 E.,
Sec. 4.
T. 17 S., R. 25 E.,
Sec. 24.
T. 17 S., R. 26 E.,
Sec. 30.

The needed rights-of-way are a portion of applicant's gas gathering system located in Grand County, Utah.

The purpose of this notice is to inform the public that the Bureau will be proceeding with the preparation of environmental and other analyses necessary for determining whether the applications should be approved, and if so under what terms and conditions.

Interested persons should express their interest and views to the Moab District Manager, Bureau of Land Management, P.O. Box 970, Moab, Utah, 84532.

Dell T. Waddoups,
Chief, Branch of Lands and Minerals Operations.

[U–42528; U–42647; U–42848]

[FR Doc. 79–15100 Filed 5–14–79; 8:45 am]

BILLING CODE 4310–84–M

Bureau of Reclamation

Colorado River Basin; Meetings

Notice of Initiation of Meetings to Discuss Possible Termination of the Filling Criteria as Described in the "General Principles to Govern, and Operating Criteria for, Glen Canyon Reservoir (Lake Powell) and Lake Mead During the Lake Powell Filling Periods".

A determination has been made to initiate meetings prior to mid-June 1979, with the representatives of the Colorado River Basin States for the purpose of discussing the provisions of the filling criteria and the impacts of the modified 1979 operation plan to release additional Colorado River water. At these meetings, concurrent discussions will be held on the accomplishment of the termination of filling criteria and the related deficiency in firm energy generation at Hoover Powerplant.

Considering the recent resolution passed by the Upper Colorado River Commission, past requests by the Commission, the current and projected status of the Colorado River System, and the concurrent secretarial decision to release additional water, consultation on the provisions of termination of the Filling Criteria and Hoover Deficiency becomes timely and imperative. Review of the status of the Colorado River Storage System and discussions on the Filling Criteria will be accomplished in consultation with the Governors of the seven Colorado River Basin States or their designated representatives, the Upper Colorado River Commission, representatives of the power contractors, operating agents, and others having appropriate interests in Colorado River operations.

Organizations or individuals interested in this notice should contact:

Guy Martin, Assistant Secretary, Land and Water Resources, Interior Building, Suite 6616, 18th and C Streets NW., Washington, DC 20240, Telephone (202) 343–2191

Nelson W. Plummer, Regional Director, Bureau of Reclamation, P.O. Box 11568, Salt Lake City, UT 84147, Telephone (801) 588–5592

Roy D. Gear, Assistant Regional Director, Bureau of Reclamation, P.O. Box 427, Boulder City, NV 89005, Telephone (702) 598–7411

Dated: May 8, 1979.

R. Keith Higginson,
Commissioner.

[FR Doc. 79–15038 Filed 5–14–79; 8:45 am]

BILLING CODE 4310–09–M

Heritage Conservation and Recreation Service

National Register of Historic Places; Notification of Pending Nominations

Nominations for the following properties being considered for listing in the National Register were received by the Heritage Conservation and Recreation Service before May 4, 1979. Pursuant to § 60.13(a) of 36 CFR Part 60, published in final form on January 9, 1976, written comments concerning the significance of these properties under the National Register criteria for evaluation may be forwarded to the Keeper of the National Register, Office of Archeology and Historic Preservation, U.S. Department of the Interior, Washington, DC 20240. Written comments or a request for additional time to prepare comments should be submitted by May 25, 1979.

William J. Murtagh,
Keeper of the National Register.

CALIFORNIA

Alameda County

Oakland, *M. V. Santa Rosa (ferryboat)* Howard Terminal.

Tehama County

Red Bluff, *Cone and Kimball Building*, 747 Main St.

GEORGIA

Fulton County

Atlanta, *Pitts, Thomas H., House and Diary*, 3105 Cascade Rd., SW.

MAINE

Piscataquis County

Chesuncook vicinity, *Munsungan-Chase Lake Thoroughfare Archeological District.*

MARYLAND

Baltimore (independent city)

House at 9 North Front Street.

Frederick County

Middletown vicinity, *Bennies Hill Road Bridge*, SW of Middletown on Bennies Hill Rd. over Catoctin Creek.

Unionville vicinity, *Pearre-Metcalfe House*, NE of Unionville off MD 31.

Prince Georges County

Laurel, *Laurel High School*, Montgomery St.

Worcester County

Snow Hill, *All Hallows Episcopal Church*, 101 N. Church St.

MASSACHUSETTS

Hampden County

Holyoke, *Caledonia Building*, 185–193 High St.

MINNESOTA

Washington County

Marine on St. Croix vicinity, *Copas, John, House*, N of Marine on St. Croix on MN 95.

Stillwater vicinity, *Croixsyde*, N of Stillwater at 4 Croixside Rd.

Stillwater vicinity, *Health Summer Home*, N of Stillwater.

Stillwater vicinity, *Pest House*, N of Stillwater at 9033 Fairy Falls Rd.

Stillwater vicinity, *St. Croix Boom Company House and Barn*, S of Stillwater at 9666 N. St. Croix Trail.

MISSISSIPPI

Adams County

Natchez, *Burn, The*, 307 Oak St.

Natchez, *Cottage Gardens*, 816 Myrtle Ave.

Natchez, *Glen Mary Plantation and Tenant House*, Foster Mound Rd.

Natchez, *Hawthorne Place*, Lower Woodville Rd.

Natchez, *Institute Hall*, 111 S. Pearl St.

Natchez, *Ravennaside*, 601 S. Union St.

Hinds County

Jackson, *Williams, Alex, House*, 937 N. Lamar St.

Warren County

Vicksburg, *Hotel Vicksburg*, 801 Clay St.

NEW JERSEY

Oradell, Van Buskirk-Oakley House, 467 Kinderamack Rd.

Hudson County

Hoboken, *Hoboken Land and Improvement Compony Building*, 1 Newark St.

Middlesex County

Monmouth Junction vicinity, *Gulick House*, W of Monmouth Junction on Raymond Rd.

Warren County

Washington, *Washington Railroad Station*, Railroad Ave.

TEXAS

Dallas County

Dallas, *Wilson Building*, 1621–1623 Main St.

Jasper County

Roganville, *Turner-White-McGee House*, off U.S. 96

UTAH

Salt Lake County

Salt Lake City, *Rowland Hall-St. Mark's School*, 205 1st Ave.

Weber County

Ogden, *New Brigham Hotel*, 2402–2410 Wall Ave.

WISCONSIN

Dodge County

Mayville, *Hollenstein Wogon and Carriage Factory*, Bridge and German Sts.

Milwaukee County

Milwaukee, *St. James Episcopal Church*, 833 W. Wisconsin Ave.

Racine County

Racine, *Engine House No. 4*, 1339 Lincoln St.

Racine, *St. Patrick's Roman Catholic Church*, 1100 Erie St.

Waukesha County

Muskego, *Philadelphia Toboggan Company Carousel No. 15*, S76 W11708 Janesville Rd.

[FR Doc. 79–14730 Filed 5–14–79; 8:45 am]

BILLING CODE 4310–03–M

DEPARTMENT OF LABOR

Office of the Secretary

Investigations Regarding Certifications of Eligibility To Apply for Worker Adjustment Assistance

Petitions have been filed with the Secretary of Labor under Section 221(a) of the Trade Act of 1974 ("the Act") and are identified in the Appendix to this notice. Upon receipt of these petitions, the Director of the Office of Trade Adjustment Assistance, Bureau of International Labor Affairs, has instituted investigations pursuant to Section 221(a) of the Act and 29 CR 90.12.

The purpose of each of the investigations is to determine whether absolute or relative increases of imports of articles like or directly competitive with articles produced by the workers' firm or an appropriate subdivision thereof have contributed importantly to

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an absolute decline in sales or production, or both, of such firm or subdivision and to the acutal or threatened total or partial separation of a significant number or proportion of the workers of such firm or subdivision.

Petitioners meeting these eligibility requirements will be certified as eligible to apply for adjustment assistance under Title II, Chapter 2, of the Act in accordance with the provision of Subpart B of 29 CFR Part 90. The investigations will further relate, as appropriate, to the determination of the date on which total or partial separations began or threatened to begin and the subdivision of the firm involved.

Pursuant to 29 CFR 90.13, the petitioners or any other persons showing a substantial interest in the subject matter of the investigations may request a public hearing, provided such request is filed in writing with the Director, Office of Trade Adjustment Assistance, at the address shown below, not later than May 21, 1979.

Interested persons are invited to submit written comments regarding the subject matter of the investigations to the Director, Office of Trade Adjustment Assistance, at the address shown below, not late than May 21, 1979.

The petitions filed in this case are available for inspection at the Office of the Director, Office of Trade Adjustment Assistance, Bureau of International Labor Affairs, U.S. Department of Labor, 200 Constitution Avenue, N.W., Washington, D.C. 20210.

Signed at Washington, D.C. this 3rd day of May 1979.

Marvin M Fooks.
Director, Office of Trade Adjustment Assistance.

Appendix

Petitioner: Union/workers or former workers of—	Location	Date received	Date of petition	Petition No.	Articles produced
Berlou Company (company)	Freehold, N.J	4/30/79	4/23/79	TA-W-5,349	Little girl's dresses.
Coat Corp. of New Jersey	Egg Harbor, N.J.	4/30/79	4/23/79	TA-W-5,350	Contractors of ladies' blazers.
Ginny Linn Mills, Inc. (workers)	Quebradillas, P.R.	4/30/79	4/17/79	TA-W-5,351	Women's panti-hose.
Glassboro Shirts Company, Inc. (ACTWU—Cotton Branch).	Glassboro, N.J.	4/30/79	4/27/79	TA-W-5,352	Infants and children's clothing.
Igoe Brothers (USWA)	Newark, N.J.	4/30/79	4/24/79	TA-W-5,353	Steel bars and wire rods.
A. Jacobs & Sons Company, Inc. (company)	Lynn, Mass	4/30/79	4/24/79	TA-W-5,354	Athletic shoes for men, women and boys.
Ronesle Coal Co. (workers)	Omar, W. Va	4/30/79	4/25/79	TA-W-5,355	Mining of coal.
Alice Stuart, Inc. (company)	North Bergen, N.J.	4/30/79	4/25/79	TA-W-5,356	Women's blouses, also some skirts and pants.
Underground Energy Corp., Underground Energy Mine (U.M.W.A).	Wyoming County, W. Va.	4/30/79	4/25/79	TA-W-5,357	Contract mining of coal.

[FR Doc. 79-14789 Filed 5-14-79; 8:45 am]

BILLING CODE 4510-28-M

Investigations Regarding Certifications of Eligibility of Apply for Worker Adjustment Assistance

Petitions have been filed with the Secretary of Labor under Section 221(a) of the Trade Act of 1974 ("the Act") and are identified in the Appendix to this notice. Upon receipt of these petitions, the Director of the Office of Trade Adjustment Assistance, Bureau of International Labor Affairs, has instituted investigations pursuant to Section 221(a) of the Act and 29 CFR 90.12.

The purpose of each of the investigations is to determine whether absolute or relative increases of imports of articles like or directly competitive with articles produced by the workers' firm or an appropriate subdivision thereof have contributed importantly to an absolute decline in sales or production, or both, of such firm or subdivision and to the actual or threatened total or partial separation of a significant number or proportion of the workers of such firm or subdivision.

Petitioners meeting these eligibility requirements will be certified as eligible to apply for adjustment assistance under Title II, Chapter 2, of the Act in accordance with the provisions of Subpart B of 29 CFR Part 90. The investigations will further relate, as appropriate, to the determination of the date on which total or partial separations began or threatened to begin and the subdivision of the firm involved.

Pursuant to 29 CFR 90.13, the petitioners or any other persons showing a substantial interest in the subject matter of the investigations may request a public hearing, provided such request is filed in writing with the Director, Office of Trade Adjustment Assistance, at the address shown below, not later than May 25, 1979.

Interested persons are invited to submit written comments regarding the subject matter of the investigations to the Director, Office of Trade Adjustment Assistance, at the address shown below, not later than May 25, 1979.

The petitions filed in this case are available for inspection at the Office of the Director, Office of Trade Adjustment Assistance, Bureau of International Labor Affairs, U.S. Department of Labor, 200 Constitution Avenue, N.W., Washington, D.C. 20210.

Signed at Washington, D.C. this 8th day of May 1979.

Marvin M. Fooks,
Director, Office of Trade Adjustment Assistance.

Appendix

Petitioner: Union/workers or former workers of—	Location	Date received	Date of petition	Petition No.	Articles produced
Atlantic Products Corporation, Trenton, N.J. Plant (company).	Trenton, N.J.	5/3/79	4/26/79	TA-W-5,358	Soft vinyl luggage.
Excel Development, Inc. (U.M.W.A.)	Richwood, W. Va.	4/9/79	4/4/79	TA-W-5,359	Mining of coal.
Hobet Mining & Construction Co. (U.M.W.A.)	Craigsville, W.Va.	4/9/79	4/4/79	TA/W-5,360	Mining of coal.
Jacobs Brothers Industries, Inc. (ACTWU)	Moonachie, N.J.	5/3/79	4/25/79	TA-W-5,361	Children's and women's outerwear.
Linda-Jo Shoe Co., Inc. (workers)	Gainesville, Tex.	5/3/79	4/30/79	TA-W-5,362	Ladies' leather and urethane sport shoes.
Linda-Jo Shoe Co., Inc. (workers)	Forestburg, Tex.	5/3/79	4/30/79	TA-W-5,363	Ladies' leather and urethane sport shoes.
Revere Copper & Brass Company (workers)	New Bedford, Mass.	4/30/79	4/24/79	TA-W-5,364	Non-ferrous metals—sheet and plate and strip.
Standard Dyeing & Finishing Co. (ACTWU)	Paterson, N.J.	5/1/79	4/20/79	TA-W-5,365	Dyeing and finishing of fabrics.

Appendix —Continued

Petitioner: Union/workers or former workers of—	Location	Date received	Date of petition	Petition No.	Articles produced
R. W. Taylor Company (U.M.W.A.)	Fenwick, W. Va.	4/9/79	4/4/79	TA-W-5,366	Mining of coal.
Theber, Inc. (ACTWU)	Bridgeton, N.J.	5/1/79	4/27/79	TA-W-5,367	Boy's pants.
United Pants Co., Inc. (ACTWU)	Swoyersville, Pa.	5/1/79	4/27/79	TA-W-5,368	Saw coats and vests and cut pants.
White Ridge Coal Co., Standard Pocahontas Strip Mine (U.M.W.A.).	Raleigh County, W. Va.	4/23/79	4/19/79	TA-W-5,369	Mining of coal.

[FR Doc. 79-15150 Filed 5-14-79; 8:45 am]

BILLING CODE 4510-28-M

American Motors Corp.; Termination of Investigation

The investigation was initiated on April 4, 1979 in response to a worker petition received on March 27, 1979 which was filed by the United Auto Workers on behalf of workers and former workers producing the Concord car and its component parts at the Kenosha, Wisconsin plant of the American Motors Corporation.

In a previously revised determination (TA-W-1930, to expire on June 27, 1980) and a currently revised determination (TA-W- 3250, to expire on June 27, 1980), all workers in final assembly, body assembly support functions, and component production at the Kenosha plant are presently eligible under one or the other revisions to apply for adjustment assistance. These determinations cover workers on all car model lines, including the Concord car. Consequently the investigation has been terminated.

Signed at Washington, D.C. this 7th day of May 1979.

Marvin M. Fooks,
Director, Office of Trade Adjustment Assistance.

[TA-W-6101]

[FR Doc. 79-15152 Filed 5-14-79; 8:45 am]

BILLING CODE 4510-28-M

International Shoe Co.; Correction of Determination Regarding Eligibility To Apply for Worker Adjustment Assistance

In accordance with Section 223 of the Trade Act of 1974 the Department of Labor issues the following correction of the Certification Regarding Eligibility to Apply for Worker Adjustment Assistance applicable to workers and former workers of the Belle, Missouri plant of International Shoe Company (TA-W-4867).

In FR Doc. 79-13202 appearing at page 42955 in the **Federal Register** of April 27, 1979 the impact date was erroneously stated due to a clerical error. Therefore, the following correction should be made:

1. The 2nd column, the 4th line of the first full paragraph is corrected to read "June 15, 1979".

Signed at Washington, D.C. this 7th day of May 1979.

Harry J. Gilman,
Supervisory International Economist, Office of Foreign Economic Research.

[TA-W-4867]

[FR Doc. 79-15151 Filed 5-14-79; 8:45 am]

BILLING CODE 4510-28-M

Shenango, Inc., Buffalo, N.Y.; Negative Determination Regarding Eligibility To Apply for Worker Adjustment Assistance

In accordance with Section 223 of the Trade Act of 1974 the Department of Labor herein presents the results of TA-W-4987: investigation regarding certification of eligibility to apply for worker adjustment assistance as prescribed in Section 222 of the Act.

The investigation was initiated on March 19, 1979 in response to a worker petition received on March 5, 1979 which was filed by the United Steelworkers of America on behalf of workers and former workers producing ingot molds at the Buffalo, New York Division of Shenango, Incorporated, Pittsburgh, Pennsylvania.

The Notice of Investigation was published in the **Federal Register** on 4/27/79 (44 FR 24954). No public hearing was requested and none was held.

The information upon which the determination was made was obtained principally from officials of Shenango, Inc., industry analysts, and Department files.

In order to make an affirmative determination and issue a certification of eligibility to apply for adjustment assistance each of the group eligibility requirements of Section 222 of the Act must be met. Without regard to whether any of the other criteria have been met, the following criterion has not been met:

That such increased imports of articles like or directly competitive with articles produced by the firm or appropriate subdivision have contributed importantly to the separations, or threat thereof, and to the absolute decline in sales or production.

The Buffalo, New York Division of Shenango Incorporated produces ingot molds exclusively.

There is no separately identifiable import data on ingot molds in the Tariff Schedules of the United States Annotated.

The evidence developed in the Department's investigation indicates that there is no import influence in this market sector.

Conclusion

After careful review, I determine that all workers of Shenango, Incorporated, Buffalo, New York Division are denied eligibility to apply for adjustment assistance under Title II, Chapter 2 of the Trade Act of 1974.

Signed at Washington, D.C. this 8th day of May 1979.

James F. Taylor,
Director, Office of Management, Administration and Planning.

[TA-W-4987]

[FR Doc. 79-15153 Filed 5-14-79; 8:45 am]

BILLING CODE 4510-28-M

LEGAL SERVICES CORPORATION

Grants and Contracts

May 8, 1979

The Legal Services Corporation was established pursuant to the Legal Services Corporation Act of 1974, Pub. L. 93-355 88 Stat. 378, 42 U.S.C. 2996-2996*l*, as amended, Pub. L. 95-222 (December 28, 1977). Section 1007(f) provides: "At least 30 days prior to the approval of any grant application or prior to entering into a contract or prior to the initiation of any other project, the Corporation shall announce publicly * * * such grant, contract or project."

The Legal Services Corporation hereby announces publicly that it is considering the grant application submitted by: Migrant Legal Action Program to provide services to migrant farmworkers through programs funded by the Legal Services Corporation in the

states of Iowa, Kentucky, Missouri, Nebraska, Nevada, New Hampshire, Rhode Island, South Dakota, Tennessee, Vermont and West Virginia.

Interested persons are hereby invited to submit written comments or recommendations concerning the above application to the Regional Office of the Legal Services Corporation at:

Legal Services Corporation, 733 15th Street, NW., Washington, D.C. 20005.

Alice Daniel,
Acting President.
[FR Doc. 79-15028 Filed 5-14-79; 8:45 am]
BILLING CODE 6820-35-M

NATIONAL FOUNDATION ON THE ARTS AND THE HUMANITIES

Literature Advisory Panel Meeting

Pursuant to Section 10(a)(2) of the Federal Advisory Committee Act (Pub. L. 92-463), as amended, notice is hereby given that a meeting of the Literature Advisory Panel to the National Council on the Arts will be held June 1, 1979, from 9:00 a.m. to 5:45 p.m., June 2, 1979, from 9:00 a.m. to 5:30 p.m., and June 3, 1979, from 9:00 a.m. to 1:45 p.m. at the Washington University in St. Louis, Missouri.

A portion of this meeting will be open to the public on June 2, 1979, from 2:00 p.m. to 5:30 p.m. The topic of discussion will be Policy.

The remaining sessions of this meeting on June 1, 1979, from 9:00 a.m. to 5:45 p.m., June 2, 1979, from 9:00 a.m. to 2:00 p.m. and June 3, 1979, from 9:00 a.m. to 1:45 p.m. are for the purpose of Panel review, discussion, evaluation, and recommendation on applications for financial assistance under the National Foundation on the Arts and the Humanities Act of 1965, as amended, including discussion of information given in confidence to the agency by grant applicants. In accordance with the determination of the Chairman published in the Federal Register March 17, 1977, these sessions will be closed to the public pursuant to subsections (c)(4), (6) and 9(b) of section 552b of Title 5, United States Code.

Further information with reference to this meeting can be obtained from Mr. John H. Clark, Advisory Committee Management Officer, National Endowment for the Arts, Washington, D.C. 20506, or call (202) 634-6070.

John H. Clark,
Director, Office of Council and Panel Operations, National Endowment for the Arts.
May 7, 1979.
[FR Doc. 79-15101 Filed 5-14-79; 8:45 am]
BILLING CODE 7537-01-M

NUCLEAR REGULATORY COMMISSION

Advisory Committee on Reactor Safeguards, Subcommittee on Combination of Dynamic Loads; Meeting

An open meeting of the ACRS Subcommittee on Combination of Dynamic Loads postponed from 1:00 p.m. on May 9, 1979, has been rescheduled to be held at 8:30 a.m. on Wednesday, May 30, 1979, in room 1046, 1717 H St., N.W., Washington, DC to review, with representatives of the NRC Staff and industry, the basis for shutting down five nuclear power plants due to seismic structural inadequacies and other related topics.

Notice of this meeting was published April 24 and May 1, 1979 (44 FR 24174 and 25535, respectively).

All other items remain the same as announced in the cited Federal Register notices.

Further information can be obtained by a prepaid telephone call to the Designated Federal Employee for this meeting, Mr. Elpidio G. Igne (202/634-3314) between 8:15 and 5:00 p.m., EDT.

Dated: May 10, 1979.

John C. Hoyle,
Advisory Committee Management Officer.
[FR Doc. 79-15120 Filed 5-14-79; 8:45 am]
BILLING CODE 7590-01-M

Advisory Committee on Study of Nuclear Power Plant Construction During Adjudication; Rescheduling of Meetings

The Nuclear Regulatory Commission's advisory committee on nuclear power plant construction during adjudication is cancelling its meeting scheduled for Friday, May 11, 1979. As previously announced, the group's next meeting will be held at 9:30 a.m. Friday, June 1, 1979, in Room 415, East West Towers, 4350 East West Highway, Bethesda, Maryland.

Members of the public are invited to attend the group's meetings and there will be a limited amount of time available during each meeting for members of the public to make oral statements to the study group. Written comments, addressed to the Secretary of the Commission, United States Nuclear Regulatory Commission, Washington, D.C. 20555, Attention: Docketing and Service Branch, will be accepted for one week after each meeting. The Chairman of the study group is empowered to conduct the meetings in a manner that in his judgment, will facilitate the group's work, including, if necessary, continuing or rescheduling meetings to another day.

A file of documents relevant to the group's work, including a complete transcript of each meeting, memoranda exchanged between group members, public comments and other documents, is available for inspection and copying at the Commission's Public Document Room at 1717 H Street, N.W., Washington, D.C. 20555. The Secretary of the NRC maintains a mailing list for persons interested in receiving notices of the group's meetings and actions. Anyone wishing to be on that list should write to: Secretary of the Commission, Nuclear Regulatory Commission, Washington, D.C. 20555, Attention: Docketing and Service Branch.

The study group will provide its final report to the Commission by November 1, 1979. For further information on the study group's mission, please call Stephen S. Ostrach, Office of the General Counsel, Nuclear Regulatory Commission, (202) 634-3224.

Dated at Washington, D.C., this 9th day of May, 1979.

Gary Milhollin,
Chairman.
[FR Doc. 79-15124 Filed 5-14-79; 8:45 am]
BILLING CODE 7590-01-M

New York State Electric & Gas Corp. and Long Island Lighting Co. (New Haven 1 and 2 Nuclear Power Plant), New York State Electric & Gas Corp., and Long Island Lighting Co. (New Haven/Stuyvesant Nuclear Generating Facility); Prehearing Conference

April 30, 1979.

In the Matter of New York State Electric and Gas Corp. and Long Island Lighting Co. (New Haven 1 and 2 Nuclear Power Plant).

In the Matter of the Application of the New York State Electric and Gas Corp. and Long Island Lighting Co. New Haven/Stuyvesant Nuclear Generating Facility.

Take notice that the New York State Electric and Gas Corporation and the Long Island Lighting Company (Applicants) have filed applications requesting authority from the Nuclear Regulatory Commission (NRC) and the New York State Board on Electric Generation Siting and the Environment (Siting Board) to construct and operate a nuclear generating facility in the Town of New Haven, County of Oswego, State of New York. The Chairman of the NRC and the New York State Public Service Commission have agreed that hearings on both applications should proceed on a common record. The application pending before the Siting Board (Case 80008) includes provision for an alternate site in the Town of Stuyvesant, County of Columbia, State of New York.

Take further notice that two public statement hearings on these applications will be held before Chairman Seymour Wenner and members, Dr. Walter H. Jordan and Dr. Oscar H. Paris, of the NRC's Atomic Safety and Licensing Board and Presiding Examiner Thomas R. Matias and Dr. Sidney A. Schwartz, Associate Examiner, of the New York State Department of Public Service and the New York State Department of Environmental Conservation, respectively. The first public statement hearing will be held on Tuesday, May 22, 1979 at the Legislative Chambers, 46 East Bridge Street, Oswego, New York. Hearings will begin at 1:00 p.m. and conclude no later than 4:00 p.m.; hearings will resume at 7:00 p.m. and conclude no later than 11:00 p.m. The Oswego hearing is scheduled primarily for the purpose of taking statements from those members of the public residing in the vicinity of the preferred site in the Town of New Haven.

The second public statement hearing will be held on Thursday, June 14, 1979 at the Convention Center, The Governor Nelson A. Rockefeller Empire State Plaza, Albany, New York. Hearings will begin at 1:00 p.m. and conclude no later than 4:00 p.m.; hearings will resume at 7:00 p.m. and conclude no later than 11:00 p.m. The Albany hearing is being scheduled primarily for the purpose of taking statements from interested members of the public residing in the vicinity of the alternate site in the Town of Stuyvesant, Columbia County. For the convenience of those driving to the Convention Center from the Town of Stuyvesant and vicinity for the afternoon session, parking will be available at the Philip Street lot and the P-1 and P-2 (North) areas of the Empire State Plaza for the sum of $1.00 per car. For the evening session, parking will be available at no charge.

Take further notice that the public statement hearing in Oswego will be followed (at the same location) with a special prehearing conference to begin at 10:00 a.m. on Wednesday, May 23, 1979. At the special prehearing conference the NRC's Atomic Safety and Licensing Board will consider: petitions to intervene in the Federal proceeding, the specification of contentions, the establishment of procedural schedules, and such other matters which may be appropriate for consideration under the NRC's rules of practice for domestic licensing proceedings, 10 CFR 2.751(a) et seq. Procedural matters peculiar to Case 80008 also may be the subjects of discussion at the special prehearing conference to be held on May 23, 1979.

Parties to the Federal proceeding are advised that supplements to the petitions to intervene referred to in § 2.714(b) of the NRC's rules of practice may be filed on or before May 11, 1979. The answers referred to in Paragraph (c) of this section should be delivered by hand to the Atomic Safety and Licensing Board Panel, Room 450, East West Towers, 4350 East West Highway, Bethesda, Maryland, no later than 4:00 p.m. on May 18, 1979. In view of the abbreviated time for answering, the Board will entertain requests for supplemental answers.

Seymour Wenner,
Chairman for the Atomic Safety and Licensing Board.
Thomas R. Matias,
Presiding Examiner, State Siting Board.
[Docket Nos. STN 50-596; STN 50-597]
[FR Doc. 79-15121 Filed 5-14-79; 8:45 am]
BILLING CODE 7590-01-M

SECURITIES AND EXCHANGE COMMISSION

Intermarket Trading System; Receipt of Amendment to Plan Filed Pursuant to Section 11A(a)(3)(B) of the Securities Exchange Act of 1934

The participants in the Intermarket Trading System ("ITS") [1] have submitted to the Commission an amendment to the joint industry plan (the "ITS Plan" or "Plan"), authorized pursuant to Section 11A(a)(3)(B) of the Securities Exchange Act of 1934 ("Act"),[2] governing the implementation and operation of the ITS.

I. *Amendment*

On February 6, 1979, the participants submitted to the Commission a proposed amendment to Section 8(a), paragraph 16, of the ITS Plan which would establish a procedure for the allocation of costs associated with leasing various telecommunications lines necessary to implement and operate the ITS (the "Line Cost Amendment").[3] Although the ITS Plan presently states that these costs are to be "shared" by the participants, the Plan does not specify how these costs are to be allocated.

Pursuant to the procedure, which would be formally established by the Line Cost Amendment, a participant's share of the line costs will vary each month in relation to the number of messages sent or received by that participant and the total number of messages sent or received by all participants. With respect to the initial three lines leased by any participant, 100% of the costs of these lines will be allocated among all participants based upon each participant's percentage of the total number of messages sent or received by all participants. With respect to lines four through seven leased by any participant, 50% of the costs of these lines will be allocated among all participants based upon each participant's percentage of the total number of messages sent or received by all participants and 50% of the costs of these lines will be paid for solely by the participant leasing these lines. With respect to lines eight and above leased by any participant, the participant's cost will be the total cost of leasing these lines.

II. *Request for Comment*

In order to assist the Commission in determining whether to approve the proposed amendment to the ITS Plan, interested persons are invited to submit their views and comments on the Line Cost Amendment in writing to George A. Fitzsimmons, Secretary, Securities and Exchange Commission, Washington, D.C. 20549, within 30 days from the date of publication in the Federal Register. All such communications should refer to File No. 4-208.

By the Commission.

May 9, 1979.

George A. Fitzsimmons,
Secretary.

Exhibit A

The sixteenth paragraph of Section 8(a) of the Plan, said paragraph appearing on pages 48 and 49 of the Plan, is hereby amended to read in full as follows:

Line costs attributable to ITS and the Pre-Opening Application during any calendar month on or after August 1, 1978 shall be borne by the persons who were Participants

[1] The participants include the American Stock Exchange, Inc., Boston Stock Exchange, Inc., Midwest Stock Exchange, Inc., New York Stock Exchange, Inc., Pacific Stock Exchange, Inc. and the Philadelphia Stock Exchange, Inc.

[2] *See* Securities Exchange Act Release Nos. 14662 (April 14, 1978) and 15058 (August 11, 1978), 43 FR 17422 and 15058.

[3] Agreement to Amend Plan for the Purpose of Creating and Operating an Intermarket Communications Linkage, dated November 30, 1978, contained in File No. 4-208. The text of the Line Cost Amendment is set forth in *Exhibit A*.

V 4 4 / 9 5

during any portion of such month as set forth in this paragraph. Such Participants shall share (i) all of the line costs incurred during such month identifiable to the first three lines and associated modems linking each such Participant with the System's communication network and (ii) 50 percent of the line costs incurred during such month identifiable to the fourth through seventh lines and associated modems so linking each such Participant. Each such Participant's share shall equal the total of the costs referred to in clause (i) and clause (ii) multiplied by a fraction, the numerator of which shall equal the number of messages (whether ITS commitments to trade or responses thereto, or pre-opening notifications, pre-opening responses or any other administrative messages sent through the System) sent or received by such Participant during such month and the denominator of which shall equal the sum of the amounts derived by calculating such numerator for each such Participant for such month. Each such Participant shall also bear 50 percent of the line costs incurred during such month identifiable to the fourth through seventh lines and associated modems linking such Participant with the System's communication network. In addition, each such Participant shall bear 100 percent of the line costs incurred during such month identifiable to any lines and associated modems in excess of seven so linking such Participant. Line costs will be computed by SIAC as soon as practicable following the close of each calendar month. Each Participant's (or former Participant's) share thereof shall be billed by SIAC to, and payable to SIAC by, such Participant or former Participant promptly thereafter.

[Release No. 34-15805; File No. 4-208]
[FR Doc. 79-15043 Filed 5-14-79; 8:45 am]
BILLING CODE 8010-01-M

NEA Mutual Fund, Inc.; Filing of Application Pursuant to Section 8(f) of the Act for Order Declaring That Applicant Has Ceased To Be an Investment Company

May 9, 1979.

In the Matter of NEA Mutual Fund, Inc., 7900 Westpark Drive, McLean, Virginia 22101.

Notice is hereby given that NEA Mutual Fund, Inc. ("Applicant"), a Delaware corporation registered under the Investment Company Act of 1940 (the "Act") as an open-end, diversified, management investment company, filed an application on February 27, 1979, pursuant to Section 8(f) of the Act and Rule 8f-1 thereunder, for an order of the Commission declaring that Applicant has ceased to be an investment company as defined by the Act. All interested persons are referred to the application on file with the Commission for a statement of the representations contained therein, which are summarized below.

Applicant states that on June 12, 1964, it registered under the Act, and filed a registration statement pursuant to the Securities Act of 1933 ("Securities Act") with respect to 50,000 shares of its common stock. Applicant further states that its Securities Act registration statement was declared effective by the Commission on November 23, 1964, and that it commenced a public offering of its shares on December 11, 1964.

According to the application, on May 23, 1978, and December 29, 1978, Applicant's board of directors approved an Agreement and Plan of Reorganization ("Agreement") between Applicant and Horace Mann Fund, Inc. ("HMF"), registered under the Act as an open-end, diversified, management investment company, which provided for: (i) the acquisition by HMF of substantially all of the assets of Applicant in exchange solely for shares of common stock of HMF; (ii) the *pro rata* distribution of such shares of HMF stock to shareholders of Applicant according to their respective interests; and (iii) the subsequent dissolution and deregistration of Applicant. In connection with this Agreement, Applicant states that it, HMF, and certain other companies, filed an application for an order (i) pursuant to Sections 26(b) and 11 of the Act, approving the substitution of securities held by Educators Life Insuance Company Separate Account A, Horace Mann Life Insurance Company Separate Account A, Horace Mann Life Insurance Company Separate Account B, and Life Insurance Company of North America Separate Account A (collectively "Separate Accounts") with respect to all contracts of the Separate Accounts whose underlying investment medium consists of shares of Applicant, and (ii) pursuant to Section 17(b) of the Act, exempting from the provisions of Section 17(a) of the Act, and pursuant to Section 17(d) of the Act and Rule 17d-1 thereunder, permitting, the purchase of Applicant's assets by HMF. The request order was granted on October 12, 1978 (Investment Company Act Release No. 10433). The application states that the shareholders of Applicant approved the Agreement at a Special Meeting on December 29, 1978, by an affirmative vote of the holders of a majority of its outstanding shares, and that on January 15, 1979, a Certificate of Dissolution was filed with the Secretary of State of Delaware.

Applicant states that pursuant to the Agreement, on January 6, 1979 ("Closing Date"), HMF acquired substantially all of the assests of Applicant in exchange for 2,223,030.096 shares of HMF and that such shares of HMF have been delivered or credited to the accounts of Applicant's shareholders according to their respective interests. Applicant further states that, immediately prior to the acquistion of its assests by HMF, it had outstanding 4,323,094 shares of its common stock having an aggregate net asset value of $32,840,379, and that it is not now engaged, and does not propose to engage, in any business activity other than that necessary to wind up its affairs. According to the application, Applicant has retained $51,841.27 in cash from which to pay (i) certain liabilities existing as of the Closing Date and the unpaid expenses incurred or to be incurred by Applicant in carrying out its obligations under the Agreement, and (ii) the expenses of its liquidation and dissolution. Applicant represents that any of the $51,841.27 not utilized for such purposes will be transferred to HMF, and that HMF will credit to former shareholders of Applicant, who at that time continue to be shareholders of HMF, additional shares of HMF equal in net asset value, at the date of such transfer, to the cash amount transferred. Applicant also represents that if any such cash is apportionable to former shareholders of Applicant who do not remain shareholders of HMF at the time of transfer, no shares of HMF will be issued in exchange therefor and such cash will be added to the assets of HMF. Applicant states that the $51,841.27 of cash has not and will not be invested in securities. Applicant further states that it knows of no debts or other liabilities which remain outstanding other than fees and costs for legal and accounting services which will be billed to Applicant at or before the conclusion of the winding up of its affairs, and that such fees and costs, and such other expenses as may arise during the winding up of its affairs, will be charged against the $51,841.27 of cash being retained.

Section 8(f) of the Act provides, in pertinent part, that when the Commission, upon application, finds that a registered investment company has ceased to an investment company, it shall so declare by order, and that upon the taking effect of such order the registration of such company under the Act shall cease to be in effect.

Notice is further given that any interested person may, not later than May 30, 1979, at 5:30 p.m., submit to the Commission in writing a request for a hearing on the matter accompanied by a statement as to the nature of his interest, the reason for such request, and the issues, if any, of fact or law proposed to be controverted, or he may request that he be notified if the Commission shall order a hearing thereon. Any such communication should be addressed: Secretary, Securities and Exchange Commission, Washington, D.C. 20549. A copy of such request shall be served personally or by mail upon Applicant at the address stated above. Proof of such service (by affidavit or, in the case of an attorney-at-law, by certificate) shall be filed contemporaneously with the request. As provided by Rule 0-5 of the Rules and Regulations promulgated under the Act, an order disposing of the application will be issued as of course following said date unless the Commission thereafter orders a hearing upon request or upon the Commission's own motion. Persons who request a hearing, or advice as to whether a hearing is ordered, will receive any notices and orders issued in this matter, including the date of the hearing (if ordered) and any postponements thereof.

For the Commission, by the Division of Investment Management, pursuant to delegated authority.

George A. Fitzsimmons,
Secretary.

[Release No. 10688; (811-1270)]
[FR Doc. 79-15045 Filed 5-14-79; 8:45 am]
BILLING CODE 8010-01-M

Paine Webber Cashfund, Inc.; Filing of Application Pursuant to Section 6(c) of the Act for Order of Exemption From Rules 2a-4 and 22c-1 Under the Act

May 7, 1979

In the Matter of Paine Webber Cashfund, Inc., 815 Connecticut Avenue, N.W., Washington, D.C. 20006.

Notice is Hereby Given that Paine Webber Cashfund, Inc. ("Applicant"), registered under the Investment Company Act of 1940 ("Act") as an openend, diversified management investment company, filed an application on April 18, 1979, for an order of the Commission, pursuant to Section 6(c) of the Act, exempting Applicant from the provisions of rules 2a-4 and 22c-1 under the Act to the extent necessary to permit Applicant to compute its net asset value per share, for the purpose of effecting sales, redemptions and repurchases of its shares, to the nearest one cent on a share value of one dollar. Applicant represents that in all other respects, its portfolio securities will be valued in accordance with the views of the Commission set forth in Investment Company Act Release No. 9786 (May 31, 1977) ("IC-9786"). All interested persons are referred to the application on file with the Commission for a statement of the representations contained therein, which are summarized below.

Applicant states that is is a "money market fund," designed as an investment vehicle for funds held by institutional and individual customers of Paine, Webber, Jackson & Curtis Incorporated ("Paine Webber") seeking liquidity for their investment. Applicant states that its portfolio is invested primarily in short-term marketable obligations issued or guaranteed as to principal and interest by the U.S. Government (or its agencies or instrumentalities), obligations of U.S. banks, commercial paper, and short-term corporate obligations. Applicant further states that the dollar-weighted average maturity of its portfolio has been substantially less than 120 days at all times since it commenced operations in April 1978. Since that time, Applicant states, it has valued its portfolio securities with more than 60 days to maturity by marking to market, using either market quotations when available, or a matrix pricing procedure which reflects market fluctuations in calculation. Securities with remaining maturities of 60 days or less have been valued on an amortized cost basis.

Applicant further states that when it commenced operations in April 1978, its management decided that its net income, declared daily as a dividend, would include (i) interest accrued and discount earned (including both original issue and market discount), (ii) all unrealized appreciation and depreciation on Applicant's portfolio securities, less applicable expenses. Applicant states that it was decided that unrealized gains and losses on portfolio securities would be included in net income, rather than in net assets, so that Applicant's net asset value per share would remain constant. Applicant states, however, that including unrealized appreciation or depreciation in net income had the undesirable effect of causing Applicant's income to fluctuate. Fluctuations in income, nevertheless, were viewed as more acceptable than including unrealized appreciation and depreciation in net assets, which posed the risk of breaking constant net asset value per share.

Applicant states that since its inception, Paine Webber has advised Applicant that in its view such unanticipated fluctuations in the daily dividend are inconsistent with most shareholders' wishes. It is asserted that both individual and institutional shareholders frequently invest cash reserves which occur, for example, between settlements in other securities, for relatively short periods, and that such investors expect that their daily dividend on Applicant's shares will be the practical equivalent of the interest rate (less expenses) actually being realized on Applicant's portfolio. Applicant submits that the inclusion of unrealized appreciation or depreciation in its net income for dividend purposes is inconsistent with this expectation because it results in fluctuations in Applicant's daily dividend.

Rule 22c-1 under the Act provides, in part, that no registered investment company issuing any redeemable security shall sell, redeem, or repurchase any such security except at a price based on the current net asset value of such security which is next computed after receipt of a tender of such security for redemption or of an order to purchase or sell such security. Rule 2a-4 under the Act provides, as here relevant, that "current net asset value" of a redeemable security issued by a registered investment company used in computing its price for the purposes of distribution and redemption shall be determined with reference to (1) current market value for portfolio securities with respect to which market quotations are readily available and (2) for other securities and assets, fair value as determined in good faith by the board of directors of the registered company. In IC-9786 the Commission issued an interpretation of rule 2a-4 expressing its view that it was inconsistent with rule 2a-4 for certain money market funds to "round off" calculations of their net asset value per share to the nearest one cent on a share value of $1.00, because such a calculation might have the effect of masking the impact of changing values of portfolio securities and therefore might not "reflect" its portfolio valuation as required by Rule 2a-4.

Section 6(c) of the Act provides, in part, that the Commission may, upon application, exempt any person, security or transaction, or any class or classes of persons, securities or transactions, from any provision or provisions of the Act and rules thereunder, if and to the extent that such exemption is necessary or appropriate in the public interest and consistent with the protection of investors and the purposes fairly intended by the policy and provisions of the Act.

Applicant requests an exemption to permit it to change its dividend policy to include unrealized appreciation and depreciation in net assets, rather than in net income, and to round its net asset value per share to the nearest cent on a share value of $1.00 Applicant submits that the granting of such exemption would be appropriate in the public

interest and consistent with the protection of investors and the purposes fairly intended by the policy and provisions of the Act. Applicant states that, in determining to change its dividend policy, its board of directors reviewed its investment objective and policies, its shareholders' reasonable expectations and desires, and the advantages and possible disadvantages of including unrealized appreciation and depreciation in net assets, rather than net income, and concluded that such change was consistent with the economic needs and desires of Applicant's shareholders. Applicant states that maintaining a constant net asset value per share is still important to its continued success as a valuable service to Paine Webber customers, but that its shareholders also prefer the more stable yield which would result from the proposed method of computing net income. The proposed method of valuation would enable Applicant to meet both of these objectives. Applicant has agreed, in order to attempt to assure the stability of its price per share, that the following conditions may be imposed in the order it seeks:

(1) Applicant's Board of Directors, in supervising Applicant's operations and delegating special responsibilities involving portfolio management to its investment adviser, will undertake, as a particular responsibility within its overall duty of care owed to its shareholders, to assure to the extent reasonably practicable, taking into account current market conditions affecting Applicant's investment objectives, that Applicant's price per share as computed for purposes of distribution, redemption and repurchase, rounded to the nearest one cent, will not deviate from $1.00;

(2) Applicant will maintain a dollar-weighted average portfolio maturity appropriate to its objective of maintaining a stable price per share, and it will not (i) purchase a portfolio security with a remaining maturity of greater than one year, or (ii) maintain a dollar-weighted average portfoliio maturity in excess of 120 days; and

(3) Applicant's purchases of portfolio securities, including repurchase agreements, will be limited to:

(a) U.S. Treasury Bills and other obligations issued or guaranteed as to interest and principal by the U.S. Government, its agencies and instrumentalities.

(b) Obligations of U.S. banks (including certificates of deposit and bankers' acceptances) having total assets at the time of purchase in excess of $1.5 billion.

(c) Commercial paper, including variable amount master notes, rated A–1 at the time of purchase by Standard & Poor's or P–1 or better by Moody's, or if not rated, which is issued by companies having an outstanding debt issue rated AA or better at the time of purchase by Standard & Poor's or Aa or better by Moody's.

Notice is further given that any interested person may, not later than June 1, 1979, at 5:30 p.m., submit to the Commission in writing a request for a hearing on the matter accompanied by a statement as to the nature of his interest, the reason for such request, and the issues, if any, of fact or law proposed to be controverted, or he may request that he be notified if the Commission shall order a hearing thereon. Any such communication should be addressed: Secretary, Securities and Exchange Commission, Washington, D.C. 20549. A copy of such request shall be served personally or by mail upon Applicants at the addresses stated above. Proof of such service (by affidavit or, in the case of an attorney-at-law, by certificate) shall be filed contemporaneously with the request. As provided by Rule 0–5 of the Rules and Regulations promulgated under the Act, an order disposing of the application will be issued as of course following said date unless the Commission thereafter orders a hearing upon request or upon the Commission's own motion. Persons who request a hearing, or advice as to whether a hearing is ordered, will receive any notices and orders issued in this matter, including the date of the hearing (if ordered) and any postponements therof.

For the Commission, by the Division of Investment Management, pursuant to delegated authority.

George A. Fitzsimmons,
Secretary.

[Release No. 10695; 812–4464]
[FR Doc. 79–15044 Filed 5–14–79; 8:45 am]
BILLING CODE 8010–01–M

DEPARTMENT OF STATE

Advisory Committee on International Intellectual Property; Meeting

The International Copyright Panel of the Department of State's Advisory Committee on International Intellectual Property will meet in open session on Tuesday, May 29, 1979, at the Department of State in Conference Room 1107. The meeting will begin at 9:30 a.m. and will continue until 1:00 p.m. Although we anticipate that the business of the meeting will be concluded prior to the lunch break, an afternoon session will be held if required.

The purpose of this open meeting will be to discuss the possible U.S adherence to the Berne Copyright Convention.

The public attending may, as time permits and subject to the instructions of the chairperson, participate in the discussion or may submit their views in writing to the chairperson prior to, or at the meeting for later consideration by the Committee.

Members of the public who plan to attend will be admitted up to the limits of the conference room's capacity. Entrance to the Department of State building is controlled and entry will be facilitated if arrangements are made in advance of the meeting. Members of the general public who plan to attend the meeting are requested to provide their name, affiliation and address to Steven Brattain, Office of Business Practices, Department of State, 202/632–0889, prior to May 29, 1979. All non-government attendees should use the C street entrance.

Dated: May 7, 1979.

Harvey J. Winter,
Executive Secretary.

[Public Notice CM–8/194]
[FR Doc. 79–15109 Filed 5–14–79; 8:45 am]
BILLING CODE 4710–07–M

Study Group 5 of the U.S. Organization for the International Radio Consultative Committee (CCIR) Meeting

The Department of State announces that Study Group 5 of the U.S. Organization for the International Radio Consultative Committee (CCIR) will meet on June 19, 1979 from 9:00 am until 12:00 Noon, in the Walker-Ames Room of Kane Hall on the campus of the University of Washington, Seattle, Washington.

Study Group 5 deals with propagation of radio waves (including radio noise) at the surface of the earth, through the non-ionized regions of the earth's atmosphere, and in space where the effect of ionization is negligible. The purpose of the meeting is to discuss preparations for the international meeting of Study Group 5 in 1980.

Members of the general public may attend the meeting and join in the discussions subject to the instructions of the Chairman. Requests for further information should be directed to Mr. Gordon Huffcutt, State Department, Washington, D.C. 20520, telephone (202) 632–2592.

Dated: May 7, 1979.

Gordon L. Huffcutt,
Chairman, U.S. CCIR National Committee.

[Public Notice CM–8/193]
[FR Doc. 79–15108 Filed 5–14–79; 8:45 am]
BILLING CODE 4710–07–M

Agency for International Development

Arthur Bjorlykke; Redelegation of Authority Regarding Contracting Functions

Pursuant to the authority delegated to me under Redelegation of Authority No. 99.1 (38 FR 12836), as amended, from the Assistant Administrator for Program and Management Services of the Agency for International Development, I hereby amend Redelegation of Authority No. 99.1.97, dated December 21, 1978, to substitute "$1,000,000" for "$500,000" in the first paragraph.

The number of the Redelegation of Authority No. 99.1.97, published in the **Federal Register** of January 9, 1979 (44 FR 2049) is corrected to "Redelegation of Authority No. 99.1.98."

Except as provided herein, the Redelegation of Authority remains unchanged and continues in full force and effect.

This amendment is effective on May 15, 1979.

Dated: May 2, 1979.

Hugh L. Dwelley,
Director, Office of Contract Management.

[Redelegation of Authority No. 99.1.96, Amdt. No. 1]
[FR Doc. 79–15107 Filed 5–14–79; 8:45 am]
BILLING CODE 4710–02–M

Robert Gibson; Redelegation of Authority Regarding Contracting Functions

Pursuant to the authority delegated to me under Redelegation of Authority No. 99.1 (38 FR 12836), as amended, from the Assistant Administrator for Program and Management Services of the Agency for International Development, I hereby amend Redelegation of Authority No. 99.1.97, dated May 14, 1978, to substitute "$1,000,000" for "$500,000" in the first paragraph.

Except as provided herein, the Redelegation of Authority remains unchanged and continued in full force and effect.

This amendment is effective on May 15, 1979.

Dated: May 2, 1979.

Hugh L. Dwelley,
Director, Office of Contract Management.

[Redelegation of Authority No. 99.1.97, Amdt. No. 1]
[FR Doc. 79–15106 Filed 5–14–79; 8:45 am]
BILLING CODE 4710–02–M

Director, East Africa Regional Economic Development Services Office; Redelegation of Authority Regarding Contracting Functions

Pursuant to the authority delegated to me under Redelegation of Authority No. 99.1 (38 FR 12836), as amended, from the Assistant Administrator for Program and Management Services of the Agency for International Development, I hereby further amend Redelegation of Authority No. 99.1.81, dated October 13, 1976, as amended, to substitute "$1,000,000" for "$500,000" in the first paragraph.

Except as provided herein, the Redelegation of Authority remains unchanged and continues in full force and effect.

This amendment is effective on May 15, 1979.

Dated: May 2, 1979.

Hugh L. Dwelley,
Director, Office of Contract Management.

[Redelegation of Authority No.99.1.81, Amdt. No. 2]
[FR Doc. 79–15103 Filed 5–14–79; 8:45 am]
BILLING CODE 4710–02–M

Director, West Africa Regional Economic Development Services Office; Redelegation of Authority Regarding Contracting Functions

Pursuant to the authority delegated to me under Redelegation of Authority No. 99.1 (38 FR 12836), as amended, from the Assistant Administrator for Program and Management Services of the Agency for International Development, I hereby further amend Redelegation of Authority No. 99.1.5, dated July 30, 1973, as amended, to substitute "$1,000,000" for "$500,000" in the first paragraph.

Except as provided herein, the Redelegation of Authority remains unchanged and continued in full force and effect.

This amendment is effective on May 15, 1979.

Dated: May 2, 1979.

Hugh L. Dwelley,
Director, Office of Contract Management.

[Redelegation of Authority No. 99.1.5, Amdt. No. 2]
[FR Doc. 79–15102 Filed 5–14–79; 8:45 am]
BILLING CODE 4710–02–M

Raymond J. Potocki; Redelegation of Authority Regarding Contracting Functions

Pursuant to the authority delegated to me under Redelegation of Authority No. 99.1 (38 FR 12836), as amended, from the Assistant Administrator for Program and Management Services of the Agency for International Development, I hereby amend Redelegation of Authority No. 99.1.87, dated July 25, 1977, to substitute "$1,000,000" for "$500,000" in the first paragraph.

Except as provided herein, the Redelegation of Authority remains unchanged and continues in full force and effect.

This amendment is effective on May 15, 1979.

Dated: May 2, 1979.

Hugh L. Dwelley,
Director, Office of Contract Management.

[Redelegation of Authority No. 99.1.87, Amdt. No. 1]
[FR Doc. 79–15104 Filed 5–14–79; 8:45 am]
BILLING CODE 4710–02–M

Stanley R. Nevin; Redelegation of Authority Regarding Contracting Functions

Pursuant to the authority delegated to me under Redelegation of Authority No. 99.1 (38 FR 12836), as amended, from the Assistant Administrator for Program and Management Services of the Agency for International Development, I hereby amend Redelegation of Authority No. 99.1.89, dated July 28, 1977, to substitute "$1,000,000" for "$500,000" in the first paragraph.

Except as provided herein, the Redelegation of Authority remains unchanged and continues in full force and effect.

This amendment is effective on May 15, 1979.

Dated: May 2, 1979.

Hugh L. Dwelley,
Director, Office of Contract Management.

[Redelegation of Authority No. 99.1.89, Amdt. No. 1]
[FR Doc. 79–15105 Filed 5–14–79; 8:45 am]
BILLING CODE 4710–02–M

DEPARTMENT OF TRANSPORTATION

Office of the Secretary

Privacy Act of 1974; Additions, Changes and Deletions to Notices of Systems of Records

The Department of Transportation herewith deletes eight systems of records, publishes four new proposed systems, and republishes eight systems notices which have been substantially changed.

Any person or agency may submit written comments on the proposed systems to the Privacy Act Officer (M–30), Room 10319, U.S. Department of Transportation, 400 Seventh Street, S.W., Washington, D.C. 20590. Comments must be received by June 15, 1979, to be considered.

If no comments are received, the proposed new and changed systems will

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become effective on June 16, 1979. If comments are received, the comments will be considered and where adopted, the system will be republished with the changes.

Issued in Washington, D.C. on May 9, 1979.

Brock Adams,
Secretary of Transportation.

Deletions of Notices

The following Notices of Systems of Records should be deleted from the Notices previously published by the Department and complied in the **Federal Register** publication "Privacy Act Issuances, Annual Publication" Part IV, Volume 42, No. 181, September 29, 1977, (pages 47036–47151). The reason for deletion is shown with each system listed:

DOT/FRA 119—No longer maintained.
DOT/NHTSA 405—List not maintained.
DOT/NHTSA 407—Tests discontinued, files stored by test number.
DOT/NHTSA 444—Volunteer pool discontinued, records destroyed.
DOT/NHTSA 446—Discontinued operation and file.
DOT/NHTSA 452—File no longer maintained.
DOT/NHTSA 456—System never developed.
DOT/FHWA 214—Function, people and files transferred (see DOT/OST 100).

New Systems of Records

The following four new systems of records are published for the first time, and should be appended to the notices in the Department's compilation in the **Federal Register** publication "Privacy Act Issuances, Annual Publication" Part IV, Volume 42, No. 181, September 19, 1977 (pages 47036–47151).

DOT/UMTA 182
DOT/NHTSA 468
DOT/OST 100
DOT/NHTSA 469

DOT/UMTA 182

SYSTEM NAME:

New Systems Survey Response Forms.

SYSTEM LOCATION:

U.S. Department of Transportation, Urban Mass Transportation, Office of Socio-Economic and Special Projects, UTD–10, 2100 2d Street SW., Washington, D.C. 20590.

CATEGORIES OF INDIVIDUALS COVERED BY THE SYSTEM:

Respondents to surveys.

CATEGORIES OF RECORDS IN THE SYSTEM:

Completed survey response forms.

AUTHORITY:

ROUTINE USES OF RECORDS MAINTAINED IN THE SYSTEM, INCLUDING CATEGORIES OF USERS AND THE PURPOSES OF SUCH USES:

Statistical purposes only. (See also Prefatory Statement of General Routine Uses.)

POLICIES AND PRACTICES FOR STORING, RETRIEVING, ACCESSING, RETAINING, AND DISPOSING OF RECOROS IN THE SYSTEM:

STORAGE:

Records are original completed Response Forms, or copies of completed Response Forms.

RETRIEVABILITY:

Retrieved by name or by selected attributes.

SAFEGUARDS:

Maintained in locked file cabinets.

RETENTION AND DISPOSAL:

Retained until statistical abstracting is completed, then destroyed.

SYSTEM MANAGER(S) AND ADDRESS:

Director, Office of Socio-Economic and Special Projects, UTD–10, Office of Technology Development and Deployment, Urban Mass Transportation Administration, 2100 2d Street SW., Washington, D.C. 20590.

NOTIFICATION PROCEDURE:

Inquiries are addressed to the System Manager.

RECORD ACCESS PROCEDURES:

Access is permitted by written or personal request.

CONTESTING RECORD PROCEDURES:

Contest of these records is to the System Manager. Unsatisfactory resolution by the individual may be appealed in writing to the UMTA Privacy Act Coordinator, addressed as follows: UMTA Privacy Act Coordinator, Urban Mass Transportation Administration, 400 7th Street SW., Washington, D.C. 20590.

RECORD SOURCE CATEGORIES:

Response Forms completed by survey respondents.

DOT/OST 100

SYSTEM NAME:

Investigative Record System. DOT/OST

SYSTEM LOCATION:

Department of Transportation (DOT), Office of the Secretary (OST), Office of the Inspector General, 400 7th Street SW., Washington, D.C. 20590

CATEGORIES OF INDIVIDUALS COVERED BY THE SYSTEM:

Present and former DOT employees, DOT contractors and employees as well as all grantees, subgrantees, contractors, subcontractors and their employees and recipients of DOT monies.

CATEGORIES OF RECORDS IN THE SYSTEM:

Results of investigations and inquiries conducted by Inspector General (OST); reports of investigations conducted by other departmental, Federal, state and local investigative agencies which relate to the mission and function of the Inspector General and investigative case index card files.

AUTHORITY:

ROUTINE USES OF RECORDS MAINTAINED IN THE SYSTEM, INCLUDING CATEGORIES OF USERS AND THE PURPOSES OF SUCH USES:

The information contained in the Investigative Records System is collected and maintained in the administration of the DOT Act, Federal Criminal Statutes, Uniform Code of Military Justice, Executive Orders, and the Code of Federal Regulations to oversee and enforce Federal laws and regulations. Material gathered is used in the enforcement of the aforementioned laws and regulations.

These records may be disseminated, depending on jurisdiction, to: DOT Officials in the administration of their responsibilities. Other Federal, state, local or foreign agencies or administrations having interest or jurisdiction in the matter. Any source from which information is requested in the course of an investigation, to the extent necessary to identify the individual, to inform the source of the nature and purpose of the investigation, and to identify the type of information requested.

See Prefatory Statement of General Routine Uses.

POLICIES AND PRACTICES FOR STORING, RETRIEVING, ACCESSING, RETAINING, AND DISPOSING OF RECORDS IN THE SYSTEM:

STORAGE:

Paper records in case folders in manual filing system and on index cards.

RETRIEVABILITY:

By name or incident title.

SAFEGUARDS:

Investigative files and case index files are maintained in several spaces with appropriate access controls. Access to investigative files is restricted to authorized investigative personnel on a "need to know" basis.

RETENTION AND DISPOSAL:

Investigative material held for ten years, then destroyed by secure means used for classified materials.

SYSTEM MANAGER(S) AND ADDRESS

Inspector General (J–1), Department of Transportation, Office of the Secretary, 400 7th Street, S.W., Washington, D.C. 20590.

NOTIFICATION PROCEDURE:

Same as "System Manager".

RECORD ACCESS PROCEDURE:

Same as "System Manager". Investigative data compiled for law enforcement may be exempt from the access provisions pursuant to 5 USC 552a(k)(2).

CONTESTING RECORD PROCEDURES:

Same as "Record Access Procedure".

RECORD SOURCE CATEGORIES:

These records contain information obtained from interviews, review of records and other authorized investigative techniques.

DOT/NHTSA 468

SYSTEM NAME:

New Jersey Novice Driver Evaluation Project.

SYSTEM LOCATION:

New Jersey Division of Systems and Communications, River Road, West Trenton, New Jersey.

CATEGORIES OF INDIVIDUALS COVERED BY THE SYSTEM:

Selected New Jersey drivers under the age of 20, during the period 1975 through 1983.

CATEGORIES OF RECORDS IN THE SYSTEM:

Driver license number, biographical imformation, DMV records, driver education/driver improvement records.

ROUTINE USES OF RECORDS MAINTAINED IN THE SYSTEM, INCLUDING CATEGORIES OF USERS AND THE PURPOSES OF SUCH USES:

The data will be used to evaluate the effectiveness of new Jersey's Probationary Driver Program in reducing the incidence of accidents and violations among novice drivers. Statistical comparisons will be made of group accident and violation rates to determine overall component effectiveness of the project. No use will be made of any single individual's data.

See Prefatory Statement of General Routine Uses.

POLICIES AND PRACTICES FOR STORING, RETRIEVING, ACCESSING, RETAINING, AND DISPOSING OF RECORDS IN THE SYSTEM:

STORAGE:

Records will be maintained on storage mediums of magnetic tape and disc.

RETRIEVABILITY:

Driver license number.

SAFEGUARDS:

Data will not be available to any public source. Records are maintained in a secure area with controlled access through the use of both an account number and an access privacy code.

RETENTION AND DISPOSAL:

All subject data will be retained until project termination. At that time, de-identified copies of the analysis file will be submitted to Office of Driver and Pedestrian Programs, NHTSA. Washington, D.C., and to other research organizations specifically requesting the de-identified data, as per NHTSA approval.

SYSTEM MANAGER(S) AND ADDRESS:

Contract Technical Manager, Demonstration Evaluation Division, NTS–12 400 7th Street, S.W. Washington, D.C. 20590.

NOTIFICATION PROCEDURE:

Same as above.

RECORDS ACCESS PROCEDURES:

See system manager.

CONTESTING RECORD PROCEDURES:

See system manager.

RECORD SOURCE CATEGORIES:

New Jersey: driver license records, State Police accident records, Municipal police accident reports, High school driver education records, Municipal Court reporting system, Probationary Driver program records.

DOT/NHTSA 469

SYSTEM NAME:

Survey on Low Damage Accidents Involving Bumpers.

SYSTEM LOCATION:

Westat Inc. 11600 Nebel Street Rockville, Maryland 20852

CATEGORIES OF INDIVIDUALS COVERED BY THE SYSTEM:

Selected automobile owners within continental United States.

CATEGORIES OF RECORDS IN THE SYSTEM:

Vehicle inventory, characteristics of incidents (i.e., object struck, point of contact on car, miles per hour, place, date, etc.), damage to property and/or people and exposure of car.

Authority

ROUTINE USES OF RECORDS MAINTAINED IN THE SYSTEM, INCLUDING CATEGORIES OF USERS AND THE PURPOSES OF SUCH USES:

Records will be used by NHTSA to evaluate the effectiveness of bumpers designed to meet the requirements of Federal Motor Vehicle Safety Standard 215 or Title I of the Motor Vehicle Information and Cost Savings Act in reducing vehicle damage in low-speed collisions.

See Prefatory Statement of General Routine Uses.

POLICIES AND PRACTICES FOR STORING, RETRIEVING, ACCESSING, RETAINING, AND DISPOSING OF RECORDS IN THE SYSTEM:

STORAGE:

Magnetic Tape

RETRIEVABILITY:

Serial number assigned to case.

SAFEGUARDS:

(a) Interviewers will keep completely confidential respondent identifiers and information collected.

(b) Survey instruments containing respondent identifiers will be stored in locked cabinets or locked room.

(c) Respondent identifiers will not be part of the machine record.

(d) Upon completion of the pilot study, respondent identifiers will be destroyed.

RETRIEVABILITY INFORMATION:

These records are retrieved by Name, Address, and Phone Number.

RETENTION AND DISPOSAL:

Upon completion of the pilot phase, respondent identifiers, i.e., names, addresses and telephone numbers will be destroyed. Survey instruments will be kept until the completion of the main survey and then destroyed. Records will be kept on tape and after completion of the main survey will be turned over to the Contact Technical Manager.

SYSTEM MANAGER(S) AND ADDRESS:

Contract Technical Manager, Office of Program Evaluation, National Highway Traffic Safety Administration, Room 5212, 400 7th Street, S.W., Washington, D.C. 20590.

NOTIFICATION PROCEDURE:

Department of Transportation, National Highway Traffic Safety Administration, Room 5301, 400 7th Street, S.W., Washington, D.C. 20590, *Attn:* Director, Office of Contracts and Procurement.

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RECORD ACCESS PROCEDURES:

Contact System Manager

CONTESTING RECORDS PROCEDURES:

Contact System Manager.

RECORD SOURCE CATEGORIES:

All of the information in the system will be supplied by the individual himself.

Changed Systems of Records

The following eight systems are republished totally because of substantial changes:

DOT/OST 024

SYSTEM NAME:

Parking Permit Application File, and Vanpooling Application Files, DOT/OST.

SYSTEM LOCATION:

Department of Transportation (DOT), Office of the Secretary (OST), Parking Management Office, M–444.3, 400 7th Street, SW., Room 2322, Washington, DC 20590. Federal Highway Administration, Ridesharing Branch, HHP–33, 400 7th Street, SW., Room 3311, Washington, DC 20590.

CATEGORIES OF INDIVIDUALS COVERED BY THE SYSTEM:

DOT parking permit holders (Washington, DC), DOT carpool members and DOT van-pooling applicants.

CATEGORIES OF RECORDS IN THE SYSTEM:

Parking permit application forms and vanpool application forms.

Authority

ROUTINE USES OF RECORDS MAINTAINED IN THE SYSTEM, INCLUDING CATEGORIES OF USERS AND THE PURPOSES OF SUCH USES:

Determine criteria for permit issuance, record change data, record garage violations and periodic review and revalidation. Used by parking management office personnel only. See Prefatory Statement of General Routine Uses. Vanpooling applicants are matched up as to area and work hours and records of vanpools are maintained.

POLICIES AND PRACTICES FOR STORING, RETRIEVING, ACCESSING, RETAINING AND DISPOSING OF RECORDS IN THE SYSTEM:

STORAGE:

Stored in lockable visible edge file in a security locked workroom.

RETRIEVABILITY:

Indexed sequentially by permit number; vanpool applications are alphabetical by name and organized for retrieval by "home-cell" numbers for areas.

SAFEGUARDS:

Only Parking Management Office personnel have access to these records; for vanpools only Public Transportation Management Office personnel have access to applications.

RETENTION AND DISPOSAL:

Record cards are retained for 3 years locally, sent to the Federal Records Center for 2 more years, and then destroyed.

SYSTEM MANAGER(S) AND ADDRESS:

For Parking Permit File: Chief, Transportation Branch, M–444, Department of Transportation, Office of the Secretary, Office of Administration Operations, 400 7th Street, SW., Room 2318, Washington, DC 20590. For Vanpooling Application File: Chief, Ride Sharing Branch, HHP–33, Federal Highway Administration, 400 7th Street, SW., Room 3311, Washington, DC 20590.

NOTIFICATION PROCEDURE:

Individual may review only his own application card upon presentation of valid DOT ID card at the addresses given under "System Location".

RECORD ACCESS PROCEDURES:

Same as Notification Procedure.

CONTESTING RECORD PROCEDURES:

No contest—individual can change recorded data at will.

RECORD SOURCE CATEGORIES:

Submitted by individual.

DOT/OST 050

SYSTEM NAME:

Emergency Alerting Schedules. DOT/OST.

SYSTEM LOCATION:

These records are located in the national headquarters of the Offices of the Secretary; the heads of operating elements, regional offices of the Regional Emergency Transportation Coordinators, the Regional Administrators, Directors and Commanders of the operating elements and in headquarters of operating element divisions, district commands, and other field offices of the Department.

CATEGORIES OF INDIVIDUALS COVERED BY THE SYSTEM:

Professional and clerical employees and military members of the U.S. Government, Directors—designate and Deputy Directors—designate and members of the National Defense Executive Reserve who have been given emergency billet assignments within the Department of Transportation Emergency Structure.

CATEGORIES OF RECORDS IN THE SYSTEM:

The Alerting Charts and Schedules show names and office and home telephone numbers of individuals in calling sequence and are listed by national headquarters and by regional offices; also contains similar listings designed for management convenience within DOT and the operating elements.

Authority

ROUTINE USES OF RECORDS MAINTAINED IN THE SYSTEM, INCLUDING CATEGORIES OF USERS AND THE PURPOSES OF SUCH USES:

For identification of individuals required to insure viability of DOT in the immediate preattack—transattack—postattack period of a national defense emergency. Available to the Secretarial Officers, heads of operating administrations or designated subordinates (national and regional) and to individuals listed.

See Prefatory Statement of General Routine Uses.

POLICIES AND PRACTICES FOR STORING, RETRIEVING, ACCESSING, RETAINING, AND DISPOSING OF RECORDS IN THE SYSTEM:

STORAGE:

Publication is maintained in stock, in listings in each office of record, and in standard filing equipment in locked file rooms.

RETRIEVABILITY:

Manually by position listing.

SAFEGUARDS:

Metal file containers or other standard office equipment secured in a locked file room during office duty hours.

RETENTION AND DISPOSAL:

Retained until republished then destroyed.

SYSTEM MANAGER(S) AND ADDRESS:

Director of Emergency Transportation, DPB–30, Department of Transportation, Office of the Secretary, 400 7th Street, SW, Washington, DC 20590.

NOTIFICATION PROCEDURE:

Inquiries may be addressed to any of the offices listed under "System Locations". Individuals requesting such information must sign the request personally and include in the text of the request, the card number of his or her Federal Emergency Assignee

Identification Card (CD Card) (SF 138) or other official identification card.

Alternatively, personal visits to the above locations with presentation of the above credentials will enable individual to learn of and have access to his or her record.

RECORD ACCESS PROCEDURES:

Individual may secure or obtain information on procedures for gaining access to records by (1) referral to the information sheet issued to him or (2) addressing a written query to the offices cited under System Location, (except the Facility Manager, FAA Records Center, West King Street and Maple Avenue, Martinsburg, WV 25401, who maintains duplicate files in storage only) or (3) presenting himself to those offices.

CONTESTING RECORD PROCEDURES:

Same as "Record Access Procedures".

RECORD SOURCE CATEGORIES:

Office or Agency of employment.

DOT/FAA 801

SYSTEM NAME:

Aircraft Registration System DOT/FAA.

SYSTEM LOCATION:

Aircraft Registration Branch, Aeronautical Center, Oklahoma City, OK 73125. Portions of these records are located in: General Aviation District Offices (GADO's). Air Carrier District Offices (ACDO's). Flight Standards District Offices (FSDO's).

CATEGORIES OF INDIVIDUALS COVERED BY THE SYSTEM:

This system identifies aircraft owners, partners, corporations, lien holders, operators, and lessees.

CATEGORIES OF RECORDS IN THE SYSTEM:

This system consists of a series of records that identify: Aircraft types. Current certification status and ownership of registered aircraft. Aircraft to be registered, or aircraft that have been registered and are now temporarily deregistered. These records contain information about: N—Number assignment. Airworthiness of aircraft. Bills of sale. Applications for certification of amateur aircraft. Major repairs and alterations maintenance inspection forms. Revalidation and use forms. Lien and collateral documents.

Authority

ROUTINE USES OF RECORDS MAINTAINED IN THE SYSTEM, INCLUDING CATEGORIES OF USERS AND THE PURPOSES OF SUCH USES:

To determine that aircraft are registered in accordance with the provisions of the Federal Aviation Act of 1958.

To support investigative efforts of investigation and law enforcement agencies of Federal, State, and foreign governments. To serve as a repository of legal documents used by individuals and title search companies to determine the legal ownership of an aircraft.

To provide aircraft owners and operators information about potential mechanical defects or unsafe conditions of their aircraft in the form of airworthiness directives.

To provide supporting information in court cases concerning liability of individual in law suits.

To serve as a data source for management information for production of summary descriptive statistics and analytical studies in support of agency functions for which the records are collected and maintained.

To respond to general requests from the aviation community or the public for statistical information under the Freedom of Information Act or to locate specific individuals or specific aircraft for accident investigation, violation, or other safety related requirements.

To provide data for the automated aircraft registration master file.

To provide documents for microfiche backup records.

To provide data for development of the aircraft registration statistical system.

To prepare an Aircraft Registry in magnetic tape and publication form required by ICAO agreement containing information on aircraft by registration number, type of aircraft, name and address of owners used for internal FAA safety program purposes. See Prefatory Statement of General Routine Uses.

POLICIES AND PRACTICES: FOR STORING, RETRIEVING , ACCESSING, RETAINING, AND DISPOSING OF RECORDS IN THE SYSTEM

STORAGE:

Records are maintained in file folders, magnetic tape, punch cards, and on microfiche.

RETRIEVABILITY:

Records are filed by registration number, but may be retrieved by name of the current individual aircraft owners.

SAFEGUARDS:

Records are stored in open shelves in a room that is open only to authorized employees and by special permission. Magnetic tapes are maintained in secure data processing area accessed by pass only. Backup copies of microfiche are kept in a fire proof vault and storage room.

RETENTION AND DISPOSAL:

Punch cards are kept on file in working area, destroyed after magnetic tape is complete. Microfiche is retained indefinitely. Aircraft registration files are retained until deregistered, held in N-Number file system for 2 years, then sent to storage in Fort Worth Federal Records Center. Destruction is not authorized.

SYSTEM MANAGER(S) AND ADDRESS:

For official agency records, contact: Chief, Aircraft Registration Branch, Aeronautical Center, Oklahoma City, OK73125. chief of the nearest GADO, ACDO, or FSDO.

NOTIFICATION PROCEDURE:

Individual owners of currently registered aircraft who wish to know if their records appear in this system of records may inquire in person or in writing to the System Manager.

RECORD ACCESS PROCEDURES:

Individual owners of currently registered aircraft who desire access to the information about themselves in this system of records should contact or address their inquiries to the System Manager.

CONTESTING RECORD PROCEDURES:

Individuals who desire to contest information about themselves contained in this system of records should contact or address their inquiries to the Administrator or his delegate, 800 Independence Avenue, SW, Washington, DC 20591.

RECORD SOURCE CATEGORIES:

Information is collected from individuals, manufacturers or aircraft, maintenance inspectors, mechanics, and FAA officials.

DOT/FAA 802

SYSTEM NAME:

Airman Certification System DOT/FAA.

SYSTEM LOCATION:

Airman Certification Branch, Aeronautical Center, Oklahoma City, OK 73125. Copies or temporary files are maintained in the originating General Aviation District Office (GADO), Air Carrier District Office (ACDO), or Flight Standards District Office (FSDO) until required action or certification is completed.

CATEGORIES OF INDIVIDUALS COVERED BY THE SYSTEM:

Individuals seeking to be certified, airmen seeking additional certifications or additional ratings, individuals denied certification, airmen holding inactive certificates, airmen who have had certificate revoked, and flight attendants engaged in international air transport.

CATEGORIES OF RECORDS IN THE SYSTEM:

Application for certification; written examination, application for written examination, results of written test, application for inspection authority, certificates held, ratings, stop orders.

AUTHORITY ROUTINE USES OF RECORDS MAINTAINED IN SYSTEM, INCLUDING CATEGORIES OF USERS AND THE PURPOSES OF SUCH USES:

To determine that airmen are certified in accordance with the provisions of the Federal Aviation Act of 1958. Repository of documents used by individual and potential employers to determine validity of airmen qualificatins. To support investigative efforts of investigation and law enforcement agencies of Federal, State, and local governments. Supporting information in court cases concerning individual status and/or qualifications in law suits. To provide data for the Comprehensive Airman Information System (CAIS). To provide documents for microfilm and microfiche backup records. To prepare an airman Directory in magnetic tape and paper form containing information on airmen by name, address, and certificate status used for internal FAA safety program purposes. To verify U.S. citizenship, certify qualified applicants, and provide them with a crew member certificate to be used in lieu of a passport in International Civil Aviation Organization member countries. To answer inquiries regarding crew member certification. The U.S. Department of State uses these applications and any supporting documents to verify U.S. citizenship. See Prefatory Statement of General Routine Uses.

POLICIES AND PRACTICES FOR STORING, RETRIEVING, ACCESSING, RETAINING, AND DISPOSING OF RECORDS IN THE SYSTEM:

STORAGE:

Records are maintained in microfilm, microfiche, magnetic disk, magnetic tape, file folders, and notebook listings.

RETRIEVABILITY:

Records are maintained in alphabetic order cross referenced with social security number and airman number.

SAFEGUARDS:

Records are stored in a data processing facility. Data are retrieved via a terminal, which requires operation numbers and individual passwords. Accessible only to limited numbers of authorized persons. Backup microfilm and microfiche are kept in locked vault.

RETENTION AND DISPOSAL:

Source documents are destroyed after being microfilmed and key punched. Magnetic tapes and disks are being continually updated, destruction is not authorized. Source document crew member certifications are in storage at the Fort Worth Federal Records Center, destruction not authorized.

SYSTEM MANAGER(S) AND ADDRESS:

For official FAA Certification Records, contact: Chief, Airman Certification Branch, Aeronautical Center, Oklahoma City, OK 73125 or request assistance from the originating GADO, ACDO, or FSDO.

NOTIFICATION PROCEDURE:

Individuals wishing to know if their records appear in this system of records may inquire in person or in writing to the System Manager.

RECORD ACCESS PROCEDURES:

Individuals who desire access to the information about themselves in this system of records should contact or address their inquiries to the System Manager.

CONTESTING RECORD PROCEDURES:

Individuals who desire to contest information about themselves contained in this system of records should contact or address their inquiries to the Administrator or his delegate, 800 Independence Avenue, SW, Washington, DC 20591.

RECORD SOURCE CATEGORIES:

The individual to whom the record pertains. Written test scores are derived from answers given by individuals. Action filed by FAA personnel.

DOT/FAA 806

SYSTEM NAME:

Federal Aviation Administration Employee Payable System DOT/FAA.

SYSTEM LOCATION:

Financial Systems and Accounting Operations Divisions, Washington, D.C., and each region and center accounting division. Working copies of certain of these records are held by the organizations employing the personnel and at emergency operations facilities.

CATEGORIES OF INDIVIDUALS COVERED BY THE SYSTEM:

Federal Aviation Administration employees and civilians who work for the United States Coast Guard.

CATEGORIES OF RECORDS IN THE SYSTEM:

This system contains those records required to insure that an employee receives his or her pay and benefits required by law. It includes Employee Master Record, Annual Leave Payroll Register, FAA Bond Deductions and Bond Issued, Union Dues, FICA Records, City Withholdings, State Withholdings, Federal Withholdings, Retirement, Leave Without Pay, Pay Scale, Contributions, Travel Orders, Travel Advances, Travel Vouchers, Time and Attendance, Overtime, claims relating thereto.

AUTHORITY:

ROUTINE USES OF RECORDS MAINTAINED IN THE SYSTEM, INCLUDING CATEGORIES OF USERS AND THE PURPOSES OF SUCH USES:

This System is used to: Calculate pay and allowances due to employees. Prepare annual report and reconcile with Gen. Ledger Accounts. Record permanent pay changes. Record temporary pay changes. Notify employees of pay adjustments processed. Record travel advances and allowances. List leave earned, taken, and/or lost and new balances for employees.Test run against Employee Master Record to reflect missing T&A cards of employees. Summarize earnings, deductions, and leave by pay periods, and produce statement for employee information. Provide management information on an as required, ad hoc basis. Produce history of checks and bonds to be issued and magnetic tape sent to Treasury for their issuance. Report dues deducted by individuals to unions. Report amounts withheld to credit financial institutions, charitable organizations, and professional associations. Quarterly summary of earnings and deductions. Adjudicate claims for reimbursements which are sent to GAO. Extract list of FICA employees for reporting earnings and deductions to IRS. Report State and local tax withholding to various States and local taxing authorities and to IRS. See Prefatory Statement of General Routine Uses.

POLICIES AND PRACTICES FOR STORING, RETRIEVING, ACCESSING, RETAINING, AND DISPOSING OF RECORDS IN THE SYSTEM:

STORAGE:

Records are stored on punch cards, magnetic tape, magnetic disk, microforms, and in file folders. Storage

is at the geographic location of the servicing accounting office and the central payroll operations facility.

RETRIEVABILITY:

Records are maintained by employee name and employee payroll number. Social Security Account Numbers are often used as the employee payroll number. Retrieval is often accomplished by use of telecommunications.

SAFEGUARDS:

Magnetic tape and disk files are kept with limited accessibility by agency personnel. Other files are retained mainly in unsecured work area but are locked during non-duty hours.

RETENTION AND DISPOSAL:

Employee retirement records are retained until such time as the employee leaves the agency whereupon these records are transferred to the CSC. Original payment vouchers and supporting documentation are usually retained on site for a period of three years, and then are stored in GSA Records Centers before destruction when ten years and three months old. Certain payroll records are retained permanently at the GSA National Personnel Records Center and others are destroyed after GAO audit or when no longer useful. See FAA Order 1350.15A for records in the 2710 and the 2730 series for specific details on individual records covered by this system.

SYSTEM MANAGER(S) AND ADDRESS:

Chiefs, Financial Systems and Accounting Operations Divisions, 800 Independence Avenue, SW, Washington, DC 20591. Chief, Accounting Division, Regional Office and Centers address listed in FAA National Field Directory, 1000.23G.

NOTIFICATION PROCEDURE:

Individuals wishing to know if their records appear in this system may inquire in person or in writing to the System Manager.

RECORD ACCESS PROCEDURES:

Individuals who desire access to the information about themselves in this system of records should contact or address their inquiries to the System Manager.

CONTESTING RECORD PROCEDURES:

Individuals who desire to contest information about themselves contained in this system of records should contact or address their inquiries to the Administrator or his delegate, 800 Independence Avenue, SW, Washington, DC 20591.

RECORD SOURCE CATEGORIES:

Data are collected from the individual employees, time and attendance clerks, and FAA Personnel Management Operations Divisions.

DOT/NHTSA 415

SYSTEM NAME:

Motor Vehicle Defects. DOT/NHTSA.

SYSTEM LOCATION:

Department of Transportation (DOT), National Traffic Safety Highway Administration (NHTSA), Office of Defects Investigation, 400 7th Street, SW, Room 5328, Washington, DC 20590. Sterling Systems, Inc., 4340 Connecticut Avenue, Washington, DC 20008. Informatics, Inc., 7926 Jones Branch Drive, Suite 272, McLean, VA 22101.

CATEGORIES OF INDIVIDUALS COVERED BY THE SYSTEM:

Vehicle owners.

CATEGORIES OF RECORDS IN THE SYSTEM:

Vehicle identification, vehicle problem, vehicle owner.

AUTHORITY:

ROUTINE USES OF RECORDS MAINTAINED IN THE SYSTEM, INCLUDING CATEGORIES OF USERS AND THE PURPOSES OF SUCH USES:

Check complaints about vehicle defects to spot trends, resulting in investigations of the vehicle model. See Prefactory Statement of General Routine Uses.

POLICIES AND PRACTICES FOR STORING, RETRIEVING, ACCESSING, RETAINING, AND DISPOSING OF RECORDS IN THE SYSTEM:

STORAGE:

Disc pack and paper file.

RETRIEVABILITY:

Identification number for each vehicle owner.

SAFEGUARDS:

Coded entry numbers.

RETENTION AND DISPOSAL:

Three years or indefinite.

SYSTEMS MANAGER(S) AND ADDRESS:

Chief, Information System Staff, Department of Transportation, National Highway Traffic Safety Administration, Office of Defects Investigation, 400 7th Street, SW, Washington, DC 20590.

NOTIFICATION PROCEDURE:

Write or visit the applicable address in "System Location" above.

RECORD ACCESS PROCEDURES:

Same as "System Manager" above.

CONTESTING RECORD PROCEDURES:

Same as "System Manager" above.

RECORD SOURCE CATEGORIES:

General public, State highway offices, insurance companies, vehicle manufacturers.

DOT/NHTSA 417

SYSTEM NAME:

National Driver Register (NDR). DOT/NHTSA.

SYSTEM LOCATION:

Department of Transportation (DOT), National Highway Traffic Safety Administration (NHTSA) Office of Driver and Pedestrian Programs National Driver Register Office, 2100 2nd Street, SW, Room 3506, Washington, DC 20590. Master file is located at: Transportation Computer Center, 400 7th Street, SW, Room 2401, Washington, DC 20590.

CATEGORIES OF INDIVIDUALS COVERED BY THE SYSTEM:

Persons who have had their driver's license denied, withdrawn, revoked or suspended as reported by State/Territorial driver licensing authorities.

CATEGORIES OF RECORDS IN THE SYSTEM:

NDR records include: the reporting jurisdiction, the subject's full name, other names used, date of birth, driver license number and/or social security number (if used by the reporting jurisdiction), sex, height, weight, eye color, the reason for withdrawal, the date of the withdrawal, and the date eligible for restoration of driving privilege or the date license was actually restored.

It should be noted that very frequently the physical data is not provided by the reporting agency.

AUTHORITY ROUTINE USES OF RECORDS MAINTAINED IN THE SYSTEM, INCLUDING CATEGORIES OF USERS AND THE PURPOSES OF SUCH USES:

Provide identification of drivers who have had their licenses withdrawn, suspended, revoked or otherwise denied in response to inquiries from State or Federal driver licensing agencies relative to driver license applicant.

See Prefatory Statement of General Routine Uses.

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POLICIES AND PRACTICES FOR STORING, RETRIEVING, ACCESSING, RETAINING, AND DISPOSING OF RECORDS IN THE SYSTEM:

STORAGE:

The NDR master file is maintained on magnetic tape. Source data; i.e., manual input (forms, letters) are retained in that form. Source data received on magnetic tape are converted into printed listings. All source data is batch filed.

RETRIEVABILITY:

The magnetic tape master file is indexed by surname and refined by program application of screening criteria involving given names, date of birth and physical charactistics. Source data batch files are indexed by the processing data as determined from test inquiry of the master file. A manual search of the appropriate batch is then required to access the specific record.

SAFEGUARDS:

The master file is kept in the Transportation Computer Center, a limited access area. The source data files are maintained in a building under surveillance of a 24 hour guard force. In addition, the spaces in which the files are maintained are equipped with lockable doors which are locked when vacated. All personnel have met the investigative requirements for secret classified matter. In addition, all NDR employees are orally briefed on NDR security requirements and their responsibilities.

RETENTION AND DISPOSAL:

Records of actions that have been cancelled or rescinded are purged from the file upon receipt of notification from the reporting jurisdiction. Other records are retained for seven or five years depending on the reason for withdrawal of the individual's license. Withdrawals for drunk driving, hit and run, fatal accident, felony and misrepresentation are retained for seven years. Records of "habitual offenders" as stipulated by certain states are retained indefinitely, unless otherwise requested by the reporting state. All other master file records are retained for five years. Source data files are retained for one year. Magnetic tape records are erased by degaussing, using 86db degaussing equipment, prior to disposing of the tapes. Paper source data reports of withdrawal are destroyed by shredding.

SYSTEM MANAGER(S) AND ADDRESS:

Chief, National Driver Register, National Highway Traffic Safety Administration, NTS–15 Department of Transportation, Washington, DC 20590.

NOTIFICATION PROCEDURE:

Mailed inquiries should be addressed as above under "System Manager." For inquiries made in person, the inquirer should present himself at the National Driver Register office at the following location: 2100 2nd Street, SW, Room 3506, Washington, DC. In order to conduct a file search the requesting party must provide: Full legal name, Other names used (nickname, professional name, maiden name), Date of birth, Sex, Height, Weight, Color of eyes, Social security number and/or driver license number (provision of the social security number is voluntary). In addition, although not mandatory, it would help to more positively identify any records we may have concerning the inquirer if the following information is included: The reason his/her driver license was withdrawn or denied. The date of the action. The State which took the action. An inquirer presenting himself/herself in person should have at least two means of identification sufficient to reasonably insure that he/she is who he/she purports to be. For mailed inquiries the foregoing identification elements should be included in the form of a notarized affidavit and addressed to the System Manager.

RECORD ACCESS PROCEDURES:

An individual desiring to obtain information on procedures to obtain his or her record(s) should contact the Chief, National Driver Register, at the address under "System Manager" above.

CONTESTING RECORD PROCEDURES:

To obtain information on procedures to contest records one should contact the Chief, National Driver Register, at the address in "System Manager" above.

With regard to contesting records it must be realized that the file is made up of State records. As such, these can only be changed or corrected by the reporting State. The records in the Driver Register file are changed only when advised by the originating jurisdiction.

RECORD SOURCE CATEGORIES:

The records comprising the National Driver Register file are provided by States, District of Columbia, Puerto Rico, Canal Zone, Virgin Islands and Guam driver licensing administrators or the agency within the jurisdictions responsible for such records.

DOT/NHTSA 461

SYSTEM NAME:

Hotline-Call Report System. DOT/NHTSA.

SYSTEM LOCATION:

Department of Transportation (DOT), National Highway Traffic Safety Administration (NHTSA) Office of Defects Investigation, 400 7th Street, SW, Room 5328, Washington, DC 20590.

CATEGORIES OF INDIVIDUALS COVERED BY THE SYSTEM:

Vehicle owners according to make/model/year of motor vehicles owned, and/or according to safety information requested.

CATEGORIES OF RECORDS IN THE SYSTEM:

System contains: Vehicle defect-related owner complaints or information. Vehicle or equipment failure-related complaints or information. Inquiry groupings according to types of safety-related information or written source-materials requested.

ROUTINE USES OF RECORD MAINTAINED IN THE SYSTEM INCLUDING CATEGORIES OF USERS AND THE PURPOSES OF SUCH USES:

System is used to indicate emerging patterns of vehicle or vehicle equipment failure, and/or to correlate such patterns with typographical or geographical regions, in order to support defect-related NHTSA investigations and vehicle recall actions as authorized by statute. Individuals may be contacted to verify the accuracy of the information initially provided. System is also used to categorize the types of informational requests and safety-related materials most requested and/or needed by all users of the Hotline service. System is also used to generate statistical evaluation of Hotline-call volume, frequency, service rendered, degree of safety-related information recorded and utilized as a result of the Hotline's installation. Records may be disclosed to other Federal or State agencies or consumer groups having remedial or response jurisdiction over the individual complaint recorded. See Prefatory Statement of General Routine Uses.

POLICIES AND PRACTICES FOR STORING RETRIEVING, ACCESSING, RETAINING AND DISPOSING OF RECORDS IN THE SYSTEM:

STORAGE:

On hard copy and magnetic tape.

RETRIEVABILITY:

By name and case number.

SAFEGUARDS:

Appropriate ADP procedures for safeguarding data are utilized with the system.

RETENTION AND DISPOSAL:

System is maintained in support of an experimental "pilot" program. Hence, length of record retention is now unknown. Destruction, when authorized, will be by shredder (hard copy) and by deletion (magnetic tape).

SYSTEM MANAGER(S) AND ADDRESS:

Chief, Office of Consumer Services, Department of Transportation, National Highway Traffic Safety Administration, 400 7th Street, SW, Washington, DC. 20590.

NOTIFICATION PROCEDURE:

Department of Transportation, National Highway Traffic Safety Administration Chief, Office of Consumer Services, 400 7th Street, SW, Room 5232, Washington, DC 20590.

RECORD ACCESS PROCEDURES:

Same as listed under "Notification Procedure" above.

CONTESTING RECORD PROCEDURES:

Same as listed under "Notification Procedure" above.

RECORD SOURCE CATEGORIES:

All information in the system is voluntarily submitted by vehicle owners, individual citizens, or other interested parties.

[FR Doc. 79-15095 Filed 5-14-79; 8:45 am]

BILLING CODE 4910-62-M

DEPARTMENT OF TRANSPORTATION

Federal Highway Administration

Tolls on Bridges Owned by Delaware River Port Authority; Final Order of the Administrator

On March 20, 1979, the Administrator issued an Order in this matter concerning an increase in tolls on bridges owned by the Delaware River Port Authority (DRPA) which held, following a review by a Federal Highway Administration (FHWA) Investigation Team, that there are no material factual issues outstanding which would necessitate a full administrative hearing and the toll schedule adopted by DRPA on February 1, 1978, is reasonable and just. The complaints filed by the Automobile Club of Southern New Jersey (Auto Club), Mr. Henry Ward, Mr. Harry Wilson, Mr. John T. Chesluk, and Mr. David Creskoff were thereby dismissed.

Parties to the proceedings were given 20 days to petition the Administrator for reconsideration of the March 20, 1979, Order.

The Administrator has received one petition for reconsideration submitted by the Auto Club. The Auto Club states:

> By its own admission, the Delaware River Port Authority (DRPA) had in excess of $24 million of surplus on December 31, 1978, which clearly belies the need for a toll increase to produce $3.5 million. The $24 million surplus was never mentioned in the Investigation Team's report and is clearly far more money than the DRPA needs.

Two things can be said about this statement. First, we do not see how or where DRPA has admitted to a $24 million surplus. There is no evidence in the record to indicate such "surplus." The Investigation Team Report was filed with the Administrator on November 15, 1978, and hence the record was closed. Second, the term "surplus" can be interpreted in different ways. The Auto Club has not indicated whether this term is intended to mean funds in excess of operating expenses or funds in excess of all foreseeable obligations, including a reasonable reserve.

Therefore, the Administrator cannot accept the Auto Club's unsubstantiated statement that the DRPA had a $24 million surplus on December 31, 1978.

The Administrator stands by his finding in his March 20, 1979, Order which concludes that, according to Figure 4 of Attachment 6 of the Investigation Team's Report, that the equity balances of the DRPA reserves would be substantially decreased without this toll increase.

The Auto Club also argues that "if the toll increase is denied, additional funds (for PATCO operations) in the form of State subsidies will be available," saying further that "the time has come for the Administrator to demand fairness and equity in this treatment by New Jersey and deny a toll increase, forcing operating subsidies to be awarded for support of PATCO." This argument was fully covered by the March 20, 1979, Order when the Administrator stated:

> To require the DRPA to exhaust its reserves to take care of apparent reasonable long-range capital maintenance expenses on the rare chance of forcing the State or Federal Governments to come forward with additional funds to subsidize the PATCO deficits is a gamble that the Administrator cannot ask DRPA to take.

What the Auto Club's argument boils down to is that the Auto Club feels it is better to require New Jersey taxpayers and Federal taxpayers to subsidize PATCO instead of the South Jersey commuter. The Administrator doubts that the New Jersey taxpayer or the Federal taxpayer would see any fairness or equity in such an arrangement, and neither does the Administrator. So long as the bridge tolls do not place an undue burden on the South Jersey commuter (or anyone else for that matter) whose tolls in part subsidize the PATCO line, the Administrator cannot agree that fairness and equity demands denial of the toll increase in order to force State or Federal subsidies for the PATCO line.

Therefore, the petition for reconsideration by the Auto Club is hereby denied and the Administrator affirms his March 20, 1979, Order finding that there is no need for a full administrative hearing, and further that the toll schedule adopted by DRPA on February 1, 1978, is reasonable and just.

It is further found that in accordance with the Toll bridge Procedural Rules, 49 CFR 310.16, this Order shall be in effect for a period of 3 years, measured from February 1, 1978, the date the new toll rates went into effect.

It is so ordered.

Issued this 8th day of May, 1979.

Karl S. Bowers,
Federal Highway Administrator.

[Docket No. 78-15T]

[FR Doc. 79-15110 Filed 5-14-79; 8:45 am]

BILLING CODE 4910-22-M

DEPARTMENT OF THE TREASURY

Bureau of Alcohol, Tobacco, and Firearms

Authorities of the Director in 27 CFR Part 201, Distilled Spirits Plants; Delegation Order

1. *Purpose.* This order delegates certain authorities, now vested in the Director by regulations in 27 CFR Part 201, to the Assistant Director (Regulatory Enforcement), and provides for redelegation to Regulatory Enforcement personnel, Headquarters and field.

2. *Change.* This delegation order is being changed to allow for certain authorities, relating to the establishment and operation of plants producing alcohol fuels, to be delegated to the regional level. These authorities are outlined in paragraph 5e of this order. [This delegation order was previously published in the Federal Register of February 22, 1978, (43 FR 7387) without this change.]

3. *Background.* Under current regulations, the Director has authority to take final action on matters relating to the approval of activities at regulated plants. It has been administratively

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determined that certain authorities now vested in the Director by regulations in 27 CFR Part 201, Distilled Spirits Plants, belong at and should be delegated to a lower organizational level.

4. *Delegations.* Pursuant to the authority vested in the Director, Bureau of Alcohol, Tobacco and Firearms, by Treasury Department Order No. 221, dated June 6, 1972, and by 26 CFR 301.7701–9, there is hereby delegated to the Assistant Director (Regulatory Enforcement) the authority to take final action on the following matters relating to 27 CFR Part 201, Distilled Spirits Plants:

a. To prescribe all forms required by regulations, under 27 CFR 201.61; and to prescribe certain forms which are provided by users at their own expense, under 27 CFR 201.613.

b. To approve applications for:

(1) Alternate methods, procedures, or operations, including alternate construction or equipment in lieu of methods or procedures specifically prescribed in regulations, under 27 CFR 201.62(a).

(2) Emergency variations from requirements for construction, equipment, and methods of operations, under 27 CFR 201.62(b).

c. To withdraw authorization of any alternate method or procedure or any variation whenever the revenue is jeopardized or the effective administration of the regulations is hindered by the continuation of such authorization or variation, under 27 CFR 201.62.

d. To waive any provision of law and regulations for temporary pilot or experimental operations, and to designate any plant for such operations, under 27 CFR 201.63.

e. To waive any provision of law and regulations to effectuate the purposes of 26 U.S.C. 5312(b), and to authorize and approve, pursuant to written application, the establishment and operation of experimental distilled spirits plants, under 27 CFR 201.64 and 27 CFR 201.65.

f. To determine the nonpotability of a by-product, to waive any provision of law and regualtions, and to approve applications for waiver of requirements, under 27 CFR 201.66.

g. To authorize the carrying on of other businesses on premises of distilled spirits plants, under 27 CFR 201.67.

h. To temporarily exempt a proprietor of any plant from provisions of law and regulations by reason of disaster, under 27 CFR 201.69.

i. To require the discontinuance of the use of storage facilities and to require supervision of spirits to be transferred, under 27 CFR 201.71.

j. To waive any provision of law and regulations to effectuate the purposes of 26 U.S.C. 5312(a); to authorize and approve, pursuant to written application, experimental or research operations by scientific institutions and colleges of learning; and to require the filing of bonds and any additional information and the submission of records, under 27 CFR 201.72.

k. To approve the use of meters or other devices or methods for controlling the denaturation of spirits, under 27 CFR 201.90.

l. To authorize the use of meters or other devices or methods for volumetrical measurement of spirits (including denatured spirits) or wines, under 27 CFR 201.91.

m. To approval all seals, locks, or other devices, that are to be used on conveyances in which spirits are transferred in bond, withdrawn free of tax, or withdrawn without payment of tax, under 27 CFR 201.100(b)(1).

n. To approve applications to establish a warehouse without regard to the minimum storage requirements, and to limit the type of operations to be conducted and any expansion or changes thereto, udner 27 CFR 201.112.

o. To authorize regional regulatory administrators to approve registrations of plants with separated areas, under 27 CFR 201.117.

p. To approve other materials and methods for plats and plans, under 27 CFR 201.155.

q. To approve applications by successors to adopt the approved ATF F 27-B Supplemental, Formula and Process for Rectified Products, of predecessors, under 27 CFR 201.65.

r. To approve meters, other devices, methods, or manner for safeguarding the security of the closed distilling system and the protection of processing equipment, under 27 CFR 201.240.

s. To approve:

(1) Other devices, methods or other means to secure openings in tanks and to control the flow of spirits in and out of tanks on bonded or bottling premises, under 27 CFR 201.243 (b) and (c).

(2) Fences or walls to enclose tanks on bonded premises used as receptacles for spirits, under 27 CFR 201.243(b).

t. To approve pipelines which may not be readily examined, under 27 CFR 201.244.

u. To approve other methods for identification of pipelines, under 27 CFR 201.245.

v. To approve other measuring devices for weighing or measuring materials, spirits (including denatured spirits), and denaturants, under 27 CFR 201.246.

w. To approve:

(1) Meters, other methods or other devices (comparable in accuracy and security to meters) to accurately determine the production gauge of spirits and the total quantity filled into containers, under 27 CFR 201.269(a), (c), and (d).

(2) The manner and type of governmental supervision of proprietors' production gauges, under 27 CFR 201.269(d).

x. To approve other methods for determining the quantities of chemical by-products produced, under 27 CFR 201.277.

y. To authorize the spirits content of chemicals to exceed 10 percent by volume including chemical by-products of spirits produced, and to approve methods to test chemicals for spirits content, under 27 CFR 201.276.

z. To approve:

(1) Meters or other devices to measure and control the flow of spirits into and out of storage tanks or other containers which permit a determination of the quantity being deposited and removed, under 27 CFR 201.291 (b) and (c).

(2) Applications to store packages and cases in any manner which adequately safeguards the interests of the Government, under 27 CFR 201.291(c).

aa. To waive the requirement of showing information on labels, under 27 CFR 201.331.

bb. To approve applications and issue permits on ATF F 1444, Tax-Free Spirits for Use of United States, for the procurement of spirits for use by the United States or a governmental agency, to receive evidence of authority to sign for the head of a department or independent bureau or agency, and to cancel permits returned by a governmental agency, under 27 CFR 201.391.

cc. To authorize the disposition of excess spirits in the possession of a governmental agency, under 27 CFR 201.392.

dd. To require the testing of approved synthetic oils or essential oils or pure chemicals or other denaturants, under 27 CFR 201.404.

ee. To approve meters or other devices for measurement of spirits and denaturants, under 27 CFR 201.407.

ff. To authorize other methods for adding denaturants to spirits, and to require a flow diagram of the intended process or method of adding denaturants, under 27 CFR 201.408.

gg. To approve the conversion and use of specially denatured alcohol, under 27 CFR 201.411.

hh. To approve ATF F 27–B Supplemental and to require a diagram, drawing or other pictorial depiction of process, under 27 CFR 201.422.

ii. To approve ATF F 27–B Supplemental and riders to the formulas, and to accept surrender of original formulas, under 27 CFR 201.425.

jj. To approve ATF F 27–B Supplemental, under 27 CFR 201.443.

kk. To waive the requirement of showing information on labels to be affixed to bottles containing spirits bottled for export, under 27 CFR 201.467.

ll. To approve other types of containers or the use of containers made of other materials, under 21 CFR 201.501.

mm. To approve the use of bulk conveyances for withdrawal of spirits free of tax to a specified consignee, under 27 CFR 201.507.

nn. To approve applications to locate the required marks on a container at a place other than that prescribed by regulations, and to approve other durable methods of marking and branding, under 27 CFR 201.515.

oo. To approve applications for other designations and branding of distilled spirits for which a designation is not prescribed, under 27 CFR 201.517(c).

pp. To approve other extraneous matter to be printed on caution labels, under 27 CFR 201.523.

qq. To approve applications for designs or other marks to be placed on the Government side of cases, under 27 CFR 201.527(b), 27 CFR 201.528(b), 27 CFR 201.529(b), and 27 CFR 201.530.

rr. To approve, pursuant to applications accompanied by specimen bottles or acceptable models or representations, distinctive liquor bottles which are found not to afford a jeopardy to the revenue and which are suitable for the intended purpose, under 27 CFR 201.540d.

ss. To approve applications to receive and reuse liquor bottles, under 27 CFR 201.540f.

tt. To disapprove for use as a liquor bottle any bottle which is determined to be deceptive, under 27 CFR 201.540i.

uu. To require the State of distillation to be shown on labels or to permit other labeling to negate any misleading or deceptive impressions, under 27 CFR 201.540o.

vv. To approve overprinting strip stamps with the class and type of product or with an appropriate abbreviation or symbol, under 27 CFR 201.541.

ww. To authorize labels or State stamps to be affixed to containers so as to partially obscure strip stamps, and to approve the use of any cup, cap or seal after receiving a sample of the closure and container, under 27 CFR 201.545.

xx. To approve applications to modify and use certain prescribed forms, and to withdraw the use of such forms, under 27 CFR 201.614.

yy. To approve processes for reproducing records and the type of records to be reproduced, under 27 CFR 201.616.

zz. To approve applications to estimate the weight or volume of non-liquid distilling materials, under 27 CFR 201.618.

5. *Redelegation.*

a. The authorities in paragraphs 4a through 4p, in paragraphs 4r through 4gg, and in paragraphs 4kk through 4zz above, may be redelegated to Regulatory Enforcement personnel in Bureau Headquarters not lower than the position of branch chief.

b. The authorities in paragraphs 4g, 4hh, 4ii, and 4jj above, may be redelegated to Regulatory Enforcement personnel in Bureau Headquarters, not lower than the position of ATF specialist (GS–11).

c. The authorities in paragraphs 4b(2), 4g, 4h, 4i, 4o, 4p, 4s(2), 4t, 4u, 4w(2), 4z(2), 4cc, 4mm, 4ss, 4vv, 4ww, and 4zz above, may be redelegated to regional regulatory administrators, who may redelegate these authorities to regional Regulatory Enforcement personnel not lower than the position of chief, technical services, or area supervisor.

d. The authorities in paragraphs 4k, 4l, 4r, 4s(1), 4v, 4w(1), 4z(1), 4ee, 4ff, and 4yy above, may be redelegated to regional regulatory administrators for approval of identical meters, devices, methods or materials, and processes for reproducing records and the types of records to be reproduced, which have been previously approved in Bureau Headquarters. Regional regulatory administrators may redelegate these authorities to regional Regulatory Enforcement personnel not lower than the position of chief, technical services, or area supervisor.

e. With respect to alcohol fuel plants, the authorities in paragraphs 4b(1), 4e, and 4j may be redelegated to the regional regulatory administrator, who may redelegate the authority in 4b(1) to regional Regulatory Enforcement personnel not lower than chief, technical services.

Effective date: May 9, 1979.

Signed: May 9, 1979.

G. R. Dickerson,
Director.

[Notice No. 79–12; Reference: ATF O 1100.6A–Change 1]
[FR Doc. 79–15131 Filed 5–14–79; 8:45 am]
BILLING CODE 4810–31–M

VETERANS ADMINISTRATION

Ambulatory Care Addition at VAMC, Tuskegee, Ala.; Finding of No Significant Impact

The proposed project will correct space criteria deficiencies in the existing outpatient clinic at the Veterans Administration Medical Center, Tuskegee, Alabama. This action proposes the correction of space criteria deficiencies in the existing outpatient clinic. The project will provide a new one-story addition to the south face of Wing 3A in the main hospital building. Building No. 17 will be demolished as part of this project to provide a potential site for Project No. 680–060, Renovate/Replace Building No. 62.

Natural resources and environmental factors will not experience any discernible impact as a result of this project. An analysis of all environmental factors related to the proposed project indicates a Finding of No Significant Impact.

The assessment is being placed for public examination in the Veterans Administration Office of Washington, D.C. Persons wishing to examine a copy of the document may do so at the following office: Mr. Willard Sitler, Director, Environmental Affairs Office (66), Room 950, Veterans Administration, 1425 K Street, NW., Washington, D.C., (202–389–2526).

Questions and requests for single copies of the Environmental Assessment should be addressed to:

Director, Environmental Affairs Office (66), Veterans Administration, 810 Vermont Avenue, NW., Washington, D.C. 20420.

Dated: May 8, 1979.

By direction of the Administrator.

Maury S. Cralle, Jr.,
Assistant Deputy Administrator for Financial Management and Construction.

[FR Doc. 79–15086 Filed 5–14–79; 8:45 am]
BILLING CODE 8320–01–M

Ambulatory Care Addition at VAMC, Altoona, Pa.; Finding of No Significant Impact

The proposed project provides for the construction of an Ambulatory Care Addition at the Veterans Administration Medical Center, Altoona, Pennsylvania. The proposed construction will consist of a new

building additon with two floors. The structure will contain approximately 19,800 net square feet of space.

The project will have definite impacts on the human and natural environment as they affect existing vegetation, soil erosion and stabilization, and noise levels. Mitigating actions include implementation of erosion control measures, rock and foundation stabilization measures and specific onsite noise abatement measures. Site grading will be minimized and landscape planting will be provided for. An analysis of all environmental factors related to the proposed project indicates a Finding of No Significant Impact.

The assessment is being placed for public examination in the Veterans Administration office of Washington, D.C. Persons wishing to examine a copy of the document may do so at the following office: Mr. Willard Sitler, Director, Environmental Affairs Office (66), Room 950, Veterans Administration, 1425 K Street, N.W., Washington, D.C., (202–389–2526).

Questions and requests for single copies of the Environmental Assessment should be addressed to:

Director, Environmental Affairs Office (66), Veterans Administration, 810 Vermont Avenue, NW., Washington, D.C. 20420.

Dated: May 8, 1979.

By direction of the Administrator.

Maury S. Cralle, Jr.,

Assistant Deputy Administrator for Financial Management and Construction.

[FR Doc. 79-15097 Filed 5-14-79; 8:45 am]

BILLING CODE 8320-01-M

Outpatient Clinic at VAM & ROC, White River Junction, Vt.; Finding of No Significant Impact

The proposed project provides for the design and construction of an Outpatient Clinic at the Veterans Administration Medical and Regional Office Center, White River Junction, Vermont. This action will correct inadequate existing ambulatory care facilities by construction of a new three-story 43,000 gross square feet addition to Building No. 1 for Ambulatory Care and other clinical and support related functions. The addition will directly connect to the existing corridors between Building Nos. 1 and 8. Two additional floors may be constructed in the future, thereby matching the existing roof line of Building No. 1.

Short term impacts, as a result of the project, are associated with the construction phase. Mitigating actions include noise abatement and adequate construction methods. An analysis of all environmental factors related to the proposed project indicates a Finding of No Significant Impact.

The assessment is being placed for public examination in the Veterans Administration office of Washington, D.C. Persons wishing to examine a copy of the document may do so at the following office: Mr. Willard Sitler, Director, Environmental Affairs Office (66), Room 950, Veterans Administration, 1425 K Street, N.W., Washington, D.C. (202–389–2526).

Questions and requests for single copies of the Environmental Assessment should be addressed to:

Director, Environmental Affairs Office (66), Veterans Administration, 810 Vermont Avenue, NW., Washington, D.C. 20420.

Dated: May 8, 1979.

By direction of the Administrator.

Maury S. Cralle, Jr.,

Assistant Deputy Administrator for Financial Management and Construction

[FR Doc. 79-15096 Filed 5-14-79; 8:45 am]

BILLING CODE 8320-01-M

INTERSTATE COMMERCE COMMISSION

Assignment of Hearings

May 10, 1979.

Cases assigned for hearing, postponement, cancellation or oral argument appear below and will be published only once. This list contains prospective assignments only and does not include cases previously assigned hearing dates. The hearings will be on the issues as presently reflected in the Official Docket of the Commission. An attempt will be made to publish notices of cancellation of hearings as promptly as possible, but interested parties should take appropriate steps to insure that they are notified of cancellation or postponements of hearings in which they are interested.

No. 37132, United States Steel Corporation v. Louisville & Nashville, Railroad Company, now being assigned for Prehearing Conference on June 5, 1979, at the Offices of the Interstate Commerce Commission, Washington, D.C.

No. 37095, Arthur Goldweig, et al. v. Transport of New Jersey, et al., now being assigned for continued hearing on the 14, of May 1979, followed by evening session, at the Marlboro Municipal Office's Meeting Room, Route 79 Tennent Road, Marlboro Township, Marlboro, New Jersey.

No. 36438, Providence and Wocester Company v. Robert Merserve and Benjamin H. Lacy, Trustees for Boston and Main Corporation, Debtor, Consolidated Rail Corporation, And Robert W. Blanchette, Richard C. Bond, And John H. McArthur, Trustees For Penn Central Transportation Company, Debtor, now being assigned for Prehearing conference on May 22, 1979, at the Offices of the Interstate Commerce Commission, Washington, D.C.

MC 103926 (Sub-72F), W. T. Mayfield Sons Trucking Co., now assigned for hearing on May 17, 1979, at Birmingham, AL, is postponed indefinitely.

MC 2368 (Sub-84F), Bralley-Wallet Tank Lines, Inc., now assigned for hearing on June 6, 1979, at Richmond, VA, is postponed to June 26, 1979, (3 days), at Richmond, Va, in a hearing room to be later designated.

MC 115904 (Sub-106F), Grover Trucking Co., application dismissed.

MC 30844 (Sub-633F), Kroblin Refrigerated Express, Inc., application dismissed.

MC 116004 (Sub-49F), Texas Oklahoma Express, Inc., now assigned for continued hearing on June 26, 1979, (4 days), at Wichita, KS., will be held at Best Western, Canterbury Inn, 5805 W. Kellogg.

MC 145355F, John Murray's Motor Tours, Inc., now assigned for hearing on May 22, 1979, (3 days), at Wilkes Barre, PA., will be held in Court Room No. 2, U.S. Post Office & Courthouse Building, 197 S. Main Street.

MC 95540 (Sub-1031), Watkins Motor Lines, Inc., now assigned for hearing on June 13, 1979, (3 days), at Chicago, IL., will be held in Room 1319, Everett McKinley Dirksen Bldg., 219 S. Dearborn St.

MC 61231 (Sub-129F), Easter Enterprise, Inc. DBA Ace Lines, Inc., now assigned for hearing on June 11, 1979, (2 days), at Chicago, IL., will be held in Room 1319, Everett McKinley Dirksen Bldg., 219 S. Dearborn St.

MC 145137F, Eight Way Express, Inc., now assigned for hearing on June 6, 1979, (3 days), at Chicago, IL., will be held in Room 1319, Everett McKinley Dirksen Bldg., 219 S. Dearborn St.

MC 106119 (Sub-106F), E. L. Murphy Trucking Company, now assigned for hearing on June 18, 1979, (3 days), at St. Paul, MN., in a hearing room to be later designated.

MC 127811 (Sub-15F), Brynwood Transfer, Inc., now assigned for hearing on June 21, 1979, (2 days), at St. Paul, MN., in a hearing room to be later designated.

MC 95876 (Sub-254F), Anderson Trucking Service, Inc., now assigned for hearing on July 19, 1979, (2 days), at St. Paul, MN., in a hearing room to be later designated.

MC 111545 (Sub-266F), Home Transportation Company, Inc., now assigned for hearing on July 23, 1979, (3 days), at St. Paul, MN., in a hearing room to be later designated.

MC 115826 (Sub-362F), W. J. Digby, Inc., now assigned for hearing on July 26, 1979, (1 day), at St. Paul, MN., in a hearing room to be later designated.

MC 30644 (Sub-632F), Kroblin Refrigerated Express, Inc., now assigned for hearing on July 27, 1979, (1 day), at St. Paul, MN., in a hearing room to be later designated.

MC-F-13723, Denver-Midwest Motor Freight, Inc—Control Merger—Load And Go Truck Line, MC-127602 (Sub-No. 17F), Denver Midwest Motor Freight, Inc., now assigned for hearing on September 10, 1979 (1 week), at Phoenix, AZ., is postponed and continued to September 17, 1979 (1 week), at Denver, CO., in a hearing room to be later designated.

MC 120257 (Sub-41), K. L. Breeden & Sons, Inc., now assigned for hearing on May 15, 1979, (2 days), at Birmingham, AL., is canceled and application dismissed.

H. G. Homme, Jr.,

Secretary.

[Notice No. 85]

[FR Doc. 79-15154 Filed 5-14-79; 8:45 am]

BILLING CODE 7035-01-M

Fourth Section Application for Relief

May 10, 1979.

This application for long-and-short-haul relief has been filed with the I.C.C.

Protests are due at the I.C.C. on or before May 30, 1979.

ESA No. 43694, Yangming Marine Transport Corporation No. 1, intermodal rates on general commodities in containers, from rail carriers terminals on the United States Atlantic Coast to ports in the Far East by way of Gulf Coast interchange points, in its Tariff No. 1, ICC 1. Grounds for relief water competition.

By the Commission.

H. G. Homme, Jr.,

Secretary.

[FR Doc. 79-15186 Filed 5-14-79; 8:45 am]

BILLING CODE 7035-01-M

Motor Carrier Temporary Authority Applications

May 4, 1979.

The following are notices of filing of applications for temporary authority under Section 210a(a) of the Interstate Commerce Act provided for under the provisions of 49 CFR 1131.3. These rules provide that an original and six (6) copies of protests to an application may be filed with the field official named in the **Federal Register** publication no later than the 15th calendar day after the date the notice of the filing of the application is published in the **Federal Register.** One copy of the protest must be served on the applicant, or its authorized representative, if any, and the protestant must certify that such service has been made. The protest must identify the operating authority upon which it is predicated, specifying the "MC" docket and "Sub" number and quoting the particular portion of authority upon which it relies. Also, the protestant shall specify the service it can and will provide and the amount and type of equipment it will make available for use in connection with the service contemplated by the TA application. The weight accorded a protest shall be governed by the completeness and pertinence of the protestant's information.

Except as otherwise specifically noted, each applicant states that there will be no significant effect on the quality of the human environment resulting from approval of its application.

A copy of the application is on file, and can be examined at the Office of the Secretary, Interstate Commerce Commission, Washington, D.C., and also in the ICC Field Office to which protests are to be transmitted.

Note.—All applications seek authority to operate as a common carrier over irregular routes except as otherwise noted.

Motor Carriers of Property

MC 26825 (Sub-31TA), filed February 28, 1979. Applicant: ANDREWS VAN LINES, INC., P.O. Box 1609, Norfolk, NE 68701. Representative: Bradford E. Kistler, P.O. Box 82028, Lincoln, NE 68501. *Furniture,* from Burlington, IA, to points in CA, UT, CO, OK, TX, AR, LA, KY, TN, MS, AL, GA, FL, ND, SD, NE, KS, NM, WY, MT, ID, AZ, and NV, for 180 days. An underlying ETA seeks 90 days authority. Supporting shipper(s): Robert E. Eaton, Lehigh-Leopold Division of Litton Industries, Inc., 2825 Mount Pleasant Street, Burlington, IA 52601. James H. Vaughan, Chittenden & Eastman Company, 123 South Third St., Burlington, IA 52601. Send protests to: Carroll Russell, ICC, Suite 620, 110 No. 14th St., Omaha, NE 68102.

MC 26825 (Sub-32TA), filed March 1, 1979. Applicant: ANDREWS VAN LINES, INC., Seventh & Park Ave., Box 1609, Norfolk, NE 68701. Representative: Steven K. Kuhlmann, P.O. Box 82028, Lincoln, NE 68501. *Such commodities as are dealt in by manufacturers of metal tool and utility boxes, tool chests, medical cabinets, benches and shelves (except commodities in bulk),* from the facilities of Waterloo Industries, Inc., located at or near Waterloo, IA; Pocahontas, AR; Sedalia, MO; and the facilities of Lumidor Manufacturing, Inc., located at or near Los Angeles, CA to points in the United States, for 180 days. An underlying ETA seeks 90 days authority. Supporting shipper(s): Frank Bescher, Waterloo Industries, Inc., P.O. Box 209, Waterloo, IA. Send protests to: Carroll Russell, ICC, Suite 620, 110 No. 14th St., Omaha, NE 68102.

MC 40494 (Sub-13TA), filed March 13, 1979. Applicant: HILBURN TRUCKING, INC., 19401 East 39th Street, Independence, MO 64057. Representative: S. Harrison Kahn, Jeremy Kahn, Attorneys-at-Law, Suite 733 Investment Building, Washington, D.C. 20005. *SUCH COMMODITIES AS ARE DEALT IN BY AGRICULTURAL EQUIPMENT DEALERS,* from the facilities of Deere & Company, located in Rock Island County, IL to points in CO, KS, MO, NE, OK and WY. Supporting shipper(s): Deere & Company, John Deere Road, Moline, IL 61265. Send protests to: Vernon V. Coble, DS, Interstate Commerce Commission, 600 Federal Building, 911 Walnut Street, Kansas City, Missouri 64106.

MC 65895 (Sub-8TA), filed March 27, 1979. Applicant: REDDAWAY'S TRUCK LINE, 7540 Ridgewood Drive, Gladstone, OR 97027. Representative: Lawrence V. Smart, Jr., 419 N.W. 23rd Ave., Portland, OR 97210. *Paper machinery* between Oregon City, OR, on the one hand, and Kelso, Longview, Tacoma, Seattle, WA, on the other hand, for 180 days. An underlying ETA seeks 90 days authority. Supporting shipper(s): Publishers Paper, 6637 S.E. 100th Ave., Portland, OR 97266. Send protests to: A. E. Odoms, DS, ICC, 114 Pioneer Courthouse, Portland, OR 97204.

MC 89684 (Sub-106TA), filed March 23, 1979. Applicant: WYCOFF COMPANY, INCORPORATED, 560 South 300 West, Salt Lake City, UT 84110. Representative: John J. Morrel (same address as applicant). Common carrier, regular route, *general commodities,* having a prior or subsequent movement by aircraft, (except articles of unusual value, classes A & B explosives, household goods as defined by the Commission, commodities in bulk, and those requiring special equipment), between St. George, UT, on the one hand, and, on the other, McCarran International Airport at Las Vegas, NV, serving no intermediate points, from St. George, UT over U.S. Highways 91 and I–15 to Las Vegas, NV and return over the same route, for 180 days. Applicant requests authority to interline at Las Vegas, NV and to tack this authority with authority it presently holds in No. MC 89684 Sub 52. Supporting shipper(s): United Air Lines, Inc., International Airport, Salt Lake City, UT 84122. Send protests to: L. D. Helfer, DS, ICC, 5301 Federal Bldg., Salt Lake City, UT 84138.

MC 106644 (Sub-278TA), filed March 14, 1979. Applicant: SUPERIOR TRUCKING COMPANY, INC., P.O. Box 916, Atlanta, GA 30301. Representative: Louis C. Parker, III (same address as applicant). *(1) Self-propelled articles and (2) attachments, parts, and supplies moving with commodities described in Part (1)* between points in the U.S. in and east of MN, IA, NE, KS, OK and TX.

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Restricted to traffic moving on trailers and originating at or destined to the facilities of Hertz Equipment Rental, for 180 days. An underlying ETA seeks 90 days authority. Supporting shipper(s): Hertz Equipment Rental, 5600 Mariner, Suite 215, Tampa, FL 33623. Send protests to: Sara K. Davis, T/A, ICC, 1252 W. Peachtree St., N.W., Rm. 300, Atlanta, GA 30309.

MC 109124 (Sub-71TA), filed March 29, 1979. Applicant: SENTLE TRUCKING CORPORATION, P.O. Box 7850, Toledo, OH 43619. Representative: James M. Burtch, 100 East Broad St. Columbus, OH 43215. *Iron and steel articles and non-ferrous articles*, (1) from Chicago, IL Commercial Zone to points in OH; (2) from the facilities of J. T. Ryerson & Son, Inc. at Chicago, IL to Buffalo, NY, for 180 days. An underlying ETA seeks 90 days authority. Supporting Shipper(s): J. T. Ryerson & Son, Inc., 2558 West 16th St. Chicago, IL 60608. Send protests to: Interstate Commerce Commission, Bureau of Operations, 600 Arch St., Rm. 3238, Philadelphia, PA 19106.

MC 109124 (Sub-72TA), filed March 23, 1979. Applicant: SENTLE TRUCKING CORPORATION, P.O. Box 7850, Toledo, OH 43619. Representative: James M. Burtch, 100 East Broad St. Columbus, OH 43215. *Lime, limestone, and lime products*, from the facilities of United States Steel Corp. at Lorain, OH to the facilities of United States Steel Corp. in Allegheny County, PA, for 180 days. An underlying ETA seeks 90 days authority. Supporting Shipper(s): United States Steel Corporation, 600 Grant St., Rm 568, Pittsburgh, PA 15230. Send protests to: Interstate Commerce Commission, Bureau of Operations, 600 Arch St., Rm. 3238, Philadelphia, PA 19106.

MC 109124 (Sub-73TA), filed March 16, 1979. Applicant: SENTLE TRUCKING CORPORATION, P.O. Box 7850, Toledo, OH 43619. Representative: James M. Burtch, 100 East Broad St. Columbus, OH 43215. *Iron and steel articles*, between the facilities of Crucible, Inc., a Division of Colt Industries at Midland, PA, on the one hand, and, on the other points in AL, AR, FL, GA, LA, MO, MS, NC, SC, TN, TX and VA, for 180 days. An underlying ETA seeks 90 days authority. Supporting Shipper(s): Crucible, Inc., Division of Colt Industries, P.O. Box 226, Midland, PA 15059. Send protests to: Interstate Commerce Commission, Bureau of Operations, 600 Arch St., Rm. 3238, Philadelphia, PA 19106.

MC 109124 (Sub-74TA), filed March 13, 1979. Applicant: SENTLE TRUCKING CORPORATION, P.O. Box 7850, Toledo, OH 43619. Representative: James M. Burtch, 100 East Broad St. Columbus, OH 43215. *Lime, limestone and products thereof including High Temperature Bonding Mortar, in bags or containers*, from Fremont, Oh to points in IN, MI, and Chicago, IL (including points in the commercial zone), for 180 days. An underlying ETA seeks 90 days authority. Supporting Shipper(s): Pfizer, Inc., P.O. Box 46, Gibsonburg, OH 43431. Send protests to: Interstate Commerce Commission, Bureau of Operations, 600 Arch St., Rm. 3238, Philadelphia, PA 19106.

MC 109124 (Sub-75TA), filed March 13, 1979. Applicant: SENTLE TRUCKING CORPORATION, P.O. Box 7850, Toledo, OH 43619. Representative: James M. Burtch, 100 East Broad St., Suite 1800, Columbus, OH 43215. *Lime, limestone and products thereof, including High Temperature Bonding Mortar, in bags or containers*, from Gibsonburg (Sandusky County), OH to points in DC, KY, MD, NJ, PA, VA, and WV, for 180 days. An underlying ETA seeks 90 days authority. Supporting Shipper(s): Pfizer, Inc., P.O. Box 46, Gibsonburg, OH 43431. Send protests to: Interstate Commerce Commission, Bureau of Operations, 600 Arch St., Rm. 3238, Philadelphia, PA 19106.

MC 109124 (Sub-76TA), filed March 14, 1979. Applicant: SENTLE TRUCKING CORPORATION, P.O. Box 7850, Toledo, OH 43619. Representative: James M. Burtch, 100 E. Broad St., Suite 1800, Columbus, OH 43215. *Limestone, in bulk*, from Woodville, OH to the facilities of PPG Industries, Inc., at Cumberland, MD, for 180 days. An underlying ETA seeks 90 days authority. Supporting Shipper(s): Ohio Lime Company, A Subsidiary of General Refractories, P.O. Box 128 Woodville, OH 43469. Send protests to: Interstate Commerce Commission, Bureau of Operations, 600 Arch St., Rm. 3238, Philadelphia, PA 19106.

MC 109124 (Sub-77TA), filed March 16, 1979. Applicant: SENTLE TRUCKING CORPORATION, P.O. Box 7850, Toledo, OH 43619. Representative: James M. Burtch, 100 East Broad St., Columbus, OH 43215. *Iron and steel articles*, between the facilities of Crucible, Inc., Division of Colt Industries at Midland, PA, on the one hand, and, on the other, points in CT, DE, MD, NJ, NY and WV, for 180 days. Supporting Shipper(s): Crucible, Inc., Division of Colt Industries, P.O. Box 226, Midland, PA 15059. Send protests to: Interstate Commerce Commission, Bureau of Operations, 600 Arch St., Rm. 3238, Philadelphia, PA 19106.

MC 109584 (Sub-193TA), filed March 28, 1979. Applicant: ARIZONA PACIFIC TANK LINES, P.O. Box 7240, Denver, CO 80207. Representative: Rick Barker (same address as applicant). *Animal feeds, liquid*, in bulk, in tank vehicles, from Clovis, NM to points in Imperial County, CA for 180 days. Underlying ETA seeks 90 days authority. Supporting Shipper(s): Jay W. Chilton, Inc., 1440 Marelen Dr., Fullerton, CA 92635. Send protests to: D/S Roger L. Buchanan, Interstate Commerce Commission, 492 U.S. Customs House, 721 19th St., Denver, CO 80202.

MC 111045 (Sub-166TA), filed March 26, 1979. Applicant: REDWING CARRIERS, INC., 8515 Palm River Road, P.O. Box 426, Tampa, FL 33601. Representative: L. W. Fincher (same address as applicant). *Petroleum* and *petroleum products*, in packages and in bulk, from Bradford, PA, to VA, NC, SC, GA, FL, AL, MS, LA, and TN for 180 days. Supporting Shipper(s): Witco Chemical Corporation, 77 N. Kendall Avenue, Bradford, PA 16701. Send protests to: Donna M. Jones, Transportation Assistant, Interstate Commerce Commission, Monterey Building, Suite 101, 8410 N.W. 53rd Terrace, Miami, FL 33166.

MC 111274 (Sub-38TA), filed March 20, 1979. Applicant: SCHMIDGALL TRANSFER, INC., P.O. Box 356, Morton, IL 61550. Representative: (same address as applicant). Materials used or useful in the installation, erection and completion of pole and panel buildings, between Iowa, Illinois, Michigan, Mississippi, Arkansas, Alabama, Washington and Oregon as well as ports of entry on the U.S.-Canadian Boundary in Washington and Montana on the one hand, and Allenton, WI on the other. Supporting Shipper(s): Jack Walters and Sons Corp., P.O. Box 388, Allenton, WI 53002. Send protests to: Charles Little, DS, Interstate Commerce Commission, Room 414 Leland Office Building, Springfield, IL 62701.

MC 111545 (Sub-277TA), filed March 5, 1979. Applicant: HOME TRANSPORTATION COMPANY, INC., P.O. Box 6426, Station A, Marietta, GA 30065. Representative: Robert E. Born (Same as applicant). *Iron and steel articles, forms N.O.I.* from Springfield, MO to Drakesboro, KY for 180 days. An underlying ETA seeks 90 days authority. Supporting Shipper(s): Acme Structural, Inc., 2101 N. Packer Rd., Springfield, MO 65803. Send protests to: Sara K. Davis, T/A ICC, 1252 W. Peachtree St., N.W., Rm. 300, Atlanta, GA 30309.

MC 111545 (Sub-278TA), filed March 7, 1979. Applicant: HOME TRANSPORATION COMPANY, INC., 1425 Franklin Road, S.E., Marietta, GA 30067. Representative: Robert E. Born, P.O. Box 6426, Station A, Marietta, GA 30065. *(1) Irrigation systems and solar energy heating and cooling systems* from Valley, NE to points in MN, IA, MO, WI, IL, KY, IN, MI, OH, WV, VA, MD, NJ, DE, PA, NY, MA, CT, RI and TX and points in CA. *(2) Pipe, tubing, light poles, mast arms, brackets, bases and transmission poles* from Valley, NE to points in MN, IA, MO, WI, IL, KY, IN, MI, OH WV, VA, MD, NJ, DE PA, NY, MA, CT and RI and points in CA, for 180 days. An ETA seeks 90 days authority. Supporting Shipper(s): Valmont Industries, Hwy. 275 & Neb. 64, Valley, NE 68064. Send protests to: Sara K. Davis, T/A ICC, 1252 W. Peachtree St., NW, Rm. 300, Atlanta, GA 30309.

MC 112595 (Sub-86TA), filed February 28, 1979. Applicant: FORD BROTHERS, INC., P.O. Box 727, Ironton, OH 45638. Representative: Richard T. Trettin, some address as applicant. *Liquid chemicals, in bulk, in tank vehicles*, from the plant sites of Union Carbide Corporation, at or near Charleston, WV, to points in AL, CT, DE, GA, IA, IL, IN, KS, KY, LA, MA, MD, MI, MN, MO, MS, NC, NE, NH, NJ, NY, OH, PA, SC, TN, TX, VA and WI, for 180 days. An underlying ETA seeks 30 days authority. Supporting shipper(s): Union Carbide Corporation, R. L. Juillerat, Sr. Transportation Analyst, 270 Park Ave., NY, NY 10017. Send protests to: Ruth F. Stark, Secy., ICC, Room 3108 Federal Bldg., 500 Quarrier St., Charleston, WV 25301.

MC 113024 (Sub-159TA), filed April 2, 1979. Applicant: ARLINGTON J. WILLIAMS, INC., 1398 S. DuPont Highway, Smyrna, DE 19977. Representative: Samuel W. Earnshaw, 833 Washington Bldg., Washington, DC 20005. *Contract carrier*: Irregular routes: *Clothing, dry goods, drugs, medicines, toilet preparations and articles*, from Dover, DE to the commercial zone of St. Paul, MN, including St. Paul, for 90 days, for the account of International Playtex, Inc. Supporting shipper(s): International Playtex, Inc., P.O. Box 631, Dover, DE 19901. Send protests to: W. L. Hughes, DS, ICC, 1025 Federal Bldg., Baltimore, MD 21201.

MC 113325 (Sub-158TA), filed March 23, 1979. Applicant: SLAY TRANSPORTATION CO., INC., 2001 S. 7th St., St. Louis, MO 63104. Representative: T. M. Tahan, same as above. *Chemicals*, in bulk, in tank vehicles, from the facilities of Dow Chemical Co., U.S.A., at or near Brazoria County, TX to points in LA, MS, AL, FL, GA, SC, NC, TN, AR, OK, KS, MO, KY, WV, OH, IN, IL, IA, MN, WI and MI, for 180 days. An underlying ETA seeks 90 days authority. Supporting shipper(s): Dow Chemical U.S.A., Freeport, TX 77541. Send protests to: P. E. Binder, DS, ICC, Rm 1465, 210 N. 12th St., St. Louis, MO 63101.

MC 113434 (Sub-129TA), filed February 28, 1979. Applicant: GRA-BELL TRUCK LINE, INC., A–5253 - 144th Avenue, Holland, MI 49423. Representative: Roger VanWyk, A–5253, 144th Avenue, Holland, MI 49423. Television parts and sub-assemblies, from the plant site of Owens-Illinois, Inc., Columbus, OH to Melrose Park, IL, for 180 days. An underlying ETA seeks 90 days authority. Supporting shipper(s): Owens-Illinois, Inc., P.O. Box 1035, Toledo, OH 43666. Send protests to: C. R. Flemming, D/S, ICC, 225 Federal Building, Lansing, MI 48933.

MC 114965 (Sub-65TA), filed April 9, 1979. Applicant: CYRUS TRUCK LINE, INC., P.O. Box 327, Iola, KS 66749. Representative: Charles H. Apt, 104 South Washington, Iola, KS 66749. *Dry fertilizer and fertilizer ingredients in bulk or in bag*, from Brunswick River Terminal, Inc., at or near Brunswick, MO. to all points and places in IA, IL, KS & NE, for 180 days. An underlying ETA seeks 90 days authority. Supporting shipper(s): Olin Corporation, P.O. Box 991, Little Rock, AR 72203. Send protests to: M. E. Taylor, District Supervisor, Interstate Commerce Commission, 101 Litwin Bldg., Wichita, KS 67202.

MC 117815 (Sub-310TA), filed March 13, 1979. Applicant: PULLEY FREIGHT LINES, INC., 405 S.E. Twentieth Street, Des Moines, IA 50317. Representative: Paul L. Haskins (same as applicant). *Meat, meat products, meat by-products, and articles distributed by meat packing houses* as described in Sections A and C of Appendix I to the report in Descriptions in Motor Carrier Certificates 61 M.C.C. 209 and 766 (except hides and commodities in bulk), from the facilities of Rath Packing Co. at Waterloo, IA to points in Indianapolis, IN and its commercial zone for 180 days. An underlying ETA seeks 90 days authority. Supporting shipper(s): Rath Packing Co., Sycamore and Elm Streets, Waterloo, IA 50704. Send protests to: Herbert W. Allen, DS, ICC, 518 Federal Bldg., Des Moines, IA 50309.

MC 117815 (Sub-311TA), filed March 23, 1979. Applicant: PULLEY FREIGHT LINES, INC., 405 S.W. Twentieth Street, Des Moines, IA 50317. Representative: Paul L. Haskins (same as applicant). *Such commodities as are dealt in by wholesale grocers (except commodities in bulk), from St. Louis, MO and its commercial zone, to points in IA on and West of U.S.* Hwy 65 and to Chariton, IA, and Lincoln, Norfolk and Omaha, NE and points in their commercial zones for 180 days. An underlying ETA seeks 90 days authority. Supporting shipper(s): Lever Brothers Company, 1400 N. Pennsylvania Ave., St. Louis, MO 63133. Send protests to: Herbert W. Allen, DS, ICC, 518 Federal Bldg., Des Moines, IA 50309.

MC 117815 (Sub-312TA), filed March 27, 1979. Applicant: PULLEY FREIGHT LINES, INC., 405 S.E. 20th St., Des Moines, IA 50317. Representative: Jack H. Blanshan, Attorney, Suite 200, 205 W. Touhy Ave., Park Ridge, IL 60068. *Meat, meat products, meat by-products and articles distributed by meat packinghouses* as described in Sections A and C to Appendix I of Descriptions in Motor Carrier Certificates 61 M.C.C. 209 and 766 (except commodities in bulk) (1) from the facilities of Peschke Packing Co. at Detroit, MI and its Commercial Zone, to points in IN and Chicago, IL, and Plover, Racine, Sheboygan and Waukesha, WI and their respective commercial zones; and (2) from Nashville, TN and Chicago, IL and their respective commercial zones to the facilities of Peschke Packing Co. at Detroit, MI and its commercial zone for 180 days. An underlying ETA seeks 90 days authority. Supporting shipper(s): Peschke Packing Co., 18615 Sherwood Ave., Detroit, MI 38234. Send protests to: Herbert W. Allen, DS, ICC, 518 Federal Bldg., Des Moines, IA 50309.

MC 117815 (Sub-313TA), filed March 27, 1979. Applicant: PULLEY FREIGHT LINES, INC., 405 S.E. Twentieth St., Des Moines, IA 50317. Representative: Paul L. Haskins (same as applicant). *Frozen foods* from the facilities of Campbell Soup Co. located at Omaha, NE and its commercial zone to points in IA and Alexandria, E. Grand Forks, Marshall, Thief River Falls, Wadena, and Worthington, MN and their respective commercial zones for 180 days. An underlying ETA seeks 90 days authority. Supporting shipper(s): Campbell Soup Co., 1202 Douglas St., Omaha, NE 68102. Send protests to: Herbert W. Allen, DS, ICC, 518 Federal Bldg., Des Moines, IA 50309.

MC 117815 (Sub-314TA), filed March 27, 1979. Applicant: PULLEY FREIGHT LINES, INC., 405 S.E. Twentieth Street, Des Moines, IA 50317. Representative: Jack H. Blanshan, Suite 200, 205 W. Touhy Ave., Park Ridge, IL 60068. *Such commodities as are dealt in by business and office supply companies* from the facilities of United Stationers at Forest Park, IL to Minneapolis, MN and their

respective commercial zones for 180 days. An underlying ETA seeks 90 days authority. Supporting shipper(s): United Stationers, 1701 S. First Ave., Maywood, IL 60153. Send protests to: Herbert W. Allen, DS, ICC, 518 Federal Bldg., Des Moines, IA 50309.

MC 117815 (Sub-315TA), filed March 27, 1979. Applicant: PULLEY FREIGHT LINES, INC., 405 S.E. Twentieth St., Des Moines, IA 50317. Representative: Jack H. Blanshan, Attorney, Suite 200, 205 W. Touhy Ave., Park Ridge, IL 60068. *Such commodities as are dealt in by wholesale grocers* (except commodities in bulk) from the facilities of Preferred Products, Inc., at Jonathan, MN and its commercial zone to Urbana, IL and Des Moines, IA and their commercial zones for 180 days. An underlying ETA seeks 90 days authority. Supporting shipper(s): Preferred Products, Inc., 312 Lake Hazeltine Dr., Chaska, MN 55318. Send protests to: Herbert W. Allen, DS, ICC, 518 Federal Bldg., Des Moines, IA 50309.

MC 118535 (Sub-135TA), filed March 1, 1979. Applicant: TIONA TRUCK LINE, INC., 102 West Ohio, Butler, MO 64730. Representative: Tom Ventura, 102 West Ohio, Butler, MO 64730. *Soda Ash*, from producing plants at or near Green River, WY to Gurnee, IL and Winchester, IN for 180 days. An underlying ETA seeks 90 days authority. Supporting shipper(s): Anchor Hocking Corp., 109 North Broad St., Lancaster, OH. Send protests to: DS John V. Barry, 600 Fed Bldg., 911 Walnut, Kansas City, MO 64106.

MC 119315 (Sub-26TA), filed March 13, 1979. Applicant: FREIGHTWAY CORPORATION, 131 Matzinger Road, Toledo, OH 43612. Representative: Paul F. Beery, Beery & Spurlock Co., L.P.A., 275 East State St., Columbus, OH 43215. *Janitorial supplies, starches, cleaning supplies and plastic bottles (except commodities in bulk)*, from the plantsite of Purex Corporation at or near Toledo, OH to points in IN and MI, for 180 days. An underlying ETA seeks 90 days authority. Supporting shipper(s): Purex Corporation, 6120 North Detroit Ave., Toledo, OH 43612. Send protests to: Interstate Commerce Commission, Bureau of Operations, 600 Arch St., Rm. 3238, Philadelphia, PA 19106.

MC 120364 (Sub-20TA), filed February 13, 1979. Applicant: A & B FREIGHT LINES, INC., 2800 Falund Street, Rockford, IL 61109. Representative: Robert M. Kaske (address same as applicant). *(1) Lawn Equipment and Parts*, between Genoa, IL on the one hand, and on the other IA, IN, MI, MN, and WI; and *(2) Materials and Equipment* used in the manufacture of (1), on the return movement, restricted to the facilities of Sycamore Manufacturing Company at Genoa, IL, for 180 days. Supporting shipper(s): Sycamore Manufacturing Company, Genoa, IL 60135. Send protests to: Annie Booker, Transportation Assistant, Interstate Commerce Commission, Everett McKinley Dirksen Building, 219 South Dearborn Street, Room 1386, Chicago, IL 60604.

No. MC 123314 (Sub-28TA), filed March 16, 1979. Applicant: JOHN F. WALTER, INC., P.O. Box 175, Newville, PA 17241. Representative: Christian V. Graf, 407 North Front Street, Harrisburg, PA 17101. Canned and preserved foodstuffs, from the facilities of Heinz U.S.A., Division of H. J. Heinz Company, at or near Fremont and Toledo, OH to points in Washington, DC and its commercial zone. Restricted to traffic originating at the named origins and destined to the named destinations, for 180 days. Supporting shipper(s): Heinz U. S. A., Division of H. J. Heinz Co., P.O. Box 57, Pittsburgh, PA 15230. Send protests to: Charles F. Myers, D/S, Interstate Commerce Commission, Bureau of Operations, Room 278, Federal Bldg., 228 Walnut St., P.O. Box 869, Harrisburg, PA 17108.

MC 123314 (Sub-29TA), filed March 26, 1979. Applicant: JOHN F. WALTER, INC., P.O. Box 175, Newville, PA 17241. Representative: Christian V. Graf, Esquire, 407 North Front Street, Harrisburg, PA 17101. (1) Such merchandise as is dealt in by retail, wholesale, chain grocery and feed business houses; and (2) materials, ingredients and supplies used in the manufacture, distribution and sale of the products in (1) above, between the facilities used by Ralston Purina Company at or near Hampden Township, Cumberland County, PA, on the one hand, and, on the other, the facilities used by Ralston Purina Company at or near Dunkirk and Buffalo, NY. Restricted to traffic originating at the named origins and destined to the named destinations. Supporting shipper(s): Ralston Purina Company, Checkerboard Square, St. Louis, MO 63188. Send protests to: Interstate Commerce Commission, Wm. J. Green, Jr. Federal Bldg., 600 Arch St., Rm. 3238, Philadelphia, PA 19106.

MC 124174 (Sub-139TA), filed March 13, 1979. Applicant: MOMSEN TRUCKING CO., 13811 "L" Street, Omaha, NE 68137. Representative: Karl E. Momsen (same address as applicant). *Aluminum and aluminum articles*, from Oswego, NY, to OH, WV, GA, MI, KY, IL, and Williamsburg, VA, for 180 days. An underlying ETA seeks 90 days authority. Supporting Shipper(s): Clifford G. Pearson, Alcan Aluminum Corporation, P.O. Box 6977, Cleveland, OH 44101. Send protests to: Carroll Russell, ICC, Suite 620, 110 No. 14th St., Omaha, NE 68102.

MC 124174 (Sub-140TA), filed March 12, 1979. Applicant: MOMSEN TRUCKING CO., 13811 "L" Street, Omaha, NE 68137. Representative: Karl E. Momsen (same address as above). *(1) Cabinets and such commodities that are useful in the erection or installation thereof*, from Auburn, NE to IA, IL, KS, MN, MO, NE, ND, SD, and WI; and *(2) Material, equipment and supplies as are used in the manufacture or assembly of the commodities in (1) above*, from IA, IL, KS, MN, MO, NE, SD, and WI to Auburn, NE, for 180 days. An underlying ETA seeks 90 days authority. Supporting Shipper(s): David Orkin, Triangle Pacific Corp., 4255 LBJ Freeway, Dallas, TX 75234. Send protests to: Carroll Russell, ICC, Suite 620, 110 No. 14th St., Omaha, NE 68102.

MC 124174 (Sub-141TA), filed March 12, 1979. Applicant: MOMSEN TRUCKING CO., 13811 "L" Street, Omaha, NE 68137. Representative: Karl E. Momsen (same address as applicant). *Iron and steel and iron and steel articles*, from Auburn and Buffalo, NY to OH, MO, IN, KY, IL, MI, WI, WV, IA, KS, NE, MN, and PA, for 180 days. An underlying ETA seeks 90 days authority. Supporting Shipper(s): Ryan Hoover, Ambassador Steel Corp., 3415 S. Lafountain, Kokomo, IN 46901. Send protests to: Carroll Russell, ICC, Suite 620, 110 No. 14th St., Omaha, NE 68102.

MC 125985 (Sub-26TA), filed March 13, 1979. Applicant: AUTO DRIVEAWAY COMPANY, 310 South Michican Avenue, Chicago, IL 60604. Representative: Daniel B. Johnson, 4304 East-West Highway, Washington, D.C. 20014. Trucks greater than ¾ ton and self-propelled vehicles in secondary movements in driveaway service between points in Waukesha County, WI, on the one hand, and, on the other, points in IL for 180 days. An underlying ETA seeks 90 days authority. Supporting Shipper(s): Dalum's Utility Equipment Company, Inc., 3630 North 126th Street, Brookfield, WI 53005. Send protests to: Annie Booker, Interstate Commerce Commission, 219 South Dearborn Street, Room 1386, Chicago, IL 60604.

MC 126305 (Sub-113TA), filed April 6, 1979. Applicant: BOYD BROTHERS TRANSPORTATION CO., INC., Route 1, Box 18, Clayton, AL 36016. Representative: George A. Olsen, P.O. Box 357, Gladstone, NJ 07934. *Waste or scrap paper*, from points in AR, FL, GA,

IL, IA, KY, LA, MS, MO, NC, SC, and TN, to the facilities of the National Gypsum Co. at or near Anniston, AL. For 180 days. Supporting shipper(s): Gold Bond Building Products, Division of National Gypsum Company, 2001 Rexford Road, Charlotte, NC 28211. Send protests to: Mabel E. Holston, T/A, ICC, Room 1616—2121 Building, Birmingham, AL 35203.

MC 126375 (Sub-17TA), filed March 5, 1979. Applicant: CEL TRANSPORTATION COMPANY, P.O. Box 447, Latrobe, PA 15650. Representative: William A. Gray, Esquire, Wick, Vuono & Lavelle, 2310 Grant Building, Pittsburgh, PA 15219. *Animal fats, vegetable oils and feed supplements*, in bulk, in tank vehicles, between Linville, VA, on the one hand, and, on the other, points in Ohio, for 180 days. An underlying ETA seeks 90 days authority. Supporting shipper(s): Jacob Stern & Sons, Inc., Suite 910, Benjamin Fox Pavilion, Jenkintown, PA 19046. Send protests to: John J. England, District Supervisor, Bureau of Operations, Interstate Commerce Commission, 2111 Federal Building, 1000 Liberty Avenue, Pittsburgh, PA 15222.

MC 126375 (Sub-18TA), filed March 27, 1979. Applicant: CEL TRANSPORTATION COMPANY, P.O. Box 447, Latrobe, PA 15650. Representative: William A. Gray, Esquire, Wick, Vuono & Lavelle, 2310 Grant Building, Pittsburgh, PA 15219. *Fluorspar*, in bulk, in tank vehicles from East Liverpool, Ohio to Latrobe, PA under a continuing contract or contracts with Latrobe Steel Company, Latrobe, PA, for 180 days. An underlying ETA seeks authority for 90 days. Supporting shipper(s): Latrobe Steel Company, 2626 S. Ligonier Street, Latrobe, PA 15650. Send protests to: John J. England, District Supervisor, Bureau of Operations, Interstate Commerce Commission, 2111 Federal Building, 1000 Liberty Avenue, Pittsburgh, PA 15222.

MC 126844 (Sub-78TA), filed March 6, 1979. Applicant: R. D. S. TRUCKING CO., INC., 1713 North Main Road, Vineland, NJ 08360. Representative: Kenneth F. Dudley, 611 Church Street, P.O. Box 279, Ottumwa, IA. *General commodities*, from Chicago, IL, to points in CO, FL, GA, MN, MO, NE, NJ, NY, PA and TX, when moving on bills of lading of EAST-WEST Shippers Association, Inc.; from Philadelphia, PA, to points in CO, FL, GA, IL, IN, MI, MN, MO, NE, TX and WI when moving on bills of lading of West Coast Shippers Association, Inc.; from Marinette, WI, to Chicago, IL and Philadelphia, PA, when moving on bills of lading of East-West Shippers Association, Inc., for 180 days. An underlying ETA seeks 90 days authority. Supporting shipper(s): East West Shippers Association, Inc., 2000 South 71st St., Philadelphia, PA 19142. West Coast Shippers Association, Inc., 2000 South 71st St., Philadelphia, PA 19142. Send protests to: District Supervisor, ICC, 428 East State Street, Room 204, Trenton, NJ 08608.

MC 126844 (Sub-79TA), filed March 19, 1979. Applicant: R.D.S. TRUCKING CO., INC., 1713 North Main Road, Vineland, NJ 08360. Representative: Kenneth F. Dudley, P.O. Box 279, Ottumwa, Iowa 52501. *Malt beverages*, from the facilities of Pabst Brewing Co. at Perry, GA to points in NJ north of Interstate 195 and points in MD, NY and PA, for 180 days. Supporting Shipper(s): Pabst Brewing Company, 917 W. Juneau Avenue, Milwaukee, WI 53201. Send protests to: District Supervisor, ICC, 428 East State Street, Room 204, Trenton, NJ 08608.

MC 126844 (Sub-80TA), filed March 19, 1979. Applicant: R.D.S. TRUCKING CO., INC., 1713 North Main Road, Vineland, NJ 08360. Representative: Kenneth F. Dudley, P.O. Box 279, Ottumwa, Iowa 52501. *Food and food products* (except commodities in bulk), from Vineland, NJ to points in KS, NE and IA, for 180 days. An underlying ETA seeks 90 days authority. Supporting Shipper(s): Venice Maid Company, Inc., 270 North Mill Road, Vineland, NJ 08360. Send protests to: District Supervisor, ICC, 428 East State Street, Room 204, Trenton, NJ 08608.

MC 126844 (Sub-81TA), filed March 19, 1979. Applicant: R.D.S. TRUCKING CO., INC., 1713 North Main Road, Vineland, NJ 08360. Representative: Kenneth F. Dudley, P.O. Box 279, Ottumwa, Iowa 52501. *Refractory products and equipment, material and supplies* used in the manufacture and distribution of refractory products (except in bulk) from Baltimore and Leslie, MD; and Cape May, NJ to points in AR, CO, IL, IN, IA, KS, MI, MO, NE, OH, OK and WI, for 180 days. Supporting Shipper(s): Division of Dresser Industries, Inc., Harbison-Walker Refractories, 2 Gateway Center, Pittsburgh, PA 15222. Send protests to: District Supervisor, ICC, 428 East State Street, Room 204, Trenton, NJ 08608.

MC 128205 (Sub-67TA), filed February 14, 1979. Applicant: BULKMATIC TRANSPORT COMPANY, 12000 South Doty Avenue, Chicago, IL 60628. Representative: Arnold L. Burke, 180 North LaSalle Street, Chicago, IL 60601. *Starch*, in bulk, from the facilities of Clinton Corn in or near Clinton, IA to points in IL, IN, OH, WI and MI, for 180 days. An underlying ETA seeks 90 days authority. Supporting Shipper(s): Clinton Corn Processing Company, 1251 Beaver Channel Parkway, Clinton, IA 52732. Send protests to: Annie Booker, Transportation Assistant, Interstate Commerce Commission, Everett McKinley Dirksen Building, 219 South Dearborn Street, Room 1386, Chicago, IL 60604.

MC 128205 (Sub-68TA), filed February 26, 1979. Applicant: BULKMATIC TRANSPORT COMPANY, 12000 South Doty Avenue, Chicago, IL 60628. Representative: Arnold L. Burke, 180 North LaSalle Street, Chicago, IL 60601. *Salt*, in bulk, from Akron, OH to IN, IL and MI, for 180 days. Supporting Shipper(s): Diamond Crystal Salt Company, 916 South Riverside Avenue, St. Clair, MI 48079. Send protests to: Annie Booker, Transportation Assistant, Interstate Commerce Commission, Everett McKinley Dirksen Building, 219 South Dearborn Street, Room 1386, Chicago, IL 60604.

MC 128205 (Sub-69TA), filed February 8, 1979. Applicant: BULKMATIC TRANSPORT COMPANY, 12000 South Doty Avenue, Chicago, IL 60628. Representative: Arnold L. Burke, 180 North LaSalle Street, Chicago, IL 60601. *Dry sugar*, in bulk from the facilities of American Crystal Sugar in or near Chaska, MN to the facilities of General Foods, in or near Battle Creek, MI, Chicago, IL, Kankakee, IL and Lafayette, IN, for 180 days. An underlying ETA seeks 90 days authority. Supporting Shipper(s): American Crystal Sugar, 101 N. Third Street, Moorhead, MN 56560. Send protests to: Annie Booker, Transportation Assistant, Interstate Commerce Commission, Everett McKinley Dirksen Building, 219 South Dearborn Street, Room 1386, Chicago, IL 60604.

MC 128205 (Sub-70TA), filed February 12, 1979. Applicant: BULKMATIC TRANSPORT COMPANY, 12000 South Doty Avenue, Chicago, IL 60628. Representative: Arnold L. Burke, 180 North LaSalle Street, Chicago, IL 60601. *Animal Feed, Animal Feed Ingredients and Animal Health Care Products* in bulk from the facilities of Supersweet Feeds (1) at Nappanee, IN to IL, MI and OH; and (2) at Danville, IL to IN, for 180 days. An underlying ETA seeks 90 days authority. Supporting Shipper(s): Supersweet Feeds, 301 South Jacson Street, Nappanee, IN 46550. Send protests to: Annie Booker, Transportation Assistant, Interstate Commerce Commission, Everett McKinley Dirksen Building, 219 South

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Dearborn Street, Room 1386, Chicago, IL 60604.

MC 134064 (Sub-26TA), filed March 6, 1979. Applicant: INTERSTATE TRANSPORT, INC., 1600 Highway 129 South, Gainesville, GA 30501. Representative: Charles M. Williams, 350 Capitol Life Center, 1600 Sherman Street, Denver, CO 80203. *Hanging carcass beef* from the facilities of Shapiro Packing Company at or near Augusta, GA to points in AL for 180 days. An underlying ETA seeks 90 days authority. Supporting Shipper(s): Shapiro Packing Company, P.O. Box 119, Augusta, GA 30903. Send protests to: Sara K. Davis, T/A, ICC, 1252 W. Peachtree St., N.W., Rm. 300, Atlanta, GA 30309.

MC 134105 (Sub-50TA), filed April 5, 1979. Applicant: CELERYVALE TRANSPORT, INC., 1318 East 23rd Street, Chattanooga, TN 37404. Representative: L. D. Miller III (same address as applicant). *Foodstuffs* from Chattanooga Warehouse and Cold Storage at Chattanooga, TN to Falmouth, VA, for 180 days. An underlying ETA seeks 90 days authority. Supporting Shipper(s): Kitchens of Sara Lee, 500 Waukegan Road, Deerfield, IL 60015. Send protests to: Glenda Kuss, TA, ICC, Suite A-422, U.S. Court House, 801 Broadway, Nashville, TN 37203.

MC 135104 (Sub-1TA), filed March 27, 1979. Applicant: A. J. (ARCHIE) GOODALE LIMITED, 2559 Barton Street, East, Hamilton, Ontario, Canada. Representative: Robert D. Gunderman, Esq., 710 Statler Building, Buffalo, NY 14202. *Bridge girders, the transportation of which because of size or weight require the use of special equipment, and parts and assemblies for bridge girders,* from ports of entry on the International Boundary line between the United States and Canada on the Niagara River to all points in NY, for 180 days. Supporting Shipper(s): Peerless Steel Forwarders Ltd., 2391 Cawthra Rd., Mississauga, Ontario. Bridge & Tank Co., Ltd., 390 Gage Avenue, Hamilton, Ontario. York Steel Ltd., 75 Ingram Dr., Toronto, Ontario. Canron Limited (Eastern Structural Div.), 100 Disco Rd., Rexdale, Ontario. Send protests to: Richard H. Cattadoris, DS, ICC, 910 Federal Bldg., 111 W. Huron Street, Buffalo, NY 14202.

MC 135684 (Sub-90TA), filed February 28, 1979. Applicant: BASS TRANSPORTATION CO., INC., P.O. Box 391, Old Croton Rd., Flemington, NJ 08822. Representative: Ronald L. Knorowski, P.O. Box 391, Old Croton Rd., Flemington, NJ 08822. Such commodities as are dealt in by retail and chain grocery, hardware and drugstores, in containers, and materials and supplies (except in bulk) used in the manufacture and distribution of such commodities from the facilities of Boyle-Midway, at or near Canton, OH to points in NY counties of Chautaugua, Cattaraugus, Erie, Niagara, Orleans, Genesse, Wyoming and Allegheny, and to points in PA on and west of U.S. Highway 219, for 180 days. An underlying ETA seeks 90 days authority. Supporting Shipper(s): American Home Products Corporation, Boyle Midway Division, 685 Third Ave., New York, NY 10017. Send protests to: District Supervisor, ICC, 428 East State Street, Room 204, Trenton, NJ 08608.

MC 135684 (Sub-91TA), filed March 13, 1979. Applicant: BASS TRANSPORTATION CO., INC., P.O. Box 391, Old Croton Rd., Flemington, NJ 08822. Representative: Ronald L. Knorowski, P.O. Box 391, Old Croton Rd., Flemington, NJ 08822. Such commodities as are dealt in by wholesale and retail, chain grocery, hardware and drug stores, in containers, from the facilities of S. C. Johnson & Son, Inc., at or near Racine and Waxdale, WI to points in CT, IN, MI, MA, NJ, NY, OH, PA, MD and RI for 180 days. An underlying ETA seeks 90 days authority. Supporting Shipper(s): S. C. Johnson & Son, Inc., 1525 Howe Street, Racine, WI 53403. Send protests to: District Supervisor, ICC, 428 East State Street, Room 204, Trenton, NJ 08608.

MC 135874 (Sub-163TA), filed March 16, 1979. Applicant: LTL PERISHABLES, INC., 550 East 5th Street South, South St. Paul, MN 55075. Representative: Paul Nelson, (same address as applicant). *Playground apparatus, gas and electric grills, scooters, revolving chairs, recreational equipment, games and toys (except commodities in bulk)* from Du Quoin, Ordill, and Marion, IL to points in IA, MN, NE, ND, SD and WI, for 180 days. An underlying ETA seeks 90 days authority. Supporting shipper(s): Turco Manufacturing Company, Traffic Manager, 501 South Line, Du Quoin, IL. Send protests to: Delores A. Poe, TA, ICC, 414 Federal Building & U.S. Court House, 110 South 4th Street, Minneapolis, MN 55401.

MC 135874 (Sub-164TA), filed March 26, 1979. Applicant: LTL PERISHABLES, INC., 550 East 5th Street South, South St. Paul, MN 55075. Representative: Paul Nelson, (same address as applicant). *Building materials and supplies (except in bulk)* from the facilities of Alside, Inc., at or near Cuyahoga Falls, OH to the commercial zones of Chicago, IL, Omaha, NE, and Kansas City, KS-MO, for 180 days. An underlying ETA seeks 90 days authority. Supporting shipper(s): Alside, Inc., Traffic Manager, P.O. Box 2010, Akron, OH 44309. Send protests to: Delores A. Poe, TA, ICC, 414 Federal Building & U.S. Court House, 110 South 4th Street, Minneapolis, MN 55401.

MC 135924 (Sub-6TA), filed March 6, 1979. Applicant: SIMONS TRUCKING CO., INC., 3851 River Road, Grand Rapids, MN 55744. Representative: David and Samuel Rubenstein, 301 North Fifth Street, Minneapolis, MN 55403. *Phenolic resin* from Peachtree, GA to Grand Rapids, MN, for 180 days. Supporting shipper(s): Blandin Wood Products, 115 Southwest First Street, Grand Rapids, MN 55744. Send protests to: Delores A. Poe, TA, ICC, 414 Federal Building & U.S. Court House, 110 South 4th Street, Minneapolis, MN 55401.

MC 135924 (Sub-7TA), filed March 8, 1979. Applicant: SIMONS TRUCKING CO., INC., 3851 River Road, Grand Rapids, MN 55744. Representative: David and Samuel Rubenstein, 301 North Fifth Street, Minneapolis, MN 55403. *Lubricants (except in bulk, in tank vehicles)* from Cleveland, OH to Grand Rapids and International Falls, MN and points in CN, for 180 days. Supporting shipper(s): Industrial Lubricant Company, 1018 Fourth Street, Northwest, Grand Rapids, MN 55744. Send protests to: Delores A. Poe, TA, ICC, 414 Federal Building & U.S. Court House, 110 South 4th Street, Minneapolis, MN 55401.

MC 136315 (Sub-67TA), filed February 28, 1979. Applicant: OLEN BURRAGE TRUCKING, INC., Rt. 9, Box 22-A, Philadelphia, MS 39350. Representative: Fred W. Johnson, Jr., P.O. Box 22628, Jackson, MS 39205. *Iron and steel and iron and steel articles* from Birmingham, AL; Burns Harbor, Gary, Indiana Harbour and LePorte, IN; Chicago, Granite City, Madison and Hennepin, IL; and Pittsburgh, PA, to the facilities of Emerson Electric at or near Mena, Paragould and Rogers, AR; Russellville, KY; Independence, KS; Philadelphia, Oxford and Tupelo, MS; and Kennett, MO, for 180 days. Supporting Shipper(s): Emerson Electric Co., 8100 W. Florissant Ave., St. Louis, MO 63136. Send protests to: Alan Tarrant, D/S, ICC, Rm. 212, 145 E. Amite Bldg., Jackson, MS 39201.

MC 136315 (Sub-68TA), filed February 28, 1979. Applicant: OLEN BURRAGE TRUCKING, INC., Route 9, Box 22-A, Philadelphia, MS 39350. Representative: Fred W. Johnson, Jr., P.O. Box 22628, Jackson, MS 39205. *Iron and steel articles* from the facilities of Bethlehem Steel Corp. located at Burns Harbour, IN to all points in AL, AR, GA, LA, MS, OK, TN and TX, for 180 days. An underlying ETA seeks 90 days authority. Supporting Shipper(s): Bethlehem Steel Corp., Box 248, Chesterton, IN 46304. Send protests to: Alan Tarrant, D/S, ICC, Room 212, 145 E. Amite Bldg., Jackson, MS 39201.

MC 136315 (Sub-69TA), filed March 21, 1979. Applicant: OLEN BURRAGE TRUCKING, INC., Rt. 9, Box 22-A, Philadelphia, MS 39350. Representative: Fred W. Johnson, Jr., P.O. Box 22628, Jackson, MS 39205. *Composition board and sheets* from the facilities of Champion International Corp. at or near Oxford, MS, to Emporia, Gridley and Newton, KS; Oklahoma City and Tulsa, OK; and Arlington, Dallas, Garland, Houston, and Waco, TX, for 180 days. An underlying ETA seeks 90 days authority. Supporting Shipper(s): Champion International Corp., Knightsbridge Drive, Hamilton, OH 45020. Send protests to: Alan Tarrant, D/S, ICC, Rm. 212, 145 E. Amite Bldg., Jackson, MS 39201.

MC 136104 (Sub-74TA), filed March 16, 1979. Applicant: MOORE TRANSPORTATION CO., INC., 3509 North Grove Street, Fort Worth, TX 76106. Representative: James W. Hightower, First Continental Bank Bldg., Suite 301, 5801 Marvin D. Love Freeway, Dallas, TX 75237. *Trailers and trailer chassis* (except those designed to be drawn by passenger automobiles), *trailer converter dollies, containers, and truck bodies,* in initial movements, in truckaway service, from the facilities of Fruehauf Corporation, at or near Ft. Wayne, IN and Middletown, PA to points in LA, AR, MO, OK and TX, and points in the United States east of the Mississippi River, for 180 days. An underlying ETA seeks 90 days authority. Supporting Shipper(s): Fruehauf Corporation, P.O. Box 238, Detroit, MI 48232. Send protests to: Martha A. Powell, TA, ICC, Room 9A27 Federal Bldg., 819 Taylor St., Fort Worth, TX 76102.

MC 138104 (Sub-75TA), filed March 26, 1979. Applicant: MOORE TRANSPORTATION CO., 3509 N. Grove Street, Fort Worth, TX 76106. Representative: Bernard H. English, 6270 Firth Road, Fort Worth, TX 76116. *Cast iron pipe* from the facilities of U. S. Pipe and Foundry Company, at or near Bessemer, AL to Montrose, CO, for 180 days. An underlying ETA seeks 90 days. Supporting Shipper(s): U. S. Pipe & Foundry Company, 3300 First Avenue North, Birmingham, AL 35202. Send protests to: James H. Berry, ROD, ICC, Room 9A27 Federal Bldg., 819 Taylor St., Fort Worth, TX 76102.

MC 138505 (Sub-10TA), filed March 5, 1979. Applicant: METROPOLITAN CONTRACT SERVICES, INC., 9225 Katy Freeway, Suite 110, Houston, TX 77024. Representative: Van Thompson, Jr., 5100 Westheimer, Suite 100, Houston, TX 77056. Contract carrier over irregular routes. *Such commodities as are dealt in by retail department stores* between points in MO and IL within a 50 mile radius of St. Louis, MO for 180 days. An underlying ETA seeks 90 days authority. Supporting Shipper(s): Stix, Baer & Fuller, St. Louis, MO. Send protests to: John F. Mensing, Interstate Commerce Commission, 8610 Federal Bldg., 515 Rusk Avenue, Houston, TX 77002.

MC 138805 (Sub-6TA), filed March 20, 1979. Applicant: S & L SERVICES, INC., RD 1, Milton, PA 17847. Representative: Terrence D. Jones, 2033 K Street, NW., Washington, D.C. 20006. Foodstuffs, except in bulk, from the facilities of American Home Foods Division, American Home Products Corporation, at or near Milton, PA to points in Ohio. Supporting Shipper(s): American Home Foods Division, American Home Products Corporation, 685 Third Avenue, New York, N.Y. 10017. Send protests to: Interstate Commerce Commission, Wm. J. Green, Jr. Federal Bldg., 600 Arch Street, Room 3238, Philadelphia, PA 19106.

MC 139495 (Sub-434TA), filed March 2, 1979. Applicant: NATIONAL CARRIERS, INC., P.O. Box 1358, Liberal, KS 67901. Representative: Herbert Alan Dubin, 1320 Fenwick Lane, Silver Springs, MD 20910. *Such commodities as are dealt in by wholesale and retail food and drug outlets (except commodities in bulk) in vehicles providing temperature control;* from the facilities utilized by Proctor & Gamble Distributing Company at or near St. Louis, MO, to points in the states of KS, OK & CO. 180 days, common, irregular; Supporting shipper: The Proctor & Gamble Distributing Company, Cincinnati, OH 45201; Send protests to: M. E. Taylor, DS, ICC, 101 Litwin Bldg., Wichita, KS 67202. Supporting Shipper(s): The Proctor & Gamble Distributing Company, P.O. Box 599, Cincinnati, OH 45201. Send protests to: M. E. Taylor, Dist. Supv., Interstate Commerce Commission, 101 Litwin Bldg., Wichita, KS 67202.

MC 139495 (Sub-435TA), filed March 14, 1979. Applicant: NATIONAL CARRIERS, INC., P.O. Box 1358, Liberal, KS 67901. Representative: Herbert Alan Dubin, 1320 Fenwick Lane, Silver Spring, MD 20910. *Abrasives, abrasive products, industrial safety products and industrial ceramics* (except commodities in bulk, in tank vehicles), from (A) Facilities of Norton Company, Worcester, MA to facilities of Norton Company, Watervliet, NY; (B) Facilities of Norton Company, Worcester, MA, to points in GA, IL, LA, OH, OK, TX and WI; (C) Between facilities of Norton Company, in Watervliet, NY on the one hand, and, on the other, Brownsville and Stephenville, TX; (D) Facilities of Norton Company, Watervliet, NY to facilties of Norton Company, Memphis, TN; (E) Facilities of Norton Company, Ravenna, OH to points in LA, OK and TX; 180 days, common, irregular; 90-day ETA filed simultaneously; Supporting shipper: Norton Company, Worcester, MA; Send protests to: M. E. Taylor, DS, ICC, 101 Litwin Bldg., Wichita, KS 67202.

MC 139495 (Sub-436TA), filed March 21, 1979. Applicant: NATIONAL CARRIERS, INC., P.O. Box 1358, Liberal, KS 67901. Representative: Herbert Alan Dubin, 1320 Fenwick Lane, Silver Spring, MD 20910. *Chemicals, cleaning, scouring and washing compounds, plastic liquid, defoaming compounds, ink, plastic sheeting and laminating machinery and laminating machinery parts,* from facilities of Thiokol/Dynachem Corporation in Tustin and Orange, CA to Indianapolis, IN; Terre Haute, IN; Elmhurst, IL; Wolburn, MA; South Hadley Falls, MA; Detroit, MI; Moss Point, MS; Kearny, NJ; Farmingdale, NY; Charlotte, NC; Matthews, NC; Deerpark, TX; Herndon, VA; for 180 days, common, irregular; 90-day ETA filed simultaneously; Supporting shipper: Thiokol/Dynachem Corporation, Santa Ana, CA 92711; Send protests to: M. E. Taylor, DS, ICC, 101 Litwin Bldg., Wichita, KS 67202.

MC 139495 (Sub-437TA), filed April 9, 1979. Applicant: NATIONAL CARRIERS, INC., P.O. Box 1358, Liberal, KS 67901. Representative: Herbert Alan Dubin, 1320 Fenwick Lane, Silver Spring, MD 20910. *Pet supplies, floor and rug cleaning machines and related cleaning compounds and soap, from facilities of Hartz Mountain Corporation* located at or near (1) Harrison, Jersey City, Bloomfield, NJ and (2) Wrens, GA to (1) points in the states of OH, IN, MI, KY, TN, AR, IA, MO and NE and (2) points in the states of MN and OK, 180 days, common, irregular; Supporting shipper: Hartz Mountain Corporation, Harrison, NJ; Send protests to: M. E. Taylor, DS, ICC, 101 Litwin Bldg., Wichita, KS 67202.

MC 143815 (Sub-7TA), filed April 6, 1979. Applicant: R & D TRUCKING CO., INC., Church Road, Lauderdale Industrial Park, Florence, AL 35630. Representative: Roland M. Lowell, 618 United American Bank Building, Nashville, TN 37219. Contract, Irregular:

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(1) Adhesives, sealants, solvents, stains, preservatives and related installation supplies and equipment and (2) carpeting carpet, moldings, wood trim, and flooring installation supplies and equipment from the facilities of Roberts Consolidated Industries at or near Dayton, OH; Kalamazoo, MI and Los Angeles County, CA to points in the United States in and east of ND, SD, NE, KS, OK and TX, under a continuing contract or contracts with Roberts Consolidated Industries for 180 days. An underlying ETA seeks 90 days authority. Supporting shipper(s); Roberts Consolidated Industries, Inc., 600 N. Baldwin Blvd., City of Industry, CA 91749. Send protests to: Mabel E. Holston, T/A, ICC, Room 1616—2121 Building, Birmingham, AL 35203.

MC 144275 (Sub-1TA), filed March 29, 1979. Applicant: J. K. EXPRESS, INC., P.O. Box 2408, Trenton, N.J. 08690. Representative: Mel P. Booker, Jr., Esq., 110 South Columbus Street, Alexandria, VA 22314. *Contract carrier:* irregular routes: *Coatings and sealers* (except in bulk), from the facilities of Cosmicoat, Inc., located at or near Cheshire, CT to points in CT, DE, DC, FL, GA, IL, ME, MD, MA, MS, NJ, NH, NY, NC, OH, PA, RI, SC, VT, VA and WV, under a continuing contract with Cosmicoat, Inc. of Wooster, OH, for 180 days. An underlying ETA seeks 90 days authority. Supporting Shipper(s): Cosmicoat, Inc., 100 Lexington Avenue, Trenton, N.J. 08618. Send protests to: District Supervisor, ICC, 428 East State Street, Room 204, Trenton, N.J. 08608.

MC 144345 (Sub-3TA), filed February 28, 1979. Applicant: DON'S FROZEN EXPRESS, INC., 3820 Airport Way, Caldwell, Idaho 83605. Representative: David E. Wishney, Attorney at Law, P.O. Box 837, Boise, Idaho 83701. *Dairy products,* from the facilities of Dairymen's Creamery Ass'n. Inc. at Caldwell, ID to Salt Lake City, UT, for 180 days. An underlying ETA seeks 90 days authority. Supporting Shipper(s): Dairymen's Creamery Ass'n, Inc., P.O. Box 578, Caldwell, ID 83605. Send protests to: Barney L. Hardin, D/S, ICC, Suite 110, 1471 Shoreline Dr., Boise, ID 83706.

MC 144345 (Sub-4TA), filed February 27, 1979. Applicant: DON'S FROZEN EXPRESS, INC., 3820 Airport Way, Caldwell, Idaho 83605. Representative: David E. Wishney, Attorney at Law, P.O. Box 837, Boise, Idaho 83701. *Furniture and window coverings and materials and supplies used in the manufacture of furniture and window coverings,* from Los Angeles, Orange, Riverside and San Bernadino Counties, CA to the facilities of Restline Products, Inc. at Nampa, ID, for 180 days, in common carriage. An underlying ETA seeks 90 days authority. Supporting Shipper(s): Restline Products, Inc., 1324 Eleventh Ave. North Extension, Nampa, ID 83651. Send protests to: Barney L. Hardin, D/S, ICC, Suite 110, 1471 Shoreline Dr., Boise, ID 83706.

MC 144345 (Sub-5TA), filed March 1, 1979. Applicant: DON'S FROZEN EXPRESS, INC., 3820 Airport Way, Caldwell, Idaho 83605. Representative: David E. Wishney, Attorney at Law, P.O. Box 837, Boise, Idaho 83701. *Windows and materials and supplies used in the manufacture of windows,* from Los Angeles, and Orange Counties, CA to the facilities of Hehr International, Inc. at Nampa, ID, for 180 days in common carriage. An underlying ETA seeks 90 days authority. Supporting Shipper(s): Hehr International, Inc., P.O. Box 186, Nampa, ID 83651. Send protests to: Barney L. Hardin, D/S, ICC, Suite 110, 1471 Shoreline Dr., Boise, ID 83706.

MC 144345 (Sub-6TA), filed March 12, 1979. Applicant: DON'S FROZEN EXPRESS, INC., 3820 Airport Way, Caldwell, Idaho 83605. Representative: David E. Wishney, Attorney at Law, P.O. Box 837, Boise, Idaho 83701. *Cleaning, scouring and washing compounds; buffing and polishing compounds; sodium hypochlorite solution; soap base compound; fabric and textile softeners; plastic bags; filters,* from the facilities of Economics Lab, Inc., at San Jose, CA to points in OR, ID, UT and WA, for 180 days in common carriage. An underlying ETA seeks 90 days authority. Supporting shipper(s): Economics Laboratory, Inc., 640 Lenfest Road, San Jose, CA 95133. Send protests to: Barney L. Hardin, D/S, ICC, Suite 110, 1471 Shoreline Dr., Boise, ID 83706.

MC 144345 (Sub-7TA), filed March 21, 1979. Applicant: DON'S FROZEN EXPRESS, INC., 3820 Airport Way, Caldwell, ID 83605. Representative: David E. Wishney, P.O. Box 837, Boise, ID 83701. *Plastic containers and materials and supplies* used in the manufacture thereof, and materials and supplies used in the manufacture of soaps and detergents, from points in CA, OR, WA and UT to points in Ada and Canyon Counties, ID. An underlying ETA seeks 90 days authority. Supporting shipper(s): Intermountain Soap & Chemical Co., 205 South 20th, Nampa, ID 83651. Send protests to: Barney L. Hardin, D/S, ICC, Suite 110, 1471 Shoreline Dr., Boise, ID 83706.

MC 144775 (Sub-1TA), filed April 2, 1979. Applicant: LELAND HAGE and GERALD HAGE, d.b.a. HAGE TRUCKING, Halstad, MN 56548. Representative: Gene P. Johnson, P.O. Box 2471, Fargo, ND 58108. *Liquid fertilizer,* in bulk, in tank vehicles, from Hendrum, MN to points in ND and SD, for 180 days. An underlying ETA seeks 90 days authority. Supporting shipper(s): Hendrum Fertilizer Company, Inc., P.O. Box 159, Hendrum, MN 56550. Send protests to: DS, ICC, Bureau of Operations, Room 268, Fed. Bldg. & U.S. Post Office, 657 2nd Avenue North, Fargo, ND 58102.

MC 144855 (Sub-10TA), filed March 6, 1979. Applicant: TRANS CONTINENTAL CARRIERS, 169 East Liberty Avenue, Anaheim, CA 92803. Representative: David P. Christianson, Knapp, Stevens, Grossman & Marsh, 707 Wilshire Blvd., Suite 1800, Los Angeles, CA 90017. *Frozen fruits and vegetables,* from Santa Clara, San Benito, Monterey and Santa Cruz Counties, CA, to points in the United States (except AK and HI), for 180 days. An underlying ETA seeks up to 90 days operating authority. Supporting shipper(s): Golden West Foods, Inc., 1350 Pacheco Pass Highway, Gilroy, CA 95020. Send protests to: Irene Carlos, Transportation Assistant, Interstate Commerce Commission, Room 1321, Federal Building, 300 North Los Angeles Street, Los Angeles, CA 90012.

MC 145025 (Sub-3TA), filed April 2, 1979. Applicant: CONSIGNOR'S, INC., P.O. Box 42, Dayton, OH 45450. Representative: Thomas F. Kilroy, Suite 406, Executive Building, 6901 Old Keene Mill Rd., Springfield, VA 22150. *Contract* carrier: irregular routes: *Such commodities as are dealt in and distributed by trading stamp companies (except foodstuffs and commodities in bulk),* between the facilities of Top Value Enterprises, Inc., their customers and suppliers in Dayton, OH, and its commercial zone, and points in the states of ME, NH, VT, MA, CT, RI, MY, PA, NJ, DE, MD, WV, VA, NC, SC, GA, FL, OH, AL, TN, KY, MI, IN, IL, MS, LA, AR, MO, WI, OK, TX, IA, MN and DC, for 180 days. Supporting shipper(s): Top Value Enterprises, Inc., William A. Becher, Director of Transportation, 3085 Woodman Dr., Dayton, OH. Send protests to: Bureau of Operations, ICC, Wm. J. Green, Jr., Federal Bldg., 600 Arch St., Room 63238, Philadelphia, PA 19106.

MC 145065 (Sub-4TA), filed February 5, 1979. Applicant: WESTERN CARRIERS, INC., 2100 Alaskan Way, Seattle, WA 98121. Representative: George R. LaBissoniere, 1100 Norton Bldg., Seattle, WA 98104. *Frozen citrus juices, fruits, vegetables and berries when moving in vehicles equipped with mechanical refrigeration,* from the facilities of C & W Frozen Foods at Castroville, CA to points in OR and WA, for 180 days. Supporting shipper(s): C & W Frozen Foods, 1575 Old Bayshore Highway, Burlingame, CA 94010. Send protests to: Shirley M. Holmes, T/A, ICC, 858 Federal Bldg., Seattle, WA 98174.

MC 145065 (Sub-5TA), filed January 25, 1979. Applicant: WESTERN CARRIERS, INC., 2100 Alaskan Way, Seattle, WA 98101. Representative: George R. LaBissoniere, 1100 Norton Bldg., Seattle, WA 98104. *Non-dairy milk and cream substitutes; salad dressings; and whipped toppings, chilled and frozen,* from the facilities of Presto Food Products, Inc. at Los Angeles, CA to points in OR and WA, for 180 days. An underlying ETA seeks 90 days authority. Supporting shipper(s): Presto Food Products, Inc., 628 South Brandon, Seattle, WA 98108. Send protests to: Shirley M. Holmes, T/A, ICC 858 Federal Bldg., Seattle, WA 98174.

MC 145065 (Sub-6TA), filed February 1, 1979. Applicant: WESTERN CARRIERS, INC., 2100 Alaskan Way, Seattle, WA 98121. Representative: George R. LaBissoniere, 1100 Norton Bldg., Seattle, WA 98104. *Frozen citrus juices when moving in vehicles equipped with mechanical refrigeration,* from the facilities of Ventura Coastal Corporation at Ventura, CA to points in OR and WA, for 180 days. Supporting shipper(s): Ventura Coastal Corp., 2325 Vista Del Mar Drive, Ventura, CA. Send protests to: Shirley M. Holmes, T/A, ICC 858 Federal Bldg., Seattle, WA 98174.

MC 145065 (Sub-7TA), filed February 1, 1979. Applicant: WESTERN CARRIERS, INC., 2100 Alaskan Way, Seattle, WA 98121. Representative: George R. LaBissoniere, 1100 Norton Bldg., Seattle, WA 98104. *Frozen foods, when moving in vehicles equipped with mechanical refrigeration,* from the facilities of Seabrook Foods, Inc. at Los Angeles and Sanger, CA to points in OR and WA, for 180 days. Supporting shipper(s): Seabrook Foods, Inc., P.O. Box 367, Sanger, CA 93657. Send protests to: Shirley M. Holmes, T/A, ICC, 858 Federal Bldg., Seattle, WA 98174.

MC 145335 (Sub-2TA), filed March 6, 1979. Applicant: RIVER ENTERPRISES, INC., Rural Route 6, Edwardsville, IL 62087. Representative: Robert T. Lawley, Attorney at Law, 300 Reisch Building, Springfield, IL 62701. Contract carrier: Engines, engine parts, marine parts, and equipment, tools and equipment used in the repair, installation, and maintenance of engines, ships and marine equipment, for the account of National Marine Service. Supporting shipper(s): National Marine Service, Inc., P.O. Box 38, Hartford, IL 62406. Send protests to: Charles D. Little, District Supervisor, Interstate Commerce Commission 414 Leland Office Building, 527 East Capitol Avenue, Springfield, Illinois 62701.

MC 145384 (Sub-30TA), filed March 2, 1979. Applicant: ROSE-WAY, INC., 1914 E. Euclid, Des Moines, IA 50306. Representative: James M. Hodge, 1980 Financial Center, Des Moines, IA 50309. (1) Adhesives, in containers, from the facilities of Essex Chemical Corporation at or near LaMirada, CA to points in AZ, IL, MA, MD, NJ, OR, TX, WA and WI, and (2) Wood resin, in containers, from Brunswick, GA, to the facilities of Essex Chemical Corporation at or near LaMirada, CA for 180 days. An underlying ETA seeks 90 days authority. Supporting shipper(s): Essex Chemical Corporation, 1401 Broad Street, Clifton, NJ 07015. Send protests to: Herbert W. Allen, DS, ICC, 518 Federal Bldg., Des Moines, IA 50309.

MC 145384 (Sub-31TA), filed March 26, 1979. Applicant: ROSE-WAY, INC., 1914 E. Euclid, Des Moines, IA 50309. Representative: James M. Hodge, 1980 Financial Center, Des Moines, IA 50309. *Millwork and molding* (1) from Diamond Springs, CA to points in LA, OK and TX, and (2) from Oroville and Marysville, CA, to points in IL, IN, IA, LA, MN, MI, MO, OH, OK, PA, TX and WI for 180 days. An underlying ETA seeks 90 days authority. Supporting shipper(s): Pacific Southeast Forest Products, Inc., 5330 Primrose Drive, Suite 200, Fair Oaks, CA 95628. Send protests to: Herbert W. Allen, DS, ICC, 518 Federal Bldg., Des Moines, IA 50309.

MC 145664 (Sub-3TA), filed March 15, 1979. Applicant: STALBERGER, INC., 223 South 50th Avenue West, Duluth, MN 55806. Representative: John M. LeFever and James S. Holmes, Holmes, Kircher, Graven & Reyer, 4610 IDS Center, Minneapolis, MN 55402. *Particle board or composition board* from the United States-Canada International Boundary Line at or near Grand Portage, MN to points in MN, MI, ND, SD, NE, MO, IN, KY, KS, OH, and to points in WI on or north of Highway 29, limited to traffic originating at the facilities of MacMillan Bloedel Building Materials Limited and of Great Lakes Paper Company Limited at or near Thunder Bay, Ontario, Canada, for 180 days. An underlying ETA seeks 90 days authority. Supporting shipper(s): MacMillan Bloedel Building Materials Ltd., Transportation Coordinator, P.O. Box 608, Thunder Bay, Ontario, Canada P7C 4W6. Send protests to: Delores A. Poe, TA, ICC, 414 Federal Building & U.S. Court House, 110 South 4th Street, Minneapolis, MN 55401.

MC 145984 (Sub-1TA), filed April 5, 1979. Applicant: A. T. BYRUM & SONS, INC., Route 4, Box 85, Ahoskie, NC 27910. Representative: F. Kent Burns, P.O. Box 1406, Raleigh, NC 27602. *Wood residuals* from Louisburg, Edenton, Ahoskie, Enfield, and Murfreesboro, NC to Franklin, VA for 180 days. An underlying ETA seeking 90 days authority has been filed. Supporting shipper(s): Union Camp Corporation, 1600 Valley Road, Wayne, NJ 07470. Send protests to: Mr. Archie W. Andrews, D/S, ICC, P.O. Box 26896, Raleigh, NC 27611.

MC 146035 (Sub-1TA), filed March 29, 1979. Applicant: SOUTHERN DRAYAGE, INC., P.O. Box 1983, Jackson, MS 39205. Representative: John A. Crawford, P.O. Box 22567, Jackson, MS 39205. *Iron and steel articles* from the facilities of Inland Steel Co. at or near E. Chicago, IN to points in Tennessee, for 180 days. An underlying ETA seeks 90 day authority. Supporting shipper(s): Inland Steel Company, 30 W. Monroe St., Chicago, IL 60603. Send protests to: Alan Tarrant, D/S, ICC, Room 212, 145 East Amite Building, Jackson, MS 39201.

MC 146054 (Sub-2TA), filed March 16, 1979. Applicant: Hi-Way Lines, Inc., 625 Van Duyn Road, Coburg, OR 97401. Representative: LAWRENCE V. SMART, JR., 419 N. W. 23rd Avenue, Portland, OR 97210. *Lumber and wood products,* from points in Multnomah, Clackamas, Hood River, Yamhill, Polk, Washington, Benton, Linn, Lane, Marion, Douglas, Josephine, Jackson, Klamath, Lake, Deschutes, Jefferson, and Crook Counties, OR to points in CA and NV, for 180 days. An underlying ETA seeks 90 day authority. Supporting shipper(s): There are nine shippers. Their statements may be examined at the office listed below and Headquarters. Send protests to: District Supervisor, A. E. Odoms, ICC, 114 Pioneer Courthouse, Portland, OR 97204.

MC 146114 (Sub-1TA), filed March 22, 1979. Applicant: RICKY SOWDER d.b.a. RICKY SOWDER TRUCK SERVICE COMPANY, P.O. Box 242, Savannah, TN 38372. Representative: Ricky Sowder, 1906 Rosewood Drive, Savannah, TN 38372. *Crushed stone, sand, slag, gravel, fertilizer, riprap stone and lightweight aggregates* between Itawamba, Prentiss, Alcorn and Tishomingo counties, MS; Colbert, Lauderdale counties, AL, on the one hand, and, on the other, Hardin,

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McNairy, Shelby, Benton, Decatur, Wayne, Lawrence counties, TN; and Colbert, Limestone, Lauderdale and Franklin counties, AL, for 180 days. An underlying ETA seeks 90 days authority. Supporting shipper(s): (1) Southern Stone & Slag Co., P.O. Box 16117, Jackson, MS 39206; (2) Folk Construction Co., Inc., P.O. Box 309, Corinth, MS 38834. Send protests to: Floyd A. Johnson, District Supervisor, Interstate Commerce Commission, 100 North Main Building, Suite 2006, 100 North Main Street, Memphis, TN 38103.

MC 146184 (Sub-2TA), filed March 29, 1979. Applicant: RUSS TAYLOR TRUCKING, INC., R. R. 6, Watertown, WI 53094. Representative: James A. Spiegel, 6425 Odana Rd., Madison, WI 53719. Contract carrier; irregular routes: (1) *Rough Steel castings, and* (2) *Materials, equipment and supplies used in foundries* (1) from Watertown, WI to points in AR, IL, IN, OH, MI, NY, NC, PA and TX; and (2) on return moves from AR, IL, IN, OH, MI, NY, NC, PA, & TX to Watertown, WI, for 180 days. An underlying ETA seeks 90 days authority. Supporting shipper(s): Spuncast, Inc., Hwy. 16 By Pass, 207 Rhine Rd., Watertown, WI 53094. Send protests to: Gail Daugherty, Transportation Asst., Interstate Commerce Commission, Bureau of Operation, U.S. Federal Building and Courthouse, 517 East Wisconsin Avenue, Room 619, Milwaukee, Wisconsin 53202.

MC 146185 (Sub-1TA), filed March 13, 1979. Applicant: ROMAN WEBER, d.b.a., BULK FEED TRANSPORT, Bartelso, IL 62218. Representative: Robert T. Lawley, 300 Reisch Building, Springfield, IL 62701. Authority sought to operate as a Contract Carrier by motor vehicle, over irregular routes, transporting: *Pet Foods,* from Davenport, IA to Vandalia, IL, for 180 days, under a continuing contract or contracts with Ralston Purina Company. An underlying ETA seeks 90 days authority. Supporting shipper(s): Ralston Purina Company, Checkerboard Square, St. Louis, MO 63188. Send protests to: Charles D. Little, District Supervisor, Interstate Commerce Commission, 414 Leland Office Building, 527 East Capitol Avenue, Springfield, IL 62701.

MC 146294 (Sub-1TA), filed March 2, 1979. Applicant: ARKANSAS TRUCKING, INC., 3223 N. W. Avenue, El Dorado, AR 71730. Representative: Jon E. Williams, (same as applicant). *Petroleum and petroleum products,* from Shreveport and Cotton Valley, LA to Red River and Lone Star Arsenals at Texarkana, TX, for 180 days as a common carrier over irregular routes. An underlying ETA seeks 90 days authority. Supporting shipper(s): Zaroco, Inc., R.R. No. 2, Box 145, Lawrence, KS 66044. Send protests to: William H. Land, Jr., District Supervisor, 3108 Federal Office Building, 700 West Capitol, Little Rock, AR 72201.

MC 146294 (Sub-2TA), filed March 8, 1979. Applicant: ARKANSAS TRUCKING, INC., 3223 N.W. Avenue, El Dorado, AR 71730. Representative: Jon E. Williams (same as applicant). *Petroleum and petroleum products,* from Shreveport and Cotton Valley, LA to Long Horn Army Arsenal at Karnack, TX, for 180 days as a common carrier over irregular routes. An underlying ETA seeks 90 days authority. Supporting shipper(s): Zaroco, Inc., R.R. 2, Box 145, Lawrence, KS 66044. Send protests to: William H. Land, Jr., District Supervisor, 3108 Federal Office Building, 700 West Capitol, Little Rock, AR 72201.

MC 146295 (Sub-1TA), filed March 7, 1979. Applicant: MOORE'S TRUCKING, INC., P.O. Box 699, Red Bay, AL 35582. Representative: Gerald D. Colvin, Jr., 603 Frank Nelson Building, Birmingham, AL 35203. Contract, irregular: *Stone,* between points in AL, TN, and MS, under a continuing contract with Road Maintenance Supply, Inc., Jackson, MS, for 180 days. Supporting shipper(s): Road Maintenance Supply, Inc., P.O. Box 1096, Jackson, MS 39205. Send protests to: Mabel E. Holston, Transportation Assistant, Bureau of Operation, ICC, Room 1616, 2121 Building, Birmingham, AL 35203.

MC 146314 (Sub-3TA), filed February 12, 1979. Applicate: IRVIN D. BLAIR, d.b.a. D & T TRUCKING CO., 4300 Curtis Ave., Baltimore, MD 21226. Representative: Walter T. Evans, 7401 Wisconsin Ave., Washington, DC 20014. Contract carrier, irregular routes, (1) *Unfinished steel pipe,* from Baltimore, MD to Houston, TX, points in the Houston, TX commercial zone and Stephenville, TX and (2) *Raw steel billets* from Lone Star, TX to Baltimore, MD, under contract with American Seamless Tubing, Inc., for 180 days. An underlying ETA seeks 90 days authority. Supporting shipper(s): American Seamless Tubing, Inc., 1920 Benhill Ave., Baltimore, MD 21226. Send protests to: William L. Hughes, Dist, Supv., 1025 Federal Bldg., Charles Center, 31 Hopkins Plaza, Baltimore, MD 21201.

MC 146325 (Sub-1TA), filed March 5, 1979. Applicant: DELIVERY SERVICE INC., 6284 Claude Way East, Inver Grove Heights, MN 55075. Representative: Ralph S. Mehlhorn (same address as applicant). *Contract carrier:* irregular routes: *Computer components, subassemblies, subsystems, cables and cable assemblies* between points in Ramsey, Dakota, Jackson and Hennepin Counties, MN and Cerro Gordo County, IA, under a continuing contract or contracts with Sperry Univac Computer Systems, for 180 days. An underlying ETA seeks 90 days authority. Supporting shipper(s): Sperry Univac Computer Systems, Transportation Manager, 2276 Highcrest Road, Roseville, MN 55113. Send protests to: Delores A. Poe, TA, ICC, 414 Federal Building & U.S. Court House, 10 South 4th Street, Minneapolis, MN 55401.

MC 146385 (Sub-1TA), filed February 28, 1979. Applicant: ED TALMADGE DUNN, d.b.a. DUNN TRUCKING, Route 5, Highway 225, Chatsworth, GA 30705. Representative: Blaine Buchanan, 1024 James Building, Chattanooga, TN 37402. *Contract carrier:* irregular routes, *Carpet* from the facilities of Len-Dal Carpets, Inc. at or near Eton, GA to points in IL, IN, IA, KS, MN, NE, ND, SD and WI, for 180 days. An underlying ETA seeks 90 days authority. Supporting shipper(s): Len-Dal Carpets, Inc., P.O. Box 39, Chatsworth, GA 30705. Send protests to: Sara K. Davis, T/A, ICC, 1252 W. Peachtree St., N.W., Rm. 300, Atlanta, Ga 30309.

MC 146395 (Sub-2TA), filed March 1, 1979. Applicant: W. C. PITTS CONSTRUCTION CO., INC., Hwy. 84W, P.O. Box 112, Waynesboro, MS 39367. Representative: Harold R. Ainsworth, 2307 American Bank Bldg., New Orleans, LA 70130. *Contract carrier:* Irregular routes: *Lumber, poles, and pilings, ties, timbers, wood chips, shavings, sawdust, hogged fuel and plywood* from the facilities of Longleaf Forest Products, Inc., at Waynesboro, MS to points in AL and LA, for the account of North Pacific Lumber Co., for 180 days. An underlying ETA seeks 90 days authority. Supporting shipper(s): North Pacific Lumber Co., Box 3915, Portland, OR 97208. Send protests to: Alan Tarrant, D/S, ICC, Rm. 212, 145 East Amite Bldg., Jackson, MS 39201.

MC 146404 (Sub-2TA), filed February 26, 1979. Applicant: C & J TRUCKING, INC., 2055 South High Street, Columbus, Ohio 43207. Representative: David A. Turano, 100 East Broad Street, Columbus, Ohio 43215. *Iron and steel articles, and materials, equipment, and supplies used in the manufacture and distribution of iron and steel articles (except commodities in bulk)* between the facilities of Newark Steel Company at or near Newark, Ohio on the one hand, and, on the other, points in IL, IN, KY, NC, SC, TN, VA and WV for 180 days. An underlying ETA seeks 90 days authority. Supporting shipper(s): Newark Steel Company, 550 Wehrle Avenue, Newark, Ohio 43055. Send protests to: Frank L. Calvary, Interstate Commerce Commission, 220 Federal Building and U.S. Courthouse, 85 Marconi Boulevard, Columbus, Ohio 43215.

MC 146414 (Sub-1TA), filed March 1, 1979. Applicant: COOL TRANSPORTS, INCORPORATED, 6300 Alondra Boulevard, Paramount, CA 90723. Representative: William J. Monheim, P.O. Box 1756, Whittier, CA 90609. *Petroleum and petroleum products,* from points in CA, to points in AZ, for 180 days. An underlying ETA seeks 90 days authority. Supporting shipper(s): Salt River Project Agricultural Improvement & Power District, P.O. Box 1980, Phoenix, AZ 85001, and Arizona Public Service, P.O. Box 21666, Phoenix, AZ 85036. Send protests to: Irene Carlos, Transportation Assistant, Interstate Commerce Commission, Room 1321 Federal Building, 300 North Los Angeles Street, Los Angeles, California 90012.

MC 146424 (Sub-1TA), filed March 13, 1979. Applicant: TRANSPORTATION ANALYST, INC., d.b.a. Clarendon-Breton Truck Division, 9419 East 63rd Street, Kansas City, MO 64133. Representative: Arthur J. Cerra, P.O. Box 19251, 2100 TenMain Center, Kansas City, MO 64141. Contract, irregular. *Such commodities as are dealt in and sold or utilized by retail discount department stores,* (1) Between the warehouses of Mattingly Stores, Inc., at Kansas City and Lexington, MO and (2) from the warehouses described in (1) above to the retail discount department stores of Mattingley Stores, Inc., at Centerville, IA and points in MO for 180 days. An underlying ETA seeks 90 days. Supporting shipper(s): Mattingly Stores, Inc., 18th and Franklin, P.O. Box 10, Lexington, MO 64067. Send protests to: DS John V. Barry, Rm. 600, 911 Walnut, Kansas City, MO 64106.

MC 146425R (Sub-1TA), filed March 22, 1979. Applicant: RANDY KINDER, d.b.a. RANDY KINDER CONSTRUCTION COMPANY, Route 2, Dexter, MO 63841. Representative: William F. Ringer, 21 Vine, Dexter, MO 63841. Contract carrier: *Aluminum fuel tanks for use by motor boats with special shipping pallets and banding,* from Dexter, MO to Neodosha, KS; Holland, MI; Little Falls, MN; Miami, FL; W. Frankfort, IL; Goshen, IN; Austin, TX, for 180 days. An underyling ETA seeks 90 days authority. Supporting shipper(s): Florida Marine Tanks, Inc., Highway 114 East, Dexter, MO. 63481. Send protests to: P. E. Binder, DS, ICC, Rm. 1465, 210 N. 12th St., St. Louis, MO 63101.

MC 146455 (Sub-1TA), filed March 23, 1979. Applicant: AIR FRESH TRUCKING, INC., 961 Bing Street, San Carlos, CA 94070. Representative: Don Stanwood (same address as above). *Contract carrier:* irregular routes: *Soybean flour, Lecithin, and Dry milk solids,* from Louisville, KY; Decatur, IL; Peoria, IL; Chicago, IL and Belmond, IA to Oakland, CA, for the account of Soya Pacific, Inc., 6707 San Leandro, St., San Leandro, CA 94621, for 180 days. An underlying ETA seeks 90 days authority. Supporting shipper(s): Soya Pacific, Inc., 6707 San Leandro St., San Leandro, CA 94621. Send protests to: District Supervisor M. M. Butler, 211 Main, Suite 500, San Francisco, CA 94105.

MC 146464 (Sub-1TA), filed March 7, 1979. Applicant: NEVADA GENERAL TRANSPORTATION, INC., P.O. Box 1239, Lamoille, NV 89828. Representative: Jerald Payne (same as applicant). *Petroleum and petroleum products,* from Salt Lake County, UT and Ninidoka County, ID to Elko County, NV, for 180 days. Supporting shipper(s): Merkley & Hankins, Box 508, Elko, NV 89801. Send protests to: W. J. Huetig, DS, ICC, 203 Federal Bldg., 705 N. Plaza St., Carson City, NV 89701.

MC 146465 (Sub-1TA), filed March 15, 1979. Applicant: LAWRENCE PILGRIM, d.b.a. PILGRIM TRUCKING COMPANY, P.O. Box 77, Cleveland, GA 30528. Representative: Jeffrey Kihlman, Suite 508, 1447 Peachtree St., N.E., Atlanta, GA 30309. *Lumber* between the facilities of Hoover Universal, Inc., Wood Preserving Division, located at or near Milford, VA on the one hand, and, on the other, points in the U.S., in and east of MT, WY, CO and NM, for 180 days. An underlying ETA seeks 90 days authority. Supporting shipper(s): Hoover Universal, Inc., Wood Preserving Division, P.O. Box 746, Thomson, GA 30824. Send protests to: Sara K. Davis, T/A, ICC, 1252 W. Peachtree St., N.W., Rm. 300, Atlanta, GA 30309.

MC 146465 (Sub-2TA), filed March 21, 1979. Applicant: LAWRENCE PILGRIM, d.b.a. PILGRIM TRUCKING COMPANY, P.O. Box 77, Cleveland, GA 30528. Representative: Jeffrey Kihlman, Suite 508, 1447 Peachtree St., N.E., Atlanta, GA 30309. *Lumber* between the facilities of Hoover Universal, Inc., Wood Preserving Division, located at Thomson, GA, on the one hand, and, on the other, points in the U.S., in and east of MT, WY, CO and NM (except points in AL, FL, KY, MD, NC, OH, PA, SC, TN, VA, WV and DC) for 180 days. Supporting shipper(s): Hoover Universal, Inc., Wood Preserving Division, P.O. Box 746, Thomson, GA 30824. Send protests to: Sara K. Davis, T/A, ICC, 1252 W. Peachtree St., N.W., Rm. 300, Atlanta, GA 30309.

MC 146504 (Sub-2TA), filed March 14, 1979. Applicant: LEO TRUCKING CO., INC., P.O. Drawer F, Poteau, OK 74953. Representative: Greg E. Summy, P.O. Box 1540, Edmond, OK 73034. *Lime, quicklime, hydrate, and limestone products,* in bulk, and in bags, from the facilities of St. Clair Lime Co., at or near Marble City and Sallisaw, OK to points in AR, KS, LA; Adams, Issaquena, and Warren Counties, MS; and Cass and Bowie Counties, TX, for 180 days as a common carrier over irregular routes. Supporting shipper(s): St. Clair Lime Company, P.O. Box 894, Oklahoma City, OK 73101. Send protests to: William H. Land, Jr., District Supervisor, 3108 Federal Office Building, 700 West Capitol, Little Rock, AR 72201.

MC 146554 (Sub-1TA), filed March 23, 1979. Applicant: GEORGE L. BRINCKS, Templeton, IA 51463. Representative: Richard D. Howe, 600 Hubbell Bldg., Des Moines, IA 50309. *Iron and steel articles,* from Chicago, IL and its commercial zone, and the facilities of J & L Steel at or near Hennepin, IL to the facilities of M. L. Foss Incorporated at or near Denver, CO for 180 days. An underlying ETA seeks 90 days authority. Supporting shipper(s): M. L. Foss Incorporated, 1485 Rio Court, Denver, CO. Send protests to: Herbert W. Allen, DS, ICC, 518 Federal Bldg., Des Moines, IA 50309.

MC 146555 (Sub-1TA), filed March 23, 1979. Applicant: GARY A. VOSIKA, R.R. #1, Moorland, IA 50566. Representative: Richard D. Howe, 600 Hubbell Bldg., Des Moines, IA 50309. *Animal feed, feed ingredients and milk replacer,* in bags. between the facilities of Dr. McDonald's Vitamized Feed Co., Inc., at or near Moorland, IA, on the one hand, and, on the other, points in MN and WI, for 180 days. An underlying ETA seeks 90 days authority. Supporting shipper(s): Dr. McDonald's Vitamized Feed Co., Inc., Hwy 20 West, P.O. Box 1077, Moorland, IA 50566. Send protests to: Herbert W. Allen, DS, ICC, 518 Federal Bldg., Des Moines, IA 50309.

MC 146564 (Sub-1TA), filed March 23, 1979. Applicant: BENNIE MILLER d.b.a. M & L TRUCK SERVICE, 6730 Larry Lane, Berkeley, MO 63134. Representative: Lawrence O. Willbrand Atty, Suite 873, 816 Olive St., St. Louis, MO 63101. *Contract carrier:* irregular routes: *Dry fertilizer and other seed,* not in bulk or tanks, between St. Louis, MO, on the one hand, and on the other, all points in IL and MO, for 180 days. An

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underlying ETA seeks 90 days authority. Supporting shipper(s): Mangelsdorf Seed Co., Box 327, St. Louis, MO 63166. Send protests to: P. E. Binder, DS, ICC, Rm. 1465, 210 N. 12th St., St. Louis, MO 63101.

MC 146584 (Sub-1TA), filed March 22, 1979. Applicant: CARL GAINER (Individual), 2244 DeVos Street, Eugene, OR 97402. Representative: Carl Gainer (same as above), *Contract carrier,* irregular routes, *steel tubing, steel clips and truss accessories, and wooden structural trusses,* between points in Los Angeles County, CA, on the one hand, and on the other Hillsboro, OR, for 180 days. An underlying ETA seeks 90 days authority. Supporting shipper(s): Trus Joist Corporation, P.O. Box 297, 550 S. Bailey, Hillsboro, OR 97123. Send protests to: A. E. Odoms, DS, ICC, 114 Pioneer Courthouse, Portand, OR 97204.

MC 146595 (Sub-2TA), filed March 21, 1979. Applicant: SELCO CORPORATION, P.O. Box 628, Provo, UT 84601. Representative: Daniel O. Hands, Attorney at Law, Suite 200, 205 West Touhy Avenue, Park Ridge, IL 60068. *Confectionery* (except commodities in bulk), in vehicles equipped with mechanical refrigeration (1) from the facilities of E. J. Brach & Sons at or near Chicago, IL to the facilities of E. J. Brach & Sons at or near Reno, NV and (2) from the facilities of E. J, Brach & Sons at or near Reno, NV to points in the states of AZ, CA, OR and WA for 180 days. An underlying ETA seeks 90 days authority. Supporting shipper(s): E. J. Brach & Sons, P.O. Box 802, Chicago, IL 60690. Send protests to: L. D. Helfer, DS, ICC, 5301 Federal Bldg., Salt Lake City, UT 84138.

MC 146604 (Sub-1TA), filed March 27, 1979. Applicant: SILVER TRUCKING, INC., P.O. Box 2663, Jackson, WY 83001. Representative: Don C. Henderson (same address as applicant). *Malt beverages,* from Fairfield, CA to Victor, ID and Jackson, WY; between Victor, ID and Jackson, WY for 180 days. An underlying ETA seeks 90 days authority. Supporting Shipper(s): Dunlap Distributing, P.O. Box A, Jackson, WY 83001. Send protests to: District Supervisor Paul A. Naughton, Rm., 105 Federal Bldg. & Crt. House, 111 South Wolcott, Casper, WY 82601.

MC 146605 (Sub-1TA), filed March 26, 1979. Applicant: EVENSON BROS., INC., 835 1st Street, S.W., Pelican Rapids, MN 56572. Representative: Thomas J. Van Osdel, 502 First National Bank Bldg., Fargo, ND 58126. (1) *Lumber, lumbermill products and wood products,* from points in WA, OR, ID and MT to the facilities of Dynamic Homes, Inc., at or near Mandan, ND, and Detroit Lakes and Pelican Rapids, MN; (2) *Siding,* from International Falls, MN to the facilities of Dynamic Homes, Inc., at or near Mandan, ND, and (3) *Rafters and trusses,* from Pelican Rapids, MN to the facilities of Dynamic Homes, Inc., at or near Mandan, ND, for the account of Dynamic Homes, Inc., for 180 days. An undrlying ETA seeks 90 days authority. Supporting Shipper(s): Dynamic Homes, Inc., Box 875, Detroit Lakes, MN 56501. Send protests to: DS, ICC, Bureau of Operations, Room 268 Fed. Bldg. & U.S. Post Office, 657 2nd Avenue North, Fargo, ND 58102.

MC 146704 (Sub-TA), filed March 13, 1979. Applicant: FALCON MOTOR TRANSPORT, INC., 1250 Kelly Avenue, Akron, OH 44216. Representative: Michael L. Moushey, 275 East State Street, Columbus, OH 43215. Contract carrier-irregular routes, *building products and parts* thereto, and *materials, equipment, and supplies* used in the manufacture thereof, between Lodi, OH, and Franklin Park, IL, on the one hand, and, on the other, points in WV, VA, MD, DE, PA, NY, NJ, MA, CT, RI, VT, NH, ME, MI, IN, OH, and DC, for 180 days. An underlying ETA seeks 90 days authority. Supporting Shipper(s): Questor Corporation, One John Goerlich Square, Toledo, OH 43694. Send protests to: Mary Wehner, D/S, I.C.C., 731 Federal Bldg. Cleveland, OH 44199.

MC 146744 (Sub-TA), filed March 29, 1979. Applicant: A. L. EUBANKS, Mt. Carmel Rd., Rt. 2 box 45–6, Cabot, AR 721023. Representative: A. L. Eubanks (same as applicant). *Ventilating products, roof louvers, turbines, and shutters,* from Jacksonville, AR to any and all points in CA, for 180 days as a contract carrier over irregular rotues. Supporting shipper(s): Lomanco, Inc., 2101 W. Main, Jacksonville, AR 72076. Send protests to: William H. Land, Jr., District Supervisor, 3108 Federal Office Building, 700 West Capitol, Little Rock, AR 72201.

MC 146745 (Sub-TA), filed April 2, 1979. Applicant: WILLIAM E. SALTSMAN, Patricia M. Saltsman d.b.a, WILLIAM SALTSMAN TRUCKING, 1734 Windsor Avenue, McKinleyville, CA 95521. Representative: William E. Saltsman, Patricia M. Saltsman (same address as applicant). *Contract carrier,* irregular routes: *Lumber, particle board, plywood, veneer, moulding, kraft, pulp,* from points in Humboldt County, CA to points in Sonoma, Shasta and Mendocino Counties, CA for subsequent out of state movement by rail, for 180 days. Supporting Shipper(s): Simpson Timber Company, P. O. Drawer V, Arcata, CA 95521. Send protests to: A. J. Rodriguez, DS, ICC, 211 Main Street, Suite 500, San Francisco, CA 94105.

H. G. Homme, Jr.,
Secretary.

[Notice No. 78]
[FR Doc. 79-15158 Filed 5-14-79; 8:45 am]
BILLING CODE 7035-01-M

Permanent Authority Decisions, Decision-Notice

Decided: May 4, 1979.

The following applications filed on or before February 28, 1979, are governed by Special Rule 247 of the Commission's *Rules of Practice* (49 CFR § 1100.247). For applications filed before March 1, 1979, these rules provide, among other things, that a protest to the granting of an application must be filed with the Commission within 30 days after the date notice of the application is published in the **Federal Register.** Failure to file a protest, on or before June 14, 1979, will be considered as a waiver of opposition to the application. A protest under these rules should comply with Rule 247(e)(3) of the Rules of Practice which requires that it set forth specifically the grounds upon which it is made, contain a detailed statement of protestant's interest in the proceeding (as specifically noted below), and shall specify with particularity the facts, matters, and things relied upon, but shall not include issues or allegations phrased generally. A protestant should include a copy of the specific portions of its authority which protestant believes to be in conflict with that sought in the application, and describe in detail the method—whether by joinder, interline, or other means—by which protestant would use such authority to provide all or part of the service proposed. Protests not in reasonable compliance with the requirements of the rules may be rejected. The original and one copy of the protest shall be filed with the Commission, and a copy shall be served concurrently upon applicant's representative, or upon applicant if no representative is named. If the protest includes a request for oral hearing, such request shall meet the requirements of section 247(e)(4) of the special rules and shall include the certification required in that section.

On cases filed on or after March 1, 1979, petitions for intervention either with or without leave are appropriate.

Section 247(f) provides, in part, that an applicant which does not intend timely to prosecute its application shall promptly request that it be dismissed, and that failure to prosecute an application under the procedures of the Commission will result in its dismissal.

If applicant has introduced rates as an issue it is noted. Upon request an applicant must provide a copy of the tentative rate schedule to any protestant.

Further processing steps will be by Commission notice, decision, or letter which will be served on each party of record. *Broadening amendments will not be accepted after the date of this publication.*

Any authority granted may reflect administratively acceptable restrictive amendments to the service proposed below. Some of the applications may have been modified to conform to the Commission's policy of simplifying grants of operating authority.

Findings

With the exceptions of those applications involving duly noted problems (e.g., unresolved common control, unresolved fitness questions, and jurisdictional problems) we find, preliminarily, that each common carrier applicant has demonstrated that its proposed service is required by the public convenience and necessity, and that each contract carrier applicant qualifies as a contract carrier and its proposed contract carrier service will be consistent with the public interest and the transportation policy of 49 U.S.C. 10101. Each applicant is fit, willing, and able properly to perform the service proposed and to conform to the requirements of Title 49, Subtitle IV, United States Code, and the Commission's regulations. Except where specifically noted this decision is neither a major Federal action significantly affecting the quality of the human environment nor a major regulatory action under the Energy Policy and Conservation Act of 1975.

In those proceedings containing a statement or note that dual operations are or may be involved we find, preliminarily and in the absence of the issue being raised by a protestant, that the proposed dual operations are consistent with the public interest and the transportation policy of 49 U.S.C. 10101 subject to the right of the Commission, which is expressly reserved, to impose such conditions as it finds necessary to insure that applicant's operations shall conform to the provisions of 49 U.S.C. 10930(a) (formerly section 210 of the Interstate Commerce Act).

In the absence of legally sufficient protests, filed on or before June 14, 1979 (or, if the application later becomes unopposed), appropriate authority will be issued to each applicant (except those with duly noted problems) upon compliance with certain requirements which will be set forth in a notification of effectiveness of this decision-notice. To the extent that the authority sought below may duplicate an applicant's existing authority, such duplication shall not be construed as conferring more than a single operating right.

Applicants must comply with all specific conditions set forth in the grant or grants of authority within 90 days after the service of the notification of the effectiveness of this decision-notice, or the application of a non-complying applicant shall stand denied.

By the Commission, Review Board Number 2, Boyle, Eaton, and Liberman.

H. G. Homme, Jr.,
Secretary.

MC 1494 (Sub-26F), filed January 30, 1979. Applicant: GROSS COMMON CARRIER, INC., 660 West Grand Ave., Wisconsin Rapids, WI 54494. Representative: William S. Rosen, 630 Osborn Bldg., St. Paul, MN 55102. To operate as a *common carrier,* by motor vehicle, in interstate or foreign commerce, over regular routes, transporting *general commodities* (except those of unusual value classes A and B explosives, household goods as defined by the Commission, commodities in bulk, and those requiring special equipment), (1) between junction U.S. Hwy 10 and WI Hwy 54 at or near Waupaca, WI, and Milwaukee, WI: (a) from junction U.S. Hwy 10 and WI Hwy 54 over WI Hwy 54 to junction U.S. Hwy 141, then over U.S. Hwy 141 to junction Interstate Hwy 43, then over Interstate Hwy 43 to Milwaukee, and return over the same route, serving all intermediate points, and (b) from junction U.S. Hwy 10 and WI Hwy 54 over U.S. Hwy 10 to Appleton, WI, then over U.S. Hwy 41 to Milwaukee, and return over the same route, serving all intermediate points, (2) between junction U.S. Hwy 10 and U.S. Hwy 41 and Milwaukee, WI: from junction U.S. Hwy 10 and U.S. Hwy 41 over U.S. Hwy 10 to junction WI Hwy 57, then over WI Hwy 57 to Milwaukee, and return over the same route, serving all intermediate points, and (4) between junction WI Hwy 57 and U.S. Hwy 10, and junction U.S. Hwy 10 and U.S. Hwy 141, over U.S. Hwy 10, serving all intermediate points, and serving, in connection with routes (1), (2), (3), and (4) above, as off-route points those points in WI bounded by a line beginning at junction WI Hwy 54 and WI Hwy 22, near Waupaca, WI, and extending along WI Hwy 54 to Green Bay, then along U.S. Hwy 141 to junction WI Hwy 23, then along WI Hwy 23 to junction WI Hwy 22, at or near Montello, WI, and then along WI Hwy 22 to the point of beginning. (Hearing site: St. Paul, MN, or Madison, WI.)

MC 2484 (Sub-54F), filed January 18, 1979. Applicant: E & L TRANSPORT COMPANY, a corporation, 23420 Ford Road, Dearborn Heights, MI 48127. Representative: Eugene C. Ewald, 100 West Long Lake Road, Suite 102, Bloomfield Hills, MI 48013. To operate as a *common carrier,* by motor vehicle, in interstate or foreign commerce, over irregular routes, transporting (1) *motor vehicles* (except trailers), in initial movements, in truckaway and driveaway service, from the facilities of Ford Motor Company at Detroit, MI, to points in the United States (except AK and HI), restricted to the transportation of traffic originating at the named origin facilities, and (2) *motor vehicles* (except trailers), in secondary movements, (a) in truckaway service, from Detroit, MI, to points in the United States, (except AK and HI), and (b) in driveaway service, from Detroit, MI, to points in MI, IL, IN, KY, OH, MD, PA, VA, and WV, restricted in (2)(a)(b) to the transportation of traffic having a prior movement from the facilities of the Ford Motor Company. (Hearing site: Detroit, MI.)

MC 22195 (Sub-177F), filed February 6, 1979. Applicant: DAN DUGAN TRANSPORT COMPANY, a Corporation, 41st & Grange Ave., Sioux Falls, SD 57105. Representative: F. Fred Fischer (same address as applicant). To operate as a *common carrier,* by motor vehicle, in interstate or foreign commerce, over irregular routes, transporting *fly ash,* in bulk, in tank vehicles, from Cohasset, Dilworth, and Fergus Falls, MN, to points in ND, SD, and MN. (Hearing site: Fargo, ND, or Sioux Falls, SD.)

MC 65475 (Sub-23F), filed February 9, 1979. Applicant: JETCO, INC., 4701 Eisenhower Avenue, Alexandria, VA 22304. Representative: J. G. Dail, Jr., P.O. Box LL, McLean, VA 22101. To operate as a *common carrier,* by motor vehicle, in interestate or foreign commerce, over irregular routes, transporting (1) *iron and steel articles,* from the facilities of Atlas Machine & Iron Works, Inc., at Gainesville, VA, to those points in the United States in and east of MN, IA, MO, AR, and LA, and (2) *iron and steel articles, and materials, equipment and supplies* used in the manufacture of iron and steel articles, in the reverse direction. (Hearing site: Washington, DC.)

MC 111545 (Sub-272F), filed February 1, 1979. Applicant: HOME

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TRANSPORTATION COMPANY, INC., P.O. Box 6426, Station A, Marietta, GA 30065. Representative: Robert E. Born (same address as applicant). To operate as a *common carrier*, by motor vehicle, in interstate or foreign commerce, over irregular routes, transporting *turf sweepers, chippers, and utility trailers*, from the facilities of Olathe Mfg. Co., at or near Olathe, KS, to points in CA, and those points in the United States in and east of MN, IA, NE, KS, OK, and TX. (Hearing site: Kansas City, KS, or Washington, DC.)

MC 112304 (Sub-184F), filed February 1, 1979. Applicant: ACE DORAN HAULING & RIGGING CO., a Corporation, 1601 Blue Rock Street, Cincinnati, OH 45223. Representative: Fred Schmits (same address as applicant). To operate as a *common carrier*, by motor vehicle, in interstate or foreign commerce, over irregular routes, transporting (1) *railway car wheels, locomotive wheels, railway axles, and railway bearings*, from the facilities of Griffin Wheel Co., at or near Keokuk, IA, to points in the United States (except AK and HI); and (2) *materials, equipment and supplies* used in the manufacture and distribution of the commodities in (1) above (except commodities in bulk), in the reverse direction. (Hearing site: Chicago, IL, or Washington, DC.)

MC 114015 (Sub-25F), filed June 8, 1978, previously noticed in the **Federal Register** issue of August 8, 1978. Applicant: HUSS, INCORPORATED, Highway 47 West, P.O. Box 666, Chase City, VA 23924. Representative: Morton E. Kiel, Suite 6193, 5 World Trade Center, New York, NY 10048. Authority granted to operate as a *contract carrier*, by motor vehicle, over irregular routes, transporting *general commodities* (except those of unusual value, classes A and B explosives, household goods as defined by the Commission, commodities in bulk, and those requiring special equipment), between those points in the United States in and east of MN, IA, MO, AR, and LA, restricted to the transportation of traffic originating at, or destined to the facilities of The United States Gypsum Company, under continuing contract(s) with The United States Gypsum Company, of Chicago, IL. (Hearing site: Chicago, IL.)

MC 116164 (Sub-12F), filed February 12, 1979. Applicant: ARROW TRANSPORTATION, a Corporation, 1911 58th Avenue, Des Moines, IA 50313. Representative: Thomas E. Leahy, Jr. 1960 Financial Center, Des Moines, IA 50309. To operate as a *contract carrier*, by motor vehicle, in interstate or foreign commerce, over irregular routes, transporting *brick and clay* (except commodities in bulk), from the facilities of Midland Brick Sales Co., at or near Utica, MO, to points in IL, IA, IN, KS, MI, NE, ND, MN, SD, and WI, under continuing contract(s) with Midland Brick Sales Co., of Chillicothe, MO. (Hearing site: St. Louis or Kansas city, MO.)

MC 116254 (Sub-236F), filed January 15, 1979. Applicant: CHEM-HAULERS, INC., 118 East Mobile Plaza, Florence, AL 35630. Representative: Hampton M. Mills (same address as applicant). To operate as a *common carrier*, by motor vehicle, in interstate or foreign commerce, over irregular routes, transporting (1) *aluminum articles, brass articles, bronze articles, and copper articles*, (2) *scrap and unfinished shapes* for the commodities named in (1) above, and (3) *materials, equipment, and supplies* used in the manufacture of the commodities named in (1) above, between the facilities of Revere Copper and Brass, Incorporated and Wells Aluminum Company, at or near (a) Scottsboro, AL, (b) Detroit, MI, (c) Belton, SC, (d) Clinton and Franklin Park, IL, (e) Shelbyville, KY, (f) Monett and Cassville, MO, (g) Rome, NY, (h) Hannibal, OH, (i) N. Liberty, IN, (j) Moultrie, GA, and (k) Newport, AR, on the one hand, and, on the other, those points in the United States in and east of ND, SD, NE, KS, OK, and TX. (Hearing site: Syracuse, NY, or Washington, DC.)

MC 116254 (Sub-253F), filed February 12, 1979. Applicant: CHEM-HAULERS, INC., 118 East Mobile Plaza, Florence, AL 35630. Representative: Randy C. Luffman (same address as applicant). To operate as a *common carrier*, by motor vehicle, in interstate or foreign commerce, over irregular routes, transporting *liquid chemicals*, in bulk, in tank vehicles, from Mt. Pleasant, TN, to Henderson, NV, and Richmond, CA. (Hearing site: Nashville, TN, or Birmingham, AL.)

MC 116254 (Sub-254F), filed February 12, 1979. Applicant: CHEM-HAULERS, INC., 118 East Mobile Plaza, Florence, AL 35630. Representative: Randy C. Luffman (same address as applicant). To operate as a *common carrier*, by motor vehicle, in interstate or foreign commerce, over irregular routes, transporting *chemicals*, in bulk, from points in Marengo County, AL, to points in AL, GA, FL, MI, TN, AR, SC, NC, TX, LA, VA, NY, WI, MI, OK, OH, MO, IN, IL, PA, MN, IA, KY, WV, and MS. (Hearing site: Columbus, OH, or Washington, DC.)

MC 118304 (Sub-7F), filed February 7, 1979. Applicant: CALDWELL TRANSPORT LTD., Florenceville, New Brunswick, Canada. Representative: Francis E. Barrett, Jr., 10 Industrial Park Rd., Hingham, MA 02043. To operate as a *common carrier*, by motor vehicle, in interstate or foreign commerce, over irregular routes, transporting *waferboard*, from the ports of entry on the international boundary line between the United States and Canada, in ME, NH, VT, and NY, to points in CT, DE, ME, MD, MA, NH, NJ, NY, OH, PA, RI, VT, VA, WV, and DC. (Hearing site: Bangor or Augusta, ME.)

MC 119974 (Sub-78F), filed February 9, 1979. Applicant: L. C. L. TRANSIT COMPANY, a Corporation, 949 Advance Street, Green Bay, WI 54304. Representative: L. F. Abel, P.O. Box 949, Green Bay, WI 54305. To operate as a *common carrier*, by motor vehicle, in interstate for foreign commerce, over irregular routes, transporting *such commodities* as are dealt in by grocery and drug stores (except foodstuffs and commodities in bulk, in vehicles equipped with mechanical refrigeration), from the facilities of Warner-Lambert Company, at or near Elk Grove Village, IL, to points in the Upper Peninsula of MI, restricted to the transportation of traffic originating at the named origin facilities and destined to the indicated destinations. (Hearing site: Chicago, IL, or Washington, DC.)

MC 125254 (Sub-55F), filed February 12, 1979. Applicant: MORGAN TRUCKING CO., a Corporation, P.O. Box 714, Muscatine, IA 52761. Representative: Larry D. Knox, 600 Hubbell Building, Des Moines, IA 50309. To operate as a *common carrier*, by motor vehicle, in interstate or foreign commerce, over irregular routes, transporting (1) *such commodities* as are dealt in by grocery, and food business houses, and (2) *materials, and supplies* used in the manufacture, sale, and distribution of the commodities in (1) above, (a) between Union City, GA, on the one hand, and, on the other, Sharonville and Lancaster, OH, and Davenport, and Clinton, IA, and (b) between Dunkirk, NY, on the one hand, and on the other, points in PA, and WV. (Hearing site: St. Louis, MO.)

MC 127705 (Sub-71F), filed February 6, 1979. Applicant: KREVDA BROS. EXPRESS, INC., P.O. Box 68, Gas City, IN 46933. Representative: Donald W. Smith, P.O. Box 40248, Indianapolis, IN 46240. To operate as a *common carrier*, by motor vehicle, in interstate or foreign commerce, over irregular routes, transporting *glass containers*, from

Knox, Marianville, and Clarion, PA, to points in VA, MD, and NJ. (Hearing site: Washington, DC.)

MC 134014 (Sub-2F), filed February 9, 1979. Applicant: TOM M. ROBERTS TRUCKLINES, INC., P.O. Box 297, Ashland, IL 62612. Representative: Saul J. Morse, 1018 Myers Building, Springfield, IL 67201. To operate as a *contract carrier*, by motor vehicle, in interstate or foreign commerce, over irregular routes, transporting (1) *coiled drainage tile*, from the facilities of Springfield Plastics, Inc., at Auburn, IL, to points in AL, AR, GA, IN, IA, KS, LA, MN, MI, MO, NE, OH, TN, WI, and KY, and (2) *color resins*, in the reverse direction, under continuing contract(s) with Springfield Plastics, Inc., of Auburn, IL. (Hearing site: St. Louis, MO, or Chicago, IL.)

MC 135234 (Sub-15F), filed February 8, 1979. Applicant: TRENCO, INC., 2109 Marydale Ave., P.O. Box 697, Williamsport, PA 17701. Representative: E. Stephen Heisley, 805 McLachen Bank Building, 666 Eleventh Street, NW., Washington, DC 20001. To operate as a *contract carrier*, by motor vehicle, in interstate or foreign commerce, over irregular routes, transporting (1) *new furniture and furniture parts*, and (2) *materials, equipment and supplies* used in the manufacture, distribution, and sale of new furniture and furniture parts (except commodities in bulk), between Louisburg, NC, and Williamsport, PA, on the one hand, and, on the other, points in OH, PA, NJ, NY, MD, VA, NC, SC, GA, MS, IN, and DC, under continuing contract(s) with J. K. Rishel Furniture Co., of Williamsport, PA. (Hearing site: Washington, DC.)

Note.—Dual operations may be involved.

MC 135895 (Sub-33F), filed February 5, 1979. Applicant: B & R DRAYAGE, INC., P.O. Box 8534, Battlefield Station, Jackson, MS 39204. Representative: Douglas C. Wynn, P.O. Box 1295, Greenville, MS 38701. To operate as a *common carrier*, by motor vehicle, in interstate or foreign commerce, over irregular routes, transporting *ground clay, crude clay, floor sweeping compounds, and absorbents* (except commodities in bulk), between the facilities of Oil-Dri Corporation of America, at or near Ripley, MS, on the one hand and on the other, points in Al, AR, KS, LA, MO, OK, TN, and TX. (Hearing site: Memphis, TN, or Jackson, MS.)

MC 138104 (Sub-68F), filed February 12, 1979. Applicant: MOORE TRANSPORTATION CO., INC., 3509 N. Grove Street, Fort Worth, TX 76106. Representative: Bernard H. English, 6270 Firth Road, Fort Worth, TX 76116. To operate as a *common carrier*, by motor vehicle, in interstate or foreign commerce, over irregular routes, transporting *construction materials* (except commodities in bulk), from the facilities of Celotex Corporation, at or near Texarkana, AR, to points in CO, and WY. (Hearing site: Fort Worth or Dallas, TX.)

MC 138875 (Sub-123F), filed December 26, 1978, and previously noticed in the FR of February 8, 1979. Applicant: SHOEMAKER TRUCKING COMPANY, a corporation, 11900 Franklin Road, Boise, ID 83705. Representative: F. L. Sigloh (same address as applicant). To operate as a *common carrier*, by motor vehicle, in interstate or foreign commerce, over irregular routes, transporting *laminated wooden beams*, from the facilities of Glu-Laminated Wood Systems, Inc., at or near Magna, UT, to points in AZ, CA, CO, ID, MT, NM, NV, TX, and WY. (Hearing site: Salt Lake City, UT, or Washington, DC.)

Note.—This republication correctly states the destination States.

MC 140134 (Sub-12F), filed January 29, 1979. Applicant: CALDARULO TRADING CO., a Corporation, 2840 South Ashland Avenue, Chicago, IL 60608. Representative: Richard A. Kerwin, 180 North La Salle Street, Chicago, IL 60601. To operate as a *contract carrier*, by motor vehicle, in interstate or foreign commerce, over irregular routes, transporting *foodstuffs* (except in bulk), from the facilities of Sanna Division, Beatrice Foods Co., at or near Menomonie, Vesper, Cameron, Eau Claire, and Wisconsin Rapids, WI, to points in AZ, CA, CO, ID, MT, NV, NM, ND, OR, SD, UT, WA, and WY, under continuing contract(s) with Sanna Division, Beatrice Foods Co., of Madison, WI. (Hearing site: Chicago, IL.)

MC 141124 (Sub-36F), Filed January 19, 1979. Applicant: EVANGELIST COMMERCIAL CORPORATION, P.O. Box 15000, Wilmington, DE 19850. Representative: Boyd B. Ferris, 50 West Broad St., Columbus, OH 43215. To operate as a *common carrier*, by motor vehicle, in interstate or foreign commerce, over irregular routes, transporting *such commodities* as are dealt in or used by manufacturers and distributors of containers (except commodities in bulk), between points in the United States (except AK and HI). (Hearing site: Columbus, OH, or Washington, DC.)

MC 141124 (Sub-38F), filed February 9, 1979. Applicant: EVANGELIST COMMERCIAL CORPORATION, a Corporation, P.O. Box 15000, Wilmington, DE 19850. Representative: Boyd B. Ferris, 50 West Broad St., Columbus, OH 43215. To operate as a *common carrier*, by motor vehicle, in interstate or foreign commerce, over irregular routes, transporting (1) *zinc and zinc articles*, from the facilities of St. Joe Zinc Company, at or near Josephtown, PA, to points in the United States (except AK and HI), (2) *materials, equipment and supplies* used in the manufacture and distribution of the commodities named in (1) above, in the reverse direction. Hearing site: Columbus, OH, or Pittsburgh, PA.)

MC 141804 (Sub-17BF), filed February 12, 1979. Applicant: WESTERN EXPRESS, DIVISION OF INTERSTATE RENTAL, INC., P.O. Box 3468, Ontario, CA 91761. Representative: Frederick J. Coffman (same address as applicant). To operate as a *common carrier*, by motor vehicle, in interstate or foreign commerce, over irregular routes, transporting *retail stores fixtures*, from Omaha, NE, and Scottsboro, AL, to points in AZ, CA, ID, NV, OR, UT, and WA. (Hearing site: Los Angeles or San Francisco, CA)

MC 142864 (Sub-6F), filed February 6, 1979. Applicant: RAY E. BROWN TRUCKING, INC., P.O. Box 501, Massillon, OH 44646. Representative: Jerry B. Sellman, 50 West Broad St., Columbus, OH 43215. To operate as a *common carrier*, by motor vehicle, in interstate or foreign commerce, over irregular routes, transporting *such commodities* as are dealt in or used by manufacturers and distributors of containers (except commodities in bulk), (1) between the facilities of Davies Can Co., Division of Van Dorn Co., at (a) Leetsdale, PA, and (b) Cleveland and Solon, OH, on the one hand, and, on the other, points in IN, IL, MI, PA, MN, and WI, and (2) between Massillon, OH, on the one hand, and, on the other, points in IL, IN, IA, KY, MD, MI, MN, MO, NE, NJ, NY, PA, TN, and WI. (Hearing site: Columbus, OH, or Washington, DC.)

MC 145044 (Sub-2F), filed February 12, 1979. Applicant: FOREDECK TRANSPORTATION, INC., Whitewood Lane, Oak Ridge, NJ 07438. Representative: George A. Olsen, P.O. Box 357, Gladstone, NJ 07934. To operate as a *common carrier*, by motor vehicle, in interstate or foreign commerce, over irregular routes, transporting (1) *deodorants, disinfectants, breath fresheners, cleaning compounds, swimming pool treatment compounds, and insecticides*, (except commodities in bulk), and (2) *materials, equipment and supplies* used in the manufacture and

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sale of the commodities in (1) above, (except commodities in bulk, in tank vehicles), between points in CA, WA, UT, CO, TX, MO, MN, WI, MI, IL, IN, OH, NJ, RI, MA, NY, MD, FL, TN, NC, and GA, restricted to the transportation of traffic destined to the facilities of Airwick Industries, Inc. (Hearing site: New York, NY, or Washington, DC.)

MC 145104 (Sub-2F), filed February 1, 1979. Applicant: MIL–CO TRUCKING, INC., 319 South Main St., West Unity, OH 43570. Representative: James W. Muldoon, 50 West Broad St., Columbus, OH 43215. To operate as a *common carrier*, by motor vehicle, in interstate or foreign commerce, over irregular routes, transporting (1) *salt and salt products*, and (2) *such commodities* as are dealt in or used by the agriculture, water treatment, food processing, wholesale grocery, and institutional supply, in mixed shipments with the commodities in (1) above, from Chicago, IL, St. Joseph, MI, and points in Fulton, Lucas, and Hamilton Counties, OH, to points in IN and MI. (Hearing site: Chicago, IL, or Columbus, OH.)

MC 145755 (Sub-1F), filed January 15, 1979, previously noticed in the **Federal Register** of March 1, 1979. Applicant: D & L CARTAGE, INC., P.O. Box 170, 1865 Bernice Road, Lansing, IL 60438. Representative: James Robert Evans, 145 W. Wisconsin Avenue, Neenah, WI 54956. To operate as a *common carrier*, by motor vehicle, in interstate or foreign commerce, over irregular routes, transporting *soybean meal and soybean hulls*, in bulk, from Chicago, IL, to points in IN, MI, and WI. (Hearing site: Chicago, IL.)

Note.—This republication correctly indicates that applicant is a common carrier.

MC 145925F, filed December 7, 1979. Applicant: WETTERAU TRANSPORT, INCORPORATED, 8920 Pershall Rd., Hazelwood, MO 63042. Representative: B. W. LaTourette, Jr., 11 S. Meramec, Suite 1400, St. Louis, MO 63105. To operate as a *contract carrier*, by motor vehicle, in interstate or foreign commerce, over irregular routes, transporting *general commodities* (except those of unusual value, classes A and B explosives, household goods as defined by the Commission, commodities in bulk, and those requiring special equipment), between points in the United States (except AK and HI), under continuing contract(s) with Wetterau, Incorporated, of Hazelwood, MO, Consolidated Toy Company, of Hazelwood, MO, W. T. Sistrunk, of Lexington, KY, and G. H. Delp Company, of Temple, PA (Hearing site: St. Louis or Jefferson City, MO.)

MC 146314 (Sub-1F), filed February 6, 1979. Applicant: G & T TRUCKING CO., a Corporation, Route 1, County Road 2 and I–35, Elko, MN 55020. Representative: James E. Ballenthin, 630 Osborn Bldg., St. Paul, MN 55102. To operate as a *common carrier*, by motor vehicle, in interstate or foreign commerce, over irregular routes, transporting *construction equipment, materials, and supplies* between points in AL, AR, CO, IL, IA, IN, KS, KY, LA, MI, MN, MS, MO, MT, NE, NM, ND, OH, OK, SD, TN, TX, WI, and WY. (Hearing site: St. Paul, MN.)

Passenger

MC 14715 (Sub-1F), filed February 7, 1979. Applicant: PASSAIC VALLEY COACH LINES, d/b/a PASSAIC VALLEY COACHES, 179 Division Ave., Summit, NJ 07901. Representative: William W. Braunwarth (same address as applicant). To operate as a *common carrier*, by motor vehicle, in interstate or foreign commerce, over irregular routes, transporting *passengers and their baggage*, in the same vehicle with passengers, in charter operations, beginning and ending at points in NJ, and extending to points in the United States (except AK and HI). (Hearing site: Newark, NJ, or New York, NY.)

[Permanent Authority Decisions Vol. No. 5]
[FR Doc. 79–15157 Filed 5–14–79; 8:45 am]
BILLING CODE 7035–01–M

Frank R. Scheer; Petition for Declaratory Order

AGENCY: Interstate Commerce Commission.

ACTION: Denial of petition for declaratory order.

SUMMARY: Frank R. Scheer filed a petition seeking a Commission declaration that the term "train" in 49 U.S.C. §§ 10908 and 10909 means "passenger train". The Commission denied the petition because it did not disclose the existence of uncertainty or controversy.

DATE: The decision will be effective May 15, 1979.

FOR FURTHER INFORMATION CONTACT: Michael Erenberg 202–275–7564.

SUPPLEMENTARY INFORMATION: On January 24, 1979, Frank R. Scheer filed a petition seeking a Commission declaration that the term "train" as used in 49 U.S.C. 10908 and 10909 (formerly section 13a of the Interstate Commerce Act) means "only regularly scheduled passenger trains engaged in interstate commerce." Mr. Scheer states that he is a private individual with an academic and business interest in the railroad industry and transportation. He believes that if the term "train" in sections 10908 and 10909 encompasses freight as well as passenger trains, shippers might seek to block carriers' schedule changes, reducing managerial discretion and control over operations.

Section 10908 provides a federal regulatory forum for a carrier proposing to discontinue or change interstate train or ferry transportation when the disconstinuance or change is subject to State law or regulation. The railroad may discontinue or change the service, notwithstanding the State law or regulation, if (1) it files the proper notice with the Commission, (2) it performs other specified notice and posting requirements, and (3) the Commission does not otherwise provide. 49 U.S.C. 10908(a). If the carrier takes the outlined steps, an interested party may then petition the Commission to conduct a proceeding on the proposal. 49 U.S.C. 10908(b).

Section 10909 provides a federal regulatory forum for a carrier proposing to discontinue or change a train or ferry operating entirely within one State. If (1) State law prohibits the discontinuance or change, (2) the railroad sought State permission for the proposal and the State denied the request, or (3) the State has not finally acted by the 120th day after the request, the carrier may petition the Commission for permission to discontinue or change the transportation. 49 U.S.C. 10909(a). Interested parties may request a hearing on the carrier's petition to the Commission. 49 U.S.C. 10909(b).

Sections 10908 and 10909 confer us with only limited jurisdiction respecting the discontinue or change of trains and ferries. Those provisions plainly provide that only the carier can invoke our jurisdiction in a particular proceeding. Further, a railroad may accomplish a discontinuance or change without Commission authority by obtaining appropriate approval under the laws of the States affected.

We have found no instance in which a railroad has sought authority to discontinuance or change freight service under these provisions. Therefore, there appears to be no uncertainty or controversy which requires the issuance of a declaratory order.

This decision will not affect the quality of the human environment or the level of energy consumption.

It is ordered:

The petition for declaratory order filed by Frank R. Scheer is denied.

This decision will be effective on the date it is served.

Dated: May 7, 1979.

By the Commission, Chairman O'Neal, Vice Chairman Brown, Commissioners Stafford, Gresham, Clapp, and Christian.

H. G. Homme, Jr.,
Secretary.

[Finance Docket No. 28956F]
[FR Doc. 79–15156 Filed 5–14–79; 8:45 am]
BILLING CODE 7035–01–M

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Sunshine Act Meetings

Federal Register
Vol. 44, No. 95
Tuesday, May 15, 1979

This section of the FEDERAL REGISTER contains notices of meetings published under the "Government in the Sunshine Act" (Pub. L. 94-409) 5 U.S.C. 552b(e)(3).

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CIVIL AERONAUTICS BOARD.

Short notice of Board meeting and short notice of item to be closed.

TIME AND DATE: 10 am., May 14, 1979.

PLACE: Room 1027 (Open), Room 1011 (Closed), 1825 Connecticut Avenue NW., D.C. 20428.

SUBJECT:

1. Docket 32851 Agreement CAB 1175, as amended: on November 2, 1978, IATA filed for Board approval amendments to its *Provisions for the Regulation and Conduct of the IATA Traffic Conferences.* (Memo No. 7959-B, BPDA, OGC, BLJ, BIA, BCP)
2. Japan Off-Route Charters. (BIA)

STATUS: Open (Item No. 1), Closed (Item No. 2).

PERSON TO CONTACT: Phillis T. Kaylor, the Secretary, (202) 673-5068.

SUPPLEMENTARY INFORMATION: The Board has been carefully considering comments from various airlines, organizations, government agencies and sovereign foreign nations concerning its Order to Show Cause with respect to various agreements adopted by the International Air Transport Association. (Order 78-6-78) IATA, supported by number of other parties, has asked that the Board's consideration of these issues be expedited. At this meeting further action in this docket will be considered which may involve expedited filing dates. So that the public and parties will have as much time as possible, the following members voted that agency business requires that a Board Meeting be held on May 14, 1979 at 10:00 a.m. and that no earlier announcement of this meeting was possible:

Chairman Marvin S. Cohen
Member Richard J. O'Melia
Member Elizabeth E. Bailey
Member Gloria Schaffer

Japan Air Lines Company, Ltd. applied on May 7, 1979, to perform an off-route charter flight on May 16. Trans International Airlines filed an objection on May 8. The staff could not prepare an order for Board action in time for the May 10 meeting and the flight is scheduled to depart the day before the next meeting scheduled for May 17. Accordingly, the following Members have voted that agency business requires that the Board meet on this item on less than seven days' notice and that no earlier announcement of the meeting was possible:

Chariman Marvin S. Cohen
Member Richard J. O'Melia
Member Gloria Schaffer

Public disclosures, particularly to foreign governments, of opinion, evaluations, and strategies in the discussions could seriously compromise our ability to achieve aviation objectives that would be in the best interests of the United States. Accordingly, the following Members have voted that the meeting on this subject would involve matters the premature disclosure of which would be likely to significantly frustrate implementation of proposed agency action within the meaning of the exemption provided under 5 U.S.C. 552b(c)(9)(B) and 14 CFR 310b.5(9)(B) and that any such meeting should therefore be closed:

Chairman Marvin S. Cohen
Member Richard J. O'Melia
Member Gloria Schaffer

Persons expected to attend:

Board Members.—Chairman, Marvin S. Cohen; Member Richard J. O'Melia; Member Elizabeth E. Bailey; and Member Gloria Schaffer.
Assistants to Board Members.—Mr. Sanford Rederer, Mr. David M. Kirstein, Mr. Richard Klem, Mrs. Stephen H. Lachter, and Mr. James L. Deegan.
Managing Director.—Mr. Cressworth Lander.
Executive Assistant to the Managing Director.—Mr. John R. Hancock.
Bureau of International Affairs.—Mr. Rosario J. Scibilia, Mr. Richard M. Loughlin, Mr. David A. Levitt, Mr. James Horneman, Mr. Regis Milan, Mr. Dean Johnson, Mr. Ivars V. Mellups, and Mr. Williard L. Demory.
Office of the General Counsel.—Philip J. Bakes, Jr., Mr. Gary J. Edles, and Mr. Michael Schopf.
Bureau of Pricing and Domestic Aviation.—Mr. Michael E. Levine, Ms. Barbara A. Clark, Mr. Herbert P. Aswall, Mr. Douglas Leister, and Mr. John Kiser.
Office of Economic Analysis.—Mr. Robert H. Frank and Mr. Larry Manheim.
Bureau of Consumer Protection.—Mr. Reuben Robertson.
Office of the Secretary.—Mrs. Phyllis T. Kaylor, Ms. Deborah A. Lee, and Ms. Louise Patrick.

General Counsel Certification

I certify that this meeting may be closed to the public under 5 U.S.C. 552b(c)(9)(B) and 14 CFR section 310b.5(9)(B) and that the meeting may be closed to public observation.

Gary J. Edles,
Acting General Counsel.

[M-219, May 11, 1979]
[S-973-79 Filed 5-11-79; 3:10 pm]
BILLING CODE 6320-01-M

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CIVIL AERONAUTICS BOARD.

TIME AND DATE: 10 a.m., May 17, 1979.

PLACE: Room 1027, 1825 Connecticut Avenue NW., Washington, D.C. 20428.

SUBJECT:

1. Ratification of items adopted by notation.
2. Docket 28298, et al., Petition of Action on Smoking and Health for review of staff action (OM)
3. American Airlines procedures under Part 252 (BCP, OGC)
4. Docket 34280, Third-party complaint of Carlsbad, Clovis, and Hobbs, New Mexico; Enforcement Proceeding for the assessment of civil penalties against Texas International Airlines for failure to meet service obligations at Carlsbad, Clovis, and Hobbs, New Mexico. (Memo 8772, BCP, BPDA, OGC)
5. H.R. 2990—Federal Acquisition Reform Act, request for comments (Memo 8788, OGC)
6. Docket 34291—Program for removal of certificate restrictions (OGC)
7. Docket 34352, American Camping Association petition for rulemaking to give affinity charter status to organized camps (OGC)
8. Dockets 35376, 31491, American's request for emergency exemption in St. Louis-San Francisco market (OGC)
9. Dockets 34215 and 35105. Removal of Kansas City-Chicago/Denver restrictions on certificates of Ozark and Frontier (Memo 8602-A, BPDA)
9a. Docket 33314—Increase in air taxi aircraft size from 30 to 60 seats (OGC, BPDA)
10. Docket 35241; Application of Continental Airlines for an emergency exemption (BPDA, OGC)

11. Dockets 34887, 28316, 28438, 29584, 30558, 32704, 34667, 30094, 32698, 35244, 32761, 33595, 35258, 33998, 35260, 33023, 35239, 35262, 35249, 35273, and 35263, Milwaukee Show-Cause Proceeding (BPDA)
12. Dockets 34785, 34967, 35112 and 35133 Continental's, Western's, North Central's and Hughes Airwest's Applications for Denver-Sacramento and Fresno and Sacramento-Fresno nonstop authority (Memo 8778, BPDA)
13. Dockets 34920, 35094, 35124 and 34945, Allegheny's, Northwest's and Continental's applications for New Orleans-Cleveland and Pittsburgh nonstop authority and Continental's application for New Orleans-Detroit nonstop authority; Allegheny's application to provide nonstop service in the New Orleans-Cleveland and Pittsburgh markets *pendente lite* (BPDA, OCCR)
14. Dockets 33708, 34976, 35049, 35050 and 35051, (American), (North Central), (Southern), (Ozark), and (Northwest), requesting authority between Cleveland and San Francisco (Memo 8518-A, BPDA)
15. Docket 35152—North Central's Exemption Application to Provide Northern Tier Service (BPDA, OGC)
16. Dockets 34336 and 35210, Finalization of Show-Cause Order 79-3-97, tentatively adding Providence as an intermediate point on Air New England's Route 172 (Doc. 34336) and proposing to grant the Providence authority at issue to applicants whose fitness can be established by officially noticeable material. (BPDA)
17. Dockets 34513, 26681 and 34565—Petition of the Port of Astoria for determination of essential air transportation and Hughes Airwest Petition for modification of orders granting temporary suspension and notice of intent to terminate service at Astoria/Seaside, Oregon (BPDA)
18. Dockets 34796, 34812, American's notice to terminate all service at Charleston, W. VA. and United's notice to suspend nonstop Pittsburgh-Charleston service and petition and motion of various West Virginia parties to prohibit United from reducing its Charleston service as proposed until a replacement carrier is found (BPDA, OCCR)
19. Docket 35307, Ozark's notice of intent to suspend all service at Clarksville, Tennessee-Ft. Campbell-Hopkinsville, Kentucky (BPDA, OCCR)
20. Docket 34831, Airwest's notice of intent to suspend service at Chico, California (BPDA)
21. Docket 34934—Piedmont's notice of intent to suspend all service at New Bern/Morehead City, NC (BPDA)
22. Dockets 33858 and 25311—Golden West Airlines' petition for review of Order 79-3-71; and Hughes Airwest's suspension at Oxnard (BPDA, OGC)
23. Docket 15700, Petition of Frontier Airlines for modification of Order E-21594 and E21595, permitting General Tire's acquisition of Frontier. The carrier requests exclusion of cash dividend payments from the intercorporate transactions required to be submitted for Board review (Memo 6676-C, BPDA)
24. Dockets 31290 and 27417, Notice of Proposed Rulemaking amending PS-80 policies to reflect changes in the Act and eliminating the 130 percent upward fare flexibility allowed local service carriers (BPDA)
25. Dockets 35407 and 35434, Complaints of the State of Hawaii requesting suspension/investigation/rejection of general fare increase proposals by Hawaiian Airlines (3.4 percent) and Aloha Airlines (3.3 percent) (Memo 8667-E, BPDA)
26. Tariff rules proposed by Air Canada disclaiming liability for negligence for loss or damage of certain articles included in baggage without its knowledge. Carrier petitions for reconsideration of order rejecting tariff on the ground that it would not be liable for articles which it does not agree to carry.
27. Docket 33514, Petition of Air Florida for reconsideration of Order 79-3-161, imposing flat-rated low-fare conditions on New York-West Palm Beach/Miami exemption authority (Memo 8435-C, BPDA)

STATUS: Open.

PERSON TO CONTACT: Phyllis T. Kaylor, the Secretary, (202) 673-5068.

[M-218, May 10, 1979]
[S-974-79 Filed 5-11-79; 3:10 pm]
BILLING CODE 6320-01-M

3

FEDERAL COMMUNICATIONS COMMISSION.

TIME AND DATE: 9:30 a.m., Thursday, May 17, 1979,

PLACE: Room 856, 1919 M Street, NW., Washington, D.C.

STATUS: Special closed Commission Meeting following the Open Meeting.

MATTER: TO BE CONSIDERED:

Agenda, Item No., and Subject

General—1—Transfer of certain Private Radio Bureau functions to Gettysburg, Pa.

This meeting may be continued the following work day to allow the Commission to complete appropriate action.

Additional information concerning this meeting may be obtained from the FCC Public Affairs Office, telephone number (202) 632-7260.

Issued: May 10, 1979.

[S-975-79 Filed 5-11-79; 3:10 pm]
BILLING CODE 6712-01-M

4

FEDERAL COMMUNICATIONS COMMISSION.

TIME AND DATE: 9:30 a.m., Thursday, May 17, 1979.

PLACE: Room 856, 1919 M Street, NW., Washington, D.C.

STATUS: Special Open Commission Meeting.

MATTERS TO BE CONSIDERED:

Agenda, Item No., and Subject

Common Carrier—1—Applications for consent to transfer of control of RCA Alaska Communications, Inc. from RCA Corporation to PACOM, Inc. (File Nos. 1437-CF-TC-(189)-79), et al.
Common Carrier—2—Petitions for Reconsideration of First Report and Order in CC Docket 78-144, setting forth procedural rule for CATV pole attachment regulation; and Second Report and Order, containing substantive guidelines and rules for the resolution of pole attachment complaints.
Common Carrier—3—In the Matter of Lincoln Telephone and Telegraph's duty to furnish interconnection facilities to MCI Telecommunications Corp.
Common Carrier—4—In the Matter of AT&T Petition for Modification of Prescribed Rate of Return.
General—1—Rule changes to expand the CARS band from 12.7-12.95 to 12.7-13.20 GHz.

This meeting may be continued the following work day to allow the Commission to complete appropriate action.

Additional information concerning this meeting may be obtained from the FCC Public Affairs Office telephone number (202) 632-7260.

Issued: May 10, 1979.

[S-976-79 Filed 5-11-79; 8:45 am]
BILLING CODE 6712-01-M

5

FEDERAL DEPOSIT INSURANCE CORPORATION.

Pursuant to the provisions of subsection (e)(2) of the "Government in the Sunshine Act" (5 U.S.C. 552b(e)(2)), notice is hereby given that at 10:15 a.m. on Wednesday, May 9, 1979, the Board of Directors of the Federal Deposit Insurance Corporation met in closed session by telephone conference call to consider recommendations regarding (1) the discontinuation of termination-of-insurance proceedings against an insured State nonmember bank; (2) the continuance of cease-and-desist proceedings against an insured State nonmember bank; and (3) an application of an insured State nonmember bank for consent to the issuance and retirement of capital notes.

In calling the meeting, the Board determined on motion of Chairman Irvine H. Sprague, seconded by Director William M. Isaac (Appointive), concurred in by Mr. Lewis G. Odom, Jr., acting in the place and stead of Director John G. Heimann (Comptroller of the Currency), that Corporation business required its consideration of the recommendations on less than seven days' notice to the public; that no earlier

Discussion of Personnel Matter

notice of the meeting was practicable; and that the recommendations could be considered in a closed meeting, pursuant to subsections (c)(6), (c)(8), and (c)(9)(A)(ii) of the "Government in the Sunshine Act" [5 U.S.C. 552b (c)(6), (c)(8), and (c)(9)(A)(ii)], since the public interest did not require consideration of the recommendations in a meeting open to public observation.

Dated: May 9, 1979.

Federal Deposit Insurance Corporation.

Hoyle L. Robinson,

Executive Secretary.

[S-967-79 Filed 5-11-79; 9:56 am]

BILLING CODE 6714-01-M

6

FEDERAL RESERVE SYSTEM.

TIME AND DATE: Approximately 11 a.m., Friday, May 18, 1979 [following a recess at the conclusion of an open meeting to be held earlier the same day].

PLACE: 20th Street and Constitution Avenue, NW., Washington, D.C. 20551.

STATUS: Closed.

MATTERS TO BE CONSIDERED:

1. Conceptual design and target budget for the Baltimore Branch Building of the Federal Reserve Bank of Richmond.
2. Proposed acquisition of real property by a Federal Reserve Bank.
3. Proposal for improving internal security.
4. Personnel actions (appointments, promotions, assignments, reassignments, and salary actions) involving individual Federal Reserve System employees.
5. Any agenda items carried forward from a previously announced meeting.

CONTACT PERSON FOR MORE INFORMATION: Mr. Joseph R. Coyne, Assistant to the Board;

Griffith L. Garwood,

Deputy Secretary.

[S-970-79 Filed 5-11-79; 1:48 am]

BILLING CODE 6210-01-M

7

FEDERAL RESERVE SYSTEM.

TIME AND DATE: 10 a.m., Friday, May 18, 1979.

PLACE: 20th Street and Constitution Avenue, NW., Washington, D.C. 20551.

STATUS: Open.

MATTERS TO BE CONSIDERED:

Summary Agenda

Because of their routine nature, no substantive discussion of the following items is anticipated. These matters will be resolved with a single vote unless a member of the Board requests that an item be moved to the discussion agenda.

1. Proposed purchase of computer equipment by the Federal Reserve Bank of Minneapolis.
2. Proposed purchase of computer equipment by the Federal Reserve Bank of Chicago for the Chicago and Detroit offices.

Discussion Agenda

1. Proposed promotion of the Susan B. Anthony $1 coin.
2. Proposed amendment to Regulation E (Electronic Fund Transfers) regarding notice of loss or theft of an access device.
3. Any agenda items carried forward from a previously announced meeting.

Note.—This meeting will be recorded for the benefit of those unable to attend. Cassettes will be available for listening in the Board's Freedom of Information Office, and copies may be ordered for $5 per cassette by calling (202) 462-3684 or by writing to: Freedom of Information Office, Board of Governors of the Federal Reserve System, Washington, D.C. 20551.

CONTACT PERSON FOR MORE INFORMATION: Mr. Joseph R. Coyne, Assistant to the Board; (202) 462-3204.

Griffith L. Garwood,

Deputy Secretary.

[S-971-79 Filed 5-11-79; 1:48 pm]

[BILLING CODE 6210-01-M

8

INTERSTATE COMMERCE COMMISSION.

TIME AND DATE: 9:30 p.m., Friday, May 11, 1979.

PLACE: Hearing Room A, Interstate Commerce Commission, 12th & Constitution Avenue, NW., Washington, D.C. 20423.

STATUS: Short Notice—Partially Open/Closed Conference.

In addition to the item on the open agenda as previously published, the Commission unanimously voted, all Commissioners in attendance, to add the following item to the agenda and consider the same in closed session because it is likely to disclose information which if written would be contained in investigatory records compiled for law enforcement purposes, the production of which would interfere with enforcement proceedings, deprive a person of a right to a fair trial, and disclose investigative techniques and procedures, within the meaning of 5 U.S.C. 552b(c)(7) (A), (B), and (E), and 49 C.F.R. 1012.7(d)(7). The General Counsel has issued his certificate accordingly.

Report by Director Shannon on Pending Investigations.

The following persons will be in attendance at the closed portion:

Mark Evans, General Counsel
James Thomas, Director, Accounts
Peter Shannon, Director, BIE
Lewis Teeple, BIE
John Moseman, BIE
Robert Goren, BIE
John O'Brien, Chairman O'Neal's Office
Ardith Horne, Vice Chairman Brown's Office
Mary Kelly, Commissioner Stafford's Office
Gail Gibbons, Commissioner Clapp's Office
Pierce A. Quinlan, Managing Director
Benjamin McKenzie, Regional Managing Director
Richard Berman, Managing Director's Office
Joel Burns, Director, Operations
Douglas Baldwin, Director, Communications

CONTACT PERSON FOR MORE INFORMATION: Douglas Baldwin, Director, Office of Communications, Telephone: (202) 275-7252.

[S-969-79 Filed 5-11-79; 9:56 am]

BILLING CODE 7035-01-M

9

LEGAL SERVICES CORPORATION, COMMITTEE ON PROVISION OF LEGAL SERVICES.

TIME AND PLACE: 10 a.m., Saturday, May 19, 1979.

PLACE: Room 2401, University of New Mexico School of Law, 1117 Stanford Drive, N.E., Albuquerque, New Mexico.

STATUS: Open Meeting.

MATTERS TO BE CONSIDERED:

1. Adoption of Agenda
2. Approval of Minutes
3. Report on Delivery Systems Study
4. Section 1007(h) of the Legal Services Corporation Act—concluding considerations
5. Report on activities of the Office of Program Support
6. Report on Reginald Heber Smith Community Fellowship Program

CONTACT PERSON FOR MORE INFORMATION: Peggy Bell, Office of the President, telephone (202) 376-5100.

Issued: May 10, 1979.

Alice Daniel,

Acting President.

[S-968-79 Filed 5-11-79; 9:56 am]

BILLING CODE 6820-35-M

10

NUCLEAR REGULATORY COMMISSION.

TIME AND DATE: May 16 and 17, 1979.

PLACE: Commissioners' Conference Room, 1717 H St., NW, Washington, D.C.

STATUS: Open and Closed (Changes).

MATTERS TO BE CONSIDERED:

Wednesday, May 16, 9:30 a.m.

Continuation of Discussion of Uranium Mill Tailings Act (Approximately 1 hour—Public meeting—continued from May 9).

Wednesday, May 16, 1:30 p.m.

1. Meeting with UCS on Petition for Reconsideration (Approximately 1½ hours—Public meeting—as scheduled.

Discussion of Personnel Matter (Approximately 1½ hours—Closed-EX-6—Continuation).

Thursday, May 17, 9:30 a.m.

1. Briefing on Facts of TMI Operational Sequence (Approximately 1½ hours—Public meeting).
2. Affirmation Session (Postponed from May 16):
   a. As scheduled.
   b. As scheduled.
   c. As scheduled.
   d. Fialka FOIA Appeal.

Thursday, May 17, 2:00 p.m.

1. Briefing on Reactor Licensing Schedules (Approximately 1 hour—Public meeting).

CONTACT PERSON FOR MORE INFORMATION: Walter Magee, 202-634-1410.

Dated: May 10, 1979.

Roger M. Tweed,

Office of the Secretary.

11

SECURITIES AND EXCHANGE COMMISSION.

"FEDERAL REGISTER" CITATION OF PREVIOUS ANNOUNCEMENT: [44 FR 25970 May 5, 1979].

STATUS: Closed meeting.

PLACE: Room, 825, 500 North Capitol Street, Washington, D.C.

DATE PREVIOUSLY ANNOUNCED: Monday, April 30, 1979.

CHANGES IN MEETING: Additional item.

The following additional item was considered at a closed meeting held on Wednesday, May 9, 1979, at 5:00 p.m.

Regulatory matter bearing enforcement implications.

Commissioners Loomis, Evans and Pollack determined that Commission business required the above change and that no earlier notice thereof was possible.

May 11, 1979.

[S-977-79 Filed 5-11-79; 3:10 pm]

BILLING CODE 8010-01-M

V 4 4 / 9 5

federal register

Tuesday
May 15, 1979

Part II

Department of Agriculture

Office of the Secretary

Semiannual Agenda of Regulations

M Y 1 5 7 9 UMI

V 4 4 / 9 5 M Y 1 5 7 9 UMI

DEPARTMENT OF AGRICULTURE

Office of the Secretary

[7 CFR, Subtitle A, Chs. I–VII, IX–XII, XIV–XVIII, XXI, XXIV–XXIX; 9 CFR Chs. I–IV; 36 CFR Ch. II; 41 CFR Ch. 4]

Semiannual Agenda of Regulations

AGENCY: U.S. Department of Agriculture.

ACTION: Semi-Annual Agenda of Regulations.

SUMMARY: This decision calendar contains a listing of significant regulations and other actions being developed in the Department of Agriculture under the procedures described in the report "Improving USDA Regulations," 43 FR 50988 (Nov. 1, 1978). The listing contains both actions underway and to be initiated during the next 6 months. Actions are listed under the name of the responsible USDA agency. The purpose of the calendar is to provide information to the public on pending decisions on regulations and certain other significant actions to facilitate comments and views by interested members of the public.

FOR FURTHER INFORMATION CONTACT: For additional information regarding any particular regulatory action contained in the agenda, contact the individual identified as the contact person in the agenda. Comments or inquiries of a general nature about the agenda should be directed to the following individual: Mr. Linley E. Juers, OBPE, Office of the Secretary, U.S. Department of Agriculture, Washington, D.C. 20250. Telephone Number: (202) 447–6667.

SUPPLEMENTARY INFORMATION: On March 23, 1978, President Carter signed Executive Order 12044, "Improving Government Regulations". The Executive Order directs all executive branch departments and agencies to "adopt procedures to improve existing and future regulations."

This decision calendar contains a listing of significant regulations and other actions being developed in the Department of Agriculture under the procedures described in the report "Improving USDA Regulations," 43 FR 50988 (Nov. 1, 1978). The listing contains both actions underway and to be initiated during the next 6 months. Actions are listed under the name of the responsible USDA agency.

This decision calendar is being published to provide an overview of pending major actions and estimated dates when further steps in their development should occur. It is intended as an aid to the public in its participation in the USDA decisionmaking process at the appropriate stages. We have attempted to list all significant actions pending at the time of the calendar but some may have been inadvertently missed. There is no legal significance to an item not appearing on this listing.

The dates shown for the various stages of each action are estimated and are not commitments to act on or by the date shown. The "prenotice" date, when given, is an indication the agency intends to seek public input prior to the "notice of proposed rulemaking." Anyone desiring further information on an action should write or call the agency contact listed for the action. Unless a different address is given, inquiries should be addressed to: (Name of Agency Contact) (Agency Name), U.S. Department of Agriculture, Washington, D.C. 20250.

Additional information on USDA regulation and decisionmaking procedures may be obtained from Linley E. Juers, Office of Budget, Planning and Evaluation, Office of the Secretary, U.S. Department of Agriculture, Washington, D.C. 20250, phone (202) 447–6667.

This decision calendar will be updated in 6 months in accordance with the President's Executive Order 12044, **Federal Register**, March 24, pages 12661–12665.

Bob Bergland,
Secretary.

May 8, 1979.

BILLING CODE 3410-01-M

AGRICULTURAL MARKETING SERVICE

1. **Calendar No:** AM 1081
2. **Title:** Beef Pricing Investigation
3. **Description:** Study of marketing, pricing of beef carcasses, and reporting services.
4. **Authority:** 7 U.S.C. 192, investigation request by Secretary
5. **Projected Schedule**
   a. **Date of pre-notice:** 12/78
   b. **Date of proposal:** 12/78
   c. **Final Decision:** 11/79
6. **Contacts:**
   Agency: James Tuggle, Ext. (202) 447-5877

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1. **Calendar No:** AM 1086
2. **Title:** Implementation of the amended Beef Research and Information (BRI) Act
3. **Description:** (Formal Rulemaking) A series of steps coordinated by the Dept. will be required to develop an appropriate BRI order. A referendum would determine if beef producers wish to assess themselves for the purpose of carrying out a BRI program.
4. **Authority:** Beef Research and Information Act (P.L. 94-294, May 29, 1976) as amended by the Agricultural Credit Act of 1978 (P.L. 95-334, August 4, 1978) 7 U.S.C. 2901 et seq.
5. **Projected Schedule**
   a. **Date of pre-notice:** 3/79
   b. **Date of Hearing:** 6/79
   c. **Recommend Decision:** 9/79
   d. **Final Decision:** 12/79
6. **Contacts:**
   Agency: Ralph Tapp, Ext. (202) 447-3970

1. **Calendar No:** AM 1085
2. **Title:** Implementation of the Wheat and Wheat Foods Research and Nutrition Education Act.
3. **Description:** (Formal Rulemaking) A series of steps coordinated by the Dept. will be required to develop an appropriate Wheat and Wheat Foods Research and Nutrition Education order. A referendum of and product manufacturers (primarily wholesale bakers) would determine if the order is approved.
4. **Authority:** Wheat and Wheat Foods Research and Nutrition Education Act (Public Law 95-113, Section 1701-1719) Statutory. 7 U.S.C. 3401 et seq.
5. **Projected Schedule**
   a. **Date of pre-notice:** 11/78
   b. **Public hearing:** 3/79
   c. **Recommend Decision:** 6/79
   d. **Final Decision:** 9/79
6. **Contacts:**
   Agency: Ralph Tapp, Ext. (202) 447-3970

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1. **Calendar No:** AM 1087
2. **Title:** Amendments to regulations under the Federal Seed Act. 7 CFR Part 201
3. **Description:** Update and clarify provisions such as definition of variety rules for assigning variety names, add new kinds, add new rules for testing, amend standards for certified seed, and amend rules for sampling unusual containers. Last major revision of regulations was in 1973.
4. **Authority:** Federal Seed Act, 7 U.S.C. 1551 et seq.
5. **Projected Schedule**
   a. **Date of pre-notice:**
   b. **Date of proposal:** 7/15/79
   c. **Final Decision:** 11/30/79
6. **Contacts:**
   Agency: Clyde Edwards, Ext. (202) 447-9340

1. Calendar No: AM 1089

2. Title: Proposed revisions of U.S. Grade Standards for Feeder Cattle.

3. Description: The present standards are outdated due to changes in the cattle population and changes in beef standards in 1976.

4. Authority: Agricultural Marketing Act of 1946. 7 U.S.C. 1621 et seq.

5. Projected Schedule

a. Date of pre-notice:	
b. Date of proposal:	5/1/79
c. Final Decision:	8/1/79

6. Contacts:

Agency: W. Edmund Tyler, Ext. (202) 447-5679

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1. Calendar No: AM 10814

2. Title: Proposed New England Apple Marketing Agreement and Order. 7 CFR Part (Pending)

3. Description: Obtain evidence on requested program regarding research, promotion and minimum maturity provisions covering apples grown in Connecticut, Maine, Massachusetts, New Hampshire, Rhode Island and Vermont.

4. Authority: Agricultural Marketing Agreement Act of 1937, as amended. 7 U.S.C. 601 et seq.

5. Projected Schedule

a. Notice of hearing:	11/78
b. Public hearing:	12/78
c. Recommend Decision:	4/79
d. Final Decision:	5/79
e. Final Order:	6/79

6. Contacts:

Agency: C. R. Brader, Ext. (202) 447-6393

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1. Calendar No: AM 10843

2. Title: Amendment of Greater Kansas City Milk Order 7 CFR Part 1064

3. Description: Key proposals would change the pooling standards for supply plants.

4. Authority: Agricultural Marketing Agreement Act of 1937. 7 U.S.C. 601 et seq.

5. Projected Schedule

a. Invite proposals:	7/13/78
b. Public hearing:	10/30-31/78
c. Recommend Decision:	5/21/79
d. Final Decision:	8/1/79

6. Contacts:

Agency: Maurice Martin, Ext. (202) 447-7183

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1. Calendar No: AM 10844

2. Title: Amendment of Nebraska-Western Iowa Milk Order 7 CFR Part 1065

3. Description: Key proposals would change the pooling standards for supply plants and increase the limit on the amount of milk that may be diverted from pool plants to nonpool plants for manufacturing. Another proposal would establish a later payment charge on all over-due obligations of handlers that are payable to the market administrator. Other proposals would either reduce or increase the Class I price at certain locations by various amounts.

4. Authority: Agricultural Marketing Agreement Act of 1937. 7 U.S.C. 601 et seq.

5. Projected Schedule

a. Invite proposals:	7/13/78
b. Public hearing:	10/24-27/78
c. Recommend Decision:	5/21/79
d. Final Decision:	8/1/79

6. Contacts:

Agency: Maurice Martin, Ext. (202) 447-7183

1. Calendar No: AM 10849

2. Title: New Federal Milk Order for Boise, Idaho, Area 7 CFR Part (Pending)

3. Description: Establish a new Federal milk order covering 18 southwestern Idaho and 5 eastern Oregon counties. The principal cities in the proposed marketing area are Boise, Nampa, and Twin Falls, Idaho. The provisions of the order would be patterned after those commonly used in most other Federal orders.

4. Authority: Agricultural Marketing Agreement Act of 1937, as amended. 7 U.S.C. 601 et seq.

5. Projected Schedule

a. Invite proposals:	9/15/78
b. Public hearing:	12/5/78
c. Recommend Decision:	8/15/79
d. Final Decision:	11/15/79

6. Contacts:

Agency: Maurice Martin, Ext. (202) 447-7183

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1. Calendar No: AM 12857

Title: California Ruby Seedless Grape Marketing Agreement and Order. 7 CFR Part (Pending)

3. Description: Assess proposed program covering Ruby Seedless grapes grown in California.

4. Authority: Agricultural Marketing Agreement Act of 1937, as amended. 7 U.S.C. 601 et seq.

5. Projected Schedule

a. Recommend Decision:	5/79
b. Final Decision:	7/79
c. Final Order:	8/79

6. Contacts:

Agency: C. R. Brader, Ext. (202) 447-6393

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1. Calendar No: AM 12859

2. Title: Amendment of Indiana Milk Order 7 CFR Part 1049

3. Description: Key proposals would increase the Class I differential 6 cents and would floor the Class I and blend prices when adjusted downward for plant location at the Class III price level.

4. Authority: Agricultural Marketing Agreement Act of 1937, as amended. 7 U.S.C. 601 et seq.

5. Projected Schedule

a. Invite proposals:	10/12/78
b. Public hearing:	1/9/79
c. Recommend Decision:	4/16/79
d. Final Decision:	6/15/79

6. Contacts:

Agency: Martin Dunn, Ext. (202) 447-7311

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1. Calendar No: AM 12860

2. Title: Changing License Fees and Requirements under Perishable Agricultural Commodities Act.

3. Description: Implement recent amendments to Act, e.g., increase exemptions for retailers and frozen food brokers, increase license fees and add fee assessments for branch operations.

4. Authority: Perishable Agricultural Commodities Act (7 U.S.C. 499a et seq.) and recent amendments to Act (Act of Nov. 1, 1978, P.L. 95-562, 92 Stat. 2381)

5. Projected Schedule

a. Date of pre-notice:	
b. Date of proposal:	2/79
c. Final Decision:	10/79

6. Contacts:

Agency: Wilbur Rife, Ext. (202) 447-2189

1. Calendar No: AM 195

1. Calendar No: AM 4925/(907.0)

V 4 4 / 9 5 M Y 1 5 7 9 UMI

1. Calendar No: AM 194

2. Title: California Grapefruit Marketing Agreement and Order. 7 CFR Part 909 (Pending)

3. Description: Assess proposed program to regulate grapefruit grown in California.

4. Authority: Agricultural Marketing Agreement Act of 1937, as amended. 7 U.S.C. 601 et seq.

5. Projected Schedule

a. Date of Hearing: 3/8/79
b. Recommend Decision: 5/79
c. Final Decision: 7/79
d. Final Order: 8/79

6. Contacts:

Agency: M. E. McGaha, Ext. (202) 447-5975

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1. Calendar No: AM 195

2. Title: Arizona Grapefruit Marketing Agreement and Order 7 CFR Part 909 (Pending)

3. Description: Assess proposed program to regulate grapefruit grown in Arizona

4. Authority: Agricultural Marketing Agreement Act of 1937, as amended. 7 U.S.C. 601 et seq.

5. Projected Schedule

a. Date of Hearing: 3/12/79
b. Recommend Decision: 5/79
c. Final Decision: 5/79

6. Contacts:

Agency: M. E. McGaha, Ext. (2021 447-5975

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1. Calendar No: AM 4921/(993.0)

2. Title: Marketing Policy for California Dried Prunes under M.O. No. 993. 7 CFR Part 993

3. Description: To set volume regulation for California dried prunes for the 1979-80 crop year beginning August 1, 1979, and ending July 31, 1980.

4. Authority: Authorized by Agricultural Marketing Agreement Act/Recommended by Prune Administrative Committee 7 U.S.C. 601 et seq.

5. Projected Schedule

a. Date of pre-notice:
b. Date of proposal: 7/79
c. Final Decision: 8/79

6. Contacts:

Agency: William J. Higgins, Ext. (202) 447-5053

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1. Calendar No: AM 4922/(932.0)

2. Title: Marketing Policy Statement - 1979-80 Crop Year - Olives Grown in California. 7 CFR Part 932

3. Description: The committee's marketing policy sets forth basis for regulations for 1979-80 year beginning September 1, 1979, and ending August 31, 1980.

4. Authority: Order 932/Committee considers marketing policy each crop year.

5. Projected Schedule

a. Date of pre-notice:
b. Date of proposal:
c. Final Decision: 9/79

6. Contacts:

Agency: M. E. McGaha, Ext. (202) 447-5975

1. Calendar No: AM 4923/(925.5)

2. Title: Proposed Termination of Marketing Order 925 covering Idaho-Oregon Fresh Prunes. 7 CFR Part 925

3. Description: This notice solicits comments on a proposal to terminate M.O. 925 and dispose of administrative committee assets.

4. Authority: M.O. 925 - Fresh prunes grown in designated area of Idaho and Oregon has been inactive since 1974. 7 U.S.C. 608c(16)

5. Projected Schedule

a. Date of pre-notice:
b. Date of proposal: 4/79
c. Final Decision: 5/79

6. Contacts:

Agency: M. E. McGaha, Ext. (202) 447-5975

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1. Calendar No: AM 4926/(910.0)

2. Title: Marketing Policy Statement - 1979-80 Crop Year - Lemons Grown in California and Arizona. 7 CFR Part 910

3. Description: The Committee's marketing policy sets forth basis for regulations for 1979-80 year beginning August 1, 1979, and ending July 31, 1980.

4. Authority: Order 910/Committee considers marketing policy each crop year. 7 U.S.C. 601 et seq.

5. Projected Schedule

a. Date of pre-notice:
b. Date of proposal:
c. Final Decision: 8/79

6. Contacts:

Agency: M. E. McGaha, Ext. (202) 447-5975

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1. Calendar No: AM 4925/(907.0)

2. Title: Marketing Policy Statement - 1979-80 Crop Year - Navel Oranges Grown in Arizona and California. 7 CFR Part 907

3. Description: The committee's marketing policy sets forth basis for regulations for 1979-80 year beginning November 1, 1979, and ending October 31, 1980.

4. Authority: Order 907/Committee considers marketing policy each crop year. 7 U.S.C. 601 et seq.

5. Projected Schedule

a. Date of pre-notice:
b. Date of proposal:
c. Final Decision: 10/79

6. Contacts:

Agency: M. E. McGaha, Ext. (202) 447-5975

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1. Calendar No: AM 4927/(930.0)

2. Title: Marketing Policy Statement - 1979-80 Crop Year - Tart Cherries Grown in Selected States. 7 CFR Part 930

3. Description: The Board's marketing policy sets forth basis for regulations for 1979-80 year beginning May 1, 1979, and ending April 30, 1980.

4. Authority: Order 930/Board considers marketing policy each crop year. 7 U.S.C. 601 et seq.

5. Projected Schedule

a. Date of pre-notice:
b. Date of proposal:
c. Final Decision: 7/79

6. Contacts:

Agency: M. E. McGaha, Ext. (202) 447-5975.

ANIMAL AND PLANT HEALTH INSPECTION SERVICE

V 4 4 / 9 5 M Y 1 5 7 9 UMI

1. **Calendar No:** AM 4928/(966.0)

2. **Title:** Marketing Policy Tomatoes Grown in Florida - M.O. 966. 7 CFR Part 966

3. **Description:** Establish a basis for recommending 1979-80 handling regulations under expected tomato supply and demand situation.

4. **Authority:** Authorized by Agricultural Marketing Agreement Act/Recommended by Florida Tomato Committee 7 U.S.C. 601 et seq.

5. **Projected Schedule**

   a. **Date of pre-notice:**
   b. **Date of proposal:** 9/79
   c. **Final Decision:** 10/79

6. **Contacts:**

   Agency: D. S. Kuryloski, Ext. (202) 447-6393

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1. **Calendar No:** AM 4929/(967.0)

2. **Title:** Marketing Policy for Florida Celery Under M.O. No. 967. 7 CFR Part 969

3. **Description:** This would establish a basis for recommending a handling regulation for the 1979-80 season, which begins August 1, 1979, and ends the following July 31.

4. **Authority:** Authorized by Agricultural Marketing Agreement Act/Recommended by Florida Celery Committee. 7 U.S.C. 601 et seq.

5. **Projected Schedule**

   a. **Date of pre-notice:**
   b. **Date of proposal:** 6/79
   c. **Final Decision:** 8/79

6. **Contacts:**

   Agency: D. S. Kuryloski, Ext. (202) 447-6393

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1. **Calendar No:** AM 4930/(981.0)

2. **Title:** Marketing Policy for California Almonds Under M.O. No. 981. 7 CFR Part 981

3. **Description:** To set the volume regulation for California almonds for the 1979-80 crop year beginning July 1, 1979 and ending June 30, 1980.

4. **Authority:** Authorized by Agricultural Marketing Agreement Act/Recommended by Almond Board of California. 7 U.S.C. 601 et seq.

5. **Projected Schedule**

   a. **Date of pre-notice:**
   b. **Date of proposal:** 8/79
   c. **Final Decision:** 9/79

6. **Contacts:**

   Agency: William J. Higgins, Ext. (202) 447-5053

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1. **Calendar No:** AM 4931/(984.0)

2. **Title:** Marketing Policy for California Walnuts under M.O. No. 984. 7 CFR Part 984

3. **Description:** To set the volume regulation for California walnuts for the 1979-80 marketing year beginning August 1, 1979, and ending July 31, 1980.

4. **Authority:** Authorized by Agricultural Marketing Agreement Act/Recommended by the Walnut Marketing Board 7 U.S.C. 601 et seq.

5. **Projected Schedule**

   a. **Date of pre-notice:**
   b. **Date of proposal:** 9/79
   c. **Final Decision:** 11/79

6. **Contacts:**

   Agency: William J. Higgins, Ext. (202) 447-5053

1. **Calendar No:** AM 4932/(989.0)

2. **Title:** Marketing Policy for California Raisins Under M.O. No. 989. 7 CFR Part 989

3. **Description:** To set the volume regulation for California raisins for the 1979-80 crop year beginning August 1, 1979, and ending July 31, 1980.

4. **Authority:** Authorized by Agricultural Marketing Agreement Act/Recommended by Raisin Administrative Committee. 7 U.S.C. 601 et seq.

5. **Projected Schedule**

   a. **Date of pre-notice:**
   b. **Date of proposal:** 11/79
   c. **Final Decision:** 12/79

6. **Contacts:**

   Agency: William J. Higgins, Ext. (202) 447-5053

ANIMAL AND PLANT HEALTH INSPECTION SERVICE

1. **Calendar No:** AP 1089

2. **Title:** Revised Bird Quarantine Regulation

3. **Description:** Would add "smuggled birds" to definitions, and would provide for release when determined to be free of disease

4. **Authority:** 21 U.S.C. 111, 134a-c, and 134f. Provide method for quarantining "smuggled" birds.

5. **Projected Schedule**

   a. **Date of pre-notice:** None
   b. **Date of proposal:** 3/30/79
   c. **Final Decision:** 7/1/79

6. **Contacts:**

   Agency: Dr. George Pierson, Import/Export Staff, Ext. (301) 436-8170

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1. **Calendar No:** AP 1081

2. **Title:** Revise Gypsy Moth and Brown-Tail Moth Quarantine and Regulations

3. **Description:** Would redirect Gypsy Moth and Brown-Tail Moth programs by adopting a pest management concept based on pest risk.

4. **Authority:** 7 U.S.C. 161, 162, 150ee. To change regulatory program.

5. **Projected Schedule**

   a. **Date of pre-notice:** None
   b. **Date of proposal:** 5/4/79
   c. **Final Decision:** 9/1/79

6. **Contacts:**

   Agency: H. V. Autry, Ext. (301) 436-8247

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1. **Calendar No:** AP 10810

2. **Title:** Revision of Export Livestock Handling Requirements

3. **Description:** Amendments would delete specific maximum length requirements for container pens for animals on ocean vessels and would relax restrictions on the type of roof which may be used to cover pens carrying animals on exposed decks aboard ocean vessels.

4. **Authority:** 21 U.S.C. 105, 112, 113, 114a, 120, 121, 134b, 134f, 612-614, 618; 46 U.S.C., 466a, 466b. Research studies performed indicate that certain modifications in shipping practices would not result in relaxed humane handling standards or disease control measures.

5. **Projected Schedule**

   a. **Date of pre-notice:** None
   b. **Date of proposal:** 8/1/79
   c. **Final Decision:** 11/1/79

6. **Contacts:**

   Agency: Dr. Harold Waters, Ext. (301) 436-8383

1. **Calendar No:** AP 3826

V 4 4 / 9 5 M Y 1 5 7 9 UMI

1. **Calendar No:** AP 10815

2. **Title:** Revised Bird Quarantine Regulation

3. **Description:** Would provide for approval of additional quarantine facilities for importation of birds only if adequate manpower is available to service the facility.

4. **Authority:** 21 U.S.C. 111, 134a, 134b, 134c, and 134f would provide authority to allocate agency personnel resources for servicing privately owned and operated bird quarantine facilities.

5. **Projected Schedule**

   a. **Date of pre-notice:** None
   b. **Date of proposal:** 4/3/79
   c. **Final Decision:** 8/1/79

6. **Contacts:**

   Agency: Dr. George Pierson, Import/Export Staff, Ext. (301) 436-8170

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1. **Calendar No:** AP 3912

2. **Title:** Revised Cattle Scabies Regulations (Docket 78-76)

3. **Description:** Revision would require that Federally-approved facilities be provided by livestock market managers for the treatment of cattle required to be dipped before moving interstate.

4. **Authority:** 21 U.S.C. 111-113, 115, 117, 120-1, 123-6/Revision would give added support to the State-Federal cooperative cattle scabies eradication efforts.

5. **Projected Schedule**

   a. **Date of pre-notice:** 1/26/78
   b. **Date of proposal:** 8/1/79
   c. **Final Decision:** 12/1/79

6. **Contacts:**

   Agency: Dr. J. Hourrigan, Ext. (301) 436-8231

1. **Calendar No:** AP 3911

2. **Title:** Revised Voluntary Inspection Regulations (Docket 78-59)

3. **Description:** This action would permit APHIS to require that the exporter reimburse the government for the cost of these services.

4. **Authority:** 7 U.S.C. 1622, 1624/APHIS does not have the resources to continue providing free inspection, testing, and certification services to exporters to meet the importing country's requirements.

5. **Projected Schedule**

   a. **Date of pre-notice:**
   b. **Date of proposal:** 7/15/79
   c. **Final Decision:** 11/15/79

6. **Contacts:**

   Agency: Dr. H. Waters, Ext. (301) 436-8383

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1. **Calendar No:** AP 3915

2. **Title:** Amendment to TB Indemnity Rates (Docket 78-107)

3. **Description:** This proposed amendment would raise the maximum indemnity rate for livestock destroyed because of tuberculosis. On tuberculin reactors and exposed animals the indemnity would be the difference between the appraised value and residual salvage value up to the new maximum.

4. **Authority:** 21 U.S.C. 111-113, 114, 114a, 114a-1, 120, 121, 125, 134b/To maintain a reasonable incentive for livestock owners to voluntarily cooperate in the TB Eradication Program, the indemnity would raised to a level which will minimize the owner's loss for agreeing to depopulate the infected herd.

5. **Projected Schedule**

   a. **Date of pre-notice:**
   b. **Date of proposal:** 5/25/79
   c. **Final Decision:** 8/25/79

6. **Contacts:**

   Agency: Dr. Ralph Bennett, Ext. (301) 436-8715

1. **Calendar No:** AP 3925

2. **Title:** Revise Brucellosis Regulation to Parallel Uniform Methods and Rules

3. **Description:** To consider revision of the regulations to conform to the Uniform Methods and Rules as administered within the States.

4. **Authority:** 21 U.S.C. 111-114a-1, 114g, 115, 117, 120, 121, 123-125, 134b, 134f/This action would be responsive to the Secretary's Brucellosis Technical Commissions's Report recommending changes to the Uniform Methods and Rules. The recommended changes were adopted as Resolutions by the Brucellosis Committee of the USAHA.

5. **Projected Schedule**

   a. **Date of pre-notice:**
   b. **Date of proposal:** 12/1/79
   c. **Final Decision:** 4/1/80

6. **Contacts:**

   Agency: Dr. A. D. Robb, Ext. (301) 436-8713

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1. **Calendar No:** AP 3929

2. **Title:** Imported Fire Ant (IFA) Revocation

3. **Description:** Proposal to revoke the imported fire ant quarantine and regulations which regulate the movement of articles to prevent artificial, long-range spread of the ant to noninfested areas. Federal regulatory activities would be terminated.

4. **Authority:** 7 U.S.C. 161, 162, 150ee/Control chemicals will soon be unavailable. No acceptable alternatives appear to exist.

5. **Projected Schedule**

   a. **Date of pre-notice:**
   b. **Date of proposal:** 6/1/79
   c. **Final Decision:** 9/30/79

6. **Contacts:**

   Agency: H. Autry, Ext. (301) 436-8247

1. **Calendar No:** AP 3926

2. **Title:** Revise Brucellosis Indemnity Regulations

3. **Description:** Would authorize surveys of market values of cattle to determine flat rate indemnity maximums for each class and type. The rates should preferably be by State so that the combination of State/Federal indemnity and salvage value will give the producer a total return great enough to insure his participation in disease eradication, but not so great that he would live with the disease in order to collect indemnities

4. **Authority:** 21 U.S.C. 111, 113, 114, 114a-1, 120, 121, 125, 134b/This action is responsive to recommendations made by USAHA, the Secretary's Brucellosis Technical Commission and the National Cattleman's Association. The recommendations ask APHIS to evaluate the possibility of adopting an indemnity system keyed to replacement value which moves with the market.

5. **Projected Schedule**

   a. **Date of pre-notice:**
   b. **Date of proposal:** 10/1/79
   c. **Final Decision:** 2/1/80

6. **Contacts:**

   Agency: Dr. A. D. Robb, Ext. (301) 436-8713

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1. **Calendar No:** AP 4935

2. **Title:** Quarantine 37 - Nursery Stock, Plants and Seeds (Docket 77-308)

3. **Description:** Complete revision of entire quarantine and update of lists of nursery stock, plants, and seeds prohibited or restricted entry. Proposal will include provision for a public hearing.

4. **Authority:** 7 U.S.C. 160, 162, and 7 U.S.C. 150ee/Cyclical revision of entire quarantine

5. **Projected Schedule**

   a. **Date of pre-notice:**
   b. **Date of proposal:** 6/5/79
   c. **Final Decision:** 10/15/79

6. **Contacts:**

   Agency: H. Autry, Ext. (301) 436-8247

1. **Calendar No:** AS 498

AGRICULTURAL STABILIZATION AND CONSERVATION SERVICE

1. Calendar No: AS 1086

2. Title: 1980-Crop Wheat

3. Description: Proposed rulemaking for national program acreage, set-aside and diversion levels, voluntary reduction, target and loan levels, special grazing and hay program and acreage limitations for the 1980-crop of wheat.

4. Authority: Agricultural Act of 1949, as amended by the Food and Agriculture Act of 1977, Section 1001 of the Food and Agriculture Act of 1977, and the Act of May 15, 1978.

5. Projected Schedule

a. Date of pre-notice:
b. Date of proposal: 5/15/79
c. Final Decision: by 8/15/79

6. Contacts:

Agency: Bruce R. Weber, Ext. (202) 447-7987

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1. Calendar No: AS 10819

2. Title: Emergency Feed Program

3. Description: Amend regulations to: (1) Require forage from set-aside acres be utilized before program assistance is provided; (2) Limit assistance covering pasture loss to 50% of the pastura loss; (3) Provide that grain under loan is considered sold on the date the loan is disbursed.

4. Authority: Food and Agriculture Act of 1977.

5. Projected Schedule

a. Date of pre-notice:
b. Date of proposal: 7/15/79
c. Final Decision: 10/30/79

6. Contacts:

Agency: Robert Cook, Ext. (202) 447-7997

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1. Calendar No: AS 492

2. Title: 1979 Crop Sugar Loan Program

3. Description: Issue proposed range of loan rates and terms and conditions under which CCC would offer nonrecourse loans on 1979 crop sugar.

4. Authority: Sec. 301 of Agricultural Act of 1949 (7 U.S.C. 1447).

5. Projected Schedule

a. Date of pre-notice:
b. Date of proposal: 4/30/79
c. Final Decision: 6/1/79

6. Contacts:

Agency: Larry Ackland, Ext. (202) 447-5647

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1. Calendar No: AS 494

2. Title: 1980 Upland Cotton Program Provisions

3. Description: Announce the preliminary target price, national program acreage, voluntary reduction percentage, set-aside requirement, voluntary diversion requirement, and limitation on planted acreage.

4. Authority: Agriculture Act of 1949, as amended by the Food & Agricultural Act of 1977 and the Act of May 15, 1978.

5. Projected Schedule

a. Date of pre-notice:
b. Date of proposal: 9/14/79
c. Final Decision: 12/15/79

6. Contacts:

Agency: Charles V. Cunningham, Ext. (202) 447-7873

1. Calendar No: AS 497

2. Title: 1980 Feed Grain Program

3. Description: Proclamation of national program acreage (NPA), set-aside level, recommended reduction for the 1980 feed grain crop, and other provisions.

4. Authority: Agricultural Act of 1949, as amended by the Food and Agriculture Act of 1977 and the Act of May 15, 1978.

5. Projected Schedule

a. Date of pre-notice:
b. Date of proposal: 8/15/79
c. Final Decision: by 11/15/79

6. Contacts:

Agency: Orville I. Overboe, Ext. (202) 447-7987

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1. Calendar No: AS 498

2. Title: - 1980 Feed Grain Program

3. Description: Proclamation of 1980 Feed Grain Support Levels.

4. Authority: Agricultural Act of 1949, as amended by the Food and Agriculture Act of 1977, and the Act of May 15, 1978.

5. Projected Schedule

a. Date of pre-notice:
b. Date of proposal: 8/15/79
c. Final Decision: 11/15/79

6. Contacts:

Agency: Orville I. Overboe, Ext. (202) 447-7987

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1. Calendar No: AS 499

2. Title: 1980 Soybean Price Support Program

3. Description: Announce a loan and purchase program for soybeans and the provisions to carry out the program.

4. Authority: Agricultural Act of 1949, as amended by the Food and Agriculture Act of 1977.

5. Projected Schedule

a. Date of pre-notice:
b. Date of proposal: 8/15/79
c. Final Decision: 11/15/79

6. Contacts:

Agency: Harry A. Sullivan, Ext. (202) 447-7951

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1. Calendar No: AS 4911

2. Title: 1980 Rice Set-Aside and Land Diversion Payment Program

3. Description: Announce the national acreage allotment and the set-aside and the land diversion payment program determinations.

4. Authority: Agricultural Act of 1949, as amended by the Food and Agriculture Act of 1977 and the Agricultural Credit Act of 1978.

5. Projected Schedule

a. Date of pre-notice:
b. Date of proposal: 9/28/79
c. Final Decision: 12/31/79

6. Contacts:

Agency: George H. Schaefer, Ext. (202) 447-8480

1. Calendar No: AS 4913

OFFICE OF ENERGY

1. **Calendar No:** AS 4912

2. **Title:** 1980 Rice Loan, Purchase and Paymeat Program

3. **Description:** Determine and announce the loan and purchase rate and the target price for rough rice. Basically, the determinations are mathematical calculations specified by statute.

4. **Authority:** Agricultural Act of 1949, as amended by the Food and Agriculture Act of 1977 and the Agricultural Credit Act of 1978.

5. **Projected Schedule**

   a. **Date of pre-notice:**
   b. **Date of proposal:** 9/28/79
   c. **Final Decision:** 12/31/79

6. **Contacts:**

   Agency: George H. Schaefer, Ext. (202) 447-8480

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1. **Calendar No:** AS 4913

2. **Title:** 1979 Crop Wheat

3. **Description:** Proclaim final national program acreage for 1979 crop of wheat.

4. **Authority:** Agricultural Act of 1949, as amended by the Food and Agriculture Act of 1977.

5. **Projected Schedule**

   a. **Date of pre-notice:**
   b. **Date of proposal:**
   c. **Final Decision:** 11/15/79

6. **Contacts:**

   Agency: Bruce R. Weber, Ext. (202) 447-6688

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1. **Calendar No:** AS 4920

2. **Title:** 1980 Crop Peanuts -- National Average Price Support Levels and General Program Provisions.

3. **Description:** Establish a 1980 national average support level for quota peanuts at not less then $420 a ton; a national average support level for additional peanuts; and CCC sales policy for sales of additional peanuts for edible export use.

4. **Authority:** Agricultural Act of 1949, as amended by the Food and Agriculture Act of 1977.

5. **Projected Schedule**

   a. **Date of pre-notice:**
   b. **Date of proposal:** 11/1/79
   c. **Final Decision:** 2/15/80

6. **Contacts:**

   Agency: Kay Wygal, Ext. (202) 447-7695

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1. **Calendar No:** AS 4921

2. **Title:** 1980 Crop Peanuts - National Acreage Allotment and National Poundage Quota.

3. **Description:** Establish for 1980 crop peanuts a national acreage allotment which determines maximum planted acres, and a national poundage quota which determines the quantity of peanuts eligible for loans at the domestic edible support level.

4. **Authority:** Agricultural Adjustment Act of 1938, as amended by the Food and Agriculture Act of 1977.

5. **Projected Schedule**

   a. **Date of pre-notice:**
   b. **Date of proposal:** 9/1/79
   c. **Final Decision:** by 12/1/79

6. **Contacts:**

   Agency: Kay Wygal, Ext. (202) 447-6695

1. **Calendar No:** AS 4922

2. **Title:** Price Support Level for Milk, 1979-80 Marketing Year

3. **Description:** To set the support price for milk between 75 and 90 percent of parity in order to assure an adequate supply of pure and wholesome milk to meet current needs, reflect changes in the cost of production, and assure a level of farm income adequate to maintain productive capacity sufficient to meet anticipated future needs.

4. **Authority:** Agricultural Act of 1949, as amended.

5. **Projected Schedule**

   a. **Date of pre-notice:**
   b. **Date of proposal:** 6/15/79
   c. **Final Decision:** by 9/30/79

6. **Contacts:**

   Agency: Sidney Cohen, Ext. (202) 447-4037

ECONOMICS, STATISTICS & COOPERATIVE SERVICE

1. **Calendar No:** ES 1081

2. **Title:** BLS Data Series

3. **Description:** The decision involves our adjustment to the new data series and evaluating its impact on our work in margins and cost components. Includes other possible sources of retail price data.

   Need: Bureau of Labor Statistics has dropped certain individual retail commodity price series and replaced them by composites series.

4. **Authority:** Agricultural Marketing Act of 1946, as amended, 7 U.S.C. 1622

5. **Projected Schedule**

   a. **Date of pre-notice:**
   b. **Date of proposal:** Fall 1978
   c. **Final Decision:** 12/79

6. **Contacts:**

   Agency: Bob Bohall, Ext. (202) 447-8666

OFFICE OF ENERGY

1. **Calendar No:** EN 1082

2. **Title:** Industrial Hydrocarbons and Alcohols, Pilot Projects.

3. **Description:** Decisions regarding selection of pilot projects.

4. **Authority:** Section 1420 of Food and Agriculture Act of 1977 mandates Secretary of Agriculture, through CCC, to guarantee loans of up to $15 million for each of 4 pilot projects -- provided that economic and energy criteria are met.

5. **Projected Schedule**

   a. **Date of pre-notice:**
   b. **Date of proposal:**
   c. **Final Decision:** 6/15/79

6. **Contacts:**

   Agency:

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1. **Calendar No:** ES 1082

2. **Title:** Cost of Production -- Methods, Procedures and Format

3. **Description:** Major crop and livestock cost of production estimates, their form, content, procedures and methods, dates of release, etc.

   Need: Need to establish a more satisfactory set of procedures and format for analyzing and publishing cost of production estimates.

4. **Authority:** 7 U.S.C. 1441a

5. **Projected Schedule**

   a. **Date of pre-notice:**
   b. **Date of proposal:** Underway
   c. **Final Decision:** 6/1/79

6. **Contacts:**

   Agency: Preston LaFerney, Ext. (202) 447-8860

FOREIGN AGRICULTURAL SERVICE

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V 4 4 / 9 5

1. Calendar No: ES 1089

2. Title: Futures Trading In Potatoes

3. Description: Conduct a study of potato marketing and futures trading. Submit a report to the Secretary of Agriculture for response to requirements of P.L. 95-405, Sec. 27. The report is due to each House of Congress October 1, 1979.

4. Authority: P.L. 95-405, Sec. 27 - 7 U.S.C. 20 note

5. Projected Schedule

a. Date of pre-notice:
b. Date of proposal:
c. Final Decision: 10/1/79

6. Contacts:

Agency: Allen Paul, Ext. (202) 447-8168

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1. Calendar No: ES 10824

2. Title: Review of Cooperative Program

3. Description: Determine the scope and content of an outside review of the cooperative program, including the composition of the review group.

Need: Need for guidance in the development of a more effective cooperative program within ESCS.

4. Authority: 7 U.S.C. 451-457

5. Projected Schedule

a. Date of pre-notice:
b. Date of proposal: 11/1/78
c. Final Decision: 6/15/79

6. Contacts:

Agency: Ken Farrell, Ext. (202) 447-8104

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1. Calendar No: ES 10814

2. Title: Standby Authority for Mandatory Reporting of Data

3. Description: Determine possible ways industry could be required to submit monthly data and what legislation to propose

4. Authority: (GAO Report to Congress "What Causes Food Prices to Rise" CED-78-170, 9/7/78 recommends USDA develop legislation requiring firms to report data on margins.)

5. Projected Schedule

a. Date of pre-notice:
b. Date of proposal: 1/79
c. Final Decision: 12/79

6. Contacts:

Agency: Harry Harp, Ext. (202) 447-8489 and Rod Kite, Ext. (202) 447-8489

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1. Calendar No: ES 492

2. Title: 1979 Rice 5-Month Price Computation

3. Description: Reach understanding and agreement with rice industry, including cooperatives, on rice price reporting and computations of 5-month average price for 1979 crop.

4. Authority: P.L. 95-113, Sec. 702; 7 U.S.C. 1441; Food and Agricultural Act of 1977. Deficiency payments are based on ESCS-derived average price received by farmers for the August-December period.

5. Projected Schedule

a. Date of pre-notice:
b. Date of proposal: 4/12/79
c. Final Decision: 7/31/79

6. Contacts:

Agency: J. W. Kirkbride, Ext. (202) 447-2122

FOREIGN AGRICULTURAL SERVICE

1. Calendar No: FA 1083

2. Title: Proposed Establishment of Selected Area Agricultural Trade Offices

3. Description: On-the-spot surveys are being made where necessary; and financial, personnel and overseas position limitations are being explored with a view to establishing six trade offices by end of September 1979 and to develop proposal for opening additional trade offices during 1980.

4. Authority: Title VI of the Agricultural Act of 1954, as amended.

5. Projected Schedule

a. Date of pre-notice:
b. Date of proposal:
c. Final Decision: by 9/30/79

6. Contacts:

Agency: Jimmy Minyard, Ext. (202) 447-4761

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1. Calendar No: FA 10838

2. Title: Proposed designation of Agricultural Counselors

3. Description: Identify those positions in the field which should be upgraded from Attache to Counselor and submit to Department of State for concurrence. Select foreign country attache posts which will be upgraded during 1979 and 1980.

4. Authority: Title VI of the Agricultural Act of 1954, as amended.

5. Projected Schedule

a. Date of pre-notice:
b. Date of proposal:
c. Final Decision: 10/1/79

6. Contacts:

Agency: Alexander Bernitz, Ext. 202) 447-3253

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1. Calendar No: FA 10835

2. Title: Implementation of Public Law 88-482 Meat Import Law

3. Description: To estimate 1980 U.S. imports of meats subject to the Meat Import Act.

4. Authority: Public Law 88-482, The Meat Import Law.

5. Projected Schedule

a. Date of pre-notice:
b. Date of proposal:
c. Final Decision: 12/30/79

6. Contacts:

Agency: Jon Falck, Ext. (202) 447-7868

FEDERAL GRAIN INSPECTION SERVICE

1. Calendar No: FG 1081

2. Title: Export Shiploading Inspection Plans

3. Description: Review present export shiploading inspection plans and develop an alternative. The current "Uniform Shiploading Plan" is complicated, and difficult to apply. The "10 Percent Plan" allows too much off grade grain to be loaded aboard ship.

4. Authority: U.S. Grain Standards Act, Section 5 and 7

5. Projected Schedule

a. Date of pre-notice:
b. Date of proposal: 6/15/79
c. Final Decision: 12/14/79

6. Contacts:

Agency: John Marshall, Ext. (202) 447-8497

M Y 1 5 7 9 UMI

V 4 4 / 9 5 M Y 1 5 7 9 UMI

1. **Calendar No:** FG 1082

2. **Title:** Weighing Handbook

3. **Description:** Develop and issue an interim instruction on the Supervision of Weighing for non-export grain. This must be done in two stages. First, an interim instruction to be available on 11/20/78. A final instruction will receive public review and comment.

4. **Authority:** U.S. Grain Standards Act, Section 7A

5. **Projected Schedule**

   a. **Date of pre-notice:**
   b. **Date of proposal:**
   c. **Final Decision:** 3/1/80

6. **Contacts:**

   Agency: George Lipscomb, Ext. (202) 447-4851

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1. **Calendar No:** FG 1083

2. **Title:** Dust Particle Size Standards

3. **Description:** Establish dust particle size standards as guidelines on the grain dust that should be removed from grain and the size dust particles that may be allowed to remain within the grain.

4. **Authority:** U.S. Grain Standards Act.

5. **Projected Schedule**

   a. **Date of pre-notice:**
   b. **Date of proposal:** 2/80
   c. **Final Decision:** 7/80

6. **Contacts:**

   Agency: George Lipscomb, Ext. (202) 447-4851

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1. **Calendar No:** FG 1084

2. **Title:** Regulations Under the United States Grain Standards Act

3. **Description:** Regulations to implement new and amended provisions of the Act which was extensively amended by Congress in Oct 1976 and Sept 1977. Subpart A for administering and enforcing the Act; Subparts C & D contain standards for inspection and weighing equipment and handling systems respectively. (Other subparts to be drafted separately)

4. **Authority:** U.S. Grain Standards Act of 1976. To implement the U.S. Grain Standards Act -- Subparts A, C, and D.

5. **Projected Schedule**

   a. **Date of pre-notice:** 7/31/78
   b. **Date of proposal:** 3/2/79
   c. **Final Decision:** 8/15/79

6. **Contacts:**

   Agency: J. T. Abshier, Ext. (202) 447-8262

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1. **Calendar No:** FG 1085

2. **Title:** Expansion of Duties of Official Inspection Agencies

3. **Description:** A proposed rulemaking requiring all official inspection agencies to provide, upon request, official protein testing services for all classes of wheat using only FGIS approved protein testing equipment effective 5/1/79. However, on 5/1/80 FGIS will specify that only NIR equipment will be approved for protein testing. Exemptions provided for agencies where little or no wheat is marketed.

4. **Authority:** U.S. Grain Standards Act, Section 7(b) and 7 (f)

5. **Projected Schedule**

   a. **Date of pre-notice:**
   b. **Date of proposal:** 3/8/79
   c. **Final Decision:** 6/1/79

6. **Contacts:**

   Agency: Neil Porter, Ext. (202) 447-8262

1. **Calendar No:** FG 1086

2. **Title:** Proposed Amendment to the Official U.S. Standards for Grain

3. **Description:** Presently the standards for various grains require varying sizes of samples used for determining infestation. We propose to provide uniform requirements as to sample size and procedures used; and to establish a zero tolerance on live insect infestation before certificates identify involved grain as infested.

4. **Authority:** Section 4 of U.S. Grain Standards Act.

5. **Projected Schedule**

   a. **Date of pre-notice:**
   b. **Date of proposal:** 7/15/79
   c. **Final Decision:** 10/30/79

6. **Contacts:**

   Agency: James L. Driscoll, Ext. (202) 447-9329

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1. **Calendar No:** FG 1087

2. **Title:** Sub-part J, Safety and Health Standards, Regulation Under the U.S. Grain Standards Act.

3. **Description:** Establish official safety and health standards regarding the minimum workplace conditions under which official personnel will perform official services.

4. **Authority:** Executive Order 11807, 29 CFR 1960, and the U.S. Grain Standards Act.

5. **Projected Schedule**

   a. **Date of pre-notice:**
   b. **Date of proposal:** 7/13/79
   c. **Final Decision:** 11/1/79

6. **Contacts:**

   Agency: E. K. (Gus) Bauman, Ext. (202) 447-8955

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1. **Calendar No:** FG 496

2. **Title:** Eliminate Analysis for Dark, Hard, and Vitreous Kernels in Hard Red Winter Wheat

3. **Description:** Elimination of quality analysis for Dark, Hard, and Vitreous (DHV) Kernels in Hard Red Winter (HRW) Wheat effective May 1, 1980. Provide for quicker, more reliable objective testing (protein content) as a better indicator of baking quality.

4. **Authority:** Section 7(b) of U.S. Grain Standards Act (7 U.S.C. 79(b)).

5. **Projected Schedule**

   a. **Date of pre-notice:**
   b. **Date of proposal:** 1/24/79
   c. **Final Decision:** 5/30/79

6. **Contacts:**

   Agency: John Marshall, Ext. (202) 447-8497

FARMERS HOME ADMINISTRATION

1. **Calendar No:** Fm 1081

2. **Title:** Review of thermal insulation standards for masonry construction

3. **Description:** Review of technical and economic data on the effect of building mass upon energy consumption to determine the optimum level of thermal performance which should be required in FmHA financed masonry homes.

4. **Authority:** Action by House-Senate conference committee on FY 79 Agriculture Apropriations Act.

5. **Projected Schedule**

   a. **Date of pre-notice:** 11/13/78
   b. **Date of proposal:** 12/79
   c. **Final Decision:** 2/80

6. **Contacts:**

   Agency: Daniel J. Ball, Ext. (202) 447-3394

1. **Calendar No:** Fm 1087

1. **Calendar No:** Fm 10810

1. Calendar No: Fm 1082

2. Title: Revision of Hillside Development Standards in FmHA Instruction 424.5.

3. Description: Revision of requirements for site development in areas which have steep slopes. Standards apply to streets, grading, drainage, and other aspects of residential site development.

4. Authority: Requests by Appalachian Regional Commission, State agencies and FmHA field staff for more flexibility in standards.

5. Projected Schedule

a. Date of pre-notice:
b. Date of proposal: 6/79
c. Final Decision: 9/79

6. Contacts:

Agency: Daniel J. Ball, Ext. (202) 447-3394

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1. Calendar No: Fm 1083

2. Title: Solar Demonstration Retrofit

3. Description: Select 2 FmHA inventory houses in each of six regions for retrofit utilizing Wilke Solar collector and monitor system over 2 heating seasons. Houses similar in design and orientation - one as control, other for solar. Audio-visual aids for training and demonstration are planned.

4. Authority: Departmental initiative to offset high cost of heating Sec. 502 housing through application of low-cost solar energy hardware.

5. Projected Schedule

a. Date of pre-notice:
b. Date of proposal: 4/81
c. Final Decision: 6/81

6. Contacts:

Agency: Carl Larson, Ext. (202) 447-7595

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1. Calendar No: Fm 1084

2. Title: Change in FmHA 430.2 Exhibit F - Rural Rental Housing "Rent Increase."

3. Description: Change FmHA Procedure to require that before granting rent increases to RRH owners that are receiving interest credit, the owner must request Rental Assistance when a substantial number of tenants are paying more than 25% of their income for rent.

4. Authority: Departmental initiative to enable RRH tenants who are paying more than 25% of their income for rent to receive Rental Assistance.

5. Projected Schedule

a. Date of pre-notice:
b. Date of proposal: 6/79
c. Final Decision: 8/79

6. Contacts:

Agency: Thomas Maxwell, Ext. (202) 447-7207

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1. Calendar No: Fm 1086

2. Title: Revision of Rural Rental Housing (RRH) Procedures (FmHA 444.5)

3. Description: Clarify application and preapplication requirement for RRH projects, including requirements for previous participation, evaluation of the market survey of demand and need, and to make other policy changes to shore up possible misuse of the program. Also, this action will incorporate the Rural Cooperative Housing program.

4. Authority: Departmental initiative to clarify procedure and to curb possible misuse of the program.

5. Projected Schedule

a. Date of pre-notice:
b. Date of proposal: 7/79
c. Final Decision: 9/79

6. Contacts:

Agency: Lynn Voight, Ext. (202) 447-7207

1. Calendar No: Fm 1087

2. Title: Procedure to Implement Section 525 of the Housing Act of 1949

3. Description: Draft procedures to implement Section 525 of the Housing Act of 1949 on technical and supervisory assistance. (Out reach)

4. Authority: Introduce a new program. Housing Act of 1949

5. Projected Schedule

a. Date of pre-notice:
b. Date of proposal: 3/79
c. Final Decision: 6/79

6. Contacts:

Agency: John Pentecost, Ext. (202) 447-7207

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1. Calendar No: Fm 10810

2. Title: Consideration of Limited Assistance Self Help Housing Approach

3. Description: Review the policy and procedure concerning the minimum hours of participation on self help projects, Ask public interest groups for comment concerning the advisibility of limiting the family's labor contribution.

4. Authority: Departmental initiative

5. Projected Schedule

a. Date of pre-notice:
b. Date of proposal: 5/79
c. Final Decision: 9/79

6. Contacts:

Agency: John Pentecost, Ext. (202) 447-7207

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1. Calendar No: Fm 10812

2. Title: Home Ownership Assistance Program

3. Description: Development and promulgation of instructions to implement a Home Ownership Assistance subsidy program as requested by the Administration and passed by Congress.

4. Authority: Housing and Community Development Amendments of 1978

5. Projected Schedule

a. Date of pre-notice:
b. Date of proposal: 5/79
c. Final Decision: 8/79

6. Contacts:

Agency: Matt Felber Ext. (202) 447-4295

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1. Calendar No: Fm 10814

2. Title: Coordinated Use of Loan and Grant Programs to Meet Low-Income Needs

3. Description: Deny community program assistance in prescribed circumstances, and to accelerate repayment in certain instances when communities arbitrarily prohibit or restrict low-income housing.

4. Authority: Departmental initiative to prevent communities and groups from using FmHA Community Program resources and subsequently, and arbitrarily denying or restricting low-income housing.

5. Projected Schedule

a. Date of pre-notice:
b. Date of proposal: 5/79
c. Final Decision: 9/79

6. Contacts:

Agency: Art Collings, Ext. (202) 447-8448

1. Calendar No: Fm 10827

1. Calendar No: Fm 10828

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1. Calendar No: Fm 10818

2. Title: Review of Present Priorities for B&I Loans

3. Description: Review will include consideration of lines of credit, small loans, limited partnerships, interim financing and other matters

4. Authority: Departmental initiative

5. Projected Schedule

a. Date of pre-notice:
b. Date of proposal: 6/79
c. Final Decision: 9/79

6. Contacts:

Agency: Robert Butler, Ext. (202) 447-5243

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1. Calendar No: Fm 10822

2. Title: Proposed change in B&I Program to broaden eligibility for foreign-owned applicants.

3. Description: Completed survey of states to determine significance of impact, published proposed change to permit foreign applicants if 85% of employees are U.S. citizens, and prepared option paper for decision.

4. Authority: Request by applicants, S/D, Vermont and general requests.

5. Projected Schedule

a. Date of pre-notice:
b. Date of proposal: 5/79
c. Final Decision: 8/79

6. Contacts:

Agency: Robert Butler, Ext. (202) 447-5243

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1. Calendar No: Fm 10823

2. Title: Revise FmHA instructions to permit certain energy producing projects to be funded under B&I Program

3. Description: Departmental initiative to amend B&I regulations to permit certain energy projects to be approved.

4. Authority: Consolidated Farm and Rural Development Act, as amended, Section 310B, Public Law 92-419; 7 U.S.C. 1932.

5. Projected Schedule

a. Date of pre-notice:
b. Date of proposal: 6/79
c. Final Decision: 9/79

6. Contacts:

Agency: Robert Butler, Ext. (202) 447-5243

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1. Calendar No: Fm 10826

2. Title: Community Facility loans for electric and telephone facilities

3. Description: Consider making FmHA loans for electric and telephone facilities to communities not eligible for REA assistance.

4. Authority: To provide a complete spectrum of loan assistance to rural communities in need.

5. Projected Schedule

a. Date of pre-notice:
b. Date of proposal: 8/79
c. Final Decision: 12/79

6. Contacts:

Agency: John Bowles, Ext. (202) 447-7667

1. Calendar No: Fm 10827

2. Title: Assistance to Energy Impacted Areas

3. Description: Provide grants for planning, land acquisition, and site development to energy impact areas

4. Authority: Powerplant and Industrial Fuel Use Act, Section 601

5. Projected Schedule

a. Date of pre-notice:
b. Date of proposal: 3/79
c. Final Decision: 5/79

6. Contacts:

Agency: Paul Kugler, Ext. (202) 447-2573

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1. Calendar No: Fm 10828

2. Title: Small Communities Conferences

3. Description: A series of conferences under USDA leadership with several other departments cooperating, for the purpose of addressing the critical economic needs of small rural communities.

4. Authority: Section 603, Rural Development Act of 1972

5. Projected Schedule

a. Date of pre-notice:
b. Date of proposal:
c. Final Decision: 10/79

6. Contacts:

Agency: Carl Larson, Ext. (202) 447-7595

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1. Calendar No: Fm 10842

2. Title: Joint Memorandum of Agreement between FmHA and the Appalachian Regional Commission

3. Description: The Agreement will commit FmHA to follow the priorities set by local development districts and states, FmHA and ARC to jointly set priorities and establish and support compatible programs in rural development.

4. Authority: Departmental initiative

5. Projected Schedule

a. Date of pre-notice:
b. Date of proposal: 5/79
c. Final Decision: 7/79

6. Contacts:

Agency: Craig Bigler, Ext. (202) 447-3360

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1. Calendar No: Fm 10844

2. Title: Phase II, National Rural Community Facilities Assessment Study.

3. Description: Major feasibility study currently underway with ABT Assoc. to determine the data requirements, collection and analysis plans for making the assessments. Performance criteria and types of communities to be included will be presented to FmHA prior to the initiation of Phase II. Supplemental study to be conducted by Agency.

4. Authority: Agency initiative to develop national and state assessments of the current status of community facilities relative to acceptable performance standards.

5. Projected Schedule

a. Date of pre-notice:
b. Date of proposal:
c. Final Decision: 10/79

6. Contacts:

Agency: Lou Higgs, Ext. (202) 447-9296

1. Calendar No: Fm 10847

1. Calendar No: Fm 10858

1. Calendar No: Fm 10866

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1. Calendar No: Fm 10847

2. Title: Rural Development Goals Report

3. Description: Appraise Congress of Executive actions to promote rural development

4. Authority: Required by Rural Development Act of 1972.

5. Projected Schedule

   a. Date of pre-notice:
   b. Date of proposal: 5/79
   c. Final Decision: 6/79

6. Contacts:

   Agency: John Leslie, Ext. (202) 447-3360

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1. Calendar No: Fm 10848

2. Title: Refine data gathering to aid state directors in development strategy.

3. Description: Identify, refine and gather data to assist State Directors in complying with the Administrator's memorandum on targeting FmHA programs.

4. Authority: Agency initiative

5. Projected Schedule

   a. Date of pre-notice:
   b. Date of proposal: 6/79
   c. Final Decision: 7/79

6. Contacts:

   Agency: Richard Long, Ext. (202) 447-4871

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1. Calendar No: Fm 10853

2. Title: Business and Industrial Guaranteed Loan Program Evaluation.

3. Description: Evaluation will include an analysis of institutional processing characteristics, loan portfolio characteristics and alternative types of assistance.

4. Authority: Agency initiative to evaluate the program.

5. Projected Schedule

   a. Date of pre-notice:
   b. Date of proposal: 10/79
   c. Final Decision: 12/79

6. Contacts:

   Agency: Dick Ackley, Ext. (202) 447-6586

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1. Calendar No: Fm 10856

2. Title: Needs Assessment Capability Study

3. Description: The Needs Assessment Component will be designed to be nationally applicable, to be used at the national level in assessing the relative needs of States, and within assessing the relative needs of counties. Center for Census Use Studies has contracted to develop a Needs Assessment Component to help FmHA assess relative levels of need for its loan programs.

4. Authority: Departmental initiative.

5. Projected Schedule

   a. Date of pre-notice: Completed
   b. Date of proposal: Completed
   c. Final Decision: 11/79

6. Contacts:

   Agency: Mark Nestle, Ext. (202) 447-6484

1. Calendar No: Fm 10858

2. Title: Weatherization Program - A change in emphasis

3. Description: Review alternative procedures available to improve effectiveness of programs.

4. Authority: Departmental initiative to increase effectiveness of current programs to meet the President's energy program.

5. Projected Schedule

   a. Date of pre-notice:
   b. Date of proposal:
   c. Final Decision: 10/79

6. Contacts:

   Agency: J. Moetzold, Ext. (202) 447-6586

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1. Calendar No: Fm 10866

2. Title: Section 502 Loans Income Limitations

3. Description: To adjust current limits for inflation.

4. Authority: Departmental initiative.

5. Projected Schedule

   a. Date of pre-notice:
   b. Date of proposal: 5/79
   c. Final Decision: 6/79

6. Contacts:

   Agency: Byron Fischer, Ext. (202) 447-4295

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1. Calendar No: Fm 10883

2. Title: Small Business Enterprise Loans

3. Description: Issue regulations for implementation of program.

4. Authority: Section 304 of the Consolidated Farm and Rural Development Act.

5. Projected Schedule

   a. Date of pre-notice:
   b. Date of proposal: 9/79
   c. Final Decision: 12/79

6. Contacts:

   Agency: Carl Opstad, Ext. (202) 447-4572

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1. Calendar No: Fm 12891

2. Title: Demonstration Program to improve coordination and upgrade the water and sewer assistance FmHA and EDA provide rural communities.

3. Description: Implement six month pilot program led by the EPA in the states of Iowa, Nebraska, Kansas, Missouri, Oklahoma, Arkansas, Louisiana and Texas. Joint program involves needs assessment, new screening procedures, single application for assistance, contract in engineering fees, and other streamlined features.

4. Authority: Interagency agreement, (EPA, FmHA, EDA, CSA, aad HUD) initiated by White House.

5. Projected Schedule

   a. Date of pre-notice:
   b. Date of proposal:
   c. Final Decision: 7/79

6. Contacts:

   Agency: Glenn E. Walden, Ext. (202) 447-4307

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FOOD AND NUTRITION SERVICE

1. Calendar No: FN 1182

2. Title: Proposed and Final Regulations Part 226 - Child Care Food Program

3. Description: The proposed rule provides for: administrative payments to sponsors of day care homes, a food service rate for family day care providers, start-up and advance payments, and alternative licensing procedures. Final rule will reflect comments received on proposed rule.

4. Authority: P.L. 95-627, the Child Nutrition Act of 1978. To revise Part 226 to conform to changes in National School Lunch Act by P.L. 95-627.

5. Projected Schedule

a. Date of pre-notice:
b. Date of proposal: 5/79
c. Final Decision: 8/79

6. Contacts:

Agency: Jordan Benderly, Ext. (202) 447-8211

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1. Calendar No: FN 1186

2. Title: State Plan (210) for Child Nutrition Programs

3. Description: Amendment to regulations to clarify items to be included in the State Plan.

4. Authority: Departmental Initiative, Court Order, FNS Depositions

5. Projected Schedule

a. Date of pre-notice:
b. Date of reproposal: 7/79
c. Final Decision: 9/79

6. Contacts:

Agency: Margaret Glavin, Ext. (202) 447-8130

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1. Calendar No: FN 1188

2. Title: School Breakfast Program: Grain-Fruit Product - Withdrawal of Approval, Part 220 to use the product in the School Breakfast Program.

3. Description: Elimination of formulated grain/fruit products from the Breakfast Program to promote development of good food habits in the furtherance of nutrition education through a well-balanced diet of conventional foods.

4. Authority: Departmental Initiative and P.L. 95-627.

5. Projected Schedule

a. Date of pre-notice:
b. Date of reproposal: 5/79
c. Final Decision: 8/79

6. Contacts:

Agency: Margaret Glavin, Ext. (202) 447-8130

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1. Calendar No: FN 11813

2. Title: Assessment, Improvement and Monitoring System for School Nutrition Programs

3. Description: A series of regulatory amendments for management, evaluation and monitoring designed to improve accountability. To assist State agencies, additional SAE funds will be provided. Removes Part 245 amendments from the PARS proposal and makes them a separate proposal.

4. Authority: Statutory (P.L. 95-627)

5. Projected Schedule

a. Date of pre-notice:
b. Date of proposal: 6/79
c. Final Decision: 9/79

6. Contacts:

Agency: Margaret Glavin, Ext. (202) 447-8130

1. Calendar No: FN 11815

2. Title: School Breakfast Program: Revision of Criteria for Determining Especially Needy Schools, Part 220

3. Description: To revise Part 220, School Breakfast Program regulations to change the designation of a school from "especially needy" to read "a school in severe need" and to revise the existing criteria for determining schools in severe need.

4. Authority: Legislation and Departmental Initiative

5. Projected Schedule

a. Date of pre-notice:
b. Date of proposal: 1/79
c. Final Decision: 6/79

6. Contacts:

Agency: Margaret Glavin, Ext. (202) 447-8130

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1. Calendar No: FN 11824

2. Title: Control on the Sales of Competitive Foods in Schools

3. Description: Regulations to implement that Section of P. L. 95-166 which requires that the Secretary approve those foods which may be sold in competition with the lunch and breakfast served under the National School Lunch and School Breakfast Programs, thereby placing controls on the sale of competitive foods at State and local levels.

4. Authority: Statutory (P.L. 95-166)

5. Projected Schedule

a. Date of pre-notice: 12/78
b. Date of reproposal: 5/79
c. Final Decision: 8/79

6. Contacts:

Agency: Margaret Glavin, Ext. (202) 447-8130

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1. Calendar No: FN 11826

2. Title: Food Distribution Program: Review and republication of regulations (7 CFR Part 250)

3. Description: FDD to make a systematic review of regulations and recommend restructuring and consolidation

4. Authority: Department's response to E.O. 12044 (Improving Government Regulations) designated Part 250 for review. The regulations date from 1958 and now include 41 amendments. Substantial portions have become obsolete owing to legislative and policy changes as well as realignment of responsibilities within FNS.

5. Projected Schedule

a. Date of pre-notice: 5/79
b. Date of proposal: 7/79
c. Final Decision: 10/79

6. Contacts:

Agency: Darrel Gray, Ext. (202) 447-8362

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1. Calendar No: FN 11842

2. Title: School Feeding Program: Definition of authorized milk products for use in food service.

3. Description: Develop definition for authorized milk products. This would clarify FNS policy pertaining to use of milkshakes. States are not interpreting requirement for "fluid" milk consistently as being synonymous with Class I dairy products.

4. Authority: NSLA and CNA give the Secretary the authority to prescribe regulations relating to nutritional requirements.

5. Projected Schedule

a. Date of pre-notice:
b. Date of proposal: 7/79
c. Final Decision: 11/79

6. Contacts:

Agency: Audrey Maretzki, Ext. (202) 447-9081

1. Calendar No: FN 391

1. Calendar No: FN 11852

2. Title: Special Supplemental Food Program Regulations.

3. Description: Regulations must be published to implement program administration and operations as required by P.L. 95-627.

4. Authority: P.L. 95-627 requires the Secretary to promulgate new regulations.

5. Projected Schedule

   a. Date of pre-notice:
   b. Date of proposal: 12/78
   c. Final Decision: 5/79

6. Contacts:

   Agency: Jennifer Nelson, Ext. (202) 447-8206

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1. Calendar No: FN 11869

2. Title: Food Stamp Program: Regulations concerning administrative cost allocations for States

3. Description: Regulations concern the reimbursement to States for administrative costs incurred in operating the Food Stamp Program.

4. Authority: P.L. 95-113 implementation

5. Projected Schedule

   a. Date of pre-notice:
   b. Date of proposal: 5/79
   c. Final Decision: 7/79

6. Contacts:

   Agency: Ray Pugh, Ext. (202) 447-3545

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1. Calendar No: FN 11870

2. Title: Food Stamp Program: Work Registration Joint Rulemaking

3. Description: Defines and assigns the responsibility for administering the food stamp work registration requirement, including job search activities, to the appropriate agencies within the Departments of Labor and Agriculture. Additionally the responsibilities and penalties for failure to comply with work requirements by participating households will be delineated.

4. Authority: P. L. 95-113 implementation

5. Projected Schedule

   a. Date of pre-notice:
   b. Date of proposal: 6/79
   c. Final Decision: 8/79

6. Contacts:

   Agency: Joseph Shepherd, Ext. (202) 447-8982

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1. Calendar No: FN 11873

2. Title: Food Stamp Program: Regulations concerning the Performance Reporting System

3. Description: Regulations require that the existing system be continued and further refined to ensure that States assess themselves at the local level and report to the Department on their efficiency and effectiveness.

4. Authority: P. L. 95-113 implementation

5. Projected Schedule

   a. Date of pre-notice:
   b. Date of proposal: 4/79
   c. Final Decision: 7/79

6. Contacts:

   Agency: Joseph Shepherd, Ext. (202) 447-8982

1. Calendar No: FN 11875

2. Title: Food Stamp Program: Regulations concerning the participation of Indians.

3. Description: Regulations allow Indian participation in the Food Distribution Program and the Food Stamp Program; also will allow, in certain cases, capable tribes to operate those programs.

4. Authority: P.L. 95-113 implementation

5. Projected Schedule

   a. Date of pre-notice:
   b. Date of proposal: 12/78
   c. Final Decision: 5/79

6. Contacts:

   Agency: Joseph Shepherd, Ext. (202) 447-8982

FOREST SERVICE

1. Calendar No: FS 1081

2. Title: National Forest System Land and Resource Management Planning

3. Description: Issue regulations to guide the land and resource planning process for the National Forest System

4. Authority: Forest and Rangeland Renewable Resource Planning Act of 1974 as amended by the National Forest Management Act of 1976.

5. Projected Schedule

   a. Date of pre-notice:
   b. Date of second draft: 4/20/79
   c. Final Decision: 7/15/79

6. Contacts:

   Agency: Rex Hartgraves, Ext. (202) 447-6697

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1. Calendar No: FN 391

2. Title: Changes in WIC Food Packages

3. Description: Proposed regulations - Part 246.8 - changing the food packages for the WIC participants. Current research of the nutritional needs of the target population indicate some changes should be made in the nutrients and levels provided.

4. Authority: Public Law 95-627 requires the Secretary to review the food packages in light of current research.

5. Projected Schedule

   a. Date of pre-notice: None
   b. Date of proposal: 5/79
   c. Final Decision: 9/79

6. Contacts:

   Agency: Jennifer R. Nelson, Ext. (202) 447-8206

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1. Calendar No: FS 1082

2. Title: Title V Regulations of Federal Land Policy and Management Act of 1976

3. Description: Revise 36 CFR 251 regulations governing "Special Uses" to incorporate provisions of P.L. 94-579.

4. Authority: P.L. 94-579 (90 Stat. 27431, Sec. 310 requires that regulations be promulgated.

5. Projected Schedule

   a. Date of pre-notice: 11/4/77
   b. Date of proposal: 5/1/79
   c. Final Decision: 10/1/79

6. Contacts:

   Agency: William R. Boring, Ext. (703) 235-8107

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1. **Calendar No:** FS 1083

2. **Title:** Cost Recovery Policy Issue

3. **Description:** No uniform policy among Federal agencies on collecting costs incurred in processing applications for use of Federal lands. This is being brought to the attention of the Office of Management and Budget by U.S. Department of Agriculture for consideration in establishing a government-wide policy.

4. **Authority:** Federal Land Policy and Management Act of 1976, P.L. 94-579 (90 Stat. 2743), Secs. 304 and 504(g).

5. **Projected Schedule**

   a. **Date of pre-notice:**
   b. **Date of proposal:**
   c. **Final Decision:**

6. **Contacts:**

   Agency: R. M. Housley, Ext. (202) 447-7465

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1. **Calendar No:** FS 1085

2. **Title:** Implementation of P.L. 95-313. The Cooperative Forestry Assistance Act of 1978

3. **Description:** Update and clarify Forest Service Manual program guidelines and existing regulations.

4. **Authority:** P.L. 95-313 updates and reorganizes existing authorities for cooperative forestry programs.

5. **Projected Schedule**

   a. **Date of pre-notice:**
   b. **Date of proposal:** 8/1/79
   c. **Final Decision:**

6. **Contacts:**

   Agency: John C. Barber, Ext. (202) 447-3331

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1. **Calendar No:** FS 1086

2. **Title:** Draft 1980 RPA Assessment and Program

3. **Description:** The decision to release draft documents that assess the Nation's renewable resource situation and that describe Alternative Program Directions for the Forest Service for the next 50 years.

4. **Authority:** Forest and Rangeland Renewable Resources Act of 1974

5. **Projected Schedule**

   a. **Date of pre-notice:** 2/79
   b. **Date of proposal:** 10/79
   c. **Final Decision:** 12/79

6. **Contacts:**

   Agency: Lamar Beasley, Ext. (202) 447-5440

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1. **Calendar No:** FS 1088

2. **Title:** Regulations for administering Forest Highways

3. **Description:** Revise definition - update selection criteria to reflect Federal interests in routes and projects.

4. **Authority:** Change in law. GAO Audit Report CED-77-130 B164497(3)

5. **Projected Schedule**

   a. **Date of pre-notice:** 11/78
   b. **Date of proposal:** 1/79
   c. **Final Decision:** 8/1/79

6. **Contacts:**

   Agency: Mike Howlett, Ext. (703) 235-8035

1. **Calendar No:** FS 1089

2. **Title:** Public Participation Procedures

3. **Description:** Establishment by regulation to give the Federal, State & local governments and the public adequate notice and opportunity to comment upon the formulation of standards, criteria, and guidelines applicable to Forest Service programs.

4. **Authority:** Sec. 11 National Forest Management Act of 1976

5. **Projected Schedule**

   a. **Date of pre-notice:**
   b. **Date of proposal:** 4/17/79
   c. **Final Decision:** 10/15/79

6. **Contacts:**

   Agency: Wayne R. Nicolls, Ext. (202) 447-7013

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1. **Calendar No:** FS 10811

2. **Title:** Secretary Review of Rate Redetermination for Alaska Lumber and Pulp Co. Sale

3. **Description:** Review, report, and recommendations from Board regarding rates for Alaska Lumber and Pulp Co. long-term timber sale contract.

4. **Authority:** Request to Secretary by purchaser to appoint special Board to review rates redetermined by the Forest Service.

5. **Projected Schedule**

   a. **Date of pre-notice:**
   b. **Date of proposal:**
   c. **Final Decision:** 5/15/79

6. **Contacts:**

   Agency: Norm Gould, Ext. (202) 447-6893

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1. **Calendar No:** FS 10813

2. **Title:** Amendment to Regulation 36 CFR 222, Management of Wild Free-Roaming Horses and Burros

3. **Description:** Amendments in Regulations are needed to implement provisions of the Act including: inventories, research, disposal of unadoptable animals, assigning of title of adopted animals. Regulations must be coordinated with efforts by U.S. Department of the Interior.

4. **Authority:** Public Rangelands Improvement Act of 1978

5. **Projected Schedule**

   a. **Date of pre-notice:** 12/15/78
   b. **Date of proposal:** 5/15/79
   c. **Final Decision:** 8/1/79

6. **Contacts:**

   Agency: William Evans, Ext. (703) 235-8139

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1. **Calendar No:** FS 10814

2. **Title:** Amendment to Regulation 36 CFR 222, Grazing and Livestock Use on the National Forest System

3. **Description:** Regulation amendments are needed to implement provisions of the Public Rangelands Improvement Act of 1978 including: (1) Rangeland inventories and management, (2) grazing permits and leases, and (3) allotment management plans, Grazing Advisory Boards, and experiment stewardship program. Efforts must be coordinated with U.S. Department of Interior.

4. **Authority:** Enactment of the Public Rangelands Improvement Act of 1978.

5. **Projected Schedule**

   a. **Date of pre-notice:** 5/1/79
   b. **Date of proposal:** 5/15/79
   c. **Final Decision:** 8/1/79

6. **Contacts:**

   Agency: William Evans, Ext. (703) 235-8139

M Y 1 5 7 9 UMI

V 4 4 / 9 5

1. Calendar No: FS 10816

2. Title: Forest Service Manual 2351 Off-road Vehicle Management

3. Description: Promulgate revised Forest Service Manual direction to field units. Revisions based on recent activity review and task force help.

4. Authority: Current policy requires updating based on final rules published May 1978.

5. Projected Schedule

   a. Date of pre-notice:
   b. Date of proposal: 6/79
   c. Final Decision: 9/79

6. Contacts:

   Agency: Tom Hoots, Ext. (202) 447-3649

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1. Calendar No: FS 12817

2. Title: Shawnee Hills National Recreation Area

3. Description: Study area for possible designation as a National Recreation Area.

4. Authority: P. L. 94-518 - To authorize the study of certain areas by the Secretary of Agriculture and the Interior. Congressionally mandated study area.

5. Projected Schedule

   a. Date of pre-notice: 5/79
   b. Date of proposal: 11/79
   c. Final Decision: 12/79

6. Contacts:

   Agency: Doug Shenkyr, Ext. (202) 447-6390

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1. Calendar No: FS 492

2. Title: Evaluation of Forest Pest Management Programs

3. Description: Review the rationale for our present program direction and recommend program adjustments where appropriate. Will concentrate on examining operating procedures including: policy, decisionmaking processes, program management, adequacy of analysis, and program coordination.

4. Authority: Requested by Assistant Secretary M. Rupert Cutler.

5. Projected Schedule

   a. Date of pre-notice:
   b. Date of proposal: 5/1/80
   c. Final Decision: 7/1/80

6. Contacts:

   Agency: Robert Gale, Ext. (202) 447-5475

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1. Calendar No: FS 493

2. Title: Cultural Resources Procedures

3. Description: Publish procedures to implement regulations as required by Presidential Memorandum on Environmental Quality and Water Resources Management

4. Authority: Required Action by 36 CFR 800.10

5. Projected Schedule

   a. Date of pre-notice:
   b. Date of proposal: 6/1/79
   c. Final Decision: 11/1/79

6. Contacts:

   Agency: John Leasure, Ext. (202) 447-8618

FOOD SAFETY AND QUALITY SERVICE

1. Calendar No: FSQ 1083

2. Title: Voluntary Quality Control Regulations - Sanitation and Carcass Cleanliness

3. Description: This proposal would permit firms to implement company-operated quality control programs. This would permit FSQS to shift more responsibility to industry with FSQS monitoring industry performance.

4. Authority: 21 U.S.C. 601 et seq.; 21 U.S.C. 451 et seq. Additional Information: To supplement system of inspection while holding down costs as outlined in report on Strengthening Meat and Poultry Inspection.

5. Projected Schedule

   a. Date of pre-notice:
   b. Date of proposal: 7/6/79
   c. Final Decision: 12/18/79

6. Contacts:

   Agency: V. H. Berry, Ext. (202) 447-3473

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1. Calendar No: FSQ 1084

2. Title: Poultry Chiller Water Regulation

3. Description: New regulation will permit plants to reduce volume of replacement water in poultry chilling tanks by 50 percent providing the plant adds chlorine to the water in the amount of 20 parts per million. Due to the nature of comments received on the proposal, a protocol is being prepared to restudy the issue. This must be accomplished before further action can be taken on the final regulation.

4. Authority: 21 U.S.C. 451 et seq. Additional Information: This regulation will conserve water, reduce the energy necessary for chilling, and reduce waste water pollution.

5. Projected Schedule

   a. Date of pre-notice:
   b. Date of proposal: 4/4/78
   c. Final Decision: Undetermined

6. Contacts:

   Agency: V. H. Berry, Ext. (202) 447-3473

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1. Calendar No: FSQ 1086

2. Title: Revise $18,000 Limit on Retail Exemption from Continuous Inspection

3. Description: A retail store is currently exempt from continuous meat inspection provided its sales of meat items do not exceed $18,000 per year to non-household consumers. The new regulation would raise the $18,000 limit to account for the inflation that has transpired since 1973, when this limit was fixed.

4. Authority: 21 U.S.C. 601 et seq.; 21 U.S.C. 451 et seq. Additional Information: This action is in response to a petition from retail stores.

5. Projected Schedule

   a. Date of pre-notice:
   b. Date of proposal: 7/1/79
   c. Final Decision: 12/7/79

6. Contacts:

   Agency: V. H. Berry, Ext. (202) 447-3473

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1. Calendar No: FSQ 1087

2. Title: Regulatory Plan for Cured Pork Products

3. Description: Cured pork products contain varying amounts of water introduced with the curing agents. The amount of added water is limited by regulation. The new regulatory plan would establish a standard for these products based on protein content rather than added water, and establish more effective enforcement procedures. The protein content standard should provide useful information to consumers.

4. Authority: 21 U.S.C. 601 et seq. Additional Information: Better method to enforce added water requirements.

5. Projected Schedule

   a. Date of pre-notice:
   b. Date of proposal: Undetermined
   c. Final Decision: Undetermined

6. Contacts:

   Agency: L. L. Gast, Ext. (202) 447-8803

M Y 1 5 7 9 UMI

1. Calendar No: FSQ 10830

1. Calendar No: FSQ 10832

V 4 4 / 9 5

1. Calendar No: FSQ 1088

2. Title: Work Week Proposal

3. Description: This proposal would modify existing regulations governing hours of operations for plants operating under meat and poultry inspection. It would provide a uniform policy regarding work schedules, and eliminate many administrative and functional problems.

4. Authority: 21 U.S.C. 601 et seq.; 21 U.S.C. 451 et seq.

5. Projected Schedule

a. Date of pre-notice:
b. Date of proposal: 6/13/79
c. Final Decision: 11/1/79

6. Contacts:

Agency: V. H. Berry, Ext. (202) 447-3473

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1. Calendar No: FSQ 10812

2. Title: Studies on Uniform Grade Nomenclature

3. Description: The Department is considering options to obtain information on the usefulness of the present grading system and nomenclature including an extensive educational/informational campaign involving hearings, demonstrations, and exhibits.

4. Authority: 7 U.S.C. 1621 et seq.

5. Projected Schedule

a. Date of pre-notice: Undetermined
b. Date of proposal: Undetermined
c. Final Decision: Undetermined

6. Contacts:

Agency: E. F. Kimbrell, Ext. (202) 447-5231

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1. Calendar No: FSQ 10818

2. Title: Establish Microbiological Criteria for Meat & Poultry Products

3. Description: This proposal will establish guidelines and standards for microbiological agents that may be present in selected meat and poultry products and will describe enforcement procedures.

4. Authority: 21 U.S.C. 601 et seq.; 21 U.S.C. 451 et seq.

5. Projected Schedule

a. Date of pre-notice:
b. Date of proposal: 10/79
c. Final Decision: 6/80

6. Contacts:

Agency: R. E. Engel, Ext. (202) 447-2326

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1. Calendar No: FSQ 10822

2. Title: Antibiotic Residues

3. Description: This document would implement on-line, in-plant test procedures to detect antibiotic residues in dairy cows. Furthermore, this is a cooperative program among the dairy industry, the drug industry, the Extension Service, and FDA to educate dairymen about the need to eliminate drug residues in meat.

4. Authority: 21 U.S.C. 601 et seq. Additional information: Product containing excessive antibiotic residues is adulterated under the Federal Meat Inspection Act.

5. Projected Schedule

a. Date of pre-notice:
b. Date of proposal:
c. Final Decision: 5/79

6. Contacts:

Agency: R. E. Engel, Ext. (202) 447-2326

1. Calendar No: FSQ 10830

2. Title: Proteolytic Enzyme Proposal

3. Description: This document would propose two regulatory changes. One to permit the use of proteolytic enzymes to tenderize mature poultry meat; the other to extend current permission for the use of such enzymes in beef to other red meat species.

4. Authority: 21 U.S.C. 451 et seq. Additional information: Request from poultry industry to use papain in fowl as tenderizer. Already permitted in beef.

5. Projected Schedule

a. Date of pre-notice:
b. Date of proposal: 5/15/79
c. Final Decision: 11/15/79

6. Contacts:

Agency: L. L. Gast, Ext. (202) 447-8803

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1. Calendar No: FSQ 10832

2. Title: Mechanically Processed Poultry Product

3. Description: A study on the safety of this product is now in the final stages of evaluation. Following this evaluation, the results of the study and a prenotice will be published and the public's views will be solicited. A proposal, if necessary, will be published to establish standards and labeling requirements for the product that results from the mechanical separation of poultry tissue from bones.

4. Authority: 21 U.S.C. 451 et seq.

5. Projected Schedule

a. Date of pre-notice: 6/1/79
b. Date of proposal: Undetermined
c. Final Decision: Undetermined

6. Contacts:

Agency: L. L. Gast, Ext. (202) 447-8803

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1. Calendar No: FSQ 10834

2. Title: Nitrates and Nitrites Regulation

3. Description: This regulation will allow the manufacture of traditionally cured products without the use of nitrites. Before final publication, this regulation will be submitted to the Meat and Poultry Inspection Advisory Committee for consideration.

4. Authority: 21 U.S.C. 601 et seq.

5. Projected Schedule

a. Date of pre-notice:
b. Date of proposal: 4/27/78
c. Final Decision: Undetermined

6. Contacts:

Agency: L. L. Gast, Ext. (202) 447-8803

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1. Calendar No: FSQ 10835

2. Title: Standard for Turkey Ham

3. Description: This regulation would establish the name and labeling requirements for the product that consists of cured turkey thigh meat. The purpose of the regulation is to provide an accurate and identifiable description of this product for consumers. Before final publication, this regulation will be submitted to the Meat and Poultry Inspection Advisory Committee for consideration.

4. Authority: 21 U.S.C. 451 et seq. Additional information: The poultry industry has requested a standard. The red meat industry has petitioned for restriction of the term "ham" to leg of swine.

5. Projected Schedule

a. Date of pre-notice:
b. Date of proposal: 6/2/78
c. Final Decision: 6/8/79

6. Contacts:

Agency: L. L. Gast, Ext. (202) 447-8803

MAY 15 1979 UMI

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1. Calendar No: FSQ 10837

2. Title: U.S. Ungraded Proposal

3. Description: The Department is considering a survey to determine consumer perceptions of USDA quality grades and the possible use of a meaningful term on meat that is inspected but not graded. The survey would include alternative terms and would provide the basis for decisions on whether to withdraw the proposal requiring the use of the term "Ungraded," substituting some other more meaingful term.

4. Authority: 21 U.S.C. 601 et seq. Additional information: A previous proposal on the "Ungraded" designation was published on January 23, 1978. The comments raised significant questions concerning consumer perception of this term.

5. Projected Schedule

a. Date of pre-notice:
b. Date of proposal: 1/23/78
c. Final Decision: Undetermined

6. Contacts:

Agency: L. L. Gast, Ext. (202) 447-8803

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1. Calendar No: FSQ 10842

2. Title: Revise Meat Grade Standards and Regulations

3. Description: This action would improve the system of grading determinations by making it more accurate and uniform and less subject to fraudulent practices. The rules for deciding upon quality and yield grades would be more objective.

4. Authority: Agricultural Marketing Act of 1946, 7 U.S.C. 1621 et seq. Additional information: Proposal will make major revisions in grading proposal as published in the January 23, 1978, Federal Register.

5. Projected Schedule

a. Date of pre-notice:
b. Date of proposal: 6/15/79
c. Final Decision: 1/12/80

6. Contacts:

Agency: Jerry Goodall, Ext. (202) 447-4727

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1. Calendar No: FSQ 10845

2. Title: Final Net Weight Regulation

3. Description: This action will make changes in net weight regulations to require that the net weight statements on meat and poultry products be accurate at all points in the distribution chain from processing plant to retail store.

4. Authority: 21 U.S.C. 601 et seq.; 21 U.S.C. 451 et seq. Additional information: Proposal was in response to petition from State Weights and Measures Officials.

5. Projected Schedule

a. Date of pre-notice:
b. Date of proposal: 12/77
c. Final Decision: Awaiting completion of study by ESCS expected by July 1979.

6. Contacts:

Agency: V. H. Berry, Ext. (202) 447-3473

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1. Calendar No: FSQ 294

2. Title: U.S. Standards for Grades of Major Canned Fruits

3. Description: This document would revise the standards for the major canned fruits. The purpose would be to improve the standards by including sampling plans based on attributes in order to make them equally applicable to lot or on-line inspection.

4. Authority: 7 U.S.C. 1622, 1624

5. Projected Schedule

a. Date of pre-notice:
b. Date of proposal: 6/79
c. Final Decision: 4/3/80

6. Contacts:

Agency: E. F. Kimbrell, Ext. (202) 447-5231

1. Calendar No: FSQ 3911

2. Title: Humane Slaughter Regulations

3. Description: This document would issue regulations implementing the Humane Methods of Slaughter Act of 1978. This Act requires all livestock slaughtered for food under inspection in the U.S. and animals slaughtered for export to the U.S. to be handled and slaughtered humanely at the slaughter plants.

4. Authority: 21 U.S.C. 601, et seq.; The Humane Methods of Slaughter Act of 1978.

5. Projected Schedule

a. Date of pre-notice:
b. Date of proposal: 5/15/79
c. Final Decision: 9/10/79

6. Contacts:

Agency: V. H. Berry, Ext. (202) 447-3473

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1. Calendar No: FSQ 5920

2. Title: Meat and Poultry Quality Control Systems

3. Description: To permit official meat and poultry establishments to carry out their own total plant quality control, providing such quality control programs ar USDA approved.

4. Authority: Federal Meat Inspection Act and Poultry Products Inspection Act.

5. Projected Schedule

a. Date of pre-notice:
b. Date of proposal: 5/25/79
c. Final Decision: 10/1/79

6. Contacts:

Agency: V. H. Berry, Ext. (202) 447-3473

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1. Calendar No: FSQ 3913

2. Title: Change in Reporting Frequency (MP Form 404) from Weekly to Annually of Processing Operations at Official Establishments.

3. Description: This document would change the reporting frequency of meat processing operations at official establishments from weekly to annually. This proposal is based on an internal assessment of the Government's need for information, and is in support of the President's program to reduce the paperwork burden on the public and industry.

4. Authority: 21 U.S.C. 677; 15 U.S.C. 46

5. Projected Schedule

a. Date of pre-notice:
b. Date of proposal: 5/25/79
c. Final Decision: 10/1/79

6. Contacts:

Agency: J. A. Powers, Ext. (202) 447-4425

OFFICE OF BUDGET, PLANNING AND EVALUATION

1. Calendar No: OB 391

2. Title: To establish USDA policies and procedures relating to reimbursement for public participation in Department rulemaking proceedings.

3. Description: Proposed regulations provide procedures for application, processing, and criteria for eligibility for those individuals or groups to be considered for reimbursement in a given rulemaking proceeding.

4. Authority: 5 U.S.C. 301 and implied authority in specific USDA program statutes.

5. Projected Schedule

a. Date of pre-notice:
b. Date of proposal: 3/22/79
c. Final Decision: 6/79

6. Contacts:

Agency: Elizabeth Webber, Ext. (202) 447-3465

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OFFICE OF GENERAL SALES MANAGER

1. **Calendar No:** OG 1082

2. **Title:** Intermediate Credit Program for Breeding Stock

3. **Description:** Development of a program concept; draft CCC Board Dockets, and obtain CCC Board approvals; obtain other necessary clearances; write, clear, and announce program rules and regulations.

4. **Authority:** Section 4 of the Food for Peace Act of 1966, as amended.

5. **Projected Schedule**

   a. **Date of pre-notice:**
   b. **Date of proposal:** 4/5/79
   c. **Final Decision:** 6/15/79

6. **Contacts:**

   Agency: Fred Mangum, Ext. (202) 447-5693

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1. **Calendar No:** OG 492

2. **Title:** P.L. 480 - CCC Docket

3. **Description:** Basis for Secretary's determination of commodities available for P.L. 480 programming.

4. **Authority:** Section 401(a) of P.L. 480, as amended.

5. **Projected Schedule**

   a. **Date of pre-notice:**
   b. **Date of proposal:**
   c. **Final Decision:** Prior to beginning of each FY.

6. **Contacts:**

   Agency: Fred Mangum, Ext. (202) 447-5693

1. **Calendar No:** OG 391

2. **Title:** Intermediate Credit for Market Facility Projects

3. **Description:** Develop program concept; draft CCC Board Dockets and obtain approval; develop and announce program rules and regulations.

4. **Authority:** Section 4 of the Food for Peace Act of 1966, as amended.

5. **Projected Schedule**

   a. **Date of pre-notice:**
   b. **Date of proposal:** 7/1/79
   c. **Final Decision:** 10/1/79

6. **Contacts:**

   Agency: Fred Mangum, Ext. (202) 447-5693

RURAL ELECTRIFICATION ADMINISTRATION

1. **Calendar No:** RE 1083

2. **Title:** Exhibit G to Bulletin 20-21; 320-21; Floodplain and Wetlands Procedures

3. **Description:** Addendum to REA Bulletin 20-21; 320-21 providing procedures with respect to protecting Floodplains and Wetlands.

4. **Authority:** Rural Electrification Act; National Environmental Policy Act (42 U.S.C. 4321 et seq.); Executive Order 11988 (42 Fed. Reg. 26951) and 11990 (42 Fed. Reg. 26961)

5. **Projected Schedule**

   a. **Date of pre-notice:**
   b. **Date of proposal:** 8/29/78
   c. **Final Decision:** 5/30/79

6. **Contacts:**

   Agency: Joseph R. Binder, Ext. (202) 447-5755

1. **Calendar No:** RE 1089

2. **Title:** Environmental Policies and Procedures, Bulletin 20-21; 320-21

3. **Description:** Revision of REA Bulletin providing REA policy and procedures implementing National Environmental Policy Act, Council on Environmental Quality Regulations, and related environmental statues, Executive Orders, regulations and guidelines.

4. **Authority:** Rural Electrification Act; National Environmental Policy Act (42 U.S.C. 4321 et seq.) Council on Environmental Quality Regulation (43 Fed. Reg. 55978) and other Federal environmental statues, regulations and Executive Orders.

5. **Projected Schedule**

   a. **Date of pre-notice:** 1/79
   b. **Date of proposal:** 5/79
   c. **Final Decision:** 9/79

6. **Contacts:**

   Agency: Joseph R. Binder, Ext. (202) 447-5755

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1. **Calendar No:** RE 494

2. **Title:** Protection of Historic and Cultural Properties

3. **Description:** Addendum to REA Bulletin 20-21; 320-21 providing procedures with respect to protecting Historic and Cultural Resources.

4. **Authority:** National Historic Preservation Act (16 U.S.C. 470 et seq.), Advisory Council on Historic Preservation Regulations (36 CFR 800), Executive Order 11593 (36 Fed. Reg. 8921)

5. **Projected Schedule**

   a. **Date of pre-notice:** 5/79
   b. **Date of proposal:** 6/79
   c. **Final Decision:** 9/79

6. **Contacts:**

   Agency: Joseph R. Binder, Ext. (202) 447-5755

1. **Calendar No:** RE 492

2. **Title:** Endangered Species Procedures

3. **Description:** Addendum to REA Bulletin 20-21; 320-21, providing procedures with respect to protecting Endangered Species.

4. **Authority:** Endangered Species Act (16 U.S.C. 1531 et seq.)

5. **Projected Schedule**

   a. **Date of pre-notice:** 6/79
   b. **Date of proposal:** 7/79
   c. **Final Decision:** 10/79

6. **Contacts:**

   Agency: Joseph R. Binder, Ext. (202) 447-5755

SOIL CONSERVATION SERVICE

1. **Calendar No:** SC 1081

2. **Title:** 7 CFR Chapter VI, Part 624, and Watershed Memorandum No. 124, Emergency Flood Protection

3. **Description:** Review rules and regulations for Emergency Flood Protection under authority of Section 216, Public Law 81-516, 64 Stat 184.

4. **Authority:** Requested by the Secretary.

5. **Projected Schedule**

   a. **Date of pre-notice:** 12/13/78
   b. **Date of proposal:** 7/1/79
   c. **Final Decision:** 12/1/79

6. **Contacts:**

   Agency: James W. Mitchell, Ext. (202) 447-3527

1. **Calendar No:** SC 10816

V 4 4 / 9 5

1. Calendar No: SC 1082

2. Title: 7 CFR Chapter VI, Part 622, Watershed Projects

3. Description: Review rules and regulations for Watershed projects carried out under authority of Public Law 83-566, 68 Stat. 666, as amended

4. Authority: Selected pursuant to E.O. 12044, Improving Government Regulations

5. Projected Schedule

a. Date of pre-notice: 5/80
b. Date of proposal: 10/80
c. Final Decision: 4/81

6. Contacts:

Agency: James W. Mitchell, Ext. (202) 447-3527

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1. Calendar No: SC 1083

2. Title: Compliance with NEPA

3. Description: Revision of Rules (7CFR Part 650) to comply with new CEQ guidelines

4. Authority: Change in CEQ Guidelines

5. Projected Schedule

a. Date of pre-notice: 3/79
b. Date of proposal: 5/79
c. Final Decision: 8/79

6. Contacts:

Agency: Gary A. Margheim, Ext. (202) 447-3849

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1. Calendar No: SC 1084

2. Title: SCS Public Participation Plan

3. Description: SCS will adopt a public participation plan that will guide future activities related to making decisions.

4. Authority: Required by Secretary's Memorandum 1955

5. Projected Schedule

a. Date of pre-notice: 4/30/79
b. Date of proposal: 1/1/80
c. Final Decision: 4/1/80

6. Contacts:

Agency: Victor Barry, Ext. (202) 447-7245

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1. Calendar No: SC 10810

2. Title: Landrights, Water Rights and Construction Permits (7 CFR Part 651)

3. Description: SCS requires sponsors of projects to acquire all necessary landrights as a condition for receiving Federal financial assistance. This part sets forth the requirements for the acquisition of landrights.

4. Authority: Codify SCS Policy For Projects Receiving Federal Financial Assistance

5. Projected Schedule

a. Date of pre-notice:
b. Date of proposal: 11/15/78
c. Final Decision: 7/1/79

6. Contacts:

Agency: Leo Link, Ext. (202) 447-2177

1. Calendar No: SC 10813

2. Title: Plan for Completing Soil Mapping Nationwide

3. Description: Evaulate workload remaining to complete the onceover soil mapping and set target date for completing. Evaluate soil survey publication needs in survey areas having few individual landowners with the objective of reducing publication costs.

4. Authority: Soil mapping nationwide is about 67% completed. Need a plan for orderly completion of remaining areas.

5. Projected Schedule

a. Date of pre-notice:
b. Date of proposal:
c. Final Decision:

6. Contacts:

Agency: V. G. Link, Ext. (202) 447-4931

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1. Calendar No: SC 10816

2. Title: Revision of SCS policy relating to Endangered Species.

3. Description: The current SCS policy 7 CFR 650.22 will be revised.

4. Authority: Compliance with NEPA.

5. Projected Schedule

a. Date of pre-notice: 6/79
b. Date of proposal: 9/79
c. Final Decision: 12/79

6. Contacts:

Agency: T. N. Shiflet, Ext. (202) 447-2587

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1. Calendar No: SC 10818

2. Title: Formulation of SCS Wetlands Protection Policy

3. Description: A new subsection, 7 CFR 650.26 Protection of Wetlands is being prepared.

4. Authority: Compliance with NEPA and E.O. 11990

5. Projected Schedule

a. Date of pre-notice: 6/78
b. Date of proposal: 6/30/78
c. Final Decision: 6/79

6. Contacts:

Agency: Gary A. Margheim, Ext. (202) 447-3849

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1. Calendar No: SC 10819

2. Title: Formulation of SCS Flood Plain Management Policy

3. Description: A new subsection, 7 CFR 650.25 Management of Flood Plains is being prepared.

4. Authority: Compliance with NEPA and E.O. 11988

5. Projected Schedule

a. Date of pre-notice: 6/78
b. Date of proposal: 6/2/78
c. Final Decision: 5/79

6. Contacts:

Agency: Gary A. Margheim, Ext. (202) 447-3849

MAY 15 1979 UMI

1. Calendar No: SC 10820

2. Title: Revision to comply with new Historic Preservation Regulations

3. Description: Current SCS rules will be revised to comply with new regulations to be published March 1, 1979.

4. Authority: Compliance with NEPA and National Historic Preservation Act.

5. Projected Schedule

a. Date of pre-notice: 6/79
b. Date of proposal: 8/79
c. Final Decision: 1/80

6. Contacts:

Agency: Gary A. Margheim, Ext. (202) 447-3849

SCIENCE AND EDUCATION ADMINISTRATION

1. Calendar No: SE 391

2. Title: National Agricultural Research Award

3. Description: Develop guidelines for making the award.

4. Authority: P.L. 95-113, Section 1418; 7 U.S.C. 3153

5. Projected Schedule

a. Date of pre-notice:
b. Date of proposal: 3/15/79
c. Final Decision: 6/15/79

6. Contacts:

Agency: Dr. J. C. Torlo, Ext. (202) 447-6652

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1. Calendar No: SE 392

2. Title: Department's Position on Research Facility Program

3. Description: Develop Department's recommendations on research facility program as directed. Recommendations are to be included in a report to the President and Congress of the Agricultural Research Facilities Study.

4. Authority: P.L. 95-113, Section 1462; 7 U.S.C. 3304

5. Projected Schedule

a. Date of pre-notice:
b. Date of proposal:
c. Final Decision: Uncertain

6. Contacts:

Agency: D. T. Black, Ext. (3011 344-3333

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1. Calendar No: SE 393

2. Title: National Comprehensive Nutrition Research and Extension Program

3. Description: Development steps to implement National Comprehensive Nutrition Research and Extension Program as based on the February 1, 1979 report to Congress.

4. Authority: P.L. 95-113, Secs. 1421-1427; 7 U.S.C. 3171-3177

5. Projected Schedule

a. Date of pre-notice:
b. Date of proposal: Uncertain
c. Final Decision: Uncertain

6. Contacts:

Agency: Audrey Cross, Ext. (2021 447-4119

1. Calendar No: SE 394

2. Title: Nutrition Status Monitoring Program

3. Description: Develop steps to implement the Nutrition Status Monitoring Program submitted to Congress in 1978.

4. Authority: P.L. 95-113, Section 1428; 7 U.S.C. 3178

5. Projected Schedule

a. Date of pre-notice:
b. Date of proposal: Uncertain
c. Final Decision: Uncertain

6. Contacts:

Agency: Mark Hegsted, Ext. (202) 447-2868

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1. Calendar No: SE 395

2. Title: Implement Solar Energy Research and Development

3. Description: Develop steps for implementing authorized research and development on Solar Energy.

4. Authority: P.L. 95-113, Secs. 1449-1457; 7 U.S.C. 3241-3281

5. Projected Schedule

a. Date of pre-notice:
b. Date of proposal: 1980
c. Final Decision: 1980

6. Contacts:

Agency: Landy Altman, Ext. (301) 344-2740

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1. Calendar No: SE 396

2. Title: Extension Evaluation

3. Description: Prepare report to Secretary on the Extension Evaluation for transmittal to Congress.

4. Authority: P.L. 95-113, Section 1459; 7 U.S.C. 3301

5. Projected Schedule

a. Date of pre-notice: Preliminary Report
b. Date of proposal: 3/31/79
c. Final Report: 1/15/80

6. Contacts:

Agency: Fred Woods, Ext. (202) 447-4465

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1. Calendar No: SE 397

2. Title: Green Thumb Project

3. Description: Evaluate Green Thumb project for expansion beyond pilot counties. It would provide more specific local weather, market, and other agricultural information to farmers through communicating computers, phones, and home TV sets.

4. Authority: 7 U.S.C. 341 et seq.

5. Projected Schedule

a. Date of pre-notice:
b. Date of proposal: 8/80
c. Final Decision: 9/80

6. Contacts:

Agency: Ray Scott, Ext. (202) 447-5623

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1. **Calendar No:** SE 398

2. **Title:** Renewable Resources Extension Act

3. **Description:** Develop guidelines for implementing the Renewable Resources Extension Act's five-year plan by March 30, 1980

4. **Authority:** P.L. 95-306, Sec. 5; 16 U.S.C. 1674

5. **Projected Schedule**

   a. **Date of pre-notice:**
   b. **Date of proposal:** 11/15/79
   c. **Final Decision:** 12/15/79

6. **Contacts:**

   Agency: Don Nelson, Ext. (202) 447-5119

OFFICE OF THE SECRETARY

1. **Calendar No:** SEC 491

2. **Title:** Enhancement, Protection and Management of Cultural Resources

3. **Description:** Formulate policy direction in support of cultural resource goals. Establish compliance responsibilities and authorities.

4. **Authority:** Sec. 106, National Historic Preservation Act (36 CFR 800)

5. **Projected Schedule**

   a. **Date of pre-notice:** 4/11/79
   b. **Date of proposal:** 6/1/79
   c. **Final Decision:** 11/1/79

6. **Contacts:**

   Agency: Barry Flamm, Ext. (202) 447-3965

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1. **Calendar No:** SEC 592

2. **Title:** Departmental NEPA Regulations, Policies and Procedures

3. **Description:** Proposed rule adopting CEQ regulations to comply with National Environmental Policy Act (NEPA).

4. **Authority:** NEPA, CEQ Regulations.

5. **Projected Schedule**

   a. **Date of pre-notice:**
   b. **Date of proposal:** 4/26/79
   c. **Final Decision:** 8/79

6. **Contacts:**

   Agency: Rado Kinzhuber, Ext. (202) 447-5695

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1. **Calendar No:** SEC 593

2. **Title:** Implementation of the Resources Conservation Act of 1977.

3. **Description:** Develop: (1) An appraisal of the resource base; and (2) a program establishing the direction of future soil and water conservation efforts of the Department.

4. **Authority:** P.L. 95-192 - The Soil and Water Resources Conservation Act of 1977.

5. **Projected Schedule**

   a. **Date of pre-notice:** 6/1/79
   b. **Date of proposal:** 9/79
   c. **Final Decision:** 1/80

6. **Contacts:**

   Agency: Ernest Todd, Ext. (202) 447-2771

1. **Calendar No:** SEC 594

2. **Title:** Tax Treatment of Certain Federal/State Payments

3. **Description:** Payments may be excluded from gross income for federal income tax purposes if they are determined by the Secretary of Agriculture to be made primarily for specific purposes and are determined by the Secretary of the Treasury as not substantially increasing income.

4. **Authority:** Revenue Act of 1978 (P.L. 95-600, Section 543)

5. **Projected Schedule**

   a. **Date of pre-notice:** 5/15/79
   b. **Date of proposal:** 6/15/79
   c. **Final Decision:** 9/15/79

6. **Contacts:**

   Agency: Arnold Miller, Ext. (202) 447-3465

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INTRODUCTION TO PROPOSED LIST OF EXISTING REGULATIONS FOR REVIEW

The following USDA regulations are proposed for review under the procedures described in the report "Improving USDA Regulations," 43 FR 50988 (Nov. 1, 1978). They are listing by USDA agency, along with an appropriate citation, a brief description, and an agency contact person. Public comment is invited on whether these or other regulations should be reviewed at this time.

Authority	Subject	Description	Contact
		Agriculture Marketing Service	
9 CFR 201.25	Regulations under the Packers and Stockyards Act - schedules of rates and charges for stockyards and market agencies.	These regulations require each stockyard owner and market agency to support in writing any proposed tariff increase. Recent tariff provision amendments to the Packers and Stockyards Act may make it possible to revise or delete this particular section.	Robert Brown 202-447-3817
7 CFR Part 28 Subpart D	Cotton Classification and Market News Services for Organized Groups of Producers	The Smith-Doxey Amendment to the Cotton Statistics and Estimates Act authorizes and directs the Secretary of Agriculture to furnish cotton classification and market news services, without charge, to groups of producers organized to promote the improvement of cotton. The regulations in Subpart D implement this Amendment by defining organized groups and giving requirements for filing applications with USDA to receive the classing and market news services. The regulations also contain requirements and details governing the sampling and classing of cotton for producers, and the distribution of market news.	Robert Brown 202-447-3817
7 CFR Part 29	Official Standard Grades for Dark Air-Cured Tobacco (U.S. Types 35, 36, and 37) Subsections 3501-4656.	Dark air-cured tobacco consists of Type 35, One-Sucker, grown in Kentucky and Tennesse; Type 36, Green River, grown in Kentucky; and Type 37, sun-cured, grown in Virginia.	Robert Brown 202-447-3817
7 CFR Part 30	Tobacco Stocks and Standards, (Class 3, air-cured types and groups) Section 38 (b) and (c); Type 31-V	Type 31-V tobacco has the general visual characteristics of Type 31, Burley tobacco, but is a low-nicotine strain or variety. Production is under contract between grower and dealer and such tobacco neither receives price support nor is sold at auction.	Robert Brown 202-447-3817
		Animal and Plant Health Inspection Service	
9 CFR 51	Cattle Destroyed Because of Brucellosis	Regulation provides for cooperation with States in eradicating brucellosis, a contagious disease of cattle, swine and bison; for payment to owners, at specified rates, for animals destroyed because of brucellosis; procedures and requirements under which indemnities may be paid; and for disinfection of premises, conveyances and materials.	C. J. Nelson 301-436-8711
9 CFR 52	Dourine in Horses and Asses	Regulation provides for cooperation with States in eradicating dourine, an infectious and communicable disease of horses and asses; and for appraisal of animals and payment to owners at specified rates for animals destroyed because of dourine.	J. Hourrigan 301-436-8073

Authority	Subject	Description	Contact
		Animal and Plant Health Inspection Service	
9 CFR 53	Foot-and-Mouth Disease, Pleuropneumonia, Rinderpest, and Certain other Communicable Diseases of Livestock or Poultry	Regulation provides for the determination of the existence of exotic or foreign animal and poultry diseases and for agreements to cooperate with States; for payment to owners, at specified rates, for animals and materials destroyed because of specific exotic diseases; procedures and requirements under which payments to owners for animals or materials destroyed may be made; for disinfection or destruction of materials; and disinfection of premises and conveyances.	M. A. Mixson 301-436-8073
9 CFR 56	Swine Destroyed Because of Hog Cholera	Regulation provides for cooperation with States in eradicating hog cholera, a contagious, infectious and communicable disease of swine; for payment to owners, at specified rates, for swine destroyed; and procedures and requirements under which such payment may be made.	J. W. Walker 301-436-8438
7 CFR 319.59	Flag Smut	The regulation prohibits the importation from certain countries of wheat, wheat straw, hulls and chaff; wheat products of the milling process other than wheat flour; and certain seeds. This quarantine protects the United States from the entry of flag smut disease of wheat, an injurious plant disease caused by a fungus.	H. V. Autry 301-436-8247
7 CFR 318.60	Sand, Soil, or Earth with Plants	The regulation restricts the movement of sand, soil or earth around the roots of plants between Guam, Hawaii, Puerto Rico, the Virgin Islands or the Continental United States due to the possible presence of plant pests in that soil.	H. V. Autry 301-436-8247
		Federal Crop Insurance Corporation	
7 CFR 401.101	Insurance Offer	Insurance offers for these commodities are currently complex and verbose. Purpose of review will be to bring about conformance with current FCIC policies to modernize and simplify the insurance offer, placing it on an equitable basis for all producers.	Peter Cole 202-447-3325
401.127	Dry Beans		
401.128	Flax		
401.133	Rye		
401.144	Combined Crop		
401.145	Tobacco (Guarantee in pounds per acre)		
401.129	Grain Sorghum		
401.134	Soybeans		
401.125	Barley		
401.130	Oats		
401.140	Sugar Beets (all except CA)		
401.152	Sunflowers		
401.149	Sugar Beets (AZ and CA only)		
401.136	Cotton		
401.150	Flue Cured Tobacco (Poundage Quota)		
401.132	Rice		
401.137	Canning & Processing Tomatoes		

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Authority	Subject	Description	Contact
		Federal Crop Insurance Corporation	
7 CFR 401.101 401.138 401.141 401.148 401.154 401.155 401.156	Insurance Offer (Continued) Peanuts Tobacco (Dollar Amount) Burley Tobacco (Poundage Quota) Corn (Grain-Grain & Silage) Potatoes Canning & Freezing Sweet Corn		Peter Cole 202-447-3325
		Federal Grain Inspection Service	
7 CFR 68.1 through 7 CFR 68.54	Regulations under the Agricultural Marketing Act of 1946, as amended.	FGIS will formally review and propose amendments or revisions as necessary to the regulations governing FGIS inspection of commodities under the Agricultural Marketing Act of 1946, as amended. Commodity activities covered by these regulations include the grading of rice, pulses and hay/straw; factor analysis of hops; and the certification of processed grain products for contract compliance.	J. T. Abshier 202-447-8262
		Food Safety and Quality Service	
9 CFR 301 et seq.	Regulations Governing the Labeling of Meat and Poultry Products	Joint FDA/USDA/FTC hearings on food labeling have been completed. The information obtained from the hearings is being summarized and analyzed. The public input will be compared with current policies and approaches to determine what changes, if any, should be proposed in the regulations governing the labeling of meat and poultry products. Particular interest will be paid to those areas which appear to be of greatest public concern such as nutritional labeling, complete disclosure of product content and other additional labeling to allow more informed purchasing.	Paul Ragan 202-447-7745
		Forest Service	
36 CFR 200.3	Forest Service Functions	Defines broad responsibilities of the Forest Service	Charles Teague, Jr. 202-447-3716
36 CFR 211.5	Advance of Funds for Cooperative Work	Describes advancements authorized by law for research to public and private agencies.	Clarence Tipton 703-235-8130
36 CFR 212	Administration of the Forest Development Transportation System	Describes the plan for the system of access roads, trails, and airfields needed for the protection, administration, and utilization of the National Forests and other lands administered by the Forest Service.	M. R. Howlett 703-235-8035

Authority	Subject	Description	Contact
		Forest Service	
36 CFR 213	Administration of Lands Under Title III of the Bankhead-Jones Farm Tenant Act by the Forest Service	Describes the protection, use and administration of national grasslands and land utilization projects, the latter of which are carried out on lands considered to be submarginal for crop production. Such lands were purchased by the Federal Government between 1933 and 1946 for the purpose of retiring them from crop production and transferring them to their most suitable renewable resource uses, such as livestock grazing. Land utilization projects are currently carried out, for the most part, on small acreages in 13 states, the total acreage involved being 60,000 acres.	William Evans 703-235-8139
36 CFR 221.3	Timber Management Planning	Establishes requirements for timber management plans.	Norman Gould 202-447-6893
36 CFR 251.9	Management of Municipal Watersheds	For the protection of water supplies of towns, cities, or irrigation districts. The Chief of the Forest Service will enter into agreements within the watershed to restrict the use of the national forest lands from which the water supplies are derived.	Mike Barton 703-235-8096
36 CFR 251.23	Experimental areas and research natural areas.	Establishment of areas to be known as experimental forests or experimental ranges to provide for the research necessary for the management of forest and range land in each forest region.	Robert Buckman 202-447-6665
		Office of the General Sales Manager	
7 CFR 17.1-17.4	P.L. 480, Title I Financing Regulations	General Statement; definitions; purchase authorizations; sub-authorizations.	Leo Wallace 202-447-6211
		Rural Electrification Administration	
7 CFR 1700 Appendix A	Bulletins describing the policies and procedures for administering the REA electric and telephone loan programs	REA is currently reviewing all of its Appendix A bulletins to determine whether they (a) impose requirements on REA loan applicants, (b) impose requirements on REA, (c) state guidelines, or (d) simply provide information. Following this review, those bulletins falling into categories (a) and (b) above will be reviewed in accordance with the requirements of E.O. 12044 and Secretary's Memorandum No. 1955 for need, clarity and appropriateness of approach.	Harlan Severson 202-447-5606

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Authority	Subject	Description	Contact
		Soil Conservation Service	
7 CFR 660	Cooperative relationships and arrangements	SCS enters into cooperative arrangements and memoranda of understanding with State and local governmental units and other nonfederal participants in the furtherance of authorized SCS programs of mutual benefit and interest. Such arrangements and memoranda cover conservation operations, space, equipment, soil surveys, watershed agreements, river basin studies, personnal, etc.	Leo Link 202-447-2177
		Farmers Home Administration	

FmHA will submit its entry(s) in a futura issue of the FEDERAL REGISTER.

[FR Doc. 79-14720 Filed 5-14-79; 8:45 am]
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federal register

Tuesday
May 15, 1979

Part III

Department of Defense

Corps of Engineers

Water Resources Policies and Authorities; Implementation of Executive Order 11988 on Floodplain Management

V

for complying with the Order. The

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DEPARTMENT OF DEFENSE

Corps of Engineers

33 CFR Part 239

Water Resources Policies and Authorities; Implementation of Executive Order 11988 on Floodplain Management

AGENCY: U.S. Army Corps of Engineers.

ACTION: Final rule.

SUMMARY: This regulation prescribes policies and procedures to be used by the Corps of Engineers Offices for implementing Executive Order 11988, Floodplain Management, as it pertains to the planning, design and construction of Civil Works projects, and to the activities under the operation and maintenance program of the Corps.

EFFECTIVE DATE: May 15, 1979.

FOR FURTHER INFORMATION CONTACT: Maurice Jackson, Department of the Army, Corps of Engineers, Wash., D.C. 20314. ATTN: DAEN–CWR–R (202–693–6807).

SUPPLEMENTARY INFORMATION: On May 24, 1978, the Corps of Engineers published in the **Federal Register** (33 CFR Part 239) a proposed regulation prescribing the policies and procedures the Corps would follow for implementing Executive Order 11988 on Floodplain Management. The general public was given until June 24, 1978 to provide comments on the proposed policy regulation. Comments were received from the Corps of Engineers field office and from seven other organizations. All comments were given full and careful consideration and were utilized where appropriate in revising the regulation. Many of the comments received were generally similar in addressing the need for more specificity and detail in the regulation. Inasmuch as the proposed rule is a general policy regulation intended to set forth the policies and procedures the Corps will utilize in implementing the Executive Order, no attempt was made to prescribe detailed specifics. When other Corps regulations pertaining to the planning, design, and construction of Civil Works projects and operation and maintenance activities are subsequently revised, specific details will be included therein.

The regulation was revised to include all definitions in the Corps regulation as contained in the Floodplain Management Guidelines (43 FR 6030), in order to clarify to the Corps field offices the basic definitions that will apply to the regulation. Also, the term "natural and beneficial floodplain values" was defined and added to the list of definitions.

The general policy was revised to eliminate the exemption of the practicability analysis to small lots or tracts of vacant lands in closely spaced urban areas. This was necessary since the Executive Order contains no provisions for such exemptions. In addition, the general policy was modified to indicate that the practicability test would also include consideration of alternative sites, alternative actions and no action.

The general procedures were revised to reflect the requirement of advising the general public early in the decision making process whenever an action would be located in a floodplain. This step was omitted from the proposed rule since existing Corps of Engineers regulations and procedures presently require early public participation and involvement during the early stages of the planning and decision making processes.

The section pertaining to minimization was revised to clarify whenever an action is undertaken in the floodplain steps be taken to minimize the impact of floods on human safety, health and welfare and beneficial floodplain values for both the floodplain action and any induced development likely to occur as a result of the action.

A section pertaining to Real Estate activities was added to the regulation. The regulation was modified to eliminate the exemption for projects under construction. The Order is applicable to projects under construction to the extent that construction activities should be performed in a manner that harm to the existing floodplain environment is minimized; environmental values of a floodplain construction site is restored to the extent practicable; and existing and beneficial floodplain values of undisturbed floodplain construction site are preserved and protected to the extent possible. The regulation was also revised to show that post flood rehabilitation activities performed by the Corps under Pub. L. 84-99 are within the purview of Executive Order 11988.

With the above changes, and several other editorial revisions, the proposed regulation is adopted as set forth.

Dated: May 8, 1979.

Thorwald R. Peterson,

Colonel, Corps of Engineers, Executive Director, Engineer Staff.

PART 239—WATER RESOURCES POLICIES AND AUTHORITIES: IMPLEMENTATION OF EXECUTIVE ORDER 11988 ON FLOODPLAIN MANAGEMENT

Sec.

239.1 Purpose.
239.2 Applicability.
239.3 References.
239.4 Definitions.
239.5 Background.
239.6 Objective of the Order.
239.7 General Policy.
239.8 General Procedures.
239.9 Assessment and Evaluation of Impacts.
239.10 Minimize.
239.11 Restore and Preserve.
239.12 Regulatory Functions Program.
239.13 Real Estate Activities.
239.14 Reporting Requirements and Public Involvement.
239.15 Application of EO to Civil Works Program.

Authority: EO 11988, 43 FR 6030, February 10, 1978.

§ 239.1 Purpose.

The purpose of this regulation is to set forth general policy and guidance for Corps of Engineers implementation of Executive Order 11988, Floodplain Management, as it pertains to the planning, design and construction of Civil Works projects, to the activities under the operation and maintenance and to the regulatory and real estate programs of the Corps.

§ 239.2 Applicability.

This regulation is applicable to all OCE elements and to all field operating agencies having Civil Works responsibilities.

§ 239.3 References.

(a) Executive Order 11988, *Floodplain Management*, May 24, 1977.

(b) Water Resources Council, Floodplain Management Guidelines for Implementing E.O. 11988, February 10, 1978 (43 FR 6030).

(c) Water Resources Council, *A Unified National Program for Flood Plain Management*, July 1976.

(d) Pub. L. 84–99

(e) 33 CFR Parts 320 through 329 (42 FR 37121–37164, July 19, 1977).

(f) ER 1105–2–50

(g) ER 1105–2–200

(h) ER 1105–2–210

(i) ER 1105–2–220

(j) ER 1105–2–230

(k) ER 1105–2–240

(l) ER 1105–2–250

(m) ER 1105–2–351

(n) ER 1105–2–502

(o) ER 1105–2–507

(p) ER 1105–2–800

(q) ER 1105–2–811

(r) ER 1120–2–117

§ 239.4 Definitions.

(a) "Action" is any Federal activity, including (1) acquiring, managing, and disposing of Federal lands and facilities; (2) providing Federally undertaken, financed, or assisted construction and improvements; and (3) conducting Federal activities and programs affecting land use, including but not limited to water and related land resources planning, regulating, and licensing activities.

(b) "Base Flood" is that flood which has a one percent chance of occurrence in any given year (also known as a 100-year flood). This term is used in the National Flood Insurance Program to indicate the minimum level of flooding to be used by a community in its floodplain management regulations.

(c) "Base Floodplain" is the one percent chance floodplain.

(d) "Channel" a natural or artificial watercourse of perceptible extent with a definite bed and banks to confine and conduct continuously or periodically flowing water.

(e) "Critical Action" any activity for which even a slight chance of flooding would be too great. The critical action floodplain is defined as the 500 year floodplain (0.2 percent chance floodplain).

(f) "Flood Fringe" that portion of the floodplain outside of the regulatory floodway (often referred to as "floodway fringe").

(g) "Floodplain" the lowland and relatively flat areas adjoining inland and coastal waters including floodprone areas of offshore islands, including at a minimum that area subject to a one percent chance of flooding in any given year.

(h) "Minimize" is to reduce to the smallest possible amount or degree

(i) "Practicable" is capable of being done within existing constraints. The test of what is practicable depends upon the situation and includes consideration of the pertinent factors, such as environment, cost or technology

(j) "Preserve" is to prevent adverse modification to the existing floodplain environment or to maintain it

(k) "Restore" is to re-establish a setting or environment in which the natural functions of the floodplain can again operate.

(l) "Regulatory Floodway" the area regulated by Federal, State or local requirements; the channel of a river or other watercourse and the adjacent land areas that must be reserved in an open manner, i.e. unconfined or unobstructed either horizontally or vertically to provide for the discharge of the base flood so the cumulative increase in water surface elevation from encroachment does not exceed one foot as set by the NFIP

(m) "Natural and Beneficial Values" include but are not limited to water resources values (natural moderation of floods, water quality maintenance, and ground water recharge), living resource values (fish, wildlife and plant resources), cultural resource values (open space, natural beauty, scientific study, outdoor education and recreation) and cultivated resource values (agriculture, aquaculture and forestry).

(n) "Direct support" of floodplain development is an action in the floodplain that encourages, allows, serves or otherwise facilitates additional floodplain development.

(o) "Facility" is any man-made or manplaced item other than a structure.

(p) "Structures" walled or roofed buildings, including mobile homes and gas or liquid storage tanks that are primarily above ground (as set by the NFIP).

§ 239.5 Background.

Executive Order 11988, Floodplain Management, signed May 24, 1977, revoked and replaced Executive Order 11296 issued August 10, 1966. The new Order adds emphasis to the environmental aspects of floodplain management that was not present in Executive Order 11296. The Order requires Federal agencies to recognize the significant values of floodplains and to consider the public benefits that would be realized from restoring and preserving floodplains. The conceptual framework of floodplain management as set out in § 239.3(c) is to be incorporated in agency procedures. The unified program has as a goal sound floodplain management that embodies the "wise use, conservation, development and utilization of interrelated land and water resources to serve objectives of economic efficiency, environmental quality and social well-being as consonant with responsibilities assigned to respective levels of government by law." Floodplain Management Guidelines for Implementing EO 11988 were published in the **Federal Register** on February 10, 1978 (43 FR 6030) (§ 239.3(c)). The guidelines were developed for the purpose of explaining key terms in the Executive floodplain management concepts and procedures for complying with the Order. The guidelines have been utilized in preparing this Corps of Engineers policy regulation and other affected Corps regulations and procedures will subsequently be revised to reflect the policies and procedures contained herein.

§ 239.6 Objective of the order.

The Executive Order has as an objective the avoidance, to the extent possible, of long and short term adverse impacts associated with the occupancy and modification of the base floodplain and the avoidance of direct and indirect support of development in the base floodplain wherever there is a practicable alternative. Under the Order, the Corps is required to provide leadership and take action to:

(a) Avoid development in the base floodplain unless it is the only practicable alternative;

(b) Reduce the hazard and risk associated with floods;

(c) Minimize the impact of floods on human safety, health and welfare; and

(d) Restore and preserve the natural and beneficial values of the base floodplain.

§ 239.7 General policy.

It is the policy of the Corps of Engineers to formulate projects which, to the extent possible, avoid or minimize adverse impacts associated with use of the base floodplain and avoid inducing development in the base floodplain unless there is no practicable alternative. The decision on whether a practicable alternative exists will be based on weighing the advantages and disadvantages of floodplain sites and non-floodplain sites. Factors to be taken into consideration include, but are not limited to, conservation, economics, aesthetics, natural and beneficial values served by floodplains, impact of floods on human safety, locational advantage, the functional need for locating the development in the floodplain, historic values, fish and wildlife habitat values, endangered and threatened species, Federal and State designations of wild and scenic rivers, refuges, etc. and, in general, the needs and welfare of the people. The test of practicability will apply to both the proposed Corps action and to any induced development likely to be caused by the action. Identification and evaluation of practicable alternatives shall include consideration of alternative sites (carrying out the proposed action outside the floodplain), alternative actions (other means which accomplish the same purpose as the proposed

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action); and no action. When a determination is made that no practicable alternative to undertaking an action in the floodplain exists, it will be appropriately documented and the features or qualities of the floodplain that make it advantageous over alternative non-floodplain sites shall be described and adequately supported.

§ 239.8 General procedures.

Listed below are the general procedures to be followed for implementing Executive Order 11988. These procedures are the "decision making process" and are graphically depicted in § 239.3(b). The general procedures are to be incorporated in the multiobjective planning approach under the WRC principles and standards for the planning, design and construction of civil works projects and activities under the operation and maintenance programs.

(a) Determine if the proposed action is in the base floodplain.

(b) If the action is in the base floodplain, identify and evaluate practicable alternatives to the action or to the location of the action in the base floodplain as outlined in § 239.7 above.

(c) If the action must be in the floodplain, advise the general public in the affected area and obtain their views and comments.

(d) Identify beneficial and adverse impacts due to the action and any expected losses of natural and beneficial floodplain values. Where actions proposed to be located outside the base floodplain will affect the base floodplain, impacts resulting from these actions should also be identified.

(e) If the action is likely to induce development in the base floodplain, determine if a practicable non-floodplain alternative for the development exists, as outlined in § 239.7 above.

(f) As part of the multiobjective planning approach under the Principles and Standards, determine viable methods to minimize any adverse impacts of the action including any likely induced development for which there is no practicable alternative and methods to restore and preserve the natural and beneficial floodplain values. Successive iterations of the planning process as called for in ER 1105–2–200 should be used to develop methods for minimization (§§ 239.10 and 239.11). This should include reevaluation of the "no action" alternative.

(g) If the final determination is made that no practicable alternative exists to locating the action in the floodplain, advise the general public in the affected area of the findings.

(h) Recommend the plan most responsive to the planning objectives established by the study and consistent with the requirements of the Executive Order stated in § 239.6 above.

§ 239.9 Assessment and evaluation of impacts.

The determination called for in § 239.8(d) above requires an assessment of the likely adverse and beneficial impacts of an action. Impact identification and assessment apply to both the Corps action and to any induced development likely to occur in the base floodplain with the proposed action. Existing procedures and guidance for identifying, assessing and evaluating impacts are contained in ER 1105–2–240 and ER 1105–2–250 for multiobjective planning and ER 1105–2–507 for responding to NEPA requirements. These procedures are designed to ensure that all significant adverse and beneficial effects of actions are identified and measured. ER 1105–2–240 requires identifying sources of impacts, tracing impacts, describing the magnitude of impacts and specifying the location, timing, and duration of impacts. ER 1105–2–250 requires determining the beneficial and adverse contribution of each alternative plan. ER 1105–2–507 requires the identification of impacts and effects of an action on the environment. Therefore, impact identification, assessment and evaluation procedures required by existing Corps regulations comply with the intent of the EO and should continue to be followed.

§ 239.10 Minimize.

Whenever there is no practicable alternative to undertaking an action in the floodplain, steps should be taken to minimize the impact of floods on human safety, health and welfare, beneficial floodplain values, and any induced development likely to occur as a result of the action. Minimize, by definition, is broad and open-ended; however, there is an implicit acceptance of practical limitations which makes it consistent with the Principles and Standards. All practical means and measures should be utilized to minimize any adverse impacts likely to occur because of an action in the floodplain. For example, successive iterations of the planning process should normally result in the deletion of separable segments of a plan when such segments protect undeveloped land and would likely induce development in the floodplain for which another practicable non-floodplain alternative may exist.

§ 239.11 Restore and preserve.

Restoration and preservation are methods of enhancing or maintaining the natural and beneficial values of floodplains. These are primarily environmental values falling within the broad scope of multiobjective planning of the Principles and Standards and the ER 1105–2–200 series. The implementation of actions or measures to restore or preserve floodplain values should be recommended, as appropriate, in reporting documents if they fall under existing Corps authorities. If they are not within existing authorities of the Corps, the report should describe how such measures can be implemented. Examples of actions that could be taken to restore floodplain values are as follows:

(a) Relocate non-conforming structures and facilities out of the base floodplain.

(b) Reestablish damaged floodplain ecosystems.

(c) Restore and preserve wetlands, marshes, and etc.

(d) Implement measures that will enhance fish and wildlife values.

(e) Restore and revegetate damaged beaches and dunes.

§ 239.12 Regulatory functions program.

Section 2c of the Executive Order pertains to the issuance of permits or licenses and relates to the Corps regulatory permit program. Section 2c requires agencies to: (a) Consider and evaluate flood hazards for actions in floodplains; (b) provide early public review of plans or proposals in floodplains for which the impact would not require an EIA; and (c) provide guidance to applicants to enable them to evaluate the effects of their proposal on the floodplain. § 239.3(e) is the regulation that sets forth the policies and procedures of the Corps of Engineers for review of permit applications. The general policies in the regulation provide for an evaluation of the flood hazard and the effect an action in the floodplain may have on the floodplain environment through the public interest review process described in § 320.4. The public notice process, as contained in § 325.3, is the primary method utilized by the Corps for advising the public early of potential plans or proposals in flood plains for which a permit is sought. Existing policies and procedures related to the regulatory program (§ 239.3(e)) fulfill the requirements and intent of Section 2c of Executive Order 11988 and should continue to be followed.

§ 239.13 Real estate activities.

When property in floodplains is proposed for outgrant or disposal to non-Federal public or private parties, the Corps shall reference in the outgrant or conveyance those uses that are restricted under Federal, State and local floodplain regulations and attach other restrictions to uses of the property as may be appropriate. In the event the proposed use is incompatible with good floodplain management, the Corps shall consider withholding such properties from outgrant or conveyance.

§ 239.14 Reporting requirements and public involvement.

When a determination has been made that no practicable alternative to locating an action in the floodplain exists, the EO requires the reporting of this finding. The Order requirements generally include reporting procedures that are presently being accomplished under existing Corps regulations, with some minor exceptions. The following additional information shall be included in existing reporting requirements, as appropriate, for general investigation studies, projects in engineering and design stages, studies under the special continuing authorities program, and activities under the operations and maintenance program.

(a) *Section 2(a)(2) of Executive Order.* If there is no practicable alternative to locating an action in the floodplain, a public notice shall be prepared and circulated to the general public. The notice shall include the following: (1) An explanation of why the action must be located in the floodplain; (2) a description of significant facts considered in making the determination to locate in the floodplain, including alternative sites and actions considered and any tradeoffs that were made; and (3) a statement indicating whether the proposal conforms to applicable State or local floodplain protection standards. The public notice issued by the District Engineer upon completion of a study action or its equivalent will serve as the means to satisfy this requirement of the Order. Public notices should provide specific information pertaining to paragraphs (a)(1), (2) and (3) of this section, and be disseminated to the general public in the affected area.

(b) *Section 2(a)(3) of Executive Order.* A notice, not to exceed three pages in length, including a location map, should be submitted to State and areawide A–95 Clearinghouse for the geographic area affected, when an action is to be located in the floodplain. Continuation of existing procedures and requirements of § 239.3(q) will comply with the intent of the Order with the exception that future notices to clearinghouses should also include the additional information required in §239.14(a).

(c) *Section 2b of Executive Order.* Requests for new authorizations or appropriations for new construction starts transmitted to the Office of Management and Budget will provide information on whether a proposed action is located in the floodplain. If the action is located in the floodplain the transmittal will include information on whether the action complies with the EO.

(d) *Statement of Findings.* Since Corps actions in the floodplain are subject to NEPA, the Statement of Findings that is required as part of the conclusions in feasibility reports and required for actions pertaining to operations and maintenance will include, in addition to existing requirements, the following:

(1) Reasons why the proposed action must be located in the floodplain.

(2) Facts considered in making the determination to locate in the floodplain, including alternative sites and actions considered.

(3) Statement on whether the proposed action conforms to applicable State of local floodplain protection standards.

(4) Statement on whether the action affects the natural and beneficial values of the floodplain.

(5) Steps taken to design or modify the proposed action to minimize potential harm to or within the floodplain; and

(6) A general listing of involved agencies, groups, and organizations.

(e) *Public Involvement.* To insure that adequate information and opportunities are provided early in the decision-making process to allow the public to participate effectively in floodplain management decisions, a public involvement program should: (1) Include as broad an audience as possible; (2) provide continuous interaction and involvement opportunities for the public in the planning and decision-making process; (3) provide information which promotes the fullest understanding of the proposed action; and (4) provide timely opportunities for all segments of the public to affect a proposed action or plan before alternative actions have been precluded. The policies and objectives for public involvement contained in § 239.3 (n) and (p) are parallel to the requirements of the Order and should be continued. However, public participation programs will also include early, specific reference to Executive Order 11988 and its objectives.

§ 239.15 Application of EO to civil works program.

The provisions of this regulation are applicable to civil works activities as outlined below.

(a) *Preauthorization Studies.* Where a floodplain may be affected, the policy and procedures of this regulation shall be incorporated in the multiobjective planning process (ER 1105–2–200 series of regulations) from the outset, to a scope and level of detail appropriate for preauthorization studies.

(b) *Advanced Engineering and Design.* Reporting officers should insure that projects in the advanced engineering and design stages comply with the intent and objective of the Executive Order as set forth in this regulation.

(c) *Continuing Authorities Program (ER 1105–2–50).* Where a floodplain may be affected, the policies and procedures of this regulation are applicable to the planning and design of projects under the continuing authorities program. Current studies conducted thereunder shall incorporate the policies and procedures of this regulation early in the multiobjective planning process as required by § 239.3(f).

(d) *Projects Under Construction.* The minimization, restoration and preservation requirements of the Executive Order shall apply to projects under construction. Construction activities should be performed in a manner that harm to the existing floodplain environment is minimized; environmental values of a floodplain construction site is restored to the extent practicable; and existing and beneficial floodplain values of an undisturbed floodplain construction site are preserved and protected to the extent possible.

(e) *Operation and Maintenance Activities.* The policies and procedures of this regulation are applicable to operation and maintenance activities of the Corps of Engineers within the base floodplain. District Engineers should insure that future actions at projects operated and maintained by the Corps comply with the policies and procedures set forth in this regulation and 33 CFR 209.145.

(f) *Emergency Activities.* Emergency flood-related activities essential to saving lives and protecting property and public health and safety, are exempt from the provisions of the Order. Post flood rehabilitation activities performed under Pub. L. 84–99 by the Corps shall comply with the intent of the Executive Order.

[ER–1165–2–26]

[FR Doc. 79–14900 Filed 5–14–79; 8:45 am]
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Part IV

Department of Energy

Economic Regulatory Administration

Definitions of Administrative Procedures and Sanctions; Interim Rule

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DEPARTMENT OF ENERGY

Economic Regulatory Administration

10 CFR Parts 500 and 501

Definitions and Administrative Procedures and Sanctions; Interim Rule

AGENCY: Economic Regulatory Administration, Department of Energy.

ACTION: Interim Rule

SUMMARY: The Economic Regulatory Administration (ERA) of the Department of Energy (DOE) is issuing this interim rule to implement provisions of the Powerplant and Industrial Fuel Use Act of 1978 (FUA) which prohibit the use of petroleum and natural gas by certain electric powerplants and major fuel burning installations. This interim rule defines certain terms critical to the operation of the FUA program and establishes the procedures by which owners and operators of powerplants and installations may petition for an exemption from the prohibitions of the Act.

DATES: These interim rules shall become effective on May 8, 1979. ERA has decided to extend the period for written comments until August 15, 1979, before issuing its final definitional and procedural rules.

No additional public hearings will be held. However, before formalizing this rule, ERA will consider all written comments submitted during this extended comment period.

ADDRESSES: All comments should be addressed to Public Hearing Management, Docket No. ERA–R–78–19D, Department of Energy, Room 2313, 2000 M Street, N.W., Washington, D.C. 20461.

FOR FURTHER INFORMATION CONTACT:

William L. Webb (Office of Public Information), Economic Regulatory Administration, Department of Energy, 2000 M Street, N.W., Room B–110, Washington, D.C. 20461, (202) 634–2170.

Stephen M. Stern (Regulations and Emergency Planning), Economic Regulatory Administration, Department of Energy, Room 2130C, 2000 M Street, N.W., Washington, D.C. 20461, (202) 254–9766.

Robert L. Davies (Fuels Regulation—Program Office), Economic Regulatory Administration, Department of Energy, Room 61281, 2000 M Street, N.W., Washington, D.C. 20461, (202) 254–3910.

James Heffernan (Office of General Counsel), Department of Energy, Room 7136, 12th and Pennsylvania Avenue, N.W., Washington, D.C. 20461, (202) 633–8714.

SUPPLEMENTARY INFORMATION:

I. Background and extended comment period
II. Comments (Section 500.2—Definitions)
III. Comments (Part 501—Administrative Procedures and Sanctions)
IV. Procedural matters

I. Background and Extended Comment Period

This interim rule sets forth the definitions necessary for the implemention of the Powerplant and Industrial Fuel Use Act of 1978 (FUA) and the procedures that will apply to certain administrative proceedings implementing FUA which are identified in Parts 502, 503, 504, 505, 506, 507, 508, and 515 of Alternate Fuels Subchapter E of Title 10 of the Code of Federal Regulations. ERA may decide to use these procedures in administering other programs and will so indicate their applicability in those rules at the time they are published.

ERA published proposed rules for section 500.2, Part 501 and for new and existing facilities on November 17, 1978 and January 29, 1979 (43 FR 53974 and 44 FR 5808, respectively). In the preambles to those proposed rules, ERA described the basic provisions of FUA and its proposed programs to implement them. ERA solicited comments on its proposals and held public hearings in Boston, Massachusetts on February 7, 1979; Salt Lake City, Utah on February 14, 1979; Tampa, Florida on February 21, 1979; and in Lexington, Kentucky on March 2 and 3, 1979.

ERA received a large number of written comments and heard a variety of oral presentations at its hearings, all of which were incorporated into the record of the administrative proceedings on these rules. Based upon these comments and ERA analysis of the full record in these administrative proceedings to date, ERA has decided to issue this interim rule to define certain terms and establish procedures that will govern FUA-related administrative proceedings. ERA is also issuing a new Subpart M for the Use of Natural Gas or Petroleum for Emergency and Unanticipated Equipment Outage Purposes that was not contained in the earlier proposals. This subpart provides for certain emergency uses of petroleum or natural gas, therefore ERA believes it is appropriate to issue this subpart at this time. ERA plans to publish interim rules for Parts 502, 503, 504, 505, 506, and 507 in the near future in order to provide the basis for full implementation of the regulatory programs required by FUA.

ERA has also decided to extend the period for submission of additional written comments on this interim rule. This extended period for additional written comments commences on the date this interim rule is issued and extends until August 15, 1979. ERA invites all interested persons to participate in these further proceedings by submitting any written information, views or arguments to Department of Energy, Public Hearing Management, Room 2313, 2000 M Street, N.W., Washington, D.C. 20461. All submissions should be identified on the outside envelope and on the documents contained therein with the designation, "Definitions and Administrative Procedures," Docket Number ERA–R–78–19D. You should submit 15 copies. All comments received will be available for public inspection in the DOE Reading Room GS–152, James Forrestal Buildings, 1000 Independence Avenue, S.W., Washington, D.C. We will consider all comments received by August 15, 1979, and incorporate these into the record of the administrative proceedings on section 500.2 and Part 501.

ERA will receive petitions for exemptions and make determinations in accordance with the procedures set forth in this interim rule. ERA's determination on exemption petitions shall be made upon the basis of the standards and criteria set out in the interim rules with respect to Parts 502, 503, 505 and 507, or upon the provisions of those Parts as subsequently revised, where the application of a modification of a particular rule would result in a more favorable disposition of a particular petition. ERA urges you to file your petitions expeditiously so that ERA may render a timely decision on each petition.

ERA also conducted FUA-related rulemaking proceedings on transitional facilities, uses of natural gas, outdoor decorative lighting and restrictions on the increased use of petroleum. On March 21, 1979, ERA published its Revised Interim Rule to Permit Classification of Certain Powerplants and Installations as Existing Facilities, 44 FR 17464, which established the criteria and procedures whereby ERA would make determinations as to whether a facility is subject to the provisions of Title II of FUA governing new facilities, or the provision of Title III which governs existing facilities. On April 9, 1979, ERA published a final rule establishing an Exemption for Use of Natural Gas by Existing Powerplants

Under the Powerplant and Industrial Fuel Use Act of 1978, 44 FR 1979, which established criteria and expedited procedures by which owners and operators of existing powerplants may petition for a temporary public interest exemption from the prohibitions against use of natural gas contained in Section 301(a) (2) and (3) of FUA. On May 7, 1979, ERA issued its final rule establishing prohibitions on the Sale and Direct Industrial Use of Natural Gas for Outdoor Lighting, pursuant to Section 402 of FUA; concurrently with this rule ERA is issuing its Interim Rule establishing a Prohibition Against the Increased Use of Petroleum by Existing Electric Powerplants pursuant to Section 405 of FUA.

II. Comments (Section 500.2—Definitions)

In the course of its own review and in response to comments received, ERA has revised the definition of many of the terms proposed in § 500.2

The following is a summary of the major revisions.

In the January 29, 1979 **Federal Register** (44 FR 5808, 5812–13) we suggested that for purposes of defining electric powerplant and MFBI under Sections 103(a)(7)(A) and 103(a)(10)(A) of FUA, there would be no minimum size unit for purposes of aggregating units at a single site to determine if the combination of units collectively reached the 250 million Btu's per hour threshold.

We received comments that failure to designate a minimum unit size for purposes of aggregation would cause great economic hardship with relatively little savings in petroleum and natural gas consumption. Some comments suggested that the minimum be raised to 100 million Btu's per hour, while other comments suggested that the 50 million Btu's per hour floor would not result in economic hardships.

We believe that the criteria we have established as to which units we will aggregate towards the 250 million Btu's per hour threshold is a reasonable accommodation which will carry out the purposes of FUA to reduce the consumption of petroleum and natural gas. In establishing the criteria we have taken into account present technological capabilities, and we have attempted to minimize economic disruption.

When you propose to build two or more new units in combination at a single site, we will aggregate towards the 250 million Btu's per hour threshold any such new unit where the heat input equals or exceeds 50 million Btu's per hour.

If the combination of new units equals or exceeds the 250 million Btu's per hour threshold, then each new unit in the combination with a heat input rate equal to or exceeding 50 million Btu's per hour will be subject to the prohibitions of the Act.

The above criteria on aggregation are ERA's policy for the present. We may, in the future, lower the minimum limit size for purposes of aggregation.

As a result of our own inquiry, and the information we have received from manufacturers, it is our opinion that the technology is being developed to permit the economic burning of alternate fuels at heat input levels lower than 50 million Btu's per hour; however, recognizing the possibly optimistic naturc of information supplied from vendors, we have taken a conservative position as to the minimum unit heat input rate we will consider for purposes of aggregation. We solicit further comments as to the technology for small alternate fuel-fired units which compare favorably on a life-cycle cost basis with petroleum and natural gas-fired units.

We received comments that ERA did not have the authority, as we proposed, to aggregate new with existing units. The comments also stated that aggregating new with existing units would encourage development of new sites rather than the enlargement of existing sites, and that the advantages of economies of scale would be unduly constrained.

The Act does not support the conclusion that existing and new units in combination with one another at the same site may not be aggregated. The only basis for excluding existing or new units from aggregation is that found in the authority to exclude from aggregation units up to 100 million Btu's per hour. To minimize economic disruption, we have decided to exclude from aggregation to the maximum limit of our authority existing units when it is proposed to add one or more new units in combination with one or more existing units at a single site. When the aggregation consists of new with existing units, we will consider, for purposes of aggregation, only those existing units with a heat input rate which equals or exceeds 100 million Btu's per hour. We will count, for purposes of aggregation, only the new unit(s) which equal or exceed 50 million Btu's per hour.

If the combination of new and existing units equals or exceeds the 250 million Btu's per hour threshold, then each existing unit in the combination with a heat input rate equal to or in excess of 100 million Btu's per hour, and each new unit with a heat input rate equal to or exceeding 50 million Btu's per hour, will be subject to the applicable prohibitions.

In these regulations we are not establishing the criteria for aggregation when there is a combination of existing units at a single site. We are reserving §§ 500.2(c)(3) and (d)(3) in these regulations for such criteria, which we intend to adopt within interim regulations for existing facilities. ERA has determined that the most urgent need is to establish criteria which will be utilized in the planning for new units, and thus, we have focused our attention on those units.

In response to the comments that rental boilers should be excluded from the jurisdiction of FUA, we are establishing the following rule with respect to rental boilers. We will not count for purposes of aggregation or jurisdiction a rental boiler with a heat input rate less than 100 million Btu's per hour if you are using that rental boiler because of an unanticipated equipment outage or emergency as described in § 501.191 of these regulations; a temporary emergency condition as described in § 501.192 of these regulations; or, under the grant of a temporary public interest exemption as described in § 503.25 of these regulations. Rental boilers in excess of 100 million Btu's per hour may also be used if the use is in accordance with those regulations.

We solicited comments in the January 29, 1979, **Federal Register** (44 FR 5808, 5812) on our proposal to consider units at the same site for purposes of aggregation when the units are located within 10 miles of each other.

We received many comments that this proposed test was too broad and ignored technical considerations. In response to these comments, we have revised the site test criteria for purposes of aggregation by establishing a definition for the term "in combination" as used in Sections 103(a)(7)(A) and 103(a)(10)(A) of FUA and have revised the criteria for determining when units are located at the same site.

For aggregation purposes, "in combination" means units which are functionally integrated. The factors we will consider in determining whether units are functionally integrated are (1) whether the units are contributing to the same end product, blend stock, or intermediate product; (2) whether units are part of the same plant or facility producing different products; (3) physical connection of common energy or power systems, other than that provided by a public utility; and (4) any other factors which would indicate

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whether the units are functionally integrated. As to whether units are located at the same site, we will consider physical proximity, common ownership, and whether noncontiguous parcels are connected by any easements, pipes or steam lines under common ownership.

We did receive comment that physical connection should be the only factor considered; ERA feels that the other factors described above are relevant and will consider all four in making a determination as to which units are in combination.

In the January 29, 1979 Federal Register (44 Fed. Reg. 5808, 5813) we solicited comments on three proposed alternatives concerning internal combustion engines used for the generation of electricity. The alternatives we presented were (1) retaining the November 17, 1978 Federal Register (43 Fed. Reg. 53974, 53985) proposal where an internal combustion engine used for the generation of electricity is an MFBI; (2) a redefining of electric powerplant to include an internal combustion unit used for the generation of electricity; and (3) withdrawing the November 17, 1978 proposal and not defining internal combustion used for generating electricity as either a powerplant or MFBI, and rely on legislative clarification.

We received comments that an internal combustion engine used for the generation of electricity is neither an MFBI nor an electric powerplant under the present wording of FUA. We agree. Regulations cannot correct what we believe to have been an unintended gap in FUA coverage. We are therefore deleting internal combustion engines used for the generation of electricity from the definition of MFBI, and also from the definition of electric powerplant. However, we are retaining in the definition of MFBI an internal combustion engine as FUA clearly designates internal combustion engines as MFBI's.

Additionally, we received comments that refinery process heaters should not be considered MFBI's. Refinery process heaters normally do not fall within the categories statutorily designated as MFBI, that is, boilers and certain non-boilers, and as such exempt from the provisions of FUA. To the extent that a refinery process heater does fall within a statutory category of FUA, it will be subject to the provisions of the Act.

We had proposed that steam generators used for crude oil recovery be excluded from the definition of MFBI. A number of comments favored this exclusion, and non opposed it. Some comments suggested that steam generators for crude oil recovery were not boilers and thus not subject to FUA. Other comments stated that these steam generators are moved from location to location, and because of this movement cannot be considered stationary units subject to FUA.

We do not accept the argument that because they are portable, these generators are not stationary, and we have not satisfactorily completed our legal and technical assessment of the contention that they are not boilers. In light of our proposal, the support for the exclusion in the comments and the contribution of steam generators to enhanced crude oil recovery, we are, pending further consideration, excluding steam generators for crude oil recovery from the definition of MFBI. We intend to reassess our treatment of these units. We invite comments on engineering distinctions cognizable under FUA between these steam generators and boilers and on whether these units can use alternate fuels. In particular, we solicit comments on the feasibility of using petroleum coke as a fuel for these units.

We proposed to consider an electric powerplant or an MFBI new if, since April 20, 1977, the cost of reconstruction or refurbishment equals or exceeds 50 percent of the price of a replacement unit. Some comments stated that the 50 percent test was too high, while other comments stated that routine operation and maintenance costs should be excluded.

In response to these comments we have eliminated "refurbishment" as a separate component of reconstruction and have revised the formula as to when reconstruction makes a powerplant or MFBI new.

We will consider a powerplant or MFBI new if, after January 1, 1981, and the preceding two calendar years, the capital expenditure for reconstruction equals or exceeds 50 percent of the replacement cost of an equivalent unit. Therefore, the base 3-year period is to be figured on a "rolling basis," i.e., the then current calendar year plus the preceding 2-year period. Allowable capital expenditure for an electric powerplant is to be in accordance with the Federal Energy Regulatory Commission's Uniform System of Accounts, and, for an MFBI, in accordance with Internal Revenue Service standards.

We will not include routine operation and maintenance expenses as expenditures for reconstruction; however, operation and maintenance expenditures which are capitalized rather than expensed will be included as expenditures for reconstruction.

We have also clarified the definition of construction with regard to repowering of existing combustion turbine powerplants. For the purposes of this Act, we consider the addition of a waste heat or supplementary fired boiler to an existing combustion turbine as the construction of a new combined-cycle powerplant.

We received comments that the fuel used in backup units for municipal solid waste recovery units be excluded from the definition of primary energy source. We disagree since the concept of primary energy source applies only to the unit and not to the backup units considered as part of a system. We do exclude from consideration as a primary energy source the amount of fuel used in any MFBI or powerplant for the purposes enumerated in Section 103(a)(15)(A) of the Act equal in total to five percent of the total energy in Btu's consumed per year by the particular unit. In addition, ERA believes that adequate opportunity to use backup boilers exists in other ways; for example, under the scheduled outage exemption.

ERA proposed that movement of an existing MFBI or powerplant would cause that unit to become a new MFBI or powerplant. We received comments that this was not an appropriate action and agree with those comments. We have deleted that reference in these regulations.

It was suggesed that ERA establish criteria for "alternate-fuel capability," as it pertains to the new construction prohibitions of Title II. ERA agrees, and has done so in a manner which assures that powerplants subject to this prohibition will actually be able to use, in full environmental compliance, an alternate fuel at the time the powerplant becomes operational or upon expiration of a temporary exemption.

ERA also received comments that only gas turbines, and not combustion turbines, were covered by the Act. The terms "gas turbine" and "combustion turbine" are synonymous; therefore, we have not changed the proposed coverage. Whether oil or gas is burned, the turbine is driven by the gases which result from the combustion; the term "gas combustion" refers to those gases rather than to the particular kind of input fuel.

Some comments addressed the applicable environmental requirements definition. The comments ranged from including Federal and state common law in the definition, to including all local laws, regulations, or ordinances regardless whether they are based on Federal or state laws, and taking the stringency of local/regional environmental requirements into account in deciding whether to grant an exemption for an inability to comply with applicable environmental requirements.

ERA refers to the language in the Conference Report pertaining to permanent exemptions due to certain State or local requirements which states "The conferees intend that the Secretary determine the purposes of the State or local law and he certainly should not grant an exemption under this provision where it is clear that such law was established, for example, to aid the affected powerplant or installation, to preclude the use of coal or alternate fuels in preference for natural gas or petroleum in order to evade the policies, purposes, and prohibitions of this Act." (S. Rep. 95-988, 95 Cong. 2d Sess, p. 85) Exemptions for State and local requirements are discretionary, and the pertinence of such requirements can only be assessed on a case-by-case basis.

By Federal Register notices of November 17, 1978 and January 29, 1979, we called for comments on our proposed definition of "alternate fuels". We were particularly concerned with the question of whether indigenous resources, particularly petroleum-related resources, which might otherwise remain unexploited, should be classified as "alternate fuels" as a means of increasing our national energy supplies. We also invited other suggestions regarding other resources that might be classified as alternate fuels.

Many of the comments were directed toward specific types of fuels and in our discussion below we will group the fuel types together as much as possible to avoid repetition.

a. *Certain gases.* Gases such as coal seam methane, Devonian shale gas, and geopressurized methane have been designated, under certain circumstances, as alternate fuels by virtue of their designation as "commercially unmarketable" under Part 507 of these Interim Regulations. The discussion of these and other similar gases is contained in the response to comments under Part 507.

b. *Proposed fuels designated alternate fuels.* The following energy sources were recommended for classification as alternate fuels: (1) Biomass and biomass synthetics, (2) coal synthetics, (3) peat, (4) wind, (5) tide, and (6) hydroelectric. Both FUA and our interim regulations define an alternate fuel as any fuel other than natural gas or petroleum. Under this definition, these six energy sources are alternate fuels.

c. *Steam used in energy production.* Some of the comments recommended that all fuels used in the gathering, production, storage, transmission, or distribution of hydrocarbon gases or liquids be classified as "alternate fuels." We reject the designation of fuels used in these activities as "alternate fuels"; however, FUA specifically exempts any pumps and compressors solely used in connection with these activities from the coverage of the Act by excluding such facilities from the definition of a major fuel-burning installation. In addition to this statutory exclusion, we have specifically removed "steam generators for crude oil production" from our jurisdiction by excluding these units from the definition of a major fuel-burning installation in § 500.2(a) of the interim regulations. We will review the use of natural gas or petroleum as fuels in other activities on the basis of the exemptions contained in the Act.

d. *Steam.* In response to our January 29, 1979 request for comments on the question of whether "steam" should be considered an alternate fuel, the comments pointed out that steam is not, in fact, a fuel, but rather is simply a form of energy which does not fit into the "fuel availability" concept of FUA. If it were classified as an alternate fuel, the comments suggested, it should be so classified only where its use would result in higher overall efficiency and lower overall use of oil or natural gas. In any case, it was noted that such designation would only mean that a petitioner would have one more alternate fuel to consider in the Fuels Decision Report. After considering these comments, we have decided not to designate steam as an alternate fuel at this time.

e. *Electricity.* Electricity, the only source of energy which is not a fuel but which is identified in FUA as an alternate fuel, received similar comments with the additional points that the inclusion of electricity among the alternate fuels (1) is contrary to the Public Utilities Regulatory Policies Act (PURPA) (Pub. L. 95-617) and to the use of cogeneration, and (2) will result in "doubling" the use of fuel. Electricity is specifically designated as an alternate fuel in § 103(a) of FUA and we do not have any discretion regarding its redesignation.

f. *Slurries.* Coal-oil slurries were also suggested for classification as an alternate fuel. Because this type of slurry is composed in part of petroleum, we have determined that coal-oil slurries are not an alternate fuel and that request for use of such fuel will more appropriately be considered under the fuel mixtures provisions of the Act. We do intend to promote the development and use of coal-oil mixtures and will do so under the provisions implementing § 212(d) of FUA (Permanent exemption for certain fuel mixtures containing natural gas or petroleum) and § 213(a)(1) of FUA (General requirement for exemptions: use of mixtures).

g. *"Load balancing" and "displaced gas."* It was suggested that we should, under the alternate fuel definition, permit (1) "load balancing" where facilities will fill in "demand valleys" for natural gas which occur during the season when residential demand for heating is low and (2) the exchange of equivalent amounts of natural gas by agreements. We do not see how the fact that natural gas may be available in excess of demand at certain times necessarily makes it an alternate fuel, permitting it to be used in utility and industrial units where its use would not otherwise be permitted. There are, however, some instances in which we might permit such use, such as in situations that would qualify for the public interest exemption, but the existence of a situation warranting such an exemption must be determined on a case-by-case basis.

We do not see how exchange agreements for "displaced gas" can be viewed as changing the nature of the gas and justifying its designation as an alternate fuel.

h. *Compressed air.* Stored compressed air was discussed in one of the comments as a possible alternate fuel. We recognize the use of compressed air as a conservation measure to be discussed under the "terms and conditions" section implementing § 214(a) of the Act. We do not consider it to be a fuel.

i. *Regional considerations.* We also received comments to the effect that alternate fuel classifications should be made on the basis of the region in which the fuel is used (or to be used) or the use of which the fuel is intended. We have concluded that it would not be administratively possible to enumerate all of the regional considerations and fuel uses that would be necessary to include as criteria for such classifications as those suggested. Regional considerations, while they probably would not be a basis for designating alternate fuels, do bear upon which alternate fuels may be available at a particular site. Accordingly, we intend to entertain discussions of

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incorporated into § 501.34 of this interim

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precisely these types of issues at the prepetition conferences held in advance of the submissions of exemption requests and, on the basis of such discussions, we may waive certain requirements pertaining to the fuels to be considered that would otherwise be mandatory in connection with the submission of such petitions.

j. *Heavy crude oil.* In our previous requests for comments on the alternate fuels definition, we were particularly interested in receiving views concerning petroleum-related fuels which would not or might not otherwise be produced particularly heavy crude oil. Whether we should include some of these energy sources in the definition of alternate fuels has been a difficult question of policy, although a somewhat easier question of law. The major policy argument is familiar: if particular petroleum-related products are excluded from the definition of petroleum, their production and utilization will be encouraged by such action.

In this connection, we have received a great deal of comment, particularly recommending the designation of California heavy crude oil as an alternate fuel. FUA defines the term "petroleum" as crude oil and products derived from crude oil. Heavy crudes are considered to be crude oil under the Emergency Petroleum Allocation Act (Public Law 94–163), the major Federal regulatory statute involving petroleum, regardless whether such crudes are liquid at ordinary temperatures and pressures. (We note parenthetically that these crudes do not have the crystalline molecular structure of solids, but the molecular structure of liquids). Under FUA, heavy crudes are not among those fuels excluded from the definition of petroleum and none of the exclusions from the definition involve any reference to specific gravity or commercial marketability (or lack thereof) except in connection with waste by-products of refineries. Moreover, it is highly unlikely that Congress was unaware of California heavy crude at the time it enacted FUA, yet Congress did not expressly exclude it from the definition of petroleum. Accordingly, we have for purposes of this interim rule not excluded heavy crude oils from the definition of petroleum. We invite further comment on this issue.

We note that under FUA, petroleum coke is not considered to be petroleum. The refining of California heavy crudes produces a great deal of this product. The coke resulting from the refining of heavy crudes may be used as alternate fuel, thus aiding in the reduction of any excess of petroleum coke on the West Coast. Moreover, the opportunity under the Act to burn petroleum coke may well ease the problem of excesses of heavy crude.

Other comments related specifically to recommendations that petroleum from "difficult-to-produce formations," and oil from heavy oil sands and tar sands be classified as alternate fuels. It was further suggested that producers of any heavy crudes from these or other formations should not be required to demonstrate that such oil would not otherwise be produced without being designated as an alternate fuel. Also, comments proposed that; in order to make allowances for heavy crude oils produced or transported with lighter crude oils, the purchasing parties should be permitted to designate the amount of the end product that will be equivalent to the volume input of the lighter crude oil and to designate as "alternate fuel" that amount which consitutes the heavy crude oil itself. Finally, it was suggested that all of the fuels discussed above simply be allowed by rule to be consumed in the public interest rather than being classified as alternate fuels.

After considering these comments and reviewing both the terms of the statutory definitions of petroleum and previous ERA definitions of crude oil under the Emergency Petroleum Allocation Act (Public Law 94–163), it appears that these fuels constitute petroleum within the accepted definition of the term and do not qualify as alternate fuels. The broad legal conclusion may not be sufficiently sensitive to the policy considerations that bear upon these definitions and issues. We invite further analysis on them. As the fuels discussed are, therefore included within the petroleum definition, the other comments noted do not require further change.

K. *Waste oil by-products.* The comments also proposed that reprocessed waste oils and petroleum products should be designated alternate fuels. After a review of the applicable legislative provisions, we have concluded that we have no discretion in this matter and must consider these fuels as petroleum for purposes of FUA.

1. *Commercial unmarketability by-products.* In order to make the commercial unmarketability standard used in the alternate fuels definition [§ 500.2(a)] more definite, we have specified in that definition the criteria which we will use in determining whether a particular waste by-product is of the quality or quantity that will make it commercially marketable. Both overlapping and separate criteria are stated for industrial waste by-products and for a refinery's waste by-products. The criteria for refinery waste by-products are set forth in § 597.4(e) and are incorporated in the alternate fuels definition by reference.

For purpose of this subsection, an industrial waste by-product will be designated as "commercially unmarketable" by reasons of "quality" where (1) the by-product is not a recognized item of commerce in a national market or in the regional or local area in which the facility is located, or (2) the cost of processing, storing and distributing the by-product would not be covered by reasonably expected revenues from its sale. Industrial waste by-products will be designated as "commercially unmarketable" by reason of "quantity" where (1) the quantities are so insufficient or sporadic as not to constitute an adequate and reliable supply to a potential buyer other than the producer, (2) the by-product is produced in quantities significantly less than those normally sold or traded in the appropriate market, or (3) the cost of aggregrating the product into commercial quantities and distributing the by-product would not be covered by reasonably expected revenues from its sale.

We received comments proposing that waste by-products from industrial and refinery operations should be considered "commercially unmarketable" and, thus, alternate fuels, if they would require special handling or treatment in the commercial market due to their potential toxicity or carcinogenicity. We decline to categorically classify such waste by-products as commercially unmarketable and will assess the marketability of such waste by-products on a case-by-case approach based on the criteria set forth above.

Comments further recommended that an inadvertent waste by-product of a primary industrial product operation be classified as an alternate fuel. We reject this proposal on the grounds that all waste by-products of such operations are, by definition, unavoidably produced, but this does not necessarily mean that they are commercially unmarketable. In order to be designated commercially unmarketable, the waste by-product would have to satisfy the quality or quantity criteria set out above.

It was additionally suggested that the heavy residual portion of residual fuel oil be treated as an alternate fuel. As stated in our discussion of the petroleum definition exclusions (§ 507.4), we will treat these residual fuel waste by-products as petroleum unless the product meets the criteria for exclusion from petroleum set out in § 507.4(e), that is, it is commercially unmarketable. If a producer of such a product is selling the product, such sales indicate that the product is commercially marketable and, hence, a petroleum product subject to the use prohibitions of the Act.

A number of comments were received in response to ERA's proposed electric region groupings for reliability measurements required under the Act. ERA has modified the regulations in certain instances to respond to the comments.

Several commenters contend that Alaska should not be designated as one electric region since there are no significant interconnections between major power supply systems in Alaska. They state that distance and terrain make interconnections extremely difficult if not impossible. ERA concurs with this comment. For reliability measurements in Alaska, ERPA will not require consideration of electric power of utility systems which are not or cannot be economically interconnected. The loss of load probability criteria will be applied to systems which are interconnected with the utility seeking the exception.

A number of comments stated that electric region No. 25 (Northwest Power Pool), consisting of DOE power supply areas 30, 41, 42, 43, 44 and 45, is too large and contains too many physical "barriers" to be considered as one region for the purpose of evaluating loss of load probability. They note that a number of transmission lines within this region are located in mountain passes which are subject to a relatively high probability of interruption of use due to slides and avalanches. In addition, they state that power supply area 41 cannot provide any real assistance to the balance of the region due to transmission line limitations. Upon consideration of these comments, ERA has revised electric region 25 (Northwest Power Pool) to include only DOE Power Supply Areas 30, 42, 43, 44 and 45. Power Supply Area 41 is now included in a new electric region: N. 30, the Idaho-Utah Group.

Several comments ask why a utility should be required to consider ERA's planning regions for measuring reliability when they differ from what has been used in the past. They state that a utility should be permitted to use its own planning area when making its reliability determination.

ERA believes that the decision to make a 30 to 40 year commitment to an oil- or gas-fired plant should be based on the likely evolution of coordinated planning and operation during that period, not simply on the basis of a smaller planning area that has been adequate in the past. There is general agreement that coordination over an area larger than a single system produces reduced cost, improved reliability, and less use of scarce fuels. Therefore, ERA is placing the burden on the petitioning utility to show either that such potential benefits do not exist within his region, or that they cannot be achieved over the relevant time period.

III. Comments (Part 501—Administrative Procedures and Sanctions)

In the Preamble to the Proposed Rules published on November 17, 1978, ERA specifically solicited comments on the extent to which the proposed fees set forth in Part 501 will compensate the Government for costs incurred in performing the analyses necessary to make determinations to grant or deny a particular exemption petition. ERA also solicited comments on the best ways to mesh FUA regulatory programs with other Federal and state regulatory programs.

ERA received a number of written and oral comments on these issues as well as comments on many issues not specifically identified in the Preamble to the proposed procedural rules in Part 501. In order to facilitate an orderly discussion on these comments and ERA's specific responses to them, each will be discussed in the order that they appear in this interim rule.

A. *Subpart A—General Provisions*

A number of comments objected to provisions in Section 502.2(c) which allow ERA to bar a person from participating in ERA proceedings if that person is shown to have made false representations, disrupted proceedings, or lacks authority to represent a party before ERA. ERA has clarified this provision by requiring that the bar for false and misleading statements, affidavits or writings will be applied only when they are made "knowingly". A bar for failure to have specific authority to represent a party has been retained, as has the bar for disruptive activities. ERA believes these are justified first, on the basis that no one should be allowed to represent parties without specific authority and, second on the necessity for orderly proceedings. ERA also notes that criminal provisions for fraudulent statements and disruptive practices in administrative proceedings are available in extreme circumstances. These provisions have been removed from § 501.2 of the proposed rules and incorporated into § 501.34 of this interim rule which specifically sets forth hearing procedures and the role and powers of the presiding officer in ERA proceedings.

Several comments recommended that ERA revise Section 501.3 to distinguish filing requirements that require ERA's acceptance (e.g., exemption petitions), and filing for purposes of meeting time requirements. The provisions in this interim rule have been revised to specify that where time requirements are imposed by DOE, filing for purposes of these requirements will be on the date the document is received by ERA.

Several commenters objected to the requirement in § 501.7(e) that a petitioner be required to notify ERA of all proceedings, transactions and contacts on an issue related to an exemption petition proceeding that are also pending in other Federal, state or municipal proceedings. These comments particularly objected to the requirement in the proposed rules that all contacts with DOE, Federal or state employees that relate to these issues also be included in this notice. ERA was convinced that these notice requirements were too difficult, if not impossible to comply with and has revised this requirement to require only that it be notified of pending Federal, state or municipal proceedings that may relate to its own FUA proceedings.

ERA received a number of comments relating to the treatment of confidential information in § 501.7(f). ERA has revised this section to require persons requesting confidential treatment of specifically identified information to comply with DOE's Freedom of Information regulations which were published as 10 C.F.R. 1004, 44 Fed. Reg. 1908 (January 8, 1979), and has conformed this section to those regulations.

ERA has decided to reject several commenters' suggestions that an administrative appeal provision be incorporated into the regulations. ERA believes that FUA requires judicial review immediately upon issuance of a final agency action and that such review will promote a more timely response to each petitioner's needs.

B. Subpart B—Filing Fees

The majority of comments criticized DOE's fee schedule set forth in § 501.24 as being excessive and not representative of ERA's actual costs in reviewing exemption petitions. Other comments indicated that the high fees would discourage many persons from applying for exemptions for which they would be clearly entitled. In response,

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C. Subpart C—Requests for in accordance with DOE's general

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ERA has revised its fee schedule. ERA believes that it is authorized to charge fees for certain actions, and has provided in this interim rule provisions for waiver of the fees where appropriate. Special provisions have also been made for smaller facilities. The schedule makes clear that only a single fee will be charged even though a petition may be considered under the criteria for several exemptions. ERA believe the fee schedule represents substantially less than the anticipated costs of reviewing an exemption petition and plans to review this fee schedule as it gains experience processing petitions.

ERA has rejected the suggestion that existing facilities should be charged no fee, or that no fees should be charged for those exemptions that are mandatory under FUA. However, it should be noted that an existing facility that undertakes a demonstration that they would be eligible for an exemption in a proceeding on a proposed order establishing a prohibition will not be charged a fee under the schedule in this interim rule.

C. Subpart C—Written Comments, Conferences and Public Hearings

Many comments stated that they believed that FUA requires hearing procedures that allow cross examination of government and other witnesses. These comments noted that while FUA references the informal rulemaking provision of the Administrative Procedures Act, 5 U.S.C. 553, Section 702(d)(2) of FUA states that "No rule or order (or denial thereof) may be affirmed unless supported by substantial evidence. ERA does not believe this interpretation reflects case law interpreting the applicability of formal hearing procedures to rulemaking pursuant to 5 U.S.C. 553. The Supreme Court has stated that in rulemaking under 5 U.S.C. 553, the formal procedures set forth in 5 U.S.C. 556 and 557 are required only when the agency's statute provides for a hearing, and explicitly prescribes that determination in that rulemaking be "on the record." *United States* v. *Allegheny-Ludlum Steel Corp.*, 406 U.S. 742, 92 S. Ct. 1941 (1972), *United States* v. *Florida East Coast R. Co.*, 410 U.S. 224, 93 S. Ct. 810 (1973) and *Vermont Yankee Nuclear Power Corp.* v. *NRDC*, 435 U.S. 519, 98 S. Ct. 1197 (1978). FUA requires a hearing only when requested by an interested party, and ERA is authorized to issue rules and orders ". . . on consideration of the whole record or those parts thereof cited by a party . . ." ERA does not believe this statutory language constitutes a directive, within the meaning the Supreme Court cases cited above, to conduct FUA proceedings under Section 701(d) pursuant to 5 U.S.C. 556 and 557.

ERA has, however, revised a number of specific provisions in the proposed rule designed to facilitate the informal procedures applicable to FUA proceedings. The interim rules make it clear that questions may be asked of government witnesses during the public hearing. ERA encourages, but does not require, that whenever possible questions should be submitted to government witnesses 10 days prior to the hearing in order to facilitate complete and fully responsive answers to those questions. Some commenters wanted to be able to object to questions and answers of participants in the public hearing during the course of testimony. For the reasons cited above, ERA does not believe an opportunity to make objections that would interrupt testimony is required by FUA, or that such attempts to impose judicial exclusionary rules into FUA proceedings are necessary to ensure a record which contains substantial evidence.

Similarly, ERA has rejected a suggestion that its determinations be based only on the evidence set forth in the duly filed written comments and presented at the public hearing. ERA believes that the informal procedures authorized by Section 701 of FUA allow it to consider the whole record, including information and analyses made subsequent to the close of the public comment period. The rules, however, have been revised to indicate that all information relied upon by ERA in making its determinations will be in the public record.

To promote ERA information gathering proceedings, ERA has retained its discretion to hold informal conferences with limited attendance. Unlike the proposed rule, this interim rule describes three kinds of conferences incident to ERA proceedings. Section 501.2 describes prepetition conferences with ERA technical staff which are open only to potential applicants for a petition. A prepetition conference is designed to define the scope of the exemption petition that a specific petitioner must file in order to be accepted by ERA. This will assist a petitioner in avoiding development of unnecessary data, information, or analysis in the preparation of his petition. Second, this interim rule also makes provision for conferences with ERA technical staff in the course of administrative proceedings on a petition, and thirdly, for conferences convened by the presiding officer in an ERA proceeding. These last two kinds of conferences are designed to facilitate resolution of particular issues pending in ERA proceedings. Finally, the interim rule has been revised to indicate clearly that ERA may not substitute an informal conference for a public hearing pursuant to 701(d) if a hearing is properly requested by any interested person.

D. Subpart D—Subpoenas; Witness Fees

One comment questioned the source of ERA's subpoena power under FUA. ERA believes that it has sufficient authority pursuant to Section 711 of FUA and Section 645 of the DOEA to support its subpoena powers. These authorities and provisions for the exercise of subpoena powers have been incorporated into this interim rule by reference to DOE's general rule on subpoenas found in 10 C.F.R. 205.8.

One comment suggested that those persons requesting subpoenas should be required to demonstrate why a particular person is needed to supply certain information. 10 C.F.R. 205.8 allows a subpoena or SRO, prior to the time specified for compliance, and ERA anticipates that this mechanism would be available if a recipient believes that the information could be made available by other means.

Several comments suggested that corporations should be permitted to designate agents to appear in lieu of the subpoenaed witness. 10 C.F.R. 205.8 provides procedures for subpoena recipients to move ERA to quash or modify the subpoena, including an opportunity to petition for a stay of the obligation for compliance pending a decision on the petition to quash or modify. Corporate subpoena recipients wishing to demonstrate that they should not be compelled to personally attend a proceeding may avail themselves of the foregoing procedures, but ERA believes that it must retain the discretion, in appropriate circumstances, to compel the attendance at ERA proceedings of specific named individuals.

E. Subpart E—Prohibition Orders

Although ERA proposed rules and procedures to govern prohibitions for existing facilities in its earlier notices, this interim rule reserves these sections for later publication. Those provisions deal with discretionary application of FUA prohibitions by rule or by order. FUA also contains similar discretionary provisions for new MFBI non-boilers which are covered by this Subpart E, and ERA has decided to include provisions for these new MFBI non-boilers in this interim rule.

F. Subpart F—Exemptions

A number of comments requested that ERA specify a time period within which it must act to accept or reject exemption petitions and make final determinations on those petitions. ERA does not consider it possible to establish specific time periods for its actions under this new regulatory program, therefore, the interim rule has not incorporated specific time periods other than those set forth in § 501.73. ERA believes that it is justified in retaining the flexibility provided by FUA to extend the time for its decision on an exemption petition if the facts and circumstances warrant it and has retained this provision in the interim rule.

Several commenters objected to the provision in the proposed rules that ERA could unilaterally redesignate an exemption petition to request another exemption than that applied for in the original petition. The conference's report to FUA directs ERA to be flexible in its consideration of an exemption petition. Therefore, ERA added this provision to the proposed rules to assist a qualified exemption petitioner in receiving the appropriate exemption. In response to these comments, the interim rule has been revised to require that ERA consult with and receive approval of the petitioner prior to consideration of a petition under criteria for exemptions that have not been specifically applied for.

ERA will both notify and consult with state agencies responsible for powerplant regulation. The provisions for interested persons to request a public hearing on a particular petition has been revised to allow 3 weeks (21 days) after publication of notice of a petition in which to file a request, and the period for public comment has been extended to at least 45 days. Section 501.68(c) has been revised to allow "reasonable time to cure defects in a petition", and to allow a petitioner whose petition was rejected for failure to provide adequate information to refile at a later time.

ERA has not accepted the suggestions of several commenters that it limit its ability to adopt flexible procedures in the course of an administrative proceeding. ERA believes that this flexibility will promote preparation of a more complete record upon which to base its determinations, and intends to exercise this flexibility to allow petitioners and other interested persons to present a full and open explanation for their position in any particular proceeding.

G. Subpart G—Requests for Modification of Rescission of Orders and Rules Issued under FUA

This subpart has been redrafted to provide for both general rulemaking and more specifically for rescission or modification of prohibitions imposed by rule or by order. Anyone may request that ERA initiate a general rulemaking proceeding pursuant to 5 U.S.C. 553(e). However, only owners or operators of affected existing facilities may request rescission or modification of a prohibition rule or prohibition order for an existing powerplant or MFBI. Any person may seek to have a prohibition by rule for new facilities modified or rescinded.

ERA has responded to comments that the 150-day period for ERA action on a petition to modify or rescind a prohibition rule or order is too long by limiting this period to 90 days. Also in accord with several comments, ERA has made it clear that determinations on requests will be made on the information that has been made part of the public record.

H. Subpart H—Requests for Stay

Several comments requested that ERA revise its criteria for grant of a stay to omit the requirement that a petitioner show a substantial likelihood of success on the merits. ERA has revised this provision in this interim rule to require a showing that the question raised is serious.

I. Subparts I and J—Requests for Interpretations and Rulings

Several comments criticized ERA's position in § 501.135(f)(1) that if there is no response to a petition for reconsideration of an interpretation within 60 days it is automatically deemed to be denied. These comments expressed concern that a petition might be lost or misplaced. ERA has revised this provision to require that the Office of General Counsel acknowledge receipt of all petitions, but where 60 days elapse without a substantive response from the Office of General Counsel or any indication that it would be forthcoming, the request for reconsideration should be considered to be denied.

Other commenters complained that the procedures to obtain rulings were too complicated. These provisions are in accord with general procedural regulations governing requests for interpretation that apply to other DOE regulatory programs and ERA has decided to retain these provisions. ERA has also eliminated the cumbersome notice requirements for interpretations in accordance with DOE's general regulations and several comments that argued that this would facilitate filing of interpretation requests.

Finally, a commenter suggested that a person who relies on a ruling should be allowed to continue to do so even if the ruling is modified or rescinded. ERA does not believe this is consistent with good regulatory policy and does not accept this suggestion.

J. Subparts K and L—Enforcement, Investigations, Violations, Sanctions, and Judicial Actions

Several comments noted that the proposed rules expand criminal culpability beyond that provided by Section 721(b) by addition of the phrase "reasonably should have known of noncompliance." ERA has deleted this phrase from the interim rule.

Other comments expressed the belief that remedial orders or notices of violation for anticipated or potential violations are not authorized by FUA. ERA has retained these provisions noting that Section 723(d) authorizes the Secretary to issue orders. Section 721 authorizes issuance of notices of violation (NOV) and ERA believes that if a violation is imminent, issuance of a NOV which does not propose imposition of civil or criminal penalties would be consistent with its enforcement powers. ERA has decided to accept a suggestion that alleged violators be given advance notice of the contents of a NOV by providing them a draft of the NOV that ERA proposes to issue prior to its issuance in final form. However, ERA does not agree with the suggestion of several commenters that there should be no distinction between a proceeding which proposes a civil penalty and, therefore, requires an adjudicatory hearing (unless waived), and a proceeding where no civil penalty is proposed and for which an informal conference may be requested. These comments advocated a right to an adjudicatory hearing in both instances. ERA notes that the provisions of section 723(d) of FUA expressly applies to adjudicatory hearings only when penalty assessments are proposed, thus distinguishing these proceedings from other enforcement proceedings where no money penalties are at issue. Because FUA explicitly directs that an adjudicatory hearing be held in certain instances, ERA believes that it is justified in using more informal enforcement procedures in those instances where FUA is silent as to the hearing requirement.

Finally, ERA has revised the rules to the effect that owners of powerplants

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and installations are not subject to the civil penalty provisions, and the special definition of agents of owners and operators has been revised to specify that an agent must have authority to engage in the activity involved in a particular violation.

ERA would like to note that during the initial stages of implementation of FUA regulatory programs, questions regarding ERA enforcement actions may be considered by the Office of Enforcement of ERA in consultation with the Office of Fuels Regulation of ERA. While the Office of Enforcement has primary responsibility for administering ERA's enforcement programs, many enforcement related questions will also be under consideration by the Office of Fuels Regulation as it develops its initial programs for FUA implementation.

K. Subpart M—Use of Natural Gas or Petroleum for Emergency and Unanticipated Equipment Outage Purposes

As a result of comments received pertaining to emergency use of petroleum or natural gas, especially comments regarding Section 405 of FUA, ERA has incorporated a new Subpart M into this Interim Rule which did not appear in the Notice of Proposed Rulemaking published on November 17, 1978.

If you are subject to prohibitions of the Act, this subpart establishes the procedures you must follow when you have used minimum amounts of natural gas or petroleum in your powerplant or installation for unanticipated equipment outages or emergencies under Section 103(a)(15)(B) of the Act, or where you have used natural gas or petroleum as a primary energy source in your peakload powerplant or installation during a temporary emergency condition under Section 404(g) of the Act.

In view of the immediate need to provide you with regulatory procedures for the use of natural gas or petroleum in the event that you suffer a qualifying outage or emergency after May 8, 1979, the effective date of the foregoing statutory provisions, ERA is making this new subpart effective May 8, 1979. Since this subpart is being published for the first time, however, ERA actively solicits your comments on the definitions and procedures provided at the earliest possible date and will if necessary revise this rule promptly on an interim basis.

The provisions in Sections 103(a)(15)(B) and 404(g) of the Act are distinct governing authorities. To reflect these differences, Subpart M provides separate procedures for fuel use under each of the foregoing sections. There may be some circumstances, however, in the case of installations and peakload powerplants, where your right to use natural gas or petroleum in an emergency may be, in the alternative, under either Section 103(a)(15)(B) or Section 404(g). In those instances, you may use the procedures provided for under Section 103(a)(15)(B) rather than those provided under Section 404(g). The former procedures require only notice to ERA of emergency use and brief follow-up progress reports, while procedures under Section 404(g) recognize ERA's authority to limit the duration of your permitted usage and require, in addition to progress reports, the filing of a detailed statement of the circumstances of your emergency condition or outage.

It is important to note that you may be able to use the provisions of this subpart where you must operate a rental boiler for emergency purposes for which you have not obtained an emergency exemption under these regulations.

IV. Procedural matters.

A regulatory analysis of this interim rule set forth below as contemplated by Executive Order No. 12044, is contained within the draft regulatory analysis of the regulation regarding new facilities proposed on November 9, 1978, (43 F.R. 53974, November 17, 1978). A Final Environmental Impact Statement (FEI) has been prepared pursuant to the National Environmental Policy Act (NEPA). Both the draft regulatory analysis and the FEIS may be obtained from ERA, 2000 M Street, N.W., Room B110, Washington, D.C. 20461. (202) 634–2170.

This interim rule and FUA become effective on May 8, 1979. ERA believes that good cause exists to make this interim rule immediately effective in order that an exemption petitioner may begin filing his petition.

These revised rules have been submitted to the Office of Management and Budget (OMB) for clearance under the provisions of the Federal Reports Act. Any compliance with the data collection provisions of these interim rules may require revision or additions as a result of OMB's action.

(Department of Energy Organization Act, Public Law 95–96; Powerplant and Industrial Fuel Use Act of 1978, Public Law 95–620, E.O. 12009, 42 F.R. 4267).

In consideration of the foregoing, § 500.2 and Part 501, Subchapter E, "Alternate Fuels" of Chapter II, Title 10 of the Code of Federal Regulations as proposed on November 17, 1978 are hereby revised and adopted effective May 8, 1979.

Issued in Washington, D.C., May 8, 1979.

David J. Bardin,

Administrator, Economic Regulatory Administration.

In 10 CFR, Chapter II, Subchapter E, Part 500 and Part 501 are hereby adopted as an interim rule.

SUBCHAPTER E—ALTERNATE FUELS

PART 500—POLICY AND DEFINITIONS

Sec.

500.1 [Reserved]

500.2 Definitions.

Authority: Department of Energy Organization Act, Pub. L. 95–91, 91 Stat. 565 (42 U.S.C. 7101 et seq.); Powerplant and Industrial Fuel Use Act of 1978, Pub. L. 95–620, 92 Stat. 3289, (42 U.S.C. 8301 et seq.); E.O. 12009, 42 F.R. 4267.

§ 500.1 [Reserved]

§ 500.2 Definitions.

This section defines certain terms utilized throughout these regulations unless otherwise expressly provided for or the context clearly demands otherwise. The use of the male gender is to include female; the use of singular to include plural.

(a) *General definitions.* For purposes of this Part and Parts 501, 502, 503, 504, 505, 506, 507, 508, and 515, the terms listed:

"The Act" and "FUA" mean the Powerplant and Industrial Fuel Use Act of 1978.

"Action" means a prohibition, by rule or order, in accordance with Sections 202, 301(b) and (c), 302(a) and (b), 401, 402, and 405 of the Act; an order granting or denying an exemption in accordance with Sections 211, 212, 311, and 312 of the Act; a modification or recision of any such order, or rule; an interpretation; a notice of violation; a remedial order; a ruling issued; or a rulemaking undertaken by ERA.

"Affiliate", when used in relation to person, means another person who controls, is controlled by, or is under common control with, such person.

"Aggrieved", for purposes of administrative proceedings, describes and means a person (with an interest sought to be protected under the Act) who is adversely affected by an action proposed or undertaken by DOE.

"Air pollution control agency" means any of the following:

(1) A single State agency designated by the Governor of that State as the official State air pollution control agency;

(2) An agency established by two or more States and having substantial

powers or duties pertaining to the prevention and control of air pollution;

(3) A city, county, or other local government health authority or, in the case of any city, county, or other local government in which there is an agency other than the health authority charged with responsibility for enforcing ordinances or laws relating to the prevention and control of air pollution, such other agency; or

(4) An agency of two or more municipalities located in the same State or in different States and having substantial powers or duties petaining to the prevention and control of air pollution.

"Alternate fuel" means electricity or any fuel, other than natural gas or petroleum. The term includes—

(1) Coal;

(2) Solar energy;

(3) Petroleum coke; shale oil; uranium; biomass; municipal, industrial, or agricultural wastes; wood; and renewable and geothermal energy sources; *(For purposes of this subparagraph (3),* the term "industrial" does not pertain to refineries.)

(4) Liquid, solid, or gaseous waste by-products of refinery or industrial operations which are commercially unmarketable, either by reason of quality or quantity. *(For purposes of this subparagraph (4),* the term waste by-product is defined as an unavoidable by-product(s) of the primary industrial processes or refinery processes.)

(i) Waste by-products of refinery operations are commercially unmarketable if they meet the criteria in § 507.4(e) (Exclusions from the definition of petroleum).

(ii) A waste by-product of industrial operations is commercially unmarketable by reason of—

(A) Quality, where,

(*1*) the by-product is not a recognized item of commerce in a national market or in the regional or local area in which the facility is located; or

(*2*) the cost of processing (limited to upgrading the product to commercial quality), storing, and distributing the by-product could not be covered by reasonably expected revenues from its sale; or,

(B) Quantity, where,

(*1*) the quantities of the by-product are so insufficient or sporadic as not to constitute an adequate and reliable supply to a potential buyer other than the producer; or

(*2*) the by-product is produced in quantities significantly less than those quantities normally sold or traded in the appropriate market; or

(*3*) the cost of aggregating the product into commercial quantities through storage and distributing the by-product would not be covered by reasonably expected revenues from its sale.

(5) Any fuel derived from an alternate fuel; and,

(6) Waste gases from industrial operations. *(For purposes of this subsection (6),* the term "industrial" does not pertain to refineries.)

"Applicable environmental requirements" includes—

(1) Any standard, limitation, or other requirement established by or pursuant to Federal or State law (including any final order of any Federal or State court) applicable to emissions of environmental pollutants (including air and water pollutants) or disposal of solid waste residues resulting from the use of coal or other alternate fuels or natural gas or petroleum as a primary energy source or from the operation of pollution control equipment in connection with such use, taking into account any variance of law granted or issued in accordance with Federal law or in accordance with State law to the extent consistent with Federal law; and

(2) Any other standard, limitation, or other requirement established by, or pursuant to, the Clean Air Act, the Clean Water Act, the Resource Conservation and Recovery Act, or the National Conservation and Recovery Act, or the National Environmental Policy Act of 1969.

"Base load powerplant" means a powerplant the electric generation of which in kilowatt hours exceeds, for any 12-calendar-month period, such powerplant's design capacity multiplied by 3,500 hours.

"Btu" means British thermal unit.

"Capability to use alternate fuel" for the purpose of the Title II prohibition on construction of new powerplants means that the powerplant to be constructed must be able to use, in compliance with applicable environmental requirements, this alternate fuel as the primary energy source at the time it becomes operational or at the expiration of a temporary exemption. This alternate fuel must be available to the operator at the powerplant site at the time it becomes operational or at the expiration of a temporary exemption. Examples:

(1) High-Btu gas from coal is an alternate fuel within the Fuel Use Act. If you propose to construct a new powerplant which is to use natural gas, you cannot assert, for purposes of the prohibitions on construction of new powerplants without alternate fuel capability, that the powerplant is capable of using high-Btu gas as a primary energy source unless high-Btu gas from coal will be avilable in sufficient quantities to the powerplant at the time of initial operation or upon expiration of a temporary exemption.

(2) You intend to construct a new powerplant that will have a boiler capable of using coal or oil but intend to have the powerplant use oil at the time of operation. Absent an exemption, you would violate the prohibition on construction of new powerplants without alternate fuel capability if you construct without installing coal handling, pollution control, ash removal, etc., systems or if the burning of coal would be in violation of a State SIP—unless you had the appropriate exemptions.

"Clean Air Act" means the Clean Air Act, 42 U.S.C. 7401 *et seq.* (1970), as amended by Public Law 93–319, 88 Stat. 246, and Public Law 95–91, 91 Stat. 685.

"Coal" means anthracite, bituminous and sub-bituminous coal, lignite, and any fuel derivative thereof.

"Cogeneration facility" means an electric powerplant or a major fuel burning installation which produces:

(1) electric power; and

(2) any other form of useful energy (such as steam, gas or heat) which is, or will be, used for industrial, commercial, or space heating purposes.

"Combined cycle unit" means an electric power generating unit that consists of a combination of one or more combustion turbine units and one or more steam turbine units with a substantial portion of the required energy input of the steam turbine(s) provided by the exhaust gas from the combustion turbine unit(s). Use of small amounts of supplemental firing for the steam turbine does not preclude the unit from being a combined cycle unit.

"Conference" means an informal meeting, incident to any proceeding, between DOE and any interested person.

"Construction" means substantial physical activity at the unit site and includes more than clearance of a site or installation of foundation pilings. The addition of a heat recovery or supplemental-fired boiler to an existing combustion turbine constitutes construction of a new combined cycle unit.

"Costs" means total costs, both operating and capital, incurred over the estimated remaining useful life of an electric powerplant or major fuel burning installation, discounted to the present pursuant to rules established in Parts 503, 504, 505 and 506 of these regulations.

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"Design capacity or capability" is as

(ii) A temporary emergency condition

"Interpretation" means a written

institution, society, trust, joint venture,

(1) For electric power plants your

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"Design capacity or capability" is as defined in subsection (e) of this section.

"DOE" or "the Department" means the United States Department of Energy, as defined in Sections 201 and 301(a) of the DEOA, including the Secretary of Energy or his designee.

"DEOA" means the Department of Energy Organization Act (Public Law 95–91) (42 U.S.C. 7101 *et seq.*), as implemented by Executive Order 12009 (42 F.R. 46267).

"Duly authorized representative" means a person who has been designated to appear before DOE in connection with a proceeding on behalf of a person interested in or aggrieved by that proceeding. The appearance may consist of the submission of applications, petitions, requests, statements, memoranda of law, other documents, or of a personal appearance, oral communication, or any other participation in the proceeding.

The terms "electric powerplant" and "powerplant" mean any stationary electric generating unit, consisting of a boiler, a gas turbine, or a combined cycle unit, which produces electric power for purposes of sale or exchange and—

(1) Has the design capability of consuming any fuel (or mixture thereof) at a fuel heat input rate of 100 million Btu's per hour or greater; or

(2) Is in a combination of two or more electric generating units which are located at the same site and which in the aggregate have a design capability of consuming any fuel (or mixture thereof) at a fuel heat input rate of 250 million Btu's per hour or greater;

(3) To determine if your electric generating unit is to be aggregated toward the 250 million Btu per hour threshold and is a powerplant for purposes of subparagraph (2), see § 500.2(c) of this section;

(4) To determine if your electric generating units for purpose of subparagraph (2) of this definition are located at the same site, ERA will consider physical proximity, common ownership or control, and whether non-contiguous parcels are connected by any easements, pipes, or steam lines under common ownership. All powerplants at the same site will be considered in combination.

(5) ERA will not aggregate toward the 250 million Btu's per hour threshold a rental boiler with a heat input rate less than 100 million Btu's per hour if you are using the rental boiler because of:

(i) An unanticipated equipment outage or emergency as described in § 501.191 of these regulations;

(ii) A temporary emergency condition as described in § 501.192 of these regulations; or

(iii) A temporary public interest exemption as described in § 505.15 of these regulations.

"Electric generating unit" does not include—

(1) Any electric generating unit subject to the licensing jurisdiction of the Nuclear Regulatory Commission; and

(2) Any cogeneration facility, less than half of the annual electric power generation of which is sold or exchanged for resale.

"Electric Region" is as defined in paragraph (b) of this section.

"Electric utility" means any person, including any affiliate, or federal agency, who sells electric power.

"EPA" means the Environmental Protection Agency.

"ERA" means the Economic Regulatory Administration of DOE.

"Existing Powerplant or MFBI" means any powerplant or MFBI other than a new powerplant of MFBI.

"Federal Water Pollution Control Act" means 33 U.S.C. 1251, *et seq.*, as amended.

"FERC" means the Federal Energy Regulatory Commission.

"Firm" means a parent company and the consolidated or unconsolidated entities (if any) which it directly or indirectly controls.

"Fluidized bed combustion" means combustion of fuel in connection with a bed of inert material, such as limestone or dolomite, which is held in a fluid-like state by the means of air or other gases being passed through such materials.

"FTC" means the Federal Trade Commission.

"Fuels Decision Report" means the report required under Part 502 of these regulations.

"High-priority user," for purposes of Section 312(j) of the Act means any residential user of natural gas, or any commercial user whose consumption of natural gas on a peak day is less than 50 Mcf.

"Installation" means "major fuel burning installation."

"Intermediate load powerplant" means a powerplant (other than a peakload powerplant), the electrical generation of which in kilowatt hours does not exceed, for any 12-calendar-month period, such powerplant's design capacity multiplied by 3,500 hours.

"Internal combustion engine" means a heat engine in which the combustion that generates the heat takes place inside the engine proper.

"Interpretation" means a written statement issued by the DOE General Counsel, or his delegate in response to a written request, that applies the regulations, rulings and other precedents previously issued by the DOE to the particular facts of a prospective or completed act or transaction.

The terms "major fuel-burning installation" and "installation" mean a stationary unit consisting of a boiler, gas turbine unit, combined cycle unit, or internal combustion engine which—

(1) Has the design capability of consuming any fuel (or mixture thereof) at a fuel heat input rate of 100 million Btu's per hour or greater; or

(2) Is in a combination of two or more such units which are located at the same site and which in the aggregate have a design capability of consuming any fuel (or mixture thereof) at a fuel heat input rate of 250 million Btu's per hour or greater.

(3) To determine if your unit is to be aggregated towards the 250 million Btu's per hour threshold and is a major fuel burning installation for purposes of clause (2) of this definition, see § 500.2(d) of this section.

(4) For purposes of clause (2) of this definition, the term "in a combination" means functionally integrated. In determining if units are functionally integrated ERA will consider the following factors:

(i) Whether the units are contributing to the same end product, blend stock, or intermediate product;

(ii) Whether the units are part of the same plant or facility producing different products;

(iii) Whether the units have a physical connection of common energy or power systems, other than provided by a public utility; and

(iv) Any other factors which would indicate that the units are functionally integrated.

(5) To determine if your units, for purposes of clause (2) of this definition, are located at the same site, ERA will consider physical proximity, common ownership, and whether non-contiguous parcels are connected by any easements, pipes, or steam lines under common ownership.

(6) ERA will not aggregate toward the 250 million Btu's per threshold a rental boiler with a heat input rate less than 100 million Btu's per hour if you are using the rental boiler because of:

(i) An unanticipated equipment outage or emergency as described in § 501.191 of these regulations;

(ii) A temporary emergency condition as described in § 501.192 of these regulations; or

(iii) A temporary public interest exemption as described in § 503.25 of these regulations.

"Major fuel burning installation," "installation," and MFBI do not include—

(1) Any electric powerplant; or

(2) Any pump or compressor used solely in connection with the production, gathering, transmission, storage, or distribution of gases or liquids, but only upon your filing of a written certification of such use with ERA in accordance with procedures specified in §§ 501.7 and 501.11 of the regulations.

(3) Steam generators for crude oil recovery.

"Mcf" means 1,000 cubic feet of natural gas.

"MFBI" means "major fuel burning installation."

"Mixture" when used in relation to fuels used in a unit, means a mixture of petroleum or natural gas and an alternate fuel, or a combination of such fuels used simultaneously or alternatively in such unit.

"Natural gas" is as defined in Part 507 of this subchapter.

"NEPA" means the National Environmental Policy Act of 1969, as amended, 42 U.S.C. 4321, *et seq.*

"New electric powerplant" means any electric powerplant which was not classified as existing under Part 515 of this Title, or which was reconstructed as defined in this section, or which began construction after November 9, 1978.

"New major fuel burning installation" means any major fuel burning installation not classified as existing under Part 515 of this Title, or which was reconstructed as defined in this section, or which began construction after November 9, 1978.

"Non-boiler" means any stationary unit which is not a boiler and which consists of either a combustion turbine unit, combined cycle unit, or including the case of an MFBI, an internal combustion engine.

"Notice of violation" means a written statement issued to a person by ERA that states one or more alleged violations of the provisions of Parts 500, 501, 502, 503, 504, 505, 506, 507, and 515 of this Chapter or any order.

"Offset" or "emission offset" means emission reductions as defined by EPA's regulations set forth at 40 C.F.R. 51, Appendix 5.

"Order" means a final disposition other than the issuance of a rule issued by ERA pursuant to Parts 500, 501, 502, 503, 504, 505, 506, and 515 of this Chapter.

"Person" means any—

(1) Individual corporation, company, partnership, association, firm, institution, society, trust, joint venture, or joint stock company;

(2) Any State;

(3) Any Federal, State, or local agency or instrumentality (including any municipality) thereof; or

(4) A parent and the consolidated and unconsolidated entities (if any) which it directly or indirectly controls.

"Petroleum" is as defined in Part 507 of this subchapter.

"Petition" means the formal request for an exemption submitted to ERA under Parts 503, 504, 505, and 506 of these regulations.

"Powerplant" means "electric powerplant."

"Product or process requirements" means that product or process for which the use of an alternate fuel is not technically feasible due to the necessity to maintain satisfactory control of product quality and for which the substitution of steam is not technically feasible due to process requirements.

"Primary energy source" means the fuel or fuels used by any existing or new electric powerplant or major fuel burning installation, except—

(1) Minimum amounts of fuel not to exceed 5 percent of the unit's current year Btu output required for unit ignition startup, testing, flame stabilization and control uses;

(2) Minimum amounts of fuel required to alleviate or prevent—

(i) Unanticipated equipment outages defined as an outage due to equipment failure; and

(ii) Emergencies directly affecting the public health, safety, or welfare which would result from electric power outages. (See Part 501, Subpart M.)

"Proceeding" means a process or activity, and any part thereof, instituted by DOE, either on its own initiative or in response to an application, complaint, petition or request submitted by the owner or operator of a powerplant, major fuel burning installation, or any other person that may lead to an action by DOE.

"Prohibition order" means—

(1) An order issued pursuant to Sections 202(b), 301 (b) and (c), 302 (a) and (b), and 401 of the Act that prohibits a powerplant or major fuel burning installation or a boiler used for space heating purposes from burning natural gas or petroleum products as its primary energy source; or

(2) An order issued pursuant to Section 301(c) and 302(b) of the Act that prohibits excessive use of natural gas or petroleum in mixtures burned by a powerplant or major fuel burning installation as its primary energy source.

"Reconstruction" occurs when—

(1) For electric power plants your capital expenditure as defined by FERC on a cumulative basis for the current calendar year and preceding 2 calendar years equals or exceeds 50 percent of the expenditure for an equivalent replacement unit. Reconstruction shall not include expenditures for routine operation and maintenance. Reconstruction shall include expenditures for items capitalized (i.e., not expensed) according to the FERC Uniform System of Accounts.

(2) For MFBI's your capital expenditure on a cumulative basis for the current calendar year and preceding 2 calendar years equals or exceeds 50 percent of the expenditure for an equivalent replacement unit. Reconstruction shall not include expenditures for routine operation and maintenance. Reconstruction shall include expenditures for items capitalized (i.e., not expensed) according to IRS standards.

"Remedial order" means a directive issued by ERA pursuant to § 501.167.

"SIP" means State Implementation Plan pursuant to Section 110 of the Clean Air Act.

"Site limitation," when used with respect to any powerplant or installation, means a specific physical limitation associated with a particular site which relates to the use of an alternate fuel as a primary energy source for the powerplant or installation, such as—

(1) Inaccessibility to alternate fuels;

(2) Lack of transportation facilities for alternate fuels;

(3) Lack of adequate land or facilities for the handling, use and storage of alternate fuels;

(4) Lack of adequate land or facilities for the control or disposal of wastes from such powerplant or installation, including lack of land for pollution control equipment or devices necessary to assure compliance with applicable environmental requirements; and

(5) Lack of an adequate and reliable supply of water, including water for use in compliance with applicable environmental requirements.

"Solid Waste Disposal Act" means 42 U.S.C. 6901, *et seq.*, as amended.

"State regulatory authority" means any state agency which acts as ratemaking or power supply authority with respect to the sale of electricity by any state regulated electric utility.

"Synthetic fuel" means any fuel derived from an alternate fuel and does not include any fuels derived from petroleum or natural gas.

"Turbine" or "combustion turbine" means an electric power generating unit

Subpart D—Subpoenas, Special Report

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that is a combination of a rotary engine driven by a gas under pressure that is created by the combustion of any fuel, with an electric power generator driven by the engine.

"Wetlands areas" means, for purposes of Section 103(a)(12) of the Act, those geographical areas designated as wetlands areas by State or local environmental regulatory authorities, or in the absence of any such geographic designation, those areas that are inundated by surface or ground water with frequency sufficient to support, and under normal circumstances does or would support, a prevalence of vegetation or aquatic life that requires saturated, seasonably saturated or tidally saturated soil conditions for growth or reproduction.

(b) *Electric Region-Electric Region Groupings for Reliability Measurements With Regard to the Powerplant and Industrial Fuel Use Act of 1978*

(1) The following is a list of electric regions for use with regard to the Powerplant and Industrial Fuel Use Act of 1978. The regions are identified by FERC (DOE) Power Supply areas as authorized by Section 202(a) of the Federal Power Act except where noted. They will be reviewed annually by the Economic Regulatory Administration. Each grouping meets one or more of the following criteria:

(i) Existing centrally dispatched pools and hourly power brokers;

(ii) Systems with joint planning and construction agreements;

(iii) Systems with coordination agreements in the areas of—

(A) generation reserve and system reliability criteria

(B) capacity and energy exchange policies

(C) maintenance scheduling

(D) emergency procedures for dealing with capacity or fuel shortages;

(iv) Systems within the same National Electric Reliability Council (NERC) region with historical coordination policies.

The Power Supply Areas (PSA's), referred to in the definition of electric regions, were first defined by the Federal Power Commission in 1936. The most recent reference to them is given in the 1970 National Power Survey, Vol. I, Pg. I–3–16. In cases where a petitioner finds an ambiguity in a regional assignment he shall consult with ERA for an official determination.

Electric Region Groupings and DOE (FERC) Power Supply Areas

1. Allegheny Power System (APS)—7, except Duquesne Light Company
2. American Electric Power System (AEP)—Entire AEP System
3. New England Planning Pool (NEPOOL)—1, 2
4. New York Planning Pool (NYPP)—3, 4
5. Pennsylvania-New Jersey-Maryland Interconnection (PJM)—5, 6
6. Commonwealth Edison Company—14
7. Florida Coordination Group (FCG)—24
8. Middle South Utilities—25
9. Southern Company—22, 23
10. Gulf States Group—35
11. Tennessee Valley Authority (TVA)—20
12. Virginia-Carolina Group (VACAR)—16, 21
13. Central Area Power Coordination Group (CAPCO)—Cleveland Electric Illuminating Company, Toledo Edision Company, Ohio Edison Company, Duquesne Light Company
14. Cincinnati, Columbus, Dayton Group (CCD)—Cincinnati Gas and Electric Company, Columbus and Southern Ohio Electric Company, Dayton Power and Light Company
15. Kentucky Group—19
16. Indiana Group—Indiana Utilities except AEP
17. Illinois-Missouri Group (ILLMO)—15, 40
18. Michigan Electric Coordinated Systems (MECS)—11
19. Wisconsin-Upper Michigan Group (WUMS)—13
20. Mid-Continent Area Power Pool (MAAP)—16, 17, 26, 27, 28
21. Missouri-Kansas Group (MOKAN)—29, 24
22. Oklahoma Group—33, 36
23. Texas Interconnected Systems (TIS)—37, 38
24. Rocky Mountain Power Pool (RMPP)—31, 32
25. Northwest Power Pool (NWPP)—30, 42, 43, 44, 45
26. Arizona-New Mexico Group—39, 48 within Arizona
27. Southern California-Nevada—47, 48 in Nevada and California
28. Northern California-Nevada—46
29. Alaska (non-interconnected systems to be considered separately)—49
30. Idaho-Utah Group—41

(c) *Criteria for determining if your electric generating unit is to be aggregated and is a powerplant.* This paragraph sets out the criteria for determining if your electric generating unit in combination with one or more electric generating units located at the same site is included for purposes of aggregation towards the 250 million Btu's per hour threshold, and is an electric generating unit constituting a powerplant.

(1) *New unit added to existing unit.* (i) If you have one or more electric generating units on a single site and propose to add a new unit or units, ERA will aggregate towards the 250 million Btu's per hour threshold any existing unit with a heat input rate equal to or greater than 100 million Btu's per hour and any new unit with a heat input rate of 50 million Btu's per hour or greater.

(ii) If you have a combination of existing and new electric generating units at a single site which, when aggregated in accordance with the immediately preceding subparagraph, equals or exceeds the 250 million Btu's per hour threshold, ERA will consider as a powerplant each existing electric generating unit with a heat input rate equal to or greater than 100 million Btu's per hour and each new electric generating unit with a heat input equal to or greater than 50 million Btu's per hour, within the combination.

(2) *New units.* (i) If you propose to build one or more new electric generating units in combination at a single site, ERA will aggregate toward the 250 million Btu's per hour threshold any new electric generating unit having a heat input rate equal to or greater than 50 million Btu's per hour.

(ii) If you have a combination of new electric generating units at a single site which, when aggregated in accordance with the immediately preceding subparagraph, equals or exceeds the 250 million Btu's per hour threshold, ERA will consider as a powerplant each new electric generating unit within the combination which has a heat input rate equal to or greater than 50 million Btu's per hour.

(3) *Existing units.* (Reserved for existing units aggregation)

(d) *Criteria for determining if your industrial unit is to be aggregated and is an MFBI.* This paragraph sets out the criteria for determining if your industrial unit in combination with one or more units located at the same site is counted for purposes of aggregation towards the 250 million Btu's per hour threshold and is a unit constituting an MFBI.

(1) *New unit added to existing unit.* (i) If you have one or more units on a single site and propose to add a new unit or units, ERA will aggregate towards the 250 million Btu's per hour threshold any existing unit with a heat input rate equal to or greater than 100 million Btu's per hour and any new unit with a heat input rate of 50 million Btu's per hour or greater.

(ii) If you have a combination of existing and new units at a single site which, when aggregated in accordance with the immediately preceding subparagraph, equals or exceeds the 250 million Btu's per hour threshold, ERA will consider as an MFBI each existing unit with a heat input rate equal to or exceeding 100 million Btu's per hour and each new unit equal to or exceeding 50 million Btu's per hour, within the combination.

(2) *New units.* (i) If you propose to build one or more new units at a single site, ERA will aggregate towards the 250 million Btu's per hour threshold, any new unit having a heat input rate equal to or greater than 50 million Btu's per hour.

(ii) If you have a combination of new units at a single site which, when aggregated in accordance with the immediately preceding subparagraph, equals or exceeds the 250 million Btu's per hour threshold, ERA will consider as an MFBI each unit new within the combination which has a heat input rate equal to or greater than 50 million Btu's per hour.

(3) *Existing units.* (Reserved for existing units aggregation)

(e) *Determination of Powerplant Design Capacity.* (1) Pursuant to Section 103 of the Act, the Federal Regulatory Commission (FERC) has issued an interim rule by which a powerplant may determine its design capacity for purposes of these regulations.

(2) FERC's rules generally applicable to powerplant and industrial fuel use are located in Part 287 of the Commission's regulations (18 CFR 287).

(3) In determining design capacity reference should be made to FERC's rules. For convenience we have republished in this subsection the interim rule published by FERC on February 20, 1979 (44 FR 10366; April 4, 1979, 44 FR 20078) governing determination of design capacity.

SUBCHAPTER J—REGULATIONS UNDER THE POWERPLANT AND INDUSTRIAL FUEL USE ACT OF 1978

PART 287—RULES GENERALLY APPLICABLE TO POWERPLANT AND INDUSTRIAL FUEL USE

§ 287.101 *Determination of powerplant design capacity.* For purposes of this subchapter, a powerplant's design capacity shall be determined as follows:

(a) *Steam-electric generating unit.* The design capacity of a steam-electric generating unit shall be the maximum generator nameplate rating, measured in kilowatts, which has been reported to the Energy Information Administration on EIA Form ——— (formerly FPC Form 12).

(b) *Combustion turbine.* The design capacity of a combustion turbine shall be its peak load rating, measured in kilowatts, as defined by both the American National Standards Institute and by the International Standards Organization. This peak load rating is based on units operating for peaking service with a maximum of 2,000 hours per year operation, with an ambient temperature of 59 degrees Fahrenheit (15 degrees Celsius) and a pressure of 14,696 psia (sea level). If capacity ratings as reported to Energy Information Administration on EIA Form ——— (formerly FPC Form 12) are based on different conditions, such reported ratings will be adjusted to ISO standard conditions.

(c) *Combined cycle unit.* The design capacity, measured in kilowatts, of a combined cycle unit shall be the sum of its combustion turbine base load rating, based on American National Standards Institute and International Standards Organization standard conditions, and the maximum generator nameplate rating of the steam turbine portion of the unit. These capacity ratings should be those reported to the Energy Information Administration on EIA Form ——— (formerly FPC Form 12).

(d) *Internal combustion engine.* The design capacity of an internal combustion engine shall be the capacity rating, measured in kilowatts, which has been reported to the Energy Information Administration of EIA Form ——— (formerly FPC Form 12).

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Authority: Department of Energy Organization Act, Pub. L. 95–91, 91 Stat. 565 (42 U.S.C. 7101 et seq.); Powerplant and Industrial Fuel Use Act of 1978, Pub. L. 95–620, 92 Stat. 3289, (42 U.S.C. 8301 et seq.); E.O. 12009, 42 F.R. 4267.

Subpart A—General Provisions

§ 501.1 Purpose and scope.

Part 501 establishes the procedures to be used and identifies the sanctions that are available in proceedings before the Department of Energy under Parts 501–508 of this Chapter. For purposes of this part, the term "representative" means a duly authorized representative, and references to "you" or "your" refer to a petitioner, a duly authorized representative or other third persons unless the context clearly indicates otherwise.

§ 501.2 Prepetition conference.

(a) ERA encourages owners and operators of powerplants and installations who are, or may be subject to the prohibitions set forth in FUA, and who plan to file a petition for an exemption, or exemptions from any applicable prohibitions, to request a prepetition conference with ERA. The purpose of the prepetition conference is to define the scope of the petition which ERA will accept for filing. Typically, we expect the conference to consider the alternate fuels and sites, combustion technologies, energy conservation measures, scheduling of construction and other matters that should be addressed in a particular exemption petition.

(b) An owner or operator of a powerplant or installation who requests a prepetition conference may appear at that conference personally, or he may appoint a representative to appear on his behalf.

(c) A prepetition conference or a request for a prepetition conference does not commence a proceeding before ERA.

(d) Subsequent to the prepetition conference, ERA will, in accordance with § 502.2 of these regulations, inform a potential petitioner as to the requirements for submission of an acceptable exemption petition.

(e) Because a prepetition conference is solely for the exchange of views, there will be no formal reports or findings by ERA unless ERA, in its discretion, determines that it would be advisable. ERA will, however, record for the public file the occurrence of any prepetition conference.

§ 501.3 Filing of petitions.

(a) The owner or operator of a powerplant or installation, or his representative may file petitions for exemptions with ERA. Any administrative proceeding before ERA commences upon the acceptance (as distinguished from the filing) of a petition by ERA.

(b) Where ERA has imposed a time limit for filing any document, that filing shall be considered to have been accomplished at the time the document is received by ERA.

(c) A petition and its supporting documents will be accepted by ERA if it appears to contain the information required by ERA to make subsequent analyses and determinations as to the merits of that petition. ERA will acknowledge receipt of each petition or document and will notify a petitioner in writing within 30 days of receipt of the petition of the exact date on which a petition has been accepted.

(d) If ERA determines that a petition or its supporting documents is incomplete, it will notify the petitioner to that effect within 30 days of ERA's receipt of the petition. ERA may provide a written explanation as to the defects in the petition and provide the petitioner with a opportunity to cure these defects. ERA will retain at least three copies of incomplete petitions and documents for purposes of internal management and will return any other copies of the incomplete petition or document to petitioner. Rejection of a petition as unacceptable will not render an otherwise timely petition untimely for purposes of filing.

(e) Documents to be filed should be sent by certified mail or hand-delivered to the addresses set forth in § 501.11. Documents sent by wire or facsimile should be confirmed in writing by certified mail or hand-delivered.

(f) ERA will consider documents received after regular business hours to have been filed on the next business day. Regular business hours are 8 a.m. to 4:30 p.m., Eastern time.

(g) Acceptance of your petition or supporting documentation by ERA shall not constitute a determination that you are entitled to a particular exemption.

§ 501.4 Computation of time.

(a) *Days.* (1) When ERA computes time in days under these regulations, ERA will not include the day from which a period of time begins to run. ERA will include the last day of the period, unless it is a Saturday, Sunday, or Federal legal holiday, in which case the period runs until the end of the next weekday that is not a Federal legal holiday.

(b) *Additional time after service by mail.* Whenever DOE serves by mail an order, notice, interpretation or other document, specifying a time period for you to perform an act, refrain from performing an act, or commence a proceeding, you may add 3 days to the period prescribed.

§ 501.5 Extension of time.

ERA may provide for an extension of time to file if you can show good cause for the extension.

§ 501.6 Service.

(a) DOE will serve all orders, notices, interpretations or other documents which it is required to serve, personally or by certified mail, unless otherwise provided in these regulations.

(b) ERA will consider service upn a petitioner's representative to be service upon the petitioner.

(c) Service by certified mail is effective upon mailing. ERA will consider official United States postal receipts from certified mailing as *prima facie* evidence of service.

§ 501.7 General filing requirements.

(a) *Purpose and scope.* This section applies to all documents filed with DOE, by petitioner, and any other parties or participants in proceedings under this part.

(b) *Signing.* (1) You or your representative must sign and verify any petition or other documents in accordance with the provisions set forth in these regulations.

(2) If your representative files any petition or other document, he must certify in the document that he is your duly authorized representative.

(c) *Labeling.* You should clearly label any petition or other document that you file with ERA, both on the document and on the outside of the envelope,

according to the nature of the action involved (e.g., "Fuel Use Act: Application for Exemption").

(d) *Obigation to supply information.* In any ERA proceeding, the petitioner and all parties to the hearing are under a continuing obligation to provide ERA or the presiding officer with any new or newly discovered information that they believe to be relevant and material to that proceeding.

(e) *The same or reloted matters.* If you file a petition or other document requesting ERA action, you must state whether, to the best of your knowledge, the same or a related issue, act or transaction has been or presently is being considered or investigated by any DOE office, other Federal agency, department or instrumentality or a State or municipal agency.

(f) *Request for confidential treatment.* (1) If you wish to file a document with ERA claiming that some or all of the information contained in the document is exempt from the mandatory public disclosure requirements of the Freedom of Information Act (5 U.S.C. 552 as amended) or is otherwise exempt by law from public disclosure, and if you wish to request ERA not to disclose such information, you must comply with the Department of Energy's Freedom of Information Regulations set forth in 10 CFR Part 1004 (44 FR 1908, January 8, 1979).

(2) ERA retains the right to make its own determination with regard to any claim of confidentiality. Notice of the decision by ERA to deny such claim, in whole or in part, and an opportunity to respond will be given to the person claiming confidentiality of information no less than 7 days prior to the public disclosure of such information.

(3) This subsection does not apply where information is being submitted on an ERA form which contains its own instructions as to requests for confidential treatment of information provided.

(4) Each request for confidential treatment must be made with respect to each separately identified document, and must be made at the time that document is first submitted to ERA.

§ 501.8 Filing fees.

If you are submitting a petition which requires a filing fee pursuant to subpart B of these rules, a check payable to the order of the United States Treasurer must accompany the petition before it will be accepted for filing.

§ 501.9 Effective date of orders or rules.

When ERA issues a rule or order under the Act, the rule or order will be effective 60 calendar days after publication in the **Federal Register**, unless it is stayed, modified, suspended, or rescinded.

§ 501.10 Order of precedence.

If there is any conflict or inconsistency between the provisions of this part and any other provisions of parts of this chapter, the provisions of this part will control with respect to procedure.

§ 501.11 Address for filing documents.

(a)(1) Send all petitions, forms, written communications, or other documents to the following address:

Economic Regulatory Administration, Case Control Unit (Fuel Use Act), Box 4629, Room 2313, 2000 M Street, NW., Washington, D.C. 20461.

(2) The DOE National Office has facilities for the receipt of transmission via TWX and FAX to its offices at 12th and Pennsylvania Avenue, NW., and 2000 M Street, NW. [The FAX machines are 3M full duplex 4 or 6 minute (automatic).] For purposes of Parts 500, 501, 502, 503, 504, and 505 of this chapter, all your transmissions should be to the machines at 2000 M Street, NW., except those to be sent to the Office of General Counsel which you should transmit to the machines at 12th and Pennsylvania Avenue, NW.

FAX Numbers

(202) 633–8207 (3M) (12th & Penn.).
(202) 2154–9867 (3M) (2000 M St.).

TWX Numbers

(710) 633–8207 (12th & Penn.).
(710) 254–9867 (2000 M St.).

§ 501.12 ERA public information office.

DOE will make available at Room B–110, 2000 M Street, NW., Washington, D.C., for public inspection and copying—

(a) Each rule, order or other administrative determination which is issued as a final agency action on a matter before ERA, with confidential material deleted;

(b) Any written comments received from interested persons in connection with issuance of a rule, order or other determination, modifications or rescissions or stays of rules, orders or determinations, and verbatim transcripts of any oral comments made at public hearings, or at prepetition conferences where a transcript was made, with appropriate confidential information deleted;

(c) Any comments received during each rulemaking proceeding and a verbatim transcript of any public hearings that may have been held in any rulemaking proceeding with appropriate confidential information deleted; and

(d) Any other information required by statute to be made available for public inspection and copying, and any information that ERA determines should be made available to the public.

§ 501.13 Appeal.

There is no administrative appeal of any final administrative action to which this part applies.

§ 501.14 Notice to Environmental Protection Agency and the Federal Trade Commission.

(a) A copy of any proposed rule or order which imposes a prohibition, or a petition for an exemption or permit, shall be transmitted to the Administrator of the Environmental Protection Agency with a request that EPA comment thereon within the comment period provided to the public. The Administrator of EPA shall be given the same opportunity to comment and question as is given to other interested persons.

(b) A copy of any proposed rule or order which imposes a prohibition with respect to an MFBI, or a petition by an MFBI for an exemption or permit, shall be transmitted to the Federal Trade Commission with a request that the Commission comment thereon within the comment period provided to the public. The Federal Trade Commission shall be given the same opportunity to comment and to question as is given to other interested persons.

Subpart B—Filing Fees

§ 501.20 Purpose.

This subpart provides for submission of fees to be charged for services rendered by ERA in the evaluation of certain petitions. The purpose of the fee is to defray part of the administrative costs of reviewing petitions and other applications. You will be charged a fee whether ERA grants or denies your petition. You will be charged a fee once your petition is accepted even if it is withdrawn; however, if your petition is returned by ERA because it is incomplete, the fee will be returned with it.

§ 501.21 Scope.

You must pay a filing fee when you file a petition for:

(a) An exemption, either permanent or temporary;

(b) A permit for which a fee has been set in subsection 23 of this section; or

(c) An extension of a temporary exemption.

§ 501.22 Payment of fees.

(a) *Time of payment.* You must include with the petition the full amount of the fee. ERA will not accept and will return any petition which does not include the total fee amount.

(b) *Method of payment.* You must pay by check, draft or money order, payable to the United States Treasurer.

§ 501.23 Fee schedule.

(a) *Basic fee.* All petitions covered by § 501.21, above, and not excepted under paragraph (c)(4) of this section shall be accompanied by a basic $1,000 filing fee.

(b) *Supplemental fees.* Petitioners seeking a peakload exemption, any temporary exemption, a permit under Section 504.1(d) of these regulations, or an emergency exemption for a powerplant, will be charged only the basic fee. Petitioners seeking an emergency exemption or any temporary exemption for an MFBI will pay only the basic fee. Petitioners for other exemptions must pay the supplemental fee that is set forth in the following table:

(1) *Supplemental fees—MFBI's.* If the design fuel heat input rate is:

	Less than 250 MM Btu's/hr	Equal to 250 to 1,000 MM Btu's/hr	Greater than 1,000 MM Btu's/hr
Petitions for Fuel Mixture and Cogeneration Exemptions will pay a supplemental fee of	$2,000	$4,000	$6,000
Petitions for all other exemptions will pay a supplemental fee of	5,000	9,000	14,000

(2) *Supplemental fees—powerplants.* If the design fuel heat input rate is:

	Less than 250 MM Btu's/hr	Equal to 250 to 1,000 MM Btu's/hr	Greater than 1,000 MM Btu's/hr
Petitions for Fuel mixture and Cogeneration exemptions will pay a supplemental fee of	$4,000	$8,000	$12,000
Permit applicants under section 504.1(c) of the rules will pay a supplemental fee of	4,000	8,000	12,000
Petitions for all other exemptions will pay a supplemental fee of	10,000	20,000	30,000

(c) *Special applications of fee schedule.* (1) *Extension of temporary exemptions.* The fee required to accompany petitions for extension of temporary exemptions shall be equal to 50 percent of that otherwise required under the basic fee schedule.

(2) *Petitions for multiple exemptions for a single unit.* In cases in which more than one type of exemption is sought for a single unit, the fee required shall be the largest fee for any single exemption requested and not the cumulative fee for all exemptions requested for that unit.

(3) *Petitions for exemption for more than one unit at a single site.* In cases in which exemptions are sought for more than one unit at a single site, the fee required shall be the largest fee for any single exemption requested and not the cumulative fee for all exemptions requested for all units at the site.

(4) *Waivers.* (i) You are not required to pay a filing fee when you file—

(A) A petition for a stay;

(B) A petition for an interpretation;

(C) A petition for a solar mix exemption under § 503.38 or § 505.28.

(D) A petition for a special temporary public interest exemption for the use of natural gas by existing powerplants under Part 508 (44 FR 21230, April 9, 1979); or

(E) A petition or request for any other type of administrative action not specifically covered by § 501.21 of this part.

(ii) ERA may upon application by any interested person, or upon its own initiative, waive the requirements of this subpart in whole or in part if ERA determines that the purpose of the Act is best achieved by doing so. The grounds upon which we might consider waiving certain requirements could include:

(A) A determination that the burden of meeting such requirements could be excessive for a small firm or for a new firm;

(B) A determination that the burden of meeting such requirements could be excessive for a petitioner requesting a certain type of exemption; or

(C) Other reasons as determined by ERA.

Subpart C—Written Comments, Public Hearings and Conferences During the Course of Administrative Proceedings

§ 501.30 Purpose and scope.

This subpart establishes the procedures for requests for, and the conduct of public hearings, for submitting written comments, and requests for, and conduct of conferences pursuant to an administrative proceeding before ERA. Hearings shall be convened at the request of any interested person in accordance with section 701(d) of FUA and shall be held at a time and place to be decided by the presiding officer. Conferences held after the commencement of an administrative proceeding before ERA shall be convened at the discretion of ERA or the presiding officer.

§ 501.31 Written comments.

ERA shall provide a period of at least 45 days for submission of written comments concerning a proposed prohibition rule or order or a petition for an exemption or permit. This period shall commence on the day after publication of the notice in the **Federal Register** in accordance with § 501.4(a) of this part. The period may be extended at the discretion of ERA. Written comments shall be filed in accordance with subpart A of this part.

§ 501.32 Conferences (other than prepetition conferences).

(a) At any time following commencement of a proceeding before ERA, an interested person may request a conference with the staff of ERA to discuss a petition, permit or any other issue pending before ERA. Your request for a conference should generally be in writing and should indicate the subjects to be covered.

(b) When ERA convenes a conference in accordance with this section, any person invited may present views as to the issue or issues involved. You may submit documentary evidence at the conference and such evidence will be included in the administrative record. ERA will not normally have a transcript of the conference prepared but may do so at its discretion.

(c) Because a conference is solely for the exchange of views incident to a proceeding, there will be no formal reports or findings by ERA unless ERA in its discretion determines that it would be advisable. ERA will, however, record for the public file the occurrence of any conference.

§ 501.33 Requests for a public hearing.

Within 21 days after the publication of a proposed prohibition rule or order or of a notice of the filing of a petition for an exemption or permit, any interested person may submit a written request that ERA convene a public hearing in accordance with section 701 of FUA. This time limit may be extended at the discretion of ERA. Your request for a public hearing must include a description of your interest in the issue or issues involved, and an outline of the anticipated content of your presentation. Your request should, to the extent that you can, identify any witnesses that you contemplate presenting at the hearing and include, if possible, a summary of their anticipated testimony and of the purpose for that testimony.

§ 501.34 Public hearing.

(a) A public hearing under this subsection is not an adjudicatory hearing, and the provisions of Sections 554 and 556 of the Administrative Procedure Act (5 U.S.C. 554, 556) do not apply.

(b) *Opportunity to be heard at a public hearing.* (1) If you are an interested person, you may request, and ERA will provide an opportunity for you to present oral or written data, views and arguments at a public hearing on any proposed prohibition rule or order, or on any petition for an exemption or permit. An interested person may file a request to be listed as a party to a proceeding on the service list prepared by the presiding officer pursuant to § 501.34(d) of this part. A request for a hearing or to participate in a hearing, or to be included on the service list, must be in writing and signed by you. It must include a description of your interest in the issue or issues involved and an outline of the anticipated content of your presentation.

(2) Participants at the public hearing will have the opportunity to present oral or written data, views and arguments.

(3) A person who has requested a public hearing may withdraw his request at any time. If other persons have requested to participate as parties in the public hearing by requesting that they be included in the presiding officer's service list, ERA may cancel the hearing only if these parties agree to cancellation. ERA will give notice, whenever possible, in the **Federal Register** of the cancellation of any hearings for which prior notice had been made.

(c) *Presiding officer.* ERA will appoint a presiding officer to conduct the public hearing.

(d) *Powers of the presiding officer.* The presiding officer is responsible for orderly conduct of the hearing, and for certification of the record of the public hearing. The presiding officer will not prepare any recommended findings, conclusions, or any other recommendations for disposition of a particular case. The presiding officer may:

(1) Administer oaths and affirmations;

(2) Issue administrative subpoenas and rule on motions to modify or withdraw subpoenas which he has issued;

(3) Rule on questions as to relevance and materiality of evidence;

(4) Regulate the course of the public hearing;

(5) Hold conferences for the simplification of issues by consent of the parties;

(6) Require submission of evidence in writing where appropriate;

(7) Establish service lists;

(8) Dispose of procedural requests and similar matters; and

(9) Take other actions authorized by these rules.

The presiding officer may also limit the number of witnesses to be used by any party and may impose reasonable time limits for testimony. The presiding officer shall establish and maintain a service list which contains the names and addresses of all parties to the ERA proceeding. At the time the presiding officer certifies the record, he will provide the staff of ERA with an index of the issues addressed in the record.

(e) *Notice.* ERA will convene a public hearing only after publishing a notice in the **Federal Register** which states the time, place and nature of the public hearing.

(f) *Opportunity to question at the public hearing.* At the public hearing ERA will provide, with respect to disputed issues of material fact, any interested person with an opportunity to question—

(1) Other interested persons who make oral presentations;

(2) Employees and contractors of the United States who have made written or oral presentations or who have participated in the development of the proposed rule or order or in the consideration of the petition for an exemption or permit; and

(3) Experts and consultants who have provided information to any person who makes an oral presentation and which is contained in or referred to in such presentation.

(g) ERA encourages persons who wish to question Government witnesses to submit their questions at least 10 days in advance of the hearing. While ERA does not limit the right of interested persons to question Government witnesses during the hearing, ERA believes that prior submission will promote more fully responsive answers and facilitate production of a complete administrative record for that proceeding.

(h) The presiding officer will allow questions by any interested person to be asked of those making presentations or submitting information, data, analyses or views at the hearing. The presiding officer may also restrict questioning if he determines that such questioning is duplicative or is not likely to result in a timely and effective resolution of issues pending in the administrative proceeding for which the hearing is being conducted.

(i) The presiding officer or ERA may deny, temporarily or permanently, your privilege of participating in a particular ERA proceeding if ERA finds that, with respect to that proceeding:

(1) You have knowingly made false or misleading statements, either orally or in writing;

(2) You have knowingly filed false affidavits or other writings;

(3) You lack the specific authority to represent the person seeking an ERA action; or

(4) You have disrupted or are disrupting a proceeding.

(j) *Evidence.* (1) The presiding officer is responsible for orderly submission of information, data, materials, views or other evidence into the record of the public hearing. The presiding officer may exclude any evidence that is irrelevant, immaterial or unduly repetitious. Judicial rules of evidence do not apply.

(2) Documentary material must be of a size consistent with ease of handling, transportation and filing, and a reasonable number of copies should be made available at the public hearing for the use of interested persons. Fifteen copies shall be furnished to the presiding officer and one copy to each party listed on the service list. Large exhibits that are used during the hearing must be provided in a reduced size if they are to be submitted into the hearing record.

(k) *Transcript.* ERA will have a verbatim transcript made of the public hearing. The hearing record shall remain open for 14 days following the public hearing, during which time the interested persons may submit

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additional written statements. ERA may extend the period during which the record remains open. The transcript, together with any written comments submitted in the course of the proceeding, will be made available for public inspection and copying at the ERA Public Information Office, as provided in § 501.12.

(l) *ERA's record and decision.* ERA's administrative record will consist of all relevant evidence presented at the public hearing, the written comments, and any other relevant information in the possession of ERA and made part of the record. ERA will base its determination to issue a rule or order on consideration of the whole record or those parts thereof cited by a party and supported by and in accordance with reliable, probative and substantial evidence.

§ 501.35 Public file.

(a) *Contents.* The public file shall consist of the rule, order, or petition, with supporting data and supplemental information, and all data and information submitted by interested persons. Material deemed by ERA to be exempt from public disclosure under the Freedom of Information Act shall be excised from the public file.

(b) *Availability.* The public file shall be available for inspection at Room B–110, 2000 M Street, NW., Washington, D.C. Photocopies may be made available, on request. The charge for such copies shall be made in accordance with a written schedule.

Subpart D—Subpoenas, Special Report Orders, Oaths, and Witnesses

§ 501.40 Issuance.

The Administrator, his duly authorized agent or a presiding officer, in accordance with the provisions of 10 CFR 205.8 and 10 CFR 205.201, and as otherwise authorized by section 711 of FUA and section 645 of the DOEA, may sign, issue and serve subpoenas and issue special report orders; administer oaths and affirmations; take sworn testimony; compel attendance of and sequester witnesses; control dissemination of any record of testimony taken pursuant to this section; subpoena and reproduce books, papers, correspondence, memoranda, contracts, agreements, or other relevant records of tangible evidence including, but not limited to, information retained in computerized or other automated systems in possession of the subpoenaed person.

§ 501.41 Petition to withdraw or modify.

(a) A person to whom a subpoena is directed may apply, prior to the time specified for compliance in the subpoena, for withdrawal or modification of the subpoena in accordance with 10 CFR 205.8, except that if the subpoena is issued by a duly appointed presiding officer, the request to withdraw or modify must be addressed to that presiding officer and its grant or denial will be decided by him.

Subpart E—Prohibition Rules and Orders

§ 501.50 [Reserved]

§ 501.51 Prohibitions by order—existing powerplants. [Reserved]

§ 501.52 Prohibitions by order—existing installations. [Reserved]

§ 501.53 Prohibition by rule—existing powerplants. [Reserved]

§ 501.54 Prohibitions by rule—existing installations. [Reserved]

§ 501.55 [Reserved]§ 501.56 Prohibition by rule or order—new MFBI nonboilers.

(a) *Prohibition by rule.* (1) Pursuant to section 202 of FUA, ERA may prohibit by rule the use of petroleum or natural gas as a primary energy source by new MFBI's that are gas turbine units, combined cycle units or internal combustion engines.

(2) In such a rulemaking, ERA will consider any special circumstances or characteristics of the category of nonboilers that would be prohibited from using natural gas or petroleum as a primary energy source. ERA will specifically (but not exclusively) consider such factors as the overall technical feasibility of category members to burn an alternate fuel as a primary energy source, as well as the size of category members and their location. ERA will consider any other circumstances, characteristics, and factors brought to its attention which ERA determines to be relevant and appropriate to the rulemaking.

(3) The application of any final rule in the case of any new major fuel-burning installation subject to such rule shall be stayed pending resolution (including judicial review) of any petition for an exemption for such installation which is filed with ERA not later than 60 days after such final rule is published under section 702(a) of FUA.

(4) No final rule can be applied to your installation if—

(i) It has received a final order containing a comparable prohibition; or

(ii) It was proposed to receive an order but did not do so due to your demonstration that the installation could qualify for an exemption under the Act.

(iii) A stay pursuant to 202(a) is, by law, in effect pending resolution of any petition for an exemption that has been filed within 60 days after publication of that rule pursuant to section 702(a) of FUA.

(iv) Has petitioned for and been granted an exemption.

(b) *Prohibition by order.* (1) ERA may prohibit by order the use of petroleum or natural gas as a primary energy source in a new major fuel-burning installation consisting of a gas turbine, a combined cycle unit or an internal combustion engine, if that installation has not been identified as a member of a category subject to a final prohibition rule at the time of the issuance of the proposed order.

(2) ERA may not issue a final order to your installation under this subsection if you can demonstrate that you would have been granted an exemption for your installation if the prohibition had been established by rule. If your installation would have been granted a temporary exemption, however, ERA may issue you a final order which will take effect at such time as the temporary exemption would have terminated.

(3) In any case in which an order is not issued by reason of paragraph (b)(2) of this section, or in which the effective date of such order is delayed under such paragraph, ERA shall take such steps as may be necessary to assure the installation involved complies with the same requirements (including provisions of 214(a) of FUA) as would have been applicable if an exemption had been granted based upon grounds for which the order is not issued or the effective date would be delayed.

(c) *Exceptions.* If acquisition or construction began for a nonboiler prior to the date of publication of the proposed rule or proposed order, your nonboiler shall be considered an "existing" nonboiler for purposes of treatment under the Existing Major Fuel-Burning Installations Section (Title III, Subtitle A) of the Act.

(d) *Notice of rules and orders, and public participation.* (1) Pursuant to section 701 of FUA, prior to the issuance of a final rule or order to a new nonboiler, ERA shall publish a proposed rule or order in the **Federal Register**, together with a statement of the reasons for the rule or order. In the case of a proposed rule, ERA will, in identifying categories of new MFBI's, explain and account for any special circumstances or characteristics of each category,

including the technical feasibility of burning coal and/or other alternate fuels and the size or geographic location of installations in the category described by the proposed rule.

(2) An owner or operator of an installation that may be subject to an order, may demonstrate that the installation would qualify for an exemption.

(3) ERA shall provide other interested persons with an opportunity to present oral data, views and arguments at a public hearing held in accordance with subpart C of these regulations.

(e) *Record and decision to issue a final rule or order.* (1) ERA's record will consist of all relevant evidence presented at the public hearing, the written comments, and any other relevant information in the possession of ERA and made a part of the record of the proceeding. ERA will base its determination to issue a rule or order on consideration of the whole record or those parts thereof cited by a party and supported by and in accordance with reliable, probative and substantial evidence.

(2) ERA shall include in the final rule or order a written statement of the pertinent facts, a statement of the legal basis upon which the final rule is issued, a recitation of the conclusions regarding the required findings, and a summary of the rationale for each finding. The final rule or order shall state the effective date(s) of the prohibition(s) contained therein.

(3) ERA may enclose with a copy of the final rule or order a schedule of steps that should be taken by a stated date (a compliance schedule) to ensure that the affected installation(s) will be able to comply with the prohibitions stated in the rule or order by the effective date. The compliance schedule may require the affected person to take steps with regard to a unit 60 days after service of the final rule or order.

Subpart F—Exemptions

§ 501.60 Purpose and scope.

(a) Title II of FUA prohibits use of natural gas or petroleum in new powerplants and MFBI's unless an exemption pursuant to Subtitle B of Title II is granted. Title II also prohibits the construction of new powerplants without the capability to use coal or any other alternate fuel as a primary energy source unless an exemption is granted.

(1) If you plan to construct a new powerplant, or you own, operate or control a new MFBI consisting of a boiler, or you own, operate or control a new powerplant, this subpart establishes the procedures for filing a petition requesting a temporary or permanent exemption under, respectively, sections 211 and 212 of FUA.

(2) If you own, operate or control a new MFBI other than a boiler, this subpart establishes the procedures for filing a petition requesting a temporary or permanent exemption under, respectively, sections 211 and 212 of FUA.

(3) If you own, operate or control an existing powerplant or MFBI, this subpart provides you with the procedures for filing a petition for temporary or permanent exemption under, respectively, Sections 311 and 312 of FUA.

(4) If you own, operate or control a new powerplant or MFBI, this subpart provides you with the procedures for filing a petition requesting extension of a temporary exemption granted under section 211 of FUA for—

(i) Lack of alternate fuel supply, site limitations or environmental requirements;

(ii) Future use of synthetic fuels;

(iii) Public interest; or

(iv) Use of petroleum by certain installations.

(5) If you own, operate or control an existing powerplant or installation, this subpart provides you with the procedures for filing a petition for extension of a temporary exemption granted under section 311 of FUA for—

(i) Lack of alternate fuel supply, site limitations or environmental requirements;

(ii) Future use of synthetic fuels;

(iii) Use of innovative technologies;

(iv) Units to be retired;

(v) Public interest;

(vi) Peakload powerplants; or

(vii) Powerplants where necessary to maintain reliability of service.

(b) If you are a petitioner for an extension of a temporary exemption, you must apply for this extension at least 90 days prior to the expiration of your temporary exemption.

§ 501.61 Labeling of petition.

(a) If you are filing for a temporary exemption for a new or existing powerplant or installation under this subpart, you must file a written "Petition for Temporary Exemption" which should be clearly labeled as such, both on the petition and on the outside of the envelope in which the petition is transmitted, and signed by the person filing the petition.

(b) If you are filing for a permanent exemption for a new or existing powerplant or installation under this subpart, you must file a written "Petition for Permanent Exemption" which should be clearly labeled as such, both on the petition and on the outside of the envelope in which the petition is transmitted, and signed by the person filing the petition.

(c) If you are filing for extension of a temporary exemption for a new or existing powerplant or installation under this subpart, you must file a written "Petition for Extension (or Renewal) of Temporary Exemption" which should be clearly labeled as such, both on the petition and on the outside of the envelope in which the petition is transmitted, and signed by the person filing the petition.

§ 501.62 What to file.

If you are filing a petition under this subpart, you must send to ERA 15 copies of your petition meeting the requirements of this subpart and of Parts 502, 503, 504, 505, or 506 of this Title including:

(a) A transmittal letter;

(b) Any fees required under Subpart B of this part, unless the fees have been waived;

(c) A Fuels Decision Report if required and in accordance with Part 502 of these regulations; and

(d) Any appropriate forms that may be required by subsequent regulations.

§ 501.63 Where to file.

You must file any petition for exemption or extension of exemption under this subpart with the DOE National Office at the address provided in § 501.11.

§ 501.64 Notice of the commencement of an administrative proceeding on an exemption proceeding.

(a) Upon acceptance of a petition for an exemption, ERA shall publish notice in the **Federal Register** that an administrative proceeding has commenced. The notice will announce the commencement of the proceeding, provide a summary of the exemption petition and provide a period of no less than 45 days for interested persons to file written comments on the exemption petition.

(b) Upon acceptance of a petition, ERA shall notify the appropriate State agencies having primary authority to permit or regulate the construction or operation of a powerplant or, where appropriate, an MFBI which is the subject of the petition. To the maximum extent practicable, ERA shall consult with such agencies.

(c) ERA will transmit a copy of your petition to the Administrator of the

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petition for modification or rescission of

with respect to applicability of a

(2) You must comply with all final

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Environmental Protection Agency, and in the case of installations, the Federal Trade Commission.

§ 501.65 Publication of tentative staff determination.

Where a hearing has been requested and prior to that hearing, after any necessary analyses, investigations and corroboration of the facts and conclusions set forth in an exemption petition, ERA will publish in the **Federal Register** a notice of the availability of the technical staff's Tentative Staff Determinations on a particular exemption petition. ERA may also publish notices of the availability of tentative staff determinations where no hearing has been requested and will, in such instances, provide a period of at least 14 days for interested persons to make comments.

§ 501.66 ERA evaluation of the record, decision and order.

(a) The record will consist of the petition and related documents, all relevant evidence presented at the public hearings, all written comments, and any other relevant information in the possession of ERA and made a part of the public record.

(b) ERA may investigate and corroborate any statement in a petition, any other document and any public comments submitted to it. ERA may use any relevant facts in its possession in its evaluation. ERA may request submissions from third persons relevant to your petition or other document. ERA may also request additional information, data or analyses following the hearing if this information is necessary to resolve disputed issues in the record. Any information used by ERA following the hearing shall be made available to the public, unless determined under § 501.7(f) to be confidential.

§ 501.67 Petition redesignations.

ERA intends to be flexible enough to grant a permanent or temporary exemption if a person qualifies, even though that person may not qualify for the exemption he requested or for the full time period of the requested exemption. ERA does not believe a person should be made to reapply for the alternate exemption for which he appears to qualify and will redesignate his petition if he approves of that redesignation. ERA shall give public notice of any redesignation of a petition at least 3 weeks prior to the public hearing.

§ 501.68 Decision and order.

(a)(1) ERA will issue an order either granting or denying your petition for an exemption within 6 months after the end of the period for public comment and hearing applicable to your petition.

(2) ERA may, on its initiative, extend the period for public comment to a date certain by publishing notice in the **Federal Register**, including a statement of the reasons for the extension.

(b)(1) ERA will serve a copy of the order granting or denying a petition for exemption upon you, and upon all persons on the service list maintained by the presiding officer.

(2) ERA will publish a summary of any order granting or denying your petition under this subpart in the **Federal Register** together with a statement of the reasons for the grant or denial.

(c) ERA will base any order granting or denying a petition for exemption upon consideration of the whole record or those parts thereof cited by a party and supported by and in accordance with reliable, probative and substantial evidence.

(d)(1) ERA shall include in any order granting a petition for exemption, except for an order granting an exemption under section 401 of FUA, such terms and conditions as ERA determines appropriate, including terms and conditions requiring the use of effective fuel conservation measures which are practicable and consistent with the purposes of FUA.

(2) ERA will design any terms and conditions included in any temporary exemption issued or extended under sections 211 and 311 of FUA, to ensure among other things that upon expiration of the exemption, the persons and powerplant or installation covered by the exemption will comply with the applicable prohibitions under FUA.

§ 501.69 Judicial review.

If you believe you are aggrieved by any order issued by ERA under this subpart, within 60 days of publication of the final order in the **Federal Register**, you may file a petition for judicial review with the United States Court of Appeals for the Circuit wherein you reside, or have your principal place of business. Exhaustion of administrative remedies for purposes of judicial review does not require you to file a petition pursuant to subpart G for modification or rescission of the order you wish to have reviewed.

Subpart G—Requests for Modification or Rescission of an Order or Rule

§ 501.100 Purpose and scope.

Anyone may request that ERA commence rulemaking proceedings pursuant to 5 U.S.C. 553(e); however, this subpart provides the procedures whereby—

(a) An interested person may request modification or rescission of a prohibition by rule for a new facility;

(b) An owner or operator subject to a specific prohibition imposed by order may request modification or rescission of that order; or

(c) An owner or operator of an existing facility named in a prohibition rule may request modification or rescission of that rule.

§ 501.101 Proceedings to modify or rescind a prohibition by rule or order.

(a) In response to a request duly filed by an interested person, ERA may commence a proceeding to modify or rescind that rule or order. If ERA determines that a request to modify or rescind a rule does not warrant commencement of a proceeding, it will issue the petitioner a brief statement why it does not intend to institute the requested proceedings.

(b) A request for modification or rescission of a prohibition rule or prohibition order must comply with the requirements of § 501.7 and must be filed at the address set forth in § 501.11.

(c) Notice of the request for modification or rescission of a prohibition order must be given by the petitioner to each party to the original proceeding that resulted in the issuance of the original prohibition order for which modification or rescission is sought. If the number of parties to the original proceeding is too large to allow actual notice at a reasonable cost or within a reasonable time, a petitioner may request that ERA give notice to the parties by publication in the **Federal Register**; however, this alternate notice does not bind ERA to commence a proceeding if it subsequently determines that the request is not warranted.

(d) If ERA determines to grant a request to commence a proceeding to rescind or modify a prohibition rule or prohibition order, or ERA on its initiative commences a proceeding for the modification or rescission of an order, it will give notice, either by service of a written notice or by oral communication (which communication must be promptly confirmed in writing) to each person who was served the order that ERA proposes to modify or rescind, or, alternatively, by publication of notice in the **Federal Register**. ERA will give a reasonable period of time for each person notified to file a written response.

(e)(1) A copy of any written comments submitted to ERA with respect to a petition for modification or rescission of a prohibition rule or prohibition order filed under this subpart must also be sent to the petitioner and you must certify to ERA that you have complied with the requirements of this paragraph.

(2) ERA may notify other persons participating in the proceeding of the comments and provide an opportunity for the persons to respond.

(f) A petition requesting modification or rescission of a prohibition rule or prohibition order must contain a complete statement of all facts that you believe warrant that ERA undertake the action you seek. The petition must also include the names and addresses of all reasonably ascertainable persons who will be affected. Pertinent provisions contained in any documents believed to support a request may be briefly described, however, ERA reserves the right to request and receive copies of any significant documents that will assist in making any determination on the merits of a request. The petition must identify the specific prohibition order or prohibition rule for which modification or rescission is sought. A petition should also state any requests for an informal conference that the petitioner believes will facilitate ERA's determination to commence, or not to commence a proceeding on the petition, or will assist ERA in making any determinations on material issues raised by the petition.

§ 501.102 ERA evaluation of the record, decision and order for modification or rescission of a prohibition order or prohibition rule.

(a) The record will consist of the petition and related documents, evidence presented at any public proceedings, all written comments and any other relevant information in the possession of ERA and made part of the record of the administrative proceedings on the petition. ERA may investigate and corroborate any statement in your petition or related documents and may utilize in its evaluation any relevant facts obtained by its investigations. ERA may solicit or accept submissions from third persons relevant to any petition under this subpart and a petitioner will be afforded an opportunity to respond to these submissions. ERA may on its own initiative convene a conference, if, in its discretion, it considers that a conference will advance its evaluation of the petition.

(b) *Criteria.* ERA's decision to rescind or modify a prohibition order or prohibition rule will be based on a determination that there are significantly changed circumstances with respect to applicability of a particular prohibition to the petitioner. ERA believes that there may be "significantly changed circumstances" if—

(1) Significant material facts that were not known and could not have been known to the petitioner or to ERA at the time of the original proceeding are subsequently discovered;

(2) A law, regulation, interpretation, ruling, order or decision on appeal that was in effect at the time of the proceeding upon which the petition or order is based and which, if it had been made known to ERA would have been relevant to the proceeding and would have substantially altered the outcome is subsequently discovered;

(3) There has been a substantial change in the facts or circumstances upon which an outstanding and continuing prohibition order was based, which change occurred during the interval between issuance of the order and the date of filing of the petition under this subpart, and was caused by forces or circumstances beyond your control.

§ 501.103 Decision and order.

(a) ERA shall issue an appropriate order after considering your petition for modification or rescission of a prohibition order or prohibition rule and other relevant information received during the proceeding.

(b) ERA will either modify or rescind the prohibition order or rule or deny your petition for modification or rescission and will briefly state the pertinent facts and legal basis of the order.

(c) ERA will serve the order upon you, the petitioner, or, if the action was initiated by ERA, upon the owner or operator of the affected powerplant or installation. ERA will publish in the **Federal Register** a notice of issuance of an order modifying or rescinding a prohibition order or rule.

Subpart H—Requests for Stay

§ 501.120 Purpose and scope.

(1) This subpart provides you with the procedures for the request for and granting of a stay by ERA. This subpart does not apply to the mandatory stays provided for in Sections 202(b) and 301(a) of FUA. Your application for stay under this subpart will only be considered incident to a proceeding on a request for modification or rescission of a prohibition order or prohibition rule, or pending filing for judicial review of any order issued under the Act.

(2) You must comply with all final ERA orders, regulations, rulings, and generally applicable requirements unless a petition for a stay is granted.

§ 501.121 Filing and notice of petitions for stays.

(a)(1) The petition must be in writing and comply with the general filing requirements stated in § 501.7, in addition to any other requirements set forth in this subpart.

(2) A claim for confidential treatment of any information contained in the petition for stay or supporting documents must be in accordance with § 501.7(f), and you are to file your petition for stay at the address provided in § 501.11.

(b) ERA will publish notice in the **Federal Register** of receipt of an application for stay under this subpart.

§ 501.122 Contents.

(a) A petition for stay shall contain a full and complete statement of all facts you believe to be pertinent to the act or transaction for which a stay is sought. The facts shall include, but need not be limited to the criteria listed below in § 501.125(b).

(b) You may request a conference regarding the application. If your request is not made at the time the application is filed, you must make it as soon thereafter as possible. Your request and DOE's determination regarding it will be made in accordance with Subpart C of this Part.

§ 501.123 Evaluation of the record.

(a) The record in a proceeding on a petition for stay shall consist of the petition and any related documents, evidence submitted at any public proceedings and any other information in the possession of ERA and made part of the record. DOE may investigate and corroborate any statement in your petition or any other document submitted to it and may utilize in its evaluation any relevant facts obtained by its investigations. DOE may solicit or accept submissions from third persons relevant to the petition for stay or other document and a petitioner will be afforded an opportunity to respond to these submissions. DOE on its initiative may convene a conference, if, in its discretion, it considers that the conference will advance its evaluation of the petition. DOE will process petitions for stay as expeditiously as possible.

(b) *Criteria.* (1) DOE may grant a stay incident to a proceeding on a petition for modification of a prohibition order or prohibition rule if—

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(i) Irreparable injury will result in the

the OGC action you seek. The facts must

and published rulings of DOE as applied

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(i) Irreparable injury will result in the event that the stay is denied; or

(ii) You have alleged serious questions and have alleged you would suffer hardship if the stay is denied; and

(iii) It would be desirable for reasons of public policy to grant the stay.

(2) DOE may grant a stay pending judicial review if—

(i) Irreparable injury will result in the event that the stay is denied;

(ii) You have raised serious questions and have alleged you would suffer hardship if the stay is denied; and

(iii) It would be desirable for reasons of public policy to grant the stay.

§ 501.124 Decision and order.

(a) DOE will issue an order granting or denying the petition for stay upon consideration of the request and other relevant information received or obtained during the proceeding.

(b) DOE will include in the order a brief written statement setting forth the relevant facts and the basis of the decision, including any appropriate terms and conditions of the stay.

Subpart I—Requests for Interpretation

§ 501.130 Purpose and scope.

This subpart establishes procedures for filing a formal request for an interpretation and the procedures the Office of General Counsel of DOE (OGC) will use to consider your request. Any response, whether oral or written, to a general inquiry or to other than a formal written request for interpretation filed with OGC is not an interpretation and merely provides general information which may not be relied upon in any proceeding to determine compliance with applicable requirements of FUA.

§ 501.131 Filing a request for interpretation.

A proceeding to request an interpretation is commenced by filing a "Request for Interpretation (FUA)." The request must be in writing and must also comply with the general filing requirements stated in § 501.7. Any claims for confidential treatment for any information contained in the request or other related documents must be made pursuant to § 501.7(f). A request for interpretation should be filed with the Office of General Counsel at the address provided in § 501.11.

§ 501.132 Contents of a request for interpretation.

(a) A request for an interpretation must contain a complete statement of all facts you believe to be relevant to the circumstances, acts or transactions that are the subject of your request and to the OGC action you seek. The facts must include the names and addresses of all affected persons (if reasonably ascertainable) and a full discussion of the pertinent provisions and relevant facts contained in any documents submitted with the request. Copies of relevant contracts, agreements, leases, instruments, and other documents relating to your request must be submitted if OGC believes they are necessary for determination of any issue pending in the proceeding under this subpart. When your request pertains to only one step in a larger integrated transaction, you must also submit the facts, circumstances, and other relevant information pertaining to the entire transaction.

(b) You must include in your request a discussion of all relevant legal authorities, rulings, regulations, interpretations and decisions on appeal relied upon to support the particular interpretation you seek.

§ 501.133 DOE evaluation.

(a) The record shall consist of your request for an interpretation and any supporting documents, all relevant evidence presented at any public proceedings, written comments and any information in the possession of OGC or ERA that has been made part of the record.

(1) DOE may investigate and corroborate any statement in a request or related documents and may utilize in its evaluation any relevant facts obtained by the investigation. DOE may solicit or accept submissions from third persons relevant to your request for interpretation or any other document submitted under this subpart and the person requesting an interpretation will be afforded an opportunity to respond to these submissions.

(2) DOE will issue its interpretation on the basis of the information provided in your request, unless that information is supplemented by other information brought to the attention of the General Counsel during the proceeding. DOE's interpretation will, therefore, depend for its authority on the accuracy of your factual statements and you may rely upon it only to the extent that the facts of the actual situation correspond to those upon which the interpretation was based.

(3) DOE may refuse to issue an interpretation, if DOE determines that there is insufficient information upon which to base a decision.

(b) *Criteria.* (1) DOE will base its interpretations as applicable, on the DEOA, and FUA, and the regulations and published rulings of DOE as applied to the specific actual situation.

(2) DOE will take into consideration previously issued interpretations dealing with the same or a related issue.

§ 501.134 Issuance and effect of interpretations.

(a) DOE may issue an interpretation after consideration of the request for interpretation and other relevant information received or obtained during the proceeding.

(b) The interpretation will contain a written statement of the information upon which it is based and a legal analysis of and conclusions regarding the application of rulings, regulations and other precedent to the situation presented in the request.

(c) Only those persons to whom an interpretation is specifically addressed and other persons upon whom the ERA serves the interpretation and who are directly involved in the same transaction or act may rely upon it. No person entitled to rely upon an interpretation shall be subject to civil or criminal penalties stated in Title VII of FUA for any act taken in reliance upon the interpretation, notwithstanding that the interpretation shall thereafter be declared by judicial or other competent authority to be invalid.

(d) DOE may at any time rescind or modify an interpretation on its own initiative. Rescission or modification shall be made by notifying persons entitled to rely on the interpretation that it is rescinded or modified. This notification will include a statement of the reasons for the rescission or modification and, in the case of a modification, a restatement of the interpretation as modified.

(e) An interpretation is modified by a subsequent amendment to the regulations or ruling to the extent that it is inconsistent with the amended regulation or ruling.

(f) Any person who believes he is directly affected by an interpretation issued by OGC, and who believes that he will be aggrieved by its implementation, may submit a request for reconsideration of that interpretation. OGC will acknowledge receipt of all requests for reconsideration, however, this acknowledgement in no way binds OGC to commence any proceedings on the request. If within 60 days of OGC's acknowledgement of the receipt of a request for reconsideration, OGC has not issued either notice of intent to commence a proceeding to reconsider the interpretation, or issued a modification, revision or recission of the original interpretation, the request for reconsideration is denied. DOE may, in its discretion, issue a formal denial of a request for reconsideration if—

(1) The request has not been filed in a timely manner, and good cause therefor has not been shown; or

(2) The person requesting reconsideration is not aggrieved or otherwise injured substantially by the interpretation; or

(3) It is defective for failure to state and to present facts and legal argument that the interpretation was erroneous in fact or in law, or that it was arbitrary or capricious.

Subpart J—Rulings

§ 501.140 Purpose and scope.

The General Counsel of DOE (OGC) may issue rulings in accordance with the provisions of this subpart. General Counsel will publish each ruling in the **Federal Register**. You are entitled to rely upon a ruling to the extent provided in this subpart.

§ 501.141 Criteria for issuance.

(a) The General Counsel may issue a ruling whenever—

(1) There has been a substantial number of inquiries with regard to similar factual situations or a particular section of the regulations; or

(2) He determines that it will be of assistance to the public in applying the regulations to a specific situation.

§ 501.142 Modification or rescission.

(a) A ruling may be modified or rescinded by—

(1) Publication of the modification or rescission by OGC in the **Federal Register**; or

(2) If ERA adopts a rule that supersedes or modifies a prior ruling.

(b) A person shall not be subject to the sanctions or penalties stated in these regulations for actions taken in reliance upon a ruling, notwithstanding that the ruling is subsequently declared to be invalid or no longer applicable. You may not rely upon a ruling after it has been rendered invalid pursuant to issuance of a superseding rule by ERA or after it is rescinded or modified by OGC.

§ 501.143 Comments.

You may file a written comment on or objection to a published ruling at any time with the General Counsel at the address provided in §501.11.

Subpart K—Enforcement

§ 501.160 Purpose and scope.

This subpart provides the procedures by which ERA may initiate enforcement proceedings on its own behalf and the procedures by which complaints may be filed.

§ 501.161 Filing a complaint.

(a) A complaint under this subpart must be submitted in writing over the signature of the person making the complaint in accordance with the general filing requirements stated in § 501.7. ERA will accept oral complaints that otherwise satisfy the requirements of this subpart, but ERA may request written verification.

(b) A complaint shall be filed at the address provided in § 501.11.

§ 501.162 Contents of a complaint.

A complaint must contain a complete statement of all relevant facts pertaining to the act or transaction that is the subject of the complaint. It must also include the names and addresses of all persons involved (if reasonably ascertainable), a description of the events that led to the complaint, and a statement describing the regulation, ruling, order, rule, or interpretation that allegedly has been violated.

§ 501.163 ERA evaluation.

(a) The record shall consist of the complaint and any supporting documents and all other relevant information developed in the course of any investigations or proceedings related to that complaint. ERA may investigate and corroborate any statement in your complaint or related documents submitted, and may utilize in its evaluation any relevant facts obtained by such investigation or from any other source of information. ERA may solicit or accept submissions from third persons relevant to your complaint or other related documents.

(b) *Confidentiality of information.* ERA will treat as confidential information received in any investigation of a complaint, including the identity of the complainant and the identity of any other persons who provide information, to the extent such information is exempt from public disclosure under the Freedom of Information Act, 5 U.S.C. 552. ERA reserves the right to make disclosures that would be in the public interest.

§ 501.164 Decision to initiate enforcement proceedings.

After investigation of a specific complaint or based on any other relevant information received or obtained during an investigation, ERA may issue a notice of violation, determine that no violation has occurred, or take such other action as it deems appropriate. Prior to issuance of a notice of violation and before commencement of an enforcement proceeding, ERA may transmit a draft of the notice of violation to the affected person in order to promote an informal resolution of the violation.

§ 501.165 Commencement of enforcement proceedings.

(a) Whenever, on the basis of any information available, ERA determines that a person is in violation or about to be in violation of any provision of these regulations, ERA may issue a notice of violation stating, in writing, with reasonable specificity the nature of the violation. An enforcement proceeding commences with the issuance of a notice of violation.

(b) *Contents of the notice of violation.* ERA will set forth in the notice of violation the nature of the violation, the relevant facts, the legal basis that ERA believes establishes the violation for the conclusions reached therein. ERA may also include with the notice of violation a copy of a proposed order. The notice of violation will also state whether or not ERA proposes to assess civil penalties.

(1) If ERA is proposing to assess a civil penalty, you will be informed in the notice of violation of your opportunity for a hearing before an Administrative Law Judge, as set forth in § 501.166(a)(1) of this part, before any final determination on the violation and penalty are made by ERA. You will also be informed in the notice of your right to elect to have the procedures of Section 501.166(a)(2), below apply in lieu of the hearing with respect to a final determination on the assessment of any civil penalty.

(2) If ERA is not proposing to assess a civil penalty, you will be informed in the notice of violation of your opportunity for a conference as set forth in Section 501.166(b) before a final determination on the violation is made by ERA. ERA may in its discretion, also provide you with an opportunity for a hearing pursuant of § 501.166(a)(1).

(c) *Service.* ERA will serve the notice of violation in accordance with the provisions set forth in § 501.6.

(d) *Rescission.* If, after issuance of a notice of violation and any related investigation, ERA finds no basis for the belief that a violation has occurred, is continuing to occur, or is about to occur, ERA may rescind the notice of violation by giving written notice to that effect to the recipient.

§ 501.166 Hearings and conferences.

(a) Unless you have elected in writing to have the provisions of paragraph (b)

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of this section apply, ERA will commence a proceeding, to assess the penalty and give you an opportunity for a hearing before an Administrative Law Judge pursuant to section 554 of the Administrative Procedure Act (5 U.S.C. 554), before a final determination on the violation and assessment of a penalty is made.

(b) *Election alternative in civil penalty assessment proceedings.* The recipient of a notice of violation in which a civil penalty assessment has been proposed may elect, in writing, within 30 days of receipt of the notice, to waive the administrative proceedings described in paragraph (a) of this section. ERA will make a determination on the proposed civil penalty assessment and issue a final order to that effect within 45 days after receiving notice of the exercise of this election.

§ 501.167 Remedial order.

(a) *General.* ERA will issue a Remedial Order if, after considering all the information received during the proceeding, ERA determines that you have committed, are committing, or are about to commit a violation. A Remedial Order will require the recipient to take such action as ERA determines is necessary to eliminate the violation, to compensate for its effects, and to prevent similar or related violations. A Remedial Order may include revocation of an exemption.

(b) *Contents.* Any Remedial Order issued under this section shall set forth the relevant facts and legal basis of the order and where appropriate, the final penalty assessment and the basis therefore. When you have requested an administrative hearing as provided in § 501.166(a) of this part, the order will include the recommended findings and conclusions of the Administrative Law Judge (ALJ) and the basis for the assessment. ERA will make a final determination as to any penalty assessment or other appropriate remedy based upon the recommended findings and conclusions of the ALJ and other information in the record of the enforcement proceeding. The order will be effective upon service, unless otherwise provided in the order, or stayed pursuant to § 501.120.

(c) *Service.* The ERA will serve a copy of the Remedial Order upon you, any other person who was served a copy of the notice of violation, and all parties to any public proceeding on the notice of violation. ERA will place a copy of each final order, with confidential information deleted on file in the Public Information Office described in § 501.12.

(d) *Judicial review.* Any person against whom a penalty is assessed pursuant to § 501.167(b) may, within 60 calendar days after the date of the order assessing such penalty, institute an action in the United States Court of Appeals for the appropriate judicial circuit for judicial review of such order in accordance with the provisions of section 723 of the Act.

Subpart L—Investigations, Violations, Sanctions and Judicial Actions

§ 501.180 Investigations.

(a) *General.* Pursuant to section 711 of FUA, the DOEA and in accordance with the provisions of 10 CFR 205.201, ERA may initiate and conduct investigations relating to the scope, nature and extent of compliance by any person with the rules, regulations, and orders issued by ERA under the authority of the Act, or any order or decree of court relating thereto, or any other agency action. When the circumstances warrant, ERA may issue subpoenas as provided in Subpart D of this part. ERA may also conduct investigative conferences in conjunction with any investigation.

(b) Any duly designated and authorized representative of ERA has the authority to conduct an investigation and to take such action as he deems necessary and appropriate to the conduct of the investigation.

(c) *Notification.* If any person is required to furnish information or documentary evidence pursuant to a subpoena or special report order, ERA will upon written request inform that person as to the general purpose of the investigation.

(d) *Confidentiality.* ERA shall not disclose any information received during an investigation under this section, including the identity of the person investigated and any other person who provides information, to the extent it is exempt from public disclosure pursuant to 5 U.S.C. 522 and 10 CFR 1004.

§ 501.181 Sanctions.

(a) *General.* (1) A violation of any provision of the regulations issued under the authority of the Act, or any order, rule, exemption or permit issued pursuant thereto will be subject to the penalties and sanctions as provided in Subtitle C of Title VII of FUA.

(2) Each day that any provision of the regulations issued under the authority of the Act or any order, rule, exemption, or permit issued pursuant thereto is violated constitutes a separate violation within the meaning of the provisions of this section relating to civil penalties.

(b) *Criminal fines.* (1) If any person violates this subsection, he will be subject to a fine of not more than $50,000 or imprisonment of not more than 1 year, or both, for each violation.

(2) The ERA may at any time refer a willful violation to the Department of Justice for criminal prosecution.

(c) *Civil penalties.* (1) A violation under this subsection will be subject to the following civil penalties which may be assessed by the ERA:

(i) Any person who operates a powerplant which exceeds the use of natural gas or petroleum allowed by an exemption granted by ERA, will be assessed a civil penalty of up to $3 per MCF of natural gas or $10 per barrel of oil that is used in excess of that allowed by the exemption.

(ii) The civil penalty for violation of any other provision may be up to $25,000 for each violation.

(2) Either the General Counsel of DOE in consultation with the Department of Justice or, where appropriate, the Department of Justice, upon referral by ERA, will prosecute civil penalties.

(3) ERA may compromise and settle, and collect civil penalties whenever it considers it to be appropriate or advisable.

(d) *Corporate personnel.* (1) If you are a director, officer, or agent of a corporation and you willfully authorize, order or perform any act or practice constituting a violation of any provision of the regulations issued under authority of the Act, or any order, rule, or exemption, or permit issued pursuant thereto, you will be subject to the penalties specified in paragraphs (b) and (c) of this section without regard to any penalties to which the corporation may be subject. You will not, however, be subject to imprisonment under paragraph (b) of this section unless you knew of noncompliance by the corporation or had received from the ERA notice of noncompliance by the corporation.

(2) For purposes of this paragraph:

(i) "Agent" includes any employee or other person acting on behalf of the corporation on either a temporary or permanent basis; and

(ii) "Notice of noncompliance" is a final Remedial Order issued under § 501.173 of this Part.

§ 501.182 Injunctions.

Whenever it appears to ERA that any person has committed, is committing, or is about to commit a violation of any regulation, order, rule or exemption issued under the Act, ERA may in accordance with section 724 of the Act bring a civil action in the appropriate district court of the United States to enjoin such acts or practices. The relief sought may include a mandatory injunction commanding any person to comply with any provision of such order, regulation, rule, exemption or permit the violation of which is prohibited by section 724 of the Act and may also include interim equitable relief.

§ 501.183 Citizen suits.

(a) *General.* A person who believes he is aggrieved by the failure of ERA to perform any nondiscretionary act or duty under the Act may file a Petition for Action for ERA to take such action as he may feel to be proper. A petition must be filed at the address provided in Section 501.11 of this Part. The petition must specify the action requested and set forth the facts and legal arguments that constitute the basis for the request and will serve as notice to ERA pursuant to Section 725 of FUA for purposes of any citizens suit that may be subsequently filed.

(b) *ERA decision.* Within 60 days of receiving the Petition for Action, ERA will notify the person giving notice under this section that it has instituted the action you requested or that other described action is being taken, or that no action is being taken and state the reasons therefor.

Subpart M—Use of Natural Gas or Petroleum for Emergency and Unanticipated Equipment Outage Purposes

§ 501.190 Purpose and scope.

(a) If you operate a—

(1) Powerplant or installation covered by any of the prohibitions of Titles II or III of FUA, § 501.191 of this Subpart establishes procedures you must follow if you use minimum amounts of natural gas or petroleum in order to alleviate or prevent unanticipated equipment outages and emergencies directly affecting the public health, safety, or welfare which would result from electric power outages under section 103(a)(15)(B) of FUA;

(2) Peakload powerplant or an installation covered by any of the prohibitions of Titles II or III of FUA, § 501.192 of this Subpart establishes procedures you must follow for the emergency use of natural gas or petroleum as a primary energy source during a temporary emergency condition under section 404(g) of FUA.

(b) *Explanatory note:* If you operate a rental boiler as a powerplant or installation covered by any of the prohibitions of Titles II or III of FUA, you may be able to use the provisions of this Subpart for the emergency use of natural gas or petroleum where you are unable to obtain an emergency exemption for such facility under these regulations.

§ 501.191 Use of natural gas or petroleum for certain unanticipated equipment outages and emergencies defined in section 103(a)(15)(B) of the Act.

(a) For purposes of this section only:

(1) An "emergency" exists only when there is a direct effect on the public health, safety or welfare which results or would result from an electric power outage;

(2) "Minimum amounts required to alleviate or prevent" shall mean:

(i) For powerplants, the amounts of natural gas or petroleum required to prevent curtailment by the operating utility of noninterruptible electric supply to industrial customers where such utility has, to the maximum extent possible, utilized alternate fuel-fired capacity to prevent such curtailment; and

(ii) For installations, the amounts of natural gas or petroleum required to meet plant protection or human health and safety needs including services to hospitals, public transportation facilities, sanitation, or water supply and pumping; and

(3) "Unanticipated equipment outage" shall mean an outage due to equipment failure.

(b) In the event of the occurrence or reasonably anticipated occurrence of an emergency or of the occurrence of an unanticipated equipment outage in your powerplant or installation, you are automatically permitted to use minimum amounts of natural gas or petroleum in your facility to alleviate the outage or to prevent or alleviate the emergency if you comply with procedures contained in paragraph (c) of this section.

(c) If you use minimum amounts of natural gas or petroleum for purposes specified in this section, you must—

(1) Notify ERA of such use by telegram or telephone within 24 hours after the commencement of such use;

(2) Immediately thereafter confirm such use and describe such purposes in writing, signed by the responsible official of your company; and

(3) File with ERA every two weeks after the initial use of natural gas or petroleum a progress report, describing the status of your emergency or outage condition and your continuing efforts to abate such condition. In appropriate cases, ERA may determine that such a filing is unnecessary.

§ 501.192 Use of natural gas or petroleum during a temporary emergency condition pursuant to section 404(g) of the Act.

(a) For purpose of this section only, a "temporary emergency condition" ("emergency") exists when—

(1) For installations, the use of natural gas or petroleum is necessary for purposes of—

(i) Plant protection;

(ii) Preservation of human health; or

(iii) Continued production which would otherwise be reduced as a result of an interruption of alternate fuel supplies, equipment failures or temporary environmental restrictions; and

(2) For peakload powerplants, the operating utility would be required to curtail noninterruptible electric supply to its industrial customers.

(b) Where you are eligible to use natural gas or petroleum for emergency purposes, in the alternative, under this section or under § 501.191 of this Subpart, you may use the procedures provided in § 501.191.

(c) In the event of occurrence of a temporary emergency condition, you are automatically permitted to use natural gas or petroleum in your peakload powerplant or installation for a period of 4 weeks from commencement of your emergency condition, or until termination of your emergency condition, whichever occurs first, if you—

(1) Notify ERA by telegram or telephone within 24 hours after the commencement of the emergency condition that you require such emergency use of natural gas or petroleum;

(2) Immediately thereafter confirm such use in writing, signed by the responsible officer of your company;

(3) Comply with the requirements of paragraph (e) of this section; and

(4) Are not notified in writing by ERA during such period that your emergency condition—

(i) Does not exist;

(ii) Has terminated; or

(iii) Does not otherwise warrant the use of natural gas or petroleum involved.

(d) You may request an extension of the initial permit period described in paragraph (c) of this section for a period not to exceed 24 months following commencement of your emergency condition, or until termination of your emergency condition, whichever occurs first, if you—

(1) Comply with all requirements of subsections (c) and (e) of this section;

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(2) File your request within two weeks from commencement of your emergency condition; and

(3) Are notified in writing by ERA of the grant of your request and the duration of your extension.

(e) If you wish to use natural gas or petroleum for emergency purposes under this section, you must file with ERA, within 2 weeks of the commencement of such use, a written statement certified by the responsible officer of your company, detailing—

(1) The circumstances of the continuing or terminated emergency condition, including a description of the unit(s) in which you have used natural gas or petroleum for such condition, and the extent of such use;

(2) If your emergency condition has terminated, the day on which your facility returned to normal operation;

(3) If your emergency condition is continuing your plans to end the emergency, including an estimate of the time period for which you will be required to operate your facility using natural gas or petroleum as a primary energy source, and the projected extent of such use.

(f) You may continue to use natural gas or petroleum for purposes specified in this section beyond the automatic permit period described in paragraph (c) of this section only if you:

(1) Have received from ERA a written extension authorizing such use, and then only for the period provided in such extension; and

(2) File with ERA periodic progress reports at such intervals as ERA specifies in your written extension.

(g) The administrative provisions of Section 701 of FUA do not apply to this section.

(h) Any hours of emergency operation allowed under this section shall not be included in a peakload powerplant's operating hours for purposes of penalties set forth in section 723(b) of FUA, and any reporting requirements or conditions imposed under any peakload or emergency exemption under FUA are independent of any requirements imposed under this section.

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Tuesday
May 15, 1979

Part V

Environmental Protection Agency

Toxic Substances Control: Initial and Revised Inventories; Premanufacturing Notification Requirements and Review Procedures

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ENVIRONMENTAL PROTECTION AGENCY

Office of Toxic Substances

Availability of TSCA Initial Inventory; Beginning of 210-Day Reporting Period for Revised Inventory

AGENCY: Environmental Protection Agency (EPA or the Agency).

ACTION: Notice of Availability of TSCA Initial Inventory; beginning of 210-day reporting period for Revised Inventory.

SUMMARY: This notice announces that the Initial Inventory of Chemical Substances, compiled under the authority of section 8(a) and (b) of the Toxic Substances Control Act (TSCA), will be published on June 1, 1979. EPA will distribute copies of the Initial Inventory throughout the month of May, in advance of this official publication date. The 210-day reporting period for processors and users of chemical substances and importers of chemical substances as part of mixtures or articles to add substances to the Initial Inventory will begin on June 1, 1979. On July 1, 1979 the premanufacture notification provisions of section 5 of TSCA will take effect for manufacturers and bulk importers of chemical substances for commercial purposes.

This notice explains how to obtain a copy of the Initial Inventory in printed form, microfiche, or computer-readable tape, and presents the Agency's policy for disclosing information from Inventory reports. In addition, this notice addresses reporting for the Revised Inventory, and responds to the significant comments received by EPA on the October 24, 1978 **Federal Register** notice which discussed EPA's policy for the Revised Inventory reporting period and proposed a draft report form. The last section of this notice, entitled "Industry Assistance," provides information on the kinds of materials and services provided by EPA's Industry Assistance Office.

FOR FURTHER INFORMATION CONTACT: Director, Industry Assistance Office, Office of Toxic Substances (TS–799), Environmental Protection Agency, 401 M Street, SW., Washington, D.C. 20460. Or call the toll-free number 800–424–9065. In Washington, D.C. please call 554–1404.

SUPPLEMENTAL INFORMATION: The inventory reporting regulations (40 CFR Part 710) were promulgated under the authority of section 8(a) of the Toxic Substances Control Act (90 Stat. 2003; 15 U.S.C. 2601 et seq.). These regulations were published in the *Federal Register* on December 23, 1977 (42 FR 64572), and were supplemented on March 6, 1978 (43 FR 9254) and April 17, 1978 (43 FR 16178). These regulations implemented section 8(b) of TSCA, which requires EPA to compile, keep current, and publish a list of chemical substances manufactured, imported, or processed in the United States for a commercial purpose. This notice announces that the TSCA section 8(b) Inventory will be first published on June 1, 1979.

Section 710.6 of the inventory reporting regulations establishes a two-phase reporting schedule designed to prevent duplicative reporting. During the initial reporting period, manufacturers and certain importers reported to EPA concerning chemical substances they manufactured or imported for a commercial purpose since January 1, 1975. Manufacturers and importers reported most chemical substances for the Inventory by the May 1, 1978 reporting deadline. Since that date they have been reporting substances first manufactured or imported for a commercial purpose. Based on these reports, EPA has compiled an Initial Inventory. Manufacturers and importers may continue to report new chemical substances eligible for the Initial Inventory until July 1, 1979.

A second Inventory reporting period lasting 210 days will begin on the official publication date of the Initial Inventory. During this period, a person who processes or uses a chemical substance for a commercial purpose or imports a chemical substance as part of a mixture or article may report a chemical substance that was not included on the published Initial Inventory if the substance was manufactured, imported, or processed for a commercial purpose since January 1, 1975. Substances that are manufactured or imported (in bulk) for a commercial purpose for the first time after July 1, 1979 may not be reported for the Revised Inventory. As of that date, (thirty days after the June 1, 1979 official publication date of the Initial Inventory) the manufacturer or bulk importer of such a substance is subject to the premanufacture notification requirements of section 5(a)(1)(A) of TSCA. These requirements will apply to all persons who intend to manufacture or import (in bulk form) for a commercial purpose, a chemical substance not included on the Inventory. Rules governing premanufacture notification were proposed in the **Federal Register** on January 10, 1979 (44 FR 2242). The Agency has developed an interim policy to govern the submission and review of premanufacture notices until final rules are promulgated.

The premanufacture notification and Revised Inventory reporting requirements apply to any eligible chemical substance which is not included on the Inventory. The published list is not the complete Inventory. The published list alone can never be complete since substances are continually being added to the Inventory. Some substances were reported to late to be included on the published list. In addition, some reported substances were inadequately identified for the Initial Inventory, and publication of these substances has been delayed pending resolution of identity problems. These substances were reported in accordance with the Agency's inventory reporting regulations and are included in the Master Inventory File, which is maintained by EPA. The Initial Inventory includes all substances which are on the published list and other substances reported to EPA before July 1, 1979 in accordance with the inventory reporting regulations. As is discussed in greater detail below, this later category includes substances reported too late to be included on the printed Inventory, substances reported by Colour Index names about which there is some ambiguity, substances reported as products of reactions involving trade name materials, and some substances reported with ambiguous confidentiality claims. The Revised Inventory and premanufacture notification requirements do not apply to these substances.

Anyone who reported a chemical substance that is not on the published Inventory may contact EPA to verify that the substance is included in the Master Inventory File. In addition, persons who may be subject to premanufacture notification requirements may request a determination that a particular chemical substance is or is not on the Inventory. Requests should be directed to the Industry Assistance Office. Persons making such requests must provide complete, descriptive information about the substance. The Agency has provided guidance for identifying chemical substances in the instruction booklet "Reporting for the Chemical Substance Inventory", which may be obtained through the Industry Assistance Office. In response to a request, EPA will determine whether a particular chemical substance is included in the Master Inventory File. In those few cases where the chemical substance identity was ambiguous, EPA has requested the necessary additional information from

the manufacturer of the substance to resolve the identity. Persons who are unable to locate on the published Inventory a substance they process, or import as part of a mixture or article, should report the substance during the 210-day reporting period for the Revised Inventory.

Resolving chemical identity problems has been the major effort in compiling the Initial Inventory. Defining and naming chemical substances often involves a highly specialized vocabulary, detailed knowledge of the origin of substances, and the application of complex nomenclature rules. EPA has worked very closely with the Chemical Abstracts Service (CAS), numerous trade and technical associations, and individual reporting companies to assure that chemical substances are identified as accurately and unambiguously as possible on the Initial Inventory.

There are two classes of identity problems which merit separate discussion. First, some chemical substances were reported by Colour Index names. In processing these reports, EPA found that in many cases, although such names provided useful information about the substances, they did not sufficiently identify them. Information necessary to resolve ambiguities with respect to these substance identities has been requested from the reporting companies, and these substance identities will be published subsequently. Those Colour Index names which were reported for the Initial Inventory and about which there is some ambiguity are listed separately and will be distributed with the printed Initial Inventory as an addendum. These names do not appear on the microfiche or computer-readable versions of the Inventory; however, copies of the printed addendum will be included with these media versions. Persons who may report for the Revised Inventory should not be concerned about reporting substances that appear on this list. However, a person who intends to manufacture or import for the first time a substance which may be described by one of the listed Colour Index names should ask EPA to determine whether the particular substance he intends to manufacture or import is included in the Master Inventory File.

The second class of substances that merit separate discussion are those which were reported as products of reactions involving trade name substances (or mixtures). Where the reporting company was unable to give more than a general discription of the trade name material, and was therefore unable to identify sufficiently the substance it manufactures, EPA must request the precise identity of the trade name material from its manufacturer in order to resolve ambiguities about the identity of the substance. The identities of substances manufactured using these trade name materials will be published when their identities are resolved. EPA will take all necessary steps to protect the confidentiality of the data submitted by the manufacturer of the trade name product. EPA expects that in some cases these substances have already been reported for inclusion on the Inventory by persons who knew the complete identities of the substances.

Finally, some report forms were submitted with ambiguous confidentiality claims. To avoid inadvertent disclosure of confidential information, EPA has decided not to publish the substances identified on these forms on the Inventory until these claims are resolved.

Chemical substances whose identities are confidential for purposes of the Inventory are included on the Initial Inventory under the category "chemical substances with confidential identities." In accordance with the inventory reporting regulations, EPA has published generic names for most of these substances in an appendix to the Initial Inventory. However, generic names for some substances have not yet been approved. The Agency is continuing to review these names, and has been in contact with the affected companies. Since EPA knows the precise identities of these substances, the Agency will have no difficulty in responding to inquiries concerning whether a particular chemical substance is "new" or is already on the Inventory. EPA will only respond to such inquiries after a person establishes a *bona fide* intent to manufacture a chemical substance for a commerical purpose, in accordance with section 710.7 of the inventory reporting regulations. If the particular substance is included on the Inventory, premanufacture notification will not be required of the person proposing to manufacture the substance.

In the next few months, EPA will publish a supplement to the Initial Inventory. This supplement is expected to include substances that were reported for the Initial Inventory but do not appear on the published list for the reasons stated above. It will also include substances that have completed premanufacture review and have begun to be manufactured or imported for commercial purposes.

EPA expects to publish the Revised Inventory sometime in 1980. After publication of the Revised Inventory, it will become unlawful for any person to process or use for a commercial purpose a chemical substance that was manufactured or processed in violation of section 5 of TSCA. Thirty days after publication of the Revised Inventory, the premanufacture notification requirements of section 5 of TSCA will be applied to importers of new chemical substances as part of mixtures.

Initial Inventory

I. Content

The Initial Inventory lists over 44,000 chemical substances, identified by a preferred name and a unique Chemical Abstracts Service (CAS) Registry number. Each preferred name (and, for some substances, an associated definition) identifies a chemical substance or category of chemical substances reported to EPA by manufacturers and importers during the Initial Inventory reporting period. The accompanying indices, in three volumes, are intended to aid in the use of the Initial Inventory by providing different access routes to the published list.

The Initial Inventory is part of a four volume set. The Inventory itself is contained in Volume I, and includes two appendices. Appendix A: Chemical Substance Definitions, further identifies chemical substances whose preferred names alone on the Inventory do not permit their unambiguous identification. Appendix B: Confidential Chemical Substance Identities, lists generic names for substances whose specific chemical identities were claimed as confidential by all persons who reported them for the Inventory. The other three volumes, entitled *User Guide and Indices to the Initial Inventory*, were published for use in conjunction with, but not as a substitute for, the Initial Inventory. The three indices, the Substance Name Index (contained in Volume II and III) and the Molecular Formula and UVCB [1] Indices (contained in Volume IV) provide alternate means for finding substances which are listed on the Inventory.

In addition to these four volumes, EPA has published a two volume *Trademark and Product Name List*, which was compiled from Voluntary Product Trademark Report Form D's submitted to EPA during the Initial Inventory reporting period. This list was compiled solely to assist processors in determining whether to report for the Revised Inventory. Manufacturers who reported their products for inclusion on this list were required to certify that all the reportable chemical substances

[1] Chemical Substances of Unknown of Variable Composition, Complex Reaction Products, and Biological Materials

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comprising the product have been reported for the Initial Inventory. If the person reporting the trademark only processed certain components of the product he had to certify that any component not included on the Initial Inventory would be reported by him for the Revised Inventory. (Refer to 43 FR 9254, March 6, 1978.) Therefore, if a processor finds the name of a product he processes on this list, he does not need to report the components for the Revised Inventory.

II. Availability

Due to the high cost of printing and distribution, EPA will provide only one free copy of the Initial Inventory (including the three indices and the Trademark and Product Name List), in printed form to each company, corporation (or subsidiary, division or major department of a large corporation if they are located in different geographical areas), or interested organization while supplies last. EPA encourages persons to request microfiche copies wherever equipment permits, since these copies are less expensive to print and distribute. Companies that have already reserved copies of the Initial Inventory can expect to receive them automatically—there is no need to reorder. Others may order copies by calling the Industry Assistance Office toll-free number listed above. Allow three weeks for delivery.

EPA will place reference copies of the Initial Inventory, in printed form or microfiche (as equipment permits), in the libraries of all large cities, GPO regional depository libraries, State environmental offices, and EPA Regional Offices. The Industry Assistance Office can direct persons to the nearest location. Persons requiring minimal access to the Inventory are encouraged to make use of reference copies, rather than ordering a complete copy of the Inventory from EPA.

Additional copies of the Initial Inventory in printed form may be purchased from:

Superintendent of Documents, Government Printing Office (GPO), Washington, D.C. 20402, Order Desk: 202/783-3238.

Requests for copies of the Initial Inventory and the three indices should specify the document number: GPO No. 055-007-00004-7 and be accompanied by a check or money order in the amount of $34.50 per four volume set. Requests for the two volume Trademark and Product Name List should specify the document number: GPO No. 005-007-00003-9 and be accompanied by a check or money order for $19.50. Requests for the complete, six volume set should specify both document numbers and be accompanied by a check or money order for $54.00. Persons who purchased printed copies of the Inventory from GPO are encouraged to inform EPA's Industry Assistance Office so that EPA can inform such persons of the availability of supplements to the Inventory.

Additional microfiche sets of the Initial Inventory, the three indices, and the Trademark and Product Name List may be obtained through the Industry Assistance Office while supplies last.

The Initial Inventory is also available on computer tape. The tape consists of two sections. The first section of the Inventory lists each substance by CAS Registry Number, preferred name, and, where appropriate, molecular formula. The second section is an alphabetic listing of chemical synonyms appearing in the Inventory. Only synonyms that were reported to EPA for the Inventory are included in this section, unlike the printed version which contans additional synonyms derived from CAS files. The tape does *not* include generic names for confidential substance identities nor the definitions prepared for certain substances, all of which appear in the appendices to the printed Inventory.

The computer readable version of the Inventory may be obtained by written request from:

National Technical Information Service (NTIS), 5285 Port Royal Road, Springfield, Virginia 22161, Sales Desk: 703/557-4650.

Requests should specify the document number EPA/DF-79/005 and be accompanied by check or money order in the amount of $125.00 per tape. Anyone who has a deposit account with NTIS on an American Express card may call the NTIS Sales Desk (703) 557-4620 and place the order by phone. A copy of the documentation for the computer tape may be obtained by calling the Industry Assistance Office.

Information Disclosure From Inventory Reports

The published Inventory only identifies the reported substances. There is no reference on the Inventory either to the company that reported the substance or to the additional data about each substance which was required by the inventory reporting regulations.

The elements of the set of data that exists in EPA's report records (both computerized and hardcopy) about each chemical substance (with the exception of substances reported by persons who were not required to provide every item of information) are: the chemical name and CAS Registry Number of the substance; plant site(s) [2] at which it was manufactured; for each plant site, how much of the substance was manufactured or imported in 1977 (reported by ranges); whether its manufacture was site limited; and whether it was manufactured or imported (activity). In addition, where a plan site was owned by a parent company, the name of the parent company (corporation) was usually reported. To the extent that items of information were claimed by the reporting companies to be confidential business information, EPA will initially honor these claims in answering requests by members of the public for information from Inventory records. Any initial denials for information will be made in accordance with EPA's Public Information procedures, which appear at 40 CFR Part 2 (as amended, 43 FR 39997, September 8, 1978; 44 FR 17673, March 23, 1979).

EPA is planning to create a data base that contains nonconfidential information from the Inventory records. If it is merited by the number of requests for information received, this data base will be set up as an independent operation for answering requests and will be made available on magnetic tape for purchase through the National Technical Information Service.

The confidentiality claims were made on the Inventory report forms in such a fashion that some elements could be individually claimed confidential and links between other elements could be claimed confidential. For instance, the production range, the fact that a substance was manufactured or imported (activity), and the fact that the substance was or was not site limited could be claimed confidential individually. The *link* between plant site or parent company and a particular chemical substance (and its CAS Registry Number) could also be claimed confidential.

In its initial answers to requests for information by members of the public, EPA will disclose only individual record elements or links which have not been claimed confidential. Suppose that in some hypothetical record the links between plant site, parent company, and chemical substance name (including CAS Registry Number) have been

[2] The space provided on the report form for plant site information was also used to report headquarters addresses for importers, small manufacturers, trade associations, or persons who reported optionally. Therefore, the date set for a particular substance does not necessarily include plant site information per se.

claimed confidential and no other elements have been so claimed. In answering an information request for all records about the particular chemical substance, EPA would disclose all nonconfidential elements (production range, site limited, manufacture or import) from the hypothetical record but would reveal no information identifying the plant site or parent company. If, on the other hand, only production range has been claimed confidential, EPA would disclose the plant site and parent company, and whether the substance was manufactured or imported, or site limited, but would not disclose the production.

In addition to the method of disclosure described above, EPA will apply certain other operational disclosure rules. These other operational rules have been formulated after studying possible Inventory confidentality problems, and are as follows:

1. The first operational rule is set forth in the September 8, 1978 amendment to EPA's Public Information procedures (43 FR 39999, section 2.113(d)). In instances where merely stating that a record exists will comprise confidential information, neither the existence nor the nonexistence of the record will be revealed. Instead, the initial answer to a requestor will be that the request is denied because either the record does not exist or it is exempt from disclosure. For example, suppose someone asked for all information on production of ethanol by XYZ Company, and suppose that XYZ Company had reported that it made ethanol but claimed the link between itself and ethanol as confidential. If EPA disclosed that a record existed which was covered by the request, it would be revealing the confidential link between XYZ Company and ethanol. Therefore, in this example EPA would apply its operational rule and answer the request by stating that the request is denied because either the record does not exist or it is exempt from disclosure.

This rule has a corollary. The same answer will be given to the requester *whether or not any record exists* in response to questions where the rule would apply. If it were revealed that a record does not exist when indeed none does, and the special answer were given only where a record exists but revealing its existence would compromise confidentiality, then the operational rule and the special answer it provides would not serve their intended purpose.

2. If either the fact that a substance was manufactured or the fact that it was imported has been claimed confidential in a record, EPA will not disclose whether the substance was manufactured *or* imported. For example, if a substance was manufactured and this fact was claimed confidential, EPA will not reveal either the fact that it was manufactured or the fact that it was *not imported*. Revealing that one or the other statement is not true would indirectly disclose the confidential information.

3. The inventory reporting regulations required persons to indicate whether a reported substance was site limited, and permitted persons to claim the fact that a chemical substance was site limited to be confidential. In processing the Inventory reports, EPA discovered that many companies claimed the fact that a substance was *not* site limited as confidential. EPA will honor both types of site limited claims. Therefore, if either the fact that a substance was site limited or the fact that it was not site limited was claimed as confidential, EPA will answer a request for this information by stating that the fact that a particular chemical substance either was or was not site limited is confidential. If no claim of confidentiality was asserted for this information, EPA will disclose whether or not the substance was reported as site limited.

4. Certain elements of the report records will be treated similarly for purposes of answering requests for information. The reports contained names and addresses for technical contacts at the plant sites. This technical contact information will be treated the same as the plant site name and addresses for disclosure purposes because both pieces of information identify the plant site. In addition, because of an unintended ambiguity in the reporting instructions, claiming the fact of either manufacture or import of a substance as confidential served also to claim corporation (parent company) as confidential. The instructions said that "by checking the box under 'Manufacture' ['Import'] for a particular chemical substance, you assert that the fact that *you* manufacture [import] the chemical substance at the plant site * * * is confidential" (emphasis added). The use of the word "you" made it possible for a reader to assume that not only the fact of manufacture or import but also the connection of the parent company could be claimed confidential at the same time.

5. EPA is not required to create records in response to a Freedom of Information Act request, and EPA will not create records by aggregating data from the Inventory records upon request. The term "aggregation" means, in this context, creating totals or other arithmetic or descriptive statistics which include elements of separate records. EPA is developing aggregation rules, and will propose these rules in the **Federal Register** for public comment in the near future. Each aggregation from Inventory records will be designed to avoid revealing any confidential information. Aggregations must also be designed so that they do not overlap.

Reporting for Revised Inventory

I. Who May Report

In accordance with § 710.3(b) of the inventory reporting regulations, the following persons may report a chemical substance that is not listed on the published Inventory for inclusion on the Revised Inventory:

1. a person who has processed or used a chemical substance (including use in the manufacture of a mixture or article containing that chemical substance) for a commerical purpose since January 1, 1975, or

2. a person who has imported a chemical substance as part of a mixture or article for a commercial purpose since January 1, 1975.

Any person who is permitted to report substances for the Revised Inventory may either report individually or authorize a trade association or other agent to report on his behalf (see § 710.5(f)).

II. When To Report

The reporting period for the Revised Inventory will begin on June 1, 1979 and will end on December 31, 1979. Persons who begin processing a chemical substance or importing a chemical substance a part of a mixture or article FOR THE FIRST TIME after December 31, 1979 may report such substance to EPA at the time processing or importation begins, up to thirty days after publication of the Revised Inventory.

III. How to Determine Whether To Report

The following suggested procedures are provided to assist persons in determining whether to report a substance for the Revised Inventory. There is no obligation to follow these procedures, and persons may use any suitable method to determine whether to report. (Refer to the response to Comment 1 below, under the heading "Significant Comments and Responses.") In general, if a processor has received written certification from his supplier that all the component

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chemical substances in the product(s) he processes have been reported for the Inventory, the processor should not be concerned about reporting.

If a person knows the chemical composition of the product he processes or imports, he should consult the Initial Inventory to determine whether all the reportable chemical substances comprising the product are included. EPA encourages persons to read carefully the introductory material in Volume I of the Inventory. Of particular importance is the section entitled "Eligibility Criteria for Inclusion of Chemical Substances on the Inventory," which provides a detailed explanation of what is meant by the term "chemical substance" under TSCA, and the section entitled "Use of the Inventory." If the person determines that one or more component substances are not included on the published Initial Inventory, he should report them for inclusion on the Revised Inventory.

If a person does *not* know the chemical composition of the product he processes, he should consult the Trademark and Product Name List. If the product is listed, the processor can, in good faith, assume that the components are included on the Inventory, and he should not be concerned about reporting. (Refer to the response to Comment 2 below.) If the product is not listed, the processor should ask his supplier to do one of the following: (1) provide him with a letter certifying that all reportable chemical substances comprising the product have been reported for the Inventory, (2) reveal to the processor the identities of the component substances so that the processor may determine whether or not the substances are reportable, and, if they are, report them for the Revised Inventory, or (3) assist the processor in reporting by following the procedure outlined in the instruction booklet, "Reporting for the Chemical Substance Inventory" (May 1979). This procedure is described briefly in the response to Comment 1 below. If the supplier refuses to do any of the above, the processor is encouraged to write a letter to EPA, providing the name and address of the supplier and the name of the trademarked product, and indicating that his supplier has refused to provide him the information necessary to determine whether he should report for the Revised Inventory. EPA will then attempt to obtain the necessary information directly from the supplier. Letters should be addressed to: Document Control Officer, Attn: IMS, Office of Toxic Substances (TS-793), U.S. Environmental Protection Agency, 401 M Street, S.W., Washington, D.C. 20460.

An importer of a chemical substance as part of a mixture or article may not know the specific identity of the chemical substance because the foreign supplier may choose to keep it confidential. In this situation, the importer may be assisted in reporting by the foreign supplier by following the procedure outlined in the instruction booklet for the Revised Inventory.

IV. Report Form E

All reports for the Revised Inventory must be submitted on an official Inventory Report Form E. One chemical substance may be reported on each form. EPA has published a revised edition of the original instruction booklet, "Reporting for the Chemical Substance Inventory" to assist persons in completing the form. Persons should determine how many substances they intend to report and order an instruction booklet and the appropriate number of report forms from EPA's Industry Assistance Office.

Persons who choose to report for the Revised Inventory must provide the following information on the form: (1) The name and address of the reporting company (or corporation, trade association or other agent); (2) the specific identity of the chemical substance (including its CAS Registry Number, if known); and (3) the activity the reporting company is engaged in with respect to the chemical substance (i.e., "process" or "import"). Persons should also provide the name, address, and phone number of a technical contact whom EPA may contact to clarify any information submitted on the form. It is extremely important that all information regarding the technical contact be complete and accurate, since a report may require clarification before the substance can be added to the Inventory.

In accordance with § 710.7 of the Inventory reporting regulations, persons who report for the Inventory may claim certain reported information to be confidential. The procedure for asserting confidentiality claims on Form E is discussed in detail in the chapter entitled "Confidentiality" in the instruction booklet.

V. Significant Comments and Responses

EPA received several comments in response to the October 24, 1978 Federal Register notice (43 FR 49688) which announced the Agency's policy for the Revised Inventory reporting period and proposed a draft report form. The following summarizes and responds to the significant issues raised in these comments. Comments that concern problems specific to one particular company are not included, as they were referred to EPA's Industry Assistance Office for direct reply.

Comment 1: EPA should not advise processors to ask their suppliers for written certification that the components of trademarked products are on the Inventory, as such requests will serve no other purpose than to create unnecessary paperwork. EPA should not interfere with the business relationship between a processor and his supplier.

Response: EPA *suggested* the procedure outlined in the section headed "Reporting Trademarks" (43 FR 49689) to assist processors in determining whether to report substances that may not be included on the Initial Inventory for inclusion on the Revised Inventory. Processors are not *required* to follow this procedure, and may use any means at their disposal to determine whether to report. EPA does not wish to create burdensome paperwork or interfere in industry business relationships; rather, EPA is concerned that persons take the necessary steps to ensure that they are in compliance with TSCA after the Revised Inventory is published.

In recognition of the difficulties that processors may have in identifying chemical substances, the Agency has revised its report form to encourage suppliers to assist their customers in reporting for the Inventory while at the same time permitting them to withhold from their customers the identities of confidential component substances. Under this procedure, a processor would complete blocks I through III of the report form(s) naming his supplier as the technical contact in block II, and send the form(s) to his supplier. The supplier would then enter the specific chemical identity of the substance(s) on the form(s) and submit the completed form(s) to EPA. Instructions for reporting in this manner are contained in the instruction booklet, "Reporting for the Chemical Substance Inventory" (May 1979). Refer to the section of this notice entitled "How to Determine Whether to Report" under the heading "Reporting for Revised Inventory."

Comment 2: EPA told processors that if a trademark appears on the Trademark and Product Name List, the component chemical substances "should not be reported for the Revised Inventory by anyone other than the person who reported the trademark." A processor or user may report any substance eligible for the Initial Inventory for inclusion on the Revised Inventory. If a processor must rely on the owner of the trademark to report, he will have no assurance that the substance has been reported for the Inventory.

Response: In the March 6, 1978 supplement to the inventory reporting regulations (44 FR 9254) EPA allowed persons who only processed certain components of a trademarked product to report the trademark for the Trademark and Product Name List if the person amended the Voluntary Product Trademark Report Form D certification statement to certify that any component of the product that was not reported for the Initial Inventory would be reported by him for the Revised Inventory. EPA told processors that the component substances of the trademarked products should not be reported for the Revised Inventory by anyone other than the person who reported the trademark in order to prevent duplicative reporting. If processors reported the components of all products that appear on the Trademark and Product Name List, EPA would be inundated by unnecessary reports. Therefore, EPA discourages persons from reporting chemical substances that are components of products that appear on this list. The person who reported the product name and signed the Form D certification statement is responsible for reporting the components for the Inventory. However, if a processor has reason to believe that a particular component will not be reported for the Revised Inventory he may report the substance himself. EPA recognizes that it is in the processor's best interest to ensure that all the substances he processes are on the Inventory.

Comment 3: EPA should update the Trademark and Product Name List periodically, just as the Inventory will continue to be updated.

Response: The Agency does not intend to update the Trademark and Product Name List. EPA compiled and published the list solely to assist processors in determining whether to report for the Revised Inventory. After the Revised Inventory is published the Agency expects companies to have established an independent network to inform one another of the status of their compliance with TSCA. Since the components of certain products on the list may change over time, it would become increasingly difficult for EPA to be certain that the components of these products were actually included on the Inventory.

Comment 4: EPA should recognize that the terms "processor" and "user" are not synonymous. If the definition of "user" is restricted to one who "processes" a chemical substance for commercial purposes, a person who uses a chemical substance to lubricate or clean machinery, for example, would be prevented from adding the substance to the Inventory, and would risk having his supply of the substance interrupted.

Response: EPA recognizes that there is a distinction between processors and users of chemical substances. This distinction, however, is irrelevant for purposes of Inventory reporting. Under section 8(b) of TSCA, the Inventory is to include substances which have been manufactured (including imported) or processed for commerical purposes in the United States since January 1, 1975. The inventory reporting regulations permit users of chemical substances to report substances that have been manufactured or processed for commercial purposes since 1975, regardless of whether the user of the substance also manufactures or processes the substance. An eligible substance that is used to lubricate or clean equipment may be reported for the Inventory by a user if it has been manufactured or processed since 1975.

Comment 5: If a substance reported by a processor during the 210-day period cannot be manufactured until it is included on the Inventory, the processor risks an interruption in his supply of the substance until the Revised Inventory is published in 1980.

Response: EPA does not wish to impose economic hardships on processors by contributing to the interruption of supplies of chemical substances. Therefore, once a processor reports a substance and receives the postcard from EPA acknowledging receipt of the report form, his supplier may continue to manufacture the substance. However, EPA intends to survey reports from processors to determine whether the supplier is a manufacturer who should have reported the substance for the Initial Inventory. EPA will bring enforcement action, as appropriate, against suppliers who failed to report for the Inventory.

Although manufacture of the substance may continue once the acknowledgement postcard is received, this does not mean that the substance is included on the Inventory at that time. EPA must first determine whether the substance was reported in accordance with the inventory reporting regulations, i.e., the substance is eligible for inclusion on the Inventory. If there are any problems with the report, EPA will notify the submitter, who will be given an opportunity to make necessary corrections to the report. If the submitter does not make the appropriate amendments to the report, EPA cannot process the form and the substance will not be added to the Inventory unless it is reported by someone else. Thereafter, manufacture of the substance for a use subject to premanufacture notification requirements would be illegal.

Comment 6: The Thirty-day period following publication of the Initial Inventory is not long enough for persons to make corrections to the Inventory or to add substances that manufacturers or importers inadvertently omitted.

Response: The thirty-day period between publication of the Initial Inventory and the beginning of premanufacture notification is required by TSCA and is intended to ensure that persons have the Inventory in hand before premanufacture notification takes effect. There is no requirement that EPA give the industry an opportunity to review and correct the Inventory before the premanufacture notification requirements are activated. If a manufacturer discovers that he inadvertently failed to report a substance for the Inventory he should either report it himself during the thirty-day period or check with a processor or user of the substance to see if he has reported it. If a substance is not on the Initial Inventory, the manufacturer of the substance would be subject to premanufacture notification requirements. EPA's Office of Enforcement will investigate the reason why a substance was not reported for the Initial Inventory by its manufacturer. In deciding upon the appropriate enforcement action, EPA will determine whether there was good cause for the omission. If a reported substance is not included on the Inventory by an oversight on EPA's part, the reporting party should notify EPA of the omission as soon as possible. Notification of such an error may be made after the thirty-day period following publication of the Inventory, but should be brought to the Agency's attention as soon as it is detected.

Comment 7: EPA should provide companies that reported for the Initial Inventory a list of the CAS Registry Numbers and preferred names assigned to the reported substances to facilitate locating them on the Inventory.

Response: EPA does not plan to provide reporting companies with such lists. If a company is unable to locate a substance on the Initial Inventory because it does not know the CAS Registry Number by which the substance is ordered on the Inventory, the company should consult the indices to the Inventory. It should first search

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for the substance name in the Substance Name Index. In most cases the name reported by the company will appear in this index as a synonym, even though EPA may have chosen a different or "preferred" name for inclusion on the Inventory. Companies can also search for a substnce on the Inventory by using the other indices. (Refer to the Introduction to the Initial Inventory which appears in Volume I, and the User Guide to the three indices to the Initial Inventory.)

In the event that a company cannot locate the reported substance on the Initial Inventory using the indices, it may request verification from EPA that the substance is included in the Master Inventory File. Such requests should be directed to the Industry Assistance Office. EPA will require the inquiring company to provide information necessary to permit the Agency to comply with such a request. The kind of information necessary will be determined on a case-by-case basis, depending, in part, on what information, if any, was claimed confidential on the form.

Industry Assistance

EPA's Industry Assistance Office was established to provide industry with technical, policy, and procedural assistance in complying with TSCA, in accordance with section 26(d) of the Act. This office is prepared to provide the materials and services necessary for Inventory use and reporting. The following is a list of relevant materials which may be obtained through the Industy Assistance Office.

(1) The inventory reporting regulations (42 FR 64572, December 23, 1977)

(2) Supplements to the regulations (43 FR 9254, March 6, 1978; 43 FR 16178, April 17, 1978)

(3) Policy for Revised Inventory Reporting (43 FR 49688, October 24, 1978)

(4) Initial Inventory of Chemical Substances (May 1979); available in printed form or microfiche

(5) User Guide and Indices to the Initial Inventory—three volumes (May 1979); available in printed form or microfiche

(6) Trademark and Product Name List (May 1979)—two volumes; available in printed form or microfiche

(7) Inventory Report Form E (specify quantity)

(8) "Reporting for the Chemical Substance Inventory" (May 1979) instructions for reporting for the Revised Inventory

(9) Documentation for computer-readable version of the Initial Inventory

(10) Guidelines for Creating Proposed Generic Names for Confidential Chemical Substance Identities for the TSCA Inventory.

In addition to the materials listed above, the Industry Assistance Office provides the following services:

(1) Provides assistance in interpreting the inventory reporting regulations.

(2) Responds to inquiries concerning the contents and use of the Inventory.

(3) Handles requests for verification that a reported substance which does not appear on the printed Inventory is included on the most current Inventory maintained by the Chemical Information Division of EPA's Office of Toxic Substances. Requests for verification will be accepted over the telephone; however, all determinations will be transmitted in writing.

(4) Provides assistance in completing the report form.

The Industry Assistance Office may be contacted by calling the toll-free number 800–424–9065. In Washington, D.C. please call 554–1404.

In addition to the Industry Assistance Office, each EPA Regional Office is staffed by persons who can respond to inquiries concerning the inventory reporting regulations, the contents and use of the Inventory, and completion of the report form. The person to contact in each Regional Office is identified below.

Region I

Mr. Robert Dangel, John F. Kennedy Federal Building, Boston, Massachusetts 02203, 617–223–0585.

Region II

Mr. Michael P. Bonchonsky, Raritan Depot, Building 209, Edison, New Jersey 08817, 201–321–6673.

Region III

Mr. Edward Cohen, Curtis Building, 6th & Walnut Streets, Philadelphia, Pennsylvania 19106, 215–597–7668.

Region IV

Mr. Ralph W. Jennings, 345 Courtland Street, N.E., Rm 345, Atlanta, Georgia 30308, 404–881–3864.

Region V

Mr. Karl E. Bremer, 230 South Dearborn Street, Chicago, Illinois 60604, 312–353–2291.

Region VI

Dr. Larry Thomas, First Internation Building, 1201 Elm Street, Dallas, Texas 75270, 214–767–2734.

Region VII

Mr. William Brinck, 324 East 11th Street, 15th Floor, Kansas City, Missouri 64106, 816–374–3036.

Region VIII

Mr. Ralph Larsen, 1860 Lincoln Street, Denver, Colorado 80295, 303–837–3926.

Region IX

Mr. Jerry Gavin, 215 Freemont Street, San Francisco, California 94105, 415–556–3352.

Region X

Dr. James Everts, 1200 6th Avenue, Seattle, Washington 98101, 206–442–1090.

Dated: May 8, 1979.

Steven D. Jellinek,
Assistant Administrator for Toxic Substances.

[FRL 1224–5]
[FR Doc. 79–15113 Filed 5–14–79; 8:45 am]
BILLING CODE 6560–01–M

Toxic Substances Control; Premanufacturing Notification Requirements and Review Procedures; Statement of Interim Policy

AGENCY: Environmental Protection Agency (EPA).

ACTION: Statement of Interim Policy.

SUMMARY: On January 10, 1979, EPA proposed rules and notice forms for premanufacture notification for new chemical substances under § 5 of the Toxic Substances Control Act, 15 U.S.C. § 2604. (44 FR 2242) EPA also established an interim policy for the submittal of premanufacture notices. This interim policy applied to notices for substances intended to be first manufactured or imported for a commercial purpose between the effective date of the premanufacture notification requirement (30 days after publication of the Inventory under § 8(b)) and 90 days thereafter (i.e. 120 days after publication of the Inventory). This notice clarifies certain aspects of that interim policy, modifies it to a limited degree, and extends the interim policy to cover all notices filed prior to the effective date of the premanufacture rules and notice forms. In addition, it details the procedures the Agency intends to follow for premanufacture notices filed under the interim policy. Finally, this notice discusses EPA's policy on contacts with the public concerning premanufacture notification issues, prior to the promulgation of the § 5 rules.

DATES: As announced today elsewhere in this **Federal Register**, EPA will publish the Initial Inventory on June 1, 1979. The premanufacture notification requirement applies to any new chemical substance manufactured or imported for commercial purposes more than 30 days thereafter, or July 1, 1979. Interested persons may comment on this interim policy on or before June 14, 1979.

ADDRESS: Written comments on this interim policy should bear the document control number OTS–050002C and should be submitted in triplicate to the Document Control Officer (TS–793), Office of Toxic Substances, U.S. Environmental Protection Agency, 401 M St., S.W., Washington, D.C. 20460. EPA has established a public record for the premanufacture notification rulemaking. The public record is available for inspection in the Office of Toxic Substances Reading Room from 9:00 a.m. to 5:00 p.m. on working days (Room 709E, 401 M St., S.W., Washington, D.C. 20460).

FOR FURTHER INFORMATION CONTACT: Mr. John B. Ritch, Director, Office of Industry Assistance, Office of Toxic Substances (TS–799), U.S. Environmental Protection Agency, 401 M St., S.W., Washington, D.C. 20460; 800–424–9065 toll free; in Washington, D.C. call 554–1404.

SUPPLEMENTARY INFORMATION On January 10, 1979, EPA proposed regulations to govern submittal of premanufacture notices under § 5 of the Toxic Substances Control Act (TSCA). (44 FR 2242.) Section 5 requires any person who intends to manufacture (or import) a new chemical substance for a commercial purpose to submit a notice to EPA at least 90 days before he commences manufacture. Section 3(a) of the Act defines a "new chemical substance" as any chemical substance which is not included on the "list," or Inventory, of existing substances maintained by EPA under § 8(b). The notification requirement applies to all new chemical substances manufactured or imported on or after the 30th day after EPA first publishes the Inventory. As explained in the notice announcing publication of the Inventory which appears elsewhere in today's **Federal Register**, this effective date for the premanufacture requirement will be July 1, 1979.

In the preamble to the January 10, 1979, proposed regulations, EPA announced an interim policy for the submittal of notices for new chemical substances to be manufactured or imported within the first 90 days after the § 5 requirement becomes effective. (44 FR 2245.) This policy provided for submittal of notices before publication of the Inventory, and applied to a chemical substance believed by a person to be "new," and for which first manufacture or import for commercial purposes was intended between the effective date for premanufacture notification (30 days after publication of the Inventory under § 8(b)), and 90 days thereafter (i.e. 120 days after publication of the Inventory). EPA has received a number of inquiries and comments with regard to the interim policy, including questions concerning the Agency's policy for notices filed after publication of the Inventory.

The purpose of this notice is to clarify the terms of the interim policy, including limited modifications EPA has made in response to a petition from the Manufacturing Chemists Association, and to extend the policy and procedures discussed below to apply to all notices received before the effective date of the premanufacture notification rules.

EPA requests comment on this interim policy. If on the basis of these comments EPA believes that the policy should be modified or further clarified, the Agency will publish another notice in the **Federal Register**.

Overall Policy

Any person who intends to manufacture or import (in bulk) for a commercial purpose a new chemical substance on or after July 1, 1979, must submit to EPA a notice at least 90 days before the start of manufacture or import. The notice must satisfy the requirements of TSCA. EPA's § 5 rulemaking is intended to provide the Agency's detailed interpretation of the requirements of the Act. Pending completion of this rulemaking, EPA obviously can't provide comprehensive guidance. The interim policy therefore provides only limited guidance on submittal of notices prior to the effective date of the premanufacture rules and forms. Persons seeking further clarification concerning the statutory requirements should contact EPA.

In the January 10 interim policy statement, EPA stated that a notice should be filed on the proposed forms and in accordance with the proposed regulations. Some persons interpreted this statement to mean that EPA intended to make effective its proposed § 5 regulations before persons could comment and the Agency could consider the comments and promulgate final rules. Some persons also construed the term "should," used in explaining the interim policy, to mean that persons were required to comply with the terms of the proposal. EPA did not intend this meaning.

The Agency is taking this approach because it would be inappropriate to make these regulations effective pending completion of the rulemaking procedures. EPA has received a large volume of comments on the proposed premanufacture rules and notice forms, and is in the process of reviewing them. The provisions of this interim policy should not be considered an indication of the Agency's final resolution of the issues raised in the rulemaking proposal.

Submitters are free to follow EPA's proposed regulations. EPA will not take any action because a notice does not comply with the proposal. However, the Agency will take appropriate actions on a case-by-case basis in situations where a notice does not meet the statutory requirements.

Persons who manufacture, import or process substances which are included on the Inventory are not required to submit notices prior to manufacturing or processing the substances for new uses. At the present time, only the § 5(a)(1)(A) requirement for notice for a new chemical substance is in effect. A chemical included on the Inventory is not a new chemical substance. Section 5(a)(1)(B) of the Act requires persons to submit notices prior to manufacturing or processing a substance for a use which EPA has determined is a significant new use. In accordance with § 5(a)(2), the Agency must make this determination by rule promulgated after consideration of various factors. At this time, EPA has neither proposed nor promulgated any significant new use rules (SNURs). The Agency intends to utilize SNURs for selected existing chemical substances, and as a tool for followup of certain new chemical substances for which premanufacture notices are submitted under § 5. EPA intends to commence general rulemaking on SNURs during late 1979.

Timing of Premanufacture Review Period

The premanufacture review period will commence upon receipt of a notice which meets the statutory criteria. As soon as EPA receives the notice, the Agency will date stamp it and will transmit a notice of receipt to the submitter which indicates the official date when the notice period commences. The period will run for 90 days, unless the Agency for "good cause" extends the notice review period for up to an additional 90 days, under § 5(c) of the Act.

This position represents a change from the policy announced in the January 10, 1979, **Federal Register** notice. On February 2, 1979, the Manufacturing Chemists Association (MCA) submitted to EPA a petition requesting, among other things, that the Agency modify its policy on the timing of the review period. EPA has included the MCA petition and the Agency's response (dated March 2, 1979) in the public record of the premanufacture

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Administrator) on which such

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rulemaking, and they are avialable for public inspection in the Office of Toxic Substances Reading Room.

Persons and Substances Subject to Section 5 Requirements

IN general, § 5(a) requires any person who intends to manufacture (including import) a new chemical substance for a commercial purpose to submit a premanufacture notice at least 90 days before he commences manufacture.

The Act contains a lengthy definition of the term "chemical substance" in § 3(a). Substances not falling within this definition are not subject to the premanufacture notification requirement. In addition to this statutory provision, § 710.4 of the inventory reporting requirements ("inventory rules") (42 FR 64572, December 23, 1977) excludes certain chemical substances from the requirement to report for the Inventory of chemical substances under § 8(b). Substances excluded under the inventory reporting rules will be excluded from the premanufaciure notification requirements under this interim policy. Persons considering whether to submit a notice should consult TSCA and § 710.4 of the inventory rules to determine whether the premanufacture notification requirement applies.

The premanufacture notification requirement is applicable to both *manufacturers* and *importers* of new substances. Under § 720.10(a)(1) of the proposed rules, EPA stated that the requirement for manufacturers to submit a premanufacture notice included persons who intended to manufacture a substance solely for export from the U.S. EPA has received extensive comment on this requirement, and has not had the time to fully evaluate it. Therefore, in the interim, the premanufacture notification requirement will not apply to manufacture of a substance solely for export. However, EPA expects to include this provision in the final rules if the Administrator determines that such reporting is necessary to accomplish the purpose of TSCA.

In § 710.3 of the inventory rules EPA provides that, until publication of the Revised Inventory, only importers of new substances in "bulk form" will be subject to the premanufacture notification requirement. The inventory rules define "bulk form" to include imports in cans, bottles, drums, barrels, packages, tanks, bags and other containers, but not to include chemical substances imported as part of mixtures or articles. EPA's interim policy will implement the statute in a manner consistent with this limitation on importers' reporting responsibilities.

Information Submittal Requirements

Section § 5(d) of the Act requires that each notice include the following information:

(A) insofar as known to the person submitting the notice or insofar as reasonably ascertainable:

(1) The common or trade name, the chemical identity, and the molecular structure of each chemical substance for which such a notice is submitted.

(2) The categories or proposed categories of use of each such substance.

(3) The total amount of each such substance manufactured or processed, reasonable estimates of the total amount to be manufactured or processed, the amount manufactured or processed for each of its categories of use, and reasonable estimates of the amount to be manufactured or processed for each of its categories of use or proposed categories of use.

(4) A description of the byproducts resulting from the manufacture, processing, use, or disposal of each such substance.

(5) The number of individuals exposed, and reasonable estimates of the number who will be exposed, to such substance in their places of employment and the duration of such exposure.

(6) The manner of method of disposal of the substance. (B) any test data in the possession or control of the person giving such notice which are related to the effect of any manufacture, processing, distribution in commerce, use, or disposal of such substance or any article containing such substance, or of any combination of such activities, on health or the environment, and (C) a description of any other data concerning the environmental and health effects of such substance, insofar as known to the person making the notice or insofar as reasonably ascertainable.

In providing the identity of the new chemical substance, the submitter should follow § 710.5 of the inventory rules, and the instructions EPA has prepared for inventory reporting ("Reporting for the Chemical Substances Inventory," U.S.E.P.A. December 1977, or "Instruction for Reporting for the Revised Inventory.") In particular, substances which have no known CAS number should be identified in accordance with Appendix 5 of the inventory instruction book, or chapter 3 of the instruction book for the Revised Inventory.

Persons who do not submit any data relevant to one of the categories discussed above, or who submit only a small amount of data, are encouraged to indicate in their notice that the missing information is not "known or reasonable ascertainable" or "not in possession or control", as appropriate. This will be preferable to simply failing to provide information for a category, without any explanation.

Procedures for Submittal of Notices

For expeditious handling, and for safe processing of confidential material, persons should submit notices to the following address:

Document Control Officer, Office of Toxic Substances (TS–793 PN), U.S. Environmental Protection Agency, 401 M St., S.W., Washington, D.C. 20460.

Hand-delivered notices should be directed to: Document Control Officer, Office of Toxic Substances, Rm. 711, East Tower, U.S. Environmental Protection Agency, 401 M St., S.W., Washington, D.C. 20460.

A notice must be complete, including all referenced attachments and enclosures. It must be in English, or must be accompanied by an English translation certified to be accurate.

Each notice must include a certification, signed by an authorized representative of the submitting company, stating that the manufacturer or importer has complied with the statutory requirements of § 5. The following is an example of acceptable certification language:

I hereby certify that, to the best of my knowledge and belief: (1) I intend to manufacture (or import) for a commercial purpose (other than only in small quantities solely for purposes of research and development) the chemical substance for which this notice is submitted;

(2) all information contained in this notice is complete and truthful as of the date of submittal. Finally, the Agency expects each notice to include a complete identification of the submitter. The following information would constitute a sufficient identification:

(1) *Person Filing Notice*

Name of Authorized Office _____
Title _____
Organization _____
Mailing Address _____
Telephone Number _____

(2) *Incorporation Information*

Legal Title of Organization _____
Place of Incorporation _____
Street _____
City _____
State _____

(3) *Principal Place of Business*

Street _____
City _____
State _____

(4) *Technical Contact*

Name and Title _____
Street _____
State _____
Telephone Number _____

(5) *Parent Company* (Any company that owns or controls 50% or more of the submitter's voting stock).

Name _____
Street _____
City _____
State _____

Notice in the "Federal Register"

Section 5(d)(2) requires EPA to publish in the **Federal Register** a notice of receipt of each premanufacture notice within five days of receipt of the premanufacture notice. Subject to § 14, this notice must include an identification of the new substance, a list of uses or intended uses, and a description of certain test data. As a matter of policy, EPA will publish the notice in the manner described in § 720.32 of the proposed regulations. In addition, the Agency will publish the name of the submitting company, unless this information is claimed confidential. Persons should review the interim confidentiality procedures, below, with regard to EPA's policy on publication of information which a person considers to be confidential.

Notice of Commencement of Manufacture or Import

Any person who submits a notice under this interim policy, and who begins to manufacture or import the new substance for commercial purposes, must submit a notice of this fact to EPA on or about the date when manufacture or import commences so that the Agency can add the substance to the Inventory. At a minimum this notice must include the identity of the substance; the premanufacture document number which the Agency previously assigned to the substance in the § 5(d)(2) **Federal Register** notice; and the date upon which manufacture or import commences. There is no requirement that the notice be submitted in any particular form. It should be addressed to the Document Control Officer, Office of Toxic Substances, at the address indicated above.

This reporting requirement is imposed under § 8(b) of TSCA. That provision states "In the case of a chemical substance for which a notice is submitted under Section 5, such chemical substance shall be included in such list [the Inventory] as of the earliest date [as determined by the Administrator) on which such substances was manufactured or processed in the United States." EPA believes that a submittal of a notice of commencement is a reasonable method to implement this statutory provision.

Confidentiality

Pending the promulgation of § 5 regulations, the assertion and review of confidentiality claims, and the substantive determination of whether information should be disclosed, will be governed by EPA's general rules for confidentiality of business information submitted under TSCA, 40 CFR § 2.306. Section 2.306 incorporates by reference the bulk of the general provisions of 40 CFR Part 2, the Agency's rules for the handling of confidential business information. EPA amended 40 CFR Part 2 on September 8, 1978 (43 FR 39997) and on March 23, 1979 (44 FR 17673). The remainder of this section addresses what EPA believes those provisions require, and how the Agency will implement them. Except as stated to the contrary, EPA will follow the confidentiality procedures of 40 CFR Part 2. The Agency will resolve individual issues not covered by this discussion on a case-by-case basis, in accordance with 40 CFR § 2.306 and relevant provisions of TSCA.

Until the § 5 rules are final and effective, the policy discussed below will apply to all information submitted to EPA under the premanufacture notification program. After the rules are effective, all such information in the possession of the Agency will be subject to those rules. To the extent that EPA imposes new or different requirements in the rules, EPA will give submitters ample opportunity to update or modify confidentiality claims prior to becoming subject to any new requirements.

General Procedures for Asserting Confidentiality

A person may assert a business confidentiality claim for any information required to be submitted to EPA under TSCA, including any information submitted in the premanufacture notice or the notice of commencement of manufacture or import.

In accordance with 40 CFR § 2.203, if a person wishes to assert a business confidentiality claim for all or part of the information submitted to EPA, he must assert this claim when he submits the information. He must assert this claim in the manner described in § 2.203(b) (See below.) The Agency will disclose information covered by such a claim only to the extent, and following the procedures, set forth in 40 CFR Part 2, Subpart B. If the person does not assert a claim of confidentiality at the time he submits the information, EPA will make the information available to the public without further notice to the submitter.

Section 2.203(b) of EPA's business confidentiality regulations prescribes the methods for asserting confidentiality claims. Among other things, confidential portions of otherwise non-confidential documents should be clearly identified. EPA strongly urges the submitter to be as specific as possible in identifying confidential information. Each page of a document should be marked appropriately. In some cases, if non-confidential and confidential material are mixed on a single page, item-by-item markings would be appropriate.

Section 2.203(b) also states that where a portion of an otherwise non-confidential document is asserted to be confidential, the person may submit separate confidential and non-confidential documents to facilitate identification and handling by EPA. The Agency strongly encourages persons to submit two copies of premanufacture notices if some of the information is claimed confidential. Failure to submit two copies will not affect EPA's determination of whether confidential treatment is appropriate. Section 5(d)(1) of TSCA requires the Agency to make non-confidential information in premanufacture notices available to the public. Therefore if a submitter does not file a non-confidential copy, EPA will prepare an excised copy for inclusion in the public file, based upon the submitter's confidentiality claims. Submitter preparation of the public copy will ease the administrative burden on EPA, and will reduce the remote possibility that EPA will inadvertently disclose information which a submitter claims as confidential.

Substantiation of Claims for Certain Types of Information

If a person asserts a confidentiality claim with respect to the specific chemical identity of a new substance, or for health and safety data submitted with the notice, EPA will review the confidentiality claim and may immediately make an initial determination of whether the information is entitled to confidential treatment. EPA will take this action under § 2.204 even prior to the receipt of a request for release of the information, because the Agency has determined that EPA probably will be requested to disclose the information under the Freedom of Information Act (FOIA). Initiation of the procedures of § 2.204

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early in the notification period will enable EPA to make all information not entitled to confidential treatment available to the public, and to more effectively meet FOIA response deadlines.

To speed up the process of making this initial determination of confidentiality, EPA strongly urges persons to substantiate their claims with respect to health and safety data and the specific chemical identity of the new chemical substance at the time the information is submitted. If a person wishes to subtantiate his claim for either type of information, his submittal must address the confidentiality questions developed by EPA. Separate questions are included below for use in substantiating claims for health and safety data and for specific chemical identity.

The substantiation must be signed by a responsible company official who has direct knowledge of the information. EPA will regard as confidential any information which the submitter furnishes in response to any of the substantiation questions set forth in this notice, provided the submittal is marked CONFIDENTIAL at the top of each page containing confidential information and provided that, if the information has previously been submitted otherwise, provided that, it is entitled to confidential treatment. If these conditions are met, EPA will not disclose this information without the consent of the submitter unless disclosure is ordered by a federal court.

If a person does not submit appropriate substantiation with his notice EPA automatically will give notice to the submitter under § 2.204(e) that the Agency is making a confidentiality determination. In its notice, EPA will afford the company the opportunity to substantiate its claim by submitting timely comments with respect to the questions which the Agency has developed. Under § 2.204(e) EPA will require the company to furnish substantiation within 15 business days of the company's receipt of the written notice. Persons who submit the appropriate substantiation with the § 5 notice will avoid the difficulties of preparing a thorough substantiation for the Agency in such a short time period. Section 2.205(d) provides that if a company fails to provide substantiation in a timely fashion, EPA shall determine that the company has waived its claim. In this event, the Agency will make such information available to the public without further notice to the submitter.

If the person submits substantiation as discussed above and EPA denies the claim under § 2.306(e), the Agency will transmit a notice of denial to the submitter. This notice will state that EPA intends to make the information available to the public on the 31st day after the notice is received by the submitter.

This discussion is only a brief introduction to the Part 2 procedures which will apply to submitters of confidential information and EPA during the interim period. Persons will be governed by the specific terms of Part 2, and should become aware of those requirements.

Health and Safety Data

If a person asserts a claim of confidentiality for health and safety data submitted with his premanufacture notice, and if the person intends to substantiate his claim, his substantiation must address the following questions:

1. Will disclosure of the information claimed as confidential in your health and safety study disclose a process used in manufacturing or processing a chemical substance or mixture? It so, describe how the information will disclose the process.

2. Will disclosure of the information claimed as confidential in your health and safety study disclose the portions of a mixture comprised by any of the chemical sustances in the mixture? If so, describe how the information will disclose the portions.

3. Will disclosure of the data claimed as confidential in your health and safety study disclose information which is not related in any way to the effects of the substance on health or the environment? If so, describe how the data will disclose this information.

4. Has any of the information claimed as confidential been disclosed in a patent? If so, why should it treated as confidential?

5. Is this information available to the public or your competitors without restriction? If so, why should it be treated as confidential?

6. How do you protect this information from undesired disclosure?

7. Has this information been disclosed to others? If so, what precautions have you taken in regard to these disclosures? Has the information been disclosed to the public or to competitors?

8. In the case of information concerning portions of a mixture comprised by one or more chemical substances, does the mixture leave the control of your company and move in commerce? If so, can the mixture be analyzed to determine the portions of the chemical substances in it?

9. Has EPA, another federal agency, or any federal court made any pertinent confidentiality determinations regarding this information? If so, please attach copies of such determinations.

10. For what period of time should confidential treatment be given? Until a specific date, the occurrence of a specific event, or permanently? Why?

11. What harmful effects to your competitive position, if any, do you think would result from disclosure of the process? The portions? Information not related in any way to the effects of a substance on the health or the environment? How would a competitor use this information? How substantial would the harmful effects of disclosure be? What is the causal relationship between disclosure and the harmful effects?

Uses of the New Chemical Substances

Under § 5(d)(1)(A) of the Act and § 8(a)(2)(B), a submitter must include in his premanufacture notice the "categories or proposed categories or use" of the new chemical substance. He may assert a claim of confidentiality for the information. Until the § 5 rules become final and effective, EPA urges that if the person claims such information to the confidential, he also submit both a generic description of the use and a non-confidential description of the type of exposures which may occur from the use.

If the submitter does not provide EPA any non-confidential use information for inclusion in the § 5(d)(2) **Federal Register** notice, the Agency will develop such a description and will provide the submitter with notice of its intent to release this information. As with information concerning chemical identity discussed below, the notice requirement may prevent inclusion of any use information in the initial § 5(d)(2) notice. If this happens, EPA wil publish an amended § 5(d)(2) **Federal Register** notice with the generic uses when the notification period under § 2.306(e) expires.

In any event, the Agency will not disclose use information if such disclosure would reveal confidential business information under the Agency's business confidentiality rules.

Specific Chemical Identity

Asserting a Confidentiality Claim for the Period Prior to Commencement of Manufacture or Import. A person who submits a premanufacture notice may claim that the specific chemical identity of a substance is confidential for the period prior to the commencement of manufacture or import of the substance for a commercial purpose. In making this claim the submitter is asserting that the fact that *anyone* intends to manufacture or process the substance for a commercial purpose is confidential. However, a person should not assert a claim of confidentiality for the specific chemical identity if the only confidential fact is the link between the identity and the company. In such a case the submitter should restrict his claim of confidentiality to the link between a particular identity and the submitting company.

If the person intends to substantiate this claim of confidentiality his substantiation must address the following questions:

1. What harmful effects to your competitive position, if any, do you think would result if EPA discloses to the public the identity of the chemical substances which you reported in your premanufacture notice? How could a competitor use such information, given the fact that the link between your company and the chemical identity can be kept confidential? What is the causal relationship between the disclosure and the harmful effects?

2. For what period of time should confidential treatment be given? Until a specific date, the occurrence of a specific event, or permanently? Why?

3. Has the chemical substance been patented? If so, have you granted licenses to others with respect to the patent as it applies to the chemical substance? If the chemical substance has been patented and therefore disclosed through the patent, why should it be treated as confidential during the period prior to manufacture?

4. Has the identity of the chemical substance been kept confidential to the extent that your competitors do not know that it will be manufactured or imported for a commercial purpose *by anyone*?

5. Has the fact that someone is planning to manufacture or import this chemical substance for commercial purposes been made available to the public? (E.g., in technical journals or other publications.)

6. What measures have you taken to prevent undesired disclosure of the fact that you will be manufacturing or importing this substance for a commercial purpose?

7. To what extent has the fact that you will be manufacturing or importing this chemical substance for a commercial purpose been disclosed to others? What precautions have you taken in regard to these disclosures? Has the information been disclosed to the public or to competitors?

8. Have samples of this substance left the premises of your company for any reason? If so, what measures have you taken to guard against discovery of its identity?

9. Has EPA, another federal agency, or any federal court made any pertinent confidentiality determinations regarding this chemical substance? If so, please attach copies of such determinations.

If the submitter claims the specific chemical identity confidential, EPA strongly encourages him to submit a proposed generic name (i.e., less specific), which is only as generic as necessary to protect the confidential identity of the substance, and which reveals to the maximum extent possible toxicologically significant aspects of the molecular structure. In choosing a generic name, the submitter is urged to consult the Agency's *Guidelines for Creating Proposed Generic Names*, included as Appendix II of the January 10, 1979 proposal (44 FR 2278–82). In addition, a person who intends to claim confidentiality for specific chemical identity may seek a determination by EPA of an appropriate generic name, prior to submittal of the premanufacture notice. If the submitter wishes such a determination, he should submit to the Agency the specific chemical identity of the substance, a proposed generic name (after consulting EPA's *Guidelines*), and an explanation of why any more specific name would reveal confidential business information.

Whether or not a proposed generic name is submitted with the premanufacture notice, EPA must develop such a name if the submitter claims the specific chemical identity confidential. The Act requires EPA to publish in the § 5(d)(2) **Federal Register** notice, among other things, information which "identifies the chemical substance for which notice or data has been received." This provision is subject to § 14, so that EPA must use a generic description if the specific chemical identity is claimed confidential. Therefore if EPA receives a notice which claims specific identity confidential but which does not include a proposed generic name, the Agency will choose a name which is only as generic as necessary to protect the confidential identity. Then, under § 14(c) of TSCA and 40 CFR § 2.306(e)(3), EPA will notify the submitter that it intends to disclose the proposed *generic* name in an amended § 5(d)(2) Federal Register notice.

EPA's rules require the Agency to provide notice to the submitter before disclosing information claimed to be confidential. Accordingly, if the submitter does not provide a generic name for the substance, the initial **Federal Register** notice will not include *any* identification of the substance for which the premanufacture notice had been submitted. In this case, EPA intends to publish an amended notice in the **Federal Register** with a generic name as soon as the notice period under 40 CFR § 2.306(e)(3) elapses.

If a person submits a generic name, that name will be published in the **Federal Register.** If this generic name is inadequate, EPA will publish an amended notice with a more specific chemical identity after following the procedures discussed above.

Asserting a Confidentiality Claim for the Period After Commencement of Manufacture or Import

A person who submits a premanufacture notice may assert that the specific chemical identity of a substance is confidential for the purposes of the Inventory. In making this claim the submitter is asserting that the fact that *anyone* manufactures, imports, or processes the chemical substance for a commercial purpose is confidential. As discussed above, the person should not assert a claim of confidentiality for the specific chemical identity if the only confidential fact is the link between that identity and the company name. The submitter may make this claim when he submits his premanufacture notice if he intends to commence manufacture within one year from the date of the notice. He must assert the claim no later than the date of submittal of the notice of commencement of manufacture or import. Failure to submit the claim will result in the specific chemical identity being published on the Inventory.

If a person asserts this claim, he must substantiate the claim by submitting detailed answers to the following questions. These questions should be addressed separately from the questions applicable to a claim for the period prior to commencement of manufacture or import.

1. What harmful effects to your competitive position, if any, do you think would result if EPA publishes on the Inventory the identity of the chemical substance? How could a competitor use such information, given the fact that the identity of the substance otherwise would appear on the Inventory of chemical substances with no link between the substance and your company or industry? How substantial would the harmful effects of disclosure be? What is the causal

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relationship between the disclosure and the harmful effects?

2. For what period of time should confidential treatment be given? Until a specific date, the occurrence of a specific event, or permanently? Why?

3. Has the chemical substance been patented? If so, have you granted licenses to others with respect to the patent as it applies to the chemical substance? If the chemical substance has been patented and therefore disclosed through the patent, why should it be treated as confidential for purposes of the Inventory?

4. Has the identity of the chemical substance been kept confidential to the extent that your competitors do not know it is being manufactured or imported for a commercial purpose *by anyone?*

5. Is the fact that someone is manufacturing or importing this chemical substance for commercial purposes available to the public? E.g., in technical journals or other publications; in libraries, or state, local, or federal agency public files?

6. What measures have you taken to prevent undesired disclosure of the fact that you are manufacturing or importing this substance for a commercial purpose?

7. To what extent has the fact that you are manufacturing or importing this chemical substance for a commercial purpose been disclosed to others? What precautions have you taken in regard to these disclosures? Has this information been disclosed to the public or to competitors?

8. In what form does this particular chemical substance leave the site of manufacture? (E.g., As part of a product; in an effluent or emission stream.) If so, what measures have you taken to guard against discovery of its identity?

9. If the chemical substance leaves the site of manufacture in a product that is available to either the public or your competitors, can they identify the substance by analyzing the product?

10. For what purpose do you manufacture or import the substance?

11. Has EPA, another federal agency, or any federal court made any pertinent confidentiality determinations regarding this chemical substance? If so, please attach copies of such determinations.

If substantiation does not accompany the claim of confidentiality, EPA will initiate the procedures described above under "General Procedures for Asserting Confidentiality."

Generic Name

If the submitter claims the specific chemical identity of a substance to be confidential during the period prior to commencement of manufacture or import, a generic (i.e. less specific) name must be developed. If the submitter claims confidentiality for specific chemical identity for the Inventory, and if he believes that a narrower generic name than that developed for the period prior to commencement of manufacture would be adequate, the person should propose that name at the time he asserts the claim for the Inventory. Regardless of whether the submitter proposes a revised generic name, if the Agency determines that a narrower name is appropriate EPA will notify the submitter of this fact in the manner described above concerning claims of confidential identity for the period prior to commencement of manufacture.

Disclosure to Persons With Bona Fide Intent To Manufacture

All substances reported to EPA for inclusion on the Initial or Revised Inventories are subject to the inventory rules. In § 710.7(e)(2) of those rules EPA requires that a submitter who claims confidentiality for specific identity for the Initial or Revised Inventories must agree that EPA may disclose the fact that the substance is on the Inventory to another person with a *bona fide* intent to manufacture or import the substance for a commercial purpose. In addition, the inventory rules require the person reporting for the Inventory to have available, and to agree to furnish to EPA upon request, certain information which the Agency could use to resolve uncertainties of identity between the substance on the Inventory and a substance which another person intends to manufacture. Thus although a specific identity reported under the inventory rules is confidential, EPA will disclose to a *bona fide* manufacturer whether the substance is included on the Inventory.

The inventory rules do not apply to substances for which § 5 notices are submitted, and which are to be added to the Inventory upon receipt of a notice of commencement of manufacture or import. In its proposed rules for premanufacture notification, EPA included a procedure for disclosure of certain information to persons with a *bona fide* intent to manufacture which was identical in substance to the procedures established by § 710.7 of the inventory rules. However, these proposed rules are not in effect at this time.

Although there is no requirement under the interim policy that a person who has completed § 5 review and who claims confidentiality for the Inventory agree to EPA's disclosure to a *bona fide* manufacturer that the substance is on the Inventory, submitters are strongly encouraged to state this agreement. When persons do so, the Agency will follow § 710.7(g) of the inventory reporting rules. If a submitter does not agree to allow such disclosure, EPA will not disclosure to a person with a *bona fide* intent to manufacture the substance whether the substance is on the Inventory. Thus to ensure his compliance with § 5, a person with a *bona fide* intent to manufacture or import a chemical substance which has been added to the Inventory following § 5 may be required to submit a premanufacture notice although the substance has completed premanufacture review and is included on the Inventory. EPA developed the procedures for disclosure to persons with a *bona fide* intent to manufacture or import to address just this problem. In fact, representatives of the chemical industry suggested the need for this procedure.

Failure to disclosure identity to *bona fide* manufacturers may impose unnecessary burdens on the *bona fide* manufacturers. However, the chance and degree of inquiry to an original manufacturer who agrees to EPA's procedures is slight. To be informed whether a substance falling within one of the generic names is included on the Inventory, EPA's rules require a person to demonstrate that he has a *bona fide* intent to manufacture or import the substance. To show this, the rules require the person to submit a statement of present intent to manufacture or import, including a description of research and development activities to date and the purpose for which the substance will be manufactured or imported. In addition, EPA requires the inquiring manufacturer to submit an elemental analysis, either an X-ray diffraction pattern or a mass or alternative spectrum of the substance, and any additional information necessary to identify the substance. This approach discourages fishing expeditions by persons without a *bona fide* intent to manufacture or import and thereby protects trade secrets from disclosure to competitors. In addition, if EPA tells the *bona fide* manufacturer that the substance is on the Inventory, the Agency will inform the original manufacturer that someone has made this showing. This will give the original manufacturer similar information about the activities of a *bona fide* manufacturer as that person has with regard to the original manufacturer. The identities of the manufacturers involved will not be disclosed.

A person who submits a confidentiality claim for the identity of a substance on the Inventory should indicate clearly in his claim whether he agrees to disclosure to a person with a *bona fide* intent to manufacture in accordance with § 710.7(g) of the inventory rules. However, regardless of whether he agrees to such disclosure, unless EPA denies his confidentiality claim the Agency will publish the generic name in an appendix to the Inventory, and will not publish the specific identity on the Inventory. If a submitter does not agree that EPA may tell persons with a *bona fide* intent to manufacture whether their particular substances are on the Inventory, the Agency will deny any such request for the information. This interim policy only will be in effect until the premanufacture notification rules are final and effective. At that time, all substances added to the Inventory during the interim period will become subject to the new rules. EPA will provide persons who submitted notices of commencement of manufacture, but who failed to agree to disclosure to *bona fide* manufacturers, an opportunity to agree to the disclosure provisions included in the Agency's final § 5 rules. Failure to indicate such agreement in a timely manner will result in a waiver of the claim, and EPA will include the specific chemical identity on the Inventory.

Substantive Determination on Confidentiality of Specific Chemical Identity

One of the most significant issues in the proposed premanufacture rules is how EPA will handle claims of confidentiality for specific chemical identity, particularly when this information is part of a health and safety study submitted with the premanufacture notice. Until the § 5 rules become final, the only regulations EPA has promulgated pertaining to this area are the Agency's business confidentiality regulations, 40 CFR Part 2, Subpart B. However, in drafting those regulations, EPA did not focus on the particular confidentiality issues raised by the premanufacturing notification requirements.

Pending completion of the § 5 rulemaking, EPA will not disclose specific chemical identity as part of a health and safety study submitted with a premanufacture notice, if such disclosure would reveal confidential business information. This policy will apply both prior to and after a person has commenced manufacture or import of the substance. However, all information submitted to the Agency during the interim period will be subject to the terms of the § 5 rules when they become final.

This interim policy should be distinguished from that contained in § 720.43 of EPA's proposed rules, with respect to confidentiality of specific chemical identity in the period following commencement of manufacture. In § 720.43, EPA proposed that during the period prior to commencement of manufacture the Agency would grant confidential treatment to the specific chemical identity in a health and safety study submitted under § 5 if public disclosure would reveal confidential business information. However, EPA also proposed that after commencement of manufacture, and addition of the chemical to the Inventory, the specific chemical identity contained in a health and safety study would be entitled to confidential treatment only if the information would reveal either confidential processes used in the manufacturing or processing of a chemical substance or mixture, or the confidential portions of chemical substances in a mixture.

The proposed premanufacture rules represnt EPA's current view of the Agency's authority and responsibilities under TSCA. However, EPA recognizes that the Agency's resolution of this issue is one of the most important and controversial issues in the proposal. Industry representatives have maintained that EPA should apply its proposed policy for the period prior to commencement of manufacture or import to the period after commencement as well. On the other hand, representatives of public interest organizations and of organized labor have maintained that specific chemical identity should be disclosed both prior to and after manufacture begins, unless disclosure would reveal confidential processes or portions.

This interim policy will ensure that EPA takes no steps now that could be inconsistent with the Agency's resoulation of this issue in the final § 5 rules. If EPA discloses certain chemical identities prior to promulgation of the rules, and if the final rules do not otherwise mandate such disclosure, the interim disclosure could not be undone. On the other hand, if the Agency does not disclose the identities during the interim policy period and then promulgates a rule consistent with the proposed rules (or authorizing more disclosure), the interim policy will have resulted in a postponement of the release of the specific chemical identity. At most this would delay temporarily the ability of members of the public to examine this information, and to petition EPA to initiate regulatory action.

Compliance and Enforcement

EPA will bring enforcement actions against violators of § 5. In particular, persons who commence manufacture or import prior to notifying the Agency or before the termination period, and persons who fail to submit required data or who make false or misleading statements, will be the subject of enforcement actions. These may include actions for civil penalties, injunctive relief, and possible criminal prosecution. The Agency discussed its general approach to compliance and enforcement in greater detail in the preamble to the proposed premanufacture rules and notice forms (44 FR 2255, January 10, 1979)

Contracts After Close of the Comment Period

During the 75 day public comment period for the proposed rules and notice forms which ended March 26, 1979, interested persons had a variety of opportunities to review and comment upon the proposed rules and forms. EPA held nine public meetings and received written comments from more than 170 persons. In addition, prior to proposal the Agency distributed drafts of its rules and notice forms to interested persons, held a number of public and informal meetings, and received numerous written comments. EPA now is reviewing the transcripts and minutes of the public meetings, the written comments, and other written materials which comprise the public record; and the Agency will prepare its final regulations based on that record.

Until EPA promulgates the rules and forms, the Agency generally will discourage and not participate in discussions and meetings concerning the proposed rules and forms, in order to avoid the possibility of engaging in improper contracts. This includes telephone conversations and informal meetings or discussions. However, if such contacts do occur, EPA participants will make written records of the pertinent facts, including persons involved and the substance of the discussions. These materials will be included in the public record of the rulemaking.

This general policy does not apply to requests for EPA merely to summarize or describe the proposed rules and forms. Likewise it does not limit discussions concerning subjects not covered by the *proposed* regulations,

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such as premanufacture testing guidelines and significant new use rules. The policy does not apply to comments or questions focused solely on the Agency's interim policy described elsewhere in this notice. Finally, this policy is not intended to restrict inquiries or comments pertaining to particular premanufacture notices. For example, certain manufacturers may find it helpful to consult with EPA before submitting their premanufacture notice. In addition, EPA expects to receive public comments in response to the § 5(d)(2) Federal Register notice of receipt of some premanufacture notices.

Although EPA generally will discourage discussions concerning the terms of the proposed rules and forms the Agency from time to time nonetheless may determine that such discussions would be useful or necessary. When EPA decides to participate in such a discussion, Agency personnel will prepare an agenda for the meeting, place the agenda in the public record, and publicize the meeting to other interested persons. Any meeting of this type will be open to the public, although active participation may be limited to certain persons. EPA will include the minutes or transcription of the meeting in the public record.

EPA currently intends to hold additional meetings to focus on the development of a revised premanufacture notice form. The Agency has evaluated comments which it received concerning the form and various ways to respond to them. There are many aspects of this issue (e.g., scope of information requested, level of detail), and EPA would find it beneficial to discuss them and possible revisions of the form with interested persons. Thus the Agency will reopen the public comment period for a limited time concerning the forms, but *not* with regard to other rulemaking issues. EPA will announce this additional comment period in the Federal Register, including procedures to be followed in requesting meetings and submitting further written comments. The Agency will include in the public record all such comments, plus the transcripts and minutes of any meetings.

Consistent with EPA's approach on discussion of premanufacture notice issues, any person who wishes to meet with EPA personnel to discuss the proposed rules and forms should write a letter to the Agency setting forth an agenda and any materials or issues relevant to both the proposed topic and the need for a meeting. In particular, in light of EPA's general policy to discourage further meetings, the person should indicate why a meeting is needed, and why submittal of further written comment or reliance upon existing parts of the public record would be inadequate.

A person may find it to be necessary to submit additional comments if he develops new information or approaches based upon a reading of others' previously submitted comments, or upon new information or data. EPA will continue to supplement the public record with any such materials, and will consider them to the best of the Agency's ability, given time and resource limitations. Submitters should mark any such comments clearly as being comments for the rulemaking record and should *not* convey the comments as a personal letter or inquiry. The comments should bear the document control number OTS–050002 and should be submitted in triplicate to the Document Control Officer, (TS–793), Office of Toxic Substances, U.S. Environmental Protection Agency, 401 M St., SW., Washington, D.C. 20460.

Dated: May 8, 1979.

Steven D. Jellinek,
Assistant Administrator for Toxic Substances.

[FRL 1224–6; OTS–050002C]

[FR Doc. 79–15114 Filed 5–14–79; 8:45 am]

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federal register

Tuesday
May 15, 1979

Part VI

Securities and Exchange Commission

Practices in Fixed Price Offerings; Request for Comments and Announcement of Public Hearings

during August 1978.[1] The proposed rule

on the issues raised in this release,

managing underwriter may select

elect to "stabilize" the market for the

broker-dealer affiliate to be included in the selling group. The customer may

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SECURITIES AND EXCHANGE COMMISSION

Practices in Fixed Price Offerings

AGENCY: Securities and Exchange Commission.

ACTION: Request for comments and announcement of hearings.

SUMMARY: The Commission has published notice of a proposed rule change filed by the National Association of Securities Dealers, Inc. which would amend its Rules of Fair Practice governing member practices with respect to fixed price offerings of securities. In view of the importance and complexity of the issues associated with that proposed rule change, the Commission has determined to solicit additional written submissions of data, views and arguments from interested persons, particularly in response to the discussion contained in this release. In addition, the Commission is announcing that it intends to hold public hearings on this subject during September 1979.

DATES: Written comments should be submitted and hearing appearances noted not later than August 1, 1979; public hearings are expected to commence on September 10, 1979.

ADDRESSES: All comments should refer to File No. SR–NASD–78–3 and should be sent with 30 copies to George A. Fitzsimmons, Secretary, Securities and Exchange Commission, 500 North Capitol Street, Washington, D.C. 20549. Public hearings will be held in Room 776 at the above address. All written submissions and hearing transcripts will be made available for public inspection at the Commission's Public Reference Section, Room 6101, 1100 L Street, NW., Washington, D.C.

FOR FURTHER INFORMATION CONTACT: Richard T. Chase, Esq., Office of Self-Regulatory Oversight, Room 341, Division of Market Regulation, Securities and Exchange Commission, Washington, D.C. 20549, (202) 755–7620.

SUPPLEMENTARY INFORMATION: Pursuant to Section 19(b)(15 U.S.C. 78s(b)) of the Securities Exchange Act of 1934 ("Act") (15 U.S.C. 78a *et seq.*, as amended by Pub. L. No. 94–29 (June 4, 1975)), the National Association of Securities Dealers, Inc. ("NASD") has filed a proposed rule change ("proposed rule change") concerning the giving and receiving of selling concessions, discounts or other allowances in connection with fixed price offerings of securities. Notice of the proposed rule change was given by Commission release published in the Federal Register during August 1978.[1] The proposed rule change is briefly summarized below, and the full text of the proposed rule change is attached as an appendix to this release.

The purpose of this release is to solicit additional written submissions of data, views and arguments from interested persons concerning certain issues raised by the proposed rule change and to announce public hearings with respect to those issues. The Commission has received 43 comment letters on the proposed rule change, including 17 letters requesting that the Commission hold hearings.[2] Because of the importance and complexity of these issues, the Commission considers it appropriate to hold public hearings to explore more fully the matters discussed in this release and other issues raised by the proposed rule change. Written submissions of data, views and arguments, and notifications of appearances at the public hearings, should be made not later than August 1, 1979. The Commission has tentatively scheduled commencement of public hearings for September 10, 1979. The schedule of appearances will be announced by the Commission shortly before the hearings commence. Persons intending to appear should submit the text of any prepared statements not later than four business days prior to their appearance.

I. Introduction and Background

A. Firm Commitment Fixed Price Offerings

In order to establish the basic terminology used in this release, there follows a general description of the underwriting process in a typical firm commitment offering of corporate debt or equity securities, as well as a description of certain sales practices employed by broker-dealers in selling securities in fixed price offerings to institutional customers. In commenting on the issues raised in this release, interested persons should indicate when their analysis is based on circumstances that depart materially from the description provided below.

In a typical firm commitment offering of corporate securities, one or more investment banking firms organize an underwriting syndicate to purchase the securities from the issuer for resale at a specified public offering price established through negotiation with the issuer or competitive bidding. Each member of the syndicate executes an "agreement among underwriters" that designates one or more managing underwriters and fixes the obligations among the members of the syndicate. The syndicate members, through the managing underwriter, also enter into an underwriting agreement with the issuer that sets forth the terms and conditions of the offering and the amount of securities that each member is committed to underwrite.

Syndicate members are compensated for their services by receiving an underwriting discount, or "spread," which is the difference between the price paid to the issuer by the syndicate for the securities and the "initial public offering price" appearing on the cover page of the prospectus.[3] Depending on a number of factors, including the characteristics of the security being distributed, the degree of underwriting risk, the amount of selling effort required and costs associated with the distribution of the securities, the underwriting discount for a particular offering may range from a fraction of 1% to 10% or more of the public offering price.[4] The gross spread is composed of (i) the underwriting compensation, which includes a management fee for the lead underwriter(s), and (ii) the selling concession. The relative size of these components is determined by the syndicate in light of the particular characteristics of the offering. The selling concession in recent years has grown as a percentage of the gross spread, apparently reflecting the increased importance of selling effort to a successful underwriting. To assist the syndicate in distributing the offering, the

[1] Securities Exchange Act Release No. 15020 (August 2, 1978), 43 FR 35446 (1978). The issues associated with the proposed rule change are commonly identified by reference to a judicial decision, *Papilsky* v. *Berndt*, (1976–1977 Transfer Binder) Fed. Sec. L. Rep. (CCH) § 95,627 (S.D.N.Y. 1976), discussed at text accompanying n. 18, *infra*. Accordingly, the complete NASD filing with the Commission containing the proposed rule change is referred to in this release as the "Papilsky filing."

[2] The NASD received a total of 52 comment letters in response to two notices circulated to its members containing drafts of the proposed rule change. In response to publication of notice of the proposed rule change in the Federal Register, the Commission has received 22 comment letters. The Commission also received 21 comment letters before formal notice of the proposed rule change was published. All letters received by the Commission and the NASD concerning the proposed rule change are contained in Commission File No. SR–NASD–78–3.

[3] Direct or indirect rebate payments of a portion of the spread appear to be occurring, however, thereby effectively lowering the "initial public offering price" to some purchasers. *See* discussion at text accompanying n. 8, *infra*. The NASD has taken the position that at least certain of these rebates are now improper under its rules. *See* text accompanying n. 20, *infra*.

[4] An interpretation under Article III, Section 1 of the NASD Rules of Fair Practice prohibits member firms from participating in public distributions in which the underwriting arrangements, considering all elements of compensation and other relevant factors, are "unfair or unreasonable."

managing underwriter may select additional dealers to form a selling group. Members of the selling group (which may also include syndicate members) receive the selling concession for such securities as they actually sell and customarily enter into a "selected dealer agreement" setting forth their rights and obligations with respect to the offering.

In addition to the dealers selected by the managing underwriter to form the selling group, other dealers may be included in the selling group at the request of prospective purchasers seeking to place orders with, or designate orders for allocation to, particular firms. "Designated orders" are usually orders for larger amounts of securities placed by institutions with the managing underwriter, with direction that the sale be credited to the account of one or more dealers that are syndicate or selling group members. A designated order is customarily confirmed,[5] and the securities directly delivered, by the managing underwriter. A dealer designated to receive such credit on an order may be added to the selling group where that firm was not a member at the time the order was placed.

As described above, the amount of securities for which a syndicate member is responsible is fixed by agreement. Typically, however, each syndicate member retains control over and directly places only a portion of the securities it has agreed to underwrite, usually referred to as his "retention." The remainder is reserved and placed in a general syndicate account, usually referred to as the "pot," under the control of the managing underwriter. Securities in this account are then allocated and reallocated by the managing underwriter during the offering period among syndicate and selling group members for a variety of reasons, particularly the demonstrated capacity of those members to place the securities with investors. In addition to the public offering conducted directly by the members of the underwriting syndicate and the selling group, underwriting agreements often authorize these members to sell the securities being distributed to other dealers, at a specified discount (a percentage of the selling concession) referred to as the "reallowance," for resale to the public.

In connection with a particular fixed price offering, the underwriters may elect to "stabilize" the market for the offered security during the distribution period. To commence stabilizing, the managing underwriter places a syndicate bid in the primary market for the security to purchase securities offered at that bid price, usually set at or just under the public offering price.[6] The purpose of stabilizing purchases is to facilitate an orderly distribution of the offered securities by preventing or retarding a decline in the market price for such securities during the offering.[7]

The growth of institutional participation in the securities markets has exerted increasing pressure on the fixed price offering system.[8] In connection with distributions, a number of practices have developed which may have the economic effect of granting to institutional and other large purchasers a rebate of some portion of the gross spread in fixed price offerings. Such practices include both direct discounting techniques, such as "overtrading" in swap transactions and certain types of underwriting fee recapture, and indirect compensation arrangements, such as the provision of goods and services in return for so-called "syndicate soft dollars."

In swap transactions, securities are taken in trade from a customer, in lieu of cash, in exchange for the offered securities. A discount from the fixed offering price may be granted to the purchaser of the offered securities where the syndicate member purchases the securities taken in trade at a price exceeding their market value. This "overtrade" is economically equivalent to paying less than the stated offering price for the securities being distributed.

A customer may seek to recapture underwriting fees by designating a broker-dealer affiliate to be included in the selling group. The customer may then purchase the offered security through its affiliate, thereby recapturing the selling concession. Such concession payments to an affiliate enable the customer to obtain direct discounts from the fixed offering price.

A broker-dealer providing research or other services to a customer may be compensated for those services, at least in part, through purchases by the customer in a fixed price offering. The customer can either purchase the securities directly through the broker-dealer or can contact the managing underwriter and "designate" the dealer to receive credit for the order. In these instances, the dealer is compensated indirectly be receiving "soft dollar" concessions for the research or other services it has provided.

B. Background of the Proposed Rule Change

Since the registration of the NASD in 1939 pursuant to the Maloney Act,[9] the NASD has regulated, particularly under Article III, Section 24 of its Rules of Fair Practice,[10] the circumstances in which concessions, discounts or other allowances may be given in fixed price offerings. Section 24, which until filing of the proposed rule change had not been the subject of revision during the 40 years of its existence, provides that:

> [s]elling concessions, discounts, or other allowances, as such, shall be allowed only as consideration for services rendered in distribution and in no event shall be allowed to anyone other than a broker or dealer actually engaged in the investment banking or securities business; provided, however, that nothing in this rule shall prevent any member from selling any security owned by him to any person at any net price which may be fixed by him unless prevented therefrom by agreement.[11]

During this period, Section 24 has received little interpretive attention from the courts or the Commission. In 1941, the NASD imposed sanctions on several member firms that violated the terms of a fixed price underwriting agreement by selling debt securities of Public Service Company of Indiana during the distribution at prices below the public offering price. The NASD charged those members with a violation of Article III, Section 1 of its Rules of Fair Practice, which requires members to "observe high standards of commercial honor and just and equitable principles of trade." In

[5] Any order placed prior to the date of the final prospectus is, as a legal matter, only an "indication of interest," subject to confirmation of sale after the registration statement covering the offering, filed under the Securities Act of 1933 (15 U.S.C. 77a *et seq.*), is declared effective.

[6] The syndicate's stabilizing activities during the offering must be conducted in accordance with the provisions of Rule 10b–7 under the Act (17 CFR 240.10b–7).

[7] *See* Rule 10b–7(c) under the Act. The Commission has recognized in the past that stabilization is a form of market manipulation which must be limited and controlled. Securities Exchange Act Release No. 2446 (March 18, 1940) (statement of Commission policy with respect to stabilizing, the "1940 Release"). Accordingly, the Commission has promulgated regulations, designed to curb abuse of the stabilization function in connection with fixed price offerings. *See* 1940 Release and Securities Exchange Act Release No. 5194 (July 5, 1955) (adoption of Rule 10b–7, among other rules).

[8] The manifestation and impact of that participation parallel, in certain respects, the experience gained some years ago with efforts to maintain fixed rates of commission in the secondary markets in the face of increased institutional participation. On the other hand, there are differences between the stock exchanges' establishment of fixed minimum commission rate schedules and the NASD's involvement in fixed price underwritings. *See* Securities Exchange Act Release No. 11203 (January 23, 1975), 40 FR 7394 (1975).

[9] 52 Stat. 1070, 15 U.S.C. 78*o*(c), 78*o*–3, 78q(a), 78cc(b), 78ff(c) (1938).

[10] NASD Rules of Fair Practice Article III, Section 24, NASD Manual (CCH) ¶2174 (1978).

[11] *Id.*

2. *Article III, Section 24.* Section 24 impose documentation, filing and record engage in a swap transaction in

reviewing those sanctions, the Commission held, in *National Association of Securities Dealers, Inc.* ("*PSI*"),[12] that Section 15A(b)(7) of the Act (15 U.S.C. 78o–3(b)(7)) [13] did not permit the NASD to use its disciplinary authority to enforce contracts "designed to restrict a free and open market, even though such contracts may under given conditions fall within an exception to the general public policy against restraints on commerce.[14] In *PSI*, the Commission rejected the NASD's argument that Section 24 supported its interpretation of Article III, Section 1, but noted that the meaning and validity of Section 24 were not directly at issue.[15]

The Commission, however, also expressly rejected any implication that, by invalidating the NASD's rule interpretation, it would similarly seek as a general matter to invalidate or otherwise question the private enforceabiity of customary underwriting agreements to make fixed price offerings. To the contrary, the Commission in *PSI* concluded:

> Thus, if in this case we were faced with the question whether we should or should not prohibit the use of the price-maintenance provisions in question, we would reach the same conclusion that we did with respect to stabilization, *i.e.*, that we should not prohibit such provisions. But the question here is whether the statute permits the NASD, by an interpretation of its rule of fair practice, to add to these familiar restraints and impediments a new form of compulsion—to the end that a member who breaks the price-maintenance agreement shall be subject not only to whatever legal and practical remedies the syndicate manager and members have at their disposal but also to a fine or possible suspension or even expulsion from the NASD.
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> * * * * *
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> We emphasize that all we are holding is that the NASD erroneously construed its rule as authorization for the disciplining of members for violating price-maintenance agreements. *We are not taking any action calculated to upset the use of such agreements, and we think the fears expressed by the NASD are without substance.* Price-maintenance agreements were in use prior to the creation of this Commission and long before the registration of the NASD. Our present conclusion substracts nothing from any sanctions which might previously have been legally imposed to enforce these agreements. No showing is made that the use of the NASD as an added instrumentality for enforcing price-maintenance agreements is necessary to preserve the present system.[16]

Neither the Commission nor the courts has been called upon to deal directly with the proper interpretation and general applicability of Section 24, unitl recently, [17] A number of cases in the last few years have considered the recapture of commissions by investment companies in a variety of contexts. One of these cases, *Papilsky* v. *Berndt* ("*Papilsky*"),[18] dealt directly with the recapture of underwriting discounts. In *Papilsky*, a shareholder derivative action was brought against an investment company and its adviser/underwriter for failure to seek such recapture. The court concluded that, in the absence of a contrary ruling from the Commission or the NASD, underwriting recapture was available and legal under Section 24.[19]

As a result of the *Papilsky* decision, several requests were made to the NASD on behalf of investment advisers and investment companies for a ruling on the propriety of recapture under Section 24.[20] The NASD responded to these requests, in November and December 1976, by stating that, in its opinion, Section 24 prohibits underwriting recapture.[21] The Commission, however, wrote the NASD, in February 1977, stating that the NASD "interpretation" of Section 24 raised important issues of general applicability with regard to the public interest, the protection of investors and the appropriateness of burdens on competition, and that prior Commission decisions, including *PSI*, cast doubt on the NASD's authority to adopt a rule having the effect the NASD interpretation would give to Section 24.[22] For those reasons, the Commission stated that the NASD interpretation should be filed as a proposed rule change. After a public meeting with the Commission on May 26, 1977, the NASD agreed to prepare and file the proposed rule change. In July 1978, the NASD made the Papilsky filing following circulation of two exposure drafts to its membership.[23] Pursuant to Section 19(b) of the Act, the proposed rule change cannot become effective unless approved by the Commission after affirmatively finding that it is consistent with the requirements of the Act and Commission rules thereunder applicable to the NASD.[24]

C. Principal Provisions of the Proposed Rule Change

The proposed rule change would amend the NASD's Rules of Fair Practice governing member practices in fixed price offerings. In particular, the proposed rule change would address underwriting recapture, designated orders and swap transactions through amendments to several NASD rules and interpretations.

1. *Article II, Section 1(m).* The term "fixed price offering" would be defined to include any securities offering in the United States at a stated public offering price or prices. The definition would exclude offerings of municipal securities and other "exempted securities," as defined in Section 3(a)(12) of the Act (15 U.S.C. 78c(a)(12)), offerings of mutual fund securities and wholly foreign offerings.

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[12] 19 SEC 424 (1945).

[13] This provision was amended in certain respects by the Securities Acts Amendments of 1975, Pub. L. No. 94–29 (1975), and was redesignated as Section 15A(b)(6) of the Act (15 U.S.C. 78o–3(b)(6)).

[14] 19 SEC at 444. The Commission's conclusion, in *dictum*, that agreements among underwriters to fix the price at which an offering is to be distributed do not generally violate the Sherman Act, 15 U.S.C. 1, was later judicially confirmed in *U.S.* v. *Morgan*, 118 F. Supp. 621 (S.D.N.Y. 1953).

[15] 19 SEC at 445–446.

[16] 19 SEC at 443–444 (emphasis added).

[17] In 1970, the Commission, without addressing the general scope of Article III, Section 24 of the NASD Rules of Fair Practice, affirmed a finding by the NASD that rebates to customers of commissions on the sale of investment company shares violated Section 22(d) of the Investment Company Act of 1940 (15 U.S.C. 80a–22(d)), as well as Section 24. Section 22(d) expressly prohibits a dealer from selling investment company securities at prices below the "public offering price." *Spiro Sideris*, 44 SEC 212 (1970). Also, the Commission did not notify the NASD that Section 24, as the Commission at that time understood the NASD's interpretation of that section, was inconsistent with the Act, pursuant to Section 31(b) of the Securities Acts Amendments of 1975 (Pub. L. 94–25 (June 4, 1975)).

[18] (1976–1977 Transfer Binder) Fed. Sec. L. Rep. (CCH) Paragraph 95,627 (S.D.N.Y. 1976). The holding in *Papilsky* was that the adviser/underwriter of an investment company will be liable for unrecaptured commissions or fees unless it establishes that it fully disclosed to the independent directors that recapture was a possible alternative to other uses of the commissions or fees, and those directors had decided, as a matter of reasonable business judgment, not to seek recapture. *See also Moses* v. *Burgin*, 445 F.2d 369 (1st Cir. 1971) *cert. denied*, 404 U.S. 994 (1971); *Fogel* v. *Chestnutt*, 533 F.2d 731 (2d Cir. 1975), *cert. denied*, 429 U.S. 824 (1976); and *Tannenbaum* v. *Zeller*, 552 F.2d 402 (2d Cir. 1977), *rev'g* 399 F. Supp. 945 (S.D.N.Y. 1975). In *Moses* v. *Burgin*, 316 F. Supp. 31, 47 (D. Mass. 1970), the District Court rejected, on the basis of Section 24, a cause of action relating to underwriting recapture similar to that advanced in *Papilsky*. That decision, however, was reversed on other grounds by the First Circuit.

[19] *Papilsky* at 90,132.

[20] In addition, a number of investment companies and their advisers applied to the Commission for certain exemptions from the Investment Company Act of 1940, including Section 17(a) thereof (15 U.S.C. 80a–17(a)), which restricts securities dealings between registered investment companies and their investment advisers. *See, e.g., Application of Congress Street Fund, Inc. et al.*, August 27, 1976 (File No. 812–3092); *Application of Lord, Abbett & Co., et al.*, August 23, 1976 (File No. 812–4018); and *Application of Fidelity High Yield Municipals, et al.*, May 8, 1978 (File No. 812–4306).

[21] *See, e.g.*, letter from Frank J. Wilson, Senior Vice President and General Counsel of the NASD, to Kenneth B. Cutler of Lord, Abbett & Co. (November 23, 1976).

[22] Letter from George A. Fitzsimmons, Secretary of the Commission, to Gordon S. Macklin, President, NASD, at 2–3 (February 17, 1977).

[23] *See* note 2 *supra*.

[24] *See* Section 19(b)(2) of the Act (15 U.S.C. 78s(b)(2)).

2. *Article III, Section 24.* Section 24 now provides, in substance, that selling concessions, discounts or other allowances ("concessions"), as such, can only be given to NASD members[25] actually engaged in the investment banking or securities business as consideration for services rendered in distribution. A proviso to Section 24, however, effectively limits its operation to situations where a member is contractually bound to sell a security at a fixed price.[26]

The NASD asserts in the Papilsky filing that the proposed rule change is "not intended to alter substantially the present scope and application of Section 24." [27] However, the NASD goes on to state that the proposed rule change does clarify that Section 24 applies only to the offering of securities by members at a fixed public offering price and that certain forms of indirect concessions are treated no differently than direct concessions. Thus, the interpretation of section 24 makes very clear that members who agree to offer securities at a stated public offering price cannot devise indirect means to provide select customers with the securities at prices not available to other public investors. The indirect granting of a concession by a device like that contemplated in *Papilsky* has the additional vice of creating a misleading record of the transaction, since the sale is confirmed and recorded at the fixed price while the sharing of the concession—the rebate—is accomplished through other means. [28]

The NASD's authority to regulate member performance of the contractual terms and conditions of fixed price offerings of securities in the manner contemplated by the proposed rule change, whether or not the Papilsky filing reflects only a codification of an existing Section 24 interpretation, constitutes the core legal issue presented by the Papilsky filing.

Specifically, the proposed rule change would amend Section 24 (i) to limit its application expressly to "fixed price offerings," (ii) to extend its prohibition to both the grant and receipt of unqualified concessions, and (iii) to impose documentation, filing and record retention requirements. [29]

In addition, several significant implementing rules and definitions are contained in the proposed interpretation under Section 24. The interpretation would provide that "services in distribution" may be rendered by a broker-dealer either by bearing an under writing risk or by engaging in a selling effort (which must include direct selling contact). The interpretation would also provide that a broker-dealer is deemed to be improperly granting a concession if the broker-dealer furnishes a purchaser of securities with services or products that are commercially available or that are supplied for cash or other agreed upon consideration, unless the broker-dealer receives full consideration for those services or products from sources other than concessions in the fixed price offering.

Certain terms are also defined in the proposed interpretation. A product or service would be "commercially available" if it, or a substantially identical item, is generally available on a commercial basis. A product or service would be considered to be provided "for cash or other agreed upon consideration" if there is an express or implied agreement calling for the customer to compensate the broker-dealer for the product or service. "Full consideration" may be shown by identification of the arrangement for receipt of the consideration, including its source and amount. The broker-dealer would not be required to demonstrate that the agreed upon price represented the fair market price unless the amount of consideration appears on its face to be unreasonably low.

3. *Article III, Section 8.* The proposed rule change would retain the requirement in existing Section 8 that broker-dealers must purchase securities taken in trade at a fair market price or act as agent in the sale of such securities, but would specify the circumstances in which those requirements would be deemed to have been violated. A definition of the term "taken in trade" would make proposed Section 8 applicable whenever an agreement or understanding existed to engage in a swap transaction in connection with a fixed price offering. "Fair market price" would be defined as a price not higher than the lowest independent offer for securities taken in trade for which offer quotations are readily available or, if quotations are not readily available, a price determined by comparison with other securities having similar characteristics. In "an exceptional or unusual case," a price higher than the lowest independent offer would be acceptable if the broker-dealer could demonstrate, taking all relevant factors into consideration, that the price was justified. Section 8 would also be amended to require that a "normal commission" be charged in swap transactions in which a broker-dealer acts as agent in the sale of securities taken in trade.

4. *Article III, Section 36.* Proposed Section 36 would expressly prohibit a member participating in fixed price offerings from selling the securities to (or placing them with) a related person. A "related person" is defined to mean a person or account having a common ownership relationship with the member. Proposed Section 36 would, for example, preclude an institutional purchaser, such as an insurance company, from using an NASD member affiliate to purchase securities in a fixed price offering, thereby enabling it to recapture the concession. Proposed Section 36 would not apply to any related person which is itself subject to that section or which is a non-member foreign broker-dealer agreeing to comply with that section. In addition, the new section would not apply after the termination of a fixed price offering, so long as the member of related person had initially made a *bana fide* public offering of the securities.

II. Purposes of the Proposed Rule Change

In the Papilsky filing, the NASD has advanced several reasons to support its contention that the proposed rule change is consistent with the requirements of the Act and the rules and regulations thereumder applicable to the NASD and that, accordingly, the Commission should approve the proposed rule change. These reasons include making full and accurate disclosure of public offering prices and maintaining the fairness of and public confidence in fixed price offerings. In addition, several commentators have suggested that approval of the proposed rule change is necessary to maintain the fixed price offering system.

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[25] *See* Article III, Section 25 of the NASD Rules of Fair Practice, which provides that no NASD member may deal with any non-member broker-dealer except on the same terms and conditions, including price, as are accorded by such member to the general public. This "incentive to membership" provision is expressly authorized by Section 15A(e) of the Act (15 U.S.C. 70o–3(e)).

[26] Typically, the "agreement among underwriters" and the "selected dealer agreement" provide that syndicate and selling group members will, until the syndication is terminated, make a public offering of the subject security at the initial public offering price appearing on the cover of the prospectus.

[27] Papilsky filing, 43 FR at 35450.

[28] *Id.*

[29] The proposed rule change would also eliminate the "as such" parenthetical phrase following the "concessions" enumeration in Section 24. The presence of this phrase, of course, may be inconsistent with the NASD's contention that Section 24 now prohibits indirect discounting practices, such as advisory fee set-offs and soft dollar arrangements. Moreover, that phrase may be consistent with an interpretation limiting the scope of Section 24 to professional intermediaries participating in the distribution process, but not prohibiting customers from receiving discounts. *See PSI*, 19 SEC at 445–446, n. 34.

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A. Disclosure of the Fixed Offering Price.

In the Papilsky filing, the NASD asserts that the proposed rule change will enable the NASD to meet its obligations under Sections 15A(b)(2) (15 U.S.C. 78*o*–3(b)(2)) and 15A(b)(6) (15 U.S.C. 78*o*–3(b)(6)) of the Act by preventing fraudulent acts and practices and by fostering full and fair disclosure and commercial honor in connection with fixed price offerings. The NASD maintains that in fixed price offerings the public has come to expect, and the offering documents represent, that all public purchasers will pay the stated public offering price.[30] The NASD has stated that the proposed rule change would assure that all public purchasers pay the stated offering price by prohibiting both the direct and indirect granting of concessions from that fixed price to persons who are not securities professionals rendering services in distribution.[31]

To the extend failure to disclose certain selling practices in the offering documents would be deemed a fraudulent practice, adequate disclosure concerning those selling practices may be an appropriate and sufficient response. If these practices are otherwise lawful, it may be argued that full disclosure, rather than outright prohibition, would satisfy the requirements of the federal securities laws. Interested persons are requested to consider the extent to which the selling practices proscribed by the proposed rule change are facts concerning the plan of distribution which, in the absence of adequate disclosure, may serve to mislead the public with respect to the nature of fixed price offerings. Commentators should specifically address the measures to be used in determining when these practices, or what category of these practices, should be disclosed in the context of a particular offering. Assuming some such disclosure should be made, commentators should also discuss what particular information concerning these practices should be disclosed and assess the effectiveness of any such disclosure.[32] Finally, commentators should also discuss whether regulatory means other than disclosure are necessary or appropriate to further the purposes of the Act.

B. Unfair Discrimination Between Customers

Section 15A(b)(6) of the Act requires that the rules of the NASD not permit unfair discrimination between customers. The NASD has asserted that the proposed rule change would enable it to satisfy this obligation because it would eliminate the possibility that favored customers might be able to obtain all or a part of a dealer's selling concession while other customers paid the full fixed offering price.[33] There is a question, however, whether permitting some customers to bargain for and obtain direct or indirect concessions from fixed offering prices does in fact unfairly discriminate against those customers unable to obtain such concessions.[34]

In evaluating this rationale for the proposed rule change, commentators should discuss any significant economies of scale or transactional cost savings that exist in the purchase of larger amounts of securities in fixed price offerings. In providing this information, commentators should discuss whether decisions by broker-dealers to engage in the practices proscribed by the proposed rule change are based on such cost savings, and whether there are other factors which influence such decisions.

C. Public Confidence in Fixed Price Offerings

The NASD has asserted that, if certain customers receive concessions in fixed price offerings, public confidence in the fairness of the securities markets would be severely undermined, and that to permit such concessions would be contrary to the NASD's obligations under Section 15A(b)(6) of the Act to have rules designed to prevent fradulent practices, to promote just and equitable principles of trade, and to protect investors and the public interest.[35] Such a loss of confidence, it has been argued, might lead smaller investors, aware of the availability of concessions to larger investors, to decide not to purchase securities in public offerings.[36]

The Commission requests interested persons to discuss to what extent smaller investors currently are aware of the availability of direct or indirect concessions to institutions and other larger investors, and whether specific disclosure of such concessions would discourage smaller investors from participating in public offerings. Commentators are also invited to analyze the consequences that any decrease in public confidence concerning the fairness of the securities markets in general, and the underwriting process in particular, would have on the ability of issuers to raise capital through public offerings.

D. Necessity of the Proposed Rule Change To Maintain the Fixed Price Offering System

Several commentators have suggested that an important basis for the proposed rule change is the maintenance of the fixed price offering system itself.[37] Under this rationale, it is asserted that the proposed rule change is necessary, consistent with Section 15A(b)(6) of the Act, to protect investors and the public interest and to remove impediments to and perfect the mechanism of a free and open market. In order to assist the Commission in addressing these questions, commentators are requested to discuss the effects that, alternatively, approval and disapproval of the proposed rule change would have on the fixed price offering system.

The Commission understands that broker-dealers, for some period of time, have been using many of the practices which the proposed rule change seeks to limit or prohibit. Nevertheless, underwriters have continued to conduct fixed price offerings. Accordingly, the Commission requests information regarding the nature and function of the practices that would be prohibited by the proposed rule change. Commentators should discuss the extent to which those practices are currently employed. In addition, they should discuss the extent to which those practices, or any unfavorable consequences resulting from them, are or may be effectively controlled by contractual arrangements among broker-dealers or by other means, and any reasons that such arrangements and means have not been sufficient to

[30] Papilsky filing, 43 FR at 35453.

[31] *Id.* at 35450.

[32] *Compare* comment letters of the Department of Justice at 13 (February 6, 1979); Sanford C. Bernstein & Co., Inc. at 2–3 (October 6, 1978); the American Council of Life Insurance ("ACLI") at 8 (October 10, 1978); Shea & Gardner at 19 (October 10, 1978); and McCarthy, Ried, Crisanti & Maffei, Inc. at 5–6 (October 6, 1978); *with* NASD Notice to Members 77–31, at 19 (September 23, 1977).

[33] Papilsky filing, 43 FR at 35453.

[34] Different rates of commissions and fees are, for example, permitted in transactions on national securities exchanges. *See* Rule 19b–3 under the Act 17 CFR 240.19b–3, and Securities Exchange Act, Release 11203 (January 23, 1975), 40 FR 7394 (1975). In addition, arbitrageurs frequently capture the soliciting dealer fee in tender offers, effectively establishing a sales price per share higher than the tender offer price. *See, e.g.*, Securities Exchange Act Release No. 9395 (November 24, 1971).

[35] Papilsky filing, 43 FR at 35453.

[36] Comment letter of the Securities Industry Association ("SIA") at 14–15 (March 7, 1979).

[37] *See* comment letter of the SIA (March 7, 1979). *See also, e.g.*, comment letters to the NASD of Donaldson, Lufkin & Jenrette at 1 (November 4, 1977); and McDonald & Co. at 1 (November 2, 1977).

control adequately those practices or consequences.

If commentators believe that disapproval of the proposed rule change would result in increased use of those practices that the proposed rule change would restrict, they should state the basis for that conclusion. Commentators should also discuss any harm they believe results from these practices or would result from their increased use, the manner in which such harm would be incurred, and the categories of persons who would be disadvantaged thereby. In particular, commentators should discuss the policy considerations applicable to underwriting fee recapture by certain purchasers and should analyze how disapproval of the proposed rule change would affect the profitability of fixed price offerings or increase the risks to underwriters (*e.g.*, by adversely affecting their ability to engage in stabilization of such offerings). Commentators are also requested specifically to discuss how a reduction in profitability or an increase in risk would affect the willingness or ability of broker-dealers to participate in offerings and increase the cost to issuers of issuing such securities. In considering these questions, commentators should also assess any adverse consequences to the fixed price offering system that might result from approval of the proposed rule change.[38]

The Commission understands that underwriters generally believe their ability to distribute certain offerings successfully, particularly where market conditions may be unfavorable, often depends on their ability to stabilize those offerings. The increased availability of direct or indirect discounts in a fixed price offering might create an economic incentive for institutions to resell the securities so purchased into the stabilizing bid. The continuous net settlement and book entry characteristics of the evolving national system for clearance and settlement have apparently made it nearly impossible for the managing underwriter to trace such sales and thus to enforce certain provisions of the "agreement among underwriters" and the "selected dealer agreement." Under some circumstances, this selling activity may exert substantial pressure on the stabilizing bid.

The Commission solicits comment on the significance of institutional sales into stabilizing bids and the effect the proposed rule change would have on such behavior. Commentators should discuss how such sales might be detected and whether, as a practical matter, the risk of detection effectively discourages such sales. Commentators should also discuss whether regulatory means other than the proposed rule change would effectively limit such practices. Comments are requested on whether a stabilizing bid could be maintained at or near the price paid by the syndicate for securities, rather than at or near the public offering price for such securities, without having a material adverse effect on the distribution of the securities to retail customers. Commentators are also requested to discuss whether they believe disapproval of the proposed rule change would materially increase the risks of stabilizing and, if so, to what extent this would discourage broker-dealer participation in offerings involving higher risk.

[38] *See* discussion at text accompanying ns. 76–80, *infra*.

III. Consistency of the Proposed Rule Change with the Requirements of the Act

To approve the proposed rule change, the Commission is required, pursuant to Section 19(b) of the Act (15 U.S.C. 78s(b)), to find that it is consistent with the requirements of the Act and any Commission rules thereunder applicable to the NASD. The Commission must disapprove the proposed rule change if it is unable to make that affirmative finding. The statutory requirements that the Commission must consider in determining whether to approve the proposed rule change include those set forth in Section 15A(b) of the Act (15 U.S.C. 78*o*–3(b)), particularly subsections 15A (b)(2), (b)(6), and (b)(9). In discussing the proposed rule change, interested persons should consider the requirements of those sections, as discussed below, as well as any other requirements of the federal securities laws that they believe may apply to the proposed rule change, and should analyze the possible ramifications of the proposed rule change in light of the applicable statutory criteria.

A. Fixing Prices or Fees

In analyzing the proposed rule change, the Commission must consider Section 15A(b)(6) of the Act. That section requires that the rules of a national securities association not be designed "to fix minimum profits or to impose any schedule or fix rates of commissions, allowances, discounts, or other fees to be charged by its members." As discussed above, the Commission in the *PSI* case held that the NASD's attempt, under Article III, Section 1 of its Rules of Fair Practice, to impose sanctions on several of its members for violating the price terms of an underwriting agreement, exceeded the NASD's authority under the predecessor provision of Section 15A(b)(6) of the Act.[39] The NASD asserted in *PSI* that, because the schedule of prices and discounts was imposed by contractual agreement among the member firms, it was not "fixed" or "imposed" by NASD rule.[40] The Commission rejected this argument, concluding that, in bringing disciplinary proceedings under its rules, the NASD was itself imposing the schedule of discounts established by such contracts.[41]

Commentators are requested to discuss whether the proposed rule change would fix minimum profits or impose any schedule or fix rates of commissions, allowances, discounts or other fees in contravention of Section 15A(b)(6) of the Act. In that connection, commentators should discuss any changes occurring in the securities industry since the *PSI* decision that might affect the economic justification for fixed price offerings or practices occurring in such offerings, including the practices sought to be proscribed by the proposed rule change.

B. Enforceability of the Proposed Rule Change

Section 15A(b)(2) of the Act requires that the NASD have the capacity to enforce compliance by its members and their associated persons with its rules. This objective may not be accomplished unless the NASD's rules can be fairly and effectively enforced. Accordingly, in order to assist it in analyzing the proposed rule change, the Commission is seeking comments from interested persons with respect to the enforceability by the NASD of the proposed rule change.

Enforceability of a self-regulatory organization rule is only one of several factors considered by the Commission in approving or disapproving a rule change under Section 19(b) of the Act. Nevertheless, in the context of the proposed rule change, a number of questions have been raised concerning its basic enforceability in today's market environment. Accordingly, commentators are requested to consider whether the proposed rule change, if not enforceable in a uniform and consistent manner, would unfairly discriminate against certain broker-dealers. Interested persons should also consider

[39] 19 SEC 424 (1945). Some of the details of that case are discussed in the text accompanying n. 12, *supra*.

[40] A similar argument has been advanced by the NASD with respect to the proposed rule change. *See* Papilsky filing, 43 FR at 35453.

[41] 19 SEC at 437–438.

use this exception to cover overtrades.[57] means exist for their detection and

Proposed Section 24 would also

whether any identified difficulties result from defects in the specific provisions of the proposed rule change or may be inherent in any regulatory enforcement of fixed price offering agreements.

1. *Section 24.* Under proposed Section 24, in order to receive a selling concession, a broker-dealer must either be an underwriter or engage in some selling effort through "direct selling contact." The proposed interpretation of Section 24, however, does not provide any clear definition or examples of direct selling contact. In analyzing proposed Section 24, commentators should discuss any difficulties they perceive the NASD might encounter in seeking to enforce the direct selling contact requirement.[42]

Under proposed Section 24, a broker-dealer has improperly granted a concession when it has furnished a customer with research or other services that are (i) "commercially available," or (ii) provided "for cash or other agreed upon consideration," and the broker-dealer has not received "full consideration" for those services. The proposed interpretation of Section 24 states that services or products are deemed "commercially available" if they are generally available on a commercial basis. A product or service would be commercially available if it or a "substantially identical" item could be purchased directly or indirectly by the recipient from the broker-dealer providing the service or from a third party.[43] Commentators are requested to discuss the extent ot which the NASD would be able to determine consistently whether services or products are commercially available,[44] particularly research services that may be offered for "soft dollars." Commentators should also discuss any potential difficulties that may arise for broker-dealers seeking to comply with the requirements of this provision.[45]

In order to determine whether a product or service is supplied "for cash or other agreed upon consideration," the NASD must be able to detect any express or implied agreements which give customers concessions from fixed price offerings.[46] Among the Commission's concerns with respect to the enforceability of the proposed rule change, however, are that the detection and proof of the existence of such agreements with customers may well be extremely difficult. Apparently, those agreements are seldom in writing, and often are not even articulated orally.[47] Instead, it is alleged,

> There are courses of conduct that give rise to informal understandings that the services the investor received from broker/dealers will be taken into account both when agency transactions are effected and also when underwritten securities are purchased.[48]

The Commission understands that often the terms of such informal understandings, including the amount of compensation, are unspecified,[49] and payment is not made on an immediate *quid pro quo* basis.[50] The Commission also understands that there are a variety of reciprocal and other techniques that broker-dealers and their customers may be able to employ to circumvent the proposed rule change.[51]

Even if an understanding between a broker-dealer and customer can be identified, it may be difficult to determine whether it constitutes an agreement proscribed by the proposed rule change. The NASD had indicated that proposed Section 24 is intended to reach both obligations that are legally binding and those that are not, including some moral obligations.[52] The NASd also states, however, that some services may permissibly be furnished without compensation in order to promote customer goodwill.

The Commission requests information from commentators concerning the types of arrangements various broker-dealers and their customers maintain with respect to the provision of research and other services. Commentators are also requested to discuss the difficulties the NASD may encounter in establishing that obligations, which are not legally enforceable by the broker-dealers to whom those obligations are owed, nevertheless constitute agreements that would give rise to violations of proposed Section 24.[53]

If a broker-dealer has provided a customer with products or services that are commercially available or are provided for cash or other agreed upon consideration, proposed Section 24 requires a determination of whether the broker-dealer has received "full consideration" for such products or services. Unless the amount of consideration appears on its face to be unreasonably low, it would not be necessary to establish that the agreed upon price represented fair market price.[54] Commentators are requested to evaluate any enforcement problems that may exist in determining receipt of "full consideration" without reference to fair market price. Commentators should discuss particularly any potential problems in applying this requirement to large broker-dealers that have a broad business mix and, accordingly, have a number of frequently overlapping business relationships with the same institutional customer.[55]

2. *Section 8.* Proposed Section 8 is intended to prohibit overtrading in swap transactions effected in connection with fixed price offerings by requiring that a broker-dealer pay a "fair market price" for securities "taken in trade." This Section appears to pose a number of enforcement problems. In addition, broker-dealers may be able to engage in "overtrading" while literally satisfying its requirements.

Proposed Section 8 would allow a broker-dealer, in "an exceptional or unusual case," to pay a price "higher than the lowest independent offer" for securities taken in trade if the price could be justified.[56] Commentators should discuss whether the factors justifying pricing variations in swap transactions are so diverse and difficult to determine that broker-dealers would

[42] Commentators have suggested, for example, that this requirement could be accommodated by a *pro forma* telephone call in which the broker-dealer recommended the security being distributed. *See* comment letters of Shea & Gardner at 18 (October 10, 1978); and ACLI at 9 (October 12, 1978).

[43] Papilsky filing, 43 FR at 35447. The Commission has established a somewhat less restrictive standard in interpreting Section 28(e) of the Act (15 U.S.C. 78bb(c)). In that context, research services, for example, would not be considered commercially available unless "readily and customarily available and offered to the general public on a commercial basis." *See* Securities Exchange Act Release No. 12251 (March 24, 1976).

[44] *See* comment letters of ACLI at 10 (October 12, 1978); Shea & Gardner at 8 (October 10, 1978); McCarthy, Ried, Crisanti & Maffei, Inc. at 3 (October 6, 1978); and comment letter to the NASD of Lynch, Jones & Ryan at 5 (February 27, 1978).

[45] See comment letter of the ACLI at 10 (October 12, 1978). For instance, any difficulties the NASD may encounter in subsequently determining if a product or services is commercially available would seem ot be compounded for a firm required to make that determination at the time of the transaction. Commentators should also evaluate the costs in time and resources of compliance with the commercially available prohibition.

[46] Papilsky filing, 43 FR at 35448.

[47] *See* comment letter of Shea & Gardner at 14 (October 10, 1978). *See also* comment letter to the NASD of Baker, Watts & Co. at 1 (February 24, 1978).

[48] Comment letter of Shea & Gardner at 14 (October 10, 1978). *See also* comment letter of Continental Bank at 3 (October 10, 1978).

[49] *See* comment letters of Continental Bank at 3 (October 10, 1978); and ACLI at 11 (October 12, 1978).

[50] *See* comment letter of Continental Bank at 3 (October 10, 1978).

[51] *See* comment letter of Sanford C. Bernstein & Co., Inc., Attachment 1 at 3 (October 6, 1978).

[52] Papilsky filing, 43 FR at 35451

[53] *See* comment letters of Shea & Gardner, at 6, 18 (October 10, 1978); ACLI at 10–11 (October 12, 1978); and McCarthy, Ried, Crisanti & Maffei, Inc. at 3, 4–5 (October 6, 1978).

[54] Papilsky filing, FR at 35448.

[55] *See* comment letter of McCarthy, Ried, Crisanti & Maffei, Inc. at 3 October 6, 1978). *See also* comment letter to the NASD of Lynch, Jones & Ryan at 5 (February 27, 1978).

[56] *See* Papilsky filing, 43 FR at 35446.

use this exception to cover overtrades.[57] Proposed Section 8 would require that quotations, for securities that are not quoted on an exchange or in NASDAQ, be obtained from two or more "independent dealers." Commentators are requested to consider whether adequate means exist to surveil the authenticity of these quotations.[58]

Commentators should also consider whether even the objective standards of proposed Section 8 would enable broker-dealers to effect swap transactions that technically comply with proposed Section 8, but would nevertheless constitute overtrades. The Commission understands, for example, that blocks of securities often trade at prices that are discounted from the round lot prices for those securities. The term "fair market price" in Section 8 is defined in terms of the lowest independent offer, which is a round lot price. A failure to reflect the discounted price of the block in a swap transaction could thus result in the granting of a concession through overtrading, without literally violating Section 8. Commentators should consider whether these standards would permit overtrades by allowing customers to sell securities to Broker-dealers in swap transactions at prices higher than the customer would otherwise have obtained in selling those securities.

Commentators are also requested to discuss whether it would be difficult in some circumstances to ascertain that a swap transaction has occurred. While simultaneous swap transactions presumably would not be difficult to detect, it has been asserted that "the new rules would be fairly easy to circumvent through the use of unrelated trades." [59] For instance, uncovering the existence of an agreement or understanding to engage in a swap transaction would appear to be difficult if the parties created no written records of the understanding and the swap was effected through asynchronous transactions. The Commission, accordingly, requests information on techniques that could be used to evade proposed Section 8 and on whether means exist for their detection and prevention. Commentators should also consider whether a regulatory mechanism other than the proposed rule change would be more appropriate or effective in prohibiting overtrading in swap transactions.

Proposed Section 8 would require that a "normal commission" be charged in swap transactions in which a broker-dealer acts as agent. Commentators should consider whether the NASD, in determining what commission should be regarded as "normal," would be able to develop a consistent enforcement policy that would notify broker-dealers as to a permissible level of commission charges in agency swap transactions without also effectively fixing or establishing a schedule of commission rates for such transactions.

C. Unfair Discrimination Between Brokers and Dealers

Section 15A(b)(6) of the Act requires that the rules of the NASD not be designed to permit unfair discrimination between brokers and dealers, and Section 15A(b)(9) states that the NASD's rules may not impose any burden on competition not necessary or appropriate in furtherance of the purposes of the Act. Commentators should discuss whether the proposed rule change would have any such discriminatory or anticompetitive effects.

1. *Broker-Dealers that Supply Research.* The proposed rule change may have an adverse impact upon broker-dealers that supply research to institutions and other large investors. Some broker-dealers derive a significant portion of their revenues from sales concessions earned on designated orders placed by institutions to whom such broker-dealers have supplied research.[60] These revenues may be severely curtailed by the proposed rule change.

Proposed Section 24 would require that a broker-dealer perform services in distribution, either by acting as an underwriter or by making a selling effort based upon direct contact, in order to be eligible to receive any selling concession in a fixed price offering. The Commission has been informed that many broker-dealers that supply research to customers may be unable to meet either of these requirements.[61]

Proposed Section 24 would also prohibit a broker-dealer from providing to a customer research or other services that are "commercially available" or that are supplied to that customer or some other person "for cash or other agreed upon consideration" unless the broker-dealer is fully compensated by the customer for such services from sources other than concessions from the sale of securities in a fixed price offering. The Commission understands, however, that the research supplied by broker-dealers to customers who designate them in fixed price offerings is often either commercially available [62] or supplied for cash or other agreed upon consideration.[63] A number of commentators have also suggested that the customers who currently receive such research may be unable or unwilling to pay for it by means other than selling concessions.[64]

The Commission wishes commentators to address these matters. In doing so, commentators should discuss the role of broker-dealers that supply research in the securities distribution process and the impact of the proposed rule change upon those broker-dealers.

2. *Broker-dealers Without In-House Research Capability.* Restrictions in proposed Section 24 with respect to research or other services that are "commercially available" may unfairly discriminate against broker-dealers without "in-house" research capacity in favor of firms with both research and sales capacity.[65] Commentators have suggested that research purchased from third parties is more likely to be deemed "commercially available" than internally generated research because most third party suppliers of research also offer that research to others for cash or other consideration.[66] Because

[57] *See* comment letter to the NASD of Smith Barney, Harris Upham & Co., Inc. at 1 (February 21, 1978). *See generally* comment letters to the NASD of Anthony F. Castellano at 2 (November 4, 1977); McCarthy, Ried, Crisanti & Maffei, Inc. at 4 (October 31, 1977).

[58] *See* comment letter of Transamerica Investment Management Co., Inc. ("Transamerica") at 4 (September 21, 1978). *See also* comment letter to the NASD of McCarthy, Ried, Crisanti & Maffei, Inc. at 4 (October 31, 1977).

[59] *See* comment letter of Transamerica at 5 (September 21, 1978). *See also* comment letter to the NASD of McCarthy, Ried, Crisanti & Maffei, Inc. at 4 (October 31, 1977).

[60] *See* comment letters of ACLI at 5 (October 12, 1978); Continental Bank at 2 (October 10, 1978); and Richard W. Stanley at 3 (September 20, 1978).

[61] *See* discussion at text accompanying notes 76–80, *infra*, and comment letters of ACLI at 2 (October 12, 1978); and Shea & Gardner at 13–14 (October 10, 1978).

[62] *See, e.g.*, comment letters of the ACLI at 10 (October 12, 1978); the Illinois State Board of Investment (September 20, 1978); and Shea & Gardner at 18 (October 10, 1978).

[63] *See, e.g.*, comment letters of the ACLI at 11 (October 12, 1978); the SIA at 9 (March 7, 1979); and Shea & Gardner at 18 (October 10, 1978); and comment letter to the NASD of Lynch, Jones & Ryan at 5 (February 27, 1978).

[64] *See* comment letters of the State of Connecticut, Office of the Treasurer (October 5, 1978); McCarthy, Ried, Crisanti & Maffei, Inc. at 4–5 (October 6, 1978); and Richard W. Stanley at 2 (September 20, 1978). *Cf.* comment letter of the Illinois State Board of Investment (September 20, 1978).

[65] *See* comment letter to the NASD of Lynch, Jones & Ryan at 3 (February 27, 1978); *cf.* comment letters of Chemical Bank (June 9, 1978); The Boston Company of Louisville, Inc. at 1 (May 4, 1978); and Sears Investment Management Co., Attachment at 1 (December 11, 1978).

[66] *See* comment to the NASD of Lynch, Jones & Ryan at 3 (February 27, 1978); *cf.* comment letter of McCarthy, Ried, Crisanti & Maffei, Inc. at 4 (October 6, 1978).

persons are requested to discuss the

Commission, Room 892, at the above

(2) the term "fair market price"

customers may be unwilling to pay for research by means other than selling concessions, it is argued that firms that lack in-house research capabilities may be competitively disadvantaged.[67]

The NASD has stated that the proposed rule change would not discriminate against firms that lack in-house research capability because third party research would not be deemed "commercially available" so long as it is not made available to others, *i.e.*, purchased by the broker-dealer on an exclusive basis. If a firm with an in-house research staff makes its research available to anyone on a commercial basis, that research would also be deemed to be "commercially available."[68]

The Commission wishes interested persons to comment upon the extent to which firms without in-house research capability generally participate in fixed price offerings, their role in such offerings and how their role would be altered by the proposed rule change. Interested persons are also requested to evaluate the extent to which third party research currently is available on an exclusive basis and how its cost compares to that of research which is made "commercially available."

3. *Broker-Dealers Who Have Not Historically Participated in Underwritings.* The Commission also solicits information on whether the proposed rule change would make it more difficult for broker-dealers that historically have not been included by managing underwriters in underwriting syndicates or selling groups, or have been included only to a limited extent, to participate in the future in fixed price offerings.

Several commentators have pointed out that a broker-dealer's participation in a public offering and the size of that participation are often determined by historical patterns of underwriting participation and past relationships with the managing underwriter, rather than by the broker-dealer's capacity to distribute the particular securities.[69] These commentators have suggested that designated orders enable smaller firms to obtain a greater participation in selling groups than they otherwise might attain based on those conventional considerations.[70]

Interested persons are requested to discuss the factors which determine a firm's participation in a fixed price offering. Commentators should also discuss the impact of the proposed rule change on broker-dealers that historically are not included by managing underwriters in syndicate or selling groups, and the effect of any decreased participation by such broker-dealers on the fixed price offering process.

4. *Unfair Discrimination Against Broker-Dealers Related to Institutional Investors.* Proposed Section 36 would probibit a broker-dealer from selling to or placing with a "related person" securities that are part of a fixed price offering. It appears that a broker-dealer providing investment advice to managed accounts is able to lower its advisory fee in the expectation that there will be recurring opportunities to sell securities from fixed price offerings to such accounts.[71] Commentators should consider whether proposed Section 36 would unfairly discriminate against broker-dealers that could not engage in this practice for related persons, where broker-dealers providing investment advice to unrelated persons were not similarly constrained.

The NASD has indicated that proposed Section 24 is intended to prohibit broker-dealers that manage the accounts of unrelated persons from granting *de facto* discounts on fixed price offerings by reducing their advisory fees to those accounts.[72] The NASD also has maintained that other laws exist that prohibit broker-dealers from action as principals in transactions with managed accounts.[73] For example, broker-dealers are generally prohibited from effecting principal transactions with pension funds they manage.[74] However, broker-dealers generally are not prohibited from effecting principal transactions for managed accounts, provided that there is full disclosure and informed consent.[75]

The Commission requests interested persons to discuss the effects proposed Section 36 would have on broker-dealers affiliated with institutional investors. Commentators should also consider any other legal constraints on broker-dealers placing securities with managed accounts on a principal basis.

D. Creation of Impediments to a Free and Open Market

Section 15A(b)(6) of the Act requires that the rules of the NASD be designed to remove impediments to and perfect the mechanism of a free and open market. Commentators should discuss whether the proposed rule change would create impediments to a free and open market.

1. *Participation of Large Investors in Fixed Price Offerings.* Under the proposed rule change, institutions and other large investors may be required to pay higher prices in fixed price offerings than they currently pay because they no longer could receive concessions. It has been suggested that this increase in cost might cause such investors to reduce their participation in fixed price offerings.[76]

Commentators should discuss how the proposed rule change would affect investor purchasing patterns with respect to fixed price offerings. In particular, commentators are requested to discuss those factors they believe influence investor purchasing practices in fixed price offerings and the type and availability of investment alternatives. Interested persons should also comment on how the response of institutional investors might vary according to the type of investor involved. Commentators are also requested to discuss the effect of any reduction in purchases by large investors on the fixed price offering process.

2. *The Availability of Research.* A number of commentators have suggested that proposed Section 24 would limit the availability of research, and might therefore impair the ability of those receiving research to make prudent investment decisions.[77] The proposed rule change would prevent institutions and other large investors from using designated orders to purchase research from broker-dealers.[78] Interested

[67] Id.

[68] Papilsky filing, 43 FR at 35452, 35455.

[69] *See, e.g.*, comment letter of Sanford C. Bernstein & Co., Inc. at 2 (October 6, 1978); and comment letters to the NASD of Mesirow & Co. at 1 (October 31, 1977); Edelstein, Campbell & Co. at 1 (October 24, 1977); and Cardinal Investment Co. at 1 (October 14, 1977).

[70] Id.

[71] See comment letter of Shea & Gardner at 11 (October 10, 1978).

[72] Papilsky filing, 43 FR at 35456.

[73] Id.

[74] See Section 406(a) and 406(b) of the Employee Retirement Income Security Act of 1974, Pub. L. No. 93-406, and ERISA Prohibited Transaction Exemptions 79-1, 44 FR 5963 (January 30, 1979), and 75-1, 40 FR 50845 (October 31, 1975). *See also* n. 20, *supra*, regarding dealings between investment companies and their advisers.

[75] See Section 206(3) of the Investment Advisers Act of 1940 (15 U.S.C. 80b-6(3)), and Rules 206(3)-1 and 206(3)-2 thereunder (17 CFR 275.206(3)-1 and 275.206(3)-2); Section 10(b) of the Act (15 U.S.C. 78j(b)); Rule 10b-5 under the Act (15 CFR 240.10b-5); *Chasins* v. *Smith, Barney & Co., Inc.*, 438 F.2d 1167, 1171-1172 (2d Cir. 1970); *Hughes* v. *Securities & Exchange Comm'n*, 174 F.2d 969, 975-976 (D.C. Cir. 1949); *Cant* v. *A. G. Becker & Co., Inc.*, 374 F. Supp. 36, 45-46 (S.D.N.Y. 1974); *Arleen W. Hughes*, 27 SEC 629 (1948).

[76] See comment letter of State Board of Administration of Florida (September 15, 1978).

[77] *See, e.g.*, comment letters of Phoenix Mutual Life Ins. Co. at 2 (October 10, 1978), State of Connecticut, Office of the Treasurer (October 5, 1978); The Third National Bank & Trust Co. (May 5, 1978); and Sears Investment Management Co. at 1 (April 27, 1978).

[78] See discussion in text accompanying n. 60, *supra*.

persons are requested to discuss the importance of research to the making of investment decisions. Commentators should also discuss whether any decrease in the ability of investors to obtain research would affect their willingness to purchase securities in fixed price offerings.

3. *Disincentive for Transactions Which May Aid the Securities Distribution Process.* The proposed rule change may discourage broker-dealers from engaging in certain transactions which currently may contribute to the securities distribution process. The NASD has stated, for example, that use of swap transactions is a helpful business practice which may, in the context of public offerings of securities, facilitate the distribution process.[79] Under the proposed rule change, however, broker-dealers may be less willing to engage in swap transactions in fixed price offerings for fear of violating proposed Section 8.[80]

Commentators should discuss the effect of the proposed rule change on the willingness of broker-dealers to engage in swap transactions or other practices that may aid the securities distribution process. Commentators should also consider the effect any decrease in the use of such transactions would have on the fixed price offering system.

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Persons wishing to appear at the public hearings should contact Richard T. Chase, Division of Market Regulation, Room 341, Securities and Exchange Commission, 500 North Capitol Street, Washington, D.C. 20549, telephone number (202) 755-7620, not later than August 1, 1979. The public hearings are tentatively scheduled to begin Monday, September 10, 1979, at 10:00 a.m., in Room 776 at the above address. The schedule of appearances will be announced by the Commission shortly before the hearings commence. Persons intending to appear at the hearings should submit the text of any prepared statements not later than four business days prior to their appearance and are invited, at the time of their appearance, to make copies of their statements available to interested persons attending the hearings. Written presentations of views, data and arguments should be submitted not later than August 1, 1979. All submissions should refer to Commission File No. SR-NASD-78-3 and be delivered, together with 30 copies, to George A. Fitzsimmons, Secretary of the Commission, Room 892, at the above address. Copies of all written submissions and hearings transcripts will be made available at the Commission's Public Reference Room, 1100 L Street, NW., Washington, D.C.

By the Commission.

George A. Fitzsimmons,
Secretary.

May 9, 1979.

Text of the Proposed Rule Change

Proposed Amendment to Article II, Section 1 of the Rules of Fair Practice

Article II, Section 1 is proposed to be amended by the addition of a new subsection (m). All other subsections of Section 1 remain unchanged.

"Fixed Price Offering"

(m) The term "fixed price offering" means the offering of securities at a stated public offering price or prices, all or part of which securities are publicly offered in the United States or any territory thereof, whether or not registered under the Securities Act of 1933, except that the term does not include offerings of "exempted securities" or "municipal securities" as those terms are defined in Section 3(a)(12) and 3 (a)(29), respectively, of the Securities Exchange Act of 1934 or offerings of redeemable securities of investment companies registered pursuant to the Investment Company Act of 1940 which are offered at prices determined by the net asset value of the securities.

Proposed Amendment to Article III, Section 8 of the Rules of Fair Practice

Article III, Section 8 is proposed to be amended by adding the language in italics and by deleting the language in brackets.

Section 8

(a) A member, [when a member of a selling syndicate or a selling group, shall purchase] *engaged in a fixed price offering, who purchases or arranges the purchase of* securities taken in trade *shall purchase the securities* at a fair market price at the time of purchase[,] or shall act as agent in the sale of such securities[,] *and charge a normal commission therefor.*

(b) When used in this section—

(1) the term "taken in trade" means the purchase by a member as principal, or as agent for the account of another, of a security from a customer pursuant to an agreement or understanding that the customer purchase securities from the member which are part of a fixed price offering.

(2) the term "fair market price" means—

a. a price which is not higher than the lowest independent offer for the securities at the time of purchase, if offer quotations for the securities are readily available. If such quotations are not ready available, the fair market price may be determined by comparing the security taken in trade with other securities having similar characteristics and of similar quality and for which offer quotations are readily available; or

b. in an exceptional or unusual case, a price higher than the lowest independent offer when all factors relevant to the transaction are taken into consideration, including, among other things, whether a customer of a member has given an indication of interest to purchase the securities taken in trade at a higher price; the member's pattern of trading in the securities or comparable securities at the time of the transaction; the member's position in and the availability of, the securities taken in trade; the size of the transaction; and the amount by which the price paid exceeds the lowest independent offer. In all such cases the burden for demonstrating justification that the higher price was the fair market price shall be on the member.

(3) the term "normal commission" means an amount of commission which the member would normally charge to that customer or a similarly situated customer in transactions having similar characteristics but not involving a security taken in trade.

(c) A member, in determining fair market price pursuant to this Section, shall with respect to—

(1) common stocks, which are traded on a national securities exchange or for which quotations are entered in an automated quotation system, obtain the necessary quotation from the national securities exchange or from the automated quotation system; and

(2) other securities and common stocks not included in subparagraph (1) of this subsection (c) obtain directly or with the assistance of an independent agent necessary quotations from two or more independent dealers.

(d) A member who purchases a security taken in trade shall keep or cause to be kept adequate records to demonstrate compliance with this Section and shall preserve the records for at least 24 months after the transaction. If an independent agent is used for the purpose of obtaining quotations, the member must request the agent to identify the dealers from whom the quotations were obtained and the

[79] Papilsky filing, 43 FR at 35449.

[80] See comment letter to the NASD of Johnson, Lane, Space, Smith & Co., Inc., at 2 (November 2, 1977).

time and date they were obtained or

directly or indirectly through such

products or services which are

be kept which identify the recipient of

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time and date they were obtained or request the agent to keep and maintain for at least 24 months a record containing such information.

* * * * *

Interpretation of the Board of Governors

Fair Market Price

A member who, in reliance on subparagraph (b)(2)b of Section 8 of this Article, pays a price for securities taken in trade which is higher than the lowest independent offer will have a heavy burden to demonstrate that the price paid was the fair market price. Subparagraph (b)(2)b lists factors which might be considered relevant to justify paying a price higher than the lowest offer. The existence of only one such factor, however, will not necessarily be sufficient to meet the heavy burden, though in a given case it may be sufficient. In any event, all facts and circumstances must be considered. For example, a member may be able to satisfy the burden of demonstrating that fair market price was paid by showing that the price paid did not exceed the price, less an amount equal to a normal commission on an agency transaction, at which a customer had given the member an indication of interest to purchase the securities, or that the member held a short position in the security purchased, that it desired to cover that short position, that the availability of the security was scarce and that the amount of securities taken in trade could not have been acquired at a lower price.

Adequate Records

If the member purchases sucrities taken in trade at a price which is no higher than the lowest independent offer as determined according to this Section, it will have kept adequate records if it records the time and date quotations were received, the identity of the security to which the quotations pertain, the identity of the dealer from whom, or the exchange or quotation system from which, the quotations were obtained, and the quotations furnished. If a member uses the services of an independent agent to obtain the quotations and the agent does not disclose the identity of the dealers from whom quotations were obtained, the member will have kept adequate records if it otherwise complies with subsection (d) of Section 8 hereof and it records the time and date it received the quotations from the agent, the identity of the agent, and the quotations transmitted by the agent.

If a member, in reliance on subparagraph (b)(2)b of this Section, pays more than the lowest independent offer, it will have kept adequate records if, in addition to the foregoing records, it keeps records of all relevant factors it considered important in concluding that the price paid for the securities was fair market price.

Proposed Amendment to Article III, Section 24 of the Rules of Fair Practice

Article III, Section 24 is proposed to be amended by adding the language in italics and by deleting the language in brackets.

Section 24

In connection with the sale of securities which are part of a fixed price offering—

(a) (Selling concessions, discounts, or other allowances, as such, shall be allowed only as consideration for services rendered in distribution and in no event shall be allowed) *a member may not grant or receive selling concessions, discounts, or other allowances except as consideration for services rendered in distribution and may not grant such concessions, discounts or other allowances* to anyone other than a broker or dealer actually engaged in the investment banking or securities business; *Provided, however,* That nothing in this rule shall prevent any member from selling any security owned by him to any person at any net price which may be fixed by him unless prevented therefrom by agreement.

(b) a member who grants a selling concession, discount or other allowance to another person shall obtain a written agreement from that person that he will make a bona fide public offering of such securities and will otherwise comply with the provisions of this Section, and a member who grants such selling concession, discount or other allowance to a nonmember broker or dealer in a foreign country shall also obtain from such broker or dealer a written agreement to comply with the provisins of Sections 8, 25 and 36 of this Article.

(c) a member who receives an order from any person designating another broker or dealer to receive credit for the sale shall, within 30 days after the end of each calendar quarter, file reports with the Association containing the following information with respect to each fixed price offering which terminated during that calendar quarter: The name of the person making the designation; the identity of the brokers or dealers designated; the identity and amount of securities for which each broker or dealer was designated; the date of the commencement and termination of the offering and such other information as the Association shall deem pertinent.

(d) a member who is designated by its customer for the sale of securities shall keep, and maintain for a period of 24 months, records in such form and manner to show the following information: name of customer making the designation; the identity and amount of securities for which the member was designated; the identity of the manager or managers of the offering, if any; the date of the commencement of the offering and such other information as the Association shall deem pertinent.

* * * * *

Interpretation of the Board of Governors

Services in Distribution

The proper application of Section 24 requires that, in connection with fixed price offerings, selling concessions, discounts or other allowances be paid only to brokers or dealers actually engaged in the investment banking or securities business and only as consideration for services rendered in distribution.

A dealer has rendered services in distribution in connection with the sale of securities from a fixed price offering if the dealer is either an underwriter of a portion of that offering or has engaged in some selling effort with respect to the sale. While furnishing a customer with research or other services might aid a dealer in selling particular securities or securities generally to that customer, the furnishing of such research will not by itself constitute sufficient selling effort to satisfy the provisions of Section 24. Rather, some direct selling contact on a particular offering will be necessary. Even though the furnishing of research to a customer may aid a dealer in the sale of securities, the furnishing of such research under certain circumstances, as described below, could result in the dealer granting that customer a selling concession, discount or other allowance in violation of Section 24.

A broker or dealer who has received or retained a selling concession, discount or other allowance may not grant or otherwise reallow all or part of that concession, discount or allowance to anyone other than a broker or dealer engaged in the investment banking or securities business and only as consideration for services rendered in distribution. The improper grant or reallowance of a selling concession, discount or other allowance might occur directly or indirectly through such devices as transactions in violation of Section 8 of this Article, or other indirect means as described below.

A member granting a selling concession, discount or other allowance to another person is not responsible for determining whether such other person may be violating Section 24 by granting or reallowing that selling concession, discount or other allowance to another person, unless the member knew, or had reasonable cause to know, of the violation.

Selling Concessions, Discounts, or Allowances

General

A member who, itself or through its affiliate, (i) supplies another person with services or products which are commercially available or are provided by the member or its affiliate to such person or to others for cash or for some other agreed upon consideration, including brokerage commissions, and (ii) also retains or receives selling concessions, discounts or other allowances from purchases by that person or its affiliate of securities from a fixed price offering, is improperly granting a selling concession, discount or other allowance to that person unless the member or its affiliate has been, or has arranged and reasonably expects to be, fully compensated for such services or products from sources other than the selling concession, discount or allowance retained or received on the sale.

Commercially Available

As used in this interpretation, a product or service is "commercially available" if it is generally available on a commercial basis. It would include such things as office space, secretarial services, quotation equipment, news periodicals, certain research products or services, airline tickets, and other items which could be purchased directly or indirectly by the recipient from a third party.

The term includes products or services which a person receives from another for redistribution if the same service or product, or a service or product which is substantially an identical service or product, is offered to others on a commercial basis. Thus, a service or product may be commercially available even though the person engaged in redistributing it does not itself make the service or product commercially available.

This interpretation is not intended to prohibit members from providing products or services which are commercially available but which are not of a substantial value. No question arises under Section 24 if a member furnishes such things as incidental business gifts, food, entertainment, or other items not having a substantial value.

Cash or Other Agreed Upon Consideration

A person will be deemed to be providing services or products for cash or other agreed upon consideration if the service or product, or a substantially identical service or product, is provided to any person for cash or for some other agreed upon consideration. A service or product will be deemed to be provided for an agreed upon consideration if there is an express or implied agreement between the person providing the service or product and the recipient thereof calling for the provider of the service or product to be compensated therefor with an agreed upon or mutually understood source and general amount of consideration. For example, if a person provides another with a service or product and the recipient thereof agrees or represents, expressly or impliedly, that it will compensate the provider of the service or product with a specified amount of consideration, such as brokerage commissions or a range of brokerage commissions depending on the commission rate charged, or with a general minimum amount of brokerage commissions or other consideration, that service or product will be deemed to be offered for an agreed upon consideration. Thus, under such circumstances a member or its affiliate providing such service or product would be required to demonstrate that it was fully compensated for the service or product with consideration other than selling concessions, discounts or other allowances received or retained on the sale of securities from fixed price offerings.

Full Consideration

A member may show that it or its affiliate received or reasonably expects to receive full consideration, independent of selling concessions, discounts or other allowances, for providing certain services and products, by identifying the arrangement for the consideration (including its source and amount) and, if appropriate, the collection process for obtaining it.

In order to demonstrate that the cash, brokerage commissions or other consideration serves as full consideration, records of account should be kept which identify the recipient of the services of products, the amount of cash, brokerage commissions or other consideration paid or to be paid by such person or its affiliate.

Unless the amount of cash, brokerage commissions or other consideration agreed upon appears on its face to be unreasonably low, it will not be necessary for the member or its affiliate to demonstrate that the agreed upon price represented fair market price. Likewise, as long as price differentials are based on factors other than the customer's willingness to, or practice of, purchasing securities from the member out of fixed price offerings, it is not necessary, for purposes of Section 24, that the member or its affiliate charge the same amount to each person to whom they provide the same or similar services or products.

Proposed New Section 36 of Article III and Interpretation Thereof

Article III is proposed to be amended by the addition of a new Section 36 and an interpretation thereof.

Section 36

(a) Except as otherwise provided in subsection (d) of this Section, no member engaged in a fixed price offering of securities shall sell the securities to, or place the securities with, any person or account which is a related person of the member unless such related person is itself subject to this Section or is a nonmember foreign broker-dealer who has entered into the agreements required by Section 24(b) of this Article.

(b) For purposes of this Section 36, a "related person" of a member includes any person or account which directly or indirectly owns, is owned by or is under common ownership with the member.

(c) A person owns another person or account for purposes of this Section if the person directly or indirectly:

(1) has the right to participate to the extent of more than 25 percent in the profits of the other person; or

(2) owns beneficially more than 25 percent of the outstanding voting securities of the person.

(d) The prohibition contained in subsection (a) does not apply to the sale of securities to, or the placement of securities in, a trading or investment account of a member or a related person of a member after termination of the fixed price offering if the member or the related person of the member has made a bona fide public offering of the securities. A member or a related person of a member is presumed not to have made a bona fide public offering

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for the purpose of this subsection if the securities being offered immediately trade in the secondary market at a price or prices which are at or above the public offering price.

* * * * *

Interpretation of the Board of Governors

Transactions with Related Persons

A member who is acting, or plans to act, as sponsor of a unit investment trust will not violate Section 36 if it accumulates securities with respect to which the member has acted as a syndicate member, selling group member or reallowance dealer in an acount of the member or related person of the member if, at the time of accumulation, the member in good faith intends to deposit the securities into the unit investment trust at the public offering price and intends to make a bona fide public offering of the participation units of that trust. Members engaged in such activity, however, will continue to be subject to the Board of Governors' Interpretation of Article III, Section 1 of the Rules of Fair Practice concerning Free-Riding and Withholding.

While subsection (d) of Section 36 provides that a person is presumed not to have made a bona fide public offering if, immediately following the termination of the fixed price offering, the securities trade at or above the public offering price, there is no presumption that a person has made a bona fide public offering if, at such time, the securities trade below the public offering price. Whether a person has made a bona fide public offering will be determined on the basis of all relevant facts and circumstances.

[Release Nos. 34-15807, IC-10687; File No. SR-NASD-78-3]

[FR Doc. 79-15078 Filed 5-14-79; 8:45 am]

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May 15, 1979

Part VII

Department of Labor

Mine Safety and Health Administration

Procedures and Requirements for Applying for, Receiving, and Administering State Grants

DEPARTMENT OF LABOR

to State mine inspection agencies.

IV. Drafting Information

Subpart A—General

cooperation in improving the health and

the purposes of section 503(a) of the Act.

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DEPARTMENT OF LABOR

Mine Safety and Health Administration

30 CFR Parts 46 and 651

Procedures and Requirements for Applying for, Receiving, and Administering State Grants

AGENCY: Mine Safety and Health Administration, Department of Labor.

ACTION: Final Rule.

SUMMARY: This rule establishes procedures and requirements for applying for, receiving, and administering State grants under Section 503 of the Federal Mine Safety and Health Act of 1977. The rule establishes a new Part 46 of Title 30, Code of Federal Regulations, and replaces the regulations previously authorized under the Federal Coal Mine Health and Safety Act of 1969 and published by the Secretary of Interior in 30 CFR 651.

EFFECTIVE DATE: June 14, 1979.

FOR FURTHER INFORMATION CONTACT: Adam W. Hare, Chief, Branch of Contracts and Grants, Room 723, Ballston Tower No. 3, 4015 Wilson Boulevard, Arlington, Virginia 22203, telephone (703) 235–8454.

SUPPLEMENTARY INFORMATION:

I. Statutory and Rulemaking Background

The Federal Mine Safety and Health Amendments Act of 1977, Pub. L. 95–164, amended the Federal Coal Mine Health and Safety Act of 1969, Pub. L. 91–173, and repealed the Federal Metal and Nonmetallic Mine Safety Act of 1966, Pub. L. 89–577. The resulting law, the Federal Mine Safety and Health Act of 1977 (Mine Act), applies to all coal, metal and nonmetal mines. Under section 503 of the Mine Act, the Secretary is authorized to make grants to States in which coal or other mining takes place to assist the States in developing and enforcing effective coal or other mining health and safety laws and regulations consistent with the provisions of section 506 of the Mine Act and to improve State workers' compensation and occupational disease laws and programs related to coal or other mining. The funds may also be used to promote effective Federal/State coordination and cooperation in the field of mine safety and health. In addition, the Mine Safety and Health Administration (MSHA), through these grants, will assist the States in developing and administering miner training programs, while also providing safety and health training opportunities to State mine inspection agencies. MSHA believes these grant and training programs will strengthen Federal/State coordination in promoting mine safety and health.

To implement section 503 of the Mine Act, the Secretary has established this new Part 46 of Title 30 CFR which sets forth the procedures and requirements for any State in which coal or other mining takes place to apply for, receive, and administer State grants under section 503 of the Act. The proposed rule appeared in 43 FR at 53774 through 53778 (November 17, 1978). Interested persons were given until January 16, 1979, to submit comments. Only one substantive comment was received which is discussed below.

II. Discussion of Comment

One commenter suggested that, in awarding State grants, the Secretary should give priority consideration to those States having no State mine inspection agency. The final rule does not incorporate this suggestion.

Section 503(b) of the Mine Act specifically requires that grant applications shall be submitted by "a State, through its official coal or other mine inspection or safety agency." This agency would then be responsible for administering the grant in a manner consistent with Federal and State fiscal and accounting procedures. At the request of any State, MSHA will be able to provide assistance to the State in establishing a State mine inspection or safety agency and developing a mine safety and health program. On March 9, 1979, the Governor of the commenter's State informed the Secretary that he had designated a State mine inspection agency. Thus, at this point, it is only necessary that the State comply with the requirements contained in this rule for applying for and administering a grant.

III. Effect on Existing Rule

A new Part 46 is established by this rule which sets forth the procedures and requirements for any State in which coal or other mining takes place to apply for, receive and administer State grants under section 503 of the Act. This rule will replace those existing regulations dealing with State grants previously issued by the Secretary of the Interior and published in Chapter VI, Part 651, Title 30, Code of Federal Regulations. Those regulations pertaining to grants by MSHA to States and published in Part 651 of Title 30 will be inapplicable after promulgation of this rule.

IV. Drafting Information

The principal persons responsible for drafting this final rule are: Patricia W. Silvey, Office of Standards, Regulations and Variances, MSHA, Department of Labor; and Bernard R. McGuire, Division of Mine Safety and Health, Office of the Solicitor, Department of Labor.

V. Regulatory Analysis

Note.—It has been determined that this document does not contain a major proposal requiring the preparation of a regulatory analysis under Executive Order 12044, Improving Government Regulations (43 FR 12661, March 24, 1978), or the Department of Labor's final guidelines for implementing the Executive Order (44 FR 5570, January 26, 1979).

Dated: May 2, 1979.

Robert B. Lagather,

Assistant Secretary for Mine Safety and Health.

1. A new Part 46 is added to Subchapter G, Chapter I, Title 30, CFR, as set forth below:

Subchapter G—Filing and Other Administrative Requirements

PART 46—STATE GRANTS FOR ADVANCEMENT OF HEALTH AND SAFETY IN COAL AND OTHER MINES

Subpart A—General

Sec.
46.1 Purpose and scope.
46.2 Definitions.
46.3 Purpose of making and States eligible to receive grants.

Subpart B—Application for Grants

46.4 Manner of submission.
46.5 Delegation of authority.
46.6 Information required.

Subpart C—Approval of Applications and Limitations

46.7 Requirements for approval.
46.8 Defective applications and modifications.
46.9 Limitations.
46.10 Termination.
46.11 Appeals and hearings.

Subpart D—Fiscal and Accounting

46.12 Procedures for obtaining payments.
46.13 Accounting records.
46.14 Procurement standards.
46.15 Property management standards and patents and copyrights.

Subpart E—Reports

46.16 State monitoring of grant-supported activities; reports.
46.17 Acknowledgement of Federal Government participation.

Subpart F—Consultation and Cooperation

46.16 Consultation and cooperation.

Authority: Sections 503 and 508 of the Federal Mine Safety and Health Act of 1977, Pub. L. 91–173 as amended by Pub. L. 95–164.

Subpart A—General

§ 46.1 Purpose and scope.

This part provides the procedures for making grants to States under the provisions of section 503 of the Federal Mine Safety and Health Act of 1977 (Pub. L. 91–173 as amended by Pub. L. 95–164). Additional standards contained in Office of Management and Budget Circular A–102 (Revised) "UNIFORM ADMINISTRATIVE REQUIREMENTS FOR GRANTS-IN-AID TO STATE AND LOCAL GOVERNMENTS" dated August 24, 1977, (42 FR 45828–45891) are also applicable to grant instruments entered into between the Federal and State Governments.[1]

§ 46.2 Definitions.

As used in this part and in grants entered into pursuant to this part:

(a) "Government" means the United States of America.

(b) "Secretary" means the Secretary of Labor or his authorized representative.

(c) "MSHA" means the Mine Safety and Health Administration of the U.S. Department of Labor.

(d) "Assistant Secretary" means the Assistant Secretary of Labor for Mine Safety and Health, U.S. Department of Labor or his authorized representative.

(e) "State" means a State of the United States, the District of Columbia, the Commonwealth of Puerto Rico, the Virgin Islands, American Samoa, Guam, and the Trust Territory of the Pacific Islands in which coal or other mining takes place.

(f) "Fiscal Year" means a 12-month period ending on September 30.

(g) "Act" means the Federal Mine Safety and Health Act of 1977, Public Law 91–173 as amended by Pub. L. 95–164.

§ 46.3 Purpose of making and States eligible to receive grants.

(a) The Secretary, in coordination with the Secretary of Health, Education, and Welfare and the Secretary of the Interior, is authorized by section 503(a) of the Act to make grants to any State to: (1) Assist in developing and enforcing effective coal or other mine health and safety laws and regulations; (2) improve State workers' compensation and occupational disease laws and programs related to coal or other mine employment; and (3) promote Federal/State coordination and cooperation in improving the health and safety conditions in coal or other mines.

(b) Grants shall be made to a State through its official coal or other mine inspection or safety agency, and executed by an individual authorized to act for the State Agency.

[1] The Office of Management and Budget Circular No. A–102 is available for inspection at the States Grants Program Office, Mine Safety and Health Administration, 4015 Wilson Boulevard, Arlington, Virginia 22203.

Subpart B—Application for Grants

§ 46.4 Manner of submission.

(a) An original and two copies of the application for a grant shall be submitted through the State clearinghouse as required by Office of Management and Budget Circular A–95 to the Assistant Secretary of Labor for Mine Safety and Health, U.S. Department of Labor, 4015 Wilson Boulevard, Arlington, Virginia 22203.

(b) The Application for Federal Assistance (Nonconstruction Programs) contained in Attachment M of Office of Management and Budget Circular A–102 (Revised) shall be used when applying for grants.

(c) States shall report deviations from grant budgets and shall request approval for budget revisions in accordance with the provisions of Attachment K, Office of Management and Budget Circular A–102 (Revised).

§ 46.5 Delegation of authority.

General authority and responsibility for the administration and enforcement of mine safety and health programs, including the authority of the Secretary to review applications for grants and to make awards under section 503 of the Act, has been delegated to the Assistant Secretary by Secretary of Labor Order 3–78, effective March 9, 1978. The Assistant Secretary may redelegate authority to such officers and employees as he deems appropriate. The delegation of the Assistant Secretary, therefore, includes the authority to issue, amend, and repeal rules under this part and to provide policy, regulations, and guidlines by which this part is implemented. The Assistant Secretary may, with respect to any grant award, impose additional conditions prior to or at the time of the award when, in his judgment, such conditions are necessary to assure safe and healthful working conditions for individuals working in mines, or to promote the conservation of grant funds.

§ 46.6 Information required.

Applications shall be in the form of proposals, which consistent with the purposes of the Grant must:

(a) Set forth the programs, policies and methods to be followed in carrying out the application in accordance with the purposes of section 503(a) of the Act. An application may provide for: (1) assistance to States in developing and enforcing effective coal or other mine health and safety laws and regulations consistent with the provisions of section 506 of the Act; (2) improvement to State workers' compensation and occupational disease laws and programs related to coal or other mine employment; and (3) promotion of Federal/State coordination and cooperation in improving the health and safety conditions in the coal or other mines.

(b) Designate the State coal or other mine inspection or safety agency as the sole agency responsible for administering the grant throughout the State, and contain satisfactory evidence that such agency will have the authority to carry out the purpose of a grant made under this part.

(c) Give assurances satisfactory to the Assistant Secretary that such agency has or will have an adequate and competent staff of trained inspectors qualified under the laws of such State to make coal or other mine inspections within such State, if relevant.

(d) provide for the extension and improvement of the State program for the improvement of coal or other mine health and safety in the State, and provide that no advance notice of an inspection will be provided to anyone.

(e) Contain assurance satisfactory to the Assistant Secretary that grants provided under this part will supplement, no supplant, existing State coal or other mine health and safety programs.

(f) State the period of time during which each of the programs will be pursued.

(g) Contain a financial plan (budget information) submitted on the "Application for Federal Assistance (non-construction Programs)" contained in Attachment M of Office of Management and Budget Circular A–102 (revised).

(h) Provide such fiscal control and fund accounting procedures as may be necessary to comply with the requirements of this part to assure proper disbursement and accounting of grants made under this part.

(i) Provide the name and title of the person who will direct the program(s).

(j) Provide the approximate number and general qualifications of the personnel who will work on the program(s).

(k) Indicate the location or locations at which the various projects in the program(s) will be pursued.

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modification, or proposed termination of

(c) The State's records relating to each

secure a copyright thereon. However,

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(l) Provide assurances satisfactory to the Assistant Secretary that, if the grant is made, the required funds (State share) from non-Federal sources will be forthcoming. State share represents the portion of program costs not borne by the Federal Government. General guidelines for computing State share are defined in Attachment F, Office of Management and Budget Circular A–102 (Revised).

(m) Indicate whether the program(s) or any part of the program(s) have been or will be submitted to other organizations for the purpose of obtaining a grant.

(n) Agree that the official coal or other mine inspection or safety agency designated pursuant to paragraph (b) of this section shall make the reports required by § 46.16 (State monitoring of grant supported activities reports) of this part and shall abide by all other terms and conditions which the Assistant Secretary may prescribe.

Subpart C—Requirements for Approval

The Assistant Secretary shall approve only those applications, requests for renewals or modifications, that meet the requirements set forth in the Act and this part.

§ 46.8 Defective applications and modifications.

(a) Any application, request for renewal or modification, that does not meet the requirements of the Act and this part shall be returned promptly and the State shall be requested to modify, amend, or revise the application as necessary in order to meet the requirements and to resubmit the application or request for renewal.

(b) The Assistant Secretary will not finally disapprove any State application, request for renewal, or modification, amendment, or revision thereof without first affording the State agency reasonable notice and opportunity for a public hearing, as provided in § 46.11 (Appeals and hearings) of this part.

§ 46.9 Limitations.

(a) Applications shall only be considered for programs that meet the purposes and objectives of section 503 of the Act and this part.

(b) Grants shall be made on a fiscal year basis or portion thereof.

(c) Each grant shall be covered by a grant agreement between the Government and the State. The grant agreement shall set forth the purposes, objectives, total estimated cost of the program during the fiscal year for which the grant is to be made, and the approved financial plan.

(d) Federal funds will be granted on the basis of grant applications and pursuant to the grant agreement, and the amount granted to any State for a fiscal year under this section shall not exceed 80 per centum of the amount expended by such State in such year for carrying out the approved grant. The Assistant Secretary may allocate funds between States and may fix the grant at less than 80 per centum, and the percentages may be unequal between grants and between States. Further, no less than one-half of the funds appropriated for grants will be allocated to coal producing States.

(e) None of the funds granted by the Government or provided by the State shall be used for any purpose not specifically provided in the grant agreement or any modification thereof.

(f) Any State accepting a grant or grants under this part shall agree that neither the Government nor any of its officers, agents, or employees shall be responsible or liable for any loss, expense, damage to property, or for death or bodily injury to persons, which may arise from or be incident to any project or grant coming hereunder, and the State shall agree to hold the Government and its officers, agents, or employees harmless from all such claims.

(g) Reimbursement for travel expenses shall be in accordance with the State's regular lawfully established policies and procedures, except that such reimbursable expenses may not exceed those authorized in Standardized Government Travel Regulations (Federal Property Management Regulations, 41 CFR Parts 101 through 107).[2]

(h) The State shall comply with the requirements of Title VI of the Civil Rights Act of 1964 (42 U.S.C. 2000d 1970) which provides that no person in the United States shall on the ground of race, color, or national origin be excluded from participation in, be denied the benefits of, or be subjected to discrimination under any program or activity receiving Federal financial assistance, and with the implementing regulation issued by the Secretary of Labor with the approval of the President (29 CFR Part 31). Any grant for a project which involves a federally assisted contract, as defined in Executive Order 11246, as amended, shall be subject to the condition that the grantee shall comply with the requirements of the Executive Order, as amended, which prohibits discrimination by contractors and subcontractors because of race, color, religion, sex, or national origin, and shall comply with the applicable rules, regulations and procedures. The State shall also make assurance that it will not discriminate on the basis of sex and religion (OMB Circular A–102).

(i) Under the provisions of the Federal Hatch Act (Political Activities Act of August 2, 1939, as amended, 5 U.S.C. §§ 1501–1508 (1976)), all State or local agencies, officers and employees whose principal employment is in connection with activities financed by any grant under this part, irrespective of whether the employees are under a merit system, are prohibited, with certain exceptions, from:

(1) Using official authority or influence for the purpose of interfering with or affecting the result of an election or a nomination for office.

(2) Directly or indirectly coercing, attempting to coerce, commanding, or advising any other State or local officer or employee to pay, lend, or contribute anything of value to any party, committee, organization, agency, or person for political purposes.

(3) Being a candidate for elective office.

(j) Inquiries with respect to the provisions of the Federal Hatch Act as it affects grants awarded under this part should be directed to the Office of the Assistant Secretary, Mine Safety and Health Administration, 4015 Wilson Boulevard, Arlington, Virginia 22203.

§ 46.10 Termination.

(a) A State grant may be terminated by the State upon written notice to the Assistant Secretary, specifying the date upon which the State grant shall be terminated, but which date of termination shall not be less than 30 days from the date of the notice.

(b) Any grant awarded under this part may be revoked or terminated, in whole or in part, by the Assistant Secretary at any time within the period of the grant, whenever the Assistant Secretary finds, after giving due notice to the State and affording the State an opportunity for a hearing under § 46.11 (Appeals and hearings) of this part, that the State has failed to comply with the terms and conditions of the grant agreement or the regulations of this part. The State shall be notified of such findings in writing and given the reasons therefor, together with the effective date.

§ 46.11 Appeals and hearings.

(a) The proposed disapproval by the Assistant Secretary of any initial State application, request for renewal, or modification, or proposed termination of State grants shall be given to the State by written notice setting forth the reasons for the proposed disapproval or termination. The State, through its designated coal or other mine inspection or safety agency, may appeal such decision by the mailing of a notice of appeal and request for a public hearing to the Assistant Secretary within 30 days after receipt of the notice of proposed disapproval or termination.

(b) A notice of hearing under this section shall be published in the Federal Register and the period of time between such publication and the date fixed for the hearing shall not be less than 30 days. The notice of hearing shall prescribe the rules of the proceeding.

(c) The final decision of the Assistant Secretary disapproving any initial application or modification, or request for renewal, or terminating a grant shall be conclusive unless the State within 30 days from the date of such decision shall file a petition in the United States Court of Appeals for the District of Columbia stating that such decision should be modified or set aside in whole or in part. The filing of a petition shall not stay the application of the decision of the Assistant Secretary except as ordered by the court.

[2] The Federal Property Management Regulations are available for inspection at the State Grants Program Office, Mine Safety and Health Administration, 4015 Wilson Boulevard, Arlington, Virginia 22203.

Subpart D—Fiscal and Accounting

§ 46.12 Procedures for obtaining payments.

(a) States shall be paid under one of the methods defined in Attachment J, Office of Management and Budget Circular A–102 (Revised).

(b) States shall comply with the provisions of Attachment A, Office of Management and Budget Circular A–102 (Revised) when operating with Federally advanced funds.

§ 46.13 Accounting records.

(a) State financial management systems for the grant programs shall be maintained in accordance with the provisions of Attachment G, Office of Management and Budget Circular A–102 (Revised).

(b) The State's records relating to each grant, with all supporting and related documents shall, at all reasonable times, be made available, to the following persons, upon request for inspection and audit by such persons: the Assistant Secretary, the Secretary, or by the Comptroller General of the United States or their authorized representatives. If desired, microfilm copies may be substituted in lieu of original records.

(c) The State's records relating to each grant shall be retained and made available until the expiration of three years from the date of the submission of the final expenditure report or, for grants which are renewed annually, from the date of the submission of each annual expenditure report, with the following qualifications:

(1) The records shall be retained beyond the three year period if audit findings have not been resolved.

(2) Records for nonexpendable property which was acquired with Federal grant funds shall be retained for three years after its final disposition.

§ 46.14 Procurement standards.

(a) The State is the responsible authority, without recourse to MSHA, regarding the settlement and satisfaction of all contractual and administrative issues arising out of procurements entered into in support of a grant. This includes but is not limited to disputes, claims, protests of award, source evaluation, or other matters of a contractual nature. Matters concerning violation of law are to be referred to such local, State, or Federal authority as may have proper jurisdiction.

(b) States may use their own procurement regulations which reflect applicable State and local law, rules and regulations provided that procurements made with Federal grant funds adhere to the standards set forth in Attachment O, Office of Management and Budget Circular A–102 (Revised).

§ 46.15 Property management standards and patents and copyrights.

(a) Except as specified in paragraphs (b) (1) and (2) below, the "Property Management Standards" contained in Attachment N of Office of Management and Budget Circular A–102 (Revised) are applicable to all grants.

(b) Specific standards for control of copyrights and patents are:

(1) If any program produces patentable items, patent rights, processes, or inventions, in the course of work aided by a Federal grant, such fact shall be promptly and fully reported to MSHA. MSHA shall determine whether protection on such invention or discovery shall be sought and how the rights of the invention or discovery—including rights under any patent issued thereon—shall be allocated and administered in order to protect interest consistent with the Act.

(2) Where the grant results in a book or other copyrightable material, any such work normally becomes the property of the Government, and the grantee would not be authorized to secure a copyright thereon. However, educational institutions and individuals in the field of education may be granted the right to publish works arising out of the grant provided that the Government secures a royalty-free, non-exclusive, and irrevocable license to publish, reproduce, use, and dispose of the work, and to authorize or ratify the acts of others to do the same.

Subpart E—Reports

§ 46.16 State monitoring of grant-supported activities; reports.

(a) States shall constantly monitor the performance of grant-supported activities to assure that time schedules are being met, projected work units by time periods are being accomplished, and other performance goals are being achieved. This review shall be made for each program, function, or activity of each grant as set forth in the approved grant application.

(b) States shall submit a quarterly performance report for each grant which briefly presents the following for each program, function, or activity involved:

(1) A comparison of actual accomplishments to the goals established for the period. Where the output of grant programs can be readily quantified, such quantitative data shall be related to cost data for computation of unit costs.

(2) Reasons for slippage in those cases where established goals were not met.

(3) Other pertinent information including, when appropriate, analysis and explanation of cost overruns or high unit costs.

(c) States shall submit financial reports in accordance with Attachment H of Office of Management and Budget Circular A–102 (Revised).

(d) Between the required performance reporting dates, events may occur which have significant impact upon the project or program. In such cases, the State shall inform MSHA as soon as the following types of conditions become known:

(1) Problems, delays, or adverse conditions which will materially affect the ability to attain program objectives, prevent the meeting of time schedules and goals, or preclude the attainment of project work units by established time periods. This disclosure shall be accompanied by a statement of the action taken or contemplated and any Federal assistance needed to resolve the situation.

(2) Favorable developments or events which enable meeting time schedules and goals sooner than anticipated or

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producing more work units than originally projected.

(e) If any performance review conducted by the State discloses the need for change in the budget estimates in accordance with the criteria established in Attachment K, Office of Management and Budget Circular A–102 (Revised), the State shall submit a request for budget revision.

§ 46.17 Acknowledgement of Federal Government participation.

Appropriate acknowledgement shall be given by the State of the Department of Labor's participation in financing each project. Such acknowledgement shall be included in all publications, news releases, and other information media developed to publicize, describe, or report on activities and accomplishments carried out in whole or in part with funds received under provisions of the Act.

Subpart F—Consultation and Cooperation

§ 48.18 Consultation and cooperation.

(a) As contemplated by the Act, the Assistant Secretary will consult and cooperate with the State in accomplishing the purposes of the grant, including, but not limited to, the furnishing of advice and assistance to promote the objectives of the Act and the coordination of projects.

(b) In addition to cooperating in carrying out the purposes of State grants, the Assistant Secretary also shall cooperate with such States in training Federal and State inspectors jointly, and in establishing a system by which States and Federal inspection reports of coal or other mines located in the State are exchanged for the purpose of improving health and safety conditions in such mines.

Subchapter M—Rules and Regulations for the Administration of Grants

PART 651—RULES AND REGULATIONS FOR THE ADMINISTRATION OF GRANTS

2. Part 651 is inapplicable with respect to grants by MSHA to States.

[FR Doc. 79–15183 Filed 5–14–79; 8:45 am]

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Federal Register

Tuesday
May 15, 1979

Part VIII

Department of Energy

Economic Regulatory Administration

Prohibition Against Increased Use of Petroleum by Existing Electric Powerplants

Clean Air Act or otherwise avoid impairment of reliability of electric

exemption for the use of petroleum or natural gas.

We will base the duration of the permit under this category on the

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DEPARTMENT OF ENERGY

Economic Regulatory Administration

10 CFR Part 504

Prohibition Against Increased Use of Petroleum by Existing Electric Powerplants

AGENCY: Economic Regulatory Administration, Department of Energy.

ACTION: Interim rule.

SUMMARY: The Economic Regulatory Administration (ERA) of the Department of Energy (DOE) is promulgating this interim rule to implement Section 405 of the Powerplant and Industrial Fuel Use Act of 1978, Pub. L. 95–620, November 9, 1978. The rule prohibits any existing powerplant, which used coal or other alternate fuel as a primary energy source during 1977, from using petroleum as a primary energy source in any calendar year in excess of the quantities used during 1977, unless ERA issues a permit authorizing such increased use. Such permits are to be issued only where the Environmental Protection Agency (EPA) or the State air pollution control agency has certified that the powerplant cannot comply with requirements of the Clean Air Act and the appropriate State regulatory authority has certified that the use of petroleum is necessary to prevent impairment of reliability of electric service.

The rule additionally sets forth the procedures by which applicants may be granted a permit for the increased use of petroleum upon submission to ERA of the required certificates from EPA and the appropriate State regulatory authority. Prohibitions imposed by this interim rule become effective June 15, 1979. Applications for permits may be filed any time after publication of this rule. Written comments on this interim rule will be accepted by ERA until August 15, 1979.

DATES: Effective date: June 15, 1979. Comments due by: August 15, 1979, 4:30 p.m.

ADDRESSES: All comments should be sent to: Department of Energy, Public Hearing Management, Room 2313, 2000 M Street, N.W., Washington, D.C. 20461.

FOR FURTHER INFORMATION CONTACT:

William L. Webb (Office of Public Information), Economic Regulatory Administration, Department of Energy, Room B–110, 2000 M Street, N.W., Washington, D.C. 20461, (202) 634–2170.
John L. Gurney (Regulations and Emergency Planning), Economic Regulatory Administration, Department of Energy, Room 2130, 2000 M Street, N.W., Washington, D.C. 20461, (202) 254–9766.
Robert L. Davies (Fuels Regulation—Program Office), Economic Regulatory Administration, Department of Energy, Room 7202, 2000 M Street, N.W., Washington, D.C. 20461, (202) 254–3910.
James H. Heffernan (Office of General Counsel), Department of Energy, Room 7136, 12th and Pennsylvania Avenue, N.W., Washington, D.C. 20461, (202) 633–8820.

SUPPLEMENTARY INFORMATION:

I. Background
II. Comments
III. Description of Rule
IV. Comment Procedures
V. Other Procedural Matters

Date Issued	Federal Register Citation	Notices and Rules
		A. Notices
November 9, 1978	43 FR 53974 (Nov. 17, 1978)	Proposed rules pertaining to "new" facilities.
November 16, 1978	43 FR 54912 (Nov. 22, 1978)	Proposed rules pertaining to "transitional" facilities.
November 27, 1978	43 FR 56703 (Dec. 4, 1978)	Proposed forms for "transitional" facilities.
January 3, 1979	44 FR 1694 (Jan. 5, 1979)	Proposed rules for a special temporary public interest exemption for the use of natural gas.
January 23, 1979	44 FR 5808 (Jan. 29, 1979)	Proposed rules pertaining to "existing" facilities (including Section 405 of FUA) and extending comment period.
January 31, 1979	44 FR 9053 (Feb. 12, 1979)	Proposed forms for "new" facilities.
March 1, 1979	44 FR 12227 (Mar. 6, 1979)	Extension of public comment for new facilities.
March 26, 1979	44 FR 19427 (Apr. 3, 1979)	Notice of intent to issue interim rules to implement FUA.
April 20, 1979	44 FR 25193 (Apr. 30, 1979)	Notice of OMB clearance of regulations in Part 515.
		B. Rules
March 15, 1979	44 FR 17465 (Mar. 21, 1979)	Revised interim rule for transitional facilities.
April 4, 1979	44 FR 21230 (Apr. 9, 1979)	Final rule for special temporary public interest exemption for use of natural gas.

Section 405 of the Act directs the Secretary to prohibit by rule all existing powerplants, which used coal or another alternate fuel as a primary energy source in 1977, from increasing their use of petroleum above that base year amount unless a permit is issued by ERA authorizing such increased use. The permit will only be issued if: (1) EPA or the State air pollution control agency certifies that the powerplant operator cannot comply with Clean Air Act requirements, including any applicable implementation plan, and the powerplant has established the duration of the need for increased petroleum use; and (2) the appropriate state regulatory authority certifies that the increased use of petroleum by the powerplant is necessary to prevent impairment of reliability of electric service. ERA is authorized to issue the permit "only for such period" as it determines "necessary" to comply with Clean Air Act requirements or prevent impairment of reliability of electric service, whichever occurs first.

I. Background

The Powerplant and Industrial Fuel Use Act of 1978 (FUA or the Act) requires the establishment by ERA of a program for the expanded use, consistent with applicable environmental requirements, of coal and other alternate fuels as primary energy sources for new and existing electric powerplants and major fuel burning installations.

The following notices and rules have previously been issued implementing the Act:

II. Comments

A large number of comments were received in response to the proposed rule implementing Section 405, published January 29, 1979, with the proposed rules pertaining to existing facilities.

Several commenters stated that the proposed regulations exceeded the intent of the Act by imposing requirements other than those specified in the Act in that ERA must grant a permit upon submission of the two certificates required under the Act. This view neglects the important duty imposed upon us by Section 405 of the Act which provides that we issue a permit only for the reasonable period determined necessary for the increased use of petroleum. As the commenters correctly pointed out, FUA charges the Administrator of EPA with the responsibility for certifying the need for burning an increased amount of petroleum, but imposes upon ERA the responsibility for issuing the permit only for such duration as the Secretary determines is necessary. To make this determination we must find out when an applicant will be able to resume the use of alternate fuel in compliance with the Clean Air Act or otherwise avoid impairment of reliability of electric service.

Several commenters felt that we should provide more flexibility to allow increased petroleum use without regard to the permit process (1) where oil would be saved on a system-wide basis, or (2) when 1977 was not a representative year of oil use. The statute is explicit with respect to the prohibition and the use of 1977 as the base year and provides for a permit as the only method of recourse.

Other commenters suggested that the prohibition should not apply if the alternate fuel supply is unavailable due to occurrences such as a coal strike or a severe weather condition. As previously discussed the statute is explicit on when the prohibition applies and what a utility may do to avoid application of the prohibitions imposed. There are, however, emergency authorities provided in Section 404 of the Act which are available in certain circumstances. Moreover, the definition of "primary energy source" excludes the minimum amounts of fuel required to alleviate or prevent (1) unanticipated equipment outages and (2) emergencies directly affecting the public health, safety, or welfare which would result from electric power outages.

Commenters also requested clarification on whether the prohibition would apply to a utility which purchased replacement power during calendar year 1977. Section 405 of the Act applies only to existing powerplants that *used* coal or another alternate fuel as a "primary energy source" in their powerplant during 1977. The purchase of replacement power—power purchased and then resold—does not meet the use test necessary to qualify under the primary energy source definition as set out in the Act since the purchased electricity is not "used" as a fuel in the powerplant. Therefore, to the extent that a utility purchased power during 1977, it would not be subject to the prohibition established under Section 405 for a particular powerplant. However, the fact that the purchase of replacement power is not "use as a primary energy source" for purposes of this section does not excuse either new or existing powerplants from the requirements of Sections 213(c) and 313(b) of the Act. For certain exemptions these Sections specifically require that the powerplant demonstrate there is no alternative supply of electric power available within a reasonable distance and at a reasonable cost which could, if obtained, eliminate the need for an exemption for the use of petroleum or natural gas.

III. Description of the Rule

We are promulgating this interim rule to prohibit the increased use of petroleum in certain existing powerplants as authorized by Section 405 and to set forth the procedures by which an applicant may seek a permit from ERA for the increased use of petroleum.

The prohibition imposed by this rule applies to existing electric powerplants which during 1977 used coal or an alternate fuel as a primary energy source. Such powerplants are prohibited from using petroleum as a primary energy source during any calendar year in excess of the quantities of petroleum used as a primary energy source during 1977, unless ERA issues a permit authorizing such increased use.

Based on public comments, we have categorized the possible candidates under this rule as follows: (1) Powerplants experiencing temporary interruptions of coal or alternate fuel use; and (2) powerplants which are unable to burn coal or other alternate fuel for an indeterminate period of time. In the case of temporary interruptions, ERA will issue the permit only for the minimum reasonable period necessary to come into compliance with applicable requirements of the Clean Air Act without additional consideration of reliability. If you are unable to comply for an indeterminate time period and wish to burn petroleum above the base period amount, then you must demonstrate that you meet the criteria under Title III of the Act for an exemption for reasons relating to the inability to comply with applicable Clean Air Act requirements. In such a case, ERA will grant the permit for the minimum amount of time it takes to eliminate the impairment of reliability of electric service or comply with the applicable air quality requirements.

A. Temporary Interruptions Necessary To Comply With the Clean Air Act and Prevent Impairment of Reliability of Service

Such a powerplant is eligible for a permit if it used coal or alternate fuel as a primary energy source in 1977, ERA has received the necessary certification from EPA or the appropriate state air pollution control agency, ERA has received the necessary certification with regard to reliability from the appropriate state regulatory authority and the powerplant will be able to comply with the prohibition imposed by this rule by the expiration date of the permit.

We will base the duration of the permit under this category on the reasonable length of time required to comply with the requirements of the Clean Air Act. To insure that the powerplant will in good faith comply by the end of the permit period, we will require the submission of a compliance plan along with your permit application.

B. Indeterminate Cessation Due to Inability To Comply With Applicable Environmental Requirements and Prevent Impairment of Reliability of Electric Service

In addition to the certifications described above, an applicant must demonstrate that his powerplant will be unable to comply with applicable environmental requirements for an indeterminate period without the issuance of a permit.

We anticipate that in some cases the inability to comply with the prohibition imposed by this rule might be for the remaining useful life of the powerplant. Therefore, the duration of need to burn petroleum above the base year amount may (depending on the reliability problem) also be for the remaining useful life of the powerplant.

In instances where an applicant is not attempting to burn coal in compliance with the Clean Air Act, he is in effect asserting that the duration of need for a Section 405 permit is the remaining useful life of the powerplant, or such lesser period as is necessary to eliminate any impairment of reliability of electric service. In determining for what period such an applicant will be unable to comply with requirements of the Clean Air Act, ERA will employ the criteria for certain exemptions under Title III of FUA relating to the inability to comply with the Clean Air Act. However, where an applicant establishes that the applicable exemptions criteria are met, the administrative action will be the grant of a 405 permit rather than the grant of an exemption as such.

If you apply for a permit to burn increased amounts of petroleum based on indeterminate cessation of coal burning, we may grant a temporary permit covering the period necessary for you to show and for us to evaluate your demonstration that your powerplant meets the criteria for those exemptions.

In the case of temporary interruptions, we believe it is appropriate under the Act to consider the choice of fuel to be between coal and oil. In the case of indeterminate cessations, however, we believe that the statute contemplates consideration by the certifying authorities of reasonable alternate fuels.

ERA encourages the applicant to request

Fuels," is hereby adopted as an interim

need to use petroleum to avoid

amount; and that you have "established

coming into compliance for an

applicant to demonstrate he would

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ERA encourages the applicant to request a pre-permit conference be held with EPA and ERA to discuss alternate fuel use strategies and decide which fuels may be feasible.

IV. Comment Procedures

You are invited to participate in this rulemaking by submitting data, views or arguments with respect to this interim rule. Comments should be submitted to the address indicated in the "Addresses" section of this Notice and should be identified on the outside envelope and on documents submitted with designation Powerplant and Industrial Fuel Use Act, "Prohibition on the Increased Use of Petroleum," Docket No. ERA–R78–19C. You should submit 15 copies. All comments received will be available for public inspection in the DOE Reading Room, Room GA–152, Forrestal Building, 1000 Independence Avenue, S.W., between the hours of 9:00 a.m. and 4:30 p.m. Monday through Friday. We will consider all comments received by August 15, 1979, 4:30 p.m.

You should identify separately any information or data you consider to be confidential and submit it in writing, one copy only. We reserve the right to determine the confidential status of the information or data and to treat it according to our determination.

V. Other Procedural Matters

A draft regulatory analysis of the proposed regulations under FUA, as contemplated by Executive Order No. 12044, was published as an appendix to the Proposed Rules to Implement the Powerplant and Industrial Fuel Use Act of 1978 (FUA) in the **Federal Register**, 43 FR 53974 (November 17, 1978). In addition, a Final Environmental Impact Statement (EIS) has been prepared pursuant to the National Environmental Policy Act. Both documents are available for review in Room B–110, 2000 M Street, N.W., Washington, D.C.

The Office of Management and Budget has reviewed this interim rule and has notified ERA that § 504.1 has been cleared pursuant to the terms of the Federal Reports Act for data collection purposes except for the collection of information set forth in § 504.1(d)(3)(i) and (ii) until December 31, 1979.

Authority: Department of Energy Organization Act, Pub. L. 95–91; 91 Stat. 565 (42 U.S.C. 7101 et seq., Powerplant and Industrial Fuel Use Act, Pub. L. 95–620); 92 Stat. 3289, (42 U.S.C. 8301 et seq.).

In consideration of the foregoing, § 504.1, as amended, of Subchapter E of Chapter II, Title 10 of the Code of Federal Regulations, titled "Alternate Fuels," is hereby adopted as an interim rule.

Issued in Washington, D.C., on May 8, 1979.

David J. Bardin,

Administrator, Economic Regulatory Administration.

This document amends Subchapter E, Chapter II, Title 10 CFR (proposed January 29, 1979, 44 FR 5808), by adding Part 504 as set forth below:

PART 504—EXISTING ELECTRIC POWERPLANTS

Subpart A—Restriction on the Increased Use of Petroleum

§ 504.1 Prohibition against the increased use of petroleum.

(a) *Prohibition.*

No existing electric powerplant, which during 1977 used coal or other alternate fuel as a primary energy source, may use petroleum as a primary energy source in any calendar year in excess of the "base year amount" unless ERA issues a permit authorizing such increased use. The "base year amount" means the quantities of petroleum used in the powerplant as a primary energy source during calendar year 1977.

(b) *Policy Note.*

(1) Section 405 of the Act directs ERA by rule to restrain the use of petroleum by powerplants which burned coal or another alternate fuel in 1977, but which are unable to do so in compliance with Clean Air Act requirements and cannot cease operation without impairing reliability of electric service. For example, where an electric powerplant requires a reasonably predictable time period to install pollution control equipment before returning to the use of coal or other alternate fuel, ERA may issue a limited duration permit to use more petroleum as necessary to prevent impairment of reliability. In some cases, however, an electric powerplant may be unable to return to the use of coal or other alternate fuel for an ill-defined time period, or, even permanently. Therefore, ERA in implementing Section 405 of the Act has designed two alternate procedures. Under either procedure, the applicant should provide the information necessary to enable EPA, the State regulatory agency, and ERA to make their decisions.

(2) The Act directs ERA to limit the duration of the permit allowing increased oil consumption above the base year amount to the period it determines is necessary to carry out the statutory mandate. In order to make this determination as to duration, ERA needs to know when an existing powerplant either will be able to resume the use of coal or alternate fuel, or will no longer need to use petroleum to avoid impairment of reliability of electric service notwithstanding that it cannot burn coal or an alternate fuel.

(3) ERA encourages you to plan for any interruption of coal use on a schedule that minimizes the need to burn increased amounts of petroleum and invites informal discussion prior to applying for a permit as to the duration of such increased use.

(c) *Temporary Interruptions Necessary to Comply with the Clean Air Act and Prevent Impairment of Reliability of Service.* (1) Explanatory note: Examples contemplated under this subsection would include those cases where it is necessary to install pollution control equipment, arrange for the delivery of suitable fuel, or bring other units in your system on line.

(2) Eligibility. Existing electric powerplants which are subject to the prohibition imposed by this rule, but which will be able to comply after a temporary interruption are eligible for a permit if:

(i) Your powerplant used coal or other alternate fuel as a primary energy source during 1977;

(ii) You have applied for a variance or other waiver from EPA or the State air pollution control agency to continue the use of coal or other alternate fuel, and a decision with regard to your application has been rendered;

(iii) EPA or the appropriate State air pollution control agency has certified that (A) your powerplant cannot comply with the requirements of the Clean Air Act, including any applicable implementation plan, as defined in Section 110(d) of the Clean Air Act, without issuance of a permit to use petroleum above your base year amount, and (B) you have established the duration of the need for increased petroleum in order to comply;

(iv) The appropriate State regulatory authority has certified that the increased use of petroleum is necessary to prevent impairment of reliability of electric service in that State; and

(v) You will be able to comply with the prohibition imposed by this rule by the expiration of the permit.

(3) Evidence of Certification. ERA shall not issue you a permit unless the following have been submitted to ERA:

(i) A certification from EPA or the appropriate State air pollution control agency stating that the powerplant "cannot comply with the requirements of the Clean Air Act, including any applicable implementation plan, as defined in 110(d) of the Clean Air Act, without the issuance of such a permit" to use petroleum above your base year amount; and that you have "established the duration of need for increased petroleum in order to comply;" and

(ii) A certification from the appropriate State regulatory authority stating that "the increased use of petroleum by the powerplant is necessary to prevent impairment of reliability of service."

(4) Evidence of Duration. The duration of any permit to increase the use of petroleum granted under this subsection shall be the minimum reasonable length of time necessary to comply with the requirements of the Clean Air Act without impairment of reliability of electric service. To assist ERA in determining this period of time you must submit to ERA along with your application the following statements:

(i) A compliance plan indicating how and in what time period you plan to comply. You must include in your compliance plan the following:

(A) A specific schedule of milestones for bringing the powerplant back into compliance with the applicable environmental requirements.

(B) What steps will be taken to minimize use of petroleum and duration of such use; and

(C) The quantity of petroleum you estimate is required and an estimate of the rate of use by month.

(ii) A statement of why you are unable to burn coal or other alternate fuel in compliance with the Clean Air Act;

(iii) A statement showing whether you attempted to get a variance or other waiver from EPA or the State agency from applicable environmental requirements and if that waiver was denied; and

(iv) The basis, to the extent known to you, for the State agency's reliability certification, including the data and analysis considered, the extent to which the State authority considered reliability in your electric region, and what other factors bearing on reliability were considered.

(5) ERA shall issue the permit for the increased use of petroleum only for the quantity and duration it determines is necessary after review and evaluation of the information set out above.

(6) ERA reserves the right to require whatever additional information may be necessary to enable it to make a determination as to duration.

(d) *Indeterminate Cessations Due to Inability to Comply with Environmental Requirements and Prevent Impairment of Reliability of Electric Service.* (1) Explanatory note: Examples contemplated under this section would include those cases where a financial or physical limitation would preclude your coming into compliance for an indeterminate period of time.

(2) Eligibility. In addition to the criteria enumerated in subparagraphs (c)(2)(i), (ii), (iii), and (iv) above, existing electric powerplants which are subject to the prohibition imposed by this rule, but which are unable to comply with the Clean Air Act requirements after a temporary interruption, are eligible for a permit if they will be unable for specified reasons set out in (d)(3)(ii) to comply with the prohibition imposed by this rule for an indetermine period of time.

(3) Evidence of Certification. In addition to the evidence enumerated in subparagraphs (c)(3)(i) and (ii) above, ERA shall not issue you a permit unless the following have been submitted to ERA:

(i) A statement, to the extent such information is available to you, of the basis for the State agency's certification, including the data and analysis considered, and the extent to which it considered the reliability of your electric region; and

(ii) A showing in accordance with subparts C, D, and E of this Part (as proposed in the **Federal Register** on January 29, 1979, 44 FR 5808) that you would qualify for an exemption for reasons relating to your inability to comply with Clean Air Act requirements because of environmental, financial or physical limitations.[1]

(4) A statement indicating which fuels were presented for consideration to the agency which certified with regard to the Clean Air Act, and, to the extent known by you, why they were rejected as a method of compliance.[2]

(5) Evidence of Duration. The duration of any permit to increase the use of petroleum granted under this subsection shall not exceed the demonstrated need. Such duration shall be for the period you would qualify for an exemption, up to and including the remaining lifetime of the plant, or for the period of time that will be required to eliminate any impairment of reliability of electric service, whichever period is less.

(6) ERA reserves the right to require additional information necessary for a determination of duration.

(7) ERA may issue a temporary permit under this subsection to enable the applicant to demonstrate he would qualify for an exemption under Title III of FUA for reasons relating to the inability to comply with Clean Air Act requirements.

(e) *Administrative Provisions.* (1) Definitions of terms used in this Part are provided in Part 500.

(2) This section establishes general procedures for purposes of this rule. Other procedures which may be applicable to this rule are provided in Part 501. The filing fee for a permit under this subpart is $1,000.

(3) You must submit your application for a permit to the following address: Economic Regulatory Administration, Case Control Unit (Fuels Use Act), Box 4629, 2000 M Street, N.W., Room 2123, Washington, D.C. 20461.

(4) You should clearly label any permit application or document that you file with ERA under this subpart as "FUA Permit Application for the Increased Use of Petroleum" both on the document and on the outside of the envelope in which the document is transmitted.

(f) *Environmental Protection Agency Procedures.* [This subsection is reserved for cross reference or codification of the procedures which EPA will adopt for issuance of certifications applicable to the application for a permit.]

[Docket No. ERA–R–78–19C]

[FR Doc. 79–15217 Filed 5–11–79; 12:55 pm]

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[1] OMB clearance under the Federal Reports Act for data requirements in subparts C, D, and E is pending. You may submit the required information prior to OMB clearance; however, if there are any changes in the interim rule for these subparts, you may be asked to submit appropriate changes to your submission.

[2] ERA encourages the applicant to request a pre-permit conference be held with EPA and ERA to discuss alternate fuel use strategies and decide which fuels may be feasible.

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May 15, 1979

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Part IX

Department of Housing and Urban Development

Office of Assistant Secretary for Community Planning and Development

Targeted Jobs Demonstration Program; Competiton for Grants

DEPARTMENT OF HOUSING AND

Communities. One of the major

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assistance be used to provide direct

4. Evidence that project activities will

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DEPARTMENT OF HOUSING AND URBAN DEVELOPMENT

Office of Assistant Secretary for Community Planning and Development

Targeted Jobs Demonstration Program; Competition for Grants

AGENCY: Department of Housing and Urban Development.

ACTION: Notice of Competition for Grants.

SUMMARY: Notice is hereby given that letters of intent are now being accepted for a Targeted Jobs Demonstration Program to be carried out under an Interagency Agreement among the following agencies: the Department of Labor, the Department of Housing and Urban Development, the Economic Development Administration of the Department of Commerce, the Department of Transportation, the Small Business Administration and the Community Services Administration.

This demonstration program supports the President's National Urban Policy, announced on March 27, 1978, by encouraging local coordination of Federal programs, so that the maximum feasible number of the jobs created under Federally-assisted community and economic development and transportation projects go to economically-disadvantaged persons who are eligible for assistance under the Comprehensive Employment and Training Act (CETA) program, and the maximum feasible number of spinoff business opportunities created under these projects go to small, minority, or community entrepreneurs.

EFFECTIVE DATE: May 15, 1979.

FOR FURTHER INFORMATION CONTRACT: Bobbie H. Denson, Program Specialist (202) 755–7506.

SUPPLEMENTARY INFORMATION: Under an Interagency Agreement, about $3 million will be made available on a competitive basis for individual grants of up to $100,000 a year for up to two years to general purpose local governments with substantial amounts of federally-assisted development activity which propose to improve the targeting of the job and business opportunities created under these projects upon economically-disadvantaged persons and small and minority, entrepreneurs and community development corporations.

Background

On March 27, 1978 President Jimmy Carter announced a National Urban Policy to Conserve America's Communities. One of the major objectives of this urban policy is to retain or expand private sector investment and jobs in older urban areas. To do so, various incentives are offered to private firms that agree to invest in targeted locations. Major justifications for these incentives are the retention or expansion of job opportunities for economically disadvantaged persons and the creation of business opportunities for small or minority entrepreneurs or community development corporations (CDCs). It is often the case, however, that the maximum potential benefits of economic development activities do not flow to economically disadvantaged persons and small entrepreneurs. Even when one of the criteria used in selecting projects is the number of jobs that will be created for low and moderate income persons, jobs and business opportunities may not go to the targeted groups if project implementation is not coordinated with job training and other employment incentives or with small business development activities.

Purpose

To address this problem, local governments are invited to participate in a demonstration program to strengthen the links between their community and economic development and transportation activities and their employment and training and small business development activities, so that, first and foremost, the maximum feasible number of jobs created under Federally-assisted development projects go to economically disadvantaged persons who are eligible for assistance under the CETA program; [1] and secondarily, the maximum feasible number of spin-off business opportunities created under these projects go to small or minority entrepreneurs or community development corporations.

This program is intended to demonstrate that targeted and strategic local action can increase the likelihood that disadvantaged groups will realize the maximum feasible employment and business opportunities from major and unique Federally-assisted investments in economic and community development, local public works, and mass transit-related development. If this demonstration is successful, such local actions could be replicated by other communities that are the sites of such investments.

[1] For definition of the term "economically disadvantaged," see Appendix A.

Means

A total of $3 million in grants will be made to selected local governments on a competitive basis for activities which they propose to achieve the demonstration program's objectives. In addition, one or more conferences will be held where the successful applicants can share experiences and receive technical assistance.

Administration

This demonstration program is being administered under an Interagency Agreement among the Department of Labor (DOL), the Economic Development Administration (EDA) of the Department of Commerce (DOC), the Department of Housing and Urban Development (HUD), the Department of Transportation (DOT), the Small Business Administration (SBA), and the Community Services Administration (CSA). Lead administrative responsibility for this demonstration will be exercised by HUD.

Direction of the program, including final decisions on grant recipients, will be provided by an interagency committee composed of the DOL Assistant Secretary for Employment and Training, the DOC Assistant Secretary for Economic Development, the HUD Assistant Secretary for Community Planning and Development, the DOT Assistant Secretary for Budget and Programs, the Associate Director for Economic Development at the CSA, and the Associate Administrator for Finance and Investment at SBA. Responsibility for monitoring of grantees will be shared by the participating agencies under the direction of a monitoring board chaired by HUD. Each agency will retain ultimate responsibility for seeing that its funds are used in accordance with its own statutory requirements.

Eligible Applicants

Letters of intent and applications must be submitted by the general purpose unit of local government, but the chief executive officer may designate another local entity to administer the demonstration, as long as the local government remains ultimately responsible for the administration of the grant.

Eligible designess may include, but are not limited to the following:

The prime sponsor of the local CETA program.

The private industry council (PIC) through the prime sponsor.

The community or economic development agency.

The public transportation authority.

A nonpublic organization, community-based organization, or community development corporation with the capacity to assist in implementing linkages between economic development projects and manpower training and small business development activities.

Conditions for Participation

Because the Targeted Jobs Demonstration Program is focused upon jurisdictions with substantial amounts of Federally-assisted community and economic development and transportation-related activity, applicants for participation in this demonstration must first establish their suitability as demonstration sites. They will be asked to supply certain information about each of the Federally-assisted development projects in their jurisdictions. (This information is described in a later section of this Notice.) This information will be reviewed in initial screenings of letters of intent and full applications. Only those letters of intent or applications from jurisdictions found to be suitable sites for the demonstration will be further reviewed with respect to the quality of their proposed activities using the selection factors discussed in a later section of this Notice.

In the course of participation in this demonstration, applicants will be expected to demonstrate their commitment to interagency coordination by negotiating bona fide agreements between the local agencies and bodies responsible for employment and training activities and those responsible for major development projects to target a specific number or percentage of jobs upon CETA-eligible persons and to tailor training programs to prepare CETA-eligible persons for these jobs.

Eligible Activities

Applicants are asked to explain how they propose to use a limited amount of resources to achieve the demonstration program's objectives of assuring that the maximum feasible number of jobs created under federally-assisted development projects go to economically disadvantaged persons who are eligible for CETA training and other assistance, and the maximum feasible number a spin-off business opportunities go to small or minority entrepreneurs or CDCs. The activities undertaken should complement rather than duplicate any existing local efforts to achieve these objectives. Activities may not include loans or grants to the Federally assisted projects, or to spin-off businesses. Neither may demonstration assistance be used to provide direct employment and training assistance to CETA-eligible persons. Eligible activities include, but are not limited to the following:

Provision of technical assistance to local government agencies (including the prime sponsor, the PIC, the community or economic development agency, the public transportation authority, etc.), assisted firms, small businesses and other appropriate entities to carry out the objectives of the demonstration program.

Design of training programs for economically-disadvantaged persons tailored to the needs of private sector employers.

Negotiation of agreements with participating firms to link job opportunities and training programs.

Marketing of Targeted Jobs Tax Credit to private sector firms.

Creation of local procurement policies to further the objectives of the demonstration program.

Development of effective techniques, where appropriate, for helping small and minority business or community development corporations establish equity in the project or related development.

Creation of new institutional arrangements for improving local coordination of these Federal programs.

Creation or expansion of local staffs responsible for meshing economic development, employment, and small business development activities.

Other activities as appropriate to local circumstances.

Selection Factors

The following selection factors will be used to select applicants for awards:

1. The extent to which the applicant's proposed activities effectively target the maximum feasible number of both construction and permanent private sector jobs created under Federally-assisted development projects upon economically disadvantaged persons who are eligible for CETA training and other assistance. (50 points)

2. The extent to which the applicant's proposed activities effectively target the maximum feasible number of spinoff business opportunities created under Federally-assisted development projects upon small or minority entrepreneurs or community development corporations. (15 points)

3. The degree of commitment of all critical local entities, including the prime sponsor and relevant private sector entities, to cooperate in achieving the demonstration program's objectives. (15 points)

4. Evidence that project activities will continue after the demonstration period, as indicated by the amount of local resources (including staff) to be committed to the achievement of the demonstration program's objectives, and by other factors, including local commitments to maintain the effort. (15 points)

5. The extent to which the materials and methods developed by the applicant to achieve the demonstration program's objectives would be transferable to other jurisdictions. (5 points)

Final determination of grant recipients will be made by the interagency committee among applicants qualified for grants on the basis of the selcetion factors, taking into account the desire to ensure that a variety of approaches are demonstrated, an appropriate mix of types of projects is included, and grant recipients are representative by geographical location and size.

Size and Duration of the Grant

The demonstration grants will be awarded for up to two years in conformance with the procedures established by the Joint Funding Simplification Act. Proposed grant budgets should be scaled to the level of effort required by the types of activities undertaken and the number of people and projects to be served. Demonstration projects scheduled to last more than one year will be reviewed at the end of the first year to determine whether sufficient progress has been made to merit continuation of the grant. No grant shall exceed $200,000 for two years.

Application Process

Applicants are invited to participate in a two-stage competition for a demonstration grant. In the first stage, each applicant will be asked to submit a letter of intent. Based on these letters of intent, approximately 50 local governments will be selected to prepare full applications. Grant wards will be made to approximately 15–20 local governments using the selection criteria listed in this Notice.

Letter of Intent

To apply for one of the grants, an applicant should submit an original and five copies of the following: a) a brief (five page maximum) letter of intent signed by the chief elected official which outlines its proposed approach; and b) a brief (five page maximum) appendix which established its suitability as a demonstration site.

a. *Proposed Approach.*—In outlining its proposed approach, the applicant

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should briefly answer the following questions:

What are you doing now to target the jobs (and spinoff business opportunities) created under Federally-assisted projects?

What would you do if you received a grant under this demonstration program?

How do you plan to involve the prime sponsor and other critical local entities (including the private sector) in the activities that you proposed to carry out under this demonstration?

Relevant parts of the letter of intent should be specifically referenced to the five selection factors.

b. *Suitability as a Demonstration Site.*—To establish its suitability as a demonstration site, the applicant should list the Federally-assisted community and economic development, major public works, and mass transit-related development projects in its community which will be the focus of the demonstration program effort and, for each project, briefly describe:

(1) *Its stage of implementation.*—To enhance a community's eligibility as a potential site for the demonstration program, a project should be far enough along that specific job needs can be anticipated, but not so far along that there is insufficient lead-time to develop targeted training opportunities or to steer emerging business opportunities to small, minority, or community entrepreneurs.

(2) *The nature of the jobs to be created or opened through job turnover.*—The jobs to be created should require a level of proficiency for which some training is required, but not more than can be achieved by the targeted groups within a reasonable period of time.

(3) *The number or percentage of jobs that will be targeted upon economically disadvantaged persons who are eligible for CETA assistance.*—A total of at least 100 jobs from one or more projects should be projected for targeting to make a special targeting effort worthwhile.

(4) *The nature and availability of potential business opportunities created as spinoffs from the project(s).*—The potential business opportunities should be suitable for small or minority, entrepreneurs or community development corporations. Jurisdictions having greater concentrations of projects creating jobs suitable for economically-disadvantaged persons will receive priority consideration as demonstration sites.

c. *A–95 Clearinghouse Notification.*—At the time that the applicant submits its letter of intent to HUD, it should also send a copy to the State and areawide clearinghouses serving its jurisdiction for concurrent review. A clearinghouse will have 30 days for review, comment and consultation with the applicant prior to sending its comments directly to HUD with a copy to the applicant. The interagency committee will not make a final rating through the selection factors until the clearinghouse comments are received or 30 days have expired from the date that the letter of intent was received by HUD.

Full Application Submission Procedures

When an applicant is notified of its eligibility to submit a full application to participate in the demonstration program, it will receive a package containing necessary application forms and instructions. Applicants will be asked to submit an application consisting in its main outlines of the following:

1. A letter of transmittal containing the signatures of the chief executive of the general purpose local government submitting the application, and the designated project leader who will be primarily responsible for the execution of the project.

2. A one page abstract of the project summarizing the proposal.

3. A description of the proposed Targeted Jobs demstration specifically referenced to the five selection factors, including:

a. A description of current economic development activities which will be the focus of the demonstration effort, including a list of the major Federally-assisted projects in the city and, for each project, a description of:

Its stage of implementation.

The nature of the jobs to be created or opened through job turnover.

The number or percentage of jobs that will be targeted upon economically disadvantaged persons who are eligible for CETA assistance.

The nature and availability of potential business opportunities as spinoffs from the project.

b. A description of existing efforts to coordinate economic development projects and to link the projects and manpower training and small business development activities, and an assessment of their adequacy.

c. The specific activities that the applicant proposes to undertake, together with an explanation of how they will contribute to the achievement of the demonstration program's objectives.

d. Evidence of the active willingness of the prime sponsor and other critical local entites, including relevant private sector entities, to cooperate in achieving the demonstration program's objectives.

e. Plans for assuring that successful institutional arrangements and techniques for linking economic development activities and manpower training and small business development activities will be applied to future Federally-assisted economic development and private sector job creation activities.

f. Plans for assuring that the materials and methods developed by the applicant to achieve the demonstration program's objectives will be transferable to other jurisdictions.

4. A detailed work program which sets forth the proposed use of the grant funds, including a schedule of activities. This work program should identify the staff and other resources that the applicant will contribute to the demonstration from its own funds or from other Federal funds (such as the CETA assistance or Community Development Block Grant funds).

5. Forms and such other requirements as may be necessary to comply with the statutory, regulatory, and administrative requirements of the particular program from which funds will be provided to the applicant.

6. A–95 Clearinghouse Review An applicant should provide the State and areawide clearinghouses serving its jurisdiction with 30 days to review and comment upon its full application, unless the clearinghouse waives this requirement. An applicant should transmit all clearinghouse comments to HUD with its full application. If the applicant has not received any comments before the end of the 30-day review period, it should include a statement indicating that the clearinghouse was notified, and no comments were received.

Timing

A local government which chooses to compete to participate in the Targeted Jobs Demonstration Program should send a letter of intent to:

Assistant Secretary for Community Planning and Development U.S. Department of Housing and Urban Development 451 7th Street, S.W. Attention: Legislative and Urban Policy Staff—Room 7158 Washington, D.C 20410.

Postmarked no later than June 25, 1979. Local governments will be notified of their eligibility to submit a full application no later than July 27, 1979. Each local government will have 45 days in which to prepare its application. To be eligible, applications should be sent to the above address, and postmarked no later than October 10, 1979. Awards are expected to be announced no later than November 5, 1979.

Reporting Requirements

Each applicant will be responsible for preparation and submission of interim progress reports and a draft and a final report on its demonstration project. The report should describe in appropriate detail the objectives of the project and how they were met, the methods and techniques that were used, the types of problems encountered during the project execution and the methods used to resolve them, and the conclusions and recommendations that are to be drawn from the demonstration. The final report should be in a form and manner prescribed by the interagency committee.

Evaluation

An evaluation of the results of these demonstration projects will be undertaken jointly by the Federal agency sponsors. The evaluation criteria will be developed by the interagency committee. Principal among them will be the degree to which demonstration projects achieve their goals for targeting jobs upon the economically disadvantaged and spin-off business opportunities upon small or minority, entrepreneurs or community development corporations.

Issued at Washington, D.C., May 10, 1979.

Robert C. Embry, Jr.,
Assistant Secretary for Community Planning and Development.

Appendix A

The following definition of the term "economically disadvantaged" appears in the Comprehensive Employment and Training act regulations issued by the Department of Labor and published in the **Federal Register**, Vol. 44, No. 65, April 3, 1979.

"Economically disadvantaged" means a person who is either:

(a) A member of a family which receives public assistance;

(b) A member of a family whose income during the previous 6 months on an annualized basis was such that

(1) The family would have qualified for public assistance, if it had applied for such assistance; or

(2) It does not exceed the poverty level; or

(3) It does not exceed 70 percent of the lower living standard income level;

(c) A foster child on whose behalf State or local government payments are made;

(d) Where such status presents significant barriers to employment,

(1) A client of a sheltered workshop;

(2) A handicapped individual;

(3) A person residing in an institution or facility providing 24 hour support such as a prison, a hospital or community care facility; or

(4) A regular outpatient of a mental hospital, rehabilitation facility or similar institution.

[Docket No. N–79–827]
[FR Doc. 79–15227 Filed 5–14–79; 8:45 am]
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Tuesday
May 15, 1979

Part X

Department of Energy

Economic Regulatory Administration

Middle Distillates for Agricultural Production

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DEPARTMENT OF ENERGY
Economic Regulatory Administration
10 CFR Part 211
Mandatory Petroleum Allocation Regulations; Amendment to Provide Middle Distillates for Agricultural Production

AGENCY: Economic Regulatory Administration, Department of Energy.

ACTION: Final Rule and Notice of Continuation of Rulemaking Proceeding.

SUMMARY: The Economic Regulatory Administration (ERA) of the Department of Energy (DOE) is adopting a new Special Rule No. 9 to Part 211, Subpart A, which will permit consumers engaged in agricultural production to obtain their current requirements for middle distillates for the period from the date of issuance of Special Rule No. 9 through July 31, 1979. This amendment is being adopted on an emergency basis in order to prevent the interruption of agricultural production activities, including commercial fishing.

The ERA is continuing this rulemaking proceeding to receive public comment on the amendment adopted today and, in particular, on whether this action should be extended beyond July 31, 1979, and also as to whether any additional actions are necessary to deal with current and any future supply problems. Specifically, we are proposing to amend the Special Rule adopted today and the current regulation establishing allocation priorities for motor gasoline to provide that surface passenger mass transportation services will be entitled to receive their current requirements for middle distillates and motor gasoline.

DATES: Written comments with respect to the proposals on ground passenger mass transportation services are due by May 21, 1979, 4:30 p.m.; written comments with respect to all other issues are due by June 15, 1979, 4:30 p.m.; Requests to speak by May 16, 1979, 4:30 p.m.; Oral statements are due by May 18, 1979, 9:30 a.m.; Hearing: May 18, 1979, 9:30 a.m.

ADDRESSES: All comments, including copies of oral statements, to: Department of Energy, Economic Regulatory Administration, Office of Public Hearing Management, Docket No. ERA–R–79–25, Room 2313, 2000 M Street, Washington, D.C. 20461. Hearing location: Room GE–086, Forrestal Building, 1000 Independence Ave., S.W., Washington, D.C.

FOR FURTHER INFORMATION CONTACT: Robert C. Gillette (Office of Public Hearing Management), Economic Regulatory Administration, Room 2222A, 2000 M Street, N.W., Washington, D.C. 20461, (202) 254–5201.

William L. Webb (Office of Public Information), Economic Regulatory Administration, Room B110, 2000 M Street, N.W., Washington, D.C. 20461, (202) 634–2170.

William E. Caldwell (Office of Regulations and Emergency Planning), Economic Regulatory Administration, Room 2304, 2000 M Street, N.W., Washington, D.C. 20461, (202) 254–8034.

Alan T. Lockard (Office of Fuels Regulations), Economic Regulatory Administration, Room 6222, 2000 M Street, N.W., Washington, D.C. 20461, (202) 254–7422.

Ben McRae (Office of General Counsel), Department of Energy, Room 6A–127, 1000 Independence Avenue, S.W., Washington, D.C. 20585, (202) 252–6739.

SUPPLEMENTAL INFORMATION:

I. Background
II. Amendment Adopted
III. Continuation of Rulemaking
IV. Procedural Requirements
V. Written Comment and Public Hearing Procedures

I. Background

We are today adopting on an emergency basis an amendment to our petroleum allocation regulations relating to the allocation of middle distillate fuels. This measure provides that consumers engaged in agricultural production will be entitled to receive their current requirements for middle distillates. This action is based on our findings, discussed more fully below, that consumers of middle distillate fuels engaged in agricultural production are experiencing and will continue to experience in the coming weeks serious supply problems due to the current and projected middle distillate supply inadequacies.

The current tight supply situation for middle distillate fuels is a result of a number of factors. First, in the last quarter of 1978, refiners maximized motor gasoline production at the expense of middle distillates in order to meet an unexpected demand for gasoline and to build up depleted gasoline inventories. Second, due largely to the prolonged interruption of Iranian crude oil exports in the first quarter of this year, crude oil imports to the United States in the first quarter of 1979 were about 700,000 barrels per day less than that needed to maintain petroleum product stocks at desired levels. Consequently, refinery utilization rates declined from 91 percent last December to 87.2 percent in January, 83.8 percent in February, and increased slightly to 84.1 percent in March and 84.9 percent in April. Third, demand for middle distillate fuels increased dramatically during the winter months due to extremely severe weather conditions.

As a result of these factors, middle distillate inventories have been drawn down at excessive rates to meet demand, which has increased 25 percent since 1974. Middle distillate inventories currently total 115 million barrels, an unacceptably low level.

We have taken a number of actions to deal with the middle distillate supply situation. On January 12, 1979, we issued a final rule (44 FR 3467, January 17, 1979) which reinstated special middle distillate set-aside procedures for the period January 12 through March 31, 1979 to insure adequate supplies of middle distillate products to wholesale purchaser-consumers and end-users facing emergency and hardship situations. At that time we believed that the demand for middle distillates would decrease with the advent of warm weather and, as a result, that set-aside procedures would not be necessary after March 31. However, by mid-March, the supply situation had not improved as anticipated and we determined that continued availability of the set-aside procedures after March 31 was necessary to prevent the interruption of adequate supplies of home heating oil in the colder areas of the nation and diesel fuel for agricultural and high-priority transportation purposes. Accordingly, on March 21, 1979, we adopted an amendment on an emergency basis extending the set-aside procedures through June 30, 1979 (44 FR 18640, March 28, 1979).

On April 19, 1979, we published a notice in the Federal Register urging all suppliers of middle distillate products to recognize the priority needs for diesel fuel for essential uses and recommending that, to the extent possible, middle distillates be distributed to high priority users on the basis of the priorities provided in the middle distillate allocation regulations which are now in standby-status (44 FR 23275, April 19, 1979). In the April 19 notice, we stated that voluntary action was being urged in order to alleviate continued middle distillate shortages for high priority uses that cannot be adequately addressed by the middle distillate set-aside program.

Finally, we have requested refiners to take voluntary action to build distillate stocks to specified target levels by October 1979, so that total U.S. distillate stocks reach at least 240 million barrels, to insure adequate heating oil supplies for the winter heating season. These

voluntary measures for increasing middle distillate inventory levels, as well as other actions which may be implemented to deal with the general petroleum supply situation, are detailed in DOE's *Response Plan: Reducing U.S. Impact on the World Oil Market (April 1979).*

Despite these measures, information available to us from suppliers of middle distillate fuels at all levels of the distribution chain, state energy offices in numerous states and other Federal agences indicates that the tight supply situation for middle distillates could create serious hardships for many consumers in the coming months. The situation appears most acute or consumers engaged in agricultural production in the midwest. Due to sustained unfavorable weather conditions in the midwest, the planting season, which normally runs from late March through late May and in some areas continues into June, has been delayed by several weeks. The Department of Agriculture has supplied us with data, set forth in the following table, that shows the magnitude of the delay.

Percentage of planting completed by May 4:

	Normal	Actual
Corn	35	19
Spring Wheat	47	18
Cotton	42	28
Rice	61	50
Oats	60	44
Barley	48	29
Sugar Beets	51	37
Potatoes	38	26

Consequently, spring planting operations, which normally take place over a two-month period, must now be completed in the next few weeks and, therefore, the demand for diesel fuel for agricultural purposes during this period will approximately double historical demand. The Department of Agriculture has advised us that any further delay in planting operations due to shortages of diesel fuel could result in a significant reduction in the size of this year's harvest since the failure to complete planting by the optimal date results in decreased yields. In addition, the state energy offices in a number of mdwest states and several associations representing agricultural interests have requested that ERA take action to insure adequate supplies of diesel fuel for consumers engaged in agricultural production.

In order to alleviate this situation, we are taking the action set forth below under section 12(f) of the Emergency Petroleum Allocation Act of 1973 (EPAA, 15 U.S.C. 751 *et seq.*, Pub. L. 93–159, as amended), which permits the reimposition of allocation controls on middle distillates upon determination that it is necessary to and consistent with the attainment of the objectives specified in section 4(b)(1) of the EPAA. In particular, we have determined that this rule will promote the maintenance of agricultural operations, including farming, ranching, dairy, and fishing activities, and services directly related thereto, and the equitable distribution of refined petroleum products among all regions and areas of the United States, and sectors of the petroleum industry, and among all users.

II. Amendment Adopted

For the reasons stated above, we are adopting, on an emergency basis, Special Rule No. 9 to Subpart A of 10 CFR Part 211 that will permit consumers engaged in agricultural production to receive their current requirements for middle distillates during the period from the date of issuance of the Special Rule through July 31, 1979. To achieve this purpose, Special Rule No. 9 provides that, notwithstanding the exemption of middle distillates from regulation, a supplier of middle distillates shall supply at non-discriminatory prices those volumes of middle distillates which a wholesale purchaser or end-user certifies, in accordance with the provision of the Special Rule, to be necessary to meet its current requirements for middle distillates for ultimate use in agricultural production.

For purposes of the Special Rule, a purchaser's current requirements for middle distillates are deemed to include only those volumes necessary for agricultural production. A purchaser's current requirements shall not include any volumes for resale other than those currently required by a wholesale purchaser-reseller for resale for ultimate use in agricultural production. Furthermore, middle distillates received by a purchaser pursuant to this Special Rule may not be used to build an inventory level in excess of its customary inventory maintained in the conduct of its normal business practices.

Certification by purchasers is required in order to insure that any volumes of middle distillates required to be supplied pursuant to Special Rule No. 9 are in fact necessary to maintain agricultural production activities. In determining to whom and the manner in which certifications should be made by a particular class of purchaser, we have considered both potential burdens on suppliers and the nature of that class of purchaser. Accordingly, the certification requirements for end-users differ from those for wholesale purchasers.

Any supplier will be required to supply any end-user upon either oral or written certification that the volumes requested are currently required by the end-user for use in agricultural production. A supplier will be required to supply a wholesale purchaser only if it supplied that wholesale purchaser during the purchaser's base period or is otherwise directed by the ERA to supply the wholesale purchaser. Furthermore, unless otherwise directed by the ERA, a supplier will be required to supply a wholesale purchaser only upon receipt of written certification by the purchaser that the percentage of current requirements represented by the volumes requested does not exceed the percentage of the total volumes of middle distillates purchased or obtained by the purchaser from that supplier in the wholesale purchaser's base period. A wholesale purchaser's base period for use in determining any current supply obligations arising under the Special Rule will be the most recent month prior to May 1979 in which the wholesale purchaser obtained middle distillates from any supplier.

While a supplier will be required under the Special Rule to supply a purchaser only in those instances discussed above, we urge suppliers to give priority to all purchasers who require middle distillates for use in agricultural production. However, a supplier may only certify to its suppliers those volumes of middle distillates which it is required to supply pursuant to the Special Rule or which are supplied pursuant to an agreement between the supplier and a wholesale purchaser-consumer which has been unable to obtain the full amount of its current requirements from its base period suppliers.

In the event a supplier and a wholesale purchaser-consumer or end-user cannot agree on the volume of middle distillates which the supplier is required to supply to the purchaser under the Special Rule, the supplier or purchaser may request from the appropriate State Agricultural Stabilization and Conservation Service Office of the U.S. Department of Agriculture information which would be useful in resolving their differences. Such information would include, for example, what constitutes agricultural production, the amount of planted acreage, any additional land being farmed, the changing types of crops and cropping patterns, any expanded livestock and poultry operations, etc. If the dispute remains unsettled (or if the

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dispute is between a supplier and a wholesale purchaser-reseller), the purchaser may request validation of the required volume from the appropriate ERA Regional Office.

At any time we determine that a supplier has not supplied the full volume of middle distillates required to be supplied to a purchaser under the Special Rule, we may order the supplier to supply any additional volumes the purchaser should have received from the supplier.

If, after reasonable efforts, a purchaser is unsucessful in obtaining the full amount of its current requirements from its base period or other suppliers, it may apply to be assigned a supplier. We, however, encourage suppliers and wholesale purchaser-consumers that are unable to obtain their current requirements from their base period suppliers to make every effort to enter mutual agreements in which the supplier provides the wholesale purchaser-consumer with its current requirements. In a State where there is a State energy Office, an application by an end-user for assignment of a supplier should be submitted to the State Office. In all other instances, an application for assignment of a supplier should be submitted to the appropriate ERA Regional Office.

In order to permit us to address supply problems on a more general basis, Special Rule No. 9 provides generally for the redirection of middle distillate supplies if necessary to prevent the interruption of agricultural production activities. Accordingly, we may order the transfer of specified amounts of middle distillates from one area or region of the nation to another or among suppliers. In addition, we may review the inventory practices of a firm and direct an increase or decrease in inventories if we determine that an adjustment is necessary in order to allocate middle distillates supplies consistent with the objectives of the Special Rule.

III. Continuation of the Rulemaking

We have adopted Special Rule No. 9 on an emergency basis to insure that sufficient volumes of middle distillates for use in agricultural production are available during the current planting season. We recognize, however, that serious middle distillate supply problems for agricultural producers may continue after July 31, 1979. Therefore, we request your views as to whether there will be a need to extend Special Rule No. 9.

We believe the availability of fuel may also be a serious problem with respect to other essential uses, especially urban mass transportation. Approximately 40 public transit systems throughout the country are experiencing difficulty in obtaining adequate supplies of diesel fuel and motor gasoline and have indicated that unless the supply picture improves in the near future, curtailment of services may be necessary. In addition, railroads have reported that shortages of diesel fuel supplies may cause significant curtailments in services. Finally, many crude oil producers in Louisiana, Wyoming and California have been forced to limit their production activities due to a shortage of diesel fuel for operation of their rigs.

Since any reduction in the current level of surface passenger mass transportation services would disrupt the nation's efforts to conserve energy and improve the environment, we are proposing that Special Rule No. 9 be expanded to include wholesale purchaser-consumer and end-users that use middle distillates for passenger transportation services. We are also proposing to amend sections 211.103 (b) and (c) of the gasoline allocation regulations to include surface passenger mass transportation services among those uses that are not subject to an allocation fraction in order to increase the availability of gasoline for these uses. In this regard, we welcome your comments as to what types of activities should be included in the term surface passenger mass transportation.

We also request your views as to any other actions we might take to alleviate middle distillate supply problems. Such actions might include the expansion of Special Rule No. 9 to provide for the allocation of middle distillate supplies for essential uses other than agricultural production and surface passenger mass transportation or the imposition of a comprehensive system of allocation controls similar to the system that existed prior to the exemption of middle distillates. In view of the current supply situation and today's reimposition of allocation controls we also request your comments as to any need you believe there to be for the reimposition of some form of price controls on middle distillates. We also welcome your views as to whether we should take action to increase currently inadequate inventory levels by requiring refiners to maintain or achieve specified inventory or refinery yield levels for middle distillates.

In determining whether to take any of the actions discussed above, we would weigh potential effects on the economic viability of independent marketers and competition within the industry generally. We request that any comments include a discussion of these considerations.

IV. Procedural Requirements

A. Section 501 of the DOE Act

Under section 501(e) of the Department of Energy Organization Act (DOE Act, 42 U.S.C. 7101 *et seq.*, Pub. L. 95–91, DOE Act), we may waive the prior notice and hearing requirements of subsections (b), (c) and (d) of section 501 upon our finding that strict compliance with these requirements is likely to cause serious harm or injury to the public health, safety or welfare. We believe such a finding can and should be made in this instance. There is a substantial possibility, based upon projections of middle distillate supplies and other available information, that consumers engaged in agricultural production will experience serious hardship in the coming months unless action is taken immediately to insure that they may obtain adequate supplies. However, in accordance with section 501(e) and in order to provide the public with as much opportunity to participate in this proceeding as is practicable under the circumstances, we have scheduled a public hearing for May 17, 1979. We will receive written comments through May 21 with respect to the proposed amendments on ground passenger mass transportation and through June 15 with respect to all other issues. We will reconsider today's action with regard to the comments received in order to determine whether we should take any further action in this rulemaking proceeding.

B. Section 404 of the DOE Act

Section 404(a) of the DOE Act requires that the Federal Energy Regulatory Commission (FERC) be notified whenever the Secretary of energy proposes to prescribe rules, regulations, and statements of policy of general applicability in the exercise of functions transferred to him under section 301 or section 306 of the DOE Act. If the FERC determines, within such period as the Secretary may prescribe, that the proposed action may significantly affect any of its functions under sections 402 (a)(1) or (b) of the DOE Act, the Secretary shall immediately refer the matter to the FERC.

Following an opportunity to review Special Rule No. 9, the FERC has declined to determine that it may significantly affect one of its functions under the sections noted above.

C. Section 7 of the FEA Act

Under section 7(a) of the Federal Energy Administration Act of 1974 (15 U.S.C. § 787 *et seq.*, Pub. L. 93–275, as amended), the requirements of which remain in effect under section 501(a) of the DOE Act, the delegate of the Secretary of Energy shall, before promulgating proposed rules, regulations, or policies affecting the quality of the environment, provide a period of not less than five working days during which the Administrator of the Environmental Protection Agency (EPA) may provide written comments concerning the impact of such rules, regulations, or policies on the quality of the environment. Such comments shall be published together with publication of notice of the proposed action.

Prior review by the EPA Administrator may be waived for a period of fourteen days if there is an emergency situation which necessitates that a proposed action be made effective at a date earlier than that which would permit the EPA Administrator the five working days opportunity for prior comment. Notice of any such waiver shall be given to the EPA Administrator and filed with the Federal Register with the publication of notice of proposed or final agency action and shall include an explanation of the reasons for such waiver, together with supporting data and a description of the factual situation in such detail as is determined will apprise the EPA and the public of the reasons for such waiver.

We have determined that the five working days opportunity for prior comment by the EPA Administrator should be waived. The reasons for the waiver are the same as those which support making Special Rule No. 9 effective immediately and are set forth in the preceding sections of this preamble. A copy of the amendment and this preamble have been provided to the EPA.

D. Section 553 of the Administrative Procedure Act

Section 553(d) of the Administrative Procedure Act requires that a substantive rule not become effective less than thirty days after its publication unless the agency promulgating the rule finds good cause to waive this requirement and publishes this finding together with the rule. We have determined that good cause is found to waive the section 553(d) requirement for the reasons stated above in support of making Special Rule No. 9 immediately.

E. Executive Order 12044

The sixty-day advance public comment period required for proposed rulemakings pursuant to Executive Order 12044, entitled "Improving Government Regulations" (43 FR 12661, March 23, 1978) and DOE's implementing procedures, DOE Order 2030 (44 FR 1032, January 3, 1979), have been waived by the Deputy Secretary of Energy as they relate to both the final rule and the proposed rules presented in the preceding sections for the reasons previously stated for making the Special Rule No. 9 effective immediately.

V. Written Comment and Public Hearing Procedures

A. Written Comments

You are invited to participate in this proceeding by submitting data, views or arguments with respect to any matters relevant to this notice. Comments should be submitted by the date indicated in the "Dates" section of this notice and to the address indicated in the "Addresses" section of this notice and should be identified on the outside envelope and on the document with the docket number and the designation: "Special Allocation Program for Middle Distillates." Ten copies should be submitted.

Any information or data submitted which you consider to be confidential must be so identified and submitted in writing, one copy only. We reserve the right to determine the confidential status of such information or data and to treat it according to our determination.

B. Public Hearing

1. *Procedure for Requests to Make Oral Presentation.* If you have any interest in the matters discussed in this notice, or represent a group or class of persons that has an interest, you may make a oral request for an opportunity to make oral presentation by 4:30 p.m., e.d.t., May 16, 1979. You should also provide a phone number where you may be contacted through the day before the hearing.

If you are selected to be heard, you will be so notified before 4:30 p.m., e.d.t., May 17, 1979, and will be required to submit one hundred copies of your statement to the appropriate address indicated in the "Addresses" section of this notice before 9:30 a.m., e.d.t., May 18, 1979.

2. *Conduct of the Hearing.* We reserve the right to select the persons to be heard at the hearing, to schedule their respective presentations, and to establish the procedures governing the conduct of the hearing. The length of each presentation may be limited, based on the number of persons requesting to be heard.

An ERA official will be designated to preside at the hearing. This will not be a judicial-type hearing. Questions may be asked only by those conducting the hearing. At the conclusion of all initial oral statements, each person who has made an oral statement will be given the opportunity to make a rebuttal statement. The rebuttal statements will be given in the order in which the initial statements were made and will be subject to time limitations.

If you wish to ask a question at the hearing, you may submit the question, in writing, to the presiding officer. The ERA or, if the question is submitted at a hearing, the presiding officer will determine whether the question is relevant, and whether time limitations permit it to be presented for answer. The question will be asked of the witness by the presiding officer.

Any further procedural rules needed for the proper conduct of the hearing will be announced by the presiding officer.

A transcript of the hearing will be made and the entire record of the hearing, including the transcript, will be retained by the ERA and made available for inspection at the DOE Freedom of Information Office, Room Ga–152, James Forrestal Building, 1000 Independence Avenue, S.W., Washington, D.C., between the hours of 8:00 a.m. and 4:30 p.m., Monday through Friday. You may purchase a copy of the transcript of the hearing from the reporter.

(Emergency Petroleum Allocation Act of 1973, 15 U.S.C. § 751 *et seq.*, Pub. L. 93–159, as amended, Pub. L. 93–511, Pub. L. 94–99, Pub. L. 94–133, Pub. L. 94–163, and Pub. L. 94–385; Federal Energy Administration Act of 1974, 15 U.S.C. § 787 *et seq.*, Pub. L. 93–275, as amended, Pub. L. 94–332, Pub. L. 94–385, Pub. L. 95–70, and Pub. L. 95–91; Energy Policy and Conservation Act, 42 U.S.C. § 6201 *et seq.*, Pub. L. 94–163, as amended, Pub. L. 94–385, and Pub. L. 95–70; Department of Energy Organization Act, 42 U.S.C. § 7101 *et seq.*, Pub. L. 95–91; E.O. 11790, 39 FR 23185; E.O. 12009, 42 FR 46267.)

In consideration of the foregoing, Part 211 of Chapter II of Title 10 of the Code of Federal Regulations is amended as set forth below, effective immediately.

Issued in Washington, D.C., May 10, 1979.

David J. Bardin,

Administrator, Economic Regulatory Administration.

The Appendix to Subpart A of Part 211 is amended by adding Special Rule No. 9 to read as follows:

MAY 15 1979 UMI

Appendix—Special Rule No. 9

Special Allocation of Middle Distillates for Agricultural Production

1. *Scope.* Notwithstanding the provisions of paragraphs (b) and (c) of § 210.35 of Part 210 of this chapter and of paragraphs (b)(5) and (b)(6) of § 211.1 of this Part, this Special Rule establishes an allocation program for the period May 11, 1979 through July 31, 1979 for middle distillates for use in agricultural production.

2. *Definitions.* For purposes of this Special Rule, the definitions of § 211.51 of Part 211 of this chapter shall apply, except for the following terms:

"Base period" means the first calendar month prior to May 1979 in which a wholesale purchaser purchased or obtained middle distillate volumes.

"Current requirements" means, (a) with respect to a wholesale purchaser-consumer or end-user, the volume of middle distillates needed by the wholesale purchaser-consumer or end-user to meet its present supply requirements for middle distillates for use in agricultural production, but does not include any amounts which the wholesale purchaser-consumer or end-user purchases or obtains for resale or accumulates as an inventory in excess of that purchaser's customary inventory maintained in the conduct of its normal business practices; or, (b) with respect to a wholesale purchaser-reseller, the volume of middle distillates needed by the wholesale purchaser-reseller to meet its present requirements to supply middle distillates to wholesale purchaser-consumers, end-users or other wholesale purchaser-resellers for ultimate use in agricultural production.

"Middle distillates" means any of the following, as defined in § 212.31 of Part 212 of this chapter: No. 1 heating oil, No. 1–D diesel fuel, No. 2 heating oil, No. 2–D diesel fuel and kerosene.

3. *General Rule.* Each supplier of middle distillates shall supply all wholesale purchaser-consumers, all end-users, and all wholesale purchaser-resellers with their current requirements for middle distillates which have been certified to that supplier in accordance with the provisions of this Special Rule.

4. *Certification Requirements.*

(a) *End-users.* An end-user may certify to any supplier its current requirements for middle distillates for agricultural production

(b) *Wholesale purchaser-consumers.* A wholesale purchaser-consumer may certify to its base period supplier its current requirements for middle distillates for ultimate use in agricultural production.

(c) *Wholesale purchaser-resellers.* A wholesale purchaser-reseller may certify to its base period supplier its current requirements for: (i) any end user; (ii) any wholesale purchaser-consumer it supplied during the base period (in accordance with paragraph (d) of this section); (iii) any wholesale purchaser-consumer it agrees to supply under section (7); (iv) any assigned purchasers, and (v) any wholesale purchaser-reseller from which it receives a certification for volumes to be supplied pursuant to this Special Rule.

(d) *Purchasers with more than one base period supplier.*

A purchaser or supplier which purchased or obtained middle distillates during the base period from more than one supplier may certify to each such supplier a percentage of its current requirements for agricultural production which does not exceed the percentage of the total volumes of middle distillates purchased or obtained by the purchaser from that supplier in the base period.

5. *Validation of Certifications.*

In the event that a purchaser and its supplier cannot agree on the volume of middle distillates which the supplier is required to supply to the purchaser under this Special Rule the purchaser may request validation of the required volume from the appropriate ERA Regional Office. From the time the supplier receives certification, the supplier shall supply the purchaser any volumes which are not in dispute. If ERA determines that the purchaser is entitled to volumes in excess of those supplied by the supplier during the period in which certification was in dispute, ERA may order the supplier to supply such increased requirements and to supply the purchaser with additional volumes of middle distillates equal to the amount the purchaser would have received if the increased requirements had been supplied during such period.

6. *Assignment of suppliers.*

Any purchaser which is unable to purchase or obtain its total current requirements for ultimate use in agricultural production may apply to the appropriate ERA Regional Office as provided in Subpart C of Part 205 of this chapter to be assigned a supplier; *provided that,* an end-user in a State in which there is a State Office must apply to that State Office as provided in Subpart Q of Part 205 of this chapter for the assignment of a supplier. The purchaser may be assigned one or more suppliers and the amount of its current requirements to be supplied by each supplier may be specified.

7. *Mutual agreements.* As an alternative to the procedures set forth in sections (5) and (6) of this Special Rule, a supplier of middle distillates may agree to supply that portion of the current requirements of a wholesale purchaser-consumer which has been unable to obtain the full amount of its current requirements from its base period suppliers.

8. *Duration of Supply Obligation.* Any requirement that volumes of middle distillates be supplied to a purchaser prior to the expiration of this Special Rule will remain in effect until satisfied, regardless of the expiration date of this Special Rule.

9. *Redirection of products.* ERA may order the transfer of specified amounts of middle distillates from one area or region to another or among suppliers if necessary to accomplish the objectives of this Special Rule.

10. *Inventories of middle distillates.* ERA may review inventory practices of any firm subject to this Special Rule and direct an increase or decrease in inventories if ERA determines that an adjustment is necessary in order to allocate middle distillates supplies consistent with the objectives of this Special Rule.

11. *Normal business practices; non-discriminatory pricing.* The requirements of paragraphs (a) and (b) of § 210.62 of this chapter shall apply to suppliers to prohibit any practice or any form of discrimination (including price discrimination) which has the effect of circumventing, frustrating or impairing the objectives, purposes and intent of this Special Rule.

[Docket No. ERA–R–79–25]

[FR Doc. 79–15250 Filed 5–11–79; 8:45 am]

BILLING CODE 6450–01–M

federal register

Tuesday
May 15, 1979

Part XI

Department of Labor

Employment and Training Administration

Comprehensive Employment and Training Act Wage Adjustment Index

DEPARTMENT OF LABOR

Employment and Training Administration

Comprehensive Employment and Training Act (CETA) Wage Adjustment Index

AGENCY: Employment and Training Administration, Labor.
ACTION: Notice.

SUMMARY: This notice promulgates the CETA wage adjustment index for Fiscal Year 1980 as required under Section 122(i)(3) of the Comprehensive Employment and Training Act. This index is to be used by CETA prime sponsors for planning purposes only. A final CETA wage adjustment index for FY 1980 will be published in the Federal Register prior to October 1, 1979. The average wage as reflected in the attached listing represents a national increase of only 3½ percent, based on updated wage information.

FOR FURTHER INFORMATION CONTACT: Mr. Robert Anderson, Administrator, Office of Comprehensive Employment Development, Employment and Training Administration, U.S. Department of Labor, 601 D Street, N.W., Washington, D.C. 20213, Telephone (202) 376-7006.

Directive: Field Memorandum No. 272-79.
To: All Regional Administrators.
From: Don A. Balcer, Acting Administrator, Field Operations.
Subject: Maximum CETA PSE wages and average wages for fiscal year (FY) 1980.

1. *Purpose.* To transmit the annual area wage adjustment index to be used for planning purposes for FY 1980.

2. *Background.* Section 122(i)(3) of the Act states that "the Secretary shall issue and publish annually an area wage adjustment index based upon the ratio which annual average wages in regular public and private employment in various areas served by recipients bear to the average of all such wages nationally, on the basis of the most satisfactory data the Secretary determines to be available." This wage adjustment index serves two purposes:

1) to determine the maximum wage payable to any public service employee from funds under the Act; and 2) to determine the average annual federally supported wage rate which must be maintained in each prime sponsor area.

In addition, Section 104(e) of the Act requires that all necessary planning materials be provided to prime sponsors by May 15 of each year. Maximum and average wage requirements are necessarily included in this requirement. The basis for the maximum and average wage requirements is the ES 202 report on local wage levels. In meeting the May 15 deadline, the most recent data available for planning purposes is the one year base period July 1977 through June 1978. However, in order to allow the use of the latest possible data for FY 1980 program operations, a final wage index for FY 1980 will be issued in September 1979, based on the period January 1978 through December 1978.

3. *Computation of the Index.* An index value has been computed for each prime sponsor, each Standard Metropolitan Statistical Area, and for each county eligible to be a program agent (at least 50,000 population) in a Balance of State (BOS), consortium and rural concentrated employment program (CEP). Prime sponsors may use the higher of either the SMSA index or the prime sponsor index. Where the SMSA or individual county index for counties eligible to be program agents (at least 50,000 population) within a BOS, consortium or rural CEP prime sponsor is higher than the prime sponsor index, the county or SMSA index may be used.

4. *Format of the Index.* The index figures presented in the attached table represent the highest of the prime sponsor index, the SMSA index, or the individual county index. In addition, maximum wages and average wages are shown for each county based on the highest index figure. In BOS, consortia and rural CEP prime sponsors, the county index and maximum and average wages are shown only for counties eligible to be program agents (at least 50,000 population).

5. *Action Required.* Regional offices are to immediately transmit the attached index to all CETA prime sponsors for use in the planning of FY 1980 PSE programs. The final wage index for FY 1980 will be available prior to October 1, 1979.

6. *Inquiries.* Questions may be directed to Joan Shelly on 8-376-7006.

Attachment.

BILLING CODE 4510-30-M

1977-1978 PRIME SPONSOR, COUNTY, AND SMSA WAGE INDEXES (NATIONAL AVERAGE ANNUAL WAGES OF $11,826 = 100.0), MAXIMUM AND AVERAGE WAGES

	PRIME SPONSOR INDEX	COUNTY INDEX	SMSA INDEX	MAXIMUM WAGES	AVERAGE WAGES
ALABAMA					
BIRMINGHAM CONSORTIUM					
(JEFFERSON COUNTY)					
JEFFERSON	101.1	101.1	99.8	10,110	7,535
HUNTSVILLE CONSORTIUM					
(MADISON COUNTY)					
MADISON	103.6	103.6	97.0	10,360	7,721
MOBILE CONSORTIUM					
BALDWIN	89.8	68.8	90.9	10,000	7,093
MOBILE	89.8	93.9	90.9	10,000	7,093
MONTGOMERY CONSORTIUM					
AUTAUGA	85.5		85.5	10,000	7,093
ELMORE	85.5		85.5	10,000	7,093
MONTGOMERY	85.5	87.2	85.5	10,000	7,093
TUSCALOOSA COUNTY	89.3	89.3	89.3	10,000	7,093
BALANCE OF ALABAMA					
CALHOUN	82.5	86.6	86.6	10,000	7,093
COLBERT	82.5	119.7	100.2	11,970	8,921
CULLMAN	82.5	72.8		10,000	7,093
DALLAS	82.5	72.0		10,000	7,093
ETOWAH	82.5	99.9	99.9	10,000	7,093
HOUSTON	82.5	81.2	100.2	10,020	7,446
LAUDERDALE	82.5	73.1		10,000	7,093
LEE	82.5	83.3		10,000	7,468
LIMESTONE	82.5		97.0	10,000	7,093
MARSHALL	82.5	73.2	97.0	10,000	7,229
MORGAN	82.5	95.6		10,000	7,229
RUSSELL	82.5		80.4	10,000	7,125
ST. CLAIR	82.5		99.8	10,000	7,093
SHELBY	82.5	98.3	99.8	10,000	7,438
TALLADEGA	82.5	84.3		10,000	7,093
WALKER	82.5		99.8	10,000	7,438
ALASKA					
ANCHORAGE MUNICIPALITY					
DIVISION					
ANCHORAGE DIVISION	174.4	174.4	174.4	17,440	12,998
BALANCE OF ALASKA					
FAIRBANKS DIVISION	177.0	189.1		18,910	14,094
ARIZONA					
TUSCON/PIMA CSRT. (PIMA CN.)					
PIMA	89.0	89.0	89.0	10,000	7,093

1977-1978 PRIME SPONSOR, COUNTY, AND SMSA WAGE INDEXES (NATIONAL AVERAGE ANNUAL WAGES OF $11,826 = 100.0), MAXIMUM AND AVERAGE WAGES-Continued

	PRIME SPONSOR INDEX	COUNTY INDEX	SMSA INDEX	MAXIMUM WAGES	AVERAGE WAGES
ARIZONA					
BALANCE OF ARIZONA					
COCHISE	90.4	96.7		10,000	7,207
COCONINO	90.4	78.2		10,000	7,093
NAVAJO	90.4	98.7		10,000	7,356
PINAL	90.4	101.9		10,190	7,595
YAVAPAI	90.4	84.5		10,000	7,093
YUMA	90.4	81.6		10,000	7,093
BAL OF MARICOPA CO LESS PHOENIX					
MARICOPA	96.6	96.6	96.6	10,000	7,200
PHOENIX CITY					
MARICOPA	96.6	96.6	96.6	10,000	7,200
ARKANSAS					
CENTRAL ARKANSAS CONSORTIUM					
PULASKI	89.8	91.0	91.5	10,000	7,093
SALINE	89.8		91.5	10,000	7,093
BALANCE OF ARKANSAS					
BENTON	76.2	77.7	76.3	10,000	7,093
CRAIGHEAD	76.2	76.6		10,000	7,093
CRAWFORD	76.2		82.5	10,000	7,093
CRITTENDEN	76.2	73.9	93.3	10,000	7,093
GARLAND	76.2	74.8		10,000	7,093
JEFFERSON	76.2	87.3	87.3	10,000	7,093
MISSISSIPPI	76.2	71.0		10,000	7,093
SEBASTIAN	76.2	85.6	82.5	10,000	7,093
WASHINGTON	76.2	75.4	76.3	10,000	7,093
CALIFORNIA					
BAL OF ALAMEDA CO LESS OAKLAND AND BERKELEY					
ALAMEDA	116.4	116.4	117.2	11,720	8,735
BERKELEY CITY					
ALAMEDA	116.4	116.4	117.2	11,720	8,735
BUTTE COUNTY					
BUTTE	82.6	82.6		10,000	7,093
BAL OF CONTRA COSTA COUNTY, CO. LESS CITY OF RICHMOND					
CONTRA COSTA	106.7	106.7	117.2	11,720	8,735
FRESNO CSRT. (FRESNO CH.)					
FRESNO	82.2	82.2	82.2	10,000	7,093

1977-1978 PRIME SPONSOR, COUNTY, AND SMSA WAGE INDEXES (NATIONAL AVERAGE ANNUAL WAGES OF $11,826 = 100.0), MAXIMUM AND AVERAGE WAGES-Continued

	PRIME SPONSOR INDEX	COUNTY INDEX	SMSA INDEX	MAXIMUM WAGES	AVERAGE WAGES
CALIFORNIA					
GLENDALE CITY					
LOS ANGELES	111.3	111.3	111.3	11,130	8,295
HUMBOLDT COUNTY					
HUMBOLDT	97.9	97.9		10,000	7,296
IMPERIAL COUNTY					
IMPERIAL	78.2	78.2		10,000	7,093
INLAND MANP. ASSOC.					
RIVERSIDE	92.0	86.6	92.0	10,000	7,093
SAN BERNARDINO	92.0	96.2	92.0	10,000	7,170
KERN COUNTY					
KERN	96.8	96.8	96.8	10,000	7,215
LONG BEACH CITY					
LOS ANGELES	111.3	111.3	111.3	11,130	8,295
LOS ANGELES CITY					
LOS ANGELES	111.3	111.3	111.3	11,130	8,295
MARIN COUNTY					
MARIN	95.3	95.3	117.2	11,720	8,735
BAL LOS ANGELES CO LESS GLENDALE,L BCH,PASADENA,LA,&TORRANCE					
LOS ANGELES	111.3	111.3	111.3	11,130	8,295
MERCED COUNTY					
MERCED	75.8	75.8		10,000	7,093
MONTEREY COUNTY					
MONTEREY	88.8	88.8	88.8	10,000	7,093
OAKLAND CITY					
ALAMEDA	116.4	116.4	117.2	11,720	8,735
ORANGE COUNTY MANP. CSRT. (ORANGE CN.)					
ORANGE	102.0	102.0	102.0	10,200	7,602
PASADENA CITY					
LOS ANGELES	111.3	111.3	111.3	11,130	8,295
RICHMOND CITY					
CONTRA COSTA	106.7	106.7	117.2	11,720	8,735
SAN DIEGO RETC (SAN DIEGO CH.)					
SAN DIEGO	97.4	97.4	97.4	10,000	7,259
SAN FRANCISCO CITY/COUNTY					
SAN FRANCISCO	123.1	123.1	117.2	12,000	9,175

1977-1978 PRIME SPONSOR, COUNTY, AND SMSA WAGE INDEXES (NATIONAL AVERAGE ANNUAL WAGES OF $11,826 = 100.0), MAXIMUM AND AVERAGE WAGES-Continued

	PRIME SPONSOR INDEX	COUNTY INDEX	SMSA INDEX	MAXIMUM WAGES	AVERAGE WAGES
CALIFORNIA					
SAN LUIS OBISPO COUNTY					
SAN LUIS OBISPO	88.9	88.9		10,000	7,093
SAN MATEO COUNTY					
SAN MATEO	119.8	119.8	117.2	11,980	8,929
SANTA BARBARA COUNTY					
SANTA BARBARA	90.5	90.5	90.5	10,000	7,093
SANTA CLARA VALLEY					
SANTA CLARA	115.0	115.0	115.0	11,500	8,571
SANTA CRUZ COUNTY					
SANTA CRUZ	81.0	81.0	81.0	10,000	7,093
SOLANO COUNTY					
SOLANO	110.7	110.7	104.8	11,070	8,250
SONOMA COUNTY					
SONOMA	91.6	91.6	91.6	10,000	7,093
STANISLAUS COUNTY					
STANISLAUS	87.2	87.2	87.2	10,000	7,093
STOCKTON/SAN JOAQUIN MANP. CSRT. (SAN JOAQUIN CN.)					
SAN JOAQUIN	94.1	94.1	94.1	10,000	7,093
SUNNYVALE CITY					
SANTA CLARA	115.0	115.0	115.0	11,500	8,571
TORRANCE CITY					
LOS ANGELES	111.3	111.3	111.3	11,130	8,295
TULARE COUNTY					
TULARE	73.3	73.3		10,000	7,093
VENTURA COUNTY					
VENTURA	96.0	96.0	96.0	10,000	7,155
BALANCE OF CALIFORNIA					
EL DORADO	85.4	81.9		10,000	7,093
KINGS	85.4	82.4		10,000	7,093
MADERA	85.4	73.5		10,000	7,093
MENDOCINO	85.4	86.8		10,000	7,093
NAPA	85.4	91.6	104.8	10,480	7,811
PLACER	85.4	86.3	107.5	10,750	8,012
SACRAMENTO CONSORTIUM					
SACRAMENTO	112.5	112.5	107.5	11,250	8,385
YOLO COUNTY					
YOLO	88.0	88.0	107.5	10,750	8,012
SHASTA COUNTY					
SHASTA	99.2	99.2		10,000	7,393

1977-1978 PRIME SPONSOR, COUNTY, AND SMSA WAGE INDEXES (NATIONAL AVERAGE ANNUAL WAGES OF $11,826 = 100.0), MAXIMUM AND AVERAGE WAGES-Continued

	PRIME SPONSOR INDEX	COUNTY INDEX	SMSA INDEX	MAXIMUM WAGES	AVERAGE WAGES
COLORADO					
ADAMS COUNTY					
ADAMS	99.9	99.9	104.3	10,430	7,773
ARAPAHOE COUNTY					
ARAPAHOE	96.6	96.6	104.3	10,430	7,773
BOULDER COUNTY					
BOULDER	94.3	94.3	104.3	10,430	7,773
COLORADO SPRINGS CONSORTIUM (EL PASO COUNTY)					
EL PASO	83.7	83.7	83.4	10,000	7,093
DENVER CITY/COUNTY					
DENVER	109.4	109.4	104.3	10,940	8,154
JEFFERSON COUNTY CONSORTIUM					
JEFFERSON	102.2	102.2	104.3	10,430	7,773
LARIMER COUNTY					
LARIMER	85.6	85.6	85.6	10,000	7,093
PUEBLO COUNTY					
PUEBLO	100.8	100.8	100.8	10,080	7,513
WELD COUNTY					
WELD	89.8	89.8	89.8	10,000	7,093
BALANCE OF COLORADO					
DOUGLAS	80.3		104.3	10,430	7,773
GILPIN	80.3		104.3	10,430	7,773
MESA	80.3	88.5		10,000	7,093
CONNECTICUT					
BRIDGEPORT CONSORTIUM					
FAIRFIELD	110.5	113.2	113.2	11,320	8,437
NEW HAVEN	110.5	95.4	95.4	11,050	8,236
HARTFORD CONSORTIUM					
HARTFORD	102.8	104.0	101.7	10,400	7,751
TOLLAND	102.8	76.9	101.7	10,280	7,662
NEW HAVEN CONSORTIUM					
NEW HAVEN	95.4	95.4	95.4	10,000	7,110
STAMFORD CONSORTIUM					
FAIRFIELD	113.2	113.2	113.2	11,320	8,437
WATERBURY CITY					
NEW HAVEN	95.4	95.4	95.4	10,000	7,110
BALANCE OF CONNECTICUT					
FAIRFIELD	100.0	113.2	113.2	11,320	8,437
HARTFORD	100.0	104.0	101.7	10,400	7,751
LITCHFIELD	100.0	89.3		10,000	7,453
MIDDLESEX	100.0	91.0	101.7	10,170	7,580
NEW HAVEN	100.0	95.4	95.4	10,000	7,453

1977-1978 PRIME SPONSOR, COUNTY, AND SMSA WAGE INDEXES (NATIONAL AVERAGE ANNUAL WAGES OF $11,826 = 100.0), MAXIMUM AND AVERAGE WAGES-Continued

	PRIME SPONSOR INDEX	COUNTY INDEX	SMSA INDEX	MAXIMUM WAGES	AVERAGE WAGES
CONNECTICUT					
BALANCE OF CONNECTICUT					
NEW LONDON	100.0	99.2	99.2	10,000	7,453
TOLLAND	100.0	76.9	101.7	10,170	7,580
WINDHAM	100.0	84.3		10,000	7,453
DELAWARE					
WILMINGTON CITY					
NEW CASTLE	114.4	114.4	114.9	11,490	8,563
DELAWARE MANP. CONSORTIUM					
KENT	105.1	87.0		10,510	7,833
NEW CASTLE	105.1	114.4	114.9	11,490	8,563
SUSSEX	105.1	80.4		10,510	7,833
DISTRICT OF COLUMBIA					
DISTRICT OF COLUMBIA					
DISTRICT OF COLUMBIA	133.2	133.2	118.0	12,000	9,927
FLORIDA					
ALACHUA COUNTY					
ALACHUA	79.7	79.7	79.7	10,000	7,093
BREVARD COUNTY					
BREVARD	99.0	99.0	99.0	10,000	7,378
BROWARD CONSORTIUM (BROWARD COUNTY)					
BROWARD	88.4	88.4	88.4	10,000	7,093
ESCAMBIA COUNTY					
ESCAMBIA	89.0	89.0	88.5	10,000	7,093
HEARTLAND MANPOWER CONSORTIUM					
POLK	84.2	87.3	87.3	10,000	7,893
LEE COUNTY					
LEE	80.6	80.6	80.6	10,000	7,093
LEON/GADSEN CONSORTIUM					
LEON	80.1	81.5	81.2	10,000	7,893
MANATEE COUNTY					
MANATEE	77.6	77.6	77.6	10,000	7,093
MIAMI/DADE CONSORTIUM					
DADE	95.6	96.3	96.3	10,000	7,177
N.E. FLORIDA MANPOWER CONSORTIUM					
BAKER	94.1		92.0	10,000	7,093
DUVAL	94.1	93.9	92.0	10,000	7,093
NASSAU	94.1		92.0	10,000	7,093

1977-1978 PRIME SPONSOR, COUNTY, AND SMSA WAGE INDEXES (NATIONAL AVERAGE ANNUAL WAGES OF $11,826 = 100.0), MAXIMUM AND AVERAGE WAGES-Continued

	PRIME SPONSOR INDEX	COUNTY INDEX	SMSA INDEX	MAXIMUM WAGES	AVERAGE WAGES
FLORIDA					
OKALOOSA COUNTY					
OKALOOSA	79.1	79.1		10,000	7,093
ORANGE COUNTY/ORLANDO CONSORTIUM (ORANGE COUNTY)					
ORANGE	88.2	88.2	85.6	10,000	7,093
PALM BEACH COUNTY					
PALM BEACH	90.4	90.4	90.4	10,000	7,093
PASCO COUNTY					
PASCO	70.7	70.7	84.1	10,000	7,093
SARASOTA COUNTY					
SARASOTA	80.4	80.4	80.4	10,000	7,093
SEMINOLE COUNTY					
SEMINOLE	75.5	75.5	85.6	10,000	7,093
PINELLAS COUNTY CONSORTIUM (PINELLAS COUNTY)					
PINELLAS	80.1	80.1	84.1	10,000	7,093
MARION COUNTY					
MARION	75.3	75.3		10,000	7,093
HILLSBOROUGH CONSORTIUM (HILLSBOROUGH COUNTY)					
HILLSBOROUGH	88.8	88.8	84.1	10,000	7,093
VOLUSIA COUNTY					
VOLUSIA	73.0	73.0	73.0	10,000	7,093
BALANCE OF FLORIDA					
BAY	75.4	77.9	77.9	10,000	7,093
CLAY	75.4	74.9	92.0	10,000	7,093
COLLIER	75.4	75.7		10,000	7,093
LAKE	75.4	71.2		10,000	7,093
OSCEOLA	75.4		85.6	10,000	7,093
ST. JOHNS	75.4		92.0	10,000	7,093
ST. LUCIE	75.4	75.6		10,000	7,093
SANTA ROSA	75.4		88.5	10,000	7,093
WAKULLA	75.4		81.2	10,000	7,093
GEORGIA					
ATLANTA CITY					
DEKALB	107.5	99.6	101.8	10,750	8,012
FULTON	107.5	107.9	101.8	10,790	8,042
CLAYTON COUNTY					
CLAYTON	98.6	98.6	101.8	10,180	7,587

1977-1978 PRIME SPONSOR, COUNTY, AND SMSA WAGE INDEXES (NATIONAL AVERAGE ANNUAL WAGES OF $11,826 = 100.0), MAXIMUM AND AVERAGE WAGES-Continued

	PRIME SPONSOR INDEX	COUNTY INDEX	SMSA INDEX	MAXIMUM WAGES	AVERAGE WAGES
GEORGIA					
COBB COUNTY					
COBB	92.3	92.3	101.8	10,180	7,587
COLUMBUS AREA CONSORTIUM (GEORGIA PART, COLUMBUS SMSA)					
CHATTAHOOCHEE	81.1		80.4	10,000	7,093
COLUMBUS	81.1	78.5	80.4	10,000	7,093
CSRA CONSORTIUM					
COLUMBIA	80.3		89.3	10,000	7,093
RICHMOND	80.3	87.4	89.3	10,000	7,093
BAL OF DEKALB COUNTY, CO. LESS CITY OF ATLANTA (PART)					
DEKALB	99.6	99.6	101.8	10,180	7,587
BAL OF FULTON COUNTY LESS CITY OF ATLANTA (PART)					
FULTON	107.9	107.9	101.8	10,790	8,042
GWINNETT CO					
GWINETT	94.7	94.7	101.8	10,180	7,587
MID GEORGIA CONSORTIUM					
BIBB	89.6	82.2	91.5	10,000	7,093
HOUSTON	89.6	110.0	91.5	11,000	8,198
JONES	89.6	66.6	91.5	10,000	7,093
TWIGGS	89.6		91.5	10,000	7,093
SAVANNAH/CHATHAM CONSORTIUM (CHATHAM COUNTY)					
CHATHAM	90.5	90.5	89.8	10,000	7,093
BALANCE OF GEORGIA					
BRYAN	75.7		89.8	10,000	7,093
BUTTS	75.7		101.8	10,180	7,587
CARROLL	75.7	78.1		10,000	7,093
CATOOSA	75.7		93.8	10,000	7,093
CHEROKEE	75.7		101.8	10,180	7,587
CLARKE	75.7	83.1		10,000	7,093
DADE	75.7		93.8	10,000	7,093
DOUGHERTY	75.7	90.1	89.6	10,000	7,093
DOUGLAS	75.7		101.8	10,180	7,587
EFFINGHAM	75.7		89.8	10,000	7,093
FAYETTE	75.7		101.8	10,180	7,587
FLOYD	75.7	87.5		10,000	7,093
FORSYTH	75.7		101.8	10,180	7,587
HALL	75.7	75.9		10,000	7,093

1977-1978 PRIME SPONSOR, COUNTY, AND SMSA WAGE INDEXES (NATIONAL AVERAGE ANNUAL WAGES OF $11,826 = 100.0), MAXIMUM AND AVERAGE WAGES-Continued

	PRIME SPONSOR INDEX	COUNTY INDEX	SMSA INDEX	MAXIMUM WAGES	AVERAGE WAGES
GEORGIA					
BALANCE OF GEORGIA					
HENRY	75.7		101.8	10,180	7,587
LEE	75.7		89.6	10,000	7,093
LOWNDES	75.7	74.6		10,000	7,093
NEWTON	75.7		101.8	10,180	7,587
PAULDING	75.7		101.8	10,180	7,587
ROCKDALE	75.7		101.8	10,180	7,587
WALKER	75.7	73.4	93.8	10,000	7,093
WALTON	75.7		101.8	10,180	7,587
WHITFIELD	75.7	84.9		10,000	7,093
HAWAII					
HONOLULU CITY/COUNTY					
HONOLULU	90.6	90.6	90.6	10,000	7,093
HAWAII BAL OF STATE					
HAWAII	84.7	85.9		10,000	7,093
MAUI + KALAWAO	84.7	85.0		10,000	7,093
IDAHO					
IDAHO STATEWIDE CONSORTIUM					
ADA	88.5	95.9	95.9	10,000	7,147
BANNOCK	88.5	83.8		10,000	7,093
BONNEVILLE	88.5	90.0		10,000	7,093
CANYON	88.5	78.7		10,000	7,093
ILLINOIS					
CHAMPAIGN CONSORTIUM					
CHAMPAIGN	83.6	84.9	84.9	10,000	7,093
CHICAGO CITY					
COOK	117.7	117.7	115.5	11,770	8,772
BAL OF COOK COUNTY, CO. LESS CHICAGO CITY					
COOK	117.7	117.7	115.5	11,770	8,772
DUPAGE COUNTY					
DU PAGE	109.7	109.7	115.5	11,550	8,608
KANE CO CSRT					
DE KALB	97.6	90.6		10,000	7,274
KANE	97.6	99.0	115.5	11,550	8,608
LAKE COUNTY					
LAKE	106.6	106.6	115.5	11,550	8,608
LA SALLE COUNTY					
LA SALLE	97.0	97.0		10,000	7,229

1977-1978 PRIME SPONSOR, COUNTY, AND SMSA WAGE INDEXES (NATIONAL AVERAGE ANNUAL WAGES OF $11,826 = 100.0), MAXIMUM AND AVERAGE WAGES-Continued

	PRIME SPONSOR INDEX	COUNTY INDEX	SMSA INDEX	MAXIMUM WAGES	AVERAGE WAGES
ILLINOIS					
MACON COUNTY					
MACON	113.6	113.6	113.6	11,360	8,467
MADISON COUNTY CONSORTIUM					
MADISON	110.3	111.7	106.9	11,170	8,325
MCHENRY COUNTY					
MCHENRY	94.3	94.3	115.5	11,550	8,608
MCLEAN COUNTY					
MCLEAN	95.3	95.3	95.3	10,000	7,103
PEORIA COUNTY CONSORTIUM					
PEORIA	112.3	112.3	122.1	12,000	9,100
ROCKFORD CONSORTIUM					
BOONE	110.5		110.5	11,050	8,236
WINNEBAGO	110.5	108.9	110.5	11,050	8,236
ROCK ISLAND COUNTY					
ROCK ISLAND	120.1	120.1	111.1	12,000	8,951
SANGAMON COUNTY CONSORTIUM					
SANGAMON	96.1	95.9	95.8	10,000	7,162
SHAWNEE CONSORTIUM					
	80.6			10,000	7,093
ST. CLAIR CONSORTIUM					
ST. CLAIR	96.7	96.3	106.9	10,690	7,967
TAZEWELL COUNTY					
TAZEWELL	144.4	144.4	122.1	12,000	10,762
WILL COUNTY CONSORTIUM					
WILL	111.6	112.4	115.5	11,550	8,608
BALANCE OF ILLINOIS					
ADAMS	91.3	90.0		10,000	7,093
CLINTON	91.3		106.9	10,690	7,967
HENRY	91.3	84.3	111.1	11,110	8,280
JACKSON	91.3	73.9		10,000	7,093
KANKAKEE	91.3	95.2	95.2	10,000	7,095
KNOX	91.3	98.8		10,000	7,364
MENARD	91.3		95.8	10,000	7,140
MONROE	91.3		106.9	10,690	7,967
VERMILION	91.3	104.0		10,400	7,751
WHITESIDE	91.3	110.6		11,060	8,243
WILLIAMSON	91.3	95.8		10,000	7,093
INDIANA					
DELAWARE CONSORTIUM					
DELAWARE	100.3	101.6	101.6	10,160	7,572

1977-1978 PRIME SPONSOR, COUNTY, AND SMSA WAGE INDEXES (NATIONAL AVERAGE ANNUAL WAGES OF $11,826 = 100.0), MAXIMUM AND AVERAGE WAGES-Continued

	PRIME SPONSOR INDEX	COUNTY INDEX	SMSA INDEX	MAXIMUM WAGES	AVERAGE WAGES
INDIANA					
ELKHART COUNTY					
ELKHART	97.6	97.6		10,000	7,274
FT. WAYNE CONSORTIUM					
ADAMS	100.0		102.0	10,200	7,602
ALLEN	100.0	104.5	102.0	10,450	7,788
DEKALB	100.0		102.0	10,200	7,602
GARY CITY					
LAKE	126.5	126.5	125.4	12,000	9,428
HAMMOND CITY					
LAKE	126.5	126.5	125.4	12,000	9,428
INDIANAPOLIS CITY / MARION CO					
MARION	109.8	109.8	105.4	10,980	8,183
BAL OF LAKE COUNTY, CO. LESS CITIES OF GARY AND HAMMOND					
LAKE	126.5	126.5	125.4	12,000	9,428
LA PORTE COUNTY					
LAPORTE	94.2	94.2		10,000	7,093
MADISON COUNTY					
MADISON	119.1	119.1	119.1	11,910	8,877
SOUTH BEND CITY					
ST. JOSEPH	97.7	97.7	95.9	10,000	7,282
SOUTHWESTERN CONSORTIUM					
GIBSON	97.6		98.6	10,000	7,349
POSEY	97.6		98.6	10,000	7,349
VANDERBURGH	97.6	95.0	98.6	10,000	7,349
WARRICK	97.6		98.6	10,000	7,349
BAL OF ST. JOSEPH COUNTY, CO. LESS SOUTH BEND CITY					
ST. JOSEPH	97.7	97.7	95.9	10,000	7,282
TIPPECANOE COUNTY					
TIPPECANOE	96.3	96.3	96.3	10,000	7,177
VIGO COUNTY					
VIGO	93.6	93.6	93.0	10,000	7,093
BALANCE OF INDIANA					
BARTHOLOMEW	92.8	120.5		12,000	8,981
BOONE	92.8		105.4	10,540	7,855
CLARK	92.8	84.6	100.7	10,070	7,505
CLAY	92.8		93.0	10,000	7,093
DEARBORN	92.8		105.8	10,580	7,885
FLOYD	92.8	80.9	100.7	10,070	7,505

1977-1978 PRIME SPONSOR, COUNTY, AND SMSA WAGE INDEXES (NATIONAL AVERAGE ANNUAL WAGES OF $11,826 = 100.0), MAXIMUM AND AVERAGE WAGES-Continued

	PRIME SPONSOR INDEX	COUNTY INDEX	SMSA INDEX	MAXIMUM WAGES	AVERAGE WAGES
INDIANA					
BALANCE OF INDIANA					
GRANT	92.8	107.7		10,770	8,027
HAMILTON	92.8	87.7	105.4	10,540	7,855
HANCOCK	92.8		105.4	10,540	7,855
HENDRICKS	92.8	85.3	105.4	10,540	7,855
HENRY	92.8	102.9		10,290	7,669
HOWARD	92.8	126.8	124.0	12,000	9,450
JOHNSON	92.8	76.9	105.4	10,540	7,855
KOSCIUSKO	92.8	98.7		10,000	7,093
MARSHALL	92.8		95.9	10,000	7,147
MONROE	92.8	87.2	87.2	10,000	7,093
MORGAN	92.8		105.4	10,540	7,855
PORTER	92.8	118.5	125.4	12,000	9,346
SHELBY	92.8		105.4	10,540	7,855
SULLIVAN	92.8		93.0	10,000	7,093
TIPTON	92.8		124.0	12,000	9,242
VERMILLION	92.8		93.0	10,000	7,093
WAYNE	92.8	91.6		10,000	7,093
WELLS	92.8		102.0	10,200	7,602
IOWA					
BLACKHAWK COUNTY					
BLACK HAWK	109.4	109.4	109.4	10,940	8,154
CENTRAL IOWA REGIONAL ASSN. OF LOCAL GOVERNMENTS					
POLK	95.1	99.1	98.4	10,000	7,386
STORY	95.1	87.5		10,000	7,093
WARREN	95.1		98.4	10,000	7,334
DAVENPORT CITY					
SCOTT	105.9	105.9	111.1	11,110	8,280
LINN COUNTY MANPOWER CONSORTIUM					
LINN	103.7	103.7	103.7	10,370	7,729
WOODBURY COUNTY					
WOODBURY	90.6	90.6	90.3	10,000	7,093
BALANCE OF IOWA					
CLINTON	84.5	90.8		10,000	7,093
DUBUQUE	84.5	108.7	108.7	10,870	8,101
POTTAWATTAMIE	84.5	83.9	94.2	10,000	7,093
SCOTT	84.5	105.9	111.1	11,110	8,280

1977-1978 PRIME SPONSOR, COUNTY, AND SMSA WAGE INDEXES (NATIONAL AVERAGE ANNUAL WAGES OF $11,826 = 100.0), MAXIMUM AND AVERAGE WAGES-Continued

	PRIME SPONSOR INDEX	COUNTY INDEX	SMSA INDEX	MAXIMUM WAGES	AVERAGE WAGES
KANSAS					
JOHNSON/LEAVENWORTH CONSORTIUM					
JOHNSON	94.6	95.6	103.9	10,390	7,744
LEAVENWORTH	94.6	86.7		10,000	7,093
KANSAS CITY CONSORTIUM (WYANDOTTE COUNTY)					
WYANDOTTE	109.4	109.4	103.9	10,940	8,154
TOPEKA CONSORTIUM (SHAWNEE COUNTY)					
SHAWNEE	92.4	92.4	91.1	10,000	7,093
WICHITA CITY					
SEDGWICK	96.6	96.6	95.8	10,000	7,200
BALANCE OF KANSAS					
DOUGLAS	80.2	88.1	88.1	10,000	7,093
JEFFERSON	80.2		91.1	10,000	7,093
OSAGE	80.2		91.1	10,000	7,093
RENO	80.2	87.0		10,000	7,093
RILEY	80.2	77.7		10,000	7,093
SEDGWICK	80.2	96.6	95.8	10,000	7,200
KENTUCKY					
BLUE GRASS MANPOWER CONSORTIUM					
BOURBON	89.8		91.6	10,000	7,093
CLARK	89.8		91.6	10,000	7,093
FAYETTE	89.8	93.7	91.6	10,000	7,093
SCOTT	89.8		91.6	10,000	7,093
WOODFORD	89.8		91.6	10,000	7,093
EASTERN KENTUCKY RURAL CEP					
PIKE	104.1	107.3		10,730	7,997
KENTON COUNTY					
KENTON	83.2	83.2	105.8	10,580	7,885
LOUISVILLE/JEFFERSON CONSORTIUM (JEFFERSON COUNTY)					
JEFFERSON	103.5	103.5	100.7	10,350	7,714
BALANCE OF KENTUCKY					
BOONE	84.9		105.8	10,580	7,885
BOYD	84.9	105.6	100.3	10,560	7,870
BULLITT	84.9		100.7	10,070	7,505
CAMPBELL	84.9	89.0	105.8	10,580	7,885
CHRISTIAN	84.9	78.6	78.4	10,000	7,093
DAVIESS	84.9	89.6	89.6	10,000	7,093

1977-1978 PRIME SPONSOR, COUNTY, AND SMSA WAGE INDEXES (NATIONAL AVERAGE ANNUAL WAGES OF $11,826 = 100.0), MAXIMUM AND AVERAGE WAGES-Continued

	PRIME SPONSOR INDEX	COUNTY INDEX	SMSA INDEX	MAXIMUM WAGES	AVERAGE WAGES
KENTUCKY					
BALANCE OF KENTUCKY					
GREENUP	84.9		100.3	10,030	7,475
HARDIN	84.9	83.8		10,000	7,093
HENDERSON	84.9		98.6	10,000	7,349
JESSAMINE	84.9		91.6	10,000	7,093
MCCRACKEN	84.9	90.7		10,000	7,093
OLDHAM	84.9		100.7	10,070	7,505
WARREN	84.9	81.1		10,000	7,093
LOUISIANA					
BATON ROUGE CITY/EAST BATON ROUGE PARISH					
EAST BATON ROUGE	101.8	101.8	101.9	10,190	7,595
CALCASIEU/JEFF CONSORTIUM					
CALCASIEU	100.1	102.7	102.7	10,270	7,654
JEFFERSON PARISH					
JEFFERSON	95.3	95.3	98.0	10,000	7,304
LAFAYETTE PARISH					
LAFAYETTE	100.4	100.4	100.4	10,040	7,483
NEW ORLEANS CITY/ORLEANS PARISH					
ORLEANS	99.8	99.8	98.0	10,000	7,438
OUACHITA PARISH					
OUACHITA	92.1	92.1	92.1	10,000	7,093
RAPIDES PARISH					
RAPIDES	78.6	78.6	78.1	10,000	7,093
SHREVEPORT CITY					
CADDO	91.8	91.8	90.0	10,000	7,093
BALANCE OF LOUISIANA					
ACADIA	92.8	72.3		10,000	7,093
ASCENSION	92.8		101.9	10,190	7,595
BOSSIER	92.8	79.6	90.0	10,000	7,093
CADDO	92.8	91.8	90.0	10,000	7,093
GRANT	92.8		78.1	10,000	7,093
IBERIA	92.8	92.8		10,000	7,093
LAFOURCHE	92.8	92.0		10,000	7,093
LIVINGSTON	92.8		101.9	10,190	7,595
ST. BERNARD	92.8	109.1	98.0	10,910	8,131
ST. LANDRY	92.8	76.4		10,000	7,093
ST.MARY	92.8	110.9		11,090	8,265
ST. TAMMANY	92.8	74.8	98.0	10,000	7,304
TANGIPAHOA	92.8	67.6		10,000	7,093
TERREBONNE	92.8	109.0		10,900	8,124

1977-1978 PRIME SPONSOR, COUNTY, AND SMSA WAGE INDEXES (NATIONAL AVERAGE ANNUAL WAGES OF $11,826 = 100.0), MAXIMUM AND AVERAGE WAGES-Continued

	PRIME SPONSOR INDEX	COUNTY INDEX	SMSA INDEX	MAXIMUM WAGES	AVERAGE WAGES
LOUISIANA					
BALANCE OF LOUISIANA					
WEBSTER	92.8		90.0	10,000	7,093
WEST BATON ROUGE	92.8		101.9	10,190	7,595
MAINE					
CUMBERLAND COUNTY					
CUMBERLAND	84.5	84.5	85.5	10,000	7,093
KENNEBEC COUNTY					
KENNEBEC	84.1	84.1		10,000	7,093
PENOBSCOT CONSORTIUM					
PENOBSCOT	81.6	83.9		10,000	7,093
YORK COUNTY					
YORK	70.7	70.7		10,000	7,093
CETA BALANCE OF MAINE					
ANDROSCOGGIN	76.2	72.7	72.7	10,000	7,093
AROOSTOOK	76.2	77.4		10,000	7,093
SAGADAHOC	76.2		85.5	10,000	7,093
MARYLAND					
BALTIMORE CONSORTIUM					
ANNE ARUNDEL	101.1	93.7	101.1	10,110	7,535
BALTIMORE	101.1	103.2	101.1	10,320	7,691
CARROLL	101.1	83.8	101.1	10,110	7,535
HARFORD	101.1	91.2	101.1	10,110	7,535
HOWARD	101.1	102.6	101.1	10,260	7,647
BALTIMORE - INDEPENDENT CITY	101.1	103.1	101.1	10,310	7,684
MONTGOMERY COUNTY					
MONTGOMERY	107.4	107.4	118.0	11,800	8,795
PRINCE GEORGES COUNTY					
PRINCE GEORGES	97.8	97.8	118.0	11,800	8,795
WESTERN MARYLAND CONSORTIUM					
ALLEGANY	91.5	93.0		10,000	7,093
FREDERICK	91.5	86.1		10,000	7,093
WASHINGTON	91.5	97.4		10,000	7,259
BALANCE OF MARYLAND					
CECIL	79.7	83.6	114.9	11,490	8,563
CHARLES	79.7	93.6	118.0	11,800	8,795
ST. MARYS	79.7	103.7		10,370	7,729
WICOMICO	79.7	78.0		10,000	7,093
MASSACHUSETTS					
BOSTON CITY					
SUFFOLK	108.8	108.8	100.1	10,880	8,109

1977-1978 PRIME SPONSOR, COUNTY, AND SMSA WAGE INDEXES (NATIONAL AVERAGE ANNUAL WAGES OF $11,826 = 100.0), MAXIMUM AND AVERAGE WAGES-Continued

	PRIME SPONSOR INDEX	COUNTY INDEX	SMSA INDEX	MAXIMUM WAGES	AVERAGE WAGES
MASSACHUSETTS					
BROCKTON CONSORTIUM					
BRISTOL	83.4	80.2	80.2	10,000	7,093
NORFOLK	83.4	94.8	100.1	10,010	7,460
PLYMOUTH	83.4	81.2	100.1	10,010	7,460
CAMBRIDGE CONSORTIUM					
MIDDLESEX	103.1	103.1	100.1	10,310	7,684
HAMPDEN COUNTY (SPRINGFIELD) CONSORTIUM					
HAMPDEN	90.0	90.0	88.8	10,000	7,093
LOWELL CONSORTIUM					
MIDDLESEX	103.1	103.1	100.1	10,310	7,684
NEW BEDFORD CONSORTIUM					
BRISTOL	80.3	80.2	80.2	10,000	7,093
PLYMOUTH	80.3	81.2	100.1	10,010	7,460
WORCESTER CONSORTIUM					
WORCESTER	90.2	90.2	90.2	10,000	7,093
FALL RIVER CONSORTIUM					
BRISTOL	80.2	80.2	80.2	10,000	7,093
CETA BALANCE OF MASSACHUSETTS					
BARNSTABLE	94.0	73.3		10,000	7,093
BERKSHIRE	94.0	91.7	91.7	10,000	7,093
BRISTOL	94.0	80.2	80.2	10,000	7,093
ESSEX	94.0	89.7	100.1	10,010	7,460
FRANKLIN	94.0	83.6		10,000	7,093
HAMPSHIRE	94.0	83.9	88.8	10,000	7,093
MIDDLESEX	94.0	103.1	100.1	10,310	7,684
NORFOLK	94.0	94.8	100.1	10,010	7,460
PLYMOUTH	94.0	81.2	100.1	10,010	7,460
SUFFOLK	94.0	108.8	100.1	10,880	8,109
WORCESTER	94.0	90.2	90.2	10,000	7,093
MICHIGAN					
ANN ARBOR CITY					
WASHTENAW	119.2	119.2	119.2	11,920	8,884
BAL OF WASHTENAW CO.LESS ANN ARBOR CITY					
WASHTENAW	119.2	119.2	119.2	11,920	8,884
BAY COUNTY					
BAY	109.4	109.4	109.4	10,940	8,154

1977-1978 PRIME SPONSOR, COUNTY, AND SMSA WAGE INDEXES (NATIONAL AVERAGE ANNUAL WAGES OF $11,826 = 100.0), MAXIMUM AND AVERAGE WAGES-Continued

	PRIME SPONSOR INDEX	COUNTY INDEX	SMSA INDEX	MAXIMUM WAGES	AVERAGE WAGES
MICHIGAN					
BERRIEN COUNTY					
BERRIEN	101.7	101.7		10,170	7,580
CALHOUN COUNTY					
CALHOUN	112.8	112.8	110.8	11,280	8,407
DEARBORN CITY					
WAYNE	135.4	135.4	130.2	12,000	10,091
DETROIT CITY					
WAYNE	135.4	135.4	130.2	12,000	10,091
FLINT/GENESSEE CONSORTIUM					
GENESEE	135.8	142.9	138.8	12,000	10,650
LAPEER	135.8	92.2	130.2	12,000	10,121
SHIAWASSEE	135.8	91.3	138.8	12,000	10,345
JACKSON CONSORTIUM					
JACKSON	105.7	110.6	110.6	11,060	8,243
LENAWEE	105.7	101.8		10,570	7,878
KALAMAZOO COUNTY					
KALAMAZOO	107.0	107.0	104.4	10,700	7,975
KENT CONSORTIUM					
ALLEGAN	100.3	88.4		10,030	7,475
IONIA	100.3		112.1	11,210	8,355
KENT	100.3	102.7	100.9	10,270	7,654
LANSING CONSORTIUM					
CLINTON	113.7	90.5	112.1	11,370	8,474
EATON	113.7	90.0	112.1	11,370	8,474
INGHAM	113.7	116.8	112.1	11,680	8,705
LIVONIA CITY					
WAYNE	135.4	135.4	130.2	12,000	10,091
BAL OF MACOMB COUNTY, CO. LESS CITY OF WARREN					
MACOMB	132.6	132.6	130.2	12,000	9,883
MONROE COUNTY					
MONROE	113.6	113.6	111.4	11,360	8,467
MUSKEGON CONSORTIUM					
MUSKEGON	103.4	105.4	103.4	10,540	7,855
OCEANA	103.4		103.4	10,340	7,706
OAKLAND COUNTY					
OAKLAND	120.7	120.7	130.2	12,000	9,704
OTTAWA COUNTY					
OTTAWA	94.4	94.4	100.9	10,090	7,520

1977-1978 PRIME SPONSOR, COUNTY, AND SMSA WAGE INDEXES (NATIONAL AVERAGE ANNUAL WAGES OF $11,826 = 100.0), MAXIMUM AND AVERAGE WAGES-Continued

	PRIME SPONSOR INDEX	COUNTY INDEX	SMSA INDEX	MAXIMUM WAGES	AVERAGE WAGES
MICHIGAN					
SAGINAW COUNTY					
SAGINAW	128.7	128.7	128.7	12,000	9,592
ST. CLAIR COUNTY					
ST. CLAIR	102.1	102.1	130.2	12,000	9,704
WARREN CITY					
MACOMB	132.6	132.6	130.2	12,000	9,883
BAL OF WAYNE CO LESS DETROIT,DEARBORN AND LIVONIA					
WAYNE	135.4	135.4	130.2	12,000	10,091
BALANCE OF MICHIGAN					
BARRY	90.9		110.8	11,030	8,258
ISABELLA	90.9	89.5		10,000	7,093
LIVINGSTON	90.9	88.5	130.2	12,000	9,704
MARQUETTE	90.9	94.8		10,000	7,093
MIDLAND	90.9	137.6		12,000	10,255
ST. JOSEPH	90.9	93.5		10,000	7,093
TUSCOLA	90.9	89.4		10,000	7,093
VAN BUREN	90.9	86.9	104.4	10,440	7,781
MINNESOTA					
DAKOTA COUNTY					
DAKOTA	92.1	92.1	104.1	10,410	7,759
DULUTH CITY					
ST. LOUIS	95.3	95.3	93.8	10,000	7,103
BAL OF HENNEPIN CO LESS CITY OF MINNEAPOLIS					
HENNEPIN	105.9	105.9	104.1	10,590	7,893
MINNEAPOLIS CITY					
HENNEPIN	105.9	105.9	104.1	10,590	7,893
BAL OF RAMSEY COUNTY, CO. LESS ST. PAUL CITY					
RAMSEY	109.5	109.5	104.1	10,950	8,161
REGION III CONSORTIUM					
ST. LOUIS	94.1	95.3	93.8	10,000	7,103
RURAL MINNESOTA CEP					
CLAY	73.8		89.3	10,000	7,093
ST. PAUL CITY					
RAMSEY	109.5	109.5	104.1	10,950	8,161
QUAD COUNTIES CONSORTIUM					
ANOKA	94.6	95.6	104.1	10,410	7,759
CARVER	94.6		104.1	10,410	7,759
SCOTT	94.6		104.1	10,410	7,759
WASHINGTON	94.6	96.5	104.1	10,410	7,759

1977-1978 PRIME SPONSOR, COUNTY, AND SMSA WAGE INDEXES (NATIONAL AVERAGE ANNUAL WAGES OF $11,826 = 100.0), MAXIMUM AND AVERAGE WAGES-Continued

	PRIME SPONSOR INDEX	COUNTY INDEX	SMSA INDEX	MAXIMUM WAGES	AVERAGE WAGES
MINNESOTA					
BALANCE OF MINNESOTA					
BLUE EARTH	79.9	84.5		10,000	7,093
CHISAGO	79.9		104.1	10,410	7,759
OLMSTED	79.9	98.8	98.8	10,000	7,364
POLK	79.9		79.7	10,000	7,093
SHERBURNE	79.9		82.2	10,000	7,093
STEARNS	79.9	82.5	82.2	10,000	7,093
WRIGHT	79.9	72.5	104.1	10,410	7,759
MISSISSIPPI					
JACKSON CONSORTIUM					
HINDS	88.0	88.9	88.0	10,000	7,093
RANKIN	88.0	81.3	88.0	10,000	7,093
HARRISON COUNTY					
HARRISON	76.1	76.1	80.6	10,000	7,093
BALANCE OF MISSISSIPPI					
DE SOTO	76.7	78.1	93.3	10,000	7,093
FORREST	76.7	78.9		10,000	7,093
HANCOCK	76.7		80.6	10,000	7,093
JACKSON	76.7	98.6	98.6	10,000	7,349
JONES	76.7	82.3		10,000	7,093
LAUDERDALE	76.7	80.7		10,000	7,093
LEE	76.7	76.1		10,000	7,093
LOWNDES	76.7	76.9		10,000	7,093
STONE	76.7		80.6	10,000	7,093
WASHINGTON	76.7	77.8		10,000	7,093
MISSOURI					
INDEPENDENCE CITY					
JACKSON	104.7	104.7	103.9	10,470	7,803
BAL OF JACKSON CO LESS CITIES OF INDEPENDENCE & KANSAS(PART)					
JACKSON	104.7	104.7	103.9	10,470	7,803
JEFFERSON/FRANKLIN CONSORTIUM					
FRANKLIN	82.8	80.9	106.9	10,690	7,967
JEFFERSON	82.8	85.0	106.9	10,690	7,967
KANSAS CITY CONSORTIUM					
CASS	104.8		103.9	10,480	7,811
CLAY	104.8	104.7	103.9	10,480	7,811
JACKSON	104.8	104.7	103.9	10,480	7,811
PLATTE	104.8		103.9	10,480	7,811
RAY	104.8		103.9	10,480	7,811

1977-1978 PRIME SPONSOR, COUNTY, AND SMSA WAGE INDEXES (NATIONAL AVERAGE ANNUAL WAGES OF $11,826 = 100.0), MAXIMUM AND AVERAGE WAGES-Continued

	PRIME SPONSOR INDEX	COUNTY INDEX	SMSA INDEX	MAXIMUM WAGES	AVERAGE WAGES
MISSOURI					
SPRINGFIELD CITY					
GREENE	85.6	85.6	84.9	10,000	7,093
ST. CHARLES COUNTY					
ST. CHARLES	88.9	88.9	106.9	10,690	7,967
ST. LOUIS CITY					
ST. LOUIS IND. CITY	112.6	112.6	106.9	11,260	8,392
ST. LOUIS COUNTY					
ST. LOUIS	106.1	106.1	106.9	10,690	7,967
BALANCE OF MISSOURI					
ANDREW	74.7		86.3	10,000	7,093
BOONE	74.7	86.2	86.2	10,000	7,093
BUCHANAN	74.7	87.2	86.3	10,000	7,093
CAPE GIRARDEAU	74.7	84.6		10,000	7,093
CHRISTIAN	74.7		84.9	10,000	7,093
COLE	74.7	79.3		10,000	7,093
GREENE	74.7	85.6	84.9	10,000	7,093
JASPER	74.7	82.3		10,000	7,093
MONTANA					
BUTTE RURAL CEP	94.3			10,000	7,093
BALANCE OF MONTANA					
CASCADE	83.9	88.8	88.8	10,000	7,093
MISSOULA	83.9	90.2		10,000	7,093
YELLOWSTONE	83.9	90.9	90.9	10,000	7,093
NEBRASKA					
LINCOLN CITY					
LANCASTER	81.7	81.7	81.7	10,000	7,093
OMAHA CONSORTIUM (NEBRASKA PART, OMAHA SMSA)					
DOUGLAS	95.4	96.3	94.2	10,000	7,177
SARPY	95.4	78.5	94.2	10,000	7,110
BALANCE OF NEBRASKA					
DAKOTA	76.3		90.3	10,000	7,093
LANCASTER	76.3	81.7	81.7	10,000	7,093
NEVADA					
LAS VEGAS CSRT. (CLARK CN.)					
CLARK	100.1	100.1	100.1	10,010	7,460
WASHOE COUNTY					
WASHOE	99.9	99.9	99.9	10,000	7,446

1977-1978 PRIME SPONSOR, COUNTY, AND SMSA WAGE INDEXES (NATIONAL AVERAGE ANNUAL WAGES OF $11,826 = 100.0), MAXIMUM AND AVERAGE WAGES-Continued

	PRIME SPONSOR INDEX	COUNTY INDEX	SMSA INDEX	MAXIMUM WAGES	AVERAGE WAGES
NEVADA					
BALANCE OF NEVADA	93.5			10,000	7,093
NEW HAMPSHIRE					
HILLSBOROUGH COUNTY					
HILLSBOROUGH	88.4	88.4	88.4	10,000	7,093
ROCKINGHAM/STRAFFORD CONSORTIUM					
ROCKINGHAM	86.6	89.6	100.1	10,010	7,460
STRAFFORD	86.6	79.3		10,000	7,093
BALANCE OF NEW HAMPSHIRE					
CHESHIRE	79.0	81.9		10,000	7,093
GRAFTON	79.0	77.8		10,000	7,093
MERRIMACK	79.0	81.4		10,000	7,093
NEW JERSEY					
ATLANTIC COUNTY					
ATLANTIC	84.5	84.5	84.5	10,000	7,093
BERGEN COUNTY					
BERGEN	109.5	109.5	119.3	11,930	8,891
BURLINGTON COUNTY					
BURLINGTON	96.7	96.7	105.1	10,510	7,833
CAMDEN CITY					
CAMDEN	100.6	100.6	105.1	10,510	7,833
BAL OF CAMDEN COUNTY, CO. LESS CAMDEN CITY					
CAMDEN	100.6	100.6	105.1	10,510	7,833
CUMBERLAND COUNTY					
CUMBERLAND	94.3	94.3	94.3	10,000	7,093
ELIZABETH CITY					
UNION	119.5	119.5	115.4	11,950	8,906
BAL OF ESSEX COUNTY, CO. LESS CITY OF NEWARK					
ESSEX	113.3	113.3	115.4	11,540	8,601
GLOUCESTER COUNTY					
GLOUCESTER	98.5	98.5	105.1	10,510	7,833
HUDSON COUNTY CONSORTIUM					
HUDSON	107.0	107.0	107.0	10,700	7,975
BAL OF MERCER COUNTY, CO. LESS TRENTON CITY					
MERCER	104.7	104.7	104.7	10,470	7,803

1977-1978 PRIME SPONSOR, COUNTY, AND SMSA WAGE INDEXES (NATIONAL AVERAGE ANNUAL WAGES OF $11,826 = 100.0), MAXIMUM AND AVERAGE WAGES-Continued

	PRIME SPONSOR INDEX	COUNTY INDEX	SMSA INDEX	MAXIMUM WAGES	AVERAGE WAGES
NEW JERSEY					
MIDDLESEX COUNTY					
MIDDLESEX	113.5	113.5	113.5	11,350	8,459
MONMOUTH COUNTY					
MONMOUTH	94.7	94.7	94.7	10,000	7,093
MORRIS COUNTY					
MORRIS	112.7	112.7	115.4	11,540	8,601
NEWARK CITY					
ESSEX	113.3	113.3	115.4	11,540	8,601
OCEAN COUNTY					
OCEAN	85.1	85.1		10,000	7,093
BAL. OF PASSAIC CO., CO. LESS PATERSON CITY					
PASSAIC	102.0	102.0	102.0	10,200	7,602
PATERSON CITY					
PASSAIC	102.0	102.0	102.0	10,200	7,602
SOMERSET COUNTY					
SOMERSET	116.7	116.7	115.4	11,670	8,698
TRENTON CITY					
MERCER	104.7	104.7	104.7	10,470	7,803
BAL OF UNION COUNTY, CO. LESS ELIZABETH CITY					
UNION	119.5	119.5	115.4	11,950	8,906
BALANCE OF NEW JERSEY					
CAPE MAY	96.9	73.1		10,000	7,222
HUNTERDON	96.9	93.0		10,000	7,222
SALEM	96.9	133.5	114.9	12,000	9,950
SUSSEX	96.9	79.3		10,000	7,222
WARREN	96.9	100.2	99.9	10,020	7,468
NEW MEXICO					
ALBUQUERQUE CONSORTIUM (BERNALILLO COUNTY)					
BERNALILLO	90.7	90.7	90.3	10,000	7,093
BALANCE OF NEW MEXICO					
DONA ANA	88.0	87.3		10,000	7,093
LEA	88.0	100.5		10,050	7,490
MCKINLEY	88.0	104.4		10,440	7,781
SANDOVAL	88.0		90.3	10,000	7,093
SAN JUAN	88.0	106.1		10,610	7,908
SANTA FE	88.0	79.4		10,000	7,093
VALENCIA	88.0	93.0		10,000	7,093

1977-1978 PRIME SPONSOR, COUNTY, AND SMSA WAGE INDEXES (NATIONAL AVERAGE ANNUAL WAGES OF $11,826 = 100.0), MAXIMUM AND AVERAGE WAGES-Continued

	PRIME SPONSOR INDEX	COUNTY INDEX	SMSA INDEX	MAXIMUM WAGES	AVERAGE WAGES
NEW YORK					
ALBANY CITY					
ALBANY	99.8	99.8	99.6	10,000	7,438
BALANCE OF ALBANY COUNTY, COUNTY LESS ALBANY CITY					
ALBANY	99.8	99.8	99.6	10,000	7,438
BROOME COUNTY					
BROOME	96.7	96.7	98.2	10,000	7,319
BUFFALO CITY					
ERIE	102.4	102.4	103.6	10,360	7,721
CHAUTAUQUA CONSORTIUM					
ALLEGANY	86.9	90.1		10,000	7,093
CATTARAUGUS	86.9	83.0		10,000	7,093
CHAUTAUQUA	86.9	88.2		10,000	7,093
CHEMUNG COUNTY					
CHEMUNG	91.2	91.2	91.2	10,000	7,093
DUTCHESS COUNTY					
DUTCHESS	109.8	109.8	109.8	10,980	8,183
ERIE CONSORTIUM					
ERIE	102.4	102.4	103.6	10,360	7,721
ROCHESTER CITY					
MONROE	116.4	116.4	110.7	11,640	8,675
BAL OF MONROE CO., CO. LESS ROCHESTER CITY					
MONROE	116.4	116.4	110.7	11,640	8,675
NASSAU CONSORTIUM					
NASSAU	101.3	101.3	99.3	10,130	7,550
HEMPSTEAD TOWN - LONG BEACH CITY CONSORTIUM					
NASSAU	101.3	101.3	99.3	10,130	7,550
NEW YORK CITY	122.0			12,000	9,093
NIAGARA COUNTY					
NIAGARA	109.9	109.9	103.6	10,990	8,191
ONEIDA COUNTY					
ONEIDA	90.3	90.3	89.8	10,000	7,093
BAL OF ONONDAGA COUNTY, CO. LESS SYRACUSE CITY					
ONONDAGA	101.9	101.9	101.2	10,190	7,595
ORANGE COUNTY					
ORANGE	87.7	87.7		10,000	7,093

1977-1978 PRIME SPONSOR, COUNTY, AND SMSA WAGE INDEXES (NATIONAL AVERAGE ANNUAL WAGES OF $11,826 = 100.0), MAXIMUM AND AVERAGE WAGES-Continued

	PRIME SPONSOR INDEX	COUNTY INDEX	SMSA INDEX	MAXIMUM WAGES	AVERAGE WAGES
NEW YORK					
OSWEGO COUNTY					
OSWEGO	106.8	106.8	101.2	10,680	7,960
RENSSELAER COUNTY					
RENSSELAER	87.2	87.2	99.6	10,000	7,423
ROCKLAND COUNTY					
ROCKLAND	92.6	92.6	119.3	11,930	8,891
SARATOGA COUNTY					
SARATOGA	92.2	92.2	99.6	10,000	7,423
SCHENECTADY COUNTY					
SCHENECTADY	115.0	115.0	99.6	11,500	8,571
STEUBEN COUNTY					
STEUBEN	107.0	107.0		10,700	7,975
ST. LAWRENCE COUNTY					
ST. LAWRENCE	97.3	97.3		10,000	7,252
SUFFOLK CONSORTIUM (SUFFOLK COUNTY)					
SUFFOLK	96.4	96.4	99.3	10,000	7,401
SYRACUSE CITY					
ONONDAGA	101.9	101.9	101.2	10,190	7,595
ULSTER COUNTY					
ULSTER	93.3	93.3		10,000	7,093
WESTCHESTER CONSORTIUM					
PUTNAM	109.4	85.5	119.3	11,930	8,891
WESTCHESTER	109.4	110.5	119.3	11,930	8,891
YONKERS CITY					
WESTCHESTER	110.5	110.5	119.3	11,930	8,891
BALANCE OF NEW YORK					
CAYUGA	84.2	85.4		10,000	7,093
CLINTON	84.2	85.9		10,000	7,093
COLUMBIA	84.2	77.3		10,000	7,093
FULTON	84.2	75.3		10,000	7,093
GENESEE	84.2	91.6		10,000	7,093
HERKIMER	84.2	87.1	89.8	10,000	7,093
JEFFERSON	84.2	86.7		10,000	7,093
LIVINGSTON	84.2	85.8	110.7	11,070	8,250
MADISON	84.2	78.3	101.2	10,120	7,542
MONTGOMERY	84.2	77.2	99.6	10,000	7,423
ONTARIO	84.2	81.5	110.7	11,070	8,250
ORLEANS	84.2		110.7	11,070	8,250
OTSEGO	84.2	77.4		10,000	7,093
SULLIVAN	84.2	69.2		10,000	7,093
TIOGA	84.2		98.2	10,000	7,319

1977-1978 PRIME SPONSOR, COUNTY, AND SMSA WAGE INDEXES (NATIONAL AVERAGE ANNUAL WAGES OF $11,826 = 100.0), MAXIMUM AND AVERAGE WAGES-Continued

	PRIME SPONSOR INDEX	COUNTY INDEX	SMSA INDEX	MAXIMUM WAGES	AVERAGE WAGES
NEW YORK					
BALANCE OF NEW YORK					
TOMPKINS	84.2	87.5		10,000	7,093
WARREN	84.2	82.7		10,000	7,093
WASHINGTON	84.2	96.5		10,000	7,192
WAYNE	84.2	86.6	110.7	11,070	8,250
NORTH CAROLINA					
ALAMANCE COUNTY					
ALAMANCE	77.0	77.0	77.0	10,000	7,093
BUNCOMBE COUNTY					
BUNCOMBE	82.2	82.2	81.5	10,000	7,093
CHARLOTTE CITY					
MECKLENBURG	98.0	98.0	92.9	10,000	7,304
CUMBERLAND COUNTY					
CUMBERLAND	80.2	80.2	80.2	10,000	7,093
DAVIDSON COUNTY					
DAVIDSON	77.8	77.8	91.6	10,000	7,093
DURHAM CITY					
DURHAM	97.0	97.0	91.3	10,000	7,229
GASTON COUNTY					
GASTON	81.4	81.4	92.9	10,000	7,093
GREENSBORO CONSORTIUM (GUILFORD COUNTY)					
GUILFORD	91.2	91.2	91.6	10,000	7,093
ONSLOW COUNTY					
ONSLOW	71.5	71.5		10,000	7,093
RALEIGH CONSORTIUM					
JOHNSTON	81.6	68.0		10,000	7,093
WAKE	81.6	88.4	91.3	10,000	7,093
BAL OF WAKE COUNTY, CO. LESS CITY OF RALEIGH					
WAKE	88.4	88.4	91.3	10,000	7,093
WINSTON SALEM CONSORTIUM (FORSYTH COUNTY)					
FORSYTH	103.3	103.3	91.6	10,330	7,699
ROBESON COUNTY					
ROBESON	67.9	67.9		10,000	7,093
BALANCE OF NORTH CAROLINA					
BRUNSWICK	77.3		86.3	10,000	7,093
BURKE	77.3	77.1		10,000	7,093
CABARRUS	77.3	72.6		10,000	7,093
CALDWELL	77.3	76.7		10,000	7,093
CATAWBA	77.3	79.3		10,000	7,093

1977-1978 PRIME SPONSOR, COUNTY, AND SMSA WAGE INDEXES (NATIONAL AVERAGE ANNUAL WAGES OF $11,826 = 100.0), MAXIMUM AND AVERAGE WAGES-Continued

	PRIME SPONSOR INDEX	COUNTY INDEX	SMSA INDEX	MAXIMUM WAGES	AVERAGE WAGES
NORTH CAROLINA					
BALANCE OF NORTH CAROLINA				10,000	7,093
CLEVELAND	77.3	80.4		10,000	7,093
COLUMBUS	77.3	74.1		10,000	7,093
CRAVEN	77.3	88.7		10,000	7,093
CURRITUCK	77.3		87.4	10,000	7,229
DURHAM	77.3	97.0	91.3	10,000	7,093
EDGECOMBE	77.3	79.3		10,000	7,093
HALIFAX	77.3	72.7		10,000	7,093
HARNETT	77.3	68.3		10,000	7,093
HENDERSON	77.3	78.7		10,000	7,093
IREDELL	77.3	74.3		10,000	7,093
LENOIR	77.3	79.9		10,000	7,093
MADISON	77.3		81.5	10,000	7,304
MECKLENBURG	77.3	98.0	92.9	10,000	7,093
NASH	77.3	75.3		10,000	7,093
NEW HANOVER	77.3	85.0	86.5	10,000	7,093
ORANGE	77.3	89.2	91.3	10,000	7,093
PITT	77.3	75.4		10,000	7,093
RANDOLPH	77.3	74.6	91.6	10,000	7,093
ROCKINGHAM	77.3	78.8		10,000	7,093
ROWAN	77.3	80.1		10,000	7,093
RUTHERFORD	77.3	74.7		10,000	7,093
STOKES	77.3		91.6	10,000	7,093
SURRY	77.3	69.0		10,000	7,093
UNION	77.3	75.9	92.9	10,000	7,093
WAYNE	77.3	73.7		10,000	7,093
WILKES	77.3	74.2		10,000	7,093
WILSON	77.3	81.8		10,000	7,093
YADKIN	77.3		91.6	10,000	7,093
NORTH DAKOTA					
NORTH DAKOTA STATEWIDE CONSORTIUM				10,000	7,093
BURLEIGH	84.1	90.6		10,000	7,093
CASS	84.1	92.7	89.3	10,000	7,093
GRAND FORKS	84.1	83.8	79.7	10,000	7,093
WARD	84.1	81.6			
OHIO					
AKRON CONSORTIUM				11,420	8,511
MEDINA	108.7	86.6	114.2	11,130	8,295
SUMMIT	108.7	111.3	108.9		

1977-1978 PRIME SPONSOR, COUNTY, AND SMSA WAGE INDEXES (NATIONAL AVERAGE ANNUAL WAGES OF $11,826 = 100.0), MAXIMUM AND AVERAGE WAGES-Continued

	PRIME SPONSOR INDEX	COUNTY INDEX	SMSA INDEX	MAXIMUM WAGES	AVERAGE WAGES
OHIO					
ALLEN COUNTY					
ALLEN	106.6	106.6	100.5	10,660	7,945
ASHTABULA COUNTY					
ASHTABULA	95.6	95.6		10,000	7,125
BUTLER COUNTY					
BUTLER	115.7	115.7	115.7	11,570	8,623
CANTON CONSORTIUM					
STARK	103.9	105.7	105.0	10,570	7,878
WAYNE	103.9	96.1		10,390	7,744
CINCINNATI CITY					
HAMILTON	110.1	110.1	105.8	11,010	8,206
CLARK COUNTY					
CLARK	98.0	98.0	95.6	10,000	7,304
CLERMONT/WARREN CONSORTIUM					
CLERMONT	85.0	90.6	105.8	10,580	7,885
WARREN	85.0	79.4	105.8	10,580	7,885
CLEVELAND CONSORTIUM					
CUYAHOGA	116.2	116.8	114.2	11,680	8,705
GEAUGA	116.2	91.8	114.2	11,620	8,660
COLUMBUS CONSORTIUM (FRANKLIN CO.)					
FRANKLIN	102.0	102.0	100.4	10,200	7,602
DAYTON CITY					
MONTGOMERY	115.1	115.1	110.4	11,510	8,578
GREENE COUNTY					
GREENE	91.4	91.4	110.4	11,040	8,228
BAL OF HAMILTON, CO LESS CINCINNATI CITY					
HAMILTON	110.1	110.1	105.8	11,010	8,206
LAKE COUNTY					
LAKE	101.7	101.7	114.2	11,420	8,511
LICKING/DEL CONSORTIUM					
DELAWARE	96.3	89.1	100.4	10,040	7,483
LICKING	96.3	99.9		10,000	7,446
LORAIN COUNTY					
LORAIN	117.2	117.2	117.2	11,720	8,735
MONTGOMERY-PREBLE CONSORTIUM					
MONTGOMERY	113.7	115.1	110.4	11,510	8,578
PREBLE	113.7		110.4	11,370	8,474

1977-1978 PRIME SPONSOR, COUNTY, AND SMSA WAGE INDEXES (NATIONAL AVERAGE ANNUAL WAGES OF $11,826 = 100.0), MAXIMUM AND AVERAGE WAGES-Continued

	PRIME SPONSOR INDEX	COUNTY INDEX	SMSA INDEX	MAXIMUM WAGES	AVERAGE WAGES
OHIO					
NORTH EAST OHIO MANPOWER CONSORTIUM					
COLUMBIANA	110.6	88.8		11,060	8,243
MAHONING	110.6	104.0	113.8	11,380	8,482
TRUMBULL	110.6	124.8	113.8	12,000	9,301
PORTAGE CO					
PORTAGE	92.5	92.5	108.9	10,890	8,116
RICHLAND/MORROW CSRT					
RICHLAND	104.1	105.7	105.7	10,570	7,878
SCIOTO COUNTY					
SCIOTO	89.0	89.0		10,000	7,093
TOLEDO CONSORTIUM					
LUCAS	113.1	114.1	111.4	11,410	8,504
WOOD	113.1	107.2	111.4	11,310	8,429
BALANCE OF OHIO					
ATHENS	95.2	85.2		10,000	7,095
AUGLAIZE	95.2		100.5	10,050	7,490
BELMONT	95.2	98.9	99.5	10,000	7,416
CARROLL	95.2		105.0	10,500	7,826
CHAMPAIGN	95.2		95.6	10,000	7,125
DARKE	95.2	81.9		10,000	7,095
ERIE	95.2	105.0		10,500	7,826
FAIRFIELD	95.2	90.1	100.4	10,040	7,483
FULTON	95.2		111.4	11,140	8,303
HANCOCK	95.2	102.8		10,280	7,662
HURON	95.2	93.4		10,000	7,095
JEFFERSON	95.2	111.5	121.8	12,000	9,078
LAWRENCE	95.2	93.1	100.3	10,030	7,475
MADISON	95.2		100.4	10,040	7,483
MARION	95.2	101.9		10,190	7,595
MIAMI	95.2	91.6	110.4	11,040	8,228
MUSKINGUM	95.2	88.1		10,000	7,095
OTTAWA	95.2		111.4	11,140	8,303
PICKAWAY	95.2		100.4	10,040	7,483
PUTNAM	95.2		100.5	10,050	7,490
ROSS	95.2	101.7		10,170	7,580
SANDUSKY	95.2	100.0		10,000	7,453
SENECA	95.2	106.6		10,660	7,945
TUSCARAWAS	95.2	93.2		10,000	7,095
VAN WERT	95.2		100.5	10,050	7,490
WASHINGTON	95.2	94.3	96.3	10,000	7,177

1977-1978 PRIME SPONSOR, COUNTY, AND SMSA WAGE INDEXES (NATIONAL AVERAGE ANNUAL WAGES OF $11,826 = 100.0), MAXIMUM AND AVERAGE WAGES-Continued

	PRIME SPONSOR INDEX	COUNTY INDEX	SMSA INDEX	MAXIMUM WAGES	AVERAGE WAGES
OKLAHOMA					
BAL. OF CLEVELAND CO. LESS OKLAHOMA CITY (PART)					
CLEVELAND	74.7	74.7	94.7	10,000	7,093
COMANCHE COUNTY					
COMANCHE	77.6	77.6	77.6	10,000	7,093
OKLAHOMA CITY CONSORTIUM					
CANADIAN	96.6		94.7	10,000	7,200
CLEVELAND	96.6	74.7	94.7	10,000	7,200
MC CLAIN	96.6		94.7	10,000	7,200
OKLAHOMA	96.6	97.9	94.7	10,000	7,296
OKLAHOMA COUNTY, CO. LESS CITY OF OKLAHOMA (PART)					
OKLAHOMA	97.9	97.9	94.7	10,000	7,296
TULSA CONSORTIUM					
CREEK	104.2	82.7	102.7	10,420	7,766
OSAGE	104.2		102.7	10,420	7,766
TULSA	104.2	105.7	102.7	10,570	7,878
BALANCE OF OKLAHOMA					
GARFIELD	82.5	90.3		10,000	7,093
KAY	82.5	97.0		10,000	7,229
LE FLORE	82.5		82.5	10,000	7,093
MC CLAIN	82.5		94.7	10,000	7,093
MAYES	82.5		102.7	10,270	7,654
MUSKOGEE	82.5	89.6		10,000	7,093
PAYNE	82.5	68.8		10,000	7,093
POTTAWATOMIE	82.5	75.0	94.7	10,000	7,093
ROGERS	82.5		102.7	10,270	7,654
SEQUOYAH	82.5		82.5	10,000	7,093
WAGONER	82.5		102.7	10,270	7,654
OREGON					
BAL OF CLACKAMAS CO. LESS PORTLAND CITY (PART)					
CLACKAMAS	98.5	98.5	105.2	10,520	7,841
JACKSON/JOSEPHINE CSRT.					
JACKSON	93.2	93.8		10,000	7,093
LANE COUNTY					
LANE	98.0	98.0	98.0	10,000	7,304
MID WILLAMETTE VALLEY CONSORTIUM					
MARION	92.5	92.8	92.6	10,000	7,093
POLK	92.5		92.6	10,000	7,093

1977-1978 PRIME SPONSOR, COUNTY, AND SMSA WAGE INDEXES (NATIONAL AVERAGE ANNUAL WAGES OF $11,826 = 100.0), MAXIMUM AND AVERAGE WAGES-Continued

	PRIME SPONSOR INDEX	COUNTY INDEX	SMSA INDEX	MAXIMUM WAGES	AVERAGE WAGES
OREGON					
MULTNOMAH/WASHINGTON CONSORTIUM					
MULTNOMAH	103.6	107.8	105.2	10,780	8,034
WASHINGTON	103.6	98.2	105.2	10,520	7,841
PORTLAND CITY					
CLACKAMAS	107.8	98.5	105.2	10,780	8,034
MULTNOMAH	107.8	107.8	105.2	10,780	8,034
BALANCE OF OREGON					
BENTON	94.9	97.4		10,000	7,259
COOS	94.9	103.7		10,370	7,729
DOUGLAS	94.9	103.4		10,340	7,706
JOSEPHINE	94.9	88.2		10,000	7,093
KLAMATH	94.9	96.2		10,000	7,170
LINN	94.9	106.9		10,690	7,967
UMATILLA	94.9	83.5		10,000	7,093
PENNSYLVANIA					
BAL OF ALLEGHENY COUNTY, CO. LESS PITTSBURGH CITY					
ALLEGHENY	112.1	112.1	111.1	11,210	8,355
BEAVER COUNTY					
BEAVER	123.5	123.5	111.1	12,000	9,204
BERKS COUNTY					
BERKS	94.1	94.1	94.1	10,000	7,093
BUCKS COUNTY					
BUCKS	98.0	98.0	105.1	10,510	7,833
CENTRE COUNTY					
CENTRE	87.8	87.8		10,000	7,093
CHESTER COUNTY					
CHESTER	102.7	102.7	105.1	10,510	7,833
DELAWARE COUNTY					
DELAWARE	101.8	101.8	105.1	10,510	7,833
ERIE CITY					
ERIE	97.6	97.6	97.6	10,000	7,274
BAL OF ERIE COUNTY, CO. LESS ERIE CITY					
ERIE	97.6	97.6	97.6	10,000	7,274
FAYETTE COUNTY					
FAYETTE	86.8	86.8		10,000	7,093
FRANKLIN COUNTY					
FRANKLIN	89.0	89.0		10,000	7,093

1977-1978 PRIME SPONSOR, COUNTY, AND SMSA WAGE INDEXES (NATIONAL AVERAGE ANNUAL WAGES OF $11,826 = 100.0), MAXIMUM AND AVERAGE WAGES-Continued

	PRIME SPONSOR INDEX	COUNTY INDEX	SMSA INDEX	MAXIMUM WAGES	AVERAGE WAGES
PENNSYLVANIA					
BAL OF LACKAWANNA COUNTY, CO. LESS SCRANTON CITY					
LACKAWANNA	82.3	82.3	84.2	10,000	7,093
LANCASTER CONSORTIUM					
LANCASTER	90.2	90.3	90.3	10,000	7,093
LEBANON	90.2	89.9		10,000	7,093
LAWRENCE COUNTY					
LAWRENCE	93.2	93.2		10,000	7,093
LEHIGH VALLEY CONSORTIUM					
LEHIGH	101.6	99.8	99.9	10,160	7,572
NORTHAMPTON	101.6	104.3	99.9	10,430	7,773
LUZERNE COUNTY					
LUZERNE	85.0	85.0	84.2	10,000	7,093
LYCOMING CONSORTIUM					
LYCOMING	90.1	89.9	89.9	10,000	7,093
MERCER CONSORTIUM					
CRAWFORD	98.0	86.6		10,000	7,304
MERCER	98.0	103.2		10,320	7,691
VENANGO	98.0	102.7		10,270	7,654
MONTGOMERY COUNTY					
MONTGOMERY	106.1	106.1	105.1	10,610	7,908
NORTHUMBERLAND COUNTY					
NORTHUMBERLAND	86.4	86.4		10,000	7,093
PHILADELPHIA CITY/COUNTY					
PHILADELPHIA	109.6	109.6	105.1	10,960	8,168
PITTSBURGH CITY					
ALLEGHENY	112.1	112.1	111.1	11,210	8,355
SCHUYLKILL CONSORTIUM					
CARBON	75.7	74.4	99.9	10,000	7,446
SCHUYLKILL	75.7	76.2		10,000	7,093
SCRANTON CITY					
LACKAWANNA	82.3	82.3	84.2	10,000	7,093
SOUTHERN ALLEGANY CONSORTIUM					
BLAIR	91.3	84.1	84.1	10,000	7,093
CAMBRIA	91.3	101.9	98.8	10,190	7,595
SOMERSET	91.3	89.2	98.8	10,000	7,364
SUSQUEHANNA CONSORTIUM					
CUMBERLAND	97.5	93.1	97.5	10,000	7,267
DAUPHIN	97.5	101.2	97.5	10,120	7,542
PERRY	97.5		97.5	10,000	7,267

1977-1978 PRIME SPONSOR, COUNTY, AND SMSA WAGE INDEXES (NATIONAL AVERAGE ANNUAL WAGES OF $11,826 = 100.0), MAXIMUM AND AVERAGE WAGES-Continued

	PRIME SPONSOR INDEX	COUNTY INDEX	SMSA INDEX	MAXIMUM WAGES	AVERAGE WAGES
PENNSYLVANIA					
TRI-COUNTY CONSORTIUM (BUTLER CONSORTIUM)				10,160	7,572
ARMSTRONG	101.6	96.0		10,480	7,811
BUTLER	101.6	104.8		10,160	7,572
INDIANA	101.6	100.7			
WASHINGTON COUNTY				11,110	8,280
WASHINGTON	105.7	105.7	111.1		
WESTMORELAND COUNTY				11,110	8,280
WESTMORELAND	100.2	100.2	111.1		
YORK COUNTY				10,000	7,133
YORK	95.7	95.7	92.6		
BALANCE OF PENNSYLVANIA				10,000	7,093
ADAMS	85.7	72.0	92.6	10,000	7,093
BRADFORD	85.7	89.0		10,000	7,093
CLEARFIELD	85.7	89.1		10,000	7,093
COLUMBIA	85.7	81.3		10,000	7,093
MCKEAN	85.7	87.6		10,000	7,093
MONROE	85.7	86.1	84.2	10,000	7,319
SUSQUEHANNA	85.7		98.2		
RHODE ISLAND					
PROVIDENCE CITY				10,000	7,093
PROVIDENCE	83.9	83.9	82.6		
BALANCE OF RHODE ISLAND				10,000	7,093
BRISTOL	81.7		82.6	10,000	7,093
KENT	81.7	78.1	82.6	10,000	7,093
NEWPORT	81.7	74.5		10,000	7,093
PROVIDENCE	81.7	83.9	82.6	10,000	7,093
WASHINGTON	81.7	80.4	82.6		
SOUTH CAROLINA					
SOUTH CAROLINA STATEWIDE CONSORTIUM			89.3	10,000	7,125
AIKEN	82.9	95.6		10,000	7,093
ANDERSON	82.9	81.5		10,000	7,093
BEAUFORT	82.9	71.7		10,000	7,093
BERKELEY	82.9	92.9	86.6	10,000	7,093
CHARLESTON	82.9	86.6	86.6	10,000	7,093
DARLINGTON	82.9	88.8		10,000	7,093
DORCHESTER	82.9		86.6	10,000	7,093
FLORENCE	82.9	80.7		10,000	7,093
GREENVILLE	82.9	89.1	87.4	10,000	7,093
GREENWOOD	82.9	81.2		10,000	7,093
HORRY	82.9	62.2			

1977-1978 PRIME SPONSOR, COUNTY, AND SMSA WAGE INDEXES (NATIONAL AVERAGE ANNUAL WAGES OF $11,826 = 100.0), MAXIMUM AND AVERAGE WAGES-Continued

	PRIME SPONSOR INDEX	COUNTY INDEX	SMSA INDEX	MAXIMUM WAGES	AVERAGE WAGES
SOUTH CAROLINA					
SOUTH CAROLINA STATEWIDE CONSORTIUM					
LAURENS	82.9	79.0		10,000	7,093
LEXINGTON	82.9	83.3	85.0	10,000	7,093
ORANGEBURG	82.9	74.4		10,000	7,093
PICKENS	82.9	79.2	87.4	10,000	7,093
RICHLAND	82.9	85.5	85.0	10,000	7,093
SPARTANBURG	82.9	87.5	87.4	10,000	7,093
SUMTER	82.9	72.0		10,000	7,093
YORK	82.9	85.6			
SOUTH DAKOTA					
SOUTH DAKOTA STATEWIDE CONSORTIUM					
MINNEHAHA	76.9	89.2	89.2	10,000	7,093
PENNINGTON	76.9	79.3		10,000	7,093
TENNESSE					
CHATTANOOGA CITY					
HAMILTON	97.8	97.8	93.8	10,000	7,289
BAL OF HAMILTON COUNTY, CO. LESS CHATTANOOGA CITY					
HAMILTON	97.8	97.8	93.8	10,000	7,289
KNOXVILLE CONSORTIUM (KNOX COUNTY)					
KNOX	86.1	86.1	94.7	10,000	7,093
MEMPHIS CONSORTIUM (SHELBY COUNTY)					
SHELBY	94.8	94.8	93.3	10,000	7,093
NASHVILLE/DAVIDSON COUNTY (DAVIDSON COUNTY)					
DAVIDSON	92.8	92.8	89.4	10,000	7,093
SULLIVAN COUNTY					
SULLIVAN	100.7	100.7	89.3	10,070	7,505
BALANCE OF TENNESSEE					
ANDERSON	79.3	121.0	94.7	12,000	9,018
BLOUNT	79.3	103.0	94.7	10,300	7,677
BRADLEY	79.3	73.2		10,000	7,093
CARTER	79.3		89.3	10,000	7,093
CHEATHAM	79.3		89.4	10,000	7,093
DICKSON	79.3		89.4	10,000	7,093
GREENE	79.3	71.2		10,000	7,093
HAWKINS	79.3		89.3	10,000	7,093
MADISON	79.3	85.6		10,000	7,093

1977-1978 PRIME SPONSOR, COUNTY, AND SMSA WAGE INDEXES (NATIONAL AVERAGE ANNUAL WAGES OF $11,826 = 100.0), MAXIMUM AND AVERAGE WAGES-Continued

	PRIME SPONSOR INDEX	COUNTY INDEX	SMSA INDEX	MAXIMUM WAGES	AVERAGE WAGES
TENNESSE					
BALANCE OF TENNESSEE					
MARION	79.3		93.8	10,000	7,093
MONTGOMERY	79.3	78.2	78.4	10,000	7,093
ROBERTSON	79.3		89.4	10,000	7,093
RUTHERFORD	79.3	82.1	89.4	10,000	7,093
SEQUATCHIE	79.3		93.8	10,000	7,093
SUMNER	79.3	81.1	89.4	10,000	7,093
TIPTON	79.3		93.3	10,000	7,093
UNICOI	79.3		89.3	10,000	7,093
UNION	79.3		94.7	10,000	7,093
WASHINGTON	79.3	77.1	89.3	10,000	7,093
WILLIAMSON	79.3		89.4	10,000	7,093
WILSON	79.3		89.4	10,000	7,093
TEXAS					
ALAMO CONSORTIUM					
BEXAR	85.1	87.4	86.4	10,000	7,093
COMAL	85.1		86.4	10,000	7,093
GUADALUPE	85.1		86.4	10,000	7,093
GULF COAST AREA MANPOWER CONSORTIUM					
BRAZORIA	102.5	121.9	115.7	12,000	9,085
FORT BEND	102.5	111.1	115.7	11,570	8,623
LIBERTY	102.5		115.7	11,570	8,623
MONTGOMERY	102.5	87.1	115.7	11,570	8,623
WALLER	102.5		115.7	11,570	8,623
CAMERON COUNTY					
CAMERON	71.1	71.1	71.1	10,000	7,093
CAPITAL AREA MANPOWER CONSORTIUM					
HAYS	83.6		85.8	10,000	7,093
TRAVIS	83.6	87.1	85.8	10,000	7,093
WILLIAMSON	83.6	70.9		10,000	7,093
CENTRAL TEXAS MANPOWER CONSORTIUM					
BELL	79.3	79.0	77.6	10,000	7,093
CORYELL	79.3		77.6	10,000	7,093
COASTAL BEND MANPOWER CSRT					
NUECES	91.5	95.4	95.0	10,000	7,110
SAN PATRICIO	91.5	91.0	95.0	10,000	7,093

1977-1978 PRIME SPONSOR, COUNTY, AND SMSA WAGE INDEXES (NATIONAL AVERAGE ANNUAL WAGES OF $11,826 = 100.0), MAXIMUM AND AVERAGE WAGES-Continued

	PRIME SPONSOR INDEX	COUNTY INDEX	SMSA INDEX	MAXIMUM WAGES	AVERAGE WAGES
TEXAS					
DALLAS CITY					
DALLAS	106.0	106.0	101.2	10,600	7,900
DALLAS COUNTY CONSORTIUM					
DALLAS	106.0	106.0	101.2	10,600	7,900
EL PASO CONSORTIUM (EL PASO COUNTY)					
EL PASO	79.5	79.5	79.5	10,000	7,093
FT. WORTH CONSORTIUM					
TARRANT	97.3	97.3	101.2	10,120	7,542
GALVESTON COUNTY					
GALVESTON	106.2	106.2	106.2	10,620	7,915
BALANCE OF HARRIS CO LESS PASADENA CSRT AND HOUSTON CITY					
HARRIS	116.3	116.3	115.7	11,630	8,668
HIDALGO COUNTY CONSORTIUM					
HIDALGO	67.8	68.0	68.0	10,000	7,093
HOUSTON CITY					
HARRIS	116.3	116.3	115.7	11,630	8,668
GREATER PASADENA CONSORTIUM					
HARRIS	116.3	116.3	115.7	11,630	8,668
NORTH TEXAS STATE PLANNING REGIONAL CONSORTIUM					
CLAY	80.8		84.2	10,000	7,093
WICHITA	80.8	84.6	84.2	10,000	7,093
PERMIAN BASIN CONSORTIUM					
ECTOR	102.5	103.9	103.9	10,390	7,744
MIDLAND	102.5	111.8	111.8	11,180	8,332
REGION XI CONSORTIUM					
MC LENNAN	79.6	82.3	82.3	10,000	7,093
S.E. TEXAS COMPREHENSIVE MANPOWER CONSORTIUM					
HARDIN	113.7		113.7	11,370	8,474
JEFFERSON	113.7	114.4	113.7	11,440	8,526
ORANGE	113.7	118.3	113.7	11,830	8,817
BAL OF TARRANT CO LESS FT WORTH CSRT AND GRAND PRAIRIE(PART)					
TARRANT	97.3	97.3	101.2	10,120	7,542

1977-1978 PRIME SPONSOR, COUNTY, AND SMSA WAGE INDEXES (NATIONAL AVERAGE ANNUAL WAGES OF $11,826 = 100.0), MAXIMUM AND AVERAGE WAGES-Continued

	PRIME SPONSOR INDEX	COUNTY INDEX	SMSA INDEX	MAXIMUM WAGES	AVERAGE WAGES
TEXAS					
SOUTH PLAINS ASSOCIATION OF GOVERNMENTS					
LUBBOCK	80.8	81.0	81.0	10,000	7,093
TEXARKANA CONSORTIUM (ARKANSAS-TEXAS)					
LITTLE RIVER	86.2		86.2	10,000	7,093
MILLER	86.2		86.2	10,000	7,093
BOWIE	86.2	89.1	86.2	10,000	7,093
TEXAS PANHANDLE EMPLOYMENT AND TRAINING ALLIANCE CONSORTIUM					
POTTER	91.7	92.2	90.1	10,000	7,093
RANDALL	91.7	78.7	90.1	10,000	7,093
WEBB COUNTY					
WEBB	68.9	68.9	68.9	10,000	7,093
WEST CENTRAL TEXAS CSRT					
CALLAHAN	79.2		81.4	10,000	7,093
JONES	79.2		81.4	10,000	7,093
TAYLOR	79.2	82.3	81.4	10,000	7,093
EAST TEXAS MANPOWER CONSORTIUM					
GREGG	86.7	91.4	93.6	10,000	7,093
HARRISON	86.7		93.6	10,000	7,093
SMITH	86.7	90.7	90.7	10,000	7,093
BALANCE OF TEXAS					
ANGELINA	81.0	89.4		10,000	7,093
BRAZOS	81.0	75.5	75.5	10,000	7,093
COLLIN	81.0	81.0	101.2	10,120	7,542
DENTON	81.0	74.7	101.2	10,120	7,542
ELLIS	81.0	81.6	101.2	10,120	7,542
GRAYSON	81.0	84.0	84.0	10,000	7,093
HOOD	81.0		101.2	10,120	7,542
JOHNSON	81.0	72.0	101.2	10,120	7,542
KAUFMAN	81.0		101.2	10,120	7,542
PARKER	81.0		101.2	10,120	7,542
ROCKWALL	81.0		101.2	10,120	7,542
TOM GREEN	81.0	78.6	78.6	10,000	7,093
VICTORIA	81.0	91.6		10,000	7,093
WISE	81.0		101.2	10,120	7,542

1977-1978 PRIME SPONSOR, COUNTY, AND SMSA WAGE INDEXES (NATIONAL AVERAGE ANNUAL WAGES OF $11,826 = 100.0), MAXIMUM AND AVERAGE WAGES-Continued

	PRIME SPONSOR INDEX	COUNTY INDEX	SMSA INDEX	MAXIMUM WAGES	AVERAGE WAGES
UTAH					
UTAH STATEWIDE CONSORTIUM					
DAVIS	92.2	105.6	94.4	10,560	7,870
SALT LAKE	92.2	94.1	94.4	10,000	7,093
TOOELE	92.2		94.4	10,000	7,093
UTAH	92.2	89.4	89.4	10,000	7,093
WEBER	92.2	81.8	94.4	10,000	7,093
VERMONT					
VERMONT STATEWIDE CONSORTIUM					
CHITTENDEN	83.1	96.6		10,000	7,200
RUTLAND	83.1	80.3		10,000	7,093
VIRGINIA					
ALEXANDRIA CITY					
ALEXANDRIA	100.6	100.6	118.0	11,800	8,795
ARLINGTON COUNTY					
ARLINGTON	134.6	134.6	118.0	12,000	10,032
FAIRFAX-LOUDOUN CONSORTIUM					
FAIRFAX	101.7	103.9	118.0	11,800	8,795
LOUDOUN	101.7	91.8	118.0	11,800	8,795
FAIRFAX CITY	101.7		118.0	11,800	8,795
FALLS CHURCH	101.7		118.0	11,800	8,795
HENRICO COUNTY CONSORTIUM					
CHESTERFIELD	92.9	103.7	94.8	10,370	7,729
HANOVER	92.9	79.7	94.8	10,000	7,093
HENRICO	92.9	89.7	94.8	10,000	7,093
PENNINSULA CONSORTIUM					
JAMES CITY	92.8		92.5	10,000	7,093
YORK	92.8		92.5	10,000	7,093
HAMPTON	92.8	95.4	92.5	10,000	7,110
NEWPORT NEWS	92.8	95.0	92.5	10,000	7,093
WILLIAMSBURG	92.8		92.5	10,000	7,093
PRINCE WILLIAM COUNTY CONSORTIUM					
PRINCE WILLIAM	95.0	84.0	118.0	11,800	8,795
MANASSAS CITY	95.0		118.0	11,800	8,795
MANASSAS PARK CITY	95.0		118.0	11,800	8,795
RAMPS CONSORTIUM					
CHARLES CITY	95.8		94.8	10,000	7,140
GOOCHLAND	95.8		94.8	10,000	7,140
NEW KENT	95.8		94.8	10,000	7,140
POWHATAN	95.8		94.8	10,000	7,140
RICHMOND	95.8	96.3	94.8	10,000	7,177

1977-1978 PRIME SPONSOR, COUNTY, AND SMSA WAGE INDEXES (NATIONAL AVERAGE ANNUAL WAGES OF $11,826 = 100.0), MAXIMUM AND AVERAGE WAGES-Continued

	PRIME SPONSOR INDEX	COUNTY INDEX	SMSA INDEX	MAXIMUM WAGES	AVERAGE WAGES
VIRGINIA					
ROANOKE CONSORTIUM			87.1	10,000	7,093
BOTETOURT	87.5		87.1	10,000	7,093
CRAIG	87.5		87.1	10,000	7,093
ROANOKE	87.5	86.6	87.1	10,000	7,093
ROANOKE CITY	87.5	83.9	87.1	10,000	7,093
SALEM	87.5				
STAMA CONSORTIUM			87.4	10,000	7,093
CHESAPEAKE	87.6	84.1	87.4	10,000	7,093
NORFOLK	87.6	91.8	87.4	10,000	7,222
PORTSMOUTH	87.6	96.9	87.4	10,000	7,093
SUFFOLK	87.6		87.4	10,000	7,093
VIRGINIA BEACH	87.6	71.5			
BALANCE OF VIRGINIA				10,000	7,093
ALBERMARLE	82.2	91.7		10,000	7,093
AMHERST	82.2		87.8	10,000	7,093
APPOMATTOX	82.2		87.8	10,000	7,093
AUGUSTA	82.2	92.9		10,000	7,093
CAMPBELL	82.2		87.8	10,000	7,093
DINWIDDIE	82.2		91.4	10,000	7,093
GLOUCESTER	82.2		92.5	10,000	7,093
HENRY	82.2	88.5		10,000	7,093
MONTGOMERY	82.2	84.3		10,000	7,093
PITTSYLVANIA	82.2	88.8		10,530	7,848
PRINCE GEORGE	82.2	105.3	91.4	10,000	7,093
ROCKINGHAM	82.2	73.1		10,000	7,093
SCOTT	82.2		89.3	10,000	7,093
WASHINGTON	82.2		89.3	10,000	7,093
BRISTOL	82.2		89.3	10,000	7,093
COLONIAL HEIGHTS	82.2		91.4	10,000	7,093
HOPEWELL	82.2		91.4	10,000	7,093
LYNCHBURG	82.2	88.3	87.8	10,000	7,093
PETERSBURG	82.2		91.4		
WASHINGTON					
CLARK COUNTY	105.7	105.7	105.2	10,570	7,878
CLARK					
KING/SNOHOMISH CONSORTIUM	114.1	115.0	114.1	11,500	8,571
KING	114.1	107.2	114.1	11,410	8,504
SNOHOMISH					

1977-1978 PRIME SPONSOR, COUNTY, AND SMSA WAGE INDEXES (NATIONAL AVERAGE ANNUAL WAGES OF $11,826 = 100.0), MAXIMUM AND AVERAGE WAGES-Continued

	PRIME SPONSOR INDEX	COUNTY INDEX	SMSA INDEX	MAXIMUM WAGES	AVERAGE WAGES
WASHINGTON					
KITSAP COUNTY	115.1	115.1		11,510	8,578
KITSAP					
BAL OF PIERCE COUNTY, CO. LESS TACOMA CITY	102.4	102.4	102.4	10,240	7,632
PIERCE					
SPOKANE CSRT. (SPOKANE CN.)	97.4	97.4	97.4	10,000	7,259
SPOKANE					
TACOMA CITY	102.4	102.4	102.4	10,240	7,632
PIERCE					
YAKIMA COUNTY	86.3	86.3	86.3	10,000	7,093
YAKIMA					
BALANCE OF WASHINGTON	102.5	128.6	120.6	12,000	9,585
BENTON	102.5	120.0		12,000	8,944
COWLITZ	102.5		120.6	12,000	8,988
FRANKLIN	102.5	108.9		10,890	8,116
GRAYS HARBOR	102.5	100.6		10,250	7,639
LEWIS	102.5	95.6		10,250	7,639
SKAGIT	102.5	104.5		10,450	7,788
THURSTON	102.5	98.7		10,250	7,639
WHATCOM					
WEST VIRGINIA					
WEST VIRGINIA STATEWIDE CONSORTIUM	100.7		121.8	12,000	9,078
BROOKE	100.7	93.7	100.3	10,070	7,505
CABELL	100.7	99.0		10,070	7,505
FAYETTE	100.7		121.8	12,000	9,078
HANCOCK	100.7	94.9		10,070	7,505
HARRISON	100.7	106.9	107.0	10,700	7,975
KANAWHA	100.7	125.3		12,000	9,339
MC DOWELL	100.7	97.7		10,070	7,505
MARION	100.7		99.5	10,070	7,505
MARSHALL	100.7	90.7		10,070	7,505
MERCER	100.7	93.5		10,070	7,505
MONONGALIA	100.7	86.3	99.5	10,070	7,505
OHIO	100.7		107.0	10,700	7,975
PUTNAM	100.7	97.6		10,070	7,505
RALEIGH	100.7		100.3	10,070	7,505
WAYNE	100.7		96.3	10,070	7,505
WIRT	100.7	97.6	96.3	10,070	7,505
WOOD	100.7				

1977-1978 PRIME SPONSOR, COUNTY, AND SMSA WAGE INDEXES (NATIONAL AVERAGE ANNUAL WAGES OF $11,826 = 100.0), MAXIMUM AND AVERAGE WAGES-Continued

	PRIME SPONSOR INDEX	COUNTY INDEX	SMSA INDEX	MAXIMUM WAGES	AVERAGE WAGES
WISCONSIN					
MADISON/DANE CONSORTIUM (DANE CO.)					
DANE	96.9	96.9	96.9	10,000	7,222
MARATHON COUNTY					
MARATHON	95.4	95.4		10,000	7,110
MILWAUKEE COUNTY					
MILWAUKEE	108.7	108.7	106.8	10,870	8,101
NORTHWEST WISCONSIN CEP					
DOUGLAS	74.9		93.8	10,000	7,093
OUTAGAMIE COUNTY					
OUTAGAMIE	96.6	96.6	98.3	10,000	7,326
ROCK COUNTY					
ROCK	103.9	103.9		10,390	7,744
TRICO CETAC					
KENOSHA	101.3	103.9	103.9	10,390	7,744
RACINE	101.3	107.6	107.6	10,760	8,019
WALWORTH	101.3	78.7		10,130	7,550
WINNE/FOND CONSORTIUM					
FOND DU LAC	95.6	86.3		10,000	7,125
WINNEBAGO	95.6	100.8	98.3	10,080	7,513
WOW CONSORTIUM					
OZAUKEE	100.0	96.3	106.8	10,680	7,960
WASHINGTON	100.0	87.7	106.8	10,680	7,960
WAUKESHA	100.0	104.2	106.8	10,680	7,960
BALANCE OF WISCONSIN					
BROWN	84.0	98.2	98.2	10,000	7,319
CALUMET	84.0		98.3	10,000	7,326
CHIPPEWA	84.0		87.9	10,000	7,093
DODGE	84.0	90.2		10,000	7,093
EAU CLAIRE	84.0	91.0	87.9	10,000	7,093
GRANT	84.0	69.2		10,000	7,093
JEFFERSON	84.0	87.2		10,000	7,093
LA CROSSE	84.0	86.6	86.6	10,000	7,093
MANITOWOC	84.0	86.4		10,000	7,093
PORTAGE	84.0	86.3		10,000	7,093
ST. CROIX	84.0		104.1	10,410	7,759
SHEBOYGAN	84.0	93.7		10,000	7,093
WOOD	84.0	99.6		10,000	7,423
WYOMING					
WYOMING STATEWIDE CONSORTIUM					
LARAMIE	101.0	89.4		10,100	7,528
NATRONA	101.0	112.8		11,280	8,407

BILLING CODE 4510-30-C

77-1978 PRIME SPONSOR, COUNTY, AND SMSA WAGE INDEXES (NATIONAL AVERAGE ANNUAL WAGES OF $11,826 = 100.0), MAXIMUM AND AVERAGE GES-Continued

	PRIME SPONSOR INDEX	COUNTY INDEX	SMSA INDEX	MAXIMUM WAGES	AVERAGE WAGES
PUERTO RICO					
BAYAMON MUNICIPIO	65.4			10,000	7,093
CAGUAS MUNICIPIO	65.4			10,000	7,093
CAROLINA MUNICIPIO	65.4			10,000	7,093
MAYAGUEZ MUNICIPIO	65.4			10,000	7,093
PONCE MUNICIPIO	65.4			10,000	7,093
SAN JUAN CONSORTIUM	65.4			10,000	7,093
BALANCE OF PUERTO RICO	65.4			10,000	7,093
VIRGIN ISLANDS				10,000	7,093
GUAM				10,000	7,093
SAMOA				10,000	7,093
TRUST TERRITORIES OF THE PACIFIC ISLANDS				10,000	7,093
NORTHERN MARIANNAS				10,000	7,093

Signed this 11th day of May 1979 at Washington, D.C.

Ernest G. Green,

Assistant Secretary for Employment and Training.

Signed this 9th day of May 1979 at Washington, D.C.

Robert Anderson,

Administrator, Office of Comprehensive Employment Development.

[FR Doc. 79-15162 Filed 5-14-79; 8:45 am]

BILLING CODE 4510-30-M

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DEPARTMENT OF LABOR

Employment and Training Administration

20 CFR Parts 675, 676, 677, 678, and 679

Comprehensive Employment and Training Act Regulations; Correction

AGENCY: Employment and Training Administration, Labor.

ACTION: Final rule; correction.

SUMMARY: This document corrects a final rule relating to comprehensive employment and training act regulations published at 44 FR 19990, April 3, 1979.

EFFECTIVE DATE: May 15, 1979.

FOR FURTHER INFORMATION CONTACT: Mr. Robert Anderson, Administrator, Office of Comprehensive Employment Development, Employment and Training Administration, U.S. Department of Labor, 601 D Street, N.W., Washington, D.C. 20213, Telephone (202) 376-7006.

SUPPLEMENTARY INFORMATION: In FR Doc. 79-10290, appearing at page 19990 in the issue of April 3, 1979, make the following changes:

1. On page 19996, in the third column, in § 679, in table of contents, "679.3–4" is changed to read: "679.3–4 Organizational position."

2. On page 19997, in the second column, "Artificial Barriers to Employment," line eleven, insert "required" after "tasks".

3. On page 20001, in the second column, in § 675.5–5 *Eligibility requirements for Title II–D programs*, line 3, "must" is changed to read "shall."

4. On page 20001, in the third column, in § 675.5–6, line two "must" is changed to read "shall."

5. On page 20011, in the first column, line one (1) in paragraph "(m)" after "§ 676.23" is changed to read "§ 676.23(1)(1)."

6. On page 20012, in § 676.25–3(c)(1)(ii), in the third column, in line six, after "in the case of (c)" is changed to read "in the case of (C)."

7. On page 20012, in § 676.25–3(c)(1)(ii), in the third column after "same" in the second and seventh line, the phrase "or substantially equivalent is inserted.

8. On page 20013, in § 676.25–3(c)(5), in the first column, in line six insert a period "(.)" after "agencies" and delete remainder of sentence.

9. On page 20015, in § 676.26–1(c)(5)(ii), in the second column, line fifteen "or until the next prime sponsor budgetary cycle" is changed to read" "until the next employing agency budgetary cycle."

10. On page 20020, in § 676.30(a), in the second column, line nine, the word "through" is moved to precede "assuring."

11. On page 20020, in the third column, § 676.31(b), line twelve (12), add: "Until such time as these requirements are published in the Federal Register, the appropriate OMB Circular A–102 and A–110 provisions will apply."

12. On page 20022, in § 676.40–1(c)(4), in the third colmn, line six, add a sentence after "construction." "Such costs shall be charged to the administration cost category."

13. On page 20023, in § 676.40–1(g) in the first column, in line six "676.27(c)(1)" should read "676.27(c)."

14. On page 20023, in § 676.40–2(c)(4), in the second column, last word in paragraph is misspelled, correct to read "except."

15. On page 20023, in § 676.41–1(d), in the third column, first word in paragraph misspelled correct to read "training."

16. On page 20024, in § 676.41–2(a), line eight, "tuition" is misspelled.

17. On page 20024, in § 676.41–3(c), in the third column, line twelve, after "services" insert "allowances."

18. On page 20026, in § 676.47(d), in the first column, first line "producers" is changed to read "procedures."

19. On page 20028, in § 676.68(a), In the second column, line two "reflect" is changed to read "reject."

20. On page 20028, in § 676.68(a), in the second column, line seven insert after "patronage" the phrase "whether or not the political service or patronage * * *."

21. On page 20028, in § 676.69(a)(2), in the second column line eight after "partisan" insert "or nonpartisan."

22. On page 20062, in the first column, in § 676.82, in line 12 after "for" delete "CETA" and insert "ETA."

23. On page 20032, in § 676.83(a), in the second column, line eight after "subrecipients" insert a period "(.)," then insert the following words before "procedures"—"Such complaint * * *."

24. On page 20032, in § 676.83(a)(1), in the second column, line seventeen the second "or" should be changed to read "of."

25. On page 20033, in § 676.84(d), line twelve after "the" insert "CETA" before "employees."

26. On page 20034, in the first column, in line ten, "§ 676.90(f)" should read "§ 676.91(f)."

27. On page 20036, in the first column, in § 676.89(b), in line twelve after "filed" insert "with him/her."

28. On page 20036, in the second column, in § 676.89(e) change reference "§ 676.89(a)" to read "676.90(a)."

29. On page 20036, in § 676.89, third column, "§ 676.89 Hearings" is changed to read "§ 676.90 Hearings."

30. On page 20037, in § 676.90, in the first column, "676.90 Post hearing procedures is changed to read "676.91 Post hearing procedures."

31. On page 20037, in § 676.91, in the third column, "§ 676.91 Final action: judicial review" is changed to read "§ 676.92 Final action: judicial review."

32. On page 20037, in § 676.92, third column, "§ 676.92 Other authority" is changed to read "§ 676.93 Other authority."

33. On page 20040, after § 677.24 insert § 677.25 and § 677.26 which were inadvertently omitted:

§ 677.25 Compensation and benefits to participants.

(a) Except as provided in paragraph (b), participants in OJT, classroom training, or combined activities and receiving other services, shall receive compensation in accordance with § 676.26, as appropriate.

(b) Participants in upgrading programs shall not be compensated at a rate lower than that received before entering the program.

§ 677.26 Reimbursement to employers.

(a) Reimbursement to employers shall be as provided in § 676.25, except as provided in paragraph (b).

(b) The reimbursement rate for OJT in upgrading programs shall not exceed 40 percent of the participant's wage for the portion of time spent in OJT, except when documented in the manner described in § 676.25–2(f)(3).

34. On page 20046, in § 678.3(h), in the third column, line fourteen delete "(i)" from reference. Change to read "677.53(c)(3)."

35. On page 20048, in § 678.7(d), in the first column, line four, the word "any" is changed to read "and."

36. On page 20048, in the second column, line seven of the table of contents in Part 679 "§ 679.3–4 Organization of position" is changed to read "§ 679.3.4 Organizational Position."

Signed at Washington, D.C. the 10th day of May 1979.

Ernest C. Green,

Assistant Secretary for Employment and Training.

[FR Doc. 79-15275 Filed 5-14-79; 8:49 am]

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AGENCY PUBLICATION ON ASSIGNED DAYS OF THE WEEK

The following agencies have agreed to publish all documents on two assigned days of the week (Monday/Thursday or Tuesday/Friday).

This is a voluntary program. (See OFR NOTICE FR 32914, August 6, 1976.)

Monday	Tuesday	Wednesday	Thursday	Friday
DOT/COAST GUARD	USDA/ASCS		DOT/COAST GUARD	USDA/ASCS
DOT/NHTSA	USDA/APHIS		DOT/NHTSA	USDA/APHIS
DOT/FAA	USDA/FNS		DOT/FAA	USDA/FNS
DOT/OHMO	USDA/FSQS		DOT/OHMO	USDA/FSQS
DOT/OPSO	USDA/REA		DOT/OPSO	USDA/REA
CSA	MSPB*/OPM*		CSA	MSPB*/OPM*
	LABOR			LABOR
	HEW/FDA			HEW/FDA

Documents normally scheduled for publication on a day that will be a Federal holiday will be published the next work day following the holiday.

Comments on this program are still invited. Comments should be submitted to the Day-of-the-Week Program Coordinator, Office of the Federal Register, National Archives and Records Service, General Services Administration, Washington, D.C. 20408

***NOTE: As of January 1, 1979, the Merit Systems Protection Board (MSPB) and the Office of Personnel Management (OPM) will publish on the Tuesday/Friday schedule. (MSPB and OPM are successor agencies to the Civil Service Commission.)**

REMINDERS

The items in this list were editorially compiled as an aid to Federal Register users. Inclusion or exclusion from this list has no legal significance. Since this list is intended as a reminder, it does not include effective dates that occur within 14 days of publication.

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Food and Drug Administration—

16204 3–16–79 / Emergency permit control for production of acidified foods

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22456 4–16–79 / Navigation requirements for certain inland waters and for western rivers demarcation line

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Note: No public bills which have become law were received by the Office of the Federal Register for inclusion in today's List of Public Laws.

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Highlights

Telecommunications Device for the Deaf—Office of the Federal Register provides a new service for deaf or speech impaired persons who need information about documents published in the **Federal Register**. See the Reader Aids section for the telephone listing.

28758 **Consumers' Education Program** HEW/OE proposes to revise the regulations governing grants and contracts; comments by 7–2–79 (Part III of this issue)

28768 **Medicare Program** HEW/HCFA refines the definition of hospital special care units and clarifies the requirements for their reimbursement; comments by 7–16–79 (Part V of this issue)

28655 **Rural Rental Housing** USDA/FmHA amends its rules pertaining to loans; effective 5–16–79

28762 **National Housing** HUD sets forth procedures for handling bid protests involving HUD-acquired properties; effective 6–8–79 (Part IV of this issue)

28659 **National Housing** HUD/FHC amends its rule to reflect the increased dollar limitations on units within projects insured under certain sections of the Act; effective 6–8–79

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FEDERAL REGISTER Published daily, Monday through Friday, (not published on Saturdays, Sundays, or on official holidays), by the Office of the Federal Register, National Archives and Records Service, General Services Administration, Washington, D.C. 20408, under the Federal Register Act (49 Stat. 500, as amended; 44 U.S.C. Ch. 15) and the regulations of the Administrative Committee of the Federal Register (1 CFR Ch. I). Distribution is made only by the Superintendent of Documents, U.S. Government Printing Office, Washington, D.C. 20402.

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Area Code 202–523–5240

Highlights

28685 **Multiple Dwellings** HUD proposes to increase the maximum loan amount and term of property improvement loans; comments by 7–16–79

28660 **Income Tax** Treasury/IRS releases final rule to provide necessary guidance to financial institutions wishing to qualify as a domestic building and loan association

28657 **Air Carriers** CAB amends rules on smoking

28656 **Certain Air Carriers** CAB eliminates a semi-annual report of freight loss and damage claims

28670 **Air Carriers** CAB proposes to eliminate filing of schedules of commissions for the sale of air transportation; comments by 7–16–79

28750 **National Energy Conservation Policy** DOE updates list of corporations which consumed at least one trillion British thermal units of energy (Part II of this issue)

28655 **Mandatory Petroleum Allocations** DOE/ERA gives notice to the closing date regarding the need for middle distillate set-aside procedures after 6–30–79 will be 5–25–79 rather than 6–15–79

28683 **Interchange Energy Transmission Rates** DOE/FERC extends comment period to 6–4–79

28683 **Federal Power** DOE/FERC proposes to amend its rules relating to fuel cost adjustment clauses; comments by 7–2–79

28684 **Federal Property Management** GSA requires more frequent surveying and reporting by agencies on their precious-metal-generating activities; effective 5–16–79

28658 **Sugar Content of Certain Articles from Australia** Treasury/Customs issues countervailing duty determination; effective 5–16–79

28678 **United States Exchange** CFTC proposes rule which will facilitate Commission regulation of foreign individuals and entities engaged in futures trading

28747 **Sunshine Act Meetings**

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28750 **Part II, DOE**
28758 **Part III, HEW/OE**
28762 **Part IV, HUD**
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Rules and Regulations

Federal Register
Vol. 44, No. 96
Wednesday, May 16, 1979

This section of the FEDERAL REGISTER contains regulatory documents having general applicability and legal effect, most of which are keyed to and codified in the Code of Federal Regulations, which is published under 50 titles pursuant to 44 U.S.C. 1510.
The Code of Federal Regulations is sold by the Superintendent of Documents. Prices of new books are listed in the first FEDERAL REGISTER issue of each month.

DEPARTMENT OF AGRICULTURE

Farmers Home Administration

7 CFR Part 1822

Rural Housing Loans and Grants; Rural Rental Housing Loan Policies, Procedures, and Authorizations

AGENCY: Farmers Home Administration, USDA.

ACTION: Final rule.

SUMMARY: The Farmers Home Administation (FmHA) amends its regulations pertaining to Rural Rental Housing (RRH) loans. The intended effect of this action is to provide the necessary flexibility to be able to authorize a loan to an applicant to purchase an RRH project in which the original applicant/borrower or the contractor has defaulted before the project is complete and in which an interim lender was issued a letter of commitment prior to July 26, 1978. This change is due to an administrative decision to resolve certain problems which are occurring within the program in projects involving interim lenders.

EFFECTIVE DATE: May 16, 1979. Comments (an original and one conformed copy) are invited and must be received on or before July 16, 1979.

ADDRESSES: Submit written comments to the Office of the Chief, Directives Management Branch, Farmers Home Administration, U.S. Department of Agriculture, Room 6346, Washington, D.C. 20250. All written comments made pursuant to this notice will be available for public inspection at the address given above.

FOR FURTHER INFORMATION CONTACT: Mr. Lawrence D. Hammond, Acting Director, Rural Rental Housing Loan Division. Telephone 202-447-7207.

SUPPLEMENTARY INFORMATION: Subpart D of Part 1822, Chapter XVIII, Title 7, Code of Federal Regulations is amended to add a new § 1822.85 (p), and to revise § 1822.86 (b) (1).

It is the policy of this Department that rules relating to public property, loans, grants, benefits, or contracts shall be published for comments notwithstanding the exemption in 5 U.S.C. 553 with respect to such rules. This amendment, however, is not published for proposed rulemaking because such publication would delay the construction of rural rental housing projects designed to serve low- and moderate-income families in rural areas. Therefore, expedient action is necessary and any delay in implementing this amendment would be contrary to the public interest. This determination was made by Mr. L. D. Elwell, Acting Assistant Administrator, Multiple Family Housing.

Accordingly, Subpart D of Part 1822 is amended by adding a new § 1822.85 (p) and by revising § 1822.86 (b) (1) to read as follows:

§ 1822.85 Loan purposes.

* * * * *

(p) Purchase an RRH project in which the original applicant/borrower or the contractor has defaulted before the project is completed and in which a letter of commitment dated prior to July 26, 1978, was issued to an interim lender.

§ 1822.86 Limitations.

* * * * *

(b) * * *

(1) The purchase of a partially completed project except as provided in § 1822.85 (p) of this Subpart. Neither will loans be made for the purchase of an existing housing project unless the provisions of paragraph V B or V O, as applicable, can be met.

* * * * *

This regulation has not been determined significant under USDA criteria implementing Executive Order 12044. A copy of the Impact Statement prepared according to these criteria is available from the Chief, Directives Management Branch, Farmers Home Administration, U.S. Department of Agriculture, Room 6346, Washington, D.C. 20250.

This document has been reviewed in accordance with FmHA Instruction 1901-G "Environmental Impact Statements". It is the determination of FmHA that the proposed action does not constitute a major Federal action significantly affecting the quality of the human environment and in accordance with the National Environmental Policy Act of 1969, P. L. 91-190 an Environmental Impact Statement is not required.

(42 U.S.C. 1480; delegation of authority by the Secretary of Agriculture, 7 CFR 2.23; delegation of authority by the Assistant Secretary for Rural Development, 7 CFR 2.70.)

Dated: May 11, 1979.

Gordon Cavanaugh,
Administrator, Farmers Home Administration.

[FR Doc. 79-15330 Filed 5-15-79; 8:45 am]

BILLING CODE 3410-07-M

DEPARTMENT OF ENERGY

Economic Regulatory Administration

10 CFR Part 211

Shortening of Comment Period on Special Set-Aside Program for Middle Distillates

AGENCY: Economic Regulatory Administration, Department of Energy.

ACTION: Notice of date change.

SUMMARY: The Economic Regulatory Administration of the Department of Energy hereby gives notice that the closing date for further comments regarding the need for middle distillate set-aside procedures after June 30, 1979 will be May 25, 1979, rather than June 15, 1979 as previously announced.

DATE: Comments are due on or before May 25, 1979.

ADDRESS: Send comments to Department of Energy, Economic Regulatory Administration, Office of Public Hearing Management, Docket No. ERA-R-78-20, Room 2313, 2000 M Street, NW., Washington, D.C. 20461.

FOR FURTHER INFORMATION CONTACT:

William Webb (Office of Public Information), Economic Regulatory Administration, Room B-110, 2000 M Street, NW., Washington, D.C. 20461 (202) 634-2170.

Charles McCrea (Office of Fuels Regulations), Economic Regulatory Administration, Room 6222H, 2000 M Street, NW., Washington, D.C. 20461 (202) 254-8583.

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William E. Caldwell (Regulations and Emergency Planning), Economic Regulatory Administration, Room 2304, 2000 M Street, NW., Washington, D.C. 20461 (202) 254–7200.

Jack O. Kendall (Office of General Counsel), Department of Energy, Room 6A–127, 1000 Independence Avenue, SW., Washington, D.C. 20585 (202) 252–6739.

SUPPLEMENTARY INFORMATION: On January 12, 1979, we adopted a final rule (44 FR 3467, January 17, 1979) which reinstated special middle distillate set-aside procedures for the period January 12, 1979 through March 31, 1979 by addition of Special Rule No. 8 to Subpart A of 10 CFR Part 211. In the January 12 Notice, we requested comments through June 15, 1979 as to whether there would be a continuing need for a middle distillate set-aside program. At that time we believed that decreasing demand for middle distillates due to the advent of warm weather would make set-aside procedures for middle distillates unnecessary after March 31, 1979. However, unusually cold weather and prolonged curtailment of Iranian crude oil exports resulted in continued shortages of middle distillate products. Accordingly, on March 21, 1979 we adopted, on an emergency basis, Special Rule No. 7 to Subpart A of Part 211 to extend special set-aside procedures through June 30, 1979 (44 FR 18640, March 29, 1979).

In view of current and projected middle distillate supply inadequacies, we believe there may be a continuing need for special set-aside procedures after June 30, 1979 to insure adequate supplies of middle distillate products to wholesale purchaser-consumers and end-users. If we determine that this is the case, any final rule extending or making permanent middle distillate set-aside procedures must be made effective July 1, 1979 to avoid an interruption in the set-aside program. Therefore, we have decided to shorten the comment period announced in the January 12 Notice to afford us adequate time to review all of the comments and, if necessary, to prepare a final rule and provide a thirty-day period between publication and the effective date of the final rule. The new closing date for comments requested in the January 12 Notice will be May 25, 1979, rather than June 15, 1979 as previously announced.

Issued in Washington, D.C., May 9, 1979.

Douglas G. Robinson,
Acting Deputy Administrator, Economic Regulatory Administration.

[Docket No. ERA–R–78–20]
[FR Doc. 79–15181 Filed 5–15–79; 8:45 am]
BILLING CODE 6450–01–M

CIVIL AERONAUTICS BOARD

14 CFR Part 239

Reporting Data Pertaining to Freight Loss and Damage Claims by Certificated Route Air Carriers and Foreign Route Air Carriers; Revocation of Part 239

Adopted by the Civil Aeronautics Board at its office in Washington, D.C. May 10, 1979.

AGENCY: Civil Aeronautics Board.

ACTION: Final rule.

SUMMARY: This final rule eliminates a semi-annual report of freight loss and damage claims that has been required from certificated route and foreign route air carriers. The data submitted in this report are no longer needed by the Board and are not detailed enough to suit the purposes of users outside the Board.

DATED: Adopted: May 10, 1979. Effective: June 15, 1979.

FOR FURTHER INFORMATION CONTACT: Clifford M. Rand, Office of Economic Analysis, Civil Aeronautics Board, 1825 Connecticut Avenue, N.W., Washington, D.C. 20428, 202–673–6044.

SUPPLEMENTARY INFORMATION: In EDR–369, (43 FR 58193, December 13, 1978) the Board proposed to eliminate the reporting of freight loss and damage claims data on CAB Form 239, Report of Freight Loss and Damage Claims. These data have been required to be filed semi-annually by certificated route and foreign route air carriers. The Board noted that the deregulation of domestic all-cargo operations by Pub. L. 95–163 had caused it to re-evaluate the need to monitor trends in the volume of freight loss and damage claims. The Board also stated that a survey of data users outside the Board had revealed that the Form 239 data are not being used because of a lack of detail in the information being reported.

Comments

Five comments were received in response to the rulemaking notice, four from carriers (Delta Air Lines, Inc. (Delta), Korean Air Lines (Korean), Pakistan International Airlines (Pakistan), and United Airlines, Inc. (United)) and one from the Shippers National Freight Claim Council, Inc. (SNFCC). The four carriers favored the elimination of cargo claims reporting; the SNFCC favored retention of the report.

Of the carriers, Delta, Korean, and Pakistan view the elimination of claims reporting as relief from an unnecessary reporting burden. Moreover, neither Korean nor Pakistan see any useful public benefit being derived from the reporting of aggregate data on claims received and claims paid.

United questions the analytical usefulness of the data reported. For example, United states that an individual cannot determine from the data reported how well a carrier handles large and small value items. United further asserts that the gross claims figures now being reported are meaningless, without any further breakdown, to anyone interested in the types of claims reported.

Regarding United's comments on the usefulness of the data reported, it should be noted that the objective of cargo claims reporting was limited in scope, namely to enable the Board to monitor trends in the claims ratio (claims paid to total freight revenue) in order to detect any reversal or leveling off in an existing favorable trend in freight loss and damage claims.[1]

In support of retaining the report, the SNFCC asserts that cargo claims statistics are studied carefully by shippers, trade associations, security interests, law enforcement agencies, the Department of Transportation (DOT) and the airlines. However, none of these other organizations submitted comments to support the continued reporting of cargo claims statistics.

The SNFCC also stated that the claims ratio reported on Form 239 is an important statistic that represents an element of competition between carriers. The aggregate nature of the claims ratio, however, suggests that these data are of very little practical use for purposes of comparison shopping. Variations in the claims ratio across carriers are caused more by differences in the types of goods carried than by differences in carrier reliability. Perishable items, for example, generate more claims than nonperishable items, and not all carriers carry the same proportion of perishable goods. The data reported do not enable a shipper to measure and compare the freight loss and damage claims experienced by either size of shipment, type of commodity, or shipment value, and so really do not enable shippers to identify carrier reliability.

[1] See ER–996, (42 FR 21763, April 29, 1977).

Finally, the SNFCC expressed its concern that the elimination of Form 239 would deprive Congress and the public of a means for monitoring the effects of deregulation on airline liability rules and practices.

Current regulations require all carriers conducting domestic cargo transporation to disclose, when a shipment is accepted, the limits of its cargo liability insurance or the absence of such insurance. This was intended to notify shippers of the liability coverage available so that a shipper could determine its need for any additional insurance. We believe this provides shippers with adequate notice about the extent of a carrier's insurance protection.

The aggregate claims data now reported on Form 239 are used to monitor general trends in the number and amount of claims received and claims paid. They were not designed to analyze airline liability rules and practices, and we do not feel that these data would be useful for that purpose.

For these reasons, the Board has concluded that the reporting of freight loss and damage claims data on Form 239 has served its limited purpose and should not be continued. We also note an apparent lack of governmental and public interest in cargo claims data since the SNFCC filed the only comment in support of continued reporting. Moreover, the Board's Bureau of Consumer Protection does monitor and issue periodic reports on consumer complaints that deal with, among other things, cargo loss and damage.

Executive Order No. 11836

One other issue is the relation of this action to Executive Order No. 11836, *Increasing the Effectiveness of the Transportation Cargo Security Program.* Under that Executive Order, transportation regulatory agencies are urged, in exercising their regulatory responsibilities, to cooperate with the Department of Transportation (DOT) by, among other things, developing cargo theft reporting systems.

When the reporting of claims data was reduced in 1977 by ER–996, the Board invited DOT and the law enforcement agencies to submit requests for the collection of any additional detailed data that they needed. The data being collected on Form 239 have also been made available to DOT, and DOT staff have informally indicated that the data do not contain the details needed for the cargo security program. No request has been received from any agency asking the Board to increase the freight claims reporting.

The Board is not inclined to collect data solely for the use of other agencies. To the extent that the Board does collect data for other agencies, justification of the need for and use of the data should be supported by others to the same extent that the Board justifies its own need for and use of data. In the absence of such justification, the Board has no basis for imposing a reporting burden on the public.

We have therefore decided to eliminate the reporting of freight loss and damage claims data.

Accordingly, the Board amends Subchapter A of 14 CFR Chapter II as follows:

PART 239 [RESERVED]

Part 239, *Reporting Data Pertaining to Freight Loss and Damage Claims by Certificated Route Air Carriers and Foreign Route Air Carriers*, is revoked and reserved.

(Sections 204(a) and 407 of the Federal Aviation Act of 1958, as amended, 72 Stat. 743, 766; 49 U.S.C. 1324(a) and 1377.)

By the Civil Aeronautics Board.

Phyllis T. Kaylor,
Secretary.

[Regulation ER–1121; Amdt. 1; Docket 34191]
[FR Doc. 79–15269 Filed 5–15–79; 8:45 am]
BILLING CODE 6320–01–M

14 CFR Part 252

Provision of Designated "No-Smoking" Areas Aboard Aircraft Operated by Certificated Air Carriers

Adopted by the Civil Aeronautics Board at its office in Washington, D.C. on May 10, 1979.

AGENCY: Civil Aeronautics Board.

ACTION: Final rule.

SUMMARY: The Board amends its rule on smoking aboard aircraft so that carriers must now file their manuals containing company rules for smoking aboard aircraft with the Bureau of Consumer Protection, whose activities are closely involved with the subject matter.

DATES: Adopted: May 10, 1979. Effective: May 10, 1979.

FOR FURTHER INFORMATION CONTACT: Richard B. Dyson, Associate General Counsel, Civil Aeronautics Board, 1825 Connecticut Avenue, NW., Washington, D.C. 20428, 202–673–5444.

SUPPLEMENTARY INFORMATION: 14 CFR 252.4 now provides that each air carrier shall file the manual containing its rules for smoking by passengers aboard aircraft with the Bureau of Pricing and Domestic Aviation, with any revisions and amendments to be filed within 15 days following adoption by the company. The Board has decided that the manuals should be filed with and maintained by the Bureau of Consumer Protection, whose activities are more closely involved with the subject matter.

Since this amendment affects only agency procedure, and imposes no additional burdens, the Board finds that notice and public procedure are unnecessary, and that the rule may become effective immediately.

PART 252—PROVISION OF DESIGNATED "NO-SMOKING" AREAS ABOARD AIRCRAFT OPERATED BY CERTIFICATED AIR CARRIERS

Accordingly, the Board amends 14 CFR Part 252, *Provision of Designated "No-smoking" Areas aboard Aircraft Operated by Certificated Air Carriers*, as follows:

Section 252.4 is amended by replacing "Bureau of Pricing and Domestic Aviation" with "Bureau of Consumer Protection", so that it reads:

§ 252.4 Manual containing company rules for smoking by passengers aboard aircraft.

Each air carrier subject to this part shall maintain an employee manual containing company rules for smoking by passengers aboard aircraft. Two copies of such manual shall be filed with the Bureau of Consumer Protection, and revisions and amendments shall be filed within 15 days following adoption by the company.

(Sections 204(a), 404(a), and 407, Federal Aviation Act of 1958, as amended, 72 Stat. 743, 760, 766; 49 U.S.C. 1324, 1374, and 1377.)

By the Civil Aeronautics Board.

Phyllis T. Kaylor,
Secretary.

[Regulation ER–1122; Amdt. 2]
[FR Doc. 79–15200 Filed 5–15–79; 8:45 am]
BILLING CODE 6320–01–M

14 CFR Part 385

Delegation and Review of Action Under Delegation; Nonhearing Matters

Adopted by the Civil Aeronautics Board at its office in Washington, D.C. on May 10, 1979.

AGENCY: Civil Aeronautics Board.

ACTION: Final rule.

SUMMARY: The CAB eliminates the delegation of authority to the Director of its Office of Economic Analysis to collect special reports from foreign air carriers. This action is being taken in response to a petition filed by ten foreign air carriers.

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DATES: Adopted: May 10, 1979. Effective: May 10, 1979.

FOR FURTHER INFORMATION CONTACT: Richard B. Dyson, Associate General Counsel, Rules and Legislation, Civil Aeronautics Board, 1825 Connecticut Avenue, N.W., Washington, D.C. 20428; 202-673-5442.

SUPPLEMENTARY INFORMATION: In OR-139 (43 FR 58179, December 13, 1978), the Board expanded the authority delegated to the Director, Bureau of Accounts and Statistics in 14 CFR 385.17(g) to include the collection of special reports from foreign air carriers under certain circumstances. This delegation has since been transferred to the Director, Office of Economic Analysis by OR-147, 44 FR 11212, February 28, 1979. It now appears in § 385.27(d).

Under the initial delegation to the Director, Bureau of Accounts and Statistics the Board cited Section 407(a) of the Federal Aviation Act as its authority for the collection of special reports. Ten foreign air carriers [1] petitioned for an amendment of that delegation, pointing out that this section of the Act authorizes the Board to collect special reports from U.S. air carriers only.

While other provisions of the Act authorize the collection of information from foreign air carriers, we have decided that questions about the necessity and legality of such collections should, in the first instance, be decided by the full Board. We are therefore eliminating the delegated authority of the Director of the Office of Economic Analysis to collect special reports from foreign air carriers.

Since this amendment is administrative in nature, affecting a rule of agency organization and procedure, the Board finds that notice and public procedure are unnecessary and that the rule may become effective immediately.

[1] Balair AG; Caraïbische Lucht Transport Maatschappij, N.V., Condor Flugdienst GmbH; Deutsche Lufthansa Aktiengesellschaft; Japan Airlines Company, Ltd.; Philippine Airlines; Singapore Airlines Limited; Swissair, Swiss Air Transport Company, Limited; Deutsches Reiseburo GmbH (Germany) d/b/a DER Travel Service; and Reiseburo Schwaben International GmbH (German) d/b/a Schwaben Charters, Inc.

Answers to the petition were filed by: Scandinavian Airlines System; China Airlines, Ltd.; Lan Chile Airlines; Air Canada; Cathay Pacific Airways Limited; Lloyd Aereo Boliviano Sa; Air Jamaica Limited; El Al Israel Airlines, Ltd.; Lot Polish Airlines; and Aerlinte Eirean Teoranta. All were in favor of the petition filed by the Joint Petitioners listed above.

PART 385—DELEGATION AND REVIEW OF ACTION UNDER DELEGATION; NONHEARING MATTERS

Accordingly, the Board amends 14 CFR Part 385, *Delegation and Review of Action under Delegation; Nonhearing Matters* as follows:

In § 385.27, paragraph (d) is amended by deleting "or any foreign air carrier", so that it reads:

§ 385.27 Delegation to the Director, Office of Economic Analysis.

The Board delegates to the Director, Office of Economic Analysis, the authority to:

* * * * *

(d) Require special reports or documentation from any air carrier under circumstances where he finds that such reports or documentation are necessary to meet temporary information needs, assist in an evaluation of continued financial fitness, or comply with special information requests by Congress, the Board, or another agency or component of the Federal Government.

* * * * *

(Sections 204(a) and 407 of the Federal Aviation Act of 1958, as amended, 72 Stat. 743, 766, 49 U.S.C. 1324(a) and 1377. Reorganization Plan No. 3 or 1961, 75 Stat. 837, 26 FR 5989; 49 U.S.C. 1324 (note).)

By the Civil Aeronautics Board.

Phyllis T. Kaylor,
Secretary.

[Regulation OR-153; Amdt. 86; Docket 34492]
[FR Doc. 79-15258 Filed 5-15-79; 8:45 am]
BILLING CODE 6320-01-M

DEPARTMENT OF THE TREASURY

Customs Service

19 CFR Part 159

Countervailing Duties—Sugar Content of Certain Articles From Australia; Net Amount of Bounty Declared for the Period January 1978 Through December 1978

AGENCY: United States Customs Service.

ACTION: Net Amounts of Countervailing Duty Determined.

SUMMARY: This notice is to inform the public of the amounts of countervailing duty which will be assessed on the sugar content of certain articles exported from Australia during the period January 1978 through December 1978. Section 159.47(f) of the Customs Regulations is being amended to include this notice.

EFFECTIVE DATE: May 16, 1979.

FOR FURTHER INFORMATION CONTACT: Stephen Nyschot, Operations Officer, Duty Assessment Division, United States Customs Service, 1301 Constitution Avenue, NW., Washington, D.C. telephone (202) 566-5492.

SUPPLEMENTARY INFORMATION: The Treasury Department is in receipt of official information that the rates of bounties or grants paid or bestowed within the meaning of section 303, Tariff Act of 1930 as amended (19 U.S.C. 1303), on the exportation during the period January 1978 through December 1978 of approved fruit products and other approved products manufactured or produced in Australia are the amounts shown in the following table. The amounts shown are in Australian dollars, per 1,000 kilograms of sugar content.

Month	Approved fruit products	Other approved products
January 1978	None	None.
February 1978	None	None.
March 1978	None	None.
April 1978	None	Aus. $5.80.
May 1978	None	Aus. $4.10.
June 1978	None	Aus. $7.50.
July 1978	Aus. $32.70	Aus. $47.70.
August 1978	Aus. $47.20	Aus. $62.20.
September 1978	Aus. $25.70	Aus. $40.70.
October 1978	Aus. $6.90	Aus. $21.90.
November 1978	None	Aus. $7.80.
December 1978	Aus. $12.20	Aus. $27.20.

The net amounts of bounties or grants on the above-described merchandise are hereby ascertained, determined, or estimated to be the rates stated in the above table. Additional duties on the above-described merchandise, whether imported directly or indirectly from that country, equal to the net amount of the bounty shown above shall be assessed and collected pursuant to section 303, Tariff Act of 1930, as amended (19 U.S.C. 1303).

§ 159.47 [Amended]

The table in § 159.47(f) of Customs Regulations (19 CFR 159.47(f)), under "Australia—Sugar content of certain articles" is amended (1) by deleting therefrom the reference to T.D. 77-127, and (2) by adding a reference to this Treasury Decision. As amended, the last four lines of the table under this commodity will read:

Country	Commodity	Treasury decision	Action
		55716	Certain articles exempted as to shipments exported on or after July 19, 1962.
		77-257	New rate.
		78-115	New rate
		79-	New rate.

Pursuant to Reorganization Plan No. 26 of 1950 and Treasury Department Order 190 (Revision 15), March 16, 1979, the provisions of Treasury Department Order 165, revised, November 2, 1954, and § 159.47 of the Customs Regulations (19 CFR 159.47), insofar as they pertain to the issuance of a countervailing duty order by the Commissioner of Customs, are hereby waived.

(R.S. 251, as amended, secs. 303, 624, 46 Stat. 687, as amended, 759 (19 U.S.C. 66, 1303, 1624)).

Robert H. Mundheim,
General Counsel of the Treasury.

May 10, 1979.

[T. D. 79-142]
[FR Doc. 79-15283 Filed 5-15-79; 8:45 am]
BILLING CODE 4810-22-M

DEPARTMENT OF STATE

Bureau of Consular Affairs

22 CFR Part 42

Visas: Documentation of Immigrants Under the Immigration and Nationality Act, as Amended; Application for Immigrant Visas

AGENCY: Department of State.

ACTION: Final rule.

SUMMARY: The regulations of the Department are amended under the authority contained in the Taiwan Relations Act, Pub. L. 96-8 (93 Stat. 14) which became effective upon signature of the President on April 10, 1979. Section 42.114 is amended to provide that aliens in Taiwan applying for immigrant visas shall be required to appear personally before a designated officer of the American Institute in Taiwan in connection with the execution of his immigrant visa application.

EFFECTIVE DATE: April 23, 1979.

FOR FURTHER INFORMATION: Contact Cornelius D. Scully, III, Director Visa Services, Department of State, telephone (202) 632-1980.

SUPPLEMENTAL INFORMATION: In order to facilitate the application for immigrant visas by the people on Taiwan in keeping with the provisions of the Taiwan Relations Act, the Department's regulations requiring personal appearance before a consular officer in connection with execution of an immigrant visa application are amended to require aliens on Taiwan to appear personally before a designated officer of the American Institute in Taiwan for the purpose of executing immigrant vias applications.

The requirements of 5 U.S.C. 553 (80 Stat. 383) related to notice of proposed rulemaking and delayed effective date are not applicable in this instance because these procedures are impracticable and unnecessary for the purpose of implementaing provisions of the Taiwan Relations Act.

Section 42.114 is amended to read as follows:

§ 42.114. Personnel appearance.

Every applicant, including an alien whose application is executed by another person, shall be required to appear personally before a consular officer or, if applying in Taiwan, before a designated officer of the American Institute in Taiwan, in connection with the execution of his application, except that either of these officers may, in his discretion, waive personal appearance in the case of any child under the age of 14.

(This amendment is issued pursuant to the authority contained in Section 104 of the Immigration and Nationality Act (sec. 104, 66 Stat. 8 U.S.C. 1104).)

Dated: April 30, 1979.

Hume A. Horan,
Acting Assistant Secretary for Consular Affairs.

[Departmental Regulation 108.776]
[FR Doc. 79-15284 Filed 5-15-79; 8:45 am]
BILLING CODE 4710-06-M

DEPARTMENT OF HOUSING AND URBAN DEVELOPMENT

Office of Assistant Secretary for Housing—Federal Housing Commissioner (Federal Housing Administration)

24 CFR Part 221

Moderate Income Projects; Maximum Mortgage Amounts

AGENCY: U.S. Department of Housing and Urban Development, Office of Assistant Secretary for Housing—Federal Housing Commissioner.

ACTION: Final rule.

SUMMARY: Section 221.514 of Subpart C is being amended to reflect the increased dollar limitations on units within projects insured under section 221(d)(3) and section 221(d)(4) of the National Housing Act as authorized by the Housing and Community Development Amendments of 1978.

EFFECTIVE DATE: June 8, 1979.

ADDRESS: Rules Docket Clerk, Office of the General Counsel, Room 5218, Department of Housing and Urban Development, 451 7th Street, S.W., Washington, D.C. 20410.

FOR FURTHER INFORMATION CONTACT: John M. Longo, Office of Housing, Multifamily Housing Development, Development Division, Room 6116, HUD, 451 7th Street, S.W., Washington, D.C. 20410; (202) 755-8203 (This is not a toll free number).

SUPPLEMENTARY INFORMATION: Since these amendments to Part 221 are statutory in nature and because of the benefits that will inure to the public from an expeditious implementation of these amendments, the Secretary has determined that advance publication, notice and public procedure are impracticable and unnecessary and good cause exists for making these amendments effective upon publication.

A finding of Inapplicability respecting the National Environmental Policy Act of 1969 has been made in accordance with HUD procedures. A copy of this Finding of Inapplicability will be abailable for public inspection during regular business hours in the Office of the Rules Docket Clerk, Office of the General Counsel, Room 5218, Department of HUD, 451 7th Street, S.W., Washington, D. C. 20410.

Accordingly, Part 221 of chapter II of title 24 is amended as follows:

PART 221—LOW COST AND MODERATE INCOME INSURANCE

Subpart C—Eligibility Requirements—Moderate Income Projects

Section 221.514 is amended as follows:

a. By revising paragraph (a)(1)(i);

b. By redesignating and revising paragraph (a)(1)(ii) as paragraph (a)(1)(iii) and adding a new paragraph (a)(1)(ii);

c. By revising paragraph (b)(1); and

d. By redesignating and revising paragraph (b)(2) as paragraph (b)(3) and adding a new paragraph (b)(2), all as set forth below:

§ 221.514 Maximum mortgage amounts.

(a) * * *

(1) * * *

(i) For projects, involving eligible nonprofit mortgagors, to be insured under section 221(d)(3) of the Act:

(*a*) $21,563 without a bedroom.
(*b*) 24,662 with one bedroom.
(*c*) 29,984 with two bedrooms.
(*d*) 38,379 with three bedrooms.
(*e*) 42,756 with four or more bedrooms.

(ii) For projects, involving eligible mortgagors other than nonprofit mortgagors, to be insured under section 221(d)(3) of the Act:

(*a*) $19,406 without a bedroom.
(*b*) 22,195 with one bedroom.
(*c*) 26,985 with two bedrooms.

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(d) 34,541 with three bedrooms.
(e) 38,480 with four or more bedrooms.

(iii) For projects, to be insured under section 221(d)(4) of the Act:

(a) 19,406 without a bedroom.
(b) 22,028 with one bedroom.
(c) 26,625 with two bedrooms.
(d) 33,420 with three bedrooms.
(e) 37,870 with four or more bedrooms.

(b) * * *

(1) For projects, involving eligible nonprofit mortgagors, to be insured under section 221(d)(3) of the Act:

(i) $22,692 per family unit without a bedroom.

(ii) 26,012 per family unit with one bedroom.

(iii) 31,631 per family unit with two bedrooms.

(iv) 40,919 per family unit with three bedrooms.

(v) 44,917 per family unit with four or more bedrooms.

(2) For projects, involving eligible mortgagors other than nonprofit mortgagors, to be insured under section 221(d)(3) of the Act.

(i) $20,422 per family unit without a bedroom.

(ii) 23,410 per family unit with one bedroom.

(iii) 28,467 per family unit with two bedrooms.

(iv) 36,827 per family unit with three bedrooms.

(v) 40,425 per family unit with four or more bedrooms.

(3) For projects to be insured under section 221(d)(4) of the Act:

(i) $20,962 per family unit without a bedroom.

(ii) 24,030 per family unit with one bedroom.

(iii) 29,220 per family unit with two bedrooms.

(iv) 37,800 per family unit with three bedrooms.

(v) 41,494 per family unit with four or more bedrooms.

Issued at Washington, D. C., on May 10, 1979.

Lawrence B. Simons,
Assistant Secretary for Housing—Federal Housing Commissioner.

[Docket No. R-79-666]
[FR Doc. 79-15252 Filed 5-15-79; 8:45 am]
BILLING CODE 4210-01-M

DEPARTMENT OF THE TREASURY
Internal Revenue Service

26 CFR Parts 301 and 402

Definition of Domestic Building and Loan Association and deletion of temporary regulations on procedure and administration

AGENCY: Internal Revenue Service, Treasury.

ACTION: Adoption of final regulations and deletion of temporary regulations.

SUMMARY: This document provides final regulations and deletes temporary regulations relating to the definition of domestic building and loan association. Changes to the applicable tax law were made by the Tax Reform Act of 1969. These final regulations provide necessary guidance to financial institutions wishing to qualify as a domestic building and loan association.

DATE: The regulations are effective for taxable years ending after July 11, 1969.

FOR FURTHER INFORMATION CONTACT:
Mary E. Dean of the Legislation and Regulations Division, Office of the Chief Counsel, Internal Revenue Service, 1111 Constitution Avenue, N.W., Washington, D.C. 20224 (Attention: CC:LR:T) (202-566-3289).

SUPPLEMENTARY INFORMATION:

Background

On November 10, 1970, the Federal Register published proposed amendments to the Regulations on Procedure and Administration [26 CFR Part 301) under section 7701(a) of the Internal Revenue Code of 1954 (35 FR 17268). The amendments were proposed to conform the Regulations on Procedure and Administration to section 432(c) of the Tax Reform Act of 1969 (83 Stat. 622). Requests for a public hearing were made but later withdrawn. After consideration of all comments regarding the proposed amendments, the amendments in paragraphs two and three of the notice of proposed rulemaking are adopted without change by this Treasury decision.

In addition, on November 10, 1970, the Federal Register published Temporary Regulations on Procedure and Administration under the Tax Reform Act of 1969 (26 CFR Part 402) under section 7701(a) of the Internal Revenue Code of 1954 (35 FR 17265). The Temporary Regulations are substantively identical to the amendments to the Regulations on Procedure and Administration adopted by this Treasury decision. The Temporary Regulations are deleted by this Treasury decision.

Explanation

Section 7701(a)(19), as amended by the Tax Reform Act of 1969, defines domestic building and loan association. The definition is of significance with respect to tax treatment of organizations under Code sections 591, 593, 595, and 596.

The majority of the comments received with respect to the proposed rules were from mortgage companies. These comments made two principal points: (1) That the "sales activity test" for qualification as a domestic building and loan association applicable under earlier regulations should not be eliminated; and (2) that the "gross income test", requiring that more than 85 percent of a qualifying association's income consist of certain forms of income, should not be reduced to 75 percent. These two changes to the regulations that were applicable under previous law reflect the amendment by the 1969 Tax Reform Act to subparagraph (B) of the Code section 7701(a)(19). That amendment eliminated the requirement applicable to pre-1970 domestic building and loan associations that "substantially all" business consist of acquiring the savings of the public and investing in certain loans. Section 7701(a)(19)(B) as amended by the Tax Reform Act of 1969 requires that the business of post-1969 associations consist "principally" of such activities. In view of this change it appears appropriate to eliminate the "sales activity test" and to revise the "gross income test" for post-1969 domestic building and loan associations.

The regulations adopted by this Treasury decision impose no new reporting burdens or recordkeeping requirements. The principal effect of these final regulations is to conform the Regulations on Procedure and Administration under section 7701(a)(19) of the Code to changes made by the Tax Reform Act of 1969. The Treasury Department will review these regulations from time time in light of comments received from offices within the Treasury Department and Internal Revenue Service or from the public.

Drafting Information

The principal author of these regulations is Mary E. Dean of the Legislation and Regulations Division of the Office of Chief Counsel, Internal Revenue Service. However, personnel from other offices of the Internal Revenue Service and Treasury Department participated in developing the regulations, both on matters of substance and style.

Adoption of Amendments to the Regulations

Accordingly, 26 CFR Part 301 is amended by adopting, without change, paragraphs 2 and 3 of the regulations proposed in the notice of proposed rulemaking published in the Federal Register for November 10, 1970 (35 FR 17268). In addition, 26 CFR Part 402 is hereby deleted.

This Treasury decision is issued under the authority contained in section 7805 of the Internal Revenue Code of 1954 (68A Stat. 917; 26 U.S.C. 7805).

Jerome Kurtz,
Commissioner of Internal Revenue.

Approved: May 7, 1979.

Donald C. Lubick,
Assistant Secretary of the Treasury.

Par. 2. Section 301.7701-13 is amended by revising so much thereof as precedes paragraph (b) to read as follows:

§ 301.7701-13 Pre-1970 domestic building and loan association.

(a) *In general.* For taxable years beginning after October 16, 1962, and before July 12, 1969, the term "domestic building and loan association" means a domestic building and loan association, a domestic savings and loan association, a Federal savings and loan association, and any other savings institution chartered and supervised as a savings and loan or similar association under Federal or State law which meets the supervisory test (described in paragraph (b) of this section), the business operations test (described in paragraph (c) of this section), and each of the various assets tests (described in paragraphs (d), (e), (f), and (h) of this section). For the definition of the term "domestic building and loan association", for taxable years beginning after July 11, 1969, see § 301.7701-13A.

* * * * *

Par. 3. The following provisions are added immediately after § 301.7701-13:

§ 301.7701-13A Post-1969 domestic building and loan association.

(a) *In general.* For taxable years beginning after July 11, 1969, the term "domestic building and loan association" means a domestic building and loan association, a domestic savings and loan association, a Federal savings and loan association, and any other savings institution chartered and supervised as a savings and loan or similar association under Federal or State law which meets the supervisory test (described in paragraph (b) of this section), the business operations test (described in paragraph (c) of this section), and the assets test (described in paragraph (d) of this section). For the definition of the term "domestic building and loan association" for taxable years beginning after October 16, 1962, and before July 12, 1969, see § 301.7701-13.

(b) *Supervisory test.* A domestic building and loan association must be either (1) an insured institution within the meaning of section 401(a) of the National Housing Act (12 U.S.C. 1724(a)) or (2) subject by law to supervision and examination by State or Federal authority having supervision over such associations. An "insured institution" is one the accounts of which are insured by the Federal Savings and Loan Insurance Corporation.

(c) *Business operations test*—(1) *In general.* An association must utilize its assets so that its business consists principally of acquiring the savings of the public and investing in loans. The requirement of this paragraph is referred to in this section as the business operations test. The business of acquiring the savings of the public and investing in loans includes ancillary or incidental activities which are directly and primarily related to such acquisition and investment, such as advertising for savings, appraising property on which loans are to be made by the association, and inspecting the progress of construction in connection with construction loans. Even though an association meets the supervisory test described in paragraph (b) of this section and the assets test described in paragraph (d) of this section, it will nevertheless not qualify as a domestic building and loan association if it does not meet the requirements of both subparagraphs (2) and (3) of this paragraph, relating, respectively, to acquiring the savings of the public and investing in loans.

(2) *Acquiring the savings of the public.* The requirement that an association's business (other than investing in loans) must consist principally of acquiring the savings of the public ordinarily will be considered to be met if savings are acquired in all material respects in conformity with the rules and regulations of the Federal Home Loan Bank Board or substantially equivalent rules of a State law or supervisory authority. Alternatively, such requirement will be considered to be met if more than 75 percent of the dollar amount of the total deposits, withdrawable shares, and other obligations of the association are held during the taxable year by the general public, as opposed to amounts deposited or held by family or related business groups or persons who are officers or directors of the association. However, the preceding sentence shall not apply if the dollar amount of other obligations of the association outstanding during the taxable year exceeds 25 percent of the dollar amount of the total deposits, withdrawable shares, and other obligations of the association outstanding during such year. For purposes of this subparagraph, the term "other obligations" means notes, bonds, debentures, or other obligations, or other securities (except capital stock), issued by an association in conformity with the rules and regulations of the Federal Home Loan Bank Board or substantially equivalent rules of a State law or supervisory authority. The term "other obligations" does not include an advance made by a Federal Home Loan Bank under the authority of section 10 or 10b of the Federal Home Loan Bank Act (12 U.S.C. 1430, 1430b) as amended and supplemented. Both percentages specified in this subparagraph shall be computed either as of the close of the taxable year or, at the option of the taxpayer, on the basis of the average of the dollar amounts of the total deposits, withdrawable shares, and other obligations of the association held during the taxable year. Such averages shall be determined by computing each percentage specified either as of the close of each month, as of the close of each quarter, or semiannually during the taxable year and by using the yearly average of the monthly, quarterly, or semiannual percentages obtained. The method selected must be applied uniformly for the taxable year to both percentages, but the method may be changed from year to year.

(3) *Investing in loans*—(i) *In general.* The requirement that an association's business (other than acquiring the savings of the public) must consist principally of investing in loans will be considered to be met for a taxable year only if more than 75 percent of the gross income of the association consists of—

(*a*) Interest or dividends on assets defined in subparagraphs (1), (2), and (3) of paragraph (e) of this section,

(*b*) Interest on loans,

(*c*) Income attributable to the portion of property used in the association's business, as defined in paragraph (e)(11) of this section,

(*d*) So much of the amount of premiums, discounts, commissions, or fees (including late charges and penalties) on loans which have at some time been held by the association, or for which firm commitments have been issued, as is not in excess of 20 percent of the gross income of the association,

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(e) Net gain from sales and exchanges of governmental obligations, as defined in paragraph (e)(2) of this section, or

(f) Income, gain or loss attributable to foreclosed property, as defined in paragraph (e)(9) of this section, but not including such income, gain or loss which, pursuant to section 595 and the regulations thereunder, is not included in gross income.

Examples of types of income which would cause an association to fail to meet the requirements of this subparagraph if, in the aggregate, they equal or exceed 25 percent of gross income, are: the excess of gains over losses from sales of real property (other than foreclosed property); rental income (other than on foreclosed property and the portion of property used in the association's business); premiums, commissions, and fees (other than commitment fees) on loans which have never been held by the association; and insurance brokerage fees.

(ii) *Computation of gross income.* For purposes of this subparagraph, gross income is computed without regard to—

(a) Gain or loss on the sale or exchange of the portion of property used in the association's business as defined in paragraph [e][11] of this section.

(b) Gain or loss on the sale or exchange of the rented portion of property used as the principal or branch office of the association, as defined in paragraph [e][11] of this section, and

(c) Gains or losses on sales of participations, and loans, other than governmental obligations defined in paragraph [e][2] of this section.

For purposes of this subparagraph, gross income is also computed without regard to items of income which an association establishes arise out of transactions which are necessitated by exceptional circumstances and which are not undertaken as recurring business activities for profit. Thus, for example, an association would meet the investing in loans requirement if it can establish that it would otherwise fail to meet that requirement solely because of the receipt of a nonrecurring item of income due to exceptional circumstances. For this purpose, transactions necessitated by an excess of demand for loans over savings capital in the association's area are not to be deemed to be necessitated by exceptional circumstances. For purposes of (c) of this subdivision, the term "sales of participations" means sales by an association of interests in loans, which sales meet the requirements of the regulations of the Federal Home Loan Bank Board relating to sales of participations, or which meet substantially equivalent requirements of State law or regulations relating to sales of participations.

(iii) *Reporting requirement.* In the case of income tax returns for taxable years beginning after July 11, 1968, there is required to be filed with the return a statement showing the amount of gross income for the taxable year in each of the categories described in subdivision (i) of this subparagraph.

(d) 60 percent of assets test. At least 60 percent of the amount of the total assets of a domestic building and loan association must consist of the assets defined in paragraph (e) of this section. The percentage specified in this paragraph is computed as of the close of the taxable year or, at the option of the taxpayer, may be computed on the basis of the average assets outstanding during the taxable year. Such average is determined by making the appropriate computation described in this section either as of the close of each month, as of the close of each quarter, or semiannually during the taxable year and by using the yearly average of the monthly, quarterly, or semiannual percentage obtained for each category of assets defined in paragraph (e) of this section. The method selected must be applied uniformly for the taxable year to all categories of assets, but the method may be changed from year to year. For purposes of this paragraph, it is immaterial whether the association originated the loans defined in subparagraphs (4) through (8) and (10) of paragraph (e) of this section or purchased or otherwise acquired them in whole or in part from another. See paragraph (f) of this section for definition of certain terms used in this paragraph and in paragraph (e) of this section, and for the determination of amount and character of loans.

(e) *Assets defined.* The assets defined in this paragraph are—

(1) *Cash.* The term "cash" means cash on hand, and time or demand deposits with, or withdrawable accounts in, other financial institutions.

(2) *Governmental obligations.* The term "governmental obligations" means—

(i) Obligations of the United States,

(ii) Obligations of a State or political subdivision of a State, and

(iii) Stock or obligations of a corporation which is an instrumentality of the United States, a State, or a political subdivision of a State,

other than obligations the interest on which is excludable from gross income under section 103 and the regulations thereunder.

(3) *Deposit insurance company securities.* The term "deposit insurance company securities" means certificates of deposit in, or obligations of, a corporation organized under a State law which specifically authorizes such corporation to insure the deposits or share accounts of member associations.

(4) *Passbook loan.* The term "passbook loan" means a loan to the extent secured by a deposit, withdrawable share, or savings account in the association, or share of a member of the association, with respect to which a distribution is allowable as a deduction under section 591.

(5) *Residential real property loan.* [Reserved]

(6) *Church loan.* [Reserved]

(7) *Urban renewal loan.* [Reserved]

(8) *Institutional loan.* [Reserved]

(9) *Foreclosed property.* [Reserved]

(10) *Educational loan.* [Reserved]

(11) *Property used in the association's business*—(i) *In general.* The term "property used in the association's business" means land, buildings, furniture, fixtures, equipment, leasehold interests, leasehold improvements, and other assets used by the association in the conduct of its business of acquiring the savings of the public and investing in loans. Real property held for the purpose of being used primarily as the principal or branch office of the association constitutes property used in the association's business so long as it is reasonably anticipated that such property will be occupied for such use by the association, or that construction work preparatory to such occupancy will be commenced thereon, within 2 years after acquisition of the property. Stock of a wholly owned subsidiary corporation which has as its exclusive activity the ownership and management of property more than 50 percent of the fair rental value of which is used as the principal or branch office of the association constitutes property used in such business. Real property held by an association for investment or sale, even for the purpose of obtaining mortgage loans thereon, does not constitute property used in the association's business.

(ii) *Property rented to others.* Except as provided in the second sentence of subdivision (i) of this subparagraph, property or a portion thereof rented by the association to others does not constitute property used in the association's business. However, if the fair rental value of the rented portion of a single piece of real property (including appurtenant parcels) used as the principal or branch office of the association constitutes less than 50 percent of the fair rental value of such piece of property, or if such property has an adjusted basis of not more than $150,000, the entire property shall be considered used in such business. If such rented portion constitutes 50 percent or more of the fair rental value of such piece of property, and such property has an adjusted basis of more than $150,000, an allocation of its adjusted basis is required. The portion of the total adjusted basis of such piece of property which is deemed to be property used in the association's business shall be equal to an amount which bears the same ratio to such total adjusted basis as the amount of the fair rental value of the portion used as the principal or branch office of the association bears to the total fair rental value of such property. In the case of all property other than real property used or to be used as the principal or branch office of the association, if the fair rental value of the rented portion thereof constitutes less than 15 percent of the fair rental value of such property, the entire property shall be considered used in the association's business. If such rented portion constitutes 15 percent or more of the fair rental value of such property, an allocation of its adjusted basis (in the same manner as required for real property used as the principal or branch office) is required.

Part 402—Temporary Regulations on Procedure and Administration Under the Tax Reform Act of 1969 (Deleted)

(f) *Special rules.* [Reserved]

[T.D. 7622]
[FR Doc. 79-15274 Filed 5-15-79; 8:45 am]
BILLING CODE 4830-01-M

DEPARTMENT OF LABOR

Wage and Hour Division

29 CFR Part 575

Waiver of Child Labor Provisions for Agricultural Employment of 10- and 11-Year-Old Minors in Hand Harvesting of Short Season Crops; Provisions Governing Application For and Granting of a Waiver; Restrictions on Use of Pesticides and Other Chemicals

AGENCY: Wage and Hour Division, Labor.

ACTION: Final rules.

SUMMARY: Current regulations provide for the issuance of waivers permitting the employment of 10- and 11-year-old minors in the hand harvesting of short season crops upon the representation by the employer applying for a waiver, that, among other specified conditions, the minimum entry times for the use of certain pesticides and other chemicals listed therein for use on certain crops have been followed. The Secretary of Labor has undertaken a continuing study of the effect of the level and type of pesticides and other chemicals used on the health and well-being of 10- and 11-year-old minors to whom a waiver would apply. This document reflects current findings in this study upon which it has been determined that the pesticide or chemical, Anilazine(Dyrene), used on strawberries or potatoes, may be added to the lists in § 575.5(d) (2) and (3) with minimum entry times of 10 days and 2 days, respectively, for 10- and 11-year-old hand harvesters. This document also adds the pesticide or chemical, Ziram, to the list in § 575.5(d)(5)(i) of those being reviewed, use of which would require supporting data to establish minimum entry times for 10- and 11-year-old hand harvesters.

EFFECTIVE DATE: May 16, 1979.

FOR FURTHER INFORMATION CONTACT:
Lucille C. Pinkett, Chief, Branch of Child Labor, Room S3022, New Department of Labor Building, 200 Constitution Avenue N.W., Washington, D.C. 20210, 202–523–8412.

SUPPLEMENTARY INFORMATION: Section 13(c)(4) of the Fair Labor Standards Act, as amended, provides for the issuance of waivers permitting the employment of 10- and 11-year-old minors in the hand harvesting of short season crops upon the submission by the employer applying for a waiver that, among other required objective data, the "level and type of pesticides and other chemicals used would not have an adverse effect on the health or well-being of" minors employed under the waiver.

The Secretary has undertaken a continuing study of the use and effect of pesticides and other chemicals used on short season crops in order to establish minimum entry times for specified pesticides and chemicals for use on specified crops. On the basis of the scientific evidence disclosed, the Secretary of Labor has adopted minimum entry times for 10- and 11-year-old hand harvesters of strawberries and potatoes. This document reflects current findings in this study upon which it has been determined that the pesticide or chemical, Anilazine(Dyrene), used on strawberries or potatoes, may be added to the lists in § 575.5(d) (2) and (3) with minimum entry times of 10 days and 2 days, respectively, for 10- and 11-year-old hand harvesters.

This scientific evidence also disclosed that the pesticide or chemical, Ziram, can be oxidized in the environment to Thiram, a compound that has been shown to have mutagenic and teratogenic effects as well as adverse effects on male and female reproductive systems. It should be noted that the pesticide or chemical, Thiram, is already included on the list of chemicals and pesticides in § 575.5(d)(5)(i) of those being reviewed, use of which requires supporting data to establish minimum entry times. In addition, current data suggest that Ziram itself may be a teratogen and weak mutagen and cause adverse effects on male and female reproductive systems. Thus, it is not possible at this time to establish a minimum entry time for this pesticide or chemical which would protect 10- and 11-year-old hand harvesters from adverse effects. Therefore, this document also adds the pesticide or chemical, Ziram, to the list in § 575.5(d)(5)(i) of those being reviewed, use of which would require supporting data to establish minimum entry times for 10- and 11-year-old hand harvesters.

As any change in section 575.5(d)(2) will affect the proposed use of pesticides and chemicals by an employer or group of employers applying for a waiver for the permissible employment of 10- and 11-year-old hand harvesters of strawberries, which harvest begins around June 1, it is necessary that interested persons be informed of this release of restriction before submitting an application with respect to the 1979 strawberry harvest. Therefore, I find that notice and public procedure on these regulations are impractical, and contrary to the public interest. For these same reasons these regulations shall be effective upon publication in the Federal Register.

These regulations have been developed under the direction and control of Donald Elisburg, Assistant Secretary for Employment Standards, New Department of Labor Building, 200 Constitution Avenue, N.W., Washington, D.C. 20210.

§ 575.5 [Amended].

Accordingly, § 575.5(d) is amended as follows:

Section 575.5(d)(2) is amended by adding at the end of the list in the column designated "Pesticide" the word "Anilazine(Dyrene)" and in the column designated "Minimum entry time for 10- and 11-year-olds(days)" the figure "10".

Section 575.5(d)(3) is amended by adding at the end of the list in the column designated "Pesticide" the word "Anilazine(Dyrene)" and in the column designated "Minimum entry time for 10- and 11-year-olds(days)" the figure "2".

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Section 575.5(d)(5)(i) is amended by adding at the end of the list therein the word "Ziram."

Signed at Washington, D.C. this 14th day of May, 1979.

Donald Elisburg,
Assistant Secretary, Employment Standards.

[FR Doc. 79-15459 Filed 5-15-79; 9:47 am]
BILLING CODE 4510-27-M

GENERAL SERVICES ADMINISTRATION

41 CFR Part 101-42

Precious Metal Recovery

AGENCY: General Services Administration.

ACTION: Final rule.

SUMMARY: This regulation amends the Federal Property Management Regulations by requiring more frequent surveying and reporting by agencies to GSA of their precious-metal-generating activities and by revising the current reporting format to require additional information. These measures are being taken as a result of a U.S. General Accounting Office report dated December 28, 1977, entitled "Additional Precious Metals Can Be Recovered," (LCD-77-228) which recommended that GSA take action to improve Federal agency silver recovery programs. The changes proposed herein will, by requiring more frequent and detailed surveying and reporting of data by agencies to GSA, improve the management of Federal agency silver recovery programs.

EFFECTIVE DATE: May 16, 1979.

FOR FURTHER INFORMATION CONTACT: Mr. William S. Eckert, Director, Property Rehabilitation Division (703-557-1743).

SUPPLEMENTARY INFORMATION: The General Services Administration has determined that this regulation will not impose unnecessary burdens on the economy or on individuals and, therefore, is not significant for the purposes of Executive Order 12044.

The table of contents for Part 101-42 is amended by revising four entries, deleting one entry, and reserving one entry as follows:

PART 101-42—PROPERTY REHABILITATION SERVICES AND FACILITIES

Sec.
101-42.301-1 Guidelines for conducting agency surveys and reporting to GSA.
101-42.301-2 [Deleted]
101-42.303-1 Recovery of precious metals through the Defense Property Disposal Precious Metals Recovery Office (DPDM-R).
101-42.303-2 Utilization of DOD-recovered precious metals as Government furnished materials (GFM) in Federal procurements.
101-42.4801 Format for semiannual consolidated report to GSA on activities generating precious metals.
101-42.4802 [Reserved]

Subpart 101-42.3—Recovery of Precious Metals and Strategic and Critical Materials

1. Section 101-42.300 is revised to read as follows:

§ 101-42.300 Scope of subpart.

This subpart prescribes the policy and procedures for recovery of precious metals and strategic and critical materials from articles of excess personal property.

2. Section 101-42.301 is revised to read as follows:

§ 101-42.301 General.

GSA is responsible for the initiation of Government-wide precious metals and strategic and critical materials recovery programs, and for the issuance and administration of applicable contracts, except those issued and administered by the Department of Defense (DOD) for precious metal recovery and refinement operations. Situations will occur where, in terms of economy, efficiency, and environmental quality, it is in the best interest of the Government to recover precious metals and strategic and critical materials from articles of excess personal property instead of using other methods of disposal. GSA will determine when Government-wide recovery is appropriate on the basis of an evaluation of the supply-demand factor, the price of the commodity, the cost of recovering the precious metal or strategic and critical material, and applicable guidelines or regulations on pollution control. Precious metals that may be designated for recovery are gold, silver, and metals in the platinum group. Examples of silver-bearing scrap and waste include used photographic fixing (hypo) solution, photographic and X-ray film, silver alloys, and dental scrap. Strategic and critical materials, lists of which may be issued from time to time as provided in § 101-14.106, also may be designated for recovery.

3. Section 101-42.301-1 is revised to read as follows:

§ 101-42.301-1 Guidelines for conducting agency surveys and reporting to GSA.

Each agency having activities that generate silver or other precious metals (including used hypo solution, scrap film, and other precious-metal-bearing scrap) shall survey each of those activities regarding precious metals recovery and potential recovery information and shall submit a consolidated semiannual report (based on fiscal year) on that information to the General Services Administration (DPR), Washington, DC 20406. The consolidated report shall be submitted within 45 calendar days after the end of each half fiscal year reporting period. Each agency shall designate an individual to be responsible for coordinating the surveys, implementing and improving recovery procedures, monitoring the recovery programs, and submitting the consolidated report to GSA. Section 101-42.4801 illustrates a suggested format for the report (interagency report control number 1529-GSA-SA). The report shall contain specific information regarding the types of silver or other precious-metal-bearing scrap processed or generated; the number of activities generating silver or other precious-metal-bearing scrap and quantity generated; the estimated amounts potentially recoverable and method of estimation; the number of activities recovering precious metals from such scrap and quantity generated; the amount of precious metals recovered in troy ounces; the type of recovery equipment and method of disposition of recovered silver; the method of disposal if precious metals are not recovered; the explanation for any lack or recovery; the agency estimate of dollar savings for the report period; and any actions planned to maximize recovery.

§ 101-42.301-2 [Deleted]

4. Section 101-42.301-2 is deleted.

5. Section 101-42.302 is revised to read as follows:

§ 101-42.302 Recovery of silver from used hypo solution and scrap film.

Heads of executive agencies shall be responsible for establishing, maintaining, and pursuing a program for silver recovery from used hypo solution and scrap film.

6. Section 101-42.302-1 is revised to read as follows:

§ 101-42.302-1 Agency responsibility.

Each agency shall consider recovering silver regardless of the quantity of used hypo solution or scrap film generated. Installation of a silver recovery unit consistent with the quantity of used hypo solution generated or storage of used hypo solution or scrap film until a processable quantity is obtained are two alternatives. If an activity generates small quantities of hypo solution and tests show that there is a minimal amount of silver per gallon of solution, arrangements should be made with another activity in the area, which is using a recovery unit, to receive and process its used hypo solution to the extent feasible. When consolidation with other activities is not practicable and information and assistance with regard to recovery techniques are required, the GSA regional office serving the area or the Defense Logistics Agency (DLA) (in accordance with § 101-42.303) should be contacted. If it is determined that the silver cannot be recovered economically by Government-owned equipment or by a commercial recovery contractor, the solution or scrap film should be disposed of in accordance with Part 101-45 and in an environmentally acceptable manner.

7. Section 101-42.302-2 is revised to read as follows:

§ 101-42.302-2 General guidelines for the recovery of silver from used hypo solution.

The basic factors that determine the potential quantity of recoverable silver are: (a) The amount of used hypo solution generated; (b) the amount and type of film processed; and (c) the physical layout of the photographic facility. Since these factors may vary for each activity, a single method of recovery cannot be prescribed. Used hypo solution should be processed to recover the maximum amount of silver from the solution, consistent with overall economic feasibility and environmental considerations. Recovery can be effected either by Government-owned equipment or through use of commercial recovery contracts. Metallic replacement or electrolytic methods may be used. Various types of recovery equipment are available which permit economic silver recovery from both large and small quantities of used hypo solution.

8. Section 101-42.302-3 is revised to read as follows:

§ 101-42.302-3 General guidelines for the recovery of silver from scrap film.

Scrap film, the silver content of which varies according to the type of film and degree of exposure, is a source for recovery. A common method of recovery is periodic disposal of accumulated film by sale in accordance with Part 101-45. Another method of recovering silver is through the destruction of scrap film by burning and reducing it to ash, which can provide economy through savings in transportation costs as well as the conservation of the silver. This must be done by controlled burning without an open flue. Recovery onsite by this method should be accomplished only at those activities or installations where adequate facilities exist and the local code on burning permits it.

9. Section 101-42.302-4 is revised to read as follows:

§ 101-42.302-4 Detailed guidelines for recovery of silver from used hypo solution and scrap film.

Detailed guidelines and economic criteria for evaluating silver recovery potential and establishing recovery programs are contained in the GSA pamphlet "Guide for the Recovery of Silver from Used Fixing Solution and Scrap Film" (FPMR 101-42.3), copies of which may be obtained from GSA regional offices or from agency publications liaison officers.

10. Section 101-42.303 is revised to read as follows:

§ 101-42.303 Recovery and utilization of precious metals through the Defense Precious Metals Recovery Program.

Civilian agencies may utilize the Defense Precious Metals Recovery Program as prescribed in this § 101.42.303.

11. Section 101-42.303-1 is revised to read as follows:

§ 101-42.303-1 Recovery of precious metals through the Defense Property Disposal Precious Metals Recovery Office (DPDM-R).

Civilian agency activities which generate precious-metal-bearing scrap may utilize DPDM-R, which is a part of DLA. Accumulations of precious-metal-bearing scrap such as silver-cell batteries, missile and electronic parts, silver turnings, dental scrap, film scrap, and silver sludge recovered from used hypo solution, should be reported by letter to the Chief, Defense Property Disposal Precious Metals Recovery Office, Naval Weapons Station, Earle, Colts Neck, NJ 07722, with a request for shipping instructions. Shipping instructions will be furnished the activity by the DPDM-R within 30 calendar days following receipt of the request. Participating civilian agencies are entitled to requisition refined precious metals for use as Government-furnished material (GFM) to reduce new procurement costs in accordance with § 101-42.303-2. For additional information or recovery assistance, DLA may be contacted at the following address: DOD Precious Metals Recovery Program Manager, Attn: DLA-SIP, Cameron Station, Alexandria, VA 22314.

12. Section 101-42.303-2 is revised to read as follows:

§ 101-42.303-2 Utilization of DOD-recovered precious metals as Government-furnished materials (GFM) in Federal procurements.

To determine the need for recovered precious metals as GFM to reduce new procurement costs, each agency shall review procurements for which precious metals will be required by a contractor. Each agency having requirements for refined precious metals as GFM should submit a request to the Commander, Defense Industrial Supply Center, Attn: DISC-ODBA/YC, 700 Robbins Avenue, Philadelphia, PA 19111. Each agency requesting precious metals under the DOD precious metals recovery program shall also contribute any generated accumulations of silver, gold, platinum, and the platinum group metals (i.e., palladium, iridium, rhodium, osmium, ruthenium) to DPDM-R in accordance with § 101-42.303-1. Normally, the amount of precious metals authorized for sale to individual civilian agencies will not be restricted, except in those instances when the precious metal involved is not available in sufficient quantities to satisfy all requirements. No minimum ordering quantity is prescribed. Requiring activities will contact DISC to assure asset availability prior to the requisitioning of any quantity of precious metal other than silver. Advance inquiry for silver should be made only when requirements exceed 5,000 troy ounces. There is a nominal charge for the refined precious metals to cover the administrative and processing costs; however, such costs are substantially lower than the current market price of precious metals.

Subpart 101-42.48—Exhibits

1. Section 101-42.4800 is revised to read as follows:

§ 101-42.4800 Scope of subpart.

This subpart exhibits information referenced in the text of this Part 101-42 that is not suitable for inclusion elsewhere in that part.

2. Section 101-42.4801 is revised to change the caption and to read as follows:

§ 101-42.4801 Format for semiannual consolidated report to GSA on activities generating precious metals.

Agency _____
Address _____
Period covered _____
Date _____
Report prepared by _____
Telephone _____

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1. *Used hypo solution.*

a. Type(s) of film processed: X-ray, motion picture, other (specify).

b. Number of activities generating used hypo solution ———. Gallons generated ———.

c. Estimated amount of silver potentially recoverable (in troy ounces) ———.

d. Method of estimation.

e. Number of activities from b, above, which are recovering silver from used hypo solution ———. Gallons generated ———.

f. Amount of silver recovered (in troy ounces)———.

g. Method of recovery (equipment used) and disposition of recovered silver.

h. Method of disposal of used hypo solution for those activities not recovering silver.

i. Explanation for any lack of recovery.

2. *Scrap film.*

a. Type(s) of scrap film generated: X-ray, motion picture, other (specify).

b. Number of activities generating scrap film———. Pounds generated———.

c. Estimated amount of silver potentially recoverable (in troy ounces)———.

d. Method of estimation.

e. Number of activities from b, above, which are recovering silver from scrap film———. Pounds generated———.

f. Amount of silver recovered (in troy ounces)———.

g. Method of recovery (equipment used) and disposition of recovered silver.

h. Method of disposal of other silver-bearing scrap for those activities not recovering silver.

i. Explanation for any lack of recovery.

4. *Other precious metal-bearing scrap (gold, platinum metals, etc.).* (Please provide the information requested in this section for each type of precious metal generated other than silver.)

a. Type(s) of other precious-metal-bearing scrap.

b. Number of activities generating other precious-metal-bearing scrap———. Pounds generated———.

c. Estimated amount of the precious metal potentially recoverable (in troy ounces)———.

d. Method of estimation.

e. Number of activities from b, above, which are recovering the precious metal from such scrap———. Pounds generated———.

f. Amount of the precious metal recovered (in troy ounces)———.

g. Method of recovery (equipment used) and disposition of the recovered precious metal.

h. Method of disposal of other precious-metal-bearing scrap for those activities not recovering such metal.

i. Explanation for any lack of recovery.

5. *Estimated dollar savings for the period for each category reported and description of the formula used to compute the savings.*

6. *Actions planned by agency to maximize recovery.*

Note.—The format illustrated in this section shall be used as a guide for individual preparation pending GSA's development of a Standard form for this purpose. When the form becomes available, an announcement will be made.

§ 101–42.4802 [Reserved]

3. Section 101–42.4802 is reserved. (Sec. 205(c), 63 Stat. 390; 40 U.S.C. 486(c))

Dated: May 4, 1979.

Clarence A. Lee, Jr.,
Acting Administrator of General Services.

[FPMR Amdt. H–115]
[FR Doc. 79–15286 Filed 5–15–79; 8:45 am]
BILLING CODE 6820–96–M

DEPARTMENT OF THE INTERIOR

Bureau of Land Management

43 CFR Public Land Order Part 5662

Public Land Order; Emergency Withdrawal of Los Padres National Forest for Casitas Reservoir Watershed in California

AGENCY: Bureau of Land Management (Interior).

ACTION: Emergency withdrawal of lands in Ventura County, California.

SUMMARY: This public land order withdraws 69,305 acres of land in the Los Padres National Forest and reserves them for protection of the Casitas Reservoir Watershed in connection with the Ventura River Project of the Bureau of Reclamation.

EFFECTIVE DATE: (Date of Order)

FOR FURTHER INFORMATION CONTACT: Louis B. Bellesi, 202–343–8731.

By notice of May 4, 1979, the Secretary of the Interior was informed by the House Interior and Insular Affairs Committee that an emergency situation exists, that extraordinary measures are needed to preserve watershed values in California that would otherwise be lost, and was requested to immediately withdraw the lands described in Paragraph 1. Therefore, by virtue of the authority contained in section 204(e) of the Federal Land Policy and Management Act of 1976, 90 Stat. 2753, 43 U.S.C., 1714(e) (hereinafter referred to as the Act), it is ordered as follows:

1. Subject to valid existing rights, and existing withdrawals and reservations, the following described lands are hereby withdrawn from settlement, sale, location, or entry under the general land laws, including the mining laws, 30 U.S.C. Ch. 2, for protection of the Casitas Reservoir Watershed in the Los Padres National Forest:

San Bernardino Meridian

T. 5 N., R. 22 W.,
Sec. 6, SW¼;
Sec. 7, All;
Sec. 16, All.
T. 4 N., R 23 W.,
Sec. 5, N½N½;
Sec. 6, Lots 1, 2, 3, 4, S½NE¼, SE¼SW¼, SE¼;
Sec. 7, Lots 1, 2, 3, 6, and those portions of the SW¼NE¼ and the SE¼NW¼ lying within the Los Padres National Forest.
T. 5 N., R. 23 W.,
Sec. 1, Lots 13 to 20, inclusive, S½;
Sec. 2, Lots 13, 14, 15, 16, S½N½, S½;
Sec. 3, S½N½, S½;
Sec. 4, S½;
Sec. 5, Lot 13, S½NW¼, S½;
Sec. 6, Lots 1, 2, 3, 4, 5, 6, 7, S½NE¼, SE¼NW¼, E½SW¼, SE¼;
Sec. 7, Lots 1, 2, 3, 4, E½, E½W½;
Sec. 8, All;
Sec. 9, N½, SE¼;
Sec. 10, All;
Sec. 11, All;
Sec. 12, All;
Sec. 13, All;
Sec. 14, All;
Sec. 15, N½NE¼, SW¼NE¼, NW¼, S½;
Sec. 16, E½NW¼, W½SW¼, SE¼SW¼, SW¼SE¼, NE¼SE¼;
Sec. 17, All;
Sec. 18, Lots 1, 2, 3, 4, E½, E½W½;
Sec. 19, Lots 1, 2, 3, 4, E½, E½W½;
Sec. 20, All;
Sec. 21, All;
Sec. 22, E½NE¼, W½NW¼;
Sec. 23, N½N½, E½SW¼, S½SE¼;
Sec. 24, N½, S½SW¼, SW¼SE¼;
Sec. 25, All;
Sec. 26, All;
Sec. 27, All;
Sec. 28, All;
Sec. 29, All;
Sec. 30, Lots 1, 2, NE¼, E½NW¼, S½;
Sec. 31, All;
Sec. 32, All;
Sec. 33, All;
Sec. 34, All;
Sec. 35, All;
Sec. 36, All.
T. 6 N., R. 24 W.,
Sec. 20, Lots, 1, 2, 3, 4, E½E½;
Sec. 21, S½;
Sec. 25, SW¼SW¼;
Sec. 26, All;
Sec. 27, All;
Sec. 28, All;
Sec. 29, Lots 1, 2, 3, 4, E½E½;
Sec. 32, Lots 1, 2, 3, 4, E½E½;
Sec. 33, All;
Sec. 34, All;
Sec. 35, All;
Sec. 36, All.
T. 5 N., R. 25 W.,
Sec. 1, Lots 1, 2, 3, 4, S½N½, S½;
Sec. 2, Lots 1, 2, 3, 4, S½NE¼, SE¼NW¼, NE¼SW¼, SE¼;
Sec. 11, NE¼NE¼;
Sec. 12, All;
Sec. 13, All;
Sec. 24, NE¼NE¼.
T. 6 N., R. 25 W.,
Sec. 13, All;
Sec. 24, All;
Sec. 25, All;
Sec. 35, E½;
Sec. 36, All.

Also all of that unsurveyed area, containing approximately 4,500 acres, that exists as an hiatus between the northerly boundary line of Sections 2, 3, 4, 5, and 6, T. 5 N., R. 24 W., and the southerly boundary line of T. 6 N., R. 24 W., and lying between the northerly prolongation of the easterly boundary line of said Section 2, T. 5 N., R. 24 W., and the northerly prolongation of the westerly boundary line of said T. 5 N., R. 24 W.

The above described area contains approximately 69,305 acres of public domain land in the Los Padres National Forest. The lands are located in Ventura County, California.

2. The primary purpose of this withdrawal is to protect the Casitas Reservoir Watershed from mining claim location which could jeopardize the water supply for the cities of Ojai and Ventura.

3. This emergency withdrawal shall remain in effect for a period not to exceed three years unless extended under the provisions of subsection (c)(1) and (b)(1) of section 204 of the Act.

Cecil D. Andrus,
Secretary of the Interior.

May 9, 1979.

[Public Land Order 5662]
[FR Doc. 79–15265 Filed 5–15–79; 8:45 a.m.]
BILLING CODE 4310–84–M

INTERSTATE COMMERCE COMMISSION

49 CFR Part 1033

Hillsdale County Railway Co., Inc., Authorized To Operate Tracks of Consolidated Rail Corp.

AGENCY: Interstate Commerce Commission.

ACTION: Corrected Service Order No. 1378.

SUMMARY: In paragraph (a) of Service Order No. 1378 the word "sending" was corrected to read "serving."

DATES: Effective 4:00 p.m., May 7, 1979. Expires when modified or vacated by order of this Commission.

FOR FURTHER INFORMATION CONTACT: J. Kenneth Carter, Chief, Utilization and Distribution Branch, Interstate Commerce Commission, Washington, D.C. 20423, Telephone (202) 275–7840, Telex 89–2742.

SUPPLEMENTARY INFORMATION: The Corrected Order is printed in full below.

Decided May 4, 1979.

Consolidated Rail Corporation (CR) is unable to operate its engines over CR Bridge No. 373.5 near Quincy, Michigan, due to weight restrictions caused by flood damage. Shippers located east of this bridge are being deprived of railroad service because of the inability of CR to switch the industries. CR can shove the rail cars across the bridge and the Hillsdale County Railway Company, Inc. (HCRC) can switch the cars by operating over the tracks of CR near Quincy in order to restore essential railroad service to these industries.

It is the opinion of the Commission that an emergency exists requiring the

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operation of HCRC trains over these tracks of CR in the interest of the public; that notice and public procedure are impracticable and contrary to the public interest; and that good cause exists for making this order effective upon less than thirty days' notice.

It is ordered, That:

§ 1033.1378 Corrected Service Order No. 1378.

(a) *Hillsdale County Railway Company Inc. authorized to operate over tracks of Consolidated Rail Corporation.* The Hillsdale County Railway Company Inc. (HCRC) is authorized to operate over tracks of Consolidated Rail Corporation (CR) between CR milepost 378.2 and CR Bridge No. 373.5 on CR Quincy Branch near Quincy, Michigan, for the purpose of* serving industries located adjacent to these tracks.

(b) *Application.* The provisions of this order shall apply to intrastate and foreign traffic.

(c) *Rates applicable.* Inasmuch as this operation by the HCRC over tracks of CR is deemed to be due to carrier's disability, the rates applicable to traffic moved by HCRC over the tracks of CR shall be the rates which were applicable on the shipments at the time of shipment as originally routed.

(d) *Effective date.* This order shall become effective at 4:00 p.m., May 7, 1979.

(e) *Expiration date.* The provisions of this order shall expire at 11:59 p.m., June 30, 1979, unless otherwise modified, changed or suspended by order of this Commission.

(49 U.S.C. (10304–10305 and 11121–11126).)

This order shall be served upon the Association of American Railroads, Car Service Division, as agent of all railroads subscribing to the car service and car hire agreement under the terms of that agreement and upon the American Short Line Railroad Association. Notice of this order shall be given to the general public by depositing a copy in the Office of the Secretary of the Commission at Washington, D.C., and by filing a copy with the Director, Office of the Federal Register.

By the Commission, Railroad Service Board, members Joel E. Burns, Robert S. Turkington and John R. Michael.

H. G. Homme, Jr.,
Secretary.

[Corrected S.O. No. 1378]

[FR Doc. 79-15269 Filed 5-15-79; 8:45 am]

BILLING CODE 7035-01-M

*Denotes change.

DEPARTMENT OF THE INTERIOR

Fish and Wildlife Service

50 CFR Part 26

Amendment to the Opening of Certain National Wildlife Refuges to Public Access, Use, and Recreation: Massachusetts

AGENCY: United States Fish and Wildlife Service, Department of the Interior.

ACTION: Special regulation—amendment.

SUMMARY: 50 CFR Part 26.34 which appeared in **Federal Register** Document Vol. 43, No. 52 on March 16, 1978, pages 10924–26 is amended in part. To avoid confusion the entire regulation for only those refuges which are being amended are included in this document. The Director has determined that the opening to public access, use and recreation of certain national wildlife refuges in Massachusetts, is compatible with the objectives for which the areas were established and will provide additional recreational opportunity to the public through a non-consumptive use. This document establishes special regulations governing this use.

DATES: January 1, 1978 through December 31, 1980.

ADDRESSES: Contact the Refuge Manager at the address and/or telephone number listed below in the body of Special Regulations.

FOR FURTHER INFORMATION CONTACT: Howard N. Larsen, Regional Director, U.S. Fish and Wildlife Service, One Gateway Center, Suite 700, Newton Corner, Massachusetts 02158 (617–965–5100 Ext. 200).

SUPPLEMENTARY INFORMATION: Public access, use and recreation is permitted on the national wildlife refuges indicated below in accordance with 50 CFR Part 26 and the following Special Regulations. Portions of refuges which are open to public access, use and recreation are designated by signs and/or shown on maps available from addresses indicated below. No vehicle travel is permitted except on designated roads and trails. Special regulations applying to individual refuges are listed on leaflets available at refuge headquarters and from the Regional Director, U.S. Fish and Wildlife Service, One Gateway Center, Suite 700, Newton Corner, Massachusetts 02158.

The Refuge Recreation Act of 1962 (16 U.S.C. 460k) authorizes the Secretary of the Interior to administer such areas for public recreation as an appropriate incidental or secondary use only to the extent that it is practicable and not inconsistent with the primary objectives for which the area was established. In addition, the Refuge Recreation Act requires (1) that any recreational use permitted will not interfere with the primary purpose for which the area was established; and (2) that funds are available for the development, operation, and maintenance of the permitted forms of recreation.

The recreational use authorized by these regulations will not interfere with the primary purposes for which these National Wildlife Refuges were established. This determination is based upon consideration of, among other things, the Service's Final Environmental Statement on the Operation of the National Wildlife Refuge System published in November 1976. Funds are available for the administration of the recreational activities permitted by these regulations.

Public entry shall be in accordance with all applicable Federal and State laws and regulations subject to the following special regulations:

§ 26.34 Special regulations concerning public access, use, and recreation; for individual national wildlife refuges.

Public access, use and recreation is permitted on the following refuges: Parker River National Wildlife Refuge, Northern Boulevard, Plum Island, Newburyport, Massachusetts 01950. Contact George Gavutis, Refuge Manager, at 617–465–5753. Special conditions: Entry into those portions of the refuge not posted as closed is permitted for certain uses. The entrance gate at the south end of Sunset Boulevard is the only legal point of access on the island portion of the refuge. Visitor hours are generally dawn to dusk, but, at times of high public use, the entrance gate may be closed and access denied by refuge officials to protect the wildlife habitat from overuse. Sight-seeing, nature study, photography, hiking, snowshoeing, and cross-country skiing are permitted. Vehicle parking is permitted only in designated lots. Parking may be restricted to certain purposes and conditions designated by special signs. Boating is permitted on navigable tidal waters which lie within the refuge. Public boat launching and landing is not permitted on the refuge except during the waterfowl hunting season (see Part 32.12—Hunting). The entire refuge beach has no lifeguards. Swimming will be at the visitor's own risk. A limit of 3 quarts each of plums and cranberries per person per year may be picked from the first Tuesday after Labor Day until October 31. Cranberry rakes or scoops are not permitted. Access to clam flats for clamming is permitted across refuge marshes on designated trails. Permits are required and may be obtained at the refuge. Small cooking fires are permitted only on the ocean beach. No other fires are permitted at other locations on the refuge. Alcoholic beverages, camping, tents, camping trailers, floating devices (including surfboards), and nudity are not permitted on the refuge. Nudity is defined as failure by persons over 10 years of age to cover with fully opaque covering their own genitals, pubic areas, rectal area or female breasts below a point immediately above the top of the areola when in a public place. Pets and horses are not permitted on the refuge. Dogs may be used for hunting in accordance with refuge hunting regulations (see Part 32.12—Hunting). Pets are not allowed on the refuge at any other time or under any other condition except under Special Use Permit. Group activities may be confined to the northern one-quarter mile of ocean beach east of Lot 1. Advance reservations and permits are required, group size is limited to 60 persons, and there must be at least one adult supervisor for every 10 children. Identification must be displayed upon request of any authorized officer. Refusing to display identification or providing false information to any authorized officer of the United States or any local or State government is prohibited. The possession of any device (clubs, knives, metal knuckles, etc.) prohibited by State law and/or deemed a dangerous weapon by refuge officials is prohibited. Bicycles and registered motor vehicles are permitted only on the main refuge road and in numbered parking areas except when being used under the terms of a special permit for over-the-sand surf fishing vehicles (see Part 33—Sport Fishing). Snowmobiles, air-cushion, all-terrain, hang-gliders or other similar vehicles or devices deemed improper by refuge agents are not permitted on the refuge.

Great Meadows National Wildlife Refuge, 191 Sudbury Road, Concord, Massachusetts 01742. Contact David Beall, Refuge Manager, at 617–369–5518. Special conditions: Entry to the parking areas on foot, bicycle or by registered motor vehicle is permitted during daylight hours. Foot and bicycle travel is permitted on designated routes. Nature study, photography, hiking, ice skating, snowshoeing and cross-country skiing are permitted. Entry upon the refuge of any unconfined domestic animal, including, but not limited to dogs, cats, hogs, horses, sheep and cattle, is prohibited. Pets are permitted if on a leash not over 10 feet in length, one end of which in handheld so as to restrict the movements of the animal.

Oxbow National Wildlife Refuge, Harvard, Massachusetts, under the administration of Great Meadows National Wildlife Refuge, 191 Sudbury Road, Concord, Massachusetts 01742. Contact David Beall, Refuge Manager, at 617–369–5518. Special conditions: Entry by foot, bicycle, or motor vehicle is permitted along the tank road for the purposes of nature study, photography, hiking, snowshoeing and cross-country skiing. Parking for vehicles is available at designated areas. Entry upon the refuge of any unconfined domestic animal, including, but not limited to dogs, cats, hogs, horses, sheep and cattle, is prohibited. Pets are permitted if on a leash not over 10 feet in length, one end of which is handheld so as to restrict the movements of the animal.

Monomoy National Wildlife Refuge, Chatham, Massachusetts, under the administration of Great Meadows National Wildlife Refuge, 191 Sudbury Road, Concord, Massachusetts 01742. Contact David Beall, Refuge Manager, at 617–369–5518. Special conditions: Foot entry to the Monomoy Wilderness Area is permitted for photography, nature study, and hiking during daylight hours and fishing 24 hours per day. Shellfishing is permitted in accordance with Town of Chatham regulations. Entry upon the refuge of any unconfined domestic animal, including, but not limited to dogs, cats, hogs, horses, sheep and cattle, is prohibited. Pets are permitted if on a leash not over 10 feet in length, one end of which is handheld so as to restrict the movements of the animal. Fires are permitted on the ocean beach. Boats may be beached on the refuge. Erection of tents and other structures is not permitted. Entry to the Morris Island portion of Monomoy Refuge is permitted during daylight hours by advance reservation for photography, nature study, and hiking. Only a limited number of motor vehicles can be accommodated on the refuge at the designated parking area adjacent to the refuge headquarters. Entrance permits for specific dates are issued by mail or by telephone during the period June 1 through September 10, of each year at the Monomoy National Wildlife Refuge office, Wiki Way, Morris island, Chatham, Massachusetts 02633, telephone 617–945–0594; or during the period January 1 through May 31, and September 11 through December 31, of each year from the Refuge Manager, Great Meadows National Wildlife Refuge.

The provisions of this special regulation supplement the regulations which govern public access, use and recreation on wildlife refuge areas generally which are set forth in Title 50, Code of Federal Regulations, Part 26. The public is invited to offer suggestions and comments at any time.

Note.—The Department of the Interior has determined that this document is not a significant rule and does not require a regulatory analysis under Executive Order 12044 and 43 CFR Part 14.

William C. Ashe,
Acting Regional Director, Fish and Wildlife Service.

May 7, 1979.

[FR Doc. 79-15192 Filed 5-15-79; 8:45 am]

BILLING CODE 4310-55-M

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Proposed Rules

Federal Register
Vol. 44, No. 96
Wednesday, May 16, 1979

This section of the FEDERAL REGISTER contains notices to the public of the proposed issuance of rules and regulations. The purpose of these notices is to give interested persons an opportunity to participate in the rule making prior to the adoption of the final rules.

DEPARTMENT OF ENERGY

[10 CFR Part 600]

Cooperative Agreements; Correction

AGENCY: Department of Energy.

ACTION: Corrections to notice of proposed rule.

SUMMARY: On April 5, 1979, the Department of Energy published in the **Federal Register** (44 CFR 20594, April 5, 1979) a Notice of Proposed Rule Making for the Department of Energy Assistance Regulations (DOE–AR), Subpart C, Cooperative Agreements. The following document makes editorial corrections to the document as it appeared in the April 5, 1979, publication.

DATE: Comments due date is extended to on or before June 15, 1979.

ADDRESS: Send comments to Mr. James P. Beiriger, Procurement and Contracts Management Directorate, Financial Assistance Policy Branch, PR–212, U.S. Department of Energy, MS–400 RB, Washington, D.C. 20585.

FOR FURTHER INFORMATION CONTACT: Mr. James P. Beiriger, Telephone (202)–376–1768.

SUPPLEMENTARY INFORMATION: The following corrections should be made in the Federal Register Document 79–10402 appearing on page 20594 in the Federal Register of Thursday, April 5, 1979.

1.—In the *"Summary"*, line 12 is corrected to read "assistance instruments and Subpart B".

2.—(a) In "*For Further Information Contact*", line 2, delete comma after Contracts.

(b) In addresses for James P. Beiriger, the zip code is corrected to read 20585.

3.—In "*Regulatory Requirements*":

(a) First paragraph, line 10, delete the period after et.

(b) Second paragraph, lines 12/13, "DOE Order 2030" is corrected to read "DOE Order 2030.1".

4.—In "*Effect on Existing Policies*", first paragraph, line 7 is corrected to read "provided in section 600.5. Section 600.5".

§ 600.211 [Amended]

5.—In § *600.211(c)(6)*, line 3, delete the sign >.

§ 600.214 [Amended]

6.—In § *600.214(b)(2)*, line 6 is corrected to read "projects in competing technologies in".

§ 600.231 [Amended]

7.—In § *600.231.1(a)*, line 3, add a comma after "program office".

§ 600.232 [Amended]

8.—In § *600.232(a)*, line 5, the words Program Opportunity Notices should be capitalized.

9.—In § *600.232*, the entire paragraph appearing after (b)(6)(xiii) should be inserted after (b)(6)(vi)(N).

§ 600.233 [Amended]

10.—In § *600.233(a)(1) and (4)*, reference to "small and minority business concerns" is corrected to read "small business concerns and small business concerns owned and controlled by socially and economically disadvantaged individuals".

11.—In § *600.233(a)(7)*, insert "(iii) Information to be provided in the proposal;" and change existing "(iii)" to read "(iv)".

12.—In § *600.233(a)(8)(ii)*, last line, delete period after 2.

§ 600.283 [Amended]

13.—In § *600.283(a)(2)(iii)*, line 1 is corrected to read "States how project and"

14.—In § *600.283(a)(3)(i)*, line 7, delete comma after "acceptable".

15.—In § *600.283(a)(3)(iv)(C)*, "41 CFR 9–15" is corrected to read "41 CFR 9–15.2".

§ 600.290 [Amended]

16.—In § *600.290(b)(4)*, line 15 is corrected to read "agreements having as a purpose the".

17.—In § *600.290(c)*, line 4 is corrected to read "paragraph (b)(4) of this section in all".

18.—In § *600.290(e)(1)*, "Payment or Overtime Premiums" is corrected to read "Payment for Overtime Premiums"

19.—In *Exhibit No. 2, B*, line 7 is corrected to read "required in contracts and subcontracts".

20.—In *Exhibit No. 2, B(2)*, third paragraph, line 3 is corrected to read "solicitation standards and criteria for"

21.—In *Exhibit No. 2, Attachment D(a)(4)*, line 12 is corrected to read "potential subcontractors which are small".

For the Department of Energy.

Issued in Washington, D.C., May 10, 1979.

M. J. Tashjian,
Director, Procurement and Contracts Management Directorate.

[FR Doc. 79–15280 Filed 5–15–79; 8:45 am]

BILLING CODE 6450–01–M

CIVIL AERONAUTICS BOARD

[14 CFR Parts 253, 399]

Commissions for Sale of Air Transportation; General Policy Statements

Dated: May 10, 1979.

AGENCY: Civil Aeronautics Board.

ACTION: Notice of proposed rulemaking.

SUMMARY: The CAB proposes to eliminate the requirements that air carriers file a schedule of their commissions for the sale of air transportation. This action is taken at the CAB's own initiative, because it finds the usefulness of the filings does not justify their cost.

DATES: Comments by: July 16, 1979. Comments and other relevant information received after this date will be considered by the Board only to the extent practicable.

ADDRESSES: Twenty copies of comments should be sent to Docket 35514, Civil Aeronautics Board, 1825 Connecticut Avenue, NW., Washington, D.C. 20428. Individuals may submit their views as consumers without filing multiple copies. Copies may be examined in Room 711, Civil Aeronautics Board, 1825 Connecticut Avenue, NW., Washington, D.C. as soon as they are received.

FOR FURTHER INFORMATION CONTACT: David Schaffer, Office of the General Counsel, Civil Aeronautics Board, 1825 Connecticut Avenue, NW., Washington, D.C. 20428; 202–673–5442.

SUPPLEMENTARY INFORMATION:

Background

By ER–1108, 44 FR 11208, February 28, 1979, the Board reduced the number of copies of commission schedules that

must be filed by air carriers under Part 253 (14 CFR Part 253). Before deciding on this filing reduction, the Board also considered eliminating Part 253 entirely. Although it did not do so at that time, after further consideration the Board has tentatively decided that this filing requirement is no longer necessary.

Part 253 was originally adopted by the Board (ER–961, 41 FR 30107 July 22, 1976) to end the payment of commissions for international transportation that carriers alleged to be excessive. They were considered excessive because the payments were made on the basis of whatever the market would bear and had little relationship to the value or costs of the travel agent's services. It seemed that excessive commissions could be used to rebate part of the fare to certain passengers in violation of section 403(b) of the Federal Aviation Act. Also, the Board believed high commissions were injurious to the air transportation industry because they eroded carrier revenue, and to consumers because they might eventually cause increases in fares. The Board also stated that excessive commissions hurt most travel agents, although presumably not those receiving this windfall.

Part 253 is only a disclosure provision. It requires air carriers to file with the Board a schedule of the amount of compensation that they intend to pay to travel agents and other intermediaries for the sale of air transportation. Under 14 CFR 399.85 any deviation by the carrier from its commission schedule on file is considered an unfair and deceptive practice in violation of section 411 of the Act. The Board felt that disclosure would overcome the problems mentioned above as well as alleviating any anticompetitive effects on the travel industry caused by the payment of undisclosed commissions. There is nothing, however, in any Board rules that limits the amount of commissions that can be paid as long as they conform to the schedule on file with the Board.

Reasons for Elimination

Since the adoption of Part 253, the law and the Board's policy have changed, so that it now appears that Part 253 is based on outdated policies. There is a distinct possibility that requiring advance disclosure of commissions and adherence to the filed schedule tends to dampen competition in the setting of commission levels. The required adherence to the filed schedule precludes bargaining on the amount to be paid, and advance disclosure allows carriers to learn in advance what others are paying. This could lead to price-leadership, which the Board's rules (§ 399.85) might operate to enforce. In such circumstances, the Board has tentatively decided that any possible benefits the reports might have are probably outweighed by the costs to the carriers of making them and the costs to the Board of enforcing them. Moreover, the information supplied by these schedules could be obtained by the Board's ad hoc collection of data under § 407 of the Act. This would eliminate the anticompetitive potential of regular Part 258 reports.

Proposed Rule

Accordingly, the Civil Aeronautics Board proposes to amend Chapter II of Title 14, CFR as follows:

PART 253 [Revoked and Reserved]

1. Part 253, *Commissions for Sale of Air Transportation*, would be revoked and reserved.

§ 399.85 [Revoked and Reserved]

Section 399.85 of Part 399, *Statements of General Policy*, would be revoked and reserved.

(Sections 204, 403, 407 of the Federal Aviation Act of 1958, as amended, 72 Stat. 743, 758, 83 Stat. 103; 49 U.S.C. 1324, 1373, 1377.)

By the Civil Aeronautics Board:

Phyllis T. Kaylor,
Secretary.

[EDR–376/PSDR–60; Docket No. 35514]

[FR Doc. 79–15201 Filed 5–15–79; 8:45 am]

BILLING CODE 6320–01–M

FEDERAL TRADE COMMISSION

[16 CFR Part 13]

Bankers Life and Casualty Company, et al.; Consent Agreement with Analysis To Aid Public Comment

AGENCY: Federal Trade Commission.

ACTION: Consent agreement.

SUMMARY: In settlement of alleged violations of federal law prohibiting unfair acts and practices and unfair methods of competition, this consent order, accepted subject to final Commission approval, among other things, would require Bankers Life and Casualty Company (Bankers Life), eleven corporate associates and an individual, all engaged in the advertising, promotion and sale of undeveloped land, to cease misrepresenting that undeveloped land purchase is a safe investment, involves little financial risk, and is a means of achieving financial security. The order would require that all advertising, promotional materials and sales contracts include specified disclosures regarding risks involved in undeveloped land investment; the advisability of consulting with a real estate specialist prior to contracting; the availability and cost of utilities; and the identity of lots in flood plain areas. The companies would have to provide purchasers with cooling-off periods and information regarding their right to cancellation and refund. The firms would also be prohibited from mortgaging any subdivision in the future, without ensuring that paid-up purchasers of lots in that subdivision will receive their warranty deeds, and be permitted to retain their rights. Additionally, the order would require the firms to make prescribed restitution to eligible purchasers who defaulted on their payments; and provide all active and paid-in-full purchasers, who had contracted for land at particular subdivisions during a certain time period, with an opportunity to cancel their contracts and receive specified refunds. Bankers Life would be held responsible for assuring that proper restitution is made.

DATE: Comments must be received on or before July 16, 1979.

ADDRESS: Comments should be directed to: Office of the Secretary, Federal Trade Commission, 6th St. and Pennsylvania Ave., NW., Washington, D.C. 20580.

FOR FURTHER INFORMATION CONTACT: Paul C. Daw, Director, 6R, Denver Regional Office, Federal Trade Commission, Suite 2900, 1405 Curtis St., Denver, Colo. 80202. (303) 837–2271.

SUPPLEMENTARY INFORMATION: Pursuant to Section 6(f) of the Federal Trade Commission Act, 38 Stat. 721, 15 U.S.C. 46 and § 3.25(f) of the Commission's Rules of Practice (16 CFR 3.25(f)), notice is hereby given that the following consent agreement containing a consent order to cease and desist and an explanation thereof, having been filed with and accepted, subject to final approval, by the Commission, has been placed on the public record for a period of sixty (60) days. Public comment is invited. Such comments or views will be considered by the Commission and will be available for inspection and copying at its principal office in accordance with Section 4.9(b)(14) of the Commission's Rules of Practice (16 CFR 4.9(b)(14)).

In the Matter of Bankers Life and Casualty Company, Southern Realty & Utilities Corp., Hartsel Ranch Corporation, and Estates of the World, Inc., corporations; San Luis Valley Ranches, Inc., Larwill Castilla Ranches, Inc., Rio Grande Ranches of Colorado, Inc., Top of the World, Inc., Materic, Inc., and G–R–P

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Corporation, corporations; Trustees of Colorado Properties, Inc. and Milco Associates, Inc. corporations; Richard Greenberg, an individual.

Agreement Containing Consent Order To Cease and Desist

The agreement herein, by and between Bankers Life and Casualty Company, Southern Realty & Utilities Corp., Hartsel Ranch Corporation, Estates of the World, Inc., Milco Associates, Inc., Larwill Costilla Ranches, Inc., Rio Grande Ranches of Colorado, Inc., Trustees of Colorado Properties, Inc., Top of the World, Inc., San Luis Valley Ranches, Inc., G–R–P Corporation and Materic, Inc., corporations, by their duly authorized officers and by their attorneys, and Richard Greenberg, an individual, and his attorney and counsel for the Federal Trade Commission, is entered into in accordance with the Commission's rules governing consent order procedure:

1. Respondent Bankers Life and Casualty Company is a corporation organized, existing and doing business under and by virtue of the laws of the State of Illinois, with its principal place of business located at 4444 West Lawrence Avenue, Chicago, Illinois.

Respondent Southern Realty & Utilities Corp., is a corporation organized, existing and doing business under and by virtue of the laws of the State of Delaware, with its principal place of business located at 1301 Copans Road, Pompano Beach, Florida.

Respondent Hartsel Ranch Corporation is a corporation organized, existing and doing business under and by virtue of the laws of the State of Florida, with its principal place of business located at 1301 Copans Road, Pompano Beach, Florida.

Respondent Estates of the World, Inc. is a corporation organized, existing and doing business under and by virtue of the laws of the State of Hawaii, with its principal place of business located at 4810 North Kenneth Avenue, Chicago, Illinois.

Respondent San Luis Valley Ranches, Inc. is a corporation organized, existing and doing business under and by virtue of the laws of the State of Colorado, with its principal place of business located at 201 Carson Avenue, Alamosa, Colorado.

Respondent Larwill Costilla Ranches, Inc. is a corporation organized, existing and doing business under and by virtue of the laws of the State of Colorado, with its principal place of business located at 201 Carson Avenue, Alamosa, Colorado.

Respondent Rio Grande Ranches of Colorado, Inc. is a corporation organized, existing and doing business under and by virtue of the laws of the State of Colorado, with its principal place of business located at 201 Carson Avenue, Alamosa, Colorado.

Respondent Top of the World, Inc. is a corporation organized, existing and doing business under and by virtue of the laws of the State of Colorado, with its principal place of business located at 201 Carson Avenue, Alamosa, Colorado.

Respondent Materic, Inc. is a corporation organized, existing and doing business under and by virtue of the laws of the State of California, with its principal place of business located at 2049 Century Park East, Los Angeles, California.

Respondent G-R-P Corporation is a corporation organized, existing and doing business under and by virtue of the laws of the State of Colorado, with its principal place of business located at 2049 Century Park East, Los Angeles, California.

Respondent Trustees of Colorado Properties, Inc. is a corporation organized, existing and doing business under and by virtue of the laws of the State of Florida, with its principal place of business located at 2601 Biscayne Boulevard, Miami, Florida.

Respondent Milco Associates, Inc. is a corporation organized, existing and doing business under and by virtue of the laws of the State of Florida, with its principal place of business located at 2601 Biscayne Boulevard, Miami, Florida.

Respondent Richard Greenberg is an individual whose address is 2049 Century Park East, Los Angeles, California.

2. Respondents have been served with a copy of the complaint issued by the Commission. Subsequently, the parties entered into negotiations and filed a joint motion to withdraw the matter from adjudication pursuant to Section 3.25 of the Commission's Rules.

3. Respondents admit all the jurisdictional facts set forth in the complaint.

4. Respondents waive:

(a) Any further procedural steps;

(b) The requirement that the Commission's decision contain a statement of findings of fact and conclusions of law; and

(c) All rights to seek judicial review or otherwise to challenge or contest the validity of the Order entered pursuant to this Agreement.

5. This Agreement shall not become a part of the official record of this proceeding unless and until it is accepted by the Commission. If this Agreement is accepted by the Commission, it will be placed on the public record pursuant to the Commission Rules for a period of sixty (60) days and information in respect thereto publicly released; and such acceptance may be withdrawn by the Commission if thereafter it deems the agreement inappropriate.

6. This Agreement is for settlement purposes only and does not constitute an admission by respondents that the law has been violated as alleged in the complaint.

7. This Agreement contemplates that, if accepted by the Commission, and if such acceptance is not subsequently withdrawn by the Commission pursuant to the provisions of Section 3.25 of the Commission Rules, the Commission may, without further notice to respondents:

(a) Issue its decision containing the following Order to cease and desist in disposition of this proceeding; and

(b) Make information public with respect thereto. When so entered, the Order to cease and desist shall have the same force and effect and may be altered, modified or set aside in the same manner and within the same time provided by statute for other orders. The Order shall become final upon service. The complaint may be used in construing the terms of the Order, and no agreement, understanding, representation or interpretation not contained in the Order or this Agreement may be used to vary or contradict the terms of the Order.

8. Respondents understand that once the Order has been issued, they will be required to file one or more compliance reports pursuant to the Commission Rules showing that they have fully complied with the Order, and that they may be liable for a civil penalty in the amount provided by law for each violation of the Order after it becomes final.

9. It is agreed that the relief set forth in the Order contained herein fully satisfies any claim for consumer redress which the Commission has under Sections 5 and 19 of the Federal Trade Commission Act, as amended, arising out of the acts and practices alleged in the complaint which occurred prior to the effective date of the Order relating to the following developments: Hartsel Ranch, Estates of the World, Rio Grande Ranches, Larwill Costilla Ranches, Top of the World and San Luis Valley Ranches. By its final acceptance of this Agreement, with such modifications, if any, which the parties may make prior to said final acceptance, the Commission waives its right to commence a civil action under Section 19 of the Federal Trade Commission Act, as amended, with respect to the acts and practices alleged in the Commission's complaint which occurred prior to the effective date of the Order relating to said developments.

Order

For purposes of this Order, unless otherwise provided, the following definitions shall be applicable:

"Purchaser" shall mean a person to whom a respondent offers to sell or sells one or more lots in a subdivision; provided, however, that a "purchaser" shall not include a person who purchases land in a single transaction for a sum in excess of $25,000.

"Land" or "subdivision" shall mean any real property which is divided or proposed to be divided into 50 or more units, whether configuous or not, for the purpose of sale or lease to purchasers as part of a common promotional plan.

"Contract" shall mean a written agreement for the sale of land to purchasers.

"Business day" shall mean any calendar day except Saturday, Sunday, or the following business holidays: New Year's Day, Washington's Birthday, Memorial Day, Independence Day, Labor Day, Columbus Day, Veterans Day, Thanksgiving Day and Christmas Day.

"Property Report" includes documents sometimes referred to as an Offering Statement or Prospectus.

"Respondent which sold the lot" shall mean the title owner or his sales agent.

"Inconsistent" shall mean mutually repugnant or contradictory one to the other.

For purposes of this Order, a requirement to cease and desist from representing or misrepresenting shall include representing or misrepresenting directly or indirectly. For purposes of this Order, all required disclosures shall be made in a clear and conspicuous manner.

I.

It is ordered that respondents Bankers Life and Casualty Company, Southern Realty & Utilities Corp., Hartsel Ranch Corporation, Estates of the World, Inc., Milco Associates, Inc., Larwill Costilla Ranches, Inc., Rio Grande Ranches of Colorado, Inc., Trustees of Colorado Properties, Inc., Top of the World, Inc., San Luis Valley Ranches, Inc., G–R–P Corporation and Materic, Inc., corporations, and their officers, successors, assigns, agents, representatives, and employees, directly or through any corporation, subsidiary, division, or other entity, in connection with the advertising, offering for sale or sale of land in or affecting commerce, as "commerce" is defined in the Federal Trade Commission Act, do forthwith cease and desist from:

A. Representing:

1. That land or lots are a good or safe investment, or that the purchase of a lot is a good or safe investment.

2. That there is little or no financial risk involved in the purchase of lots.

3. That the resale of a purchased lot is not difficult.

4. That the value of, or demand for, any land, including lots being offered for sale or previously sold, has increased, or will increase, or that purchasers have made, or will in the future make, a profit by reason of having purchased such land.

5. That the prices of lots periodically rise or that prices of said lots are increasing, have increased or will increase, without disclosing at the same time, and by the same medium by which the price increases are communicated, that the price increases of lots do not in any way relate to the value of said lots.

6. That the purchase of a lot is a way to achieve financial security or prosperity, to deal with inflation or to become wealthy.

7. That the land in any subdivision will soon be unavailable or that prospective purchasers must purchase a lot in a subdivision immediately to ensure that such lot will be available.

8. That subdivision land and the area surrounding it are comparable, similar or analogous either to urban, metropolitan and industrial areas or to mountain resort areas or to recreation areas.

9. That the growth in land values or potential growth in land values at a subdivision corresponds to or will correspond to the growth in land values at any other locality. The word "locality" includes, but is not limited to, cities, towns, counties, townships, boroughs, states and regions. Provided, however, it shall be a defense that at the time a representation was made, it was true and the maker of the representation possessed data substantiating the representation. Such substantiating data shall be maintained for at least three years from the making of the representation it substantiates and shall be made available to the Commission upon request.

B. Including in any contract for the sale of subdivision land, or in the documents shown or provided to purchasers or prospective purchasers of subdivision land:

1. Language to the effect that no express or implied representations have been made in connection with the sale or offering for sale of such land, other than those set forth in the contract.

2. Language to the effect that upon a failure of the purchaser to pay any installment due under the contract or otherwise to perform any obligation under the contract, the respondent which sold the lot shall be entitled to retain sums previously paid thereunder by the purchaser, except as provided in Section V of this Order.

3. Any waiver, limitation or condition on the right of a purchaser to cancel a transaction or receive a refund under any provision of this Order, except as such waiver, limitation or condition is expressly allowed by this Order.

C. Misrepresenting the right of a purchaser under any provision of this Order or any applicable statute or regulation to cancel a transaction or receive a refund.

D. Making misrepresentation concerning the rights or obligations of a respondent or purchaser which differs in any respect from the rights or obligations of the parties as stated in the contract or Property Report.

E. Making any statement or representation concerning the proximity to any subdivision of any existing or future city, place, facility, body of water or road without disclosing, in immediate conjunction therewith and with the same conspicuousness as such statement of representation, the approximate distance to the nearest two (2) miles in road miles from the center of the subdivision to the downtown or geographical center of the city, place or facility referred to, or in the case of a body of water or a road, to the nearest point at which such body of water or road is accessible to entry and use by purchasers.

F. Making any statement or representation concerning any credit, refund or other monetary benefit or remuneration to purchasers or prospective purchasers from the respondent which sold the lot unless such is a fact and unless any conditions or limitations attached to such credit, refund, benefit or remuneration are disclosed.

II.

It is further ordered that each of the respondents Bankers Life and Casualty Company, Southern Realty & Utilities Corp., Hartsel Ranch Corporation, Estates of the World, Inc., Milco Associates, Inc., Larwill Costilla Ranches, Inc., Rio Grande Ranches of Colorado, Inc., Trustees of Colorado Properties, Inc., Top of the World, Inc., San Luis Valley Ranches, Inc., G–R–P Corporation and Materic, Inc. corporations, and their officers, successors, assigns, agents, representatives, and employees, directly or through any corporation, subsidiary, division, or other entity, in connection with the advertising, offering for sale or sale of land in or affecting commerce, as "commerce" is defined in the Federal Trade Commission Act, do forthwith:

A. Set forth in all sales and promotional material and advertising relating to the sale of land, except billboards, the following statement: Risk Factor. Since land values are uncertain, you should consult a qualified professional before purchasing.

B. Set forth as the title on the first page of any contract for the sale of land in 12-point boldface type "CONTRACT FOR THE PURCHASE OF LAND."

C. Set forth on the first page of all contracts for the sale of land in 10-point boldface type the following statement: This is a contract by which you agree to purchase land. The future value of this land, as well as all undeveloped real estate, is uncertain. You should not assume that the value of land will increase. Do not assume that you will be able to resell your land without significant community development and population growth.

D. Set forth on the first page of all contracts for the sale of lots such of the following statements as are applicable:

1. For contracts for the sale of lots where the respondent which sold the lot is not obligated to provide electricity, water, and sewage disposal by central systems, but where all such utilities are available by other means, the following statment: This undeveloped land has been planned for use as a vacation homesite. Electricity, water, and sewage disposal are available at the purchaser's expense. Electicity is obtainable by generator, water by well, and sewage disposal by septic tank. Access will be by unpaved roads.

Provided that, if a central system is provided instead of a generator or well or septic tank, then the above statement may be modified only to the extent necessary to so indicate. Provided further that, if paved roads are provided, then the above statement may be modified only to the extent necessary to so indicate.

Provided further that, if roads are county accepted, then the above statement may be modified only to the extent necessary to so indicate.

2. For contracts for the sale of lots where the respondent which sold the lot is not obligated to provide any utilities and where utilities are not known to be available, the following statement in lieu of the above statement: This completely undeveloped land is being sold "as is." No improvements are planned for this subdivision other than county approved and maintained roads. No representation is made as to the availability of water or sewer.

Provided that, if the roads are not county-approved and maintained, this statement shall be modified to disclose the status of the roads if any.

E. Set forth the following statement in any contract for land requiring a Property Report, immediately below the statement required by paragraph D. above.

Note to Buyer. See page [insert page number] of the Property Report for statements relating to the additional expense for improvements.

F. Set forth in any contract for the sale of land which does not require a Property Report, immediately below the statements required by paragraph D. above, a statement providing the cost of improvements.

G. Whenever prospective buyers are provided with a contract for the sale of land by any means other than by mailing said contract directly to such purchasers:

1. Furnish each purchaser, at the time the purchaser signs a contract for the sale of land, with two copies of a form, captioned in

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boldface type "NOTICE OF CANCELLATION," which shall contain in boldface type the following information and statements:

Notice of Cancellation

Date of Transaction

Contract Number

You may cancel this transaction, without any penalty or obligation, at any time prior to midnight of the tenth business day after the date shown on the contract. If you cancel, any payments made by you under the contract and any negotiable instrument issued by you will be returned within twenty business days following receipt by the seller of your cancellation notice.

To cancel this transaction, mail or deliver a signed copy of this cancellation notice or any other written notice, or send a telegram to [name of respondent which sold the lot], at [address of said respondent's place of business] not later than midnight of [date].

I (we) hereby cancel this transaction (each purchaser must sign this notice.)

Signature of Purchaser Date

Signature of Purchaser Date

2. Before furnishing copies of the above "Notice of Cancellation" to the purchaser, complete both of the copies by entering the name of the respondent which sold the lot, the address of said respondent's place of business, the date of the transaction, the contract number and the date by which the purchaser may give notice of cancellation, but in no event may such date be earlier than the tenth business day following the date of the transaction.

3. Where a timely notice of cancellation is received and said notice is not properly signed and the respondent which sold the lot does not intend to honor the notice, immediately notify the purchaser by certified mail, return receipt requested, enclosing the notice, informing the purchaser of his error and stating clearly and conspicuously that a notice signed by the purchaser must be mailed by midnight of the seventh business day following the purchaser's receipt of the mailing if the purchaser is to obtain a refund.

4. Where the signature of a prospective purchaser is solicited during the course of a sales presentation, inform each person orally, at the time he signs the contract, of his right to cancel as stated in paragraph II.G.5. of this Order.

5. Include clearly and conspicuously in each contract for the sale of land the following statement in boldface type: Purchaser has the right to cancel the contract, without any penalty or obligation, at any time prior to obligation, at any time prior to midnight of the tenth business day after the date of this contract. See the attached "Notice of Cancellation" for an explanation of this right.

6. Within twenty business days after the receipt of a timely notice of cancellation signed by a purchaser, refund all payments made under the contract, and cancel and return any monies paid by the purchaser in connection with the contract.

H. Furnish any report required to be furnished to a purchaser at or before the signing of a contract by Federal or State law or by this Order (i) with the first written materials furnished to a prospective purchaser in connection with the sale of a lot or (ii) during the first contract which the prospective purchaser has with any agent or employee of the respondent which is offering the lot for sale, in connection with the sale of a lot.

I. Inform all prospective purchasers that a bank or other lender located near the subdivision should be consulted prior to the purchase of land if the purchaser intends to finance the building of a house on that land.

J. If a refund is offered contingent upon the purchaser taking a company-guided inspection tour or making a registered inspection of the property in which the purchaser's lot is located:

1. Provide the purchaser three business days after taking said tour or making said inspection within which to request a refund.

2. Include in any contract with the original purchaser, in immediate proximity to the provision setting forth the availability of a refund upon the completion of a company-guided tour or registered inspection of the property, the following statements: If you take a company-guided tour of the property within [designate time period] months of your purchase and you have not been declared in default, you will have three days after the tour to cancel your purchase and get your money back. You, the purchaser, pay your own expenses for travel to the property in order to take the tour.

3. Furnish each purchaser at the completion of the tour or inspection a completed form in duplicate, captioned "Notice of cancellation," which shall contain in boldface type the following statements:

Notice of Cancellation

Date of Company-Guided Inspection Tour or Registered Inspection of Property

Contract Number

You may cancel your contract, without any penalty or obligation, at any time prior to midnight of the third business day after the above date. If you cancel, any payments made by you under the contract and any negotiable instrument executed by you will be returned within twenty business days following receipt by the seller of your cancellation notice. To cancel your contract, mail or deliver a signed copy of this cancellation notice or any other written notice, or send a telegram to [name of respondent which sold the lot], at [address of said respondent's place of business] not later than midnight of [date]. I (we) hereby cancel the contract. (Each purchaser must sign this notice.)

Signature of Purchaser Date

Signature of Purchaser Date

4. Before furnishing copies of the above "Notice of Cancellation" to purchaser, complete both copies by entering the name of the respondent which sold the lot and the address of said respondent's place of business, the date of the company-guided inspection tour or the registered inspection of the property, the contract number and the date by which the purchaser may give notice of cancellation, but in no event may such date be earlier than the third business day following the date of said tour or inspection.

5. Where a timely notice of cancellation is received but said notice is not properly signed and the respondent which sold the lot does not intend to honor the notice, immediately notify the purchaser by certified mail, return receipt requested, enclosing the notice, informing the purchaser of his error and stating clearly and conspicuously that a notice signed by the purchaser must be mailed by midnight of the seventh day following the purchaser's receipt of the mailing if the purchaser is to obtain a refund.

K. Disclose in each instance where all or part of any printed article, publication, endorsement or testimonial is used, published or referred to, the date when such article, publication, endorsement or testimonial was originally published or made and the source of such article, publication, endorsement or testimonial.

L. Notify prospective purchasers of any lot offered for sale in a flood plain area that said lot is in a flood plain area.

III.

It is further ordered that each of the respondents Bankers Life and Casualty Company, Southern Realty & Utilities Corp., Hartsel Ranch Corporation, Estates of the World, Inc., Milco Associates, Inc., Larwill Costilla Ranches, Inc., Rio Grande Ranches of Colorado, Inc., Trustees of Colorado Properties, Inc., Top of the World, Inc., San Luis Valley Ranches, Inc., G–R–P Corporation and Materic, Inc., corporations, and their officers, successors, assigns, agents, representatives, and employees, directly or through any corporation, subsidiary, division, or other entity, in connection with the advertising, offering for sale or sale of land in or affecting commerce, as "commerce" is defined in the Federal Trade Commission Act, do forthwith cease and desist from representing that any land may be used now or in the future:

A. As a homesite, unless the contracts or Property Reports accurately set forth:

1. That water is available to the purchaser by drilling a well or by central water system.

2. That sewage disposal is available to purchasers by installation of a septic tank or by hook-up to a central sewage system.

3. That electricity will be available to the purchaser from a utility company.

B. As a vacation homesite, unless the contracts or Property Reports set forth:

1. That water is available to the purchaser by drilling a well.

2. That percolation on the property purchased is sufficient to support a septic tank.

3. That electricity is available to the purchaser by installing a generator.

IV.

It is further ordered that, where applicable, each of the respondents, Bankers Life and Casualty Company, Southern Realty & Utilities Corp., Hartsel Ranch Corporation, Estates of the World, Inc., Milco Associates, Inc., Larwill Costilla Ranches, Inc., Rio Grande Ranches of Colorado, Inc., Trustees of Colorado Properties, Inc., Top of the World, Inc., San Luis Valley Ranches, Inc., G-R-P Corporation and Materic, Inc., corporations, and their officers, successors, assignes, agents, representatives, and employees, directly or through any corporation, subsidiary, division, or other entity, which has or obtains, prior to the payment by the purchaser of the total purchase price, either a security interest or title in the land:

A. Shall execute and record a covenant providing that, if the purchaser pays the total purchase price pursuant to the terms of a contract for the purchase of land, then a general warranty deed free of liens will be delivered conveying title in accordance with said contract.

1. With respect to land in which it has a security interest or title as of the effective date of this Order, within 90 days of the effective date of this Order.

2. With respect to land in which it obtains a security interest or title after the effective date of this Order, at the same time such security interest or title is recorded.

B. Shall not grant a lien or security interest on land to any third party unless it is provided in the instrument granting said lien or security that, if the purchaser pays the total purchase price pursuant to the terms of the contract for the purchase of land, then a general warranty deed free of liens will be delivered conveying title.

V.

For purposes of Section V of this Order, the following shall be applicable:

The subdivision land to be covered is presently known as Hartsel Ranch, Estates of the World, Rio Grande Ranches, Larwill Costilla Ranches, Top of the World, and San Luis Valley Ranches.

It is further ordered that:

A. Each of the respondents Hartsel Ranch Corporation, Estates of the World, Inc., Larwill Costilla Ranches, Inc., Rio Grande Ranches of Colorado, Inc., Top of the World, Inc., San Luis Valley Ranches, Inc., with respect to the refund of monies to each purchaser who entered into a contract for the purchase of land in its own subdivision between January 1, 1971 and January 1, 1974, who was an active or deeded account and had not been notified of a default on his present contract as of the date the agreement containing this Order was accepted by the Commission, shall:

1. Within ninety (90) days of the effective date of this Order cause a letter to be sent by first class mail to all such purchasers, said letter to be in the form as set forth in Exhibit A attached hereto.

2. In the event that the letter referred to in subparagraph 1 above is returned undelivered, promptly review its files and make other reasonable efforts such as contacting credit bureaus, telephone and utility companies, in order to obtain the present address of each such purchaser whose letter was not delivered, and to those purchasers for whom a present address is obtained by these means or otherwise, send the letter required by subparagraph 1 above within sixty days of obtaining the purchaser's present address; provided, however, that all obligations to send the letter required by subparagraph 1 above shall terminate twenty-four months after the effective date of this Order.

3. Cause refunds to be made in accordance with the terms of the letter sent pursuant to subparagraphs 1 and 2 above. Provided, however, that refunds under this subparagraph may be conditioned upon purchaser's execution of a quit-claim deed, release or other document necessary to free any and all liens or encumbrances to effect a full relaease of any interest or right whatsoever flowing from the terms of the contract.

4. Maintain, for three years after the effective date of this Order or three years after the last refund payment is made, whichever occurs last, records which are adequate to disclose said respondent's compliance with subparagraph 3 above, such records to be furnished by said respondent to the Federal Trade Commission upon request.

B. Each of the respondents Hartsel Ranch Corporation, Estates of the World, Inc., Larwill Costilla Ranches, Inc., Rio Grande Ranches of Colorado, Inc., Top of the World, Inc., and San Luis Valley Ranches, Inc., with respect to the refund of monies to defaulted purchasers who entered into contracts for the purchase of land in its own subdivision between January 1, 1971 and January 1, 1974 shall:

1. Compile a list of the names and last-known addresses of all identifiable such purchasers, who defaulted on said contracts prior to the date the agreement containing this Order was accepted by the Commission and who forfeited payments in excess of 30% of the cash purchase price.

2. Send a letter within six months of the effective date of this order, by first class mail, to each purchaser referred to in subparagraph 1 above, advising him of this right to a refund, the approximate time period and manner is which such refund will be made, the need to execute and return with 30 days the enclosed quit-claim deed, release or similar document, if such is required for the purchaser to obtain a refund, and the need for notifying said respondent of any furture change of residence or address where such rufund can be delivered.

3. Enclose with the letter referred to in subparagraph 2 above a form for notification of any change of the purchaser's address and any quit-claim deed, release or other document which is required to be executed by the purchaser for the purchaser to receive a refund.

4. In the event that the letter referred to in subparagraph 2 above is returned undelivered, promptly review its files and make other reasonable efforts such as contacting credit bureaus, telephone and utility companies, in order to obtain the present address of each such purchaser whose letter was not delivered, and to those purchasers for whom a present address is obtained by these means or otherwise, send the letter required by subparagraph 2 above within sixty days of obtaining the present address; provided, however, that all obligations to send the letter required by this subparagraph shall terminate twenty-four months after the effective date of this Order.

5. Refund to each purchaser, for whom a current mailing address has been obtained pursuant to subparagraph 2 or 4 above, all payments paid by such purchaser in excess of 30% of the cash purchase price disclosed in the contract. Provided, however, that refunds under this subparagraph may be conditioned upon purchaser's execution of a quit-claim deed, release or other document necessary to free any and all liens or encumbrances to effect a full release of any interest or right whatsoever flowing from the terms of the contract.

6. Refund the amount due under subparagraph 5 above between 12 months and 24 months after the effective date of this Order.

7. Maintain, for three years after the effective date of this Order or three years after the last refund payment is made, whichever occurs last, records which are adequate to disclose said respondent's compliance with subparagraph 5 above, such records to be furnished by said respondent to the Federal Trade Commission upon request.

C. Respondent Bankers Life and Casualty Company shall guarantee that the refunds required by Paragraphs A and B above are made in the time required therein.

D. With respect to purchasers who contract to buy land after the effective date of this Order, the sales contract shall contain a provision that in the event purchaser thereafter defaults, if purchaser's total payments exceed 40% of the cash purchase price, purchaser shall be entitled to receive a refund of 65% of payments made in excess of 40% of the cash purchase price. Provided, however, that refunds hereunder may be conditioned upon purchaser's execution of a quit-claim deed, release of other document necessary to free any and all liens or encumbrances to effect a full release of any interest or right whatsoever flowing from the terms of the contract.

VI.

For purposes of Section VI of this Order, the following definitions shall be applicable:

"Subdivision business" shall mean the acquiring of land for subdividing, the dividing of land into subdivision lots, or the advertising, promotion or selling of subdivided lots to purchasers.

It is further ordered that respondent Richard Greenberg, individually or as officer, director, stockholder, employee, agent or manager, of any corporation or other entity does forthwith cease and desist from engaging in the subdivision business unless

in the acts and practices prohibited by this

of a successor corporation, the creation or

nearest power line. Generators can be purchased new by the owner of the property

using certain unfair and/or deceptive acts and practices in the sale of subdivision lots,

(principal and interest) paid by that purchaser which exceeds 30% of the cash

such subdivision business is conducted with or through entities which agree to be bound by and which act in accordance with the Agreement Containing Consent Order to Cease and Desist entered in this proceeding between the Commission and Bankers Life and Casualty Company, Southern Realty & Utilities Corp., Hartsel Ranch Corporation, Estates of the World, Inc., Milco Associates, Inc., Larwill Costilla Ranches, Inc., Rio Grande Ranches of Colorado, Inc., Trustees of Colorado Properties, Inc., Top of the World, Inc., San Luis Valley Ranches, Inc., G–R–P Corporation, and Materic, Inc.

VII.

It is further ordered that if the Interstate Land Sales Full Disclosure Act, presently codified at 15 U.S.C. §§ 1701–20 (1970), or any regulation that has been or may be promulgated pursuant thereto requires an act or practice that is prohibited by any provision of this Order, or prohibits an act or practice that is required by any such provision, or is otherwise inconsistent with any such provision of this Order, any such provision of this Order shall be without legal force or effect.

VIII.

It is further ordered that in the event the Federal Trade Commission promulgates a valid Trade Regulation Rule applicable to respondents' sale of land, then to the extent there are any inconsistencies between this Order and such Rule, the Trade Regulation Rule will govern.

IX.

It is further ordered that each of the respondents Bankers Life and Casualty Company, Southern Realty Utilities Corp., Hartsel Ranch Corporation, Estates of the World, Inc., Milco Associates, Inc., Larwill Costilla Ranches, Inc., Rio Grande Ranches of Colorado, Inc., Trustees of Colorado Properties, Inc., Top of the World, Inc., San Luis Valley Ranches, Inc., G–R–P Corporation, and Materic, Inc.:

1. Deliver, by hand or by certified mail, a copy of Sections I, II, and III of this Order to each of their present or future employees and salesmen, and independent brokers, who sell or promote the sale of land to purchasers.

2. Provide each person so described in Paragraph 1 above with a form, returnable to said respondents, clearly stating such person's intention to be bound by and to conform his sales practices to the requirements of this Order.

3. Inform each person described in Paragraph 1 above that said respondents shall not use any such person, or the services of any such person, unless such person agrees to and does file notice with said respondents that such person will be bound by the provisions contained in this Order.

4. That in the event such person will not agree to so file notice with said respondents and to be bound by the provisions of this Order, said respondents shall not use such person, or the services of such person.

5. Inform the persons described in Paragraph 1 above that said respondents are obligated by this Order to discontinue dealing with those persons who engage on their own in the acts and practices prohibited by this Order.

6. Institute a program of continuing surveillance adequate to reveal whether the sales practices of each of said persons described in Paragraph 1 above conform to the requirements of Sections I, II, and III of this Order.

7. Discontinue dealing with any person described in Paragraph 1 above, revealed by the aforesaid program of surveillance, who repeatedly engages on his own in the acts or practices prohibited by Sections I, II, and III of this Order; provided, however, that, in the event remedial action is taken, evidence of such dismissal or termination shall not be admissible against said respondents in any proceeding brought to recover penalties for alleged violation of any other paragraph of this Order.

X.

It is further ordered that each of the respondents Bankers Life and Casualty Company, Southern Realty & Utilities Corp., Hartsel Ranch Corporation, Estates of the World, Inc., Milco Associates, Inc., Larwill Costilla Ranches, Inc., Rio Grande Ranches of Colorado, Inc., Trustees of Colorado Properties, Inc., Top of the World, Inc., San Luis Valley Ranches, Inc., G–R–P Corporation, and Materic, Inc., shall forthwith distribute a copy of this Order to each of their subsidiaries engaged in the sale of land.

XI.

It is further ordered that in the event that any of the respondents Hartsel Ranch Corporation, Estates of the World, Inc., Milco Associates, Inc., Larwill Costilla Ranches, Inc., Rio Grande Ranches of Colorado, Inc., Trustees of Colorado Properties, Inc., Top of the World, Inc., San Luis Valley Ranches, Inc., G-R-P Corporation and Materic, Inc., transfers all or a substantial part of its subdivision land to any other corporation or to any other person engaged in subdivision land sales or transfers all or part of its ownership interest to wholly-owned subsidiaries, such respondent shall require the transferee to file promptly with the Commission a written agreement to be bound by all the terms of this Order; provided that, if such respondent wishes to present to the Commission any reasons why said Order should not apply in its present form to said transferee, such respondent shall submit to the Commission a written statement setting forth said reasons prior to the consummation of said succession or transfer.

XII.

It is further ordered that each of the respondents Bankers Life and Casualty Company, Southern Realty & Utilities Corp., Hartsel Ranch Corporation, Estates of the World, Inc., Milco Associates, Inc., Larwill Costilla Ranches, Inc., Rio Grande Ranches of Colorado, Inc., Trustees of Colorado Properties, Inc., Top of the World, Inc., San Luis Valley Ranches, Inc., G-R-P Corporation and Materic, Inc., notify the Commission at least thirty days prior to any proposed corporate change, such as dissolution, assignment or sale resulting in the emergence of a successor corporation, the creation or dissolution of subsidiaries or any other change in said respondent which may affect compliance obligations arising out of this Order.

XIII.

It is further ordered that each of the respondents Bankers Life and Casualty Company, Southern Realty & Utilities Corp., Hartsel Ranch Corporation, Estates of the World, Inc., Milco Associates, Inc., Larwill Costilla Ranches, Inc., Rio Grande Ranches of Colorado, Inc., Trustees of Colorado Properties, Inc., Top of the World, Inc., San Luis Valley Ranches, Inc., G-R-P Corporation, Materic, Inc., and Richard Greenberg shall, within sixty (60) days after service upon them of this Order, file with the Commission a report in writing setting forth in detail the manner and form in which said respondent has complied with this Order. Thereafter, each of said respondents, where applicable, will submit a supplemental compliance report on or before sixty (60) days after the date scheduled for the completion of the restitution provision of Section V.

Exhibit A

Dear [Customer Name]:

Our records show that you purchased Lot[s] ——— in Block ——— of Section ———of [development name] on [date] for [contract price]. At the present time we show a balance owed of $——— and a paid-in amount [principal and interest] of $———.

In settlement of litagation with the Federal Trade Commission, in which we admit no liability, we have agreed to offer you an opportunity to cancel your contract on the above lot on the following terms. If you elect to cacel your contract at this time you may obtain a 70% refund on [paid-in amount], or $———, which will be paid to you in four quarterly payments commencing [date to be set within 120 days after date letter sent]. Of course, if you elect to cancel the contract, you do not need to make any more payments.

If you decide to accept our offer, sign the enclosed [quit-claim deed] [rescission and release agreement], have it notarized and return it within 30 days of receiving this letter. Also you should fill in the enclosed change of address card and send it to us if your mailing address changes.

See Attached Fact Sheet.

Fact Sheet

Water: The source of domestic water for the property is individual wells drilled by the owner at his expense. The cost of drilling a well is approximately [$10 per foot [North]] [$12 to $16 per foot [South]] plus the cost of a pump; and water is generally available from approximately 100 feet to 300 feet, depending on its location.

Sewage Disposal: Sewage disposal is handled by the use of individual septic tanks which for most pieces of property cost from approximately $800 to $1,500. Percolation tests have shown that most of the properties are well suited for such a system.

Electricity: Electric power is available from local cooperative power associations. The cost of such electric power may be impractical because of the distance from the nearest power line. Generators can be purchased new by the owner of the property from approximately $1,000 to $2,500.

Telephone: Telephone service is available but may be impractical because of the distance from existing telephone lines.

Roads: Roads were built by the developer to give access to the property but have not been maintained in areas where no development has occurred. Some of the roads were dedicated to the county which is responsible for maintaining them on evidence of need. The other roads will be maintained by the eveloper on evidence of need until dedicated to the county.

With regard to the future value of land such as that which you bought, the Department of Housing and Urban Development requires the following statement in all Property Reports:

The future value of land is uncertain; do not count on appreciation. You should consider the competition which you may experience from the developer in attempting to resell your lot and the possibility that real estate brokers may not be interested in listing your lot.

Analysis of Proposed Consent Order to Aid Public Comment

The Federal Trade Commission has accepted an Agreement to a proposed consent Order in Docket No. 9075 from: Bankers Life and Casualty Company, Southern Realty & Utilities Corp., Hartsel Ranch Corporation, Estates of the World, Inc., San Luis Valley Ranches, Inc., Larwill Costilla Ranches, Inc., Rio Grande Ranches of Colorado, Inc. Top of the World, Inc. Materic, Inc., G–R–P Corporation, Trustees of Colorado Properties, Inc. Milco Associates, Inc., and Richard Greenberg.

The proposed consent Order has been placed on the public record for sixty (60) days for reception of comments by interested persons. Comments received during this period will become part of the public record. After sixty (60) days, the Commission will again review the Agreement and the comments received and will decide whether it should withdraw from the Agreement or make final the Agreement's proposed Order.

On February 26, 1976, the Federal Trade Commission issued a Complaint against Bankers Life and Casualty Company and 15 other corporate and individual respondents, alleging unfair and deceptive acts and practices in the sale of subdivided lots of undeveloped land in six subdivisions in Colorado. Four of these subdivisions are located in the San Luis Valley, a region in southern Colorado, and are known as: San Luis Valley Ranches, Rio Grande Ranches, Top of the World, and Larwill Costilla Ranches. The other two subdivisions are located in Park County in central Colorado, and are known as: Hartsel Ranch, and Estates of the World or Estates of Colorado. One respondent, Mr. Irving E. Miller, did not execute an agreement and remains in adjudicative status.

Complaint Allegations

The Complaint alleged that the respondents cooperated and acted together in using certain unfair and/or deceptive acts and practices in the sale of subdivision lots, including:

(1) Representing falsely that the purchase of a lot was a good investment;

(2) Failing to say that the purchase was a risky one due in part to the difficulty a consumer would have in attempting to resell;

(3) Misrepresenting the useability of respondents' lots as homesites;

(4) Failing to make disclosures about the high cost of utilities, the poor quality and remote location of the land, and the lack of home construction financing;

(5) Using unfair contract provisions; and

(6) Selling lots by the use of contracts-for-deeds while at the same time entering into mortgage agreements which could cut off the purchaser's right to receive a warranty deed upon payment in full for the land.

Additionally, the notice of contemplated relief which accompanied the Complaint apprised respondents that the Commission might seek consumer redress at the conclusion of the adjudicative proceedings.

The Agreement

The Agreement basically requires respondents to (1) offer restitution to certain land purchasers; (2) cease and desist from making certain representations; and (3) make certain disclosures in the sale of subdivision lots.

(A) *Consumer Redress*

Respondents are required to offer all active or paid-in-full purchasers, who contracted to buy one or more lots at the subdivisions listed above between January 1, 1971 and January 1, 1974, an opportunity to cancel their contracts and receive a refund of 70% of all payments made (principal and interest). Accompanying the offer will be a Fact Sheet which should assist the purchaser in deciding whether to accept the offer. The Fact Sheet will provide the estimated cost of a well, septic tank, and electric generator, which may in total exceed $9,000, and will indicate that: (1) electricity by power line and telephone may be impractical due to the high cost; (2) there is no road maintenance in some areas; (3) the future value of this land is uncertain and purchasers should not count on its appreciation; and (4) purchasers may be unable to resell their lots.

A purchaser who accepts the offer will not need to make any more payments to the sellers, and the purchaser will receive the 70% refund in four quarterly payments beginning within three months of his receiving the refund offer. However, in order to receive the refund, the purchaser must sign a document which deeds back the lot or releases his interest in it to the seller, and the purchaser must send the signed deed or release to the seller within 30 days of receiving the offer.

By the terms of respondents' land sales contracts, defaulting purchasers forfeited all the money which they had paid. With regard to each purchaser who contracted to buy one or more lots at the listed subdivisions between January 1, 1971 and January 1, 1974 and who subsequently defaulted, the Order requires respondents to refund all money (principal and interest) paid by that purchaser which exceeds 30% of the cash price paid for the lot.

The primary responsibility for making the refunds to both the active and defaulted purchasers lies with the subdivision sellers, but Bankers Life and Casualty Company guarantees that the payments will be made.

(B) *Cease and Desist Provisions*

The Order prohibits respondents from representing in the future that the purchase of a lot is a good investment, involves little or no financial risk, or is a way to achieve financial security or prosperity, to deal with inflation or to become wealthy. The Order also requires respondents to stop representing that lots may soon be unavailable, and that their subdivision land is comparable to industrial areas, urban areas or mountain resort areas. The Order has a proviso which allows respondents to make these representations if they can prove that at the time they are made, the representations are true and respondents have data which substantiates them.

In addition, respondents are prohibited from representing that the lots are useable as homesites or vacation homesites, unless water, sewage disposal and electricity are available and the source of such utilities is accurately disclosed.

Further, respondents are prohibited from using certain contractual provisions, including the one by which defaulting purchasers forfeit all payments made. In future contracts, respondents must provide that they will return at least 65% of all payments (principal and interest) made by the defaulter in excess of 40% of the contract's cash price.

(C) *Disclosures*

Respondents are required by the Order to make certain disclosures in the advertising, promotional materials and contracts used in future lot sales. The Order often sets out the exact form in which these disclosures are to be made. Disclosures are to be made concerning:

(1) The risky nature of a land investment and possible difficulties in reselling the land;

(2) The availability of utilities and roads;

(3) The cost to the purchaser of utilities and the necessary improvements;

(4) The fact that a bank or other lender near the subdivision should be consulted prior to purchase if the purchaser needs home construction financing;

(5) The approximate distance from the purchaser's land to any city, facility, body of water, or road represented to be in the proximity of the land; and

(6) The identity of lots in flood plain areas.

The Order also requires respondents to notify purchasers of two "cooling-off" periods. First, anyone who contracts other than through the mails must receive notice of the right to cancel the contract at any time within 10 days of signing the contract. Second, if respondents offer a refund contingent upon the purchaser taking a company-guided inspection tour, then they must give the purchaser three days after

taking the tour to cancel the contract and

jurisdiction over all persons who have

trading in the United States should be

as any person for whose account a

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taking the tour to cancel the contract and receive the refund.

(D) *Deed Guorantee*

The Order also is designed to insure that purchasers who fulfill their contracts get a deed and their rights are not cut off by a holder of a mortgage on the land. Respondents, both the subdivision sellers and mortgage holders, must publicly record a promise to deliver a general warranty deed to anyone who pays for a lot in full. Further, respondents are prohibited from mortgaging any subdivision land in the future unless the mortgage provides that any purchaser of a lot in that subdivision who pays in full will be given a general warranty deed.

(E) *Compliance Procedures*

All respondents are required to submit a report, within 60 days of the service of the Order, setting forth the details of how they have complied with the Order. Respondents also must submit a supplemental compliance report concerning the redress provisions of the Order, and maintain records for at least three years after the last refund payment is made, disclosing their compliance with those provisions.

The purpose of this analysis is to facilitate public comment on the proposed Order, and it is not intended to constitute an official interpretation of the Agreement and proposed Order or to modify in any way their terms.

Carol M. Thomas,
Secretary.

[File No. 9075; Docket No. 9075]

[FR Doc. 79-15278 Filed 5-15-79; 8:45 am]

BILLING CODE 6750-01-M

COMMODITY FUTURES TRADING COMMISSION

[17 CFR Part 15]

Requirement of Foreign Brokers and Foreign Traders to Designate An Agent in the United States to Receive Service of Communications Issued by the Commission.

AGENCY: Commodity Futures Trading Commission.

ACTION: Proposed rulemaking.

SUMMARY: The Commodity Futures Trading Commission is publishing for public comment two proposed rules which will facilitate Commission regulation of foreign individuals and entities engaged in futures trading on United States exchanges. The Commission is proposing to regulate foreign brokers to designate a person domiciled in the United States as an agent to accept service and delivery of various communications made by or on behalf of the Commission. As a condition to making or causing to be made any futures transaction on a contract market in the United States, the foreign broker must file with the Commission an agreement designating the agent and must also provide a copy of the agreement to the futures commission merchant who is to effect the transaction. Futures commission merchants would be prohibited from effecting a transaction unless the futures commission merchant first obtains and maintains for its records a copy of the required agency agreement. In addition, a foreign broker would be required to obtain, generally, the consent of each of its customers that the foreign broker's agent for service and delivery of communications from the Commission also serve as the customer's agent for that purpose.

With respect to those foreign traders who deal directly with futures commission merchants rather than through foreign brokers, the Commission is proposing to require the futures commission merchant to execute an agreement with the foreign trader, authorizing the futures commission merchant to serve as the foreign trader's agent for the delivery or service of communications issued by or on behalf of the Commission. The futures commissison merchant must maintain the written agreement for its records and furnish a copy of the agreement to the Commission upon request. The proposal would not apply to foreign traders who file with the Commission an agreement authorizing a person domiciled in the United States to serve as the foreign trader's agent authorized to accept delivery and service of any communications issued by or on behalf of the Commission.

DATE: Comments must be received on or before May 16, 1979.

FOR FURTHER INFORMATION CONTACT: Mark D. Young, Office of the General Counsel, Commodity Futures Trading Commission, 2033 K Street, N.W., Washington, D.C. 20581, telephone (202) 254-5716.

SUPPLEMENTARY INFORMATION: On December 9, 1977, the Commission published for comment in the **Federal Register** proposed rules concerning a variety of regulatory requirements for futures commission merchants, foreign brokers and foreign traders.[1] At that time, the Commission stated that in order to perform adequately its basic function of preserving the integrity of futures markets the Commission must be able to ascertain promptly essential trading data for both domestic and foreign market participants.[2] The Commission explained, however, that

> [i]n the past, Commission experience in obtaining information from foreign traders has not been uniformly successful. Because of communications difficulties, the failure of some foreign brokers to identify their customers and of some foreign traders to provide information as required by the Commission's regulations, prompt and accurate identification of foreign traders and determination of their positions and intentions with regard to their use of the futures markets has not always been possible. If permitted to continue, this situation could hamper the Commission in discharging its regulatory responsibilities promptly, particularly in identifying persons who may potentially be in a position to disrupt the markets.[3]

In December 1978, the Commission adopted several of the rules it had proposed in December 1977,[4] and noted that it was still considering certain elements of its proposals,[5] including the designation of a domestic agent to receive service of documents on behalf of foreign persons engaged in futures trading. The Commission is now proposing for adoption two specific rules which will implement this aspect of its earlier proposals.

Public Comments

In response to the Commission's December 9, 1977 proposal that foreign traders be required to designate an agent for service of process, the Commission received public comment from seven domestic entities which participate in commodity futures trading and related activities. No comments were received from foreign traders or foreign brokers on this specific proposal. Three commentators supported the Commission's proposal. These commentators expressed the view that such a requirement would facilitate the Commission's efforts to obtain timely and accurate information related to foreign participation in United States futures markets.

One commentator opposed the proposal because it did not believe that the Commission is authorized to require foreign persons to designate an agent in this country. In contrast, another commentator suggested that the proposal was not needed since it was clear that the Commission already had jurisdiction over all persons who have futures transactions effected on domestic contract markets. While the Commission agrees with the second commentator,[6] the Commission believes that the proposed rules are needed to facilitate the Commission's exercise of its existing authority to serve notice on and require information from foreign entities.[7] In addition, the Commission has determined that the regulatory scheme embodied in the Act and the regulations thereunder will function more effectively if the Commission is able to communicate expeditiously with all participants in the futures markets. If the Commission institutes an administrative proceeding against a foreign person [8] or attempts to obtain information from that person concerning its participation in the futures markets,[9] the rights and interests of the person will be best protected by prompt and fair notification of the Commission's action or request. Thus, the proposed rules help to effectuate the provisions and purposes of the Act and, therefore, are well within the Commission's general rulemaking authority.[10]

The Commission's Proposed Rules

The Commission continues to believe that foreign participants in futures trading in the United States should be required to designate an agent authorized to accept service or delivery of documents and other communications from the Commission. The proposed rules will simplify the manner in which the Commission may impart information to or obtain information from foreign persons engaged in futures trading. The Commission has found that its present method of communicating with foreign entities—attempting to send documents either directly to foreign persons by registered mail or telex or through futures commission merchants not expressly authorized to serve as agents for service—is unduly complicated. In addition, the Commission has been informed that certain nations impose restrictions on the ability of a foreign government or agency thereof to send communications directly to citizens or firms of that nation. For example, the Commission has been advised that it may be inappropriate under Swiss law for the Commission to send any form of communication directly to firms or traders domiciled in Switzerland; rather, the Commission may be requested to address all such communications through diplomatic channels. Certain types of communications that may be necessary to meet the requirements of the Commodity Exchange Act and due process may be perceived as offensive by Swiss cfficials because of their "threatening" tone and, for this reason, would not be delivered to the traders. Accordingly, to permit the Commission to communicate effectively with all participants in the marketplace, the Commission is proposing that the designation of an agent for service be a prerequisite to participation by foreign entities in the futures markets.

The Commission does not intend or believe that the proposed rules will have a chilling effect on foreign participation in the futures markets. Indeed, the Commission welcomes such participation. The Commission is proposing these rules, however, in order to provide a fair but effective system—consistent with the Commission's policy of parity of treatment of foreign and domestic participants in futures trading—by which the Commission may expeditiously communicate with foreign brokers and traders.

Foreign Brokers

Proposed § 15.05(a) defines three terms for purposes of that section and proposed § 15.06: "futures contract" is defined as any contract for the purchase or sale of any commodity for future delivery on or subject to the rules of any contract market; "customer" is defined as any person for whose account a foreign broker makes or causes to be made any futures contract; and "communications" is defined as any summonses, complaints, orders, subpoenas, special calls, notices and other documents or correspondence.[11]

Proposed § 15.05(b) provides that no foreign broker shall make or cause to be made any futures contract, for its own account or for the account of any customer (including a customer who is also a foreign broker), unless the foreign broker has previously filed with the Commission and provided any futures commission merchant through whom such contract is to be effected a copy of a duly executed written agency agreement between the foreign broker and a person domiciled in the United States. Basically, the agreement must include terms providing that the agent in the United States will be authorized to accept delivery and service on behalf of the foreign broker and all of the foreign broker's existing and future customers of all communications issued by or on behalf of the Commission.[12] In addition, the agreement must contain the name, address and telephone number of the agent in the United States and the foreign broker's consent that delivery to or service upon the agent at that address of any communications issued by or on behalf of the Commission shall constitute valid and effective delivery to and service upon the foreign broker or its customers. The agreement also must contain the agent's undertaking that it will transmit any communications from the Commission to the foreign broker or any of its customers at an address specified by the foreign broker, or, where applicable, its customer, in a manner best calculated to provide the foreign entity with receipt at the earliest possible time. The agreement must also provide that it remains in effect and may be relied upon until such time as a substitute or amended agency agreement has been duly filed with the Commission. Proposed § 15.05(b) further provides that in the event the agreement separately discloses the identity of a foreign broker's customer, the foreign broker may, at its election, delete

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[1] 42 FR 62147 (Dec. 9, 1977). The term "foreign broker" is defined in § 15.00(a) of the Commission's regulations to be "any person located outside of the United States or its territories who carries an account in commodity futures on any contract market for any other person." 17 CFR § 15.00(a) (1978). The term "trader" is defined in Section 15.00(e) of the Commission's regulations to be "a person who, for his own account or for an account which he controls, makes transactions in commodity futures or has such transactions made." 17 CFR § 15.00(e) (1978).

[2] 42 FR 62148 (Dec. 9, 1977).

[3] *Id.*

[4] 43 FR 60146 (Dec. 26, 1978).

[5] *Id.* at n. 1.

[6] At the present time, any person who, either directly or indirectly, buys or sells futures contracts traded on United States markets or otherwise engages in activity regulated by the Commodity Exchange Act, subjects himself to the provisions of the Act and the Commission's jurisdiction thereunder, regardless of the country in which the person is domiciled. Congress has expressly recognized in the Commodity Exchange Act "that the transactions and prices of commodities on . . . boards of trade are susceptible to speculation, manipulation, and control, and sudden or unreasonable fluctuations in the prices thereof frequently occur as a result of such speculation, manipulation, or control, which are detrimental to the producer or the consumer and the persons handling commodities and the products and byproducts thereof in interstate commerce, and that such fluctuations in prices are an obstruction to and a burden upon *interstate commerce in commodities and the products and byproducts thereof and render regulation imperative for the protection of such commerce and the national public interest therein.*" Section 3 of the Act, 7 U.S.C. § 5 (1976) (emphasis added). Congress also has explicitly provided that the Commodity Exchange Act applies to transactions involving the current of commerce in commodities beyond the territorial limits of the United States. Section 2(b) of the Act, 7 U.S.C. § 3 (1976).

[7] *In the Matter of Wiscope, S.A.*, CFTC Docket No. 79-14, CCH Comm. Fut. L. Rep. ¶20,785 (1979); *pet. for review pending* No. 79-4077 (2d Cir. 1979).

[8] Section 6(b) of the Act, 7 U.S.C. § 9 (1976).

[9] Sections 15.05, 15.07 and 21.02 of the Commission's regulations, 17 CFR §§ 15.05, 15.07 and 21.02 (1978).

[10] Section 8a(5) of the Act, 7 U.S.C. § 12a(5) (1976). See *Ames* v. *Merrill Lynch*, 567 F. 2d 1174, 1177-78 (2d Cir. 1977). See also *Board of Trade Clearing Corp.* v. *United States*, Comm. Fut. L. Rep. (CCH) ¶20, 534, pp. 22, 206-207 (D.D.C. 1978), *affirmed* No. 98-1263 (D.C. Cir. March 30, 1979).

[11] This definition will encompass any document which the Commission may serve pursuant to the Federal Rules of Civil Procedure or any document the Commission is authorized to serve under its regulations.

[12] The Commission intends that the words "by or on behalf of the Commission" be interpreted broadly in connection with proposed §§ 15.05 and 15.06. For example, the Commission intends this language to include subpoenas issued by an authorized Commission employee as provided for in Section 6(b) of the Act, 7 U.S.C. §15, as amended by the Futures Trading Act of 1978, Pub. L. No. 95-405, § 13(3), 92 Stat. 871 (1978).

foreign broker-customer to file the

will underscore for this trader the

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reference to the identity of the customer from the copy of the agreement provided to the futures commission merchant.

Proposed § 15.05(c) prohibits a foreign broker from making or causing to be made any futures contract for the account of any customer, including any customer who is also a foreign broker, unless the foreign broker has previously obtained a duly executed written consent from the customer that the foreign broker's designated agent is authorized to serve as the agent for such customer for the acceptance of delivery and service of all communications issued by or on behalf of the Commission. The customer is also required to give its consent (1) that the agent may transmit these communications to the customer at an address specified by the customer in the written consent; (2) that the foreign broker may disclose to the Commission, at its request, and that the Commission may disclose to the agent of the foreign broker, the customer's name and address, market positions and any information that such customer is required to furnish the Commission in accordance with the provisions of the Act and the Commission's rules and regulations thereunder; (3) that the foreign broker may provide to the Commission, at its request, a copy of the written consent of such customer; and (4) that delivery to or service upon the agent of communications issued by or on behalf of the Commission shall constitute valid and effective delivery to and service upon the customer. The foreign broker must maintain a copy of this written consent for its records and furnish a copy thereof to the Commission upon demand within 24 hours.

The Commission hopes to achieve a number of regulatory objectives by requiring a foreign broker's customer to execute this written consent. First, the proposed rules will eliminate the possibility that a trader may avoid a Commission attempt to communicate with that trader by placing an order through a foreign broker, who then places the same order in its name, rather than the trader's name, with another foreign broker. In order to deal with this problem, the proposed rules explicitly recognize that a foreign broker's customer may also be a foreign broker having its own customers. Proposed § 15.05(c) will require a foreign broker-customer to obtain the consent of those of its customers who are the beneficial owners of positions carried in the account of the foreign broker-customer maintaned with another foreign broker. Proposed § 15.05(b) will also require the foreign broker-customer to file the agency agreement with the Commission under proposed § 15.05(b) insofar as the foreign broker-customer acts in the capacity of a foreign broker. As a result, assume, for example, that foreign broker A makes or causes to be made a futures contract for its customer B. Customer B is also a foreign broker who has caused the transaction to be effected for its customer C. Under proposed Rule 15.05, A and B, as foreign brokers, both must file the agency agreement required under § 15.05(b).[13] In addition, both B and C, as customers, are required to execute the written consent agreement under proposed §15.05(c), with foreign brokers A and B, respectively. Thus, under this scheme the Commission will be able to communicate with all foreign brokers or any customers of a foreign broker participating in the futures markets in this country.

The Commission also anticipates that proposed Rule 15.05 will eliminate any possible dilemma for those foreign brokers located in nations which have laws preventing the disclosure of the identity of the foreign broker's customer, absent the consent of that customer. The Commission points out that there may be occasions where the identity of the foreign broker's customer will be disclosed to the Commission upon its request for certain trading data. The agent may also learn the customer's identity if the Commission attempts to serve or deliver communications to the customer through the agent. But, since a foreign broker will be required to obtain the consent of its customers to disclose their identity, market positions and any other required information, any potential problems with local financial privacy laws should be resolved in advance of a Commission request for information. The requirement in proposed Rule 15.05 of a written consent should facilitate the ability of foreign brokers and, indeed, foreign traders, generally to structure their affairs in a manner consistent with both the existing requirements of the Commodity Exchange Act [14] and any local laws applicable to the foreign broker and its customers.

Moreover, the Commission believes that requiring a foreign broker's customer to execute the written consent agreement under proposed Rule 15.05, will underscore for this trader the requirements imposed upon him by United States law when trading futures contracts on contract markets. A customer will expressly be informed when he opens an account with a foreign broker that the foreign broker will be authorized to disclose the customer's identity to the Commission and that the Commission may also disclose his identity to the foreign broker's agent in the United States.

Finally, in proposing that a foreign broker be required to obtain this written consent from its customers, the Commission is attempting to effect a system of regulatory parity between futures commission merchants and foreign brokers. Under § 1.37 of the Commission's regulations, each futures commission merchant is required to

> keep a record in permanent form which shall show for each commodity futures account carried by him the true name and address of the person for whom such account is carried and the principal occupation or business of such person as well as the name of any person guaranteeing such account or exercising any trading control with respect to such account. Such record shall be open to inspection by any authorized representative of the Commission.[15]

Thus, futures commission merchants must at present maintain records somewhat similar to those covered by the written consent agreement that would be required for foreign brokers by proposed Rule 15.05.

Proposed §15.05(d) prohibits a futures commission merchant from, directly or indirectly, making or causing to be made for or on behalf of a foreign broker any futures contract or accept any order therefor unless the futures commission merchant has previously obtained, and maintains for its records, a copy of the agreement required to be provided to the futures commission merchant by the foreign broker under proposed § 15.05(b). Of course, the futures commission merchant will not be required to obtain a similar agreement from the beneficial owner of the positions in the account, the foreign broker's customers, since these persons will have consented to the foreign broker's agent serving as their agent pursuant to proposed § 15.05(c).

Foreign Traders

Proposed Rule 15.06 applies to foreign traders who deal directly with futures commission merchants rather than through a foreign broker. Proposed § 15.06(a) defines the term "foreign trader" to be, for purposes of proposed Rule 15.06, any trader who resides

[13] Note, unlike foreign broker A, foreign broker-customer B would not be required to furnish a copy of its agency agreement to the futures commission merchant effecting this futures transaction, since foreign broker-customer B would not necessarily know the identity of the futures commission merchant with whom foreign broker A has placed its order.

[14] *In the Matter of Wiscope, S.A., supra.*

[15] 17 CFR § 1.37 (1978).

outside the United States or its territories.[16]

Proposed § 15.06(b) provides that no futures commission merchant shall, directly or indirectly, make or cause to be made for or on behalf of a foreign trader any futures contract or accept any order therefor unless the foreign trader has previously executed a written agency agreement with the futures commission merchant.[17] Under the agreement, the futures commission merchant shall agree to act as the authorized agent to accept delivery and service on behalf of the foreign trader of all communications issued by or on behalf of the Commission. The agreement must include the foreign trader's consent that delivery to or service upon the futures commission merchant at its principal place of business as shown in the records of the Commission, or at such address as may be specified in the agreement, of any communications issued by or on behalf of the Commission shall constitute valid and effective delivery to or service upon the foreign trader. In addition, the futures commission merchant must undertake to transmit any communications issued by or on behalf of the Commission to the foreign trader at an address specified in the agreement in a manner best calculated to provide the foreign trader with receipt of the communication at the earliest possible time as is reasonable under the circumstances. The written agreement must be maintained by the futures commission merchant for its records and the futures commission merchant must furnish a copy of the agreement to the Commission upon request by the Commission or any representative of the Commission.

One commentator on the Commission's December 1977 proposal suggested that the Commission impose a direct requirement on the futures commission merchant effecting futures transactions for any foreign trader whereby the foreign trader will be deemed to have appointed the futures commission merchant to be the foreign trader's agent for service. The Commission considered this approach, but has determined that proposed Rule 15.06 will provide more clarity to the agency relationship by containing the foreign trader's express authorization to the futures commission merchant to act as agent. Moreover, the Commission believes that proposed Rule 15.06 will enable the foreign trader and the futures commission merchant to agree in advance to a specific procedure to be followed by the futures commission merchant in notifying the foreign trader of any applicable communications issued by or on behalf of the Commission.

Proposed § 15.06(c) exempts from the requirements of proposed § 15.06(b) any foreign trader who files with the Commission a duly executed written agency agreement between the foreign trader and a person domiciled within the United States and has provided a copy of this agreement to any futures commission merchant who makes or causes to be made any futures contract for the benefit of the foreign trader.[18] This agreement must provide that the person domiciled in the United States agrees to act as and the foreign trade appoints such person to be the foreign trader's agent authorized to accept delivery and service on behalf of the foreign trader of all communications issued by or on behalf of the Commission; the name, address and telephone number of the agent in the United States to whom these communications may be delivered and served; the foreign trader's consent that delivery to or service upon the agent, at the address of the agent provided in the agreement, of any communications issued by or on behalf of the Commission shall constitute valid and effective delivery to or service upon the foreign trader; the agent's undertaking to transmit any trades at a specified address; and that the agreement shall remain in effect and may be relied upon until such time as a substitute or amended agency agreement conforming to the provisions of this section has been duly filed with the Commission.

The Commission believes that these proposed rules will enable it quickly to obtain needed market surveillance information from foreign participants in futures trading. The proposed mechanism for communicating with foreign entities will also permit the Commission to utilize more effectively its enforcement authority under the Act. For example, under Section 6(b) of the Act, 7 U.S.C. § 9 (1976), if the Commission has reason to believe that any person is manipulating or is attempting to manipulate the futures market or has violated any other provision of the Act or the Commission's regulations, the Commission may notify such person that an administrative hearing will be held in not less than three days, at which time such person would be required "to show cause why an order should not be made prohibiting him from trading on or subject to the rules of any contract market. . . ."

Proposed Rule 15.05 reflects the Commission's determination that a foreign broker should be free to select as its agent any person domiciled in the United States—including a futures commission merchant. This flexibility will enable a foreign broker to consider whether it might suffer any competitive disadvantage by designating as its agent a futures commission merchant since, as the agent, the futures commission merchant since, as the agent, the futures commission merchant could be in a position to learn the identity of at least certain of the foreign broker's customers. In contrast, proposed § 15.06(b) requires a foreign trader, who is neither a foreign broker nor a foreign broker's customer covered by proposed Rule 15.05, to execute an agency agreement with the futures commission merchant effecting transactions for the trader. The Commission is proposing this approach in order to avoid any possible gap in the Commission's proposed scheme for communicating with foreign participants in the futures markets. Moreover, proposed § 15.06(c) permits a foreign trader to exempt itself from the requirement by executing and filing an agreement substantially similar to the agreement which would be required for foreign brokers under proposed Rule 15.05. The Commission would anticipate that foreign traders who, like foreign brokers, deal with many futures commission merchants may wish to avail themselves of this exemption under proposed § 15.05(c).

Accordingly, pursuant to the authority in Sections 4i, 6(b) and 8a(5) of the Commodity Exchange Act, as amended, 7 U.S.C. §§ 6i, 9 and 12a(5), the Commission proposes to add new § 15.05 and 15.06 to Part 15 of its regulations as follows:

[16] The Commission intends that, for purposes of proposed Rule 15.06, a corporation, partnership or other business entity which is a "trader" as defined in § 15.00(e) of the Commission's regulations, shall not be deemed to "reside" outside the United States if the business entity maintains an office in the United States and would be amendable to service and delivery of communications from the Commission at that office.

[17] The Commission does not intend that a futures commission merchant would be required to enter into an agreement under proposed § 15.06(b) with those foreign traders who are the beneficial owners of positions in an account maintained by a futures commission merchant in the name of a foreign broker. In such a situation, the foreign trader would not be dealing directly with the futures commission merchant. Instead, the foreign trader would be a customer of the foreign broker under proposed Rule 15.05 and would therefore be required to have authorized the foreign broker's agent to serve as the trader's agent for purposes of transactions effected through the foreign broker.

[18] Of course, a foreign broker trading for its own account, who has designated an agent as required by proposed Rule 15.05, would also be exempt from the requirements of proposed Rule 15.06.

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PART 15—REPORTS—GENERAL PROVISIONS

* * * * *

Sec.

15.05 Designation of an agent for service by foreign brokers and customers of foreign brokers.

15.05 Designation of An Agent for Service by Foreign Brokers Traders Trading Directly Through Futures Commission Merchants.

§ 15.05 Designation of An Agent for Service by Foreign Brokers and Customers of Foreign Brokers.

(a) For purposes of this section and § 15.06 the term "futures contract" shall mean any contract for the purchase or sale of any commodity for future delivery on or subject to the rules of any contract market; the term "customer" shall mean any person for whose account a foreign broker makes or causes to be made any futures contract; and the term "communications" shall mean any summonses, complaints, orders, subpoenas, special calls, notices and other documents or correspondence.

(b) No foreign broker shall make or cause to be made any futures contract for its own account or for the account of any customer, including any customer who is also a foreign broker, unless, prior thereto, the foreign broker has filed with the Commission a duly executed written agency agreement between the foreign broker and a person domiciled within the United States and has provided the futures commission merchant through whom such contract is to be effected a copy of this agreement. This agreement shall provide

(1) That the person domiciled in the United States agrees to act as and the foreign broker appoints such person to be (A) the foreign broker's agent authorized to accept delivery and service on behalf of the foreign broker of all communications issued by or on behalf of the Commission and (B) the agent of all of the foreign broker's existing and future customers, authorized to accept delivery and service on behalf of such customers of all communications issued by or on behalf of the Commission;

(2) The name, address and telephone number of the agent in the United States to whom communications issued by or on behalf of the Commission may be delivered and served;

(3) The foreign broker's consent that delivery to or service upon the agent at the address of the agent provided in the agreement of any communications issued by or on behalf of the Commission shall constitute valid and effective delivery to and service upon the foreign broker or its customers;

(4) The agent's undertaking to transmit any communications issued by or on behalf of the Commission to the foreign broker or its customer in a manner best calculated to provide the foreign broker or its customer with receipt of the communication at the earliest possible time as is reasonable under the circumstances at the address of the foreign broker specified in the agreement or the address of the foreign broker's customer specified in the written consent required to be executed under paragraph (c) of this section; and

(5) That the agreement shall remain in effect any may be relied upon until such time as a substitute or amended agency agreement conforming to the provisions of this section has been duly filed with the Commission.

To the extent the agreement required by this section separately discloses the identity of the foreign broker's customers, the foreign broker may, at its election, delete reference to the identity of the customer from the copy of the agreement provided to the futures commission merchant.

(c) No foreign broker shall make or cause to be made any futures contract for the account of any customer, including any customer who is also a foreign broker, unless, prior thereto, the foreign broker obtains the duly executed written consent of the customer

(1) That the foreign broker's agent described in paragraph (b) of this section is authorized by the customer to serve as the agent for such customer for the acceptance of delivery and service on behalf of such customer of all communicatons issued by or on behalf of the Commission;

(2) That the agent described in paragraph (b) of this section may transmit any communications issued by or on behalf of the Commission to the customer at a specified address;

(3) That the foreign broker may disclose to the Commission, at its request, and that the Commisson may disclose to the agent described in paragraph (b) of this section, the customer's name and address, market positions and any information that such customer is required to furnish the Commission in accordance with the provisions of the Act and the Commission's rules and regulations thereunder;

(4) That the foreign broker may provide to the Commission, at its request a copy of the written consent of such customer; and

(5) That delivery to or service upon the agent described in paragraph (b) of this section of communications issued by or on behalf of the Commission at the address of the agent provided in the agreement required by paragraph (b) of this section shall constitute valid and effective delivery to and service upon the customer.

The foreign broker must maintain for its records a copy of this written consent and furnish a copy thereof to the Commission upon demand within 24 hours.

(d) No futures commission merchant shall, directly or indirectly, make or cause to be made for or on behalf of a foreign broker any futures contract or accept any order therefor unless, prior thereto, the futures commission merchant obtains and maintains for its records a copy of the agreement required to be provided to the futures commission merchant by the foreign broker under paragraph (b) of this section.

(e) Unless otherwise specified by the Commission, the agreements and consents required to be filed with or furnished to the Commission under this section shall be filed with or furnished to the Secretariat of the Commission at 2033 K Street, N.W., Washington, D.C. 20581.

§ 15.06 Designation of an agent for service by foreign traders trading directly through futures commission merchants.

(a) For purposes of this section, the term "foreign trader" shall mean any trader, as defined by § 15.00(e), who resides outside the United States or its territiories.

(b) Except as provided in paragraph (c) of this section, no futures commission merchant shall, directly or indirectly, make or cause to be made for or on behalf of a foreign trader any futures contract or accept any order therefor unless, prior thereto, the foreign trader has executed a written agency agreement with the futures commission merchant. The agreement shall provide that (1) the futures commission merchant agrees to act as and the foreign trader appoints the futures commission merchant to be the foreign trader's agent authorized to accept delivery and service on behalf of the foreign trader of all communications issued by or on behalf of the Commission; (2) the foreign trader's consent that delivery to or service upon the futures commission merchant at its principal place of business as shown in the records of the Commission, or at such address as may be specified in the agreement, of any communications issued by or on behalf of the Commission shall constitute valid and effective delivery to or service upon the foreign trader; (3) the futures commission merchant's undertaking to transmit any communications issued by or on behalf of the Commission to the foreign trader at an address specified in the agreement in a manner best calculated to provide the foreign trader with receipt of the communication at the earliest possible time as is reasonable under the circumstances; and (4) the agreement shall remain in effect and may be relied upon until such time as the foreign trader files with the Commission an agreement, as described in paragraph (c). The written agreement required by this paragraph must be maintained by the futures commission merchant for its records. The futures commission merchant must furnish a copy of this written agreement to the Commission upon request by the Commission or any representative of the Commission.

(c) The requirements of paragraph (b) shall not apply in the case of any foreign trader who files with the Commission a duly executed written agency agreement between the foreign trader and a person domiciled within the United States and has provided a copy of the agreement to the futures commission merchant who makes or causes to be made any futures contract for the benefit of the foreign trader. This agreement shall provide

(1) That the person domiciled in the United States agrees to act as and the foreign trader appoints such person to be the foreign trader's agent authorized to accept delivery and service on behalf of the foreign trader of all communications issued by or on behalf of the Commission;

(2) The name, address and telephone number of the agent in the United States to whom communications issued by or on behalf of the Commission may be delivered and served;

(3) The foreign trader's consent that delivery to or service upon the agent at the address of the agent provided in the agreeement of any communications issued by or on behalf of the Commission shall constitute valid and effective delivery to or service upon the foreign trader;

(4) The agent's undertaking to transmit any communications issued by or on behalf of the Commission to the foreign trader at an address specified in the agreement in a manner best calculated to provide the foreign trader with receipt of the communication at the earliest possible time as is reasonable under the circumstances; and

(5) That the agreement shall remain in effect and may be relied upon until such time as a substitute or amended agency agreement conforming to the provisions of this section has been duly filed with the Commission.

(d) Unless otherwise specified by the Commission, the agreements required to be filed with or furnished to the Commission shall be filed with or furnished to the Secretariat of the Commission at 2033 K Street, N.W., Washington, D.C. 20581.

Issued by the Commission on May 10, 1979.

James M. Stone,

Chairman, Commodity Futures Trading Commission.

[FR Doc. 79-15279 Filed 5-15-79; 8:45 am]

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SECURITIES AND EXCHANGE COMMISSION

[17 CFR Parts 211, 229, 240, 249]

Statement of Management on Internal Accounting Control

Correction

In FR Doc. 79-14013 appearing at page 26702 in the issue for Friday, May 4, 1979; on page 26709, first column, first paragraph under the section numbered V, twelfth line, insert the following after "therefore": "invites comments concerning whether these proposals".

[Release No. 34-15772; File No. S7-779]

BILLING CODE 1505-01-M

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

[18 CFR Parts 32, 35]

Interchange Energy Transmission Rates for Certain Emergencies; Limitations on Percentage Adders in Electric Rates; Extension of Time and Clarification of Proposed Rulemaking

AGENCY: Federal Energy Regulatory Commission, DOE.

ACTION: Notice of Extension of Time and Clarification of Proposed Rulemaking.

SUMMARY: On April 4, 1979, the Federal Energy Regulatory Commission (Commission) issued two Notices of Proposed Rulemaking within consolidated comment periods and procedures. (44 FR 21683, 21686) On May 2, 1979, the Commission extended the period for filing comments as follows: Initial comments—May 18, 1979; reply comments—June 1, 1979; oral presentation—May 25, 1979. This notice again changes the date for oral presentations to Monday, June 4, 1979. Presentations will be held on that day at 10:00 a.m., in Hearing Room A, 825 North Capitol Street, NE., Washington, D.C.

The Commission's Secretary is compiling a list for the service of comments. Commenters are encouraged to serve their comments and replies on all parties listed. This is not mandatory. All comments and replies will be made available for examination by any person at the Commission's Office of Public Information.

The Commission wishes to address what seems to be a common misconception that the proposed rulemaking in Docket. No. RM79-29 imposes limits on split-savings adders in economy energy transactions. While the Commission recognizes that such rate components may pose cost control problems, proposed § 35.23 applies *only* to percentage adders.

DATES: Initial Comments—May 16, 1979 Reply Comments—June 1, 1979 Oral Presentation—June 4, 1979.

ADDRESS: Office of the Secretary, Federal Energy Regulatory Commission, 825 North Capitol Street, NE., Washington, D.C. 20426 (Reference Docket Nos. RM79-28 and RM79-29).

FOR FURTHER INFORMATION CONTACT: Kenneth F. Plumb, Secretary, Federal Energy Regulatory Commission, 825 North Capitol Street, NE., Washington, D.C. 20426 (202) 275-4166.

Kenneth F. Plumb,

Secretary.

[Docket Nos. RM79-28 and RM79-29]

[FR Doc. 79-15194 Filed 5-15-79; 8:45 am]

BILLING CODE 6450-01-M

[18 CFR Part 35]

Revision of Fuel Cost Adjustment Clause Regulations Relating to Fuel Purchases From Company-Owned or Company-Controlled Sources

AGENCY: Federal Energy Regulatory Commission.

ACTION: Notice of proposed rulemaking.

SUMMARY: The Commission is proposing to amend § 35.14(a) (6) and (7) of its Regulations under the Federal Power Act relating to fuel cost adjustment clauses. Specifically, § 35.14(a)(6) would be amended to make clear that, where a utility purchases fuel from a company-owned or company-controlled source, costs reflecting fuel handling, fuel storage and fuel financing may not be passed through the fuel cost adjustment clause. The proposed amendment to § 35.14(a)(7) would require utilities to

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file with the Commission as rate schedules all contracts for fuel purchases from company-owned or company-controlled sources, regardless of whether the price of such purchase is subject to the jurisdiction of a regulatory body.

DATE: Written comments must be filed by July 2, 1979.

ADDRESSES: All filings should reference Docket No RM79-41 and should be addressed to: Office of the Secretary, Federal Energy Regulatory Commission, 825 North Capitol Street, N.E., Washington, D.C. 20426.

FOR FURTHER INFORMATION CONTACT:

Michael A. Coleman, Office of Electric Power Regulation, Federal Energy Regulatory Commission, 825 North Capitol Street, N.E., Washington, D.C. 20426 (202) 275-4728.

Bonnie Cord, Office of General Counsel, Federal Energy Regulatory Commission, 825 North Capitol Street, N.E., Washington, D.C. 20426 (202) 275-0422.

SUPPLEMENTARY INFORMATION: Notice is hereby given that the Commission is proposing to amend § 35.14 of its regulations under the Federal Power Act, relating to fuel cost adjustment clauses. Specifically this notice proposes to amend § 35.14(a)(6) to make clear that, where fuel is purchased from company-owned or company-controlled sources, certain cost items may not be included in the fuel cost adjustment clause. The Commission also proposes an amendment to § 35.14(a)(7) to require utilities to file with the Commission as rate schedules all contracts for fuel purchases from company-owned or company-controlled sources, regardless of whether the price is subject to the jurisdiction of a regulatory body.

Background

The purpose of § 35.14 is to allow an electric utility's fluctuations in fuel costs to be promply reflected in its revenues. This is accomplished by means of a fuel cost adjustment clause which allows an electric utility to automatically pass through to its customers changes in the utility's cost of fuel. Because the pass-through is automatic, the administrative proceeding, otherwise necessary to approve the pass-through, is eliminated. The elimination of the administrative proceeding is beneficial to the utility because it reduces the time period between the utility's payment of the increased fuel prices and its recovery of the increase from its customers. It is also beneficial to the utility's customers, the public and the Commission, as well as the utility, in that it eliminates the cost and burden of additional formal rate proceedings and promptly passes through reductions in fuel costs.

However, because the increased costs may be passed through without prior approval, the Commission has a responsibility to make sure that the utility is purchasing its fuel at reasonable prices and that only allowable costs are recovered through the fuel cost adjustment clause. In order to carry out this responsibility, the Commission has established several mechanisms by which it may monitor and investigate costs recovered through fuel cost adjustment clauses, including: (1) Compliance audits conducted by the Commission's audit staff as part of its regular program of field audits of the books and records of public utilities subject to the Commission's jurisdiction; (2) review and investigation of fuel costs in conjunction with the Commission's analyses of specific proposed wholesale rate changes; and (3) investigations of fuel costs under section 206 of the Federal Power Act instituted either upon complaint or upon the Commission's own motion. Section 35.14(a)(7), in its present form, provides an additional means of monitoring the use of fuel adjustment clauses in that it requires utilities to file with the Commission, in certain cases, contracts governing the utilities' purchases of fuel from an affiliate.

Summary of the Proposed Regulations

Section 35.14(a)(6) states in part that "the cost of fossil fuel shall include no items other than those listed in Account 151 of the Commission's Uniform System of Accounts for Public Utilities and Licensees." The purpose of this statement is to make clear that only items which are properly attributable to the cost of the fuel may be included in the fuel cost adjustment clause. Where a utility obtains fuel from an integrated supplier, certain costs incurred by the utility, such as fuel handling, fuel storage and fuel financing, are not includable in Account 151, nor eligible for pass-through in the fuel adjustment clause. The Commission has determined that, likewise, such items are not properly includable in Account 151 where the utility purchases fuel from a non-integrated affiliate, even though the utility is billed for such services. *Southern California Edison Company*, Docket No. E-8570, order issued April 26, 1978. Accordingly, the Commission proposes to amend § 35.14(a)(6) to make clear that where a utility purchases fuel from an affiliate, costs reflecting fuel handling, fuel storage and fuel financing are not includable in Account 151 and may not be passed through the fuel cost adjustment clause, even though they may be included in the invoice price.

Section 35.14(a)(7), in its present form, provides in part that where a regulatory body has jurisdiction over the price of fuel purchased by a utility form a company-owned or company-controlled source, the cost of fuel so purchased shall be deemed to be reasonable and includable in the fuel adjustment clause. This section further provides that where no regulatory body has jurisdiction over the contracts governing the price of fuel purchases by a utility from an affiliate, the utility must file the contracts with the Commission for Commission acceptance at the time the utility files its fuel clause or modification thereof. In order to further aid the Commission in fulfilling its responsibility to ensure that utilities are purchasing fuel at reasonable prices and that only allowable costs are being passed through in the fuel cost adjustment clause, the Commission proposes to amend § 35.14(a)(7) to require that a utility file contracts governing the price of fuel purchases from company-owned or company-controlled sources, regardless of whether the price is subject to the jurisdiction of a regulatory body.

Public Comment Procedures

Interested persons may participate in this proposed rulemaking by submitting written data, views or arguments to the Office of the Secretary, Federal Energy Regulatory Commission, 825 North Capitol Street, N.E., Washington, D.C. 20426, by July 2, 1979.

Each person submitting a comment should include his name and address, identify the notice (Docket No. RM79-41) and give reasons for any recommnedations. An original and 14 conformed copies should be filed with the Secretary of the Commission. Comments should indicate the name, title, mailing address, and telephone number of one person to whom communications concerning the proposal may be addressed. Written comments will be placed in the Commission's public files and will be available for public inspection at the Commission's Office of Public Information, Room 1000, 825 North Capitol Street, N.E., Washington, D.C. 20426, during regular business hours.

(Federal Power Act, as amended (16 U.S.C. 791 *et seq.*), Department of Energy Organization Act (42 U.S.C. 7107 *et seq.*), E.O. 12009, 42 FR 46267.)

In consideration of the foregoing, the Commission proposes to amend Chapter I of Title 18, Code of Federal Regulations, as set forth below.

By the Commission.

Kenneth F. Plumb,

Secretary.

Section 35.14 is amended by revising subparagraphs (6) and (7) of paragraph (a) to read as follows:

§ 35.14 Fuel cost adjustment clause.

(a) * * *

(6) The cost of fossil fuel shall include no items other than those listed in Account 151 of the Commission's Uniform System of Accounts for Public Utilities and Licensees. For purposes of Account 151, the invoice price of fuel as that term is used in that Account does not include costs for fuel handling, fuel storage, and fuel financing incurred (i) directly by a utility (rather than by any other person and billed to the utility), or (ii) as part of a purchase from company-owned or controlled sources (as defined in the Commission's Uniform System of Accounts, 18 CFR Part 101, Definitions 5B). The cost of nuclear fuel shall be that as shown in Account 518, except that if Account 518 also contains any expense for fossil fuel which has already been included in the cost of fossil fuel, it shall be deducted from this account. (Paragraph C of Account 518 includes the cost of other fuels used for ancillary steam facilities.)

(7) Where the cost of fuel includes fuel from company-owned or controlled sources (as defined in the Commission's Uniform System of Accounts 18 CFR Part 101, Definitions 5B) that fact shall be noted and described as part of any filing. With respect to the price of fuel purchases from company-owned or controlled sources, the utility company shall file such contracts and amendments thereto with the Commission for its acceptance at the time it files fuel clause or modification thereof. Any subsequent amendment to such contracts shall likewise be filed with the Commission as a rate schedule change and may be subject to suspension under Section 205 of the Federal Power Act. Fuel charges by affiliated companies which do not appear to be reasonable may result in the suspension of the fuel adjustment clause or cause an investigation thereof to be made by the Commission on its own motion under section 206 of the Federal Power Act.

* * * * *

[Docket No. RM 79-41]
[FR Doc. 79-15180 Filed 5-15-79; 8:45 am]
BILLING CODE 6450-01-M

[18 CFR Part 281]

Procedures for Evaluating the Economic Practicability and Reasonable Availability of Alternate Boiler Fuel for Large Boiler Facilities; Change of Location of Hearing

AGENCY: Federal Energy Regulatory Commission.

ACTION: Notice of change of location of proposed rulemaking hearing.

SUMMARY: Notice is hereby given that the location for the Public Hearing to be held in this docket has been changed. In Notice of Proposed Rulemaking issued on May 2, 1979, (44 FR 26894 May 8, 1979) it was announced that the hearing would be held at Room 3200, 941 N. Capitol St., NE., Washington, D.C. 20426. We hereby give notice that the hearing will be held in Room 1003 (Hearing Room A), 1875 Connecticut Ave. (Connecticut & Florida Ave.), Washington, D.C. All other information with respect to the hearing remains unchanged.

DATE: Hearing to be held on May 23, 1979.

ADDRESS: Room 1003 (Hearing Room A), 1875 Connecticut Ave., Washington, D.C.

FOR FURTHER INFORMATION CONTACT:
MaryJane Reynolds, Office of the General Counsel, Federal Energy Regulatory Commission, 825 North Capitol St., NE., Room 8000, Washington, D.C. 20426, (202) 275-4283.

Kenneth F. Plumb,

Secretary.

[Docket No. RM79-40]
[FR Doc. 79-15179 Filed 5-15-79; 8:45 am]
BILLING CODE 6450-01-M

DEPARTMENT OF HOUSING AND URBAN DEVELOPMENT

Office of Assistant Secretary for Housing—Federal Housing Commissioner

[24 CFR Part 201]

Increase in Loan Amount and Term

AGENCY: Department of Housing and Urban Development.

ACTION: Proposed rule.

SUMMARY: The proposed amendment increases the maximum loan amount and term for property improvement loans for multiple dwellings to $7,500 per dwelling unit with a maximum loan limitation of $37,500. The term for such loans is increased to 15 years and 32 days. This increase in amount and terms will allow applicants for multi-family improvement loans to derive more equitable benefits as compared to applicants for loans to improve single-family structures.

COMMENTS DUE: July 16, 1979.

ADDRESS: All material which persons wish to submit should be sent to the Rules Docket Clerk, Room 5218, Department of Housing and Urban Development, 451 Seventh Street, SW., Washington, D.C. 20410. A copy of each comment will be available for public inspection at this address during regular business hours.

FOR FURTHER INFORMATION CONTACT:
John L. Brady, Director, Title I Insured and 312 Loan Servicing Division, Department of Housing and Urban Development, 451 Seventh Street, SW., Washington, D.C. 20410 (202) 755-8686.

SUPPLEMENTARY INFORMATION: A Finding of Inapplicability respecting the National Environmental Policy Act of 1969 has been made in accordance with HUD procedures. A copy of this Finding of Inapplicability will be available for public inspection during regular business hours in the Office of the Rules Docket Clerk, Room 5218, Department of Housing and Urban Development, 451 Seventh Street, SW., Washington, D.C.

Accordingly, Chapter II is proposed to be amended as follows:

Subpart A—Property Improvement Loans

1. In § 201.2 paragraph (d)(2) is amended to read as follows:

§ 201.2 Eligible notes.

* * * * * *

(d) * * *

(2) *Maximum maturity.* The maximum permissible maturity of a note evidencing:

* * * * * *

(A) A Class 1(b) or 2(a) loan is 15 years and 32 days.

* * * * * *

2. In § 201.3 paragraph (b) is amended to read as follows:

§ 201.3 Maximum amount of loans.

(a) * * *

(b) *Class 1(b) loan.* A Class 1(b) loan shall not involve a principal amount, exclusive of finance charges in excess of $7,500 per dwelling unit in the improved structure and shall not exceed $37,500.

* * * * * *

(Sec. 7(d) 79 Stat. 670 (42 U.S.C. 3535(d); sec. 2, 48 Stat. 1246, (12 U.S.C. 1703) as amended.)

plain management measures required by

[24 CFR Part 1917]

community must change any existing

Issued at Washington, D.C., May 7, 1979.

Lawrence B. Simons,
Assistant Secretary for Housing, Federal Housing Commissioner.

[Docket No. R-79-866]
[FR Doc. 79-15231 Filed 5-15-79; 8:45 am]
BILLING CODE 4210-01-M

Office of the Secretary

[24 CFR Part 570]

Urban Development Action Grants; Transmittal to Congress

AGENCY: Department of Housing and Urban Development.

ACTION: Notice of Transmittal of Interim Rule to Congress under Section 7(o) of the Department of HUD Act.

SUMMARY: Recently enacted legislation authorizes Congress to review certain HUD rules for fifteen (15) calendar days of continuous session of Congress prior to each such rule's publication in the Federal Register. This Notice lists and summarizes for public information a rule which the Secretary is submitting to Congress for such review.

FOR FURTHER INFORMATION CONTACT:
Burton Bloomberg, Director, Office of Regulations Office of General Counsel, 451 7th Street, S.W., Washington, D.C. 20410 (202) 755-6207.

SUPPLEMENTARY INFORMATION:
Concurrently with issuance of this Notice, the Secretary is forwarding to the Chairmen and Ranking Minority Members of both the Senate Banking, Housing and Urban Affairs Committee and the House Banking, Finance and Urban Affairs Committee the rulemaking document described below:

24 CFR Part 570—Subpart G—Urban Development Action Grants

This interim rule would amend 24 CFR Part 570, Subpart G to delete the specific minimum standards of physical and economic distress which small cities must meet. The amended provisions identify broad minimum standards. Specific standards would be published in Notice form as new data became available.

(Section 7(o) of the Department of HUD Act, 42 U.S.C. 3535(o), Section 324 of the Housing and Community Development Amendments of 1978).

Issued at Washington, D.C. May 10, 1979.

Patricia Roberts Harris,
Secretary, Department of Housing and Urban Development.

[R-79-867]
[FR Doc. 79-13265 Filed 5-15-79; 8:45 am]
BILLING CODE 4210-01-M

[24 CFR Part 888]

Fair Market Rents for New Construction and Substantial Rehabilitation (All Market Areas)

AGENCY: Department of Housing and Urban Development.

ACTION: Notice of Transmittal of proposed rule to Congress under Section 7(o) of the Department of HUD Act.

SUMMARY: Recently enacted legislation authorizes Congress to review certain HUD rules for fifteen (15) calendar days of continuous session of Congress prior to each such rule's publication in the Federal Register. This Notice lists and summarizes for public information a rule which the Secretary is submitting to Congress for such review.

FOR FURTHER INFORMATION CONTACT:
Burton Bloomberg, Director, Office of Regulations Office of General Counsel, 451 7th Street, SW. Washington, D.C. 20410 (202) 755-6207.

SUPPLEMENATARY INFORMATION:
Concurrently with issuance of this Notice, the Secretary is forwarding to the Chairmen and Ranking Minority Members of both the Senate Banking, Housing and Urban Affairs Committee and the House Banking, Finance and Urban Affairs Committee the rulemaking document described below:

24 CFR Part 888—Fair Market Rents for New Construction and Substantial Rehabilitation—All Market Areas Section 8 Projects

This proposed rule would amend 24 CFR Part 888 to revise the fair market rents applicable to new construction and substantial rehabilitation for all market areas pursuant to Section 8(c)(1) of the U.S. Housing Act. The revision reflects changes in the general level of market rents for these types of Section 8 projects which have occurred since the April 1978 revision.

(Sec. 7(o), Department of HUD Act, (42 U.S.C. 3535(o)), sec. 324, Housing and Community Development Amendments of 1978))

Issued at Washington, D.C. May 9, 1979.

Patricia Roberts Harris,
Secretary, Department of Housing and Urban Development.

[Docket No. R-79-866]
[FR Doc. 79-15228 Filed 5-15-79; 8:45 am]
BILLING CODE 4210-01-M

FEDERAL EMERGENCY MANAGEMENT AGENCY

[24 CFR Part 1917]

Proposed Flood Elevation Determinations for the City of Marshall, Minn.; Under the National Flood Insurance Program

AGENCY: Office of Federal Insurance and Hazard Mitigation, FEMA.[1]

ACTION: Proposed rule.

SUMMARY: Technical information or comments are solicited on the proposed base (100-year) flood elevations designation described below.

These base (100-year) flood elevations are the basis for the flood plain management measures that the community is required to either adopt or show evidence of being already in effect in order to qualify or remain qualified for participation in the National Flood Insurance Program (NFIP).

DATES: The period for comment will be ninety (90) days following the second publication of this proposed rule in the newspapers of local circulation in the above-named community.

ADDRESSES: Maps and other information showing the detailed outlines of the flood-prone areas and the proposed base (100-year) flood elevations are available for review at the Municipal Building, 344 West Main Street, Marshall, Minnesota.

Send comments to: The Honorable Robert Schagol, Mayor of Marshall, Municipal Building, 344 West Main Street, Marshall, Minnesota 56258.

FOR FURTHER INFORMATION CONTACT:
Mr. Richard Krimm, National Flood Insurance Program, (202) 755-5581 or Toll Free Line (800) 424-8872, Room 5270, 451 Seventh Street, SW., Washington, D.C. 20410.

SUPPLEMENTARY INFORMATION: The Federal Insurance Administrator gives notice of the proposed base (100-year) flood elevations for the City of Marshall, Minnesota, in accordance with Section 110 of the Flood Disaster Protection Act of 1973 (Pub. L. 93-234), 87 Stat. 980, which added Section 1363 to the National Flood Insurance Act of 1968 (Title XIII of the Housing and Urban Development Act of 1968 (Pub. L. 90-448)], 42 U.S.C. 4001-4128, and 24 CFR 1917.4(a).

Zone designations and base (100-year) flood elevations, together with the flood plain management measures required by § 1910.3 of the program regulations, are the minimum that are required. They should not be construed to mean the community must change any existing ordinances that are more stringent in their flood plain management requirements. The community may at any time enact stricter requirements on its own, or pursuant to policies established by other Federal, State, or regional entities. The proposed elevations will also be used to calculate the appropriate flood insurance premium rates for new buildings and their contents and for the second layer of insurance on existing buildings and their contents.

The proposed base (100-year) flood elevation designation are:

Source of Flooding	Location	Elevation in Feet, National geodetic vertical datum
Redwood River	North of East College Drive to Fairview Street, 2,000 feet west of intersection of Route 23 and Route 19 and 68 along East College Drive and 700 feet east of North Third Street; specifically, the intersection of Birch Street and Village Drive.	1,145
	1,900 feet west along Birch Street from above intersection.	1,146
	Intersection of Fairview Street and Village Drive	1,144
	1,100 feet from above intersection west along Fairview Street.	1,145
	1,800 feet from above intersection west along Fairview Street.	1,146
	Northernmost intersection of corporate limits and North Fourth Street.	1,147
	4,700 feet southwest along Route 23 from intersection with South Fourth Street.	1,174
	5,300 feet southwest along Route 23 from above intersection.	1,175
	6,100 feet southwest along Route 23 from above intersection.	1,176

(National Flood Insurance Act of 1968 (Title XIII of Housing and Urban Development Act of 1968), effective January 28, 1969 (33 FR 17804, November 28, 1968), as amended; 42 U.S.C. 4001-4128; Executive Order 12127, 44 FR 19367; and delegation of authority to Federal Insurance Administrator, 44 FR 20963).

Issued: May 4, 1979.

Gloria M. Jimenez,
Federal Insurance Administrator.

[Docket No. FI-5478]
[FR Doc. 79-15084 Filed 5-15-79; 8:45 am]
BILLING CODE 4210-23-M

[1] The functions of the Federal Insurance Administration, Department of Housing and Urban Development, were transferred to the newly established Federal Emergency Management Agency by Reorganization Plan No. 3 of 1978 (43 FR 41943, September 19, 1978) and Executive Order 12127 (44 FR 19367, April 3, 1979).

[24 CFR Part 1917]

Proposed Flood Zone Designation for Scott County, Minn.; Under the National Flood Insurance Program

AGENCY: Office of Federal Insurance and Hazard Mitigation, FEMA.[1]

ACTION: Proposed rule.

SUMMARY: Technical information or comments are solicited on the proposed zone designation described below.

This proposed zone designation is the basis for the flood plain management measures that the community is required to either adopt or show evidence of being already in effect in order to qualify or remain qualified for participation in the National Flood Insurance Program (NFIP).

DATES: The period for comment will be ninety (90) days following the second publication of this proposed rule in the newspaper of local circulation in the above-named community.

ADDRESSES: Maps and other information showing the detailed outlines of the flood-prone areas and the proposed zone designation is available for review at the Scott County Courthouse, 428 S. Holmes Street, Shakopee, Minnesota 55379.

Send comments to: Mr. Anthony Worm, Chairman, Scott County Board of Commissioners, Scott County Courthouse, 428 S. Holmes Street, Shakopee, Minnesota 55379.

FOR FURTHER INFORMATION CONTACT:
Mr. Richard Krimm, National Flood Insurance Program, (202) 755-5581 or toll free line (800) 424-8872, Room 5270, 451 Seventh Street, SW., Washington, D.C. 20410.

SUPPLEMANTARY INFORMATION: The Federal Insurance Administrator gives notice of the proposed zone designation for Scott County, Minnesota, in accordance with Section 110 of the Flood Disaster Protection Act of 1973 (Pub. L. 93-234), 87 Stat. 980, which added Section 1363 to the National Flood Insurance Act of 1968 (Title XIII of the Housing and Urban Development Act of 1968 (Pub. L. 90-448)), 42 U.S.C. 4001-4128, and 24 CFR 1917.4(a).

Zone designations and base (100-year) flood elevations, together with the flood plain management measures required by § 1910.3 of the program regulations, are the minimum that are required. They should not be construed to mean the community must change any existing ordinances that are more stringent in their flood plain management requirements. The community may at any time enact stricter requirements on its own or pursuant to policies established by other Federal, State, or regional entities. The proposed zone designations will also be used to calculate the appropriate flood insurance premium rated for new buildings and their contents and for the second layer of insurance on existing buildings and their contents.

The proposed zone designations are: 1) A Zone flooding was added along Robert Creek 6000' downstream from the Route 169 crossing to the confluence with the Minnesota River and 4000' upstream along the creek from the cross with Route 169. 2) A Zone flooding was added along Raven Stream 8000' upstream from the confluence with Sand Creek. 3) A Zone flooding was added just southeast from St. Patrick along Route 13. (National Flood Insurance Act of 1968 (Title XIII of Housing and Urban Development Act of 1968)), effective January 28, 1969 (33 FR 17804, November 28, 1968), as amended; 42 U.S.C. 4001-4128; Executive Order 12127, 44 FR 19367; and delegation of authority to Federal Insurance Administrator (44 FR 20963).

Issued: May 4, 1979.

Gloria M. Jimenez,
Federal Insurance Administration.

[Docket No. FI-5479]
[FR Doc. 79-15085 Filed 5-15-79; 8:45 am]
BILLING CODE 4210-23-M

[1] The functions of the Federal Insurance Administration, Department of Housing and Urban Development, were transferred to the newly established Federal Emergency Management Agency by Reorganization Plan No. 3 of 1978 (43 FR 41943, September 19, 1978) and Executive Order 12127 (44 FR 19367, April 3, 1979).

[24 CFR Part 1917]

Proposed Flood Zone Designation for the City of Columbus, Nebr.; Under the National Flood Insurance Program

AGENCY: Office of Federal Insurance and Hazard Mitigation, FEMA.[1]

ACTION: Proposed rule.

SUMMARY: Technical information or comments are solicited on the proposed zone designation described below.

This proposed zone designation is the basis for the flood plain management measures that the community is required to either adopt or show evidence of being already in effect in order to qualify or remain qualified for participation in the National Flood Insurance Program (NFIP).

[1] The functions of the Federal Insurance Administration, Department of Housing and Urban Development, were transferred to the newly established Federal Emergency Management Agency by Reorganization Plan No. 3 of 1978 (43 FR 41943, September 19, 1978) and Executive Order 12127 (44 FR 19367, April 3, 1979).

DATES: The period for comment will be

Table 1.—*Utah Non-Attainment Areas*

requirements of Part D of the Clean Air

The State also needs to clearly

DATES: The period for comment will be ninety (90) days following the second publication of this proposed rule in the newspaper of local circulation in the above-named community.

ADDRESSES: Maps and other information showing the detailed outlines of the flood-prone areas and the proposed zone designation is available for review at the Mayor's Office, 2424 14th Street, Columbus, Nebraska.

Send comments to: The Honorable George Johansen, Mayor of Columbus, 2424 14th Street, Columbus, Nebraska 68601.

FOR FURTHER INFORMATION CONTACT:
Mr. Richard Krimm, National Flood Insurance Program, (202) 755–5581 or toll free line (800) 424–8872, Room 5270, 451 Seventh Street, SW., Washington, D.C. 20410.

SUPPLEMENTARY INFORMATION: The Federal Insurance Administrator gives notice of the proposed zone designation for the City of Columbus, Nebraska, in accordance with Section 110 of the Flood Disaster Protection Act of 1973 (Pub. L. 93–234), 87 Stat. 980, which added section 1363 to the National Flood Insurance Act of 1968 (Title XIII of the Housing and Urban Development Act of 1968 (Pub. L. 90–448)), 42 U.S.C. 4001–4128, and 24 CFR 1917.4(a).

Zone designations and base (100-year) flood elevations, together with the flood plain management measures required by § 1910.3 of the program regulations, are the minimum that are required. They should not be construed to mean the community must change any existing ordinances that are more stringent in their flood plain management requirements. The community may at any time enact stricter requirements on its own, or pursuant to policies established by other Federal, State, or regional entities. The proposed zone designation will also be used to calculate the appropriate flood insurance premium rates for new buildings and their contents and for the second layer of insurance on existing buildings and their contents.

The proposed elevation designations are:

Source of flooding	Location	Elevation
Lost Creek	North from County Road over the Burlington Northern and Union Pacific Railroads east of 3rd Avenue, over Route 30 and bears west over 3rd Avenue continuing west over 18th Avenue, mostly north of the corporate limits, and continues west following the creek and filling low lying areas to U.S. Route 81 State Route 22.	AO Zone (Dept 2 ft)
Lost Creek and street flooding.	West of 32nd Street, north along 33rd Avenue from 20th Street, going west 23rd Street to intersection with U.S. Route 81, State Route 22, and, west from 33rd Avenue along 27th Street over 48th Avenue bearing north past intersection of 32nd Street and 50th Avenue to Lost Creek.	AO Zone (Depth 2 ft.).

(National Food Insurance act of 1968 (Title XIII of Housing and Urban Development act of 1968), effective Janaury 28, 1969 (33 FR 17804, November 28, 1968), as amended: 42 U.S.C. 4001–4128; Executive Order 12127, 44 FR 19367; and delegation of authority to Federal Insurance Administrator, 44 FR 20963).

Issued: April 26, 1979.

Gloria M. Jimenez,
Federal Insurance Administrator.

[Docket No. FI–5480]
[FR Doc. 79–15086 Filed 5–15–79; 8:45 am]
BILLING CODE 4210–23–M

ENVIRONMENTAL PROTECTION AGENCY

[40 CFR Part 52]

Approval and Promulgation of Implementation Plans; Nonattainment Area Plan for Utah

AGENCY: Environmental Protection Agency.

ACTION: Proposed rulemaking.

SUMMARY: On January 3, 1979, EPA received the revised Utah State Implementation Plan (SIP). The purpose of the revised SIP is to implement measures designed to attain and maintain the National Ambient Air Quality Standards in the nonattainment areas designated in Utah. The requirements for an approvable nonattainment area SIP are described in a **Federal Register** notice published on April 4, 1979 (44 FR 20372). This notice describes the nature of the Utah submission and discusses the deficiences with respect to the requirements of Part D of the Clean Air Act identified by EPA's review.

DATE: Written comments should be submitted on or before June 15, 1979.

ADDRESSES: Copies of the SIP revision and EPA's Evaluation Report are available at the following addresses for inspection:

Environmental Protection Agency Library, Region VIII, 1860 Lincoln Street, Denver, Colorado 80295.
Environmental Protection Agency, Public Information Reference Unit, 401 M Street, S.W., Washington, D.C. 20460.
Utah State Division of Health, Bureau of Air Quality, 150 West North Temple, Salt Lake City, Utah 84110.

WRITTEN COMMENTS SHOULD BE SENT TO:

Robert R. DeSpain, Chief, Air Programs Branch, Environmental Protection Agency, 1860 Lincoln Street, Denver, Colorado 80295.

FOR FURTHER INFORMATION CONTACT:

Robert R. DeSpain, Chief, Air Programs Branch, Environmental Protection Agency, 1860 Lincoln Street, Denver, Colorado 80295.

SUPPLEMENTARY INFORMATION: On March 3, 1978 (43 FR 8962) and September 11, 1978 (43 FR 40412), pursuant to the requirements of Section 107 of the Clean Air Act, as amended in 1977, EPA designated portions of Utah as nonattainment areas for total suspended particulates (TSP), sulfur dioxide (SO_2), carbon monoxide (CO), and photochemical oxidants (ozone). A summary of these designations is presented in Table 1. As a result, pursuant to Part D of the Clean Air Act, the State of Utah was requested to revise its SIP by January 1, 1979, to meet specific requirements for the nonattainment areas. In response to these requirements, the Governor of Utah submitted a revised SIP which was received by EPA on January 3, 1979. The State is to be commended for a timely submittal.

The Act presented a complicated set of requirements which had to be met in a short time. This notice cites a number of deficiencies in the State's plan. EPA anticipates that many of these will be corrected prior to final rulemaking and is working closely with the State toward that end.

The Act also specifies that many decisions regarding strategy selection are now to be made at the local governmental level. Establishing a process to generate local governmental input to major air quality decisions has been a difficult task. The process established in Utah has been an effective means to develop plans that can be supported and advanced by local governments.

Table 1.—*Utah Non-Attainment Areas*

TSP	SO_2	CO	Ozone
Davis County	Salt Lake County	Salt Lake City	Salt Lake County.
Salt Lake County	Tooele County	Bountiful	Davis County.
Utah County	Cedar City	Ogden	Utah County.
Weber County		Provo	Weber County.

The State's submittal consisits of the basic elements contained in the previous SIP and the Air Conservation Regulations enacted by the Utah Air Conservation Committee. Portions of the plan were prepared by associations of local elected officials. The complete local plans were submitted as appendices to the SIP. The Mountainland Association of Governments (MAG) prepared the transportation measures element of the SIP for Utah County and Provo City. Similarly, the Wasatch Front Regional Council (WFRC) prepared the transportation measures element for the Wasatch Front (all or parts of Weber, Davis and Salt Lake Counties). The local elements were prepared and submitted to the State in accordance with agreements between the Air Conservation Committee and local agencies. These agreements, developed pursuant to Section 174 of the Clean Air Act, were also included in the SIP. Finally, the State submitted a detailed Technical Support Document which included diffusion modeling estimates and considerable background information related to the control strategies in the SIP.

On January 25, 1979 (44 FR 5159), EPA published an advanced notice of availability of the Utah SIP revision and invited the public to comment on its approvability. As yet, no comments have been received. EPA has completed its review of the SIP revision with respect to the requirements for an approvable SIP described in a **Federal Register** notice published on April 4, 1979 (44 FR 20372), the "Checklists for Approval/Disapproval of the 1979 SIP Revisions for Nonattainment Areas," the "Checklist for Review of Transportation Portions of the 1979 SIP Submissions" and the EPA-DOT "Transportation—Air Quality Planning Guidelines."

I. General Discussion

A. Legal Authority

Utah has adequate legal authority to implement all Part D SIP requirements except for inspection and maintenance of motor vehicles.

The 1979 General Session of the Utah Legislature passed certain amendments to the Utah Air Conservation Act, including provisions for (1) charging fees to stationary sources to cover permit review and enforcement expenses; (2) disclosing potential conflicts of interest by members of the Utah Air Conservation Committee, and (3) assessing civil penalties against violators of the Air Conservation Regulations. However, the Legislature failed to pass a bill providing for inspection and maintenance of motor vehicles, including an inspection fee for testing pollutants in vehicle exhaust emissions.

B. Review of New and Modified Sources

Although Utah's new source review program is basically adequate, it does not provide for establishment of specific stack emission limitations as enforceable permit conditions, except in the nonattainment areas of the State. Section 3.1.8.a. of the Utah Air Conservation Regulations requires new sources to apply at least best available control technology (BACT). However, unless BACT is clearly defined in the permit, in a manner which can be evaluated by stack testing and other appropriate techniques, the State's compliance evaluation and enforcement activities may be subject to challenge.

C. Source Surveillance

The State's revised particulate regulations would allow test methods other than EPA Method 5 for determining compliance with the specific emission limitations, if approved by the Executive Secretary of the Utah Air Conservation Committee. Although EPA recognizes that modifications to Method 5 may be appropriate for some sources, such as the smelter stack at Kennecott and the open hearth furnace stacks at U.S. Steel, such modifications may be used only after the State has requested and received approval from EPA.

The State also needs to clearly indicate that the Executive Secretary may reject stack test data if they are incomplete, inadequate, not representative of the operating conditions specified for the test, or if the State was not provided with an opportunity to have an observer present at the test.

Finally, the sources for which specific particulate emission limitations are established in Section 3.2.1. of the Utah Air Conservation Regulations are exempt from the visible emissions regulations (Section 4.1). This exemption may lead to serious enforceability problems regarding the sources subject to Section 3.2.1. since only stack test data are acceptable to determine compliance with the regulations. The State should revise its visible emissions regulations to include all particulate sources and allow the use of other compliance techniques, such as mass balance calculations, in its enforcement activities.

D. Air Quality Surveillance

The State is presently completing its air monitoring network review and intends to meet the requirements of proposed EPA revisions to 40 CFR, Part 58. The final monitoring plan will be developed by January 1, 1980, and will be submitted to EPA as a revision to the SIP.

E. Resources

The State has projected the annual resource requirements necessary to carry out the SIP through Fiscal Year 1983. Although there is a commitment for a substantial increase in State funds, there is an even greater increase projected in federal funds. In the event that State and federal funding increases are not available as projected, the SIP may need to be revised.

F. Control Strategy—Total Suspended Particulates (TSP)

The State's attainment demonstration for the TSP national standards is inadequate and the control strategy is unapprovable for the following reasons:

1. The emission reductions estimated by 1982 for many sources and used in the attainment demonstration are not supported by enforceable regulations. The most serious example is the lack of specific regulations for the coke oven operations at the U.S. Steel Geneva Works. However, the same deficiency exists with numerous other major sources.

2. The attainment demonstration for short-term (24-hour) TSP standards applied Larsen's Transform to the

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predicted annual TSP concentrations for 1982. However, the short-term emission limitations in the SIP generally allow an increase in emissions from the 1977 levels. Although the State has indicated that BACT would be required for sources in nonattainment areas, the applicable New Source Performance Standards and available stack test data were, in most cases, increased by 50% in establishing the short-term emission limitations. Consequently, there could actually be a deterioration of air quality from 1977 design values. As a minimum, the Clean Air Act requires that reasonably available control technology (RACT) be applied to all existing stationary sources. Consequently, in addition to correcting the deficiencies described above, the State must adopt enforceable regulations to control fugitive emissions from process sources, such as the open hearth and blast furnace operations at U.S. Steel the smelting operations at Kennecott and the crushing and screening operations at Heckett.

3. The diffusion model calibration procedures and the determination of background TSP concentrations were not clearly addressed. In addition, the lack of correlation between measured and predicted concentrations of TSP was not adequately explained.

4. The State has requested an 18-month extension to submit a plan for attainment of the secondary standards for TSP. As specified in 40 CFR Part 51.31(c), this request cannot be approved unless the State has demonstrated that control measures in addition to RACT are needed to attain the secondary standards.

G. Control Strategy—Sulfur Dioxide (SO_2)

1. The State's SO_2 control strategy for Salt Lake and Tooele Counties consisted of a regulation which had been previously disapproved by EPA (42 FR 21471), and a request that the nonattainment designation for these counties be changed to unclassified. The redesignation request was denied by EPA on February 13, 1979, and the SO_2 control strategy is, therefore, unapprovable. EPA will shortly repropose a revised SO_2 regulation for the Kennecott smelter and will promulgate a final regulation following final action on the Utah SIP.

2. The State has indicated that the cause of the SO_2 ambient violations in Cedar City has been identified and corrected. No further violations of the SO_2 standards have been recorded. Therefore, this portion of the SIP is approvable.

H. Control Strategy—Carbon Monoxide (CO)

Although the basic control measures (computerized traffic signals, carpooling and mass transit-improvements) for CO would contribute to attainment, an inspection/maintenance program in Ogden and Salt Lake City is required to demonstrate attainment of the CO standard by December 1982. Since the legislation necessary to implement this program failed to pass the 1979 General Session of the Utah Legislature, the present control strategy for these areas must be disapproved. The schedule for implementing a mandatory program in these areas by December 31, 1980, and the commitment by the State to establish stringency factors for the program so as to achieve the CO standards by December 31, 1982, would be approved if the State could obtain the necessary legal authority by July 1, 1979. If this authority is obtained, the SIP schedule for implementing the I/M program must be modified based on the enactment date of the enabling legislation. Also, the SIP does not contain a commitment by agencies responsible under the proposed legislation for implementation and enforcement of the I/M program. Such a commitment must be included in the SIP for this control strategy to be approvable. Because attainment of the CO standards in Bountiful can be demonstrated prior to 1982 without the I/M program, the control strategy for Bountiful is approvable.

The DOT has indicated that the ridership increases predicted by the Utah Transit Authority (UTA) are overly optimistic; consequently emission reductions attributed to this measure may not materialize. A commitment to implement the program has nevertheless, been made by UTA. If such ridership increases are not obtained, the SIP must be revised in accordance with the RFP schedule.

I. Control Strategy—Photochemical Oxidants (Ozone)

The ozone control strategy and attainment demonstrations for Davis and Salt Lake Counties must be disapproved for the following reasons:

1. As discussed in Section H above, the inspection/maintenance program, which was essential in demonstrating attainment in these counties, cannot be implemented according to the schedule presented in the SIP.

2. The State has not adopted the volatile organic compound (VOC) and Stage II vapor recovery regulations discussed in the SIP. However, the State did commit to a schedule for developing these regulations and submitting them to EPA. If the State can meet this schedule and the adopted regulations are approvable, EPA will withdraw the proposed disapproval of this control strategy in the final action on the Utah SIP.

3. The State has requested an extension of the attainment date for the ozone standard until 1987. However, since the SIP excludes three reasonably available control measures (road pricing, vehicle idling controls and extreme cold start controls) without proper justification, does not meet the requirements of Section 172(b) (11)(A) of the Clean Air Act regarding new source permits, and no longer has an acceptable inspection/maintenance program, requirements for plans with attainment dates extended past 1982 are not met.

EPA's recent promulgation of a revised ozone standard eliminates the need for control strategies in Utah and Weber Counties. Although the new standard may allow exclusion of some control strategies in Davis and Salt Lake Counties, 1978 ambient data for Salt Lake City indicate significantly higher ozone readings than the design value in the SIP. The State should review its ozone data and control strategies and submit any indicated SIP revisions to EPA during the public comment period for this proposed rulemaking.

J. Air Conservation Regulations

1. The particulate emissions limitations (Section 3.2.1) are not approvable for the following reasons:

a. The regulations establish average allowable emissions over the testing cycle, rather than maximum allowable emissions. The language needs to be changed to indicate that the established emission limitation is a maximum never to be exceeded.

b. As discussed earlier, the stack testing requirement allows deviations from EPA Method 5 without concurrences from EPA. In addition, specific test methods need to be developed for determining particulate emissions for sources such as the Kennecott smelter and the open hearth furnaces at U.S. Steel.

c. Some of the specific emission limitations are not enforceable since they establish a single emission rate for multiple emission points. Either specific stack limitations or a grain loading requirement which applies to each stack must be adopted for all sources with more than one stack.

d. As discussed earlier, many of the emission limitations allow short-term

emissions greater than the 1977 levels and could result in a deterioration of existing air quality. RACT must be required for all existing stationary sources

2. The SO_2 emission limitation for the Kennecott smelter (Section 4.3) has previously been disapproved by EPA on April 27, 1977 (42 FR 21471). This regulation does not establish an ultimate emission rate as required by the Clean Air Act Amendments of 1977. Therefore, EPA will proceed with reproposal and promulgation of a revised SO_2 regulation for Utah.

3. The Visible Emission Regulation (Section 4.1) does not apply to stationary sources subject to the specific emission limitations in Section 3.2.1. As discussed earlier, the visible emission requirement should be revised to apply to all stationary sources.

K. Miscellaneous Requirements

The Utah SIP contains adequate provisions pertaining to Intergovernmental Cooperation and Prevention of Air Pollution Emergency Episodes. With respect to Prevention of Significant Deterioration, the State is developing a SIP revision in accordance with the requirements published in the Federal Register on July 19, 1978 (43 FR 26380).

Although the SIP contains a commitment by the State to update its emissions inventory on an annual basis, the procedure for demonstration of reasonable further progress (RFP) is discussed only for TSP. The attainment demonstrations for CO consider only present and predicted ambient levels rather than current and expected emissions. This approach makes the tracking of RFP for CO difficult to determine. The SIP must include provisions for the submittal of annual and semi-annual progress reports required to determine whether RFP and compliance schedules are being met.

II. Proposed EPA Action

On the basis of the SIP review discussed above, EPA is proposing the following actions on the Utah submittal with respect to the Clean Air Act as amended August, 1977:

A. Part D Requirements

1. Section 172(b)(1)—SIP adoption after reasonable notice and public hearing—approvable.

2. Section 172(b)(2)—Provision for implementation of all reasonably available control measures—not approvable except for SO_2 strategy for Cedar City and CO strategy for Bountiful.

3. Section 172(b)(3)—Requirement for reasonable further progress including adoption of RACT—not approvable except for the strategies identified in item 2 above.

4. Section 172(b)(4)—Submittal of a comprehensive, accurate and current inventory of actual emissions from all sources—not approvable for particular matter and hydrocarbon point sources.

5. Section 172(b)(5)—Identification and quantification of pollutant emissions from construction and operation of major new or modified stationary sources—approvable.

6. Section 172(b)(6)—Requiring permits for construction and operations of new or modified major stationary sources in accordance with section 173—approvable.

7. Section 172(b)(7)—Identification and commitment of financial and manpower resources necessary to carry out SIP provisions—approvable for current fiscal year; may require SIP revision in future years.

8. Section 172(b)(8)—Presentation of necessary emission limitations, compliance schedules, and other control measures—not approvable except for the strategies identified in item 2 above.

9. Section 172(b)(9)—Evidence of public, local government, and State legislative involvement and consultation in accordance with Section 174—approvable.

10. Section 172(b)(10)—Written evidence that the State, the general purpose local governments, or regional agencies designated by general purpose local governments for such purpose, have adopted by legally enforceable document, the necessary requirements and schedules for compliance, and are committed to implement and enforce the appropriate elements of the plan—not approvable except for the strategies identified in item 2 above.

11. Section 172(b)(11)—In areas requiring extension of the attainment date beyond December 31, 1982:

(a) Establishment of a permit program which requires an analysis of alternative sites, sizes, production processes and environmental control techniques for proposed new or modified sources and a demonstration that the benefits of the proposed source significantly outweighs its environmental and social costs—not approvable for ozone in Davis and Salt Lake Counties.

(b) Establishment of a specific schedule for implementation of a vehicle emission control inspection and maintenance program—not approvable for ozone in Davis and Salt Lake Counties.

(c) Identification of other measures necessary to provide for attainment of the applicable national ambient air quality standard not later than December 31, 1987—not approvable for ozone in Davis and Salt Lake Counties.

12. Section 173—Permit program requirements—approvable.

13. Section 174—Planning procedures—approvable.

B. Non-Part D Requirements

1. Malfunction Regulations—The Utah Air Conservation Regulation 4.7 sets forth malfunction provisions which are to be applied according to criteria very similar to the federal malfunction regulations published at 42 Federal Register 21472 (April 27, 1977). Although the EPA may not fully approve Regulation 4.7 because it exempts certain excess emissions from being violations of the Air Conservation Regulations, EPA does propose to approve Utah's malfunction procedures because the exemptions allowed under Regulation 4.7 result from an exercise of discretion by the Executive Secretary of the Air Conservation Committee. Any exemptions granted through these procedures, however, are not applicable as a matter of Federal law. While EPA reserves the right to enforce against any excess emissions, this EPA discretion would normally be exercised according to and consistent with the criteria specified in Regulation 4.7.

2. Composition of State Boards—Section 128 of the Clean Air Act requires that the majority of a body issuing permits or enforcement orders under the Clean Air Act represent the public interest and not derive a significant portion of their incomes from persons subject to such permits or orders. Section 128 further requires that any potential conflict of interest by members of such board or the head of an executive agency with similar powers be adequately disclosed. EPA considers that the Section 26–24–4, Utah Code Annotated, as amended, fulfills these requirements and proposes to approve the Utah SIP as meeting the requirements of Section 128.

3. Permit Fees—Section 110(a)(2)(K) of the Clean Air Act requires that the owner or operator of each major stationary source pay a fee sufficient to cover reasonable costs of reviewing and acting on its permit application and, if a permit is issued, the reasonable costs of implementing and enforcing any terms or conditions of the permit. EPA considers that Section 26–24–5(18), Utah Code Annotated, as amended, fulfills these requirements and proposes to

approve the Utah SIP as meeting the requirements of Section 110(a)(2)(K).

4. Prohibition of Employee Pay Reduction—Section 110(a)(6) of the Clean Air Act requires that in any case in which a source uses a supplemental or intermittent control system for purposes of meeting the requirements of an order under Section 113(d) or Section 119 (relating to non-ferrous smelter orders), the SIP must provide that the owner or operator of such source may not temporarily reduce the pay of any employee by reason of use of such supplemental or intermittent or other dispersion dependent control system. EPA considers that the Utah Air Conservation Regulation 4.9 fulfills these requirements and proposes to approve the Utah SIP as meeting the requirements of Section 110(a)(6).

Interested persons are invited to comment on the revised Utah SIP and EPA's proposed actions. Comments should be submitted, preferably in triplicate, to the address listed in the front of this notice. Public comments received by (30 days following publication) will be considered in EPA's final decision on the SIP. EPA believes the available period for comments is adequate because:

1. The SIP has been available for inspection and comment since January 25, 1979; and

2. the issues involved in the Utah SIP are sufficiently clear to allow comments to be developed in the available thirty day period; and

3. EPA has a responsibility under the Act to take final action by July 1, 1979, if possible, and a longer period for public comments would make that deadline difficult to meet.

All comments received will be available for inspection at the Region VIII Office 1860 Lincoln Street, Denver, Colorado 80295.

Under Executive Order 12044 EPA is required to judge whether a regulation is "significant" and therefore subject to the procedural requirements of the Order or whether it may follow other specialized development procedures. EPA labels these other regulations "specialized." I have reviewed this regulation and determined that it is a specialized regulation not subject to the procedural requirements of Executive Order 12044.

This notice of proposed rulemaking is issued under the authority of Section 110 of the Clean Air Act, as amended.

Dated: April 5, 1979.

Alan Merson,
Regional Administrator.

[FRL-1226-1]
[FR Doc. 79-15295 Filed 5-15-79; 8:45 am]
BILLING CODE 6560-01-M

[40 CFR Part 52]

Approval and Promulgation of Implementation Plans—Mass.; Receipt

AGENCY: Environmental Protection Agency.

ACTION: Notice of Receipt of Implementation Plan.

SUMMARY: This notice is to announce the receipt of a State Implementation Plan (SIP) revision for Massachusetts which is available for public review and comment.

Under the requirements of Part D of the Clean Air Act, the State of Massachusetts submitted to EPA on April 13, 1979 a revision to its SIP for certain areas designated as not attaining the National Ambient Air Quality Standards (NAAQS) for Total Suspended Particulates [TSP]. As required by the Act, the purpose of this revision is to implement new measures for controlling air pollution and to demonstrate that these measures will provide for attainment of the primary NAAQS for TSP as expeditiously as practicable, but no later than December 31, 1982. A Notice of Proposed Rulemaking describing the revision and EPA's intended approval or disapproval action will be published in the Federal Register at a later date.

DATES: See Supplementary Information.

ADDRESSES: Copies of the SIP revision are available for inspection at the following addresses: Environmental Protection Agency, Region I, Air Branch, Room 1903, J.F.K. Federal Building, Boston, Massachusetts 02203; Environmental Protection Agency, Public Information Reference Unit, 401 M Street, S.W., Washington, D.C. 20460; and the Department of Environmental Quality Engineering, Division of Air and Hazardous Materials, 600 Washington Street, Room 320, Boston, Massachusetts 02111.

WRITTEN COMMENTS SHOULD BE SENT TO: Frank J. Ciavattieri, Chief, Air Branch, Environmental Protection Agency, Region I, JFK Federal Building, Room 1903, Boston, Massachusetts 02203, Telephone: 617/223-5609.

SUPPLEMENTARY INFORMATION: On March 3, 1978 (43 FR 8962), and on September 11, 1978 (43 FR 40412), pursuant to the requirements of Section 107 of the Clean Air Act, EPA designated areas in each state as non-attainment with respect to the criteria air pollutants. The non-attainment areas in Massachusetts for TSP are:

Massachusetts	TSP primary	TSP secondary
Berkshire AQCR:		
Adams		X
North Adams		X
Pittsfield		X
Central Massachusetts AQCR:		
Worcester	X	
Athol		X
Fitchburg		X
Merrimack Valley AQCR:		
Haverhill		X
Lawrence		X
Pioneer Valley AQCR:		
Springfield	X	
Southeastern Massachusetts AQCR:		
Fall River		X
Metropolitan Boston AQCR:		
Boston	X	
Danvers	X	
Cambridge		X
Framingham		X
Lynn		X
Marblehead		X
Norwood		X
Medford		X
Peabody		X
Quincy		X
Revere		X
Swampscott		X
Waltham		X

Part D of the Clean Air Act required each state to revise it SIP to meet specific requirements in the non-attainment areas. These SIP revisions were due on January 1, 1979 and must demonstrate attainment of the NAAQS, as expeditiously as practicable, but no later than December 31, 1982. An 18-month extension may be granted for plans to demonstrate attainment of secondary standards for total suspended particulates.

On April 16, 1979 EPA received the revised SIP for Massachusetts and is currently reviewing the revision. The plan addresses strategies for attainment of primary standards for TSP for the City of Worcester, and contains a request for an 18 month extension for plans to demonstrate attainment of secondary standards for TSP. As part of the extension request, redesignation is requested for Boston, Peabody, and Swampscott as unclassified, and Danvers and Springfield as non-attainment for secondary TSP NAAQS. At the completion of this review, a notice will be published in the Federal Register proposing approval or disapproval of the revision.

All interested persons are advised that the proposed revision is available for review at the locations listed, and are invited to comment on its approvability. A file of documents explaining EPA's criteria for approval is also available at EPA offices. The proposed notice referred to above will announce the last day for public comment. This public comment period will end not less than 60 days from this date and not less than 30 days from the published date of EPA's proposal for approval or disapproval.

Dated: April 25, 1979.

Rebecca W. Hanmer,
Acting Regional Administrator, Region I.

[FRL 1226-6]
[FR Doc. 79-15291 Filed 5-15-79; 8:45 am]
BILLING CODE 6560-01-M

[40 CFR Part 180]

Proposed Tolerance for the Pesticide Chemical Carbaryl

AGENCY: Office of Pesticide Programs, Environmental Protection Agency (EPA).

ACTION: Proposed rule.

SUMMARY: This notice proposes that a tolerance be established for residues of the insecticide carbaryl on pistachio nuts at 1 part per million. The proposal was submitted by the Interregional Research Project No. 4. This amendment to the regulations would establish a maximum permissible level for residues of carbaryl on pistachio nuts.

DATE: Comments must be received on or before June 15, 1979.

ADDRESS COMMENTS TO: Mrs. Patricia Critchlow, Office of Pesticide Programs, Registration Division (TS-767), EPA, 401 M Street, SW, Washington, DC 20460.

FOR FURTHER INFORMATION CONTACT: Mrs. Patricia Critchlow at the above address (202/755-4851).

SUPPLEMENTARY INFORMATION: The Interregional Research Project No. 4 (IR-4), New Jersey Agricultural Experiment Station, PO Box 231, Rutgers University, New Brunswick, NJ 08903, on behalf of the Agricultural Experiment Station of California, has submitted a pesticide petition (PP 9E2153) to the EPA. This petition requests that the Administrator propose that 40 CFR 180.169 be amended by the establishment of a tolerance for residues of the insecticide carbaryl (1-naphthyl *N*-methylcarbamate) including its hydrolysis product 1-naphthol, calculated as 1-naphthyl *N*-methylcarbamate, in or on the raw agricultural commodity pistachio nuts at 1 part per million (ppm).

The data submitted in the petition and all other relevant material have been evaluated. The toxicology data considered in support of the proposed tolerance included a two-year rat feeding/oncogenicity study with a no-observed-effect level (NOEL) of 200 ppm; a 1-year dog subchronic feeding study with an NOEL of 400 ppm; a Rhesus monkey teratology study which was negative at 20 milligrams (mg)/kilogram (kg) of body weight (bw), the highest level fed; an 18-month mouse oncogenicity study, negative at 400 ppm; a three-generation rat reproduction study with an NOEL of 200 mg/kg bw/day; a dog teratology study with an NOEL of 3 mg/kg bw. The acceptable daily intake (ADI) in humans is calculated to be 0.1 mg/kg bw/day based on the two-year rat feeding study using a 100-fold safety factor. The maximum permitted intake (MPI) for a 60-kg human has been calculated to be 6 mg/day. Tolerances have previously been established for residues of carbaryl on a variety of raw agricultural commodities at levels ranging from 100 ppm to zero ppm. The theoretical maximal residue contribution (TMRC) for the proposed and existing tolerances is calculated to be 4.6 mg/day.

Carbaryl is a candidate for a rebuttal presumption against registration (RPAR) since it may exceed the risk criteria described in 40 CFR 162.11(a)(3)(ii)(B) for some registered uses. However, the amount of carbaryl added to the diet from the proposed use is too small to substantially increase the risk for humans. Thus, the proposed tolerance is considered to pose a negligible increment in risk.

The nature of the residue is adequately understood and an adequate analytical method (colorimetry) is available for enforcement purposes. No other considerations are involved in establishing the proposed tolerance. There is no problem of secondary residues resulting in eggs, meat, milk, or poultry from the proposed uses since no feed items are involved.

The pesticide is considered useful for the purpose for which a tolerance is being sought, and it is concluded that the tolerance of 1 ppm on pistachio nuts established by amending 40 CFR 180.169 will protect the public health. It is proposed, therefore, that the tolerance be established as set forth below.

Any person who has registered or submitted an application for the registration of a pesticide, under the Federal Insecticide, Fungicide, and Rodenticide Act, which contains any of the ingredients listed herein, may request on or before June 15, 1979 that this rulemaking proposal be referred to an advisory committee in accordance with section 408(e) of the Federal Food, Drug, and Cosmetic Act.

Interested persons are invited to submit written comments on the proposed regulation. The comments must bear a notation indicating both the subject and the petition/document control number, "PP9E2153/P109". All written comments filed in response to this notice of proposed rulemaking will be available for public inspection in the office of the Emergency Response Section, Room 315, East Tower, from 8:30 a.m. to 4 p.m. Monday through Friday.

Dated: May 10, 1979.

Douglas D. Campt,
Director, Registration Division.

(Sec. 408(e) of the Federal Food, Drug, and Cosmetic Act (21 U.S.C. 346a(e)))

It is proposed that Part 180, Subpart C, § 180.169 be amended by alphabetically inserting pistachio nuts at 1 ppm in the table to read as follows:

§ 180.169 Carbaryl; tolerances for residues.

* * * * * *

Commodity:	Parts per million
* * * * *	
Pistachio nuts	1
* * * * *	

[FRL 1227-2; PP9E2153/P109]
[FR Doc. 79-15303 Filed 5-15-79; 8:45 am]
BILLING CODE 6560-01-M

[40 CFR Part 180]

Proposed Exemption From the Requirement of a Tolerance for the Pesticide Chemical Sodium Chlorate

AGENCY: Office of Pesticide Programs, Environmental Protection Agency (EPA).

ACTION: Proposed rule.

SUMMARY: This notice proposes that an exemption from the requirement of a tolerance be established for residues of the pesticide chemical sodium chlorate on dry beans. The proposal was submitted by the Interregional Research Project No. 4. This regulation would obviate the need for a maximum permissible level for residues of sodium chlorate on dry beans.

DATE: Comments must be received on or before June 15, 1979.

ADDRESS COMMENTS TO: Mrs. Patricia Critchlow, Office of Pesticide Programs, Registration Division (TS-767), EPA,

1978), *cert. den.* 414 U.S. 876. Therefore, parties by the expeditious disposition of (iii) The interest is not adequately

East Tower, 401 M Street, SW., Washington, DC 20460.

FOR FURTHER INFORMATION CONTACT: Mrs. Patricia Critchlow at the above address (202/755-4851).

SUPPLEMENTARY INFORMATION: The Interregional Research Project No. 4 (IR-4), New Jersey Agricultural Experiment Station, PO Box 231, Rutgers University, New Brunswick, NJ 08903, on behalf of the IR-4 Technical Committee and the Agricultural Experiment Stations of California, Minnesota, Michigan, and North Dakota, has submitted a pesticide petition (PP 9E2149) to the EPA. This petition requests that the Administrator propose that 40 CFR 180.1020 be amended by the establishment of an exemption from the requirement of a tolerance for residues of the pesticide chemical sodium chlorate in or on the raw agricultural commodity dry beans when used as a desiccant in accordance with good agricultural practice.

The data submitted in the petition and all other relevant material have been evaluated. No chronic data are desirable. The Administrator has waived the requirement for chronic testing for sodium chlorate. Sodium chlorate is a strong oxidizing agent and, as such, is rapidly reduced in the presence of organic material to sodium chloride. Since residues on plants weather to give final sodium chloride residues, there is no chronic hazard to humans or domestic animals. This fact obviates the necessity for submission of chronic testing.

An exemption from the requirement of a tolerance has previously been established for residues of sodium chlorate on a variety of raw agricultural commodities. An adequate analytical method (colorimetry) is available for enforcement purposes, and the metabolism of sodium chlorate is adequately understood.

Because there is no reasonable expectation of finite residues in meat, milk, eggs, or poultry and dry beans, the acceptable daily intake (ADI) is not a consideration in the proposed exemption.

The pesticide is considered useful for the purpose for which an exemption from the requirement of a tolerance is sought, and it is concluded that the exemption from the requirement of a tolerance for residues of sodium chlorate on dry beans established by amending 40 CFR 180.1020 will protect the pulblic health. It is proposed, therefore, that the exemption from the requirement of a tolerance be established as set forth below.

Any person who has registered or submitted an application for the registration of a pesticide, under the Federal Insecticide, Fungicide, and Rodenticide Act which contains any of the ingredients listed herein, may request on or before June 15, 1979 that this rulemaking proposal be referred to an advisory committee in accordance with section 408(e) of the Federal Food, Drug, and Cosmetic Act.

Interested persons are invited to submit written comments on the proposed regulation. The comments must bear a notation indicating both the subject and the petition/document control number, "PP 9E2149/P113". All written comments filed in response to this notice of proposed rulemaking will be available for public inspection in Room 315, East Tower, from 8:30 a.m. to 4 p.m. Monday through Friday.

Under Executive Order 12044, EPA is required to judge whether a regulation is "significant" and therefore subject to the procedural requirements of the Order or whether it may follow other specialized development procedures. EPA labels these other regulations "specialized". This proposed rule has been reviewed, and it has been determined that it is a specialized regulation not subject to the procedural requirements of Executive Order 12044.

Dated: May 10, 1979.

Douglas D. Campt,
Director Registration Division.

(Sec. 408(e) of the Federal Food, Drug, and Cosmetic Act (21 U.S.C. 346a(e)))

It is proposed that Part 180, Subpart D, § 180.1020 be revised to read as follows:

§ 180.1020 Sodium chlorate; exemption from the requirement of a tolerance.

Sodium chlorate is exempted from the requirement of a tolerance for residues in or on beans (dry), chili peppers, corn fodder, corn forage, corn grain, cottonseed, grain sorghum, rice, rice straw, safflower seed, sorghum fodder, sorghum forage, soybeans, and sunflower seeds when used as a defoliant, desiccant, or fungicide in accordance with good agricultural practice in the production of beans, chili peppers, corn, cotton, rice, safflower seed, sorghum, soybeans, and sunflower seeds.

[FRL 1227-4; PP 9E2149/P113]
[FR Doc. 79-15304 Filed 5-15-79; 8:45 am]
BILLING CODE 6560-01-M

FEDERAL MARITIME COMMISSION

[46 CFR Part 502]

Intervention in Commission Proceedings

AGENCY: Federal Maritime Commission.

ACTION: Proposed rule.

SUMMARY: The Federal Maritime Commission desires to adopt a rule to delineate standards for intervention in formal proceedings and to provide guidelines for such participation to avoid needless delay and repetition. The purpose of this Notice is to solicit comments and information from the public on the Proposed Rule in order to arrive at the most desirable and efficient procedure to achieve its purposes.

DATES: Comments must be received on or before July 2, 1979.

ADDRESSES: Comments (original and fifteen copies) to: Francis C. Hurney, Secretary, Federal Maritime Commission, 1100 L Street NW., Washington, D.C. 20573, Telephone: (202) 523-5725.

FOR FURTHER INFORMATION CONTACT: Francis C. Hurney, Secretary, Federal Maritime Commission, 1100 L Street NW., Washington, D.C. 20573, Telephone: (202) 523-5725.

SUPPLEMENTARY INFORMATION: The Federal Maritime Commission has determined that its rule on intervention, Rule 72 of the Commission's Rules of Practice and Procedure (46 CFR 502.72), does not: (1) adequately reflect present Commission practice; (2) contain sufficient delineation of the relevant legal standards as to the right of parties to intervene in agency proceedings; and, (3) allow for sufficient agency control of the extent of intervenors' participation as warranted and appropriate by the circumstances of a particular proceeding. It is the Commission's intention to ensure that all legitimate interests affected by agency proceedings will be adequately and fairly represented, and provide mechanisms that will enable the Commission to expeditiously dispose of pending proceedings by ensuring that intervention will not become a vehicle for delay.

It is proposed that the standards on intervention enunciated in Rule 24 of the Federal Rules of Civil Procedure (Fed. Rules of Civ. Pro. 24) be adopted by the Commission to the extent appropriate. Recent court decisions indicate that these standards must apply in agency rulings on petitions for intervention. *PepsiCo, Inc* v. *Federal Trade Commission*, 472 F.2d 179 (2nd Cir., 1972), *cert. den.* 414 U.S. 876. Therefore, it is proposed that the standards of Rule 24 of the Federal Rules of Civil Procedure be adopted by the Commission to the extent that they can be applied.

Paragraph (a) of the proposed rule recites the requirements contained in the existing Commission rule as to the form and procedure for submitting petitions for intervention.

Paragraph (b) recites the standards by which petitions for intervention will be considered. This provision would require those submitting petitions for intervention to indicate whether they seek intervention as a matter of right or whether their petition addresses the discretion of the agency. It is also proposed that petitioners indicate the extent to which their proposed intervention is necessary, *i.e.*, discovery, presentation of evidence, etc., and the justification therefor. This requirement will ensure that the grounds relied upon for intervention are considered under the proper legal standard and should, thereby, serve to expedite the Commission's decisionmaking process. Where intervention as a matter of right is claimed the proposed rule would require that petitioners make a convincing showing that they have an interest relating to the matter which is the subject of the proceeding and that the proceeding may materially affect that interest, and that such interest is not adequately represented by existing parties to the proceeding.

If permissive intervention is sought, the petitioner must show that its interests involve a common issue of law or fact with the matter being litigated, its intervention will not unduly broaden or delay the proceeding, duplicate the positions of, or prejudice existing parties, and its participation will contribute to the proceeding in some significant way.

In consideration of all petitions for intervention timeliness is made an important factor in that the primary countervailing consideration to intervention is the possibility of delay and prejudice to the rights of existing parties.

Paragraphs (c), (d), (e) and (f) of the proposed rule provide the mechanisms by which control over the extent of intervention will be exercised in those cases where petitions are granted but where it is deemed that full intervention is not necessary. In this regard while the Commission recognizes that liberal accommodation of public participation in agency proceedings is beneficial, this consideration must be counterbalanced with the due process rights of existing parties by the expeditious disposition of pending proceedings. Accordingly, a new paragraph (c) has been added to permit limited intervention. Thus, interventions could be limited to the presentation of evidence on factual issues and/or the submission of amicus curiae briefs on selected legal issues. Continuing supervisory control over such participation is also provided.

Paragraph (d) incorporates the existing Commission rule on the limitation of discovery rights for late intervenors.

Paragraph (e) is intended to make clear that discovery may be limited in the same manner as the extent of participation in the formal hearings or other proceedings on the record.

Paragraph (f) allows for review by the Commission of intervention rulings by the presiding officer.

Therefore, pursuant to section 4 of the Administrative Procedure Act (5 U.S.C. 553) and section 43 of the Shipping Act, 1916 (46 U.S.C. 841(a), § 502.72 of Title 46 CFR is proposed to be revised as follows:

§ 502.72 Petition for intervention.

(a)(1) A petition for leave to intervene may be filed in any proceeding and shall be served pursuant to section 502.114. Sufficient copies of the petition shall be provided for distribution to the existing parties to the proceeding together with fifteen (15) copies for the use of the Commission as required by section 502.118. Upon request, the Commission will furnish a service list to any member of the public pursuant to Part 503 of these rules.

(2) The petition shall set forth the grounds for the proposed intervention and the interest and position of the petitioner in the proceeding and shall comply with the other applicable provisions of Subpart H of this part, and if affirmative relief is sought, the basis for such relief. Such petition shall also indicate the nature and extent of the participation sought, *e.g.*, the use of discovery, presentation of evidence and examination of witnesses.

(b)(1) In the absence of an absolute statutory right of intervention, petitions for intervention as a matter of right will only be granted upon a clear and convincing showing that:

(i) The petitioner has a substantial interest relating to the matter which is the subject of the proceeding warranting intervention; and

(ii) The proceeding may, as a practical matter, materially affect the petitioner's interest; and

(iii) The interest is not adequately represented by existing parties to the proceeding.

(2) Petitions for intervention as a matter of Commission discretion may be granted only upon a showing that:

(i) A common issue of law or fact exists between the petitioner's interests and the subject matter of the proceeding; and

(ii) Petitioner's intervention will not unduly delay or broaden the scope of the proceeding, prejudice the rights of or be duplicative of positions of any existing party; and

(iii) The petitioner's participation may reasonably be expected to assist in the development of a sound record.

(3) The timeliness of the petition will also be considered in determining whether a petition will be granted under paragraphs (b)(1) or (2) of this section. If filed after hearings have been closed, a petition will not ordinarily be granted.

(c) In the interests of: (1) restricting irrelevant, duplicative, or repetitive discovery, evidence or arguments; (2) having common interests represented by a spokesperson; and (3) retaining authority to determine priorities and control the course of the proceeding, the presiding officer, in his discretion, may impose reasonable limitations on an intervenor's participation, *e.g.*, the filing of amicus curiae briefs, presentation of evidence on selected factual issues, or oral argument on some or all of the issues.

(d) Absent good cause shown, any intervenor desiring to utilize the procedures provided by Subpart L must commence doing so no later than 15 days after its petition for leave to intervene has been granted. If the petition is filed later than 30 days after the date of publication in the Federal Register of the Commission's Order instituting the proceeding or notice of complaint filed, petitioner will be deemed to have waived his right to utilize such procedures, unless good cause is shown for the failure to file the petition within the 30-day period. The use of Subpart L procedures by an intervenor whose petition was filed beyond the 30-day period described above will in no event be allowed, if, in the opinion of the presiding officer, such use will result in delaying the proceeding unduly.

(e) If intervention is granted before or at a prehearing conference convened for the purpose of considering matters relating to discovery, the intervenor's discovery matters may also be considered at that time, and may be limited under the provisions of paragraph (c) of this section.

V 4 4 / 9 6

(f) In addition to the right of appeal upon the denial of a petition for intervention provided by § 502.227(b), any party adversely affected by the disposition of a petition for intervention may appeal such decision to the Commission provided such appeal is filed no later than fifteen days after the service of the ruling. The Commission on its own motion may review any ruling on a petition for intervention within twenty (20) days of the effective date thereof.

By the Commission.

Francis C. Hurney,
Secretary.

[General Order No. 18; Docket No. 79-49]
[FR Doc. 79-15178 Filed 5-15-79; 8:45 am]
BILLING CODE 6730-01-M

DEPARTMENT OF TRANSPORATION

Office of the Secretary

[49 CFR Part 71]

Standard Time Zone Boundary in the State of Alaska; Proposed Relocation

AGENCY: Department of Tranportation (DOT).

ACTION: Notice of Proposed Rulemaking.

SUMMARY: The Department of Transportation proposes to relocate the boundary between the Pacific Standard and Yukon Standard Time Zones in the State of Alaska; the relocation would move the City and Borough of Juneau, Alaska, and certain other Northern Panhandle Communities from the Pacific to the Yukon zone. This move has been requested by the governing body of Juneau.

DATES: Public hearing—Thursday, June 7, 1979, 2:00 to 4:00 PM, and reconvening at 6:00 PM PDT.

Comment closing date: July 16, 1979.

Proposed effective date: 2 a.m. PDT, Sunday, September 2, 1979.

ADDRESS: Send comments to: Docket Clerk, OST Docket No. 9, Office of the Gneral Counsel, C-50, Department of Transportation, Washington, D.C. 20590.

The hearing will be held at the Alaska Court Building, 4th and Main, Juneau, Alaska.

FOR FURTHER INFORMATION CONTACT: Jack Lusk, Office of the General Counsel, C-50, Department of Transportation, Washington, D.C. 20590, (202) 426-4723

SUPPLEMENTARY INFORMATION:

Background

Under section 4 of the Uniform Time Act of 1966 (15 U.S.C. 261 "the Act") the Secretary of Transportation has the authority to modify the boundaries between time zones in the United States to move an area from one time zone to another. The Act's standard for such rulemakings is "regard for the convenience of commerce and the existing junction points and division points of common carriers engaged in interstate or foreign commerce." The Assembly of the City and Borough of Juneau has formally requested that the City and Borough be moved from the Pacific to the Yukon zone.

The State of Alaska is in four of the eight time zones that were formally recognized under the Act and that span the United States. From east to west the four are Pacific, Yukon, Alaska-Hawaii, and Bering. Juneau, the capital city of Alaska, has been in the Pacific Zone since 1937. There is currently a difference of three hours between Nome, in the Bering zone, and Juneau; there is a two-hour difference between the Anchorage-Fairbanks region, in the Alaska-Hawaii Zone, and Juneau. A determination by DOT granting the request of the Juneau Assembly would have the effect of moving Juneau and the area to the north of the city, reaching to the eastern edge of the Yukon Time Zone boundary, one hour closer to these major cities.

Public Comments Requested

Before taking action to adopt, deny, or modify the proposal, DOT will consider the views of interested persons. Comments should be submitted in writing to the address shown above. All comments received by the comment closing date provided above will be considered and will be available for public inspection and copying in the Office of the Assitant General Counsel for Regulation and Enforcement, Department of Transportation, Room 10421, Nassif Building, 400 Seventh Street, SW., Washington, D.C., between the hours of 9 AM and 5:30 PM local time, Monday through Friday except Federal holidays.

Because the proposed move would also potentially impact areas to the north and south of Juneau, DOT is particularly interested in receiving comments from residents of those localities and other persons on whether the change should be made and, if so, whether areas in addition to Juneau should be included in the change.

To facilitate the receipts of comments by persons in the affected area, a representative of DOT will conduct a public hearing in Juneau on Thursday, June 7, 1979, from 2 to 4 PDT and reconvening at 6 PM PDT in the Alaska Court Building, Juneau, Alaska. The hearing, which will be electroncially recorded, will last approximately four hours; in the interest of providing opportunity for as many people to speak in that period as wish to, each speaker will limited to ten minutes, in which to present his/her views. Those interested in testifying should submit their name and address to LCDR Douglas Smith, 612 Willoughby Ave., Juneau, Alaska 99802, (907) 586-7398.

The Proposal

In consideration of the foregoing, it is proposed to amend § 71.11 of title 49, Code of Federal Regulations, (49 CFR 71.11) to read as follows:

§ 71.11-1 Boundary line between Yukon and Pacific zones.

* * * * *

Alaska. Beginning at boundary peak No. 79 on the Alaska/Canadian border line at North 58°57'44.96" latitude and West 133°10'13.94" longitude; thence southwesterly along the northerly boundary of the City and Borough of Juneau on a straight line to Point Coke near Holkham Bay in Stevens Passage at North 57°47'30" latitude and West 134°42' longitude; thence continuing on the projection of said straight line to the mid-channel of Stevens Passage; thence southerly along the mid-channel of Stevens Passage and extension thereof to the mid-channel of Frederick Sound; thence southwesterly along the midchannel of Frederick Sound and extension thereof to the mid-channel of Chatham Strait also being on the easterly line of the City and Borough of Sitka; thence northerly along the easterly boundary of the City and Borough of Sitka along the mid-channel of Chatham Strait until the mid-point of a line drawn between East Point and South Passage Point at the mouth of Tenakee Inlet bears due west; thence northwesterly along the northerly boundary of the City and Borough of Sitka along the midchannel of Tenakee Inlet until an intersection is made with the line of mean high tide at the extreme northerwesterly end of Tenakee Inlet; thence on a line bearing South 23°30' West more or less, but in any event until the extreme southeasterly point of the mean high tide line at the southeasterly point of Lisianski Inlet is reached; thence on a line bearing approximately due west until Star Rock off the mouth of Lisianski Strait is reached being the northwesterly corner of the City and Borough of Sitka; thence due west until an intersection is reached with 137° West longitude.

(Act of March 19, 1918, as amended by the Uniform Time Act of 1966 (15 U.S.C. 260-67); section 6(e)(5), Department of Transportation Act (49 U.S.C. 1655(d)(5)); section 1.59(a), Regulations of the Office of the Secretary of Transportation (49 CFR 1.59)(a).)

Note.—The Office of the Secretary has determined that this document involves a proposed regulation which is not considered to be significant under the procedures and criteria prescribed by Executive Order 12044 and as implemented by the Department of Transportation Regulatory Policies and Procedures published in the Federal Register on February 26, 1979 (44 FR 11034). Furthermore, the economic impact of the proposed regulation is so minimal that a full Regulatory Evaluation is not warranted.

Issued in Washington, D.C., on May 11, 1979.

John G. Wofford,
Deputy General Counsel.

[OST Docket No. 9; Notice 79-7]
[FR Doc. 79-15284 Filed 5-15-79; 8:45 am]
BILLING CODE 4910-62-M

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Notices

Federal Register
Vol. 44, No. 96
Wednesday, May 16, 1979

This section of the FEDERAL REGISTER contains documents other than rules or proposed rules that are applicable to the public. Notices of hearings and investigations, committee meetings, agency decisions and rulings, delegations of authority, filing of petitions and applications and agency statements of organization and functions are examples of documents appearing in this section.

DEPARTMENT OF AGRICULTURE

Federal Grain Inspection Service

Termination of Official Services; Replacement Agency Not To Be Designated for the Corpus Christi, Tex., Area

AGENCY: Federal Grain Inspection Service.

ACTION: Notice.

SUMMARY: This notice announces that a replacement agency will not be designated to provide official services in the Corpus Christi, Texas, area. The Corpus Christi Grain Exchange, Corpus Christi, Texas, the agency formerly providing official services in the Corpus Christi area, was not eligible for designation under the terms of the United States Grain Standards Act, as amended, and allowed its official agency status to terminate midnight, November 19, 1978.

EFFECTIVE DATE: May 16, 1979.

FOR ADDITIONAL INFORMATION CONTACT: J. T. Abshier, U.S. Department of Agriculture, Federal Grain Inspection Service, Compliance Division, 1400 Independence Avenue, S.W., Room 20405, Auditors Building, Washington, D.C. 20250, (202) 447-8262.

SUPPLEMENTARY INFORMATION: Public Law 94-582, enacted in 1976 to amend the United States Grain Standards Act (7 U.S.C. 71 *et seq.*, hereinafter the "Act"), provides in Section 27 that any interior inspection agency providing service on November 20, 1976, the date on which the amended Act became effective, could continue to do so without a designation until the expiration of a period as detemined by the Adminstrator, but not to exceed 2 years after the Act's effective date (7 U.S.C 74 note).

The Corpus Christi Grain Exchange (Exchange), Corpus Christi, Texas, was advised on November 15, 1977, that conflicts of interest, as defined by Section 11(b) of the Act (7 U.S.C. 87(b)), existed in their agency. The Exchange did not submit a proposal to effect a satisfactory resolution of these conflicts of interest and therefore was ineligible for designation as an official agency.

The January 31, 1979, issue of the **Federal Register** (44 FR 6167-6168) announced that because the Exchange was not eligible for designation under the terms of the amended Act, their designation terminated midnight, November 19, 1978, in accordance with section 27 of Pub. L. 94-582 (7 U.S.C. 74 note).

The Administrator of the Federal Grain Inspection Service (FGIS) is authorized, under the provisions of the Act, to provide official inspection service at locations where it is determined official inspection is needed (7 U.S.C. 79(f)(1)). There have been no applications for the Exchange to perform official inspection services since October 1977. Members of the grain trade and other interested parties were given until April 2, 1979, to comment on the need for continuing official inspection services in the Corpus Christi area; and subject to a final determination by the Administrator as to the need, make application for designation to operate as an official agency at other than export port locations in the Corpus Christi, Texas, area.

No comments were received concerning the need for continuing official inspection services at other than export port locations in the Corpus Christi, Texas, area.

In addition, no reqests for applications for designation were made regarding the January 31, 1979, notice.

By reason thereof and after due consideration of all relevant matters and information available to the U.S. Department of Agriculture, the Adminstrator, Federal Grain Inspection Service, has determined that at this time a replacement agency will not be designated to provide official services at other than export port locations in the Corpus Christi, Texas, area.

This action does not preclude any future application for designation as an official agency if it can be established that there is a need for official services at other than export port locations in the Corpus Christi, Texas, area.

(Sec. 8, Pub. L. 94-582, 90 Stat. 2870 (7 U.S.C. 79); sec. 13, Pub. L. 94-582, 90 Stat 2880 (7 U.S.C. 87); sec. 27, Pub. L. 94-582, 90 Stat. 2889 (7 U.S.C. 74 note))

Done in Washington, D.C. on May 10, 1979.

D. R. Galliart,
Acting Adminstrator.

[FR Doc. 79-15247 Filed 5-15-79; 8:45 am]

BILLING CODE 3410-02-M

DEPARTMENT OF AGRICULTURE

Forest Service

Umpqua National Forest; Finding of No Significant Impact, Control the Spread of Tansy Ragwort (Senecio jacobaeae) on the Diamond Lake Ranger District

An Environmental Assessment that discusses vegetative management on the Diamond Lake Ranger District involving the spraying of tansy ragwort on 50 acres has been prepared. All proposed treatment areas are located on lands administered by the Umpqua National Forest within Douglas County, Oregon. The report is available for public review at the Diamond Lake Ranger District Office and the Umpqua National Forest Office in Roseburg, Oregon.

This project involves hand application with a pack sprayer of Banvel on 50 acres of forest land for the purpose of slowing down the spread of tansy ragwort, a poisonous plant to livestock. The Environmental Assessment does not indicate this is a major Federal action signficantly affecting the quality of the human environment. Therefore, it has been determined that an environmental impact statement is not needed.

This determination was based upon consideration of the following factors which are discussed in detail in the Environmental Assessment: (a) the compound is approved by the Environmental Protection Agency for use; (b) there will be no irretrievable loss of resources on the project area; (c) the physical and biological effects are limited to the project area; (d) no known threatened or endangered plants or animals have been recorded or observed within the project area.

Some public concern exists over the use of any chemical and the effects it has on water quality. The proposed project includes application measures designed to protect nontarget areas and the water quality. State and Federal water quality standards will be met.

No action will be taken prior to June 15, 1979.

The responsible official is R. D. Swartzlender, Forest Supervisor, Umpqua National Forest, P. O. Box 1008, Roseburg, Oregon 97470

Dated: May 4, 1979.

R. D. Swartzlender,
Forest Supervisor.

[FR Doc. 79-15183 Filed 5-15-79; 8:45 am]

BILLING CODE 3410-11-M

Tree Release and Site Preparation Projects; Finding of no Significant Effect

An Environmental Assessment that discusses a proposed Tree Release and Site Preparation project using the herbicides 2, 4-D, Atrazine and Dalapon on the Pine Ranger District, Wallowa-Whitman National Forest is available for review at the Pine Ranger District Office, Halfway, Oregon.

The Environmental Assessment does not indicate this will be a major Federal action significantly affecting the quality of the human environment. Therefore, it has been determined that an environmental impact statement is not needed.

The decision was based upon consideration of the following factors:

a. Project will have no adverse, long term impacts on the ecosystem.

b. No irreversible or irretrievable commitments or losses of resources.

c. No known threatened or endangered plants or animals within the affected area.

The project will involve the treatment of 12-foot wide strips and 5-foot diameter spots within a 350-acre area.

Use of 2,4-D, Atrazine and Dalapon with Federal and State regulations and label instructions will provide controls which will guarantee protection of human health and welfare.

No public concern has been expressed about the proposed project.

No action will be taken prior to 30 days from the date this finding is published in the **Federal Register**.

The responsible official is Dennis Holthus, District Ranger, Pine Ranger District, Wallowa-Whitman National Forest, Halfway, Oregon 97834.

Dated: May 1, 1979.

Dennis Holthus,
District Ranger.

[FR Doc. 79-15184 Filed 5-15-79; 8:45 am]

BILLING CODE 3410-11-M

CIVIL AERONAUTICS BOARD

Air New England; Temporary Subsidy Rate Revised

AGENCY: Civil Aeronautics Board.

ACTION: Summary of Order 79-5-92 which proposes to revise Air New England's temporary subsidy rate upward from $3.8 million to $4.7 million.

SUMMARY: On March 16, 1979, Air New England petitioned the Board to amend upward its subsidy rates on both a temporary and final basis. In support of its request, Air New England stated that it has been adversely affected by the effects of inflation on its costs, confronting the carrier with a serious cash flow problem. The adopted order tentatively provides Air New England with some relief, though not to the extent requested.

FOR FURTHER INFORMATION CONTACT: John R. Hokanson or James Craun, Bureau of Pricing and Domestic Aviation, Civil Aeronautics Board, 1825 Connecticut Avenue, N.W., Washington, D.C. 20428, 202-673-5132.

The complete text of Order 79-5-92 is available from our Distribution Section, Room 516, 1825 Connecticut Avenue, N.W., Washington, D.C. Persons outside the metropolitan area may send a postcard request for Order 79-5-92 to the Distribution Section, Civil Aeronautics Board, Washington, D.C. 20428.

By the Civil Aeronautics Board, May 10, 1979.

Phyllis T. Kaylor,
Secretary.

[FR Doc. 79-15238 Filed 5-15-79; 8:45 am]

BILLING CODE 6320-01-M

Alberta Northern Airlines Ltd.; Small Aircraft Charter Permit

AGENCY: Civil Aeronautics Board.

ACTION: Notice of Order to Show Cause: Order 79-5-94.

SUMMARY: The Board proposes to approve the following application:

APPLICANT: Alberta Northern Airlines Ltd.

APPLICATION DATE: December 26, 1978
Docket: 34317.

AUTHORITY SOUGHT: Small aircraft charter permit to operate between the United States and Canada.

OBJECTIONS: All interested persons having objections to the Board's tentative findings and conclusions that this authority should be granted, as described in the order cited above, shall, no later than June 5, 1979, file a statement of such objections with the Civil Aeronautics Board (20 copies) and mail copies to the applicant, the Department of Transportation, the Department of State, and the Ambassador of Canada in Washington, D.C. A statement of objections must cite the docket number and must include a summary of testimony, statistical data, or other such supporting evidence.

If no objections are filed, the Secretary of the Board will enter an order which will, subject to disapproval by the President, make final the Board's tentative findings and conclusions and issue the proposed permit or certificate.

ADDRESSES FOR OBJECTIONS: Docket 34317, Docket Section, Civil Aeronautics Board, Washington, D.C. 20428. Alberta Northern Airlines Ltd., c/o Robert Carruthers, Calgary International Airport, Calgary, Alberta T2P2G3.

To get a copy of the complete order, request it from the C.A.B. Distribution Section, Room 516, 1825 Connecticut Avenue, N.W., Washington, D.C. 20428. Persons outside the Washington metropolitan area may send a postcard request.

FOR FURTHER INFORMATION CONTACT: C. Robert Mallalieu, Bureau of International Aviation, Civil Aeronautics Board; (202) 673-5407.

By the Civil Aeronautics Board, May 10, 1979.

Phyllis T. Kaylor,
Secretary.

[Docket 34317; Order 79-5-94]

[FR Doc. 79-15239 Filed 5-15-79; 8:45 am]

BILLING CODE 6320-01-M

Allegheny Airlines; Chicago-Cleveland; Chicago-White Plains and Burlington, Vt.-Chicago Nonstop Authority

AGENCY: Civil Aeronautics Board.

ACTION: Notice of Order to Show Cause (Order 79-5-84).

SUMMARY: The Board is proposing to grant Chicago-Cleveland, Chicago-White Plains and Burlington, Vt.-Chicago nonstop authority to Allegheny Airlines and any other fit, willing and able applicant whose fitness can be established by officially noticeable data. The complete text of this order is available as noted below.

DATES: Objections: All interested persons having objections to the Board issuing an order making final the tentative findings and conclusions, shall file, by June 14, 1979, with the Board and serve upon Allegheny Airlines, American Airlines and Northwest Airlines a statement of objections,

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time it has been granted authority in

transportation to the passengers as

Secretary, U.S. Department of Commerce, Washington, D.C. 20230;

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together with a summary of testimony, statistical data and such evidence expected to be relied upon to support the statement of objections.

Additional Data: All existing would-be applicants who have not filed (a) illustrative service proposals, (b) environmental evaluations, and (c) an estimate of fuel to be consumed in the first year are directed to do so no later than May 30, 1979.

ADDRESSES: Objections should be filed in Docket 35519, Docket Section, Civil Aeronautics Board, Washington, D.C. 20428.

FOR FURTHER INFORMATION CONTACT: Thomas G. Chew, Bureau of Pricing and Domestic Aviation, Civil Aeronautics Board, 1825, Connecticut Avenue, N.W., Washington, D.C. 20428; 202–673–6067.

SUPPLEMENTARY INFORMATION: The complete test of Order 79–5–84 is available from our Distribution Section, Room 516, 1825 Connecticut Avenue, N.W., Washington, D.C. 20428. Persons outside the metropolitan area may send a postcard request for Order 79–5–84 to the Distribution Section, Civil Aeronautics Board, Washington, D.C. 20428.

By the Civil Aeronautics Board, May 10, 1979.

Phyllis T. Kaylor,
Secretary.

[Docket 35519; Order 79–5–84]
[FR Doc. 79–15237 Filed 5–15–79; 8:45 am]
BILLING CODE 6320–01–M

Braniff Airways, et al.; Dallas/Fort Worth–Phoenix Nonstop Authority

AGENCY: Civil Aeronautics Board.

ACTION: Notice of Order to Show Cause (79–5–79).

SUMMARY: The Board is proposing to grant Dallas/Ft. Worth–Phoenix nonstop authority to Braniff Airways, Hughes Airwest, Ozark Air Lines, Piedmont Aviation and Western Air Lines and any other fit, willing and able applicant whose fitness can be established by officially noticeable data. The complete text of this order is available as noted below.

DATES: Objections: All interested persons having objections to the Board issuing the proposed authority shall file, and serve upon all persons listed below, not later than June 14, 1979, a statement of objections, together with a summary of the testimony, statistical data, and other material expected to be relied upon to support the stated objections.

Additional Data: All existing and would-be applicants who have not filed (a) illustrative service proposals, (b) environmental evaluations, and (c) an estimate of fuel to be consumed in the first year are directed to do so no later than May 30, 1979.

ADDRESSES: Objections or Additional Data should be filed in Docket 35517 Docket Section, Civil Aeronautics Board, Washington, D.C. 20428.

FOR FURTHER INFORMATION CONTACT: Philip J. Reinke, Bureau of Pricing and Domestic Aviation, Civil Aeronautics Board, 1825 Connecticut Avenue, Washington, D.C., 20428, (202) 6763–5349.

SUPPLEMENTARY INFORMATION: Objections or additional data should be served upon the following persons: American Airlines, Braniff Airways, Delta Air Lines, Hughes Airwest, Ozark Air Lines, Piedmont Aviation, Western Air Lines, the Mayors of Phoenix, Dallas and Ft. Worth, the Texas Aeronautics Commission, the Division of Aeronautics of the Arizona Department of Transportation and the Airport Managers of Sky Harbor International and Dallas/Ft. Worth Regional Airports.

The complete text of Order 79–5–79 is available from our Distribution Section, Room 516, 1825 Connecticut Avenue, N.W., Washington, D.C. Persons outside the metropolitan area may send a postcard request for Order 79–5–79 to the Distribution Section, Civil Aeronautics Board, Washington, D.C., 20428.

By the Civil Aeronautics Board, May 10, 1979.

Phyllis T. Kaylor,
Secretary.

[Docket 35517; Order 79–5–79]
[FR Doc. 79–15235 Filed 5–15–79; 8:45 am]
BILLING CODE 6320–01–M

Ozark Air Lines, et al.; California–Denver Nonstop Authority

AGENCY: Civil Aeronautics Board.

ACTION: Notice of Order 79–5–80.

SUMMARY: The Board is proposing to grant California-Denver nonstop authority to Ozark Air Lines, Hughes Airwest, TWA and Pacific Southwest Airlines and any other fit, willing and able applicant whose fitness can be established by officially noticeable data. The complete text of this order is available as noted below.

DATES: Objections: All interested persons having objections to the Board issuing the proposed authority shall file, and serve upon all persons listed below, no later than June 15, 1979, a statement of objection together with a summary of the testimony, statistical data, and other material expected to be relied upon to support the stated objections.

ADDITIONAL DATA: All existing and would-be applicants who have not filed (a) illustrative service proposals, (b) environmental evaluations, and (c) an estimate of fuel to be consumed in the first year are directed to do so no later than May 31, 1979.

ADDRESSES: Objections or Additional Data should be filed in Docket 34303, Docket Section, Civil Aeronautics Board, Washington, D.C. 20428.

FOR FURTHER INFORMATION CONTACT: Lawrence R. Intravia, Bureau of Pricing and Domestic Aviation, Civil Aeronautics Board, 1825 Connecticut Ave., N.W., Washington, D.C. 20428; (202) 673–6067.

SUPPLEMENTARY INFORMATION: Objections should be served upon the following persons: Ozark Air Lines, Hughes Airwest, Pacific Southwest Airlines, Trans World Airlines, the California Public Utilities Commission and the city of Long Beach, California.

The complete text of Order 79–5–80 is available from our Distribution Section, Room 516, 1825 Connecticut Avenue, N.W., Washington, D.C. Persons outside the metropolitan area may send a postcard request for Order 79–5–80 to the Distribution Section, Civil Aeronautics Board, Washington, D.C. 20428.

By the Civil Aeronautics Board, May 10, 1979.

Phyllis T. Kaylor,
Secretary.

[Docket 34303; Order 79–5–80]
[FR Doc. 79–15236 Filed 5–15–79; 8:45 am]
BILLING CODE 6320–01–M

United Air Lines, Inc.; Order Granting Exemption

Adopted by the Civil Aeronautics Board at its office in Washington, D.C. on the 10th day of May, 1979.

By application filed March 19, 1979, pursuant to section 416(b) of the Federal Aviation Act of 1978, United Air Lines, Inc. (United) requests a blanket exemption from section 403 of the Act to the extent necessary to enable it to provide alternate transportation on scheduled service to certain charter passengers of other carriers for a one-year period. The transportation would be applicable only to emergency situations, including mechanical problems, weather difficulties, late delivery of aircraft, and similar problems. United would charge the charter rate.

In support of its application, United alleges that over an extended period of time it has been granted authority in emergency situations to transport other carriers' charter passengers on its scheduled service. Nevertheless, it must still collect the applicable coach fare until special authorization is granted, at which time United refunds the difference between the coach fare and the pro rata charter rate. United contends that the requested blanket authority would alleviate the accounting workload, save it and the Board's time in processing continual requests, and generally promote the efficient handling of charter passengers when emergency circumstances arise which require their placement on scheduled service. In addition, the carrier states that the proposed exemption is not a "part charter" since no travel agent or charter operator is selling tickets on United's service, and stresses that the authority would be expressly limited to transportation of other carriers' charter passengers, at the other carriers' request, and only in emergency situations.

Trans International (TIA) has answered in support of United's request and requests that the authority be granted to all U.S. and foreign-flag route carriers.

The Board will grant the requested exemption authority and expand it to cover all scheduled domestic and foreign-flag carriers. During calendar year 1978, 195 individual requests involving 25,904 passengers were approved. The administrative relief and resultant cost savings for both the carriers and the Board will be significant. Moreover, this authority will minimize confusion and inconvenience by eliminating the unnecessary delay involved by having to seek routine Board approval on a case-by-case basis for emergency situations. We will only require the carriers to file with the Board's Docket Section monthly reports relating to the number of charter passengers carried, the reason for the emergency transportation on scheduled service, and/or the type of emergency situation. Subject to this requirement, we find that grant of this exemption authority is consistent with public interest.

Accordingly, under the Federal Aviation Act of 1958, and particularly section 416(b),

1. We exempt all scheduled certificated air carriers and foreign air carriers from the provisions of section 403 of the Federal Aviation Act of 1958 and Part 221 of the Board's Economic Regulations, insofar as the enforcement of section 403 and Part 221 would prevent them from providing emergency transportation to the passengers as described in Docket 35084; and

2. We will serve a copy of this order on all certificated air carriers and foreign air carriers.

This order will be published in the **Federal Register.**

By the Civil Aeronautics Board.

Phyllis T. Kaylor,
Secretary.

[Docket 35084; Order 79–5–89]
[FR Doc. 79–15240 Filed 5–15–79; 8:45 am]
BILLING CODE 6320–01–M

DEPARTMENT OF COMMERCE

Foreign-Trade Zones Board

Proposed Foreign-Trade Zone—Duluth, Minn.; Application Filed

Notice is hereby given that an application has been submitted to the Foreign-Trade Zones Board (the Board) by the Seaway Port Authority of Duluth (the Port Authority), a public corporation of the State of Minnesota, requesting authority to establish a general-purpose foreign-trade zone within the 120-acre Arthur M. Clure Public Marine Terminal in the City of Duluth, within the Duluth Customs port of entry. The application was submitted pursuant to the provisions of the Foreign-Trade Zones Act of 1934, as amended (19 U.S.C. 81a–81u), and the Regulations of the Board (15 CFR Part 400). It was formally filed on May 10, 1979. The applicant is authorized to make this proposal under Section 458.192(13) of the Minnesota Statutes.

The zone would cover 40,000 square feet of space in the western section of the port-owned terminal on Lake Superior. The construction of a 10,000 square foot general-purpose warehouse facility is planned. Future development of a larger zone facility will depend upon the type and extent of interest by port users.

The application contains economic data and information concerning the need for a zone in the Duluth area. Several firms have indicated their interest in using the proposed zone for activities ranging from storage and distribution to assembly and light manufacturing. Among the initial zone users will be firms involved with recreational vehicles, heavy equipment, clothing, electronic modules, microwave ovens, and specialized grass seed.

In accordance with the Board's regulations, an Examiners Committee has been appointed to investigate the application and report thereon to the Board. The committee consists of: Hugh J. Dolan (Chairman) Office of the Secretary, U.S. Department of Commerce, Washington, D.C. 20230; Robert W. Nordress, District Director, U.S. Customs Service, 209 Federal Building, Duluth, Minnesota 55802; and Colonel Forrest T. Gay III, District Engineer, U.S. Army Engineer District St. Paul, 1135 USPO and Customs House, St. Paul, Minnesota 55101.

Comments on the proposed zone are invited in writing from interested persons and organizations. While a public hearing is not being scheduled, consideration will be given to requests for such a hearing. Comments and requests should be addressed to the Board's Executive Secretary at the address below and postmarked on or before June 11, 1979.

A copy of the Port Authority's application is available for public inspection at each of the following locations:

Office of the District Director, U.S. Customs Service, 209 Federal Building, Duluth, Minnesota 55802.

Office of the Executive Secretary, Foreign-Trade Zones Board, U.S. Department of Commerce, Room 6886–B, 14th and E Streets, .,.W., Washington, D.C. 20230.

Dated: May 11, 1979.

John J. Da Ponte, Jr.,
Executive Secretary.

[Docket No. 4–79]
[FR Doc. 79–15197 Filed 5–15–79; 8:45 am]
BILLING CODE 3510–25–M

DEPARTMENT OF DEFENSE

Department of the Air Force

USAF Scientific Advisory Board; Meeting

May 8, 1979.

The USAF Scientific Advisory Board Ad Hoc Committee on Air Force Logistics Command's Long-Range Computer Systems Planning will meet on June 7 and 8, 1979 at Kelly Air Force Base, Texas. The purpose of the meeting is to review ALC inputs to AFLC long-range computer system planning. The Committee will meet from 12:00 n. to 5:30 p.m. on June 7 and from 8:00 a.m. to 2:00 p.m. on June 8.

For further information contact the Scientific Advisory Board Secretariat at (202) 697–8845.

Carol M. Rose,
Air Force Federal Register, Liaison Officer.

[FR Doc. 79–15411 Filed 5–15–79; 8:45 am]
BILLING CODE 3910–01–M

Army Corps of Engineers

Wilmington, P.O. Box 1890, Wilmington, Mr. Henry A. Malec, PD–ES, U.S. Army

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Army Corps of Engineers

Supplement to Final Environmental Impact Statement; Intent

Notice of intent to prepare a Supplement to the Final Environmental Impact Statement (FEIS) for the Proposed *Manteo (Shallowbag) Bay, North Carolina* Project.

AGENCY: U.S. Army Corps of Engineers, DOD.

ACTION: Notice of Intent to Prepare a Supplement to a Final Environmental Impact Statement (FEIS).

SUMMARY: 1. The proposed action involves deepening the Ocean Bar Channel, the Manteo-Oregon Inlet Channel from the inlet to the side channel to Wanchese and the side channel to Wanchese, enlarging and deepening the basin at Wanchese, and maintaining Old House Channel. In addition, Oregon Inlet will be stabilized with a dual jetty system including means for sand transfer to the downdrift beach, and bottom protection for the Bonner Bridge across Oregon Inlet. Dredging activities are to be accomplished primarily by hydraulic pipeline dredge. This project is located in Dare County, North Carolina.

2. The alternatives to the project are a modified version of the authorized project plan, maintaining the existing project with improvements to Wanchese Harbor, abandonment of the existing project and no action.

3.a. We are inviting the participation of affected Federal, State and local agencies, and other interested private organizations and parties.

3.b. More information on the construction access channel, alignment of the jetties, long term maintenance of Old House and Wanchese to Albermarle Sound Channels, the sites of dredged material disposal for the Oregon Inlet to Wanchese Channel, cultural resources and endangered species will be given. Revisions and changes to the project will be discussed.

3.c. The National Park Service, U.S. Fish and Wildlife, and National Marine Fisheries Service will furnish input into the supplement as cooperating agencies.

4. A scoping meeting was held on 2 May 1979 with the U.S. Fish and Wildlife Service and National Park Service to discuss their concerns about the project.

5. It is estimated that the supplement to the FEIS will be available to the public in July 1979.

ADDRESS: Richard Jackson/SAWEN-E, U.S. Army Engineer District, Wilmington, P.O. Box 1890, Wilmington, NC 28402.

Dated: May 4, 1979.

Adolph A. Hight,
Colonel, Corps of Engineers, District Engineer.

[FR Doc. 79-15186 Filed 5-15-79; 8:45 am]

BILLING CODE 3710-6N-M

Draft Environmental Impact Statement; Intent To Prepare a Draft Environmental Impact Statement (DEIS) for a Flood Control Study on Village Creek at Birmingham, Alabama

AGENCY: U.S. Army Corps of Engineers, DOD.

ACTION: Notice of Intent to Prepare a Draft Environmental Impact Statement (DEIS) for a Flood Control Study on Village Creek at Birmingham, Alabama.

SUMMARY: 1. *Proposed Action:* The proposed action is to prepare a DEIS to assist in determining whether or not to provide flood protection on Village Creek at Birmingham, Alabama. Several alternatives that would provide varying degrees of flood protection are under consideration.

2. *Alternatives:* The alternatives include both structural and nonstructural measures such as: dams, levees, channels, emergency flood warning systems, enforcement of flood plain regulations, flood insurance, flood plain excavation, relocation of structures, flood proofing structures, and no action.

3. *Scoping Process:* a. The Public Involvement Program began on 5 February 1971 to discuss the flooding problems with local interests. A public workshop and meeting was held on 14-15 October 1975 to explain the study, review public views, and answer questions from local citizens. An Environmental Quality (EQ) Committee was formed to develop an EQ Plan. Two meetings were held on 9 March and 1 June 1978 with local, State, and Federal agencies and representatives of environmental groups.

b. Significant issues analyzed in the DEIS are: (1) Whether to remove the residential dwellings in addition to other flood protection measures, or (2) provide no level of flood protection.

4. *Scoping Meeting:* No additional scoping meetings are scheduled due to the advanced state of the DEIS and the coordination that has taken place to date.

5. *DEIS Preparation:* It is estimated that the DEIS will be available to the public in June of 1979.

ADDRESS: Questions about the proposed action and DEIS can be answered by: Mr. Henry A. Malec, PD-ES, U.S. Army Engineer District, Mobile, P.O. Box 2288, Mobile, Alabama 36628.

Dated: May 2, 1979.

Donald R. Pope,
LTC, Corps of Engineers, Acting District Engineer.

[FR Doc 79-15185 Filed 5-15-79; 8:45 am]

BILLING CODE 3710-CR-M

Intent To Prepare a Draft Environmental Impact Statement for the Great River Environmental Action Team (GREAT I) Study on the Upper Mississippi River from Guttenberg, Iowa, to Minneapolis, Minn.

AGENCY: St. Paul District, U.S. Army Corps of Engineers.

ACTION: Notice of Intent to Prepare a Draft Environmental Impact Statement (DEIS).

SUMMARY: The GREAT I Team, made up of five Federal agencies and three States, has been involved in a 5-year study to develop a river system management plan for the Mississippi River from Lock and Dam No. 10 at Guttenberg, Iowa, to the head of navigation at Minneapolis, Minnesota. The study has resulted in the recommendation of a maintenance plan for the 9-foot navigation channel, recommendations on future river resource management, and a recommendation for future river resource management coordination. In addition to the authorization and/or funding and subsequent implementation of these recommendations, the following alternatives have been identified to date:

a. No action—continuation of present operation and management of the Upper Mississippi River system.

b. Four channel maintenance plans for disposal of dredged material.

c. Nine plans for river resource management coordination.

d. Numerous river resource management alternatives, some of which will be recommended in the final report.

The scoping process for the DEIS will be initiated by a letter to all concerned Federal, State, and local agencies, affected Indian tribes, and those private organizations and parties who have expressed an interest in the GREAT I studies. Anyone else who has an interest in participating in the scoping process and the development of the DEIS is invited to do so and should contact the St. Paul District, Corps of Engineers, as soon as possible.

Significant issues identified to date include:

a. A proposal to implement a new channel maintenance plan that identifies specific disposal sites to be used for each dredge cut.

b. The addition of fish and wildlife and recreation as project purposes to the 9-foot navigation channel project.

c. Conflicting demands between users of the resources, both land and water, of the Upper Mississippi River.

d. Water quality tradeoffs involved in open water placement of dredged material resulting from channel maintenance activities, fish and wildlife management, recreation management, and/or other beneficial uses.

e. Inconsistent water quality and floodplain management regulations between involved States and the need to provide for consistency.

Our environmental review will be conducted in accordance with the requirements of the National Environmental Policy Act of 1969, Council on Environmental Quality Regulations (40 CFR Parts 1500-1508), and all applicable Corps of Engineers regulations and guidance.

We estimate that the DEIS will be made available to the public by September 1, 1979.

Questions concerning the proposed action and DEIS can be directed to: Colonel Forrest T. Gay III, District Engineer, St. Paul District, Corps of Engineers, 1135 U.S. Post Office and Custom House, St. Paul, Minnesota 55101.

Dated: May 4, 1979.

Forrest T. Gay III,
Colonel, Corps of Engineers, District Engineer.

[FR Doc. 79-15223 Filed 5-15-79; 8:45 am]

BILLING CODE 3710-CY-M

Intent To Prepare a Draft Environmental Impact Statement Supplement for Operations and Maintenance of Grays Harbor and Chehalis River Navigation Project

April 26, 1979.

AGENCY: U.S. Army Corps of Engineers, Seattle District.

ACTION: Notice of intent to prepare a Draft Environmental Impact Statement Supplement (DEISS) for operations and maintenance of the Grays Harbor and Chehalis River Navigation Project: Implementation of the Grays Harbor Long-Range Maintenance Dredging Program, Grays Harbor, Washington.

SUMMARY:

a. *Proposed Action.* The proposed action is continued maintenance of the Grays Harbor and Chehalis River Navigation Project in accordance with the Grays Harbor Long-Range Maintenance Dredging Program (LRMDP). The LRMDP was developed with input from several Federal, State, and local agencies concerned with dredging in the Grays Harbor estuary. The technical information used to developed the LRMDP was derived from the Grays Harbor Dredging Effects Study (GHDES) and other available information. The LRMDP provides general guidelines for implementing the maintenance dredging along all navigation channel reaches in the estuary. Dredging methods, disposal sites, and seasonal restrictions of dredging are discussed for each channel reach. Provisions for wetland habitat development on dredged material and dredging water quality gudelines are also included. Case-by-case coordination is the basis for incorporating new information into the LRMDP as it becomes available and to handle variance from the guidelines described in the LRMDP.

b. *Alternatives.* The environmental impact statement prepared in 1975 for operations and maintenance of the navigation project discussed various alternatives to project maintenance. This DEISS will address the alternatives to maintaining the project in accordance with the LRMDP. These alternatives are listed below:

(1) Yearly Coordination of Dredging Plans. No long-range program would be implemented.

(2) Modify the Present Long-Range Program. Use of alternative dredging methods and alternative disposal sites, including ocean disposal, rather than those selected in the proposed plan.

(3) Accept the LRMDP as prepared.

c. *Environmental Review and Input.* In March 1974, the U.S. Army Corps of Engineers initiated the GHDES to define the effects of maintenance dredging activities on the estuary's environment. The Washington State Department of Ecology was contracted to conduct the study; its objectives and scope were developed by the Seattle District, Corps of Engineers, in cooperation with Federal, state, and local resource agencies. Acting on the information provided by the GHDES, a series of interagency meetings were held during 1976 to develop a long-range maintenance dredging program for Grays Harbor. The resulting LRMDP was reviewed by the participants and their agencies. Additional review of the program will be required as new information becomes available.

d. *Significant Issues.* It has long been recognized by many of the agencies concerned with dredging in Grays Harbor that, in order to address all expressed interests and concerns, a long-range plan for dredging should be developed. The reulting LRMDP allows sufficient foresight to evaluate potential cumulative and indirect impacts due to piecemeal actions affecting the environment. In addition, the LRMDP has the potential for meeting the economic requirements of the region while maintaining the valuable natural resources of the estuary.

The DEISS will address the changes in disposal methods, disposal site locations, and the timing of dredging that will result with implementation of the LRMDP. It is the intent of the LRMDP to minimize the environmental impacts of maintenance dredging activities. Consequently, the DEISS will discuss these impacts by summarizing the information obtained from the GHDES.

AVAILABILITY OF DEISS: The DEISS is presently scheduled to become available to the public on June 1, 1979.

ADDRESS: Information about the proposed action and DEISS can be obtained by contacting:

Fred Weinmann or Keith Phillips, Department of the Army, Seattle District, Post office Box C-3755, Seattle, Washington 98124. ATTN: NPSEN-PL-ER. Phone: (206) 764-3625, (FTS 399-3625).

Dated: May 9, 1979.

John A. Fteasl,
Colonel, Corps of Engineers, District Engineer.

[FR Doc. 79-15221 Filed 5-15-79; 8:45 am]

BILLING CODE 3710-ER-M

Preparation of Draft Environmental Impact Statement for Proposed Marina Construction at East Bay, Olympia, Wash.

AGENCY: U.S. Army Corps of Engineers, Seattle District.

ACTION: Preparation of a Draft Environmental Impact Statement (DEIS) for Proposed Marina Construction at East Bay, Olympia, Washington.

SUMMARY: The selected plan of action is to construct and protect an 800 slip marina in East Bay, Olympia, Washington. The Corps will be responsible for dredging the entrance and access channels (500,000 cubic yards of material); included in the same dredging contract will be the dredging of the moorage area (500,000 cubic yards of material), a local sponsor responsibility. Dredge material will be used to fill 53.4 acres of tidelands, submerged lands and uplands for marina support facilities, access roads, marina parking, and a

cargo handling area to be used by the local sponsor (Port of Olympia). The Corps will also construct a 768 foot floating breakwater to protect the moorage area and access channels.

Alternatives to the preferred plan will include: (1) No action; (2) dry moorage, and (3) nine alternative locations in the South Puget Sound.

(1) The no action alternative would mean no involvement by the Corps of Engineers. The responsibility for constructing and maintaining the marina would be the local sponsor's.

(2) Dry moorage will also be considered as a possible alternative. Such an alternative would require extensive backup land, close to the waterfront as well as breakwater protection, pier, handling docks, hoists, launching ramps, etc. Storage area would be limited to boats no longer than 27 feet.

(3) Nine additional sites will be considered. These sites include: (1) Butler Cove in Budd Inlet, (2) West Bay North and West Bay South, (3) East Bay Shore, (4) Gull Harbor and Budd Inlet, (5) Boston Harbor; a bay near Dofflemeyer and Dover Points, (6) Henderson Inlet North and Henderson Inlet South, (7) Chapman Bay in Henderson Inlet.

Two significant issues will be discussed in the Draft EIS. The first significant issue is the possibility that a marina, located in East Bay, would further degrade the poor water quality of the area. The waters of East Bay periodically experience dissolved oxygen (D.O.) sags. Whether or not a marina would increase the frequency of these D.O. sags or cause an increase in retention time of the low oxygenated waters will be further discussed in the Draft EIS.

The second issue is the amount of fill material. Other agencies have shown a concern that too many acres of intertidal wetlands and subtidal lands will be converted to uplands for the purpose of cargo storage.

Public Involvement: A public information studygram was mailed to interested agencies, organizations, industries and individuals on February 11, 1979. The local sponsor (Port of Olympia) held a public meeting on the proposed project on February 21, 1979. At this meeting the status of the project was presented.

A second studygram will be mailed and possibly a public hearing held prior to publication of the final EIS.

DEIS Availability: The Draft EIS for East Bay Marina will be available in approximately late May.

Address: Questions and/or comments on this proposed action and DEIS can be answered by:

Mr. John Malek, Environmental Resources Section, U.S. Army Corps of Engineers, Seattle District, Post Office Box C-3755, Seattle, Washington 98124, Telephone: (206) 764-3624.

Dated: May 9, 1979.

John A. Poteat,

Colonel, Corps of Engineers District Engineer.

[FR Doc. 79-15222 Filed 5-15-79; 8:45 am]

BILLING CODE 3710-ER-M

Defense Nuclear Agency

Privacy Act of 1974; New System of Records

AGENCY: Defense Nuclear Agency (DNA).

ACTION: Notice of new record system.

SUMMARY: The Defense Nuclear Agency is adding a new system of records to its inventory of record systems subject to the Privacy Act. This new system is identified as HDNA 005, entitled: Manpower/Personnel Management System. The record system notice is set forth below.

DATES: This system shall be effective as proposed without further notice in 30 days from the date of this notice unless comments are received on or before June 15, 1979, which would result in a contrary determination and require republication for further comments.

ADDRESS: Send comments to the System Manager identified in the record system.

FOR FURTHER INFORMATION CONTACT: Ms. Rosemary L. Harris, General Counsel, Defense Nuclear Agency, Washington, D.C. 20305, Telephone 202-325-7681.

SUPPLEMENTARY INFORMATION: The Defense Nuclear Agency record system notices as prescribed by the Privacy Act of 1974, Pub. L. 93-579 (5 U.S.C. 552a) have been published in the **Federal Register** as follows:

FR Doc 77-28255 (42 FR 51073), September 28, 1977.

FR Doc 78-25819 (42 FR 42374), September 20, 1978. The Defense Nuclear Agency has submitted a new system report on March 13, 1979 on this system of records under the provisions of 5 U.S.C. 552a(o) of the Privacy Act.—

May 10, 1979.

H.E. Lofdahl,

Director, Correspondence and Directives, Washington Headquarters Services, Department of Defense.

HDNA 005

SYSTEM NAME:

Manpower/Personnel Management System.

SYSTEM LOCATION:

Personnel/Administration Directorate, Defense Nuclear Agency, Washington, D.C. 20305, Routing Symbol: OAPA. Also at the following subordinate commands: Civilian Personnel Office, Bldg 2023A, Kirtland AFB, New Mexico 87115; Civilian Personnel Office, Armed Forces Radiobiology Research Institute, Bethesda, Maryland 20014, Bldg 42, located on the grounds of the National Naval Medical Center. Also supervisor maintained files at all three locations.

CATEGORIES OF INDIVIDUALS COVERED BY THE SYSTEM:

Any individual, military or civilian, employed by DNA.

CATEGORIES OF RECORDS IN THE SYSTEM:

File contains following information on all personnel assigned to DNA: Social Security Number; Agency; Employee Name; Birth Date; Veteran's Preference; Tenure Group; Service Computation Date; Federal Employees Group Life Insurance; Retirement Code; Nature of Action Code; Effective Date of Action; Position Number; Pay Plan; Occupation Code; Functional Classification Code; Grade; Step; Pay Basis; Salary; Supervisory Position; Location Code/ Duty Station; Position Occupied; Work Schedule; Pay Rate Determinant; Special Program Identification Code; Sex; Citizen Status; Date Entered Present Grade; Date Entered Present Step; Separation Date; Reason for Separation (Quit Code); Cost Center; Academic Discipline; Career Conditional Appointment Date (Conversion to Career); Education Level; Degree Date; Purpose of Training; Type of Training; Source of Training; Special Interest; Direct Cost; Indirect Cost; Date of Completion; On-Duty Hours; Off-Duty Hours; JTD Paragraph Number; JTD Line Number; Competitive Level; Military Service Retirement Date; Uniformed Service; Service Commissioned (military); Service Pay Grade (rank); Agency Sub-element Code; Submitting Office Number; Retired Military Code; Bureau; Unit Identification Code; Program Element Code; Civil Function Code; Guard/Reserve Technician;

Appropriation Code; Active/Inactive Strength Designation; Work Center Code; Projected Vacancy Date; Targeted Grade; Position Title; Date of Last Equivalent Increase; Fair Labor Standards Act Designator; Health Benefits Enrollment Code; Type and Date of Incentive Award; Personal Title of Employee; Civil Service or Other Legal Authority; Employing Office Name; Date Probationary Period Begins; Performance Rating; Due Date for Future Action; Position Tenure; Leave Category; Average Grade by Command Element; Personnel Authorized; Projected Personnel Requirements; Special Experience Identifiers; Rotational Position Identification; Additional Duties; Office Titles; Manpower Track; Facility; Arm of Service; Branch of Service; Date of Rank; Primary/Alternate Specialty; Control Specialty; Last OER/EER; Basic Pay Entry Date; Basic Active Service Date; Date of Arrival; Projected Date of Departure; Security; Marital Status; Spouse's Name; Dependents; Address (Nr and Street, City, State, Zip Code); Phones (Home and Duty); Handicap Code; Minority Group Designator.

AUTHORITY FOR MAINTENANCE OF THE SYSTEM:

5 U.S.C. 301, 302, 4103, Pub. L. 89-554, September 6, 1966.

ROUTINE USES OF RECORDS MAINTAINED IN THE SYSTEM, INCLUDING CATEGORIES OF USERS, AND PURPOSES OF SUCH USES:

INTERNAL USERS, USES AND PURPOSES:

Assigned personnel in the agency will compile and consolidate reports relating to manpower authorizations/assigned strengths and monitor personnel actions and programs as required by management officials within the agency. Users include Headquarters, Field Command and AFFRI personnel.

Officials and employees of the Defense Nuclear Agency in the performance of their official duties related to the management of civilian and military employee programs, including the design, development, maintenance and operation of the manual and automated system of record keeping and reporting; screening and selection of candidates for centrally administered training programs or promotions; administration of grievances, appeals, complaints, or litigation involving equal opportunity or disclosure of records. Preparation and publication of personnel rosters to facilitate communications/contact for official, social or emergency purposes.

Officials and employees of other Department of Defense components upon request in the performance of their official duties related to the screening and selection of candidates for programs sponsored by their organization.

A duly appointed hearing Examiner or Arbitrator for the purpose of conducting a hearing in connection with an employee's grievance involving disclosure of records or equal opportunity matters. An arbitrator who is given a contract pursuant to a negotiated labor agreement to hear an employee's grievance involving the disclosure of records of the DNA training or employee development records system.

EXTERNAL USERS, USES AND PURPOSES:

Representatives of the Office of Personnel Management/Merit Systems Protection Board on matters relating to the inspection, survey, audit or evaluation of the civilian programs or such other matters under the jurisdiction of the OPM.

The Comptroller General or any of his authorized representatives in the course of performance of duties of the General Accounting Office relating to civilian programs.

The Attorney General of the United States or his authorized representatives in connection with litigation, law enforcement, or other matters under the direct jurisdiction of the Department of Justice or carried out as the legal representative of the Executive Branch agencies.

Officials and employees of other agencies of the Executive Branch of government upon request in the performance of their official duties related to the screening and selection of candidates for programs sponsored by their organization.

POLICIES AND PRACTICES FOR STORING, RETRIEVING, ACCESSING, RETAINING AND DISPOSING OF RECORDS IN THE SYSTEM:

STORAGE:

Automated records are stored on magnetic tapes, discs, computer printouts, and on punched cards. Manual records are stored in paper file folders, card file boxes, and paper rosters.

RETRIEVABILITY:

Automated records are retrieved by social security number. Manual Records are retrieved by employee's last name. Handicap Code and Minority Group Designators are available for access only by the Director and the EEO Officer.

SAFEGUARDS:

The computer facility and terminal are located in restricted areas accessible only to authorized personnel that are properly screened, cleared, and trained. Manual records and computer printouts are available only to authorized personnel having a need to know. Building employs security guards and is protected by intrusion alarm system.

RETENTION AND DISPOSAL:

Computer magnetic tapes are permanent. Manual records are maintained on a fiscal year basis and are retained for varying periods from 1 to 5 fiscal years after which they are destroyed in accordance with appropriate record disposal schedules.

SYSTEM MANAGER(S) AND ADDRESS:

Director, Personnel/Administraton Directorate - Headquarters, Defense Nuclear Agency—Washington, DC 20305—Telephone: 202-325-7047.

NOTIFICATION PROCEDURE:

Information may be obtained from System Manager. The letter should contain the full name and signature of the requester and the approximate period of time, by date, during which the case record was developed.

RECORD ACCESS PROCEDURES:

Requests should be addressed to System Manager. Written requests for information should contain the full name of individual. For personal visits, the individual should provide military or civilian identification card.

CONTESTING RECORD PROCEDURES:

The agency's rules for contesting contents and appealing initial determinations are contained in DNA Instruction 5400.11 (32 CFR Part 291a). Additional information may be obtained from the System Manager.

RECORD SOURCE CATEGORIES:

Information extracted from military and civilian personnel records, Joint Manpower Program document, security division, and voluntarily submitted by individual.

EXEMPTIONS CLAIMED FOR THE SYSTEM:

None.

[FR Doc. 79-15270 Filed 5-15-79; 8:45 am]

BILLING CODE 3810-70-M

Office of the Secretary

Privacy Act of 1974; Deletion of System of Records

AGENCY: Office of the Secretary of Defense (OSD).

ACTION: Notice of system of records deletion.

SUMMARY: The Office of the Secretary of Defense is deleting a system of records subject to the Privacy Act of 1974.

FOR FURTHER INFORMATION CONTACT: Mr. James S. Nash, Chief, Records Management Division, ODASD(A), Room 5C315, Pentagon, Washington, D.C. 20301. Telephone: 202–695–0970.

SUPPLEMENTARY INFORMATION: The Office of the Secretary of Defense systems of records subject to the Privacy Act of 1974 (5 USC 552a), Pub. L. 93–579, have been published in the **Federal Register** as follows:

FR Doc. 77–28255 (42 FR 50731) September 28, 1977.
FR Doc. 78–25819 (43 FR 42375) September 20, 1978.
FR Doc. 78–34821 (43 FR 58405) December 14, 1978.
FR Doc. 78–35943 (43 FR 60331) December 27, 1978.
FR Doc. 79–8786 (44 FR 17780) March 23, 1979.
FR Doc. 79–11351 (44 FR 22143) April 13, 1979.

H. E. Lofdahl,
Director, Correspondence and Directives, Washington Headquarters Services, Department of Defense.
May 11, 1979.

Deletion

DWHS P24

System name: Navy Officer Personnel Service Records (43 FR 42428, September 20, 1978).

Reason: This system of records is no longer maintained.

[FR Doc. 79–15267 Filed 5–15–79; 8:45 am]
BILLING CODE 3810–70–M

DEPARTMENT OF ENERGY

National Petroleum Council, Task Groups of the Committee on Materials and Manpower Requirements; Meeting

Notice is hereby given that a subcommittee and a task force of the Committee on Materials and Manpower Requirements will meet in June 1979. The National Petroleum Council was established to provide advice, information, and recommendations to the Secretary of Energy on matters relating to oil and natural gas or the oil and natural gas industries. The Committee on Materials and Manpower Requirements will analyze the potential constraints in these areas which may inhibit future production and will report its findings to the National Petroleum Council. Its analysis and findings will be based on information and data to be gathered by the various task groups. The subcommittee scheduling a meeting is the Government Subcommittee and the task force is the Regulatory Impact Task Force. The time, location and agenda of the meetings follows:

The fourth meeting of the Government Subcommittee will be held on Friday, June 15, 1979, starting at 9:00 a.m. in the Main Conference Room of the General Crude Oil Company's offices, One Allen Center Building, 500 Dallas Street, Houston, Texas.

The tentative agenda for the meeting follows:

1. Introductory remarks by Chairman and Government Cochairman.
2. Review the progress of the Business Environment Task Group and the Regulatory Impact Task Group.
3. Review the timetable of the Government Subcommittee.
4. Discussion of any other matters pertinent to the overall assignment of the Government Subcommittee.

The fifth meeting of the Regulatory Impact Task Group will be held on Friday, June 22, 1979, starting at 10:00 a.m. in Conference Room 2626, on the 26th floor of the Tenneco Building, 1010 Milam Street, Houston, Texas.

The tentative agenda for the meeting follows:

1. Introductory remarks by Chairman and Government Cochairman.
2. Review of information collected for the Task Group's consideration.
3. Review of schedule for completion of assignment of the Regulatory Impact Task Group.
4. Discussion of any other matters pertinent to the overall assignment of the Regulatory Impact Task Group.

The meetings are open to the public. The chairmen of the subcommittee and task force are empowered to conduct the meetings in a fashion that will, in their judgment, facilitate the orderly conduct of business. Any member of the public who wishes to file a written statement with the subcommittee or task force will be permitted to do so, either before or after the meetings. Members of the public who wish to make oral statements should inform James R. Hemphill, Office of Resource Applications, 202/633–8383, prior to the meetings and reasonable provision will be made for their appearance on the agenda.

Summary minutes of the meetings will be available for public review at the Freedom of Information Public Reading Room, Room GA 152, DOE, Forrestal Building, 1000 Independence Avenue, SW., Washington, D.C., between the hours of 8 a.m. and 4:30 p.m., Monday through Friday, except Federal holidays.

Issued at Washington, D.C., on May 2, 1979.

George S. Mclsaac,
Assistant Secretary for Resource Applications.
May 2, 1979.

[FR Doc. 79–15187 Filed 5–15–79; 8:45 am]
BILLING CODE 6450–01–M

National Petroleum Council, Task Group of the Committee on Unconventional Gas Sources; Meeting

Notice is hereby given that a task group of the Committee on Unconventional Gas Sources will meet in June 1979. The National Petroleum Council was established to provide advice, information, and recommendations to the Secretary of Energy on matters relating to oil and natural gas or the oil and natural gas industries. The Committee on Unconventional Gas Sources will analyze the potential constraints in these areas which may inhibit future production and will report its findings to the National Petroleum Council. Its analysis and findings will be based on information and data to be gathered by the various task groups. The task group scheduling a meeting is the Tight Gas Reservoirs Task Group. The time, location and agenda of the task group's meeting follows:

The seventh meeting of the Tight Gas Reservoirs Task Group will be on Friday, June 22, 1979, starting at 8:30 a.m. in the Conference Room, Mobil Oil Corporation, Prudential Plaza Building, 1645 Curtis Street, Denver, Colorado.

The tentative agenda for the meeting follows:

1. Introductory remarks by Chairman and Government Cochairman.
2. Discussion of overall progress of the Tight Gas Reservoirs Task Group.
3. Review status of separate assignments of the Tight Gas Reservoirs Task Group.
4. Discussion of any other matters pertinent to the overall assignment of the Tight Gas Reservoirs Task Group.

The meeting is open to the public. The chairman of the task group is empowered to conduct the meeting in a fashion that will, in his judgment, facilitate the orderly conduct of business. Any member of the public who wishes to file a written statement with the task group will be permitted to do so, either before or after the meeting. Members of the public who wish to make oral statements should inform Lucio A. D'Andrea, Office of Resource Applications, 202/633–9482, prior to the meeting and reasonable provision will be made for their appearance on the agenda.

Summary minutes of the meeting will be available for public review at the Freedom of Information Public Reading Room, Room GA 152, DOE, Forrestal Building, 1000 Independence Avenue, SW., Washington, D.C., between the hours of 8 a.m. and 4:30 p.m., Monday through Friday, except Federal holidays.

Issued at Washington, D.C., on May 10, 1979.

Daniel M. Ogden, Jr.,
Acting Assistant Secretary for Resource Applications.
May 10, 1979.

[FR Doc. 79–15212 Filed 5–15–79; 8:45 am]
BILLING CODE 6450–01–M

National Petroleum Council, Task Groups of the Committee on Materials and Manpower Requirements; Meeting

Notice is hereby given that a task group of the Committee on Materials and Manpower Requirements will meet in May and June 1979. The National Petroleum Council was established to provide advice, information, and recommendations to the Secretary of Energy on matters relating to oil and natural gas or the oil and natural gas industries. The Committee on Materials and Manpower Requirements will analyze the potential constraints in these areas which may inhibit future production and will report its findings to the National Petroleum Council. Its analysis and findings will be based on information and data to be gathered by the various task groups. The task group scheduling a meeting is the Tubular Steel Task Group. The time, location and agenda of the meeting follows:

The sixth meeting of the Tubular Steel Task Group will be held on Thursday and Friday, May 31 and June 1, 1979, starting at 9:00 a.m. on both days in the 8th floor Conference Room, United States Steel Corporation, Two Allen Center Building, 1200 Smith Street, Houston, Texas.

The tentative agenda for the meeting follows:

1. Introductory remarks by Chairman and Government Cochairman.
2. Discussion of the overall progress of the Tubular Steel Task Group.
3. Review the status of the separate assignments of the Tubular Steel Task Group.
4. Discussion of any other matters pertinent to the overall assignment of the Tubular Steel Task Group.

The meeting is open to the public. The chairman of the task force is empowered to conduct the meeting in a fashion that will, in his judgement, facilitate the orderly conduct of business. Any member of the public who wishes to file a written statement with the task force will be permitted to do so, either before or after the meeting. Members of the public who wish to make oral statements should inform James R. Hemphill, Office of Resource Applications, 202/633–8383, prior to the meeting and reasonable provision will be made for their appearance on the agenda.

Summary minutes of the meeting will be available for public review at the Freedom of Information Public Reading Room, Room GA 152, DOE, Forrestal Building, 1000 Independence Avenue, SW., Washington, D.C., between the hours of 8 a.m. and 4:30 p.m., Monday through Friday, except Federal holidays.

Issued at Washington, D.C., on May 10, 1979.

Daniel M. Ogden, Jr.,
Acting Assistant Secretary for Resource Applications.
May 10, 1979.

[FR Doc 79–15213 Filed 5–15–79; 8:45 am]
BILLING CODE 6450–01–M

Objection Filed with the Office of Hearings and Appeals; Week of April 9 through April 13, 1979

Notice is hereby given that during the week of April 9 through April 13, 1979 the Notice of Objection to a Proposed Remedial Order listed in the Appendix to this notice was filed with the Office of Hearings and Appeals of the Department of Energy.

Within 20 days after publication of this notice, any person who wishes to participate in the proceeding with the Department of Energy will conduct concerning the Proposed Remedial Order described in the Appendix to this notice must file a request to participate, pursuant to 10 CFR 205.194 (44 FR 7926, February 7, 1979). Within 30 days of the publication of this notice, the Office of Hearings and Appeals will determine those persons who may participate on an active basis in this proceeding, and will prepare an official service list which it will mail to all persons who filed requests to participate. Persons may also be placed on the official service list as non-participants for good cause shown. All requests regarding this proceeding shall be filed with the Office of Hearings and Appeals, Department of Energy, Washington, D.C. 20461.

Issued in Washington, D.C., May 10, 1979.

Melvin Goldstein,
Director, Office of Hearings and Appeals.

William J. O'Connor, Oklahoma City, Okla., DRO–0191, crude oil

On April 10, 1979, William J. O'Connor, 125 Northwest 6th Street, Oklahoma City, Oklahoma 73102, filed a Notice of Objection to a Proposed Remedial Order which the DOE Southwest Enforcement District issued to him on March 28, 1979. In the Proposed Remedial Order, the Enforcement District found that during the period September, 1973 through June, 1978, O'Connor committed pricing violations in the State of Oklahoma in connection with the production and sale of crude oil. According to the Proposed Remedial Order, O'Connor's violations resulted in overcharges to its customers of $86,109.56.

[FR Doc. 79–15214 Filed 5–15–79; 8:45 am]
BILLING CODE 6450–01–M

Price of Americium–241

AGENCY: Department of Energy.

ACTION: Notice of Proposed Price Increase.

SUMMARY: The United States Department of Energy (DOE) proposes to announce an increase in the sales price for Americium–241 from $600 per gram to $800 per gram and proposes to supercede the **Federal Register** *Notice* "Americium–241 Notice of Price Increase" of May 24, 1977, (42 FR 26450).

The foregoing proposed action has been determined to be consistent with the requirements of Section 81 of the Atomic Energy Act, as amended.

DATE: Written comments will be considered if received no later that June 18, 1979.

ADDRESS: Send written comments to: Dr. John L. Burnett, Division of Nuclear Sciences, Office of Basic Energy Sciences, U.S. Department of Energy, Washington, DC 20545, MS J–309.

FOR FURTHER INFORMATION CONTACT: Dr. John L. Burnett, (301) 353–3613.

SUPPLEMENTARY INFORMATION:

Background

Americium–241 is produced by DOE as a by-product from the reprocessing of aged plutonium. Plutonium–241 is one of the isotopes present and decays to Am–241. The major commercial use for Am–241 is for producing neutron sources used in oil well logging. Another increasingly important use is in smoke detectors.

Historically DOE and its predecessor agencies have established a sales price for Am–241 to recover the costs associated with the additional steps in the process to render Am–241 to a commercially useful form. The increase of the sales price of Am–241 to $800 per gram will enable DOE to continue to recover those costs.

Determination Pursuant to Section 501(c) of the DOE Organization Act

A comment period is provided pursuant to Section 501(b)(1) of the DOE

Organization Act (Pub. L. 95–91),

its audit of Pauley, the Office of

subsequent purchasers or offset through

Application for Presidential Permit PP–

available for public inspection and

aviation fuels as a retailer and fixed

Organization Act (Pub. L. 95–91). However, it has been determined that no substantial issue of law or fact exists and this proposed price increase will have no substantial impact on the nation's economy or on large numbers of individuals or businesses. Therefore, no public hearing will be held.

Issued in Washington, D.C., May 10, 1979.

John M. Deutch,

Director of Energy Research.

[FR Doc. 79-15281 Filed 5-15-79; 8:45 am]

BILLING CODE 6450-01-M

Economic Regulatory Administration

Pauley Petroleum Inc.; Action Taken on Consent Order

AGENCY: Economic Regulatory Administration, Department of Energy.

ACTION: Notice of action taken and opportunity for comment on Consent Order.

SUMMARY: The Economic Regulatory Administration (ERA) of the Department of Energy (DOE) announces action taken to execute a Consent Order and provides an opportunity for public comment on the Consent Order and on potential claims against the refunds deposited in an escrow account established pursuant to the Consent Order.

DATES: Effective date: April 30, 1979.

COMMENTS BY: June 15, 1979.

ADDRESS: Send comments to: Jack L. Wood, District Manager of Enforcement, 111 Pine Street, San Francisco, CA 94111.

FOR FURTHER INFORMATION CONTACT: Jack L. Wood, District Manager of Enforcement, 111 Pine Street, San Francisco, CA 94111, Phone: (415) 556–7200.

SUPPLEMENTARY INFORMATION: On April 30, 1979, the Office of Enforcement of the ERA executed a Consent Order with Pauley Petroleum Inc. of Los Angeles, California. Under 10 CFR 205.199J(b), a Consent Order which involves a sum of less than $500,000 in the aggregate, excluding penalties and interest, becomes effective upon its execution.

I. The Consent Order

Pauley Petroleum Inc., with its home office located in Los Angeles, California, is a firm engaged in the production and sale of crude oil, and is subject to the Mandatory Petroleum Price and Allocation Regulations at 10 CFR, Parts 210, 211, 212. To resolve certain civil actions which could be brought by the Office of Enforcement of the Economic Regulatory Administration as a result of its audit of Pauley, the Office of Enforcement, ERA, and Pauley entered into a Consent Order, the significant terms of which are as follows:

1. Pauley is the owner and operator of the Fee No. 7 lease in Los Angeles County, California.

2. Pauley produced 3851.48 barrels of crude oil from Fee No. 7 during the period September 1, 1976 through September 30, 1977, which amount was sold to Macmillan Ring-Free Oil Company at exempt oil prices based upon certification of the lease as a stripper well property.

3. The DOE contends that the lease was not eligible for the stripper well exemption for any period prior to October 1, 1977 and that Pauley should not have received payments in excess of the lower tier ceiling price as prescribed by 10 CFR 212.73 during the period in question.

4. Payments received by Pauley from Macmillan in excess of the applicable lower tier ceiling price during the period September 1, 1976 through September 30, 1977 totaled $27,241.58.

5. Pauley, without admitting that it has violated any regulation or overcharged any customer, is willing to enter into the Consent Order and refund $27,241.58 plus interest at the rate set by DOE as a means of settling this dispute.

6. The provisions of 10 CFR 205.199J, including the publication of this Notice are applicable to the Consent Order.

II. Disposition of Refunded Overcharges

In this Consent Order, Pauley agreed to refund, in full settlement of any civil liability with respect to actions which might be brought by the Office of Enforcement, ERA, arising out of the transactions specified above, the sum of $27,241.58 plus interest thereon in the amount of $3,412.46. A certified check for $30,655.04 made payable to the United States Department of Energy has been delivered to the Assistant Administrator for Enforcement, ERA. These funds will remain in a suitable account pending the determination of their proper disposition.

the DOE intends to distribute the refunded amount in a just and equitable manner in accordance with applicable laws and regulations. Accordingly, distribution of such refunded overcharges requires that only those "persons" (as defined at 10 CFR 205.2) who actually suffered a loss as a result of the transactions described in the Consent Order receive appropriate refunds. Because of the petroleum industry's complex marketing system, it is likely that overcharges have either been passed through as higher prices to subsequent purchasers or offset through devices such as the Old Oil Allocation (Entitlements) Program, 10 CFR 211.67. In fact, the adverse effects of the overcharges may have become so diffused that it is a practical impossibility to identify specific, adversely affected persons, in which case disposition of the refunds will be made in the general public interest by an appropriate means such as payment to the Treasury of the United States pursuant to 10 CFR 205.199l(a).

III. Submission of Written Comments

A. *Potential Claimants.*—Interested persons who believe that they have a claim to all or a portion of the refund amount should provide written notification of the claim to the ERA at this time. Proof of claims is not now being required. Written notification to the ERA at this time is requested primarily for the purpose of identifying valid potential claims to the refund amount. After potential claims are identified, procedures for the making of proof of claims may be established. Failure by a person to provide written notification of a potential claim within the comment period for this Notice may result in the DOE irrevocably disbursing the funds to other claimants or to the general public interest.

B. *Other Comments.*—The ERA invites interested persons to comment on the terms, conditions, or procedural aspects of this Consent Order.

You should send your comments or written notification of a claim to Jack L. Wood, District Manager of Enforcement, 111 Pine Street, San Francisco, California 94111. You may obtain a free copy of this Consent Order by writing to the same address or by calling 415–556–7200.

You should identify your comments or written notification of a claim on the outside of your envelope and on the documents you submit with the designation, "Comments on Pauley Petroleum Inc. Consent Order." We will consider all comments we receive by 4:30 p.m., local time, on June 15, 1979. You should identify any information or data which, in your opinion, is confidential and submit it in accordance with the procedures in 10 CFR 205.9(f).

Issued in Los Angeles on the 4th day of May 1979.

George W. Hubbard,

Acting District Manager of Enforcement.

[FR Doc. 79-15168 Filed 5-15-79; 8:45 am]

BILLING CODE 6450-01-M

Application for Presidential Permit PP–69: Vermont Electric Cooperative, Inc.

AGENCY: Department of Energy, Economic Regulatory Administration.

ACTION: Notice of Application for Presidential Permit for Three International Transmission Lines: Vermont Electric Cooperative, Inc.

SUMMARY: Vermont Electric Cooperative, Inc. filed an application for a Presidential Permit, PP–69, to operate and maintain a group of three international transmission lines at the United States-Canadian boundary.

FOR FURTHER INFORMATION CONTACT:

James M. Brown, Jr., System Reliability and Emergency Response Branch, Department of Energy, Room 4070, Vanguard Building, 1111 20th Street NW., Washington, D.C. 20461, (202) 634–5620.

Lise Courtney Howe, Office of General Counsel, Department of Energy, Room 5113, Federal Building, 12th and Pennsylvania Avenue NW., Washington, D.C. 20461, (202) 633–9380.

SUPPLEMENTARY INFORMATION: On April 26, 1979 Vermont Electric Cooperative, Inc. (Vermont Electric) filed an application with the Economic Regulatory Administration (ERA) for a presidential permit, pursuant to Executive Order No. 10485, as amended. Vermont Electric requests authority to operate and maintain three 24.95 kV transmission lines at the United States-Canadian border, in the vicinity of Derby, Vermont.

Vermont Electric states that it has a contract with the Hydro Quebec Board and a Letter Agreement extending the contract, copies of which are filed with the application. The contract provides for Vermont Electric to purchase between 1200 and 3600 kilowatts annually from Hydro Quebec.

Any person desiring to be heard or to protest said application should file a petition to intervene or protest with the System Reliability and Emergency Response Branch, Economic Regulatory Administration, Room 4070, 1111 20th Street, N.W., Washington, D.C. 20461, in accordance with sections 1.8 and 1.10 of the Rules of Practice and Procedure (18 CFR 1.8, 1.10).

All such protests and petitions should be filed on or before May 24, 1979. Protests will be considered by ERA in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceeding. Any person wishing to become a party must file a petition to intervene. Copies of this application are on file with the Economic Regulatory Administration and will, upon request, be made available for public inspection and copying at the ERA Docket Room, Room B–110, 2000 M Street, N.W, Washington, D.C., and at the System Reliability and Emergency Response Branch, Room 4070, 1111 20th Street, N.W., Washington, D.C.

Dated: May 10, 1979.

Jerry L. Pfeffer,

Acting Assistant Administrator for Utility Systems, Economic Regulatory Administration.

[FR Doc. 79-15282 Filed 5-15-79; 8:45 am]

BILLING CODE 6450-01-M

Monarch Aviation, Inc.; Proposed Remedial Order

Pursuant to 10 CFR 205.192(c), the Economic Regulatory Administration (ERA) of the Department of Energy hereby gives notice of a Proposed Remedial Order which was issued to Monarch Aviation, Walker Field, Grand Junction, Colorado 81501. This Proposed Remedial Order charges Monarch Aviation with pricing violations in the amount of $51,602.22, connected with the resale of aviation fuel during the time period November 1, 1973, through July 31, 1976, in the State of Colorado.

A copy of the Proposed Remedial Order, with confidential information deleted, may be obtained from Kenneth E. Merica, District Manager of Enforcement, 1075 South Yukon Street, P.O. Box 26247, Belmar Branch, Lakewood, Colorado 80226, phone (303) 234–3195. On or before May 31, 1979, any aggrieved person may file a Notice of Objection with the Office of Hearings and Appeals, 2000 M Street N.W., Washington, D.C. 20461, in accordance with 10 CFR 205.193.

Issued in Lakewood, CO on the 8th day of May 1979.

Kenneth E. Merica,

District Manager of Enforcement, Rocky Mountain District.

Charles F. Dewey,

Regional Counsel.

May 8, 1979.

Department of Energy

Economic Regulatory Administration

Monarch Aviation, Inc.

Proposed Remedial Order; Case Number 840K00075

Introduction

On April 3, 1978, the Office of Enforcement of the Economic Regulatory Administration (ERA) of the Department of Energy (DOE) issued a Notice of Probable Violation (Notice) to Monarch Aviation, Inc. (Monarch) pursuant to 10 CFR 205.191. The Notice described certain apparent violations of applicable regulations related to Monarch's sales of aviation fuels as a retailer and fixed base operator at Walker Field in Grand Junction, Colorado, and at Sardy Field in Aspen, Colorado, during the period from November 1, 1973, through July 31, 1976.

Monarch's attorney, Mr. Anthony Prinster, filed a written reply to the Notice on April 10, 1978, requesting copies of "all work papers made in preparing the Notice of Probable Violation" as well as additional time in which to file a formal response. During the following months DOE provided Mr. Prinster copies of pertinent work papers in addition to those which had been given to Mr. John Pabst, President of Monarch, on August 30, 1976; DOE also repeatedly extended the time during which Monarch was allowed to formally respond to the Notice. Finally, a meeting was held on October 12, 1978, between Mr. Stuart Barr of DOE and Mr. Joe Heard, representing Monarch, at which Mr. Heard reviewed the entire case file and was given copies of all the work papers for which he requested copies. A final extension of time for Monarch's response to the Notice was granted through October 30, 1978, on which date Mr. Prinster filed Monarch's response.

The pricing rules applicable to the sale of covered products, including aviation fuels, were originally promulgated on August 19, 1973 (38 F.R. 22536, August 22, 1973) by the Cost of Living Council (CLC) pursuant to authority vested in it by the Economic Stabilization Act of 1970, as amended (12 U.S.C. 1904, note). On December 27, 1973, the Federal Energy Office (FEO) adopted CLC's pricing rules for petroleum products as part of what later became the FEA Mandatory Price Regulations. In CLC Order No. 47 (December 26, 1973) and CLC Order No. 47, Amendment 1 (January 30, 1974), the Chairman of the CLC delegated authority to the Administrator of FEA to, among other things, "make determinations and take action with respect to Phase II, Phase III, and Phase IV compliance and enforcement cases" received after December 21, 1973. These CLC delegations were codified and transferred from FEO to FEA by Executive Order No. 11790 (30 F.R. 23185, June 27, 1974). That Executive Order also delegated to FEA all authority vested in the President by the Emergency Petroleum Allocation Act of 1973, (P.L. 93–159).

Pursuant to § 301 of the Department of Energy Organization Act, 42 U.S.C. 7151, note, all functions vested by law in the FEA were transferred to, and vested in, the Department of Energy. Further, the authority previously granted to FEA by Executive Order No. 11790 was

redelegated to DOE by Executive Order

" 'Middle distillates' means No. 1 and

Proposed Findings of Fact

redelegated to DOE by Executive Order No. 12009, effective October 1, 1977. Thus, the FEO, the FEA, and the DOE have been successively authorized to investigate and deal with violations of CLC's price regulations for petroleum products committed between August 19, 1973, and December 27, 1973 (prior to the establishment of an FEA regulatory scheme for pricing petroleum products), as well as violations occurring on or after December 27, 1973.

Based upon the information made available to the Office of Enforcement of the DOE, and after consideration of the written responses received, the Office of Enforcement of the ERA finds that Monarch was in violation of applicable price regulations, as described herein.

Applicable Regulations

The pricing rules promulgated by the FEO on December 27, 1973, were reissued on January 15, 1974 (39 F.R. 1924). The following subsections of 10 CFR 212.93, formerly 6 CFR 150.359, pertaining to sales of covered products, including aviation fuel, were in effect during the violation period and pertain to the violations described herein:

"(a) A seller may not charge a price for any item subject to this subpart which exceeds the weighted average price at which the item was lawfully priced by the seller in transactions with the class of purchaser concerned on May 15, 1973, plus an amount which reflects on a dollar-for-dollar basis, increased costs of the item."

"(b)(2) With respect to middle distillates: (i) in all retail sales, (A) beginning with April, 1974, a seller may charge one cent per gallon in excess of the amount otherwise permitted to be charged for the item concerned pursuant to the provisions of this section, including paragraph (b)(1)(i) of this section, to reflect non-product cost increases which the seller incurred after May 15, 1973."

"(b)(2)(B) in sales of aviation fuels by fixed base operators, beginning with December, 1975, a seller may charge three cents per gallon in excess of the amount otherwise permitted to be charged for that item pursuant to the provisions of this section, including paragraph (b)(2)(i)(A) of this section to reflect non-product costs increases which the seller incurred after May 15, 1973."

Amendments to the language of the above sections during the audit period have no effect on the violations alleged herein.

Section 212.31 of 10 C.F.R. defines the following terms:

" 'Middle distillates' means No. 1 and 2 heating oils, Nos. 1–D and 2–D diesel fuels, kerosene and aviation fuels."

" 'Aviation fuels' means aviation fuels (kerosene-type), aviation fuel (naphtha-type), and aviation gasoline."

" 'Class of purchaser' means purchasers to whom a person has charged a comparable price for comparable property or service pursuant to customary price differentials between those purchasers and other purchasers."

" 'Fixed base operator' means a firm which maintains facilities at an airport for the purpose of (1) engaging in the retail sale of aviation fuels primarily to purchasers other than (a) scheduled or supplemental air carriers certificated by the Civil Aeronautics Board pursuant to 49 U.S.C. 1371 or (b) the Department of Defense; and (2) performing one or more of the following general aviation activities: (a) aircraft maintenance, servicing, parking, tie-down, storage and other aircraft services: (b) baggage and cargo handling and other passenger/freight services; and (c) maintenance of avionics equipment and systems."

" 'Retailer' means a firm (other than a refiner or reseller) or that part of such a firm which carries on the trade or business of purchasing covered products and reselling them to ultimate consumers without substantially changing their form."

Throughout the audit period, the term "covered products" included aviation fuels.

Section 205.199I(b), concerning remedies for violation of the petroleum pricing regulations, provides in part:

"* * * In cases where purchasers cannot be reasonably identified or paid or where the amount of each purchaser's overcharge is incapable of reasonable determination, the DOE may refund the amounts received in such cases directly to the Treasury of the United States on behalf of such purchasers."

Proposed Findings of Fact

The following facts, as originally described and set forth in the Notice, form the basis of ERA's decision in this case.

As quoted above, 10 C.F.R. § 212.93 sets forth the maximum lawful selling price for covered products. Monarch's maximum lawful selling price was computed by determining the May 15, 1973 profit margin for each covered product and class of purchaser. The current cost of product plus allowable nonproduct cost increases and any unrecouped costs ("bank") were added to the profit margin to arrive at the maximum lawful selling price. The overcharge per gallon was determined by comparing the maximum allowable sales price with the actual sales price charged each class of purchaser by the firm. Total overcharges were determined by multiplying the total gallons sold during the audit period by the computed overcharges for each covered product and class of purchaser.

Based upon the audit of Monarch's records, the Office of Enforcement of the ERA of the DOE finds that Monarch's failure to comply with the regulations quoted above resulted in overcharges to Monarch's eight classes of purchasers in sales of aviation fuels during the period November 1, 1973, through July 31, 1976, in the total amount of $51,602.22 plus interest. Five of those eight classes of purchaser are designated by name and product as: Transient Customers—Grand Junction, Transient Customers—Aspen, Frontier Air Lines, Western Air Lines, and Rocky Mountain Airways, all purchasing kerosene jet fuel. The remaining three classes of purchasers are : Western Air Stages, Transient Customers—Grand Junction, and Transient Customers—Aspen, all purchasing 100 octane aviation fuel. The violation, including interest through January 31, 1979, is set forth below by class of purchaser:

Class of purchaser	Fuel	Overcharge	Interest	Total
Transient Customers—Grand Junction	Jet Kerosene	$4,074.37	$873.70	$4,948.07
Transient Customers—Aspen	Jet Kerosene	4,012.36	1,123.82	5,136.18
Frontier Airlines	Jet Kerosene	3,753.17	994.58	4,747.75
Western Airlines	Jet Kerosene	5,164.98	1,264.32	6,429.30
Rocky Mountain Airways	Jet Kerosene	11,955.22	3,589.14	15,544.36
		28,960.10	7,845.56	36,805.66
Western Air Stages	100 Octane	13,075.81	3,549.48	16,625.09
Transient Customers—Grand Junction	100 Octane	3,828.90	792.99	4,621.89
Transient Customers—Aspen	100 Octane	5,737.81	1,543.10	7,280.71
		22,642.12	5,885.57	28,527.69
Total		51,602.22	13,731.13	65,333.35

Interest was computed and added to the total overcharges at the rate of 6% on amounts of overcharges outstanding before July 1, 1975, at 9% on those amounts from July 1, 1975, through January 31, 1976, at 7% on those amounts from February 1, 1976, through January 31, 1978, and at 6% on those amounts after January 31, 1978. Interest will continue to accrue until the date appropriate restitution is made.

The violation occurred because Monarch exceeded the May 15, 1973 profit margin which is included in its maximum lawful selling prices.

Therefore, the prices charged during cerain months of the audit period to each class of purchaser were in excess of the maximum lawful selling price. In part, this was a result of the fact that Monarch improperly eliminated discounts to certain of its classes of purchaser which were in effect on May 15, 1973. Moreover, Monarch failed to keep records adequate to demonstrate compliance with the petroleum pricing regulations and did not calculate its maximum lawful selling prices for aviation fuels during the audit period. Monarch's May 15, 1973 profit margins by class of purchaser were as follows:

Class	Fuel	Selling price (per gal)	Cost (per gal)	Allowable profit margin (per gal)
Transient Customers—Grand Junction	Jet Kerosene	.47¢	.169¢	.301¢
Transient Customers—Aspen	do	.48¢	.168¢	.312¢
Frontier Airlines	do	.23268¢	.169¢	.06368¢
Western Airlines	do	.31¢	.169¢	.141¢
Rocky Mountain Airways	do	.23¢	.168¢	.062¢
Western Air Stages	100 Octane	.35¢	.255¢	.095¢
Transient Customers—Grand Junction	do	.52¢	.255¢	.265¢
Transient Customers—Aspen	do	.53¢	.254¢	.276¢

The margins set forth above were determined by subtracting the May 15, 1973 product cost for each product from the May 15, 1973 selling price for each product to each class of purchaser. Individual customers within each of the Transient Customer classes cannot be reasonably identified, and the amount of each individual purchaser's overcharge is incapable of reasonable determination without imposing an unreasonable administrative burden on Monarch.

The audit examination of Monarch's records revealed that in most months during the period from November 1, 1973, through July 31, 1976, Monarch's actual selling price to certain of its eight classes of purchaser exceeded the firm's maximum lawful selling price. An example of one such violation is Monarch's sale of kerosene jet fuel to Rocky Mountain Airways during the period January 3, 1974, through February 18, 1974. The chart below illustrates the method used to compute the overcharge resulting in that violation.

Pricing period	Actual SP/gal	Max. lawful SP/gal	Overcharge/gal	Gal. sold	Total overcharge
January 3, 1974–February 18, 1974	.385¢	.28878¢	.09622¢	20,879	$2,008.97

The maximum lawful selling price (.28878¢) was computed by adding the cost of product (.22878¢) to the allowable profit margin set forth above (.062¢) and applicable nonproduct cost increases (none, since prior to April 1, 1974, there was no provision for a pass-through of increased non-product costs). There was no "bank" or unrecovered product costs available to Monarch.

Another example of the pricing violations alleged above is Monarch's sale of 100 octane aviation fuel to Western Air Stages during the period March 6, 1974, through March 31, 1974. The chart below illustrates the method used to compute the overcharges resulting in that violation:

Pricing period	Actual SP/gal	Max. lawful SP/gal	Overcharge/gal	Gal. sold	Total overcharge
March 6, 1974–March 31, 1974	.63¢	.5308¢	.0992¢	8,864.5	$878.37

The maximum lawful selling price (.5308¢) was computed by adding the cost of product (.4358¢) to the allowable profit margin set forth above (.095¢) and applicable non-product cost increases (none, since prior to April 1, 1974, there was no provision for a pass-through of increased non-product costs). Again, there was no "bank" or unrecovered product costs available to Monarch.

All violations found in other pricing periods during the audit period were calculated in the same manner.

Monarch's Arguments

In its written response to the Notice, dated October 30, 1978, Monarch argued that:

(1) The class of purchaser structure used by the DOE "did not take into account circumstances relating to the terms and conditions of sale and delivery of fuel". Monarch further stated that the classes of purchaser which DOE applied are unfair and inequitable;

(2) There is a high probability and high occurrence of computational errors in the audit;

(3) The inventory evaluation method used by the DOE in arriving at the weighted average cost was unfair to Monarch and resulted in a lower inventory valuation than should have been applied under the circumstances for purposes of computing the cost and valuation of the inventory.

Determinations by the Office of Enforcement

The Office of Enforcement of the Economic Regulatory Administration of the DOE has made the following determinations with regard to the arguments presented by Monarch. Each numbered section responds in order to Monarch's numbered arguments set forth above.

(1) The argument presented by Monarch pertaining to the class of purchaser structure used in the audit is invalid for the following reasons. The audit records indicate that the issue of class of purchaser was discussed with company personnel in June 1976 prior to the beginning of the detailed audit. Monarch expressed no objections to the classes of purchaser established by the auditor at that time. Monarch was aware of the structure of classes used in the audit both prior to and during the audit. In fact, the audit findings were

presented to the president of Monarch, John Pabst, at a closing conference held on August 30, 1976. Pertinent work papers were provided and detailed explanations of the violations were given to Monarch at that time. Mr. Pabst found no fault with the method and audit technique used to determine the violations. The issue was not raised by Monarch until August 31, 1978; and to date the DOE has not been presented with an alternate class of purchaser structure which supports Monarch's contention that the classes used by DOE were unfair and resulted in considerable inequities.

Ruling 1975–2 (40 FR 10655, March 7, 1975) describes the factors to be considered in establishing classes of purchaser. The classes established by the auditor are based on location (Aspen or Grand Junction), type of purchaser (particular airline companies or transient customers), volume (large quantity sales or small quantity sales), and grade of fuel (jet kerosene or 100 octane). Those are the factors listed in Ruling 1975–2 which are relevant, given the data provided to date by Monarch. Monarch's October 30 response to the Notice urges that additional or different classes existed in May 1973 and should have been recognized based on differing "terms and conditions of sale and delivery of fuel". Although that is an additional factor listed in Ruling 1975–2, Monarch has not identified any separate classes based on that factor or provided any data which would support the existence of classes based on that factor. Accordingly, there is no basis on which to change Monarch's classes of purchaser structure as established by the auditor, or, indeed, any reason to believe such changes, if justified, would benefit Monarch by reducing the violation. The response also states that DOE "classified all customers of Monarch Aviation purchasing fuel in the same category." This is not the case, as the Notice explicitly set forth the alleged violation in terms of the eight classes of purchaser described above.

(2) In his October 30, 1978, letter, Monarch's attorney states the following:

"It is still, at this time, impossible to delineate all of the errors due to the fact that the entire audit has not yet been reviewed. However, the following specific instances are herewith documented:"

He then listed four specific instances of incorrect product costs used in the audit and provided copies of invoices in support of the examples given. While it may be true that Monarch has not reviewed the audit file to the degree its attorney now desired, that is not because of any lack of opportunity. Monarch has had ample opportunity to review the file, most recently in the meeting attended by its representative, Joe Heard, on October 12, 1978, at which the entire file was available for examination, explanation, and copying.

As to the four specific errors cited by Monarch's attorney, three of them, numbers 1, 3, and 4, were corrected during the audit review process prior to issuance of the Notice of Probable Violation; and the corrected worksheets, QQ2, UU1, and TT1, were shown to Mr. Heard on October 12, 1978. He was provided a copy of corrected worksheet QQ2, but he did not request copies of the other corrected worksheets. Error number 2 cited by Monarch, relating to the product cost for jet kerosene at Grand Junction on December 28, 1973, Invoice No. 031–017–667, has now been corrected. The correction resulted in a reduction of overcharges for jet kerosene at Grand Junction totalling $4.25; this reduction is reflected in the list of overcharges by class of purchaser set forth above and in the related interest figures.

(3) The argument presented by Monarch pertaining to the audit inventory valuation method is vague and difficult to understand. To begin with, the method used to determine the cost of product sold was explained in full to Mr. Pabst at the closing conference on August 30, 1976. Mr. Pabst found no fault with the method used at that time. Secondly, not only did Monarch's argument fail to demonstrate how the method used is unfair, but Monarch failed to present an alternative which would be more equitable and in accordance with the regulations.

Proposed Conclusions of Law

1. Monarch met the definition of "retailer" set forth in 6 C.F.R. § 150.352 and 10 C.F.R. § 212.31 as a firm which purchased aviation fuels and resold them to ultimate consumers without substantial change in their form throughout the period of November 1, 1973, through July 31, 1976.

2. Monarch met the definition of "fixed base operator" set forth in 10 C.F.R. § 212.31 for the purpose of non-product cost increases under 10 C.F.R. § 212.93(b)(2)(B) from December 1, 1975, through July 31, 1976.

3. During the period of November 1, 1973, through July 31, 1976, pricing of Monarch's sales of aviation fuels was continuously controlled under CLC regulations (6 C.F.R. Part 150) and successor regulations (10 C.F.R., Part 212).

4. During the period of November 1, 1973, through July 31, 1976, Monarch failed to comply with the applicable regulations covering the resale of aviation fuels.

5. During the period of November 1, 1973, through July 31, 1976, Monarch sold aviation fuels at prices in excess of the maximum lawful selling prices allowed by applicable regulations.

6. The above-mentioned violations resulted in Monarch receiving $51,602.22 in excess of the amount allowed under applicable regulations during the period of November 1, 1973, through July 31, 1976.

7. Because individual purchasers within the four Transient Customer classes of purchaser cannot be reasonably identified and the amount of each individual purchaser's overcharge is incapable of reasonable determination, refund to the Treasury of the United States on behalf of such individual purchasers is appropriate, pursuant to 10 C.F.R. § 205.199l(b).

Therefore, pursuant to 10 C.F.R. § 205.192 and for the reasons stated above, the Office of Enforcement of the Economic Regulatory Administration of the DOE finds that Monarch committed violations of applicable regulations and hereby issues this Proposed Remedial Order.

Proposed Remedial Order (PRO)

It is contemplated by this PRO that Monarch be required to take the following remedial actions:

1. Calculate the amount of interest applicable to the overcharges of $28,960.10 on sales of Jet Kerosene and $22,642.12 on sales of 100 Octane Fuel at the rate of 6% on amounts of overcharges outstanding before July 1, 1975, at 9% on those amounts from July 1, 1975, through January 31, 1976, at 7% on those amounts from February 1, 1976, through January 31, 1978, and at 6% on those amounts from February 1, 1978, until refunded. The Office of Enforcement has determined that the accrued interest amounts through January 31, 1979, are $7,845.56 and $5,885.57 respectively. Interest shall continue to accrue until the entire amount of overcharges and interest has been refunded.

2. Refund to Frontier Airlines, Western Airlines, Rocky Mountain Airways, and Western Air Stages, an amount equal to the respective amounts of overcharges set forth in the Proposed Findings of Fact section above plus interest as provided in item 1 above. Such refunds shall be made over a period of one year commencing not more than thirty (30) days after the effective date of the final Order and with not less than one-half (½) of each respective overcharge and accrued interest being refunded within not more than six (6) months after the effective date of the final Order.

3. Refunds to Frontier Airlines, Western Airlines, Rocky Mountain Airways, and Western Air Stages shall be made by either check or credit memo, at the customer's option (except as noted below). If by credit memo, Monarch shall have the alternative of allowing the customer to deduct the amount of the credit memo from any current balance due or from future purchases provided that the refund will be accomplished in the time period noted in item 2 above. If Frontier Airlines, Western Airlines, Rocky Mountain Airways, or Western Air Stages have ceased (or cease during the refund term) purchasing product from Monarch, Monarch shall refund the amount of outstanding overcharges and interest by check during the applicable time period.

4. Refund of the overcharges to the four Transient Customer classes of purchaser, totalling $17,653.24, plus interest as provided in item 1 above, shall be made by certified check payable to the United States Department of Energy and delivered to:

Assistant Administrator for Enforcement, Attention: Refund Coordinator, Economic Regulatory Administration, Room 5302, 2000 M Street NW., Washington, DC 20461.

Delivery may be made by certified mail, return receipt requested, and shall be made no later than ninety (90) days after the effective date of the final Order. Following delivery of the check, the DOE shall refund the amount received directly to the Treasury of the United States on behalf of Monarch's unidentified transient customers, pursuant to 10 C.F.R. § 205.199l(b).

5. Monarch shall submit to the Office of Enforcement, in writing at the address below, a status report of the amounts of refunds made and outstanding pursuant to this Order. The initial status report shall be submitted within thirty (30) days of the date the final Order is issued and a report shall be filed every thirty (30) days thereafter.

6. Monarch shall provide Frontier Airlines, Western Airlines, Rocky Mountain Airways, and Western Air Stages with a written statement which explains that the refund action is taken by Monarch pursuant to a Remedial Order issued by the DOE;

7. The determinations, payments, credits, and price reductions made pursuant to the above items shall be recorded and maintained separately and shall, at a minimum, include the customer name, transactions involved, dollar amount of remedial action, and dates of action taken. Upon completion of all actions required by the final Order, copies of the complete lists and records so maintained by Monarch shall be transmitted to the Office of Enforcement at the address stated below within ten (10) days after such completion, together with a certification by Monarch that all terms of the final Order have been met.

8. If Monarch sells or otherwise disposes of any portion of its business or interests affected by this PRO before the requirements thereof are fully discharged, Monarch will disclose the existence and terms of this PRO (or the final Order if it has become final) to any such successor in interest.

9. All documents or reports required by the final Order to be provided to the Office of Enforcement shall be transmitted to:

Mr. Edgar M. Case, Audit Director, Office of Enforcement—Group I, Department of Energy, Rocky Mountain District, P.O. Box 26247, Belmar Branch, Lakewood, Colorado 80226.

Review Procedures

The procedures for administrative review of this Proposed Remedial Order (PRO) are found in 10 C.F.R. Part 205, Subpart 0 (§§ 205.190 *et seq.*). Some of these procedures are summarized below. You should, however, fully review the requirements of Subpart 0 if you wish to contest the issuance of the PRO as a final order.

Notice of Objection

If you wish to contest issuance of this PRO as a final order, you must file a Notice of Objection within fifteen (15) days of publication of notice of this PRO in the **Federal Register.** The Notice of Objection must briefly describe how you would be aggrieved by the issuance of the PRO as a final order and must state your intention to file a Statement of Objections. If you fail to file a timely Notice of Objection, you shall be deemed to have admitted the findings of fact and conclusions of law in the PRO; and the PRO may be issued as a final order without further proceedings. A full statement of procedural requirements in connection with the Notice of Objection is provided in 10 C.F.R. § 205.193.

Statement of Objections

A Statement of Objections to a PRO must be filed within forty (40) days after service of the Notice of Objection. The Statement of Objections must set forth the basis for the objections to the issuance of the PRO as a final order and must otherwise meet the requirements of § 205.196.

Motions and Requests

Discovery may be conducted in conjunction with remedial order proceedings in certain cases. See § 205.198. A Motion for Discovery must show why discovery is necessary in order to obtain relevant and material evidence and why discovery would not unduly delay the proceedings. If you intend to file a Motion for Discovery, you must do so at the same time you file the Statement of Objections.

In addition, an evidentiary hearing may be convened in conjunction with remedial order proceedings, as appropriate, pursuant to § 205.199. A Motion for Evidentiary Hearing must show that there is a genuine dispute over relevant and material issues of fact that would be more effectively resolved by personal presentation with opportunity for cross examination than through submission of written material. If you intend to file a Motion for Evidentiary Hearing, you must do so at the same time you file the Statement of Objections.

You are entitled, as a matter of right, to a hearing to present oral argument regarding the PRO, whether or not an evidentiary hearing is requested or convened, provided you make a timely request for such a hearing. See § 205.199A.

All notices, statements, motions, requests and replies in this proceeding must be filed with:

Office of Hearings and Appeals, Department of Energy, 2000 M Street, NW., Washington, DC 20461.

In addition, a copy of each filing must be submitted to each of the following offices:

Assistant General Counsel for Administrative Litigation, Office of General Counsel, Department of Energy, Room 7130, 12th Street and Pennsylvania Ave., NW., Washington, DC 20461.

and

Office of Enforcement, Department of Energy, Rocky Mountain District, 1075 South Yukon Street, P.O. Box 26247—Belmar Branch, Lakewood, Colorado 80226.

As required by § 205.196(c), the copy of the Statement of Objections which you file must include a copy of the Notice, each reply thereto, the PRO, and any relevant work papers or supplemental information provided by ERA in connection with the PRO.

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Issued this 8th day of May 1979.

Edgar M. Case,

Audit Director, Office of Enforcement, Group I, Rocky Mountain District.

[Case Number 840K00075]

[FR Doc. 79-15277 Filed 5-15-79; 8:45 am]

BILLING CODE 6450-01-M

J. P. Stevens & Co.; Application for Certification of the Use of Natural Gas To Displace Fuel Oil

Take notice that on April 24, 1979, J. P. Stevens & Co., 1185 Avenue of the Americas, New York, New York 10036, filed an application pursuant to 10 CFR Part 595 (44 FR 20398, April 5, 1979) for a certification of an eligible use of natural gas to displace fuel oil, all as more fully set forth in the application on file with the Economic Regulatory Administration (ERA) and open to public inspection between 8:00 a.m. and 4:30 p.m., Monday through Friday, except Federal holidays, Room 6317, 2000 M Street, N.W., Washington, D.C. 20461.

In its application, J. P. Stevens stated that the volume of natural gas subject to certification is 5,970 Mcf per day, and the eligible seller is The Louisiana Land and Exploration Company, 225 Baronne Street, New Orleans, La. 70160. This natural gas will be used to displace approximately 7,603,188 total gallons of fuel oil annually at various facilities as further described in the Appendix to this notice. The gas will be transported by Transcontinental Gas Pipe Line Corporation, 2700 South Post Oak Road, Houston, Texas 77001.

Attachment A

Facility	Type of fuel oil displaced	Annual volume of fuel oil displaced	Sulphur content of fuel oil displaced	Maximum daily volume of natural gas to be transported
		(Gallons)	(Percent)	(Mcf)
Delta 2 & 3, Wallace, S.C.	#6	3,168,432	2.4	1,951
Aberdeen, Aberdeen, N.C.	#4	315,709	1.7	236
Dunean, Greenville, S.C.	#5	600,171	2.0	535
Parker, Greenville, S.C.	#4	102,670	1.7	154
High Point, High Point, N.C.	#5	703,881	2.0	432
Slater, Slater, N.C.	#5	240,916	2.0	221
Taylors, Taylors, S.C.	#5	1,809,239	2.0	2,008
Delta, #4 Roanoke Rapids, N.C.	#4	662,170	1.7	433
Total		7,603,188		5,970

[ERA Docket No. 79-CERT-008]

[FR Doc. 79-14895 Filed 5-15-79; 8:45 am]

BILLING CODE 6450-01-M

Application of San Diego Gas and Electric Co. for Permit To Construct an Electric Intertie With Mexico; Intent To Prepare Environmental Impact Statement and Conduct Scoping Meeting

AGENCY: Department of Energy.

ACTION: Notice of Intent to Prepare Environmental Impact Statement and to conduct a meeting to determine the scope of that Environmental Impact Statement.

SUMMARY: The Economic Regulatory Administration of the Department of Energy (DOE) announces that it has begun the preparation of a draft environmental impact statement (EIS), in accordance with section 102(2)(C) of the National Environmental Policy Act, regarding the application of San Diego Gas and Electric Company for a permit to construct a 230 kV electric transmission line across the U.S./Mexican border to interconnect with the electric power system operated by the Mexican Commission Federal Electricidad. The subject transmission line is proposed to terminate at SDG&E's Miguel Substation on the northern end. It will proceed in a southerly direction to the international border. The EIS will be prepared jointly by DOE and the California public Utility Commission (CPUC).

A public meeting will be held on Thursday, May 24, 1979, by DOE and CPUC in order to obtain information from all interested parties regarding the scope of the subject EIS. The meeting will be held at the San Diego Convention and Performing Arts Center, Silver Room, 202 C St., San Diego, California 92101. The meeting will convene at 10:00 a.m. and proceed until all speakers have been heard. There will be a one-hour recess for lunch. The meeting will reconvene at 7:00 p.m. to accommodate speakers who are unable to attend the day session.

All interested parties are invited to attend and submit comments or suggestions in connection with the preparation of the EIS. Written comments or suggestions may be submitted in lieu of or in addition to participation at the scoping meeting. Upon completion of the draft EIS, the DOE will announce availability of the document and the comment period during which public reaction will be solicited.

ADDRESS FOR WRITTEN COMMENTS AND FOR NOTIFICATION OF INTENT TO PARTICIPATE AT EIS SCOPING MEETING:

James M. Brown, Chief, System Reliability and Emergency Response Branch, Economic Regulatory Administration, Department of Energy, 2000 M St., N.W., Room 538—Vanguard Building, Washington, D.C. 20461—(202) 634-5620.

SUPPLEMENTARY INFORMATION: On April 2, 1979, the San Diego Gas and Electric Company (SDG&E) applied to the ERA of the DOE for a Presidential Permit pursuant to Executive Order 10485. Notice of the receipt of this application was published in the **Federal Register** on April 26, 1979, at 44 FR 24625.

SDG&E requires the permit in order to construct and maintain a 230 kV transmission line, which will cross the Mexican border and interconnect the Company's system with that of the Republic of Mexico. CPUC also has jurisdiction over the construction of this transmission line. Therefore, DOE and CPUC have determined to jointly prepare an environmental impact statement as input for their respective decisions with respect to that transmission line.

The meeting will not be conducted as an evidentiary hearing, and, therefore, those who choose to make statements will not be cross examined. To provide the DOE with as much pertinent information as possible, and to provide all interested persons with the opportunity to participate:

1. Participants will be called on to speak in the order they submit notification to DOE of their intent to speak.

2. Speakers will be allotted a specific time for their oral statements. Should any speaker desire to provide further information for the record, it may be submitted in writing within ten days subsequent to the meeting. Written comments will be considered and given equal weight with oral comments.

3. A transcript of the meeting will be retained by DOE and made available for inspection at the Freedom of Information Library, Room GA152, Forrestal Bldg., 1000 Independence Ave., N.W., Washington, D.C. 20585, between the hours of 8:00 a.m. and 4:30 p.m., Monday through Friday. Anyone may make arrangements with the court reporter to purchase a copy of the transcript.

Dated: May 11, 1979.

Jerry L. Pfeffer,

Acting Assistant Administrator for Utility Systems, Economic Regulatory Administration.

[FR Doc. 79-15435 Filed 5-15-79; 8:45 am]

BILLING CODE 6450-01-M

Federal Energy Regulatory Commission

Northwest Alaskan Pipeline Co.—Rules Implementing Equal Opportunity; Informal Public Conference

Issued May 11, 1979.

The Federal Energy Regulatory Commission announces an informal public conference to elicit comment on the scope of the Commission's responsibility for the development of regulations, and the content thereof, that would implement Section 17 of the Alaska Natural Gas Transportation Act (ANGTA), 15 U.S.C. § 7190, and other applicable provisions of law. These provisions cover equal employment opportunity and minority business participation in the construction of the Alaska Natural Gas Transportation System (ANGTS).

A. Background

National policy, as expressed in ANGTA and the President's *Decision,*[1] contemplates the construction and operation by the early 1980's of the Alaska Natural Gas Transportation System. This pipeline system is projected to total 4,800 miles, originating on the North Slope of Alaska and passing through Canada to the lower 48 states. By 1990, this system is expected to deliver about 2.4 billion cubic feet (bcf) of natural gas per day to markets in the lower 48 states. With capital costs estimated at $10.5 to $13.9 billion,[2] the project will be the largest privately financed project in history. In addition, direct and indirect employment is projected, at its peak, to be between 10,000 and 11,000.[3]

The pipeline system in the U.S. will be built by three major pipeline companies. The Alaska segment, from Prudhoe Bay to the Yukon Border, will be constructed by the Northwest Alaskan Pipeline Company, a subsidiary of the Northwest Pipeline Corporation. In Alberta, the pipeline will divide into two segments—the Western Leg that will run through the western U.S. to a terminus near San Francisco, and the Eastern Leg, called the Northern Border segment, that will cross the northern plains states to a terminus near Dwight, Illinois. The Western Leg will be built by the Pacific Gas Transmission Company a subsidiary of Pacific Gas and Electric. The Eastern Leg, or Northern Border segment, will be built by the Northern Border Pipeline Company, which is owned by the Northern Natural Gas Company.

Construction and operation of this project will require a variety of certificates, permits, or agreements from at least five agencies of the U.S. Government: the Federal Energy Regulatory Commission, the Department of the Interior, the Department of Transportation, the Environmental Protection Agency, and the U.S. Army Corps of Engineers. The authorizations issued by these agencies may be conditioned with requirements on project design and safety, construction costs, environmental impact, etc., and may include civil rights conditions. The jurisdiction to enforce the certificates and other permits will be transferred to the Office of the Federal Inspector provided for in the President's *Decision* and further specified in *Reorganization Plan* No. 1 of 1979.[4] The *Decision* requires that all the certificates, permits and authorizations be expedited and given priority by every agency.[5]

B. Equal Opportunity/Minority Business Enterprise

Congress and the President have directed, by Section 17 of ANGTA and by Condition No. 11 of the President's *Decision,* that Federal agencies make explicit provision for equal opportunity and affirmative action in the construction and operation of ANGTS.

Specifically, Section 17 states:

> All Federal officers and agencies shall take such affirmative action as is necessary to assure that no person shall, on the grounds of race, creed, color, national origin, or sex, be excluded from receiving or participating in any activity conducted under, any certificates, permit, right-of-way, lease, or other authorization granted or issued pursuant to this Act. The appropriate Federal officers and agencies shall promulgate such rules as are necessary to carry out the purposes of this section and may enforce this section, and any rules promulgated under this section through agency and department provisions and rules which shall be similar to those established and in effect under title VI of the Civil Rights Act of 1964.

Condition No. 11 (at p. 31) of the President's *Decision* further directs:

> **Minority Business Enterprise Participation**
>
> 11. The successful applicant shall develop and submit to the Federal Inspector for approval a plan for taking affirmative action to ensure that no person shall on the grounds of race, creed, color, national origin or sex be excluded from receiving or participating in contracts for management, engineering design or construction activity. The successful applicant shall require each of his contractors and subcontractors having contracts valued at $150,000 or more to develop similar plans providing the assurances specified in the preceding sentence.

In the case of the FERC, any final certificates of public convenience and necessity awarded to the project sponsors shall be issued subject to such

[1] Decision and Report to Congress on the Alaska Natural Gas Transportation System (September 1977), Condition No. 11, p. 31. Issued pursuant to Section 7 of ANGTA and approved by joint Resolution of Congress, H.R.J. Res. 621, Pub. L. No. 95-158, 91 Stat. 1268 (1977), the *Decision* has the full force of law.

[2] *Decision,* p. 157.

[3] Recommendation to the President, Alaska Natural Gas Transportation System (May 1, 1977), VI-15.

[4] The *Reorganization Plan* was submitted to Congress on April 2, 1979, and is currently under consideration by the Congress.

[5] *Decision,* n. 42.

remembered: (1) that it is not the

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conditions as are necessary to implement Section 17. The FERC is now considering how to structure the relevant conditions and, in cooperation with other agencies having authority over the construction and operation of ANGTS, is now developing conditions to implement Section 17 of ANGTA.

C. Scope of Conference Agenda

The specific language of Section 17 establishes that the FERC has both the obligation and the authority to deal with issues of equal opportunity and affirmative action in this pipeline project. The specific purpose of this conference is to discuss how, as a matter of legally valid regulatory procedure and as a matter of administrative efficiency, the development of these equal opportunity/affirmative action conditions can best be integrated into the certification process before the FERC. Comments are invited to address the major question of critical concern:

What would be the most effective procedure for achieving significant and beneficial results under Section 17, in light of the unique scale of ANGTS and the urgency for completion of the project?

Any interested party may wish to raise other issues pertinent to the central question. Several sub-issues which parties are urged to consider are listed below.

1. Since construction of the Alaska oil pipeline is the most analogous recent experience and since regulations on equal opportunity were developed for the oil pipeline (43 CFR Part 27), what lessons—both as what to do and as what to avoid—should we learn from that experience?

2. Since the pipeline system will be constructed in three segments by three pipeline companies (Northwest Alaskan, Pacific Gas Transmission, and Northern Border Pipeline) would it be better to have one set of rules for the entire pipeline project or different sets of rules for the different segments?

3. How can significant and attainable objectives and methods be developed with regard to equal opportunity in employment on this proposed system?

4. How can significant and attainable objectives and methods be developed with regard to opportunities for minority business enterprise participation on this proposed system?

5. What are the best means of determining, in advance, whether any particular regulatory approach is likely to be productive?

a. For example, on what basis should the Government establish, in advance comprehensive requirements as to what the projects sponsors', contractors' and sub-contractors' affirmative action plans should contain?

b. How detailed should reports be of on-going action during construction?

c. How much is the ordinary equal opportunity/affirmative action procedure directly useful in this case?

d. What degree and type of consultation between Government agency personnel and project sponsor personnel would be helpful in determining specific goals and methods?

6. How flexible can Section 17 rules be to allow for the expeditious completion of ANGTS while guaranteeing that the purpose of Section 17 is carried out?

7. How can the responsibilities of the project sponsors under section 17, including their responsibilities within administrative requirements, be reconciled with necessary managerial discretion?

8. What should be the content of project sponsors' plans for the utilization of minority and female business enterprises?

9. What levels of technical assistance, if any, should the project sponsors, their contractors, and subcontractors be required to provide to minority and female businesses?

10. Section 17 of ANGTA and the President's *Decision* contemplate that affirmative action plans will be filed by contractors and subcontractors as well as by the project sponsors.

a. To what extent, if at all, should the contractors' and subcontractors' affirmative action plans differ from those of project sponsors?

b. Should the plans of major contractors be reviewed by the Government prior to the award of the contracts?

11. What means of feedback are available to discover how regulations are working and to make timely corrective action possible?

12. What mechanisms are available, or can be developed, within the procedural constraints of applicable law, to make available to the FERC the information, advice and counsel of both public sector and private sector organizations with competence on the various relevant issues?

D. Procedures

The conference will begin at 9:00 am, Monday May 21, 1979, in a hearing room of the Commission, at the Commission's offices, 825 North Capitol Street, NE, Washington, D.C. Commissioner Matthew Holden, Jr. will preside, and will be joined by a panel of FERC staff and/or other Government agency representatives. The room number of the hearing room will be posted on the day of the conference.

Comments may be made orally or in writing, or both. Persons who have similar interests or arguments are encouraged to consolidate their statements to the extent possible, since time will be limited. Oral statements will be restricted to a maximum of fifteen minutes duration. Cross-examination will not be provided, and questioning will be limited to the presiding Commissioner and the panel. Commissioner Holden reserves the opportunity, subject to experience in the first part (morning) of the conference, to convene the interested participants in a round-table discussion in the afternoon, if the range of positions has been sufficiently well-defined and if round-table discussion may produce information that would clarify the Commission's decision-making responsibilities.

Written comments should be addressed to the Secretary, Federal Energy Regulatory Commission, 825 North Capitol Street, NE, Washington, D.C. 20426, and should reference Docket Nos. CP78-123, *et al.* Any comments received will be included in a public reading file in the Commission's Office of Public Information. Parties who desire to make oral presentations on May 21, 1979, should contact the Secretary of the Commission not later than 12 noon, Friday, May 18, 1979. Those who intend to make oral statements are requested to bring copies of any written comments they have for distribution to the conference participants on May 21, and to submit copies to the Office of the Secretary for the Commission's official files.

By direction of the Commission.

Kenneth F. Plumb,
Secretary.

[Docket Nos. CP78-123, et al.]
[FR Doc. 79-15328 Filed 5-15-79; 8:45 am]
BILLING CODE 6450-01-M

ENVIRONMENTAL PROTECTION AGENCY

Water Quality Criteria; Corrections

In FR Doc. 79-7647, Thursday, March 15, 1979 at 44 FR 15926, EPA published and invited comment on Water Quality Criteria. In that document a number of errors appeared which need correction. The corrections are listed below.

1. Arsenic. Page 15931, right hand column: 3rd line from bottom, change "doucment" to document.

2. Arsenic. Page 15933, left hand column: under Summary of Pertinent Data, Reference for Tseng et al. in 1968,[2] the reference is missing and should appear as a footnote as follows: [2] Tseng, W. P., et al. 1968. Prevalence of skin cancer in an endemic area of chronic arsenicism in Taiwan. J. Nat. Cancer Institute. 40:453.

3. Arsenic. Page 15933, middle column: equation (2), change (2) F(x,t)=1-exp[I (x,s)ds] to (2) F(x,t)=1-exp[[illegible](x,s)ds].

4. Arsenic. Page 15933, middle column: 9 lines from bottom, Reference for Doll (1971),[3] the reference is missing and should appear as a footnote as follows: [3] Doll, R. 1971. The age distribution of cancer: Implications for models of carcinogenesis. J. Roy. Statistical Soc. 13:133—166.

5. Arsenic. Page 15933, right hand column: line 8, change 1.2μg/l to 1.2 mg/l.

6. Arsenic. Page 15933, right hand column: line 14 equation (4), change $1n(-1n[1-F(x,t)])-1n(3)\div m\ 1n(x)\div v\ 1n(t)$ to $1n(-1n[1-F(x,t)])-1n(B)+m\ 1n(x)+v\ 1n(t)$.

7. Arsenic. Page 15933, right hand column: line 20 equation (5), change (5) $1n(-1n[1-F(x,t)])=-17.548\div 1.192\ 1n(x)\div 3.881\ 1n(t)$ to (5) $1n(-1n[1-F(x,t)])=-17.548+1.192\ 1n(x)+3.881\ 1n(t)$.

8. Arsenic. Page 15933, right hand column: line 25 equation (6), change (6) $F(x,t)=1-exp[-10^{-7}\times.2429\times x^{1.192}t^{3.881}=1-exp[-E(t)\times x^{1.192}]+06$ $F(x,t)=1-exp[-10^{-7}\times.2429\times x^{1.192}t^{3.881}=1-exp[-H(t)\times x^{1.192}]$.

9. Arsenic. Page 15933, right hand column: line 31, change (i.e. Eo: m=1) to (i.e. Ho: m=1).

10. Arsenic. Page 15934, left hand column: line 22, change Q2( )=Bx/(Bx÷p*) to Q2( )=Bx/(Bx+p*).

11. Arsenic. Page 15934, left hand column: line 29, change Q2( )=2.41423 X/2.41423 X÷6.02793 to Q2( )=2.41423 X/2.41423 X+6.02793

12. Arsenic. Page 15934, left hand column: line 33, change x =2.4969×10^{-5} μg/liter to x =2.4969×10^{-5} mg/liter.

13. Arsenic. Page 15934, right hand column: line 22, change (2÷.0267×15)=.038$\Delta\mu$g to (2+.0267×15)=.0384 μg.

14. Benzene. Page 15935, left hand column: after line 11, insert BENZENE.

15. Benzene. Page 15935, left hand column: 6th line from bottom, change Fial to Final.

16. Benzene. Page 15936, middle column: 6th line from bottom, change B=0.02407 to B=0.024074.

17. Benzene. Page 15936, right hand column: line 6, change 3.25×10^{-3} μg/m^3 to 3.25×10^{3} μg/m^3.

18. Benzene. Page 15936, right hand column: line 10, change 4.154×10^{-4} ppm$\times3.25\times10^{3}$ mg/m^3 per ppm to 4.154×10^{-4} ppm$\times3.25\times10^{3}$ μg/m^3 per ppm.

19. Beryllium. Page 15936, right hand column: lines 31 and 32, delete: (see the figure "24-hour average beryllium concentration vs. hardness").

20. Beryllium. Page 15936, right hand column: lines 35 and 36, delete: (see the figure "maximum beryllium concentration vs. hardness").

21. Beryllium. Page 15937, middle column: lines 14 and 15 delete: As can be seen in Tables 1 and 2,. Following sentence should read: Cancer has been produced by inhalation, * * *

22. Beryllium. Page 15937, middle column: line 31, insert all of the following after * * * "one experimental" and before "that, 2)": study by ingestion of beryllium. However, beryllium has definitely been shown to induce osteosarcomas in rabbits following intravenous administration. Therefore, it is possible that cancer would be induced in humans if a large enough amount of beryllium were ingested. The occurrence of beryllium rickets after ingestion of food supplemented with beryllium sulfate shows that toxic amounts can be absorbed. In addition, reported data that show that 0.35 percent of ingested beryllium is retained in the tissue of rats after 24 weeks of feeding.

The only experiments conducted to date in which beryllium was ingested over a long period of time were those of Schroeder and Mitchner. Five ppm beryllium was added to the food and water of rats for a lifetime. Although Schroeder and Mitchener found no statistically significant difference in tumor frequency between controls and experimental rats and mice, there was a slight excess of lymphoma leukemias in the treated group compared to the controls.

The high frequency of osteosarcomas induced in rabbits given Be intravenously, the results of mutagenicity studies, and the ingestion-uptake-retention studies of Be, comprised a strong argument that Be-laden water poses a carcinogenic risk.

Although the Schroeder and Mitchener "lymphoma leukemia" experiment showed an effect significant at the .09 level, this result is sufficient to calculate a criterion level as long as it is remembered: (1) that it is not the Schroeder and Mitchener, but the previously mentioned results that establish that Be poses a carcinogenic risk to man, and * * *

23. Cadmium. Page 15938, middle column: lines 28 and 29, delete: (see the figure "24-hour average cadmium concentration vs. hardness").

24. Cadmium. Page 15938, middle column: lines 32–34, delete: (see the figure "maximum cadmium concentration vs. hardness").

25. Cadmium. Page 15938, middle column: line 40, change Final Acute=e(1.30. (hardness)−3.92 to Final Acute=e $^{(1.30\text{(hardness)}-3.92)}$.

26. Cadmium. Page 15939, left hand column: 7th line from the bottom, change appendices of this document to appendices of the cadmium document.

27. Cadmium. Page 15939, right hand column: 15th line from bottom, change "1.0 μg to 10.1 μg" (to) 1.9 μg to 10.1 μg.

28. Carbon Tetrachloride. Page 15941, left hand column: line 13, change "othe" to other.

29. Carbon Tetrachloride. Page 15941, left hand column: line 33, change 0.44 × Final Value =620 μg/l to 0.44 × Final Acute Value =620 μg/l.

30. Carbon Tetrachloride. Page 15942, left hand column: end of first paragraph and before CHLORDANE, add,

Summary of Pertinent Data

The NCI (1976) bioassay for trichloroethylene also reported that male mice receiving carbon tetrachloride by gavage at 1250 mg/kg 5 days per week for 78 weeks had a 100 percent incidence of liver tumors at 92 weeks, when the experiment was terminated, whereas only 5 out of 77 control mice had these tumors. Using a fish bioconcentration factor of 69, the parameters of the extrapolation model are:

n_t=48.5, Nt=49, n_c=5, Nc=77, LE=92 weeks, le=78 weeks, d=1250 mg/kg×5/7=892.9 mg/kg/day, w=.028 kg, L=92 weeks, R=66.

The result is that the water concentration should be less than 2.63 μg/l in order to keep the individual lifetime risk below 10^{-5}.

1. National Cancer Institute. 1976. Carcinogenesis bioassay of trichloroethylene. CAS No. 79-01-6, NCI-CG-TR-2. U.S. Dept. of Health, Edu., and Welfare.

31. Chlordane. Page 15942, middle column: lines 13 and 14, change 1.2 μg/l, 0.12 μg/l, and 0.012 μg/l to 1.2 ng/l, 0.12 ng/l, and 0.012 ng/l.

32. Chlordane. Page 15943, left hand column: line 14, change

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$$0.5\text{mg} \times 10\text{m}^3 \times \text{T1} \times 5\text{d work week} \times 1 = 0.7 \frac{\text{mg/day}}{\text{m}^3 \quad \text{workday} \quad \text{7d week} \quad 5}$$

to

$$\frac{0.5\text{ mg}}{\text{m}^3} \times \frac{10\text{m}^3}{\text{workday}} \times \frac{5\text{d work week}}{7\text{d work week}} \times \frac{1}{5} = 0.7\text{ mg/day}.$$

33. Chlordane. Page 15943, middle and right hand columns: table, change all (μg/l) to (ng/l).

34. Chlorinated Naphthalenes. Page 15944, left hand column: line 49, change drived to derived.

35. Chloroform. Page 15946, left hand column: 2nd line from bottom, change NT=45 to N_t=45.

36. Chloroform. Page 15946, left hand column: last line, change nc=1 to n_c=1.

37. Chloroform. Page 15946, middle column: line 19, change NC=80 to N_c=80.

38. 2-chlorophenol. Page 15946, right hand column: 2nd line from bottom, change cern-able to cernable. Change None of these studies to Neither of these studies.

39. Dichlorobenzenes. Page 15948, middle column: 15th line from bottom, change (ADI=18.8×70=1.316)/1000 to (ADI=18.8×70/1000=1.316.

40. Dichloroethylenes. Page 15949, left hand column: line 11, change or 10-7 to 10^{-7}.

41. Dichloroethylenes. Page 15950, left hand column: lines 13+14, after 0.44 × Final Acute Value = not available and before under the Consent Degree in NRDC, add: Human Health.

42. Dichloroethylenes. Page 15950, middle column: 18th, 17th, 16th and 15th line from bottom, change nt=16 to n_t=16; change NT=16 to N_t=16; change nc=0 to N_c=0; change NC=128 to N_c=126.

43. Dichloroethylenes. /Page 15950, right hand column: line 12, change ppm×24m³/day=2.7677 μg.day to ppm×24m³/day=2.7677 μg/day.

44. 2,4-Dichlorophenol. Page 15951, middle column: lines 1 and 2, change

$$\frac{2\times 500\ \mu g/day}{2+(37\times 0.0187)} = 371\ \mu g/day$$

to

$$\frac{2\,1\times 500\ \mu g/1/day}{2+(37\times 0.0187)} = 371\ \mu g/day$$

45. Fluoranthene. Page 15952, left hand column: last line, change fluoran-threne to fluoranthene.

46. Heptachlor. Page 15954, left hand column: lines 34-37, change nt=77 to n_t=77; change NT=81 to N_t=81; change nc=2 to n_c=2; change NC=54 to N_c=54.

47. Hexachlorocyclopentadiene. Page 15956, left hand column: line 19, change quivalent to equivalent.

48. Lead. Page 15956, right hand column: lines 16 and 17, delete: (see the figures "24-hour average lead concentration vs. hardness").

49. Lead. Page 15956, right hand column: lines 18-20, delete: (see the figure "maximum lead concentration vs. hardness").

50. Lead. Page 15956, right hand column: lines 41, change . . . 1n (Hardness)—1.37) to 1n (Hardness)—3.37.

51. Nitrosomines. Page 15958, right hand column: 20th line from bottom, after maximum tolerated dose for man and Criteria Summary: add, NITROSAMINES.

52. Nitrosamines. Page 15961, left hand column: 13th line from bottom, change NC/N_c=0 to n_c/N_c=0.

53. Nitrosamines. Page 15961, left hand column: lines 21-21, change

$$\frac{K=0.81\times 10^4\ mM/Kg/day\times 74\ mg/mM}{(728)\ 2.2} = 0.30271$$

54. Nitrosamines. Page 15961, left hand column: line 26, change $_{nt}/N_t$=0.05 to n_t/N_t=0.5.

55. Nitrosamines. Page 15961, left hand column: 6th line from bottom, change dt^m=0.6(3dd/730²·³=0.114 to dt^m=0.6(355/730=0.114.

56. Nitrosamines. Page 15961, middle column: line 22, change R=) to R = O.

57. Nitrosamines. Page 15961, middle column: line 44, change nt = 31 to n_t=31.

58. Pentachlorophenol. Page 15961, right hand column: line 14, change 140 μg/l to 680 μg/l.

59. Pentachlorophenol. Page 15962, middle column: lines 1 and 2, change 2.10 mg=limit on daily exposure for a 70 mg person (ADI) to 2.10 mg=limit on daily exposure for a 70 Kg person (ADI).

60. Pentachlorophenol. Page 15962, middle column: line 4, change 0.0187 mg=amount of fish consumed to 0.0187 Kg=amount of fish consumed.

61. Selenium. Page 15962, right hand column: 5th and 6th line from bottom, change at 100 mg per kilogram (equivalent to 400 ppm of selenium alone) to at a dose of 100 mg/kilogram body weight per day (equivalent to 400 ppm of selenium in the diet).

62. Selenium. Page 15963, right hand column: line 35, change low as 16 mg selenium intake per day to low as 16.1 mg selenium intake per day.

63. Silver. Page 15964, middle column: line 21, change Acute Value of 0.26 μg/l to Acute Value which is 0.26 μg/l.

64. Silver. Page 15964, middle column: line 47, change Concen>tration=not available to Concentration=not available:

65. 2,3,7,8-Tetrachlorodibenzo-p-dioxin. Page 15965, table: change Consumption of fish and shellfish only * * * 0 4.63×10^{-9} 4.6310×10^{-8} 44.6310×10^{7} to 0 4.63×10^{-9} 4.63×10^{-8} 4.63×10^{-7}.

66. Trichloroethylene. Page 15969, left hand column: line 15, delete: Criterion:.

67. Trichloroethylene. Page 15969, right hand column: 28th, 27th, 26th and 25th line from bottom, change nt=26 to n_t=26; change NT=50 to N_t=50; change nc=1 to n_c=1; change NC=20 to N_c=20.

68. Vinyl chloride. Page 15970, right hand column: 16th line from botton, change 1.054 mg/kg(day 2+1.9(0.0187)=0.517 mg/l to 1.054 mg/Kg/day+1.9 (0.0187)=0.517 mg/l.

69. APPENDIX C. Page 15979, middle column: lines 11 and 13, change X mg/kg/ to x mg/Kg/ and change P=BX to P=Bx.

70. APPENDIX C. Page 15979, middle column: line 33, change =C(0.0187 x RxZ), to =C(0.0187) x R+2).

71. APPENDIX C. Page 15979, middle column: last line, change model is to model was.

72. APPENDIX C. Page 15979, right hand column: line 1, change For these cases an equivalent -to- For these cases (Denoted by an *) an equivalent.

73. APPENDIX C. Page 15979, right hand column: line 3, change a summary for a criterion -to a summary for the criteria.

74. APPENDIX C. Page 15979, right hand column: table, change slope factor, $B(mg/l/day)^{-1}$ to slope factor, $(mg/Kg/day)^{-1}$; change carbon tetrachloride * * * 0.090996 to * * * 0.080996; change Tetrachlorodioxin * * * 13923 to * * * 13,923; change Benzene * * * 0.15 to 15.

75. APPENDIX C. Page 15979, right hand column: under 1. Information from chronic study, change nt to n_t; change NT to N_t; change nc to n_c; change NC to N_c.

76. APPENDIX C. Page 15979, right hand column: 4th line from bottom, change Pt=nt—NT to $P_t=n_t/N_t$.

77. APPENDIX C. Page 15979, right hand column: 6th line from bottom, change $Pt=Pc+(1-Pc)\times[1-e^{-t3BD}]$ to $P_t=P_c+(1-P_c)\times[1-e^{-t3BD}]$.

78. APPENDIX C. Page 15979, right hand column: 2nd line from bottom, change Pc=nc—Nc to $P_c=n_c/N_c$.

Dated: April 23, 1979.

Thomas C. Jorling,

Assistant Administrator for Water and Waste Management.

[FRL 1215-6]

[FR Doc. 79-15191 Filed 5-15-79; 8:45 am]

BILLING CODE 6560-01-

Pesticide Programs; Receipt of Application To Register Pesticide Product Containing New Active Ingredient

M&T Chemicals Inc., PO Box 1104, Rahway, NJ 07065, has submitted to the Environmental Protection Agency (EPA) an application to register the pesticide product BIOMET 300 (EPA File Symbol 5204-AG), containing 50.0% of the active ingredient poly(methylmethacrylate-co-tributyltin methycrylate) which has not been included in any previously registered pesticide product. The pesticide is for manufacturing use only for formulating antifouling marine paints. Notice of this application is given pursuant to the provisions of Federal Insecticide, Fungicide, and Rodenticide Act (FIFRA) as amended in 1972, 1975, and 1978 (92 Stat. 819; 7 U.S.C. 136) and the regulations thereunder (40 CFR 162).

Notice of receipt of this application does not indicate a decision by the Agency on the application. Interested persons are invited to submit written comments on this application to the Federal Register Section, Program Support Division (TS-757), Office of Pesticide Programs, EPA, Rm. 401 East Tower, 401 M St., SW, Washington, DC 20460. The comments must be received on or before June 15, 1979 and should bear a notation indicating the EPA File Symbol "5204-AG". Comments received within the specified time period will be considered before a final decision is made; comments received after the specified time period will be considered only to the extent possible without delaying processing of the application. Specific questions concerning this application and the data submitted should be directed to Product Manager (PM) 23, Registration Division (TS-767), Office of Pesticide Programs, at the above address or by telephone at 202/755-1397. The label furnished by M&T Chemicals Inc., as well as all written comments filed pursuant to this notice, will be available for public inspection in the office of the Federal Register Section from 8:30 a.m. to 4:00 p.m. Monday through Friday.

Notice of approval or denial of this application to register BIOMET 300 will be announced in the **Federal Register**. Except for such material protected by Section 10 of FIFRA, the test data and other information submitted in support of registration as well as other scientific information deemed relevant to the registration decision may be made available after approval under the provisions of the Freedom of Information Act. The procedures for requesting such data will be given in the **Federal Register** if an application is approved.

Dated: May 10, 1979.

Douglas D. Campt,

Director, Registration Division.

[FRL 1226-2; OPP-30164]

[FR Doc. 79-15299 Filed 5-15-79; 8:45 am]

BILLING CODE 6560-01-M

Renewal of Temporary Tolerances Chlorthiophos

In response to a pesticide petition (PP 8G2004) submitted to the Environmental Protection Agency by EM Laboratories, Inc., 500 Executive Blvd., Elmsford, NY 10523, temprary tolerances were established for combined residues of the insecticide chlorthiophos, a mixture of three isomers: *O*-[2,5-dichloro-4-(methylthio)phenyl] *O,O*-diethyl phosphorothioate, *O*-[2,4 (2,5 or 4,5)-dichloro-5 (4 or 2)-methylsulfone)phenyl] *O,O*-diethylphosphorothioate, and *O*-[2,4 (2,5 or 4,5)-dichloro-5 (4 or 2)-(methylthio)phenyl] *O,O*-diethyl-phosphate [*O*-isolog] in or on the raw agricultural commodities grapes at 2 parts per million (ppm) and peaches at 1 ppm. These temporary tolerances expired April 12, 1979.

EM Laboratories, Inc., requested a one-year renewal of these temporary tolerances both to permit continued testing to obtain additional data and to permit the marketing of the above raw agricultural commodities when treated in accordance with the provisions of experimental use permits 21137-EUP-1 and 2 that have been renewed under the Federal Insecticide, Fungicide, and Rodenticide Act (FIFRA), as amended in 1972, 1975, and 1978 (92 Stat. 819; 7 U.S.C. 136).

The scientific data reported and all other relevant material were evaluated, and it was determined that a renewal of the temporary tolerances would protect the public health. Therefore, the temporary tolerances have been renewed on condition that the pesticide is used in accordance with the experimental use permits with the following provisions:

1. The total amount of the pesticide to be used must not exceed the quantity authorized by the experimental use permits.

2. EM Laboratories must immediately notify the EPA of any findings from the experimental uses that have a bearing on safety. The firm must also keep records of production, distribution, and performance and on request make the records available to any authorized officer or employee of the EPA or the Food and Drug Administration.

These temporary tolerances expire April 12, 1980. Residues not in excess of 2 ppm remaining in or on grapes and 1 ppm remaining in or on peaches after this expiration date will not be considered actionable if the pesticide is legally applied during the term of and in accordance with the provisions of the experimental use permits and temporary tolerances. These temporary tolerances may be revoked if the experimental use permits are revoked or if any scientific data or experience with this pesticide indicate such revocation is necessary to protect the public health. Inquiries concerning this notice may be directed to Mr. Frank Sanders, Product Manager 12, Registration Division (TS-767),

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Office of Pesticide Programs, 401 M St. SW, Washington, DC 20460 (202/426–9425).

Dated: May 10, 1979.

(Section 408(j) of the the Federal Food, Drug, and Cosmetic Act (21 U.S.C. 346a(j)))

Douglas D. Campt,
Director, Registration Division.

[FRL 1227–3; PP 8E 2004/T206]
[FR Doc. 79–15306 Filed 5–15–79; 8:45 am]
BILLING CODE 6560–01–M

Water Quality Standards; Navigable Waters of the State of Alaska

AGENCY: Environmental Protection Agency.

ACTION: Notice of State Water Quality Standards Approval.

SUMMARY: The Environmental Protection Agency has approved the water quality standards revisions adopted by the State of Alaska. These revisions become part of the State's water quality standards contained in the document, "Water Quality Standards for the State of Alaska."

FOR FURTHER INFORMATION CONTACT: Water Division, Environmental Protection Agency, Region X, 1200 Sixth Avenue, Seattle, Washington 98101.

SUPPLEMENTAL INFORMATION: On March 15, 1979 the EPA, Region X approved the water quality standards revisions adopted by the State on December 14, 1978. This action was taken in accordance with section 303(c) of the Clean Water Act (33 USC 1313(c)). These revisions are consistent with the Clean Water Act as interpreted in the Agency's WQS regulations at 40 CFR 130.17.

AVAILABILITY: Copies of the Alaska water quality standards may be obtained at no cost from the Alaska Department of Environmental Conservation Pouch O, Juneau, Alaska 99801.

Authority: Section 303(c) of the Clean Water Act, as amended (33 U.S.C. 1313(c)).

Dated: May 11,1979.

Thomas C. Jorling,
Assistant Administrator for Water and Waste Management.

[FRL 1226–7]
[FR Doc. 79–15300 Filed 5–15–79; 8:45 am]
BILLING CODE 6560–01–M

Water Quality Standards; Navigable Waters of the State of Ohio

AGENCY: Environmental Protection Agency.

ACTION: Notice of State Water Quality Standards Approval.

SUMMARY: The Environmental Protection Agency has approved the water quality standards revisions adopted by the State of Ohio for the Mahoning River basin. These revisions become part of the State's water quality standards contained in the document(s) listed below: Water Quality Standards, Chapter 3745–1–14 of the Ohio Revised Code.

FOR FURTHER INFORMATION CONTACT: Water Division, Environmental Protection Agency, Region V, 230 S. Dearborn Street, Atlanta, Georgia 30309.

SUPPLEMENTAL INFORMATION: On February 6, 1979 the EPA, Region V approved the Mahoning River Basin water quality standards revisions adopted on November 14, 1978. This action was taken in accordance with section 303(c) of the Clean Water Act (33 USC 1313(c)). These revisions are consistent with the Clean Water Act as interpreted in the Agency's WQS regulations at 40 CFR 130.17.

AVAILABILITY: A copy of the full text of the regulations has been sent to the public library in the county seat of each county. The document may be obtained by contacting the Hearing Clerk, Ohio EPA, 5th Floor, 361 East Broad, Columbus, Ohio 43215 (614–466–6037). This document is available at no cost to the public.

Authority: Section 303(c) of the Clean Water Act, as amended (33 U.S.C. 1313(c)).

Dated: May 11, 1979.

Thomas Jorling,
Assistant Administrator for Water and Waste Management.

[FRL 1226–8]
[FR Doc. 79–15301 Filed 5–15–79; 8:45 am]
BILLING CODE 6560–01–M

Water Quality Standards; Navigable Waters of the State of California

AGENCY: Environmental Protection Agency.

ACTION: Notice of State Water Quality Standards Approval.

SUMMARY: The Environmental Protection Agency has approved the ocean water quality standards revisions adopted by the State of California. These revisions become part of the State's water quality standards contained in the document "1978 Water Quality Control Plan for Ocean Waters of California."

FOR FURTHER INFORMATION CONTACT: Mr. Frank Covington, Environmental Protection Agency, Region IX, 215 Fremont Street, San Francisco, California 94111.

SUPPLEMENTAL INFORMATION: On June 30, 1978, EPA, Region IX, approved the water quality standards revisions to the California Ocean Plan adopted by the State on January 19, 1978. This action was taken in accordance with section 303(c) of the Clean Water Act (33 USC 1313(c)). These revisions are consistent with the Clean Water Act as interpreted in the Agency's WQS regulations at 40 CFR 130.17.

AVAILABILITY: Copies of the water quality standards may be obtained at no cost by writing to the California State Water Resources Control Board, P.O. Box 100, Sacramento, California 75801.

Authority: Section 303(c) of the Clean Water Act, as amended (33 U.S.C. 1313(c)).

Dated: May 11, 1979.

Thomas Jorling,
Assistant Administrator of Water and Waste Management.

[FRL 1227–1]
[FR Doc. 79–15302 Filed 5–15–79; 8:45 am]
BILLING CODE 6560–01–M

Alaska and North Dakota; Issuance of Specific Exemption To Use Trifluralin To Control Broadleaf Weeds and Grasses in Rape

AGENCY: Environmental Protection Agency (EPA), Office of Pesticide Programs.

ACTION: Issuance of specific exemptions.

SUMMARY: EPA has issued specific exemptions to the Alaska Department of Natural Resources and the North Dakota Department of Agriculture (hereafter referred to as "Alaska" and "North Dakota") to use Treflan EC (trifluralin) to control broadleaf weeds and grasses in rape.

FOR FURTHER INFORMATION CONTACT: Emergency Response Section, Registration Division (TS–767), Office of Pesticide Programs, EPA, 401 M Street, S.W., Room E–315, Washington, D.C. 20460, Telephone: 202/755–4851. It is suggested that interested persons telephone before visiting the EPA headquarters so that the appropriate files may be made conveniently available for review purposes.

SUPPLEMENTARY INFORMATION: Rape does not compete well against weed species. Broadleaf weeds and grasses reduce stand density, vigor, and seed yield by their competition for water, nutrients, space, light, and heat. They also increase production costs by increasing the harvesting and processing costs. There is no herbicide registered for use in rape. Alaska indicates that the only alternative to use of Treflan is the mowing of fields after seedlings and weeds are well established. This reduces yields by delaying maturity of rape in to cold fall weather. This process is not economical and jeopardizes harvest, according to Alaska.

Alaska estimates losses could amount to $175,000 if Treflan is not used this year. North Dakota estimates losses could amount to $1.4 million without Treflan.

Both Alaska and North Dakota proposed to apply Treflan EC (EPA Reg. No. 1471–35) in a single pre-plant application at a rate of 0.5 to 1.0 pound active ingredient (a.i.) per acre. Application will be followed by incorporation into the soil. Alaska will make ground or aerial application on a total of 1,000 acres in the Tanana-Yukon River Valleys, Matanuska-Susitna River Valleys, and the wester Kenai Peninsula. North Dakota will make ground application on up to 60,000 acres of rape.

The residue levels of trifluralin in or on rape seed and rape straw are not expected to exceed 0.01 part per million (ppm). The EPA has determined that this level is adequate to protect the public health. No adverse effects to the environment are anticipated from this use of trifluralin.

After reviewing the applications and other available information, EPA has determined that (a) pest outbreaks of broadleaf weeds and grasses in rape have occurred or are about to occur; (b) there is no pesticide presently registered and available for use to control broadleaf weeds and grasses in Alaska and North Dakota; (c) there are no alternative means of control, taking into account the efficacy and hazard; (d) significant economic problems may result if these pests are not controlled; and (e) the time available for action to mitigate the problems is insufficient for a pesticide to be registered for this use. Accordingly, Alaska and North Dakota have been granted specific exemptions to use the pesticide noted above until July 1, 1979 to the extent and in the manner set forth in the applications. The specific exemptions are also subject to the following conditions:

1. A single pre-plant application of the product Treflan EC may be made at dosage rates of one-half to one pound a.i. per acre;

2. Application must be made by ground equipment in a spray mixture of five to forty gallons of water per acre, or by air in Alaska in a spray mixture of five to ten gallons of water per acre, followed by soil incorporation;

3. Applications are limited to 1,000 acres of rape located in the areas in Alaska listed above. Applications are limited to 60,000 acres of rape in North Dakota;

4. All applicable directions, restrictions, and precautions on the product label must be followed;

5. Any adverse effect from use of Treflan under this exemption must be reported immediately to the EPA;

6. Forage from treated rape may not be grazed or cut for forage;

7. Residues of trifluralin in or on rapeseed and rape straw are not likely to exceed 0.01 ppm. Rapeseed and rape straw with residue levels not exceeding 0.01 ppm may be shipped in interstate commerce. The Food and Drug Administration, U.S. Department of Health, Education, and Welfare, has been advised of this action; and

8. Alaska and North Dakota are each responsible for assuring that all provisions of its specific exemption are met, and must submit a report summarizing the results of the program by December 31, 1979.

(Section 18 of the Federal Insecticide, Fungicide, and Rodenticide Act (FIFRA), as amended in 1972, 1975, and 1978 (92 Stat. 819; 7 U.S.C. 136).)

Dated: May 9, 1979.

Edwin L. Johnson,
Deputy Assistant Administrator for Pesticide Programs.

[OPP–180286; FRL 1226–9]
[FR Doc. 79–15298 Filed 5–15–79; 8:45 am]
BILLING CODE 6560–01–M

Boise-Cascade Corp.; Approval of PSD Permit

Notice is hereby given that on April 6, 1979 the Environmental Protection Agency issued a Prevention of Significant Deterioration (PSD) permit to the Boise-Cascade Corporation, Rumford, Maine, to construct a recovery boiler and smelt tank at their kraft pulp mill. This permit has been issued under EPA's Prevention of Significant Deterioration Regulations (40 CFR, Part 52.21) subject to certain conditions, including:

1. Phasing out of the old recovery boilers and smelt tanks.

2. Maximum fuel input rate for power boilers Numbers 1–5 shall not exceed the following limitations:

Source and Amount (gallons per year)

Power Boiler No. 5—4,640,000.
Power Boiler Nos. 1–4—26,980,000.

3. The sulfur dioxide emission rate from proposed recovery boiler C shall not exceed 0.16 grains per standard cubic feet (about 39 grams per second).

4. Monitoring of fuel consumption and SO_2 emissions is required, including maintaining of records and submission of reports.

The PSD permit is reviewable under Section 307(b)(1) of the Clean Air Act only in the First Circuit Court of Appeals. A petition for review must be filed on or before July 16, 1979.

Copies of the permit are available for public inspection upon request at the following locations:

Environmental Protection Agency, Region I, Room 1903, JFK Federal Building, Boston, Massachusetts 02203.
Maine Department of Environmental Protection, State House, Augusta, Maine 04330.

Dated: May 7, 1979.

William R. Adams, Jr.,
Regional Administrator, Region I.

[FRL–1225–4]
[FR Doc. 79–15294 Filed 5–15–79; 8:45 am]
BILLING CODE 6560–01–M

Pike Industries, Inc.; Approval of PSD Permit

Notice is hereby given that on April 20, 1979, the Environmental Protection Agency issued a Prevention of Significant Deterioration (PSD) permit to Pike Industries, Inc. for approval to construct an asphalt batch plant in Shaftsbury, Vermont. This permit has been issued under EPA's Prevention of Significant Deterioration Regulations (40 CFR Part 52.21) subject to certain conditions, including:

1. Maximum production shall be limited to 125,000 T/year.

2. Sulfur content of the fuel burned in the rotary dryer shall not exceed 1%.

The PSD permit is reviewable under Section 307(b)(1) of the Clean Air Act only in the Second Circuit Court of Appeals. A petition for review must be filed on or before July 16, 1979.

Copies of the permit are available for public inspection upon request at the following locations:

Environmental Protection Agency, Region I, Room 1903, J.F.K. Federal Building, Boston, Massachusetts 02203.
Air and Solid Waste Programs, Division of Environmental Engineering, State Office Building, Montpelier, Vermont 05602.

Dated: May 7, 1979.

William R. Adams, Jr.,
Regional Administrator, Region I.

[FRL 1225–5]
[FR Doc. 79–15292 Filed 5–15–79; 8:45 am]
BILLING CODE 6560–01–M

W. R. Grace & Co.; Approval of PSD Permit

Notice is hereby given that on April 20, 1979 the Environmental Protection agency issued a Prevention of Significant Deterioration (PSD) permit to the W. R. Grace and Company to construct facilities for the sewage sludge incineration and sodium sulfate

recovery processes at the proposed Hampshire Chemical Wastewater Treatment Facility, Nashua, New Hampshire. This permit has been issued under EPA's Prevention of Significant Deterioration Regulations (40 CFR Part 52.21) subject to certain conditions, including:

1. Performance tests shall be conducted no later than 180 days after start up to determine optimum combustion parameters for carbon monoxide control from the sewage sludge incinerator. The test program and method used must be reviewed and approved by EPA.

2. The optimum combustion parameters shall constitute best available control technology (BACT) for carbon monoxide emissions from the incinerator.

3. Continuous monitoring and recording of combustion paramenters, together with the maintenance of appropriate records and submission of reports.

The PSD permit is reviewable under Section 307(b)(1) of the Clean Air Act only in the First Circuit Court of Appeals. A petition for review must be filed on or before July 16, 1979.

Copies of the permit are available for publication upon request at the following locations:

Environmental Protection Agency, Region I Room 1903, J.F.K. Federal Building, Boston, Massachusetts 02203.
Air Pollution Control Agency, Division of Public Health Services, Health and Welfare Building, Hazen Drive, Concord, New Hampshire 03301.

Dated: May 7, 1979.

William R. Adams, Jr.,
Regional Administrator, Region I.

[FRL 1225-6]
[FR Doc. 79-15293 Filed 5-15-79; 8:45 am]
BILLING CODE 6560-01-M

Oregon Department of Agriculture; Issuance of Specific Exemption To Use Vydate L on Onions To Control Stubby Root Nematode

AGENCY: Environmental Protection Agency (EPA), Office of Pesticide Programs.

ACTION: Issuance of a specific exemption.

SUMMARY: EPA has granted a specific exemption to the Oregon Department of Agriculture (hereafter referred to as the "Applicant") to use Vydate L (oxamyl) for control of stubby root nematode on 1,200 acres of onions in four western counties of Oregon. This exemption expires on July 1, 1979.

FOR FURTHER INFORMATION CONTACT:
Emergency Response Section, Registration Division (TS-767), Office of Pesticide Programs, EPA, 401 M Street, S.W., Room E-315, Washington, D.C. 20460, Telephone: 202/755-4851. It is suggested that interested persons telephone before visiting the EPA Headquarters so that the appropriate files may be made conveniently available for review purposes.

SUPPLEMENTARY INFORMATION: Western Oregon is comprised of peat soils 25 to 60 feet deep. These peat soils provide an ideal habitat for the stubby root nematode which feed on onion seedling roots. This feeding inhibits the plant's development of a root system capable of supporting new growth, and results in high yield losses. In 1978, serious losses occurred due to a large population of the pest, and the applicant stated that present nematode counts indicate a serious problem for the 1979 season.

Due to weather patterns and spring planting dates, registered soil fumigants for nematode control (D-D, Telone, and Vorlex) must be used in the fall; however, early fall in Oregon is a dry season and generally not favorable for effective fumigation. In addition, these soil fumigants control the pest only in the upper ten to fifteen inches of soil; the pest populations below this level are not affected.

The Applicant estimates a loss of $400,000 occurred last year, due to the stubby root nematode, even though registered products were used. The Applicant expects losses this year would be the same, without the use of Vydate L.

The Applicant proposed to apply three pounds of the active ingredient, oxamyl, per acre on 1,200 acres of onions in Clackamas, Marion, Washington, and Yamnill Counties.

EPA has determined that residues of oxamyl in or on onions from the proposed use should not exceed 0.1 part per million (ppm). This level has been judged to be adequate to protect the public health. A pre-harvest interval of 45 days has been imposed and residues of oxamyl are not expected to show up in crops rotated to treated onion fields.

Oxamyl is toxic to birds and other wildlife. However, the currently registered label carries adequate precautions concerning the proposed use. The use of a liquid formulation followed by "watering" should alleviate potential problems concerning the chemical's high toxicity to birds. This use is not expected to result in an unreasonble adverse risk to the environment.

After reviewing the application and other available information, EPA has determined that (a) an outbreak of stubby root nematode in onions has occurred or is about to occur; (b) there is no effective pesticide presently registered and available for use to control this pest in onions in Oregon; (c) there are no alternative means of control, taking into account the efficacy and hazard; (d) significant economic problems may result if this pest is not controlled; and (e) the time available for action to mitigate the problems posed is insufficient for a pesticide to be registered for this use. Accordingly, the Applicant has been granted a specific exemption to use the pesticide noted above until July 1, 1979, to the extent and in the manner set forth in the application. The specific exemption is also subject to the following conditions:

1. The registered product Vydate L (EPA Reg. No. 352-372) will be used;

2. Application will be restricted to 1,200 acres located in the counties named above;

3. Vydate will be applied at one and one-half gallons per acre (three pounds oxamyl) in twenty to thirty gallons of water;

4. No more than two applications of Vydate L will be made per crop per season;

5. Application shall be by gound equipment only and shall be followed by sprinkler irrigation of up to two inches of water;

6. A forty-five day pre-harvest interval shall be observed;

7. Applications will be made by State-certified private applicators. Application procedures will be those recommended by qualified Oregon State University extension agents;

8. All applicable precautions on the EPA-registered label regarding human and wildlife safety must be observed;

9. Onions treated according to the above provisions should not exceed a residue level of 0.1 ppm of oxamyl. Treated onions within this residue lavel may enter interstate commerce. The Food and Drug Administration, U.S. Department of Health, Education, and Welfare, has been advised of this action; and

10. The Applicant is responsible for assuring that all of the provisions of this specific exemption are met and must submit a report summarizing the results of this program by October 31, 1979.

(Section 18 of the Federal Insecticide, Fungicide, and Rodenticide Act (FIFRA), as amended in 1972, 1975 and 1978 (92 Stat. 819; 7 U.S.C. 136).

Dated: May 9, 1979.

Edwin L. Johnson,
Deputy Assistant Administrator for Pesticide Programs.

[OPP-180294; FRL 1226-5]
[FR Doc. 79-15296 Filed 5-15-79; 8:45 am]
BILLING CODE 6560-01-M

Virginia Department of Agriculture and Commerce; Issuance of Specific Exemption To Use Permethrin To Control Colorado Potato Beetle on Potatoes

AGENCY: Environmental Protection Agency (EPA), Office of Pesticide Program.

ACTION: Issuance of a specific exemption.

SUMMARY: EPA has granted a specific exemption to the Virginia Department of Agriculture and Commerce (hereafter referred to as the "Applicant") to use permethrin on 17,500 acres of potatoes for the control of the Colorado potato beetle in Virginia. The specific exemption expires on September 15, 1979.

FOR FURTHER INFORMATION CONTACT:
Emergency Response Section, Registration Division (TS-767), Office of Pesticide Programs, EPA, 401 M Street, S.W., Room E-315, Washington, D.C. 20460, Telephone: 202/755-4851. It is suggested that interested persons telephone before visiting the EPA Headquarters, so that the appropriate files may be made conveniently available for review purposes.

SUPPLEMENTARY INFORMATION: The potato beetle is perhaps the best known beetle in the United States. Both the larvae and the adults feed on leaves of potato plants. This feeding may result in defoliation of the vines which prevents development of tubers or greatly reduces yield. Although Guthion, Imidan, methoxychlor, Monitor, parathion, Furadan, Temik, and Thiodan are registered for use on potatoes to control this pest, the Applicant claims that these pesticides are unsatisfactory for Colorado potato beetle control due to pesticidal resistance. Last year Vydate was registered for control of the beetle on potatoes; however, Vydate is effective against the larvae only, not the adult, and it is not so effective as permethrin. The Applicant estimates a loss of 2.3 to 4 million dollars due to the Colorado potato beetle.

The Applicant proposes to use permethrin, manufactured under the trade names Pounce and Ambush, at a rate of 0.1 to 0.2 pound active ingredient (a.i.) per acre per application, using ground or air equipment, observing a 7-day pre-harvest interval. State-certified applicators or persons under their direct supervision will make a maximum of six applications in Accomac and Northampton Counties.

EPA has determined that residues of permethrin on potatoes would not be expected to exceed 0.1 part per million (ppm) as a result of the proposed use provided that only six applications of either Ambush or Pounce are made and a 7-day pre-harvest interval is observed. This residue level has been judged to be adequate to protect the public health. Since permethrin is highly toxic to bees and aquatic vertebrates and invertebrates, appropirate restrictions have been imposed. This use of permethrin is not expected to pose an unreasonable hazard to the environment.

After reviewing the application and other available information, EPA has determined that (a) a post outbreak of Colorado potato beetle has occurred or is about to occur; (b) there is no effective pesticide presently registered and available for use to control the Colorado potato beetle in Virginia; (c) there are no alternative means of control, taking into account the efficacy and hazard; (d) significant economic problems may result if the Colorado potato beetle is not controlled; and (e) the time available for action to mitigate the problems posed is insufficient for a pesticide to be registered for this use. Accordingly, the Applicant has been granted a specific exemption to use the pesticide noted above until September 15, 1979, to the extent and in the manner set forth in the application. The specific exemption is also subject to the following conditions:

1. The products Ambush, manufactured by ICI Americas, Inc., and Pounce, manufactured by FMC Corporation, may be applied;

2. Permethrin may be applied at a rate of 0.1 to 0.2 pound a.i. per acre;

3. A maximum of six applications may be made with a pre-harvest interval of seven days;

4. A maximum of 17,500 acres in the counties named above may be treated;

5. Applications may be made with air or ground equipment;

6. Spray mixture volumes of 20-100 gallons of water will be applied by ground equipment, 5-10 gallons by aircraft;

7. Applications will be made by State-certified private or commercial applicators or persons under the direct supervision of a State-certified applicator;

8. The spray program will be under the direction and supervision of the Entomologist Scientist-in-Charge, Eastern Shore Branch, Virginia Truck and Ornamental Research Station, Painter, Virginia;

9. Ambush and Pounce are toxic to fish, birds, and other wildlife. They must be kept out of any body of water. They may not be applied where run-off is likely to occur. They may not be applied when weather conditions favor drift from treated areas. Care must be taken to prevent contamination of water by cleaning of equipment or disposal of wastes;

10. The Applicant shall establish liaison with the Virginia Bureau of Surveillance and Field Studies in order to take appropriate action to protect fish and shellfish in waterways near permethrin-treated potato fields. In order to minimize spray drift, the following registrictions will be observed for applications of permethrin:

a. Aerial applications will not be made when wind speed exceeds five miles per hour;

b. A buffer zone of 200 feet (horizontal distance) between treated areas and aquatic areas will be observed; and

c. Aerial applications should be staggered in time in areas where fish and shellfish are important resources.

11. Permethrin is highly toxic to bees exposed to direct treatment or residues on crops or weeds. It may not be applied or allowed to drift to weeds in bloom on which an economically significant number of bees are actively foraging. Protective information may be obtained from the State Cooperative Agricultural Extension Service;

12. Potatoes treated according to the above provisions will not have residues of permethrin in excess of 0.1 ppm. Potatoes with residues of permethrin which do not exceed this level may enter interstate commerce. The Food and Drug Administration, U.S. Department of Health, Education, and Welfare, has been advised of this action;

13. A 60-day crop rotation restriction will be observed;

14. The EPA will be immediately informed of any adverse effects resulting from the use of permethrin in connection with this exemption; and

15. The Applicant is responsible for assuring that all of the provisions of this specific exemption are met and must submit a report summarizing the results of this program by February 15, 1980.

(Section 18 of the Federal Insecticide, Fungicide, and Rodenticide Act (FIFRA), as amended in 1972, 1975, and 1978 (92 Stat. 819; 7 U.S.C. 136)).

Dated: May 9, 1979.

Edwin L. Johnson,

Deputy Assistant Administrator for Pesticide Programs.

[OPP-180292; FRL 1226-4]

[FR Doc. 79-15297 Filed 5-15-79; 8:45 am]

BILLING CODE 6560-01-M

FEDERAL MARITIME COMMISSION

Inquiry Regarding the United Nations Convention on Code of Conduct for Liner Conferences

AGENCY: Federal Maritime Commission.

ACTION: Notice of inquiry.

SUMMARY: The Federal Maritime Commission requests public comment on a proposed international convention governing the conduct of steamship liner conferences. It is not intended that a proposed rule will issue from this proceeding.

DATES: Comments on or before July 16, 1979.

ADDRESS: Comments to: Secretary, Federal Maritime Commission, Washington, D.C. 20573.

FOR FURTHER INFORMATION CONTACT: Secretary, Federal Maritime Commission, 1100 L Street, N.W., Room 11101, Washington, D.C. 20573 (202) 523-5725.

AUTHORITY: Shipping Act, 1916; Merchant Marine Act, 1936; Merchant Marine Act, 1920.

SUPPLEMENTARY INFORMATION: The Federal Maritime Commission administers the Shipping Act, 1916, which regulates ocean liner carriage in the U.S. foreign trades. This statute provides exemption from the antitrust laws for certain FMC-approved types of concerted action by persons subject to the Act, requires an open conference system, prohibits specified acts that are not unlawful in other trades (*e.g.*, payment of deferred rebates), requires the public filing of tariffs and provides an administrative forum for resolution of disputes between carriers and shippers.

The U.S. approach of statutory regulation contrasts with the emphasis on commercial checks-and-balances in most non-U.S. trades between developed nations, where liner shipping is generally free of legislative restraints.

Against this background, in 1972, the United Nations proposes a convention on a Code of Conduct for Liner Conferences. A Code was approved In April, 1974. It will become effective as an international convention six months following ratification by 24 countries, the combined tonnage of which equals 25% of the world total, as of 1973. To date, 34 countries with a combined tonnage of 6.6% have ratified the Code.

In its most important provisions, many of which are not compatible with the present Shipping Act or the U.S. antitrust laws, the Code anticipates closed conferences, shippers' councils, national flag preference in access to cargo, self-determination and self-policing of malpractices by conferences, loyalty agreements based on contractual obligation, a period between general rate increases of up to 15 months, shipper/carrier consultation on rate increases and surcharges and a complex system of international conciliation of disputes.

The United States Government has opposed the Code. However, certain features of the Code, particularly cargo allocation arrangements, appear to be gaining popularity in developing and less-developed countries. For example, the Government of the Dominican Republic curently intends to implement Law 180, promulgated in May, 1975, which provides for cargo reservation to national flags in equal amounts, and reserves 20% of all cargo for third flag carriers. The law thus embodies the cargo sharing provisions of the Liner Code.

In addition, members of the European Economic Community appear close to agreement on a compromise ratification of the Liner Code which, among other reservations, limits cargo sharing provisions to a 40% share reserved for less developed countries.

The likely ratification of the Code by Britain, Germany, France, Denmark, Belgium, Luxembourg, Italy and the Netherlands, in addition, to Japan, will bring the Code into effect as an international instrument with the force of law among ratifying states, perhaps as early as the end of 1979.

The Federal Maritime Comnmission therefore seeks public comment on the Code in order to determine:

(1) The transportation and economic consequences of the implemented Liner Code on the U.S. foreign commerce.

(2) How best to harmonize current U.S. laws with conflicting Code provisions in trades where the bilateral trading partner has ratified the Code.

(3) The feasibility, merits and disadvantages of *de facto* implementation of significant features of the Code by the U.S. through section 15 agreements.

General Issues

Article 1 of the Code places limitations on entry to conferences, thus proposing a form of "closed conference" system, and Article 2 institutes a system of cargo allocation granting national flag lines equal shares of bilateral trade, but with a "significant part" reserved for third flag lines.

(1) What are the implications for rates and adequacy of service if either or both of these proposals were to be implemented in the U.S. trades?

(2) What effect would there be on the competitive position of the U.S. merchant marine as a "cross-trader" where one or both foreign nations may have implemented these proposals?

(3) What are the legal implications of insistence by a bilateral trading partner, as a matter of national law, upon applying either or both of these proposals in its outbound trade to the U.S.? What would be the legal and commercial effect of such a development on the U.S. merchant marine?

(4) Would more liberal statutory standards for rationalization under the "open conference" system in the U.S. trades be a viable and compatible alternative to either or both of these proposals?

Article 5 of the Code requires conferences to adopt an "illustrative list * * * of practices which are regarded as malpractices * * * and shall provide effective self-policing machinery to deal with them * * *"

(5) What specific practices are regarded as malpractices in non-U.S. trades?

(6) What evidence exists that conference self-policing in non-U.S. trades has been effective in deterring or identifying instances of such malpractices? What specific sanctions or level of monetary penalties have been found to be effective?

(7) To what extent have shippers or shippers' organizations in non-U.S. trades been instrumental in assisting conferences to deter or identify instances of such malpractices? Have the conferences been responsive to such assistance by taking effective action whem malpractices are found to have occurred?

Article 7 of the Code deals with shipper "loyalty" arrangements.

(8) Apart from contract rate differentials or deferred rebates, what other loyalty incentives are employed in non-U.S. trades?

(9) What specific contract provisions, if any, are used to discourage circumvention of loyalty arrangements through f.o.b., f.a.s. or other terms of sale that give consignees control over cargo routing?

Article 11 of the Code contemplates establishment of shippers' councils and consultations between these councils and steamship conference on general rate increases, promotional or special rates, surcharges, loyalty arrangements and tariff classification of ports.

(10) Citing specific examples, how effective have such consultations proven to be in non-U.S. trades?

(11) To what extent, and for what reasons, have national authorities designated a shipper body to engage in such consultations?

Articles 23-46 of the Code provides for resolution of disputes between or among shippers and carriers through a system of voluntary international arbitration conducted at the expense of the parties.

(12) Is such an arrangement preferable to current rights and procedures under the Shipping Act? Why?

Shipper Issues

Article 9 of the Code provides that conference agreements and tariffs will be made available on request at reasonable cost and shall be available for examination at offices of shipping lines and their agents.

(13) Would there continue to be need for the current arrangement of public filing with the Federal Maritime Commission?

Article 14 of the Code would require conferences to give not less than 150 days' notice, absent "regional practice and/or agreement," before implementing general freight rate increases and, in effect, a 15-month interval between such increases. Article 16 provides for advance notice of proposed surcharges, other than in "exceptional circumstances," and appears to contemplate a moratorium of up to 30 days if there is disagreement as to justification, in whole or in part.

(14) Are these "notice" periods realistic?

(15) What notice requirements for general rate increases are provided by "regional practice and/or agreement" in non-U.S. trades?

(16) Since a surcharge is, by definition (Article 16(1)), designed "to cover sudden or extraordinary increases in cost or losses in revenue" yet, notwithstanding, is generally subject to advance notice (and implicitly, up to 30 days' forbearance) what "exceptional circumstances" would justify imposition of a surcharge without notice?

Carrier Issues

Chapter I of the Code defines a "national shipping line" as a "vessel operating carrier which has its head office of management and its effective control in that country and is recognized as such by an appropriate authority of that country or under the law of that country."

(17) Does this definition include U.S.-owned foreign registered vessels?

As envisioned by the Code, national lines would have an equal share of cargoes in bilateral trades and equal rights to participate in pools.

(18) What would be the effect of such an apportionment in the trades where U.S.-flag carriers presently operate? What effect would such cargo division have on U.S. liner operations? Describe experience with cargo sharing where it currently exists in U.S. trades. What has been the comparative and historic effect on rates and quality of service in such trades?

(19) How would cargo allocation be made in conferences that serve regional, rather than national, trading areas, *i.e.*, cargo origin or destination involving transshipment?

Carriers operating between the U.S. and foreign countries which have ratified the Code will be within two different legal and regulatory systems.

(20) What are the most frequent and most serious legal and commercial conflicts that are likely to be encountered?

(21) To what extent, under existing U.S. law, might compatibility with the Code be sought through proposed section 15 agreements, consistent with *SVENSKA* standards?

(22) What *minimum* changes in U.S. law would be required to permit either adherence to the Code or substantial compatibility therewith?

(23) What *minimum* reservations to the Code would be required to permit U.S. adherence, assuming enactment of the statutory amendments proposed in H.R. 11422 of the 95th Congress?

(24) What effect would or should U.S. adherence to the Code have on the supervisory and regulatory functions of the Federal Maritime Commission?

The Commission invites comment on any other aspect of the Code of Conduct for Liner Conferences, particularly when accompanied by relevant factual and economic data.

An original and 15 copies of each comment should be directed in writing to the Secretary, Federal Maritime Commission, Washington, D.C. 20573.

By the Commission.

Francis C. Hurney,

Secretary.

[Docket No. 79-50]

[FR Doc. 79-15174 Filed 5-15-79; 8:45 am]

BILLING CODE 6730-01-M

Karevan, Inc.; Order or Revocation

On April 2, 1979, Karevan, Inc., 230 West Warner Avenue, Santa Ana, California 92705, requested the Commission to revoke its Independent Ocean Freight Forwarder License No. 1703.

Therefore, by virtue of authority vested in me by the Federal Maritime Commission as set forth in Manual of Orders, Commission Order No. 201.1 (Revised), section 5.01(c), dated August 6, 1977;

It is ordered, that Independent Ocean Freight Forwarder License No. 1703 issued to Karevan, Inc., be and is hereby revoked effective April 2, 1979, without prejudice to reapplication for a license in the future.

It is further ordered, that Independent Ocean Freight Forwarder License No. 1703 issued to Karevan, Inc., be returned to the Commission for cancellation.

It is further ordered, that a copy of this Order be published in the **Federal Register** and served upon Karevan, Inc.

Robert G. Drew,

Director, Bureau of Certification and Licensing.

[Independent Ocean Freight Forwarder License No. 1703]

[FR Doc 70-15172 Filed 5-15-79; 8:45 am]

BILLING CODE 6730-01-M

S.S.A. International, Inc.; Order of Revocation

On May 2, 1979, S.S.A. International, Inc., 8811 Gulf Freeway, Houston, Texas 77027, requested the Commission to revoke its Independent Ocean Freight Forwarder License No. 1609.

Therefore, by virtue of authority vested in me by the Federal Maritime Commission as set forth in Manual of Orders, Commission Order No. 201.1 (Revised), section 5.01(c), dated August 8, 1977;

It is ordered, that Independent Ocean Freight Forwarder License No. 1609 issued to S.S.A. International, Inc., be and is hereby revoked effective May 2, 1979, without prejudice to reapplication for a license in the future.

It is further ordered, that Independent Ocean Freight Forwarder License No. 1609 issued to S.S.A. International, Inc., be returned to the Commission for cancellation.

It is further ordered, that a copy of this Order be published in the **Federal Register** and served upon S.S.A. International, Inc.

Robert G. Drew, *Director,*

Bureau of Certification and Licensing.

[Independent Ocean Freight Forwarder License No. 1609]

[FR Doc. 79-15173 Filed 5-15-79; 8:45 am]

BILLING CODE 6730-01-M

Security for the Protection of the Public, Financial Responsibility To Meet Liability Incurred for Death or Injury to Passengers or Other Persons on Voyages; Issuance of Certificate [Casualty]

Notice is hereby given that the following have been issued a Certificate of Financial Responsibility to Meet Liability Incurred for Death or Injury to Passengers or Other Persons on Voyages pursuant to the provisions of Section 2, Pub. L. 89–777 (80 Stat. 1356, 1357) and Federal Maritime Commission General Order 20, as amended (46 CFR 540):

Compania De Vapores Cerulea S.A. and Ulysses Line Ltd. S.A., c/o Constanna Shipping Agency, Inc., 610 Brickell Executive Tower, 1428 Brickell Avenue, Miami, Florida 33131

Dated: May 11, 1979.

Francis C. Hurney,
Secretary.

[FR Doc. 79-15170 Filed 5-15-79; 8:45 am]

BILLING CODE 6730-01-M

Security for the Protection of the Public, Indemnification of Passengers for Nonperformance of Transportation; Notice of Issuance of Certificate [Performance]

Notice is hereby given that the following have been issued a Certificate of Financial Responsibility for Indemnification of Passengers for Nonperformance of Transportation pursuant to the provisions of section 3, Pub. L. 89–777 (80 Stat. 1357, 1358) and Federal Maritime Commission General Order 20, as amended (46 CFR Part 540):

Compania De Vapores Cerulea S. A., Ulysses Line LTD. S. A. and Paquet Cruises Inc., c/o Constanna Shipping Agency, Inc., 610 Brickell Executive Tower, 1428 Brickell Avenue, Miami, Florida 33131.

Dated: May 11, 1979.

Francis C. Hurney,
Secretary.

[FR Doc. 79-15171 Filed 5-15-79; 8:45 am]

BILLING CODE 6730-01-M

DEPARTMENT OF HEALTH, EDUCATION, AND WELFARE

Alcohol, Drug Abuse, and Mental Health Administration

Advisory Committees; Meetings

In accordance with Section 10(a)(2) of the Federal Advisory Committee Act (5 U.S.C. Appendix I), announcement is made of the following National Advisory bodies scheduled to assemble during the month of June 1979:

Alcohol Abuse Prevention Committee

June 4–5; 9:00 a.m., Conference Room L, Parklawn Building, 5600 Fishers Lane, Rockville, Maryland 20857.
Open—June 4; 9:00–10:30 a.m.
Closed—Otherwise.
Contact: Robert E. Davis, Room 14C–17, Parklawn Building, 5600 Fishers Lane, Rockville, Maryland 20857, 301–443–3403.
Purpose: The Committee is charged with the initial review of grant applications for Federal assistance in the program areas administered by the National Institute on Alcohol Abuse and Alcoholism relating to prevention activities and makes recommendations to the National Advisory Council on Alcohol Abuse and alcoholism for final review.
Agenda: From 9:00–10:30 a.m., June 4, the meeting will be open for discussion of administrative reports, announcements, and program developments. Otherwise, the Committee will be performing initial review of grant applications for Federal assistance and will not be open to the public in accordance with the determination by the Administrator, Alcohol, Drug Abuse, and Mental Health Administration, pursuant to the provisions of Section 552b(c)(6), Title 5 U.S. Code and Section 10(d) of Public Law 92–463 (5 U.S.C. Appendix I).

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Research Scientist Development Review Committee

June 6–9; 9:00 a.m., Sheraton Silver Spring, 8727 Colesville Road, Silver Spring, Maryland 20910.
Open—June 6; 9:00–11:00 a.m.
Closed—Otherwise.
Contact: Barbara Ann Spelman, Room 9C–18, Parklawn Building, 5600 Fishers Lane, Rockville, Maryland 20857, 301–443–4347.
Purpose: Committee is charged with the initial review of grant applications for Research Scientist Development Awards and Research Scientist Awards administered by the National Institute of Mental Health and makes recommendations to the National Advisory Mental Health Council for final review.
Agenda: From 9:00–11:00 a.m., June 6, the meeting will be open for discussion of administrative announcements and program developments. Otherwise, the Committee will be performing initial review of grant applications for Federal assistance and will not be open to the public in accordance with the determination by the Administrator, Alcohol, Drug Abuse, and Mental Health Administration, pursuant to the provisions of Section 552b(c)(6), Title 5 U.S. Code and Section 10(d) of Public Law 92–463 (5 U.S.C. Appendix I).

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Psychopathology and Clinical Biology Research Review Committee (formerly Clinical Projects Research Review Committee

June 11–13; 9:00 a.m., Holiday Inn-Georgetown, 2505 Wisconsin Avenue, N.W., Washington, D.C. 20007.
Open—June 11; 9:00–10:00 a.m.
Closed—Otherwise.
Contact: Harriet German, Room 10C–05, Parklawn Building, 5600 Fishers Lane, Rockville, Maryland 20857, 301–443–3367.
Purpose: The Committee is charged with the initial review of grant applications for Federal assistance in the program areas administered by the National Institute of Mental Health relating to clinical research and makes recommendations to the National Advisory Mental Health Council for final review.
Agenda: From 9:00–10:00 a.m., June 11, the meeting will be open for discussion of administrative announcements and program developments. Otherwise, the Committee will be performing initial review of grant applications for Federal assistance and will not be open to the public in accordance with the determination by the Administrator, Alcohol, Drug Abuse, and Mental Health Administration, pursuant to the provisions of section 552b(c)(6), Title 5 U.S. Code and Section 10(d) of Public Law 92–463 (5 U.S.C. Appendix I).

* * * * *

Interagency Committee on Federal Activities for Alcohol Abuse and Alcoholism

June 12; 9:00—Open meeting. Conference Room 703–A, HHH Building, 200 Independence Avenue SW., Washington, D.C. 20201.
Contact: James Vaughan, Room 16C–10, Parklawn Building, 5600 Fishers Lane, Rockville, Maryland 20857, 301–443–3888.
Purpose: The Committee (1) evaluates the adequacy and technical soundness of all Federal programs and activities which relate to alcohol abuse and alcoholism and provides for the communication and exchange of information necessary to maintain the coordination and effectiveness of such programs and activities, and (2) seeks to coordinate efforts undertaken to deal with alcohol abuse and alcoholism in carrying out Federal health, welfare, rehabilitation, highway safety, law enforcement, and economic opportunity laws.
Agenda: The meeting will consist of a discussion of the proposed FY 1980 Alcoholism initiatives and reports on Federal Employee Alcoholism Programs; Research Programs; Prevention, Education and Information Programs; Treatment and Rehabilitation Programs; and Manpower and Training Programs.

* * * * *

Alcohol Biomedical Research Review Committee

June 13–15; 9:00 a.m., Holiday Inn, 8120 Wisconsin Avenue, Bethesda, Maryland 20014.
Open—June 13; 9:00 a.m.–12:00 noon.
Closed—Otherwise.
Contact: Kenneth R. Warren, Ph.D., Room 16C–26, Parklawn Building, 5600 Fishers Lane, Rockville, Maryland 20857, 301–443–4223.

Purpose: The Committee is charged with the initial review of grant applications for Federal assistance in the program areas administered by the National Institute on

Alcohol Abuse and Alcoholism relating to research activities and makes recommendations to the National Advisory Council on Alcohol Abuse and Alcoholism for final review.
Agenda: From 9 a.m.–12 noon, June 13, the meeting will be open for discussion of administrative reports, announcements, and program developments. Otherwise, the Committee will be performing initial review of grant applications for Federal assistance and will not be open to the public in accordance with the determination by the Administrator, Alcohol, Drug Abuse, and Mental Health Administration, pursuant to the provisions of Section 552b(c)(6), Title 5 U.S. Code and Section 10(d) of Public Law 92–463 (5 U.S.C. Appendix I).

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Alcohol Psychosocial Research Review Committee

June 13–15; 9:00 a.m., Delaware Room, Holiday Inn, 8120 Wisconsin Avenue, Bethesda, Maryland 20014.
Open—June 13; 9 a.m.–12 noon.
Closed—Otherwise.
Contact: James C. Teegarden Ph.D., Room 16C–26, Parklawn Building, 5600 Fishers Lane, Rockville, Maryland 20857, 301–443–4223.
Purpose: The Committee is charged with the initial review of grant applications for Federal assistance in the program areas administered by the National Institute on Alcohol Abuse and Alcoholism relating to research activities and makes recommendations to the National Advisory Council on Alcohol Abuse and Alcoholism for final review.
Agenda: From 9 a.m.–12 noon, June 13, the meeting will be open for discussion of administrative reports, announcements, and program developments. Otherwise, the Committee will be performing initial review of grant applications for Federal assistance and will not be open to the public in accordance with the determination by the Administrator, Alcohol, Drug Abuse, and Mental Health Administration, pursuant to the provisions of Section 552b(c)(6), Title 5 U.S. Code and Section 10(d) of Public Law 92–463 (5 U.S.C. Appendix I).

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Alcohol Training Review Committee

June 14–15; 9 a.m., Conference Room L, Parklawn Building, 5600 Fishers Lane, Rockville, Maryland 20857.
Open—June 15; 9 a.m.–11 a.m.
Closed—Otherwise.
Contact: Robert E. Davis, Room 14C–17, Parklawn Building, 5600 Fishers Lane, Rockville, Maryland 20857, 301–443–3403.
Purpose: The Committee is charged with the initial review of grant applications for Federal assistance in the program areas administered by the National Institute on Alcohol Abuse and Alcoholism relating to training activities and makes recommendations to the National Advisory Council on Alcohol Abuse and Alcoholism for final review.
Agenda: From 9 a.m.–11 a.m., June 15, the meeting will be open for discussion of administrative reports, announcements, and program developments. Otherwise, the Committee will be performing initial review of grant applications for Federal assistance and will not be open to the public in accordance with the determination by the Administrator, Alcohol, Drug Abuse, and Mental Health Administration, pursuant to the provisions of Section 552b(c)(6), Title 5 U.S. Code and Section 10(d) of Public Law 92–463 (5 U.S.C. Appendix I).

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Basic Sociocultural Research Review Committee

(Formerly Social Sciences Research Review Committee)

June 20–22; 9 a.m., Holiday Inn-Georgetown, 2505 Wisconsin Avenue, N.W., Washington, D.C. 20007.
Open—June 20; 9 a.m.–9:30 a.m.
Closed—Otherwise.
Contact: Marilyn Andersen, Room 10–95, Parklawn Building, 5600 Fishers Lane, Rockville, Maryland 20857, 301–443–3936.
Purpose: The Committee is charged with the initial review of grant applications for Federal assistance in the program areas administered by the National Institute of Mental Health relating to social science research and makes recommendations to the National Advisory Mental Health Council for final review.
Agenda: From 9 a.m.–9:30 a.m., June 20, the meeting will be open for discussion of administrative announcements and program developments. Otherwise, the Committee will be performing initial review of grant applications for Federal assistance and will not be open to the public in accordance with the determination by the Administrator, Alcohol, Drug Abuse, and Mental Health Administration, pursuant to the provisions of Section 552b(c)(6), Title 5 U.S. Code and Section 10(d) of Public Law 92–463 (5 U.S.C. Appendix I).

* * * * *

Mental Health Research Education Review Committee

(Formerly Biological Sciences Training Review, Psychological Sciences Fellowship Review, and Social Sciences Training Review Committees)

June 21–23; 9 a.m., Conference Room K, Parklawn Building, 5600 Fishers Lane, Rockville, Maryland 20857.
Open—June 21; 9 a.m.–9:30 a.m.
Closed—Otherwise.
Contact: Miriam Stein, Room 9C–18, Parklawn Building, 5600 Fishers Lane, Rockville, Maryland, 301–443–4347.
Purpose: The Committee is charged with the initial review of grant applications for Federal assistance in the program areas administered by the National Institute of Mental Health relating to research education for scientists concerned with mental health problems from a biological, psychological, or social science perspective, and makes recommendations to the National Advisory Mental Health Council for final review.
Agenda: From 9 a.m.–9:30 a.m., June 21, the meeting will be open for discussion of administrative announcements and program developments. Otherwise, the Committee will be performing initial review of grant applications for Federal assistance and will not be open to the public in accordance with the determination by the Administrator, Alcohol, Drug Abuse, and Mental Health Administration, pursuant to the provisions of Section 552b(c)(6), Title 5 U.S. Code and Section 10(d) of Public Law 92–463 (5 U.S.C. Appendix I).

* * * * *

Minority Group Mental Health Review Committee

(Formerly Minority Group Mental Health Programs Review Committee)

June 28–30; 9 a.m., Shoreham Americana, 2500 Calvert Street, N.W., Washington, D.C. 20008.
Open—June 28; 9 a.m.–11 a.m.
Closed—Otherwise.
Contact: Edna M. Hardy Hill, Room 7–103, Parklawn Building, 5600 Fishers Lane, Rockville, Maryland 20857, 301–443–2988.
Purpose: The Committee is charged with the initial review of grant applications for Federal assistance in the program areas administered by the National Institute of Mental Health relating to minority mental health research and training and makes recommendations to the National Advisory Mental Health Council for final review.
Agenda: From 9 a.m.–11 a.m., June 28, the meeting will be open for discussion of administrative announcements and program developments. Otherwise, the Committee will be performing initial review of grant applications for Federal assistance and will not be open to the public in accordance with the determination by the Administrator, Alcohol, Drug Abuse, and Mental Health Administration, pursuant to the provisions of Section 552b(c)(6), Title 5 U.S. Code and Section 10(d) of Public Law 92–463 (5 U.S.C. Appendix I).

Substantive program information may be obtained from the contact persons listed above. The NIAAA Information Officer who will furnish upon request summaries of the meeting and rosters of the Committee members is Mr. Harry Bell, Associate Director for Public Affairs, National Institute on Alcohol Abuse and Alcoholism, Room 11A–17, Parklawn Building, 5600 Fishers Lane, Rockville, Maryland 20857, 301–443–3306. The NIMH Information Officer who will furnish upon request summaries of the meeting and rosters of the Committee members is Mr. Paul Sirovatka, Acting Chief, Public Information Branch, Division of Scientific and Public Information, NIMH, Room 15–105, Parklawn Building, 5600 Fishers Lane, Rockville, Maryland 20857, 301–443–4536.

Dated: May 8, 1979.

Elizabeth A. Connolly,
Committee Management Officer, Alcohol, Drug Abuse, and Mental Health Administration.

[FR Doc. 79-15177 Filed 5-15-79; 8:45 am]

BILLING CODE 4110-88-M

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Office of Education

National Advisory Council on Indian Education, Technical Assistance, Research, and Evaluation Committee; Meeting

AGENCY: National Advisory Council on Indian Education.

ACTION: Notice.

SUMMARY: The notice sets forth the schedule and proposed agenda of the forthcoming Technical Assistance, Research & Evaluation Committee meeting of the National Advisory Council on Indian Education. It also describes the functions of the Council. Notice of these meetings are required under the Federal Advisory Committee Act (5 U.S.C. Appendix I, Section 10(a)(2)). This document is intended to notify the general public of their opportunity to attend.

DATES: Technical Assistance, Research & Evaluation Committee Meetings: June 1, 1979, 9 a.m.–5 p.m., open, and June 2, 1979, 9 a.m.–5 p.m., open.

ADDRESS: Holiday Inn-Downtown, 1000 E. Sixth Street, Reno, Nevada.

FOR FURTHER INFORMATION CONTACT: Dr. Michael P. Doss, Executive Director, National Advisory Council on Indian Education, Suite 326, 425 13th Street, N.W., Washington, D.C. 20004 (202) 376–8882.

The National Advisory Council on Indian Education is established under Section 442 of the Indian Education Act, Title IV of Pub. L. 92–318, (20 U.S.C. 1221g).

The Council is directed to:

(1) Submit to the Commissioner of Education a list of nominees for the position of Deputy Commissioner of the Office of Indian Education/OE;

(2) Advise the Commissioner of Education with respect to the administration (including the development of regulations and of administrative practices and policies) of any program in which Indian children or adults participate from which they can benefit, including Title III of the Act of September 30, 1950 (Pub. L. 81–874) and Section 810, Title VIII of the Elementary and Secondary Education Act of 1965 (as added by title IV of Pub. L. 92–318 and amended by Pub. L. 93–380), and with respect to adequate funding thereof;

(3) Review applications for assistance under Title III of the Act of September 30, 1950 (Pub. L. 81–874), Section 810 of Title VIII of the Elementary and Secondary Education Act of 1965 as amended and Section 314 of the Adult Education Act (as added by Title IV of Pub. L. 92–318), and make recommendations to the Commissioner with respect to their approval;

(4) Evaluate programs and projects carried out under any program of the Department of Health, Education, and Welfare in which Indian children or adults can participate or from which they can benefit, and disseminate the results of such evaluations;

(5) Provide technical assistance to local educational agencies and to Indian educational agencies, institutions, and organizations to assist them in improving the education of Indian children;

(6) Assist the Commissioner of Education in developing criteria and regulations for the administration and evaluation of grants made under Section 303(b) of the Act of September 30, 1950 (Pub. L. 81–874) as added by title IV, Part A, Pub. L. 92–318;

(7) Submit to Congress not later than June 30 of each year a report on its activities, which shall include any recommendations it may deem necessary for the improvement of Federal education programs in which Indian children and adults participate, or from which they can benefit, which report shall include a statement of the Council's recommendations to the Commissioner with respect to the funding of any such program; and

(8) Be consulted by the Commissioner of Education regarding the definition of the term "Indian", as follows:

Sec. 453 [Title IV, Pub. L. 92–318]. For the purposes of this title, the term "Indian" means any individual who (1) is a member of a tribe, band, or other organized group of Indians, including those tribes, bands or groups terminated since 1940 and those recognized by the State in which they reside, or who is a descendant, in the first or second degree of any member, or (2) is considered by the Secretary of the Interior to be an Indian for any purpose, or (3) is an Eskimo or Aleut or other Alaska Native, or (4) is determined to be an Indian under regulations promulgated by the Commissioner, after consultation with the National Advisory Council on Indian Education which regulations shall further define the term "Indian."

The Technical Assistance, Research & Evaluation Committee of the National Advisory Council on Indian Education will hold a meeting, open to the public, beginning at 9 a.m. June 1, recessing at 5 p.m. and reconvening at 9 a.m. June 2, until the conclusion of business, approximately 5 p.m.

The proposed agenda includes: 1. Hearings on Technical Assistance for Title IV, subparts A, B, & C.

Records shall be kept of all Council proceedings and shall be available for public inspection at the office of the National Advisory Council on Indian Education located at 425 13th Street, N.W., Suite 326, Washington, D.C. 20004.

Dated: May 9, 1979.

Dr. Michael P. Doss,
Executive Director, National Advisory Council on Indian Education.

[FR Doc. 79-15359 Filed 5-15-79; 8:45 am]

BILLING CODE 4110-02-M

Office of the Secretary

HEW Management and Budget Office; Statement of Organization, Functions, and Delegations of Authority

This notice amends Part A, Office of the Secretary, Chapter AM, Office of the Assistant Secretary for Management and Budget (42 FR 36308, 7/14/77) and the following subchapters: AMK, Division of OS Budget Services (42 FR 36313–17, 7/14/77); AML, Office of Budget (42 FR 36314, 7/14/77); AML 1, Division of Health Budget Analysis (42 FR 36314, 7/14/77); AML 4, Division of Budget Review (42 FR 36314, 7/14/77); AML 5, Division of Staff Resource Analysis (42 FR 36314, 7/14/77); and AMS, Office of Management Services (42 FR 36310–11, 7/14/77).

In summary, this notice effects the following organizational and functional statement changes.

a. It revises the functions of the immediate office of the Assistant Secretary for Management and Budget (ASMB) by deleting references to two overall deputy assistant secretaries—one for Management and the other for Financial Management. (The other deputy assistant secretaries remain unchanged.) It adds to the immediate office of the ASMB a new staff unit, the Office of Policy Coordination. It transfers from the Office of Management Services to the immediate office of the ASMB the Office of the Secretary (OS) Equal Employment Opportunity Office.

b. It transfers the Division of OS Budget Services to, and makes it an integral part of, the Office of Budget.

c. It establishes two branches within the Division of Health Budget Analysis of the Office of Budget: the Health Care Financing Branch and the Public Health Branch.

d. It renames the Division of Budget Review within the Office of budget as the Division of Budget Policy and Management (DBPM). It establishes within the Division of Budget Policy and Management four branches: the Policy and Planning Branch, the Operations Branch, the Information Systems Branch and the Staff Resource Analysis Branch. The inclusion of the Staff Resource Analysis Branch within DBPM has resulted from the transfer of the Division of Staff Resource Analysis to DBPM and the redesignation of it as a branch.

The revised organizational and functional statements which reflect the above-stated changes read as follows.

Regarding Chapter AM

Insert an amended Section AM.10, Organization, as follows:

AM.10 Organization. The HEW Management and Budget Office, headed by the Assistant Secretary for Management and Budget who reports to the Secretary, consists of the following organizations:

The Office of the Assistant Secretary for Management and Budget (AM); Office of Policy Coordination (AM–1); and OS Equal Employment Opportunity Office (AM–2)
Office of Facilities Engineering (AMF)
Office of Grants and Procurement (AMG)
Office of Management Analysis and Systems (AMM)
Office of Management Services (AMS)
Office of Budget (AML)
Office of Finance (AMN)

Insert an amended paragraph AM.20A as follows:

AM.20 Functions. A. The Assistant Secretary for Management and Budget (AM) is the principal adviser to the Secretary on all aspects of administrative and financial management. By delegation from the Secretary, the incumbent exercises the full Departmentwide authority of the Secretary in the assigned areas of responsibility. The Office of Policy Coordination advises the Assistant Secretary on major HEW budget and policy issues, including clarifying issues, resolving issues which cut across program lines, establishing alterative strategies, and serving as the main Department contact with other Executive agencies and Congressional appropriations committees.

The OS Office of Equal Employment Opportunity carries out equal employment opportunity activities within the OS, particularly as they relate to minority groups and women, which require the establishment and maintenance of a positive program for nondiscrimination in employment based on race, color, religion, sex, national origin, and age. The functions of the Office also include program efforts which focus on the Federal Women's Program and the Spanish-Speaking Program.

Insert an amended paragraph AM.20F as follows:

F. Office of Budget (AML) oversees preparation of the Departmental budget; estimates and forecasts resources required to support programs and activities of the Department; analyzes budgetary and financial managment implications or new or proposed legislation, programs, or activities; appraises programs, activities, and operations in terms of the policies, goals, and objectives of the Department; operates the HEW integrated funding system; recommends and administers policies and procedures for allocation and control of employment ceilings. With particular reference to the Office of the Secretary (OS), is responsible for the overall formulation, presentation, and execution of the OS budget; serves as the focal point for OS budget operations, providing assistance in the development of budget policy and the management of positions and financial resources for the OS.

Delete paragraph AM.20H—Division of OS Budget Services.

Regarding Chapter AMK

Redesignate it as chapter AML6 and revise section AML6.10 to show its new organizational location as follows:

Section AML6.10 Organization. The Director, Division of OS Budget Services, reports to the Deputy Assistant Secretary for Budget, who in turn reports to the Assistant Secretary for Management and Budget.

Regarding Chapter AML

Amend sections AML.00 Mission and AML.10 Organization as follows:

Section AML.00 Mission. The Office of Budget provides advice and support to the Assistant Secretary for Management and Budget on matters pertaining to (1) formulation, analysis, and presentation of budgets; (2) staff resource allocations and analyses; and (3) reprogrammings (transfers of funds from one program area to another).

AML.10 Organization. The Office of Budget is headed by the Deputy Assistant Secretary for Budget who reports to the Assistant Secretary for Management and Budget and includes the following:

Immediate Office
Division of Health Budget Analysis (AML1)
Division of Education Budget Analysis (AML2)
Division of Welfare Budget Analysis (AML3)
Division of Budget Policy and Management (AML4)
Division of OS Budget Services (AML6)

Amend subchapter AML1 as follows:

AML1.00 Mission. The Division of Health Budget Analysis directs and coordinates development and preparation of public health and health financing budgets. The Division assists top management of the Department in evaluating and acting upon these programs and budget proposals. Division staff members assist the Secretary in presenting and justifying health budgets submitted to OMB and to the Congressional Committees on Appropriations.

Section AML1.10 Organization. The Division of Health Budget Analysis is headed by a Director who reports to the Deputy Assistant Secretary for Budget. The Division has two branches: the Health Care Financing Branch and the Public Health Branch.

Section AML1.20 Functions. A. The Director provides staff assistance to the Secretary and heads of Principal Operating Components (POCs) in the budgetary management of Departmental health care financing and public health programs. B. The branches perform the following functions related to their specific program areas: (1) Review budget and related requests for resources; analyze plans and proposals for new or alternative legislation, regulations, programs or activities to determine their resource implications; and appraise program activities and operations in terms of their contributions to policies, goals and objectives of the Department as a basis for evaluating resource requirements. (2) Coordinate the preparation of budget estimates and forecasts of resources required to support programs and activities of the Department; work with the Office of the Assistant Secretary for Planning and Evaluation to prepare long range resource estimates; prepare recommendations for the Office of Budget on draft regulations, proposed legislation, and reorganization proposals. (3) Assist the heads of POCs, the Under Secretary and the Secretary in evaluating programs and budgetary proposals by identifying issues, developing reliable cost projections for legislative and planning proposals, and ensuring that proposals are consistent with approved plans and policies. (4) Review reprogramming requests and recommend appropriate action to the Office of Budget. (5) Provide guidance in budget formulation for OS staff offices and POCs. (6) Prepare special analyses as necessary in the process of preparing and presenting the budget. (7) Keep OS staff offices and POCs informed on budget developments in their program areas.

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In subchapter AML2 and AML3, AML 2.3.20 Functions, delete the reference to the Deputy Assistant Secretary for Financial Management in function number 3.

Revise subchapter AML4 as follows:

Chapter AML4.00 Mission. The Division of Budget Policy and Management directs the formulation and presentation of the HEW budget. The Division is the HEW liaison with OMB and congressional committee staffs in defining specifications and schedules for budget submissions and related budgetary data. It develops and promulgates to the Principal Operating Components (POCs) and others the policies, procedures, guidance, and schedules for preparing budget submissions; monitors and provides technical assistance to the POCs throughout the formulation and presentation process; and reviews and integrates POC budget submissions prior to presentation to OMB or Congress. It manages a computerized budget information system reflecting data on an HEW-wide basis and coordinated POC input into this system. It is responsible for preparing summaries of budget submissions and for reconciliation of estimates to Departmentwide control amounts. It provides direct staff support to the Secretary in preparation for appropriation hearings and other budget related presentations and briefings. It participates in the development of guidelines for funding under continuing resolutions; establishes guidelines for, and reviews and processes reprogrammings, and provides recommendations and other staff support as required in processing other cross-cutting funding proposals. It develops standards for staff resource planning and management systems, ensures that operating systems meet minimum standards, and monitors Departmental employment ceilings.

AML4.10 Organization. The Division is headed by a Director who reports to the Deputy Assistant Secretary, Budget. It has four branches, the chiefs of which report to the Director, Division of Budget Policy and Management, as follows:

Policy and Planning Branch
Operations Branch
Information Systems Branch
Staff Resource Analysis Branch

AML4.10 Functions. A. Office of the Director. (1) Advises and provides direct staff support to the Secretary, assistant secretaries, especially the Assistant Secretary for Management and Budget, and the Deputy Assistant Secretary for Budget on budget management and overall budget-related matters. (2) Develops and maintains on-going communications with OMB, congressional, POC, and Office of the Secretary staffs, especially on long-range or general budget issues and priorities, and on budget performance, policy, and scheduling problems. (3) Through the branch chiefs defines and assures the accomplishment of Division priorities and performance expectations.

B. Policy and Planning Branch. This Branch performs the following functions: (1) Serves as the liaison with the Assistant Secretary for Management and Budget, the Deputy Assistant Secretary for Budget, OMB, and congressional committee staffs in defining budget submission specifications and schedules and in working out solutions to budget submission problems. (2) Develops and promulgates to the POCs the policies, procedures, guidance, and schedules for preparing budget formulation and presentation material and provides the technical assistance to the POCs to solve problems related to the submission of material. (3) Participates in the development of guidelines for funding under continuing resolutions. (4) Develops or updates and interprets congressional, OMB, and HEW budget formulation and presentation policy issuances. (5) Participates in the review of the Department's overall budget structure and makes recommendations for revisions in response to POC requests of congressional direction. (6) Provides for the training of other Division, Office of the Secretary, and POC staffs as appropriate to improve quality review of budget submissions. (7) Develops, promulgates and keeps up-to-date a detailed calendar of budgetary events to assure responsive Departmental action to the Congress and OMB. (8) Serves as the interface with the staff of the Assistant Secretary for Planning and Evaluation to develop a smooth transition between the Department's planning and budget processes.

(9) Coordinates HEW action on OMB bulletins and circulars.

C. Operations Branch. The Branch performs the following functions: (1) Establishes systematic procedures to monitor the timely submission of POC budget material, to provide status reports on a routine basis, and to alert higher officials of action needed to resolve submission problems. (2) Assures conformity of submissions to prescribed overall budget totals, when relevant, and investigates discrepancies. (3) Reviews budget submission for consistency, conformity with defined guidelines, and responsiveness to Secretarial, OMB, and congressional expectations, and works with appropriate staffs to resolve procedural and technical problems. (4) Integrates POC submissions for OMB or congressional presentation, and prepares summaries of submissions and related material as required. (5) Prepares Data Books, charts, and other materials for Secretarial briefings. (6) Prepares special budget analyses as needed, including budget summary data. (7) Provides review, recommendations, and processing support for financing unbudgeted initiatives, joint fundings, reprogrammings, crosscutting rescissions or supplemental requests, and inter-appropriation transfers. (8) Provides administrative support for all Office of Budget divisions and functions.

D. Information Systems Branch. This Branch performs the following functions: (1) Serves as the liaison with Office of the Secretary, OMB, and congressional committee staffs in identifying HEW-wide computerized budget formulation and presentation data requirements. (2) Serves as the principal HEW manager of the technical arrangements needed to meet the computerized data formulation and presentation requirements. (3) Plans, develops, and manages the HEW-wide budget formulation and presentation data-base. (4) Reviews POC computerized budget input data for consistency and accuracy and integrates it into HEW-wide tables or exhibits. (5) Coordinates the development of POC computerized budget data systems to assure consistency with HEW-wide computerized budget formulation and presentation data needs. (6) Provides data and data analyses as needed for briefings, hearings, or special studies. (7) Plans, develops, and manages an historical HEW budget information system, including computerized and other forms of information. (8) Coordinates and monitors responses to correspondence and other budget information requests referred to the Division. (9) Coordinates and monitors responses to special requests for budget and related information requests from congressional appropriations committees. (10) Gathers information on budgetary actions taken by OMB, congressional budget and appropriations committees and others, and makes such information available on a timely basis to the Secretary, Under Secretary, ASMB, POCs and DASB staff to assure appropriate Departmental response.

E. The Staff Resource Analysis Branch. This Branch performs the following functions: (1) Develops and promulgates criteria for effective staff resource planning and management. (2) Certifies that operating staff resource systems in the POCs and Secretary's staff offices meet criteria of adequacy. (3) Provides technical assistance to the Principal Operating Components and OS staff offices to improve staff resource management systems. (4) Supports the budget analysis divisions by reviewing staffing requests from the Principal Operating Components, and participates in the development of recommendations for the Secretary. (5) Assists in the development of training courses and materials for staff resource analysts. (6) Administers Departmentwide ceilings on end-of-year employment. (7) Monitors actual employment against approved ceilings and authorized positions; identifies trends and emerging problems. (8) Operates the staff resource management system for the Office of Budget.

Delete subchapter AML5–Division of Staff Resource Analysis.

Regarding Chapter AMS

Delete from Section AMS.00 Mission: "equal employment opportunity."

Delete from Section AMS.10 Organization: "OS Office of Equal Employment Opportunity."

Delete from Section AMS.20 Functions, paragraph E, "OS Office of Equal Employment Opportunity." Redesignate current paragraphs F, G, and H as E, F, and G.

Dated: May 8, 1979.

Frederick M. Bohen,
Assistant Secretary for Management and Budget.

[FR Doc. 79-15102 Filed 5-15-79; 8:45 am]

BILLING CODE 4110-12-M

DEPARTMENT OF HOUSING AND URBAN DEVELOPMENT

Federal Disaster Assistance Administration

Illinois; Major Disaster and Related Determinations

AGENCY: Federal Disaster Assistance Administration, HUD.

ACTION: Notice.

SUMMARY: This is a Notice of the Presidential declaration of a major disaster for the State of Illinois (FDAA-583-DR), dated April 30, 1979, and related determinations.

DATED: April 30, 1979.

FOR FURTHER INFORMATION CONTACT: John L. Perry, Program Support Staff, Federal Disaster Assistance Administration, Department of Housing and Urban Development, Washington, D.C. 20410 (202/634-7825).

NOTICE: Pursuant to the authority vested in the Secretary of Housing and Urban Development by the President under Executive Order 11795 of July 11, 1974, and delegated to me by the Secretary under Department of Housing and Urban Development Delegation of Authority, Docket No. D-74-285, and by virtue of the Act of May 22, 1974, entitled "Disaster Relief Act of 1974" (88 Stat. 143); notice is hereby given that, in a letter of April 30, 1979 to the Secretary, the President declared a major disaster as follows:

I have determined that the damage in certain areas of the State of Illinois resulting from severe storms and flooding beginning on or about March 1, 1979, is of sufficient severity and magnitude to warrant a major-disaster declaration under Public Law 93-288. I therefore declare that such a major disaster exists in the State of Illinois.

Notice is hereby given that pursuant to the authority vested in the Secretary of Housing and Urban Development under Executive Order 11795, and delegated to me by the Secretary under Department of Housing and Urban Development Delegation of Authority, Docket No. D-74-285, I hereby appoint Mr. Robert E. Connor of the Federal Disaster Assistance Administration to act as the Federal Coordinating Officer for this delcared major disaster.

I do hereby determine the following areas of the State of Illinois to have been affected adversely by this declared major disaster.

The Counties of:

Brown	Woodford
Bureau	Marshall
Calhoun	Mason
Cass	Morgan
Fulton	Peoria
Putnam	Pike
Green	Schuyler
Jersey	Scott
LaSalle	Tazewell
Macon	

(Catalog of Federal Domestic Asst. No. 14.701, Disaster Assistance)

William H. Wilcox,
Federal Disaster Assistance Administration.

[FDAA-583-DR, Docket No. NFD-700]

[FR Doc. 79-15232 Filed 5-15-79; 8:45 am]

BILLING CODE 4210-23-M

Minnesota; Major Disaster and Related Determinations

AGENCY: Federal Disaster Assistance Administration, HUD.

ACTION: Notice.

SUMMARY: This is a Notice of the Presidential declaration of a major disaster for the State of Minnesota (FDAA-582-DR), dated April 30, 1979, and related determinations.

DATED: April 30, 1979.

FOR FURTHER INFORMATION CONTACT: John L. Perry, Program Support Staff, Federal Disaster Assistance Administration, Department of Housing and Urban Development, Washington, D.C. 20410 [202/634-7825].

NOTICE: Pursuant to the authority vested in the Secretary of Housing and Urban Development by the President under Executive Order 11795 of July 11, 1974, and delegated to me by the Secretary under Department of Housing and Urban Development Delegation of Authority, Docket No. D-74-285; and by virtue of the Act of May 22, 1974, entitled "Disaster Relief Act of 1974" [88 Stat. 143]; notice is hereby given that, in a letter April 30, 1979 to the Secretary, the President declared a major disaster as follows:

I have determined that the damage in certain areas of the State of Minnesota resulting from severe storms and flooding beginning on or about April 14, 1979, is of sufficient severity and magnitude to warrant a major-disaster declaration under Public Law 93-288. I therefore declare that such a major disaster exists in the State of Minnesota.

Notice is hereby given that pursuant to the authority vested in the Secretary of Housing and Urban Development under Executive Order 11795, and delegated to me by the Secretary under Department of Housing and Urban Development Delegation of Authority, Docket No. D-74-285, I hereby appoint Mr. Leo C. McNamee, Jr. of the Federal Disaster Assistance Administration to act as the Federal Coordinating Officer for this declared major disaster.

I do hereby determine the following areas of the State of Minnesota to have been affected adversely by this declared major disaster.

The Counties of:

Aitkin	Norman
Clay	Polk
Itasca	Red Lake
Kittson	Roseau
Lake of the Woods	Wilkin
Marshall	

(Catalog of Federal Domestic Asst. No. 14.701, Disaster Assistance)

William H. Wilcox,
Federal Disaster Assistance Administration.

[FDAA-582-DR, Docket No. NFD-698]

[FR Doc. 79-15234 Filed 5-15-79; 8:45 am]

BILLING CODE 4210-23-M

Mississippi; Amendment to Notice of Major Disaster Declaration

AGENCY: Federal Disaster Assistance Administration, HUD.

ACTION: Notice.

SUMMARY: This Notice amends the Notice of a major disaster for the State of Mississippi (FDAA–577–DR), dated April 16, 1979.

DATED: May 1, 1979.

FOR FURTHER INFORMATION CONTACT: John L. Perry, Program Support Staff, Federal Disaster Assistance Administration, Department of Housing and Urban Development, Washington, D.C. 20410 (202/634–7025).

NOTICE: This Notice of major disaster for the State of Mississippi dated April 16, 1979 is hereby amended to include the following area among those areas determined to have been adversely affected by the catastrophe declared a major disaster by the President in his declaration of April 16, 1979.

For both Individual and Public Assistance: Wilkinson County.

(Catalog of Federal Domestic Assistance No. 14.701, Disaster Assistance)

William H. Wilcox,
Administrator, Federal Disaster Assistance Administration.

[FDAA–577–DR; Docket No. NFD–899]
[FR Doc. 79–15233 Filed 5–15–79; 8:45 am]
BILLING CODE 4210–22–M

Office of Assistant Secretary for Neighborhoods, Voluntary Associations and Consumer Protection

National Mobile Home Advisory Council Meeting

AGENCY: Assistant Secretary for NVACP, HUD.

ACTION: Notice announcing Agenda for the National Mobile Home Advisory Council Meeting.

SUMMARY: This Notice announces the final agenda for the National Mobile Home Advisory Council meeting to be held on May 22, 23 and 24, 1979. The purpose of the Notice is to assure that members of the Council and all interested parties will be given adequate notice of the topics for discussion and the schedule for those discussions.

FOR FURTHER INFORMATION CONTACT: John S. Mason, Acting Director, Office of Mobile Home Standards, Office of Neighborhoods, Voluntary Associations and Consumer Protection, Department of Housing and Urban Development, 451 7th Street, SW., Washington, D.C. 20410, telephone: (202) 755–7970.

SUPPLEMENTARY INFORMATION: By Notice published in 44 FR 17233 (1979), the Council and other interested parties were notified of a biannual meeting of the National Mobile Home Advisory Council to be held on May 22, 23 and 24, 1979, in Room 10233 at the HUD Building, 451 7th Street, SW., Washington, D.C. 20410. The meetings will convene at 9:00 a.m. on Tuesday, May 22, 1979. This final agenda incorporates the four major items planned for discussion which appeared in the Federal Register Notice of March 21, 1979:

AGENDA

National Mobile Home Advisory Council

May 22 (Morning) 9:00 a.m. to 12:00 Noon

Roll Call
Swearing in of two new members
Selection of Chairperson for 1980
HUD Welcome and Plan to Update Standards
Break
Status of HUD Research Discussion

May 22 (Afternoon) 1:00 p.m. to 5:00 p.m.

Wind Research
—Research Recommendations
—Impact on Economic Cost/Benefit Report from Subcommittee on Wind Discussion

May 23 (Morning) 8:30 a.m. to 12:00 Noon

Awarding of Certificates
Fire Research
—United States Fire Administration Progress Report
—Research Recommendations
—Economic Cost/Benefit Analysis

May 23 (Afternoon) 1:00 p.m. to 5:00 p.m.

Report from Subcommittee on Fire Discussion

May 24 (Morning) 8:30 a.m. to 12:00 Noon

Transportation Research
—Research Recommendations
—Economic Cost/Benefit Analysis
—Report from Subcommittee on Transportation

May 24 (Afternoon) 1:00 p.m. to 5:00 p.m.

Discussion on Transportation
Report from Subcommittee on Air Quality and Update on Formaldehyde
Report from Subcommittee on Energy, Heating and Cooling and Update on Title III

(Sec. 7(d), Department of Housing and Urban Development Act, (42 U.S.C. 3535(d)), sec. 605, National Mobile Home Construction and Safety Standards Act of 1974 (42 U.S.C. 5405).

Issued at Washington, D.C., May 7, 1979.

Geno C. Baroni,
Assistant Secretary for Neighborhoods, Voluntary Associations and Consumer Protection.

[Docket No. N–79–917]
[FR Doc. 79–15229 Filed 5–15–79; 8:45 am]
BILLING CODE 4210–01–M

DEPARTMENT OF THE INTERIOR

Bureau of Land Management

Colorado; R/W Applications for Pipeline, Northwest Pipeline Corporation

Correction

In FR Doc. 79–12661 appearing on page 24158 in the issue for Tuesday, April 24, 1979, second column, in the land description, the line beginning with "Section 35", at the very end of that line, "NW¼" should read "SW¼".

[Colorado 24128–q and Colorado 25122–1]
BILLING CODE 1505–01–M

Carson City District Grazing Advisory Board; Meeting

Notice is hereby given, in accordance with Pub. L. 94–579, that the Carson City District Grazing Advisory Board meeting has been rescheduled for Thursday, June 14.

A morning field trip to the Antelope Mountain area (north of Reno, Nevada) will be made to view a grazing allotment with an existing allotment management plan.

A luncheon and business meeting will take place following the field trip at La Pinata Restaurant, 1575 Vassar Street in Reno.

Agenda items include (as they relate to range improvements) an update on the District's range environmental statement and planning schedule; wild horse and burro program; range improvement projects for fiscal years 1979 and 1980; and renewal of the grazing board's charter and member elections.

The meeting is open to the public. Any person may attend, appear before the Board, or file a written statement.

Date signed: May 7, 1979.

Thomas J. Owen,
District Manager.

[FR Doc. 79–15189 Filed 5–15–79; 8:45 am]
BILLING CODE 4310–84–M

Tuledad/Home Camp Grazing System Implementation Wilderness Inventory (California); Proposed Decision

Background

Pursuant to section 603 of the Federal Land Policy and Management Act of 1976 (Pub. L. 94–579) and the Wilderness Inventory Handbook (September 27, 1978); the BLM State Director of California has made an initial proposed decision on one wilderness inventory unit located in northwestern Nevada within the Susanville, California District. The intensive inventory of this unit has been conducted in advance of the statewide inventory in order to implement a key requirement of the Tuledad/Home Camp Grazing System as determined in recent environmental statements.

The Tuledad/Home Camp Grazing ES Area is an area of 700,000 acres of public lands in northeastern California and northwestern Nevada. The Bureau of Land Management proposes to implement a grazing management program through allotment management plans (AMPs) for the Tuledad/Home Camp Planning Units. Three levels of management are to be implemented; systematic grazing management on 670,000 acres; custodial management on approximately 5,000 acres; and livestock grazing exclusions (no livestock grazing) on 19,000 acres. Construction of various range facilities would be required to implement the AMPs.

A key requirement in the implementation of the grazing systems is approximately 3,000 acres of range type conversion to provide early spring forage. This allows the native range a period of rest in a critical growth period. To consider beginning planned and funded projects in the area this fall, an accelerated inventory of one 39,000 acre unit, CA–020–912, which contains the proposed range type conversion areas, was conducted.

Proposed Decision

The California State Director's proposed decision on the wilderness inventory of the one inventory unit is as follows: CA–020–912

The public lands contained within this unit do not meet the criteria for identification as a wilderness study area.

I. Physical Boundaries

The unit lies entirely in Washoe County, Nevada. The west boundary is formed by a road running from Sand Spring south to Nevada Highway 34 and the highway southeast to its intersection with the road to Stevens Camp. The east boundary is formed by the road to Stevens Camp northward to the junction near Grassy Cabin. The unit boundary is completed by a road from Grassy Cabin northwest to Sand Spring.

II. Land Ownership

The unit is comprised of 38,480 acres of public land and 520 acres of non-public land in 8 scattered tracts varying in size from 40 acres to 120 acres.

III. Description of Environment

The landscape is dominated by an undulating north-south ridgeline centrally located, running the unit's length, and averaging less than 2 miles in width. Surrounding the ridgeline and extending to the unit boundaries are flat to rolling slopes broken by very shallow ephemeral drainages. Big sagebrush is the major vegetation over the unit with a few isolated patches of juniper and mahogany trees at higher evaluations.

IV. Natural Condition

The unit has not retained a natural condition; man's imprint upon the landscape can be seen throughout much of this unit. Sixteen miles of bulldozed fenceline bisect the area and 30 miles of vehicular routes of travel not meeting road criteria (ways) meander throughout the area. Additionally, 5.5 miles of fence enclose a 975 acre area planted with non-native grasses and 5 miles of dead-end roads exist within the unit. The unit is unnatural in character.

V. Outstanding Opportunities for Solitude or a Primitive and Unconfined Type of Recreation

The area does not have inherent natural features to provide outstanding opportunities for solitude or a primitive and unconfined type of recreation. The centrally located ridge which overlooks the area and the flat low sagebrush-covered terrain surrounding the ridge would not isolate visitors from one another. The non-extensive and non-complex ridge and associated flats would not offer exceptional chance for one to engage in primitive type of recreation.

Decision Summary and Rationale

The lands in the above inventory unit do not meet the established criteria for identification as a wilderness study area.

Public Review

A 30 day formal public review of this proposed decision will begin May 22, 1979, and will be terminated on June 20, 1979. A public meeting will be held on the proposed decision at 7:00 p.m., June 5, 1979, at the Hotel Mt. Lassen, located at Main and Lassen Streets, Susanville, California 96130. Written comments may be sent to the Susanville District Office, P.O. Box 1090, Susanville, California 96130, in care of the District Manager.

Supplementary Information

Additional information concerning this proposed decision can be obtained from the Wilderness Coordinator at the Susanville District Office.

Ed Hastey,
State Director.

[FR Doc. 79–15189 Filed 5–15–79; 8:45 am]
BILLING CODE 4310–84–M

Wilderness Inventory—California; Extension of Public Comment Period

The Public Review and Comment Period on the *Draft Initial* Wilderness Inventory Report, February 1979, for public land administered by BLM, California outside the California Desert Conservation Area has been extended through June 2, 1979.

This report, released March 1, 1979, identifies those wilderness inventory units found to be obviously not suitable for further consideration for wilderness under the Bureau's Wilderness Inventory Program.

The *Draft Intensive* Wilderness Inventory Report on the remaining, approximately 3 million acres, public lands administered by BLM, California will be available for public review and comment about July 16, 1979.

Persons still wishing to provide input into this inventory effort may send their comments to: Bureau of Land Management (Wilderness), Room 2821, 2800 Cottage Way, Sacramento, CA 95825. (For additional information reference the Federal Register Notice of March 5, 1979, page 12170).

Ed Hastey,
State Director.

[FR Doc. 79–15188 Filed 5–15–79; 8:45 am]
BILLING CODE 4310–84–M

National Park Service

Intention To Negotiate Concession Contract

Pursuant to the provisions of Section 5 of the Act of October 9, 1965 (79 Stat. 969; 16 U.S.C. 20), public notice is hereby given that thirty (30) days after the d... of publication of this notice, the Department of the Interior, through the Director of the National Park Service, proposes to negotiate a concession contract with Lake Mohave Resort, authorizing it to continue to provide lodging, restaurant and marina facilities and services for the public at Lake Mead National Recreation Area for a period of approximately fifteen (15) years from January 1, 1979.

An assessment of the environmental impact of this proposed action has been made and it has been determined that it will not significantly affect the quality of the environment, and that it is not a major Federal action having a

Headwaters Lands Withdrawals in Alaska

... administered by the National Park

All interested parties including

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significant impact on the environment under the National Environmental Policy Act of 1969. The environmental assessment may be reviewed in the Office of the Superintendent, Lake Mead National Recreation Area, 601 Nevada Highway, Boulder City, Nevada 89005.

The foregoing concessioner has performed its obligations to the satisfaction of the Secretary under an existing contract which expired by limitation of time on December 31, 1978, and therefore, pursuant to the Act of October 9, 1965, as cited above, is entitled to be given preference in the renewal of the contract and in the negotiation of a new contract. This provision, in effect, grants Lake Mohave Resort, as the present satisfactory concessioner, the right to meet the terms of responsive proposals for the proposed new contract and a preference in the award of the contract, if, thereafter, the proposal of Lake Mohave Resort is substantially equal to others received. In the event a responsive proposal superior to that of Lake Mohave Resort (as determined by the Secretary) is submitted, Lake Mohave Resort, will be given the opportunity to meet the terms and conditions of the superior proposal the Secretary considers desirable, and, if it does so, the new contract will be negotiated with Lake Mohave Resort. The Secretary will consider and evaluate all proposals received as a result of this notice. Any proposal, including that of the existing concessioner, must be submitted within thirty (30) days after the publication date of this notice to be considered and evaluated.

Interested parties should contact the Chief, Office of Concessions Management, National Park Service, Washington, D.C. 20240, for information as to the requirements of the proposed contract.

Dated: May 8, 1978.

Daniel J. Tobin, Jr.,
Director, National Park Service.
[FR Doc. 79-15195 Filed 5-15-79; 8:45 am]
BILLING CODE 4310-70-M

Office of the Secretary

Proposed Range Management Program for the Little Lost-Birch Creek Planning Area, Idaho; Availability of Draft Environmental Statement and Public Hearings

Pursuant to section 102(2)(C) of the National Environmental Policy Act of 1969, the Department of the Interior has prepared a draft environmental statement for a proposed grazing management program for the Little Lost-Birch Creek Planning Unit of the Idaho Falls District located in southeastern Idaho. Written comments are invited and should be received at Idaho Falls District Office, Bureau of Land Management, 940 Lincoln Road, Idaho Falls, Idaho 83401 by July 2, 1979.

The proposal involves changes in initial stocking rates, implementing improved grazing systems and installation of certain range improvements. Approximately 332,000 acres of public lands and 65,000 acres of withdrawn lands (Department of Energy) are involved.

Copies of the draft environmental statement are available for inspection at the following locations:

Idaho Falls District Office, Bureau of Land Management, 940 Lincoln Road, Idaho Falls, Idaho 83401, Telephone: (208) 529–1020.
Idaho State Office, Bureau of Land Management, Federal Building, 500 W. Fort Street, Boise, Idaho 83724, Telephone: (208) 384–1770.
Public Affairs, Bureau of Land Management, Interior Building, 18th and C Streets, NW., Washington, D.C. 20240.

A limited number of single copies may be obtained from the Idaho State Director, and the Idaho Falls District Manager, Bureau of Land Management at the above addresses.

Notice is also given that public hearings will be held at: Council Chambers, City Electrical Building, 140 South Capital, Idaho Falls, Idaho, June 13, 1979, at 7 p.m., MDT.

The public hearings will be conducted by the Associate State Director, Idaho State Office, Bureau of Land Management. Individuals wishing to testify may do so by appearing at a hearing place as previously specified. Persons wishing to give testimony will be limited to 10 minutes, with written submissions invited. Prior to giving testimony at public hearings, individuals or spokesmen are requested to complete a hearing registration form. Registration forms may be obtained by contacting the Idaho Falls District Manager at the above address.

Dated: May 11, 1979.

Larry E. Meierotto,
Assistant Secretary of the Interior.

[INT DES 79-24]
[FR Doc. 79-15190 Filed 5-15-79; 8:45 am]
BILLING CODE 4310-84-M

Idaho Agricultural Development; Availability of Draft Environmental Statement

Pursuant to section 102(2)(C) of the National Environmental Policy Act of 1969, the Department of the Interior has prepared a draft environmental statement for Agricultural Development in Southwest Idaho.

The proposal invloves converting 111,015 acres of Federal rangeland in Elmore, Twin Falls, and Owyhee Counties in southwest Idaho to agricultural development during a 5 year period from 1980 through 1984. Two methods of conversion will be examined: The Desert Land Act and the Carey Act. The statement will cover the major impacts on land and water resources, socioeconomics and the energy impacts.

The Department of the Interior invites written comments on the draft statement to be submitted within 45 days of this notice to the District Manager, Bureau of Land Management, 230 Collins Road, Boise, Idaho 83702.

A limited number of copies are available upon request to the District Manager at the above address.

Public reading copies will be available for review at the following locations:

Office of Public Affairs, Bureau of Land Management, Interior Building, 18th and C Streets, N.W., Washington, D.C. 20240 Telephone 202–343–5717.
Idaho State Office, Bureau of Land Management, Box 042 Federal Building, 550 W. Fort Street, Boise, Idaho 83724 Telephone 208–384–1770.
Boise District Office, Bureau of Land Management, 230 Collins Road, Boise, Idaho 83702 Telephone 208–384–1582.

Notice is also given that oral and/or written comments will also be received at a formal public hearing at:

Rodeway Inn, Alturas Room, 29th & Chinden Blvd., Boise, Idaho, on June 11, 1979 at 7:00 p.m.
Owyhee County Courthouse, Murphy, Idaho June 12, 1979 at 7:00 p.m.
Little Tree Inn, Twin Falls, Idaho June 13, 1979 at 2:00 p.m.

An administrative law judge will preside over the hearing. Witnesses presenting oral comments should limit their testimony to 10 minutes. Written requests to testify orally should be submitted to Dean D. Bibles, District manager, Bureau of Land Management, 230 Collins Road, Boise, Idaho 83702, before June 6, 1979. Comments on the draft environmental statement, whether written or oral, will receive equal consideration in preparation of a final environmental statement.

Dated: May 11, 1979.

Larry E. Meierotto,
Assistant Secretary of the Interior.

[INT. DES. 79-23]
[FR Doc. 79-15218 Filed 5-15-79; 8:45 am]
BILLING CODE 4310-84-M

Hearings; Lands Withdrawals in Alaska by the Secretary of the Interior Under Section 204(c) of the Federal Land Policy and Management Act

AGENCY: Department of the Interior.

ACTION: Notice.

SUMMARY: The Department of the Interior will conduct a third series of public hearings to collect written and oral testimony on the desirability and need to withdraw lands pursuant to the provisions of Section 204(c) of the Federal Land Policy and Management Act, primarily as additions to the National Wildlife Refuge System.

DATES: Public hearings will be held in San Francisco, California, and Denver, Colorado, on June 7, 1979, and Washington, D.C., on June 8, 1979. The hearings will begin at 9:00 a.m. and will continue until 8:00 p.m. if necessary.

ADDRESSES: Public hearings will be held at the following locations: California Hall, 625 Polk St., San Francisco, CA 94102; Bureau of Reclamation Auditorium, Entrance W–1, Building 56, Denver Federal Center, Denver, CO 80225; and Interior Department Auditorium, 18th & C. St., N.W., Washington, D.C. 20240. Written requests to testify must be mailed in advance to the address specified below for each of the hearings.

FOR FURTHER INFORMATION CONTACT: Burkett S. Neely, Jr., Alaska Native Claims Staff, U.S. Fish and Wildlife Service, Department of the Interior, Washington, D.C. 20240 (telephone 202–343–7533).

SUPPLEMENTARY INFORMATION: The primary author of this document is Ronald L. Fowler, Division of Refuge Management, U.S. Fish and Wildlife Service, Department of the Interior, Washington, D.C. 20240 (telephone 202–343–4306).

On November 16, 1978, Public Land Order 5653, as amended by Public Land Order 5654, was issued under the emergency withdrawal authority provided to the Secretary by Section 204(e) of the Federal Land Policy and Management Act of 1976 (FLPMA). The Secretary of the Interior determined that an emergency situation existed and that extraordinary measures had to be taken to protect values of the approximately 110 million acres that were withdrawn.

On December 1, 1978, President Carter used his authority under the Antiquities Act of 1906 to designate 17 new national monuments in Alaska, totaling approximately 56 million acres. President Carter's proclamations covered thirteen units to be administered by the National Park Service, two units to be managed by the U.S. Fish and Wildlife Service and two National Forest units which will continue to be managed by the Forest Service. Most of these lands are included within the 110 million acres in Alaska which were withdrawn by the Secretary on November 16, 1978, under Section 204(e) of FLPMA.

Discussion

On March 29, 1977, (44 FR 18746) the Department published a notice concerning public hearings in six Alaskan villages. On April 30, 1979 (44 FR 25276), the Department announced further public hearings in Anchorage, Fairbanks, and Tanana, Alaska. This notice announces additional public hearings in San Francisco, California, Denver, Colorado, and Washington, D.C., to hear comment on proposals for final withdrawal under Section 204(c) of the FLPMA. The approximately 57 million acres of lands under consideration are generally the remainder of those lands which were withdrawn by the Secretary but not designated as National Monuments by the President. Mostly, these lands are now protected by the emergency withdrawal issued by the Secretary on November 16, 1978, after Congress failed to pass legislation placing these critical federal lands in conservation system units—national parks, national wildlife refuges, wild and scenic rivers.

When the National Monuments were established by Presidential Proclamation, the Secretary was directed to "proceed with necessary steps" for final withdrawals for the remaining areas. These steps involve holding public hearings first and then providing Congress with documentation similar to that submitted in connection with the emergency withdrawals. Appropriate documents pertaining to the areas and withdrawal actions being proposed are available for review at U.S. Fish and Wildlife Service offices in Anchorage, Fairbanks, Nome, Bethel, Juneau, Kenai, and Kodiak, Alaska; at U.S. Fish and Wildlife Service Regional Offices in Portland, Oregon, Albuquerque, New Mexico, Denver, Colorado, Twin Cities, Minnesota, Atlanta, Georgia, and Newton Corner, Massachusetts; at San Francisco Bay National Wildlife Refuge, Freemont, California (9800 Thornton Avenue, across the street and south of Dunbarton Bridge Toll Plaza); and at U.S. Fish and Wildlife Service, Alaska Native Claims Staff Office, Washington, D.C. These documents will also be available during the hearings.

All interested parties including Federal, State, borough and municipal agencies, local interests, and individual citizens and groups are invited to write to the address specified below requesting to be scheduled to testify at one of the hearings listed above.

San Francisco, California Public Hearing—June 7, 1979, 9 a.m.

Write to Mr. Jim Mills, Assistant Regional Director, Heritage Conservation and Recreation Service, Attn: 204(c) Public Hearing, 450 Golden Gate Avenue, San Francisco, CA 94102.

Denver, Colorado Public Hearing. June 7, 1979, 9:00 a.m.

Write to: Regional Director, U.S. Fish and Wildlife Service, Attn: PAO–204(c) Public Hearing, P.O. Box 25486, Denver Federal Center, Denver, CO 80225.

Washington, D.C., Public Hearing, June 8, 1979, 9:00 a.m.

Write to: Mr. Burkett S. Neely, Jr., Alaska Native Claims Staff Attn: 204(c) Public Hearing, U.S. Fish and Wildlife Service, Washington, D.C. 20240.

Written statements may be either mailed to the above address in advance of the hearing, or handed to the hearing officer at the hearing. Those persons scheduled will be afforded a maximum of 10 minutes to express their views concerning the proposed withdrawals. Oral statements will be heard, but for accuracy of the record, all testimony should be submitted in writing. The record of the hearing will be forwarded to the Secretary for final consideration.

The Department of the Interior encourages written expression relative to the proposal at any time. However, in order to be incorporated in the official record, all communications should be mailed to the Alaska Area Director, U.S. Fish and Wildlife Service, 1011 East Tudor Road, Anchorage, Alaska 99507, within 30 days following each hearing.

Dated: May 14, 1979.

Cecil D. Andrus,
Secretary of the Interior.
[FR Doc. 79-15436 Filed 5-15-79; 8:45 am]
BILLING CODE 4310-10-M

INTERNATIONAL TRADE COMMISSION

Certain Plastic-Molding Apparatus and Components Thereof; Order

In the Matter of Certain Plastic-Molding Apparatus and Components Thereof.

Pursuant to my authority as Chief Administrative Law Judge of this Commission, I hereby designate Administrative Law Judge Donald K.

Duvall as Presiding Officer in this investigation.

The Secretary shall serve a copy of this Order upon all parties of record and shall publish it in the **Federal Register**.

Issued: May 10, 1979.

Donald K. Duvall,
Chief Administrative Law Judge.

[Investigation No. 337-TA-66]
[FR Doc. 79-15271 Filed 5-15-79; 8:45 am]
BILLING CODE 7020-02-M

NATIONAL FOUNDATION ON THE ARTS AND THE HUMANITIES

Theatre Advisory Panel Meeting

Pursuant to section 10(a)(2) of the Federal Advisory Committee Act (Pub. L. 92-463), as amended, notice is hereby given that a meeting of the Threatre Advisory Panel to the National Council on the Arts, will be held on June 2, 1979 from 9:00 a.m.—5:30 p.m. in Room 1422 of the Columbia Plaza Office Building, 2401 E Street, N.W., Washington, D.C. 20506.

A portion of this meeting will be open to the public on June 2, 1979, from 9:00 a.m.—10:00 a.m. for Questions and Answers pertaining to the Theatre for Youth Category and for a policy discussion.

The remaining sessions of this meeting on June 2, 1979, from 10:00 a.m.—5:30 p.m. are for the purpose of Panel review, discussion, evaluation, and recommendation on applications for financial assistance under the National Foundation on the Arts and the Humanities Act of 1965, as amended, including discussion of information given in confidence to the agency by grant applicants. In accordance with the determination of the Chairman published in the **Federal Register** March 17, 1977, these sessions will be closed to the public pursuant to subsections (c)(4), (6) and 9(b) of section 552b of Title 5, United States Code.

Further information with reference to this meeting can be obtained from Mr. John H. Clark, Advisory Committee Management Officer, National Endowment for the Arts, Washington, D.C. 20506, or call (202) 634-6070.

John H. Clark,
Director, Office of Council and Panel Operations, National Endowment for the Arts.

May 8, 1979.

[FR Doc. 79-15220 Filed 5-15-79; 8:45 am]
BILLING CODE 7537-01-M

NUCLEAR REGULATORY COMMISSION

Advisory Committee on Reactor Safeguards Ad Hoc Subcommittee on Implications of Three Mile Island, Unit 2 Accident; Meeting

The ACRS Ad Hoc Subcommittee on Implications of the Three Mile Island, Unit 2 Accident will hold a meeting on May 31 and June 1, 1979 in Room 1046, 1717 H St. N.W., Washington, D.C. 20555.

In accordance with the procedures outlined in the **Federal Register** on October 4, 1978 (43 FR 45926), oral or written statements may be presented by members of the public, recordings will be permitted only during those portions of the meeting when a transcript is being kept, and questions may be asked only by members of the Subcommittee, its consultants, and Staff. Persons desiring to make oral statements should notify the Designated Federal Employee as far in advance as practicable so that appropriate arrangements can be made to allow the necessary time during the meeting for such statements.

The agenda for subject meeting shall be as follows: *Thursday and Friday, May 31 and June 1, 1979, 8:30 a.m. until the conclusion of business each day.*

The Subcommittee may meet in Executive Session, with any of its consultants who may be present, to explore and exchange their preliminary opinions regarding matters which should be considered during the meeting and to formulate a report and recommendation to the full Committee.

At the conclusion of the Executive Session, the Subcommittee will discuss with representatives of the NRC Staff, the nuclear industry, various utilities, and their consultants, state and local officials, and other interested persons, the implications of the Three Mile Island, Unit 2 Accident.

In addition, it may be necessary for the Subcommittee to hold one or more closed sessions for the purpose of exploring matters involving proprietary information. I have determined, in accordance with Subsection 10(d) of Pub. L. 92-463, that, should such sessions be required, it is necessary to close these sessions to protect proprietary information (5 U.S.C. 552b(c)(4)).

Further information regarding topics to be discussed, whether the meeting has been cancelled or rescheduled, the Chairman's ruling on requests for the opportunity to present oral statements and the time allotted therefor can be obtained by a prepaid telephone call to the Designated Federal Employee for this meeting, Mr. Richard K. Major (telephone 202/634-1414), between 8:15 a.m. and 5:00 p.m., EDT.

Background information concerning this nuclear station can be found in documents on file and available for public inspection at the NRC Public Document Room, 1717 H Street NW., Washington, DC 20555 and at the Government Publications Section, State Library of Pennsylvania, Education Building, Commonwealth and Walnut Streets, Harrisburg, PA 17126.

Dated: May 10, 1979.

John C. Hoyle,
Advisory Committee Management Officer.

[FR Doc. 79-15122 Filed 5-15-79; 8:45 am]
BILLING CODE 7590-01-M

Carolina Power & Light Co.; Issuance of Amendments to Facility Operating Licenses

The U.S. Nuclear Regulatory Commission (the Commission) has issued Amendment Nos. 24 and 48 to Facility Operating License Nos. DPR-71 and DPR-62 issued to Carolina Power & Light Company (the licensee) which revised the Technical Specifications for operation of the Brunswick Steam Electric Plant, Units Nos. 1 and 2 (the facility), located in Brunswick County, North Carolina. The amendments are effective as of the date of issuance.

The amendments for BSEP, Units 1 and 2 provide Technical Specifications for the protective instrumentation associated with the Anticipated Transients Without Scram Recirculation Pump Trip. These specifications were inadvertently omitted when Amendment No. 12 to DPR-71 and Amendment No. 39 to DPR-62 were issued on November 23, 1977.

The amendment for BSEP Unit 2 also changes the Technical Specifications to establish revised safety and operating limits for operation in Cycle 3 with 7x7, 8x8, and 8x8R fuel.

The application for amendment complies with the standards and requirements of the Atomic Energy Act of 1954, as amended (the Act), and the Commission's rules and regulations. The Commission has made appropriate findings as required by the Act and the Commission's rules and regulations in 10 CFR Chapter I, which are set forth in the license amendments. Prior public notice of the amendments was not required since the amendments do not involve a significant hazards consideration.

The Commission has determined that the issuance of the amendments will not result in any significant environmental impact and that pursuant to 10 CFR Section 51.5(d)(4), an environmental impact statement or negative declaration and environmental impact appraisal need not be prepared in connection with issuance of the amendment.

For further details with respect to this action, see (1) the application for amendment dated February 2, 1979, as supplemented March 16, 21 and 27, April 13 and 27, and May 1, 1979, (2) Amendment Nos. 24 and 48 to Licenses Nos. DPR-71 and DPR-62, and (3) the Commission's related Safety Evaluation. These items are available for public inspection at the Commission's Public Document Room, 1717 H Street, N.W., Washington, D.C. and at the Southport-Brunswick County Library, 109 West Moore Street, Southport, North Carolina 28461. A copy of items (2) and (3) may be obtained upon request addressed to the U.S. Nuclear Regulatory Commission, Washington, D.C. 20555, Attention: Director, Division of Operating Reactors.

Dated at Bethesda, Maryland this 2nd day of May 1979.

For the Nuclear Regulatory Commission.

Thomas A. Ippolito,
Chief, Operating Reactors Branch No. 3, Division of Operating Reactors.

[Docket Nos. 50-325 and 50-324]
[FR Doc. 79-15242 Filed 5-15-79; 8:45 am]
BILLING CODE 7590-01-M

Commonwealth Edison Co.; Proposed Issuance of Amendments to Facility Operating Licenses

The Nuclear Regulatory Commission (the Commission) is considering the issuance of amendments to Facility Operating License Nos. DPR-39 and DPR-48 issued to Commonwealth Edison Company (the licensee) for operation of the Zion Station Units 1 and 2 (the facility) located in Zion, Illinois.

The amendments will involve changes to the common Technical Specifications for both Zion Units 1 and 2 to increase the total peaking factor limit, F_Q, from 1.86 to 1.93.

Prior to issuance of the proposed license amendments, the Commission will have made the findings required by the Atomic Energy Act of 1954, as amended (the Act), and the Commission's rules and regulations.

By June 6, 1979, the licensee may file a request for a hearing and any person whose interest may be affected by this proceeding may file a request for a hearing in the form of a petition for leave to intervene with respect to the issuance of the amendments to the subject facility operating licenses. Petitions for leave to intervene must be filed under oath or affirmation in accordance with the provisions of Section 2.714 of 10 CFR Part 2 of the Commission's regulations. A petition for leave to intervene must set forth the interest of the petitioner in the proceeding, how that interest may be affected by the results of the proceeding, and the petitioner's contentions with respect to the proposed licensing action. Such petitions must be filed in accordance with the provisions of this **Federal Register** Notice and Section 2.714 of 10 CFR, and must be filed with the Secretary of the Commission, U.S. Nuclear Regulatory Commission, Washington, D.C. 20555, Attention: Docketing and Service Section by the above date. A copy of the petition and/or request for a hearing should be sent to the Executive Legal Director, U.S. Nuclear Regulatory Commission, Washington, D.C. 20555 and to Mr. Phillip P. Steptoe, Isham, Lincoln and Beale, One First National Plaza, Chicago, Illinois 60690, the attorney for the licensee.

A petition for leave to intervene must be accompanied by a supporting affidavit which identifies the specific aspect or aspects of the proceeding as to which intervention is desired and specifies with particularity the facts on which the petitioner relies as to both his interest and his contentions with regard to each aspect on which intervention is requested. Petitions stating contentions relating only to matters outside the Commission's jurisdiction will be denied.

All petitions will be acted upon by the Commission or licensing board designated by the Commission or by the Chairman of the Atomic Safety and Licensing Board Panel. Timely petitions will be considered to determine whether a hearing should be noticed or another appropriate order issued regarding the disposition of the petitions.

In the event that hearing is held and a person is permitted to intervene, he becomes a party to the proceeding and has a right to participate fully in the conduct of the hearing. For example, he may present evidence and examine and cross-examine witnesses.

For further details with respect to the action, see the application for amendments dated March 22, 1979, which is available for inspection at the Commission's Public Document Room, 1717 H Street, NW., Washington, D.C. and at the Zion-Benton Public Library District, 2600 Emmaus Avenue, Zion, Illinois 60099.

Dated at Bethesda, Maryland, this 27th day of April 1979.

For the Nuclear Regulatory Commission.

A. Schwencer,
Chief, Operating Reactors Branch No. 1, Division of Operating Reactors.

[Docket Nos. 50-295 and 50-304]
[FR Doc. 79-15243 Filed 5-15-79; 8:45 am]
BILLING CODE 7590-01-M

Union of Concerned Scientists' Petition for Reanalysis of the Capacity of Operating U.S. Nuclear Power Plants to Withstand Earthquakes

Notice is hereby given that by petition dated March 28, 1979, the Union of Concerned Scientists requested that the Commission order all licensees of operating reactors to perform seismic reanalysis within 120 days of the Commission's order. This request is being treated under 10 CFR 2.206 of the Commission's regulations, and accordingly, action will be taken on the request within a reasonable time. Copies of this request are available for inspection in the Commission's Public Document Room, 1717 H Street, Washington, D.C. 20555.

Dated at Bethesda, Maryland this 10th day of May, 1979.

For the Nuclear Regulatory Commission.

Roger S. Boyd, Acting Director,
Office of Nuclear Reactor Regulation.

[FR Doc. 79-15244 Filed 5-15-79; 8:45 am]
BILLING CODE 7590-01-M

Wisconsin Public Service Corp. et al.; Issuance and Amendment to Facility Operating License

The U.S. Nuclear Regulatory Commission (the Commission) has issued Amendment No. 30 to Facility Operating License No. DPR-43 issued to Wisconsin Public Service Corporation, Wisconsin Power and Light Company, and Madison Gas and Electric Company (the licensee) which revised Technical Specifications for operation of the Kewaunee Nuclear Power Plant located in Kewaunee, Wisconsin. The amendment is effective as of the date of issuance.

The amendment revises the Technical Specifications to permit waiving the turbine stop and governor valve testing at end of cycle.

The application for the amendment complies with the standards and requirements of the Atomic Energy Act of 1954, as amended (the Act), and the Commission's rules and regulations. The Commission has made appropriate findings as required by the Act and the Commission's rules and regulations in 10 CFR Chapter I, which are set forth in the

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license amendment. Prior public notice of this amendment was not required since the amendment does not involve a significant hazards consideration.

The Commission has determined that the issuance of this amendment will not result in any significant environmental impact and that pursuant to 10 CFR § 51.5(d)(4) an environmental impact statement or negative declaration and environmental impact appraisal need not be prepared in connection with issuance of this amendment.

For further details with respect to this action, see (1) the application for amendment dated April 16, 1979, (2) Amendment No. 30 to Facility Operating License No. DPR–43, and (3) the Commission's related Safety Evaluation. All of these items are available for public inspection at the Commission's Public Document Room, 1717 H Street, NW., Washington, D.C. 20555, and at the Kewaunee Public Library, 822 Juneau Street, Kewaunee, Wisconsin 54216. A copy of items (2) and (3) may be obtained upon request addressed to the U.S. Nuclear Regulatory Commission, Washington, D.C. 20555, Attention: Director, Division of Operating Reactors.

Dated at Bethesda, Maryland, this 7th day of May, 1979.

For The Nuclear Regulatory Commission.

A. Schwencer,

Chief, Operating Reactors Branch No. 1, Division of Operating Reactors.

[Docket No. 50–305]

[FR Doc. 79–15245 Filed 5–15–79; 8:45 am]

BILLING CODE 7590–01–M

Draft Regulatory Guide; Issuance and Availability

The Nuclear Regulatory Commission has issued for public comment a draft of a new guide planned for its Regulatory Guide Series together with a draft of the associated value/impact statement. This series has been developed to describe and make available to the public methods acceptable to the NRC staff of implementing specific parts of the Commission's regulations and, in some cases, to delineate techniques used by the staff in evaluating specific problems or postulated accidents and to provide guidance to applicants concerning certain of the information needed by the staff in its review of applications for permits and licenses.

The draft guide, temporarily identified by its task number, RH 802–4, is entitled "Calculational Models for Estimating Radiation Doses to Man from Airborne Radioactive Materials Resulting from Uranium Milling Operations" and is intended for Division 3, "Fuels and Materials Facilities." It describes basic features of calculational models used by the NRC staff for estimating the radiological impacts resulting from the radioactive effluents from uranium mills and suggests values for various parameters used in the estimation of radiation doses.

This draft guide and the associated value/impact statement are being issued to involve the public in the early stages of the development of a regulatory position in this area. They have not received complete staff review and do not represent an official NRC staff position.

Public comments are being solicited on both drafts, the guide (including any implementation schedule) and the draft value/impact statement. Comments on the draft value/impact statement should be accompanied by supporting data. Comments on both drafts should be sent to the Secretary of the Commission, U.S. Nuclear Regulatory Commission, Washington, D.C. 20555, Attention: Docketing and Service Branch, by July 16, 1979.

Although a time limit is given for comments on these drafts, comments and suggestions in connection with (1) items for inclusion in guides currently being developed or (2) improvements in all published guides are encouraged at any time.

Regulatory guides are available for inspection at the Commission's Public Document Room, 1717 H Street NW., Washington, D.C. Requests for single copies of draft guides or the latest revision of published guides (which may be reproduced) or for placement on an automatic distribution list for single copies of future guides or draft guides in specific divisions should be made in writing to the U.S. Nuclear Regulatory Commission, Washington, D.C. 20555, Attention: Director, Division of Technical Information and Document Control. Telephone requests cannot be accommodated. Regulatory guides are not copyrighted, and Commission approval is not required to reproduce them.

(5 U.S.C. 552(a))

Dated at Rockville, Maryland this 8th day of May 1979.

For the Nuclear Regulatory Commission.

Karl R. Goller,

Director, Division of Siting, Health and Safeguards Standards, Office of Standards Development.

[FR Doc. 79–15246 Filed 5–15–79; 8:45 am]

BILLING CODE 7590–01–M

OFFICE OF SCIENCE AND TECHNOLOGY POLICY

Intergovernmental Science, Engineering, and Technology Advisory Panel; Meeting

In accordance with the Federal Advisory Committee Act, P.L. 92–463, the Office of Science and Technology Policy announces the following meeting:

Name: Intergovernmental Science, Engineering, and Technology Advisory Panel; Natural Resource and Environment Task Force Hazardous Waste Workshop

Date: June 4–5, 1979, June 4—8:30 a.m.–6:00 p.m., June 5—8:30 a.m.–2 p.m.

Place: National Conference of State Legislatures Headquarters, 1405 Curtis St., Denver, Colorado.

Type of Meeting: Open.

Contact Person: Mr. Leonard Slosky, Natural Resources and Environment Task Force ISETAP, Office of Science and Technology Policy, Executive Office of the President (202/395–4596).

Minutes of the meeting: Executive minutes of the meeting will be available from Mr. Slosky's office.

Tentative Agenda

1. The Role of Research To Assist in Locating New Hazardous Waste Management Facilities.

2. The Role of Research in the Identification and Management of Abandoned Hazardous Waste Facilities.

3. Financial and Institutional Measures in Managing Abandoned Hazardous Waste Facilities.

William J. Montgomery,

Executive Officer, Office of Science and Technology.

May 9, 1979.

[FR Doc. 79–15182 Filed 5–15–79; 8:45 am]

BILLING CODE 3170–01–M

POSTAL RATE COMMISSION

McElhattan, Pa. 17748 (Charles Thomas, Petitioner); Notice and Order of Filing of Appeal

Issued May 11, 1979.

On April 30, 1979, the Commission received a handwritten letter from Charles Thomas, a citizen of McElhattan, Pennsylvania (hereinafter "Petitioner"), concerning the alleged plans of the United States Postal Service to close the McElhattan, Pennsylvania post office. Although the letter makes no explicit reference to the Postal Reorganization Act, we believe it should be liberally construed as a petition for review pursuant to § 404(b) of the Act [39 U.S.C. 404(b)]. We do so in order to preserve the Petitioner's right to appeal, which is subject to a 30-day time limit.[1] The petition apparently was written by a layman, rather than by an attorney, and it does not conform exactly to the Commission's rules of practice, which also require that a petitioner attach to the petition a copy of the Postal Service's Final Determination.[2] However, § 1 of the Commission's rules of practice calls for a liberal construction of the rules to secure just and speedy determination of issues.[3]

The Act requires that the Postal Service provide the affected community with at least 60 days' notice of a proposed post office closing so as to ". . . insure that such persons will have an opportunity to present their views."[4] In effect, the petition can reasonably be construed as a request that the decision to close the McElhattan post office be reversed. From the face of the petition it is unclear whether the Postal Service provided 60 days' notice, whether any hearings were held, or whether a determination has been made under 39 U.S.C. 403(b)(3). (Petitioner failed to supply a copy of the Postal Service's Final Determination, if one is in existence.) The Commission's rules of practice require the Postal Service to file the administrative record of the case within 15 days after the date on which the petition for review is filed with the Commission.[5]

The Postal Reorganization Act states:

> The Postal Service shall provide a maximum degree of effective and regular postal services to rural areas, communities, and small towns where post offices are not self-sustaining. No small post office shall be closed solely for operating at a deficit, it being the specific intent of the Congress that effective postal services be insured to residents of both urban and rural communities.[6]

Section 404(b)(2)(C) of the Act specifically includes consideration of this goal in determinations by the Postal Service to close post offices. The effect on the community is also a mandatory consideration under section 404(b)(2)(A) of the Act.

The petition contends that service at the McElhattan post office is very good and that mail routed through a rural box has been lost. The petition appears to set forth the Postal Service action complained of in sufficient detail to warrant a determination whether the Service complied with its own regulations for the closing of post offices.[7]

Upon preliminary inspection, the petition appears to raise the following issue of law:

Is loss (or theft), if any, of mail matter from rural mail boxes in the postal area in or around the McElhattan, Pennsylvania post office of such magnitude as would preclude a "maximum degree of effective and regular postal services" (39 U.S.C. 404(b)(2)(C)), if rural mail box delivery were to replace delivery at the McElhattan post office?

Other issues of law may become apparent when the Commission has had the opportunity to examine the determination made by the Postal Service. Conversely, the determination may be found to resolve adequately the issue described above.

In view of the above, and in the interest of expedition of this proceeding under the 120-day decisional deadline imposed by section 404(b)(5), the Postal Service is advised that the Commission reserves the right to request a legal memorandum from the Service on one or more of the issues described above, and/or any further issues of law disclosed by the determination made in this case.[8] In the event that the Commission finds such memorandum necessary to explain or clarify the Service's legal position or interpretation on any such issue, it will, within 15 days of receiving the determination and record pursuant to § 113 of the rules of practice (39 CFR 3001.113), make the request therefor by order, specifying the issues to be addressed.

When such a request is issued, the memorandum shall be due within 15 days of its issuance, and a copy of the memorandum shall be served on Petitioner by the Service.

In briefing the case, or in filing any motion to dismiss for want of prosecution in appropriate circumstances, the Service may incorporate by reference all or any portion of a legal memorandum filed pursuant to such an order.

The Act does not contemplate appointment of an Officer of the Commission in section 404(b) cases, and none is being appointed.[9]

The Commission Orders:

(A) The letter of April 30, 1979, from Charles Thomas shall be construed as a petition for review pursuant to § 404(b) of the Act [39 U.S.C. § 404(b)].

(B) The Secretary of the Commission shall publish this Notice and Order in the **Federal Register.**

(C) The Postal Service shall file the administrative record in this case on or before May 15, 1979, pursuant to the Commission's rules of practice [39 CFR 3001.113(a)].

By the Commission.

David F. Harris,

Secretary.

April 30, 1979, filing of petition.

May 11, 1979, notice and order of filing of appeal.

May 15, 1979, filing of record by Postal Service [*see* 39 CFR § 3001.113(a)].

May 21, 1979, last day for filing of petitions to intervene [*see* 39 CFR § 3001.111(b)].

May 30, 1979, petitioner's initial brief [*see* 39 CFR § 3001.115(a)].

June 14, 1979, Postal Service answering brief [*see* 39 CFR § 3001.115(b)].

June 29, 1979, (1) Petitioner's reply brief, if petitioner chooses to file each brief [*see* 39 CFR § 3001.115(c)].

(2) Deadline for motions by any party requesting oral argument. The Commission will exercise its discretion, as the interests of prompt and just decision may require, in scheduling or dispensing with oral argument.

August 28, 1979, expiration of 120-day decisional schedule [*see* 39 U.S.C. § 404(b)(5)].

[Docket No. A79–1E, Order No. 278]

[FR Doc. 79–15283 Filed 5–15–79; 8:45 am]

BILLING CODE 7715–01–M

Sugar Run, Pa. 18846 (Marjorie G. Walker, Petitioner); Notice and Order of Filing of Appeal

Issued May 11, 1979.

On May 7, 1979, the Commission received a handwritten letter from Marjorie G. Walker (hereinafter "Petitioner"), concerning alleged United States Postal Service plans to close the Sugar Run, Pennsylvania, post office. Although the letter makes no explicit reference to the Postal Reorganization Act, we believe it should be liberally construed as a petition for review pursuant to § 404(b) of the Act [39 U.S.C. § 404(b)], so as to preserve Petitioner's right to appeal which is subject to a 30-day time limit.[1] Since the petition was apparently not written by an attorney, it

[1] 39 U.S.C. § 404(b)(5). 39 U.S.C. § 404(b) was added to title 39 by Pub. L. 94–421 (September 24, 1976), 90 Stat. 1310–1311. Our rules of practice governing these cases appear at 39 CFR § 3001.110 *et seq.*

[2] 39 CFR 3001.111(a).

[3] 39 CFR 3001.1.

[4] 39 U.S.C. 404(b)(1).

[5] 39 CFR 3001.113(a). The Postal Rate Commission informs the Postal Service of its receipt of such an appeal by issuing PRC Form No. 56 to the Postal Service upon receipt of each appeal.

[6] 39 U.S.C. 101(b).

[7] 42 FR 59079–59085 (11/17/77); the Commission's standard of review is set forth at 39 U.S.C. § 404(b)(5).

[8] Such additional issues may emerge when the parties and the Commission review the Service's determination for consistency with the principles announced in *Lone Grove, Texas, et al.*, Docket Nos. A79–1, *et al.* (May 7, 1979).

[9] In the Matter of Gresham, S.C., Route #1, Docket No. A78–1 (May 11, 1978).

[1] 39 U.S.C. 404(b)(5). 39 U.S.C. 404(b) was added to title 39 by Pub. L. 94–421 (September 24, 1976), 90 Stat. 1310–1311. Our rules of practice governing these cases appear at 39 CFR § 3001.110 *et seq.*

does not conform perfectly with the Commission's rules of practice which also require a petitioner to attach a copy of the Postal Service's Final Determination to the petition.[2] However, § 1 of the Commission's rules of practice calls for a liberal construction of the rules to secure just and speedy determination of issues.[3]

The Act requires that the Postal Service provide the affected community with at least 60 days' notice of a proposed post office closing so as to ". . . ensure that such persons will have an opportunity to present their views." [4] The petition requests that the decision to close the Sugar Run post office be reversed. From the face of the petition it is unclear whether the Postal Service provided 60 days' notice, whether any hearings were held, and whether a determination has been made under 39 U.S.C. 403(b)(3). (Petitioner failed to supply a copy of the Postal Service's Final Determination, if one is in existence.) The Commission's rules of practice require the Postal Service to file the administrative record of the case within 15 days after the date on which the petition for review is filed with the Commission.[5]

The Postal Reorganization Act states:

> The Postal Service shall provide a maximum degree of effective and regular postal services to rural areas, communities, and small towns where post offices are not self-sustaining. No small post office shall be closed solely for operating at a deficit, it being the specific intent of the Congress that effective postal services be insured to residents of both urban and rural communities. [6]

Section 404(b)(2)(C) of the Act specifically includes consideration of this goal in determinations by the Postal Service to consolidate post offices. The effect on the community is also a mandatory consideration under section 404(b)(2)(A) of the Act. The Petitioner objects to the closing on the ground that service will be reduced. Additionally, the Petitioner challenges the Postal Service's cost-benefit ratio.

The petition appears to set forth the Postal Service action complained of in sufficient detail to warrant further inquiry to determine whether the Postal Service complied with its regulations for the discontinuance of post offices. [7]

Upon preliminary inspection, the petition appears to raise the following issues of law:

1. Did the Postal Service adequately consider the effect the closing would have on service under the "maximum degree of effective and regular postal services" standard of § 404(b)(2)(C), particularly obtaining window services at times other than the appearance of the rural carrier?

Did the Postal Service properly compute the economic savings specified in section 404(b)(2)(D)? Other issues of law may become apparent when the Commission has had the opportunity to examine the determination made by the Postal Service. Conversely, the determination may be found to resolve adequately one or more of the issues described above.

In view of the above, and in the interest of expedition of this proceeding under the 120-day decisional deadline imposed by section 404(b)(5), the Postal Service is advised that the Commission reserves the right to request a legal memorandum from the Service on one or more of the issues described above, and/or any further issues of law disclosed by the determination made in this case.[8] In the event that the Commission finds such memorandum necessary to explain or clarify the Service's legal position or interpretation on any such issue, it will, within 20 days of receiving the determination and record pursuant to § 113 of the rules of practice (39 CFR 3001.113), make the request therefor by order specifying the issues to be addressed.

When such a request is issued, the memorandum shall be due within 20 days of its issuance, and a copy of the memorandum shall be served on Petitioner by the Service.

In briefing the case, or in filing any motion to dismiss for want of prosecution, in appropriate circumstances, the Service may incorporate by reference all or any portion of a legal memorandum filed pursuant to such an order.

The Act does not contemplate appointment of an Officer of the Commission in § 404(b) cases, and none is being appointed.[9]

The Commission Orders: (A) The letter of May 7, 1979, from Marjorie G. Walker shall be construed as a petition for review pursuant to section 404(b) of the Act [39 U.S.C. 404(b)].

(B) The Secretary of the Commission shall publish this Notice and Order in the **Federal Register.**

(C) The Postal Service shall file the administrative record in this case on or before May 22, 1979, pursuant to the Commission's rules of practice [39 CFR 3001.113(a)].

By the Commission.

David F. Harris,
Secretary.

May 7, 1979—Filing of Petition.
May 11, 1979—Notice and Order of Filing Appeal.
May 22, 1979—Filing of record by Postal Service (*see* 39 CFR § 3001.113(a)).
May 29, 1979—Last day for filing of petitions to intervene [*see* 39 CFR § 3001.111(b)].
June 6, 1979—Petitioners' initial brief [*see* 39 CFR § 3001.115(a)].
June 21, 1979—Postal Service answering brief [*see* 39 CFR § 3001.115(b)].
July 6, 1979—(1) Petitoners' reply brief, if petitioners choose to file such brjef [*see* 39 CFR § 3001.115(c)].
(2) Deadline for motions by any party requesting oral argument. The Commission will exercise its discretion, as the interests of prompt and just decision may require, in scheduling or dispensing with oral argument.
September 4, 1979—Expiration of 120-day decisional schedule [*see* 39 U.S.C. § 404(b)(5)].

[Docket No. A79-19; Order No. 277]
[FR Doc. 79-15286 Filed 5-15-79; 8:45 am]
BILLING CODE 7715-01-M

THE PRESIDENT'S COMMISSION ON COAL

Hearings

The President's Commission on Coal will hold public hearings on May 29 and 30, 1979 to explore ways of accelerating the replacement of imported oil with coal in the utility and industrial sectors. The hearings will be held from 9:00 a.m. until 5:00 p.m. each day in the Main Auditorium of the National Academy of Sciences, 2100 C Street, N.W., Washington, D.C.

Oral presentations will be by invited witnesses, but the hearing is open to the public and anyone wishing to submit a written statement for the hearing record is encouraged to do so.

The President's Commission on Coal was established by Executive Order in May, 1978 and is to make final recommendations to President Carter no later than December 14, 1979.

Persons wishing to submit written statements or who have questions about the hearing should contact Mr. James Childress, President's Commission on Coal, 600 E Street, N.W., Suite 500, Washington, D.C. 20004; 202/376-2001.

[2] 39 CFR 3001.111(a).
[3] 39 CFR 3001.1.
[4] 39 U.S.C. 404(b)(1).
[5] 39 C.F.R. 3001.113(a). The Postal Rate Commission informs the Postal Service of its receipt of such an appeal by issuing PRC Form No. 56 to the Postal Service upon receipt of each appeal.
[6] 39 U.S.C. § 101(b).
[7] 42 FR 59079-59085 (11/17/77); the Commission's standard of review is set forth at 39 U.S.C. § 404(b)(5).
[8] Such additional issues may emerge when the parties and the Commission review the Service's determination for consistency with the principles announced in *Lone Grove, Texas, et al.*, Docket Nos. A79-1, *et al.* (May 7, 1979).
[9] In the Matter of Gresham, S.C., Route #1, Docket No. A78-1 (May 11, 1978).

Dated: May 11, 1979.

Michael S. Koleda,
Executive Director, President's Commission on Coal.

[FR Doc. 79-15276 Filed 5-15-79; 8:45 am]
BILLING CODE 4510-23-M

SMALL BUSINESS ADMINISTRATION

Allied Bancshares Capital Corp.; Application for a License To Operate as a Small Business Investment Company

Notice is hereby given that an application has been filed with the Small Business Administration (SBA) pursuant to § 107.102 of the Regulations, governing small business investment companies (13 CFR 107.102 (1978)), under the name of Allied Bancshares Capital Corporation (Applicant). P.O. Box 3326, Houston, Texas 77001, for a license to operate as a small business investment company (SBIC) under the provisions of the Small Business Investment Act of 1958, as amended (the Act), (15 U.S.C. 661 et seq.), and the Rules and Regulations promulgated thereunder.

The proposed officers, directors and sole shareholder of Applicant are as follows:

D. Kent Anderson, No. 12 E. Rivercrest Drive, Houston, Texas 77042, president, director.
Ronald S. Davis, 1934 Fernspray, Houston, Texas 77049, vice president, secretary.
Robert B. Goldstein, 357 No. Post Oak Ln., No. 106, Houston, Texas 77024, treasurer, director.
John T. Trotter, 2148 Troon road, Houston, Texas 77019, director.
Allied Bank of Texas at Houston, Esperson Building and One Shell Plaza, Houston, Texas 77002, 100 percent shareholder.

There will be only one class of stock authorized (100,000 shares of common). Initially only 960 shares of the common stock will be sold with a resultant private capital of $2,400,000. Applicant proposes to conduct its operations principally within the State of Texas, and intends to establish a broad financing policy with no emphasis to be placed on any particular industry.

Allied Bank of Texas at Houston is a state bank, which is a wholly-owned subsidiary (except for directors' qualifying shares) Allied Bancshares, Inc. (Allied). As of December 31, 1978, Allied had approximately 8,100 shareholders with no shareholder owning beneficially more than 10 percent of the outstanding shares of common stock. Allied is a federal bank holding company. Allied's banks consist of 16 state banks and 3 national banks.

Matters involved in SBA's consideration of the application include the general business reputation and character of shareholders and management, and the probability of successful operation of the new company in accordance with the Act and Regulations.

Notice is further given that any person may, not later than May 31, 1979, submit to SBA, in writing, comments on the proposed licensing of this company. Any such communication should be addressed to: Associate Administrator for Finance and Investment, Small Business Administration, 1441 "L" Street, N.W., Washington, D.C. 20416.

A copy of this notice shall be published by the Applicant in a newspaper of general circulation In Houston, Texas.

(Catalog of Federal Domestic Assistance Program No. 59.011, Small Business Investment Companies)

Dated: May 10, 1979.

Peter F. McNeish,
Deputy Associate Administrator for Finance and Investment.

[Proposed License No. 06/06-0217]
[FR Doc. 79-15288 Filed 5-15-79; 8:45 am]
BILLING CODE 8025-01-M

American Capital Investment Corp.; Application for a License To Operate as a Small Business Investment Company

Notice is hereby given that an application has been filed with the Small Business Administration (SBA) pursuant to § 107.102 of the Regulations governing small business investment companies (13 CFR 107.102(1978)), under the name of American Capital Investment Corporation, 900 So. 74 Plaza, Suite 106, Omaha, Nebraska 68114, for a license to operate as a small business investment company (SBIC) under the provisions of the Small Business Investment Act of 1958, as amended (the Act) (15 U.S.C. 661 et seq.), and the Rules and Regulations promulgated thereunder.

The proposed officers and directors and their percentages of ownership are as follows:

Paul A. Bullock, 839 So. 93 Street, Omaha, NE 68114, president, director, 10.70% shareholder.
Norman Veitzer, 12617 Cryer Avenue, Omaha, NE 68144, secretary/treasurer, director, 8.93% shareholder.
Gary M. Domet, 709 South 56 Street, Omaha, NE 68106, director.
Timothy P. Keyser, 5503 Harney Street, Omaha, NE 68132, general manager.

There will be two classes of stock authorized: five thousand shares each of common and preferred. Initially only six hundred shares of common will be issued at one dollar per share, and five thousand shares of preferred at one hundred dollars per share, with a resultant private capital of $500,600. Both classes of stock have equal voting rights. Applicant will conduct its business principally within the State of Nebraska.

Applicant intends to maintain a diversified investment policy and will emphasize equity investments as much as is practicable. The operations of the Applicant will be managed by Applied Business Systems, Inc. This firm is owned 100 percent by Mr. Bullock.

Matters involved in SBA's consideration of the application include the general business reputation and character of shareholders and management, and the probability of successful operation of the new company in accordance with the Act and Regulations.

Notice is further given that any person may, not later than May 31, 1979, submit to SBA, in writing, comments on the proposed licensing of this company. Any such communications should be addressed to: Associate Administrator for Finance and Investment, Small Business Administration, 1441 "L" Street, N.W., Washington, D.C. 20416.

A copy of this notice shall be published by the Applicant in a newspaper of general circulation in Omaha, Nebraska.

(Catalog of Federal Domestic Assistance Program No. 59.011, Small Business Investment Companies)

Dated: May 10, 1979.

Peter F. McNeish,
Deputy Associate Administrator for Finance and Investment.

[Proposed License No. 07/07-0080]
[FR Doc. 79-15289 Filed 5-15-79; 8:45 am]
BILLING CODE 8025-01-M

Evergreen Capital Corp.; Issuance of License To Operate as a Small Business Investment Company

On March 29, 1979, a notice was published in the **Federal Register** (44 FR 18761) stating that an application had been filed by Evergreen Capital Corporation, 1500 City National Bank Building, 9th and Congress, Austin, Texas 78701, with the Small Business Administration (SBA) pursuant to § 107.102 of the Regulations governing small business investment companies (13 CFR 107.102 (1978)), for a license to operate as a small business investment company (SBIC). The company has since moved to Suite 180, 7700 San Felipe, Houston, Texas 77063.

Interested parties were given until the close of business April 13, 1979, to submit their written comments to SBA. No comments were received.

VETERANS ADMINISTRATION

Advisory Committee on Prosthetics and Special Disabilities Programs; Meeting

The Veterans Administration gives notice that a meeting of the Advisory Committee on Prosthetics and Special Disabilities Programs will be held on June 5, 1979, in Room 1010, 811 Vermont Avenue, N.W., Washington, D.C. 20420. The meeting will begin at 9:00 a.m. and end at 4:30 p.m.

The purpose of the Committee is to advise the Administrator on matters relating to the development, procurement, distribution and effectiveness of prosthetic appliances, sensory aids, and rehabilitative equipment for disabled veterans.

The agenda for the meeting will include a review of the Veterans Administration prosthetics program and a discussion of research and development activities.

The meeting will be open to the public to the extent that space is available. Persons who wish to attend should contact Mr. Robert Hall, Director, Prosthetics Service, Veterans Administration, Washington, D.C. 20420, telephone (202) 389-5312.

Dated: May 10, 1979.

By direction of the Administrator.

Rufus H. Wilson,
Deputy Administrator.

[FR Doc. 79-15290 Filed 5-15-79; 8:45 am]
BILLING CODE 8320-01-M

VETERANS ADMINISTRATION

Advisory Committee on Women Veterans; Meeting

The Veterans Administration gives notice that a meeting of the Advisory Committee on Women Veterans will be held on June 5, 1979, in Room 1010, 811 Vermont Avenue, N.W., Washington, D.C. 20420. The meeting will begin at 9:00 a.m. and end at 4:30 p.m.

The purpose of the Committee is to advise the Administrator on matters relating to the needs of women veterans with respect to health care, rehabilitation, compensation, outreach, and burial benefits.

The agenda for the meeting will include a review of the Veterans Administration programs for women veterans and a discussion of future activities.

The meeting will be open to the public to the extent that space is available. Persons who wish to attend should contact Mrs. Jeanette Thornton, Director, Women Veterans Program Service, Veterans Administration, Washington, D.C. 20420, telephone (202) 389-5860.

Dated: May 10, 1979.

By direction of the Administrator.

Rufus H. Wilson,
Deputy Administrator.

[FR Doc. 79-15291 Filed 5-15-79; 8:45 am]
BILLING CODE 8320-01-M

V 4 4 / 9 6

Notice is hereby given that, pursuant to Section 301(c) of the Small Business Investment Act of 1958, as amended, and after having considered the application and all other information; SBA issued License No. 06/06–0209, on May 4, 1979, to Evergreen Capital Corporation to operate as an SBIC.

(Catalog of Federal Domestic Assistance Program No. 59.011, Small Business Investment Companies)

Dated: May 10, 1979.

Peter F. McNeish,

Deputy Associate Administrator for Finance and Investment.

[License No. 06/06–0209]

[FR Doc. 79–15290 Filed 5–15–79; 8:45 am]

BILLING CODE 8025–01–M

SMALL BUSINESS CONFERENCE COMMISSION

White House Conference on Small Business

In accordance with Section 10(a) of the Federal Advisory Committee Act (5 U.S.C. appendix I), announcement is made of the following national commission meeting.

Small Business Conference Commission

Meeting Time Change

The meeting of the Small Business Conference Commission originally scheduled for May 25, 1979, between 9:30 a.m. and 10:30 a.m., at the Harry S Truman Library in Independence, Missouri, has been changed. The meeting will now be held between 8:30 a.m. and 10:30 a.m., at the Truman Library on the same date. Original notification of this meeting appeared in the **Federal Register** on April 27, 1979 (44 FR 24967).

Dated: May 11, 1979.

K Drew,

Deputy Advocate for Advisory Councils, U.S. Small Business Administration.

[FR Doc. 79–15287 Filed 5–15–79; 8:45 am]

BILLING CODE 8025–01–M

Internal Revenue Service

District Directors and Service Center Directors; Revision of Delegation of Authority

Issued: May 14, 1979.

AGENCY: Internal Revenue Service.

ACTION: Revision of Delegation Order No. 40 (Revised).

SUMMARY: The authority delegated to District Directors of Internal Revenue to make credits and refunds, within the applicable period of limitations, for overpayments including any interest allowable thereon, made against any liability in respect to any internal revenue tax on the part of the person who made such overpayment, including those cases requiring reporting to the Joint Committee on Internal Revenue Taxation has also been delegated to Service Center Directors.

EFFECTIVE DATE: May 14, 1979.

FOR FURTHER INFORMATION CONTACT: Mr. J. Bruce Miller, 1111 Constitution Avenue, N.W., Room 7046, Washington, D.C. 20224, 202–566–4832.

This document does not meet the criteria for significant regulations set forth in paragraph 8 of the Treasury Directive appearing in the Federal Register for Wednesday, November 8, 1978.

Maris R. Coleman,

Acting Director, Returns Processing and Accounting Division.

Delegation Order

Credits and Refunds

The authority as set forth in 26 CFR 301.6402.1 is hereby incorporated in this delegation order and herewith delegated to District Directors of Internal Revenue and Service Center Directors of Internal Revenue, to make credits or refunds, within the applicable period of limitations, of overpayments in any amount, of any internal revenue tax, additional amount, addition to the tax, assessable penalty and allowable interest thereon, including those cases requiring a report to the Joint Committee on Taxation.

The above authority to make credits and refunds shall be exercised only after compliance with all requirements of existing procedures for review.

The authority of District Directors may not be redelegated. Service Center Directors may redelegate but not lower the level of authorized certifying officers.

The acts of Service Center Directors previously making credits and refunds are hereby affirmed and ratified.

This order supersedes Delegation Order No. 40 (Revised) issued January 13, 1959.

William E. Williams,

Acting Commissioner.

[Delegation Order No. 40 (Rev. 2)]

[FR Doc. 79–15285 Filed 5–15–79; 8:45 am]

BILLING CODE 4830–01–M

VETERANS ADMINISTRATION

Addition/Renovation and 120-Bed Nursing Home Care Unit, VAMC, Dallas, Tex.; Finding of No Significant Impact

The proposed project actions provide for the construction of two separate projects an Ambulatory Care Addition and a 120-Bed Nursing Home Care Unit. The Ambulatory Care Addition/Renovation action proposes a two story building addition behind and adjacent to Building No. 2. The tentative design will have parking and mechanic space on the ground level and approximately 30,000 gross square feet of hospital space on the second level. A future vertical expansion is tentatively planned to add seven additional floors to provide space to alleviate criteria deficiencies in the existing VA Medical Center.

The 120-bed NHCU is planned as a single freestanding structure northwest of Building No. 1. The structure will be approximately 55,000 gross square feet.

Mitigating of potential or anticipated project impacts include compliance with Federal, State and local air quality regulations and erosion control guidelines. Also, notice abatement measures will be instituted to reduce construction noise impact.

An analysis of all environmental factors related to the proposed project indicates a Finding of No Significant Impact.

The assessment is being placed for public examination in the Veterans Administration office of Washington, D.C. Persons wishing to examine a copy of the document may do so at the following office: Mr. Willard Sitler, Director, Environmental Affairs Office (66), Room 950, Veterans Administration, 1425 K Street, N.W., Washington, D.C., (202–389–2526).

Questions and requests for single copies of the Environmental Assessment should be addressed to:

Director, Environmental Affairs Office (66), Veterans Administration, 810 Vermont Avenue, N.W., Washington, D.C. 20420.

Dated: May 9, 1979.

By direction of the Administrator.

Maury S. Cralle, Jr.,

Assistant Deputy Administrator for Financial Management and Construction.

[FR Doc. 79–15208 Filed 5–15–79; 8:45 am]

BILLING CODE 8320–01–M

Ambulatory Care Addition and Land Purchase for Parking VAMC, Memphis, Tenn.; Finding of No Significant Impact

The proposed project will improve Ambulatory Care Service by renovation of the first floor of Ambulatory Care and construction of a new addition of approximately 40,000 square feet to house the Outpatient Clinic at the Veterans Administration Medical Center, Memphis, Tennessee. This construction will occur in an existing parking area. To replace this parking and partially accommodate the increased parking needs generated by this construction, another project proposes to acquire land to be used for parking adjacent to the northeast corner of the site. The four parcels under consideration for purchase are presently parking lots which are leased by the Veterans Administration. They total about 34,800 square feet.

Environmental impacts, as a result of the project, are a temporary disturbance of the Ambulatory Care Service at the VAMC, a minor increase in storm water siltation, and construction noise, dust and fumes. Mitigating actions include expansion of a buffer zone around the Medical Center which will improve necessary security and removal of the potential for the expansion of land uses incompatible with the VAMC and the surrounding residential area. The land acquisition will remove potential commercial usage lands from the public market. Effects which will mitigate the impact on the environment caused by construction of the Ambulatory Care Addition will be improved health care service, landscaping of the completed structure and improved accessibility to the Outpatient Care Service from the patient parking area.

An analysis of all environmental factors related to the proposed project indicates a Finding of No Significant Impact.

The assessment is being placed for public examination in the Veterans Administration office of Washington, D.C. Persons wishing to examine a copy of the document may do so at the following office: Mr. Willard Sitler, Director, Environmental Affairs Office (66), Room 950, Veterans Administration, 1425 K Street, N.W., Washington, D.C. (202–389–2526).

Questions and requests for single copies of the Environmental Assessment should be addressed to:

Director, Environmental Affairs Office (66), Veterans Administration, 810 Vermont Avenue, N.W., Washington, D.C. 20420.

Dated: May 10, 1979.

By direction of the Administrator.

Maury S. Cralle, Jr.,

Assistant Deputy Administrator for Financial Management and Construction.

[FR Doc 79–15205 Filed 5–15–79; 8:45 am]

BILLING CODE 8320–01–M

208-Bed Domiciliary, VAMC, Leavenworth, Kans.; Finding of No Significant Impact

The proposed project provides for the construction of a 208-Bed Domiciliary Facility at the Veterans Administration Medical Center, Leavenworth, Kansas. The facility layout will consist of two three-story buildings in a cluster configuration prototype design containing 54,000 net square feet of space.

Impacts, as a result of the proposed project, are associated with topography, surface runoff and erosion. Construction noise and visual impacts will exist during construction of the project. Removal of vegetation will impact the site both physically and visually. Mitigating actions include erosion control measures, slope stablization, onsite noise abatement methods and introduction of additional new plant material in the landscape design of the project. An analysis of all environmental factors related to the project indicates a Finding of No Significant Impact.

The assessment is being placed for public examination in the Veterans Administration office of Washington, D.C. Persons wishing to examine a copy of the document may do so at the following office: Mr. Willard Sitler, Director, Envoronmental Affairs Office (66), Room 950, Veterans Administration, 1425 K Street, N.W., Washington, D.C. (202–389–2526).

Questions and requests for single copies of the Environmental Assessment should be addressed to:

Director, Environemental Affairs Office (66), Veterans Administration, 810 Vermont Avenue, N.W., Washington, D.C. 20420.

Dated: May 9, 1979.

By direction of the Administrator.

Maury S. Cralle, Jr.,

Assistant Deputy Administrator for Financial Management and Construction.

[FR Doc 79–15209 Filed 5–15–79; 8:45 am]

BILLING CODE 8320–01–M

208-Bed Domiciliary, VAMC, Mountain Home, Tenn.; Finding of No Significant Impact

The proposed project provides for the construction of a 208-Bed Domiciliary facility at the Veterans Administration Medical Center, Mountain Home, Tennessee. The project proposes construction of three buildings to be built as one unit in a cluster prototype design containing aproximately 54,000 new square feet.

The project will have minimal impact on the human and natural environment as they affect topography, surface runoff and erosion. Construction noise, dust, fumes and visual impacts will exist during construction of the project. Long term open space and visual impact will result from project development. The historic character of the station will be somewhat adversely affected. Mitigation of these impacts include erosion control measures, slope stabilization, onsite noise abatement methods, compatibility of exterior architectural material and historic coordination and planning. An analysis of all environmental factors related to the project indicates a Finding of No Significant Impact.

The assessment is being placed for public examination in the Veterans Administration office of Washington, D.C. Persons wishing to examine a copy of the document may do so at the following office: Mr. Willard Sitler, Director, Environmental Affairs Office (66), Room 950, Veterans Administration, 1425 K Street, N.W., Washington, D.C., (202–389–2526).

Questions and requests for single copies of the Environmental Assessment should be addressed to:

Director, Environmental Affairs Office (66), Veterans Administration, 810 Vermont Avenue, N.W., Washington, D.C. 20420.

Dated: May 9, 1979.

By direction of the Administrator.

Maury S. Cralle, Jr.,

Assistant Deputy Administrator for Financial Management and Construction.

[FR Doc 79–15210 Filed 5–15–79; 8:45 am]

BILLING CODE 8320–01–M

Building Addition and Boiler Plant Replacement VAMC, Castle Point, N.Y.; Finding of No Significant Impact

The proposed project provides for the construction of two separate projects, a Building Addition and a Boiler Plant replacement project at the Veterans Administration Medical Center, Castle Point, New York. The Building Addition Project consists of the construction of a new two-story building, with all supportive systems located near Building 15 at the Medical Center. The Boiler Plant is a replacement project that includes construction of a new building (approximately 90' x 150') and contains three new boilers, a generator, various pumps, a work area and office. Additional new steam conduits will also be constructed. The New Boiler Plant is sited northeast of the main complex and adjacent to the Warehouse area.

The projects will have impacts on the human and natural environment as they affect soil stability, erosion, vegetation and noise levels. Mitigating actions include erosion control measures and onsite noise abatement techniques.

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Adequate design will reduce emissions into the air and will be in accordance with all applicable Federal, State and local air quality standards.

An analysis of all environmental factors related to the proposed projects indicates a Finding of No Significant Impact.

The assessment is being placed for public examination in the Veterans Administration office of Washington, D.C. Persons wishing to examine a copy of the document may do so at the following office: Mr. Willard Sitler, Director, Environmental Affairs Office (66), Room 950, Veterans Administration, 1425 K Street, N.W., Washington, D.C. (202–389–2526).

Questions and requests for single copies of the Environmental Assessment should be addressed to:

Director, Environmental Affairs Office (66), Veterans Administration, 810 Vermont Avenue, N.W., Washington, D.C. 20420.

Dated: May 9, 1979.

By direction of the Administrator.

Maury S. Cralle, Jr.,

Assistant Deputy Administrator for Financial Management and Construction.

[FR Doc. 79-15202 Filed 5-15-79; 8:45 am]

BILLING CODE 8320-01-M

Center Core Building, VAMC, Palo Alto, Calif.; Finding of No Significant Impact

The proposed project provides for the construction of a single, new multi-story Center Core Building at the Menlo Park Division of the Veterans Administration Medical Center, Palo Alto, California. The new building of approximately 95,000 net square feet is planned to be located in the area of the intersection of Hospital Plaza and Redwood Avenue.

Short term impacts as a result of this project are associated with construction phase. Mitigating actions include noise abatement and adequate construction methods. During construction some disruption of traffic flow can be anticipated. Phased construction along with the use of secondary entrance roads should keep disruption of vehicular circulation to a minimum.

An analysis of all environmental factors related to the project indicates a Finding of No Significant Impact.

The assessment is being placed for public examination in the Veterans Administration office of Washington, D.C. Persons wishing to examine a copy of the document may do so at the following office: Mr. Willard Sitler, Director, Environmental Affairs Office (66), Room 950, Veterans Administration, 1425 K Street, N.W., Washington, D.C. (202–389–2426).

Questions and requests for single copies of the Environmental Assessment should be addressed to:

Director, Environmental Affairs Office (66), Veterans Administration, 810 Vermont Avenue, N.W., Washington, D.C. 20420.

Dated: May 10, 1979.

By direction of the Administrator.

Maury S. Cralle, Jr.,

Assistant Depty Administrator for Financial Management and Construction.

[FR Doc. 79-15204 Filed 5-15-79; 8:45 am]

BILLING CODE 8320-01-M

Emergency Generator and Electrical Deficiencies, VAMC, Albany, N.Y.; Finding of No Significant Impact

The proposed project will correct the electrical deficiencies at the Veterans Administration Medical Center, Albany, New York, through the installation of a new substation, normal and emergency distribution systems, and a new emergency generator.

The correction of electrical deficiencies involves primarily the installation of interior distribution systems plus the exterior siting and installation of a new substation and a new emergency generator. The proposed emergency generator will be located on the west side of Building No. 2 (utility wing), and constructed as an expansion of the existing generator Building No. 14. The new underground substation vault will be located in the southern corner of Wing "A", Building No. 1. The focus of the assessment is on an emergency generator unit and the new substation which are the only exterior additions/modifications to the facility.

The impacts, as a result of the proposed actions, are primarily associated with noise and exhaust emissions from the emergency generators. Mitigating actions are in the form of sound deadening enclosures, air silencers and mufflers on the equipment. Impacts of exhaust emissions are minimal during normal conditions of weekly 30-minute maintenance operations. An analysis of the environmental factors related to the proposed project indicates a finding of No Significant Impact.

The assessment is being placed for public examination in the Veterans Administration office of Washington, D.C. Persons wishing to examine a copy of the document may do so at the following office: Mr. Willard Sitler, Director, Environmental Affairs Office (66), Room 950, Veterans Administration, 1425 K Street, N.W., Washington, D.C., (202–389–2526).

Questions and requests for single copies of the Environmental Assessment should be addressed to:

Director, Environmental Affairs Office (66), Veterans Administration, 810 Vermont Avenue, N.W., Washington, D.C. 20420.

Dated: May 9, 1979.

By direction of the Administrator.

Maury S. Cralle,

Assistant Deputy Administrator for Financial Management and Construction.

[FR Doc. 79-15200 Filed 5-15-79; 8:45 am]

BILLING CODE 8320-01-M

Expansion of Clinic and Relocation of Support Facilities, VAMC, Temple, Tex.; Finding of No Significant Impact

The proposed project provides for the construction of a Clinical Expansion and Relocation project at the Veterans Administration Medical Center at Temple, Texas. The proposed project action will relocate administrative functions from existing areas into new construction. The project includes Basement Expansion and Excavation, Floor Renovations and minor site work. Realignment of small entry roads also will occur.

The proposed project will have impacts on the environment as they affect existing vegetation, soil stability and noise levels. Mitigating actions include the implementation of erosion and sedimentation controls, onsite noise abatement measures and building emissions design in accordance with Federal, State, and local air quality standards. Short term impacts of dust and fumes associated with the project construction phase will be minimized by control measures outlined in construction contract documents.

An analysis of all environmental factors related to the proposed project indicates a Finding of No Significant Impact.

The assessment is being placed for public examination in the Veterans Administration office of Washington, D.C. Persons wishing to examine a copy of the document may do so at the following office: Mr. Willard Sitler, Director, Environmental Affairs Office (66), Room 950, Veterans Administration, 1425 K Street, N.W., Washington, D.C., (202–389–2526).

Questions and requests for single copies of the Environmental Assessment should be addressed to:

Director, Environmental Affairs Office (66), Veterans Administration, 810 Vermont Avenue, N.W., Washington, D.C. 20420.

Dated: May 10, 1979.

By direction of the Administrator.

Maury S. Cralle, Jr.,

Assistant Deputy Administrator for Financial Management and Construction.

[FR Doc. 79-15208 Filed 5-15-79; 8:45 am]

BILLING CODE 8320-01-M

Medical School Education Building, VAMC, Mountain Home, Tenn.; Finding of No Significant Impact

The proposed project provides for the construction of a Medical School Education Building at the Veterans Administration Medical Center, Mountain Home, Tennessee. The project proposes construction of new building and interior renovation of two existing structures. The new structure will contain approximately 72,000 gross square feet of space.

The project will have definite but minimal impacts on the human and natural environment as they affect open space, existing vegetation, and noise levels. Mitigating actions include development of two new smaller landscaped courtyard areas, utilization of an architectural design which is compatible both in form and material, and utilization of onsite noise abatement techniques during construction. Short term impacts of soil erosion and dust associated with construction will be reduced by control measures. An analysis of all environmental factors related to the proposed project indicates a Finding of No Significant Impact.

The assessment is being placed for public examination in the Veterans Administration office of Washington, D.C. Persons wishing to examine a copy of the document may do so at the following office: Mr. Willard Sitler, Director, Environmental Affairs Office (66), Room 950, Veterans Administration 1425 K Street, N.W., Washington, D.C. (202–389–2526).

Questions and requests for single copies of the Environmental Assessment should be addressed to:

Director, Environmental Affairs Office (66), Veterans Administration, 810 Vermont Avenue, N.W., Washington, D.C. 20420.

Dated: May 10, 1979.

By direction of the Administrator.

Maury S. Cralle, Jr.,

Assistant Deputy Administrator for Financial Management and Construction.

[FR Doc 70-15211 Filed 5-15-79; 8:45 am]

BILLING CODE 8320-01-M

Replace/Renovate Building 62, VAMC Tuskegee, Ala.; Finding of No Significant Impact

The proposed project provides for the replacement of Building 62 at the Veterans Administration Medical Center at Tuskegee, Alabama. The project to construct a new Intermediate Medical Care Building adjacent to the main hospital building and demolition of Building 62.

The project will have impacts on the human and natural environment as it affects surface runoff, erosion and landscaping. Additionally, construction noise, fumes, dust and visual impacts will exist during construction of the project. Mitigating actions include landscaping, control of erosion, dust and fumes and noise abatement measures.

An analysis of all environmental factors related to the proposed project indicates a Finding of No Significant Impact.

The assessment is being placed for public examination in the Veterans Administration office of Washington, D.C. Persons wishing to examine a copy of the document may do so at the following office: Mr. Willard Sitler, Director, Environmental Affairs Office (66), Room 950, Veterans Administration, 1425 K Street, N.W., Washington D.C., (202–389–2526).

Questions and requests for single copies of the Environmental Assessment should be addressed to:

Director, Environmental Affairs Office (66), Veterans Administration, 810 Vermont Avenue, N.W., Washington, D.C. 20420.

Dated: May 9, 1979.

By direction of the Administrator.

Maury S. Cralle Jr.,

Assistant Deputy Administrator for Financial Management and Construction.

[FR Doc. 79-15201 Filed 5-15-79; 8:45 am]

BILLING CODE 8320-01-M

Supply Warehouse, VAMC San Antonio, Tex.; Finding of No Significant Impact

The proposed project provides for construction of a new one-story Supply Warehouse at the Veterans Administration Medical Center, San Antonio, Texas.

The project will have impacts on the human and natural environment as it affects surface runoff, erosion and landscaping. Additionally, construction noise, fumes, dust and visual impacts will exist during construction of the project. Mitigating actions include landscaping control of erosion, dust and fumes, and noise abatement measures.

An analysis of all environmental factors related to the proposed project indicates a Finding of No Significant Impact.

The assessment is being placed for public examination in the Veterans Administration office of Washington, D.C. Persons wishing to examine a copy of the document may do so at the following office: Mr. Willard Sitler, Director, Environmental Affairs Office (66), Room 950, Veterans Administration, 1425 K Street, N.W., Washington, D.C., (202–389–2526).

Questions and requests for single copies of the Environmental Assessment should be addressed to:

Director, Environmental Affairs Office (66), Veterans Administration, 810 Vermont Avenue, N.W., Washington, D.C. 20420.

Dated: May 10, 1979.

By direction of the Administrator.

Maury S. Cralle, Jr.,

Assistant Deputy Administrator for Financial Management and Construction.

[FR Doc. 79-15207 Filed 5-15-79; 8:45 am]

BILLING CODE 8320-01-M

Surgical Addition, VAMC, Palo Alto, Calif.; Finding of No Significant Impact

The proposed project provides for the construction of a 3-floor surgical wing addition to the north corner of the main hospital building at the Veterans Administration Medical Center at Palo Alto, California.

The project will have impacts on the natural and human environments as it affects surface runoff, erosion, landscaping and energy use. Additionally, construction noise, fumes, dust and visual impacts will exist during construction. Mitigating actions include landscaping, implementation of noise control measures, compatibility of design, and control of erosion, dust, and fumes.

An analysis of all environmental factors related to the proposed project indicates a Finding of No Significant Impact.

The assessment is being placed for public examination in the Veterans Administration office of Washington, D.C. Persons wishing to examine a copy of the document may do so at the following office: Mr. Willard Sitler, Director, Environmental Affairs Office (66), Room 950, Veterans Administration, 1425 K Street, N.W., Washington, D.C. (202–389–2526).

Questions and requests for single copies of the Environmental Assessment should be addressed to:

Director, Environmental Affairs Office (66), Veterans Administration, 810 Vermont Avenue, N.W., Washington, D.C. 20420.

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Dated: May 10, 1979.

By direction of the Administrator.

Maury S. Crelle, Jr.,

Assistant Deputy Administrator for Financial Management and Construction.

[FR Doc. 79-15206 Filed 5-15-79; 8:45 am]

BILLING CODE 8320-01-M

INTERSTATE COMMERCE COMMISSION

Assignment of Hearings

May 11, 1979.

Cases assigned for hearing, postponement, cancellation or oral argument appear below and will be published only once. This list contains prospective assignments only and does not include cases previously assigned hearing dates. The hearings will be on the issues as presently reflected in the Official Docket of the Commission. An attempt will be made to publish notices of cancellation of hearings as promptly as possible, but interested parties should take appropriate steps to insure that they are notified of cancellation or postponements of hearings in which they are interested.

MC-C-10305, Pennsylvania Truck Lines, Inc., and James H. Russell, Inc.—Investigation And Revocation of Certificates, now assigned for hearing on May 16, 1979, (9 days), at Philadelphia, PA., is postponed indefinitely.

MC-66746 (Sub-21F), Shippers Express, Inc., now assigned for continued hearing on May 28, 1979 (2 days), at Memphis, TN, will be held in the Executive Inn, 1471 E. Brooks Road.

MC-111729 (Sub-744F), Purolator Courier Corp., now assigned for hearing on June 12, 1979, (9 days), at Memphis, TN, in a hearing room to be later designated.

MC-115841 (Sub-6653F), Colonial Refrigerated Transportation, Inc., now assigned for hearing on July 10, 1979, (9 days), at Chicago, IL, in a hearing room to be later designated.

MC-F-13763F, Crown Transport, Inc.—Purchase (Portion)—Masterson Transfer Co., Inc., MC-4484 (Sub-5F), Crown Transport, Inc., now assigned for Preharing Conference on May 25, 1979, at the Offices of the Interstate Commerce Commission, Washington, D.C.

MC 142672 (Sub-30F), David Beneux Produce & Trucking, Inc., now assigned May 16, 1979, at Philadelphia, PA., is cancelled and transfered to modified procedure.

MC 144140 (Sub-20F), Southern Freightways, Inc., transferred to modified procedure.

MC 141921 (Sub-17F), Sav-On Transportation, Inc., now assigned May 31, 1979, at Omaha, NE, is cancelled and transferred to modified procedure.

MC 103926 (Sub-82F), W. T. Mayfield Sons Trucking Co., now assigned modified procedure.

H. G. Homme, Jr.,

Secretary.

[Notice No. 86]

[FR Doc. 79-15208 Filed 5-15-79; 8:45 am]

BILLING CODE 7035-01-M

Sunshine Act Meetings

Federal Register

Vol. 44, No. 96

Wednesday, May 16, 1979

This section of the FEDERAL REGISTER contains notices of meetings published under the "Government in the Sunshine Act" (Pub. L. 94-409) 5 U.S.C. 552b(e)(3).

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	Items
Federal Maritime Commission	1
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1

FEDERAL MARITIME COMMISSION.

TIME AND DATE: May 17, 1979, 10 a.m.

PLACE: Room 12126, 1100 L Street NW., Washington, D.C. 20573.

STATUS: Closed.

MATTER TO BE CONSIDERED: Docket No. 78-51—Agreement No. 10349—A Cargo Revenue Pooling and Sailing Agreement—Argentina/United States Atlantic Trade; and Docket No. 78-52—Agreement No. 10346—A Cargo Revenue Pooling and Sailing Agreement—Argentina/United States Gulf Trade.

CONTACT PERSON FOR MORE INFORMATION: Francis C. Hurney, Secretary, (202) 523-5725.

[S-980-79 Filed 5-14-79; 11:36 am]

BILLING CODE 6730-01-M

2

NATIONAL SCIENCE BOARD.

DATE AND TIME: May 17, 1979, 1 p.m., open session. May 18, 1979, 9 a.m., closed session.

PLACE: Room 540, 1800 G Street NW., Washington, D.C.

STATUS: Change in agenda.

MATTERS TO BE CONSIDERED AT THE OPEN SESSION: Addition to agenda.

Added Item: 2. Government Ethics; Mr. Bernhardt K. Wruble, Director, Office of Government Ethics.

Original agenda items 2-12 are now numbered 3-13.

CONTACT PERSON FOR MORE INFORMATION: Miss Vernice Anderson, Executive Secretary, (202) 632-5840.

[S-979-79 Filed 5-14-79; 11:05 am]

BILLING CODE 7555-01-M

3

NUCLEAR REGULATORY COMMISSION.

TIME AND DATE: May 16 and 17, 1979 (Revised).

PLACE: Commissioners' Conference Room, 1717 H St., N.W., Washington, D.C.

STATUS: Open and closed.

MATTERS TO BE CONSIDERED:

Wednesday, May 16, 9:30 a.m.

1. Continuation of Discussion of Uranium Mill Tailings Act (Approximately 1 hour—Public meeting continued from May 9).

Wednesday, May 16, 1:30 p.m.

1. Meeting with UCS on Petition for Reconsideration (Approximately 1½ hours—Public meeting).

2. Staff Briefing on Oconee Order (Approximately 1 hour—Public meeting, additional item).

Thursday, May 17, 9:30 a.m.

1. Briefing on Facts of TMI Operational Sequence (Approximately 1½ hours—Public meeting).

2. Affirmation Session (Approximately 10 minutes—Public meeting).

a. PRM-50-22—Bonding to Ensure Decommissioning

b. Petition to Defer Implementation of Security Personnel Qualification and Equipment.

Thursday, May 17, 2 p.m.

1. Briefing on Reactor Licensing Schedules (Approximately 1 hour—Public meeting).

2. Discussion of Personnel Matter (Approximately (Approximately 1½ hours—closed—exemption 6).

CONTACT PERSON FOR MORE INFORMATION: Walter Magee, (202) 634-1410.

Walter Magee,

Office of the Secretary.

May 11, 1979.

[S-978-79 Filed 5-14-79; 9:42 am]

BILLING CODE 7590-01-M

4

POSTAL SERVICE: Board of Governors.

Notice of Vote to Close Meeting

On May 9, 1979, the Board of Governors of the United States Postal Service voted to close to public observation a portion of its meeting currently scheduled for June 5, 1979. Each of the members of the Board except Mr. Sullivan, who voted against closure, voted in favor of partially closing this meeting, which is expected to be attended by the following persons: Governors Wright, Hardesty, Ching, Robertson and Sullivan; Postmaster General Bolger; Deputy Postmaster General Conway; Senior Assistant Postmaster General Finch, and Secretary of the Board Cox.

The portion of the meeting to be closed will consist of a discussion of the Postal Service's future planning that will include possible strategies concerning future postal collective bargaining negotiations and concerning future postal ratemaking.

The Board of Governors is of the opinion that public access to any discussion of possible strategies that Postal Service management may decide to adopt, or the positions it may decide to assert, in any collective bargaining sessions that may take place would be likely to frustrate action to carry out those strategies or assert those positions successfully. In making this determination, the Board is aware that the effectiveness of the collective bargaining process in labor-management relations has traditionally depended on the ability of the parties to prepare strategies and formulate positions without prematurely disclosing them to the opposite party. The public has a particular interest in the integrity of this process as it relates to the Postal service, since the outcome of the negotiations between the Postal Service and the various postal unions, and consequently the cost, quality and efficiency of postal operations, may be adversely affected if the process is altered.

The Board is likewise of the opinion that public access to the planned discussion of future postal ratemaking strategies would be likely to disclose matters whose disclosure would be inconsistent with the public's interest in having the Board able to provide policy guidance to postal management on ratemaking issues on the basis of candid exploration of those issues, without concern for unreasonably influencing particular litigation. A number of these issues are likely to be the subjects both of administrative litigation during the course of the Postal Service's next general rate proceeding before the Postal Rate Commission and of the appellate judicial litigation which will probably follow that proceeding. Several of them are also involved in the appeals currently pending in the U.S. Court of Appeals for the D.C. Circuit from the

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May 1978 Decision of the Governors on the "15-cent stamp" general rate case ("NAGCP III").

Accordingly the Board of Governors has determined that, pursuant to section 552b(c)(3) of title 5, United States Code, and section 7.3(c) of title 39, Code of Federal Regulations, the portion of the meeting to be closed is exempt from the open meeting requirement of the Government in the Sunshine Act (5 U.S.C. § 552b(b)), in that it is likely to disclose information prepared for use in connection with the negotiation of collective bargaining agreements under chapter 12 of title 39, United States Code, which is specifically exempted from disclosure by section 410(c)(3) of title 39, United States Code, and also in that it is likely to disclose information prepared for use in connection with proceedings under chapter 36 of title 39 (having to do with postal ratemaking, mail classification, and postal service), which is specifically exempted from disclosure by section 410(c)(4) of title 39. The Board has determined further that, pursuant to section 552b(c)(9)(B) of title 5, United States Code, and section 7.3(i) of title 39, Code of Federal Regulations, the discussion is exempt, because it is likely to disclose information the premature disclosure of which is likely to frustrate significantly proposed Postal Service action, and that, pursuant to section 552b(c)(10) of title 5 and section 7.3(j) of title 39, Code of Federal Regulations, the discussion is exempt because it is likely to specifically concern the participation of the Postal Service in a civil action or proceeding. Finally, the Board of Governors has determined that the public interest does not require that the Board's discussion of its possible collective bargaining and ratemaking strategies and positions be open to the public.

In accordance with section 552b(f)(1) of title 5, United States Code, and section 7.6(a) of title 39, Code of Federal Regulations, the General Counsel of the United States Postal Service has certified that in his opinion the portion of the meeting to be closed may properly be closed to public observation, pursuant to sections 552b(c)(3), 552b(c)(9)(B), and 552b(c)(10) of title 5 and section 410(c)(3) of title 39, United States Code, and sections 7.3(c), 7.3(i) and 7.3(j) of title 39, Code of Federal Regulations.

Louis A. Cox,
Secretary.
[S-981-79 Filed 5-14-79; 1:03 pm]
BILLING CODE 7710-12-M

5

SECURITIES AND EXCHANGE COMMISSION.

"FEDERAL REGISTER" CITATION OF PREVIOUS ANNOUNCEMENTS: [44 FR 25970 May 3, 1979].

STATUS: Closed meeting; open meeting.

PLACE: Room 825, 500 North Capitol Street, Washington, D.C.

DATES PREVIOUSLY ANNOUNCED: Monday May 7, 1979.

CHANGES IN THE MEETING: Additional item; deletion.

The following additional item will be considered at a closed meeting scheduled for Thursday, May 17, 1979, immediately following the 4:00 p.m. open meeting:

Institution of administrative proceeding of an enforcement nature.

The following item will not be considered at an open meeting scheduled for Thursday, May 17, 1979, at 2:30.:

Oral argument on an application for review by Cook & Co., Inc., L. Howard Cook and Edmund C. H. Hyun of an adverse decision by the National Association of Securities Dealers, Inc. For further information, please contact R. Moshe Simon at (202) 755-1530.

Commissioners Loomis, Pollack and Karmel determined that Commission business required the above changes and that no earlier notice thereof was possible.

May 14, 1979.

[S-982-79 Filed 5-14-79; 3:09 pm]
BILLING CODE 8010-01-M

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federal register

Wednesday
May 16, 1979

Part II

Department of Energy

Industrial Energy Conservation Program; Updated Identification of Corporations for Purposes of Industrial Energy Reporting and Recovered Materials Reporting

0052(03)(15-MAY-79-23:04:55)

No. of

DEPARTMENT OF ENERGY

Industrial Energy Conservation Program; Updated Identification of Corporations for Purposes of Industrial Energy Reporting and Recovered Materials Reporting

AGENCY: Department of Energy.

ACTION: Notice of Corporate Identification.

SUMMARY: The Department of Energy (DOE) is updating its identification of corporations which consumed at least one trillion British thermal units of energy in calendar year 1977 in any of the 20 major energy-consuming manufacturing industries identified by DOE. This updated identification includes corporations which responded late to DOE's requirement to file information on energy consumption. The identification of appropriate corporations is required by the National Energy Conservation Policy Act (NECPA) which amended the Energy Policy and Conservation Act (EPCA). DOE is also notifying the newly identified corporations in four manufacturing industries of the requirements of Section 461 of the NECPA and is advising them that DOE will shortly specify the format for the first report on the use of recovered materials. The identified corporations are listed alphabetically by industry in the appendix to this notice.

FOR FURTHER INFORMATION CONTACT:
On Industrial Energy Reporting:

Robert G. Massey, Industrial Programs, Office of Assistant Secretary, Conservation and Solar Applications, U.S. Department of Energy, 20 Massachusetts Avenue, N.W., Room 5114, Washington, D.C. 20585, (202 376-9688.

On Recovered Materials Reporting:

Lewis S. Newman, Industrial Programs, Office of Assistant Secretary, Conservation and Solar Applications, U.S. Department of Energy, 20 Massachusetts Avenue, N.W., Room 4206, Washington, D.C. 20585, (202) 376-4805.

SUPPLEMENTARY INFORMATION: In a **Federal Register** notice issued on January 4, 1979, (44 FR 1770, January 8, 1979), as corrected by notice issued on January 16, 1979 (44 FR 4008, January 19, 1979), the Department of Energy (DOE) described the implementation of the Industrial Energy Conservation Program (program) under Part E (formerly Part D) of Title III of the Energy Policy and Conservation Act (42 U.S.C. 6341-6346) (EPCA) and the changes and additions to the program mandated by the recently enacted National Energy Conservation Policy Act (Pub. L. 95-619) (NECPA). These changes and additions include the requirement of section 601 of the NECPA that DOE identify each corporation which consumed at least one trillion British thermal units (Btu's) per year in any of the major energy-consuming industries identified by DOE and the requirement of section 461 of the NECPA that DOE notify the identified corporations in the four industries subject to section 461 of the requirements of section 461.

To implement these requirements of the NECPA, DOE in the January 8, 1979 **Federal Register** notice required all corporations which consumed at least one trillion Btu's of energy in calendar year 1977 in any of the 20 major energy-consuming industries identified by DOE to file a certified statement to that effect with DOE. The deadline for filing this report with DOE was January 29, 1979. Based on the reports filed in response to this information filing requirement, DOE identified corporations in a **Federal Register** notice issued February 7, 1979 (44 FR 9044, February 12, 1979). In that notice, DOE stated that at a future time it would identify those corporations which responded after the deadline and would publish an updated list of identified corporations in the **Federal Register.** Pursuant to that notice and section 373 of the EPCA, as amended, DOE identifies the corporations listed in the appendix to this notice.

Any corporation which meets the criteria set forth in the January 8, 1979 notice and has not responded to that notice must still respond to DOE as required by that notice. Failure to respond to the January 8 notice will not relieve any corporation otherwise required to report from the reporting requirements of the program.

DOE requested information from corporations on energy consumption on two bases, including and excluding the energy represented in petroleum and natural gas and their derivatives used as feedstocks. The distribution of responses to the **Federal Register** notice is shown in the following table:

sic	Industry	No. of corporations: Including feedstock	Excluding feedstock
20	Food and kindred products	118	118
21	Tobacco products	4	4
22	Textile mill products	51	51
23	Apparel and other textile products	1	1
24	Lumber and wood products	19	19
25	Furniture and fixtures	1	1
26	Paper and allied products	91	91
27	Printing and publishing	3	3
28	Chemicals and allied products	170	170
29	Petroleum and coal products	86	85
30	Rubber, misc. plastics products	31	31
31	Leather and leather products	1	1
32	Stone, clay and glass products	129	129
33	Primary metal products	108	107
34	Fabricated metal products	48	48
35	Machinery, except electrical	45	45
36	Electric, electronic equipment	28	28
37	Transportation equipment	36	36
38	Instruments and related products	11	11
39	Miscellaneous manufacturing industries	2	2

DOE is currently preparing and will soon issue for public comment regulations for the expanded program. The regulations will establish whether those identified corporations which, excluding feedstocks, consumed less than one trillion Btu's will be required to report under the program and will establish procedures relating to DOE's identification of corporations. These regulations will require identified corporations to report on 1979 and subsequent energy consumption either directly or, if exempted, through an adequate voluntary program, as provided in Sections 375 and 376 of the EPCA, as amended. They also will prescribe revised exemption criteria for adequate voluntary reporting programs pursuant to section 376(g) of the EPCA.

It should be noted, however, that corporations which were identified prior to the issuance of the **Federal Register** notice published on February 12, 1979 (44 FR 9044), should file reports with DOE for their energy consumption through calendar year 1978 either directly or through an adequate voluntary reporting program, as appropriate.

In addition, DOE is notifying all identified corporations in SIC codes 22, 26, 30 and 33 that pursuant to section 374A of the EPCA, as established by section 461 of the NECPA, each such corporation will be required to report to DOE as follows: Initially, on the volume of energy-saving recovered materials the corporation is using in each of its manufacturing operations located in the United States and any plans it has to increase the utilization of such materials in those operations in each of the next ten years; and thereafter annually, on the progress it has made to increase the utilization of energy-saving recovered materials to reach targets established by DOE for its industry. DOE intends to inform these corporations of the time and format of the first report on the use of recovered materials very shortly. No report is required until those requirements are provided by DOE.

(Energy Policy and Conservation Act (Pub. L. 94-163), as amended by the National Energy Conservation Policy Act (Pub. L. 95-619); Federal Energy Administration Act of 1974 (Pub. L. 93-275), as amended; E.O. 11790 (39 FR 23185); The Department of Energy Organization Act (Pub. L. 95-91); E.O. 12009 (42 FR 46267).)

Issued in Washington, D.C., May 9, 1979.

Omi G. Walden,
Assistant Secretary, Conservation and Solar Applications.

Appendix

SIC 20—Food and Kindred Products

A. E. Staley Manufacturing Co.
Adolph Coors Company
American Brands, Inc.
American Crystal Sugar Co.
American Home Products Corp.
American Maize-Products Co.
Ampco Foods, Inc.
Amstar Corporation
Anderson Clayton & Co.
Anheuser-Busch, Inc.
Archer Daniels Midland Company
Beatrice Foods Co.
Borden, Inc.
California & Hawaiian Sugar Co.
California Canners and Growers Co.
Campbell Soup Company
Cargill, Incorporated
Carnation Company
Castle & Cooke, Inc.
Central Soya Co., Inc.
Coca Cola Company
Conagra, Inc.
Consolidated Foods Corporation
Continental Grain Company
CPC International, Inc.
Curtice-Burns, Inc.
Dawson Mills, Inc.
Del Monte Corporation
Dillon Companies, Inc.
Dubuque Packing Company
Eli Lilly and Company
Farmland Industries, Inc.
Federal Company
Flowers Industries, Inc.
Foremost-McKesson, Inc.
G. Heileman Brewing Company, Inc.
General Foods Corporation
General Mills, Inc.
Geo. A. Hormel & Co.
Gerber Products Company
Gold Kist, Inc.
Grain Processing Corporation
Grain Terminal Association
Great A. & P. Tea Co., Inc.
Green Giant Company
Greyhound Corporation
Gulf & Western Industries, Inc.
H. J. Heinz Company
Henkel Corporation
Hershey Foods Corporation
Heublein, Inc.
Holly Sugar Corporation
Hunt International Resources Corp.
Hygrade Food Products Corp.
IC Industries, Inc.
Imperial Sugar Company
International Telephone & Telegraph Corp.
Interstate Brands Corporation
Iowa Beef Processors, Inc.
J. R. Simplot Company
Jim Walter Corporation
Jos Schlitz Brewing Company
Joseph E. Seagram & Sons, Inc.
Keebler Company
Kellogg Company
Kraft, Inc.
Kroger Company
Ladish Malting Co.
Land O' Lakes, Inc.
Lauhoff Grain Company
Lever Brothers Company
Liggett Group, Inc.
Lykes Bros. Inc.
Mars, Incorporated
MBPXL Corporation
Michigan Sugar Company
Midwest Solvents Company, Inc.
Minn-Dak Farmers Cooperative
Monitor Sugar Company
Moorman Manufacturing Co.
Nabisco, Inc.
National Starch & Chemical Corp.
Natl. Distillers & Chemical Corp.
Nestle Enterprises, Inc.
Norton Simon, Inc.
Olympia Brewing Company
Oscar Mayer & Co.
Pabst Brewing Company
Pepsico, Inc.
Perdue, Inc.
Philip Morris, Incorporated
Pillsbury Company
Procter & Gamble Co.
PVO International, Inc.
Quaker Oats Company
R. J. Reynolds Industries, Inc.
R. T. French Company
Ralston Purina Co.
Rapid American Corporation
Rath Packing Company
RCA Corporation
Riceland Foods, Inc.
Safeway Stores, Incorporated
Savannah Foods & Industries, Inc.
SCM Corporation
Standard Brands, Incorporated
Stokely-Van Camp, Inc.
Stroh Brewery Co.
Sunkist Growers, Inc.
Swift & Company
Thomas J. Lipton, Inc.
Tillie Lewis Foods, Inc.
Tri/Valley Growers, Inc.
Twin City Foods, Inc.
U and I, Incorporated
United Brands Company
Univar Corporation
Universal Foods Corporation

SIC 21—Tobacco Products

American Brands, Inc.
Brown & Williamson Tobacco Corp.
Gulf & Western Industries, Inc.
Philip Morris, Incorporated.

SIC 22—Textile Mill Products

Abney Mills, Inc.
American Hoechst Corporation
American Thread Company
Armstrong Cork Company
Avondale Mills, Inc.
Badische Corporation
Bibb Company
Borden, Inc.
Burlington Industries, Inc.
Cannon Mills Company
Coats & Clark, Inc.
Colgate-Palmolive Company
Collins & Aikman Corporation
Cone Mills Corporation
Cranston Print Works Company
Crompton Company, Inc.
Crown America, Inc.
Daisy Hosiery Mills, Inc.
Dan River, Inc.
Dixie Yarns, Inc.
Fieldcrest Mills, Inc.
General Tire & Rubber Co.
Goodyear Tire & Rubber Co.
Graniteville Company
Greenwood Mills, Inc.
Gulf & Western Industries, Inc.
Hanes Corporation
High Voltage Engineering Corp.
J. P. Stevens & Co., Inc.
Johnson & Johnson
Kiddie Tot Hosiery Mills, Inc.
M. Lowenstein & Sons, Inc.
Milliken & Company
Mohasco Corporation
Northwest Industries, Inc.
RCA Corporation
Reeves Brothers, Inc.
Riegel Textile Corporation
Shaw Industries, Inc.
Spartan Mills, Inc.
Sperry and Hutchinson Co.
Springs Mills, Inc.
Standard Oil Company (Indiana)
Standard-Coosa-Thatcher Co.
Texfi Industries, Inc.
Thomaston Mills, Inc.
Ti-Caro, Inc.
Trend Company
Union Underwear Company, Inc.
United Merchants & Manufacturing, Inc.
West Point-Pepperell, Inc.

SIC 23—Apparel and Other Textile Products

Kellwood Company

SIC 24—Lumber and Wood Products

Balfour Lumber Company
Bendix Corporation
Boise Cascade Corporation
Champion International Corp.
Evans Products Company
Georgia-Pacific Corporation
Jim Walter Corporation
Koppers Company, Inc.
Louisiana-Pacific Corporation
MacMillan Bloedel, Inc.
Masonite Corporation
Owens-Corning Fiberglass Corp.
Potlatch Corporation
Roseburg Lumber Co.
Southwest Forest Industries, Inc.
Time, Inc.
Vancouver Plywood Co., Inc.
Weyerhaeuser Company
Willamette Industries, Inc.

SIC 25—Furniture and Fixtures

Roper Corporation

SIC 26—Paper and Allied Products

Abitibi Corporation
Abitibi Southern Corporation
Alaska Lumber & Pulp Co., Inc.
Alton Box Board Company
American Can Company

V 4 4 / 9 6

American Home Products Corp.
Appleton Papers, Inc.
Armstrong Cork Company
Austell Box Board Corporation
Bell Fibre Products Corp.
Bird & Son, Inc.
Blandin Paper Company
Boise Cascade Corporation
Bowater Incorporated
Champion International Corp.
Chase Bag Company
Chesapeake Corporation
Clevepak Corporation
Collins & Aikman Corporation
Consolidated Papers, Inc.
Continental Group, Inc.
Crown Zellerbach Corporation
Dennison Manufacturing Company
Dexter Corporation
Diamond International Corp.
Erving Paper Mills, Inc.
Federal Paper Board Co., Inc.
Finch Pruyn & Co., Inc.
Flintkote Company
Fort Howard Paper Company
Fraser Paper Limited
GAF Corporation
Garden State Paper Co., Inc.
Georgia-Pacific Corporation
Gilman Paper Company
Great Northern Nekoosa Corp.
Green Bay Packaging, Inc.
Gulf & Western Industries, Inc.
Gulf States Paper Corp.
Hammermill Paper Company
Howard Paper Mills, Inc.
Hudson Pulp & Paper Corp.
International Paper Company
International Telephone & Telegraph Corp.
Interstate Paper Corporation
James River Corporation of Virginia
Jim Walter Corporation
Johns-Manville Sales Corp.
Johnson & Johnson
Keyes Fibre Co.,
Kimberly-Clark Corporation
Litton Industries, Inc.
Longview Fibre Company
Louisiana-Pacific Corporation
MacMillan Bloedel, Inc.
Marcal Paper Mills, Inc.
Masonite Corporation
Mead Corporation
Menasha Corporation
Minnesota Mining & Manufacturing Co.
Mobil Oil Corporation
National Gypsum Company
Newton Falls Paper Mill, Inc.
Olin Corporation
Ownes-Illinois, Inc.
P. H. Glatfelter Co.
Penntech Papers, Inc.
Philip Morris, Incorporated
Pineville Kraft Corporation
Port Huron Paper Company
Potlatch Corporation
Procter & gamble Co.
SCM Corporation
Scott Paper Company
Simpson Paper Company
Sonoco Products Company
Southwest Forest Industries, Inc.
St. Joe Paper Company
St. Regis Paper Company
Stone Container Corporation
Tenneco, Inc.
Time, Inc.
Times Mirror Company
Union Camp Corporation
United States Gypsum Company
Virginia Fibre Corporation
Wausau Paper Mills Company
Western Paper & Mfg. Co
Westvaco Corporation
Weyerhaeuser Company
Willamette Industries, Inc.

SIC 27—Printing and publishing

Chase Bag Company
Gulf & Western Industries, Inc.
R. R. Donnelley & Sons Company

SIC 28—Chemicals and Allied Products

Abbott Laboratories
Air Products & Chemicals, Inc.
Airco, Inc.
Akzona Incorporated
Alcon Laboratories, Inc.
Allegheny Ludlum Industries, Inc.
Allied Chemical Corporation
Aluminum Company of America
American Can Company
American Cyanamid Company
American Hoechst Corporation
American Home Products Corp.
American Petrofina, Inc.
American Synthetic Rubber Corp.
Arizona Chemical Company
Asarco, Incorporated
Ashland Oil, Inc.
Atlantic Richfield Company
Avtex Fibers, Inc.
B. F. Goodrich Company
Badische Corporation
BASF Wyandotte Corporation
Baxter Travenol Laboratories Inc.
Big Three Industries, Inc.
Borden, Inc.
Borg-Warner Corporation
Bristol-Myers Company
C. F. Industries, Inc.
Cabot Corporation
Cargill, Incorporated
Carrier Corp.
Celanese Corporation
Ciba-Geigy Corporation
Cities Service Company
Coastal States Gas Corporation
Colgate-Palmolive Company
Columbia Nitrogen Corporation
Cominco American, Incorporated
Commonwealth Oil Refining Co.
Continental Oil Company
Copolymer Rubber & Chemical Corp.
CPC International, Inc.
Dart Industries, Inc.
Diamond Crystal Salt Company
Diamond Shamrock Corporation
Dow Chemical Company
Dow Corning Corporation
E. I. Du Pont De Nemours & Co.
Eagle Picher Industries, Inc.
Eastman Kodak Company.
El Paso Products Company
Eli Lilly and Company
Emery Industries, Inc.
Ethyl Corporation
Exxon Corporation
Farmland Industries, Inc.
Felmont Oil Corporation
Ferro Corporation
Firestone Tire & Rubber Co.
First Mississippi Corporation
FMC Corporation
Freeport Minerals Company
GAF Corporation
Gardinier Big River, Inc.
General Electric Company
General Tire & Rubber Co.
Georgia-Pacific Corporation
Getty Chemical Company
Goodyear Tire & Rubber Co.
Greyhound Corporation
Gulf & Western Industries, Inc.
Gulf Oil Corporation
Gulf Resources & Chemical Corp.
Hardy Salt Company
Hawkeye Chemical Company
Henkel Corporation
Hercules Incorporated
Hoffmann-La Roche, Inc.
Hygrade Food Products Corp.
ICI Americas, Inc.
International Minerals & Chemical Corp.
J. M. Huber Corporation
J. R. Simplot Company
Johnson & Johnson
Kaiser Aluminum & Chemical Corp.
Kerr-McGee Corporation
Knoll Pharmaceutical Co.
Koppers Company, Inc.
Kraft, Inc.
Lever Brothers Company
Linden Chemicals & Plastics, Inc.
Lubrizol Corporation
Mallinckrodt, Inc.
Martin Marietta Corporation
Melamine Chemicals, Inc.
Merck & Co., Inc.
Merichem Company
Miles Laboratories, Inc.
Minnesota Mining & Manufacturing Co.
Mississippi Chemical Corp.
Mobay Chemical Corporation
Mobil Oil Corporation
Monsanto Company
Morton-Norwich Products, Inc.
N-Ren Corporation
Nalco Chemical Company
Nipak, Inc.
Nipro, Inc.
NL Industries, Inc.
North American Rayon Corp.
Northern Natural Gas Company
Northwest Industries, Inc.
Occidental Petroleum Corp.
Olin Corporation
Oxirane Chemical Company
Pennwalt Corporation
Pfizer, Inc.
Phillips Petroleum Company
PPG Industries, Inc.
PQ Corporation
Procter & Gamble Co.
Publicker Industries, Inc.
PVO International, Inc.
Quaker Oats Company
Reichhold Chemicals, Inc.
Reilly Tar & Chemical Corp.
Reynolds Metals Company
Rhone-Poulenc, Inc.
Richardson-Merrell, Inc.
Rohm and Haas Company
SCM Corporation
Shell Oil Company

Sherex Chemical Co., Inc.
Sherwin-Williams Company
Signal Companies, Inc.
Soltex Polymer Corporation
Squibb Corporation
St. Joe Minerals Corporation
Standard Oil Company (Indiana)
Standard Oil Company (Ohio)
Standard Oil Company of California
Stauffer Chemical Company
Sterling Drug, Inc.
Superior Oil Company
Swift Agricultural Chemicals Corp.
Tenneco, Inc.
Terra Chemicals International, Inc.
Texaco, Inc.
Texasgulf, Inc.
Thiokol Corporation
Tyler Corporation
Union Camp Corporation
Union Carbide Corporation
Union Oil Co. of California
Uniroyal, Inc.
United States Borax & Chem. Corp.
United States Steel Corp.
Upjohn Company
USA Petroleum Corp.
Valley Nitrogen Producers, Inc.
Velsicol Chemical Corporation
Vertac, Inc.
Virginia Chemicals, Inc.
Vulcan Materials Company
W. R. Grace & Co.
Warner-Lambert Company
Westvaco Corporation
Willamette Industries, Inc.
Williams Companies
Witco Chemical Corporation

SIC 29—Petroleum and Coal Products

Agway, Inc.
Amerada Hess Corporation
American Home Products Corp.
American Petrofina, Inc.
Asamera Oil (U.S.) Inc.
Ashland Oil, Inc.
Atlantic Richfield Company
Beacon Oil Company
Belridge Oil Company
Bird & Son Inc.
Certainteed Corporation
Champlin Petroleum Co.
Charter International Oil Co.
Cities Service Company
Clark Oil & Refining Corp.
Coastal States Gas Corporation
Commonwealth Oil Refining Co.
Continental Oil Company
Crown Central Petroleum Corp.
Crystal Oil Company
Diamond Shamrock Corporation
Dorchester Gas Corporation
Energy Cooperative, Inc.
Exon Corporation
Farmers Union Central Exchange, Inc.
Farmland Industries, Inc.
Fletcher Oil & Refining Co.
GAF Corporation
Getty Refining & Marketing Co.
Great Lakes Carbon Corporation
Guam Oil & Refining Co., Inc.[1]
Gulf Oil Corporation
Holly Corp.
Hunt Oil Company
Husky Oil Company
Indiana Farm Bureau Cooperative Association, Inc.
Jim Walter Corporation
Johns-Manville Sales Corp.
Kern County Refinery, Inc.
Keer-McGee Corporation
Loch Industries, Inc.
Koppers Company, Inc.
Little America Refining Co.
Louisiana Land & Exploration Co.
Marathon Oil Company
Mobil Oil Corporation
Murphy Oil Corporation
National Cooperative Refinery Association
OKC Corp.
Oklahoma Refining Company
Owens-Corning Fiberglas Corp.
Pacific Resources, Inc.
Pennzoil Company
Petrolite Corp.
Phillips Petrolem Company
Placid Refining Company
Powerine Oil Company
Pride Refining, Inc.
Quaker State Oil Refining Corp.
R. J. Reynolds Industries, Inc.
Reserve Oil & Gas Company
Rock Island Refining Corp.
Shell Oil Company
Sinclair Oil Corp.
Southern Union Company
Southland Oil Company
Standard Oil Company (Indiana)
Standared Oil Company (Ohio)
Standard Oil Company of California
Standard Products Co.
Sun Company, Inc.
Superior Oil Company
Tenneco, Inc.
Tesoro Petrolum Corp.
Texaco, Inc.
Texas Eastern Transmission Corp.
Time Oil Company
Tosco Corporation
Total Petroleum, Inc.
Union Oil Co. of California
Uniroyal, Inc.
United Refining Comapny [1]
USA Petroleum Corp.
Vickers Petroleum Corporation
Winston Refining Company
Witco Chemical Corporation

SIC 30—Rubber, Misc. Plastic Products

Amerace Corporation
American Cyanamid Company
Armstrong Rubber Company
B. F. Goodrich Company
Budd Company
Continental Group, Inc.
Cooper Tire & Rubber Company
Dart Industries, Inc.
Dayco Corporation
Eagle Picher Industries, Inc.
Ethyl Corporation
Firestone Tire & Rubber Co.
G. Heileman Brewing Company, Inc.
Gates Rubber Company
General Electric Company
General Motors Corporation
General Tire & Rubber Co.
Goodyear Tire & Rubber Co.
High Voltage Engineering Corp.
Michelin Tire Corporation
Minnesota Mining & Manufacturing Co.
Mobay Chemical Corporation
Novamont Corporation
Raychem Corporation
Reichhold Chemicals, Inc.
Rhone-Poulenc, Inc.
Roper Corporation
Union Carbide Corporation
Uniroyal, Inc.
W. R. Grace & Co.
Westinghouse Electric Corp.

SIC 31—Leather and Leather Products

Roper Corporation

SIC—32Stone, Clay and Glass Products

Adolph Coors Company
AFG Industries, Inc.
Allied Products Company
Alpha Portland Cement Company
Amcord, Inc.
American Standard, Inc.
Amsted Industries Incorporated
Anchor Hocking Corporation
Arkansas Louisiana Gas Company
Armco, Inc.
Armstrong Cork Company
Ash Grove Cement Company
Austin White Lime Company
Babcock & Wilcox Company
Ball Corporation
Basic Incorporated
Belden Brick Company
Bethlehem Steel Corporation
Bickerstaff Clay Products Co., Inc.
Boren Clay Products Company
Brockway Glass Company, Inc.
California Portland Cement Co.
Can-AM Corporation
Capitol Aggregates, Inc.
Centex Corporation
Certainteed Corporation
CLM Corporation
Combustion Engineering, Inc.
Coplay Cement Manufacturing Co.
Corning Glass Works
Crane Co.
Dart Industries, Inc.
Delta Macon Brick & Tile Co.
Dickey Company
Domtar Industries, Inc.
Dorsey Corporation
Dravo Corporation
Dresser Industries, Inc.
Dundee Cement Company
Eagle Picher Industries, Inc.
Edw. C. Levy Company
Eltra Corporation
Engelhard Minerals & Chemicals Corp.
Federal Paper Board Co., Inc.
Ferro Corporation
Filtrol Corporation
Flintkote Company
Ford Motor Company
GAF Corporation
Gallo Glass Company
General Telephone & Electronic Corp.
General Dynamics Corp.
General Electric Company
General Shale Products Corp.
Georgia-Pacific Corporation
Giant Portland & Masonry Cement Co.
Gifford-Hill & Company, Inc.
Glen-Gery Corporation

[1] Energy consumption was less than one trillion Btu's in 1977 when feedstocks were excluded.

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Glenshaw Glass Company, Inc.
Guardian Industries, Corp.
Gulf & Western Industries, Inc.
Harsco Corporation
Ideal Basic Industries, Inc.
Illinois Cement Company
Interpace Corporation
J. E. Baker Company
J. M. Huber Corporation
Jim Walter Corporation
Johns-Manville Sales Corp.
Justin Industries Inc.
Kaiser Aluminum & Chemical Corp.
Kaiser Cement & Gypsum Corp.
Kennecott Copper Corporation
Kerr Glass Manufacturing Corp.
Keystone Portland Cement Co.
Kohler Co.
Kraft, Inc.
Lancaster Colony Corp.
Latchford Glass Company
Lehigh Portland Cement Company
Libbey-Owens-Ford Company
Liberty Glass Company
Louisville Cement Company
Martin Marietta Corporation
Mc Donough Co.
Midland Glass Company, Inc.
Minnesota Mining & Manufacturing Co.
Mississippi Lime Company
Missouri Portland Cement Co.
Monarch Cement Company
National Bottle Manufacturing Company
National Can Corporation
National Cement Company
National Gypsum Company
Nevada Cement Company
Newmont Mining Corporation
Northwestern States Portland Cement Co.
Norton Company
Norton Simon, Inc.
OKC Corp.
Oregon Portland Cement Company
Owens-Corning Fiberglas Corp.
Owens-Illinois, Inc.
Penn-Dixie Industries, Inc.
Pfizer, Inc.
Pomona Corporation
Portland Cement Co. of Utah
PPG Industries, Inc.
Puerto Rican Cement Co. Inc.
Rangaire Corporation
Reybestos Manhattan, Inc.
Reichhold Chemicals, Inc.
Republic Steel Corp.
Rockwool Industries, Inc.
Round Rock Lime Company
San Antonio Portland Cement Co.
Solite Corporation
Southdown, Inc.
Southern Industries Corp.
St. Clair Lime Company
Texas Industries, Inc.
United States Gypsum Company
United States Steel Corp.
Vulcan Materials Company
Warner Company
Weyerhaeuser Company
Wheaton Industries
Whitehall Cement Manufacturing Co.
Woodville Lime & Chemical Co.

SIC 33—Primary Metal Industries

Airco, Inc.,
Alcan Aluminum Corporation
Allegheny Ludlum Industries, Inc.
Allied Chemical Corporation
Alumax, Inc.
Aluminum Company of America
Amax, Inc.
American Can Company
American Cast Iron Pipe Co.
American Home Products Corp.
American Telephone & Telegraph Co.
Amsted Industries Incorporated
Armco, Inc.
Asarco, Incorporated
Athlone Industries, Inc.
Atlantic Richfield Company
Atlantic Steel Company
Babcock & Wilcox Company
Bethlehem Steel Corporation
Budd Company
Cargill, Incorporated
Carpenter Technology Corp.
Caterpillar Tractor Co.
Ceco Corp.
Century Brass Products, Inc.
Chromium Mining & Smelting Corp.
Clow Corporation
Colt Industries, Inc.
Connors Steel Company
Consolidated Aluminum Corp.
Crane Company
Cyprus Mines Corporation
Dana Corporation
Dayton Malleable, Inc.
Dow Chemical Company
Eaton Corp.
Engelhard Minerals & Chemicals Corp.
Ethyl Corporation
Evans Products Company
Florida Steel Corporation
Ford Motor Company
General Cable Corporation
General Electric Company
General Motors Corporation
Great Lakes Carbon Corporation
Grede Foundries, Inc.
Gulf & Western Industries, Inc.
Gulf Resources & Chemical Corp.
*Hanna Mining Co—Silicon Div.[11]
Hanna Nickel Smelting Company
Hayes-Albion Corp.
Huntington Alloys, Inc.
IC Industries, Inc.
Inland Steel Company
Inspiration Consolidated Copper Co.
Interlake, Inc.
International Minerals & Chemical Corp.
Jim Walter Corporation
Jones & Laughlin Steel Corp.
Kaiser Aluminum & Chemical Corp.
Kaiser Steel Corporation
Kennecott Copper Corporation
Keystone Consolidated Industries, Inc.
Koppers Company, Inc.
Korf Industries, Inc.
Laclede Steel Company
Louisiana Land & Exploration Co.
Lukens Steel Company
Martin Industries, Inc.
Martin Marietta Corporation
McLouth Steel Corporation
Mead Corporation
Midland-Ross Corporation
National Steel Corporation
National-Standard Company
Neenah Foundry Company
Newmont Mining Corporation
NL Industries, Inc.
Noranda Aluminum, Inc.
Northwest Industries, Inc.
Northwestern Steel & Wire Co.
Ohio Ferro-Alloys Corporation
Olin Corporation
Outboard Marine Corporation
Pacific States Steel Corp.
Pechiney Ugine Kuhlmann Corp.
Phelps Dodge Corporation
Phoenix Steel Corporation
Quanex Corporation
Republic Steel Corp.
Revere Copper and Brass, Inc.
Reynolds Metals Company
Roane Electric Furnace Co., Inc.
Shenango Incorporated
Southwire Co.
St. Joe Minerals Corporation
Sundstrand Corporation
Teledyne, Inc.
Timken Company
Tyler Corporation
Union Carbide Corporation
United States Steel Corp.
United Technologies Corp.
Vulcan Materials Company
Wabash Alloys, Inc.
Wean United, Inc.
Wheeling Pittsburgh Steel Corp.
White Consolidated Industries, Inc.

SIC 34—Fabricated Metal Products

Adolph Coors Company
Allegheny Ludlum Industries, Inc.
Aluminum Company of America
American Can Company
American Home Products Corp.
American Standard, Inc.
Amsted Industries Incorporated
Babcock & Wilcox Company
Bethlehem Steel Corporation
Budd Company
Cameron Iron Works, Inc.
Canton Drop Forging & Manufacturing Co.
Century Brass Products, Inc.
Chrysler Corporation
Combustion Engineering, Inc.
Continental Group, Inc.
Crown Cork & Seal Company, Inc.
Ford Motor Company
Frost Co.
G. Heileman Brewing Company, Inc.
General Motors Corporation
Gulf & Western Industries, Inc.
Harsco Corporation
Inland Steel Company
International Telephone & Telegraph Corp.
Kaiser Aluminum & Chemical Corp.
Keystone Consolidated Industries, Inc.
Kohler Co.
Ladish Co.
Martin Marietta Corporation
Moorman Manufacturing Co.
National Can Corporation
National Steel Corporation
NL Industries, Inc.
Olin Corporation
Raybestos Manhattan, Inc.
Remington Arms Company, Inc.
Reynolds Metals Company
Rockwell International Corp.
Roper Corporation
Signal Companies, Inc.
SKF Industies, Inc.

Stanley Works, Inc.
Stokely-Van Camp, Inc.
Sundstrand Corporation
TRW, Inc.
United States Steel Corp.
Wyman-Gordon Company

SIC 35—Machinery, Except Electrical

Allis-Chalmers Corporation
American Home Products Corp.
Borg-Warner Corporation
Briggs & Stratton Corporation
Carrier Corp.
Caterpillar Tractor Co.
Chrysler Corporation
Clark Equipment Company
Colt Industries, Inc.
Control Data Corporation
Cummins Engine Company, Inc.
Dana Corporation
Deere & Company
Dresser Industries, Inc.
Eaton Corp.
Emhart Corporation
FMC Corporation
Ford Motor Company
General Electric Company
General Motors Corporation
Harnischfeger Corporation
Hughes Tool Company
IC Industries, Inc.
Ingersoll-Rand Company
International Harvester Co.
International Business Machines Corp.
Litton Industries, Inc.
Mesta Machine Company
Mobay Chemical Corporation
NCR Corporation
Outboard Marine Corporation
Raybestos Manhattan, Inc.
Rexnord, Inc.
Rockwell, International Corp.
Roper Corporation
SKF Industries, Inc.
Sperry Rand Corporation
Sundstrand Corporation
Teledyne, Inc.
Tenneco, Inc.
Timken Company
Trane Co.
TRW, Inc.
Westinghouse Electric Corp.
White Consolidated Ind. Inc.

SIC 36—Electric, Electronic Equipment

A. O. Smith Corporation•
Airco, Inc.
American Telephone & Telegraph Co.
Eltra Corporation
Emerson Electric Co.
Ford Motor Company
General Telephone & Electronic Corp.
General Cable Corporation
General Electric Company
General Motors Corporation
Great Lakes Carbon Corporation
High Voltage Engineering Corp.
Hughes Aircraft Company
Johnson Controls, Inc.
Maytag Company
McGraw-Edison Company
Raytheon Company
RCA Corporation
Rockwell International Corp.
Roper Corporation
Square D Company
Sunbeam Corporation
Tappan Company
Union Carbide Corporation
Varian Associates, Inc.
Westinghouse Electric Corp.
Whirlpool Corporation
White Consolidated Industries, Inc.

SIC 37—Transportation Equipment

A. O. Smith Corporation
American Motors Corporation
AMF Incorporated
AVCO Corporation
Bendix Corporation
Bethlehem Steel Corporation
Boeing Company
Borg-Warner Corporation
Budd Company
Chrysler Corporation
Congoleum Corporation
Dana Corporation
Eaton Corp.
Ford Motor Company
Fruehauf Corporation
GATX Corp.
General Dynamics Corp.
General Electric Company
General Motors Corporation
Goodyear Tire & Rubber Co.
Grumman Corporation
Hercules Incorporated
Hughes Aircraft Company
International Harvester Co.
Litton Industries, Inc.
Lockheed Corporation
Martin Marietta Corporation
McDonnell Douglas Corp.
Northrop Corporation
Rockwell International Corp.
Roper Corporation
Signal Companies, Inc.
Sundstrand Corporation
Tenneco, Inc.
Thiokol Corporation
TRW, Inc.
United Technologies Corp.
Vought Corporation

SIC 38—Instruments and Related Products

American Home Products Corp.
Baxter Travenol Laboratories, Inc.
Eastman Kodak Company
GAF Corporation
Johnson & Johnson
Johnson Controls, Inc.
Minnesota Mining & Manufacturing Co.
Polaroid Corporation
Roper Corporation
Sundstrand Corporation
Warner-Lambert Company

SIC 39—Miscellaneous Manufacturing Industries

Armstrong Cork Company
Congoleum Corporation

[FR Doc. 79-15109 Filed 5-15-79; 8:45 am]
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federal register

Wednesday
May 16, 1979

Part III

Department of Health, Education, and Welfare

Office of Education

Financial Assistance for Consumers' Education Projects

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DEPARTMENT OF HEALTH, EDUCATION, AND WELFARE

Office of Education

[45 CFR Part 161e]

Financial Assistance for Consumers' Education Projects

AGENCY: Office of Education, HEW.

ACTION: Notice of proposed rulemaking

SUMMARY: The Commissioner of Education proposes to revise the regulations governing grants and contracts under the Consumers' Education Program. The revisions are required by the Consumer Education Act of 1978. Grants and procurement contracts are awarded to support projects that educate consumers in skills necessary to participate intelligently in the marketplace and to function effectively in the economy. These proposed regulations are considered technical.

DATES: Comments on these proposed regulations must be received on or before July 2, 1979

ADDRESSES: Comments should be addressed to Dustin W. Wilson, Jr., Director, Office of Consumers' Education, U.S. Office of Education, 400 Maryland Avenue, S.W., Washington, D.C. 20202.

FOR FURTHER INFORMATION CONTACT: Dustin W. Wilson, Jr., (202) 653–5983.

SUPPLEMENTARY INFORMATION:

Background

Grants under the Consumers' Education Program are made through a yearly competition among applicants. They support activities—initiated by applicants—that teach individuals how to function more effectively in the marketplace and in their roles as consumer-citizens. Procurement contracts are awarded if the Commissioner initiates an activity necessary for development of the program. Requests for Proposals (RFPs) are solicited for contracts through COMMERCE BUSINESS DAILY, published by the Department of Commerce. Grants are awarded only to State and local educational agencies, institutions of higher education, and other public or non-profit private agencies, organizations, and institutions. Procurement contracts, however, may be awarded to private profit-making agencies, organizations, and institutions, in addition to the above entities.

The Consumer Education Act, formerly authorized under Section 811 of the Elementary and Secondary Education Act of 1965, was reauthorized with no substantial changes by the Congress in the Education Amendments of 1978. It is now under Title III, Part E, Sec. 331 of the Elementary and Secondary Education Act (Pub. L. 95–561) and is one of a number of "Special Projects" grouped under Title III. The Consumers' Education Regulations become Part 161e of Title 45 of the Code of Federal Regulations.

The "Special Projects" all have these requirements in common: (1) local educational agencies (LEAs) must afford the public an opportunity to comment on the subject matter of their applications, in accordance with Sec. 1006 of the Elementary and Secondary Education Act of 1965, as amended; and (2) LEAs and State educational agencies (SEAs) must meet the requirements in Title III of the Elementary and Secondary Education Act for meeting the needs of students in non-profit private elementary and secondary schools.

These proposed regulations help to carry out the intent of the consumer's education legislation and simplify previous regulations.

Education Division General Administrative Regulations (EDGAR)

These proposed regulations do not contain requirements covered in the Education Division's General Administrative Regulations (EDGAR). EDGAR regulations, which apply to all Office of Education programs, will soon be published as a notice of proposed rulemaking (NPRM). They will replace the General Provisions for the Office of Education Programs Regulations. Anyone wanting to comment on the proposed EDGAR regulations should do so in response to the EDGAR NPRM, rather than to this NPRM.

The following items applicable to this program will be among those covered generally in EDGAR:

How to apply for a grant.

How grants are made.

Certain conditions that must be met by a grantee.

The administrative responsibilities of a grantee.

The procedures the Office of Education uses to get compliance.

In addition, applicants are encouraged to read the law that authorizes this program, since these regulations do not incorporate provisions that are clearly stated in the law. Copies of the law, EDGAR, and other relevant materials will be made available to applicants as part of the application packet.

Citation of Legal Authority

As required by section 431(a) of the General Education Provisions Act, as amended (20 U.S.C. 1232(a)), a citation of statutory or other legal authority has been placed in parentheses on the line following the text of each section.

Invitation to Comment

Interested persons are invited to submit written comments, suggestions, and recommendations to be considered prior to the issuance of the final regulations. Comments, suggestions, and recommendations may be sent to the address given at the beginning of this document. All comments received on or before the 45th day after publication of these proposed regulations will be considered.

All written comments submitted in response to this notice will be available for public inspection, both during and after the comment period, in Room 807, 1832 M Street, NW, Washington, D.C., between the hours of 8:30 a.m. and 4:00 p.m., Monday through Friday of each week except Federal holidays.

Authority: these proposed regulations are issued under the authority of Part E of Title III of the Elementary and Secondary Education Act as amended by Pub. L. 95–561 (20 U.S.C. 2981–2986).

Dated: March 9, 1979.

Ernest L. Boyer,
U.S. Commissioner of Education.

Approved: May 8, 1979.

Hale Champion,
Acting Secretary of Health, Education, and Welfare.

(Catalog of Federal Domestic Assistance Number 13.564, Consumer's Education Program.)

The Commissioner redesignates Part 160e of the Code of Federal Regulations (CFR) as Part 161e and proposes to revise the regulations to read as follows:

PART 160e—[Redesignated as Part 161e]

Part 161e—FINANCIAL ASSISTANCE FOR CONSUMERS' EDUCATION PROJECTS

Subpart A—General

Sec.

161e.1 What is the Consumers' Education Program?
161e.2 What types of agencies are eligible to receive awards?
161e.3 What regulations apply to the Consumers' Education Program?
161e.4 What definitions apply specifically to this program?
161e.5–9 RESERVED

Subpart B—What Kinds of Projects Does the Office of Education Assist Under this Program?

161e.10 What are the purposes of the projects?
161e.11 What categories of activities are supported?
161e.12 What subject matter may be included?
161e.13 Will particular program subject matter be emphasized?
161e.14–19 RESERVED

Subpart C—How Does One Apply for a Grant?

161e.20 How does an applicant apply for funds?
161e.21–29 RESERVED

Subpart D—How Is a Grant Made?

161e.30 What selection criteria does the Commissioner use?
161e.31 What is the duration of a project?
161e.32–39 RESERVED

Subpart E—What Conditions Must a Grantee Meet?

161e.40 Are there restrictions on the kind of items a grant may support?
161e.41 What other restrictions apply?
161e.42–49 RESERVED

Authority.—Part E of Title III of the Elementary and Secondary Education Act as amended by Pub. L. 95–561 (20 U.S.C. 2981–2986).

Subpart A—General

§ 161e.1 What is the Consumers' Education Program?

The Consumers' Education Program supports educational projects designed to improve the skills of consumers. It supports activities that teach individuals how to function more effectively in the marketplace and in their roles as consumer-citizens. A consumers' education project must meet each of the requirements in section 334 of the Act.

(20 U.S.C. 2983, 2984)

§ 161e.2 What types of agencies are eligible to receive awards?

(a) *Grants.* The following are eligible to receive grants:

(1) Local educational agencies (LEAs);

(2) State educational agencies (SEAs);

(3) Institutions of higher education; and

(4) Other public agencies, and non-profit private organizations.

(b) *Procurement contracts.* The agencies and organizations in paragraph (a) above, as well as private profit-making organizations, are eligible to receive procurement contracts.

(20 U.S.C. 2983)

§ 161e.3 What regulations apply to the Consumers' Education Program?

(a) *Regulations.* The following regulations apply to the Consumers' Education Program:

(1) The Education Division General Administrative Regulations (EDGAR) in part 100a (Direct Grant Programs) and part 100c (Definitions);

(2) The regulations in this part 161e; and

(3) For procurement contracts, the applicable provisions of the Federal Procurement Regulations, 41 CFR, Chapters 1 and 3.

(b) *Definitions in EDGAR.* The following terms used in this part are defined in part 100c:

"Applicant"
"Application"
"Budget"
"Commissioner"
"Contract"
"EDGAR"
"Elementary School"
"Equipment"
"Facilities"
"Grant"
"Institution of higher education"
"Local educational agency"
"Non-profit"
"Private"
"Project"
"Project period"
"Public agency"
"Secondary school"
"State educational agency"

(20 U.S.C. 2981)

§ 161e.4 What definitions apply specifically to this program?

(a) As used in these regulations—

"Act" means the Consumer Education Act of 1978, Part E of Title III of the Elementary and Secondary Education Act, as amended by Pub. L. 95–561.

"Consumers' education" means developing skills, knowledge, and understanding that will help consumers to—

(1) Recognize economic alternatives in purchasing goods and services, including social and civic services;

(2) Cope with the pressures to which they are exposed as members of the buying public;

(3) Prepare for and adjust to rapidly changing economic conditions and issues;

(4) Make educated choices in light of personal values, citizenship responsibilities, and social, economic, and ecological considerations; and

(5) Participate effectively as consumer-citizens in the economic and governmental systems, including the regulatory processes and the delivery of public services.

"Curriculum" means an organized course of study. This includes print and non-print learning materials.

"Educational service agency" means the agency, formed jointly by several LEAs or by State law, to provide to those LEAs special services including, but not limited to, audio-visual aids, vocational training, data processing, and classes for the handicapped.

"Resources" means materials, personnel, methods, or information.

"Short-term training" means training for individual project participants that lasts less than an academic year. This training is usually in the form of workshops, seminars, or similar activities.

"Target group" means the specific group to benefit from or participate in a project.

"Technical assistance" means expert help provided to another agency, organization, or group, in the form of training, planning consulting, or other specialized services.

(20 U.S.C. 2983)

Subpart B—What Kinds of Projects Does the Office of Education Assist Under This Program?

§ 161e.10 What are the purposes of the projects?

The purposes of the projects are to—

(a) Provide one or more elements of consumers' education as defined in § 161e.4;

(b) Increase the capacity of the applicant agency to continue the benefits of its consumers' education services on a long-term basis;

(c) Develop new methods, materials, or activities that may be duplicated or adapted by other groups; or

(d) Develop models or new activities with the potential for making a long-term local, State, regional, or national impact.

(20 U.S.C. 2983)

§ 161e.11 What categories of activities are supported?

(a) *Grants.* The Commissioner awards funds for projects that support activities designed to—

(1) Research, develop, pilot test, and evaluate curricula and other activities and materials in consumers' education;

(2) Establish pilot or demonstration projects, or augment existing projects. These projects may be located in or associated with elementary or secondary schools, educational service units, postsecondary institutions, adult education centers, libraries, or labor unions; State, county, or city government agencies; or national, regional, or community organizations;

(3) Provide short-term training to prepare employees of the organizations in paragraph (2) above to plan, organize, and carry out consumers' education projects. This includes training to teach consumer-related subject matter. Long-term training is not supported;

(4) Establish or expand pilot or demonstration projects to serve the

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needs of the elderly, Native Americans, persons with limited English-speaking ability, the handicapped, and low-income groups; and

(5) In the case of grants to State and local educational agencies and institutions of higher education, support consumers' education at the elementary, secondary, and higher education levels.

(b) *Procurement contracts.* The Commissioner may award procurement contracts to meet the needs of this program. Requirements and criteria for specific procurement contract projects are published in COMMERCE BUSINESS DAILY. Projects are designed to—

(1) Research, test, assess, evaluate, and disseminate existing consumers' education activities and materials, including those not otherwise assisted under this program;

(2) Disseminate information and provide developmental and technical assistance to agencies and organizations that are planning, developing, or carrying out consumers' education projects;

(3) Prepare and distribute consumers' education materials by mass media; and

(4) Support research and other activities the Commissioner determines are necessary for the development of the Consumers' Education Program.

(20 U.S.C. 2983)

§ 161e.12 What subject matter may be included?

Consumers' education projects may include, but need not be limited to, the following—

(a) Basic economics of the marketplace.

(b) Financial management, credit, and insurance.

(c) Making major purchases including, for example, automobiles, appliances, and housing.

(d) Legal rights, responsibilities, redress, and consumer laws.

(e) Government assistance and services such as aspects of social security and education.

(f) The role of the consumer in determining energy, conservation, and ecological policies.

(g) Consumer-citizen participation in the economic and governmental regulatory processes, including public utilities.

(h) Special issues and problems, such as advertising or product safety.

(i) Areas of critical, timely importance in which consumer action can limit costs, such as health care.

(j) Areas effected by inflation such as energy, housing, and food.

(k) Emerging issues for consumers.

(20 U.S.C. 2983)

§ 161e.13 Will particular program subject matter be emphasized?

The Commissioner may, in any given year, support projects in one or more of the subject matters in § 161e.12.

Subpart C—How Does One Apply for a Grant?

§ 161e.20 How does an applicant apply for funds?

The "Introduction to Education Division Grant Programs" at the beginning of the Educational Division General Administration Regulations (EDGAR) includes general information on—

(a) How to use regulations that apply to Education Division programs; and

(b) How to apply for a grant under an Education Division Program.

(20 U.S.C. 2984)

Subpart D—How Is a Grant Made?

§ 161e.30 What selection criteria does the Commissioner use?

(a) The Commissioner evaluates an application for a grant on the basis of the selection criteria used in 45 CFR Part 100a.202 through 100a.206 (EDGAR) and the criteria contained in these regulations. Applicants are advised to read the EDGAR criteria carefully.

(b) The selection criteria in EDGAR constitute 45 possible points and include the following:

(1) Plan of operation. (10 points)

(2) Quality of staff. (15 points)

(3) Budget and cost effectiveness. (10 points)

(4) Evaluation plan. (5 points)

(5) Adequacy of resources. (5 points)

(c) The criteria contained in the following paragraphs supplement the EDGAR criteria and constitute 55 possible points. The maximum possible point score for each criterion indicates the relative importance assigned to the criterion by the Commissioner, as follows:

(1) The extent to which the applicant provides a high-quality conceptual design that—

(i) Clearly indicates the consumer educational needs to be addressed, the goals to be addressed, and the support of the target group(s) that will benefit from the project; (8 points)

(ii) Clearly specifies how project activities will produce consumer educational results that are practical and significant for the target group(s); (10 points)

(iii) Clearly reflects current knowledge of consumer educational resources or shows evidence of obtaining these resources. (7 points)

(2) The extent to which the applicant provides a high quality management design which clearly describes the work schedule and timely use of resources and staff. (10 points)

(3) The extent to which the outcome of the proposed project will enhance the ability of the target group(s) to make intelligent decisions as individual consumers or contribute to consumer-related decision-making at the local, State, or national level, or both. (10 points)

(4) The extent to which an applicant demonstrates the commitment and ability to continue the benefits of the consumer education project after Federal funding ends. (10 points)

(20 U.S.C. 2984)

§ 161e.31 What is the duration of a project?

Consumers' education grants under this part are for a period of 12 consecutive months.

(20 U.S.C. 2984)

Subpart E—What Conditions Must A Grantee Meet?

§ 161e.40 Are there restrictions on the kind of items a grant may support?

(a) Funds may not be used for construction, repair, remodeling, or alteration of facilities or sites.

(b) Allowable costs are subject to the requirements in 45 CFR Part 100a and the appendices to 45 CFR Part 74.

(20 U.S.C. 2984)

§ 161e.41 What other restrictions apply?

(a) Grants may be used to supplement or increase funds made available by the applicant for the project. Grants may not be used to supplant these funds.

(20 U.S.C. 2984)

(b) SEAs and LEAs must meet the requirements for meeting the needs of students in non-profit private elementary and secondary schools in Sec. 302(b), Title III, of the Elementary and Secondary Education Act of 1965, as amended.

(20 U.S.C. 2942)

(c) LEAs must afford the public an opportunity to comment on the subject matter of their applications in accordance with Sec. 1006 of the Elementary and Secondary Education Act of 1965, as amended.

(20 U.S.C. 3386)

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federal register

Wednesday
May 16, 1979

Part IV

Department of Housing and Urban Development

Office of the Secretary

Board of Contract Appeals, Establishing Procedures for National Housing Act Contracts

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DEPARTMENT OF HOUSING AND URBAN DEVELOPMENT

Office of the Secretary

24 CFR Part 20

Board of Contract Appeals, Establishing Procedures for National Housing Act Contracts

AGENCY: HUD Board of Contract Appeals.

ACTION: Final rule.

SUMMARY: This rule sets forth procedures for handling bid protests arising under National Housing Act Contracts involving HUD-acquired properties. The final rule is needed to assure administrative review procedures for bidders whose bid protests are not within the jurisdiction of the Comptroller General.

EFFECTIVE DATE: June 8, 1979.

FOR FURTHER INFORMATION CONTACT: B. Paul Cotter, Jr., Board of Contract Appeals, SB, 451 Seventh Street, S.W., Washington, D.C. 20410 (202–755–6318).

SUPPLEMENTARY INFORMATION: On December 27, 1978, the Secretary of the Department of Housing and Urban Development published a proposed rule (43 FR 60392 on December 27, 1978) to revise the rules of the HUD Board of Contract Appeals to provide procedures for handling bid protests arising under National Housing Act Contracts involving HUD-acquired properties. (24 CFR Part 20.) As the Secretary stated at the time, the Comptroller General has stated that the General Accounting Office (GAO) is without jurisdiction to decide bid protests arising from procurements under the National Housing Act. Present HUD regulations provide for a dissatisfied bidder to appeal to the GAO; however, if the protest arises under a National Housing Act Contract the bidder will not receive the benefit of a decision on the merits of the case from GAO. The effect of current regulations is to deny such bid protesters rights usually available to protesters under other contracts with the Government. The primary purpose of this rule is to afford bidders under National Housing Act Contracts an administrative review procedure not presently available to them because of the GAO position.

Two responses were received regarding the proposed rule. One commented that the rule should state specifically that protests based upon race, color, sex and national origin are not included as part of these bid protest procedures and that such discriminatory practices have to be filed separately through the appropriate HUD Regional Office. Although such protests should in fact be addressed by HUD's Regional Offices, this bid protest procedure relates solely to the award of National Housing Act Contracts. Consequently, protests based upon race, color, sex and national origin are outside the scope of the rule. Another commentator suggested that any bid protest to the Contracting Officer be eliminated from the rule, in the interest of expediting the bid protest procedure. This suggestion was rejected because bidders have always been afforded the right to protest initially to the Contracting Officer. If the protest is resolved by the Contracting Officer, then it will eliminate the necessity for an appeal to the Board.

The Department has determined that this final rule will not have a significant impact upon the quality of the environment. A finding of inapplicability respecting the National Environmental Policy Act of 1969 has been made in accordance with HUD procedures and is available for public inspection during regular business hours in the Office of the Rules Docket Clerk, Office of the General Counsel, Room 5218, Department of Housing and Urban Development, Washington, D.C. 20410.

Accordingly, 24 CFR Part 20 is amended to add a new Subpart C as follows:

Subpart C—Bid Protest Procedures for National Housing Act Contracts

Sec.

20.15 Protests Against Award.
20.16 Definitions.
20.17 Filing of Protest.
20.18 Time for filing.
20.19 Notice of protest, submission of procuring activity report and time for filing of comments on report.
20.20 Withholding of Award.
20.21 Furnishing of information on protests.
20.22 Time for submission of additional information.
20.23 Decision of HUDBCA.
20.24 Request for reconsideration.

Authority: Sec. 7(d), Department of HUD Act (42 U.S.C. 3535(d)); United States Housing Act of 1937, (42 U.S.C. 1437 et seq.).

Subpart C—Bid Protest Procedures for National Housing Act Contracts

§ 20.15 Protests against award.

The following identifies the responsible agents and sets forth procedural requirements for handling protests regarding the award of National Housing Act Contracts. Protests involving the award of any other procurement or sales contract by the Department of Housing and Urban Development is governed by the procedures outlined in 41 CFR 24–2.407–8.

§ 20.16 Definitions.

(a) "National Housing Act Contract" as used in this Subpart means a contract entered into by the Department of Housing and Urban Development for goods and services for the management, repair, improvement, alteration, demolition, maintenance, operation, rental, or sale or other disposition of real and related property conveyed to or otherwise in the custody of the Secretary, including properties held by HUD as mortgagee-in-possession, which are entered into pursuant to the National Housing Act, 12 U.S.C. 1701 et seq., as amended, and regarding which the General Accounting Office will not decide bid protests.

(b) "Days" as used in this Subpart means working days of the Federal Government excluding Saturdays, Sundays, and Federal Holidays as specified in 5 U.S.C. 6103.

(c) The term "file" or "submit" as used in this Subpart refers to the date of transmission except as indicated in §§ 20.18 and 20.19 of this subpart.

(d) "Procuring/Disposal Activity" as used in this Subpart means the Office of Property Disposition in Washington, D.C. for National or other procurements by that office pursuant to the National Housing Act or Area and Service Offices for decentralized or other procurements by those offices pursuant to the National Housing Act.

(e) "Adverse agency action" is any action or inaction on the part of a procuring activity which is prejudicial to the position taken in a protest filed with that procuring activity. Such "adverse agency action" may include but is not limited to: A decision on the merits of the protest; a procurement action such as the award of a contract or the rejection of a bid despite the pendency of a protest; or procuring activity acquiescence in or active support of continued and substantial contract performance.

(f) "An interested party" shall mean any person, business, nonprofit or municipal entity which has received a solicitation (Invitation for Bids or Request for Proposals) on the procurement or sale in question.

§ 20.17 Filing of protest.

(a) An interested party may protest the award or proposed award of a National Housing Act Contract for procurement or sale entered into by the Department. Protests must be in writing to the Contracting Officer of the procuring activity, or in writing to the Department of Housing and Urban Development Board of Contract Appeals (hereinafter, "HUDBCA").

(b) Interested parties are urged to seek resolution of their complaints initially with the Contracting Officer of the procuring activity. The Contracting Officer shall act on any protest filed with the procuring activity unless it is known that a protest has been filed concurrently with the HUDBCA. Where a protest is filed directly with the procuring activity, full consideration shall be given to the protest with the protester notified in writing of the final decision within twenty (20) days from the date of receipt of the protest by the procuring activity.

Where theContracting Officer makes a determination to award a contract, notwithstanding a protest, such a determination to proceed with award shall be approved by the head of the procuring activity and the Office of General Counsel, after informing the HUDBCA. In such situations, the Office of General Counsel shall complete its review of the proposed award within five (5) working days of notification. In instances of extreme emergency, where the Contracting Officer has determined that award of the contract is required within twenty four (24) hours for the protection of life or for a similar reason, the Office of General Counsel shall complete its review of the proposed award within twenty four (24) hours of notification. Notification in such emergency situations may be by telephone to the General Counsel's designee, provided that the reasons for utilizing the emergency procedure are subsequently submitted in writing. If a decision by the Office of General Counsel is not transmitted to the Contracting Officer within the twenty four hour period, the Contracting Officer may award the contract provided that there has been approval by the head of the procuring activity. If the Office of General Counsel determines that the contract shall not be awarded, a final decision will be arrived at jointly between the General Counsel's designee and the head of the procuring activity.

(c) Protests filed with the HUDBCA must be in writing and addressed to the Department of Housing and Urban Development, Board of Contract Appeals, SB, 451 Seventh Street, SW., Washington, D.C. 20410. To expedite handling within the HUDBCA, the address should include: "Attn: Bid Protest."

(d) The initial protest filed with the HUDBCA shall:

(1) Include the name and address of the protester;

(2) Identify the procuring activity and the number of the solicitation and/or contract;

(3) Contain a statement of the grounds for the protest; and

(4) Specifically request a ruling by the HUDBCA.

A copy of the protest shall be sent to the Contracting Officer and a copy shall also be sent to the Office of General Counsel, U.S. Department of Housing and Urban Development, Washington, D.C. 20410 and the communication to the HUDBCA should so indicate. The grounds for protest filed with the HUDBCA must be fully supported to the extent feasible. See § 20.18(d) of this subpart with respect to time for filing any additional statement required in support of an initial protest.

(e) No formal briefs or other technical forms of pleading or motion are required, but a protest and other submissions should be concise, logically arranged, and direct.

§ 20.18 Time for filing.

(a) If a protest has been filed initially with the procuring activity, any subsequent protest to the HUDBCA filed within 10 days of formal notification of, or actual or constructive knowledge of, initial adverse agency action will be considered provided the initial protest to the procuring activity was filed in accordance with the time limits prescribed in paragraph (b) of this section. In any case, a protest will be considered if filed with the HUDBCA within the time limits prescribed in paragraphs (b)(1) and (b)(2) of this section.

(b)(1) Protests based upon alleged improprieties in any type of solicitation which are apparent prior to bid opening or the closing date for receipt of initial proposals shall be filed prior to bid opening or the closing date for receipt of initial proposals. In the case of negotiated procurements, alleged improprieties which do not exist in the initial solicitation but which are subsequently incorporated therein must be protested not later than the next closing date for receipt of proposals following the incorporation.

(2) In cases other than those covered in paragraph (b)(1) of this section, bid protests shall be filed not later than 10 days after the basis for protest is known or should have been known, whichever is earlier.

(3) The term "filed" as used in this section means receipt in the procuring activity or in the HUDBCA, as the case may be. Protesters are cautioned that protests should be transmitted or delivered in the manner which will assure earliest receipt. Except as provided in paragraph (c) of this section, any protest received in the HUDBCA after the time limits prescribed in this section shall not be considered unless it was sent by registered or certified mail not later than the fifth day, or by mailgram not later than the third day, prior to the final date for filing a protest as specified herein. The only acceptable evidence to establish the date of mailing shall be the U.S. Postal Service postmark on the wrapper or on the original receipt from the U.S. Postal Service. The only acceptable evidence to establish the date of transmission by mailgram shall be the automatic date indication appearing on the mailgram. If the postmark in the case of mail or the automatic date indication in the case of a mailgram is illegible, the protest shall be deemed to have been filed late.

(c) The HUDBCA, for good cause shown, or where it determines that a protest raises issues significant to procurement practices or procedures, may consider any protest which is not filed timely.

(d) If an additional statement in support of the initial protest is required by the HUDBCA, one copy shall be mailed or otherwise furnished to the HUDBCA, a copy shall be mailed or otherwise furnished to the General Counsel and a copy shall be mailed or otherwise furnished to the Contracting Officer of the procuring activity not later than 5 days after receipt of notification from the HUDBCA of the need for such additional statement.

§ 20.19 Notice of protest, submission of procuring activity report, and time for filing of comments on report.

(a) The HUDBCA shall notify the procuring activity and the Office of General Counsel by telephone and in writing within one day of the receipt of a protest, requesting the activity to give notice to the contractor if award has been made or, if no award has been made, to all bidders or proposers who appear to have a substantial and reasonable prospect of receiving an award if the protest is denied. The activity shall be requested to furnish in accordance with applicable procurement regulations copies of the protest documents to such parties with instructions for them to communicate further directly with the HUDBCA.

(b) Material submitted by a protester will not be withheld from any interested party outside the Government or from any Government activity which may be involved in the protest except to the

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extent that the withholding of information is permitted or required by law or regulation. If the protester considers that the protest contains material which should be withheld, a statement advising of this fact must be affixed to the front page of the protest document and the allegedly proprietary information must be so identified wherever it appears. Although the Government will make every effort to honor the protester's legend in responding to a Freedom of Information Act request for materials covered by the legend, the Government will independently determine whether disclosure of any such material is necessary in light of the requirements of the Freedom of Information Act and the public interest and the Government will disclose any and all material covered by the protester's legend if the Government determines that such disclosure is required by the Act or the public interest.

(c) The HUDBCA shall request the Office of General Counsel, in conjunction with the procuring activity, to submit a complete report on the protest (hereinafter "procuring activity report") to the HUDBCA as expeditiously as possible (generally within 30 working days) in accordance with applicable procurement regulations and to furnish a copy of the report to the protester and other interested parties. Such report should include:

(1) A copy of the protest;

(2) A copy of the bid submitted by the protesting bidder and a copy of the bid of the bidder who is being considered for award or whose bid is being protested;

(3) A copy of the invitation for bids, including the specifications or portions thereof, relevant to the protest;

(4) A copy of the abstract of bids or relevant portions thereof;

(5) Any other documents which are relevant to the protest; and

(6) A statement setting forth findings, actions, and recommendations in the matter together with any additional evidence or information deemed necessary in determining the validity of the protest. The statement shall be fully responsive to the allegations of the protest. If the award was made after receipt of the protest, the report will include the determination required.

(d) Comments on the procuring activity report shall be filed with the HUDBCA within 10 days after receipt of the report, with a copy to the Office of General Counsel, the procuring activity, and to other interested parties. Any rebuttal a protester or interested party may care to make shall be filed with the HUDBCA within 5 days after receipt of comments to which rebuttal is directed, with a copy to the Office of General Counsel and the procuring activity, the protester, and interested parties as the case may be. Unsolicited procuring activity rebuttals shall be considered if filed within five (5) days after receipt by the Office of General Counsel and the procuring activity of the comments to which rebuttal is directed.

(e) The failure of a protester or any interested party to comply with the time limits stated in this section may result in resolution of the protest without consideration of the comments untimely filed.

§ 20.20 Withholding of award.

When a protest has been filed before award, the procuring activity will not make an award prior to resolution of the protest except under the following circumstances:

(a) The items or services being procured are urgently required; or

(b) Delivery or performance will be unduly delayed by failure to make award promptly; or

(c) A prompt award will otherwise be advantageous to the Government.

If award is made pursuant to paragraphs (a) through (c) of this section, the Contracting Officer shall document the file to explain the need for immediate award, and shall give written notice of the decision to proceed with award to the HUDBCA and others concerned. Whenever possible such notice shall be given prior to award. In all cases, the decision to proceed with the award prior to resolution of the protest shall be approved by the head of the procuring activity and the Office of General Counsel. In such situations, Office of General Counsel review shall be subject to the limitations specified in § 20.17(b).

§ 20.21 Furnishing of information on protests.

The HUDBCA shall, upon request, make available to any interested party information bearing on the substance of the protest which has been submitted by interested parties or procuring activities, except to the extent that withholding of information is permitted or required by law or regulation. Any comments thereon shall be submitted within a maximum of 10 days.

§ 20.22 Time for submission of additional information.

Any additional information requested by the HUDBCA from the protester or interested parties shall be submitted no later than 5 days after the receipt of such request. If it is necessary to obtain additional information from the procuring activities, the HUDBCA will request that such information be furnished as expeditiously as possible.

§ 20.23 Decision by HUDBCA.

(a) The HUDBCA establishes a goal of 25 days for issuing a decision on a protest after receipt of all information submitted by all parties. Decisions by the HUDBCA shall be final and binding on the Department and all parties thereto.

(b) All protests shall be decided upon the written record submitted to the HUDBCA and such additional information as may be requested by the HUDBCA. The HUDBCA will not conduct conferences or hearings in connection with protest actions, except in complex cases at the HUDBCA's discretion.

(c) Decisions rendered by the HUDBCA under these regulations shall include powers to:

(1) Order improperly awarded contracts to be terminated for the convenience of the Government;

(2) Prohibit the awarding of a contract;

(3) Award bid preparation costs to any bidder whose bid has been rejected because of arbitrary or capricious Departmental action or bad faith on the part of the Department and only when such rejection has resulted in the bidder being denied the contract.

§ 20.24 Request for reconsideration.

(a) Reconsideration of a decision of the HUDBCA may be requested by the protester, any interested party who submitted comments during consideration of the protest and any procuring activity involved in the protest. The request for reconsideration shall contain a detailed statement of the factual and legal grounds upon which reversal or modification is deemed warranted, specifying any errors of law made or information not previously considered.

(b) Request for reconsideration of a decision of the HUDBCA shall be filed not later than 10 days after the basis for reconsideration is known or should have been known, whichever is earlier. The term "filed" as used in this subpart means receipt in HUDBCA.

(c) A request for reconsideration shall be subject to these bid protest procedures consistent with the need for prompt resolution of the matter.

§ 20.25 Effect of judicial proceedings.

The HUDBCA may refuse to decide any protest where the matter involved is the subject of litigation before a court of competent jurisdiction or has been decided on the merits by such a court. The foregoing shall not apply where the court requests, expects, or otherwise expresses interest in the HUDBCA's decision.

(Sec. 7(d) Department of HUD Act (42 U.S.C. 3535(d); United States Housing Act of 1937, (42 U.S.C. 1437 et seq.)

Issued at Washington, D.C., May 10, 1979.

Patricia Roberts Harris,

Secretary, Department of Housing and Urban Development.

[Docket No. R-78-596]

[FR Doc. 79-15251 Filed 5-15-79; 8:45 am]

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Wednesday
May 16, 1979

Part V

Department of Health, Education, and Welfare

Health Care Financing Administration

Medicare Program; Definition of Hospital Special Care Units for Reimbursement Purposes

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DEPARTMENT OF HEALTH, EDUCATION, AND WELFARE

Health Care Financing Administration

[42 CFR Part 405]

Medicare Program; Definition of Hospital Special Care Units for Reimbursement Purposes

AGENCY: Health Care Financing Administration (HCFA), HEW.

ACTION: Proposed rule.

SUMMARY: This rule refines the definition of hospital special care units and clarifies the requirements for their reimbursement under the Medicare program. The present special care unit reimbursement regulation has been erroneously interpreted by some hospitals to apply to units that furnish a level of care that is less than that furnished in intensive care.

Under the present regulation, units have been designated as special care units, when they are, in fact, intermediate or subintensive care units that render a less intensive level of care. The purpose of this amendment is to clarify the intent of the regulation that the term "special care unit" applies only to those units rendering a level of care that is comparable to intensive care.

DATES: Consideration will be given to written comments or suggestions received on or before July 16, 1979.

ADDRESSES: Address comments to: Administrator, Health Care Financing Administration, Department of Health, Education, and Welfare, P.O. Box 2372, Washington, D.C. 20013. When commenting, please refer to MAB–84–P. Agencies and organizations are requested to submit their comments in duplicate. The Health Care Financing Administration specifically requests comments and supporting data, if possible, on § 405.452(d)(10)(v) and (vi) of the proposed regulation. Comments will be available for public inspection, beginning approximately 2 weeks after publication, in room 5231 of the Department's offices at 330 C Street, S.W., Washington, D.C. on Monday through Friday of each week, from 8:30 to 5 p.m. (telephone 202–245–0950).

FOR FURTHER INFORMATION CONTACT: William Goeller, Medicare Bureau, Health Care Financing Administration, Room 405 East High Rise Building, Baltimore, Maryland 21235, (301) 594–9820.

SUPPLEMENTARY INFORMATION: Section 1861 (v) of the Social Security Act provides that the Secretary may establish, by regulations, the methods to be used in determining the reasonable costs of services furnished to Medicare beneficiaries. The methods used in reimbursing providers are based on costs actually incurred in furnishing services to beneficiaries. The regulations recognize that different types of care may result in different per-diem costs. The per-diem cost of intensive care and other special care units will usually exceed the per-diem cost of general routine care. This is because intensive care units require greater staffing and more specialized equipment than what is required in the general routine areas. Thus, the present regulations allow for a separate computation to determine Medicare's share of intensive care and other special care unit costs as well as its share of general routine care costs.

Recently, some hospitals have designated as special care units, units that provide various levels of care. These units provide a level of care which is less than provided in intensive care and more than furnished in the general routine areas of the hospitals. The cost of operating these units falls somewhere between those of operating intensive care units and the cost of furnishing general routine care. These units, sometimes referred to as intermediate or subintensive care units, are frequently cited as a way to reduce hospital costs. When they are used as step-down units from intensive care or to avoid the intensive care unit altogether, hospital costs are reduced. Yet, if the hospitals receive reimbursement for these units as special care units, Medicare reimbursement will be inequitably increased. Notwithstanding that many of the intermediate or subintensive care units provide a level of care which is less than intensive care, some hospitals contend that the units should be designated and reimbursed as special care units under the current regulation.

Since the adoption of the special care unit reimbursement policy, we have maintained that only those units rendering a level of care comparable to intensive care should be reimbursed as special care units. We maintain that a subintensive level of care is only a part of the spectrum of general routine care. Although a subintensive care unit may not fit the regulatory description of a special care unit, we will reimburse for the care rendered in that unit by combining the reasonalbe costs of care in that unit with the reasonable costs of care in other general routine areas. Any reimbursement for general routine service costs, however, will include an inpatient routine nursing salary cost differential, and be subject to the schedule of limits on hospital inpatient general routine service costs.

Several recent Provider Reimbursement Review Board and Federal court decisions have addressed the issue of whether intermediate or subintensive care units are special care units and have come to varying conclusions. These decisions show an existing lack of uniformity as to what constitutes a special care unit. In addition, since the regulation was issued, substantial changes have occurred in hospital organization, administration, and financial practices. Increasingly, the inpatient hospital special care unit concept has become an acceptable part of medical care practice. We perceive a definite need to further refine and clear away ambiguity as to what a special care unit is for Medicare reimbursement purposes. Thus, we propose to amend the regulation.

The amendment would clarify the regulation by providing seven specific criteria which a unit must meet to qualify as a special care unit. One such criterion is that there must be a minimum of 12 scheduled hours of direct patient nursing care per patient day. This 12 hour figure is based on data contained in the American Hospital Association's periodic publication of Hospital Administrative Services data for the period ending December 31, 1977. This information indicates that the great majority of hospitals have at least 12 hours of such care per patient day in their intensive care units.

Another criterion is that a minimum of 6 hours of direct patient care per patient day must be furnished by registered nurses and cannot be furnished by aides or orderlies. As a result of a sample of rural and urban hospitals, we concluded that at least 6 hours of direct patient-care is normally furnished by registered nurses in intensive care type units. This criterion takes into consideration that the level of required registered nursing care in special care units is considerably higher than the level that is required in general routine areas. In most cases, only registered nurses possess the necessary expertise for furnishing care to patients in special care units. In no case would aides or orderlies satisfy the requirement.

The other criteria specify that the unit must be in a hospital, must be physically and identifiably separate from other areas and units in the hospital and must have specific written policies concerning admission, discharge and other matters. In addition, the unit must be permanently equipped with life-saving equipment to treat the critically ill patients for whom it is designed, and

registered nursing care must be furnished daily on a continuous 24-hour basis. We invite comments on whether the admission and discharge policies for special care units must be consistent with the standards set by the PSRO's and must be approved in advance by PSRO's. (Proposed regulations on PSRO hospital review were published in the **Federal Register** on January 25, 1977 and final regulations will be published soon.)

42 CFR § 405.452 is amended by revising paragraph (d)(10) to read as follows:

§ 405.452 Determination of cost of services to beneficiaries.

(d) *Definitions.*

* * * * *

(10) *Special care inpatient hospital units.* The special care inpatient hospital unit furnishes services in life-threatening situations. It furnishes a level of care that is comparable to that which is furnished in intensive care. Examples of special care inpatient hospital units include, but are not limited to, intensive care units, trauma units, coronary care units, pulmonary care units, and burn units. Excluded as special care units are postoperative recovery rooms, postanesthesia recovery rooms, and maternity labor rooms. To be considered as a special care inpatient hospital unit, the unit must meet the following conditions:

(i) The unit must be in a hospital.

(ii) The unit must be physically and identifiably separate from general patient care areas, other special care inpatient hospital units and ancillary service areas. There cannot be a sharing of space or nursing services between the unit and other patient care areas or ancillary service areas.

(iii) There must be specific written policies that include criteria for admission to, and discharge from, the unit.

(iv) Registered nursing care must be furnished constantly on a continuous 24-hour basis. The staffing may not be decreased during night shifts, weekends, or periods when it is commonly decreased in other patient care areas.

(v) Nursing care must be scheduled to provide direct patient care for at least 12 hours per patient day. Direct patient care means nursing care, based on physician orders and approved nursing care plans, furnished directly to patients; it does not include any time spent performing administrative duties for the unit, such as scheduling personnel or ordering supplies, nor does it include care furnished by aides and orderlies.

(vi) A minimum of 6 hours of direct patient care per patient day must be furnished by registered nurses.

(vii) The unit must be permanently equipped with the life-saving equipment necessary to treat the critically ill patients for which it is designed. This equipment may include, but is not limited to, respiratory and cardiac monitoring equipment, cardiac defibrillators, and oxygen and compressed air.

(Sections 1102, 1814(b), 1861(v), and 1871 of the Social Security Act [42 U.S.C. 1302, 1395f, 1395x, and 1395hh).)

Catalog of Federal Domestic Assistance Program No. 13.773 Medicare—Hospital Insurance.

Dated: April 10, 1979.

Leonard D. Schaeffer,
Administrator, Health Care Financing Administration.

Approved: May 3, 1979.

Joseph A. Califano, Jr.,
Secretary.

[FR Doc. 79–15215 Filed 5–15–79; 8:45 am]

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AGENCY PUBLICATION ON ASSIGNED DAYS OF THE WEEK

The following agencies have agreed to publish all documents on two assigned days of the week (Monday/Thursday or Tuesday/Friday). This is a voluntary program. (See OFR NOTICE FR 32914, August 6, 1976.)

Monday	Tuesday	Wednesday	Thursday	Friday
DOT/COAST GUARD	USDA/ASCS		DOT/COAST GUARD	USDA/ASCS
DOT/NHTSA	USDA/APHIS		DOT/NHTSA	USDA/APHIS
DOT/FAA	USDA/FNS		DOT/FAA	USDA/FNS
DOT/OHMO	USDA/FSQS		DOT/OHMO	USDA/FSQS
DOT/OPSO	USDA/REA		DOT/OPSO	USDA/REA
CSA	MSPB*/OPM*		CSA	MSPB*/OPM*
	LABOR			LABOR
	HEW/FDA			HEW/FDA

Documents normally scheduled for publication on a day that will be a Federal holiday will be published the next work day following the holiday.

Comments on this program are still invited. Comments should be submitted to the Day-of-the-Week Program Coordinator, Office of the Federal Register, National Archives and Records Service, General Services Administration, Washington, D.C. 20408

***NOTE: As of January 1, 1979, the Merit Systems Protection Board (MSPB) and the Office of Personnel Management (OPM) will publish on the Tuesday/Friday schedule. (MSPB and OPM are successor agencies to the Civil Service Commission.)**

REMINDERS

The items in this list were editorially compiled as an aid to Federal Register users. Inclusion or exclusion from this list has no legal significance. Since this list is intended as a reminder, it does not include effective dates that occur within 14 days of publication.

Rules Going Into Effect Today

HOUSING AND URBAN DEVELOPMENT DEPARTMENT

Assistant Secretary for Community Planning and Development—

22648 4–16–79 / Community Development Block Grants Rehabilitation Assistance and Program Benefit provision

Assistant Secretary for Housing—Federal Housing Commissioner—

22678 4–16–79 / Public Housing Program Development Phase; clarifications and corrections

22444 4–16–79 / Increases in thermal requirements for HUD minimum property standards

INTERSTATE COMMERCE COMMISSION

6102 1–31–79 / Expansion of air terminal areas

3295 1–16–79 / Motor transportation of property incidental to transportation by aircraft; expansion of air terminal areas

Next Week's Deadlines for Comments On Proposed Rules

AGRICULTURE DEPARTMENT

Agricultural Marketing Service—

25846 5–3–79 / Cranberries grown in Mass., et al.; referendum period 5–14 through 5–23–79

25463 5–1–79 / Hops of the Fuggle variety; additional allotment; comments by 5–21–79

Animal and Plant Health Inspection Service—

17714 3–23–79 / Domestic quarantine notices; pink bollworm; comments by 5–22–79

Food and Nutrition Service—

21504 4–10–79 / Food Stamp Act of 1977; performance reporting system; comments by 5–25–79

21541 4–10–79 / Food stamps; implementation of outreach provisions and procedures for State agencies to follow in handling complaints; comments by 5–25–79

[Comment period extended at 26089, 5–4–79]

Office of the Secretary—

17507 3–22–79 / Reimbursement of rulemaking proceeding participants; comments by 5–21–79

Rural Electrification Administration—

17714 3–23–79 / Rural electric program; TH–230 structure crossarms; comments by 5–22–79

COMMERCE DEPARTMENT

National Oceanic and Atmospheric Administration—

18508 3–28–79 / Atlantic herring fishery, emergency regulations; comments by 5–23–79

26956 5–8–79 / Foreign trawling within fixed-gear areas; prohibition; comments by 5–20–79

26131 5–4–79 / Preliminary fishery management plan; comments by 5–26–79

18511 3–28–79 / Tanner crab off Alaska, early closure of portion of Registration Area J (Westward) to fishing U.S. vessels; comments by 5–25–79

DEFENSE DEPARTMENT

Corps of Engineers—

20350 4–4–79 / Evaluation of Nonstructural measures (ER 1105–2–353); proposed evaluation procedures; comments by 5–21–79

ENERGY DEPARTMENT

16546 3–19–79 / Residential Conservation Service Program; implementation; comments by 5–25–79

Economic Regulatory Administration—

24048 4–24–79 / Amendments to conform oil import regulations to Proclamation 4655; comments by 5–22–79

17526 3–22–79 / Improving government regulations; comments by 5–25–79

Federal Energy Regulatory Commission—

24095 4–24–79 / Applications for licenses for major projects using existing dams; comments by 5–25–79

24103 4–24–79 / Budget-type applications for gas-purchase facilities; comments by 5–25–79

24577 4–26–79 / Discontinuation of the use of certain FERC forms; comments by 5–25–79

21683 4–11–79 / Filing of rate schedules—revisions limiting percentage adders; reply comments by 5–21–79

21683 4–11–79 / Interconnection of facilities; Emergencies—interchange energy transmission rates for Section 202(c) emergencies; reply comments by 5–21–79

22110 4–13–79 / Oil and gas pipelines; refund interest rates; comments period extended to 5–23–79

[Originally published at 44 FR 18046, 3–26–79]

ENVIRONMENTAL PROTECTION AGENCY

23544 4–20–79 / California; redesignation of air quality control regions; comments by 5–21–79

23887 4–23–79 / Establishment of tolerances for pesticide chemical methomyl on avocados and Chinese cabbage; comments by 5–23–79

23886 4–23–79 / Establishment of tolerance for pesticide chemical malathion on almond shells; comments by 5–23–79

18138 3–26–79 / Landfill disposal of solid waste; comments by 5–25–79

17120 3–20–79 / Petroleum refinery Claus sulfur recovery plants; amendments to standards; comments by 5–21–79

17460 3–21–79 / Standards of performance for new stationary sources: iron and steel plants, basic oxygen furnaces, review of standards; comments by 5–21–79

FEDERAL COMMUNICATIONS COMMISSION

18998 3–30–79 / FM broadcast station in Covington, Ind.; comments by 5–21–79

19000 3–30–79 / FM broadcast station in Reform, Ala.; change in table of assignments; comments by 5–21–79

18997 3–30–79 / FM broadcast station in West Helena, Ark.; change in table of assignments; comments by 5–21–79

FEDERAL DEPOSIT INSURANCE CORPORATION

23869 4–23–79 / Foreign bank provisions; comments by 5–25–79

FEDERAL HOME LOAN BANK BOARD

24301 4–25–79 / Federal savings and loan system; Investment in areas receiving concentrated development assistance; comments by 5–25–79

24302 4–25–79 / Federal savings and loan system; Investment in State Housing Corporation obligations secured by insured loans; comments by 5–25–79

24303 4–25–79 / Federal savings and loan system; Investment in State and local government obligations; comments by 5–25–79

24300 4–25–79 / Federal savings and loan system; Loans for alteration, improvement and repair; comments by 5–25–79

24299 4–25–79 / Federal savings and loan systems; Loans on individual cooperative housing units; comments by 5–25–79

GENERAL SERVICES ADMINISTRATION

17194 3–21–79 / Records management, copying—reproduction of records, selection and utilization of equipment and supplies; comments by 5–21–79

HEALTH, EDUCATION, AND WELFARE DEPARTMENT

Education Office—

17197 3–21–79 / Emergency school aid, criteria for awards; comments by 5–21–79

Food and Drug Administration—

24052 4–24–79 / Indirect food additives; adhesive coatings and components; safe use of 1,2-dibromo-2,4-dicyanobutane; objections by 5–24–79

27691 5–11–79 / Virgin and refined olive oil and refined olive-residue oil; comments by 5–24–79

27690 5–11–79 / Table olives, intent to establish standards; comments by 5–24–79

INTERIOR DEPARTMENT

Indian Affairs Bureau—

23993 4–23–79 / Indian child welfare provisions; comments by 5–23–79

24305 4–25–79 / Law and order on Indian Reservations; Courts of Indian Offenses; comments by 5–25–79

23992 4–23–79 / Procedures for tribal reassumption of jurisdiction over child custody proceedings; comments by 5–23–79

Land Management Bureau—

25653 5–2–79 / Coal management; comments period extended 5–21–79

[Originally published at 44 FR 23508, April 19, 1979]

INTERSTATE COMMERCE COMMISSION

12074 3–5–79 / Collective ratemaking agreements; modified terms and conditions for approval; reply comments by 5–21–79

12718 3–8–79 / Tariffs and schedules; reply comments by 5–22–79

LABOR DEPARTMENT

Office of Federal Contract Compliance Programs—

22761 4–17–79 / Compliance responsibility for equal employment opportunity; addition to preamble of proposed rule; comments by 5–21–79

MERIT SYSTEMS PROTECTION BOARD

17964 3–23–79 / Interim Operating Procedures; Freedom of Information Act; Privacy Act; Government in the Sunshine Act; comments by 5–22–79.

17968 3–23–79 / Organization and procedure; comments by 5–22–79

PENSION BENEFIT GUARANTY CORPORATION

23542 4–20–79 / Valuation of plan benefits; comments by 5–23–79

POSTAL SERVICE

24111 4–24–79 / Inspection service authority; mail covers for national security; comments by 5–24–79

24432 4–25–79 / Post Office services (domestic); Establishment of the Domestic Mail Manual to replace Chapter 1 and other related portions of the Postal Service Manual; comments by 5–25–79

SMALL BUSINESS ADMINISTRATION

23875 4–23–79 / Method of determining small business status for SBA loan assistance; comments by 5–23–79

TRANSPORTATION DEPARTMENT

Federal Aviation Administration—

16424 3–19–79 / Investigation and enforcement procedures; filing of complaints, issuance of orders; and conduct of formal fact finding investigations; comments by 5–24–79

National Highway Traffic Safety Administration—

21051 4–9–79 / Exemptions from average fuel economy standards; comments by 5–24–79

TREASURY DEPARTMENT

Internal Revenue Service—

17754 3–23–79 / Active participant for individual retirement account purposes; comments by 5–22–79

VETERANS ADMINISTRATION

24320 4–25–79 / Federally assisted education programs; Nondiscrimination on the basis of sex; comments by 5–25–79

Next Weeks Meetings:

AGRICULTURE DEPARTMENT

Food Safety and Quality Service—

24903 4–27–79 / Interagency Regulatory Liaison Group, Washington, D.C. (open), 5–22 and 5–23–79

Office of the Secretary—

Forest Service—

24895 4–27–79 / Coronado National Forest Grazing Advisory Board, Tucson, Ariz. (open), 5–22–79

ARTS AND HUMANITIES NATIONAL FOUNDATION

26815 5–7–79 / Humanities Panel, Washington, D.C. (closed), 5–25–79

25953 5–3–79 / Music Advisory Panel, Washington, D.C. (closed), 5–22 and 5–23–79

CIVIL RIGHTS COMMISSION

26779 5–7–79 / Alaska Advisory Committee, Anchorage, Alaska (open), 5–25–79

26959 5–8–79 / Colorado, Montana, North Dakota, South Dakota, Utah, and Wyoming Advisory Committees, Denver, Colo. (open) 5–23–79

25259 4–30–79 / Illinois Advisory Committee, Chicago, Ill. (open), 5–23–79

26138 5–4–79 / Louisiana Advisory Committee, Shreveport, La. (open), 5–25 and 5–26–79

26779 5–7–79 / Massachusetts Advisory Committee, Boston, Mass. (open), 5–23–79

23909 4–23–79 / Massachusetts Advisory Committee, Boston, Mass. (open), 5–23–79

23550 4–20–79 / Michigan Advisory Committee, Detroit, Mich. (open), 5–25–79

25657 5–2–79 / Utah Advisory Committee, Salt Lake City, Utah (open), 5–24–79

COMMERCE DEPARTMENT

National Oceanic and Atmospheric Administration—

24901 4–27–79 / North Pacific Fishery Management Council, Scientific and Statistical Committee and Advisory Panel, Anchorage, Alaska (open), 5–22 through 5–25–79

24902 4–27–79 / South Atlantic Fishery Management Council, Charleston, S.C. (open), 5–22 through 5–24–79

26960 5–8–79 / South Atlantic Fishery Management Council Advisory Panel on King and Spanish Mackerel Fishery Management Plan, Charleston, S.C. (open), 5–23–79

26960 5–8–79 / South Atlantic Fishery Management Council, Inter-council Billfish Steering Committee, Charleston, S.C. (open) 5–21–79

Office of the Secretary—

24618 4–26–79 / Economic Advisory Board, Washington, D.C. (open), 5–23–79

CONSUMER PRODUCT SAFETY COMMISSION

24903 4–27–79 / Interagency Regulatory Liaison Group, Washington, D.C. (open), 5–22 and 5–23–79

DEFENSE DEPARTMENT

Air Force Department—

18057 3–26–79 / USAF Scientific Advisory Board, Wright-Patterson Air Force Base, Ohio (closed), 5–21 and 5–22–79

26783 5–7–79 / USAF Scientific Advisory Board, Wright-Patterson AFB, Ohio (closed), 5–23 and 5–24–79

Army Department—

25263 4–30–79 / Army Medical Research and Development Advisory Panel Ad Hoc Study Group on Parasitic Diseases, Washington, D.C. (partially open), 5–25–79

25264 4–30–79 / Defense Science Board Task Force on EMP Hardening of Aircraft, Bedford, Mass. (closed), 5–22 and 5–23–79

Navy Department—

26148 5–4–79 / Academic Advisory Board to the Superintendent, U.S. Naval Academy, Washington, D.C., 5–21–79

Office of the Secretary—

18258 3–27–79 / Defense Intelligence Agency Advisory Committee, Charlottesville, Va. (closed), 5–21 and 5–22–79

23910 4–23–79 / Defense Science Board Task Force on V/STOL Aircraft, Phase II, Washington, D.C. (closed), 5–25–79

17207 3–21–79 / Department of Defense Wage Committee, Alexandria, Va. (closed), 5–22–79

ENERGY DEPARTMENT

24340 4–25–79 / Committee on U.S. Petroleum Inventories, and Storage and Transportation Capacities; Coordinating Subcommittee, Houston, Tex. (open), 5–24–79

26149 5–4–79 / Food Industry Advisory Committee, Chicago, Ill. (open), 5–23–79

23910 4–23–79 / National Petroleum Council, Refinery Capability Task Group and Coordinating Subcommittee of the Committee of Refinery Flexibility, Washington, D.C. (open), 5–25–79

ENVIRONMENTAL PROTECTION AGENCY

24903 4–27–79 / Interagency Regulatory Liaison Group, Washington, D.C. (open), 5–22 and 5–23–79

2391 4–23–79 / National Drinking Water Advisory Council, Denver, Colo. (open), 5–21 and 5–22–79

FEDERAL COMMUNICATIONS COMMISSION

25264 4–30–79 / Advisory Committee on UHF–TV Receiver Noise Figure Measurement Standards, Guilford, Md. (open), 5–21–79

25508 5–1–79 / Radio Technical Commission for Marine Services; Special Committee 71, Washington, D.C. (open), 5–23–79

25508 5–1–79 / Radio Technical Commission for Marine Services, Special Committee No. 74, Washington, D.C. (open), 5–24 and 5–25–79

FEDERAL PREVAILING RATE ADVISORY COMMITTEE

22812 4–17–79 / Washington, D.C. (open), 5–24–79

FINE ARTS COMMISSION

25658 5–2–79 / Meeting, Washington, D.C. (open), 5–22–79

DEPARTMENT OF HEALTH, EDUCATION, AND WELFARE

Alcohol, Drug Abuse, and Mental Health Administration—

23124 4–18–79 / National Advisory Council on Alcohol Abuse and Alcoholism (partially open), 5–21 and 5–22–79

26966 5–8–79 / National Advisory Council on Drug Abuse, Rockville, Md. (partially open), 5–24 and 5–25–79

Education Office—

26798 5–7–79 / Advisory Council on Developing Institutions, Washington, D.C. (open), 5–23–79

24347 4–25–79 / Women's Educational Programs National Advisory Council, Washington, D.C. (open), 5–23–79

Food and Drug Administration—

27747 5–11–79 / Consumer exchange meeting, Pittsburgh, Pa. (open), 5–23–79

24903 4–27–79 / Interagency Regulatory Liaison Group, Washington, D.C. (open), 5–22 and 5–23–79

Health Resources Administration—

26167 5–4–79 / National Advisory Council on Nurse Training, Washington, D.C. (partially open), 5–22 through 5–24–79

National Institutes of Health—

19539 4–3–79 / Aging, National Advisory Council, Bethesda, Md. (partially open), 5–22 and 5–23–79

21893 4–12–79 / Board of Regents, Bethesda, Md. (open), 5–24 and 5–25–79

19540 4–3–79 / Dental Research National Council, Bethesda, Md. (partially open), 5–21 and 5–22–79

21895 4–12–79 / National Advisory Allergy and Infectious Diseases Council, Bethesda, Md. (open), 5–22 through 5–24–79

21895 4–12–79 / National Advisory Environmental Health Sciences Council, Bethesda, Md. (open), 5–21 and 5–22–79

18741 3–29–79 / National Advisory Eye Council, Bethesda, Md. (open and closed), 5–21 through 5–23–79

24239 4–24–79 / National Cancer Advisory Board, Bethesda, Md. (partially open), 5–24 and 5–25–79

24239 4–24–79 / National Cancer Advisory Board's Subcommittee on Centers, Bethesda, Md. (closed), 5–24–79

24239 4–24–79 / National Cancer Advisory Board's Subcommittee on Environmental Carcinogenesis, Bethesda, Md. (closed), 5–24–79

24239 4–24–79 / National Cancer Advisory Board's Subcommittee on Planning and Budget, Bethesda, Md. (open), 5–24–79

19540 4–3–79 / Neurological and Communicative Disorders and Stroke National Advisory Council, Bethesda, Md. (partially open), 5–24 through 5–26–79

27498 5–10–79 / Oral Biology and Medicine Study Section, Bethesda, Md. (open), 5–22 through 5–25–79

22314 4–13–79 / Recombinant DNA Advisory Committee, Bethesda, Md. (open), 5–21 through 5–23–79

24238 4–24–79 / Research Resources National Advisory Council, Bethesda, Md. (partially open) 5–21 and 5–22–79

Office of the Secretary—

24232 4–24–79 / Rights and Responsibilities of Women, Secretary's Advisory Committee, Washington, D.C. (open), 5–25–79

HOUSING AND URBAN DEVELOPMENT DEPARTMENT

Neighborhoods, Voluntary Associations and Consumer Protection, Office of Assistant Secretary—

17233 3–21–79 / Mobile Home National Advisory Council, Washington, D.C. (open), 5–22 through 5–24–79

IMMIGRATION AND REFUGEE POLICY SELECT COMMISSION

26823 5–7–79 / Washington, D.C. (open), 5–22–79

[Corrected at 44 FR 27781, 5–11–79]

INTERIOR DEPARTMENT

Land Management Bureau—

17592 3–22–79 / Colorado wilderness inventory, Canon City, Colo. (open), 5–22–79

17592 3–22–79 / Colorado wilderness inventory, open house, Denver, Colo. (open), 5–23–79

24644 4–26–79 / Public lands in Nevada, open house, Lovelock, Nev., 5–21–79

24644 4–26–79 / Public lands in Nevada, open house, Goldfield, Nev., 5–22–79

24644 4–26–79 / Public lands in Nevada, open house, Winnemucca, Nev., 5–22–79

24644 4–26–79 / Public lands in Nevada, open house, Caliente, Nev., 5–24–79

24644 4–26–79 / Public lands in Nevada, open house, Las, Vegas, Nev., 5–23–79

24644 4–26–79 / Public lands in Nevada, open house, Elko, Nev., 5–23–79

24644 4–26–79 / Public lands in Nevada, open house, Fallon, Nev., 5–23–79

INTERNATIONAL TRADE COMMISSION

27809 5–11–79 / Washington, D.C. (partially open), 5–23–79

INTERNATIONAL YEAR OF THE CHILD, NATIONAL COMMISSION

26815 5–7–79 / Children's Involvement and Human Services Subcommittees, Washington, D.C. (open), 5–24–79

26815 5–7–79 / Corporate, Labor, and Professional Involvement Subcommittee, Washington, D.C. (open), 5–24–79

26815 5–7–79 / Full commission, Washington, D.C. (open), 5–25–79

LABOR DEPARTMENT

Bureau of Labor Statistics—

22825 4–17–79 / Labor Research Advisory Council Committees, Washington, D.C. (open), 5–22 through 5–24–79

Occupational Safety and Health Administration—

24903 4–27–79 / Interagency Regulatory Liaison Group, Washington, D.C. (open), 5–22 and 5–23–79

Pension and Welfare Benefit Programs Office—

26980 5–8–79 / Employee Welfare and Pension Benefit Plans Advisory Council, Washington, D.C. (open), 5–23–79

NATIONAL AERONAUTICS AND SPACE ADMINISTRATION

24353 4–25–79 / NASA Advisory Council, Informal Ad Hoc Advisory Subcommittee on Vertical Take-Off and Landing (VTOL), Washington, D.C. (open), 5–24–79

26228 5–4–79 / NASA Advisory Council (NAC) Space Systems and Technology Advisory Committee, Washington, D.C. (open), 5–24–79

NATIONAL SCIENCE FOUNDATION

26983 5–8–79 / Executive Committee of the Advisory Committee for Ocean Sciences, Washington, D.C. (open), 5–24 and 5–25–79

25710 5–2–79 / International Decade of Ocean Exploration Ad Hoc Subcommittee, Stanford, Calif. (closed), 5–21–79

25709 5–2–79 / Mathematical and Computer Sciences Advisory Committee; Computer Science Subcommittee, Washington, D.C. (partially open), 5–21 through 5–23–79

25708 5–2–79 / Memory and Cognitive Processes Subcommittee, Washington, D.C. (closed), 5–21 and 5–22–79

25709 5–2–79 / Molecular Biology Subcommittee, Washington, D.C. (closed), 5–21 and 5–22–79

25708 5–2–79 / Molecular Biology Subcommittee, Washington, D.C. (closed), 5–24 and 5–25–79

25707 5–2–79 / Physiology, Cellular, and Molecular Biology; Cell-Biology Subcommittee, Washington, D.C. (closed), 5–21 through 5–23–79

25708 5–2–79 / Physiology, Cellular and Molecular Biology Advisory Committee; Genetic biology Subcommittee, Washington, D.C. (closed), 5–24 through 5–26–79

25709 5–2–79 / Sensory Physiology and Perception Subcommittee, Washington, D.C. (closed), 5–23 and 5–24–79

25709 5–2–79 / Social Sciences Advisory Committee; Geography and Regional Science Subcommittee, Washington, D.C. (closed), 5–21–79

25708 5–2–79 / Sociology Subcommittee, Washington, D.C. (closed), 5–24 and 5–25–79

NUCLEAR REGULATORY COMMISSION

27775 5–11–79 / Reactor Safeguards Advisory Committee; Subcommittee on Evaluation of Licensee Event Reports, Washington, D.C. (open), 5–24 and 5–25–79

27775 5–11–79 / Reactor Safeguards Advisory Committee; Subcommittee on Safeguards, Washington, D.C. (open), 5–23–79

EMPLOYMENT POLICY NATIONAL COMMISSION

26815 5–7–79 / Full commission, Washington, D.C. (open), 5–25–79

ENERGY DEPARTMENT

Economic Regulatory Administration—

25711 5–2–79 / Consumer Affairs Advisory Committee, Washington, D.C. (open), 5–24–79

Energy Information Administration—

25711 5–2–79 / Energy Information Administration Advisory Board, Washington, D.C. (open), 5–24–79

Federal Energy Regulatory Commission—

25711 5–2–79 / Electric Power Regional Advisory Committee, Washington, D.C. (open), 5–24–79

ENVIRONMENTAL PROTECTION AGENCY

24903 4–27–79 / Interagency Regulatory Liaison Group, Washington, D.C. (open), 5–22 and 5–23–79

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National Institutes of Health—

19539 4–3–79 / Aging, National Advisory Council, Bethesda, Md. (partially open), 5–22 and 5–23–79

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20718 4–6–79 / Regional consistency regulations, Washington, D.C., 5–21–79

23784 4–20–79 / Emission control system warranty regulations, Washington, D.C., 5–22 and 5–23–79

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27749 5–11–79 / HEW/NIE—State dissemination grants program; apply by 7–12–79 for FY 1979 grant funds

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27505 5–10–79 / Justice/LEAA—Competitive research grant program to evaluate test of structured plea negotiation; apply by 6–22–79

27506 5–10–79 / Justice/LEAA—OJJDP/NIJJDP Law Related Education Program; apply by 6–15–79

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27746 5–11–79 / HEW/ADAMHA—Basic Psychopharmacology and Neuropsychology Research Review Committee, Washington, D.C. (partially open), 6–7 through 6–11–79

27746 5–11–79 / HEW/ADAMHA—Cognition, Emotion, and Personality Research Review Committee, Washington, D.C. (partially open), 6–15 through 6–17–79

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27746 5–11–79 / HEW/ADAMHA—Mental Health Small Grant Review Committee, Washington, D.C. (partially open), 6–21 through 6–23–79

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27266 5–9–79 / HEW/NIH—Allergy and Clinical Immunology Research Committee, Bethesda, Md. (partially open), 6–11 and 6–12–79

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27266 5–9–79 / HEW/NIH—Biomedical Library Review Committee, Bethesda, Md. (partially open), 6–18 through 6–20–79

27265 5–9–79 / HEW/NIH—Bladder and Prostatic Cancer Review Committee (Bladder Subcommittee), Des Plaines, Ill. (partially open), 6–7 and 6–8–79

27265 5–9–79 / HEW/NIH—Bladder and Prostatic Cancer Review Committee (Prostatic Subcommittee), Buffalo, N.Y. (partially open), 6–1–79

27265 5–9–79 / HEW/NIH—Cancer Clinical Investigation Review Committee, Bethesda, Md. (partially open), 6–25 through 6–27–79

27265 5–9–79 / HEW/NIH—Cancer Control Intervention Programs Review Committee, Bethesda, Md. (partially open), 6–14 and 6–15–79

27265 5–9–79 / HEW/NIH—Cancer Special Program Advisory Committee, Bethesda, Md. (partially open), 7–11 and 7–12–79

27266 5–9–79 / HEW/NIH—Cellular and Molecular Basis of Disease Review Committee, Bethesda, Md. (partially open), 6–11 and 6–12–79

27267 5–9–79 / HEW/NIH—General Clinical Research Centers Committee, Bethesda, Md. (partially open), 6–21 and 6–22–79

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27264 5–9–79 / HEW/NIH—Lipid Metabolism Advisory Committee, Bethesda, Md. (partially open), 5–21–79

27267 5–9–79 / HEW/NIH—Microbiology and Infectious Diseases Advisory Committee, Bethesda, Md. (partially open), 6–4 and 6–5–79

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27268 5–9–79 / HEW/NIH—Neurological Disorders Program—Project Review B Committee, Bethesda, Md. (partially open), 6–14 through 6–16–79

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27774 5–11–79 / NSF—President's Committee on the National Medal of Science, Washington, D.C. (closed), 5–29–79

27773 5–11–79 / NSF—Subcommittee of the Advisory Committee for Mathematics and Computer Sciences, Washington, D.C. (partially open), 5–31 and 6–1–79

27774 5–11–79 / NSF—Subcommittee on Developmental Biology of the Advisory Committee for Physiology, Cellular and Molecular Biology, Washington, D.C. (closed), 5–31, 6–1 and 6–2–79

27774 5–11–79 / NSF—Subcommittee on Economics, Washington, D.C. (closed), 6–1 and 6–2–79

27774 5–11–79 / NSF—Subcommittee on Metabolic Biology, Washington, D.C. (closed), 5–31 and 6–1–79

27775 5–11–79 / NSF—Subcommittee on Social and Developmental Psychology, Washington, D.C. (closed), 5–31 and 6–1–79

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[Originally published at 44 FR 26298, 5–4–79]

27271 5–9–79 / LSC—Grants and contracts; Wyoming; comments invited

27773 5–11–79 / NSF—Advisory Committee for Environmental Biology and Advisory Committee for Physiology, Cellular and Molecular Biology; amendment to charters

26991 5–8–79 / State—United States-Spain Joint Committee for Scientific and Technological Cooperation; availability of cooperative research grants and post doctoral research and travel grants (2 documents)

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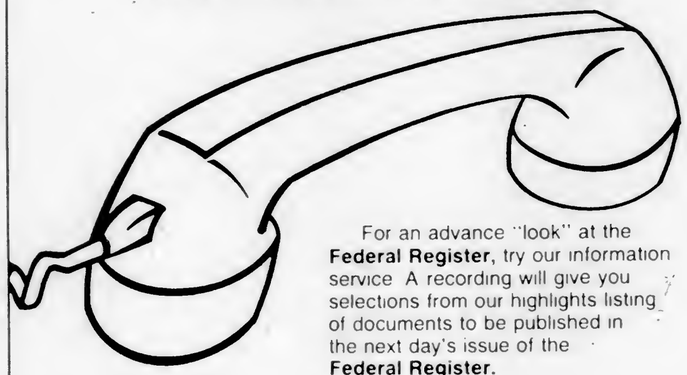
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federal register

Thursday
May 17, 1979

Highlights

Telecommunications Device for the Deaf—Office of the Federal Register provides a new service for deaf or speech-impaired persons who need information about documents published in the **Federal Register**. See the Reader Aids section for the telephone listing.

28771 **The President's Commission on Executive Exchange** Executive order establishing

28773 **Trade With Uganda** Presidential memorandum

28928 **Minority Business Enterprises** DOT/Secy proposes rules establishing a uniform departmental program for participation by firms owned and controlled by socially and economically disadvantaged individuals governing contracts and programs funded; comments by 7–16–79 (Part II of this issue)

28802 **Child Support Enforcement Program** HEW/Office of Child Support Enforcement establishes State plan requirements regarding bonding of employees and handling of cash receipts; effective 7–16–79

28782 **Full Food and Fiber Production** USDA/Secy publishes essential agricultural uses and natural gas requirements; effective 5–14–79

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FEDERAL REGISTER Published daily, Monday through Friday, (not published on Saturdays, Sundays, or on official holidays), by the Office of the Federal Register, National Archives and Records Service, General Services Administration, Washington, D.C. 20408, under the Federal Register Act (49 Stat. 500, as amended; 44 U.S.C. Ch. 15) and the regulations of the Administrative Committee of the Federal Register (1 CFR Ch. I). Distribution is made only by the Superintendent of Documents, U.S. Government Printing Office, Washington, D.C. 20402.

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28950 **Powerplant and Industrial Fuel Use** DOE/ERA adopts interim rules establishing criteria for petitioning for exemptions from prohibition on use of petroleum and natural gas by certain electric powerplants and major fuel burning installations; effective 5–8–79; comments by 8–15–79 (2 documents) (Part IV of this issue)

28828 **Hair Dryers Containing Asbestos** CPSC proposes to regulate any possible risk of injury using procedures available under Consumer Product Safety Act; comments by 6–1–79

28794 **Income Taxes** Treasury/IRS issues regulations relating to group–term life insurance purchased for employees; effective on or after 1–1–77 or 1–1–78

28880 **Educational Information Centers** HEW/OE announces acceptance of State plans and State plan amendments for program awards; documents by 7–23–79

28782 **Farm Lenders** USDA/FmHA amends regulations to add settlement option when property is acquired through voluntary conveyance or foreclosure; effective 5–17–79

28887 **Lands Unsuitable for Coal Mining Operations** Interior/BLM announces availability of report on results of test applications

28894 **Nuclear Power Plants** NRC announces availability of Environmental Standard Review Plans used in reviewing applications for construction permits

28890 **Safety and Pollution Prevention on the Outer Continental Shelf** Interior/GS solicits public views on content of Failure and Inventory Reporting System reports

28787 **Airport Operations** DOT/FAA establishes, amends, suspends, or revokes Standard Instrument Approach Procedures at specific places

28892 **National Park System** Interior/NPS proposes revising management policy on motion picture and still photography; comments by 6–18–79

28881 **Social Security** HEW/SSA issues notice of determination of "Old–Law" contribution and benefit base

28923 **Sunshine Act Meetings**

Separate Parts of this Issue

28928 **Part II, DOT/Secy**
28946 **Part III, DOT/FHWA**
28950 **Part IV, DOE/ERA**

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Federal Register
Vol. 44, No. 97
Thursday, May 17, 1979

Title 3—

The President

Executive Order 12136 of May 15, 1979

The President's Commission on Executive Exchange

By the authority vested in me as President by the Constitution and statutes of the United States of America, and in order to amend the responsibilities of the President's Commission on Personnel Interchange and to continue its work of enriching both the Government and the private sectors by enabling the most promising executive to work in the other sector, it is hereby ordered as follows:

1–1. *Establishment of the Commission.*

1–101. The President's Commission on Personnel Interchange is continued and renamed the President's Commission on Executive Exchange.

1–102. The Commission shall be composed of such officials in the Executive agencies and such persons from the private sector as the President may from time to time appoint. The Chairman shall be designated by the President. The members of the commission and the Chairman shall serve two-year terms at the pleasure of the President.

1–103. Members of the Commission who are officers or employees of the Federal Government shall receive no additional compensation by reason of this Order, and members who are not such officers or employees shall serve without compensation, but shall be provided with travel expenses, including per diem in lieu of subsistence, as authorized by law.

1–2. *Functions of the Commission.*

1–201. The Commission shall develop an Executive Exchange Program in which promising executives from the Executive agencies, and from the private sector, who have demonstrated the ability to rise to high management positions, will be selected as Exchange Executives and placed in positions in the other sector which offer significant challenge, responsibility, and regular and continuing contact with senior officials.

1–202. The Commission shall develop an education program which places the work experience of the Exchange Executive in the broader context of both the Federal Government and the private sector.

1–203. The Commission shall supervise and review the operation of the Program, and recommend to the President ways to promote and improve the exchange between the Government and the private sector.

1–204. The Commission shall ensure that the Program operates in compliance with the merit principles set forth in Section 2301 of Title 5 of the United States Code.

1–3. *Responsibilities of Executive Agencies.*

1–301. Each Executive agency shall, to the extent permitted by law, cooperate with the Commission and furnish it with such assistance as the Chairman may request in connection with the Program.

1–302. The head of each Executive agency shall designate a presidential appointee who is not a member of the Commission to serve as liaison to the Commission.

Presidential Documents

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1–4. *Administrative Provisions.*

1–401. The Office of Personnel Management shall provide the Commission with administrative services, staff support, and travel expenses, as authorized by law.

1–402. Executive Order No. 11451 of January 19, 1969, is superseded.

Jimmy Carter

THE WHITE HOUSE,
May 15, 1979.

[FR Doc. 79–15535
Filed 5–15–79; 3:02 pm]
Billing code 3195–01–M

Presidential Documents

Memorandum of May 15, 1979

Trade With Uganda

Memorandum for the Secretary of State, the Secretary of the Treasury, the Secretary of Commerce

Pursuant to the authority vested in me by Section 5 of Public Law 95–435, I hereby determine and certify that:

The Government of Uganda is no longer committing a consistent pattern of gross violations of human rights.

The Secretary of State is requested to report this determination to the Congress on my behalf, as required by law. The Secretaries of Treasury and Commerce are requested to take the appropriate steps permitting the immediate resumption of imports from and exports to Uganda.

This determination shall be published in the **Federal Register.**

Jimmy Carter

THE WHITE HOUSE,
Washington, May 15, 1979.

[FR Doc. 79–15536
Filed 5–15–79; 3:03 pm]
Billing code 3195–01–M

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Rules and Regulations

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Rules and Regulations

Federal Register
Vol. 44, No. 97
Thursday, May 17, 1979

This section of the FEDERAL REGISTER contains regulatory documents having general applicability and legal effect, most of which are keyed to and codified in the Code of Federal Regulations, which is published under 50 titles pursuant to 44 U.S.C. 1510.
The Code of Federal Regulations is sold by the Superintendent of Documents. Prices of new books are listed in the first FEDERAL REGISTER issue of each month.

DEPARTMENT OF AGRICULTURE

Agricultural Marketing Service

[Valencia Orange Regulation 612]

7 CFR Part 908

Valencia Oranges Grown in Arizona and Designated Part of California

AGENCY: Agricultural Marketing Service, USDA.

ACTION: Final rule.

SUMMARY: This regulation establishes the quantity of fresh California-Arizona Valencia oranges that may be shipped to market during the period May 18–24, 1979. Such action is needed to provide for orderly marketing of fresh Valencia oranges for this period due to the marketing situation confronting the orange industry.

EFFECTIVE DATE: May 18, 1979.

FOR FURTHER INFORMATION CONTACT: Malvin E. McGaha, 202–447–5975.

SUPPLEMENTARY INFORMATION: *Findings.* This regulation is issued under the marketing agreement, as amended, and Order No. 908, as amended (7 CFR Part 908), regulating the handling of Valencia oranges grown in Arizona and designated part of California. The agreement and order are effective under the Agricultural Marketing Agreement Act of 1937, as amended (7 U.S.C. 601–674). The action is based upon the recommendations and information submitted by the Valencia Orange Administrative Committee and upon other available information. It is hereby found that the action will tend to effectuate the declared policy of the act. This regulation has not been determined significant under the USDA criteria for implementing Executive Order 12044.

The committee met on May 15, 1979 to consider supply and market conditions and other factors affecting the need for regulation and recommended a quantity of Valencia oranges deemed advisable to be handled during the specified week. The committee reports the demand for Valencia oranges continues to improve.

It is further found that it is impracticable and contrary to the public interest to give preliminary notice, engage in public rulemaking, and postpone the effective date until 30 days after publication in the **Federal Register** (5 U.S.C. 553), because of insufficient time between the date when information became available upon which this regulation is based and the effective date necessary to effectuate the declared policy of the act. Interested persons were given an opportunity to submit information and views on the regulation at an open meeting. It is necessary to effectuate the declared purposes of the act to make these regulatory provisions effective as specified, and handlers have been apprised of such provisions and the effective time.

§ 908.912 Valencia Orange Regulation 612.

Order. (a) The quantities of Valencia oranges grown in Arizona and California which may be handled during the period May 18, 1979, through May 24, 1979, are established as follows:

(1) District 1: 563,504 cartons;

(2) District 2: 180,008 cartons;

(3) District 3: 200,502 cartons.

(b) As used in this section, "handled", "District 1", "District 2", "District 3", and "carton" mean the same as defined in the marketing order.

(Secs. 1–19, 48 Stat. 31, as amended; 7 U.S.C. 601–674)

Dated: May 16, 1979.

D. S. Kuryloski,

Acting Deputy Director, Fruit and Vegetable Division, Agricultural Marketing Service.

[FR Doc. 79-15705 Filed 5-16-79; 8:45 am]

BILLING CODE 3410-02-M

7 CFR Part 917

[Peach Regulation 11]

Fresh Pears, Plums, and Peaches Grown in California; Grade and Size Requirements

AGENCY: Agricultural Marketing Service, USDA.

ACTION: Final rule.

SUMMARY: This regulation sets minimum grade and size requirements for shipments of specified varieties of fresh California peaches for the period May 18, 1979, through July 2, 1979. Such action is designed to promote orderly marketing of suitable quality and sizes of fresh California peaches in the interest of producers and consumers.

EFFECTIVE DATES: May 18, 1979, through July 2, 1979.

FOR FURTHER INFORMATION CONTACT: Malvin E. McGaha, (202) 447–5975.

SUPPLEMENTARY INFORMATION: *Findings.* This regulation is issued under the marketing agreement, as amended, and Order No. 917, as amended (7 CFR Part 917), regulating the handling of fresh pears, plums, and peaches grown in California. The agreement and order are effective under the Agricultural Marketing Agreement Act of 1937, as amended (7 U.S.C. 601–674). This action is based upon the recommendations and information submitted by the Peach Commodity Committee, established under the marketing agreement and order, and upon other available information. It is hereby found that the regulation of shipments of fresh peaches will tend to effectuate the declared policy of the act.

This regulation has not been determined significant under the USDA criteria for implementing Executive Order 12044.

The committee estimates fresh shipments of California peaches at 12.0 million packages, compared with actual shipments of 10.1 million packages last season. The committee reports that the 1979 California peach crop is maturing slightly later than last season, but is sizing normally and of good quality.

The grade and size requirements are necessary to prevent the shipment of California peaches of a lower grade or smaller size than specified and are designed to provide ample supplies of good-quality fruit in the interest of producers and consumers pursuant to the declared policy of the act.

It is further found that it is impracticable and contrary to the public interest to give preliminary notice, engage in public rulemaking, and postpone the effective date of this regulation until 30 days after publication in the **Federal Register** (5 U.S.C. 553)

because of insufficient time between the

(4) Any package or container of

requirements of standard pack, not more

Table I—Continued

because of insufficient time between the date when information upon which this regulation is based became available and the effective date necessary to effectuate the declared policy of the act. Interested persons were given an opportunity to submit information and views on this regulation at an open meeting held May 8, 1979. It is necessary to effectuate the declared purposes of the act to make these regulatory provisions effective as specified, and handlers have been apprised of such provisions and the effective time.

§ 917.449 Peach Regulation 11.

Order. (a) Peach Regulation 10 (43 FR 20219; 27981) is hereby terminated as of the effective date hereof.

(b) During the period May 18, 1979, through July 2, 1979, no handler shall handle: (1) Any package or container of any variety of peaches unless such peaches meet the requirements of U.S. No. 1 grade.

(2) Any package or container of Armgold, Desertgold, Pat's Pride, Royal April, Royal Gold, or Springgold variety peaches unless:

(i) Such peaches when packed in molded forms (tray pack) in a No. 22D standard lug box are of a size that will pack, in accordance with the requirements of standard pack, not more than 96 peaches in the box; or

(ii) Such peaches in any container when packed other than as specified in subdivision (i) of this subparagraph (2) are of a size that a 16-pound sample, representative of the peaches in the package or container, contains not more than 96 peaches.

(3) Any package or container of any type of Babcock, Bonjour, Cardinal, Dixired, Early Coronet, Early Royal May, Flavorcrest, JJK–1, June Lady, May Lady, Merrill Gemfree, Pat's Redhaven, Royal May, or Springcrest variety peaches unless:

(i) Such peaches when packed in molded forms (tray pack) in a No. 22D standard lug box are of a size that will pack, in accordance with the requirements of standard pack, not more than 84 peaches in the box;

(ii) Such peaches when packed in a No. 12B standard fruit (peach) box are of a size that will pack, in accordance with the requirements of standard pack, not more than 72 peaches in the box; or

(iii) Such peaches in any container when packed other than as specified in subdivisions (i) and (ii) of this subparagraph (3) are of a size that a 16-pound sample, representative of the peaches in the package or container, contains not more than 79 peaches.

(4) Any package or container of Aurora, Coronet, Indian Red, Merrill Gem, Redhaven, Redtop, or Regina variety peaches unless:

(i) Such peaches when packed in molded forms (tray pack) in a No. 22D standard lug box are of a size that will pack, in accordance with the requirements of standard pack, not more than 80 peaches in the box; or

(ii) Such peaches when packed in a No. 12B standard fruit (peach) box are of a size that will pack, in accordance with the requirements of standard pack, not more than 70 peaches in the box; or

(iii) Such peaches in any container when packed other than as specified in subdivisions (i) and (ii) of this subparagraph (4) are of a size that a 16-pound sample, representative of the peaches in the package or container, contains not more than 71 peaches.

(5) Any package or container of Angelus, Autumn Gem, Bella Rosa, Belmont, Cal Red, Carnival, Early Fairtime, Early O'Henry, Fairtime, Fay Elberta, Fayette, Fiesta, Fire Red, Flamecrest, Fortyniner, Franciscan, Halloween, John Gee, Jody Gaye, July Elberta (Early Elberta, Kim Elberta, and Socala), July Lady, Madera Gem, Mardigras, Merricle, O'Henry, Pacifica, Pageant, Parade, Paradise, Preuss Suncrest, Red Cal, Redglobe, Red Lady, Regular Elberta, Rio Oso Gem, Scarlet Lady, Sparkle, Summerset, Summertime, Suncrest, Sun Lady, Toreador, Treasure, Williams Gem, or Windsor variety peaches unless:

(i) Such peaches when packed in molded forms (tray pack) in a No. 22D standard lug box are of a size that will pack, in accordance with the requirements of standard pack, not more than 72 peaches in the box;

(ii) Such peaches when packed in a No. 12B standard fruit (peach) box are of a size that will pack, in accordance with the requirements of stand pack, not more than 65 peaches in the box; or

(iii) Such peaches in any container when packed other than as specified in subdivisions (i) and (ii) of this subparagraph (5) are of a size that a 16-pound sample, representative of the peaches in the package or container, contains not more than 64 peaches.

(c) During the period May 18 through July 2, 1979, no handler shall handle any package or container of any variety of peaches not specifically named in subparagraphs (2), (3), (4), or (5) of paragraph (b) unless:

(i) Such peaches when packed in molded forms (tray pack) in a No. 22D standard lug box are of a size that will pack, in accordance with the requirements of standard pack, not more than 96 peaches in the box; or

(ii) Such peaches in any container when packed other than as specified in subparagraph (i) of this paragraph (c) are of a size that a 16-pound sample, representative of the peaches in the package or container, contains not more than 96 peaches.

(d) As used herein, "U.S. No. 1" and "standard pack" mean the same as defined in the United States Standards for Peaches (7 CFR 2851.1210–1223); "No. 22D standard lug box" and "No. 12B standard fruit (peach) box" mean the same as defined in Section 1387.11 of the "Regulations of the California Department of Food and Agriculture." All other terms mean the same as defined in this marketing order.

(Secs. 1–19, 48 Stat. 31, as amended; 7 U.S.C. 601–674)

Dated: May 15, 1979.

D. S. Kuryloski,

Acting Deputy Director, Fruit and Vegetable Division, Agricultural Marketing Service.

[FR Doc. 79-15627 Filed 5-16-79; 8:45 am]

BILLING CODE 3410-02-M

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7 CFR Part 917

[Plum Regulation 15]

Fresh Pears, Plums, and Peaches Grown in California; Grade and Size Requirements

AGENCY: Agricultural Marketing Service, USDA.

ACTION: Final rule.

SUMMARY: This regulation sets minimum grade and size requirements for fresh shipments of California plums during the period May 18, 1979, through July 14, 1979. These requirements are needed to provide for orderly marketing in the interest of producers and consumers.

EFFECTIVE DATE: May 18, 1979.

FOR FURTHER INFORMATION CONTACT: Malvin E. McGaha, 202–447–5975.

SUPPLEMENTARY INFORMATION: *Findings.* This regulation is issued under the marketing agreement, as amended, and Order No. 917, as amended (7 CFR Part 917), regulating the handling of fresh pears, plums, and peaches grown in California. The agreement and order are effective under the Agricultural Marketing Agreement Act of 1937, as amended (7 U.S.C. 601–674). The action is based upon the recommendations and information submitted by the Plum Commodity Committee, and upon other information. It is hereby found that this action will tend to effectuate the declared policy of the act. This regulation has not been determined

significant under the USDA criteria for implementing Executive Order 12044.

This regulation is based upon an appraisal of the current and prospective market conditions for California plums. The committee estimates that 12.75 million packages of plums will be available for fresh shipment during the 1979 season compared to actual shipment of 10.8 million packages last season. The 1979 California plum crop is reported to be of good quality at this time with uniform sizing. Industry reports indicate that 1979 shipments of fresh California peaches and nectarines will be larger than last season. These fruits will provide strong market competition for fresh California plums.

The regulation specifies a minimum grade of U.S. No. 1 for all varieties of plums, except that an additional 10 percent tolerance is provided for defects not considered serious for two varieties (Tragedy and Kelsey). It also exempts from consideration as damaged, healed stem end cracks for 17 named varieties and gum spots for one variety (Late Tragedy). The regulation would also set minimum size requirements for 49 specified varieties of plums in terms of the maximum permissible number of plums contained in an eight-pound sample.

The grade and size requirements are necessary to prevent the shipment of California plums of a lower grade and smaller size than specified and are designed to provide ample supplies of good quality plums in the interest of producers and consumers pursuant to the declared policy of the act.

It is further found that it is impracticable and contrary to the public interest to give preliminary notice, engage in public rulemaking, and postpone the effective date until 30 days after publication in the **Federal Register** (5 U.S.C. 553) because of insufficient time between the date when information became available upon which this regulation is based and the effective date necessary to effectuate the declared policy of the act. Interested persons were given an opportunity to submit information and views on the regulation at an open meeting. It is necessary to effectuate the declared purposes of the act to make these regulatory provisions effective as specified, and handlers have been apprised of such provisions and the effective time.

§ 917.450 Plum Regulation 15.

Order. (a) During the period May 18, 1979, through July 14, 1979, no handler shall ship any lot of packages or containers of any plums, other than the varieties named in paragraph (b) hereof, unless such plums grade at least U.S. No. 1.

(b) During the period May 18, 1979, through July 14, 1979, no handler shall ship:

(1) Any lot of packages or containers of Tragedy or Kelsey plums unless such plums grade U.S. No. 1, with a total tolerance of 10 percent for defects not considered serious damage in addition to the tolerances permitted by such grade; or

(2) Any lot of packages or containers of Angeleno, Andys Pride, Autumn Queen, Bee Gee, Casselman, Empress, Fresno Rosa, Grand Rosa, Improved Late Santa Rosa, King David, Late Santa Rosa, Linda Rosa, Red Rosa, Rosa Grande, Roysum, SW–1, and Swall Rosa plums unless such plums grade U.S. No. 1, except that healed cracks emanating from the stem end which do not cause serious damage shall not considered as a grade defect with respect to such grade; or

(3) Any lot of packages or other containers of Late Tragedy plums unless such plums grade U.S. No. 1, except that gum spots which do not cause serious damage shall not be considered as a grade defect with respect to such grade.

(c) During the period May 18, 1979, through July 14, 1979, no handler shall ship any package or other container of any variety of plums listed in Column A of the following Table I unless such plums are of a size that an eight-pound sample, representative of the sizes of the plums in the package or container, contains not more than the number of plums listed for the variety in column B of said table.

Table I

Column A variety	Column B plums-per-sample
Ace	55
Amazon	64
Andys Pride	69
Angeleno	67
Autumn Rosa	72
Beauty	91
Bee Gee	65
Black Beaut	74
Burmosa	60
Casselman	63
Duarte	62
Duredo	91
Ebony	66
El Dorado	68
Elephant Heart	53
Empress	57
Fresno Rosa	62
Friar	56
Frontier	61
Gar-Rosa	71
Grand Rosa	54
July Santa Rosa	69
Kelsey	47
King David	50
Laroda	58
Late Santa Rosa (including Improved Late Santa Rosa and Swall Rosa)	64

Table I—Continued

Column A variety	Column B plums-per-sample
Linda Rosa	63
Mariposa	61
Midsummer	63
Nubiana	56
President	57
Queen Ann	50
Queen Rosa	53
Red Beaut	87
Red Glow-Golden Glow	60
Red Rosa	64
Redroy	56
Rosa Ann	69
Rosa Grande	63
Roysum	80
Santa Rosa	69
Simka, Arrosa, New Yorker	50
Standard	83
Tragedy	114
Wickson	51

(d) When used herein, "U.S. No. 1" and "serious damage" shall have the same meaning as set forth in the United States Standards for Fresh Plums and Prunes (7 CFR 2851.1520–1538); and all other terms shall have the same meaning as when used in the amended marketing agreement and order.

(e) Plum Regulation 14 (43 FR 21636, 29526) is hereby terminated as of the effective date hereof.

(Secs. 1–19, 48 Stat. 31, as amended; 7 U.S.C. 601–674)

Dated: May 15, 1979, to become effective May 18, 1979.

D. S. Kuryloski,

Acting Deputy Director, Fruit and Vegetable Division, Agricultural Marketing Service.

[FR Doc. 79-15628 Filed 5-16-79; 8:45 am]

BILLING CODE 3410-02

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7 CFR Part 918

Georgia Peaches; Expenses and Rate of Assessment

AGENCY: Agricultural Marketing Service, USDA.

ACTION: Final rule.

SUMMARY: This regulation authorizes expenses and rate of assessment for the 1979–80 fiscal period, to be collected from handlers to support activities of the Industry Committee which locally administers the Federal marketing order covering Georgia peaches.

DATES: Effective March 1, 1979, through February 29, 1980.

FOR FURTHER INFORMATION CONTACT: Malvin E. McGaha, (202) 447–5975.

SUPPLEMENTARY INFORMATION: *Findings.* This regulation is issued under the marketing agreement, as amended, and Order No. 918, as amended (7 CFR Part 918) regulating the handling of peaches

promptly inform the handler of its

(2) Melons failing to meet the

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grown in Georgia. The agreement and order are effective under the Agricultural Marketing Agreement Act of 1937, as amended (7 U.S.C. 601–674). This action is based on the recommendation and information submitted by the Industry Committee, and upon other available information. It is hereby found that this action will tend to effectuate the declared policy of the act. This action has not been determined significant under USDA criteria for implementing Executive Order 12044.

§ 918.217 Expenses and rate of assessment.

(a) Expenses that are reasonable and likely to be incurred by the Industry Committee during the period March 1, 1979, through February 29, 1980, will amount to $16,925.

(b) The rate of assessment for said period payable by each handler in accordance with § 918.41 is fixed at $0.011 per bushel (48 pounds net weight) of peaches.

It is further found that it is impracticable and contrary to the public interest to give preliminary notice, engage in public rulemaking and postpone the effective date until 30 days after publication in the Federal Register (5 U.S.C. 553), as the order requires that the rate of assessment for a particular fiscal year shall apply to all assessable peaches handled from the beginning of such year which began March 1, 1979. To enable the committee to meet fiscal obligations which are now accruing, approval of the expenses and assessment rate is necessary without delay. Handlers and other interested persons were given an opportunity to submit information and views on the expenses and assessment rate at an open meeting of the committee. It is necessary to effectuate the declared purposes of the act to make these provisions effective as specified.

(Secs. 1–19, 48 Stat. 31, as amended; (7 U.S.C. 601–674)

Dated: May 14, 1979.

D. S. Kuryloski,

Acting Deputy Director, Fruit and Vegetable Division, Agricultural Marketing Service.

[FR Doc. 79-15380 Filed 5-16-79; 8:45 am]

BILLING CODE 3410-02-M

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7 CFR Part 979

Melons Grown in South Texas; Handling Regulation

AGENCY: Agricultural Marketing Service, USDA.

ACTION: Final rule.

SUMMARY: This regulation requires fresh market shipments of melons grown in designated counties in South Texas to be inspected and meet minimum grade, quality and container requirements. The regulation will promote orderly marketing of such melons and keep less desirable qualities from being shipped to consumers.

EFFECTIVE DATE: May 17, 1979.

FOR FURTHER INFORMATION CONTACT:
Donald S. Kuryloski, Acting Deputy Director, Fruit and Vegatable Division, AMS, U.S. Department of Agriculture, Washington, D.C. 20250. Telephone (202) 447–6393.

SUPPLEMENTARY INFORMATION:
Marketing Agreement No. 156 and Order No. 979 (44 FR 22038) regulate the handling of melons grown in 19 designated counties of South Texas. It is effective under the Agricultural Marketing Agreement Act of 1937, as amended (7 U.S.C. 601–674). The South Texas Melon Committee, established under the order, is responsible for its local administration.

This regulation is based upon unanimous recommendations made by the committee at its public meetings in McAllen and Weslaco, Texas, on April 17, 19 and 25, 1979. The recommendations of the committee reflect its appraisal of the expected volume and composition of the 1979 spring crop of South Texas melons and of the marketing prospects for the shipping season which has begun.

The regulation will benefit consumers and producers by standardizing and improving the quality of melons shipped from the production area. The grade requirements will prevent melons of poor quality from being shipped to fresh market outlets. Not more than 50 percent of the melons in any lot may fail the requirements for U.S. Commercial grade. A tolerance of 20 percent is allowed for serious damage of which not more than 10 percent may be for melons affected by soft decay. Black surface discoloration is not considered a defect. Individual cartons are required to contain at least 25 percent U.S. Commercial quality melons.

The container requirements will prevent the shipment of bulk loads of packing house culls which adversely affect the reputation and returns of packed South Texas melons. However, the containers required are those customarily packed for the retail trade.

Notice of rulemaking was published in the May 3, 1979, Federal Register (44 FR 25846). The notice affored interested persons through May 12, 1979, to file written comments on the proposal.

A comment was filed May 10 by the committee to add a provision authorizing exemption of existing inventories of containers from paragraph (b)(1). It resulted from a handler, who had a supply of wire-bound crates that would not meet container requirements, requesting permission to use his remaining inventory. The comment has merit and paragraph (b)(4) has been added to provide relief to handlers who may experience this type of problem. However, handlers desiring such exemption must first apply in writing to the committee and obtain a permit. Permits and their use will be supervised by the committee.

Exceptions are provided to certain of these handling requirements to recognize special situations in which such requirements are inappropriate or unreasonable. Up to 120 pounds of melons may be handled, other than for resale, per person per day without regard to requirements of this section in order to avoid placing an unreasonable burden on persons handling noncommercial quantities of melons.

The requirements with respect to special purpose shipments allow the shipment of melons for charity, relief, canning and freezing. Shipments of melons for canning or freezing are exempt under the legislative authority for this part. Shipments for charity or relief are exempt since no useful purpose would be served by regulating such shipments.

Findings. After consideration of all relevant matters, including the proposal set forth in the notice and the comment filed by the committee, it is hereby found that the handling regulation as hereinafter set forth, will tend to effectuate the declared policy of the act.

It is further found that good cause exists for not postponing the effective date of this section until 30 days after its publication in the Federal Register (5 U.S.C. 553) in that (1) shipments of melons from the production area have begun, (2) to maximize benefits to producers this regulation should apply to as many shipments as possible during the marketing season, and (3) producers and handlers have been informed of these requirements and strongly supported them at the April 17, 19 and 25, 1979, public meetings. Compliance with this regulation will not require any special preparation on the part of persons subject thereto which cannot be completed by the effective date hereof.

This regulation amends 7 CFR 979 by adding the following new section:

§ 979.301 Handling regulation.

From the effective date herein through August 31, 1979, no person shall handle cantaloup or honey dew melons unless they meet the requirements of paragraphs (a) through (c), (d) or (e) and (f) of this section.

(a) *Grade requirements.* Not more than 50 percent of the melons in any lot may fail to meet the requirements of U.S. Commercial grade except no more than 20 percent shall be allowed for serious damage, and including in this latter amount not more than 10 percent for melons affected by soft decay. Black surface discoloration shall not be considered as a grade defect with respect to such grade. Individual cartons shall contain not less than 25 percent U.S. Commercial or better quality.

(b) *Container requirements.* (1) Except as provided in paragraphs (b)(5), (d) or (e) and (f) all cantaloups shall be packed in fiberboard cartons with inside dimensions of not more than 17¼ nor less than 16¾ inches in length, not more than 13 nor less than 12¾ inches in width, and not more than 10⅝ nor less than 9¾ inches in depth. All honey dew melons shall be packed in fiberboard cartons with inside dimensions of 17 inches long by 15¼ inches wide and not more than 7½ inches nor less than 6½ inches deep. A tolerance of ¼ inch for each dimension shall be permitted.

(2) Each container shall be marked to indicate the count; the name, address, and zip code of the shipper; the name of the product; and the words "Produce of U.S.A." or "Product of U.S.A."

(3) If the container in which the melons are packed is not clean and bright in appearane without marks, stains, or other evidence of previous use, the container shall be conspicuously marked with the words "USED BOX" in letters not less than three-fourths (¾) inch high.

(4) The committee may exempt handlers from the container requirements of (b)(1) above to allow the one-time use of existing inventories of containers that do not meet these requirements.

Handlers requesting exemption from container requirements shall apply to the committee in writing and furnish the committee with such information as it deems necessary including the quantity to be shipped and the reason for the exemption. The committee may then at its option issue to the handler a permit authorizing the use of a specified number of containers for one-time use only under committee supervision. If the request of such handler is denied in whole or part, the committee shall promptly inform the handler of its action.

(5) These container requirements shall not be applicable to melons sold to Federal agencies.

(c) *Inspection.* (1) No handler may handle any melons regulated hereunder except pursuant to paragraphs (d) or (e) and (f) of this section unless an inspection certificate has been issued covering them and the certificate is valid at the time of shipment.

(2) No handler may transport by motor vehicle or cause such transportation of any shipment of melons for which an inspection certificate is required unless each such shipment is accompanied by a copy of the inspection certificate applicable thereto or by documentary evidence on forms furnished by the committee identifying truck lots to which a valid inspection certificate is applicable. A copy of such inspection certificate or committee document shall be surrendered upon request to authorities designated by the committee.

(3) For purposes of operation under this part each inspection certificate or committee form required as evidence of inspection is hereby determined to be valid for a period not to exceed 72 hours following completion of inspection as shown on the certificate.

(4) Designated inspection stations will be located at the Texas Federal Inspection Service office, 1301 W. Expressway, Alamo (Phone (512) 787–4091 or 6881) and the Matt Dietz Packing Co., 4700 N. Santa Maria, Laredo, phone (512) 723–9178 or 9170, to be available for handlers who do not have permanent packing facilities recognized by the committee.

(5) Handlers shall pay assessments on all assessable melons according to the provisions of § 979.42, at the rate of 1½ cents per carton.

(d) *Minimum quantity exemption.* Not withstanding any other provision of this section, melons may be handled without regard to the provisions of §§ 979.42, 979.52, 979.60, and 979.80 and the regulations issued thereunder, if the shipment does not exceed 120 pounds net weight of melons to any one person during any one day, except that the exempted quantity shall not be included as a part of any shipment exceeding 120 pounds and further that such melons are not for resale.

(e) *Special purpose shipments.* (1) The requirements of paragraphs (a) through (c) of this section shall not apply to shipments for charity, relief, canning and freezing if a handler presents a Certificate of Privilege for such melons prior to handling them in accordance with § 979.155.

(2) Melons failing to meet the requirements of paragraphs (a) through (c) of this section and not exempt under paragraphs (d) or (e), and all melons discarded from the grading table shall either be mechanically spiked or mutilated or handled for special purpose outlets in accordance with § 979.152.

(f) *Safeguards.* Each handler making shipments of melons for relief, charity, canning or freezing under paragraph (e) of this section shall:

(1) Notify the committee of the intent to ship melons under paragraph (e) of this section by applying on forms furnished by the committee for a Certificate of Privilege applicable to such special purpose shipments.

(2) Obtain an approved Certificate of Privilege.

(3) Prepare on forms furnished by the committee a special purpose shipment report for each individual shipment.

(4) Forward copies of the special purpose shipment report to the committee office and to the receiver with instructions to the receiver to sign and return a copy to the committee's office. Failure of the handler or receiver to report such shipments by promptly signing and returning the applicable special purpose shipment report to the committee office shall be cause for suspension of such handler's Certificate of Privilege applicable to such shipments.

(g) *Definitions.* "U.S. melon standards" means the United States Standards for Grades of Cantaloups (7 CFR 2851.475–2851.494c), or the United States Standards for Grades of Honey Dew and Honey Ball Type Melons (7 CFR 2851.3740–2851.3749), whichever is applicable, or variations thereof specified in this section. The term "U.S. Commercial" shall have the same meaning as set forth in these standards.

All other terms used in this section shall have the same meaning as when used in Marketing Agreement No. 156 and this part.

(Secs. 1–19, 48 Stat. 31, as amended; 7 U.S.C. 601–674).

Dated: May 15, 1979, to become effective May 17, 1979.

Note.—This regulation has not been determined significant under the USDA criteria for implementing Executive Order 12044.

D. S. Kuryloski,

Acting Deputy Director, Fruit and Vegetable Division, Agricultural Marketing Service.

[FR Doc. 79-15505 Filed 5-16-79; 8:45 am]

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established under § 979.52(b) of this part

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7 CFR Part 979

Melons Grown in South Texas; Rules and Regulations

AGENCY: Agricultural Marketing Service, USDA.

ACTION: Final rule.

SUMMARY: This subpart establishes the rules and regulations for the operation of Order No. 979 regulating the handling of melons grown in South Texas, which became effective April 13, 1979 (44 FR 22038). The rules are necessary for implementation of the order and contain the general requirements relating to the conduct of meetings, setting of the fiscal period, nomination of public members, special purpose shipment procedures and reporting requirements.

EFFECTIVE DATE: May 17, 1979.

FOR FURTHER INFORMATION CONTACT: Donald S. Kuryloski, Acting Deputy Director, Fruit and Vegetable Division, AMS, U.S. Department of Agriculture, Washington, D.C. 20250. Telephone (202) 447–6393.

SUPPLEMENTARY INFORMATION: Marketing Agreement No. 156 and Order No. 979 (7 CFR Part 979) regulate the handling of melons grown in 19 designated counties of South Texas. It is effective under the Agricultural Marketing Agreement Act of 1937, as amended (7 U.S.C. 601–674).

Notice of rulemaking was published in the May 3, 1979, **Federal Register** (44 FR 25848). The notice afforded interested persons through May 12, 1979, to file written comments on the proposal. None was filed.

These rules and regulations were recommended by the South Texas Melon Committee at its public meetings in McAllen and Weslaco, Texas, on April 17, 19 and 25.

The order is defined in this subpart to provide a means of referring to this part without using the citation each time.

The fiscal period is set at May 1 through April 30 of the following year. This allows time for the budget to be prepared, recommended and approved prior to the time disbursements of committee funds are made.

The rules also contain eligibility requirements for the public member. The requirements would provide representation from a nonagricultural point of view; from someone not having a financial (or economic) interest in, or other close association with the production, processing, financing or marketing of melons. The public member and alternate will be nominated by the growers and handlers on the committee and will serve the same term of office as other committee members.

Nomination procedures for public members are also included in the rules. Under these rules, questionnaires may be sent to interested persons to determine their qualifications. The names and qualifications are then submitted to the committee. After the initial season, the names of persons nominated for public member and alternate positions are to be submitted to the Secretary by January 15.

The committee is authorized to meet by telephone since it may not always be practical or expedient to hold an assembled meeting. Such telephone meetings may be called only by the chairman or vice-chairman acting in his stead, and seven affirmative votes are required to approve any action. All votes must be promptly confirmed in writing by the voter.

Procedures for the handling of culls are specified by the rules. Melons failing the requirements contained in the handling regulation are required to either be spiked or mechanically mutilated or be handled for special purpose outlets. This will preclude entry of poor quality or otherwise unsuitable melons into normal channels of trade to the detriment of the melon industry.

Handlers making shipments of melons for special purposes are required to provide the committee with information regarding such shipments to preclude the entry of the melons into normal channels of trade. Handlers are required to obtain a Certificate of Privilege from the committee and comply with all reporting requirements. This will give the committee the information necessary for determining compliance. The rules contain the necessary procedures for determining qualification, application for the Certificate, approval by the committee and disqualification.

In order to help the committee become informed on the size and quality of the crop, each handler is required to furnish, during the planting season, information on a bi-weekly basis to the committee. Such information may include the number of acres and location of cantaloups and honey dew melons planted by them or by growers for whom they pack.

The rules and regulations were discussed at three widely publicized open public meetings where interested persons were given opportunities to make comments. Producers and handlers attending the meetings strongly supported the proposal.

After consideration of all relevant matters, including the proposals set forth in the notice, it is hereby found that these rules and regulations will tend to effectuate the declared policy of the act. It is further found that good cause exists for not postponing the effective date of this section until 30 days after its publication in the **Federal Register** (5 U.S.C. 553) in that (1) shipments of melons from the production area have already begun, (2) to maximize benefits to producers the provisions of these rules and regulations should cover as many shipments as possible, (3) information regarding these provisions has been made available to producers and handlers in the production area, and (4) compliance with this regulation will not require any special preparation on the part of persons subject to it that cannot be completed by the effective date.

The new sections to be added to 7 CFR Part 979 read as follows:

PART 979—MELONS GROWN IN SOUTH TEXAS

Sec.

* * * * *

979.100 Order.
979.106 Registered handler.
979.110 Fiscal period.
979.122 Eligibility requirements for public members.
979.126 Nomination procedures for public members.
979.132 Procedure.
979.152 Handling of culls.
979.155 Safeguards.
979.180 Reports.

§ 979.100 Order.

"Order" means Order No. 979 (§§ 979.1 to 979.92; 44 FR 22038) regulating the handling of melons grown in South Texas.

§ 979.106 Registered handler.

For purposes of this part, a registered handler is a person who has adequate facilities for packing melons for market and who assumes initial responsibility for compliance with inspection, assessment, and other regulatory requirements on the handling of melons grown in the production area. Any person who wishes to become a registered handler shall make application for registration with the committee on forms furnished by the committee. If such applicant has facilities available which are determined by the committee as adequate for the packing of melons, such person may be approved as a registered handler. Growers who make deliveries of fieldrun melons to such registered handlers are hereby determined to be exempt from otherwise applicable regulations pursuant to this part.

§ 979.110 Fiscal period.

"Fiscal period" means the annual period beginning May 1 and ending on April 30 of the following year.

§ 979.122 Eligibility requirements for public members.

(a) A public member shall represent a nonagricultural point of view, and shall not have a financial (or economic) interest in, or be closely associated with the production, processing, financing or marketing of melons.

(b) Public members should be able to devote sufficient time and express a willingness to attend committee activities regularly and to familiarize themselves with the background and economics of the industry.

(c) Public members must be residents of the production area.

(d) Public members shall be nominated by the South Texas Melon Committee and shall serve a two-year term which coincides with the term of office of producer or handler members of the committee.

§ 979.126 Nomination procedures for public members.

(a) Names of candidates together with evidence of qualification for public membership on the South Texas Melon Committee shall be submitted to the committee at its business office.

(b) Questionnaires may be sent by the committee to those persons submitted as candidates, to determine their eligibility and interest in becoming a public member.

(c) The names of persons nominated for the public member and alternate positions shall be submitted by the incumbent committee to the Secretary by January 15 with such information as deemed pertinent by the committee or as requested by the Secretary.

(d) Nomination of the initial public member shall be made as soon as possible but not later than 90 days after the first meeting of the committee.

§ 979.132 Procedure.

The committee shall be authorized to meet by telephone or other means of communication. Any vote at such a meeting shall be promptly confirmed in writing by each voter. On such occasions seven affirmative votes shall be necessary to approve any action. Telephone meetings shall be called only by the Committee chairman or vice-chairman acting in his stead.

§ 979.152 Handling of culls.

(a) The handling of culls, i.e., melons which fail to meet the grade, size, quality or other requirements established under § 979.52(b) of this part is prohibited unless such melons are:

(1) Mechanically spiked or mutilated at the packing shed rendering them unsuitable for fresh market; or

(2) Handled for special purpose outlets approved under § 979.54 of this part.

(b) As a safeguard against culls entering fresh market channels each handler under subparagraph (2) shall apply for and obtain a certificate from the committee which shall require the handler to furnish such reports or other information as the committee may request.

§ 979.155 Safeguards.

(a) *Policy.* Whenever shipments of melons for special purposes pursuant to § 979.54 are relieved in whole or in part from regulations issued under § 979.52, the committee may require information and evidence on the manner, methods, and timing of such shipments as safeguards against the entry of any such melons in trade channels other than those for which intended. Such information and evidence shall include requirements set forth below with respect to Certificates of Privilege.

(b) *Qualification.*—Before handling melons for special purposes which do not meet regulations issued pursuant to § 979.52, a handler, when required by such regulations, must qualify with the committee to handle shipments for special purposes. To qualify one must (1) apply for and receive a Certificate of Privilege indicating the intent to so handle melons, (2) agree to comply with reporting and other requirements set forth in § 959.155 with respect to such shipments, and (3) receive approval of the committee, or its duly authorized agents, to so handle melons. Such approval will be based upon evidence furnished in the application for Certificate of Privilege and other information available to the committee.

(c) *Application.* (1) Applications for a Certificate of Privilege shall be made on forms furnished by the committee. Each application may contain, but need not be limited to, the name and address of the handler; the quantity by grade, size, quality and container of the melons to be shipped; the mode of transportation; the consignee; the destination; the purpose for which the melons are to be used; and certification to the United States Department of Agriculture and to the committee as to the truthfulness of the information shown thereon, and any other appropriate information or documents deemed necessary by the committee or its duly authorized agents for the purposes stated in § 979.155.

(2) The committee may require each handler making shipments of melons for export to include with his application a copy of the Department of Commerce Shippers Export Declaration Form No. 7525–V applicable to such shipment.

(d) *Approval.* The committee or its duly authorized agents shall give prompt consideration to each application for a Certificate of Privilege. Approval of an application, based upon the determination as to whether the information contained therein and other information available to the committee supports approval, shall be evidenced by the issuance of a Certificate of Privilege to the applicant. Each certificate shall cover a specified period and specified qualities and quantities of melons to be sold or transported to a designated consignee for the purpose declared.

(e) *Reports.* Each handler of melons shipping under Certificates of Privilege shall supply the committee with reports as requested by the committee, or its duly authorized agents, showing the name and address of the shipper; the car or truck identification; the loading point; destination; consignee; the inspection certificate number when inspection is required; and any other information deemed necessary by the committee.

(f) *Disqualification.* The committee from time to time may conduct surveys of handling of melons for special purposes requiring Certificates of Privilege to determine whether handlers are complying with the requirements and regulations applicable to such certificates. Whenever the committee finds that the handler or consignee is failing to comply with requirements and regulations applicable to handling of melons in special outlets and requiring such certificates, a Certificate or Certificates of Privilege issued such handler may be rescinded and subsequent certificates denied. Such disqualification shall apply to, and not exceed, a reasonable period of time as determined by the committee, but in no event shall it extend beyond the date of the succeeding fiscal period. Any handler who has a certificate rescinded or denied may appeal to the committee in writing for reconsideration of his disqualification.

§ 979.180 Reports

Each handler shall furnish every two weeks during the planting season to the committee on a form provided by the committee the number of acres of cantaloups and honey dew melons planted by the handler or growers for whom the handler packs melons during such period and the location of such

natural gas and the amounts of natural

and reasonable availability of a fuel

As noted above, one responsibility of

plantings. However, during the first season of operation under the order each handler need only report the number of acres each of cantaloups and honey dew melons planted together with the location of all such plantings.

(Secs. 1–19, 48 Stat. 31, as amended; 7 U.S.C. 601–674.)

Dated: May 15, 1979 to become effective May 17, 1979.

Note.—This regulation has not been determined significant under the USDA criteria for implementing Executive Order 12044.

D. S. Kuryloski,

Acting Deputy Director, Fruit and Vegetable Division, Agricultural Marketing Service.

[FR Doc. 79-15506 Filed 5-16-79; 8:45 am]

BILLING CODE 3410-02-M

Farmers Home Administration

[FmHA Instruction 1980-A]

7 CFR Part 1980

Program Regulations; General Amendments

AGENCY: Farmers Home Administration, USDA.

ACTION: Final Rule.

SUMMARY: The Farmers Home Administration (FmHA) amends its regulations to add a settlement option for lenders who acquire property either through voluntary conveyance or foreclosure. Such an option is not available under current regulations. This change is necessitated to handle current loans involving foreclosure. The effect of the change will permit the lender to calculate the final loss settlement using net proceeds received at final liquidation rather than a bid value at the time of a public sale. In addition, lenders would not be violating their legal lending limits and the Government would not be paying excessive loss settlements.

EFFECTIVE DATE: March 17, 1979.

FOR FURTHER INFORMATION CONTACT: Darryl H. Evans, Loan Specialist, Telephone 202–447–4150.

SUPPLEMENTARY INFORMATION: § 1980.64 of Subpart A of Part 1980 of Chapter XVIII, Title 7, Code of Federal Regulations is amended to add a new subparagraph (c).

Under present regulations, once collateral is acquired by a lender by voluntary Conveyance at foreclosure through the use of a protective bid, the liquidation of that collateral would be complete. At this point a lender would be required to file with FmHA a final report of loss using the value assigned for voluntary Conveyance purposes or the protective bid value in calculating any loss. In addition, the lender may be violating its legal lending limit should the acquisition value exceed its lending authority. The government could also pay out excess amounts in loss settlements where acquisition values are less than the amount realized at final sale of the collateral.

The proposed change would eliminate these problems by permitting the lender the option to calculate the final loss at the time the collateral is actually sold if the lender acquires it. The guarantee would continue to final liquidation.

It is the policy of this Department that rules relating to public property, loans, grants, benefits, or contracts shall be published for comment notwithstanding the exemption in 5 U.S.C. 553 with respect to such rules. This amendment, however, is not published for proposed rulemaking since this change is beneficial to all parties of interest and is considered necessary to administer current loans in foreclosure. Therefore, public participation is unnecessary. This determination was made by Darryl H. Evans.

Accordingly, § 1980.64(c) of Subpart A of Part 1980 is added and reads as follows:

§ 1980.64 Liquidation.

* * * * *

(c) *Settlement option.* If a lender acquires title to property either through voluntary conveyance or foreclosure proceeding, FmHA may elect to permit the lender the option to calculate the final loss settlement using the net proceeds received at the time of ultimate disposition of such property. The lender must submit its written request for this option to FmHA, and FmHA must agree, prior to the lender submitting any request for estimated loss payment.

Note.—This document has been reviewed in accordance with FmHA Instruction 1901-G, "Environmental Impact Statement." It is the determination of FmHA that the proposed action does not constitute a major Federal action significantly affecting the quality of the human environment and, in accordance with the National Environmental Policy Act of 1969, P.L. 91–190, an Environmental Impact Statement is not required.

This regulation has not been determined significant under USDA criteria implementing Executive Order 12044.

A copy of the Impact Analysis Statement is available at the Office of the Chief, Directives Management Branch, Farmers Home Administration, U.S.D.A., Room 6348, South Agriculture Building, Washington, D.C. 20250.

(7 U.S.C. 1989; 42 U.S.C. 1480; 5 U.S.C. 301; Sec. 10 P.L. 93–357 88 Stat. 392; delegation of authority by the Secretary of Agriculture, 7 CFR 2.23; delegation of authority by the Assistant Secretary for Rural Development, 7 CFR 2.70.)

Dated: April 25, 1979.

James E. Thornton,

Associate Administrator, Farmers Home Administration.

[FR Doc. 79-15329 Filed 5-16-79; 8:45 am]

BILLING CODE 3410-07-M

Office of the Secretary

7 CFR Part 2900

Essential Agricultural Uses and Requirements—Natural Gas Policy Act

AGENCY: Office of the Secretary, USDA.

ACTION: Final rule.

SUMMARY: Section 401(c) of the Natural Gas Policy Act of 1978 (NGPA) (Pub. L. 95–621, November 9, 1978) provides that the Secretary of Agriculture shall certify to the Secretary of Energy and the Federal Energy Regulatory Commission (FERC) the natural gas requirements of essential agricultural uses for full food and fiber production.

The Final Rule determines and certifies the essential agricultural uses and the natural gas requirements of such uses necessary for full food and fiber production. It is intended to supplant the Interim Final Rule presently incorporated by reference in both the Secretary of Energy's final rule and the Federal Energy Regulatory Commission's (FERC) interim rule.

EFFECTIVE DATE: The Final Rule will become effective on May 14, 1979.

FOR FURTHER INFORMATION CONTACT: Weldon V. Barton, Director, Office of Energy, USDA, 202–447–2455.

SUPPLEMENTARY INFORMATION: Under Section 401(a) of the NGPA, the Secretary of Energy is required to prescribe and make effective a rule providing that to the maximum extent practicable, no curtailment plan of an interstate pipeline may provide for curtailment of deliveries of natural gas for any essential agricultural use, unless the curtailment does not reduce the quantity of natural gas delivered for such use below the amount certified by the Secretary of Agriculture or is necessary to serve high priority users. This rule, incorporating the Secretary of Agriculture's certification, was required by statute to be made effective not later than March 9, 1979.

On November 24, 1978, the Secretary of Agriculture published in the **Federal Register** (43 FR 54938) a proposed rule to certify essential agricultural uses of natural gas and the amounts of natural gas (in percentages of use) required for such essential agricultural uses. The Proposed Rule set forth the certification by the Secretary of Agriculture of (1) essential agricultural uses and (2) the natural gas requirements of those essential agricultural uses, as required under Section 401(c), NGPA.

In order to meet the statutory time constraints for providing relief from supply curtailment to essential agricultural users and to allow comment on and consideration of environmental effects, an interim final rule was issued on March 1, 1979, with the indication that it would be superseded by a permanent rule about April 30, 1979.

This interim period has permitted the USDA to reevaluate the Proposed Rule and public comments thereon, as well as comments on the Draft Economic and Environmental Impact Statement issued on February 23, 1979, and to develop the Final Rule as appropriate for the longer term.

I. Statutory Background

Natural gas is a crucial energy source in the food and fiber system. The desirability of clean-burning natural gas in food processing where the flame directly contacts the foodstuffs, the perishability of many food and fiber commodities, the unpredictability of fuel supply requirements in the agricultural sector due to weather variations, and the particular impact of price and supply availability of natural gas on food price volatility and resultant inflationary pressures, justify the special end-product approach to natural gas curtailment policy in the case of the food and fiber system, as reflected in Section 401(c) of the NGPA.

The NGPA provides for such an end-product curtailment priority for essential agricultural uses of natural gas which are necessary for full food and fiber production. The subparts of Section 401 explain the statutory responsibilities of each of the three agencies involved in implementing the agricultural priority, and specify the criteria for defining the scope of the program.

Section 401(c) provides that the Secretary of Agriculture "shall certify to the Secretary of Energy and the FERC, the natural gas requirements (expressed either as volumes or percentages of use) persons (or classes thereof) for essential agricultural uses in order to meet the requirements of full food and fiber production."

Section 401(b) authorizes the FERC, in consultation with the Secretary of Agriculture, to make determinations regarding the economic practicability and reasonable availability of a fuel other than natural gas as an alternative for any agricultural use of natural gas. The Conference Report accompanying the NGPA states, regarding Section 401(b), that "The conferees intend that the authority to restrict curtailment priority by determining that alternative fuels are economically practicable and reasonably available be utilized only in cases where it is clear that both tests are met. One of the reasons for imposing such a requirement is to prevent unnecessary increases in the cost of food in this country. The Commission determination that an alternative fuel is 'economically practicable' shall not include a requirement to switch to high-cost alternatives. That is not what the conferees consider to be 'economically practicable'."

Section 401(d) provides that the "Secretary of Agriculture may intervene as a matter of right in any proceeding before the Commission which is conducted in connection with implementing the requirements" of the Secretary of Energy's rule pursuant to Section 401(a).

For purposes of Section 401 of the NGPA, Section 401(f) stipulates that the term "essential agricultural use," when used with respect to natural gas "means any use of natural gas—

(a) for agricultural production, natural fiber production, natural fiber processing, food processing, food quality maintenance, irrigation pumping, crop drying, or

(b) as a process fuel or feedstock in the production of fertilizer agricultural chemicals, animal feed, or food,

which the Secretary of Agriculture determines is necessary for full food and fiber production."

The Final Rule is intended to certify two specific determinations that are required of the Secretary of Agriculture under Section 401 of the NGPA. The rule provides to the Secretary of Energy and to the FERC the following certifications:

(a) Essential agricultural *uses* of natural gas, expressed as classes of establishments or portions thereof that use gas for essential agricultural purposes; and

(b) Essential agricultural current *requirements* of natural gas in order to meet full food and fiber production, expressed as percentages of use.

II. Certification of Essential Agricultural Uses

The classes of use included in the Final Rule remain identical to those in the Interim Final Rule, except that food stores (SIC 54) have been added to the certification list.

As noted above, one responsibility of the Secretary of Agriculture under the Section 401 of the NGPA is to determine essential agricultural uses, that is, the uses of natural gas for certain statutorily enumerated functions which the Secretary determines are necessary for full food and fiber production.

Food stores had not been included in the Proposed Final Rule because the volume of natural gas involved in the case of any such establishment was assumed to be less than 50 mcf/day and therefore would be covered in a higher priority (small-scale commercial) than that provided by Section 401.

Public comments received indicated that certain food warehouses classified within SIC 54 consume more than 50 mcf/day. Since it was intended to include the storage and warehousing functions of SIC 54 in the Interim Final Rule, this final rule certified all uses of natural gas within SIC 54 as essential agricultural uses necessary for full food and fiber production. The operation of food stores, including warehousing and storage functions, are necessary to prevent food spoilage and product loss and thus are necessary for full food and fiber production. Consequently, SIC industry 54—food stores—has been added to the certification list. Because SIC 54 is added to the certification list, it is not necessary to specifically include SIC 5462—retail bakeries (baking and selling)—as in the Interim Final Rule. These establishments are classified within SIC 54.

Public comments on the Proposed Rule included arguments both for and against a much broader determination of uses of natural gas for natural fiber processing which are necessary for full food and fiber production. Specifically, comments centered on the wood and lumber industry (SIC 24), the paper and allied products industry (SIC 26), and the textile industry (SIC 22).

Because of the level of public interest regarding these industries and the substantial amounts of natural gas involved, the public comments and relevant information were reevaluated and the arguments on both sides were carefully weighed in drafting the Final Rule.

In the Interim Final Rule, cotton ginning and compressing (in SIC 0724) was included in the certification list but SIC 22 (with the exception of wool carding and topping in SIC 2299) was not included. The wood and lumber, and paper and allied products industries were also not included in the certification list.

A reevaluation of public comments and relevant information reaffirmed the

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exclusion of SIC industries 22, 24, and 26 (except wool carding and topping in SIC 2299) from the certification list as in the Interim Final Rule.

The rationale specifically stated for not including the lumber and paper industries in the Interim Final Rule was that "Congress did not express an intention to include wood as natural fiber for purposes of Title IV of the NGPA and that wood as an input for food packaging is several steps removed from the final product."

Section 401(f)(1) of the NGPA provides a list of functions for which the use of natural gas is eligible to be certified as an essential agricultural use based upon a determination of the Secretary of Agriculture that the use of natural gas for that purpose is "necessary for full food and fiber production." "Full food and fiber production" is in turn defined in Section 2900.2(a) in the Proposed, Interim Final, and Final Rules to include "the processing of food and fiber into stable and storable products * * *."

As a result of the review process, it was concluded that SIC industries 24 and 26 should not be included. The use of natural gas for these functions is not deemed "necessary for full food and fiber production." Harvested wood in the form of logs or bolts is in a stable and storable form and is not subject to significant deterioration during extended periods of natural gas curtailments. The case of lumber or paper manufacturers, in this regard, could be contrasted to that of the grain dryer, vegetable processor, or cotton ginner. Logs can be kept wet to prevent cracking for extended periods of time. No evidence was found to indicate that wood must go through a manufacturing process in order to be converted into a stable and storable product. Furthermore, there was no indication in the public comments that SIC industries 24 and 26 have suffered product losses due to natural gas curtailments, which, for several industries within those two groups, have been substantial.

Textile operations (except for wool carding and topping SIC 2299), were not included in the Interim Final Rule for the following reasons: (1) cotton fiber is stabilized against deterioration in the ginning and compressing operations prior to the textile mill stage; (2) the statute's restriction of coverage to natural (as opposed to synthetic) fibers mitigates against coverage on grounds of administrative practicality; and (3) the Conference Report referred to an intention of Congress "to prevent unnecessary increases in the cost of *food* in this country." (Emphasis added.)

A reevaluation of public comments and relevant materials led to the conclusion that the use of natural gas in textile manufacturing operations (except for wool carding and topping in SIC 2299), although eligible for consideration on the basis of being a use for natural fiber processing, is not "necessary for full food and fiber production," and therefore should not be included in the certification list as an essential agricultural use.

In the definition of "full food and fiber production," as quoted above, fiber processing is included to the extent that resulting products are stable and storable. Full food and fiber production is clearly satisfied by inclusion of cotton ginning and compressing, since baled and compressed cotton is stable and storable, and is available for industrial use or export.

Wool carding and topping is analogous to ginning and compressing cotton in that it is necessary to prevent deterioration of the wool fiber. For this reason, it is determined that wool carding and topping (in SIC 2299) is necessary for full food and fiber production. Wool carding and topping, as included in the Interim Final Rule, is retained in the Final Rule.

The determination of "essential agricultural uses" pursuant to Section 401(f)(1), which is predicated upon a determination by the Secretary that for purposes of curtailment protection, a use of natural gas for certain eligible uses is necessary for full food and fiber production, should not be construed as any indication of what is or is not an "agricultural use" for purposes of other sections of the NGPA, notably Section 206.

III. Certification of Current Requirements

The Proposed Rule certified natural gas requirements as 100 percent of current requirements for each essential agricultural use as authorized by Section 401(c), NGPA: "The Secretary of Agriculture shall certify to the Secretary of Energy and the Commission the natural gas requirements (expressed as volumes or percentage of use) of persons (or classes thereof) for essential agricultural uses in order to meet the requirements of full food and fiber production."

The public was requested to comment specifically on the following issues related to requirements:

- Determination of amounts, including how a current method of determining natural gas requirements may be carried out;
- Relation to new agricultural facilities;
- Rendering the rule practicable and equitable to the maximum extent; and
- Facilitation of the USDA rule in assisting FERC alternate fuel determinations (Section 401(b), NGPA) to prevent avoidable delays in implementing the agricultural priority.

The public comments dealt with several important elements of the Secretary's responsibilities with respect to the volumetric component of this certification, including: (1) current or historical base method for certification; (2) categories and actual levels of natural gas requirements to be certified as necessary for full food and fiber production; and (3) detailed implementation procedures whereby the Secretary of Agriculture's certification of current requirements would be translated into facility-specific pipeline gas entitlements.

Volumetric requirements of large-scale users were treated precisely in the Interim Final Rule in order to specify more accurately the volumes of natural gas involved. A multiple-option, rolling base period approach, corrected to include natural gas not used due to curtailments of process and feedstock gas of plant shutdowns, was intended to provide full requirements of natural gas for essential agricultural users, in a manner conducive to effective implementation.

The USDA has continued to assess options available for the Final Rule since the March 1, 1979 publication of the Interim Final Rule. The proposed and interim final certifications and public comments have been reevaluated and the environmental impacts of options, including all public comments directed thereto, have been carefully considered.

The USDA has determined that specifications of natural gas requirements by using the base period approach contained in the Interim Final Rule would not be sufficiently flexible and responsive on a permanent basis to assure full food and fiber production in the event of significant increases in output levels or processing requirements brought about by changes in weather or other factors.

The Proposed Rule contemplated a current, rather than an historical base period, method for determining volumetric requirements, recognizing the vagaries of nature whereby energy demands unpredictably vary from season to season and year to year. The Interim Final Rule departed from this position somewhat for large, off-farm uses. Public comment on the Draft

Economic and Environmental Impact Statement included the contention that, although the draft statement recognized the biological nature of agricultural production, it failed to address adequately the impact of such fluctuations on the natural gas requirements of *all* essential agricultural uses. The Final Economic and Environmental Impact Statement assesses the ramifications of the biological nature of agriculture as reflected in fluctuations in the fertilizer industry, crop drying and food processing. The data indicates that USDA certification by means of a rolling base period would not be sufficiently flexible and responsive to provide for natural gas requirements necessary for full food and fiber production in all instances.

Section 401(c) of the NGPA expressly authorizes the Secretary of Agriculture to certify the natural gas requirements of essential agricultural users in terms of either volumes of percentages of use. The certification of volumetric requirements in the Interim Final Rule was designed to make the maximum use of the authority under Section 401(f) to define "essential agricultural use" as "any use of natural gas . . . which the Secretary of Agriculture determines is *necessary* for full food and fiber production," (emphasis added) in order to avoid duplicate decisionmaking by the Secretary of Agriculture and the Federal Energy Regulatory Commission. Generally, the Interim Final Rule sought to harmonize the potentially overlapping responsibility of the FERC, in consultation with the Secretary of Agriculture, under 401(b), to determine whether a fuel other than natural gas is economically practicable and reasonably available as an alternative to a volume of use certified by the Secretary of Agriculture under Section 401(c) (in which case the protection against curtailment for that specific use would not apply), and of the Secretary of Agriculture under Section 401(f), to exclude from his initial certification any use of gas which he determines not "necessary" for full food and fiber production.

Reversion to the percentage certification of essential agricultural use requirements, as formulated in the Proposed Rule, shifts to FERC, in consultation with the Secretary of Agriculture, the initiative for the alternative fuel capability determinations, without undue duplicative decisionmaking.

Having duly considered the full public record, including all recent comments in the context of the statutory obligations of the Secretary of Agriculture pursuant to Section 401 of the NGPA, the USDA Final Rule contains the following variations from the Interim Final Rule regarding natural gas requirements of essential agricultural uses:

(1) The USDA Final Rule reverts to the position in the Proposed Rule of certifying 100 percent of current requirements as necessary for full food and fiber production. Implementation in the pipeline curtailment plans is within FERC statutory responsibility; the Secretary of Agriculture may intervene in any such proceedings as a matter of right.

(2) The USDA Final Rule reverts to the position in the Proposed Rule of not discriminating as to types of use, since 100 percent of current requirements is appropriate for all essential agricultural uses for purposes of the Secretary of Agriculture's certification. Process and feedstock uses only are certified for agricultural chemicals and animal feeds and food, as in the Interim Final Rule, pursuant to the directive in Section 401(f)(2) of the NGPA. The responsibility for implementing the new alternative fuels determination is assigned by Section 401(b) to the FERC, in consultation with the USDA.

The USDA Final Rule retains the languange of the Interim Final Rule in certifying uses on an equal basis within the classes of establishments identified in 7 CRF Section 2900.3, whether such uses are in existence on the effective date of this rule or come into existence thereafter. A new or expanded facility is equally necessary for full food and fiber production as an existing facility. Such facilities are constructed both in response to rising demand for food and natural fiber products and to replace obsolete, less efficient facilities as they are phased out of the production stream.

IV. Impact Analysis

USDA has prepared and filed with the Environmental Protection Agency, a Final Economic and Environmental Impact Statement (EEIS). The 30-day review period has been waived consistent with 40 CFR Section 1506.10(b)(2) which provides for publishing ". . . a decision on the final rule simultaneously with the publication of the notice of availability of the final environmental impact statement . . .", when rulemaking under the Administrative Procedures Act is involved. The Final EEIS assesses the economic and environmental consequences of alternative curtailment plans. Impacts on agriculture, affected industries, air quality, water quality, and biological resources are discussed. The estimates of volumes of natural gas affected by the USDA certification of essential agricultural uses were developed as maxima, with FERC not removing any natural gas from the agricultural priority via Section 401(b). The analysis in the Final EEIS found that the volumes affected under any of the options considered by the USDA are negligible when comparing increased natural gas use by agriculture with total use. The actual impact of the agricultural priority is indeterminate, as actions by FERC pursuant to Section 401(b) may reduce the volumes protected by the agricultural priority.

Single copies of the Final EEIS may be requested from USDA Office of Energy, Room 5173 South Agricultural Building, 12th and Independence Avenue, SW., Washington, DC 20250. The Final EEIS fully meets the requirements of the Council of Environmental Quality regulations for implementing the National Environmental Policy Act, 40 CFR Parts 1500–1508, as well as Executive Order 12044.

Notice is hereby given that the Office of Energy of the U.S. Department of Agriculture has prepared a Final Economic and Environmental Impact Statement in accordance with Section 102(2)(c) of the National Environmental Policy Act of 1969, in connection with the Final Rule on Certification of Essential Agricultural Uses of Natural Gas pursuant to Section 401 of the Natural Gas Policy Act of 1978.

Additional information may be secured on request, submitted to Dr. Weldon V. Barton, Director, Office of the Secretary, Office of Energy, U.S. Department of Agriculture, Room 5175 South Building, Washington, D.C. 20250. The Final Economic and Environmental Impact Statement may be obtained during regular business hours in Room 5175 South Agricultural Building, 14th and Independence, SW, Washington, D.C. The 30-day review period had been waived consistent with the provisions of the Council on Environmental Quality (EQ) regulations Section 1506.10(b)(2) which provides for publication of the notice of availability of the Final EEIS simultaneously with the Final Rule. This Final Economic and Environmental Impact Statement for the Final Rule on Certification of Essential Agricultural Uses of Natural Gas is effective as of May 14, 1979, the effective date of the Final Rule.

Part 2900 is hereby revised to read as set forth below:

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PART 2900—ESSENTIAL AGRICULTURAL USES-NATURAL GAS POLICY ACT

Sec.
2900.1 General
2900.2 Definitions
2900.3 Essential Agricultural Uses
2900.4 Natural Gas Requirements
2900.5 Amendments
2900.6 Effective Date

Authority: Pub. L. 95–621, November 9, 1978.

§ 2900.1 General.

Section 401(c) of the Natural Gas Policy Act of 1978 (NGPA) requires the Secretary of Agriculture to determine the essential uses of natural gas, and to certify to the Secretary of Energy and the Federal Energy Regulatory Commission (FERC) the natural gas requirements, expressed either as volumes or percentages of use, of persons, or classes thereof, for essential agricultural uses in order to meet requirements of full food and fiber production. This rule covers establishments performing functions classed as essential agricultural uses whose natural gas supplies are distributed through the interstate pipeline systems even though such establishments may receive such gas directly from an intrastate pipeline or local distribution company. The rule provides to the Secretary of Energy (for purposes of Section 401(a) of the NGPA) and to the Federal Energy Regulatory Commission the following certifications:

(a) Essential agricultural *uses* of natural gas, expressed as classes of establishments that use gas for essential agricultural purposes; and

(b) Essential agricultural current *requirements* of natural gas, expressed as percentages of use.

§ 2900.2 Definitions.

(a) "Full food and fiber production" means the entire output of food and fiber produced for the domestic market, and for export, for building of reserves, and crops for soil building or conservation. This term also includes the processing of food and fiber into stable and storable products, and the maintenance of food quality after processing.

(b) "Establishment" means an economic unit, generally at a single physical location where business is conducted or where service or industrial operations are performed (for example, a factory, mill, store, mine, farm, sales office, or warehouse). (Note—This is the same definition used in the Standard Industrial Classification Manual, 1972 edition).

(c) "Essential Agricultural Use Establishment" means any Establishment, or the portion of an Establishment, which performs (or has the capability to perform) activities specified in § 2900.3.

(d) "Current Natural Gas Requirements" means the amount of natural gas required by an Essential Agricultural Use Establishment to perform the activities devoted to full food and fiber production.

§ 2900.3 Essential agricultural uses.

For purposes of Section 401(c) of the NGPA the following classes or portions of classes are certified as essential agricultural uses in order to meet the requirements of full food and fiber production:

Essential Agricultural Uses

Industry SIC No. and Industry Description

Food and Natural Fiber Production

01 Agricultural Production—Crops
02 Agricultural Production—Livestock Excluding 0272—Horses and Other Equines, and Nonfood Portions of 0279—Animal Specialties, Not Elsewhere Classified.
0723 Crop Preparation Services for Market, Except Cotton Ginning (see fiber processing).
4971 Irrigation Systems.

Fertilizer and Agricultural Chemicals

(Process and Feedstock Use Only)

1474 Potash, Soda, and Borate Materials.
1475 Phosphate Rock.
1477 Sulfur.
2819 Industrial Inorganic Chemicals, n.e.c. (Agricultural related only).
2865 Cyclic Crudes and Cyclic Intermediates, Dyes and Organic Pigments (Agricutural related only).
2869 Industrial Organic Chemicals, n.e.c. (Agricutural related only).
287 Agricutural Chemicals.
2899 Chemicals and Chemical Preparations, n.e.c. (salt-food and feed grade only).
3274 Lime (Agricultural lime only).

Food and Natural Fiber Processing-Food

20 Food and Kindred Products Except 2047—Dog, Cat and Other Pet Food, and 2048—Prepared Feeds and Feed Ingredients for Animals and Fowls, Not Elsewhere Classified.

Animal Feeds, and Food

(Process and Feedstock Use Only)

2047 Dog, Cat and Other Pet Food.
2048 Prepared Feeds and Feed Ingredients for Animals and Fowls, Not Elsewhere Classified.

Natural Fiber

0724 Cotton Ginning.
2141 Tobacco Stemming and Redrying.
2299 Textile Goods, n.e.c. (wool tops, combing and converting).
3111 Leather Tanning and Finishing.

Food Quality Maintenance—Food Packaging

2641 Paper Coating and Glazing (food related only).
2643 Bags, Except Textile (food related only).
2645 Die Cut Paper and Paperboard (food related only).
2646 Pressed and Molded Pulp Goods (food related only).
2649 Converted Paper Products (food related only).
2651 Folding Paperboard Boxes (food related only).
2653 Corrugated and Solid Fiber Boxes (food related only).
2654 Sanitary Food Containers.
2655 Fiber Cans, Tubes, Drums, and Similar Products (food related only).
3079 Miscellaneous Plastic Products (food related only).
3221 Glass Containers (food related only).
3411 Metal Cans (food related only).
3497 Metal Foil and Leaf (food related only).

Marketing and Distribution

4221 Farm Product Warehousing and Storage.
4222 Refrigerated Warehousing.
514 Groceries and Related Products.
5153 Farm Product Raw Materials—Grain.
54 Food Stores.

§ 2900.4 Natural gas requirements.

For purposes of Section 401(c), NGPA, the natural gas requirements for each Essential Agricultural Use Establishment, whether such Essential Agricultural Use Establishment is in existence on the effective date of this rule or comes into existence thereafter, are certified to be 100 percent of Current Natural Gas Requirements.

§ 2900.5 Amendments.

This rule may be amended by the Secretary of Agriculture from time to time. In accordance with 7 CFR § 1.28, requests for such amendments may be addressed to the Secretary of Agriculture.

§ 2900.6 Effective date.

This rule shall become effective on May 14, 1979.

Dated: May 10, 1979.

Jim Williams,

Acting Secretary of Agriculture.

[FR Doc. 79-15246, 5-11-79; 3:43 pm]

BILLING CODE 3410-01-M

FEDERAL DEPOSIT INSURANCE CORPORATION

12 CFR Part 308

Rules of Practice and Procedures

Correction

In FR Doc. 79–13288 appearing at page 25412 in the issue for Tuesday, May 1, 1979, the following correction is made. On page 25415, in § 308.6(a), in the 15th through the 17th lines, the words "or a party who elects to file an answer or exceptions," are deleted and reinserted in the 22nd line after the words "answer or exceptions.".

BILLING CODE 1505-01-M

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

[Docket No. 78–EA–72; Amdt. 39–3471]

14 CFR Part 39

Airworthiness Directives; Canadair Aircraft

AGENCY: Federal Aviation Administration (FAA); DOT.

ACTION: Final rule.

SUMMARY: This amendment adopts a new airworthiness directive (AD) applicable to Canadair CL–44D4 and CL–44J type airplanes, and requires an inspection and replacement where necessary of the end cap of the main landing gear actuator. The purpose of the inspection is to prevent interference with actuation of the main landing gear caused by failure of the end cap.

DATE: May 18, 1979. Compliance is required prior to U.S. airworthiness certification.

ADDRESSES: Canadair Service Bulletins may be acquired from the manufacturer at P.O. Box 6087, Montreal, Canada.

FOR FURTHER INFORMATION CONTACT: F. Lee, Systems & Equipment Section, AEA–213, Engineering and Manufacturing Branch, Federal Building, J.F.K. International Airport, Jamaica, New York 11430; Tel. 212–995–3372.

SUPPLEMENTARY INFORMATION: There had been a report of a failure of the subject end cap resulting in an inability to actuate the main landing gear. The failure of the cap resulted from cracks. Since this deficiency has been corrected in the only two known U.S. registered airplanes, the rule is effective as to all future applications for U.S. registration and thus, notice and public procedure hereon are unnecessary and the rule may be made effective in less than 30 days since it does not impose a burden on any person.

Adoption of the Amendment

Accordingly, and pursuant to the authority delegated to me by the Administrator, Section 39.13 of the Federal Aviation Regulations (14 CFR 39.13) is amended, by issuing a new airworthiness directive, as follows:

CANADAIR: Applies to all Canadair Models CL–44D4 and CL–44J certificated in all categories.

Compliance required prior to application for U.S. registration and airworthiness certification.

To preclude possible failure of the main landing gear actuating system, accomplish the following:

(a) Inspect the end caps of the main landing gear actuator, Jarry Hydraulics, P/N 3650–3 or –7 (Canadair Assembly numbers 44–75129–800 or –802 respectively) for cracks using the dye penetrant method or an FAA approved equivalent inspection.

(b) If cracks are found, replace end cap with a crack free cap prior to next flight.

Effective Date: This amendment is effective May 18, 1979.

(Secs. 313(a), 601, and 603, Federal Aviation Act of 1958, as amended, 49 U.S.C. 1354(a), 1421, and 1423; Sec. 6(c), Department of Transportation Act, 49 U.S.C. 1655(c); and 14 CFR 11.89)

Issued in Jamaica, New York, on May 4, 1979.

Louis J. Cardinali,

Acting Director, Eastern Region.

[FR Doc. 79–15224 Filed 5–16–79; 8:45 am]

BILLING CODE 4910–13–M

14 CFR Parts 71, 73, and 75

Extension of VOR Federal Airway

Correction

In 79–FR Doc. 79–13720 appearing in the issue of Thursday, May 3, 1979 on page 25834, make the following correction. On page 25835 the Docket number should have read, [Docket No. 78–NW–20].

14 CFR Part 97

[Docket No. 19154; Amdt. No. 1138]

Standard Instrument Approach Procedures; Miscellaneous Amendments

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Final Rule.

SUMMARY: This amendment establishes, amends, suspends, or revokes Standard Instrument Approach Procedures (SIAPs) for operations at certain airports. These regulatory actions are needed because of the adoption of new or revised criteria, or because of changes occurring in the National Airspace System, such as the commissioning of new navigational facilities, addition of new obstacles, or changes in air traffic requirements. These changes are designed to provide safe and efficient use of the navigable airspace and to promote safe flight operations under instrument flight rules at the affected airports.

DATES: An effective date for each SIAP is specified in the amendatory provisions.

ADDRESSES: Availability of matters incorporated by reference in the amendment is as follows:

For Examination—

1. FAA Rules Docket, FAA Headquarters Building, 800 Independence Avenue, SW., Washington, D.C. 20591;
2. The FAA Regional Office of the region in which the affected airport is located; or
3. The Flight Inspection Field Office which originated the SIAP.

For Purchase—

Individual SIAP copies may be obtained from:
1. FAA Public Information Center (APA–430), FAA Headquarters Building, 800 Independence Avenue, SW., Washington, D.C. 20591; or
2. The FAA Regional Office of the region in which the affected airport is located.

By Subscription—

Copies of all SIAP's mailed once every 2 weeks, may be ordered from Superintendent of Documents, U.S. Government Printing Office, Washington, D.C. 20402. The annual subscription price is $135.00.

FOR FURTHER INFORMATION CONTACT: Lewis O. Ola, Flight Procedures and

Muscatine, IA—Muscatine Muni, NDB Rwy 5. . . . *Effective June 14, 1979*

action does not warrant preparation of a

Airspace Branch (AFS-730), Aircraft Programs Division, Flight Standards Service, Federal Aviation Administration, 800 Independence Avenue, SW., Washington, D.C. 20591; telephone (202) 426-8277.

SUPPLEMENTARY INFORMATION: This amendment to Part 97 of the Federal Aviation Regulations (14 CFR Part 97) prescribes new, amended, suspended, or revoked Standard Instrument Approach Procedures (SIAPs). The complete regulatory description of each SIAP is contained in official FAA form documents which are incorporated by reference in this amendment under 5 U.S.C. § 552(a), 1 CFR Part 51, and § 97.20 of the Federal Aviation Regulations (FARs). The applicable FAA Forms are identified as FAA Forms 8260-3, 8260-4 and 8260-5. Materials incorporated by reference are available for examination or purchase as stated above.

The large number of SIAPs, their complex nature, and the need for a special format make their verbatim publication in the **Federal Register** expensive and impractical. Further, airmen do not use the regulatory text of the SIAPs but refer to their graphic depiction on charts printed by publishers of aeronautical materials. Thus, the advantages of incorporation by reference are realized and publication of the complete description of each SIAP contained in FAA form document is unnecessary. The provisions of this amendment state the affected CFR (and FAR) sections, with the types and effective dates of the SIAPs. This amendment also identifies the airport, its location, the procedure identification and the amendment number.

This amendment to Part 97 is effective on the date of publication and contains separate SIAPs which have compliance dates stated as effective dates based on related changes in the National Airspace System or the application of new or revised criteria. Some SIAP amendments may have been previously issued by the FAA in a National Flight Data Center (FDC) Notice to Airmen (NOTAM) as an emergency action of immediate flight safety relating directly to published aeronautical charts. The circumstances which created the need for some SIAP amendments may require making them effective in less than 30 days. For the remaining SIAPs, an effective date at least 30 days after publication is provided.

Further, the SIAPs contained in this amendment are based on the criteria contained in the U.S. Standard for Terminal Instrument Approach Procedures (TERPs). In developing these SIAPs, the TERPS criteria were applied to the conditions existing or anticipated at the affected airports. Because of the close and immediate relationship between these SIAPs and safety in air commerce, I find that notice and public procedure before adopting these SIAPs is unnecessary, impracticable, or contrary to the public interest and, where applicable, that good cause exists for making some SIAPs effective in less than 30 days.

Adoption of the Amendment

Accordingly, pursuant to the authority delegated to me, Part 97 of the Federal Aviation Regulations (14 CFR Part 97) is amended by establishing, amending, suspending, or revoking Standard Instrument Approach Procedures, effective at 0901 G.m.t. on the dates specified, as follows:

1. By amending § 97.23 VOR-VOR/DME SIAPs identified as follows:

. . . Effective August 9, 1979

Frankfort, KY—Capital City, VOR Rwy 24, Amdt. 4
Ashland, WI—John F. Kennedy Memorial, VOR Rwy 2, Amdt. 2
Ashland, WI—John F. Kennedy Memorial, VOR Rwy 31, Amdt. 2
Rhinelander, WI—Rhinelander-Onieda County, VOR Rwy 9, Original

. . . Effective July 12, 1979

Rogers, AR—Rogers Muni Arpt-Carter Field, VOR Rwy 1, Amdt. 7
Rogers, AR—Rogers Muni Arpt-Carter Field, VOR/DME Rwy 19, Amdt. 4
Muscatine, IA—Muscatine Muni, VOR/DME-A, Amdt. 3
Newton, KS—Newton City-County, VOR/DME Rwy 35, Amdt. 5

. . . Effective June 28, 1979

Thomasville, GA—Thomasville Municipal, VOR Rwy 22, Amdt. 7
Thomasville, GA—Thomasville Municipal, VOR/DME Rwy 22, Amdt. 1
Westminster, MD—Westminster, VOR Rwy 34, Amdt. 1
Drew, MS—Ruleville Drew, VOR-A, Amdt. 2
Manchester, NH—Manchester Airport/Grenier Industrial Airpark, VOR Rwy 35, Amdt. 11
Mount Holly, NJ—Burlington County Airpark, VOR Rwy 26, Original
Mount Holly, NJ—Burlington County Airpark, VOR-A, Amdt. 1, cancelled
Smithville, NJ—Smithsville Airfield, VOR-B, Original
Toms River, NJ—Robert J. Miller Air Park, VOR Rwy 6, Amdt. 5
Toms River, NJ—Robert J. Miller Air Park, VOR Rwy 24, Original
McMinnville, OR—McMinnville Municipal, VOR/DME-A, Amdt. 2
McMinnville, OR—McMinnville Municipal, VOR/DME-B, Amdt. 1
Monongahela, PA—Rostraver, VOR-A, Amdt. 2
Pittsburgh, PA—Campbell, VOR Rwy 31, Amdt. 2
Darlington, SC—Darlington County, VOR/DME-A, Amdt. 6
Marion, SC—Marion County, VOR/DME-A, Amdt. 3
Aberdeen, SD—Aberdeen Regional, VOR Rwy 31, Amdt. 15
Aberdeen, SD—Aberdeen Regional, VOR/DME or TACAN Rwy 13, Amdt. 7
Big Spring, TX—Big Spring, VOR Rwy 17L, Amdt. 1
Big Spring, TX—Big Spring, VOR Rwy 35R, Amdt. 1
Berkeley Springs, WV—Potomac Airpark, VOR Rwy 29, Amdt. 2
LaCrosse, WI—LaCrosse Municipal, VOR Rwy 13, Amdt. 19

. . . Effective June 14, 1979

Honolulu HI—Honolulu International, VOR Rwy 8L (TAC), Amdt. 14
Honolulu HI—Honolulu International, VOR Rwy 8R (TAC), Amdt. 1
Grand Haven, MI—Grand Haven Memorial Park, VOR-A, Amdt. 9

2. By amending § 97.25 SDF-LOC-LDA SIAPs identified as follows:

. . . Effective July 12, 1979

Harrison, AR—Boone County, LOC Rwy 36, Original
Ft. Lauderdale, FL—Ft. Lauderdale-Executive, LOC Rwy 8, Original

. . . Effective June 28, 1979

New Orleans, LA—New Orleans International (Moisant Field), LOC BC Rwy 28, Amdt. 10, cancelled
Kirksville, MO—Clarence Cannon Memorial, LOC Rwy 36, Amdt. 2
Fargo, ND—Hector Field, LOC BC Rwy 17, Amdt. 8
Middletown, PA—Harrisburg International Airport Olmsted Field, LOC BC Rwy 31, Amdt. 5

. . . Effective June 14, 1979

Medford, OR—Medford-Jackson County, LOC/DME BC B, Amdt. 3
Anderson, SC—Anderson County, LOC Rwy 5, Original
Houston, TX—Houston Intercontinental, LOC/DME BC Rwy 32, Amdt. 4, cancelled

3. By amending § 97.27 NDB/ADF SIAPs identified as follows:

. . . Effective August 9, 1979

Frankfort, KY—Capital City, NDB Rwy 24, Amdt. 5
Ashland, WI—John F. Kennedy Memorial, NDB Rwy 2, Amdt. 6

. . . Effective July 12, 1979

Harrison, AR—Boone County, NDB Rwy 36, Original
Ft. Lauderdale, FL—Ft. Lauderdale-Executive, NDB Rwy 8, Amdt. 3
Cairo, IL—Cairo, NDB Rwy 20, Amdt. 4
Shelbyville, IL—Shelby County, NDB Rwy 36, Amdt. 2

Muscatine, IA—Muscatine Muni, NDB Rwy 5, Amdt. 6
Newton, KS—Newton City-County, NDB Rwy 17, Amdt. 4
Ontonagon, MI—Ontonagon County, NDB-A, Amdt. 2
Grand Marais, MN—Devils Track Municipal, NDB Rwy 27, Amdt. 6
Festus, MO—Festus Memorial, NDB Rwy 36, Amdt. 1
Enid, OK—Enid Woodring Muni, NDB Rwy 35, Original

. . . Effective June 28, 1979

Thomasville, GA—Thomasville Municipal, NDB Rwy 22, Amdt. 3
Clarksdale, MS—Fletcher Field, NDB Rwy 18, Amdt. 4
Clarksdale, MS—Fletcher Field, NDB Rwy 36, Amdt. 4
Manchester, NH—Manchester Airport/Grenier Industrial Airpark, NDB Rwy 35, Amdt. 10
Newark, NJ—Newark Intl., NDB Rwy 4L, Amdt. 6
Newark, NJ—Newark Intl., NDB Rwy 4R, Amdt. 2
Hatteras, NC—Billy Mitchell, NDB Rwy 6, Amdt. 3
Bowman, ND—Bowman Municipal, NDB Rwy 11, Amdt. 1
Bowman, ND—Bowman Municipal, NDB Rwy 29, Amdt. 1
Fargo, ND—Hector Field, NDB Rwy 17, Amdt. 9
Hillsboro, OR—Portland-Hillsboro, NDB-B, Original
Redmond, OR—Roberts Field, NDB Rwy 22, Original

. . . Effective June 14, 1979

Honolulu, HI—Honolulu International, NDB Rwy 8L, Amdt. 13
West Yellowstone, MT—Yellowstone, NDB Rwy 1, Amdt. 2

4. By amending § 97.29 ILS-MLS SIAPs identified as follows:

. . . Effective June 28, 1979

Groton (New London), CT—Trumball, ILS Rwy 5, Amdt. 4
Washington, DC—Washington National, ILS Rwy 36, Amdt. 30
New Orleans, LA—New Orleans International (Moisant Field), ILS Rwy 28, Original
Baltimore, MD—Baltimore-Washington Int'l., ILS Rwy 28, Amdt. 3
Baltimore, MD—Baltimore-Washington Int'l., ILS Rwy 33L, Amdt. 1
Manchester, NH—Manchester Airport/Grenier Industrial Airpark, ILS Rwy 35, Amdt. 9
Newark, NJ—Newark Intl., ILS Rwy 4L, Amdt. 6
Newark, NJ—Newark Intl., ILS Rwy 4R, Amdt. 3
Hillsboro, OR—Portland-Hillsboro, ILS Rwy 12, Amdt. 4
Middletown, PA—Harrisburg International Airport Olmsted Field, ILS Rwy 13, Amdt. 6

. . . Effective June 14, 1979

Honolulu, HI—Honolulu International, ILS Rwy 8L, Amdt. 13
Minneapolis, MN—Minneapolis-St. Paul Intl. (Wold Chamberlain), ILS Rwy 11R, Original
Minneapolis, MN—Minneapolis-St. Paul Intl. (Wold Chamberlain), ILS BC Rwy 11R, Amdt. 6, cancelled
West Yellowstone, MT—Yellowstone, ILS Rwy 1, Amdt. 2
Medford, OR—Medford-Jackson County, ILS Rwy 14, Amdt. 10
Houston, TX—Houston Intercontinental, ILS Rwy 32, Original

. . . Effective May 2, 1979

New York, NY—LaGuardia, ILS Rwy 22, Amdt. 14

5. By amending § 97.31 RADAR SIAPs identified as follows:

. . . Effective August 9, 1979

Charlotte, NC—Douglas Municipal, RADAR-1, Amdt. 14

. . . Effective June 28, 1979

Fairbanks, AK—Fairbanks Intl., RADAR-1, Original
Sarasota (Bradenton), FL—Sarasota-Bradenton, RADAR-1, Amdt. 2
Houston, TX—William P. Hobby, RADAR-1, Amdt. 2, cancelled.

6. By amending § 97.33 RNAV SIAPs identified as follows:

. . . Effective July 12, 1979

Ft. Lauderdale, FL—Ft. Lauderdale-Executive, RNAV Rwy 6, Amdt. 1
Coffeyville, KS—Coffeyville Municipal, RNAV Rwy 35, Original
Newton, KS—Newton City-County, RNAV Rwy 17, Amdt. 1
Newton, KS—Newton City-County, RNAV Rwy 35, Amdt. 1

. . . Effective June 28, 1979

Thomasville, GA—Thomasville Municipal, RNAV Rwy 32, Amdt. 1
St. Louis, MO—Spirit of St. Louis, RNAV Rwy 25, Original
Hillsboro, OR—Portland-Hillsboro, RNAV Rwy 20, Amdt. 2, cancelled
Greenville, TX—Majors Field, RNAV Rwy 35, Original

(Secs. 307, 313(a), 601, and 1110, Federal Aviation Act of 1958 (49 U.S.C. 1348, 1354(a), 1421, and 1510); Sec. 6(c), Department of Transportation Act (49 U.S.C. 1655(c)); and 14 CFR 11.49(b)(3).)

Note.—The FAA has determined that this document involves a regulation which is not significant under Executive Order 12044, as implemented by DOT Regulatory Policies and Procedures (44 FR 11034; February 26, 1979). Since this regulatory action involves an established body of technical requirements for which frequent and routine amendments are necessary to keep them operationally current and promote safe flight operations, the anticipated impact is so minimal that this action does not warrant preparation of a regulatory evaluation.

Issued in Washington, D.C. on May 11, 1979.

Note.—The incorporation by reference in the preceding document was approved by the Director of the Federal Register on May 12, 1969.

James M. Vines,
Chief, Aircraft Programs Division.

[FR Doc. 79-15381 Filed 5-16-79; 8:45 am]
BILLING CODE 4910-13-M

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

[Docket No. RM79-18; Order No. 28]

18 CFR Part 157

Regulations Under the Natural Gas Act; Certification of Pipeline Transportation for Certain High Priority Uses; Correction

April 26, 1979.

AGENCY: Federal Energy Regulatory Commission, DOE.

ACTION: Erratum Notice.

SUMMARY: This notice contains a correction to § 157.102 of the Federal Energy Regulatory Commission's regulations regarding certification of pipeline transportation for certain high priority uses.

FOR FURTHER INFORMATION CONTACT: Kenneth F. Plumb, Secretary, Federal Energy Regulatory Commission, 825 North Capitol Street, NE, Washington, D.C. 20426 (202) 275-4166.

SUPPLEMENTARY INFORMATION: In the Final Rule issued April 23, 1979, entitled Certification of Pipeline Transportation for Certain High Priority Uses (44 FR 24825, April 27, 1979) at 44 FR 24829, in § 157.102(a)(2), reference to "§§ 281.103(b) (2) and (3)" should be corrected to read "§§ 281.103(a) (11) and (12)".

Kenneth F. Plumb,
Secretary.

[FR Doc. 79-15382 Filed 5-16-79; 8:45 am]
BILLING CODE 6450-01-M

SUMMARY: This notice is to advise the

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DEPARTMENT OF THE TREASURY
Customs Service

19 CFR Part 159

[T.D. 79-145]

Certain Castor Oil Products From Brazil—Declaration of Net Amount of Bounty or Grant

AGENCY: U.S. Customs Service, Treasury Department.

ACTION: Net Amount of Bounty or Grant Declared.

SUMMARY: This notice is to advise the public of the new rate of countervailing duty applicable to imports of hydrogenated castor oil and 12 hyroxystearic acid from Brazil. Based upon a review of information received, the net amount of benefits given by the Government of Brazil which constitute bounties or grants within the meaning of the countervailing duty law upon the manufacture, production, or exportation of hydrogenated castor oil or 12 hydroxystearic acid has been determined to be 9.6 percent of the f.o.b. or ex-works price to the United States. Accordingly, effective today, hydrogenated castor oil and 12 hydroxystearic acid from Brazil will be subject to countervailing duty in accordance with this declaration.

EFFECTIVE DATE: May 17, 1979.

FOR FURTHER INFORMATION CONTACT: Mr. Charles F. Goldsmith, Economist, Office of Tariff Affairs, U.S. Department of the Treasury, 15th Street and Pennsylvania Avenue, NW., Washington, D.C. 20220, telephone (202) 566-2323.

SUPPLEMENTARY INFORMATION: In the **Federal Register** of March 16, 1976 (41 FR 11018), a notice, T.D. 76-80, was published stating that it had been determined that exports of hydrogenated castor oil and 12 hydroxystearic acid from Brazil received bounties or grants within the meaning of section 303 of the Tariff Act of 1930, as amended (19 U.S.C. 1303).

At that time, notice was given that hydrogenated castor oil or hydroxystearic acid, imported directly or indirectly from Brazil, if entered for consumption or withdrawn from warehouse for consumption on or after March 16, 1976, would be subject to the payment of countervailing duties equal to the net amount of any bounty or grant determined or estimated to have been paid or bestowed. In accordance with section 303 of the Act and based on the information then available, the net amount of bounties or grants was determined to be 11.3 percent of f.o.b. or ex-works price to the United States.

On January 24, 1979, the Government of Brazil announced that it would undertake a four-year program to eliminate its export payments, in the form of IPI credits, which have been determined by the Treasury to constitute bounties or grants. A reduction of 10 percent of the total value of these credits was made at that time, and an additional 5 percent reduction occurred on March 31, 1979. Further cuts of 5 percent each will be made quarterly until the entire value of these credits is completely eliminated by June 30, 1983. The Treasury will adjust the countervailing duty rate in the future to reflect these quarterly changes.

On the basis of these actions taken by the Government of Brazil to reduce the amount of IPI credits paid to exporters of the subject merchandise, it has been ascertained and determined that the net amount of benefits paid or bestowed, directly or indirectly, by the Government of Brazil on the exportation of hydrogenated castor oil and 12 hydroxystearic acid is 9.6 percent.

Accordingly, effective on May 17, 1979, and until further notice, upon the entry for consumption or withdrawal from warehouse for consumption of such dutiable hydrogenated castor oil or 12 hydroxystearic acid, imported directly or indirectly from Brazil which benefit from such bounties or grants, there shall be collected, in addition to any other duties estimated or determined to be due, countervailing duties in the amount ascertained in accordance with the above declaration.

Any merchandise subject to the terms of this declaration shall be deemed to have benefited from a bounty or grant if such bounty or grant has been or will be paid or credited, directly or indirectly, upon the manufacture, production, or exportation of such hydrogenated castor oil or 12 hydroxystearic acid from Brazil.

The table in § 159.47(f) of the Customs Regulations (19 CFR 159.47(f)) is amended by inserting after the last entry for "certain castor oil products" under the country heading "Brazil", the number of this Treasury Decision in the column so headed and the words "New rate" in the column headed "Action".

(R.S. 251, sec. 303, as amended, 624; 46 Stat. 687, 759, 88 Stat. 2049; (19 U.S.C. 66, 1303), as amended, 1624).

Robert H. Mundheim,
General Counsel of the Treasury.

May 10, 1979.

[FR Doc. 79-15441 Filed 5-16-79; 8:45 am]

BILLING CODE 4810-22-M

19 CFR Part 159

[T.D. 79-146]

Cotton Yarn From Brazil—Declaration of Net Amount of Bounty or Grant

AGENCY: U.S. Customs Service, Treasury Department.

ACTION: Net Amount of Bounty or Grant Declared.

SUMMARY: This notice is to advise the public of the new rate of countervailing duty applicable to imports of cotton yarn from Brazil. Based upon a review of information received, the net amount of benefits given by the Government of Brazil which constitute bounties or grants within the meaning of the countervailing duty law upon the manufacture, production, or exportation of cotton yarn has been determined to be 17.0 percent of the f.o.b. or ex-works price to the United States. Accordingly, effective today, cotton yarn from Brazil will be subject to countervailing duty in accordance with this declaration.

EFFECTIVE DATE: May 17, 1979.

FOR FURTHER INFORMATION CONTACT: Mr. Charles F. Goldsmith, Economist, Office of Tariff Affairs, U.S. Department of the Treasury, 15th Street and Pennsylvania Avenue, NW., Washington, D.C. 20220, telephone (202) 566-2323.

SUPPLEMENTARY INFORMATION: In the **Federal Register** of June 21, 1977 (42 FR 31449), a notice, T.D. 77-161, was published stating that it had been determined that exports of cotton yarn from Brazil received bounties or grants within the meaning of section 303 of the Tariff Act of 1930, as amended (19 U.S.C. 1303).

At that time, notice was given that cotton yarn, imported directly or indirectly from Brazil, if entered for consumption or withdrawn from warehouse for consumption on or after June 21, 1977, would be subject to the payment of countervailing duties equal to the net amount of any bounty or grant determined or estimated to have been paid or bestowed. In accordance with section 303 of the Act and based on the information then available, the net amount of bounties or grants was determined to be 19.6 percent of f.o.b. or ex-works price to the United States.

On January 24, 1979, the Government of Brazil announced that it would undertake a four-year program to eliminate its export payments, in the form of IPI credits, which have been determined by the Treasury to constitute bounties or grants. A reduction of 10 percent of the total value of these credits was made at that time, and an additional 5 percent reduction occurred on March 31, 1979. Further cuts of 5 percent each will be made quarterly until the entire value of these credits is completely eliminated by June 30, 1983. The Treasury will adjust the countervailing duty rate in the future to reflect these quarterly changes.

On the basis of these actions taken by the Government of Brazil to reduce the amount of IPI credits paid to exporters of the subject merchandise, it has been ascertained and determined that the net amount of benefits paid or bestowed, directly or indirectly, by the Government of Brazil on the exportation of cotton yarn is 17.0 percent.

Accordingly, effective on May 17, 1979, and until further notice, upon the entry for consumption or withdrawal from warehouse for consumption of such dutiable cotton yarn, imported directly or indirectly from Brazil which benefit from such bounties or grants, there shall be collected, in addition to any other duties estimated or determined to be due, countervailing duties in the amount ascertained in accordance with the above declaration.

Any merchandise subject to the terms of this declaration shall be deemed to have benefited from a bounty or grant if such bounty or grant has been or will be paid or credited, directly or indirectly, upon the manufacture, production, or exportation of such cotton yarn from Brazil.

The table in § 159.47(f) of the Customs Regulations (19 CFR 159.47(f)) is amended by inserting after the last entry for "cotton yarn" under the country heading "Brazil," the number of this Treasury Decision in the column so headed and the words "New rate" in the column headed "Action."

(R.S. 251, sec. 303, as amended, 624; 46 Stat. 687, 759, 88 Stat. 2049; (19 U.S.C. 66, 1303), as amended, 1624).

Robert H. Mundheim,
General Counsel of the Treasury.

May 10, 1979.

[FR Doc. 79-15442 Filed 5-16-79; 8:45 am]

BILLING CODE 4810-22-M

19 CFR Part 159

[T.D. 79-147]

Non-Rubber Footwear From Brazil—Declaration of Net Amount of Bounty or Grant

AGENCY: U.S. Customs Service, Treasury Department.

ACTION: Net Amount of Bounty or Grant Declared.

SUMMARY: This notice is to advise the public of the new rate of countervailing duty applicable to imports of non-rubber footwear from Brazil. Based upon a review of information received, the net amount of benefits given by the Government of Brazil which constitute bounties or grants within the meaning of the countervailing duty law upon the manufacture, production, or exportation of non-rubber footwear has been determined to be 10.6 percent of the f.o.b. or ex-works price to the United States of shoes manufactured by firms whose export sales account for 40 percent or less of the value of their total sales and 4.1 percent of the f.o.b. or ex-works price to the United States of shoes manufactured by firms whose export sales account for more than 40 percent of the value of their total sales. Accordingly, effective today, non-rubber footwear from Brazil will be subject to countervailing duty in accordance with this declaration.

EFFECTIVE DATE: May 17, 1979.

FOR FURTHER INFORMATION CONTACT: Mr. Charles F. Goldsmith, Economist, Office of Tariff Affairs, U.S. Department of the Treasury, 15th Street and Pennsylvania Avenue, NW., Washington, D.C. 20220, telephone (202) 566-2323.

SUPPLEMENTARY INFORMATION: In the **Federal Register** of September 12, 1974 (39 FR 32903), a notice, T.D. 74-233, was published stating that it had been determined that exports of non-rubber footwear from Brazil received bounties or grants within the meaning of section 303 of the Tariff Act of 1930 (19 U.S.C. 1303).

At that time, notice was given that non-rubber footwear, imported directly or indirectly from Brazil, if entered for consumption or withdrawn from warehouse for consumption on or after October 25, 1974, would be subject to the payment of countervailing duties equal to the net amount of any bounty or grant determined or estimated to have been paid or bestowed. In accordance with section 303 of the Act and based on the information then available, the net amount of bounties or grants was determined to be 12.3 percent of f.o.b. or ex-works price to the United States of shoes manufactured by firms whose export sales account for 40 percent or less of the value of their total sales and 4.8 percent of the f.o.b. or ex-works price to the United States of shoes manufactured by firms whose export sales account for more than 40 percent of the value of their total sales.

On January 24, 1979, the Government of Brazil announced that it would undertake a four-year program to eliminate its export payments, in the form of IPI credits, which have been determined by the Treasury to constitute bounties or grants. A reduction of 10 percent of the total value of these credits was made at that time, and an additional 5 percent reduction occurred on March 31, 1979. Further cuts of 5 percent each will be made quarterly until the entire value of these credits is completely eliminated by June 30, 1983. The Treasury will adjust the countervailing duty rate in the future to reflect these quarterly changes.

On the basis of these actions taken by the Government of Brazil to reduce the amount of IPI credits paid to exporters of the subject merchandise, it has been ascertained and determined that the net amount of benefits paid or bestowed, . . directly or indirectly, by the Government of Brazil on the exportation of non-rubber footwear is 10.6 percent for the former category described above and 4.1 percent for the latter category described above.

Accordingly, effective on May 17, 1979, and until further notice, upon the entry for consumption or withdrawal from warehouse for consumption of such dutiable non-rubber footwear, imported directly or indirectly from Brazil which benefit from such bounties or grants, there shall be collected, in addition to any other duties estimated or determined to be due, countervailing duties in the amount ascertained in accordance with the above declaration.

Any merchandise subject to the terms of this declaration shall be deemed to have benefited from a bounty or grant if such bounty or grant has been or will be paid or credited, directly or indirectly, upon the manufacture, production, or exportation of such non-rubber footwear from Brazil.

The table in § 159.47(f) of the Customs Regulations (19 CFR 159.47(f)) is amended by inserting after the last entry for "non-rubber footwear" under the country heading "Brazil", the number of this Treasury Decision in the column so headed and the words "New rate" in the column headed "Action."

(R.S. 251, sec. 303, as amended, 624; 46 Stat. 687, 759, 88 Stat. 2049; (19 U.S.C. 66, 1303), as amended, 1624).

Robert H. Mundheim,
General Counsel of the Treasury.

May 10, 1979.

[FR Doc. 79-15443 Filed 5-16-79; 8:45 am]

BILLING CODE 4810-22-M

DEPARTMENT OF TRANSPORTATION

FEDERAL EMERGENCY

19 CFR Part 159

[T.D. 79-148]

Scissors and Shears From Brazil—Declaration of Net Amount of Bounty or Grant

AGENCY: U.S. Customs Service, Treasury Department.

ACTION: Net Amount of Bounty or Grant Declared.

SUMMARY: This notice is to advise the public of the new rate of countervailing duty applicable to imports of scissors and shears from Brazil. Based upon a review of information received, the net amount of benefits given by the Government of Brazil which constitute bounties or grants within the meaning of the countervailing duty law upon the manufacture, production, or exportation of scissors and shears has been determined to be 13.8 percent of the f.o.b. or ex-works price to the United States. Accordingly, effective today, scissors and shears from Brazil will be subject to countervailing duty in accordance with this declaration.

EFFECTIVE DATE: May 17, 1979.

FOR FURTHER INFORMATION CONTACT: Mr. Charles F. Goldsmith, Economist, Office of Tariff Affairs, U.S. Department of the Treasury, 15th Street and Pennsylvania Avenue, NW., Washington, D.C. 20220, telephone (202) 566-2323.

SUPPLEMENTARY INFORMATION: In the Federal Register of June 21, 1977 (42 FR 31449), a notice, T.D. 77-162, was published stating that it had been determined that exports of scissors and shears from Brazil received bounties or grants within the meaning of section 303 of the Tariff Act of 1930, as amended (19 U.S.C. 1303).

At that time, notice was given that scissors and shears, imported directly or indirectly from Brazil, if entered for consumption or withdrawn from warehouse for consumption on or after February 11, 1977, would be subject to the payment of countervailing duties equal to the net amount of any bounty or grant determined or estimated to have been paid or bestowed. In accordance with section 303 of the Act and based on the information then available, the net amount of bounties or grants was determined to be 15.8 percent of f.o.b. or ex-works price to the United States.

On January 24, 1979, the Government of Brazil announced that it would undertake a four-year program to eliminate its export payments, in the form of IPI credits, which have been determined by the Treasury to constitute bounties or grants. A reduction of 10 percent of the total value of these credits was made at that time, and an additional 5 percent reduction occurred on March 31, 1979. Further cuts of 5 percent each will be made quarterly until the entire value of these credits is completely eliminated by June 30, 1983. The Treasury will adjust the countervailing duty rate in the future to reflect these quarterly changes.

On the basis of these actions taken by the Government of Brazil to reduce the amount of IPI credits paid to exporters of the subject merchandise, it has been ascertained and determined that the net amount of benefits paid or bestowed, directly or indirectly, by the Government of Brazil on the exportation of scissors and shears is 13.8 percent.

Accordingly, effective on May 17, 1979, and until further notice, upon the entry for consumption or withdrawal from warehouse for consumption of such dutiable scissors and shears, imported directly or indirectly from Brazil which benefit from such bounties or grants, there shall be collected, in addition to any other duties estimated or determined to be due, countervailing duties in the amount ascertained in accordance with the above declaration.

Any merchandise subject to the terms of this declaration shall be deemed to have benefited from a bounty or grant if such bounty or grant has been or will be paid or credited, directly or indirectly, upon the manufacture, production, or exportation of such scissors and shears from Brazil.

The table in § 159.47(f) of the Customs Regulations (19 CFR 159.47(f)) is amended by inserting after the last entry for "scissors and shears" under the country heading "Brazil," the number of this Treasury Decision in the column so headed and the words "New rate" in the column headed "Action."

(R.S. 251, sec. 303, as amended, 624; 46 Stat. 687, 759, 88 Stat. 2049; (19 U.S.C. 66, 1303), as amended, 1624).

Robert H. Mundheim,

General Counsel of the Treasury.

May 10, 1979.

[FR Doc. 79-15444 Filed 5-16-79; 8:45 am]

BILLING CODE 4810-22-M

DEPARTMENT OF TRANSPORTATION

National Highway Traffic Safety Administration and Federal Highway Administration

23 CFR Ch. II

Chapter Heading Change

AGENCIES: National Highway Traffic Safety Administration (NHTSA), Federal Highway Administration (FHWA), Department of Transportation.

ACTION: Rule.

SUMMARY: This Notice changes the heading of Chapter II of Title 23, Code of Federal Regulations.

EFFECTIVE DATE: May 15, 1979.

ADDRESS: NHTSA, 400 7th Street, S.W., Washington, D.C.

FOR FURTHER INFORMATION CONTACT: Philip R. Hertz, Office of the Chief Counsel, NHTSA, 400 7th Street, SW., Washington, D.C. 20590, (202) 426-1834.

SUPPLEMENTARY INFORMATION: The heading of Chapter II of Title 23, Code of Federal Regulations is presently: "Title II—Highway Safety Program Standards, Department of Transportation." Since it was first published, Chapter II has been amended to include material other than the Highway Safety Program Standards. To make the heading of Chapter II more consistent with its content, this notice deletes the reference to the highway safety program standards and replaces it with a reference to the administering agencies, in keeping with the conventional practice of the CFR.

In consideration of the foregoing, the heading of Chapter II, Title 23, Code of Federal Regulations is amended to read as follows:

CHAPTER II—NATIONAL HIGHWAY TRAFFIC SAFETY ADMINISTRATION AND FEDERAL HIGHWAY ADMINISTRATION, DEPARTMENT OF TRANSPORTATION

Issued on: May 10, 1979.

(23 U.S.C. 315, 401, 402; 49 CFR 1.48(b), 1.50(b))

Joan Claybrook,

Administrator, National Highway Traffic Safety Administration.

Karl S. Bowers,

Administrator, Federal Highway Administration.

[FR Doc. 79-15094 Filed 5-17-79; 8:45 am]

BILLING CODE 4910-59-M

FEDERAL EMERGENCY MANAGEMENT AGENCY

24 CFR Part 1915

[Docket No. 5482]

List of Withdrawal of Flood Insurance Maps Under the National Flood Insurance Program

AGENCY: Office of Federal Insurance and Hazard Mitigation, Federal Emergency Management Agency.[1]

ACTION: Final rule.

SUMMARY: This rule lists communities where Flood Insurance Rate Maps or Flood Hazard Boundary Maps published by the Federal Insurance Administration, have been temporarily withdrawn for administrative or technical reason. During that period that the map is withdrawn, the insurance purchase requirement of the National Flood Insurance Program is suspended.

EFFECTIVE DATES: The date listed in the fifth column of the table.

FOR FURTHER INFORMATION CONTACT: Mr. Richard Krimm, Office of Flood Insurance, (202) 755-5581 or Toll Free Line 800-424-8872, Room 5270, 451 Seventh Street, SW., Washington, DC 20410.

SUPPLEMENTARY INFORMATION: This list includes the date that each map was withdrawn, and the effective date of its republication, if it has been republished. If a flood prone location is now being identified on another map, the community name for the effective map is shown.

The Flood Disaster Protection Act of 1973 (Pub. L. 93-234), as amended, requires, at Section 102, the purchase of flood insurance as a condition of Federal financial assistance if such assistance is:

(1) For acquisition and construction of buildings, and

(2) For buildings located in a special flood hazard area identified by the Secretary of Housing and Urban Development.

One year after the identification of the community as flood prone, the requirement applies to all identified special flood hazard areas within the United States, so that, after that date, no such financial assistance can legally be provided for acquisition and construction of buildings in these areas unless the community has entered the program. The denial of such financial assistance has no application outside of the identified special flood hazard areas of such flood-prone communities.

Prior to July 1, 1975, the statutory requirement for the purchase of flood insurance did not apply until and unless the community entered the program and the special flood hazard areas were identified by the issuance of a flood insurance map. However, after July 1, 1975, or one year after identification, whichever is later, the requirement applies to all communities in the United States that are identified as having special flood hazard areas within their community boundaries, so that, no such financial assistance can legally be provided for buildings in these areas unless the community has entered the program.

The insurance purchase requirement with respect to a particular community may be altered by the issuance or withdrawal of the Federal Insurance Administation's (FIA's) official Flood Insurance Rate Map (FIRM) or the Flood Hazard Boundary Map (FHBM). A FHBM is usually designated by the letter "E" following the community number and a FIRM by the letter "R" following the community number. If the FIA withdraws a FHBM for any reason the insurance purchase requirement is suspended during the period of withdrawal. However, if the community is in the Regular Program and only the FIRM is withdrawn but a FHBM remains in effect, then flood insurance is still required for properties located in the identified special flood hazard areas shown on the FHBM, but the maximum amount of insurance available for new applications or renewal is first layer coverage under the Emergency Program, since the community's Regular Program status is suspended while the map is withdrawn. (For definitions see 24 CFR Part 1909 et seq.)

As the purpose of this revision is the convenience of the public, notice and public procedure are unnecessary, and cause exists to make this amendment effective upon publication. Accordingly, Subchapter B of Chapter X of Title 24 of the Code of Federal Regulations is amended as follows:

1. Present § 1915.6 is revised to read as follows:

§ 1915.6 Administrative withdrawal of maps.

(a) *Flood Hazard Boundary Maps (FHBM's).* The following is a cumulative list of withdrawals pursuant to this Part: 40 FR 5149; 40 FR 17015; 40 FR 20798; 40 FR 46102; 40 FR 53579; 40 FR 56672; 41 FR 1478; 41 FR 50990; 41 FR 13352; 41 FR 17726; 42 FR 8895; 42 FR 29433; 42 FR 46226; 42 FR 64076; 43 FR 24019; 44 FR 815; 44 FR 6383; 44 FR 18485; 44 FR 25638; 44 FR ——.

(b) *Flood Insurance Rate Maps (FIRM's).* The following is a cumulative list of withdrawals pursuant to this Part: 40 FR 17015; 41 FR 1478; 42 FR 49811; 42 FR 64076; 43 FR 24019; 44 FR 25636.

2. The following additional entries (which will not appear in the Code of Federal Regulations) are made Pursuant to § 1915.6:

State, community name, and number	County	Hazard ID date	Rescission date	Reason
California, Compton, City, 060111C	Los Angeles	4-23-76	3-30-79	1A
Kansas, Hoyt, City, 200142C	Jackson	12-20-74	3-30-79	1A
Minnesota, Bellingham, City, 270684C	Lac Qui	8-27-76	3-30-79	1A
Nebraska, Adams, Vil, 310089	Gage	11-8-74	3-30-79	1
Nebraska, Arapahoe, City, 310340	Furnas	4-1-77	3-30-79	1
Nebraska, Cairo, Vil, 310101	Hall	12-12-75	3-30-79	1
Nebraska, Callaway, Vil, 310353	Custer	9-19-75	3-30-79	1
Nebraska, Carroll, Vil, 310257	Wayne	1-31-75	3-30-79	1
Nebraska, Cook, Vil, 310123	Johnson	11-28-75	3-30-79	1
Nebraska, Clarkson, City, 310359	Colfax	1-17-75	3-30-79	1
Nebraska, Davenport, Vil, 310267	Thayer	7-11-75	3-30-79	1
Nebraska, Oakland, City, 310023	Burt	6-11-76	3-30-79	1
Nebraska, Dawson, Vil, 310268	Richardson	7-11-75	3-30-79	1
Nebraska, DeWeese, Vil, 310041	Clay	11-8-74	3-30-79	1
Nebraska, Elwood, Vil, 310365	Gosper	9-5-75	3-30-79	1
Nebraska, Ewing, Vil, 310114	Holt	5-14-76	3-30-79	1
Nebraska, Giltner, Vil, 310278	Hamilton	4-25-75	3-30-79	1
Nebraska, Greenwood, Vil, 310374	Cass	9-26-75	3-30-79	1
Nebraska, Haigler, Vil, 310281	Dundy	8-15-75	3-30-79	1
Nebraska, Holbrook, Vil, 310267	Furnas	7-11-75	3-30-79	1
Nebraska, Lewellen, Vil, 310097	Garden	1-10-75	3-30-79	1
Nebraska, Lyons, City, 310013	Burt	12-26-74	3-30-79	1
Nebraska, Malmo, Vil, 310200	Saunders	12-27-74	3-30-79	1
Nebraska, Merna, Vil, 310302	Custer	5-2-75	3-30-79	1
Nebraska, Nickerson, Vil, 310070	Dodge	1-23-74	3-30-79	1
Nebraska, Ong, Vil, 310044	Clay	11-8-74	3-30-79	1
Nebraska, Palmer, Vil, 310307	Merrick	6-27-75	3-30-79	1
Nebraska, Pilger, Vil, 310218	Stanton	12-6-74	3-30-79	1
Nebraska, Raymond, Vil, 310138	Lancaster	12-12-75	3-30-79	1
Nebraska, Rising City, Vil, 310312	Butler	7-11-75	3-30-79	1
Nebraska, Staplehurst, VA 310322	Seward	1-10-75	3-30-79	1
Nebraska, Stapleton, Vil, 310323	Logan	2-21-75	3-30-79	1
Nebraska, Stella, Vil, 310324	Richardson	7-11-75	3-30-79	1

[1] The functions of the Federal Insurance Administration, U.S. Department of Housing and Urban Development, were transferred to the newly established Federal Emergency Management Agency by Reorganization Plan No. 3 of 1978 (43 FR 41943, September 19, 1978) and Executive Order 12127 (44 FR 19367, April 3, 1979).

would lead to individual selection, it

permanent portion of such a policy

may exceed the paid up insurance. The

State, community name, and number	County	Hazard ID date	Rescission date	Reason
Nebraska, Talmage, Vil, 310167	Otoe	11-7-75	3-30-79	1
Nebraska, Tecumseh, City, 310127	Johnson	12-5-75	3-30-79	1
Nebraska, Verdon, Vil, 310330	Richardson	9-26-75	3-30-79	1
Nebraska, Wausa, Vil, 310405	Knox	8-8-75	3-30-79	1
Nebraska, Winside, Vil, 310336	Wayne	7-18-75	3-30-79	1
Nebraska, Wynot, Vil, 310337	Cedar	4-25-75	3-30-79	1
Oklahoma, Alva City, 400341C	Woods	11-28-75	3-30-79	1A
Pennsylvania, Ingram, Boro, 420045C	Allegheny	11-5-76	3-30-79	1A
Pennsylvania, Castle Shannon, Boro, 420020C	Allegheny	6-28-74	3-30-79	1A
Texas, Orange Grove, City, 480395C	Jim Wells	2-6-76	3-30-79	1A
Virginia, Branchville, TN, 510296C	Southampton	11-15-74	3-30-79	1A
Arkansas, Black Oak, TN, 050389C	Craighead	2-21-75	4-15-79	1A
Arkansas, Truman, City, 050176B, C	Poinsett	12-19-75	4-15-79	1A
Arkansas, Osceola, City, FIRM	Mississippi	6-30-78		[1]
California, Brentwood, City, 060439C	Contra Costa	2-7-75	4-15-79	1A
California, Commerce, City, 060110A, C	Los Angeles	6-28-74	4-15-79	1A
California, Monte Serano, City, 060345B, C	Santa Clara	3-7-75	4-15-79	1A
California, Lakewood, City, 060130A, C	Los Angeles	10-24-75	4-15-79	1A
California, Pico Rivera, City, 060148A, C	Los Angeles	12-5-75	4-15-79	1A
California, Rosemead, City, 060153A, C	Los Angeles	12-5-75	4-15-79	1A
California, South Gate, City, 060163A, C	Los Angeles	10-17-75	4-15-79	1A
Colorado, Georgetown, TN, 080035	Clear Creek	9-29-78	3-23-79 (FIRM)	
Iowa, West Point, City, 190683C	Lee	7-30-76	4-15-79	1A
Kansas, Attica, City, 200127C	Harper	10-31-75	4-15-79	1A
Louisiana, Livingston, City, 220118E	Livingston	12-27-77	4-15-79	1A
Missouri, Odessa, City, 290669C	Lafayette	7-2-75	4-11-79	1A
Minnesota, Dodge County, 27054BA, C		3-11-77	4-15-79	1A
Missouri, Kimberling, City, 290432A, C	Stone	2-4-75	4-15-79	1A
New Mexico, Cloudcroft, Vil, 350111	Otero	6-27-75	4-10-79	1
New Mexico, Columbus, Vil, 350037	Luna	12-13-74	4-10-79	1
New Mexico, Dee Moines, Vil, 350100	Union	7-11-75	4-10-79	1
New Mexico, Floyd, Vil, 350103	Roosevelt	4-30-76	4-15-79	1
New Mexico, Mosquero, Vil, 350107	Harding	7-9-76	4-10-79	1
New Mexico, Vaughn, TN, 350116	Guadalupe	7-9-76	4-10-79	1
New Mexico, Wagon Mound, Vil, 350119	Mora	4-9-76	4-10-79	1
New Mexico, Willard, Vil, 350109	Torrance	9-5-75	4-10-79	1
Oregon, Sutherlin, City, 410275	Douglas	2-20-79	4-10-79	1
Pennsylvania, Springfield, Twp, 421369A	Erie	1-1-75	4-10-79	3
Pennsylvania, Irwin, Twp, 422534	Verago	1-31-75	4-10-79	1
Vermont, Wells River, Vil, 500078	Orange	8-9-74	4-10-79	1
Vermont, North Westminister, Vil, 500140	Windham	1-10-75	4-10-79	3

[1] Map not recorded in Federal Register.

Key to symbols:

E—The community is participating in the Emergency Program. It will remain in the Emergency Program without a FHBM.

C—The community is participating in the Emergency Program. It will be converted to the Regular Program without an FIA map.

R—The community is participating in the Regular Program.

1. The Community appealed its flood-prone designation and FIA determined the Community would not be inundated by a flood having a one-percent chance of occurrence in any given year.

1A. FIA determined the Community would not be inundated by a flood having a one-percent chance of occurrence in any given year.

2. The Flood Hazard Boundary Map (FHBM) contained printing errors or was improperly distributed. A new FHBM will be prepared and distributed.

3. The Community lacked land-use authority over the special flood hazard area.

4. A more accurate FIA map is the effective map for this community.

5. The FHBM does not accurately reflect the Community's special flood hazard areas (i.e., sheet flow flooding, extremely inaccurate map, etc.). A new FHBM will be prepared and distributed.

6. The Flood Insurance Rate Map was rescinded because of inaccurate flood evaluations contained on the map.

7. The Flood Insurance Rate Map was rescinded in order to re-evaluate the mudslide hazard in this Community.

8. The T&E or H&E Map was rescinded.

9. A revision of the FHBM within a reasonable period of time was not possible. A new FHBM will be prepared and distributed.

(National Flood Insurance Act of 1968 (title XIII of the Housing and Urban Development Act of 1968); effective Jan. 28, 1969 (33 FR 17804, Nov. 28, 1968), as amended, 42 U.S.C. 4001–4128; Executive Order 12127, 44 FR 19367; and delegation of authority to Federal Insurance Administrator, 44 FR 20963.)

Issued: May 4, 1979.

Gloria M. Jimenez,

Federal Insurance Administrator.

[FR Doc 79-15088 Filed 5-16-79; 8:45 am]

BILLING CODE 4210-23-M

DEPARTMENT OF THE TREASURY

Internal Revenue Service

26 CFR Parts 1 and 20

[T.D. 7623]

Income Tax; Estate and Gift Taxes; Group-Term Life Insurance

AGENCY: Internal Revenue Service, Treasury.

ACTION: Final regulations.

SUMMARY: This document provides final regulations relating to group-term life insurance purchased for employees. Questions have arisen concerning the tax treatment of insurance provided employees under policies that include permanent benefits. These regulations help employers and others determine when insurance is group-term life insurance the cost of which may be excludable from the income of insured employees.

DATES: The regulations are generally effective for taxable years beginning on or after January 1, 1977 or January 1, 1978, depending on when the employer entered into an arrangement to provide insurance.

FOR FURTHER INFORMATION CONTACT: John H. Parcell of the Legislation and Regulations Division, Office of Chief Counsel, Internal Revenue Service, 1111 Constitution Avenue, N.W., Washington, DC 20224, Attention: CC:LR:T, 202–566–3828, not a toll-free call.

SUPPLEMENTARY INFORMATION

Background

On January 5, 1978, the Federal Register published proposed amendments to the Income Tax Regulations (26 CFR Part 1) under section 79 of the Internal Revenue Code of 1954 (43 FR 976). The proposed amendments also contained nonsubstantive revisions of certain cross-references in the Income Tax Regulations under sections 61 and 6052 of the Code and the Estate Tax Regulations (26 CFR Part 20) under section 2042 of the Code. The amendments were proposed to prescribe rules for the tax treatment of life insurance provided employees under policies that include permanent benefits. A public hearing was held on April 26, 1978. After consideration of all comments regarding the proposed amendments, those amendments are adopted as revised by this Treasury decision. The preamble to the notice of proposed rulemaking summarizes and explains the proposed amendments. The remainder of this preamble discusses the major comments from the public and changes to the proposed regulations and sets forth additional information required by paragraph 13(c) of Executive Order 12044.

Permanent Benefits

The proposed regulations required that an employee must be able to decline or drop the permanent benefit without affecting the amount of group-term life insurance provided. Approximately 200 comments objected to the effect of this requirement on certain group paid-up life insurance plans. The commenters consider this requirement inappropriate because they believe it is inconsistent with past administrative practice, it would impose additional administrative burdens, it would lead to individual selection, it would discourage employees from purchasing permanent insurance, and it might cause employers to reduce the benefits provided to employees. In addition, the commenters suggested that there is no need for this requirement because the amount included in an employee's income under the proposed regulations is determined without regard to the allocation of premiums in the policy. However, the comments do not establish any significant distinction between policies that do not permit an employee to decline or drop the permanent benefit and other forms of permanent insurance. Therefore, the Treasury decision retains a modified version of this rule. Under the rule in the proposed regulations, if an employee who declines or drops the permanent benefit receives a greater amount of current life insurance than an employee who accepts the permanent benefit, the excess does not qualify under section 79. The Treasury decision modifies this rule to permit the excess to qualify under section 79.

Other Benefits

A similar issue has arisen in connection with benefits other than permanent benefits. The issue, which was not considered in the proposed regulations, is whether an employee can be required to purchase these other benefits to obtain group-term life insurance. It arises because insurance does not qualify under section 79 unless it is provided to a group of employees membership in which is determined on the basis of age, marital status, or factors related to employment. The Treasury decision provides that the purchase of any benefit (other than certain tax-favored employee benefits) is not a factor related to employment. Thus, life insurance generally does not qualify under section 79 if an employee must purchase any other benefit to obtain the insurance. However, participation in an employer's contributory pension, profit-sharing, or accident and health plan is considered a factor related to employment.

Definition of Policy

A number of comments were received on the definition of "policy". The proposed regulations treated as a single policy two or more obligations of an insurer that are interrelated or sold in conjunction. Some comments suggested that the term and permanent portion of a combination policy be treated as separate policies if they are actuarially independent and separate in form. If this suggestion had been adopted, the permanent portion of such a policy would not have been subject to the formula for determining the cost of permanent benefits. This Treasury decision retains a modified version of the rule in the proposed regulations because the Service is unable to determine when obligations that are sold in conjunction are economically independent of each other. The Treasury decision provides that obligations sold in conjunction are a policy and clarifies the meaning of "sold in conjunction". The Treasury decision states that obligations are sold in conjunction when they are offered or available because of the employment relationship.

Different Insurers

A similar issue arose in connection with insurance provided by different insurers. Under the proposed regulations it was not clear whether insurance provided by different insurers could be aggregated for purposes of determining whether the insurance is subject to the special rules applicable to groups of fewer than 10 employees and otherwise satisfies the requirements of the regulations. Several comments pointed out that aggregation is permitted under the current regulations. This issue is more appropriately addressed in connection with the regulations project dealing with evidence of insurability (LR–42–78). Accordingly, this Treasury decision makes it clear that aggregation is still permitted. For the same reason, a number of comments suggesting changes in the rules applicable to groups of fewer than 10 employees are being considered in connection with LR–42–78.

Benefits Available to Employee

A number of comments were received on the definition of "permanent benefit." Some comments suggested limiting permanent benefits to benefits available to the employee. This suggestion is adopted in the Treasury decision.

Amount Treated as Group-Term Life Insurance

The proposed regulations provided that the part of a policy designated as group-term life insurance may not be less than the difference between the total death benefit and the paid-up death benefit under the policy. A number of comments suggested that this rule would result in double taxation of the same death benefit. According to the comments, this could occur because the formula for determining the cost of permanent benefits under a policy is based on the increase in the policy's deemed death benefit. In the early years of the policy, the deemed death benefit may exceed the paid up insurance. The comments suggest that to the extent of this excess the death benefit is subject to a double tax. In response to these comments, the Treasury decision provides that the part of the policy designated as group-term life insurance may not be less than the difference between the total death benefit and the deemed death benefit.

Costs of Permanent Benefits

Many comments related to the amount included in income by employees receiving permanent benefits. These comments suggested that the proposed regulations required employees to include too great an amount in income. Among the changes recommended was an increase in the interest rate assumption used in the formula for determining the cost of permanent benefits. The Service recognizes that the actual cost of permanent benefits varies from insurer to insurer and from policy to policy depending on a number of factors such as expenses, investment experience, mortality assumptions, competition, and marketing considerations. The weight assigned to each factor depends on the judgment of the insurer. Therefore, no formula can determine the exact cost of permanent benefits. Although exactitude is impossible, the Service believes that the cost of the permanent benefits determined under the formula in the regulations is a reasonable approximation of the actual cost of those benefits.

It is true that the proposed regulation assumes a low interest rate, but this rate is used in the standard valuation formula of a significant number of states. Furthermore, as explained in the preamble of the notice, the formula does not include a specific loading factor, but reflects loading through the use of conservative interest and mortality assumptions. Therefore, the Treasury decision does not change the method for determining the cost of permanent benefits. Employers may avoid the effect of the formula by purchasing term and permanent features from different insurers.

Effective Dates

Many comments suggested a deferral of the effective date and more generous transitional rules. The Service published these regulations in proposed form on January 5, 1978. In addition, it announced on November 4, 1976, that it was reconsidering the treatment of group insurance arrangements that include permanent benefits and suspending letter rulings under section

79 with respect to insurance arrangements entered into after that date. Accordingly, the Service believes that the proposed effective date provisions allow insurance companies, employers, and taxpayers adequate time to comply with the amended regulations. The effective date provisions are retained in the Treasury decision with the following modifications.

The proposed regulations prescribed a later effective date and transitional rules for insurance provided under a binding arrangement in effect on November 4, 1976. A number of comments suggested that it was unclear when insurance was provided under a binding arrangement. The Treasury decision determines eligibility for the later effective date and transitional rules by reference to the date on which a plan of group-term life insurance was established. To qualify, insurance must be provided under a plan in effect on November 4, 1976. In addition, the insurer must have actually provided, or entered into a binding contract to provide, insurance under the plan.

The Treasury decision contains a more extensive description of factors related to employment than appeared in the proposed regulations. To the extent this description was not included in the proposed regulations, it does not apply until January 1, 1979.

Additional Information

These regulations are needed to guide the public and government employees responsible for the administration of section 79. The Service has considered the direct and indirect effects of the regulation and has concluded that the regulation may result in an increase in the amount included in the income of employees, a reduction in the amount of insurance provided to employees, or a change in the manner in which insurance is provided to employees.

The Service considered the following alternatives before adopting the rules applicable to policies that include permanent benefits:

(1) A requirement that the term life insurance and the permanent benefit be provided by different insurers;

(2) A requirement that the term life insurance and the permanent benefit be provided under separate policies, but not necessarily by different insurers; and

(3) Elimination of all restrictions on policies that include a permanent benefit if a specified amount is included in income as the cost of the permanent benefit.

The Service believes that the first alternative is more burdensome and the third is legally incorrect. The second alternative is discussed under the heading "Permanent Benefits" and in the preamble of the notice of proposed rulemaking.

The Service considered the following alternative methods of determining the amount includible in income as the cost of permanent benefits:

(1) Determining the cost of term life insurance and subtracting this cost from the total premium to determine the amount of premium allocated to the permanent benefit.

(2) Determining the cost of both the term life insurance and the permanent benefit and allocating the total premium between the two in proportion to their costs.

The Service believes that the method used in the regulations is no more burdensome than the alternative methods that were rejected. In addition, it believes that the formula adopted in this Treasury decision is a more appropriate measure of the cost of permanent benefits than were the allocations approved by the Service before November 4, 1976.

The preceding parts of this preamble evidence Service consideration of the many public comments and respond to the more significant issues raised by those comments. Evaluation of the effectiveness of the regulations after issuance will be based on comments received from offices within the Internal Revenue Service and the Treasury Department, other governmental agencies, State and local governments, and the public.

In some instances, the regulations may require additional reporting and recordkeeping by employers and insurers. For example, in the case of a policy that includes a permanent benefit, additional reporting or recordkeeping may be necessary to—

(1) Determine whether the requirements applicable to policies that include a permanent benefit are satisfied;

(2) Determine the cost of the permanent benefits;

(3) Determine the extent to which the cost of permanent benefits is includible in employees' gross income;

(4) Determine the extent to which policy dividends are includible in employees' gross income; and

(5) Inform employees of amounts includible in income.

Employers may avoid the additional reporting and recordkeeping by purchasing the term insurance and the permanent benefit from different insurers.

Drafting Information

The principal author of this regulation is John H. Parcell of the Legislation and Regulations Division of the Office of Chief Counsel, Internal Revenue Service. However, personnel from other offices of the Internal Revenue Service and Treasury Department participated in developing the regulation, both on matters of substance and style.

Adoption of amendments to the regulations

After careful consideration, the proposed amendments to the regulations are adopted subject to clerical changes and the following substantive changes:

1. The last two sentences of the definition of "group of employees" in § 1.79–0 are deleted and the following sentences are added in their place:

Ordinarily the purchase of something other than group-term life insurance is not a factor related to employment. For example, if an employer provides credit life insurance to all employees who purchase automobiles, these employees are not a "group of employees" because membership is not determined solely on the basis of age, marital status, or factors related to employment. On the other hand, participation in an employer's pension, profit-sharing, or accident and health plan is considered a factor related to employment even if employees are required to contribute to the cost of the plan. Ownership of stock in the employer corporation is not a factor related to employment. However, participation in an employer's stock bonus plan may be a factor related to employment and a "group of employees" may include employees who own stock in the employer corporation.

2. The definition of permanent benefit in § 1.79–0 is changed to read as follows:

Permanent benefit. A "permanent benefit" is an economic value extending beyond one policy year (for example, a paid-up or cash surrender value) that is provided under a life insurance policy. However, the following features are not permanent benefits:

(a) A right to convert (or continue) life insurance after group life insurance coverage terminates;

(b) Any other feature that provides no economic benefit (other than current insurance protection) to the employee; or

(c) A feature under which term life insurance is provided at a level premium for a period of five years or less.

3. The definition of "policy" in § 1.79–0 is changed to read as follows:

Policy. The term "policy" includes two or more obligations of an insurer (or its affiliates) that are sold in conjunction. Obligations that are offered or available to members of a group of employees are sold in conjunction if they are offered or available because of the employment relationship. The actuarial sufficiency of the premium charged for each obligation is not taken into account in determining whether the obligations are sold in conjunction. In addition, obligations may be sold in conjunction even if the obligations are contained in separate documents, each document is filed with and approved by the applicable state insurance commission, or each obligation is independent of any other obligation. Thus, a group of individual contracts under which life insurance is provided to a group of employees may be a policy. Similarly, two benefits provided to a group of employees, one term life insurance and the other a permanent benefit, may be a policy, even if one of the benefits is provided only to employees who decline the other benefit.

4. Paragraph (b) of § 1.79–1 is changed to read as follows:

(b) *May group-term life insurance be combined with other benefits.* (1) No part of the life insurance provided under a policy that provides a permanent benefit is group-term life insurance unless—

(i) The policy or the employer designates in writing the part of the death benefit provided to each employee that is group-term life insurance;

(ii) The part of the death benefit that is provided to an employee and designated as the group-term life insurance benefit for any policy year is not less than the difference between the total death benefit provided under the policy and the employee's deemed death benefit (DDB) at the end of the policy year determined under paragraph (d)(3) of this section;

(iii) Employees may elect to decline or drop the permanent benefit; and

(iv) The death benefit designated as group-term life insurance that is provided to any employee is not reduced because of that employee's election to decline or drop the permanent benefit.

(2) The condition of paragraph (b)(1)(iv) of this section is illustrated by the following examples:

Example (1). A policy permits each employee of an employer to purchase units of paid-up whole life insurance. If an employee purchases the paid-up insurance, the policy also provides current life insurance so that a total death benefit of $10,000 is provided to the employee. If the employee does not purchase the paid-up insurance, the policy provides no current life insurance. The policy designates the current life insurance as group-term life insurance. However, none of the current life insurance is group-term life insurance for purposes of section 79 because the current life insurance is reduced if an employee elects to decline or drop the permanent benefit.

Example (2). A policy permits each employee to purchase units of paid-up whole life insurance but provides $10,000 of current life insurance to each employee whether or not the employee purchases the units of paid-up whole life insurance. The current life insurance is group-term life insurance for purposes of section 79 if all other requirements of section 79 are met.

Example (3). A policy permits each employee to purchase a $100 unit of paid-up whole life insurance in each policy year. In the first policy year an employee is insured, the policy provides $10,000 of current life insurance. In each subsequent policy year, the amount of current life insurance provided is reduced by $100 whether or not the employee purchases a unit of paid-up whole life insurance. The current life insurance is group-term life insurance for purposes of section 79 if all other requirements of section 79 are met.

Example (4). The facts are the same as example (3) except that the amount of current life insurance provided to employees who do not purchase the paid-up whole life insurance is not reduced. Thus, these employees received $10,000 of current life insurance in each policy year. The current life insurance is group-term life insurance for purposes of section 79 if all other requirements of section 79 are met.

5. The last sentence of § 1.79–1 (c) (1) is changed to read as follows:

For purposes of this rule, all life insurance provided under policies carried directly or indirectly by the employer is taken into account in determining the number of employees to whom life insurance is provided.

6. The definition of "R" in § 1.79–1 (d) (3) is changed by deleting the words "permanent benefits provided" and substituting in their place the words "benefits provided to the employee".

7. The definition of "D" in § 1.79–1 (d) (5) is changed by adding the words "by the employee" immediately after the word "policy".

8. Paragraph (g) of § 1.79–1 is changed to read as follows:

(g) *Effective date.* Sections 1.79–0 through 1.79–3 apply to insurance provided in employee taxable years beginning on or after January 1, 1977, with the following exceptions:

(1) A different effective date applies if—

(i) The insurance is provided under a plan of group insurance as defined in 26 CFR 1.79–1 (b) (1) (iii) (revised as of April 1, 1979);

(ii) The plan of group-term life insurance was in effect on November 4, 1976; and

(iii) On November 4, 1976, the insurer was providing, or had entered into a binding contract to provide, insurance under the plan of group-term insurance.

In that case, §§ 1.79–0 through 1.79–3 do not apply to insurance provided in employee taxable years beginning before January 1, 1978, that could have been provided under the terms of the plan of group-term life insurance as in effect on November 4, 1976.

(2) A special effective date applies to paragraph (b) (1) (iii) and (iv) of this section if—

(i) The conditions of paragraph (g) (1) (i), (ii), and (iii) of this section are met; and

(ii) The insurance did not satisfy the requirement of paragraph (b) (1) (iii) or (iv) of this section on November 4, 1976.

In that case, paragraph (b) (1) (iii) and (iv) of this section do not apply to insurance provided in employee taxable years beginning before January 1, 1983, that could have been provided under the terms of the plan of group-term life insurance as in effect on November 4, 1976.

(3) The third, fourth, and fifth sentences of the definition of "group of employees" in § 1.79–0 do not apply in taxable years beginning before January 1, 1979.

See 26 CFR 1.79–1 through 1.79–3 (revised as of April 1, 1979) for rules applicable to insurance provided in taxable years beginning before January 1, 1977 (January 1, 1978, if the insurance is described in paragraph (g) (1) of this section).

This Treasury decision is issued under the authority contained in section 7805 of the Internal Revenue Code of 1954 (68A Stat. 917; 26 U.S.C. 7805).

Approved: April 27, 1979.

Jerome Kurtz,

Commissioner of Internal Revenue.

Donald C. Lubick,

Assistant Secretary of the Treasury.

PART I—INCOME TAX; TAXABLE YEARS BEGINNING AFTER DECEMBER 31, 1953

Income Tax Regulations (26 CFR Part 1)

§ 1.79 [Deleted]

Paragraph 1. Section 1.79 is deleted.

Par. 2. A new § 1.79–0 is added and § 1.79–1 is amended. The added and amended provisions read as follows:

§ 1.79–0 Group-term life insurance—definitions of certain terms.

The following definitions apply for purposes of section 79, this section, and §§ 1.79–1, 1.79–2, and 1.79–3.

Carried directly or indirectly. A policy of life insurance is "carried directly or indirectly" by an employer if—

(a) The employer pays any part of the cost of the life insurance directly or through another person; or

(b) The employer or two or more employers arrange for payment of the cost of the life insurance by their employees and charge at least one employee less than the cost of his or her insurance, as determined under Table I of § 1.79–3(d)(2), and at least one other employee more than the cost of his or her insurance, determined in the same way.

Employee. An "employee" is—

(a) A person who performs services if his or her relationship to the person for whom services are performed is the legal relationship of employer and employee described in § 31.3401(c)–1; or

(b) A full-time life insurance salesperson described in section 7701(a)(20); or

(c) A person who formerly performed services as an employee.

A person who formerly performed services as an employee and currently

employees cannot qualify as group-term

not taken into account if they are denied

1958 CSO Mortality Table and 4 percent

performs services for the same employer as an independent contractor is considered an employee only with respect to insurance provided because of the person's former services as an employee.

Group of employees. A "group of employees" is all employees of an employer, or less than all employees if membership in the group is determined solely on the basis of age, marital status, or factors related to employment. Examples of factors related to employment are membership in a union some or all of whose members are employed by the employer, duties performed, compensation received, and length of service. Ordinarily the purchase of something other than group-term life insurance is not a factor related to employment. For example, if an employer provides credit life insurance to all employees who purchase automobiles, these employees are not a "group of employees" because membership is not determined solely on the basis of age, marital status, or factors related to employment. On the other hand, participation in an employer's pension, profit-sharing or accident and health plan is considered a factor related to employment even if employees are required to contribute to the cost of the plan. Ownership of stock in the employer corporation is not a factor related to employment. However, participation in an employer's stock bonus plan may be a factor related to employment and a "group of employees" may include employees who own stock in the employer corporation.

Permanent benefit. A "permanent benefit" is an economic value extending beyond one policy year (for example, a paid-up or cash surrender value) that is provided under a life insurance policy. However, the following features are not permanent benefits:

(a) A right to convert (or continue) life insurance after group life insurance coverage terminates;

(b) Any other feature that provides no economic benefit (other than current insurance protection) to the employee; or

(c) A feature under which term life insurance is provided at a level premium for a period of five years or less.

Policy. The term "policy" includes two or more obligations of an insurer (or its affiliates) that are sold in conjunction. Obligations that are offered or available to members of a group of employees are sold in conjunction if they are offered or available because of the employment relationship. The actuarial sufficiency of the premium charged for each obligation is not taken into account in determining whether the obligations are sold in conjunction. In addition, obligations may be sold in conjunction even if the obligations are contained in separate documents, each document is filed with and approved by the applicable state insurance commission, or each obligation is independent of any other obligation. Thus, a group of individual contracts under which life insurance is provided to a group of employees may be a policy. Similarly, two benefits provided to a group of employees, one term life insurance and the other a permanent benefit, may be a policy, even if one of the benefits is provided only to employees who decline the other benefit.

§ 1.79-1 Group-term life insurance—general rules.

(a) *What is group-term life insurance?* Life insurance is not group-term life insurance for purposes of section 79 unless it meets the following conditions: (1) It provides a general death benefit that is excludable from gross income under section 101(a).

(2) It is provided to a group of employees.

(3) It is provided under a policy carried directly or indirectly by the employer.

(4) The amount of insurance provided to each employee is computed under a formula that precludes individual selection. This formula must be based on factors such as age, years of service, compensation, or position. This condition may be satisfied even if the amount of insurance provided is determined under a limited number of alternative schedules that are based on the amount each employee elects to contribute. However, the amount of insurance provided under each schedule must be computed under a formula that precludes individual selection.

(b) *May group-term life insurance be combined with other benefits?* (1) No part of the life insurance provided under a policy that provides a permanent benefit is group-term life insurance unless—

(i) The policy or the employer designates in writing the part of the death benefit provided to each employee that is group-term life insurance;

(ii) The part of the death benefit that is provided to an employee and designated as the group-term life insurance benefit for any policy year is not less than the difference between the total death benefit provided under the policy and the employee's deemed death benefit (DDB) at the end of the policy year determined under paragraph (d)(3) of this section;

(iii) Employees may elect to decline or drop the permanent benefit; and

(iv) The death benefit designated as group-term life insurance that is provided to any employee is not reduced because of that employee's election to decline or drop the permanent benefit.

(2) The condition of paragraph (b)(1)(iv) of this section is illustrated by the following examples:

Example (1). A policy permits each employee of an employer to purchase units of paid-up whole life insurance. If an employee purchases the paid-up insurance, the policy also provides current life insurance so that a total death benefit of $10,000 is provided to the employee. If the employee does not purchase the paid-up insurance, the policy provides no current life insurance. The policy designates the current life insurance as group-term life insurance. However, none of the current life insurance is group-term life insurance for purposes of section 79 because the current life insurance is reduced if an employee elects to decline or drop the permanent benefit.

Example (2). A policy permits each employee to purchase units of paid-up whole life insurance but provides $10,000 of current life insurance to each employee whether or not the employee purchases the units of paid-up whole life insurance. The current life insurance is group-term life insurance for purposes of section 79 if all other requirements of section 79 are met.

Example (3). A policy permits each employee to purchase a $100 unit of paid-up whole life insurance in each policy year. In the first policy year an employee is insured, the policy provides $10,000 of current life insurance. In each subsequent policy year, the amount of current life insurance provided is reduced by $100 whether or not the employee purchases a unit of paid-up whole life insurance. The current life insurance is group-term life insurance for purposes of section 79 if all other requirements of section 79 are met.

Example (4). The facts are the same as example (3) except that the amount of current life insurance provided to employees who do not purchase the paid-up whole life insurance is not reduced. Thus, these employees receive $10,000 of current life insurance in each policy year. The current life insurance is group-term life insurance for purposes of section 79 if all other requirements of section 79 are met.

(c) *May a group include fewer than 10 employees?* (1) As a general rule, life insurance provided to a group of employees cannot qualify as group-term life insurance for purposes of section 79 unless, at some time during the calendar year, it is provided to at least 10 full-time employees who are members of the group of employees. For purposes of this rule, all life insurance provided under policies carried directly or indirectly by the employer is taken into account in determining the number of employees to whom life insurance is provided.

(2) The general rule of paragraph (c)(1) of this section does not apply if the following conditions are met:

(i) The insurance is provided to all full-time employees of the employer or, if evidence of insurability affects eligibility, to all full-time employees who provide evidence of insurability satisfactory to the insurer.

(ii) The amount of insurance provided is computed either as a uniform percentage of compensation or on the basis of coverage brackets established by the insurer. However, the amount computed under either method may be reduced in the case of employees who do not provide evidence of insurability satisfactory to the insurer. In general, no bracket may exceed 2½ times the next lower bracket and the lowest bracket must be at least 10 percent of the highest bracket. However, the insurer may establish a separate schedule of coverage brackets for employees who are over age 65, but no bracket in the over-65 schedule may exceed 2½ times the next lower bracket and the lowest bracket in the over-65 schedule must be at least 10 percent of the highest bracket in the basic schedule.

(iii) Evidence of insurability affecting employee's eligibility for insurance or the amount of insurance provided to that employee is limited to a medical questionnaire completed by the employee that does not require a physical examination.

(3) The general rule of paragraph (c)(1) of this section does not apply if the following conditions are met:

(i) The insurance is provided under a common plan to the employees of two or more unrelated employers.

(ii) The insurance is restricted to, but mandatory for, all employees of the employer who belong to or are represented by an organization (such as a union) that carries on substantial activities in addition to obtaining insurance.

(iii) Evidence of insurability does not affect an employee's eligibility for insurance or the amount of insurance provided to that employee.

(4) For purposes of paragraph (c) (2) and (3) of this section, employees are not taken into account if they are denied insurance for the following reasons:

(i) They are not eligible for insurance under the terms of the policy because they have not been employed for a waiting period, specified in the policy, which does not exceed six months.

(ii) They are part-time employees. Employees whose customary employment is for not more than 20 hours in any week, or 5 months in any calendar year, are presumed to be part-time employees.

(iii) They have reached the age of 65.

(5) For purposes of paragraph (c) (1) and (2) of this section, insurance is considered to be provided to an employee who elects not to receive insurance.

(d) *How much must an employee receiving permanent benefits include in income?*—(1) *In general.* If an insurance policy that meets the requirements of this section provides permanent benefits to an employee, the cost of the permanent benefits reduced by the amount paid for permanent benefits by the employee is included in the employee's income. The cost of the permanent benefits is determined under the formula in paragraph (d)(2) of this section.

(2) *Formula for determining cost of the permanent benefits.* In each policy year the cost of the permanent benefits for any particular employee must be no less than:

$X(DDB_2 - DDB_1)$

where

DDB_2 is the employee's deemed death benefit at the end of the policy year;

DDB_1 is the employee's deemed death benefit at the end of the preceding policy year; and

X is the net single premium for insurance (the premium for one dollar of paid-up whole-life insurance) at the employee's attained age at the beginning of the policy year.

(3) *Formulo for determining deemed death benefit.* The deemed death benefit (DDB) at the end of any policy year for any particular employee is equal to:

R/Y

where

R is the net level premium reserved at the end of that policy year for all benefits provided to the employee by the policy or, if greater, the cash value of the policy at the end of that policy year; and

Y is the net single premium for insurance (the premium for one dollar of paid-up whole life insurance) at the employee's age at the end of that policy year.

(4) *Mortality tables and interest rates used.* For purposes of paragraph (d) (2) and (3) of this section, the net level premium reserve (R) and the net single premium (X or Y) shall be based on the 1958 CSO Mortality Table and 4 percent interest.

(5) *Dividends.* If an insurance policy that meets the requirements of this section provides permanent benefits, part or all of the dividends under the policy may be includible in the employee's income. If the employee pays nothing for the permanent benefits, all dividends under the policy that are actually or constructively received by the employee are includible in the employee's income. In all other cases, the amount of dividends included in the employee's income is equal to

$(D+C)-(PI+DI+AP)$

where

D is the total amount of dividends actually or constructively received under the policy by the employee in the current and all preceding taxable years of the employee;

C is the total cost of the permanent benefits for the current and all preceding taxable years of the employee determined under the formulas in paragraph (d) (2) and (6) of this section;

PI is the total amount of premium included in the employee's income under paragraph (d)(1) of this section for the current and all preceding taxable years of the employee;

DI is the total amount of dividends included in the employee's income under this paragraph (d)(5) in all preceding taxable years of the employee; and

AP is the total amount paid for permanent benefits by the employee in the current and all preceding taxable years of the employee.

(6) *Different policy and taxable years.* (i) If a policy year begins in one employee taxable year and ends in another employee taxable year, the cost of the permanent benefits, determined under the formula in paragraph (d)(2) of this section, is allocated between the employee taxable years.

(ii) The cost of permanent benefits for a policy year is allocated first to the employee taxable year in which the policy year begins. The cost of permanent benefits allocated to that policy year is equal to:

$F \times C$

where

F is the fraction of the premium for that policy year that is paid on or before the last day of the employee taxable year; and

C is the cost of permanent benefits for the policy year determined under the formula in paragraph (d)(2) of this section.

(iii) Any part of the cost of permanent benefits that is not allocated to the employee taxable year in which the policy year begins is allocated to the subsequent employee taxable year.

(iv) The cost of permanent benefits for an employee taxable year is the sum of the costs of permanent benefits allocated to that year under paragraph (d)(6) (ii) and (iii) of this section.

(e) *Effective date.* Sections 1.79-0

§ 1.61-2 [Amended]

ACTION: Final Order.

3. Paragraph (d) of Section 7 is hereby

an interest in providing Air Force

(7) *Example.* The provisions of this paragraph may be illustrated by the following example:

Example. An employer provides insurance to employee A under a policy that meets the requirements of this section. Under the policy, A who is 47 years old, received $70,000 of group-term life insurance and elects to receive a permanent benefit under the policy. A pays $2 for each $1,000 of group-term life insurance through payroll deductions and the employer pays the remainder of the premium for the group-term life insurance. The employer also pays one-half of the premium specified in the policy for the permanent benefit. A pays the other one-half of the premium for the permanent benefit through payroll deductions. The policy specifies that the annual premium paid for the permanent benefit is $300. However, the amount of premium allocated to the permanent benefit by the formula in paragraph (d)(2) of this section is $350. A is a calendar year taxpayer; the policy year begins on January 1. In 1980, $200 is includible in A's income because of insurance provided by the employer. This amount is computed as follows:

(1) Cost of permanent benefits	$350
(2) Amounts considered paid by A for permanent benefits (½ × $300)	150
(3) Line (1) **minus line** (2)	200
(4) Cost of $70,000 of group-term life insurance under Table I of § 1.79–3.	336
(5) Cost of $50,000 of group-term insurance under Table I of § 1.79–3.	240
(6) Cost of group-term life insurance in excess of $50,000 (line (4) minus line (5)).	96
(7) Amount considered paid by A for group-term life insurance (70 × $2).	140
(8) Line (6) minus line (7) (but not less than 0)	0
(9) Amount includible in income (line (3) plus line (8))	200

(e) *What is the effect of state law limits?* Section 79 does not apply to life insurance in excess of the limits under applicable state law on the amount of life insurance that can be provided to an employee under a single contract of group-term life insurance.

(f) *Cross references.* (1) See section 79(b) and § 1.79–2 for rules relating to group-term life insurance provided to certain retired individuals.

(2) See section 61(a) and the regulations thereunder for rules relating to life insurance not meeting the requirements of section 79, this section, or § 1.79–2, such as insurance provided on the life of a non-employee (for example, an employee's spouse), insurance not provided as compensation for personal services performed as an employee, insurance not provided under a policy carried directly or indirectly by the employer, or permanent benefits.

(3) See sections 106 and § 1.106–1 for rules relating to certain insurance that does not provide general death benefits, such as travel insurance or accident and health insurance (including amounts payable under a double indemnity clause or rider).

(g) *Effective date.* Sections 1.79–0 through 1.79–3 apply to insurance provided in employee taxable years beginning on or after January 1, 1977, with the following exceptions:

(1) A different effective date applies if—

(i) The insurance is provided under a plan of group insurance as defined in 26 CFR 1.79–1(b)(1)(iii) (revised as of April 1, 1979);

(ii) The plan of group-term life insurance was in effect on November 4, 1976; and

(iii) On November 4, 1976, the insurer was providing, or had entered into a binding contract to provide, insurance under the plan of group-term life insurance.

In that case, §§ 1.79–0 through 1.79–3 do not apply to insurance provided in employee taxable years beginning before January 1, 1978, that could have been provided under the terms of the plan of group-term life insurance as in effect on November 4, 1976.

(2) A special effective date applies to paragraph (b)(1)(iii) and (iv) of this section if—

(i) The conditions of paragraph (g)(1)(i), (ii), and (iii) of this section are met; and

(ii) The insurance did not satisfy the requirement of paragraph (b)(1)(iii) or (iv) of this section on November 4, 1976.

In that case, paragraph (b)(1)(iii) and (iv) of this section do not apply to insurance provided in employee taxable years beginning before January 1, 1983, that could have been provided under the terms of the plan of group-term life insurance as in effect on November 4, 1976.

(3) The third, fourth, and fifth sentences of the definition of "group of employees" in § 1.79–0 do not apply in taxable years beginning before January 1, 1979.

See 26 CFR 1.79–1 through 1.79–3 (revised as of April 1, 1979) for rules applicable to insurance provided in taxable years beginning before January 1, 1977 (January 1, 1978, if the insurance is described in paragraph (g)(1) of this section).

§ 1.79–2 [Amended]

Par. 3. Paragraph (b)(4)(ii)(*a*) of § 1.79–2 is amended by deleting "paragraph (a)(2) of § 1.79–1" and inserting in its place "section 79(a)".

§ 1.79–3 [Amended]

Par. 4. Section 1.79–3 is amended by deleting "paragraph (a)(2) of § 1.79–1" each time it appears and inserting in its place "section 79(a)".

§ 1.61–2 [Amended]

Par. 5. Paragraph (d)(2)(ii)(*a*) of § 1.61–2 is amended by deleting "group-term life insurance on the employee's life as defined in paragraph (b)(1) of § 1.79–1" and inserting in its place "certain group-term life insurance on the employee's life".

§ 1.6052–1 [Amended]

Par. 6. Paragraph (a)(1) (i) of § 1.6052–1 is amended by deleting "set forth in paragraph (a)(2) of § 1.79–1" and inserting in its place "provided in section 79(a)".

Par. 7. Paragraph (a)(2) of § 1.6052–1 is amended to read as follows:

§ 1.6052–1 Information returns regarding payment of wages in the form of group-term life insurance.

(a) *Requirement of reporting*— * * *

(2) *Definitions.* Terms used in paragraph (a)(1) of this section and in section 79 and the regulations thereunder have the meaning ascribed to them in section 79 and the regulations thereunder.

* * * * *

Par. 8. Paragraph (e) of § 1.6052–2 is amended to read as follows:

§ 1.6052–2 Statements to be furnished employees with respect to wages paid in the form of group-term life insurance.

* * * * *

(e) *Definitions.* Terms used in this section and in section 79 and the regulations thereunder have the meaning ascribed to them in section 79 and the regulations thereunder.

* * * * *

PART 20—ESTATE TAX; ESTATES OF DECEDENTS DYING AFTER AUGUST 16, 1954

Estate Tax Regulations (26 CFR Part 20)

Par. 9. Paragraph (c)(6) of § 20.2042–1 is amended by deleting "paragraph (b)(1)(i) and (iii) of § 1.79–1 of this chapter (Income Tax Regulations)" and inserting in its place "the regulations under section 79".

[FR Doc. 79–15434 Filed 5–14–79; 4:05 p.m.]

BILLING CODE 4830–01–M

DEPARTMENT OF JUSTICE

Drug Enforcement Administration

28 CFR Part 0

Redelegation of Authorization to Issue Subpoenas

AGENCY: Drug Enforcement Administration, Justice.

ACTION: Final Order.

SUMMARY: The Administrator of the Drug Enforcement Administration is authorized under 28 CFR 0.104 to redelegate to any of his subordinates any of the powers and functions vested in him by Subpart R. One of those functions is the signing and issuance of subpoenas with respect to controlled substances under 21 U.S.C. 875 and 876. Currently, 28 CFR 0.104, Appendix to Subpart R, Section 7(a) authorizes Regional Directors and the Chief Inspector to sign and issue subpoenas under 21 U.S.C. 875 and 876. Section 7(b) authorizes special agents-in-charge to sign and issue subpoenas, with the concurrence of the responsible Regional Director, in regard to matters within their respective jurisdictions. On October 1, 1978, DEA reorganized its domestic structure and reduced the number of domestic regions from twelve to five.

Therefore, the Administrator must redelegate this function to Deputy Regional Directors, Special Agents-In-Charge, Inspectors-in-Charge, and Resident Agents-In-Charge, since experience has shown that because of their increased responsibilities and enlarged jurisdictions, Regional Directors are unable to timely process all requests for Administrative Subpoenas.

EFFECTIVE DATE: May 17, 1979.

FOR FURTHER INFORMATION CONTACT: Robert T. Richardson, Deputy Chief Counsel, Drug Enforcement Administration, Department of Justice, Washington, D.C. 20537, telephone (202) 633–1141.

Appendix to Subpart R [Amended]

Under the authority delegated to the Administrator of the Drug Enforcement Administration §§ 0.100 and 0.104 of Subpart R of Title 28, Code of Federal Regulations, the Appendix to Subpart R is hereby amended as follows:

1. Paragraph (a) in Section 7 shall read as follows:

Section 7. *Issuance of Subpoenas.* (a) The Chief Inspector, all Regional Directors, Deputy Regional Directors, Special Agents-In-Charge, Inspectors-in-Charge, and Resident Agents-In-Charge are authorized to issue subpoenas with respect to controlled substances under 21 U.S.C. 875 and 876 in regard to matters within their respective jurisdictions.

* * * * *

2. Paragraphs (b) and (c) of Section 7 are hereby deleted.

3. Paragraph (d) of Section 7 is hereby designated as "(b)".

Dated: May 9, 1979.

Peter B. Bensinger,

Administrator, Drug Enforcement Administration.

[FR Doc. 79–15364 Filed 5–16–79; 8:45 am]

BILLING CODE 4110–09–M

DEPARTMENT OF DEFENSE

Department of the Air Force

32 CFR Part 819

Environmental Services to Nonmilitary Agencies and Individuals

AGENCY: Department of the Air Force, Department of Defense.

ACTION: Final rule.

SUMMARY: The Department of the Air Force is revising its rule on providing meteorological support to nonmilitary agencies. This revision explains Air Weather Service (AWS) basic policy for providing meteorological support and plans approval authority for providing meteorological support to nonmilitary agencies at a lower level.

EFFECTIVE DATE: November 17, 1978.

FOR FURTHER INFORMATION CONTACT: Lt. Colonel Floyd D. Herndon, Jr., 697–4399.

The revised part will read as follows:

PART 819—PROVIDING ENVIRONMENTAL SERVICES TO NONMILITARY AGENCIES AND INDIVIDUALS

Sec.

819.1 Purpose.
819.2 Basic policy for providing meteorological support.
819.3 AWS Support to nonmilitary agencies.
819.4 Approval authority for support to nonmilitary agencies.
819.5 Reimbursement for meteorological support.
819.6 Exchange of meteorological data.

Authority.—Sec. 8012, 70A Stat. 488; 10 U.S.C. 8012.

Note.—This part is derived from Air Force Regulation AFR 105–9, November 17, 1978.

Note.—Part 806 of this chapter states the basic policies and instruction governing the disclosure of records and tells members of the public what they must do to inspect or obtain copies of the material references herein.

§ 819.1 Purpose.

This part defines the conditions under which the Air Force provides meteorological support to nonmilitary agencies and private individuals. It applies to Air Force activities that have an interest in providing Air Force meteorological support to civilians.

§ 819.2 Basic policy for providing meteorological support.

(a) The Department of Commerce, to the maximum extent practicable and permitted by law, will provide the basic meteorological services needed to meet the requirements of the general public.

(b) Air Weather Service (AWS) provides or arranges for staff and operational weather service for the Air Force under AFR 23–31, and for the Army under AFR 105–3/AR 115–10, designated unified or specified commands, and other agencies as directed by the Chief of Staff, United States Air Force.

(c) AWS also provides day-to-day weather support to:

(1) Civilian airlines using a facility where the AWS unit has been designated the International Civil Aviation Organization (ICAO) Meteorological Office.

(2) Civilian contractors who may request weather information in support of their work effort provided:

(i) They are located on a military facility; or

(ii) They are operating a government-owned facility where AWS has established support responsibility to the contractor host; and

(iii) The criteria in § 819.3 are met.

§ 819.3 AWS support to nonmilitary agencies.

(a) AWS may provide support to nonmilitary agencies or persons provided the following criteria are met:

(1) The national agency responsible for providing the support asks AWS to provide it.

(2) The support will not impair unit mission.

(3) The support will not require additional resources or the user agrees to reimburse the Air Force for the cost of the additional resources.

(4) The recipient is advised that the Air Force will not assume any legal, financial, or moral responsibility for the service provided.

(b) HQ USAF/RDP will provide an expression of Air Force research and development interest if AWS support is needed for a federal research and development project.

§ 819.4 Approval authority for support to nonmilitary agencies.

(a) Providing the criteria in § 819.3 are met, AWS units may approve a written request for nonrecurring support that involves the release of local weather information obtained by reproduction of extraction from local records or

To insure that the legislative

losses of child support collections from

Dated: April 9, 1979.

climatological documents. AWS units may also approve a written request for recurring support that involved the release of local weather information which can be obtained by reproduction of extraction from local records or climatological documents.

(b) Other requests not covered above should be referred to HQ USAF/XOOTF. Air Force elements should inform HQ USAF/XOOTF of any situation they believe would be in the Air Force interest to furnish meteorological services not otherwise authorized by this part. HQ USAF/XOOTF will evaluate each request to determine Air Force policy on providing the support and assign a prority if necessary.

Note.—Support may be furnished without regard to any of the limitations listed above in an emergency when the support is required to avert or lessen the loss of life, personal injury, or property damage.

§ 819.5 Reimbursement for meteorological support.

If appropriate, charges for support will be made according to DOD Manual 4000.19–M (available as shown in AFR 0–4, Department of Defense Joint Chiefs of Staff & Interservice Publications and AF Acquisition Documents).

§ 819.6 Exchange of meteorological data.

This part is not intended to affect or inhibit the normal exchange of meteorological data between the Air Force and other United States Federal or foreign national agencies.

[FR Doc. 79-15408 Filed 5-16-79; 8:45 am]

BILLING CODE 3910-01-M

DEPARTMENT OF HEALTH, EDUCATION, AND WELFARE

Office of Child Support Enforcement

45 CFR Part 302

Child Support Enforcement Program; State Plan Requirements; Bonding of Employees and Handling of Cash Receipts

AGENCY: Office of Child Support Enforcement (OCSE), Department of Health, Education, and Welfare.

ACTION: Final Rule.

SUMMARY: These regulations add two new State plan requirements to the Child Support Enforcement Program. The first requires bonding of State or local employees who receive, handle or have access to cash. The second requires States to maintain methods of administration which prohibit the same person from being responsible for both the cash handling function and the accounting function in the Child Support Enforcement program. This is known as the separation of functions requirement. These regulations also provide that programs in sparsely populated areas do not have to meet the separation of functions requirement if HEW's Regional Child Support Enforcement Office waives the requirement.

EFFECTIVE DATE: July 16, 1979.

FOR FURTHER INFORMATION CONTACT: Steve Henigson, 301–443–5303.

SUPPLEMENTARY INFORMATION: *Statutory basis.* Section 502 of Pub. L. 95–30, enacted May 23, 1977, amends the Social Security Act to add a new State plan requirement (section 454(14)) which requires the Secretary to establish, and the States to comply with bonding requirements "for employees who receive, disburse, handle, or have access to, cash * * *."

Section 502 also adds a second new State plan requirement (section 454(15)) which requires the State to "maintain methods of administration which are designed to assure that persons responsible for handling cash receipts shall not participate in accounting or operating functions which would permit them to conceal in the accounting records the misuse of cash receipts * * *."

Public participation. Interested persons were afforded an opportunity to participate in the development of the regulation by a Notice of Proposed Rulemaking published in the **Federal Register** on April 5, 1978 (43 FR 14323) and due consideration has been given to all comments received in response to the Notice.

We received 10 responses to the bonding portion of the Notice (45 CFR 302.19) from State welfare and child support agencies, and one each from a State Attorney General, a District Attorney, and the Office of Management and Budget. Three State child support enforcement agencies commented on the separation portion of the Notice. These comments and the Department's response to them are discussed below.

Minimum bond requirement. The Notice proposed that the required bond be not less than $10,000 or 15 percent of the maximum amount of money to which the employee has access on an annual basis, whichever is larger. A number of child support enforcement agencies expressed concern over the size of the bond, indicating that the minimum size requirement would impose a considerable expense upon States which have a centralized collection and accounting system.

One State welfare agency suggested that the minimum size of the bond be reduced to $2,000 and an exception be provided for sparsely populated areas. The Office of Management and Budget and a State welfare agency pointed out that a minimum bond need not be required since the State IV–D agency is liable in any case for loss of child support collections.

Because of these objections, in the final regulation the Department has deleted the minimum bond size requirement. The final regulation places full responsibility upon the State to establish a bonding program that will adequately protect the State IV–D program from loss. The Department believes that since the States would ultimately be liable for any loss it is in their interest to provide adequate bonding protection.

Self-bonding. While the proposed rule specifically provided for State self-bonding systems, no provision was made for a self-insured political subdivision to meet the bonding requirement. The final regulation would permit such an arrangement provided the locality's self-insurance program was acceptable to the State IV–D agency.

Requirements on courts and law enforcement officials. Several comments concerned the authority of the State IV–D agency to impose bonding requirements upon court and law enforcement officials operating under cooperative agreements. Similar questions were raised concerning the separation requirements. The Social Security Act makes both of these requirements State plan provisions. It may be necessary for the State to amend its cooperative agreements and purchase of service agreements in order to insure conformity with the new requirements.

Separation requirement. One State IV–D agency objected to the separation requirement which prohibits an individual from handling cash receipts and participating in the accounting function because in that State in many instances, the collection and disbursement of child support are performed by the same individual. We believe it was Congress' intent that, in a properly managed IV–D program, the same individual not perform the accounting and cash receipt functions. The exception for sparsely populated areas will preclude the hiring of additional staff in areas granted a waiver.

To insure that the legislative requirement will be fulfilled by all agencies participating in the IV–D program, the final regulation specifies that the separation requirement is applicable in situations where the collection and accounting functions are being performed under purchase of service or cooperative agreements.

In response to a suggestion from a State IV–D agency the final regulation specifies that methods of administration used to separate the cash handling and accounting function must follow generally recognized accounting standards. The Department believes this will help insure that child support collections cannot be misused.

45 CFR Part 302 is amended by adding new §§ 302.19 and 302.20 to read as follows:

§ 302.19 Bonding of employees.

The State plan shall provide that the following requirements and criteria to bond employees are in effect.

(a) *IV–D responsibility.*—The IV–D agency will insure that every person, who has access to or control over funds collected under the child support enforcement program, is covered by a bond against loss resulting form employee dishonesty.

(b) *Scope.*—The requirement in paragraph (a) of this section applies to every person who, as a regular part of his or her employment, receives, disburses, handles or has access to child support collections, which includes:

(1) IV–D agency employees and employees of any other State or local agency to which IV–D functions have been delegated.

(2) Employees of a court or law enforcement official performing under a cooperative agreement with the IV–D agency.

(3) Employees of any private or governmental entity from which the IV–D agency purchases services.

(c) *Bond.*—The bond will be for an amount which the State IV–D agency deems adequate to indemnify the State IV–D program for loss resulting from employee dishonesty.

(d) *Self-bonding System.*—A State or political subdivision may comply with the requirement in paragraph (a) of this section:

(1) By means of a self-bonding system established under State law or,

(2) In the case of a political subdivision, by means of a self-bonding system approved by the State IV–D agency.

(e) *IV–D liability.*—The requirements of this section do not reduce or limit the ultimate liability of the IV–D agency for losses of child support collections from the State's IV–D program.

§ 302.20 Separation of cash handling and accounting functions.

The State plan shall provide that the following requirements and criteria to separate the cash handling and accounting functions are in effect.

(a) *IV–D responsibility.*—The IV–D agency will maintain methods of administration designed to assure that persons responsible for handling cash receipts of child support do not participate in accounting or operating functions which would permit them to conceal in the accounting records the misuse of child support receipts. Such methods of administration shall follow generally recognized accounting standards.

(b) *Scope.*—The requirement in paragraph (a) of this section applies to persons who participate in the collection, accounting or operating functions which include:

(1) IV–D agency employees and employees of any other State or local agency to which IV–D functions have been delegated.

(2) Employees of a court or law enforcement official performing under a cooperative agreement with the IV–D agency.

(3) Employees of any private or governmental entity from which the IV–D agency purchases services.

(c) *Exception.*—The Regional Office may grant a waiver to sparsely populated geographical areas, where the requirements in paragraph (a) of this section would necessitate the hiring of unreasonable numbers of additional staff. The IV–D agency must document such administrative infeasibility and provide an alternative system of controls that reasonably insures that child support collections will not be misused.

(Sec 1102, 49 Stat. 647 (42 U.S.C. 1302).)
(Catalog of Federal Domestic Assistance Program No. 13679, Child Support Enforcement Program.)

Note.—The Office of Child Support Enforcement has determined that this document does not require preparation of a Regulatory Analysis as described by Executive Order 12044.

Dated: April 9, 1979.

Stanford G. Ross,
Director, Office of Child Support Enforcement.

Approved: May 10, 1979

Hale Champion,
Acting Secretary,
Health, Education and Welfare.

[FR Doc. 79-15451 Filed 5-16-79; 8:45 am]

BILLING CODE 4110-07-M

INTERSTATE COMMERCE COMMISSION

49 CFR Part 1033

[Service Order No. 1379]

Minneapolis, Northfield and Southern Railway Authorized To Operate Over Tracks of Chicago, Milwaukee, St. Paul and Pacific Railroad Co.

AGENCY: Interstate Commerce Commission.

ACTION: Emergency Order (Service Order No. 1379).

SUMMARY: The Chicago, Milwaukee, St. Paul and Pacific Railroad Company's line at Lakeville, Minnesota is inoperable due to deteriorated track conditions. Shippers at Lakeville are being denied direct rail service because of this condition. The Minneapolis, Northfield and Southern Railway (MNS) has agreed to operate over the tracks of the Chicago, Milwaukee, St. Paul and Pacific Railroad Company (MILW) at Lakeville in order to serve the shippers. Service Order No. 1379 authorizes the operation of the MNS over the tracks of the MILW at Lakeville, Minnesota.

DATES: Effective 11:59 p.m., May 11, 1979. Expires when modified or vacated by order of this Commission.

FOR FURTHER INFORMATION CONTACT: J. Kenneth Carter, Chief, Utilization and Distribution Branch, Interstate Commerce Commission, Washington, D.C. 20423 Telephone (202) 275–7840, Telex 89–2742.

SUPPLEMENTARY INFORMATION:

Decided: May 9, 1979.

The line of the Chicago, Milwaukee, St. Paul and Pacific Railroad Company (MILW) serving Lakeville, Minnesota, is inoperable because of track conditions over certain segments which are depriving shippers located adjacent to these tracks of essential railroad service. The Minneapolis, Northfield and Southern Railway (MNS) interchanges with the MILW at Lakeville and has consented to operate

over a specific segment of MILW track, that is operable, at this location.

It is the opinion of the Commission that an emergency exists requiring operation of MNS trains over specific tracks of the MILW at Lakeville in the interest of the public; and that notice and public procedure are impracticable and contrary to the public interest; and that good cause exists for making this order effective upon less than thirty days' notice.

It is ordered, That:

§ 1033.1379 Service Order No. 1379.

(a) *Minneapolis, Northfield and Southern Railway authorized to operate over tracks of Chicago, Milwaukee, St. Paul and Pacific Railway Company.* Minneapolis, Northfield and Southern Railway (MNS) is authorized to operate over specific tracks of the Chicago, Milwaukee, St. Paul and Pacific Railroad Company (MILW) at Lakeville, Minnesota, for the purpose of serving industries at this location.

(b) *Application.* The provisions of this order shall apply to intrastate, interstate and foreign traffic.

(c) *Rates applicable.* Since this operation by the MNS over tracks of the MILW is deemed to be due to carrier's disability, the rates applicable to traffic moved by the MNS over the tracks of the MILW shall be the rates which were applicable on the shipments at the time of shipment as originally routed.

(d) *Effective date.* This order shall become effective at 11:59 p.m., May 11, 1979.

(e) *Expiration.* The provisions of this order shall remain in effect until modified or vacated by order of this Commission.

(49 U.S.C. (10304–10305 and 11121–11126).)

This order shall be served upon the Association of American Railroads, Car Service Division, as agent of the railroads subscribing to the car service and car hire agreement under the terms of that agreement and upon the American Short Line Railroad Association. Notice of this order shall be given to the general public by depositing a copy in the Office of the Secretary of the Commission at Washington, D.C., and by filing a copy with the Director, Office of the Federal Register.

By the Commission, Railroad Service Board, members Joel E. Burns, Robert S. Turkington and John R. Michael. Member Joel E. Burns not participating.

H. G. Homme, Jr.,

Secretary.

[FR Doc. 79-15433 Filed 5-16-79; 8:45 am]

BILLING CODE 7035-01-M

DEPARTMENT OF THE INTERIOR

Fish and Wildlife Service

50 CFR Part 33

Opening of Prime Hook National Wildlife Refuge, Delaware to Sport Fishing

AGENCY: United States Fish and Wildlife Service, Department of the Interior.

ACTION: Special regulations.

SUMMARY: The Director has determined that the opening to sport fishing of Prime Hook National Wildlife Refuge, is compatible with the objectives for which the area was established, will utilize a renewable natural resource, and will provide additional recreational opportunity to the public.

DATES: January 1, 1979 through December 31, 1979.

FOR FURTHER INFORMATION CONTACT: George F. O'Shea, Prime Hook National Wildlife Refuge, R.D. #1, Box 195, Milton, Delaware 19968 (302–684–8419).

SUPPLEMENTARY INFORMATION: The Refuge Recreation Act of 1962 (16 U.S.C. 460k) authorizes the Secretary of the Interior to administer such areas for public recreation as an appropriate incidental or secondary use only to the extent that it is practicable and not inconsistent with the primary objectives for which the area was established. In addition, the Refuge Recreation Act requires (1) that any recreational use permitted will not interfere with the primary purpose for which the area was established: and (2) that funds are available for the development, operation, and maintenance of the permitted forms of recreation.

The recreational use authorized by these regulations will not interfere with the primary purposes for which these National Wildlife Refuges were established. This determination is based upon consideration of, among other things, the Service's Final Environmental Statement on the Operation of the National Wildlife Refuge System published in November 1976. Funds are available for the administration of the recreational activities permitted by these regulations.

Sport fishing shall be in accordance with all applicable State and Federal regulations subject to the following special conditions:

§ 33.5 Special regulations; sport fishing for individual wildlife refuge areas.

Public sport fishing and crabbing is permitted in areas designated by signs as open to fishing. These open areas are shown on maps available at refuge headquarters and from the Regional Director, U.S. Fish and Wildlife Service, One Gateway Center, Suite 700, Newton Corner, Massachusetts 02158.

Sport fishing shall be in accordance with all State and Federal regulations covering fishing and crabbing, subject to the following special regulations:

1. Pond fishing in boats propelled manually or with electric motors is permitted on Fleetwood or Turkle Ponds. Those portions of these ponds having wood duck nesting boxes are closed to public entry from March 1, 1979 through June 30, 1979.

2. Boats may be launched from designated access points or public roads.

3. Bank fishing and crabbing is permitted only at designated access points and public road right-of-ways.

The provisions of this special regulation supplement the regulations which govern sport fishing on wildlife refuge areas generally, which are set forth in Title 50, Code of Federal Regulations, Part 33. The public is invited to offer suggestions and comments at any time.

The Department of the Interior has determined that this document is not a significant rule and does not require a regulatory analysis under Executive Order 12044 and 43 CFR Part 14.

Dated: May 9, 1979.

David B. Allen,

Acting Regional Director, U.S. Fish and Wildlife Service.

[FR Doc. 79-15308 Filed 5-16-79; 8:45 am]

BILLING CODE 4310-55-M

Proposed Rules

Federal Register
Vol. 44, No. 97
Thursday, May 17, 1979

This section of the FEDERAL REGISTER contains notices to the public of the proposed issuance of rules and regulations. The purpose of these notices is to give interested persons an opportunity to participate in the rule making prior to the adoption of the final rules.

DEPARTMENT OF AGRICULTURE

Agricultural Marketing Service [1]

[7 CFR Part 68]

Proposed Amendment to the U.S. Standards for Brown Rice for Processing and Milled Rice

AGENCY: Federal Grain Inspection Service, USDA.

ACTION: Proposed rule.

SUMMARY: The Department proposes that the term "paddy kernels" in the standards for Brown Rice for Processing and Milled Rice be redefined for purpose of clarity. The new definitions specify the amount of hull which must be adhering to rice kernels before they are considered paddy kernels.

DATES: Comments must be received by July 16, 1979. Proposed effective date is July 1, 1979.

ADDRESS: Comments may be sent in duplicate to James L. Driscoll, Director, Standardization Division, Federal Grain Inspection Service, U.S. Department of Agriculture, Room 0629–S, 1400 Independence Avenue, S.W., Washington, D.C. 20250. Comments will be made available for public inspection at the above office during regular business hours (7 CFR 1.27(b)).

FOR FURTHER INFORMATION CONTACT: James L. Driscoll, Director, Standardization Division, Federal Grain Inspection Service, U.S. Department of Agriculture, Room 0629–S, 1400 Independence Avenue, S.W., Washington, D.C. 20250 (202) 447–9329.

SUPPLEMENTARY INFORMATION: The Agricultural Marketing Act of 1946, as amended, provides for the issuance by the Secretary of Agriculture of standards with respect to quality, condition, quantity, grade, and packaging of agricultural commodities. It further provides for the voluntary inspection, upon request, by producers, merchandisers, and processors in the marketing of these commodities upon payment of a fee to cover the cost of service.

Pursuant to sections 203 and 205 of the Agricultural Marketing Act of 1946, 60 Stat. 1087 and 1090 (7 U.S.C. 1622 and 1624), notice is hereby given according to the administrative procedures provisions of Section 553 of Title 5, United States Code, that the U.S. Department of Agriculture, after review and support by the Rice Miller's Association, a major representative of the rice industry, proposes amendments to the United States Standards for Brown Rice for Processing and the United States Standards for Milled Rice.

Change in the Definition of Paddy Kernels

The present definitions for paddy kernels under the United States Standards for Brown Rice for Processing and the United States Standards for Milled Rice do not clearly define the amount of hull adhering to a kernel of rice before it is considered a paddy kernel. The lack of clarity in the definition of paddy kernels in the standards for rice has caused problems in the uniform interpretation and application of the factor. This clarification is added to avoid confusion in the definition of paddy kernels, particularly in grading parboiled brown rice for processing and parboiled milled rice.

In the processing of parboiled rice, rough rice is steeped in water or steam heated. During parboiling the starchy endosperm of the rice kernel gelatinizes and the bran layers of the rice kernel are "cooked" into the gelatinized kernel. After this heat treatment, the rice is dried and the hull removed by shelling. Due to the nature of the parboiling process certain kernels may also have an area of the hull "cooked" into the kernel so that the hull is not easily removed through shelling.

The proposed definitions conform to interpretations of "paddy kernels" maintained by the Board of Appeals and Review and do not establish a new or revised substantive rule. The Board of Appeals and Review has applied a more specific interpretation of the definition as to the amount of hull remaining on a rice kernel before it is considered a paddy kernel. For milled rice this interpretation can be found in item 5.25 of the Rice Inspection Handbook, HB 918–11. The Department believes that these definitions are clearer and more descriptive, and should therefore be adopted for use in the official standards. These amendments are proposed in the interest of clarity and uniformity. It is proposed that § 68.252(j) of the United States Standards for Brown Rice for Processing and § 68.302(j) of the United States Standards for Milled Rice be amended to read as follows:

Subpart D—U.S. Standards for Brown Rice for Processing [1]

Terms Defined

* * * * *

§ 68.252 Definition of other terms.

* * * * *

(j) *Paddy kernels.* Whole or broken kernels of rice having a portion of the hull remaining which is equal in area to one-half (½) or more of the whole or broken kernel shall be considered a paddy kernel.

* * * * *

Subpart E—U.S. Standards for Milled Rice [1]

Terms Defined

* * * * *

§ 68.302 Definition of other terms.

* * * * *

(j) *Paddy kernels.* Whole or broken kernels of brown rice and whole or broken kernels of milled rice having a portion of the hull remaining which is equal in area to one-eighth (⅛) or more of the whole or broken kernel shall be considered a paddy kernel.

* * * * *

Done at Washington, D.C., on May 11, 1979.

David C. Mangum,

Acting Administrator.

[FR Doc. 79-15377 Filed 5-16-79; 8:45 am]

BILLING CODE 3410-02-M

[1] Including matters within the responsibility of the Federal Grain Inspection Service.

[1] Compliance with the provisions of these standards does not excuse failure to comply with the provisions of the Federal Food, Drug, and Cosmetic Act, or other Federal Laws.

of the Federal Register, which are

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Agricultural Marketing Service [1]

[7 CFR Part 68]

Proposed Amendment to the U.S. Standards for Beans

AGENCY: Federal Grain Inspection Service, USDA.

ACTION: Proposed rule.

SUMMARY: The definition of "foreign material" in the U.S. Standards for Beans would be amended by deleting the words "cowpeas other than Blackeye types".

DATES: Comments must be received by July 16, 1979. Proposed effective date is August 1, 1979.

ADDRESS: Comments may be sent in duplicate to James L. Driscoll, Director, Standardization Division, Federal Grain Inspection Service, U.S. Department of Agriculture, Room 0629–S, 1400 Independence Avenue, S.W., Washington, D.C. 20250. Comments will be made available for public inspection at the above office during regular business hours (7 CFR 1.27(b)),

FOR FURTHER INFORMATION CONTACT: James L. Driscoll, Director, Standardization Division, Federal Grain Inspection Service, U.S. Department of Agriculture, Room 0629–S, 1400 Independence Avenue, S.W., Washington, D.C. 20250, Telephone (202) 447–9329.

SUPPLEMENTARY INFORMATION: The Agricultural Marketing Act of 1946, as amended, provides for the issuance by the Secretary of Agriculture of standards with respect to the quality, condition, quantity, grade, and packaging of agricultural commodities. It further provides for the voluntary inspection, upon request, by producers, merchandisers, processors, and consumers in the marketing of these commodities upon payment of a fee to cover the cost of service.

Pursuant to sections 203 and 205 of the Agricultural Marketing Act of 1946, 60 Stat. 1087 and 1090 (7 U.S.C. 1622 and 1624) notice is hereby given according to the administrative procedure provisions of Section 553 of Title 5, United States Code, that U.S. Department of Agriculture proposes an amendment to the United States Standards for Beans.

The Department, in response to concern raised by the dry bean industry and in the interest of uniformity among standards promulgated under the Act, proposes a change in the definition of foreign material in the U.S. Standards for Beans. Foreign material in grains and other commodities is defined as material other than the grains or commodity in which it is found. This includes earthy material, glass, metal, plant stalks, pods, cobs, weed seeds, and unlike grains or commodities. An exception to this definition of foreign material exists in the U.S. Standards for Beans. The definition of foreign material in beans in addition to the above, includes "cowpeas other than Blackeye types." These non-Blackeye cowpeas should not be singled out as being foreign material. These cowpeas are edible and fit the definition of Beans. For the sake of uniformity, this proposal deletes the words "cowpeas other than Blackeye types" from the definition of foreign material in the U.S. Standards for Beans. With this change, cowpeas which differ in color, size, or shape from the beans in which they are found would function as beans of a contrasting class. Cowpeas which are similar in color, size, and shape to the beans in which they are found would function under classes that blend. It is proposed that § 68.109 of the United States Standards for Beans be amended to read as follows:

Subpart B—U.S. Standards for Beans [2]

Terms Defined

§ 68.109 Foreign material.

Foreign material shall be stones, dirt, weed seeds, cereal grains, lentils, peas, and all matter other than beans.

* * * * *

Done at Washington, D.C., on May 11, 1979.

David C. Mangum,
Acting Administrator.

[FR Doc. 79-15407 Filed 5-16-79; 8:45 am]

BILLING CODE 3410-02-M

[1] Including matters within the responsibility of the Federal Grain Inspection Service.

[2] Compliance with the provisions of these standards does not excuse failure to comply with the provisions of the Federal Food, Drug, and Cosmetic Act, or other Federal Laws.

[Docket No. AO–381]

[7 CFR Ch. IX]

Apples Grown in States of Connecticut, Maine, Massachusetts, New Hampshire, Rhode Island, and Vermont; Recommended Decision and Opportunity To File Written Exceptions to Proposed Marketing Agreements and Order

AGENCY: Agricultural Marketing Service, USDA.

ACTION: Proposed Rule.

SUMMARY: This recommended decision proposes a marketing agreement and order regulating the handling of apples grown in a production area comprised of Connecticut, Maine, Massachusetts, New Hampshire, Rhode Island, and Vermont. It provides interested persons and opportunity to file written exceptions concerning the recommendations made therein.

The proposed order would establish a committee of growers and handlers for local administration. It would provide for establishment of maturity requirements for apples produced in the designated area based on committee recommendations. Also, it would authorize the committee to engage in production and marketing research, including promotional activities designed to promote distributon and consumption of apples. Consumers should benefit from an improved product and growers by an expanded market.

DATE: Written exceptions to this recommended decision may be filed by June 18, 1979.

ADDRESSES: Written exceptions should be filed in duplicate with the Hearing Clerk, Room 1077, South Building, U.S. Department of Agriculture, Washington, D.C. 20250. All written submissions will be made available for public inspection at the office of the Hearing Clerk during regular business hours (7 CFR 1.27(b)).

FOR FURTHER INFORMATION CONTACT: Malvin E. McGaha, Chief, Fruit Branch, Fruit and Vegetable Division, AMS, USDA, Washington, D.C. 20250, Phone (202) 447–5975.

SUPPLEMENTARY INFORMATION: Prior documents in this proceeding: Notice of Hearing—Issued October 26, 1978, and published October 31, 1978 (43 FR 50691).

Preliminary Statement

Notice is hereby given of the filing with the Hearing Clerk of this recommended decision with respect to a proposed marketing agreement and order regulating the handling of apples grown in the States of Connecticut, Maine, Massachusetts, New Hampshire, Rhode Island, and Vermont.

The above notice of filing of the decision and of opportunity to file exceptions thereto is issued pursuant to the provisions of the Agricultural Marketing Agreement Act of 1937, as amended (7 U.S.C. 601 *et. seq.*), and the applicable rules of practice and procedure governing the formulation of marketing agreements and marketing orders (7 CFR Part 900).

The proposed marketing agreement and order were formulated on the record of a public hearing held at West Springfield, Massachusetts, December 4–5, 1978, and at Brentwoood (Epping), New Hampshire, December 7, 1978. Notice of the hearing was published in the October 31, 1978, issue of the **Federal Register**. The notice set forth a proposed order submitted by the New England Apple Marketing Order Study Committee on behalf of apple producers and handlers in the proposed production area.

Material issues. The material issues presented on the record of the hearing are as follows:

(1) The existence of the right to exercise Federal jurisdiction in this instance;

(2) The need for the proposed regulatory program to effectuate the declared purposes of the act;

(3) The definition of the commodity and determination of the production area to affected by the order;

(4) The identity of the persons and transactions to be regulated; and

(5) The specific terms and provisions of the order including;

(a) Definition of terms used therein which are necessary and incidental to attain the declared objectives of the act, and including all those set forth in the notice of hearing, among which are those applicable to the following additional terms and provisions;

(b) The establishment, maintenance, composition, powers, and duties of a committee which shall be the local administrative agency for assisting the Secretary in the administration of the order;

(c) The authority to incur expenses and the procedure to levy assessments;

(d) The authority to establish production and marketing research, and market development projects;

(e) The method for regulating the handling of apples grown in the production area;

(f) The authority to exempt from regulation apples used for such special purpose, in such quantity, or in such type of shipment, as the committee, with the approval of the Secretary, may specify;

(g) The establishment of reporting and related recordkeeping requirements;

(h) The requirement of compliance with all provisions of the order and with the regulations issued pursuant thereto; and

(i) Additional terms and conditions as set forth in §§ .62 through .72 and published in the **Federal Register** (43 FR 50691) on October 31, 1978, which are common to marketing agreements and orders, and certain other terms and conditions as set forth in §§ .73 through .75, and also published in the said issue of the **Federal Register**, which are common to marketing agreements only.

Findings and conclusions. The following findings and conclusions on the material issues are based on the record of the hearing:

(1) Average annual production of apples grown in the States of Connecticut, Maine, Massachusetts, New Hampshire, Rhode Island, and Vermont, hereinafter referred to as the "production area", during the 5-year period 1973–1977 was 321.7 million pounds. McIntosh is the predominant variety grown in the six New England States, constituting about two-thirds of the annual output in these States. On the average, the production area produces about 35 percent of the U.S. production of the McIntosh variety, and about 5 percent of U.S. production of all varieties. About 80 percent of the 1977 production of apples in the production area was disposed of through fresh sales. The remaining percentage was processed into products, except for a small quantity not utilized.

Apples grown in the various States within the production area may be shipped to markets within the State in which produced or shipped to markets in the other States within such area, or within other States. Apples produced in the area also are shipped to export markets. The apples are prepared for shipment in intrastate and interstate commerce in essentially the same manner. In addition, individual lots of apples, as they move to market, tend to be similar in that they are sold by type of pack and variety conforming with a specific grade, brand, count size or minimum diameter. Generally, no handler supplies any single segment of the market to the exclusion of every other handler. Therefore, all apples, grown in the production area in which are handled fresh fruit channels, exert an influence on all other handling of such apples in fresh form. Sellers of apples, as of other commodities, endeavor to transact their business so as to secure maximum returns for the apples they have for sale. The sellers of apples continually survey all accessible markets so as to take advantage of the best possible opportunity to market the fruit. Markets within the production area provide opportunities to dispose of apples the same as markets outside such area. The sale of a quantity of apples within such area exerts an influence on all other sales of apples. Buyers generally have access to market information, and knowledge of prices in one area is used when bargaining for apples in another area. Hence, it is concluded that any movement and sale of apples grown in the production area, whether to a market within the production area or outside thereof, affect prices for all apples grown in the production area. Therefore, it is found that all handling of apples grown in the production area, is either in the current of interstate or foreign commerce or directly burdens, obstructs, or affects such commerce; and, except as hereinafter otherwise provided, all handling of apples grown in the production area should be subject to the act and the order.

(2) In 1977 apples produced in the specified six State area totaled 343.6 million pounds compared to 312.5 million pounds in 1976. The annual average proportion of the crop shipped for fresh consumption during the period 1973–1977 was about 82 percent. As previously indicated, about two-thirds of the apple production within the production area is of the McIntosh variety. Other important varieties grown are Delicious, Cortland, and Golden Delicious. In 1977, these three varieties accounted for 23 percent of the production in such area. In addition, a number of new varieties have been planted. The record indicates that apples are grown on about 669 orchards in the production area. More than half of these orchards were in the size group ranging from 100 to 999 trees. Tree count data compiled in 1976 indicate that in 1975 there were 1,365,109 apple trees in the production area, about 30 percent more trees than in 1965. The number of McIntosh apple trees expanded sharply from 563,842 in 1965 to 791,219 in 1975. Based on increased tree plantings, it is anticipated that production will increase, particularly of the McIntosh variety. Moreover, slightly more than 40 percent of the 1975 tree count consisted of orchards planted to size controlling rootstock compared to about 14 percent in 1965. Trees on size controlling rootstock tend to produce earlier than trees on standard rootstock. Hence, there is a potential for a substantial increase in production in the near future.

Data showing apple unloads in selected market areas indicate mostly a steady level or decline in receipts of New England apples in 1977 compared to 1976. In 1977 the percentage of apples unloaded in Boston, Providence, and New York, which originated in the six New England States, was 44.0, 21.0 and 3.9 percent, respectively. In 1976 the percentage of such apples unloaded in these market areas was 47.3, 32.9 and 4.5 percent, respectively.

The 1977 season average price received by growers of apples grown in the production area sold for fresh

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consumption was 14.0 cents per pound, while the price for all methods of sale, including processing, was 12.6 cents per pound. Hence, it is apparent that fresh sales provide a greater return to growers. Prices for apples are usually relatively higher at the beginning of each marketing season. The record indicates that this tends to encourage handlers to ship apples in fresh fruit channels before the fruit reaches an acceptable level of maturity. It is particularly important in view of the prospective increase in production that the apples consumers receive are of desirable maturity. Immature apples are less palatable and generally do not receive consumer acceptance. Shipment of such apples tend to discourage consumption, depress the price for all apples, and contribute to disorderly marketing conditions for acceptable quality fruit. The establishment of regulations with respect to maturity, such as are contemplated under the order, would provide a method whereby orderly marketing could be promoted. This would tend to effectuate the declared policy of the act. The order also should provide for the establishment of production research and marketing research and development projects designed to assist, improve, or promote the marketing, distribution, and consumption or efficient production of apples. These issues are discussed under material issues (5)(d) and (5)(e) of this decision.

(3) The term "apples" should be defined in the order to identify the commodity to be regulated thereunder. Such term, as used in the order, refers to all varieties of apples classified botanically as Malus sylvestris. The definition of apples should include varieties that may be developed and produced in the production area. Apples are readily distinguishable from other fruits, and the term has a specific meaning to all producers and handlers of the commodity in the production area.

A definition of the term "production area" should be incorporated in the order to designate the specific area in which the apples to be regulated are grown. Such term should be defined to mean the States of Connecticut, Maine, Massachusetts, New Hampshire, Rhode Island, and Vermont. The apples produced within this area are similar in character and move freely within such area and to markets outside thereof and it would be impracticable to limit coverage to a lesser area. Moreover, while there are areas within this production area which are not planted to apples, many nonplanted areas are suitable for orchards and if such were excluded and later planted to apples, this production would be indistinguishable from the apples which are subject to the order. This would result in compliance problems and impede the effectiveness of the program. The boundaries of the area represented by State lines appropriately delineate the area and would make clear to growers and handlers the apples that are subject to the order. Hence, it is concluded that the production area, as hereinafter defined, is the smallest regional production area that is practicable consistently with carrying out the declared policy of the act.

(4) The term "handler" should be defined in the order to identify the persons who are subject to regulations under the order. Since it is the handling of apples that is regulated, the term "handler" should apply to all persons who place apples in the current of commerce by performing any of the activities within the scope of the term "handle", as hereinafter described. In other words, any person who is responsible for the sale, consignment, or transportation of apples, or who in any other way places apples in the current of commerce, should be a handler under the order and be required to carry out such activities in accordance with the order provisions.

The term "handle" should be defined to identify those activities that it is necessary to regulate in order to effectuate the declared policy of the act. Such activities include all phases of selling and transporting which place apples in the channel of commerce within the production area or from the production area to any point outside thereof. The performance of any one or more of these activities, such as selling, consigning, or transporting by any person, including a grower, either directly or through others, should constitute handling. In order to effectuate the declared policy of the act, each such person should be required, except as hereinafter indicated, to limit such handling of apples to fruit which conforms to the applicable requirements under the order.

Transportation by a common or contract carrier of apples owned by another person should not be considered as making such a carrier a "handler" as, in such instances, the carrier is performing a service for hire. Of course, if the carrier is the owner of the apples being transported, such carrier would be a handler the same as any other person who may primarily be engaged in another business—such as a producer or retailer—but at times is also a handler. Also, the order should permit exemption to facilitate the transportation of mature apples from the location where grown to a packinghouse or storage facility within the production area or to such other points as the committee, with the approval of the Secretary, may authorize for having such apples prepared for market or stored. However, such exemptions should not apply to the further handling of the apples so prepared or stored within the production area or other approved locations, and any person who subsequently sells, consigns, delivers, or transports such apples, or causes such apples to be sold, consigned, delivered, or transported within the production area or between the production area and any point outside thereof should be considered as the handler of such apples and subject to order requirements. The committee should recommend, and the Secretary approve, rules and regulations as it may deem necessary to assure that apples transported under these provisions comply with order provisions prior to entering channels of trade.

Apples are sometimes sold at the orchard where grown, at a roadside stand, or at a packinghouse to persons who transport the apples or cause the transportation thereof from such points to markets within and without the production area. The sale or delivery of apples and the subsequent movement to market are each handling transactions. Any person who engages in any such transaction, whether grower, packinghouse operator, or others, would therefore be a handler under the order by virtue of such transaction. Each such person handling apples should have the responsibility of assuring that the apples meet all applicable regulations in effect at the time of handling. It was advanced that selling apples as "pick-your-own" (where the seller invites the customer to the orchard to pick their own fruit) should be exempted from order provisions. However, as indicated, any activity involving selling, consigning, delivering, or transporting apples (except as specifically exempted) should constitute a handling function. "Pick-your-own" is simply a method of selling apples and there is no evidence to indicate that this type of sale should be exempted from the handling definition. One witness indicated that the order should provide that only apples shipped outside the production area should be subject to the order provisions. However, this is impractical since all handling of apples is in interstate or foreign commerce or directly burdens, obstructs, or affects such commerce. Therefore, it is concluded that, except as indicated herein and as specifically

exempted by the act and order, all sales, consignment, or transportation of apples within the production area or between the production area and any point outside thereof should be subject to the order and any regulations issued pursuant thereto.

(5)(a) Certain terms applying to specific individuals, agencies, legislation, concepts, or things are used throughout the order. These terms should be defined for the purpose of designating specifically their applicability and establishing appropriate limitations on their respective meaning whenever they are used.

The definition of "Secretary" should include not only the Secretary of Agriculture of the United States, the official charged by law with the responsibility for programs of this nature, but also, in order to recognize the fact that it is physically impossible for the Secretary to perform personally all functions and duties imposed by law, any other officer or employee of the United States Department of Agriculture who is, or who may hereafter be, authorized to act for the Secretary.

The definition of "act" provides the correct legal citation for the Agricultural Marketing Agreement Act of 1937, as amended, the statute pursuant to which the proposed regulatory program is to be operative, and avoids the need for referring to the citation each time it is used.

The definition of "person" should follow the definition of that term as set forth in the act, and will insure that it will have the same meaning as it has in the act.

The term "varieties" should be defined in the order, as hereinafter set forth, since it is proposed, for reasons hereinafter discussed, to provide authority for different regulations for different varieties of apples. Such regulations would recognize the different characteristics of the varieties. There are over 20 varieties of apples grown commercially in the production area. While only about 10 of such varieties are now produced in significant quantities, the others, plus additional varieties which are now being propagated, may become prominent in the future. Each of the varieties has characteristics which serve to distinguish it. From a market standpoint, however, they are competitive one with the other. It is necessary, therefore, that all varieties of apples, including those that may be developed in the future, be subject to regulations under the order.

The term "fiscal period" should be defined to set forth the period with respect to which financial records of the New England Apple Administrative Committee—the agency which will administer the program locally—are to be maintained. At the present time, it is desirable to establish a 12-month period ending the last day of June of each year as a fiscal period. Such a period would fix the end of one fiscal period and beginning of the next at a time of relative inactivity in the marketing of apples. Also, the beginning of the fiscal period would coincide with the beginning of the term of office of members and alternates, as hereinafter discussed, and this would allow sufficient time prior to the time shipments begin for the committee to organize and develop information necessary to its functioning during the ensuing year. Moreover, it would insure that a minimum of expenses would be incurred during a fiscal period prior to the time assessment income is available to defray such expenses. However, it may develop that for convenience of management or for other good and sufficient reasons not now apparent, that it would be desirable to establish a fiscal period other than one ending the last day of June. Hence, authority should be included in the order to provide for such establishment subject to approval of the Secretary pursuant to recommendation of the committee. Therefore, it is concluded that such term should be defined as hereinafter set forth to provide this flexibility.

A definition of "committee" should be incorporated in the order to identify the administrative agency established under the provisions of the program. Such committee is authorized by the act and the definition thereof, as hereinafter set forth, is merely to avoid the necessity of repeating its full name each time it is used.

The term "grower" should be synonymous with "producer" and should be defined to include any person who produces apples for market and who has a proprietary interest therein. A definition of the term grower is necessary for such determinations as eligibility to vote for, and to serve as, a member or alternate member of the New England Apple Administrative Committee and voting in referenda. The term "grower" should , therefore, be defined as hereinafter set forth.

"District" should be defined as set forth in the order to provide a basis for nomination and selection of committee members. The districts (i.e., the geographical divisions of the production area) as hereinafter set forth, represent an appropriate basis for providing a fair, adequate, and equitable representation on the committee.

The term "container" should be defined in the order to mean any bag, box, crate, basket, carton, package, bulk carton, or bin, or any other type of receptacle used in packaging or handling of apples. The definition of the term is needed to serve as a basis for differentiation among the various shipping receptacles, in which apples are sold or move to market.

A definition of "first sale unit" is needed to provide a convenient unit upon which to base assessments on handlers of apples. It would also provide a practical basis on which growers and handlers should file required reports on the volume of apples produced, utilized, and disposed of during specified periods. "First sale unit" should be defined to mean approximately 40 pounds of apples in any container or containers or in bulk. This unit of measurement is commonly used in the industry. (b) It is desirable to establish an agency to administer the order under and pursuant to the act, as an aid to the Secretary in carrying out the purpose of the order and the declared policy of the act. The term "New England Apple Administrative Committee" is a proper identification of the agency and reflects the character thereof. It should be composed of 15 members, of whom 10 should represent growers, four should represent handlers and one should represent the public. Alternate members should be provided to act in the place and stead of the members. Such a committee would be large enough to provide representation to all segments of the industry. At the same time, it is of such size that it can operate effectively and efficiently. The foregoing division of members between producers and handlers would provide suitable producer representation and handler experience and information. A majority of the committee should consist of producers because the program is designed to benefit producers. The provision for handler members tends to give balance to the committee by providing the handler experience and marketing information necessary to the development of economically sound regulation of apple shipments. The public member would be in a position to express the consumer's viewpoint in the contemplation of actions by the committee.

For grower representation on the committee, the production area should be divided into districts as specified in the order. District 1 should include the State of Maine, District 2 the State of

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handler member and alternate member discharge of its reponsibilities. These

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New Hampshire, District 3 the State of Vermont, District 4 the State of Massachusetts, and District 5 the States of Connecticut and Rhode Island. The ten grower members and alternate members of the committee should be allocated to these districts on the basis of two members and alternate members to each, with a provision that at least one grower member or alternate representing District 5 shall be from the State of Rhode Island. Each such member should be a producer in the district he or she represents. Such representation represents, to the extent practicable, the relationship of the volume of production in the five districts and provides that the interests of all areas will be represented. The ten grower members of the committee should be referred to as "grower members" of the committee.

The four handler members and their alternates should be selected from the production area at large, but no more than two handler members should be from any one district. This is appropriate since it would be most beneficial to the committee that the handler members have knowledge of marketing conditions throughout the production area. The four handler members of the committee should be referred to as "handler members" of the committee.

Each grower member of the committee, and alternate, should be a grower, or an officer or employee of a grower. There are growers in the production area which are companies, either incorporated or otherwise, and a company, as such, would be precluded from having representation on the committee unless officers and employees of growers were permitted to vote for and serve as grower members of the committee. A person who is a grower or an officer or employee of a grower should be acquainted with the problems of producing apples in the district where such person produces apples.

Each handler member of the committee and alternate should be a handler, or an officer or employee of a handler. There are handlers in the production area which are companies, either incorporated or otherwise, and a company, as such, would be precluded from having representation on the committee unless officers and employees of handlers were permitted to vote for and serve as handler members of the committee. Persons who are handlers or an officer or employee of a handler would be acquainted with the problems of handling apples grown in the production area and could contribute substantially in making decisions required under the order.

In addition to the 14 grower and handler members of the committee, there sould be an individual to serve as public member of the committee, and an individual who should serve as alternate. In recent years there have been manifested a greater interest in regulatory and other programs which are carried out under auspices of government. While committee meetings are open to the public, a public member on the committee could perform a valuable service to the committee and the general public by providing input into deliberations which reflect the views of consumers and the public generally whose principal interests lie outside the apple industry. Such member also would be valuable as an intermediary in explaining to consumers and others of similar orientation what the program is about and the rationale of actions taken. The nominee for the public member position should be a person who does not represent an agricultural interest and who is not financially interested in or associated with the production, processing, financing, or marketing of apples. The committee should specify in administrative rules issued, with approval of the Secretary, the additional qualifications which a person should possess to be eligible for the public member and alternate member positions. Nominations for public member and alternate member on the committee should be submitted to the Secretary by the committee consistent with a nomination procedure established by the committee and approved by the Secretary.

The term of office of committee members and alternates under the proposed program should be for three fiscal periods. However, the term of office for five of the initial grower members and two of the initial handler members and their alternates should end on the third succeeding June 30, and the term of office for five of the initial grower members and two of the initial handler members and their alternates should end on the second succeeding June 30. This procedure would set up a desirable rotation process which will assure continuity of operations by retaining experienced members who will be able to acquaint the new members of the committee with the program. It was advanced that it would be fair and reasonable to determine which of the initial members will serve two year terms of office and which will serve three year terms of office by lot, and it is concluded that such a procedure would be appropriate. A term of office starting July 1 will begin sufficiently in advance of the time when the volume of apples are harvested each season to allow adequate time for the committee to organize and start operating.

Provision should be made in the order for the Secretary to change the term of office pursuant to a recommendation from the committee. The order contains provisions for changing the fiscal year. If the fiscal year is changed, it would likely be desirable for the term of office of committee members to be changed to coincide with the new fiscal year. The term of office of the public member should be prescribed in an administrative rule recommended by the committee and approved by the Secretary.

Since it is possible that the new committee members may not be appointed immediately upon the expiration of the term of existing members, or that some may fail to qualify immediately, provision should be made for members to continue to serve until their successors are selected and have qualified. this is necessary to insure continuity of committee operations. Evidence presented at the hearing indicated that it would not be desirable for the same committee members to serve continuously. Acordingly, provision should be included in the order to preclude a member from serving on the committee for longer than two fall consecutive terms. This provision should not apply to alternate members as alternate members actually serve on the committee only when the member is unable to serve. This provision should also not apply to all the initial members who are appointed and serve for less than a full three-year term of office.

As the committee will not be in a position to act until after the selection by the Secretary of its initial members, the order should provide that the names of nominees for the initial members and alternates may be submitted to the Secretary by individual growers and handlers, or that nominations for such positions may be made at meetings of growers and handlers. Such nominations should be made no later than the effective date of the order.

Nomination meetings for the purpose of designating nominees for successor members and alternates should, insofar as possible, be scheduled by the committee at such times and places as will result in maximum grower and handler participation. The committee should be authorized to adopt such procedural rules as may be deemed necessary to assure that such meetings

will be conducted in an orderly and uniform manner.

Meetings for the purpose of designating nominess for successor members of the committee and their alternates should be held sufficiently in advance of the expiration of the term to allow selection of a successor prior to the start of the new term. Consequently, a meeting of growers in each district and a meeting of handlers should be held not later than May 15 in the year in which nominations are to be made to facilitate this. Handler members would be nominated from the entire production area at large. Thus, to insure equal opportunity for all handlers to participate, it would be appropriate to hold one meeting for the purpose of such nominations. Such meeting should be held at a location which should be equally accessible for all handlers.

The order should provide that only growers, including duly authorized officers or employees of growers, who are present at nomination meetings may participate in the nomination and selection of grower members and their alternates. To prevent a grower who produces apples in more than one district from having a bigger voice in nominations than a grower who produces apples in only one district, the order should provide that no grower be permitted to participate in the election of grower nominees in more than one district in any one fiscal year. However, each grower should be permitted one vote for each position to be filled in the district in which the grower produces apples. Additionally, a grower who produces in more than one district should be permitted to elect the district in which he will vote. The order also should provide that if a person is both a grower and handler of apples, such person may vote either as a grower or as a handler but not as both.

Only eligible handlers, including duly authorized employees or officers of such handlers, who are present at nomination meetings should be permitted to participate in the nomination and election of handler members and their alternates since the handlers should be the ones to indicate the persons they desire to represent them on the committee. Also, handlers should be allowed to cast only one vote for each nominee to be elected. The order should provide that in the nomination of persons to fill handler positions the vote of each handler to be weighted by the volume of apples handled during the preceding fiscal year. The requirement that handler votes be weighted by the volume of apples handled would tend to insure that the persons nominated for handler member and alterante member positions could contribute a broader range of experience relative to marketing problems that confront the industry.

In order that there will be an administrative committee in existence at all times to administer the order, and the Secretary not be limited as to nominees from which to select the committee membership, he should be authorized to select committee members and alternate members without regard to nomination if, for some reason, nominations are not submitted.

In conformance with the procedure prescribed in the order, or the selection of someone other than a nominee so submitted is deemed warranted by the Secretary. Such selection should, of course, be on the basis of the representation provided in the order so that the composition of the committee will at all times continue as prescribed in the order.

Each person selected by the Secretary as committee member or alternate should qualify by filing with the Secretary a written acceptance of a willingness and intention to serve in such capacity. This requirement is necessary so that the Secretary will know whether or not the position has been filled.

Provision should be set forth in the order for the filling of any vacancies on the committee, including selection by the Secretary without regard to nominations if such nominations are not made as prescribed, in order to provide for maintaining a full membership on the committee.

The order should provide that an alternate member shall be nominated and selected for each member of the committee in order to insure that each district will have grower representation and handler representation from the production area at large at meetings. Each alternate who is selected should have the same qualifications for membership as the member. In the event any member is absent, dies, resigns, is removed from office, or is disqualified, the alternate member should serve in such member's place so that the representation on the committee will remain unchanged. The alternate should serve until a successor to such member has been appointed and has qualified.

The committee should be given those specific powers which are set forth in Section 8c(7)(C) of the act. Such powers are necessary to enable an administrative agency of this character to function.

The committee's duties, as set forth in the order, are necessary for the discharge of its reponsibilities. These duties are generally similar to those specified for administrative agencies under other programs of this character. It is intended that any activities undertaken by the members of the committee will be confined to those which reasonably are necessary for the committee to carry out its responsibilities as prescribed in the program. It should be recognized that these specified duties are not necessarily all-inclusive, and that it may develop that there are other duties the committee may need to perform.

The provisions set forth in § .31(k) permit the committee to engage in research relating to packaging and maturity, grade and condition standards for apples. This provision is needed to permit the development and standardization of improved shipping containers and an appropriate maturity, grade, and condition standard which would tend to promote orderly marketing of apples. Section .31(l) would permit the committee to contract with qualified persons or agencies to conduct projects relative to production and marketing research and promotion, including paid advertising. The committee may be limited by the lack of facilities and trained technicians to perform such projects, and it should be authorized to contract for their conduct with any qualified agencies.

At least eight members of the committee, of which six must be grower members (or their alternates), should be present at any meeting of the committee in order for the committee to make decisions. Any committee action should require at least eight concurring votes. It is very desirable that a high percentage of the committee membership present agree to any action so as to obtain the necessary support of the industry. The provision that six grower members be present is desirable to assure grower participation in all meetings and actions of the committee.

The committee should be authorized to vote by telephone, telegraph, or other means of communication when a matter to be considered is so routine that it would be unreasonable to call an assembled meeting or when rapid action is necessary because of an emergency. Any votes cast by telephone should be confirmed promptly in writing to provide a written record of the votes so cast. In case of an assembled meeting, however, all votes should be cast in person.

It is appropriate that members of the committee, and alternates when acting as members, be reimbursed for out-of-pocket reasonable expenses incurred when performing committee business,

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since it would be unfair to require them to bear personally such expenses incurred in the interest of all apple growers and handlers in the production area.

In order for grower or handler alternates adequately to serve effectively at any committee meeting in place of an absent member, it may be desirable that they should have attended previous meetings along with the member, so as to have a good understanding of background discussion leading up to an action that may be taken at the meeting. Likewise, an alternate may, in future years, be selected as a member on the committee; and to this extent, attendance at meetings by alternate members could be helpful. Although only committee members, and alternates acting as members, have authority to vote on actions taken by the committee, it is often desirable for the committee to obtain as wide a representation as practicable of producer and handler views and attitudes in considering a proposed regulation or other matter. Therefore, the order should provide that the committee, at its discretion, may request the attendance of alternate members at any or all meetings, notwithstanding the expected or actual presence of the respective member, when a situation appears to so warrant. The same reimbursement of expenses that are available to members should be made available to alternate members when they are requested and attend such meetings as alternates.

Provision should be made whereby the committee will prepare an annual report as soon as practical after the end of the fiscal year. Such report would provide committee members, the industry, and the Secretary with a record of the annual operations of the program and would provide a means for evaluation of the program and the need for any changes.

(c) The committee should be authorized to incur such expenses as the Secretary finds are reasonable and likely to be incurred by it during each fiscal year for its maintenance and functioning and for such other purposes as the Secretary may, pursuant to the provisions of the marketing agreement and order, determine to be appropriate.

The funds to cover the expenses of the committee should be obtained through the levying of assessments on handlers. The act specifically authorizes the Secretary to approve the incurring of such expenses by any authority or agency established under an order, and requires that each marketing program of this nature contain provisions requiring handlers to pay their pro rata shares of expenses. The proposed New England Apple Administrative Committee would be the agency established to administer the order.

The committee should be required to prepare a budget at the beginning of each fiscal period showing estimates of the income and expenditures necessary for the administration of the order during such period. Each such budget should be submitted to the Secretary with an analysis of its components. Such budget and report should also recommend to the Secretary the rate of assessment believed necessary to secure the income required for that period. The committee, because of its knowledge of the prospective crop, will be in a good position to ascertain the necessary assessment rate and make recommendations in this regard.

The rate of assessment should be established by the Secretary on the basis of the committee's recommendation, or other available information, so as to assure the imposition of such assesments as are consistent with the act. In order to assure the continuance of the committee, the payment of assessments should be required even if particular provisions of the marketing agreement and order are suspended or become inoperative.

The order should require each handler to pay to the committee, upon demand, his or her pro rata share of such expenses as the Secretary finds are reasonable and likely to be incurred by the committee during each fiscal year. Each handler's share of such expenses should be equal to the ratio between the total quantity of apples handled by such handler as the first handler thereof during the applicable fiscal year and the total quantity of apples so handled by all handlers during the same fiscal year. In this way, payments by handlers of assessments would be proportionate to the respective quantities of apples handled by each handler and assessments would be levied on the same apples only once.

Should it develop that assessment income during a fiscal year would not provide sufficient income to meet expenses, the funds to cover such expenses should be obtained by means of increasing the rate of assessment subject to limitations hereafter described. Since the act requires that the administrative expenses shall be paid by handlers, this is the only source of income to meet such expenses. The increased assessment rate should be applied to all apples handled during the particular fiscal year so that the total payments by each handler during each fiscal year will be proportional to the total volume of apples handled during that period.

The marketing agreement and order should provide that the rate of assessment not exceed 5 cents per first sale unit (40 pounds) of apples. This was supported at the hearing on the basis that the inclusion of such restriction is necessary so handlers will know the maximum assessment which can be levied against them. Inclusion of such a restriction should allow an assessment to be levied sufficient to cover operational expenses anticipated at this time. However, a provision should be included to authorize the establishment of a rate of assessment higher than 5 cents per first sale unit if recommended by the committee and approved by growers in a referendum. Under this provision action may be taken by the committee and a referendum be conducted among apple growers to ascertain if growers favor such higher rate. The material furnished growers in the referendum should include the specific rate of assessment to be voted on and the details supporting the need for the increased rate. The referendum should be conducted by the committee. Authority to establish a rate of assessment higher than 5 cents per first sale unit should be contingent upon a finding that such maximum assessment rate is favored by at least two-thirds of the producers voting in the referendum or by two-thirds of the volume of production voted. Such percentage appears reasonable in that it is the same as that required for approval of the issuance of a marketing order. Any such maximum rate so established should be set forth in an administrative rule approved by the Secretary and remain in effect until changed in accordance with the foregoing procedure.

In order to provide funds for the administration of the program prior to the time assessment income becomes available during a fiscal year, the committee should be authorized to accept advance payments of assessments from handlers and also, when such action is deemed to be desirable, to borrow money for such purpose. The provisions for the acceptance by the administrative agency of advance assessment payments is included in other marketing agreements and orders and has been found to be a satisfactory and desirable method of providing funds to cover costs of operation early in a crop year prior to the time when assessment collections are being received in an appreciable amount. During years of normal growing conditions, revenue available to the committee from assessments within the year would provide the funds to repay any loans.

The order should provide authority for the committee to impose a late payment charge on any handler who fails to pay his assessment within the time prescribed by the committee. In the event the handler thereafter fails to pay the amount outstanding, including the late payment charge, within the prescribed time, the committee should be authorized to impose an additinal charge in the form of interest on such outstanding amount. Nonpayment of assessments can have an adverse effect on the operation of the committee and may require it to borrow money and pay interest to continue operation. Authority for the committee to levy a late payment charge and to add interest to the outstanding delinquent obligation should encourage handlers to pay assessment obligations promptly. By paying the obligation when due, handlers would not be subject to either the late payment charge or interest. It would not be desirable to specify the rate of interest in the order because interest rates change as the availability of money fluctuates. If the interest rate was specified in the order, it would be necessary to amend the order each time the interest rate should be changed. Amending the order involves a considerable amount of time and expense. Therefore, the order should permit the committee to establish the late payment charge, and fix the rate of interest, with the approval of the Secretary, so as to provide the flexibility needed to make such adjustments as are found to be necessary.

Should crop failure or partial crop loss reduce the crop so that assessment income falls below expenses, in the absence of a reserve it would be necessary for handlers in light of the reduced crop to cover the deficit. It could be burdensome on the industry to increase the assessment rate after some disaster had materially reduced the crop. A financial reserve available for any approved expenses could enable the committee to avoid such increases. It would be equitable for handlers to contribute to the establishment of an operating reserve during years of normal production rather than to be required to pay an excessively high rate of assessment during a year when the crop is materially reduced. The reserve fund should be built over a period of time, as funds in excess of expenses may be available. In order that reserve funds not be accumulated beyond a reasonable amount, however, it should be provided that such funds shall not exceed approximately one fiscal year's operational expenses. A reserve of that amount should be adequate to meet any foreseeable need. In view of the foregoing, it is concluded that authority should be provided, as hereinafter set forth to permit the establishment and use of a reserve fund in the manner heretofore described.

Handlers should be entitled to a proportionate refund of any excess assessments that remain at the end of a fiscal year, except as necessary to establish and maintain an operating reserve. However, any such refund should be reduced by any outstanding obligation due the committee from such handler.

Upon termination of the order, any funds, including any funds in the reserve, that are not used to defray the necessary expenses of liquidation should, to the extent practicable, be returned to the handlers from whom such funds were collected. However, should the order be terminated after many years of operation, the precise equities of handlers may be difficult to ascertain, and any requirement that there be a precise accounting of the remaining funds could involve such costs as to nearly equal funds to be distributed. Therefore, the order should permit the unexpended reserve funds to be disposed of in any manner that the Secretary may determine to be appropriate in such circumstances.

Funds received by the committee under the order should be used solely for the purposes of the order. The Secretary shuld be authorized to require the committee, at any time, to account for all receipts and disbursements. Such authority would aid in assuring careful administration of assessment funds. Also, whenever any person ceases to be a member or alternate of the committee, he or she should be required to account for all funds, property, and other committee assets for which he or she is responsible and to deliver such funds, property and other assets to the committee. Such person should also be required to execute such assignments and other instruments as may be appropriate to vest in the committee the right to all such funds and property and all claims vested in such person. This is a matter of good business practice.

(d) The order should provide, as hereinafter set forth, authority for the establishment of production research, marketing research, and development projects designed to assist, improve, or promote the marketing, distribution, and consumption or efficient production of apples. Record evidence shows there are specific areas where research on an industry basis is needed. For example, research is needed on the subject of apple maturity. Immature apples lack palatability, hence, it is clear that maturity is an important factor determining palatability of the fruit. Fruit specialists in State universities have conducted studies relating to apple maturity and have made their findings available to the public. However, varietal characteristics and localized conditions affect the progress of seasonal apple development, hence, it is contemplated that the committee may need to fund continuation of research and engage in additional research projects on maturity, in particular research to develop maturity indices that recognize differences peculiar to local situations. It was indicated that initially such research should focus on the primary varieties grown in the production area. Also, certain apple varieties, particularly the McIntosh variety, are susceptible to a condition generally referred to as the "soft McIntosh problem." This condition tends to render the fruit less marketable. It was indicated that research has been conducted in this area and some progress has been made on the factors which tend to mitigate the condition. However, further research is needed.

Presently, the industry has a problem of stimulating increased consumption of apples. The order could be used to test how consumers may be made more aware of apples, including new varieties. This may involve research at the institutional or retail store level utilizing informational and educational type literature describing the attributes of different varieties of apples, uses, and seasonal availability. It was also pointed out at the hearing that research is needed to improve the handling of apples. At present, apples, are handled in a variety of containers and packages. Research may lead to improved containers, or might indicate the desirability of standardization of containers.

These are but examples of the kinds of research that the committee may want to undertake. It is desirable in the interest of flexibility for the order to contain all the authority of the act for the committee to engage in research projects, relative to production and marketing which are designed to assist, improve, or promote the marketing, distribution, consumption, or efficient production of apples.

The order should include authority for the committee to engage in promotional activities, including paid advertising, as a means of strengthening the

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competitive position of apples in the marketplace. Growers have contributed funds on a voluntary basis to the New York and New England Apple Institute to promote apples. For various reasons, State enabling legislation or State marketing orders in the States included in the proposed production area have not materialized. The uncertainty of voluntary contributions makes it difficult to develop stable promotion budgets and hampers plans for long range market development. At the present time, a number of apple producing States outside of the proposed production area have State marketing orders or commissions which provide funds for apple market development. The record indicates that competition has intensified and competing apple producing regions have increased their advertising expenditures.

A viable promotion program under the order could provide a means whereby consumers could be made aware of the seasonal availability of apples, the different uses, and characteristics of different varieties of apples grown in the production area, particularly of the McIntosh variety. The use of paid advertising and other advertising techniques, as contemplated under the order, would provide the committee with a means for stimulating sales and enhancing returns to producers. Hence, the use of promotional techniques designed to increase consumer knowledge and awareness of apples and their uses should be authorized to achieve a more favorable balance between supply and demand. It is not possible at this time to anticipate all the promotional activities that may be required to meet the needs of the industry. Therefore, the authority for the committee to establish promotional and advertising projects should be broad and flexible, and available to the extent permitted under the act to facilitate development of programs suitable to the time and circumstances. A modification was advanced at the hearing which would provide for allocation of promotional effort to cold storage apples and controlled atmosphere (CA) storage apples based on the proportion of assessments of apples utilizing each type of storage. CA storage is described as a process of controlling the chemical content of the storage atmosphere as well as the temperature and humidity to prolong the life of apples. Apples referred to as "cold storage" apples are held in storages in which only the temperature and humidity are controlled. Generally, apples are removed from cold storage by January of the crop year and from CA storage several months later. Opposition to the proposed modification indicates that the objective is to promote sale and consumption of apples throughout the marketing season regardless of the type of storage employed. Under the program the committee should be charged with the responsibility for assessing the promotional needs and opportunities for marketing apples in particular situations. The record indicates that decisions on timing and allocation of advertising funds during the marketing season should be made by the committee in the light of existing circumstances at the time the decisions are made to permit optimum use of promotion funds. Therefore, it is concluded that it would not be in the interest of the industry to prescribe a specific allocation of promotion funds as proposed.

Prior to engaging in any research or development projects, the committee should, of course, submit to the Secretary for approval the plans for each project. When considering any research or development project, the committee should give consideration to all those factors set forth in the order. It is only good business to consider the cost, the objectives to be accomplished, the time required to complete the project and other factors in order to arrive at a sound decision as to whether the project is justified. Of course, the costs of any such projects should be included in the budget submitted for approval, and such costs should be defrayed by the use of assessment funds as authorized by the act. Promotion activity should be oriented toward creating a preference for apples produced in the production area. No advertising, promotion, or publicity programs should be conducted with reference to any particular private brand or trade name and promotion authorized under the order should not disparage the quality, value, sale or use of any other agricultural commodity.

One witness suggested the order include a provision which would provide for crediting the assessment obligation of each individual handler with all or a portion of his or her expenditures for advertising apples. Section 608c(6)(I) of the act provides that only orders applicable to almonds and Florida Indian River grapefruit may contain provision for crediting the pro rata expense assessment obligation of a handler with all or any portion of his direct expenditures for marketing promotion, including paid advertising. Hence, no such authority may be included in this proposed marketing order for apples.

In order to facilitate the operation of the program, the committee should each year, before recommending any rate of assessment or maturity regulation applicable to apples produced that year, prepare and adopt a marketing policy for the ensuing marketing season. A report on such policy should be submitted to the Secretary and made available to growers and handlers of apples. The marketing policy would provide information on the estimated volume of shipments of apples subject to assessments and outline the contemplated activities to be undertaken during the season. Such information and outline are necessary to enable the committee to arrive at a recommendation as to an appropriate rate of assessment to defray administrative and other expenses estimated for a fiscal period. The marketing policy also should be useful when specific regulatory action is being considered since it would provide basic necessary information. The marketing policy should be a plan for orderly marketing of the anticipated production. Among the factors the committee should review in developing the marketing policy are: an estimate of the total production of apples expected to be produced in the production area; the estimated utilization of the crop, including the percentages expected to be marketed in fresh outlets and in processing outlets; information on the quantity of apples in storage; available supply of competitive apples; supply of other competitive fruits; and maturity regulations expected to be recommended by the committee; research and market development projects expected to be recommended during the season; and any other known factors which may bear on the marketing of apples.

The committee should also be permitted to revise its marketing policy, if appropriate, so as to give appropriate recognition to the latest known market conditions when changes in such conditions are sufficient to warrant modification of such policy. Such action is necessary if the marketing policy is to be of maximum benefit to all persons concerned. A report of each revised marketing policy should be submitted to the Secretary and made available to growers and handlers, together with the data considered by the committee in making the revision.

(e) The declared policy of the act is to establish and maintain such orderly marketing conditions for apples, among other commodities, as will tend to establish parity prices to growers and be in the public interest. The regulation of

the handling of apples, as authorized in the order, provides a means for carrying out such policy.

The committee should, as the local administrative agency under the order, be authorized to recommend maturity regulations and amendments thereto, authorized by the order, as will tend to effectuate the declared policy of the act. It is the key to successful operation of the order that the committee should have such responsibility. The Secretary should look to the committee, as the agency reflecting the thinking of the industry, for its views and recommendations for promoting more orderly marketing conditions and improving growers' returns for apples. The committee should, therefore, have authority to recommend such regulations and engage in such activities as are authorized by the order whenever such regulations or activities will, in the judgment of the committee, tend to promote more orderly marketing conditions and effectuate the declared policy of the act.

When conditions change so that the then current regulations do not appear to the committee to be carrying out the declared policy of the act, the committee should have the authority to recommend such amendment, modification, suspension, or termination of such regulations as the situation warrants.

The order should authorize the Secretary, on the basis of committee recommendations or other available information, to issue maturity regulations which tend to improve growers' returns and to establish more orderly marketing conditions for apples. Too, providing more satisfactory apples would serve the consumer's interest. The Secretary should not be precluded from using such information as he may have, and which may or may not be available to the committee for consideration, in issuing such regulations, or amendments or modifications thereof, as may be necessary to effectuate the declared policy of the act. Also, when he determines that any regulation does not tend to effectuate such policy he should have authority to suspend or terminate the regulation, in accordance with the requirements of the act.

The order provides for regulation of the maturity of apples in fresh shipment. The maturity of apples whichare shipped in fresh market channels at any particular time have a direct effect on returns to growers. Immature apples fail to achieve consumer satisfaction and shipment of such fruit has a price depressing effect on other shipments of apples. Therefore, a requirement, under the order, that shipments of apples meet an acceptable level of maturity should improve producer returns by eliminating from fresh shipment apples which are not properly mature.

The objective under such order is to provide a supply of apples available for sale in fresh market channels of desirable maturity. Such limitations on shipments of apples grown in the production area should contribute to the establishment of more orderly marketing conditions for such fruit and tend to increase the demand therefore by providing the consumer a more palatable apple.

The record indicates that apple maturity often varies among different locations within the proposed production area. Also, different varieties of apples attain proper maturity at different times. Therefore, the order should authorize the Secretary, on the basis of a committee recommendation or other available information, to prescribe requirements applicable to maturity for different locations and for different varieties of apples.

There are several techniques to indicate maturity of apples. One such technique is to keep a record of the number of days that have elapsed from the date of full bloom. Another is to relate maturity to degree days—measuring heat units from time of blossom. Other criteria used to measure maturity include examination of the external and internal quality characteristics of the fruit such as firmness, soluble solids contents, and acidity. Studies are currently being conducted to correlate maturity to the carbon dioxide level or the ethylene level of apples. The evidence indicates that maturity of apples may be assured by specifying a date or dates prior to which apples of a given variety produced in a given location may not be shipped and/or specfying external and internal quality factors which the fruit must possess to be deemed mature. However, if research indicates other methods of assuring that apples are mature, the committee should not be precluded from using any appropriate method in regulating maturity under the order.

The record indicates that due to some unusual factor such as aberrant weather some apples may become mature prior to any date or dates fixed by regulation. Any date or dates established would represent the best judgement of the committee at the time such date was set. It is recognized that there may be apples which attain maturity earlier than anticipated by the committee. The proposed order should not prohibit the handling of properly matured apples. Therefore, the order should authorize a procedure to permit handling of such apple prior to any date established by regulation. Such procedure could require handlers to provide to the committee, on forms provided by the committee, and such assistance, including samples of fruit as will enable the committee to verify that such apples are mature. The committee should make such investigation as it deems appropriate in reaching a decision on the application. The record indicates that changes in maturity occur rapidly. Therefore, the committee should be required to take prompt action on each request and notify the applicant of its decision in a timely fashion. The procedure, including the manner of handling applications, and the information to be provided should be prescribed in an administrative rule recommended by the committee and approved by the Secretary.

It was contended at the hearing that maturity is difficult to define and any regulation of maturity of fresh shipment of apples could be arbitrary. It is recognized that further research on maturity is needed and should be instituted. Based on research conducted to date, it is believed that standards of maturity can be developed which would be in the interest of producers and consumers.

One witness suggested that the order should provide for minimum grade and size regulation of all shipments of apples and compulsory inspection and certification of such shipments. Other than this suggestion, there is no support in the record for this kind of regulatory approach, and nothing was presented showing how it would be practical under the conditions presently prevailing in the area.

It was suggested also that the order authorize limitations on the volume of apples marketed in fresh market channels. However, such testimony did not discuss a method by which handlers would receive a proportionate share of the amount to be marketed or how the provision could be implemented, hence, it is concluded that the record fails to jusify including any such provision. As herein before noted the preponderant testimony shows that at this time the program should be directed toward solving the major problem of assuring proper maturity of apples and expanding markets through research and promotional activities.

(f) The order should provide for the exemption from its provisions of such handling of apples which it is not necessary to regulate in order to

Fruit Growers Association, Hathorne,

Recommended Marketing Agreement

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effectuate the declared policy of the act. Insofar as practicable, such exempted handling should be stated explicitly in the order so that handlers will have knowledge of such handling as is not subject to the provisions of the program. However, it is recognized that it is not possible to foresee all possible needs for exemption, hence, provision should be made to authorize the committee, with the approval of the Secretary, to exempt some handling of apples from any or all order requirements such as specified small quantities, or types of shipments, including gift fruit shipments; shipments made for specified purpose which are not necessary to regulate in order to effectuate the declared policy of the act. Authorization is also necessary to enable the exemption of handling as may be determined necessary to facilitate the conduct of research; and handling which is found not administratively feasible to regulate because of the small volume and the cost involved and which would not materially affect marketing conditions in commercial channels.

Initially, provision should be made to exempt from assessment provisions of the order the handling of apples in quantities not exceeding 250 first sale units in any fiscal period provided that the handling is performed by the producer of the apples. This provision is desirable because there are many persons who produce and sell small volumes of apples for local consumption. It is likely that costs incurred by the committee in billing and collection of assessments from persons handling such volume of apples would exceed the amount of assessment levied. Therefore, it would be impracticable to assess apples handled in this manner. This exemption should apply to the first 250 first sale units by the producer. Any apples handled by such producer in excess of this quantity should be subject to assessment. It was advanced at the hearing that while such exemption initially should be limited to 250 first sale units the order should contain a provision, under which the committee could recommend, and the Secretary approve, an increase in such quantity. Consequently, if it develops that a higher exemption would be practical consistent with the objectives of the program it is concluded that the order should so provide. Provision should also be made to exclude from the assessment provisions of the order apples handled for processing and juice, in gift packages and for distribution by relief agencies as such apples do not interfere with commercial fresh market shipments.

The committee should retain flexibility to prescribe exemption provisions so as to be responsive to conditions affecting the handling of apples in the production area. Therefore, it should be discretionary with the committee, subject to the approval of the Secretary, whether apples handled in small quantities, types of shipments, or shipments made for special purposes, should be exempted from regulation, assessments and reporting requirements.

If it is found that such exemptions are subject to abuse or weaken the effectiveness of the program, the committee should be authorized to prescribe, with the approval of the Secretary, such rules, regulations, and safeguards as are necessary to prevent apples handled for any of the exempted purposes from disrupting the marketing of apples in regulated channels of trade. For example, should it be found that a portion of the apples moving to commercial processors is being diverted to fresh fruit markets, it may be necessary for the committee to establish procedures to govern the movement of fruit for processing even though such apples do not have to comply with maturity or other requirements. These procedures might include such requirements as filing application for authorization to move apples in exempted channels and certification by the receiver that such apples would be used only for the purpose indicated, if it is found that such requirements are necessary to achieve effective program operations.

(g) The committee should have authority, with the approval of the Secretary, to require that growers and handlers submit to the committee such reports and information as may be needed for the performance of its functions under the order. Growers and handlers have such necessary information in their possession, and the requirements that they furnish such information to the committee in the form of reports would not constitute an undue burden. It is anticipated that the information needed by the committee will include production, utilization, receipt and disposition of the crop. However, it is difficult to anticipate every type of report or kind of information which the committee may find necessary in the conduct of its operations under the order. Therefore, the order should require growers and handlers to furnish upon request of the committee, such reports and information, as are found necessary to enable the committee and the Secretary to carryout order responsibilities.

Any reports and records submitted for committee use by growers and handlers should remain confidential and be disclosed to no person other than the Secretary and persons authorized by the Secretary. Under certain circumstances, the release of information compiled from reports may be helpful to the committee and the industry generally in planning for operations under the order during the marketing season. However, such reported information should not be released other than on a composite basis, and such release of information should disclose neither the identity of the person furnishing the information nor their individual operations. This is necessary to prevent the disclosure of information that may affect the trade or financial position or the business operations of individual growers and handlers.

Since it is possible that a question could arise with respect to compliance, each grower and handler should be required to maintain for each fiscal period complete records, as applicable, on their production, utilization, and disposition of apples. Such records should be retained for not less than 2 years after the end of the fiscal year in which the transaction occurred, so that, if needed in connection with enforcement, the requisite records will be available for that purpose.

(h) Except as provided in the order, no handler should be permitted to handle apples, the handling of which is prohibited pursuant to the order; and no handler should be permitted to handle apples except in conformity with the order. If the program is to operate effectively, compliance therewith is essential; and, hence, no handler should be permitted to evade any of its provisions. Any such evasion on the part of even one handler could be demoralizing to the handlers who are in compliance and would tend, thereby, to impair the effective operation of the program.

(i) The provisions of §§ .62 through .72, as hereinafter set forth, are similar to those which are included in other marketing agreements and orders not operating. The provisions of §§ .73 through .75, as hereinafter set forth, also are included in other marketing agreements now operating. All such provisions are incidental to and not inconsistent with the act and are necessary to effectuate the other provisions of the recommended marketing order and marketing agreement and to effectuate the declared policy of the act. Testimony at the hearing supports the inclusion of each such provision. Those provisions which are applicable to both the proposed marketing agreement and marketing order, identified by section number and heading, are as follows: § .62 *Right of the Secretary;* § .63 *Effective time;* § .64 *Termination;* § .65 *Proceedings after termination;* § .66 *Effect of termination or amendment* § .67 *Duration of immunities;* § .68 *Agents;* § .69 *Derogation;* § .70 *Personal liability;* § .71 *Separability;* and § .72 *Amendments.*

With respect to § .64 *Termination,* record evidence shows that it is the wish of the industry, and the order so provides, that after the close of the fifth fiscal year following the effective date of the order the Secretary conduct a referendum among growers to ascertain if continuance of the order is desired by growers. This would provide a sufficient time to permit growers to appraise the operation of the program and determine whether the program should be continued. In addition, the order should contain a provision requiring the Secretary, upon petition and recommendation of 25 percent of the growers of record, to conduct a referendum to determine whether termination of the order is favored by growers. Any petition and recommendation by growers should be received by the committee no later than December 15 of the then current fiscal year. In any event the Secretary may conduct a referendum at such other times as he may determine to be appropriate. Such authority is contained in § .64(c) of the order.

Provisions which are applicable to the proposed marketing agreement only, identified by section number and heading, are as follows: § .73 *Counterparts;* § .74 *Additional parties;* § .75 *Order with marketing agreement.*

Copies of letters from Mr. Rufus Prince, Prince Farm, Inc., Turner, Maine, Mr. Don Ricker, Ricker Hill Orchards, Turner, Maine, and Mr. Benjamin W. Drew, Vershire, Vermont, were offered in evidence at the hearing. Each supported the proposed marketing agreement and order program generally on the basis that the current voluntary program among apple growers in the New England area has not proved satisfactory.

Rulings on Briefs of Interested Parties

At the conclusion of the hearing the Administrative Law Judge fixed January 18, 1979, as the final date for interested parties to file proposed findings and conclusions and written arguments or briefs based upon the evidence received at the hearing. One letter was received from Mr. Harold M. Kelly, Essex County Fruit Growers Association, Hathorne, Massachusetts. Mr. Kelly indicated that the association believes the present method of promoting apples in the area is satisfactory and a marketing order program should not be instituted. This suggested finding is denied on the basis that the record does not support it. Also, the Department received a request filed on behalf of Shoreham Cooperative Apple Producers Association, Shoreham, Vermont, to reopen the hearing to permit the introduction of further evidence and argument. The request was denied as ample notice and opportunity was provided at two accessible locations as set forth in a letter dated January 29, 1979, signed by the Deputy Administrator, Marketing Program Operations, Agricultural Marketing Service. Copies of the correspondence in this matter were made a part of the record evidence in this proceeding.

General Findings

Upon the basis of the evidence introduced at such hearing, and the record thereof, it is found that:

(1) The marketing agreement and order, and all of the terms and conditions thereof, will tend to effectuate the declared policy of the act;

(2) The said marketing agreement and order regulate the handling of apples grown in the production area in the same manner as, and are applicable only to persons in the respective classes of commercial or industrial activity specified in, a proposed marketing agreement and order upon which a hearing has been held;

(3) The said marketing agreement and order are limited in their application to the smallest regional production area which is practicable, consistent with carrying out the declared policy of the act, and the issuance of several orders applicable to subdivisions of the production area would not effectively carry out the declared policy of the act;

(4) The marketing agreement and order prescribe, so far as practicable, such different terms applicable to different parts of the production area as are necessary to give due recognition to the difference in the production and marketing of apples grown in the production area; and

(5) All handling of apples grown in the production area, as defined in said marketing agreement and order, is in the current of interstate or foreign commerce or directly burdens, obstructs, or affects such commerce.

Recommended Marketing Agreement and Order

The following marketing agreement and order [1] are recommended as the detailed means by which the foregoing conclusions may be carried out.

Definitions

§ .1 Secretary.

"Secretary" means the Secretary of Agriculture of the United States, or any officer or employee of the Department to whom authority has heretofore been delegated, or to whom authority may hereafter be delegated.

§ .2 Act.

"Act" means Public Act No. 10, 73rd Congress (May 12, 1933), as amended and as reenacted and amended by the Agricultural Marketing Agreement Act of 1937, as amended (48 Stat. 31, as amended; 7 U.S.C. 601–674).

§ .3 Person.

"Person" means an individual, partnership, corporation, association, or any other business unit.

§ .4 Production area.

"Production area" means the States of Connecticut, Maine, Massachusetts, New Hampshire, Rhode Island, and Vermont.

§ .5 Apples.

"Apples" means all of the varieties grown in the production area classified botanically as Malus sylvestris.

§ .6 Varieties.

"Varieties" means and includes all classifications or subdivisions of apples.

§ .7 Fiscal period.

"Fiscal period" is synonymous with fiscal year and means the 12-month period beginning on July 1 of one year and ending on the last day of June of the following year or such other period as the committee, with the approval of the Secretary, may prescribe.

§ .8 Committee.

"Committee" means the New England Apple Administrative Committee established pursuant to § .20.

§ .9 Grower.

"Grower" is synonymous with "producer" and means any person who produces apples for market, and who has a proprietary interest therein.

§ .10 Handler.

"Handler" is synonymous with "shipper" and means any person who

[1] The provisions identified with asterisks (***) apply only to the proposed marketing agreement and not to the proposed marketing order.

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sells or handles or causes apples to be handled, or sold.

§ .11 Handle.

"Handle" and "ship" are synonymous and mean to sell, consign, deliver, or transport apples, or cause apples to be sold, consigned, delivered, or transported within the production area or between the production area and any point outside thereof: *Provided,* That such terms shall not include: (a) a contract or common carrier transporting apples owned by another person, or (b) the transportation of apples from the location where grown, to a packinghouse; or storage facility within the production area or to such other points as the committee may prescribe with approval of the Secretary for the purpose of storing, or having the apples prepared for market subject to such rules and regulations as the committee may prescribe with the approval of the Secretary.

§ .12 District.

"District" means the applicable one of the following described subdivisions of the production area:

(a) "District 1" shall include the State of Maine;

(b) "District 2" shall include the State of New Hamshire;

(c) "District 3" shall include the State of Vermont;

(d) "District 4" shall include the State of Massachusetts;

(e) "District 5" shall include the States of Connecticut and Rhode Island.

§ .13 Container.

"Container" means any box, bag, crate, basket, carton, package, bulk carton, or bin, or any other type of receptacle used in packaging or handling of apples.

§ .14 First sale unit.

"First sale unit" means approximately 40 pounds of apples in any container or containers or in bulk.

Administrative Body

§ .20 Establishment and membership.

There is hereby established a New England Apple Administrative Committee consisting of fifteen (15) members, each of whom shall have an alternate who shall have the same qualifications as the member for whom he or she is an alternate. Ten (10) of the members and their respective alternates shall be growers or officers or employees of growers, henceforth referred to as "grower members" of the committee. Each of the five (5) districts shall each be represented by two (2) grower members and their respective alternates: *Provided,* That each shall be a producer of apples in his or her respective district; and *Provided further,* That at least one grower member or alternate representing "District 5" shall be from the State of Rhode Island. Four (4) members and their respective alternates shall be handlers or officers or employees of handlers, henceforth referred to as "handler members" of the committee. Handler members and alternates shall be selected from the production area at large: *Provided,* That not more than two members may be from one district. The committee shall be increased by one public member and respective alternate nominated by the committee and selected by the Secretary. The committee, with the approval of the Secretary, shall prescribe qualifications, term of office, and the procedure for nominating the public member and alternate.

§ .21 Term of office.

(a) The term of office of each member and alternate member of the committee shall be for three fiscal periods beginning July 1 and ending the third succeeding June 30: *Provided,* That the initial term of office of one grower member and alternate member of the committee from each district shall be for three years beginning on or about July 1 and ending on the third succeeding June 30. The initial term of office of one grower member and alternate member from each district shall be for two years beginning on or about July 1 and ending on the second succeeding June 30. The initial term of office of two handler members and alternate members shall be for three years beginning on or about July 1 and ending on the third succeeding June 30. The initial term of office of the other two handler members and alternate members shall be for two years beginning on or about July 1 and ending on the second succeeding June 30. (Determination of length of term of initial members shall be by lot.) No member may serve more than two successive terms. The committee, with the approval of the Secretary, may change the term of office of members and alternate members.

(b) Members and alternate members shall serve in such capacities for the portion of the term of office for which they are selected and have qualified and until their respective successors are selected and have qualified.

§ .22 Nomination.

(a) *Initial members.* Nominations for each of the initial members of the committee, together with nominations for the initial alternate members for each position, may be submitted to the Secretary by individual growers and handlers. Such nominations may be made by means of a meeting of all handlers, and a meeting of growers in each district. Such nominations, if made, shall be filed with the Secretary no later than the effective date of this part. In the event nominations for the initial members are not filed pursuant to, and within the time specified in this section, the Secretary may select such initial members and alternate members without regard to nominations, but selection shall be on the basis of the representation provided for in § .20.

(b) *Successor members.* (1) The committee shall hold or cause to be held, not later than May 15, in the year in which nominations are to be made, a meeting of growers in each district and a meeting of handlers for the purpose of designating nominees for successor members and alternate members of the committee, which shall be publicized and open to all growers and handlers. At each meeting, a chairman and a secretary shall be selected by persons eligible to participate therein. The chairman shall announce at the meeting the number of votes cast or each person nominated for member or alternate member and shall submit promptly to the committee a complete report concerning such meeting. The committee shall, in turn, promptly submit a copy of each such report to the Secretary. (2) Only growers, including duly authorized officers or employees of growers, who are present at such nomination meetings may participate in the nominations for grower members and their alternates. Each grower shall be entitled to cast only one vote for each nominee to be elected in the district in which the grower produces apples. No grower shall participate in the election of nominees in more than one district in any one fiscal year. If a person is both a grower and a handler of apples, such person may vote either as a grower or as a handler, but not as both. (3) Only handlers, including duly authorized officers or employees of handlers, who are present at such nomination meetings may participate in the nomination and election of nominees for handler members and their alternates. Each handler shall be entitled to cast only one vote, which vote shall be weighted by the volume of apples handled by such handler during the preceding fiscal year. If a person is both a grower and a handler of apples, such person may vote either as a grower or as a handler but not as both.

§ .23 Selection.

From the nominations made pursuant to § .22, or from other qualified persons, the Secretary shall select the 10 grower members of the committee, the four handler members of the committee, and an alternate for each such member.

§ .24 Failure to nominate.

If nominations are not made within the time and in the manner prescribed in § .22, the Secretary may, without regard to nominations, select the members and alternate members of the committee on the basis of the representation provided for in § .20.

§ .25 Acceptance.

Any person selected by the Secretary as a member or as an alternate member of the committee shall qualify by filing a written acceptance with the Secretary promptly after being notified of such selection.

§ .26 Vacancies.

To fill any vacancy occasioned by the failure of any person selected as a member or as an alternate of the committee to qualify, or in the event of the death, removal, resignation, or disqualification of any member or alternate member of the committee, a successor for the unexpired term of such member or alternate member of the committee shall be nominated and selected in the manner specified in § .22 and § .23. If the names of nominees to fill any such vacany are not made available to the Secretary within a reasonable time after such vacancy occurs the Secretary may fill such vacancy without regard to nominations, which selection shall be made on the basis of representation provided for in § .20.

§ .27 Alternate members.

An alternate member of the committee, during the absence or at the request of the member shall act in the place and stead of such member and perform such other duties as assigned. In the event of the death, removal, resignation, or disqualification of a member, the alternate shall act unitl a successor for such member is selected and has qualified.

§ .30 Powers.

The committee shall have the following powers:

(a) To administer the provisions of this part in accordance with its terms;

(b) To receive, investigate, and report to the Secretary complaints of violations of the provisions of this part;

(c) To make and adopt rules and regulations to effectuate the terms and provisions of this part; and

(d) To recommend to the Secretary amendments to this part.

§ .31 Duties.

The committee shall have, among others, the following duties:

(a) To select a chairman and such other officers as may be necessary, and to define the duties of such officers; and to select subcommittees, and define the duties of each;

(b) To appoint such employees, agents, and representatives as it may deem necessary, and to determine the compensation and to define the duties and procedures of each;

(c) To submit to the Secretary at the beginning of each fiscal year a budget for such fiscal year, including a report in explanation of the items appearing therein and a recommendation as to the rate of assessment for such fiscal year;

(d) To keep minutes, books, and records which will reflect all of the acts and transactions of the committee and which shall be subject to examination by the Secretary;

(e) To prepare a statement of the financial operations of the committee and to make copies of each such statement available to growers and handlers for examination at the office of the committee;

(f) To require adequate fidelity bonds for all persons handling funds;

(g) To cause its books to be audited by a competent public accountant at least once each fiscal year, and at such other times as the Secretary may request;

(h) To act as intermediary between the Secretary and any grower or handler;

(i) To provide an adequate system for estimating the total season crop of apples and to make such determinations, as it may deem necessary, or as may be prescribed by the Secretary, in connection with the administration of this part;

(j) To investigate the growing, handling, and marketing conditions with respect to apples, and to assemble data in connection therewith;

(k) To engage in such research relating to improved packaging and/or to the determination of maturity, grade and condition standards for apples as may be approved by the Secretary;

(l) To contract with appropriate parties for the purpose of conducting production and marketing research programs, including paid advertising, promotion, and publicity for apples;

(m) To submit such available information, including verified reports, as the Secretary may request;

(n) To notify producers and handlers of meetings of the committee; and

(o) To give the Secretary the same notice of meetings of the committee as is given to its members.

§ .32 Procedure.

(a) Eight members of the commitetee, six of whom shall be grower members including alternates acting for members, shall constitute a quorum; and any action of the committee shall require at least eight concurring votes.

(b) The committee may vote by telegraph, telephone, or other means of communication, and any vote so cast shall be confirmed promptly in writing: *Provided,* That, if an assembled meeting is held, all votes shall be cast in person.

§ .33 Expenses and compensation.

The members of the committee and alternates when acting as members, or when requested by the committee to attend a committee meeting or to perform another committee function shall serve without compensation; but shall be reimbursed for expenses necessarily incurred by them in the performance of their duties under this part.

§ .34 Annual report.

The committee shall, as soon as practicable after the end of the fiscal year, prepare and mail an annual report to the Secretary and make a copy available to each handler and grower who requests a copy of the report. This annual report shall contain at least: (a) a review of the operations during the fiscal year; (b) a summary of marketing research and development, promotion and advertising activities, if any; and (c) any recommendations for changes in the program.

Expenses and Assessments

§ .40 Expenses.

The committee is authorized to incur such expenses as the Secretary finds are reasonable and likely to be incurred by the committee for its maintenance and functioning and to enable it to exercise its powers and perform its duties in accordance with the provisions of this part during each fiscal year.

§ .41 Assessments.

(a) Each person who first handles apples shall, with respect to the apples so handled by such person, pay to the committee upon demand such person's pro rata share of the expenses which the Secretary finds are reasonable and

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be open to growers and handlers. The

§ .54 Exemptions.

(d) All reports and records submitted

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likely to be incurred by the committee during each fiscal year. Each such person's share of such expenses shall be equal to the ratio between the total quantity of apples handled by such handler as the first handler thereof during the applicable fiscal year and the total quantity of apples so handled by all persons during the same fiscal year. The payment of assessments for the maintenance and functioning of the committee may be required under this part throughout the period it is in effect irrespective of whether particular provisions thereof are suspended or become inoperative.

(b) The Secretary, shall fix the rate of assessment not to exceed 5 cents per first sale unit or equivalent in containers or in bulk to be paid by each such person. At any time during or after the fiscal year, the Secretary may, subject to the limitations of this paragraph, increase the rate of assessment in order to secure sufficient funds to cover any later finding by the Secretary relative to the expenses which may be incurred. A rate of assessment higher than 5 cents per first sale unit may be established but first must be approved by at least two-thirds of the growers voting or two-thirds of the volume of apples voted in a referendum. Such assessment shall be applied to all apples handled during the applicable fiscal year. In order to provide funds for the administration of the provisions of this part during the fiscal year before sufficient operating income is available from assessment, the committee may accept the payment of assessments in advance and may also borrow money for such purpose.

(c) The committee shall impose a late payment charge on any handler who fails to pay his assessment within the time prescribed by the committee. In the event the handler thereafter fails to pay the amount outstanding, including the late payment charge, within the prescribed time, the committee shall impose an additional charge in the form of interest on such outstanding amount. The rate of such charges shall be prescribed by the committee, with the approval of the Secretary.

§ .42 Accounting.

(a) If, at the end of a fiscal year the assessments collected are in excess of expenses incurred, such excess shall be accounted for as follows:

(1) Except as provided in paragraphs (a) (2) and (3) of this section, each person entitled to a proportionate refund of any excess assessment shall be credited with such refund against the operation of the following fiscal year unless such person demands payment thereof, in which event it shall be paid to such person: *Provided*, That any sum paid by a person in excess of such person's pro rata share of the expenses during any fiscal year may be applied by the committee at the end of such fiscal year to any outstanding obligations of such person.

(2) The committee, with the approval of the Secretary, may establish and maintain during one or more fiscal years, an operating monetary reserve in an amount, not to exceed approximately 1 fiscal year's operational expenses. Upon approval by the Secretary, funds in such reserve shall be available for use by the committee for all expenses pursuant to § .40.

(3) Upon termination of this part, any funds not required to defray the necessary expenses of liquidation shall be disposed of in such manner as the Secretary may determine to be appropriate: *Provided*, That to the extent practical, such funds will be returned pro rata to the persons from whom such funds were collected.

(b) All funds received by the committee pursuant to the provisions of this part shall be used solely for the purposes specified in this part and shall be accounted for in the manner provided in this part. The Secretary may at any time require the committee and its members to account for all receipts and disbursements.

(c) Upon the removal or expiration of the term of office of any member of the committee, such member shall account for all receipts and disbursements and deliver all property and funds in such member's possession to such member's successor in office and shall execute such assignments and other instruments as may be necessary or appropriate to vest in such successor full title to all of the property, funds, and claims vested in such member pursuant to this part.

Research and Market Development

§ .45 Production research, marketing research, and market development.

(a) The committee, with the approval of the Secretary, may establish or provide for the establishment of production research and marketing research and development projects designed to assist, improve, or promote the marketing, distribution, and consumption or efficient production of apples. Such projects may provide for any form of marketing promotion, including paid advertising. The expenses of such projects shall be paid by funds collected pursuant to § .41

(b) The committee, with the approval of the Secretary, may contract with any person or persons to carry out advertising, promotion, and publicity programs. No advertising, promotion or publicity programs shall be conducted with reference to any particular private brand or trade name and no such program shall disparage the quality, value, sale or use of any other agricultural commodity. The expenses of such programs shall be paid by funds collected pursuant to § .41.

§ .50 Marketing policy.

(a) Each season prior to making any recommendations pursuant to §§ .41 and .51, the committee shall submit to the Secretary a report setting forth its marketing policy for the season. Such marketing policy report shall contain information relative to:

(1) The estimated total production of apples within the production area;

(2) The estimated utilization of the crop, showing the quantity and percentages of the crop expected to be marketed through fresh fruit channels; the quantity and percent of the crop expected to be utilized in processed products; and storage information;

(3) Available supplies of competitive apples from outside the production area, and other competitive fruit;

(4) Other factors having a bearing on the marketing of apples;

(5) The type of maturity regulations expected to be recommended during the season; and

(6) The type of research and market development projects expected to be recommended during the season and the effect on utilization.

(b) In the event that it becomes advisable to substantially modify such marketing policy the committee shall submit to the Secretary a revised marketing policy setting forth the information as required in this section. The committee shall transmit a copy of each marketing policy report or revision thereof to the Secretary. Copies of all such reports shall be maintained in the office of the committee where they shall be available for examination by growers and handlers. The committee shall announce the contents of each marketing policy report, including each revised marketing policy report.

Maturity Regulations

§ .51 Recommendations for regulations.

(a) Whenever the committee deems it advisable to regulate the handling of any variety or varieties of apples in the manner provided in § .52, it shall so recommend to the Secretary.

(b) All meetings of the committee held for the purpose of formulating recommendations for regulations shall

be open to growers and handlers. The committee shall give notice of each such meeting to growers and handlers by mailing a notice to each grower and handler who has filed a mailing address with the committee and requested such notice.

§ .52 Issuance of regulations.

(a) The Secretary shall regulate, in the manner specified in this section, the handling of apples whenever the Secretary finds, from the recommendations and information submitted by the committee, or from other available information, that such regulations will tend to effectuate the declared policy of the act. Such regulations may (1) specify a date or dates prior to which apples of any variety or varieties produced in any district or specified portion thereof may not be handled, or (2) specify external or internal maturity characteristics which the variety or varieties so produced must possess prior to being handled, or (3) specify such other requirements applicable so such variety or varieties as have been found to constitute a reliable maturity index. The committee may establish, with the approval of the Secretary, a procedure to permit handling of properly matured apples prior to any date established by regulation.

(b) The committee shall be informed immediately of any regulation issued by the Secretary and the committee shall promptly give notice thereof to growers and handlers.

§ .53 Modification, suspension, or termination of regulations.

(a) In the event the committee at any time finds that, by reason of changed conditions, any regulations issued pursuant to § .52 should be modified, suspended, or terminated, it shall so recommend to the Secretary.

(b) Whenever the Secretary finds from the recommendations and information submitted by the committee or from other available information that a regulation should be modified, suspended, or terminated with respect to any or all shipments of apples in order to effectuate the declared policy of the act, the Secretary shall modify, suspend, or terminate such regulation. If the Secretary finds that a regulation obstructs or does not tend to effectuate the declared policy of the act, the Secretary shall suspend or terminate such regulation. On the same basis and in like manner the Secretary may terminate any such modification or suspension.

§ .54 Exemptions.

(a) The committee may, with the approval of the Secretary, relieve from any or all requirements established under this part, the handling of apples for such specified purposes (including shipments to facilitate the conduct of marketing research and development projects established pursuant to § .45), or in such minimum quantities, types of shipments, methods of handling, as may be prescribed.

(b) Except as otherwise provided the provisions of § .41 shall not apply to the first 250 first sale units of apples handled in any fiscal period by the person who produced them or such other higher quantity recommended by the committee and approved by the Secretary or to the handling of apples by any person: (1) for processing and juice; (2) in gift packages; (3) for distribution by relief agencies.

(c) The committee shall, with the approval of the Secretary, prescribe such rules, regulations, and safeguards as it may deem necessary to prevent apples handled under provisions of this section from entering into channels of trade for other than the specific purposes authorized by this section. Such rules, regulations, and safeguards may include requirements that handlers shall file applications and receive approval from the committee for authorization to handle apples pursuant to this section, and that such applications be accompanied by a certification by the intended purchaser or receiver that the apples will not be used for any purpose not authorized by this section.

Reports

§ .60 Reports.

(a) Each grower shall furnish to the committee, at such times and for such periods as the committee may designate, reports covering the production, utilization, and disposition of his or her crop, to the extent necessary for the committee to perform its functions.

(b) Each handler shall furnish to the committee, at such times and for such periods as the committee may designate, certified reports covering, to the extent necessary for the committee to perform its functions, all shipments of apples.

(c) Each grower and handler shall maintain for at least two succeeding fiscal years, such records of the production, utilization and disposition of apples or of apples received and disposed of by such grower and handler, as applicable, as may be necessary to verify the reports submitted to the committee pursuant to this section.

(d) All reports and records submitted by growers and handlers pursuant to the provisions of this section shall be received by, and at all times be in custody of, one or more designated employees of the committee. No such employee shall disclose to any person, other than the Secretary upon request therefor, data or information obtained or extracted from such reports and records which might affect the trade position, financial condition, or business operation of the particular grower or handler from whom received: *Provided*, That such data and information may be combined, and made available to any person in the form of general reports in which the identities of the individual furnishing the information is not disclosed and may be revealed to any extent necessary to effect compliance with the provisions of this part and the regulations issued thereunder.

Miscellaneous Provisions

§ .61 Compliance.

Except as provided in this part, no person shall handle apples except in conformity with the provisions of this part and the regulations issued thereunder.

§ .62 Right of the Secretary.

The members of the committee (including successors and alternates), and any agents, employees, or representatives thereof, shall be subject to removal or suspension by the Secretary at any time. Each and every regulation, decision, determination, or other act of the committee shall be subject to the continuing right of the Secretary to disapprove of the same at any time. Upon such disapproval, the disapproved action of the committee shall be deemed null and void, except as to acts done in reliance thereon or in accordance therewith prior to such disapproval by the Secretary.

§ .63 Effective time.

The provisions of this part, and of any amendment thereto, shall become effective at such time as the Secretary may declare above his signature and shall continue in force until terminated in one of the ways specified in § .64.

§ .64 Termination.

(a) The Secretary may at any time terminate the provisions of this part by giving at least 1 day's notice by means of a press release or in any other manner in which the Secretary may determine.

(b) The Secretary shall terminate or suspend the operation of any or all of the provisions of this part whenever the

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affecting the quality of the human

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Secretary finds that such provisions do not tend to effectuate the declared policy of the act.

(c) The Secretary shall terminate the provisions of this part whenever the Secretary finds by referendum or otherwise that such termination is favored by a majority of the growers voting in such referendum: *Provided,* That such majority has, during a representative period determined by the Secretary, produced more than 50 percent of the volume of apples which were produced within the production area for fresh market. Such termination shall become effective on the first day of July subsequent to the announcement thereof by the Secretary.

(d) The Secretary shall, as soon as practicable after the close of the fifth fiscal year following the effective date of this part, conduct a referendum, to ascertain whether continuance of this part is favored by the growers. The Secretary shall terminate the provisions of this part if the Secretary finds by such referendum, as provided in paragraph (c) of the section, that termination is favored by growers.

(e) Upon petition and recommnedation of 25 percent of the growers of record, the Secretary shall be referendum determine whether termination of this part is favored by growers, but such action shall be effected only if the petition is submitted for validation by the commitee on or before December 15 of the current fiscal year. To determine by such referendum whether termination is favored by producers, the required percentages set forth in the act with respect to producer approval of the issuance of a marketing order shall be used.

(f) The provisions of this part shall, in any event, terminate whenever the provisions of the act authorizing them cease to be in effect.

§ .65 Proceedings after termination.

(a) Upon the termination of the provisions of this part, the committee shall, for the purpose of liquidating the affairs of the committee, continue as trustee of all the funds and property them in its possession, or under its control, including claims for any funds unpaid or property not delivered at the time of such termination.

(b) The said trustees shall (1) continue in such capacity until discharged by the Secretary; (2) from time to time account for all receipts and disbursements and deliver all property on hand, together with all books and records of the committee and of the trustees, to such persons as the Secretary may direct; and (3) upon the request of the Secretary, execute such assignments or other instruments necessary or appropriate to vest in such person, full title and right to all of the funds, property, and claims vested in the committee or the trustees pursuant thereto.

(c) Any person to whom funds, property, or claims have been transferred or delivered, pursuant to this section, shall be subject to the same obligation imposed upon the committee and upon the trustees.

§ .66 Effect of termination or amendment.

Unless otherwise expressly provided by the Secretary, the termination of this part or of any regulation issued pursuant to this part, or the issuance of any amendment to either thereof, shall not (a) affect or waive any right, duty, obligation, or liability which shall have arisen or which may thereafter arise in connection with any provisions of this part or any regulation issued under this part, or (b) release or extinguish any violation of this part or of any regulation issued under this part, or (c) affect or impair any rights or remedies of the Secretary or of any other person with respect to any such violation.

§ .67 Duration of immunities.

The benefits, privileges, and immunities conferred upon any person by virute of this part shall cease upon its termination, except with respect to acts done under and during the existence of this part.

§ .68 Agents.

The Secretary may, by designation in writing, name any officer or employee of the United States, or name any agency or division in the United States Department of Agriculture, to act as the Secretary's agent or representative in connection with any of the provisions of this part.

§ .69 Derogation.

Nothing contained in this part is, or shall be construed to be, in derogation or in modification of the rights of the Secretary or of the United States (a) to exercise any powers granted by the Act or otherwise, or (b) in accordance with such powers, to act in the premises whenever such action is deemed advisable.

§ .70 Personal liability.

No member or alternate member of the committee and no employee or agent of the committee shall be held personally responsible, either individually or jointly with others, in any way whatsoever, to any person for errors in judgement, mistakes, or other acts, either of commission or omission, as such member, alternate, employee, or agent, except for acts of dishonesty, willful misconduct, or gross negligence.

§ .71 Separability.

If any provision of this part is declared invalid or the applicability thereof to any person, circumstance, or thing is held invalid, the validity of the remainder of this part or the applicability thereof to any other person, circumstance, or thing shall not be affected thereby.

§ .72 Amendments.

Amendments to this part may be proposed from time to time, by the committee or by the Secretary.

§ .73 Counterparts.

This agreement may be executed in multiple counterparts and when one counterpart is signed by the Secretary, all such counterparts shall constitute, when taken together, one and the same instrument as if all signatures were contained in one original. * * *

§ .74 Additional parties.

After the effective date hereof, any handler may become a party to this agreement if a counterpart is executed by the handler and delivered to the Secretary. This agreement shall take effect as to such new contracting party at the time such counterpart is delivered to the Secretary and the benefits, privileges, and immunities conferred by this agreement shall then be effective as to such new contracting party. * * *

§ .75 Order with marketing agreement.

Each signatory handler hereby requests the Secretary to issue, pursuant to the act, an order providing for regulating the handling of apples in the same manner as is provided for in this agreement. * * *

A Draft Impact Analysis is available from Malvin E. McGaha, Chief, Fruit Branch, Fruit and Vegetable Division, AMS, U.S. Department of Agriculture, Washington, D.C. 20250, Phone: (202) 447-5975.

Copies of this Recommended Decision are being mailed to known interested persons. Others may obtain copies from Fruit and Vegetable Division, AMS, U.S. Department of Agriculture, Washington, D.C. 20250.

Signed at Washington, D.C., on May 11, 1979.

William T. Manley,

Deputy Administrator, Morketing Program Operations.

[FR Doc. 79-15447 Filed 5-16-79; 8:45 am]

BILLING CODE 3410-02-M

EXPORT-IMPORT BANK OF THE UNITED STATES

[12 CFR Part 408]

National Environmental Policy Act Procedures

ACTION: Proposed NEPA procedures.

SUMMARY: These procedures have been prepared pursuant to the National Environmental Policy Act of 1969 and regulations issued by the Council on Environmental Quality.

DATE: Comments must be received on or before June 15, 1979.

ADDRESS: Office of the General Counsel, Export-Import Bank of the United States, 811 Vermont Ave. NW., Washington, D.C. 20571.

FOR FURTHER INFORMATION, CONTACT: Warren W. Glick, General Counsel (202-566-8834), Export-Import Bank of the United States, 811 Vermont Ave., NW., Washington, D.C. 20571.

SUPPLEMENTARY INFORMATION: It is proposed to amend Chapter IV of Title 12 by adding the following Part 408:

PART 408—PROCEDURES FOR COMPLIANCE WITH THE NATIONAL ENVIRONMENTAL POLICY ACT

Subpart A—General

Sec.
408.1 Background.
408.2 Purpose and Scope.
408.3 Applicability.

Subpart B—Eximbank Implementing Procedures

408.4. Early Involvement in Foreign Activities for which Eximbank Assistance May be Requested.
408.5 Ensuring Environmental Documents Are Actually Considered in Eximbank Decision-Making.
408.6 Typical Classes of Action Requiring Similar Treatment Under NEPA.
408.7 Environmental Information.

Authority: 42 U.S.C. 4321, et seq.

§ 408.1 Background.

(a) The National Environmental Policy Act (NEPA) of 1969 (42 U.S.C. 4321 *et seq.*) establishes national policies and goals for the protection of the environment. Section 102(2) of NEPA contains certain procedural requirements directed toward the attainment of such goals. In particular, all Federal agencies are required to give appropriate consideration to the environmental effects of their proposed actions in their decision-making and to prepare detailed environmental statements on recommendations or reports on proposals for legislation and other major Federal actions significantly affecting the quality of the human environment.

(b) Executive Order 11991 of May 24, 1977, directed the Council on Environmental Quality (CEQ) to issue regulations to implement the procedural provisions of NEPA (NEPA Regulations). Accordingly, CEQ issued final NEPA Regulations which are binding on all Federal agencies as of July 30, 1979 (40 CFR Parts 1500-1508) on November 29, 1979. These Regulations provide that each Federal agency shall as necessary adopt implementing procedures to supplement the NEPA Regulations. Section 1507.3(b) of the NEPA Regulations identifies those sections of the NEPA Regulations which must be addressed in agency procedures.

§ 408.2 Purpose.

The purpose of this Part is to establish procedures which supplement the NEPA Regulations and provide for the implementation of those provisions identified in § 1507.3(b) of the NEPA Regulations.

§ 408.3 Applicability.

Historically, virtually all financial assistance provided by Eximbank has been in aid of U.S. exports which involve no effects on the quality of the environment within the United States, its territories or possessions. Eximbank has separate procedures for conducting environmental reviews where such reviews are required by E.O. 12114 (January 4, 1979) because of potential effects on the environment of global commons areas or on the environment of foreign nations. The procedures set forth in this Part apply to the relatively rare cases where Eximbank financial assistance for U.S. exports may affect environmental quality in the United States, its territories or possessions.

Subpart B—Eximbank Implementing Procedures

§ 408.4 Early involvement in foreign activities for which Eximbank assistance may be required.

(a) Section 1501.2(d) of the NEPA Regulations requires agencies to provide for early involvement in actions which, while planned by private applicants or other non-Federal entities, require some form of Federal approval. Pursuant to the Export-Import Bank Act of 1945, as amended, Eximbank is asked to provide financial assistance for transactions (Transactions) involving exports of U.S. goods and services for projects in foreign countries which are planned by non-U.S. entities.

(b) To implement the requirements of § 1501.2(d) with respect to these Transactions, Eximbank—

(1) Will provide on a project-by-project basis to applicants seeking assistance from Eximbank guidance as to the scope and level of environmental information to be used in evaluating a proposed transaction where (i) a Transaction may significantly affect the quality of the human environment in the United States, its territories or possessions and (ii) the proposed Eximbank financial assistance would be a major action.

(2) Upon receipt of an application for Eximbank financial assistance or notification that an application will be filed, will consult as required with other appropriate parties to initiate and coordinate the necessary environmental analyses.

These responsibilities will be performed by the Office of the General Counsel and Engineering Division of Eximbank.

(c) To facilitate Eximbank review of Transactions for which positive determinations have been made under § 408.4(b)(1) (i) and (ii), applicants should—

(1) Consult with the Engineering Division as early as possible in the planning process for guidance on the scope and level of environmental information required to be submitted in support of their application;

(2) Conduct any studies which are deemed necessary and appropriate by Eximbank to determine the impact of the proposed action on the quality of the human environment;

(3) Consult with appropriate U.S. (Federal, regional, State and local) agencies and other potentially interested parties during preliminary planning states to ensure that all environmental factors are identified;

(4) Submit applications for all U.S. (Federal, regional, State and local) approvals as early as possible in the planning process;

(5) Notify Eximbank as early as possible of all other applicable legal requirements for project completion so that all applicable Federal environmental reviews may be coordinated; and

(6) Notify Eximbank of all known parties potentially affected by or interested in the proposed action.

§ 408.5 Ensuring environmental documents are actually considered in agency decisionmaking.

Section 1505.1 of the NEPA Regulations contains requirements to ensure adequate consideration of

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taken. However, participants may

FOR FURTHER INFORMATION, CONTACT:

environmental documents in agency decision-making. To implement these requirements, Eximbank officials will—

(a) Consider all relevant environmental documents in evaluating requests for Eximbank assistance;

(b) Ensure that all relevant environmental documents, comments and response accompany the request through Eximbank's review processes;

(c) Consider only those alternatives encompassed by the range of alternatives discussed in the relevant environmental documents when evaluating a request which is the subject of an EIS.

Eximbank actions	Start of NEPA process	Completion of NEPA process	Key officials or offices required to consider environmental documents
Issuance of Preliminary Commitment (P.C.).	When request is received	When staff memorandum regarding proposed transaction for which P.C. is requested is sent to the Board. Following positive determination under § 408.4(b)(i)(A) and (B), the Board may then notify applicant that environmental effects will be considered when Letter of Advice is requested and request information on environmental matters.	Under § 408.4(b)(i)(A) and (B), Engineering Division to determine whether proposed transaction may significantly affect the quality of the human environment in th United States, its territories or possessions and Office of the General Counsel to determine whether requested Eximbank assistance is a major action.
Issuance of Letters of Advice (Approval of Financial Assitance).	When request is received	When the Board of Directors meets to consider request.	(It no P.c. has been issued, key offices will make determinations mentioned above.) Engineering Division to collect, prepare or arrange for preparation of all environmental documents.

§ 408.6 Typical classes of action.

(a) Section 1507.3(c)(2) of the NEPA Regulations in conjunction with § 1508.4 thereof requires agencies to establish three typical classes of action for similar treatment under NEPA. These typical classes of action are set forth below:

Actions normally requiring EIS's	Actions normally requiring assessments but not necessarily EIS's	Actions normally not requiring assessments or EIS's
None	Requests for Eximbank assistance in the form of direct loans in support of Transactions for which determinations under § 408.4(b)(i) (A) and (B) above may be affirmative.	Requests for Eximbank assistance in the form of insurance or guarantees.

(b) Eximbank will independently determine whether an EIS or an environmental assessment is required where—

(1) A proposal for agency action is not covered by one of the typical classes of action above; or

(2) For actions which are covered, the presence of extraordinary circumstances indicates that some other level of environmental review may be appropriate.

§ 408.7 Environmental information.

Interested persons may contact the Office of the General Counsel regarding Eximbank's compliance with NEPA.

Warren W. Glick,

General Counsel.

[FR Doc. 79-15416 Filed 5-16-79; 8:45 am]

BILLING CODE 6690-01-M

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

[14 CFR Ch. I]

Informal Airspace Meeting

AGENCY: Federal Aviation Administration, DOT.

ACTION: Informal airspace meeting.

SUMMARY: The Federal Aviation Administration (FAA) will hold an informal airspace meeting in St. Paul, Minnesota for the purpose of discussing a plan by the FAA to raise the ceiling of the Minneapolis Terminal Control Area (TCA) from the existing 8,000 feet AMSL to 12,500 feet AMSL. This alteration will also require expansion of the TCA upper level from 20 NM to 40 NM radius of Minneapolis-St. Paul International Airport. No changes to the present floor are anticipated.

DATE: June 6, 1979, 7 p.m. local time.

ADDRESS: Fort Snelling Federal Building, room 568, Fort Snelling, St. Paul, Minnesota.

FOR FURTHER INFORMATION CONTACT: Mr. Doyle W. Hegland, Airspace and Procedures Branch (AGL-530), Air Traffic Division, Great Lakes Region, Federal Aviation Administration, 2300 East Devon Avenue, Des Plaines, Illinois 60018 (telephone 312/694-4500 extension 456 or 360).

SUPPLEMENTARY INFORMATION: The purpose of this informal airspace meeting is to offer all persons likely to be affected by this alteration the opportunity to present their views, and to assist FAA in the preparation of an airspace docket that will accomplish the improved safety objectives with the least possible impact on the airspace users.

No formal minutes or transcripts will be taken, however, anyone may submit written comments before or during the meeting which will be made a matter of record if they so desire. This action will not prevent interested persons from submitting comments later in response to a Notice of Proposed Rule Making (NPRM) in the event the item is formally proposed.

Raymond C. Finnen,

Chief, Airspace and Procedures Branch, AGL-530.

[FR Doc. 79-15486 Filed 5-16-79; 8:45 am]

BILLING CODE 4910-13-M

[14 CFR Ch. I]

Informal Airspace Meeting

AGENCY: Federal Aviation Administration, DOT.

ACTION: Informal airspace meeting.

SUMMARY: The Federal Aviation Administration (FAA) will hold an informal airspace meeting in Cleveland, Ohio for the purpose of duscussing a plan by the FAA to raise the ceiling of the Cleveland Terminal Control Area (TCA) from the existing 8,000 feet AMSL to 12,500 feet AMSL. This alteration will also require expansion of the TCA upper level from 20 NM to 40 NM radius of Cleveland Hopkins Airport. No changes to the present TCA floor are anticipated.

DATE: June 12, 1979, 7:30 p.m. local time.

ADDRESS: NASA Office Auditorium, 21000 Brookpark Road, Cleveland, Ohio 44135.

FOR FURTHER INFORMATION CONTACT: Mr. Doyle W. Hegland, Airspace and Procedures Branch (AGL-530), Air Traffic Division, Great Lakes Region-FAA, 2300 East Devon Avenue, Des Plaines, Illinois 60018, Telephone: (312) 694-4500, extension 456 or 360.

SUPPLEMENTARY INFORMATION: The purpose of this informal airspace meeting is to offer all persons likely to be affected by this alteration the opportunity to present their views, and to assist FAA in the preparation of an airspace docket that will accomplish the improved safety objectives with the least possible impact on the airspace users.

No formal minutes or transcripts will be taken. However, anyone may submit writen comments before or during the meeting which will be made a matter of record if they so desire. This action will not prevent interested persons from submitting comments later in response to a Notice of Proposed Rule Making (NPRM) in the event the item is formally proposed.

Raymond C. Finnen,

Chief, Airspace and Procedures Branch, AGL-530.

[FR Doc. 79-15487 Filed 5-16-79; 8:45 am]

BILLING CODE 4910-13-M

[14 CFR Ch. I]

Informal Airspace Meeting

AGENCY: Federal Aviation Administration.

ACTION: Informal airspace meeting.

SUMMARY: This notice announces an informal airspace meeting to discuss a proposed alteration to terminal control area (TCA), McCarran International Airport, Las Vegas, Nevada.

DATE: June 19 and 27, 1979, 7 p.m.

ADDRESS: Student Union Building, University of Nevada, Las Vegas, Main Ball Room, South Maryland Parkway, Las Vegas, Nevada.

FOR FURTHER INFORMATION CONTACT: Dale D. Shriver, Assistant Chief, Las Vegas Tower, 5995 South Paradise Road, Las Vegas, Nevada, 89119; telephone (702) 385-6559.

SUPPLEMENTARY INFORMATION: No verbatim minutes or transcripts will be taken. However, participants may submit written comments to be made a matter of record if they so desire. This action will not prevent participants from submitting comments later in response to a Notice of Proposed Rule Making (NPRM) in the event the item is formally proposed. Public comments are invited at this meeting on development of the proposed TCA configuration.

Lawrence C. Fortier, Jr.,

Chief, Airspace and Procedures Branch, AWE-530, Western Region, Federal Aviation Administration.

[FR Doc. 79-15504 Filed 5-16-79; 8:45 am]

BILLING CODE 4910-13-M

[14 CFR Part 39]

Airworthiness Directives; Boeing Model 737-200 (Advanced) Airplanes

AGENCY: Federal Aviation Administration (FAA), DOT.

AGENCY: Notice of Proposed Rulemaking.

SUMMARY: This notice of proposed rulemaking proposes to require a flap position switch setting of greater than 25° to sense the ground proximity warning (GPWS) computer to a landing configuration on all Boeing Model 737-200 (ADV) airplanes. A flap position switch setting of greater than 25° will provide ground proximity warning modes 2A and 4B, which are required by TSO-C92a or TSO-C92b.

At the present time, the flap position switch is set at 15° to sense a landing configuration on many 737-200 airplanes. With the flaps set at 15°, GPWS Mode 4B is inhibited far out in the approach and not just prior to touchdown, as intended by TSO requirements. With "Mode 4B-inadvertant terrain" inhibited, the GPWS will not provide warning of inadvertant terrain closure to the flight crew. In addition to the loss of Mode 4B, Mode 2A is suppressed to Mode 2B. With Mode 2A suppressed to Mode 2B, "Mode 2—excessive terrain closure rate" warning time is significantly decreased.

DATES: Comments must be received on or before July 31, 1979.

Proposed effective date: September 15, 1979.

ADDRESSES: Send comments on the proposal in duplicate to: Federal Aviation Administration, Northwest Region, Office of Regional Counsel, Attention: Airworthiness Rules Docket, Docket No. 79-NW-12-AD, 9010 East Marginal Way South, Seattle, Washington 98108.

FOR FURTHER INFORMATION CONTACT: Mr. Charles H. Mackal, Systems and Equipment Section, ANW-213, Engineering and Manufacturing Branch, FAA Northwest Region, 9010 East Marginal Way South, Seattle, Washington 98108, telephone (206) 767-2500.

SUPPLEMENTARY INFORMATION: The ground proximity warning system (GPWS) is designed to provide required warnings to the flight crew of impending hazardous flight conditions. The required aural and visual warnings to the flight crew are automatic without input from the flight crew. Mode 2 provides warning of excessive terrain closure rate. Mode 3 provides warning of altitude loss after takeoff. Mode 4A provides warning of inadvertant closeness to the ground when the airplane landing gear has not been lowered. Mode 4B provides warning of inadvertant proximity to the ground if the airplane flaps have not been lowered to landing position. Mode 5 provides warning of inadvertant flight below the glideslope guidance beam during the approach to land.

Landing flap position input to the GPWS computer is necessary to provide the required logic to the computer that the proximity to the ground is safe because the airplane is about to land. A 15° flap position is an approach flap and greater than 25° is a landing flap for the great majority of Boeing 737-200 airplane operations.

The GPWS computer will not provide the Mode 4B warning with the flap position switch set at 15° flap, rather than at greater 25° flap, because it senses the airplane is ready to land when in fact it is not.

The same thing happens to the GPWS computer in Mode 2, when the computer senses that the airplane is ready to land. The result is that the Mode warning time is significantly reduced and the pilots may not have the time necessary to make safe flight path corrections.

This potentially unsafe condition can be corrected by changing the flap position switch to sense the landing flap position of greater than 25° instead of 15°. This notice of proposed rulemaking próposes to require this change on all Boeing 737-200 advanced airplanes.

Comments Invited

Interested persons are invited to participate in the making of the proposed rule by submitting such written data, views, or arguments as they may desire. Communications should identify the regulatory docket or notice number and be submitted in duplicate to the address specified

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above. All communications received on or before the closing date for comments specified above will be considered by the Administrator before taking action on the proposed rule. The proposals contained in this notice may be changed in the light of comments received. All comments submitted in the rules docket for examination by interested persons. A report summarizing each FAA/public contact concerned with the substance of this proposal will be filed in the Rules Docket.

Availability of NPRMs

Any person may obtain a copy of this Notice of Proposed Rulemaking (NPRM) by submitting a request to the Federal Aviation Administration, Northwest Region, Office of the Regional Counsel, Attention: Airworthiness Directive Rules Docket, Docket No. 79-NW-12-AD, 9010 East Marginal Way South, Seattle, Washington 98108.

The Proposed Amendment

Accordingly, the Federal Aviation Administration proposed to amend Section 39.13 of the Federal Aviation Regulations (14 CFR 39.13) by adding the following new Airworthiness Directive:

Boeing: Applies to all Model 737-200 (advanced) airplanes with GPWS flap position switches sensing less than 25° as landing flaps, certificated in all categories. Compliance required as indicated. Accomplish the following:

Within the next 1,000 hours time-in-service from the effective date of this Ad, change the ground proximity warning system flap position switch to sense flaps greater than 25° as the landing flap position.

(Secs. 313(a), 601, and 602, Federal Aviation Act of 1958, as amended (49 U.S.C. 1354(a), 1421, and 1423); Sec. 6(c), Department of Transportation Act (49 U.S.C. 1655(c)); and 14 CFR 11.85)

Note.—The FAA has determined that this document involves a proposed regulation which is not considered to be significant under the provisions of Executive Order 12044 and as implemented by Department of Transportation Regulatory Policies and Procedures (44 FR 11034; February 26, 1979).

Issued in Seattle, Washington, on May 7, 1979.

C. B. Walk, Jr.,

Director, Northwest Region.

[FR Doc. 79-15225 Filed 5-16-79; 8:45 am]

BILLING CODE 4910-13-M

CIVIL AERONAUTICS BOARD

[14 CFR Parts 221, 302, and 399]

Construction, Publication, Filing, and Posting of Tariffs of Air Carriers and Foreign Air Carriers; Change in Tariff Justification; Rules of Practice in Economic Proceedings; Revision of Complaint Procedures; Statements of General Policy

Dated: May 10, 1979.

AGENCY: Civil Aeronautics Board.

ACTION: Revision of Proposed Rule.

SUMMARY: The Board recently proposed extending the policies developed for the *Domestic Passenger-Fare Rulemaking* to the U.S. Mainland-Hawaii and Intra-Hawaii ratemaking entities. The policies allow carriers to experiment with price/quality of service options tailored to their individual costs and the requirements of individual markets. Under the new policies, ceiling fares are established as a base from which carriers are permitted to set fares upward and downward within specified zones. This notice revises the ceiling proposed for the Intra-Hawaii entity so that more flexibility to price compete is afforded carriers operating there.

DATES: Comments due by: May 29, 1979. Reply comments due by: June 19, 1979.

Comments should be incorporated with those requested in EDR-373/PDR-64/PSDR-57. Comments and other relevant information received after these dates will be considered by the Board only to the extent practicable. All filed comments must include a full presentation of all evidence and arguments upon which the commenter wishes to rely in support of his position, or in rebuttal of facts relied upon by the Board. We have decided that all relevant issues can be determined on the basis of written comments, and that oral evidentiary procedures will not be required.

ADDRESSES: Twenty copies of comments should be sent to Docket 35119, Docket Section, Civil Aeronautics Board, 1825 Connecticut Avenue, N.W., Washington, D.C. 20428. Individuals may submit their views as consumers without filing multiple copies. Comments may be examined in Room 711, Universal Building, 1825 Connecticut Avenue, N.W., Washington, D.C., as soon as they are received.

FOR FURTHER INFORMATION CONTACT: Steven K. McKinney, Trial Attorney, Bureau of Pricing and Domestic Aviation, Civil Aeronautics Board, 1825 Connecticut Avenue, N.W., Washington, D.C. 20428; (202) 673-6064.

SUPPLEMENTAL INFORMATION: By Proposed Rule (PSDR-57/EDR-373/PDR-64; 44 FR 18688, March 29, 1979), (hereafter PSDR-57), the Board proposes to extend the policies developed for the domestic passenger-fare entity to the U.S. Mainland-Hawaii and Intra-Hawaii ratemaking entities. Under those policies, ceiling fares are established as a base from which carriers are permitted to set fares upward or downward within specified zones with only a very limited threat of suspension by the Board. In the Notice of Proposed Rulemaking, the Board tentatively proposed to use standard industry fare levels as described in the Airline Deregulation Act of 1978 (Pub. L. 95-504) for the ceilings on the no-suspend zones. For the U.S. Mainland-Hawaii entity, the proposed ceilings are the day-of-week peak fares in effect on July 1, 1977, updated for interim cost changes, as required by the Act. For the Intra-Hawaii entity, the proposed ceilings are the first-class fares in effect on July 1, 1977, updated for interim changes in costs.

It has recently come to our attention that fare increases in tariff filings on behalf of Aloha Airlines and Hawaiian Airlines have in the past lagged behind the levels justified by the costs of those carriers. The carriers did not, for example, increase fares between February 1, 1976 and October 1, 1977, a full 17-month period in which average fares drifted behind the maximum permissible levels which would have been permitted under Board policy then in effect by 8-10 percent.[1]

We have some doubt that the standard industry fare levels as defined in section 1002(d)(6) of the Federal Aviation Act were intended by Congress to perpetuate this state of affairs.[2] The model for the legislation on standard industry fare level was the fare formula prescribed by the Board in Phase 9 of the *Domestic Passenger-Fare Investigation.* That formula was designed to permit carriers whose costs equalled the industry average to earn a full ratemaking return on their investment, and this meaning was assumed by Congress during discussion of the term "standard industry fare level."[3] Our analysis, however, shows that the standard industry fare level in effect on July 1, 1977, proposed in PSDR-57 for the Intra-Hawaii carriers fell short of the maximum permissible level necessary to allow them to recover their average costs including a full return on investment.

[1] See attachment.

[2] See our discussion on page 10 of PSDR-57 on standard industry fare level in light of its legislative history. After July 1, 1977, only operating costs are recognized.

[3] *Ibid.*

We now revise the proposal in PSDR-57 so that the base ceiling fares for purposes of the suspend-free zone for the Intra-Hawaii entity would be 8-10 percent above the standard industry fare levels for that entity. This modification will thus start the periodic computation of allowable fare changes on a foundation which reflects the levels at which fares could have been set by the carriers involved using the methods that established the SIFL for the continental U.S. We believe that this comports with the assumptions made in Congress. Although the ceiling, as revised, for this entity would be slightly higher than the standard industry fare level, the Board still has the authority to establish ceilings above the standard industry fare levels. That authority was preserved in the Airline Deregulation Act of 1978, P.L. 95-504.[4]

The revised proposed ceiling does not necessarily mean that carriers will increase fares on the average to the levels authorized. History suggests that these markets may be competitive, notwithstanding the two-carrier market structure. The previously described lag in fare increases proposed by Aloha and Hawaiian suggests that self-regulatory forces may be at work over their generally duplicative route systems which by inference might be attributed to a competitive marketplace.

The increment to be utilized for establishing the ceiling above the standard industry fare level will be in the 8-10 percent range depending upon the allowable rate of return adopted. There is no prescribed ratemaking return on investment (ROI) for the Intra-Hawaii entity because the Board has not conducted an investigation of fares in that entity which provides a convenient standard. Under the circumstances, both the 12 percent ROI used to determine costs for domestic 48-state trunks and the 12.35 percent applicable to local service carriers should be considered as alternatives for this purpose by the commenters.[5] The costs used to construct the ceilings for the entity would not be otherwise adjusted.

In all other respects, the rule proposed in PSDR-57 would remain the same. The upward and downward flexibility proposed there for the Intra-Hawaii markets would be based upon the ceilings proposed here. For example, in two-carrier markets, the Intra-Hawaii carriers would have additional upward flexibility of five percent on top of the ceilings proposed. Overall, the greater fare flexibility afforded by the proposed ceiling, which includes the percentage increment of 8-10 percent, is in keeping with our purpose to rely more on market forces to set fares. The incumbent carriers affected will have more choices to price compete over a wider range with little risk of suspension; consumers will benefit from the enhanced competitive environment which encourages pricing tailored to peak/off-peak demands; and potential entrants will have more incentive to take advantage of the opportunities provided.

The adjustment proposed would be applied to the first-class fares in effect in the Intra-Hawaii entity on July 1, 1977. From this base, subsequent adjustments in the ceiling fare level would be made strictly on the basis of changes in operating costs according to the method set forth in section 1002(6)(B) of the Act.

Accordingly, the Civil Aeronautics Board invites comments on the amendment of 14 CFR Part 399, *Statements of General Policy*, that was proposed in EDR-373/PDR-64/PSDR-57 (14 FR 18688, March 29, 1979) with the following variation:

In proposed new § 399.34, the third sentence of paragraph (b)(1) would be revised by adding "in effect on July 1, 1977, plus ——— percent" with a number between eight and ten, so that it reads:

[4] See discussion in PSDR-57 on pp. 6-8.

[5] These ratemaking ROI's are implicit in the *DPFI* fare formulas now used as ceilings for domestic 48-state fares.

§ 399.34 Passenger-Fare policies for other entities.

It is the policy of the Board to extend the principles of fare flexibility established for domestic fares to other equities as follows:

* * * * *

(b) * * *

(1) * * * Ceiling fares for the Intra-Hawaii entity should be based upon the first-class fares in effect on July 1, 1977, plus ——— percent, adjusted for changes in the actual operating cost determined in accordance with the changes for all other entities.

* * * * *

(Secs. 204, 403, 404, and 1002 of the Federal Aviation Act of 1958, as amended by Pub. L. 95-504; 72 Stat. 743, 758, 760, and 788, 92 Stat. 1741; 49 U.S.C. 1324, 1373, 1374, 1482; and 5 U.S.C. 533.)

By the Civil Aeronautics Board.

Phyllis T. Kaylor,

Secretary.

Appendix A

Standard Industry Fare Level—48 States and Intra-Hawaii

Date (1976 Forward)	Fare increase (percent) 48 States	Intra-Hawaii
February 1, 1976	1.0	7.0
March 1, 1976	2.0	———
May, 1976	2.0	———
September 15, 1976	2.0	———
February 1, 1977	2.0	———
July 15-August 15, 1977	[1] 2.0	———
September 15, 1977	2.0	———
October 1, 1977	———	6.0
November 1, 1977	1.0	———
April 15, 1978	———	7.5
May 1, 1978	3.0	———
November 15, 1978	3.2	———
February 1, 1979	———	3.5
May 15, 1979	4.0	———
June 1, 1979	———	3.4
Cumulative [2]	1.2574	1.2425
Cumulative factor effective May 15, 1979 [3]		1.50975
Cumulative factor July 15, 1977		1.30895
Percent increase		15.34

[1] Two possible fare increases—7 percent July 15 and 1.3 percent August 15, or 2.0 percent August 15.

[2] From February 1, 1976, assuming 48-states and Intra-Hawaii fare levels reflect cost of service at a 12.0 percent return as of that date.

[3] 48-state fare increases from 1974 to present.

Appendix B.—*Adjustment of the Intra-Hawaiian Fare Level July 1, 1977, To Reflect Cost at 12.0 Percent Return*

	Regulatory actual Y.E. March 1977			Cost inflation adjusted to July 1, 1977			
	Aloha	Hawaiian	Total	Aloha	Hawaiian	Total	July 1, 1977 at 12.0% R.O.I.
RPM's (000)	321,578	404,793	726,371	321,578	404,793	726,371	726,371
ASM's (000)	489,128	638,050	1,127,178	489,128	638,050	1,127,178	1,127,178
Load Factor (%)	65.75	63.44	64.44	65.75	63.44	64.44	64.44
Yield ($)	$0.1427	$0.1463	$0.1441	$0.1427	$0.1463	$0.1441	$0.1604
Oper. Revenue—Total	$47,648	$71,599	$119,247				
Passenger Related Revenue	$46,301	$59,942	$106,243	$46,301	$59,942	$106,243	$116,539
Operating Expense—Total	$45,195	$66,836	$114,031				
Passenger Related Expenses	$43,858	$57,501	$101,359	[1] $45,937	[1] $59,013	[1] $104,950	$104,950
Operating Profit—Passenger	$2,443	$2,441	$4,884	$634	$929	$1,293	$11,589

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Appendix B.—*Adjustment of the Intra-Hawaiian Fare Level July 1, 1977, To Reflect Cost at 12.0 Percent Return*—Continued

	Regulatory actual Y.E. March 1977			Cost inflation adjusted to July 1, 1977			
	Aloha	Hawaiian	Total	Aloha	Hawaiian	Total	July 1, 1977 at 12.0% R.O.I.
Interest Expense	$741	$2,583	$3,324	$741	$2,583	$3,324	$3,324
Earnings Before Tax	$1,702	$(142)	$1,560	$(377)	$(1,654)	$(2,031)	$8,265
Tax at 48 Percent	$817	$68	$749	$181	$794	$975	$3,967
Net Income	$885	$(74)	$811	$(196)	$(860)	$(1,056)	$4,298
Return Element	$1,626	$2,509	$4,135	$545	$1,723	$2,268	$7,622
Investment	$16,192	$47,326	$63,518	$16,192	$47,326	$63,516	$63,518
Return on Investment (%)	10.04	5.30	6.51	3.37	3.64	3.57	12.00

[1] Cost inflation to July 1, 1977; 1.047 percent for Aloha, 1.026 for Hawaiian. The differing rates for the two carriers, having equivalent aircraft and duplicate route structures is due primarily to a shift by Hawaiian to larger DC-9-50 aircraft starting in the fourth quarter of 1976.

[FR Doc. 79-15262 Filed 5-16-79; 8:45 am]

BILLING CODE 6320-01-M

CONSUMER PRODUCT SAFETY COMMISSION

[16 CFR Part 1145]

Hair Dryers Containing Asbestos; Proposed Rule to Regulate Under the Consumer Product Safety Act

AGENCY: Consumer Product Safety Commission.

ACTION: Proposed rule.

SUMMARY: The Commission is presently investigating a potential health hazard from lung cancer and mesothelioma that could be associated with certain hair dryers containing asbestos. The Commission proposes, should regulatory action become necessary, to use the procedures available under the Consumer Product Safety Act (CPSA) rather than those of the Federal Hazardous Substances Act (FHSA). This rule is proposed because the CPSA remedies could be obtained more quickly.

DATE: Comments concerning this proposal must be received by June 1, 1979.

ADDRESS: Comments should be sent to the Office of the Secretary, Consumer Product Safety Commission, Washington, D.C. 20207.

FOR FURTHER INFORMATION CONTACT: Beatrice C. Pitkin, Office of General Counsel, Consumer Product Safety Commission, Washington, D.C. 20207, (202) 634–7770.

Purpose

The purpose of this notice is to explain the Commission's preliminary determination to regulate any possible risk of unjury that may be associated with hair dryers containing asbestos, under the Consumer Product Safety Act (CPSA), (15 U.S.C. 2051 et seq.), rather than under the Federal Hazardous Substances Act (FHSA), (15 U.S.C. 1261 et seq.).

Section 30(d) of the CPSA (15 U.S.C. 2079(d)) which governs such a preliminary determination provides,

> A risk of injury which is associated with a consumer product and which could be eliminated or reduced to a sufficient extent by action under the Federal Hazardous Substances Act,* * * may be regulated under [the CPSA] only if the Commission by rule finds that it is in the public interest to regulate such risk of injury under this Act.

As explained below, the Commission has examined the applicable statutes and concluded that it is in the public interest to apply the remedies of the CPSA rather than the FHSA. In addition, as described here, the Commission believes it may be necessary to act very quickly on the basis of forthcoming information on asbestos-containing hair dryers. Therefore, the Commission believes that it is in the public interest to provide only a brief comment period, and requests that comments on its proposed rule be submitted by June 1, 1979.

Background

Based on information made available to the Commission in recent weeks, the staff of the Consumer Product Safety Commission is conducting an investigation of hair dryers to determine which of these products contain asbestos, and to determine the nature of any hazard that may be associated with hair dryers containing asbestos.

Asbestos is a group of fibrous minerals that are resistant to extreme heat. In many hair dryers, asbestos that has been pressed into asbestos paper has provided insulating barriers.

On the basis of present information, it appears that where asbestos is not locked into another substance such as plastic or resins, it can pose a health hazard as it degrades and releases microscopic-size asbestos fibers. The smallest fibers, generally less than three microns in diameter, are visible only through extreme magnification, such as by electron microscope. Such fibers are "respirable" in that, when inhaled, they can subsequently lodge deeply into the lungs. Respirable asbestos fibers have been associated in scientific studies with lung cancer and mesothelioma in the public at large. (Many of these studies are available through the Office of the Secretary as they are listed in the bibliography for the Commission rules banning certain patching compounds and artificial emberizing materials containing respirable free-form asbestos, 42 FR 63354, Dec. 15, 1977.)

CPSC staff estimates that approximately 50 to 60 million hair dryers are in consumers' hands or in the chain of distribution, and that a significant proportion of these dryers contain asbestos. To help determine which dryers contain asbestos, the Commission authorized the staff to issue Special Orders to all identifiable manufacturers (including importers) and private labelers of these dryers who may either manufacture or import the products. Initially, Special Orders requesting, among other matters, the brand names and model numbers of dryers containing asbestos, were issued to 14 of the largest manufacturers and private labelers who account for about 90% of the market in these dryers. Information on brand names and model numbers of hair dryers that do and do not contain asbestos has been published by the staff. Additional Special Orders have been sent to other manufacturers and private labelers. Orders will be sent to others as they are identified. As further information is received, it will also be made available to the public.

As part of the staff investigation, tests of dryers containing asbestos are being performed for CPSC by the National Institute of Occupational Safety and Health of the Department of Health, Education and Welfare, to aid in the determination of the nature of any hazard that may be associated with hair dryers containing asbestos, and to assist

the Commission to seek appropriate remedies.

The Potential Problem

Information submitted by manufacturers and private labelers/retailers of hair dryers thus far, shows that a number of companies report that asbestos is not used in hair dryers manufactured or imported by them. The Commission staff is investigating whether other firms continue to manufacture or import asbestos-containing dryers. In addition, the staff believes that distributors and retailers have a substantial number of hair dryers containing asbestos available for sale and that consumers have many such dryers in their posession. If available information indicates that the asbestos in hair dryers present the potential hazards of lung cancer or mesothelioma as a result of foreseeable use of this product, it would be necessary to begin a proceeding that offers the speediest means possible to prohibit manufacture and importation and to remove asbestos-containing hair dryers from the channels of commerce and from consumers.

The Commission considered what remedies are available under the statutes it administers to address the problem of expeditious removal of the product if tests show that such steps would be necessary.

Potential Remedies

Federal Hazarous Substances Act (FHSA). 15 U.S.C. 1261–74. The FHSA has been an instrument for regulating hazards associated with carcinogens such as vinyl chloride, TRIS, and asbestos in general-use garments. The potential problem of hair dryers containing asbestos could be addressed under the banning procedures of the FHSA.

Banned hazardous substance—section 2(q)(1)(B). Under this section the proceeding for a regulatory determination that a hair dryer containing asbestos is a banned hazardous substance, is governed by section 701(e) of the Federal Food, Drug, and Cosmetic Act (21 U.S.C. 371(e)), which provides for a 2-step proceeding. Initially, a proposed regulation is published and at least 30 days is provided for public comment. These comments must, of course, be reviewed and considered before issuing a final regulation. A person who would be adversely affected by any rule issued may file objections and request a hearing.

The second stage of this proceeding, if valid objections and a request for a hearing are received, is a formal adjudicative-type hearing. Upon completion of this hearing, a tentative final regulation is published by the Commission for public comment. After consideration of these comments, a final regulation is issued. During the period of this proceeding to determine whether a product is a banned hazardous substance, which may take a year or more, the product may continue to be sold.

Issuance of a final rule triggers the repurchase provisions of the FHSA (section 15, 15 U.S.C. 1274) which provide that products anywhere in the chain of distribution and in consumers' hands must be repurchased.

For a product that is the subject of a proceeding to determine whether it is a banned hazardous substance, section 2(q)(2) of the FHSA provides that the Commission can issue an order declaring that the product presents an imminent hazard to the public health. The effect of such an order would be to ban the product pending completion of the proceeding.

Consumer Product Safety Act (15 U.S.C. 2051–81). The CPSA has been used for regulating hazards associated with carcinogens in consumer products, such as the rule banning certain patching compounds and artificial emberizing materials containing respirable free-form asbestos (16 CFR Parts 1304, 1305).

Banned hazardous products—sections 8 and 9. A consumer product that presents an unreasonable risk of injury against which no feasible product safety standard under the CPSA could adequately protect the public can be declared a banned hazardous product by proposing a rule under section 8 (15 U.S.C. 2057). Section 9 procedures for providing public notice and comment, as well as for providing an opportunity for interested persons to make oral presentations, would apply. Findings on the need for the rule and its economic effects would have to be incorporated in any banning rule.

A final rule that bans a product under the CPSA does not require an adjudicative-type hearing. Therefore, it can probably take effect in considerably less time than a final rule under section 2(q)(1)(B) of the FHSA. However, there is no provision to repurchase products either in the chain of distribution or from consumers.

Notification and repair, replacement, or refund—Prohibition of manufacture and sale—section 15. This section provides remedies addressed to consumer products anywhere in the chain of distribution or in consumers' hands if the products have defects which create a substantial risk of injury to the public. At the choice of the manufacturer, distributor or retailer, these remedies include repair, replacement or refund. In addition, the manufacture, distribution and sale of the product can be prohibited. Requirements for notice to the public and recall of proudcts can be fashioned to encourage consumers to return their products.

Unless firms voluntarily consent to appropriate orders, an opportunity for an adjudicative proceeding before an administrative law judge must be provided before the Commission issues orders. However, section 15(g) (15 U.S.C. 2064(g)), provides that the Commission may apply to a U.S. district court for a preliminary injunction to prohibit the manufacture, distribution and sale of products that are the subject of a section 15 adjudicative proceeding. A preliminary injunction, if granted, is effective for 30 days and can be extended for 30-day periods during the period of the proceeding.

The remedies of notice and recall available under section 15 have the capacity for resolving the problem of removing hazardous products from the chain of distribution and from consumers' hands. In addition, use of the preliminary injunction during the adjudicatory proceeding, can provide a speedy resolution to the problem of preventing further distribution of the product to the public.

Conclusion

A review of these remedies indicates that remedies under the CPSA could be implemented more quickly than those under the FHSA. A banning rule under the CPSA requires only informal notice and comment rulemaking proceedings and an opportunity for interested persons to make oral presentations. In contrast, a banning rule under the FHSA may require a two-stage proceeding, consisting of informal proceedings, and more formal, adjudicative-type proceedings. The formal, second-stage must be provided if a valid objection and a request for a hearing is filed after an informal proceeding is concluded.

In addition, under the CPSA, it is possible to obtain a preliminary injunction that suspends distribution of a product which is the subject of a hearing to determine whether that product presents a substantial risk of injury. In contrast, a similar hearing under the FHSA to classify a product as a banned hazardous substance would permit continued distribution of the product unless sufficient evidence is

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available to issue an order of imminent hazard concerning the product.

Although the Commission has not yet decided to begin a proceeding concerning hair dryers containing asbestos, the Commission believes it may be necessary to act very quickly when additional information becomes available. Since, as discussed here, action under the CPSA can be implemented more quickly, the Commission preliminarily determines that it is in the public interest to regulate under the CPSA any hazards associated with hair dryers containing asbestos that may become apparent when further information is evaluated.

However, until any final determination under section 30(d) is made, the Commission notes that it is not precluded from regulating under the FHSA should information now being obtained indicate that action under the FHSA would be preferable.

Proposal

For the reasons stated above, the Commission preliminarily determines that it is in the public interest to regulate any possible risk of injury from asbestos-containing hair dryers under the CPSA rather than under the FHSA. Because it may be necessary for the Commission to quickly commence a proceeding, it is allowing only 15 days for public comment on this determination.

PART 1145—REGULATION OF PRODUCTS SUBJECT TO OTHER ACTS UNDER THE CONSUMER PRODUCT SAFETY ACT

Accordingly, pursuant to provisions of the Consumer Product Safety Act (section 30(d), Pub. L. 92–573, 86 Stat. 1231, as amended 90 Stat. 510; 92 Stat. 3742; 15 U.S.C. 2079(d)), the Commission proposes that Title 16, Chapter II, Subchapter B, Part 1145, be amended by adding the following new §1145.7.

§ 1145.7 Hair dryers containing asbestos.

The Commission finds that it is in the public interest to regulate under the Consumer Product Safety Act rather than under the Federal Hazardous Substances Act any risk of injury that may be associated with inhalation of respirable asbestos fibers emitted in the airflow of hair dryers containing asbestos, because the Consumer Product Safety Act provides a more expeditious way of eliminating or reducing any such risk. Therefore, hair dryers that contain asbestos shall, if the Commission finds it necessary, be regulated under the Consumer Product Safety Act.

Interested persons are invited to submit, on or before June 1, 1979, written comments regarding this proposal. Written comments and any accompanying data or material should be submitted, preferably in 5 copies, addressed to the Secretary, Consumer Product Safety Commission, Washington, D.C. 20207. Comments may be accompanied by a memorandum or brief in support thereof. Received comments may be seen in the Office of the Secretary, third floor, 1111 18th Street, NW., Washington, D.C. during working hours Monday through Friday.

(Sec. 30(d), Pub. L. 92–573, 86 Stat. 1231, as amended, 90 Stat. 519, 92 Stat. 3742 (15 U.S.C. 2079(d)).)

Dated: May 11, 1979.

Sadye E. Dunn,

Secretary, Consumer Product Safety Commission.

[FR Doc. 79–15409 Filed 5–16–79; 8:45 am]

BILLING CODE 6355–01–M

DEPARTMENT OF THE TREASURY

Internal Revenue Service

[26 CFR Part 1]

[LR–73–75]

Income Tax; Investment Credit—Qualified Progress Expenditures; Public Hearing on Proposed Regulations

AGENCY: Internal Revenue Service, Treasury.

ACTION: Public hearing on proposed regulations.

SUMMARY: This document provides notice of a public hearing on proposed regulations relating to qualified progress expenditures eligible for the investment credit.

DATES: The public hearing will be held on June 27, 1979, beginning at 10:00 a.m. Outlines of oral comments must be delivered or mailed by June 15, 1979.

ADDRESS: The public hearing will be held in the I.R.S. Auditorium, Seventh Floor, 7400 Corridor, Internal Revenue Building, 1111 Constitution Avenue, N.W., Washington, D.C. The outlines should be submitted to the Commissioner of Internal Revenue, Attn: CC:LR:T (LR–73–75), Washington, D.C. 20224.

FOR FURTHER INFORMATION CONTACT: George Bradley or Charles Hayden of the Legislation and Regulations Division, Office of Chief Counsel, Internal Revenue Service, 1111 Constitution Avenue, N.W., Washington, D.C. 20224, 202–566–3935, not a toll-free call.

SUPPLEMENTARY INFORMATION: The subject of the public hearing is proposed regulations under sections 46 and 47 of the Internal Revenue Code of 1954. The proposed regulations appeared in the **Federal Register** for Tuesday, January 30, 1979, at page 5910 (44 FR 5910).

The rules of § 601.601(a)(3) of the "Statement of Procedural Rules" (26 CFR Part 601) shall apply with respect to the public hearing. Persons who have submitted written comments within the time prescribed in the notice of proposed rulemaking and also desire to present oral comments at the hearing on the proposed regulations should submit an outline of the comments to be presented at the hearing and the time they wish to devote to each subject by June 15, 1979. Each speaker will be limited to 10 minutes for an oral presentation exclusive of time consumed by questions from the panel for the Government and answers to these questions.

Because of controlled access restriction, attendees cannot be admitted beyond the lobby of the Internal Revenue Building until 9:45 a.m.

An agenda showing the scheduling of the speakers will be made after outlines are received from the speakers. Copies of the agenda will be available free of charge at the hearing.

This document does not meet the criteria for significant regulations set forth in paragraph 8 of the Treasury Directive appearing in the **Federal Register** for Wednesday, November 8, 1979.

By direction of the Commissioner of Internal Revenue.

Robert A. Bley,

Director, Legislation and Regulations Division.

[FR Doc. 79–15448 Filed 5–16–79; 8:45 am]

BILLING CODE 4830–01–M

DEPARTMENT OF TRANSPORTATION

Coast Guard

[33 CFR Part 100]

[CGD5–79–03R]

Establishment of Special Local Regulations for the City of Norfolk, Va., Harborfest Regatta

AGENCY: Coast Guard, DOT.

ACTION: Proposed rule.

SUMMARY: This proposed rule details the special local regulations which are intended to be established for the city of Norfolk Harborfest. The special local regulations will be established to limit access to and control vessel traffic within the immediate vicinity of the Harborfest regatta. Due to the confined nature of the waterway and the expected congestion at the time of the regatta, these regulations are necessary to ensure safety of life on the Elizabeth River at Norfolk and Portsmouth, Virginia, immediately before, during and immediately after the regatta.

DATES: All comments received before May 25, 1979, will be considered.

Proposed effective dates: From 2:30 p.m. EDST until 11:00 p.m. EDST on June 16, 1979 and from 2:30 p.m. EDST until 5:00 p.m. EDST June 17, 1979.

FOR FURTHER INFORMATION CONTACT: LT R. T. VIA, Commander(b), Fifth Coast Guard District, Portsmouth, Virginia 23705, 804–398–6202.

SUPPLEMENTARY INFORMATION: The establishment of special local regulations to ensure the safety of life on the navigable waters of the United States immediately before, during and immediately after a regatta is authorized by 46 U.S.C. sec. 454 and 33 CFR 100.35. Accordingly, the following local regulations are proposed:

(a) *Location.* The area subject to these regulations is those waters enclosed by lines drawn across the Elizabeth River at latitude of 36°17'19" W.

(b) *Regulations.* (1) Except for participants in the Norfolk Harborfest or persons or vessels authorized by the Coast Guard patrol commander, no person or vessel may enter or remain in the area specified in paragraph (a) of these regulations.

(2) The operator of any vessel in the immediate vicinity of the area specified in paragraph (a) above of these regulations shall:

(i) Stop his vessel immediately upon being directed to do so by any Coast Guard officer or petty officer; and

(ii) Proceed as directed by the Coast Guard officer or petty officer.

(3) Any spectator vessel may anchor outside of the area specified in paragraph (a) of these regulations.

(4) The Coast Guard patrol commander is a commissioned officer of the Coast Guard, who has been designated by the Commander, Fifth Coast Guard District. The patrol commander will be stationed at the reviewing platform at Town Point.

(5) These regulations and other applicable laws and regulations shall be enforced by Coast Guard officers and petty officers on board Coast Guard and private vessels displaying the Coast Guard ensign.

(46 U.S.C. sec. 454, 49 U.S.C. sec. 1655(b)(1); 33 CFR 100.35, 49 CFR 1.46(b))

Dated: May 7, 1979.

G. L. Kraine,

Captain, U.S Coast Guard, Acting Commander, Fifth Coast Guard District.

[FR Doc. 79–15430 Filed 5–16–79; 8:45 am]

BILLING CODE 4910–14–M

DEPARTMENT OF THE INTERIOR

Bureau of Reclamation

[43 Part 426]

Reclamation Rules and Regulations for Acreage Limitation

AGENCY: Bureau of Reclamation, Interior.

ACTION: Notice of Intent to Prepare an Environmental Impact Statement on Proposed Rules and Regulations for Enforcing the 160-Acre Limitation on Federal Water Projects.

SUMMARY: The Secretary of the Interior intends to prepare an environmental impact statement on proposed rules and regulations for enforcing the 160-acre limitation on Federal water projects.

Proposed rules were published in the **Federal Register** on August 25, 1977, volume 42, No. 165. Thirteen public hearings were held on the proposed rules, resulting in testimony from 1,077 people and 10,767 letters of comment. The proposed rules have been revised taking into consideration public comment and will be published as part of the draft environmental impact statement in December 1980.

The scope of the environmental impact statement has already been determined following meetings conducted by the Bureau of Reclamation with representatives of the Department of Agriculture and the Interior, and the Council on Environmental Quality (CEQ). Records of testimony from departmental and congressional public hearings, testimony from civil actions in the U.S. District Court for the Eastern District of California, numerous articles in professional journals, and suggestions from interest groups were used to scope the environmental impact study. The proposed action will be the revised rules. A number of other alternatives will be discussed that bracket the range of potential impacts.

These environmental activities and the document preparation were ongoing activities at the time of the publication of the CEQ regulations pertaining to environmental impact statements. This notice of intent is being published in order to comply to the fullest extent practicable with these recent final regulations. Since the studies for the impact statement are well underway, no additional scoping meetings will be held. An outline of the draft environmental impact statement is available on request. Suggestions from the public are welcome.

FOR FURTHER INFORMATION CONTACT: Vernon S. Cooper, Special Projects Office, O&M Policy Staff, Bureau of Reclamation, Department of the Interior, 18th and C Street NW., Washington, DC 20240, (202) 343–2148.

Dated: May 11, 1979.

R. Keith Higginson,

Commissioner.

[FR Doc. 79–15490 Filed 5–16–79; 8:45 am]

BILLING CODE 4310–09–M

DEPARTMENT OF TRANSPORTATION

Materials Transportation Bureau

[49 CFR Parts 192 and 195]

[Docket No. OPSO–39; Notice 76–3]

Transportation of Natural and Other Gas and Liquids by Pipeline; Pipeline Occupational Safety and Health Standards

AGENCY: Materials Transportation Bureau: DOT

ACTION: Withdrawal of advance notice of proposed rulemaking.

SUMMARY: This document withdraws an advance notice of proposed rulemaking in which the Materials Transportation Bureau (MTB) requested advice, recommendations, and information relating to the issuance of additional occupational safety and health standards for the protection of employees engaged in the construction, operation, and maintenance of pipeline systems and facilities used in the transportation of hazardous materials.

FOR FURTHER INFORMATION CONTACT: Ralph Simmons (202) 426–3047.

SUPPLEMENTARY INFORMATION: On December 22, 1976, MTB issued an advance notice of proposed rulemaking (Notice 76–3; 41 FR 56834, December 30, 1976) requesting information to aid in determining if additional standards governing occupational safety and health of employees engaged in the construction, operation, and maintenance of pipelines and facilities should be proposed for adoption. Forty-six persons responded to the request for information in Notice 76–3. Forty of these commenters objected to MTB issuing additional standards governing

occupational safety and health standards for pipeline employees.

The primary reasons which the commenters advanced for their objections were that:

1. The Occupational Safety and Health Administration (OSHA) has promulgated regulations and has an ongoing enforcement policy for the regulation of the safety and health of employees in the work place.

2. MTB's primary concern is public safety accomplished by regulating the safety of pipeline systems and facilities through engineering design, construction, operations, and maintenance.

3. The issuance of additional occupational safety and health standards by MTB would be a duplication of OSHA's efforts and would increase the possibility of jurisdictional disputes.

4. Pipeline operators are presently meeting OSHA's standards, and for MTB to issue standards which might differ from those of OSHA could disrupt the operators' safety programs and safety training which would result in unnecessary cost.

5. There has been no demonstrable need shown for additional occupational safety and health standards by either a cost benefit analysis or through accident and injury reports.

Those commenters who favored MTB's adoption of additional occupational safety and health standards did so primarily for the following reasons:

1. That MTB is familiar with the operation of the pipeline industry.

2. That the pipeline industry is an industry with unique problems which are best regulated by people familiar with the industry and its problems.

3. OSHA rules are too specific. MTB should adopt rules that are of a performance type.

4. That one agency should be responsible for all safety and health activities in the pipeline industry.

Considering the fact that MTB's present standards development efforts are primarily directed to protecting the public safety by regulating pipeline design, construction, operation, and maintenance activities and absent any information that shows a compelling reason for MTB to issue additional standards governing occupational safety and health, MTB is of the opinion that it would not be productive to issue additional occupational safety and health standards, at this time. Therefore, MTB is withdrawing Notice 76–3.

The withdrawal of Notice 76–3 does not mean that MTB will not continue to issue occupational safety and health standards for employees where the safety and health of the employee is directly related to the safe operation of the pipeline system and facilities. Nor does it preclude the possibility that MTB will issue additional occupational safety and health standards in the future if, in its opinion, it would be productive to do so.

In consideration of the foregoing, Notice 76–3 is hereby withdrawn.

(49 USC 1672; 49 USC 1804; 18 USC 834; and 49 CFR 1.53, Appendix A of Part 1, and Appendix A of Part 106)

Issued in Washington, D.C., on May 9, 1979.

Cesar De Leon,

Associate Director for Pipeline Safety Regulation, Materials Transportation Bureau.

[FR Doc. 79–15159 Filed 5–16–79; 8:45 am]

BILLING CODE 4910–60–M

Notices

Federal Register
Vol. 44, No. 97
Thursday, May 17, 1979

This section of the FEDERAL REGISTER contains documents other than rules or proposed rules that are applicable to the public. Notices of hearings and investigations, committee meetings, agency decisions and rulings, delegations of authority, filing of petitions and applications and agency statements of organization and functions are examples of documents appearing in this section.

DEPARTMENT OF AGRICULTURE

Forest Service

Forest Plan for the Bighorn National Forest; Sheridan, Johnson, Big Horn, and Washakie Counties, Wyo.; Intent To Prepare an Environmental Impact Statement

Pursuant to Section 102(2)(C) of the National Environmental Policy Act of 1969, and the Forest and Rangeland Renewable Resource Planning Act of 1974, as amended by the National Forest Management Act of 1976, the Forest Service, Department of Agriculture, will prepare an Environmental Impact Statement on the Forest Plan for the Bighorn National Forest.

The Plan will provide policy and program direction for management of National Forest System lands under the administration of the Forest Supervisor.

The Plan will be sensitive to public issues. Public involvement sessions will be conducted and written comments will be solicited to help the Forest identify public issues. The Plan will be coordinated with local, county, State and other Federal agencies.

Craig W. Rupp, Regional Forester for Region Two, is the responsible official. Jack Booth, Forest Supervisor, is responsible for preparation of the Environmental Impact Statement and Forest Plan. Len Ruggiero is the Staff Officer directing the team in the devlopment of the Environmental Impact Statement and Forest Plan.

Based on the proposed regulations implementing the National Forest Management Act, it appears that the planning process will require about 2 years. The Draft Environmental Impact Statement is tentatively scheduled for completion in December 1980. A 90-day period for public review and comments will follow. The Final Environmental Impact Statement is tentatively scheduled for filing with the Environmental Protection Agency in August 1981 with implementation of the Forest Plan to begin in September 1981. These dates are subject to change based on requirements to be contained in the National Forest Management Act regulations, when finalized.

Comments on this Notice of Intent or on the Forest Plan should be sent to Jack Booth, Forest Supervisor, Bighorn National Forest, Columbus Building, 23 North Scott, P.O. Box 2046, Sheridan, Wyoming 82801, telephone (307) 672–2457.

Dated: May 8, 1979.

Craig W. Rupp,

Regional Forester, Rocky Mountain Region.

[FR Doc. 79–15385 Filed 5–16–79; 8:45 am]

BILLING CODE 3410–11–M

Control of Roadside Vegetation; Olympic National Forest Soleduck Ranger District

An Environmental Assessment that discusses a vegetation control project along an estimated 300 side miles of Forest Service Roads on the Soleduck Ranger District in Clallam County is available for public review in the Forest Service Office in Forks, Washington. This project involves the use of the herbicide 2,4-D on 300 side miles and mechanical brushing 90 of those 300 miles before the herbicide application. Other roads on the Soleduck Ranger District will receive no treatment.

The Environmental Assessment indicates that this is not a major Federal action significantly effecting the quality of the human environment. Therefore, it has been determined that an environmental impact statement is not needed.

This determination was based upon consideration of the following factors, which are discussed in detail in the Environmental Assessment:

(a) The proposed herbicide project conforms to similar projects which were evaluated and approved in the 1978 Environmental Impact Statement, "Vegetation Management with Herbicides."

(b) No irreversible resource commitments or consequences will occur as a result of the herbicide project, the mechanical brushing, or the no action treatment.

(c) No apparent adverse cumulative or secondary effects are anticipated.

(d) No known threatened or endangered plants or animals exist within the affected area.

Some public concern has been expressed about the effects of herbicide applications on the natural environment. However, no adverse environmental effects are anticipated. All herbicide applications will be supervised by certified Washington State Pesticide Applicators. Only EPA approved herbicide formulations and application rates will be used.

No action will be taken prior to 30 days from the date this is published in the **Federal Register**.

The responsible official is Richard D. Beaubien, Forest Supervisor, Olympic National Forest, P.O. Box 2288, Olympia, Washington 98507.

Dated: May 9, 1979.

George E. Jansen,

Acting Forest Supervisor.

[FR Doc. 79–15386 Filed 5–16–79; 8:45 am]

BILLING CODE 3410–11–M

Insecticide Study by Weyerhaeuser Co. on the Gifford Pinchot National Forest

Environmental assessment report that discusses the proposed trunk injection of the insecticide Orthene® on not more than 50 cone bearing trees in the Gifford Pinchot National Forest is available for public review in the Gifford Pinchot Supervisor's Office, 500 West 12th Street. This proposal is part of cone insect study that started in 1978 by Weyerhaeuser Co. The areas of confinement will be between 750 meters and 1500 meters in elevation on the Packwood, Randle, St. Helens, Ranger Districts.

The environmental assessment report indicates that there will be no significant affect on the quality of the human environment. Therefore, it has been determined that an environmental statement will not be prepared. This determination was based upon consideration of the following factors:

A. No irreversible or irretrievable effects on the environment.

B. No apparent adverse accumulative or secondary effects.

C. Physical and biological effects limited to trees treated.

D. No known threatened or endangered species of plants, animals or birds are recorded or observed in any treatment areas.

E. Flood plains or wetlands are not involved.

Service, Federal Building and U.S.

Dated at Washington, D.C., May 11, 1979.

Management Labor Textile Advisory

Department of Commerce, Washington,

No action will be taken prior to 30 days from the date this Finding of No Significant Effect is published in the Federal Register.

Questions regarding this document should be sent to the Gifford Pinchot National Forest, 500 West 12th Street, Vancouver, WA 98660, or Weyerhaeuser Co., Western Forestry Research Center, 505 N. Pearl Street, Centralia, WA 98531.

Dated: May 9, 1979.

Duane G. Tucker,

Acting Forest Supervisor.

[FR Doc. 79-15387 Filed 5-16-79; 8:45 am]

BILLING CODE 3410-11-M

Soil Conservation Service

Wheeling Creek Watershed, Pa.; Intent To Prepare an Environmental Impact Statement

Pursuant to Section 102(2)(C) of the National Environmental Policy Act of 1969; the Council on Environmental Quality Guidelines (40 CFR Part 1500); and the Soil Conservation Service Guidelines (7 CFR Part 650); the Soil Conservation Service, U.S. Department of Agriculture, gives notice that an environmental impact statement is being prepared for the Wheeling Creek Watershed.

The environmental assessment of this federally-assisted action indicates that the action may cause significant local, regional, or national impacts on the environment. As a result of these findings, Mr. Graham T. Munkittrick, State Conservationist, has determined that the preparation and review of an environmental impact statement is needed for this action.

The action concerns a plan for flood prevention, watershed protection, municipal and industrial water, and recreation. The planned works of improvement include these features already installed: five flood prevention dams and the accelerated land treatment program. Features yet to be installed include one flood prevention dam with municipal and industrial water storage and one flood prevention and recreation dam.

A draft environmental impact statement will be prepared for the remaining project features and circulated for review by agencies and the public. The SCS invites participation of agencies and individuals with expertise or interest in the preparation of the draft environmental impact statement. The draft environmental impact statement will be developed by Mr. Graham T. Munkittrick, State Conservationist, Soil Conservation Service, Federal Building and U.S. Courthouse, 228 Walnut Street, Harrisburg, Pennsylvania 17108, telephone number (717) 782-2202.

Dated: May 9, 1979.

(Catalog of Federal Domestic Assistance Program No. 10.904, Watershed Protection and Flood Prevention Program—Pub. L. 83-566, (16 U.S.C. 1001-1008))

Joseph W. Haas,

Assistant Administrator for Water Resources.

[FR Doc. 79-15388 5-16-79; 8:45 am]

BILLING CODE 3410-16-M

CIVIL AERONAUTICS BOARD

[Docket 33465]

Continential-Western Merger Case; Oral Argument

Notice is hereby given, pursuant to the provisions of the Federal Aviation Act of 1958, as amended, that oral argument in this proceeding is assigned to be held before the Board on June 25, 1979, at 10:00 a.m. (local time), in Room 1027, Universal Building, 1825 Connecticut Avenue, N.W., Washington, D.C.

Each party which wishes to participate in the oral argument shall so advise The Secretary, in writing, *on or before June 6, 1979,* together with the name of the person who will represent it at the argument.

Dated at Washington, D.C., May 11, 1979.

Craig Landsay,

Acting Secretary.

[FR Doc. 79-15254 Filed 5-16-79; 8:45 am]

BILLING CODE 6320-01-M

[Dockets 33112, 33283]

TXI-National Acquisition Case and Pan Am-National Acquisition Case; Oral Argument

Notice is hereby given, pursuant to the provisions of the Federal Aviation Act of 1958, as amended, that oral argument in this proceeding is assigned to be held before the Board on June 22, 1979, at 9:30 a.m. (local time), in Room 1027, Universal Building, 1825 Connecticut Avenue, NW., Washington, D.C.

Each party which wishes to participate in the oral argument shall so advise The Secretary, in writing, *on or before June 1, 1979,* together with the name of the person who will represent it at the argument.

Dated at Washington, D.C., May 11, 1979.

Craig Lindsay,

Acting Secretary.

[FR Doc. 79-15378 Filed 5-16-79; 8:45 am]

BILLING CODE 6320-01-M

DEPARTMENT OF COMMERCE

Industry and Trade Administration

Numerically Controlled Machine Tool Technical Advisory Committee; Partially Closed Meeting

Pursuant to Section 10(a)(2) of the Federal Advisory Committee Act, as amended, 5 U.S.C. App. (1976), notice is hereby given that a meeting of the Numerically Controlled Machine Tool Technical Advisory Committee will be held on Tuesday, June 5, 1979, at 10:00 a.m. in Room 3708, Main Commerce Building, 14th Street and Constitution Avenue, N.W., Washington, D.C.

The Numerically Controlled Machine Tool Technical Advisory Committee was initially established on January 3, 1973. On December 20, 1974, January 13, 1977, and August 28, 1978, the Assistant Secretary for Administration approved the recharter and extension of the Committee, pursuant to Section 5(c)(1) of the Export Administration Act of 1969, as amended, 50 U.S.C. App. Sec. 2404(c)(1) and the Federal Advisory Committee Act.

The Committee advises the Office of Export Administration with respect to questions involving (A) technical matters, (B) worldwide availability and actual utilization of production technology, (C) licensing procedures which may affect the level of export controls applicable to numerically controlled machine tools, including technical data or other information related thereto, and (D) exports of the aforementioned commodities and technical data subject to multilateral controls in which the United States participates including proposed revisions of any such multilateral controls.

The Committee meeting agenda has six parts:

General Session

(1) Opening remarks by the Chairman.

(2) Presentation of papers or comments by the public.

(3) Nomination and election of a new Chairman.

(4) Discussion of accuracy parameters for numerically controlled machine tools.

(5) New business.

Executive Session

(6) Discussion of matters properly classified under Executive Orders 11652 and 12065, dealing with the U.S. and COCOM control program and strategic criteria related thereto.

The General Session of the meeting is open to the public and a limited number of seats will be available. To the extent time permits, members of the public may present oral statements to the Committee. Written statements may be submitted at any time before or after the meeting.

With respect to agenda item (6), the Acting Assistant Secretary of Commerce for Administration, with the concurrence of the delegate of the General Counsel, formally determined on September 8, 1978, pursuant to Section 10(d) of the Federal Advisory Committee Act, as amended by Section 5(c) of the Government In The Sunshine Act, Pub. L. 94-409, that the matters to be discussed in the Executive Session should be exempt from the provisions of the Federal Advisory Committee Act, relating to open meetings and public participation therein, because the Executive Session will be concerned with matters listed in 5 U.S.C. 552b(c)(1). Such matters are specifically authorized under criteria established by an Executive Order to be kept secret in the interests of the national defense or foreign policy. All materials to be reviewed and discussed by the Committee during the Executive Session of the meeting have been properly classified under the Executive Order 11652 or 12065. All Committee members have appropriate security clearances.

The complete Notice of Determination to close meetings or portions thereof of the series of meetings of the Numerically Controlled Machine Tool Technical Advisory Committee and of any subcommittees thereof, was published in the Federal Register on October 25, 1978 (43 FR 49828).

Copies of the minutes of the General Session will be available by calling Mrs. Margaret Cornejo, Policy Planning Division, Office of Export Administration, U.S. Department of Commerce, Washington, D.C. 20230, Telephone A/C 202-377-2583.

For further information, contact Mrs. Cornejo either in writing or by telephone at the address or number shown above.

Dated: May 14, 1979.

Lawrence J. Brady,

Acting Director, Office of Export Administration, Bureau of Trade Regulation, U.S. Department of Commerce.

[FR Doc. 79-15446 Filed 5-16-79; 8:45 am]

BILLING CODE 3510-25-M

Management-Labor Textile Advisory Committee; Public Meeting

Pursuant to Section 10(a)(2) of the Federal Advisory Committee Act, 5 U.S.C. App. (1976), notice is hereby given that a meeting of the Management-Labor Textile Advisory Committee will be held on June 5, 1979, at 1:30 p.m. in Room 6802, Department of Commerce, 14th & Constitution Avenue, N.W., Washington, D.C. 20230.

The Committee was established by the Secretary of Commerce on October 18, 1961 to advise U.S. Government officials on problems and conditions in the textile and apparel industry and furnish information on world trade in textiles and apparel.

The agenda for the meeting will be as follows:

1. Review of import trends;
2. Implementation of textile agreements;
3. Report on conditions in the domestic market; and
4. Other business.

A limited number of seats will be available to the public on a first-come basis. The public may file written statements with the Committee before or after each meeting. Oral statements may be presented at the end of the meeting to the extent time is available.

Copies of the minutes of the meeting will be made available on written request addressed to the ITA Freedom of Information Officer, Freedom of Information Control Desk, Room 3012, U.S. Department of Commerce, Washington, D.C. 20230.

Further information concerning the Committee may be obtained from Arthur Garel, Director, Office of Textiles, U.S. Department of Commerce, Washington, D.C. 20230, telephone 202/377-5078.

Dated: May 14, 1979.

Arthur Garel,

Director, Office of Textiles.

[FR Doc. 79-15471 Filed 5-16-79; 8:45 am]

BILLING CODE 3510-25-M

National Bureau of Standards

National Bureau of Standards' Visiting Committee; Meeting

Pursuant to the Federal Advisory Committee Act, 5 U.S.C. App., notice is hereby given that the National Bureau of Standards' Visiting Committee will meet on Tuesday, June 12, 1979, from 8:30 a.m. to 4:00 p.m. in Lecture Room A, Administration Building, National Bureau of Standards, Gaithersburg, Md., and Wednesday, June 13, 1979, from 9:00 a.m. to 2:30 p.m. in Room 5851, Department of Commerce, Washington, D.C.

The NBS Visiting Committee is composed of five members prominent in the fields of science and technology and appointed by the secretary of Commerce.

The purpose of the meeting is to review the efficiency of the Bureau's scientific work and the condition of its equipment in order to assist the Committee in reporting to the Secretary of Commerce as required by law.

The public is invited to attend, and the Chairman will entertain comments or questions at an appropriate time during the meeting. Any person wishing to attend the meeting should inform Ms. Kay Byerly, Office of the Director, National Bureau of Standards, Washington, D.C. 20234, telephone (301) 921-3413.

Dated: May 10, 1979.

Thomas A. Dillon,

Acting Director.

[FR Doc. 79-15516 Filed 5-16-79; 8:45 am]

BILLING CODE 3510-13-M

National Oceanic and Atmospheric Administration

Mid-Atlantic Fishery Management Council; Council-Chairmen, Public Meeting

AGENCY: National Marine Fisheries Service, NOAA.

SUMMARY: The Assistant Administrator for Fisheries will meet with the Chairmen and Executive Directors of the eight Regional Fishery Management Councils created under the Fishery Conservation and Management Act of 1976 (Public Law 94-265) to discuss: (1) plan review and development process; (2) budget; (3) Council role in fishery development; (4) enforcement; (5) joint ventures; and (6) other business.

DATES: The meeting will convene on Tuesday, June 19, 1979, at 9 a.m. and will adjourn on Wednesday, June 20, 1979, at approximately 3 p.m. The meeting is open to the public.

ADDRESS: The meeting will take place at the Sheraton Valley Forge Hotel, Route 363, King of Prussia, Pennsylvania 19406.

FOR FURTHER INFORMATION CONTACT: Executive Director, Mid-Atlantic Fishery Management Council, Room 2115, Federal Building, Dover, Delaware 19901, Telephone: (302) 674-2331.

Dated: May 11, 1979.

Winfred H. Meibohm,

Executive Director, National Marine Fisheries Service.

[FR Doc. 79-15315 Filed 5-16-79; 8:45 am]

BILLING CODE 3510-22-M

DEFENSE DEPARTMENT

Army Corps of Engineers

Intent To Prepare a Draft Environmental Impact Statement (DEIS) for the Operation and Maintenance of Walter F. George Lake and Walter F. George Lock and Dam, Alabama and Georgia

AGENCY: U.S. Army Corps of Engineers, DoD.

ACTION: Notice of Intent To Prepare a Draft Environmental Impact Statement (DEIS).

SUMMARY: 1. *Description of Proposed Action:* The proposed action consists of the continuing operation and maintenance of the powerhouse, lock, dam, and reservoir, including associated buildings, water quality monitors, access roads, public use areas, and boat channels.

2. *Alternatives to the Proposed Action:* Alternatives to the proposed action are as follows: discontinue operation and maintenance with the existing structures and facilities remaining in place; discontinue operation of the powerhouse resulting in a more stable recreational pool; and eliminate the dam thereby returning the stream to a free-flowing state.

3. *Description of the Scoping Process:* The public and affected Federal, State, and local agencies, and other interested private organizations and parties are invited to respond to the DEIS when it is circulated for comment. Potential adverse impacts to be discussed in the DEIS are that the proposed action causes a small, temporary increase in turbidity resulting from periodic maintenance dredging operations in the reservoir; provides ideal habitat for the continued growth of aquatic plants and mosquitoes; creates minor problems resulting from the use of chemical pesticides to control nuisance aquatic plants and mosquito populations; causes the loss of fish food organisms due to fluctuating pool levels; interferes with the spawning migrations of anadromous and catadromous fish species; aggravates the pollution control problems of the Chattahoochee River Basin due to increased barge traffic and associated industrial activities; creates temporary turbid conditions during dredging operations; enhances the chances of death by accidental drowning and other water-related accidents; causes erosion problems in the resevoir and below the dam; and causes underseepage problems below the dam. Beneficial impacts to be discussed in the DEIS are that the proposed action provides electric power, aids navigation, provides recreational opportunities, regulates stream flow, and enhances fish and wildlife habitat.

4. *Scoping Meeting:* A scoping meeting is not planned, since the DEIS is almost ready for circulation to the public.

5. *DEIS Preparation:* It is estimated that the DEIS will be made available to the public in late May or June 1979.

ADDRESSES: Questions about the proposed action and DEIS can be answered by: Mr. James B. Hildreth, PD-EE, U.S. Army Engineer District, Mobile, P.O. Box 2288, Mobile, AL 36628.

Dated: May 8, 1979.

Charlie L. Blalock,

Colonel, CE, District Engineer.

[FR Doc. 79-15390 Filed 5-16-79; 8:45 am]

BILLING CODE 3710-CR-M

Visitor Assistance Program

AGENCY: Corps of Engineers, Department of Defense.

ACTION: Notice of new regulation on visitor Assistance.

SUMMARY: ER 1130-2-420, Visitor Assistance Program, is being adopted to replace ER 190-2-3 and ER 190-2-4. A more comprehensive management plan is required to achieve maximum assistance to visitors and reasonable protection of employees at Corps lakes. The new regulation will create a more standardized approach to visitor assistance. A copy of ER 1130-2-420 is available by writing: Corps of Engineers Publications Depot, 890 S. Pickett Street, Alexandria, VA 22304.

The effective date of ER 1130-2-420 is *10 May 1979.* For further information contact: HQDA (DAEN-CWO-R) (202) 693-7177, or write to the following address: HQDA-DAEN-CWO-R, 1000 Independence Ave., S.W., Forrestal Bldg., Washington, D.C. 20314.

For the Chief of Engineers.

Thorwald R. Peterson,

Colonel, Corps of Engineers, Executive Director, Engineer Staff.

[FR Doc. 79-15393 Filed 5-16-79; 8:45 am]

BILLING CODE 3710-92-M

Military Traffic Management Command

Military Personal Property Claims Symposium; Open Meeting

Announcement is made of a meeting of the Military Personal Property Claims Symposium. This meeting will be held on 14 June 1979, at Headquarters, Military Traffic Management Command, Nassif Building, Room 714, 5611 Columbia Pike, Falls Church, Virginia 22041. The meeting will convene at 0900 hours and adjourn at approximately 1500 hours.

Proposed agenda: The purpose of the Symposium is to provide an open discussion and free exchange of ideas with the public on mutual problems arising from claims for loss, damage or destruction of personal property while in transit or storage.

This Symposium will be open to the public to the extent that space limitations of the meeting space permit. Because of these limitations, interested parties are requested to reserve space by contacting the Commander, Military Traffic Management Command, ATTN: MT-PPM, Washington, DC 20315, telephone (202) 756-1808.

All interested persons desiring to submit topics to be discussed should submit them in writing to the address given in the preceding paragraph. Topics to be discussed should be received on or before 7 June 1979.

Dated: May 14, 1979.

John J. Durant,

Colonel, GS, Director of Personal Property.

[FR Doc. 79-15391 Filed 5-16-79; 8:45 am]

BILLING CODE 3710-08-M

Department of the Air Force

Advisory Committee on the Air Force Historical Program Meeting

May 10, 1979.

The Advisory Committee on the Air Force Historical Program will hold a meeting on June 14-15, 1979 from 9:30 a.m. to 4:00 p.m. at Bolling Air Force Base (AFB), D.C., Building 5681, 3rd Floor Conference Room.

The purpose of the meeting is to examine the mission, scope, progress, and productivity of the Air Force Historical Program and make recommendations thereon for the consideration of the Secretary of the Air Force.

The meeting will be open to the public. Topics to be discussed include: organization and personnel, current status of historical projects, and status of the field history program.

For further information, contact Lieutenant Colonel John A. Phillips, Executive, Office of Air Force History, Bolling AFB, D.C., telephone (202) 767-5764.

Carol M. Rose,

Air Force Federal Register Liaison Officer.

[FR Doc. 79-15389 Filed 5-16-79; 8:45 am]

BILLING CODE 3910-01-M

Office of the Secretary of Defense

Defense Science Board Task Force on Naval Surface Ship Vulnerability; Notice of Advisory Committee Meeting

The Defense Science Board Task Force on Naval Surface Ship Vulnerability will meet in closed session on 5 June 1979 in Washington, D.C.

The mission of the Defense Science Board is to advise the Secretary of Defense and the Under Secretary of Defense for Research and Engineering on scientific and technical matters as they affect the perceived needs to the Department of Defense.

A meeting of the Defense Science Board Task Force on Naval Surface Ship Vulnerability has been scheduled for 5 June 1979 to review, evaluate, and summarize the vulnerability of naval surface ships with consideration of their effectiveness in carrying out future naval missions.

In accordance with 5 U.S.C. App. I 10(d)(1976), it has been determined that this Defense Science Board Task Force meeting concerns matters listed in 5 U.S.C. 552b(c)(1)(1976), and that accordingly this meeting will be closed to the public.

H. E. Lofdahl,

Director, Correspondence and Directives, Washington Headquarters Services, Department of Defense.

May 14, 1979.

[FR Doc. 79-15423 Filed 5-16-79; 8:45 am]

BILLING CODE 3810-70-M

DEPARTMENT OF ENERGY

Economic Regulatory Administration

Wilshire Oil Co. of Texas; Proposed Remedial Order

Pursuant to 10 CFR § 205.192(c), the Economic Regulatory Administration (ERA) of the Department of Energy hereby gives notice of a Proposed Remedial Order which was issued to Wilshire Oil Company of Texas, 200 North Harvey, Oklahoma City, OK 73102. This Proposed Remedial Order charges Wilshire with pricing violations in the amount of $119,685.39, connected with the sale of crude oil during the time period September 1, 1973 through December 31, 1976 in the State of Oklahoma.

A copy of the Proposed Remedial Order, with confidential information deleted, may be obtained from Wayne L. Tucker, Acting District Manager, Southwest District Enforcement, Department of Energy, Economic Regulatory Administration, P.O. Box 35228, Dallas, TX 75235, Phone (214) 749-7626. On or before June 1, 1979, any aggrieved person may file a Notice of Objection with the Office of Hearings and Appeals, 2000 M. Street, NW, Washington, DC 20461, in accordance with 10 CFR 205.193.

Issued in Dallas, Texas, on the 30th day of April 1979.

Romulo Garcia,

Acting District Manager of Enforcement, Southwest District.

Proposed Remedial Order

Introduction

On September 15, 1977, the Federal Energy Administration (FEA), the predecessor of the Economic Regulatory Administration (ERA) of the Department of Energy (DOE), issued a Notice of Probable Violation ("Notice") to Wilshire Oil Company of Texas (Wilshire) pursuant to 10 CFR § 205.191. In that Notice, FEA described certain apparent violations of its regulations by Wilshire relating to the sale of certain domestic crude oil during the period of September 1, 1973 through December 31, 1976. The FEA alleged that Wilshire's actions resulted in probable overcharges to the purchaser of the domestic crude oil.

Wilshire filed a written reply to the Notice with the FEA on October 11, 1977. Since Wilshire did not request a conference on the Notice, none was held.

Based upon the information available to the ERA and after consideration of Wilshire's written response, the ERA finds that violations of CLC Phase IV price controls and Mandatory Petroleum Price Regulations have occurred as described herein and have resulted in overcharges of $119,685.39 to Koch Oil Company.

Regulatory Background

The pricing rules applicable to the sale of domestic crude oil were originally promulgated on August 17, 1973 (38 FR 22536, August 22, 1973) by the Cost of Living Council (CLC) pursuant to the authority vested in it by the Economic Stabilization Act of 1970, as amended, 12 U.S.C. Section 1904, note ("the Stabilization Act").[1] On December 4, 1973, the President of the United States issued Executive Order No. 11748 (38 FR 33575, December 6, 1973) establishing the Federal Energy Office (FEO). In CLC Order No. 47 (December 26, 1973) and CLC Order No. 47, Amendment 1 (January 30, 1974), the Chairman of the Cost-of Living Council delegated the authority to the Administrator of the FEO to, among other things, ". . . make determinations and take action with respect to Phase II, Phase III, and Phase IV compliance and enforcement cases . . ." received after December 21, 1973. On December 27, 1973, the FEO adopted the CLC pricing rules for petroleum and petroleum products as part of what later became the Mandatory Petroleum Price Regulations. Subsequently, Congress enacted on May 7, 1974, the Federal Energy Administration Act of 1974, 15 U.S.C. Section 787 et seq., creating the Federal Energy Administration (FEA). This Act was implemented by the President on June 27, 1974, with the issuance of Executive Order No. 11790 (39 FR 23185, June 27, 1974) which transferred from FEO to FEA the CLC delegations and which delegated to FEA all the authority vested in the President by the Emergency Petroleum Allocation Act of 1973, 15 U.S.C. Section 751 et seq. ("the Allocation Act").

Pursuant to Section 301 of the Department of Energy Organization Act, 42 U.S.C. Section 7151, note, all functions vested by law in the FEA were transferred to, and vested in the DOE. Further, the authority previously granted to FEA by Executive Order No. 11790 was redelegated to DOE by Executive Order No. 12009 (42 FR 46267, September 15, 1977) effective October 1, 1977. In Delegation No. 0204-4 the Secretary of the Department of Energy delegated the responsibility for the administration of the pricing and allocation regulations to the Administrator of the ERA.

Thus, the FEO, the FEA, and the ERA have successfully been authorized to investigate, and deal with violations of the CLC price regulations for petroleum and petroleum products committed between August 19, 1973, and December 27, 1973, as well as violations of the Mandatory Petroleum Price Regulations occurring on or after December 27, 1973.

Applicable Regulations

Price Regulations Prior To February 1, 1976

The CLC initially established a two-tier price system for producers of

domestic crude oil and in 6 CFR 150.354(c)(1) (subsequently 10 CFR 212.73(a)) stated in part:

> . . . no producer may charge a price higher than the ceiling price for the first sale of domestic crude petroleum.

The ceiling price for the first sale of domestic crude petroleum was defined by 6 CFR 150.353 (subsequently 10 CFR 212.73(b)) which stated:

> The ceiling price for a particular grade of domestic crude petroleum in a particular field is the sum of (i) the highest posted price at 6:00 a.m., local time, May 15, 1973, for that grade of crude petroleum at that field, or if there are no posted prices in that field, the related price for that grade of domestic crude petroleum which is most similar in kind and quality at the nearest field for which prices are posted; and (ii) a maximum of 35 cents per barrel.[2]

On November 30, 1973, the CLC formally adopted a definition of "posted price" which remained substantially unchanged under the FEA.[3] See 10 CFR § 212.31. "Posted price" was defined as:

> A written statement of crude petroleum prices circulated publicly among sellers and buyers of crude petroleum in a particular field in accordance with historic practices, and generally known by sellers and buyers within the field. (38 FR 33577, December 6, 1973)

In order to promote additional domestic crude oil production, the CLC provided in its regulations economic incentives for producers to increase their production. Subparagraphs (c)(2) and (3) of 6 CFR 150.354 set forth the Special Release Rule and the Released crude formula.[4] The Special Release Rule provided that "a producer of new crude petroleum produced and sold from a property may in the month produced, beginning with the month of September 1973, or in any subsequent month, sell that new crude petroleum without respect to the ceiling price." In the same subparagraph a limitation was imposed upon this authorization and was set out as follows:

> However, if the amount of crude petroleum produced and sold in any month subsequent to the first month in which new crude petroleum was produced and sold, is less than the base production control level for that property for that month, any new crude petroleum produced from that property during any subsequent month may not be sold pursuant to this subparagraph until an amount of the new crude petroleum equal to the difference between the amount of crude petroleum actually produced from that property during the earlier month and the base production control level for that property for the earlier month has been sold at or below its ceiling price.

The Released Crude formula was an additional incentive for producers to increase their production over the incentives of the Special Release Rule and was based on the magnitude that the new crude oil production from a property exceeded the 1972 levels of production.[5] To qualify crude oil production for the monetary incentives provided by the Special Release Rule and the Released Crude formula, the CLC established certain prerequisites. The following CLC definitions which were adopted by FEO in 10 CFR 212.72 encompass these requirements and were set out in 6 CFR 150.354(b):

> "Property" was initially defined by the CLC as ". . . the right which arises from a lease or from a fee interest to produce domestic crude petroleum."
>
> "Base production control level" ("BPCL") for a particular month for a particular property is determined as follows:
>
> (1) if crude petroleum was produced and sold from that property in every month of 1972, the total number of barrels of domestic crude petroleum produced and sold from that property in the same month of 1972;
>
> (2) if domestic crude petroleum was not produced and sold from that property in every month of 1972, the total number of barrels of domestic crude petroleum produced and sold from that property in 1972 divided by 12.
>
> "New crude petroleum" means the total number of barrels of domestic crude petroleum produced and sold from a property in a specific month less the base production control level for that property.[6]

Thus, the production from a "property" must exceed the monthly "BPCL" for that "property", plus any cumulative deficiency resulting from a failure to attain the BPCL in previous months before the producer is entitled to charge a price for any of the property's crude oil production above the ceiling price prescribed in 6 CFR 150.353 (10 CFR 212.73).[7]

Price Regulation Effective February 1, 1976

On February 1, 1976 the FEA modified the crude oil pricing system by establishing a regulated ceiling price for the first sale of new crude oil and stripper well crude oil. In 10 CFR 212.74(b) FEA provided that the upper tier ceiling price will be determined as follows:

> The upper tier ceiling price for a particular grade of domestic crude oil in a particular field is (1) the highest posted price on September 30, 1975, for transactions in that grade of crude oil in that field in September 1975, or if there was no posted price in that field for that grade of domestic crude oil, the related price for that grade of domestic crude oil which is most similar in kind and quality in the nearest field for which prices were posted; less (2) $1.32 per barrel.[8]

FEA adopted the ceiling price for domestic crude oil set out in 10 CFR § 212.73 as the lower tier ceiling price specified in 10 CFR § 212.73(b) (41 FR 4931, February 3, 1976).

Under the changed regulations, commencing February 1, 1976, the determination of new crude oil produced from a property for pricing purposes excluded any cumulative deficiency generated by the property's crude oil production prior to February 1, 1976. FEA also changed the regulatory provision defining the BPCL of a property to allow the producer after February 1, 1976 to elect to determine the BPCL based upon either the property's 1972 sales or its 1975 old oil sales.

Stripper Well Lease Exemption Regulations

From November 16, 1973 until February 1, 1976, crude oil from a stripper well property could be sold at exempt or market prices. In 6 CFR § 105.54(s)(1) the CLC provided that:

> Effective November 16, 1973, the price charged for the first sale of domestic crude petroleum and petroleum condensates, including natural gas liquids produced from any stripper well lease is exempt.

The FEO and subsequently the FEA adopted the CLC's provisions on stripper well crude oil. See 10 CFR § 210.32 and 10 CFR §212.54. In 6 CFR § 150.54(s)(2) the CLC promulgated the definitions applicable to the stripper well lease exemption.[9] Initially a "stripper well lease" was defined as "a property whose average daily production of crude petroleum and petroleum condensates, including natural gas liquids, per well did not exceed 10 barrels per day during the preceding calendar month." Effective November 27, 1973 the measurement period of "the preceding calendar month" was changed to "the preceding calendar year."[10]

The FEA promulgated several changes to the stripper well lease exemption. Effective January 1, 1975 FEA no longer permitted producers' treatment of condensate from gas wells as stripper well crude oil. In another change, on June 3, 1975, the FEA authorized producers to permanently certify a property as a stripper well lease once it qualified, based on any yearly measurement period after December 31, 1972, instead of the prior requirement that the producer certify each year that a property qualified as a stripper well lease based upon the property's production of the previous year (40 FR 22123, May 21, 1975). Then, beginning September 1, 1976 the measurement period to qualify as a stripper well lease was modified to reflect any preceding consecutive twelve month period beginning after December 31, 1972 (41 FR 48319, November 3, 1976).

From February 1, 1976 until September 1, 1976 stripper well crude oil prices were regulated by FEA and were limited to the upper tier ceiling price specified in 10 CFR 212.74(b). However, effective September 1, 1976 stripper well crude oil was again exempted from the FEA price controls and FEA adopted a new definition of property which allowed qualified reservoirs to be treated as separate properties after September 1, 1976.[11]

Company's Response

In its written Response to the FEA Notice, Wilshire contends the following:

1. The FEA conclusion that the Robberson 1–3 and 2–3 wells are producing from a single "property" is totally undocumented.

2. FEA Ruling 1977–1 provides for the treatment of the Robberson lease as two separate "properties." Robberson 1–3 and 2–3 wells have consistently and historically been treated as separate "properties" both physically and for accounting purposes. The lessor insisted that Wilshire treat the tract as two separate producing properties when Robberson 2–3 well commenced producing. Koch established a lease number for each well.

3. Wilshire should not be held liable for any overcharges incurred by the lessor. The lease agreement required Wilshire to deliver the royalty interest "in kind", i.e., crude oil, to the pipeline or purchaser for the account of the lessor. Wilshire did not make a "first sale" of the one-fifth royalty interest produced by Robberson 1–3 and 2–3 wells since that crude oil production was sold by the lessor to the purchaser.

ERA'S Consideration of the Company's Arguments

ERA's determination that the 160-acre tract covered by the oil and gas lease executed by R. W. Robberson and May Robberson on January 24, 1972 was a "property" for purposes of the CLC and FEA price regulations was derived by applying the clear language of the "property" definition to the facts in this case, i.e., and executed oil and gas lease covering the 160–acres of the Southeast Quarter of Section 3, Township 10N, Range 5W, Canadian County, Oklahoma. The firm's allegation that ERA's determination is totally undocumented has been considered and in light of the existence of an oil and gas lease, it has been determined that the firm has failed to demonstrate any merit in its allegation.

ERA has considered the firm's allegation that the Robberson "property" qualifies for treatment as two "properties" for regulatory purposes pursuant to FEA Ruling 1977–1. In applying Ruling 1977–1, DOE stated in *Carter Exploration Company*, 1 DOE Para. 80,248 (April 25, 1978) that:

> It should be noted that Ruling 1977–1 provides that single premises subject to distinct royalty ownership may appropriately be treated as multiple properties under the regulations. However, that modification to the general regulatory requirement that property determinations be based only on established rights to produce was intentionally limited to those situations in which separate accounting to royalty owners is mandated by the terms of the governing oil and gas lease. Accordingly, the FEA stated in Ruling 1977–2 that the departure from the general requirements regarding property determinations set forth in Ruling 1977–1: referred only royalty owners (and not to overriding royalty owners, working interest owners, or other interest owners) and therefore takes into account only the situation in which an operator is required, under a single oil and gas lease, to account separately to different royalty owners (whose interests are limited to specific identified portions of the premises, as delineated in the oil and gas lease) for production from corresponding identified portions of the premises granted in a single oil and gas lease. Ruling 1977–2, supra at 16,190.

ERA has reviewed the oil and gas lease establishing Wilshire's right to produce and found that the lease does not (1) require the lessee to account for the production from different oil wells separately, (2) specify the identified portions of the premises which Wilshire asserts as separate properties, or (3) require royalty payments to different royalty owners of specific identified portions of the premises.

Further, the firm has failed to demonstrate that the state requires Wilshire to account for the crude oil production separately for severance tax purposes.

Thus, even though Wilshire may have treated the tract as two separate properties since 1972, the base period for regulatory purposes, that treatment is not in and by itself sufficient to warrant separate property treatment for CLC and FEA regulatory purposes. ERA has determined, based on the information available to it and on the firm's arguments, that the Robberson property does not qualify for multiple properties under a single lease exception enunciated in Ruling 1977–1.

Wilshire's last contention asserts that Wilshire is not the "producer" of one-fifth of the crude oil production since the lease specifies that the lessor will take "in kind" royalty interest delivered to the credit of the lessor, free of cost, in the pipeline to which the lessee may connect its wells. Thus, Wilshire contends that it does not make a "first sale" of one-fifth of the crude oil production from the Robberson property and that ERA should not hold it liable for those sales.

The DOE position on this issue has been previously considered and stated. See *General Crude Company*, 4 FEA Para. 80,552 (October 22, 1976). Where the operator of a property acts as an agent for the other interests in the production, DOE may issue the Order to that operator.

Since the refund is to be accomplished by the sale of future production at a reduced price, Wilshire can act as the agent of the lessor in accomplishing the refunds of overcharges. ERA has therefore determined that Wilshire's arguments do not affect the appropriateness of the Order as drafted to effectuate the refunds.

ERA has fully considered Wilshire's arguments and has determined that the firm has failed to demonstrate any merit which would affect ERA's conclusions.

Findings of Fact

1. Pursuant to 10 CFR 205.201(a) FEA was authorized to "initiate investigations relating to compliance by any person with any rule, regulations, or order promulgated by the FEA."

2. FEA's examination of Wilshire's books and records indicated that during the audit period of September 1, 1973 through December 31, 1976 Wilshire operated the Robberson lease located in Canadian County, Oklahoma.

3. In applying the provisions of the CLC and FEA regulatory price controls on the first sale of domestic crude oil, a concept of "property" was adopted which reflected a right to produce oil and gas from a tract or premises.

4. On January 24, 1972, R. W. and May Robberson executed an oil and gas lease in favor of Wilshire, lessee. The lease included a 160-acre tract described as the Southeast Quarter of Section 3 of Township 10 North, Range 5 West.

5. An executed Division order covering the 160-acre tract was returned to Koch Oil Company (Koch), the crude oil purchaser, on September 1, 1972.

6. After the "property" has been identified it is then necessary to determine the "property's" Base Production Control Level ("BPCL") based upon the 1972 production.

7. As provided in the regulatory definition of "BPCL" prior to February 1, 1976, the BPCL is based upon the crude oil produced and sold each month of 1972 unless there were not sales during each month of 1972. Then, the BPCL is one-twelfth of the total crude oil produced and sold in 1972 from the property.

8. On August 24, 1972 the Robberson 1–3 well was completed into the Hunton-Bois D'Arc formation.

9. The well produced and Wilshire sold 31,930.66 barrels of crude oil during 1972 to Koch. See Attachment I.

10. On November 29, 1972 drilling was commenced on the Robberson 2–3 well. This well started producing on January 16, 1973 from the Hunton formation. While this well was drilled on the above described 160-acre tract, it was located in a different 80-acre spacing unit from the Robberson 1–3 well as provided for by the Oklahoma Corporation Commission (OCC) in its Cause CD No. 33434, Order No. 84129 dated March 12, 1971 and covering the Bois D'Arc formation.

11. Even though covered by a single oil and gas lease, Wilshire treated each 80-acre spacing unit as a separate "property" for CLC and FEA price regulations.

12. Pursuant to first 6 CFR § 150.354(c) and then 10 CFR § 212.74 crude oil production which exceeded the property's BPCL (and any cumulative deficiency) could be sold at unregulated or market prices. Additionally, for every barrel that qualified as "new" crude oil, with certain restrictions a barrel of "old" crude oil and could be sold at market prices.

13. Since the 80-acre spacing unit on which the Robberson 2–3 well was located did not have any producing crude oil wells during 1972, Wilshire treated all of the production from the 80-acre spacing unit as "new" crude oil during the audit period.

14. Wilshire sold Koch a total of 88,051.92 barrels of the crude oil production from the two wells during the audit period.

15. Wilshire received "new" crude oil prices for 49,543.93 barrels pursuant to 6 CFR § 150.354(c) and 10 CFR § 212.74.

Conclusions of Law

Based upon the considerations cited above, ERA concludes that:

1. Wilshire is a producer of domestic crude oil as that term is defined in 6 CFR § 150.352 (10 CFR § 212.31) and that, pursuant to 6 CFR § 150.354(a) (10 CFR § 212.71), its sales of domestic crude oil from the Robberson property during the audit period of September 1, 1973 through December 31, 1976 were subject to the regulatory pricing provisions set out in 6 CFR § 150.353–.354 and Subpart D of 10 CFR, Part 212.

2. In determining the "property" for CLC and FEA price regualtions, Wilshire was required to look to the oil and gas lease executed by R. W. and May Robberson on January 24, 1972 to determine the premises or boundaries of the "property" for regulatory purposes.

3. The January 24, 1972 oil and gas lease gave Wilshire the right to produce oil and gas from a 160-acre tract described as the Southeast Quarter of Section 3, Township 10 North, Range 5 West, Canadian County, Oklahoma.

4. The oil and gas lease did not provide for or specify that the property was to be segregated and reported separately to different royalty interests.

5. Wilshire has failed to demonstrate that during the audit period the lease qualified as two separate properties under any of the exceptions enuniciated in Rulings 1975–15, 1977–1 and 1977–2 nor has ERA found that the property qualified for such an exception.

6. The 160-acre tract described in the January 24, 1972 oil and gas lease is the "property" for purposes of the CLC and FEA price regulations during the audit period.

7. For purposes of the CLC and FEA price regualtions, Wilshire incorrectly treated the Robberson lease as two separate 80-acre properties.

8. The BPCL for the property is determined by dividing the 1972 crude oil sales of the Robberson 1–3 well, 31,930.66 barrels, by twelve.

9. ERA determined that the BPCL for the Robberson property was 2660.88 barrels per month from September 1, 1973 until February 1, 1976. See Attachment I.

10. Wilshire failed to consider the property's PBCL in its determination of "new" and "released" crude oil produced from the Robberson 2–3 well.

11. The posted price for the Robberson property's crude oil on May 15, 1973 was $3.85 per barrel.

12. Based upon the 1976 crude oil production of the Robberson property, the property qualified as a stripper well lease effective January 1, 1977.

13. Wilshire violated the provisions of 6 CFR § 150.354(c)(1) and then 10 CFR § 212.73(a) in its sales of crude oil produced from the Robberson 2–3 well at "new" crude oil prices.

14. As a result of Wilshire's failure to treat the crude oil production from the Robberson wells as coming from a single "property", Wilshire received from Koch $119,685.39 in excess of the amount that it was allowed to received under the CLC and FEA price regulations during the audit period of September 1, 1973 through December 31, 1976. See Attachment II for a summary of the computation of overcharges.

Disposition of Refunded Overcharges

This Proposed Remedial Order requires that the specified overcharges be refunded as the DOE shall direct. Proper distribution of such refunded overcharges requires that only those "persons" (as defined at 10 CFR § 205.2) who actually suffered a loss as a result of the violations described herein receive appropriate refunds. The DOE recognizes that the complex marketing system of the petroleum industry makes it likely that overcharges initially incurred by persons may have been passed through as higher prices to subsequent purchasers or otherwise utimately offset through such devices as the Old Oil Allocation (Entitlements) Program 10 CFR § 211.67. In fact, the adverse effects of the overcharges may have become so diffused that it is a practical impossibility to identify specific adversely affected persons, in which case disposition of the refunds should be made in the general public interest by an appropriate means such as payment to the Treasury of the United States.

In this case, the ERA is presently unable to readily identify the extent, if any, to which particular persons have been adversely affected by the specified overcharges and thereby entitled to refunds. Accordingly, ERA proposes that the DOE reserve the right to determine the appropriate action to be taken with respect to the distribution of refunded overcharges.

Therefore, with regard to the final Remedial Order, the ERA proposes that one or more of the following actions be taken, as appropriate:

1. ERA may file with the Office of Hearings and Appeals a Petition for the Implementation of Special Refunds Procedures pursuant to 10 CFR Part 205, Subpart V, following which refunded overcharges will be disbursed only upon written order of the Office of Hearings and Appeals;

2. ERA may issue a directive oedering the distribution of overcharge refunds in specific amounts to specifically named "persons";

3. ERA may issue one or more Ancillary Orders pursuant to 10 CFR § 205.199I(b) requiring that a direct or indirect recipient of a refund pass through all or portion of the refund, on a pro rata basis, to those customers of the recipient who were adversely affected by the initial overcharges;

4. The Department of Energy, including the ERA, may direct refund of any amount of the identified overcharges directly to the Treasury of the United States pursuant to 10 CFR § 205.199l(a) if the DOE determines that in this case the persons adversely affected by the violation cannot reasonbe be identified or paid or the amount of each person's loss is incapable of reasonable determination; or

5. The Department of Energy, including the ERA, may take such other actions as are found to be appropriate in order to ensure that amounts of overcharges refunded by Wilshire are distributed in a just and equitable manner.

Proposed Order

It is contemplated by this PRO that:

1. Wilshire shall refund overcharges in accordance with paragraph 3 hereof in the total amount of $119,685.39 together with interest accurued on unrefunded overcharges in accordance with the terms set forth in paragraph 2 hereof.

2. Wilshire shall compute interest on the amount of the overcharges from the time of each overcharge until such time as the overcharges are refunded at the direction of the DOE pursuant to paragraph 3 hereof. Interest shall be computed at the annual rates as published by the DOE and subject to periodic adjustments. The annual rates in effect through the present are as follows: six (6) percent through June 30, 1975; nine (9) percent from July 1, 1975 through January 31, 1976; seven (7) percent from February 1. 1976 through January 31, 1978; and six (6) percent beginning February 1, 1978. ERA will notify Wilshire by letter of any subsequent changes in the official interest rate.

3. Upon receipt of a written directive from the DOE, including the ERA, Wilshire shall make payment, or secure payment as directed pursuant to 10 CFR § 205.287(a), of the overcharge refunds and accumulated interest in the manner described in such directive. Payments shall be made, or security given, pursuant to such directive over the period of time and in accordance with the payment schedule set forth in paragraph 4 hereof.

4. Within ten (10) days of the effective date of this Order, Wilshire shall establish a special interest-bearing escrow account maintained at its own expense at a bank which has been chartered by a state agency or instrumentality or by the Comptroller of the Currency of the United States Treasury Department, and which in either case is a member of the Federal Reserve System:

(a) Within five (5) days of the creation of the escrow account Wilshire shall notify the purchaser of crude oil from the Robberson property in writing of the name and address of the bank and the identification number of the escrow account.

(b) Wilshire shall direct the purchaser of the crude oil to deposit into the above-cited escrow account all revenues in excess of one dollar per barrel from the Robberson property. These payments shall continue until the account contains the full amount of overcharges plus interest attributable to the overcharges.

(c) Within three (3) days of the date on which the escrow account is fully funded, Wilshire shall notify the purchaser of the Robberson property's crude oil production in writing that the requisite amount has been deposited in the escrow account.

(d) No disbursements or withdrawals of the funds in the account shall be permitted by the escrow agent without the express written directive of the ERA.

(e) Immediately upon receipt of a written directive from the ERA, the escrow agent shall disburse the funds in the escrow account in the manner and amount as directed by ERA. The escrow agent shall regard the directive issued by ERA as definitive and shall not in any way subject his adherence to ERA's directive to Wilshire's consent.

(f) Wilshire shall forward copies of the monthly statements for the escrow account to ERA at the address specified in paragraph 5.

(g) Within fifteen (15) days of the date on which the escrow account is established, Wilshire shall send a signed copy of the escrow agreement to ERA at the address specified in paragraph 5.

(h) Pursuant to paragraph 3 above, ERA may modify this escrow account procedure or direct another refunding procedure as it deems appropriate by written directive from ERA to Wilshire.

(i) It is contemplated by this Order that Wilshire will complete the restitution specified herein within twelve (12) months of the effective date of this Order unless directed otherwise in writing by DOE.

5. Wilshire shall maintain separate records showing compliance with this Order. Such records shall contain, at a minimum, the purchaser's name, transactions involved, interest computations, amounts refunded, descriptions and dates of such remedial actions. Wilshire shall submit copies of these records quarterly from the effective date of this Order until completion of the actions required by this Order to:

Jerry H. Adams, Audit Director, Oklahoma City Audit Group, Department of Energy, Economic Regulatory Administration, 200 N. W. 5th St., Suite 522, Oklahoma City, Oklahoma 73102.

6. This Proposed Remedial Order shall be effective immediately upon becoming a final order.

Review Procedures

The procedures for administrative review of this Proposed Remedial Order (PRO) are found in 10 CFR Part 205, Subpart O (§ 205.190 *et seq.*) (44 FR 7922, February 7, 1979). Some of these procedures are summarized below. You should, however, fully review the requirements of Subpart O if you wish to contest the issuance of the PRO as a final order.

Notice of Objection

If you wish to contest issuance of this PRO as a final order, you must file a Notice of Objection on or before June 1, 1979. The Notice of Objection must briefly describe how you would be aggrieved by the issuance of the PRO as a final order and must state your intention to file a Statement of Objections. If you fail to file a timely Notice of Objections you shall be deemed to have admitted the findings of fact and conclusions of law in the PRO and the PRO may be issued as a final order without further proceedings. A full statement of procedural requirements in connection with the Notice of Objection is provided in 10 CFR 205.193.

Statement of Objections

A Statement of Objections to a PRO must be filed within 40 days after service of the Notice of Objection. The Statement of Objections must set forth the basis for the objections to the issuance of the PRO as a final order and must otherwise meet the requirements of § 205.196.

Motions and Requests

Discovery may be conducted in conjunction with remedial order proceedings in certain cases. See § 205.198. A Motion for Discovery must show why discovery is necessary in order to obtain relevant and material evidence and why discovery would not unduly delay the proceedings. If you intend to file a Motion for Discovery, you must do so at the same time you file the Statement of Objections.

In addition, an evidentiary hearing may be convened in conjunction with remedial order proceedings, as appropriate, pursuant to § 205.199. A

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Motion for Evidentiary Hearing must show that there is a genuine dispute over relevant and material issues of fact that would be more effectively resolved by personal presentation with opportunity for cross examination than through submission of written material. If you intend to file a Motion for Evidentiary Hearing, you must do so at the same time you file the Statement of Objections.

You are entitled, as a matter of right, to a hearing to present oral argument regarding the PRO, whether or not an evidentiary hearing is requested or convened, provided you make a timely request for such a hearing. See § 205.199A.

All notices, statements, motions, requests and replies in this proceeding must be filed with:

Office of Hearings and Appeals, Department of Energy, 2000 M Street, N.W., Washington, D.C. 20461.

In addition, copies of each filing must be submitted to:

Assistant General Counsel for Administrative Litigation, Office of General Counsel, Department of Energy, Room 7130, 12th Street and Pennsylvania Avenue, N.W., Washington, D.C. 20461.

Department of Energy, Economic Regulatory Administration, Attn: District Manager, Southwest District, P.O. Box 35228, Dallas, Texas 75235.

Failure to comply with this Order after it becomes effective shall constitute a separate violation for each day that such non-compliance continues, and shall subject you to the penalties and sanctions provided in 10 CFR 205.203. In addition, penalties and sanctions as described in that section also may be levied for each day that the violations described in this Order has occurred. If ERA considers it appropriate or advisable to compromise any civil penalties, ERA will so advise you pursuant to 10 CFR 205.203(b)(2).

You are hereby advised that this Proposed Remedial Order is subject to disclosure by the ERA pursuant to the requirements of the Freedom of Information Act, as amended, 5 U.S.C. § 552 if a request for it is properly made by a member of the public.

Issued this 27th day of April 1979 at Oklahoma City, Oklahoma.

Jerry H. Adams,

Audit Director, Oklahoma City Audit Group, Department of Energy, Economic Regulatory Administration.

Footnotes

(1) The term "crude petroleum" and "crude oil" are used interchangeably herein.

(2) Effective December 19, 1973, the maximum was raised from $.35 per barrel to $1.35 per barrel (38 FR 34985, December 21, 1973). FEO and FEA adopted this CLC amendment.

(3) Prior to the CLC's formal adoption of a definition of "posted price," the traditional operation of the crude oil market included the use of posted field prices, a mechanism well known among buyers and sellers of crude oil throughout the world as: The announced price at which a crude oil purchaser will buy the oil (of specific quality) from a field. At one time the price was actually announced by a statement posted in the field. (More recently), the announcement is usually made in the newspapers. (Williams and Meyers, *Manual of Oil and Gas Terms* at p. 339)

It was in this context that CLC adopted the two-tier pricing system in August 1973. In the Notice of Proposed Rulemaking issued on July 19, 1973, the CLC indicated that the ceiling price for crude oil was to be "that particular field." (38 FR 19464, July 20, 1973). The posted price concept was selected because the ready availability of price bulletins provided a mechanism whereby producers and purchasers alike could be able to determine the ceiling price for any grade crude oil in any particular field. Although the August 19, 1973, Subpart L Petroleum Price Regulations did not contain a definition of posted price, the definition adopted on November 30, 1973, made it clear "that a posted price must be a publicly circulated written offer to purchase." (38 F.R. 33577, December 6, 1973). This requirement eliminated offers (even though written) to specific producers and thus a written contract would not qualify as a posted price since it represents an agreement between a buyer and a specific producer and is not a bona fide offer to purchase from all producers.

(4) Subparagraphs (c) (2) and (3) were adopted by FEO and republished as 10 CFR § 212.74 (a) and (b).

(5) On August 29, 1974 FEA modified the Released Crude provision to allow producers to sell one barrel of domestic crude oil at exempt crude oil prices for each barrel of new crude oil produced and sold from the property for that month up to the property's monthly BPCL for that month. FEA applied the modified provision in this audit.

(6) FEA modified the definition to clarify the concept of adjusting the current month's excess production over BPCL for any deficiencies in any prior month's attainment of the BPCL. Therefore, new crude petroleum is the property's monthly production less both the BPCL and the current cumulative deficiency. The current cumulative deficiency in BPCL crude petroleum is the total number of barrels by which production and sale of crude petroleum has been less than the BPCL, for all months in which production and sale of crude petroleum has been less than the BPCL subsequent to the first month in which new crude petroleum was produced and sold, minus the total number of barrels of domestic crude petroleum produced and sold in each prior month which was in excess of the BPCL for that month, but which was not classified as new crude petroleum because of this requirement to reduce the amount of new crude petroleum in each month by the amount of the current cumulative deficiency in BPCL crude petroleum. 39 FR 31622 (August 30, 1974).

(7) Recoupment of the deficiency is only required after the month when the property produces "new crude oil."

(8) In 41 FR 4931 (February 3, 1976) the FEA adopted the following definitions in imposing regulated ceiling prices for new and stripper well crude oil:

"Current cumulative deficiency" means: (1) prior to February 1, 1976, the total number of barrels by which production and sale of crude oil was less than the base production control level, for all months in which production and sale of crude oil was less than the production control level subsequent to the first month in which new crude oil was produced and sold, minus the total number of barrels of domestic crude oil produced and sold in each prior month which was in excess of the base production control level for that month, but which was not classified as new crude oil because of this requirement to reduce the amount of new crude oil in each month by the amount of the current cumulative deficiency;

(2) Effective February 1, 1976, the total number of barrels by which production and sale of crude oil has been less than the base production control level subsequent to the first month (after February 1, 1976) in which new crude oil was produced and sold, minus the total number of barrels of domestic crude oil produced and sold in each prior month after February 1, 1976, which was in excess of the base production control level for that month, but which was not classified as new crude oil because of this requirement to reduce the amount of new crude oil in each month by the amount of the current cumulative deficiency.

"First sale" means the first transfer for value by the producer or royalty owner. With respect to transfers between affiliated entities, the "first sale" shall be imputed to occur as if in arms-length transactions.

"New crude oil" means, with respect to a specific property: (1) prior to February 1, 1976, the total number of barrels of domestic crude oil produced and sold in a specific month, less (A) the base production control level for that month, and less (B) the current cumulative deficiency;

(2) effective February 1, 1976, the total number of barrels of domestic crude oil produced and sold in a specific month, less (A) the property's base production control level for that month and less (B) the current cumulative deficiency since February 1, 1976; and

(3) shall not in either period include any number of barrels not certified as new crude oil pursuant to the provisions of § 212.131(a)(2) within the consecutive two-month period immediately succeeding the month in which the crude oil is produced and sold, except where such recertification is explicitly required or permitted by FEA order, interpretation, or ruling.

"Old crude oil" means: (1) prior to February 1, 1976, the total number of barrels of crude oil produced and sold from a property in a specific month, less the total number of barrels of new crude oil for that property in that month, and less the total number of barrels of released crude oil for that property in that month;

(2) effective February 1, 1976, the total number of barrels of crude oil produced and sold from a property in a specific month, less the total number of barrels of new crude oil for that property in that month.

"Released crude oil" means an amount of crude oil produced from a property in a particular month prior to February 1, 1976, which is equal to the total number of barrels of new crude oil produced and sold from that property in that month. The amount of released crude oil for a property in a particular month shall not exceed the base production control level for that property in that month, and shall not include any number of barrels not certified as such pursuant to the provisions of § 212.131(a)(1) within the consecutive two-month period immediately succeeding the month in which the crude oil is produced and sold, except where such recertification is explicitly required or permitted by FEA order, interpretation, or ruling.

In 41 FR 15566 (April 13, 1976) the FEA adopted the following definition of Base Production Control Level:

"Base production control level" means: (1) with respect to months ending prior to February 1, 1976:

(A) if crude oil was produced and sold from the property concerned in ever month of 1972, the total number of barrels of domestic crude oil produced and sold from that property in the same month of 1972;

(B) if crude oil was produced and sold from the property concerned in ever month of 1972, the total number of barrels of crude oil produced and sold from that property in the same month of 1972, divided by 12;

(2) with respect to months commencing after January 31, 1976, except as provided in § 212.76, either:

(A) the total number of barrels of old crude oil produced and sold from that property concerned during calendar year 1975, divided by 365, multiplied by the number of days in the month in 1975 which corresponds to the month concerned; or

(B) if the producer elects to certify crude oil sales for 1972 in accordance with § 212.131(a)(1), the total number of barrels of crude oil produced and sold from the property concerned during the calendar year 1972, divided by 366, multiplied by the number of days in the month in 1972 which corresponds to the month concerned.

(9) The following definitions were promulgated in 38 FR 32494 (November 26, 1973):

"Domestic crude petroleum" means crude petroleum produced in any of the several States, or the District of Columbia or from the "outer continental shelf" as defined in 43 U.S.C. 1331.

"First sale" means the first transfer for value by the producer or royalty owner.

"Property" is the right which arises from a lease in existence in 1972 or from a fee interest to produce domestic crude petroleum in existence in 1972 and is coextensive with that property used in § 150.354(b) for purposes of determining "base production control level."

"Average daily production" means the qualified maximum total production of domestic crude petroleum and petroleum condensates, including natural gas liquids, produced from a property during the preceding calendar month,* divided by a number equal to the number of days in that month* times the number of wells which produced crude petroleum and petroleum condensates, including natural gas liquids, from that property in that month.* To qualify as maximum total production, each well on the property must have been maintained at the maximum feasible rate of production, in accordance with recognized conservation practices, and not significantly curtailed by reason of mechanical failure or other disruption in production.

(10) The Trans-Alaska Pipeline Authorization Act (Pub. L. 93-153) specified in Section 406 that the exemption should be based on the preceding calendar month's production. Subsection 4(e) of the Allocation Act changed the measurement period to the preceding calendar year and the CLC adopted this change effective the date that the Act became law on November 27, 1973. (38 FR 34464, December 14, 1973.)

(11) In 41 FR 36171 (August 26, 1976) FEA promulgated the following definition:

"Property" means the right to produce domestic crude oil, which arises from a lease or from a fee interest. A producer may treat as a separate property each separate and distinct producing reservoir subject to the same right to produce crude oil, provided that such reservoir is recognized by the appropriate governmental regulatory authority as a producing formation that is separate and distinct from, and not in communication with, any other producing formation.

Computations of the Base Production Control Level (BPCL) for the Robberson Property for 1972

Since there was no crude oil production on the property until August 1972, FEA utilized the regulatory provision to compute the BPCL which stated:

(2) If domestic crude petroleum was not produced and sold from that property in every month of 1972, the total number of barrels of domestic crude petroleum produced and sold from that property in 1972 divided by 12.

FEA determined and Wilshire has acknowledged in its Response that the Robberson property had 31,930.66 barrels of crude oil produced and sold during 1972. Therefore, the BPCL was 31,930.66 ÷ 12 = 2660.88 barrels.

In 41 FR 15566 (April 13, 1976) FEA modified the computation of the BPCL as follows:

(2) With respect to months commencing after January 31, 1976, except as provided in § 212.76, either:

(A) The total number of barrels of old crude oil produced and sold from the property concerned during calendar year 1975, divided by 365, multiplied by the number of days in the month in 1975 which corresponds to the month concerned; or

(B) If the producer elects to certify crude oil sales for 1972 in accordance with § 212.131(a)(2), the total number of barrels of crude oil produced and sold from the property concerned during the calendar year 1972, divided by 366, multiplied by the number of days during the month in 1972 which corresponds to the month concerned.

The total number of old crude oil produced and sold from the Robberson property during the calendar year 1975 was 19,471.68. Therefore, FEA made the the following computations: 19,471.68 ÷ 365 = 53.347 barrels.

	No. of days, daily average and BPCL
1975:	
January	31 × 53.347 = 1653.76
February	28 × 53.347 = 1493.72
March	31 × 53.347 = 1653.76
April	30 × 53.347 = 1600.41
May	31 × 53.347 = 1653.76
June	30 × 53.347 = 1600.41
July	31 × 53.347 = 1653.76
August	31 × 53.347 = 1653.76
September	30 × 53.347 = 1600.41
October	31 × 53.347 = 1653.76
November	30 × 53.347 = 1600.41
December	31 × 53.347 = 1653.76

Since the BPCL's based on 1975's production was lower than those based on 1972's production, FEA used the lower BPCL's in its computations for the period of February 1, 1976 through December 31, 1976.

[Case No. 660C00499]

Department of Energy,
Oklahoma City, OK 73102.

Declaration

I, David N. Burkett, employed by the United States Department of Energy as an Auditor, am primarily knowledgeable about the facts of the case set out in the Proposed Remedial Order (Case Number 660C00499) directed against Wilshire Oil Company of Texas. I hereby declare that, to the best of my knowledge and belief, the findings of fact contained in the Proposed Remedial Order are correct.

Dated: April 26, 1979.

David N. Burkett,

Auditor, Oklahoma City, Oklahoma. (405) *231-5081.*

BILLING CODE 6450-01-M

*Effective November 27, 1973, the definition above was amended to reflect "the preceding calendar year" and "year" (38 FR 34464, December 14, 1973).

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PURCHASER: Koch Oil Company
FIELD: Sec. 3 10N 5W

OPERATOR: Hilshire Oil Company
LEASE AND NUMBER: Robberson 1-3 & 2-3
COUNTY AND STATE: Canadian County, Oklahoma

DATE	BPCL	BARRELS SOLD	CUM DEF	(ALLOWABLE SALES NEW RELEASED	ACTUAL SALES TOTAL	(SALES IN BBLS)	APPARENT VIOLATION) BONUS	OVERCHARGES	CUM OVERCHARGES
9/73	2660.88	5925.52	0.00	3264.64	5925.52	-2570.22	1.3000	-3341.29	-3341.29
10/73	2660.88	5935.80	0.00	3274.92	5935.80	-2558.50	1.8500	-4733.23	-8074.52
11/73	2660.88	4977.53	0.00	2316.65	4582.66	-1741.37	4.3000	-7487.89	-15562.41
12/73	2660.88	4952.21	0.00	2291.33	4582.66	-1943.85	4.3000	-8358.56	-23920.97
1/74	2660.88	4675.52	0.00	2014.64	4029.28	-1409.36	4.9000	-6905.86	-30826.83
2/74	2660.88	4219.44	0.00	1558.56	3117.12	-729.86	4.9000	-3576.31	-34403.14
3/74	2660.88	3437.33	0.00	776.45	1552.90	315.56	4.9000	1546.24	-32856.90
4/74	2660.88	2880.30	0.00	219.42	438.84	608.72	4.9000	2982.73	-29874.17
5/74	2660.88	4162.28	0.00	1501.40	3002.80	-396.98	4.9000	-1945.20	-31819.37
6/74	2660.88	3125.93	0.00	465.05	930.10	632.47	5.3000	3352.09	-28467.28
7/74	2660.88	3156.82	0.00	495.94	991.88	860.52	5.5000	4732.86	-23734.42
8/74	2660.88	3138.95	0.00	478.07	956.14	622.87	5.5000	3425.79	-20308.63
9/74	2660.88	2897.01	0.00	236.13	472.26	1118.27	5.9500	6653.71	-13654.92
10/74	2660.88	2868.46	0.00	207.58	415.16	1166.01	5.9500	6937.76	-6717.16
11/74	2660.88	2871.05	0.00	210.17	420.34	1417.46	5.9500	8433.89	1716.73
12/74	2660.88	2358.01	302.87	0.00	0.00	1837.80	6.3000	8256.40	9973.13
1/75	2660.88	2816.48	147.27	0.00	0.00	1310.54	6.5000	11490.70	21463.83
2/75	2660.88	1807.24	1000.91	0.00	0.00	1767.80	6.8000	6954.90	28418.73
3/75	2660.88	2110.11	1551.68	0.00	0.00	1022.78	6.8000	7238.19	35656.92
4/75	2660.88	2079.63	2132.93	0.00	0.00	1064.44	6.8000	9001.91	44658.83
5/75	2660.88	1573.53	3220.28	0.00	0.00	1323.81	6.8000	7179.85	51838.68
6/75	2660.88	1785.29	4095.87	0.00	0.00	1055.86	6.8000	7433.24	59271.92
7/75	2660.88	1314.66	5442.09	0.00	0.00	1054.36	7.0500	5991.00	65262.92
8/75	2660.88	1540.80	6562.17	0.00	0.00	793.51	7.5500	5914.03	71176.95
9/75	2660.88	1295.90	7927.15	0.00	0.00	763.10	7.7500	5345.92	77522.87
10/75	2660.88	1310.85	9277.18	0.00	0.00	793.24	8.0000	4229.28	81752.15
11/75	2660.88	788.04	11150.02	0.00	0.00	528.66	8.0000	4299.86	86052.01
12/75	2660.88	1049.15	12761.75	0.00	0.00	527.59	8.1500	4313.88	90365.89
1/76	2660.88	791.32	14629.31	0.00	0.00	529.31	8.1500	4331.73	94697.62
2/76	1493.72	778.10	0.00	0.00	0.00	531.50	8.1500	4354.30	99051.92
3/76	1653.76	705.57	0.00	0.00	0.00	262.62	6.6800	1754.30	100807.17
4/76	1600.41	787.13	0.00	0.00	0.00	521.90	6.7200	3507.17	104314.34
5/76	1653.76	788.56	0.00	0.00	0.00	265.01	6.7600	1791.47	106105.81
6/76	1600.41	521.77	0.00	0.00	0.00	527.78	6.7900	3583.63	109689.44
7/76	1653.76	256.27	0.00	0.00	0.00	261.07	6.8200	1780.50	111469.94
8/76	1653.76	518.12	0.00	0.00	0.00	258.27	6.8200	1761.40	113231.34
9/76	1600.41	526.75	0.00	0.00	0.00	257.29	6.8200	1754.72	114986.06
10/76	1653.76	531.07	0.00	0.00	0.00	267.13	6.8200	1821.83	116807.89
11/76	1600.41	519.43	0.00	0.00	0.00	531.07	6.8200	3621.90	120429.79
12/76	1653.76	269.99	0.00	0.00	0.00	259.46	6.8200	1769.52	122199.31
					0.00	269.99	6.8200	1841.33	124040.64

[FR Doc. 79-15166 Filed 5-16-79; 8:45 am]
BILLING CODE 6450-01-C

[ERA Docket No. 79-CERT-004]

New Jersey Zinc; Action on Application for Certification of the Use of Natural Gas To Displace Fuel Oil

Take notice that, on April 16, 1979, New Jersey Zinc Division of G+W Natural Resources Group, Nashville, Tennessee (Zinc) filed a fuel oil displacement "Application for Certification" with the Economic Regulatory Administration (ERA). The application was filed pursuant to Part 595, Title 10, Code of Federal Regulations.

On May 10, 1979, ERA informed Zinc by letter that its application was not covered by the ERA certification procedure and that Zinc could proceed at the Federal Energy Regulatory Commission (FERC) without any action by ERA. A copy of the letter, which details the reasons for the ERA action, is attached as an appendix to this Notice. In brief, the present ERA and FERC oil displacement rules (44 FR 20398, April 5, 1979, and 44 FR 17644, March 22, 1979, respectively) contemplate ERA certification only in conjunction with a pending, or soon to be filed, application of an interstate pipeline company with the FERC under section 7 of the Natural Gas Act to transport gas to an end user to displace fuel oil. These rules do not apply to situations, such as Zinc's, where FERC is being asked to lift a condition on an already existing FERC transportation certificate.

Issued in Washington, D.C., May 10, 1979.

Doris J. Dewton,

Acting Assistant Administrator, Fuels Regulation, Economic Regulatory Administration.

Appendix

Department of Energy
Washington, D.C. 20461, May 10, 1979.

Mr. Robert P. Marshall,
General Counsel and Secretary G+W Natural Resources Center, First American Center, Nashville, Tennessee.

Dear Mr. Marshall: This letter relates to the fuel oil displacement "Application for Certification" filed with the Economic Regulatory Administration (ERA) by New Jersey Zinc Division of G+W Natural Resources Group pursuant to Part 595, Title 10, Code of Federal Regulations. The application was filed with ERA on April 16, 1979 (ERA Docket No. 79-CERT-004).

The fuel oil displacement certification rule issued by ERA (44 FR 20398, April 5, 1979) and the related transportation rule proposed by ERA for issuance by the Federal Energy Regulatory Commission (FERC) (44 FR 17644, March 22, 1979) contemplate ERA certification only in conjunction with a pending, or soon to be filed, application of an interstate pipeline company with FERC under Section 7 of the Natural Gas Act to transport gas to an end-user to displace fuel oil. These rules do not apply to situations where FERC is being asked to lift a condition on an already existing FERC transportation certificate.

A review of your certification application indicates the natural gas involved has already been certified for interstate transportation by the Federal Power Commission. In addition, your counsel, John N. Nassikas, has informed us no new interstate pipeline company application will be filed with FERC to transport a new supply of gas to displace fuel oil. Accordingly, your certificate application is not covered by the ERA certification procedure and you may proceed at FERC without any action by ERA. If you have any questions, please contact James G. Beste, Office of the General Counsel, Department of Energy, at telephone (202) 633-8788.

Sincerely,

Doris J. Dewton,

Acting Assistant Administrator, Fuels Regulation, Economic Regulatory Administration.

cc: Mr. John N. Nassikas.

[FR Doc. 79-15437 Filed 5-16-79; 8:45 am]
BILLING CODE 6450-01-M

Federal Energy Regulatory Commission

[Docket No. ER79-353]

Alabama Power Co.; Filing of Initial Rate Schedule

May 10, 1979.

The filing Company submits the following:

Take notice that Alabama Power Company on May 7, 1979, Tendered for filing an Agreement with The Electric Board of The City of Luverne, intended as an initial rate schedule. The filing is for the proposed substation located at Woodford Avenue and 5th Street in Luverne, Crenshaw County, Alabama. When the new 115 KV delivery point is energized, the existing Agreement dated July 16, 1973, for the 4 KV delivery point will be cancelled. The delivery point will be served at the Company's applicable revision to Rate Schedule MUN-1 incorporated in FERC Electric Tariff, Original Volume No. 1 of Alabama Power Company as allowed to become effective, subject to refund, by Commission order in FERC Docket 78-77.

Copies of the filing were served upon The Electric Board of The City of Luverne.

Any person desiring to be heard or to protest said application should file a petition to intervene or protest with the Federal Energy Regulatory Commission, 835 North Capitol St., N.E., Washington, D.C. 20426, in accordance with sections 1.8 and 1.10 of the Commission's Rules of Practice and Procedure (18 CFR 1.8, 1.10). All such petitions or protests should be filed on or before, June 1, 1979. Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceeding. Any person wishing to become a party must file a petition to intervene. Copies of this application are on file with the Commission and are available for public inspection.

Kenneth F. Plumb,

Secretary.

[FR Doc. 79-15331 Filed 5-16-79; 8:45 am]
BILLING CODE 6450-01-M

[Docket No. CP78-256]

Algonquin LNG, Inc, and Algonquin Gas Transmission Co.; Amendment

May 9, 1979.

Take notice that on April 16, 1979,[1] Algonquin LNG, Inc. (Algonquin LNG) and Algonquin Gas Transmission Company (Algonquin Gas), 1284 Soldiers Field Road, Boston, Massachusetts 02135, filed in Docket No. CP78-256 a joint amendment to their application for a certificate of public convenience and necessity filed in said docket pursuant to Section 7(c) of the Natural Gas Act authorizing the increase in storage volumes for Valley Gas Company (Valley Gas), all as more fully set forth in the amendment which is on file with the Commission and open to public inspection.

It is stated that the temporary certificate issued, by the Commission on September 21, 1978, in this docket authorized Algonquin LNG to utilize its liquified natural gas (LNG) storage facilities at Providence, Rhode Island to receive, store and redeliver in liquid and gaseous phase, LNG belonging to certain participating resale customers. Algonquin Gas was authorized to redeliver through its existing pipeline, regasified volumes to certain of the participating resale customers on a basis which would not impair service to Algonquin Gas' other customers, it is asserted.[2] Petitioners state that no new facilities were required by either Algonquin LNG or Algonquin Gas to effectuate the proposal.

[1] The application was initially tendered for filing on April 16, 1979; however, the fee required by Section 159.1 of the regulations under the Natural Gas Act (18 CFR 159.1) was not paid until April 17, 1979, thus, filing was not completed until the latter date.

[2] Petitioners also request that the Commission grant an extension of the service authorized in the temporary certificate issued on September 21, 1978, for a period of one year, June 1, 1979 to June 1, 1980.

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Petitioners' amendment requests authorization to increase storage volumes for Valley Gas. It is stated that both Valley Gas and the Connecticut Gas Company, to whom this service was rendered during the 1978–1979 season, have indicated that they again desire to receive storage and redelivery service during the forthcoming 1979–1980 season under the same terms and conditions agreed to for the service performed during the past season. It is stated that Connecticut Gas' service would continue at the level of 120,000 barrels of liquified gas and Valley Gas' service would increase from the presently authorized 30,000 barrels to 45,000 barrels of gas.

Any person desiring to be heard or to make any protest with reference to said amendment should on or before May 30, 1979, file with the Federal Energy Regulatory Commission, Washington, D.C. 20426, a petition to intervene or a protest in accordance with the requirements of the Commission's Rules of Practice and Procedure (18 CFR 1.8 or 1.10) and the Regulations under the Natural Gas Act (18 CFR 157.10). All protests filed with the Commission will be considered by it in determining the appropriate action to be taken but will not serve to make the protestants parties to the proceeding. Any person wishing to become a party to a proceeding or to participate as a party in any hearing therein must file a petition to intervene in accordance with the Commission's Rules. All persons who have heretofore filed need not file again.

Kenneth F. Plumb,

Secretary.

[FR Doc. 79-15332 Filed 5-16-79; 8:45 am]

BILLING CODE 6450-01-M

[Docket No. ER79-126]

Arizona Public Service Co.; Compliance Filing

May 10, 1979.

Take notice that on April 30, 1979, the Arizona Public Service Company (APS) tendered for filing pursuant to Commission's Order of February 28, 1979, revised rates and revised statements A through P incorporating the 46% Federal income tax rate.

Moreover, this filing reflects the deletion from the costs allocated to resale customers of any payments relating to EPRI and LMFBR.

Any person desiring to be heard or to protest said filing should file a protest with the Federal Energy Regulatory Commission, 825 North Capitol Street, N.E., Washington, D.C. 20426, in accordance with Sections 1.8 and 1.10 of the Commission's Rules of Practice and Procedure (18 CFR 1.8, 1.10). All such protests should be filed on or before June 1, 1979. Protests will be considered by the Commission in determining the appropriate action to be taken. Copies of this filing are on file with the Commission and are available for public inspection.

Kenneth F. Plumb,

Secretary.

[FR Doc. 79-15333 Filed 5-16-79; 8:45 am]

BILLING CODE 6450-01-M

[Docket Nos. ER77-484, and ER77-551]

Carolina Power & Light Co.; Order Allowing Interim Rates To Be Collected and Waiving Notice Requirements

Issued May 8, 1979.

By order of July 19, 1977, in Docket No. ER77-485, this Commission accepted for filing, suspended for five months and set for hearing the proposed RS-12 wholesale rate schedule of Carolina Power & Light Company (Carolina) for sales to 18 rural electric cooperatives, 24 municipals and 2 investor-owned utilities.[1] The proposed rate increase became effective, subject to refund, on December 29, 1977. The hearing in this proceeding has since been concluded and briefs have been submitted to the Presiding Administrative Law Judge.

On March 14, 1979, Carolina tendered for filing an interim rate schedule RS-12A to supersede the present schedule, subject to several conditions. Carolina requested a waiver of the Commission's notice provisions contained in Section 35.3 of the Commission's Regulations in order to allow the interim rate to become effective as of April 1, 1979.

Background

Schedule RS-12A is the result of a Stipulation, signed on March 16, 1978, by Carolina, the cooperative customers, certain muncipal customers and the Commission Staff, which states that they will be bound in Docket No. ER77-485 by the Commission's final order in an earlier Carolina rate case, Docket No. ER76-495, with regard to the following issues:

1. demand allocation factor method (*i.e.*, whether demand-related costs should be allocated on the basis of four coincident peaks, twelve coincident peaks, or an alternative method chosen by the Commission);
2. fuel stock allocation method;
3. interest expense synchronization;
4. depreciation rates; and
5. comprehensive interperiod tax allocation.[2]

None of the signatories waived the right to seek judicial review of the final Commission order in Docket No. ER76-495 regarding any issue. However, *pendente lite*, the signatories agreed to be bound by the Commission's determinations on all issues in the earlier rate case.

With regard only to the issue of demand allocation in Docket No. ER77-485, Carolina further stipulated that it would file a new interim rate in this proceeding, if (1) the Commission prescribed a method of demand allocation in its opinion in Docket No. ER76-495 different from that contained in the second filing, and (2) that different allocation method would result in a rate reduction. Within 14 days of a final Commission order in Docket No. ER76-495 meeting these two conditions, Carolina stipulated that it would file the interim rate to become effective prospectively, and also request waiver of Commission notice requirements. In return for Carolina's undertaking, the municipal and cooperative signatories agreed to withdraw their price squeeze allegations in Docket No. ER77-485 and Staff agreed not to raise this issue.

The stipulated interim rate is subject to the following conditions:

1. it may be superseded by a subsequent rate filing;
2. it may be modified if the method of demand allocation prescribed by final Commission order in Docket No. ER76-495 is reversed on review; and
3. it does not prejudice the customers' right to refunds, if the interim rate produces revenues in excess of those ultimately found just and reasonable, or Carolina's right to collect revenues in excess of those collected under the interim rate (up to the revenue level collectable under the rates originally filed), if the interim rate is lower than that ultimately approved by the Commission.[3]

The City of Fayetteville, North Carolina, a municipal customer and an intervenor in this proceeding, was not a signatory to the Stipulation. Two other wholesale customers, Laurel Hill Electric Company and Pinehurst, Inc., are neither intervenors nor signatories to the Stipulation.

Carolina's submittal of interim rate RS-12A is in compliance with the Stipulation, to reflect the 12-CP demand allocation methodology prescribed by the Commission in Opinion No. 19, *Carolina Power & Light Company* (August 2, 1978).[4] Waiver of notice requirements was requested.

Discussion

This case presents several questions which distinguish it from other proceedings in which we have permitted the substitution of an interim rate for the filed rate. The Stipulation does not purport to be the unanimous agreement of all RS-12 customers and allows the possibility that Carolina might retroactively increase the rate at the time of a final Commission order. The rate ultimately paid by signatories and non-signatories alike until final Commission action in these dockets might, therefore, be something other than that provided by express terms of RS-12A. In earlier orders concerning interim rates, we made it clear that the filing utility could not retroactively increase that interim rate; however, customers in those cases had not consented to such an arrangement.[5] The City of Fayetteville, Laurel Hill Electric Company and Pinehurst, Inc., have subsequently informed this Commission that they request the lower interim rate and agree to its conditions, *supra*, at 3. Although Carolina failed to request a waiver under Section 35.1(e) of the Commission's regulations, the interim rate could only be implemented after a showing of good cause that Carolina should be allowed to collect under a rate different from that required to be on file.

The possibility of a retroactive surcharge (offset against any Carolina refund obligation) was expressly anticipated by the customer signatories and is a component of a partial settlement of this proceeding which immediately reduces their wholesale rates. The Stipulation also provides that any retroactive increase may not cause total Carolina revenues to exceed those collectible under proposed schedule RS-12. Moreover, the consent of the non-signatory customers to the interim rate removes any possibility that they might be unduly burdened by any later surcharge or that they might be discriminated against if schedule RS-12A were applied only to the signatory customers.[6] On the basis of each of those findings, we conclude that waivers under Sections 35.1(e) and 35.11 of our Regulations are warranted to permit the lower interim rate of schedule RS-12A to become effective as of April 1, 1979.

The Commission orders: (A) Good cause having been shown, the notice requirements of Section 35.3 of the Commission's Regulations are hereby waived.

(B) Good cause having been shown, interim schedule RS-12A is allowed to become effective as of April 1, 1979, under Sections 35.1(e) and 35.11 of the Commission's Regulations pursuant to the conditions of the Stipulation of March 16, 1978. The proposed interim rate schedules are hereby designated as shown in Attachment A.

(C) The Secretary shall cause prompt publication of this order to be made in the **Federal Register.**

By the Commission.

Kenneth F. Plumb,

Secretary.

Docket No. ER77-485

Rate schedule designations	Other party
Supplement No. 17 to Rate Schedule FPC No. 68 (Supersedes Supp. No. 15)	Town of Louisberg.
Supplement No. 15 to Rate Schedule FPC No. 84 (Supersedes Supp. No. 13)	City of New Bern.
Supplement No. 16 to Rate Schedule FPC No. 85 (Supersedes Supp. No. 14)	Town of Pikeville.
Supplement No. 16 to Rate Schedule FPC No. 77 (Supersedes Supp. No. 14)	Town of Red Springs.
Supplement No. 14 to Rate Schedule FPC No. 94 (Supersedes Supp. No. 12)	City of Rocky Mount.
Supplement No. 17 to Rate Schedule FPC No. 87 (Supersedes Supp. No. 15)	Town of Smithfield.
Supplement No. 18 to Rate Schedule FPC No. 79 (Supersedes Supp. No. 16)	City of Southport.
Supplement No. 15 to Rate Schedule FPC No. 88 (Supersedes Supp. No. 13)	Town of Wake Forest.
Supplement No. 16 to Rate Schedule FPC No. 89 (Supersedes Supp. No. 14)	Town of Waynesville.
Supplement No. 16 to Rate Schedule FPC No. 90 (Supersedes Supp. No. 13)	City of Wilson.
Supplement No. 18 to Rate Schedule FPC No. 51 (Supersedes Supp. No. 14)	Laurel Hill Electric Company.
Supplement No. 11 to Rate Schedule FPC No. 105 (Supersedes Supp. No. 9)	Pinehurst, Inc.
First Revised Sheet Nos. 5, 6 and 7 to FPC Electric Tariff, First Revised Volume No. 1 (Supersedes Original Sheet Nos. 5, 6 and 7 to FPC Electric Tariff, First Revised Volume No. 1).	Tariff Customers.

[FR Doc. 79-15334 Filed 5-16-79; 8:45 am]

BILLING CODE 6450-01-M

[Docket No. CP77-118]

Columbia Gas Transmission Corp. and Columbia Gulf Transmission Co.; Petition To Amend

May 9, 1979.

Take notice that on May 1, 1979, Columbia Gas Transmission Corporation (Columbia Gas), 1700 MacCorkle Avenue, S.E., Charleston, West Virginia 25314, and Columbia Gulf Transmission Company (Columbia Gulf), 3805 West Alabama Avenue, Houston, Texas 77027, filed in Docket No. CP77-118 a petition to amend the certificate of public convenience and necessity issued to them, and other participating pipelines, pursuant to Section 7(c) of the Natural Gas Act on March 1, 1977, so as to extend the term of the transportation service authorized therein for General Electric Company (GE) for an additional two years, all as more fully set forth in the petition to amend which is on file with the Commission and open to public inspection.[1]

It is indicated that the purpose of the original application in the subject docket, and those of the other participating pipelines, was to arrange for the transportation of gas for a 10-year period from reserves purchased and placed in Cameron Parish, Louisiana, by GE. Petitioners indicate further that on March 1, 1977, the Commission issued certificates authorizing the transportation service for a two-year term from initial delivery

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[1] By order of January 19, 1978, in Docket No. ER77-551, the Commission suspended and initiated hearing procedures on Carolina's proposed partial requirements rate. This proceeding was consolidated with Docket No. ER77-485.

[2] Independent of the outcome of Docket No. ER76-495 these parties also stipulated that plant in service should be calculated on the basis of the average of 13 monthly balances.

[3] Any additional revenues which Carolina might collect would first be obtained by offsetting the amount owed customers under any refund obligation.

[4] Rehearing granted in part, Opinion No. 19-A (February 21, 1979), *appeal pending, ElectriCities of North Carolina, et al.* v. *FERC*, D. C. Cir. No. 79-1205.

[5] *Wisconsin Electric Power Co.*, Docket No. ER78-512, order issued February 2, 1979; *Public Service Company of Oklahoma*, Docket No. ER78-511, order issued December 27, 1978; and *Illinois Power Co.*, Docket No. ER77-531, order issued July 25, 1978.

[6] The Commission advises, in the future when interim rates are submitted, the Commission's consideration would be assisted if the filing party would include a statement indicating the positions of each customer in the affected class. We do not mean to imply that the interim rate must have unanimous customer approval before it may be accepted for application to any member of the class; however, the Commission should be apprised that all customers have been offered the rate, and informed of any conditions which limit its availability. Whether an interim rate may be applied to less than all customers in a class is an issue for case-by-case determination. *Cf. Boston Edison Co.*, Docket Nos. E-8855, *et al.* order issued January 30, 1979.

[1] This proceeding was commenced before the Federal Power Commission (FPC). By the joint regulation of October 1, 1977 (10 CFR 1000.1), it was transferred to the Federal Energy Regulatory Commission (FERC). The term "Commission" when used in the context of action taken prior to October 1, 1977, refers to the FPC; when used otherwise, the reference is to the FERC.

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only, without prejudice to the filing for certificate authorization to continue the service beyond the two-year term on the condition that said filings be made at least six months prior to the expiration of the two-year term. Upon applications for rehearing, rehearing was granted and formal hearings were held in this proceeding.

It is stated that the initial decision of the Presiding Judge was issued March 1, 1977, in Docket No. CP77–71, *et al.*, approving the transportation service by the participating pipelines for GE for a ten-year period subject to several conditions. Petitioners state that they and other participants have filed exceptions to the initial decision and, therefore, in order to provide continuous delivery of gas to GE request the additional two-year extension without prejudice to the outcome of the pending proceedings.

Any person desiring to be heard or to make any protest with reference to said petition to amend should on or before May 30, 1979, file with the Federal Energy Regulatory Commission, Washington, D.C. 20426, a petition to intervene or a protest in accordance with the requirements of the Commission's Rules of Practice and Procedure (18 CFR 1.8 or 1.10) and the Regulations under the Natural Gas Act (18 CFR 157.10). All protests filed with the Commission will be considered by it in determining the appropriate action to be taken but will not serve to make the protestants parties to the proceeding. Any person wishing to become a party to a proceeding or to participate as a part in any hearing therein must file a petition to intervene in accordance with the Commission's Rules.

Kennth F. Plumb,

Secretary.

[FR Doc. 79–15335 Filed 5–16–79; 8:45 am]

BILLING CODE 6450–01–M

[Docket No. CP77–465]

Columbia Gas Transmission Corp. and National Fuel Gas Supply Corp., Petition To Amend

May 9, 1979.

Take notice that on April 25, 1979, Columbia Gas Transmission Corporation, (Columbia Gas), P.O. Box 1273, Charleston, West Virginia 25325, and National Fuel Gas Supply Corporation (Supply Corporation), 308 Seneca Street, Oil City, Pennsylvania 16301 (Petitioners), filed in Docket No. CP77–465 a petition to amend the order of September 9, 1977,[1] as amended July 18, 1978, in the instant docket pursuant to Section 7(c) of the Natural Gas Act so as to authorize Petitioner to exchange gas for an extended period of time and to authorize Columbia Gas to transport such gas exchanged for the extended period, all as more fully set forth in the petition to amend on file with the Commission and open to public inspection.

It is stated that pursuant to the order of September 9, 1977, as amended July 18, 1978, Petitioners were authorized, among other things, to exchange and transport gas for a period ending March 31, 1979, and to increase the volumes so transported for UGI Corporation (UGI) to 2,431,000 Mcf per day.

Petitioners request herein an extension from April 1, 1979, through March 31, 1980, of the authorization previously granted to exchange natural gas and for Columbia Gas to transport the gas so exchanged for delivery to UGI for the extended period. The maximum volume to be transported hereunder by Columbia Gas for UGI is 2,981,000 Mcf, it is stated.

Any person desiring to be heard or to make any protest with reference to said petition to amend should on or before May 30, 1979, file with the Federal Energy Regulatory Commission, Washington, D.C. 20426, a petition to intervene or a protest in accordance with the requirements of the Commission's Rules of Practice and Procedure (18 CFR 1.8 or 1.10) and the Regulations under the Natural Gas Act (18 CFR 157.10). All protests filed with the Commission will be considered by it in determining the appropriate action to be taken but will not serve to make the protestants parties to the proceeding. Any person wishing to become a party to a proceeding or to participate as a party in any hearing therein must file a petition to intervene in accordance with the Commission's Rules.

Kenneth F. Plumb,

Secretary.

[FR Doc. 79–15336 Filed 5–16–79; 8:45 am]

BILLING CODE 6450–01–M

[Docket Nos. CI79–415; CI79–355]

Continental Oil Co.; Petition for Declaratory Order or In the Alternative a Certificate of Public Convenience and Necessity

May 10, 1979.

Take notice that on April 4, 1979, Continental Oil Company, P.O. Box 2197, Houston, Texas 77001 (Petitioner), filed a petition for a declaratory order in Docket No. CI79–415. Petitioner states that it entered into a contract on March 14, 1979 with Tennessee Gas Pipeline Company (Tennessee) for the sale of natural gas from the East Cameron Block 97, Offshore Louisiana (OCS G–3294). Petitioner requests that the Commission declare that certificates of Public Convenience and Necessity are not required for producer sales from old offshore federal leases where no sale of natural gas in interstate commerce for resale had commenced and no certificate with respect to any such proposed sale had been issued prior to December 1, 1978, the effective date of the Natural Gas Policy Act of 1978 (NGPA). More specifically petitioner asserts that such gas is not committed or dedicated to interstate commerce and is therfore excluded from this Commission's certificate authority under the Natural Gas Act (NGA) by reason of section 601(a)(1)(A) of the NGPA.

Take further notice that petitiner also filed an application on April 4, 1979 in Docket No. CI79–355, for a Certificate of Public Convenience and Necessity covering the above mentioned gas. Petitioner states that its application for a certificate is filed under protest at the request of Tennessee and that it is subject to its petition for a declaratory order that no certificate is required or permitted for this sale.

It appears reasonable and consistent with the public interest in this case to prescribe a period shorter than 10 days for the filing of protests and petitions to intervene. Therefore, any person desiring to be heard or to make any protest with reference to said application should on or before May 18, 1979, file with the Federal Energy Regulatory Commission, Washington, D.C. 20426, a petition to intervene or a protest in accordance with the requirements of the Commission's Rules of Practice and Procedure (18 CFR 1.8 or 1.10). All protests filed with the commission will be considered by it in determining the appropriate action to be taken but will not serve to make the protestants parties to the proceeding. Any person wishing to become a party to the proceeding or to participate as a party in any hearing therein must file a

[1] This proceeding was commenced before the FPC. By joint regulation of October 1, 1977 (10 CFR 1000.1), it was transferred to the Commission.

petition to intervene in accordance with the Commission's Rules.

Kenneth F. Plumb,

Secretary.

[FR Doc. 79–15337 Filed 5–16–79; 8:45 am]

BILLING CODE 6450–01–M

[Docket Nos. CP70–196 and CP74–227]

Distrigas Corp. et al.; Further Extension of Time

May 8, 1979.

In the matter of Distrigas Corporation [Docket Nos. CP70–196 and CP74–227], Distrigas Corporation of Massachusetts [Docket Nos. CP73–135 and CP74–137].

On April 11, 1979, Distrigas Corporation filed a motion for stay of Ordering Paragraph (E) of the Commission's order of January 2, 1979, pending judicial review. The motion also asked for an extension of time for compliance with that paragraph pending Commission action on the request for a stay. By notice issued April 19, 1979, a further extension of time for complying with the refund requirement of Ordering Paragraph (E) was granted to and including May 14, 1979. The report of refunds and interest was to be filed on or before May 29, 1979.

Notice is hereby given that a further extension of time for complying with the refund requirement of Ordering Paragraph (E) is granted to and including June 1, 1979; the report of refunds and interest shall be filed on or before June 12, 1979.

Kenneth F. Plumb,

Secretary.

[FR Doc. 79–15338 Filed 5–16–79; 8:45 am]

BILLING CODE 6450–01–M

[Docket No. ES79–39]

Gulf States Utilities Co.; Application

May 10, 1979

Take notice that on May 2, 1979, Gulf States Utilities Company (Applicant) filed an application seeking an order pursuant to Section 204 of the Federal Power Act authorizing the issuance of 700,000 additional shares of Common Stock. Applicant is incorporated under the laws of Texas with its principal business office at Beaumont, Texas, and in engaged in the electric utility business in portions of Louisiana and Texas. Natural gas is purchased at wholesale and distributed at retail in the City of Baton Rouge, Louisiana and vicinity. The Applicant proposes to sell the Additional Common Stock from time to time pursuant to the provisions of an Employees Thrift Plan in accordance with the Commission's Regulations under the Federal Power Act.

From time to time as sales of the new securities occur, the proceeds will be added to the general funds of the Company to be used to refund a portion of its short-term notes previously authorized by the Commission.

Any person desiring to be heard or to make any protest with reference to said application should, on or before May 30, 1979, file with the Federal Energy Regulatory Commission, 825 North Capitol Street, N.E., Washington, D.C. 20426, petitions or protests in accordance with the requirements of the Commission's Rules of Practice and Procedure (18 CFR 1.8 or 1.10). All protests filed with the Commission will be considered by it in determining the appropriate action to be taken but will not serve to make the protestants parties to the proceeding. Persons wishing to become parties to a proceeding or to participate as a party in any hearing therein must file petitions to intervene in accordance with the Commission's rules. The application is on file with the Commission and available for public inspection.

Kenneth F. Plumb,

Secretary.

[FR Doc. 79–15339 Filed 5–16–79; 8:45 am]

BILLING CODE 6450–01–M

[Docket No. RP79–67]

Louisiana-Nevada Transit Co.; Proposed Changes in FERC Gas Tariff

May 10, 1979

Take notice that on April 30, 1979, Louisiana-Nevada Transit Company (LNT) tendered for filing proposed changes in its FERC Gas Tariff, 12th Revised Sheet No. PGA–1.

LNT states that the change in rate filed herein is to comply with Section 154.38(d)(vi)(a) of the Commission's Regulations and to establish a new Base Tariff Rate under LNT's purchase gas adjustment clause. LNT states that the new Base Tariff Rate amounts to 64.44¢/Mcf with a Base Cost of Gas of 40.27¢/Mcf.

Any person desiring to be heard or to protest said filing should file a petition to intervene or protest with the Federal Energy Regulatory Commission, 825 North Capitol Street, N.E., Washington, D.C. 20426, in accordance with Sections 1.8 and 1.10 of the Commission's Rules of Practice and Procedure (18 CFR 1.8, 1.10). All such petitions or protests should be filed on or before May 24, 1979. Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceeding. Any person wishing to become a party must file a petition to intervene. Copies of this filing are on file with the Commission and are available for inspection.

Kenneth F. Plumb,

Secretary.

[FR Doc. 79–15340 Filed 5–16–79; 8:45 am]

BILLING CODE 6450–01–M

[Docket No. CP79–280]

Michigan Wisconsin Pipe Line Co.; Application

May 9, 1979.

Take notice that on April 19, 1979, Michigan Wisconsin Pipe Line Company (Applicant), One Woodward Avenue, Detroit, Michigan 48226, filed in Docket No. CP79–280 an application pursuant to Section 7(c) of the Natural Gas Act for a certificate of public convenience and necessity authorizing the transportation of natural gas for El Paso Natural Gas Company (El Paso), all as more fully set forth in the application on file with the Commission and open to public inspection.

It is indicated that El Paso has acquired a leasehold right covering 15 percent of the natural gas reserves underlying High Island Area Block A–309, offshore Texas (The Block A–309 gas), and that El Paso has, subject to the Commission approval, acquired an ownership interest in the lateral pipeline facilities connecting the Block A–309 production platform with the transmission facilities of High Island Offshore System (HIOS) in High Island Area Block 332. It is further indicated that El Paso has made arrangment with HIOS to transport the Block A–309 gas from Block 332 to West Cameron Area Block 167, offshore Louisiana. Applicant states that pursuant to a transportation agreement dated December 20, 1978, with El Paso it has agreed to transport the Block A–309 gas from Block 167 and redeliver equivalent volumes for El Paso's account, at Applicant's Grand Chenier metering station, Cameron Parish, Louisiana. The Block A–309 gas delivered for El Paso's account at the redelivery point would be exchanged for equivalent volumes which Applicant would cause Northwest Pipeline Corporation to deliver to El Paso for Applicant's account at Ignacio, Colorado.

It is stated that as consideration for providing the transportation service, El Paso would pay Applicant a monthly transportation charge equal to the

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contract demand multiplied by a demand charge of $1.03 per mcf.

Any person desiring to be heard or to make any protest with reference to said application should on or before, May 30, 1979, file with the Federal Energy Regulatory Commission, Washington, D.C. 20428, a petition to intervene or a protest in accordance with the requirements of the Commission's Rules of Practice and Procedure (18 CFR 1.8 or 1.10) and the Regulations under the Natural Gas Act (18 CFR 157.10). All protests filed with the Commission will be considered by it in determining the appropriate action to be taken but will not serve to make the protestants parties to the proceeding. Any person wishing to become a party to a proceeding or to participate as a party in any hearing therein must file a petition to intervene in accordance with the Commission's Rules.

Take further notice that, pursuant to the authority contained in and subject to jurisdiction conferred upon the Federal Energy Regulatory Commission by Sections 7 and 15 of the Natural Gas Act and the Commission's Rules of Practice and Procedure, a hearing will be held without further notice before the Commission or its designee on this application if no petition to intervene is filed within the time required herein, if the Commission on its own review of the matter finds that a grant of the certificate is required by the public convenience and necessity. If a petition for leave to intervene is timely filed, or if the Commission on its own motion believes that a formal hearing is required, further notice of such hearing will be duly given.

Under the procedure herein provided for, unless otherwise advised, it will be unnecessary for Applicant to appear or be represented at the hearing.

Kenneth F. Plumb,

Secretary.

[FR Doc. 79-15341 Filed 5-16-79; 8:45 am]

BILLING CODE 6450-01-M

[Docket No. CP75-80]

Northwest Pipeline Corp.; Petition To Amend

May 9, 1979.

Take notice that on April 19, 1979, Northwest Pipeline Corporation (Petitioner), P.O. Box 1526, Salt Lake City, Utah 84110, filed in Docket No. CP75-80 a petition to amend the order issued November 18, 1974, [1] as amended, in the instant docket pursuant to Section 7(c) of the Natural Gas Act so as to authorize an additional point of interconnection between El Paso Natural Gas Company (El Paso) and Petitioner, all as more fully set forth in the petition to amend on file with the Commission and open to public inspection.

It is indicated that pursuant to the order of November 18, 1974, Petitioner was authorized among other things, to construct and operate certain points of interconnection for the delivery of balancing gas by El Paso to Northwest.

Petitioner proposes to operate an additional point of interconnection to serve as an additional exchange point for the delivery of balancing gas by Petitioner to El Paso pursuant to the San Juan Gathering Agreement dated January 31, 1974, between the two companies. The proposed point of interconnection would be at the intersection of El Paso's Lateral "2C-21" and Petitioner's lateral "11-H4" in Arriba County, New Mexico, it is stated. Petitioner states that this point of interconnection would require the installation of two line taps, a four-inch meter run and appurtenant facilities. Petitioner proposes to construct the measuring facilities and the tap on its gathering facilities under the gathering system exemption of Section 1(b) of the Natural Gas Act. The estimated cost of such facilities is $5,000, which cost would finance from funds on hand, it is said.

Petitioner states that the proposed additional delivery point for balancing gas is required because petitioner must lower the pressure in a portion of its Don Guan Gathering System to satisy the contractual obligation that exists under a gas purchase contract between petitioner and Amoco Production Company.

Any person desiring to be heard or to make any protest with reference to said petition to amend should on or before May 30, 1979, file with the Federal Energy Regulatory Commission, Washington, D.C. 20426, a petition to intervene or a protest in accordance with the requirements of the Commission's Rules of Practice and Procedure (18 CFR 1.8 or 1.10) and the Regulations under the Natural Gas Act (18 CFR 157.10). All protests filed with the Commission will be considered by it in determining the appropriate action to be taken but will not serve to make the protestants parties to the proceeding. Any person wishing to become a party to a proceeding or to participate as a party in any hearing therein must file a petition to intervene in accordance with the Commission's Rules.

Kenneth F. Plumb,

Secretary.

[FR Doc. 79-15342 Filed 5-16-79; 8:45 am]

BILLING CODE 6450-01-M

[Docket No. ES 79-40]

Pacific Power & Light Co.; Application

May 10, 1979.

Take notice that on May 4, 1979, Pacific Power & Light Company (Applicant), a Maine corporation, qualified to transact business in the states of Oregon, Wyoming, Washington, California, Montana and Idaho, with its principal business office at Portland, Oregon, filed an application with the Federal Energy Regulatory Commission, pursuant to Section 204 of the Federal Power Act, seeking authority to issue not to exceed $200,000,000 in an aggregate principal amount at any one time outstanding of (1) unsecured promissory notes (Notes) pursuant to Lines of Credit with commercial banks ($100,000,000), and (2) Commercial Paper ($100,000,000).

Proceeds from the sale of the Notes and Commercial Paper will be used to finance current transactions, including the interim financing of a portion of Applicant's construction program and the refunding of other short-term borrowings made to finance current transactions.

Any person desiring to be heard or to make any protest with reference to said application should on or before May 30, 1979, file with the Federal Energy Regulatory Commission, Washington, D.C. 20426, petitions to intervene or protests in accordance with the requirements of the Commission's Rules of Practice and Procedure (18 CFR 1.8 or 1.10). All protests filed with the Commission will be considered by it in determining the appropriate action to be taken but will not serve to make the protestants parties to the proceeding. Persons wishing to become parties to a proceeding or to participate as a party in any hearing therein must file petitions to intervene in accordance with the Commission's Rules. The application is on file with the Commission and available for public inspection.

Kenneth F. Plumb,

Secretary.

[FR Doc. 79-15343 Filed 5-16-79; 8:45 am]

BILLING CODE 6450-01-M

[Docket No. CP79-273]

Panhandle Eastern Pipe Line Co.; Application

May 9, 1979.

Take notice that on April 17, 1979, Panhandle Eastern Pipe Line Company (Applicant), P.O. Box 1642, Houston, Texas 77001, filed in Docket No. CP79-273 an application pursuant to Section 7(c) of the Natural Gas Act and Section 2.79 of the Commission's General Policy and Interpretations (18 CFR 2.79) for a certificate of public convenience and necessity authorizing the transportation for two years of up to 300 Mcf of natural gas per day for Fruehauf Corporation (Fruehauf), all as more fully set forth in the application on file with the Commission and open to public inspection.

It is stated that pursuant to a transportation contract dated September 29, 1978, between Applicant and Fruehauf, Applicant proposes to receive from Columbia Gas Transmission Corporation (Columbia Gas) [1] at the existing point of interconnection of the facilities of Applicant and Columbia Gas near Maumee, in Lucas County, Ohio, up to 300 Mcf of natural gas per day, and to transport and deliver equivalent volumes of gas for Fruehauf's account to Northern Natural Gas Company (Northern) [2] at the existing point of interconnection between Applicant and Northern near Greensburg, Kiowa County, Kansas.

It is indicated that Fruehauf would use this gas in direct gas fired drying ovens, make-up air and related operations wherein a clean burning fuel is required and necessary. It is further indicated that technology at this time does not permit the burning of alternate fuels.

Applicant states that it would charge Fruehauf for the proposed transportation service $237 per month, and that an upward or downward adjustment of 2.59 cents per Mcf would be applied to certain deficiencies or excess volumes taken.

Any person desiring to be heard or to make any protest with reference to said application should on or before May 30, 1979, file with the Federal Energy Regulatory Commission, Washington, D.C. 20426, a petition to intervene or a protest in accordance with the requirements of the Commission's Rules of Practice and Procedure (18 CFR 1.8 or 1.10) and the Regulations under the Natural Gas Act (18 CFR 157.10). All protests filed with the Commission will be considered by it in determining the appropriate action to be taken but will not serve to make the protestants parties to the proceeding. Any person wishing to become a party to a proceeding or to participate as a party in any hearing therein must file a petition to intervene in accordance with the Commission's Rules.

Take further notice that, pursuant to the authority contained in and subject to jurisdiction conferred upon the Federal Energy Regulatory Commission by Sections 7 and 15 of the Natural Gas Act and the Commission's Rules of Practice and Procedure, a hearing will be held without further notice before the Commission or its designee on this application if no petition to intervene is filed within the time required herein, if the Commission on its own review of the matter finds that a grant of the certificate is required by the public convenience and necessity. If a petition for leave to intervene is timely filed, or if the Commission on its own motion believes that a formal hearing is required, further notice of such hearing will be duly given.

Under the procedure herein provided for, unless otherwise advised, it will be unnecessary for Applicant to appear or be represented at the hearing.

Kenneth F. Plumb,

Secretary.

[FR Doc. 79-15344 Filed 5-16-79; 8:45 am]

BILLING CODE 6450-01-M

[Docket No. CP76-322]

Tennessee Gas Pipeline Co., a Division of Tenneco, Inc., and East Tennessee Natural Gas Co.; Joint Petition To Amend

May 9, 1979.

Take notice that on April 23, 1979, Tennessee Gas Pipeline Company, A Division of Tenneco Inc. (Tennessee), P.O. Box 2511, Houston, Texas 77001 and East Tennessee Natural Gas Company (East Tennessee), P.O. Box 10245, Knoxville, Tennessee 37919, filed in Docket No. CP76-322 a joint petition to amend the order of January 17, 1979, issued in said docket pursuant to Section 7(c) of the Natural Gas Act and Section 2.79 of the Commission's General Policy and Interpretations (18 CFR 2.79) so as to authorize Petitioners to transport certain imbalance volumes for Stauffer Chemical Company (Stauffer), all as more fully set forth in the petition which is on file with the Commission and open to public inspection.[1]

It is stated that pursuant to the Commission's order issued on June 30, 1976, in Docket No. CP76-322, and pursuant to the amendments thereto issued on June 15, 1977 and temporary certificate issued on March 24, 1978, Tennessee and East Tennessee transported volumes of natural gas for the account of Stauffer, Consolidated Aluminum Corporation (Conalco), and Hooker Chemical Corporation (Hooker). The aforementioned amendment and temporary certificate related only to transportation for Stauffer, it is asserted. Petitioners state that the June 30, 1976 order authorized them to transport gas for Stauffer, Conalco, and Hooker from the Beckwith Creek Field, Calcasieu Parish, Louisiana. It is stated that the temporary certificate issued on March 29, 1978, authorized Petitioners to transport gas for the account of Stauffer from an additional source of supply located in the Waveland Field in Hancock County, Mississippi. Petitioners state that on January 17, 1979, the Commission granted extended authorization in the above referenced docket to transport gas from the Waveland Field for the account of Stauffer until August 15, 1980.

Petitioners state that subsequent to the filing of the request for an extension, Tennessee discovered that an imbalance existed between certain volumes of natural gas delivered to its pipeline system by Texas Pacific Oil Company (Texas Pacific) from the Beckwith Creek Field and Texas Pacific Oil Company (UK), Inc. (Texas Oil) from the Waveland Field, and the volumes delivered to East Tennessee for delivery to Stauffer, Conalco, and Hooker, the authorization for which had terminated on August 15, 1978. Petitioners further state that Texas Pacific and Texas Oil have not been paid for such imbalances. It is asserted that the imbalances occurred as a result of Texas Pacific and Texas Oil continuing to deliver gas into Tennessee's system after the August 15, 1978 termination date.

Petitioners state that the circumstances relating to the imbalance have been reviewed by all parties concerned and that Conalco and Hooker do not need their respective volumes of the imbalance. However, states

[1] This proceeding was commenced before the FPC. By joint regulation of October 1, 1977 (10 CFR 1000.1), it was transferred to the Commission.

[1] Columbia Gas filed for authorization to transport this gas for Fruehauf in Docket No. CP79-135.

[2] Northern filed for authorization to transport this gas for Fruehauf in Docket No. CP79-110.

[1] This proceeding was commenced before the FPC. By joint regulation of October 1, 1977 (10 CFR 1000.1), it was transferred to the Commission.

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Petitioners, Stauffer would utilize the total amount of the imbalance volumes pursuant to the provisions of the order issued herein on January 17, 1979, and would purchase such imbalance volumes under the terms of its gas purchase contract with Texas Pacific. Petitioners state that they would transport such imbalance volumes for Stauffer pursuant to the provisions of its transportation contracts approved by the aforementioned January 17, 1979 order. It is stated that such volumes would be purchased and transported within the volumetric limits of such contracts without further amendment. It is further stated that the total imbalance is 29,773 Mcf.

Any person desiring to be heard or to make any protest with reference to said petition should on or before May 30, 1979, file with the Federal Energy Regulatory Commission, Washington, D.C. 20426, a petition to intervene or a protest in accordance with the requirements of the Commission's Rules of Practice and Procedure (18 CFR 1.8 or 1.10) and the Regulations under the Natural Gas Act (18 CFR 157.10). All protests filed with the Commission will be considered by it in determining the appropriate action to be taken but will not serve to make the protestants parties to the proceeding. Any person wishing to become a party to a proceeding or to participate as a party in any hearing therein must file a petition to intervene in accordance with the Commission's Rules.

Kenneth F. Plumb,

Secretary.

[FR Doc. 79-15345 Filed 5-16-79; 8:45 am]

BILLING CODE 6450-01-M

Determination by a Jurisdictional Agency Under the Natural Gas Policy Act of 1978

May 8, 1979.

On April 27, 1979, the Federal Energy Regulatory Commission received notice of a determination pursuant to 18 CFR 274.104 of the Natural Gas Policy Act of 1978 applicable to:

State of Ohio, Department of Natural Resources, Division of Oil and Gas

FERC Control Number: JD79-3618
API Well Number: 3411921980**14
Section: 108
Operator: The Oxford Oil Co.
Well Name: L. J. Baird Community #1
Field: N/A
County: Muskingum
Purchaser: Columbia Gas Trans. Corp.
Volume: 2/4 MMcf.

The application for determination in this matter together with a copy or description of other materials in the record on which such determination was made is available for inspection, except to the extent such material is treated as confidential under 18 CFR 275.206, at the Commission's Office of Public Information, Room 1000, 825 North Capitol Street, N.E., Washington, D.C. 20426.

Persons objecting to this final determination may, in accordance with 18 CFR 275.203 and 18 CFR 275.204, file a protest with the Commission on or before June 1, 1979. Please reference the FERC Control Number in any correspondence concerning a determination.

Kenneth F. Plumb,

Secretary.

[FR Doc. 79-15346 Filed 5-16-79; 8:45 am]

BILLING CODE 6450-01-M

Determination by a Jurisdictional Agency Under the Natural Gas Policy Act of 1978

May 9, 1979.

On April 18, 1979, the Federal Energy Regulatory Commission received notice of a determination pursuant to 18 CFR 274.104 of the Natural Gas Policy Act of 1978 applicable to:

State of Ohio, Department of Natural Resources, Division of Oil and Gas

FERC Control Number: JD 79-5648
API Well Number: 34 133 2 1525 ** 14
Section: 103
Operator: Inland Drilling Co., Inc
Well Name: Martin-Mantua #2
Field: N/A
County: Portage
Purchaser: East Ohio Gas
Volume: 2.308 MMcf.

The application for determination in this matter together with a copy or description of other materials in the record on which such determination was made is available for inspection, except to the extent such material is treated as confidential under 18 CFR 275.206, at the Commission's Office of Public Information, Room 1000, 825 North Capitol Street, N.E., Washington, D.C. 20426.

Persons objecting to this final determination may, in accordance with 18 CFR 275.203 and 18 CFR 275.204, file a protest with the Commission on or before June 1, 1979. Please reference the FERC Control Number in any correspondence concerning a determination.

Kenneth F. Plumb,

Secretary.

[FR Doc. 79-15347 Filed 5-16-79; 8:45 am]

BILLING CODE 6450-01-M

Determination by a Jurisdictional Agency Under the Natural Gas Policy Act of 1978

May 4, 1979.

On April 25, 1979, the Federal Energy Regulatory Commission received notices from the jurisdictional agencies listed below of determinations pursuant to 18 CFR 274.104 and applicable to the indicated wells pursuant to the Natural Gas Policy Act of 1978.

State of West Virginia, Department of Mines, Oil and Gas Division

FERC Control Number: JD79-3906
API Well Number: 47-039-3210-Rev.
Section of NGPA: 103
Operator: Allegheny & Western Energy Corp.
Well Name: Eastern Associated Coal No. 5-Rev.
Field: Cabin Creek
County: Kanawha
Purchaser: Columbia Gas Transmission Corp.
Volume: 15 MMcf.

FERC Control Number: JD79-3907
API Well Number: 47-039-3204
Section of NGPA: 103
Operator: Allegheny & Western Energy Corp.
Well Name: Eastern Associated Coal No. 9
Field: Cabin Creek
County: Kanawha
Purchaser: Columbia Gas Transmission Corp.
Volume: 15 MMcf.

FERC Control Number: JD79-3908
API Well Number: 47-039-3203
Section of NGPA: 103
Operator: Allegheny & Western Energy Corp.
Well Name: Eastern Associated Coal #8
Field: Cabin Creek
County: Kanawha
Purchaser: Columbia Gas Transmission Corp.
Volume: 15 MMcf.

FERC Control Number: JD79-3909
API Well Number: 47-039-3201
Section of NGPA: 103
Operator: Allegheny & Western Energy Corp.
Well Name: Eastern Associated Coal No. 4
Field: Cabin Creek
County: Kanawha
Purchaser: Columbia Gas Transmission Corp.
Volume: 15 MMcf.

FERC Control Number: JD79-3910
API Well Number: 47-039-2846
Section of NGPA: 103
Operator: Allegheny & Western Energy Corp.
Well Name: Eastern Associated Coal No. 1
Field: Cabin Creek
County: Kanawha
Purchaser: Columbia Gas Transmission Corp.
Volume: 95 MMcf.

FERC Control Number: JD79-3911
API Well Number: 47-021-2979
Section of NGPA: 103
Operator: Braxton Oil and Gas Corp.
Well Name: Stout No. 1
Field: Sand Fork
County: Gilmer
Purchaser: Consolidated Gas Supply Corp.
Volume: 30 MMcf.

FERC Control Number: JD79-3912
API Well Number: 47-021-2846
Section of NGPA: 103
Operator: Braxton Oil and Gas Corp.
Well Name: Pickens No. 1
Field: Sand Fork
County: Gilmer
Purchaser: Consolidated Gas Supply Corp.
Volume: 16 MMcf.

FERC Control Number: JD79-3913
API Well Number: 47-021-2836
Section of NGPA: 103
Operator: Braxton Oil and Gas Corp.
Well Name: Woodford No. 1
Field: Sand Fork
County: Gilmer
Purchaser: Consolidated Gas Supply Corp.
Volume: 27 MMcf.

FERC Control Number: JD79-3914
API Well Number: 47-007-1370
Section of NGPA: 103
Operator: Braxton Oil and Gas Corp.
Well Name: John Posey No. 1
Field: Heaters
County: Braxton
Purchaser: Consolidated Gas Supply Corp.
Volume: 50 MMcf.

FERC Control Number: JD79-3915
API Well Number: 47-007-1202
Section of NGPA: 103
Operator: Braxton Oil and Gas Corp.
Well Name: Toothman No. 1
Field: Aspinall-Finster
County: Braxton
Purchaser: Equitable Gas Company
Volume: 12 MMcf.

FERC Control Number: JD79-3916
API Well Number: 47-007-1223
Section of NGPA: 103
Operator: Braxton Oil and Gas Corp.
Well Name: Toms No. 1
Field: Heaters
County: Braxton
Purchaser: Consolidated Gas Supply Corp.
Volume: 14 MMcf.

FERC Control Number: JD79-3917
API Well Number: 47-041-2544
Section of NGPA: 103
Operator: Braxton Oil and Gas Corp.
Well Name: Rollyson No. 1
Field: Vandalia
County: Lewis
Purchaser:
Volume: 50 MMcf.

The applications for determination in these proceedings together with a copy or description of other materials in the record on which such determinations were made are available for inspection, except to the extent such material is treated as confidential under 18 CFR 275.206, at the Commission's Office of Public Information, Room 1000, 825 North Capitol Street, N.E., Washington, D.C. 20426.

Persons objecting to any of those final determinations may, in accordance with 18 CFR 275.203 and 18 CFR 275.204, file a protest with the Commission on or before June 1, 1979. Please reference the FERC Control Number in any correspondence concerning a determination.

Kenneth F. Plumb,

Secretary.

[FR Doc. 79-15348 Filed 5-16-79; 8:45 am]

BILLING CODE 6450-01-M

Determination by a Jurisdictional Agency Under the Natural Gas Policy Act of 1978

May 9, 1979.

On April 12, 1979, the Federal Energy Regulatory Commission received notice of a determination pursuant to 18 CFR 274.104 of the Natural Gas Policy Act of 1978 applicable to:

U.S. Department of the Interior, Geological Survey

FERC Control Number: JD79-5650
API Well Number: 30-045-22747
Section: 103
Operator: El Paso Natural Gas Company
Well Name: Jones A #1-A (Mesaverde)
Field: Blanco
County: San Juan
Purchaser: El Paso Natural Gas Company
Volume: 291 MMcf.

The application for determination in this matter together with a copy or description of other materials in the record on which such determination was made is available for inspection, except to the extent such material is treated as confidential under 18 CFR 275.206, at the Commission's Office of Public Information, Room 1000, 825 North Capitol Street, N.E., Washington D.C. 20426.

Persons objecting to this final determination may, in accordance with 18 CFR 275.203 and 18 CFR 275.204, file a protest with the Commission on or before June 1, 1979. Please reference the FERC Control Number in any correspondence concerning a determination.

Kenneth F. Plumb,

Secretary.

[FR Doc. 79-15349 Filed 5-16-79; 8:45 am]

BILLING CODE 6450-01-M

[Docket Nos. ER79-242, ER79-245, ER79-247, ER79-250, ER79-254, and ER79-269]

American Electric Power Service Corp., et al.; Order Accepting for Filing and Suspending Rates, Granting Intervention, Waiving Notice Requirements, and Consolidating Proceedings

Issued May 7, 1979.

In the matter of American Electric Power Service Corporation, *et al.*, [Docket Nos. ER79-242, ER79-245, ER79-247, ER79-250, ER79-254, and ER79-269],

Indiana and Michigan Electric Company, [Docket No. ER78-229], Ohio Power Company and Indiana and Michigan Electric Company, [Docket Nos. ER78-292 and ER78-313].

American Electric Power Service Corporation (AEP), on behalf of several of its affiliates, has filed a series of proposed amendments to existing interconnection and operating agreements between individual AEP affiliates and other electric utilities.[1]

Certificates of concurrence from the other participating utilities and supporting cost data were submitted with each filing. In Docket No. ER79-250, Consumers Power Company and the Detroit Edison Company each filed separate certificates of concurrence in the proposed amendment and cost data supporting the proposed rates.

Notices of the proposed amendments were issued between March 20 and March 30, 1979. The West Virginia Public Service Commission filed a notice of intervention in Docket No. ER79-269, and the City of Richmond, Indiana, filed a petition to intervene in Docket No. ER79-247. Neither request for intervention raised any issues, nor did either request hearings. No other petitions to intervene or protests have been filed in connection with any of these dockets.

The proposed amendments in each of the dockets provide for transfers of "Conservation Energy" during an energy emergency. Each proposed amendment also covers payments to utilities whose systems lie between the purchasers and sellers of conservation energy. AEP states that the terms and conditions of the service covered by each of the filings are similar to those at issue in Docket Nos. ER78-229 and ER78-292. AEP also

[1] The proposed amendments have been assigned the following docket numbers: ER79-242 concerns a proposed amendment, filed March 6, 1979, to an interconnection agreement, dated June 14, 1962, between Ohio Power Co. and Cleveland Electric Illuminating Co.; ER79-245 relates to a proposed amendment, filed March 12, 1979, to an interconnection agreement, dated December 1, 1963, between Ohio Power Co. and Columbus and Southern Ohio Electric Co.; ER79-247 concerns a proposed amendment, filed March 14, 1979, to an interconnection agreement, dated January 2, 1977, between Indiana and Michigan Electric Co. and the City of Richmond, Indiana; ER79-250 concerns proposed amendment, filed March 14, 1979, to an operating agreement, dated March 1, 1966, among Indiana and Michigan Electric Co., Consumers Power Co. and the Detroit Edison Co.; ER79-254 relates to a proposed amendment, filed March 16, 1979, to an interconnection agreement, dated December 30, 1960, between Indiana and Michigan Electric Co. and Indianapolis Power and Light Co.; and ER79-269 concerns a proposed amendment, filed March 27, 1979, to an interconnection agreement, dated October 14, 1966, between Appalachian Power Co. and the Tennessee Valley Authority. See Attachment A for designations of appropriate rate schedules.

(2) *Indianapolis Power & Light Co.*,

amendment should on or before, May 30,

March 1, 1979 to March 31, 1979; 30,000

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states that transactions under the proposed amendments may occur immediately because of the present oil supply situation and requests waiver of the notice requirements of Sections 35.3 and 35.11 of the Commission's Regulations to permit each proposed amendment to become effective as of the date it was filed.

All transactions are discretionary and scheduled for periods of one or more weeks. The proposed amendments to the particular agreements provide that the parties to a given transaction must mutually agree to the quantities and estimated cost of electric energy to be supplied and the duration of the transaction. Under each of the proposed amendments the rates for Conservation Energy consist of 110% of the out-of-pocket replacement cost of energy plus 5.00 mills per kilowatt-hour. "Replacement cost of generating the energy" is defined as the "out-of-pocket cost of generating [the energy] plus or minus an adjustment (to be made by supplemental bill) to reflect increases or decreases in the cost of fuel on a Btu basis between the cost of fuel at the stations from which [the energy] was delivered during the month [the energy] was delivered and the cost of such fuel for the second month after such month of delivery." The proposed amendments also specify that in the event one party to an agreement purchases Conservation Energy from a third party for delivery to another party, the delivering party shall receive its out-of-pocket costs for purchased Conservation Energy and transmission losses, plus a specified amount per kilowatt-hour.

AEP asserts that it is not possible to estimate transactions and revenues under the proposed amendments because of the uncertainty of events that might determine the need for Conservation Energy and requests that the Commission waive Section 35.12(b) of its Regulations. The Commission notes that these filings are in the nature of changes in filed rate schedules rather than initially-filed rate schedules; therefore, Section 35.12(b) is inapposite. However, the Commission will waive the requirement of Section 35.13(b)(1) for a comparative statement estimating transactions and revenues under each of the proposed amendments.

A review of AEP's submittals indicates that the filings have not been shown to be just and reasonable and may be unjust, unreasonable, unduly discriminatory or preferential or otherwise unlawful. Therefore, the proposed amendments will be accepted for filing and suspended as hereinafter ordered.

Common issues of law and fact exist between the proposed agreements described above and similar proposed agreements involved in Docket No. ER 78-229 and Docket Nos. ER78-292 and ER78-313.[2] In the interests of efficiency these dockets will therefore be consolidated.

The Commission orders.—(A) The requirements for notice contained in Sections 35.3 and 35.11 of the Commission's Rules and Regulations are hereby waived.

(B) The filing requirement of Section 35.13(b)(1) for a comparative statement of transactions and revenues under each of the proposed amendments is hereby waived.

(C) The proposed amendments filed by AEP, Detroit Edison Company and Consumers Power Company, identified above, are hereby accepted for filing and suspended for one day, to become effective, subject to refund, as of the dates prescribed in the following schedule:

(1) Docket No. ER79-242, March 9, 1979;

(2) Docket No. ER79-245, March 13, 1979;

(3) Docket No. ER79-247, March 15, 1979;

(4) Docket No. ER79-250, March 16, 1979;

(5) Docket No. ER79-254, March 17, 1979;

(6) Docket No. ER79-269, March 28, 1979;

(D) Docket Nos. ER79-242, ER79-245, ER79-247, ER79-250, ER79-254 and ER79-269 are hereby consolidated with Docket Nos. ER78-229 and with Docket Nos. ER78-292 and ER78-313.

(E) The West Virginia Public Service Commission and the City of Richmond, Indiana, are hereby permitted to intervene in these proceedings subject to the Rules and Regulations of the Commission: *Provided, however,* that participation by such intervenors shall be limited to the matters set forth in their petitions to intervene; and *Provided, further,* that the admission of such intervenors shall not be construed as recognition by the Commission that they might be aggrieved because of any order or orders of the Commission entered in these proceedings.

(F) Pursuant to the authority contained in and subject to the jurisdiction conferred upon the Federal Energy Regulatory Commission by Section 402(a) of the DOE Act and by the Federal Power Act, and pursuant to the Commission's Rules of Practice and Procedure and the Regulations under the Federal Power Act (18 CFR, Chapter I), a public hearing shall be held concerning the justness and reasonableness of the amendments proposed by AEP. Procedural dates will be established by subsequent order.

(G) The Secretary shall cause prompt publication of this order to be made in the **Federal Register.**

By the Commission.

Kenneth F. Plumb,

Secretary.

[2] Docket Nos. ER78-292 and ER78-313 were previously consolidated by order of May 26, 1978.

Fuel Conservation Energy--Designations

Docket No. ER79-242

Filed: March 8, 1979. Effective: March 9, 1979, subject to refund.

(1) *Ohio Power Company,* Supp. No. 8 to Rate Schedule FERC No. 31.

(2) *Cleveland Electric Illuminating Co.,* Supp. No. 8 to Rate Schedule FERC No. 1 (Concurs in (1) above).

Docket No. ER79-245

Filed: March 12, 1979. Effective: March 13, 1979, subject to refund.

(1) *Ohio Power Company,* Supp. No. 10 to Rate Schedule FERC No. 32 (Supersedes Supp. No. 8 to R. S. FERC No. 32).

(2) *Columbus & Southern Ohio Electric Co.,* Supp. No. 10 to Rate Schedule FERC No. 7 (Supersedes Supp. No. 8 to R. S. FERC No. 7) (Concurs in (1) above).

Docket No. ER79-247

Filed: March 14, 1979. Effective: March 15, 1979, subject to refund.

(1) *Indiana & Michigan Electric Co.,* Supp. No. 8 to Rate Schedule FERC No. 70.

Docket No. ER79-250

Filed: March 15, 1979. Effective: March 16, 1979, subject to refund.

(1) *Indiana & Michigan Electric Co.,* Supp. No. 13 to Rate Schedule FERC No. 68 (Supersedes Supp. No. 4 to R. S. FERC No. 68).

(2) *Consumers Power Co.,* Supp. No. 16 to Rate Schedule FERC No. 23 (Supersedes Supp. No. 8 to R. S. FERC No. 23) (Concurs in (1) above).

(3) The Detroit Edison Co., Supp. No. 16 to Rate Schedule FERC No. 12 (Supersedes Supp. No. 8 to R. S. FERC No. 12) (Concurs in (1) above).

Docket No. ER79-254

Filed: March 16, 1979. Effective: March 17, 1979, subject to refund.

(1) *Indiana & Michigan Electric Co.,* Supp. No. 14 to Rate Schedule FERC No. 21.

(2) *Indianapolis Power & Light Co.,* Supp. No. 12 to Rate Schedule FERC No. 1 (Concurs in (1) above).

Docket No. ER79-269

Filed: March 27, 1979. Effective: March 28, 1979, subject to refund.

(1) *Appalachian Power Co.,* Supp. No. 5 to Rate Schedule FERC No. 52.

[FR Doc. 79-15350 Filed 5-16-79; 8:45 am]

BILLING CODE 6450-01-M]

[Docket No. CP79-76]

Midwestern Gas Transmission Co.; Amendment

May 9, 1979.

Take notice that on April 27, 1979, Midwestern Gas Transmission Company (Midwestern), P.O. Box 2511, Houston, Texas 77001, filed in Docket No. CP79-76 an amendment to its pending application in said docket pursuant to Section 3 of the Natural Gas Act for authorization to import an additional 8,000 Mcf of natural gas per day from Canada into the United States near Emerson, Manitoba, to be purchased from TransCanada Pipelines Limited (TransCanada), all as more fully set forth in the amendment which is on file with the Commission and open to public inspection.

The application in this docket requests authorization pursuant to Section 7(c) of the Natural Gas Act to sell the additional 8,000 Mcf per day to be imported from Canada on a *pro rata* basis to Midwestern's customers on its northern division. Midwestern stated that TransCanada, which is the sole supplier of gas on Midwestern's northern division, has advised Midwestern that as a result of the expanding development of the petro-chemical industry in the Province of Alberta, certain additional natural gas liquids are being removed from its gas stream causing the total heating value of its gas stream to drop below 1,000 Btu's per cubic foot. The proposed sale is to offset this expected drop in Btu levels.

It is indicated that an amending agreement between Midwestern and TransCanada amends an existing contract by increasing the contract quantity from 116,332 Mcf per day to 124,332 Mcf per day and amends all three existing contracts to provide for a minimum Btu content of 950 Btu's per cubic foot instead of 1,000 Btu's per cubic foot. Midwestern will pay $2.30 (U.S.) per Mcf for the additional quantities to be purchased from TransCanada.

Any person desiring to be heard or to make any protest with reference to said amendment should on or before, May 30, 1979, file with the Federal Energy Regulatory Commission, Washington, D.C. 20426, a petition to intervene or a protest in accordance with the requirements of the Commission's Rules of Practice and Procedure (18 CFR 1.8 or 1.10). All protests filed with the Commission will be considered by it in determining the appropriate action to be taken but will not serve to make the protestants parties to the proceeding. Any person wishing to become a party to a proceeding or to participate as a party in any hearing therein must file a petition to intervene in accordance with the Commission's Rules. All persons who have heretofore filed need not file again.

Kenneth F. Plumb,

Secretary.

[FR Doc. 79-15351 Filed 5-15-79; 8:45 am]

BILLING CODE 6450-01-M

[Docket No. ER79-354]

Vermont Electric Power Co. Inc.; Rate Schedule Filing

May 10, 1979.

The filing Company submits the following:

Take notice that on May 7, 1979, Vermont Electric Power Company, Inc. (VELCO) tendered for filing a Rate Schedule containing a Bulk Power Purchase Agreement between VELCO and certain Massachusetts Municipal Wholesale Electric Company municipals, including Braintree Electric Light Department of Braintree, Town of Danvers Electric Dept. of Danvers, Hingham Municipal Lighting Plant of Hingham, Holden Municipal Light Dept. of Holden, City of Holyoke, Massachusetts Gas & Electric Dept. of Holyoke, Hudson Light and Power Dept. of Hudson, Hull Municipal Light Dept. of Hull, Ipswich Municipal Light Department of Ipswich, Littleton Electric Light Dept. of Littleton, Mansfield Municipal Light Department of Minsfield, Middleborough Gas & Electric Department of Middeborough, Middleton Municipal Light Department of Middleton, North Attleboro Municipal Electric Light Dept. of North Attleboro, Peabody Municipal Light Plant of Peabody, Templeton Municipal Light Dept. of Baldwinville, West Boylston Municipal Light Dept. of West Boylston and Westfield Gas & Electric Dept. of Westfield, Massachusetts, dated as of February 9, 1979.

VELCO states that the service to be rendered under this Rate Schedule is a follows: 9,000 kw during the period March 1, 1979 to March 31, 1979; 30,000 kw during the period April 1, 1979 to October 31, 1979; 9,000 kw during the period march 1, 1980 to March 31, 1980; 35,000 kw during the period April 1, 1980 to October 31, 1980 and 33,000 kw during the period of May 1, 1981 to October 31, 1981, capacity and related energy from the Vermont Yankee Nuclear Electric Generating Station, at $87,480, $291,600, $87,480, $340,200 and $320,760 per month. Service from VELCO to MMWEC municipals under the Rate Schedule will consist of apporoximately 4,599,000, 15,330,000, 4,599,000, 17,885,000 and 16,863,000 kilowatt-hours/month. Charges for this power will be at VELCO's cost. Therefore, VELCO states that there will be no change in the overall rate of return of VELCO.

VELCO states that service under this Rate Schedule commenced on March 1, 1979 and will terminate on October 31, 1981. An effective date of March 1, 1979, and waiver of the requirements of Section 31.11 of the Commission's Regulations are requested.

Copies of the filing were served upon Massachusetts Municipal Wholesale Electric Company and all of the above named MMWEC municipals and Vermont Public Service Board.

Any person desiring to be heard or to protest said application should file a petition to intervene or protest with the Federal Energy Regulatory Commission, 825 North Capitol Street, N.E., Washington, D.C. 20426, in accordance with Sections 1.8 and 1.10 of the Commission's Rules of Practice and Procedure (18 CFR 1.8, 1.10). All such petitions or protests should be filed on or before June 1, 1979. Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceeding. Any person wishing to become a party must file a petition to intervene. Copies of this application are on file with the Commission and are available for public inspection.

Kenneth F. Plumb,

Secretary.

[FR Doc. 79-15357 Filed 5-16-79; 8:45 am]

BILLING CODE 6450-01-M

Determination by a Jurisdictional Agency Under the Natural Gas Policy Act of 1978

May 9, 1979.

On May 2, 1979, the Federal Energy Regulatory Commission received notices from the jurisdictional agencies listed below of determinations pursuant to 18 CFR 274.104 and applicable to the

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FERC Control Number: JD79-3433

FERC Control Number: JD79-3441

Determination by a Jurisdictional

indicated wells pursuant to the Natural Gas Policy Act of 1978.

State of Louisiana, Department of Natural Resources, Office of Conservation

FERC Control Number: JD79–3410
API Well Number: 1711320674
Section of NGPA: 102
Operator: Pel-Tex Oil Company, Inc.
Well Name: S. L. 2476 A #1
Field: Intercoastal City
County: Vermilion
Purchaser: Transcontinental Gas Pipe Line Corporation
Volume: 1,000.

FERC Control Number: JD79–3411
API Well Number: 1706700480
Section of NGPA: 108
Operator: IMC Exploration Company
Well Name: J. B. Miles #F–7
Field: Monroe Gas
County: Morehouse
Purchaser: Mid Louisiana Gas company
Volume: 11.2 MMcf.

FERC Control Number: JD79–3412
API Well Number: 1706700504
Section of NGPA: 108
Operator: IMC Exploration Company
Well Name: Miles C #6
Field: Monroe Gas
County: Morehouse
Purchaser: Mid Louisiana Gas company
Volume: 3.7 MMcf.

FERC Control Number: JD79–3413
API Well Number: 1706700503
Section of NGPA: 108
Operator: IMC Exploration Company
Well Name: Miles C #5
Field: Monroe Gas
County: Morehouse
Purchaser: Mid Louisiana Gas Company
Volume: 3.1 MMcf.

FERC Control Number: JD79–3414
API Well Number: 1706700483
Section of NGPA: 103
Operator: IMC Exploration Company
Well Name: Miles C #4
Field: Monroe Gas
County: Morehouse
Purchaser: Mid Louisiana Gas Company
Volume: 2.3 MMcf.

FERC Control Number: JD79–3415
API Well Number:
Section of NGPA: 108
Operator: IMC Exploration Company
Well Name: Miles C #3
Field: Monroe Gas
County: Morehouse
Purchaser: Mid Louisiana Gas Company
Volume: 6.0 MMcf.

FERC Control Number: JD79–3416
API Well Number: 1701100005
Section of NGPA: 108
Operator: IMC Exploration company
Well Name: Matthews B #74
Field: Monroe Gas
County: Union
Purchaser: Mid Louisiana Gas company
Volume: 5.0 MMcf.

FERC Control Number: JD79–3417
API Well Number: 1711100476
Section of NGPA: 108
Operator: IMC Exploration Company
Well Name: McKinnie-Wilson B #2
Field: Monroe Gas
County: Union
Purchaser: Mid Louisiana Gas Company
Volume: 2.9 MMcf.

FERC Control Number: JD79–3418
API Well Number: 1711320715
Section of NGPA: 103
Operator: Union Oil Company of California
Well Name: La Furs Inc. "A" #19
Field: East White Lake
County: Vermilion
Purchaser: Transcontinental Gas Pipe Line Corporation
Volume: 328.5 MMcf.

FERC Control Number: JD79–3419
API Well Number: 17–073–21087
Section of NGPA: 108
Operator: Lobo Oil & Gas Corporation
Well Name: Phillips #10
Field: Monroe Gas
County: Ouachita
Purchaser: United Gas Pipe Line Company
Volume: 0.2 MMcf.

FERC Control Number: JD79–3420
API Well Number: 1703320036
Section of NGPA: 107
Operator: South Louisiana Production Co., Inc.
Well Name: 17600' TUSC, RA, SUA: Kizer No. 1
Field: Irene
County: East Baton Rouge
Purchaser: Mid Louisiana Gas Company
Volume: 3,650 MMcf.

FERC Control Number: JD79–3421
API Well Number: 1709920704
Section of NGPA: 103
Operator: Shell Oil Co.
Well Name: A RB SUA H Burdin No. 21
Field: West Lake Verret
County: St. Martin
Purchaser: United Gas Pipe Line Co.
Volume:

FERC Control Number: JD79–3422
API Well Number: 1711320714
Section of NGPA: 102
Operator: Pel-Tex Oil Company, Inc.
Well Name: W. J. Kuehling Heirs #1
Field: Intracostal City
County: Vermilion
Purchaser: Transcontinental Gas Pipe Line Corp.
Volume: 1,000 MMcf.

FERC Control Number: JD79–3423
API Well Number: 1705721502
Section of NGPA: 102
Operator: McMoRan Exploration Co.
Well Name: Sabine Royalty No. 1 158726
Field: Lake Beouf
County: Lafourche
Purchaser: Transcontinental Gas Pipe Line Corp.
Volume: 180 MMcf.

FERC Control Number: JD79–3424
API Well Number: 1710921903
Section of NGPA: 102
Operator: McMoRan
Well Name: Terrebonne Parish School Board No. 1
Field: Lake Hatch
County: Terrebonne
Purchaser: Columbia Gas Transmission
Volume: 264 MMcf.

FERC Control Number: JD79–3425
API Well Number: 17–067–20600
Section of NGPA: 108
Operator: Relco Exploration Co., Inc.
Well Name: Georgia Pacific M–5
Field: Monroe Gas
County: Morehouse
Purchaser: Georgia Pacific Corporation
Volume: 17.6 MMcf.

FERC Control Number: JD79–3426
API Well Number: 17–067–20531
Section of NGPA: 108
Operator: Relco Exploration Co., Inc.
Well Name: Georgia Pacific M–4
Field: Monroe Gas
County: Morehouse
Purchaser: Georgia Pacific Corporation
Volume: 8.9 MMcf.

FERC Control Number: JD79–3427
API Well Number: 17–717–20103
Section of NGPA: 103(c)
Operator: Chevron U.S.A. Inc.
Well Name: S. L. 1486 #19
Field: Bay Marchand
County: Offshore LaFourche (State)
Purchaser: Tennessee Gas Pipeline Co.
Volume: 10 MMcf.

FERC Control Number: JD79–3428
API Well Number: 17–717–20103–00
Section of NGPA: 103c
Operator: Chevron U.S.A. Inc.
Well Name: S. L. 1486 #19–D
Field: Bay Marchang
County: Offshore La. (State)
Purchaser: Tennessee Gas Pipeline Company
Volume: 20 MMcf.

FERC Control Number: JD79–3429
API Well Number: 17–714–20064
Section of NGPA: 103c
Operator: Chevron U.S.A. Inc.
Well Name: S. L. 1367 #23
Field: Bay Marchand Blk. 2
County: Offshore Lafourche (State)
Purchaser: Tenneesee Gas Pipeline Company
Volume: 7.4 MMcf.

FERC Control Number: JD79–3430
API Well Number: 17–714–20057
Section of NGPA: 103(c)
Operator: Chevron U.S.A. Inc.
Well Name: S. L. 2724 #16
Field: Bay Marchand
County: Offshore Lafourche (State)
Purchaser: Tennessee Gas Pipeline Co.
Volume: 36 MMcf.

FERC Control Number: JD79–3431
API Well Number: 1709320150
Section of NGPA: 103
Operator: Shell Oil Co.
Well Name: Schexnayder Community No. 17
Field: La Pice
County: St. James
Purchaser: United Gas Pipe Line Co.
Volume: 60 MMcf.

FERC Control Number: JD79–3432
API Well Number: 1709320181
Section of NGPA: 103
Operator: Forman Exploration Company
Well Name: Lanaux No. 1
Field: Romeville
County: St. James
Purchaser: Transcontinental Gas Pipe Line Corporation
Volume: 550 MMcf.

FERC Control Number: JD79–3433
API Well Number: 1710921977
Section of NGPA: 107
Operator: The Superior Oil Company
Well Name: VUA; LL&E U 12 No. 16
Field: Four Isle Dome
County: Terrebonne
Purchaser: United Gas Pipe Line Company
Volume: 876 MMcf.

FERC Control Number: JD79–3434
API Well Number: 1705320520
Section of NGPA: 102
Operator: Great Southern Oil & Gas Co., Inc.
Well Name: CIB JEFF RA SUA; Miller #4
Field: Lake Arthur
County: Jefferson Davis
Purchaser: Trunkline Gas Company
Volume: 108 MMcf.

FERC Control Number: JD79–3435
API Well Number: 17–067–20140
Section of NGPA: 108
Operator: Relco Exploration Co., Inc.
Well Name: G. T. Madison #2
Field: Monroe
County: Morehouse
Purchaser: Georgia Pacific Corporation
Volume: 1.9 MMcf.

FERC Control Number: JD79–3436
API Well Number: 17–067–20141
Section of NGPA: 108
Operator: Relco Exploration Co., Inc.
Well Name: G. T. Madison #1
Field: Monroe
County: Morehouse
Purchaser: Georgia Pacific Corporation
Volume: 4.2 MMcf.

FERC Control Number: JD79–3437
API Well Number: 17–067–20248
Section of NGPA: 108
Operator: Relco Exploration Co., Inc.
Well Name: HSU 512; Higginbotham #2
Field: Monroe
County: Morehouse
Purchaser: Georgia Pacific Corporation
Volume: 1.5 MMcf.

FERC Control Number: JD79–3438
API Well Number: 17–067–20249
Section of NGPA: 108
Operator: Relco Exploration Co., Inc.
Well Name: Higginbotham #3
Field: Monroe
County: Morehouse
Purchaser: Georgia Pacific Corporation
Volume: 4.7 MMcf.

FERC Control Number: JD79–3439
API Well Number: 17–067–20530
Section of NGPA: 108
Operator: Relco Exploration Co., Inc.
Well Name: Georgia Pacific M–3
Field: Monroe
County: Morehouse
Purchaser: Georgia Pacific Corporation
Volume: 1.9 MMcf.

FERC Control Number: JD79–3440
API Well Number: 17–067–20483
Section of NGPA: 108
Operator: Relco Exploration Co., Inc.
Well Name: Georgia Pacific M–1
Field: Monroe Gas
County: Morehouse
Purchaser: Georgia Pacific Corporation
Volume: 4.1 MMcf.

FERC Control Number: JD79–3441
API Well Number: 1772620148
Section of NGPA: 102
Operator: Kerr-McGee Corporation
Well Name: State Lease 2000 Well No. 45
Field: Breton Sound Block 20
County: Offshore Plaquemines
Purchaser: Southern Natural Gas Co.
Volume: 3,500 MMcf.

FERC Control Number: JD79–3442
API Well Number: 1772620156
Section of NGPA: 102
Operator: Kerr-McGee Corporation
Well Name: State Lease 6802 Well No. 1
Field: Breton Sound Block 20
County: Offshore Plaquemines
Purchaser: Southern Natural Gas Co.
Volume: 1,500 MMcf.

FERC Control Number: JD79–3443
API Well Number: 1772620157
Section of NGPA: 102
Operator: Kerr-McGee Corporation
Well Name: State Lease 1230 Well No. 3
Field: Breton Sound Block 20
County: Offshore Plaquemines
Purchaser: Southern Natural Gas Co.
Volume: 1,250 MMcf.

FERC Control Number: JD79–3444
API Well Number: 1772620145
Section of NGPA: 102
Operator: Kerr-McGee Corporation
Well Name: State Lease 1230 Well No. 1
Field: Breton Sound Block 20
County: Offshore Plaquemines
Purchaser: Southern Natural Gas Co.
Volume: 3,500 MMcf.

FERC Control Number: JD79–3445
API Well Number: 1772620139
Section of NGPA: 102
Operator: Kerr-McGee Corporation
Well Name: State Lease 2000 Well No. 44
Field: Breton Sound Block 20
County: Offshore Plaquemines
Purchaser: Southern Natural Gas Co.
Volume: 3,500 MMcf.

The applications for determination in these proceedings together with a copy or description of other materials in the record on which such determinations were made are available for inspection, except to the extent such material is treated as confidential under 18 CFR 275.206, at the Commission's Office of Public Information, Room 1000, 825 North Capitol Street, N.E., Washington, D.C. 20426.

Persons objecting to any of those final determinations may, in accordance with 18 CFR 275.203 and 18 CFR 275.204, file a protest with the Commission on or before June 1, 1979. Please reference the FERC Control Number in any correspondence concerning a determination.

Kenneth F. Plumb,

Secretary.

[FR Doc. 79–15352 Filed 5–16–79; 8:45 am]

BILLING CODE 6450–01–M

Determination by a Jurisdictional Agency Under the Natural Gas Policy Act of 1978

May 9, 1979.

On May 2, 1979, the Federal Energy Regulatory Commission received notices from the jurisdictional agencies listed below of determinations pursuant to the 18 CFR 274.104 and applicable to the indicated wells pursuant to the Natural Gas Policy Act of 1978.

State of Louisiana, Department of Natural Resources, Office of Conservation

FERC Control Number: JD79–3446
API Well Number: 17 031 20884
Section of NGPA: 103
Operator: GEORGE R. SCHURMAN
Well Name: NORRIS SUA BAKER #2
Field: SPIDER
County: DESOTO PARISH
Purchaser: LOUISIANA INTRASTATE GAS CORP.
Volume: 360 MMcf.

FERC Control Number: JD79–3447
API Well Number: 17 109 21977
Section of NGPA: 107
Operator: THE SUPERIOR OIL COMPANY
Well Name: VUA; LL&E U12 NO. 16–D
Field: FOUR ISLE DOME
County: TERREBONE PARISH
Purchaser: UNITED GAS PIPE LINE COMPANY.
Volume:

FERC Control Number: JD79–3448
API Well Number: 17 109 21875
Section of NGPA: 107
Operator: THE SUPERIOR OIL COMPANY
Well Name: 15,900 SUA; KELLY ET AL NO. 2
Field: BAYOU RAMBIO
County: TERREBONE PARISH
Purchaser: UNITED GAS PIPE LINE COMPANY
Volume: 3,166 MMcf.

FERC Control Number: JD79–3449
API Well Number: 17 109 20978
Section of NGPA: 103
Operator: UNION OIL COMPANY OF CALIFORNIA
Well Name: LATERRE CO., Inc. "C" WELL NO. 11
Field: LAKE PAIGE
County: TERREBONE PARISH
Purchaser: TEXAS GAS TRANSMISSION CORP.
Volume: 600 MMcf.

FERC Control Number: JD79–3450
API Well Number: 17 725 20190
Section of NGPA: 103
Operator: KERR-McGEE CORPORATION
Well Name: STATE LEASE 1273 WELL NO. 6–D
Field: MAIN PASS BLOCK 47
County: PLAQUEMINES PARISH
Purchaser: SOUTHERN NATURAL GAS COMPANY
Volume: KM WI = 842 MMcf.

FERC Control Number: JD79–3451
API Well Number: 17 726 20135
Section of NGPA: 103
Operator: KERR-McGEE CORPORATION

Section of NGPA: 108

Section of NGPA: 103

Section of NGPA: 108

Well Name: STATE LEASE 4409 WELL NO. 10
Field: BRETON SOUND BLOCK 37
County: PLAQUEMINES PARISH
Purchaser: SOUTHERN NATURAL GAS COMPANY
Volume: KM WI = 994 MMcf.

FERC Control Number: JD79-3452
API Well Number: 17 726 20135
Section of NGPA: 103
Operator: KERR-McGEE CORPORATION
Well Name: STATE LEASE 4409 WELL NO. 10-D
Field: BRETON SOUND BLOCK 37
County: PLAQUEMINES PARISH
Purchaser: SOUTHERN NATURAL GAS COMPANY
Volume: KM WI = 724 MMcf.

FERC Control Number: JD79-3453
API Well Number: 17 726 20147
Section of NGPA: 103
Operator: KERR-McGEE CORPORATION
Well Name: STATE LEASE 4409 WELL NO. 11
Field: BRETON SOUND BLOCK 37
County: PLAQUEMINES PARISH
Purchaser: SOUTHERN NATURAL GAS COMPANY
Volume: KM WI = 307 MMcf.

FERC Control Number: JD79-3454
API Well Number: 17 726 20159
Section of NGPA: 103
Operator: KERR-McGEE CORPORATION
Well Name: S. L. 1997 #11
Field: BRETON SOUND BLOCK 20
County: PLAQUEMINES PARISH
Purchaser: SOUTHERN NATURAL GAS COMPANY
Volume: KM WI = 326 MMcf.

FERC Control Number: JD79-3455
API Well Number: 17 726 20146
Section of NGPA: 103
Operator: KERR-McGEE CORPORATION
Well Name: STATE LEASE 1999 WELL NO. 33
Field: BRETON SOUND BLOCK 20
County: PLAQUEMINES PARISH
Purchaser: SOUTHERN NATURAL GAS COMPANY
Volume: KM WI = 275 MMcf.

FERC Control Number: JD79-3456
API Well Number: 17 726 20154
Section of NGPA: 103
Operator: KERR-McGEE CORPORATION
Well Name: S. L. 2000 #46
Field: BRETON SOUND BLOCK 20
County: PLAQUEMINES PARISH
Purchaser: SOUTHERN NATURAL GAS COMPANY
Volume: KM WI7 MMcf.

FERC Control Number: JD79-3457
API Well Number: 17 726 20154
Section of NGPA: 103
Operator: KERR-McGEE CORPORATION
Well Name: S. L. 2000 #46D
Field: BRETON SOUND BLOCK 20 FIELD
County: PLAQUEMINES PARISH
Purchaser: SOUTHERN NATURAL GAS COMPANY
Volume: KM WI 123 MMcf.

FERC Control Number: JD79-3458
API Well Number: 17 726 20155
Section of NGPA: 103
Operator: KERR-McGEE CORPORATION
Well Name: S. L. 2000 WELL NO. 47-D
Field: BRETON SOUND BLOCK 20 FIELD
County: PLAQUEMINES PARISH
Purchaser: SOUTHERN NATURAL GAS COMPANY
Volume: KM WI = 54 MMcf.

FERC Control Number: JD79-3459
API Well Number: 17 726 20161
Section of NGPA: 103
Operator: KERR-McGEE CORPORATION
Well Name: S. L. 2000 WELL NO. 48-D
Field: BRETON SOUND BLK 20 FLD
County: PLAQUEMINES PARISH
Purchaser: SOUTHERN NATURAL GAS COMPANY
Volume: KM WI = 41 MMcf.

FERC Control Number: JD79-3460
API Well Number: 17 726 20167
Section of NGPA: 103
Operator: KERR-McGEE CORPORATION
Well Name: S. L. 2000 WELL NO. 49
Field: BRETON SOUND BLOCK 20 FIELD
County: PLAQUEMINES PARISH
Purchaser: SOUTHERN NATURAL GAS COMPANY
Volume: KM WI = 339 MMcf.

FERC Control Number: JD79-3461
API Well Number: 17 109 22067
Section of NGPA: 103
Operator: TENNECO OIL COMPANY
Well Name: TENNECO FEE #5
Field: EAST LAKE DECADE
County: TERREBONE PARISH
Purchaser: LOUISIANA INTRASTATE GAS COMPANY
Volume: 548 MMcf.

FERC Control Number: JD79-3462
API Well Number: 17 113 20767
Section of NGPA: 103
Operator: THE SUPERIOR OIL COMPANY
Well Name: S. L. 3050 NO. 36
Field: LacBLANC
County: VERMILION PARISH
Purchaser: TENNESSEE GAS PIPE LINE CO.
Volume: 755 MMcf.

FERC Control Number: JD79-3464
API Well Number: 17 113 20767
Section of NGPA: 103
Operator: THE SUPERIOR OIL COMPANY
Well Name: S. L. 3050 NO. 36-D
Field: LacBLANC
County: VERMILION PARISH
Purchaser: TENNESSEE GAS PIPE LINE CO.
Volume: 692 MMcf.

FERC Control Number: JD79-3464
API Well Number: 1709720476
Section of NGPA: 103
Operator: C F Braun & Co.
Well Name: Alice Richard No. 1
Field: Lewisburg—Section 4-7S-3E
County: St. Landry Parish
Purchaser: Monterey Pipeline Company
Volume: 300 MMcf.

FERC Control Number: JD79-3465
API Well Number: 1709920636
Section of NGPA: 103
Operator: American Quasar Petroleum Co.
Well Name: Grief Bros. #2
Field: 330 FWL & 2653 FSL 23-9S-8E.
County: St. Martin
Purchaser: Southern Natural Gas Co.
Volume: 180 MMcf.

FERC Control Number: JD79-3466
API Well Number: 1711320744
Section of NGPA: 107
Operator: Union Oil Company of California
Well Name: E. B. Meaux No. 1
Field: Wright
County: Vermilion Parish
Purchaser: Columbia Gas Transmission Corp.
Volume: 730 MMcf.

FERC Control Number: JD79-3467
API Well Number: 1711320822
Section of NGPA: 103
Operator: Union Oil Company of California
Well Name: Robert Rrahan et al No. 1
Field: Wright
County: Vermilion Parish
Purchaser: Columbia Gas Transmission Corp.
Volume: 730 MMcf.

FERC Control Number: JD79-3468
API Well Number: 1705320509
Section of NGPA: 102
Operator: Great Southern Oil & Gas Co., Inc.
Well Name: Marg Tex 1 RA Sua; Miller #3
Field: Lake Arthur
County: Jefferson Davis Parish
Purchaser: Trunkline Gas Company
Volume: 840 MMcf.

FERC Control Number: JD79-3469
API Well Number: 1703100386
Section of NGPA: 108
Operator: Phillips Petroleum Company
Well Name: Pet Sus; Lumber No. 1
Field: Logansport
County: De Soto
Purchaser: Southern Natural Gas Co.
Volume: 18 MMcf.

FERC Control Number: JD79-3470
API Well Number: 17-067-20620
Section of NGPA: 108
Operator: Relco Exploration Co., Inc
Well Name: Georgia Pacific M-7
Field: Monroe Gas
County: Morehouse Parish
Purchaser: Georgia Pacific Corporation
Volume: 7.9 MMcf.

FERC Control Number: JD79-3471
API Well Number: 17-067-20663
Section of NGPA: 108
Operator: Relco Exploration Co., Inc.
Well Name: Georgia Pacific M-10
Field: Monroe Gas
County: Morehouse Parish
Purchaser: Georgia Pacific Corporation
Volume: 5.9 MMcf.

FERC Control Number: JD79-3472
API Well Number: 17-067-20601
Section of NGPA: 108
Operator: Relco Exploration Co., Inc.
Well Name: Georgia Pacific M-6
Field: Monroe Gas
County: Morehouse Parish
Purchaser: Georgia Pacific Corporation
Volume: 5.8 MMcf.

FERC Control Number: JD79-3473
API Well Number: 17-067-20664
Section of NGPA: 108
Operator: Relco Exploration Co., Inc.
Well Name: Georgia Pacific M-11
Field: Monroe Gas
County: Morehouse Parish
Purchaser: Georgia Pacific Corporation
Volume: 12.9 MMcf.

FERC Control Number: JD79-3474
API Well Number: 17-067-20891
Section of NGPA: 108
Operator: Relco Exploration Co., Inc.
Well Name: Georgia Pacific M-18
Field: Monroe Gas
County: Morehouse Parish
Purchaser: Georgia Pacific Corporation
Volume: 3.9 MMcf.

FERC Control Number: JD79-3475
API Well Number: 17-067-20887
Section of NGPA: 108
Operator: Relco Exploration Co., Inc.
Well Name: Georgia Pacific M-14
Field: Monroe Gas
County: Morehouse Parish
Purchaser: Georgia Pacific Corporation
Volume: 18.3 MMcf.

FERC Control Number: JD79-3476
API Well Number: 17-067-20888
Section of NGPA: 108
Operator: Relco Exploration Co., Inc.
Well Name: Georgia Pacific M-15
Field: Monroe Gas
County: Morehouse Parish
Purchaser: Georgia Pacific Corporation
Volume: 6.6 MMcf.

FERC Control Number: JD79-3477
API Well Number: 17-067-20890
Section of NGPA: 108
Operator: Relco Exploration Co., Inc.
Well Name: Georgia Pacific M-17
Field: Monroe Gas
County: Morehouse Parish
Purchaser: Georgia Pacific Corporation
Volume: 6.0 MMcf.

FERC Control Number: JD79-3478
API Well Number: 1701722748
Section of NGPA: 103
Operator: McGoldrick Oil Company
Well Name: McDade No. 16
Field: Caddo Pine Island
County: Caddo
Purchaser: United Gas Pipeline Company
Volume: 90 MMcf.

FERC Control Number: JD79-3479
API Well Number: 1711920187
Section of NGPA: 103
Operator: Art Machin & Associates, Inc.
Well Name: Pet Ra Su EE; Dr. Vaughan Est. #1
Field: North Shongaloo—Red Rock
County: Webster Parish
Purchaser: United Gas Pipe Line Co.,
Volume: 18 MMcf.

FERC Control Number: JD79-3480
API Well Number: 1709920615
Section of NGPA: 102
Operator: C F Braun & Co.
Well Name: L F Dupuis No. 1
Field: Plumb Bob—Section 23-8S-7E
County: St. Martin Parish
Purchaser:
Volume: 350 MMcf.

FERC Control Number: JD79-3481
API Well Number: 1709720482
Section of NGPA: 103
Operator: C. F. Braun & Co.
Well Name: F A DeJean No. 1
Field: Lewisburg Section 4-7S-3E
County: St. Landry
Purchaser: Monterey Pipeline Company
Volume: 300 MMcf.

FERC Control Number: JD79-3482
API Well Number: 1709720482
Section of NGPA: 103
Operator: C F Braun & Co.
Well Name: F A DeJean 1-D
Field: Lewisburg—Section 4-7S-3E
County: St. Landry Parish
Purchaser: Monterey Pipeline Company
Volume: 300 MMcf.

FERC Control Number: JD79-3483
API Well Number: 17-001-20691
Section of NGPA: 103
Operator: Cotton Petroleum Corporation
Well Name: Michell Leger No. 1
Field: Crowley
County: Acadia Parish
Purchaser: Tennessee Gas Pipeline Company
Volume: 17.7 MMcf.

FERC Control Number: JD79-3484
API Well Number: 17 113 20693
Section of NGPA: 103
Operator: The Superior Oil Company
Well Name: S. L. 3052 NO. 34
Field: Lac Blanc
County: Vermilion Parish
Purchaser: Tennessee Gas Pipe Line Co.
Volume: 1,305 MMcf.

FERC Control Number: JD79-3485
API Well Number: 1711121019
Section of NGPA: 108
Operator: IMC Exploration Company
Well Name: Graylins #N-144 (Formerly Luffey-Gayling)
Field: Monroe Gas Field
County: Union
Purchaser: Mid Louisiana Gas Company
Volume: 9.9 MMcf.

FERC Control Number: JD79-3486
API Well Number: 1711121034
Section of NGPA: 108
Operator: IMC Exploration Company
Well Name: Grayling N-145
Field: Monroe Gas Field
County: Union
Purchaser: Mid Louisiana Gas Company
Volume: 13.1 MMcf.

FERC Control Number: JD79-3487
API Well Number: 1711121035
Section of NGPA: 108
Operator: IMC Exploration Company
Well Name: Grayling #N-146
Field: Monroe Gas Field
County: Union
Purchaser: Mid Louisiana Gas Company
Volume: 9.5 MMcf.

FERC Control Number: JD79-3488
API Well Number: 1711121036
Section of NGPA: 108
Operator: IMC Exploration Company
Well Name: Grayling N-147
Field: Monroe Gas Field
County: Union
Purchaser: Mid Louisiana Gas Company
Volume: 9.5 MMcf.

FERC Control Number: JD79-3489
API Well Number: 1711121037
Section of NGPA: 108
Operator: IMC Exploration Company
Well Name: Grayling N-148
Field: Monroe Gas Field
County: Union
Purchaser: Mid Louisiana Gas Company
Volume: 16.8 MMcf.

FERC Control Number: JD79-3490
API Well Number: 1711121038
Section of NGPA: 108
Operator: IMC Exploration Company
Well Name: Grayling N-149
Field: Monroe Gas Field
County: Union
Purchaser: Mid Louisiana Gas Company
Volume: 16.8 MMcf.

FERC Control Number: JD79-3491
API Well Number: 1711121045
Section of NGPA: 108
Operator: IMC Exploration Company
Well Name: Grayling N-150
Field: Monroe Gas Field
County: Union
Purchaser: Mid Louisiana Gas Company
Volume: 17.9 MMcf.

FERC Control Number: JD79-3492
API Well Number: 1711121046
Section of NGPA: 108
Operator: IMC Exploration Company
Well Name: Grayling N-151
Field: Monroe Gas Field
County: Union
Purchaser: Mid Louisiana Gas Company
Volume: 17.5 MMcf.

FERC Control Number: JD79-3493
API Well Number: 1711121047
Section of NGPA: 108
Operator: IMC Exploration Company
Well Name: Grayling N-152
Field: Monroe Gas Field
County: Union
Purchaser: Mid Louisiana Gas Company
Volume: 5.1 MMcf.

The applications for determination in these proceedings together with a copy or description of other materials in the record in which such determinations were made are available for inspection, except to the extent such material as treated as confidential under 18 CFR 275.206, at the Commission's Office of Public Information, Room 1000, 825 North Capitol Street, N.E., Washington, D.C. 20426.

Persons objecting to any of those final determinations may, in accordance with 18 CFR 275.203 and 18 CFR 275.204, file a protest with the Commission on or before June 1, 1979. Please reference the FERC Control Number in any correspondence concerning a determination.

Kenneth F. Plumb,
Secretary.

[FR Doc. 79-15353 Filed 5-16-79; 8:45 am]
BILLING CODE 6450-01-M]

Determination by a Jurisdictional Agency Under the Natural Gas Policy Act of 1978

May 9, 1979.

On April 27, 1979, the Federal Energy Regulatory Commission received notices from the jurisdictional agencies listed below of determinations pursuant to 18 CFR 274.104 and applicable to the

indicated wells pursuant to the Natural Gas Policy Act of 1978.

State of Ohio, Department of Natural Resources, Division of Oil and Gas

FERC Control Number: JD79–3172
API Well Number: 34–0192–0399**14
Section of NGPA: 108
Operator: Quaker State Oil Refining Corp.
Well Name: M.W.C.D. #1 67035.
Field: N/A.
County: Carroll.
Purchaser: Marsh-Belden.
Volume: 0.874 MMcf.

FERC Control Number: JD79–3173
API Well Number: 14–151–2–1132**14
Section of NGPA: 108
Operator: Quaker State Oil Refining Corp.
Well Name: Mary Mong #1 67702–00.
Field: N/A.
County: Stark.
Purchaser: East Ohio Gas Co.
Volume: 1.279.

FERC Control Number: JD79–3174
API Well Number: 34–151–2–1113**14
Section of NGPA: 108
Operator: Quaker State Oil Refining Corp.
Well Name: King #1 67700–00.
Field: N/A.
County: Stark.
Purchaser: East Ohio Gas Co.
Volume: 6.935.

FERC Control Number: JD79–3175
API Well Number: 34–055–2–0038**14
Section of NGPA: 108
Operator: Quaker State Oil Refining Corp.
Well Name: Frohring #1 67505–00.
Field: N/A.
County: Geauga.
Purchaser: East Ohio Gas Co.
Volume: 10.22.

FERC Control Number: JD79–3176
API Well Number: 34–055–2–0049**14
Section of NGPA: 108
Operator: Quaker State Oil Refining Corp.
Well Name: Franks #1 67503–00.
Field: N/A.
County: Geauga.
Purchaser: East Ohio Gas Co.
Volume: 14.965.

FERC Control Number: JD79–3177
API Well Number: 34–019–2–1000**14
Section of NGPA: 108
Operator: Quaker State Oil Refining Corp.
Well Name: T.&J. Ludwig #1 67237–00.
Field: N/A.
County: Carroll.
Purchaser: Marsh-Beldin.
Volume: 3.650.

FERC Control Number: JD79–3178
API Well Number: 34–167–2–4174**14
Section of NGPA: 102
Operator: A&R Company.
Well Name: Mary E. Hanes No. 1.
Field: N/A.
County: Washington.
Purchaser: Not yet Determined.
Volume: 6 MMcf.

FERC Control Number: JD79–3079
API Well Number: 34–167–2–4133**14
Section of NGPA: 102
Operator: A&R Company.
Well Name: W.B. Petty et al #1.
Field: N/A.
County: Washington.
Purchaser: Not yet Determined.
Volume: 50 MMcf.

FERC Control Number: JD79–3180
API Well Number: 340105–21539**14
Section of NGPA: 108
Operator: Adams Drilling Company.
Well Name: M. L. Furbee #1.
Field: N/A.
County: Meigs.
Purchaser: Columbia Gas Transmission Corp.
Volume: 15 MMcf.

FERC Control Number: JD79–3181
API Well Number: 3410521521**14
Section of NGPA: 108
Operator: Adams Drilling Company.
Well Name: James Carnahan #2.
Field: N/A.
County: Meigs.
Purchaser: Columbia Gas Transmission Corp.
Volume: 3 MMcf.

FERC Control Number: JD79–3182
API Well Number: 3410521512**14
Section of NGPA: 108
Operator: Adams Drilling Company.
Well Name: James Carnahan #1.
Field: N/A.
County: Meigs.
Purchaser: Columbia Gas Transmission Corp.
Volume: 3 MMcf.

FERC Control Number: JD79–3183
API Well Number: 3410521550**14
Section of NGPA: 108
Operator: Adams Drilling Company.
Well Name: C.R. Harris#2.
Field: N/A.
County: Meigs.
Purchaser: Columbia Gas Transmission Corp.
Volume: 7 MMcf.

FERC Control Number: JD79–3184
API Well Number: 3410521654**14
Section of NGPA: 108
Operator: Adams Drilling Company.
Well Name: Goeglein Davis #1.
Field: N/A.
County: Meigs.
Purchaser: Columbia Gas Transmission Corp.
Volume: 5 MMcf.

FERC Control Number: JD79–3185
API Well Number: 3410521687**14
Section of NGPA: 108
Operator: Adams Drilling Company.
Well Name: Goeglein Bowman #1.
Field: N/A.
County: Meigs.
Purchaser: Columbia Gas Transmission Corp.
Volume: 6 MMcf.

FERC Control Number: JD79–3186
API Well Number: 3410521679**14
Section of NGPA: 108
Operator: Adams Drilling Company.
Well Name: Herdman Lanning #1.
Field: N/A.
County: Meigs.
Purchaser: Columbia Gas Transmission Corp.
Volume: 3 MMcf.

FERC Control Number: JD79–3187
API Well Number: 3410521667**14
Section of NGPA: 108
Operator: Adams Drilling Company.
Well Name: Bubby Herdman#1.
Field: N/A.
County: Meigs.
Purchaser: Columbia Gas Transmission Corp.
Volume: 1 MMcf.

FERC Control Number: JD79–3188
API Well Number: 3410521523**14
Section of NGPA: 108
Operator: Adams Drilling Company.
Well Name: Paul Sayre #2.
Field: N/A.
County: Meigs.
Purchaser: Columbia Gas Transmission Corp.
Volume: 5 MMcf.

FERC Control Number: JD79–3189
API Well Number: 3410521605**14
Section of NGPA: 108
Operator: Adams Drilling Company.
Well Name: Rumfield Buck #1.
Field: N/A.
County: Meigs.
Purchaser: Columbia Gas Transmission Corp.
Volume: 3 MMcf.

FERC Control Number: JD79–3190
API Well Number: 3410521604**14
Section of NGPA: 108
Operator: Adams Drilling Company.
Well Name: Rumfield Buck #2.
Field: N/A.
County: Meigs.
Purchaser: Columbia Gas Transmission Corp.
Volume: 3 MMcf.

The applications for determination in these proceedings together with a copy or description of other materials in the record on which such determinations were made are available for inspection, except to the extent such material is treated as confidential under 18 CFR 275.206, at the Commission's Office of Public Information, Room 1000, 825 North Capitol Street, N.E., Washington, D.C. 20426.

Persons objecting to any of those final determinations may, in accordance with 18 CFR 275.203 and 18 CFR 275.204, file a protest with the Commission on or before June 1, 1979. Please reference the FERC Control Number in any correspondence concerning a determination.

Kenneth F. Plumb,

Secretary.

[FR Doc. 79–15354 Filed 5–16–79; 8:45 am]

BILLING CODE 6450–01–M

Determination by a Jurisdictional Agency Under the Natural Gas Policy Act of 1978

May 8, 1979.

On April 30, 1979, the Federal Energy Regulatory Commission received notices from the jurisdictional agencies listed below of determinations pursuant to 18 CFR 274.104 and applicable to the indicated wells pursuant to the Natural Gas Policy Act of 1978.

U.S. Department of the Interior, Geological Survey

FERC Control Number: JD79–3314
API Well Number: 35–039–20210
Section of NGPA: 102
Operator: Hoover & Bracken Energies
Well Name: Constalk #1–6
Field: North Weatherford
County: Custer
Purchaser: Michigan Wisconsin Pipe Line Co.
Volume: 730 MMcf.

FERC Control Number: JD79–3315
API Well Number: 30–045–22513
Section of NGPA: 103
Operator: El Paso Natural Gas Company
Well Name: Lawson 1A
Field: Blanco
County: San Juan
Purchaser: El Paso Natural Gas Company
Volume: 415 MMcf.

FERC Control Number: JD79–3316
API Well Number: 30–045–22420
Section of NGPA: 103
Operator: El Paso Natural Gas Company
Well Name: Kernaghan 2A
Field: Blanco
County: San Juan
Purchaser: El Paso Natural Gas Company
Volume: 312 MMcf.

FERC Control Number: JD79–3317
API Well Number: 30–045–22421
Section of NGPA: 103
Operator: El Paso Natural Gas Company
Well Name: Kernaghan 3A
Field: Blanco
County: San Juan
Purchaser: El Paso Natural Gas Company
Volume: 224 MMcf.

FERC Control Number: JD79–3318
API Well Number: 30–045–22422
Section of NGPA: 103
Operator: El Paso Natural Gas Company
Well Name: Kernaghan 4A
Field: Blanco
County: San Juan
Purchaser: El Paso Natural Gas Company
Volume: 49 MMcf.

FERC Control Number: JD79–3319
API Well Number: 30–045–22389
Section of NGPA: 103
Operator: El Paso Natural Gas Company
Well Name: Atlantic A 8A
Field: Blanco
County: San Juan
Purchaser: El Paso Natural Gas Company
Volume: 405 MMcf.

FERC Control Number: JD79–3320
API Well Number: 30–045–22415
Section of NGPA: 103
Operator: El Paso Natural Gas Company
Well Name: Hardie 1–A
Field: Blanco
County: San Juan
Purchaser: El Paso Natural Gas Company
Volume: 128 MMcf.

FERC Control Number: JD79–3321
API Well Number: 30–045–22831
Section of NGPA: 103
Operator: El Paso Natural Gas Company
Well Name: Hughes 7–A
Field: Blanco
County: San Juan
Purchaser: El Paso Natural Gas Company
Volume: 330 MMcf.

FERC Control Number: JD79–3322
API Well Number: 30–045–22832
Section of NGPA: 103
Operator: El Paso Natural Gas Company
Well Name: Hughes 8–A
Field: Blanco
County: San Juan
Purchaser: El Paso Natural Gas Company
Volume: 440 MMcf.

FERC Control Number: JD79–3323
API Well Number: 30–045–22778
Section of NGPA: 103
Operator: El Paso Natural Gas Company
Well Name: El Paso 1–A
Field: Blanco
County: San Juan
Purchaser: El Paso Natural Gas Company
Volume: 123 MMcf.

FERC Control Number: JD79–3324
API Well Number: 30–045–22750
Section of NGPA: 103
Operator: El Paso Natural Gas Company
Well Name: Grambling 2–A
Field: Blanco
County: San Juan
Purchaser: El Paso Natural Gas Company
Volume: 234 MMcf.

FERC Control Number: JD79–3325
API Well Number: 30–045–22746
Section of NGPA: 103
Operator: El Paso Natural Gas Company
Well Name: Riddle F 2–A
Field: Blanco
County: San Juan
Purchaser: El Paso Natural Gas Company
Volume: 263 MMcf.

FERC Control Number: JD79–3326
API Well Number: 30–045–22451
Section of NGPA: 103
Operator: El Paso Natural Gas Company
Well Name: Riddle C 2A
Field: Blanco
County: San Juan
Purchaser: El Paso Natural Gas Company
Volume: 319 MMcf.

FERC Control Number: JD79–3327
API Well Number: 30–045–22373
Section of NGPA: 103
Operator: El Paso Natural Gas Company
Well Name: Pritchard 2A
Field: Blanco
County: San Juan
Purchaser: El Paso Natural Gas Company
Volume: 148 MMcf.

FERC Control Number: JD79–3328
API Well Number: 30–045–22725
Section of NGPA: 103
Operator: El Paso Natural Gas Company
Well Name: Lucerne A 10
Field: Blanco
County: San Juan
Purchaser: El Paso Natural Gas Company
Volume: 190 MMcf.

FERC Control Number: JD79–3329
API Well Number: 30–045–22714
Section of NGPA: 103
Operator: El Paso Natural Gas Company
Well Name: Day A #5–A
Field: Blanco
County: San Juan
Purchaser: El Paso Natural Gas Company
Volume: 266 MMcf.

FERC Control Number: JD79–3330
API Well Number: 30–045–22715
Section of NGPA: 103
Operator: El Paso Natural Gas Company
Well Name: Hughes 1–A
Field: Blanco
County: San Juan
Purchaser: El Paso Natural Gas Company
Volume: 67 MMcf.

FERC Control Number: JD79–3331
API Well Number: 30–045–22751
Section of NGPA: 103
Operator: El Paso Natural Gas Company
Well Name: San Juan 23–A
Field: Blanco
County: San Juan
Purchaser: El Paso Natural Gas Company
Volume: 159 MMcf.

FERC Control Number: JD79–3332
API Well Number: 30–045–22463
Section of NGPA: 103
Operator: El Paso Natural Gas Company
Well Name: Neil #7A (Pictured Cliffs)
Field: Blanco
County: San Juan
Purchaser: El Paso Natural Gas Company
Volume: 142 MMcf.

FERC Control Number: JD79–3333
API Well Number: 30–045–22463
Section of NGPA: 103
Operator: El Paso Natural Gas Company
Well Name: Neil #7A(Mesaverde)
Field: Blanco
County: San Juan
Purchaser: El Paso Natural Gas Company
Volume: 502 MMcf.

FERC Control Number: JD79–3334
API Well Number: 30–045–22515
Section of NGPA: 103
Operator: El Paso Natural Gas Company
Well Name: Barnes 3A
Field: Blanco
County: San Juan
Purchaser: El Paso Natural Gas Company
Volume: 278 MMcf.

The applications for determination in these proceedings together with a copy or description of other materials in the record on which such determinations were made are available for inspection, except to the extent such material is treated as confidential under 18 CFR 275.206, at the Commission's Office of Public Information, Room 1000, 825 North Capitol Street, N.E., Washington, D.C. 20426.

Persons objecting to any of those final determinations may, in accordance with 18 CFR 275.203 and 18 CFR 275.204, file a protest with the Commission on or before June 1, 1979. Please reference the FERC Control Number in any correspondence concerning a determination.

Kenneth F. Plumb,

Secretary.

[FR Doc. 79–15355 Filed 5–16–79; 8:45 am]

BILLING CODE 6450–01–M

that since economy energy transactions

Determination by a Jurisdictional Agency Under the Natural Gas Policy Act of 1978

May 8, 1979.

On April 23, 1979, the Federal Energy Regulatory Commission received notices from the jurisdictional agencies listed below of determinations pursuant to 18 CFR 274.104 and applicable to the indicated wells pursuant to the Natural Gas Policy Act of 1978.

West Virginia Department of Mines, Oil and Gas Division

FERC Control Number: JD79–4044
API Well Number: 47–007–1207
Section of NGPA: 103
Operator: Braxton Oil & Gas Corporation
Well Name: Norman No. 1
Field: Aspinall Finster
County: Braxton
Purchaser: Equitable Gas Company
Volume: 7 MMcf.

FERC Control Number: JD79–4045
API Well Number: 47–007–1324
Section of NGPA: 103
Operator: Braxton Oil & Gas Corporation
Well Name: Bee No. 1
Field: Aspenal Finster
County: Braxton
Purchaser: Consolidated Gas Supply Corp.
Volume: 25 MMcf.

FERC Control Number: JD79–4046
API Well Number: 47–007–1325
Section of NGPA: 103
Operator: Braxton Oil & Gas Corporation
Well Name: Coberly No. 1
Field: Heaters
County: Braxton
Purchaser: Consolidated Gas Supply Corp.
Volume: 30 MMcf.

FERC Control Number: JD79–4047
API Well Number: 47–007–1326
Section of NGPA: 103
Operator: Braxton Oil & Gas Corporation
Well Name: Feeney No. 2
Field: Heaters
County: Braxton
Purchaser: Consolidated Gas Supply Corp.
Volume: 40 MMcf.

FERC Control Number: JD79–4048
API Well Number: 47–007–1346
Section of NGPA: 103
Operator: Braxton Oil & Gas Corporation
Well Name: Amos No. 2
Field: Heaters
County: Braxton
Purchaser: Consolidated Gas Supply Corp.
Volume: 48 MMcf.

FERC Control Number: JD79–4049
API Well Number: 47–007–BRAX–1350
Section of NGPA: 103
Operator: Braxton Oil & Gas Corporation
Well Name: Henderson No. 1
Field: Aspinal Finster
County: Braxton
Purchaser: Equitable Gas Company
Volume: 25 MMcf.

FERC Control Number: JD79–4050
API Well Number: 47–007–1360
Section of NGPA: 103
Operator: Braxton Oil & Gas Corporation
Well Name: Crutchfield No. 1
Field: Heaters
County: Braxton
Purchaser: Consolidated Gas Supply Corp.
Volume: 50 MMcf.

FERC Control Number: JD79–4051
API Well Number: 47–007–1201
Section of NGPA: 103
Operator: Braxton Oil & Gas Corp.
Well Name: Feeney No. 1
Field: Heaters
County: Braxton
Purchaser: Consolidated Gas Supply Corp.
Volume: 30 MMcf.

FERC Control Number: JD79–4052
API Well Number: 47–041–2–21850000
Section of NGPA: 103
Operator: H. E. Acker & James H. Hall
Well Name: Rinehart No. 1
Field: Hackers Creek
County: Lewis
Purchaser: Consolidated Gas Supply Corp.
Volume: 28 MMcf.

FERC Control Number: JD79–4053
API Well Number: 47–041–2525
Section of NGPA: 103
Operator: Braxton Oil & Gas Corporation
Well Name: Eckes No. 1
Field: Vandalia
County: Lewis
Purchaser: Equitable Gas Company
Volume: 50 MMcf.

FERC Control Number: JD79–4054
API Well Number: 477–041–2543
Section of NGPA: 103
Operator: Braxton Oil & Gas Corporation
Well Name: Mequain No. 1
Field: Vandalia
County: Lewis
Purchaser:
Volume: 30 MMcf.

FERC Control Number: JD79–4055
API Well Number: 47–021–2430
Section of NGPA: 108
Operator: Braxton Oil & Gas Corporation
Well Name: Darnall No. 1
Field: Aspinall Finster
County: Gilmer
Purchaser: Consolidated Gas Supply Corp.
Volume:

FERC Control Number: JD79–4056
API Well Number: 47–021–2842
Section of NGPA: 103
Operator: Braxton Oil & Gas Corporation
Well Name: Miller No. 1
Field: Sand Fork
County: Gilmer
Purchaser: Consolidated Gas Supply Corp.
Volume: 9 MMcf.

FERC Control Number: JD79–4057
API Well Number: 47–007–1201
Section of NGPA: 108
Operator: Braxton Oil & Gas Corporation
Well Name: Feeney No. 1
Field: Heaters
County: Braxton
Purchaser: Consolidated Gas Supply Corp.
Volume: 30 MMcf.

The applications for determination in these proceedings together with a copy or description of other materials in the record on which such determinations were made are available for inspection, except to the extent such material is treated as confidential under 18 CFR 275.206, at the Commission's Office of Public Information, Room 1000, 825 North Capitol Street, N.E., Washington, D.C. 20426.

Persons objecting to any of those final determinations may, in accordance with 18 CFR 275.203 and 18 CFR 275.204, file a protest with the Commission on or before June 1, 1979. Please reference the FERC Control Number in any correspondence concerning a determination.

Kenneth F. Plumb,

Secretary.

[FR Doc. 79–15356 Filed 5–16–79; 8:45 am]

BILLING CODE 6450–01–M

[Docket No. ER79–355]

West Penn Power Co. and Duquesne Light Co.; Changes in Rates and Charges

May 10, 1979.

The filing Company submits the following:

Take notice that Allegheny Power Service Corporation (APSC) on May 7, 1979, tendered for filing on behalf of West Penn Power Company (West Penn), one of the electric utilities which make up the integrated Allegheny Power System, and Duquesne Light Company (Duquesne), Amendment No. 8 to the Interchange Agreement dated February 1, 1968 between West Penn and Duquesne designated West Penn Rate Schedule FPC No. 24 and Duquesne Rate Schedule FPC No. 9.

Amendment No. 8 provides, effective May 1, 1979, for participation by the parties in economy transactions involving systems which are not parties to the Agreement.

Under the proposed Amendment, transactions with systems not a party to the Agreement between the parties would be priced, as are those under the Agreement between the parties, on the basis of costs incurred, plus a sharing by all of the participants of the savings realized by the ultimate receiving system. Transmission losses are one of the costs incurred. Each system participating in an economy energy transaction other than as the supplying or receiving system would receive 15% of the savings and the supplying and ultimate receiving systems would divide the remainder of the savings. Applicants state that the proposed 15% of savings allocated to each intermediate system was arrived at through negotiation and is intended to recognize participation in the transaction. Applicants further state that since economy energy transactions are by nature not firm and depend on several factors, including the availability of economy energy, the need of another system for such energy and possible transmission restrictions, it is impossible to estimate the transactions and revenues resulting from the proposed service. Applicants further state that no facilities are required to be installed or modified in order to provide the proposed service.

Any person desiring to be heard or protest said application should file a petition to intervene or protest with the Federal Energy Regulatory Commission, 825 N. Capitol Street N.E., Washington, D.C. 20426, in accordance with Section 1.8 and 1.10 of the Commission's Rules of Practice and Procedure. All such petitions or protests should be filed on or before June 1, 1979. Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceeding. Any person wishing to become a party must file a petition to intervene. Copies of this application are on file with the Commission and are available for inspection.

Kenneth F. Plumb,

Secretary.

[FR Doc. 79–15358 Filed 5–16–79; 8:45 am]

BILLING CODE 6450–01–M

Determination by a Jurisdictional Agency Under the Natural Gas Policy Act of 1978

May 8, 1979.

On April 30, 1979, the Federal Energy Regulatory Commission received notices from the jurisdictional agencies listed below of determinations pursuant to 18 CFR 274.104 and applicable to the indicated wells pursuant to the Natural Gas Policy Act of 1978.

Kansas State Corporation Commission, Conservation Division

FERC Control Number: JD79–3346
API Well Number: 15–097–020467
Section of NGPA: 103
Operator: TGT Petroleum Corporation
Well Name: End Wrench #1
Field: Einsel
County: Kiowa
Purchaser:
Volume: 90 MMcf.

FERC Control Number: JD79–3347
API Well Number: 15–093–20429
Section of NGPA: 103
Operator: Geo. R. Shaw
Well Name: Smalley 2–32
Field: Panoma Council Grove
County: Kearny
Purchaser: Peoples Natural Gas Company
Volume: 40 MMcf.

FERC Control Number: JD79–3348
API Well Number: 15–093–20430
Section of NGPA: 103
Operator: Geo. R. Shaw
Well Name: Smalley 2–35
Field: Panoma Council Grove
County: Kearny
Purchaser: Peoples Natural Gas Company
Volume: 100 MMcf.

FERC Control Number: JD79–3349
API Well Number: 15–053–20269
Section of NGPA: 108
Operator: Ilus Industries, Inc.
Well Name: Schneider #1
Field: Ellsworth Pool
County: Ellsworth
Purchaser: Northern Natural Gas Company
Volume: 2.08 MMcf.

FERC Control Number: JD79–3350
API Well Number: 15–053–20306
Section of NGPA: 108
Operator: Ilus Industries, Inc.
Well Name: Griffin #1
Field: Ellsworth Pool
County: Ellsworth
Purchaser: Northern Natural Gas Co.
Volume: 6,120 MMcf.

FERC Control Number: JD79–3351
API Well Number: 15–053–20279
Section of NGPA: 108
Operator: Ilus Industries, Inc.
Well Name: Svaty #1
Field: Ellsworth Pool
County: Ellsworth
Purchaser: Northern Natural Gas Co.
Volume: 14.400 MMcf.

FERC Control Number: JD79–3352
API Well Number: 15–093–20519
Section of NGPA: 103
Operator: Beren Corporation
Well Name: Sanford "A" #1
Field: Panoma Council Grove
County: Kearny
Purchaser: Cities Service Gas Co.
Volume: 200 MMcf.

FERC Control Number: JD79–3353
API Well Number:
Section of NGPA: 108
Operator: George A. Angle
Well Name: #L Hanhardt
Field: Reichel
County: Rush
Purchaser: Kansas-Nebraska Natural Gas Co., Inc.
Volume: 69 MMcf.

FERC Control Number: JD79–3354
API Well Number:
Section of NGPA: 108
Operator: George A. Angle
Well Name: #1 Giesick 'A'
Field: Reichel
County: Rush
Purchaser: Kansas-Nebraska Natural Gas Co., Inc.
Volume: 69 MMcf.

FERC Control Number: JD79–3355
API Well Number:
Section of NGPA: 108
Operator: George A. Angle
Well Name: #1 Foos 'A'
Field: Reichel
County: Rush
Purchaser: Kansas-Nebraska Natural Gas Co., Inc.
Volume: 98 MMcf.

FERC Control Number: JD79–3356
API Well Number:
Section of NGPA: 108
Operator: George A. Angle
Well Name: #1 Rothe 'A'
Field: Reichel
County: Rush
Purchaser: Kansas-Nebraska Natural Gas Co., Inc.
Volume: 33 MMcf.

FERC Control Number: JD79–3357
API Well Number:
Section of NGPA: 108
Operator: George A. Angle
Well Name: #1 Appl
Field: Reichel
County: Rush
Purchaser: Kansas-Nebraska Natural Gas Co., Inc.
Volume: 89 MMcf.

FERC Control Number: JD79–3358
API Well Number:
Section of NGPA: 108
Operator: George A. Angle
Well Name: #1 Bieber
Field: Reichel
County: Rush
Purchaser: Kansas-Nebraska Natural Gas Co., Inc.
Volume: 75 MMcf.

FERC Control Number: JD79–3359
API Well Number:
Section of NGPA: 108
Operator: George A. Angle
Well Name: #1 Foos
Field: Reichel
County: Rush
Purchaser: Kansas-Nebraska Natural Gas Co., Inc.
Volume: 80 MMcf.

The applications for determination in these proceedings together with a copy or description of other materials in the record on which such determinations were made are available for inspection, except to the extent such material is treated as confidential under 18 CFR 275.206, at the Commission's Office of Public Information, Room 1000, 825 North Capitol Street, N.E., Washington, D.C. 20426.

Persons objecting to any of these final determinations may, in accordance with 18 CFR 275.203 and 18 CFR 275.204, file a protest with the Commission on or before June 1, 1979. Please reference the FERC Control Number in any correspondence concerning a determination.

Kenneth F. Plumb,

Secretary.

[FR Doc. 79–15359 Filed 5–16–79; 8:45 am]

BILLING CODE 6450–01–M

Determination by a Jurisdictional Agency Under the Natural Gas Policy Act of 1978

May 8, 1979.

On May 1, 1979, the Federal Energy Regulatory Commission received notices from the jurisdictional agencies listed below of determinations pursuant to 18 CFR 274.104 and applicable to the indicated wells pursuant to the Natural Gas Policy Act of 1978.

Kansas State Corporation Commission, Conservation Division

FERC Control Number: JD79-3398
API Well Number:
Section of NGPA: 108
Operator: George A. Angle
Well Name: #1 Hanhardt 'A'
Field: Reichel
County: Rush
Purchaser: Kansas-Nebraska Natural Gas Co., Inc.
Volume: 186 MMcf.

FERC Control Number: JD79-3399
API Well Number:
Section of NGPA: 108
Operator: George A. Angle
Well Name: #1 Kleweno
Field: Reichel
County: Rush
Purchaser: Kansas-Nebraska Natural Gas Co., Inc.
Volume: 87 MMcf.

FERC Control Number: JD79-3400
API Well Number:
Section of NGPA: 108
Operator: George A. Angle
Well Name: #1 Rothe 'B'
Field: Reichel
County: Rush
Purchaser: Kansas-Nebraska Natural Gas Co., Inc.
Volume: 36 MMcf.

FERC Control Number: JD79-3401
API Well Number: 15-097-20433
Section of NGPA: 102
Operator: Imperial Oil Company
Well Name: Davis No. 2-18
Field: Vod
County: Kiowa
Purchaser: Kansas-Nebraska Natural Gas Co., Inc.
Volume: 120 MMcf.

FERC Control Number: JD79-3402
API Well Number: 15-097-20429
Section of NGPA: 102
Operator: Imperial Oil Company
Well Name: Huck No. 1-17
Field: Wildcat
County: Kiowa
Purchaser: Northern Natural Gas Company
Volume: 100 MMcf.

FERC Control Number: JD79-3403
API Well Number: 15-047-20278
Section of NGPA: 102
Operator: Imperial Oil Company
Well Name: Curtis No. 1-11
Field: Wildcat
County: Edwards
Purchaser: Kansas-Nebraska Natural Gas Co., Inc.
Volume: 50 MMcf.

FERC Control Number: JD79-3404
API Well Number: 15-047-20327
Section of NGPA: 102
Operator: Imperial Oil Company
Well Name: Full Service No. 1-14
Field: Ext. Britton W
County: Edwards
Purchaser: Kansas-Nebraska Natural Gas Co., Inc.
Volume: 100 MMcf.

FERC Control Number: JD79-3405
API Well Number: 15-047-20249
Section of NGPA: 102
Operator: Imperial Oil Company
Well Name: Mull No. 2-33
Field: Mull
County: Edwards
Purchaser: Kansas-Nebraska Natural Gas Co., Inc.
Volume: 100 MMcf.

FERC Control Number: JD79-3406
API Well Number: 15-035-21737
Section of NGPA: 103
Operator: Range Oil Company, Inc.
Well Name: #3 Voorhis
Field: Nigger Creek
County: Cowley
Purchaser: Cities Service Gas Company
Volume: 24 MMcf.

FERC Control Number: JD79-3407
API Well Number: 15-035-2172
Section of NGPA: 103
Operator: Range Oil Company, Inc.
Well Name: #1 Briley Gas Unit
Field: Nigger Creek
County: Cowley
Purchaser: Cities Service Gas Company
Volume: 60 MMcf.

FERC Control Number: JD79-3408
API Well Number: 15-035-21229
Section of NGPA: 103
Operator: Range Oil Company, Inc.
Well Name: #1 Richardson Gas Unit
Field: Nigger Creek
County: Cowley
Purchaser: Cities Service Gas Company
Volume: 60 MMcf.

FERC Control Number: JD79-3409
API Well Number: 15-119-20199
Section of NGPA: 108
Operator: Zenith Drilling Corporation, Inc.
Well Name: Phillips #1
Field: Angell
County: Meade
Purchaser: Panhandle Eastern Pipe Line Co.
Volume: 6.6 MMcf.

The applications for determination in these proceedings together with a copy or description of other materials in the record on which such determinations were made are available for inspection, except to the extent such material is treated as confidential under 18 CFR 275.206, at the Commission's Office of Public Information, Room 1000, 825 North Capitol Street, N.E., Washington, D.C. 20426.

Persons objecting to any of those final determinations may, in accordance with 18 CFR 275.203 and 18 CFR 275.204, file a protest with the Commission on or before June 1, 1979. Please reference the FERC Control Number in any correspondence concerning a determination.

Kenneth F. Plumb,

Secretary.

[FR Doc. 79-15360 Filed 5-16-79; 8:45 am]

BILLING CODE 6450-01-M

Determination by a Jurisdictional Agency Under the Natural Gas Policy Act of 1978

May 8, 1979.

On April 30, 1979, the Federal Energy Regulatory Commission received notices from the jurisdictional agencies listed below of determinations pursuant to 18 CFR 274.104 and applicable to the indicated wells pursuant to the Natural Gas Policy Act of 1978.

Montana Department of Natural Resources and Conservation, Board of Oil and Gas Conservation

FERC Control Number: JD79-3360
API Well Number: 25-083-21231
Section of NGPA: 103
Operator: Pennzoil Company
Well Name: Pennzoil-Pederson #1
Field: Lonetree Creek
County: Richland
Purchaser: Montana-Dakota Utilities Co.
Volume:

FERC Control Number: JD79-3361
API Well Number: 25-083-21187
Section of NGPA: 102
Operator: Pennzoil Company
Well Name: Pennzoil-Franz #1
Field: South Fork
County: Richland
Purchaser: Montana-Dakota Utilities Co.
Volume: 48 MMcf.

FERC Control Number: JD79-3362
API Well Number: 25-083-21213
Section of NGPA: 102
Operator: Pennzoil Company
Well Name: Pennzoil-Sawyer #1
Field: South Fork
County: Richland
Purchaser: Montana-Dakota Utilities Co.
Volume: 48 MMcf.

FERC Control Number: JD79-3363
API Well Number: 25-071-21358
Section of NGPA: 106
Operator: Midlands Gas Corporation
Well Name: 2012 #1 Simanton
Field: Bowdoin
County: Phillips
Purchaser: Kansas-Nebraska Natural Gas Co., Inc.
Volume: 12 MMcf.

FERC Control Number: JD79-3364
API Well Number: 25-083-21198
Section of NGPA: 102
Operator: Pennzoil Company
Well Name: Pennzoil-Larson #2
Field: East Putnam
County: Richland
Purchaser: Montana-Dakota Utilities Co.
Volume: 14 MMcf.

FERC Control Number: JD79-3365
API Well Number: 25-101-21651
Section of NGPA: 103
Operator: Burton/Hawks, Inc.
Well Name: Page #2-1
Field: South Kevin
County: Toole
Purchaser: Aloe Ventures Ltd.
Volume: 300.0 MMcf.

FERC Control Number: JD79-3366
API Well Number: 25-071-21567
Section of NGPA: 102
Operator: Midlands Gas Corporation
Well Name: 2171 1-2171 R Anderson
Field: Bowdoin
County: Phillips
Purchaser: Kansas-Nebraska Natural Gas Co., Inc.
Volume: 24 MMcf.

FERC Control Number: JD79-3367
API Well Number: 25-083-21169
Section of NGPA: 102
Operator: Pennzoil Company
Well Name: Pennzoil-Larson #1
Field: East Putnam
County: Richland
Purchaser: Montana-Dakota Utilities Co.
Volume: 7 MMcf.

FERC Control Number: JD79-3368
API Well Number: 25-051-21447
Section of NGPA: 102
Operator: Burton/Hawks, Inc.
Well Name: Shettel No. 1
Field: New Field
County: Liberty
Purchaser: The Montana Power Co.
Volume: 180. 0 MMcf.

The applications for determination in these proceedings together with a copy or description of other materials in the record on which such determinations were made are available for inspection, except to the extent such material is treated as confidential under 18 CFR 275.206, at the Commission's Office of Public Information, Room 1000, 825 North Capitol Street, N.E., Washington, D.C. 20426.

Persons objecting to any of these final deteminations may, in accordance with 18 CFR 275.203 and 18 CFR 275.204, file a protest with the Commission on or before June 1, 1979. Please reference the FERC Control Number in any correspondence concerning a determination.

Kenneth F. Plumb,

Secretary.

[FR Doc. 79-15361 Filed 5-16-79; 8:45 am]

BILLING CODE 6450-01-M

Determination by a Jurisdictional Agency Under the Natural Gas Policy Act of 1978

May 9, 1979.

On May 2, 1979, the Federal Energy Regulatory Commission received notices from the jurisdictional agencies listed below of determinations pursuant to 18 CFR 274.104 and applicable to the indicated wells pursuant to the Natural Gas Policy Act of 1978.

Montana Department of Natural Resources and Conservation, Board of Oil and Gas Conservation

FERC Control Number: JD79-3536
API Well Number: 20-071-21565
Section of NGPA: 102
Operator: Joseph J. C. Paine and Associates
Well Name: Norman W. Johnsrud #1-0971
Field:
County: Phillips
Purchaser: Kansas-Nebraska Natural Co.
Volume

FERC Control Number: JD79-3539
API Well Number: 25-075-22001
Section of NGPA: 103
Operator: Petroquest Inc.
Well Name: Petroquest Inc. Janssen #2
Field: Pumpkin Creek
County: Powder River
Purchaser: Montana-Dakota Utilities Co.
Volume: 160 MMcf.

FERC Control Number: JD79-3540
API Well Number: 25-041-21313
Section of NGPA: 108
Operator: Bolin Oil Company
Well Name: Bolin-Frost-Paulsen #1
Field: Tiger Ridge
County: Hill
Purchaser: Northern Natural Gas Company
Volume: 25,266 MMcf.

FERC Control Number: JD79-3541
API Well Number: 25-071-21562
Section of NGPA: 102
Operator: Joseph J. C. Paine and Associates
Well Name: Montana Power State #1-3671
Field:
County: Phillips
Purchaser: Kansas-Nebraska Natural Co.
Volume: 3,869.00 MMcf.

FERC Control Number: JD79-3542
API Well Number: 25-071-21669
Section of NGPA: 102
Operator: Joseph J. C. Paine and Associates
Well Name: Shenandoah State #1-1862A
Field:
County: Phillips
Purchaser: Kansas-Nebraska Natural Co.
Volume

FERC Control Number: JD79-3543
API Well Number: 25-083-21182
Section of NGPA: 102
Operator: Brownlie, Wallace, Armstrong and Bander
Well Name: Rau 20-23 R
Field:
County: Richland
Purchaser: Montana Dakota Utilities Co.
Volume: 6.000 MMcf.

FERC Control Number: JD79-3544
API Well Number: 25-083-21172
Section of NGPA: 102
Operator: Brownlie, Wallace, Armstrong and Bander
Well Name: Rau 15-43
Field:
County: Richland
Purchaser: Montana Dakota Utilities
Volume: .900 MMcf.

FERC Control Number: JD79-3545
API Well Number: 25-071-21653
Section of NGPA: 102
Operator: Joseph J. C. Paine and Associates
Well Name: Murdock #1-0762
Field:
County: Phillips
Purchaser: Kansas-Nebraska Natural Co.
Volume:

FERC Control Number: JD79-3546
API Well Number: 25-071-21630
Section of NGPA: 102
Operator: Joseph J. C. Paine and Associates
Well Name: Olsen #1-2371
Field:
County: Phillips
Purchaser: Kansas-Nebraska Natural Co.
Volume:

FERC Control Number: JD79-3547
API Well Number: 25-071-21566
Section of NGPA: 102
Operator: Joseph J. C. Paine and Associates
Well Name: La Roche-Harrison #1-2571
Field:
County: Phillips
Purchaser: Kansas-Nebraska Natural Co.
Volume:

FERC Control Number: JD79-3548
API Well Number: 25-071-21632
Section of NGPA: 102
Operator: Joseph J. C. Paine and Associates
Well Name: Anderson #1-0562
Field:
County: Phillips
Purchaser: Kansas-Nebraska Natural Co.
Volume: 130,889.00 MMcf.

The applications for determination in these proceedings together with a copy or description of other materials in the record on which such determinations were made are available for inspection, except to the extent such material is treated as confidential under 18 CFR 275.206, at the Commission's Office of Public Information, Room 1000, 825 North Capitol Street, N.E., Washington, D.C. 20426.

Persons objecting to any of those final determinations may, in accordance with 18 CFR 275.203 and 18 CFR 275.204, file a protest with the Commission within on or before June 1, 1979. Please reference the FERC Control Number in any Correspondence concerning a determination.

Kenneth F. Plumb.

Secretary.

[FR Doc. 79-15362 Filed 5-16-79; 8:45 am]

BILLING CODE 6450-01-M

Determination by a Jurisdictional Agency Under the Natural Gas Policy Act of 1978

May 9, 1979.

On May 1, 1979, the Federal Energy Regulatory Commission received notice of a determination pursuant to 18 CFR 274.104 of the Natural Gas Policy Act of 1978 applicable to:

North Dakota State Industrial Commission

Persons objecting to this final

County: San Joaquin

before June 1, 1979. Please reference the

Determination by a Jurisdiction

Well Name: William Lile No. 1

V 4 4 / 9 7 M Y 1 7 7 9 UMI

North Dakota State Industrial Commission, Oil and Gas Division

FERC Control Number: JD79-5649
API Well Number: 33-025-00097
Section: 102
Operator: Gulf Oil Corporation
Well Name: Dolezal State 2-7-4D
Field: Little Knife
County: Dunn
Purchaser: Montana Dakota Utilities
Volume: 217 MMcf.

The application for determination in this matter together with a copy or description of other materials in the record on which such determination was made is available for inpsection, except to the extent such material is treated as confidential under 18 CFR 275.206, at the Commission's Office of Public Information, Room 1000, 825 North Capitol Street, N.E. Washington D.C. 20426.

Persons objecting to this final determination may, in accordance with 18 CFR 275.203 and 18 CFR 275.204, file a protest with the Commission on or before June 1, 1979. Please reference the FERC Control Number in any correspondence concerning a determination.

Kenneth F. Plumb,

Secretary.

[FR Doc. 79-15363 Filed 5-16-79; 8:45 am]

BILLING CODE 6450-01-M

Determination by a Jurisdictional Agency Under the Natural Gas Policy Act of 1978

May 8, 1979.

On April 25, 1979, the Federal Energy Regulatory Commission received notice of a determination pursuant to 18 CFR 274.104 of the Natural Gas Policy Act of 1978 applicable to:

Ohio Department of Natural Resources

FERC Control Number: JD79-3619
API Well Number: 3402520206**14
Section: 108
Operator: John C. Mason
Well Name: Daniel & Faye Levers 1
Field: N/A
County: Holmes
Purchaser: Columbia Gas Transmission Corp.
Volume: 18 MMcf.

The application for determination in this matter together with a copy or description of other materials in the record on which such determination was made is available for inspection, except to the extent such material is treated as confidential under 18 CFR 275.206, at the Commission's Office of Public Information, Room 1000, 825 North Capitol Street, N.E. Washington D.C. 20426.

Persons objecting to this final determination may, in accordance with 18 CFR 275.203 and 18 CFR 275.204, file a protest with the Commission on or before June 1, 1979. Please reference the FERC Control Number in any correspondence concerning a determination.

Kenneth F. Plumb,

Secretary.

[FR Doc. 79-15364 Filed 5-16-79; 8:45 am]

BILLING CODE 6450-01-M

Determination by a Jurisdictional Agency Under the Natural Gas Policy Act of 1978

May 8, 1979.

On April 30, 1979, the Federal Energy Regulatory Commission received notices from the jurisdictional agencies listed below of determinations pursuant to 18 CFR 274.104 and applicable to the indicated wells pursuant to the Natural Gas Policy Act of 1978.

State of California-Resources Agency, Department of Conservation, Division of Oil and Gas

FERC Control Number: JD79-3335
API Well Number: 039-20021
Section of NGPA: 103
Operator: Atlantic Oil Co.
Well Name: "Kerhy Properties" 1
Field: Moffat Ranch
County: Madera
Purchaser: Pacific Gas and Electric Co.
Volume: 200.0 MMcf.

FERC Control Number: JD79-3336
API Well Number: 077-00123
Section of NGPA: 108
Operator: Great Basins Petroleum Co.
Well Name: "Signet-Brown" 33-23
Field: McMullin Ranch Gas
County: San Joaquin
Purchaser: Pacific Gas and Electric Co.
Volume: 18.1 MMcf.

FERC Control Number: JD79-3337
API Well Number: 077-00015
Section of NGPA: 108
Operator: Great Basins Petroleum Co.
Well Name: "McMullin" 4X-25
Field: McMullin Ranch
County: San Joaquin
Purchaser: Pacific Gas and Electric Co.
Volume: 16.5 MMcf.

FERC Control Number: JD79-3338
API Well Number: 077-00116
Section of NGPA: 108
Operator: Great Basins Petroleum Co.
Well Name: "Occidental-Dutra" 32-25
Field: McMullin Ranch
County: San Joaquin
Purchaser: Pacific Gas and Electric Co.
Volume: 10.8 MMcf.

FERC Control Number: JD79-3339
API Well Number: 077-00121
Section of NGPA: 108
Operator: Great Basins Petroleum Co.
Well Name: "Occidental-Whiting" 87X-23
Field: McMullin Ranch Gas
County: San Joaquin
Purchaser: Pacific Gas and Electric Co.
Volume: 1.1 MMcf.

FERC Control Number: JD79-3340
API Well Number: 077-20164
Section of NGPA: 108
Operator: Great Basins Petroleum Co.
Well Name: "Maciel Bros." 1-16
Field: Vernalis
County: San Joaquin
Purchaser: Pacific Gas and Electric Co.
Volume: 10.01 MMcf.

FERC Control Number: JD79-3341
API Well Number: 077-00256
Section of NGPA: 108
Operator: Great Basins Petroleum Co.
Well Name: "Mohawk-Boltzen-Hunter" 76-16
Field: Vernalis
County: San Joaquin
Purchaser: Pacific Gas and Electric Co.
Volume: 12.0 MMcf.

FERC Control Number: JD79-3342
API Well Number: 011-20099
Section of NGPA: 103
Operator: Great Basins Petroleum Co.
Well Name: "Steidlmayer" 3-10
Field: Moon Bend
County: Colusa
Purchaser: Pacific Gas and Electric Co.
Volume: 182.5 MMcf.

FERC Control Number: JD79-3343
API Well Number: 011-20100
Section of NGPA: 103
Operator: Great Basins Petroleum Co.
Well Name: "Halsey" 2-3
Field: Moon Bend
County: Colusa
Purchaser: Pacific Gas and Electric Co.
Volume: 37.0 MMcf.

FERC Control Number: JD79-3344
API Well Number: 077-00260
Section of NGPA: 108
Operator: Great Basins Petroleum Co.
Well Name: "Vernalis Unit 2" 14-15
Field: Vernalis Gas
County: San Joaquin
Purchaser: Pacific Gas and Electric Co.
Volume: 16.18 MMcf.

FERC Control Number: JD79-3345
API Well Number: 077-00014
Section of NGPA: 108
Operator: Great Basins Petroleum Co.
Well Name: "McMullin" 2Y-26
Field: McMullin Ranch
County: San Joaquin
Purchaser: Pacific Gas and Electric Co.
Volume: 1.3 MMcf.

The applications for determination in these proceedings together with a copy or description of other materials in the record on which such determinations were made are available for inspection, except to the extent such material is treated as confidential under 18 CFR 275.206, at the Commission's Office of Public Information, Room 1000, 825 North Capitol Street, N.E., Washington, D.C. 20426.

Persons objecting to any of those final determinations may, in accordance with 18 CFR 275.203 and 18 CFR 275.204, file a protest with the Commission on or before June 1, 1979. Please reference the FERC Control Number in any correspondence concerning a determination.

Kenneth F. Plumb,

Secretary.

[FR Doc. 79-15365 Filed 5-16-79; 8:45 am]

BILLING CODE 6450-01-M

Determination by a Jurisdictional Agency Under the Natural Gas Policy Act of 1978

May 9, 1979.

On April 2, 1979, the Federal Regulatory Commission received notices from the jurisdictional agencies listed below of determinations pursuant to 18 CFR 274.104 and applicable to the indicated wells pursuant to the Natural Gas Policy Act of 1978.

State Determination of Texas

FERC Control Number: JD79-2734
API Well Number: 30039072920000
Section of NGPA: 108
Operator: El Paso Natural Gas Company
Well Name: SJ 28-6 Unit 18
Field: Blanco-Mesaverde Gas
County: Rio Arriba
Purchaser: El Paso Natural Gas Company
Volume: 14.2 MMcf.

FERC Control Number: JD79-2735
API Well Number: 30039061410000
Section of NGPA: 108
Operator: El Paso Natural Gas Company
Well Name: Canyon Largo Unit 50
Field: Ballard-Pictured Cliffs Gas
County: Rio Arriba
Purchaser: El Paso Natural Gas Company
Volume: 8.0 MMcf.

The applications for determination in these proceedings together with a copy or description of other materials in the record on which such determinations were made are available for inspection, except to the extent such material is treated as confidential under 18 CFR 275.206, at the Commission's Office of Public Information, Room 1000, 825 North Capitol Street, N.E., Washington, D.C. 20426.

Persons objecting to any of those final determinations may, in accordance with 18 CFR 275.203 and 18 CFR 275.204, file a protest with the Commission on or before June 1, 1979. Please reference the FERC Control Number in any correspondence concerning a determination.

Kenneth F. Plumb,

Secretary.

[FR Doc. 79-15366 Filed 5-16-79; 8:45 am]

BILLING CODE 6450-01-M

Determination by a Jurisdiction Agency Under the Natural Gas Policy Act of 1978

May 8, 1979.

On April 27, 1979, the Federal Energy Regulatory Commission received notices from the jurisdictional agencies listed below or determinations pursuant to 18 CFR 274.104 and applicable to the indicated wells pursuant to the Natural Gas Policy Act of 1978.

State of Ohio Department of Natural Resources, Division of Oil and Gas

FERC Control Number: JD79-3125
API Well Number: 34-133-2-1706**14
Section of NGPA: 103
Operator: Inland Drilling Co., Inc.
Well Name: Prusak No. 1
Field:
County: Portage
Purchaser:
Volume: 17,376 MMcf.

FERC Control Number: JD79-3126
API Well Number: 34-153-2-0594**14
Section of NGPA: 103
Operator: Inland Drilling Co., Inc.
Well Name: Wartko Bunker Unit No. 1
Field:
County: Summit
Purchaser:
Volume: 1.512 MMcf.

FERC Control Number: JD79-3127
API Well Number: 34-133-2-1319**14
Section of NGPA: 103
Operator: Inland Drilling Co., Inc.
Well Name: Hannum No. 1
Field:
County: Portage
Purchaser:
Volume: 5,023 MMcf.

FERC Control Number: JD79-3128
API Well Number: 3411924486**14
Section of NGPA: 103
Operator: The Oxford Oil Company
Well Name: George Ashford No. 1
Field:
County: Muskingum
Purchaser:
Volume: 8.10 MMcf.

FERC Control Number: JD79-3129
API Well Number: 3411521733**14
Section of NGPA: 103
Operator: The Oxford Oil Company
Well Name: Shirley Savage No. 1
Field:
County: Morgan
Purchaser:
Volume: 8.0 MMcf.

FERC Control Number: JD79-3130
API Well Number: 3408923555**14
Section of NGPA: 103
Operator: The Oxford Oil Company
Well Name: Warren Mears No. 1
Field:
County: Licking
Purchaser:
Volume: 10.0 MMcf.

FERC Control Number: JD79-3131
API Well Number: 3415723236**14
Section of NGPA: 103
Operator: The Oxford Oil Company
Well Name: William Lile No. 1
Field:
County: Tuscarawas
Purchaser:
Volume: 9.0 MMcf.

FERC Control Number: JD79-3132
API Well Number: 3403123298**14
Section of NGPA: 103
Operator: The Oxford Oil Company
Well Name: Harold E. Lowery No. 1
Field:
County: Coshocton
Purchaser:
Volume: 10.0 MMcf.

FERC Control Number: JD79-3133
API Well Number: 3411924487**14
Section of NGPA: 103
Operator: The Oxford Oil Company
Well Name: Emery Elkington No. 1
Field:
County: Muskingum
Purchaser:
Volume: 10.0 MMcf.

FERC Control Number: JD79-3134
API Well Number: 34-127-2-4228**14
Section of NGPA: 103
Operator: Green Gas Company
Well Name: Brent and Robert Martin No. 1
Field: Thorn
County: Perry
Purchaser: Columbia Gas Company
Volume: 20 MMcf.

FERC Control Number: JD79-3135
API Well Number: 3411924588**14
Section of NGPA: 103
Operator: Sheldon L. Turrill
Well Name: No. 1 Ark Springs Baptist Church
Field:
County: Muskingum
Purchaser: The East Ohio Gas Company
Volume: 100 MMcf.

FERC Control Number: JD79-3136
API Well Number: 34-121-2-2074**14
Section of NGPA: 103
Operator: Green Gas Company
Well Name: Ohio Power Foraker
Field:
County: Noble
Purchaser: The East Ohio Gas Company
Volume: 8 MMcf.

FERC Control Number: JD79-3137
API Well Number: 34-121-2-2073**14
Section of NGPA: 103
Operator: Green Gas Company
Well Name: Cecil Cain No. 1
Field:
County: Noble
Purchaser: The East Ohio Gas Company
Volume: 3 MMcf.

FERC Control Number: JD79-3138
API Well Number: 34-121-2-2106**14
Section of NGPA: 103
Operator: Green Gas Company
Well Name: Todd Johnson Wheeler No. 1
Field:
County: Noble
Purchaser: The East Ohio Gas Company
Volume: 3 MMcf.

FERC Control Number: JD79-3139
API Well Number: 34-133-2-1828**14
Section of NGPA: 103
Operator: R. D. Curry Production Company
Well Name: Gabyan Haught Unit Well No. 2

Field:
County: Coshocton

County: Perry

Field:

FERC Control Number: JD79-3194

Field:
County: Portage
Purchaser: The East Ohio Gas Company
Volume: 1.9 MMcf.

FERC Control Number: JD79–3140
API Well Number: 34–133–2–1742**14
Section of NGPA: 103
Operator: R. D. Curry Production Company
Well Name: Lassen Traylor McKinney Unit No. 1
Field:
County: Portage
Purchaser: The East Ohio Gas Company
Volume: 1.9 MMcf.

FERC Control Number: JD79–3141
API Well Number: 34–151–2–2923**14
Section of NGPA: 103
Operator: Schwanco, Inc.
Well Name: Spuhler No. 2–A
Field:
County: Spark
Purchaser:
Volume: 20 MMcf.

FERC Control Number: JD79–3142
API Well Number: 3401921193**14
Section of NGPA: 103
Operator: The Mutual Oil and Gas Company
Well Name: William Ashworth No. 2
Field:
County: Carroll
Purchaser: The East Ohio Gas Company
Volume: 6 MMcf.

FERC Control Number: JD79–3143
API Well Number: 3401921177**14
Section of NGPA: 103
Operator: The Mutual Oil and Gas Company
Well Name: H. Gartrell et. al. No. 5
Field:
County: Carroll
Purchaser: The East Ohio Gas Company
Volume: 3 MMcf.

FERC Control Number: JD79–3144
API Well Number: 3401921176**14
Section of NGPA: 103
Operator: The Mutual Oil and Gas Company
Well Name: H. Gartrell et al. No. 6
Field:
County: Carroll
Purchaser: The East Ohio Gas Company
Volume: 3 MMcf.

FERC Control Number: JD79–3145
API Well Number: 3415723173**14
Section of NGPA: 103
Operator: The Mutual Oil and Gas Company
Well Name: A and D Glass No. 5–A
Field:
County: Tuscarawas
Purchaser: The East Ohio Gas Company
Volume: 50 MMcf.

FERC Control Number: JD79–3146
API Well Number: 3401921235**14
Section of NGPA: 103
Operator: The Mutual Oil and Gas Company
Well Name: Harry W. Gartrell et al. No. 4
Field:
County: Carroll
Purchaser: The East Ohio Gas Company
Volume: 6 MMcf.

FERC Control Number: JD79–3147
API Well Number: 3401921131**14
Section of NGPA: 103
Operator: The Mutual Oil and Gas Company
Well Name: Harry W. Gartrell et al. No. 3
Field:
County: Carroll
Purchaser: The East Ohio Gas Company
Volume: 6 MMcf.

FERC Control Number: JD79–3148
API Well Number: 3415722858**14
Section of NGPA: 103
Operator: The Mutual Oil and Gas Company
Well Name: Ruth I. Helter et al. No. 3
Field:
County: Tuscarawas
Purchaser: The East Ohio Gas Company
Volume: 43 MMcf.

FERC Control Number: JD79–3149
API Well Number: 3415722832**14
Section of NGPA: 103
Operator: The Mutual Oil and Gas Company
Well Name: R. I. Helter No. 2
Field:
County: Tuscarawas
Purchaser: The East Ohio Gas Company
Volume: 8 MMcf.

FERC Control Number: JD79–3150
API Well Number: 3405922100**14
Section of NGPA: 103
Operator: The Mutual Oil and Gas Company
Well Name: V and M Grimsley Unit No. 2
Field:
County: Guernsey
Purchaser: The East Ohio Gas Company
Volume: 25 MMcf.

FERC Control Number: JD79–3151
API Well Number: 3405922101**14
Section of NGPA: 103
Operator: The Mutual Oil and Gas Company
Well Name: V and M Grimsley Unit No. 1
Field:
County: Guernsey
Purchaser: The East Ohio Gas Company
Volume: 25 MMcf.

FERC Control Number: JD79–3152
API Well Number: 34–121–2–2111**14
Section of NGPA: 103
Operator: Green Gas Company
Well Name: Clem Garvin No. 1
Field:
County: Noble
Purchaser: The East Ohio Gas Company
Volume: 3 MMcf.

FERC Control Number: JD79–3153
API Well Number: 34103222094**14
Section of NGPA: 103
Operator: Green Gas Company
Well Name: Metzger No. 1
Field:
County: Nedina
Purchaser: Columbia Gas Transmission Corp.
Volume: 2½ MMcf.

FERC Control Number: JD79–3154
API Well Number: 3403123345**14
Section of NGPA: 103
Operator: Toledo Spring Company
Well Name: Daniel Nisley No. 2
Field:
County: Coshocton
Purchaser:
Volume: 28 MMcf.

FERC Control Number: JD79–3155
API Well Number: 3403123361**14
Section of NGPA: 103
Operator: Toledo Spring Company
Well Name: Mitchell G. Blizzard No. 1
Field:
County: Coshocton
Purchaser:
Volume: 28 MMcf.

FERC Control Number: JD79–3156
API Well Number: 3415521159**14
Section of NGPA: 103
Operator: Mash Investment Company
Well Name: Mash Investment No. 2
Field:
County: Trumbull
Purchaser:
Volume: 37 MMcf.

FERC Control Number: JD79–3157
API Well Number: 3411924412**14
Section of NGPA: 103
Operator: The Oxford Oil Company
Well Name: James Fogelsong No. 1
Field:
County: Muskingum
Purchaser:
Volume: 10.0 MMcf.

FERC Control Number: JD79–3158
API Well Number: 3415122908**14
Section of NGPA: 103
Operator: New Frontier Exploration, Inc.
Well Name: Ross Smith Unit No. 1
Field:
County: Stark
Purchaser: East Ohio Gas Company
Volume: 18 MMcf.

FERC Control Number: JD79–3159
API Well Number: 3415122895**14
Section of NGPA: 103
Operator: New Frontier Exploration, Inc.
Well Name: J. H. Taylor No. 2–A
Field:
County: Stark
Purchaser: East Ohio Gas Company
Volume: 17 MMcf.

FERC Control Number: JD79–3160
API Well Number: 3415122300**14
Section of NGPA: 108
Operator: Quaker State Oil Refining Corp.
Well Name: Isabella Reynolds No. 1 67037–00
Field:
County: Stark
Purchaser: East Ohio Gas Company
Volume: 5.840 MMcf.

FERC Control Number: JD79–3161
API Well Number: 3415721102**14
Section of NGPA: 108
Operator: Quaker State Oil Refining Corp.
Well Name: Helwig No. 1 67231–00
Field:
County: Tuscarawas
Purchaser: East Ohio Gas Company
Volume: 7.665 MMcf.

FERC Control Number: JD79–316243
API Well Number: 3412723516**14
Section of NGPA: 108
Operator: Quaker State Oil Refining Corp.
Well Name: Lovella Swingle No. 1 69138–00
Field:
County: Perry
Purchaser: National Gas and Oil Corp.
Volume: 3.65 MMcf.

FERC Control Number: JD79–3163
API Well Number: 3412722630**14
Section of NGPA: 108
Operator: Quaker State Oil Refining Corporation
Well Name: Perry No. 1 69137–00
Field:
County: Perry
Purchaser: Columbia Gas Transmission Corp.
Volume: 2.92 MMcf.

FERC Control Number: JD79–3164
API Well Number: 3412722597**14
Section of NGPA: 108
Operator: Quaker State Oil Refining Corporation
Well Name: Otts No. 69136–00
Field:
County: Perry
Purchaser: Columbia Gas Transmission Corp.
Volume: 3.65 MMcf.

FERC Control Number: JD79–3165
API Well Number: 3411521273**14
Section of NGPA: 108
Operator: Quaker State Oil Refining Corp.
Well Name: Silvus Unit No. 69127–00
Field:
County: Morgan
Purchaser: East Ohio Gas Company
Volume: 8.76 MMcf.

FERC Control Number: JD79–3166
API Well Number: 3411923105**14
Section of NGPA: 108
Operator: Quaker State Oil Refining Corp.
Well Name: Frame No. 1 69124–0
Field:
County: Muskingum
Purchaser: National Gas and Oil Corp.
Volume: 15.695 MMcf.

FERC Control Number: JD79–3167
API Well Number: 3411923092**14
Section of NGPA: 108
Operator: Quaker State Oil Refining Corp.
Well Name: Virgil Mitchell No. 69122–00
Field:
County: Muskingum
Purchaser: National Gas and Oil Corporation
Volume: 1.825 MMcf.

FERC Control Number: JD79–3168
API Well Number: 3409920234**14
Section of NGPA: 108
Operator: Quaker State Oil Refining Corp.
Well Name: Green Valley Farms No. 1 67038–00
Field:
County: Mahoning
Purchaser: East Ohio Gas Company
Volume: 10.950.

FERC Control Number: JD79–3169
API Well Number: 3405520035**14
Section of NGPA: 108
Operator: Quaker State Oil Refining Corp.
Well Name: Hostetler No. 1 67506–00
Field:
County: Geauga
Purchaser: East Ohio Gas Company
Volume: 10.950 MMcf.

FERC Control Number: JD79–3170
API Well Number: 3405520027**14
Section of NGPA: 108
Operator: Quaker State Oil Refining Corp.
Well Name: Oravec No. 1 67500–00
Field:
County: Geauga
Purchaser: East Ohio Gas Company
Volume: 9.49 MMcf.

FERC Control Number: JD79–3171
API Well Number: 3401920404**14
Section of NGPA: 108
Operator: Quaker State Oil Refining Corp.
Well Name: M. W. C. D. No. 2 67035
Field:
County: Carroll
Purchaser: Marsh Belden
Volume: 3.502 MMcf.

The applications for determination in these proceedings together with a copy or description of other materials in the record on which such determinations were made are available for inspection, except to the extent such material is treated as confidential under 18 CFR 275.206, at the Commission's Office of Public Information, Room 1000, 825 North Capitol Street, N.E., Washington, D.C. 20426.

Persons objecting to any of those final determinations may, in accordance with 18 CFR 275.203 and 18 CFR 275.204, file a protest with the Commission on or before June 1, 1979. Please reference the FERC Control Number in any correspondence concerning a determination.

Kenneth F. Plumb,

Secretary.

[FR Doc. 79–15367 Filed 5–16–79; 8:45 am]

BILLING CODE 6450–01–M

Determination by a Jurisdictional Agency Under the Natural Gas Policy Act of 1978

May 8, 1979.

On April 27, 1979, the Federal Energy Regulatory Commission received notices from the jurisdictional agencies listed below of determinations pursuant to 18 CFR 274.104 and applicable to the indicated wells pursuant to the Natural Gas Policy Act of 1978.

State of Ohio, Department of Natural Resources, Division of Oil and Gas

FERC Control Number: JD79–3191
API Well Number: 3403122853**14
Section of NGPA: 108
Operator: ConPetro Ventures, Ltd.
Well Name: Peabody No. 5
Field: N/A
County: Coshocton
Purchaser: National Gas & Oil Corp.
Volume: 13 MMcf.

FERC Control Number: JD79–3192
API Well Number: 3403122855**14
Section of NGPA: 108
Operator: ConPetro Ventures, Ltd.
Well Name: Peabody No. 3
Field: N/A
County: Coshocton
Purchaser: National Gas & Oil Corp.
Volume: 13 MMcf.

FERC Control Number: JD79–3193
API Well Number: 3403122860**14
Section of NGPA: 108
Operator: ConPetro Ventures, Ltd.
Well Name: Peabody No. 2
Field: N/A
County: Coshocton
Purchaser: National Gas & Oil Corp.
Volume: 13 MMcf.

FERC Control Number: JD79–3194
API Well Number: 3411923303**14
Section of NGPA: 108
Operator: American Exploration Co.
Well Name: Kimpel No. 2
Field: N/A
County: Muskingum
Purchaser: National Gas & Oil Corp.
Volume: 5,000 MMcf.

FERC Control Number: JD79–3195
API Well Number: 3403122100**14
Section of NGPA: 108
Operator: The Clinton Oil Co.
Well Name: Charles Vickers No. 1
Field: N/A
County: Coshocton
Purchaser: Columbia Gas Transmission Corp.
Volume: 8,000 MMcf.

FERC Control Number: JD79–3196
API Well Number: 3415121149**14
Section of NGPA: 108
Operator: Quaker State Oil Refining Corp.
Well Name: Garrott-Lillie No. 1 67040–00
Field: N/A
County: Stark
Purchaser: East Ohio Gas Co.
Volume: 1.825 MMcf.

FERC Control Number: JD79–3197
API Well Number: 3415122219**14
Section of NGPA: 108
Operator: Quaker State Oil Refining Corp.
Well Name: F. & B. Moser No. 1 67140–00
Field: N/A
County: Stark
Purchaser: East Ohio Gas Co.
Volume: 11.680 MMcf.

FERC Control Number: JD79–3198
API Well Number: 3401920775**14
Section of NGPA: 108
Operator: Quaker State Oil & Refining Corp.
Well Name: Fisher No. 1 67149–01
Field: N/A
County: Carroll
Purchaser: East Ohio Gas Co.
Volume: 2.367 MMcf.

FERC Control Number: JD79–3199
API Well Number: 3401920774**14
Section of NGPA: 108
Operator: Quaker State Oil Refining Corp.
Well Name: Fisher No. 2 67149–02
Field: N/A
County: Carroll
Purchaser: East Ohio Gas Co.
Volume: 1.620 MMcf.

FERC Control Number: JD79–3200
API Well Number: 3401920797**14
Section of NGPA: 108
Operator: Quaker State Oil Refining Corp.
Well Name: Leeper-Clark No. 1 67151–00
Field: N/A
County: Carroll
Purchaser: East Ohio Gas Co.
Volume: 2.190 MMcf.

FERC Control Number: JD79–3201
API Well Number: 3415821056**14
Section of NGPA: 108
Operator: Quaker State Oil Refining Corp.
Well Name: Wallick Coal Co. No. 1 67230–00
Field: N/A
County: Tuscarawas
Purchaser: East Ohio Gas Co.
Volume: 8.76 MMcf.

Field: N/A
treated as confidential under 18 CFR

API Well Number: 311923301**14

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FERC Control Number: JD79–3202
API Well Number: 3400921479 14
Section of NGPA: 108
Operator: John R. Bickle
Well Name: Howard A. Johnson B3
Field: Amesville
County: Athens
Purchaser: Columbia Gas Transmission Corp.
Volume: .9 MMcf.

FERC Control Number: JD79–3203
API Well Number: 3411922097 14
Section of NGPA: 108
Operator: Quaker State Oil Refining Corp.
Well Name: Sandel No. 1 69111–00
Field: N/A
County: Muskingum
Purchaser: East Ohio Gas Co.
Volume: 4.015 MMcf.

FERC Control Number: JD79–3204
API Well Number: 3411922110 14
Section of NGPA: 108
Operator: Quaker State Oil Refining Corp.
Well Name: Mozena No. 1 69112–00
Field: N/A
County: Muskingum
Purchaser: Columbia Gas Transmission Corp.
Volume: 1.825 MMcf.

FERC Control Number: JD79–3205
API Well Number: 3411922159 14
Section of NGPA: 108
Operator: Quaker State Oil Refining Corp.
Well Name: Radcliffe No. 1 69114–00
Field: N/A
County: Muskingum
Purchaser: Columbia Gas Transmission Corp.
Volume: 4.015 MMcf.

FERC Control Number: JD79–3206
API Well Number: 3411922120 14
Section of NGPA: 108
Operator: Quaker State Oil Refining Corp.
Well Name: McCormick No. 1 69113–01
Field: N/A
County: Muskingum
Purchaser: East Ohio Gas Co.
Volume: 0.899 MMcf.

FERC Control Number: JD79–3207
API Well Number: 3411922194 14
Section of NGPA: 108
Operator: Quaker State Oil Refining Corp.
Well Name: McCormick No. 2 69113–02
Field: N/A
County: Muskingum
Purchaser: East Ohio Gas Co.
Volume: 0.234 MMcf.

FERC Control Number: JD79–3208
API Well Number: 3411922183 14
Section of NGPA: 108
Operator: Mineral Leasing Inc.
Well Name: Hanna Coal No. 1
Field: N/A
County: Muskingum
Purchaser: Columbia Gas Transmission Corp.
Volume: 3.3 MMcf.

FERC Control Number: JD 79–3209
API Well Number: 3411922315 14
Section of NGPA: 108
Operator: Mineral Leasing, Inc.
Well Name: Hansel #2
Field: N/A
County: Muskingum
Purchaser: Columbia Gas Transmission Corp.
Volume: 3.5 MMcf.

FERC Control Number: JD 79–3210
API Well Number: 3415721900 14
Section of NGPA: 108
Operator: K–B Oil Co.
Well Name: Weingarth #1
Field: N/A
County: Tuscarawas
Purchaser: Columbia Gas Transmission Corp.
Volume: 4.6 MMcf.

FERC Control Number: JD 79–3211
API Well Number: 3405920958 14
Section of NGPA: 108
Operator: Walter F. Fox
Well Name: Fow-Wells #1
Field: N/A
County: Guernsey
Purchaser: Columbia Gas Transmission Corp.
Volume: 11.3 MMcf.

FERC Control Number: JD 79–3212
API Well Number: 3403123039 14
Section of NGPA: 108
Operator: ConPetro, Inc.
Well Name: Peabody Coal Co. #31
Field: N/A
County: Coshocton
Purchaser: National Gas & Oil Corp.
Volume: 17 MMcf.

FERC Control Number: JD 79–3213
API Well Number: 3403122705 14
Section of NGPA: 108
Operator: Kenner McConnell, Jr.
Well Name: Ronald Stillions #1
Field: N/A
County: Coshocton
Purchaser: Columbia Gas Transmission Corp.
Volume:

FERC Control Number: JD 79–3214
API Well Number: 34 167 2 2806 ** 14
Section of NGPA: 108
Operator: Quaker State Oil Refining Corp.
Well Name: Barlow #1 69128–00
Field: N/A
County: Washington
Purchaser: Columbia Gas Transmission Corp.
Volume: 0.73 MMcf.

FERC Control Number: JD 79–3215
API Well Number: 34 167 2 2819 ** 14
Section of NGPA: 108
Operator: Quaker State Oil Refining Corp.
Well Name: Hall #1 69130–00
Field: N/A
County: Washington
Purchaser: Columbia Gas Transmission Corp.
Volume: 3.65 MMcf.

FERC Control Number: JD 79–3216
API Well Number: 34 167 2 2760 ** 14
Section of NGPA: 108
Operator: Quaker State Oil Refining Corp.
Well Name: Haas #1 69129–00
Field: N/A
County: Washington
Purchaser: Columbia Gas Transmission Corp.
Volume: 1.46 MMcf.

FERC Control Number: JD 79–3217
API Well Number: 34 157 2 1053 ** 14
Section of NGPA: 108
Operator: Quaker State Oil Refining Corp.
Well Name: Briggs #1 69002–00
Field: N/A
County: Tuscarawas
Purchaser: East Ohio Gas Co.
Volume: 5.11 MMcf.

FERC Control Number: JD 79–3218
API Well Number: 34 157 2 1036 ** 14
Section of NGPA: 108
Operator: Quaker State Oil Refining Corp.
Well Name: Brokaw-Schupp #1 69003–00
Field: N/A
County: Tuscarawas
Purchaser: East Ohio Gas Co.
Volume: 5.84 MMcf.

FERC Control Number: JD 79–3219
API Well Number: 34 157 2 1072 ** 14
Section of NGPA: 108
Operator: Quaker State Oil Refining Corp.
Well Name: E. Schupp #2 69005–00
Field: N/A
County: Tuscarawas
Purchaser: East Ohio Gas Co.
Volume: 2.555 MMcf.

FERC Control Number: JD 79–3220
API Well Number: 34 157 2 1083 ** 14
Section of NGPA: 108
Operator: Quaker State Oil Refining Corp.
Well Name: Flocker #1 69007–00
Field: N/A
County: Tuscarawas
Purchaser: East Ohio Gas Co.
Volume: 5.84 MMcf.

FERC Control Number: JD 79–3221
API Well Number: 34 157 2 1079 ** 14
Section of NGPA: 108
Operator: Quaker State Oil Refining Corp.
Well Name: R. Rice #1 69008–00
Field: N/A
County: Tuscarawas
Purchaser: East Ohio Gas Co.
Volume: 3.285 MMcf.

FERC Control Number: JD 79–3222
API Well Number: 34 157 2 1078 ** 14
Section of NGPA: 108
Operator: Quaker State Oil Refining Corp.
Well Name: L. Swaldo #1 69009–00
Field: N/A
County: Tuscarawas
Purchaser: East Ohio Gas Co.
Volume: 3.285 MMcf.

FERC Control Number: JD 79–3223
API Well Number: 34 151 2 2406 ** 14
Section of NGPA: 108
Operator: Quaker State Oil Refining Corp.
Well Name: Raber #1 67713–00
Field: N/A
County: Stark
Purchaser: East Ohio Gas Co.
Volume: 17.155 MMcf.

FERC Control Number: JD 79–3224
API Well Number: 34 151 2 2404 ** 14
Section of NGPA: 108
Operator: Quaker State Oil Refining Corp.
Well Name: Brugger Moser #1 67714–00
Field: N/A
County: Stark
Purchaser: East Ohio Gas Co.
Volume: 3.2855 MMcf.

FERC Control Number: JD 79–3225
API Well Number: 34 157 2 1029 ** 14
Section of NGPA: 108
Operator: Quaker State Oil Refining Corp.
Well Name: Skinner #1 69004–00
Field: N/A
County: Tuscarawas
Purchaser: East Ohio Gas Co.
Volume: 0.73 MMcf.

FERC Control Number: JD 79–3226
API Well Number: 34 019 2 0875 ** 14
Section of NGPA: 108
Operator: Quaker State Oil Refining Corp.
Well Name: C. P. Snee #1 67715–00
Field: N/A
County: Carroll
Purchaser: Marsh-Belden
Volume: 2.555 MMcf.

FERC Control Number: JD 79–3227
API Well Number: 34 019 2 0876 ** 14
Section of NGPA: 108
Operator: Quaker State Oil Refining Corp.
Well Name: K. Huffman #1 67716–00
Field: N/A
County: Carroll
Purchaser: Marsh-Belden
Volume: 5.84 MMcf.

FERC Control Number: JD 79–3228
API Well Number: 34 019 2 0877 ** 14
Section of NGPA: 108
Operator: Quaker State Oil Refining Corp.
Well Name: R. & L. Newell #1 67717–00
Field: N/A
County: Carroll
Purchaser: Marsh-Belden
Volume: 4.745 MMcf.

FERC Control Number: JD 79–3229
API Well Number: 34 151 2 1228 ** 14
Section of NGPA: 108
Operator: Quaker State Oil Refining Corp.
Well Name: Brugger #1 67718–00
Field: N/A
County: Stark
Purchaser: East Ohio Gas Co.
Volume: 16.06 MMcf.

FERC Control Number: JD 79–3230
API Well Number: 34 119 2 2161 ** 14
Section of NGPA: 108
Operator: Quaker State Oil Refining Corp.
Well Name: E. Bell #1 69115–00
Field: N/A
County: Muskingum
Purchaser: Columbia Gas Transmission Corp.
Volume: 5.11 MMcf.

FERC Control Number: JD 79–3231
API Well Number: 34 119 2 2135 ** 14
Section of NGPA: 108
Operator: Quaker State Oil Refining Corp.
Well Name: Lake #1 69116–00
Field: N/A
County: Muskingum
Purchaser: East Ohio Gas Co.
Volume: 5.475 MMcf.

FERC Control Number: JD 79–3232
API Well Number: 34 118 2 2162 ** 14
Section of NGPA: 108
Operator: Quaker State Oil Refining Corp.
Well Name: Matchett #1 69117–00
Field: N/A
County: Muskingum
Purchaser: Columbia Gas Transmission Corp.
Volume: 9.655 MMcf.

FERC Control Number: JD 79–3233
API Well Number: 34 119 2 2202 ** 14
Section of NGPA: 108
Operator: Quaker State Oil Refining Corp.
Well Name: Leasure #1 69118–00
Field: N/A
County: Muskingum
Purchaser: Columbia Gas Transmission Corp.
Volume: 4.015 MMcf.

The applications for determination in these proceedings together with a copy or description of other materials in the record on which such determinations were made are available for inspection, except to the extent such material is treated as confidential under 18 CFR 275.206, at the Commission's Office Of Public Information, Room 1000, 825 North Capitol Street, N.E., Washington, D.C. 20426.

Persons objecting to any of those final determinations may, in accordance with 18 CFR 275.203 and 18 CFR 275.204, file a protest with the Commission on or before June 1, 1979. Please reference the FERC Control Number in any correspondence concerning a determination.

Kenneth F. Plumb,

Secretary.

[FR Doc. 79–15368 Filed 5–16–79; 8:45 am]

BILLING CODE 6450–01–M

Determination by a Jurisdictional Agency Under the Natural Gas Policy Act of 1978

May 8, 1979.

On April 27, 1979, the Federal Energy Regulatory Commission received notices from the jurisdictional agencies listed below of determinations pursuant to 18 CFR 274.104 and applicable to the indicated wells pursuant to the Natural Gas Policy Act of 1978.

State of Ohio, Department of Natural Resources, Division of Oil and Gas

FERC Control Number: JD79–3234
API Well Number: 34 119 2 2160 ** 14
Section of NGPA: 108
Operator: Quaker State Oil Refining Corp.
Well Name: Mercer #1 69119–00
Field: N/A
County: Muskingum
Purchaser: Columbia Gas Transmission Corp.
Volume: 2.555 MMcf.

FERC Control Number: JD79–3235
API Well Number: 3416724100 14
Section of NGPA: 102
Operator: A & R Company
Well Name: Hazel B. Hoff et al. No. 1
Field: N/A
County: Washington
Purchaser:
Volume: 50 MMcf.

FERC Control Number: JD79–3236
API Well Number: 3416723996 14
Section of NGPA: 10A & R Company
Operator: 2
Well Name: Joseph C. & Grace Eddy No. 1–b
Field: N/A
County: Washington
Purchaser:
Volume: 12 MMcf.

FERC Control Number: JD79–3237
API Well Number: 34 073 2 1649 ** 14
Section of NGPA: 108
Operator: Quaker State Oil Refining Corp.
Well Name: Grace B. Hull #8 69143–08
Field: N/A
County: Hocking
Purchaser: Columbia Gas Transmission Corp.
Volume: 0.120 MMcf.

FERC Control Number: JD79–3238
API Well Number: 311923301 14
Section of NGPA: 108
Operator: American Exploration Co.
Well Name: Rayburn Miller #1
Field: N/A
County: Muskingum
Purchaser: Clinton/Newzane Gas Co.
Volume: 2,000 MMcf.

FERC Control Number: JD79–3239
API Well Number: 3410521795 14
Section of NGPA: 103
Operator: Larry H. Wright, Inc.
Well Name: Max Grueser #1
Field: N/A
County: Meigs
Purchaser:
Volume: 10 MMcf.

FERC Control Number: JD79–3240
API Well Number: 3407522013 14
Section of NGPA: 103
Operator: Morgan-Penmnington, Inc.
Well Name: Noble No. 1
Field: N/A
County: Holmes
Purchaser: Columbia Gas Transmission Corp.
Volume: 5.0 MMcf.

FERC Control Number: JD79–3241
API Well Number: 3416922037 14
Section of NGPA: 103
Operator: Morgan-Pennington, Inc.
Well Name: Deweese No. 1
Field: N/A
County: Wayne
Purchaser: East Ohio Gas Co.
Volume: 5.2 MMcf.

FERC Control Number: JD79–3242
API Well Number: 3416922055 14
Section of NGPA: 103
Operator: Morgan-Pennington, Inc. & MPS Oil & Gas
Well Name: Pontius No. 1
Field: N/A
County: Wayne
Purchaser: Columbia Gas Transmission Corp.
Volume: 18.25 MMcf.

FERC Control Number: JD79–3243
API Well Number: 3407521969 14
Section of NGPA: 103
Operator: Morgan-Pennington, Inc.
Well Name: Kineley No. 1
Field: N/A
County: Holmes
Purchaser: Columbia Gas Transmission Corp.
Volume: 3.7 MMcf.

FERC Control Number: JD79–79–3244
API Well Number: 3405922480 14
Section of NGPA: 103
Operator: Enterprise Gas & Oil Inc.
Well Name: Shriver #3
Field: N/A
County: Guernsey
Purchaser:
Volume: 35.6 MMcf.

FERC Control Number: JD79–3245
API Well Number: 34 151 2 2758 ** 14
Section of NGPA: 103
Operator: Amtex Oil and Gas, Inc.
Well Name: Glessner Well No. 2
Field: N/A
County: Stark
Purchaser: Columbia Gas Transmission Corp.
Volume: 25 MMcf.

FERC Control Number: JD79-3246
API Well Number: 3401921255**14
Section of NGPA: 103
Operator: Enterprise Gas & Oil, Inc.
Well Name: Harstine #3
Field: N/A
County: Carroll
Purchaser:
Volume: 25.5 MMcf.

FERC Control Number: JD79-3247
API Well Number: 3401921054**14
Section of NGPA: 103
Operator: The Mutual Oil & Gas Company
Well Name: Nova R. Harstine et al #2-C
Field: N/A
County: Carroll
Purchaser: The East Ohio Gas Company
Volume: 6 MMcf.

FERC Control Number: JD79-3248
API Well Number: 3416724148**14
Section of NGPA: 103
Operator: Wynn Oil Company
Well Name: Earl Webb #1
Field: N/A
County: Washington
Purchaser: East Ohio Gas Co.
Volume: 4 MMcf.

FERC Control Number: JD79-3249
API Well Number: 3413321572**14
Section of NGPA: 1010e
Operator: Vikings Resoures Corporation
Well Name: George & Betty Burkey, Jr. #1
Field: N/A
County: Portage
Purchaser:
Volume: 30 MMcf.

FERC Control Number: JD79-3250
API Well Number: 3401921126**14
Section of NGPA: 103
Operator: The Mutual Oil & Gas Company
Well Name: Kathryn Myers #1-C
Field: N/A
County: Carroll
Purchaser: The East Ohio Gas Company
Volume: 3 MMcf.

FERC Control Number: JD79-3251
API Well Number: 3401921141**14
Section of NGPA: 103
Operator: The Mutual Oil and Gas Company
Well Name: Nova R. Harstine et al #4-C
Field: N/A
County: Carroll
Purchaser: The East Ohio Gas Company
Volume: 3 MMcf.

FERC Control Number: JD-79-3252
API: Well Number 3401921171**14
Section of NGPA: 103
Operator: The Mutual Oil & Gas Company
Well Name: Noel Gartrell et al No. 8
Field N/A
County: Carroll
Purchaser: The East Ohio Gas Company
Volume: 3 MMcf.

FERC Control Number: JD-79-3253
API: Well Number 3401921132**14
Section of NGPA: 103
Operator: The Mutual Oil & Gas Company
Well Name: Nova R. Harstine et al No. 3-C
Field N/A
County: Carroll
Purchaser: The East Ohio Gas Company
Volume: 3 MMcf.

FERC Control Number: JD-79-3254
API: Well Number 3401920995**14
Section of NGPA: 103
Operator: The Mutual Oil & Gas Company
Well Name: Landers-Cartrell Unit No. 1
Field N/A
County: Carroll
Purchaser: The East Ohio Gas Company
Volume: 6 MMcf.

FERC Control Number: JD-79-3255
API: Well Number 34-075-2-2122**14
Section of NGPA: 103
Operator: William F. Hill
Well Name: Hunt No. 1
Field N/A
County: Holmes
Purchaser:
Volume: 14 MMcf.

FERC Control Number: JD-79-3256
API: Well Number 34-073-2-1685**14
Section of NGPA: 108
Operator: Quaker State Oil Refining Corp.
Well Name: Grace B. Hull No. 10 69143-10
Field N/A
County: Hocking
Purchaser: Columbia Gas Transmission Corp.
Volume: 1.286 MMcf.

FERC Control Number: JD-79-3257
API: Well Number 34-073-2-1684**14
Section of NGPA: 108
Operator: Quaker State Oil Refining Corp.
Well Name: Grace B. Hull No. 9 69143-09
Field N/A
County: Hocking
Purchaser: Columbia Gas Transmission Corp.
Volume: 0.477 MMcf.

FERC Control Number: JD-79-3258
API: Well Number 3411923036**14
Section of NGPA: 108
Operator: American Exploration Co.
Well Name: Shuey No. 1B
Field N/A
County: Muskingum
Purchaser: Clinton/Newzane Gas Co.
Volume: 2,000 MMcf.

FERC Control Number: JD-79-3259
API: Well Number 3411923224**14
Section of NGPA: 108
Operator: American Exploration Co.
Well Name: Shuey No. 3
Field N/A
County: Muskingum
Purchaser: Clinton/New Zane Gas Co.
Volume: 2,000 MMcf.

FERC Control Number: JD-79-3260
API: Well Number 3411923770**14
Section of NGPA: 108
Operator: American Exploration Co.
Well Name: Julia Fink No. 1
Field N/A
County: Muskingum
Purchaser: Newzane Gas Co.
Volume: 7,300 MMcf.

FERC Control Number: JD-79-3261
API: Well Number 3411923187**14
Section of NGPA: 108
Operator: American Exploration Co.
Well Name: Bay Unit No. 1
Field N/A
County: Muskingum
Purchaser: Columbia Gas Transmission Co.
Volume: 5,400 MMcf.

FERC Control Number: JD-3262
API: Well Number 3411923188**14
Section of NGPA: 108
Operator: American Exploration Co.
Well Name: Gladys Moore No. 1
Field N/A
County: Muskingum
Purchaser: Columbia Gas Transmission Corp.
Volume: 2,000 MMcf.

FERC Control Number: JD-79-3263
API: Well Number 3411923475**14
Section of NGPA: 108
Operator: American Exploration Co.
Well Name: Lawrence Osborne 1
Field N/A
County: Muskingum
Purchaser: National Gas & Oil Corp.
Volume: 2,000 MMcf.

FERC Control Number: JD-79-3264
API: Well Number 3411923661**14
Section of NGPA: 108
Operator: American Exploration Co.
Well Name: Elmer Ball No. 1
Field N/A
County: Muskingum
Purchaser: National Gas & Oil Corp.
Volume: 15,000 MMcf.

FERC Control Number: JD-3265
API: Well Number 3411922988**14
Section of NGPA: 108
Operator: American Exploration Co.
Well Name: Murphy Unit No. 1
Field N/A
County: Muskingum
Purchaser: National Gas & Oil Corp.
Volume: 6,000 MMcf.

FERC Control Number: JD-79-3266
API: Well Number 3411922940**14
Section of NGPA: 108
Operator: American Exploration Co.
Well Name: Frank White No. 1
Field N/A
County: Muskingum
Purchaser: National Gas & Oil Corp.
Volume: 2,400 MMcf.

FERC Control Number: JD79-3267
API Well Number: 341193222**14
Section of NGPA: 108
Operator: American Exploration Co.
Well Name: Shuey No. 4
Field: N/A
County: Muskingum
Purchaser: Clinton/Newzane Gas Co.
Volume: 10,725 MMcf.

FERC Control Number: JD79-3268
API Well Number: 34-133-2-0650-**-14
Section of NGPA: 108
Operator: Jerry More, Inc.
Well Name: Robert A. Bauman No. 1
Field: Atwater
County: Portage
Purchaser: East Ohio Gas Company
Volume: 5.5 MMcf.

FERC Control Number: JD79-3269
API Well Number: 34-151-2-2395-**-14
Section of NGPA: 108
Operator: Jerry Moore, Inc.
Well Name: Merle R. Arney Unit No. 5295
Field: Mt. Eaton
County: Stark
Purchaser: East Ohio Gas Co.
Volume: 5.2 MMcf.

FERC Control Number: JD79-3270
API Well Number: 34-151-2-2398-**-14
Section of NGPA: 108
Operator: Jerry Moore, Inc.

Well Name: W. J. Bucher No. 5334
Field: Mt. Eaton
County: Stark
Purchaser: East Ohio Gas Co.
Volume: 3.2 MMcf.

FERC Control Number: JD79-3271
API Well Number: 34-151-2-2397-**-14
Section of NGPA: 108
Operator: Jerry Moore, Inc.
Well Name: Russell Lash Unit No. 5333
Field: Mt. Eaton
County: Stark
Purchaser: East Ohio Gas Co.
Volume: 12.8 MMcf.

FERC Control Number: JD79-3272
API Well Number: 34-151-2-1922-**-14
Section of NGPA: 108
Operator: Quaker State Oil Refining Corp.
Well Name: McCall No. 8 67023-08
Field: N/A
County: Stark
Purchaser: Marsh-Belden
Volume: 0.873 MMcf.

FERC Control Number: JD79-3273
API Well Number: 34-151-2-1887-**-14
Section of NGPA: 108
Operator: Quaker State Oil Refining Corp.
Well Name: McCall No. 7 67023-07
Field: N/A
County: Stark
Purchaser: Marsh-Belden
Volume: 0.750 MMcf.

FERC Control Number: JD79-3274
API Well Number: 34 151 2 1888-**-14
Section of NGPA: 108
Operator: Quaker State Oil Refining Corp.
Well Name: McCall #6 67023-06
Field: N/A
County: Stark
Purchaser: Marsh-Belden
Volume: 0.131 MMcf.

The applications for determination in these proceedings together with a copy or description of other materials in the record on which such determinations were made are available for inspection, except to the extent such material is treated as confidential under 18 CFR 275.206, at the Commission's Office of Public Information, Room 1000, 825 North Capitol Street, NE., Washington, D.C. 20426.

Persons objecting to any of those final determinations may, in accordance with 18 CFR 275.203 and 18 CFR 275.204, file a protest with the Commission on or before June 1, 1979. Please reference the FERC Control Number in any correspondence concening a determination.

Kenneth F. Plumb,
Secretary.

[FR Doc. 79-15369 Filed 5-16-79; 8:45 am]
BILLING CODE 6450-01-M]

Determination by a Jurisdictional Agency Under the Natural Gas Policy Act of 1978

May 8, 1979.

On April 27, 1979, the Federal Energy Regulatory Commission received notices from the jurisdictional agencies listed below of determinations pursuant to 18 CFR 274.104 and applicable to the indicated wells pursuant to the Natural Gas Policy Act of 1978.

State of Ohio, Department of Natural Resources, Division of Oil and Gas

FERC Control Number: JD79-3275
API Well Number: 34 151 2 1889 ** 14
Section of NGPA: 108
Operator: Quaker State Oil Refining Corp.
Well Name: McCall #5 67023-05
Field: N/A
County: Stark
Purchaser: Marsh-Belden
Volume: 3.217 MMcf.

FERC Control Number: JD79-3276
API Well Number: 34 151 2 1878 ** 14
Section of NGPA: 108
Operator: Quaker State Oil Refining Corp.
Well Name: McCall #3 67023-03
Field: N/A
County: Stark
Purchaser: Marsh-Belden
Volume: 0.589 MMcf.

FERC Control Number: JD79-3277
API Well Number: 34 151 2 1868 ** 14
Section of NGPA: 108
Operator: Quaker State Oil Refining Corp.
Well Name: McCall #2 67023-02
Field: N/A
County: Stark
Purchaser: Marsh-Belden
Volume: 0.852 MMcf.

FERC Control Number: JD79-3278
API Well Number: 34 151 2 1812 ** 14
Section of NGPA: 108
Operator: Quaker State Oil Refining Corp.
Well Name: McCall #1 67023-01
Field: N/A
County: Stark
Purchaser: Marsh-Belden
Volume: 0.0934 MMcf.

FERC Control Number: JD79-3279
API Well Number: 34 019 2 1078 ** 14
Section of NGPA: 108
Operator: Quaker State Oil Refining Corp.
Well Name: Snee #2 66558-00
Field: N/A
County: Carroll
Purchaser: Marsh-Belden
Volume: 9.855 MMcf.

FERC Control Number: JD79-3280
API Well Number: 34-031-2-2325-88-L4
Section of NGPA: 108
Operator: Jerry Moore, Inc.
Well Name: Raymond J. Frank #1
Field: Baltic
County: Coshocton
Purchaser: East Ohio Gas Co.
Volume: 1.4 MMcf.

FERC Control Number: JD79-3281
API Well Number: 34-157-2-2278-**-14
Section of NGPA: 108
Operator: Jerry Moore, Inc..
Well Name: Clara Goedel #1
Field: Baltic
County: Tuscarawas
Purchaser: East Ohio Gas Co.
Volume: 1.7 MMcf.

FERC Control Number: JD79-3282
API Well Number: 34-157-2-2277-**-14
Section of NGPA: 108
Operator: Jerry Moore, Inc.
Well Name: Rodney Goedel #2
Field: Baltic
County: Tuscarawas
Purchaser: East Ohio Gas Co.
Volume: .7 MMcf.

FERC Control Number: JD79-3283
API Well Number: 3412120205**14
Section of NGPA: 108
Operator: Nova A. Christman
Well Name: Dotson #1
Field: N/A
County: Noble
Purchaser: Columbia Gas Transmission Corp.
Volume: 2.1 MMcf.

FERC Control Number: JD79-3284
API Well Number: 3412120160**14
Section of NGPA: 108
Operator: Nova A. Christman
Well Name: Pepper #1
Field: N/A
County: Noble
Purchaser: Columbia Gas Transmission
Volume: 2.1 MMcf.

FERC Control Number: JD79-3285
API Well Number: 34 005 2 0039 ** 14
Section of NGPA: 108
Operator: Quaker State Oil Refining Corp.
Well Name: Timmons #2 67002-00
Field: N/A
County: Geauga
Purchaser: East Ohio Gas Co.
Volume: 2.190 MMcf.

FERC Control Number: JD79-3286
API Well Number: 34 019 2 1067 ** 14
Section of NGPA: 108
Operator: Quaker State Oil Refining Corp.
Well Name: B. & G. Harless #1 66553-00
Field: N/A
County: Carroll
Purchaser: Marsh-Belden
Volume: 5.475 MMcf.

FERC Control Number: JD79-3287
API Well Number: 34 019 2 1079 ** 14
Section of NGPA: 108
Operator: Quaker State Oil Refining Corp.
Well Name: Kenneth Huffman #2 66554-00
Field: N/A
County: Carroll
Purchaser: Marsh-Belden
Volume: 8.030 MMcf.

FERC Control Number: JD79-3288
API Well Number: 34 019 2 1066 ** 14
Section of NGPA: 108
Operator: Quaker State Oil Refining Corp.
Well Name: Newell "A" #2 66550-02
Field: N/A
County: Carroll
Purchaser: Marsh-Belden
Volume: 1.921 MMcf.

FERC Control Number: JD79-3289
API Well Number: 34 019 2 1072 ** 14
Section of NGPA: 108
Operator: Quaker State Oil Refining Corp.
Well Name: Newell "A" #3 66550-03

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Field: N/A
County: Carroll
Purchaser: Marsh-Belden
Volume: 1.438 MMcf.

FERC Control Number: JD79–3290
API Well Number: 34 019 2 1000 ** 14
Section of NGPA: 108
Operator: Quaker State Oil Refining Corp.
Well Name: J. A. Ludwig #2 66555–00
Field: N/A
County: Carroll
Purchaser: Marsh-Belden
Volume: 6.570 MMcf.

FERC Control Number: JD79–3291
API Well Number: 34 151 2 1923 ** 14
Section of NGPA: 108
Operator: Quaker State Oil Refining Corp.
Well Name: McCall #9 67023–09
Field: N/A
County: Carroll
Purchaser: Marsh-Belden
Volume: 2.610 MMcf.

FERC Control Number: JD79–3292
API Well Number: 34 151 2 1924 ** 14
Section of NGPA: 108
Operator: Quaker State Oil Refining Corp.
Well Name: McCall #10 67023–10
Field: N/A
County: Stark
Purchaser: Marsh-Belden
Volume: 0.792 MMcf.

FERC Control Number: JD79–3293
API Well Number: 34 151 2 1925 ** 14
Section of NGPA: 108
Operator: Quaker State Oil Refining Corporation
Well Name: McCall-Benzel 67023–11
Field: N/A
County: Stark
Purchaser: Marsh-Belden
Volume: 1.291 MMcf.

FERC Control Number: JD79–3294
API Well Number: 3411921985**14
Section of NGPA: 108
Operator: The Oxford Oil Co.
Well Name: Harry Cornett #1
Field: N/A
County: Muskingum
Purchaser: Columbia Gas Trans. Corp.
Volume: 5.0 MMcf.

FERC Control Number: JD79–3295
API Well Number: 3407521683**14
Section of NGPA: 108
Operator: The Oxford Oil Co.
Well Name: Paul G. Beck #1
Field: N/A
County: Holmes
Purchaser: Columbia Gas Trans. Corp.
Volume: 3.5 MMcf.

FERC Control Number: JD79–3296
API Well Number: 341922552**14
Section of NGPA: 108
Operator: The Oxford Oil Co.
Well Name: Edward Corder #1
Field: N/A
County: Muskingum
Purchaser: Columbia Gas Trans. Corp.
Volume: 18 MMcf.

FERC Control Number: JD79–3297
API Well Number: 3416920414**14
Section of NGPA: 108
Operator: The Oxford Oil Co.
Well Name: Conrad-Graber #1
Field: N/A
County: Wayne
Purchaser: Columbia Gas Trans. Corp.
Volume: 2.0 MMcf.

FERC Control Number: JD79–3298
API Well Number: 3411922772**14
Section of NGPA: 108
Operator: M. W. Conrad & Associates
Well Name: T. Everett Leedom #3
Field: N/A
County: Muskingum
Purchaser: East Ohio Gas Company
Volume: 13 MMcf.

FERC Control Number: JD79–3299
API Well Number: 3411922686**14
Section of NGPA: 108
Operator: M. W. Conrad & Associates
Well Name: T. Everett Leedom #1
Field: N/A
County: Muskingum
Purchaser: The East Ohio Gas Company
Volume: 13 MMcf.

FERC Control Number: JD79–3300
API Well Number: 34 119 2 3082 ** 14
Section of NGPA: 108
Operator: McCombs-Conrad & Barrett
Well Name: Howard Daily #1
Field: N/A
County: Muskingum
Purchaser: The East Ohio Gas Company
Volume: 2.8 MMcf.

FERC Control Number: JD79–3301
API Well Number: 34 005 2 0037 ** 14
Section of NGPA: 108
Operator: Quaker State Oil Refining Corp.
Well Name: Button 67002–00
Field: N/A
County: Geauga
Purchaser: East Ohio Gas Co.
Volume: 1.825 MMcf.

FERC Control Number: JD79–3302
API Well Number: 3415723208**14
Section of NGPA: 103
Operator: K–B Oil Co.
Well Name: Stocker #1A
Field: N/A
County: Tuscarawas
Purchaser:
Volume: 73 MMcf.

FERC Control Number: JD79–3303
API Well Number: 3411121672**14
Section of NGPA: 108
Operator: Charles E. Christman
Well Name: Lucy Drake McCammon No. 1
Field: N/A
County: Monroe
Purchaser: Columbia Gas Transmission
Volume: 0.223.

FERC Control Number: JD79–3304
API Well Number: 341521209**14
Section of NGPA: 108
Operator: Pointer Oil Company
Well Name: Snyder No. 1
Field: N/A
County: Tuscarawas
Purchaser: East Ohio Gas Co.
Volume: 1.90 MMcf.

FERC Control Number: JD79–3305
API Well Number: 3415721361**14
Section of NGPA: 108
Operator: Mineral Leasing Inc.
Well Name: Glazer No. 1
Field: N/A
County: Tuscarawas
Purchaser: Columbia Gas Transmisaion Corp.
Volume: 2.9 MMcf.

FERC Control Number: JD79–3306
API Well Number: 3415721350**14
Section of NGPA: 108
Operator: Mineral Leasing Inc.
Well Name: McConnell No. 1
Field: N/A
County: Tuscararwas
Purchaser: Columbia Gas Transmission Corp.
Volume: 3.6 MMcf.

FERC Control Number: JD79–3307
API Well Number: 3411922322**14
Section of NGPA: 108
Operator: Mineral Leasing Inc.
Well Name: Hansel No. 4
Field: N/A
County: Muskingum
Purchaser: Columbia Gas Transmission Corp.
Volume: 3.5 MMcf.

FERC Control Number: JD79–3308
API Well Number: 3411922372**14
Section of NGPA: 108
Operator: Mineral Leasing Inc.
Well Name: Hanna Coal No. 2
Field: N/A
County: Muskingum
Purchaser: Columbia Gas Transmission Corp.
Volume: 14.9 MMcf.

FERC Control Number: JD79–3309
API Well Number: 3411922321**14
Section of NGPA: 108
Operator: Mineral Leasing
Well Name: Hansel No. 3
Field: N/A
County: Muskingum
Purchaser: Columbia Gas Transmission Corp.
Volume: 3.5 MMcf.

FERC Control Number: JD79–3310
API Well Number: 3415721075**14
Section of NGPA: 108
Operator: Quaker State Oil Refining Corp.
Well Name: No. 1 Buss Schupp 69006–00
Field: N/A
County: Tuscarawas
Purchaser: East Ohio Gas Co.
Volume: 1.825 MMcf.

FERC Control Number: JD79–3311
API Well Number: 3415122437**14
Section of NGPA: 108
Operator: Quaker State Oil Refining Corp.
Well Name: Aufrance No. 1 67712–00
Field: N/A
County: Stark
Purchaser: East Ohio Gas Co.
Volume: 2.19 MMcf.

FERC Control Number: JD79–3312
API Well Number: 3415121229**14
Section of NGPA: 108
Operator: Quaker State Oil Refining Corp.
Well Name: ard Hendricks No. 1 67707–00
Field: N/A
County: Stark
Purchaser: East Ohio Gas Co.
Volume: 1.46 MMcf.

FERC Control Number: JD79–3313
API Well Number: 3411922046**14
Section of NGPA: 108
Operator: Quaker State Oil Refining Corp.
Well Name: Dow-Moutz No. 1 69110–00
Field: N/A
County: Muskingum
Purchaser: National Gas & Oil Corp.
Volume: 6.517 MMcf.

The applications for determination in these proceedings together with a copy or descriptions of other materials in the record on which such determinations were made are available for inspection, except to the extent such material is treated as confidential under 18 CFR 275.206, at the Commission's Office of Public Information, Room 1000, 825 North Capitol Street, N.W., Washington, D.C. 20426.

Persons objecting to any of these final determinations may, in accordance with 18 CFR 275.203 and 18 CFR 275.204, file a protest with the Commission on or before June, 1979. Please reference the FERC Control Number in any correspondence concerning a determination.

Kenneth P. Plumb,
Secretary.

[FR Doc. 79-15370 Filed 5-16-79; 8:45 am]
BILLING CODE 6450-01-M

Determination by a Jurisdictional Agency Under the Natural Gas Policy Act of 1978.

May 8, 1979.

On April 27, 1979, the Federal Energy Regulatory Commission received notice of a determination pursuant to 18 CFR 274.104 of the Natural Gas Policy Act of 1978 applicable to:

State of Ohio, Department of Natural Resources

FERC Control Number: JD79–3369
API Well Number: 34 119 2 3117**14
Section: 108
Operator: Quaker State Oil Refining Corp.
Well Name: Fox #1 69123–00
Field: N/A
County: Muskingum
Purchaser: Natural Gas & Oil Corp.
Volume: 6.205 MMcf.

The application for determination in this matter together with a copy or description of other materials in the record on which such determination was made is available for inspection, except to the extent such material is treated as confidential under 18 CFR 275.206, at the Commission's Office of Public Information, Room 1000, 825 North Capitol Street, N.E. Washington D.C. 20426.

Persons objecting to this final determination may, in accordance with 18 CFR 275.203 and 18 CFR 275.204, file a protest with the Commission on or before June 1, 1979. Please reference the FERC Control Number in any correspondence concerning a determination.

Kenneth F. Plumb,
Secretary.

[FR Doc. 79-15371 Filed 5-16-79; 8:45 am]
BILLING CODE 6450-01-M

Uranium Enrichment Services; Criteria

The Department of Energy (DOE) hereby announces revisions to its uranium enrichment services criteria. The only substantive revision amends the second sentence of the revised subparagraph 4(c)(2) by changing the period at the end of that sentence to a comma and adding the following: "and natural uranium contained in those inventories at the DOE enrichment plants needed to provide enrichment services."

This substantive change will permit DOE to recover, in its charge for enrichment services, imputed interest on the cost of natural uranium contained in those inventories at the DOE enrichment plants needed to provide enrichment services.

In addition to the substantive revision, this notice revises earlier criteria by substituting "Department of Energy" or "DOE" where appropriate for Atomic Energy Commission, AEC, and Commission. This revision recognizes that the authority to provide uranium enrichment services, formerly held by the Atomic Energy Commission, has been transferred to DOE. This notice also changes the reference in subparagraph 1(d) from the "Joint Committee on Atomic Energy" to "committees of the Senate and House of Representatives which under the rules of the Senate and House have jurisdiction for" review. This change is made to conform the revision to the provisions of Public Law 95–110 which abolished the Joint Committee on Atomic Energy. These revisions are being made as an exercise of DOE's interpretive rulemaking authority.

The following notice concerning Uranium Enrichment Services Criteria previously published in the Federal Register is hereby superseded: 38 FR 12180, May 9, 1973, as amended in 39 FR 38018, October 25, 1974, and in 43 FR 27886, June 27, 1978.

1. *General.*—(a) The Department of Energy (DOE) hereby gives notice of the establishment of criteria setting forth the general terms and conditions applicable to the provision of uranium enrichment services in facilities owned by DOE, as authorized by the Atomic Energy Act of 1954, as amended (the Act). Specifically, these criteria are established pursuant to section 161v of the Act, which was added by Public Law 88–489, the "Private Ownership of Special Nuclear Materials Act." As used in this notice, the term "enrichment services" or "enriching services" means the separative work (note 1.) necessary to enrich or further enrich uranium in the isotope 235. The enrichment services will be provided pursuant to contracts to be entered into: (1) With persons licensed under section 53, 63, 103, or 104 of the Act; and/or (2) in accordance with agreements for cooperation arranged pursuant to section 123 of the Act. The DOE will not enter into such contracts in excess of the available capabilities of the DOE. Available capability consists of inventories of material available or committed to DOE and the physical capability of existing and authorized enriching plants, fully powered and operated without limitation as to mode of operation, but as reduced by potential commitments involving forecasts of Government needs.

Note 1.—The work devoted to separating a quantity of uranium (feed material) into two fractions, one a product fraction containing a higher concentration of U-235 than the feed and the other a tails fraction containing a lower concentration of U-235.

(b) The contracts will provide for the furnishing of depleted, normal, or enriched uranium by the customer and the delivery by DOE of an appropriate quantity of enriched or more highly enriched uranium. The quantity of material to be furnished by the customer in relationship to the quantity of enriched uranium to be delivered by DOE and the related amount of separative work to be performed by DOE normally will be determined in accordance with the then current standard table of enriching services published by DOE (note 2.). In the event, however, that enriching services other than that which would be available from the standard table of enriching services may be requested. DOE may agree to perform such services in accordance with such other table as is within its capability. The general features of contracts, including the basis for DOE's charges for enriching services, are set forth herein.

Note 2.—In its standard table of enriching services DOE will take into account any significant effect of the presence of other isotopes of uranium on the number of separative work units required to perform a given U–235, U–236 separation.

(c) Except as specifically provided, nothing in this notice shall be deemed to affect the sale or leasing of special

(f) *Termination by DOE.*—(1) The

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nuclear material by the DOE or the entering into the "barter" arrangements whereby special nuclear material is distributed pursuant to section 54 of the Act and source material is accepted in part payment therefor.

(d) The criteria contained in this notice are subject to change by the DOE from time to time; however, any such changes shall be submitted to the Committees of the Senate and House of Representatives which under the rules of the Senate and House have jurisdiction for review in accordance with the Act.

2. *Period of contract.*—Contracts with domestic licensees will be for specified periods of time and provide for the furnishing of enrichment services for periods up to 30 years. Contracts entered into in accordance with an international agreement for cooperation must be for a term within the period of such agreement.

3. *Enrichment of Uranium of Foreign Origin.*—There is no restriction on the provision of enrichment services to persons furnishing as feed-material uranium of foreign origin where the enriched product is not intended to be used in a utilization facility (as defined in the Act) within or under the jurisidction of the United States. Where the enriched material is intended to be used in a domestic utilization facility, however, the fraction of feed material furnished by any customer during a year under all of the customer's enrichment agreements with the DOE that is feed material of foreign origin shall not exceed:

(a) 10 percent at any time during 1977;
(b) 15 percent at any time during 1978;
(c) 20 percent at any time during 1979;
(d) 30 percent at any time during 1980;
(e) 40 percent at any time during 1981;
(f) 60 percent at any time during 1982;
(g) 80 percent at any time during 1983;

Thereafter, there shall be no restriction on the furnishing of feed material of foreign origin for the provision of enrichment services.

4. *General features of domestic contracts.*—Domestic contracts have been developed in the light of the uncertainties necessarily attendant to long term contracts. Accordingly, such contracts will provide that, at the request of either the DOE or the customer, the parties will negotiate and, to the extent mutually agreed, amend them without additional consideration, in a manner consistent with the requirements of section 161v of the Act to eliminate or reduce restrictive provisions which the parties determine are inequitable, discriminatory or no longer required to protect their interests. Prior to adopting any changes in the provisions of its enriching contracts which would not require amendment of these criteria but which might have adverse effects upon the customer, DOE will make such proposed contract provisions widely available and solicit the views of its customers and other interested parties. DOE will give all comments so received careful review and take them into consideration in formulating the definitive implementation of such proposed changed provisions in future contracts. The primary contracting vehicle for the DOE to supply enriching services for nuclear power reactors on a long term basis shall be a Fixed Commitment Contract. This contracting arrangement shall employ, as basic principles, the concepts of (i) a period of advance contracting related to the period of time required to obtain new capacity to supply enriching services, (ii) a period of firm commitments by the customer for enriching services and (iii) advance payments by the customer related to the initial services under the contract. Contracts to be entered into with domestic licensees will define the amount of enriching services to be provided by the DOE in terms of units of separative work as related to the DOE's standard table of enriching services in effect at the time the parties agree to such amounts and provide for the adjustment of such amounts in the event of a revision of the DOE's standard table of enriching services through the application of such revised standard table to the relevant portion of a reference schedule of feed material deliveries by the customer and enriched uranium deliveries by the DOE incorporated into the contract for this purpose.

(a) *Delivery schedules.*—Deliveries of specific quantities and U–235 assays of feed material to DOE and enriched uranium to the customer shall be in accordance with the agreement between the parties and (except as provided in 1(b) above) in accordance with the published DOE standard table of enriching services in effect at the time of the delivery of enriched uranium by the DOE. The schedule for delivering enriched uranium to the customer shall reflect an interval after receipt of feed material equivalent to the estimated average time which would be required to receive, handle, and process equivalent feed material to the desired enriched uranium. The DOE will not necessarily use the specific feed material furnished by the customer in producing the enriched uranium delivered to the customer. Unless otherwise agreed, deliveries of feed material to DOE shall precede requested deliveries of the enriched uranium by at least 90 days. The DOE may agree to perform enriching services in cases where the leadtime requirements for furnishing feed material are not satisfied; in such cases, an appropriate surcharge may also be imposed to provide for recovery of additional DOE costs and interest charges.

(b) *Chemical form and specifications of material.*—Both feed material furnished to the DOE and enriched uranium delivered to the customer are required to be in the form of UF_6, and conform to the DOE's established specifications as published in the Federal Register and in effect on the date of delivery.

(c) *Charges for enriching services.*—(1) The charges for enriching services, in accordance with the Act, will be established on a nondiscriminatory basis and on a basis of recovery of the Government's costs over a reasonable period of time. Applicable charges for enriching services and related services will be those in effect at the time of delivery of enriched uranium to the customer as (i) published in the Federal Register, or (ii) in the absence of such publication, determined in accordance with the DOE's pricing policy. The DOE may impose an appropriate surcharge representing additional costs, if any, to the DOE for providing enriching services on short notice.

(2) DOE's charges for enriching services will be established on a basis that will assure the recovery of appropriate Government costs projected over a reasonable period of time. The cost of separative work includes electric power and all other costs, direct and indirect, of operating the enrichment plants; appropriate depreciation of said plants; and a factor to cover applicable costs of process development, DOE administration and other Government support functions, and imputed interest on investment in plant, working capital, and natural uranium contained in those inventories at the DOE enrichment plants needed to provide enrichment services. During the early period of growth of nuclear power, there will be only a small civilian demand on the large DOE enrichment plants. These plants were originally constructed for national security purposes, but will be utilized in meeting future civilian requirements. In this interim period of low plant utilization, the DOE has determined that the costs to be charged to the separative work produced for civilian customers will exclude those portions of the costs attributable to depreciation and interest on plant investment which are properly allocable to plant in standby and to excess capacity.

(3) Projections of supply and demand over a reasonable time period will be used in establishing a plan for enrichment plant operations. This plan will be the basis for establishing average charges for separative work over the period involved, which charges will be kept as stable as possible as operating plans are periodically updated. Under such operating plans, DOE will at times be preproducing enriched uranium. Interest on the separative work costs of any such preproduced inventories will be factored into the averaged separative work charges.

(d) *Customer's option to acquire tails material.*—The customer shall be granted an option to acquire tails material (depleted uranium) resulting from the performance of enriching services. The option as to quantity (kg U) of tails material desired by the customer, within the maximum quantity subject to the option, must be exercised at the time of delivery of the related quantity of feed material. The U–235 assay of the tails material delivered to the customer will be within the sole discretion of the DOE. The maximum quantity of depleted uranium subject to the option will be equal to the difference between the total uranium supplied by the customer as feed material and the total enriched uranium furnished to the customer, less processing losses as established from time to time by the DOE. No charge will be made for tails material delivered to the customer under the agreement other than DOE's withdrawal, handling and packaging charges. Delivery of tails material will normally be at the same time as delivery of enriched uranium.

(e) *Responsibility for material meeting specifications.*—The customer warrants that all feed material meets specifications and, with stated exceptions agrees to hold the DOE and its representatives harmless from all damages, liabilities, or costs arising out of a breach of the warranty where such damages, liabilities, or costs are incurred prior to final acceptance of the feed material by DOE. However, the customer is not deprived of any rights under indemnification agreements entered into pursuant to section 170 of the Act (Price-Anderson indemnification). The DOE's obligation to furnish specification material to the customer terminates upon final acceptance of such material by the customer.

(f) *Termination by DOE.*—(1) The contract may be terminated by DOE without cost to DOE upon reasonable notice at such time as commercial enriching services are provided by another domestic source: *Provided, however,* That DOE will upon request by the customer rescind any notice of termination and will continue to furnish the services specified in the contract if the services of the domestic source are not available to the customer: (i) To the extent provided for in the DOE contract during the remainder of its term; and (ii) on terms and conditions, including charges, which are considered by the DOE to be reasonable and nondiscriminatory.

Note 3.—In determining whether terms and conditions, including charges for different customers appear to be nondiscriminatory, the DOE will not consider differences in such matters to be discriminatory if they are reasonably based upon different risks and costs presented by customers to domestic enrichment services.

(2) The DOE may terminate the contract without cost to the DOE in the event the customer loses its right to possess enriched uranium, defaults on its contractual obligations, or becomes involved in bankruptcy proceedings. In such instances the customer will be required to pay a termination charge determined as if the customer had terminated the contract on the notice, if any, given the customer by the DOE.

(g) *Termination by customer.*—The customer may terminate the contract in whole or in part. In such instances the customer will be required to pay a termination charge for those enriching services which would have been furnished but for such termination. Termination charges per kg unit of separative work will be established on a basis of recovery of the costs which the DOE estimates may arise from terminations by customers. Applicable charges for termination will be those in effect at the time of receipt of notice of termination as published in the Federal Register. From time to time the DOE may, at its discretion, review the estimated costs to the DOE which may arise from terminations by customers. If the DOE determines on the basis of such review that the estimated costs are significantly less than the termination charges published in the Federal Register, the DOE will make an appropriate reduction in such charges prospectively. Such reduced charges will remain in effect until increased or reduced by a subsequent review and determination (based upon significant changes in the estimated costs as compared with the termination charges then in effect). Any revised charges so determined shall be final for all purposes except as they may be changed by subsequent determinations made in accordance herewith. In any event, termination charges established by the DOE for prospective application as provided above shall not exceed the related charge for enriching services as reduced by the portion of such charge representing (i) the cost to the DOE of the average energy charge for electric power used in the provision of enriching services or (ii) the costs to the DOE of the average demand and energy charges for such electric power, as determined by the DOE to be appropriate based on the period of notice of termination given by customers. Upon the request of the customer prior to its delivery of a notice of termination, the DOE will advise the customer of the approximate amount of termination charges which would be payable.

(h) *Delivery—Title.*—The f.o.b. delivery point for both feed material furnished to DOE and enriched uranium delivered to the customer is the designated DOE facility. The DOE's enriching facilities are situated at Oak Ridge, Tennessee; Paducah, Kentucky; and Portsmouth, Ohio. Title to all material passes upon delivery.

(i) *Changes in specifications and charges.*—Any change made in the specification of UF_6 or in the DOE's standard table of enriching services shall require at least 180 days' notice for the former, and 540 days' notice for the latter, to the customer by publication in the Federal Register. Any increase in the charges per unit of separative work for enriching services shall require at least 60 days' notice to the customer by publication in the Federal Register.

5. *General features of contracts entered into in accordance with an agreement for cooperation.*—It is expected that the general features of uranium enrichment services contracts entered into pursuant to agreements for cooperation with foreign nations or groups of nations will be generally consistent with those discussed above.

6. *Correspondence.*—Any correspondence involving this notice or request for copies of contract forms should be addressed to: Manager, Oak Ridge Operations Office, U.S. Department of Energy, P.O. Box B, Oak Ridge, Tennessee 37830.

Effective date: May 17, 1979.

M Y 1 7 7 9 UMI

Dated at Washington, D.C., this 11th day of May 1979.

George S. McIsaac,

Assistant Secretary, Resource Applications.

[FR Doc. 79-15436 Filed 5-16-79; 8:45 am]

BILLING CODE 6450-01-M

Office of Assistant Secretary for International Affairs

Proposed Subsequent Arrangement

Pursuant to section 131 of the Atomic Energy Act of 1954, as amended (42 U.S.C. 2160) notice is hereby given of a proposed "subsequent arrangement" under the Agreement for Cooperation Between the Government of the United States of America and the Government of Japan.

The subsequent arrangement to be carried out under the above mentioned agreement involves approval of the following sales:

S-JA-256—Sale to the Power Reactor and Nuclear Fuel Development Co., Japan of 1,300 milligrams of plutonium enriched to greater than 90% in Pu-242, to be used for burn-up measurements of irradiated fuels by isotope dilution mass spectrometry.

S-JA-257—Sale to the Power Reactor and Nuclear Fuel Development Co., Japan of 1,000 milligrams of uranium enriched to 99.5% in U-233, to be used for burn-up measurements of irradiated fuels by isotope dilution mass spectrometry.

In accordance with section 131 of the Atomic Energy Act of 1954, as amended, it has been determined that the furnishing of the nuclear material will not be inimical to the common defense and security.

This subsequent arrangement will take effect no sooner than June 1, 1979.

Dated: May 11, 1979.

For the Department of Energy.

Harold D. Bengelsdorf,

Director for Nuclear Affairs, International Nuclear and Technical Programs.

[FR Doc. 79-15375 Filed 5-16-79; 8:45 am]

BILLING CODE 6450-01-M

Proposed Subsequent Arrangement

Pursuant to section 131 of the Atomic Energy Act of 1954, as amended (42 U.S.C. 2160) notice is hereby given of a proposed "subsequent arrangement" under the Additional Agreement Between the Government of the United States of America and the European Atomic Energy Community (EURATOM) Concerning the Peaceful Uses of Atomic Energy and the Agreement for Cooperation Between the Government of the United States of America and the Governments of Norway and Sweden.

The subsequent arrangement to be carried out under the above mentioned agreements involves approval of the following retransfers:

RTD/SW(EU)-103, from France to Sweden, 15.054 kilograms of uranium, containing 14.000 kilograms of U-235 (93.0%) to be used as fuel elements in the R-2 research reactor.

RTD/SW(NO)-15 from Norway to Sweden, 20 irradiated test fuel rods, containing 7,840 grams uranium, 682.4 grams of U-235, and 29.4 grams of plutonium, for post-irradiation examination.

In accordance with section 131 of the Atomic Energy Act of 1954, as amended, it has been determined that the furnishing of the nuclear material will not be inimical to the common defense and security.

This subsequent arrangement will take effect no sooner than June 1, 1979.

Dated: May 11, 1979.

For the Department of Energy.

Harold D. Bengelsdorf,

Director for Nuclear Affairs, International Nuclear and Technical Programs.

[FR Doc. 79-15376 Filed 5-16-79; 8:45 am]

BILLING CODE 6450-01-M

Proposed Subsequent Arrangement

Pursuant to Section 131 of the Atomic Energy Act of 1954, as amended (42 U.S.C. 2160) notice is hereby given of a proposed "subsequent arrangement" under the Agreements for Cooperation Between the Government of the United States of America and the Governments of Japan and Sweden.

The subsequent arrangement to be carried out under the above mentioned agreements involves approval of the following retransfer RTD/SW (JA)-2 Retransfer from Japan to Sweden of 2,426.500 kilograms Uranium, containing 53.408 kilograms U-235, to be used for working stock at the Asea-Atom fuel fabrication facility.

In accordance with Section 131 of the Atomic Energy Act of 1954, as amended, it has been determined that the furnishing of the nuclear material will not be inimical to the common defense and security.

This subsequent arrangement will take effect no sooner than June 1, 1979.

Dated: May 11, 1979.

For the Department of Energy.

Harold D. Bengelsdorf,

Director for Nuclear Affairs, International Nuclear and Technical Programs.

[FR Doc. 79-15377 Filed 5-16-79; 8:45 am]

BILLING CODE 6450-01-M

DEPARTMENT OF HEALTH, EDUCATION AND WELFARE

National Institutes of Health

Conference on the Management and Logistics of Blood Banking

Notice is hereby given of the 1979 Conference on the Management and Logistics of Blood Banking sponsored by the National Heart, Lung, and Blood Institute and American Blood Commission—Thursday and Friday, June 21 and 22, 1979, at the Don CeSar Beach Resort Hotel, St. Petersburg, Florida.

This meeting will be open to the public on June 21, 1979 from 12:00 noon to adjournment, and on June 22, 1979 from 8:00 a.m. to adjournment.

The purpose of the meeting is to focus on the diversity of functions associated with blood banking and transfusion therapy and to discuss the problem of blood wastage. Attendance by the public will be limited to space available.

Dr. Robert Huitt, Program Coordinator, Blood Resources and Transplatation Branch, NHLBI, NIH, Federal Building, Room 5A08, Bethesda, Maryland 20205, (301) 496-1537 will provide additional information.

Dated: May 11, 1979.

Suzanne L. Fremeau,

Committee Management Officer, NIH

[FR Doc. 79-15323 Filed 5-16-79; 8:45 am]

BILLING CODE 4110-08-M

Meeting of Board of Scientific Counselors, NIEHS

Pursuant to Pub. L. 92-463, notice is hereby given of the meeting of the Board of Scientific Counselors, National Institute of Environmental Health Sciences, May 30, 31, and June 1, 1979, Building 18 Conference Room, National Institute of Environmental Health Sciences, Research Triangle Park, North Carolina.

This meeting will be open to the public from 9 a.m. to 4 p.m. on May 30 and 31, for the purpose of discussing recent developments in the Institute's budget, personnel, permanent facilities, contracts, scientific programs, and plans of the Laboratory of Pulmonary Function and Toxicology, and the Laboratory of Biochemical Genetics. Attendance by the public will be limited to space available.

In accordance with the provisions set forth in Section 552b(c)(6) Title 5 U.S. Code and Section 10(d) of Pub. L. 92-463, the meeting will be closed to the public from 9 a.m. to adjournment on June 1 for the evaluation of the program of the Laboratory of Pulmonary Function and Toxicology, and the Laboratory of Biochemical Genetics, including the consideration of personnel qualifications and performance, the competence of individual investigators, and similar items, the disclosure of which would constitute a clearly unwarranted invasion of personal privacy.

The Acting Executive Secretary, Dr. David G. Hoel, Acting Scientific Director, National Institute of Environmental Health Sciences, Research Triangle Park, North Carolina 27709, telephone (919) 541-3205, will furnish summaries of the meeting, rosters of committee members, and substantive program information.

Dated: May 11, 1979.

Suzanne L. Fremeau,

Committee Management Officer, NIH.

[FR Doc. 79-15320 Filed 5-16-79; 8:45 am]

BILLING CODE 4110-08-M

Meeting of Clinical Trials Review Committee

Pursuant to Pub. L. 92-463, notice is hereby given of the Clinical Trials Review Committee, National Heart, Lung, and Blood Institute, on June 13-15, 1979, at the Holiday Inn of Chevy Chase, 5520 Wisconsin Avenue, Chevy Chase, Maryland (Franklin Room), at 8:00 p.m. on June 13, 1979; and reconvening on June 14-15, in the Westwood Building, 5333 Westbard Avenue, Bethesda, Maryland (Conference Room 7A-12), at 8:30 a.m. both days.

This meeting will be open to the public from 8:00 p.m. to 8:30 p.m. on June 13, 1979, to discuss administrative details and to hear a report concerning the current status of the National Heart, Lung, and Blood Institute. Attendance by the public will be limited to space available.

In accordance with the provisions set forth in Section 552b(c)(6), Title 5, U.S. Code and Section 10(d) of Pub. L. 92-463, the meeting will be closed to the public on June 13, 1979, from 8:30 p.m. to adjournment; and on June 14 and 15, 1979, from 8:30 a.m. to adjournment, for the review, discussion and evaluation of individual grant applications. These applications and the discussions could reveal personal information concerning individuals associated with the applications, disclosure of which would constitute a clearly unwarranted invasion of personal privacy.

Mr. York Onnen, Chief, Public Inquiries and Reports Branch, NHLBI, National Institutes of Health, Building 31, Room 5A-03, phone (301) 496-4236, will provide summaries of the meeting and rosters of the committee members. Dr. Fred P. Heydrick, Chief, Research Contracts Review Section, Division of Extramural Affairs, NHLBI, Westwood Building, Room 548B, phone (301) 496-7363, will furnish substantive program information.

(Catalog of Federal Domestic Assistance Program No. 13.837, National Institutes of Health)

Dated: May 7, 1979.

Suzanne L. Fremeau,

Committee Management Officer, NIH.

[FR Doc. 79-15321 Filed 5-16-79; 8:45 am]

BILLING CODE 4110-08-M

Meeting of Diagnostic Research Advisory Group

Pursuant to Pub. L. 92-463, notice is hereby given of the meeting of the Diagnostic Research Advisory Group, National Cancer Institute, June 27, 1979, Westwood Building, Conference Room D, 5333 Westbard Avenue, Bethesda, Maryland 20016.

The entire meeting will be open to the public from 9:00 a.m. to adjournment, to discuss general business related to the cancer diagnosis research program. Attendance by the public will be limited to space available.

Mrs. Marjorie F. Early, Committee Management Officer, National Cancer Institute, Building 31, Room 4B43, National Institutes of Health, Bethesda, Maryland 20205 (301/496-5708) will provide summaries of the meeting and rosters of committee members, upon request.

Dr. Louis P. Greenberg, Executive Secretary, National Cancer Institute, Building 31, Room 3A10, National Institutes of Health, Bethesda, Maryland 20205 (301/496-1591) will furnish substantive program information.

Dated: May 4, 1979.

Suzanne L. Fremeau,

Committee Management Officer, NIH.

[FR Doc. 79-15324 Filed 5-16-79; 8:45 am]

BILLING CODE 4110-08-M

Meeting of Heart, Lung, and Blood Research Review Committee A

Pursuant to Pub. L. 92-463, notice is hereby given of the meeting of the Heart, Lung, and Blood Research Review Committee A, National Heart, Lung, and Blood Institute, June 29-30, 1979, Patio Room, Linden Hill Hotel, 5400 Pooks Hill Road, Bethesda, Maryland. This meeting will be open to the public on June 30, 1979, from 8:30 AM to approximately 9:30 AM to discuss administrative details and to hear reports concerning the current status of the National Heart, Lung, and Blood Institute. Attendance by the public will be limited to space available.

In accordance with the provisions set forth in Section 552b(c)(6), Title 5, U.S. Code and Section 10(d) of Pub. L. 92-463, the meeting will be closed to the public on June 29, 1979 from 8:30 AM until 7:00 PM and from 9:30 AM June 30, 1979 until the adjournment, for the review, discussion and evaluation of individual grant applications. These applications and the discussions could reveal personal information concerning individuals associated with the applications, disclosure of which would constitute a clearly unwarranted invasion of personal privacy. Mr. York E. Onnen, Chief, Public Inquiries and Reports Branch, NHLBI, NIH, Room 5A03, Building 31, Bethesda, Maryland 20205, phone (301) 496-4236, will provide summaries of the meeting and rosters of the committee members. Dr. Arthur Merrick, Executive Secretary, NHLBI, NIH, Room 552, Westwood Building, Bethesda, Maryland 20205, phone (301) 496-7917, will furnish substantive program information.

(Catalog of Federal Domestic Assistance Program No. 13.837, 13.838, 13.839, National Institutes of Health)

Dated: May 7, 1979.

Suzanne L. Fremeau,

Committee Management Officer, NIH

[FR Doc. 79-15326 Filed 5-16-79; 8:45 am]

BILLING CODE 4110-08-M

Meeting of Heart, Lung, and Blood Research Review Committee B

Pursuant to Pub. L. 92-463, notice is hereby given of the meeting of the Heart, Lung, and Blood Research Review Committee B, National Heart, Lung, and Blood Institute, June 29-30, 1979, Patio Room, Linden Hill Hotel, 5400 Pooks Hill Road, Bethesda, Maryland

This meeting will be open to the public on June 30, 1979, from 8:30 a.m. to approximately 9:30 a.m. to discuss administrative details and to hear reports concerning the current status of the National Heart, Lung, and Blood Institute. Attendance by the public will be limited to space available.

The agenda for the NACVE/NACWEP

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In accordance with the provisions set forth in Section 552b(c)(6), Title 5, U.S. Code and Section 10(d) of Pub. L. 92–463, the meeting will be closed to the public on June 29, 1979, from 7:30 p.m. until 11:00 p.m. and from 9:30 a.m., June 30, 1979, until adjournment, for the review, discussion, and evaluation of individual grant applications. These applications and the discussions could reveal personal information concerning individuals associated with the applications, disclosure of which would constitute a clearly unwarranted invasion of personal privacy.

Mr. York E. Onnen, Chief, Public Inquiries and Reports Branch, NHLBI, NIH, Room 5A03, Building 31, Bethesda, Maryland 20205, phone (301) 496–4236, will provide summaries of the meeting and rosters of the committee members.

Dr. Arthur W. Merrick, NHLBI, NIH, Room 552, Westwood Building, Bethesda, Maryland 20205, phone (301) 496–7917, will furnish substantive program information.

(Catalog of Federal Domestic Assistance Program No. 13.837, 13.838, 13.839, National Institutes of Health)

Dated: May 7, 1979.

Suzanne L. Fremeau,

Committee Management Officer, NIH.

[FR Doc. 79–15325 Filed 5–16–79; 8:45 am]

BILLING CODE 4110–08–M

Minority Access to Research Careers Review Committee

Pursuant to Pub. L. 92–463, notice is hereby given of the meeting of the Minority Access to Research Careers Review Committee, National Institute of General Medical Sciences, on June 21 and 22, 1979, 9:00 a.m., National Institute of Health, Westwood Building, 5333 Westbard Avenue, Bethesda, Maryland, NIGMS Conference Room 9A12.

This meeting will be open to the public on June 21, 9:00 a.m., to 12:00 noon. The meeting will consist of opening remarks and discussion of procedural matters. Attendance by the public will be limited to space available.

In accordance with provisions set forth in Title 5, U.S. Code 552b(c)(6), the meeting will be closed to the public on June 21 from 1:30 p.m. to 5:00 p.m. and on June 22 from 9:00 a.m. until adjournment, for the review, discussion, and evaluation of individual and institutional grant applications. These applications and the discussions could reveal personal information concerning individuals associated with the applications, the disclosure of which would constitute a clearly unwarranted invasion of personal privacy.

Mr. Paul Deming, Public Information Officer, NIGMS, Westwood Building, Room 9A05, 5333 Westbard Avenue, Bethesda, Maryland 20205, telephone (301) 496–7301, will furnish summary minutes of the meeting and a roster of committee members.

Substantive program information may be obtained from Dr. Prince Rivers, Executive Secretary, Westwood Building, Room 950, Bethesda, Maryland 20205, telephone (301) 496–7125.

(Catalog of Federal Domestic Assistance Program 13.880, General Medical Sciences)

Dated: May 11, 1979.

Suzanne L. Fremeau,

Committee Management Officer, NIH.

[FR Doc. 79–15322 Filed 5–16–79; 8:45 am]

BILLING CODE 4110–08–M

DEPARTMENT OF HEALTH, EDUCATION, AND WELFARE

Office of Education

Educational Information Centers Program; Closing Date for Transmittal of State Plans for Fiscal Year 1979

State plans and State plan amendments are being accepted for awards under the Educational Information Centers program.

Authority for this program is contained in Title IV, Part A, Subpart 5 of the Higher Education Act of 1965, as amended.

(20 U.S.C. 1070d–2—1070d–3)

This program is authorized to make grants to States to pay the Federal share (66⅔%) of the cost of planning, establishing, and operating Educational Information Centers to provide educational information, guidance, counseling, and referral services for all individuals, including individuals residing in rural areas.

Closing Date for Transmittal of State Plans or Amendments

State plans or amendments must be mailed or hand delivered by July 23, 1979.

State Plans or Amendments Delivered by Mail

A State plan or amendment sent by mail must be addressed to the Community Service and Continuing Education Branch, Division of Training and Facilities, Bureau of Higher and Continuing Education, *Attention 13.585*, Room 3066, ROB–3, U.S. Office of Education, 400 Maryland Avenue, SW., Washington, D.C. 20202.

Proof of mailing may consist of a legible U.S. Postal Service dated postmark or a legible mail receipt with the date of mailing stamped by the U.S. Postal Service. Private metered postmarks or mail receipts will not be accepted unless they have been date stamped by the U.S. Postal Service. (NOTE: The U.S. Postal Service does not uniformly provide a dated postmark. Applicants should check with their local post office before relying on this method.) Applicants are encouraged to use first class and/or registered mail.

Each late applicant will be notified that its application will not be considered in the current competition.

State Plans or Amendments Delivered by Hand

A State plan or amendment, must be taken to the U.S. Office of Education, Community Service and Continuing Education Branch, Division of Training and Facilities, Bureau of Higher and Continuing Education, Room 3066, ROB–3, 7th and D Streets, SW., Washington, D.C.

This office will accept hand-delivered plans and amendments between 8:00 a.m. and 4:00 p.m. (Washington, D.C., time) daily, except Saturdays, Sundays, or Federal holidays.

Plans and amendments will not be accepted after 4:00 p.m. on the closing date.

Available Funds

The Educational Information Centers has an appropriation of $3,000,000 for fiscal year 1979. The amount allocated to each State that has submitted an approved plan, will bear the same ratio to the appropriation, as the population of that State bears to the total population of all States submitting an approved State plan. No State submitting an approved plan shall receive less than $50,000.

State Plan Forms

Forms and program information packages are expected to be ready for mailing by May 15, 1979. The necessary forms and information packages will be mailed to the State agencies/institutions which have been designated by the Governor as being responsible for submitting the State's Educational Information Center Plan.

State plans and amendments must be prepared and submitted in accordance with the regulations, funding instructions, and forms included in the program information packages.

Special Procedures

OMB Circular No. A–95 requires that prior to the submission to the Commissioner of any State plan, State application, or of any amendment, the State agency shall afford the Governor of the State an opportunity to comment on the relationship of the State plan, application, or amendment to comprehensive and other State plans and programs. The State agency shall afford the Governor a period of not fewer than 45 days in which to comment and shall attach those comments—or, if the Governor makes no comments, a statement to that effect—to the plan, application, or amendment when it is submitted to the Commissioner.

Applicable Regulations

The regulations applicable to this program are:

(a) Office of Education General Provisions Regulations (45 CFR Part 100b), and

(b) Regulations governing the Educational Information Centers Program (45 CFR Part 137).

For Further Information Contact

Community Service and Continuing Education Branch, Division of Training Facilities, Bureau of Higher and Continuing Education, U.S. Office of Education, 7th and D Streets, SW., Room 3066, Regional Office Building 3, Washington, D.C. 20202. Telephone (202) 245–2671.

(20 U.S.C. 1070d–2—1070d–3)

(Catalog of Federal Domestic Assistance Number 13.585; Educational Information Centers)

Dated: May 11, 1979.

Ernest L. Boyer,

U.S. Commissioner of Educotion.

[FR Doc. 79–15307 Filed 5–16–79; 8:45 am]

BILLING CODE 4110–02–M

National Advisory Council on Women's Educational Programs; Meeting

AGENCY: Office of Education, National Advisory Council on Women's Educational Programs.

ACTION: Notice of meeting.

SUMMARY: This notice sets forth the schedule and proposed agenda of a forthcoming meeting of the National Advisory Council on Women's Educational Programs and its Executive, Federal Policy, Practices and Programs, Civil Rights, WEEA Program Committees; and the NACVE/NACWEP Joint Task Force on Sex Equity. It also describes the functions of the Council. Notice of the meeting is required pursuant to Section 10(a)(2) of the Federal Advisory Committee Act (Pub. L. 920463). This document is intended to notify the general public of their opportunity to attend.

DATE: June 5, 1979, 7:30 p.m. to 10:00 p.m; June 6–June 7, 8:30 a.m. to 5:00 p.m.; June 8, 1979, 8:30 a.m. to 12:00 noon.

ADDRESS: The Radisson Hotel, 45 So. 7th Street, Minneapolis, Minnesota, 55402.

FOR FURTHER INFORMATION CONTACT: Laura R. Summers, National Advisory Council on Women's Educational Programs, 1832 M Street, N.W., #821, Washington, D.C., 20036, (202) 653–5846.

The National Advisory Council on Women's Educational Programs is established pursuant to Public Law 95–561. The Council is mandated to (a) advise the Secretary, Assistant Secretary, and the Commissioner on matters relating to equal education opportunities for women and policy matters relating to the administraton of the Women's Educational Equity act of 1978; (b) make recommendations to the Commissioner with respect to the allocation of any funds pursuant to that Act, including criteria developed to insure an appropriate geographical distribution of approved programs and projects throughout the Nation; (c) recommend criteria for the establishment of program priorities; (d) make such reports as the Council determines appropriate to the President and Congress on the activities of the Council; and (e) disseminate information concerning the activities of the Council.

The meeting of the Executive Committee will take place on June 5, 1979 from 7:00 p.m. to 10:00 p.m. The agenda will include plans for the Council meeting as well as discussion of current activities and future plans.

The meeting of the Federal Policy, Practices and Programs Committee, the Civil Rights Committee, and the WEEA Program Committee will take place on June 6, 1979 form 8:30 a.m. to 12:30 p.m. The meeting of the NACVE/NACWEP Joint Task Force on Sex Equity will take place on June 6, 1979 from 12:30 p.m. to 2:00 p.m.

The agenda for the Federal Policy, Practices, and Programs Committee will include discussion of urban education legislation, and the Reauthorization of the Higher Education Act.

The agenda for the Civil rights Committee will include discussion of matters concerning Title IX of the Education Amendments of 1972 and Title IV of the 1964 Civil rights act.

The agenda for the WEEA Program Committee will include discussion of the new proposed WEEA regulations, WEEA contract activities, and an update on WEEA evaluation activities for FY 78.

The agenda for the NACVE/NACWEP Joint Task Force on Sex Equity will include discussion of sex equity in vocational education.

The meeting of the National Advisory Council on Women's Educational Programs will take place from 2:00 p.m. to 5:00 p.m. June 6; from 8:30 a.m. to 12:00 p.m. on June 7; and from 8:30 a.m. to 12:00 p.m. on June 8, 1979. The agenda will include reports of the Executive Director and the Women's Program Staff and recommendations of standing Committees. A public hearing on Title IX Intercollegiate Athletics will be held from 1:30 p.m. to 5:00 p.m. June 7. Records will be kept of the proceedings and will be available for public inspection at the Council offices at 1832 M Street, N.W., Suite 821, Washington, D.C.

Signed at Washington, D.C. on May 14, 1979.

Joy R. Simonson,

Executive Director.

[FR Doc. 79–15453 Filed 5–16–79; 8:45 am]

BILLING CODE 4110–02–M

Office of Secretary

1979 Contribution and Benefit Base Under Pre-1977 Amendment Law; Determination

AGENCY: Social Security Administration.

ACTION: Notice of Determination of the "Old-Law" Social Security Contribution and Benefit Base.

SUMMARY: The Social Security Amendments of 1977 set the contribution and benefit base at $22,900 for 1979, $25,900 for 1980 and $29,700 for 1981. After 1981, the base will increase as average wage levels rise. The contribution and benefit base is the maximum annual amount of earnings that is subject to social security taxes and is creditable toward social security benefits. The 1977 amendments also provide for separate annual determinations of the contribution and benefit base that would have been in effect under old law (pre-1977 law). This "old-law" base is used only for certain purposes under the railroad retirement program and the Employee Retirement Income Security Act of 1974 (ERISA) and for computing special minimum social security benefits for workers with many years of low earnings. This notice specifies that the amount for 1979 under pre-1977 law is $18,900.

FOR FURTHER INFORMATION CONTACT: Harry Ballantyne, Office of the Actuary, Social Security Administration, 6401 Security Boulevard, Baltimore,

Maryland 21235, telephone 301–594–2466.

SUPPLEMENTARY INFORMATION: The Social Security Amendments of 1977 (Pub. L. 95–216) changed the contribution and benefit base, which is the maximum annual amount of earnings on which social security taxes are paid and a person's social security benefits are figured. Section 230(c) of the Social Security Act specifies that the amount of this contribution and benefit base is $22,900 for 1979. We published this information in the **Federal Register** on November 16, 1978 (43 FR 53504).

"Old-Law" Contribution and Benefit Base

The "old-law" contribution and benefit base is the base that would have been effective in each year after 1978 under the Social Security Act before the enactment of the 1977 amendments. This "old-law" base is used:

(1) For certain purposes under the railroad retirement program and the Employee Retirement Income Security Act of 1974 (ERISA); and

(2) To compute special minimum social security benefits for certain workers with many years of low earnings.

The base is computed under section 230 of the Social Security Act as it read prior to the 1977 amendments.

Computation

Under section 230 of the Social Security Act as in effect before the 1977 amendments, we would determine the contribution and beneift base for 1979 by multiplying the 1978 base by the ratio of average taxable wages reported for the first quarter of 1977 to average taxable wages reported for the first quarter of 1976. We previously determined this ratio to be 1.0599318 (43 FR 53504, November 16, 1978). Multiplication of the 1978 contribution and benefit base of $17,700 by the above ratio results in the amount of $18,760.79, which must be rounded to the nearest multiple of $300. Therefore, we determine the "old-law" base for 1979 to be $18,900.

Railroad Retirement Uses

The railroad retirement program will use the $18,900 base to determine:

(1) Employer tax liability under section 3221(a) of the Internal Revenue Code of 1954;

(2) The portion of the employee representative tax liability under section 3211(a) of the Internal Revenue Code of 1954 which results from the application of the 9.5 percent rate specified to that section and

(3) Average monthly compensation under section 3(j) of the Railroad Retirement Act of 1974, but not annuity amounts determined under sections 3(a) or 3(f)(3) of that fact.

These uses are stated in section 230(c) of the Social Security Act.

Employee Retirement Income Security Act (ERISA) Use Under section 230(d) of the Social Security Act, ERISA will use the 1979 "old-law" base of $18,900 to determine the maximum pension benefit guaranteed by the Pension Benefit Guaranty Corporation for pension beneift plans terminating in 1979.

Social Security Use

Special minimum social security benefits are payable to workers with many years of low earnings. If in 1979, a worker's earnings amount to at least 25 percent of the "old-law" base of $18,900, we will credit the worker with a "year of coverage" for 1979. Years of coverage are used to compute the special minimum benefit payable under section 215(a) of the Social Security Act.

(Catalog of Federal Domestic Assistance Program Nos. 13.803, Social Security–Retirement Insurance; 57.001. Social Security Insurance for Railroad Workers)

Dated: May 10, 1979.

Hale Champion,

Acting Secretary of Health, Education, and Welfare.

[FR Doc. 79–15452 Filed 5–16–79; 8:45 am]

BILLING CODE 4110–07–M

Office of the Secretary

National Advisory Committee on the White House Conference on Families; Establishment

The Secretary of Health, Education, and Welfare has determined the establishment of the National Advisory Committee on the White House Conference on Families, as identified below, to be in the public interest, and necessary and appropriate to provide advice to him, the White House Conference Chairperson and staff concerning Conference activities. The Advisory Committee is established in accordance with and will be governed by the provisions of the Federal Advisory Committee Act, 5 U.S.C. App. I.

1. *Designation.* National Advisory Committee on the White House Conference on Families.

2. *Establishment date and date of termination.* The Committee was established May 15, 1979 and will terminate not later than six months after adjournment of the White House Conference.

3. *Purpose.* The Committee will advise the Secretary, the White House Conference Chairperson and staff on such matters pertaining to the Conference (including the development, implementation and execution of the overall plans and procedures for the Conference) as the Secretary or the Conference Chairperson may request.

4. *Membership.* The Committee will be composed of forty-one members, having the broadest possible range of interests, perspectives, knowledge, and expertise. It will have subcommittee authority to allow for simultaneous consideration of the many facets of Conference activities.

5. *Meetings.* Notice of all meetings will be given to the public as required by the Federal Advisory Committee Act.

For further information, please call the White House Conference on Families (202) 245–6073.

Laura A. Miller,

Special Assistant to the Secretary.

[FR Doc. 79–15642 Filed 5–16–79; 10:16 am]

BILLING CODE 4110–12–M

DEPARTMENT OF THE INTERIOR

Bureau of Indian Affairs

Sisseton-Wahpeton Sioux, Plan for the Use and Distribution of Sisseton-Wahpeton Sioux Judgment Funds Awarded in Docket 363 Before the Indian Claims Commission

May 9, 1979.

This notice is published in exercise of authority delegated by the Secretary of the Interior to the Assistant Secretary for Indian Affairs by 209 DM 8.

The Act of October 19, 1973 (Pub. L. 93–134, 87 Stat. 466), requires that a plan be prepared and submitted to Congress for the use or distribution of funds appropriated to pay a judgment to any Indian tribe. Funds were appropriated by the Act of March 7, 1978, 92 Stat. 107, in satisfaction of the award granted to the Sisseton-Wahpeton Sioux Indians in Indian Claims commission docket 363. The plan for the use and distribution of the funds was submitted to the Congress with a letter dated January 9, 1979, and was received (as recorded in the Congressional Record) by the Senate and the House of Representatives on January 15, 1979. Congress not having adopted a resolution disapproving it, the plan became effective on March 26, 1979, as provided by Section 5 of the 1973 Act, *supra*.

The plan reads as follows:

"The funds appropriated by the Act of March 7, 1978, 92 Stat. 107, in satisfaction of a judgment awarded to the Sisseton-Wahpeton Sioux Indians in docket 363, Second Claim (1867 Treaty and 1872 Agreement), and the funds appropriated by the same statute in satisfaction of an additional award in the same docket, shall be used and distributed as provided herein.

The funds, less attorney fees and litigation expenses, and including all interest and investment income accrued, shall be divided by the Secretary of the Interior (hereinafter 'Secretary') on the basis of 73.79 percent to the Sisseton-Wahpeton Sioux Tribe of South Dakota and 26.21 percent to the Devils Lake Sioux Tribe of North Dakota.

Sisseton-Wahpeton Share

The share of the Sisseton-Wahpeton Sioux Tribe of South Dakota shall be used and distributed as follows:

Per Capita Payment Aspect

The Sisseton-Wahpeton Sioux Tribe's latest approved membership roll shall be brought current, pursuant to the tribe's Revised Constitution and Bylaws, to the effective date of this plan.

Eighty (80) percent of the share shall be distributed in the form of per capita payments, in a sum as equal as possible, to all tribal members born on or prior to and living on the effective date of this plan.

Programing Aspect

All programing portions cited below shall be invested by the Secretary and such funds, including all interest and investment income accrued, shall be utilized on an annual budgetary basis, subject to the approval of the Secretary, for the programs or projects specified.

A. Retirement of FmHA Land Acquisition Loans

Fourteen (14) percent of the share, and any amounts remaining after the per capita payment provided above, shall be utilized for the repayment of the tribe's first two Farmers Home Administration land acquisition loans.

B. Land Acquisition Program

Four (4) percent of the share shall be utilized for the purchase of land pursuant to the tribe's land acquisition program.

C. Land Development Program

Two (2) percent of the share shall be utilized for the development and improvement of tribal land holdings.

Devils Lake Share

The share of the Devils Lake Sioux Tribe of North Dakota shall be used and distributed as follows:

Per Capita Payment Aspect

The Devils Lake Sioux Tribe's latest approved membership roll shall be brought current, pursuant to the tribe's Constitution and Bylaws, to the effective date of this plan.

Eighty (80) percent of the share shall be distributed in the form of per capita payments, in a sum as equal as possible, to all tribal members born on or prior to and living on the effective date of this plan.

Programing Aspect

All programing portions cited below shall be invested by the Secretary and such funds, including all interest and investment income accrued, shall be utilized on an annual budgetary basis, subject to the approval of the Secretary, for the programs or projects specified.

A. Land Acquisition Program

Ten (10) percent of the share, and any amounts remaining after the per capita payment provided above, shall be utilized for the purchase of land pursuant to the tribe's land acquisition program.

B. Social and Economic Programs

Seven (7) percent of the share shall be utilized for the following programs:

Elderly Members Activities Fund
Higher and Vocational Education
Wake Fund
Health Care
Small Business Loans
Credit Union
Road Construction and Maintenance
Tribal Business Operations
Miscellaneous Fund

C. Attorney Fees and Litigation Expenses

Three (3) percent of the share shall be utilized for any attorney fees and litigation expenses which may be incurred by the tribal governing body.

General Provisions

The per capita shares of living competent adults shall be paid directly to them. The shares of deceased individual beneficiaries shall be handled pursuant to 43 CFR, Part 4, Subpart D. The shares of legal incompetents shall be handled pursuant to 25 CFR 104.5. The shares of minors shall be handled pursuant to 25 CFR 60.10(a) and (b)(1) and 104.4.

Adults who are determined by the tribal governing body and the Agency Superintendent to be in arrears in debts owed to the tribe shall have their shares placed in Individual Indian Money (IIM) accounts; and the Agency Superintendent shall have the authority to apply all or part of such shares to the payment of delinquent debts.

Should any funds in any general programming categories be found in excess of any such programming goals, such funds may be transferred, with the approval of the Secretary, to another programming category.

Lineal descendants of Sisseton-Wahpeton Sioux Indians who are not enrolled with the Devils Lake Sioux Tribe or the Sisseton-Wahpeton Sioux Tribe are not eligible to participate in any aspect of this plan.

None of the funds distributed per capita or made available under the programming aspects of this plan shall be subject to Federal or State income taxes or be considered income or resources in determining eligibility for assistance under Federal, State or local programs.

Martin E. Seneca, Jr.,

Acting Assistant Secretary, Indian Affairs.

[FR Doc. 79–15394 Filed 5–16–79; 8:45 am]

BILLING CODE 4310–02–M

Bureau of Land Management

[F–20520]

Alaska Native Claims Selection

Correction

In FR Doc. 79–13268, published at page 25271, on Monday, April 30, 1979, in the middle column on page 25272, in the land description, the line reading "U.S. Survey 4340, U.S. Survey 4327;" should be corrected to read "U.S. Survey 4340, U.S. Survey 4237;".

BILLING CODE 1505–01–M

[AA–8103–3]

Alaska Native Claims Section

Correction

In FR Doc. 79–13857, published at page 25944, on Thursday, May 3, 1979, on page 25945, in the first column, in the second paragraph reading "T.33 N., R.35W.,", the fourth line reading "Secs. 30 to 33," should be corrected to read "Secs. 30 and 33,".

BILLING CODE 1505–01–M

V 4 4 / 9 7

Bureau of Land Management

[AA-8104-1]

Alaska Native Claims Selection

On January 17, 1969, Public Land Order 4582 was signed, withdrawing all unreserved public lands in Alaska from, inter alia, selections under the Statehood Act (72 Stat. 339, 48 U.S.C. Ch. 2, (1970)). Paragraph 4 of this order provided that between December 13, 1968 and January 4, 1969, only lands within "leases, licenses, permits, or contracts issued pursuant to the Mineral Leasing Act of 1920 (41 Stat. 437; 30 U.S.C. 818, et seq.), or the Alaska Coal Leasing Act of 1914 (38 Stat. 741, as amended, 48 U.S.C. 432)" could be included in selections under the Statehood Act.

On January 3, 1969, the State of Alaska filed State selection application AA-5447 for all of T. 6 N., R. 2 W., Copper River Meridian. At the time the selection was filed, only Secs. 11 through 16 of this township were embraced in mineral leases. Under the provisions of PLO 4582, the remaining 30 sections of T. 6 N., R. 2 W., Copper River Meridian were unavailable for State selection. For this reason, State selection application AA-5447 must be and is hereby rejected as to the following described lands:

Copper River Meridian, Alaska

That portion described as:

T. 6 N., R. 2 W.,
Secs. 1 to 10, inclusive, all;
Secs. 17 to 36, inclusive, all.

Containing approximately 19,100.88 acres.

On July 24, 1974, AHTNA, Inc. filed selection application AA-8104-1 under the provisions of Sec. 12(c) of the Alaska Native Claims Settlement Act of December 18, 1971 (85 Stat. 688, 701; 43 U.S.C. 1601, 1611(c) (Supp. V, 1975)) (ANCSA), for the surface and subsurface estates of certain lands withdrawn pursuant to Sec. 11(a)(1) for villages in the AHTNA region.

As to the lands described below, the application, as amended, submitted by AHTNA, Inc., is properly filed and meets the requirements of the Alaska Native Claims Settlement Act and of the regulations issued pursuant thereto. These lands do not include any lawful entry perfected under or being maintained in compliance with laws leading to acquisition of title.

In view of the foregoing, the surface and subsurface estates of the following described lands selected pursuant to Sec. 12(c) of ANCSA, aggregating approximately 10,240 acres, are considered proper for acquisition by AHTNA, Inc. and are hereby approved for conveyance pursuant to Sec. 14(e) of the Alaska Native Claims Settlement Act:

Copper River Meridian, Alaska

That portion described as:

T. 6 N., R. 2 W.,
Secs. 1, 2 and 10, all;
Secs. 20 to 28, inclusive, all;
Secs. 30 to 36, inclusive, all.

Containing approximately 10,240 acres.

The grant of the above described land shall be subject to:

1. Issuance of a patent confirming the boundary description of the lands hereinabove granted after approval and filing by the Bureau of Land Management of the official plat of survey covering such lands.

2. Valid existing rights therein, if any, including but not limited to those created by any lease (including a lease issued under Sec. 6(g) of the Alaska Statehood Act of July 7, 1958 (72 Stat. 339, 341; 48 U.S.C. Ch. 2, Sec. 6(g) (1970))), contract, permit, right-of-way or easement and the right of the lessee, contractee, permittee, or grantee to the complete enjoyment of all rights, privileges and benefits thereby granted to him. Pursuant to Sec. 17(b)(2) of ANCSA, any valid existing right recognized by ANCSA shall continue to have whatever right of access as is now provided for under existing law.

3. A right-of-way, serial number AA-9906, for a transmission line granted to the Copper Valley Electric Association under the act of March 4, 1911 (36 Stat. 1253, as amended; 43 U.S.C. 961 (1970)); as to E½E½ Sec. 1, E½E½ Sec. 24, E½E½ Sec. 25 and E½E½ Sec. 36, T. 6 N., R. 2 W., Copper River Meridian.

4. Those rights for pipeline purposes as have been granted to Amerada Hess Corporation, ARCO Pipe Line Company, Exxon Pipeline Company, Mobil Alaska Pipeline Company, Phillips Petroleum Company, Sohio Pipe Line Company, and Union Alaska Pipeline Company, their successors and assigns, in the Agreement and Grant dated January 23, 1974, as modified April 27, 1979, granted pursuant to Sec. 28 of the Mineral Leasing Act, 30 U.S.C. 185, as amended, 87 Stat. 576, November 16, 1973, serial No. AA-5847, and its related facilities more specifically identified as follows:

1. As to E½E½ Sec. 1, E½E½ Sec. 24, E½E½ Sec. 25, E½E½ Sec. 36, T. 6 N., R. 2 W., Copper River Meridian, oil pipeline right-of-way AA-5847;

2. As to NE¼NE¼ Sec. 36, T. 6 N., R. 2 W., Copper River Meridian, communication site AA-8502, and valve site AA-8622.

5. Temporary use permit AA-9608, granted to the owners of the trans-Alaska pipeline pursuant to Sec. 28 of the Mineral Leasing Act, 30 U.S.C. 185, as amended, 87 Stat. 576, on November 16, 1973; as to SE¼SE¼ Sec. 24, NE¼NE¼ Sec. 25, T. 6 N., R. 2 W., Copper River Meridian.

6. Access road right-of-way AA-9189, granted to Alyeska Pipeline Service Company pursuant to Sec. 28 of the Mineral Leasing Act, 30 U.S.C. 185, as amended, 87 Stat. 576, on November 16, 1973; as to NE¼NE¼ Sec. 25, T. 6 N., R. 2 W., Copper River Meridian.

7. Access road right-of-way AA-8864, granted to Alyeska Pipeline Service Company pursuant to Sec. 28 of the Mineral Leasing Act, 30 U.S.C. 185, as amended, 87 Stat. 576, on November 16, 1973; as to NE¼NE¼ Sec. 36, T. 6 N., R. 2 W., Copper River Meridian.

8. Those rights for pipeline purposes as have been issued to the owners of the Trans-Alaska Pipeline their successors and assigns, pursuant to Sec. 28 of the Mineral Leasing Act (30 U.S.C. 185) as amended November 16, 1973, (87 Stat. 576), for construction zone permit AA-9149.

There are no easements reserved pursuant to Sec. 17(b) of ANCSA on the above described lands.

AHTNA, Inc. is entitled to a minimum of 979,076 acres of land selected pursuant to Sec. 12(c) of the Alaska Native Claims Settlement Act. Together with the lands herein approved, the total amount of lands conveyed or approved for conveyance is 10,240 acres. The remainder of the entitlement of approximately 968,836 acres will be conveyed at a later date.

There are no inland water bodies considered to be navigable within the lands described.

In accordance with Departmental regulation 43 CFR 2650.7(d), notice of this decision is being published once in the **Federal Register** and once a week, for four (4) consecutive weeks in the Anchorage Times and the Tundra Times. Any party claiming a property interest in lands affected by this decision may appeal the decision to the Alaska Native Claims Appeal Board, P.O. Box 2433, Anchorage, Alaska 99510 with a copy served upon both the Bureau of Land Management, Alaska State Office, 701 C Street, Box 13, Anchorage, Alaska 99513 and the Regional Solicitor, Office of the Solicitor, 510 L Street, Suite 408, Anchorage, Alaska 99501, also:

1. Any party receiving service of this decision shall have 30 days from the receipt of this decision to file an appeal.

2. Any unknown parties, any parties unable to be located after reasonable efforts have been expended to locate, and any parties who failed or refused to sign the return receipt shall have until June 18, 1979 to file an appeal.

3. Any party known or unknown who may claim a property interest which is adversely affected by this decision shall be deemed to have waived those rights which were adversely affected unless an appeal is timely filed with the Alaska Native Claims Appeal Board.

To avoid summary dismissal of the appeal, there must be strict compliance with the regulations governing such appeal. Further information on the manner of and requirements for filing an appeal may be obtained from the Bureau of Land Management, 701 C Street, Box 13, Anchorage, Alaska 99513.

If an appeal is taken, the parties to be served with a copy of the notice of appeal are:

AHTNA, Inc., Drawer G, Copper Center, Alaska 99573.
State of Alaska, Division of Lands, 323 East Fourth Avenue, Anchorage, Alaska 99501.

Sue A. Wolf,
Chief, Branch of Adjudication.

[FR Doc. 79-15414 Filed 5-16-79; 8:45 am]
BILLING CODE 4310-84-M

Arizona; Paria Canyon, Paiute, and Vermillion Cliffs Wilderness Study; Public Meeting

The Department of the Interior, Bureau of Land Management, will hold public meetings for the purpose of receiving public comment on the proposal and alternatives to designating the primitive and natural areas in the Arizona Strip as wilderness areas. The public input from these meetings will be used to determine the scope and the significant issues to be analyzed in depth in the environmental impact statement. Also the imput will be used to identify and eliminate from detailed study the issues which are not significant or which have been covered by prior environmental review, thus narrowing the discussion of these issues in the statement.

The locations and times of the meetings are as follows:

Phoenix, Arizona, June 6th, 8:00 PM MST, Central Plaza Inn, 4321 N. Central.
Flagstaff, Arizona, June 7th, 8:00 PM MST, Coconino County Health Department Auditorium, 2500 N. Fort Valley Road.
Page, Arizona, June 11th, 8:00 PM MST, The Townhouse 605 S. Navajo.
St. George, Utah, June 12th, 8:00 PM MDT, Four Seasons Motor Inn, 747 East St. George Blvd.

Dated: May 10, 1979.

E. F. Spang,
Acting State Director, Arizona.

[FR Doc. 79-15395 Filed 5-16-79; 8:45 am]
BILLING CODE 4310-84-M

Cedar City District Grazing Advisory Board; Meeting

Notice is hereby given in accordance with Pub. L. 92-463 that a meeting of the Cedar City District Grazing Advisory Board will be held on Wednesday, June 27, 1979.

The meeting will begin at 9:30 a.m. at the Bureau of Land Management Escalante Area Office, Escalante, Utah.

The agenda for the meeting will include: (1) Advisory Board charter and elections; (2) range betterment projects for the Kanab-Escalante Environmental Statement area; (3) advisory board funds for range betterment projects; (4) proposed allotment management plan grazing systems allotment consolidations, and grazing capacities; (5) a range tour of the Alvey Wash Grazing Allotment; (6) the arrangements for the next meeting.

The meeting is open to the public. Interested persons may make oral statements at the board between 9:30 and 10:00 a.m., or file written statements for the board's consideration. Anyone wishing to make an oral statement must notify the District Manager, Bureau of Land Management, 1579 North Main Street, Cedar City, Utah 84720, by May 25, 1979. Depending on the number of persons wishing to make oral statements, a per person time limit may be established by the District Manager. Persons desiring to make the tour should furnish their own transportation and lunch.

Summary minutes of the board meeting will be maintained in the District Office and be available for public inspection and reproductions (during regular business hours) within 30 days following the meeting.

Morgan S. Jensen,
District Manager.
May 7, 1979.

[FR Doc. 79-15402 Filed 5-16-79; 8:45 am]
BILLING CODE 4310-84-M

Craig District Grazing Advisory Board Meeting

Notice is hereby given in accordance with Public Law 92-463 that a meeting of the Craig District Advisory Board will be held on June 14 and 15, 1979. The meeting will begin at 10:00 a.m. at the Fairfield Center, 386 Main Street, Meeker, Colorado.

The agenda for the meeting on June 14, 1979, will include: (1) expenditure of range betterment funds, (2) expenditure of advisory board funds for range improvements, (3) current status of the White River Environmental Statement effort, (4) current situation on halogeton invasions, and (5) arrangements for the next meeting. The meeting is open to the public. Interested persons may make oral statements to the board between 11:00 a.m. and 12:00 noon on June 14, or file written statements for the board's consideration. Anyone wishing to make an oral statement must notify the District Manager, Bureau of Land Management, 455 Emerson Street, Craig, Colorado 81625, by June 7, 1979. Depending on the number of persons wishing to make oral statements, a per person time limit may be established by the District Manager.

The remainder of the meeting to be held on June 15, 1979, will consist of a tour of several allotments directly involved in the White River Grazing Environmental Statement, White River Resource Area. The tour is scheduled to leave at 8:00 a.m. from the Bureau of Land Management, White River Resource Area Office, 317 E. Market Street, Meeker, CO. Anyone desiring to attend the tour should furnish their own four-wheel drive transportation, food, and drink.

Summary minutes of the board meeting will be maintained in the Bureau of Land Management District Office, 455 Emerson Street, Craig, Colorado. This information will be available for public inspection and reproduction (during regular business hours) for 30 days following the meeting.

Marvin W. Pearson,
District Manager.

[FR Doc. 79-15396 Filed 5-16-79; 8:45 am]
BILLING CODE 4310-84-M

[M 34079-J through M 34079-L]

Montana; Right-of-Way Application for Pipeline

May 7, 1979.

Notice is hereby given that pursuant to Section 28 of the Mineral Leasing Act of 1920, as amended (30 U.S.C. 185), Kansas-Nebraska Natural Gas Company, Inc., has filed three (3) applications for rights-of-way for 4-inch and 6-inch natural gas pipelines for the Bowdoin Gathering System approximately 6.29 miles across the following public lands in Phillips County:

Sec. 30, Lots 1, 2, 3, and 4, E½W½, and
Act of 1976, notice is hereby given that
River, Wyoming filed an application to

V 4 4 / 9 7

Principal Meridian, Montana

T. 36 N., R. 30 E.,
Sec. 9, SW¼NW¼, N½SW¼, and SE¼SW¼;
Sec. 17, N½; and
Sec. 18, SE¼NE¼ and NE¼SE¼.
T. 35 N., R. 31 E.,
Sec. 4, SE¼NW¼, NE¼SW¼, and S½SW¼;
Sec. 5, SW¼NE¼ and S½NW¼;
Sec. 6, S½NE¼;
Sec. 8, SW¼NE¼; and
Sec. 9, N½NW¼.
T. 30 N., R. 32 E.,
Sec. 1, Lot 11; and
Sec. 2, Lot 6.
T. 31 N., R. 32 E.,
Sec. 27, W½W½ and SE¼NW¼; and
Sec. 34, W½NW¼.

The above-named gathering system will enable the applicant to collect natural gas in areas through which the pipeline will pass and to convey it to the applicant's customers.

The purpose of this notice is to inform the public that the Bureau will be proceeding with consideration of whether the application should be approved, and if so, under what terms and conditions.

Interested persons desiring to express their views should promptly send their name and address to the District Manager, Bureau of Land Management, Airport Road, Drawer 1160, Lewistown, Montana 59457.

Roland F. Lee,

Chief, Branch of Lands and Minerals Operations.

[FR Doc. 79-15397 Filed 5-16-79; 8:45 am]

BILLING CODE 4310-84-M

Montana Wilderness Inventory of Areas Affected by the Northern Tier Pipeline

May 7, 1979.

Notice is hereby given that the Montana Bureau of Land Management has completed the final phase of wilderness inventories on certain public lands in Montana. This inventory has been conducted on inventory units proposed to be crossed by the Northern Tier Pipeline. These areas were inventoried according to the provisions of Section 603 of the Federal Land Policy and Management Act of 1976 (PL 94-579) and Section 2(c) of the Wilderness Act of 1964 (PL 88-577).

The following inventory units were found to have wilderness characteristics as described in Section 2(c) of PL 88-577 and are hereby designated wilderness study areas: MT-074-150 Wales Creek (11,580 acres)

This unit originally contained 20,056 acres. Boundary modifications were made during the intensive inventory to exclude a roaded area which clearly and obviously did not meet wilderness criteria. Another boundary modification was made after the proposed wilderness study area decision was announced in the **Federal Register**, March 1. This modification eliminates approximately 4,563 acres from the southern portion of the inventory unit in the Douglas Creek drainage. These lands were found not to meet the Bureau of Land Management's interpretation of contiguous lands as defined for wilderness study purposes. MT-024-684 Terry Badlands (44,515 acres) MT-024-665 Woody-Flat Creek (9,800 acres)

The area known as Woody-Flat Creek is being placed back in the statewide intensive inventory with the exception of 15,700 acres originally contained in the initial inventory unit. This acreage was eliminated from further consideration on the basis of existing roads and lack of opportunities for naturalness, solitude and primitive or unconfined types of recreation. The reduction in inventory unit size eliminates all conflict with the proposed Northern Tier Pipeline.

The following inventory units are hereby dropped from further wilderness consideration and will no longer be subject to the restrictions imposed by Section 603 of PL 94-579:

Inventory unit numbers	Common name	Public land acreage
MT-048-689	Cabin Creek	13,200
MT-048-674	Nelson Creek	5,499
MT-048-666	Hagen Gap	10,800
MT-024-667	Timber Creek-Big Dry Creek	10,100
MT-048-690	Cedar Creek	15,000
MT-048-668	Big Dry Arm	9,478

The final decisions listed herein shall become effective thirty days after this notice is published in the **Federal Register**. Persons wishing to protest any of the wilderness study area designations or decisions not recommending wilderness study area status for the six areas listed above shall have thirty days from the date of this publication in the **Federal Register** to do so. Such persons should file a written protest, specifying the area under protest, the reasons for the protest and supporting data, with the State Director, Bureau of Land Management, 222 North 32nd Street, P.O. Box 30157, Billings, Montana 59107.

Any person adversely affected by the State Director's decision on such written protest may appeal such decision by following normal procedures applicable to formal appeals to the Interior Board of Land Appeals which are published in 43 CFR Part 4.

Edwin Zaidlicz,

State Director.

[FR Doc. 79-15398 Filed 5-16-79; 8:45 am]

BILLING CODE 4310-84-M

[NM 36679]

New Mexico; Application

May 9, 1979.

Notice is hereby given that, pursuant to Section 28 of the Mineral Leasing Act of 1920 (30 U.S.C. 185), as amended by the Act of November 16, 1973 (87 Stat. 576), Phillips Petroleum Company has applied for one 6⅝-inch natural gas pipeline right-of-way across the following land:

New Mexico Principal Meridian, New Mexico

T. 17 S., R. 27 E.,
Sec. 35, S½SE¼.

This pipeline will convey natural gas across 0.118 of a mile of public land in Eddy County, New Mexico.

The purpose of this notice is to inform the public that the Bureau will be proceeding with consideration of whether the application should be approved, and if so, under what terms and conditions.

Interested persons desiring to express their views should promptly send their name and address to the District Manager, Bureau of Land Management, P.O. Box 1397, Roswell, New Mexico 88201.

Fred E. Padilla,

Chief, Branch of Lands, and Minerals Operations.

[FR Doc. 79-15399 Filed 5-16-79; 8:45 am]

BILLING CODE 4310-84-M

[OR 20169]

Oregon; Proposed Withdrawal and Reservation of Lands

The Bureau of Land Management, Department of the Interior, on April 24, 1979, filed application Serial No. OR 20169 for the withdrawal of the following described lands from location under the mining laws but not the mineral leasing laws, subject to valid existing rights:

Willamette Meridian

T. 36 S., R. 36 E.,
Sec. 5, Lots 3 and 4, S½NW¼, and N½SW¼;
Sec. 6, Lots 1 to 7, incl., S½NE¼, SE¼NW¼, E½SW¼, and SE¼;
Sec. 8;
Sec. 18, Lots 1, 2, 3, and 4, E½W½, and E½;
Sec. 20;

Sec. 30, Lots 1, 2, 3, and 4, E½W½, and E½;
Sec. 32.
T. 37 S., R. 36 E.,
Sec. 6, Lots 1 to 7, incl., S½NE¼, SE¼NW¼, E½SW¼, and SE¼;
Sec. 8;
Sec. 17, NW¼SW¼ and S½S½;
Sec. 18, Lots 1, 2, 3, and 4, E½W½, and E½;
Sec. 19, Lots 1, 2, 3, and 4, E½W½, and E½;
Sec. 20;
Sec. 21, SW¼NE¼, NW¼NW¼, S½NW¼, SW¼, W½SE¼, and SE¼SE¼;
Sec. 22;
Sec. 24, SW¼NE¼ and W½SW¼;
Sec. 25, SE¼NE¼, S½NW¼, SW¼, and SW¼SE¼;
Secs. 26 and 35.
T. 35 S., R. 37 E.,
Sec. 17, N½, E½SW¼, and SE¼;
Sec. 18, Lots 1, 2, 3, and 4, NE¼, E½W½, and W½SE¼;
Sec. 19, Lots 1, 2, 3, and 4, E½W½, and W½E½;
Sec. 30, Lots 1, 2, 3, and 4, and E½NW¼;
Sec. 31, Lots 1 and 2 and E½E½;
Sec. 32;
Sec. 33, W½NW¼;
Sec. 34.
T. 36 S., R. 37 E.,
Sec. 5, Lots 2, 3, and 4, SW¼NW¼, and NW¼SW¼;
Sec. 7, Lots 1, 2, 3, and 4, NW¼NE¼, and NE¼NW¼;
Sec. 8;
Sec. 18, Lots 1, 2, 3, and 4, E½W½, and E½;
Sec. 20;
Sec. 30, Lots 1, 2, 3, and 4, E½W½, and E½;
Sec. 32.
T. 37 S., R. 37 E.,
Sec. 30, Lots 18, 20, and 21;
Sec. 31, Lots 2, 3, 4, 7, 10, 11, and 14 to 23, incl.
T. 38 S., R. 38 E.,
Sec. 13, Lot 1 and NE¼SE¼.
T. 38 S., R. 39 E.,
Sec. 18, Lots 4 and 5, E½SW¼, and SW¼SE¼;
Sec. 19, W½NE¼ and NE¼NW¼.

The areas described aggregate 18,459.79 acres in Harney and Malheur Counties, Oregon.

The purpose of the withdrawal is to protect the status of the lands to permit consummation of a pending land exchange. Segregation of the lands from mining claim location by this notice would be temporary and would terminate upon completion of the exchange or after two years, whichever occurs first.

On or before June 29, 1979, all persons who wish to submit comments, suggestions, or objections in connection with the proposed withdrawal may present their views in writing to the undersigned authorized officer of the Bureau of Land Management.

Pursuant to section 204(h) of the Federal Land Policy and Management Act of 1976, notice is hereby given that an opportunity for a public hearing is afforded in connection with the proposed withdrawal. All interested persons who desire to be heard on the proposed withdrawal must submit a written request for a hearing to the State Director, Bureau of Land Management, at the address shown below, on or before June 29, 1979. Notice of the public hearing will be published in the **Federal Register** giving the time and place of such hearing. The public hearing will be scheduled and conducted in accordance with BLM Manual Sec. 2351.16B.

The Department's regulations at 43 CFR Section 2351.4(c) provide that the authorized officer of the BLM will undertake such investigations as are necessary to determine the existing and potential demands for the lands and their resources. He will also assure that the area sought is the minimum essential for the proposed use and provide for the maximum concurrent utilization of the lands and their resources.

The authorized officer will also prepare a report for consideration by the Secretary of the Interior who will determine whether or not the lands will be withdrawn and reserved as requested. The determination of the Secretary on the application will be published in the **Federal Register.**

Current administrative jurisdiction over the described lands will not be affected by the temporary segregation. The segregative effect of the application shall terminate upon (1) rejection of the application by the Secretary, (2) completion of the land exchange, (3) withdrawal of the lands by the Secretary, or (4) the expiration of two years from the date of publication of this notice.

All communications (except public hearing requests) in connection with this proposed withdrawal should be addressed to the undersigned officer, Bureau of Land Management, Department of the Interior, P.O. Box 2965, Portland, Oregon 97208.

Dated: May 9, 1979.

Virgil O. Seiser

Acting Chief, Branch of Lands and Minerals Operations.

[FR Doc. 79-15400 Filed 5-16-79; 8:45 am]

BILLING CODE 4310-84-M]

[Wyoming 64657]

Wyoming; Application

May 2, 1979.

Notice is hereby given that pursuant to Section 28 of the Mineral Leasing Act of 1920, as amended (30 U.S.C. 185), the Stauffer Chemical Company of Green River, Wyoming filed an application to amend its pending right-of-way application to construct additional lateral pipelines ranging from three to eight inches in size for the purpose of transporting natural gas across the following described public lands:

Sixth Principal Meridian, Wyoming

T. 20 N., R. 112 W.,
Secs. 4, 6 and 8.
T. 21 N., R. 112W.,
Secs 8, 16, 20, 22, 24, 26, 28, 32 and 36.

The proposed lateral pipelines are an expansion of Stauffer's gathering system and will transport natural gas from the Whiskey Butte Unit Well Numbers 12, 16, 20, 22, 23, 24, 27, 33, 35, 36, 37, 39 and 41 to points of connection with Stauffer Chemical's existing lines all within Tps. 20 and 21 N., R. 112 W., Lincoln County, Wyoming.

The purpose of this notice is to inform the public that the Bureau will be proceeding with consideration of whether the application should be approved, and if so, under what terms and conditions.

Interested persons desiring to express their views should do so promptly. Persons submitting comments should include their name and address and send them to the District Manager, Bureau of Land Management, P. O. Box 1869, Highway 187 N., Rock Springs, Wyoming 82901.

Harold G. Stinchcomb,

Chief, Branch of Lands and Minerals Operations.

[FR Doc. 79-15401 Filed 5-16-79; 8:45 am]

BILLING CODE 4310-84-M

Results of Test Applications of Draft Criteria of Unsuitability for Coal Development

AGENCY: Bureau of Land Management (BLM), U.S. Department of the Interior.

ACTION: Notice of Availability of Report.

SUMMARY: The BLM has prepared draft supplements to certain management framework plans (MFP), applying interim criteria for the identification of lands as unsuitable for all or certain types of coal mining operations. In a Notice published on December 8, 1978, (43 FR 57662-57670) the BLM explained why the supplements were being prepared, what standards should be used, and how the public would participate. In a follow-up Notice published April 10, 1979, (44 FR 21380), the BLM reported on the steps which had been taken since the previous Notice. This Notice reports the completion of a report by the BLM showing the results of the test

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applications of the draft unsuitability criteria and the BLM's recommendations for modifications to the draft criteria. On June 1, the Secretary of the Interior will decide upon the need for, and form of, a Federal coal management program. As part of that decision, he will consider the unsuitability criteria concept and the substance of, and procedures for, the application of each criterion. Final plan supplements will not be available until the BLM has revised these draft supplements to be in accord with the final criteria selected by the Secretary.

ADDRESS: Request for copies and comments should be sent to: Director (140) Bureau of Land Management, U.S. Department of the Interior, 1800 C Street, N.W., Washington, D.C. 20240.

FOR FURTHER INFORMATION CONTACT: Robert Moore, Director, Office of Coal Management (202) 343–4636 or Robert A. Jones, Chief, Division of Environmental and Planning Coordination (202) 343–5682.

SUPPLEMENTARY INFORMATION: The initial field application of the draft criteria has now been completed. In order to provide a forum for assessing all the application results and to develop BLM recommendations to the Department for its determination of final unsuitability criteria, a BLM workshop was held April 16–20, 1979, in Denver, Colorado. Attendees included representatives of BLM Washington Office and Field Offices in Colorado, Montana, Utah, New Mexiso, Wyoming, and the Eastern States; the Department of the Interior; the U.S. Fish & Wildlife Service; the U.S. Geological Survey; the Office of Surface Mining; the U.S. Forest Service; and the Department of Energy. April 16 and 17, the group heard presentations from BLM field personnel on the outcome of the applications in 10 planning areas in the States listed above. The following table summarizes acreages and tonnages found unsuitable through application of the interim criteria.

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STARLER/FWS & YURMAN/BLM
343-4902 343-5682

STUDY AREAS/APPLICATIONS WITH EXCEPTIONS; ACRES UNSUITABLE

UNSUITABILITY CRITERIA	NORTH DAKOTA COLDEN VALLEY	MONTANA DECKER	OTTER CREEK	ASHLAND SOUTHEAST	ASHLAND NORTH	COLDSTRIP	WYOMING HIGHLIGHT	HANNA	RED RIM	COLORADO WILLIAMS FORK
FEDERAL LAND SYSTEMS			130			480		40	46	
R-O-W AND EASEMENTS						75				
BUFFER ZONES, ETC		250								
WILDERNESS STUDY AREAS					98			240	10	120
SCENIC AREAS									620	
SCIENTIFIC STUDIES										17559
HISTORIC LANDS										19464
NATURAL AREAS								107	150	955
FEDERAL T/E SPECIES										17112
STATE T/E SPECIES		10						100	122	
BALD & GOLDEN EAGLE NEST										
BALD & GOLDEN AREAS								109	10763	28727
FALCON CLIFF NEST SITES						15		5045	34	27820
MIGRATORY BIRDS					30			5077	3530	3030
STATE RES. F & W		- -		15						
WETLANDS				8						
FLOODPLAINS										
MUN. WATER SHEDS										
NATIONAL RESOURCE WATERS										
STATE LANDS UNSUIT:										
STATE PROPOSED CRIT.		126		11	46	72		3310	200	
PRIME FARM LANDS		296		- -	- -	- -				
ALLUVIAL VALLEY FLOORS		- -								
RECLAIM										

NOTE: THE TOTALS OF UNSUITABILITY CRITERIA ARE NOT SIGNIFICANT DUE TO OVERLAP'S AMONG CRITERIA

ACRES										
UNADJUSTED TOTAL		682								
AFFECTED ACRES										
OVERLAP ADJUSTMENT*		-0-								
TOTAL AFFECTED ACRES	385	682	164	76	98	690	-0-	4284*	8726*	35709
TOTAL STUDY AREA ACRES	233506	9501	5157	2068	2511	7022	37080*	46830	40700	167384.5
% AFFECTED OF STUDY AREA	.16%	7.18%	3.18%	3.67	3.9	9.82	-	9.15	21.4%	21.3%
COAL TONNAGE **										
TOTAL FEDERAL COAL $\times 10^3$	718772.0	931842.3	461830.3	227380.0	238650.0	296610.0	5600000	33343.0	230728.3	1616891
TONS AFFECTED $\times 10^3$	14386.6	37708.0	16982.2	8395.2	9313.9	29145.6	-	3050.2	49467.7	344397.8*
% TONS AFFECTED	2.0%	4.05%	3.67%	3.69	3.9	9.82	-	9.15%	21.4%	21.3%

*$18000 ACRE SUITABLE PENDING FURTHER STUDY

*MULTIPLE USE OVER LAP IS NOTED SEPARATELY

*MULTIPLE USE OVER LAP IS NOTED OR 9666 TONS PER ACRE

*THIS IS 21.3% OF TONNAGE

* COMPUTATION
** RESOURCES

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Application of the criteria and exceptions did not result in wholesale elimination of large acreages or tonnages; however, the coal states BLM offices indicated it can reasonably be expected that some of the lands found acceptable for further consideration for coal leasing will eventually require additional inventory and study before final informed management decisions can be made.

The general conclusion of the BLM report is that use of the unsuitability criteria will facilitate responsible, effective land use planning that accommodates coal mining and other legitimate resource uses. Probably the largest question mark remaining as to the availability of coal lands for leasing following planning now evolves around, not acreages or tonnages available for consideration, but the *land patterns* which come through planning as available for further consideration for leasing. Deletions due to multiple-use needs, unsuitability criteria and surface owner consultation may result in coal land patterns from which only a few logical mining units can be forged. Actual effects cannot yet be finally determined, but field tests suggest the problems may be substantial when "final" criteria have been applied and surface owner consultation has been thoroughly applied. Solid results for evaluation should be available by mid-summer.

April 18–20 a small workforce of BLM personnel worked in Denver to formulate recommendations for changes in the wording of the criteria and their manner of application. The work group product was further analyzed by BLM's Office of Coal Management, the Division of Planning and Environmental Coordination and the Divisions of Watershed and Wildlife.

These efforts resulted in a final report to the Office of Coal Leasing, Planning and Coordination. The significant recommendation made by BLM in this report for revising the criteria was for incorporation of the exceptions into the body of each criterion. There are three related reasons for this recommendation:

(1) In practice the application of some criteria resulted in the elimination of large areas from further consideration, whereas the subsequent application of the exceptions reclassified most of those same lands as "acceptable." Field personnel found this exercise confusing to the public. They expressed concern there would be an appearance of bad faith in reporting the results of this two-step process.

(2) The present format of the criteria has two parts—criterion and exception—reflects an intent to indicate the sequence to be used in the application process, as outlined in Instruction Memorandum 79–139. That is, the criterion would be applied separately from the exception. One of the significant findings of the test applications was that the criterion-exception application sequence of steps outlined in IM 79–139 is not practical and should be revised.

(3) Most importantly, in BLM's view it is inappropriate for the unsuitability criteria, as statements of Departmental and Bureau policy, to carry procedural overtones, either in format or content. Procedural matters such as sequence of application steps, level of inventory data required, and staging of applications in various phases of the decision process, should be reserved for treatment in Bureau guidance to the field in the form of instruction memoranda and manuals.

A memorandum forwarding the application results and containing recommendations and the reasoning behind them was submitted to the Department May 1, 1979. The report and appendices containing presentation material from the Denver conference and papers prepared there by the workgroup are on file in the Office of Coal Management, Bureau of Land Management, U.S. Department of the Interior, Washington, D.C. 20240 and are included in the rulemaking docket for the Federal Coal Management Program proposed on March 19, 1979, 44 FR 18000 (1979). Copies of the report, but not the appendices, are available on request from the Office of Coal Management. The appendices were not reproduced because of their bulk and odd page sizes. The report, together with the comments received on the criteria provisions of the proposed coal management regulations published March 18, 1979, 44 FR 16800–16845), comments on the criteria discussed in the draft and final programmatic environmental statement, and an economic analysis of the costs of the unsuitability criteria will be used by the Office of Coal Leasing, Planning and Coordination to prepare a decision document on the unsuitability criteria for use by the Secretary in June 1 coal management program decisions. The economic analysis is available for inspection at the address given above.

Arnold E. Petty,
Acting Associate Director, Bureau of Land Management.

Approved by:

Guy R. Martin,
Assistant Secretary of the Interior.

May 14, 1979.

[FR Doc. 79-15445 Filed 5-16-79; 8:45 am]
BILLING CODE 4310-84-M

Bureau of Reclamation

Contract Negotiations with the East Yolo Community Services District; Availability of the Proposed Contract for Public Review and Comment; Correction

In FR Doc. 79–11665 appearing at page 22522 in the **Federal Register** of April 16, 1979, the telephone number in the penultimate paragraph should be (916) 484–4380.

Dated: May 3, 1979.

R. Keith Higginson,
Commissioner of Reclamation.

[FR Doc. 79-14440 Filed 5-16-79; 8:45 am]
BILLING CODE 4310-09-M

Geological Survey

[Outer Continental Shelf (OCS) Order No. 5]

Failure and Inventory Reporting System Requirements

AGENCY: Geological Survey, U.S. Department of the Interior.

ACTION: Solicitation of comments with regard to content of the U.S. Geological Survey failure reports.

SUMMARY: By Notice in the **Federal Register** dated June 8, 1978, the U.S. Geological Survey advised the public of their intent to include in OCS Order No. 5 a requirement for operators of production platforms in the OCS to submit certain data in accordance with a safety device Failure and Inventory Reporting System (FIRS). The purpose of this Notice is to solicit comments from the public with regard to content of the Failure and Inventory Reporting System reports generated by the U.S. Geological Survey from the data collected.

FOR FURTHER INFORMATION CONTACT: Mr. Richard B. Krahl, U.S. Geological Survey, National Center, Mail Stop 620, Reston, Virginia 22092 (703/860–7531).

SUPPLEMENTAL INFORMATION: The Safety and Pollution-Prevention Device Failure and Inventory Reporting System will allow the Geological Survey to gather, store, and readily retrieve inventory and failure information on the safety devices and provide the unique capability to furnish an industrywide exchange of experience and information.

The FIRS program is applicable to OCS structures which produce or process hydrocarbons and includes the attendant portion of hydrocarbon pipelines when physically located on the structure for whatever purpose. Output from the program can be used for the mutual benefit of the Geological Survey, the offshore oil industry, and the equipment manufacturers in focusing attention on the devices showing recurring failures. The FIRS program will demonstrate the effectiveness of an aggressive corrective action policy and will significantly shorten the period of time required to identify problem areas, rather than having to wait for each operator to experience an expensive series of replacements.

The system is composed of two distinctively interdependent programs. The Safety Device Inventory Reporting program is designed to provide information depicting the number of safety and pollution-prevention devices by type, manufacturer, and model which are in service on the offshore production platforms. The Safety Device Failure Reporting program is designed to provide information relative to failures of these devices by failure causes, corrective measures, device type, manufacturer, model, and frequency of failure.

Both inventory and failure reports are to be submitted on devices which are used in the safety and pollution-prevention systems of offshore structures, including satellites and jackets, which produce or process hydrocarbons, and the hydrocarbon pipelines thereon. These devices are:

Blowdown valve	(BDV)
Burner flame detector	(BSL)
Check valve	(FSV)
Combustible gas detector	(ASH)
Emergency shutdown valve	(ESD)
Level sensor:	
High	(LSH)
Low	(LSL)
Hi/Lo	(LSHL)
Pressure sensor:	
High	(PSH)
Low	(PSL)
Hi/Lo	(PSHL)
Relief valve	(PSV)
Shutdown valve	(SDV)
Subsurface-safety valve	(SSSV)
Surface-safety valve	(SSV)
Temperature sensor:	
High	(TSH)
Low	(TSL)
Hi/Lo	(TSHL)
Valve actuator on the shutdown valve, the blowdown valve, the surface-safety valve	(VA)

The detailed failure and inventory information will be gathered by utilizing a standard format as indicated on the Geological Survey's Safety Device Inventory Report Form (Form 9–1994) and safety Device Failure Report Form (Form 9–1995). The specific data submission method may be selected by the operator in the form of:

1. Forms furnished by the Geological Survey.

2. ADP card decks on standard 80-column cards.

3. Magnetic tapes which are 9 track, 800 BPI, unlabeled, blocking cannot exceed 1,040 characters, odd parity, single gap (i.e., compatible with IBM equipment—EBCDIC).

Specific comments are requested concerning recommendations as to content of the failure reports generated and disseminated by the U.S. Geological Survey with regard to what usable information should be provided and the most suitable method to present the data to the public.

Dated: May 3, 1979.

J. R. Balsley,
Acting Director.

[FR Doc. 79-15403 Filed 5-16-79; 8:45 am]
BILLING CODE 4310-31-M

National Park Service

Cuyahoga Valley National Recreation Area Advisory Commission Meeting

Notice is hereby given, in accordance with the Federal Advisory Committee Act, that a meeting of the Cuyahoga Valley National Recreation Area Advisory Commission will be held beginning at 7:30 p.m. (EDT), June 14, 1979, at Happy Days Center located on State Route 303 (Streetsboro Road) one mile west of State Route 8, near Peninsula, Ohio. Parking is on the north side of Route 303 and a pedestrian tunnel leads to the building on the south side of the highway.

The Commission was established by Pub. L. 93–555 to meet and consult with the Secretary of the Interior on matters relating to the development of the Cuyahoga Valley National Recreation Area and with respect to carrying out the provisions of the Public Law.

The members of the Commission are as follows:

Mrs. Robert G. Warren (Chairman),
Mr. Courtney Burton,
Mr. Norman A. Godwin,
Mr. Donald W. Haskett,
Mr. Robert L. Hunker,
Mr. James S. Jackson,
Mr. Melvin J. Rebholz,
Mrs. Roger L. Rossi,
Mrs. George N. Seltzer,
Ms. Robbie Stillman,
Mr. Barry K. Sugden,
Mr. Robert W. Teater,
Mr. William O. Walker.

Matters to be discussed at this meeting include.—1. Camp Mueller and the recreation interests of inner-city youth.

2. A proposal for a North American Indian Cultural Center.

3. Report on Park operations.

The meeting will be open to the public. Interested persons may submit written statements. Such statements should be submitted to the official listed below prior to the meeting.

Further information concerning this meeting may be obtained from William C. Birdsell, Superintendent, Cuyahoga Valley National Recreation Area, P.O. Box 158, Peninsula, Ohio 44264, telephone 216–650–4414. Minutes of the meeting will be available for public inspection four weeks after the meeting at the office of Cuyahoga Valley National Recreation Area, located at 501 West Streetsboro Road, (State Route 303) two miles east of Peninsula, Ohio.

Dated: May 8, 1979.

Harold Thompson,
Acting Regional Director Midwest Region.

[FR Doc. 79-15424 Filed 5-16-79; 8:45 am]
BILLING CODE 4310-7-M

Evelyn Hill, Inc.; Intention To Negotiate Concession Contract

Pursuant to the provisions of Section 5 of the Act of October 9, 1965 (79 Stat. 969; 16 U.S.C. 20), public notice is hereby given that on or before June 18, 1979, the Department of the Interior, through the Director of the National Park Service, proposes to negotiate a concession contract with Evelyn Hill, Inc., authorizing it to continue to provide sale of souvenir and gift items facilities and services for the public at Fort McHenry National Monument and Historic Shrine for a period of five (5) years from January 1, 1980, through December 31, 1984.

An assessment of the environmental impact of this proposed action has been made and it has been determined that it will not significantly affect the quality of the environment, and that it is not a major Federal action having a significant impact on the environment under the National Environmental Policy Act of 1969. The environmental assessment may be reviewed in the Office of the Superintendent, Fort McHenry National Monument and Historic Shrine.

The foregoing concessioner has performed its obligations to the satisfaction of the Secretary under an existing contract which expires by limitation of time on December 31, 1979, and therefore, pursuant to the Act of

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October 9, 1965, as cited above, is entitled to be given preference in the renewal of the contract and in the negotiation of a new contract. This provision, in effect, grants Evelyn Hill, Inc., as the present satisfactory concessioner, the right to meet the terms of responsive proposals for the proposed new contract and a preference in the award of the contract, if, thereafter, the proposal of Evelyn Hill, Inc., is substantially equal to others received. In the event a responsive proposal superior to that of Evelyn Hill, Inc., (as determined by the Secretary) is submitted, Evelyn Hill, Inc., will be given the opportunity to meet the terms and conditions of the superior proposal the Secretary considers desirable, and, if it does so, the new contract will be negotiated with Evelyn Hill, Inc. The Secretary will consider and evaluate all proposals received as a result of this notice. Any proposal, including that of the existing concessioner, must be submitted on or before June 18, 1979, to be considered and evaluated.

Interested parties should contact the Chief, Office of Concessions Management, National Park Service, Washington, D. C. 20240, for information as to the requirements of the proposed contract.

Dated: May 9, 1979.

Daniel J. Tobin, Jr.,

Acting Director, National Park Service.

[FR Doc. 79-15425 Filed 5-16-79; 8:45 am]

BILLING CODE 4310-7-M

Revision of Policy on Motion Picture and Still Photography

AGENCY: National Park Service, Interior.

ACTION: Proposed revision of management policy on motion picture ans still photography.

FOR FURTHER INFORMATION CONTACT: Chief, Office of Management Policy, National Park Service, 18th and C Streets, N.W., Washington, D.C. 20240 (202) 343-7456.

Introduction

The National Park Service is proposing revision of its management policy on motion picture and still photography. The draft policy applies only to filmmaking for public consumption—commercial and public television crews, advertisers, news photographers and other professional photographers. It does *not* apply to private individuals and families visiting areas of the National Park System.

The proposed policy revision is based on definitions, conditions, responsibilities and other information contained in a recently prepared filming guideline. Copies of the guideline can be obtained from the Office of Public Affairs, National Park Service, 18th and C Street, N.W., Washington, D.C. 20240.

The policy has been revised to clarify conditions when filming may be done in areas of the National Park System. Two conditions have been added: protection of First Amendment rights of filmmakers and guarantee of the same access by demonstrators or other persons exercising First Amendment rights (due process).

The second paragraph of the proposed policy deals with permits, requiring compliance with other Service policies, guidelines, and Departmental regulations. The regulations are listed in the filming guideline, which is specifically referenced in the policy.

In the previous policy, the second paragraph dealt with responsibility which is now covered in the guideline.

Proposed Policy Revision

Motion Picture and Still Photography

The making of still and motion pictures or television productions for public consumption is an acceptable park use provided these activities pose no threat to the park resources in the judgement of the park manager, and do not conflict unduly with the public's normal use of the park. The Service shall protect the First Amendment rights of those wishing to film, and to ensure due process, shall guarantee that access by demonstrators or other person exercising First Amendment rights is at least equal to that afforded filmmakers.

Certain filming activities require permits that ensure compliance with Service policies on resources protection and visitor use, Service guidelines and Departmental regulations.

Reference: Filming Guideline, NPS-21, (date).

Written Comments

Written comments on this proposed policy change are invited and will be accepted for a period of thirty (30) days from the date of this notice. Send them to Director, National Park Service, Attention: Chief, Office of Management Policy, Washington, D.C. 20240.

Dated: March 27, 1979.

William J. Whalen,

Director, National Park Service.

[FR Doc. 79-15440 Filed 5-16-79; 8:45 am]

BILLING CODE 4310-70-M

DEPARTMENT OF JUSTICE

Drug Enforcement Administration

Controlled Substances in Schedules I and II; Final 1979 Revised Aggregate Production Quotas

Section 306 of the comprehensive Drug Abuse Prevention and Control Act of 1970 (21 U.S.C. 826) requires the Attorney General to establish aggregate production quotas for all controlled substances in Schedules I and II each year. This responsibility has been delegated to the Administrator of the Drug Enforcement Administration pursuant to § 0.100 of Title 28 of the Code of Federal Regulations.

On April 6, 1979, a notice of the proposed revised aggregate production quotas for 1979 was published in the **Federal Register** (44 FR 20809-10). All interested parties were invited to comment on or object to the proposed aggregate production quotas on or before May 7, 1979. One comment was received from Arenol Chemical Corporation of Long Island City, New York.

Relative to amphetamine, Arenol Chemical Corporation commented on the inventory allowance required by § 1303.24(a)(1) of Title 21 of the Code of Federal Regulations. Based on their 1978 sales and inventory experience, Arenol concluded that excessive 1978 year-end inventories did not exist and that, therefore, no reduction in the 1979 aggregate production quota for amphetamine is necessary. However, this reduced quota is expected to be sufficient to meet legitimate medical needs as well as provide the inventory allowance for bulk manufacturers required by regulation. Arenol did not specifically request an administrative hearing concerning the proposed revised aggregate production quota for amphetamine. Pursuant to § 1303.11(c) of Title 21 of the Code of Federal Regulations, the Administrator of the Drug Enforcement Administration has determined that no hearings relative to this quota are necessary.

No other comments and no requests for hearings were received. Therefore, under the authority vested in the Attorney General by section 306 of the Comprehensive Drug Abuse Prevention and Control Act of 1970 (21 U.S.C. 826), and delegated to the Administrator of the Drug Enforcement Administration by § 0.100 of Title 28 of the Code of Federal Regulations, the Administrator of the Drug Enforcement Administration hereby orders that the revised 1979 aggregate production quotas for the below-listed controlled substances, expressed in grams of anhydrous acid or base, be established as follows:

Basic class	Revised 1979 quotas
Alphaprodine	67,000
Amobarbital	6,295,000
Amphetamine	2,715,000
Codeine (for sale)	55,827,000
Codeine (for conversion)	3,500,000
Desoxyephedrine (1,914,000 g. for 1-desoxyephedrine and 190,000 g. for methamphetamine)	2,104,000
Dihydrocodeine	1,160,000
Fentanyl	2,500
Levorphanol	10,100
Meperidine	10,723,000
Methaqualone	9,631,000
Methylphenidate	1,185,000
Morphine (for sale)	967,000
Morphine (for conversion)	86,348,000
Opium (for tinctures, extracts etc., expressed in terms of USP powdered opium in morphine content)	2,393,000
Phenmetrazine	1,123,000
Secobarbital	4,135,000
Thebaine (for sale)	2,676,000
Thebaine (for conversion)	1,368,000

This order is effective upon publication.

Dated: May 11, 1979.

Peter B. Bensinger,

Administrator.

[FR Doc. 79-15383 Filed 5-16-79; 8:45 am]

BILLING CODE 4110-09-M

NATIONAL ADVISORY COMMITTEE ON OCEANS AND ATMOSPHERE

Meeting Addendum

The location and agenda for the May 17-18, 1979 meeting of the National Advisory Committee on Oceans and Atmosphere, announced in the **Federal Register** for May 2, 1979, have been changed. The meeting will be held in the Penthouse of Page Building I, 2001 Wisconsin Avenue, NW., Washington, D.C., rather that at the University of Rhode Island, as previously announced. The agenda has been changed by the deletion of the presentations of University of Rhode Island programs. The amended agenda is as follows:

Thursday, May 17, 1979

10:00 a.m.-10:30 a.m.—Plenary Session

- Opening Remarks—Acting Chairperson, NACOA.
- Meeting Plans—Acting Chairperson, NACOA.

10:30-12:00 noon—Working Group Session

- Ocean Use Panel/R&D Panel.
- Comments on Federal Plan for Ocean Pollution Research, Development, and Monitoring.
- Civil Ocean Technology.
- Ocean Dumping of Dredge Spoils.

12:00 p.m.-1:30 p.m.—Lunch

1:30 p.m.-5:00 p.m.—Plenary Session

- Coast Guard R&D—RADM Alfred P. Manning, Chief of R&D, U.S. Coast Guard.
- Discussion of NACOA Position Regarding Draft Federal Plan for Ocean Pollution Research, Development, and Monitoring—Dr. Alfred A. Keil, NACOA.

Friday, May 18, 1979

8:00 a.m.-9:00 a.m.—Plenary Session

- Review of NACOA Eighth Annual Report—Acting Chairperson, NACOA.

9:00 a.m.-11:00 a.m.—Working Group Sessions

- Atmospheric Affairs Panel.
- Review of Weather Modification Statement for Eighth Annual Report.
- National Climate Program.
- Weather Services.
- National and International Policy Panel.
- Proposed DNR Legislation.
- LOS Update.

11:00 a.m.-11:45 a.m.—Plenary Session

- Panel Reports.

11:45 a.m.-1:00 p.m.—Lunch

1:00 p.m.-1:45 p.m.—Memorial Service, Professor Donald L. McKernan, Chairman, NACOA—Bethlehem Chapel National Cathedral

2:00 p.m.—Adjourn

Additional information concerning this meeting may be obtained through the Committee's Acting Executive Director, John W. Connolly, whose mailing address is: 2001 Wisconsin Avenue, NW., Page Building I, Suite 434, Washington, D.C. 20235. The telephone number is (202) 254-8418.

Samuel H. Walinsky,

Executive Officer.

[FR Doc. 79-15374 Filed 5-16-79; 8:45 am]

BILLING CODE 5310-12-M

NATIONAL AERONAUTICS AND SPACE ADMINISTRATION

[Notice (79-51)]

NASA Advisory Council (NAC), Aeronautics Advisory Committee (AAC); Meeting

The Subcommittee on Aviation Safety Reporting System (ASRS) will meet June 5-7, 1979, at the Airline Pilots Association Headquarters, 1625 Massachusetts Avenue, NW, Washington, DC, 8th Floor Conference Room. The meeting will be open to the public on a first-come, first-served basis up to the seating capacity of the room (about 20 persons including the Subcommittee members and participants).

The Subcommittee, which serves in an advisory capacity only, reviews ASRS operations and NASA actions taken in response to Subcommittee recommendations. The Chairperson is John H. Winant. There are currently 12 members on the Subcommittee. Following is the approved agenda for the meeting.

Agenda

June 5, 1979

9:00 a.m.—Opening Comments.
9:30 a.m.—ASRS Status Report.
10:00 a.m.—Presentation of Final Task Group Reports
1:00 p.m.—Presentation of Final Task Group Reports continued
5:00 p.m.—Adjourn

June 6, 1979

9:00 a.m.—Presentation of Final Task Group Reports Concluded
1:00 p.m.—Presentation and Discussion of Subcommittee Recommendations
5:00 p.m.—Adjourn

June 7, 1979

9:00 a.m.—Discussion of Recommendations and Format of Final Report
11:00 a.m.—Summary Comments by Chairperson
1:00 p.m.—Adjourn

For further information, contact Herman A. Rediess, NASA Headquarters, Code RTE-6, Washington, DC 20546. Telephone 202/755-2243.

May 14, 1979.

Arnold W. Frutkin,

Associate Administrator for External Relations

[FR Doc. 79-15410 Filed 5-16-79; 8:45 am]

BILLING CODE 7510-01-M

NATIONAL COMMISSION ON THE INTERNATIONAL YEAR OF THE CHILD

Notice of Time and Place Change of the Commission's Media Subcommittee

May 9, 1979.

The Monday, May 7, 1979 issue of the **Federal Register** (44 FR 26815) announced that the Media Subcommittee of the National Commission on the International Year of the Child would meet from 1:00 p.m. to 5:00 p.m. at 331 East 38th Street, New York City, New York. The announcement should have stated the time from 11:00 a.m. to 2:00 p.m. at the U.S. Mission to the United Nations,

(5) Modify the operability and

[Docket No. 50-72]

Washington, D.C. 20555, Attention:

Room 711, 799 U.N. Plaza, New York City, New York.

Benedict J. Latteri,

Administrative Officer, National Commission on the International Year of the Child.

[FR Doc. 79-15404 Filed 5-16-79; 8:45 am]

BILLING CODE 682-49-M

NATIONAL COMMISSION ON SOCIAL SECURITY

May 10, 1979.

Meeting

The National Commission on Social Security will hold a public meeting at Washington, D.C. on June 5, 1979 in Room 2008 of the New Exective Office Building at 726 Jackson Place, N.W. The Commission will receive a briefing from the Health Care Financing Administration on Medicare and will discuss the Hospital Insurance Program.

The meeting will begin at 9:00 a.m. and continue until Commission business is completed but no later than 5:00 p.m. The meeting will be open to the public, in accordance the Federal Advisory Committee Act.

Additional information about the meeting may be obtained from the Commission office: Room 131A—Pension Building, 440 G Street, N.W. Washington, D.C. Phone: 376-2622.

Francis J. Crowley,

Executive Director.

[FR. Doc. 79-15405 Filed 5-16-79; 8:45 am]

BILLING CODE 6820-AC-M

NUCLEAR REGULATORY COMMISSION

[Dockets Nos. 50-313 and 50-368]

Arkansas Power & Light Co.; Issuance of Amendments to Facility Operating Licenses

The U.S. Nuclear Regulatory Commission (the Commission) has issued Amendments Nos. 42 and 11 to Facility Operating Licenses Nos. DPR-51 and NPF-6, issued to Arkansas Power & Light Company (the licensee), which revised the Technical Specifications for operation of Arkansas Nuclear One, Units Nos. 1 and 2 (ANO-1 & 2) located in Pope County, Arkansas. The amendments are effective as of the date of issuance.

The amendments modify the ANO-1 & 2 Appendices A and B Technical Specifications dealing with Arkansas Power and Light Company management organization structure.

The application for the amendments complies with the standards and requirements of the Atomic Energy Act of 1954, as amended (the Act), and the Commission's rules and regulations. The Commission has made appropriate findings as required by the Act and the Commission's rules and regulations in 10 CFR Chapter I, which are set forth in the license amendments. Prior public notice of these amendments was not required since the amendments do not involve a significant hazards consideration.

The Commission has determined that the issuance of these amendments will not result in any significant environmental impact and that pursuant to 10 CFR 51.5(d)(4) an environmental impact statement or negative declaration and environmental impact appraisal need not be prepared in connection with issuance of these amendments.

For further details with respect to this action, see (1) the licensee's application dated February 12, 1979, (2) Amendment No. 42 to License No. DPR-51 and Amendment No. 11 to License No. NPF-6, and (3) the Commission's related Safety Evaluation. All of these items are available for public inspection at the Commission's Public Document Room, 1717 H Street, N.W., Washington, D.C. and at the Arkansas Polytechnic College, Russellville, Arkansas. A copy of items (2) and (3) may be obtained upon request addressed to the U.S. Nuclear Regulatory Commission, Washington, D.C. 20555, Attention: Director, Division of Operating Reactors.

Dated at Bethesda, Maryland, this 3rd day of May 1979.

For the Nuclear Regulatory Commission.

Robert W. Reid,

Chief, Operating Reactors Branch No. 4, Division of Operating Reactors.

[FR Doc. 79-15310 Filed 5-16-79; 8:45 am]

BILLING CODE 7590-01-M

Availability of Environmental Standard Review Plans

The Nuclear Regulatory Commission has issued the set of Environmental Standard Review Plans (ESRPs) that will be used to direct the NRC staff's environmental review of applications for nuclear power plant construction permits. These plans will also serve to inform interested parties of the nature of the technical portion of the environmental review and the basis for the various technical conclusions made.

Three groups of Draft ESRPs were issued to assist the NRC staff in formulating the final ESRPs. The Draft ESRPs, published as NUREG-0158, were issued and noticed in the **Federal Register** as follows: (1) Part I, January 1977 (42 FR 8443, February 1977); (2) Part II, May 1977 (42 FR 27702, May 31, 1977); and (3) Part III, December 1977 (43 FR 1159, January 6, 1978). Public comments on these Draft ESRPs were invited. Revisions have been made in ESRPs after analyzing the comments received.

Draft ESRPs (NUREG-0158) are available for inspection by the public in the Commission's Public Document Room at 1717 H Street, NW., Washington, D.C. Requests for single copies of Parts I, II, and III should be addressed to the Division of Technical Information and Document Control, U.S. Nuclear Regulatory Commission, Washington, D.C. 20555.

Copies of the complete set of 93 final ESRPs (NUREG-0555) can be purchased from the National Technical Information Service, 5285 Port Royal Road, Springfield, Virginia 22161 (703-557-4650).

Dated at Bethesda, Maryland this 11th day of May 1979.

For the Nuclear Regulatory Commission.

Ronald L. Ballard,

Chief, Environmental Projects Branch 1, Division of Site Safety and Environmental Analysis.

[FR Doc. 79-15314 Filed 5-16-79; 8:45 am]

BILLING CODE 7590-01-M

[Dockets Nos. 50-317 and 50-318]

Baltimore Gas & Electric Co.; Issuance of Amendments to Facility Operating Licenses

The U.S. Nuclear Regulatory Commission (the Commission) has issued Amendments Nos. 38 and 21 to Facility Operating Licenses Nos. DPR-53 and DPR-69 issued to Baltimore Gas & Electric Company, which revised Technical Specifications for operation of the Calvert Cliffs Nuclear Power Plant, Units Nos. 1 and 2 (the facility) located in Calvert County, Maryland. The amendments are effective as of the date of issuance.

The amendment permits the Appendix A Technical Specifications of both Calvert Cliffs Nuclear Power Plant units to:

(1) Limit the maximum boron concentration in the safety injection and refueling water tanks;

(2) Allow reduced shutdown cooling flow when the reactor coolant system is partially drained;

(3) Modify the requirements for air flow distribution checks across the HEPA and charcoal filters;

(4) Correct the safety related hydraulic snubber list (Unit 1 only);

(5) Modify the operability and surveillance requirements for the refueling machine;

(6) Update the organizational control of the security force; and

(7) Revise the hydraulic snubber list to permit modifications of the support system for the auxiliary feedwater discharge piping (Unit 1 only).

The amendments also make administrative type changes to the Appendix B Technical Specifications for both units.

The applications for the amendments comply with the standards and requirements of the Atomic Energy Act of 1954, as amended (the Act), and the Commission's rules and regulations. The Commission has made appropriate findings as required by the Act and the Commission's rules and regulations in 10 CFR Chapter I, which are set forth in the license amendments. Prior public notice of these amendments was not required since the amendments do not involve a significant hazards consideration.

The Commission has determined that the issuance of these amendments will not result in any significant environmental impact and that pursuant to 10 CFR 51.5(d)(4) an environmental impact statement or negative declaration and environmental impact appraisal need not be prepared in connection with issuance of these amendments.

For further details with respect to this action, see (1) the applications for amendments dated November 13, 1978 and January 31, 1979, (2) Amendments Nos. 38 and 21 to Licenses Nos. DPR-53 and DPR-69, (3) the Commission's related Safety Evaluation, and (4) the Commission's letter dated April 24, 1979. All of these items are available for public inspection at the Commission's Public Document Room, 1717 H Street, NW., Washington, D.C. and at the Calvert County Library, Prince Frederick, Maryland. A copy of items (2), (3), and (4) may be obtained upon request addressed to the U.S. Nuclear Regulatory Commission, Washington, D.C. 20555, Attention: Director, Division of Operating Reactors.

Dated at Bethesda, Maryland, this 24th day of April 1979.

For the Nuclear Regulatory Commission.

Robert W. Reid,

Chief, Operating Reactors Branch No. 4, Division of Operating Reactors.

[FR Doc. 79-15311 Filed 5-16-79; 8:45 am]

BILLING CODE 7590-01-M

[Docket No. 50-72]

The Institutional Council of the University of Utah; Renewal of Facility Operating License and Negative Declaration

The U.S. Nuclear Regulatory Commission (the Commission) has issued Amendment No. 10 to Facility Operating License No. R-25 issued to The Institutional Council of the University of Utah (the licensee), which renews the license for operation of the AGN-201M nuclear research reactor (the facility) located in Salt Lake City, Utah. The facility is a research reactor that has been operating since September 12, 1957, and is currently licensed to operate at 5.0 watts (thermal). The amendment is effective as of its date of issuance.

The amendment extends the duration of Facility Operating License No. R-25 until September 12, 1997.

The application for the amendment complies with the standards and requirements of the Atomic Energy Act of 1954, as amended (the Act), and the Commission's rules and regulations. The Commission has made appropriate findings as required by the Act and the Commission's rules and regulations in 10 CFR Chapter I, which are set forth in the license amendment. Notice of the proposed issuance of this action was published in the **Federal Register** on September 8, 1977 (42 FR 45049). No request for a hearing or petition for leave to intervene was filed following notice of the proposed action.

The Commission has prepared an environmental impact appraisal for the renewal of the Facility Operating License and has concluded that an environmental impact statement for this particular action is not warranted because there will be no significant environmental impact attributable to this action.

For further details with respect to this action, see (1) the application for amendment dated July 8, 1977, as supplemented March 3, 1978, and January 2, 1979, (2) Amendment No. 10 to License No. R-25 and (3) the Commission's related safety Evaluation and Environmental Impact Appraisal. All of these items are available for public inspection at the Commission's Public Document Room, 1717 H Street, N.W., Washington, D.C.

A copy of items (2) and (3) may be obtained upon request addressed to the U.S. Nuclear Regulatory Commission, Washington, D.C. 20555, Attention: Director, Division of Operating Reactors.

Dated at Bethesda, Maryland this 2nd day of May 1979.

For the Nuclear Regulatory Commission.

Robert W. Ried,

Chief, Operating Reactors Branch No. 4 Division of Operating Reactors.

[FR Doc. 79-15312 Filed 5-16-79; 8:45 am]

BILLING CODE 7590-01-M

[Docket Nos. 50-280 and 50-281]

Virginia Electric & Power Co.; Issuance of Amendment to Facility Operating License

The U.S. Nuclear Regulatory Commission (the Commission) has issued Amendment Nos. 49 and 48 to Facility Operating License Nos. DPR-32 and DPR-37 issued to Virginia Electric and Power Company, which revised Technical Specifications for operation of the Surry Power Station, Unit Nos. 1 and 2 (the facility) located in Surry County, Virginia. The amendments are effective as of the date of issuance.

These amendments revise the Technical Specification limits for total nuclear peaking factor (F_Q) for Surry Units 1 and 2. The new F_Q was established using an approved ECCS model with a steam generator tube plugging limit of 28%. However, allowable Unit 2 steam generator tube plugging will be limited to 5% at this time because refurbished steam generators are being installed and there is no need for a greater limit.

These amendments also supersede the Exemption to the License for Surry Unit No. 1 dated June 30, 1978, and the Order for Modification of License for Surry Unit No. 2 dated April 28, 1978. Accordingly, that Exemption and Order have been terminated.

The application for the amendments complies with the standards and requirements of the Atomic Energy Act of 1954, as amended (the Act), and the Commission's rules and regulations. The Commission has made appropriate findings as required by the Act and the Commission's rules and regulations in 10 CFR Chapter I, which are set forth in the license amendment. A Notice of Proposed Issuance of Amendment to Facility Operating License in connection with portions of this action was published in the **Federal Register** on January 19, 1979 (44 FR 4057). No request for a hearing or petition for leave to intervene was filed following that notice

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of proposed action. The amendments also approve requests for changes to the Technical Specifications which did not involve significant hazards considerations and thus prior public notice of those proposed changes was not required or given.

The Commission has determined that the issuance of these amendments will not result in any significant environmental impact and that pursuant to 10 CFR 51.5(d)(4) an environmental impact statement, or negative declaration and environmental impact appraisal need not be prepared in connection with issuance of these amendments.

For further details with respect to this action, see (1) the application for amendment dated December 26, 1978 as supplemented January 9, 1979, (2) Amendment Nos. 49 and 48 to License Nos. DPR-32 and DPR-37, and (3 the Commission's related Safety Evaluation. All of these items are available for public inspection at the Commission's Public Document Room 1717 H Street, N.W., Washington, D.C. and at the Swem Library, College of William and Mary, Williamsburg, Virginia. A copy of items (2) and (3) may be obtained upon request addressed to the U.S. Nuclear Regulatory Commission, Washington, D.C. 20555, Attention: Director, Division of Operating Reactors.

Dated at Bethesda, Maryland, this 9th day of May, 1979.

For the Nuclear Regulatory Commission.

A. Schwencer,

Chief, Operating Reactors Branch No. 1, Division of Operating Reactors.

[FR Doc. 79-15313 Filed 5-16-79; 8:45 am]

BILLING CODE 7590-01-M

[PRM-30-56]

Gulf Nuclear, Inc.; Filing of Petition for Rulemaking

Notice is hereby given that Mr. Walter P. Peeples, Jr., on behalf of Gulf Nuclear, Inc., by letter dated April 12, 1979, has filed with the Nuclear Regulatory Commission a petition for rulemaking.

The petitioner proposes that the Nuclear Regulatory Commission be divided into two separate entities within the NRC. As the petitioner stated one area would cover power reactors, uranium mining, nuclear weapons manufacturing, nuclear fuel processors, and any area that deals with fissile materials. The second area would deal with byproduct materials. Nuclear weapons manufacturing is a responsibility of the Department of Energy rather than the Nuclear Regulatory Commission.

In support of the petition the petitioner states that:

(1) Fissile materials used in power production and the production of nuclear weapons require far more stringent rules than those required of byproduct material users and licensees. This includes regulations concerning shipment and use of these materials. Because the U.S. Nuclear Regulatory Commission is a single entity, all rules pertain to both types of licensees.

(2) The majority of effort of the U.S. NRC is devoted to fissile materials creating enormous costs and efforts to control. The majority of the licensees are byproduct materials users who are forced to share the cost burden exhibited in U.S. NRC fees.

(3) The staff and leadership of the U.S. NRC devotes the majority of its time to expended energy related to power reactors which creates undue burdens on byproduct materials users.

(4) A division of responsibility by NRC would create a positive effect on the general public by making them aware that there are different types of radioactive materials, easing some of the political pressure on the NRC.

(5) Because of the present makeup of NRC controlling both areas, the public apprehension toward power reactors, has a tendency to force over-regulation of byproduct materials because both are jointly referred to as simply "radioactive materials". This detracts from the ability to point out the positive nature of public benefits derived from both types of materials. Since NRC fails to distinguish between the two types of materials, undue burdens in transportation and publicity force byproduct materials users to defend a position they are not totally familiar with. Petitions and regulations, including regulatory guides, are frequently opposed or incorrectly interpreted because of lack of distinction between the two types of materials.

A copy of the petition for rulemaking is available for public inspection at the Commission's Public Document Room, 1717 H Street NW., Washington, D.C. A copy of the petition may be obtained by writing to the Division of Rules and Records, Office of Administration, U.S. Nuclear Regulatory Commission, Washington, D.C. 20555.

All persons who desire to submit written comments or suggestions concerning the petition for rulemaking should send their comments to the Secretary of the Commission, Washington, D.C. 20555, Attention: Docketing and Service Branch, by July 16, 1979.

For further information contact: Gerald L. Hutton, Division of Rules and Records, Office of Administration, U.S. Nuclear Regulatory Commission, Washington, D.C. 20555, telephone 301-492-7086.

Dated at Washington, D.C., this 11th day of May 1979.

For the Nuclear Regulatory Commission.

Samuel J. Chilk,

Secretary of the Commission.

[FR Doc. 79-15309 Filed 5-16-79; 8:45 am]

BILLING CODE 7590-01-M

NATIONAL TRANSPORTATION SAFETY BOARD

[N-AR 79-20]

Accident Report, Safety Recommendations and Responses; Availability

Marine Accident Report

USS L. Y. SPEAR (AS-36) Collision with Liberian Motor Tankship ZEPHYROS, Lower Mississippi River, February 22, 1978 (Report No. NTSB-MAR-79-6).—The National Transportation Safety Board on May 7 released the formal report on the investigation of this accident. The investigation, conducted jointly by the U. S. Coast Guard and the Safety Board, was made in New Orleans, La., February 27 to April 1, 1978; the report is based on the factual information developed by the investigation.

As shown by the investigation, the ZEPHYROS was proceeding upbound at a speed of 11 mph over the ground near the right ascending bank of the Mississippi. The upbound L. Y. SPEAR was proceeding at 19 mph near the middle of the river and was overtaking the ZEPHYROS. When the SPEAR was about 500 to 600 feet abeam to the port quarter of the ZEPHYROS, the SPEAR turned to starboard until its bow was headed toward the midships section of the ZEPHYROS. The SPEAR then turned to port, its stern swung to the right, and its starboard quarter struck the port quarter of the ZEPHYROS. Both vessels were moderately damaged and continued to their upriver destinations without further incident. No one on board the ZEPHYROS was injured; nine persons in the SPEAR received minor injuries.

The Safety Board determined that the probable cause of this accident was the failure of the pilot to maintain adequate steering control of the SPEAR. Contributing to the cause were the

failure of the Commanding Officer to recognize the heading excursion earlier and his approval of the pilot's request to use flank speed and to overtake the ZEPHYROS at that location.

As a result of this accident investigation, the Safety Board on May 3 issued two safety recommendations to the Coast Guard and one recommendation each to the U. S. Navy and to the Crescent River Port Pilots Association. The Board noted that in 1977, there were 225 collisions on U. S. waters involving ships crossing, meeting, or overtaking—108 of them on Gulf of Mexico inland waters. (See 44 FR 27510, May 10, 1979, for text of recommendations M-79-52 through 55, issued May 3.)

Aviation Safety Recommendations

A-79-31.—A second recommendation has been issued to the Federal Aviation Administration as a result of the Safety Board's investigation into the Antilles Air Boats, Inc., Grumman G-21 accident which occurred last September 2 near St. Thomas, V.I. The aircraft crashed into the ocean while en route from St. Croix to St. Thomas; the pilot and three of the ten passengers died in the accident.

Board investigation revealed that the operator committed poor operational and maintenance practices, falsification of aircraft and aircraft component logbooks, and management practices which often condoned or encouraged the violation of Federal regulations in the interest of company requirements. On May 3 the Safety Board recommended that FAA require that all aircraft maintenance logbook sheets be numbered consecutively (A-79-11). (44 FR 27509, May 10, 1979.) On May 9 the Board recommended that FAA:

Strengthen surveillance and enforcement programs directed toward Part 135 operators to: (1) Provide adequate staffing for FAA facilities charged with surveillance of Part 135 operators; (2) assure uniform application of surveillance and enforcement procedures; and (3) upgrade enforcement procedures and actions in order to provide a viable deterrent to future violations. (A-79—31)

A-79-32 through 34.—These recommendations were issued May 11 following investigation of the crash of a United Airlines DC-8 near Portland, Oreg., last December 28 after fuel exhaustion. The Board's investigation showed that all four engines stopped because of fuel exhaustion as the aircraft approached Portland International Airport for a landing.

Examination of the system components revealed no findings of any discrepancy which would have caused an erroneous fuel-quantity reading on any of the individual tank gages or on the total fuel gage. To the contrary, pertinent cockpit conversation as recorded on the cockpit voice recorder disclosed that 28.8 minutes before fuel was completely exhausted, the flight engineer was aware that only 5,000 pounds of fuel remained. Calculations, based on theoretical fuel consumption rates for the DC-8, showed this to be an accurate figure. However, later in the flight, after it became apparent to the crew that engine flameout was imminent, the cockpit conversation indicated that the captain may have been confused as to the amount of fuel which actually remained. About 6 minutes before all engines stopped, the captain stated that there was 1,000 pounds of fuel in the No. 1 tank; the second officer agreed with him.

As a result of its findings during this investigation, the Safety Board recommends that FAA:

Issue an Operations Alert Bulletin to have FAA inspectors assure that crew training stresses differences in fuel-quantity measuring instruments and that crews flying with the new system are made aware of the possibility of misinterpretation of gage readings. (A-79-32)

Emphasize to engineering personnel who approve aircraft engineering changes or issuance of Supplemental Type Certificates the need to consider cockpit configuration and instrumentation factors which can contribute to pilot confusion, such as the use of similar-appearing instruments with different scale factors. (A-79-33)

Audit Supplemental Type Certificate SA3357WE-D for completeness, especially in the area of system calibration after installation. (A-79-34)

All of the above aviation safety recommendations are classified "Class II—Priority Action."

Responses to Safety Recommendations

Aviation

A-78-34.—The Federal Aviation Administration on April 27 updated information on action taken in implementing this recommendation, developed during investigation of the crash on December 11, 1977, of an Air Indiana DC-3 after takeoff from Dress Regional Airport, Evansville, Ind.

FAA's response of July 24, 1978 (43 FR 37777, August 24, 1978) advised that its regional offices had been requested that air traffic facility chiefs be directed to review procedures pertaining to dissemination of weather and to take positive measures to ensure that controllers are aware of new weather as it is received. Also, all regions have been asked to evaluate the situation and provide recommendations to best accomplish this task.

As a result, FAA has added a paragraph to Facility Management Handbook 7210.3D, effective July 1, 1979, providing direction to terminal facilities for the timely handling of current weather observations. Also, the Air Traffic Service and the Airway Facilities Service are developing a display for the tower cab which will provide controllers with a consolidated display of all necessary information data. This consolidated cab display (CCD) is in the engineering stage with the first prototype systems to be installed at Boston and Atlanta. The CCD will include both automatically and manually induced weather information. When weather information is received, CCD will activate a visual and aural alert to the controller. To silence the alert requires a controller to manually acknowledge receipt. FAA states that because of the large cost of the CCD, it is planned to install them only at Level IV and V terminals. This system will be installed at nine locations in fiscal year 81. Concerning all other locations, there is no known across-the-board equipment to accomplish the job.

A-79-3.—FAA's letter of May 4 is in response to a Class I—Urgent Action recommendation issued following investigation of the crash of a Beechcraft Model 35 at Redmond, Wash., August 19, 1977. The recommendation asked FAA to issue an Airworthiness Directive to (1) require that a one-time inspection of all Thompson Model 1900 fuel pumps be accomplished to determine the condition of the driver and drive pins (PN TF-1991) and (2) establish an overhaul interval of 800 operating hours on the pump.

FAA reports that a review of the records of service difficulties from FAA's Maintenance Analysis Center has revealed five incidents involving Thompson Products TF-1900 fuel pumps. Three of these cases were discovered prior to complete failure during inspections and subsequent to publication of the item in the 1975 FAA General Aviation Inspection Aids Summary. One pin failed from overload. The pin is designed to fail in shear if excessive binding or other failure of the pump occurs. The remaining pin failure was involved in the Redmond accident. Inspection of the pump revealed excessive wear, and the available records show high time in service. FAA says that evidence now available is insufficient to justify mandatory action. FAA believes that publication of the item in the General Aviation Aids

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Summary and the inclusion of an 800-hour overhaul/replacement recommendation in the Beechcraft Pilot's Operations Handbook in January 1977 will minimize the probability of failures in these pumps.

Highway

H-77-25.—The National Safety Council (NSC) on April 23 provided a progress report on implementing this recommendation, issued by the Safety Board following investigation of the July 6, 1976, railroad/highway grade crossing accident at Des Moines, Iowa. The recommendation asked NSC to serve as a national focal point and coordinator for developing, implementing, and evaluating a nationwide "Operation Lifesaver" railroad/highway grade crossing safety program in cooperation with all interested groups, such as the Association of American Railroads, International Association of Chiefs of Police, National Highway Traffic Safety Administration, Federal Highway Administration, Federal Railroad Administration, and the States.

NSC reports naming Ms. Ernie Oliphant of Arizona as national coordinator for the Operation Lifesaver program and assigning an NSC staff member to coordinate and administer program development and support for the States. New materials for programming and promotion purposes have been developed, and the NSC staff will provide assistance to the States in support of the national program drive. NSC will communicate with the railroad industry, Government agencies, volunteer groups and others through its newsletter, "Operation Lifesaver," and will provide a complete information package for the media to assure local, State and national coverage for this program. Six regional workshops are planned to maximize effectiveness of State programs.

Further, NSC reports that since mid-1977 when the Safety Board assisted the Operation Lifesaver program by becoming a visible catalyst, seven States have implemented full or partial programs. California conducted a kickoff of its program of April 17, 1979, North Carolina the same on April 27. Six other States are in the planning stage and 14 others have expressed interest and are seeking assistance. The Association of American Railroads and the National Railroad Passenger Corporation have pledged financial support for the development of program materials.

H-68-18, H-70-4, H-71-9, H-71-10, H-71-34, H-71-87, H-73-1, H-73-7, and H-73-42.—The Federal Highway Administration on May 2 responded to the Safety Board's inquiry of April 6 concerning passenger restraint systems on intercity buses. The Board noted that between 1968 and 1973 eight major highway accidents involving intercity buses had been investigated by the Board. The accidents included bus collisions with trucks, automobiles, and structures; in three instances, the bus rolled over. Fifty fatalities resulted from these eight accidents, and in each of the investigations, the Board concluded that a passenger restraint system would have reduced the severity of the accident. The Board expressed concern that this important transportation safety issue has not been the subject of attention for some time. The Board pointed to the above-noted nine safety recommendations addressed to FHWA following investigation of these bus accidents and asked to be informed as to the status of FHWA's bus passenger restraint feasibility study and any planned action of FHWA related to bus passenger restraint systems.

In response, FHWA reports that the study, "Analysis for Need for Passenger Safety Belt Requirements in Intercity Buses," performed for FHWA by the Institute for Research in Public Safety (IRPS) of Indiana University, is expected to be released publicly within the next 2 weeks. This report states that installing lap belts for all seats on both new and old buses would be viable countermeasures to deaths and injuries only if 100 percent use is assured. Past studies (1963) by the American Bus Association and FHWA's Bureau of Motor Carrier Safety on lap belt usage indicated that only 42 percent of the people utilized their lap belts for a portion of the trip, while only 25 percent utilized their belts for the whole trip. In a 1973 study by ABA and BMCS, only an average of 7.2 percent of the passengers utilized their lap belts for the entire trip. "Clearly, 100 percent usage would be unrealistic given the data from the above studies," FHWA said.

FHWA is reconsidering some matters, noting that it may be feasible from the safety benefit/cost point of view to require installation of safety lap belts in certain specific passenger seat locations. The IRPS report states that a cost/benefit ratio of one could be achieved by having lap belts at the first eight positions of the front of the bus (i.e., the first two rows), if 47 percent of the passengers in these selected seats wear restraints. Cumulative benefits would be expected to exceed cumulative costs in 10 years if one considered retrofitting both old buses and equipping new buses with lap restraints in these selected positions. Although the IRPS report did not consider the back row aisle seat, some sort of protection may be necessary since this seat has no seat back, in front thereof, for protection. FHWA intends to publish a notice in the Federal Register in the next few weeks to solicit comments and information concerning the merits of initiating rulemaking to require lap seat belts at selected locations.

H-78-40 and 41.—FHWA's letter of April 17 responds to the Safety Board's inquiry of January 29 (44 FR 18751, March 29, 1979) regarding data relevant to the commercial driver population. The recommendations were issued following investigation of the truck-trailer/van collision near Marion, N.C., May 12, 1977, and called on FHWA to establish a procedure that will serve to identify all carriers, vehicles, and drivers under FHWA jurisdiction and to inform all carriers and drivers of their responsibilities in regard to the Federal Motor Carrier Safety Regulations (FMCSR).

FHWA estimates that about one-half of some 4 million drivers in interstate commerce are employed by authorized carriers. There are approximately 200,000 owner/operators leased to authorized carriers. The FMCSR are served only to owner/operators who are carriers in their own right, and about 35,000 have been so served. FHWA reports that as of March 10, 1979, there were 154,394 motor carriers operating in interstate commerce; of these, 140,620 had 10 vehicles or less. FHWA has no further breakdown for less than 10 vehicles. FHWA estimates that the majority of carriers employ more than one driver.

The Safety Board's interest in striving to create a greater awareness of FMCSR is shared by FHWA. FHWA notes that one effort to achieve this is its safety inspection and weighing program which will be activated later in 1979 and will involve one or more States. FHWA believes that State agencies can enhance the Bureau of Motor Carrier Safety program implementation.

H-78-62.—Letter of April 19 from FHWA is in response to the Safety Board's March 13 comments on FHWA's initial response dated February 7, (44 FR 15818, March 15, 1979) concerning the implementation of recently developed concepts for traffic safety and control in urban street and highway work zones. The recommendation resulted from investigation of the tractor-semitrailer/multiple vehicle collision and override on I-285, Atlanta, Ga., June 20, 1977.

The Safety Board, noting FHWA's ongoing research and development

Project 1Y, "Traffic Management in Construction and Work Zones," asked to be provided with examples of recent or planned future implementation of research findings that are specifically tailored to urban driver information needs.

FHWA's response notes that recent reviews by FHWA personnel have indicated that high-volume highways are more likely to have work zone safety deficiencies than low-volume highway projects. FHWA says that a number of activities have been pursued to resolve problems with work zone safety. Project 1Y contains a specific effort entitled "Determination of Driver Needs in Work Zones," a human factors approach. FHWA is funding a study in Texas entitled "Traffic Management During Urban Freeway Maintenance Operations." FHWA lists six other study and handbook efforts that will impact urban and high-volume work zone activities.

Marine

M-78-10 through 12.—Letter of May 2 from the U.S. Coast Guard responds to the Safety Board's March 15 comments on USCG's previous response forwarded January 29 (44 FR 12786, March 8, 1979). The recommendations were issued following investigation into the sinking of the SS EDMUND FITZGERALD in Eastern Lake Superior, November 10, 1975.

With respect to recommendations M-78-10 and 11, which asked USCG to "insure" hatch weathertightness during various inspections and that unseaworthy vessels be prevented from sailing or restricted in their operations, the Safety Board noted that USCG has initiated action that will insure that these conditions have been met in the Ninth Coast Guard District. Accordingly, the Board has classified these recommendations as "closed—acceptable action." The Board expressed the hope that the significant improvement in weathertightness is a firmly established trend.

With reference to M-78-12, which called on USCG to report on inspection and sailing restriction activities, the Safety Board on March 15 asked USCG for a report covering a 2-year period of hatch cover inspections made of Great Lakes Bulk Cargo Vessels and the number of times these inspections resulted in vessels being delayed or prevented from sailing. The Board also wanted to know how many hatch inspections were made and sailing changed during the period when the Ninth Coast Guard District Commander used the word "frequently" to describe the lack of weathertightness found during inspections.

In its May 2 response, USCG said that it has chosen a policy of prevention in lieu of detention of vessels in order to improve overall hatch cover weathertightness. Following the SS EDMUND FITZGERALD sinking, USCG implemented a mandatory hose test to insure the weathertight integrity of all Great Lakes bulk cargo vessel hatch covers. This test is conducted annually aboard every bulk carrier during the spring "fit-out" inspection. No vessel is certificated by the Coast Guard unless all hatch covers are satisfactorily weathertight. Subsequently, approximately 50 percent of all vessels are examined again for hatch cover weathertightness as a part of the "pre-November" riding inspection in anticipation of winter operations. The 1977 and 1978 "fit-out" inspections indicated all of the certificated vessels inspected were in full compliance with weathertight standards. During the 1978 "pre-November" riding inspections only three vessels were required to slightly alter sailing schedules to correct deficiencies.

Further, USCG states, every attempt is made by the Commander, Ninth Coast Guard District, when selecting vessels to schedule for riding inspections to identify and inspect those vessels with a history of weathertight deficiencies. Also, other vessels are selected in an attempt to provide a biennial riding inspection for each Great Lakes bulk carrier.

M-78-35 through 44.—Coast Guard's letter of April 18 is in answer to the Safety Board's comments of January 23 relative to response of last October 31 (43 FR 55023, November 24, 1978) concerning recommendations developed as a result of investigation of the explosion of the M/T ELIAS at Fort Mifflin, Pa., April 9, 1974.

Recommendation M-78-35 asked Coast Guard to implement communications practices to insure that pilots, ship operating agents, terminal operators, and port firefighting authorities are informed of potentially hazardous ship movements. The Safety Board noted Coast Guard's attempt to modify its regulations to obtain more relevant information about vessels with hazardous conditions before they enter a port. The Board's concern is what the Coast Guard will do with this information once it is received, since Coast Guard's October 31 response did not address the basic problem of communications. The Board's January 23 letter suggests that the Coast Guard establish appropriate guidelines for individual Captains of the Port (COPT) prescribing what hazardous condition information should be shared with local interested parties. Coast Guard's April 18 letter indicates publication of a final rule concerning Notification Requirements for Vessel Arrivals, Departures, Hazardous Conditions and Certain Dangerous Cargoes by June 1979. Coast Guard states that decisions concerning dissemination of information, particularly on hazardous conditions, are best determined by each COPT, due to significant differences among port areas, constituencies, jurisdictions, transit routes, destination of each vessel and the exact nature of each hazardous condition reported to the COPT. However, Coast Guard is developing servicewide guidelines for consideration by the COPT in disseminating this type of information.

With respect to M-78-36, which asked Coast Guard to improve the promptness and effectiveness of boarding and special investigative procedures on tank vessels and review adequacy of checklists to detect potentially hazardous shipboard conditions, the Board was pleased to learn that the notification requirements discussed in Coast Guard's October 31 response will be used to increase the promptness and effectiveness of boardings and that a policy directive was issued in April 1978 concerning boarding inspections to ensure that previously required repairs have been made. The Board requested a copy of that policy directive. Coast Guard's April 18 letter advised that a new "Tankship Hull Inspection Book," CG-840S, has been developed and is now in use. This book contains guidelines for conducting inspections and examinations of U.S. and foreign flag crude oil, product, chemical, and liquefied gas tank vessels.

The Safety Board advised that recommendation M-78-37 is now considered "closed-acceptable action," having noted that Coast Guard action to incorporate casualty information from Lloyd's and from search and rescue reports is considered satisfactory. The Board suggested that questionable ship deficiency information might be incorporated in the Marine Safety Information System and verified at the earliest Coast Guard boarding.

Recommendation M-78-38 called for a plan review program relative to construction of new port terminals that evaluates the protection of firefighting systems to minimize damage or loss resulting from explosion and to insure availability and effectiveness for firefighting. The Safety Board has formally commented on Coast Guard's

OFFICE OF MANAGEMENT AND

should be directed to the OMB reviewer

Production Progress Report

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advance notice of proposed rulemaking for waterfront facilities and LNG facilities, and on January 23 asked to be supplied with a proposed schedule for completing the regulatory process on waterfront facilities. In response, Coast Guard says that the anticipated schedule for rulemaking on waterfront facilities calls for publication of a comprehensive proposal by July 1, 1979, which will respond to over 230 comments received from the advance notices on the subject. Coast Guard anticipates a final rule will be published in July 1980.

Coast Guard notes that action on recommendation M-78-39, which called for a study of positioning shipborne gangways and shoreplaced brows to provide for rapid personnel escape from vessels during emergencies, and M-78-40, which recommended regulations to control visitor movement through terminals to restrict their boarding of tankers that are not gas free or inerted, is addressed in the proposed rulemaking discussed in answer to recommendation M-78-38. The Safety believes strongly that the visitor warning requirement of 46 CFR 35.30-1 is not sufficient, even though a visitor may be under the direct supervision and responsibility of the master, an officer, or crewmember. A prospective visitor should be advised of the potential hazards on shipboard during cargo operations or whenever a vessel is not gas free so that he can decide whether he wants to go aboard.

With respect to recommendation M-78-41, the Safety Board has urged prompt action in studying the feasibility of providing safer means of escape from tankers across piers to safe terminal locations, to improve chances of survival for shipboard personnel when lifeboats cannot be used and swimming ashore is not possible. Coast Guard says that the "find a different approach" nature of this project has required much longer problem definition development than expected at the time of its October 31 response. Coast Guard is continuing to develop emergency equipment criteria and specifications to provide an escape route sought by this recommendation. Lifeboats that meet the requirements of M-77-35 as fire safe and totally enclosed have been approved under 46 CFR 160.035; the requiring of these boats is involved with revision of Chapter III of SOLAS 60. Coast Guard says that these lifesaving equipment changes, the tanker boarding program, and the structural and cargo system improvements now being implemented will decrease the possibility of casualties requiring use of extraordinary escape.

Recommendation M-78-42 called for modification of regulations governing designated waterfront facilities to require reporting of casualties and accidents to the Coast Guard, conforming to those specified for deepwater ports and artifical islands. Coast Guard reports publishing a proposed rule on January 25, 1979, concerning investigations of casualties on waterfront facilities. The comment period expired March 12 and responses are now being evaluated and a final rule will be prepared.

The Safety Board advised on January 23 that the publication of COMMANDANT INSTRUCTION 16711.4 dated February 16, 1978, fulfills the intent of recommendation M-78-43. The public pronouncement of policy concerning frequency and extent of examination of foreign flag tank vessels meets the requirements of this recommendation, which is now considered "closed—acceptable action."

In response to M-78-44, which recommended that Coast Guard require expeditious and thorough investigation of arriving tank vessels that might pose a threat to U.S. ports and waterways because of an on-board fire or casualty, at safety zones before permitting berthing in U.S. ports, Coast Guard notes that action on this recommendation is included in its efforts described above in response to M-78-36.

Pipeline

P-78-56.—IOn March 30 the Research and Special Programs Administration of the U.S. Department of Transportation forwarded a copy of Material Transportation Bureau's response dated November 27, 1978, not previously received by the Safety Board. The recommendation, which resulted from investigation into the asphyxiation of Oklahoma Natural Gas Co. workers in Oklahoma City, Okla, April 24, 1978, asked MTB to expedite its role in setting standards for gas company safety and health, promulgate necessary regulations, and coordinate all actions with the Occupational Safety and Health Administration to assure that regulations developed are compatible.

RSPA notes that the Secretary of Transportation requested in 1977 that each modal administrator provide views on DOT's relationship with OSHA. The policy developed was to allow each administration to adopt its own strategy based on needs and resources. MTB has decided that its resources will not allow an involvement with occupational safety and health. They have elected to have OSHA be the leaders with close coordination with OSHA.

Railroad

R-79-12 and 13.—The Bay Area Rapid Transit District (BART) on April 12 provided a response to recommendations issued following investigation of fire-caused fatality and damages on BART Train No. 117, at Oakland, Calif., January 17, 1979. The recommendations urged BART to include in its predispatching procedure an inspection of all undercar equipment covers to assure that such equipment covers are in place and properly secured (R-79-12) and to provide a suitable securement mechanism for all undercar equipment covers on BART's rolling stock (R-79-13). (See 44 FR 15817, March 15, 1979.)

BART reports that there are 31 undercar covers on a BART transit vehicle. Six covers are secured with pins and do not appear to require modification at this time. With the exception of the line switch box cover, the remaining covers are secured with two bolts. An assessment is currently underway to determine whether an additional locking device is required for two bolt covers. The line switch box cover (a contributing factor to the January 17, 1979 fire) is currently being modified, BART stated. A positive locking device is being installed which should ensure the security of the cover.

Note.—Single copies of the Safety Board's accident reports are available without charge, as long as limited supplies last. Copies of the recommendation letters issued by the Board, response letters and related correspondence are also available free of charge. All requests for copies must be in writing, identified by report or recommendation number. Address inquiries to: Public Inquiries Section, National Transportation Safety Board, Washington, D.C. 20594.

Mutliple copies of accident reports may be purchased by mail from the National Technical Information Service, U.S. Department of Commerce, Springfield, VA. 22151.

(Secs. 304(a)(2) and 307 of the Independent Safety Board Act of 1974 [Pub. L. 93-633, 88 Stat. 2169, 2172 (49 U.S.C. 1903, 1906)]).

Margaret L. Fisher,

Federal Registration Liaison Officer.

May 14, 1979.

[FR Doc. 79-15426 Filed 5-16-79; 8:45 am]

BILLING CODE 4910-59-M

OFFICE OF MANAGEMENT AND BUDGET

Agency Forms Under Review

Background

When executive departments and agencies propose public use forms, reporting, or recordkeeping requirements, the Office of Management and Budget (OMB) reviews and acts on those requirements under the Federal Reports Act (44 USC, Chapter 35). Departments and agencies use a number of techniques including public hearings to consult with the public on significant reporting requirements before seeking OMB approval. OMB in carrying out its responsibility under the Act also considers comments on the forms and recordkeeping requirements that will affect the public.

List of Forms Under Review

Every Monday and Thursday OMB publishes a list of the agency forms received for review since the last list was published. The list has all the entries for one agency together and grouped into new forms, revisions, or extensions. Each entry contains the following information:

The name and telephone number of the agency clearance officer;

The office of the agency issuing this form;

The title of the form;

The agency form number, if applicable;

How often the form must be filled out;

Who will be required or asked to report;

An estimate of the number of forms that will be filled out;

An estimate of the total number of hours needed to fill out the form; and

The name and telephone number of the person or office responsible for OMB review.

Reporting or recordkeeping requirements that appear to raise no significant issues are approved promptly. In addition, most repetitive reporting requirements or forms that require one half hour or less to complete and a total of 20,000 hours or less annually will be approved ten business days after this notice is published unless specific issues are raised; such forms are identified in the list by an asterisk(*).

Comments and Questions

Copies of the proposed forms and supporting documents may be obtained from the agency clearance officer whose name and telephone number appear under the agency name. Comments and questions about the items on this list should be directed to the OMB reviewer or office listed at the end of each entry.

If you anticipate commenting on a form but find that time to prepare will prevent you from submitting comments promptly, you should advise the reviewer of your intent as early as possible.

The timing and format of this notice have been changed to make the publication of the notice predictable and to give a clearer explanation of this process to the public. If you have comments and suggestions for further improvements to this notice, please send them to Stanley E. Morris, Deputy Associate Director for Regulatory Policy and Reports Management, Office of Management and Budget, 726 Jackson Place, Northwest, Washington, D.C. 20503.

Department of Agriculture

Agency Clearance Officer—Donald W. Barrowman—447-6202

Revisions

Animal and Plant Health Inspection Service
*Application and Agreement for Handling Restricted Imports or Animal Byproducts and Controlled Materials
VS 16-26 and VS 16-25
Annually
Importers; 250 responses; 125 hours
Charles A. Ellett, 395-5080

*Federal Crop Insurance Corporation
Field Inspection and Claim for Indemnity
FCI-74, 74-T-P-C, and 63-Apples
On occasion
Farmers; 70,000 responses; 17,500 hours
Charles A. Ellett, 395-5080

DEPARTMENT OF DEFENSE

Agency Clearance Officer—John V. Wenderoth—697-1195

New Forms

Departmental and Other
Material Inspection and Receiving Report
DD 250 and 250C
On occasion
DOD Contractors; 1,500,000 responses; 1,125,000 hours
David P. Caywood, 395-6140.

Departmental and Other
Request for Authorization of Additional Classification and Rate
DD 1565
On occasion
Construction Contractor; 300 responses; 600 hours
David P. Caywood, 395-6140.

Departmental and Other
Production Progress Report
DD-375 and 375C
DOD Cont. Admin. Offices and DOD Contractors; 122,400 responses; 41,616 hours
David P. Caywood, 395-6140.

Departmental and Other
Termination Settlement Forms
DD 540 through 548, 831, and 832
Defense Contractors; 1,200 responses; 1,200 hours
David P. Caywood, 395-6140.

Revisions

Department of the Army
Motor Carrier Facilities Questionnaire
MT 45
On occasion
Transportation Industry; 375 responses, 375 hours
David P. Caywood, 395-6140.

DEPARTMENT OF ENERGY

Agency Clearance Officer—Albert H. Linden—633-8477

New Forms

Regulations for Major Fuel Burning Installation
Exemptions
ERA-325R
Single time
New MFEI's; 173 responses; 69,200 hours
Jefferson B. Hill, 395-5867

Regulations for Powerplant Exemptions
ERA-324R
Single time
New powerplants; 186 responses; 74,400 hours
Jefferson B. Hill, 395-5867

Petition for Temporary Use of Natural Gas
ERA-316
Single time
Existing powerplants; 500 responses; 500 hours
Jefferson B. Hill, 395-5867

DEPARTMENT OF HEALTH, EDUCATION, AND WELFARE

Agency Clearance Officer—Peter Gness—245-7488

New Forms

Alcohol, Drug Abuse, and Mental Health Administration
Study of drug treatment in prison
Single time
State government employees; 184 responses; 80 hours
Office of Federal Statistical Policy and Standard, 673-7977

Public Health Service
Healthworks 1979 (health fair)
Single time
Participants in healthworks; 2,500 responses; 625 hours

Richard Eisinger, 395–3214
Public Health Service
Evaluation of synthetic estimates through a telephone survey
Other (See SF–83)
Households in Baltimore, SMSA; 2,500 responses; 1,250 hours
Office of Federal Statistical Policy and Standard, 673–7977
Public Health Service
Use of IPA Authority in the Public Health Service
Single time
Past and present IPA/PHS assignees; 251 responses; 83 hours
Richard Eisinger, 395–3214

Revisions

National Institutes of Health
Framingham Cohort Surveillance and Offspring Study
Single time
Framingham Heart Study Cohort and Offspring; 1,000 responses; 2,000 hours
Office of Federal Statistical Policy and Standard, 673–7977

Extensions

Alcohol, Drug Abuse and Mental Health Administration
Use of Annual Evaluation Report Review
Single time
Staff of Federal Funded CMECS W Eval. Reports Reviewed; 48 responses; 24 hours
Richard Eisinger, 395–3214
Alcohol, Drug Abuse and Mental Health Administration
Alcoholism Treatment Center Questionnaire
Quarterly
Alcoholism; 314,000 responses; 25,300 hours
Richard Eisinger, 395–3214
Food and Drug Administration
Application for Approval for Use of Methadone in a Treatment Program
FD 2632
On occasion
Clinics Treating Narcotic Addicts; 50 responses; 250 hours
Richard Eisinger, 395–3214
Food and Drug Administration
Medical Responsibility Statement for Use of Methadone in a Treatment Program
FD 2633
On occasion
Physicians Employed by Methadone Clinics; 200 responses; 100 hours
Richard Eisinger, 395–3214

DEPARTMENT OF HOUSING AND URBAN DEVELOPMENT

Agency Clearance Officer—John T. Murphy—755–5190

Revisions

Administration (Office of Assistant Secretary)
Premium Reconcilement
HUD–239
On occasion
HUD approved financial institution; 100,000 responses; 75,000 hours
Arnold Strasser, 395–5080

Extensions

Housing Management
Operating Budget
HUD–52564, HUD–52566, HUD–52567, HUD–52571, HUD–52573
Annually
PHAS; 15,000 responses; 60,000 hours
Arnold Strasser, 395–5080

DEPARTMENT OF LABOR

Agency Clearance Officer—Philip M. Oliver—523–6341

Revisions

Employment Standards Administration
*Application for Continuation of Death Benefit for Student
LS–266
On occasion
Parent or guardian of workmen's compensation survivor over 18; 50 responses; 25 hours
Arnold Strasser, 395–5080

Extensions

Employment and Training Administration
Payment Activities Under the Disaster Relief Act of 1974
MA5–32
On occasion
SESAS where major disasters occur; 600 responses; 600 hours
Arnold Strasser, 395–5080

COMMUNITY SERVICES ADMINISTRATION

Agency Clearance Officer—Jack Stoehr—254–5300

New Forms

Assessment of State Ecomonic Opportunity Offices
Single time
CAA Director, State Officials and Heads of State CAA Association; 611 responses; 347 hours
Barbara F. Young, 395–6132

ENVIRONMENTAL PROTECTION AGENCY

Agency Clearance Officer—John J. Stanton—245–3064

New Forms

Interim Policy: Premanufacture Notification
On occasion
Chemical manufacturers; 400 responses; 16,000 hours
Edward H. Clarke, 395–5867

GENERAL SERVICES ADMINISTRATION

Agency Clearance Officer—John F. Gilmore—566–1164

Extension

*Statement of Personal History (Security Questionnaire)
GSA 176
On occasion
Contract employees; 8,000 responses; 4,000 hours
Marsha D. Traynham, 395–6140

RAILROAD RETIREMENT BOARD

Agency Clearance Officer—W. V. Radesk—312–751–4690

Extensions

*Notice of Cessation of Full-Time School Attendance
G–315
On occasion
Schools; 2,000 responses; 166 hours
Barbara F. Young, 395–6132

VETERANS ADMINISTRATION

Agency Clearance Officer—B. C. Whitt—389–2282

Revision

*Application for Refund of Educational Contributions
VA 4–5281
On occasion
Veterans and servicemen; 12,000 responses; 2,000 hours
David P. Caywood, 395–6140
Report of Income From Property or Business
21–4185
On occasion
Veterans, Dependents; 120,000 responses; 60,000 hours
David P. Caywood, 395–6140
50 Percent Employment Requirement Survey
VAF 22–8722, 22–8723, 22–8724
On occasion
Schools and State approving agencies; 375,000 responses; 650,000 hours

David P. Caywood, 395–6140

Stanley E. Morris,

Deputy Associate Director for Regulatory Policy and Reports Management.

[FR Doc. 79–15473 Filed 5–17–79; 8:45 am]

BILLING CODE 3110–01–M

POSTAL SERVICE

Mail to Ireland (EIRE); Suspension of Private Express Statutes

Postal workers in Ireland (Eire) have been on strike since February, 1979. There has been no civil mail service to Ireland (Eire) from the United States since February 26, 1979.

In view of the protracted nature of the strike, the U.S. Postal Service has determined that it is in the public interest to suspend, and hereby does suspend, the operation of 39 U.S.C. 601(a) (1) through (6) and 39 C.F.R. 310.2(b) (1) through (6) so as to permit the carriage of letters destined for delivery in Ireland (Eire) without paying postage or meeting any of the other conditions in such provisions of law and regulation. Letters intended for destinations in Northern Ireland (counties of Antrim, Down, Londonderry, Armagh, Tyrone, and Fermanagh) are *not* affected by this suspension.

This suspension shall remain in effect until further notice.

(39 U.S.C. 401, 404, 601)

William F. Bolger,

Postmaster General.

[FR Doc. 79–15327 Filed 5–14–79; 12:31 pm]

BILLING CODE 7710–12–M

PRESIDENT'S COMMISSION ON THE ACCIDENT AT THREE MILE ISLAND

Meetings

In accordance with the Federal Advisory Committee Act (Public Law 92–463), announcement is made of the following meetings:

Name: President's Commission on the Accident at Three Mile Island.
Place: Washington, D.C., site to be announced.
Time: Wednesday, May 30, 9:00 a.m.–6:00 p.m.; Thursday, May 31, 9:00 a.m.–6:00 p.m.; Friday, June 1, 9:00 a.m.–6:00 p.m.
Wednesday, June 13, 9:00 a.m.–6:00 p.m.; Thursday, June 14, 9:00 a.m.–6:00 p.m.; Friday, June 15, 9:00 a.m.–12:00 noon.

Proposed Agenda:

I. Testimony of witnesses
II. Discussion of future Commision activities

The Commission was established by Executive Order 12130 on April 11,1979, to conduct a comprehensive study and investigation of the recent accident involving the nuclear power facility on Three Mile Island in Pennsylvania.

The meetings are open to the public. Inquiries should be addressed to Barbara Jorgenson (202/653–7677).

Barbara Jorgenson,

Public Information Director.

May 15, 1979

[FR Doc. 79–15633 Filed 5–17–79; 8:45 am]

BILLING CODE 6820–AJ–M

SECURITIES AND EXCHANGE COMMISSION

[Release No. 34–15815 File No. SR–NYSE–79–15]

New York Stock Exchange, Inc.; Proposed Rule Changes

Pursuant to Section 19(b)(1) of the Securities Exchange Act of 1934, 15 U.S.C. 78s(b)(1), as amended by Pub. L. No. 94–29, 16 (June 4, 1975), notice is hereby given that on April 2, 1979, the above mentioned self-regulatory organization filed with the Securities and Exchange Commission proposed rule changes as follows:

NYSE's Statement of the Terms of Substance of the Proposed Rule Change

The New York Stock Exchange, Inc. ("NYSE") rule as amended would provide: that a member organization which carries customer accounts shall not expand or must reduce its business if for more than 15 consecutive business days the conditions described in Rules 326(a) or (b) exist. An additional five (5) business days will be allowed if 15 consecutive business days have already passed before the date of discovery and notice to the Exchange before implementation of the restrictions imposed under these rules.

NYSE's Statement of Purpose

The rules prescribe that when certain conditions exist for more 15 consecutive business days, a member organization that carries customer accounts is restricted from expanding its business or is required to reduce its business. If due to unusual circumstances the existence of a prescribed condition is discovered after it has existed for more than 15 business days, the organization cannot implement its expansion plans or must reduce its business even though the condition can be readily corrected.

This can be a harsh penalty and application of the restrictions to a member organization that is listed on an exchange would require public notice and could disrupt the market in the organization's securities. In the interest of public shareholders, time should be allowed if the condition can be readily corrected.

The proposed amendments would allow the member organization and the Exchange five days after discovery to take remedial action.

NYSE's Statement of Statutory Basis

The proposed amendments to Rules 326(a) and (b) are consistent with Sections 6(b)(1), (5) and (8) of the Act as follows:

(i) The waiver period of up to five (5) business days from the date of discovery under certain unusual circumstances enables the Exchange to comply and enforce compliance by its members with the requirements of Section 6(c)(3)(A)(i) of the Act.
(ii) Inapplicable.
(iii) Inapplicable.
(iv) Inapplicable.
(v) The proposed rule amendments will provide for protection of investors and of the public interest.
(vi) Inapplicable.
(vii) Inapplicable.
(viii) Inapplicable.

Comments Received From Members, Participants, or Others on Proposed Rule Changes

No comments were solicited or received with respect to the proposed rule changes.

Burden on Competition

There will be no burden on competition.

On or before June 25, 1979, or within such longer period (i) as the Commission may designate up to 90 days of such date if it finds such longer period to be appropriate and publishes its reasons for so finding or (ii) as to which the above mentioned self-regulatory organization consents, the Commission will:

(A) By order approve such proposed rule changes,

(B) Institute proceedings to determine whether the proposed rule changes should be disapproved.

Interested persons are invited to submit written data, views and arguments concerning the foregoing. Persons desiring to make written submissions should file six (6) copies thereof with the Secretary of the Commission, Securities and Exchange Commission, Washington, D.C. 20549. Copies of the filing with respect to the foregoing and all written submissions will be available for inspection in the

and open market and a national market
of such filing will also be available for
resource policies and to review ongoing

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Public Reference Room, 1100 "L" Street, N.W., Washington, D.C. Copies of such filing will also be available for inspection at the principal office of the above mentioned self-regulatory organization. All submissions should refer to the file number referenced in the caption above and should be submitted on or before June 18, 1979.

For the Commission by the Division of Market Regulation, pursuant to delegated authority.

George A. Fitzsimmons,

Secretary.

May 14, 1979.

[FR Doc. 79-15421 Filed 5-16-79; 8:45 am]

BILLING CODE 8010-01-M

[Release No. 34-15813; File No. SR-PSE-79-5]

Pacific Stock Exchange Inc.; Proposed Rule Change

Pursuant to Section 19(b)(1) of the Securities Exchange Act of 1934, 15 U.S.C. 78s(b)(1), as amended by Pub. L. No. 94-29, 16 (June 4, 1975), notice is hereby given that on April 23, 1979, the above-mentioned self-regulatory organization filed with the securities and exchange Commission a proposed rule change as follows:

Exchange's Statement of the Terms of Substance of the Proposed Rule Change

The Pacific Stock Exchange Incorporated ("PSE") hereby requests to amend its current fee schedule. The Amendment reflects changes in the schedule of rates of certain options and equities transactions. The text of the fee schedule describing these changes is set forth below:

a. Eliminate the badge fees of $40.00 per month for members of the options floor and $10.00 per month for ancillary personnel on the options floor.

b. Increase the options trade comparison charge from $.25 to $.28 per trade entry ticket.

c. increase the equity transaction fee schedule as follows:

1. From $.1375 to $.14 per $1,000 on the first $10 million per month;

2. From $.088 to $.10 per $1,000 on amounts over $10 million but under $50 million per month;

3. From $.066 to $.08 per $1,000 on amounts over $50 million per month.

Statement of Basis and Purpose

The basis and purpose of the foregoing proposed rule change is as follows: Badge fees on the options floor were adopted to help defray the initial costs of implementing the PSE's options program. These costs have been recovered and the badge fees are no longer needed. The proposed increase in PSE comparison charges and transaction fees are intended to generate additional revenues to meet rising expenses. The increase is consistent with increased expenses incurred by PSE in connection with the transactions that are subject to the increase.

The proposed rule change, by changing the fees chargeable against members for certain transactions, reflects the increased expenses of the PSE and relates to the equitable allocation of fees among its participants. Prior to this proposed rule change, a badge fee was charged to members of the options floor but not to members of the equity floor.

Comments Received From Members, Participants, or Others on Proposed Rule Change

No comments were solicited or received from members, participants or others on the proposed amendments.

Burden on Competition

The PSE has determined that no burden on competition will be imposed by the proposed rule change.

The foregoing rule change has become effective, pursuant to Section 19(b)(3) of the Securities Exchange Act of 1934. At any time within sixty days of the filing of such proposed rule change, the Commission may summarily abrogate such rule change if it appears to the Commission that such action is necessary or appropriate in the public interest, for the protection of investors, or otherwise in furtherance of the purposes of the Securities Exchange Act of 1934.

Interested persons are invited to submit written data, views and arguments concerning the foregoing. Persons desiring to make written submissions should file 6 copies thereof with the Secretary of the Commission, Securities and Exchange Commission, Washington, D.C. 20549. Copies of the filing with respect to the foregoing and of all written submissions will be available for inspection and copying in the Public Reference Room, 1100 L Street, N.W., Washington, D.C. Copies of such filing will also be available for inspection and copying at the principal office of the above-mentioned self-regulatory organization. All submissions should refer to the file number referenced in the caption above and should be submitted on or before June 7, 1979.

For the Commission by the Division of Market Regulation, pursuant to delegated authority.

George A. Fitzsimmons,

Secretary.

May 11, 1979.

[FR Doc. 79-15420 Filed 5-16-79; 8:45 am]

BILLING CODE 8010-01-M

[Release No. 34-15812 File No. SR-PSE-79-4]

Pacific Stock Exchange Inc.; Proposed Rule Change

Pursuant to Section 19(b)(1) of the Securities Exchange Act of 1934, 15 U.S.C. 78s(b)(1), as amended by Pub. L. No. 94-29, 16 (June 4, 1975) (the "Act"), notice is hereby given that on April 25, 1979 the above-mentioned self-regulatory organization filed with the Securities and Exchange Commission a proposed rule change as follows:

Statement of the Terms of Substance of the Proposed Rule Change

The proposed rule change is a stated policy of the Pacific Stock Exchange Incorporated ("PSE") which provides for COMEX [1] round lot market orders to be priced based on best bid (for sell orders) and best ask (for buy orders) as determined by quotes received from all markets participating in the Intermarket Trading Systems ("ITS") for ITS securities, and by American Stock Exchange, New York Stock Exchange, and PSE quotes for securities not traded in ITS.

PSE's Statement of Basis and Purpose

The proposed rule change is designed to provide automated executions of market orders based upon current quotes. PSE believes that by basing executions on current quotes, rather than on prints, the execution will better reflect current market conditions. Brokerage firms which have been contacted by PSE regarding this change have indicated that they view the change as a major enhancement to the COMEX system, and that the change makes COMEX more attractive. The proposed rule change will thus assist PSE in becoming a more effective competitor within the national market system.

The proposed rule change, by improving the operation of the COMEX system, will make the PSE a stronger competitor within the national market system, and thus will contribute to removal of impediments to and perfection of the mechanism of a free and open market and a national market system. Additionally, by providing quality executions in an efficient manner for small orders (300 shares or less) the proposed rule change contributes to the protection of investors and of the public interest. Accordingly, the PSE cites Section 6(b)(5) of the Act as the statutory basis for this proposed rule change.

[1] The COMEX system provides for automated execution of market orders, with a maximum of 300 shares per order, in certain dually-traded stocks.

Comments Received From Members, Participants, or Others on the Proposed Rule Change

PSE has discussed the proposed change in the COMEX pricing formula with several retail brokerage firms to determine if the change would enhance their interest in use of the COMEX system. The proposed change has been supported by all firms with which PSE has held such discussions, and PSE believes several firms will commence sending orders to COMEX, or increase the number of orders they presently send to COMEX, as a result of the proposed change. In addition, the proposed change was approved by the Floor Trading Committee of PSE and was discussed with every specialist on PSE. PSE believes the proposed rule change has the support of every PSE specialist.

Burden on Competition

The PSE asserts that the proposed rule change does not impose any burden on competition. By strengthening the COMEX system of automated execution, the proposed rule change strengthens the ability of PSE, and of PSE specialists, to compete in the developing national market system.

The foregoing rule change has become effective, pursuant to Section 19(b)(3) of the Securities Exchange Act of 1934. At any time within sixty days of the filing of such proposed rule change, the Commission may summarily abrogate such rule change if it appears to the Commission that such action is necessary or appropriate in the public interest, for the protection of investors, or otherwise in furtherance of the purposes of the Act.

Interested pesons are invited to submit written data, views and arguments concerning the foregoing. Persons desiring to make written submissions should file 6 copies thereof with the Secretary of the Commission, Securities and Exchange Commission, Washington, D.C. 20549. Copies of the filing with respect to the foregoing and of all written submissions will be available for inspection and copying in the Public Reference Room, 1100 L Street, N.W., Washington, D.C. Copies of such filing will also be available for inspection and copying at the principal office of the above-mentioned self-regulatory organization. All submissions should refer to the file number referenced in the caption above and should be submitted on or before June 7, 1979.

For the Commission by the Division of Market Regulation, pursuant to delegated authority.

George A. Fitzsimmons,

Secretary.

May 11, 1979.

[FR Doc. 79-15422 Filed 5-16-79; 8:45 am]

BILLING CODE 8010-01-M

DEPARTMENT OF STATE

[Public Notice CM-8/195]

Ocean Affairs Advisory Committee; Partially Closed Meeting

The Antarctic Section of the Ocean Affairs Advisory Committee will meet at 10 a.m. on Tuesday, June 19, 1979 in Room 6320 of the Department of State, Washington, D.C.

At this meeting, officers responsible for Antarctic Affairs in the Department of State will discuss key issues and problems involving the Antarctic in the context of current domestic and international developments. This session will be open to the public. The public will be admitted to the session to the limits of seating capacity and will be given the opportunity to participate in discussions according to the instructions of the Chairperson.

As access to the Department of State is controlled, persons wishing to attend the June 19 meeting of the Antarctic Section of the Ocean Affairs Advisory Committee should enter the Department through the Diplomatic ("C" Street) Entrance. Department officials will be at the Diplomatic Entrance to escort attendees to Room 6320.

The Ocean Affairs Advisory Committee will also meet on Monday, June 18, 1979 at the National Academy of Sciences Building, 22nd and C Streets, N.W. in sessions which will not be open to the public. These sessions will be devoted to the discussion of classified material under 5 U.S.C. 552b(c)1 and 5 U.S.C. 552b(c)(9)(B). The disclosure of classified material and revelation of considerations which go into policy development would substantially undermine and frustrate the U.S. position in future negotiations. The purposes of these discussions will be to elicit views concerning the further development of Antarctic mineral resource policies and to review ongoing Antarctic marine living resource negotiations. Other matters and issues relating to the Antarctic which will be considered at the Tenth Antarctic Treaty Consultative Meeting will also be reviewed. This portion of the meeting will include classified briefings and examination and discussion of classified documents pursuant to Executive Order 12065.

Requests for further information on the meetings should be directed to R. Tucker Scully or Lisle Rose of OES/OFA/OPA, Room 5801, Department of State. They may be reached by telephone on (202) 632-3262.

Dated: May 8, 1979.

Benoit Brookens,

Executive Secretary.

[FR Doc. 79-15418 Filed 5-16-79; 8:45 am]

BILLING CODE 4710-01-M

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

[Summary Notice No. PE-79-5]

Petitions for Exemption; Summary of Petitions Received and Dispositions of Petitions Issued

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Notice of petitions for exemptions received and of dispositions of petitions issued.

SUMMARY: Pursuant to FAA's rulemaking provisions governing the application, processing, and disposition of petitions for exemption (14 CFR Part 11), this notice contains a summary of certain petitions seeking relief from specified requirements of the Federal Aviation Regulations (14 CFR Chapter I) and of dispositions of certain petitions previously received. The purpose of this notice is to improve the public's awareness of, and participation in, this aspect of FAA's regulatory activities. Publication of this notice and any information it contains or omits is not intended to affect the legal status of any petition or its final disposition.

DATES: Comments on petitions received must identify the petition docket number involved and must be received on or before June 6, 1979.

ADDRESSES: Send comments on any petition in triplicate to: Federal Aviation Administration, Office of the Chief Counsel, Attn: Rules Docket (AGC-24), Petition Docket No. ———, 800 Independence Avenue, SW., Washington, D.C. 20591.

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Issued on May 9, 1979.

FOR FURTHER INFORMATION: The petition, any comments received and a copy of any final disposition are filed in the assigned regulatory docket and are available for examination in the Rules Docket (AGC-24), Room 916, FAA Headquarters Building (FOB 10A), 800 Independence Avenue, SW., Washington, D.C. 20591; telephone (202) 426-3644.

This notice is published pursuant to paragraphs (c), (e), and (g) of § 11.27 of Part 11 of the Federal Aviation Regulations (14 CFR Part 11).

Issued in Washington, D.C., on May 10, 1979.

Carl B. Schelleoberg,

Assistant Chief Counsel, Regulations and Enforcement Division.

Petitions for Exemptions

Docket No.	Petitioner	Regulations affected	Description of relief sought
19148	Capt. Eugene Lore	14 CFR 121.383(c)	To permit petitioner to serve as a pilot for Trans World Airlines after he has reached his 60th Birthday.
19149	United States Parachute Association	14 CFR 105.43	To permit foreign nationals to participate in the national parachuting championships without complying with the equipment and packing requirements of Section 105.13.
19150	Mr. Jack Valenti	14 CFR 135.149(c)(1)	To permit operation of its Citation aircraft N 50WM without a third attitude gyroscopic indicator.

Dispositions of Petitions for Exemptions

Docket No.	Petitioner	Regulations affected	Description of relief sought—disposition
19113	Capitol International Airways, Inc.	14 CFR § 121.3, 121.105, 121.443, 121.465, 121.533, and 121.535.	To permit petitioner to operate scheduled passenger service pursuant to the rules applicable to supplemental air carriers. *Partial grant 5/4/79.*

[FR Doc. 79-15372 Filed 5-16-79; 8:45 am]

BILLING CODE 4910-13-M

Federal Railroad Administration

[Docket No. RFA 511-78-1]

Coal Line Project; Extension of Public Comment Period

The Federal Railroad Administration ("FRA"), Department of Transportation, in response to requests for additional time for public comments on the revised coal line application filed by the Chicago and North Western Transportation Company and its wholly-owned subsidiary, Western Railroad Properties, Inc. for $230,511,000 in loan guarantees under section 511 of the Railroad Revitalization and Regulatory Reform Act of 1976, 45 U.S.C. 831, hereby extends the public comment period from May 11, 1979 to June 11, 1979. A detailed description of the original project was presented in the notice of receipt of the application, 43 FR 41126 (September 14, 1978), and a description of the revised project was published in a notice of application amendment, 44 FR 5041 (January 24, 1979).

Written comments should be submitted to the Associate Administrator for Federal Assistance, Federal Railroad Administration, 400 Seventh Street, S.W., Washington, D.C. 20590, not later than the comment closing date of June 11, 1979. Submissions should indicate the docket number shown on this notice and state whether the commenter supports or opposes the application and the reasons therefor. The comments will be taken into consideration by the FRA in evaluating the application; however, formal acknowledgement of the comments will not be provided. Comments received after June 11 will be considered to the extent practicable.

To the extend permitted by law, the application will be made available for inspection during normal business hours in Room 5415 at the above address of the FRA in accordance with the regulations of the Office of the Secretary of Transportation set forth in Part 7 of Title 49 of the Code of Federal Regulations. The FRA has neither approved nor disapproved this application nor has it passed upon the accuracy of the information contained therein.

(Sec. 511 of the Railroad Revitalization and Regulatory Reform Act of 1976 (Pub. L. 94-210), as amended.)

Issued in Washington, D.C. on May 10, 1979.

Comment closing date: June 11, 1979.

Charles Swinburn,

Associate Administrator for Federal Assistance, Federal Railroad Administration.

[FR Doc. 79-15406 Filed 5-16-79; 8:45 am]

BILLING CODE 4910-06-M

National Highway Traffic Safety Administration

Safety, Bumper, and Consumer Information Programs; Public Meetings

The National Highway Traffic Safety Administration (NHTSA) will hold a meeting on Wednesday, June 20, 1979, to answer questions from the public and industry regarding the Agency's safety, bumper, and consumer information programs. The meeting will begin at 10:30 a.m., run until 1:00 p.m., and reconvene at 2:00 p.m., if necessary. It will be held in the Conference Room of the Environmental Protection Agency's Motor Vehicle Environmental Laboratory Facility, 2565 Plymouth Road, Ann Arbor, Michigan.

This is another of a series of public technical meetings modeled after those conduced by the Environmental Protection Agency (EPA) for its motor vehicle emissions program. At the June 20 meeting, representatives of DOT will answer questions received in writing from the industry and the public relating to NHTSA's vehicle safety, bumper, or consumer information programs which are technical, interpretative or procedural in nature. The questions may relate to the research and development, rulemaking, or enforcement (including defects) phases of these activities. (Questions regarding this Agency's fuel economy program will continue to be addressed at the EPA's meetings on vehicle emissions.)

Questions for the June 20 meeting must be submitted in writing by June 4 to William Marsh, NHTSA Executive Secretary, Room 5221, 400 Seventh Street, SW., Washington, D.C. 20590. Every effort will be made to answer appropriate questions received. Questions received after the June 4 date may be answered at the meeting if sufficient time is available and a person from DOT knowledgeable in the subject matter is present. The idividual, group, or company submitting a question does not have to be present for the question to be answered. A consolidated list of questions submitted by June 4 will be available at the meeting and this list will serve as the agenda.

A transcript of the meeting will be available for public inspection in the NHTSA Technical Reference Section in Washington, D.C., within four weeks after the meeting. Copies of the transcript will be available in four to five weeks at twenty-five cents for the first page and five cents for each additional page (length has varied from 100 to 150 pages) upon request to NHTSA, Technical Reference Section, Room 5108, 400 Seventh Street, SW., Washington, D.C. 20590.

Succeeding meetings will be held on August 15, October 10 and December 12, 1979.

Issued in Washington, D.C., on May 9, 1979.

Wm. H. Marsh,

Executive Secretary.

[FR Doc. 79-15083 Filed 5-16-79; 8:45 am]

BILLING CODE 4910-59-M

[Docket No. IP79-5; Notice 1]

Uniroyal Tire Co.; Receipt of Petition for Determination of Inconsequential Noncompliance

Uniroyal Tire Company of Detroit, Michigan, has petitioned to be exempted from the notification and remedy requirements of the National Traffic and Motor Vehicle Safety Act (15 U.S.C. 1381 et seq.) for a noncompliance with 49 CFR 571.119, *New Pneumatic Tires for Vehicles Other Than Passenger Cars.* The basis of the petition is that the noncompliance is inconsequential as it relates to motor vehicle safety.

This notice of receipt of a petition for a determination of inconsequentiality is published in accordance with section 157 of the National Traffic and Motor Vehicle Safety Act (15 U.S.C. 1417), and does not represent any agency decision or other exercise of judgment concerning the merits of the petition.

Paragraph S6.5 requires that the information specified in each of its subparagraphs be marked on each sidewall. Among this information is the maximum load rating and corresponding inflation pressure (subparagraph (d)), the word "tubeless" or "tube type" as applicable (subparagraph (g)), and the letter disignating the tire load range (subparagraph (j)). A labeling mold plate containing this information fell out of the mold and went unnoticed during the curing of 200 tires. Instead of the above information, the words "10 Ply Rating" were molded in. Uniroyal would like to buff off the words "10 Ply Rating" and brand in "Load Range F", to minimize the possibility that someone would be misled into using a lower inflation pressure suitable for a 10 ply ratng tire (The correct rating is "10 Ply Sidewall 8 Ply/12 Ply Rating.")

Uniroyal argues that its noncompliance is inconsequential for the following reasons: the error occurred on the sidewall of the tire that does not contain the tire's serial number, and all required information does appear on the serial number side. Omission of "tube type" on one sidewall would not create a hazard as there is no tubeless rim in this size and the tube type rim has a slot that is too large for a tubeless valve to fill. Finally, omission on the inflation pressure is not important since it appears on the other side of the tires in question.

Interested persons are invited to submit written data, views and arguments on the petition by Uniroyal Tire Co. described above. Comments should refer to the docket number and be submitted to: Docket Section, National Highway Traffic Safety Administration, Room 5108, 400 Seventh Street, S.W., Washington, D.C. 20590. It is requested but not required that five copies be submitted.

All comments received before the close of business on the comment closing date indicated below will be considered. The application and supporting materials, and all comments received after the closing date will also be filed and will be considered to the extent possible. When the petition is granted or denied, notice will be published in the **Federal Register** pursuant to the authority indicated bleow.

Comment closing date: June 18, 1979.

(Sec. 102, Pub. L. 93-492, 99 Stat. 1470 (15 U.S.C. 1417); delegations of authority at 49 CFR 1.50 and 49 CFR 501.8)

Issued on May 9, 1979.

Michael M. Finkelstein,

Associate Administrator for Rulemaking.

[FR Doc. 79-15143 Filed 5-16-79; 8:45 am]

BILLING CODE 4910-59-M

DEPARTMENT OF THE TREASURY

Office of the Secretary

Marine Radar Systems From the United Kingdom; Antidumping, Withholding of Appraisement Notice

AGENCY: U.S. Treasury Department.

ACTION: Withholding of Appraisement.

SUMMARY: This notice is to advise the public that an antidumping investigation has resulted in a tentative determination that certain marine radar systems from the United Kingdom are being sold at less than fair value within the meaning of the Antidumpting Act, 1921. Sales at less than fair value generally occur when the price of merchandise sold for exportation to the United States is less than the price of such or similar merchandise sold in the home market or to third countries. Appraisement for the purpose of this merchandise will be suspended for 6 months. Interested persons are invited to comment on this action.

EFFECTIVE DATE: May 17, 1979.

FOR FURTHER INFORMATION CONTACT: Leon McNeill, Duty Assessment Division, U.S. Customs Service, 1301 Constitution Avenue, NW., Washington, D.C. 20229 (202/566-5492).

SUPPLEMENTARY INFORMATION: On October 12, 1978, a petition in proper form was received pursuant to section 153.26 and 153.27, Customs Regulations (19 CFR 153.26, 153.27), from counsel on behalf of Raytheon Marine Company, Manchester, New Hamsphire, alleging that certain marine radar systems from the United Kingdom are being, or are likely to be, sold at less than fair value within the meaning of the Antidumping Act, 1921, as amended (19 U.S.C. 160 *et seq.)* (referred to in this notice as the "Act"). On the basis of this information and subsequent preliminary investigation by the Customs Service, an "Antidumping Proceeding Notice" was published in the **Federal Register** of November 6, 1978 (43 FR 51744).

For purposes of this notice "certain marine rader systems" means X-band radar systems provided for in item 685.60, Tariff schedules of the United States, designed principally for boat or ship installation with direct current power supply from 6 to 60 volts, having a maximum viewable display dimension

decision to permit any state or local

PRB (Sec. 4314 (c)(3), Chapter 43, Title 5,

As a result, the conditions set forth in

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of less than 11 inches, and having an antenna assembly with transmitter-receiver permanently affixed, and parts thereof; all the foregoing, whether such radar system components are imported together as units or separately.

Tentative Determination of Sales at Less Than Fair Value

On the basis of the information developed in the Customs investigation and for the reasons noted below, pursuant to section 201(b)(1) of the Act (19 U.S.C. 160(b)(1)), I hereby determine that there are reasonable grounds to believe or suspect that the exporter's sales price of certain marine radar systems from the United Kingdom is less, or likely to be less, than the fair value, and thereby the foreign market value, of such or similar merchandise.

Statement of Reasons on Which This Determination Is Based

a. *Scope of Investigation.* It appears that approximately 88 percent of the imports of the subject merchandise from the United Kingdom are manufactured by Decca Radar Limited (DRL). Therefore, the investigation has been limited to this manufacturer.

b. *Basis of Comparison.* For the purposes of considering whether the merchandise in question is being, or is likely to be, sold at less than fair value within the meaning of the Act, the proper basis for comparison appears to be between the exporter's sales price and the home market price of such or similar merchandise. Exporter's sales price, as defined in section 204 of the Act (19 U.S.C. 163) was used since all export sales to the United States were made to a related importer who resold the merchandise subsequent to its importation. Home market price, as defined in § 153.2, Customs Regulations (19 CFR 153.2), was used since such or similar merchandise was sold in the home market in sufficient quantities to provide an adequate basis for comparsion.

In accordance with § 153.31(b), Customs Regulations (19 CFR 153.31(b)), pricing information was obtained concerning exports and home market sales during the period June 1, 1978 through November 30, 1978.

c. *Exporter's Sales Price.* For the purposes of this tentative determination, the exporter's sales price has been calculated on the basis of the resale prices to unrelated United States customers. Adjustments have been made for ocean freight, marine insurance, discounts where applicable, United States Customs duty, brokerage, United States inland freight, warranty charges, rebates, where applicable, and selling and administrative expenses incurred in the United States.

Adjustments for ocean freight, marine insurance, duty, brokerage and inland freight were made pursuant to section 204(1) of the Act since these costs and charges incident to bringing the merchandise from the place of shipment in the United Kingdom to the place of delivery in the United States. The selling and administrative expenses incurred in the United States were deducted as charges incurred in the resale of the merchandise, pursuant to section 204(3) of the Act.

d. *Home Market Price.* For the purpose of this tentative determination, the home market price was calculated on the basis of the selling price to unrelated purchasers in the home market. Deductions were made for inland freight, discounts, where applicable, insurance, warranty and selling expenses.

The selling expenses claimed in the home market were deducted as an offset not to exceed the amount of the selling and administrative expenses incurred in the United States market. This is in accordance with 153.10(b), Customs Regulations (19 CFR 153.10(b)).

e. *Voluntary Submission.* Information was received voluntarily from Electronic Laboratories Ltd., another U.K. manufacturer of marine radar systems. The information was inadequate for an analysis to be performed for this determination. Further information has been requested from this manufacturer so an analysis can be performed prior to the final determination in this case.

f. *Result of Fair Value Comparisons.* Using the above criteria, preliminary analysis suggests that exporter's sales price was less than the adjusted home market price of such or similar merchandise. Comparisons were made on 100 percent of the subject marine radar systems sold in the United States by DRL during the period of investigation. Margins were found ranging from 0.17 to 22 percent for these sales. The weighted average margin over all sales compared amounted to 2.72 percent.

Accordingly, Customs officers are being directed to withhold appraisement of certain marine radar systems from the United Kingdom in accordance with section 153.48, Customs Regulations (19 CFR 153.48).

In accordance with § 153.40, Customs Regulations (19 CFR 153.40), interested persons may present written views or arguments, or request in writing that the Secretary of the Treasury afford an opportunity to present oral views.

Any request that the Secretary of the Treasury afford an opportunity to present oral views should be submitted to the Commissioner of Customs, 1301 Constitution Avenue, N.W., Washington, D.C. 20229, in time to be received by his office no later than June 1, 1979. Such requests must be accompanied by a statement outlining the issues to be discussed. These issues may be discussed in greater detail in a written brief.

All written views or arguments should likewise be submitted to the Commissioner of Customs in ten copies in time to be received in his office no later than June 18, 1979. All persons submitting views or arguments should avoid repetitious and merely cumulative material. Counsel for the petitioner and the respondent are also requested to serve all written submissions on all other counsel, including non-confidential summaries or approximated presentations of all confidential information.

This notice, which is published pursuant to section 153.35(b), Customs Regulations (19 CFR 153.35(b)), shall become effective on May 17, 1979. It shall cease to be effective 6 months from the date of publication, unless previously revoked.

Robert H. Mundheim,

General Counsel of the Treasury.

May 10, 1979.

[FR Doc. 79-15412 Filed 5-16-79; 8:45 am]

BILLING CODE 4810-22-M

INTERSTATE COMMERCE COMMISSION

[Docket No. AB-167 (Sub-No. 1F)]

Consolidated Rail Corp.; Abandonment Near Williamsville and North Tonawanda in Erie County, NY; Findings

Notice is hereby given pursuant to 49 U.S.C. § 10903 (formerly Section 1a of the Interstate Commerce Act) that by a Certificate and Decision decided May 2, 1979, a finding, which is administratively final, was made by the Commission, Review Board Number 5, stating that, subject to the conditions for the protection of railway employees prescribed by the Commission in AB-36 (Sub-No. 2), *Oregon Short Line R. Co.-Abandonment Goshen* —— I.C.C. —— decided February 9, 1979, and further that Conrail shall keep intact all of the right-of-way underlying the track, including all of the bridges and culverts for a period of 120 days from the effective date of this certificate and decision to permit any state or local government agency or other interested party to negotiate the acquisition for public use of all or any portion of the right-of-way, the present and future public convenience and necessity permit the abandonment by the Consolidated Rail Corporation of its line of railroad known as the Niagara Falls Branch (also known as the Williamsville Industrial Track) extending from railroad milepost 442.8 near Williamsville to milepost 448.5, near No. Tonawanda, a distance of 5.9 miles, in Erie County, NY. A certificate of public convenience and necessity permitting abandonment was issued to the Consolidated Rail Corporation. Since no investigation was instituted, the requirement of § 1121.38(a) of the Regulations that publication of notice of abandonment decisions in the **Federal Register** be made only after such a decision becomes administratively final was waived.

Upon receipt by the carrier of an actual offer of financial assistance, the carrier shall make available to the offeror the records, accounts, appraisals, working papers, and other documents used in preparing Exhibit I (§ 1121.45 of the Regulations). Such documents shall be made available during regular business hours at a time and place mutually agreeable to the parties.

The offer must be filed and served no later than June 1, 1979. The offer, as filed, shall contain information required pursuant to § 1121.38(b) (2) and (3) of the Regulations. If no such offer is received, the certificate of public convenience and necessity authorizing abandonment shall become effective July 2, 1979.

H. G. Homme, Jr.,

Secretary.

[FR Doc. 79-15431 Filed 5-16-79; 8:45 am]

BILLING CODE 7035-01-M

ICC Senior Executive Service Performance Review Board

May 4, 1979.

The purpose of this Notice is to establish a Performance Review Board (PRB) and appoint its membership.

The Civil Service Reform Act of 1978 requires each agency to establish one or more PRB's. The PRB will make recommendations to the Chairman, this agency's appointing authority, on performance ratings (Sec. 4314 of Chapter 43, Title 5 U.S.C.) and performance awards (Sec. 5384 of Chapter 53, Title 5, U.S.C.) in the Senior Executive Service (SES). The Chairman shall issue performance appraisals after considering the recommendations of the PRB. (Sec. 4314 (c)(3), Chapter 43, Title 5, U.S.C.) Membership of the PRB must include a majority of SES career appointees where a career executive evaluation is being reviewed (Sec. 4314 (c)(5), Chapter 43, Title 5, U.S.C.).

Effective July 13, 1979, a five member PRB is established at the Interstate Commerce Commission. The Board will be comprised of three principal members and two alternate members. The three principal members are: Mark L. Evans, General Counsel; James B. Thomas, Jr., Director, Bureau of Accounts; and Martin E. Foley, Director, Bureau of Traffic. The two alternate members are: Robert M. Glennon, Chief Administrative Law Judge, Office of Hearings, and Alan M. Fitzwater, Director, Office of Proceedings.

The PRB will implement and maintain its senior executive rating program in such a manner as to assure consistency, stability, and objectivity in performance appraisal.

A. Daniel O'Neal,

Chairman.

[FR Doc. 79-15428 Filed 5-16-79; 8:45 am]

BILLING CODE 7035-01-M

[No. AB-36 (Sub-No. 2); Finance Docket No. 28250 [1]]

Oregon Short Line Railroad and the Union Pacific Railroad Co.—Abandonment Portion, Goshen Branch Between Firth and Ammon, in Bingham and Bonneville Counties, Idaho; New York Dock Railway—Control—Brooklyn Eastern District Terminal

AGENCY: Interstate Commerce Commission.

ACTION: Policy clarification.

SUMMARY: The purpose of this document is to clarify the Commission's position regarding the applicability of recent decisions concerning the level of employee protection to be imposed in rail abandonments and rail proceedings under 49 U.S.C. 11343.

EFFECTIVE DATE: Effective May 17, 1979.

FOR FURTHER INFORMATION CONTACT: Michael Erenberg, 202-275-7245.

SUPPLEMENTARY INFORMATION: In separate decisions in these proceedings, both served February 23, 1979, the Commission determined the appropriate level of employee protection to be imposed in the usual rail abandonment proceedings under 49 U.S.C. 10903 and the usual rail proceedings under 49 U.S.C. 11343 *et. seq.* (except trackage rights and leases proceedings), respectively.

As a result, the conditions set forth in No. AB-36 (Sub-No. 2), *Oregon Short Line R. Co.—Abandonment—Goshen* will apply in all the usual rail abandonment proceedings and those set forth in Finance Docket No. 28250, *New York Dock Ry.—Control—Brooklyn Eastern Dist.*, will apply in all the usual rail proceedings under 49 U.S.C. 11343 *et. seq.* (except trackage rights and lease cases). The appropriate conditions will be imposed automatically in all the pertinent rail proceedings pending before the Commission on the date the new policy was announced (i.e. February 23, 1979), as well as in all the pertinent rail proceedings filed subsequent to that date. Proceedings will be deemed pending before the Commission on February 23, 1979, if an administratively final decision, as defined in 49 U.S.C. 10327, had not been rendered as of that date. Parties to unconsummated abandonment cases in which administratively final decisions were not issued by August 18, 1977, may petition for the *Oregon III* conditions within 30 days from the service date of this notice. The *Oregon III* conditions will not normally be applied to consummated cases, since we do not plan to reopen abandonments to impose the expanded notice and negotiation provisions. Nevertheless, in extraordinary situations, parties to consummated abandonment cases that were not administratively final on August 18, 1977, may also petition by the same date for imposition of *Oregon III* conditions. Special justification must be shown in these cases. Furthermore, parties should indicate specifically which *Oregon III* conditions, if any (other than the preconsummation conditions), would be suitable after consummation.

Dated: May 2, 1979.

By the Commission, Chairman O'Neal, Vice Chairman Brown, Commissioners Stafford, Gresham, Clapp and Christian. Commissioners Stafford and Gresham Dissenting in part. Commissioners Stafford and Gresham would not impose new labor conditions on applications filed before February 5, 1976.

H. G. Homme, Jr.,

Secretary.

[FR Doc. 79-15429 Filed 5-16-79; 8:45 am]

BILLING CODE 7035-01-M

[Volume No. 16]

Petitions, Applications, Finance Matters (including Temporary Authorities), Alternate Route Deviations, and Interstate Applications

Dated: May 2, 1979.

[1] This decision embraces Finance Docket No. 28294, *New York Dock Railway—Securities.*

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Petitions for Modification, Interpretation, or Reinstatement of Operating Rights Authority

The following petitions seek modification or interpretation of existing operating rights authority, or reinstatement of terminated operating rights authority.

All pleadings and documents must clearly specify the suffix (e.g. M1 F, M2 F) numbers where the docket is so identified in this notice.

An original and one copy of protests to the granting of the requested authority must be filed with the Commission within 30 days after the date of this notice. Such protests shall comply with Special Rule 247(e) of the Commission's *General Rules of Practice* (49 CFR 1100.247)* and shall include a concise statement of protestant's interest in the proceeding and copies of its conflicting authorities. Verified statements in opposition should not be tendered at this time. A copy of the protest shall be served concurrently upon petitioner's representative, or petitioner if no representative is named.

MC 59323 (M1F), filed November 13, 1978. Petitioner: BAY MOTOR EXPRESS INC., 400 Corporate Drive, Mahwah, NJ 07430. Representative: Edward L. Nehez, P.O. Box 1409, 167 Fairfield Road, Fairfield, NJ 07006. Petitioner holds a certificate of public convenience and necessity in MC 59323, issued September 7, 1962, authorizing transportation as a *common carrier* by motor vehicle of *general commodities*, with the usual exceptions, (1) between points in Passaic, Bergen, Hudson, Essex, Union, Middlesex, Morris, Sussex, Somerset, and Monmouth Counties, NJ, on the one hand, and, on the other, New York, NY, (2) between New York, NY on the one hand, and, on the other, points in Rockland and Westchester Counties, NY, and (3) between points in Nassau and Suffolk Counties, NY. BY the instant petition, petitioner seeks to modify the territorial description to read as follows: (1) Between points in Passaic, Bergen, Hudson, Essex, Union, Middlesex, Morris, Sussex, Somerset, Monmouth, Warren, Hunterdon, Mercer, Burlington, and Ocean Counties, NJ; Rockland, Westchester, Putnam, Orange and Dutchess Counties, NY, on the one hand, and, on the other, New York, NY and points in Nassau and Suffolk Counties, NY, (2) Between points in Naasau and Suffolk Counties, NY, and (3) Between points in Rockland and Westchester Counties, NY, on the one hand, and, on the other, points in Passaic, Bergen, Hudson, Essex, Union, Middlesex, Morris, Sussex, Somerset, Monmouth, Warren, Hunterdon, Mercer, Burlington, and Ocean Counties, NJ.

MC 108393 (Sub-126 (M1F)), filed January 2, 1979. Petitioner: SIGNAL DELIVERY SERVICE, INC., 201 East Ogden Avenue, Hinsdale, IL 60521. Representative: Edward F. Schiff, 1100 Madison Office Bldg., 1155 15th Street, NW., Washington, DC 20005. Petition holds motor *contract carrier* Permit in MC–108393 Sub-No. 126, issued July 10, 1978, authorizing transportation over irregular routes, as pertinent, transporting *such merchandise* as is dealt in by retail department stores and mail order houses, and *equipment, materials, and supplies* used in the conduct of such business (except commodities in bulk, in tank vehicles), and moving from or to the facilities of Sears, Roebuck and Co., and TFCA, between points in ME, NH, VT, NY, MA, CT, RI, PA, NJ, MD, DE, OH, VA, WV, DC, AR, FL, GA, KY, LA, MS, AL, NC, SC, TN, IL, IN, MI, WI, CO, IA, KS, MO, NE, OK, WY, and Minneapolis-St. Paul, MN, and Dallas, TX, restricted (1) to the transportation of shipments which move to, from, or through two or more of the following cities: Atlanta, GA, Boston, MA, Chicago, IL, Columbus, OH, Dallas, TX, Greensboro, NC, Jacksonville, FL, Kansas City, MO, Memphis, TN, Minneapolis-St. Paul, MN, Philadelphia, PA, North Bergen, NJ, and St. Louis, MO, (2) under continuing contracts with Sears, Roebuck and Co., of Chicago, IL. By the instant petition, petitioner seeks to modify the base territory by deleting restriction (1) above.

MC 117503 (Sub-10 (M1F)), filed December 5, 1978. Petitioner: HATFIELD TRUCKING SERVICE, INC., 1625 North C Street, Sacramento, CA 95814. Representative: Eldon M. Johnson, 650 California Street, Suite 2808, San Francisco, CA 94108. Petitioner holds motor *common carrier* certificate in MC–117503 Sub-10, issued August 15, 1977, authorizing as pertinent, transportation over regular routes of *general commodities* (except those of unusual value, classes A and B explosives, household goods as defined by the Commission, commodities in bulk, livestock, motor vehicles, and those which require the use of special equipment) over the following regular routes: (1) Between Williams, California, and Sacramento, California, serving all intermediate points—From Williams over Interstate Hwy 5 to Sacramento, and return over the same route. (2) Between Marysville, California, and Modesto, California, serving all intermediate points—From Marysville over California Hwy 99 to Modesto, and return over the same route. (3) Between Marysville, California, and Roseville, California, serving all intermediate points—From Marysville over California Hwy 65 to Roseville, and return over the same route. (4) Between Williams, California, and Marysville, California, serving all intermediate points—From Williams over California Hwy 20 to Marysville, and return over the same route. (5) Between Sacramento, California, and Placerville, California, serving all intermediate points—From Sacramento over U.S. Hwy 50 to Placerville, and return over the same route. (6) Between San Francisco, California, and Auburn, California, serving all intermediate points—From San Francisco over Interstate Hwy 80 to Auburn, and return over the same route. (7) Between Pinole, California, and Stockton, California, serving all intermiediate points—From Pinole over California Hwy 4 to Stockton, and return over the same route. (8) Between San Francisco, California, and Stockton, California, serving all intermediate points—From San Franscico over Interstate Hwy 580 to junction Interstate Hwy 205, thence over Hwy 205 to junction Interstate Hwy 5, thence over Interstate Hwy 5 to Stockton, and return over the same route. Serving as off-route points in connection with routes (1) through (8) above: (a) The Sierra Ordnance Depot, at or near Herlon, California; (b) points in Alameda, Amador, Contra Costa, Marin, Sacramento, San Joaquin, San Mateo, Solano, Sutter, and Yolo Counties, California; (c) the points of Biggs, Palermo, Bangor, and Griedley, in Butte County, California; and (d) those points in Santa Clara County, California, on and north of California Hwy 130, and Interstate Hwy 280, and those points in Yuba County, California, on and south of an unnumbered State Hwy extending from Comptonville through Dobbins and extending to Bangor in Butte County as far as the intersection with Yuba-Butte County boundary line. Restriction: The operations authorized herein are restricted against the transportation of traffic originating at and destined to points in Alemeda, Contra Costa, Marin, San Francisco, San Mateo, and Santa Clara Counties, California. By the present petition, petitioner seeks to add the following California counties as authorized off-route service points in sub-paragraph "b": Butte, Colusa, El Dorado, Glenn, Nevada, Placer, Shasta and Tehama, If modified as requested, petitioner's "off-route" authority would

*Copies of Special Rule 247 (as amended) can be obtained by writing to the Secretary, Interstate Commerce Commission, Washington, D.C. 20423.

read as follows in (b): (b) points in Alamdor, Butte, Colusa, Contra Costa, El Dorado, Glenn, Marin, Nevada, Placer, Sacramento, San Joaquin, San Mateo, Shasta, Solano, Sutter, Tehama and Yolo Counties, California;

MC 113963 (M1F), filed January 5, 1979. Petitioner: HEAVY & SPECIALIZED HAULERS, INC., 190 Polk Avenue, P.O. Box 8796, Nashville, TN 37203. Representative: Paul F. Sullivan, 711 Washington Bldg., Washington, DC 20005. Petitioner holds motor *common carrier* certificate in MC–113963, issued February 26, 1970, which authorizes transportation, over irregular routes, of *commodities* which because of size or weight require the use of special equipment or handling, between points in TN, AL, KY, GA, NC, SC, VA, and MS, within 175 miles of Chattanooga, TN, including Chattanooga. By the instant petition, petitioner seeks to modify the authority so as to apply the 175-mile radius territorial limitation only to the State of Mississippi.

MC 124025 (Sub-5M1F), notice of filing of petition to modify permit, filed December 18, 1979. Petitioner: GLASS TRUCKING COMPANY, a corporation, 200 Chestnut St., P.O. Box 276, Newkirk, OK 74647. Representative: C. L. Phillips, Room 248, Classen Terrace Bldg., 1411 N. Classen, Oklahoma, City, OK 73106. Petitioner holds motor *contract carrier* Permit in MC–124025 Sub 5, issued October 30, 1975, MC–124025 Sub 5 authorizes transportation, over irregular routes, (as pertinent), of *flour*, in bulk, from the facilities of Ross Industries, Inc., at or near Wichita, Wellington, and Newton, KS, to Oklahoma City, and Tulsa, OK, under continuing contract(s) with Ross Industries, Inc. By the instant petition, petitioners seeks to add the following territorial description: "from the facilities of Cereal Food Processors, Inc., at or near Wichita, KS, to Oklahoma City and Tulsa, OK, under continuing contract(s) with Cereal Food Processors, Inc." (Hearing site: Wichita, KS.)

MC 124073 M1F, and MC 124073 (Sub-4M1F), (Sub-5M1F, and (Sub-7M1F), notice of filing of petition to modify permits, filed November 14, 1978. Petitioner: ROY S. SARGEANT, INC., Box 95, Vienna, NJ 07880. Representative: Edward F. Bowes, 167 Fairfield Road, P.O. Box 1409, Fairfield, NJ 07006. Petitioner holds motor *contract carrier* Permits in MC–124073, issued March 1, 1973, MC–124073 Subs 4, 5, and 7, issued April 23, 1968, April 17, 1979, and June 28, 1974, respectively. MC–124073 authorizes transportation, over irregular routes, as pertinent, of (1) *frozen meats*, (a) from Moosic, PA, to Buffalo, Jamestown, Rochester, Olean, Norwich, Syracuse, Schenectady, Albany, Troy, Kingston, and Monticello, NY, Newark and Paterson, NJ, Stamford and Bridgeport, CT, Woonsocket, RI, and Pittsfield, Springfield, and Boston, MA, and (b) from New York, NY, and Newark, Jersey City and Secaucus, NJ, to Moosic, PA: (2) *fish*, breaded and unbreaded, cooked and uncooked, when transported in the same vehicle with one or more of the commodities authorized hereinabove as frozen meats and pizza pies, from Exeter, PA, to Buffalo, Fulton, Syracuse, Troy, and New York, NY, New Brunswick, Newark, Jersey City, and Paterson, NJ, Bridgeport and Hamden, CT, Woonsocket and Pawtucket, RI, and Pittsfield, Springfield, and Boston, MA; (3) *frozen fish*, when transported in the same vehicle with one or more of the commodities authorized herein as pizza pie shells, frozen meats, breading, pickled fish, french-fried potatoes, and poultry as described herein, from Gloucester and Boston, MA, Jersey City, NJ, and New York, NY, to Exeter, PA; (4) *poultry*, when transported in the same vehicle with one or more of the commodities authorized herein as pizza pie shells, frozen meats, breading, pickled fish, french-fried potatoes, and frozen fish as described herein. Restriction: Under continuing contracts with Polarized Products of Tender Brand Frozen Foods, Inc., of Moosic, PA, Phillips Seafood Kitchens, of Exeter, PA, and Profera's Pizza, Inc., of Scranton, PA.

MC–124073 (Sub-4) authorizes transportation, over irregular routes, as pertinent, of (1) *frozen meats*, from the plant site of Glidden-Durkee Division of SCM Corporation, at or near Moosic, PA, to Manchester and Nashua, NH, Burlington, VT, Milton, Ithaca, Newark, Newburgh, Rome, Utica, New York, Mineola, and Huntington, NY, Meriden, Waterbury, Hartford, Hamden, New Haven, Norwich, Wallingford, and Danbury, CT, Pawtucket and Providence, RI, and Ludlow, Fall River, Southboro, and Worcester, MA; (2) *fresh meats*, from the plant site of Glidden-Durkee Division of SCM Corporation, at or near Moosic, PA, to New York, Mineola, and Huntington, NY; (3) *fresh and frozen meats*, (a) from the plant site of Glidden-Durkee Division of SCM Corporation, at or near Moosic, PA, to New York, Mineola, and Huntington, NY, (b) from the plant site of Glidden-Durkee Division of SCM Corporation, at or near Pittston, PA, to New York and Rockville Centre, NY, and (c) from New York, NY, to the plant site of Glidden-Durkee Division of SCM Corporation, at or near Moosic, PA; (4) *frozen poultry, frozen hors d'oeuvres, frozen prepared dough, and frozen bakery products*, from the plant site of Glidden-Durkee Division of SCM Corporation, at or near Moosic, PA, to Nashua and Manchester, NH, Burlington, VT, Buffalo, Jamestown, Rochester, Newark, Newburgh, New York, Olean, Norwich, Syracuse, Schenectady, Albany, Troy, Kingston, Monticello, Utica, Milton, Ithaca, and Rome, NY, Newark and Paterson, NJ, Waterbury, Hartford, Hamden, New Haven, Stamford, and Bridgeport, Norwich, Meriden, Wallingford, and, Danbury, CT, Woonsocket, Pawtucket, and Providence, RI, and Springfield, Pittsfield, Boston, Worcester, Southboro, Fall River, and Ludlow, MA; (5) *frozen prepared poultry*, from the plant site of Glidden-Durkee Division of SCM Corporation, at or near Moosic, PA, to Hoboken, NJ, New York, Farmingdale, Floral Park, and Mineola, NY; and (8) *poultry*, fresh and frozen, when transported in the same vehicle with frozen prepared poultry, frozen hors d'oeuvres, frozen prepared dough, frozen bakery products, pizza, and frozen fish (otherwise authorized), from the plant site of Glidden-Durkee Division of SCM Corporation, at Moosic, PA, to Hoboken, NJ, New York, Farmingdale, Mineola, and Floral Park, NY. Restriction: Under continuing contracts with Glidden-Durkee Division of SCM Corporation, of Cleveland, OH, and Profera's Pizza Pies, Inc., of Scranton, PA.

MC–124073 (Sub-5), authorizes the transportation, over irregular routes, as pertinent, of (1)(a) *fish*, in mixed loads with frozen or fresh meats, frozen poultry, frozen hors d'oeuvres, frozen prepared dough, frozen bakery products, or frozen whipped topping, and (b) *frozen whipped topping*, from the plant site of Polarized Products Division of Ten-Da Brand Frozen Foods, Inc., at or near Moosic, PA, to Bridgeport, Danbury, Hamden, Hartford, Meriden New Haven, Norwich, Stamford, Wallingford, Waterbury, CT, Boston, Fall River, Ludlow, Pittsfield, Southboro, Springfield, Worcester, MA, Hoboken, Newark, Paterson, NJ, Manchester, Nashua, NH, Albany, Buffalo, Farmingdale, Floral Park, Huntington, Ithaca, Jamestown, Kingston, Milton, Mineola, Monticello, Newark Newburgh, New York, Norwich, Olean, Rochester, Rome, Schenectady, Syracuse, Troy, Utica, NY, Pawtucket, Providence, Woonsocket, RI, and Burlington, VT; (2)(a) *fish*, in mixed loads with the commodities in (2)(b), and (b) *frozen or fresh meat, frozen poulty, frozen hors d'oeuvres, frozen prepared dough, frozen bakery products, and frozen*

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whipped topping, from the plant site of Polarized Products Division of Ten-Da Brand Frozen Foods, Inc., at or near Moosic, PA, to Wethersfield, CT, Brighton, Brockton, Chicopee, Everett, Medford, Norton, Raynham, Watertown, MA, Poughkeepsie, NY, and Tiverton, RI, (3) *char-broiled hamburger patties*, from Buffalo, NY, to the plant site of Polarized Products Division of Ten-Da Brand Frozen Foods, Inc., at or near Moosic, PA, and its storage facilities at Pittston, PA; and (4)(a) *frozen bread, frozen macaroni, and frozen vegetable chow mein* in mixed loads with the Commodities in (4)(a), from Boston, MA, to the plant site of Polarized Products Division of Ten-Da Brand Frozen Foods, Inc., and its warehouse at Pittston, PA. Restriction: Under continuing contracts with Polarized Products Division of Ten-Da Brand Frozen Foods, Inc., at or near Moosic, PA, and Garfield, NJ, and Glidden-Durkee Division of SCM Corporation, at Maplewood, NJ.

MC 124073 (Sub-7) authorizes transportation, over irregular routes, as pertinent, of *frozen meats, frozen meat products, frozen poultry, and frozen poultry products*, from Moosic, PA, to Manassas, Winchester, and Norfolk, VA, and Charleston and Mt. Clare, WV. Restriction: under continuing contracts with Polarized Products, Division of Ten-Da Brand Frozen Foods, Inc., of Scranton, PA. By the instant petition, petitioner seeks to modify the authority as follows: (I) In the lead docket, add in Part (1) *frozen meals*, but retain *frozen meats* as the commodity transported from New York, NY, and Newark, Jersey City, and Secaucus, NJ, to Moosic, PA. In part (2) add frozen meals to the phrase "frozen meats and pizza pies". In parts (3) and (4), add frozen meals to the phrase "pizza pie shells, frozen meats" etc. In the shipper restriction, Mass Feeding Corporation is substituted for Polarized Products of Tender Brand Frozen Foods, Inc., of Moosic, PA.

(II) in (Sub-4), the plant site name is changed from Glidden-Durkee Division of SCM Corporation to Mass Feeding Corporation. Add *frozen meals* to parts (1), (2), and (5). add *frozen meals* to part (3) except that *fresh and frozen meats* be retained in (3)(c). In part (4), *frozen meals* is added and frozen hors d'oeuvres, frozen prepared dough, and frozen bakery products is deleted. Part (6) should read *poultry*, fresh and frozen, and *frozen meals*, when transported in the same vehicle with pizza and frozen fish (otherwise authorized). And Mass Feeding Corporation, of Moosic, PA, is added to the shipper restriction.

(III) In (Sub-5), part (1) should read (a) *fish*, in mixed loads with frozen or fresh meats, frozen poultry, or frozen meals, and (b) *frozen meals*. Part (2)(b) should read *frozen or fresh meats, frozen poultry, or frozen meals*. In parts (1) through (4) all reference to the plant site of Polarized Products Division of Ten-Da Brand Frozen Foods is changed to Mass Feeding Corporation. In the shipper restriction, add Mass Feeding Corporation and delete Polarized Products division of Ten-Da Brand Frozen Foods, Inc.

(IV) In (Sub-7), *frozen meals* is added to the commodity description and in the shipper restriction Polarized Products, Division of Ten-Da Brand Frozen Foods, Inc., is changed to Mass Feeding Corporation.

Note.—By Supplemental Order in MC–124073 and MC–124073 (Sub-No. 4), served October 7, 1974, all references to Glidden Durkee Division of SCM Corporation (except those appearing under the fourth commodity description paragraph on sheet 2 and in the shippers restriction of sheet 3) in permit No. MC–124073 (Sub-No. 4) be, and they are hereby, deleted from where they appear in said permit, and substituting in lieu thereof the words "Polarized Products Division of Ten-Da Brand Frozen Foods, Inc." and that the contracting shippers restriction on sheet 3 be modified by the addition of Polarized Products Division of Ten-Da Brand Frozen Foods, Inc., of Garfield, NJ.

MC 124774 (M1F), notice of filing of petition to modify certificate, filed December 5, 1978. Petitioner: MIDWEST REFRIGERATED EXPRESS, INC., 4440 Buckingham Ave., Omaha, NE 68107. Representative: Arlyn L. Westergren, Suite 106, 7101 Mercy Rd., Omaha, NE 68106. Petitioner holds motor *common carrier* Certificate in MC–124774, issued August 9, 1971, and revised November 20, 1978. MC 124774 authorizes transportation, over irregular routes, (as pertinent), *animal, poultry, and fish feed, feed ingredients, and supplements* of each, (except in bulk, in tank vehicles), between points in IA (except Charles City), MO, and NE, on the one hand, and, on the other, points in CT, FL, MA, NV, NY, and PA. By the instant petition, petitioners seek to modify the territorial description to read as follows: "between points in IA (except Charles City), MO, NE, and those in IL in the St. Louis, MO Commercial Zone, on the one hand, and, on the other, points in CT, FL, MA, NV, NY, and PA."

MC 125985 (M1F) and MC 125985 (Sub-4) (M1F) petition to modify Sub-4 certificate and to reconcile the two commodity authorizations, filed December 22, 1978. Petitioner: AUTO DRIVEAWAY COMPANY, a Corporation, 310 S. Michigan Ave., Chicago, IL 60604. Representative: Daniel B. Johnson, 4304 East-West Hwy., Washington, DC 20014. Petitioner holds motor *common carrier* certificates in MC-125985, issued October 26, 1966, and MC-125985 Sub 4, issued April 24, 1970. MC-125985 authorizes transportation over irregular routes of *passenger automobiles*, and *trucks* (¾ ton or less), with *baggage, sporting equipment, and personal effects* of the owners thereof, in secondary movements in driveaway service, between points in NH, MA, CT, NY, PA, NJ, IN, IL, MI, WI, FL, TX, CO, AZ, CA, and OR, on the one hand, and, on the other, points in the United States (including AK, but excluding HI), restricted against the following: (1) the transportation of vehicles moving on the United States Government bills of lading; (2) the transportation of vehicles by use of tow-bars; (3) the transportation of traffic having a prior or subsequent movement by rail; and (4) the transportation of motor vehicles for or on behalf of manufacturers of trucks or automobiles or from the plant site of such manufacturers. MC 125985 Sub 4 authorizes transportation, over irregular routes, of *used passenger automobiles*, and *used trucks* (three-quarter ton or less), with or without the baggage, sporting equipment, and personal effects of the owners thereof, in secondary movements, in single driveaway service between points in the United States (including AK, but excluding points in AZ, CA, CO, CT, FL, HI, IL, IN, MA, MI, NH, NJ, NY, OR, PA, TX, and WI), restricted to the following conditions: (1) said operations are restricted against the transportation of vehicles moving on United States Government bills of lading; (2) said operations are restricted against the transportation of traffic having a prior or subsequent movement by rail; (3) said operations are restricted against the transportation of vehicles for or on behalf of manufacturers of trucks or automobiles or from the plant sites of such manufacturers. Both certificates also state that the authority granted herein is subject to the right of the Commission which is hereby expressly reserved to impose thereon in the future such terms, conditions, or limitations, as it may find necessary in order to insure that the service, is performed in conformity with the provisions of the Act and the Commission's rules and regulations. Petitioner states that he now utilizes the two operating authorities to perform non-radial operations between points in the United States (including AK, but excluding HI). By the instant petition, petitioner seeks to modify the Sub 4 by deleting the word "used" from where it appears in the certificate and to reconcile the two commodity authorizations.

MC 135532 (M2F), filed December 28, 1978. Petitioner: FURNITURE WHOLESALERS, INC., 609 Davol Street, Fall River, MA 02722. Representative: Andrew Shabshelowitz, 283 Walnut Street, Fall River, MA 02722. Petitioner holds motor *common carrier* certificate in MC–135532, issued May 19, 1976, which authorizes transportation, over irregular routes, of *crated new household furniture* and *new household furnishings*, from Fall River, MA, to points in CT, RI, and Bristol County, MA; and *returned shipments* of the above-named commodities, from points in CT, RI, and Bristol County, MA, to Fall River, MA, restricted and subject to the following conditions: (1) The operations authorized herein are limited to a transportation service to be performed, under a continuing contract, or contracts, with Bassett Furniture Industries, of Bassett, VA, (2) Said carrier shall maintain completely separate accounting systems of its private and for-hire operations, and (3) said carrier shall not at the same time and in the same vehicle transport property both as a private carrier and as a carrier for hire. By the instant petition, petitioner seeks to modify the authortiy by deleting the condition which reads, "said carrier shall not at the same time and in the same vehicle transport property both as a private carrier and a carrier for hire.

MC 140024 (Sub-74) (M1F), notice of filing of petition to modify certificate, filed December 6, 1978. Petitioner: J. B. MONTGOMERY, INC., 5565 East 52nd Ave., Commerce City, CO 80022. Representative: John F. DeCock (same address as petitioner). Petitioner holds motor *common carrier* Certificate in MC–140024 Sub 74, issued May 25, 1978. MC-140024 Sub 74 authorizes transportation, over irregular routes, of *baking powder* (except in bulk), from Terre Haute, IN, to Phoenix, AZ, Los Angeles, Sacramento, and San Francisco, CA, Denver, and Grand Junction, CO, Boise and Pocatello, ID, Wichita, KS, Joplin, Kansas City, and St. Louis, MO, Billings, MT, Grand Island and Omaha, NE, Albuquerque, NM, Oklahoma City, and Tulsa, OK, Portland, OR, Salt Lake City, UT, and Seattle, and Spokane, WA, restricted to the transportation of traffic originating at the facilities of Hulman & Company, at Terre Haute, IN, and destined to the named destinations. This certificate may not be joined or tacked with the carrier's other irregular route authority. By the instant petition, petitioner seeks to add Springfield, MO as a destination point.

MC 142693 (Sub-1) (M1F), filed January 16, 1979. Petitioner: CUSTOM DELIVERIES, INC., 550 Stephenson Highway, Troy, MI 48084. Representative: J. A. Kundtz, National City Bank Building, Cleveland, OH 44114. Petitioner holds motor *contract carrier* Permit in MC–142693 Sub 1, issued October 17, 1978, which authorizes transportation, over irregular routes, as pertinent, of *motor vehicle parts and accessories, and related publications, advertising material and packaging and shipping supplies*, restricted to the transportation service to be performed under a continuing contract, or contracts, with Service and Parts Division, Chrysler Corporation, and Custom Deliveries, Inc., and further restricted to shipments not to exceed 10,000 pounds. By the instant petition, petitioner seeks to modify the authority by deleting the restriction from the subject Permit which limits service to shipments not in excess of 10,000 pounds.

Republications of Grants of Operating Rights Authority Prior to Certification Notice

The following grants of operating rights authorities are republished by order of the Commission to indicate a broadened grant of authority over that previously noticed in the Federal Register.

An original and one copy of a petition for leave to intervene in the proceeding must be filed with the Commission within 30 days after the date of this Federal Register notice. Such pleading shall comply with Special Rule 247(e) of the Commission's *General Rules of Practice* (49 CFR 1100.247) addressing specifically the issue(s) indicated as the purpose for republication, and including copies of intervenor's conflicting authorities and a concise statement of intervenor's interest in the proceeding setting forth in detail the precise manner in which it has been prejudiced by lack of notice of the authority granted. A copy of the pleading shall be served concurrently upon the carrier's representative, or carrier if no representative is named.

MC 47583 (Sub-69F) (republication), filed March 30, 1978, published in the FR issue of June 8, 1978, and republished this issue. Applicant: TOLLIE FREIGHTWAYS, INC., 1020 Sunshine Road, Kansas City, KS 66115. Representative: D. S. Hults, P.O. Box 225, Lawrence, KS 66044. A Decision of the Commission, by the *Initial Decision* of Administrative Law Judge William J. O'Brien, served January 25, 1979, becomes effective March 22, 1979, finds that the present and future public convenience and necessity require operations by applicant in interstate or foreign commerce as a *common carrier*, by motor vehicle, over irregular routes, in the transportation of (1) *plastic articles and materials* (except commodities in bulk), and (2) *equipment and supplies used in the manufacture and distribution of plastic articles*, between points in the United States (except Alaska and Hawaii), restricted to the transportation of shipments originating at or destined to the facilities of Mobil Chemical Co., Plastic Division; subject to the condition that the authority herein granted to the extent it duplicates applicant's existing authority, shall be construed as conferring only a single operating right, that applicant is fit, willing, and able properly to perform such service and to conform to the requirements of the Interstate Commerce Act and the Commission's rules and regulations. The purpose of this republication is to delete "the facilities of Mobil Chemical Co., Plastics Division, at Jacksonville and Springfield, IL" in the territorial description.

MC 55889 (Sub-47F) (republication), filed March 31, 1978, published in the Federal Register issue of July 6, 1978, and republished this issue. Applicant: AAA COOPER TRANSPORTATION, P.O. Box 2207, Dothan, AL 36301. Representative: Kim D. Mann, Suite 1010, 7101 Wisconsin Avenue, Washington, DC 20014. A Decision of the Commission, Review Board Number 2, decided February 6, 1979, and served March 9, 1979, finds that the present and future public convenience and necessity require operations by applicant in interstate or foreign commerce as a *common carrier*, by motor vehicle, in interstate or foreign commerce, transporting *general commodities* (except articles of unusual value, Classes A and B explosives, household goods as defined by the Commission, commodities in bulk, and those requiring special equipment), (A) over regular routes, (1) between Eufaula and Opelika, AL: (a) from Eufaula over U.S. Hwy 431 to Opelika, and return over the same route; and (b) from Eufaula over U.S. Hwy 431 to Junction Alabama Hwy 169, then over Alabama Hwy 169 to Opelika, and return over the same routes; (2) between Troy and Opelika, AL: from Troy over U.S. Hwy 29 to Opelika, and return over the same route; and (3) between Troy, AL, and Junction Alabama Hwy 26 and U.S. Hwy 431:

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from Troy over Alabama Hwy 223 to Union Springs, AL, then over U.S. Hwy 82 to junction Alabama Hwy 26, then over Alabama Hwy 26 to junction U.S. Hwy 431, and return over the same route; serving in connection with routes (1), (2), and (3) above, all intermediate points in Pike, Bullock, Barbour, and Russell Counties, AL, and all other points in the named Counties as off-route points; and (B) over irregular routes, between Geneva, AL, on the one hand, and, on the other, Troy and Eufaula, AL, that applicant is fit, willing, and able properly to perform such service and to conform to the requirements of the Interstate Commerce Act and the Commission's rules and regulations. The purpose of this republication is to indicate applicant's actual grant of authority.

MC 109847 (Sub-29) (republication), filed February 17, 1978, published in the **Federal Register** issue of March 16, 1978, and republished this issue. Applicant: BOSS-LINCO LINES, INC., 3909 Genesee Street, Cheektowsga, New York 14225. Representative: Harold G. Hernly, Jr., ESQ., 110 South Columbus Street, Alexandria, Virginia 22314. A Decision of the Commission, Review Board Number 4, decided February 2, 1979, and served February 28, 1979, finds that the present and future public convenience and necessity require operations by applicant in interstate or foreign commerce as a *common carrier*, by motor vehicle, over irregular routes, transporting *general commodities* (except those of unusual value, Classes A and B explosives, household goods as defined by the Commission, commodities in bulk, and those requiring special equipment): (1) between Cleveland, OH, and Westfield, NY, over Interstate Hwy 90, serving intermediate points in Pennsylvania for the purpose of delivery only, and intermediate points in Ohio; (2) between the junction of U.S. Hwy 219 and Interstate Hwy 80 (near DuBois, PA) and Carlstadt, NJ, from junction of U.S. Hwy 219 and Interstate Hwy 80 near DuBois, over Interstate Hwy 80 to Junction NY Hwy 17, then over NJ Hwy 17 to Carlstadt, and return over the same route, serving no intemediate points; (3) between Cleveland, OH, and the junction U.S. Hwy 219 and Interstate Hwy 80 near DuBois, PA, from Cleveland over Interstate Hwy 480 to junction Interstate Hwy 80 at Hudson, OH, then over Interstate Hwy 80 to junction U.S. Hwy 219 near DuBois, and return over the same route, serving intermediate points in Ohio, junction Interstate Hwy 79 and 80 for purposes of joinder only, and all other intermediate points in Pennsylvania for purposes of delivery only; (4) between Pittsburgh, PA, and the junction of Interstate Hwy 80 and U.S. Hwy 219 near DuBois, from Pittsburgh over U.S. Hwy 22 to junction of U.S. Hwy 119 near Blairsville, PA, then over U.S. Hwy 119 to junction U.S. Hwy 219 then over U.S. Hwy 219 to junction Interstate Hwy 80 near DuBois, and return over the same route, serving no intermediate points; (5) between Pittsburgh, PA and Cleveland, OH, from Pittsburgh over U.S. Hwy 22/30 to junction PA Hwy 60, then over PA Hwy 60 to junction to junction PA Hwy 51, then over PA Hwy 51 to junction OH Hwy 14, then over OH Hwy 14, to junction of Interstate Hwy 480, then over Interstate Hwy 480 to Cleveland, and return over the same route, serving all intermediate points; (6) between Pittsburgh PA, and Marietta, OH, from Pittsburgh over Interstate Hwy 79 to junction of Interstate Hwy 70, then over interstate Hwy 70 to junction of Interstate Hwy 77, then over Interstate Hwy 77 to Marietta, and return over the same route, serving all intermediate points; (7) between Cleveland, OH, and Marietta, OH, over Interstate Hwy 77, serving all intermediate points; (8) between Pittsburgh, PA, and Westfield, NY, from Pittsburgh over Interstate Hwy 79 to junction of Interstate Hwy 90 near Erie, PA, then over Interstate Hwy 90 to Westfield, and return over the same route, serving intermediate points in New York, junction of Interstate Hwys 79 and 80 for purposes of joinder only, and all other intemediate points in Pennsylvania for purposes of delivery only; (9) between Pittsburgh, PA, and Binghamton, NY, from Pittsburgh over U.S. Hwy 22 to junction U.S. Hwy 220 at Hollidaysburg, PA then over U.S. Hwy 220 to junction NY Hwy 17 near Waverly, NY, then over NY Hwy 17 to Binghamton, and return over the same route, serving all intermediate points in Pennsylvania for purposes of delivery only and points in New York, that applicant is fit, willing and able properly to perform such service and to conform to the requirements of the Interstate Commerce Act and the Commission's rules and regulations. The purpose of this republication is to modify the commodity and territorial description.

MC 111812 (Sub-535) (republication), filed September 29, 1977, published in the **Federal Register** issue of November 25, 1977, and republished this issue. Applicant: MIDWEST COAST TRANSPORT, INC. P.O. Box 1233 Sioux Falls, SD 57101. Representative: Ralph H. Jinks, P.O. Box 1233, Sioux Falls, SD 57101. A Decision of the Commission, *Division 1*, decided February 12, 1979, and served March 7, 1979, finds that the present and future public convenience and necessity require operation by applicant, in interstate or foreign commerce, as a *common carrier*, by motor vehicle, over irregular routes, in the transportation of *foodstuffs* (except commodities in bulk), and *beverage dispensers* moving in mixed shipments with foodstuffs, from the facilities of Food Producers International, at Minneapolis, MN, to points in California, Oregon, Washington, Idaho, Montana, Utah, Nevada, Arizona, New Mexico, Colorado, and Wyoming, restricted to the transportation of traffic originating at the named origin; that applicant is fit, willing, and able properly to perform the service authorized and to conform to the requirements to Title 49, Sub title IV, U.S. Code (formerly the Interstate Commerce Act), and the Commission's regulations. The purpose of this republication is to broaden the commodity and origin descriptions by adding "(except commodities in bulk), and *beverage dispensers* moving in mixed shipments with foodstuffs, from the facilities of Food Producers International, at Minneapolis, MN", and adding the restriction "restricted to the transportation of traffic originating at the named origin."

MC 115826 (Sub-268) (republication), filed June 15, 1977, published in the **Federal Register** issue August 25, 1977, and republished this issue. Applicant: W. J. DIGBY, INC., 6015 East 58th Ave., Commerce City, CO 80022. Representative: Howard Gore, 6015 East 58th Ave., Commerce City, CO 80022. A decision of the Commission, Review Board Number 1, decided March 8, 1979, and served March 20, 1979, finds that the present and future public convenience and necessity require operations by applicant in interstate or foreign commerce as a common carrier, by motor vehicle, over irregular routes, transporting (A) (1) foodstuffs, (2) pharmaceutical materials, supplies and products, (3) chemicals, (4) alcoholic beverages (5) tobacco porducts, (6) pet foods, and (7) such commodities as are delt in by distribution or consolidation warehouses for the commodities described in (1) through (6), when moving in the same vehicle at the same time as the commodities described in (1), (2), (3), (4), (5), or (6) (except commodities in bulk in (1) through (7)), in vehicles equipped with mechinical refrigeration, (a) from Denver, CO, to points in the United States in the west of MN, IA, MO, AR and LA (except AK and HI), restricted to traffic originating at, or moving from storage-in transit at, Denver, CO, or the facilities of Novel, Inc., located at Albuquerque, NM, and destined to points in the United States in and west of MN, IA, MO, AR, and LA (except AK and HI), and (b) from points in the United States in and west of MN, IA, MO, AR, and LA (except AK and HI), to Denver, CO, restricted to traffic originating at points in the United States in and west of MN, IA, MO, AR and LA (except AK and HI), and destined to, or moving to storage-in-transit at, Denver, CO, or the facilities of Nobel, Inc., located at Albuquerque, NM, provided that parts (a) and (b) may be tacked in connection with shipments which originate at or are destined to the facilities of Nobel, Inc. located at Albuquerque, NM; and (b) *foodstuffs* (except in bulk), between the facilities of Packers' Cold Storage, located at Laramie, WY, on the one hand, and, on the other, points in the United States in and west, of MN, IA, MO, AR, and LA (except AK and HI), restricted to traffic originating at the destined to points in the United States in and west of MN, IA, MO, AR and LA (except AK and HI), and (c) *foodstuffs and restaurant materials, equipment, and supplies* (except commodities in bulk), from points in the United States in and west of MN, IA, MO, AR and LA (except AK and HI), to the facilities or Nobel, Inc., located at (a) Denver, CO, and (b) Albuquerque, NM, restricted to the transportation of traffic originating at the named origins and destined to the named destinations, that applicant is fit, willing, and able properly to perform such service and to conform to the requirements of the Interstate Commerce Act and the Commission's rules and regulations. The purpose of this republication is to modify the commodity and territorial description.

MC 129387 (Sub-31) (republication), filed March 22, 1977, published in the **Federal Register** issue May 19, 1977, and republished this issue. Applicant: PAYNE TRANSPORTATION, INC., P.O. Box 1271, Huron, South Dakota 57350. Representative: Doug W. Sinclair, P.O. Box 1271, Huron, South Dakota 57350. A Decision of the Commission, Review Board Number 1, decided March 5, 1979, and served March 20, 1979, finds that the present and future public convenience and necessity require operations by applicant in interstate or foreign commerce as a common carrier by motor vehicle, over irregular routes, transporting (A) (1) *foodstuffs*, (2) *Pharmaceutical materials, supplies and products*, (3) *chemicals*, (4) *alcoholic beverages*, (5) *tobacco products*, (6) *pet foods*, and (7) for the commodities described in (1) through (6), when moving in the same vehicle at the same time as the commodities described in (1), (2), (3), (4), (5), or (6) (except commodities in bulk in (1) through (7), in vehicles equipped with mechanical refrigeration, (a) from Denver, CO, to points in the United States in and west of MN, IA, MO, AR, and LA (except AK and HI), restricted to traffic originating at points in the United States in and west of MN, IA, MO, AR and LA (except AK and HI), and destined to, or moving to storage-in-transit at, Denver, CO, or the facilities of Nobel, Inc., located at Albuquerque, NM, and destined to points in the United States in and west of MN, IA, MO, AR, and LA (except AK and HI), and (b) from points in the United States in and west of MN, IA, MO, AR and LA (except AK and HI), to Denver, CO, restricted to traffic originating at points in the United States, in and west of MN, IA, MO, AR and LA (except AK and HI), and destined to or moving to storage-in-transit at, Denver, CO, or the facilities of Nobel, Inc., Located at Albuquerque, NM, Provided that parts (a) and (b) may be tacked in connection with shipments which originate at or are destined to the facilities of Nobel, Inc., located at Albuquerque, NM; and (b) *foodstuffs* (except in bulk), between the facilities of Packers' Cold Storage, located at Laramie, WY, on the one hand, and, on the other, points in the United States in and west of MN, IA, MO, AR and LA (except AK and HI), restricted to traffic originating at and destined to points in the United States in and west of MN, IA, MO, AR, and LA (except AK and HI), that applicant is fit, willing and able properly to perform such service and to conform to the requirements of the Interstate Commerce Act and the Commission's rules and regulations. The purpose of this republication is to modify the commodity and territorial description.

MC 134286 (Sub-26) (republication), filed May 31, 1966, published in the **Federal Register** issue of September 29, 1977, and republished this issue. Applicant: ILLINI EXPRESS, INC., P.O. Box 1564, Sioux City, Iowa 51102. Representative: Charles M. Williams, 1600 Sherman Street, Denver, CO 80203. A Decision of the Commission, Review Board Number 1, decided March 8, 1979, and served March 20, 1979, finds that the present and future public convenience and necessity require operations by applicant in interstate or foreign commerce as a common carrier by motor vehicle, over irregular routes, transporting: (A) (1) *food stuffs*, (2) *pharmaceutical materials, supplies*, and *products*, (3) *chemicals*, (4) *alcoholic beverages*, (5) *tobacco products*, (6) *pet foods*, and (7) *such commodities as are delt in by distribution consolidation warehouses* for the commodities described in (1) through (6), when moving in the same vehicle at the same time as the commodities described in (1), (2), (3), (4) or (6) (except in bulk in (1) through (7)), in vehicles equipped with mechanical refrigeration, (a) from Denver, CO, to points in the United States in and west of MN, IA, MO, AR and LA (except AK and HI), restricted to traffic originating at, or moving from storage-in-transit at, Denver, CO, or the facilities of Nobel, Inc., located at Albuquerque, NM, and destined to points in the United States in and west of MN, IA, MO, AR, and LA (except AK and HI), and (b) from points in the United States in and west of MN, IA, MO, AR and LA (except AK and HI), to Denver, CO, restricted to traffic originating at points in the United States in and west of MN, IA, MO, AR and LA (except AK and HI), and destined to, or moving to storage-in-transit at, Denver, CO, or the facilities of Nobel, Inc., located at Albuquerque, NM, provided that parts (a) and (b) may be tacked in connection with shipments which originate at or are destined to the facilities of Nobel, Inc., located at Albuquerque, NM; and (B) *foodstuffs* (except in bulk), between the facilities of Packers' Cold Storage, located at Laramie, WY, on the one hand, and, on the other, points in the United States in and west of MN, IA, MO, AR and LA (except AK and HI), restricted to traffic originating at and destined to points in the United States in and west of MN, IA, MO, AR and LA (except AK and HI), that applicant is fit, willing and able to properly perform such service and to conform to the requirements of the Interstate Commerce Act and the Commission's rules and regulations. The purpose of this republication is to modify the commodity and territorial description.

MC 134872 (Sub-11F) (republication), filed March 7, 1978, published in the **Federal Register** issue of April 27, 1978, and republished this issue. Applicant: GOSSELIN EXPRESS LTD., 141 Smith Boulevard, Thetford Mines, PQ, Canada. Representative: Neil D. Beslin, 99 Washington Ave., Albany, NY 12210. A Decision of the Commission, *Review Board No. 3*, decided January 25, 1979, and served February 28, 1979, finds that the present and future public convenience and necessity require operations by applicant in foreign

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commerce only, as a *common carrier*, by motor vehicle, over irregular routes, in the transportation of *asbestos*, in bags, from the ports of entry on the international boundary line between the United States and Canada at Champlain, NY, and Highgate Springs and Derby Line, VT, to Meredith, NH, and Norristown, PA, that applicant is fit, willing, and able properly to perform such service and to conform to the requirements of the Interstate Commerce Act and the Commission's rules and regulations. The purpose of this republication is to modify the origin point by adding Highgate Springs and Derby Line, VT, in lieu of Detroit, MI.

Motor Carrier, Broker, Water Carrier and Freight Forwarder Operating Rights Applications

Notice

The following applications are governed by Special Rule 247 of the Commission's General Rules of Practice (49 CFR 1100.247). These rules provide, among other things, that a protest to the granting of an application must be filed with the Commission within 30 days after the date of notice of filing of the application is published in the **Federal Register**. Failure to seasonably file a protest will be construed as a waiver of opposition and participation in the proceeding. A protest under these rules should comply with Section 247(e)(3) of the rules of practice which requires that it set forth specifically the grounds upon which it is made, contain a detailed statement of protestant's interest in the proceeding (including a copy of the specific portions of its authority which protestant believes to be in conflict with that sought in the application, and describing in detail the method—whether by joinder, interline, or other means—by which protestant would use a such authority to provide all or part of the service proposed), and shall specify with particularity the facts, matters, and things relied upon, but shall not include issues or allegations phrased generally. Protests not in reasonable compliance with the requirements of the rules may be rejected.

Passenger

MC 146960, filed January 10, 1979. Applicant: VIRGINIA TOURS, INC., 2707 Williard Road, Richmond, VA 23229. Representative: Calvin F. Major, 200 West Grace St., Suite 415, Richmond, VA 23220. Authority sought to operate as a *common carrier*, by motor vehicle, in interstate or foreign commerce, over irregular routes, transporting *passengers and their baggage*, in the same vehicle with passengers, in round-trip special and charter operations, beginning and ending at Charlottesville, Colonial Heights, Farmville, Fredericksburg, Hopewell, Petersburg, and Richmond, VA, and points in Albemarle, Amelia, Buckingham, Caroline, Charles City, Chesterfield, Cumberland, Dinwiddie, Fluvanna, Goochland, Hanover, Henrico, King William, Louisa, New Kent, Nottoway, Powhatan, Prince Edward, Prince George, Spotsylvania, and Surry Counties, VA, and extending to points in the United States, including AK, but excluding HI. (Hearing site: Richmond, VA.)

Operating Rights Application(s) Directly Related to Finance Proceedings

Notice

The following operating rights application(s) are filed in connection with pending finance applications under Section 11343 (formerly Section 5(2)) of the Interstate Commerce Act, or seek tacking and/or gateway elimination in connection with transfer applications under Section 10926 (formely Section 212(b)) of the Interstate Commerce Act.

An original and one copy of protests to the granting of the authorities must be filed with the Commission within 30 days after the date of this **Federal Register** notice. Such protests shall comply with Special Rule 247(e) of the Commission's *General Rules of Practice* (49 CFR 1100.247) and include a concise statement of protestant's interest in the proceeding and copies of its conflicting authorities. Verified statements in opposition should not be tendered at this time. A copy of the protest shall be served concurrently upon applicant's representative or applicant if no representative is named.

Each applicant states that approval of its application will not significantly affect the quality of the human environment nor involve a major regulatory action under the Energy Policy

Federal Register Caption

MC 109397 (Sub-454F), filed April 27, 1979. Applicant: TRI-STATE MOTOR TRANSIT CO., P.O. Box 113, Joplin, MO 64801. Representative: Anthony N. Jacobs (same address as Applicant). Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting:

1. Such *contractors' equipment, machinery* and *machine parts, heavy* and *bulky articles, articles requiring special handling or rigging, self-propelled articles*, each weighing 15,000 pounds or more, and related *machinery, equipment, tools, parts*, and *supplies* moving in connection therewith (restricted to self-propelled articles which are transported on trailers), incidental to and used in connection with the construction, repairing, or dismantling of pipelines, between points in AL, AR, CO, FL, GA, IA, KS, KY, LA, MN, MS, MO, NE, NM, ND, OK, OR, SD, TN, TX, WA, WI, WY, MA, RI, CT, NJ, DE, MD, NC, and DC.

2. *Commodities*, which because of size or weight require special equipment, and related *machinery parts*, and related *contractors' materials* and *supplies* when their transportation is incidental to commodities requiring special equipment, and *self-propelled articles* each weighing 15,000 pounds or more, and related *machinery, equipment, tools, parts*, and *supplies* moving in connection therewith (restricted to self-propelled articles which are transported on trailers), incidental to and used in connection with the construction, repairing or dismantling of pipelines, between points in CA, on the one hand, and, on the other, points in the United States (except AK, HI, OR, VT, ME, and NH).

5. *Commodities*, which because of size or weight require special equipment, and related *machinery parts*, and related *contractors' materials* and *supplies* when their transportation is incidental to commodities requiring special equipment, and *self-propelled articles* each weighing 15,000 pounds or more, and related *machinery, equipment, tools, parts*, and *supplies* moving in connection therewith (restricted to self-propelled articles which are transported on trailers), used in, or in connection with, the discovery, development, production, refining, manufacture, processing, storage, transmission, and distribution of natural gas and petroleum and their products and by-products; (a) Between points in CA, on the one hand, and, on the other, points in AR, CO, IA, KS, KY, LA, MO, NE, NM, OK, TX, WI, ND, SD, MI, MN, IL, IN, OH, PA, NJ, DE, MD, NC, WV, VA, NY, CT, RI, MA, and DC. (b) Between NV, on the one hand, and, on the other, points in ID, WI, MN, MI, OH, NC, VA, WV, MD, DE, PA, NY, NJ, CT, MA, RI, and DC.

6. *Commodities*, the transportation of which because of size or weight requires the use of special equipment or handling, and *parts of commodities*, the transportation of which because of their size or weight requires the use of special equipment or handling, and *self-propelled articles*, each weighing 15,000 pounds or more, and related *machinery, equipment, tools, parts*, and *supplies* moving in connection therewith (restricted to self-propelled articles which are transported on trailers); (a) Between points in AR, CO, IA, KS, LA, MO, NM, OK, TX, WY, WI, ND, SD, MN, IL, IN, OH, PA, NJ, DE, MD, NC, WV, VA, NY, CT, RI, MA, and DC.

8. *Pipe, pipe-line material, machinery* and *equipment* incidental to and used in connection with the construction, repairing, or dismantling of pipelines, except commodities moving in tank vehicles, new passenger automobiles, and Classes A and B explosives, between points in WA, OR, WY, NM, NE, ND, MN, WI, MI, IA, MO, AR, LA, MS, IN, OH, WV, and KY, on the one hand, and, on the other, ports of entry on the Pacific Coast and those on the United States-Canada Boundary line—restricted to traffic moving to or from AK or foreign commerce.

9. *Machinery, equipment, materials* and *supplies* used in, or in connection with, the discovery, development, production, refining, manufacture, processing, storage, transmission, and distribution of natural gas and petroleum and their products and by-products, except commodities moving in tank vehicles, new passenger automobiles, and Classes A and B explosives, between points in WY, NM, LA, AR, MO, NE, IA, IN, and KY, on the one hand, and, on the other, ports of entry on the Pacific Coast and those on the United States-Canada Boundary line—restricted to traffic moving to or from AK or foreign commerce.

12. *Machinery, equipment, materials*, and *supplies* used in or in connection with the construction, operation, servicing, maintenance and dismantling of pipelines, including the stringing and picking up thereof, other than pipelines used for the transmission of water or sewerage, except commodities moving in tank vehicles, new passenger automobiles, and Classes A and B explosives, between points in AK, on the one hand, and, on the other, points in UT, OK, TX, KS, CA, PA, GA, NY, TN, FL, VA, SD, MT, CO, AL, and IL—restricted to traffic moving to or from AK or foreign commerce.

13. *Machinery, equipment, materials* and *supplies* used in, or in connection with, the discovery, development, production, refining, manufacture, processing, storage, transmission, and distribution of natural gas and petroleum and their products and by-products, except commodities moving in tank vehicles, new passenger automobiles, and Classes A and B explosives, between points in NV, on the one hand, and, on the other, ports of entry on the Pacific Coast and those on the United States-Canada Boundary line—restricted to traffic moving to or from AK or foreign commerce.

14. *Machinery, equipment, materials*, and *supplies* used in or in connection with the construction, operation, repair, servicing, maintenance, and dismantling of pipelines, other than pipelines used for the transmission of natural gas, petroleum, their products and by-products, water or sewerage—restricted to shipments moving to or from pipeline rights-of-way, and except commodities moving in tank vehicles, new passenger automobiles, and Classes A and B explosives, between points in AZ, CT, DE, ID, MA, MD, ME, NH, NC, NJ, NV, RI, SC, VT, and DC, on the one hand, and, on the other, ports of entry on the Pacific Coast and those on the United States-Canada Boundary line—restricted to traffic moving to or from AK or foreign commerce.

17. *Steel roofing*, from Phoenix, AZ, and *reinforcing bars*, from Helena, AZ, to ports of entry on the Pacific Coast and those on the United States-Canada Boundary line—restricted to traffic moving to AK or foreign commerce.

18. *Plastic pipe, conduit, couplings, fittings, vinyl siding*, and *accessories* used in the installation of those commodities, from Williamsport, MD, to ports of entry on the Pacific Coast and those on the United States-Canada Boundary line—restricted to traffic originating at the facilities of Certain-Teed Products Corporation in Williamsport, MD, and further restricted to traffic moving to AK or foreign commerce.

19. *Lumber, lumber products*, and *particle board*, from the facilities of Olinkraft, Inc., located at or near Winnfield and Lillie, LA, and Hüttig, AR, to ports of entry on the Pacific Coast and those on the United States-Canada Boundary line—restricted to traffic moving to AK or foreign commerce.

20. *Liquid* and *food processing* and *handling* and *packaging machinery* and *equipment* thereof, which because of size or weight require special handling or special equipment, between UT, WA, CA, and OR, on the one hand, and, on the other, points in the United States (except AK and HI). Restricted to traffic originating at or destined to the facilities of Crown Cork & Seal Company and its subsidiaries.

25. *Steel bar joists* and *long spans*, from Congaree, SC, to points in the United States (except AK and HI).

26. *Aircraft* and *aircraft parts* which because of size or weight require the use of special equipment, and *equipment* and *machinery* and *parts* and *materials* and *supplies* used in the maintenance, servicing, repairing, and operation of aircraft (except commodities in bulk and except automobiles, trucks, and buses as defined in *Descriptions in Motor Carrier Certificates*, 61 M.C.C. 209 and 766), between points in IN, KY, NM, WY, UT, WI, OR, ND, and SD, on the one hand, and, on the other, points in the United States (except AK and HI).

27. (1) *Turbines, steam condensers, feed water heaters, weldments* and *heat exchangers*, (2) *parts* of the commodities in (1) above, and (3) *iron* and *steel castings* and *forgings*, restricted in (1) above to the transportation of commodities which because of size or weight require the use of special equipment and in (2) above to the transportation of parts which because of size or weight do not require the use of special equipment in mixed loads with commodities in (1) above, between points in TX, OK, NM, CO, KS, OH, UT, WA, OR, CA, WY, AR, LA, MO, IA, WI, IL, IN, and KY, on the one hand, and, on the other, points in the United States (except AK and HI).

28. (1) *Turbines, steam condensers, feed water heaters, weldments* and *heat exchangers*, (2) *parts* of the commodities in (1) above, and (3) *iron* and *steel castings* and *forgings*, restricted in (1) above to the transportation of commodities which because of size or weight require the use of special equipment and in (2) above to the transportation of parts which because of size or weight do not require the use of special equipment in mixed loads with commodities in (1) above, between points in ME, VT, and NH, on the one hand, and, on the other, points in the United States in and west of MN, IA, MO, AR, and LA.

34. *Electric controllers* and *instruments* requiring special equipment or special handling by reason of size or weight, incidental to and used in connection with the construction, repairing, or dismantling of pipelines, (a) From points in AL, AR, CO, FL, GA, IL, IN, IA, KS, KY, LA, MI, MN, MS, MO, NE, NM, NY, ND, OH, OK, OR, PA, SD, TN, TX, VA, WA, WV, WI, and WY, to points in ME, VT, NH, and SC. (b) From points in CT, MA, NJ, DE, and MD, to points in AL, AR, CO, FL, GA, IL, IN, IA, KS, KY, LA, MI, MN, MS, MO, NE, NM, NY, ND, OH, OK, OR, PA, SD, TN, TX, VA, WA, WV, WI, and WY. (c) From points in NC, to MN, ND, SD, NE, OR, and WA.

35. *Antipollution systems* and *antipollution system parts* requiring special handling or rigging, which are fabricated metal products, from points

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Note.—No. MC-109397 (Sub-No. 454F) is a

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in NY, PA, MD, VA, and NC, to points in the United States in and west of WI, IL, MO, AR, and LA.

36. *Antipollution systems* and *antipollution system parts* requiring specialized handling or rigging, which are iron and steel articles, from points in NY, PA, MD, VA, and NC, to points in the United States in and west of WI, IL, MO, AR, and LA.

37. *Antipollution equipment* and *supplies*, from points in MD, NC, VA, NY, and PA, to points in the United States in and west of ND, SD, NE, KS, OK, and TX.

43. *Insulated wallboard* and *roof insulation*, which because of size or weight requires the use of special equipment, from points in VA, NC, CT, DE, MD, MA, NJ, NY, PA, RI, WV, and DC, to points in and west of TX, OK, KS, NE, SD, and ND.

44. *Iron* and *steel articles*, between points in CA, on the one hand, and, on the other, points in CO.

45. Such *earth drilling machinery* and *equipment*, and *machinery, equipment, materials, supplies* and *pipe* incidental to, used in or in connection with, the transportation, installation, removal, operation, repair, servicing, maintenance, and dismantling of drilling machinery and equipment; the completion of holes or wells drilled; the production, storage, and transmission of commodities resulting from drilling operations at well or hole sites; and the injection or removal of commodities into or from holes or wells; which because of size or weight require special equipment, and *related machinery parts* and *related contractors' materials* and *supplies* when their transportation is incidental to the transportation of commodities which because of size or weight require special equipment, or are self-propelled, weighing 15,000 pounds or more, transported on trailers; (a) Between points in CA, on the one hand, and, on the other, points in NE, ND, and SD. (b) Between points in NE, on the one hand, and, on the other, points in CT, DE, DC, IL, IN, MD, MA, MI, NJ, NY, NC, OH, PA, RI, VA, and WV. (c) Between points in NV, on the one hand, and, on the other, points in OH, PA, MI, NY, MA, RI, CT, NJ, DE, MD, WV, VA, NC, and DC.

51. *Machinery, equipment, materials* and *supplies* used in, or in connection with, the discovery, development, production, refining, manufacture, processing, storage, transmission, and distribution of natural gas and petroleum and their products and by-products, requiring specialized handling or rigging, between points in NE, on the one hand, and, on the other, points in OH, MI, PA, WV, VA, NY, NJ, NC, MD, DE, DC, MA, RI, and CT.

52. *Aluminum*, which because of size or weight requires special equipment, between points in WA, OR, WY, UT, CO, NM, TX, OK, KS, IA, MO, AR, LA, MT, ID, KY, IL, IN, and WI, on the one hand, and, on the other, points in the United States in and east of TX, OK, KS, NE, SD, and ND.

53. (a) *Bulk conveyor systems, pressure vessel systems, heating* and *cooling systems, antipollution systems*, the transportation of which because of size or weight requires special equipment or handling, and (b) *parts* of items in (a) above, between points in UT, OR, WA, CA, CO, NM, TX, OK, KS, ND, SD, ID, MT, MN, WI, OH, IA, MO, AR, LA, KY, IL, and IN, on the one hand, and, on the other, points in the United States (except AK and HI).

54. *Transformers*, which because of size or weight require the use of special equipment, from points in CA, to points in AL, AK, FL, GA, MS, SC, and TN.

(a) Between points in MT and ID, on the one hand, and, on the other, points in MA, RI, CT, NJ, NY, PA, MD, DE, DC, VA, NC, WV, OH, MI, SD, NC, MN, and UT.

(b) Between points in ID, on the one hand, and, on the other, ports of entry on the Pacific Coast and those on the United States-Canada Boundary line—restricted to traffic moving to or from AK or foreign commerce.

60. *Liquid* and *food processing* and *handling* and *packaging machinery* and *equipment* thereof, which because of size or weight require special handling or special equipment, between points in ID and MT, on the one hand, and, on the other, points in the United States (except AK, HI, CA, UT, OR, and WA). Restricted to traffic originating at or destined to the facilities of Crown Cork & Seal Company and its subsidiaries.

61. *Aircraft* and *aircraft parts* which because of size or weight require special equipment, and *equipment* and *machinery* and *parts* and *materials* and *supplies* used in the maintenance, servicing, repairing, and operation of aircraft (except commodities in bulk and except automobiles, trucks, and busses as defined in *Descriptions in Motor Carrier Certificates*, 61 M.C.C. 209 and 766), between points in ID and MT, on the one hand, and, on the other, points in the United States (except AK and HI).

67. *Source, special nuclear*, and *by-products materials, radioactive materials*, which because of size or weight require special equipment or handling, and *related reactor equipment, component parts*, and *associated materials*, between points in WV, MD, DE, DC, MI, PA, NJ, NY, CT, RI, MA, OH, WI, ND, SD, MN, ID, MT, WY, CO, NM, TX, OK, KS, IA, MO, AR, IN, CA, UT, OR, and WA, on the one hand, and, on the other, points in the United States (except AK and HI).

68. *Single* or *concentric cylinders* or *containers*, loaded or empty, which because of size, or construction require special equipment or handling, and *accessories, components* and *related parts* thereof moving in connection therewith, between the Nevada Test Site of the United States Atomoc Energy Commission located near Mercury, NV, on the one hand, and, on the other, points in AR, CO, IA, KS, KY, LA, MO, NM, OK, ID, MT, TX, WI, ND, SD, MI, MN, IL, IN, OH, PA, NJ, DE, MD, NC, WV, KY, VA, NY, CT, RI, MA, DC, WA, OR, WY, and UT.

Hearing site: At the same time and place as directly related Tri-State Motor Transit Co., Merger, Parkhill Truck Company proceeding in Docket No. MC–F–13956F.

Note

The purpose of this application is to eliminate the gateways for the above paragraphs as follows:

1. Eliminates gateways of IL, IN, VA, and WV.
2. Eliminates gateways of WY, IL, and IN.
3. Eliminates gateways of NV, ID, MT, and UT.
4. Eliminates gateways of IN, IL, and WI.
5. (a) Eliminates gateways of NV, IL, and SD. (b) Eliminates gateways of SD, IL, and WY.
6. (a) Eliminates gateways of IL, IN, OH, and WI. (b) Eliminates gateways of WY, NM, UT, WI, IN, and IL. (c) Eliminates gateways of WI, and IL. (d) Eliminates gateways of IL, OH, WI, and IN. (e) Eliminates gateways of IN and WI.
7. Eliminates gateway of KS.
8. Eliminates gateways of UT, KS, OK, and IL.
9. Eliminates gateways of CO, KS, and OK.
10. Eliminates gateways of CO, IL, KS, and OK.
11. Eliminates gateways of CO, WI, and KS.
12. Eliminates gateway of WA.
13. Eliminates gateways of MT, WY, and CO.
14. Eliminates gateway of MT.
15. Eliminates gateway of MT.
16. Eliminates gateways of IL, KS, OK, and MT.
17. Eliminates gateway of UT.
18. Eliminates gateway of PA.
19. Eliminates gateway of KS.
20. Eliminates gateways of WY, CO, and IA.
21. Eliminates gateways of WY, AR, LA, IL, and MO.
22. Eliminates gateways of OH, AR, and WY.
23. Eliminates gateways of MO and IL.
24. Eliminates gateways of WY, NM, UT, WI, and IN.
25. Eliminates gateway of Hope, AR.
26. Eliminates gateways of IL, WI, and CO.
27. Eliminates gateways of Tulsa, OK, Round Rock, TX, and UT.
28. Eliminates gateways of IL, Tulsa, OK, and Round Rock, TX.
29. Eliminates gateways of IL, Tulsa, OK, and Round Rock, TX.
30. Eliminates gateway of Pierce County, WA.
31. Eliminates gateway of WY.
32. Eliminates gateway of NV.
33. Eliminates gateway of TX.
34. (a) Eliminates gateway of VA. (b) Eliminates gateways of SC, TN, and NE. (c) Eliminates gateway of NE.
35. Eliminates gateway of Jonesburg, MO.
36. Eliminates gateway of Hope, AR.
37. Eliminates gateway of Washington County, OK.
38. Eliminates gateways of KY, LA, IL, IN, and OK.
39. Eliminates gateway of Corpus Christi, TX.
40. Eliminates gateway of Amarillo, TX.
41. Eliminates gateway of Grayston County, TX.
42. Eliminates gateway of TX.
43. Eliminates gateway of San Antonio, TX.
44. Eliminates gateway of UT.
45. (a) Eliminates gateway of NV. (b) Eliminates gateways of IL and IN. (c) Eliminates gateways of IL and IN.
46. Eliminates gateways of IL and KY.
47. Eliminates gateways of Silsbee and Bon Weir, TX.
48. Eliminates gateways of Jefferson County, KY and Washington County, OK.
49. Eliminates the gateway of Jefferson County, KY.
50. Eliminates the gateway of Charlotte, NC.
51. Eliminates the gateways of IL and IN.
52. Eliminates the gateway of Brazoria County, TX.
53. Eliminates the gateways of Houston, TX, Tulsa, OK, WI, UT, and WY.
54. Eliminates the gateways of WY and UT.
55. Eliminates the gateways of WY, IL, WI, IN, and Homer City, PA.
56. Eliminates the gateways of Polk County, AR, WI, IL, and WY.
57. Eliminates the gateway of Jewett, TX.
58. Eliminates the gateway of Corpus Christi, TX.
59. (a) Eliminates the gateways of IL, CO, KY, and WI. (b) Eliminates the gateway of CO.
60. Eliminates the gateway of WY.
61. Eliminates the gateways of CO, IL, MN, and OR.
62. Eliminates the gateways of Sunnyvale and Marlboro, CA, Round Rock, TX, and Tulsa, OK.
63. Eliminates the gateway of KY.
64. Eliminates the gateway of WY.
65. Eliminates the gateway of IL.
66. Eliminates the gateways of KY, IL, and Grundy County, IL.
67. Eliminates the gateways of IL, KY, Grundy County, IL, and NM.
68. Eliminates the gateways of Albuquerque, NM, Los Alamos, NM, IL, and OH.

This is a matter directly related to a finance proceeding in MC–F–13956F, Tri-State Motor Transit Co., Merge, Parkhill Truck Company. (Hearing site: Tulsa, OK.)

MC F–13956F, Authority sought for merger by Tri-State Motor Transit Co., P.O. Box 113 (Business Route I–44), Joplin, MO 64801, of Parkhill Truck Company, P.O. Box 912, Joplin, MO 64801. Applicant's representative: A. N. Jacobs, P.O. Box 113, Joplin, MO 64801. Operating rights sought to be merged include such commodities as *pipe, pipeline* and *oilfield machinery* and *equipment, size or weight commodities, self-propelled articles, machinery, iron and steel articles, transformers, construction equipment, metal articles, heat exchangers, building materials*, and numerous other specified commodities, as a common carrier, over irregular routes, from, to and between specified points in all the states in the United States including AK but excluding HI, with certain restrictions, as more specifically described in Docket No. MC–106497 and sub-numbers thereunder. This notice does not purport to be a complete description of all the operating rights of the carrier involved. The foregoing summary is believed to be sufficient for purpose of public notice regarding the nature and extent of this carrier's operating rights, without stating, in full, the entirely thereof. Tri-State Motor Transit Co. is authorized to operate as a common carrier in all the states in the United States including AK but excluding HI. Applicant presently controls Parkhill Truck Company in Docket No. MC–F–10006. Application has not been filed for temporary authority under Section 210(a)(b).

Note.—No. MC–109397 (Sub-No. 454F) is a directly related matter.

Motor Carrier Alternate Route Deviations

Notice

The following letter-notices to operate over deviation routes for operating convenience only have been filed with the Commission under the Deviation Rules—Motor Carrier of Property (49 CFR 1042.4(c)(11)).

Protests against the use of any proposed deviation route herein described may be filed with the Commission in the manner and form provided in such rules at any time, but will not operate to stay commencement of the proposed operations unless filed within 30 days from the date of this **Federal Register** notice.

Each applicant states that there will be no significant effect on either the quality of the human environment or energy policy and conservation.

Motor Carrier of Property

MC 30504 (Deviation No. 37), TUCKER FREIGHT LINES, INC., P.O. Box 3144, South Bend, IN 46619, filed March 13, 1979. Carrier proposes to operate as a *common carrier*, by motor vehicle of *general commodities*, with certain exceptions, over a deviation route as follows: From Indianapolis, IN over IN Hwy 37 to junction IN Hwy 13, then over IN Hwy 13 to junction IN Hwy 15, then over IN Hwy 15 to junction MI Hwy 103, then over MI Hwy 103 to junction US Hwy 12, then over US Hwy 12 to White Pigeon, MI, and return over the same route for operating convenience only. The notice indicates that the carrier is presently authorized to transport the same commodities over a pertinent service route as follows: From Indianapolis, IN over US Hwy 31 to junction US Hwy 33, then over US Hwy 33 to junction IN Hwy 120, then over IN Hwy 120 to junction IN Hwy 15, then over IN Hwy 15 to junction MI Hwy 103, then over MI Hwy 103 to junction US Hwy 12, then over US Hwy 12 to White Pigeon, MI, and return over the same route.

MC 42487 (Deviation No. 122), CONSOLIDATED FREIGHTWAYS CORPORATION OF DELAWARE, P.O. Box 3062, Portland, OR 97208, filed March 13, 1979. Carrier proposes to operate as a *common carrier*, by motor vehicle of *general commodities*, with certain exceptions, over a deviation route as follows: From Atlanta, GA over US Hwy 278 to junction US Hwy 231 near Brooksville, AL, then over US Hwy 231 to junction AL Hwy 67 near Summit,

junction US Hwy 29, then over US Hwy

over US Hwy 18 to Luverne, MN, then

Note.—A portion of this deviation is

AL, then over AL Hwy 67 to junction US Hwy 31 near Decatur, AL, then over US Hwy 31 to junction US Hwy 72 at Decatur, AL, then over Alt. US Hwy 72 to junction US Hwy 72 near Tuscumbia, AL, then over US Hwy 72 to junction Interstate Hwy 240 near Memphis, TN, then over Interstate Hwy 240 to junction Interstate Hwy 55 at Memphis, TN, then over Interstate Hwy 55 to junction US Hwy 63 near Gilmore, AR, then over US Hwy 63 to junction US Hwy 60 near Willow Springs, MO, then over US Hwy 60 to junction US Hwy 160 at Springfield, MO, then over US Hwy 160 to junction MO Hwy 13 at Springfield, MO, then over MO Hwy 13 to junction MO Hwy 7 near Clinton, MO, then over MO Hwy 7 to junction US Hwy 71 near Harrisonville, MO, then over US Hwy 71 to Kansas City, MO and return over the same route for operating convenience only. The notice indicates that the carrier is presently authorized to transport the same commodities over a pertinent service route as follows: From Atlanta, GA over US Hwy 41 to Chattanooga, TN, then over US Hwy 11 to Knoxville, TN, then over US Hwy 25W to Corbin, KY, then over US Hwy 25 to Lexington, KY, then over US Hwy 60 to Louisville, KY, then over US Hwy 150 to Shoals, IN, then over US Hwy 50 to St. Louis, MO, then over US Hwy 40 to Kansas City, MO, and return over the same route.

MC 48958 (Deviation No. 86), ILLINOIS-CALIFORNIA EXPRESS, INC., 510 E. 51st Ave., Denver, CO 80216, filed March 13, 1979. Carrier proposes to operate as a *common carrier*, by motor vehicle, of *general commodities*, with certain exceptions, over a deviation route as follows: From Amarillo, TX over US Hwy 60 to Pampa, TX, then over TX Hwy 70 to junction US Hwy 83, then over US Hwy 83, to Liberal, KS, then over US Hwy 54 to Wichita, KS, then over Interstate Hwy 35 to Kansas City, MO, and return over the same route for operating convenience only. The notice indicates that the carrier is presently authorized to tansport the same commodities over a pertinent service route as follows: From Amarillo, TX over US Hwy 66 to junction NM Hwy 39, then over NM Hwy 39 to junction NM Hwy 58, then over NM Hwy 58 to Springer, NM, then over US Hwy 85 to Denver, CO, then over US Hwy 6 to Sterling, CO, then over US Hwy 138 to junction US Hwy 30, then over US Hwy 30 to junction US Hwy 34, then over US Hwy 34 to junction US Hwy 73, then over US Hwy 73 to junction US Hwy 40, then over US Hwy 40 to Kansas City, MO, and return over the same route.

MC 59583 (Deviation No. 59), THE MASON AND DIXON LINES, INC., P.O. Box 969, Kingsport TN 37662, filed March 13 1979. Carrier proposes to operate as a *common carrier*, by motor vehicle, of *general commodities*, with certain exceptions, over deviation routes as follows: (1) From New Haven, CT over CT Hwy 34 to junction Interstate Hwy 84, then over Interstate Hwy 84 to (a) Scranton, PA, and (b) to junction NY Hwy 17, then over NY Hwy 17 to Binghamton, NY, and (2) From Syracuse, NY, over Interstate Hwy 90 to (a) Springfield, MA, and (b) junction NY Hwy 7, then over NY Hwy 7 to junction NY Hwy 2, then over NY Hwy 2 to the NY–MA State Line, then over MA Hwy 2 to Boston, MA and return over the same routes for operating convenience only. The notice indicates that the carrier is presently authorized to transport the same commodities over pertinent service routes as follows: (1) From New Haven, CT over US Hwy 1 to New York, NY, then over US Hwy 9 to junction NJ Hwy 17, then over NJ Hwy 17 to junction US Hwy 46, then over US Hwy 46 to Hackettstown, NJ, then over NJ Hwy 57 to junction NJ Hwy 24, then over NJ Hwy 24 to Phillipsburg, NJ, then over US Hwy 611 to Scranton, PA, then over US Hwy 11 to Binghamton, NY, and (2) From Syracuse, NY over US Hwy 11 to Cortland, NY, then over NY Hwy 13 to Elmira, NY, then over NY Hwy 17 to Binghamton, NY, then over US Hwy 11 to Scranton, PA, then over US Hwy 611 to Phillipsburg, NJ, then over NJ Hwy 24 to junction NJ Hwy 57, then over NJ Hwy 57 to Hackettstown, NJ, then over US Hwy 46 to junction NJ Hwy 17, then over NJ Hwy 17 to junction US Hwy 9, then over US Hwy 9 to New York, NY, then over US Hwy 1 to New Haven, CT, then over US Hwy 5 to Springfield, MA, then over US Hwy 20 to junction MA Hwy 9, then over MA Hwy 9 to Boston, MA and return over the same routes.

MC 60012 (Deviation No. 6), RIO GRANDE MOTOR WAY, INC., 1400 W. 52nd Ave., Denver, CO 80221, filed March 21, 1979. Carrier proposes to operate as a *common carrier*, by motor vehicle, of *general commodities*, with certain exceptions, over a deviation route as follows: From Crescent Junction, UT, over US Hwy 163 to Monticello, UT, then over US Hwy 666 to junction US Hwy 550 near Shiprock, NM, then over US Hwy 550 to Farmington, NM and return over the same route for operating convenience only. The notice indicates that the carrier is presently authorized to transport the same commodities over a pertinent service route as follows: From Crescent Junction, UT over US Hwy 50 to Montrose, CO, then over US Hwy 550 to Farmington, NM, and return over the same route.

MC 69833 (Deviation 31), filed March 21, 1979. Applicant: ASSOCIATED TRUCK LINES, INC., 200 Monroe Avenue, NW, 6th Floor, Grand Rapids, MI 49503. Applicant's Representative: Mr. Harry Pohlad, Vice President-Regulation, Associated Truck Lines, Inc., 200 Monroe Avenue, NW, 6th Floor, Grand Rapids, MI 49503. Carrier proposes to operate as a *common carrier*, by motor vehicle, transporting; *General Commodities*, with usual exceptions, over a deviation route as follows: From junction Interstate Hwy. 65 and Interstate Hwy. 71 at Louisville, KY. via Interstate Hwy. 71 to Cincinnati, OH., and return over the same route for operating convenience only. Carrier is presently authorized to transport the same commodities over a pertinent service route as follows: From Louisville, KY., over U.S. Hwy. 31W to Sellersburg, IN., then over over U.S. Hwy. 31 to junction U.S. Hwy. 50, then over U.S. Hwy. 50 to Seymour, IN., then over Alternate U.S. Hwy. 31 to Columbus, IN., then over IN. Hwy. 46 to Junction IN. Hwy. 9, then over IN. Hwy. 9 to Shelbyville, IN., then over U.S. Hwy. 421 to junction IN. Hwy. 46 then over IN. Hwy. 46 to Penntown, IN., then over IN. Hwy. 101 to junction IN. Hwy. 48, then over IN. Hwy. 48 to junction U.S. Hwy. 50, and then to junction U.S. Hwy. 50 to Cincinnati, OH. and return over the same route.

MC 87909 (Deviation No. 1), (Correction)* KROBLIN TRANSPORTATION SYSTEMS, INC., P.O. Box 5000, Waterloo, IA 50704, filed March 1, 1979. Carrier proposes to operate as a *common carrier*, by motor vehicle, of *general commodities*, with certain exceptions, over deviation routes as follows: (1) From Chicago, IL over Interstate Hwy 90 to junction US Hwy 63, then over US Hwy 63 to Rochester, MN and (2) From Chicago, IL over Interstate Hwy 94 to junction Interstate Hwy 90, then over combined Interstate Hwys 90–94 to junction Interstate Hwy 90, then over Interstate Hwy 90 to Rochester, MN and return over the same routes for operating convenience only. The notice indicates that the carrier is presently authorized to transport the same commodities over a pertinent service route as follows: From Chicago, IL over Alternate over U.S. Hwy 30 to

*The purpose of this republication is to properly describe the proposed route in (1) above.

junction US Hwy 30, then over US Hwy 30 to Cedar Rapids, LA, then over IA Hwy 150 to Independence, IA, then over US Hwy 20 to Waterloo, IA, then over US Hwy 63 to junction IA Hwy 3, then over IA Hwy 3 to Waverly, IA, then over US Hwy 218 to Osage, IA, then over IA Hwy 9 to junction US Hwy 63, then over US Hwy 63 to Rochester, MN, and return over the same route.

Note.—A portion of this deviation is premised on a grant of temporary authority under section 210(a)(b). If applicant's right to operate all or part of the authority expires, this deviation, if authorized, will likewise expire.

MC 87909 (Deviation No. 3), KROBLIN TRANSPORTATION SYSTEMS, INC., P.O. Box 5000, Waterloo, IA 50704, filed March 9, 1979. Carrier proposes to operate as a *common carrier*, by motor vehicle, of *general commodities*, with certain exceptions, over a deviation route as follows: From Chicago, IL Over Interstate Hwy 94 to junction Interstate Hwy 90, then over combined Interstate Hwys 90–94 to junction Interstate Hwy 94, then over Interstate Hwy 94 to Minneapolis-St. Paul, MN and return over the same route for operating convenience only. The notice indicates that the carrier is presently authorized to transport the same commodities over a pertinent service route as follows: From Chicago, IL over Alt. US Hwy 30 to junction US Hwy 30, then over US Hwy 30 to Cedar Rapids, IA, then over IA Hwy 150 to junction US Hwy 20, then over US Hwy 20 to Waterloo, IA, then over US Hwy 218 to Osage, IA, then over IA Hwy 9 to junction US Hwy 63, then over US Hwy 63 to Rochester, MN, then over US Hwy 52 to junction MN Hwy 55, then over MN Hwy 55 to Minneapolis, MN and return over the same route.

Note.—A portion of this deviation is premised on a grant of temporary authority under section 210(a)(b). If applicant's right to operate all or part of the authority expires, this deviation, if authorized, will likewise expire.

MC 108937 (Deviation No. 17), MURPHY MOTOR FREIGHT LINES, INC., 2323 Terminal Rd., P.O. Box 43640, St. Paul, MN 55164, filed March 9, 1979. Carrier proposes to operate as a *common carrier*, by motor vehicle, of *general commodities*, with certain exceptions, over a deviation route as follows: From Albert Lea, MN over Interstate Hwy 35 to Kansas City, MO, and return over the same route for operating convenience only. The notice indicates that the carrier is presently authorized to transport the same commodities over a pertinent service route as follows: From Albert Lea, MN over US Hwy 16 to Luverne, MN, then over US Hwy 75 to Sioux City, IA, the over US Hwy 77 to Dakota City, NE, then over NE Hwy 35 to Emerson, NE, then over NE Hwy 9 to West Point, NE, then over US Hwy 275 to Waterloo, NE, then over NE Hwy 64 to Omaha, NE, then over US Hwy 6 to Lincolkn, NE, then over US Hwy 77 to Beatrice, NE, then over NE Hwy 4 to junction NE Hwy 65, then over NE Hwy 65 to junction NE Hwy 50, then over NE Hwy 50 to Nebraska-Kansas State line, then over KS Hwy 63 to junction unnumbered hwy, then over unnumbered hwy via Bern and Berwick, KS to junction US Hwy 75, then over US Hwy 75 to Sabetha, KS, then over unnumbered hwy via point two miles west of Fairview, KS to junction US Hwy 36, then over US Hwy 36 to junction unnumbered hwy, then over unnumbered hwy via Powhattan and Mercier, KS to Horton, KS, then over US Hwy 159 to junction KS Hwy 9, then over KS Hwy 9 to junction US Hwy 75, then over US Hwy 75 to Topeka, KS, then over US Hwy 24 to Kansas City, MO and return over the same route.

Note.—A portion of this deviation is premised on a grant of temporary authority under section 210(a)(b). If applicant's right to operate all or part of the authority expires, this deviation, if authorized, will likewise expire.

MC 11220 (Deviation No. 40), GORDONS TRANSPORTS, INC., 185 W. McLemore Ave., Memphis, TN, 38101, filed March 9, 1979. Carrier proposes to operate as a *common carrier*, by motor vehicle, of *general commodities*, with certain exceptions, over a deviation route as follows: From Houston, TX over Interstate Hwy 10 to junction Interstate Hwy 12, then over Interstate Hwy 12 to junction Interstate Hwy 55, then over Interstate Hwy 55 to Jackson, MS, then over Interstate Hwy 20 to Atlanta, GA and return over the same route for operating convenience only. The notice indicates that the carrier is presently authorized to transport the same commodities over a pertinent service route as follows: From Houston, TX over U.S. Hwy 75 to Durant, OK, then over U.S. Hwy 70 to junction Interstate Hwy 30, west of Benton, AR, then over Interstate Hwy 30 to Little Rock, AR, then over U.S. Hwy 70 to Memphis, TN, then over U.S. Hwy 72 to junction Alt. U.S. Hwy 72, then over Alt. U.S. Hwy 72 to Decatur, AL, then over U.S. Hwy 31 to junction AL Hwy 67, then over AL Hwy 67 to junction U.S. Hwy 278, then over U.S. Hwy 278 to Atlanta, GA and return over the same route.

Note.—A portion of this deviation is premised on a grant of temporary authority under section 210(a)(b). If applicant's right to operate all or part of the authority expires, this deviation, if authorized, will likewise expire.

Motor Carrier Alternate Route Deviations

Notice

The following letter-notices to operate over deviation routes for operating convenience only have been filed with the Commission under the Deviation Rules—Motor Carrier of Passengers (49 CFR 1042.2(c)(9)).

Protests against the use of any proposed deviation route herein described may be filed with the Commission in the manner and form provided in such rules at any time, but will not operate to stay commencement of the proposed operations unless filed within 30 days from the date of this Federal Register notice.

Each applicant states that there will be no significant effect on either the quality of the human environment or energy policy and conservation.

Motor Carriers of Passengers

MC 1515 (Deviation No. 740), GREYHOUND LINES, INC., Greyhound Tower, Phoenix, AZ 85077, filed March 9, 1979. Carrier proposes to operate as a *common carrier*, by motor vehicle, of *passengers and their baggage* and *express* and *newspapers* in the same vehicle with passengers, over a deviation route as follows: From Rock Hill, SC over Interstate Hwy 77 (using portions of U.S. Hwy 21 where Interstate Hwy 77 is incomplete) to junction SC Hwy 277, then over SC Hwy 277 to Columbia, SC, and return over the same route for operating convenience only. The notice indicates that the carrier is presently authorized to transport passengers and the same property over a pertinent service route as follows: From Hardeeville, SC over U.S. Hwy 321 via Fairfax, SC to Columbia, SC, then over U.S. Hwy 21 to junction old U.S. Hwy 21 (redesignated SC Hwy 6) and relocated U.S. Hwy 21 near Roddey, SC, then over relocated U.S. Hwy 21 to junction old U.S. Hwy 21 near Rock Hill, SC and return over the same route.

Motor Carrier Intrastate Application(s)

Notice

The following application(s) for motor common carrier authority to operate in intrastate commerce seek concurrent motor carrier authorization in interstate or foreign commerce within the limits of the intrastate authority sought, pursuant

Sunshine Act Meetings

Federal Register

to Section 10931 (formerly Section 206(a)(6)) of the Interstate Commerce Act. These applications are governed by Special Rule 245 of the Commission's *General Rules of Practice* (49 CFR 1100.245), which provides, among other things, that protests and requests for information concerning the time and place of State Commission hearings or other proceedings, any subsequent changes therein, and any other related matters shall be directed to the State Commission with which the application is filed and shall *not* be addressed to or filed with the Interstate Commerce Commission.

California Docket A58811, filed April 18, 1979. Applicant: STERLING TRANSIT COMPANY, INC., 853 S. Mapel Avenue, Montebello, CA 90641. Representative: Fred H. Mackensen, c/o Murchison & Davis, 9454 Wilshire Blvd., Suite 400, Beverly Hills, CA 90212. Certificate of Public Convenience and Necessity sought to operate a freight service, as follows: Transportation of: General commodities as follows: I. Between all points and places in the following territories: 1. Sacramento and points and places within 50 miles thereof; 2. Salinas and points and places within 25 miles thereof. II. 1. Points on and within 10 miles of U.S. Highway 101 and between Los Angeles and Goleta; 2. Points on and within 10 miles of U.S. Highway 101 between Salinas and Santa Rosa; 3. Points on and within 10 miles of California Highway 17 between Santa Cruz and San Rafael; 4. Points on and within 10 miles of California Highway 1 between Santa Cruz and Carmel; 5. Points on and within 10 miles of Interstate Highway 8 between Holtville and Winterhaven; 6. Points on and within 10 miles of Interstate Highway 10 between Indio and Blythe; 7. Points on and within 10 miles of Interstate Highway 80 between Sacramento and Floriston. III. 1. Through routes and rates may be established between any and all points described above and between such points and points named in its previously certificated authority and with other certificated carriers at convenient points of interchange. 2. Transportation will be restricted against the same commodities as those contained in its present certificate. 3. In performing the service herein authorized, carrier may make use of any and all streets, roads, highways and bridges necessary or convenient for the performance of service both within the extended territory and between said territory and points authorized to be served in its previously certificated authority. Intrastate, interstate and foreign commerce authority sought. Hearing: Date, time and place not yet fixed. Requests for procedural information should be addressed to California Public Utilities Commission, State Bldg., Civic Center, San Francisco, CA 94102, and should not be directed to the Interstate Commerce Commission.

New York Docket T–21, filed April 9, 1979. Applicant: REDDICK AUTO EXPRESS, INC., P.O. Box 47, North Syracuse, NY 13212. Representative: Herbert M. Canter, Esq., Benjamin D. Levine, Esq., 305 Montgomery Street, Syracuse, NY 13202. Certificate of Public Convenience and Necessity sought to operate a freight service, as follows: Transportation of: General commodities, as defined in Section 800.1 of Title 17 of the Official Compilation of Codes, Rules and Regulations of the State of New York: Between Syracue, NY, on the one hand, and, on the other, points in Madison and Oneida Counties, NY. N.B.: Applicant proposes to "tack" or "join" the above authority with its presently authorized operations in order to permit, in effect, an irregular route non-radial service between points in Madison, Oneida, Onondaga and Oswego Counties, NY. Intrastate, interstate and foreign commerce authority sought. Hearing: Date, time and place not yet fixed. Requests for procedural information should be addressed to New York State Department of Transportation, 1220 Washington Avenue, State Campus Building #4, Room G–21, Albany, NY 12232, and should not be directed to the Interstate Commerce Commission.

New York Docket T–9650, filed April 5, 1979. Applicant: JUAN I. ORTIZ, d.b.a. ORTIZ ENTERPRISE, 40–09 82nd Street, Jackson Heights, NY 11432. Certificate of Public Convenience and Necessity sought to operate a freight service, as follows: Transportation of: General commodities, between New York City and all points in the State. Intrastate, interstate and foreign commerce authority sought. Hearing: Date, time and place not yet fixed. Requests for procedural information should be addressed to New York State Department of Transportation, 1220 Washington Avenue, State Campus Building #4, Room G–21, Albany, NY 12232, and should not be direct to the Interstate Commerce Commission.

By the Commission.

H. G. Homme, Jr.,

Secretary.

[FR Doc. 79–15432 Filed 5–16–79; 8:45 am]

BILLING CODE 7035–01–M

[Docket No. AB–26 (Sub-No. 16F)]

Southern Railway Co.; Abandonment Near Belton and Piedmont in Greenwood, Abbeville, Anderson, and Greenville Counties, SC; Findings

Notice is hereby given pursuant to 49 U.S.C. § 10903 (formerly Section 1a of the Interstate Commerce Act) that by a Certificate and Decision decided April 23, 1979, a finding, which is administratively final, was made by the Commission, Review Board Number 5, stating that, subject to the conditions for the protection of railway employees prescribed by the Commission in AB–36 (Sub-No. 2), *Oregon Short Line R. Co.—Abandonment Goshen* —— *I.C.C.* —— decided February 9, 1979, and further, that Southern may not exercise the authority granted herein until approval of the pending directly related application in Finance Docket No. 28970F and institution of operation thereunder, the present and future public convenience and necessity permit the abandonment by the Southern Railway Company of its line of railroad extending from railroad milepost V–89.1 near Greenwood, SC, to railroad milepost V–115.15 near Belton, SC, and from railroad milepost V–116.85 near Belton, SC, to railroad milepost V–131.85 near Piedmont, SC, a total distance of 42.774 miles, in Greenwood, Abbeville, Anderson, and Greenville Counties, SC. A certificate of public convenience and necessity permitting abandonment was issued to the Southern Railway Company. Since no investigation was instituted, the requirement of Section 1121.38(a) of the Regulations that publication of notice of abandonment decisions in the **Federal Register** be made only after such a decision becomes administratively final was waived.

Upon receipt by the carrier of an actual offer of financial assistance, the carrier shall make available to the offeror the records, accounts, appraisals, working papers, and other documents used in preparing Exhibit 1 [§ 1121.45 of the Regulations). Such documents shall be made available during regular business hours at a time and place mutually agreeable to the parties.

The offer must be filed and served no later than June 1, 1979. The offer, as filed, shall contain information required pursuant to § 1121.38(b) (2) and (3) of the Regulations. If no such offer is received, the certificate of public convenience and necessity authorizing abandonment shall become effective July 2, 1979.

H. G. Homme, Jr.,

Secretary.

[FR Doc. 79–15430 Filed 5–16–79; 8:45 am]

BILLING CODE 7035–01–M

Sunshine Act Meetings

Federal Register
Vol. 44, No. 97
Thursday, May 17, 1979

This section of the FEDERAL REGISTER contains notices of meetings published under the "Government in the Sunshine Act" (Pub. L. 94–409) 5 U.S.C. 552b(e)(3).

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1

[M–218, Amdt. 2; May 14, 1979

CIVIL AERONAUTICS BOARD.

Notice of change of time for the May 17, 1979, meeting.

TIME AND DATE: 1:30 p.m., May 17, 1979.

PLACE: Room 1027, 1825 Connecticut Avenue, NW., Washington, D.C. 20428.

PERSON TO CONTACT: Phyllis T. Kaylor, the Secretary, (202) 673–5068.

SUPPLEMENTARY INFORMATION: Board Meeting will be at 1:30 p.m. instead of 10 a.m. on May 17, 1979.

[S–992–79 Filed 5–15–79; 3:46 pm]

BILLING CODE 6320–01–M

2

[M–220, May 15, 1979]

CIVIL AERONAUTICS BOARD.

TIME AND DATE: 10 a.m., May 23, 1979.

PLACE: Room 1027, 1825 Connecticut Avenue, Washington, D.C. 20428.

SUBJECT: ORAL ARGUMENT—Docket 31571–*Northwest Alaska Service Investigation.*

STATUS: Open.

PERSON TO CONTACT: Phyllis T. Kaylor, the Secretary, (202) 673–5068.

[S–993–79 Filed 5–15–79; 3:46 pm]

BILLING CODE 6320–01–M

3

[M–219, May 11, 1979]

CIVIL AERONAUTICS BOARD.

Short notice of Board meeting and short notice of item to be closed.

TIME AND DATE: 10 a.m., May 14, 1979.

PLACE: Room 1027 (Open), Room 1011 (Closed), 1825 Connecticut Avenue NW., Washington, D.C. 20428.

SUBJECT:

1. Docket 32851, Agreement CAB 1175, as amended: on November 2, 1978, IATA filed for Board approval amendments to its *Provisions for the Regulation and Conduct of the IATA Traffic Conferences.* (Memo No. 7959–B, BPDA, OGC, BLJ, BIA, BCP)
2. Japan Off-Route Charters. (BIA)

STATUS: Open (Item No. 1); Closed (Item No. 2)

PERSON TO CONTACT: Phyllis T. Kaylor, the Secretary, (202) 673–5068.

SUPPLEMENTARY INFORMATION: The Board has been carefully considering comments from various airlines, organizations, government agencies and sovereign foreign nations concerning its Order to Show Cause with respect to various agreements adopted by the International Air Transport Association. (Order 78–6–78) IATA, supported by a number of other parties, has asked that the Board's consideration of these issues be expedited. At this meeting further action in this docket will be considered which may involve expedited filing dates. So that the public and parties will have as much time as possible, the following Members voted that agency business requires that a Board Meeting be held on May 14, 1979 at 10 a.m. and that no earlier announcement of this meeting was possible:

Chairman, Marvin S. Cohen
Member, Richard J. O'Melia
Member, Elizabeth E. Bailey
Member, Gloria Schaffer

Japan Air Lines Company, Ltd. applied on May 7, 1979, to perform an off-route charter flight on May 16. Trans International Airlines filed an objection on May 8. The staff could not prepare an order for Board action in time for the May 10 meeting and the flight is scheduled to depart the day before the next meeting scheduled for May 17. Accordingly, the following Members have voted that agency business requires that the Board meet on this item on less than seven days' notice and that no earlier announcement of the meeting was possible:

Chairman, Marvin S. Cohen
Member, Richard J. O'Melia
Member, Gloria Schaffer

Public disclosures, particularly to foreign governments, of opinion, evaluations, and strategies in the discussions could seriously compromise our ability to achieve aviation objectives that would be in the best interests of the United States. Accordingly, the following Members have voted that the meeting on this subject would involve matters the premature disclosure of which would be likely to significantly frustrate implementation of proposed agency action within the meaning of the exemption provided under 5 U.S.C. 552b(c)(9)(B) and 14 CFR 310b.5(9)(B) and that any such meeting should therefore be closed:

Chairman, Marvin S. Cohen
Member, Richard J. O'Melia
Member, Gloria Schaffer

Persons Expected To Attend

Board Members.—Chairman, Marvin S. Cohen; Member, Richard J. O'Melia; Member, Elizabeth E. Bailey; and Member, Gloria Schaffer.
Assistants to Board Members.—Mr. Sanford Rederer, Mr. David M. Kirstein, Mr. Richard Klem, Mrs. Stephen H. Lachter, and Mr. James L. Deegan.
Managing Director.—Mr. Cressworth Lander.
Executive Assistant to the Managing Director.—Mr. John R. Hancock.
Bureau of International Affairs.—Mr. Rosario J. Scibilia, Mr. Richard M. Loughlin, Mr. David A. Levitt, Mr. James Horneman, Mr. Regis Milan, Mr. Dean Johnson, Mr. Ivars V. Mellups, and Mr. Williard L. Demory.
Office of the General Counsel.—Philip J. Bakes, Jr., Mr. Gary J. Edles, and Mr. Michael Schopf.
Bureau of Pricing and Domestic Aviation.—Mr. Michael E. Levine, Ms. Barbara A. Clark, Mr. Herbert P. Aswall, Mr. Douglas Leister, and Mr. John Kiser.
Office of Economic Analysis.—Mr. Robert H. Frank and Mr. Larry Manheim.
Bureau of Consumer Protection.—Mr. Reuben Robertson.
Office of the Secretary.—Mrs. Phyllis T. Kaylor, Ms. Deborah A. Lee, and Ms. Louise Patrick.

General Counsel Certification

I certify that this meeting may be closed to the public under 5 U.S.C. 552b(c)(9)(B) and 14 CFR section

4

STATUS: Because of the subject matter, it

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310b.5(9)(B) and that the meeting may be closed to public observation.

Gary J. Edles,

Acting General Counsel.

[S-994-79 Filed 5-15-79; 3:46 pm]

BILLING CODE 6320-01-M

4

[M-218, Amdt. 1; May 14, 1979]

CIVIL AERONAUTICS BOARD.

Notice of addition and closure of item to the May 17, 1979, agenda.

TIME AND DATE: 10 a.m., May 17, 1979.

PLACE: Room 1011, 1825 Connecticut Avenue NW., Washington, D.C. 20428.

SUBJECT: 28. Peru Negotiations (BIA).

STATUS: Closed.

PERSON TO CONTACT: Phyllis T. Kaylor, the Secretary, (202) 673-5068.

SUPPLEMENTARY INFORMATION: The Board will meet on May 17 after the Open Board Meeting to discuss the results of negotiations conducted on May 10, 1979 on Item 28. Accordingly, the following Members have voted that agency business requires that Item 28 be added to the May 17 agenda and that no earlier announcement of this addition was possible:

Chairman, Marvin S. Cohen
Member, Richard J. O'Melia
Member, Elizabeth E. Bailey

Public disclosures, particularly to foreign governments, of opinions, evaluations, and strategies in the discussions could seriously compromise the ability of the United States Delegation to achieve an agreement which would be in the best interests of the United States. Accordingly, the following Members have voted that the meeting on this subject would involve matters the premature disclosure of which would be likely to significantly frustrate implementation of proposed agency action within the meaning of the exemption provided under 5 U.S.C. 552b(c)(9)(B) and 14 CFR 310b.5(9)(B) and that any such meeting should therefore be closed:

Chairman, Marvin S. Cohen
Member, Richard J. O'Melia
Member, Elizabeth E. Bailey

Persons Expected To Attend

Board Members.—Chairman, Marvin S. Cohen; Member, Richard J. O'Melia; Member, Elizabeth E. Bailey; and Member, Gloria Schaffer.
Assistant to Board Members.—Mr. Sanford Rederer, Mr. David M. Kirstein, Mr. Richard Klem, Mr. Stephen H. Lachter, and Mr. James L. Deegan.
Managing Director.—Mr. Cressworth Lander.
Executive Assistant to the Managing Director.—Mr. John R. Hancock.
Bureau of International Affairs.—Mr. Frank Murphy, Mr. David A. Levitt, Mr. Rosario J. Scibilia, Mr. Richard M. Loughlin, and Ms. Caroline Coldren.
Office of the General Counsel.—Mr. Gary J. Edles, Mr. Michael Schopf, and Mr. Peter B. Schwarzkopf.
Bureau of Pricing and Domestic Aviation.—Mr. Michael E. Levine, Mr. John Kiser, Mr. Douglas Leister, Ms. Barbara A. Clark, and Mr. Herbert P. Aswall.
Office of Economic Analysis.—Mr. Robert H. Frank and Mr. Larry Manheim.
Bureau of Consumer Protection.—Mr. Reuben Robertson and Ms. Patricia Kennedy.
Office of the Secretary.—Mrs. Phyllis T. Kaylor, Ms. Deborah A. Lee, and Ms. Louise Patrick.

General Counsel Certification

I certify that this meeting may be closed to the public under 5 U.S.C. 552b(c)(9)(B) and 14 CFR section 310b.5(9)(B) and that the meeting may be closed to public observation.

Gary J. Edles,

Acting General Counsel.

[S-995-79 Filed 5-15-79; 3:46 pm]

BILLING CODE 6320-01-M

5

FEDERAL DEPOSIT INSURANCE CORPORATION.

Notice of Change in Subject Matter of Agency Meeting

Pursuant to the provisions of subsection (e)(2) of the "Government in the Sunshine Act" (5 U.S.C. 552b(e)(2)), notice is hereby given that at its open meeting held at 2:00 p.m. on Monday, May 14, 1979, the Corporation's Board of Directors determined, on motion of Acting Chairman John G. Heimann (Comptroller of the Currency), seconded by Director William M. Isaac (Appointive), that Corporation business required its addition to the agenda for consideration at the meeting, on less than seven days' notice to the public, of a request by Societe Generale for relief from the mandatory insurance required under section 6(b) of the International Banking Act.

The Board further determined, by the same majority vote, that no earlier notice of the change in the subject matter of the meeting was practicable.

Dated: May 14, 1979.

Federal Deposit Insurance Corporation.

Hoyle L. Robinson,

Executive Secretary.

[S-991-79 Filed 5-15-79; 3:26 pm]

BILLING CODE 6714-01-M

6

FEDERAL ELECTION COMMISSION.

FEDERAL REGISTER NO. FR-S-79-953.

PREVIOUSLY ANNOUNCED DATE AND TIME: Wednesday, May 16, 1979 at 10 a.m.

CHANGE IN MEETING: The following matter has been added to the Agenda:

"Release of transcripts of portions of Commission meetings relevant to the matter of *Roeder v. FEC.*"

* * *

PREVIOUSLY ANNOUNCED DATE AND TIME: Thursday, May 17, 1979 at 10 a.m.

CHANGE IN MEETING: The following matters have been added to the portions of the meeting open to the public:

1. Policy on Release of Presidential Audits.
2. Status of 1976 Presidential Audits: (a) Shriver; (b) Harris (in part).
3. Response to Senate Appropriations Committee.

The following matters have been added to the portion of the meeting closed to the public:

1. Carter Presidential Audit (General Election).
2. Udall Presidential Primary Audit.
3. Harris Presidential Primary Audit (in part).

PERSON TO CONTACT FOR INFORMATION: Mr. Fred S. Eiland, Public Information Officer, Telephone, 202-523-4065.

Marjorie W. Emmons,

Secretary to the Commission.

[S-993-79 Filed 5-15-79; 9:51 am]

BILLING CODE 6715-01-M

7

FEDERAL ENERGY REGULATORY COMMISSION.

"FEDERAL REGISTER" CITATION OF PREVIOUS ANNOUNCEMENT: 44 FR 28147, May 14, 1979.

PREVIOUSLY ANNOUNCED TIME AND DATE OF MEETING: 10 a.m., May 16, 1979.

CHANGE IN MEETING: The following item has been added:

Item No., Docket No., and Company

CAG-27, RP76-90 (Phase II), Kansas-Nebraska Natural Gas Company, Inc.
ER-4, ER79-150, Southern California Edison Company.
M-8(B), CP79-228, Transcontinental Gas Pipe Line Corporation.
CP-2, CP74-192, Florida Gas Transmission Company.

Kenneth F. Plumb,

Secretary.

[S-990-79 Filed 5-15-79; 3:26 pm]

BILLING CODE 6740-02-M

8

OCCUPATIONAL SAFETY AND HEALTH REVIEW COMMISSION.

TIME AND DATE: 1 p.m. on May 23, 1979.

PLACE: Room 1101, 1825 K Street NW., Washington, D.C.

STATUS: Because of the subject matter, it is likely that this meeting will be closed.

MATTERS TO BE CONSIDERED: Discussion of specific cases in the Commission adjudicative process.

CONTACT PERSON FOR MORE INFORMATION: Ms. Patricia Bausell, (202) 634-4015.

Dated: May 15, 1979.

[S-984-79 Filed 5-15-79; 11:09 am]

BILLING CODE 7600-01-M

9

OCCUPATIONAL SAFETY AND HEALTH REVIEW COMMISSION.

TIME AND DATE: 1 p.m. on May 31, 1979.

PLACE: Room 1101, 1825 K Street NW., Washington, D.C.

STATUS: Because of the subject matter, it is likely that this meeting will be closed.

MATTERS TO BE CONSIDERED: Discussion of specific cases in the Commission adjudicative process.

CONTACT PERSON FOR MORE INFORMATION: Ms. Patricia Bausell, (202) 634-4015.

Dated: May 15, 1979.

[S-985-79 Filed 5-15-11:09 am]

BILLING CODE 7600-01-M

10

OCCUPATIONAL SAFETY AND HEALTH REVIEW COMMISSION:

TIME AND DATE: 1 p.m. on June 7, 1979.

PLACE: Room 1101, 1825 K Street NW., Washington, D.C.

STATUS: Because of the subject matter, it is likely that this meeting will be closed.

MATTERS TO BE CONSIDERED: Discussion of specific cases in the Commission adjudicative process.

CONTACT PERSON FOR MORE INFORMATION: Ms. Patricia Bausell, (202) 634-4015.

Dated: May 15, 1979.

[S-986-79 Filed 5-15-79; 11:09 am]

BILLING CODE 7600-01-M

11

OCCUPATIONAL SAFETY AND HEALTH REVIEW COMMISSION.

TIME AND DATE: 1 p.m. on June 14, 1979.

PLACE: Room 1101, 1825 K Street, NW., Washington, D.C.

STATUS: Because of the subject matter, it is likely that this meeting will be closed.

MATTERS TO BE CONSIDERED: Discussion of specific cases in the Commission adjudicative process.

CONTACT PERSON FOR MORE INFORMATION: Ms. Patricia Bausell, (202) 634-4015.

Dated: May 15, 1979.

[S-987-79 Filed 5-15-79; 11:09 am]

BILLING CODE 7600-01-M

12

POSTAL RATE COMMISSION.

TIME AND DATE: 8:15 a.m., Wednesday, May 16, 1979.

PLACE: Conference Room, Room 500, 2000 L Street NW., Washington, D.C.

STATUS: Open.

MATTERS TO BE CONSIDERED:

1. Visit of Canadian postal officials on May 17;
2. House hearings scheduled for May 24.

CONTACT PERSON FOR MORE INFORMATION: Ned Callan, Information Officer, Postal Rate Commission, Room 500, 2000 L Street NW., Washington, D.C. 20268, Telephone, (202) 254-5614.

[S-988-79 Filed 5-15-79; 12:59 pm]

BILLING CODE 7715-01-M

13

POSTAL RATE COMMISSION.

TIME AND DATE: 8:30 a.m., Thursday, May 17, 1979.

PLACE: Conference Room, Room 500, 2000 L Street NW., Washington, D.C.

STATUS: Closed.

MATTERS TO BE CONSIDERED: Status of Docket No. MC78-1. Closed pursuant to 5 U.S.C. § 552b(c)(10).

CONTACT PERSON FOR MORE INFORMATION: Ned Callan, Information Officer, Postal Rate Commission, Room 500, 2000 L Street NW., Washington, D.C. 20268, Telephone, (202) 254-5614.

[S-989-79 Filed 5-15-79; 2:02 pm]

BILLING CODE 7715-01-M

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federal register

Thursday
May 17, 1979

Part II

Department of Transportation

Office of the Secretary

Minority Business Enterprise; Participation in Contracts and Programs Funded by DOT

There is significant authority for the

There are a number of reasons for this

Administration. Thus, if the Department

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DEPARTMENT OF TRANSPORTATION
Office of the Secretary
[49 CFR Part 23]
[OST Docket No. 64; Notice No. 79-8]

Participation by Minority Business Enterprises in Contracts and Programs Funded by the Department of Transportation

AGENCY: Department of Transportation.

ACTION: Notice of proposed rulemaking

SUMMARY: The proposed regulations would establish a uniform Departmental program for participation by firms owned and controlled by socially and economically disadvantaged individuals, particularly minorities and women, (MBEs) in contracts and progams funded by the Department.

These regulations would implement section 905 of the Railroad Revitalization and Regulatory Reform Act of 1976 (45 U.S.C. 803); section 30 of the Airport and Airway Development Act of 1970, as amended (49 U.S.C. 1730); section 19 of the Urban Mass Transportation Act of 1964, as amended (Pub. L. 95-599); section 8(d) of the Small Business Act of 1953, as amended (Pub. L. 95-507); and would carry out the Department's responsibilities under Executive Order 11625 and the President's directive to increase Federal contracting to MBEs. The regulations would cancel all existing DOT MBE regulations, orders, circulars, and administrative requirements except DOT Order 4000.7A.

DATES: Interested parties may submit written comments, suggestions, or views. Written comments must be received on or before July 16, 1979, and should reference the specific sections of the rule on which the comments are made.

ADDRESS: Send comments on the proposed rule to: Docket Clerk, OST Docket No. 64, Office of the General Counsel, Department of Transportation, 400 Seventh Street, S.W., Washington, D.C. 20590.

FOR FURTHER INFORMATION CONTACT: Gary D. Gayton, 400 Seventh Street, SW, Washington, D.C. 20590, (202) 426-4040, principal policy person; or Pamela Michell Hollar, Urban Mass Transportation Administration, Department of Transportation, 2100 Second Street, SW, Washington, D.C. 20590, (202) 426-4038, principal author.

Background

It is the policy of the Department of Transportation to encourage and increase the participation of minority business enterprises (MBEs) in contracts and programs funded by the Department. Economically and socially disadvantaged individuals, including minorities and women, have been traditionally underrepresented as owners and managers of businesses in this country and as DOT and DOT-assisted contractors. To overcome this underrepresentation, on March 6, 1978, the Secretary of Transportation issued DOT Order 4000. 7A, Minority Business Enterprise Program, which sets forth the administrative framework for the Department's MBE program and requires the Departmental elements to issue implementing plans. This regulation is the implementation plan for the Order applicable to the public for programs and contracts of all Departmental elements.

The legal authority for the Order and this regulation includes Executive Order 11625, dated October 13, 1971, which requires that Federal executive agencies develop comprehensive plans and programs to encourage minority business enterprise. More recently, President Carter, in his Urban Policy Statement of March 27, 1978, directed all Federal agencies to triple Federal contracting to MBEs by the end of fiscal year (FY) 1979 and to include MBE goals in Federal assistance programs.

Section 8(d) of the recently amended Small Business Act (Pub. L. 85-507) requires the development of subcontracting programs to utilize firms owned and controlled by socially and economically disadvantaged individuals prior to the award of major government contracts. The statute also requires programs for nondisadvantaged small businesses. That provision is not implemented in this regulation; it will be addressed by the Department in a separate future action.

The Department of Transportation for some time prior to the issuance of DOT Order 4000. 7A has been concerned with increasing opportunities for minority business enterprises. The numerous statutes and regulations which create and define the programs of the operating elements of DOT include provisions for nondiscrimination, racially-based affirmative action, and in some instances, specific MBE requirements.

Secton 905 of the Railroad Revitalization anf Regulatory Reform Act of 1976 (4R Act), and the regulations implementing it (49 CFR, Part 265), prohibits discrimination on the basis of race, color, national origin or sex in the participation in, or benefits of, any program funded by the 4R Act, and explicitly requires the Federal Railroad Administration and its recipients to take affirmative action, including the development and implementation of affirmative action programs, to assist minority-owned businesses in the programs set up by that Act. Section 906 of the Act creates a Minority Business Resource Center to, among other things;

> Design and conduct programs to encourage, promote and assist minority entrepreneurs and businesses to secure contracts, subcontracts, and projects related to the maintenance, rehabilitation, restructuring, and improvement, and revitalization of the Nation's railroads [49 U.S.C. sec. 11(c)(4)].

Section 30 of the Airport and Airway Development Act of 1970, as amended (49 U.S.C. sec. 1730), requires the Federal Aviation Administration to take affirmative action to assure that no person is discriminated against on the grounds of race, creed, color, national origin or sex in any program or activity funded by the Act. The legislative history of the provision reveals a particular concern for increasing MBE participation. A recent amendment to the Urban Mass Transportation Act of 1964, section 19 (Pub. L. 95-599), requires the Urban Mass Transportation Administration (UMTA) to take affirmative action to assure that no person is discriminated against on the grounds of race, color, national origin, age, or sex in any program or activity funded by the Act. Prior to the passage of this amendment, UMTA had issued an interim circular (UMTA C 1165.1) which contains requirements for affirmative action for MBEs by grant applicants which are similar to those contained in this regulation.

The Federal Highway Administration has regulations creating specific affirmative action requirements for its aid recipients to encourage MBEs to bid on Federally-assisted highway projects (23 CFR Subpart B).

Congress has recently shown its support for the concept of using Federal financial assistance programs to promote minority business enterprises through is enactment of the ten percent MBE participation provision in section 106(f)(2) of the local Public Works Capital Development and Investment Act of 1976, as amended (42 U.S.C. sec. 6705(f)(2)). In addition, the 8(a) program of the Small Business Administration (15 U.S.C. sec. 637(a)) is a program specifically designed to assist businesses owned by economically and socially disadvantaged individuals to obtain Federal contracts through the use of competitive and negotiated set-asides. OMB circular A-102 requires Federal financial assistance recipients to carry out affirmative action to ensure MBE utilization.

There is significant authority for the use of Federal contracts and grants to promote national goals. There are at least 39 programs which use Federal contracts and grants to futher goals not related to the object of the procurement, including provisions to promote the hiring of veterans, the purchase of American products, and the requirement of affirmative action by its contractors and grantees.

In an area analogous to that covered by Executive Order 11625, for instance, the Federal Government has required its contractors to take affirmative steps to promote the hiring of minority employees in Federally-funded projects under Executive Order 11246, as amended. Under Executive Order 11246, courts have approved a variety of affirmative actions including the imposition of specific numerical minority hiring goals. The same principles which courts have held to sanction affirmative action requirements for contractors and grantees under Executive Order 11246 support the affirmative action requirements which this regulation imposes on contractors and grantees in the area of minority business enterprise.

Current MBE Utilization

The President, in his Urban Policy Statement, and the Secretary, in DOT Order 4000.7A, have both emphasized the vital role that MBEs are to play in direct Federal and Federally-assisted contracting. Heretofore, MBEs have not participated meaningfully in this contracting while members of minority groups represent approximately 15.7% of the United States population according to the 1970 census, they own only 3% of the businesses in the United States. Statistics for women are even more disparate; while they comprise 51% of the population, they own only 4.6% of the businesses.

The statistics in terms of gross receipts also show disparity. For example, women-owned business receipts totalled only 0.3% of all United States business receipts in 1972, the most recent available figures. In spite of Federal programs of the Small Business Administration, the Department of Commerce, and others to assist MBEs (these programs place little emphasis on women-owned firms), participation by MBEs in Federal contracting is negligible. The Office of Minority Business Enterprise reported in January 1978 that minority-owned firms received only $1 billion, or slightly more than 1%, of the approximately $80 billion in total Federal procurements in FY 1977.

There are a number of reasons for this lack of MBE participation, according to the Civil Rights Commission Report, "Minorities and Women as Government Contractors". Some of these reasons are that:

1. Federal contracting procedures and practices tend to place an added burden on minority and female-owned firms seeking government contracts.
2. Insufficient working capital and lack of knowledge of bidding opportunities limit the competitiveness of MBEs for government contracts.

In DOT's experience, past failure by bonding companies to bond MBEs, by banks to finance their development, and by construction unions to give minorities and women the experience in construction necessary to allow them to form their own companies are also important factors in the low level of MBE participation.

The record of the Department of Transportation in MBE utilization over the past few years shows the need for more affirmative efforts if we are to increase participation by this underutilized segment of the economy.

The Department's direct contracting with MBEs has been increasing since FY 1976. MBEs received approximately 6.8% of the dollar value of the total direct contracts by the Department in FY 1976. This figure increased to 7.3% in FY 1977. In FY 1978 the percentage increased to 10.3 percent.

Much of this increase is directly related to the informal implementation of DOT Order 4000.7A.

Because there was never before a program for women-owned businesses, statistics on their participation in DOT contracts are not available. It is clear, however, that their degree of involvement is minimal. Women have not traditionally participated in either the construction or transportation fields in which the bulk of DOT contracts are let. As the Civil Rights Commission Report concludes, in all direct Federal contracts, participation by firms owned by women is probably considerably less than by traditional minority-owned firms.

There is evidence that awards to MBEs are concentrated in certain areas, such as computer services, social science research, and other support type contracts awarded by the Department. Many fewer MBEs participate in the technical transportation related contracting carried out by the Department.

The major portion of MBE participation in the direct contracting program is directly attributable to the 8(a) program of the Small Business Administration. Thus, if the Department were to rely solely on competitive awards and subcontracts, the extent of MBE participation would greatly decrease. This supports th Department's conclusion that there is a need for special programs such as the 8(a) program to ensure MBE participation and that affirmative action in addition to the 8(a) program is necessary if the President's mandate to increase contracting to MBEs is to be achieved.

The other existing program to support MBE participation is the MBE subcontracting program required by the Federal Procurement Regulations (41 CFR 1-1.13) for contracts in excess of $500,000. According to the Civil Rights Commission Report, the implementation of this program "has been uncoordinated, unstructured, and understaffed." The report goes on to state that:

> "The minority subcontracting program does not encourage the participation of nonminority, female-owned firms and, with respect to firms owned by minorities, it is more a pormise that a program."

In terms of dollar levels, the DOT financial assistance program is far more significant that direct DOT contracting. Unfortunately, MBE participation is at a low level in this program. Over the past three fiscal years, MBE participation has only increased from approximately 1% to 2% of all DOT financial assistance, which totals nearly $10 billion.

The Civil Rights Commission Report found that little had been done to implement the requirements of OMB Circular A-102 that grantees undertake affirmative action to ensure MBE utilization. Implementation has generally been limited to the inclusion of the circular language in grant agreements without monitoring and enforcement. The report recommends that Federal agencies "enforce Federal policies and procedures designed to stimulate the development of special contracting programs by State and local Governments, including affirmative action programs". The report also recommends the development of a data collection and reporting system to assist in monitoring activities.

The experience of the Department to date, as well as the experience of the Economic Development Administration (EDA) of the Department of Commerce, indicates that affirmative efforts and specific MBE requirements do result in significant MBE utilization. The 15% MBE goal on the Northeast Corridor Improvement Program of the Federal Railroad Administration is currently being exceeded by more than 3%. Nearly

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each time a goal has been placed in a contract let by a DOT recipient, the goal has been met or exceeded. The 10% goal on the Local Public Works Act administered by EDA is also being exceeded.

SUPPLEMENTARY INFORMATION: This regulation has been developed with the explicit aim of implementing not only the policies and statutes requiring affirmative action for MBE participation, but also the policies calling for understandable regulations which do not impose administrative burdens on the public. The necessity for monitoring the performance of contractors and recipients and for ensuring that only eligible MBEs benefit from the program means that some recordkeeping and reporting requirements will be created. In the Department's view, the requirements contained in this proposed rule are the least burdensome ones consistent with the goal of the regulations, increased MBE participation. Nevertheless, we welcome the comments of the public regarding alternative approaches which will result in significantly increased MBE involvement in DOT activities while creating lesser administrative requirements.

This regulation will be implemented by the Department in accordance with the procedures and responsibilities set forth in DOT Order 4000.7A. The development of this regulation has been based primarily on the Department's experience in working to increase MBE participation. Information gathered in informal contacts by DOT employees with contractors' organizations and individual contractors, both minority and non-minority, has also been considered in drafting this proposal.

A regulatory evaluation of the impact of this regulation has been prepared and is available in the public docket.

Overview of the Proposed Regulation

Subpart A—General

This subpart provides the general framework for the regulation.

Section 23.1 Purpose. This section states the general purpose of and the policy behind the regulation and specifies those statutes which it implements in part.

Section 23.3 Applicability. This section indicates that the regulation applies to all contracts and financial assistance agreements of the Department which are not carried out entirely outside the United States, its possessions, Puerto Rico, and the North Mariana Islands.

Section 23.5 Definitions. This section defines the terms used in the regulation. Of particular importance are the definitions of "minority business enterprise" and "socially and economically disadvantaged individuals". The Department has attempted to make these definitions compatible with the definitions in section 8(d) of the recently amended Small Business Act as well as section 905 of the Railroad Revitalization and Regulatory Reform Act of 1976; section 30 of the Airport and Airway Development Act of 1970, as amended; and section 19 of the Urban Mass Transportation Act of 1964, as amended. It is the Department's desire to have a uniform definition throughout the Department and thus minimize the confusion and burden on the public. The Department's definition considers all racial and ethnic minorities to be socially and economically disadvantaged under the Department's program, because members of these groups have been disadvantaged and discriminated against. Because there is a prohibition against sex discrimination and a mandate to undertake affirmative action to this end in the three DOT statutes cited above, and because statistics indicate that women have been disadvantaged as business owners and DOT contractors, women are to be considered economically and socially disadvantaged persons. Creed and age have not been included in these definitions because the Department has no evidence that creed or age has been a basis for lack of participation in its direct and assisted contracts. The term "lawfully residing" includes persons who are not yet U.S. citizens but are on their way to becoming so.

"Owned and controlled" as used in the MBE definition means at least 51%, because in the Department's view and in the Small Business Act, 51%, rather than 50%, is needed for control. This term has also been defined to include control of daily operations to ensure more than paper ownership.

"Dot-assisted contractor" has been defined to include lessees on DOT-assisted facilities because the Department recognizes that the existence and success of these businesses is directly related to DOT financial assistance provided at the facility.

Section 23.7 Certification of the Eligibility of Minority Business Enterprises. Past experience within the Department, among its recipients, by EDA, and within the Small Business Administration indicates that unless great care is taken, firms which are not truly owned and controlled by economically and socially disadvantaged individuals benefit from MBE programs. The Department has developed criteria for evaluating if firms are in fact eligible for participation as MBEs. Based on information submitted on a form created for this purpose, DOT or its recipients of financial assistance will certify as eligible for MBE participation firms proposed for contract or subcontract award which meet these criteria. The Department recognizes the administrative burden of this requirement and requests specific comment on the benefits of this process as opposed to self-certification combined with investigation of questionable firms.

Section 23.9 Counting MBE Participation Toward Meeting MBE Goals. This section sets forth a uniform system through which the Department can assess the success of its own and its recipients' efforts to contract with minority business enterprises. The total value of the contract to an MBE is counted toward MBE goals regardless of the amount of the contract subcontracted to non-MBEs. However, DOT is concerned that MBEs not be used as mere conduits for contracts in order to meet goals and this section has a provision to prohibit this.

Subpart B—Direct Department of Transportation Contracts

This subpart sets forth the MBE requirements to be included in direct Department of Transportation solicitations and contracts. The Department is issuing a deviation from Subpart 1–1.13 of the Federal Procurement Regulations (FPR), concerning the definition of MBE, to carry out this subpart. In the Department's view, deviations are not necessary from other provisions of the FPR, including FPR Subparts 1–1.7 and 1–1.8, to carry out competitive MBE set-asides or other requirements on this subpart.

Section 23.21 MBE Goals for Direct DOT Contracting. This section explains how the Department establishes its annual minority and female business utilization goals. The goals are an estimate of the potential utilization of known MBEs in light of the upcoming procurement activity for a given Federal fiscal year.

The Department has determined that separate goals for minority businesses and female businesses are necessary to insure that both disadvantaged groups benefit fairly from the program without negatively impacting on each other.

Firms owned and controlled by minority women are counted toward only one goal. The Department specifically solicits public comment on whether these firms sould be counted toward the minority goal, toward the female goal, or toward either one at the discretion of the firm, the Department, the prime contractor, or the recipient.

Section 23.23 Utilization of Minority Business Enterprise Clause. This section sets forth the MBE clause which will be included in all DOT solicitations and contracts in excess of $10,000. It states the policy of the Federal Government established by the Small Business Act.

Section 23.25 Minority Business Enterprise Subcontracting Program. This section sets forth the MBE subcontracting program requirements which are included in all solicitations and contracts in excess of $1,000,000 for contracts for construction of any public facility or $500,000 for other contracts with subcontracting opportunities. These thresholds are established by the Small Business Act. DOT requests specific public comment on lowering the dollar thresholds to cover MBE subcontracting opportunities in contracts below the Small Business Act thresholds.

The apparent low bidder or apparent successful offeror must submit an acceptable MBE subcontracting program prior to the award of a DOT contract. Compliance with previously approved subcontracting programs is a factor in the determination of responsibility of the bidder or offeror. Programs are made as part of the contract and failure to carry them out in a material breach of contract.

The provisions of this section are the same as those of section 8(d) of the Small Business Act, as amended, with the following exceptions. The Department has not exempted small business concerns as defined in the Small Business Act, from these requirements and requests public comment on this proposed action. If DOT exempts these firms, as does the Small Business Act, the major portion of our contractors will be exempted and thus the success of our MBE efforts will be greatly limited. We believe such an exemption is contrary to the purposes of DOT's program and is not required by the general authorities for the program.

The Small Business Act requires the contractor to set MBE utilization goals in its subcontracting program. The Department, as explained in § 23.27, will set the goals that must be met in most instances. Under this program, only in those contracts where a subcontracting program is required but no MBE goals have been set by DOT will the contractor's subcontracting program be required to include goals established by the contractor.

Section 23.27 MBE Goals. This section states that requests for proposal and invitations for bid for which there are known capable MBEs include specific MBE goal requirements which must be compiled with in the bid or proposal in order to be eligible for contract award. There will be separate minority and female goals in those contracts where there is sufficient subcontracting and known minority and female MBEs to justify two goals. In selected contracts goals may be established that include firms which are not small as defined by the Small Business Act but when are owned and controlled by socially and economically disadvantaged persons, as long as a specified portion of the goal is reserved for MBEs. The Department requests specific public comment on this proposal. The requirements specify that the bidder or offeror must identify in its bid or proposal the names of the firms and the dollar value of the contracts to be awarded to MBEs in order to meet the goals. If the bidder or offeror is unable to meet the goals, it must submit a report of its best efforts to this end in its bid/proposal.

A bidder who rejects an MBE subbid which is not the lowest subbid received, but is reasonable, may not meet the reasonable efforts test. Because MBE participation is a condition of responsiveness, the bidder must determine if rejection of a nonlow but reasonable subbid from an MBE and thus failure to achieve MBE goals is likely to cause its bid to be rejected as nonresponsive. DOT is proposing to use a rebuttable presumption in internal guidance to its contracting officers that a MBE subbid which exceeds 5 percent is not reasonable. Specific public comment is requested on the appropriateness of this 5 percent figure.

The MBE utilization commitments become part of the contract and are subject to compliance and enforcement action. The Department has determined that only if MBE participation is a clear cut factor in the evaluation of the bid or proposal, as well as a condition of contract award, can MBE participation be assured.

Section 23.29 MBE Set-Asides. This section provides the solicitation language for contracts which are to be set-aside for competition solely among minority business enterprises.

MBE set-asides are seen by the Department as only one way to meet MBE goals and increase MBE participation. They will be used by the Department when it becomes apparent that the goals established by the Department will not be achieved without their use. The use of set-asides must be justified in accordance with the following criteria:

(1) Previous MBE participation in this type of contract work has been minimal; and

(2) At least three MBEs with capabilities consitent with the contract requirements exist within the relevant geographical area.

The Department's set-aside program is consistent with the Federal Procurement Regulations and are a permissible tool of affirmative action to increase involvement by MBEs in Federal contracting. This view is consistent with the case law developed under Executive Order 11246, the Local Public Works Act, as well as the decision by the Supreme Court in *Regents of the University of California* vs. *Bakke*, — U.S. — (1978), U.S. Law Week, Vol. 46, No. 50, June 28, 1978. These authorities support the Department's decision to consider race, ethnicity, and sex in fashioning remedies for the effects of past discrimination, as well as its ability to structure its own affirmative action program to achieve the remedial action it perceives necessary.

DOT's MBE set-asides have been made strictly competitive to ensure a reasonable price and to give MBEs experience in a competitive environment. The program permits a full degree of competition while ensuring an award to an MBE.

Section 23.31 MBE Certification. This section requires MBEs who are the apparent low bidder/successful offeror or who are listed as subcontractors in the bid/proposal of the apparent awardee to be certified by the appropriate office of civil rights pursuant to the standards of § 23.7. The contract is awarded only after the certification is made.

Section 23.33 Maintenance of Records and Reports by Direct DOT Contractors. This section requires contractors who are awarded contracts incorporating MBE requirements to submit quarterly "Optional Form 61's" which summarizes their MBE activity. Contractors are also required to maintain records on procedures which have been adopted to comply with the requirements of the contract and documentation supporting their reports. This material must be available for inspection by Federal compliance officers.

Revitalization and Regulatory Reform

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Subpart C—Department of Transportation Financial Assistance Programs

This section sets forth the MBE requirements for applicants and recipients of DOT financial assistance.

Section 23.41 General. This section requires certain applicants for DOT financial assistance to submit an acceptable four component MBE program with their financial assistance application if they let contracts with DOT funds. Major applicants for specified types of financial assistance meeting certain dollar thresholds who submit applications under which DOT-assisted contracts will be let must submit an acceptable ten component MBE program with their application. Applications shall not be approved unless they contain an approved MBE program. Once an MBE program is approved by one Departmental element, it need not be resubmitted for future applications, as long as all requirements for approval continue to be met and the implementation of the program is achieving compliance. The Department is considering the designation of a lead Departmental element for approval of MBE programs of applicants to more than one Departmental element. This program becomes a part of the financial assistance agreement and is binding on the applicant for all future financial assistance agreements, as well as for those contracts let by the applicant after the approval date of the program, even if the approval date of the grant or project under which the contract is let is earlier than the approval date of the program. This pre-award requirement necessitates that recipients plan early for desired MBE results and integrte MBE participation planning into their contract planning process. It also enables the Department to judge before awarding financial assistance if its funds are likely to be used to achieve the Government objective of increasing MBE participation. The MBE program is designed to be a continuously applicable contractual commitment.

This section also contains a provision that transit vehicle manufacturers are required to have an UMTA-approved MBE program in order to be eligible to bid on UMTA-assisted transit vehicle procurements. UMTA will issue guidelines for these MBE programs which will become part of these regulations. Once these are issued, transit vehicle contracts will be exempted from the MBE program of UMTA recipients.

Section 23.43 General Requirements for Recipients. This section sets forth language to be included in all financial assistance agreements between the Department and its recipients, and in all contracts between recipients and subrecipients and contractors. Section

Section 32.45 Required MBE Program Components. This section sets forth each of the required MBE program components. The greatest amount of detail is provided in subsections (g) and (h). These subsections address percentage goals for the dollar value of work to be awarded to MBEs and procedures to seek affirmative action on MBE participation from major suppliers and contractors and procedures to require that participating MBEs are identified by name when bids or proposals are submitted. It is the Department's view that these components are critical to the success of the MBE program.

The regulation requires two types of MBE goals—overall goals for a time period or project and contract-specific goals. The Department requires submission of the overall goals and the methodology used in establishing them, as well as the contract goal methodology, in the MBE program. Overall goals or contract specific goals may be established that may be met in a specified amount by firms which are not small as defined in the Small Business Act but which are owned and controlled by socially and economically disadvataged persons. In these contracts a specific portion of each goal will be reserved for MBEs. The Department will review the methodology to ensure to the best of its ability that goals are reasonable and attainable and not arbitrary and capricious.

Bidders and proposers must meet or exceed the contract-specific goals set by recipients by naming in their bids or proposals the names of the MBEs they will use or must demonstrate in writing that they have made every reasonable effort to this end, in order to be considered a responsive bidder or qualified proposer. Minimum reasonable efforts are specified, including efforts to obtain bonding for MBE subcontractors. A bidder who rejects an MBE subbid which is not the lowest subbid received, but is reasonable, may not meet the reasonable efforts test. Because MBE participation is a condition of responsiveness, the bidder must determine if rejection of a nonlow but reasonable subbid from an MBE and thus failure to achieve MBE goals is likely to cause its bid to be rejected as nonresponsive.

This section makes MBE goal achievement a factor in determining the responsiveness of a bidder and thus it is as important in winning the bid as adherence to the technical specifications. It assures reasonable MBE participation before the contract is awarded.

This section also requires an applicant/recipient to have available an MBE directory. Applicants/recipients in the same geographical area are encouraged to share directories and to make use of existing Federal, state, and local directories.

Section 23.47 Maintenance of Records and Reports. This section describes the records and reports which must be developed by the recipient to show compliance with the regulation and implementation of its MBE program and to enable the Department to report to the President and the Department of Commerce on the MBE participation in this major area of contracting. Reports are designed to be as minimal as possible, tying into existing contract reporting requirements.

Subpart D—Compliance and Enforcement

This subpart describes the compliance and enforcement procedures of the Department in effectuating this regulation in both direct DOT contracts and in DOT financial assistance programs.

Section 23.61 Appeals of Denials of Certification as an MBE. This section enables aggrieved firms to appeal to the Secretary regarding a denial of certification issued pursuant to § 23.7 which they believe is in error. Due to staffing limitations, third parties are not considered appellants, but may advise the Secretary of pertinent information.

Section 23.63 Complaints. This section enables a person to file a complaint with the Secretary alleging a violation of this regulation. Due to staffing limitations, third parties are not considered complainants but may advise the Secretary of pertinent information.

Section 23.65 Compliance Reviews of Recipients, Contractors, and Other Participants. This section describes the compliance review process, beginning with the desk audits, and continuing with on-site reviews where necessary, and resulting in a compliance or noncompliance determination.

Section 23.67 Conciliation Procedures for Direct DOT Contracts. This section prescribes the informal procedures to be used in attempting to resolve findings of probable noncompliance with this regulation.

Section 23.69 Enforcement Proceedings for Direct DOT Contracts. This section establishes the procedures which are used when conciliation fails to achieve compliance. Available remedies include withholding of progress payments, suspension of the contract, termination of the contract, or debarment from eligibility for DOT contracts.

Section 23.71 Conciliation Procedures for Financial Assistance Programs. This section sets forth the informal procedure to be used in attempting to resolve findings of probable noncompliance with the financial assistance portion of this regulation.

Section 23.73 Enforcement Proceedings for Financial Assistance Programs. This section prescribes the procedures which are used when conciliation fails to achieve compliance in the financial assistance program.

Section 23.75 Emergency Enforcement Procedure for Direct DOT Contracts or Financial Assistance Programs. This section establishes an expedited procedure which may be invoked by the Secretary if he/she determines that the regular conciliation and enforcement procedures are inadequate to enforce this regulation and detrimental to the Government in a specific instance. Sanctions are imposed following a finding of noncompliance.

Section 23.77 Willful Provision of Incorrect Information. This section states that whenever the Department or a recipient believes that a firm or person has willfully and knowingly provided false information, the DOT General Counsel shall be advised and may initiate debarment procedures or refer the matter to the Department of Justice.

Schedules A and B. These schedules request information to assist the Department and its recipients in determining whether a firm is owned and controlled in both form and substance by socially and economically disadvantaged persons. They must be completed by those MBEs and joint ventures who wish to participate under our program and are not 8(a) certified.

Issued in Washington, D.C., on May 9, 1979.

Brock Adams,

Secretary of Transportation.

Title 49 is amended by adding a new Part 23 to read as follows:

PART 23—PARTICIPATION BY MINORITY BUSINESS ENTERPRISE IN CONTRACTS AND PROGRAMS FUNDED BY THE DEPARTMENT OF TRANSPORTATION

Subpart A—General

Sec.
23.1 Purpose.
23.3 Applicability.
23.5 Definitions.
23.7 Certification of the Eligibility of Minority Business Enterprises.
23.9 Counting MBE Participation Toward Meeting MBE Goals.

Subpart B—Direct Department of Transportation Contracts

23.21 MBE Goals for Direct DOT Contracting.
23.23 Utilization of Minority Business Enterprise Clause.
23.25 Minority Business Enterprise Subcontracting Program.
23.27 MBE Goals.
23.29 MBE Set-Asides.
23.31 MBE Certification.
23.33 Maintenance of Records and Reports by Direct DOT Contractors.

Subpart C—Department of Transportation Financial Assistance Programs

23.41 General.
23.43 General Requirements for Recipients.
23.45 Required MBE Program Components.
23.47 Maintenance of Records and Reports.

Subpart D—Compliance and Enforcement

23.61 Appeals of Denials of Certification as an MBE.
23.63 Complaints.
23.65 Compliance Reviews of Recipients, Contractors, and Other Participants.
23.67 Conciliation Procedures for Direct DOT Contracts.
23.69 Enforcement Proceedings for Direct DOT Contracts.
23.71 Conciliation Procedures for Financial Assistance Programs.
23.73 Enforcement Proceedings for Financial Assistance Programs.
23.75 Emergency Enforcement Procedure.
23.77 Willful Provision of Incorrect Information.
Schedule A—Information for Determining Minority Business Enterprise Eligibility under 49 CFR Part 23.
Schedule B—Information for Determining Joint Venture Eligibility under 49 CFR Part 23.

Subpart A—General

§ 23.1 Purpose.

(a) The purpose of this part is to effectuate the Department of Transportation's program to support the full participation of firms owned and controlled by socially and economically disadvantaged individuals, particularly minorities and women, (MBEs) in our free enterprise system. It is the policy of the Department of Transportation to encourage and increase the participation of minority business enterprises in contracts and programs funded by the Department. This includes assisting MBEs throughout the life of direct and DOT-assisted contracts in which they participate.

(b) This part implements in part section 905 of the Railroad Revitalization and Regulatory Reform Act of 1976 (45 U.S.C. 803); section 30 of the Airport and Airway Development Act of 1970, as amended (49 U.S.C. 1730); section 19 of the Urban Mass Transportation Act of 1964, as amended (Pub. L. 95-599); and section 8(d) of the Small Business Act of 1953, as amended (Pub. L. 95-507); the Federal Property and Administrative Services Act of 1949 (40 U.S.C. 471 et seq.); the Federal Highway Acts, as amended (Title 23 of the U.S. Code); and the Highway Safety Act of 1966 (23 U.S.C. 401 et seq.).

§ 23.3 Applicability.

This part applies to any direct or DOT-assisted contract or program where funds are made available to members of the public for accomplishing the mission of DOT. Direct and DOT-assisted contracts, including all subcontracts thereunder, which are to be performed entirely outside the United States, its possessions, Puerto Rico, and the North Mariana Islands, are exempted from this part.

§ 23.5 Definitions.

(1) "Affirmative action" means taking specific steps to eliminate discrimination and its effects, to ensure nondiscriminatory results and practices in the future, and to fully involve minority business enterprises in contracts and programs funded by the Department.

(2) "Applicant" means one who submits an application, request, or plan to be approved by a Departmental official or by a primary recipient as a condition to eligibility for DOT financial assistance; and "application" means such an application, request, or plan.

(3) "Compliance" means the condition existing when a recipient or contractor has met and implemented the requirements of this part. "Probable compliance" means the condition existing when a recipient or contractor is likely to have met and implemented the requirements of this part but a final determination cannot be made.

(4) "Contract" means a mutually binding legal relationship or any modification thereof at any tier obligating the seller to furnish supplies or services including construction and the buyer to pay for them. "Direct contract" means a contract or any modification thereof between the Department and a contractor or lessee.

(5) "Contractor" means one who participates, through a contract with the Department, with a recipient, or with another contractor, at any tier, in any contract or program covered by this part, and includes lessees.

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(6) "Department" or "DOT" means the Department of Transportation, including its operating elements.

(7) "DOT-assisted contract" means any contract or modification thereof between a recipient and a contractor which is paid for in whole or in part with DOT financial assistance or any contract or modification thereof between a recipient and a lessee.

(8) "DOT financial assistance" means any grant, loan, loan guarantee, contract (other than a direct contract), or any other arrangement by which the Department or the United States Railway Association provides or otherwise makes available assistance to a recipient in the form of:

(i) Funds;

(ii) Guarantees authorized by statute as financial assistance;

(iii) Services of Federal personnel;

(iv) Real or personal property or any interest in, or use of such property, including transfers or leases of such property for less than fair market value or for reduced consideration.

(9) "Departmental element" means the following parts of DOT:

(i) The Office of the Secretary (OST);

(ii) The Federal Aviation Administration (FAA);

(iii) The United States Coast Guard (USCG);

(iv) The Federal Highway Administration (FHWA);

(v) The Federal Railroad Administration (FRA);

(vi) The National Highway Traffic Safety Administration (NHTSA);

(vii) The Urban Mass Transportation Administration (UMTA);

(viii) The St. Lawrence Seaway Development Corporation (SLSDC); and

(ix) The Research and Special Programs Administration (RSPA).

(10) "Joint venture" means an association of two or more businesses to carry out a single business enterprise for profit, for which purpose they combine their property, capital, efforts, skills, and knowledge.

(11) "Lessee" means a business that leases, or is negotiating to lease, property from a recipient or the Department on the recipient's or Department's facility for the purpose of operating a transportation-related activity or for the provision of goods or services to the facility or to the public on the facility.

(12) "Minority" means a person who is:

(i) Black (a person having origins in any of the black racial groups of Africa);

(ii) Hispanic (a person of Mexican, Puerto Rican, Cuban, Central or South American or other Spanish culture or origin, regardless of race);

(iii) Asian American (a person having origins in any of the original peoples of the Far East, Southeast Asia, the Indian subcontinent, or the Pacific Islands); or

(iv) American Indian and Alaskan Native (a person having origins in any of the original peoples of North America.)

(13) "Minority business enterprise" or "MBE" means a small business concern, as defined pursuant to section 3 of the Small Business Act and implementing regulations, which is owned and controlled by socially and economically disadvantaged individuals. For the purposes of this part, owned and controlled means a business:

(i) Which is at least 51 per centum owned by one or more socially and economically disadvantaged individuals; or, in the case of a publicly owned business, at least 51 per centum of the stock of which is owned by one or more socially and economically disadvantaged individuals; and

(ii) Whose management and daily business operations are controlled by one or more such individuals.

(14) "MBE coordinator" means the official designated by the head of the Department element to have overall responsibility, in cooperation with the Director of Civil Rights of the Departmental element, if the Director of Civil Rights is not the MBE coordinator, for promotion of minority business enterprise in his/her Departmental element.

(15) "Noncompliance" means the condition existing when a recipient or contractor has failed to meet and implement the requirements of this part.

(16) "Primary recipient" is a recipient who receives DOT financial assistance and passes some or all of this assistance on to another recipient.

(17) "Program" means undertaking by recipient to use DOT financial assistance.

(18) "Recipient" means any entity, public or private, including a primary recipient, to whom DOT financial assistance is extended, directly or through another recipient, for any program.

(19) "Secretary" means the Secretary of Transportation or any person whom he/she has designated to act for him/her in the matter concerned.

(20) "Set-aside" or "MBE set-aside" means a procurement technique which limits consideration of bids or proposals to those submitted by MBEs.

(21) "Socially and economically disadvantaged individual" means a citizen of the United States or person lawfully residing in the United States or its possessions, Puerto Rico, or the North Mariana Islands who is a minority, woman regardless of race or ethnicity, or any other individual found to be disadvantaged by the Small Business Administration pursuant to section 8(a) of the Small Business Act.

§ 23.7 Certification of the eligibility of minority business enterprises.

(a) To ensure that this part benefits MBEs which are owned and controlled in both form and substance by one or more socially and economically disadvantaged individuals, Schedules A and B are used by DOT and by its recipients to certify firms who wish to participate as MBEs in direct or DOT-assisted contracts as eligible under the definition of MBE in this part.

(b) Each business, which is not a joint venture, which wishes to participate as a MBE under this part in a direct or DOT-assisted contract shall complete and submit Schedule A. Each business which wishes to participate as a joint venture MBE under this part in direct or DOT-assisted contracts shall complete and submit Schedule B. In addition, the MBE partner of the joint venture shall complete and submit Schedule A. The MBE or joint venture shall submit the schedule(s) either with the bid or proposal for transmittal to the contracting agency (a Departmental element or a DOT recipient, as appropriate), or shall state in writing that the information has already been submitted to the contracting agency or shall state in writing that it has been certified by or has submitted the same information to another Departmental element or another Federal agency using the same MBE definition and ownership and control criteria as DOT or by the Small Business Administration under section 8(a) of the Small Business Act. The schedule(s) shall be subscribed and sworn to by the authorized representative of the business entity.

(c) The following standards are used by the Department and shall be used by its recipients in determining whether a firm is owned and controlled by one or more socially and economically disadvantaged individuals and shall therefore be certified as an MBE. Businesses aggrieved by the determination may appeal in accordance with procedures set forth in Subpart D, §23.61.

(1) Bona fide minority group membership shall be established on the basis of the individual's claim that he or she is a member of a minority group and is so regarded by that particular minority community.

(2) An eligible minority business enterprise under this part shall be an independent business. The ownership and control of the socially and economically disadvantaged individuals shall be real, substantial, and continuing and shall go beyond the ownership of the firm as reflected in its ownership documents. The socially and economically disadvantaged owners shall enjoy the customary incidents of ownership and shall share in the risks and profits commensurate with their ownership interests, as demonstrated by a examination of the substance rather than form of arrangements.

(3) The socially and economically disadvantaged owners shall also possess the power to direct or cause the direction of the management and policies of the firm and to make the day-to-day as well as major decisions on matters of management, policy, and operations. The firm shall not be subject to any formal or informal restrictions which limit the customary discretion of the socially and economically disadvantaged owners. There shall be no restrictions through, for example, by-law provisions, partnership agreements, or charter requirements for cumulative voting rights or otherwise which prevent the socially and economically disadvantaged owners, without the cooperation or vote of any owner who is not socially and economically disadvantaged from making a business decision of the firm.

(4) If the owners of the firm who are not socially and economically disadvantaged or disproportionately responsible for the operation of the firm, then the firm is not controlled by socially and economically disadvantaged individuals and shall not be considered an MBE within the meaning of this part. Where the actual management of the firm is contracted out to individuals other than the owner, those persons who have the ultimate power to hire and fire the managers can, for the purposes of this part, be considered as controlling the business.

(5) All securities which constitute ownership and/or control of a corporation for purposes of establishing it as a minority business enterprise under this part shall be held directly by socially and economically disadvantaged individuals. No securities held in trust, or by any guardian for a minor, shall be considered as held by socially and economically disadvantaged individuals in determining the ownership or control of a corporation.

(6) The contributions of capital or expertise by the socially and economically disadvantaged owners to acquire their interests in the firm shall be real and substantial. Examples of insufficient contributions include a promise to contribute capital, a note payable to the firm or its owners who are not socially and economically disadvantaged, or the mere participation as an employee, rather than as a manager.

(d) In addition to the above standards, the Department and its recipients shall give special consideration to the following circumstances in determining eligibility under this part.

(1) Newly formed firms and firms whose ownership and/or control has changed since the date of the advertisement of the contract are closely scrutinized to determine the reasons for the timing of the formation of or change in the firm.

(2) A previous and/or continuing employer-employee relationship between or among present owners is carefully reviewed to ensure that the employee owner has management responsibilities and capabilities discussed in §§ 23.5(12) and 23.7(c).

(3) Any relationship between an MBE and a business which is not an MBE which has an interest in the MBE is carefully reviewed to determine if the interest of the non-MBE conflicts with the owner and control requirements of this section.

(e) A joint venture is eligible under this part if the MBE partner of the joint venture meets the standards for an eligible MBE set forth above and the MBE partner is responsible for a clearly defined portion of the work to be performed and shares in the ownership, control, management responsibilities, risks, and profits of the joint venture.

(f) A joint venture is eligible to compete in an MBE set-aside under this part if the MBE partner of the joint venture meets the standards of an eligible MBE set forth above, and the MBE partner shares at least 51% in the ownership, control, and management responsibilities, risks, and profits of the joint venute, and the MBE partner is responsible for a clearly defined portion of the work to be performed.

(g) A business wishing to be certified as an MBE or joint venture MBE by the Department or a recipient shall cooperate with the Department or recipient in supplying additional information which may be requested in order to make a determination.

(h) Once certified, an MBE shall update its submission annually by submitting a new Schedule A or certifying that the Schedule A on file is still accurate. At any time there is a change in ownership or control of the firm, the MBE shall submit a new Schedule A.

(i) The denial of a certification by the Department or a recipient shall be final, except as provided in § 23.61, for that contract and other contracts being let by that contracting agency at the time of the denial of certification. MBEs and joint ventures denied certification may correct deficiencies in their ownership and control and apply for certification only for future contracts.

(j) Information obtained is safeguarded from unauthorized sources.

§ 23.9 Counting MBE participation toward meeting MBE goals.

MBE participation shall be counted toward MBE goals set in accordance with § 23.45(g) or § 23.21 as follows:

(a) Once a firm is determined to be an eligible MBE in accordance with § 23.7, the total dollar value of the contract awarded to the MBE is counted toward the applicable MBE goals.

(b) Contracts with MBEs which depart from conventional industry practices and which constitute a commerically unnecessary intermediate step between a contractor or subcontractor and a contractor, recipient, or the Department are not counted toward MBE goals. The certified MBE partner of a joint venture which is eligible in accordance with the standards set forth in § 23.7 is counted toward the applicable MBE goals.

(c) An MBE which is owned and controlled by both minority males and by females is counted toward the minority and female goals in proportion to the percent ownership of each group member.

Subpart B—Direct Department of Transportation Contracts

§ 23.21 MBE goals for direct DOT contracting.

(a) The Department establishes two annual goals for MBE utilization, expressed as a percentage of the total Department direct contracting dollars, at the beginning of each Federal fiscal year. One goal is for the utilization of minority-owned and controlled firms and one goal is for the utilization of female-owned and controlled firms. Utilization of businesses owned and controlled by minority women are counted against only one of the goals.

(b)(1) The Departmental goals are based on the minority and female goals set by each Departmental element, based on a forecast at the beginning of each fiscal year of all projected contracting activity as compared with

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the known availability of MBEs with appropriate capabilities.

§ 23.23 Utilization of minority business enterprise clause.

All DOT solicitations and contracts in excess of $10,000, except contracts for services which are personal in nature, contain the following clause:

(a) It is the policy of the United States that small business concerns owned and controlled by socially and economically disadvantaged individuals shall have the maximum practicable opportunity to participate in the performance of contracts let by any Federal agency.

(b) The contractor hereby agrees to carry out this policy in the awarding of subcontracts to the fullest extent consistent with the efficient performance of this contract. The contractor further agrees to cooperate in any studies or surveys as may be conducted by the United States Small Business Administration or the Department of Transportation as may be necessary to determine the extent of the contractor's compliance with this clause.

(c) The contractor agrees not to discriminate on the basis of race, color, national origin, or sex in the award of subcontracts or in the performance of this contract.

(d) This contract is let under the MBE policy, definition, and requirements of the Department of Transportation prescribed in 49 CFR Part 23.

(e) Contractors acting in good faith may rely on written representations by their subcontractors regarding their status as MBEs. These subcontractors must comply with the requirements of 49 CFR Part 23, § 23.7, however.

§ 23.25 Minority business enterprise subcontracting program.

(a) Before the award of any contract to be let, or any amendment or modification to any contract let, by DOT which may exceed $1,000,000 in the case of a contract for the construction of any public facility, or $500,000 in the case of all other contracts and which offers subcontracting possibilities, the apparent successful offeror/low bidder shall submit to the procuring Departmental element a subcontracting program which incorporates the information prescribed in paragraph (c) of this section. The subcontracting program shall be included in and made a material part of the contract. If the apparent successful offeror/low bidder fails to submit an acceptable subcontracting program which, in the determination of the Departmental element, provides the maximum practicable opportunity for MBEs to participate in the performance of the contract, such offeror/bidder shall become nonresponsible and ineligible to be awarded the contract. Bidders and offerors shall develop their programs in accordance with Subpart B, § 23.29, and Subpart C, §§ 23.45 (b), (c), (e), and (i). Prior compliance of the offeror/bidder with other such subcontracting programs shall be considered by DOT in determining the responsibility of that offeror/bidder for the award of the contract.

(b) The MBE subcontracting programs submitted pursuant to the requirements of paragraph (c) of this section are incorporated into the contract and are subject to compliance reviews by DOT officials. Failure to carry out these programs is a material breach of contract and may result in enforcement action set forth in Subpart D of this part.

(c) The MBE subcontracting program required by paragraph (a) of this section shall contain the following components:

(1) Designation of a liaison officer within the employ of the bidder/offeror who will administer the program, and a description of the duties of the liaison officer.

(2) A description of efforts that the bidder/offeror will take to assure that MBEs have an equitable opportunity to compete for subcontracts;

(3) Assurance that the bidder/offeror will include the clause in § 23.23 in all subcontracts offering subcontracting opportunities and that the bidder/proposer will require all non-MBE subcontractors who receive subcontracts in excess of $1,000,000, in the case of a contract for construction of any public facility, or in excess of $500,000 in the case of all other contracts to adopt and implement an MBE subcontracting program similar to the program required by this subsection;

(4) Assurance that the bidder/offeror will submit such periodic reports and cooperate in any studies or surveys as may be required by the Department in order to determine the extent of compliance by the bidder/offeror with the MBE subcontracting program;

(5) A recitation of the types of records the bidder/offeror will maintain to demonstrate procedures which have been adopted to comply with the requirements set forth in this MBE subcontracting program, including the establishment of a source list, and efforts to identify and award subcontracts to MBEs; and

(6) Percentage goals for the utilization of MBEs as subcontractors where such goals have not been established by DOT pursuant to § 23.27.

(d) Prime contractors shall bring to the attention of the awarding Departmental element situations in which regularly scheduled progress payments are not made to MBE subcontractors.

(e) The requirements in paragraph (c) of this section and paragraph (a) of § 23.23 are in lieu of the provisions of Federal Procurement Regulations, Subpart 1–1.13, Minority Business Enterprise.

§ 23.27 MBE goals.

(a) Solicitations with reasonable subcontracting opportunities for which there are known available MBEs with capabilities consistent with contract requirements in the relevant geographical area, which is the broadest possible area to expect MBEs to find it in their business interest to participate, include MBE goals. Minority and female participation goals are stated as a percentage of the dollar value of the work to be performed and contain the following requirements in addition to the clause in § 23.23(a) and, where applicable, the MBE subcontracting program clause of § 23.25. In selected contracts DOT may establish goals that may be met in a specified amount by firms which are not small as defined in the Small Business Act but which are owned and controlled by socially and economically disadvantaged persons. In these contracts a specific portion of each goal will be reserved for MBE. A bidder/offeror who fails or refuses to comply with these requirements is not awarded the contract. The commitments made pursuant to these requirements are incorporated into the contract and are subject to compliance reviews by DOT officials. Failure to carry out these commitments may result in enforcement action set forth in Subpart D.

(1) To be responsive, a bidder responding to an invitation for bid shall include in its bid the names of MBEs to whom it intends to award subcontracts, the dollar value of these subcontracts, and the scope of the work.

(2)(i) An offeror responding to a request for proposal shall include in its proposal the names of MBEs to whom it proposes to award subcontracts and a brief description of subcontract work. MBE utilization shall be a factor in the evaluation of the proposal.

(ii) In the cost proposal, the offeror shall indicate the dollar value of the MBE subcontracts.

(3) Bidders/offerors who fail to identify MBEs by name, scope of work, and dollar value of work in their bids/proposals sufficient to meet the MBE percentage goals shall demonstrate in writing in their bids/proposals that

reasonable efforts were made to involve MBEs. Such documentation of reasonable efforts shall include but not be limited to:

(i) Copies of written notification to MBEs that their interest in the procurement is solicited;

(ii) A statement of the efforts made to select portions of the work proposed to be performed by MBEs in order to increase the likelihood of achieving the stated goals;

(iii) A statement of the efforts made to negotiate with MBEs including at a minimum:

(A) The names, addresses, and telephone numbers of MBEs who were contacted;

(B) A description of the information provided to MBEs regarding the plans and specifications for portions of the work to be performed; and

(C) A statement of the reasons why additional agreements with MBEs, if needed to meet the stated goals, were not reached;

(iv) A statement of efforts made to assist MBEs contacted who need assistance in obtaining bonding and insurance which the bidder/offeror requires.

(v) As to each MBE contacted but which the bidder/offeror considers to be not qualified, a statement of the reasons for the bidder's/offeror's conclusion.

(4) If the bidder/offeror does not meet the MBE goals, price alone shall not be an acceptable basis for which the bidder/offeror may reject an MBE subbid unless the bidder/offeror can show to the satisfaction of the Department that no reasonable price can be obtained from an MBE. A determination of reasonable price is based on such factors as the Department's estimate for the work under a specific subcontract, the bidder/offeror's own estimate for the specific subcontract, and the average of the prices quoted for the specific subcontract.

(5) Only a bidder/offeror who meets the goals or demonstrates reasonable efforts to that end as defined in paragraphs (a) (3) and (4) of this section to the satisfaction of the Department in its bid/proposal shall be eligible to be awarded the contract.

(6) The MBEs identified in the bid/proposal shall comply with § 23.7(b) by submitting the required information in the bid/proposal. If the Department prior to the contract award refuses in accordance with § 23.7 to certify any one or more of the MBEs identified in the bid/proposal, the bidder/offeror shall make reasonable efforts as defined in paragraphs (a) (3) and (4) of this section within 15 calendar days to substitute another eligible MBE, subject to the approval of the Department. During the course of the contract, the contractor shall receive the approval of the Department before making substitutions for any MBE subcontractor listed in the bid/proposal.

§ 23.29 MBE set-asides.

(a) A decision to use an MBE set-aside is based on the following factor which are documented in writing:

(1) A set-aside is necessary to ensure MBE participation and to meet the MBE goals set by the Departmental element.

(2) Prior MBE involvement has been minimal in this type of contract.

(3) At least three MBEs with capabilities consistent with the contract requirements exist within the relevant geographical area.

(b) When a proposed contract is set-aside for competition solely among MBEs, the solicitation, entitled "Notice of Total Set-Aside for Minority Business Enterprises," states: "Bids or proposals under this contract are solicited from minority business enterprises as defined in 49 CFR Part 23 only and this contract is to be awarded only to one or more minority business enterprises. For the purposes of this contract, joint ventures meeting the criteria in 49 CFR Part 23, § 23.7(f) are eligible to compete for this contract. Bids or proposals received from firms which are not minority business enterprises shall be considered nonresponsive. No more than 35% of the dollar value of the contract may be awarded to firms which are not minority business enterprises. Bidders or proposers shall complete and submit with their bids or proposals Schedules A and/or B of 49 CFR Part 23, as appropriate, or certify that this information is already on file with the Department of Transportation or state in writing that they are currently certified by another Federal agency, using the same MBE definition and ownership and control criteria as DOT, or state in writing that they have been certified by the Small Business Administration under section 8(a) of the Small Business Act."

§ 23.31 MBE certification.

The Department makes all decisions relating to the eligibility of MBEs participating in direct DOT contracts pursuant to § 23.7. Prior to the award of the contract, the Departmental element reviews the completed Schedules A and/or B, as appropriate, submitted with the apparent low bid or apparent successful proposal or accepted forms of other Federal agencies, and any other information deemed necessary to determine MBE and/or joint venture eligibility under this part. Section 8(a) certifications are accepted without review. Notices of approval or denial are sent. Records are maintained regarding determinations for use in appeals. Only after the MBE certifications are made is the contract awarded.

§ 23.33 Maintenance of records and reports by direct DOT contractors.

(a) Contractors awarded contracts incorporating the MBE requirements set forth in § 23.25 and/or § 23.27 shall submit an "Optional Form 61" report which summarizes the number and dollar amounts of subcontract awards made to minority business enterprises, as defined in this part, during the quarter which is being reported. This report shall be submitted on the last day of January, April, July, and October of each year.

(b) In addition, contractors awarded contracts incorporating the MBE requirements set forth in §§ 23.25 and 23.27 shall maintain records showing:

(1) Procedures and actions which have been adopted to comply with the requirements of the contract; and

(2) Documentation supporting the information supplied in "Optional Form 61".

(c) These records shall be available upon the request of an authorized officer or employee of the Government and shall assist the Department in monitoring the contractor's compliance with its MBE commitments.

Subpart C—Department of Transportation Financial Assistance Programs

§ 23.41 General.

(a) All applicants for grants, loans, project acceptance, authorization to proceed, or other necessary Departmental clearance for financial assistance meeting the following criteria who submit applications under which DOT-assisted contracts will be let shall submit to the Departmental element for approval as part of their application an affirmative action program to promote minority business enterprise, hereinafter referred to as "MBE program", containing the components set forth in paragraphs (e) through (h) of § 23.45.

(1) Applicants for funds in excess of $250,000 exclusive of transit vehicle purchases under sections 3, 5, and 17 of the Urban Mass Transportation Act of 1964, as amended, and Federal Aid Urban Systems;

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termination of the agreement or contract

owned and controlled by socially and

joint ventures with or subcontracts to

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(2) Applicants for funds in excess of $100,000 under sections 6 and 8 of the Urban Mass Transportation Act of 1964, as amended;

(3) Applicants for Section 402 program funds of the National Highway Traffic Safety Administration;

(4) Applicants for funds in excess of $250,000 awarded by the Federal Aviation Administration to general aviation airports;

(5) Applicants for funds in excess of $400,000 awarded by the Federal Aviation Administration to non-hub airports; and

(6) Applicants for planning funds in excess of $75,000 awarded by the Federal Aviation Administration.

(b) All applicants for grants, loans, project acceptance, authorization to proceed, or other necessary Departmental clearance for financial assistance meeting the following criteria who submit applications under which DOT-assisted contracts will be let shall submit to the Departmental element for approval as part of their application an MBE program containing all components set forth in § 23.45:

(1) Applicants for Federal-aid highway program funds;

(2) Applicants for funds in excess of $500,000 exclusive of transit vehicle purchases under sections 3, 5, and 17 of the Urban Mass Transportation Act of 1964, as amended, and Federal Aid Urban Systems;

(3) Applicants for funds in excess of $200,000 under sections 6 and 8 of the Urban Mass Transportation Act of 1964, as amended;

(4) Applicants for funds in excess of $500,000 awarded by the Federal Aviation Administration to large, medium and small hub airports; and

(5) Applicants for financial assistance programs, including loan guarantees, by the Federal Railroad Administration and the United States Railway Association.

(c) Applications and funding agreements are signed and authorizations to proceed are approved only after the applicant's MBE program has been approved by the Departmental element.

(d) This requirement is effective with applications, with authorizations to proceed requested by Federal-aid highway program recipients, and with requests for draw downs from the U.S. Railway Association submitted 60 days or more following the effective date of this part.

(e) Applicants meeting the criteria set forth in paragraph (b) of this section who have formulated MBE programs under previous requirements of DOT or other agencies shall revise these programs to conform to the requirements of this part prior to the approval of their next application.

(f) A request for deviation or exemption from this subpart shall be in writing and shall include a showing as to how the particular situation is exceptional and how the modified program complies substantially with this part. If the applicant asserts that State or local law prohibits it from including a particular provision in its program, the applicant shall provide copies of all legal citations supporting the claim. The head of the Departmental element may, under appropriate circumstances, grant deviations or exemptions from this subpart.

(g) The MBE program prepared by the applicant and the commitment made by the applicant to carry out the MBE program is incorporated into and becomes part of this and subsequent financial assistance agreements. The agreement between the Department and the recipient shall contractually bind the recipient to the commitments made in the MBE program, as approved by the Department, and shall subject the recipient to the sanctions noted in Subpart D of this part.

(h) An MBE program approved by one Departmental element is acceptable to all Departmental elements. Applicants having an approved MBE program are not required to resubmit the program or to produce a new program for future applications, as long as all requirements for approval continue to be met and implementation of the program is achieving compliance. The Departmental element reassesses its approval of the MBE program of continuing recipients at least annually.

(i) Once submitted and approved, an MBE program is applicable to all DOT-assisted contracts solicited and let by the applicant after the approval date of the MBE program regardless of the approval date of the grant or project under which the contracts are let.

(j) Transit vehicle manufacturers who wish to bid on UMTA-assisted transit vehicle procurement contracts shall have an UMTA-approved MBE program. Each UMTA recipient shall require these manufacturers to certify that they have such a program as a condition for bidding on UMTA-assisted contracts.

§ 23.43 General requirements for recipients.

(a) Each recipient shall agree to abide by the statements in paragraphs (a) (1) and (2) of this section. These statements shall be included in the recipient's DOT financial assistance agreement and in all subsequent agreements between the recipient and any subrecipient and in all subsequent DOT-assisted contracts between recipients or subrecipients and any contractor.

(1) *"Policy.* It is the policy of the Department of Transportation that minority business enterprises as defined in 49 CFR Part 23 shall have the maximum opportunity to participate in the performance of contracts financed in whole or in part with Federal funds under this agreement. This agreement is awarded under the MBE policy and requirements prescribed in 49 CFR Part 23.

(2) *"MBE Obligation.* (i) The recipient or its contractor agrees to provide full and fair utilization of minority business enterprises and shall use its best efforts to ensure that minority business enterprises as defined in 49 CFR Part 23 shall have maximum opportunity to participate in the performance of contracts and subcontracts financed in whole or in part with Federal funds provided under this agreement. In this regard all recipients or contractors shall take all necessary and reasonable steps in accordance with 49 CFR Part 23 to ensure that minority business enterprises have an equitable opportunity to compete in all contracting activities. Recipients and their contractors shall not discriminate on the basis of race, color, national origin, or sex in the award and performance of DOT-assisted contracts."

(b) Each DOT financial assistance agreement shall include the following: "If as a condition of assistance the recipient has submitted and the Department has approved a minority business enterprise affirmative action program which the recipient agrees to carry out, this program is incorporated into this financial assistance agreement by reference. This program shall be treated as a legal obligation and failure to carry out its terms shall be treated as a violation of this financial assistance agreement. Upon notification to the recipient of its failure to carry out the approved program the Department shall impose such sanctions as noted in 49 CFR Part 23, Subpart D, which sanctions may include termination of the agreement or other measures that may affect the ability of the recipient to obtain future DOT financial assistance."

(c) The recipient shall advise each subrecipient, contractor, or subcontractor that failure to carry out the requirements set forth in § 23.43(a) and to use good faith efforts to utilize qualified MBEs as contractors or subcontractors shall constitute a breach of contract and, after the notification of the Department, may result in termination of the agreement or contract by the recipient or such remedy as the recipient deems appropriate.

§ 23.45 Required MBE program components.

(a) *A policy statement, expressing a commitment to utilize MBEs in all aspects of contracting to the maximum extent feasible.* (1) The applicant's policymaking body (Board, Council, etc.) shall issue a policy statement, signed by the chairperson, which expresses its commitment to the program, outlines the various levels of responsibility and states the objectives or the program. The policy statement shall be circulated throughtout the applicant's organization and to minority, female, and non-minority community and business organizations.

(b) *The designation of liaison officer, as well as such support staff as may be necessary and proper to adminster the program, and a description of the authority, responsibility, and duties of the liaison officer and support staff.* (1) An MBE liaison officer of senior level authority and adequate staff to administer the MBE program shall be appointed by the chief executive officer.

(2) The MBE liaison officer shall be responsible for developing, managing, and implementing the MBE program on a day-to-day basis; for carrying out technical assistance activities for MBEs; and for disseminating information on available business opportunities to ensure that MBEs are provided and equal opportunity to bid on the applicant's contracts.

(c) *Procedures to ensure that MBEs have an equitable opportunity to compete for contracts and subcontracts.* Affimative action tehcniques shall be developed and undertaken to facilitate MBE participation in contracting activities. These techniques include:

(1) Arranging solicitations, time for the presentation of bids, quantities, specification, delivery schedules so as to facilitate the participation MBEs.

(2) Providing assistance to MBEs in overcomming barriers such as inability to obtain bonding, financing, and technical assistance.

(3) Carrying out information and communications programs on contracting procedures and specific contracting opportunities in a timely manner, with such programs being bilingual where appropriate.

(d) *Opportunities for the utilization of banks owned and controlled by socially and economically disadvantaged individuals.* (1) The applicant/recipient shall thoroughly investigate the full extent of services offered by banks owned and controlled by socially and economically disadvantaged individuals in its community and determine the most feasible area in which to utilize the services of these banks.

(2) Prime contractors shall also be encouraged to utilize the services of banks owned and controlled by socially and economically disadvantaged individuals.

(e) *MBE directory.* (1) The applicant/recipient shall have available a directory or source list to facilitate identifying MBEs with capabilities relevant to general contracting requirements and to particular solicitations. The directory shall be made available to bidders and proposers in their efforts to meet the MBE requirements. It shall specify which firms have been determined to be eligible MBEs by the Department or applicant/recipient in accordance with procedures set forth in § 23.7.

(f) *Procedures to ascertain the eligibility of MBEs and joint ventures involving MBEs.* (1) To ensure that its MBE program benefits only MBEs and joint ventures involving MBEs owned and controlled by socially and economically disadvantaged individuals, the recipient shall certify the eligibility of MBEs and joint ventures involving MBEs who are named by the apparent low bidder/successful proposer in accordance with § 23.7. Any firm certified by the Department shall not be recertified by the recipient. Recipients may, at their own discretion, accept certifications made by other DOT recipients.

(2) The recipient shall approve all substitutions of subcontractors before bid opening and during contract performance.

(g) *Percentage goals for the dollar value of work to be awarded to MBEs.* (1) Once the applicant/recipient has reviewed proposed contracting to identify those contracting activities which have the greatest potential for MBE participation shall be set which are practical and related to the potential availability of MBEs in desired areas of expertise.

(2) The applicant/recipient shall establish two types of MBE goals:

(i) Overall goals which provide a benchmark for achievement of the MBE program within a specified time frame, such as one year, or for a specific project, such as construction of a facility; and

(ii) Contract goals which are targets set on a specific contract which the bidder or proposer must make every reasonable effort to meet or exceed, as an MBE prime contractor or through joint ventures with or subcontracts to MBEs, in order to be awarded the contract.

(3) Overall goals and a description of the methodology used in establishing them shall be submitted in the applicant's MBE program. When the overall goals expire, new overall goals shall be set and submitted to the Department for approval. Contract goals need not be submitted in the applicant's MBE program, but the program shall contain a description of the methodology to be used in establishing them. Contract goals may require approval by the Department prior to contract solicitation.

(4) Separate goals shall be set for firms owned and controlled by minorities and firms owned and controlled by women. Firms owned and controlled by minority women shall be counted toward only one goal.

(5) Overall or contract goals may be established that include firms that are not small businesses as defined in the Small Business Act but that are owned and controlled by socially and economically disadvantaged persons as long as a specified portion of the goals is reserved for MBEs.

(6) The applicant shall consider the following factors in setting overall goals:

(i) Overall goals shall be based on projection of the number and types of contracts to be awarded by the applicant;

(ii) Because the purpose of the MBE program is to increase participation by both existing and new firms formed in response to increased opportunity, overall goals shall take into consideration those firms which currently exist and those firms which are likely to be formed. The population of the minority groups within the area may be considered as one factor in assessing the current and potential number of MBEs; and

(iii) Overall goals shall be based on past results of the applicant's/recipients's efforts to contract with MBEs and the reasons for the high or low level of those results.

(7) The applicant/recipient shall review the overall goals at least annually. The review process shall analyze projected versus actual MBE participation duirng the previous year. The necessary revisions shall be made based on the analysis and submitted to the Department for approval.

(8)(i) The setting of goals for specific contracts is an attempt to match proposed contracts with available qualified MBEs.

(ii) The geographic area for assessing MBE availability varies with the type of

prescribed DOT Title VI investigation failure to cooperate is a violation of this

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contracts. It is the broadest possible area from which to expect MBEs to find it in their business interest to participate. The relevant geographic area is no smaller for MBEs than it would be for non-MBEs, but may be larger.

(h) *Procedures to seek affirmative action on MBE participation from major suppliers or contractors and procedures to require that participating MBEs are identified by name when bids or proposals are submitted.* (1) The recipient shall indicate in solicitations issued pursuant to DOT financial assistance which provide opportunities for MBE participation goals for the utilization of firms owned and controlled by minorities and firms owned and controlled by women. Goals may be established that include firms that are not small businesses as defined in the Small Business Act but that are owned and controlled by socially and economically disadvantaged persons as long as a specified portion of the goal is reserved for MBEs. Such solicitations shall require that the bidder or proposer submit in its bid or proposal the names of MBE subcontractors or joint venture involving MBEs scope of work, and dollar value of each such proposed subcontract in order for the bid or proposal to be considered. Agreements between a bidder/proposer and an MBE whereby the MBE promises not to provide quotations to other bidders/proposers to subcontact to another prime contractor are prohibited.

(2) Bidders/proposers who fail to identify MBEs by name, scope of work, and dollar value of work in their bids/proposals sufficient to meet the MBE percentage goals shall demonstrate in writing in their bids/proposals that reasonable efforts were made to involve MBEs. Such documentation of reasonable efforts shall include but not be limited to:

(i) Certification of attendance by prime bidders/proposers at the pre-bid meeting, if any;

(ii) Advertisement in trade association newsletter and minority-owned media for at least 20 days, when time permits, before bids are due of a solicition for specific quotations;

(iii) Copies of written notification to MBEs that their interest in the contract is solicited;

(iv) A statement of the efforts made to select portions of the work proposed to be performed by MBEs in order to increase the likelihood of achieving the stated goal;

(v) A statement of the efforts made to negotiate with MBEs for specific subbids including at a minimum:

(A) The names, addresses, and telephone numbers of MBEs who were contacted;

(B) A description of the information provided to MBEs regarding the plans and specifications for portions of the work to be performed; and

(C) A statement of the reasons why additional prospective agreements with MBEs, if needed to meet the stated goals, were not reached.

(vi) A statement of the efforts made to assist the MBEs contacted who need assistance in obtaining bonding and insurance which the bidder/proposer requires.

(vii) As to each MBE contacted but which the bidder/ proposer considers to be not qualified, a statement of the reasons for the bidder's/proposer's conclusions.

(3) The solicitation shall state that if the bidder/proposer does not meet the MBE goals, price alone shall not be an acceptable basis for which the bidder or proposer may reject an MBE subbid unless the bidder or proposer can show to the satisfaction of the applicant that no reasonable price can be obtained from an MBE. The applicant's determination of reasonable price should be based on such factors as its engineer's estimate for the work under a specific subcontract, the low bidder or proposer's own estimate for the specific subcontract, and the average of the prices quoted for the specific subcontract.

(4) A bidder's failure to identify MBEs in its bid sufficient to meet the minority and female goals or to show meaningful reasonable efforts to that end shall be grounds for finding the bid nonresponsive and the bidder shall not be eligible to be awarded the contract.

(5) A proposer who fails to identify MBEs in its bid sufficient to meet the minority and female goals or to show meaningful reasonable efforts to that end shall not be eligible to be awarded the contract.

(6) The recipient shall review the contracor's MBE involvement efforts during the performance of the contract. The contractor shall bring to the attention of the recipient any situations in which regularly scheduled progress payments are not made to MBE subcontractors.

(7) The contractor shall keep records and documents for three years following the performance of a contract to indicate compliance. These records and documents, or copies thereof, shall be made available at reasonable times and places for inspection by authorized representatives of the applicant or the Department and shall be submitted to the applicant or the Department upon request together with any other compliance information which such representatives may require.

(8) The specific solicitation language incorporating the requirements of this subsection shall be included in the MBE program.

(i) *A description of the methods by which the recipient will require subrecipients, contractors, and subcontractors to comply with applicable MBE requirements.* (1) The applicant shall include in its MBE program a description and the specific language of any preconditions to subgrants or contracts, including subcontracting programs, it awards with DOT funds in addition to those required by paragraph (h) of this section. It shall specify on what size and/or type of contracts and subgrants it includes such preconditions. The description shall contain a summary of the ways the applicant provides help to its subrecipients, contractors, and subcontractors in drafting and implementing their programs for using MBEs.

(2) Any MBE subcontracting programs required by the applicant/recipient shall be submitted to the applicant/recipient by the apparent low bidder/successful proposer. The bidders/proposers shall be advised in the solicitation that failure to submit the required MBE subcontracting program shall make the bidder/proposer ineligible for award.

(j) *Procedures by which the applicant/recipient will implement MBE set-asides.* (1) Where allowable under local law and determined by the applicant/recipient to be necessary to met MBE goals, procedures to implement MBE set-asides shall be established. MBE set-asides shall be used only in cases where at least three MBEs with capabilities consistent with contract requirements exist so as to permit competition.

§ 23.47 Maintenance of records and reports.

(a) In order to monitor the progress of its MBE program the applicant/recipient shall develop a recordkeeping system which will identify and assess MBE contract awards, prime contractors' progress in achieving MBE subcontract goals, and other MBE affirmative action efforts.

(b) Specifically, the applicant/recipient shall maintain records showing:

(1) Procedures which have been adopted to comply with the requirements of this part.

(2) Awards to MBEs. These awards shall be measured against projected MBE awards and/or MBE goals. To assist in this effort, the applicant shall obtain regular reports from prime contractors on their progress in meeting contractual MBE obligations.

(3) Specific efforts to identify and award contracts to MBEs.

(c) Records shall be available upon the request of an authorized officer or employee of the government.

(d)(1) The recipient shall submit reports conforming in frequency and format to existing contract reporting requirements of the applicable Departmental element. Where no such contract reporting requirements exist, MBE reports shall be submitted quarterly.

(2) These reports shall include as a minimum:

(i) The number of contracts awarded to MBEs;

(ii) A description of the general categories of contracts awarded to MBEs;

(iii) The dollar value of contracts awarded to MBEs;

(iv) The percentage of the dollar value of all contracts awarded during this period which were awarded to MBEs; and

(v) An indication of whether and the extent of which the percentage met or exceeded the goal specified in the application.

Subpart D—Compliance and Enforcement

§ 23.61 Appeals of denials of certification as an MBE.

(a) *Filing.* Any firm who believes that it has been wrongly denied certification as an MBE or joint venture under section 23.7 by the Department or a recipient of DOT financial assistance may file an appeal in writing, signed and dated, with the Department. The appeal shall be filed no later than 180 days after the date of denial of certification. The Secretary may extend the time for filing or waive the time limit in the interest of justice, specifying in writing the reasons for so doing. Third parties who have reason to believe that another firm has been wrongly denied or granted certification as an MBE or joint venture may advise the Secretary. This information is not considered an appeal pursuant to this section.

(b) *Decision to Investigate.* The Secretary ensures that a prompt investigation is made of those cases with investigative merit, which are not being reviewed on the merits by the Comptroller General, pursuant to prescribed DOT Title VI investigation procedures.

(c) *Status of Certification During the Investigation.* The Secretary may, at his/her discretion, deny the MBE or joint venture in question eligibility to participate as an MBE in direct and/or DOT-assisted contracts let during the pendancy of the investigation, after providing the MBE or joint venture in question an opportunity to show cause by written statement to the Secretary why this should not occur.

(d) *Cooperation in Investigation.* All parties shall cooperate fully with the investigation. Failure or refusal to furnish requested information or other failure to cooperate is a violation of this part.

(e) *Determinations.* The Secretary makes one of the following determinations and so informs the MBE or joint venture in writing of the reasons for the determination:

(1) The MBE or joint venture is certified under § 23.7; or

(2) The MBE or joint venture is not certified under § 23.7 and is denied eligibility to participate as an MBE in any direct or DOT-assisted contract until a new application for certification is approved by the Departmental Director of Civil Rights.

§ 23.63 Complaints.

(a) *Filing.* Any person who believes himself or herself to be subjected to a violation of this part may file a complaint in writing, signed and dated, with the Department. The complaint shall be filed no later than 180 days after the date of an alleged violation or the dates on which a continuing course of conduct in violation of this part was disclosed. The Secretary may extend the time for filing or waive the time limit in the interest of justice, specifying in writing the reason for so doing. Third parties who have reason to believe that another person has been subjected to a violation of this part may advise the Secretary. This information is not considered a complaint pursuant to this section.

(b) *Decision to Investigate.* The Secretary ensures that a prompt investigation is made of those cases with investigative merit, which are not being reviewed on the merits by the Comptroller General, pursuant to prescribed DOT Tile VI investigation procedures.

(c) *Cooperation in Investigation.* The respondent to the complaint shall cooperate fully with the investigation. Failure or refusal by the respondent to furnish requested information or other failure to cooperate is a violation of this part.

(d) *Determinations.* Upon completion of the investigation, the Secretary informs the recipient or contractor and complainant of the results of the investigation in writing. If the investigation indicates a failure to comply with this part, the notice provides that if the matter is not conciliated within 30 days of the date of the notice, enforcement proceedings shall begin. Conciliation procedures are carried out by the Secretary in accordance with § 23.67 or § 23.71, as appropriate. Enforcement proceedings are carried out in accordance with § 23.69 or § 23.73, as appropriate.

(e) *Intimidatory or Retaliatory Acts Prohibited.* No recipient, contractor, or other person shall intimidate, threaten, coerce, or discriminate against any individual for the purpose of interfering with any right or privilege secured by this part, or because he or she made a complaint, testified, assisted, or participated in any manner in an investigation, proceeding, or hearing under this part. The identity of complainants shall be kept confidential at their election during the conduct of any investigation, proceeding, or hearing under this part. But when such confidentiality is likely to hinder the investigation the complainant shall be advised for the purpose of waiving the privilege.

§ 23.65 Compliance reviews of recipients, contractors, and other participants.

(a) *Desk Audit.* All compliance reviews conducted after financial assistance has been approved or contracts have been awarded begin with a desk audit. The desk audit is a review of all material and information concering the recipient's MBE performance, or in the case of a direct contract, a review of completed "Optional Form 61's".

(b) *On-Site Review.* An on-site review includes interviews, visists to project or facility sites receiving DOT funds, and inspection of any statistical or documentary materials relevant to the recipient's or contractor's performance which were not available for review during the desk audit.

(c) *Cooperation.* The contractor or recipient shall cooperate fully with these reviews. Failure or refusal to furnish requested information or failure to cooperate is a violation of this part.

(d) *Determination.* As a result of its review of the recipient or contractor, the Departmental element civil rights staff makes one of the following determinations:

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(1) The recipient or contractor is in compliance or probable compliance with its MBE obligations; or

(2) The recipient or contractor is not in compliance with its MBE obligations in certain specified respects. Proceedings shall be begun in accordance with § 23.65 or § 23.71 as appropriate.

§ 23.67 Conciliation procedures for direct DOT contracts.

(a) *Notice of Probable Noncompliance.* Except as specified in § 23.75, whenever the responsible office of civil rights makes a probable noncompliance finding, notice is sent by the procurement office registered mail, return receipt requested, describing the areas of probable noncompliance requiring the contractor to show cause, within 30 days, why enforcement proceedings should not be instituted, and offering the contractor an opportunity to conciliate. Efforts at conciliation may continue to be made as long as it appears reasonable to the head of the Departmental element that such efforts may be successful.

(1) *Successful conciliation.* If a conciliation agreement is signed by the Departmental element's office of civil rights and the contractor, it is approved or disapproved by the head of the Departmental element within 20 days of receiving it. If the head of the Departmental element disapproves the agreement, the reasons therefor are stated in writing. The head of the Departmental element may propose amendments to the agreement which are forwarded to the contractor, requiring the contractor's acceptance or rejection of the amended agreement within 20 days of receipt.

(2) *Unsuccessful conciliation.* If no agreement is signed within 30 days of the probable cause notice of noncompliance and the Departmental element office of civil rights determines that continued conciliation is unlikely to be successful, enforcement proceedings set forth in § 23.69 begin. The Department reserves the right to terminate the contract for convenience at any time during the conciliation procedures.

(b) *Effect of conciliation agreement.* If a conciliation agreement is approved, the existence of the determination of noncompliance does not act as a bar to the award of DOT contracts as long as the terms of the agreement are fulfilled.

§ 23.69 Enforcement proceedings for direct DOT contracts.

(a) Whenever conciliation efforts pursuant to § 23.67 are unsuccessful, enforcement proceedings begin. These proceedings are conducted in accordance with 49 CFR 21.15 and 21.17(a) through (d), except that the terms "applicant and recipient" mean "contractor" for the purposes of this section.

(b) If the Secretary determines that the contractor is in noncompliance with this part, he/she may direct the contracting officer to:

(1) Withhold all progress payments under the contract;

(2) Suspend the contract;

(3) Terminate the contract;

(4) Debar the contractor from eligibility for award of future direct or DOT-assisted contracts for a specific amount of time or until corrective action has been taken and approved by the Secretary, whichever is shorter; and/or

(5) Take other action which the Secretary deems appropriate.

(c) Except as provided for in paragraph (b) of this section, a contractor adversely affected by a decision under the proceedings is restored to compliance once the contractor takes complete corrective action, as required by the Department's decision, to eliminate noncompliance with this part and provides reasonable assurance that he/she shall comply fully with this part.

§ 23.71 Conciliation procedures for financial assistance programs.

(a) *Notice of Probable Noncompliance.* Whenever the responsible office of civil rights makes a probable noncompliance finding, a notice of probable noncompliance is sent promptly and in writing by registered mail, return receipt requested, describing the areas of noncompliance requiring the applicant or recipient to show cause within 30 days why enforcement proceedings or other appropriate action to insure compliance should not be instituted and offering the recipient an opportunity to conciliate. Efforts at conciliation may continue to be made as long as it appears reasonable to the head of the Departmental element that such efforts may be successful.

(1) *Successful conciliation.* If a conciliation agreement is signed by the Departmental element's office of civil rights and recipient, it is approved or disapproved by the head of the Departmental element within 20 days of receiving it. If the head of the Departmental element disapproves the agreement, the reasons therefor are stated in writing. The head of the Departmental element may propose amendments to the agreement which are forwarded to the recipient, requiring the recipient's acceptance or rejection of the amended agreement within 20 days of receipt.

(2) *Unsuccessful conciliation.* If no agreement is signed within 30 days of the probable cause notice of noncompliance and the Departmental element's office of civil rights determines that continued conciliation is unlikely to be successful, enforcement proceedings set forth in § 23.73 begin.

(b) *Effect of conciliation agreement.* If a conciliation agreement is approved, the existence of the determination of noncompliance does not act as a bar to the provision of financial assistance as long as the terms of the agreement are fulfilled. A compliance review is conducted by the Departmental element within nine months of the approval of an agreement.

§ 23.73 Enforcement proceedings for financial assistance programs.

(a) Whenever conciliation efforts pursuant to § 23.71 are unsuccessful, enforcement proceedings begin. These proceedings are conducted in accordance with 49 CFR 21.15 and 21.17.

(b) A finding of noncompliance and the imposition of any sanction pursuant to these proceedings may be made binding on all other Departmental elements by the Secretary.

§ 23.75 Emergency enforcement procedure for direct DOT contracts or financial assistance programs.

(a) *General.* Whenever the Secretary determines that the conciliation and enforcement proceedings set forth in §§ 23.67 and 23.69 or §§ 23.71 and 23.73 are inadequate for the effective enforcement of this part, he/she initiates special enforcement procedures to obtain compliance.

(b) *Notice of Probable Noncompliance.* A notice is sent, registered mail, return receipt requested, describing the areas of probable noncompliance requiring the contractor or recipient to show cause, within a specified period of time, generally not to exceed 15 days, why appropriate action to insure compliance should not be instituted. The notice states that the contractor or recipient must respond in writing or orally on the record before an official appointed by the Secretary or sanctions will be imposed.

(c) *Decision.* If the Secretary, after reviewing the contractor's or recipient's oral or written response, determines that the contractor or recipient is in noncompliance with this part, he/she imposes appropriate sanctions.

(d) A contractor or recipient adversely affected by a decision under these

procedures is restored to compliance once the contractor or recipient takes complete corrective action, as required by the Department's decision to eliminate noncompliance with this part and provides reasonable assurance that he/she shall comply fully with this part.

§ 23.77 Willful provision of incorrect information.

If, at any time, the Department or a recipient has reason to believe that any person or firm has wilfully and knowingly provided incorrect information or made false statements, it shall refer the matter to the General Counsel of the Department. He/she may initiate debarment procedures in accordance with 41 CFR 1–1.604 and 12–1.602 and/or refers the matter to the Department of Justice under 18 U.S.C. 1001, as he/she deems appropriate.

Schedule A—Information for Determining Minority Business Enterprise Eligibility Under 49 CFR Part 23

1. Name of firm _____
2. Address of firm _____
3. Phone number of firm _____
4. Indicate whether firm is sole proprietorship, partnership, joint venture, corporation or other business entity (please specify) _____

5. Certification that the firm is a small business concern. A small business concern is a concern, including its affiliates, which is independently owned and operated, is not dominant in the field of operation in which it is bidding/proposing, and can further qualify under the criteria concerning number of employees, average annual receipts, or other criteria, as prescribed by the Small Business Administration. (For additional information see 13 CFR PART 121.)
6. Nature of firm's business _____
7. Years firm has been in business _____
8. For corporations, enclose a copy of articles of incorporation and charter, and for other business entities, similar information indicating the legal relationship of owners and the history of the structure of the organization.

Voting interests		Securities holdings by type	
#	%	#	%

9. Ownership of firm
(a) Black
(b) Hispanic
(c) Asian American
(d) American Indian or Alaskan Native
(e) Subtotal Minority
(f) Nonminority Female
(g) Minority Female
(h) Subtotal Female
(i) Other
(j) Total
(Minority females should be listed under (a) through (d), as appropriate, as well as under (g). (j) is the total of (e), (f) and (i).)

(k) Identify firm's owners by name, race and sex, their years of ownership, their specific ownership percentages, and their contributions of capital and/or expertise for acquiring ownership interests.

10. Control of firm
(a) Identify by name, race and sex, those individuals who are responsible for day-to-day management and policy decisionmaking, including, but not limited to, those with prime responsibility for:
(1) Financial decisions, such as
(i) Budget _____
(ii) Accounting _____
(iii) Capital investment _____
(iv) Financing _____
(v) Bonding and insurance negotiations _____
(vi) Other _____
(2) Administrative decisions, such as
(i) Operations _____
(ii) Marketing and Sales _____
(iii) Hiring and firing of management personnel _____
(iv) Jobs to be bid _____
(v) Purchases _____
(vi) Legal _____
(vii) Other _____
Include their titles, specific responsibilities and scope of authority, salaries, past experience and expertise, and their number of years with the firm.
(b) If available, enclose an organization chart which shows the allocation of management responsibility.

11. Describe and attach any stock options or other ownership options that are outstanding, and any agreements between owners or between owners and third parties relevant to the business entity affecting the ownership and control thereof.

12. Provide a statement attesting to the fact that there are no restrictions which prevent the affected group owners, without the cooperation or vote of a non-affected group owner, from making a business decision which favors the affected group owners.

13. Identify any employee-employer relationships continuing in this firm from previous firms which involved any of the owners listed in 8(h) as employees of this firm.

14. Enclose copy of current audited balance sheets and operating statements for the entity. (Waivers may be granted to firms who do not use outside auditors.)

15. Name of bonding company _____ Bonding limit _____ Source of letters of credit _____.

16. Identify trade references _____

17. Enclose evidence of authority to do business in the state as well as locally, including all necessary business licenses.

18. Indicate if this firm or other firms with any of the same officers have previously received or been denied certification or paticipation as an MBE and describe the circumstances. Enclose copies of any documents issuing or denying certification or participation.

"The undersigned does hereby swear that the foregoing statements are true and correct and include all material information necessary to identify and explain the operations of _____ Company as well as the ownership thereof. Further, the undersigned does covenant and agree to provide _____ through the prime contractor, current, complete and accurate information regarding actual work performed on the _____ project, the payment therefor and any proposed changes if any of the arrangements hereinabove stated and to permit the audit and examination of books, records and files of the _____. It is recognized and acknowledged that the statements herein are being given under oath and any material misrepresentation will be grounds for terminating any contract which may be awarded in reliance hereon and initiating action under 18 U.S.C. 1001 and/or 49 CFR Part 23."

_____
Signature

_____
Name

_____
Title

_____
Date

Schedule B—Information for Determining Joint Venture Eligibility Under 49 CFR Part 23

1. Name of joint venture _____
2. Address of joint venture _____
3. Phone number of joint venture _____
4. Identify the firms which comprise the joint venture. (The MBE partner must complete Schedule A.). _____

(a) Describe the experience and busines qualifications of each joint venturer: _____

5. Nature of the joint venture's business _____

6. Provide a copy of the joint venture agreement.

Percentage MBE Ownership	Percentage Non-MBE Ownership

7. Ownership of joint venture
(a) Profit and lost sharing
(b) Capital contributions
(c) Other applicable ownership interests
8. Control of and participation in this contract
(a) Identify by name, race, sex and "firm", those individuals who are responsible for day-to-day management and policy decisionmaking, including, but not limited to, those with prime responsibility for:
(1) Accounting _____
(i) How will accounting expenses be reimbursed? _____
(ii) Will a separate cost center, where in and out payments and accounting takes place, be established? _____
(2) Administration _____
(i) Supervisory on-site work _____
(ii) Operations _____
(3) Purchasing of material _____
(i) Indicate estimated cost of material _____
(ii) Indicate method of financing _____
(4) Budget _____
(5) Bonding and insurance negotiations _____

authorized representatives of the

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(6) Hiring and firing of management personnel ———

(7) Other ———

Include their titles, specific responsibilities and scope of authority, salaries, and expertise.

(b) Which joint venture partner will provide equipment?

(1) If owned, estimate cost and explain financing.

(2) If leased, identify lessor and terms of lease.

(c) Estimate contract cash flow for each joint venturer (on separate sheet).

(d) What will be the authority of each joint venturer to commit the other? ———

(f) What will be the specific portion of the work to be performed by each partner? ———

9. Enclose evidence of authority to do business in the state, as well as locally, to include all necessary business licenses.

10. Describe and attach any stock options or other ownership options that are outstanding, and any agreements between owners, between the two firms making up the joint venture, or between owners or joint venture firms and third parties relevant to the ownership and control of joint venture.

11. Provide a statement attesting to the fact that there are no restrictions which prevent the affected group owners, without the cooperation or vote of a non-affected group owner, from making a business decision which favors the affected group owners.

12. Indicate if this firm or other firms with any of the same officers have previously received or been denied certification or participation as an MBE joint venture and describe the circumstances. Enclose copies of any documents issuing or denying certification or participation.

"The undersigned does hereby swear that the foregoing statements are true and correct and include all material information necessary to identify and explain the terms and operation of our joint venture and the intended participation by each joint venturer in the undertaking. Further, the undersigned covenant and agree to provide to ——— through the prime contractor, current, complete and accurate information regarding actual joint venture work and the payment therefor and any proposed changes in any of the arrangements hereinabove stated and to permit the audit and examination of the books, records and files of the joint venture, or those of each joint venturer relevant to the joint venture, by authorized representatives of the ———. It is recognized and acknowledged that the statements herein are being given under oath and any material misrepresentation will be grounds for terminating any contract which may be awarded in reliance hereon and initiating action under 18 U.S.C. 1001 and/or 49 CFR Part 23."

Signature

Name

Title

Date

[FR Doc. 79-15273 Filed 5-15-79; 8:45 am]
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federal register

Thursday
May 17, 1979

Part III

Department of Transportation

Federal Highway Administration

Highway Beautification Program Reassessment; Public Hearing Schedule and Procedures

DEPARTMENT OF TRANSPORTATION

Federal Highway Administration

[23 CFR Parts 750 and 751]

[FHWA Docket No. 79-10, Notice 2]

Highway Beautification Program Reassessment; Public Hearing Schedule and Procedures

AGENCY: Federal Highway Administration (FHWA), DOT.

ACTION: Notice of public hearing schedule and procedures.

SUMMARY: The Federal Highway Administration (FHWA) announced in the Federal Register at 44 FR 25387, April 30, 1979, that it will hold a series of public hearings for the purpose of soliciting comments from all interested parties who may wish to express their ideas about the future direction of the Highway Beautification Program, and in particular, the outdoor advertising and junkyard control programs as set forth in 23 U.S.C. 131 and 136. The purpose of this Notice is to provide specific information concerning the hearing times and locations and the procedures by which the FHWA will conduct these hearings. Anyone desiring copies of the Federal Register announcement of April 30, 1979, may obtain them by telephoning the FHWA Office of Right-of-Way at (202) 245-0021 between 7:45 a.m. and 4:15 p.m., e.t., Monday through Friday, or by writing to the address listed below.

DATES: The hearings will be held during the months of June and July 1979 on the dates noted in the Supplementary Information Section of this Notice. All written comments must be submitted to FHWA Docket No. 79-10, Notice 2, at the address given below by July 15, 1979.

ADDRESS: Submit written comments, if possible in triplicate, to FHWA Docket No. 79-10, Notice 2, Federal Highway Administration, Room 4205, HCC-10, 400 Seventh Street, SW., Washington, D.C. 20590. Comments received will be available for inspection at this address between 7:45 a.m. and 4:15 p.m., e.t., Monday through Friday.

FOR FURTHER INFORMATION CONTACT: Mr. Richard W. Moeller, Chief, Junkyard and Outdoor Advertising Branch, (202) 245-0021, or Mr. Edward Kussy, Deputy Assistant Chief Counsel for Right-of-Way and Environmental Law, (202) 426-0791. Office hours are 7:45 a.m. to 4:15 p.m., e.t., Monday through Friday.

SUPPLEMENTARY INFORMATION: Eleven hearings have been scheduled to be held as part of the FHWA reassessment of the outdoor advertising and junkyard control provisions of the Highway Beautification Act of 1965, as amended. In the April 30 announcement of these hearings, the FHWA identified a series of questions concerning issues that it would like addressed in the comments given at the hearings or in written comments submitted to the docket. Anyone desiring copies of these questions may request them by telephoning the FHWA Office of Right-of-Way at (202) 245-0021 or any of the field offices of the FHWA which are located in most State capitals. The site addresses and hearing schedule are listed below in the section titled Hearing Times and Locations. The FHWA hearing officers will be Mr. Joseph M. O'Connor, Associate Administrator for Right-of-Way and Environment, Dr. David R. Levin, Director of the Office of Right-of-Way, and Mr. Gerald B. Saunders, Chief, Real Property Acquisition Division.

The procedures by which the FHWA will conduct the hearings are identified in the section titled Hearing Procedures.

1. *Hearing Times and Locations:*

City	Address	Beginning date	Hearing officer
Boston, Mass.	John W. McCormack Post Office and Court House, Room 208, Post Office Square at Devonshire Street.	June 5, 1979	D. R. Levin.
Chicago, Ill	Chicago Marriott Hotel, 540 N. Michigan Avenue	June 5, 1979	J. M. O'Connor.
Portland, Oreg	Bonneville Power Admin., Auditorium, 1002 N.E. Holliday.	June 5, 1979	G. B. Saunders.
Baltimore, Md	Social Security Admin. Auditorium, 6401 Security Boulevard.	June 12, 1979	D. R. Levin.
Kansas City, Mo	Federal Bldg., Room 140, 601 E. 12th Street	June 12, 1979	G. B. Saunders.
San Francisco, Calif	Travelodge, Marina Rooms 1-2, 250 Beach Street	June 12, 1979	J. M. O'Connor.
Denver, Colo	Main Post Office Bldg., Room 269, 1823 Stout Street.	June 18, 1979	J. M. O'Connor.
Atlanta, Ga	Georgia Department of Transportation, Room 401, 2 Capitol Square.	June 19, 1979	D. R. Levin.
Dallas, Tex	Earl Cabell Federal Bldg., Room 7A23, 1100 Commerce Street.	June 19, 1979	G. B. Saunders.
New York City, N.Y	Two World Trade Center, Room 4430	June 26, 1979	D. R. Levin
Washington, D.C	Department of Transportation, Nassif Building, Room 2230, 400 Seventh Street, SW.	July 10, 1979	D. R. Levin.

All hearings will commence at 8:30 am., local time, except for New York City which will commence at 9:30 am., local time.

2. *Hearing Procedures.* The FHWA hearing officers will be guided to the greatest degree practicable by the following procedures:

a. Those persons wishing time to present oral comment must register to speak. Speakers will be heard in the order in which they register. Exceptions to this provision will be made for State Governors, United States Senators and Representatives, and the mayor of the host city.

b. It is anticipated that the number of persons desiring to present oral comment will be such that the hearing officer will limit the speaking time of each person to 10 minutes. However, more time will be apportioned to those desiring additional speaking time depending upon the number of individuals registering to speak. Speakers may not relinquish their speaking time to others. If a registered speaker is not present when it is his/her time to speak, the time is forfeited. In addition, there will be a 1-hour open remarks session wherein attendees will be recognized at random for the presentation of remarks. These remarks will be limited to 3 minutes per person.

c. Unless otherwise noted in the Hearing Times and Locations section above, all hearings will commence at 8:30 a.m., local time. Anyone desiring to give oral comment must register to speak between the hours of 8:30 a.m. and 2 p.m., local time, on the beginning day of the hearing. After speaker registration closes, an assessment of the time necessary for completing oral testimony will be made by the hearing officer and a schedule for completion of the hearing announced accordingly. The schedule will be dependent on the hours of availability of the hearing facility. Each hearing will last at least 1 day but no more than 3 days.

d. The following agenda will be followed on the beginning day of the hearing:

8:30 a.m.*—Begin speaker registration.
9 a.m.—Hearing officer presentation.
9:30 a.m.—Begin testimony.
12 noon—Adjourn for lunch.
1 p.m.—Hearing officer presentation.
1:15 p.m.—Continue testimony.
2 p.m.—End speaker registration.
3:45 p.m.—End testimony; begin open remarks.
4:45 p.m.—End open remarks; hearing officer closing statement.
5 p.m.—Adjourn.

*Except New York City, where the hearing will begin at 9:30 a.m., local time. Testimony in New York City will begin at 10:30 a.m., local time. All other times in New York City are the same as listed above.

Evening sessions may be held at the discretion of the hearing officer depending on the availability of the facility and in accordance with procedure No. 2c above. If a second (and third) day of testimony is required, testimony will commence at 9 a.m.

This notice of public hearing schedules and procedures is issued under the authority of 23 U.S.C. 131, 136, and 315 and the delegation of authority by the Secretary of Transportation at 49 CFR 1.48(b).

Issued on: May 14, 1979.

Karl S. Bowers,

Federal Highway Administrator.

[FR Doc. 79-15427 Filed 5-16-79; 8:45 am]

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federal register

Thursday
May 17, 1979

Part IV

Department of Energy

Economic Regulatory Administration

Powerplant and Industrial Fuel Use Criteria for Petition for Exemption From Prohibitions

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DEPARTMENT OF ENERGY

Economic Regulatory Administration

[Docket No. ERA-R-78-19E]

10 CFR Parts 502, 503, 505, and 507

Powerplant and Industrial Fuel Use Act of 1978; Criteria for Petition for Exemption From Prohibitions of the Act

AGENCY: Economic Regulatory Administration, Department of Energy.

ACTION: Interim rule.

SUMMARY: The Economic Regulatory Administration (ERA) of the Department of Energy (DOE) is issuing this interim rule to implement provisions of the Powerplant and Industrial Fuel Use Act of 1978 (FUA) which prohibit the use of petroleum and natural gas by certain electric powerplants and major fuel burning installation. These rules establish the criteria upon which owners and operators of powerplants and installations may petition for exemption from the prohibitions of the Act.

DATES: These interim rules shall become effective on May 8, 1979. ERA has decided to extend the period for written comments until August 15, 1979, before issuing its final rules on Parts 502, 503, 505 and 507. No additional public hearings will be held. However, before finalizing these rules, ERA will consider all written comments submitted during this extended comment period.

ADDRESSES: All comments should be addressed to Public Hearing Management, Docket No. ERA-R-78-19E, Department of Energy, Room 2312, 2000 M Street, NW., Washington, D.C. 20461.

FOR FURTHER INFORMATION CONTACT:

William L. Webb (Office of Public Information), Economic Regulatory Administration, Department of Energy, 2000 M Street, NW., Room B-110, Washington, D.C. 20461, (202) 634-2170.

Stephen M. Stern (Regulations and Emergency Planning), Economic Regulatory Administration, Department of Energy, Room 2130C, 2000 M Street, NW., Washington, D.C. 20461, (202) 254-3987.

Robert L. Davies (Fuels Regulations—Program Office), Economic Regulatory Administration, Department of Energy, Room 6128I, 2000 M Street, NW., Washington, D.C. 20461, (202) 254-3910.

James Heffernan (Office of General Counsel), Department of Energy, Room 7136, 12th and Pennsylvania Avenue, NW., Washington, D.C. 20461, (202) 633-8714.

SUPPLEMENTARY INFORMATION:

I. Background and extended comment period
II. Comments
III. Procedural matter

I. Background and Extended Comment Period

Parts 502, 503, and 505 of these interim rules set forth the criteria that must be met to establish eligibility for a temporary or permanent exemption under Title II of FUA. Part 507 defines "natural gas" and "petroleum" and establishes reporting requirements for certain fuels excluded from these definitions.

ERA published proposed rules for new and existing facilities on November 17, 1978 and January 29, 1979 (43 FR 53974 and 44 FR 5808, respectively). In the preambles to those proposed rules, ERA described the basic provisions of FUA and its proposed programs to implement them. ERA solicited comments on its proposals and held public hearings in Boston, Massachusetts on February 7, 1979; Salt Lake City, Utah on February 14, 1979; Tampa, Florida on February 21, 1979; and Lexington, Kentucky on March 2, and 3, 1979.

ERA received a large number of written comments and heard a variety of oral presentations at its hearings, all of which were incorporated into the record of the administrative proceedings on these rules. Based upon these comments and ERA analysis of the full record in these administrative proceedings to date, ERA has decided to issue this interim rule to establish the criteria for exemptions under FUA. ERA plans to publish interim rules for Parts 504 and 506 in the near future in order to provide the basis for full implementation of the regulatory programs required by FUA.

ERA has also decided to extend the period for submission of additional written comments on this interim rule. This extended period for additional written comments commences on the date this interim rule is issued and extends until August 15, 1979. ERA invites all interested persons to participate in these further proceedings by submitting any written information, views or arguments to Department of Energy, Public Hearing Management, Room 2313, 2000 M Street, N.W., Washington, D.C. 20461. All submissions should be identified on the outside envelope and on the documents contained therein with the designation, "New Facility Regulations," Docket Number ERA-R-78-19E. You should submit 15 copies. All comments received will be available for public inspection in the DOE Reading Room GS-152, James Forrestal Building, 1000 Independence Avenue, S.W., Washington, D.C. We will consider all comments received by August 15, 1979, and incorporate these into the record of the administrative proceedings on Parts 502, 503, 505, and 507.

ERA will receive petitions for exemptions and make determinations in accordance with the procedures and definitions set forth in Section 500.2 and Part 501, issued concurrently with this rule. ERA's determinations on exemption petitions shall be made upon the basis of the standards and criteria set forth in Parts 502, 503, 505, and 507 of this Interim Rule, or upon the provisions of those Parts as subsequently revised where the application of a modification of a particular rule would result in a more favorable disposition of a particular petition. ERA urges you to file your petitions expeditiously so that ERA may render a timely decision on each petition.

ERA also conducted FUA-related rulemaking proceedings on transitional facilities, uses of natural gas, outdoor decorative lighting, and restrictions on the increased use of petroleum. On March 21, 1979, ERA published its Revised Interim Rule to Permit Classification of Certain Powerplants and Installations as Existing Facilities, 44 FR 17464, which established the criteria and procedures whereby ERA would make determinations as to whether a facility is subject to the provisions of Title II of FUA governing new facilities, or the provisions of Title III which governs existing facilities. On April 9, 1979, ERA published a final rule establishing an Exemption for Use of Natural Gas by Existing Powerplants Under the Powerplant and Industrial Fuel Use Act of 1978, 44 FR 1979, which established criteria and expedited procedures by which owners and operators of existing powerplants may petition for a temporary public interest exemption from the prohibitions against use of natural gas contained in Section 301(a) (2) and (3) of FUA. On May 7, 1979, ERA issued its final rule establishing prohibitions on The Sale and Direct Industrial Use of Natural Gas for Outdoor Lighting, pursuant to Section 402 of FUA; and concurrently with this rule, ERA is issuing its Interim Rule establishing a Prohibition Against the Increased Use of Petroleum by Existing Electric Powerplants pursuant to Section 405 of FUA.

II. Comments

In the Preamble to the Proposed Rules published on November 17, 1978 and January 29, 1979, ERA specifically solicited comments on such issues as: the various exemptions, the Fuels Decision Report, the cost calculations, the substantially exceeds index, general requirements and terms and conditions for exemptions, competition, urban policy and the Fuel Classification and Reporting Requirements.

ERA received a number of written and oral comments on these issues as well as comments on many issues not specifically identified in the Preamble to the proposed rules. In order to facilitate an orderly discussion of these comments and ERA's specific responses to them, each will be discussed in the order that they appear in this interim rule.

Fuels Decision Report (Part 502)

Many comments were received criticizing the requirements imposed by the Fuels Decision Report as excessive, burdensome, unreasonable, confusing and costly. There were many specific comments which reflected the confusion experienced by the commentors concerning the kinds and quantities of information required for each chapter of the Fuels Decision Report. In addition, many commentors made the point that, for certain exemptions at least, the fuel search provisions of the Fuels Decision Report were inappropriate and, indeed, not required by law.

In response to all of these comments, ERA has significantly restructured the Fuels Decision Report. The Report is no longer organized in a technical, analytical format, e.g., engineering considerations, economic considerations, etc. It is now organized to reflect the eligibility and evidentiary requirements stipulated in the exemption regulations and the information needed by ERA to complete the exemption process. Its size and burden are totally dependent upon the exemption requested. The chapters no longer contain specific directions telling a petitioner specifically how he must make the required showings.

Submission of a Fuels Decision Report is not needed for those exemptions which by the Act or regulations primarily involve certifications rather than demonstrations of eligibility. These exemptions are: the peakload exemption for new powerplants; the emergency exemption; and the retirement exemption for existing units. Although petitioners for these exemptions do not have to submit a Fuels Decision Report, they do have to comply with the evidentiary requirements of the appropriate regulations and make the required showings in their petitions.

Most exemptions no longer require a fuel search and therefore do not require a broad-based Fuels Decision Report containing multiple exemption requests. Instead, the interim regulations require only that the Fuels Decision Report contain evidence that demonstrates eligibility for the exemption, compliance with appropriate general requirements, and information needed by ERA to develop terms and conditions if the exemption is granted and to comply with National Environmental Policy Act (NEPA) requirements.

The alternate fuel search is now required only for the following permanent exemptions: lack of alternate fuel for the first 10 years of useful life; lack of alternate fuel at a cost which does not substantially exceed the cost of using imported oil; site limitations; environmental requirements; lack of adequate capital; State or local requirements; intermediate load; and scheduled equipment outages of over 21 days.

The first five exemptions listed require, by law, a demonstration that, despite a good faith effort, legal, economic or technical constraints preclude use of an alternate fuel. The latter three exemptions are discretionary rather than mandatory, and given the nature of the exemptions, a fuel search is consistent with and furthers the purposes of the Act. The latter two, moreover, by law, contain an alternative site requirement which must be met for new powerplants. ERA believes that the presence of an alternative site requirement supports the requirement of a showing that the use of alternate fuels is, in fact, not feasible.

ERA estimates that these changes will reduce the total reporting burden on utilities and industry due to the Fuels Decision Report by well over half in the aggregate. The burden and cost experienced by a particular company will depend on the numbers and kinds of exemptions requested by that company. A request for a peakload or temporary exemption will result in a minimal burden for a petitioner. A request for a permanent cost exemption for a new powerplant necessitates much more information due to the legislative mandate that the general requirements—alternate supply of power, mixtures, and (when applicable) fluidized bed—be met, as well a fuel search undertaken, alternative sites examined and, ultimately, multiple exemptions requested. However, even in this case, the burden has been pared down to the level contained in the legislation.

Some comments questioned the legal authority of ERA to require submission of a Fuels Decision Report. ERA may, under Section 701(c) of FUA, stipulate the form and format of requests for exemption. In addition, ERA has significant information-gathering authority under Section 711(a) of the FUA and Sections 5 and 13(b) of the Federal Energy Administration Act of 1974 (FEA Act). The FUA provisions themselves provide ample legal basis for the requirement that information to be used in establishing terms and conditions include oil and gas consumption and conservation measures, and that environmental information be provided for use by ERA in complying with NEPA requirements.

ERA received a number of comments suggesting that ERA should stipulate the alternate fuels which must be considered by a petitioner in his Fuels Decision Report. Some commentors merely stated that ERA should define the fuels which should be examined; others stipulated what the fuels are that ERA should require to be examined, with coal, petroleum coke, coal derivatives and coal oil mixtures being those fuels mentioned most frequently. The point was made by several commentors that ERA should limit consideration of alternate fuels to those fuels which are commercially available, technically practical, in general use with industrial acceptance, economic, available in sufficient quantity to satisfy the petitioner's requirements, and must take into account other specific parameters to which a facility is subject. ERA recognizes the potential merit of such proposals, although we are not yet in a position to implement them.

The range of these comments reinforces ERA's decision to allow the petitioner to select those alternate fuels which are reasonable for his needs and supply opportunities in those cases where a fuel search is required. It is up to the petitioner to describe his particular situation and to examine those fuels which best meet his needs. Those fuels are likely to differ significantly among petitioners. Although it may be that all petitioners should examine the use of coal, land-fill methane may not be a reasonable option for a petitioner located at a significant distance from a dump or a land fill. Solar may be a more reasonable alternative for a petitioner located in the sunbelt than for one located in some other area. The use of wood chips, black liquor, or wood waste is often a reasonable option for paper mills and

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lumber mills, but may not be for a steel mill.

ERA has made provision for pre-petition conferences to scope out the number and kinds of alternate fuels which must be examined by a petitioner when a fuel search is required. This stage of the process is particularly important since ERA intends to undertake a serious review of the petitioner's choice of alternate fuels. ERA does retain the right to request more information, not accept a petition, or deny an exemption on the grounds that a petitioner for one of the exemptions requiring a fuel search failed to demonstrate adequately that he could not use a particular alternate fuel.

ERA does recognize the problems faced by petitioners in attempting to determine what fuels to examine when ERA has provided no guidance. ERA is considering developing and proposing regulations which provide a process to address this question. These regulations could provide a mechanism by which ERA, in concert with DOE's Offices of Energy Technology and Resource Applications would solicit public comment and information from industry on the feasibility and commercial acceptability of alternate fuels and innovative technologies. This process would result in publication by ERA of a presumptive matrix of alternate fuels and technologies which could be amended on an annual or as-needed basis. It is expected that the matrix would identify various alternate fuels and identify their feasibility on such bases as industry, geographic location, unit size, unit type, and other criteria. That proposed regulation will also explain the procedure ERA will use to update the matrix.

Once such a matrix is established and published, ERA would expect petitioners who must conduct a fuel search to examine, at a minimum, those alternate fuels which are included in that part of the matrix which applies to them. ERA also would reserve the right to amend the fuels list contained in the matrix at the pre-petition conference. We solicit comments on the types of proceedings we should establish to initiate this process, on the kinds of criteria which should be used, on the level of specificity and detail that the matrix should include, and on the benefits or problems associated with the matrix concept.

A substantial number of comments was received criticizing the certification requirements proposed in the November 17, 1978, **Federal Register** notice. Few comments were received supporting the provisions. Essentially, § 502.2(e) required that the Chief Executive Officer certify as to the accuracy and professional integrity of the Fuels Decision Report and that the petitioner append to the certification a description of how the national policies concerning the use of alternate fuels were explained to corporate personnel, a description of the process by which a petitioner has in the past made his fuels decisions, and a description of the process by which the petitioner made the decision to seek an exemption. The certification provisions as a whole were criticized as being excessive and unnecessary, an intrusion into the management of private corporations, an attempt to dictate company management and the way corporate decisions are made, irrelevant to the regulatory proceedings, and an attempt to discourage exemption petitions.

In view of the comments, ERA has changed the regulations substantially. The requirement that the Chief Executive Officer (or any corporate official) certify to the accuracy of the Report has been removed. Moreover, only the duly authorized representative of the petitioner is required to sign any certification, not the Chief Executive Officer. The requirement that the certification include a description of how national fuel policies were explained to staff and the description of the company's historic fuels decision process has been deleted. The language requiring a description of the process by which a decision to request an exemption was reached has been modified substantially.

ERA received comments criticizing the requirement that professionals who prepare the Fuels Decision Report be required to certify. It was contended that this requirement was excessive and superfluous since these professionals could be required to testify under oath. ERA has modified the requirement. Instead of requiring that each professional certify, the regulation merely requires that the petitioner certify that significant contributors to the Report have been informed that they may be subject to questioning under oath in a public hearing. Principal contributors to the Report must by listed and their disciplines identified.

Several commentors suggested that the information required in the Introduction pertaining to utility supply and demand forecasts was duplicative of information required by other regulatory bodies. ERA concurs and has deleted the requirement.

Several commentors suggested that the waiver provision in the pre-petition conference be expanded and made more specific. ERA does not believe that increased specificity would be useful. Any waiver is a discretionary action on ERA's part which will turn heavily upon the particular situation at hand. ERA believes that by restructuring the Fuels Decision Report, the need for most waivers has been eliminated. ERA expects the pre-petition conferences to focus on the fuels to be examined if a fuel search is required and on other matters as to which it can be concluded, even at the pre-petition conference stage, that substantial effort or analysis by the applicant would not be warranted. Efforts to obtain State Implementation Plan revisions, for example, may in some circumstances be predictably fruitless. As experience is obtained, it may further be possible to specify the provisions bearing upon pre-petition conferences. ERA will carefully consider proposals to do so.

Some commentors suggested that ERA prepare and publish a sample Fuels Decision Report. Since each Report will be unique to a case, ERA believes that publication of a sample Report would confuse rather than clarify the requirement. Once petitions for exemption are accepted, summaries will be published in the **Federal Register** and the petition, including the Fuels Decision Report, will be made available to the public. The precedents will provide the best guidance on what ERA will consider acceptable.

Several commentors criticized the requirement that the appendices include any studies and memoranda relating to fuel choice decisions prepared during the past 5 years as unreasonable and irrelevant to the exemption decision. ERA concurs and has deleted that language. However, ERA does strongly recommend that a petitioner append any documentation which supports his exemption request and which will assist the decision process.

Several commentors suggested that the Fuels Decision Report should be prepared on a site or company basis rather than a unit-by-unit basis. Yet, the FUA, with the exception of the System Compliance Option, clearly provides for prohibitions and exemptions on a unit-by-unit basis. As a result, exemptions must be requested on a unit basis and therefore these interim rules contemplate Fuels Decision Reports prepared on a unit basis. If, however, a petitioner is requesting exemptions for two or more units which operate in combination at the same site, a petitioner may submit only one Fuels Decision Report as long as the exemptions requested and the units to which they pertain are clearly

distinguished in the Report. Moreover, ERA recognizes that it may be advantageous for both companies and ERA to consider long range, comprehensive fuels decision planning. ERA therefore encourages the preparation and submission in close conjunction with each other of interrelated exemption requests. It will probably also be possible to incorporate by reference in subsequent Fuels Decision Reports portions of an initial Report that involved a unit at the same site as the units contemplated in the subsequent Reports. ERA is prepared to explore the potential for all such techniques in pre-petition conferences.

Several commentors stated that the information requested in the Petroleum and Natural Gas Consumption chapter of the Fuels Decision Report is not relevant to decisions on exemptions. ERA has clarified in the regulations that the purpose of such information is not to determine eligibility for exemptions but to serve other purposes of the Act.

Some commentors objected to the magnitude of the requirement that utilities must provide supply and consumption data for its electrical region in the Petroleum and Natural Gas Consumption chapter of the Report. ERA agrees and has deleted that requirement.

Some companies stated that the requirement in the Petroleum and Natural Gas Consumption chapter for fuel use projections up to 1990 is unrealistic since many companies employ only a 5-year planning program or less. ERA believes that a planning horizon of 10 years—to about 1990—is not unreasonable within the context of the Act. Several temporary exemptions are allowed for 10 years, including extensions. The focus of the Act is on the long-term turnover of the nation's stock of powerplants and installations. The statutory prohibitions against the use of natural gas by existing powerplants take effect in 1990. In sum, the Act essentially requires a 10-year planning horizon and this chapter adheres to that policy.

Several commentors stated that the information requested in the Conservation chapter is irrelevant to the exemption decision process. The purpose of the chapter is to provide ERA with information that can be used in formulating terms and conditions which may be imposed if an exemption is granted. Other commentors challenged the scope of the chapter, stated that an excessive amount of information was requested, and stated further that the chapter contravened the National Energy Conservation Policy Act (NECPA). ERA disagrees. The chapter requires that the petitioner describe what conservation measures he has taken and intends to take for the unit and the site. It also requests the petitioner to describe his conservation goals. Such a requirement represents adherence to the purposes of both the FUA and the NECPA. FUA authorizes ERA to limit oil and gas use if reasonable conservation conditions are not satisfied. ERA will exercise such authority both in setting terms and conditions and in determining whether a powerplant applicant for certain exemptions has shown, pursuant to the regulations issued under Section 213(c) of the Act, that there is no alternative supply of power available. Such conditions under FUA do not require conservation in general; rather, they are preconditions to the use of oil or gas under a statute designed to conserve those fuels.

Some confusion was evidenced by commentors concerning the Environmental Impacts Analysis chapter. The purpose of the chapter is to assist ERA in complying with the NEPA. The FUA states that only temporary exemptions and certain permanent exemptions for existing facilities are exempt from compliance with NEPA. All other exemptions are subject to NEPA requirements. Compliance with NEPA does not necessarily mean that an environmental impact statement is required before an exemption may be granted or denied. It does mean, however, that sufficient environmental information is required to determine whether a finding of no significant impact, an environmental analysis (EA), or an environmental impact statement (EIS) is required before an exemption is granted or denied. ERA expects that the amount of environmental analysis required to be included in a Fuels Decision Report will vary on a case-by-case basis and will be a topic of discussion at pre-petition conferences.

ERA will use data supplied in this chapter to determine not only what level of environmental analysis is needed prior to granting or denying an exemption but also as a base in order to expedite preparation of EA's and EIS's, where needed.

ERA does not intend that this chapter be duplicative of other information supplied by the applicant and has suggested that such information be incorporated by reference. In addition, in our proposed guidelines for Environmental Reports published in the **Federal Register** on January 31, 1979 (44 FR 6177) we requested information on present or future EIS's by other agencies which would adequately reflect impacts under FUA.

The kinds of information required in the Environmental Impacts Analysis chapter reflects the requirements of the proposed guidelines. The comments received on those guidelines have not yet been reviewed, nor have the proposed guidelines yet been revised. As a result, the kinds of information required in the Environmental Impacts Analysis chapter may be revised in the future to reflect ERA's response to comments on the proposed guidelines and associated issues.

Substantially Exceeds Index (§§ 503.5 and 505.5)

In the regulation originally proposed by ERA governing the cost calculations required of a petitioner for an exemption under Sections 211(a), 212(a), 311(a) and 312(a) of the Act, ERA proposed a range of 1.3 to 1.8 times the cost of using imported petroleum. ERA has received numerous comments on this proposed range which suggest that it (including the example used by ERA of 1.5) may be excessive and not in accordance with the statutory standard of what is appropriate for an index reflecting a cost which does not "substantially exceed" the cost of using imported petroleum.

The comments state that a study done by the Department's Energy Information Administration (EIA) indicates any ratio above 1.1 to 1 will generate little or no incremental benefit to the nation.[1] The commentors also contend that the index is inflexible in nature and violates current Federal price policy with respect to announced wage and price guidelines. Some comments stated that other Federal agencies and the courts have stated that an increase in costs of 5 to 10 percent is substantial in cases involving other Federal statutes and regulations.

Statutory Purposes

With regard to the actions of other agencies under other statutes, ERA believes that the substantially exceeds cost test index must be set at a level that will carry out the purposes of this Act without imposing costs on the American public as a result of using coal or another alternate fuel that greatly exceed the benefits obtained under the Act. In this regard, it is important to look at the purposes of the Act as set forth by the Congress in Section 102.

[1] "Analysis of Proposed DOE Regulations Implementing the Powerplant and Industrial Fuel Use Act" AM/EI/79-07. This memorandum can be obtained from: Energy Information Administration Clearinghouse, 1762 M Street, N.W., Room 210, Washington, D.C. 20461, (202) 634-5641.

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These purposes include a reduction in the importation of petroleum and an increase in the nation's capability to use indigenous alternate energy resources to move toward a goal of national energy self-sufficiency. Other purposes include the conservation of natural gas and petroleum for uses other than electric or other industrial or commercial generation, the encouragement of the use of coal and other alternate fuels as primary energy sources, the conservation of our nation's supplies of natural gas and petroleum for the benefit of present and future generations and a reduction in the vulnerability of the United States to energy supply interruptions. It is incumbent upon ERA to set an appropriate substantially exceeds cost index in light of these purposes in this statute.

With regard to comments that the Department's own analysis clearly indicates that a ratio greater than 1.1 to 1 would be of little benefit to the nation in reducing oil and natural gas use, it must be pointed out that this study examined only the cost of using coal versus the cost of using imported petroleum; it did not address, nor claim to address, the economic and national security benefits to the Nation obtained through the implementation of FUA. Within this scope, while the EIA analysis did show that little or no oil and gas savings were forthcoming from the utility sector at index levels higher than 1.1, it also showed that significant savings were obtained from the industrial sector at much higher index values.

Other commentors stated that whether a powerplant or installation is able to meet the cost test should not be the sole criterion and that a facility should still receive an exemption to use oil or natural gas if (a) in the case of an MFBI, the cost to build such facility makes it unable competitively to produce its product at its present or projected site or, (b) in the case of a powerplant, the cost of such facility causes an "unreasonable" increase in the utilities rate base, thereby "substantially increasing" utility rates to consumer.

The test mandated by the Fuel Use Act is whether the cost of using an alternate fuel substantially exceeds the cost of using imported oil. The statute defines cost to include capital, operating and maintenance, and delivered fuel expenses discounted to the present. The test employed by ERA in Sections 503.5 and 505.5 of these regulations is a ratio of these cost elements discounted to the present. We do not believe that effects on competition can appropriately be substituted for the cost elements mandated by the statute, nor do we believe that an examination of such impacts could appropriately be used, or would of itself generate a proper measure under the Act of when the excess of costs is "substantial." As experience is gained under the Act, we will be better able to assess the pattern of impacts on utility rates of the cost index. We are not prepared presently to adopt a separate index designed for special categories of utilities.

Other commentors have pointed out that the analysis done by the Regulatory Analysis Review Group (RARG) in assessing the cost of compliance with the Act, also supports a lower index than the range of 1.3 to 1.8 in the proposed rules.[2]

ERA believes that the basic approach utilized in the RARG study was illuminating. We do not believe, however, that the study adequately accounted for the benefits of increased coal use in all respects, nor did it fully address the issue of future differences in the prices of oil and coal. ERA had fully reviewed the RARG study and finds the analysis conducted by DOE and described below to be generally consistent with RARG analysis with several significant exceptions.

Gas/Oil Displacement Ratio [3]

A particularly important difference is that the RARG analysis assumed that displacing a combination of natural gas and oil through implementation of FUA would result in a .69 to 1 displacement of imported oil—a major beneficial effect of the program. That is, RARG assumed that displacing of 100 BTU's of natural gas under the Act reduces oil imports by only 69 BTU's. The actual displacement ratio is extremely difficult to estimate with confidence. While we realize that from a purely analytic perspective the oil import displacement ratio for natural gas in particular may be less than 1 to 1, we believe it would be inappropriate to use a smaller displacement ratio in arriving at the "substantially exceeds" index under FUA for the following reasons.

A displacement ratio substantially lower than 1 to 1 is highly dependent on ample gas supplies over the 30 to 40 year planning period for this program. Where supplies are ample, displaced gas will remain in the ground rather than displace imported oil. We do not believe that it is appropriate to assume ample gas supplies when making policy judgments under FUA, an Act premised on a strong need to preserve natural gas because supplies are not ample.

Moreover, the Act and the legislative history give no indication that the Congress intended to value reductions in gas consumption less than direct reductions in oil use. Indeed, the Act is more restrictive of natural gas use than it is of petroleum use. We believe that a lower substantially exceeds index for natural gas than for oil would be inappropriate as a matter of policy and questionable as a matter of law under FUA. If there is to be a single index for both oil and gas, it would be highly inconsistent to determine that index using a critical assumption (the displacement ratio) that values gas less than oil.

Thus, while DOE recognizes and will continue to analyze this issue we do not at present find any basis for either setting a separate index applicable to the proposed use of natural gas, or lowering the index overall to account for a less than 1 to 1 displacement ratio. To do so, in ERA's view, would probably not be in accordance with the Act and would be an inappropriate valuation of this vital energy resource.

Primary Factors for Consideration

ERA believes it is essential in setting the index to take into consideration six primary factors: (1) The effect of an increased use of coal [4] in reducing the world price of oil and the consumption by the United States of imported oil; (2) the effect of an increased use of coal on United States balance of payments and the domestic rate of inflation; (3) the effect of an increased use of coal on our national security; (4) the impact of projected future increases in the price of imported petroleum relative to projected future increases in the price of domestic coal; (5) the impact of the implementation of the Act on accelerating the use and development of alternate fuels and alternate fuel technologies, and (6) the effect of an increase in the use of coal (in compliance with applicable

[2] RARG is a permanent regulatory review group composed of representatives of several agencies located within the Executive Office of the President. It was established to monitor the performance of regulatory agencies under the provisions of Executive Order No. 12044, "Improving Government Regulations."

[3] Note.—The paragraph under this subheading has been replaced by an amendment to this preamble published elsewhere in this Part. (See FR Doc. 79-15638.)

[4] ERA expects the Act to accelerate the use of other alternate fuels besides coal. At this time we cannot quantify these benefits, but increased use of alternate fuels would clearly reduce oil imports, in particular displacing oil where direct burning of coal is environmentally limited. These reductions in oil imports would have an effect on reducing world oil prices and national security. Since we cannot quantify these impacts at this time, the benefits analysis, above, understates the true benefits of the Act.

environmental requirements) on the nation's air quality.

Oil Import Reduction Premium

ERA believes that one of the essential ingredients of the Act is the reduction in petroleum imports through an increase in the use of indigenous coal and other alternate fuels. Therefore, a primary component of the substantially exceeds cost index ratio should be the premium attributed to a reduction in oil imported as a consequence of an increase in the use of these domestic energy resources. A significant benefit resulting from such a reduction in the U.S. demand for imported oil is the anticipated reduction in world oil prices, or what is more likely, the reduction in the rate of increase in world oil prices. Any reduction in the world oil price path will benefit the U.S. (and other consuming nations as well) in that all crude oil may be obtained at lower prices. Thus, the economic costs that are saved by importing less oil are measured not solely by the price per barrel at which the saved imports would have been imported, but as well by the resultant reduction in the price of the barrels that are imported. [5]

ERA has relied upon various models in determining the premium attributed to the effect of oil import reductions resulting from the implementation of FUA on the world oil price. These models, which are in the record of this rulemaking included: (1) the Oil Market Simulation Model developed by the Energy Information Administration of DOE documentation in Appendix B of EIA Analysis Memorandum AM 11IA-7805); (2) the World Oil Market Model developed by the Office of Policy Analysis in DOE (documentation available from the Office of Policy and Evaluation upon request); and (3) Profit Maximization World Oil Model developed for the Office of Policy Analysis by ICF, Inc. (documentation available from the Office of Policy and Evaluation upon request). Various estimates of the effect of import reductions on the world oil price, and hence the benefit per barrel of these reductions, were derived using all of these models. These benefit estimates were found to be sensitive to the wide range of assumptions regarding OPEC pricing behaviors in the face of reduced demand which are contained in each model and ranged from $.73 to $4.55 (1978 dollars). ERA has calculated a premium of $2.25 as the appropriate estimate of the benefit per barrel of reduced oil demand. The $2.25 estimate was selected after a careful examination of the assumptions underlying each of the models, especially those regarding the basic objectives of OPEC pricing decisions. The Profit Maximization Model, for example, assumes the central objective underlying these pricing and production decisions is "wealth maximization", which results in a premium for reducing oil imports which is substantially smaller than $2.25. Conversely, the World Oil Market Model utilizes systems dynamics techniques and yields estimates which are much closer to the $2.25 premium chosen and are sensitive to the level of OPEC production. The estimates of the import premium fall to the extent it is assumed that OPEC chooses gradually to expand production. The Oil Market Simulation Model yields the highest estimates up to $4.55 of the import reduction premium in cases assuming high future demand for oil.

However, these estimates are sensitive to the rate of growth in demand by the consuming countries, including the U.S. In cases of low or moderate demand for oil, the OMS model estimates no effect on the world oil price until after 1985.

ERA chose the $2.25 premium after reviewing these models, the importance of key variables in determining the estimate, and the general validity of the basic assumptions underlying each modeling approach. ERA's decision rested on the following conclusions: (1) the basic objective in attempting to estimate the effect of FUA import reductions on the world oil price is important in the context of this rulemaking; (2) each of the basic assumptions underlying these estimates was sufficiently valid to deserve consideration; and (3) no single set of assumptions was found to be superior in all respects to the competing approaches.

The $2.25 value is based on the view that no single source of estimates should be disproportionately relied on for the purposes of determining this component of the import reduction premium. Accordingly, ERA assigned equal weight to the results of each of the three models. ERA believes this to be a reasonable approach in light of the divergence in the estimates, the projected pricing behavior of the OPEC cartel, and the level of demand by the oil consuming nations. Selecting a substantially higher or lower figure would have placed undue reliance on only one of several legitimate projections of the future behavior on the part of both producing and consuming nations.[6]

National Security Benefits

ERA also utilized an estimate of the benefit to the U.S. from the increased national security resulting from oil import reductions under the program. The RARG analysis did not include an estimate of national security benefits. We believe such an estimate to be essential, given that one of the primary purposes of the Act is to reduce the vulnerability of the U.S. to energy supply interruptions in the interests of national security. It must be kept in mind, in this regard, that since the oil emergency of 1973 there have been disclocations in the supply of imported oil, as recently evidenced by the current substantial interruption due to the Iranian situation.

While there are several possible methods of assessing the premium to be attributed to this factor, ERA believes that the most workable measure we have at the present time by which to assess the cost of achieving this goal is the cost of establishing and maintaining the Strategic Petroleum Reserve.[7] The Reserve is one of our prime strategic defenses against a supply interruption in imported oil. ERA has evaluated the cost figures applicable to the strategic petroleum reserve as part of setting an appropriate substantially exceeds cost ratio. This calculation results in a premium of $.40 per barrel reduction in oil demand attributable to this factor. This amount reflects the savings attributable to the potential reduction in the required size of U.S. strategic petroleum reserve resulting from the oil import reductions under the Act.

Balance of Payments Benefits

ERA also included in its analysis of the benefits of import reductions under the Act an estimate of the beneficial effect on the U.S. balance of payments, the strength of the dollar on international currency markets, and the rate of inflation in the U.S. To the extent that we reduce our reliance upon imported oil, we alleviate the U.S. balance of payments problem and strengthen the value of the dollar. This reduces the price of U.S. imports purchased with dollars and has a

[5] For a particularly useful recent presentation of this point, see Thomas C. Schelling, *Thinking Through the Energy Problem*, 29-30 (Committee for Economic Development 1979).

[6] Cf. Schelling, at 29: "There is no reliable way to calculate the effect of changes in world import demand on the price that will be set or obtained by OPEC countries. It is almost certain, however, that reduced demand for imports will soften prices or slow their climb, while increased demand would hold prices up or accelerate their climb . . ."

[7] The Strategic Petroleum Reserve was established pursuant to Section 151 et seq. of the Energy Policy and Conservation Act of 1975.

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corresponding downward pressure on the U.S. inflation rate.

These estimates rely upon calculations done by the Council of Economic Advisors showing the costs of using monetary and fiscal policy to produce a similar reduction in the rate of inflation and include the offsetting effects on U.S. exports of an increase in the purchasing power of the dollar abroad. ERA has used a premium of $.30 per barrel reduction in oil imports applicable to this factor, after reviewing the RARG report which addressed this benefit and consulting with the staff of the Council of Economic Advisors on the assumptions and issues raised by this aspect of the analysis.

Legal Emissions Under the Clean Air Act

The RARG analysis argued that ERA should account for the cost of the additional legal emissions resulting from the increased use of coal in place of oil and natural gas. We agree with this view and have reduced the benefits per barrel premium by $.93 per barrel reduction in oil demand to account for additional costs to the Nation of using coal fuels in place of oil or natural gas.

The RARG study suggested that a figure of $.20 per million BTU's or $1.24 per barrel should be used. ERA reduced this number to $.15 per million BTU's or $.93 per barrel because, in ERA's view, the RARG estimate failed to account for a number of important factors. First, the costs of using available clean air increments for newer productive facilities when fired with coal rather than oil or gas will not occur immediately. Hence these costs should be discounted over time in order to arrive at their present value. This discounting-to-present-value-approach parallels the calculation of benefits estimates used both by RARG and by ERA.

Second, the compliance cost figures used in the RARG report to calculate the costs of incremental legal emissions did not account for the full range of means whereby emissions in a particular airshed might be reduced in response to these incremental emissions. Normal plant closures, offsets purchases and production process changes may in various instances provide means for reducing emissions at lower costs than those cited in the RARG report. The RARG analysis did not discuss these offsetting considerations. Thus, ERA concluded that $.93 represented a more appropriate estimate of these costs.

It should be noted that in computing whether or not a facility meets the test of the substantially exceeds cost index, the cost of environmental compliance for each fuel considered is taken fully into account. Thus, the difference in compliance costs is accounted for in making the cost test comparison; the $.93 represents the social cost of legal emissions.

Enhancement of Alternate Fuels Technologies

ERA believes that one of the primary benefits in implementing the Act is the acceleration in the use of alternate fuels and alternate fuel technologies accomplished through the application of the cost premium on the petroleum or natural gas use. While we have been unable to quantify this benefit, we believe it is an important consideration in assessing the validity of the substantially exceeds index.

Petroleum and Coal Price Trajectories

ERA also believes that the cost index should account for anticipated increases in oil prices relative to coal prices. (RARG assumed a constant relationship of oil and coal prices.) For ease of administration, ERA has determined that petitioners for exemptions under the Act should assume in the calculations under the cost test that current fuel prices will remain constant in real terms. ERA has added a separate factor of about three dollars to the cost index which raises it by an amount just sufficient to offset the use of an unrealistic constant oil-coal price gap in the cost test. This factor was based on the projected rate of increase in the difference between oil and coal prices. Based on past projections of the path of world oil prices which have proven to be too low when compared to actual world price changes, we believe a 2–3 percent increase to be reasonable for the purposes of accounting for the anticipated increase in oil prices relative to those of coal.

We realize that there are many models which are being developed to project the rate of increase in both coal and world oil prices and the effect of such increase on the rate of industrial and utility conversions to coal. However, such models can only take into account a limited number of factors which cannot be predicted with precision and assume that industry and utilities will in fact make investment decisions based on such assumptions.

ERA proposed a range of 1.3–1.8 in its proposed regulations. For the purposes of these revised interim regulations, ERA has selected the low end of that range and will employ 1.3 for purposes of evaluation of petitions for exemption submitted after the effective date of FUA. ERA has arrived at 1.3 after careful and detailed consideration of all relevant public comments, both oral and written, consideration of various analyses performed by the Office of Policy and Analysis and the Energy Information Administration, as well as the Regulatory Analysis Review Group, and after consideration from a policy perspective of the proper scope of the statutory term "substantially exceeds" when set in the context of the comprehensive purpose clauses of FUA contained in Section 102. ERA invites additional written public comment in regard to the 1.3 index and these pertinent considerations.

During the pendency of the additional public comment period which ERA is providing in regard to these interim rules, we will continue to review all additional public comments as well as the continuing analyses of these issues which will be ongoing by the Office of Policy and Analysis, the Energy Information Administration, and the Regulatory Analysis Review Group.

Summary

In summary, ERA finds that the appropriate premium for reducing oil imports is $2.95 consisting of $2.25 due to the effect on world oil prices, $.40 due to increased national security, and $.30 due to the effect on the U.S. balance of payments and inflation rate. This basic premium was then reduced by $.93 to account for the increased costs of additional legal emissions. Finally, three dollars was added to account for the projected increase in gap between oil and coal prices. This produced a premium for reducing oil demand through the Act of about five dollars per barrel. (The analyses underlying the major components of the premium is contained in the report, "A Method for Estimating the Premium for Reducing U.S. Oil Imports." Copies are part of the record of this rulemaking proceeding and are available from the Office of Policy Analysis upon request.)

ERA then determined the ratio of the cost of using coal to the cost of using imported oil that was equivalent to this per barrel premium. Equivalence in this case means that it would result in the same number of conversions as the per barrel premium would, if this were added to the price of each barrel of oil consumed in the projected facility and the ratio were set at 1.0. Specifically, ERA used the Coal Utilization Model for the Industrial Sector (CUMIS) Environmental Analysis, Inc., for the Department of Energy to match the per barrel premium of about $5.00 with its equivalent ratio. This analysis indicates

that when petitioners submit comparative cost projections based on current prices remaining constant in real terms, a ratio of 1.3 produced the same projected number of conversions as the per barrel premium of five dollars.

Thus, ERA determined that the substantially exceeds index should be set initially at 1.3. This ratio incorporates the benefits premium noted earlier and is designed to ensure that the cost index is set so that the additional costs of using alternate fuels do not exceed the benefits to the Nation from reducing our consumption of oil and natural gas. This ratio will be revised from time to time to reflect significant changes in the consumptions and factors used by ERA in formulating the ratio. ERA believes this ratio is reasonable and in full accord with the purposes of the Act as set forth by the Congress.

Various of the models and analyses used in arriving at the substantially exceeds index have not previously been available for public comment. Public comment on these studies is invited for the period of comment allowed on these Interim Final Rules.

Cost Calculations (§§ 503.5 and 505.5)

Section 212 of the Act provides that ERA must grant an exemption from the prohibitions of the Act when alternate fuel supplies are available only at a cost which substantially exceeds the cost of using imported petroleum. After evaluation of the comments received during the public comment period, ERA is now proposing interim rules which provide the criteria, methodology and evidentiary requirements to be used by a petitioner in petitioning for an exemption based upon the cost of building and operating a facility to burn an alternate fuel. In all cases, we have determined that the appropriate cost comparison must take into consideration the capital, operation, maintenance and fuel costs associated with specific fuel choices, and they must be expressed in real terms [8] discounted to present value. The following sections address specific aspects of the cost calculation and include a discussion of certain modifications which are now being adopted by ERA in these interim rules in response to the comments received on the proposed regulations.

a. *Alternative cost comparison methodologies.* We propose to use a ratio index in making cost comparisons to reflect the difference between the cost of using imported petroleum and the cost of using an alternate fuel. In preparing your petition for exemption, you must construct a ratio comparing the present value of the cost of using an alternate fuel to the present value of the cost of using imported petroleum in your facility. If the cost ratio you obtain is higher than the ratio (index) designated by ERA in its rules, you will have demonstrated to ERA that the cost of using alternate fuels substantially exceeds the cost of using imported petroleum, and we will grant the exemption you requested. If, however, the ratio obtained is equal to or less than the index, you will be denied the exemption. Sections 503.5 and 505.5 of the interim rules describe this methodology in detail.

Some of the comments we received on the proposed methodology suggested that the net present value method and the incremental oil cost methodology were preferable to the cost comparison test we proposed. The net present value method consists of computing the differences between two discounted cash flows which are associated with two alternatives. The sign of difference—positive or negative—determines the alternative selected and, when used in private investment decisions, if the difference is zero, it does not matter which alternative is chosen. The incremental oil cost methodology is a variant of the net present value method in which the price of oil is adjusted upward by an increment which reflects the social value of using the oil. Again, the sign of the difference between the discounted cash flows determines the decision.

We rejected the pure net present value method because it operates purely from the private investor's perspective and therefore ignores the social cost of using oil which is embodied in the substantially exceeds index.

We rejected the incremental oil cost methodology because (1) it is not clearly superior to the ratio test, and (2) we believe the ratio test is more intuitively appropriate for the purpose for which the index is to be used. Moreover, as will be seen below, we calculated an incremental oil cost in arriving at a substantially exceeds index. The advantages of that method in identifying and quantifying the costs and benefits of displacing oil and gas are therefore not lost in the method which we have chosen.

Other comments suggested that the comparison take into account the petroleum that could be saved or the amount of revenue created by the investment. We considered these comments and concluded that (1) the setting of the substantially exceeds index adequately considers the benefits of the petroleum that could be saved, and (2) while the Act requires ERA to account for costs—e.g., total operating and capital—it does not require us, and we do not believe that it would be appropriate for us, to account for revenue.

In our opinion, the cost comparison methodology that we have chosen meets all the requirements of FUA and is for the purposes of the Act, equal to or better than the methodologies that were discussed in the comments. However, we still welcome comments on this methodology.

b. *Perceived Bias.* Comments received on the proposed regulations suggest that the cost test, as proposed, contains biases against the use of petroleum—high annual capacity factor, low discount rate—and that its employment could result in noneconomical decisions to use coal or other alternate fuels.

We believe that the definitions and values of the various elements of the formulas are fair and reasonable; their elements are discussed below.

c. *Specification of discount rates.* The cost calculation procedures as proposed in § 503.3 and § 505.5 require the use of real (uninflated) discount rates. In the proposed regulations, we had tentatively set discount rates for new powerplants at 3.5 percent per annum and estimated the discount rate for new installations at 7 percent per annum. The comments suggested that the discount rates, as proposed for use in the calculations, were too low. Some commentors also recommended that the discount rate provide for industry and firm-specific factors—two of which are risk and the return available from alternate investments. It was further noted in the comments that the 7 percent discount rate proposed for installations is inconsistent with a June 1977 Federal Energy Administration objective permitting a 20 percent return of investment.

We have chosen not to use firm-specific discount rates as some commentors have suggested because it would involve additional administrative complexity that we do not believe, given the purpose of FUA, is justified.

A firm- or company-specific discount rate, all else being equal, would increase the likelihood of the least efficient firms receiving an exemption on the basis of cost and reduce the likelihood of the more efficient firms obtaining an exemption on the basis of cost. ERA does not believe that, under an act designed to conserve petroleum and natural gas and to ensure they are available for their highest and best uses,

[8] "Real terms" means with the effects of inflation removed. Prices are expressed in the dollars of a specific year (e.g., 1979 dollars).

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the opportunity to burn such fuels should vary inversely with firm efficiency.

For the purposes of the interim regulations, we have decided to use discount rates which are the means of samples of firm's real, after-tax, weighted averaged marginal cost of capital. These means are the results of a contractor study performed for ERA. The contractor analyzed a sample of over 100 Class A and Class B utilities and a sample of 50 energy-intensive industrial firms. The mean discount rate of the utility sample was 2.9 percent per annum, and the mean of the industrial firm sample was 7.7 percent per annum. We decided to use this particular study as a basis for setting the discount rate because it was more narrowly focused on the population most likely affected by FUA than other studies available to us. A summary of the study will be published in the **Federal Register** shortly. A copy of the report will be placed in the record of this rulemaking and will be available from ERA. We particularly invite comments on this study.

d. *Capital costs/outlays.* Numerous comments expressed the position that we have too narrowly restricted the cost items that can be included in "capital" costs in the proposed regulations. It was suggested that such costs must include land, rail/barge facilities, pollution control facilities, environmental offsets, and transmission costs.

After consideration of the comments, we have modified the regulations to provide that you must include all capital items for which cash outlays were required at the time the decision to build the facility was made. Capital outlays must also include outlays for fuel inventories (see below).

e. *Fuel inventories.* In computing capital, ERA will require that you include the facility and fuel costs of inventories which are customary in business practice. ERA has set uniform inventory requirements for steam turbine powerplants, combustion turbine powerplants, combined cycle powerplants and industrial boilers.

Data on fuel inventories on hand at each utility plant in the United States are gathered by the FERC on its Form 4. The data for oil-fired steam turbines and combustion turbine powerplants have been summarized for the years 1975 and 1976. For oil-fired steam turbine plants, the inventories were 81 and 75 days in 1975 and 1976, respectively; the average was 78 days of inventories. For gas turbines, 157 and 128 days of inventories were on hand in 1975 and 1976; the 2-year average was 142 days.

As for inventories held by major industrial users, the Strategic Petroleum Reserve Office of DOE has contracted for a study to be made of industrial inventory management in industry. This report, "Inventory Management in the Petroleum Industry," prepared by DOE under contract CR-13-70083-00, is the basis for our estimates of inventory practice by industry. Industry storage capacity is estimated at 2-to-4-weeks with the storage capacity maintained at one-half to two-thirds full. Therefore, we have concluded that common industry practice is to maintain 21 days' storage or keep installed storage tanks 60 percent full, whichever is greater.

ERA will treat fuel inventory for combined-cycle powerplants as being the same as combustion turbines—142 days. ERA will require that for the following facilities you include the following fuel supplies: steam turbine powerplants, 78 days; combustion turbine powerplants, 142 days; combined-cycle powerplants, 142 days; industrial boilers, 21 days or 60 percent of the installed storage volume, whichever is greater.

ERA intends to periodically update this data. ERA requests comments on the data it has used and on whether these inventories should be based on regional data. ERA is also considering the use of a uniform inventory specifications of 180 days. We invite comment on that proposal.

f. *Annual capacity factor.* In the proposed regulations we assumed 70 percent annual capacity factor for new powerplants in cost computations for exemption petitions but proposed to permit you to rebut the 70 percent assumption by demonstrating that your powerplant for which you seek an exemption would operate at an average capacity factor significantly different from 70 percent over the life of the unit. We also proposed to presume a 60 percent annual capacity factor for operation of a new installation in your cost computations, which could be rebutted with suitable engineering evidence.

The comments received on the annual capacity factor issue (1) suggested that ERA should make no presumptions of a particular annual capacity factor for installations as significant variances exist among units and (2) characterized the presumed 70 percent annual capacity factor for powerplants as unrealistic.

We partially agree with these comments and have modified the regulations accordingly. Thus, under the interim regulations, if you operate a powerplant and are computing cost calculations for use in an exemption petition for that powerplant, you may either (1) use an annual capacity factor of 70 percent or (2) conduct an analysis in which you economically dispatch the particular powerplant with all other powerplants on a regional basis. If you are granted an exemption on the basis of a petition in which you conducted your analysis on a regional basis, the exemption will be conditioned upon your not operating the proposed powerplant at an annual capacity factor higher than the one you developed in the dispatch analysis.

If you operate an installation and are computing cost calculations for use in an exemption petition for that facility, you must specify the annual amount of fuel that you will use in your facility rather than use an annual capacity factor. If we then grant the exemption you request in your petition, it will be conditioned upon your use of no more than the maximum amount of fuel you could have specified in your petition and still have been granted the cost exemption.

g. *Operating costs.* Comments also took the position that we have not properly identified the fixed and variable operating costs and that costs should reflect fuel, labor, maintenance, materials, utilities, taxes, insurance, and overhead expenses. After considering the comments, we have made the appropriate modifications so that you must include in your cost calculations all annual expenses for which you will be required to make cash outlays.

h. *Useful life of a facility.* The proposed regulations provide for a 35-year useful life for a powerplant and a 40-year useful life for an installation. Numerous comments favored equating a facility's useful life to its economic life or the venture life of the enterprise in which it is used. Alternatively, it was suggested that the useful life of a unit should be equated with the useful life used by the Internal Revenue Service for tax purposes.

We have considered these arguments but have decided that, with the exception of nuclear powerplants for which the useful life will be 40 years, no changes in useful life presumptions are necessary. For the purposes of FUA, the life of a facility must remain an approximation of its physical life and cannot be equated with the tax life of the unit or the venture life of the enterprise in which the unit will be involved.

i. *Interest paid during construction.* It was noted in the comments that the interest paid during the construction of a facility is an unavoidable and significant part of the capital cost of a new

powerplant. Since such payments are factors that are permitted to be considered in a powerplant's rate base, it was argued that they should also be included in cost comparisons for purposes of petitioning for exemptions under the Act.

We agree that outlays incurred during a facility's construction should be included in the calculations, and we have modified them appropriately. The outlays made in the years prior to your facility's commencement of operations are to be forward-valued from the year the outlay occurs to the year before the plant becomes operational. However, we will not recognize interest, *per se,* accrued during construction, as a capital outlay. Interest costs are imbedded in the cost of capital and are implicitly recognized in the discount rate used in the cost test. We recognize that certain jurisdictions permit utilities to capitalize interest during construction while others recognize capital expenditures as they are made through permitting cost of work in progress (CWIP) in the rate base. For the purposes of computing cost, we believe that recognition of capital outlays as they are made is compatible with the satutory definition of cost.

j. *After-tax treatment.* Comments noted that the "before income tax" treatment used in cost calculation for powerplants is inconsistent with the "after income tax" treatment accorded installations. We have revised the interim regulations to eliminate this inconsistency by providing for cost calculations to be made on an "after income tax" basis for all facilities. We have chosen after-tax treatment to reflect cash flows and not social costs; social costs are reflected in the substantially exceeds index. The tax rate will be the firm's marginal Federal income tax rate.

k. *Investment tax credits and accelerated depreciation.* A number of commentors stated that the treatment of investment tax credits and accelerated depreciation in the proposed rules was not in accordance with the Energy Tax Act of 1978. The interim regulations recognize tax credits and depreciation methods allowed at the time the petition is submitted.

l. *Consultation with State regulatory authorities.* Several commentors also noted that the proposed rules do not provide for consultation between ERA and the relevant State regulatory authorities on the determination of costs, in the case of a powerplant, as required by Section 103(a)(20) of the Act. ERA intends to submit copies of all petitions for powerplant exemptions requiring the use of the cost test to the appropriate State regulatory authority for review. ERA will consider all comments made by such authorities before granting or denying a petition by final order.

m. *Special cost test.* The special cost test, which is a comparison of cash flows over the life of the exemption, has been modified so that it is more consistent with the definition of cost as contained in FUA. The value of the discounted cash flow of the capital investment is now annualized. This annualized value, operating and maintenance cash outlays, and fuel cash outlays are then discounted over the life of the exemption. Your comments on this modification are solicited.

n. *Price projections.* The proposed regulation specified that all expenditures be expressed in real terms using the prices in effect at the time the petition is submitted. Commentors observed that this treatment assumes that all costs escalate at the same rate and recommended that the petitioners have the option of using differing justifiable escalation rates. Commentors were particularly concerned about not being allowed to recognize the impact of escalating costs of oil.

For administrative simplicity ERA will require the use of real prices in effect at the time the petition is submitted. We do, however, recognize the relative escalations in fuel prices (along with other factors) which are embedded in the substantially exceeds index.

o. *Fuel price.* The proposed regulations contained a formula for adjusting the price of petroleum products so that it would approximate the replacement price. The proposed regulation also required you to use the price of No. 2 distillate fuel oil as your fuel price if you planned to use natural gas.

Commentors correctly pointed out that the formula overstated the replacement cost of the fuel in two ways. First, if the petitioner is planning to use imported petroleum products, the formula should not be applied. The fuel price is its replacement price. Secondly, where the petitioner used domestic petroleum products, the total price of the product was adjusted. The portion which should have been adjusted was the crude oil used in the refining process and not the value added by refining, transportation, marketing, etc.

Commentors recommended that petitioners proposing to use natural gas be allowed to use the price of No. 6 residual fuel oil instead of the price of No. 2 distillate fuel oil in the cost calculations. Some of the commentors pointed out that requiring a petitioner to use the price of distillate for a proposed gas-fired facility ERA would create an incentive for petitioners to propose using residual oil rather than natural gas.

After considering the comments, we have decided to modify the formulas used to compute fuel prices; however, the goal of approximating replacement price is unchanged. If you use an imported, refined petroleum product, your fuel price will be the price you pay for it plus the entitlements received by the importer, if any. If you use domestically refined petroleum products, your fuel price will be increased by the difference between the price of imported crude oil and the price of composite crude oil.

ERA has re-evaluated the potential impact of requiring the use of distillate oil rather than residual oil for proposed gas-fired facilities and shares the concerns expressed by the commentors. In order to eliminate the incentive to propose oil use rather than gas use, ERA will require the use of No. 6 residual fuel oil prices. However, No. 6 residual fuel oil must meet the air quality standards of your air quality region.

General Requirement—No Alternative Power Supply (§ 503.7)

In Section 503.7 of the proposed regulations published at 44 FR 5815 (January 29, 1979), ERA set forth the criteria for demonstrating that there is no alternative supply of power. Many comments were received in response to this proposal.

A few commenters stated that by imposing conservation measures under the regulation ERA is indirectly regulating utility rate structures which is not authorized under FUA or PURPA. ERA does not intend to regulate rate structures either directly or indirectly. However, in making its determination on alternate supply of power, ERA will require information as to whether the petitioner has considered certain conservation programs, whether they are cost effective, and how they were or will be implemented. In addition, if the programs were determined by the utility to be cost effective but are not being implemented, the utility will be expected to offer an explanation. Rate designs which support fuel conservation are one of many possible programs which can be examined in this manner.

Many of the comments stated that ERA has no authority to require that a utility meet load requirements with existing facilities by improving the performance of existing facilities, employing system conservation

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resources, implementing load management techniques and assisting end use customers to conserve electricity. They state that this requirement conflicts with various state laws and with the National Conservation Policy Act (NECPA) and the Public Utility Regulatory Policies Act (PURPA). The FUA does not require such techniques, but allows ERA to limit the use of oil or gas if there is some potential for savings through conservation. ERA believes that energy made available through the efficient use of existing facilities and the implementation of cost-effective conservation measures should be considered as alternate supplies of power within the meaning of Section 213(c) of the Act. ERA has revised the regulations to require such measures only when they are cost-effective. ERA invites your comments on how best to determine whether a particular fuel conservation measure is cost-effective relative to the construction of a new plant. A number of state public utility commissions and attorneys general commented favorably on ERA's proposals under this section. They stated that the conservation provisions of § 503.7 are of critical importance since they recognize the need for conservation, improving performance of existing systems and load management techniques as power supply alternatives. In implementing this section ERA will not impose any requirements that are in conflict with state laws, PURPA or NECPA.

In the proposed regulation petitioners were required to evaluate purchasing electricity until an alternate fuel-fired plant could be operational as well as separately evaluating both purchasing electricity and operating an alternate fuel-fired plant. Several comments state that purchasing power for extended periods of time is not a reasonable option because no region would have excess capacity over such a long period. ERA has modified this requirement. Section 503.7(b)(2) now requires petitioners to examine the availability of purchased power and conservation measures as a reasonable option during the first year of scheduled operation for the proposed oil- or gas-fired unit. Petitioners would have to demonstrate that the reserve margin in the electric region would fall below 20 percent in the absence of the proposed plant during the first year of proposed operation after considering conservation measures and purchasing power in order to meet the criteria for this requirement. ERA may consider certain cases where the reserve margin exceeds 20 percent with suitable justification from the petitioner.

However, if the utility's proposed plant would not become operational within a few years, ERA may not agree that purchased power will be unavailable for the first year of scheduled operation. Projecting future demand for more than a few years is speculative due in part to the recent slowdown in demand growth. In an electric region or on a large utility system a small percent decrease in the annual growth rate of demand could eliminate the need for the additional powerplant. The showing required by the Act concerning the unavailability of an alternate supply or power is a showing that an alternate supply will not be available when it is needed. If the period in question is too far in the future, it may be premature to conclude that an alternate supply will not be available when it is needed, notwithstanding a present inability to obtain a satisfactory commitment from an alternate source.

Several commenters argued that Section 213(c) of FUA does not authorize ERA to require a consideration of alternate fuel-fired powerplants as an alternate power supply. They support their argument by asserting that Congress did not intend that petitioners seeking exemptions under Sections 212(d), mixtures; (e), emergency purposes; and (f), reliability, of FUA be required to examine alternative sites as required in § 503.7. The commenters contend that Section 213(c) of FUA only required consideration of purchasing power from other utilities. ERA has modified the regulations to eliminate the requirement that petitioners consider alternate fuel-fired powerplants under this section of the regulations.

ERA received several comments recommending that the term "reasonable distance," as used in § 503.7 of this Interim Rule, should be treated as a factor independent of cost considerations. Defining unreasonable distance in cost terms, it is argued, is not what Congress intended, and the reasonable distance concept should be explicitly defined as including either the state or some region less than the electrical region.

ERA's Interim Rule on alternate supply of power requires that the utility examine alternative sources of purchased power. First, with respect to purchased power, ERA believes that it is in accord with the intent of the Act in defining "reasonable distance" to include the concept of "reasonable cost" (including transmission cost). Second, ERA has defined the area of solicitation. ERA believes that the utility should determine the availability of firm purchased power by soliciting through letter exchanges and advertisements offers to sell power from all utilities within or contiguous to the electric region, from all nonutility suppliers within the petitioner's service area, and from such other sources as ERA may suggest. And third, ERA will additionally consider any factors cited by the utility that it feels renders a distance unreasonable, even though the cost is reasonable.

Several comments received by ERA suggest that the determination of "reasonable cost" under Section 213(c) of the Act should not be equated with the cost test under the alternate fuel supply exemption, which serves as the determinant of a "substantially exceeds" cost standard. ERA agrees and has revised this regulation to add a new test for determination of the reasonable cost standard for alternate supply of power. This test, which is independent of the "substantially exceeds" cost test, requires a demonstration that you made diligent efforts to purchase firm power for the first year of operation of your proposed powerplant at a cost that is less than 10 percent above the annualized average cost of generating power in such powerplant. ERA has specified certain costs which you must include, but you may select your own cost computation methodology (provided that your results serve as a meaningful basis for comparison with the costs of purchased power).

Several comments stated that § 503.7 failed to require that ERA consult with the FERC before making any findings under Section 213(c) of FUA. ERA has corrected this omission by adding § 503.7(d) to the regulations.

One comment noted that ERA's data requirements on retirements and on other areas are difficult to obtain. ERA has simplified that data requirements by focusing the reliability determination upon the first year of operation of your proposed powerplant. ERA may arrange with the National Electric Reliability Councils to collect data pertinent to the utilities in their respective electric regions, and this data will then be made available to the petitioning utilities.

A few comments requested that ERA only consider contracts for the purchase of firm power under § 503.7(b)(4) of the proposed regulation and that contracts for interruptible power or power subject to energy payback should be excluded from consideration. ERA has modified the regulation to make clear that only

firm power contracts need be considered.

Several comments contend that the requirement that purchased power be considered before an exemption will be granted will force most municipal systems to become merely distributors of power rather than generators of power. FUA requires that purchased power be considered before an oil- or gas-fired plant can be built. ERA's regulations conform with this FUA requirement.

Several comments note that by recognizing purchased power as an alternate fuel, the regulation may serve to promote the use of older, less efficient oil-fired plants. They state that by building the proposed oil-fired plant, overall oil consumption may be lowered. ERA recognizes that one of the purposes of FUA was to promote the replacement of old inefficient oil- or gas-fired plants with new efficient oil- or gas-fired plants. ERA believes, however, that that purpose must be accommodated to the overriding central purpose of FUA, which is to displace and conserve oil or gas. Indeed, Section 102(b)(7) states that the purpose is to encourage the modernization of only those oil or gas burning units that cannot utilize coal or other alternate fuels. To read Section 213(c) as these commenters do would largely take away is meaning and would not further the overriding purpose of the Act. (See Preamble, § 504.1, Increased Use of Petroleum by Existing Powerplants for a discussion of use of purchased power for the purposes of that particular section.) The Act was intended to prevent the construction of new non-essential oil- or gas-fired plants. The use of these old powerplants is intended to provide a stop gap until the utility brings an alternate fuel-fired powerplant on line.

A number of comments pointed out that by reducing the alternate power supply requirement to a cost test and reliability analysis, ERA is ignoring the possibility of regulatory and construction delays as well as other impediments to satisfaction of the powerplant's scheduled date to become operational.

ERA has revised this section to require examination of the availability of purchased power during the first year of scheduled operation for your proposed oil- or gas-fired unit. Since this section no longer requires an examination of alternative powerplants, the effect of regulatory delays and the like are not relevant to alternate power supply.

Use of Mixtures—Temporary Exemptions (§§ 503.8 and 505.6)

The proposed rules contained a general requirement that petitioners for any temporary exemption must demonstrate whether the use of a mixture is economically and technically feasible during the period of the proposed exemption. Several commenters pointed out that while such a demonstration is required by the Act as a condition of approval of most permanent exemptions, the Act does not require the demonstration relevant to temporary exemptions and that ERA has no authority to impose this requirement in the regulations.

In view of the public comments and the fact that petitioners for temporary exemptions are committed to comply with the prohibitions of the Act through the future use of alternate fuel, ERA has deleted the subject requirement from these interim regulations.

Use of Mixtures—Permanent Exemptions (§§ 503.9 and 505.7)

ERA received comments that since fuel mixtures are not readily available for commerical use, a petitioner for a permanent exemption should not be required to consider a particular mixture until ERA and industry agree that the use of the mixture is feasible in any industrial application. The commenters evidently were referring to specific mixtures such as certain types of coal/oil slurries. The Act, however, defines "mixture" as a combination of fuels burned simultaneously or *alternately* in the same unit. Many mixtures of petroleum or natural gas and alternate fuels are currently being used commercially, such as mixes of wood or wood products and oil, and waste gases or byproducts and natural gas. Therefore, ERA is adopting the rule as proposed.

Use of Fluidized Bed Combustion (§§ 503.10 and 505.8)

Commenters stated that ERA has, in effect, shifted the burden of finding technical or economic infeasibility for fluidized bed combustion (FBC) by requiring a petitioner for a permanent exemption to examine in the Fuels Decision Report the feasibility of utilizing fluidized bed combustion technology. The commenters stated that the Secretary, not the petitioner, has the responsibility of making the feasibility finding pursuant to section 213(a) of the Act. ERA concurs and the regulations have been modified accordingly. The interim regulations now state that a petitioner will not have to make a demonstration concerning the technical and economic feasibility of fluidized bed combustion *unless* ERA has made a generic or site-specific finding.

In recognition that fluidized bed combustion units of the size covered by FUA are not yet commercially available, ERA solicited comments on what criteria the agency should use to make a site-specific or generic finding that the use of a method of fluidized bed combustion is feasible. Some commenters asserted that ERA is not authorized to make a generic feasibility finding, but instead may only make a site-specific finding. We believe that we may make either a site-specific or generic feasibility finding, since the legislation does not specify the type of finding required.

With respect to the criteria which should serve as the basis for such a finding, commenters disagreed with our suggestions that a demonstration project, engineering studies or reports, or the first sale of a prototype unit would be sufficient. One commenter felt that a feasibility finding could not be made until two to four units of the size covered by the regulations have been in use at least 1 year. Another commenter stated that 10 large units must be in reliable service prior to making a feasibility finding.

We have not yet decided what criteria we will use to make a finding. In concert with DOE's Offices of Energy Technology and Resource Applications, we intend to monitor the development of fluidized bed technology. When the offices agree that the technology has progressed sufficiently, we will initiate a rulemaking proceeding to determine whether a method of fluidized bed combustion is technically and economically feasible. Issues such as (1) the criteria which should serve as a basis for the finding; (2) the capability of FBC to meet variable heat requirements; and (3) other technical issues raised in response to the November 17, 1978 Federal Register Notice will be addressed in that future rulemaking. Prior to and after such rulemaking, if necessary, ERA reserves the right to make site-specific findings of feasibility. As with generic findings, these findings would be rebuttable under the provisions of §§ 503.10 and 505.8 of these regulations.

Alternate Site (§ 503.11)

The Act provides that, in order to qualify for a permanent exemption for lack of alternate fuel supply, site limitations, environmental requirements, inability to raise capital, state or local

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requirements, or intermediate load, you must show that your powerplant cannot use alternate fuels at reasonable alternative sites. ERA proposed criteria for determining reasonable alternative sites in § 503.11 of the November 17, 1978 proposed regulations.

Comment was received that EPA had exceeded its legal authority and was unreasonable in insisting that utilities consider sites outside various geographical areas. EPA disagrees and notes that it is not rare for utilities to consider sites far outside their geographic areas. Therefore, ERA has not changed the proposed criteria.

Terms and Conditions (§ 503.12 and § 505.9)

Commenters stated that ERA had overstated the purpose of Section 214 of the Act which provides the Secretary with the authority to prescribe terms and conditions for any exemption granted. We are convinced that Section 214 gives the Secretary broad responsibility to prescribe such terms and conditions as he deems appropriate. In doing so, Congress has placed a heavy responsibility on the Secretary to ensure that the objectives of the Act are maintained through this section. We recognize, however, that we may not and certainly will not impose terms and conditions which are so arbitrary and capricious as to be unreasonable.

Other commenters contended that ERA cannot condition exemptions on the implementation of conservation measures, since such requirements are contrary to the provisions of the National Energy Conservation Policy Act (NECPA). In addition, comments were received which contended that conservation measures could be imposed only on the unit. Finally, comments were received which stated that ERA could not condition an exemption on the type of oil or gas used.

Based upon the explicit language of Section 214(a) of the Act, ERA has the authority to impose any reasonable terms and conditions it deems appropriate, including terms and conditions requiring the use of effective conservation measures which are practicable and consistent *with the purposes of the Act.* The purposes of the Act explicitly address the need to reduce oil imports, to minimize the use of petroleum and natural gas, and to conserve petroleum and natural gas for future generations. Thus, we believe that Section 214(a) gives us the authority to impose such conditions as the efficient use of oil and gas at a site, and the use of a fuel which best meets the purposes of the Act. ERA has no intention of imposing conditions which would require noncompliance with other statutes such as NECPA.

In the preamble to the proposed rule, ERA stated that it was considering conditioning an exemption which allows a petitioner to use oil on a requirement that he use no more than a specified minimum amount of oil, or possibly use no oil at all, in the exempt unit in the event of a national emergency which results in the reimposition of oil allocation controls. Commenters stated that ERA has no authority to impose such a condition since such authority to prohibit oil or gas use is vested in the President pursuant to section 404(b) of FUA. We will limit any prohibitions to the scope of our legal authority, and believe that this issue is best resolved in the context of a particular case.

The suggestion was made that ERA should define the term "milestone" as it applies to the revision of compliance plans. Because of the individual nature of each exemption which may be granted, the meaning of this term will differ with each petitioner. Therefore, milestones will be indentified on a case-by-case basis.

Lack of Alternate fuel Supply (§§ 503.21, 503.31, 505.11, and 505.21)

In the November 17, 1978 Federal Register notice, we proposed, under the Evidence portion of this exemption, that the petitioner solicit at least three bids from at least 25 percent of the supplier market for an adequate and reliable supply of alternate fuel. The comments received indicated that this requirement was ambiguous. If fewer than three suppliers comprise 25 percent of the supplier market, must the company get a minimum of three bids anyway? If five suppliers comprise 25 percent of the supplier market, must the company get three or five bids?

ERA recognized that the requirement raises the question of what constitutes 25 percent of the supplier market, and that it might be anti-competitive since it tends to favor large companies over smaller companies. We have therefore changed the language in the Interim Regulations to state "at least five bids from suppliers who could reasonably be expected to supply an adequate and reliable supply of the quality and quantity of alternate fuel needed." The submission of five bids will not automatically fulfill the requirements for the evidence supporting the petition. If we determine that the bids submitted are not a representative sampling of the suppliers who can be reasonably expected to provide an adequate and reliable supply of the particular alternate fuel, we may require additional bids before making our decision on the exemption.

We believe that the revised language will encourage petitioners to seek supplies from both large and small companies, since the requirement has been changed to include bids from only companies which can actually provide supplies of alternate fuels. In addition, we expect that the revised language will assure that a good faith effort is made by the petitioner in seeking his bids.

Federal/State Environmental Requirements (§§ 503.23, 503.34, 505.13, and 505.24)

A number of commenters objected to the requirement in the proposed regulations that an applicant for a permanent exemption on environmental grounds first apply for all necessary environmental permits and receive a final determination from EPA or the state prior to petitioning for an exemption from ERA. Some commenters recommended that this requirement be dropped entirely; others advised that it be used only in those cases in which an applicant's ability to comply with environmental requirements could not be easily determined by submission of other evidence or by joint consultation between the applicant, ERA, and the appropriate agencies. Some commenters suggested simultaneous filing of permit applications and petitions for exemption, while others proposed that ERA process its own petition first but leave the final determination up to EPA and other permitting agencies.

As a result of these comments, we have dropped the requirement that an applicant receive Federal and State environmental permit denials prior to petitioning for an exemption and, instead, have made the permit process an option the applicant is free to pursue at any stage of the petitioning process if he believes that this evidence would strengthen his case for an environmental exemption. If the applicant does elect this option, however, he must submit to ERA a copy of the permit application, as well as any supporting documentation, administrative records, and permit decisions as these items become available. All other evidence required by paragraph (b) of §§ 503.34 and 505.24 is necessary, at a minimum, to support the applicant's claim, and the regulations have been revised to describe these mandatory requirements in greater detail. The same subsection also allows the applicant to submit any additional documentation that he believes would be useful.

Regardless of which option the applicant decides to puruse, ERA encourages the applicant, prior to deciding to submit an exemption petition, to consult with EPA and other applicable permitting authorities regarding options for operating an alternate fuel-fired facility in compliance with applicable environmental requirements. The applicant may also seek consultations with EPA and ERA jointly.

We believe that this change in the exemption process will serve to emphasize the primary test for obtaining an environmental exemption; namely, the showing of physical (as opposed to economic) impossibility of complying with applicable environmental requirements. A permit denial may be submitted as evidence of an inability to comply with environmental requirements, but that evidence alone does not automatically qualify a petitioner for an environmental exemption. The presentation to the State or Federal permitting agency will not necessarily address alternate fuels or methods of compliance or their costs—all central concerns under FUA. Moreover, the mission of environmental permitting agencies is to pass upon the particular fuel and method of compliance proposed by the applicant. Their mission is not to seek out and insure that the petitioner has considered all reasonably available alternate fuels, and all other reasonably possible ways of complying, nor is their mission to insure that petitioner's cost esimates for compliance are reasonable. In short, the permitting agencies may be institutionally indifferent to an applicant's inability to comply by means of a particular fuel and method of compliance which he has chosen, or to the fact that the method which he has chosen is very expensive. Because the scope of inquiry of the permitting agencies is so different from that of ERA under FUA, denial of a permit cannot of itself be dispositive of an environmental exemption application.

Thus, we will evaluate all of the evidence submitted, which must include, at a minimum, the material requested in § 503.34(b) (5) and (6) and § 505.24(b) (5) and (6), to determine whether you have demonstrated that, despite the use of pollution control equipment which would provide for maximum possible pollution reduction, and despite examination of the regulatory options available to you, you cannot comply with applicable environmental requirements with use of any of the available alternate fuels.

We recognize that meeting the burden of physical impossibility by showing that maximum possible pollution reduction cannot achieve compliance with applicable environmental requirements may result in a showing that goes beyond that required when seeking a construction permit. For example, if you propose to locate in a Prevention of Significant Deterioration (PSD) area, for purposes of an environmental requirements exemption, you must show inability to comply with environmental requirements using pollution control equipment which would provide the maximum possible degree of reduction despite the fact that EPA or the state may require a less stringent standard. Under these circumstances, the fact that you may not be able to secure a permit (or may have already been denied a permit) for a facility at which you proposed to install technology generally recognized as BACT is not controlling in establishing whether it is physically possible to comply with applicable environmental requirements. You must establish that even if you were to take all actions possible, the facility could not comply with the applicable requirements. Failure adequately to provide this evidence will result in a rejection of your petition.

A few commenters, including EPA, objected to the requirement that an applicant for an environmental exemption also attempt to secure variances, SIP revisions and redesignations of PSD areas on the grounds that this is not authorized by FUA. Such comments relied on the provisions in the Act which state that the Act should not be construed to permit any existing or new source to delay or avoid compliance with applicable environmental requirements.

This evidentiary requirement, however, does not delay nor avoid environmental compliance, but rather requires analysis of the availability of all options available to any source in attempting to meet Federal and State environmental requirements. We believe not only that FUA allows ERA to require such an analysis, but also that the legislative intent is clear that inquiry into the availability of regulatory options should be an integral part of a diligent and good faith attempt to bring a facility into environmental compliance while using an alternate fuel. Section 103(a)(17)(A) of FUA defines "applicable environmental requirement" to include "any standard, limitation or other requirement . . . taking into account any variance of law. . . ." Congress thus intended that applicable environmental requirements not be narrowly construed to mean only standards, criteria or other specific limitations on pollution. Rather, it should be interpreted broadly to mean all requirements which could be imposed or allowed by the appropriate legislation. This clearly must include those regulatory options, such as variances and SIP revisions, which, if obtained, would allow construction and operation of a facility in compliance with that legislation. Until these options are pursued, we cannot establish the limits of what constitutes applicable environmental requirements in a particular case.

There is an additional line of argument from a policy perspective. Without the exemption provisions, you would be faced with the choice under the FUA prohibitions of compliance or of not constructing the facility. We reasonably assume that under those circumstances you would pursue all regulatory options available to you in a sincere effort to construct the facility. We, therefore, believe that it is also reasonable to require you to pursue those options with equal diligence in order to establish your good faith effort to comply, which effort is a statutory prerequisite to obtaining an exemption on environmental grounds.

Furthermore, the language of § 503.34(b)(5) and § 505.24(b)(5) is tempered by the phrase "as appropriate," indicating that you are to pursue these regulatory options only insofar as they are actually feasible. However, you bear the burden of establishing both which options are feasible in your case and what evidence is sufficient to show they were pursued to a satisfactory conclusion. We believe that this requirement provides for a workable accommodation between ERA and the appropriate Federal and State environmental laws, given the clear prohibitions of FUA and the expansive definition of applicable environmental requirements contained in it.

In the case of redesignations of Class 2 areas, ERA had decided to delete the requirement because it places too much of a burden on a single facility. Unlike SIP revisions and variances which may be site-specific, redesignations normally apply to large areas of land and would affect existing as well as new facilities in that area.

Some commenters suggested that ERA should treat facilities located in nonattainment areas differently from those located in PSD areas. The comments ranged from requiring less evidence to support an exemption petition from petitioners proposing to

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We solicit your comments on these

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construct in nonattainment areas to making a generic determination that no facility whose siting would trigger offsets or equivalent State requirements be required to burn coal.

At this time, ERA does not believe that nonattainment areas should be treated any differently from PSD areas since siting a facility in a clean area may be just as difficult as in a dirty area, depending on the individual circumstances. In regard to offsets, ERA does not agree that this requirement should be treated differently from other applicable environmental requirements. The offset policy was promulgated by EPA to allow for growth in nonattainment areas, and it would be inconsistent with FUA to reserve such growth for oil or gas fired facilities.

Future Use of Synthetic Fuel (§ 503.24 and § 505.14)

A number of commenters suggested that the regulations should not require a petitioner who is requesting a temporary exemption for the use of synthetic fuels to demonstrate that he cannot comply with the prohibitions of the Act by using an alternate fuel before the end of the proposed exemption period. The comments state that the Act only requires that the petitioner show that he cannot comply with such prohibitions by using a synthetic fuel until the end of the proposed exemption. ERA agrees with these comments and has changed the Interim Regulations accordingly.

Several commenters state that it is not possible to obtain binding contracts for synthetic fuel at the present time, and suggested that ERA grant the temporary exemption if the petitioner can demonstrate that he has, in good faith, entered into an agreement with a fuel broker to purchase specified quantities of synthetic fuels at a reasonable cost in return for the broker's commitment to exercise his best efforts to secure such fuel. Section 214(b) of the Act requires that a compliance plan incude "evidence of binding contracts for fuel, or facilities for the production of fuel, which would allow for . . . compliance [with the applicable prohibitons of the Act]." In addition, the Conference Report states that the required compliance plan for this exemption must include "evidence of binding contracts obligating the petitioner and supplier to provide the synthetic gas." S. Rep. No. 95–988, 95th Cong., 2nd Sess., p. 79 [October 10, 1978]. We believe that the above language requires that a petitioner produce evidence of a binding agreement with a supplier of synthetic fuel or evidence of facilities for the production of synthetic fuel before we may grant an exemption.

A number of commenters suggest that DOE should act as a broker for synthetic fuel contracts to ensure synthetic fuel development. While DOE is working closely with industry to develop synthetic fuel, we believe that it is beyond the scope of ERA's authority, at least, to act as a broker in a synthetic fuel sales contract.

A number of commenters asked what would result if a synthetic fuel exemption expires (including any extension that may be granted) before a synthetic fuel can be used in the facility. We believe that in such an instance the facility will be subject to the prohibitions of the Act.

Temporary Public Interest Exemption (§ 503.25 and § 505.15)

A number of commenters objected to the costly and time-consuming process of completing an FDR, demonstrating that they are ineligible for other temporary exemptions, and proving they cannot use mixtures. Other commenters felt the term "public interest" should be more specifically defined and even broadened to include considerations of local environmental regulations as well as impacts on the economy and employment.

ERA has, in this Interim Rule, removed the requirement that you must, before being eligible for this exemption, demonstrate that you are not eligible for a temporary exemption based upon lack of alternate fuel supply, site limitations, and environmental requirements. In order to ensure that the net effect of granting the exemption is in the public interest, ERA will require only that you file a highly abbreviated FDR and demonstrate the inability to burn mixtures during the period the exemption is in effect. ERA may, nevertheless, waive all or portions of these requirements at a prepetition conference where justified by the conditions of the case.

In regard to specifically designating the term "public interest," Congress has given ERA discretion to decide the nature of the "public interest" in respect to FUA on a case-by-case basis. Any attempt to specifically define that term comprehensively could not encompass the wide variety of cases which could arise under this exemption category. As experience is gained under the Act, however, it might become possible to define particular sub-categories of public interest exemptions, as was done in the instance of the Special Public Interest Exemption For Use Of Natural Gas In Existing Facilities.

Impediments to alternate fuel burning as a result of local environmental regulations, however, should normally be considered under the State/Local Exemption.

Capital Availability Exemption (§ 503.35 and § 505.25)

Section 212(a) of the Act requires ERA to grant a permanent exemption from the Act's prohibitions wherever the use of coal or any other alternate fuel would not allow the petitioner to obtain adequate capital for the financing of a powerplant or installation.

1. Powerplants. § 503.35

The proposed regulation provided that, in order to qualify for this exemption, a petitioner must demonstrate that, despite good faith efforts to raise the additional capital required for an alternate fuel facility beyond that required for his proposed facility, the petitioner could not raise the necessary capital due to specific restrictions which could not be alleviated by the action of an appropriate regulatory authority.

The comments received by ERA pointed out (1) that the term "specific restrictions" on the ability of a utility to raise debt and equity capital needed clarification; (2) that the exemption would be essentially voided if a petitioner were required to show that the specific restrictions of his particular case could not be alleviated by the action of an appropriate regulatory authority; and (3) that the management projections of a utility's financial condition called for as evidence in support of an exemption petition could become the subject of litigation or affect rate cases.

After consideration of these comments, we have made some modifications to our proposed regulations. We have revised the proposed regulations to indicate that "specific restrictions" refer to limiting factors on a utility's ability to raise capital such as covenants on existing bonds. We have, however, retained the requirement that you demonstrate in your exemption petition that the specific restrictions pertaining to your utility cannot be alleviated by the action of the appropriate regulatory authority. The retention of this requirement is necessary to preclude national policy on fuel use being constrained by varying state regulatory policies. However, we are concerned about the effect of this requirement on small utilities. Therefore, we are considering limiting this requirement to class A and B utilities as defined by FERC.

We request your comments on the effects of this requirement on small utilities.

We have also retained the requirement for submission as evidence of management projections of financial conditions which are necessary in order for ERA to properly evaluate whether a petition requesting an exemption due to inability to raise adequate capital should be granted.

If you would like us to consider these projections confidential, appropriate provisions are provided for the treatment of confidential information under part 501 of these regulations.

We solicit your comments on the revisions.

2. Installations. § 505.25

Our rule for installations stipulated that to qualify for this exemption, the incremental amount of capital needed by a petitioner, within a consolidated corporation to use an alternate fuel rather than oil or natural gas, must be equal to or greater than 25 percent of the annual investment expenditures of the consolidated corporation averaged over the last three years. The proposed rule would not have required a new firm, which was not part of a consolidated corporation, to make the initial 25 percent showing, but would have required that the firm demonstrate that, despite its good faith efforts, it could not raise the capital for an alternate fuel facility beyond what it needed for the proposed oil or natural gas-fired facility.

The comments received on these proposed regulations indicated (1) that the proposed criterion—25 percent of the average annual investment expenditures for the past three years—was too arbitrary; (2) that it would be very difficult to identify a "new business firm"; and (3) that each petition should be reviewed on its particular facts (case-by-case) rather than be judged by an established generally-applicable criterion.

We agree with these comments and have modified the regulation accordingly. We have eliminated the concept of "new business firms," and under the interim regulations, each petition will be considered on a case-by-case basis. You will be required to demonstrate that, despite your diligent good faith efforts, you could not raise the additional capital required for an alternate fuel facility or that this inability is due to the existence of specific restrictions on your ability to raise debt and quity capital such as pre-existing, binding convenants on bonds.

We solicit your comments on these interim rules with respect to installations.

State and Local Requirements (§ 503.36 and 505.26)

Several commenters stated that a petitioner should not be required to provide an analysis of why it would be ineligible for a general exemption.

The State or local exemption is designed to provide a discretionary exemption allowing the burning of oil or gas in the instance where a petitioner could burn coal but for a local or a State requirement. (The local or State requirement cannot be a building code, nuisance or zoning law, and in the case of a State requirement, will be a requirement other than an applicable environmental requirement.) As stated in the Conference Report, the petitioner must demonstrate an inability to comply with the prohibitions, "because of the existence of a State or local law." S. Report No. 95–988, 95th Cong. 2nd Sess., 76 (1978).

If there are other reasons why the petitioner cannot comply, namely, the reasons which would entitle him to a general exemption, then he is not entitled to the State or local exemption because he is not in the situation that the State or local exemption was designed to resolve. The State or local exemption isolates the situation where a State or local requirement is the sole bar to the burning of an alternate fuel. In such a conflict between local or State and Federal interests, the Secretary is given broad discretion to determine whether acceding to the State or local interest "would be in the public interest and consistent with the purposes" of FUA.

One comment suggested that costs related to compliance with State or local requirements be included as a criterion in determining whether construction and/or operation of a facility is infeasible because of that State or local requirement. ERA notes, however, that the conference report states that the appropriate test is whether a State law or a local law would prevent the construction or operation of an alternate fuel-fired facility. Cost is not a criterion. Further, it is ERA's policy to handle all cost-related constraints to alternate fuel burning under the lack of alternate fuel supply exemption.

Several commenters stated that ERA should not require an applicant for this exemption to apply for a variance from the State or local requirement. ERA does not require that all applicants apply for a variance from a State or local requirement; however, ERA does require that an applicant examine the possibility of obtaining a variance and, where circumstances are favorable, ERA would expect the applicant formally to apply for a variance. This is in keeping with the legislative mandate that an applicant must make a good faith effort to comply with the prohibitions of the Act.

Finally, a commenter suggested that petitioner not be required to provide a description of involvement in activities pertaining to the enactment of a State or local requirement prior to April 20, 1977. ERA has adopted this suggestion and the interim rules have been modified to incorporate this comment.

Permanent Exemption for Cogeneration (§ 503.37 and 505.27)

In proposed § 503.37 and § 505.27, we outlined the eligibility, evidence, and reporting requirements that we planned to use in implementing § 212(c) of the Act, permanent exemption for cogeneration. Comments have been received on our proposals and, having been considered, are responded to below.

Most of the comments stated that the burden on a petitioner applying for a cogeneration exemption was far too great and that a petitioner should not have to demonstrate that he could not comply with the applicable prohibitions.

ERA recognizes the benefits of cogeneration and wants to ensure that where oil and gas would be saved, the cogeneration facility is encouraged. Accordingly, ERA has substantially changed the cogeneration regulation. ERA will not require the petitioner to demonstrate that an alternate fuel could not be used by the cogeneration facility. Instead, ERA will require a demonstration that the oil or gas to be consumed by the cogeneration facility will be less than would otherwise be consumed in the absence of the cogeneration facility by units which would not be expected to use an alternate fuel by reason of FUA. The test is whether the cogeneration facility would save oil or gas over and above the savings that FUA could reasonably be expected to achieve.

ERA has categorized the units which would not be expected to use an alternate fuel by reason of FUA. First, there are units that are or would be too small to be covered by the regulations. Second, there are FUA-covered units that are existing non-coal capable units or exempt units, and are less than 40 years old in the case of field-erected units and less than 20 years old in the case of package units. Units that are older than these years could reasonably

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be expected to be retired soon and, if they were replaced, the replacement unit would have to consider the use of alternate fuels. If a cogeneration exemption is granted, and units less than 20 or 40 years old were included in the calculation of the oil or gas that would have been consumed absent cogeneration, these units would under the regulation then have to be retired or shut down. Third, there may be units that are not yet constructed that would be covered by FUA. To include oil and gas from these projected units in the "otherwise consumed" oil or gas savings calculation, the petitioner would have to demonstrate that each would be entitled to an exemption. In addition to these three categories, oil or gas savings may be attributed to displacing electricity from the grid.

The cogeneration exemption in these regulations also contains a public interest provision. ERA may grant an exemption even if oil or gas savings could not be demonstrated in certain cases where the facility will employ a technical innovation or where the facility would result in retaining industry in urban areas.

Some commenters said that the cogeneration exemption should be granted on the basis of economics, not fuel use. ERA, in its regulation, does not require any showing that cogeneration is economic or that petroleum or natural gas must be used. However, ERA interprets the phrase "other benefits" in the Act to mean that in granting an exemption, oil or gas would be saved and thereby imports reduced. The approach in these regulations, as outlined above, is consistent with the Act, and enables applicants to obtain a cogeneration exemption where cogeneration will save oil or gas over and above the savings the FUA could reasonably be expected to achieve.

A few commenters recommended that a cogeneration exemption not be granted if it would result in displacing coal or nuclear-generated electricity. ERA's use of the oil and gas savings approach takes account of the fuels used to produce the electricity that would be displaced. For example, there would be no savings attributed to that portion of the electricity that would have been produced by coal fired plants. ERA also requires that the fuel displacement calculation be based on a 10-year forecast that includes construction and retirement of plants within those 10 years. Therefore, to the extent that a utility has planned addition of new coal or nuclear plants, a petitioner would not be allowed to include in his oil and gas savings calculations the electricity displacement that is proportionally attributable to those facilities. As an aid to applicants, ERA is considering publishing projected 10-year fuel mix generation tables for electricity on an electric region basis to simplify the oil or gas savings calculations for those petitioners that may want to use them.

One commenter said that a cogeneration exemption should be granted if the facility will eventually use an alternate fuel. ERA notes that such a petition could be granted under the public interest section of the cogeneration exemption/or under an appropriate temporary exemption. However, since the exemption is discretionary, there would have to be a reasonable certainty that the alternate fuel would, in fact, be used.

Several commenters said that mechanical power should be permitted as an alternative to electrical power and that repowering a combustion turbine should be considered as a cogeneration facility. ERA notes that the legislative definition of a cogeneration facility requires that it produce "electric" power and any other form of useful energy (such as steam, gas, or heat) which is or will be used for industrial, commercial or space heating purposes. Adoption of either of these suggestions is therefore precluded. Mechanical power may be considered as an alternative to or in addition to thermal energy as part of the useful nonelectric output of the facility.

One commenter stated that the definition of electric powerplant should be clarified so that cogeneration facilities would be excluded from the electric powerplant definition if less than half of the annual electric power generation is sold for resale or exchanged for resale. Although one might read the Act in such a way, ERA disagrees with this interpretetion. The wording of Section 103(a)(7)(A) indicates that a cogeneration facility would be exempt from the definition of electric powerplant only if less than half of the annual power generation was sold (for either resale or end use) or exchanged for resale.

One state recommended that a state should be able to apply for a "generic exemption" for cogeneration units built in accordance with an ERA approved state plan. The state would make a determination on the availability of alternate fuels and the economic justification for the use of oil. The petitioner would only have to certify to ERA that it was in compliance with the state plan. ERA is not prepared to delegate its exemption authority and responsibilities to a state at this time. However, the simplified process provided in these rules should help accomplish the objectives of the state proposal, and certainly encourage a broad systematic approach to fuel use planning.

Permanent Mixtures Exemption (§ 503.38 and § 505.28)

Several commenters suggested that ERA has no authority to condition the grant of a fuels mixture exemption on a demonstration that the petitioner cannot comply with applicable prohibitions of the Act. ERA concurs and the requirement for this demonstration has been dropped from the regulations.

A number of commenters stated that ERA failed to state that new MFBI's qualifying for fuel mixture exemptions will not be required to use less natural gas or petroleum than 25 percent of the total Btu heat input of the mixture. ERA has revised its eligibility requirements to clarify that it will not require such minimum percentage to be less than 25 percent in orders granting mixtures exemptions to new MFBI's.

There was some question concerning whether a petitioner requesting a mixtures exemption for a new MFBI and proposing to use 25 percent or less oil or gas would be required to demonstrate at the threshold that it was necessary to use any oil or gas at all in order to maintain operational reliability and a reasonable level of fuel efficiency. The statute might be read two ways.

First, it can be read to say that such a petitioner must demonstrate that some use of oil or gas is needed for reliability and fuel efficiency reasons. If ERA decides that the petitioner is eligible for the exemption and grants the exemption, ERA then could not require that the amount of oil or gas used be less than 25 percent of total annual Btu heat input.

Another construction of the Act says that so long as the new MFBI petitioner proposes to use a mixture containing less than 25 percent oil or gas, he does not need to demonstrate that any oil or gas is needed for reliability and fuel efficiency purposes. Instead he merely needs to certify that he will use no more than 25 percent oil or gas in order to be granted the exemption.

While the statute can be read to support the first construction, ERA, as a matter of administrative discretion, has decided that, in the early years of the program, the second construction should be employed to encourage the use of alternative fuels and mixtures. ERA may propose to change this approach in the future if it becomes evident that mixtures exemptions are being requested to avoid compliance with the

prohibitions rather than because an amount of oil or gas is actually needed for use with an alternate fuel.

ERA received comments suggesting that the use of less than 25 percent petroleum or natural gas in a mixture should be considered "control use" and therefore excluded from the prohibitions of the Act. ERA concludes that 25 percent petroleum or gas is much more than Congress intended be excluded from the definition of the primary energy source. The interim rules provide that the total amount of petroleum or gas excluded for the purposes enumerated in the definition of primary energy source in Section 103(a)(15)(A) of the Act cannot exceed 5 percent. This 5 percent must be included within the minimum percentages required to maintain reliability of operation for purposes of qualifying for a mixtures exemption.

Some commenters stated that the regulations should foster the use of innovative technologies in mixtures. It is ERA's intention to encourage the use of innovative technologies.

Emergency Purposes (§ 503.39 and § 505.29)

In §§ 503.39 and 505.29 of the proposed regulations, we outlined the proposed eligibility, evidentiary, and reporting requirements applicable to the emergency exemption for powerplants and installations and defined an "emergency" situation that may arise in the case of each type of facility. The comments received on these proposals are discussed below.

Various comments took the position that a petitioner should not be required to demonstrate an inability to comply with the applicable prohibitions of the Act in connection with submission of a petition for an emergency exemption under these subsections. We agree with these comments and we have modified the proposed regulations accordingly. Specifically, § 503.39(a)(1) and § 505.29(a)(1) relating to inability to comply with the FUA prohibitions, have been deleted. Additionally, § 503.39(c) and §505.29(c) have been modified so that the evidence required in support of an emergency exemption petition does not include a demonstration of an alternate fuels search.

The comments also called our attention to the narrow definition of "emergency" as it applies to the emergency exemption for installations [§ 505.29(b)] and suggested that the definition should be broadened to include as emergency situations fuel supply interruptions, equipment failures, temporary environmental restrictions and peak demands. We agree in part with this comment and we have expanded the emergency definition in § 505.29(b) to include the first three suggested situations. Peak demand, however, is a normal recurring occurrence, usually associated with certain times of the year or phases of the production process. Therefore, we do not agree that a peak demand situation constitutes an emergency as such demands can be anticipated. Our consideration of an emergency exemption petition based on peak demand needs would not be consistent with the purposes of the Act.

The comments also suggested that the definition of emergency in § 505.39(b), applicable to exemption petitions for powerplants, should be modified to include situations requiring curtailments of less than 10 percent of non-interruptible electric supplies to industrial customers and to allow operation in spinning reserve. We agree with these comments and we have modified the emergency definition in § 503.39(b) accordingly.

A number of comments suggested that rental boilers be excluded from the prohibitions of the Act. We have decided that we cannot relieve rental boilers categorically from the FUA prohibitions and maintain consistency between the interim regulations and the purposes of the Act. However, we have provided for their use and they will be treated under the appropriate sections of the interim regulations depending upon whether their use is anticipated or unanticipated. If you must use a rental boiler for emergency purposes, you must, as the operator of the unit, comply with the provisions of the interim regulations implementing either Section 404(g) of the Act (Emergency use of natural gas or petroleum) or Section 103(a)(15) (definition of primary energy source). These provisions, covered in Subpart M of Part 501 of these interim regulations permit the immediate use of the rental boiler, require you to report the use to use, and in the case of Section 404(g), of the Act set a maximum period of operation at 24 months. If you need to use a rental boiler for anticipated purposes, you must, as the operator of the unit, file a petition for the appropriate exemption. In this case, the scheduled equipment outage or the public interest exemption may be applicable.

Further, we will not include rental boilers in the aggregation provisions of § 500.2(c) and (d) defining powerplants and installations if they operate subject to the exclusion in the definition of primary energy source, Section 404(g) of the Act (Emergency uses of natural gas or petroleum), or certain temporary public interest exemptions.

Reliability (§ 503.40)

Section 503.40 of the proposed regulations sets forth criteria to be used in granting a permanent exemption for a new powerplant to prevent impairment of reliability of service. A large number of comments were received in response to ERA's proposal as discussed below.

Many comments were directed toward the use of the loss of load probability (LOLP) approach to assess reliability of service. One commenter commended the choice of the LOLP approach but others were critical of it, pointing out that an LOLP calculation cannot provide an accurate measurement of system reliability because of the many variables present in each system which are impossible to calculate. Several comments suggested that ERA utilize a reserve margin test rather than LOLP.

ERA has decided not to eliminate the LOLP calculation and replace it with a reserve margin test because reserve margin fails to take account of factors important to reliability such as outage rates, size of units, and load patterns. ERA believes that LOLP as an analytic tool provides the best baseline evaluation of reliability and that it is a generally accepted approach. ERA has, however, added § 503.40(a)(4) to the regulations to allow a petitioner to argue, at a prepetition conference, that other methods more accurately reflect the local situation. If ERA concurs, a petitioner may use such alternative methods in lieu of the LOLP. With respect to factors which may affect reliability yet are not included in an LOLP calculation, ERA notes that both the proposed regulations and these regulations allow flexibility so that a petitioner may present such a case. For example, transmission constraints and leadtimes may require that LOLP be calculated for an area other than the electric region. Energy constraints such as low stream flows at hydroelectric facilities may also require modifications in the LOLP calculation. ERA will consider arguments on a case-by-case basis concerning such factors or other region-specific occurrences, and may, after discussion with the petitioner, allow the use of modified methods that account for them.

Several comments asked why ERA proposed to apply a different LOLP criterion depending on when the proposed plant is to begin operation.

ERA believes that making a commitment to oil or gas-fired generation more than six years in

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advance can be justified only if an extremely severe reliability problem is projected—hence, the one day in one year criterion. If a less severe problem is projected six years in advance, such a commitment should be delayed while alternate remedial measures are sought. If such measures fail, there will still be time to obtain an exemption and build a powerplant to prevent the LOLP from falling below one day in five years. Since the construction of new oil or gas-fired powerplants is a solution of last resort to a reliability problem, it may be tolerable to operate for a limited period at a somewhat lower—but still adequate—standard while more satisfactory solutions are being implemented. ERA believes that this approach is reasonable, particularly in light of the inherent uncertainty in forecasting future demand more than a few years in advance. ERA has, however, decided for these regulations to change the timing somewhat to allow a utility an additional year for the proposed powerplant to begin operation under each criterion.

A number of comments state that the proposed LOLP standard, which is as low as one day in one year in certain instances, might seriously jeopardize a utility's reliability of service. As noted above, this standard only applies if the proposed plant will not become operational within six years. Since it is ordinarily possible to build and have in operation an oil-fired powerplant within four years, the ERA criterion assures that adequate capacity can be brought online to prevent the LOLP from going below one day in five years.

Several commenters argue that Congress, in the Public Utilities Regulatory Policies Act (PURPA), instructed DOE to undertake an 18-month study of reliability standards, taking into account a long list of germane factors. They state that adoption of a uniform national standard before completion of that study would be premature and inconsistent with PURPA. The FUA only directs ERA to grant petitions for exemption on the basis of impairment of reliability and not to establish national reliability standards, as contemplated by PURPA. Thus, ERA believes that establishing minimum criteria for use in evaluating petitions for exemption due to impairment of reliability of service is not inconsistent with the purposes of PURPA. If better reliability criteria are developed during the course of the PURPA reliability study, ERA will consider their relevance to FUA exemption standards.

Several comments contend that reliability must be evaluated on a utility system basis since a utility builds additional capacity to meet its system demands and not the regional capacity demands. ERA believes that to achieve the maximum reasonable reduction in gas and oil consumption, it is imperative that planning and coordination be evaluated on a regional basis, not on the basis of a single, isolated system. Nevertheless, ERA will also consider evidence related to deficiencies of the petitioner's system.

A few comments asked why the proposed regulation requires that reliability information be reported for the first 12-month period of powerplant operation. They state that this requirement cannot be fulfilled with the presently available reliability assessment programs which only produce the information on a calendar-year basis. ERA agrees and has modified § 503.40(a)(2) to permit the LOLP calculation to be computed using any 12-month period that includes the date of initial operation of the proposed plant.

Several comments question ERA's predisposition in favor of combustion turbines and against other types of equipment such as combined cycle. They state that if ERA is genuinely interested in limiting oil consumption, it should prefer the use of more efficient equipment such as combined cycle. ERA has deleted reference to specific types of equipment. However, ERA points out that it has added a new section, § 503.40(c), (terms and conditions) which will be imposed on units which are granted this exemption. Operation of the powerplant under this discretionary exemption will be permitted only for the purpose of preventing an impairment of reliability of service. ERA, at the time it grants this exemption, will specify the "initial period of impairment" which will extend from the date of initial operation of the proposed powerplant until the earliest date that the LOLP will be less than one day in five years. Unless circumstances beyond a utility's control cause the LOLP to exceed one day in five years, either at the end of this period or at any subsequent time, the powerplant will not be permitted to burn oil or natural gas after the expiration of this initial period of impairment.

ERA has also added a new § 503.40(e) to make clear that a utility may apply for peakload exemption in addition to this exemption for the same unit. Both exemptions may be granted if the eligibility and evidence requirements of both exemptions are met.

A few comments stated that ERA should accept a state's evaluation of issues of reliability and need for power and should not duplicate the work of a state. ERA believes that power supply for an electric region is often not the exclusive concern of a single state. However, ERA may at its discretion consult with the appropriate state authority.

Permanent Exemption for Peakload Powerplants (§ 503.41)

In proposed § 503.41, we outlined the eligibility, evidence, and reporting requirements that we planned to use in implementing Section 212(g) of the Act, permanent exemption for peakload powerplants. Comments have been received on our proposals and, having been considered, are responded to below.

Most of the commenters said that the peakload exemption should be granted solely on the basis of certification and that the petitioner should not have to file a Fuels Decision Report nor supply information about the electrical region if the proposed plant was other than a combustion turbine.

ERA has dropped the requirement that a petitioner for this exemption file a Fuels Decision Report. Also the mixtures requirement with respect to this exemption has been dropped. However, ERA does require that a petitioner certify that the proposed powerplant will be operated solely as a peakload powerplant and to meet peakload demand for the life of the plant.

The conference report makes it clear that the exemption applies not only to hours of operation, but also to type of use, that is, for peakload purposes. In addition, the enforcement provisions for this exemption, Section 721(c) of the Act, relate to the necessity of using the plant to meet peakload demand. Accordingly, ERA is retaining in this regulation, in a modified form its request for certain information if the proposed plant is other than a combustion turbine. Combustion turbines are normally used to meet peakload demand and the high cost of using them at a higher capacity factor generally precludes use to meet intermediate load demand. Therefore, ERA will generally assume that if the proposed plant is a combustion turbine, the petitioner and ERA would probably agree on what constitutes peakload demand.

If, however, the proposed plant is to be other than a combustion turbine (a combined cycle or steam plant for example) ERA is requesting information on what constitutes peakload demand on the petitioner's system, the order of

dispatching plants, and the projected use of the proposed plant. ERA notes that economic use of a combined cycle unit usually exceeds 1,500 hours per year and may, in fact, be 2,000 to 3,500 hours per year. ERA needs the additional information so that it will be able to ensure compliance with this exemption and so the petitioner will have fully described what it is that he is certifying to. ERA solicits comments on how peakload demand should be defined for the purpose of these regulations.

ERA has added in the interim regulations a new subpart (c) entitled, "Additional Information," which outlines information you must submit with your petition. Specifically, we are requiring you to attach to your submission all data required under § 502.11 (Petroleum and natural gas use) and § 502.12 (Conservation measures) of these interim regulations. The data called for under § 502.12 will describe any oil or natural gas conservation measures you have taken or intend to take if the exemption you request is granted. These two categories of data are required by us to enable us to determine what terms and conditions will be appropriate for incorporation into the exemption (if granted) under our authority in section 214(a) of the Act (implementing interim regulations § 503.12). In addition, you will be required under (c)(3) to submit all data required by § 502.13 (Environmental impacts analysis). The submission of this information is necessary to enable us to meet our responsibilities under the National Environmental Policy Act (NEPA).

The comments pointed out that, where the peakload exemption is requested for a natural gas-fired unit, we should not require the applicant to submit with his exemption petition a copy of his application and supporting documentation made to the Environmental Protection Agency (EPA) for an air quality certification. In order for us to comply with the terms of section 212(g)(2)(A) of FUA, we must at least require you to submit, with your peakload exemption request for a natural gas-fired powerplant, the air quality certification by the EPA Administrator or the Director of the appropriate State air pollution control agency which will meet the requirements of § 503.41(a)(2)(ii) of the interim regulations, and thus, section 212(g)(2)(A) of the Act. We have, however, deleted from the regulations, as originally proposed, the requirement for submission of a copy of the EPA application and supporting documents.

EPA's or the State air quality agency's certification must indicate that the use, by the exemption petitioner, of coal or other available alternate fuels as a primary energy source in a particular unit will cause or contribute to a concentration of a pollutant within an area or region in which the national ambient air quality standard for that pollutant is or will be exceeded. The conference report states that "It is important to stress that the EPA or State agency must consider whether other available alternate fuels could be used before making such a certification." S. Report No. 95–988, 95th Cong. 2nd Sess., 78 (1978).

It was pointed out in some of the comments that we should not make the determination of whether a peakload powerplant is needed in the petitioner's system; rather, the appropriate State should do this. We do not intend to make determinations regarding the need for peakload plants and do not view either our proposed or interim regulations as suggesting or providing that we do so.

A number of suggestions made by commenters have been adopted in these regulations. These include the following: The reporting requirement is now in terms of "maximum number of kilowatt hours of permitted generation" rather than "maximum number of hours of permitted operation" as previously proposed. ERA will accept a certification from a duly authorized officer and not require it from the chief executive officer.

ERA received comments suggesting that the certification on peakload use should not be for the life of the powerplant since statutory or regulatory changes may intervene and other exemptions may later be granted. The peakload exemption, however, is a permanent exemption for the life of the powerplant. As clearly indicated in the conference report, the certification runs for the life of the powerplant.

Various comments recommended that we base the peakload exemption on "planned" use of the powerplant of 1,500 hours or less, but once we grant the exemption, the peakload unit should be free to provide emergency power as required by the operator's needs, regardless of the number of hours. It was suggested that, for us to do otherwise, we would be encouraging the construction of increased peaking capacity. We do not believe that the peakload exemption should be altered to account for emergencies which require operation beyond the terms of the peakload exemption. The Act and the interim regulations contain a separate emergency exemption. Further, section 721(c) of the Act provides for the operation of a powerplant with a peakload exemption in excess of 1,500 hours without penalty under certain circumstances involving peakload demand and unit system outages.

Intermediate Load Powerplants (§ 503.42)

The purpose of the intermediate load exemption is to encourage retirement of old units and investment in new, efficient oil burning units, where the new unit, even though it could not get an "applicable environmental standards" exemption if it burned any available alternate fuel, would cause or contribute to concentrations of air pollutants in excess of ambient air quality standards. The intermediate load exemption recognizes the social cost of burning oil or gas in situations where there would otherwise be a social cost from burning an alternate fuel, which would result in a contribution to pollutants in excess of ambient standards (though short of a violation of environmental requirements). The intermediate load exemption allows such new investment in such environmental circumstances only when the investment could not otherwise occur; that is, where the facility could not obtain at the proposed or at any reasonable alternate site a general exemption which would enable it to burn oil or gas. It thus allows such investment even though the petitioner could burn coal or other available alternate fuel at the proposed or some alternate site.

ERA is concerned, in situations where the generating capacity that you plan to replace consists of older units which may be approaching retirement, that despite your substitution of more efficient replacement capacity, the disparity in relative durations of use might result in long-term increases in oil use. ERA, therefore, invites your comments on an alternative approach whereby the phrase "equivalent capacity" in Section 212(b)(1)(B) of the Act would be interpreted as requiring that the "expected capacity-years" (design capacity multiplied by expected useful life) of your new powerplant would have to be offset by at least an equivalent number of "capacity years of early retirement" of the powerplants it will replace. ERA would set the nominal retirement age at 35 years. If you retired a 100–MW powerplant at 30 years, you would, therefore, obtain a credit to be applied against your new replacement capacity of "500–MW years of early retirement." Your construction of a single new powerplant, in this case,

might result in a sequence of early retirements of older and less efficient powerplants.

In addition to this proposal, ERA has addressed the foregoing concept by adding to this Interim Rule a section concerning terms and conditions. ERA intends to exercise its authority under Section 214(a) of the Act to attach terms and conditions to the grant of any intermediate load exemption to assure that the construction and operation of your new powerplant will not result in an increased consumption of petroleum in your system. In general, the grant of this exemption for your unit would be conditioned so that a decrease in the petroleum consumption of your system would result. Appropriate terms and conditions will, however, be determined on a case-by-case basis.

ERA received several comments on its proposed rule for the intermediate load exemption, suggesting that ERA's requirement that the units to be replaced cease operating within 30 days of commencement of operation of your new powerplant is contrary to the intent of the Act. ERA believes that this requirement is fully in accord with the provisions of FUA. The Act clearly requires the replacement of capacity, and not simply energy. This requires that at least as much capacity be removed from the system as is added in the form of the new unit. ERA, however, has permitted a 30-day delay for the shutdown of the units to be replaced in order to provide flexibility during the initial period of operation.

Several comments noted that ERA had no authority under FUA to require that the units to be replaced be coal capable. ERA has deleted this requirement in this Interim Rule.

One comment suggested that ERA's proposal to retain the option to periodically review your intermediate load exemption and to retain authority to terminate your exemption should suitable synthetic fuel become available, should be eliminated. ERA cites Section 212(h)(2) of the Act as the basis for its authority, which reads "The Secretary shall from time to time, review each exemption granted to a powerplant under this subsection, and shall terminate such exemption when he finds that there is available a supply of synthetic fuel suitable for use as a primary energy source by such powerplant." ERA intends fully to implement this provision.

The Use of Petroleum (§ 505.16)

ERA proposed in § 505.16 to permit certain MFBI's to file for exemptions, pursuant to Section 212.4 of the Act under certain conditions on an expedited basis. Consistent with the Act, this exemption was proposed to remain in effect only until regulations upon which action could be taken were issued.

In publishing these regulations, ERA has provided adequate means for processing exemption requests through the mixtures exemption (§ 505.25) and temporary exemptions, and sees no need for continuing § 505.16. That paragraph has therefore been excluded from the regulations.

Product/Process (§ 505.30)

ERA proposed that the product/process exemption be applied only to certain non-boiler categories, and since these categories are not the subject of this rulemaking, we are not promulgating rules for this provision at this time.

ERA received comments that installations should be permitted to apply for this exemption since Section 202(i)(2) specifically states that, in order to apply for this exemption, a petitioner must demonstrate that substitution of steam is not technically feasible. Since this rulemaking only covers boiler installations, and boilers generate steam, substitution of steam is always technically feasible for a boiler unit. Since a petitioner must demonstrate that substitution of steam is not technically feasible and boilers generate steam, ERA believes that any new boilers could not qualify for the exemption on the basis of product/process limitations.

Therefore, ERA has decided not to change the proposed regulation.

Permanent Exemption for Scheduled Equipment Outages (§ 505.31)

In proposed § 505.31, we outlined the eligibility, evidence, and reporting requirements that we planned to use in implementing Section 212(j) of the Act involving the permanent exemption for scheduled equipment outages for installations. Comments have been received on our proposals and, having been considered, are responded to below.

Most of the comments addressed the burden of requiring a petitioner to demonstrate that he is unable to comply with the applicable prohibitions of the Act. It was urged that where small amounts of oil or natural gas would be consumed, ERA provide a virtually automatic grant of exemption.

Upon consideration of the comments, ERA has modified the regulation to reduce the burden on petitioners, yet to retain showings where ERA believes it may be feasible to burn an alternate fuel. First, ERA requires a petitioner to demonstrate that his routine maintenance schedule does not permit or could not be adjusted to permit continuing production or other activity carried on at the site unless ERA grants this exemption. Maintenance is often accomplished with either rotating use of units or shutting down all units at the same time. ERA, therefore, believes that there will often be situations in which an additional unit that is oil or gas fired would not be required to accomplish routine maintenance.

However, in those instances where an additional unit that is oil or gas fired is required, ERA will reduce the evidentiary requirements if the scheduled outages (and thereby the scheduled use) of the proposed unit is 21 days per year or less. In such instances, an examination of the feasibility of using an alternate fuel will not be required. But if the scheduled outages exceed 21 days per year, ERA will require for this discretionary exemption an alternate fuels search. It may be quite feasible to use an alternate fuel in this circumstance, and if so, such use would be consistent with the purposes of the Act.

Some comments suggested that the proposed regulations implied that a boiler would not be allowed to operate on oil or natural gas during scheduled outages if it were normally operated on an alternate fuel at other times. The proposed regulations do not specifically preclude the use of oil or natural gas in an alternate fuel-capable boiler during scheduled outages; however, as already discussed, the burden of proof is on the petitioner for the exemption to demonstrate why the use of an alternate fuel would not satisfy its output requirements and, thus, why the use of oil or natural gas will be required during the outage.

Comments also suggested that a boiler should be allowed to operate in the event of both emergencies and scheduled outages under one exemption grant without having the operator apply for both types of exemptions. These exemptions, however, relate to two very different sets of circumstances not necessarily related to each other and requiring evaluation against different criteria before a decision can be made on the request. Accordingly, we are not adopting the position suggested by the comments. However, as a petitioner, you may request both a scheduled outage exemption and an emergency exemption for the same unit by means of a single petition. You will be required to meet the eligibility and evidence requirements for each of the exemptions. If you are granted both exemptions for the operation of your unit, you must comply with the separate reporting equirements applicable to each exemption.

Fuel Classification—Part 507

In Part 507 of the proposed regulations published in the Federal Register on January 29, 1979 (44 FR 5860), we defined natural gas and petroleum as we use those terms in implementing the alternate fuels program under the Act. As published at that time, Part 507 was a refinement of § 500.2 (d) and (e) of our orginally-proposed regulations defining those two fuels (43 FR 53987, November 17, 1978). We have received comments on both our November 17, 1978, and January 29, 1979, proposals and are responding to them below.

Natural Gas Definition (§ 507.2(a) and § 507.3)

In our November 17, 1978, definition of natural gas we proposed that natural gas produced from wells with a maximum efficient-production rate (MEPR) of less than 250 million Btu's per day which were acquired on or after July 18, 1977, be classified as natural gas rather than as an alternate fuel. After further consideration of FUA's legislative history, we dropped the retroactive provision from the proposed natural gas definition published on January 29, 1979. The comments received on this issue favored our modification and recommended that it be retained in the final regulations. In accordance with the Act, and under the definition now contained in these interim regulations, we will not consider as natural gas any gas produced by the user from any well with an MEPR of less than 250 million Btu's per day regardless of the date of acquisition of such well.

In the January 29, 1979 proposed rules, we submitted proposed criteria for determining "commercial unmarketability" requiring the petitioner to demonstrate that he could not obtain a bona fide offer from an interstate, intrastate, or local gas distribution company for such gas and that it be transported directly from the well to his facility. Comments were received which contended that gas commingled in a pipeline serving other customers should not be automatically designated commercially marketable. Other comments maintained that we had not adequately specified the criteria for determining commercial unmarketability by reason of "quality." We have decided that the criteria published on January 29, 1979 (44 FR 5860) in § 507.3(b), require further development prior to promulgation of interim regulations. We have therefore reserved under § 507.3 a subsection with respect to commercial unmarketability and will promulgate an interim rule after further consideration of the comments and other technical, financial and marketing information available to us.

Much attention was given by ERA and others to excluding from the definition of "natural gas" certain gases designated by the Natural Gas Policy Act (NGPA) in § 107(c) as "high-cost natural gases." We believe that § 107(c) of the NGPA constitutes a good basis for designating gases which should be excluded from the definition of natural gas and we have substantially accepted this proposal. We will recognize as "commercially unmarketable" the natural gases from geopressured brine and Devonian shale where these gases are produced from wells spudded (i.e., for which surface drilling began) before 1990 and all occluded methane produced from coal seams when these gases are gases within the definition of section 107(c) of NGPA. Furthermore, we will presumptively recognize as "commercially unmarketable" those high-cost natural gases recognized by the Federal Energy Regulatory Commission (FERC) under section 107(c)(5) of NGPA as being produced under "such other conditions as the Commission determines to present extraordinary risk or costs," if produced from wells spudded prior to 1990. However, we reserve the right to review any FERC designations of gases under section 107(c)(5) on our initiative and to make our own determination regarding their commercial marketability. We will not recognize, on a generic basis, the so-called "deep gas" produced from completion locations at a depth of more than 15,000 feet as categorically "commercially unmarketable" although section 107(c)(1) of NGPA classifies it as a "high-cost" natural gas since most of this gas would be of pipeline quality. We will, however, review any claims asserted by a user that these and/or any other gases are "commercially unmarketable" by reason of their quantity, quality, or distance from existing transportation networks on a case-by-case basis. [§ 507.3(b).]

Our reservation of authority to depart from FERC designations under Section 107(c)(5) and our rejection of "deep gas" as commercially unmarketable require a comparison of the purposes of FUA and those of the NGPA. The NGPA has among its primary objectives the development of high-cost natural gas resources. For its part, FUA seeks to a large extent to reserve these and other more conventional sources of natural gas for high-priority users, such as the residential and small commercial sectors, by prohibiting their use by powerplants and installations. As a result, while we substantially accept the NGPA designations, we will continue to assess future classifications of gas under the NGPA in light of the purposes of FUA.

Many of the comments cited specific types of gases or gases produced by special and generally costly methods as appropriate fuels for exclusion from the natural gas definition and inclusion in the alternate fuels definition. Natural gas produced by secondary and tertiary methods and gas from "difficult to produce formations" are particularly suggested for exclusion. Natural gas from methane hydrate was also proposed for exclusion. One comment also recommended the exclusion from the natural gas definition of gases attributable to the user's working interest in a new well if the well (a) has an MEPR of 150 million Btu's per day or less, (b) is drilled on an offshore lease on the Outer Continental Shelf in which the water depth is in excess of 500 feet, and (c) the geological formation of which is deeper than 7,000 feet beneath the surface of the earth with an effective permeability of .05 millidarcies or less. This recommendation was made on the basis that, due to the high-risk, high-capital nature of this type of investment, the user-owners would not be able to afford to invest in 100% of the working interest in such wells. By excluding such gases from our natural gas definition, it is asserted that we would be encouraging resource development for the benefit of the public.

We are not convinced, for purposes of this Interim Rule, that we should exclude by rule the above-mentioned gases from the definition of "natural gas" under FUA. In the case of gas from secondary and tertiary recovery, we neither believe that gas obtained from such methods of recovery are commercially unmarketable nor that, under the language of the statute, we are free to designate the resulting production of such methods as something other than "natural gas" for use in implementing FUA. As for gas from "difficult to produce formations," we have concluded that it would be impractical and probably impossible to determine satisfactory generic criteria to define this term for this Interim Rule and to make exclusions from the natural gas definition by rule based on reasonable criteria. In regard to all of the gases mentioned in the paragraph above as well as any other gases not specifically excluded from the definition of "natural

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gas" under these Interim Rules, three possibilities exist. First, if FERC were to designate one of these gases as a "high-cost natural gas" under Section 107(c)(5) of NGPA, we will accord it presumptive recognition as a commercially unmarketable gas, subject to our reserved right to review. Second, a user may claim, under § 507.3(b) of this Interim Rule, that his gas is commercially unmarketable and ERA will examine and determine the nature of the gas on a case-by-case basis under general criteria which we will promulgate in the near future. Finally, in the absence of either of these actions, we will treat such gases as being within the natural gas definition of this Interim Rule.

The comments in some instances recommended that synthetic gas derived from coal be excluded from our definition of natural gas. We note that the definition of coal in Section 103(a)(5) of FUA includes any fuel derivative of coal. Furthermore, low Btu synthetic gas derived from coal is expressly excluded from the natural gas definition by Section 103(a)(3)(B)(iv) of the Act, while all synthetic gas derived from alternate fuels and mixed with natural gas may also be treated as an alternate fuel upon certification (with supporting documentation) to us of the existence of the circumstances outlined in Section 103(b) of the Act (Special Rules Relating to Definitions of Natural Gas and Alternate Fuel).

The comments frequently recommended that, in order to provide users with a degree of certainty, we should recognize gas from a well once classified as commercially unmarketable to be permanently commercially unmarketable and, as such, not at all subject to the prohibitions of FUA. We concur with this view insofar as the suggested permanent designation would be an incentive to the production of certain currently unmarketable "high-cost gases," for example, coal seam and geopressurized methanes. Consequently, we will permanently exclude from the definition of "natural gas" all gases expressly designated in this Interim Rule as "high-cost gas" from wells spudded prior to 1990 and occluded gas from coal seams. In unusual cases (e.g. remote areas) where conventional natural gas wells have been drilled but there is no economically available pipeline system (or other solution) for the marketing of the produced gas to the general gas market, we will permit its consumption by a powerplant or installation by recognizing it as commercially unmarketable. However, if and when the gas does become marketable to the general public, we will classify it as "natural gas" and thus subject to the prohibitions and priorities of FUA for the benefit of the nation's higher-priority users.

Certain comments took the position that Congress did not intend that we include other energy resources produced from a well, for example crude oil, in computing the MEPR of a natural gas well, but rather that we were to consider only the natural gas production in order to encourage the development of such natural gas by "self-help" users who would otherwise have to purchase the gas they use. We find, however, that the legislation in Section 103(a)(3)(B)(ii) addresses the term "maximum efficient-production rate" only in terms of Btu's from the well itself and does not confine the product to be considered in connection with the natural gas definition to any specific energy resource. We agree that the intent of this provision is to promote the development of "self-help" wells, the production from which can be used by the producer in lieu of purchased natural gas. However, as the MEPR (250 million Btu's per day) established in the Act as the upper limit to production of a well whose gas is excluded from the natural gas definition is considerably higher than the upper limits generally recognized as defining small or "stripper" wells, we do not believe that our consideration of all the fuel resources produced from the well in the MEPR will discourage such "self-help" efforts.

Petroleum Definition—§ 507.2(b) and § 507.4

In our November 17, 1978 Federal Register notice (43 FR 53976), we requested comments on the proposal that we exclude from the petroleum definition, waste by-products from a refinery operation if the refinery user could demonstrate that they were both commercially unmarketable and could be used elsewhere in the plant to replace natural gas or petroleum. In response to our proposal, the National Petroleum Refiners Association suggested that we categorize all waste gases, liquids, and solids from refinery or other petrochemical industrial operations as "commercially unmarketable" because consumption within the refinery or industrial site constitutes the most efficient disposition of such energy sources. We called for comments on this particular proposal on January 29, 1979 (44 FR 5814).

After consideration of all the comments received, we have decided to modify our definition of "waste by-product" and our criteria for the determination of commercial unmarketability of a refinery waste by-product. These criteria appear in the interim regulations in § 507.4(e) and are described below.

For purposes of this subsection, a refinery waste by-product is a by-product that is unavoidably produced as the result of primary refinery processes. We will look not only at the by-product itself, but also at the ability of the by-product to be further processed or re-processed so as (1) to extract from it a component such as propane or butane that is of commercial quality or (2) to combine it with another waste by-product or other product to produce a blend of commercial quality.

Under the modifications to the "quality" criteria (§ 507.4(e)(1)) we now will designate as commercially unmarketable a refinery waste by-product (1) for which there are no expectations for use outside a refinery operation; (2) which is not a recognized item of commerce in a national market or in the regional or local area in which the facility is located; or (3) for which the cost of processing, storing, and distributing would not be covered by reasonably expected revenues from its sale.

Under the modifications to the "quantity" criteria (§ 507.4(e)(2)), we will designate as "commercially unmarketable" a refinery waste byproduct the quantities of which (1) are so insufficient or produced so sporadically as not to constitute an adequate and reliable supply to a potential buyer other than the producer; (2) are significantly less than those quantities normally sold or traded in the appropriate market, or (3) would require a cost of aggregating into commercial quantities and distributing that would not be covered by reasonably expected revenues from its sale.

Certain comments received suggested that we specifically identify the waste by-products which we consider to be commercially unmarketable and include in such identification heavy residual oils, oils with a viscosity greater than 1000, catalytic cracking residual fuel, vacuum-flashed and solvent-extracted pitches, refinery waste by-products that do not meet commercial specifications, waste by-products not suited for use outside the plant, and waste by-products whose upgrading to commercial quality is too expensive due to special handling requirements necessitated by their toxicity or carcinogenicity. Whatever the ultimate classification of these fuels, we believe it preferrable to take a case-by-case approach in evaluating and classifying these fuels using the criteria in § 507.4 (described above). This case-by-case approach is justified on the basis that a waste by-product is not commercially unmarketable in and of itself. Rather, it becomes so by virtue of the nature of the refinery process in which it is generated and the market (or lack thereof) that exists for it. Moreover, product-specific exclusions may change over time and would require elaborate technical definitions and descriptions. Furthermore, we believe that we will have adequate time for case-by-case assessments without prejudice or inconvenience to anyone as most of the refineries that we will be reviewing under the Act are "existing" facilities, subject to Title III of FUA. We are statutorily required to initiate proceedings leading to a prohibition against the use of these waste by-products by such facilities on, for the most part, a case-by-case basis. Thus, an existing refinery may continue with the unrestricted burning of its waste by-products as an energy source until it is prohibited from doing so as a result of our action. At the same time, the refineries which are "new" under FUA and, hence subject to the statutory prohibitions against the consumption of petroleum, will be so few that we expect to be able to deal both with the "new" and "existing" facilities using waste by-products in a timely fashion on a case-by-case basis.

As noted previously, the opinion was expressed that consumption of waste by-products within the refinery producing them is the most efficient use of these fuels and should, accordingly, be permitted. We certainly support the general principle of economic efficiency of fuels, wherever it is possible. Nonetheless, the primary emphasis of FUA is to promote the substitution of domestic alternate fuels for use in the place of natural gas and petroleum. Therefore, where natural gas and petroleum can be diverted to higher priority users by redistribution of available fuel sources in accordance with the provisions of FUA, we will mandate the necessary redistribution.

Some of the commenters proposed that we should either designate the waste by-products of new refineries "unmarketable" *per se* or not require any new refinery to market any greater percentage of its by-products than an existing refinery located in close proximity to it. We reject the first part of this proposal on the grounds that there are no factors which make the waste by-products of a new refinery inherently unmarketable. We also reject the second part of the proposal as unreasonable under the Act since the Act does not differentiate in its classification of fuels between those consumed in "new" refineries and those consumed in "existing" refineries.

One commenter also proposed that Alaska be excluded from being an area in which refinery by-products are marketable. We cannot accept this suggestion as we are unaware of any characteristics pertaining to Alaska that would support the issuance of a blanket exclusionary rule of this type. Rather, we would expect any special characteristics pertaining to commercial marketability of waste by-products produced by Alaska refineries to be site specific and appropriately assessible only in a case-by-case analysis. We note, in response to the commenter, that existing powerplants in Alaska were exempted from Section 301 by FUA's terms; however, there is no evidence in the legislation indicating that any other Alaskan facilities should be excluded.

Some of the commenters asked that we designate refinery waste by-products as "commercially unmarketable" in the rules and that this designation be permanent regardless of any increased demands for such products generated by the fact of their commercially unmarketable classification and the prohibitions of FUA. The commenter believed that the commercially unmarketable designation should not be subject to future change as the initial classification was seen as a potential incentive to refiners to increase their heavy crude operations in order to bring about the concomitant increase in the refinery waste by-product. If this increase should happen, so the argument goes, markets for these by-products might open up because of demand by powerplants and installations that would otherwise be forbidden by FUA to burn petroleum.

If we were to accept this position, we would be doing substantial violence to the intent of FUA, the primary purpose of which is to increase use of alternate fuels while, in the case of petroleum, to reduce its use and its importation. Obviously, the action urged would encourage the use of petroleum in order to produce petroleum-derived products to be burned in boilers or other combustors. Such a result is directly contrary to the purposes of FUA. This "commercially unmarketable" exclusion was not intended to encourage the development of petroleum-derived products which happen to be only marginally commercially marketable. We further note that, for a refiner to increase its run of stills to heavier oils in order to increase the amount of the by-product and develop a market for such by-product, the result may be that he produces less lighter products, which we do not believe is desirable given the economics of production of both fuels.

The comments noted that in establishing the economic test for commercial unmarketability of a refinery by-product, we limited our criterion to whether the producer can obtain a price for the fuel which merely meets the costs of production and distribution. It was recommended that the criterion should be modified to take into account the cost of any necessary reprocessing of the by-product as well as a recompensation factor to cover the producer for the loss of the base in-plant fuel value. We intend that only the cost of any necessary reprocessing of the by-products to bring them up to commercial quality as well as storage and distribution costs be included in the cost of producing the fuels as we believe that the fixed production cost for an unavoidable by-product is properly viewed as zero. The interim regulations reflect this view (§ 507.4(e)). We will not, however, consider any recompensation of the producer for the loss of the waste by-product fuel due to its classification as petroleum.

Some of the comments raised the issue of whether a refinery waste by-product could not be commercially unmarketable by reason of quantity due to an overabundance of production, rather than insufficient or sporadic production. Heavy residual fuel oil refined from California and Alaskan North Slope crude oil in West Coast refineries was cited in the comments as an example of such an over-abundant waste by-product. In our discussion of the classification of heavy crude oils under the alternate fuels definition section of this Preamble, we explained why the heavy crudes must be considered "petroleum" within the FUA definition. Consequently, we are considering the heavy residual waste by-products coming from their refining to be petroleum. As for commercial unmarketability, the fact that there is a temporary excess of supply is perfectly consistent with commercial marketability. These are, in fact, well established items of commerce. No claims are made that these waste by-products are not of commercial quality or that there is no regular market for them. Rather, it is recognized that there is a market for these waste by-products, but that they are periodically unsalable due to a temporary excess. We do not believe that, in carrying out the FUA program, we should attempt to alleviate any temporary market situation by

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excluding such petroleum waste by-products from the petroleum definition (and thereby making them alternate fuels).

III. Procedural matters

A regulatory analysis of this interim rule set forth below, as contemplated by Executive Order No. 12044, is contained within the draft regulatory analysis of the regulation regarding new facilities proposed on November 9, 1978, 43 FR 53974. A final Environmental Impact Statement (FEIS) has been prepared pursuant to the National Environmental Policy Act (NEPA). Both the draft regulatory analysis and the FEIS may be obtained from ERA, 2000 M St., N.W., Room B110, Washington, D.C. 20461, (202) 634–2170.

This interim rule and FUA become effective on May 8, 1979. ERA believes that good cause exists to make this interim rule immediately effective in order that an exemption petitioner may file his petition.

These revised rules have been submitted to the Office of Management and Budget (OMB) for clearance under the provisions of the Federal Reports Act. Any compliance with the data collection provisions of these interim rules may require revisions of additions as a result of OMB's action.

(Department of Energy Organization Act, Pub. L. 95–91, 91 Stat. 565 (42 U.S.C. 7101 et. seq.); Powerplant and Industrial Fuel Use Act of 1978, Pub. L. 95–620, 92 Stat. 3289 (42 U.S.C. 8301 et seq.); E.O. 12009, 42 FR 4267)

In consideration of the foregoing, Parts 502, 503, 505, and 507, Subchapter E, "Alternate Fuels" of Chapter II, Title 10 of the Code of Federal Regulations as proposed on November 17, 1978 and January 29, 1979 are hereby revised and adopted effective May 8, 1979.

Issued in Washington, D.C., May 8, 1979.

David J. Bardin,

Administrator, Economic Regulatory Administration.

10 CFR Chapter II, Subchapter E, Parts 502, 503, 505 and 507 are hereby adopted as an interim rule.

Subchapter E—Alternate Fuels

PART 500—POLICY AND DEFINITIONS

Sec.
500.1 [Reserved]
500.2 Definitions—[Issued May 8, 1979 (44 FR 28538, May 15, 1979)]

PART 501—ADMINISTRATIVE PROCEDURES AND SANCTIONS

[Issued May 8, 1979 (44 FR 28538, May 15, 1979)]

PART 502—FUELS DECISION REPORT

Sec.
502.1 Purpose and scope.
502.2 General instructions.
502.3 Contents.
502.4 Introduction.
502.5 Fuels considered.
502.6 Alternative sites considered.
502.7 Evidence required for exemption requested.
502.8 Mixtures general requirement.
502.9 Alternate supply of electric power.
502.10 Fluidized bed combustion general requirement.
502.11 Petroleum and natural gas consumption.
502.12 Conservation measures.
502.13 Environmental impact analysis.

Authority: (Department of Energy Organization Act, Pub. L. 95–91, 91 Stat. 565 (42 U.S.C. 7101 et seq); Powerplant and Industrial Fuel Use Act of 1978, Pub. L. 95–620, 92 Stat. 3289 (42 U.S.C. 8301 et seq); E.O. 12009, 42 FR 4267).

PART 502—FUELS DECISION REPORT

§ 502.1 Purpose and scope.

(a) If you petition for a temporary or permanent exemption from the prohibitions of this Title, you must, except for the exception specified in § 502.1(d), submit as part of your petition a Fuels Decision Report. The purpose of the Fuels Decision Report is to demonstrate your eligibility for one or more exemptions and to provide ERA with additional information necessary to carry out the purposes of the Fuel Use Act (FUA) and the National Environmental Policy Act (NEPA).

(b) Where the exemptions you are seeking turn on the economic, technical or legal infeasibility of burning an alternate fuel, your Fuels Decision Report should demonstrate your eligibility for one or more exemptions, including your good faith efforts to avoid using petroleum or natural gas. In such instances, your Fuels Decision Report provides you the opportunity to demonstrate the ingenuity and professional judgment you used in attempting to find an energy source other than petroleum or natural gas which can serve your needs. The Fuels Decision Report describes the preliminary design analysis performed to make your fuels decision.

(c) We have not stipulated which alternate fuels you must consider for those exemptions which require alternate fuel examination.[9] Selection of fuels must reflect your needs and supply opportunities, but you must address all alternate fuels which reasonably warrant your in-depth consideration. The prepetition conference described in § 502.2(a) provides the opportunity to discuss the scope and kinds of fuels you must address in your Fuels Decision Report. The kinds of fuel you might consider could range from coal to any fuel (or mixture, if appropriate) that is not petroleum or natural gas. We do require that you describe not only the fuels you analyzed in-depth, but those you rejected, and the reasons you chose not to consider them further. Your Fuels Decision Report reflects a decision tree, in which a variety of alternatives are examined, but only a few are analyzed in depth.

(d) When you are requesting an exemption that requires a fuel search, your Fuels Decision Report must demonstrate that you rigorously explored and objectively evaluated all reasonable alternatives to oil or gas. It must clearly and concisely describe the process and methodology you used to search for, analyze, and evaluate each fuel you closely examined including documentation of feasibility reports, experts and sources used. The evidence you provide in support of your evaluation of each fuel considered in depth must be sufficient to demonstrate that you qualify for one or more exemptions, and must meet the eligibility and evidentiary requirements pertaining to the appropriate specific exemptions covered by this Title.

(e) The kinds of information which must be included in your Fuels Decision Report will differ depending on the kind of exemption or the type of unit under consideration. The information required is outlined in the evidentiary requirements of Parts 503, 504, 505 and 506 of these regulations. The following chart gives a brief indication of the substantive Fuels Decision Report (FDR) requirement for each exemption. No fuel search is required for category 1, 2, 3 and 5 exemptions. An alternate fuel search is required for category 4 exemptions.

Category 1:

(a) Mandatory permanent exemptions which primarily involve certification requirements:
(1) Peakload (for new powerplants).
(2) Emergency purposes.[10]
(3) Retirement (existing units).

Category 2:

(a) Temporary exemptions to statutory prohibitions and to final prohibition orders and rules (except retirement exemption).

(b) These exemptions require the following chapters of the Fuels Decision Report:
(1) § 502.4 Introduction.
(2) § 502.7 Evidence Required for Exemption Requested.
(3) § 502.12 Conservation Measures.

Category 3:

(a) Permanent end-use exemptions to statutory prohibitions and to final prohibition orders and rules:
(1) Mixtures.
(2) Cogeneration.
(3) Scheduled equipment outages (less than 21 days per year).
(4) Reliability of Service (for new powerplants).
(5) Product or process requirements.
(6) Peakload (for existing powerplants).
(7) Powerplants with less than 250 MMBtu capacity.
(8) Use of LNG.
(9) International pipelines.

(b) These exemptions require the following chapters of the Fuel Decision Report:
(1) § 502.4 Introduction.
(2) § 502.7 Evidence Required for Exemption Requested.
(3) § 502.8 Mixtures General Requirement (required by statute except mixtures, peakload for existing powerplants, use of LNG and international pipelines exemptions).
(4) § 502.9 Alternate Supply of Electric Power (required by statute for new powerplants except cogeneration exemption).
(5) § 502.10 Fluidized Bed Combustion General Requirement (required by statute except mixtures, peakload for existing powerplants, use of LNG, and international pipelines exemptions) (applicable only if ERA has made finding).
(6) § 502.11 Petroleum and Natural Gas Consumption (except cogeneration exemption).
(7) § 502.12 Conservation Measures.
(8) § 502.13 Environmental Impact Analysis.

Category 4:

(a) Permanent general exemptions and certain discretionary exemptions to statutory prohibitions and to final prohibition orders and rules:
(1) Lack of alternate fuel for first 10 years of useful life.
(2) Lack of alternate fuel at a cost which does not substantially exceed.
(3) Site limitations.
(4) Environmental requirements.
(5) Lack of adequate capital.
(6) State or local requirements.
(7) Intermediate load.
(8) Scheduled equipment outages (more than 21 days per year).

(b) These exemptions require the following chapters of the Fuels Decision Report:
(1) § 502.4 Introduction.
(2) § 502.5 Fuels Considered.
(3) § 502.6 Alternative Sites Considered (for new powerplant exemptions except scheduled equipment outages).
(4) § 502.7 Evidence Required for Exemption Requested (one chapter for each exemption requested and, where applicable, for each exemption requested for an alternative site).
(5) § 502.8 Mixtures General Requirement (required by statute).
(6) § 502.9 Alternate Supply of Electric Power (required by statute for new powerplant exemptions plus state or local requirements and intermediate load exemptions for existing powerplants).
(7) § 502.10 Fluidized Bed Combustion General Requirement (required by statute).
(8) § 502.11 Petroleum and Natural Gas Consumption.
(9) § 502.12 Conservation Measures.
(10) § 502.13 Environmental Impact Analysis.

Category 5:

(a) Temporary or permanent exemption to a proposed prohibition order or rule.

(b) No Fuels Decision Report is required although you must submit adequate information to demonstrate you would be eligible for an exemption if the order or rule were finalized.

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§ 502.2 General instructions.

(a) *Prepetition conference.* (1) You may request an informal prepetition conference with ERA to clarify any questions you may have concerning your request for exemption, to discuss whether your Fuels Decision Report must contain all of the chapters and information required by this Part, or, when a fuel search is required, to consider which fuels in the opinion of the ERA staff warrant in-depth examination. Such a conference should be requested in accordance with § 501.2 of these regulations. We retain the right to waive some of the requirements for the contents of the Fuels Decision Report if we determine that the purposes of the Act are best achieved by doing so. The grounds upon which we might consider waiving certain requirements could include:

(i) The burden of meeting such requirements could be excessive for a small firm or for a new firm;

(ii) The burden of meeting such requirements could be excessive for a petitioner requesting a certain type of exemption; or

(iii) Other reasons as determined by ERA.

(2) After the prepetition conference, we will prepare a written memorandum of record identifying any requirements of the Fuels Decision Report which we agree to waive. We will mail a copy of the memorandum of record to you within 30 days of the prepetition conference. If you file a petition for exemption, you must include a copy of the memorandum of record in your Fuels Decision Report. We also reserve the right to request any additional information that may be necessary once you have filed your petition.

(b) *Writing and organization.* Prepare your Fuels Decision Report as follows:

(1) You should discuss impacts in proportion to their significance. There should only be a brief discussion of minor issues.

(2) Your Fuels Decision Report should be concise, and be no longer than necessary to comply with these regulations. It should express the results of professional engineering analysis. It should also convey those results in language that is understandable to the serious lay public.

(c) *Incorporation by reference.* You may incorporate into your Fuels Decision Report by reference when to do so will cut down on the bulk without impeding agency and public review of the Report. You must cite the incorporated material in the Report and briefly describe its content. Whenever you are citing material contained in the appropriate forms you have filed, you must indicate the name of the form, its date, and the page and section number that contains the material cited. You may not incorporate any material by reference unless it is submitted with

[9] We plan to initiate rulemaking proceedings to identify and define alternate fuels which should generally be considered, including new technologies as they become available. Case-by-case definition of appropriate alternate fuels would be an appropriate subject for prepetition conferences under § 502.2(a) of these regulations.

[10] Pursuant to the Act, Part 501, Subpart M, provides for your actions in emergency when you have not previously obtained an emergency exemption.

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your petition or has been submitted previously to DOE. If it has been previously submitted to DOE, you must identify the office to which it was submitted. You may not incorporate by reference any material based on proprietary data which is itself not available for review and comment.

(d) *Relationship between Fuels Decision Report and forms.* In most cases, the Fuels Decision Report and the appropriate forms will constitute your petition for exemption. Your Fuels Decision Report will contain the analysis, evidence, and documentation required to support your request for exemption. The forms will contain summary data and quantitative information which will be used to screen your petition for eligibility, adequacy and accuracy, and to ensure that you provide the detailed information needed for analysis. The forms you submit must reference the appropriate chapters and pages in your Fuels Decision Report where the explanation, justification, and back-up material supporting the information contained in the forms can be found. You may also reference the forms in your Fuels Decision Report, and incorporate them in your Report if appropriate.

§ 502.3 Contents.

Your Fuels Decision Report must contain:

(a) *Cover Sheet.* (1) The name of the petitioner.

(2) The name and location of the unit for which an exemption is being requested.

(3) The specific exemption(s) being requested.

(4) The name, address, and telephone number of the person who can supply further information.

The appropriate general form may be substituted for the cover sheet.

(b) *Table of contents.* Include a table of contents representing the contents as follows. Only include those chapters which are applicable to your exemption request(s).

Chapters

(i) Cover sheet (or general form).

(1) Introduction.

(2) Fuels Considered.

(3) Alternative Sites Considered.

(4) Evidence Required for Exemption(s) Requested (If more than one exemption is requested, subchapters could be included).

(5) Mixtures General Requirement.

(6) Alternate Source of Power General Requirement.

(7) Fluidized Bed Combustion General Requirement.

(8) Petroleum and Natural Gas Consumption.

(9) Conservation Measures.

(10) Environmental Impact Analysis.

(A–1) List of Preparers and Certifications.

(A–2) References.

(A–3) Appendices.

(c) *List of preparers and certifications.* (1) List the names, together with the qualifications and professional disciplines, of the principal contributors to the preparation of the Fuels Decision Report. Indicate the chapters or subject matters for which each principal contributor was responsible.

(2) Include a statement signed by your duly authorized representative that certifies that the principal contributors to the report have been informed that they may be questioned orally or in writing under oath in a public hearing concerning the portions of the Report for which they had responsibility.

(3) Briefly describe the process by which petitioner decided to seek an exemption, identify the persons and organizations primarily responsible for the decision and their reporting relationship within the corporation.

(d) *References.* (1) List the references which identify the reports, documents, experts, and other sources you consulted in compiling the Report. Cite these sources in accordance with acceptable documentation standards, including references to the part of the report to which they apply. If the source is unusual or little known, briefly describe its contents. Also, cite the documents enclosed as appendices and their relationships to the report.

(2) Identify at the end of each chapter of the Fuels Decision Report any information or any statement based in whole or in part on information or principles which, to your knowledge, represent significant innovations to or departures from generally accepted facts or principles.

(e) *Appendices.* Include in the appendices material which you believe substantiates any analyses fundamental to the Report, materials prepared in connection with the Report, and any other documents, studies or analyses which you believe are analytic and relevant to the decision to be made. Also include in the appendices copies of the forms you submit as part of your petition.

§ 502.4 Introduction.

This chapter is intended to give ERA a quick overview of your firm, what your firm does, and what the unit for which you are requesting an exemption is like. The purpose of this chapter is to provide a context for the remainder of the Report.

(a) Brief description of your corporation;

(b) Description of your operation at the facility under consideration; and

(c) Standard engineering description of the unit and the fuel you propose to burn in that unit, including:

(1) Description of the unit;

(2) Purpose of and need for the unit; and

(3) Operational requirements for the unit, including size (capacity, input and output in million Btu's per hour), output in terms of product or service to be supplied, and operating mode, including capacity factor, utilization factor, and fluctuations in the load.

§ 502.5 Fuels considered.

(a) If you are requesting a category 4 exemption, you must conduct a fuel search and include this chapter. The purpose of this chapter is to summarize the fuels you considered, to identify those you believed were worth considering in depth and those you rejected, and to describe briefly the reasons you rejected further consideration of certain fuels. You should request an exemption based upon your inability to use any fuel you did not reject, and prepare the chapter described in Section 502.7 for that exemption request.

(b) Identify and describe the alternate fuels and mixtures you considered. Also identify the fuel you would use if the exemption were granted. Briefly describe the types of fuels you considered, their fuel characteristics, types of units (boiler, combined cycle, etc.) and equipment needed for each fuel, quality and quantities of fuel, and other relevant considerations. Provide a clear and concise explanation of why you selected each fuel for consideration as well as a brief discussion of why you did not consider further any other alternate fuels.

§ 502.6 Alternative sites considered.

(a) If you are requesting a category 4 exemption for a new powerplant (except a scheduled equipment outage exemption), you must include this chapter in your Fuels Decision Report. The purpose of this chapter is to summarize the alternative sites you considered, to identify those you believed were worth examining in-depth and those you rejected, and to briefly describe the reason you rejected further consideration of certain sites.

(b) Identify and describe the alternative sites you examined and the alternate fuel you considered for use at each site. Provide a clear and concise explanation of the approach and methodology you used for selecting and evaluating each site, in accordance with the evidentiary requirements set forth in § 503.11 of these regulations. Also briefly address the reasons you rejected consideration of other alternative sites.

§ 502.7 Evidence required for exemption requested.

(a) If you are requesting a category 2, 3, or 4 exemption, you must include this chapter (and appropriate subchapters if you desire) in your Fuels Decision Report. The purpose of this chapter is to set forth the evidence supporting the required showings you must meet for any exemption you request. You must prepare this chapter for each exemption you are requesting.

(b) If you are requesting a category 2 exemption, this chapter must include your compliance plan as well as the evidence required for the exemption.

(c) If you are requesting a category 3 exemption, this chapter must contain sufficient information to meet the evidentiary requirements set forth in the regulation pertaining to the specific exemption you are requesting.

(d) If you are requesting a category 4 exemption, you must conduct a fuel search and prepare this chapter for each alternate fuel you considered in-depth as a reasonable option, and which provides the basis for each exemption you are requesting. For example, if you determined that coal, low Btu gas derived from coal, and solar energy were reasonable alternatives, but that technical, legal, or economic constraints prevented you from using them and made you eligible for a permanent exemption, you would prepare Evidence Required for Exemption Requested chapters for each exemption you request. Each chapter would meet the evidentiary requirements set forth for the exemption being requested based upon the fuel addressed in that chapter. The remainder of the fuels you examined—those you determined did not warrant in-depth consideration or were not reasonable alternatives—would be addressed in the Fuels Considered chapter.

(e) If you are requesting a category 4 exemption for a new powerplant, (except a scheduled outage exemption), you must meet the alternative site requirement. To do so, you must conduct a fuel search and the alternative site search required in § 503.11 of those regulations. You must prepare Evidence Required for Exemption Requested chapters not only for any exemptions you request based on fuels you examined for your proposed site, but for any exemptions you may request based upon your inability to use alternate fuels at alternative sites.

§ 502.8 Mixtures general requirement.

If you are requesting a category 3 or 4 exemption, (except for the mixtures, peakload for existing powerplants, use of LNG or international pipelines exemptions), you must include this chapter in your Fuels Decision Report. In accordance with §§ 503.9, 504.14, 505.7, or 506.14, as appropriate, demonstrate that use of a mixture(s) is not economically or technically feasible. The mixture(s) you examine must be eligible for a mixtures exemption under whichever of §§ 503.38, 504.36, 505.28, or 506.36, that applies to the unit under consideration.

§ 502.9 Alternate supply of electric power.

If you are requesting a category 3 or 4 exemption for a new powerplant, (except for a cogeneration exemption), or a state or local requirement or intermediate load exemption for an existing powerplant, you must include this chapter in your Fuels Decision Report. In accordance with § 503.7 or § 504.13, as appropriate, of these regulations, demonstrate that despite reasonable good faith efforts, there is no alternate supply of electric power which is available within a reasonable distance at a reasonable cost without impairing short-run or long-run reliability of service. This showing must describe a diligent effort to reduce the need for the power from your proposed plant by implementing within your system whatever conservation measures are available and cost effective.

§ 502.10 Fluidized bed combustion general requirement.

If ERA has made a site-specific or generic finding that the use of a method of fluidized bed combustion of an alternate fuel is financially and technically feasible, and if you are requesting a category 3 or 4 exemption (except for a mixture, peakload for existing powerplants, use of LNG, or international pipelines exemption), you must include this chapter in your Fuels Decision Report. In accordance with §§ 503.10, 504.16, 505.8, or 506.16, as appropriate, demonstrate that the use of a method of fluidized bed combustion of an alternate fuel is not economically or technically feasible.

§ 502.11 Petroleum and natural gas consumption.

(a) If you are requesting a category 3 or 4 exemption (except cogeneration), you must complete this chapter. The purpose of this chapter is not to determine whether you are eligible for an exemption, but to provide information to ERA in carrying out the purposes of FUA. Among the ways ERA intends to use this information are development of terms and conditions for exemptions, development of terms and conditions and other ERA responses appropriate to national emergencies, establishment of aggregation jurisdiction, selection of candidates for prohibition rules and orders, and development of enforcement strategies.

(b) Identify your current and projected petroleum and/or natural gas consumption for the unit for which you are requesting an exemption, and for the facility at which the unit is located. Provide the following information:

(1) How many units do you have at the facility under consideration which burn petroleum or natural gas (including the unit for which the exemption is requested), what is their nameplate and net dependable capacity and current level of total annual fuel consumption?

(2) What are your retirement plans for your existing oil and gas units at the facility under consideration?

(3) What are your projected (through 1990) annual levels of consumption of petroleum and natural gas (by fuel type and barrel of Mcf per year) for the unit under consideration and for all existing oil and gas units at the site under consideration?

(c) Are any alternate fuels being consumed at the site? If so, identify the fuels, identify in what units the alternate fuels are being burned, and identify the quantities of alternate fuels being used.

(d) If you are requesting an exemption which would allow you to use petroleum, identify the minimum amount of oil you would need for the unit under consideration in the event of a national emergency, such as a foreign supply interruption, which results in the reimposition of petroleum allocation controls. Also identify your plans and alternate courses of action during a national emergency if you were to be prohibited from using oil in that unit during such an emergency. For both the unit under consideration and the facility at which it is located, describe your fuel switching plans and capabilities.

§ 502.12 Conservation measures.

(a) If you are requesting a category 2, 3, or 4 exemption, you must include this chapter in your Fuels Decision Report. The purpose of this chapter is to provide us with sufficient information to assist us to identify any conservation measures which should be included in

Subpart B—General Requirements for

using the procedures specified in the

using imported petroleum with

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the terms and conditions we may impose if we grant you an exemption.

(b) Identify, describe and document any conservation measures you have taken or intend to take to minimize the use of oil or gas if this exemption is granted. Outline the conservation measures you intend to take, and the conservation goals you have set for yourself, for the unit under consideration, and for the facility at which the unit is or will be located. Conservation measures entail either reduction in consumption of oil and gas or increased efficiency in the utilization of oil and gas. Such measures can range from housekeeping measures to replacement of inefficient units. Such measures also could include the use of mixtures of gas or oil and alternate fuels, and new more efficient technologies. Your description of the measures you intend to use should be detailed and should include comparative consumption figures, identification of conservation equipment or techniques, proposed manner of use, proposed date of use, cost, and expected benefits and problems.

§ 502.13 Environmental impact analysis.

(a) In order to aid us in fulfilling our responsibilities under the National Environmental Policy Act (NEPA), you must include this chapter in your Fuels Decision Report if you are requesting an exemption which the Act did not exempt from compliance with NEPA. The exemptions subject to NEPA are all permanent exemptions for new powerplants or installations, and permanent exemptions from a statutory prohibition or a final prohibition rule or order for existing powerplants or installations relating to cogeneration, scheduled equipment outages, state or local requirements, or intermediate load powerplants. Material which has been prepared pursuant to any Federal, state or local requirement for environmental information for this unit or site may be incorporated by reference in this chapter and appended to the Fuels Decision Report.

(b) ERA has issued proposed detailed guidelines for environmental reports which should be used to prepare this Environmental Impacts Analysis chapter. They, and any revisions thereto, will be available in the ERA Public Document Room. These guidelines are subject to discussion and waiver at a pre-petition conference. In general, this chapter must contain the following:

(1) A description of the Federal, state and local requirements including air emission, water discharge, and waste disposal limitations which you must meet for each fuel considered;

(2) An identification of the equipment and facilities needed to meet the environmental requirements for each fuel considered;

(3) A clear and concise description of the existing site, and, in the case of new powerplants, alternative site(s) environments which may be affected by the grant or denial or your petition for exemption, including any pertinent summary technical data, maps, and diagrams;

(4) A detailed description of the probable environmental impacts resulting from the grant or denial of your petition, including direct and indirect impacts (including indirect increases or decreases in oil consumption attributable to the grant of your petition), and beneficial and negative impacts; and

(5) A discussion of how the grant or denial of your exemption would conform to or conflict with any existing or proposed Federal, state or local land use plans, policies or controls.

PART 503—NEW ELECTRIC POWERPLANTS

Subpart A—Statutory Prohibitions

Sec.
503.1 Purpose and scope.
503.2 Statutory prohibitions.

Subpart B—General Requirements for Exemptions

503.3 Purpose and scope.
503.4 Fuels decision report.
503.5 Cost calculations for new powerplants.
503.6 State approval required for powerplant.
503.7 No alternate power supply—general requirement for certain permanent exemptions.
503.8 [Reserved]
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503.10 Use of fluidized bed combustion not feasible—general requirement for permanent exemptions.
503.11 Alternative sites—general requirement for permanent exemptions.
503.12 Terms and conditions; compliance plans.

Subpart C—Temporary Exemptions for New Powerplants

503.20 Purpose and scope.
503.21 Lack of alternate fuel supply.
503.22 Site limitations.
503.23 Inability to comply with applicable environmental requirements.
503.24 Future use of synthetic fuels.
503.25 Public interest exemption.

Subpart D—Permanent Exemptions for New Powerplants

503.30 Purpose and scope.
503.31 Lack of alternate fuel supply for the first 10 years of useful life.
503.32 Lack of alternate fuel supply at a cost which does not substantially exceed the cost of using imported petroleum.
503.33 Site limitations.
503.34 Inability to comply with applicable environmental requirements.
503.35 Inability to obtain adequate capital.
503.36 State or local requirements.
503.37 Cogeneration.
503.38 Permanent exemption for certain fuel mixtures containing natural gas or petroleum.
503.39 Emergency purposes.
503.40 Permanent exemption for powerplants necessary to maintain reliability of service.
503.41 Peakload powerplants.
503.42 Intermediate load powerplants.

Authority: (Department of Energy Organization Act, Pub. L. 95-91, 91 Stat. 565 (42 U.S.C. 7101 et seq); Powerplant and Industrial Fuel Use Act of 1978, Pub. L. 95-620, 92 Stat. 3289 (42 U.S.C. 8301 et seq); E.O. 12009, 42 FR 4267).

PART 503—NEW ELECTRIC POWERPLANTS

Subpart A—Statutory Prohibitions

§ 503.1 Purpose and scope.

This subpart sets forth the statutory prohibitions imposed by the Act upon new electric powerplants. The prohibitions set forth in this subpart apply to all new electric powerplants, as defined in § 500.2 unless an exemption has been granted by ERA under Subparts C and D of this Part. Any person who owns, controls, rents, or leases a powerplant is subject to the prohibitions imposed and the sanctions provided for by the Act or these prohibitions.

§ 503.2 Statutory prohibitions.

(a) Section 201 of the Act prohibits, unless an exemption has been granted under Subparts C or D of this Part, the following:

(1) The use of petroleum or natural gas as a primary energy source in any new electric powerplant; and

(2) The construction of any new powerplant without the capability to use an alternate fuel as a primary energy source.

(b) For purposes of this prohibition, construction with the capability to use an alternate fuel means that the powerplant to be constructed must be able to use, in compliance with applicable environmental requirements, an alternate fuel as the primary energy source at the time it becomes operational or at the expiration of a temporary exemption (see Definitions, § 500.2).

Subpart B—General Requirements for Exemptions

§ 503.3 Purpose and scope.

This subpart establishes the general requirements necessary to qualify for either a temporary or permanent exemption under this Part and sets out the methodology for calculating the cost of using an alternate fuel and the cost of using imported petroleum.

§ 503.4 Fuels decision report.

(a) Before ERA will accept a petition for either a temporary or permanent exemption under this Part, you must include as part of your petition a Fuels Decision Report as described in Part 502, unless you are requesting a peakload or emergency purposes exemption. The Fuels Decision Report shall contain the analysis and documentation of the evidence required in support of your exemption request.

(b) Your petition may contain more than one exemption request. In this case, your petition would include one Fuels Decision Report which addresses your considerations and the appropriate forms for the exemptions you are requesting.

§ 503.5 Cost calculations for new powerplants.

(a) *General.* (1) This calculation compares the cost of using alternate fuel to the cost of using imported petroleum. Its purpose is to provide ERA with a mechanism for deciding when noneconomic investments are acceptable in the best interests of the United States.

(2) The cost of using an alternate fuel in lieu of imported petroleum as a primary energy source will be deemed to be substantially in excess of the cost to use imported petroleum where the ration of the former to the latter is greater than the index set periodically by ERA.

(3) The index is currently 1.3. ERA will revise the index from time to time after public notice and an opportunity to comment. Revisions shall become effective for all ERA decisions after final publication; however, the relevant index for a specific petition will be the index in effect at the time the petition is submitted, or the index in effect at the time a decision is rendered, whichever is lower.

(4) The cost test takes into consideration cash outlays for capital investments and annual expenses, and the effect of depreciation and taxes on cash flow. There are two comparative cost tests—a general cost test and a special cost test. You must demonstrate eligibility for a permanent exemption using the procedures specified in the general cost test (paragraph (b)). You must demonstrate eligibility for a temporary exemption using the procedures specified in the general cost test (paragraph(b)) or the special cost test (paragraph(c)).

(5) The general cost test differs from the special cost test with respect to the time period over which costs are calculated and the types of fuel consuming equipment being considered. When using the general cost test, the cost must be computed for the useful life of the powerplant. When using the special cost test, the cost is computed only for the term of the exemption. In the general cost test, the proposed oil or natural gas powerplant consuming oil or natural gas is compared with an alternate fuel-capable powerplant of the same capacity consuming that alternate fuel. In the special cost test, an alternate fuel-capable powerplant consuming oil or natural gas is compared with an alternate fuel-capable powerplant consuming that alternate fuel.

(b) *Cost calculation—general cost test.* (1) You may be eligible for a permanent exemption if you demonstrate that the cost of using an alternate fuel starting with each successive year within the first 10 years of operation will always substantially exceed the cost of using imported petroleum over the useful life of the powerplant. You will have to show that the cost of using an alternate fuel, starting in each of the first 10 years of operation and using oil or natural gas until the start of using an alternate fuel, substantially exceeds the cost of using only imported petroleum.

(2) ERA will not grant a permanent exemption if a temporary exemption is warranted. Therefore, if the cost computed with successive starting dates for alternate fuel use (for the first 10 years of operation) does not always substantially exceed the cost of using imported petroleum, you would only be eligible for a temporary exemption. The length of the temporary exemption would be for a minimum period where the cost of starting to use alternate fuel always substantially exceeds the cost of using imported petroleum. For example, if you plan to burn coal and it cannot be obtained at a reasonable price for 2 years after the installation of the powerplant designed to burn coal and oil, DOE may grant a temporary exemption and allow the burning of oil for 2 years.

(3) To conduct the test, you must use the equations that follow.

(i) Calculate the ratio (R) of the cost of using an alternate fuel to the cost of using imported petroleum with equation 1.

$$\text{EQ 1} \qquad R = \frac{\text{COST (ALTERNATE)}}{\text{COST (OIL)}}$$

(ii) Calculate the cost of using an alternate fuel and imported petroleum with equation 2.

$$\text{EQ 2} \qquad \text{COST} = 1 + \sum_{i=1}^{N} \frac{(OM_i + FL_i)(1 - t) - t'DPR_i}{(1 + K)^i}$$

(iii) Calculate the capital investment using equation 3.

$$\text{EQ 3} \qquad I = \sum_{i=-g}^{N} \frac{I_i - ITC_i - S_i}{(1 + K)^i}$$

imported crude oil as reported in the

(4) The terms in equations 2 and 3 are defined as follows:

i = Year. Outlays before the plant becomes operational are future valued to the year before the plant becomes operational (year 0) and outlays after the plant becomes operational are present valued to the year before the plant becomes operational.

g = The number of years prior to the year before the plant becomes operational a cash outlay is made for capital investments or investment tax credit is used.

N = The useful life of the powerplant (see section d).

I_i = Yearly cash outlay (in dollars) from the year outlays first occur to the last year of the plant's useful life for capital investments. See section (d) for the equipment which must be included.

OM_i = Annual cash outlay in year i (in dollars) for all operations and maintenance expenses except fuel (i.e., all non-capital and non-fuel cash outlays caused by putting the capital investments into service). May include labor, materials, insurance, taxes (except income taxes), etc. (See section d.)

S_i = Salvage value of capital investment (in dollars) in year i.

FL_i = Annual cash outlay for delivered fuel expenses (in dollars) in year i (see section d).

K = The discount rate expressed as a fraction (see section d).

ITC_i = Federal investment tax credit resulting from capital investments, used in year i (see section d).

DPR_i = Depreciation in year i (see section d).

t = Marginal income tax rate (see section d).

(5) Fuel transportation expenses are part of delivered fuel expenses except where you must acquire capital equipment to deliver the fuel. The cash outlays for this equipment are included in the capital outlay terms. Similarly, the expense of delivering power to your service area must be included as an annual cash outlay unless you must construct transmission facilities, in which case you must include these outlays in the capital outlay term.

(6) The step-by-step procedure that follows shows the comparison that you must make. It outlines the equipment and fuel comparisons, as well as the time comparisons.

(i) Compute the cost (COST) of using an alternate fuel in an alternate fuel-capable powerplant throughout the useful life of the powerplant with equation 2.

(ii) Compute the cost (COST) of using oil or natural gas in an oil or natural gas-fired powerplant throughout the useful life of the powerplant with equation 2.

(iii) Compute the ratio (R) of the cost of using an alternate fuel throughout the useful life of the powerplant to the cost of using oil or natural gas throughout the useful life of the powerplant with equation 1. If the ratio (R) is equal to or less than 1.3. the index set by ERA, you are not eligible for a permanent or temporary exemption using the general cost test and need not complete the remainder of the calculation.

(iv) Compute the cost (COST) of using an alternate fuel in an alternate fuel and oil or natural gas-capable powerplant with equation 2 assuming an alternate fuel is not used as the primary energy source until the end of the first year of operation and that oil or natural gas is used for the first year of operation. All cash outlays should reflect postponed use of alternate fuel (e.g., installation of scrubber when used).

(v) Successively compute the cost (COST) of using an alternate fuel in an alternate fuel and oil or natural gas-capable powerplant with equation 2 assuming alternate fuel is postponed until the end of the second through tenth year of operation (and oil or natural gas is used in the years preceding alternate fuel use).

(vi) Compute the ratios (R) of the cost of using an alternate fuel successively at the end of the first through tenth year to the cost of using oil or natural gas throughout the life of the powerplant with equation 1.

(vii) If all the ratios (R) computed in C and F are greater than 1.3 (an index to be set periodically by ERA), your proposed powerplant would meet the cost criteria for a permanent exemption. If one or more or the ratios (R) is equal to or less than 1.3 and a series of ratios (R), starting with the case where alternate fuel is used from the start of operation, are all greater than *1.3*, a temporary exemption would be granted for the minimum period in which the cost of starting to use alternate fuel, deferred year by year, always exceeds *1.3*.

(7) The following table shows the hypothetical results of four sets of calculations, assuming the index set by ERA is *1.3*.

Hypothetical Results of Four Sets of Calculations

Year in which alternate fuel use is commenced	Case I	Case II	Case III	Case IV
At start of operation:				
1	1.4	1.6	1.5	1.1
2	1.5	1.7	1.5	1.2
3	1.3	1.6	1.4	1.2
4	1.3	1.5	1.3	1.1
5	1.2	1.5	1.4	1.1
6	1.2	1.4	1.4	1.1
7	1.1	1.4	1.5	1.1
8	1.1	1.4	1.5	1.1
9	1.0	1.4	1.6	1.1
10	1.0	1.4	1.6	1.1

The results of the above table shows that: a 2-year temporary exemption would be granted in Case I, a permanent exemption would be granted in Case II, a 3-year temporary exemption would be granted in Case III, and no exemption would be granted in Case IV.

(c) *Cost calculations—special cost test.* (1) You may be eligible for a temporary exemption if you demonstrate that the cost of using an alternate fuel in an alternate fuel-capable powerplant will substantially exceed the cost of using oil or natural gas in an alternate fuel-capable powerplant over the period of the proposed exemption. The period of the exemption cannot exceed 10 years. You will have to show that the cost of using an alternate fuel substantially exceeds the cost of using imported petroleum for the first year of operation, the first 2 years of operation, and successive first years of operation, up to the period of the proposed exemption. To do so, you must perform the calculations with successive ending dates to determine the maximum length of the exemption. ERA will limit the duration of a temporary exemption to the shortest time possible.

(2) To conduct the test, you must use the equations that follow.

(i) Calculate the ratio (R) of the cost of using an alternate fuel to the cost of using imported petroleum with equation 4.

EQ 4

$$R = \frac{\text{COST (ALTERNATE)}}{\text{COST (OIL)}}$$

(ii) Calculate the cost using equation 5.

EQ 5

$$\text{COST} = 1 \times \frac{\sum_{i=1}^{P} (1+K)^{-i}}{\sum_{i=1}^{K} (1+K)^{-i}} + \sum_{i=1}^{P} \frac{(OM_i + FL_i)(1-t) - t \cdot DPR_i}{(1+k)^i}$$

(3) The terms in equation 5 are the same as in equation 2 above with the addition of: P = The length of the proposed temporary exemption.

(4) The step-by-step procedure that follows shows the comparisons you must make.

(i) Compute the cost (COST) of using an alternate fuel in an alternate fuel-capable powerplant assuming the length of the proposed exemption as 1 year with equation 5.

(ii) Compute the cost (COST) of using oil or natural gas in an alternate fuel and oil or natural gas-capable powerplant assuming the length of the proposed exemption is 1 year with equation 5.

(iii) Compute the ratio (R) of the cost of using an alternate fuel for the first year to the cost of using imported petroleum for the first year with equation 4.

(iv) Repeat the calculations made in A, B, and C above assuming the length of the proposed exemption is 2 years, 3 years, 4 years, and so on, up to the period of the proposed exemption.

(v) A temporary exemption would be granted when all the ratios (R) are greater than 1.3 (the index established by ERA).

(d) *Information on parameters used in the calculation.* (1) All estimated expenditures, except natural gas, and petroleum products, shall be expressed in real (uninflated) terms by using the prices in effect at the time the petition is submitted.

(2) The delivered price of oil or natural gas used in the calculation of delivered fuel expenses must reflect the price of imported oil.

(i) If you plan to use 100 percent domestic [11] petroleum product in your facility, compute your petroleum product price with the following equation:

PFE = PF + PICO − PCCO

where:

PICO = Price of imported crude oil. The most recent refiner acquisition cost of imported crude oil as reported in the Federal Register monthly notice for the DOE Domestic Crude Oil Allocation (Entitlements) Program.

PCCO = Price of composite crude oil. The most recent weighted average cost of total reported crude oil receipts as reported in the Federal Register notice for the DOE Entitlements Programs.

PF = Price of your fuel (f.o.b. your facility). The most recent actual weighted average cost of your fuel (other than natural gas). Alternatively, if no purchases of fuel oil occurred, or you used natural gas during that month, you should use a simple average of the industrial price of fuel oil (capable of being burned in your facility) sold in your area by at least three suppliers.

PFE = Price of fuel for use in the cost calculation.

(ii) If you plan to use 100 percent imported petroleum product in your facility, compute your petroleum price with the following equation:

PFE = PF + ENT

Where:

ENT = ½ × E_p × DOSR. For residual fuel oil if an entitlement has been received by the importer.

ENT = 0. For all other products or if an entitlement has not been received by the importer.

e_p = Entitlement price reported in the Federal Register monthly notice for the DOE Entitlements Program.

DOSR = National domestic oil supply ratio reported in the Federal Register monthly notice for the DOE Entitlements Program.

(iii) If you plan to use a combination of domestic and imported petroleum product in your facility, you may use the price computed with the formula in (d)(2)(i) of this section or you may use a weighted average of the prices computed with the formulas in (d)(2)(i) and (ii) of this section.

(iv) If you plan to use natural gas in your facility, you must use the formula in (d)(2)(i) of this section and the price of No. 6 residual fuel oil, which meets the air quality standards in your area, as the price of fuel.

(3) Capital investments (I) must include all items which are capital investments for Federal income tax purposes. All purchased equipment which has a useful life greater than 1 year, capitalized engineering costs, land, construction, environmental offsets, fuel inventory, [12] transmission facilities, etc., that are required to be able to use the powerplant must be included. However, an item may only be included if a cash outlay is required after the decision has been made to build the powerplant. [13]

(4)(i) The operations and maintenance expenses (OM_i) and the fuel expenses (FL_i) can be computed by either of two methods, however, the one chosen must be consistently applied throughout the analysis: (A) assume an annual capacity factor of 70 percent of design capacity for the life of the plant and compute cash outlays for operations and maintenance expenses and fuel expenses on a single powerplant basis; or (B) determine the incremental increase in cash outlays for operations and maintenance expenses and fuel expenses that would occur in your region by the addition of the powerplant. The incremental increases will be computed by economically dispatching all powerplants in the region. The regional incremental increases in cash outlays would then be the operations and maintenance expenses and fuel expenses for the purposes of the cost calculation. The petitioner may economically dispatch the region for either the entire life of the powerplant and use each year's incremental increase or economically dispatch the region for the first 10 years of operation and use the average of those 10 incremental increases. The region must be your electrical region unless you can show such integrated operation is unlikely to be achieved

[11] For the purposes of the regulation, the Virgin Islands, Puerto Rico, and the U.S. Territories and possessions are domestic sources.

[12] The following fuel supplies must be included: (a) all powerplants with only steam driven turbines—78 days, (b) all powerplants with only combustion turbines—162 days, and (c) all powerplants with combined cycles—both steam driven turbines and combustion turbines—162 days.

[13] E.g., if in 1982 you are filing for an exemption to use petroleum in a (statutorily) new powerplant which became operational in 1981, you must include all the cash you have already disbursed as well as the cash you will disburse.

capable powerplant to the cost to use oil

(2) The additional cash flows required

(1) When burning oil:

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midway through the useful life of the powerplant and you can propose an acceptable alternative.

(ii) If you use the first methodology, the operations and maintenance expenses must include both the fixed and variable components.

(iii) If you use the second methodology, you will have to certify, subject to penalties, that the proposed plant will not use more oil than you showed it would use in the dispatch analysis.

(5) The discount rate (K) is 2.9 percent. ERA will change the discount rate from time to time after public notice and an opportunity to comment. Revisions shall become effective after final publication; however, the relevant discount rate for a specific petition will be the discount rate in effect at the time the petition is submitted.

(6)(i) The useful life (N) of a coal, oil or natural gas-fired powerplant will be 35 years. The useful life of a nuclear powerplant will be 40 years. The useful life of other alternate fuel powerplants shall be presumed to be 35 years. You may rebut this presumption with suitable engineering evidence.

(ii) If the powerplants being compared have different useful lives, you will have to modify your general cost test calculation so that the two cash flows being compared have the length of the longer useful life. To do this, you must multiply the cost—computed with equation 2—of the facility with the shorter life by the following adjustment factor (A):

$$A = \frac{\sum_{i=1}^{O} (1+k)^{-i}}{\sum_{i=1}^{M} (1+k)^{-i}}$$

where:

M = The useful life of the facility with the shorter life,

O = The useful life of the facility with the longer life, and

K = The discount rate.

(7) All Federal investment tax credit (ITC) will be applied consistently throughout the analysis in a manner consistent with Federal tax laws in effect at the time the petition is submitted.

(8) Depreciation (DPR) will be applied consistently throughout the analysis in a manner consistent with the Federal tax laws in effect at the time the petition is submitted. In general, accelerated depreciation cannot be used for gas- or oil-fired boilers. For alternate fuel fired facilities, you must use the most rapid depreciation permitted by law.

(9) The marginal income tax rate (t) is the firm's marginal Federal income tax rate for the year the petition is submitted.

(10) The design capacity of the plants being compared must be the same.

(11) All estimated cash outlays will be computed in accordance with generally accepted accounting principles.

(e) *Evidence in support of the comparative cost test.* All petitions for exemption requiring the use of the comparative cost test shall include, but not be limited to, the following information:

(1) A detailed accounting of all cash outlays, investment tax credits, and anticipated salvage for capital investments. Include a description and cost estimate of all major construction and equipment. All critical assumptions should be stated and sufficient data should be included to support your estimates.

(2) A detailed accounting of all annual cash outlays for fixed and variable operations and maintenance expenses including a description of all major elements and the formulas used to compute them. All critical assumptions should be stated and sufficient data included to support your estimates.

(3) A detailed accounting of all annual cash outlays for delivered fuel expenses including the formulas used to compute them. All critical assumptions should be stated and sufficient data included to support your estimates. The fuel price and characteristics for each alternate fuel should be included.

(4) If the useful life of the new alternate fuel—other than coal or nuclear—powerplant is judged to be less than 35 years, all critical assumptions and sufficient data to support that position.

(5) A detailed accounting of the depreciation for each capital asset, including the depreciable base, tax life, and methods used. All critical assumptions should be stated and sufficient data submitted to support your estimates.

(f) *Example of calculations.* (1) The purpose of this example is solely to illustrate the mechanics of the cost tests; it should not be construed to be guidance on the application of the Federal income tax laws. The detail is only to the level of the individual terms in the cost test equations. Where the petitioner should supply a value, equations and data, we have only supplied the value.

(2) We are assuming: (i) that you are profitable to the extent that your Federal marginal income tax rate is 46 percent and that you need not carry over investment tax credits, and (ii) that you use double declining balance switching over to straight line to depreciate alternate fuel fired facilities.

(3) You are planning to build a new powerplant and the fuels you are considering are coal and oil. In this particular situation, the delivery cost of coal is much greater for the first 3 years than it will be in the later years because of a transportation problem requiring 3 years to resolve. Do you qualify for an exemption? If so, is it permanent or temporary?

(4) To determine if you qualify for a permanent exemption, you would have to use the general cost test and compute the ratios of the cost to use (i) coal for the useful life of a coal capable powerplant, (ii) oil for the first year and coal for the remainder of the useful life of a coal and oil capable powerplant, (iii) oil for the first 2 years and coal for the remainder of the useful life of a coal and oil capable powerplant * * *, and (xi) oil for the first 10 years and coal for the remainder of the useful life of a coal and oil capable powerplant to the cost of using oil for the entire life of an oil-fired powerplant.

(5) All 11 ratios would have to be higher than 1.3, which is the index for the purposes of this example, in order to qualify for a permanent exemption. However, if a series of successive ratios, starting with the case where alternate fuel is used from the start of operation, are all greater than 1.3, you would be eligible for a temporary exemption up to the last year the ratio is greater than 1.3.

(6) In this example, we will only compute the ratios of (i) the cost to use coal for the useful life of a coal capable powerplant and (ii) the cost to use oil for the first 3 years and coal for the remainder of the useful life of a coal and oil capable powerplant to the cost of using oil for the entire useful life of an oil fired plant.

(7) To determine if you qualify for a temporary exemption, if you have not already done so with the General Cost Test, of 3 years, you would have to use the Special Cost Test and compute the ratios of the cost to use coal in a coal

capable powerplant to the cost to use oil in a coal and oil capable powerplant for 1, 2, and 3 years. All three ratios would have to be higher than *1.3* in order to qualify for a 3-year temporary exemption. In this example, we will only compute the ratio of the cost to use coal in a coal capable powerplant to the cost to use oil in a coal and oil capable powerplant for 3 years.

(8) *Parameters.* A set of hypothetical parameters are given below.

(i) 500 MW coal-fired powerplant—

(A) *Captial cash flow requirements.*

Year before powerplant becomes operational:	Cash flow
−5	$19,416,000
−4	38,832,000
−3	97,079,000
−2	116,500,000
−1	77,663,000
0	38,832,000
Total	371,700,000

(B) *Operations and maintenance expense cash requirements.*

	Year
Fixed	$1,433,000
Variable	14,452,000
Total	15,885,000

(C) *Fuel expense cash requirements.*

	Years
First 3 years	$56,033,000
Fourth year through 35th year	37,355,000

(D) The plant is assumed to have a salvage value of zero.

(ii) 500 MW oil-fired powerplant—

(A) *Capital cash flow requirement.*

Year before powerplant becomes operational:	Cash flow
−4	$11,287,000
−3	22,574,000
−2	56,435,000
−1	79,009,000
0	56,435,000
Total	225,740,000

(B) *Operations and maintenance expense cash requirements.*

	Year
Fixed	$1,048,000
Variable	1,042,000
Total	2,090,000

(C) *Fuel expense cash requirements.*

	Year
First through 35th year	$93,020,000

(D) The plant is assumed to have a salvage value of zero.

(iii) 500 MW oil- and coal-fired powerplant—

(A) *Capital cash flow requirements.*

(*1*) The cash flows required to build the basic plant and make it oil capable are:

Year before powerplant becomes operational:	Cash flow
−5	$19,416,000
−4	50,119,000
−3	91,079,000
−2	116,500,000
−1	60,440,000
0	43,170,000
Total	386,730,000

(*2*) The additional cash flows required to make the plant coal capable are:

Years before powerplant becomes coal capable:	Cash flow
−1	$49,927,000
0	24,963,000
Total	74,890,000

(B) *Operations and maintenance expense cash requirements.*

(*1*) When burning oil:

	Year
Fixed	$1,048,000
Variable	1,042,000
Total	2,090,000

(*2*) When burning coal:

	Year
Fixed	$1,433,000
Variable	14,452,000
Total	15,885,000

(C) *Fuel expense cash requirements.*

$$I = \sum_{i=-g}^{N} \frac{I_i - ITC_i - S_i}{(1+K)^i}$$

$$= \frac{19,416}{(1.03)^{-5}} + \frac{38,832}{(1.03)^{-4}} + \frac{97,079}{(1.03)^{-3}} + \frac{116,500}{(1.03)^{-2}} + \frac{77,663}{(1.03)^{-1}} + \frac{38,832}{(1.03)^{0}} - \frac{0.10 \times 371,700}{(1.03)^{1}} \quad 1/$$

$$= 378,627$$

(*1*) When burning oil:

	Year
First through 35th year	$93,020,000

(*2*) When burning coal:

	Year
First 3 years	$56,033,000
Fourth year through 35th year	37,355,000

(D) The plant is assumed to have a salvage value of zero and it is assumed that the oil capability will not be scrapped after 3 years but maintained in case of emergency.

(iv) The discount rate for the purpose of this example is 3 percent.

(9) *Analysis.*[13]

(i) *General cost test.*

(A) Compute the cost of using coal in a coal-fired powerplant from the start of operation.

[13] All dollars are in thousands.

(T) Compute the ratio of the cost of

$$COST = I + \sum_{i=1}^{N} \frac{(OM_i + FL_i)(1 - t) - t.DPR_i}{(1 + K)^i}$$

$$= 378,627 + \sum_{i=1}^{3} \frac{(15,885 + 56,033)(1 - 0.46)}{(1.03)^i} + \sum_{i=4}^{35} \frac{(15,885 + 37,355)(1 - 0.46)}{(1.03)^i} - \sum_{i=1}^{23} \frac{0.46 \times DPR_i}{(1.03)^i}\ ^{1/}$$

$$= 893,851$$

(B) Compute the cost of using oil in an oil fired powerplant throughout the useful life of the powerplant.

$$I = \sum_{i=-8}^{N} \frac{I_i - ITC_i\ ^{2/} - S_i}{(1 + K)^i}$$

$$= \frac{11,287}{(1.03)^{-4}} + \frac{22,574}{(1.03)^{-3}} + \frac{56,435}{(1.03)^{-2}} + \frac{79,009}{(1.03)^{-1}} + \frac{56,435}{(1.03)^{0}}$$

$$= 235,057$$

[1] ITC is recognized the year powerplant is put into operation.

$$COST = I + \sum_{i=1}^{N} \frac{(OM_i + FL_i)(1 - t) - t.DPR_i}{(1.03)^i}$$

$$= 235,057 + \sum_{i=1}^{35} \frac{(2,090 + 93,020)(1 - 0.46)}{(1.03)^i} - \sum_{i=1}^{23} \frac{0.46 \times DPR_i\ ^{1/}}{(1.03)^i}$$

$$= 1,264,388$$

(C) Compute the ration of the cost of using coal from the beginning of operation to the cost of using oil throughout the useful life of the powerplant.

$$R = \frac{COST\ (COAL)}{COST\ (OIL)}$$

$$= \frac{893,851}{1,264,388}$$

$$= 0.71$$

The ratio is less than 1.3. You are not eligible for either a permanent or temporary exemption using the general cost test and need not complete the general cost test. However, for illustrative purposes, we will continue.

(D) Compute the cost of using coal in a coal and oil capable powerplant assuming coal is not used until after the third year and oil is used for the first 3 years of operation.

[1] Depreciation is double declining balance switching over to straight line. The tax life is 23 years for the entire powerplant.

[2] ITC is not allowed on this powerplant.

$$I = \sum_{i=-8}^{N} \frac{I_i - ITC_i - S_i}{(1 + K)^i}$$

$$= \frac{19,416}{(1.03)^{-5}} + \frac{50,119}{(1.03)^{-4}} + \frac{97,079}{(1.03)^{-3}} + \frac{116,500}{(1.03)^{-2}} + \frac{60,440}{(1.03)^{-1}} + \frac{43,170}{(1.03)^{0}} - \frac{0.10 \times 386,730^{1/}}{(1.03)^1} + \frac{49,927}{(1.03)^2} + \frac{24,963}{(1.03)^3} - \frac{0.10 \times 74,890\ ^{2/}}{(1.03)^4}$$

$$I = 439,722$$

$$COST = I + \sum_{i=1}^{N} \frac{(OM_i + FL_i)(1 - t) - t.DPR_i}{(1 + K)^i}$$

$$= 439,722 + \sum_{i=1}^{3} \frac{(2,090 + 93,020)(1 - 0.46)}{(1.03)^i} + \sum_{i=4}^{35} \frac{(15,885 + 37,355)(1 - 0.46)}{(1.03)^i} - \sum_{i=1}^{23} \frac{0.46 \times DPR_i\ ^{1/}}{(1.03)^i} - \sum_{i=4}^{26} \frac{0.46 \times DPR_i\ ^{2/}}{(1.03)^i}$$

$$COST = 960,906$$

[1] ITC is recognized the year the plant is put into operation.

(E) Compute the ratio of the cost of using coal at the end of the third year to the cost of using oil throughout the life of the powerplant.

$$R = \frac{COST(COAL)}{COST(OIL)}$$

$$= \frac{960,906}{1,264,388}$$

$$= 0.76$$

(ii) *Special cost test.*

(A) Compute the cost of using coal in a coal capable powerplant assuming the length of the exemption is 3 years.

[1] ITC is recognized the year after the plant becomes coal capable.

proposed plant including capital,

$$\text{COST} = I \times \frac{\sum_{i=1}^{P} (1+K)^{-i}}{\sum_{i=1}^{N} (1+K)^{-i}} + \sum_{i=1}^{P} \frac{(OM_i + FL_i)(1-t) - t.DPR_i}{(1+K)^i}$$

$$\text{COST} = 378{,}627 \times \frac{\sum_{i=1}^{3} (1.03)^{-i}}{\sum_{i=1}^{35} (1.03)^{-i}} + \sum_{i=1}^{3} \frac{(15{,}885 + 56{,}033)(1 - 0.46)}{(1.03)^i} - \sum_{i=1}^{3} \frac{0.46 \times DPR_i}{(1.03)^i} = 121{,}120$$

(B) Compute the cost of using oil in a coal and oil capable powerplant assuming the exemption is 3 years.

$$\text{COST} = 1 \times \frac{\sum_{i=1}^{P} (1+K)^{-i}}{\sum_{i=1}^{N} (1+K)^{-i}} + \sum_{i=1}^{P} \frac{(OM_i + FL_i)(1-t) - t.DPR_i}{(1+K)^i}$$

$$\text{COST} = 439{,}722 \times \frac{\sum_{i=1}^{3} (1.03)^{-i}}{\sum_{i=1}^{35} (1.03)^{-i}}$$

[1] Depreciation is double declining balance switching to straight line. The tax life is 23 years for the entire powerplant.

$$+ \sum_{i=1}^{3} \frac{(2090 + 93{,}020)(1 - 0.46)}{(1.03)^i} - \sum_{i=1}^{3} \frac{0.46 \times DPR_i}{(1.03)^i}$$

[1] = 163,027

(C) Compute the ratio of the cost of using coal to the cost of using oil.

$$R = \frac{\text{COST (COAL)}}{\text{COST (OIL)}}$$

$$= \frac{121{,}120}{163{,}027}$$

$$= 0.74$$

The ratio (R) is less than *1.3*. Therefore, you would not receive a temporary exemption.

§ 503.6 State approval required for powerplant.

(a) Where approval by the appropriate State regulatory authority is required prior to the construction or use of a new powerplant, you may submit a petition for an exemption for consideration by ERA prior to obtaining the approval.

(b) An exemption granted for a powerplant shall not become effective until you demonstrate to the satisfaction of ERA that all applicable approvals required by the State regulatory authority have been obtained.

§ 503.7 No alternate power supply—general requirement for certain permanent exemptions.

(a) *Application.* Section 212 of the Act provides for a permanent exemption for lack of alternate fuel supply, site limitations, environmental requirements, inability to obtain adequate capital, state or local requirements, fuel mixtures, emergency purposes, reliability of service or intermediate load. To qualify for one of these exemptions, Section 213(c) of the Act requires that you demonstrate to the satisfaction of ERA that, despite reasonable good faith efforts, there is no alternative supply of electric power which is available within a reasonable distance at a reasonable cost without impairing short-run or long-run reliability of service. ERA, in determining whether you have satisfied this requirement, will consider only the first year of operation for your proposed plant. If you are unable to demonstrate that there is no alternate supply during this year, ERA will conclude that the absence of the proposed powerplant will not impair short-term reliability of service, and as a result may deny your exemption. This denial would not impair long-term reliability of service, since you may submit a petition for a powerplant that would begin operation one year later.

(b) *Criteria.* ERA will determine that you have no alternate supply of power if you demonstrate all of the following.

(1) You have made a diligent effort to reduce the need for the power from your proposed plant by implementing within your system whatever conservation measures are available and cost effective, including increasing the availability of alternate fuel-fired plants and by taking whatever measures are available to you (including, where appropriate, application for waivers from certain prohibitions of the National Energy Conservation Policy Act of 1978) to encourage or assist your customers in implementing cost-effective conservation. In judging whether a conservation measure is cost effective the capacity or energy it would replace should be compared with the life cycle cost of capacity or energy from your proposed plant including capital, operations and maintenance expenses, and fuel at imported petroleum prices.

(2) You have made a diligent effort to purchase firm power for the first year of operation to cover all or part of your projected shortfall at a cost that is less than 10 percent above the annualized cost of generating power from your proposed plant (including the capital, operation and maintenance expenses, and fuel at imported petroleum prices).

(3)(i) Despite these efforts, the reserve margin in your electric region in the absence of your proposed plant would fall below 20 percent during the first year of proposed operation; or

(ii) Despite these efforts, the reserve margin will be greater than 20 percent and you have demonstrated that reliability of service would be impaired. Your demonstration relates to factors not included in the calculation of reserve margin such as transmission constraints.

(c) *Evidence.* You must include in your Fuels Decision Report at least the following evidence in order to make the demonstration required by this section:

(1) The estimated peak demand for your system and the coincident peak demand for your electric region for the first year of operation of your proposed plant.

(2) The corresponding capacity projections, as well as any existing commitments by your system to purchase or sell power during that year.

(3) Evidence that you have solicited firm power contracts for the proposed first year operation, via letters to all potential sources (including non-utility sources) within or contiguous to your electric region, and also via advertisements.

(4) A calculation of the delivered cost of the firm purchased power offered in response to your solicitation(s) along with a detailed description of the method by which the annual cost of the purchased power is determined. Where relevant, the FERC Tariff Identifications intended as the basis for the purchase power contracts under negotiation (including the service schedules and/or exhibits which would apply to these contracts) should be provided.

(5) A calculation of the cost of power from your proposed plant during its initial year of operation. You may select the method of calculation, provided that the resulting cost may be meaningfully compared with the cost of purchased power. The calculation must include expenses due to capital, operations and maintenance, and fuel at imported petroleum prices. You may include cost effects of the economic dispatch of

[1] This term accounts for the initial investment required to make the plant oil capable. It does not reflect the additional investment necessary to burn coal. The depreciation method is double declining balance switching to straight line. The tax life is 23 years.

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plants. The number of kilowatt hours being compared from the proposed plant and the purchased power should be the same.

(6) A description of the measures you will have taken prior to initial operation of your proposed plant to reduce energy losses within your own system, to improve the availability of your existing non-oil- or gas-fired plants, to shift part of your peak demand to off-peak periods, and to encourage or assist your customers in implementing cost-effective conservation measures.

(7) Estimates of the kilowatt and kilowatt-hour savings that would result from the conservation measures.

(8) A calculation of the net capacity shortfall in the first year of the proposed operation (compared to a 20 percent reserve margin) if your proposed plant is not built but all the reasonable purchase and conservation opportunities are exploited.

(d) *FERC Consultation.* ERA will forward a copy of any petition for which a showing under this section is required to the Federal Energy Regulatory Commission (FERC) promptly after it is filed with ERA, and ERA will consult with FERC before making a finding on "no alternative supply of power."

§ 503.8 [Reserved]

§ 503.9 Use of mixtures—general requirement for permanent exemptions.

(a) *Application.* ERA will not consider a petition for any of the following exemptions provided for in Section 212 of the Act (lack of alternate fuel supply, site limitations, environmental requirements, inability to obtain adequate capital, state or local requirements, cogeneration, emergency purposes, reliability of service, or intermediate load) to be complete, adequate, or acceptable for filing unless you demonstrate to the satisfaction of ERA that you have considered the use of a mixture(s) for which an exemption under Section 503.38 (Fuel mixtures) of these regulations would be available.

(b) *Demonstration.* ERA will deny any of the exemptions listed above unless you demonstrate that use of such a mixture(s) is not economically or technically feasible in the unit for which you are requesting an exemption. You must submit to ERA at least the following evidence in order to make the demonstration required by this section:

(1) If use of a mixture(s) were required, you would be eligible for one of the following permanent exemptions provided for in the Act: lack of alternate fuel supply, site limitations, environmental requirements, inability to obtain adequate capital, or state or local requirements, or

(2) Use of a mixture(s) is not technically or economically feasible in your specific unit due to design or special circumstances.

§ 503.10 Use of fluidized bed combustion not feasible—general requirement for permanent exemptions.

(a) *ERA finding.* ERA may deny any of the following exemptions provided for in Section 212 of the Act (lack of alternate fuel supply, site limitations, environmental requirements, inability to obtain adequate capital, state or local requirements, cogeneration, emergency purposes, reliability of service, or intermediate load) if ERA finds on a site specific or generic basis that use of a method of fluidized bed combustion of an alternate fuel is economically and technically feasible.

(b) *Demonstration.* If ERA has made such a finding, ERA will deny your request for exemption unless you demonstrate that the use of a method of fluidized bed combustion is not economically or technically feasible. You must include in your Fuels Decision Report or any supplement thereto required by ERA (or in your petition for an emergency exemption) at least the following evidence:

(1) If use of a method of fluidized bed combustion were required, you would be eligible for one of the following permanent exemptions provided for in Section 212 of the Act: lack of alternate fuel supply, site limitations, environmental requirements, inability to obtain adequate capital, or state or local requirements; or

(2) Use of a method of fluidized bed combustion is not technically or economically feasible in your specific unit due to design or special circumstances.

§ 503.11 Alternative sites—general requirement for permanent exemptions.

(a) *Application.* Section 212 of the Act provides for a permanent exemption for lack of alternate fuel supply, site limitations, environmental requirements, inability to obtain adequate capital, state or local requirements, or intermediate load. To qualify, you must demonstrate to the satisfaction of ERA that you cannot use alternate fuels at reasonable alternative sites as well as at your proposed sites. You must show that:

(1) You examined all reasonable alternative sites in your effort to use alternate fuels; and

(2) You are unable to use alternate fuels at any of the alternative sites you considered at a cost which does not substantially exceed the cost of using imported petroleum, or, in special circumstances, for other reasons.

(b) *Evidence.* You must include in your Fuels Decision Report the following substantial evidence to corroborate the above requirements:

(1) A map indicating your proposed site and each of the alternative sites you considered;

(2) A description of each of the alternate fuels you considered for use at each alternative site you considered;

(3) A detailed description of the criteria you used to select the alternative sites you considered and to select the alternate fuels you examined for use at each alternative site;

(4) Copies or summaries of any studies you performed as part of, or in support of your search for reasonable alternative sites;

(5) All data required by § 503.5 (Cost calculation) supporting any contentions you make pertaining to the cost of using alternate fuels at alternative sites; and

(6) A detailed explanation of any contention you make concerning other reasons which would preclude use of alternative sites.

§ 503.12 Terms and conditions; compliance plans.

(a) *Terms and conditions generally.* You must comply with the terms and conditions of an exemption granted under the Act by the ERA, including terms and conditions requiring the use of effective fuel conservation measures.

(b) *Compliance plans for temporary exemptions.*

(1) A compliance plan certified by your duly authorized representative shall accompany a petition for a temporary exemption. The compliance plan shall include at least the following:

(i) A detailed schedule of progressive events and the dates upon which the events are to take place indicating how compliance with the applicable prohibitions of the Act will occur;

(ii) Evidence of binding contracts for fuel, or facilities for the production of fuel, which are required for you to comply with the applicable prohibitions of the Act; and

(iii) Any other documentary evidence which indicates an ability to comply with the applicable prohibitions of the Act.

(2) The exemption shall not be effective until the compliance plan is approved by ERA.

(3) *Revisions of compliance plans.* If the petition is granted, you must submit to ERA an updated compliance plan certified by your duly authorized representative:

(i) At the end of each 12-month period from the effective date of the exemption;

(ii) Within 1 month of an alteration of any milestone in the compliance plan, together with the reasons for the alteration and its impact upon the scheduling of all other milestones in the plan; and

(iii) At any time the ERA, in its discretion, determines that a revised compliance plan may be necessary to reflect changes in circumstances.

(c) *Enforcement.* An exemption is subject to termination upon the violation of any provision of an exemption or any provision of the pertinent compliance plan.

Subpart C—Temporary Exemptions for New Powerplants

§ 503.20 Purpose and scope.

(a) This subpart implements the provisions contained in Section 211 of the Act with regard to temporary exemptions for new powerplants.

(b) This subpart establishes the criteria and standards which owners or operators of new powerplants who petition for a temporary exemption must meet to sustain their burden of proof under the Act.

(c) You shall submit all petitions for temporary exemptions for new powerplants in accordance with the procedures set out in Part 501 of these regulations.

(d) The duration of any temporary exemption granted under this subpart shall be measured from the date that the powerplant is placed in service.

§ 503.21 Lack of alternate fuel supply.

(a) *Eligibility.* Section 211(a)(1) of the Act provides for a temporary exemption, due to lack of an alternate fuel supply. To qualify you must demonstrate to the satisfaction of ERA that:

(1) You made a good faith effort to obtain an adequate and reliable supply of an alternate fuel of the quality necessary to conform to the design and operation requirements of the new powerplant;

(2) For the period of the proposed exemption, the cost of using such a supply would substantially exceed the cost of using imported petroleum as a primary energy source as defined in Section 503.5 (Cost calculation) of these regulations; and

(3) You will be able to comply with the applicable prohibitions of these regulations at the end of the proposed exemption period.

(b) *Evidence required in support of a petition.* You must include in your Fuels Decision Report at least the following evidence in order to make the demonstration required by this Section:

(1) A description of your analysis of the alternate fuels you considered for use;

(2) A description of the alternate unit designs you considered in a good faith effort to comply with the applicable prohibitions;

(3) A description of the detailed design requirements you specified for the new powerplant, including capacity, alternate fuel capability, and all other specifications;

(4) A description of the range of specific fuel characteristics of all the fuels which can be used by the new powerplant;

(5) Evidence that you sought to obtain the full range of alternate fuels which could be used by the new powerplant, including bid requests, and/or advertisements for supply contracts and all responses thereto, as well as any other arrangements you attempted to make to secure supplies;

(6) Evidence of the contracts or other arrangements you have made to ensure a reliable and adequate supply of an alternate fuel at the end of the proposed exemption; and

(7) All data required by § 503.5 (Cost calculation) of these regulations necessary for computing the cost calculation formula.

(c) *Compliance plan.* You must submit to ERA a compliance plan in accord with Section 214 of the Act and § 503.12 of these regulations simultaneously with submission of your petition to satisfy ERA requirements for petition adequacy. You must submit an updated compliance plan as required by § 503.12 of these regulations and as required by the terms of any order granting an exemption under this subpart.

§ 503.22 Site limitations.

(a) *Eligibility.* Section 211(a)(2) of the Act provides for a temporary exemption due to a site limitation. To qualify for such an exemption, you must demonstrate that one or more of the following specific physical limitations relevant to the location or operation of your powerplant exist which, despite your diligent good faith efforts, cannot be overcome before the end of the proposed exemption period:

(1) alternate fuels would be inaccessible because of a specific physical limitation;

(2) transportation facilities for alternate fuels would be unavailable;

(3) adequate facilities for handling, using or storing an alternate fuel would be unavailable;

(4) adequate means for controlling and disposing of wastes would be unavailable;

(5) adequate and reliable supply of water would be unavailable; or

(6) other site limitations exist which would not permit the location or operation of the proposed powerplant using an alternate fuel.

(b) *Evidence to be Submitted in Support of the Petition.* You must include in your Fuels Decision Report at least the following evidence in order to make the demonstration required by this section:

(1) evidence that the site limitation is a physical limitation, and not a requirement of Federal, state, or local law which could be the basis of an exemption under § 503.36 (State or local requirements);

(2) evidence that alternative means for overcoming the specific site limitations were considered, with a detailed description of the efforts made to overcome the site limitations set out in your petition;

(3) evidence of the equipment or space requirements for which the site limitation is claimed; and

(4) evidence of contracts or other arrangements you have made to insure that the site limitation will be overcome and that you will comply with the prohibitions at the end of the proposed exemption period. Examples of evidence relevant to establishing a site limitation for purposes of a temporary exemption are as follows:

(i) detailed documentation of impediments, including rights of way problems, site diagrams, maps of the surrounding areas and other items essential to the showing of a site limitation;

(ii) identification of transportation facilities relevant to the specific site of the powerplant and demonstration why existing facilities cannot be utilized or new facilities constructed;

(iii) copies of bid requests, advertisements, and general efforts made to secure alternative transportation facilities;

(iv) identification of potential alternate fuel storage locations within a reasonable geographic area surrounding the proposed powerplant;

(v) detailed scale site plans of the entire facility which include those areas not directly involved with the specific boiler;

(vi) a specific listing of all equipment necessary and not currently available to properly handle alternate fuel;

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(vii) copies of bid requests, advertisements and general efforts made to secure alternative fuel storage facilities;

(viii) copies of quotes from bona fide suppliers, indicating lead times for purchase and installation of required ancillary storage of handling equipment;

(ix) specific listing of any equipment necessary and not currently available to properly control and dispose of waste;

(x) identification of potential alternate waste disposal locations within a reasonable geographic area surrounding the proposed powerplant;

(xi) a description of efforts made to secure off site disposal areas, including the cost of acquisition of the sites, transportation facilities and waste handling costs involved in their use; and

(xii) copies of bid requests, advertisements, and general efforts made to secure waste control and disposal equipment.

(c) *Compliance Plan.* You must submit to ERA a compliance plan in accordance with § 503.12 of these regulations simultaneously with submission of your petition. You must submit an updated compliance plan, if applicable, as required by § 503.12 of these regulations and as may be required by the terms of any order granting an exemption under this subpart.

(d) *Duration.* This temporary exemption, taking into account any extensions and renewals, may not exceed five years.

§ 503.23 Inability to comply with applicable environmental requirements.

(a) *Eligibility.* Section 211(a)(3) of the Act provides for a temporary exemption due to an inability to comply with applicable environmental requirements. To qualify you must demonstrate to the satisfaction of ERA that despite diligent good faith efforts:

(1) You will be unable, as of the projected date of commencement of operation, to comply with the applicable prohibitions imposed by the Act without violating applicable Federal or state environmental requirements;

(2) You will be able to comply with the applicable prohibitions imposed by the Act and with applicable environmental requirements by the end of the temporary exemption period.

(b) *Criteria.* ERA's decision with regard to environmental compliance will be based solely on analysis of your capacity to physically achieve applicable environmental requirements. Your analysis should be directed toward those conditions or circumstances which make it physically impossible for you to comply during the temporary exemption period. The cost of compliance shall not enter into the analysis, but any cost-related considerations may be presented as part of a demonstration submitted under § 503.21.

(c) *Evidence required in support of the petition.* You must include at least the following evidence in order to make the demonstration required by this section:

(1) If you elect to seek a construction permit from EPA or an appropriate state agency prior to petitioning for an exemption from ERA, a copy of your application and a detailed synopsis of all supporting documents filed with or subsequent to your application to EPA or the appropriate agency.

(2) To the extent applicable, a copy of the EPA or state denial of your construction permit application;

(3) To the extent applicable, a detailed synopsis of the administrative record of the EPA or state or local permit proceedings;

(4) To the extent applicable, an analysis of the technology upon which the denial was based, including a performance comparison between the proposed technology and that technology which would provide the maximum possible reduction of pollution;

(5) An examination of the environmental compliance of the facility, including an analysis of the ability to meet applicable standards and criteria when using both the proposed fuel and all alternate fuels for which you are requesting an environmental exemption. All conclusions regarding the ability of the facility to comply must be based on accepted analytical techniques, such as air quality modeling, and must reflect current conditions of the area which would be affected by the facility. You are responsible for performing the necessary sampling and collecting sufficient data to accurately characterize these conditions. Environmental compliance must be examined in the context of the available pollution control equipment which would provide the maximum possible reduction of pollution. The analysis must contain requests for bids and other inquiries made and responses received by you concerning the availability and performance of pollution control equipment; contracts signed, if any, for an alternate fuel supply and for the purchase and installation of pollution control equipment; or other comparable evidence such as technical studies documenting efficacy of equipment to meet applicable requirements;

(6) An examination of the regulatory options available to you in seeking to achieve environmental compliance. This must include an analysis of the availability of offsets, if needed, and the potential for securing variances, and State Implementation Plan revisions, as appropriate. The analysis must illustrate and document your efforts, if any, to locate, identify, and acquire offsets, including agreements made by you with the state or other companies for acquisition of offsets. If an agreement to acquire offsets is conditioned upon the grant of a variance, or State Implementation Plan revision, you must submit a letter from the state agency indicating when a proceeding to effectuate the agreement will take place. The analysis must contain any correspondence initiated or received by you concerning these regulatory options and all technical studies you have relied upon to support your conclusions; and

(7) Evidence that there is no reasonable alternative site as specified in § 503.11 of these regulations.

In addition, you may submit any other documentation you believe demonstrates an inability to comply with applicable environmental requirements despite good faith efforts.

(d) *Compliance plan.* You must submit to ERA a compliance plan in accordance with § 503.12 of these regulations simultaneously with the submission of your petition. You must submit an updated compliance plan, if applicable, as required by § 503.12 of these regulations and as required by the terms of any order granting an exemption under this subpart.

(e) *Other actions.*

(1) Prior to your decision to submit an exemption application, it is recommended that you request a meeting with ERA and EPA or the appropriate state or local regulatory agency to discuss options for operating an alternate fuel-fired facility in compliance with applicable environmental requirements; and

(2) You must submit a copy to ERA of your application for a construction permit at the same time you submit it to EPA or the state agency.

(f) *Duration.* This temporary exemption, taking into accounting extension and renewals, may not exceed 5 years, and will be issued by ERA for such period up to and including 5 years as the petition demonstrates if necessary.

§ 503.24 Future use of synthetic fuels.

(a) *Eligibility.* Section 211(b) of the Act provides for a temporary exemption based upon the future use of synthetic fuels. To qualify, you must demonstrate to the satisfaction of ERA that:

(1) You will be able to comply with the applicable prohibitions imposed by the Act by the use of a synthetic fuel derived from coal or another alternate fuel as a primary energy source in your powerplant by the end of the proposed exemption period; and

(2) You will not be able to comply with the applicable prohibitions imposed by the Act before the end of the proposed exemption period by using a synthetic fuel in your powerplant.

(b) *Evidence required in support of the petition.* You must include in your Fuels Decision Report at least the following evidence in order to make the demonstration required by this section:

(1) Copies of studies relating to the economic and technical feasibility of using synthetic fuels by your proposed powerplant;

(2) Evidence of financial commitments made to construct, operate and maintain equipment which will be capable of using synthetic fuel as a primary energy source by the end of the proposed exemption period;

(3) Copies of bid requests, advertisements, contracts and/or other agreements relating to the production, purchase, and transportation of synthetic fuel; and

(4) Information regarding any permits that may be required by Federal or state agencies for the construction and operation of a powerplant using synthetic fuels.

(c) *Compliance plan.* You must submit to ERA a compliance plan in accordance with § 503.12 of these regulations simultaneously with the submission of your petition. You shall submit an updated compliance plan, if applicable, as required by § 503.12 of these regulations and as may be required by the terms of any order granting an exemption under this subpart.

(d) *Duration.* This temporary exemption may be granted for a period up to 5 years and may be extended for up to an additional 5 years.

§ 503.25 Public interest exemption.

(a) *Policy Note.* The use of coal and other alternate fuels in lieu of petroleum and natural gas is in the public interest. ERA will grant this temporary exemption where you are unable to comply immediately with the prohibitions of the Act, where the granting of the petition would be in the public interest, and where you will be in compliance with the prohibitions imposed by the Act at the end of the exemption period. In filing your petition, you are required to complete the portions of the Fuels Decision Report (FDR) specified in § 502 of these Interim Rules and demonstrate why your proposed facility could not burn a fuel mixture during the time the exemption is effective. ERA recognizes, however, that there are situations where the public interest would best be served by not requiring the FDR and mixture demonstration; consequently, ERA strongly urges you to request a prepetition conference where, after consideration of the facts of your case, ERA could waive all or part of these requirements. As an example, ERA will generally waive these rerequirements where you temporarily need the use of a natural gas- or petroleum-fired rental unit to provide steam until the ongoing construction of an alternate fuel-fired unit is completed.

(b) *Eligibility.* Section 211(c) of the Act provides for a temporary public interest exemption. To qualify, you must demonstrate to the satisfaction of ERA that:

(1) You are unable to comply with the applicable prohibitions imposed by the Act, except in extraordinary circumstances, during the period for which the exemption is requested, but that you will be capable of complying at the end of the proposed exemption period; and

(2) The granting of the petition would be in accord with the purposes of the Act and would be in the public interest.

(c) *Evidence required in support of the petition.* You must include in your Fuels Decision Report at least the following in order to make the demonstration required by this section:

(1) Substantial evidence to corroborate the eligibility requirements identified above;

(2) A demonstration that the use of a mixture, for which an exemption under § 503.38 (Fuel Mixtures) would be available, is not technically or economically feasible during the period the temporary public interest exemption is in effect; and

(3) Information and data required by § 502.4 (Introduction), § 502.7 (Evidence for Exemption Required), and § 502.12 (Conservation Measures) of the Fuels Decision Report as set out in Part 502.

(d) *Compliance Plan.* You must submit to ERA a compliance plan in accordance with § 503.12 of these regulations simultaneously with submission of your petition. You must submit, if applicable, an updated compliance plan as required by § 503.12 of these regulations or as may be required by the terms of any order granting an exemption under this subpart.

(e) *Duration.* This temporary exemption, taking into account extension and renewals, may not exceed 5 years.

Subpart D—Permanent Exemptions for New Powerplants.

§ 503.30 Purpose and scope.

(a) This subpart implements the provisions contained in Section 212 of the Act with regard to permanent exemptions for new electric powerplants.

(b) This subpart establishes the criteria and standards which owners or operators of new powerplants that petition for a permanent exemption must meet to sustain their burden of proof under the Act.

(c) If a petition for a permanent exemption is filed pursuant to § 503.31 (Lack of alternate fuel supply for the first 10 years of useful life); § 503.32 (Lack of alternate fuel supply at a cost which does not substantially exceed the cost of using imported petroleum); § 503.33 (Site limitation); § 503.34 (Inability to comply with applicable environmental requirements); § 503.35 (Inability to obtain adequate capital); or § 503.36 (State or local requirements), the petitioner must demonstrate in the Fuels Decisions Report that his inability to use each reasonable alternate fuel would entitle him to one or more of the above exemptions.

(d) You must submit all petitions for permanent exemptions for new powerplants in accordance with the procedures set out in Part 501 of these regulations.

§ 503.31 Lack of alternate fuel supply for the first 10 years of useful life.

(a) *Eligibility.* Section 212(a)(1)(A)(i) of the Act provides for a permanent exemption due to lack of an adequate and reliable supply of alternate fuel within the first 10 years of useful life of the new powerplant. To qualify you must demonstrate to the satisfaction of ERA that:

(1) You made a good faith effort to obtain an adequate and reliable supply of an alternate fuel for use as a primary energy source of the quality and quantity necessary to conform with the design and operational requirements of the new powerplant; and

(2) Such a supply is not likely to be available within the first 10 years of useful life of the new powerplant.

(b) *Evidence required in support of a petition.* You must include in your Fuels Decision Report at least the following evidence in order to make the demonstration required by this Section:

(1) A description of the alternate unit designs you considered in a good faith

effort to comply with the applicable

(2) A description of the detailed

overcome the site limitations set out in

demonstrate to the satisfaction of ERA

Environmental compliance must be

capital due to specific restrictions (e.g.,

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effort to comply with the applicable prohibitions;

(2) A description of the detailed design requirements you specified for the new powerplant, including capacity, alternate fuels capability, and all other pertinent specifications;

(3) A description of the range of specific fuel characteristics of all the fuels which can be used by the new powerplant;

(4) Evidence that you sought to obtain the full range of alternate fuels which could be used by the new powerplant;

(5) Evidence that you solicited at least five bids from suppliers who could reasonably be expected to supply an adequate and reliable supply of the quality and quantity of alternate fuel needed, including bid requests and/or advertisements for supply contracts and all proposals or responses thereto, as well as any other arrangements you attempted to make to secure supplies;

(6) A description of your analysis of the alternate fuel you considered, including a discussion of how you made your assessment that an adequate and reliable supply of the quality and quantity of fuel needed would not be available within the first 10 years of useful life of the new powerplant.

§ 503.32 Lack of alternate fuel supply at a cost which does not substantially exceed the cost of using imported petroleum.

(a) *Eligibility.* Section 212(a)(1)(A)(ii) of the Act provides for a permanent exemption due to lack of an alternate fuel supply at a cost which does not substantially exceed the cost of using imported petroleum. To qualify you must demonstrate to the satisfaction of ERA that:

(1) You made a good faith effort to obtain an adequate and reliable supply of an alternate fuel for use as a primary energy source of the quality and quantity necessary to conform with the design and operational requirements of the new powerplant; and

(2) The cost of using such a supply would substantially exceed the cost of using imported petroleum as a primary energy source during the useful life of the new powerplant as defined in § 503.3 (Cost Calculation) of these regulations.

(b) *Evidence required in support of a petition.* You must include in your Fuels Decision Report the following evidence in order to make the demonstration required by this section:

(1) A description of the alternate unit designs you considered in a good faith effort to comply with the applicable prohibitions;

(2) A description of the detailed design requirements for the new powerplant you specified, including capacity, alternate fuels capability, and all other pertinent specifications;

(3) A description of the range of specific fuel characteristics of all the fuels which can be used by the new powerplant;

(4) Evidence that you sought to obtain the full range of alternate fuels which could be used by the new powerplant, including bid requests and/or advertisements for supply contracts, all proposals and responses thereto, as well as any other arrangements you attempted to make to secure supplies;

(5) All data required by § 503.5 of these regulations (Cost Calculation) necessary for computing the cost calculation formula; and

(6) A description of your analysis of the alternate fuel you considered.

§ 503.33 Site limitations.

(a) *Eligibility.* Section 212(a)(1)(B) of the Act provides for a permanent exemption due to a site limitation. To qualify for such an exemption, you must demonstrate that despite good faith efforts:

(1) alternate fuels are inaccessible as a result of a specific physical limitation to the location or operation of the proposed powerplant;

(2) transportation facilities for alternate fuels would be unavailable;

(3) adequate facilities for handling, using or storing alternate fuels would be unavailable;

(4) adequate means for controlling and disposing of wastes would be unavailable;

(5) adequate and reliable supply of water would be unavailable; or

(6) other site limitations exist which would not permit the location or operation of the proposed powerplant using an alternate fuel, and these limitations cannot be reasonably expected to be overcome within five years after commencement of operations.

(b) *Evidence to be Submitted in Support of the Petition.* You must include in your Fuels Decision Report at least the following in order to make the demonstration required by this Section:

(1) evidence that the site limitation is a physical limitation, and not a requirement of Federal, State, or local law which could be the basis of an exemption under § 503.36 (State or local requirements);

(2) evidence that alternative means for overcoming the specific site limitations were sought, with a detailed description of the efforts made to overcome the site limitations set out in your petition; and

(3) evidence of the equipment or space requirements for which the site limitation is claimed. Examples of evidence relevant to establishing a site limitation for purposes of a permanent exemption are as follows:

(i) detailed documentation of impediments, including rights of way problems, site diagrams, maps of the surrounding areas and other items essential to the showing of a site limitation;

(ii) identification of transportation facilities relevant to the geographic site of the powerplant and demonstration why existing transportation facilities cannot be utilized or new facilities constructed;

(iii) identification of potential alternate waste disposal locations within a reasonable geographic area surrounding the proposed powerplant;

(iv) a description of efforts made to secure off-site disposal areas, including the cost of acquisition of the sites, transportation facilities and waste handling costs involved in their use; and

(v) copies of bid requests, advertisements, and general efforts made to secure waste control and disposal equipment;

(vi) copies of bid requests, advertisements and general efforts made to secure alternative transportation facilities;

(vii) identification of potential alternate fuel storage locations within a reasonable geographic area surrounding the proposed powerplant;

(viii) detailed scale site plans of the entire facility which include those areas not directly involved with a specific powerplant;

(ix) a specific listing of all equipment necessary and not currently available to properly handle alternate fuels;

(x) copies of bid requests, advertisements and general efforts made to secure alternative fuel storage facilities;

(xi) copies of quotes from bona fide suppliers, indicating lead times for purchase and installation or required ancillary storage or handling equipment;

(xii) specific listing of any equipment necessary and not currently available to properly control and dispose of waste.

§ 503.34 Inability to comply with applicable environmental requirements.

(a) *Eligibility.* Section 212(a)(1)(C) of the Act provides for a permanent exemption due to the inability to comply with the applicable environmental requirements. To qualify you must

demonstrate to the satisfaction of ERA that, despite good faith efforts:

(1) You will be unable within 5 years after beginning operation to comply with the applicable prohibitions imposed by the Act without violating applicable Federal or state environmental requirements; and

(2) Reasonable alternative sites which would permit the use of alternate fuels in compliance with applicable Federal or state environmental requirements are not available.

(b) *Criteria.* ERA's decision with regard to environmental compliance will be based solely on an analysis of your capacity to physically achieve applicable environmental requirements. The cost of compliance shall not enter into the analysis, but any cost-related considerations may be presented as part of a demonstration submitted under § 503.32.

(c) *Evidence supporting petition.* You must include in your Fuels Decision Report at least the following evidence in order to make the demonstration required by this section:

(1) If you elect to seek a construction permit from EPA or an appropriate State agency prior to petitioning for an exemption from ERA, a copy of your application and a detailed synopsis of all supporting documents filed with or subsequent to your application to EPA or the appropriate State agency;

(2) To the extent applicable, a copy of the EPA or State denial of your construction permit application;

(3) To the extent applicable, a detailed synopsis of the administrative record of the EPA or State or local permit proceedings;

(4) To the extent applicable, an analysis of the technology upon which the denial was based, including a performance comparison between the proposed technology and that technology which would provide the maximum possible reduction of pollution;

(5) An examination of the environmental compliance of the facility, including an analysis of the ability to meet applicable standards and criteria when using both the proposed fuel and all alternate fuels for which you are requesting an environmental exemption. All conclusions regarding the ability of the facility to comply must be based on accepted analytical techniques, such as air quality modeling, and must reflect current conditions of the area which would be affected by the facility. You are responsible for performing the necessary sampling and collecting sufficient data to accurately characterize these conditions. Environmental compliance must be examined in the context of the available pollution control equipment which would provide the maximum possible reduction of pollution. The analysis must contain requests for bids and other inquiries made and responses received by you concerning the available and performance of pollution control equipment, or other comparable evidence such as technical studies documenting efficacy of equipment to meet applicable requirements.

(6) An examination of the regulatory options available to you in seeking to achieve environmental compliance. This must include an analysis of the availability of offsets, if needed, and the potential for securing variances, State Implementation Plan (SIP) revisions, as appropriate. The analysis must illustrate and document your efforts, if any, to locate and identify available offsets, and to secure variances and SIP revisions. The analysis must contain any correspondence initiated or received by you concerning these regulatory options and all technical studies you have relied upon to support your conclusions; and

(7) Evidence that there is no reasonable alternative site as specified in § 503.11 of these regulations.

In addition, you may submit any other documentation you believe demonstrates an inability to comply with applicable environmental requirements despite good faith efforts.

(d) *Other actions.*

(1) Prior to deciding to submit an exemption application, it is recommended that you request a meeting with ERA and EPA or the appropriate state or local regulatory agency to discuss options for operating an alternative fuel-fired facility in compliance with the applicable environmental requirements; and

(2) You must submit a copy to ERA of your application for a construction permit at the same time you submit it to EPA or the state agency.

§ 503.35 Inability to obtain adequate capital.

(a) *Eligibility.* Section 212(a)(1)(D) of the Act provides for a permanent exemption due to inability to obtain adequate capital. To qualify you must demonstrate to the satisfaction of ERA that:

(1) Despite good faith efforts you will be unable to comply with the applicable prohibitions imposed by the Act because you cannot raise the additional capital required for an alternate fuel-capable powerplant beyond that required for your proposed powerplant and you cannot raise this additional capital due to specific restrictions (e.g., covenants on existing bonds) which constrain management's ability to raise debt or equity capital; and

(2) These specific restrictions on your ability to raise debt or equity capital could not be alleviated by any future action of your public utility commission or any other regulatory authority.

(b) *Evidence required in support of the petition.* You must include in your Fuels Decision Report at least the following evidence in order to make the demonstration required by this section:

(1) A statement of the state regulatory authority's policies on utility capital structure and formation, on the recognition of allowance for funds used during construction (in the utility's net plant) and of construction work in progress (in the utility's rate base), and on the accounting procedure for recognizing tax credits (flow-through or normalized).

(2) Relevant records pertaining to the utility's specific efforts to raise capital associated with the proposed powerplant.

(3) Five-year history of the utility's capital structure recognizing specific security issues and their current yields and investment ratings. Indicate where a security issued has specific ties to an on-line or scheduled generating unit.

(4) Five-year summary of the utility's financial record as indicated by the standard financial indicators including cash earnings and dividend records; time interest coverage ratios; price-earnings ratios; and market-to-book value ratios.

(5) Projected changes in the utility's capital structure and financial indicators in the case where the powerplant consumes:

(i) Alternate fuel; and

(ii) Oil or natural gas.

§ 503.36 State or local requirements.

(a) *Eligibility.* Section 212(b) of the Act provides for an exemption due to state or local requirements. To qualify you must demonstrate to the satisfaction of ERA that:

(1) With respect to the proposed site of the powerplant, the operation or construction of the new powerplant using an alternate fuel is infeasible because of a state of local requirement other than a building code, nuisance or zoning law;

(2) You have in good faith attempted unsuccessfully to obtain a variance from the state or local requirement or have demonstrated why none is available;

(3) The granting of the exemption would be in the public interest and

to the applicable exemptions, including

(1) Solar energy will account for at

regulations which describe any oil or

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would be consistent with the purposes of the Act;

(4) You are not entitled to an exemption under the regulations issued pursuant to Sections 212(a)(1)(A)–(D), and (a)(2), of the Act, at the site of the proposed powerplant or at any reasonable alternate site for all alternate fuels; and

(5) At the proposed site and at every reasonable alternative site where you are not entitled to an exemption under the regulations issued pursuant to Sections 212(a)(1)(A)–(D), and (a)(2), of the Act for all alternate fuels, you nevertheless would be barred at each such proposed or alternative site from burning an alternate fuel by reason of a state or local requirement.

(b) *Evidence required in support of a petition.* To submit an adequate petition for review by ERA, you must include in your Fuels Decision Report at least the following evidence in order to make the demonstration required by this section:

(1) A copy of the pertinent state or local requirement with its citation and its legislative history;

(2) The identification and location of the administrative body which implements the requirement;

(3) A description of your attempts to obtain a variance from the requirements or a demonstration of why none is available;

(4) A description of any activities you were involved in after April 20, 1977, pertaining to the enactment of the requirement;

(5) a description of equipment, procedures, and the advance planning time necessary to comply with the requirement;

(6) A detailed description of why compliance with the state or local requirement is infeasible;

(7) The impact upon you and/or your local community, if any, should your petition be denied;

(8) An explanation of the reasons why granting this exemption would be in the public interest; and

(9) An analysis of why you cannot qualify for any of the exemptions listed in paragraph (a)(5) of this section for all alternate fuels at your proposed site and at reasonable alternative sites (§ 503.11).

(c) *Exercise of discretion by ERA.* ERA may refuse to grant this exemption to you if it determines that such grant would not be in the public interest or in accordance with the purposes of the Act, notwithstanding the fact that the evidence you have furnished to ERA in your exemption petition substantiates that your facility would otherwise be eligible to receive the exemption.

§ 503.37 Cogeneration.

(a) *Eligibility.* Section 212(c) of the Act provides for a permanent exemption for cogeneration. To qualify you must show that economic and other benefits of cogeneration are unobtainable unless petroleum or natural gas, or both, are used by demonstrating to the satisfaction of ERA at least the following minimum criteria:

(1) The oil or gas to be consumed by the cogeneration facility will be less than that which would otherwise be consumed in the absence of the cogeneration facility where the calculation of savings is in accordance with paragraph (c) of this section; or

(2) It would be in the public interest to grant an exemption to the cogeneration facility because of special circumstances such as technical innovation or maintaining industry in urban areas.

(b) *Specifications of the cogeneration facility.*

(1) A person proposing to construct a cogeneration facility may apply for an exemption under this section if the amount of net electricity that is either sold or exchanged is 50 percent or more of the useful energy output of the facility. If the amount is less than 50 percent, see § 505.27 (Installations). Net electricity excludes sales or exchanges among owners of the cogeneration facility.

(2) Electricity generated by the proposed cogeneration facility must constitute more than 10 percent of the useful energy output of the facility and less than 90 percent of the useful energy output.

(c) *Calculation of oil and gas savings.* There is an oil and gas savings if the oil or gas to be consumed by the cogeneration facility will be less than that which would otherwise be consumed in the absence of the cogeneration facility. The calculation of the oil and gas which would otherwise be consumed must be in accordance with paragraphs (c) (1) and (2) of this section.

(1) Except for the case described in paragraph (c)(2), of this section, the oil or gas which would otherwise be consumed must be calculated as follows:

(i) You may include the oil or gas that would be consumed by facilities that are or would be too small to be covered by the FUA regulations. In the case of new small industrial units, you must demonstrate that it would be reasonable to construct units of that size.

(ii) You may include the oil or gas that would be consumed by units in place (existing or exempt) covered by FUA if they are less than 40 years old in the case of a field-erected unit or less than 20 years old in the case of a package unit. In the case of existing units, you may not include units that have burned an alternate fuel or are capable of burning an alternate fuel, and, you may only include units described in this paragraph if they will be retired or shut down if this exemption is granted.

(iii) You may include the oil or gas that would be consumed by units not yet constructed that would be covered by the FUA regulations if you can demonstrate that each unit would be entitled to an exemption.

(iv) You may include the oil or gas that would be consumed by powerplants to generate electricity supplied to the grid to the extent that such electricity, if you cogenerate, will no longer be supplied by the grid. The oil or gas portion must be based on a 10 year forecast that includes new construction and retirement of plants within those 10 years.

(2) In the case of a cogeneration facility that would consist of an existing unit or an exempted unit and a new unit, you must calculate the amount of oil or gas that would otherwise be consumed as the sum of:

(i) The five-year annual average oil or gas consumption of the existing or exempted unit; and

(ii) The amount that would be consumed in units described in paragraph (c)(1) (i)–(iv), of this section that would now be satisfied by the new cogeneration facility.

(d) *Evidence required in support of a petition.* You must include in your Fuels Decision Report at least the following evidence in order to make the demonstration required by this section:

(1) An engineering description of the cogeneration system, including proposed output and uses thereof, with sufficient detail to ensure that the facility qualifies as a cogeneration facility;

(2) A detailed oil and natural gas savings calculation identifying the projected oil or natural gas consumption of the cogeneration facility and the oil or natural gas that would otherwise be used;

(3) Identification of the FUA status of the proposed and displaced units with respect to coverage and designation as new, existing, or exempted, age of units, and alternate fuel capability of units;

(4) Identification of all persons and their roles in the proposed cogeneration facility;

(5) Where a demonstration is required that the units would be entitled to an exemption, submission of all evidence required by the regulations with respect to the applicable exemptions, including the alternate site showings; and

(6) In the case of paragraph (a)(2) of this section, an explanation of the public interest factors you believe should be considered by ERA.

(e) *Exercise of discretion by ERA.* ERA may refuse to grant this exemption to you if it determines that such grant would not be in the public interest or in accordance with the purposes of the Act, notwithstanding the fact that the evidence you have furnished to ERA in your exemption petition substantiates that your facility would otherwise be eligible to receive the exemption.

§ 503.38 Permanent exemption for certain fuel mixtures containing natural gas or petroleum.

(a) *Eligibility.* Section 212(d) of the Act provides for a permanent exemption for certain fuel mixtures. To qualify you must demonstrate to the satisfaction of ERA that:

(1) You propose to use a mixture of natural gas or petroleum and an alternate fuel as a primary energy source;

(2) The amount of petrolem or natural gas you propose to use in the mixture will not exceed the minimum percentage of the total annual Btu heat input needed to maintain operational reliability of the powerplant consistent with maintaining a reasonable level of fuel efficiency.

(b) *Evidence required in support of a petition.* You must include in your Fuels Decision Report at least the following evidence in order to make the demonstration required by this section:

(1) A complete description of the fuel mixture, component elements of the mixture, and percentage of each component to be utilized;

(2) Your design specifications for the unit for which you are requesting an exemption; and

(3) An engineering assessment of the proportions of petroleum or natural gas needed to maintain operational reliability and an adequate level of fuel efficiency..

(c) *Reporting requirement.* If the exemption is granted, you must submit an annual report to ERA certifying that the affected units have used no more than the percentage of oil or natural gas specified in the exemption order. The certification shall be executed by your duly authorized representative.

(d) *Solar mixtures.* ERA will grant a permanent mixtures exemption for the use of a mixture of solar energy (including wind, tide, and other intermittent sources) and petroleum or natural gas, where:

(1) Solar energy will account for at least 20 percent of the total annual Btu heat input of the unit; and

(2) You propose an acceptable plan to ERA which—

(i) Meets the evidence requirements set forth in paragraph (b) of this section; and

(ii) Contains a compliance plan prepared in accordance with § 503.12 of these regulations.

§ 503.39 Emergency purposes.

(a) *Eligibility.* Section 212(e) of the Act provides for a permanent exemption for emergency purposes. To qualify you must demonstrate to the satisfaction of ERA that you will operate and maintain the powerplant for emergency purposes only.

(b) *Definition.* For the purpose of this permanent exemption, an emergency exists when the operating utility would be required to curtail noninterruptible electric supply to its industrial customers.

(c) *Evidence required in support of a petition.* You must include in your petition at least the following evidence in order to make the demonstration required by this section:

(1) A certificate executed by a duly authorized officer of the operating utility stating that emergency operation under the provisions of this exemption will occur only when noninterruptible electric supply to industrial customers would be curtailed;

(2) All data required by § 503.7 (No alternative power supply) of these regulations demonstrating that, despite reasonable good faith efforts, there is no supply of electric power which is available within a reasonable distance at a reasonable cost without impairing short-run or long-run reliability of service;

(3) All data required by § 503.9 (Use of mixtures—general requirement) of these regulations demonstrating that use of a mixture(s) is not economically or technically feasible; and

(4) All data required by § 503.10 (Use of fluidized bed combustion not feasible—general requirement) if ERA has made a generic or site-specific finding that the use of a method of fluidized bed combustion of an alternate fuel is economically and technically feasible.

(d) *Additional information.* You must submit the following additional information:

(1) All data required by § 502.11 (Petroleum and natural gas use) of these regulations;

(2) All data required by § 502.12 (Conservation measures) of these regulations which describe any oil or natural gas conservation measures you have taken or intend to take if the exemption is granted; and

(3) All data required by § 502.13 (Environmental impacts analysis) of these regulations which will assist ERA to fulfill its responsibilities under the National Environmental Policy Act (NEPA).

(e) *Reporting requirement.* At the end of each 12-month period from the effective date of the exemption, you must report to ERA the monthly and annual amounts of electricity generated and fuel used under the provisions of this exemption with a description of the purposes of use.

§ 503.40 Permanent exemption for powerplants necessary to maintain reliability of service.

(a) *Eligibility.*

(1) Section 212(f) of the Act provides for a permanent exemption to maintain reliability of service. To qualify you must demonstrate to the satisfaction of ERA that:

(i) You are not capable of complying with the applicable prohibitions imposed by the Act without an impairment of reliability of service as measured by the loss of load probability technique described in paragraphs (a)(2) and (a)(3) of this section; and

(ii) despite diligent good faith efforts, you are not able to make the demonstration necessary to obtain a permanent exemption on the basis of lack of alternate fuel supply, site limitations, environmental requirements, inability to obtain adequate capital, or certain state or local requirements in the time required to prevent an impairment of reliability of service, or you are not able to construct an alternate fuel-fired plant in the time required to prevent an impairment of reliability of service.

(2) You must calculate reliability of service utilizing the loss of load probability (LOLP) technique. The LOLP must be computed for your electrical region using any 12-month period that includes the date of initial operation. It is to be calculated as the sum of either the weekly or the monthly estimates of hourly load/capacity deficits. You may decide whether to perform the calculation using weekly or monthly data. The LOLP calculation must take into consideration equipment forced outage rates, projected customer electrical demand, and generating capacity projections for the electrical region, including existing generating capacity, planned generating capacity additions and projected firm bulk electrical purchases and sales, and

enough time to obtain one of the

exemption for the same unit. You must

(2) If you propose to use natural gas or

§ 503.42 Intermediate load powerplants.

alternative fuels covered by the

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projected retirements. If necessary, you may also calculate LOLP with modifications to account for transmission constraints, energy shortages, and other factors that are not adequately addressed by adhering to the foregoing specifications. You will need to discuss why such modifications are appropriate.

(3) Reliability of service will be considered impaired if the LOLP for a 12-month period, including the initial operational date of the proposed unit, is greater than:

(i) One day in 5 years if your proposed powerplant will start operating within 4 years from the filing of your petition;

(ii) One day in 3 years if your proposed powerplant will start operating between 4 and 6 years from the filing of your petition; or

(iii) One day in one year if your proposed powerplant will start operating in 6 or more years from the filing of your petition.

(4) You may choose to argue that your case for impaired reliability is supportable by criteria other than in paragraph (a)(2) of this section. If so, you must present this argument, and propose an approach for its justification, in a prepetition conference for ERA concurrence.

(b) *Evidence supporting the petition.* To submit an adequate petition for review by ERA you must include in your Fuels Decision Report at least the following evidence in order to make the demonstration required by this section:

(1) All data you used in determining the loss of load probability;

(2) An explanation including equations of how you are calculating the loss of load probability;

(3) A description of your method and assumptions for projecting demand for your system and for your electric region;

(4) Your strategy for ending your period of reliability impairment, describing the measures you expect to take to reduce your demand and/or to increase your supply of power from sources other than your proposed plant that are either alternate fuel-fired or qualify for other exemptions;

(5) A calculation of your expected date of termination for your period of impairment. You may specify several alternate termination dates, each corresponding to a different combination of major events that are beyond your control (such as slippages of a new plant being built by a different utility in your electric region);

(6) An explanation of why there is not enough time to construct an alternate fuel-fired plant to prevent impairment of reliability of service or why there is not enough time to obtain one of the exemptions listed in paragraph (a)(1)(ii) of this section;

(7) An explanation of why the type and size of your proposed plant is the most appropriate choice, considering the conditions of operation in paragraph (c) of this section; and

(8) In addition, you may include other evidence that you believe is relevant to your case, such as:

(i) Evidence that the reliability advantages of coordination on an electric region basis cannot be achieved to an extent sufficient to remove your "impairment of reliability" by the first year of operation, reasons for this deficiency, and an estimate of when such coordination could be implemented in your region; or

(ii) Evidence that your system has a unique situation that requires the use of different reliability criteria.

(c) *Terms and conditions.* If you obtain this discretionary permanent exemption, you will be permitted to operate your proposed plant only for the purposes of preventing an impairment of reliability of service. Your "initial period of impairment" will extend from the date of initial operation of your proposed powerplant until the earliest date when you can reduce your LOLP to less than 1 day in 5 years by means of measures which are either in compliance with the prohibitions in the Act or which have qualified for other exemptions from these prohibitions. ERA, at the time it grants this exemption, will specify the expected termination date of your initial period of impairment. If circumstances beyond your control, which could not reasonably be anticipated at the time your petition was filed, cause the LOLP of your electric region to exceed 1 day in 5 years either at the end of this period or at any subsequent time, you may continue operation or recommence operation. You must report to ERA at the end of each calendar year the amounts of oil and natural gas used under this exemption. You must also supply detailed LOLP calculations to support the continuation of recommencement of operation.

(d) *Exercise of discretion by ERA.* ERA may refuse to grant this exemption to you if it determines that such grant would not be in the public interest or in accordance with the purposes of the Act, notwithstanding the fact that the evidence you have furnished to ERA in your exemption petition substantiates that your facility would otherwise be eligible to receive the exemption.

(e) *Peakload use.* You may apply for a peakload exemption in addition to this exemption for the same unit. You must meet the eligibility and evidence requirements of each exemption to obtain them. You must also comply with the reporting requirements of each.

§ 503.41 Peakload powerplants.

(a) *Eligibility.* (1) *Proposed use of petroleum.* Section 212(g) of the Act provides for a permanent exemption for peakload powerplants if you propose to use petroleum as a primary energy source in a new peakload powerplant, or propose to construct a peakload powerplant to use petroleum without the capability to use an alternate fuel as a primary energy source. To qualify you must certify to ERA that the powerplant will be operated solely as a peakload powerplant and to meet peakload demand for the life of the powerplant.

(2) *Proposed use of natural gas.* Section 212(g) of the Act provides for a permanent exemption for peakload powerplants if you propose to use natural gas as a primary energy source in a new peakload powerplant, or propose to construct a peakload powerplant to use natural gas without the capability to use an alternate fuel as a primary energy source. To qualify:

(i) You must certify to ERA that the powerplant will be operated solely as a peakload powerplant and to meet peakload demand for the life of the powerplant; and

(ii) The Administrator of the EPA or the Director of the appropriate state air pollution control agency must certify that the use by the powerplant of any available alternate fuel as a primary energy source will cause or contribute to a concentration, in an air quality control region or any area within the region, of a pollutant for which any national air quality standard is or would be exceeded.

(b) *Evidence required in support of a petition.* To submit an adequate petition for review by ERA you must include in your petition at least the following evidence in order to make the demonstration required by this section.

(1) The petition must be accompanied by a sworn statement signed by a duly authorized officer of the electric utility which will operate the powerplant certifying that the powerplant is to be operated solely as a peakload powerplant and to meet peakload demand for the life of the plant. The certification must set forth the design capacity of the powerplant and the maximum allowable generation of the powerplant in kilowatt hours according to the definition of peakload for each 12 months of operation as a peakload powerplant.

(2) If you propose to use natural gas or construct a powerplant to use natural gas in lieu of an alternate fuel as a primary energy source, an air quality certification must have been prepared for the Secretary by the Administrator of the EPA or the Director of the appropriate state air pollution control agency which meets the requirements contained in paragraph (a)(2)(ii) of this section.

(3) If your proposed peakload powerplant is to be other than a combustion turbine powerplant you must describe what constitutes peakload demand on your system, how the peakload demand is to be met, including the projected order of dispatch of existing and proposed powerplants, and an estimate of the number of kilowatt hours that the proposed plant would generate during its first 12 months of operation to meet peakload demand. ERA may also request this information from petitioners whose proposed plant is a combustion turbine.

(c) *Additional information.* You must submit the following additional information:

(1) All data required by § 502.11 (Petroleum and natural gas use) of these regulations;

(2) All data required by § 502.12 (Conservation measures) of these regulations which describe any oil or natural gas conservation measures you have taken or intend to take if the exemption is granted; and

(3) All data required by § 502.13 (Environmental impacts analysis) of these regulations which will assist ERA to fulfill its responsibilities under the National Environmental Policy Act (NEPA).

(d) *Liability for operating in excess of exemption.* The operation of a peakload powerplant which has been granted this exemption in excess of that allowed by the exemption shall be subject to penalties under Title VII, Subtitle C of the Act unless the powerplant meets the criteria set forth in section 721(c) of the Act.

(e) *Reporting requirement.* If the petition is granted, you must report to ERA, at the end of each 12-month period from the first day of operation of the powerplant and, if applicable, upon reaching the maximum number of kilowatt hours of permitted generation within each 12-month period, the name, location, and design capacity of the exempted unit, the number of hours of operation permitted by the exemption, and the number of hours of actual operation.

§ 503.42 Intermediate load powerplants.

(a) *Eligibility.* Section 211(h) of the Act provides for an exemption for use by intermediate load powerplants of petroleum as a primary energy source. To quality you must demonstrate to the satisfaction of ERA all of the following.

(1) The Administrator of the EPA or the Director of the appropriate state air pollution control agency has certified that the use of any available alternate fuel as a primary energy source will cause or contribute to a concentration, in an air quality control region or any area within such region, of a pollutant for which any national ambient air quality standard is or would be exceeded as described in paragraph (c) of this section.

(2) The powerplant to be constructed and operated will replace no more than the equivalent generating capacity of existing units which:

(i) Permanently cease operation within 1 month of commencement of operation of the new powerplant;

(ii) Use natural gas or petroleum as a primary energy source;

(iii) Are owned by the same person who is to operate the new powerplant; and

(iv) Would, if they burned coal, cause or contribute to a pollutant concentration in a manner described in paragraph (a)(1) of this section.

(3) The powerplant is to be operated only as an intermediate load powerplant in which the electrical generation (in kilowatt hours) for any 12-calendar-month period shall not exceed the powerplant's design capacity multiplied by 3,500 hours.

(4) The net heat input rate for the powerplant will be maintained at or less than 9,500 Btu's per kilowatt hour throughout the useful life of the powerplant.

(5) You are not entitled to an exemption under the regulations issued pursuant to Sections 212(a)(1)(A)-(D), and (a)(2), of the Act, at the site of the proposed powerplant or at any reasonable alternate site for all alternate fuels.

(6) The powerplant is to be constructed with the capability to use a synthetic fuel derived from an alternate fuel as a primary energy source.

(b) *Evidence supporting the petition.* You must include in your Fuels Decision Report at least the following evidence in order to make the determination required by this section:

(1) An air quality certification for this unit prepared by the EPA or state air pollution control agency, meeting the requirements of paragraph (a)(1) of this section, including a listing of all alternative fuels covered by the certification;

(2) A description of the existing powerplants to be replaced by the new intermediate load powerplant which shall include—

(i) The name and location of each of the existing powerplants;

(ii) The volume of fuel consumed by type for the previous 2 years by the existing powerplants; and

(iii) The corporate ownership of the existing powerplants;

(iv) The reasons for claiming that the existing powerplants would cause or contribute to a pollutant concentration if they used coal as a primary energy source;

(3) An affidavit executed by a duly authorized officer of the electric utility which will operate the proposed powerplant certifying that the powerplant shall be operated at all times in the future only as an intermediate load powerplant. The certification shall set forth the design capacity of the proposed powerplant and the maximum allowable generation of the proposed powerplant in kilowatt hours for its first 12 months of operation as an intermediate load powerplant;

(4) An affidavit by a duly authorized officer and a qualified engineer of the utility operating the powerplant which certifies that the powerplant can operate at a heat rate of 9,500 Btu's per kilowatt hour or less throughout the useful life of the powerplant;

(5) An affidavit by a duly authorized officer and a qualified engineer of the operating utility certifying that the powerplant will meet the synthetic fuels capability requirement described in paragraph (a)(6) of this section, identifying the specific synthetic fuels, and agreeing to cease using petroleum when ERA has found that such synthetic fuels are available;

(6) An analysis of why you cannot qualify for the exemptions listed in paragraph (a)(5) of this section for all alternate fuels at the site of your proposed powerplant or at any reasonable alternate site. As part of your analysis you should identify at least one site at which an intermediate load powerplant burning an alternate fuel could not be ruled out by the criteria in any of the above-named exemptions, and should identify the type of plant and the fuel;

(7) Identification of the synthetic fuel(s) your proposed plant is designed to use, with appropriate documentation including:

(i) The reasons for your choice;

(ii) Your expected source of synthetic fuel, if known;

(iii) The year when you expect the

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employ in administering and

that the installation qualified or would

include as part of your petition a Fuels

test, the cost is computed only for the

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(iii) The year when you expect the synthetic fuel to be available in adequate quantity at an acceptable price;

(iv) Estimates of the future prices of the synthetic fuel your plant would be designed to use;

(v) Your role, if any, in developing the facilities to produce the synthetic fuel;

(vi) The special features of your proposed plant that will enable it to use synthetic fuel(s);

(vii) Your basis for believing that these fuels can be burned in your proposed plant in conformance with applicable Federal and state environmental standards.

(c) *Terms and conditions.* ERA, if it grants you this exemption, will set as a condition the amount of oil to be used by the proposed powerplant. In general, ERA would require that the granting of this exemption result in a reduction in oil use or a reduction in the rate of oil increase by your system. The reduced oil use would be achieved by ceasing operation of the applicable existing units and by employing the more efficient proposed unit in their place.

(d) *Reporting requirement.* If the petition is granted, you must report to ERA, at the end of each 12-month period from the first day of the month following the effective date of the exemption and, if applicable, upon reaching the maximum number of hours of permitted operation within each 12-month period, the name, location, and design capacity of the exempt unit, the number of hours of operation permitted by the exemption, and the number of hours of actual operation. You must also report at the same time the amount of petroleum used by the unit and the total amount of petroleum used by all units in your system.

(e) *Periodic review.* ERA shall, from time to time, review this exemption and shall terminate it when it finds that there is available a supply of synthetic fuel suitable for use by the exempt powerplant.

(f) *Exercise of discretion by ERA.* ERA may refuse to grant this exemption to you if it determines that such grant would not be in the public interest or in accordance with the purposes of the Act, notwithstanding the fact that the evidence you have furnished to ERA in your exemption petition substantiates that your facility would otherwise be eligible to receive the exemption.

PART 504—EXISTING ELECTRIC POWERPLANTS [RESERVED]

PART 505—NEW MAJOR FUEL BURNING INSTALLATIONS

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505.27 Cogeneration.
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505.29 Emergency purposes.
505.30 [Reserved]
505.31 Scheduled equipment outages.

Authority: Department of Energy Organization Act, Pub. L. 95-91, 91 Stat. 565 (42 U.S.C. 7101 et seq.); Powerplant and Industrial Fuel Use Act of 1978, Pub. L. 95-620 92 Stat. 3289 (42 U.S.C. 8301 et seq.); E.O. 12009, 42 FR 4267.

PART 505—NEW MAJOR FUEL BURNING INSTALLATIONS

Subpart A—Prohibitions

§ 505.1 Purpose and scope.

(a) *Purpose.* This subpart sets forth the statutory prohibitions imposed on new major fuel burning installations which are boilers and establishes the criteria and procedures ERA intends to employ in administering and implementing its authority to prohibit nonboilers from using petroleum or natural gas.

(b) *Scope.* The prohibitions set out in this subpart apply to all new major fuel burning installations, as defined in Part 500, except those granted an exemption under Subparts C and D of this Part. Any person who owns, controls, operates, rents or leases an installation is subject to the prohibitions imposed and the sanctions provided for by the Act or these regulations.

§ 505.2 Prohibitions.

(a) *Prohibition on the Use of Natural Gas or Petroleum as a Primary Energy Source in Boilers.* Section 202(a) of the Act prohibits, unless an exemption has been granted under Subparts C or D of this Part, the use of petroleum or natural gas as a primary energy source in any new installation consisting of a boiler.

(b) *Prohibition on the Use of Natural Gas or Petroleum as a Primary Energy Source in Nonboilers.* (1) Prohibition by Rule.

(i) ERA may prohibit, by issuance of a rule, certain categories of new major fuel burning installations, other than boilers, from the use of petroleum or natural gas as a primary energy source.

(ii) In such a rulemaking proceeding ERA will consider any special circumstances or characteristics of the category of nonboilers that would be prohibited from using natural gas or petroleum as a primary energy source. Factors to be considered include the overall technical feasibility of members of the category to burn an alternate fuel, as well as their size and their geographic location. ERA will consider all other circumstances, characteristics, and factors it deems relevant and appropriate which are brought to its attention.

(iii) Enforcement of a final rule under this subsection will be stayed while ERA is considering any petition filed in accordance with Subpart F of Part 501 for an exemption from the prohibition established by rule for that installation. For ERA to stay the rule as it pertains to your installation under the procedures outlined in Part 501 your petition must be filed within 60 days after publication of the final rule in the **Federal Register.** The stay will remain in effect pending judicial review of ERA's action upon your exemption petition.

(iv) No final rule will apply to an installation that—

(A) Has received an order containing a comparable prohibition;

(B) Was proposed to receive an order but did not because of a demonstration that the installation qualified or would qualify for an exemption under the Act; or

(C) Has been granted an exemption in accordance with Subparts C and D;

(2) Prohibition by Order.

(i) ERA may prohibit, by order, the use of natural gas or petroleum as a primary energy source in a new major fuel burning installation consisting of a nonboiler, if that installation has not been identified as a member of a category subject to a final rule at the time of the issuance of the proposed order.

(ii) ERA may not issue a final order to your installation covered by this subsection if you can demonstrate that your installation is eligible for an exemption. However, if your installation is eligible only for a temporary exemption, ERA may issue you a final order that will take effect at the expiration of the temporary exemption.

(iii) If ERA may not issue a final order because your facility is eligible for a permanent exemption, or if the effective date of the order is delayed during the period that a temporary exemption is effective, ERA may take appropriate action to assure that you comply with the terms and conditions, if any, of the order granting the exemption.

(3)(i) ERA may not prohibit the use of petroleum or natural gas in your installation covered by this subsection if you began the acquisition or construction of the nonboiler installation before the date the proposed rule or proposed order containing the prohibition was published.

(ii) If you began acquisition or construction of the installation prior to the date of publication of the proposed rule or proposed order, ERA will consider your installation to be an "existing" installation for purposes of treatment under the Existing Major Fuel Burning Installations section (Title III, Subtitle A) of the Act.

Subpart B—General Requirements for Exemptions

§ 505.3 Purpose and scope.

This subpart establishes the general requirements necessary to qualify for either a temporary or permanent exemption from the prohibitions set out under this Part and establishes the methodology for calculating the cost of using an alternate fuel and the cost of using imported petroleum.

§ 505.4 Fuels decision report.

(a) Before ERA will accept a petition for either a temporary or permanent exemption under this Part, you must include as part of your petition a Fuels Decision report, as described in Part 502, unless you are requesting an exemption for emergency, retirement or peakload (new powerplants only) purposes. The Fuels Decision Report shall contain the analysis and documentation of the evidence required in support of the exemption request.

(b) Your petition may contain more than one exemption request. In this case, your petition would include one Fuel Decision Report which addresses your considerations and the appropriate forms for the exemptions you are requesting.

§ 505.5 Cost calculation for new installations.

(a) *General.*

(1) This calculation compares the cost of using alternate fuel to the cost of using imported petroleum. Its purpose is to provide ERA with a mechanism for deciding when noneconomic investments are acceptable in the best interests of the United States.

(2) The cost of using an alternate fuel in lieu of imported oil or gas as a primary energy source will be deemed to be substantially in excess of the cost to use imported petroleum where the ratio of the former to the latter is greater than the index set periodically by ERA.

(3) The index is currently 1.3. ERA will revise the index from time to time after public notice and time to comment. Revisions shall become effective for all ERA decisions after final publication; however, the relevant index for a specific petition will be the index in effect at the time the petition is submitted, or the index in effect at the time a decision is rendered, whichever is lower.

(4) The cost test takes into consideration cash outlays for capital investments and annual expenses, and the effect of depreciation and taxes on the cash flow. There are two comparative cost tests—a general cost test and a special cost test. You must demonstrate eligibility for a permanent exemption using the procedures specified in the general cost test (paragraph (b)). You must demonstrate eligibility for a temporary exemption using the procedures specified in the general cost test (paragraph (b)) or the special cost test (paragraph (c)).

(5) The general cost test differs from the special cost test with respect to the time period over which costs are calculated and the types of fuel consuming equipment being considered. When using the general cost test, the cost is computed for the useful life of the installation. When using the special cost test, the cost is computed only for the term of the exemption. In the general cost test, the proposed oil or natural gas installation consuming oil or natural gas is compared with an equivalent alternate fuel-capable installation of the same capacity consuming that alternate fuel. In the special cost test, an alternate fuel-capable installation consuming oil or natural gas is compared with an alternate fuel-capable installation consuming that alternate fuel.

(b) *Cost calculation—general cost test.*

(1) You may be eligible for a permanent exemption if you demonstrate that the cost of using an alternate fuel starting anytime within the first 10 years of operations will always substantially exceed the cost of using imported petroleum over the useful life of the unit. You will have to show that the cost of using an alternate fuel, starting in each of the first 10 years of operation and using oil or natural gas until the start of using an alternate fuel, substantially exceeds the cost of using only imported petroleum.

(2) ERA will not grant a permanent exemption if a temporary exemption is warranted. Therefore, if the cost computed with successive starting dates for alternate fuel use (for the first 10 years of operation) does not always substantially exceed the cost of using imported petroleum, you would only be eligible for a temporary exemption. The length of the temporary exemption would be the minimum period within which the cost of starting to use alternate fuel always substantially exceeds the cost of using imported petroleum. For example, if you plan to burn coal which cannot be obtained at a reasonable price for 2 years after the installation of the boiler designed to burn coal and oil, ERA may grant a temporary exemption and allow the burning of oil for 2 years.

(3) To conduct the test, you must use the equations that follow.

(i) Calculate the ratio (R) of the cost of using an alternate fuel to the cost of using imported petroleum with equation 1.

$$\text{EQ 1} \qquad R = \frac{\text{COST (ALTERNATE)}}{\text{COST (OIL)}}$$

(ii) Calculate the cost of using an alternate fuel and imported petroleum with equation 2.

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EQ 2 $$\text{COST} = I + \sum_{i=1}^{N} \frac{(OM_i + FL_i)(1 - t) - t(DPR_i)}{(1 + K)^i}$$

(iii) Calculate the capital investment using equation 3.

EQ 3 $$I = \sum_{i=-g}^{N} \frac{I_i - ITC_i - S_i}{(1 + K)^i}$$

(4) The terms in equations 2 and 3 are defined as follows:

i—Year. Outlays before the plant becomes operational are future valued to the year before the plant becomes operational (year 0) and outlays after the plant becomes operational are present valued to the year before the plant becomes operational.

g—The number of years prior to the year before the plant becomes operational a cash outlay is made for capital investments or investment tax credit is used.

N—The useful life of the installation (see section d).

I_i—Yearly cash outlay (in dollars) from the year the outlays first occur to the last year of the installation's useful life for capital investments. (See section d for the equipment which must be included.)

OM_i—Annual cash outlay in year i (in dollars) for all operations and maintenance expenses except fuel (i.e., all non-capital and non-fuel cash outlays caused by putting the capital investments into service). May include labor, materials, insurance, taxes (except income taxes), etc. (see section d.)

t—Marginal income tax rate (see section d).

FL_i—Annual cash outlay for delivered fuel expenses (in dollars) in year i (see section d).

K—The discount rate expressed as a fraction (see section d).

DPR_i—Depreciation in year i (see section d).

S_i—Salvage value of capital investment (in dollars) in year i.

ITC_i—Federal investment tax credit resulting from capital investments used in year i (see section d).

(5) The step-by-step procedure that follows shows the comparisons that you must make. It outlines the equipment and fuel comparisons, as well as the time comparisons.

(i) Compute the cost (COST) of using an alternate fuel in an alternate fuel-capable installation throughout the useful life of the installation with equation 2.

(ii) Compute the cost (COST) of using oil or natural gas in an oil or natural gas-fired installation throughout the useful life of the installation with equation 2.

(iii) Compute the ratio (R) of the cost of using an alternate fuel throughout the useful life of the installation to the cost of using oil or natural gas throughout the useful life of the installation with equation 1. If the ratio (R) is equal to or less than 1.3, the index set by ERA, you are not eligible for a permanent or temporary exemption using the general cost test and need not complete the remainder of the calculation.

(iv) Compute the cost (COST) of using an alternate fuel in an alternate fuel and oil or natural gas-capable installation with equation 2 assuming an alternate fuel is not used as the primary energy source until the end of the first year of operation. All cash outlays should reflect postponed use of alternate fuel (e.g., installation of scrubber when used).

(v) Successively compute the cost (COST) of using an alternate fuel in an alternate fuel and oil or natural gas-capable installation with equation 2 assuming alternate fuel is postponed until the end of the second through tenth year of operation (and oil or natural gas is used in the years preceding alternate fuel use).

(vi) Compute the ratios (R) of the cost of using an alternate fuel successively at the end of the first through tenth year to the cost of using oil or natural gas throughout the life of the installation with equation 1.

(vii) If all the ratios (R) computed in C and F are greater than 1.3 (an index to be set periodically by ERA), your proposed installation would meet the cost criteria for a permanent exemption. If one or more of the ratios (R) is equal to or less than 1.3 and a series of ratios (R), starting with the case where alternate fuel is used from the start of operation, are all greater than 1.3, a temporary exemption would be granted for the minimum period in which the cost of starting to use alternate fuel, deferred year by year, always exceeds 1.3.

(6) The following table shows the hypothetical results of four sets of calculations assuming the index is 1.3:

Hypothetical Results of Four Sets of Calculations

Year in which alternate fuel use is commenced	Case I	Case II	Case III	Case IV
At Start of Operation				
1	1.4	1.8	1.5	1.1
2	1.5	1.7	1.5	1.2
3	1.3	1.8	1.4	1.2
4	1.3	1.5	1.3	1.1
5	1.2	1.5	1.4	1.1
6	1.2	1.4	1.4	1.1
7	1.1	1.4	1.5	1.1
8	1.1	1.4	1.5	1.1
9	1.0	1.4	1.6	1.1
10	1.0	1.4	1.6	1.1

The results of the above table show that: a 2-year temporary exemption would be granted in Case I, a permanent exemption would be granted in Case II, a 3-year temporary exemption would be granted in Case III, and no exemption would be granted in Case IV.

(c) *Cost calculation—special cost test.*

(1) You may be eligible for a temporary exemption if you demonstrate that the cost of using an alternate fuel in an alternate fuel-capable installation will substantially exceed the cost of using oil or natural gas in an alternate fuel-capable installation over the period of the proposed exemption. The period of the exemption cannot exceed 10 years. You will have to show that the cost of using an alternate fuel substantially exceeds the cost of using imported petroleum for the first year of operation, the first 2 years of operation, and successive first years of operation, up to the period of the proposed exemption. To do so, you must perform the calculations with successive ending dates to determine the maximum length of the exemption. ERA will limit the duration of a temporary exemption to the shortest time possible.

(2) To conduct the test, you must use the equations that follow.

(i) Calculate the ratio (R) of the cost of using an alternate fuel to the cost of using imported petroleum with equation 4.

EQ 4 $$R = \frac{\text{COST (ALTERNATE)}}{\text{COST (OIL)}}$$

(ii) Calculate the cost using equation 5.

EQ 5 $$\text{COST} = I \times \frac{\sum_{i=1}^{P} (1 + K)^{-i}}{\sum_{i=1}^{N} (1 + K)^{-i}} + \sum_{i=1}^{P} \frac{(OM_i + FL_i)(1 - t) - t(DPR_i)}{(1 + K)^i}$$

(3) The terms in equation 5 are the same as in equation 2 above with the addition of:

P—The length of the proposed temporary exemption.

(4) The step-by-step procedure that follows shows the comparisons you must make.

(i) Compute the cost (COST) of using an alternate fuel in an alternate fuel-capable installation assuming the length of the proposed exemption is 1 year with equation 5.

(ii) Compute the cost (COST) of using oil or natural gas in an alternate fuel and oil or natural gas-capable installation assuming the length of the proposed exemption is 1 year with equation 5.

(iii) Compute the ratio (R) of the cost of using an alternate fuel for the first year to the cost of using imported petroleum for the first year with equation 4.

(iv) Repeat the calculations made in A, B, and C above assuming the length of the proposed exemption is 2 years, 3 years, 4 years, and so on, up to the period of the proposed exemption.

(v) A temporary exemption would be granted when all the ratios (R) are greater than *1.3* (the index established by ERA).

(d) *Information on parameters used in the calculation.*

(1) All estimated expenditures, except natural gas and petroleum products, shall be expressed in real (uninflated) terms by using the prices in effect at the time the petition is submitted.

(2) The delivered price of oil or natural gas used in the calculation of delivered fuel expenses must reflect the price of imported oil.

(i) If you plan to use 100 percent domestic [15] petroleum product in your facility, compute your petroleum price with the following equation:

PFE=PF+PICO−PCCO

where

PICO=Price of imported crude oil. The most recent refiner acquisition cost of imported crude oil as reported in the **Federal Register** monthly notice for the DOE Domestic Crude Oil Allocation (Entitlements) Program.

PCCO=Price of composite crude oil. The most recent weighted average cost of total reported crude oil receipts as reported in the **Federal Register** notice for the DOE Entitlements Programs.

PF=Price of your fuel (f.o.b. your facility). The most recent actual weighted average cost of your fuel oil (other than natural gas). Alternatively, if no purchases of fuel oil occurred, or you used natural gas during that month, you should use a simple average of the industrial price of fuel oil (capable of being burned in your facility) sold in your area by at least three suppliers.

PFE=Price of fuel for use in the cost calculation.

(ii) If you plan to use 100 percent imported petroleum product in your facility, compute your petroleum price with the following equation:

PFE=PF+ENT

where

ENT=½×$E_{p,}$ ×DOSR for residual fuel oil if an entitlement has been received by the importer.

ENT=0 for all other products or if an entitlment has not been received by the importer.

$E_{p,}$=entitlement price reported in the **Federal Register** monthly notice for the DOE Entitlements Program.

DOSR=national domestic oil supply ratio reported in the **Federal Register** monthly notice for the DOE Entitlements Program.

(iii) If you plan to use a combination of domestic and imported petroleum product in your facility, you may use the prices computed with the formula in (d)(2)(i) of this section or you may use a weighted average of the prices computed with the formulas in (d)(2) (i) and (ii) of this section.

(iv) If you plan to use natural gas in your facility, you must use the formula in (d)(2)(i) of this section and the price of #6 residual fuel oil, which meets the air quality standards in your area, as the price of fuel.

(3) Capital investments (I) must include all items which are capital investments for Federal income tax purposes. All purchased equipment which has a useful life greater than 1 year, capitalized engineering costs, land, construction, environmental offsets, fuel inventory, [16] piping, etc., that are required to be able to use the installation must be included. However, an item may only be included if a cash outlay is required after the decision has been made to build the installation. [17]

(4) The operating and maintenance expenses (OM_i) must reflect both fixed and variable components. The firm must specify how much the installation will be used (utilization factor) when computing the variable components.

(5) The fuel expenses (FL_i) depend on how much the installation is used. The firm must specify how much the installation will be used, at what firing rates and the amount of fuel that will be burned annually. If an exemption is granted, it will be conditioned, subject to penalties, upon the petitioner burning no more than the maximum amount of fuel he could have specified and still have been granted the exemption.

(6) The discount rate (K) is 7.7 percent. ERA will change the discount rate from time to time after public notice and an opportunity to comment. Revisions shall become effective after final publication; however, the relevant discount rate for a specific petition will be the discount rate in effect at the time the petition is submitted:

(7)(i) The useful life (N) of major fuel burning installations shall be 40 years. You may rebut this presumption with suitable engineering evidence.

(ii) If the installations being compared have different useful lives, you will have

[15] For the purpose of this regulation, the Virgin Islands, Puerto Rico, and the U.S. territories and possessions are domestic sources.

[16] For industrial boilers, the greater of: (1) 21 days fuel supply, or (2) sufficient fuel to fill 60 percent of the storage volume must be included.

[17] E.g. if in 1982 you are filing for an exemption to use petroleum in a (statutorily) new installation which became operational in 1981, you must include all the cost you have already disbursed as well as the cost you will disburse.

to modify your general cost test calculation so that the two cash flows being compared have the length of the longer useful life. To do this you must multiply the cost—computed with equation 2—of the facility with the shorter life by the following adjustment factor (A).

$$A = \frac{\sum_{i=1}^{O} (1 + K)^{-i}}{\sum_{i=1}^{M} (1 + K)^{-i}}$$

where

M=the useful life of the facility with the shorter life,

O=the useful life of the facility with the longer life, and

K=the discount rate

(8) All Federal investment tax credits (ITC) will be applied consistently throughout the analysis in a manner consistent with the Federal tax laws in effect at the time the petition is submitted.

(9) Depreciation (DPR) will be applied consistently throughout the analysis in a manner consistent with Federal tax laws in effect at the time the petition is submitted. In general, accelerated depreciation cannot be used for gas- or oil-fired boilers. For alternate fuel fired facilities you must use the most rapid depreciation permitted by law.

(10) The marginal income tax rate (t) is the firm's marginal Federal income tax rate for the year the petition is submitted.

(11) The design capacity of the installations being compared must be the same.

(12) All estimated expenditures will be computed in accordance with generally accepted accounting principles.

(e) *Evidence in support of the comparative cost test.*

All petitions for exemption requiring the use of the comparative cost test shall include, but not be limited to, the following information:

(1) A detailed accounting of all cash outlays, investment tax credits, and anticipated salvage for capital investments. Include a description and cost estimate of all major construction and equipment. All critical assumptions should be stated and sufficient data should be included to support your estimates.

(2) A detailed accounting of all annual cash outlays for fixed and variable operations and maintenance expenses including a description of all major elements and the formulas used to compute them. All critical assumptions should be stated and sufficient data included to support your estimates.

(3) A detailed accounting of all annual cash outlays for delivered fuel expenses including the formulas used to compute them. All critical assumptions should be stated and sufficient data included to support your estimates. The fuel price and characteristics for each alternate fuel should be included.

(4) If the useful life of the installation is judged to be less than 40 years, all critical assumptions and sufficient data to support that position.

(5) A detailed accounting of the depreciation for each capital asset including the depreciable base, tax life and methods used. All critical assumptions should be stated and sufficient data included to support your estimates.

(6) A detailed justification of utilization factor including: a summary of your historic use of similar equipment, a projection of future use, and a statement explaining why scheduling could not be modified to increase the utilization factor.

(f) *Example of calculations.* (1) The purpose of this example is solely to illustrate the mechanics of the cost tests; it should not be construed to be guidance on the application of the Federal income tax laws. The detail is only to the level of the individual terms in the cost test equations. Where the petitioner should supply a value, equations, and data, we have only supplied the value.

(2) We are assuming: (i) That you are profitable to the extent that your Federal marginal income tax rate is 46 percent and that you need not carry over investment tax credits, and (ii) that you use double declining balance switching over to straight line to depreciate alternate fuel fired facilities.

(3) You are planning to build a new major fuel burning installation and the fuels you are considering are coal and oil. In this particular situation, the delivery cost of coal is much greater for the first 3 years than it will be in the later years because of a transportation problem requiring 3 years to resolve. Do you qualify for an exemption? If so, is it permanent or temporary?

(4) To determine if you qualify for a permanent exemption, you would have to use the general cost test and compute the ratios of the cost to use (i) coal for the useful life of a coal-capable installation, (ii) oil for the first year and coal for the remainder of the useful life of a coal- and oil-capable installation, (iii) oil for the first 2 years and coal for the remainder of the useful life of a coal- and oil-capable installation, . . ., and (xi) oil for the first 10 years and coal for the remainder of the useful life of a coal- and oil-capable installation to the cost of using oil for the entire life of an oil-fired installation.

(5) All 11 ratios would have to be higher than, for purposes of this example, 1.3 in order to qualify for a permanent exemption. However, if a series of successive ratios, starting with the case where alternate fuel is used from the start of operation, are all greater than 1.3, you would be eligible for a temporary exemption up to the last year the ratio is greater than 1.3.

(6) In this example, we will only compute the ratios of (1) the cost to use coal for the useful life of a coal capable installation and (2) the cost to use oil for the first 3 years and coal for the remainder of the useful life of a coal- and oil-capable installation to the cost of using oil for the entire useful life of an oil-fired installation.

(7) To determine if you qualify for a temporary exemption, if you have not already done so with the general cost test, of 3 years, you would have to use the special cost test and compute the ratios of the cost to use coal in a coal-capable installation to the cost to use oil in a coal- and oil-capable installation for 1, 2, and 3 years. All three ratios would have to be higher than 1.3 in order to qualify for a 3 year temporary exemption. In this example, we will only compute the ratio of the cost to use coal in a coal-capable installation to the cost to use oil in a coal- and oil-capable installation for 3 years.

(8) *Parameters.* A set of hypothetical parameters are given below.

(i) 200,000,000 Btu/hr coal boiler—

(A) *Capital cash flow requirements.*

Year before boiler becomes operational, and Cash flow

−3	$906,000
−2	3,622,000
−1	3,622,000
0	906,000
Total	9,055,000

(B) *Operations and maintenance expense cash requirements.*

Fixed	$1,449,000
Variable	540,000
Total	1,989,000

(C) *Fuel Expense Cash Requirements.*

First 3 years	$2,460,000
Fourth year through 40th year	1,640,000

(D) The plant is assumed to have a salvage value of zero.

(ii) 200,000,000 Btu/hr oil boiler—

(A) *Capital cash flow requirements.*

Year before boiler becomes operational, and Cash flow

−1	$954,000
0	954,000
Total	1,908,000

(B) *Operations and maintenance expense cash requirements.*

Fixed	$371,000
Variable	100,000
Total	471,000

(C) *Fuel Expense Cash Requirements.*

First through 40th year	$2,742,000

(D) The plant is assumed to have a salvage value of zero.

(iii) 200,000,000 Btu/Hr oil- and coal-fired boiler—

(A) *Capital cash flow requirements.*

(*1*) The cash flows required to build the basic boiler and make it oil capable are:

Year before boiler becomes operational, and Cash flow

−3	$934,000
−2	3,734,000
−1	3,734,000
0	934,000
Total	9,336,000

(*2*) The additional cash flows required to make the plant coal-capable are:

Year before boiler becomes operational, and Cash flow

−1	$314,000
0	906,000
Total	1,220,000

(B) *Operations and maintenance expense cash requirements.*

(*1*) When burning oil—

Fixed	$371,000
Variable	100,000
Total	471,000

(*2*) When burning coal—

Fixed	$1,449,000
Variable	540,000
Total	1,989,000

(C) *Fuel expense cash requirements.*

(*1*) When burning oil—

First through 40th year	$2,742,000

(*2*) When burning coal—

First 3 years	$2,460,000
Fourth through 40th	1,640,000

(D) The plant is assumed to have a salvage value of zero and it is assumed that the oil capability will not be scrapped after 3 years but maintained in case of emergency.

(iv) The discount rate for the purpose of this example is 8 percent.

(9) *Analysis.*[18]

(i) *General cost test.*

(A) Compute the cost of using coal in a coal-fired boiler from the start of the operation.

[18] All dollars are in thousands.

(B) Compute the cost of using oil in an

$$I = \sum_{i=-8}^{N} \frac{I_i - ITC_i - S_i}{(1+K)^i}$$

$$= \frac{906}{(1.08)^{-3}} + \frac{3,622}{(1.08)^{-2}}$$

$$+ \frac{3,622}{(1.08)^{-1}} + \frac{906}{(1.08)^{0}}$$

$$+ \frac{0.10 \times 9,055}{(1.08)} \text{ [1/]}$$

$$I = 9,345$$

$$COST = I + \sum_{i=1}^{N} \frac{(OM_i + FL_i)(1-t) - t.DPR_i}{(1+K)^i}$$

[1]ITC is recognized the year boiler is put into operation.

$$= 9,345 + \sum_{i=1}^{3} \frac{(1,989 + 2,460)(1 - 0.46)}{(1.08)^i}$$

$$+ \sum_{i=4}^{40} \frac{(1.989 + 1,640)(1 - 0.46)}{(1.08)^i}$$

$$- \sum_{i=1}^{23} \frac{0.46 \times DPR_i}{(1.08)^i} \text{ [1/]}$$

$$= 31,614$$

[1]Depreciation is double declining balance switching over to straight line. The tax life is 23 years for the boiler.

(B) Compute the cost of using oil in an oil-fired boiler throughout the useful life of the boiler.

$$I = \sum_{i=-8}^{N} \frac{I_i - ITC_i - S_i}{(1+K)^i} \text{ [1/]}$$

$$= \frac{954}{(1.08)^{-1}} + \frac{954}{(1.08)^{0}}$$

$$= 1,984$$

$$COST = I + \sum_{i=1}^{N} \frac{(OM_i + FL_i)(1-t) - t.DPR_i}{(1+K)^i}$$

$$= 1,984 + \sum_{i=1}^{40} \frac{(471 + 2,742)(1 - 0.46)}{(1.08)^i}$$

$$- \sum_{i=1}^{23} \frac{0.46 \times DPR_i}{(1.08)^i} \text{ [2/]}$$

$$= 22,278$$

[1]ITC is not allowed on the boiler.
[2]Depreciation is straight line. The tax life is 23 years for the boiler

(C) Compute the ratio of the cost of

(E) Compute the ratio of the cost of

This ratio and the ratio computed in

ratios, starting with the case computed

(C) Compute the ratio of the cost of using coal from the beginning of the operation to the cost of using oil throughout the useful life of the boiler.

$$R = \frac{\text{COST (COAL)}}{\text{COST (OIL)}}$$

$$= \frac{31,614}{22,278}$$

$$= 1.42$$

Since the ratio (R) is greater than 1.3 you may be eligible for an exemption and should complete the calculation.

(D) Compute the cost of using coal in a coal- and oil-capable boiler, assuming coal is not used until after the third year and oil is used for the first 3 years of operation.

$$I = \sum_{i=-g}^{N} \frac{I_i - ITC_i - S_i}{(1+K)^i}$$

$$= \frac{934}{(1.08)^{-3}} + \frac{3,734}{(1.08)^{-2}}$$

$$+ \frac{3,734}{(1.08)^{-1}} + \frac{934}{(1.08)^{0}}$$

$$- \frac{0.10 \times 9,336}{(1.08)^{1}}\ ^{1/}$$

$$+ \frac{314}{(1.08)^{2}} + \frac{906}{(1.08)^{3}}$$

$$- \frac{0.10 \times 1.220}{(1.08)^{4}}\ ^{2/}$$

$$I = 10,533$$

$$COST = I + \sum_{i=1}^{N} \frac{(OM_i + FL_i)(1-t) - t.DPR_i}{(1+K)^i}$$

$$= 10,533$$

$$+ \sum_{i=1}^{3} \frac{(471 + 2,742)(1 - 0.46)}{(1.08)^i}$$

$$+ \sum_{i=4}^{40} \frac{(1,989 + 1,640)(1 - 0.46)}{(1.08)^i}$$

$$- \sum_{i=1}^{23} \frac{0.46 \times DPR_i}{(1.08)^i}\ ^{1/} - \sum_{i=4}^{26} \frac{0.46 \times DPR_i}{(1.08)^i}\ ^{2/}$$

$$COST = 30,772$$

[1] ITC is recognized the year the boiler is put into operation.

[2] ITC is recognized the year after the boiler becomes coal capable.

[1] This term accounts for the initial investment required to make the boiler oil capable. The depreciation method is double declining balance switching to straight line. The tax life is 23 years.

[2] This term accounts for the additional investment required to make the boiler coal capable. The depreciation method is double declining switching to straight line. The tax life is 23 years.

(E) Compute the ratio of the cost of using coal starting at the end of the third year to the cost of using oil throughout the life of the boiler.

$$R = \frac{\text{COST (COAL)}}{\text{COST (OIL)}}$$

$$= \frac{30,772}{22,278}$$

$$= 1.38$$

This ratio and the ratio computed in (f)(9)(i)(C) of this section are higher than the index set by ERA. If all the ratios, including the nine other ratios not computed in this example, are higher than 1.3, you would be eligible for a permanent exemption. If all the ratios are not greater than 1.3 and a series of ratios, starting with the case computed in (f)(9)(i)(C) of this section, are higher than 1.3, a temporary exemption would be granted for the minimum period in which the ratios always exceed 1.3.

(ii) Special cost test.

(A) Compute the cost of using coal in a coal boiler assuming the length of the exemption is 3 years.

$$COST = I \times \frac{\sum_{i=1}^{P} (1+K)^{-i}}{\sum_{i=1}^{N} (1+K)^{-i}} + \sum_{i=1}^{P} \frac{(OM_i + FL_i)(1-t) - t(DPR_i)}{(1+K)^i}$$

$$= 9,345 \times \frac{\sum_{i=1}^{3} (1.08)^{-i}}{\sum_{i=1}^{40} (1.08)^{-i}} + \sum_{i=1}^{3} \frac{(1,989 + 2,460)(1 - 0.46)}{(1.08)^i}$$

$$- \sum_{i=1}^{3} \frac{0.46 \times DPR_i}{(1.08)^i}\ ^{1/}$$

$$= 7,352$$

(B) Compute the cost of using oil in a coal and oil boiler assuming the exemption is 3 years.

$$COST = I \times \frac{\sum_{i=1}^{P} (1+K)^{-i}}{\sum_{i=1}^{N} (1+K)^{-i}} + \sum_{i=1}^{P} \frac{(OM_i + FL_i)(1-t) - t(DPR_i)}{(1+K)^i}$$

$$= 10,533 \times \frac{\sum_{i=1}^{3} (1.08)^{-i}}{\sum_{i=1}^{40} (1.08)^{i}} + \sum_{i=1}^{3} \frac{(471 + 2,742)(1 - 0.46)}{(1.08)^i}$$

$$- \sum_{i=1}^{3} \frac{0.46 \times DPR_i}{(1.08)^i}\ ^{2/}$$

$$= 5,862$$

[1] Depreciation is double declining balance switching to straight line. The tax life is 23 years for the entire boiler.

[2] This term accounts for the initial investment required to make the boiler oil capable. It does not reflect the additional investment necesary to burn coal. The depreciation method is double declining balance switching to straight line. The tax life is 23 years.

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(C) Compute the ratio of the cost of using coal to the cost of using oil.

$$R = \frac{\text{COST (COAL)}}{\text{COST (OIL)}}$$

$$= \frac{7,352}{5,862}$$

$$= 1.25$$

This ratio (R) is lower than 1.3. You would not receive a temporary exemption of three years. However, if the ratio computed where the use of coal is delayed one and two years are higher than 1.3, you would get a temporary exemption of two years.

§ 505.6 [Reserved]

§ 505.7 Use of mixtures—General requirement for permanent exemptions.

(a) *Application:* ERA will consider a petition for any of the following exemptions provided for in Section 212 of the Act (lack of alternate fuel supply, site limitations, environmental requirements, inability to obtain adequate capital, state or local requirements, cogeneration, emergency purposes, product/process, or equipment outages) to be incomplete, inadequate, or unacceptable for filing unless you demonstate to the satisfaction of ERA that you have considered the use of a mixture(s) for which an exemption under § 505.28 (Fuel mixtures) of these regulations would be available.

(b) *Demonstration.* ERA will deny petitions for any of the exemptions listed above unless you demonstrate that use of such a mixture(s) is not economically or technically feasible in the unit for which you are requesting an exemption. You must submit to ERA in your Fuels Decision Report (or in your petition for an emergency or peakload exemption) at least the following evidence in order to make the demonstration required by this section:

(1) If use of a mixture(s) were required, you would be eligible for one of the following permanent exemptions provided for in the Act: lack of alternate fuel supply, site limitations, environmental requirements, inability to obtain adequate capital, or state or local requirements; or

(2) Use of a mixture(s) is not technically or economically feasible in your specific unit due to design or special circumstances.

§ 505.8 Use of fluidized bed combustion not feasible—General requirement for permanent exemptions.

(a) *ERA finding.* ERA may deny any of the following permanent exemptions provided for in Section 212 of the Act (lack of alternate fuel supply, site limitations, environmental requirements, inability to obtain adequate capital, state or local requirements, cogeneration, emergency purposes, product/process, or equipment outages), if ERA finds on a site-specific or generic basis that use of a method of fluidized bed combustion of an alternate fuel is economically and technically feasible.

(b) *Demonstration.* If ERA has made such a finding, ERA will deny your request for exemption unless you demonstrate that the use of a method of fluidized bed combustion is not economically or technically feasible. You must include in your Fuels Decision Report or any supplement thereto required by ERA (or in your petition for an emergency or peakload exemption) at least the following evidence:

(1) If use of a method of fluidized bed combustion were required, you would be eligible for one of the following permanent exemptions provided for in Section 212 of the Act: lack of alternate fuel supply, site limitations, environmental requirements, inability to raise adequate capital, or state and local requirements; or

(2) Use of a method of fluidized bed combustion is not technically or economically feasible in your specific unit due to design or special circumstances.

§ 505.9 Terms and conditions; compliance plans.

(a) *Terms and Conditions generally.* You must comply with the terms and conditions of an exemption granted under the Act by ERA, including terms and conditions requiring use of effective fuel conservation measures.

(b) *Compliance plans for temporary exemptions.*

(1) A compliance plan certified by your duly authorized representative must accompany each petition for a temporary exemption. The compliance plan shall include at least the following:

(i) A specific schedule of milestones indicating how you will comply with the applicable prohibitions of the Act;

(ii) Evidence of binding contracts for fuel, or facilities for the production of fuel, which are needed to comply with the applicable prohibitions of the Act; and

(iii) Any other documentary evidence which indicates your ability to comply with the applicable prohibitions of the Act.

(2) The exemption shall not be effective until the compliance plan is approved by ERA.

(3) *Revisions of compliance plans.* If the petition is granted, you must submit to ERA an updated compliance plan certified by your duly authorized representative:

(i) At the end of each 12-month period from the effective date of the exemption;

(ii) Within 1 month of an alteration of any milestone in the compliance plan, together with the reasons for the alteration and its impact upon the scheduling of all other milestones in the plan; and

(iii) At any time ERA, in its discretion, determines that a revised compliance plan may be necessary to reflect changes in circumstances.

(c) *Enforcement.* Any exemption is subject to termination upon the violation of any provision of the exemption or any provision of the pertinent compliance plan.

Subpart C—Temporary Exemptions for New Major Fuel Burning Installations

§ 505.10 Purpose and scope.

(a) This subpart implements the provisions contained in Section 211 of the Act with regard to temporary exemptions for new installations.

(b) This subpart establishes the criteria and standards which owners or operators of new installations who petition for a temporary exemption must meet to sustain their burden of proof under the Act.

(c) All petitions for temporary exemptions for new installations must be submitted in accordance with the procedures set out in Part 501 of these regulations.

(d) The duration of any temporary exemption granted under this subpart shall be measured from the date the installation is placed in service.

§ 505.11 Lack of alternate fuel supply.

(a) *Eligibility.* Section 211(a)(1) of the Act provides for a temporary exemption due to the unavailability of an adequate and reliable supply of an alternate fuel supply. To qualify you must demonstrate to the satisfaction of ERA that:

(1) You made a good faith effort to obtain an adequate and reliable supply of an alternate fuel for use as a primary energy source of the quality and quantity necessary to conform with the design and operational requirements of the new installation;

(2) For the period of the proposed exemption, the cost of using such a supply would substantially exceed the cost of using imported petroleum as a primary energy source as defined in § 505.5 (Cost Calculation) of these regulations; and

(3) You will be able to comply with the applicable prohibitions of these regulations at the end of the proposed exemption period.

(b) *Evidence required in support of a petition.* You must include at least the following evidence in order to make the demonstration required by this section:

(1) A description of your analysis of the alternate fuels you considered for use;

(2) A description of the alternate unit designs you considered in a good faith effort to comply with the applicable prohibitions;

(3) A description of the detailed design requirements you specified for the new installation, including capacity, alternate fuel capability, and all other specifications;

(4) A description of the range of specific fuel characteristics of all the

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(2) To the extent applicable, a copy of correspondence initiated or received by

of synthetic fuels by your proposed

fuels which can be used by the new installation;

(5) Evidence that you sought to obtain the full range of alternate fuels which could be used by the new installation, including bid requests and/or advertisements for supply contracts and responses thereto, as well as any other arrangements you attempted to make to secure supplies; and

(6) Evidence of the contracts or other arrangements you have made to insure a reliable and adequate supply of an alternate fuel at the end of the proposed exemption.

(7) All data required by § 505.8 (Cost Calculation) necessary for computing the cost calculation formula.

(c) *Compliance Plan.* You must submit to ERA a compliance plan in accord with § 505.9 of these regulations simultaneously with submission of your petition. You must submit an updated compliance plan, if applicable, as required by § 505.9 of these regulations or as may be required by the terms of any order granting an exemption under this subpart.

(d) Duration. This temporary exemption, taking into account any extensions or renewals, may not exceed 10 years.

§ 505.12 Site limitations.

(a) *Eligibility.* Section 211(a)(2) of the Act provides for a temporary exemption due to a site limitation. To qualify for such an exemption you must demonstrate that one or more of the following specific physical limitations relevant to the location or operation of your installation exist which, despite your diligent good faith efforts, cannot be overcome before the end of the proposed exemption period:

(1) Alternate fuels would be inaccessible as a result of a specific physical limitation;

(2) Transportation facilities for alternate fuels would be unavailable;

(3) Adequate land or facilities for handling, using or storing an alternate fuel would be unavailable;

(4) Adequate means for controlling and disposing of wastes would be unavailable;

(5) Adequate and reliable supply of water would be unavailable; or

(6) Other site limitations exist which would not permit the location or operation of the proposed installation using an alternate fuel.

(b) *Evidence required in support of the petition.* You must include at least the following evidence in order to make the demonstration required by this section:

(1) Evidence that the site limitation is a physical limitation, and not a requirement of a Federal, state, or local law which could be the basis of an exemption under § 505.26 (State or local requirements);

(2) Evidence that alternate means of overcoming the specific site limitations were considered, with a detailed description of the efforts made to overcome the site limitations set out in your petition;

(3) Evidence of the equipment or space requirement for which the site limitation is claimed;

(4) Evidence of the contracts or other arrangements you have made to insure that the site limitation will be overcome and that you will be able to comply with the prohibitions at the end of the proposed exemption period. Examples of evidence relevant to establishing a site limitation for purposes of a temporary exemption are as follows:

(i) Detailed documentation of impediments, including right of way problems, site diagrams, maps of the surrounding areas and other items essential to the showing of a site limitations;

(ii) Identification of transportation facilities relevant to the specific site and a demonstration why existing transportation facilities cannot be utilized or new facilities constructed;

(iii) Copies of bid requests, advertisements and general efforts made to secure alternative transportation facilities;

(iv) Identification of potential alternate fuel storage locations within a reasonable geographic area surrounding the proposed installation;

(v) Detailed site plans of the entire facility including those areas not directly involved with the specific installation;

(vi) A specific listing of all equipment necessary and not currently available to properly handle alternate fuel;

(vii) Copies of bid requests, advertisements and general efforts made to secure alternative fuel storage facilties;

(viii) Copies of quotes from bona fide suppliers, indicating leadtimes for purchase and installation of required ancillary storage or handling equipment;

(ix) Specific listing of any equipment necessary and not currently available to properly control and dispose of waste;

(x) Identification of potential alternate waste disposal locations within a reasonable geographic area surrounding the proposed installation;

(xi) A description of efforts made to secure offsite disposal areas, including the cost of acquisition of the sites, transportation facilities and waste handling costs involved in their use; and

(xii) Copies of bid requests, advertisements, and general efforts made to secure waste control and disposal equipment.

(c) *Compliance Plan.* You must submit to ERA simultaneously with your petition a compliance plan in accordance with §505.9 of these regulations. You must submit an updated compliance plan, if applicable, as required by §505.9 of these regulations and as may be required by the terms of any order granting an exemption under this subpart.

(d) *Duration.* This temporary exemption, taking into account any extensions and renewals, may not exceed 5 years.

§505.13 Inability to comply with applicable environmental requirements.

(a) *Eligibility.* Section 211(a)(3) of the Act provides for a temporary exemption due to an inability to comply with applicable environmental requirements. To qualify you must demonstrate to the satisfaction of the ERA that, despite diligent good faith efforts:

(1) You will be unable to comply with the applicable prohibitions imposed by the Act without violating applicable Federal or State environmental requirements as of the projected date of commencement of operation; and

(2) You will be able to comply with the applicable prohibitions imposed by the Act by the end of the temporary exemption period.

(b) *Criteria.* ERA's decision with regard to environmental compliance will be based solely on an analysis of your capacity to physically achieve applicable environmental requirements. You should direct your analysis toward those conditions or circumstances which make it physically impossible for you to comply with applicable environmental requirements during the temporary exemption period. Cost of compliance shall not enter into the analysis, but any cost-related considerations may be presented as part of a demonstration submitted under §505.11.

(c) *Evidence required in support of the petition.* You must submit at least the following evidence to corroborate the above requirements:

(1) If you elect to seek a construction permit from EPA or an appropriate State agency prior to petitioning for an exemption from ERA, a copy of your application and a detailed synopsis of all supporting documents filed with or subsequent to your application to EPA or the appropriate State agency;

(2) To the extent applicable, a copy of the EPA or State denial of your construction permit application;

(3) To the extent applicable, a detailed synopsis of the administrative record of the EPA or State or local permit proceedings;

(4) To the extent applicable, an analysis of the technology upon which the denial was based, including a performance comparison between the proposed technology and that technology which would provide the maximum possible reduction of pollution;

(5) An examination of the environmental compliance of the facility, including an analysis of the ability to meet applicable standards and criteria when using both the proposed fuel and all alternate fuels for which you are requesting an environmental exemption. All conclusions regarding the ability of the facility to comply must be based on accepted analytical techniques, such as air quality modeling, and must reflect current conditions of the area which would be affected by the facility. You are responsible for performing the necessary sampling and collecting sufficient data to accurately characterize these conditions. Environmental compliance must be examined in the context of the available pollution control equipment which would provide the maximum possible reduction of pollution. The analysis must contain requests for bids and other inquiries made and responses received by you concerning the availability and performance of pollution control equipment; contracts signed, if any, for an alternate fuel supply and for the purchase and installation of pollution control equipment; or other comparable evidence such as technical studies documenting efficacy of equipment to meet applicable requirements; and

(6) An examination of the regulatory options available to you in seeking to achieve environmental compliance. This examination must include an analysis of the availability of offsets, if needed, and the potential for securing variances and State Implementation Plan revisions, as appropriate. The analysis must illustrate and document your efforts, if any, to locate, identify, and acquire offsets, including agreements made by you with the State or other companies for acquisition of offsets. If an agreement to acquire offsets is conditioned upon the grant of a variance, or State Implementation Plan revision, you must submit a letter from the State agency indicating when a proceeding to effectuate the agreement will take place. The analysis must contain any correspondence initiated or received by you concerning these regulatory options and all technical studies you have relied upon to support your conclusions.

(7) In addition, you may submit any other documentation you believe demonstrates an inability to comply with applicable environmental requirements despite diligent good faith efforts.

(d) *Compliance Plan.* You must submit to ERA a compliance plan in accordance with § 505.9 of these regulations simultaneously with the submission of your petition. An updated compliance plan as required by § 505.9 of these regulations and as may be required by the terms of any order granting an exemption under this subpart must also be submitted as applicable.

(e) *Other Actions.*

(1) Prior to deciding to submit an exemption application, it is recommended that you request a meeting with ERA and EPA or the appropriate State or local regulatory agency to discuss options for operating an alternate fuel-fired facility in compliance with applicable environmental requirements; and

(2) You must submit a copy to ERA of your application for a construction permit at the same time you submit it to EPA or the state agency.

(f) *Duration.* This temporary exemption, taking into account extensions and renewals, may not exceed five years, and will be issued by ERA for such time period up to and including five years as the petition demonstrates is necessary.

§ 505.14 Future use of synthetic fuels.

(a) *Eligibility.* Section 211(b) of the Act provides for a temporary exemption based upon the future use of synthetic fuels. To qualify you must demonstrate to the satisfaction of ERA that:

(1) You will be able to comply with the applicable prohibitions imposed by the Act by the end of the proposed exemption period by the use of synthetic fuel as a primary energy source in your powerplant;

(2) You will not be capable of complying with the applicable prohibitions imposed by the Act by using a synthetic fuel in your powerplant before the end of the proposed exemption period.

(b) *Evidence required in support of the petition.* You must include in your Fuels Decision Report at least the following evidence in order to make a demonstration required by this Section:

(1) Copies of economic and technical feasibility studies pertaining to the use of synthetic fuels by your proposed powerplants;

(2) Reliable evidence of the financial commitments you have made to construct, operate and maintain equipment which will use synthetic fuel as the primary energy source at the end of the proposed exemption period;

(3) Copies of bid requests, advertisements, contracts and/or other agreements relating to the production, purchase and transportation of synthetic fuel; and

(4) Information with regard to permits that may be required by Federal or state agencies for the construction and operation of a powerplant using synthetic fuels.

(c) *Compliance plan.* You must submit to ERA a compliance plan in accordance with Section 214 of the Act and § 503.12 of these regulations simultaneously with submission of your petition to satisfy ERA requirements for petition adequacy. You shall submit an updated complaince plan as required by § 503.12 of these regulations and as required by the terms of any order granting an exemption under this subpart.

(d) *Duration.* This temporary exemption may be granted for a period of up to 5 years and may be extended for up to an additional 5 years, but so extended, may not exceed 10 years.

§ 505.15 Public interest exemption.

(a) *Policy Note.* The use of coal and other alternate fuels in lieu of petroleum and natural gas is in the public interest. ERA will grant this temporary exemption where you are unable to comply immediately with the prohibitions of the Act, where the granting of the petition would be in the public interest, and where you will be in compliance with the prohibitions imposed by the Act at the end of the exemption period. In filing your petition, you are required to complete the portions of the Fuels Decision Report (FDR) specified in § 502 of these Interim Rules and demonstrate why your proposed facility could not burn a fuel mixture during the time the exemption is in effect. ERA recognizes, however, that there are situations where the public interest would best be served by not requiring the FDR and mixture demonstration; consequently, ERA strongly urges you to request a prepetition conference where, after a consideration of the facts of your case, ERA could waive all or part of these requirements. As an example, ERA will generally waive these requirements where you temporarily need the use of a natural gas- or petroleum-fired rental unit to provide steam until the ongoing

necessary for computing the cost

(iii) Copies of bid requests,

application and a detailed synopsis of

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construction of an alternate fuel-fired unit is completed.

(b) *Eligibility.* Section 211(c) of the Act provides for a temporary public interest exemption. To qualify, you must demonstrate to the satisfaction of ERA that:

(1) You are unable to comply with the applicable prohibitions imposed by the Act, except in extraordinary circumstances, during the period for which the exemption is requested, but that you will be capable of complying at the end of the proposed exemption period; and

(2) The granting of the petition would be in accord with the purposes of the Act and would be in the public interest.

(c) *Evidence Required in Support of the Petition.* You must include at least the following evidence in order to make the demonstration required by this Section:

(1) substantial evidence to corroborate the eligibility requirements identified above;

(2) a demonstration that the use of a mixture, for which an exemption under § 505.28 (Fuel Mixtures) would be available, is not technically or economically feasible during the period the temporary public interest exemption is in effect; and

(3) Information and data required by §§ 502.4 (Introduction), 502.7 (Evidence for Exemption Requested), and 502.12 (Conservation Measures) of the Fuels Decision Report as set out in Part 502.

(d) *Compliance Plan.* You must submit to ERA a compliance plan in accordance with § 505.9 of these regulations simultaneously with submission of your petition. You must submit, if applicable, an updated compliance plan as required by § 505.9 of these regulations and as may be required by the terms of any order granting an exemption under this subpart.

(e) *Duration.* This temporary exemption, taking into account extension and renewals, may not exceed 5 years.

Subpart D—Permanent Exemptions for New MFBI's

§ 505.20 Purpose and scope.

(a) This subpart implements the provisions contained in Section 211 of the Act with regard to permanent exemptions for new major fuel burning installations and establishes the criteria and standards which owners or operators of new installations who petition for a permanent exemption must meet to sustain their burden of proof.

(b) If a petition for a permanent exemption is filed pursuant to § 505.21 (Lack of Alternate Fuel Supply for the First 10 Years of Useful Life); § 505.22 (Lack of Alternate Fuel Supply at a Cost Which Does Not Substantially Exceed the Cost of Using Imported Petroleum); § 505.23 (Site Limitations); § 505.24 (Inability to Comply with Applicable Environmental Requirements); § 505.25 (Inability to Obtain Adequate Capital); or § 505.26 (State or Local Requirements), you must demonstrate in your Fuels Decision Report that your inability to use each reasonable alternate fuel would entitle you to one or more of the above exemptions.

(c) All petitions for permanent exemptions for new installations must be submitted in accordance with the procedures set out in Part 501 of these regulations.

§ 505.21 Lack of alternate fuel supply for the first 10 years of useful life.

(a) *Eligibility.* Section 212(a)(1)(A)(i) of the Act provides for a permanent exemption due to the lack of an adequate and reliable supply of alternate fuel within the first 10 years of the useful life of the new installation To qualify you must demonstrate to the satisfaction of ERA that:

(1) You made a good faith effort to obtain an adequate and reliable supply of an alternate fuel for use as a primary energy source of the quality and quantity necessary to conform with the design and operational requirements of the new installation; and

(2) Such a supply is not likely to be available within the first 10 years of the useful life of the new installation.

(b) *Evidence required in support of the petition.* You must include in your Fuels Decision Report at least the following evidence in order to make the demonstration required by this section.

(1) A description of the alternate unit designs you considered in a good faith effort to comply with the applicable prohibitions.

(2) A description of the detailed design requirements you specified for the new installation, including capacity, alternate fuels capability, and all other pertinent specifications.

(3) A description of the range of specific fuel characteristics of all the fuels which can be used by the new installation;

(4) Evidence that you sought to obtain the full range of alternate fuels which could be used by the new installations;

(5) Evidence that you solicited at least 5 bids from suppliers who could reasonable be expected to supply an adequate and reliable supply of the quantity and quality of alternate fuel needed, including bid requests and/or advertisements for supply contracts and all proposals or responses thereto, as well as any other arrangements you attempted to make to secure supplies;

(6) A description of your analysis of the alternate fuel you considered, including a discussion of how you made your assessment that an adequate and reliable supply of the quality of fuel needed would not be available within the first 10 years of useful life of the new installation.

§ 505.22 Lack of alternate fuel supply at a cost which substantially exceeds the cost of using imported petroleum.

(a) *Eligibility.* Section 212(a)(1)(A)(ii) of the Act provides for a permanent exemption due to the lack of an alternate fuel supply at a cost which substantially exceeds the cost of using imported oil. To qualify you must demonstrate to the satisfaction of ERA that:

(1) You made a good faith effort to obtain an adequate and reliable supply of an alternate fuel for use as a primary energy source of the quality and quantity necessary to conform with design and operational requirements of the new installation; and

(2) The cost of using such a supply would substantially exceed the cost of using imported petroleum as a primary energy source, as defined in § 505.5 (Cost Calculation) of these regulations during the useful life of the new installation.

(b) *Evidence required in support of the petition.* You must include in your Fuels Decision Report at least the following evidence in order to make the demonstration required by this section:

(1) A description of the alternate unit designs you considered in a good faith effort to comply with the applicable prohibitions.

(2) A description of the detailed design requirements you specified for the new installation, including capacity, alternate fuels capability, and all other pertinent specifications.

(3) A description of the range of specific fuel characteristics of all of the fuels which can be used by the new installation;

(4) Evidence that you sought the full range of alternate fuels which could be used by the new installation. including bid requests, and/or advertisements for supply contracts, all responses you received, as well as any other arrangements you attempted to make to secure supplies;

(5) All data required by § 505.5 of these regulations (Cost Calculation)

necessary for computing the cost calculation formula; and

(6) A description of your analysis of the alternate fuels you considered.

§ 505.23 Site limitations.

(a) *Eligibility.* Section 211(a)(2) of the Act provides for a permanent exemption because of a site limitation. To qualify you must demonstrate to the satisfaction of the ERA that, despite good faith efforts:

(1) Alternate fuels would be inaccessible to the location or operation of the proposed installation as a result of a specific physical limitation;

(2) Transportation facilities for alternate fuels would be unavailable;

(3) Adequate land or facilities for handling, using or storing alternate fuels would be unavailable;

(4) Adequate means for controlling and disposing of wastes would be unavailable;

(5) An adequate and reliable supply of water would be unavailable; or

(6) Other site limitations exist which would not permit the location or operation of the proposed installation using an alternate fuel and that these limitations cannot be reasonably expected to be overcome within 5 years after the commencement of operations.

(b) *Evidence required in support of the petition.* You must include at least the following evidence in order to make the demonstration required by this section:

(1) Evidence that the site limitation is a physical limitation, and not a requirement of a Federal, state, or local law which could be the basis of an exemption under § 505.26 (State or local requirements);

(2) Evidence that alternate means for overcoming the specific site limitations were sought, with a detailed description of the efforts made to overcome the site limitations set out in your petition; and

(3) Evidence of necessary equipment or space requirements for which the site limitation is claimed. Examples of evidence relevant to establishing a site limitation for purposes of a permanent exemption are as follows:

(i) Detailed documentation of impediments, including right-of-way problems, site diagrams, maps of the surrounding areas and other items essential to the showing of a site limitation;

(ii) Identification of transportation facilities relevant to the geographic site of the installation and a demonstration showing why existing transportation facilities cannot be utilized or new facilities constructed;

(iii) Copies of bid requests, advertisements and general efforts made to secure alternate transportation facilities;

(iv) Identification of potential alternate fuel storage locations within a reasonable geographic area surrounding the proposed installation;

(v) Detailed site plans of the entire facility which include those areas not directly involved with the specific installation;

(vi) A specific listing of all equipment necessary and not currently available to properly handle alternate fuels;

(vii) Copies of bid requests, advertisements and general efforts made to secure alternate storage facilities;

(viii) Copies of quotes from bona fide suppliers, indicating leadtimes for purchase and installation of required ancillary storage or handling equipment;

(ix) Specific listing of any equipment necessary and not currently available to properly control and dispose of wast;

(x) Identification of potential alternate waste disposal locations within a reasonable geographic area surrounding the proposed powerplant;

(xi) A description of efforts made to secure offsite disposal areas, transportation facilities and waste handling costs involved in their use; and

(xii) Copies of bid requests, advertisements, and general efforts made to secure waste control and disposal equipment.

§ 505.24 Inability to comply with applicable environmental requirements.

(a) *Eligibility.* Section 212(a)(1)(C) of the Act provides for a permanent exemption due to inability to comply with applicable environmental requirements. To qualify you must demonstrate to the satisfaction of ERA that, despite good faith efforts, you cannot burn alternate fuel without violating applicable environmental requirements within 5 years after the projected date of commencement of operation. ERA's decision with regard to compliance will be based solely on an analysis of your capacity to physically achieve applicable environmental requirements. The cost of compliance shall not enter into the analysis, but any cost-related considerations may be presented as part of a demonstration submitted under § 505.22.

(b) *Evidence supporting petition.* You must include at least the following evidence in order to make the demonstration required by this section:

(1) If you elect to seek a construction permit from EPA or an appropriate state agency prior to petitioning for an exemption from ERA, a copy of your application and a detailed synopsis of all supporting documents filed with or subsequent to your application to EPA or the appropriate state agency.

(2) To the extent applicable, a copy of the EPA or state denial of your construction permit application;

(3) To the extent applicable, a detailed synopsis of the administrative record of the EPA or state or local permit proceedings;

(4) To the extent applicable, an analysis of the technology upon which the denial was based, including a performance comparison between the proposed technology and that technology which would provide the maximum possible reduction of pollution;

(5) An examination of the environmental compliance of the facility, including an analysis of the ability to meet applicable standards and criteria when using both the proposed fuel and all alternative fuels for which you are requesting an environmental exemption. All conclusions regarding the ability of the facility to comply must be based on accepted analytical techniques, such as air quality modeling, and must reflect current conditions of the area which would be affected by the facility. You are responsible for performing the necessary sampling and collecting sufficient data to accurately characterize these conditions. Environmental compliance must be examined in the context of the available pollution control equipment which would provide the maximum possible reduction of pollution. The analysis must contain requests for bids and other inquiries made and responses received by you concerning the availability and performance of pollution control equipment, or other comparable evidence such as technical studies documenting efficacy of equipment to meet applicable requirements; and

(6) An examination of the regulatory options available to you in seeking to achieve environmental compliance. This examination must include an analysis of the availability of offsets, if needed, and the potential for securing variances and State Implementation Plan revisions, as appropriate. The analysis must illustrate and document your efforts, if any, to locate and identify available offsets, and to secure variances and SIP revisions. The analysis must contain any correspondence initiated or received by you concerning these regulatory options and all technical studies you have relied upon to support your conclusions.

In addition, you may submit any other documentation you believe

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(b) *Specifications of the cogeneration*

and retirement of plants within those 10

(1) You propose to use a mixture of

demonstrates an inability to comply with applicable environmental requirements despite good faith efforts.

(c) *Other actions.*

(1) Prior to deciding to submit an exemption application, it is recommended that you request a meeting with ERA and EPA or the appropriate state or local regulatory agency to discuss options for operating an alternate fuel-fired facility in compliance with the applicable environmental requirements; and

(2) You must submit a copy to ERA of your application for a construction permit at the same time you submit it to EPA or the state agency.

§505.25 Inability to obtain adequate capital.

(a) *Eligibility.* Section 212(a)(1)(D) of the Act provides for a permanent exemption due to inability to obtain adequate capital. To quality you must demonstrate to the satisfaction of ERA that despite good faith efforts, you will be unable to comply with the applicable prohibition imposed by the Act because you cannot raise the additional capital required for an alternate fuel-capable installation beyond that required for your proposed installation. If you are part of a firm, the analysis must be at the firm level.

(b) *Evidence required in support of the petition.* You must include at least the following evidence in order to make the demonstration required by this section:

(1) A description of your efforts to raise the additional capital, including a list of all financial institutions and individuals contacted as well as a summary of the results of each contact. If your inability to raise the additional capital is affected by specific restrictions, describe those restrictions and their effect.

(2) A detailed accounting of the additional capital required to construct and operate the alternate fuel-capable facility.

(3) An estimated accounting on a calendar-year basis of all cash outlays for capital investments and expenses for both your proposed unit and for an alternate fuel fired unit. All critical assumptions should be stated and sufficient data should be included to support your estimate.

(4) A detailed statement of the sources of funds you will raise to construct and operate your proposed installation.

(5) An analysis of the sources of funds available if the alternate fuel capable powerplant is constructed and operated.

(6) Your annual reports for the past 5 years.

(7) A 5-year summary of the financial records of the firm. If you are part of a consolidated corporation, the information must be at the consolidated corporation level. The 5-year summary shall include: [19]

(i) Balance sheets.

(ii) Income statements.

(iii) Fund flow statements.

(8) Standard financial indicators for the past 5 years which include: [20]

(i) Earnings per share of common and preferred stock.

(ii) Return on equity.

(iii) Current ratio and quick ratio.

(iv) Times-interest earned ratio.

(v) Price-earnings ratio for common stock.

(vi) Market-to-book ratio for common stock.

(vii) Latest Standard & Poor's or Moody's ratings on common stock, preferred stock, and bonds.

(9) A list of all investments made by your firm (or consolidated corporation) in excess of $1 million during the past 3 years. This list should specify the capital outlays by calendar year and the manner in which the outlay was financed.

(10) Any other relevant financial information that would reflect upon your ability to raise adequate capital to finance an alternate fuel-fired installation.

§ 505.26 State or local requirements.

(a) *Eligibility.* Section 212(b) of the Act provides for a permanent exemption due to state or local requirements which would preclude the construction and operation of an alternate fuel-fired installation. To qualify you must demonstrate to the satisfaction of ERA that:

(1) With respect to the proposed site of the installation, the operation or construction of the new installation using an alternate fuel is infeasible because of a state or local requirement other than a building code, nuisance or zoning law;

(2) You have in good faith attempted unsuccessfully to obtain a variance or waiver from the state or local requirement or can demonstrate why none is available;

(3) The granting of the exemption would be in the public interest and would be consistent with the purposes of the Act; and

(4) You are not entitled to a permanent exemption for lack of alternate fuel supply, site limitations, environmental requirements, or inability to obtain adequate capital for all alternate fuels.

(b) *Evidence required in support of a petition.* You must include at least the following evidence to make the demonstration required by this section:

(1) A copy of the pertinent state or local requirement with its citation and its legislative history;

(2) The identification and location of the administrative body which implements the requirement;

(3) A description of your attempts to obtain a waiver or variance from the requirements or a demonstration of why none is available;

(4) A description of any activities you were involved in after April 20, 1977, pertaining to the enactment of the requirement;

(5) A description of equipment, procedures, and the advance planning time necessary to comply with the requirement;

(6) A detailed description of why compliance with the state or local requirement is infeasible;

(7) The impact upon you and/or your local community, if any, should your petition be denied;

(8) An explanation of the reasons why granting this exemption would be in the public interest; and

(9) An analysis of why you cannot qualify for any of the exemptions listed in paragraph (a)(4) of this section for all alternate fuels.

(c) *Exercise of discretion by ERA.* ERA may refuse to grant this exemption to you if it determines that such grant would not be in the public interest or in accordance with the purposes of the Act, notwithstanding the fact that the evidence you have furnished to ERA in your exemption petition substantiates that your facility would otherwise be eligible to receive the exemption.

§ 505.27 Cogeneration.

(a) *Eligibility.* Section 212(c) of the Act provides for a permanent exemption for cogeneration. To qualify you must demonstrate to the satisfaction of ERA at least the following minimum criteria:

(1) The oil or gas to be consumed by the cogeneration facility will be less than that which would otherwise be consumed in the absence of the cogeneration facility where the calculation of savings is in accordance with paragraph (c) of this section;

(2) It would be in the public interest to grant an exemption to the cogeneration facility because of special circumstances such as technical innovation or maintaining industry in urban areas.

[19] If the information is contained in your annual reports, it need not be reported.

[20] If the information is contained in your annual reports, it need not be reported.

(b) *Specifications of the cogeneration facility.*

(1) A person proposing to construct a cogeneration facility may apply for an exemption under this section if the amount of net electricity that is either sold or exchanged is less than 50 percent. If the amount is 50 percent or more, see § 503.37 (Powerplants). Net electricity excludes sales or exchanges among owners of the cogeneration facility.

(2) Electricity generated by the proposed cogeneration facility must constitute more than 10 percent of the useful energy output of the facility and less than 90 percent of the useful energy output.

(c) *Calculation of oil and gas sovings.* There is an oil and gas savings if the oil or gas to be consumed by the cogeneration facility will be less than that which would otherwise be consumed in the absence of the cogeneration facility. The calculation of the oil and gas which would otherwise be consumed must be in accordance with paragraphs (c) (1) and (2) of this section.

(1) Except for the case described in paragraph (c)(2) of this section, the oil or gas which would otherwise be consumed must be calculated as follows:

(i) You may include the oil or gas that would be consumed by facilities that are or would be too small to be covered by the FUA regulations. In the case of new small industrial units, you must demonstrate that it would be reasonable to construct units of that size.

(ii) You may include the oil or gas that would be consumed by units in place (existing or exempt) covered by FUA if they are less than 40 years old in the case of a field-erected unit or less than 20 years old in the case of a package unit. In the case of existing units, you may not include units that have burned an alternate fuel or are capable of burning an alternate fuel, and, you may only include units described by this paragraph if they will be retired or shut down if this exemption is granted.

(iii) You may include the oil or gas that would be consumed by units not yet constructed that would be covered by the FUA regulations if you can demonstrate that each unit would be entitled to an exemption.

(iv) You may include the oil or gas that would be consumed by powerplants to generate electricity supplied to the grid to the extent that such electricity, if you cogenerate, will no longer be supplied by the grid. The oil or gas portion must be based on a 10 year forecast that includes new construcion and retirement of plants within those 10 years.

(2) In the case of a cogeneration facility that would consist of an existing unit or an exempted unit and a new unit, you must calculate the amount of oil or gas that would otherwise be consumed as the sum of:

(i) The five-year annual average oil or gas consumption of the existing or exempted unit; and

(ii) The amount that would be consumed in units described in paragraphs (c)(1)(i)(iv) of this section that would now be satisfied by the new cogeneration facility.

(d) *Evidence required in support of a petition.* You must include at least the following evidence in order to make the demonstration required by this section:

(1) An engineering description of the cogeneration system, including proposed output and uses thereof, with sufficient detail to ensure that the facility qualifies as a cogeneration facility;

(2) A detailed oil and natural gas savings calculation identifying the projected oil or natural gas consumption of the cogeneration facility and the oil or natural gas that would otherwise be used;

(3) Identification of the FUA status of the proposed and displaced units with respect to coverage and designation as new, existing, or exempted, age of units, and alternate fuel capability of units;

(4) Identification of all persons and their roles in the proposed cogeneration facility;

(5) Where a demonstration is required that the units would be entitled to an exemption, submission of all evidence required by the regulations with respect to the applicable exemptions, including the alternate site showings; and

(6) In the case of paragraph (a)(2) of this section, an explanation of the public interest factors you believe should be considered by ERA.

(e) *Exercise of discretion by ERA.* ERA may refuse to grant this exemption to you if it determines that such grant would not be in the public interest or in accordance with the purposes of the Act, notwithstanding the fact that the evidence you have furnished to ERA in your exemption petition substantiates that your facility would otherwise be eligible to receive the exemption.

§ 505.28 Permanent exemption for certain fuel mixtures containing natural gas or petroleum.

(a) *Eligibility.* Section 212(d) of the Act provides for a permanent exemption for certain fuel mixtures. To qualify you must demonstrate to the satisfaction of ERA that:

(1) You propose to use a mixture of natural gas or petroleum and an alternate fuel as a primary energy source; and

(2) The amount of petroleum or natural gas you propose to use in the mixture will not exceed the minimum percentage of the total annual Btu heat input needed to maintain operational reliability of the installation consistent with maintaining a reasonable level of fuel efficiency.

(b) *Minimum percentage.* If the exemption is granted, ERA will not require that the percentage of petroleum or natural gas used in the mixture be less than 25 percent of the total annual Btu heat input of the installation.

(c) *Evidence required in support of a petition.* You must include in your Fuels Decision Report at least the following evidence in order to make the demonstration required by this section:

(1) A complete description of the fuel mixture, component elements of the mixture, and percentage of each component to be utilized;

(2) Your design specifications for the unit for which you are requesting an exemption; and

(3) An engineering assessment of the proportions of petroleum or natural gas needed to maintain operational reliability and adequate level of fuel efficiency; or

(4) If the unit will use a mixture containing less than 25 percent petroleum or natural gas, a certification that the amount of petroleum or natural gas you propose to use in the mixture will not exceed 25 percent of the total annual Btu heat input of the installation. The certification shall be executed by your duly authorized representative.

(d) *Reporting requirement.* If the exemption is granted, you must submit an annual report to ERA certifying that the affected units have used no more than the percentage of oil or natural gas specified in the exemption order. The certification shall be executed by your duly authorized representative.

(e) *Solar mixtures.* ERA will grant a permanent mixtures exemption for the use of a mixture of solar energy (including wind, tide, and other intermittent sources) and petroleum or natural gas, where—

(1) Solar energy will account for at least 20 percent of the annual Btu heat input of the unit; and

(2) You propose an acceptable plan to ERA which—

(i) Meets the evidence requirements set forth in paragraph (c) of this section; and

(ii) Contains a compliance plan

(3) All data required by § 502.13

description of the fuel alternatives you

and requires reporting by certain users

the meaning of Section 107(c)(3) of the

(d) Petroleum coke or waste gases

(ii) Contains a compliance plan prepared in accordance with § 505.9 of these regulations.

§ 505.29 Emergency purposes.

(a) *Eligibility.* Section 212(e) of the Act provides for a permanent exemption for emergency purposes. To qualify you must demonstrate to the satisfaction of ERA that you will operate and maintain the installation for emergency purposes only.

(b) *Definition.* For the purpose of this permanent exemption, an emergency exists when operation of an oil or gas-fired installation is necessary for: (1) plant protection; (2) the preservation of human health; or (3) continued facility production which otherwise would be reduced due to an interruption of alternate fuel supplies, equipment failures, or temporary environmental restrictions.

(c) *Evidence required in support of a petition.* To submit an adequate petition for review by ERA, you must include in your petition at least the following evidence:

(1) Certification executed by a duly authorized officer of the company stating that operation under the provisions of this exemption will occur only in accordance with the definition of emergency;

(2) A description of the other units at the site including for each the capacity, type of fuel consumed, average utilization rate, designation as "new" or "existing" under this program, and exemption, if any;

(3) A description of the types of emergency situations you believe may arise which cause you to request this exemption;

(4) All data required by § 505.7 (use of mixtures—general requirement) of these regulations demonstrating that use of a mixture(s) is not economically or technically feasible; and

(5) All data required by § 505.8 (use of fluidized bed combustion not feasible—general requirement) if ERA has made a generic or site-specific finding that the use of a method of fluidized bed combustion of an alternate fuel is economically and technically feasible.

(d) *Additional information.* You must submit the following additional information:

(1) All data required by § 502.11 (Petroleum and natural gas use) of these regulations;

(2) All data required by § 502.12 (Conservation measures) of these regulations which described any oil or natural gas conservation measures you have taken or intend to take if the exemption is granted; and

(3) All data required by § 502.13 (Environmental impacts analysis) of these regulations which will assist ERA to fulfill its responsibilities under the National Environmental Policy Act (NEPA).

(e) *Reporting requirement.* At the end of each 12-month period from the effective date of the exemption, you must report to ERA the amount of fuel used under this exemption by month. You must also describe the emergency conditions that required the operation of the unit.

§ 505.30 [Reserved]

§ 505.31 Scheduled equipment outages.

(a) *Eligibility.* Section 212(j) of the Act provides for a permanent exemption to meet scheduled equipment outages. To qualify you must demonstrate to the satisfaction of ERA that:

(1) Your routine maintenance schedule does not permit, or could not be adjusted to permit, continuing production or other activity carried on at the site unless ERA grants this exemption and the reasons why;

(2) If your scheduled outages and thereby your projected use of the proposed unit exceed 21 days per year, you cannot meet your requirements by burning an alternate fuel; and

(3) The pertinent unit will be used only during those periods when other units are not in operation for reason of scheduled outage.

(b) *Evidence required in support of a petition.* To submit an adequate petition for review by ERA, you must include in your Fuels Decision Report at least the following evidence in order to make the demonstration required by this section.

(1) An explanation of why your routine maintenance schedule does not permit, or could not be adjusted to permit, continuing production or other activity carried on at the site unless ERA grants this exemption;

(2) A schedule of operation for the pertinent unit estimating the number of hours per year used and fuel consumed during the first 12 months of operation after commencement of operation;

(3) A description of the maintenance schedule for all units located at the facility specifically identifying those units at the facility which will be out of service for scheduled maintenance at times when the unit for which the exemption is required, is operating; and

(4) If your scheduled outages and thereby your projected use of the proposed unit exceed 21 days per year, documentary evidence which demonstrates that you considered the use of alternate fuels, including a description of the fuel alternatives you examined and the factors important in your decision to reject the use of alternate fuels. Such factors would include lack of alternate fuel supply, site limitations, environmental requirements, inability to raise adequate capital, or certain state or local requirements.

(c) *Reporting requirement.* ERA will rely upon the schedule of operation of the unit submitted with the petition as the permanent schedule for exempt use. You must notify ERA in advance of any changes to this schedule.

(d) *Exercise of discretion by ERA.* ERA may refuse to grant this exemption to you if it determines that such grant would not be in the public interest or in accordance with the purposes of the Act, notwithstanding the fact that the evidence you have furnished to ERA in your exemption petition substantiates that your facility would otherwise be eligible to receive the exemption.

(e) *Emergency use.* You may apply for an emergency exemption in addition to this exemption for the same unit. You must meet the eligibility and evidence requirements of each exemption to obtain them. You must also comply with the reporting requirements of each.

PART 506—EXISTING MAJOR FUEL BURNING INSTALLATIONS [RESERVED]

PART 507—FUEL CLASSIFICATION AND REPORTING REQUIREMENTS

Sec.

507.1 Purpose and scope.
507.2 Definition of fuels.
507.3 Exclusions from the definition of natural gas.
507.4 Exclusions from the definition of petroleum.
507.5 Reporting requirements of powerplants using natural gas from small wells.
507.6 Reporting requirements on use of commercially unmarketable natural gas.
507.7 Reporting requirements on use of commercially unmarketable by-products of refinery operations.

Authority: (Department of Energy Organization Act, Pub. L. 95-91, 91 Stat. 565 (42 U.S.C. 7101 et seq); Powerplant and Industrial Fuel Use Act of 1978, Pub. L. 95-620, 92 Stat. 3289 (42 U.S.C. 8301 et seq); E.O. 12009, 42 FR 4267).

PART 507—FUEL CLASSIFICATION AND REPORTING REQUIREMENTS

§ 507.1 Purpose and scope.

(a) *Purpose.* This subpart excludes certain solid, gaseous and liquid fuels from the terms "natural gas" and "petroleum" for the purpose of the Act and requires reporting by certain users of such excluded fuels.

(b) *Scope.* This subpart applies to use of such excluded fuels in all new and existing electric powerplants and major fuel burning installations.

§ 507.2 Definition of fuels.

(a) Natural gas means any fuel consisting in whole or in part of natural gas, including components of natural gas such as methane and ethane; liquid petroleum gas; synthetic gas derived from petroleum or natural gas liquids; or any mixture of natural gas and synthetic gas, except as designated in § 507.3(f) of this part. Natural gas does not include any of the fuels excluded by § 507.3.

(b) Petroleum means crude oil and products derived from crude oil. Petroleum does not include any of the fuels excluded by § 507.4.

§ 507.3 Exclusions from the definition of natural gas.

(a) Natural gas does not include gas specifically designated as an alternate fuel in these regulations (§ 500.2(a)).

(b) Natural gas does not include that which is commercially unmarketable, by reason of quality, quantity or distance from existing transportation networks. (Additional Definition Reserved.)

(c) Natural gas does not include that produced by the user from a well, the maximum efficient production rate of which is less than 250 million Btu's per day.

For purposes of this subparagraph—

(1) "produced by the user" means:

(i) All gas produced by the well, where such gas is delivered for use in the user's facility through a gas delivery, gathering or transportation system which could not deliver such gas to any other market, or

(ii) Only that amount which represents the user's net working (mineral) interest in the gas produced from such wells, where such gas is delivered for use in the user's facility through a gas delivery, gathering or transportation system which could deliver such gas to another market.

(2) "Maximum efficient production rate" (MEPR) means that rate at which production of natural gas and oil may be sustained without damage to the reservoir or the rate which may be sustained without damage to the ultimate recovery of oil or gas through the well. The MEPR must include the Btu value of any crude oil, gas condensate, and natural gas liquids which may be produced from the well, in addition to that of the natural gas.

(d) Natural gas does not include occluded methane in coal seams, within the meaning of Section 107(c)(3) of the NGPA;

(e) Natural gas does not include, from wells spudded prior to January 1, 1990:

(1) Gas produced from geopressured brine, within the meaning of Section 107(c)(2) of the NGPA;

(2) Gas produced from Devonian shale, within the meaning of Section 107(c)(4) of the NGPA; and

(3) Other gases designated by FERC as "high-cost natural gas" in accordance with Section 107(c)(5) of the Natural Gas Policy Act, except as specifically designated as "natural gas" by ERA.

(f) Natural gas does not include synthetic gas derived from an alternate fuel which is not mixed with natural gas;

(g) Natural gas does not include mixtures of natural gas and synthetic gas derived from alternate fuels for which the person proposing to use the gas certifies to ERA that:

(1) He owns, or is entitled to receive at the point of manufacture, synthetic gas derived from alternate fuels;

(2) He delivers, or arranges for the delivery of, such synthetic gas to a pipeline or pipelines which by transport or displacement are capable of delivering such synthetic gas, mixed with natural gas, to facilities owned by the user; and

(3) The total annual Btu value of the synthetic gas delivered to such a pipeline or pipelines is equal to or greater than the total annual Btu value of the natural gas delivered to the facilities owned by the user, plus the approximate annual total Btu value of any natural gas consumed or lost in transportation.

(4) All necessary permits, licenses, or approvals from appropriate Federal, state, and local agencies (including Indian tribes) have been obtained for construction and operation of the facilities for the manufacture of the synthetic gas involved, except that for purposes of the prohibition under Section 201(2) of the Act against powerplants being constructed without the capability of using coal or another alternate fuel, only permits, licenses, and approvals for the construction of such synthetic gas facilities shall be required under this subparagraph to be certified and documented.

§ 507.4 Exclusions from the definition of petroleum.

Petroleum does not include:

(a) Petroleum products specifically designated as alternate fuels in these regulations (§ 500.2(a));

(b) Synthetic gas derived from crude oil;

(c) Liquid petroleum gas;

(d) Petroleum coke or waste gases from nonrefinery industrial operations; and

(e) A liquid, solid, or gaseous waste by-product of refinery operations, including components (such as butane and propane) which can be extracted from the waste by-product through reasonable further processing of the waste by-product at the refinery and including final products which use the waste by-product as a blend stock at the refinery, which is commercially unmarketable by reason of—

(1) Quality, where—

(i) the by-product could not reasonably be expected to be used in non-refinery operations; or

(ii) The by-product is not a recognized item of commerce in a national market or in the regional or local area in which the facility is located; or

(iii) the cost of processing (limited to upgrading the product to commercial quality), storing, and distributing the by-product would not be covered by reasonably expected revenues from its sale; or

(2) Quantity, where—

(i) the quantities of the by-product are so insufficient or sporadic as not to constitute an adequate and reliable supply to a potential buyer other than the producer; or

(ii) The by-product is produced in quantities significantly less than those quantities normally sold in the appropriate market; or

(iii) the cost of aggregating the product into commercial quantities through storage and distributing the by-product would not be covered by reasonably expected revenues from its sale.

§ 507.5 Reporting requirements of powerplants using natural gas from small wells.

If you own or operate a powerplant which uses or intends to use more than 4.0 billion Btu's per day of natural gas produced from wells with a maximum efficient production rate of less than 250 million Btu's per day (§ 507.3(c)), you must report to ERA by January 31, 1980, and annually thereafter:

(a) Facilities using such gas;

(b) Yearly quantities and the Btu value of such gas used in each such facility;

(c) The number, location and average daily production of all such wells which were acquired

(1) prior to November 9, 1978, and

(2) on or after November 9, 1978.

§ 507.6 Reporting requirements on use of

10 CFR Parts 503 and 505

in displacing imported oil, and that the

inappropriate to assume such gas

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§ 507.6 Reporting requirements on use of commercially unmarketable natural gas.

If you use or intend to use natural gas which you consider to be commercially unmarketable § 507.3(b)), you must file a report to ERA by January 31, 1980, and annually thereafter,

(a) The facilities which are burning such gas;

(b) Yearly quantities and the Btu value of such gas used in each such facility;

(c) The number and location of each well producing such gas burned in each such facility;

(d) The quantity of gas produced from each such well over the past 12 months and the MEPR of each such well;

(e) A projection of the total quantity of such gas you intend to use from such wells over the next 12 months; and

(f) An explanation of why you consider this gas to be commercially unmarketable. (Additional Reporting Requirements Reserved.)

§ 507.7 Reporting requirements on use of commercially unmarketable by-products of refinery operations.

If you use or intend to use solid, gaseous or liquid by-products of refinery operations which you consider to be commercially unmarketable (§ 507.4), you must file a report with ERA by January 30, 1980, and annually thereafter including the following:

(a) The facilities which are burning such by-products;

(b) A description of the solid, gaseous or liquid by-products including the components of those by-products which could physically be extracted, notwithstanding the fact that you may not own the equipment necessary to perform this extraction; and, the end product(s) into which the by-products could be blended, notwithstanding the fact that you may not own such end product(s).

(c) Average monthly production levels of these by-products and their components;

(d) An analysis of why you believe such waste by-products to be commercially unmarketable, by reason of quality or quantity; and

(e) Such other information as ERA may request.

[FR Doc. 79-15463 Filed 5-16-79; 8:45 am]

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10 CFR Parts 503 and 505

[Docket No. ERA-R-78-19E]

Alternate Fuels; Amendment to Preamble to Interim Rule

AGENCY: Economic Regulatory Administration, Department of Energy.

ACTION: Amendment to Preamble to Interim Rule.

SUMMARY: The Economic Regulatory Administration (ERA) of the Department of Energy is issuing this amendment to the preamble of the Interim Rules to implement provisions of the Powerplant and Industrial Fuel Use Act of 1978 (FUA). This amendment replaces a discussion of and requests comments on specific issues associated with an economic test employed in these regulations.

DATES: These interim rules became effective on an interim basis on May 8, 1979. Written comments will be accepted until August 15, 1979, and will be considered by ERA before issuing these rules in final form. No additional public hearings will be held.

ADDRESSES: All comments should be addressed to Public Hearing Management, Docket No. ERA-R-78-19E, Department of Energy, Room 2312, 2000 M Street, N.W., Washington, D.C. 20461.

FOR FURTHER INFORMATION CONTACT:

WILLIAM L. WEBB (Office of Public Information), Economic Regulatory Administration, Department of Energy, 2000 M Street, N.W., Room B-110, Washington, D.C. 20461, (202) 634-2170.

Stephen M. Stern (Regulations and Emergency Planning), Economic Regulatory Administration, Department of Energy, Room 2130C, 2000 M Street, N.W., Washington, D.C. 20461, (202) 254-3987.

Robert L. Davies (Fuels Regulations—Program Office) Economic Regulatory Administration, Department of Energy, Room 6128I, 2000 M Street, N.W., Washington, D.C. 20461 (202) 254-3910.

James Heffernan (Office of General Counsel), Department of Energy, Room 7136, 12th and Pennsylvania Avenue, N.W., Washington, D.C. 20461 (202) 633-8714.

Background

For purposes of the "substantially exceeds" index in the interim rule implementing the Powerplant and Industrial Fuel Use Act, we assumed that the benefit of displacing natural gas could be measured in part by its effect in displacing imported oil, and that the ratio of such displacement was 1:1. In the preamble to the interim final rule as originally drafted, we discussed the legal and policy issues bearing upon that valuation in terms that may have led to the impression that we had reached a final conclusion on those issues, so that commenters no longer would effectively have opportunity to be heard regarding them. However, the preamble should not be read as expressing the agency's view that ERA's policy options under FUA are necessarily limited to a 1:1 gas to imported oil displacement ratio; rather the issues should be addressed thoroughly during the further comment period. Accordingly, we are amending the preamble to the interim rule in order to highlight these issues and to insure that they receive the most thorough consideration prior to our decision on a final rule.

In consideration of the foregoing, the following paragraphs replace in their entirety the paragraphs regarding the "substantially exceeds" index under the subheading "Gas/Oil Displacement Ratio," in the preamble to the interim rule.

Issued in Washington, D.C., May 13, 1979.

David J. Bardin,

Administrator, Economic Regulatory Administration.

Gas/Oil Displacement Ratio

Both RARG's analysis and the analysis in this preamble measure the benefit of FUA's displacement of natural gas by looking to the effects of such gas displacement on oil imports. The RARG analysis assumed that displacing a combination of natural gas and oil through implementation of FUA would result in a .69 to 1 displacement of imported oil. That is, RARG estimated that displacing 100 BTU's of natural gas under the Act reduces oil imports by only 69 BTU's.

The actual displacement ratio is extremely difficult to estimate with confidence. From a purely analytic perspective, the oil import displacement ratio for natural gas is probably less than 1 to 1. There are, however, questions of law and policy under FUA that bear upon the value assigned to natural gas displacement in arriving at the "substantially exceeds" index.

A displacement ratio substantially lower than 1 to 1 is dependent on ample gas supplies over the 30 to 40 year planning period for this program. Where supplies are ample, gas saved by the FUA program will remain in the ground rather than displace imported oil. We believe, however, that it may be

inappropriate to assume such gas supplies when making policy judgments under FUA, an Act premised on a need to preserve natural gas because supplies are not ample. Moreover, to assume a displacement ration of less than 1:1, without then assigning a benefit to natural gas displacement on some basis other than by virtue of its displacement of imported oil, would raise questions of law and policy under the Act.

In light of these issues, we are for purposes of this interim rule assuming a natural gas to imported oil displacement ratio of 1:1. We particularly invite comment on what is a reasonable displacement ratio; on what factors should be considered in estimating such a ratio; on whether the benefits of natural gas displacement can be quantified on some basis other than displacement of imported oil; and on whether it is appropriate under FUA to arrive at a substantially exceeds index through a method that in effect values gas displacement differently from oil displacement.

[FR Doc. 79-15638 Filed 5-16-79; 9:39 am]

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AGENCY PUBLICATION ON ASSIGNED DAYS OF THE WEEK

The following agencies have agreed to publish all documents on two assigned days of the week (Monday/Thursday or Tuesday/Friday). This is a voluntary program. (See OFR NOTICE FR 32914, August 6, 1976.)

Monday	Tuesday	Wednesday	Thursday	Friday
DOT/COAST GUARD	USDA/ASCS		DOT/COAST GUARD	USDA/ASCS
DOT/NHTSA	USDA/APHIS		DOT/NHTSA	USDA/APHIS
DOT/FAA	USDA/FNS		DOT/FAA	USDA/FNS
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CSA	MSPB*/OPM*		CSA	MSPB*/OPM*
	LABOR			LABOR
	HEW/FDA			HEW/FDA

Documents normally scheduled for publication on a day that will be a Federal holiday will be published the next work day following the holiday.

Comments on this program are still invited. Comments should be submitted to the Day-of-the-Week Program Coordinator, Office of the Federal Register, National Archives and Records Service, General Services Administration, Washington, D.C. 20408

***NOTE: As of January 1, 1979, the Merit Systems Protection Board (MSPB) and the Office of Personnel Management (OPM) will publish on the Tuesday/Friday schedule. (MSPB and OPM are successor agencies to the Civil Service Commission.)**

REMINDERS

The items in this list were editorially compiled as an aid to Federal Register users. Inclusion or exclusion from this list has no legal significance. Since this list is intended as a reminder, it does not include effective dates that occur within 14 days of publication.

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23062 4–17–79 / Listing of the Bolson Tortoise as an endangered species; final rule

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22712 4–17–79 / Loans to foreign governments, their agencies, and instrumentalities utilities; interpretive ruling

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Note: No public bills which have become law were received by the Office of the Federal Register for inclusion in today's List of Public Laws.

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Advance Orders are now Being Accepted for Delivery in About 6 Weeks

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Advance Orders are now Being Accepted for Delivery in About 6 Weeks

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(Revised as of January 1, 1979)

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[A Cumulative checklist of CFR issuances for 1978 appears in the first issue of the Federal Register each month under Title 1. In addition, a checklist of current CFR volumes, comprising a complete CFR set, appears each month in the LSA (List of CFR Sections Affected)]

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federal register

Friday
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Highlights

Telecommunications Device for the Deaf—Office of the Federal Register provides a new service for deaf or speech-impaired persons who need information about documents published in the **Federal Register.** See the Reader Aids section for the telephone listing.

Briefings on How To Use the Federal Register—See announcement in the Reader Aids Section at the end of this issue.

29023 **The Peace Corps** Executive order

29189 **Effects of Gasoline Shortage on Small Business** SBA will hold hearing; hearing 6-5-79

29090 **Motor Gasoline** DOE/ERA gives notice of intent to reexamine Mandatory Petroleum Price Regulations for retailers

29101 **Natural Gas Policy** DOE/FERC proposes procedures for assessing civil penalties for knowing violations of the Act; comments by 6-18-79, hearing 6-22-79

29214 **Medical Devices** HEW/FDA establishes procedures for making a device a banned device; effective 7-17-79, (Part II of this issue)

29372 **Health Care** HEW/PHS issues new requirements for provision of services to persons unable to pay and community service by assisted health facilities; (Part VIII of this issue)

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Area Code 202–523–5240

Highlights

29053 **Health Professions Student Loans** HEW/PHS sets final requirements for schools to be eligible to participate in loan program and for individuals to receive repayments for service in designated health manpower shortage areas; effective 5–18–79

29362 **Medicare Program** HEW/HCFA proposes schedule of limits on skilled nursing facility inpatient routine service costs; comments by 7–17–79, (Part VI of this issue)

29037 **Uranium Fuel Cycle for Spent Fuel** NRC extends effective period for interim rule regarding reprocessing and radioactive waste management; extended until 5–30–79

29027 **National School Lunches** USDA/FNS establishes interim rules regarding eligibility for and reduced price meals and milk; effective 5–18–79, comments by 1–15–80

29086 **Food Stamp Program** USDA/FNS proposes rules providing additional requirements for State agencies regarding the notification of currently ineligible households entitled to restoration of lost benefits; comments by 7–2–79

29090 **Natural Gas Policy** DOE/FERC requests comments on proposed rules and public hearings on one aspect of the incremental pricing provisions; comments by 6–19–79, hearings 6–6, 6–8, 6–15, and 6–18–79

29048 **Senior Community Service Employment Program** Labor/ETA revises income criteria for eligibility; effective 5–18–79

29420 **Medicaid for AFDC Children** HEW/Secy deletes requirements specifying conditions under which funds will be reduced if State early and periodic screening, diagnosis, and treatment; effective 10–1–79, (Part XI of this issue), (2 documents)

29208 **Sunshine Act Meetings**

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29226 **Part III, Labor/ESA**
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Friday, May 18, 1979

Presidential Documents

Title 3—

The President

Executive Order 12137 of May 16, 1979

The Peace Corps

By virtue of the authority vested in me by the Peace Corps Act, as amended (22 U.S.C. 2501–2523) and Section 301 of Title 3 of the United States Code, and as President of the United States of America, it is hereby ordered as follows:

1–1. *Peace Corps.*

1–101. The Peace Corps, which was established as an agency in the Department of State pursuant to Executive Order No. 10924 of March 1, 1961 (26 FR 1789), which was continued in existence in that Department under the Peace Corps Act (the "Act") pursuant to Section 102 of Executive Order No. 11041 of August 6, 1962 (27 FR 7859), and which was transferred to and continued as a component of ACTION by Executive Order No. 11603 of June 30, 1971 (36 FR 12675), shall be an agency within ACTION pursuant to the provisions of this Order.

1–102. All references to the "Director" in Part 1–1 of this Order shall refer to the Director of the Peace Corps for whom provision is made in Section 4(a) of the Act (22 U.S.C. 2503).

1–103. Exclusive of the functions otherwise delegated by or reserved to the President by this Order, and subject to the provisions of this Order, there are hereby delegated to the Director all functions conferred upon the President by the Act and by Section 2(b) of Reorganization Plan No. 1 of 1971.

1–104. The function of determining the portion of living allowances constituting basic compensation, conferred upon the President by Section 201(a) of Public Law 87–293 (26 U.S.C. 912(3)), is hereby delegated to the Director and shall be performed in consultation with the Secretary of the Treasury.

1–105. The functions of prescribing regulations and making determinations (relating to appointment of Peace Corps employees in the Foreign Service System), conferred upon the President by Section 5 of Public Law 89–135 (79 Stat. 551), are hereby delegated to the Director.

1–106. The functions of prescribing conditions, conferred upon the President by the second sentence of Section 5(e), as amended (22 U.S.C. 2504(e)), and the third proviso of Section 6 of the Act (22 U.S.C. 2505) (relating to providing health care in Government facilities) and hereinabove delegated to the Director, shall be exercised in consultation with the head of the United States Government agency responsible for the facility.

1–107. The reports required by Section 11 of the Act, as amended (22 U.S.C. 2510), shall be prepared by the Director and submitted to the Congress through the President.

1–108. Subject to applicable provisions of law, all funds appropriated or otherwise made available to the President for carrying out the provisions of the Act shall be deemed to be allocated without any further action of the President to the Director or to such subordinate officer as the Director may designate. The Director or such officer may allocate or transfer, as appropriate, any of such funds to any United States Government agency or part thereof for obligation or expenditures thereby consistent with applicable law.

1–109. Nothing in this Order shall be deemed to impair or limit the powers or functions vested in the Secretary of State by the Act.

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1–110. The negotiation, conclusion, and termination of international agreements pursuant to the Act shall be under the direction of the Secretary of State.

1–111. Any substantial change in policies in effect on the date of this Order for the utilization of the Foreign Service Act of 1946, as amended, pursuant to Section 7 of the Act (22 U.S.C. 2506), shall be coordinated with the Secretary of State.

1–112. The Director shall consult and coordinate with the Director of ACTION to assure that the functions delegated to the Director by this Order are carried out consistently with the functions conferred upon the Director of ACTION by the Domestic Volunteer Service Act of 1973 (42 U.S.C. 4951 *et seq.*), ("Volunteer Service Act"), Reorganization Plan No. 1 of 1971 and this Order.

1–2. *The Peace Corps Advisory Council.*

1–201. In accordance with the provisions of the Federal Advisory Committee Act (5 U.S.C. App. I), there is hereby established the Peace Corps Advisory Council.

1–202. The President shall appoint not more than 30 individuals to serve on the Council and shall designate one member as Chairperson. Members shall serve at the pleasure of the President.

1–203. The Council shall advise the President and the Director of the Peace Corps on initiatives needed to promote the purposes of the Peace Corps Act.

1–204. The Council shall submit annually to the President, through the Director of the Peace Corps, a report on its recommendations and activities.

1–205. The Council may request any agency of the United States Government to furnish it with such information as may be useful for the fulfillment of the Council's functions under this Order. Such agencies will, to the extent permitted by law, honor the Council's request.

1–206. The members of the Council shall receive no compensation for service on the Council. Each member of the Council may receive travel expenses, including per diem in lieu of subsistence (5 U.S.C. 5702 and 5703).

1–207. The functions of the President under the Federal Advisory Committee Act which are applicable to the Council, except that of reporting annually to the Congress, shall be performed by the Director of the Peace Corps in accordance with guidelines and procedures established by the Administrator of General Services.

1–208. In accord with the provisions of the Federal Advisory Committee Act (5 U.S.C. App. I), the Council shall terminate on December 31, 1980, unless extended.

1–3. *Reservation of Functions to the President.*

1–301. There are hereby excluded from the delegations made by Section 1–1 of this Order the following powers and functions of the President:

(a) All authority conferred by Sections 4(b), 4(c)(2), 4(c)(3), 10(d), and 18 of the Act (22 U.S.C. 2503(b), (C)(2), (C)(3), 2509(d), and 2517).

(b) The authority conferred by Section 4(a) of the Act (22 U.S.C. 2503(a)) to appoint the Director and the Deputy Director of the Peace Corps.

(c) The authority conferred on the President by Section 5(f)(1)(B) of the Act (22 U.S.C. 2504(f)(1)(B)).

(d) The authority conferred by Section 10(f) of the Act (22 U.S.C. 2509(f)) to direct any agency of the United States Government to provide services, facilities, and commodities to officers carrying out functions under the Act.

(e) The authority conferred by Section 19 of the Act (22 U.S.C. 2518) to adopt and alter an official seal or emblem of the Peace Corps.

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1–4. *Incidental Provisions.*

1–401. Persons appointed, employed, or assigned under Section 7(a) of the Act (22 U.S.C. 2506(a)) shall not, unless otherwise agreed by the agency in which such benefits may be exercised, be entitled to the benefits provided by Section 528 of the Foreign Service Act of 1946 (22 U.S.C. 928) in cases in which their service under the appointment, employment, or assignment exceeds thirty months.

1–402. Pursuant to Section 10(d) of the Act (22 U.S.C. 2509(d)), it is hereby determined to be in furtherance of the purposes of the Act that functions authorized thereby may be performed without regard to the applicable laws specified in Section 1 and 2 of Executive Order No. 11223 of May 12, 1965, and with or without consideration as specified in Section 3 of that Order, but subject to the limitations set forth in that Order.

1–403. As used in this Order, the words "Volunteers," "functions," "United States," and "United States Government agency" shall have the same meanings, respectively, as they have under the Act.

1–5. *National Voluntary Action Program.*

1–501. The National Voluntary Action Program to encourage and stimulate more widespread and effective voluntary action for solving public domestic problems, established in the Executive Branch of the Government by Section 1 of Executive Order No. 11470 of May 26, 1969, is continued in ACTION. That program shall supplement corresponding action by private and other non-Federal organizations such as the National Center for Voluntary Action. As used in this Order, the term "voluntary action" means the contribution or application of non-governmental resources of all kinds (time, money, goods, services, and skills) by private and other organizations of all types (profit and nonprofit, national and local, occupational, and altruistic) and by individual citizens.

1–6. *Director of ACTION.*

1–601. In addition to the functions vested in the Director of ACTION by the Domestic Volunteer Service Act of 1973 (42 U.S.C., Section 4951 *et seq.*), Reorganization Plan No. 1 of 1971, and Section 1–401 of this Order, the Director of ACTION shall:

(a) Encourage local, national and international voluntary activities directed toward the solution or mitigation of community problems.

(b) Provide for the development and operation of a clearinghouse for information on Government programs designed to foster voluntary action.

(c) Initiate proposals for the greater and more effective application of voluntary action in connection with Federal programs, and coordinate, as consistent with law, Federal activities involving such action.

(d) Make grants of seed money, as authorized by law, for stimulating the development or deployment of innovative voluntary action programs directed toward community problems.

1–602. The head of each Federal department and agency, or a designated representative, when so requested by the Director of ACTION or the Director of the Peace Corps, shall, to the extent permitted by law and funds available, furnish information and assistance, and participate in all ways appropriate to carry out the objectives of this Order, the Domestic Volunteer Service Act of 1973 and Reorganization Plan No. 1 of 1971.

1–603. The head of each Federal department or agency shall, when so requested by the Director of ACTION, designate a senior official to have primary and continuing responsibility for the participation and cooperation of that department or agency in matters concerning voluntary action.

1–604. The head of each Federal department or agency, or a designated representative, shall keep the Director of ACTION informed of proposed budgets, plans, and programs of that department or agency affecting voluntary action programs.

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1–605. Under the direction of the President and subject to the responsibilities of the Secretary of State, the Director of ACTION shall be responsible for the general direction of those ACTION functions, which jointly serve ACTION domestic volunteer components and the Peace Corps, and for advising the Director of the Peace Corps to ensure that the functions delegated under this Order to the Director of the Peace Corps are carried out.

1–7. *General Provisions.*

1–701. Except to the extent that they may be inconsistent with this Order, all determinations, authorizations, regulations, rulings, certifications, orders, directives, contracts, agreements, and other actions made, issued or entered into with respect to any function affected by this Order and not revoked, superseded, or otherwise made inapplicable before the effective date of this Order shall continue in full force and effect until amended, modified, or terminated by appropriate authority.

1–702. Except as otherwise expressly provided herein, nothing in this Order shall be construed as subjecting any department, establishment, or other instrumentality of the Executive Branch of the Federal Government or the head thereof, or any function vested by law in or assigned pursuant to law to any such agency or head, to the authority of any other agency or head or as abrogating, modifying, or restricting any such function in any manner.

1–703. So much of the personnel, property, records, and unexpended balances or appropriations, allocations, and other funds employed, used, held, available, or to be made available in connection with the functions assigned to the Director of the Peace Corps or to the Director of ACTION by this Order as the Director of the Office of Management and Budget shall determine, shall be transferred to the Director of the Peace Corps or the Director of ACTION at such time or times as the Director of the Office of Management and Budget shall direct.

1–704. To the extent permitted by law, such further measures and dispositions as the Director of the Office of Management and Budget shall deem to be necessary in order to effectuate the provisions of this Order shall be carried out by such agencies as the Director of the Office of Management and Budget shall specify.

1–705. The authority conferred by Sections 1–703 and 1–704 of this Order shall supplement, not limit, the provisions of Section 1–108 of this Order.

1–706. Executive Order Nos. 11041, 11250, 11470 and 11603 are hereby superseded.

1–707. This Order shall become effective May 16, 1979.

THE WHITE HOUSE.
May 16, 1979.

[FR Doc. 79–15859
Filed 5–17–79; 10:55 am]
Billing code 3195–01–M

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Rules and Regulations

Federal Register
Vol. 44, No. 98
Friday, May 18, 1979

This section of the FEDERAL REGISTER contains regulatory documents having general applicability and legal effect, most of which are keyed to and codified in the Code of Federal Regulations, which is published under 50 titles pursuant to 44 U.S.C. 1510.
The Code of Federal Regulations is sold by the Superintendent of Documents. Prices of new books are listed in the first FEDERAL REGISTER issue of each month.

DEPARTMENT OF AGRICULTURE

Food and Nutrition Service

7 CFR Part 245

Determining Eligibility for Free and Reduced Price Meals and Free Milk in Schools

AGENCY: Food and Nutrition Service, USDA.

ACTION: Interim emergency rule.

SUMMARY: These interim regulations amend Part 245 to implement certain provisions of Pub. L. 95–166, enacted on November 10, 1977. Section 9 of Pub. L. 95–166 amends Section 11(a) of the National School Lunch Act, in an effort by Congress to reduce program paperwork. This interim regulation contains the optional provision: (1) that in schools where a high percentage of children are eligible to receive meals free or at a reduced price the annual certification of children eligible to receive meals free or at a reduced price may be reduced to a minimum of once every two years; and (2) that in schools where all children are provided free meals (a) the annual certification of children eligible to receive meals free or at a reduced price may be reduced to a minimum of once every three years, and (b) that if this option is chosen, the number of meals served to children eligible for free or reduced price meals during the second and third years will be the number of meals served in the first year.

EFFECTIVE DATE: May 18, 1979. To be assured of consideration by the Department in the formulation of final regulations, comments on these interim regulations must be postmarked not later than January 15, 1980.

ADDRESS: Comments should be sent to: Margaret O'K. Glavin, Director, School Programs Division, USDA, FNS, Washington, D.C. 20250, (202) 447–8130.

SUPPLEMENTARY INFORMATION:

Intent of Congress

In an effort by Congress to reduce the burden of paperwork placed upon parents, cooperating State agencies and local School Food Authorities, Section 9 of Pub. L. 95–166 states: "In the case of any school which determines that at least 80 percent of the children in attendance during a school year (hereinafter in this sentence referred to as the 'first school year') are eligible for free lunches or reduced price lunches, special-assistance payments shall be paid to the State educational agency with respect to that school, if that school so requests for the school year following the first school year, on the basis of the number of free lunches or reduced-price lunches, as the case may be, that are served by that school during the school year for which the request is made, to those children who were determined to be so eligible in the first school year and the number of free lunches and reduced price lunches served during that year to other children determined for that year to be eligible for such lunches," (hereinafter referred to as provision 1). "In the case of any school that (1) elects to serve all children in that school free lunches under the school lunch program during any period of three successive school years and (2) pays, from sources other than Federal funds, for the costs of serving such lunches which are in excess of the value of assistance received under this Act with respect to the number of lunches served during that period, special-assistance payments shall be paid to the State educational agency with respect to that school during that period on the basis of the number of lunches determined under the succeeding sentence. For purposes of making special-assistance payments in accordance with the preceding sentence, the number of lunches served by a school to children eligible for free lunches and reduced price lunches during each school year of the three-school-year period shall be deemed to be the number of lunches served by that school to children eligible for free lunches and reduced price lunches during the first school year of such period, unless that school elects, for purposes of computing the amount of such payments, to determine on a more frequent basis the number of children eligible for free and reduced price lunches who are served lunches during such period," (hereinafter referred to as provision 2).

Regulatory Interpretation of Provision 1

Provision 1 is interpreted to mean that the annual certification of children eligible to receive free meals and reduced price meals may be reduced to a minimum of once every two years in a qualified school; that is, one in which an average of 80 percent or more of the attending children are eligible to receive free meals and reduced price meals.

Such a school must demonstrate to the satisfaction of the School Food Authority that the percentage of children eligible to receive free meals and reduced price meals is at least 80 percent of the number of children in attendance. This regulation requires that the calculation be based on data available in the month of March of the previous school year, or on other available data. Use of data obtained in March coincides with the collection of the required October–March estimates of needy children and gives schools the advantage of using data obtained a month identified as a peak participation month.

A School Food Authority of a qualifed school must also agree to annually provide public notification in the form of a parental letter and application form to parents of children in such schools not certified in the first year as eligible for free or reduced price meals, and to all children newly enrolled. This is to assure that such children and their families are apprised of program benefits, civil rights and application procedures. Children determined eligible to receive reduced price meals in the first year could possibly be eligible for free meals in the second school year due to the annual adjustment of the family-size and income criteria. School Food Authorities of qualifed schools are encouraged to include children eligible to receive reduced price meals in the first year in the public notification procedures in the second year to assure that the parents of these children are aware of these additional program benefits.

Such schools must continue to take daily counts of the number of children

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receiving free and reduced prices meals for claims purposes.

Regulatory Interpretation of Provision 2

In School Food Authorities of schools which have elected to serve all children free meals, provision 2 allows such schools to reduce the certification frequency for children eligible for federally reimburse free meals and reduced price meals to once every three years. School Food Authorities of schools which elect to avail themselves of this liberalized method of certification must: (1) pay for all free meals served to children who are not eligible to receive federally reimbursed free meals and (2) pay for the differential between the per meal special-assistance payment and the per meal cost of each free meal served to a child who is only eligible to receive federally reimbursed reduced price meals. These payments must be made with funds from other than Federal sources.

School Food Authorities of schools using this provision will be required to send out parental letters and applications only at the beginning of the three year period.

Such schools will be required to determine on a daily basis during the first year of the three year period the actual number of meals served to all attending children, by type—free, reduced and paid, as they are currently required to do. However, in the second and third years of implementation, monthly claims for meals served by type (free, reduced and paid) would equal the total number of meals served by type in the corresponding month of the first year.

For example, School A has an enrollment of 500 children. Upon receiving the free and reduced price meal applications, School A determines that 100 children are eligible to receive free meals and an additional 100 children are eligible to receive reduced price meals. The remaining 300 children are not eligible for free and reduced price meals. Since the school serves all attending children free meals, it elects to utilize the more liberalized method of certification beginning with the 1979–80 school year. In the 1979–80 school year School A must determine on a daily basis the number of meals served to children who qualify for free meals and the number of meals served to children who qualify for reduced price meals as well as the number of meals served to the remaining children. The number of meals served must be reported by category of free, reduced price and paid for claiming purposes. Therefore, the first school year the school participating in this process will act as it always has—with the school counting, by type, meals on a daily basis and claiming them monthly.

In September of the 1980–81 school year, School A would submit a 1980 September claim for the same number of free, reduced price and paid meals as it claimed in September of 1979. Meal counts for free, reduced price and paid meals for each month of operations in school year 1979–80 may be submitted by School A as the basis for its monthly claims for the corresponding month of school years 1980–81 and 1981–82.

Participating Schools

A School Food Authority of any school meeting the basic eligibility criteria shall approve such a school for participation in either provision 1 or 2 if the school so requests or elects. The School Food Authority will continue to be required to submit a Free and Reduced Price Meal Policy in line with existing regulations. The policy must list all such schools participating in either provision 1 or 2. The School Food Authority is responsible for maintaining documentation of the basic eligibility of each school for either of the provisions, and, upon request, must make this documentation available to the State agency for monitoring purposes.

Any school wishing to participate in either provision may do so if it meets the basic eligibility criteria.

In no event may a school deny a child a free or reduced price meal in succeeding years because of ineligibility in the first school year.

Comment Period

Due to the optional nature of this rule, and the Department's determination that the public interest will not be adversely affected by such action, these regulations have been prepared in interim format and are effective upon publication. This determination was made by Acting FNS Administrator Robert Greenstein. Comments are invited from the general public and are especially encouraged from State agency and School Food Authority personnel.

Commenters should identify the provision(s) contained in these interim regulations addressed in their remarks. Such remarks will be especially helpful to the Department in the development of a final amendment to the regulation.

All written submissions recieved pursuant hereto will be made available for public inspection at the School Programs Division, Room 4300B Auditor's Building, Food and Nutrition Service, USDA, Washington, D.C. during regular business hours (8:30 am to 5:00 pm) (7 CFR 1.27(b)).

Accordingly, Part 245 is amended as follows:

In 245.6, new paragraphs (e) and (f) are added to read as follows:

§ 245.6 Application for free and reduced price meals and free milk.

* * * * *

(e) A School Food Authority with a school with an average of 80 percent, or more, of the attending children eligible to receive free meals or reduced price meals during the month of March of the first school year shall, upon request of the school, authorize the school to certify eligibility for such children for free and reduced price meals for an additional school year. A School Food Authority of a school meeting the basic requirements which wishes to carry out such extension must ensure that public notification is provided to all children enrolled in the subject school not certified in the first year as eligible for free or reduced price meals and to all children newly enrolled in the school at the beginning of each school year, in accordance with § 245.5(a) and as otherwise specified in these regulations. The School Food Authority of such a school is encouraged to include children eligible to receive reduced price meals in the first year in the public notification procedures in the second year to assure that the parents of these children are aware of additional program benefits. In no event may a child be denied a free or reduced price meal because of the child's ineligibility for such benefits in the first year. The names of schools participating under this provision shall be submitted to the State agency by a School Food Authority as a part of the Free and Reduced Price Policy Statement. The School Food Authority is responsible for maintaining documentation of the basic eligibility of a school for this provision and upon request make it available to the State agency.

(f) A School Food Authority with a school that elects to serve all children in that school free meals under the National School Lunch Program and pays for the meals for nonneedy children from sources other than Federal funds: (1) Shall authorize, upon request, such a school to certify children for free and reduced price meals for a three year period based on eligibility during the first year; (2) shall provide public notification only at the beginning of the three year period in such a school; (3) may claim the same number of free and reduced price meals served in such a school in the first year to eligible children in both the second and third years. Each such School Food Authority shall continue to provide monthly claims and shall calculate the number of meals to be reported by category (free, reduced price and paid) during the second and third years based upon the number of meals served in such a school by category during the corresponding month of the first year and shall develop a procedure to determine the number of meals served by category (free, reduced price and paid) on a daily basis during the first year. The names of schools participating under this provision shall be submitted to the State agency by each School Food Authority as a part of its Free and Reduced Price Meal Policy Statement. The School Food Authority is responsible for maintaining documentation on the basic eligibility of a school under this provision and, upon request, shall make it available to the State agency.

Note—The Food and Nu. :tion Service has prepared an impact analysis pursuant to the Secretary's direction (43 FR 50988) implementing E.O. 12044; a copy thereof is available from Margaret O'K. Glavin, Director, School Programs Division, USDA–FNS, Washington, D.C. 20250.

(Sec. 9, P.L. 95–166; 91 Stat. 1336 (42 U.S.C. 1759a).)

Dated: May 15, 1979.

Carol Tucker Foreman,

Assistant Secretary for Food and Consumer Services.

[FR Doc. 79-15513 Filed 5-17-79; 8:45 am]

BILLING CODE 3410-30-M

Agricultural Stabilization and Conservation Service

7 CFR Part 781

Disclosure of Foreign Investment in Agricultural Land

AGENCY: Agricultural Stabilization and Conservation Service, USDA.

ACTION: Final Rule.

SUMMARY: This rule is adopted by the Agricultural Stabilization and Conservation Service to revise the regulations published in the Federal Register on February 6, 1979, concerning disclosure of foreign investment in United States agricultural land. Such revision is needed to obtain the reporting of information, but no more than is necessary, to effectuate the intent of Congress as expressed in the Agricultural Foreign Investment Disclosure Act of 1978 (7 U.S.C. 3501 *et seq.*). It is anticipated that, as a result of this action, entities which might have otherwise been required to file a report with the Department will be relieved of the obligation to do so.

DATES: Effective date: May 18, 1979.

FOR FURTHER INFORMATION CONTACT: George M. Nelson, Jr., Production Adjustment Division, Agricultural Stabilization and Conservation Service, USDA, P.O. Box 2415, Washington, D.C. 20013, (202) 447–4541.

SUPPLEMENTARY INFORMATION: The revision also clarifies the definitions of "any interest" and "significant interest or substantial control" as used in the regulations concerning Disclosure of Foreign Investment in Agricultural Land. More specifically, since the use of the words "all interests" in the definition of "any interest" in agricultural land (§ 781.2(c)) could be viewed as including leaseholds of less than 10 years, it is essential that the definition be reworded in order to make clear the intent to exclude leases of such duration. In addition, an interpretation has been added after § 781.2(c) to make clear that interests solely in mineral rights are not considered an interest in agricultural land and, therefore, need not be reported. An interpretation has also been added after § 781.2(g) in order to clarify the fact that a report must be filed if the aggregate of the foreign individuals, foreign governments, and the actual or defined foreign legal entities holding an interest in a U.S. legal entity totals five percent or more.

Similarly, the definition of "significant interest or substantial control" in § 781.2(1) has been restated in order to make clear that the reporting entity referred to in the definition is the entity in which the five percent foreign interest is held, rather than the foreign persons holding such interest. In addition to the foregoing, § 781.4(a)(2) has been rewritten in order to eliminate confusion as to what constitutes a reporting violation. Also, in § 781.2(b) the word "value" has been deleted in order to make it clear that the mere production of agricultural items exceeding $1,000 in value, during a one-year period, for personal or household use, does not trigger a reporting obligation but that there must be disposition of the items producing $1,000 in annual gross sales.

Public comment on the regulations requiring disclosure of foreign investment in U.S. agricultural land was requested at the time the regulations were published. The period for submission of comments expired March 8, 1979. The revisions articulated in this publication were developed both on the basis of comments received during the comment period and on the basis of independent Departmental efforts. Essentially, six substantive changes are made in the earlier rule. Each change will be stated and the pertinent rationale for the change will be discussed.

Easements

Several comments were received from major oil companies suggesting that both mineral interests in agricultural land as well as easements or rights of way necessary to effectively exploit such interest were neither covered by the Act nor the type of interest the Department should require to be reported. This perception is essentially correct. As a result, an interpretation has been formulated stating that mineral interests are not interests in agricultural land and, therefore, not reportable. In this amendment, § 781.2(c) is revised accordingly to exempt from the reporting requirement all surface or subsurface easements and rights of way used for some purpose unrelated to agricultual production.

Sections 2(a)(8) and 2(b)(7) of the Act require that a report concerning U.S. agricultural land filed by the reporting entity contain information with respect to the "agricultural purposes" for which the land is being used or for which the foreign person intends to use such land. From this it appears that information is to be reported with respect to interest in land dedicated to use for some agricultural rather than some non-agricultural purpose, such as access, which affects only a small amount of land. Moreover, in the reports required to be prepared for Congress and the President, the information submitted to the Department is to be analyzed to determine the effects of foreign ownership on family farms and rural communities. It appears that easements or rights of way across agricultural land would have only a modicum, if any, effect on family farms and rural communities and, therefore, information on such would prove of little use in the preparation of the analytical report.

Indirect Ownership

Section 781.2(1) of the final rule states that foreign persons hold significant interest or substantial control in a legal entity for the purpose of obligating such entity to report, if such persons hold five percent or more interest in such legal entity "which holds, directly or indirectly, any interest in United States agricultural land." Pursuant to this provision, it appears that indirect land holdings must be reported. That is, if "foreign persons" hold five percent or more interest in U.S. corporation A, which itself holds an interest in

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corporation B holding U.S. agricultural land, then corporation A must file a report concerning the land. However, section 9(3)[C](ii) of the Act utilizes "direct and indirect" only in reference to the relationship between a legal entity and the "foreign persons" holding an interest in such. The fact that the entity in which the ownership interest is held may indirectly hold agricultural land, because it holds an interest in another entity holding such land directly, does not obligate the former to report. In fact, any such obligation could result in a duplication of reporting concerning the same tract of land if both corporation A and corporation B in the aforementioned example were defined to be "foreign persons". In an effort to eliminate any possible confusion relating to this point, § 781.2(1) is amended to provide that indirect land holdings need not be reported.

Name of Business Entity

Both section 2(c) of the statute and § 781.3(f) of the final rule provide, among other things, that if a U.S. business entity holding agricultural land is defined to be a "foreign person" by virtue of five percent or more foreign ownership, then such entity must reveal the legal name and address of certain foreign individuals or governments holding a certain interest in it. If such interest is held in such U.S. business entity by a foreign business entity rather than certain foreign individuals or governments, then such U.S. entity need only reveal the *nature* of the foreign business entity, the country in which it is organized, and its principal place of business. A similar provision also exists with respect to reports submitted pursuant to § 781.3(g) of the final rule. Furthermore, if the ASCS Form-153 is submitted pursuant to § 781.3 (b) or (c) by an entity other than an individual, it also appears that the name of such entity need not be stated.

It is unlikely that the Department's knowledge of the nature of the entity alone would prove useful. Moreover, it seems that Congress actually contemplated the collection of information more precise than simply whether the entity concerned is a corporation, partnership, joint venture, trust, or some other legal configuration, and this is evidenced by the fact that in the same sentence in which the general term "nature" appears, the U.S. business entity is required to disclose the exact principal place of business of, in each respective case, its own business or of the foreign business entity. In short this means the specific address. In keeping with such precision and in order to effectuate the full intent of the Act, § 781.3(b), (c), (f) and § 781.3(g) are revised to require the *name* as well as the nature of the foreign business entity.

Tracing Actual Ownership

Section 781.3(g) of the final rule, as amended, essehtially provides that any "foreign person", other than an individual or government, whose name is disclosed by a "report submitted in satisfaction of [§ 781.3(f)] or this subsection" may also be required, upon request, to submit a report containing certain information. In essence, § 781.3(f) provides, among other things, that if a U.S. business entity, defined to be a "foreign person" because "foreign persons" hold five percent or more interest in it, holds any interest in U.S. agricultural land, then such entity must file a report concerning the land and also reveal the identity of certain "foreign persons," whether actual or by definition, holding certain interests in it. Once the identity of such "foreign persons" has been revealed, then § 781.3(g), of the final rule mentioned above, provides that (1) such "foreign persons" may themselves be required to submit a report containing certain information relating to who holds an interest in them, and (2) any entity revealed under paragraph (g) may be required to submit a report disclosing the identity of any entity holding an interest in it. The result of the second requirement is to permit the tracing of ownership back to a point beyond which there are no other individual holders.

Section 2(f) is the portion of the Act which corresponds to § 781.3(g) of the final rule. Section 2(f) states in part:

> With respect to any person, other than an individual or a government, whose legal name is contained in any report submitted under subsection (e) of this section, the Secretary may require such person to submit to the Secretary a report [containing the identity of the entities holding any interest in it].

The report submitted under subsection (e) which is mentioned in the quoted language is identical to that submitted under paragraph (f) which is referred to in § 781.3(g) of the final rule. A close reading of the statute, however, reveals the Congress apparently did not intend to permit the Secretary to trace ownership beyond the third tier. Had this not been the case, section 2(f) of the Act would have included, after referring to reports submitted under paragraph (e), the expression, "or this subsection". The absence of such language appears to limit tracing to the third tier.

In view of the fact that one of the objectives of the Act is to uncover foreign ownership of U.S. agricultural land, tracing to the third tier is more than adequate. In fact, this objective can probably be accomplished in most cases without extensive tracing. Therefore, § 781.3(g) of the final rule is revised to exclude the terms "or this subsection".

Entities Revealed by Those With Reporting Obligations

Pursuant to § 781.3 (f) of the final rule, any foreign person, other than an individual or government, required to submit a report under § 781.3(b), (c), (d), or (e) must also reveal information about "foreign persons" holding any interest in it. Section 781.3(g) then requires that any person whose identity has been revealed under paragraph (f) disclose, upon request, information concerning the identity of any entity holding any interest in such person.

In an effort to alleviate the burden imposed upon business entities with numerous interest holders to obtain information which would permit such entities to determine whether or not each such interest holder is a "foreign" or non-foreign person, both § 781.3(f)(1) and § 781.3(g)(1) have been revised to provide that only information concerning "foreign persons" holding five percent or more interest must be revealed under § 781.3(f)(1), automatically; under § 781.3(g)(1), upon request. However, the Secretary retains the authority to request information concerning all interest holders not revealed pursuant to § 781.3(f)(1) and § 781.3(g)(1).

At this point it should be noted that the five percent figure used in § 781.2(1) of the final rule to define "significant interest or substantial control", relates to the cumulative interest which triggers the reporting responsibility under § 781.3 (b), (c), (d), or (e), of any "foreign person" holding agricultural land. The five percent figure used in § 781.3 (f) and (g) refers to the entities which a "foreign person" required to file a report under § 781.3 (b), (c), (d) or (e) must reveal or, the entities which a person whose identity has been disclosed pursuant to § 781.3(f) must reveal. The two senses in which the five percent figure has been used should be kept conceptually distinct.

Reporting of the Second Tier

Pursuant to § 781.3(f) of the final rule, a U.S. business entity, defined to be a "foreign person" as a result of five percent or more foreign ownership, must reveal automatically certain information about each "foreign person" holding a certain interest in it and, upon request, must reveal certain information concerning all others holding any interest in it. Once the identify of a person has been disclosed pursuant to § 781.3(f), § 781.3(g) provides that such persons may be requested to submit a report containing certain information about "any person" holding any interest in such person. Since the use of the words "any person" signifies "foreign" persons as well as non-foreign persons, the Secretary may request information about a non-foreign person pursuant to § 781.3(g), despite the fact that at the first tier the Secretary never requested information about non-foreign persons in connection with the § 781.3(f) report. In order to make § 781.3 (f) and (g) more harmonious, § 781.3(g) has been revised to provide that any "foreign person" whose name is listed on a report submitted in satisfaction of § 781.3(f), may be required, if requested, to reveal certain information about "foreign persons" holding five percent or more interest in the "foreign person" whose name is so listed. In addition, a "foreign person" whose name is listed on the report submitted in satisfaction of § 781.3(f), may also be required, if requested, to reveal certain information about "foreign persons" holding less than five percent interest in it. Under § 781.3(g)(2), however, a "foreign person" whose name is listed on a report submitted in satisfaction of § 781.3(f), may not be required to reveal information about non-foreigners holding any interest in it, unless a report containing the same type of information was previously required to be filed pursuant to § 781.3(f)(2).

The provisions contained in the regulations requiring disclosure of foreign investment in U.S. agricultural land became effective on February 2, 1979. Pursuant to such provisions, reports pertaining to U.S. agricultural land held by foreign persons prior to the effective date of the rule must be filed with the Secretary by August 1, 1979; reports pertaining to U.S. agricultural land acquired or transferred after the effective date of the rule must be filed within 90 days after such transaction. Therefore, reports concerning such acquisitions or transfers must be filed conceivably as early as the first part of May 1979.

In view of the fact that the revisions contained herein will affect reporting entities holding U.S. agricultural land, it is imperative that such be made effective as soon as possible. If this is not done, entities concerned with filing timely reports in order to avoid the prescribed penalty may very well utilize the standards provided in the earlier rule for determining whether they must report, when application of the provisions of the rule as revised herein may remove or alter such reporting obligation. If these revisions are not made effective until 30 days after publication, it is quite possible that the reporting deadline for the first reports may then be imminent or past. Therefore, I find that good cause exists for not delaying the effective date of this final rule until 30 days after publication in the Federal Register (5 U.S.C. 553). Accordingly, 7 CFR, Chapter VII, Subchapter C—Special Programs, Part 781, is revised to read as follows:

PART 781—DISCLOSURE OF FOREIGN INVESTMENT IN AGRICULTURAL LAND

Sec.
781.1 Applicability.
781.2 Definitions.
781.3 Reporting Requirements.
781.4 Penalty Determinations.

Authority: Sec. 1–10, 92 Stat. 1266 (7 U.S.C. 3501 *et seq.)*

§ 781.1 Applicability.

The purpose of these regulations is to set forth the requirements designed to implement the Agricultural Foreign Investment Disclosure Act of 1978. The regulations specify when a foreign person who acquires, disposes of or holds an interest in United States agricultural land shall disclose such transactions and holdings to the Secretary of Agriculture. In particular, the regulations establish a system for the collection of information by ASCS pertaining to foreign investment in United States agricultural land. The information collected will be utilized in the preparation of periodic reports to Congress and the President by ESCS concerning the effect of such holdings upon family farms and rural communities.

§ 781.2 Definitions.

In determining the meaning of the provisions of this Part, unless the context indicates otherwise, words importing the singular include and apply to several persons or things, words importing the plural include the singular, and words used in the present tense include the future as well as the present. The following terms shall have the following meanings:

(a) *AFIDA.* Agricultural Foreign Investment Disclosure Act of 1978.

(b) *Agricultural Land.* Land in the United States which is currently used for, or if idle and its last use within the past five years was for, agricultural, forestry, or timber production, except land not exceeding one acre in the aggregate from which the agricultural, forestry or timber products are less than $1,000 in annual gross sales and such products are produced for the personal or household use of the person or persons holding an interest in such land.

(c) *Any Interest.* All interests acquired, transferred or held in agricultural lands by a foreign person, except:

(1) leaseholds of less than 10 years;

(2) contingent future interests;

(3) noncontingent future interests which do not become possessory upon the termination of the present possessory estate; and

(4) surface or subsurface easements and rights of way used for a purpose unrelated to agricultural production.

Interpretation

An interest solely in mineral rights is not considered an interest in agricultural land and, therefore, is not required to be reported.

(d) *County.* A political subdivision of a state identified as a county or parish. In Alaska, an area so designated by the State ASC Committee.

(e) *Foreign Government.* Any government other than the United States Government, the government of a state, or a political subdivision of a state.

(f) *Foreign Individual.* Means foreign person as defined in paragraph (f)(1) of this section.

(g) *Foreign Person.* The term "foreign person" means:

(1) Any individual;

(i) who is not a citizen or national of the United States;

(ii) who is not a citizen of the Northern Mariana Islands or the Trust Territory of the Pacific Islands; or

(iii) who is not lawfully admitted to the United States for permanent residence, or paroled into the United States under the Immigration and Nationality Act;

(2) Any person, other than an individual or a government, which is created or organized under the laws of a foreign government or which has its principal place of business located outside of all the States;

(3) Any foreign government;

(4) Any person, other than an individual or a government;

(i) which is created or organized under the laws of any State; and

(ii) in which, a significant interest or substantial control is directly or indirectly held;

(A) by any individual referred to in paragraph (g)(1) of this section;

(B) by a person referred to in paragraph (g)(2) of this section;

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(C) by any foreign government referred to in paragraph (g)(3) of this section; or

(D) by any combination of such individuals, persons, or governments.

Interpretation

As used in § 781.4(f)(4)(ii)(d) the word "combination" refers to an aggregate figure and does not require a coalition which intends to accomplish a common objective.

(h) *Person.* The term person includes any individual, corporation, company association, foreign partnership, society, joint stock company, trust, estate, or any other legal entity.

(i) *Secretary.* The term means the Secretary of Agriculture.

(j) *Security Interest.* A mortgage or other debt securing instrument.

(k) *State.* The term means any of the several States, the District of Columbia, the Commonwealth of Puerto Rico, the Northern Mariana Islands, Guam, the Virgin Islands, American Samoa, the Trust Territory of the Pacific Islands or any other territory or possession of the United States.

(l) *Significant interest or substantial control.* Means five percent or more interest in a legal entity for the purpose of obligating such legal entity to report.

§ 781.3 Reporting requirements.

(a) All reports required to be filed pursuant to this part shall be filed with the ASCS county office in the county where the land with respect to which such report must be filed is located or where the ASCS county office administering programs carried out on such land is located.

(b) Any foreign person holding any interest, other than security interest, in U.S. agricultural land on the day before February 2, 1979, must submit, on or before August 1, 1979, a report Form ASCS–153 containing the following information:

(1) The legal name and the address of such foreign person;

(2) In any case in which such foreign person is an individual, the citizenship of such foreign person;

(3) In any case in which such foreign person is not an individual or a government, the nature and name of the legal entity holding the interest, the country in which such foreign person is created or organized, and the principal place of business of such foreign person;

(4) The type of interest in agricultural land which is held by such foreign person;

(5) The legal description and acreage of such agricultural land;

(6) The purchase price paid for, or any other consideration given for such interest;

(7) The agricultural purposes for which such foreign person;

(i) is using such agricultural and on the date on which such report is submitted; and

(ii) intends, as of such date, to use such agricultural land.

(8) When applicable, the name, address and relationship of the representative of the foreign person who is completing the ASCS–153 form for the foreign person; and

(9) How the tract of land was acquired or transferred, the relationship of the foreign person to the previous owner, producer, manager, tenant or sharecropper, and the rental agreement.

(c) Any foreign person acquiring or transferring any interest, other than a security interest in U.S. agricultural land on or after February 2, 1979, must submit, not later than 90 days after the date of such acquisition or transfer, a report Form ASCS–153 containing the following information:

(1) The legal name and the address of such foreign person;

(2) In any case in which such foreign person is an individual, the citizenship of such foreign person;

(3) In any case in which such foreign person is not an individual or a government, the nature and name of the legal entity holding the interest, the country in which such foreign person is created or organized, and the principal place of business of such foreign person;

(4) The type of interest held by a foreign person who acquired or transferred an interest in agricultural land;

(5) The legal description and acreage of such agricultural land;

(6) The purchase price paid for, or any other consideration given for, such interest;

(7) In any case in which such foreign person transfers such interest, the legal name and the address of the person to whom such interest is transferred; and

(i) in any case in which such transferee is an individual, the citizenship of such transferee; and

(ii) in any case in which such transferee is not an individual, or a government, the nature of the legal entity holding the interest, the country in which such transferee is created or organized, and the principal place of business;

(8) The agricultural purposes for which such foreign person intends, on the date on which such report is submitted, to use such agricultural land;

(9) When applicable, the name, address and relationship of the representative of the foreign person who is completing the ASCS–153 form for the foreign person; and

(10) How the tract of land was acquired or transferred, the relationship of the foreign person to the previous owner, producer, manager, tenant or sharecropper, and the rental agreement.

(d) Any person, except a foreign person required to submit a report under paragraph (b) of this section, who, on or after February 2, 1979, holds or acquires any interest, other than a security interest, in United States agricultural land at a time when such person is not a foreign person and who subsequently beomes a foreign person, must submit, not later 90 days after the date on which such person becomes a foreign person, a report Form ASCS–153 containing the information required to be submitted under paragraph (b) of this section.

(e) Any foreign person, except a person required to submit a report under paragraph (b) of this section, who, on or after February 2, 1979, holds or acquires any interest, other than a security interest, in United States agricultural land at a time when such land is not agricultural land and such land subsequently becomes agricultural land must submit, not later than 90 days after the date on which such land becomes agricultural, a report Form ASCS–153 containing the information required to be submitted under paragraph (b) of this section.

(f)(1) Any foreign person, other than an individual or government, required to submit a report under paragraphs (b), (c), (d), or (e) of this section, must submit a report containing the following information:

(i) the legal name and the address of each foreign individual or government holding five percent or more interest in such foreign person;

(ii) in any case in which the holder of such interest is an individual, the citizenship of such holder; and

(iii) in any case in which the holder of five percent or more interest in such foreign person is not an individual or a government, the nature and name of the foreign person holding the interest, the country in which such holder is created or organized, and the principal place of business of such holder.

(2) In addition, any such foreign person required to submit a report under paragraph (f)(1) of this section may also be required, upon request, to submit a report containing:

(i) The legal name and the address of each individual or government whose legal name and address did not appear on the report required to be submitted under paragraph (f)(1) of this section, if such individual or government holds any interest in such foreign person;

(ii) In any case in which the holder of such interest is an individual, the citizenship of such holder; and

(iii) In any case in which the holder of such interest is not an individual or government, the nature and name of the person holding the interest, the country in which such holder is created or organized, and the principal place of business of such holder.

(g) Any foreign person, other than an individual or a government, whose legal name is contained on any report submitted in satisfaction of paragraph (f) of this section may also be required, upon request, to:

(1) Submit a report containing:

(i) The legal name and the address of each foreign individual or government holding five percent or more interest in such foreign person;

(ii) In any case in which the holder of such interest is an individual, the citizenship of such holder; and

(iii) In any case in which the holder of such interest is not an individual or government, the nature and name of the foreign person holding the five percent or more interest, the country in which such holder is created or organized, and the principal place of business of such holder.

(2) Submit a report containing:

(i) The legal name and address of each individual or government whose legal name and address did not appear on the report required to be submitted under paragraph (g)(1) of this section if such individual or government holds any interest in such foreign person and, except in the case of a request which involves a foreign person, a report was required to be sumitted pursuant to paragraph (f)(2) of this section, disclosing information relating to non-foreign interest holders;

(ii) In any case in which the holder of such interest is an individual, the citizenship of such holder; and

(iii) In any case in which the holder of such interest is not an individual or government and, except in a situation where the information is requested from a foreign person, a report was required to be submitted pursuant to paragraph (f)(2) of this section disclosing information relating to non-foreign interest holders, the nature and name of the legal entity holding the interest, the country in which such holder is created or organized, and the principal place of business of such holder.

§ 781.4 Penalty determinations.

(a) Violation of the reporting obligation will consist of:

(1) Failure to submit any report required to be submitted pursuant to § 781.3, or

(2) Knowing submission of a report which:

(i) Does not contain all the information required to be in such report, or

(ii) Contains misleading or false information.

(b) Determinations of violation of such reporting obligations will be made on the basis of evidence submitted to a Board periodically appointed by the Secretary to make such determinations. Upon a determination of violation the Board will also make a preliminary determination of the fair market value of the interest in the agricultural land with respect to which such violation has occurred. Following each such determination of a reporting violation, the Board will transmit to the Secretary a recommendation as to the amount of the civil fine for failure to comply with the reporting obligation. After consideration by the Secretary of the recommendation transmitted by the Board, the foreign person failing to comply with the reporting obligation shall be subject to a civil fine imposed by the Secretary, the amount of which shall not exceed 25 percent of the fair market value of the interest in the agricultural land with respect to which such violation has occurred, redetermined by the Board as of the date of the assessment of such penalty.

This rule has been determined significant under the USDA criteria implementing Executive Order 12044, "Improving Government Regulations". An approved supplement to the Final Impact Statement is available by contacting the Office of the Director of Economics, Policy Analysis and Budget, Room 102 Administration Building, USDA, Washington, D.C. 20250.

Reporting and recordkeeping requirements contained in these regulations are subject to approval by OMB and not effective until such approval is obtained.

Signed at Washington, D.C., on May 11, 1979.

Bob Bergland,

Secretary of Agriculture.

[FR Doc. 79-15373 Filed 5-17-79; 8:45 am]

BILLING CODE 3410-05-M

Agricultural Marketing Service

7 CFR Part 910

[Lemon Regulation 199]

Lemons Grown in California and Arizona; Limitation of Handling

AGENCY: Agricultural Marketing Service, USDA.

ACTION: Final rule.

SUMMARY: This regulation establishes the quantity of fresh California-Arizona lemons that may be shipped to market during the period May 20–26, 1979. Such action is needed to provide for orderly marketing of fresh lemons for this period due to the marketing situation confronting the lemon industry.

EFFECTIVE DATE: May 20, 1979.

FOR FURTHER INFORMATION CONTACT: Malvin E. McGaha, 202–447–5975.

SUPPLEMENTARY INFORMATION: *Findings.* This regulation is issued under the marketing agreement, as amended, and Order No. 910, as amended (7 CFR Part 910), regulating the handling of lemons grown in California and Arizona. The agreement and order are effective under the Agricultural Marketing Agreement Act of 1937, as amended (7 U.S.C. 601–674). The action is based upon the recommendations and information submitted by the Lemon Administrative Committee, and upon other information. It is hereby found that this action will tend to effectuate the declared policy of the act. This regulation has not been determined significant under the USDA criteria for implementing Executive Order 12044.

The committee met on May 15, 1979, to consider supply and market conditions and other factors affecting the need for regulation and recommended a quantity of lemons deemed advisable to be handled during the specified week. The committee reports the demand for lemons is easier.

It is further found that it is impracticable and contrary to the public interest to give preliminary notice, engage in public rulemaking, and postpone the effective date until 30 days after publication in the Federal Register (5 U.S.C. 553), because of insufficient time between the date when information became available upon which this regulation is based and the effective date necessary to effectuate the declared policy of the act. Interested persons were given an opportunity to submit information and views on the regulation at an open meeting. It is necessary to effectuate the declared purposes of the act to make these

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regulatory provisions effective as specified, and handlers have been apprised of such provisions and the effective time.

§ 910.499 Lemon Regulation 199.

Order. (a) The quantity of lemons grown in California and Arizona which may be handled during the period May 20, 1979, through May 26, 1979, is established at 295,000 cartons.

(b) As used in this section, "handled" and "carton(s)" mean the same as defined in the marketing order.

(Secs. 1–19, 48 Stat. 31, as amended; 7 U.S.C. 601–674)

Dated: May 16, 1979.

D.S. Kuryloski,

Acting Deputy Director, Fruit and Vegetable Division, Agricultural Marketing Service.

[FR Doc. 79-15862 Filed 5-17-79; 11:39 am]

BILLING CODE 3410-02-M

Animal and Plant Health Inspection Service

9 CFR Part 82

Exotic Newcastle Disease and Psittacosis or Ornithosis in Poultry; Areas Released From Quarantine

AGENCY: Animal and Plant Health Inspection Service, USDA.

ACTION: Final Rule.

SUMMARY: The purpose of this amendment is to release a portion of Orange County and a portion of Los Angeles County in California, and portions of Clark County in Nevada, from the areas quarantined because of exotic Newcastle disease. Surveillance activity indicates that exotic Newcastle disease no longer exists in the areas released from quarantine. No areas in the State of Nevada remain under quarantine.

EFFECTIVE DATE: May 15, 1979.

FOR FURTHER INFORMATION CONTACT: Dr. M. A. Mixson, USDA, APHIS, VS, Federal Building, Room 748, Hyattsville, MD 20782, 301–436–8073.

SUPPLEMENTARY INFORMATION: This amendment releases a portion of Orange County and a portion of Los Angeles County in California, and portions of Clark County in Nevada, from the areas quarantined because of exotic Newcastle disease under the regulations in 9 CFR Part 82, as amended. Therefore, the restrictions pertaining to the interstate movement of poultry, mynah and psittacine birds, and birds of all other species under any form of confinement, and their carcasses and parts thereof, and certain other articles from quarantined areas, as contained in 9 CFR Part 82, as amended, will no longer apply to the areas released.

Accordingly, Part 82, Title 9, Code of Federal Regulations, is hereby amended in the following respects:

§ 82.3 [Amended]

In § 82.3(a)(1), relating to the State of California, paragraph (i) relating to Orange County, paragraph (ii) relating to Los Angeles County, and paragraph (a)(3) relating to the State of Nevada are deleted.

(Secs. 4–7, 23 Stat. 32, as amended; secs. 1 and 2, 32 Stat. 791–792, as amended; secs. 1–4, 33 Stat. 1264, 1265, as amended; secs. 3 and 11, 76 Stat. 130, 132; (21 U.S.C. 111–113, 115, 117, 120, 123–126, 134b, 134f); 37 FR 28464, 28477; 38 FR 19141.)

The amendment relieves certain restrictions no longer deemed necessary to prevent the spread of exotic Newcastle disease. It should be made effective immediately in order to permit affected persons to move poultry, mynah, psittacine birds, and birds of all other species under any form of confinement, and their carcasses and parts thereof, and certain other articles, interstate from such areas without unnecessary restrictions. It does not appear that public participation in this rulemaking proceeding would make additional relevant information available to the Department.

Therefore, pursuant to the administrative procedure provisions in 5 U.S.C. 553, it is found upon good cause that notice and other public procedure with respect to this final rule are impracticable and contrary to the public interest and good cause is found for making this final rule effective less than 30 days after publication of this document in the **Federal Register**.

Further, this final rule has not been designated as "significant," and is being published in accordance with the emergency procedures in Executive Order 12044 and Secretary's Memorandum 1955. It has been determined by J. K. Atwell, Assistant Deputy Administrator, Animal Health Programs, APHIS, VS, USDA, that the emergency nature of this final rule warrants publication without opportunity for public comment or preparation of an impact analysis statement at this time.

This final rule implements the regulations in Part 82. It will be scheduled for review in conjunction with the periodic review of the regulations in that Part required under the provisions of Executive Order 12044 and Secretary's Memorandum 1955.

Done at Washington, D.C., this 15th day of May 1979.

Pierre A. Chaloux,

Deputy Administrator, Veterinary Services.

[FR Doc. 79-15510 Filed 5-17-79; 8:45 am]

BILLING CODE 3410-34-M

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9 CFR Part 92

Importation of Birds

AGENCY: Animal and Plant Health Inspection Service, USDA.

ACTION: Final rule.

SUMMARY: This document amends the regulations which relate to the maintenance and operation of approved quarantine facilities for the importation of birds, and provides for the execution of an agreement between the operator of each approved quarantine facility and the Department which will strengthen the standards and handling procedures at such facilities.

This action is necessary to provide greater security for birds held in approved quarantine facilities, to update and improve standards and handling procedures now in effect, and to prevent the spread of disease from such facilities.

The intended effect of this action is to provide greater security for the poultry of the United States by improving security and physical facilities and handling procedures at approved quarantine facilities for the importation of birds thereby insuring that exotic Newcastle disease will not be introduced into the United States through such facilities.

EFFECTIVE DATE: May 15, 1979.

FOR FURTHER INFORMATION CONTACT: E. C. Sharman, Senior Staff Veterinarian, Import-Export Staff, APHIS, VS, Room 821, Federal Building, Hyattsville, MD 20782, 301–436–8530.

SUPPLEMENTARY INFORMATION: On March 17, 1972, there was published in the **Federal Register** (37 FR 5649), a notice of declaration of emergency because of the existence of exotic Newcastle disease in the United States. In 1972, the Department expended $56 million to eradicate exotic Newcastle disease in California.

At the present time, exotic Newcastle disease appears to be reaching epidemic proportions worldwide, and there has been a significant increase in the number of imported birds which have been diagnosed as having exotic Newcastle disease while in approved quarantine facilities.

Several outbreaks of the disease have recently occurred in California, Arizona, Nevada, and Florida. Evidence exists which supports the proposition that exotic Newcastle disease has been disseminated into the United States from lots of birds which have been in privately owned approved quarantine facilities, and that owners of such facilities or their employees may have carried the disease from birds in approved quarantine facilities to birds in the United States.

In view of the aforementioned situation, the Animal and Plant Health Inspection Service, which is responsible for protecting the poultry of the United States from the introduction and dissemination of any communicable disease of poultry, determined that standards for approval and handling procedures for privately owned bird quarantine facilities might be inadequate to provide the protection required for the poultry of the United States, on March 30, 1979, the Animal and Plant Health Inspection Service published in the **Federal Register** (44 FR 18958–18959) and amendment to the regulations (92.11(f)(iv)) which prohibited, until further notice, the importation of certain birds into the United States except through USDA quarantine facilities where controls exerted are considered sufficient to insure against the introduction and dissemination of exotic Newcastle disease.

The intent of this action was to provide the Department time to review the operational and handling procedures for approved quarantine facilities in order to determine what may be needed to prevent the entry and spread of exotic Newcastle disease into the United States through these facilities.

Late in March of this year, Veterinary Services supervisory personnel associated with the operation of approved quarantine facilities in each State where such facilities are located were assembled in Hyattsville, Maryland, for an indepth review of all aspects of the standards for approved quarantine facilities. This group made suggestions for changes and improvements they deemed necessary and appropriate for improving the security and operating procedures at all approved quarantine facilities.

On April 2, 1979, a meeting was held by Veterinary Services with representatives of the bird importing industry in Washington, D. C., at which time this group provided the Department with a list of suggested items which they believed would insure security and improve operating and handling procedures at approved quarantine facilities for the importation of birds.

After due consideration of all of the suggestions made by these groups an agreement has been prepared for execution between the operator of each approved quarantine facility and the Department which incorporates additional security requirements and operational procedures at approved quarantine facilities which the Department believes will help prevent the introduction and spread of exotic Newcastle disease into the United States through these facilities.

The provisions of this agreement fall into two general categories: (1) Physical security of the approved quarantine facility with limited access to prevent removal of birds, and (2) Disease security to prevent transmission of exotic Newcastle disease from the approved quarantine facility.

(1) Security aspects of the agreement include:

(a) Electronic or guard monitoring systems to prevent removal of birds and a T.V. monitoring and communication systems between the quarantine area and the clean area.

(b) Installation of tamperproof hasps, hinges and windows of a type which will prevent removal of birds from the facility.

(c) Use of seals on all entrances and exits to the facility as deemed necessary by the Service to provide additional security of birds quarantined.

(d) Disclosure of personnel employed at the facility and restricted access to the facility by non-Service personnel to times when Service personnel are present. Restricting access to the facility to the times when Service personnel are present should provide better monitoring of the birds while in quarantine and should help prevent thefts from the quarantine facilities.

(e) The placing of waste material in leakproof bags with disposition to be made under the direction and supervision of Service personnel only.

(f) Handling of employees who violate standards of approval and handling procedures for birds including notice of alleged violations, informal conference, suspension and discharge. Since each bird imported into the approved quarantine facility has the potential to introduce exotic Newcastle disease into the United States, it is important that the persons employed to handle such birds at such facilities be of the highest character. If employees do not comply with the regulations to import birds, they represent a threat to introduce disease into the United States and therefore action must be taken to remove this threat.

(2) Disease security aspects of the agreement to prevent disease transmission include:

(a) Importer must decide disposition of birds refused entry within 48 hours following notification of infection or exposure of a lot, and birds refused entry must be removed within 4 working days following official notification. Such decision for disposition must be made in a short time frame because as long as diseased birds are in the United States they represent an unwarranted risk to the poultry of the United States. The time periods established should provide a reasonable time for the importer to arrange for the disposition and removal of such birds and still be effectively monitored by the Department.

(b) Separate restrooms for clean and quarantine area to avoid unnecessary traffic into and out of the quarantine area.

(c) The placing of a hood with a viewing window over the necropsy table to reduce possible exposure of employees performing autopsy on birds.

(d) The feeding of chlortetracycline to reduce the risk of infected service employees and other persons having contact with birds.

(e) Signed statements by employees to the effect that such personnel agree to refrain from having contact with birds and poultry for a period of 7 days from their most recent contact with birds in the approved quarantine facility. This should reduce possible transmission of disease between birds and poultry not in quarantine, and those birds in quarantine.

These amendments remove the suspension against the importation of certain birds into the United States except through USDA quarantine facilities. However, a review of all approved quarantine facilities will be made by the Department to insure compliance with the requirements of the agreement. Import permits for the importation of birds will only be issued to importers using facilities whose operators have entered into the agreement and are in compliance with the provisions therein.

Accordingly, Part 92, Title 9, Code of Federal Regulations, is amended in the following respects:

§ 92.2 [Amended]

1. In § 92.2, paragraph (b), the first semicolon is replaced by a period and the proviso is deleted.

2. In § 92.11(f) the second sentence is amended and a new subparagraph (F)(8) is added to read as follows:

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§ 92.11 **Quarantine requirements.**

* * * * *

(f) * * * To qualify for designation as an approved quarantine facility and to retain such approval, the facility and its maintenance and operation must meet the minimum requirements of subparagraphs (1) through (8) of this paragraph (f). * * *

(8) The operator of the approved quarantine facility for the importation of birds into the United States agrees to enter into and abide by the provisions of the following agreement:

Cooperative Agreement
Between———— and United States Department of Agriculture Animal and Plant Health Inspection Service Veterinary Services

This Agreement, made and entered into by and between ————, hereinafter referred to as the Cooperator, and the United States Department of Agriculture, Animal and Plant Health Inspection Service, Veterinary Services, hereinafter referred to as the Service.

Whereas, the Service is authorized pursuant to section 2 of the Act of February 2, 1903, as amended, section 11 of the Act of May 29, 1884, as amended, and section 4 of the Act of July 2, 1962 (21 U.S.C. 111, 114a, and 134c, respectively) to regulate the introduction of animals into the United States in order to prevent the introduction of communicable livestock and poultry diseases into the United States; and

Whereas, the Cooperator represents parties interested in the importation of certain birds from countries presently under restrictions for such importation; and

Whereas, the Cooperator is equipped with quarantine facilities approved in accordance with Part 92, Title 9, Code of Federal Regulations, for use in importing birds; and

Whereas, it is the intention of the parties hereto that such cooperation shall be for their mutual benefit and the benefit of the people of the United States.

Now Therefore, for and in consideration of the promises and mutual covenants herein contained, the parties hereto do hereby mutually agree with each other as follows:

A. *The Cooperator Agrees:*

1. To operate the approved quarantine facility in accordance with all Federal Laws and regulations.

2. To provide a current list of designated personnel employed by the Cooperator who will be used to handle and care for birds during a quarantine period. The list will include the legal names, current residential addresses, and social security numbers of the designated personnel. The list will be furnished to the port veterinarian at the time an application for an import permit to import birds into the quarantine facility is submitted to the Service. The list will be updated for any changes in or additions to the designated personnel in advance of such personnel working in the quarantine facility.

3. To furnish to the Service a signed statement from each of the designated personnel employed by the Cooperator which provides that such personnel agree that for a period of seven days from their most recent contact with birds in the approved quarantine facility, such personnel will refrain from having contact with other birds and poultry. Such condition shall not be applicable from the date that the birds are released from quarantine.

4. To not permit any designated personnel which the Service determines to be unfit to be employed at a quarantine facility upon written notice from the Service. Such determination shall be based upon such employee's committing or aiding and abetting in the commission of any violation of Title 9, Code of Federal Regulations, Part 92. The Cooperator further agrees to suspend any designated employee from working at a quarantine facility when the Service has reason to believe that such employee has violated any provision of Title 9, Code of Federal Regulations, Part 92, and the Deputy Administrator has determined that the actions of such employee constitutes a severe threat to introduce or disseminate a communicable disease of poultry into the United States. Such action shall be made upon receipt of notice from the Service requiring such action by the Cooperator.

5. To allow the unannounced entry into the quarantine facility of Service personnel or other persons authorized by the Service for the purpose of inspecting birds in quarantine, the operations at the quarantine facility and to ascertain compliance with the Standards for approved quarantine facilities and handling procedures for importation of birds contained in Title 9, Code of Federal Regulations, § 92.11(f).

6. To provide permanent restrooms in both the clean and the quarantine areas of the approved quarantine facility.

7. To provide a T.V. monitoring system or a window or windows sufficient to provide a full view of the quarantine area excluding the clothes changing area.

8. To install a communication system between the clean and quarantine areas of the approved quarantine facility. Such communication system shall not interfere with the maintenance of the biological security of the quarantine area.

9. To secure all windows and any openings in the quarantine facility in a manner satisfactory to the Department which will insure the biological security of the quarantine facility and prevent the unauthorized removal of birds.

10. To install tamperproof hasps and to install hinges on doors from which the pins cannot be removed.

11. To install a hood with a viewing window over the necropsy table.

12. To bag waste material in leakproof bags. Such material shall be handled in a manner that spoilage is kept to a minimum and control of pests is maintained. Such material shall be disposed of by incineration or by public sewer or other method authorized by the Deputy Administrator to prevent the spread of disease. The disposition of such material shall only be under the direction and supervision of the Service.

13. To feed chlortetracycline to psittacine birds, upon their arrival in the facility, in accordance with the guidelines of the U.S. Public Health Service to reduce the risk of infecting Service employees, as well as other individuals having contact with the birds. If non-psittacine species are quarantined in the same facility with psittacine species, they will all be fed the chlortetracycline-medicated feed.

14. To install an electronic security system which is coordinated through or with the local police so that monitoring of the quarantine facility is maintained whenever Service personnel are not at the facility or, in lieu of such electronic monitoring system to arrange for continuous guarding of the facility with personnel from a bonded, security company. Provided that, if exotic Newcastle disease is diagnosed in any of the birds in the quarantine facility, continuous guarding of the facility with personnel from a bonded security company shall be maintained by the Cooperator. The electronic security system if installed shall be of the "silent type" and shall be triggered to ring at the monitoring site and not at the facility. The electronic system shall be approved by Underwriter's Laboratories.

Written instructions shall be provided to the monitoring agency which shall require that upon activation of the alarm, the police and a representative of the Service designated by the Service shall be notified by the monitoring agency. Such instructions, as well as any changes in such instructions, shall be filed in writing with the Deputy Administrator, Veterinary Services. The Cooperator shall notify the Service whenever a break in security occurs or is suspected of occurring.

15. To not have non-Service personnel in the quarantine area when birds are in the quarantine facility unless Service personnel are present.

16. To have seals of the Service placed on all entrances and exits of the facility when determined necessary by the Service and to take all necessary steps to insure that such seals are only broken in the presence of Service personnel.

17. To decide what the disposition of a lot of birds will be within 48 hours following official notification that such a lot is infected or exposed to velogenic viscerotropic Newcastle disease. Final disposition of the infected or exposed lot is to be accomplished within 4 working days following official notification. Disposition of the birds will be under the supervision of the Service.

18. To furnish a telephone number or numbers to the Service at which the Cooperator can be reached on a daily basis or furnish the same for an agent or representative that can act and make decisions on the Cooperator's behalf.

B. *The Service Agrees:*

1. To issue or validate permits on a timely basis depending upon the availability of personnel.

2. To inform the Cooperator when a diagnosis of VVND has been made in any facility.

3. To promptly inform the Embassy or Consulate of the foreign country to which lots of birds, refused entry into the United States due to a diagnosis of VVND, are to be shipped.

4. To notify in writing the Cooperator of any designated employee which the Service believes should be suspended from work at the approved guarantine facility and the basis for such action. Similar notice shall be afforded to the designated employee. Subsequent to such suspension, the designated employee shall have the right to request an immediate review of such action by the Deputy Administrator, Veterinary Services, including presenting his views to the Deputy Administrator in an informal conference. If the Deputy Administrator makes a final determination that grounds existed to suspend such employee, he shall notify the Cooperator and the suspended employee of his decision and such employee shall be discharged by the Cooperator.

5. Prior to any final determination being made by the Service concerning the discharge of any designated personnel employed by the Cooperator, the Service will inform, in writing, the Cooperator and the designated personnel of the basis for such action. If such person contests such action he or she shall be permitted to present his or her views to the Deputy Administrator, Veterinary Services, provided such request is made within 30 days of the receipt of the aforementioned written notice. If a final determination is made by the Deputy Administrator that such personnel should be discharged, he shall notify such personnel and the Cooperator of such determination.

C. *It is Mutually Agreed and Understood:*

1. That a maximum capacity will be established for each approved quarantine lot. This will be based upon the capacity of the approved quarantine facility to handle the birds. The number of birds on the permits will not exceed this capacity.

2. If the seals refered to in A.16 are broken by other than Service personnel, it will be considered a breach in security and an immediate accounting of all birds in the facility shall be made by the Service. If any birds are determined to be missing from the facility, the quarantine period will be extended for at least an additional 30-day period.

3. That this agreement shall become effective upon date of final signature and shall continue indefinitely. This agreement may be amended by agreement of the parties in writing. It may be terminated by either party upon 30 days' notice to the other party.

Name and Address ————
Date ————
Signature ————
Cooperator
United States Department of Agriculture, Animal and Plant Health Inspection Service, Veterinary Services.
Date ————
Signature ————
Area Veterinarian in Charge Area ————

(Section 2, 32 Stat. 792, as amended, Section 11, 58 Stat. 734, as amended, and sec. 4, 76 Stat. 130, (21 U.S.C. 111, 114a, and 134c).

This emergency final rule supplements and strengthens the standards for approved quarantine facilities and handling procedures for importation of birds through approved quarantine facilities in order to prevent the introduction and dissemination of diseases of poultry into the United States. The importation of birds through such facilities was suspended March 27, 1979, because of outbreaks of exotic Newcastle disease among birds in the United States. It is essential that the suspension of importation of birds except through USDA quarantine facilities be revoked and that the importation of birds be resumed in a manner that provides protection of poultry of the United States from the introduction and spread of diseases of poultry as soon as possible. Therefore, in order to remove the suspension and permit approved quarantine facility operators to commence their business operations which had been suspended and to permit importers to import birds through such facilities in as short as time possible, these regulations must be placed into effect on an emergency basis.

Therefore, pursuant to the administrative procedure provisions in 5 U.S.C. 553, it is found upon good cause that notice and other public procedure with respect to this final rule are impractable and contrary to the public interest and good cause is found for making this final rule effective less than 30 days after publication of this document in the **Federal Register**. Further, this final rule has been designated as "significant," and is being published in accordance with the emergency procedures in Executive Order 12044 and Secretary's Memorandum 1955. It has been determined by Dr. G. V. Peacock, Director, National Program Planning Staffs, APHIS, VS, USDA, that the emergency nature of this final rule warrants publication without opportunity for public comment and preparation of an impact analysis statement at this time.

These amendments are scheduled for immediate review under the provisions of Executive Order 12044 and Secretary's Memorandum 1955.

Written comments concerning these amendments are presently being sought as part of this review and must be received on or before July 17, 1979. Comments must be sent to Deputy Administrator, USDA, APHIS, VS, Room 821, Federal Building, 6505 Belcrest Road, Hyattsville, MD 20782. All comments made pursuant to this document will be made available for public inspection at the Federal Building, 6505 Belcrest Road, Room 821, Hyattsville, Maryland, during regular hours of business (8:00 a.m. to 4:30 p.m., Monday to Friday, except holidays). The review will include preparation of an impact analysis statement which will be available from Program Services Staff, Room 870, Federal Building, 6505 Belcrest Road, Hyattsville, Maryland 20782, 301–436–8695.

This final rule will be scheduled for review under provisions of Executive Order 12044 and Secretary's Memorandum 1955.

Done at Washington, D.C., this 15th day of May 1979.

Pierre A. Chaloux,
Deputy Administrator, Veterinary Services.

[FR Doc. 79-15634 Filed 5-17-79; 8:45 am]
BILLING CODE 3410-34-M

NUCLEAR REGULATORY COMMISSION

10 CFR Part 51

Licensing and Regulatory Policy and Procedures for Environmental Protection; Uranium Fuel Cycle Impacts for Spent Fuel Reprocessing and Radioactive Waste Management; Extension of Interim Fuel Cycle Rule

AGENCY: Nuclear Regulatory Commission.

ACTION: Extension of the interim fuel cycle rule.

SUMMARY: The Commission promulgated March 14, 1977 (42 FR 13803) an interim rule identifying the environmental reports and environmental impact values for the uranium fuel cycle which are to be included in environmental impact statements for individual light water nuclear power reactors. The interim rule was made effective for 18 months with the possibility of extension for good cause. The Commission has made three extensions for the period of effectiveness of the interim rule. The most recent extension enlarged this period to May 15, 1979. The Commission now finds good cause to enlarge this period until May 30, 1979.

DATE: The interim rule published at 42 FR 13803, March 14, 1977 (10 CFR 51.20(e)) is extended until May 30, 1979.

FOR FURTHER INFORMATION CONTACT: Leo Slaggie, Office of the General Counsel, U.S. Nuclear Regulatory Commission, Washington, D.C. 20555, phone 202–634–3224.

SUPPLEMENTARY INFORMATION: Notice is hereby given that the Nuclear

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Regulatory Commission has extended through May 30, 1979 the effectiveness of the interim fuel cycle 10 CFR 51.20(e) ("table S–3," as revised). The Commission finds this extension desirable to avoid disruption in licensing procedures.

Background

The status of the Commission's interim fuel cycle rule and the course of the final rulemaking up to the submission of the Hearing Board's report on the extensive evidentiary record were reviewed in the notice of September 18, 1978 (43 FR 41373), which extended the interim rule through March 14, 1979. Additional extensions have proved necessary, most recently because the Commission needed additional time to complete the formal adoption of the statement of consideration drafted to accompany the rule (44 FR 26060).

Although a majority of the Commissioners have agreed to include in the final rule a table of impacts which differs relatively slightly from table S–3 of the interim rule, the Commission has not yet agreed upon and formally adopted the Statement of Consideration. There being no substantive objection to the content of the proposed final rule, which is unlikely to differ in operative significance from the present interim rule, the Commission sees no reason why the interim rule should not be kept effective pending formal adoption of the final rule. To avoid licensing disruption the Commission therefore finds good cause again to extend the period of effectiveness of the interim rule, this time through May 30, 1979.

Dated at Washington, D.C. this 14th day of May 1979.

For the Nuclear Regulatory Commission.

Samuel J. Chilk,

Secretary of the Commission.

[FR Doc. 79-15462 Filed 5-17-79; 8:45 am]

BILLING CODE 7590-01-M

DEPARTMENT OF THE TREASURY

Comptroller of the Currency

12 CFR Part 7

Interpretive Rulings; Loans Originating at Other Than Banking Offices

AGENCY: Comptroller of the Currency.

ACTION: Rescission of Interpretive Ruling.

SUMMARY: Pursuant to an order of the U.S. District Court for the District of Columbia, the Comptroller is rescinding Interpretive Ruling 7.7380, a ruling relating to loans which are originated at other than banking offices, pending further appellate proceedings.

EFFECTIVE DATE: May 18, 1979.

FOR FURTHER INFORMATION CONTACT: Mr. L. Robert Griffin, Attorney, Comptroller of the Currency, Washington, D.C 20219, (202) 447–1893.

SUPPLEMENTARY INFORMATION: On March 29, 1979, Judge June L. Green of the United States District Court for the District of Columbia entered summary judgment against the Comptroller in an action entitled *Independent Bankers Association of America* v. *Heimann*, Civil Action No. 78–0611 (D.D.C.). The action had been brought to challenge the legality of the Comptroller's Interpretive Ruling 7.7380 (12 CFR 7.7380). No national bank was a party to the *IBAA* lawsuit. Judge Green determined that the Interpretive Ruling was contrary to the National Bank Act and ordered that the Comptroller rescind Interpretive Ruling 7.7380; that he notify national banks immediately of the rescission; and that he be enjoined from further implementation of the Ruling.

Inasmuch as the Comptroller has been directed to rescind the Interpretive Ruling and has been enjoined from further implementation of it, the Comptroller is rescinding the Interpretive Ruling pending further appellate proceedings. National Banks engaged in or considering activities which previously would have come within the terms of the Interpretive Ruling must rely upon the advice of their own legal counsel.

The Comptroller has requested the Department of Justice to appeal Judge Green's decision. Pending the outcome of appellate proceedings, the Comptroller will not approve the incorporation of national bank subsidiaries for the purpose of engaging in activities which previously would have come within the terms of the Interpretive Ruling.

Because the rescission of Interpretive Ruling 7.7380 has been ordered by a court, and in accordance with the existing procedures of the Department of the Treasury regarding issuing regulations, the Comptroller has determined that public procedures and delayed effectiveness are not required or appropriate.

Statement of Rescission

§ 7.7380 [Rescinded]

For the reasons stated above, the Comptroller rescinds 12 CFR 7.7380.

Dated: May 15, 1979.

John G. Heimann,

Comptroller of the Currency.

[FR Doc. 79-15561 Filed 5-17-79; 8:45 am]

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CIVIL AERONAUTICS BOARD

[14 CFR Part 291]

Domestic Cargo Transportation

AGENCY: Civil Aeronautics Board.

ACTION: Correction.

SUMMARY: A final rule amending Section 291.32 of 14 CFR Part 291, Domestic Cargo Transportation, was inadvertently published twice in the same issue of the **Federal Register** (44 FR 26852 and 26853, May 8, 1979). As a record keeping matter, we are making the version on 44 FR 26852 (FR Doc. 79–14251) the amendment and canceling the other (FR Doc. 79–14313).

FOR FURTHER INFORMATION CONTACT: Craig Lindsay, Federal Register Liaison Officer, Civil Aeronautics Board, Washington, D.C. 20428; 202–673–5421.

Phyllis T. Kaylor,

Secretary.

[FR Doc. 79-15640 Filed 5-17-79; 8:45 am]

BILLING CODE 6320-01-M

METRIC BOARD

15 CFR Part 502

Standards of Conduct for U.S. Metric Board Employees

AGENCY: United States Metric Board.

ACTION: Final Rule.

SUMMARY: The United States Metric Board adopts Regulations which Govern the Standards of Conduct required of its Employees.

EFFECTIVE DATE: April 5, 1979.

FOR FURTHER INFORMATION CONTACT: John Milo Bryant, Office of General Counsel, 1815 North Lynn Street—Suite 600, Arlington, Virginia 22209, (703) 235–1933.

SUPPLEMENTARY INFORMATION: The United States Metric Board, at its April 5, 1979 meeting, considered and voted on the Regulations Governing Standards of Conduct for United States Metric Board Employees, which would amend Title 15, Chapter 5, by adding Part 502.

Final Rule

Accordingly, under the authority of 5 U.S.C. 552(g) the United States Metric Board hereby adopts the Regulations

Governing Standards of Conduct for United States Metric Board Employees (15 CFR Part 502) which reads, as follows:

PART 502—EMPLOYEE STANDARDS OF CONDUCT

Subpart A—General Provisions

Sec.
502.101 Purpose.
502.102 Responsibilities.
502.103 Interpretation and advisory service.

Subpart B—Proscribed Actions

502.201 General.

Subpart C—Gifts, Entertainment and Favors

502.301 Accepting gifts and expenses from outside sources.
502.302 Gifts to official superiors.
502.303 Acceptance of awards.
502.304 Board authority to accept gifts and voluntary and uncompensated services.

Subpart D—Outside Employment and Other Activities

502.401 General.
502.402 Outside employment.
502.403 Compensation from private sources for official services.
502.404 Outside professional or consultative work.
502.405 Outside writing and editing.
502.406 Teaching and lecturing activities.
502.407 Membership in organizations and professional societies.
502.408 Union activities.

Subpart E—Financial Interests

502.501 Disqualification because of private financial interests.
502.502 Additional prohibitions.
502.503 Miscellaneous statutory prohibitions.

Subpart F—Statements of Employment and Financial Interests

502.601 Employees required to submit employment and financial interest statements.
502.602 Employee's complaint on filing requirement.
502.603 Time submission of employee's statements.
502.604 Supplementary statement.
502.605 Interest of employee's relatives.
502.606 Information not known by employees.
502.607 Confidentiality of employee's statement.
502.608 Effect of employee statement on other requirements.

Subpart G—Conduct on the Job

502.701 General.
502.702 Support of Commission programs.
502.703 Use of government funds.
502.704 Use of government property.
502.705 Conduct in Federal buildings.

Subpart H—Financial Responsibility

502.801 General.

Subpart I—Disciplinary and Remedial Action

502.901 Disciplinary Action.
502.902 Remedial action for conflicts of interest.

Subpart J—Provisions Relating to Special Government Employees

502.1001 Applicability.
502.1002 Use of Government employment.
502.1003 Use of inside information.
502.1004 Other activities.
502.1005 Gifts, entertainment and favors.
502.1006 Additional prohibitions.
502.1007 Statement of financial interests required.

Subpart K—Provision Relating to Members of the Board

502.1101 Applicability.

Authority: 5 U.S.C. 552(g).

Subpart A—General Provisions

§ 502.101 Purpose.

In order to assure that the business of the United States Metric Board (hereinafter referred to as the Board) is conducted effectively, objectively, and without improper influence or the appearance thereof, all Board employees must observe the highest standards of conduct. Board employees must avoid any real or apparent conflict between their private interests and their public duties. This regulation establishes reasonable and fair safeguards for the prevention of employee conflicts of interest in order to assure public confidence in the integrity of the Board's actions.

§ 502.102 Responsibilities.

(a) Each Board employee shall be responsible for observing the specific provisions of these regulations and the statutes referenced herein.

(b) Although each employee is accountable for his or her own conduct, supervisors are responsible to a large degree for ensuring that the standards set forth in this regulation are observed by employees under their supervision. Supervisors must become familiar with the Board's regulations and ensure that all employees under their supervision are made aware of the provisions of these regulations. Supervisors shall take suitable action, including disciplinary action when necessary, when violations occur.

§ 502.103 Interpretation and advisory service.

The General Counsel will serve as Counselor for the purpose of providing interpretation and advisory assistance to the Board and its staff on matters pertaining to Standards of Conduct.

Subpart B—Proscribed Actions

§ 502.201 General.

An employee shall avoid any action which might result in or create the appearance of:

(a) Using public office for private gain;

(b) Giving preferential treatment to any person, company, or organization;

(c) Impeding efficiency or economy;

(d) Compromising independence or impartiality;

(e) Making a Government decision outside official channels; or

(f) Otherwise affecting adversely the confidence of the public in the integrity of the Government.

Subpart C—Gifts, Entertainment, and Favors

§ 502.301 Accepting gifts and expenses from outside sources.

(a) Except as provided in paragraph (b) of this section, an employee shall not solicit or accept, directly or indirectly, any gift, gratuity, favor, entertainment, loan, travel, or any other thing of monetary value from a person or organization who:

(1) Conducts operations or activities that are coordinated by the Board;

(2) Has, or is seeking to obtain, contractual or other business or financial relations with the Board;

(3) Has interests that may be substantially affected by the performance or nonperformance of the employee's duties.

(b) The following are exceptions to the restrictions set forth in paragraph (a) of this section:

(1) Acceptance of food and refreshments of nominal value on an infrequent occasion in the ordinary course of a luncheon or dinner meeting or other meeting or on an inspection tour where other arrangements are not possible.

(2) Acceptance of modest entertainment, such as a meal or a refreshment, in connection with attendance at widely attended gatherings sponsored by industrial, technical, consumer, or professional organizations; provided that the sponsor is not a private individual or firm.

(3) Acceptance of gifts, favors, or entertainment, where there is an obvious family or personal relationship between the employee, or between his spouse, children, or parents, and the donor, and where the circumstances make it clear that it is that relationship, rather than the business of the persons concerned, which is the motivating factor for the gift, favor, or entertainment.

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(4) Purchase of articles at advantageous rates where such rates are offered to Government employees as a class.

(5) Acceptance of loans from banks or other financial institutions on customary terms to finance proper and usual activities of employees, such as home mortgage loans.

(6) Acceptance of unsolicited advertising or promotional material, such as pens, pencils, note pads, calendars, or other items of nominal value.

(7) Acceptance of incidental, short-distance transportation in kind from a private organization, provided it is furnished in connection with the performance of the employee's official duties when other transportation is not otherwise available or convenient.

(c) An employee shall not accept an honorarium, transportation expenses, or per diem from a private source when the employee is on official duty, under Board orders, and the travel or per diem expenses are payable by the Board. However, the Board may accept gifts, including reimbursement for employee travel expenses, pursuant to § 502.304 of this Subpart.

(d) A gift or gratuity the receipt of which is prohibited under this subpart shall be returned to the donor. If return is not possible, the gift or gratuity shall be turned over to a public or charitable institution and a report of such action, and the reasons why return was not feasible, shall be made to the General Counsel. When possible, the donor also shall be informed of this action.

§ 502.302 Gifts to official superiors.

An employee shall not solicit a contribution from another employee for a gift to an official superior, or make a donation as a gift to an official superior. An employee in a superior official position shall not accept a gift or contribution from employees receiving less salary than himself or herself. However, this paragraph does not prohibit a gift of nominal value or a donation in a nominal amount made on the special occasion, such as marriage, illness, or retirement.

§ 502.303 Acceptance of awards.

(a) This subpart does not preclude an employee from accepting an award or recognition of achievement from a charitable, religious, professional, social, fraternal, educational, recreational, public service, or civic organization, provided that such acceptance does not create or appear to create a conflict of interest for the employee.

(b) An employee shall not accept a gift, present, decoration or other thing from a foreign government unless authorized by Congress as provided by the Constitution and in accordance with 5 U.S.C. 7342.

§ 502.304 Board authority to accept gifts and voluntary and uncompensated services.

Section 8(a) of the Metric Conversion Act of 1975 (15 U.S.C. 205g) gives the Board the authority to accept gifts and voluntary and uncompensated services, notwithstanding the provisions of Section 3679 of the Revised Statutes (31 U.S.C. 665(b)). The authority of the Board to accept gifts does not authorize employees to accept gifts in their individual names. However, the Executive Director of the Board may accept such gifts and services on behalf of the Board in accordance with Board directives.

Subpart D—Outside Employment and Other Activity

§ 502.401 General.

(a) An employee shall not engage in any outside activity not compatible with the full and proper discharge of the duties and responsibilities of his or her government employment whether or not in violation of any specific provision of a statute. As used in this Part, the term "outside employment or other outside activity" refers to any work, service, or other activity performed by an employee other than in the performance of his or her official duties. It includes such activities as writing and editing, teaching, lecturing, consulting services, self-employment, and other work or services with or without compensation. Incompatible outside activities include, but are not limited to:

(1) Acceptance of a fee, compensation, gift, payment of expense, or any other thing of monetary value in any circumstances in which acceptance may result in, or create the appearance of a conflict of interest;

(2) Outside employment which tends to impair the employee's mental or physical capacity to perform his or her Board duties and responsibilities in an acceptable manner;

(3) Outside employment which might give the impression that the employee's outside activities are official acts of the Board or represent official points of view;

(4) Outside employment that takes the employee's time and attention during official work hours;

(5) Outside employment in an organization whose business activities are subject to Board coordination unless:

(i) The Board coordinated activities of the organization are an insignificant part of its total operations;

(ii) The outside employment is in non-coordinated activities of the organization.

§ 502.402 Outside employment.

An employee who engages in any kind of outside paid employment on a substantially regular basis shall submit to his immediate supervisor a memorandum describing the employment and stating approximately how many hours per week he is so employed. The immediate supervisor shall forward the memorandum through the General Counsel and the Executive Director for inclusion in the Employee's Official Personnel Folder.

§ 502.403 Compensation from private sources for official services.

An employee shall not receive any salary or anything of monetary value from a private source as compensation for his or her services to the Government except as provided in § 502.303 of Subpart C.

§ 502.404 Outside professional or consultative work.

(a) Employees may engage in outside professional or consultative work only after meeting the following conditions:

(1) The work is not to be rendered to organizations, institutions, or State or local governments with which the official duties of the employee are directly related, and/or work creates a conflict or apparent conflict of interest.

(2) The work is not to be rendered for compensation to help organizations, institutions, or State or local governments in the preparation of offers to develop standards, grant applications, contract proposals, program reports, or other materials which are intended to become the subject of dealings with the Board.

(b) All requests to perform consultative services, either compensated or uncompensated, for organizations, institutions, or government units which have or will be awarded contracts or grants in the near future from the Board must be carefully appraised to avoid any conflict or apparent conflict of interest.

(c) Employees shall give advance notice of all outside professional or consultative work by memorandum to their immediate supervisor who shall forward it, through the General Counsel, to the Executive Director for approval.

(d) For the purpose of this section, "professional and consultative work" is work performed in such occupations as those listed in Chapter 300, Appendix A of the Federal Personnel Manual.

§ 502.405 Outside writing and editing.

Employees are encouraged to engage in outside writing and editing, whether or not done for compensation. Such outside writing and editing may be a subject related or unrelated to an employee's official duties. Certain conditions must be met in either case, as set forth below:

(a) The following conditions shall apply to all outside writing and editing whether related or unrelated to the employee's official duties:

(1) Government-financed time or supplies shall not be used by an employee in connection with the activity;

(2) Board support must not be expressed or implied in the material itself or in advertising or promotional material, including book jackets and covers:

(b) In addition to observing the conditions described in paragraph (a) of this section, an employee should omit use of his or her official title or affiliation with the Board with respect to any writing and editing activities unrelated to the employee's official duties or, alternatively, use his or her official title and affiliation with a disclaimer, as described in paragraph (c) of this section.

(c) A disclaimer shall be used in all publications in which an employee uses his or her official title or affiliation with the Board unless the Executive Director, upon request, determines that the nature of the publication is such that a disclaimer is not necessary. The disclaimer shall read as follows: "This (article, book etc.) was (written, edited) by (employee's name) in his/her private capacity. It is not intended nor should it be inferred that opinions expressed herein represent the official position of the United States Metric Board."

(d) An employee shall not use Board information which is exempt from disclosure by the terms of the Freedom of Information Act in outside writing activities unless, upon written request, the Executive Director determines that the exemption will be waived and the information may be publicly disclosed.

(e) Employees shall give advance notice of all outside writing and editing by memorandum to their immediate supervisor who shall forward it, through the General Counsel, to the Executive Director for approval.

§ 502.406 Teaching and lecturing activities.

(a) Employees are encouraged to engage in teaching and lecturing activities which are not part of their official duties under the following conditions:

(1) Government-financed time and materials shall not be used in connection with such activity;

(2) Government travel or per diem funds shall not be used for these purposes;

(3) Such teaching or lecturing is not dependent on specific information which would not otherwise be available to the public under the Freedom of Information Act, unless upon written request, the Executive Director determines that the information may be publicly disclosed;

(4) Teaching or lecturing may not be for the purpose of the special preparation of a person or class of persons for an examination of the Office of Personnel Management that depends on information obtained as a result of Government employment, except when that information has been made available to the general public or will be made available on request.

(b) Employees shall give advance notice of all outside teaching and lecturing activities by memorandum to their immediate supervisor who shall forward it through the General Counsel, to the Executive Director for approval.

§ 502.407 Membership in organizations and professional societies.

(a) Employees may be members of professional, educational, public service, consumer, civic, or similar organizations and be elected or appointed to office in such an organization.

(b) Employees shall avoid any real or apparent conflict of interest in connection with such membership. For example, they must not:

(1) Directly or indirectly commit the Board on any matter;

(2) Permit their name(s) to be attached to documents, the distribution of which would be likely to embarrass the Board;

(3) Serve as representatives of such organizations in dealing with the Government;

(4) Bring any claim or proceeding before a Federal agency or against the Federal Government in a court of law on behalf of the organization;

(5) Offer their views as the official views of the Board unless the Board has officially stated its views on a particular matter through an official Board vote.

(c) In undertaking any office or function beyond ordinary membership in a professional association, a Board employee must obtain advance approval from the Executive Director in any situation in which the responsibilities as an officer would create a real or apparent conflict of interest with the responsibilities as a Board employee.

§ 502.408 Union activities.

Notwithstanding the provisions of § 502.407, employees may participate in union activities to the extent permitted by applicable statutes, Executive Orders, regulations, and labor-management agreements.

Subpart E—Financial Interests

§ 502.501 Disqualification because of private financial interests.

(a) Unless authorized to do so as provided hereafter in this Section, no employee shall participate personally and substantially as a Government employee in a particular matter in which to his or her knowledge he or she has a financial interest (18 U.S.C. 208).

(1) For the purposes of this section—

(i) An employee participates personally and substantially in a particular matter through decision, approval, disapproval, recommendation, the rendering of advice, investigation, or otherwise;

(ii) A particular matter is a judicial or other proceeding, application, request for ruling or other determination, contract, claim, controversy, charge, accusation, arrest, or other particular matter; and

(iii) A financial interest is the interest of the employee, or his or her spouse, minor child, partner, organization in which he or she is serving as officer, director, trustee, partner, or employee, or any person or organization with whom he or she is negotiating or has any arrangement concerning prospective employment.

(b) An employee who has a financial interest (other than a financial interest exempted under paragraph (c) of this section) in a particular matter which is within the scope of his or her official duties shall make a full disclosure of that interest to the Executive Director in writing. An employee shall not participate in such a matter unless and until he or she receives a written determination by the Executive Director pursuant to Section 208 of Title 18, United States Code, that the interest is not so substantial as to be deemed likely to affect the integrity of the services which the Government may expect of the employee. If the Executive Director does not make such a determination he or she shall direct such remedial action

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as may be appropriate under the provisions of § 502.902.

(c) The financial interests described in this paragraph are hereby exempted, pursuant to the provisions of Section 208 of Title 18, United States Code, from the restrictions of paragraph (a) of this section and of section 208 of Title 18 as being too remote or inconsequential to affect the integrity of an employee's services in a matter:

(1) Stocks, bonds, policies, properties, or interests in a mutual fund, investment company, trust, bank, or insurance company, as to which the employee has no managerial control or directorship. In the case of a mutual fund or investment company, this exemption applies only where the assets of the fund or company are diversified; it does not apply where the fund or company advertises that it specializes in a particular industry or commodity.

(2) Interest in an investment club: *Provided,* That the fair value of the interest involved does not exceed $5,000, and that the interest does not exceed one-fourth of the total assets of the investment club.

§ 502.502 Additional prohibitions.

(a) In addition to the disqualification described in § 502.501, an employee is subject to the following major prohibitions.

(1) An employee may not, except in the discharge of official duties, represent anyone else before a court or Government agency in a matter in which the United States is a party or has an interest. This prohibition applies both to paid and unpaid representation of another (18 U.S.C. 203 and 205).

(2) An employee may not, after Government employment has ended, represent anyone other than the United States in connection with a matter in which the United States is a party or has an interest and in which he or she participated personally and substantially for the Government (18 U.S.C. 207(a)).

(3) An employee may not, for 1 year after Government employment has ended, represent anyone other than the United States in connection with a matter in which the United States is a party or has an interest and which was within the boundaries of the employee's official responsibility during the last year of Government service (18 U.S.C. 207(b)). (This temporary restraint is permanent if the matter is one in which he or she participated personally and substantially. See paragraph (a)(2) of this section.)

(4) An employee may not receive any salary, or supplementation of his or her Government salary, from a private source as compensation for his or her services to the Government (18 U.S.C. 209).

§ 502.503 Miscellaneous statutory provisions.

Each employee shall acquaint himself or herself with each statute that relates to his or her ethical and other conduct as an employee of the Board and of the Government. In particular, attention of employees is directed to the following statutory provisions:

(a) Chapter 11 of Title 18, United States Code, relating to bribery, graft, and conflicts of interest, as appropriate to the employees concerned.

(b) The prohibition against lobbying with appropriated funds (18 U.S.C. 1913).

(c) The prohibition against disloyalty and striking (5 U.S.C. 7311, 18 U.S.C. 1918).

(d) The prohibition against the employment of a member of a Communist organization (50 U.S.C. 784).

(e) The prohibitions against (1) the disclosure of classified information (18 U.S.C. 798, 50 U.S.C. 783) and (2) the disclosure of confidential information (18 U.S.C. 1905).

(f) The provision relating to the habitual use of intoxicants to excess (5 U.S.C. 7352).

(g) The prohibition against the misuse of a Government vehicle (31 U.S.C. 638a(c)). (See § 502.704)

(h) The prohibition against the misuse of the franking privilege (18 U.S.C. 1719).

(i) The prohibition against the use of deceit in an examination or personnel action in connection with Government employment (5 U.S.C. 1917).

(j) The prohibition against fraud or false statements in a Government matter (18 U.S.C. 1001).

(k) The prohibition against multilating or destroying a public record (18 U.S.C. 2071).

(l) The prohibition against counterfeiting and forging transportation requests (18 U.S.C. 508).

(m) The prohibitions against (1) embezzlement of Government money or property (18 U.S.C. 641); (2) failing to account for public money (18 U.S.C. 643); and (3) embezzlement of the money or property of another person in the possession of an employee by reason of his employment (18 U.S.C. 654). (See § 502.703)

(n)The prohibition against unauthorized use of documents relating to claims from or by the Government (18 U.S.C. 285) (See § 502.703)

(o) The prohibition against political activities in subchapter III of chapter 73 of title 5, United States Code and 18 U.S.C. 602, 603, 607, and 608.

(p) The prohibition against an employee acting as the agent of a foreign principal registered under the Foreign Agents Registration Act (18 U.S.C. 219).

Subpart F—Statements of Employment and Financial Interest

§ 502.601 Employees required to submit employment and financial interests statement.

(a) Employees in the following named positions shall submit statements of employment and financial interest to the Executive Director.

(1) The Director, Office of Research, Coordination and Planning;

(2) The Director, Office of Public Information;

(3) The General Counsel;

(4) The Administrative Officer;

(5) Employees classified at GS–14 or above under 5 U.S.C. 5332, or at a comparable pay level under another authority, who are in positions which the Executive Director may determine have duties and responsibilities which require the incumbent to report employment and financial interests in order to avoid involvement in possible conflicts-of-interest situation and carry out the purpose of law, Executive Order, and Board regulations.

(b) The Executive Director shall submit a statement of employment and financial interests to the Chairman of the Board.

(c) Members of the Board are not required to file a statement of employment and financial interests.

§ 502.602 Employee's complaint on filing requirement.

An employee may complain and obtain review through the Board's grievance procedures if he or she believes that his or her position has been improperly included under § 502.601 as one requiring the submission of a statement of employment and financial interests.

§ 502.603 Time submission of employees' statements.

(a) An employee required to submit a statement of employment and financial interests under this Subpart shall submit that statement not later than:

(1) Thirty days after the effective date of this Subpart if employed on or before that effective date; or

(2) Thirty days after entrance on duty.

§ 502.604 Supplementary statement.

Changes in, or additions to, the information contained in an employee's statement of employment and financial interests shall be reported in a supplementary statement as of May 15 each year. If no changes or additions occur, a negative report is required. Notwithstanding the filing of the annual report required by this section, each employee shall at all times avoid acquiring a financial interest that could result, or taking an action that would result, in a violation of the conflicts-of-interest provisions of 18 U.S.C. 208 or Subpart E of this Part.

§ 502.605 Interests of employees' relatives.

The interest of a spouse, minor child, or other member of an employee's immediate household is considered to be an interest of the employee. For the purpose of this section, "member of an employee's immediate household" means those blood or in-law relations who are residents of the employee's household.

§ 502.606 Information not known by employees.

If any information required to be included on a statement of employment and financial interests or supplementary statement, including holdings placed in trust, is not known to the employee but is known to another person, the employee shall request that other person to submit information in his or her behalf.

§ 502.607 Confidentiality of employees' statements.

The Board shall hold each statement of employment and financial interests, and each supplementary statement, in confidence in accordance with the provisions of the Privacy Act of 1974 (5 U.S.C. 552a). Employees authorized to review and retain the statements are responsible for maintaining the statements in confidence and shall not allow access to, or allow information to be disclosed from, a statement except to carry out the purpose of Subpart E.

§ 502.608 Effect of employee statement on other requirements.

The requirements of this Subpart are in addition to the requirements concerning administrative approval for certain activities as specified in Subpart E of this Part. Also, the requirements of this Subpart are in addition to and not in substitution for or in derogation of, any other requirement imposed by law, order or regulation. The submission of a statement or employment and financial interests or supplementary statement by an employee does not permit the employee to participate in a matter which is otherwise prohibited by law or regulation.

Subpart G—Conduct on the Job

§ 502.701 General.

An employee's conduct on the job is, in all respects, of concern to the Federal Government. Courtesy, consideration, and promptness in dealing with others must be shown in carrying out official responsibilities. In addition, specific rules and regulations have been set which must be observed as discussed below.

§ 502.702 Support of Board programs.

(a) When a Board program is based on law or Executive Order, every employee has an obligation to make it function as efficiently and economically as possible and to support it as long as it is a part of recognized public policy.

(b) An employee shall not, either directly or indirectly, use appropriated funds to influence a Member of Congress to favor or oppose legislation. However, an employee is not prohibited from:

(1) Testifying as a representative of the Board on pending legislative proposals before Congressional Committees on request; or

(2) Assisting Congressional Committees in drafting bills or reports on request, when it is clear that the employee is serving solely as a technical expert under the direction of committee leadership.

§ 502.703 Use of government funds.

Several laws carry penalties for misuse of Government funds. These apply to:

(a) Improper use of official transportation forms (18 U.S.C 508);

(b) Improper use of payroll and other vouchers and documents on which Government payments are based (18 U.S.C. 285);

(c) Taking or failing to account for funds with which an employee is entrusted in his or her official position (18 US.C. 643); and

(d) Taking Government funds, property or records for personal use (18 U.S.C. 641).

§ 502.704 Use of government property.

An employee shall not directly or indirectly use, or allow the use of, Government property of any kind, including property leased to the Government, for other than officially approved activities. An employee has a positive duty to protect and conserve Government property, including equipment, supplies, and other property, entrusted or issued to him or her. For example:

(a) Only official documents and materials may be processed on Government reproduction facilities.

(b) Government automobiles may be used only on official business and may not be used for personal use or for travel to or from an employee's place of residence.

(c) Government telephones may not be used to make personal long distance calls.

§ 502.705 Conduct in Federal buildings.

(a) An employee shall not participate while on Government-owned or leased property or while on duty for the Government, in any gambling activity including the operation of a gambling device, in conducting a lottery pool, in a game for money or property, or in selling or purchasing a numbers slip or ticket.

(b) General Services Administration regulations "Conduct on Federal Property" are applicable to Board employees inasmuch as Board buildings and space are under the control of GSA. These regulations prohibit, among other things, gambling and consumption of intoxicating beverages on the premises.

Subpart H—Financial Responsibility

§ 502.801 General.

An employee shall pay each just financial obligation in a proper and timely manner, especially one imposed by law such as Federal, State or local taxes. For purposes of this section, a "just financial obligation" means one acknowledged by the employee or reduced to judgment by a court or one imposed by law such as Federal, State or local taxes, and "in a timely manner" means in a manner which the Board determines does not, under the circumstances, reflect adversely on the Government as his or her employer. In the event of dispute between an employee and an alleged creditor, this section does not require the Board to determine the validity or amount of the disputed debt.

Subpart I—Disciplinary and Remedial Action

§ 502.901 Disciplinary action.

(a) Violation of these regulations may be cause for disciplinary action which may be in addition to any penalty prescribed by law. Disciplinary action shall be administered in accordance with the Board's Directive on Adverse Actions.

(b) The type of disciplinary actions to be taken shall be determined in relation to the specific violation. No standard

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table of penalties has been established for application in the Board. Those responsible for recommending and for taking disciplinary action must apply judgment in each case, taking into account the general objectives of meeting any requirements of law, deterring similar offenses by the employee and other employees and maintaining high standards of employee conduct and public confidence. Some types of disciplinary actions to be considered are:

(1) Oral admonishment;
(2) Written reprimand;
(3) Reassignment;
(4) Demotion;
(5) Suspension;
(6) Separation.

§ 502.902 Remedial action for conflicts of interest.

Where a statement of employment and financial interest of an employee or Special Government employee shows a real or potential conflict of interest with the employee's official responsibilities, consideration should be given to reconciling the conflict through remedial action. The following are examples of such actions which may be appropriate:

(a) Divestment by the employee or special Government employee of his or her conflicting interest;

(b) Disqualification of the employee for a particular assignment;

(c) Changes in the employee's assigned duties.

Subpart J—Provisions Relating to Special Government Employees

§ 502.1001 Applicability.

The requirements of this Subpart apply to employees designated by law (18 U.S.C. 202) as "special Government employees". The term includes employees who are retained, designated, appointed, or employed to serve, with or without compensation, for not more than 130 days during any period of 365 consecutive days, either on a full-time or intermittent basis.

§ 502.1002 Use of Government employment.

A special Government employee shall not use his or her Board employment for a purpose that is, or gives the appearance for being, motivated by the desire for private gain for himself or herself or for another person, particularly one with whom he or she has family, business, or financial ties.

§ 502.1003 Use of inside information.

A special Government employee shall not use inside information obtained as a result of his or her Government employment for private gain for himself or herself or another person either by direct action on his or her part or by counsel, recommendation, or suggestion to another person, particularly one with whom he or she has family, business, or financial ties. For the purpose of this section, "inside information" means information obtained under Government authority which has not become part of the body of public information.

§ 502.1004 Other activities.

A special Government employee may teach, lecture, write, or engage in other non-Board activities in a manner not inconsistent with Subpart D of this Part.

§ 502.1005 Gifts, entertainment, and favors.

A special Government employee, while so employed or in connection with his or her employment shall not receive or solicit from a person having business with the Board anything of value as a gift, gratuity, loan, entertainment, or favor for himself or herself or another person, particularly one with whom he or she has family, business, or financial ties.

§ 506.1006 Additional prohibitions.

(a) A special Government employee is subject to the following additional prohibitions.

(1) He or she may not, except in the discharge of his official duties—

(i) Represent anyone else before a court or Government agency in a matter in which the United States is a party or has an interest and in which he or she has at any time participated personally and substantially for the Government (18 U.S.C. 203 and 205), or

(ii) Represent anyone else in a matter pending before the Board unless he or she served there no more than 60 days during the previous 365 (18 U.S.C. 203 and 205). A special Government employee is bound by this restraint despite the fact that the matter is not one in which he or she has ever participated personally and substantially.

(2) He or she may not, after Government employment has ended, represent anyone other than the United States in connection with a matter in which the United States is a party or has an interest and in which he participated personally and substantially for the Government (18 U.S.C. 207(a)).

(3) He or she may not, for 1 year after Government employment has ended, represent anyone other than the United States in connection with a matter in which the United States is a party or has an interest and which was within the boundaries of his or her official responsibility during the last year of Government service (18 U.S.C. 207(b)). (This temporary restraint is permanent if the matter is one in which the employee participated personally and substantially. See paragraph (a)(2) of this section.)

§ 502.1007 Statement of financial interests required.

(a) Each special Government employee shall submit a statement of employment and financial interests which reports:

(1) All other employment; and

(2) The financial interests which relate whether directly or indirectly to his or her duties and responsibilities.

(b) A statement of employment and financial interest required to be submitted under this section shall be submitted not later than the time of employment of a special Government employee by the Board. Each special Government employee shall submit a supplemental statement whenever there is a significant change in financial interests as reported in the prior statement.

(c) The statement of employment and financial interests shall be submitted directly to the Executive Director.

(d) The Executive Director may waive the requirement for the submission of a statement of employment and financial interests in the case of a special Government employee if the duties of the position held by that special Government employee are of a nature and at such a level of responsibility that the submission of the statement by the incumbent is not necessary to protect the integrity of the Board.

Subpart K—Provision Relating to Members

§ 502.1101 Applicability.

(a) The Metric Conversion Act of 1975 provides that members of the Board are not employees of the United States (15 U.S.C. 205h). However, public officials must maintain high standards of conduct to assure the proper performance of Government business and to maintain confidence by citizens in their Government. Therefore, members shall avoid any action, whether or not specifically prohibited, which might result in, or create the appearance of:

(1) Using public office for private gain;

(2) Giving preferential treatment to any person;

(3) Impeding Government efficiency or economy;

(4) Losing complete independence or impartiality;

(5) Making a Government decision outside official channels; or

(6) Affecting adversely the confidence of the public in the integrity of the Government.

(b) On days of actual employment, members will adhere to provisions of Subpart J relating to special Government employees except members are not required to submit statements of employment and financial interests.

(c) Members shall strictly observe the requirements of § 502.501 and shall not participate in any matter in which he or she has a private financial interest.

Dated at Arlington, Virginia this 14th day of May 1979.

For United States Metric Board.

Malcolm E. O'Hagan,

Executive Director.

[FR Doc. 79-15566 Filed 5-17-79; 8:45 am]

BILLING CODE 6820-84-M

DEPARTMENT OF THE TREASURY

Customs Service

19 CFR Part 153

[T.D. 79-149]

Perchlorethylene From France; Antidumping

AGENCY: U.S. Treasury Department.

ACTION: Finding of Dumping.

SUMMARY: This notice is to inform the public that separate investigations conducted under the Antidumping Act, 1921, as amended, by the U.S. Treasury Department and the U.S. International Trade Commission, respectively, have resulted in determinations that perchlorethylene from France is being sold at less than fair value and that these sales are injuring an industry in the United States. On this basis, a finding of dumping is being issued and, generally, all unappraised entries of this merchandise will be liable for the possible assessment of special dumping duties.

EFFECTIVE DATE: May 18, 1979.

FOR FURTHER INFORMATION CONTACT: Mary Clapp, Operations Officer, Duty Assessment Division, U.S. Customs Service, 1301 Constitution Avenue, N.W., Washington, D.C 20299 (202-566-5492).

SUPPLEMENTARY INFORMATION: Section 201(a) of the Antidumping Act, 1921, as amended (19 U.S.C. 160(a)) (referred to in this notice as "the Act"), gives the Secretary of the Treasury responsibility for determining whether imported merchandise is being sold at less than fair value. Pursuant to this authority, the Secretary has determined that perchlorethylene from France is being sold at less than fair value within the meaning of section 201(a) of the Act (19 U.S.C. 160(a)). (Published in the **Federal Register** of February 2, 1979 (44 FR 6822)).

Section 201(a) of the Act (19 U.S.C. 160(a)) gives the United States International Trade Commission responsibility for determining whether, by reason of such sales at less than a fair value, a domestic industry is being or is likely to be injured. The Commission has determined, and on April 30, 1979, it notified the Secretary of the Treasury that an industry in the United States is being injured by reason of the importation of perchlorethylene from France that is being sold at less than fair value within the meaning of the Act. Notice of this determination was published in the **Federal Register** of May 4, 1979 (44 FR 26217).

On behalf of the Secretary of the Treasury, I hereby make public these determinations which constitute a finding of dumping with respect to perchlorethylene from France.

For purposes of this notice, the term "perchlorethylene" refers to perchlorethylene, including technical grade perchlorethylene, provided for in item number 429.3400, Tariff Schedules of the United States Annotated.

§ 153.46 [Amended]

Accordingly, § 153.46 of the Customs Regulations (19 CFR 153.46) is being amended by adding the following to the list of findings of dumping currently in effect:

Merchandise	Country	Treasury Decision
Perchlorethylene	France	79-149

(Sec. 201, 407, 42 Stat. 11, as amended, 18 (19 U.S.C. 160, 173))

Robert H. Mundheim,

General Counsel of the Treasury.

[FR Doc. 79-15631 Filed 5-17-79; 8:45 am]

BILLING CODE 4810-22-M

19 CFR Part 153

[T.D. 79-150]

Perchlorethylene From Belgium; Antidumping

AGENCY: U.S. Treasury Department.

ACTION: Finding of Dumping.

SUMMARY: This notice is to inform the public that separate investigations conducted under the Antidumping Act, 1921, as amended, by the U.S. Treasury Department and the U.S. International Trade Commission, respectively, have resulted in determinations that perchlorethylene from Belgium is being sold at less than fair value and that these sales are injuring an industry in the United States. On this basis, a finding of dumping is being issued and, generally, all unappraised entries of this merchandise will be liable for the possible assessment of special dumping duties.

EFFECTIVE DATE: May 18, 1979.

FOR FURTHER INFORMATION CONTACT: Leon McNeill, Operations Officer, Duty Assessment Divison, U.S. Customs Service, 1301 Constitution Avenue, NW., Washington, D.C. 20229 (202-566-5492).

SUPPLEMENTARY INFORMATION: Section 201(a) of the Antidumping Act, 1921, as amended (19 U.S.C. 160(a)) (referred to in this notice as "the Act"), gives the Secretary of the Treasury responsibility for determining whether imported merchandise is being sold at less than fair value. Pursuant to this authority, the Secretary has determined that perchlorethylene from Belgium is being sold at less than fair value within the meaning of section 201(a) of the Act (19 U.S.C. 160(a)). (Published in the **Federal Register** of February 2, 1979 (44 FR 6821)).

Section 201(a) of the Act (19 U.S.C. 160(a)) gives the United States International Trade Commission responsibility for determining whether, by reason of such sales at less than fair value, a domestic industry is being or is likely to be injured. The Commission has determined, and on April 30, 1979, it notified the Secretary of the Treasury that an industry in the United States is being injured by reason of the importation of perchlorethylene from Belgium that is being sold at less than fair value within the meaning of the Act. Notice of this determination was published in the **Federal Register** of May 4, 1979 (44 FR 26217).

On behalf of the Secretary of the Treasury, I hereby make public these determinations which constitute a finding of dumping with respect to perchlorethylene from Belgium.

For purposes of this notice, the term "perchlorethylene" refers to perchlorethylene, including technical grade perchlorethylene, provided for in item number 429.3400, Tariff Schedules of the United States Annotated.

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§ 153.46 [Amended]

Accordingly, § 153.46 of the Customs Regulations (19 CFR 153.46) is being amended by adding the following to the list of findings of dumping currently in effect:

Merchandise	Country	Treasury Decision
Perchlorethylene	Belgium	79-150

(Sec. 201, 407, 42 Stat. 11, as amended, 18 (19 U.S.C. 160, 173))

Robert H. Mundheim,
General Counsel of the Treasury.
May 14, 1979.

[FR Doc. 79-15635 Filed 5-17-79; 8:45 am]
BILLING CODE 4810-22-M

19 CFR Part 153

[T.D. 79-151]

Perchlorethylene From Italy; Antidumping

AGENCY: U.S. Treasury Department.

ACTION: Finding of Dumping.

SUMMARY: This notice is to inform the public that separate investigations conducted under the Antidumping Act, 1921, as amended, by the U.S. Treasury Department and the U.S. International Trade Commission, respectively, have resulted in determinations that perchlorethylene from Italy is being sold at less than fair value and that these sales are injuring an industry in the United States. On this basis, a finding of dumping is being issued and, generally, all unappraised entries of this merchandise will be liable for the possible assessment of special dumping duties.

EFFECTIVE DATE: May 18, 1979.

FOR FURTHER INFORMATION CONTACT: David Chapman, Operations Officer, Duty Assessment Division, U.S. Customs Service, 1301 Constitution Avenue, N.W., Washington, D.C. 20229 (202-566-5492).

SUPPLEMENTARY INFORMATION: Section 201(a) of the Antidumping Act, 1921, as amended (19 U.S.C. 160(a)) (referred to in this notice as "the Act"), gives the Secretary of the Treasury responsibility for determining whether imported merchandise is being sold at less than fair value. Pursuant to this authority, the Secretary has determined that perchlorethylene from Italy is being sold at less than fair value within the meaning of section 201(a) of the Act (19 U.S.C 160(a)). [Published in the Federal Register of February 2, 1979 (44 FR 6823)].

Section 201(a) of the Act (19 U.S.C. 160(a)) gives the United States International Trade Commission responsibility for determining whether, by reason of such sales at less than fair value, a domestic industry is being or is likely to be injured. The Commission has determined, and on April 30, 1979, it notified the Secretary of the Treasury that an industry in the United States is being injured by reason of the importation of perchlorethylene from Italy that is being sold at less than fair value within the meaning of the Act. Notice of this determination was published in the **Federal Register** of May 4, 1979 (44 FR 26217).

On behalf of the Secretary of the Treasury, I hereby make public these determinations which constitute a finding of dumping with respect to perchlorethylene from Italy.

For purposes of this notice, the term "perchlorethylene" refers to perchlorethylene, including technical grade perchlorethylene, provided for in item number 429.3400, Tariff Schedules of the United States Annotated.

§ 153.46 [Amended]

Accordingly, § 153.46 of the Customs Regulations (19 CFR 153.46) is being amended by adding the following to the list of findings of dumping currently in effect:

Merchandise	Country	Treasury Decision
Perchlorethylene	Italy	79-151

(Sec. 201, 407, 42 Stat. 11, as amended, 18 (19 U.S.C. 160, 173)).

Robert H. Mundheim,
General Counsel of the Treasury.
May 14, 1979.

[FR Doc. 79-15636 Filed 5-17-79; 8:45 am]
BILLING CODE 4810-22-M

DEPARTMENT OF HEALTH, EDUCATION, AND WELFARE

Social Security Administration

20 CFR Part 404

[Regulations No. 4]

Federal Old-Age, Survivors, and Disability Insurance (1950-); Reduction of Spouse's Benefits Due to Receipt of Government Pension

AGENCY: Social Security Administration, HEW.

ACTION: Final rule.

SUMMARY: These regulations state how the Social Security Administration will implement the law to reduce the social security dependents benefits payable to the spouse of a former worker who is retired, disabled, or deceased if the spouse is eligible for a government pension. This reduction is required by the Social Security Act as amended by the Social Security Amendments of 1977. The reduction provision will generally assure that persons entitled to social security benefits in their own right and those entitled to a government pension receive equal treatment when applying for social security benefits. However, the statute also provides for protection of benefits to certain soon-to-retire individuals who could qualify under prior law.

EFFECTIVE DATE: These rules shall be effective upon publication in the **Federal Register**. However, in accordance with the law which these rules reflect, the reduction provision is effective beginning December 1977.

FOR FURTHER INFORMATION CONTACT: Jack Schanberger, Legal Assistant, Office of Policy and Regulations, Social Security Administration, 6401 Security Boulevard, Baltimore, Maryland 21235, telephone 301-594-6785.

SUPPLEMENTARY INFORMATION: On August 4, 1978, these rules were published in the **Federal Register** (43 FR 34455) as interim regulations.

Background

In March 1977, the Supreme Court in the decision in *Califano* v. *Goldfarb* ruled that the requirement that a man must prove dependency on his retired, disabled, or deceased wife to be eligible for spouse's benefits was unconstitutional since it treated spouses of women under a stricter standard than spouses of men. A wife did not have to prove dependency on her husband to be eligible for social security benefits. As a result of the Court's decision, many men became eligible for social security benefits even though they were not dependent on their spouses and even though they receive pensions from Federal, State, and local governments.

The eligibility of these individuals created sizeable, additional costs for the social security trust funds. In addition, it seemed inequitable for men and women who retired from a government agency to receive a government pension plus a full social security spouse's benefit, because a worker who retires from employment covered by social security can receive only a worker's social security benefit plus the difference, if any, between that benefit and a spouse's social security benefit. Because of concern that the prior statute gave an unfair advantage to some government workers who are entitled to spouse's benefits, Congress enacted this reduction (or offset) provision.

The Reduction Provision

Under the Social Security Act, as amended by Pub. L. 95-216, we must reduce the social security benefits to which a person is entitled as a spouse or former spouse, if that person is also eligible for a government pension based on work not covered by social security. We will reduce the social security benefits by the amount of the government pension. The reduction provision applies to a spouse's or a divorced spouse's benefits (i.e., benefits as a wife, mother, widow, husband, father, or widower) of a person who retires with a government pension, but only where that person files for benefits after November 1977, and only to benefits for months after November 1977. Also, the reduction does not apply to certain persons.

People Who Are Not Affected by the Reduction Provision

The reduction does not apply to a retired government worker who is also entitled to social security benefits based on his or her own work. This person's social security benefits and the benefits of family members are not affected in any way by the person's eligibility for a government pension.

The reduction also does not apply to a person whose government employment was covered by social security. This person will receive a worker's social security benefit plus the difference, if any, between this benefit and a spouse's benefit for which the person is entitled.

Congress realized that this reduction provision could cause a hardship to certain persons already drawing government pensions or expecting to receive government pensions in the near future. Many of these people made retirement plans based on receiving full spouse's benefits under social security. Thus, Congress provided an exception for people now receiving a government pension and those who will be eligible within the 5 year period beginning December 1977. For the exception to apply, the government worker must be eligible for a government pension before December 1982, but may be entitled to a social security spouse's benefit at any time either before, during, or after 1982. The worker who meets this exception will be paid the spouse's benefit in addition to a government pension. Furthermore, the exception applies only if the person meets the social security eligibility requirements for a spouse that were in effect in January 1977. This means that the person must meet the January 1977 requirements regardless of when the person will be entitled to a spouse's benefit. Under the law in effect in January 1977, a woman was deemed dependent on her husband, but a man had to prove he was dependent on his wife for a least one-half his support to be eligible as a spouse. Further under the January 1977 requirements, a divorced spouse must have been married to the former worker for at least 20 years, instead of 10 years, as at present. Unless these 1977 requirements are met, the offset would apply.

The Final Rules

Section 404.402 is being amended to explain when this reduction of a spouse's benefit is applied in relation to the other reduction provisions of the Social Security Act.

Section 404.408a is being added to the regulations to provide for this reduction. This section also explains when this reduction does not apply. We have also made a number of changes for the sake of clarity and added a sentence to paragraph (a) of this section. This sentence explains that once the reduction applies, a spouse's monthly social security benefit will always be reduced because of a government pension, even if the spouse later returns to work for a government agency, and that work is covered by social security.

Comments on Interim Regulations

In the interim regulations, we allowed 45 days for interested persons to submit comments. All of the approximately 30 comments we received are from employees of Federal, State, or local governments, or from organizations representing government employees. In general, those commenting believe that the regulations are unfair to government employees. In some instances, the commenters indicated a need to make the regulations clearer.

We explain the reduction provision more clearly in these final regulations in areas where there were questions. However, we cannot change or eliminate the reduction required by section 334 of Public Law 95-216 (the Social Security Amendments of 1977).

(Sections 202, 205, 1102 of the Social Security Act, as amended; 49 Stat. 623, as amended, 53 Stat. 1368, as amended, 49 Stat. 647; 42 U.S.C. 402, 405, and 1302).

(Catalog of Federal Domestic Assistance Program Nos. 13.803 Social Security Retirement Insurance; 13.805 Social Security-Survivors Insurance.)

Dated: April 11, 1979.

Stanford G. Ross,
Commissioner of Social Security.

Approved: May 10, 1979.

Hale Champion,
Acting Secretary of Health, Education, and Welfare.

Part 404 of chapter III of title 20 of the Code of Federal Regulations is amended as follows:

1. Section 404.402 is amended by adding paragraph (b)(3), and by adding new paragraphs (d)(2) and (d)(3) and redesignating the present paragraphs (d)(2) through (d)(6) as (d)(4) through (d)(8).

404.402 Interrelationship of deductions, reductions, adjustments, and nonpayment of benefits.

* * * * *

(b) * * *

(3) Reduction of the benefit of a spouse who is receiving a Government pension (see § 404.408a) is made after the withholding of payments as listed in paragraph (d)(1) of this section and after reduction because of receipt of workmen's compensation (paragraph (b)(2) of this section).

* * * * *

(d) * * *

(2) Current reductions under § 404.408;

(3) Current reductions under § 404.408a;

* * * * *

2. Section 404.408a is added as follows:

§ 404.408a Reduction where spouse is receiving a Government pension.

(a) *When reduction is required.* Your monthly social security benefits as a wife, husband, widow, widower, mother, or father will be reduced each month (to zero, if necessary) by the amount of any monthly pension you are receiving from a Federal, State, or local government agency for which you were employed in work not covered by social security on the last day of such employment. Your monthly social security benefit as a spouse will always be reduced because of your Government pension even if you afterwards return to work for a government agency and that work is covered by social security. If the pension is not paid monthly or is paid in a lump-sum, the Social Security Administration will allocate it proportionately as if it were paid monthly.

(b) *Exceptions.* The reduction does not apply to:

(1) If you are receiving or will be eligible to receive a Government pension for one or more months in the

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period December 1977 through November 1982 and meet the requirements for social security benefits that were applied in January 1977, even though you don't claim benefits, and you don't actually meet the requirements for receiving benefits until a later month. You are considered eligible for a Government pension for any month in which you meet all the requirements for payment except that you are working or have not applied;

(2) If you are receiving a Government pension based on employment for an interstate instrumentality.

(c) *Amount and priority of reduction.* Your benefit as a spouse will be reduced, if necessary, for age and for simultaneous entitlement to other social security benefits before it is reduced because you are receiving a Government pension. In addition this reduction follows the order of priority, as stated in § 404.402(b).

(d) *When effective.* This reduction was put into the Social Security Act by the Social Security Amendments of 1977. It only applies to applications for benefits filed in or after December 1977 and only to benefits for December 1977 and later.

[FR Doc. 79-15621 Filed 5-17-79; 8:45 am]

BILLING CODE 4110-07-M

Food and Drug Administration

21 CFR Part 14

Public Hearing Before a Public Advisory Committee Ophthalmic Panel

AGENCY: Food and Drug Administration.

ACTION: Final rule.

SUMMARY: The Food and Drug Administration (FDA) announces the termination of the Panel on Review of Ophthalmic Drugs and amends the regulations to delete it from the list of standing advisory committees. The Panel was terminated because it had completed its work.

EFFECTIVE DATE: May 18, 1979.

FOR FURTHER INFORMATION CONTACT: John T. McElroy, Bureau of Drugs (HFD-513), Food and Drug Administration, Department of Health, Education, and Welfare, 5600 Fishers Lane, Rockville, Maryland 20857, 301-443-4960.

SUPPLEMENTARY INFORMATION: The Panel's functions were to review the data and information submitted as part of the over-the-counter (OTC) drug review under § 330.10 (21 CFR 330.10) on OTC products containing ophthalmic active ingredients for human use. The Panel has submitted its conclusions and recommendations on the safety, effectiveness, and labeling of these products to the Commissioner of Food and Drugs. The conclusions and recommendations will be published in a future issue of the Federal Register.

Accordingly, the purpose of the Panel has been served, and the Panel is no longer needed. On April 16, 1979, the charter for the Panel expired.

Therefore, under the Federal Food, Drug, and Cosmetic Act (sec. 701(a), 52 Stat. 1055 (21 U.S.C. 371(a))) and under authority delegated to the Commissioner (21 CFR 5.1), Part 14 is amended in § 14.100 *List of standing advisory committees* by deleting paragraph (c)(20)(i)(*f*) *Ophthalmic Panel* and marking it reserved.

Effective date. Because this is a technical conforming amendment to Part 14, the Commissioner finds that there is good cause for the rule to be effective immediately upon publication in the Federal Register, May 18, 1979.

(Sec. 701(a), 52 Stat. 1055 (21 U.S.C. 371(a)).)

Dated: May 11, 1979.

William F. Randolph,

Acting Associate Commissioner for Regulatory Affairs.

[FR Doc. 79-15482 Filed 5-17-79; 8:45 am]

BILLING CODE 4110-03-M

DEPARTMENT OF THE TREASURY

Internal Revenue Service

26 CFR Parts 301 and 402

[T.D. 7622]

Definition of Domestic Building and Loan Association and Deletion of Temporary Regulations on Procedure and Administration

Correction

In FR Doc. 79-15274 appearing at page 28660 in the issue for Wednesday, May 16, 1979; on page 28663, first column, the line reading *"(f) Special rules.* [Reserved]" should be moved above "Part 402 . . .".

BILLING CODE 1505-01-M

DEPARTMENT OF LABOR

Office of the Secretary

29 CFR Part 89

Senior Community Service Employment Program; Revision of Regulations

AGENCY: Employment and Training Administration, U.S. Department of Labor.

ACTION: Final Rule.

SUMMARY: The Department is revising income criteria for eligibility in the Senior Community Service Employment Program in accordance with Section 507 of Title V of the Older Americans Act of 1965 (42 U.S.C. 3056e), as amended by the Comprehensive Older Americans Act Amendments of 1978 (Pub. L. 95-478).

DATES: These changes are effective May 18, 1979.

ADDRESSES: Comments may be addressed to: Chief, Older Worker Work Group, Employment and Training Administration, U.S. Department of Labor, Room 6122, 601 D Street, NW, Washington, D.C. 20213.

FOR FURTHER INFORMATION CONTACT: Paul A. Mayrand, telephone (202) 376-6232.

SUPPLEMENTAL INFORMATION: Regulations covering the Senior Community Service Employment Program are being revised generally as a result of amendments to the authorizing legislation. Those proposed revised regulations are being published separately in the Federal Register for review and comment and will not be effective until published as final rules. The revision of the income criteria falls within the exception to rulemaking provisions of the Administrative Procedures Act which involve "a matter relating to * * * public property, loans, grants, benefits, or contracts." (5 U.S.C. 553(a)(2)). Further, the Department finds that it is in the public interest to publish this change in final form so that the additional individuals who will become eligible may have an opportunity to be served. This finding constitutes a waiver of the Department's regulation at 29 CFR Part 2.7. Nevertheless, in keeping with the spirit of 29 CFR 2.7, comments may be submitted during the 30-day period following publication. Comments should be sent to the address given above.

This document was prepared under the direction of Paul A. Mayrand, Chief, Older Worker Work Group, Office of National Programs.

(Sec. 502(b)(2) of the Older Americans Act of 1965 (42 U.S.C. 3056), as amended by the Comprehensive Older Americans Amendments Act of 1978 (Pub. L. 95-478)).

Accordingly, 29 CFR, Subtitle A, is amended as follows:

PART 89—SENIOR COMMUNITY SERVICE EMPLOYMENT PROGRAM

§ 89.19 [Amended]

1. At the end of paragraph (b)(3)(i), the words "economically disadvantaged as defined in § 89.3" are changed to "members of a family which receives regular cash welfare payments or whose annual income in relation to family size does not exceed 125 per centum of the poverty level determined in accordance with criteria established and updated by the U.S. Office of Management and Budget."

2. In § 89.19, paragraph (b)(3)(ii)(B) is amended by adding a comma and the words "$125 per centum of" immediately following the figure "$500."

Signed at Washington, D.C., this 11th day of May 1979.

Ray Marshall,

Secretary of Labor.

[FR Doc. 79-15618 Filed 5-17-79; 8:45 am]

BILLING CODE 4510-30-M

Wage and Hour Division

29 CFR Part 575

Waiver of Child Labor Provisions for Agricultural Employment of 10- and 11-Year-Old Minors in Hand Harvesting of Short Season Crops; Provisions Governing Application for and Granting of a Waiver; Restrictions on Use of Pesticides and other Chemicals

Note.—This document originally appeared in the Federal Register for Wednesday, May 16, 1979. It is reprinted in this issue to meet requirements for publication on the Tuesday/Friday schedule assigned to the Department of Labor. (See OFR notice 41 FR 32914, August 6, 1976.)

AGENCY: Wage and Hour Division, Labor.

ACTION: Final rules.

SUMMARY: Current regulations provide for the issuance of waivers permitting the employment of 10- and 11-year-old minors in the hand harvesting of short season crops upon the representation by the employer applying for a waiver, that, among other specified conditions, the minimum entry times for the use of certain pesticides and other chemicals listed therein for use on certain crops have been followed. The Secretary of Labor has undertaken a continuing study of the effect of the level and type of pesticides and other chemicals used on the health and well-being of 10- and 11-year-old minors to whom a waiver would apply. This document reflects current findings in this study upon which it has been determined that the pesticide or chemical, Anilazine (Dyrene), used on strawberries or potatoes, may be added to the lists in § 575.5(d) (2) and (3) with minimum entry times of 10 days and 2 days, respectively, for 10- and 11-year-old hand harvesters. This document also adds the pesticide or chemical, Ziram, to the list in § 575.5(d)(5)(i) of those being reviewed, use of which would require supporting data to establish minimum entry times for 10- and 11-year-old hand harvesters.

EFFECTIVE DATE: May 16, 1979.

FOR FURTHER INFORMATION CONTACT: Lucille C. Pinkett, Chief, Branch of Child Labor, Room S3022, New Department of Labor Building, 200 Constitution Avenue N.W., Washington, D.C. 20210, 202-523-8412.

SUPPLEMENTARY INFORMATION: Section 13(c)(4) of the Fair Labor Standards Act, as amended, provides for the issuance of waivers permitting the employment of 10- and 11-year-old minors in the hand harvesting of short season crops upon the submission by the employer applying for a waiver that, among other required objective data, the "level and type of pesticides and other chemicals used would not have an adverse effect on the health or well-being of" minors employed under the waiver.

The Secretary has undertaken a continuing study of the use and effect of pesticides and other chemicals used on short season crops in order to establish minimum entry times for specified pesticides and chemicals for use on specified crops. On the basis of the scientific evidence disclosed, the Secretary of Labor has adopted minimum entry times for 10- and 11-year-old hand harvesters of strawberries and potatoes. This document reflects current findings in this study upon which it has been determined that the pesticide or chemical, Anilazine (Dyrene), used on strawberries or potatoes, may be added to the lists in § 575.5(d) (2) and (3) with minimum entry times of 10 days and 2 days, respectively, for 10- and 11-year-old hand harvesters.

This scientific evidence also disclosed that the pesticide or chemical, Ziram, can be oxidized in the environment to Thiram, a compound that has been show to have mutagenic and teratogenic effects as well as adverse effects on male and female reproductive systems. It should be noted that the pesticide or chemical, Thiram, is already included on the list of chemicals and pesticides in § 575.5(d)(5)(i) of those being reviewed, use of which requires supporting data to establish minimum entry times. In addition, current data suggest that Ziram itself may be a teratogen and weak mutagen and cause adverse effects on male and female reproductive systems. Thus, it is not possible at this time to establish a minimum entry time for this pesticide or chemical which would protect 10- and 11-year-old hand harvesters from adverse effects. Therefore, this document also adds the pesticide or chemical, Ziram, to the list in § 575.5(d)(5)(i) of those being reviewed, use of which would require supporting data to establish minimum entry times for 10- and 11-year-old hand harvesters.

As any change in § 575.5(d)(2) will affect the proposed use of pesticides and chemicals by an employer or group of employers applying for a waiver for the permissible employment of 10- and 11-year-old hand harvesters of strawberries, which harvest begins around June 1, it is necessary that interested persons be informed of this release of restriction before submitting an application with respect to the 1979 strawberry harvest. Therefore, I find that notice and public procedure on these regulations are impractical, and contrary to the public interest. For these same reasons these regulations shall be effective upon publication in the Federal Register.

These regulations have been developed under the direction and control of Donald Elisburg, Assistant Secretary for Employment Standards, New Department of Labor Building, 200 Constitution Avenue, N.W., Washington, D.C. 20210.

§ 575.5 [Amended]

Accordingly, § 575.5(d) is amended as follows:

Section 575.5(d)(2) is amended by adding at the end of the list in the column designated "Pesticide" the word "Anilazine (Dyrene)" and in the column designated "Minimum entry time for 10- and 11-year-olds (days)" the figure "10".

Section 575.5(d)(3) is amended by adding at the end of the list in the column designated "Pesticide" the word "Anilazine (Dyrene)" and in the column designated "Minimum entry time for 10- and 11-year-olds (days)" the figure "2".

Section 575.5(d)(5)(i) is amended by adding at the end of the list therein the word "Ziram."

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Signed at Washington, D.C. this 14th day of May 1979.

Donald Elisbury,

Assistant Secretary, Employment Standards.

[FR Doc. 79-15459 Filed 5-15-79; 9:47 am]

BILLING CODE 4510-27-M

DEPARTMENT OF DEFENSE

Corps of Engineers, Department of the Army

33 CFR Part 208

Flood Control Regulations; Marshall Ford Dam and Reservoir, Colorado River, Tex.

Correction

In FR Doc. 79-12849 appearing on page 24551 in the issue of April 26, 1979 make the following correction.

On page 24552, in the third column, the first line of § 208.19(a)(4)(ii)(C) should have read: "(C) Elevation 685-691 Seasonal".

BILLING CODE 1505-01-M

ENVIRONMENTAL PROTECTION AGENCY

40 CFR Part 180

[PP 6E1767/R208; FRL 1229-15]

Tolerances and Exemptions From Tolerances for Pesticide Chemicals in or on Raw Agricultural Commodities; Linuron

AGENCY: Office of Pesticide Programs, Environmental Protection Agency (EPA).

ACTION: Final Rule.

SUMMARY: This rule establishes a tolerance for residues of the herbicide linuron on asparagus at 3 parts per million (ppm). The regulation was requested by the Interregional Research Project No. 4. This rule establishes a new maximum permissible level for residues of linuron on asparagus.

EFFECTIVE DATE: May 18, 1979.

FOR FURTHER INFORMATION CONTACT: Mrs. Patricia Critchlow, Registration Division (TS-767), Office of Pesticide Programs, EPA, 401 M Street, SW, Washington, DC (202/755-4851).

SUPPLEMENTARY INFORMATION: On March 28, 1979, the EPA published a notice of proposed rulemaking in the **Federal Register** (44 FR 18535) in response to a pesticide petition (PP 6E1767) submitted to the Agency by the Interregional Research Project No. 4 (IR-4), New Jersey State Agricultural Experiment Station, PO Box 231, Rutgers University, New Brunswick, NJ 08903, on behalf of the IR-4 Technical Committee and the Agricultural Experiment Stations of California, Illinois, Indiana, and Michigan. This petition proposed that 40 CFR 180.184 be amended by increasing the established tolerance for residues of the hericide linuron (3-(3,4-dichlorophenyl)-1-methoxy-1-methylurea) in or on the raw agricultural commodity asparagus from 0.25 ppm to 3 ppm. No comments or requests for referral to an advisory committee were received in response to this notice of proposed rulemaking.

It has been concluded, therefore, that the proposed amendment to 40 CFR 180.184 should be adopted without change, and it has been determined that this regulation will protect the public health.

Any person adversely affected by this regulation may, on or before June 18, 1979, file written objections with the Hearing Clerk, Environmental Protection Agency, Rm. M-3708 (A-110), 401 M St., SW, Washington, DC 20460. Such objections should be submitted in triplicate and specify the provisions of the regulation deemed to be objectionable and the grounds for the objections. If a hearing is requested, the objections must state the issues for the hearing. A hearing will be granted if the objections are supported by grounds legally sufficient to justify the relief sought.

Under Executive Order 12044, EPA is required to judge whether a regulation is "significant" and therefore subject to the procedural requirements of the Order or whether it may follow other specialized development procedures. EPA labels these other regulations "specialized". This regulation has been reviewed, and it has been determined that it is a specialized regulation not subject to the procedural requirements of Executive Order 12044.

Effective on May 18, 1979, Part 180, Subpart C, § 180.184 is amended by increasing the established tolerance for residues of linuron on asparagus from 0.25 ppm to 3 ppm as set forth below.

(Section 408(e) of the Federal Food, Drug, and Cosmetic Act [21 U.S.C. 346a(e)])

Dated: May 11, 1979.

Edwin L. Johnson,

Deputy Assistant Administrator for Pesticide Programs.

PART 180—TOLERANCES AND EXEMPTIONS FROM TOLERANCES FOR PESTICIDE CHEMICALS IN OR ON RAW AGRICULTURAL COMMODITIES

Part 180, Subpart C, § 180.184 is revised by editorially reformatting the section into an alphabetized columnar listing to include asparagus at 3 ppm, as follows:

§ 180.184 Linuron; tolerances for residues.

Tolerances are established for residues of the herbicide linuron (3-(3,4-dichlorophenyl)-1-methoxy-1-methylurea) in or on the following raw agricultural commodities:

Commodity:	Parts per million
Asparagus	3
Barley, forage	0.5
Barley, grain	0.25
Barley, hay	0.5
Barley, straw	0.5
Carrots	1
Cattle, fat	1
Cattle, mbyp	1
Cattle, meat	1
Celery	0.5
Corn, field, fodder	1
Corn, field, forage	1
Corn, fresh (inc. sweet K+CWHR)	0.25
Corn, grain (inc. pop)	0.25
Corn, pop, fodder	1
Corn, pop, forage	1
Corn, sweet, fodder	1
Corn, sweet, forage	1
Cottonseed	0.25
Goats, fat	1
Goats, mbyp	1
Goats, meat	1
Hogs, fat	1
Hogs, mbyp	1
Hogs, meat	1
Horses, fat	1
Horses, mbyp	1
Horses, meat	1
Oats, forage	0.5
Oats, grain	0.25
Oats, hay	0.5
Oats, straw	0.5
Parsnips (with or without tops)	0.5
Parsnips, tops	0.5
Potatoes	1
Rye, forage	0.5
Rye, grain	0.25
Rye, hay	0.5
Rye, straw	0.5
Sheep, fat	1
Sheep, mbyp	1
Sheep, meat	1
Sorghum, fodder	1
Sorghum, forage	1
Sorghum, grain (milo)	0.25
Soybeans, (dry or succulent)	1
Soybeans, forage	1
Soybeans, hay	1
Wheat, forage	0.5
Wheat, grain	0.25
Wheat, hay	0.5
Wheat, straw	0.5

[FR Doc. 79-15659 Filed 5-17-79; 8:45 am]

BILLING CODE 6560-01-M

40 CFR Part 180

[PP 8E2125/R210 FRL 1229-6]

Tolerances and Exemptions From Tolerances for Pesticide Chemicals in or on Raw Agricultural Commodities; O,O-Dimethyl S-[(4-oxo-1,2,3-benzotriazin-3(4H)-ylmethyl] phosphorodithioate

AGENCY: Office of Pesticide Programs, Environmental Protection Agency (EPA).

ACTION: Final Rule.

SUMMARY: This rule establishes a tolerance for residues of the insecticide *O,O*-dimethyl *S*-[(4-oxo-1,2,3-benzotriazin-3(4*H*)-ylmethyl] phosphorodithioate on pistachio nuts at 0.3 part per million (ppm). The regulation was requested by the Interregional Research Project No. 4. This rule establishes a maximum permissible level for residues of the subject insecticide on pistachio nuts.

EFFECTIVE DATE: May 18, 1979.

FOR FURTHER INFORMATION CONTACT: Mrs. Patricia Critchlow, Registration Division (TS-767), Office of Pesticide Programs, EPA, 401 M Street, SW, Washington, DC (202/755-4851).

SUPPLEMENTARY INFORMATION: On April 19, 1979, the EPA published a notice of proposed rulemaking in the **Federal Register** (44 FR 23265) in response to a pesticide petition (PP 8E2125) submitted to the Agency by the Interregional Research Project No. 4 (IR-4), New Jersey State Agricultural Experiment Station, PO Box 231, Rutgers University, New Brunswick, NJ 08903, on behalf of the IR-4 Technical Committee and the Agricultural Experiment Station of California. This petition proposed that 40 CFR 180.154 be amended by the establishment of a tolerance for residues of the insecticide *O,O*-dimethyl *S*-[(4-oxo-1,2,3-benzotriazin-3(4*H*)-ylmethyl] phosphorodithioate in or on the raw agricultural commodity pistachio nuts at 0.3 ppm. No comments or requests for referral to an advisory committee were received in response to this notice of proposed rulemaking. As provided in the Administrative Procedure Act (5 U.S.C. 553(d)(3)), the comment period was shortened to less than 30 days because of the necessity to expeditiously provide a means for control of the navel orange worm (which the subject insecticide is effective against) attacking pistachio trees.

It has been concluded, therefore, that the proposed amendment to 40 CFR 180.154 should be adopted without change, and it has been determined that this regulation will protect the public health.

Any person adversely affected by this regulation may, on or before June 18, 1979, file written objections with the Hearing Clerk, Environmental Protection Agency, Rm. M-3708, (A-110), 401 M St., SW, Washington, DC 20460. Such objections should be submitted in triplicate and specify the provisions of the regulation deemed to be objectionable and the grounds for the objections. If a hearing is requested, the objections must state the issues for the hearing. A hearing will be granted if the objections are supported by grounds legally sufficient to justify the relief sought.

Under Executive Order 12044, EPA is required to judge whether a regulation is "significant" and therefore subject to the procedural requirements of the Order or whether it may follow other specialized development procedures. EPA labels these other regulations "specialized". This regulation has been reviewed, and it has been determined that it is a specialized regulation not subject to the procedural requirements of Executive Order 12044.

Effective on May 18, 1979, Part 180, Subpart C, § 180.154 is amended by adding a tolerance for residues of the subject insecticide on pistachio nuts at 0.3 ppm as set forth below.

(Section 408(e) of the Federal Food, Drug, and Cosmetic Act [21 U.S.C. 346a(e)])

Dated: May 10, 1979.

Edwin L. Johnson,

Deputy Assistant Administrator for Pesticide Programs.

PART 180—TOLERANCES AND EXEMPTIONS FROM TOLERANCES FOR PESTICIDE CHEMICALS IN OR ON RAW AGRICULTURAL COMMODITIES

Part 180, Subpart C, § 180.154 is amended by alphabetically inserting pistachio nuts at 0.3 ppm in the table to read as follows:

§ 180.154 O,O,-Dimethyl S-[(4-oxo-1,2,3-benzotriazin-3(4H)-ylmethyl] phosphorodithioate; tolerances for residues.

* * * * *

Commodity:	Parts per million
* * * * *	
Nuts, pistachio	0.3
* * * * *	

[FR Doc. 79-15660 Filed 5-17-79; 8:45 am]

BILLING CODE 6560-01-M

40 CFR Part 180

[PP 8E2074/R209; FRL 1229-7]

Tolerances and Exemptions From Tolerances for Pesticide Chemicals in or on Raw Agricultural Commodities; O,O-Diethyl O-(2-isopropyl-6-methyl-4-pyrimidinyl) phosphorothioate

AGENCY: Office of Pesticide Programs, Environmental Protection Agency (EPA).

ACTION: Final Rule.

SUMMARY: This rule establishes a tolerance for residues of the insecticide *O,O*-diethyl *O*-(2-isopropyl-6-methyl-4-pyrimidinyl) phosphorothioate on rutabagas at 0.75 part per million (ppm). The regulation was requested by the Interregional Research Project No. 4. This rule establishes a maximum permissible level for residues of the subject insecticide on rutabagas.

EFFECTIVE DATE: May 18, 1979.

FOR FURTHER INFORMATION CONTACT: Mrs. Patricia Critchlow, Registration Division (TS-767), Office of Pesticide Programs, EPA, 401 M Street, SW, Washington, DC (202/755-4851).

SUPPLEMENTARY INFORMATION: On March 30, 1979, the EPA published a notice of proposed rulemaking in the **Federal Register** (44 FR 19001) in response to a pesticide petition (PP 8E2074) submitted to the Agency by the Interregional Research Project No. 4 (IR-4), New Jersey State Agricultural Experiment Station, PO Box 231, Rutgers University, New Brunswick, NJ 08903, on behalf of the IR-4 Technical Committee and the Agricultural Experiment Station of Massachusetts. This petition proposed that 40 CFR 180.153 be amended by the establishmnent of a tolerance for combined residues of the insecticide *O,O*-Diethyl *O*-(2-isopropyl-6-methyl-4-pyrimidinyl) phosphorothioate in or on the raw agricultural commodity rutabagas at 0.75 part per million (ppm). No comments or requests for referral to an advisory committee were received in response to this notice of proposed rulemaking.

It has been concluded, therefore, that the proposed amendment to 40 CFR 180.153 should be adopted without change, and it has been determined that this regulation will protect the public health.

Any person adversely affected by this regulation may, on or before June 18, 1979, file written objections with the Hearing Clerk, Environmental Protection Agency, Rm. M-3708 (A-110), 401 M St., SW, Washington, DC 20460. Such objections should be submitted in triplicate and specify the provisions of the regulation deemed to be objectionable and the grounds for the objections. If a hearing is requested, the objections must state the issues for the hearing. A hearing will be granted if the objections are supported by grounds legally sufficient to justify the relief sought.

Under Executive Order 12044, EPA is required to judge whether a regulation is "significant" and therefore subject to the procedural requirements of the Order or whether it may follow other specialized development procedures. EPA labels these other regulations "specialized". This regulation has been reviewed, and it has been determined that it is a specialized regulation not subject to the

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procedural requirements of Executive Order 12044.

Effective on May 18, 1979, Part 180, Subpart C, section 180.153, is amended by adding a tolerance for residues of the subject insecticide on rutabagas at 0.75 ppm as set forth below.

(Section 408(e) of the Federal Food, Drug, and Cosmetic Act [21 U.S.C. 346a(e)].

Dated: May 14, 1979.

Edwin L. Johnson,

Deputy Assistant Administrator for Pesticide Programs.

PART 180—TOLERANCES AND EXEMPTIONS FROM TOLERANCES FOR PESTICIDE CHEMICALS IN OR ON RAW AGRICULTURAL COMMODITIES

Part 180, Subpart C, § 180.153 is amended by alphabetically inserting the tolerance of 0.75 ppm on rutabagas to read as follows:

§ 180.153 O,O-diethyl O-(2-isopropyl-6-methyl-4-pyrimidinyl) phosphorothioate, tolerances for residues.

* * * * *

Commodity:	Parts per million
* * * * *	
Rutabagas	0.75
* * * * *	

[FR Doc. 79-15661 Filed 5-17-79; 8:45 am]

BILLING CODE 6560-01-M

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40 CFR Part 228

[FRL 1204-3]

Final Designation of Disposal Sites for Ocean Dumping

AGENCY: Environmental Protection Agency (EPA).

ACTION: Final rule.

SUMMARY: EPA today designates as EPA approved Ocean Dumping Sites the existing sewage sludge dump site located in the New York Bight Apex and an alternate ocean dumping site in the New York Bight for the dumping of sewage sludge in the event that the existing site cannot safely accommodate any more sewage sludge.

DATES: These site designations shall become effective on May 18, 1979.

FOR FURTHER INFORMATION CONTACT: Mr. T. A. Wastler, Chief, Marine Protection Branch (WH-548), EPA Washington, DC 20460. 202/245-3051.

SUPPLEMENTARY INFORMATION: Section 102(c) of the Marine Protection, Research, and Sanctuaries Act of 1972, as amended, 33 U.S.C. 1401 et seq., (hereafter "the Act") gives the Administrator of EPA the authority to designate sites where ocean dumping may be permitted. The EPA Ocean Dumping Regulations (40 CFR Chapter I, Subchapter H, Section 228.4) state that ocean dumping sites will be designated by publication in this Part 228. A list of "Approved Interim and Final Ocean Dumping Sites" was published on January 11, 1977 (42 FR 2461 et seq.).

The proposed designation of two ocean dumping sites in the New York Bight for the dumping of sewage sludge was published in the **Federal Register** on November 30, 1978. The period for public comment expired on January 30, 1979.

A Final Environmental Impact Statement (FEIS) entitled "Environmental Impact Statement on the Ocean Dumping of Sewage Sludge in the New York Bight" was prepared in accordance with EPA policy which provides for the voluntary preparation of EIS's for certain specific regulatory actions. A notice of availability of the FEIS was published in the **Federal Register** on October 16, 1978. The public comment period expired on November 17, 1978.

A number of comments were received on the FEIS, and one comment was received on the proposed site designation. Comments from the New Jersey Department of Environmental Protection, the National Wildlife Federation, the Nassau County Department of Health, and others supported the continuing use of the existing site and the designation of an alternate site for use in the event that the existing site cannot safely accommodate any more sewage sludge. Nassau County pointed out that the FEIS neglected to reference their yearly reports on monitoring of the impact of ocean sludge disposal on nearshore waters and sediment quality offshore Nassau County. The reports were in fact used in the preparation of the FEIS, and Nassau County was notified of this fact.

The New Jersey Department of the Public Advocate, in commenting on both the FEIS and the proposed site designation, requested clarification on the relationship among the FEIS mentioned above, the Proposed Rulemaking on the existing and alternate sites, and the EIS being prepared on the industrial wastes (106-mile) site. The Public Advocate was informed that the FEIS on sewage sludge dumping in the New York Bight is being utilized to provide part of the documentation for formal designation of the existing and alternate sewage sludge sites. The EIS presently being prepared on the industrial wastes site will evaluate the feasibility of dumping sewage sludge at that site as well as industrial wastes and will be used in a similar manner to provide documentation for the formal designation of that site. The designation of either the existing or alternate site will not limit the evaluation of the feasibility of the use of the 106-mile site for the disposal of sewage sludge or its use as appropriate subsequent to designation. The Public Advocate was also informed that, in any specific permit action, the permitting authority has to decide which site to use for dumping a particular waste and may choose, on a case-by-case basis, which of the available designated sites shall be used.

The use of both dump sites is for sewage sludge only, and the period of use expires December 31, 1981. Management authority for both sites is delegated to the Regional Administrator of EPA Region II.

Although this proposed site designation may have substantial local impacts in the vicinity of the dump sites and to those who use them, we have determined that this proposed rule is not a "significant" regulatory action within the meaning of Executive Order 12044, Improving Government Regulations (March 23, 1978).

The proposed site designations are hereby promulgated without change, as set forth below.

(33 U.S.C. Sections 1412 and 1418)

Dated: May 11, 1979.

Douglas M. Costle,

Administrator.

In consideration of the foregoing, Subchapter H of Chapter I of Title 40 is amended by adding to § 228.12(b) two sewage sludge dump sites for Region II as follows:

§ 228.12 Delegation of management authority for interim ocean dumping sites.

* * * * *

(b) * * *

(4) Sewage Sludge Site—Region II.

Location: Latitude—40°22'30"N to 40°25'00"N;

Longitude: 73°41'30"W to 73° 45' 00"W.

Size: 22.7 square kilometers (8.6 square nautical miles).

Depth: 27 meters (90 feet).

Primary Use: Sewage sludge.

Period of Use: Until December 31, 1981.

Restriction: Disposal shall be limited to sewage sludge generated by those permitees holding ocean dumping permits which were in force on January 1, 1979. Disposal of other wastes at this site is not permitted until adequate studies of the probable impacts of those wastes on the site have been completed.

(5) Alternate Sewage Sludge Site—Region II.

Location: Latitude—40°10'30"N to 40°13'30"N;

Longitude: 72°40'30"W to 72°43'30"W.

Size: 31 square kilometers (9 square nautical miles).

Depth: 55 meters (180 feet).

Primary Use: Sewage sludge.

Period of Use: Until December 31, 1981.

Restriction: Disposal of sewage sludge at this site shall take place only upon a finding by EPA that the existing site cannot safely accommodate any more sewage sludge without endangering public health or degrading coastal water quality. Disposal of other wastes at this site is not permitted until adequate studies of the probable impacts of those wastes on the site have been completed.

[FR Doc. 79-15646 Filed 5-17-79; 8:45 am]

BILLING CODE 6560-01-M

DEPARTMENT OF HEALTH, EDUCATION, AND WELFARE

Public Health Service

42 CFR Part 57

Health Professions Student Loans

AGENCY: Public Health Service, HEW.

ACTION: Final regulations.

SUMMARY: These regulations set forth requirements for health professions schools to be eligible to participate in the Health Professions Student Loan Program and for individuals to receive repayment of their eligible loans for service in designated health manpower shortage areas under the Public Health Service Act, as amended by Pub. L. 94-484, Pub L. 95-83 and Pub. L. 95-623.

EFFECTIVE DATE: These regulations are effective May 18, 1979.

FOR FURTHER INFORMATION CONTACT: Mrs. Alice Swift, Associate Director for Planning, Evaluation, and Legislation, Division of Manpower Training Support, Bureau of Health Manpower, Health Resources Administration 3700 East-West Highway, Center Building, Room 9-50, Hyattsville, Md. 20782 (telephone 301-436-6383).

SUPPLEMENTARY INFORMATION: In the Federal Register of November 13, 1978 (43 FR 52487), the Assistant Secretary for Health, Department of Health, Education, and Welfare, revised Subpart C of 42 CFR Part 57, entitled "Health Professions Student Loans," to implement the amendments made by the Health Professions Educational Assistance Act of 1976 (Pub. L. 94-484) and by the Health Planning and Health Services Research and Statistics Extension Act of 1977 (Pub. L. 95-83) to the authority for student loans in Title VII of the Public Health Service Act.

Section 740 of the Public Health Service Act ("the Act") (42 U.S.C. 294m) authorizes the Secretary of Health, Education, and Welfare ("the Secretary") to enter into an agreement for the establishment and operation of a student loan fund with any public or other nonprofit school of medicine, osteopathy, dentistry, pharmacy, podiatry, optometry, or veterinary medicine which is located in a State and is accredited as provided in section 721(b)(1)(B) of the Act. Each school must meet the statutory requirements in this section regarding maintenance and use of the fund. Section 741 of the Act (42 U.S.C. 294n) sets forth the provisions under which loans may be made to students from a loan fund (established under an agreement with a school under section 740).

The regulations, as so revised, reflect the statutory provisions respecting the amount of the loan, the annual interest rate, repayment by the student, and repayment by the Secretary when the borrower practices in a health manpower shortage area designated under section 332(b) of the Act.

Due to the need to implement requirements for the allocation of funds for the 1978-79 school year, those regulations were issued as interim-final regulations, without benefit of proposed rulemaking procedures. Notwithstanding the omission of these rulemaking procedures, interested persons were invited to submit comments not later than January 12, 1979. Following the close of the comment period, the regulations were to be revised as warranted by public comments received. The Department received 181 comments from students, school officials, professional and student organizations, health organizations, and families of medical students. The comments and the Department's response to the comments are discussed below. For clarity, the comments and responses are arranged according to the section numbers and titles of the interim-final regulations to which they pertain.

§ 57.202 Definitions.

One respondent suggested that the definition of "full-time student" be revised to include students who are pursuing degrees in clinical engineering.

The Department cannot accept this proposal because the statutory section establishing eligibility for health professions student loans, section 741(b) of the Act, does not include clinical engineering as a degree which may be pursued under a loan.

§ 57.206(a) Eligibility of health professions student loan recipients.

The majority of the repondents commented on the provision for determining "exceptional financial need" of medical or osteopathic students graduating after June 30, 1979, a requirement of Pub. L. 94-484. The former regulation governing health professions student loans permitted the school to determine the financial need of the applicant, with no provision for exception financial need. The interim-final regulation provided that to be of exceptional financial need a student must have *no* financial resources to meet the costs of attendance at the school. Most of the comments objected that this requirement was overly restrictive. In response to the concerns expressed in these comments, the Department has modified this requirement in the final regulation to permit a student to have resources equal to the lesser of $5,000 or 50 percent of the cost of education at his or her school.

Many of the comments suggested that the Department retain the former provision, which permitted the school to determine the financial need of a student for a health professions student loan.

Since the statute requires that the criteria for determining the financial need of medical or osteopathic students who will graduate after June 30, 1979, be more restrictive than the criteria for determining financial need of other applicants, the Department did not adopt this suggestion. The legislative history of this provision directs the Department to restrict support for students of exceptional financial need to those whose financial need is greatest. Consequently, the former provision on the determination of financial need for all health professions student loan recipients did not meet the legislative intent in regard to medical or osteopathic students.

Some respondents proposed that the Department adopt the criteria for determining exceptional financial need which are applied under the Supplementary Educational Opportunity Grant Program authorized in section 413c(a)(2)(C) of the Higher Education Act, as amended. The regulations implementing this program define a student as being in exceptional financial need if "his expected family

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contribution * * * does not exceed 50 percent of his cost of education at the institution in which he is enrolled or accepted for enrollment" (45 CFR 176.9(C)(1)). It was also suggested that the provision should require the establishment of a funding order by ranking student applicants according to greatest financial need up to an eligibility cut-off point based on the percentage of the cost of education at his or her school which the student's resources constitutes.

Other respondents objected to the definition of exceptional financial need because only the resources of the student were considered, and not the cost of attending the school.

Two respondents proposed that the regulations determine whether a student is of exceptional financial need on the basis of his or her need for the maximum amount available by statute under the Health Professions Student Loan Program—the cost of tuition at his or her school and $2,500.

As pointed out above, the Department has revised the definition of exceptional financial need. The modified provision differs from that of the Supplementary Educational Opportunity Grant Program in that the eligibility cut-off point for the amount of resources which a student may have is the lesser of $5,000 or 50 percent of the cost of education at his or her school. This change is consistent with the legislative history, which suggests that health professions student loans should go to medical or osteopathic students graduating after June 30, 1979, who come from low-income families.

Several respondents objected to the inclusion of a student's earnings during the school year as resources in determining eligibility.

In response to these comments, the Department has modified the definition of a student's resources for purposes of determining exceptional financial need to exclude earnings during the school year.

Eight commenters objected to the inclusion of parental income as a resource in determining recipients for health professions student loan funds. Conversely, two other commenters objected that under the interim-final regulations, parental income might be excluded as a resource because some of the national need analysis systems provide for analysis without parental financial information under certain specified conditions.

The Department has revised this section to clarify the fact that in determining a student's resources, the school must use a national need analysis system and other information which the school may have about the student's finances and must take into account the expected contribution of parents, spouse, self, or other family members (regardless of the tax status of the student). The Department believes that where there is the possibility of a student receiving necessary support from family members, a student should not receive a health professions student loan in view of the limited resources available in this program.

Respondents also questioned the application of the exceptional financial need criteria only to medical and osteopathic students graduating after June 30, 1979. Since this is a requirement imposed by Pub. L. 94-484, the Department cannot revise this provision.

§ 57.206(a)(2) Loan repayment notification.

Two respondents suggested that schools be required to notify in writing only approved applicants, rather than all applicants, of the provisions under which the loans may be repaid by the Secretary. The Department cannot accept this suggestion because section 740(b)(5) of the Act specifically requires notifying each applicant.

§ 57.207 Maximum amount of loan.

Four respondents objected to the establishment of the maximum amount of any health professions student loan as tuition plus $2,500. Since that maximum is set forth in section 741(a) of the Act, the Department cannot revise the terms of this provision.

§ 57.210 Repayment and collection of health professions student loans.

One respondent requested that this section be revised to permit one-half of the health professions student loan to be repaid by service in the National Health Service Corps.

It is noted that this section currently provides for repayment of portions of health professions student loans, as well as certain other loans, by the Secretary in return for an agreement to practice for at least two years in a health manpower shortage area as a member of the National Health Service Corps or otherwise. The amount of repayment is dependent on the length of time of service of the borrower. Accordingly, no change has been made in this section.

Another respondent suggested that the period of time during which the repayment of a health professions student loan may be suspended for advanced professional training be extended to seven years.

No change is necessary in response to this comment because there is no limit on the advanced training period with respect to health professions student loans made after November 18, 1971.

Another respondent proposed that the Department increase the time when the loan recipient must begin repayment from one to two years after graduation.

The Department cannot accept this proposal because the time of repayment is set forth in section 741(c) of the Act.

§ 57.211 Cancellation of health professions student loans for disability or death.

One respondent suggested the revision of this section, which permits the Secretary to cancel a health professions student loan upon the borrower's permanent disability or death, to prevent loan recipients from claiming cancellation based on permanent disabilities which existed before entering school.

The Department regards this proposed change as unnecessary because any permanent disability serious enough to warrant cancellation would likely have prevented the student from entering medical school, thus no health professions student loan could have been awarded.

§ 57.215(b) Records, reports, inspection, and audit.

In response to the requests of several respondents, the Department has revised this section concerning recordkeeping, audit and inspection requirements to reflect amendments made to section 705 of the Act by Pub. L. 95-623, "The Health Services Research, Health Statistics and Health Care Technology Act of 1978." This amendment changed the audit requirement from annual to biennial and removed the requirement that it be performed by a certified public accountant.

§ 57.217 Additional conditions.

One respondent objected to the "open-ended" nature of this section as thwarting the rulemaking procedures. The Department points out that this provision merely permits the Secretary to exercise discretion, consistent with the requirements of the regulations, in the administration of individual loan agreements among schools.

Several respondents objected to the initial publication of these regulations in interim-final form rather than as a Notice of Proposed Rulemaking. The Department decided that the publication of these regulations in interim-final form was necessary in order to implement

regulations for the allocation of funds for the 1978-79 school year. Although the regulations were effective upon publication, the Department invited the public to comment, and the regulations are being revised in response to these comments.

Finally, the Department has made several minor changes of an editorial or technical nature to clarify the regulations, as published in interim-final. Accordingly, Subpart C of 42 CFR Part 57 is revised and adopted as set forth below.

Dated: March 16, 1979.

Julius B. Richmond,
Assistant Secretary for Health.

Approved: May 9, 1979.

Joseph A. Califano, Jr.,
Secretary.

Subpart C—Health Professions Student Loans

Sec.

57.201 Applicability.
57.202 Definitions.
57.203 Application by school.
57.204 Payment of federal capital contributions.
57.205 Health professions student loan funds.
57.206 Eligibility and selection of health professions student loan applicants.
57.207 Maximum amount of health professions student loans.
57.208 Health professions student loan promissory note.
57.209 Payment of health professions student loans.
57.210 Repayment and collection of health professions student loans.
57.211 Cancellation of health professions student loans for disability or death.
57.212 Repayment or cancellation of loans for practice in a health manpower shortage area.
57.213 Continuation of provisions for cancellation of loans made prior to November 18, 1971.
57.214 Repayment of loans made after November 17, 1971 for failure to complete a program of study.
57.215 Records, reports, inspection, and audit.
57.216 Nondiscrimination.
57.217 Additional conditions.
57.218 Noncompliance.

Authority: Sec. 215 of the Public Health Service Act, 58 Stat. 690, as amended, 63 Stat. 35 (42 U.S.C. 216); Secs. 740-744 of the Public Health Service Act, 77 Stat. 170-173, 90 Stat. 2266-2268, 91 Stat. 390-391 (42 U.S.C. 294m-q).

§ 57.201 Applicability.

The regulations of this subpart apply to the federal capital contributions made by the Secretary to public or other nonprofit health professions schools for the establishment of health professions student loan funds and to loans made to students by schools from these funds.

§ 57.202 Definitions.

As used in this subpart:

"Act" means the Public Health Service Act, as amended.

"Date upon which a student ceases to be a full-time student" means the first day of the month which is nearest to the date upon which an individual ceases to be a full-time student as defined in this section.

"Federal capital loan" means a loan made by the Secretary to a school under section 744(a) of the Act, as in effect prior to October 1, 1977, the proceeds of which are to be returned to the Secretary.

"Full-time student" means a student who is enrolled in a health professions school and pursuing a course of study which is a full-time academic workload, as determined by the school, leading to a degree specified in section 741(b) of the Act.

"Health professions school" or "school" means a public or private nonprofit school of medicine, school of dentistry, school of osteopathy, school of pharmacy, school of podiatry, school of optometry, and school of veterinary medicine as defined in section 701(4) of the Act.

"Health professions student loan" means the amount of money advanced to a student by a school from a health professions student loan fund under a properly executed promissory note.

"Institutional capital contribution" means the money provided by a school, in an amount not less than one-ninth of the federal capital contribution, and deposited in a health professions student loan fund.

"National of the United States" means (1) a citizen of the United States, or (2) a person who, though not a citizen of the United States, owes permanent allegiance to the United States.

"School year" means the traditional approximately 9-month September to June annual session. For the purpose of computing school year equivalents for students who, during a 12-month period, attend for a longer period than the traditional school year, the school year will be considered to be 9 months in length.

"Secretary" means the Secretary of Health, Education, and Welfare and any other officer or employee of the Department of Health, Education, and Welfare to whom the authority involved has been delegated.

"State" means, in addition to the several States, only the District of Columbia, the Commonwealth of Puerto Rico, the Northern Mariana Islands, the Virgin Islands, Guam, American Samoa, and the Trust Territory of the Pacific Islands.

§ 57.203 Application by school.

(a) Each school seeking a federal capital contribution must submit an application at the time and in the form and manner than the Secretary may require.[1] The application must be signed by an individual authorized to act for the applicant and to assume on behalf of the applicant the obligations imposed by the statute, the regulations of this subpart, and the terms and conditions of the award.

(b) Each application will be reviewed to determine eligibility and the reasonableness of the amount of Federal support requested. The Secretary may require the applicant to submit additional data for this purpose.

(c) An application will not be approved unless an agreement between the Secretary and the applicant school for a federal capital contribution under section 740 of the Act is reached.

§ 57.204 Payment of Federal capital contributions.

(a) *Annual payment.* The Secretary will make payments to each school with which he or she has entered into an agreement under the Act at a time determined by him or her. If the total of the amounts requested for any fiscal year by all schools for federal capital contributions exceeds the amount of Federal funds determined by the Secretary at the time of payment to be available for this purpose, the payment to each school will be reduced to whichever is smaller: (1) the amount requested in the application, or (2) an amount which bears the same ratio to the total amount of Federal funds determined by the Secretary at the time of payment to be available for that fiscal year for the Health Professions Student Loan Program as the number of full-time students estimated by the Secretary to be enrolled in that school bears to the estimated total number of full-time students in all participating schools during that year. Amounts remaining after these payments are made will be distributed in accordance with this paragraph among schools whose applications requested more than the amount paid to them, but with whatever adjustments that may be necessary to prevent the total paid to any school from exceeding the total requested by it.

[1] Applications and instructions are available from the Division of Manpower Training Support, Bureau of Health Manpower, Center Building, 3700 East-West Highway, Hyattsville, Maryland 20782.

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(b) *Method of payment.* The payment of federal capital contributions to a school will be paid in a manner that avoids unnecessary accumulations of money in any health professions student loan fund.

§ 57.205 Health professions student loan funds.

(a) *Funds established with federal capital contributions.* Any fund established by a school with federal capital contributions will be deposited and carried in a special account of the school. At all times the fund must contain monies representing the institutional capital contribution. This fund is to be used by the school only for (1) health professions student loans to full-time students; (2) capital distribution as provided in section 743 of the Act or as agreed to by the school and the Secretary, (3) costs of litigation and, to the extent specifically approved by the Secretary, other collection costs that exceed the usual expenses incurred in the collection of health professions student loans.

(b) *Funds established with federal capital loans.*

(1) Each federal capital loan is subject to the terms of the promissory note executed by an authorized official on behalf of the borrowing school.

(2) The federal capital loans must be carried in a special account of the school, to be used by the school only for (i) repayments of principal and interest on federal capital loans; and (ii) costs of litigation and, to the extent specifically approved by the Secretary, other collection costs that exceed the usual expenses incurred in the collection of health professions student loans.

§ 57.206 Eligibility and selection of health professions student loan applicants.

(a) *Determination of eligibility.* (1) Applicants are eligible for consideration for a health professions student loan if they are:

(i) Nationals of the United States, permanent residents of the Trust Territory of the Pacific Islands or the Northern Mariana Islands or lawful permanent residents of the United States, Puerto Rico, the Virgin Islands or Guam;

(ii) Enrolled, or accepted for enrollment in the school as full-time students;

(iii) In need of the amount of the loan to pursue a full-time course of study at the school; and

(iv) Of exceptional financial need in the case of students of medicine or osteopathy who will graduate after June 30, 1979. A student will be considered to demonstrate exceptional financial need if the school determines that his or her resources do not exceed the lesser of $5,000 or one-half of the costs of attendance at the school. Summer earnings, educational loans, veterans (G.I.) benefits and earnings during the school year will not be considered as resources in determining whether an applicant meets the eligibility criteria for exceptional financial need.

(2) The school must provide written notification to each applicant of the provisions of section 741(f) of the Act under which the Secretary may repay all or part of a loan.

(b) *Selection of applicants.* The school will select qualified applicants and determine the amount of student loans by considering:

(1) The financial resources available to the student by using one of the national need analysis systems or any other procedure approved by the Commissioner of Education and published under 45 CFR 144.13 in combination with other information which the school has regarding the student's financial status. The school must take into account, regardless of the tax status of the student, the expected contribution from parents, spouse, self or other family members; and

(2) The costs resonably necessary for the student's attendance at the school, including any special needs and obligations which directly affect the student's ability to attend the school on a full-time basis. The school must document the criteria used for determining these costs.

(c) *Selection of medical and osteopathic student applicants.* The school must consider medical and osteopathic students graduating after June 30, 1979, in the order of greatest need, taking into consideration the other resources available to the student through the school. For purposes of establishing priority for selecting medical and osteopathic student applicants to receive health professions student loans, summer earnings, educational loans, veterans (G.I.) benefits, and earnings during the school year will be considered as financial resources.

§ 57.207 Maximum amount of health professions student loans.

The total of the health professions student loans made from the fund to any student for a school year may not exceed $2,500 and the cost of tuition. The maximum amount loaned during a 12-month period to any student enrolled in a school which provides a course of study longer than the 9-month school year may be proportionately increased.

§ 57.208 Health professions student loan promissory note.

(a) *Promissory note form.* Each health professions student loan must be evidenced by a promissory note approved by the Secretary.

(1) Each promissory note must state that the loan will bear interest on the unpaid balance computed only for periods during which repayment of the loan is required, at the rate of 7 percent per year.

(2) A copy of each executed note must be supplied by the school to the student borrower.

(b) *Security.* A school may require security or endorsement only if the borrower is a minor and if, under the applicable State law, the note signed by him or her would not create a binding obligation.

§ 57.209 Payment of health professions student loans.

(a) Health professions student loans from any fund may be paid to or on behalf of student borrowers in installments considered appropriate by the school except that a school may not pay to or on behalf of any borrower more during any given installment period (e.g., semester, term, or quarter) than the school determines the student needs for that period.

(b) No payment may be made from a fund to or on behalf of any student borrower if at the time of the payment the borrower is not a full-time student.

§ 57.210 Repayment and collection of health professions student loans.

(a) Each health professions student loan, including accured interests, will be repayable in equal or graduated periodic installments in amounts calculated on the basis of a 10-year repayment period. Except as otherwise provided in this paragraph, repayment of a loan must begin one year after the student ceases to be a full-time student.

(1) If a borrower reenters the same or another school as a full-time student within the 1-year period, the date upon which interest will accure and the repayment period will begin will be determined by the date on which the student last ceases to be a full-time student at that school.

(2) The following periods will be excluded from the 10-year repayment period: (i) all periods for up to a total of 3 years of active duty performed by the borrower as a member of the Army, Navy, Air Force, Marine Corps, Coast Guard, National Oceanic and Atmospheric Administration Corps or the U.S. Public Health Service Corps; (ii) all periods for up to a total of 3 years of service as a volunteer under the Peace Corps Act; and (iii) all periods of advanced professional training except that with respect to health professions student loans made prior to November 18, 1971 but after June 30, 1969, these periods of advanced training may not exceed a total of 5 years.[2]

(3) Each student borrower may, subject to the provisions of paragraph (b)(3) of this section, choose the repayment schedule which he or she prefers from those in use by the school, but a student borrower may at his or her option and without penalty, prepay all or part of the principal and accrued interest at any time.

(b) *Collection of health professions student loans.*

(1) Each school at which a fund is established must exercise due diligence in the collection of all health professions student loans due the fund. The school must use the collection practices which are generally accepted among institutions of higher education and which are at least as extensive and effective as those used in the collection of other student loan accounts due the school.

(2) With respect to any health professions student loan made after June 30, 1969, the school may fix a charge for failure of the borrower to pay all or any part of an installment when it is due, and in the case of a borrower who is entitled to a deferment under section 741(c) of the Act, or cancellation or repayment under section 741(f) of the Act for any failure to file timely and satisfactory evidence of the entitlement. The amount of the charge may not exceed $1 for the first month or part of a month by which the installment or evidence is late and $2 for each succeeding month or part of a month. The school may elect to add the amount of this charge to the principal amount of the loan as of the day after the day on which the installment or evidence was due, or to make the amount of the charge payable to the school no later than the due date of the next installment following receipt of the notice of the charge by the borrower.

(3) With respect to any health professions student loan made after June 30, 1969, the school may require the borrower to make payments of at least $15 per month on all outstanding health professions student loans during the repayment period.

[2] Individuals who received health professions student loans prior to July 1, 1969, remain subject to the repayment provisions of 42 CFR 57.214(a)(2) (1976) as adopted on February 7, 1974. These provisions can be found at 39 FR 4773 (Feb. 7, 1974) and a copy can be obtained by writing the Divisions of Manpower Training Support, Bureau of Health Manpower, Center Building, 3700 East-west Highway, Hyattsville, Maryland, 20782.

§ 57.211 Cancellation of health professions students loans for disability or death.

(a) *Permanent and total disability.* The Secretary will cancel a student borrower's indebtedness in accordance with section 741(d) of the Act if the borrower is found to be permanently and totally disabled on recommendation of the school and as supported by whatever medical certification the Secretary may require. A borrower is totally and permanently disabled if he or she is unable to engage in any substantial gainful activity because of a medically determinable impairment, which the Secretary expects to continue for a long time or to result in death.

(b) *Death.* The Secretary will cancel a student borrower's indebtedness in accordance with section 741(d) of the Act upon the death of the borrower. The school to which the borrower was indebted must secure a certification of death or whatever official proof is conclusive under State law.

§ 57.212 Repayment or cancellation of loans for practice in a health manpower shortage area.

(a) *Practicing in a health manpower shortage area.* A person who: (1) has obtained a degree as specified in section 741(f)(1)(A) of the Act; (2) has obtained one or more health professions student loans or, under a written loan agreement entered before October 12, 1976, any other loans necessary for costs (including tuition, books, fees, equipment, living and other expenses which the Secretary determines were necessary) of attending a health professions school; and (3) enters into an agreement to practice his or her profession for at least 2 consecutive years in a health manpower shortage area designated under section 332 of the Act, is entitled to have a portion of these loans repaid by the Secretary in accordance with paragraph (b) below. Prior to entering an agreement for repayment of loans, other than health professions student loans, the Secretary will require an individual to provide evidence satisfactory to the Secretary of the existence and reasonableness of the education loans, including a copy of the written loan agreement establishing the loan, and a notarized statement that the copy is a true copy of the loan agreement.

(b) *Repayment.* Loan repayment will be made to persons who meet the conditions set forth in paragraph (a) as follows:

(i) Upon completion by the borrower of the first year of practice as specified in the agreement, the Secretary will pay 30 percent of the principal of, and the interest on, each loan which was unpaid as of the date the borrower began his or her practice.

(ii) Upon completion by the borrower of the second year of practice the Secretary will pay another 30 percent of the principal of, and the interest on, each loan which was unpaid as of the date the borrower began his or her practice.

(iii) Upon completion by the borrower of a third year of practice, the Secretary will pay another 25 percent of the principal of, and interest on, each loan which was unpaid as of the date the borrower began his or her practice except that, the amount of loan repayments that may be made on behalf of a borrower in any year under paragraph (a) of this section may not exceed $10,000, and the total amount of payment which can be made under this section with respect to any loan may not exceed $50,000.

(c) *National Health Service Corps (NHSC) Scholarship recipients.* A recipient of an NHSC Scholarship under 42 CFR Part 62 may not enter into an agreement with the Secretary under this section until either (1) the participant has completed the NHSC Scholarship service obligation; (2) the Secretary has recovered from the participant an amount determined under 42 CFR 62.10, or (3) any service or payment obligation has been waived under 42 CFR 62.12. An NHSC Scholarship is not an educational loan for purposes of an agreement under this section.

§ 57.213 Continuation of provisions for cancellation of loans made prior to November 18, 1971.

Individuals who received health professions student loans as students of medicine, osteopathy, dentistry or optometry prior to November 18, 1971, may still receive cancellation of these loans for practicing in a shortage area or for practicing in a rural shortage area characterized by low family income. The regulations set forth in 42 CFR 57.216(b) (1976), as adopted on February 7, 1974 remain applicable to cancellation on this basis. The provisions can be found at 39 FR 4774 (February 7, 1974) and a copy can be obtained by writing to the Division of Manpower Training Support, Bureau of Health Manpower, Center Building, 3700 East-West Highway, Hyattsville, Maryland 20782.

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§ 57.214 Repayment of loans made after November 17, 1971, for failure to complete a program of study.

In the event that the Secretary undertakes to repay educational loans under section 741(*1*) of the Act, he or she will use the following criteria to make a determination as to each applicant's eligibility:

(a) An applicant will be considered to have failed to complete the course of study leading to the first professional degree for which an eligible education loan was made upon certification by a health professions school that the individual ceased to be enrolled in the school subsequent to November 17, 1971;

(b) An applicant will be considered to be in exceptionally needy circumstances if, upon comparison of the income and other financial resources of the applicant with his or her expenses and financial obligations, the Secretary determines that repayment of the loan would constitute a serious economic burden on the applicant. In making this determination, the Secretary will take into consideration the applicant's net financial assets, his or her potential earning capacity, and the relationship of the income available to the applicant to the low-income levels published annually by the Secretary under paragraph (c) of this section;

(c) An applicant will be considered to be from a low-income family if the applicant comes from a family with an annual income below a level based on low-income thresholds according to family size published by the U.S. Bureau of the Census, adjusted annually for changes in the Consumer Price Index, and adjusted by the Secretary for use in this program, and the family has no substantial net financial assets. Income levels as adjusted will be published annually by the Secretary in the **Federal Register.**

(d) An applicant will be considered to be from a disadvantaged family if the individual comes from a family in which the annual income minus unusual expenses which contribute to the economic burdens borne by the family does not exceed the low-income levels published by the Secretary under paragraph (c) of this section and the family has no substantial net financial assets;

(e) An applicant will be considered as not having resumed his or her health professions studies within two years following the date the individual ceased to be a student upon a certification so stating from the applicant; and

(f) An applicant will be considered as not reasonably expected to resume his or her health professions studies within two years following the date upon which he or she terminated these studies, based upon consideration of the reasons for the applicant's failure to complete these studies, taking into account such factors as academic, medical, or financial difficulties.

The Secretary will only repay education loans made subsequent to November 17, 1971.

§ 57.215 Records, reports, inspection, and audit.

(1) Each Federal capital contribution and Federal capital loan is subject to the condition that the school must maintain those records and file with the Secretary those reports relating to the operation of its health professions student loan fund that the Secretary may find necessary to carry out the purposes of the Act and these regulations. The school also must comply with the requirements of 45 CFR Part 74 and section 705 of the Act concerning recordkeeping, audit, and inspection.

(2) The following student records must be retained by the school for five years after an individual student ceases to be a full-time student:

(i) Approved student applications for health professions student loans;

(ii) Documentation of the financial need of applicants;

(iii) Reasons for approval or disapproval of applications and;

(iv) Other records as the Secretary may prescribe. Individual student records may be destroyed at the end of the five-year period, except that in all cases where questions have arisen as a result of a Federal audit, the records must be retained until resolution of all the questions.

§ 57.216 Nondiscrimination.

(a) Participating schools are advised that in addition to complying with the terms and conditions of these regulations, the following laws and regulations apply:

(1) Section 704 of the Act (42 U.S.C. 292d) and its implementing regulation, 45 CFR Part 83 (prohibiting discrimination on the basis of sex in the admission of individuals to training programs).

(2) Title VI of the Civil Rights Act of 1964 (42 U.S.C. 2000d *et seq.*) and its implementing regulation, 45 CFR Part 80 (prohibiting discrimination in Federally assisted programs on the grounds of race, color, or national origin).

(3) Title IX of the Education Amendments of 1972 (20 U.S.C. 1681 *et seq.*) and its implementing regulation, 45 CFR Part 86 (prohibiting discrimination on the basis of sex in Federally assisted education programs).

(4) Section 504 of the Rehabilitation Act of 1973 (29 U.S.C. 794) and its implementing regulation, 45 CFR Part 84 (prohibiting discrimination in Federally assisted programs on the basis of handicap).

(b) The recipient may not discriminate on the basis of religion in the admission of individuals to its training programs.

§ 57.217 Additional conditions.

The Secretary may with respect to any agreement entered into with any school under § 57.205, impose additional conditions prior to or at the time of any award when in his or her judgment these conditions are necessary to assure or protect the advancement of the purposes of the agreement, the interest of the public health, or the conservation of funds awarded.

§ 57.218 Noncompliance.

Wherever the Secretary finds that a participating school has failed to comply with the applicable provisions of the Act or the regulations of this subpart, he or she may, on reasonable notice to the school, withhold further payment of Federal capital contributions, and take such other action, including the termination of any agreement, as he or she finds necessary to enforce the Act and regulations. In this case no further expenditures shall be made from the health professions student loan fund or funds involved until the Secretary determines that there is no longer any failure of compliance.

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Health Care Financing Administration

42 CFR Part 405

Requirements of the Contract Between the Secretary and a Health Maintenance Organization Under Medicare

AGENCY: Health Care Financing Administration (HCFA), HEW.

ACTION: Final rule.

SUMMARY: These regulations set forth various requirements concerning the contract between the Secretary and a Health Maintenance Organization (HMO) under the Medicare program. They include requirements for: (1) Contract application procedures, criteria for eligibility and denial of application; (2) contract provisions, effective dates, renewals, and terminations; (3) information access and disclosure; (4) HMO intermediary and carrier responsibilities; (5) beneficiary refund procedures; (6) recoupment of undercollections by the HMO; and (7) change in ownership and procedures for recognition of a successor in interest to the contract. The regulations implement statutory requirements for an HMO contract, and are intended to specify all the basic contract requirements that an HMO must follow in order to be reimbursed under Medicare.

DATE: Except for § 405.2036(h), these regulations are effective on May 18, 1979 and apply to all Medicare HMO contracts entered into or renewed on or after that date. Section 405.2036(h) will become effective on the effective date of final regulations on disclosure of information which will be published, soon under 42 CFR Part 420, Subpart C.

FOR FURTHER INFORMATION CONTACT: Mr. Marinos Svolos, Medicare Bureau, Health Care Financing Administration, Room 106, East High Rise Bldg., 6401 Security Boulevard, Baltimore, Maryland 21235, Telephone: (301) 594-9315.

SUPPLEMENTARY INFORMATION: A Health Maintenance Organization under Medicare is a legal entity which provides health services on a prepayment basis to Medicare beneficiaries who are enrolled in its plan, in accordance with the HMO statutory requirements of section 1876 of the Social Security Act.

These regulations implement the provisions of section 1876 which require an organization that qualifies as an HMO to enter into a contract with the Secretary in order to be reimbursed as an HMO under Medicare and which deal with the various terms of the contract. The regulations specify requirements for approval of a contract application, basic contract requirements, and procedures for contract terminations, renewals and change in ownership.

There are two types of HMOs under Medicare: (1) Cost basis, under which an HMO is reimbursed for the reasonable cost of furnishing covered services to its enrollees, and (2) risk or incentive basis, under which an HMO is reimbursed on the basis of a comparison of its adjusted per capita incurred cost of providing covered services to the adjusted average per capita cost that Medicare would have incurred if the services had been provided by providers and organizations in the area other than the HMO (*see* § 405.2051.) A risk-basis HMO is allowed to keep a portion of the savings it incurs in providing services to Medicare enrollees, and is required to absorb the losses it incurs if its costs for providing services are in excess of those that Medicare would have incurred.

These regulations specify the conditions under which an organization will be eligible to contract with the Secretary as either a cost-basis or a risk-basis HMO, or only as a cost-basis HMO. To be eligible, the organization must meet the applicable qualifying conditions specified in 42 CFR 405.2001 through 405.2007 concerning membership, range and provision of services, and Public Health Service HMO requirements. For a risk-basis HMO, the organization must demonstrate sufficient financial capability to absorb losses. In addition, HCFA must determine that entering into or renewing a HMO contract with the organization would be consistent with the efficient and effective administration of section 1876 of the Act. To be paid as an HMO under Medicare, an eligible organization must then enter into a contract with the Secretary, as specified in these regulations.

A Notice of Proposed Rulemaking (NPRM) was published in the **Federal Register** on December 22, 1976 (41 FR 55718) proposing amendments to the Medicare regulations which would set forth requirements related to the terms of contract between the Secretary and an HMO. These final regulations incorporate certain comments received on the NPRM, and contain a number of changes in organization, style and format designed to make the regulations simpler and easier to understand.

A few changes have also been made as a result of the HMO Amendments of 1976 (Pub. L. 94-460) and HEW reorganization activities that have occurred since the NPRM was published. The regulations specifying the qualifying conditions that an organization must meet to be eligible to participate as an HMO under Medicare have been amended to implement the 1976 amendments, and the reference to qualifying conditions in these regulations has been changed accordingly. Regulations effective October 1, 1977, established a new Chapter IV in Title 42 of the CFR and transferred all Health Care Financing Administration regulations to that new chapter. Accordingly, these final regulations are codified under Subpart T, Health Maintenance Organizations, of 42 CFR Chapter IV, as §§ 405.2028 through 405.2039. Additionally, the Assistant Secretary for Health is now responsible for determining whether an organization meets the definition of an HMO under section 1876, and HCFA is now responsible for administering the remainder of the Medicare HMO program. Legislation affecting HMOs was enacted on November 1, 1978 (Pub. L. 95-559). However, no changes in these contract regulations are necessary because of that legislation.

We have added the requirement in section 1876(i)(2)(B) of the Act, which was formerly contained in § 405.2012(c)(2), that an HMO must be able to demonstrate its financial ability to assume risks before it can be awarded a contract on an incentive basis. We have also added the requirement that all HMOs must agree to comply with Part B of title XI of the Act (the PSRO program) and implementing regulations, in order to ensure as much compliance as possible with PSRO requirements.

The requirement that an HMO disclose information to the Secretary on related organizations and new owners of the HMO has been amended to cross reference proposed regulations implementing section 3(a)(1) of Pub. L. 95-142, enacted on October 25, 1977. Proposed regulations were published on August 4, 1978 (43 FR 34710), and final regulations will be published soon. They would require a Medicare HMO to supply the Secretary with information identifying those persons with an ownership or control interest in the HMO.

We have also incorporated by reference into these contract regulations several basic contract requirements contained in other sections of this Subpart T, such as the statutory requirement in section 1876(i)(6)(B), implemented in § 405.2042(d) and § 405.2050(b), that the contract provided that only certain reinsurance costs are allowed.

Also, the regulations have been expanded in a few places in order to elaborate and clarify several points which we decided were unclear in the NPRM. For example, we decided that it was unclear from our definition of "money incorrectly collected" that there were certain circumstances in which an HMO could recoup undercollections for deductible and coinsurance amounts due from enrollees for a previous contract period. We have added a new provision, § 405.2033(c), to specify those circumstances.

Major Comments

Three organizations submitted public comments on the proposed regulations. All comments were considered in drafting the final regulations.

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Denial of a Contract Because of Sufficient Number of HMOs in the Area

Suggestions were made to delete the provision allowing the Secretary to determine that entering into a contract with an otherwise qualified HMO would not be consistent with the effective and efficient administration of section 1876, if there is already a "sufficient" number of qualified HMOs under contract with the Secretary in the organization's geographic area. It was suggested that this provision is unnecessary and could possibly serve to limit the development of new HMOs. This comment has been accepted, and we will not use this reason as a basis for refusing to enter into a contract. We have also provided in the final rule more general standards for refusal to enter into or renew a contract, when to do so would not be consistent with the effective and efficient administration of the program. These standards incorporate the examples cited in the NPRM.

Audit of Subcontractors

A comment was made that only the records related to subcontracts, leases, and purchase orders exceeding $50,000 provided by an organization owned or operated by an HMO or related to an HMO by common ownership or control be subject to inspection and audit by the Secretary and Comptroller General. The NPRM proposed that all subcontracts with entities for leases and purchase orders of $2,500 or more be subject to audit. We have not increased the dollar limit because we believe the lower limit is necessary to minimize the possibility of program abuse and assure a proper determination of allowable costs. However, we have adopted the suggestion that only the records of subcontractors which are related organizations be subject to audit.

Disclosure of Information

Because of changes required by the government in the Sunshine Act (Pub. L. 94–409) a suggestion was made to delete references in the proposed regulations to the provisions of the Social Security Act and implementing regulations which deal with disclosure of information (Section 1106 of the Act and 20 CFR Part 401), and to base contract provisions governing disclosure of information by the HMO on the Freedom of Information and Privacy Acts. (5 U.S.C. 552; 552(a)). We have accepted this comment in part. It is our position that any system of records that an HMO develops and maintains in performing carrier or intermediary responsibilities is subject to the Privacy Act. We have therefore added the requirement that an HMO comply with the Act and implementing regulations with respect to these records. HMOs are not subject to the Freedom of Information Act because they are not agencies of the Department.

The purpose of our proposed requirement was to safeguard adequately the confidentiality of information on Medicare enrollees. We believe that it is essential to public confidence in the HMO program that the confidentiality of HMO Medicare enrollees be protected. In order to help ensure this confidentiality, we have added a requirement that the HMO agree to comply with the confidentiality requirements applicable to hospital providers. *(See* § 405.1026(a)). Our basis for imposing such a requirement is the Secretary's responsibility to encourage the expansion of the HMO program, and his authority, under 1876(i)(6)(C) of the Act, to impose necessary contract requirements.

Refunds of Money Incorrectly Collected or Other Amounts Due Enrollees

Comments were received suggesting specific changes in the proposed contract requirements which described how the HMO must refund monies incorrectly collected or other amounts due Medicare enrollees of the HMO. One comment made was that the date the beneficiary notified an HMO of an amount due was not significant; rather the HMO should not be required to set aside or refund any amounts until after a final determination had been made on the beneficiary's claim. We have accepted this comment and have revised § 405.2033(b)(3) accordingly.

Another comment was that the HMO should always have the option of making a refund for amounts incorrectly collected from any former Medicare enrollees by adjusting the premiums for its present Medicare enrollees, rather than being required to make individual lump sum payments to these enrollees. We have not accepted this comment in full because we believe that individual enrollees should be repaid in certain situations if it is feasible to do so. In order to avoid placing an undue burden on an HMO, however, we will allow an HMO to adjust the premiums of its present enrollees for amounts incorrectly collected from former enrollees of these amounts were collected for deductibles and coinsurance purposes on a premium basis or through a combination of premium collections and other charges.

A final comment was that the summary statement of premiums and other charges collected from enrollees be due 90 days after the close of the contract period, rather than 60 days as proposed. We agree that a longer time period is reasonable, and have accepted the comment.

Coordination of HMO Programs

It was suggested that the application process in HCFA and PHS could be coordinated to avoid unnecessary duplication of functions by the two Federal agencies and thereby be more efficient and cost effective and reduce the workload on an organization seeking HMO status under both programs. Even before enactment of the 1976 HMO Amendments (Pub. L. 94–460), which require that responsibility for determining the qualifications of an HMO under Medicare be the responsibility of the Assistant Secretary for Health, efforts to coordinate the HMO qualification procedures were begun. This effort has intensified since the passage of Pub. L. 94–460 and every effort is being made to avoid unnecessary duplication and, where possible, to coordinate HMO functions. However, two applications are still necessary in order to implement the divergent purposes of the two programs.

Inspection Period: Situations of Possible Fraud

There was a suggestion that the Secretary's right to reopen a final settlement where "there is a possibility of fraud" was too broad and should be more narrowly defined. We agree with this suggestion and have changed the language to read "reasonable possibility of fraud."

Notification of Enrollees by HMO When Contract Terminates

There was a comment that a cost basis HMO should not be required to notify its Medicare enrollees that its Medicare contract has been terminated. It was suggested that since the Medicare enrollees in a cost-basis HMO are not restricted to receiving all their Medicare services through the HMO, there is no need for them to know if the plan's contract as a Medicare HMO was significantly modified or terminated.

We have not accepted this comment because we believe that Medicare beneficiaries may feel that there are possible advantages, such as greater stability or lower deductible and coinsurance payments, to being enrolled in an HMO that has a Medicare contract, and that they might therefore want to know if any HMO in which they were enrolled had such a contract.

Audits of HMOs

One commenter suggested that the regulations require all Medicare audits of HMOs to be performed, if possible, in conjunction with the audits of HMOs required under title XIII of the Public Health Service (PHS) Act to prevent unnecessary duplication and overlap between the two programs. Although we will try to eliminate unnecessary duplication in HEW audits of HMOs, the basic differences in the purposes and objectives of these programs require separate audits. Audits of HMOs qualifying under the PHS Act are designed primarily to assure that grant and loan assistance moneys provided by PHS to recipient HMOs are used properly. Conversely, audits of HMOs for Medicare purposes are designed to assure that costs incurred by an HMO in providing or arranging for covered services are: Proper and necessary; reasonable in amount; appropriately apportioned among Medicare HMO members, other HMO members and nonmembers patients of the HMO; and that HMOs are reimbursed in accordance with the applicable law and Medicare reimbursement principles.

Special Program Costs Reporting Requirements

A suggestion was made that the requirements in § 405.2042(i) and § 405.2028(g) of the NPRM for a separate budget for special Medicare program costs be revised to require that the budget be submitted, along with the annual operating budget and enrollment forecast, at least 90 days prior to the start of the contract period, unless both we and the HMO agree to waive this requirement. We do not believe it is necessary to require by regulation that the budgets be submitted simultaneously, and we have decided that the requirement in § 405.2042(i) is sufficient and need not be repeated in these contract regulations. Accordingly, we have deleted § 405.2028(g) of the NPRM from these final regulations. It was also suggested that the regulations state that the Secretary be required to deny or approve each budget at least 45 days prior to the start of the contract period. While every effort will be made to review this budget quickly, it may not be possible in each case to complete the review 45 days prior to the start of a contract period. Therefore, such a requirement has not been included in the regulations.

Right of Review When Application Approved

It was also suggested that the provision was unnecessary that would have required the Secretary to inform an applicant organization of its right to administrative review of the Secretary's determination that the organization was eligible to enter into a contract. This provision has been revised to provide for review when the Secretary determines that an organization is eligible only to contract as a cost-basis HMO. (The applicant is also entitled to review when the Secretary determines that it is ineligible to contract as an HMO.)

Requirement To Furnish Data and Information Too Broad

A comment was made that the requirement for an HMO to furnish the Secretary any data and information he determines necessary for the administration or evaluation of the Medicare program was too broad. It was suggested that this requirement be revised to pertain only to data and information which is: (1) Available to the HMO or its subcontractors; and (2) available at a cost which in the judgment of the Department is not "disproportionate to the value of the information or data." We have not adopted this suggestion because we believe it might unduly restrict the Department in obtaining the data and information needed to administer the program effectively.

Right of Access to Subcontractors Records

It was suggested that the right of access and inspection to subcontractors records as stated in the proposed regulations was too broad, and that it should be limited "to only those *portions* of such documents that are necessary to verify transactions." This suggestion has not been accepted. We believe that the phrase in the regulations "... *pertinent* books, documents, papers, and records of the subcontractors involving *transactions related to the subcontract* . . ." (emphasis added) already sufficiently limits access to necessary materials, and that further limiting the right of access might prevent us from carrying out our responsibility to verify fully costs claimed by the HMO.

42 CFR Part 405, Subpart T is amended as set forth below:

1. The table of contents is amended by adding new § § 405.2028 through 405.2039, to read as follows:

Subpart T—Health Maintenance Organizations

* * * * *

Contract Requirements

Sec.
405.2028 Basis, purpose, and scope.
405.2029 Eligibility requirements and procedures for approval of a contract application.
405.2030 General contract requirements.
405.2031 Effective date and term of the contract.
405.2032 Required services and organization.
405.2033 Charges, refunds, and recoupment.
405.2034 Reinsurance.
405.2035 Coverage and enrollment.
405.2036 Information access and disclosure requirements.
405.2037 HMO Part A intermediary and Part B carrier responsibilities.
405.2038 Non-renewal, termination, or modification of a contract.
405.2039 Transfer of HMO ownership.

* * * * *

2. Section 405.2001 is amended by revising paragraph (a)(3) to read as follows:

§ 405.2001 Health maintenance organizations; general.

(a) *Introduction.* The regulations in this Subpart T set forth the requirements which an organization must meet in order to be eligible to enter into a contract with the Secretary as a health maintenance organization (HMO) under the health insurance program for the aged and disabled (title XVIII of the Social Security Act) and to be reimbursed through capitation payments for covered items or services the organization furnishes title XVIII beneficiaries who have enrolled with it.

* * * * *

(3) *Contract with the Secretary.* In order to participate and receive payment as an HMO under Medicare, an organization must enter into a contract with the Secretary as an HMO. The requirements pertaining to the Secretary's contract with an HMO are specified in § § 405.2028 through 405.2039.

* * * * *

3. Subpart T is amended by adding new § § 405.2028 through 405.2039 to read as follows:

Subpart T—Health Maintenance Organizations

* * * * *

Contract Requirements

§ 405.2028 Basis, purpose, and scope.

Sections 405.2029 through 405.2039 implement those parts of section 1876(a),

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(i), and (j) of the Social Security Act pertaining to the contract between the Secretary and an HMO under the Medicare program, and specify:

(a) Eligibility requirements and procedures for approval of a contract application;

(b) Basic contract requirements;

(c) Procedures for refunds; and

(d) Procedures for contract termination, renewals, and changes in ownership.

§ 405.2029 Eligibility requirements and procedures for approval of a contract application.

An organization that wishes to contract as an HMO under the Medicare program on either a cost-basis or a risk-basis must submit an application and supporting information to HCFA in the form and detail required by HCFA. Whenever feasible, HCFA will not require an organization to resubmit information which it has already submitted to the Assistant Secretary for Health in connection with the determination required by paragraph (A)(1) of this section.

(a) *Eligibility requirements to enter into an HMO contract.* An organization will be determined eligible to enter into an HMO contract if:

(1) The Assistant Secretary for Health finds that it meets the qualifying conditions specified in §§ 405.2001 through 405.2007, or those conditions are waived as provided by these sections, and

(2) HCFA finds that: (i) Entering into, or renewing, an HMO contract with the organization would be consistent with the effective and efficient administration of section 1876 of the Act. HCFA may not approve a contract under this paragraph if it finds that the organization:

(A) Lacks sufficient administrative capability to carry out the requirements of the contract;

(B) Has a conflict of interest that would interfere with the performance of its contract, or the administration of the Medicare program; or

(C) Has any persons with ownership or control interests, or agents or managing employees, who have been convicted of criminal offenses related to their involvement in Medicaid, Medicare or the social services programs under title XX, and

(ii) In the case of an organization that is applying for a risk-basis contract, the organization:

(A) Has not previously voluntarily terminated or failed to renew a risk-basis contract under section 1876 of the Act; and

(B) Has the financial capability to assume the risk of any costs that might be reasonably anticipated during the contract period in excess of the adjusted average per capita cost for its area. Evidence of financial capability may include the purchase of an insurance program, or other financial arrangements that are satisfatory to HCFA.

(b) *Approval of application.* If HCFA determines that the organization meets the eligibility requirements specified in paragraph (a) of this section, HCFA will notify the organization in writing that:

(1) It is eligible to enter into a contract with the Secretary under 1876 of the Act—

(i) Either as a cost-basis HMO or as a risk-basis HMO or

(ii) Only as a cost-basis HMO;

(2) If the organization is dissatisfied with HCFA's determination that it is only eligible to enter into a contract as a cost-basis HMO, it may request a review of the determination by following the applicable procedures for reconsiderations of initial determinations specified in §§ 405.2065 through 405.2092; and

(3) If the organization wishes to be reimbursed as an HMO under Medicare, it must sign and submit a written contract that meets the requirements specified in §§ 405.2030 through 405.2036.

(c) *Denial of application.* If the organization does not meet the eligibility requirements specified in paragraph (a) of this section, HCFA will notify the organization in writing:

(1) That it is not eligible to enter into a contract with the Secretary under section 1876 of the Act;

(2) Of the reasons why the organization is ineligible for a contract; and

(3) That if it is dissatisfied with the notice of denial, it may request a review of the determination by following the applicable procedures for reconsiderations of initial determinations specified in §§ 405.2065 through 405.2092.

§ 405.2030 General contract requirements.

(a) *Submittal of contract.* In order to be reimbursed as an HMO under Medicare, an eligible organization must sign and submit a written contract, in the form required by HCFA, that meets the requirements of this subpart and contains any other provisions required by HCFA.

(b) *General provisions of contract.* The contract must provide that the HMO agrees to comply with:

(1) Title VI of the Civil rights Act of 1964, as provided in § 405.2065(c);

(2) Section 504 of the Rehabilitation Act of 1973, as amended;

(3) The requirements of Part B (Professional Standards Review) of title XI of the Social Security Act with respect to review of the services furnished its Medicare enrollees; and

(4) All provisions of this subpart.

(c) *Waived conditions.* All qualifying conditions that are waived (*see* § 405.2029(a)(1)) must be specified in the contract. The specification must include:

(1) The specific terms of the waiver;

(2) The expiration date of the waiver; and

(3) Any other information that HCFA considers relevant.

(d) *Exemption from Federal Procurement Regulations.* Under the authority provided by section 1876(j) of the Act, the Federal Procurement Regulations and HEW Procurement Regulations contained in title 41 of the Code of Federal Regulations will not apply to contracts entered into under this subpart.

§ 405.2031 Effective date and term of the contract.

(a) *Effective date.* The contract must specify its effective date, which may not be earlier than the date the contract is signed and executed by both the Secretary and the HMO.

(b) *Term.* The contract must specify its term.

(c) *Initial term.* The initial term of the contract may be not less than 12 months or more than 23 months.

(d) *Subsequent term.* Any subsequent term after the initial term will be for a period of 12 months.

(e) *Renewal.* A contract will be renewed automatically unless either party gives notice of its intent to terminate or not renew, as specified in § 405.2038.

§ 405.2032 Required services and organization.

The contract must specify that the HMO agrees to provide services, and is organized and operated, in the manner prescribed by section 1876(b)(1) (B) and (C) of the Social Security Act, and §§ 405.2001 through 405.2007 of this subpart.

§ 405.2033 Charges, refunds, and recoupment.

(a) *Charges.* The contract must provide that the HMO agrees to charge its Medicare enrollees—

(1) For covered items and services only as provided in § 405.2022(b).

(2) For noncovered items and services only as provided in § 405.2022(a).

(b) *Refunds.* (1) The contract must provide that the HMO agrees to:

(i) Report all premiums, membership fees, and charges collected from its Medicare enrollees within 90 days after the close of the contract period; and

(ii) Refund all amounts incorrectly collected from its Medicare enrollees or from others on behalf of the enrollees, and any other amounts due Medicare enrollees or others on behalf of the enrollees.

(2) *"Money incorrectly collected".* This means sums collected in excess of the amount for which the enrollee was liable under § 405.2022(b). It includes amounts collected at a time when the enrollee was believed not to be entitled to Medicare benefits but:

(i) The enrollee is later determined to have been entitled to Medicare benefits; and

(ii) The enrollees' entitlement period falls within the time the HMO's contract with the Secretary is in effect.

(3) *"Other amounts due".* This means amounts due an enrollee for items and services obtained from physicians, suppliers, or providers of services outside the HMO when:

(i) The enrollee is entitled to receive reasonable payment from the HMO for those items and services as provided in § 405.2021(a)(2); and

(ii) The amount has been determined to be due the enrollee under the procedures specified in §§ 405.2058 through 405.2063.

(4) *Method of making refunds.* (i) An HMO must make refunds to its present and former Medicare enrollees by means of a lump sum payment in the following situations:

(A) For amounts incorrectly collected if the amounts were not collected on a premium basis;

(B) For other amounts due; and

(C) For all refunds if the HMO is going out of business.

If a former enrollee has died, or cannot be located after a reasonable effort on the part the HMO to do so, the HMO must make the refund in accordance with State law.

(ii) An HMO may use one of the following methods to refund money incorrectly collected on a premium basis (or through a combination of premiums and other charges) from one or more of its present or former Medicare enrollees:

(A) By a premium adjustment to the individual enrollee's or all enrollees' future years' premiums;

(B) By a lump sum payment to the enrollee; or

(C) By a combination of premium adjustment and lump sum payment.

(5) *Reduction by HCFA.* If the HMO does not comply with the requirements of paragraphs (b)(1)(ii) and (4) of this section by the close of the contract period following the one in which the amount was determined to be due, HCFA will reduce its payment to the HMO by the amount of the sums incorrectly collected or otherwise due, and will arrange for this amount to be paid to the HMO's Medicare enrollees.

(c) *Recoupment.* An HMO may collect from its Medicare enrollees, or from others on behalf of the enrollees, deductible and coinsurance charges for which they were liable (*see* § 405.2022(b)) in a previous contract period if:

(1) The HMO's failure to collect these amounts during the contract period in which they were due resulted from:

(i) An underestimation of the actuarial value of the deductible and coinsurance amounts for the enrollees; or

(ii) A billing error or a miscalculation because of a mathematical error;

(2) The HMO identifies these amounts and obtains HCFA's advance approval to recoup these amounts and of the method and timing to be used for the recoupment. In the case of amounts specified in paragraph (c)(1)(i) of this section, the HMO collects these amounts through an adjustment to its enrollees' future premiums; and

(3) The HMO collects these amounts no later than 24 months following the end of the contract period in which they were due.

§ 405.2034 Reinsurance.

The contract must provide that the HMO will be reimbursed for reinsurance only as specified in §§ 405.2042(d) and 405.2050(b).

§ 405.2035 Coverage and enrollment.

(a) *Enrollment standards.* The contract must provide that the HMO agrees to have an enrollment that meets the standards specified in §§ 405.2004(c), 405.2020, and 405.2023(b).

(b) *Enrollment period.* The contract must provide that the HMO agrees to have an open enrollment period that meets the requirements of § 405.2023(a).

(c) *Continuity of services.* The contract must provide that the HMO agrees to continue providing care to its Medicare enrollees unless their enrollment is terminated according to § 405.2025.

§ 405.2036 Information access and disclosure requirements.

The contract must provide that the HMO agrees:

(a) That HEW or anyone designated by it may evaluate through inspection or other means the quality, appropriateness, and timeliness of services furnished under the contract to its Medicare enrollees;

(b) That HEW, the Comptroller General, or their designees may audit or inspect any books and records of the HMO or its transferee which pertain to services performed and determination of amounts payable under the contract.

(c) To maintain, as required by § 405.2044, books, records, documents and other evidence of accounting procedures and practices.

(1) These records must be sufficient to:

(i) Assure an audit trail; and

(ii) Properly reflect all direct and indirect costs claimed to have been incurred under the contract.

(2) These records must include at least those pertaining to:

(i) Matters of ownership, organization, and operation of the HMO's financial, medical, and other recordkeeping systems;

(ii) Financial statements for the current contract period and three prior periods;

(iii) Federal income tax or information returns for the current contract period and three prior periods;

(iv) Asset acquisition, lease, sale, or other action;

(v) Agreements, contracts, and subcontracts;

(vi) Franchise, marketing, and management agreements;

(vii) Schedules of charges for the HMO's fee-for-service patients;

(viii) Matters pertaining to costs of operations;

(ix) Amounts of income received by source and payment;

(x) Cash flow statements; and

(xi) Any financial reports filed with other Federal programs or State authorities.

(d) To make available for the purposes specified in paragraphs (a) and (b) of this section, its premises, physical facilities and equipment, its records relating to its Medicare enrollees, the records specified in paragraph (c) of this section, and any additional relevant information that HCFA may require.

(e) That the right to inspect, evaluate, and audit, will extend through 3 years from the date of the final settlement for any contract period unless:

(1) HCFA determines there is a special need to retain a particular record or group of records for a longer period and notifies the HMO at least 30 days before the normal disposition date;

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(2) HCFA finds that Federal or State laws require a longer retention period;

(3) There has been a termination, dispute, fraud, or similar fault by the HMO, in which case the retention period may be extended to 3 years from the date of any resulting final settlement; or

(4) HCFA determines that there is a reasonable possibility of fraud, in which case it may reopen a final settlement at any time.

(f) To require all subcontractors (as defined in § 420.201 of this chapter [1]) that are related to the HMO by common ownership or control (see § 405.2042(b)(11)), all entities that are related to the HMO by common ownership or control providing services to its Medicare enrollees, through either oral or written agreements, and all entities that are related to the HMO by common ownership or control with whom the HMO has leases of real property or total purchase orders in excess of $2,500 during the contract period to—

(1) Agree that HEW and the Comptroller General of the United States or their designees have the right to inspect, evaluate, and audit any pertinent books, documents, papers, and records of the subcontractor involving transactions related to the subcontract; and

(2) Agree that the right under paragraph (f)(1) of this section to information for any particular contract period will exist for a period equivalent to that specified in paragraph (e) of this section.

(g) To submit to HEW:

(1) All financial information as specified in §§ 405.2047 and 405.2054 for final settlement; and

(2) Any information or data that HEW determines is necessary for the administration or evaluation of the Medicare program.

(h) To comply with the disclosure requirements specified in Subpart C, Part 420 of this chapter.[2]

(i) To comply with the requirements of the Privacy Act (5 U.S.C. § 552(a)) and implementing regulations with respect to any system of records developed in performing its carrier or intermediary responsibilities. (*See* 45 CFR Part 5b.)

(j) To meet the confidentiality requirements specified in § 405.1026(a) of this chapter with respect to all medical and other information on enrollees not covered by paragraph (i) of this section that is contained in its records, or obtained from HEW or others.

[1] Proposed regulations were published in the **Federal Register** on August 4, 1978 (43 FR 34710). These regulations will be issued in final soon.

[2] Proposed regulations specifying disclosure requirements were published in the **Federal Register** on August 4, 1978 (43 FR 34710). These regulations will be issued in final soon.

§ 405.2037 HMO Part A intermediary and Part B carrier responsibilities.

(a) *Part A intermediary responsibilities.*—(1) *Election required.* The contract must provide that the HMO will elect, according to § 405.2041(d):

(i) To have HCFA pay providers of services for covered items and services furnished to its Medicare enrollees;

(ii) To assume responsibility for paying providers of services directly for covered items and services furnished its Medicare enrollees; or

(iii) To use a combination of the methods specified in paragraphs (a)(1)(i) and (ii) of this section, if approved by HCFA.

(2) *Direct reimbursement by HMO.* If the HMO elects to pay providers of services directly for covered items and services, the HMO must:

(i) Determine the eligibility of its Medicare enrollees to receive covered items and services through the HMO;

(ii) Make proper coverage decisions and appropriate payments, in accordance with this part, for covered items and services for which its Medicare enrollees are eligible;

(iii) Assure that providers of services maintain and furnish appropriate documentation of physician certification and recertification, to the extent required by Subpart P of this part; and

(iv) Carry out any other procedures which HCFA may from time to time require.

(3) *Review of HMO bill processing capabilities.* If the HMO elects to pay providers of services directly, HCFA will determine whether the HMO has the experience and capability to carry out efficiently and effectively the responsibilities specified in paragraph (a) (2) of this section.

(4) *HCFA direct reimbursement required.* If HCFA determines that the HMO is not carrying out its bill-processing operations properly (or does not have the experience or capability to do so in the future), it may require the HMO to elect to have HCFA pay its providers of services directly. If the HMO refuses this election, HCFA may decline to enter into or may terminate a contract with the HMO.

(b) *Part B carrier responsibilities.* The contract must provide that in making reimbursement for non-provider Part B services furnished to its enrollees, an HMO is responsible for:

(1) Determining the eligibility of individuals to receive such items and services through the HMO;

(2) Making proper coverage decisions and appropriate payment, in accordance with the requirements of this part, for items and services for which its Medicare enrollees are eligible; and

(3) Carrying out any other procedures which HCFA may from time to time require.

§ 405.2038 Non-renewal, termination, or modification of a contract.

(a) *Non-renewal by HMO.* (1) If an HMO does not intend to renew its contract, it must:

(i) Give written notice to HCFA at least 90 days before the end of the current contract period;

(ii) Notify each Medicare enrollee by mail, at least 60 days before the end of the contract period; and

(iii) Notify the general public at least 30 days before the end of the contract period, by publishing a notice in one or more newspapers of general circulation in each community or county located in the HMO's enrollment area.

(2) The Secretary, at his discretion, may accept a non-renewal notice submitted less than 90 days before the end of the contract period if:

(i) The HMO notifies its Medicare enrollees and the public in accordance with paragraphs (a)(1) (ii) and (iii) of this section; and

(ii) Acceptance would not otherwise jeopardize the effective and efficient administraion of the Medicare program.

(b) *Termination or modification by mutual consent.* An HMO and the Secretary may modify or terminate the contract at any time by written mutual consent.

(1) *Modification.* If the contract is modified, the HMO must notify its Medicare enrollees of any modifications which the Secretary determines is approprite.

(2) *Termination.* If the contract is terminated:

(i) The HMO must notify its Medicare enrollees at least 30 days before the termination date; and

(ii) HCFA will notify the public at least 30 days before the termination date.

(c) *Non-renewal by the Secretary.* The Secretary may decide not to renew the HMO's contract at the end of the term. If the Secretary decides not to renew a contract, he will:

(1) Notify the HMO at least 90 days before the end of the contract period;

(2) Notify the HMO's Medicare enrollees at least 60 days before the end of the contract period;

(3) Notify the general publis at least 30 days before the end of the contract period; and

(4) Notify the HMO that if it is dissatisfied with the decision, it may request a review of the decision by following the procedures for reconsiderations of initial determinations specified in §§ 405.2065 through 405.2092.

(d) *Termination by the Secretary.* The Secretary may terminate a contract during its term for any of the reasons specified in § 405.2066(b)(1)–(3) by:

(1) Following the procedures specified in §§ 405.2065 through 405.2092; and

(2) Notifying the HMO's enrollees and the general public at least 30 days before the effective date of the termination.

§405.2039 Transfer of HMO ownership.

(a) *General rule.* (1) A transfer of the ownership or operation of an HMO, as specified in paragraphs (b),(c)(d), and (e) of this section, will render the contract invalid between the Secretary and the transferee, unless HCFA has approved a third party as the successor in interest to the contract through a novation agreement, as provided in paragraphs (f) and (g) of this section.

(2) An HMO which is contemplating or negotiating a change of ownership must notify HCFA at least 60 days in advance of the anticipated change of ownership. If it does not, the HMO (transferor) will continue to be liable to HCFA for per capita payments made to it by HCFA on behalf of its Medicare enrollees after the effective date of the transfer of ownership.

(3) If a change of ownership takes place without a novation agreement, the contract becomes invalid. If the new owner wishes to participate as an HMO under Medicare, it must:

(i) Notify HCFA that there has been a transfer of ownership of the HMO without a novation agreement; and

(ii) Apply for and enter into a contract as an HMO under Medicare, as specified in §§ 405.2029 through 405.2036.

(b) *Partnership.* In the case of a partnership, a change of ownership takes place in the circumstances specified in § 405.626(a) of this chapter.

(c) *Sole proprietorship.* In the case of a sole proprietorship, a change of ownership takes place in the circumstances specified in § 405.626(b) of this chapter.

(d) *Corporation.* (1) If an HMO is a corporate body, a change of ownership does not ordinarily occur if:

(i) There is a transfer of corporate stock; or

(ii) There is a merger of one or more corporations, with the HMO corporation surviving.

(2) A merger of two or more corporations involving an HMO corporation does constitute a change of ownership if the merger results in a new corporate entity.

(e) *Leasing.* If an HMO leases its facilities, in whole or in part, to another entity, the lessee does not assume HMO status under section 1876 of the Act.

(1) If the HMO leases all of its facilities to another organization, the Secretary's contract with the lessor organization terminates unless he has approved the transaction in advance.

(2) If the HMO leases part of its facilities to another organization, the contract remains in effect. However, HCFA will conduct a survey to determine whether the HMO continues to be in compliance with the HMO qualifying conditions specified in §§ 405.2001 through 405.2007.

(3) If the lessee of the facilities wishes to participate as an HMO under the Medicare program, it must apply for and enter into a contract with the Secretary as specified in §§ 405.2029 through 405.2036.

(f) *Provisions of novation agreement.*—(1) *Definition.* "Novation agreement" means the legal instrument executed by the current owner (transferor of an HMO), the proposed new owner (transferee) of an HMO, and HCFA, under which HCFA recognizes the transferee as the successor in interest to the existing contract.

(2) *Provisions.* (i) The transferee must assume all obligations under the contract; and

(ii) The transferor must waive its rights under the contract to obtain from the Secretary reimbursement for covered services furnished during the current contract period.

(3) *Guarantee of performance.* The transferor must guarantee performance of the contract by the transferee, or the transferee must post a satisfactory performance bond which is approved by HCFA.

(4) *Records access.* The transferor must agree to make its books, records, and other necessary information available to the transferee and to HCFA to permit an accurate determination of costs for the final settlement of the contract period.

(g) *Requirements for HCFA approval of a novation agreement.* A novation agreement may be approved and executed by HCFA if:

(1) The HMO (transferor) notifies HCFA at least 60 days in advance of the proposed change of ownership;

(2) The HMO submits, at least 30 days before the anticipated date of change of ownership, three signed copies of a proposed novation agreement to HCFA and one copy of any other documents required by HCFA; and

(3) HCFA determines that:

(i) The proposed transferee is in fact a successor in interest to the contract;

(ii) Recognition of the new party as a successor in interest to the contract with the HMO is in the best interest of the Medicare HMO program; and

(iii) The successor organization meets the requirements of this subpart to qualify as an HMO.

(Secs. 1102, 1871, and 1876 of the Social Security Act (42 U.S.C. 1302, 1395hh and 1395mm.))

(Catalog of Federal Domestic Assistance Program No. 13.774-Medicare Supplementary Medical Insurance.)

Dated: March 5, 1979.

Leonard D. Schaeffer,

Administrator, Health Care Financing Administration.

Approved: May 10, 1979.

Hale Champion,

Acting Secretary.

[FR Doc. 79-15822 Filed 5-17-79; 8:45 am]

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DEPARTMENT OF THE INTERIOR

Bureau of Land Management

43 CFR Public Land Order 5662

Public Land Order; Emergency Withdrawal of Los Padres National Forest for Casitas Reservoir Watershed in California

Correction

In FR Doc. 79–15265 appearing at page 28666 in the issue for Wednesday, May 16, 1979, third column, the CFR cite in the heading should appear as set forth above.

BILLING CODE 1505-01-M

DEPARTMENT OF HEALTH, EDUCATION, AND WELFARE

Social Security Administration

45 CFR Part 233

Budgeting Methods States May Use To Determine Eligibility and Amount of Assistance Under Aid to Families With Dependent Children Program

Correction

In FR Doc. 79–13831, appearing at page 26075, in the issue of Friday, May 4, 1979, on page 26083, in the middle column under § 233.26(a)(1), the seventh line, correct "budger" to read "budget".

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FEDERAL COMMUNICATIONS COMMISSION

47 CFR Parts 2 and 15

[FCC 79-254]

Amending Rules Concerning Wireless Microphones

AGENCY: Federal Communications Commission.

ACTION: Amendment of Parts 2 and 15 of the Commission's Rules.

SUMMARY: The Commission's Rules have been editorially amended by adding new sections to Parts 2 and 15 to warn manufacturers and users of wireless microphones that receiving type approval from the Commission does not in any way pass on compliance of these devices with other Federal laws, especially 18 U.S.C. Section 2512 concerning devices primarily useful for surreptitious interception of communications.

EFFECTIVE DATE: May 18, 1979.

ADDRESSES: Federal Communications Commission, Washington, D.C. 20554.

FOR FURTHER INFORMATION CONTACT: Don Olmstead, Office of Chief Engineer, (202) 632-7073.

In the matter of amendment of Parts 2 and 15 of the Commission's rules relating to wireless microphones.

Adopted: May 2, 1979.

Released: May 10, 1979.

By the Commission:

1. At the request of the Department of Justice (DOJ), and to better inform the general public, the Commission is amending Parts 2 and 15 of the Rules to reflect the prohibition contained in 18 U.S.C. Section 2512 of the Criminal Code against making, possessing or selling devices "primarily useful for the purpose of the surreptitious interception of wire or oral communications."

2. The Commission has determined that wireless microphones have many legitimate and worthwhile uses. However, the use of these devices for eavesdropping is prohibited. Our Rules provide for the manufacture, sale, and use of wireless microphones provided they meet our technical requirements and have been granted an equipment authorization (type approval) pursuant to Part 2 of our Rules. It has not, in the past, been our policy to make determination as to the legality of such devices under 18 U.S.C. Section 2512. We have not attempted, nor did we feel it was appropriate, to interpret the words "primarily useful". Our considerations in issuing an equipment authorization have centered on compliance with our technical standards and the interference potential of the device. No change in this policy is contemplated by this Order. It should be noted parenthetically that many equipment authorizations for wireless microphones were issued prior to enactment of Section 2512 of title 18.

3. The DOJ contends that when a device possesses Commission "type approval", prosecution under 18 U.S.C. Section 2512 is exceedingly difficult because the statute requires a specific intention to violate the law. Moreover, it has been said that the "type approval" effectively signals to a jury that the Federal Government itself has possessed, examined, and approved the device without noticing its illegal characteristics. Thus, the DOJ has requested that the Commission not issue equipment authorizations where it is obvious that the "primary" purpose of the device is for the surreptitious interception of wire or oral communications. The size, type of antenna, sensitivity of the microphone, lack of an on-off switch are all said to demonstrate that the design of the device renders it "primarily useful" for surreptitious interception of communications. However, they do concede that there may be close cases in which event the use of expert testimony might be required.

4. To assist the DOJ in prosecutions under U.S.C. § 2512, we are amending Parts 2 and 15 of our rules to indicate that Type Approval of wireless microphones merely indicates compliance with our technical rules and makes no judgment on the legality of such devices or their use under 18 U.S.C. 2512.

5. For the reasons set forth above, adoption of the attached amendments will serve the public interest. Prior notice of rule making, effective date provisions, and public procedure thereon are unnecessary, pursuant to the requirements of 5 U.S.C. 553, inasmuch as these amendments only reflect existing law and raise no issues upon which comments would serve any useful purpose.

6. In view of the foregoing, and pursuant to authority contained in Sections 4 and 303 of the Communications Act of 1934, as amended, IT IS ORDERED, that Parts 2 and 15, ARE AMENDED as set forth in the attached APPENDIX, effective May 18, 1979.

(Secs. 4, 303, 48 Stat., as amended, 1066, 1082; 47 U.S.C. 154, 303.)

Federal Communications Commission.

William J. Tricarico,

Secretary.

Appendix

PART 2—FREQUENCY ALLOCATIONS AND RADIO TREATY MATTERS; GENERAL RULES AND REGULATIONS

1. Section 2.927, is amended by adding paragraph (d) to read as follows:

§ 2.927 Limitations on grants.

* * * * *

(d) The issuance of an equipment authorization for a wireless microphone reflects no more than a Commission determination that the device has been shown to be capable of compliance with the applicable technical standards of the Commission's Rules, and should not be construed as a finding by the Commission as to matters not encompassed by the rules, especially with respect to compliance with 18 U.S.C. 2512.

PART 15—RADIO FREQUENCY DEVICES

2. Section 15.163, is amended by adding paragraph (d) to read as follows:

§ 15.163 Equipment authorization required.

* * * * *

(d) The issuance of an equipment authorization for a wireless microphone reflects no more than a Commission determination that the device has been shown to be capable of compliance with the applicable technical standards of the Commission's Rules, and should not be construed as a finding by the Commission as to matters not encompassed by the rules, especially with respect to compliance with 18 U.S.C. 2512.

[FR Doc. 79-15480 Filed 5-17-79; 8:45 am]

BILLING CODE 6712-01-M

47 CFR Parts 2 and 90

[RM-2406; RM-2543; RM-3108; RM-3111; RM-3136; FCC 79-259]

Frequency Allocations and Radio Treaty Matters; General Rules and Regulations and Private Land Mobile Radio Service; Providing for System Licensing in the Public Safety, Industrial, and Land Transportation Radio Services and To Provide for the Assignment of Call Signs on a System Rather Than a Single Station Basis in These Services

AGENCY: Federal Communications Commission.

ACTION: Memorandum Opinion and Order implementing new rules.

SUMMARY: New rules are adopted which implement, in stages, system licensing rather than individual station licensing in the private land mobile radio services. The rules also provide for some relaxation in the station identification requirements. The action is taken in response to five petitions for rule change and agency need for simplification and optimization of application processing procedures. The intended effect is to eliminate unnecessary redundancy in completing application forms and gradually to reduce applications processing time. Also intended is better station identification through a simplified procedure.

EFFECTIVE DATE: August 1, 1979.

ADDRESSES: Federal Communications Commission, Washington, D.C. 20554.

FOR FURTHER INFORMATION CONTACT: Eugene C. Bowler, Private Radio Bureau, Mobile and Fixed Radio Branch (202) 632-6497.

In the Matter of Amendment of Parts 2, and 90 of the Commission's Rules to provide for system licensing in the Public Safety, Industrial, and Land Transportation Radio Services and to provide for the assignment of call signs on a system, rather than a single station, basis in these services. Amendment of Part 89 (Section 89.153) to allow stations in different Public Safety Radio Services to use the same call sign when controlled from a single dispatch center. Amendment of Parts 2 and 91 of the Commission's Rules and Regulations to revise the station identification requirements for mobile stations in the Industrial Radio Services. Amendment of Parts 91.56(a) and 91.57(a) to simplify the application procedure as it pertains to a Base/Mobile/Relay System. Amendment of Parts 89, 91, and 93 to eliminate the requirement of separate licensing of control stations that use antennas under 20 feet in height.

Adopted: May 2, 1979.

Released: May 11, 1979.

By the Commission: 1. The Commission has before it the petitions for rulemaking listed above filed, respectively, by Norman R. Coltri and James R. Barsuglia, RM-2406/2543 (the same petition was filed on two separate occasions); the Sears, Roebuck and Company (Sears), RM-3108; the National Association of Business and Educational Radio, Inc. (NABER), RM-3111; and by the California Mobile Radio Association (CMRA), RM-3136. These petitions have been considered together because they all relate to the subject matter of this decision.

2. Coltri and Barsuglia request that the Commission amend its rules to enable the assignment of a single call sign to a dispatch center which handles the communications of a single licensee having one or more stations in any of the Public Safety Radio Services. It is argued that in many instances, licensees have so many individually authorized stations operated by a single dispatcher, that no identification at all is transmitted because of the difficulty in remembering which station is in use at any particular time.

3. Sears has petitioned the Commission to either amend its rules to allow the issuance of a system call sign to each clearly segregated land mobile radio system, or else to eliminate the requirement for the transmission of station call sign by mobile radio units where the mobile units and the associated base station(s) operate on different frequencies. Sears believes that such mobile units should be permitted to use the "unit identifier" means of identification. Confusion in the land mobile radio community over proper mobile station identification procedure (particularly where a mobile relay system is involved), the need for streamlining operational procedures in order to obtain the most efficient channel utilization, and the apparent lack of need for mobile unit identification are reasons given by Sears in support of its petition.

4. NABER requests that applications for a single mobile relay system (i.e., a system involving the use of not more than one control or one mobile relay station) be made possible through the use of a single application form in order to eliminate a number of redundant data elements common to the three application forms which must presently be filed. NABER, too, stresses the desirability of the Commission's issuing a single system call sign.

5. The California Mobile Radio Association (CMRA) has requested rules under which the Commission would not need to license separately control stations utilizing antennas not more than 20 feet above ground, or more than 20 feet above the tree, natural formation or existing man-made structure (other than an antenna structure) on which the antennas may be mounted; and instead, license these stations in a manner similar to mobile units. CMRA cites the Commission's practice of allowing certain low-powered mobile stations to serve the functions of base and fixed stations, where the antenna height does not exceed 20 feet, and the need to improve our application filing and processing procedures as the primary arguments for the requested change.

6. Comments were submitted in RM-3108, RM-3111, and in RM-3136. All who submitted comments supported the requested rule amendments.

7. The Commission has had an on-going program looking toward improvements in our licensing and regulatory procedures. The changes requested by these petitions are in line with that program. However, we believe that the objectives of the petitioners would be achieved and our overall licensing and regulatory program for the private land mobile services would be improved by going somewhat further than requested and adopting procedures for system licensing and assigning a single system call sign in all of the private land mobile radio services regulated by Part 90 of the Commission's Rules.

8. Many requirements for radio communications call for multiple transmitting facilities involving various classes of stations. In the Public Safety Radio Services, for example, approximately 80% of all applications received relate to stations which could properly be termed as part of an overall communications system. In the Industrial Radio Services, the percentage is closer to 60 (in the Business Radio Service alone, it is 70). Similar systems, particularly in the Railroad Radio Service, are authorized in the Land Transportation Radio Services. A typical example of a "system," which is widely authorized, is the mobile relay system, which consists of a mobile relay and mobile stations, and usually at least one control station. Many systems involve the use of one or more control, mobile relay, base or operational fixed stations to provide radio communications over a specific area. This results in the filing of a large number of individual station applications. Yet it would be possible to encompass most, if not all of these facilities, in a fewer number of applications under a system licensing approach. Such an integrated, singly

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licensed, system would consist of an intercommunicating group of land mobile or operational fixed stations, or a combination of both, and the associated mobile station. Characteristically, such a system would provide radio communications over a specific area of operation.

9. System licensing, while not changing the fundamental evaluation which takes place in the examination phase of applications processing, would reduce the number of authorizations issued and the subsequent accountability (license filing and data base entry) which must take place. Eventually, the number of renewal requests would decline in proportion to the numbers of systems authorized involving multiple transmitting facilities. The demand for additional call signs would be moderated and data base design and capture procedures could be less complex. Also, we are aware of the difficulties encountered by many licensees in understanding the present station identification rules, particularly where mobile relay stations are concerned. It is evident that some relief in the way of a rule simplification is needed, and the use of system call signs appears to be the key to such relief.

10. We have, accordingly, decided to amend Parts 2 and 90 to provide for land mobile system licensing. We are defining a "land mobile system" as a "regularly interacting group of land mobile stations intended to provide radio communications over a single area of operation." Usually, this involves a group of stations of different classes. The simplest system consists, at a minimum, of a base station and mobile station. More typically, it consists of one or more "control" stations, a "mobile relay" station, and a "mobile" station. (Most systems authorized above 450 MHz fit this description.) Other systems consist of either multiple base stations and a mobile station, or a combination of base and operational fixed stations, and a mobile station. Multiple base station systems are often utilized where the necessary area of operation is much larger than normal. In sum, a system, which would be authorized in a single license and which would be assigned a single call sign, may consist of the number of base stations, any fixed stations used to control those base stations, and the associated mobiles, all of which are used to provide coverage over the licensee's defined area of operation.

11. On the other hand, a licensee who plans to utilize two or more widely separated base stations to cover two or more independent or non-contiguous areas of operation may not combine those stations to form a single system unless the mobile units routinely operate mobile-to-mobile in the area between the two base stations, or frequently operate in the area served by each base station. Normally, the service areas of the various base stations must overlap or at least be contiguous. Also, we are not limiting system licensing to operations on a single frequency or channel, or pair of frequencies. Where an applicant has been able to justify the assignment of multiple channels to provide coverage over his area of operation, the necessary stations may be included in the single system authorization.

12. Unfortunately, the Commission's Master Frequency File cannot, at the present, handle the data for the systems we are proposing when two or more land stations at different locations are involved, except in the case of the 470–512 MHz band. Were such modifications to be made for all other types of stations, it would be necessary to require the licensee to resubmit an application for the entire system. This is because the Commission's principal land mobile data base (called the "Frequency Master File") is constructed around a "record-by-record" or "license-by-license" insertion and deletion system. While this would not be a problem in the case of small systems requiring the use of a single application form, a substantial burden would be placed on licensees of more complex systems. The burden on Commission personnel, too, would be significant in terms of the effort required to delete and replace a system record. These disadvantages can be avoided either by the development of a land mobile data base or a front-end system to handle the more complex systems' data for input to the Master Frequency File, but it will take some time to accomplish the necessary changes. We have, therefore, decided to adopt a phased approach to system licensing. We will authorize a system call sign now for an eligible system of any complexity in the 470–512 MHz band, and for a simple system (i.e., one consisting of not more than two land stations at different locations) in all of the other frequency bands. Later, on a date to be announced, when the necessary front-end system or land mobile data has been developed, we will expand the system licensing and system call sign concept to include the more complex systems outside the 470–512 MHz band. This approach should allow 50% of all land mobile applicants to take immediate advantage of system licensing, and the rest to do so when the computer procedures are developed.

13. In conjunction with these changes, it is likely that the application forms (both Form 400 and Form 425) will be replaced by a new form more suitable for system licensing. In the interim, applicants should follow the procedures set forth in Appendix B concerning the use of FCC Form 400 and 425 in applying for a system license.

14. The use of single system call sign will greatly alleviate the station identification problem, and we anticipate that many licensees may want to file for a system authorization as soon as possible. Unfortunately, we do not have the resources to cope with such an increase of applications, so we will not accept applications submitted solely for the purpose of obtaining a system call sign. We will accept applications involving the authorization of new stations or systems, or modification or renewal of a license of a station which is a component of what we have defined as a system. Where modification or renewal is involved, even if only of one station in a system, applications for inclusion of the other stations may also be submitted.

15. In order to provide relief for those licensees who will not be able to immediately consolidate their individual stations into a system, we are amending the station identification rules to generally permit two-frequency systems (such as two-frequency simplex, duplex and mobile relay systems) to be identified by the transmission of the call sign of the base station only. In instances, where communications occur between mobile units, one of the mobile units involved should transmit the call sign of the associated base station. In a mobile relay system, the mobile relay station is considered to be the "associated base station" of the control and mobile stations. Whenever a base station (including a control station) transmits the call sign of the system base or mobile relay station during the operating period, the mobile units need not identify by call sign. In the case of a system utilizing multiple base stations, the call sign of the particular base station being utilized may be transmitted by a mobile unit at the prescribed interval, or the mobile station call sign may be used.

16. This relaxation in station identification procedure is based on the fact that in systems operating on frequencies above 450 MHz, the base stations and the mobile units operate with a prescribed amount of frequency separation. Thus, knowing the assigned frequency of the base station (which can be found through referencing its call sign), it is possible to determine the authorized frequency of the associated mobile units (and in a mobile relay system, the frequency of the control station). Also, in the Industrial and Land Transportation Radio Services, the call signs of stations communication with a base or mobile relay station are indicated on the station license, thereby providing us with a clear picture of the system configuration. This is not the case in the Public Safety Radio Services, however, so we are not able to relax the station identification requirements for public safety stations which operate on frequencies below 450 MHz. Licensees in the lower frequency bands will have to defer any change in their station identification procedure until modification or renewal of one of the stations in their system allows them to file for a system authorization and call sign.

17. While the action we are taking grants, in greater part, the referenced petitions, it is necessary to comment further on the proposals of Barsuglia and Coltri (RM–2406 and RM–2543) and the California Mobile Radio Association (RM–3136).

18. The Barsuglia-Coltri proposal, if adopted as proposed, would require even more extensive changes in the Commission's Frequency Master File. We believe, too, that administrative difficulties could arise in attempting to identify systems in different radio services, where they are "labeled", as it were, by only a single call sign identifier. The problem would be particularly acute in the case where an operating frequency was available for assignment in more then one radio service. Because of these difficulties, and because we feel the other changes we are implementing in this action go a long way to ease the station identification problems in the private land mobile radio services, we must deny the request for interservice assignment of a single call sign.

19. A difficulty with respect to the petition of the California Mobile Radio Associaton (RM–3136) is that if it were granted in its entirety, the Commission would not be provided with even a minimum amount of information as to the location of a control station meeting the proposed "20 foot rule." While we do not see any great need for knowing the precise technical location (latitude and longitude) of a control station transmitter because of the reduced interference protential characteristic of such a station, we do need an administrative location or street address in order to have an inspection address for the station and be able to enforce our transmitter control regulations. Thus, while we are granting the CMRA petition in substance, applicants will be required to provide the street address locations of all control station control points. Control stations may be moved without license modification, in the same way as are control points, provided that the Commission is notified of any such change within thirty (30) days. Also, we cannot relax the present requirements for control stations in the 470–512 MHz band because of the need to know the coordinates in order to check the antenna height above average terrain (AAT) and the distance to the associated mobile relay transmitter.

20. While the single call sign, system licensing approach being permitted by this action offers many advantages to licensees and to the Commission, there is one potential drawback which we wish to point out. Our field personnel, in performing our enforcement functions, may not be able to determine the location or the particular identity of a station which may be monitored in violation of one of our technical rules, or which may be causing interference. As an example, under the present system (where individual station call signs are assigned), if a control station in a multiple control station mobile relay system was observed to be off-frequency, the station call sign would be indicated on the ensuing Notice of Violation, and the licensee would know which station is off-frequency. This convenience would be given up where a system call sign is used. Practically, however, this should not be much of a problem, since we expect most licensees to use some form of internal station identification (such as the "unit number" method) for their own administrative purposes. Nevertheless, should such an identifier not be obtained by our field personnel during the course of station observation, the burden of identifying the particular station or transmitter will fall upon the licensee. This requirement, however, seems very small in comparison to the convenience afforded by system licensing and the resultant simplification of station identification.

21. Lastly, licensees of individually authorized stations may, when combining their stations in a system application, request that the call sign of one of the previously authorized base stations be assigned as the system call sign.

22. The rule changes we are adopting are essentially procedural in nature and would benefit both applicants and the Commission, with no adverse effect on any party. It does not appear that adverse comments would be received were these changes to be released for prior public comments (no comments at all were received on RM–2406 and RM–2543, and all of the comments received on RM–3108, RM–3111, and RM–3136 strongly supported these proposals), and it is in the public interest to initiate the new procedures relating to system licensing as soon as possible. Therefore, the prior notice and comment provisions of the Administrative Procedures Act (5 USC 533) do not apply. The reporting requirement included herein is adopted subject to GAO clearance, and unless we are advised to the contrary, will be effective August 1, 1979.

23. The new procedures become effective August 1, 1979. General Information on this matter may be obtained by contacting Mr. Eugene C. Bowler, of the Commission's Private Radio Bureau's Rules Division, at (202) 632–6497. More specific questions concerning completion of Form 400 and Form 425 should be directed to the Bureau's Licensing Division at (202) 632–6475.

24. Accordingly, it is ordered, pursuant to the authority contained in Sections 4(i) and 303(r) of the Communications Act of 1934, as amended, that petitions RM–2406 and RM–2543 are denied; petitions RM–3108 and RM–3111 are granted, as extended; and that petition RM–3136 is granted in part: and that effective August 1, 1979, Parts 2 and 90 of the Commission's Rules are amended as set forth in Appendix A. It is further ordered that this proceeding is terminated.

(Secs. 4, 303, 48 Stat., as amended, 1066, 1082; 47 U.S.C. 154, 303.)

Federal Communications Commission.

William J. Tricarico,

Secretary.

Appendix A

I. Part 2 of the Commission's Rules and Regulations is amended as follows: § 2.302 is amended to read as follows:

§ 2.302 Call signs.

The table which follows indicates the composition and blocks of international call signs available for assignment when such call signs are required by the rules pertaining to particular classes of stations. When stations operating in two or more classes are authorized to the same licensee for the same location, the Commission may elect to assign a separate call sign to each station in a different class. (In addition to the U.S. call sign allocations listed below, call sign blocks AAA through AEZ and ALA through ALZ have been assigned to the Department of the Army; call sign block

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AFA through AKZ has been assigned to the Department of the Air Force; and call sign block NAA through NZZ has been assigned jointly to the Department of the Navy and the U.S. Coast Guard.

* * * * *

II. Part 90 of the Commission's Rules and Regulations is amended as follows:

1. § 90.7 is amended to include a definition of "Land Mobile Radio System", and to clarify the definition of "Land Station."

§ 90.7 Definitions.

* * * * *

Land Mobile Radio Service. A mobile service between base stations and land mobile stations, or betwen land mobile stations.

Land Mobile Radio System. A regularly interacting group of base, mobile and associated control and fixed relay stations intended to provide land mobile radio communications service over a single area of operation.

Land Station. A station in the mobile service not intended to be used while in motion. (As used in this Part, the term may be used to describe a base, control, fixed, operational fixed or fixed relay station, or any such station authorized to operate in the "temporary" mode.)

* * * * *

2. The heading and text of § 90.117 are amended to read as follows:

§ 90.117 Applications for radio station or radio system authorizations.

Persons desiring a radio station or radio system authorization must first submit the appropriate application(s). Prescribed application forms are listed in § 90.119. They may be obtained from the Washington, D.C. office of the Commission, or from any of its engineering field offices. (See § 90.145 for information regarding special temporary authorizations.) Beginning August 1, 1979, the Commission will accept applications for land mobile radio systems as defined in § 90.7 of this Part. Until further notice, the following limitation shall apply to systems for which authorization is being sought: systems, except those utilizing frequencies exclusively in the 470–512 MHz Band, shall consist of not more than two land stations at different locations, unless the land stations are control stations meeting the requirements of § 90.119(a)(2)(ii), and a mobile station. No restrictions will be placed on the complexity of a system to operate exclusively in the 470–512 MHz Band. Effective January 1, 1980, applicants for new stations which comprise a system, or applicants modifying or renewing a station which is part of a system, shall file an application for a system authorization. (In the latter case, the applicant may select one of the land station call signs as the call sign of the system.) The obligation to file for system authorization falls only upon those applicants with a system falling within the purview of the limitation set forth above.

3. In § 90.119, paragraphs (a) and (b) are amended to read as follows:

§ 90.119 Application forms.

The following application forms shall be used.—

(a) Except as provided for in paragraph (c) of this section, Form 400 shall be used to apply:

(1) For new base, fixed, or mobile station authorizations governed by this part.

(2) For system authorizations, where the system meets the requirements of § 90.117.

(i) Except as provided in paragraph (a)(2)(ii) of this section, application for a system consisting of not more than two land stations at different locations (most commonly this will be a control station and a mobile relay station), and a mobile station, shall be submitted on a single Form 400.

(ii) If the control station(s) will operate on the same frequency as the mobile station, and if the height of the control station(s) antenna(s) will not exceed 6.1 meters (20 feet) above the ground, or an existing man-made structure (other than an antenna structure), there is no limit on the number of such stations which may be authorized. Item 1 of Form 400 shall be completed showing the frequency, the number of control stations, the emission, and the output power of the highest powered control station. Additionally, the Commission shall be provided with the address of each control station, and where different, the address of every control station control point.

(3) For modification or for modification and renewal of an existing authorization. (See § 90.135)

(4) For the Commission's consent to the assignment of an authorization to another person or entity. In addition, the application shall be accompanied by a letter from the assignor setting forth his desire to assign all right, title, and interest in and to such authorization, stating the call sign and location of the station, and that the assignor will submit his current station authorization for cancellation upon completion of the assignment. Form 1046 may be used in lieu of this letter.

(b) Except as provided for in paragraph (c) of this section, Form 405–A shall be used to apply for a renewal without modification of a station or system license.

* * * * *

4. In section 90.135 add new language to subparagraph (b)(3) to read as follows.

§ 90.135 Modification of license.

(a) * * *

* * * * *

(b) * * *

(3) Change in the number and location of station control points, or of control stations meeting the requirements of § 90.119(a)(2)(ii).

* * * * *

5. In § 90.425, paragraph (a) is amended to read as follows:

§ 90.425 Station identification.

* * * * *

(a) *Identification procedure.* Except as provided in paragraph (d) of this section, each station or system shall be identified by the transmission of the assigned call sign during each transmission or exchange of transmissions, or once each 15 minutes (30 minutes in the Public Safety and Special Emergency Radio Services) during periods of continuous operation. The call sign shall be transmitted by voice in the English language, or by International Morse Code in accordance with paragraph (b) of this section. Permissible alternative identification procedures are as follows:

(1) A mobile relay station call sign may be used to identify the associated control and mobile stations, except in the Public Safety and Special Emergency Radio Services where the stations operate on frequencies below 450 MHz. Alternatively, a base station (including a mobile relay station) which is controlled by radio may be identified by the transmission of the call sign of the station at which communications originate.

* * * * *

[FR Doc. 79-15485 Filed 5-17-79; 8:45 am]
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47 CFR Parts 5 and 21

[FCC 79-279]

Eliminating the Use of FCC Form 452-C (Transmitter Identification Card), To Eliminate the Requirement of Advance Notice of Equipment Tests and To Simplify Certain Posting Requirements

AGENCY: Federal Communications Commission.

ACTION: Order deleting and modifying rules.

SUMMARY: Federal Communications Commission amends Parts 5 and 21 of its Rules and Regulations to eliminate the use of FCC Form 452–C (Transmitter Identification Card), to eliminate the requirement of advance notice of equipment tests, and to simplify certain posting requirements. Under the rules change, licensees in the Domestic Public Radio Service and in the Experimental Radio Services are no longer required to post the original authorization but instead are required only to retain it on file and to post a clearly legible copy of the authorization at every control point of the station.

EFFECTIVE DATE: May 18, 1979.

ADDRESSES: Federal Communications Commission, Washington, D.C. 20554.

FOR FURTHER INFORMATION CONTACT: Michael A. Menius, Mobile Services Division, Common Carrier Bureau. Telephone (202) 632–6450.

SUPPLEMENTARY INFORMATION:

In the matter of amendment of Parts 5 and 21 to eliminate the use of FCC Form 452–C (Transmitter Identification Card), to eliminate the requirement of advance notice of equipment tests, and to simplify certain posting requirements.

Adopted May 1, 1979.

Released May 10, 1979.

By the Commission:

1. In accordance with our ongoing policy of simplifying our rules and removing unnecessary requirements, we have adopted the following rule changes in Part 21 (the Domestic Public Radio Services) and in part 5 (the Experimental Radio Services (other than Broadcast)).

2. In 1977 the Commission took action to delete the requirement for use of FCC Form 452–C (Transmitter Identification Card) in all of the Safety and Special Radio Services, now named the Private Radio Services.[1] We stated at that time that retention of the FCC Form 452–C requirement was no longer necessary to our enforcement activities, so the requirement was consequently deleted. This Order will delete the same requirement in Parts 5 and 21, so that the use of the Transmitter Identification Card is no longer required in the Experimental Radio Services and in the Domestic Public Radio Services.[2]

3. Second, we are deleting the requirement, stated in rule section 21.212(a), that holders of construction permits provide advance notification of equipment testing to the Commission's Engineer-in-Charge of the radio district in which the permittee's station is located. A similar reporting requirement was deleted in 1977 from the Safety and Special Radio Services Rules and Regulations, now the Private Radio Services Rules and Regulations.[3] After weighing the benefits derived against the difficulties of compliance, the Commission has concluded that retention of this reporting requirement is no longer necessary to our enforcement activities and we are deleting it.

4. Third, we are simplifying our requirements in the Experimental Radio Services concerning the posting of station licenses. We are hereby eliminating the requirement that licensees post the original authorization. Under this rules change, the original authorization need only be retained as part of the station records. A clearly legible copy of the authorization for each fixed station must be posted at every control point of the station. This change will also eliminate the present posting requirement pertaining to mobile units. We believe these changes will ease the administrative burden on licensees. At the same time, the Commission will be able to perform its inspection and enforcement duties, since licensees will still be required to retain the original authorization on file.

5. The adopted changes are procedural in nature and relax existing rule requirements. Similarly, the Public Notice referred to in footnote 2 announced changes which are procedural and which relax existing rule requirements. The Commission finds, pursuant to 5 U.S.C. § 553, that public participation in the rules changes announced in this Order is impractical, unnecessary, and contrary to the public interest.

6. For the foregoing reasons, the Commission has concluded that the public interest will be served by adopting these rule amendments. Accordingly, IT IS ORDERED, pursuant to the authority contained in Sections 4(i) and 303 of the Communications Act of 1934, 48 Stat. 1066, as amended, 1082, as amended (47 U.S.C. 154, 303) that Parts 5 and 21 of the Commission's Rules ARE AMENDED, effective May 18, 1979, as set forth in the attached Appendix.

(Secs. 4, 303, 48 stat., as amended, 1066, 1082; 47 U.S.C. 154, 303.)

[1] Commission Order FCC 77-522, Mimeo 70790, released August 30, 1977.

[2] The Commission had previously announced by Public Notice dated August 29, 1978 (Mimeo 6743) that the use of FCC Form 452-C would be discontinued in the Domestic Public Radio Services.

[3] Commission Order FCC 77-522, Mimeo 70790, released August 30, 1977.

Federal Communications Commission.

William J. Tricarico,

Secretary.

Appendix

Parts 5 and 21 of Chapter I of Title 47 of the Code of Federal Regulations are amended as follows:

PART 5—EXPERIMENTAL RADIO SERVICES (OTHER THAN BROADCAST)

1. In Section 5.157, the headnote and text are amended to read as follows:

§ 5.157 Posting station licenses.

(a) The current original authorization for each station shall be retained as a permanent part of the station records but need not be posted.

(b) A clearly legible copy of the authorization for each station at a fixed location shall be posted at every control point of the station.

PART 21—DOMESTIC PUBLIC RADIO SERVICES (OTHER THAN MARITIME MOBILE)

§ 21.202 [Deleted and reserved]

2. Section 21.202 is deleted and reserved.

§ 21.212 [Amended]

3. In Section 21.212, subparagraph (a)(1) is deleted and reserved.

[FR Doc. 79-15481 Filed 5-17-79; 8:45 am]
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47 CFR Part 19

[FCC 79-255]

Employee Responsibilities and Conduct; Creation of a Sunshine Agenda

AGENCY: Federal Communications Commission.

ACTION: Final Rule.

SUMMARY: The FCC is amending its rules to permit the preparation and public distribution of a "Sunshine Agenda". The "Sunshine Agenda" will include an expanded plain English summary of items scheduled for discussion at open FCC meetings. The Commission has found that members of the public and press often find it difficult to understand the decisions at Commission meetings. For this reason, the amendment seeks to help members of the public and press understand more clearly the FCC's decision-making processes by providing additional information about items scheduled for discussion in FCC open meetings.

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EFFECTIVE DATE: June 1, 1979.

ADDRESSES: Federal Communications Commission, Washington, D.C., 20554.

FOR FURTHER INFORMATION CONTACT: Lawrence Martin or Erika Z. Jones at (202) 632–7000; or Norman Blumenthal at (202) 632–6990.

In the matter of creation of a "Sunshine Agenda."

Adopted: May 2, 1979.

Released: May 11, 1979.

By the Commission: Commissioners Lee and Washburn concurring in the result.

1. The National Association of Boardcasters has asked the Commission to consider providing the public with "abbreviated versions" or summaries of items scheduled for discussion at open Commission meetings. NAB, which is supported by Robert Tall, publisher of Washington Radio Reports, argues that these summaries would help members of the public understand more clearly the FCC's decision making processes. NAB points out that distribution of these summaries is consistent with the spirit of the Government in the Sunshine Act (5 U.S.C. 552(b)), the law which requires that most agency meetings be open to the public. At the present time, members of the public who attend Commission meetings are given an Agenda for the meeting including only the titles of the items scheduled for discussion.

2. The Commission agrees with NAB that more information should be provided to members of the public who attend Commission meetings. Our Consumer Assistance Office recently completed a series of workshops to teach members of the public how to participate in FCC rulemaking proceedings. During these workshops, the Consumer Assistance Office staff frequently heard comments from members of the public that discussions of agenda items at our Commission meetings are difficult to follow.

3. We have considered several alternative ways to satisfy the goal of providing members of the public with more information about agenda items scheduled for Commission discussion. We balanced the public's need for more information against the Commission's need to preserve the confidentiality of some aspects of draft documents prior to a Commission decision. We concluded that the best solution is to release a "Sunshine Agenda" at least seven days prior to a Commission meeting. The Sunshine Agenda, which would replace the public notice agenda currently released before a Commission meeting, would include the title and a brief summary of each agenda item scheduled for an open Commission meeting.

4. Commission Rules (§ 19.735–206) currently prohibit staff disclosure of "information about the content of agenda items." We are amending this section to clarify that this prohibition will not preclude the preparation and public distribution of a Sunshine Agenda. We are also clarifying that Commission regulations do not prohibit the staff from releasing information about the scheduling of agenda items.

5. For more information, call Lawrence Martin or Erika Z. Jones at 632–7000; or Norman Blumenthal at 632–6990.

6. Accordingly, WE ORDER, effective June 1, 1979, that Section 19.735–206 is amended as shown in the attached appendix. Authority for this amendment is contained in Section 4(i) and (j) and 303(r) of the Communications Act of 1934, as amended, 47 U.S.C. 154 (i) and (j) and 303(r). Because the amendments involve matters of procedure and internal standards of conduct, the prior notice and effective date provisions of 5 U.S.C. 553 are inapplicable.

(Secs. 4, 303, 48 Stat., as amended 1066, 1082; 47 U.S.C. 154, 303.)

Federal Communications Commission.

William J. Tricarico,

Secretary.

Appendix

Chapter I of Title 47 of the Code of Federal Regulations is amended as follows:

In Part 19, Section 19.735–206 is revised to read as follows:

§ 19.735–206 Misuse of information.

Except as provided in Section 19.735–206(c), or as authorized by the Commission, an employee shall not, directly or indirectly, disclose to any person outside the Commission any information, or any portion of the contents of any document, which is part of the Commission's records or which is obtained through or in connection with his Government employment, and which is not routinely available to the public and, with the same exceptions, shall not use any such documents or information except in the conduct of his official duties. Conduct intended to be prohibited by this section includes, but is not limited to, the disclosure of information about the content of agenda items (except for compliance with the Government in the Sunshine Act), 5 U.S.C. 552b or other staff papers to persons outside the Commission and disclosure of actions or decisions made by the Commission at closed meetings or by circulation, prior to the public release of such information. This section does not prohibit the release of an official Commission meeting agenda listing titles an summaries of items for discussion at an open Commission meeting. Also, this section does not prohibit the release of information about the scheduling of Commission agenda items.

[FR Doc. 79–15479 Filed 5–17–79; 8:45 am]

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47 CFR Part 83

[FCC 79–276]

Providing for the Use of Single Sideband Emission A3J (Suppressed Carrier) on the Maritime Mobile Service Radiotelephone Frequency 2182 kHz

AGENCY: Federal Communications Commission.

ACTION: Final rule.

SUMMARY: Amendment of the rules to delete the requirement for A3H emission on the radiotelephone distress, safety and calling frequency 2182 kHz for vessels navigated on domestic voyages. The A3H requirement is retained for United States vessels to have the capability to communicate with foreign coast stations. It is unnecessary to retain this requirement for vessels which are solely navigated on domestic voyages.

EFFECTIVE DATE: January 1, 1980.

ADDRESSES: Federal Communications Commission, Washington, D.C. 20554.

FOR FURTHER INFORMATION CONTACT: Nicholas G. Bagnato, Private Radio Bureau, (202) 632–7197.

SUPPLEMENTARY INFORMATION:

In the matter of amendment of Part 83—to provide for the use of single sideband emission A3J (suppressed carrier) on the maritime mobile service radiotelephone frequency 2182 kHz.

Adopted: May 1, 1979.

Released: May 10, 1979.

By the Commission:

1. The Report and Order in GEN DOCKET NO. 78–208 was released on February 7, 1979 (FCC 79–67) and was published in the **Federal Register** on February 12, 1979 (44 FR 8870).

2. The rules applicable to vessels subject to the compulsory radiotelephone requirements of Title III, Parts II and III of the Communications Act of 1934, as amended, are contained in Subparts S and T of Part 83 of the Commission's rules respectively. Subpart S is applicable to vessels which

are usually navigated on international voyages and Subpart T is applicable to small passenger vessels usually navigated on domestic voyages.

3. In the docketed proceeding, it was our intention to improve the maritime radiotelephone safety system communications on 2182 kHz by a shift to suppressed carrier (A3J) emission. We retained the requirement for compulsorily fitted vessels to have the capability for A3H emission on 2182 kHz to communicate with foreign coast and a small number of foreign ship stations which are unable to operate on A3J emission. It was an oversight on our part to make this A3H requirement applicable to small passenger vessels which are not navigated on international voyages. Therefore, it is unnecessary to require vessels engaged on domestic voyages to have the capability for A3H emission. Accordingly, we will amend the applicable rules in Subpart T to reflect the requirement for A3J emission only.

4. Regarding questions covered in this document, contact Nicholas G. Bagnato, (202) 632–7175.

5. Accordingly, it is ordered, That pursuant to the authority contained in Section 303(r) of the Communications Act of 1934, as amended, Part 83 of the Commission's rules is amended as set forth in the attached Appendix, effective January 1, 1980. Since these amendments are deleting a requirement which is not applicable to this class of vessel, the prior notice, procedures and effective date provisions of 5 U.S.C. 553 would serve no useful purpose and hence, are not applicable.

(Secs. 4, 303, 48 Stat., as amended, 1066, 1082; 47 U.S.C. 154, 303.)

Federal Communications Commission.

William J. Tricarico,

Secretary.

Appendix

Part 83 of Chapter 1 of Title 47 of the Code of Federal Regulations in amended as follows:

PART 83—STATIONS ON SHIPBOARD IN THE MARITIME SERVICES

1. In Section 83.517, paragraphs (a) and (c)(2) are amended to read as follows:

§ 83.517 Medium frequency transmitter.

(a) The transmitter shall have a peak envelope output power of at least 60 watts for A3J[1] emissions on 2182 kHz, in accordance with § 83.351, and at least one ship-to-shore working frequency within the band 1605 to 2850 kHz enabling communication with a public coast station serving the region in which the vessel is navigated.

* * * * *

(c)(2) The transmitter has been demonstrated, or is of a type which has been demonstrated, to the satisfaction of the Commission as capable, with normal operating voltages applied, of delivering not less then 60 watts peak envelope power for A3J emissions on each of the frequencies 2182 and 2638 kHz into either an artificial antenna consisting of a series network of 10 Ohms effective resistance and 200 picofarads capacitance or an artificial antenna of 50 Ohms nominal impedance. An individual demonstration of the power output capability of the transmitter, with the radiotelephone installation normally installed on board ship, may be required whenever in the judgment of Commission this is deemed necessary.

2. In Section 83.519, paragraph (a) is amended to read as follows:

§ 83.519 Radiotelephone receivers.

(a) If a medium frequency radiotelephone installation is provided, the receiver used for maintaining the watch required by § 83.202(c) shall be capable of effective reception of A3J emissions, shall be connected to the antenna system specified by § 83.526, and shall be present to, and capable of accurate and convenient selection of, the frequencies 2182 kHz, 2638 kHz, and the receiving frequency(s) associated with the ship-to-shore transmitting frequency(s) provided pursuant to § 83.517(a).

* * * * *

[FR Doc. 79–15478 Filed 5–17–79; 8:45 am]

BILLING CODE 6712–01–M

[1] Capability for A3J emission on 218 kHz shall be completed on or before April 30, 1979.

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47 CFR Parts 83 and 87

[Gen. Docket No. 78–310; FCC 79–275]

Stations on Shipboard in the Maritime Services and Aviation Services; Designating a Second Frequency for Bridge-to-Bridge Operations in the Southern Louisiana Section of the Mississippi River System

AGENCY: Federal Communications Commission.

ACTION: Final rule.

SUMMARY: Amendment of the rules to designate a second frequency for bridge-to-bridge operations. This new frequency, 156.375 MHz, will replace the use of marine Channel 13, 156.65 MHz, in the southern Louisiana section of the Mississippi River System. This action is being taken at the request of the U.S. Coast Guard. It is being taken to alleviate interference and operational problems on Channel 13 in this particular area.

EFFECTIVE DATE: June 18, 1979.

ADDRESSES: Federal Communications Commission, Washington, D.C.

FOR FURTHER INFORMATION CONTACT: Bruce A. Franca, Private Radio Bureau, (202) 632–7175.

SUPPLEMENTARY INFORMATION:

Amendment of Part 83 of the Commission's Rules to designate a second frequency for bridge-to-bridge operations in the southern Louisiana section of the Mississippi River System.

Adopted: May 1, 1979.

Released: May 15, 1979.

By the Commission:

Summary

1. This Report and Order amends Part 83 of the Commission's rules to designate a second frequency for bridge-to-bridge operations in the southern Louisiana section of the Mississippi River system. This action was requested by the United States Coast Guard (USCG).

Background

2. The Notice of Proposed Rule Making (NPRM) in this proceeding was released on September 29, 1978. In this NPRM, the Commission proposed to amend the rules to designate a second frequency for bridge-to-bridge operations. This proposed new frequency replaces Channel 13 (156.650 MHz) in the southern Louisiana Section of the Mississippi River system. Channel 67 (156.375 MHz) was proposed in the NPRM for this purpose.

3. The Vessel Bridge-to-Bridge Radiotelephone Act (33 U.S.C. § 1201, et seq. (Supp. I, 1971)) was enacted "to provide a positive means whereby the operators of approaching vessels can communicate their intentions to one another through voice radio, located convenient to the operator's navigation station." The Act also called for the need for a specific frequency or frequencies dedicated to the exchange of navigational information. The Commission in Docket No. 19343 (37 FR 11245) set aside Channel 13 (156.65 MHz) for this purpose.

4. While the bridge-to-bridge radiotelephone system has generally proved very effective in most areas of the country, this has not been the case in the southern Louisiana section of the Mississippi and the Gulf Intracoastal

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Waterway. The USCG, therefore, with the recommendation of industry Ad Hoc Committee for Ports and Waterways, proposed that a second frequency for bridge-to-bridge operations replace the use of Channel 13 in the Mississippi River from South Pass Lighted Whistle Buoy "2" and Southwest Pass Entrance Midchannel Lighted Whistle Buoy to mile 242.4 AHP (above head of Passes) near Baton Rouge. In addition, this new frequency will be used in the Mississippi River-Gulf Outlet, the Mississippi River-Gulf Outlet Canal, and the Inner Harbor Navigational Canal.

5. In the NPRM, the Commission proposed Channel 67 as the most suitable choice for use as this second bridge-to-bridge frequency. Channel 67 is presently available for commercial intership purposes. The Commission stated in the NPRM that the choice of an intership frequency would be the least disruptive of present operations in the New Orleans area. The Commission further stated that it felt it would be inpracticable and not in the public interest to choose one of the ship-to-shore commercial frequencies because of the large number of limited coast stations presently authorized on these frequencies in the New Orleans area. In addition, the Commission stated that Channel 67 is designated for ship movement activities by the international Radio Regulations which would be consistent with the general purposes of the bridge-to-bridge operations.

Comments

6. Eighty comments and one reply comment were received in this proceeding. The majority of these comments were from masters and pilots wholly supporting the proposed rule changes. Objections were raised in only six of the comments received. The Associated Branch Pilots, Bar Pilots for the Port of New Orleans, objected to the changing of channel 13 to channel 67. No reasons for this objection were given. The International Chamber of Shipping (ICS), a body representing national shipowners' associations in 29 maritime countries, felt that this action would place a further burden on shipowners. They suggested that in areas where additional bridge-to-bridge channels are required that the communication equipment be provided by the port/pilotage authorities. ICS also commented that a more widely fitted frequency be selected if the FCC adopts these requirements. The American Institute of Merchant Shipping (AIMS) opposed the proposed rule making on the basis it would be adverse to the safety of navigation and downgrade a presently effective system. They suggested that the FCC and USCG police channel 13 to improve the present bridge-to-bridge system. AIMS also suggested that if a problem still exists after an enforcement program that vessels on the surrounding waterways should utilize channel 67.

7. Mr. Jacques B. Michell indicated that he thought the problem of congestion on channel 13 was a result of improper radio procedures, abuses of the regulation, use of high transmitter power and the absence of an FCC/USCG enforcement program. Mr. Michell felt that all vessels subject to the Vessel Bridge-to-Bridge Radiotelephone Act should be required to have a transmitter incapable of operating at high (25 watts) power, that transmitter power be determined by the "strength of the signal . . . after it leaves the antenna," and that no other transmitter on the vessel be capable of operating on the bridge-to-bridge frequency. Mr. Michell further indicated that since this area of the lower Mississippi River system has the most volume and variety of traffic, and is governed by four different sets of navigational rules that this was the least likely candidate for a change.

8. The Central Committee on Telecommunications of the American Petroleum Institute (Central Committee) while generally supporting the Commission's proposals stated that any new rule provision should require the simultaneous, mandatory monitoring of *both* bridge-to-bridge channels in any area where a non-standard condition exists. The Central Committee indicated that provided that this safeguard were incorporated that they support the use of a second frequency in the southern Louisiana section of the Mississippi River system.

9. American Waterways Operators (AWO), in their comments, supported the proposed sectorization of the bridge-to-bridge function, and the choice of channel 67 as the second bridge-to-bridge frequency. AWO recommended that the Commission establish a lead time of at least 90 days before implementing bridge-to-bridge sectorization. AWO also indicated that the Coast Guard should monitor both channels 13 and 67 in order to alert vessels to use channel 67 when in the sector. AWO indicated that a six month active monitoring and enforcement program is necessary to assure effective transition. AWO stated that they believe it will be necessary from an operational standpoint, for vessels to monitor both channels 13 and 67 between Springfield Bend, mile 244.8 and Wilkenson Point, mile 235.5. AWO indicated the proposed rules should be modified to be consistent with this requirement.

Discussion

10. While we agree with AIMS and Mr. Michell that an enforcement program in the New Orleans area would be beneficial, we do not think that this action will eliminate the need for a second frequency for bridge-to-bridge operations. In view of the fact that the majority of the commenters supported the choice of Channel 67 and for the reasons stated in the NPRM, we feel that Channel 67 is the most appropriate choice for this second bridge-to-bridge frequency.

11. The Coast Guard in selecting the specific boundaries which were proposed in the NPRM indicated that these points were selected with careful examination of the defined changeover points. The Coast Guard stated that the entrances at the South and Southwest passes and the Mississippi River Gulf Outlet canal use the boundary line defined in 46 CFR 7. Vessels beyond this boundary are not subject to the Vessel Bridge-to-Bridge Radiotelephone Act, so a transitional problem does not exist. Vessels approaching this boundary from the sea, the Coast Guard stated, will have qualified pilots aboard before reaching the boundary. These pilots will be familiar with the available communications. In regard to the transition in the Mississippi River near Baton Rouge, the defined boundary for frequency change is Devil Swamp Light, mile 242.4 AHP. Upriver of this light, channel 13 is used. The Coast Guard indicated that a vessel upbound when reaching mile 240 AHP, and having resolved any navigational situation between mile 240 AHP and mile 242.4 AHP, should shift to channel 13 to enable the vessel to be in bridge-to-bridge communications with vessels above mile 242.4 AHP. In regard to the transition at the junction of Mississippi Gulf Outlet-Intercoastal Waterway, the Coast Guard indicated the following general procedures applies:

Vessels entering the Intracoastal Waterway Rigolets—New Orleans cut from the Mississippi River Gulf Outlet upon reaching the junction and resolving any navigational situation between the junction and the Michoud Canal, should shift Bridge-to-Bridge communications to channel 13 (156.650 MHz). Vessels entering the Mississippi River Gulf Outlet from the Intracoastal Waterway Rigolets—New Orleans cut, should shift to Channel 67 (156.375 MHz) after passing the Michoud Canal.

Accordingly, the Coast Guard stated that they consider these procedures are feasible and can be implemented safely. They stressed that the communications involved are between professionally experienced personnel who are familiar with the waterways and navigational procedures. The Coast Guard also indicated that there is only one bridge-to-bridge frequency in any defined waterway.

12. We support the Coast Guard in this regard and will not require that a watch be maintained on both bridge-to-bridge frequencies while in the river or at the transitional points. We do recognize however that from an operational standpoint vessels may at times wish to monitor and communicate on both frequencies. Therefore, the restriction on the use of channel 13 in the river is revised to permit transitional communications.

13. Regarding the implementation of this second bridge-to-bridge frequency, we agree with AWO that there should be sufficient lead time before actual implementation. AWO's recommendation of 90 days appears reasonable in this regard. We also agree that some sort of enforcement/monitoring program is necessary to assure effective transition to the Channel 67. The Commission's staff will work with the Coast Guard to make sure that an adequate program is established.

14. With regard to ICS's comment that the required communications equipment be provided by the port/pilotage authorities. Section 83.703 now provides that foreign vessels may fulfill the bridge-to-bridge requirement by use of portable equipment brought on board by the pilot. The portable equipment carried on board by the pilot will have channel 67 installed.

15. It was also proposed in the NPRM that all other use of Channel 67 be prohibited in the New Orleans VTS radio protection area [1] to prevent harmful interference to bridge-to-bridge operations on the river system. Accordingly, we proposed to amend Section 83.359 to prohibit the use of this frequency by aircraft while in the New Orleans VTS area. However, on September 13, 1978, the Commission adopted changes to Part 87 to reflect the availability of certain maritime mobile VHF frequencies contained in Part 83 for use by aircraft.[2] Consequently, it is now necessary to also amend Part 87.

[1] The New Orleans VTS protection area is specified as: The rectangle between north latitudes 27°30' and 31°30' and west longitudes 87°30' and 92°.

[2] Order, adopted September 13, 1978, FCC Mimeo 4047.

Action

16. For the reasons discussed above, we will amend Sections 83.351 and 83.359 generally as proposed in the Notice of Proposed Rule Making. In addition, for the reasons discussed above, we will also amend Section 87.183.

17. Regarding questions on matters covered in this document contact Bruce Franca (202) 632-7175.

18. Accordingly, IT IS ORDERED, That, pursuant to the authority contained in Sections 4(i) and 303(r) of the Communications Act of 1934, as amended, and Section 8(a) of the Vessel Bridge-to-Bridge Radiotelephone Act, the Commission's rules ARE AMENDED as set forth in the attached Appendix, effective June 18, 1979.

19. IT IS FURTHER ORDERED, That this proceeding IS TERMINATED.

(Secs. 4, 303, 48 Stat., as amended, 1066, 1082; 47 U.S.C. 154, 303.)

Federal Communications Commission.

William J. Tricarico,

Secretary.

Appendix

Parts 83 and 87 of Chapter I of Title 47 of the Code of Federal Regulations are amended as follows:

A. Part 83—Stations on Shipboard in the Maritime Services.

1. Section 83.351 is amended to read as follows:

§ 83.351 Frequencies available.

(a) * * *

Carrier frequency (MHz)	Conditions of use: Section	Conditions of use: Limitations
* * * * *		
156.350	83.359	40, 41, 49.
156.375	83.359	40, 49, 76, 77, 78.
156.400	83.359	40, 49, 76.
* * * * *		
156.625	83.359	40, 50, 52, 76.
156.650	83.359	40, 41, 46, 53, 59.
156.675	83.359	40, 41, 45.
* * * * *		

(b) * * *

* * * * * *

(53) Not available for use in the Mississippi River from South Pass Lighted Whistle Buoy "2" and Southwest Pass entrance Midchannel Lighted Whistle Buoy to mile 242.4 AHP (above head of Passes) near Baton Rouge; and, in addition, the Mississippi River-Gulf Outlet, the Mississippi River-Gulf Outlet Canal, and the Inner Harbor Navigational Canal, except to facilitate the transition from these areas.

* * * * * *

(77) The frequency 156.375 MHz is available for navigational communications only in the Mississippi River from South Pass Lighted Buoy "2" and Southwest Pass entrance Midchannel Lighted Whistle Buoy to mile 242.4 AHP near Baton Rouge; and, in addition, over the full length of the Mississippi River—Gulf Outlet Canal from entrance to its junction with the Inner Harbor Navigation Canal, and over the full length of the Inner Harbor Navigation Canal from its junction with the Mississippi River to its entry to Lake Pontchartrain at the New Seabrook vehicular bridge.

(78) Use of the frequency 156.375 MHz for intership commercial communications is not permitted in the New Orleans VTS radio protection area specified in § 83.361.

* * * * * *

2. Section 83.359(a) table is amended and (b)(6) is added to read as follows:

§ 83.359 Frequencies in the band 156–162 MHz available for assignment.

(a) The frequencies listed in the following table are available for assignment to stations as indicated.

Channel designator	Frequency (MHz): Ship	Frequency (MHz): Coast	Points of communication
* * * * * * *			
Navigational			
67	156.375	156.375	Intership and ship to coast.
13	156.650	156.650	Do.

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* * * * *

(b) * * *

* * * * *

(6) Use of the frequency 156.375 MHz by aircraft is not permitted in the New Orleans VTS radio protection area specified in § 83.361.

B. Part 87—Aviation Services.

1. In Section 87.183, paragraph (j)(3) is amended by the addition of a footnote to read as follows:

§ 87.183 Frequencies available.

* * * * *

(j) * * *

(3) The frequencies 156.3, 156.375 [1], 156.4, 156.425, 156.450, 156.525, 156.625, 156.8 and 156.9 MHz may be used by aircraft stations to communicate with ship stations under these conditions:

(i) * * *

* * * * *

[FR Doc. 79-15484 Filed 5-17-79; 8:45 am]

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47 CFR Part 13

[FCC 79-252]

Commercial Radio Operators; Implementing a System of Temporary Authorizations for Restricted Radiotelephone Operator Permits

AGENCY: Federal Communications Commission.

ACTION: Order.

SUMMARY: This action amends § 13.11 of the Commission's Rules to permit applicants for Restricted Radiotelephone Operator Permits to exercise operating privileges at radio stations requiring this class of operator permit immediately upon mailing an application to the Commission. This class of operator permit is primarily required for the operation of aviation and marine stations and for the routine operation of AM and FM broadcast stations. Previously it was necessary for applicants to wait three to four weeks for issuance of the license document before operating duties could be performed. This action is intended to remove that consideration.

EFFECTIVE DATE: Upon issuance of a Public Notice in the Federal Register in the future.

ADDRESSES: Federal Communications Commission, Washington, D.C. 20554.

FOR FURTHER INFORMATION CONTACT: Roy E. Kolly or Vernon P. Wilson, Field Operations Bureau, (202) 632-7240.

SUPPLEMENTARY INFORMATION: In the matter of amendment of Part 13 of the Commission's rules to implement a system of temporary authorizations for restricted radiotelephone operator permits; Order.

Adopted: May 2, 1979.

Released: May 10, 1979.

By the Commission:

1. On December 7, 1978, the Commission adopted an ORDER in Docket 78-846 which implemented a system of temporary authorizations for ship stations in the Maritime Services. Included in this system were provisions for an applicant for a marine station license to also obtain a temporary Restricted Radiotelephone Operator Permit which is required to operate the station. This Order did not, however, extend the temporary operating authority to the Aviation and Broadcast Services,[1] where these permits are also required or used.

2. It is estimated that approximately 71,000 applications per year will be submitted by persons who wish to operate broadcast stations. Additionally, approximately 100,000 Restricted Permits are issued annually for use in the Aviation Service. The Commission believes that persons who wish to operate broadcast and aviation stations should be permitted to obtain operator permits in the same manner as those who wish to operate in the Marine Service and thus be allowed to exercise radio operator privileges immediately upon filing an application and without having to wait for receipt of the document or having to travel to an FCC field office. The amendments to Part 13 of the rules, as shown in the Appendix, implement such a system.

3. To obtain a Restricted Radiotelephone Operator Permit, applicants will be required to submit a completed application form to the Commission's Gettysburg Processing Center. Applicants must read the application form to determine if they qualify to hold the permit. They must be at least 14 years of age and United States citizens, be able to transmit and receive spoken messages in English, and be able to keep a rough written log. [2] Applicants will complete an additional form stating that an application has been submitted and giving the date of submission. This form will be retained and will serve as termporary operating authority. It will be valid immediately upon mailing the application and will remain valid for a period of 60 days or until receipt of the permanent permit.

4. Authority for these amendments appears in Sections 4(i) and 303 of the Communications Act of 1934, as amended. In that the amendments adopted herein are editorial and procedural in nature, the prior notice and public procedure provisions of the Administrative Procedure Act, 5 U.S.C. 553 are not applicable. Further, such notice and public procedure provisions are impracticable, unnecessary and contrary to the public interest since the public convenience requires the implementation of new temporary authorization regulations as soon as possible, and it is unlikely that significant changes would be proposed by comments from the public. In addition, because the subject amendments relieve a rule restriction by permitting applicants to operate radio stations prior to issuance of their regular operator licenses, the effective date requirements of the Administrative Procedure Act are inapplicable and these amendments could, for good cause, become effective immediately. However, as the amendments being herein adopted are subject to clearance of reporting requirements by the General Accounting Office, the effective date of this action will be announced by public notice in the near future.

5. Further information on this matter may be obtained from Roy E. Kolly or Vernon P. Wilson, telephone 202-632-7240.

6. Accordingly, it is ordered that Part 13 of the Commission's rules is amended as set forth in the attached Appendix, effective upon issuance of a Public Notice in the Federal Register in the near future.

(Secs. 4, 303, 48 stat., as amended, 1066, 1082; 47 U.S.C. 154, 303.)

Federal Communications Commission.

William J. Tricarico,

Secretary.

Appendix

Part 13 of Chapter I of Title 47 of the Code of Federal Regulations is amended as follows:

In § 13.11, paragraph (b)(1) is amended to read:

[1] Use of 156.375 MHz is not permitted in the New Orleans VTS radio protection area. The New Orleans VTS radio protection area is specified as: the rectangle between north latitudes 27° 30' and 31° 30' and west longitudes 87° 30' and 92°.

[1] On December 21, 1978, the Commission adopted an Order in Docket 78-871 which authorized the routine operation of most AM and all FM broadcast stations by persons holding any class of commercial radio operator license, including a Restricted Radiotelephone Operator Permit.

[2] The issuance of the Restricted Radiotelephone Operator Permit is pro forma. No qualifying examination is required and permits are issued to all applicants who meet these requirements.

§ 13.11 Procedure.

* * * * *

(b) * * *

(1) Applications for Restricted Radiotelephone Operator Permits shall be filed as follows:

(i) U.S. citizens, U.S. nationals, and citizens of the Trust Territory of the Pacific Islands—file application FCC Form 753 with the FCC, Gettysburg, PA. 17325.

(ii) Aliens—file FCC Form 755 with the FCC, Washington, D.C. 20554.

* * * * *

[FR Doc. 79-15476 Filed 5-17-79; 8:45 am]

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47 CFR Part 83

[SS Docket No. 78-232; FCC 79-257]

Stations on Shipboard in the Maritime Services; Requiring That Remote Control Units Used in Conjunction With Marine VHF Radiotelephones Have the Capability of Reducing Power Output to One Watt or Less

AGENCY: Federal Communications Commission.

ACTION: Final rule.

SUMMARY: Amendment of the rules to require that remote control units used in conjunction with marine VHF transmitters have the capability of reducing power to one watt or less. Several companies are now manufacturing remote control units to satisfy operational requirements. It is necessary to assure that these remote control unit be capable of performing the necessary control functions.

EFFECTIVE DATE: September 1, 1979.

ADDRESSES: Federal Communications Commission, Washington, D.C. 20554.

FOR FURTHER INFORMATION CONTACT: Nicholas G. Bagnato, Private Radio Bureau, (202) 632-7175.

SUPPLEMENTARY INFORMATION: In the matter of amendment of Part 83 to require that remote control units used in conjunction with marine VHF radiotelephones have the capability of reducing power output to one watt or less; Report and order (proceeding terminated).

Adopted: May 2, 1979.

Released: May 10, 1979.

By the Commission:

1. The Commission is amending Part 83 of its rules to require that remote control units used in conjunction with very high frequency (VHF) marine radiotelephone stations be capable of reducing the power output of the radiotelephone transmitter to one watt or less.

Background

2. On August 4, 1978, the Commission released a Notice of Proposed Rule Making in this proceeding (43 FR 35112 (1978)). At that time, we said we were aware that several manufacturers were marketing marine radiotelephones with auxiliary remote control units. (A remote control unit allows a transmitter to be placed in one location and operated from another location. For example, a transmitter may be installed on the main bridge of a vessel and operated by remote control from the vessel's flying bridge—generally a small structure over the main bridge.) We noted that § 83.134 of the rules requires that a VHF marine radiotelephone transmitter incorporate features permitting power output of the transmitter to be reduced to one watt or less. We said, however, that it had come to our attention that some of the remote control units being marketed did not have the capability of reducing the power output of their associated transmitter to one watt or less.

3. The Commission said it knew that remote control units could be very useful in some instances, but that to be most effective, remote control units should be capable of performing certain functions. These functions include:

a. *Starting and stopping transmission.* This is required to control the transmitter from the remote location. For example, it enables the operator at the remote location to initiate a call for assistance in an emergency situation, or to cease all transmissions if the station is causing interference.

b. *Changing channels.* This function is also needed for effective control of the radiotelephone to permit the operator to change from the calling channel to a working channel and vice versa.

c. *Reducing transmitter output to one watt or less.* This function is necessary to reduce interference and to encourage the use of minimum (1 watt) power whenever possible. Additionally, the use of 1 watt is required on Channel 13 (156.65 MHz) under the bridge-to-bridge radiotelephone procedures in § 83.251. (Bridge-to-bridge refers to the Vessel Bridge-to-Bridge Radiotelephone Act, 33 U.S.C 1201, *et seq.*)

The rules already require that remote control units incorporate features to start and stop transmissions and change channels. Accordingly, we merely proposed to require that a remote control unit be capable of reducing the power output of its associated transmitter to one watt or less.

Comments and Commenters

4. Comments were submitted by the United States Coast Guard (USCG), Intech Incorporated (INTECH), Lorain Electronics Corporation (LORAIN), the Lake Carriers Association (LCA) and American Institute of Merchant Shipping (AIMS).

5. All of the commenters supported the objectives of this proceeding. However, several suggested minor clarification, word changes and alternative ways to reduce power. These suggestions are as follows:

a. The USCG said it supports the Commission's proposals, but that the rules as originally drafted could be misinterpreted. Specifically, the USCG said that the wording in footnote 1 to § 83.104 of the proposed rule could be misinterpreted to countermand the requirement to limit transmission on channel 13 (156.65 MHz) to an output power of one watt under the bridge-to-bridge procedures or the requirement to use minimum output power of one watt whenever possible.

b. INTECH indicated that it concurs with the Commission concerning the capabilities of remote control units but differs on how these goals can be achieved. INTECH said that it would be ideal if a remote control unit could perform all operating functions, but that sometimes cost considerations dictate alternative or simpler systems. For example, some remote control functions can be achieved by verbal command between crew members. These verbal commands could be passed by shouting or over the public address (P.A.) system.

c. LORAIN suggested dates for implementation of these requirements. LORAIN stated that there are between 25 and 30 vessels operating on the Great Lakes with remote control units installed prior to January 1, 1976, which do not have the capability of reducing power to one watt or less. Therefore, LORAIN proposed that these remote control units be authorized for use, and that only remote control units manufactured after June 1, 1979, be required to have the capability of reducing power to one watt or less.

d. LCA associated itself with LORAIN and concurred with LORAIN's suggested dates.

e. AIMS concurred with the Commission but brought a minor discrepancy to the Commission's attention. AIMS stated that there are handset extensions located on either bridgewing of a vessel which are used by the Master and/or pilot in the movement and docking of a vessel. These handsets are simply an extension

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of the radio-telephone in the wheelhouse and alleviate the problem of the Master walking back to the wheelhouse in a situation requiring constant attention.

Discussion

6. We continue to believe that it is essential that a remote control unit be capable of performing all of the functions enumerated in paragraph 3. With respect to the specific comments submitted in this proceeding, we make the following observations:

a. We agree with the USCG and will make the necessary editorial changes to footnote 1 of Section 83.104(a)(1).

b. We do not agree with INTECH that a simpler system utilizing verbal commands is satisfactory. There would be no assurance that any verbal command, by either shouting or over the P.A. System, would be heard and obeyed. Therefore, we conclude that positive control by electrical means is necessary in a remote control unit.

c. We do not intend to apply these regulations to remote control units now installed or manufactured. We are establishing an effective date of September 1, 1979, for type acceptance of the remote control unit and an effective date of March 1, 1980, for installation of the remote control unit.

d. We agree with AIMS that the radiotelephone extension to the bridgewing is not a remote control unit but is, rather, a convenience used by a vessel's Master during specific movement or docking operations.

7. In the Notice of Proposed Rule Making, we proposed to amend § 83.104(a)(1) to include the capability of reducing the transmitter power output to one watt or less. We now believe that it is clearer to add a new subparagraph (4) and are amending § 83.104 in that manner.

8. Regarding questions on matters covered in this document, contact either Nicholas G. Bagnato or Bruce A. Franca, telephone (202) 632–7175.

Conclusion

9. Accordingly, *it is ordered,* That, pursuant to the authority contained in Sections 4(i) and 303(e), (f) and (r) of the Communications Act of 1934, as amended, the Commission's rules are amended, as set forth in the attached Appendix, effective September 1, 1979.

10. It is further ordered, That this proceeding is terminated.

Federal Communications Commission.

William J. Tricarico,

Secretary.

Appendix

Part 83 of Chapter I of Title 47 of the Code of Federal Regulations is amended as follows:

PART 83—STATIONS ON SHIPBOARD IN THE MARITIME SERVICES

1. In § 83.104, paragraph (a)(4) is added to read as follows:

§ 83.104 Operating controls.

(a) * * *

(4) In the case of stations operating in the 156 to 162 MHz band, reducing power output to one watt or less in accordance with § 83.134.[1]

* * * * *

[1] Stations installed before March 1, 1980, need not have the capability to reduce transmitter power to 1 watt or less at each remote control point; however, this provision does not waive the requirement to limit transmissions on channel 13 (156.65 MHz) to an output power of 1 watt under the bridge-to-bridge radiotelephone procedures (Section 83.251) or the requirement to use minimum output power of 1 watt whenever possible.

2. In § 83.134, paragraph (f) is amended by the addition of a footnote to read as follows:

§ 83.134 Transmitter power.

* * * * *

(f) Ship station transmitters using F3 emission in the band 156–162 MHz shall not exceed a carrier power of 25 watts [1, 2, 3, 4] and, additionally, shall include the capability to reduce, readily, the carrier power to one watt [2, 4, 5] or less.

* * * * *

[5] If a remote control unit is used with a transmitter manufactured after September 1, 1979, the remote control unit shall have the capability of reducing transmitter output power to one watt or less.

[FR Doc. 79-15475 Filed 5-17-79; 8:45 am]

BILLING CODE 6712-01-M

INTERSTATE COMMERCE COMMISSION

49 CFR Part 1033

[Service Order No. 1374; Amdt. No. 1]

Auto-Train Corporation Authorized To Transport Automobiles Between Alexandria (Lorton), Va. and Sanford, Fla.

AGENCY: Interstate Commerce Commission.

ACTION: Emergency Order Amendment No. 1 to Service Order No. 1374.

SUMMARY: Service Order No. 1374 authorizes Auto-Train Corporation to transport automobiles between Lorton, Virginia, and Sanford, Florida, for Autobus. Amendment No. 1 extends the authority until modified or vacated by order of this Commission.

DATES: Effective 11:59 p.m. May 15, 1979. Expires when modified or vacated by order of this Commission.

FOR FURTHER INFORMATION CONTACT: J. Kenneth Carter, Chief, Utilization and Distribution Branch, Interstate Commerce Commission, Washington, D.C. 20423, Telephone (202) 275–7840, Telex 89–2742.

SUPPLEMENTARY INFORMATION: The Order is printed in full below.

Decided May 14, 1979.

Upon further consideration of Service Order No. 1374 (44 FR 23086), and good cause appearing therefor:

It is ordered, That § 1033.1374 *Auto-Train Corporation authorized to transport automobiles between Alexandria (Lorton), Virginia and Sanford, Florida, Service Order No. 1374 is amended by substituting the following paragraph (e) for paragraph (e) thereof:*

(e) *Expiration date.* The provisions of this order shall remain in effect until modified or vacated by order of this Commission.

Effective date. This amendment shall become effective at 11:59 p.m., May 15, 1979.

(49 U.S.C. (10304–10305 and 11121–11126).)

This amendment shall be served upon the Association of American Railroads, Car Service Division, as agent of the railroads subscribing to the car service and car hire agreement under the terms of that agreement and upon the American Short Line Railroad Association. Notice of this amendment shall be given to the general public by depositing a copy in the Office of the Secretary of the Commission, at Washington, D.C., and by filing a copy with the Director, Office of the Federal Register.

By the Commission, Railroad Service Board, members Joel E. Burns, Robert S. Turkington and John R. Michael.

H. G. Homme, Jr.,

Secretary.

[FR Doc. 79-15823 Filed 5-17-79; 8:45 am]

BILLING CODE 7035-01-M

49 CFR Part 1033

[Service Order No. 1372–A]

Chicago, Milwaukee, St. Paul & Pacific Railroad Co. Authorized To Operate Over Tracks of Chicago & North Western Transportation Co.

AGENCY: Interstate Commerce Commission.

ACTION: Service Order No. 1372–A.

SUMMARY: Since an emergency no longer exists, Service Order No. 1372 is vacated effective 11:59 p.m., May 16, 1979.

FOR FURTHER INFORMATION CONTACT: J. Kenneth Carter, Chief, Utilization and Distribution Branch, Interstate Commerce Commission, Washington, D.C. 20423, Telephone (202) 275–7840, Telex 89–2742.

SUPPLEMENTARY INFORMATION: The Order is printed in full below.

Decided May 14, 1979.

Upon further consideration of Service Order No. 1372 (44 FR 21797), and good cause appearing therefor:

It is ordered, that § 1033.1372 *Chicago, Milwaukee, St. Paul and Pacific Railroad Company Authorized to Operate over tracks of Chicago and North Western Transportation Company,* Service Order No. 1372 is vacated effective 11:59 p.m., May 16, 1979.

(49 U.S.C. (10304–10305 and 11121–11126).)

A copy of this order shall be served upon the Association of American Railroads, Car Service Division, as agent of the railroads subscribing to the car service and car hire agreement under the terms of that agreement and upon the American Short Line Railroad Association. Notice of this order shall be given to the general public by depositing a copy in the Office of the Secretary of the Commission, at Washington, D.C., and by filing a copy with the Director, Office of the Federal Register.

By the Commission, Railroad Service Board, members Joel E. Burns, Robert S. Turkington, and John R. Michael.

H. G. Homme, Jr.,

Secretary.

[FR Doc. 79-15824 Filed 5-17-79; 8:45 am]

BILLING CODE 7035-01-M

49 CFR Part 1033

[Service Order No. 1272; Amdt. No. 4]

Goodwin Railroad, Inc. Authorized To Operate Over Certain Tracks Owned by the State of New Hampshire

AGENCY: Interstate Commerce Commission.

ACTION: Emergency Order Amendment No. 4 to Service Order No. 1272.

SUMMARY: Service Order No. 1272 authorizes the Goodwin Railroad Inc., to operate a line of railroad formerly operated by the Boston and Maine Railroad which is now owned by the State of New Hampshire between Concord and Lincoln, New Hampshire. An application for permanent authority was granted, subject to filing for authority to issue stock. Service Order No. 1272 is published in full in volume 42 of the **Federal Register** at page 44815.

DATES: *Effective 11:59 p.m., May 15, 1979. Expires when modified or vacated by order of this Commission.*

FOR FURTHER INFORMATION CONTACT: J. Kenneth Carter, Chief, Utilization and Distribution Branch, Interstate Commerce Commission, Washington, D.C., 20423, Telephone (202) 275–7840, Telex 89–2742.

Decided May 11, 1979.

Upon further consideration of Service Order No. 1272 (42 FR 44815; 43 FR 7324, 36639 and 44 FR 10506), and good cause appearing therefor:

It is ordered, that § 1033.1272 *Goodwin Railroad, Inc. authorized to operate over certain tracks owned by the State of New Hampshire,* Service Order No. 1272 is amended by substituting the following paragraph (e) for paragraph (e) thereof:

(e) *Expiration date.* The provisions of this order shall remain in effect until modified or vacated by order of this Commission.

Effective date. This amendment shall become effective at 11:59 p.m., May 15, 1979.

(49 U.S.C. (10304–10305 and 11121–11126).)

This amendment shall be served upon the Association of American Railroads, Car Service Division, as agent of all railroads subscribing to the car service and car hire agreement under the terms of that agreement, and upon the American Short Line Railroad Association. Notice of this amendment shall be given to the general public by depositing a copy in the Office of the Secretary of the Commission at Washington, D.C., and by filing a copy with the Director, Office of the Federal Register.

By the Commission, Railroad Service Board, members Joel E. Burns, Robert S. Turkington and John R. Michael.

H. G. Homme, Jr.,

Secretary.

[FR Doc. 79-15828 Filed 5-17-79; 8:45 am]

BILLING CODE 7035-01-M

49 CFR Part 1033

[Service Order No. 1348; Amdt. No. 1]

Chicago & North Western Transportation Co. Authorized To Operate Over Tracks of Chicago, Milwaukee, St. Paul & Pacific Railroad Co.

AGENCY: Interstate Commerce Commission

ACTION: Emergency Order Amendment No. 1 to Service Order No. 1348.

SUMMARY: The line of the Chicago and North Western Transportation Company (CNW) between James Valley Junction, South Dakota, and Redfield, South Dakota, has deteriorated and is no longer operable thus isolating that portion of the CNW north of Redfield from the remainder of the system. The Chicago, Milwaukee, St. Paul and Pacific Railroad Company (MILW) has consented to use of its parallel line by the CNW between Wolsey, South Dakota, and Aberdeen, South Dakota. Use of this MILW line by the CNW will enable the CNW to continue service to shippers on its line north of Redfield. Amendment No. 1 to Service Order No. 1348 authorizes the use of these MILW tracks by the CNW pending disposition by the Commission of the application of the CNW seeking permanent authority to operate over this line.

DATES: Effective 11:59 p.m., May 15, 1979. Expires when modified or vacated by order of this Commission.

FOR FURTHER INFORMATION CONTACT: J. Kenneth Carter, Chief, Section of Rail and Pipeline Operations, Utilization and Distribution Branch, Interstate Commerce Commission, Washington, D.C., 20423, Telephone (202) 275–7840, Telex 89–2742.

Decided: May 11, 1979.

Upon further consideration of Service Order No. 1348 (43 FR 55409) and good cause appearing therefor:

It is ordered that § 1033.1348 *Chicago and North Western Transportation Company authorized to operate over tracks of Chicago, Milwaukee, St. Paul and Pacific Railroad Company,* Service Order No. 1348 is amended by substituting the following paragraph (f) for paragraph (f) thereof:

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(f) *Expiration date.* The provisions of this order shall remain in effect until modified or vacated by order of this Commission.

Effective Date. This amendment shall become effective at 11:59 p.m., May 15, 1979.

(49 U.S.C. (10304–10305 and 11121–11126).)

This amendment shall be served upon the Association of American Railroads, Car Service Division, as agent of all railroads subscribing to the car service and car hire agreement under the terms of that agreement, and upon the American Short Line Railroad Association. Notice of this amendment shall be given to the general public by depositing a copy in the Office of the Secretary of the Commission at Washington, D.C., and by filing a copy with the Director, Office of the Federal Register.

By the Commission, Railroad Service Board, members Joel E. Burns, Robert S. Turkington and John R. Michael.

H. G. Homme, Jr.,
Secretary.

[FR Doc. 79-15625 Filed 5-17-79; 8:45 am]

BILLING CODE 70-3501-M

DEPARTMENT OF COMMERCE

National Oceanic and Atmospheric Administration

50 CFR Part 674

Alaska Salmon Fishery

AGENCY: National Oceanic and Atmospheric Administration/Commerce (NOAA).

ACTION: Approval and Partial Disapproval of Fishery Management Plan for the High Seas Salmon Fishery off Alaska, Interim Emergency Regulations with Request for Comments.

SUMMARY: The Assistant Administrator for Fisheries has approved, with the exception of one provision, the Fishery Management Plan (FMP) for the "High Seas Salmon Fishery off the Coast of Alaska East of 175° East Longitude," prepared by the North Pacific Fishery Management Council (NPFMC). Regulations implementing the approved portion of the FMP are issued on an emergency basis in order to limit fishing effort on the salmon stocks. Comment is invited on these interim emergency regulations.

EFFECTIVE DATE: 0001 hours Alaska Standard Time (AST), May 15, 1979 and shall remain in effect until 2400 hours, AST June 29, 1979, as emergency regulations. Written comments on the interim final regulations are invited until July 18, 1979.

ADDRESS: Send comments to: Assistant Administrator for Fisheries, National Oceanic and Atmospheric Administration, Washington, D.C. 20235. Please mark "AK Salmon" on outside of envelope.

FOR FURTHER INFORMATION CONTACT:
Mr. Harry L. Rietze, Director, Alaska Region, National Marine Fisheries Service, P.O. Box 1668, Juneau, Alaska 99802, Telephone: 907–586–7221.

SUPPLEMENTARY INFORMATION: The Assistant Administrator approved, with one exception, the FMP on April 30, 1979. FMP was prepared and submitted to the Assistant Administrator by the NPFMC and is the basis for the regulations published here. One provision of the FMP was not approved and will not be implemented. The disapproved portion of the FMP would have prevented fishing by hand trollers in the fishery conservation zone (FCZ). The Assistant Administrator determined that this provision was inconsistent with National Standard 4 of the Fishery Conservation and Management Act of 1976, as amended, 16 U.S.C. 1801 *et seq.* (Act), because it would have prohibited fishing by certain hand trollers who had historically fished in this area, while it would have allowed power trollers with a similar history to continue to fish in the FCZ. Power trollers use power from their boats' engines to crank their reels, while hand trollers crank their reels manually. It was determined that no valid conservation purpose was served by the distinctions that were drawn between the two types of gear.

The Fishery Management Units

The salmon fishery covered by the FMP occurs throughout the waters off Alaska east of 175° east longitude. The fishery is divided into two management units, the West Area, west of Cape Suckling (143°53'36"W.) and the East Area, east of Cape Suckling. This division separates the fishery of Southeast Alaska from that of the rest of the State. Both management units include the FCZ and waters under Alaskan jurisdiction. All harvest taking place on those portions of the management units within State waters will be regulated by Alaska. The Council and the Assistant Administrator will continue to coordinate regulations with Alaskan officials to ensure consistent implementation. The FMP covers the five species of Pacific salmon found off Alaska and includes stocks that spawn in Alaska and those that spawn outside Alaska in the rivers of British Columbia, Washington, and Oregon. The salmon species of primary interest to the high seas troll fishery are coho and chinook.

The FCZ portion of the East Area is fished by both commercial salmon trollers and, to a small extent, recreational fishermen. The West Area has been closed to commercial trolling for several years, as the salmon stocks in that Area are fully utilized by the inshore fishery.

Optimum Yield

Optimum Yield for this fishery corresponds to the average annual harvest during recent years. The FMP is intended to maintain recent levels of fishing effort on the salmon stocks. The NPFMC determined that an increase in fishing effort would be detrimental to the stocks. Any substantial decrease in fishing effort, on the other hand, would be unacceptable for social and economic reasons, because many individuals are dependent on the ocean salmon fishery. In the West Area, optimum yield is set at zero, since the stocks in this area are fully utilized inshore and there is no current dependence on an ocean fishery. The basic mechanisms for achieving optimum yield for the fishery are the moratorium on entry to the fishery and the 28-inch minimum length requirement for chinook salmon established by these regulations.

Limited Entry Moratorium

The FMP documents the depressed condition of certain salmon stocks harvested by this fishery, particularly some of the native Alaska chinook stocks. The FMP and these regulations are intended to stabilize the level of fishing effort to avoid further harm to those stocks. An essential managment measure to accomplish this purpose is the one year moratorium on commercial power troll permits. This moratorium parallels the limited-entry system adopted by Alaska in 1973. The Alaskan limited-entry system is applied to all fishermen who land their catch in Alaska, including Alaskan residents and residents of other states. The moratorium in effect during the 1979 fishing season will limit the number of power trollers in the FCZ to those holding Alaska power troll permits and those who can establish that they fished for salmon in the FCZ during the years 1975–1977. Provision is made for appeal of permit denials.

The regulations contain separate permit provisions for those power trollers who do not have Alaskan limited entry permits but who have previously fished for salmon in the FCZ and landed their catch outside of Alaska. These permits, unlike Alaskan permits, generally would not be transferable. This provision is intended to incorporate gradually all fishing permits into a unified system, while recognizing established fishing presence in the management area.

When Alaska instituted its limited entry program for commercial salmon power trollers, it was determined that 950 was the maximum number of vessels that should participate in this fishery. The FMP also identified this number as a maximum, while recognizing that an optimum number of vessels would likely be somewhat less than this. Under these regulations, this maximum number would be exceeded only to the extent necessary to ensure that no eligible person who has been dependent on this fishery would be precluded from harvesting salmon. The Council is currently developing, in cooperation with Alaska, a limited entry system for this fishery that would replace the present moratorium.

Harvest Restrictions

In addition, these regulations contain the following restrictions:

(1) Commercial salmon fishermen fishing in the East Area may use only troll gear. This measure continues the long standing ban on net fishing on the high seas.

(2) The East Area is open to commercial fishing until October 31. This period corresponds with seasonably mild weather. Provision is also made for closing the fishing season should the condition of the salmon stocks warrant such action.

(3) A 28 inch minimum-size limit is established for chinook salmon. This restriction is intended to direct fishing effort toward mature fish. No size limits were determined to be necessary to protect salmon species other than chinook.

(4) Recreational salmon fishermen are restricted to a daily bag limit of six salmon, no more than three of which may be chinook. This limit corresponds to Alaska regulations for waters under its jurisdiction.

With the exception of allowing hand trolling in the FCZ, these management measures are essentially the same as the Alaska regulations governing salmon fishing in waters under its jurisdiction.

These regulations are effective immediately as emergency regulations. The Assistant Administrator has found under section 305(e) of the Act that "an emergency involving * * * the fishery resource" exists. It is necessary to take immediate action to prevent an increase in fishing effort on these salmon stocks, some of which are at low levels of abundance. Of particular concern is the potential for increased fishing effort on these stocks that could occur if vessels affected by the severe restrictions in the salmon fishery off the coasts of Washington, Oregon and California shifted their effort to the FCZ off Southeast Alaska.

The Assistant Administrator also finds that formal notice of proposed rulemaking is impractical, unnecessary, and contrary to the public interest because of the emergency described above.

Public comments on these regulations are invited until July 18, 1979.

A notice of availability of the final Environmental Impact Statement was published on January 29, 1979 (44 FR 5707).

A draft regulatory analysis has been prepared on the interim regulations, copies of which are available and may be obtained from the Director, Alaska Region, National Marine Fisheries Service, P.O. Box 1668, Juneau, Alaska 99802.

Dated this 15th day of May 1979, at Washington, D.C.

Winfred H. Meibohm,
Executive Director, National Marine Fisheries Service.

A new Part 674 is added to Title 50 CFR to read as set forth below:

PART 674—HIGH SEAS SALMON FISHERY

Subpart A—General

Sec.

674.1 Purpose and Scope.
674.2 Definitions.
674.3 Relation to Other Laws.
674.4 Permits.
674.5 Reporting Requirements.
674.6 [Reserved.]
674.7 Prohibitions.
674.8 Enforcement.
674.9 Penalties.

Subpart B—Management Measures

674.20 General.
674.21 Catch Limitations.
674.22 Time and Area Closures.
674.23 Time and Area Limitations.
674.24 Gear Restrictions.

Authority: 16 U.S.C. 1801 et seq.

Subpart A—General

§ 674.1 Purpose and scope.

(a) The purpose of this Part is to implement the High Seas Salmon Fishery Management Plan developed by the North Pacific Fishery Management Council pursuant to the Fishery Conservation and Management Act of 1976, as amended (the Act).

(b) These regulations govern fishing for salmon by fishing vessels of the United States within that portion of the North Pacific Ocean seaward of Alaska, east of 175° East Longitude, over which the United States exercises exclusive fishery management authority under the Act.

§ 674.2 Definitions.

In addition to the definitions in the Act, and unless the context requires otherwise, the terms used in this part shall have the following meanings (Some definitions in the Act are repeated here to aid understanding of the regulations):

ADF&G means the Alaska Department of Fish and Game.

Act means the Fishery Conservation and Management Act of 1976, 16 U.S.C. 1801–1882, as amended.

Assistant Administrator means the Assistant Administrator for Fisheries, National Oceanic and Atmospheric Administration (NOAA), Department of Commerce, or an individual to whom appropriate authority has been delegated.

Authorized Officer means: (a) Any commissioned, warrant, or petty officer of the United States Coast Guard;

(b) Any certified enforcement or special agent of the National Marine Fisheries Service;

(c) Any officer designated by the head of any Federal or State agency which has entered into an agreement with the Secretary and the Commandant of the Coast Guard to enforce the provisions of the Act; or

(d) Any Coast Guard personnel accompanying and acting under the direction of any person described in paragraph (a) of this definition.

Commercial fishing means fishing for, or retention of, fish for sale or barter.

Fishery Conservation Zone (FCZ) means that area adjacent to the United States which, except where modified to accommodate international boundaries, encompasses all waters from the seaward boundary of each of the coastal States (the "3-mile limit") to a line on which each point is 200 nautical miles from the baseline from which the territorial sea of the United States is measured.

Fishing means, any activity, other than scientific research, which involves:

(a) The catching, taking, or harvesting of fish;

(b) The attempted catching, taking, or harvesting of fish;

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(c) Any other activity which can reasonably be expected to result in the catching, taking, or harvesting of fish; or

(d) Any operations at sea in support of, or in preparation for, any activity described above.

Fishing vessel means any vessel, boat, ship, or other craft which is used for, equipped to be used for, or of a type which is normally used for: (a) Fishing; or (b) aiding or assisting one or more vessels at sea in the performance of any activity relating to fishing, including, but not limited to, preparation, supply, storage, refrigeration, transportation, or processing.

Hond troll gear means one or more lines with lures or hooks attached, drawn through the water behind a moving vessel, and retrieved by hand or hand-cranked reels or gurdies and not by any electrically, hydraulically, or mechanically-powered device or attachment.

Management area means the two areas described below:

(a) *West Area* means the waters of the FCZ seaward of Alaska between 175° East Longitude and 143°53'36" West Longitude (Cape Suckling);

(b) *East Area* means the waters of the FCZ seaward of Alaska east of 143°53'36" West longitude.

Operator, with respect to any vessel, means the master or other individual on board and in charge of that vessel.

Owner, with respect to any vessel, means:

(a) Any person who owns that vessel in whole or in part;

(b) Any charterer of the vessel, whether for bareboat, time, or voyage;

(c) Any person who acts in the capacity of a charterer, including but not limited to parties to a management agreement, operating agreement, or any similar agreement that bestows control over the destination, function, or operation of the vessel; or

(d) Any agent designated as such by any person in paragraph (a), (b), or (c) of this definition.

Person means any individual (whether or not a citizen or national of the United States), corporation, partnership, association, or other entity (whether or not organized or existing under the laws of any State), and any Federal, State, local, or foreign government or any entity of any such government.

Personal use fishing means fishing for, or retention of, fish for personal use and not for sale or barter.

Power troll gear means one or more lines, with hooks or lures attached, drawn through the water behind a moving vessel, and originating from a power gurdy or power-driven spool fastened to the vessel, the extension or retraction of which is directly to the gurdy or spool.

Regional Director means Director, Alaska Region, National Marine Fisheries Service (NMFS), P.O. Box 1668, Juneau, Alaska 99802, or an individual to whom appropriate authority has been delegated.

Salmon means the following species: Chinook (or king) salmon (*Oncorhynchus tshawytscha);* Coho (or silver) salmon *(O. kisutch)*; Pink (or humpback) salmon (*O. gorbuscha*); Sockeye (or red) salmon (*O. nerka*); and Chum (or dog) salmon (*O. keta*).

Vessel of the United States means: (a) A vessel documented or numbered by the Coast Guard under United States Law; or

(b) A vessel, under five net tons, which is registered under the laws of any State.

§ 674.3 Relation to other laws.

(a) *Federal law.* For regulations concerning fishing for Tanner crab see 50 CFR Part 671; for regulations concerning fishing for groundfish in the Gulf of Alaska see 50 CFR Part 672; and for regulations concerning fishing for halibut see applicable regulations of the International Pacific Halibut Commission (IPHC). This Part 674 does not apply to fishing conducted under the North Pacific Fisheries Act, as amended (16 U.S.C. 1921 *et seq.*), and regulations thereunder.

(b) *State Law.* Certain responsibilities relating to the administration of these regulations will be performed by personnel of Alaska under the terms of an agreement with NOAA/NMFS and the United States Coast Guard.

(c) *Delegation.* The Assistant Administrator has delegated to the Regional Director authority to take actions pursuant to §§ 674.4 and 674.22.

§ 674.4 Permits.

(a) *General.*—(1) *Power troll permits.* The only persons who may engage in commercial fishing for salmon in the management area using power troll gear are operators of fishing vessels who:

(i) On May 15, 1979, held a valid State of Alaska power troll permanent entry permit;

(ii) On May 15, 1979, held a valid State of Alaska power troll interim-use permit; or

(iii) Hold a valid permit issued by the Regional Director under paragraph (b) of this section.

(2) [Reserved.]

(3) No permit is required of a crewmember or other person assisting in the operation of a commercial salmon troll vessel if the permit holder is on board and engaged in fishing.

(4) The right of access to the ocean salmon fishery provided herein constitutes a use privilege which may be modified or revoked without compensation.

(5) The permission to fish under this section expires at 11:59 p.m. (local time) on April 14, 1980.

(b) *Permits issued by the Regional Director.*—(1) *Eligibility.* (i) Except as provided in paragraph (b)(i)(ii) of this section, any person is eligible for a permit described in paragraph (a)(1)(iii) of this section if that person, during any one of the calendar years 1975, 1976, or 1977: (A) Operated a fishing vessel in the management area; (B) engaged in commercial fishing for salmon in the management; (C) caught salmon in the management area using power troll gear, and (D) landed such salmon.

(ii) The following persons are not eligible: (A) Persons described in paragraphs (a)(1)(i) or (ii) of this section; (B) persons who have ever held a State of Alaska power troll permit under this paragraph (b) as a result of having fished under such State permit; and (C) persons holding a permit under this paragraph (b).

(2) *Application.* (i) Each applicant for a permit under this paragraph shall submit a written application to the Regional Director at least 30 days prior to the date on which the applicant desires to have the permit made effective.

(ii) Each applicant shall provide the following information:

(A) The applicant's name, mailing address, and telephone number;

(B) The name of the fishing vessel;

(C) The fishing vessel's United States Coast Guard documentation number or State registration number;

(D) The home port of the fishing vessel;

(E) The length and registered tonnage of the fishing vessel;

(F) The color of the fishing vessel;

(G) The type of fishing gear used by the fishing vessel; and

(H) The signature of the applicant.

(iii) The information required by paragraphs (b)(2) (ii) (B)-(G) of this section shall be provided for each fishing vessel which the applicant intends to use for commercial fishing under this part. Any change in such information occurring after a permit is issued shall be reported to the Regional Director within 30 days of that change.

(iv) Each applicant shall submit State fish tickets or other equivalent documents showing the actual landing of salmon taken in the management area by the applicant with power troll gear during any one of the years 1975–1977.

(3) *Issuance.* (i) Upon receipt of a properly completed application the Regional Director promptly shall determine whether permit eligibility conditions have been met, and if so, shall issue a permit. If the permit is denied, the Regional Director shall notify the applicant in accordance with paragraph (e) of this section.

(ii) If an incomplete or improperly completed permit application is filed the Regional Director promptly shall notify the applicant of the deficiency. If the applicant fails to correct the deficiency within 30 days following the date of receipt of notification, the application shall be considered abandoned.

(4) *Alteration.* No person shall alter, erase, or mutilate any permit. Any permit that is altered, erased, or mutilated shall be invalid.

(5) *Replacement.* Replacement permits may be issued to replace lost or unintentionally mutilated permits. An application for a replacement permit shall not be considered a new application.

(c) *Transfers.* Except for emergency transfers authorized under paragraph (d) of this section, this paragraph (c) governs transfer of authorization under this part to engage in commercial fishing for salmon.

(1) *Alaska Permanent Entry Permits.* (i) The authorization under paragraph (a)(1)(i) of this section transfers with the transfer of the Alaska power troll permanent entry permit. At the time the State permit is transferred, the authority of the transferor under paragraph (a)(1)(i) expires.

(ii) Any person to whom transfer of a State of Alaska power troll permanent entry permit is denied by the State may apply to the Regional Director for approval of a transfer for purposes of paragraph (a)(1)(i) of this section. The Regional Director shall approve such transfer if he determines that such person had the ability to participate actively in the fishery at the time the transfer application was filed with the State.

(A) A request for transfer under this paragraph (c)(1)(ii) shall be filed with the Regional Director within 30 days of the State's denial of the transfer, and shall include (*1*) all documents and other evidence submitted to the State in support of the transfer and (*2*) a copy of the State's decision denying the transfer.

(B) If the transfer is denied, the Regional Director shall notify the applicant in accordance with paragraph (e) of this section.

(C) The authorization to engage in commercial fishing for salmon that is granted under this paragraph (c)(1)(ii) is not transferable, except that such authorization may be transferred to the person who holds the Alaska power troll permanent entry permit from which such authorization was originally derived.

(D) If the authorization to engage in commercial fishing in the management area is transferred under this paragraph (c)(1)(ii) the person who holds the Alaska power troll permanent entry permit from which such authorization originally derived may not engage in commercial fishing for salmon in the management area under paragraph (a)(1)(i) of this section, unless such authorization is trasferred to that person under paragraph (c)(1)(ii)(C) of this section and the Regional Director is so notified in writing.

(2) *Other Permits.* Authorization to engage in commercial fishing for salmon under paragraphs (a) (1) (ii) or (iii) of this section is not transferable.

(d) *Emergency Transfer.* (1) The authorization to engage in the commercial salmon fishery under paragraph (a) of this section may be transferred on a temporary basis but not beyond the remainder of the calendar year, when sickness, injury, or other unavoidable hardship prevents the permittee from such fishing.

(2) Prior to any such emergency transfer, the permittee, or another person if the permittee is unable due to sickness or injury, shall submit to the Regional Director written request for an emergency transfer. Such request shall state the reasons why the permittee is prevented from fishing.

(3) Upon receipt of a request, the Regional Director promptly shall determine whether or not to authorize the emergency transfer, and shall notify the applicant in accordance with paragraph (e) of this section. The Regional Director may request additional information to aid in his determination. Such transfer shall not take effect until written authorization from the Regional Director is received.

(4) Paragraphs (d)(2) and (3) of this section do not apply to Alaska power troll permits if the State has authorized an emergency transfer, and the Regional Director is so notified in writing.

(e) *Appeals and Hearings.* (1) A decision by the Reginal Director to:

(i) Deny a permit under paragraph (b)(3)(i) of this section; or

(ii) Deny a transfer under paragraph (c) or (d) of this section, shall be in writing, shall state the facts and reasons therefore, and shall advise the applicant of the rights provided in this paragraph (e).

(2) Any decision of the Regional Director shall be final 30 days from receipt by the applicant, unless an appeal is filed with the Assistant Administrator within that time. Failure to file a timely appeal shall constitute waiver of the appeal. (Address: Assistant Administrator for Fisheries, National Marine Fisheries Service, Room 400, Page 2 Building, 3300 Whitehaven Street, N.W., Washington, D.C. 20235).

(3) Appeals under this paragraph shall be in writing and set forth the reasons why the appellant believes the Regional Director's decision was in error, and shall include any supporting facts or documentation.

(4) The appellant may, at the time the appeal is filed with the Assistant Administrator, request a hearing with respect to any disputed issue of material fact. Failure to request a hearing at this time shall constitute a waiver of the hearing. If a request for a hearing is filed, the Assistant Administrator may order a hearing if he determines that a hearing is necessary to resolve material issues of fact and shall so notify the appellant.

(5) If the Assistant Administrator orders a hearing he shall appoint a hearing examiner to conduct an informal fact finding inquiry into the matter. The hearing examiner, following the hearing, promptly shall furnish the Assistant Administrator with a report and recommendations.

(6) As soon as practicable after considering the matters raised in the appeal, and any report or recommendation of the hearing examiner in the event a hearing is held under this section, the Assistant Administrator shall notify the appellant in writing of his final decision. The notice shall summarize the findings of the Assistant Administrator and set forth the basis of the decision. The decision of the Assistant Administrator shall be final.

(f) *Display.* Any permit described in paragraph (a) of this section shall be on board the vessel at all times while the vessel is in the FCZ, and shall be displayed for inspection upon request of any Authorized Officer.

§ 674.5 Recordkeeping and reporting requirements.

(a) *Salmon Landed Inside Alaska.* (1) The operator of any fishing vessel subject to this Part who lands salmon in Alaska, for each sale or delivery of salmon caught by such vessel, shall

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submit an accurately completed Alaska fish ticket.

(2) At the election of the vessel operator, the fish ticket shall be either: (i) Submitted by the vessel operator directly to the ADF&G within one week after such fish are sold or delivered; or (ii) prepared, at the request of the operator, by the purchaser (i.e., any person who receives fish for a commercial purpose from a fishing vessel subject to this part) and submitted by the purchaser to the ADF&G within one week after such fish are received by the purchaser. The fish ticket shall be submitted to the local ADF&G representative.

(b) *Salmon Landed Outside Alaska.* (1) The operator of any fishing vessel subject to this Part whose port of landing is in the United States but outside Alaska, or who sells, transfers or delivers salmon in the FCZ, shall submit a completed Alaska fish ticket, or an equivalent document containing all of the information required on an Alaska fish ticket, to the ADF&G within one week after the date of each sale or delivery of any species of fish covered by these regulations. (ADF&G address: Director, Commercial Fish Division, Alaska Department of Fish and Game Headquarters, Subport Building, Juneau, Alaska 99801).

(2) An operator who, in an application for a permit under § 674.4(b)(2) or by subsequent notice, indicated that more than one vessel might be used for fishing shall state on the document submitted under paragraph (b)(1) of this section which vessel was used.

§ 674.6 [Reserved]

§ 674.7 Prohibitions.

It is unlawful for any person:

(a) To fish for, take, or retain any salmon in violation of the Act or these regulations, including but not limited to the following:

(1) During closed seasons or in closed areas specified in Subpart B of this part;

(2) By means of gear or methods prohibited by Subpart B of this part;

(3) If such salmon are less than the minimum length specified in Subpart B of this part; or

(4) In numbers exceeding the daily limit for personal use fishing as specified in Subpart B of this part.

(b) To engage in commercial fishing for salmon with power troll gear without a valid permit as set forth in § 674.4(a).

(c) To possess, have custody or control of, ship, transport, offer for sale, sell, purchase, import, land, or export any salmon taken in violation of the Act, this part, or any other regulations issued under the Act.

(d) To refuse to permit an Authorized Officer to board a fishing vessel subject to such person's control for purposes of conducting any search or inspection in connection with the enforcement of this Act, this part, or any other regulations issued under the Act.

(e) Forcibly to assault, resist, oppose, impede, intimidate, or interfere with any Authorized Officer in the conduct of any search or inspection described in paragraph (d) of this section.

(f) To resist a lawful arrest for any act prohibited by this part.

(g) To interfere with, delay, or prevent, by any means, the apprehension or arrest of another person knowing that such other person has committed any act prohibited by this part.

(h) To transfer directly or indirectly, or attempt to so transfer, any salmon harvested by a vessel of the United States to any foreign fishing vessel, while such foreign vessel is within the FCZ, unless the foreign fishing vessel has been issued a permit under section 204 of the Act which authorizes receipt by that foreign fishing vessel of salmon harvested by a vessel of the United States.

(i) To violate any other provision of the Act, this Part, or any regulation issued under the Act.

§ 674.8 Enforcement.

(a) *General.* The owner or operator of any fishing vessel subject to this Part shall immediately comply with instructions issued by an Authorized Officer to facilitate safe boarding and inspection of the vessel, its gear, equipment, logs, documents, and catch for purposes of enforcing the Act and this Part.

(b) *Boarding.* A vessel signalled to stop or heave to for boarding shall:

(1) Stop immediately and lay to or maneuver in such a way as to permit the Authorized Officer and his party to come aboard;

(2) When necessary to facilitate boarding, provide sufficient illumination; and

(3) Take such other actions as necessary to ensure the safety of the Authorized Officer and his party, and to facilitate the boarding.

§ 674.9 Penalties.

(a) *General.* Any person or fishing vessel found to be in violation of this Part will be subject to the civil and criminal penalty provisions and forfeiture provisions prescribed in the Act, and 50 CFR Parts 620 (Citations) and 621 (Civil Procedures), and other applicable law.

(b) *Permit Sanctions.* Subpart D of 50 CFR Part 621 (Civil Procedures) does not apply to permits issued under this part.

Subpart B—Management Measures

§ 674.20 General.

The management measures set out in this Part are effective until amended, modified or rescinded. This Part 674 does not apply to fishing conducted under the North Pacific Fisheries Act, as amended (16 U.S.C. 1021 *et seq.*), and regulations issued thereunder at 50 CFR Part 210.

§ 674.21 Catch limitations.

(a) *Size Restrictions*—(1) *Minimum size limit*—(i) *Chinook Salmon.* Only chinook salmon 28 inches or more in length with head on, or 23 inches or more with head off, may be retained (see Figure 1).

(ii) *Other Salmon.* There is no minimum size limit for sockeye, coho, pink, or chum salmon.

(2) *Method of Measurement.* A salmon with head on is measured in a straight line passing over the pectoral fin, from the tip of the snout to the tip of the tail in its natural open position. A salmon with head off is measured from the midpoint of the cleithral (gill) arch to the tip of the tail in its natural open position (see Figure 1).

(3) *Mutilation.* No person on a fishing vessel in the management area shall mutilate or otherwise disfigure a salmon for which a minimum size is set by these regulations, in a manner which prevents determining that salmon's length.

(b) *Personal Use Daily Limit.* No person may catch in the management area and retain more than six (6) salmon for personal use per day, or possess while in the management area more than twelve (12) salmon. No more than three of the salmon retained or possessed may be chinook.

(c) *Landing Requirements.* Salmon taken in the management area which have had the adipose fin removed or clipped shall be retained and landed with the head on, even if such fish are less than the minimum length specified in this part (see Figure 1). Such salmon shall be made available for retrieval of the coded wire tag by an appropriate official at the port of landing.

§ 674.22 Time and area closures.

(a) *In-Season Adjustments.* (1) The Regional Director may, following consultation with the ADF&G, adjust season opening or closing dates for any species regulated by this Part, in any portion of the management area during the fishing year, by issuing a field order in accordance with the procedures in § 674.23(b).

(2) Any such adjustment shall be based upon a determination by the Regional Director that (i) the condition of any salmon stock in any portion of a management area is substantially different from the condition anticipated at the beginning of the fishing year, and (ii) such differences reasonably support the need for in-season conservation measures to protect salmon stocks.

(3) one or more of the following factors may be considered in making this determination:

(i) The effect of overall fishing effort within a management area;

(ii) Catch-per-unit-of-effort and rate of harvest;

(iii) Relative abundance of stocks within the area;

(iv) Condition of stocks within the area; and

(v) Any other factors relevant to the conservation of the salmon resource.

(b) *Field Orders*—(1) *Contents.* Field Orders issued by the Regional Director under this part shall include the following information: (i) The reason for the field order; (ii) a description of the area subject to the field order; and (iii) the effective date of such field order.

(2) *Public Notice.* No field order issued under this section shall be effective until:

(i) It is published in the Federal Register;

(ii) It has been posted for 48 hours, and otherwise made available to the public, in accordance with procedures customarily used by the ADF&G for posting and publicizing similar notices of opening or closure; and

(iii) It has been broadcast for 48 hours at those time intervals, channels and frequencies customarily used by the ADF&G to broadcast similar notices of opening or closure.

(3) *Public Comment.* (i) If the Regional Director decides, for good cause, that a field order should be issued without affording a prior opportunity for public comment, public comments on the necessity for, and extent of, the order will be received and considered by the Regional Director for a period of 60 days after the effective date of the field order. (Address: Director, Alaska Region, National Marine Fisheries Service, Box 1668, Juneau, Alaska 99802).

(ii) During any such 60-day period, the Regional Director shall make available for public inspection, during business hours, the aggregate data upon which the field order was based. (Address: National Marine Fisheries Service, Alaska Regional Office, Federal Building, Room 453, 709 West Ninth Street, Juneau, Alaska 99802).

(iii) As soon as practicable after the expiration of the 60-day period, the Regional Director shall reconsider the necessity for the field order and shall either (A) publish in the Federal Register a notice of continued effectiveness of the field order, responding to comments received; or (B) modify or rescind the field order in accordance with the procedures of this section.

(4) *Effective Period.* A field order issued pursuant to this paragraph shall remain in effect until (i) any expiration date stated in a field order or a notice published by the Regional Director pursuant to this section; (ii) April 14, 1980, whichever is earlier.

§ 674.23 Time and area limitations.

(a) *Commercial fishing*—(1) *West Area.* Commercial fishing for salmon in the West Area is not permitted.

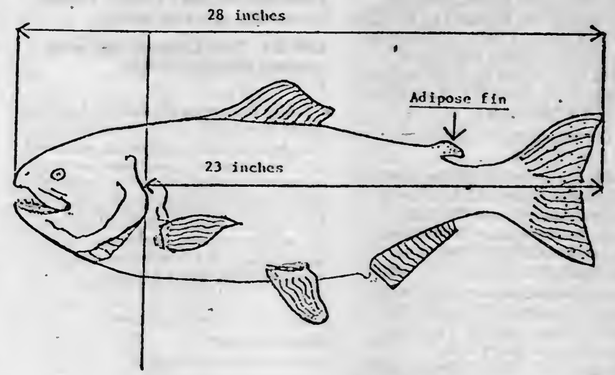


Figure 1. Chinook salmon with lines indicating (a) the minimum legal length for a whole chinook salmon, (b) the minimum legal length for a chinook salmon with its head removed, and (c) the adipose fin.

(2) *East Area.* (i) Commercial fishing for chinook, chum, sockeye, and pink salmon in the East Area is permitted from April 15 to October 31 only.

(ii) Commercial fishing for coho salmon in the East Area is permitted from June 15 to September 20 only.

(b) *Personal use fishing.* Personal use fishing for salmon in the management area is permitted the entire year.

(c) *Season dates.* All season dates in this section are inclusive. Time periods begin at 12:01 a.m. and end at 11:59 p.m. on the dates specified, based on local time.

§ 674.24 Gear restrictions.

(a) *Commercial Fishing*—(1) *West Area.* Commercial fishing for salmon in the West Area is not permitted.

(2) *East Area.* Commercial fishing for salmon in the East Area is permitted only with power or hand-troll gear.

(b) *Personal use fishing.* Personal use fishing for salmon in the management area is permitted only with a single line held in the hand or attached to a hand-held or closely attended rod, which line may not have more than one artificial lure or two single hooks attached.

[FR Doc. 79-15707 Filed 5-17-79; 8:45 am]
BILLING CODE 3510-22-M

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Proposed Rules

Federal Register
Vol. 44, No. 98
Friday, May 18, 1979

This section of the FEDERAL REGISTER contains notices to the public of the proposed issuance of rules and regulations. The purpose of these notices is to give interested persons an opportunity to participate in the rule making prior to the adoption of the final rules.

OFFICE OF PERSONNEL MANAGEMENT

[5 CFR Part 890]

Federal Employees Health Benefits Program: Opportunities To Register To Enroll and Change Enrollment; on Becoming Eligible for Benefits Under Title XVIII of the Social Security Act

AGENCY: Office of Personnel Management.

ACTION: Proposed Rule.

SUMMARY: The Office of Personnel Management is proposing to amend the Federal Employees Health Benefits (FEHB) regulations to permit an enrollee with a high option FEHB enrollment to change to a low option enrollment within 31 days before he or she acquires eligibility under title XVIII of the Social Security Act (Medicare).

DATE: Comments must be received on or before July 17, 1979.

ADDRESS: Comments should be directed to Craig B. Pettibone, Chief, Office of Policy Development and Technical Services, Retirement and Insurance, Compensation, Office of Personnel Management, Washington, D.C. 20415.

FOR FURTHER INFORMATION CONTACT: Edward G. Borchers, Retirement and Insurance, Compensation, Technical Services Section, Room 4334, Washington, D.C. 20415, 202–632–4684.

SUPPLEMENTARY INFORMATION: When an enrollee of the Federal Employees Health Benefits (FEHB) Program is also covered under title XVIII of the Social Security Act (Medicare), Medicare benefits are provided first, and the FEHB plan supplements the benefits provided under Medicare up to 100 percent of allowable expenses, or up to the full benefits provided under the plan. Since plans under the FEHB Program generally afford protection against the same expenses as Medicare, FEHB plan benefits are usually reduced when an enrollee is also covered under Medicare. For this reason, a low option FEHB enrollment is, in most cases, an excellent supplement to Medicare and costs considerably less than a high option enrollment, which generally provides greater benefits.

The current FEHB regulations permit changes to a low option enrollment to be made at any time after Medicare eligibility is acquired. However, since the effective date of such a change can be no earlier than the pay period after the one in which the election is received by the employing office or retirement system, an overlap of Medicare and high option FEHB coverage is unavoidable. The proposed amendment would permit an individual with a high option FEHB enrollment to change to low option within 31 days before he or she becomes eligible for Medicare. In this manner, an individual with a high option FEHB enrollment who acquires full Medicare coverage can avoid an overlap of Medicare and high option coverage. Accordingly, it is proposed to amend § 890.301(n) of title 5, Code of Federal Regulations, as set out below:

§ 890.301 Opportunities to register to enroll and change enrollment.

* * * * *

(n) *On becoming eligible for benefits under title XVIII of the Social Security Act.* An enrolled employee or annuitant with a high option enrollment may register at any time after the 31st day before he or she meets the requirements for eligibility under title XVIII of the Social Security Act, to change enrollment to the low option of any available plan under this part.

* * * * *

Office of Personnel Management.

Beverly M. Jones,

Issuance of System Manager.

[FR Doc. 79-15528 Filed 5-17-79; 8:45 am]

BILLING CODE 6325-01-M

DEPARTMENT OF AGRICULTURE

Food and Nutrition Service

[7 CFR Part 272]

[Amdt. No. 145]

Food Stamp Program; Lost Benefits to Currently Ineligible Households

AGENCY: Food and Nutrition Service, USDA.

ACTION: Proposed rule.

SUMMARY: This proposed rulemaking would modify 7 CFR 272.1(g)(1)(iv)(B) (published on October 17, 1978 at 43 FR 47846–47934) by providing additional requirements for State agencies regarding the notification of currently ineligible households entitled to the restoration of lost food stamp benefits. The change will assure that most such households are made aware of their entitlement to retroactive benefits.

DATES: Comments should be received on or before July 2, 1979 to be assured.

ADDRESS: Comments should be submitted to: Joseph E. Sheppard, Acting Deputy Administrator for Family Nutrition Programs, Food and Nutrition Service, U.S. Department of Agriculture, Washington, D.C. 20250.

FOR FURTHER INFORMATION CONTACT: Susan McAndrew, Acting Chief, Program Standards Branch, Program Development Division, Family Nutrition Programs, Food and Nutrition Service, Washington, D.C. 20250, 202–447–6535.

SUPPLEMENTARY INFORMATION: Under former procedures the Department did not issue lost food stamp benefits to currently ineligible households, but did provide procedures for the payment of lost benefits at the time such households again became eligible to participate in the Food Stamp Program. Under the Food Stamp Act of 1977 (Title 13, Pub. L. 95–113) currently ineligible households are entitled to prompt restoration of any benefits which were wrongfully denied or terminated during a period of participation.

Section 272.1(g)(1)(iv) of the final rulemaking published on October 17, 1978 provides two methods of notifying currently ineligible households whose entitlement to lost benefits was established prior to implementation of the Food Stamp Act of 1977. State agencies which can readily identify such households are required to notify and restore benefits within four months of the date the procedures for restoration of lost benefits are implemented. Under the regulation, other State agencies are required to issue a one-time press release advising the currently ineligible households of their entitlement to restoration of lost benefits.

As a result of problems brought to our attention after the publication of the rulemaking on October 17, 1978, the Department is concerned that the requirement for a one-time press release may not be sufficient to assure that most currently ineligible households are made aware of their entitlement to retrocative benefits. Accordingly, the Department is proposing to modify § 272.1(g)(1)(iv)(B) by providing additional requirements for State agencies issuing the one-time press release. These State agencies would also be required to send a mailing to local Community Action Programs, grantees of the Community Food and Nutrition Programs of the Community Services Administration, general assistance agencies, legal service programs funded by the Legal Services Corporation, State employment service and unemployment compensation offices, all groups listed in the State's Outreach Plan and to other State and Federal governmental agencies providing services to low-income households, such as District Offices of the Social Security Administration. The mailing, which will be in the form of a letter provided by the Food and Nutrition Service (FNS), will request that these organizations and agencies publicize the availability of retroactive benefits to currently ineligible households. The mailing will also inform the organizations and agencies that the State agency will supply fliers and posters in quantity upon request. These fliers and posters will be provided to State agencies by FNS.

State agencies would also be required to display posters in all local agency welfare, food stamp certification and issuance offices until January 1, 1980, and to mail out the request for assistance within 30 days of receipt from FNS.

The Department also considered the alternative of requiring all State agencies to conduct a file search of all inactive files to individually locate and notify households entitled to lost benefits. The Department feels that the administrative burden of such a requirement would be so unreasonable when weighed against its effectiveness as to render this alternative unwarranted. For State agencies which did not maintain a separate register of ineligible households entitled to lost benefits or which do not have the computer capability to readily identify such households, a monumental manual case file search involving great cost and massive use of staff time would be required.

The extraordinary burden imposed on the State agency by such a manual search of millions of inactive case files is especially significant as most State agencies are still in the process of converting the active caseload to the criteria imposed by the regulations of October 17, 1978.[1] The Department also feels that a manual search is not justified in view of the relatively small number of ineligible households entitled to lost benefits.[2] The Department believes that the use of outreach organizations and other governmental agencies, such as Social Security offices, Employment Service offices, public assistance offices, and general assistance offices, will greatly increase the effectiveness of the press release in notifying currently ineligible households of their entitlement to restoration of lost benefits.

The appendix to this rulemaking contains the language of the mailing to the outreach organizations and governmental agencies assisting in the notifications currently ineligible households entitled to lost benefits, the language of the notice to the households and the language of a poster.

In view of the brevity of this amendment and the need to timely advise currently ineligible households of their entitlement to retroactive benefits, Robert Greenstein, Acting Administrator, FNS has determined that a 45-day comment period is sufficient and is in the public interest. Comments will be available for review and inspection during regular business hours at 500 12th Street SW., Room 658, Washington, D.C. 20250.

[1] Nationwide we estimate that there are over 5,000,000 active case files and at least an equal number of inactive files. A poll of States revealed that only seven State agencies maintained separate registers in some but not all, project areas. All other State agencies recorded entitlement to retroactive benefits in the household's case file and did not maintain a separate register.

The following listing of the top 10 food stamp areas illustrates the size of any file search. None of these areas kept a separate register.

1. New York, 575,000.
2. California, 439,000.
3. Puerto Rico, 334,000.
4. Pennsylvania, 317,000.
5. Illinois, 306,000.
6. Ohio, 252,000.
7. Florida, 229,000.
8. Texas, 220,000.
9. Michigan, 202,000.
10. Massachusetts, 176,000.

Figures represent May 1978 participation by food stamp households, rounded to the nearest thousand.

[2] Preliminary results indicate the number may be very small. Arizona, one of the States which maintained a separate register of ineligible households entitled to restoration of lost benefits, has sought to notify and provide lost benefits to the 120 households on the register. Of these, 45 have negotiated their Authorization to Participate (ATP) cards; 39 ATP's have been returned to the State agency undelivered and 36 have not been negotiated. The State has approximately 45,000 active cases and a similar number of inactive cases.

Accordingly, it is proposed to amend § 272.1 of Chapter II, Title 7, Code of Federal Regulations as follows:

In § 272.1(g)(1)(iv)(B), strike all language and substitute the following:

§ 272.1 General terms and conditions.

* * * * *

(g) *Implementation.* * * *

* * * * *

(1) *Amendment 132.* * * *

* * * * *

(iv) * * *

* * * * * *

(B) Other State agencies shall issue a one-time-only press release notifying ineligible households that benefits can be restored. The press release shall advise households to contact the local food stamp office for more information. In addition, State agencies issuing the press release shall request the assistance of local Community Action Programs, grantees of the Community Food and Nutrition Program of the Community Services Administration, general assistance agencies, legal services programs funded by the Legal Services Corporation, State employment service and unemployment compensation offices, all groups listed in the State Food Stamp Outreach Action Plan and other State and Federal governmental agencies providing services to low-income households, such as District Offices of the Social Security Administration. FNS shall provide the State agency with copies of the letter to be used to request assistance from outreach organizations and governmental agencies, and the fliers and posters which will be distributed upon request to such organizations and agencies. The language of the request for assistance, the notice to households and the poster is contained in Appendix A to this section. The State agency shall mail the request for assistance and display posters in all local agency food stamp certification and issuance offices and welfare offices within 30 days of receipt from FNS. The State agency shall display the posters in its offices until January 1, 1980.

Appendix A—Text of Letter of Request for Assistance

Dear Friend: We are requesting your help in publicizing a change in the Food Stamp Program. As you may know, recently published food stamp regulations provide for the payment of lost benefits to all food stamp households which are entitled to such benefits. Under prior regulations households which lost benefits as the result of an error could not receive such benefits if the benefits were to be issued at a time when the household was not eligible to participate in the Program. The lost benefits could only be

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issued if and when the household again became eligible to participate in the Program. Under the new regulations households which have outstanding entitlements to lost benefits regardless of current eligibility will be able to receive their benefits. We are requesting your assistance in making it known that currently ineligible households with outstanding entitlements to lost benefits may now claim these benefits.

Enclosed is a copy of the notice advising currently ineligible households of the availability of lost benefits. A poster which contains language similar to that of the notice is also available. Copies of the notice and the poster can be obtained by contacting the State or local food stamp office.

Sincerely,

Text of Notice to Currently Ineligible Households Entitled to Lost Benefits

Attention Former Food Stamp Users

Due to a change in the food stamp rules, you may now receive retroactive food stamp benefits, even though you are not now on food stamps.

If—at any time in the past:

- You were notified that the food stamp office made a mistake on your case; *or*
- You won a fair hearing; but
- You couldn't get the additional benefits owed you because you weren't on the program.

Then—Please fill in the form below and mail or carry it to your local food stamp office.

Remember:

*You don't have to be on food stamps now to get these benefits.

*If you don't agree with the decision of the food stamp office after they review your file, you have the right to request a fair hearing.

Request for Review: Please Review My Casefile To Determine if I Should Get the Retroactive Benefits Noted Above.

Signature _____
Date _____
Your Name (please print) _____
Telephone number _____
Address _____
Food Stamp Case No. (if you know) _____
Last month you received food stamps (if you know) _____

USDA policy does not permit discrimination because of race, color, sex, age, handicap, religion, national origin or political belief. Any person who believes he or she has been discriminated against in any USDA related activity should write immediately to the Secretary of Agriculture, Washington, D.C. 20250.

Text of Poster

Attention Former Food Stamp Users

Due to a change in the food stamp rules, you may now receive retroactive food stamp benefits, even though you are not now on food stamps.

If—At any time in the past:

*You were notified that the food stamp office made a mistake on your case; *or*

*You won a fair hearing; but

*You couldn't get the additional benefits because you weren't on the program

Then—Please fill in the form that goes with this poster or write or call the local food stamp office for more information.

Remember:

*You don't have to be on food stamps now to get these benefits

*If you don't agree with the decision of the food stamp office after they review your file, you have the right to request a fair hearing.

USDA policy does not permit discrimination because of race, color, sex, age, handicap, religion, national origin or political belief. Any person who believes he or she has been discriminated against in any USDA related activity should write immediately to the Secretary of Agriculture, Washington, D.C. 20250.

(91 Stat. 958 as amended (7 U.S.C. 2011–2027))

Note.—The Food and Nutrition Service has determined that this document does not contain a major proposal requiring preparation of an Economic Impact Statement under Executive Order 11821 and OMB Circular A–107.

(Catalog of Federal Domestic Assistance Programs No. 10.551, Food Stamps.)

A draft impact analysis has been prepared pursuant to Executive Order 12044 and the Secretary's directive set forth at 43 FR 50988. A copy thereof can be obtained from Acting Deputy Administrator Shepherd.

Dated: May 15, 1979.

Carol Tucker Foreman,

Assistant Secretary.

[FR Doc. 79–15630 Filed 5–17–79; 8:45 am]

BILLING CODE 3410–30–M

Agricultural Marketing Service

[7 CFR Part 1133]

[Docket No. AO–275–A31]

Milk in the Inland Empire Marketing Area; Hearing on Proposed Amendments to Tentative Marketing Agreement and Order

AGENCY: Agricultural Marketing Service, USDA.

ACTION: Public hearing on proposed rulemaking.

SUMMARY: The hearing is being held at the request of dairy farmers to consider proposals that would expand the marketing area and revise the basis for determining which order should regulate a plant that qualifies for pooling under more than one order. Also, proposals to allow greater diversions of producer milk to nonpool plants will be considered, as well as proposals that would change certain reporting and payment dates under the order. Proponents contend that the requested order changes are needed to reflect changed marketing conditions and to insure orderly marketing in the area.

DATE: June 12, 1979.

ADDRESS: Holiday Inn, 4212 Sunset Boulevard, Spokane, Washington 99204.

FOR FURTHER INFORMATION CONTACT: Maurice M. Martin, Marketing Specialist, Dairy Division, Agricultural Marketing Service, U.S. Department of Agriculture, Washington, D.C. 20250, 202–447–7183.

SUPPLEMENTARY INFORMATION: Notice is hereby given of a public hearing to be held at the Holiday Inn, 4212 Sunset Boulevard, Spokane, Washington, beginning at 9:30 a.m., on June 12, 1979, with respect to proposed amendments to the tentative marketing agreement and to the order, regulating the handling of milk in the Inland Empire marketing area.

The hearing is called pursuant to the provisions of the Agricultural Marketing Agreement Act of 1937, as amended (7 U.S.C. 601 *et seq.*), and the applicable rules of practice and procedure governing the formulation of marketing agreements and marketing orders (7 CFR Part 900).

The purpose of the hearing is to receive evidence with respect to the economic and marketing conditions which relate to the proposed amendments, hereinafter set forth, and any appropriate modifications thereof, to the tentative marketing agreement and to the order.

The proposal relative to a redefinition of the marketing area raises the issue whether the provisions of the present order would tend to effectuate the declared policy of the Act, if they are applied to the marketing area as proposed to be redefined and, if not, what modifications of the provisions of the order would be appropriate.

The proposed amendments, set forth below, have not received the approval of the Secretary of Agriculture.

Proposed by Northwest Dairymen's Association

Proposal No. 1

Expand the marketing area to include Adams, Chelan, Douglas, Grant, and Lincoln Counties, all in the State of Washington.

Proposal No. 2

Amend § 1133.7 by revising paragraph (d)(2), (3) and (4) as follows:

§ 1133.7 Pool plant.

* * * * *

(d) * * *

(1) * * *

(2) A plant qualified pursuant to paragraph (a) of this section which also meets the pooling requirements of another Federal order and from which, the Secretary determines, there is a greater quantity of route disposition during the month in such other Federal order marketing area than in this marketing area, except that if such plant was subject to all the provisions of this part in the immediately preceding month, it shall continue to be subject to all the provisions of this part until the third consecutive month in which a greater proportion of its route disposition is made in such other marketing area unless, notwithstanding the provisions of this subparagraph, it is regulated under such other order;

(3) A plant qualified pursuant to paragraph (a) of this section which also meets the pooling requirements of another Federal order on the basis of route disposition in such other marketing area and from which, the Secretary determines, there is a greater quantity of route disposition in the marketing area than in such other marketing area but which plant maintains pooling status for the month under such other Federal order; or

(4) A plant pursuant to paragraph (b) of this section which also meets the pool plant requirements of another Federal order and from which greater shipments are made during the month to plants regulated under such other order than are made to plants regulated under this order.

Proposal No. 3

Amend § 1133.13 by revising paragraph (c) as follows:

§ 1133.13 Producer milk.

* * * * *

(c) With respect to diversions to nonpool plants:

(1) A cooperative association may divert for its account under paragraph (b)(1) of this section the milk of any member-producer eligible for diversion. The total quantity of milk so diverted may not exceed 70 percent in any of the months of September through February, and 80 percent in any of the months of March through August, of its total member-producer milk received at all pool plants or diverted therefrom during the month. Two or more cooperative associations may have their allowable diversions computed on the basis of the combined deliveries of milk by their member-producers if each association has filed in writing with the market administrator a request for such computation;

(2) A handler operating a pool plant may divert for his account under paragraph (a)(2) of this section milk of any producer eligible for diversion, other than a member of a cooperative association which diverts milk under paragraph (c)(1) of this section. The total quantity of milk so diverted may not exceed 70 percent in any of the months of September through February, and 80 percent in any of the months of March through August, of the milk received at or diverted from such pool plant during the month from producers who are not members of a cooperative association that diverts milk under paragraph (c)(1) of this section;

(3) Milk diverted in excess of the limits specified shall not be considered as producer milk, and the diverting handler shall specify the producers whose milk is ineligible as producer milk. If a handler fails to designate such producers, producer milk status shall be forfeited with respect to all milk diverted by the handler;

(4) Producers eligible for diversion are those whose milk has been received at the pool plant prior to diversion from such plant (but not necessarily in the current month);

(5) For the purpose of location adjustments pursuant to §§ 1133.52 and 1133.75, diverted milk shall be considered to have been received at the location of the plant to which diverted.

Proposed by Mayflower Farms

Proposal No. 4

§ 1133.30 [Amended]

a. In § 1133.30 change the date for filing the report of receipts and utilization from the 7th to the 9th.

§ 1133.31 [Amended]

b. In § 1133.31, change the date for filing the payroll report from the 20th to the 22nd.

§ 1133.32 [Amended]

c. In § 1133.32(d), change the date for filing the supporting statement to producers from the 17th to the 20th.

§ 1133.45 [Amended]

d. In § 1133.45(d), change the date for filing the report of utilization from the 16th to the 18th.

§ 1133.62 [Amended]

e. In § 1133.62, change the date for the uniform price announcement from the 12th to the 14th.

§ 1133.71 [Amended]

f. In § 1133.71, change the date for payments into the producer-settlement fund from the 14th to the 16th.

§ 1133.72 [Amended]

g. In § 1133.72, change the date for payments out of the producer-settlement fund from the 15th to the 18th.

§ 1133.73 [Amended]

h. In § 1133.73(c)(1) and (d), change the date for making partial payments to cooperative associations from the second-to-the-last day of the month to the last day of the month.

§ 1133.73 [Amended]

i. In § 1133.73(b), change the date for making final payments to producers from the 17th to the 20th.

§ 1133.73 [Amended]

j. In § 1133.73(c)(1) and (d), change the date for making final payments to cooperative associations from the 15th to the 18th.

§ 1133.85 [Amended]

k. In § 1133.85, change the date for paying the administrative assessment from the 14th to the 16th.

§ 1133.86 [Amended]

l. In § 1133.86(b), change the date for transferring marketing service deductions to the market administrator from the 14th to the 16th.

§ 1133.86 [Amended]

m. In § 1133.86(c), change the date for transferring marketing service deductions to cooperative associations from the 16th to the 18th.

Proposed by the Dairy Division, Agricultural Marketing Service

Proposal No. 5

Make such changes as may be necessary to make the entire marketing agreement and the order conform with any amendments thereto that may result from this hearing.

Copies of this notice of hearing and the order may be procured from the market administrator, James A. Burger, P. O. Box 23606, Portland, Oregon 97223 or from the Hearing Clerk, Room 1077, South Building, United States Department of Agriculture, Washington, D.C. 20250 or may be there inspected.

From the time that a hearing notice is issued and until the issuance of a final decision in a proceeding, Department employees involved in the decisional process are prohibited from discussing the merits of the hearing issues on an ex parte basis with any person having an interest in the proceeding. For this particular proceeding, the prohibition applies to employees in the following organizational units:

Office of the Secretary of Agriculture.

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Office of the Administrator, Agricultural Marketing Service.
Office of General Counsel.
Dairy Division, Agricultural Marketing Service (Washington office only).
Office of the Market Administrator, Inland Empire marketing area.

Procedural matters are not subject to the above prohibition and may be discussed at any time.

Signed at Washington, D.C., on May 14, 1979.

William T. Manley,
Deputy Administrator, Marketing Program Operations.

[FR Doc. 79-15512 Filed 5-17-79; 8:45 am]
BILLING CODE 3410-02-M

DEPARTMENT OF ENERGY

Economic Regulatory Administration

[10 CFR Part 212]

[Docket No. ERA-R-79-26]

Retailer Price Rule for Motor Gasoline

AGENCY: Economic Regulatory Administration, Department of Energy.

ACTION: Notice of Intent.

SUMMARY: The Economic Regulatory Administration (ERA) of the Department of Energy (DOE) hereby gives notice of its intent to reexamine its Mandatory Petroleum Price Regulations for retailers of motor gasoline (Subpart F, Part 212) and to consider what changes in the regulations would be appropriate. This review is prompted in part by petitions for rulemaking filed with ERA by associations of motor gasoline retailers (including the National Congress of Petroleum Retailers, Inc.). ERA has also received requests to make its price regulations easier for dealers and the public to understand. In addition, ERA is aware that market conditions for motor gasoline have changed considerably in the past year and that these changed circumstances may require modification of certain aspects of the price regulations.

The petitions for rulemaking state, among other things, that the current price rules do not permit retailers to earn an adequate profit on sales of motor gasoline and are difficult to understand. The changed circumstances in market conditions include reductions in allocation levels and uncertainty about future supply levels to retailers. In addition, ERA wishes to consider whether alternatives to the present price regulations would be easier to enforce and thus would enable the government to provide the public with better protection against unlawful overcharges. ERA is also interested in modifications which will provide the public with clearer information about lawful price levels so that individual members of the public will be able to protect against price overcharges.

Accordingly, in response to the petitions for rulemaking and current market conditions, ERA gives notice of its intent to review what alternatives and modifications of regulations for pricing of motor gasoline by retailers may be available to take further action regarding these regulations, if appropriate. The details of this proceeding will be announced in a subsequent notice.

FOR FURTHER INFORMATION CONTACT:

William L. Webb (Office of Public Information), Economic Regulatory Administration, Room B110, 2000 M Street, N.W., Washington, D.C. 20461, (202) 634-2170.
Edwin P. Mampe (Regulations and Emergency Planning), Economic Regulatory Administration, Room 2313, 2000 M Street, N.W., Washington, D.C. 20461, (202) 254-7200.
W. Mayo Lee (Office of General Counsel), Department of Energy, Room 6A-127, 1000 Independence Avenue, S.W., Washington, D.C. 20585, (202) 252-6754.

Issued in Washington, D.C., May 14, 1979.

Douglas G. Robinson,
Acting Deputy Administrator, Economic Regulatory Administration.

[FR Doc. 79-15616 Filed 5-17-79; 8:45 am]
BILLING CODE 6450-01-M

COMMODITY FUTURES TRADING COMMISSION

[17 CFR Part 15]

Requirement of Foreign Brokers and Foreign Traders To Designate an Agent in the United States To Receive Service of Communications Issued by the Commission

Correction

In FR Doc. 79-15279 appearing on page 28678 in the issue for Wednesday, May 16, 1979, in the second column, the comment date should read "July 16, 1979.".

Also, on page 28682, the first column, the second entry in the table of contents should read.

15.06 Designation of an Agent for service by Foreign Traders trading directly through Futures Commission Merchants.

BILLING CODE 1505-01-M

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

[18 CFR Part 282]

[Docket No. RM79-21]

Regulations Implementing Alternative Fuel Cost Ceilings on Incremental Pricing Under the Natural Gas Policy Act of 1978

Issued: May 11, 1979.

AGENCY: Federal Energy Regulatory Commission.

ACTION: Notice of Proposed Rulemaking and Opportunity for Written and Oral Presentation of Data, Views, and Arguments.

SUMMARY: The Federal Energy Regulatory Commission hereby gives notice of a proposed rulemaking and public hearings for the purpose of implementing one aspect of the incremental pricing provisions of the Natural Gas Policy Act of 1978. Specifically, the notice contains regulations establishing alternative fuel price ceilings for incremental pricing purposes.

DATES: Comments by June 19, 1979. Requests to speak: *St. Paul, Minnesota hearing:* by May 30, 1979; *Los Angeles, California hearing:* by June 1, 1979; *Atlanta, Georgia hearing:* by June 8, 1979; *Washington, D.C. hearing:* by June 11, 1979. Hearing dates: *St. Paul, Minnesota hearing:* June 6, 1979, 9:30 a.m.; *Los Angeles, California hearing:* June 8, 1979, 9:00 a.m.; *Atlanta, Georgia hearing:* June 15, 1979, 9:00 a.m.; *Washington, D.C. hearing:* June 18, 1979, 10:00 a.m.

ADDRESSES: All comments and requests to speak should be sent to: Office of the Secretary, Federal Energy Regulatory Commission, 825 North Capitol Street, N.E., Washington, D.C. 20426 (Reference Docket No. RM79-21).

HEARING LOCATIONS: *St. Paul, Minnesota hearing:* Minnesota Public Service Commission, 7th Floor, American Center Building, Kellogg and Robert Streets, St. Paul, Minnesota 55101; *Los Angeles, California hearing:* State Building, 107 S. Broadway, Los Angeles, California 90016; *Atlanta, Georgia hearing:* Georgia Public Service Commission, 162 State Office Building, 244 Washington Street S.W., Atlanta, Georgia 30334; *Washington, D.C. hearing:* Federal Energy Regulatory Commission, 825 North Capitol Street, N.E., Hearing Room A, Washington, D.C. 20426.

FOR FURTHER INFORMATION CONTACT:

Norman A. Pedersen, Federal Energy Regulatory Commission, Room 9006, 825 North Capitol Street NE., Washington, D.C. 20426, (202) 275-4147.
James C. Liles, Federal Energy Regulatory Commission, Room 3106, 825 North Capitol Street NE., Washington, D.C. 20426, (202) 275-4121.
Nancy E. Williams, Federal Energy Regulatory Commission, Room 8100F, 825 North Capitol Street NE., Washington, D.C. 20426, (202) 275-0422.

I. Background

The Natural Gas Policy Act of 1978 (NGPA) (Pub. L. 95-621), signed into law on November 9, 1978, mandated a new framework for the regulation of most facets of the natural gas industry. The regulations described in this Notice are proposed for purposes of implementing Title II of the NGPA, "Incremental Pricing", and, particularly, subsection 204(e).

In general, under Title II, interstate pipeline companies are required to pass through portions of their acquisition costs for natural gas to industrial users in the form of a surcharge. The statute requires that the surcharge placed on industrial users be such that the ultimate cost of gas to the user does not exceed the cost of the fuel oil which he would use as an alternative.

The incremental pricing program is to be implemented in two phases. The only facilities affected during the first phase will be those using natural gas as fuel for large industrial boilers. Title II requires that the regulations implementing this first phase be promulgated by November 9, 1979.

During the second phase of the program, incremental pricing may be extended to a broader class of industrial users than those affected by the first stage. The regulations implementing the second phase must be promulgated by May 9, 1980 and will be subject to Congressional review.

This docket, RM79-21, and the regulations set forth below, involve only the implementation of the alternative fuel cost ceilings on incremental pricing, as required by section 204 of the NGPA. In this notice the Commission addresses the issue of whether the appropriate alternative fuel cost to be used in determining the ceiling should be reduced from the level of No. 2 fuel oil.

The other regulations which are needed to implement the first phase of the incremental pricing program will be promulgated in Docket No. RM79-14. That docket will involve both the regulations prescribing the mechanism for incremental pricing and the regulations establishing procedures for obtaining exemptions under section 206 of the NGPA. It is currently anticipated that a notice of proposed rulemaking will be issued in Docket No. RM79-14 within the next few weeks.

II. Public Input to This Proposed Rulemaking

In the course of developing the proposed regulations set forth below, the Commission staff has held informal public discussions with state officials, other representatives of the regulatory community, and various sectors of the natural gas industry. The public conferences have provided a forum for the open exchange of ideas and information on many aspects of the NGPA incremental pricing provisions.

The first conference was held on February 12, 1979 in Docket No. RM79-14. notice of this conference was issued on January 12, 1979 (44 FR 6133, January 31, 1979). A preliminary proposal which had been developed by Commission staff for the implementation of the surcharge passthrough provisions of Title II was included in the January 12th notice. This conference was attended by representatives of many sectors of the natural gas industry—pipeline companies, industry associations, distribution companies, and consumers. On February 22, 1979, the Commission staff held a discussion with representatives of the National Association of Regulatory Utility Commissioners to discuss issues involved in the implementation of incremental pricing. Attending the conference were Chairman Kati Sasseville of the Minnesota Public Service Commission, Commissioner Carmel C. Marr of the New York Public Service Commission and Commissioner Leigh H. Hammond of the North Carolina Utilities Commission.

Additional informal conferences were held on April 2-4, 1979. The April 2nd conference was called in this docket, RM79-21, to give interested parties an opportunity to address the issue of the alternative fuel cost ceiling on incremental prices. In the Notice convening the conference (issued March 14, 1979 (44 FR 16937, March 20, 1979)), conference participants were asked to discuss eight issues regarding establishment of an appropriate alternative fuel cost:

1. Should the alternative fuel cost ceiling be based on the cost of no. 2 fuel oil, the cost of No. 6 fuel oil or someting in between?
2. What should be the regions for which alternative fuel cost ceilings should be determined?
3. Should the ceiling be based on the wholesale price of fuel oil or the retail price?
4. Should the alternative fuel cost ceiling be based on the price quoted for fuel oil before state and local taxes are included, or should the ceiling be based on the price after state and local taxes are included?
5. What should be the length of the period for which weighted averages should be taken in deriving alternative fuel cost ceilings from oil price data?
6. Should there be a downward adjustment of the average cost of oil? If so, what should be the factor by which there will be a downward adjustment?
7. How often should data on fuel oil prices be collected?
8. How frequently should the ceiling be published?

The April 3rd conference (noticed on March 16, 1979 (44 FR 17526, March 22, 1979)) was convened in Docket No. RM79-14 to discuss the various mechanisms for implementation of the surcharge passthrough provisions which were suggested by participants in the February 12th conference.

On April 4 and 12, 1979, the Commission staff had further meetings with members of the National Association of Regulatory Utility Commissioners to discuss issues regarding the incremental pricing program. Present were Commissioner John C. Pickett and Commissioner N. M. Norton, Jr., of the Arkansas Public Service Commission, Commissioner Robert Fischbach of the North Carolina Utilities Commission, and representatives of the state commissions of Illinois, Michigan, California, Wisconsin, New York, Maryland, the District of Columbia, Virginia, Connecticut, Oklahoma and Ohio.

The February and April conferences were very helpful. The Commission expresses its sincere appreciation to all who participated.

All of these formal conferences were transcribed. The transcripts and the written comments provided to the Commission have been made available for public inspection in the Commission's Office of Public Information. The transcripts and written comments associated with the conferences convened in Docket No. RM79-21 shall be part of the public record upon which the final rulemaking in that docket will be based. Similarly, the transcripts and written comments filed in connection with the conferences convened in Docket No. RM79-14 shall

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be part of the public record in that proceeding.

III. Proposed Regulations

Section 204 of the NGPA sets forth provisions regarding the manner in which incremental costs of natural gas, as defined in the Act, are to be passed through to industrial boiler fuel facilities subject to the incremental pricing program. Those costs are to be billed as a surcharge. There is, however, a ceiling on how high incremental pricing can take the cost of gas billed to industrial boiler facilities. Subsection (e) of section 204 directs that the ceiling shall be set at the level paid by industrial users for No. 2 fuel oil, unless the Commission determines that the ceiling should be lowered to a point not lower than the price paid for No. 6 fuel oil. The statute states:

Sec. 204 Method of Passthrough

* * * * *

(e) Determination of Alternative Fuel Cost.—(1) In General.—Except as provided in paragraph (2), the appropriate alternative fuel cost for any region (as designation by the Commission) shall be the price, per million Btu's, for Number 2 fuel oil determined by the Commission to be paid in auch region by inddustrial users of such fuel.

(2) Reduction of Appropriate Alternative Fuel.—The Commission may, by rule or order, reduce the appropriate alternative fuel cost—

(A) For any category of incrementally priced industrial facilities, subject to the rule required under section 201 (including any amendment under section 202 to such rule) located within any region and served by the same interstate pipeline; or

(B) For any specific incrementally priced industrial facility which is subject to such requirements and which is located in any region;

to an amount now lower than the price, per million Btu's, for the Number 6 fuel oil determined by the Commission to be paid in such region by industrial users of such fuel, if and to the extent the Commission determines, after an opportunity for written and oral presentation of views, data, and arguments, that such reduction is necessary to prevent increases in the rates and charges to residential, small commercial, and other high-priority users of natural gas which would result from a reallocation of costs caused by the conversion of such industrial facility or facilities from natural gas to other fuels, which conversion is likely to occur if the level of the appropriate alternative fuel cost were not so reduced.

The Commission believes that the Congressional intent expressed in subsection 204(e) is that the incremental pricing program should not serve to encourage industrial users to switch from natural gas to fuel oil if such switching would result in increased rates for residential and small commercial customers. Accordingly, if setting the alternative fuel cost ceiling at the level of No. 2 fuel oil would be likely to cause fuel switching and a shifting of capital costs from industrial to residential and commercial customers, the ceiling should be reduced in a manner so as to minimize the likelihood of fuel switching. The Commission is mindful of the Congressional admonition that it act expeditiously to prevent incremental pricing pricing from causing load loss and, hence, higher costs to high priority users:[1]

> The conferees urge the Commission to take whatever action it deems appropriate or necessary * * * to avoid any delays in reducing the substitute fuel level so as to avoid the likelihood of conversions from natural gas by industrial users if those conversions would result in increases in natural gas rates for any residential, small commercial, and other high priority customers. The conferees intend that in determining the likelihood of these conversions occurring, the Commission move rapidly in the administering hearings so as to avoid the irreparable damage which the conferees believe will occur to high priority users if these believe will occur to high priority users if thee other industrial users, faced with uncertain natural gas rates, begin taking steps to secure alternate fuel supplies.

A related concern is, of course, the substantial dependence of the United States on imported crude oil. Any increased use of fuel oil by industrial users would only serve to exacerbate this situation.

While, however, the ceiling should be reduced so as to minimize the likelihood of fuel switching and its consequences, the Commission believes that the ceiling should be reduced only as much as necessary to realize that goal. The basic purpose of incremental pricing under Title II is to direct to industrial users, to the greatest extent possible, the increased acquisition costs of natural gas resulting from the provisions of the NGPA. Any reduction in the alternative fuel cost ceiling below the point necessary to prevent fuel switching would be contrary to that purpose. Thus, the Commission must, in its implementation of subsection 204(e), strike a balance between the two goals of maximizing flow-through of incremental costs to industrial facilities and minimizing fuel switching. Setting the alternative fuel cost ceiling gives rise to a number of issues which involve striking the proper balance between these two goals. The discussion which follows is structured around those issues.

[1] S. Rep. No. 95–1752, 95th Cong., 2nd Sess. 100 (1978).

A. *No. 2 or No. 6*

The predominant question with respect to the implementation of subsection 204(e) is whether the alternative fuel cost ceiling should be reduced from the level of No. 2 fuel oil to the level of No. 6. Many of the commenters participating in the April 2nd conference urged that the alternative fuel cost ceiling be set at the level of No. 6 fuel oil rather than No. 2 in order to deter, to the greatest extent possible, any loss of industrial load. Experiences with load shifting were recounted, and situations were described in which fuel switching to the detriment of high-priority consumers might occur. Commenters stated that the alternative fuel for large industrial boilers is usually No. 6 oil, not No. 2. They stated that the operators of large boilers make decisions on an almost daily basis as to their use of fuel—opting for that which bears the lowest price.

The American Gas Association (AGA) submitted the results of a survey it conducted of member companies on the question of where the alternative fuel cost ceiling should be set. Based on the results of that survey, the AGA concluded that if the alternative fuel cost ceiling were established at the No. 2 rather than No. 6 level, at least 741 billion cubic feet (Bcf) of industrial sales would be lost in the year 1980.

The view that there would be substantial load loss and shifting of capital costs if the ceiling were not reduced was broadly supported by participants at the conference. The Public Staff of the North Carolina Utilities Commission submitted an analysis of the industrial service currently provided by the Public Service Company, one of three gas utility companies serving North Carolina. This study showed that of industrial boiler fuel users served by that utility, 87.75 percent, based on volumetric use, have a capability to use No. 6 fuel oil, and 8 percent have the capability to use No. 5 fuel oil. The Public Staff also estimated the effect a loss of these industrial customers would have on the Public Service Company's rates. By looking only at industrial facilities using in excess of 300 Mcf per day—the category of facilities subject to the first phase of the incremental pricing regulations—the Public Staff calculated that the loss of the users who have the capability to use No. 5 and No. 6 fuel oil would mean an increase in the rates to remaining customers on the system of 14.7 cents per decatherm.

The Northern Natural Gas Company said there are approximately 60 customers on its system which will be subject to the first phase of the incremental pricing program. Northern Natural estimated that these customers will, in 1980, use approximately 3.5 percent of the volume of natural gas sold by Northern. Northern found through discussions with its customers that for approximately one-half of the gas volumes consumed by the large industrial users, No. 6 fuel oil is the alternative fuel. Thus, Northern anticipates that there would be a substantial loss of industrial sales if the alternative fuel cost ceiling remained at the No. 2 level.

The State of Louisiana commented that large industrial boilers in Louisiana equipped to burn No. 6 fuel oil outnumber by more than 3 to 1 boilers that are equipped to burn No. 2 fuel oil. the Mississippi River Transmission Corporation submitted an estimate that approximately 20 percent of its total volume of direct sales go to large industrial users who are equipped to burn No. 6 fuel oil.

The Pacific Gas and Electric Company (PG&E), which serves customers in northern California, submitted comments showing that since 1975 it has already lost 110 Bcf of sales due to customers shifting to alternate fuels for economic reasons. PG&E stated that each ten billion cubic feet of gas sales to industrial customers provides approximately $5 million of revenue to help offset fixed costs, giving an indication of the proportion of fixed costs that industrial users absorb.

The comments received to date have covered a spectrum of the interests affected by incremental pricing. Of particular interest is the fact that all state utility commissions which have commented to date—bodies which represent views to which this Commission must give special consideration—have cautioned that a ceiling set at the No. 2 fuel oil level would result in significant conversions to fuel oil for boiler fuel purposes.

In addition to the comments, the Commission has available to it data obtained by the Energy Information Administration (EIA). In December 1978, the Energy Information Administration of DOE sent a questionnaire, Form EIA–134 to interstate pipelines, local distribution companies, state commissions and other interested persons to gather information, on a voluntary basis, about the alternative fuel capabilities of both large and small industrial boilers. EIA also solicited opinions as to what the ceiling should be. The Commission has examined the results of this survey, bearing in mind that the responses were voluntary and thus do not constitute a statistically valid sample. The survey indicated that a significant number of boiler fuel facilities in a majority of the states are equipped to burn No. 6 fuel oil. Further, the majority of respondents favored a ceiling based on the No. 6 oil price. However, the survey also indicated that there are a number of boiler fuel facilities which will be subject to the first phase of the incremental pricing program that only have an alternative fuel capability to use No. 2 fuel oil.

The Commission has also analyzed the data reported on the EIA–50 form. EIA–50 is used to gather information on the alternative fuels that are used to offset curtailments in the delivery of natural gas. Analysis indicates that during the period April 1977—March 1978, large industrial users utilized No. 5 or No. 6 fuel oil to offset approximately 40 percent of the natural gas curtailment they experienced. This percentage translates to approximately 64 million barrels of oil. The EIA–50 data also indicate that No. 1 and No. 2 fuel oil was utilized to offset approximately 20 percent of natural gas curtailments during the same period.

Thus, both the comments received at the April 2nd conference and the data available to the Commission from EIA tend to show that there is a singificant likelihood of widespread conversion from gas to No. 6 fuel oil if the alternative fuel cost ceiling were set uniformly at the level of No. 2 fuel oil prices. The precise amount of the shift cannot be statistically determined from the available data and comments. Nor can the effect on high-priority consumers be estimated. However, there is a clear likelihood that sizable shifts from gas to oil could occur. On the other hand, however, it has not been shown that it is necessary to reduce the alternative fuel cost ceiling to the No. 6 level for all industrial boiler fuel users in order to prevent conversions from gas to oil and a shifting of capital costs to high-priority customers.

The question of where to set the alternative fuel cost ceiling must be addressed with great caution. The Commission is aware that an inappropriate ceiling could have an extremely serious adverse impact on the natural gas industry and its customers. The results could potentially be irreparable if a pipeline or distribution company were unable to replace lost industrial load with either new industrial load or new high-priority use. And even if new high-priority load could be added over time, in all probability it could not be added quickly enough to compensate for sudden large losses of industrial load.[2] Moreover, the Commission is cognizant of the public policy impact an inappropriate action would have with respect to the country's demand for additional supplies of imported crude oil.

In order to balance these concerns with the Congressional intent that incremental costs be borne by industrial customers to the maximum extent possible, the Commission proposes that three alternative fuel cost ceilings be established for each region of the country—one at the level of No. 2 fuel oil, another at the level of high sulfur No. 6 fuel oil and a third at the level of low sulfur No. 6 fuel oil. Industrial boiler fuel facilities would be incrementally priced only up to the level of the lowest priced fuel oil which they could in fact use. This approach would avoid the establishment of a blanket ceiling for all users—one which might be too high for some users, and thus result in their loss to the system, while being too low for other users, allowing them to escape some of the costs which Congress intended they should bear under the incremental pricing program.

In the proposed regulations, "high sulfur" oil is defined as oil containing over 1 percent sulfur. "Low sulfur" oil is oil containing 1 percent or less sulfur. The Commission proposes to have different ceilings for high and low sulfur No. 6 fuel oil because the information available to the Commission indicates that the price differential between the two categories of No. 6 oil can be as great as that between No. 2 and No. 6 prices. In a letter dated April 24, 1979, the Assistant Secretary for Policy and Evaluation of the Department of Energy urged the Commission to consider the variations in No. 6 fuel oil prices due to sulfur content. The Assistant Secretary noted that, using data compiled by the Energy Information Administration of DOE, No. 6 fuel oil containing .3 percent or less sulfur has at times carried a price 36 cents higher, on a per million Btu basis, than No. 6 fuel oil with more than 1 percent sulfur. Furthermore, due to legal restrictions having to do with air quality standards, there may be a large number of boilers which are equipped to utilize only low sulfur No. 6 oil.

Under the proposal contained in the attached proposed rule, there would be a certification procedure for determining the alternative fuel capability of industrial boiler fuel facilities which are

[2] Further, even if new high-priority load were attached to offset the loss of industrial load, additional storage might be required.

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not exempt from incremental pricing.[3] If a facility is technically able and legally permitted to burn low sulfur No. 6 fuel oil, or if a facility is technically able and legally permitted to burn high sulfur No. 6 fuel oil, a responsible official of the facility may so certify. If there were such a certification, a non-exempt industrial boiler fuel facility would be incrementally priced at the level of the lowest priced alternative fuel—No. 6 low sulfur fuel oil or No. 6 high sulfur fuel oil—which the facility had been certified as being capable of burning. If there were no such certification of legal and technical capability to burn either low or high sulfur No. 6 fuel oil, a non-exempt facility would be deemed to have the capability to burn No. 2 fuel oil and would be incrementally priced at that level.

Certifications would be made through the filing of an alternative fuel capability form, signed under oath by a responsible company official, with the Commission. A copy of the executed form would be filed with the natural gas supplier serving the facility. Blank forms would be supplied to industrial customers by their supplier at the same time that forms requesting exemptions are supplied,[4] September 1, 1979, and they would be available on an ongoing basis after that for the benefit of firms which subsequently install No. 6 alternative fuel capability. If a facility is not equipped to burn a No. 6 oil, but such capability is later installed, the certification could be filed at a later date.

The proposed regulations require that owners retain any documents showing that a facility is equipped with alternative fuel capability for a period of three years following the first billing by a natural gas supplier under the program which reflects a surcharge at one of the two No. 6 alternate fuel prices. The type of proof which would fulfill this requirement, aside from the alternative equipment itself, would be, for example, bills for the actual installation of the equipment, a qualified engineer's report that capability is in place, bills for purchases of No. 6 fuel oil, or contracts for the supply of No. 6 oil. This retention of records would allow for the audit of filed certifications by Commission enforcement personnel. An affiant will be required to describe on his alternative fuel capability form what he will retain as evidence for his claim that his facility is capable of burning a No. 6 oil.

The certification required under this approach will only have to be filed once and, thus, should not place a significant burden on industrial end-users.

A natural gas supplier will be required to have available for public inspection all alternative fuel capability forms he has received. Additionally, all such forms filed with the Commission will be available to the public. Any interested person who desires to protest any certification of alternative fuel capability may do so by filing a protest in accordance with section 1.10 of the Commission's Rules of Practice and Procedure.

Any industrial user which believes that the self-certification procedure imposes a special hardship on him may request administrative relief under the adjustment procedures which were recently promulgated as interim regulations by the Commission (Order No. 24, issued on March 22, 1979 in Docket No. RM79–32).

The Commission believes that the three-tiered ceiling described above represents an appropriately cautious approach which should be adopted in the initial stage of the incremental pricing program. Retention of the No. 2 ceiling established in section 204(e) of the NGPA would, the Commission believes on the basis of the data and comments now before it, be likely to lead to fuel switching and a shifting of capital costs to high-priority customers. An across-the-board reduction of the ceiling to the level of No. 6 fuel oil would, however, fail to maximize flow-through of incremental costs to industrial users, insofar as some industrial facilities are either legally or technically incapable of using No. 6 oil.

The Commission requests comments on the three-tiered approach. Particularly, the Commission requests comments as to whether modifications to the three-tiered approach described above are required to provide for situations where an industrial facility has an alternative fuel capability to utilize a fuel of a quality between No. 2 and either low or high sulfur No. 6 fuel oil. No. 4 or No. 5 fuel oil are often obtained by blending No. 2 and No. 6. Where No. 2 and No. 6 are blended, it is very possible the alternative fuel thus obtained carries a lower net acquisition cost than No. 2 does by itself. Thus, it might be appropriate to permit an industrial user using a blend to have an alternative fuel ceiling below that set for No. 2, though above the No. 6 ceiling levels. Commenters on this issue are requested to submit as much data as possible. If a regulatory solution is recommended, commenters are requested to submit regulatory language which they believe would address the problem effectively.

Under the proposed rule, technical capability and legal ability to use various fuels would determine what ceiling would apply to a specific facility. The Commission requests commenters to provide information about the extent of No. 6 fuel burning capability generally and by category of user and region.

Additionally, the Commission asks commenters to address the question of whether, if it is shown that there is widespread technical capability and legal ability to switch from gas to No. 6 fuel oil, it is legal and appropriate for the Commission, on the basis of its expertise and knowledge of gas pricing policy and economics, to infer that there would be a likelihood of fuel switching with an adverse shifting of capital costs to high priority customes.

B. *Regions*

Subsection 204(e) gives the Commission the flexibility to determine the regions for which alternative fuel price ceilings shall be established.

The majority of industry participants in the April 2nd conference encouraged the Commission to establish alternate fuel price ceilings for each Standard Metropolitan Statistical Area (SMSA). These commenters stated that market conditions vary from one metropolitan area to another, and from a metropolitan area of a state to a rural area. Several of the factors involved in the establishment of oil prices were described, such as transportation costs, air quality standards, the relative availability of oil in a given region, the size and conditions of a purchase, and the quality of the oil purchased. By establishing ceilings for each SMSA, commenters suggested that the ceilings would be more sensitive to the conditions existing in any particular area.

Some commenters urged that the incremental pricing regions should be the service areas of local gas distribution companies. These commenters stated that this approach would permit each company to continue to maintain uniform rates throughout its service area.

The representatives of individual states who commented on this issue were unanimous in urging that states be the regions. A few commenters stated that large multi-state regions would best serve the purposes of subsection 204(e).

In deciding what the incremental pricing regions should be, there are five standards which should be considered:

[3] The procedure for obtaining an exemption will be addressed in detail in the notice of proposed rulemaking in Docket No. RM79–14. It is requested, therefore, that comments submitted in this docket, RM79–21, not address the exemption issue.

[4] See footnote 3 on previous page.

(1) the number of regions should be a manageable number from an administrative point of view; (2) each region should be such that prices charged to end-users will be reasonably close to the average for the region; (3) each region should include enough oil users to obtain a statistically meaningful sample size; (4) regions should be rationally related to industrial concentrations and fuel oil marketing areas; and (5) the regions should be as consistent with political boundaries as possible.

The Commission staff suggested three approaches which would be administratively workable and would satisfy to a large degree the five criteria above. These would be: (1) to use states as regions; (2) to divide the continental United States into eight large multi-state regions; or (3) to use the eight large multi-state regions, but break out from them the 31 metropolitan regions which have a population of one million or above.

The Commission proposes to adopt the third approach, which would result in the establishment of alternative fuel price ceilings for 39 separate regions. A list of the 39 regions and a map indicating them is attached as an Appendix to the regulations set forth below. The 31 metropolitan areas with a population of one million or more were derived from data gathered by the Bureau of the Census of the United States Department of Commerce. They reflect either SMSA's or Consolidated Metropolitan Statistical Areas (CMSA's). Like SMSA's and CMSA's, the metropolitan regions observe county boundaries. The eight large multi-state regions were derived by modifying various regional divisions used by the Bureau of the Census, the Department of Energy and others to take into account energy production, distribution and sale patterns.

Hawaii and Alaska are not included in any of the regions, since neither state will be affected by the initial phases of the incremental pricing program. Neither presently utilizes gas from nor produces gas for the interstate market.

The metropolitan/multi-state region approach would permit the establishment of alternative fuel price ceilings which, to a substantial degree, would reflect market conditions in discrete marketing areas, but it would avoid the administrative burden involved in establishing prices for nearly 300 SMSA's. There should be a relatively small dispersion of observed prices around the mean, and sample size will probably be adequate. The nation's larger industrial and oil marketing concentrations are recognized, and state or county boundaries are followed.

The Commission believes that the metropolitan/multi-state approach is preferable to using states, since state boundaries frequently do not bear a rational relationship to industrial or oil marketing areas. The approach is also preferable to using distribution company service areas since some distribution companies, for example, Atlanta Gas, service non-contiguous and divergent areas.

The Commission requests comments both on the proposed approach and on, especially, two other possible approaches: the use of states as regions and the use of large multi-state regions. If the comments submitted in response to this notice present persuasive reasons for adopting one of these other approaches, the Commission hereby gives notice that it may do so in promulgating a final rule.

C. *Data Collection*

The Commission proposes to request that the Energy Information Administration (EIA), in its role as the data collection agency of the Department [5], gather the data necessary to determine alternative fuel prices charged to industrial users in each region and to process that data in order to arrive at three ceiling levels for each incremental pricing region.[6]

EIA would be requested to gather before-tax data on the prices charged to large, non-utility industrial users for sales made on a contract basis for large lots of No. 2 fuel oil, high sulfur No. 6 fuel oil and low sulfur No. 6 fuel oil. The data would be collected from sellers rather than purchasers. Respondents would be asked to identify the regions, based on a facsimile of the map which is appended to the regulations below, to which the sales for which prices are provided are being made. For any case in which a meaningful sample cannot be obtained for a region, the EIA will be requested to derive a price in accordance with appropriate statistical methodology.

1. *Data Collection from Sellers Rather Than Purchasers.*—It is proposed that EIA collect prices on the three alternative fuels from firms selling the fuels rather than from purchasers for the following reasons. First, the EIA currently collects data on No. 2 prices on a regular basis, and this collection effort can easily be adapted to the requirements of the incremental pricing program. Second, it is EIA's experience that collection of price data from end-users of a product is very difficult. If they do not respond voluntarily, enforcing compliance is a lengthy and burdensome task. Further, end-users who are using both fuel oil and natural gas would have an incentive to misreport the prices they are paying for fuel oil in order to lower their potential price for natural gas.

2. *Large Lot Sales Data.*—No. 6 fuel oil is typically sold in large quantities and priced on such a basis. No. 2 fuel oil sold for boiler fuel use in large industrial facilities is also sold and priced in large quantities. Since the first phase of the incremental pricing program involves large industrial boiler fuel facilities, it is proposed that the data on which the alternative fuel cost ceilings will be based should reflect large, bulk lot industrial sales.

3. *Contract Rather Than Spot Market Data.*—The Commission proposes that the prices gathered by EIA should be those charged by a seller to a buyer in a contractual type of relationship. There are two reasons for using contract rather than spot market prices. First, spot prices during a given month may not be indicative of the actual prices which large industrial users are paying. It appears on the basis of the information the Commission has before it, that large non-utility industrial users typically purchase a predominant amount of their fuel oil on a contract basis. Second, spot market prices tend, over the long term, to average out at a level near long-term contractual prices. The spot prices may at any one time be higher or lower than contract prices, but over any significant length of time, they should approximate, on the average, the contractual prices charged over the same span of time.

4. *Price FOB Buyer's Receiving Terminal.*—Fuel oil sellers would be requested to report to EIA the FOB prices at the purchaser's receiving terminal. Thus, the price data gathered by EIA would reflect transportation costs. This approach was suggested by

[5] Section 506(b) of the NGPA vests in the Commission, for purposes of carrying out the functions vested in it by the NGPA, all of the authority vested in the Secretary of Energy by section 301(a) of the DOE Organization Act, which encompasses the authority set forth in section 11(b) of the Energy Supply and Environmental Coordination Act of 1974 and sections 13(b), (c) and (d) of the Federal Energy Administration Act of 1974. This authority will be exercised by the EIA on behalf of the Commission.

[6] It was initially hoped that a data collection effort already in place could be modified to fit the needs of the incremental pricing program, in order to minimize the administrative burden involved in starting the program. The EIA specifically investigated the possibility of using utility purchases of fuel oil as reported on Form EIA–423. EIA concluded, however, that the quality of fuel oil and the terms of purchase encompassed by utility purchases vary significantly from industrial purchases of boiler fuel. In addition, there is no Form EIA–423 data available for No. 6 fuel oil deliveries for 14 states.

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the majority of the comments received on this issue. Almost all commenters have urged that the alternative fuel price ceilings should reflect the price purchasers pay for the fuel oil delivered to the facility in which the fuel is to be burned.

5. *Before-Tax or After-Tax Data.*—The Commission proposes that all fuel oil prices submitted to EIA be reported exclusive of state and local taxes. The reason for requesting per-tax data and for basing the alternative fuel cost ceilings on such data is that, although the calculation of the incremental pricing surcharge will take into account state and local taxes, the alternative fuel cost ceiling, exclusive of taxes, will have to be known in order to carry out the surcharge calculation. The calculation of incremental pricing surcharges will be discussed in Docket No. RM79–14. The Commission believes the majority of EIA's respondents will be able to report pre-tax prices, since sellers must keep such records for tax purposes and often quote prices exclusive of local taxes.

6. *Conversion Factor.*—Subsection 204(e) requires that the alternative fuel cost by stated on a per million Btu basis. The prices which EIA will collect will typically be on a per barrel basis. Thus, a conversion will be required. The Connecticut Natural Gas Corporation submitted a comment suggesting that adequate provision be made to account for the variations in the Btu content of oils. The EIA has utilized, over time, standard conversion factors of 5.8 million Btu's per barrel of No. 2 fuel oil and 6.3 million Btu's per barrel of No. 6 fuel oil in processing prices of various fuels to place them on a comparable basis. It is anticipated EIA will continue to utilize these factors.

D. *Averaging and Adjustment Methodology*

After EIA collects data on the prices charged for No. 2, No. 6 low sulfur and No. 6 high sulfur fuel oil to industrial users in each of the 39 incremental pricing regions, ceilings will have to be generated from the collected data. The Commission proposes that from the data it collects, EIA derive an average price, weighted by volumes, for each of the three ceiling levels for each region. Once weighted averages have been determined, each average would be adjusted downward by two standard deviations. The point which is two standard deviations removed from the mean would be the ceiling price for incremental pricing purposes unless that point is lower than the lowest reported price for the period. In that event, the lowest reported price would be the ceiling.

The Commission believes the proposed downward adjustment methodology should result in ceiling prices which are close to what the largest industrial users actually pay. If there were no downward adjustment, those industrial boiler fuel facilities which could purchase oil for a price below the weighted average would, absent some unforeseen economic factor, switch to the fuel oil they were capable of burning. The result would be load loss and a shifting of capital costs to high-priority customers.

Under the "two standard deviation" approach, if the price data collected from fuel oil dealers were to form an appoximately normal or "bell" shaped curve, and the ceiling were set at the weighted average minus two standard deviations, about 2½% of all fuel oil sales would be priced below the ceiling.[6]

There is, however, reason to suspect that the fuel oil price data will not form a normal, "bell" shaped curve. For a variety of reasons having to do with the nature of the fuel oil market, data distributions which are skewed to the right (higher prices) and ending more or less abruptly on the left (lower prices) are likely. The point which is two standard deviations less than the mean of such a distribution may well be below the lowest price reported.[7] It is for this reason the commission proposes to use the higher of the two possible prices—the weighted average adjusted downward by two standard deviations, or the lowest observed price—as the ceiling. If subsequent experience with this approach suggests that the weighted average price need only be adjusted downward by one standard deviation in order to arrive at a price in the vicinity of the lowest actual observed price, the commission will later consider altering the two standard deviation methodology.

Several comments were submitted at the April 2nd conference as to the appropriate adjustment that should be made in deriving a ceiling price from a weighted average. Some comments supported use of fixed percent adjustment factors ranging from 7.5 to 20 percent. An arbitrary percentage adjustment factor would, however, be inflexible. In some cases it would result in a ceiling which would be above a substantial number of observed prices while in other cases it would result in a ceiling below any observed price. Thus, either it would result in fuel switching or it would unnecesssarily reduce the flow-through of incremental costs to industrial customers. The approach proposed in this notice attempts to steer between this Scylla and Charybdis.

Several other commenters urged that the ceiling be set at the level of the lowest observed price, with no adjustment. Use of the lowest observed price would insure to a large extent against loss of load, but, if the lowest observed price were atypical, could reduce significantly and unnecessarily the amount of incremental costs which could be passed through to industrial users.

E. *Frequency of Data Collection and Publication*

The Commission proposes to request EIA to collect data and to publish alternative fuel price ceilings each month. This reflects the view expressed by many of the participants in the April 2nd conference. The Commission is concerned about the administrative burden involved with a monthly collection and publication schedule. However, the Commission is currently disposed to accept the counsel of those comments expressing the view that oil prices are changing so rapidly that anything less frequent than monthly publication of ceiling prices would be inadequate.

On the one hand, in a period of rising oil prices, a certain proportion of the costs which industrial users could bear would not be directed to them if alternate fuel ceilings were established on a less frequent basis. On the other hand, if there were falling prices due, perhaps, to undercutting of the ceiling by fuel oil dealers, less frequent publication would probably result in fuel switching.

Several commenters expressed their concern that fuel oil dealers may be

[6] A standard deviation is a statistical measure of the degree of dispersion, or scatter, in a sample of data which has been gathered at random. The greater the degree of dispersion, the greater the value of the standard deviation. The probability that any single observation in a large set of randomly selected observations will lie far from the average is mathematically described in terms of the standard deviation. For example, if a set of data is distributed according to a "bell" shaped curve, approximately 68% of all observations will differ from the average by less than one standard deviation. Approximately 95% of the observations will differ from the average by less than two standard deviations. In this latter case, generally half of the outlying observations, or about 2½% of the total, will be on the low side. Thus, while 50% of all observations can be expected to be lower than the average, only about 2½% can be expected to be lower than the average minus two standard deviations.

[7] Commissioner Robert Fischbach of North Carolina submitted data for a recent month indicating that the lowest price being paid in that state by an industrial user for No. 6 fuel oil is approximately 1.6 standard deviations below the weighted average price paid by the North Carolina state government for No. 6 oil.

tempted to undercut the alternative fuel price ceilings established in any given period in order to lure possible customers to fuel oil. Establishment of alternative fuel price ceilings on a monthly basis should discourage undercutting. If fuel oil dealers cut their prices in one month, the ceiling prices would soon decrease also, since the ceiling prices will be based on fuel oil prices actually charged. If the undercutting were to continue, the ceiling prices would quickly reach a level where further undercutting would be uneconomical for fuel dealers.

The Commission believes that any lag between the collection of data and the publication of ceiling prices based thereon should be minimized. EIA has informed the Commission that the collection and analysis of data for any given month will require approximately 45 days of processing time. On the other hand, however, ceiling prices should be available to the public at least 15 days before they are to be utilized. Accordingly, the Commission proposes to request EIA to publish ceiling prices within 45 days after the close of the month for which data is collected, but no later than 15 days prior to the first day of he month for which the ceiling prices would be applicable. Thus, data collected for October, 1979 would have to be published in the form of ceiling prices by December 14, 1979. (December 15, 1979, falls on a weekend.) The ceiling prices would be published in the **Federal Register** and would be available through the FERC Office of Public Information.

The Commission is aware that, at least in part, prices for heavy oils have fluctuated seasonally. Prices for heavy oils usually decline in the summer months and begin to rise in late summer and early fall. This phenomenon, if it were to occur, could create problems. April fuel oil prices will, for example, form the basis of ceilings for July. By then, industrial users might be able to purchase fuel oil at a lower cost. The Commission specifically requests comments as to whether, and to what extent, there is a seasonality problem; whether the proposed "two-standard deviation" downward adjustment method will adequately compensate for this seasonality problem; and whether any additional adjustments will be required. If any commenters urge that there should be some additional adjustment to compensate for seasonal fluctuations in oil prices they should describe with specificity the sort of adjustment method they would propose.

IV. Comments Requested.

The Commission requests comments on the proposed regulations set forth below. In particular, the Commission requests comments on whether the proposals are workable, whether they will serve to fully implement the alternative fuel cost ceiling provisions of Title II of the NGPA, and the nature and significance of any environmental issues. Any person who believes an approach other than that described in this Notice would provide a more workable and appropriate regulatory approach to implement section 204(e) of the NGPA is encouraged to submit suggestions in detail.

The Commission also requests the submission of any studies, data or statistical analyses that will enable it to thoroughly eveluate the various alternatives described above and as may be submitted by commenters.

V. Comment Procedures

A. *Written Comments.*—Interested persons are invited to submit written comments, data, views, or arguments with respect to this proposal. Comments should be submitted to the Secretary, Federal Energy Regulatory Commission, 825 North Capitol Street, N.E., Washington, D.C. 20426, and should reference Docket No. RM79–21. An original and 14 copies should be filed. All comments received prior to 4:30 p.m. EDT, June 19, 1979, will be considered by the Commission to promulgation of final regulations. All written submissions will be placed in the public file which has been established in this docket and which is available for public inspection in the Commission's Office of Public Information, Room 1000, 825 North Capitol Street, N.E., Washington, D.C., during regular business hours.

B. *Public Hearings.*—Public hearings concerning this proposal will be held in St. Paul, Minnesota on June 6, 1979; in Los Angeles, California on June 8, 1979; in Atlanta, Georgia on June 15, 1979; and in Washington, D.C. on June 18, 1979. The times and places for the hearings are indicated in the "DATES" and "ADDRESSES" section of this Notice. Any person interested in this proceeding or representing a group or class of persons interested in this proceeding may make a presentation at any of the hearings provided that a written request to participate is submitted to the Secretary of the Commission at the address given above at least seven days before the date the hearing is to be convened. Requests to participate should include a reference to Docket No. RM79–21, should indicate the hearing in which the person making the request wishes to participate, should indicate the amount of time desired, and should include a telephone number where the person making the request may be reached. A list of the participants in each hearing will be available in the Commission's Office of Public Information three days before the hearing and will be available at the site of the hearing on the morning of the hearing. The presiding officer is authorized to limit oral presentations at the public hearings both as to length and as to substance. Persons participating in the public hearings should, if possible, bring 150 copies of their testimony to the hearings.

The hearings will not be judicial or evidentiary-type hearings. There will be no cross-examination of persons presenting statements. However, the panel may question such persons and any interested person may submit questions to the presiding officer to be asked of persons making statements. The presiding officer will determine whether the question is relevant and whether the time limitations permit it to be presented. Any further procedural rules will be announced by the presiding officer at the hearings. Transcripts of the hearings will be available in the public file for this proceeding, Docket No. RM79–21, in the Commission's Office of Public Information.

The Commission proposes to make these amendments, when adopted, effective on September 1, 1979. As noted above, Title II of the NGPA requires that final regulations be in place by November 9, 1979. In order that both the regulations set forth below and the regulations to be adopted in Docket No. RM79–14 can be implemented with the least disruption to currently followed reporting and accounting practices, the Commission proposes to adopt these regulations prior to the November 9th deadline.

(Natural Gas Act as amended, 15 U.S.C. 17 *et seq.*; the Natural Gas Policy Act of 1978, Pub. L. 95–621, 92 Stat. 3350, 15 U.S.C. 3301, *et seq.*; the Department of Energy Organization Act, 42 U.S.C. 7101, *et seq.*; E.O. 12009, 42 FR 46267)

In consideration of the foregoing, it is proposed to amend Subchapter I of Chapter I of Title 18 of the Code of Federal Regulations by the addition of a new Part 282, to read, in part, as set forth below.

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By direction of the Commission.

Kenneth F. Plumb,

Secretary.

Subchapter I of Chapter I of Title 18 is amended by adding a new Part 282 to read as follows:

PART 282—INCREMENTAL PRICING

Subpart A—General Rules and Definitions

Sec.
282.101 Purpose.
282.102 Applicability and effective date.
282.103 Definitions.

Subpart B [Reserved]

Subpart C [Reserved]

Subpart D—Alternative Fuel Cost

282.401 Scope.
282.402 General rule.
282.403 Alternative fuel capability of a facility.
282.404 Alternative fuel price ceilings.

Subpart E [Reserved]

Subpart F [Reserved]

Appendix

Authority: This part is issued under the Natural Gas Act as amended, 15 U.S.C. 717 *et seq.*; the Natural Gas Policy Act of 1978, Pub. L. 95–621, 92 Stat. 3350, 15 U.S.C. 3301, *et seq.*; the Department of Energy Organization Act, 42 U.S.C. 7101, *et seq.*; E.O. 12009, 42 FR 46267.

Subpart A—General Rules and Definitions

§ 282.101 Purpose.

The purpose of this part is to set forth an incremental pricing rule in accordance with Title II of the Natural Gas Policy Act of 1978. The rule requires that certain costs of acquiring natural gas be passed through as a surcharge on sales of natural gas used for certain uses specified in the rule.

§ 282.102 Applicability and effective date.

(a) *Costs.* Costs described in Subpart —— and incurred by natural gas suppliers on or after January 1, 1980 shall be subject to this part.

(b) *Natural gas suppliers.* Interstate pipelines and local distribution companies shall be subject to this part.

(c) *Effective date.* The provisions of this part shall be effective September 1, 1979.

§ 282.103 Definitions.

For purposes of this part: (a) "Natural gas supplier" means an interstate pipeline or a local distribution company.

(b) "Industrial facility" means any facility which primarily changes raw or unfinished materials into another form or product.

(c) "Non-exempt industrial boiler fuel facility" means any industrial boiler fuel facility other than any such facility which has been exempted from the provisions of this part in accordance with § ——.

(d) "No. 2 fuel oil" means No. 2 oil as defined in the standard specification for fuel oils published by the American Society for Testing and Materials, ASTM D 396–78.

(e) "No. 6 fuel oil" means No. 6 oil as defined in the standard specification for fuel oils published by the American Society for Testing and Materials, ASTM D 396–78.

(f) "Low sulfur fuel oil" means any oil containing 1 percent (1%) or less sulfur content by weight.

(g) "High sulfur fuel oil" means any oil containing more than 1 percent (1%) sulfur content by weight.

Subpart B [Reserved]

Subpart C [Reserved]

Subpart D—Alternative Fuel Cost

§ 282.410 Scope.

This subpart implements section 204(e) of the NGPA and sets forth the method of determination of the alternative fuel price ceiling to be used in the calculation of the incremental pricing surcharge to industrial users.

§ 282.402 General Rule.

(a) The alternative fuel capability of each non-exempt industrial boiler fuel facility shall be determined as described in § 282.403.

(b)(1) Alternative fuel price ceilings shall be determined for No. 2 fuel oil, No. 6 low sulfur fuel oil, and No. 6 high sulfur fuel oil for each incremental pricing region in the manner described in § 282.404.

(2) The alternative fuel price ceiling which shall be applicable to a non-exempt industrial boiler fuel facility for incremental pricing purposes during any month shall be the ceiling which has been established for that month for the region in which the facility is located and which corresponds to the lowest-priced alternative fuel capability of the facility as determined in accordance with § 280.403.

§ 282.403 Alternative fuel capability of a facility.

(a) *General rule.* Each non-exempt industrial boiler fuel facility subject to this part shall, for purposes of this part, be deemed to have the capability to use No. 2 fuel oil as an alternative to natural gas, except for those facilities which are certified as having the capability to burn No, 6 high sulfur fuel oil or No. 6 low sulfur fuel oil, as provided by paragraph (b) of this section. Such certification shall be made by filing an alternative fuel capability form as provided in paragraph (c) of this section.

(b) *Certification of No. 6 capability.* A responsible official associated with a non-exempt industrial boiler fuel facility:

(1) may certify that the facility has the capability to burn No. 6 high sulfur fuel oil if the facility is technically capable and legally permitted to burn No. 6 high sulfur fuel oil; or

(2) may certify that the facility has the capability to burn No. 6 low sulfur fuel if the facility is technically capable and legally permitted to burn No. 6 low sulfur fuel oil.

(c) *Alternative fuel capability form.* (1) *Commission to provide form.* The Commission shall provide the alternative fuel capability form referenced in paragraph (a) to be used in the certification of the alternative fuel capabilities of non-exempt industrial boiler fuel facilities.

(2) *Commission address.* Alternative fuel capability forms will be available upon request from the Office of ——————, Federal Energy Regulatory Commission, Room ——, 825 North Capitol Street, N.E., Washington, D.C. 20426.

(3) *Forms available from natural gas suppliers.* Natural gas suppliers shall make available for the use of their customers copies of the FERC alternative fuel capability form.

(i) *Initial service of form.* Not later than September 1, 1979, each natural gas supplier shall mail or otherwise supply an alternative fuel capability form to each facility on each natural gas supplier's system which the natural gas supplier did not determine to be exempt from incremental pricing on the basis of the natural gas supplier's own records.

(ii) *Ongoing availability of form.* After September 1, 1979, natural gas suppliers shall make alternative fuel capability forms available at their principal place of business on an ongoing basis during regular business hours.

(4) *Contents of form.* The alternative fuel capability form shall: (i) provide the affiant the opportunity to certify that its industrial boiler fuel facility is technically capable and legally permitted to burn No. 6 low sulfur fuel oil;

(ii) provide the affiant the opportunity to certify that its industrial boiler fuel facility is technically capable and legally permitted to burn No. 6 high sulfur fuel oil;

(iii) notify the affiant that its industrial boiler fuel facility will be subject to an alternative fuel price ceiling corresponding to the level of the alternative fuel capability certified by the affiant;

(iv) contain a provision placing the affiant on notice that if a certification is made that an industrial boiler fuel facility is technically capable and legally permitted to burn a No. 6 fuel oil, records substantiating such certification must be retained, as provided in paragraph (g) of this section; and

(v) require the affiant, either on the form or in an attachment to the form, to describe the records which will be retained.

(5) *Filing.* A certification of alternative fuel capability shall be effective only after an alternative fuel capability form is completed, signed and dated under oath, and filed with the Office of ——————, Federal Energy Regulatory Commission, Room ——, 825 North Capitol Street, N.E., Washington, D.C. 20426, with a copy sent to the natural gas supplier serving the facility.

(d) *Effective date of certification.* A properly executed and filed alternative fuel capability form shall determine the alternative fuel price ceiling which shall be applicable to a facility as of the beginning of the first full month of service after the form is filed with the Commission and received by the facility's natural gas supplier.

(e) *Public availability of certification.* (1) A natural gas supplier shall maintain at its principal place of business copies of all alternative fuel capability forms which it has received and make such copies available for public inspection during regular business hours.

(2) Copies of alternative fuel capability forms filed with the Commission shall be available through the Office of Public Information, Room 1000, Federal Energy Regulatory Commission, 825 North Capitol Street, Washington, D.C. 20426. A copy of the alternative fuel capability form filed by any particular industrial user will be mailed to any interested party who requests it.

(f) *Protests.* Any interested person who desires to protest the alternative fuel capability claimed on an alternative fuel capability form may file a protest. The procedures set forth in § 1.10 shall govern the filing of such a protest.

(g) *Record retention.* (1) Each industrial user shall maintain books and records to substantiate a certification of alternate fuel capability under this section. Such books and records shall be retained for a period of three years following the initial billing by the natural gas supplier which reflects the alternate fuel capability which has been certified.

(2) Each industrial user shall make such books and records available during regular business hours for public inspection in a convenient form and place.

282.404 Alternative fuel price ceilings.

(a) *General rule.* Each month, for each region as set forth in paragraph (b) of this section, three alternative fuel price ceilings on incremental pricing shall be established. These ceilings shall be based on the prices paid in each such region by industrial users for No. 2 fuel oil, No. 6 low sulfur fuel oil and No. 6 high sulfur fuel oil. Such price data shall be gathered in accordance with paragraph (c) of this section and shall be derived from that data in accordance with paragraph (d) of this section. Alternative fuel price ceilings shall be published in accordance with paragraph (e) of this section.

(b) *Incremental pricing regions.* Alternative fuel price ceilings shall be established for each of the 39 regions described and indicated in the Appendix to this part.

(c) *Data from which alternative fuel price ceilings will be determined.* Each month, data shall be collected on the prices being charged for No. 2 fuel oil, No. 6 high sulfur fuel oil and No. 6 low sulfur fuel oil to industrial users located in each incremental pricing region. Such data shall be collected from fuel oil sellers. The prices collected shall be those that are charged for volumes delivered to large, non-utility industrial users which purchase on a large lot or contract basis and shall not include state or local sales taxes.

(d) *Method for deriving alternative fuel price ceilings.* (1) Based on the data described in paragraph (c) of this section, an average price, weighted by volumes, shall be calculated for each of the three alternative fuels for each region.

(2) Weighted average prices shall be adjusted downward by two standard deviations.

(3) For each region, the weighted average price for each fuel, as adjusted, shall be compared to the lowest reported actual price for such fuel. The higher of these shall be established as the alternative fuel price ceiling for that fuel for the region.

(e) *Publication of ceilings.* (1) Alternative fuel price ceilings shall be made public no later than fifteen days prior to the first day of the calendar month during which such ceilings will be used for incremental pricing under this part.

(2) The alternative fuel price ceilings published in December, 1979, for the month of January, 1980, shall be based on data reported for October, 1979 sales. Ceilings published in following months shall be similarly based on data gathered for the second month previous to the month in which the ceiling is published.

Subpart E [Reserved]

Subpart F [Reserved]

Appendix

Region 1.—Boston-Lawrence-Lowell, Mass.-N.H. Metropolitan Area.
(Associated with Region 32.)
Counties: Essex, Mass., Middlesex, Mass., Norfolk, Mass., Plymouth, Mass., Suffolk, Mass., Rockingham, N.H.
Region 2.—Hartford-New Britain-Bristol, Ct. Metropolitan Area.
(Associated with Region 32.)
Counties: Hartford, Ct., Middlesex, Ct., Tolland, Ct.
Region 3.—New York-Newark-Jersey City, N.Y., N.J., Ct. Metropolitan Area.
(Associated with Region 33.)
Cities: New York City.
Counties: Putnam, N.Y., Rockland, N.Y., Westchester, N.Y., Bergen, N.J., Essex, N.J., Morris, N.J., Somerset, N.J., Union, N.J., Hudson, N.J., Nassau, N.Y., Suffolk, N.Y., Monmouth, N.J., Middlesex, N.J., Passaic, N.J., Fairfield, Ct.
Region 4.—Philadelphia-Wilmington-Trenton, Pa., Del., Md., N.J. Metropolitan Area.
(Associated with Region 33.)
Counties: Bucks, Pa., Chester, Pa., Delaware, Pa., Montgomery, Pa., Philadelphia, Pa., Burlington, N.J., Camden, N.J., Gloucester, N.J., Mercer, N.J., New Castle, Del., Salem, N.J., Cecil, Md.
Region 5.—Baltimore, Md. Metropolitan Area.
(Associated with Region 33.)
Cities: Baltimore, Md.
Counties: Anne Arundel, Md., Baltimore, Md., Carroll, Md., Harford, Md., Howard, Md.
Region 6.—Washington, D.C., Md., Va. Metropolitan Area.
(Associated with Region 33.)
Cities: District of Columbia, Alexandria, Va., Fairfax, Va., Falls Church, Va., Manassas, Va., Manassas Park, Va.
Counties: Charles, Md., Montgomery, Md., Prince George's, Md., Arlington, Va., Fairfax, Va., Loudoun, Va., Prince William, Va.
Region 7.—Atlanta, Ga. Metropolitan Area.
(Associated with Region 34.)
Counties: Butts, Ga., Cherokee, Ga., Clayton, Ga., Cobb, Ga., DeKalb, Ga., Douglas, Ga., Fayette, Ga., Forsyth, Ga., Fulton, Ga., Gwinnett, Ga., Henry, Ga., Newton, Ga., Paulding, Ga., Rockdale, Ga., Walton, Ga.
Region 8.—Tampa-St. Petersburg, Fla. Metropolitan Area.
(Associated with Region 34.)
Counties: Hillsborough, Fla., Pasco, Fla., Pinellas, Fla.
Region 9.—Miami-Fort Lauderdale, Fla. Metropolitan Area.
(Associated with Region 34.)
Counties: Broward, Fla., Dade, Fla.
Region 10.—Buffalo, N.Y. Metropolitan Area.
(Associated with Region 33.)

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Counties: Erie, N.Y., Niagara, N.Y.
Region 11.—Pittsburgh, Pa. Metropolitan Area.
(Associated with Region 33.)
Counties: Allegheny, Pa., Beaver, Pa., Washington, Pa., Westmoreland, Pa.
Region 12.—Detroit-Ann Arbor, Mich. Metropolitan Area.
(Associated with Region 35.)
Counties: Lapeer, Mich., Livingston, Mich., Macomb, Mich., Oaklawn, Mich., St. Claire, Mich., Wayne, Mich., Washtenaw, Mich.
Region 13.—Cleveland-Akron-Lorain, Ohio Metropolitan Area.
(Associated with Region 35.)
Counties: Cuyahoga, Oh., Geauga, Oh., Lake, Oh., Medina, Oh., Portage, Oh., Summit, Oh., Lorain, Oh.
Region 14.—Columbus, Oh. Metropolitan Area.
(Associated with Region 35.)
Counties: Delaware, Oh., Fairfield, Oh., Franklin, Oh., Madison, Oh., Pickaway, Oh.
Region 15.—Cincinnati-Hamilton, Ohio-Ky.-Ind. Metropolitan Area.
(Associated with Region 35.)
Counties: Clermont, Oh., Hamilton, Oh., Warren, Oh., Boone, Ky., Campbell, Ky., Kenton, Ky., Dearborn, Ind., Butler, Oh.
Region 16.—Indianapolis, Ind. Metropolitan Area.
(Associated with Region 35.)
Counties: Boone, Ind., Hamilton, Ind., Hancock, Ind., Hendricks, Ind., Johnson, Ind., Marion, Ind., Morgan, Ind., Shelby, Ind.
Region 17.—New Orleans, La. Metropolitan Area.
(Associated with Region 37.)
Parishes: Jefferson, La., Orleans, La., St. Bernard, La., St. Tammany, La.
Region 18.—Milwaukee-Racine, Wis. Metropolitan Area.
(Associated with Region 35.)
Counties: Milwaukee, Wis., Ozaukee, Wis., Washington, Wis., Waukesha, Wis., Racine, Wis.
Region 19.—Chicago-Gary, Ill.-Ind. Metropolitan Area.
(Associated with Region 35.)
Counties: Cook, Ill., Du Page, Ill., Kane, Ill., Lake, Ill., McHenry, Ill., Will, Ill., Lake, Ind., Porter, Ind.
Region 20.—St. Louis, Mo.-Ill. Metropolitan Area.
(Associated with Region 36.)
Cities: St. Louis, Mo.
Counties: Franklin, Mo., Jefferson, Mo., St. Charles, Mo., St. Louis, Mo., Clinton, Ill., Madison, Ill., Monroe, Ill., St. Clair, Ill.
Region 21.—Houston-Galveston, Tx. Metropolitan Area.
(Associated with Region 37.)
Counties: Brazoria, Tx., Fort Bend, Tx., Harris, Tx., Liberty, Tx., Montgomery, Tx., Waller, Tx., Galveston, Tx.
Region 22.—Minneapolis-St. Paul, Minn.,-Wis. Metropolitan Area.
(Associated with Region 36.)
Counties: Anoka, Mn., Carver, Mn., Chisago, Mn., Dakota, Mn., Hennepin, Mn., Ramsey, Mn., Scott, Mn., Washington, Mn., Wright, Mn., St. Croix, Wis.
Region 23.—Kansas City, Mo.-Kan. Metropolitan Area.
(Associated with Region 36.)
Counties: Cass, Mo., Clay, Mo., Jackson, Mo., Platte, Mo., Ray, Mo., Johnson, Kan., Wyandotte, Kan.
Region 24.—Dallas-Fort Worth, Tx. Metropolitan Area.
(Associated with Region 37.)
Counties: Collin, Tx., Dallas, Tx., Denton, Tx., Ellis, Tx., Hood, Tx., Johnson, Tx., Kaufaman, Tx., Parker, Tx., Rockwall, Tx., Tarrant, Tx., Wise, Tx.
Region 25.—Denver-Boulder, Col. Metropolitan Area.
(Associated with Region 38.)
Counties: Adams, Col., Arapahoe, Co., Boulder, Col., Denver, Col., Douglas, Col., Gilpin, Col., Jefferson, Col.
Region 26.—Phoenix, AZ. Metropolitan Area.
(Associated with Region 39.)
Counties: Maricopa, Az.
Region 27.—Los Angeles-Long Beach-Anaheim, Ca. Metropolitan Area.
(Associated with Region 39.)
Counties: Los Angeles, Ca., Orange, Ca., Ventura, Ca., Riverside, Ca., San Bernardino, Ca.
Region 28.—San Diego, Ca. Metropolitan Area.
(Associated with Region 39.)
Counties: San Diego, Ca.
Region 29.—Seattle-Takoma, Wash. Metropolitan Area.
(Associated with Region 39.)
Counties: King, Wash., Spohomish, Wash., Pierce, Wash.
Region 30.—Portland, Or.-Wash. Metropolitan Area.
(Associated with Region 39.)
Counties: Clackamas, Or., Multnomah, Or., Washington, Or., Clark, Wash.
Region 31.—San Francisco-Oakland-San Jose, Ca. Metropolitan Area.
(Associated with Region 39.)
Counties: Alameda, Ca., Contra Costa, Ca., Marin, Ca., San Francisco, Ca., San Mateo, Ca., Santa Clara, Ca., Napa, Ca., Solano, Ca.
Region 32.—New England Multistate Region.
Maine
New Hampshire excluding: Rockingham County.
Vermont.
Massachusetts excluding: Essex, Middlesex, Norfolk, Plymouth and Suffolk Counties.
Connecticut excluding: Hartford, Middlesex, Tolland and Fairfield Counties.
Rhode Island.
Region 33.—Mid-Atlantic Multistate Region.
New York excluding: Putnam, Rockland, Westchester, Nassau, Suffolk, Erie and Niagara Counties, New York City.
Pennsylvania excluding: Bucks, Chester, Delaware, Montgomery, Philadelphia, Allegheny, Beaver, Washington, and Westmoreland Counties.
New Jersey excluding: Bergen, Essex, Morris, Somerset, Union, Hudson, Monmouth, Middlesex, Passaic, Burlington, Camden, Gloucester, Mercer and Salem Counties.
Delaware excluding: New Castle County.
Maryland excluding: Cecil, Charles, Montgomery, Prince George's, Anne Arundel, Baltimore, Carroll, Harford, and Howard Counties, Baltimore City.
Region 34.—Southern Multistate Region.
Virginia excluding: Arlington, Fairfax, Loudoun and Prince William Counties, Alexandria, Fairfax, Falls Church, Manassas, and Manassas Park Cities.
North Carolina, South Carolina, Tennessee.
Georgia excluding: Butts, Cherokee, Clayton, Cobb, DeKalb, Douglas, Fayette, Forsyth, Fulton, Gwinnett, Henry, Newton, Paulding, Rockdale, and Walton Counties.
Broward, Dade, Hillsborough, Pasco, and Pinellas Counties.
Alabama, Mississippi.
Region 35.—Mid Western Multistate Region.
West Virginia.
Kentucky excluding: Boone, Campbell, and Kenton Counties.
Ohio excluding: Cuyahoga, Geauga, Lake, Medina, Portage, Summit, Lorain, Clermont, Hamilton, Warren, Butler, Delaware, Fairfield, Franklin, Madison and Pickaway Counties.
Indiana excluding: Lake, Porter, Dearborn, Boone, Hamilton, Hancock, Hendricks, Johnson, Marion, Morgan and Shelby Counties.
Michigan excluding: Lapeer, Livingston, Macomb, Oakland, St. Clair, Wayne and Washtenaw Counties.
Illinois excluding: Cook, Du Page, Kane, Lake, McHenry, Will, Clinton, Madison, Monroe, and St. Clair Counties.
Wisconsin excluding: Milwaukee, Ozaukee, Washington, Waukesha, Racine, and St. Croix Counties.
Region 36.—Plains States Multistate Region.
Minnesota excluding: Anoka, Carver, Chisago, Dakota, Hennepin, Ramsey, Scott, Washington, and Wright Counties.
Iowa.
Missouri excluding: St. Louis City, Franklin, Jefferson, St. Charles, St. Louis, Cass, Clay, Jackson, Platte, and Ray Counties.
Kansas excluding: Johnson and Wyandotte Counties.
Nebraska.
North Dakota.
South Dakota.
Region 37.—South Central Multistate Region.
Arkansas.
Louisiana excluding: Jefferson, Orleans, St. Bernard and St. Tammany Parishes.
Texas excluding: Collin, Dallas, Denton, Ellis, Hood, Johnson, Kaufman, Parker, Rockwall Tarrant, Wise, Brazoria, Fort Bend, Harris, Liberty, Montgomery, Waller, and Galveston Counties.
Oklahoma.
New Mexico.
Region 38.—Rocky Mountain Multistate Region.
Montana.
Idaho.
Wyoming.
Utah.
Colorado excluding: Arapahoe, Boulder, Denver, Douglas, Gilpin, Jefferson, and Adams Counties.
Region 39.—Pacific Coast Multistate Region.
Washington excluding: King, Snohomish, Pierce and Clark Counties.
Oregon excluding: Clackamas, Multnomah, and Washington Counties.
Nevada.
California excluding: Los Angeles, Orange, Ventura, Riverside, San Bernardino, Alameda, Contra Costa, Marin, San Francisco, San Mateo, Santa Clara, Napa, Solano, and San Diego Counties.
Arizona excluding: Maricopa County.

[FR Doc. 79-15477 Filed 5-17-79; 8:45 am]
BILLING CODE 6450-01-M

[18 CFR Part 286]

[Docket No. RM79-42]

Proposed Rulemaking under the Natural Gas Policy Act of 1978

AGENCY: Federal Energy Regulatory Commission.

AGENCY: Federal Energy Regulatory Commission.

ACTION: Notice of Proposed Rulemaking.

SUMMARY: The Natural Gas Policy Act of 1978 authorizes the Commission to assess civil penalties for knowing violations of the Act or of rules and orders issued thereunder. To clarify the procedures to apply in such instances the Commission proposes to adopt the rules set forth herein.

DATES: Comments by June 18, 1979; hearing on June 22, 1979.

ADDRESS: Office of the Secretary, Federal Energy Regulatory Commission, 825 North Capitol Street, N.E., Washington, D.C. 20426 (Reference Docket No. RM79-42)

FOR FURTHER INFORMATION CONTACT:
Philip M. Marston, Office of Enforcement, Federal Energy Regulatory Commission, 941 North Capitol Street, N.E., Washington, D.C. 20426 (202) 275-0303; or
Stephen R. Melton, Office of Enforcement, Federal Energy Regulatory Commission, 941 North Capitol Street, N.E., Washington, D.C. 20426 (202) 275-4040.

SUPPLEMENTARY INFORMATION:

I. Background

Section 504(b)(6) of the Natural Gas Policy Act of 1978 (NGPA) authorizes the Commission to assess civil penalties of up to $5,000 for knowing violations of the NGPA or of rules and orders issued thereunder. To clarify the procedures to apply in such instances, the Commission proposes to establish procedures to govern the assessment of civil penalties under the NGPA.

II. Summary Of The Proposal

The proposed regulation would add a new § 286.103 to Part 286 of the Commission's regulations. Under the procedures, the Commission would initiate a civil penalty proceeding by issuing and serving upon the alleged violator a notice of the proposed assessment order naming respondent, describing briefly the violations for which the penalty is assessed, and fixing the amount of penalty to be paid within 60 days following receipt of the order.

The notice would also inform the respondent that he may submit factual information or legal arguments to the Commission within 30 days following receipt of the notice. In the submission, respondent may attempt to show, for example, why no penalty should be imposed or why the amount of the penalty should be reduced.

Within 30 days after receiving the respondent's submission, the Commission will act either by issuing an assessment order or by concluding that no further action on the notice will be taken.

If the penalty has not been paid within 60 days following receipt of the notice and order, the Commission could institute an enforcement action in an appropriate federal district court for an order affirming and enforcing the penalty assessment. Section 504(b)(6)(F) of the NGPA provides that in such an enforcement action the court shall have authority to conduct a *de novo* review of both the law and the facts. Accordingly, the proposal's summary procedures for initiating the process at the administrative level provide respondents an adequate opportunity to participate.

III. Written Comment Procedures

Interested persons are invited to submit written comments, data, views, or arguments with respect to this proposal. An original and 14 copies should be filed with the Secretary of the Commission. All comments received prior to June 18, 1979 will be considered by the Commission prior to promulgation of final regulations. All written submissions will be placed in the Commission's public files and will be available for public inspection in the Commission's Office of Public Information, 825 North Capitol Street NE., Washington, D.C., during regular business hours. Comments should be submitted to the Federal Energy Regulatory Commission, 825 North Capitol Street NE., Washington, D.C. 20426, and should reference Docket No. RM79-42

IV. Public Hearing Procedures

A public hearing concerning this proposal will be held in Washington, D.C. on June 22, 1979 beginning at 10:00 a.m. and will continue if necessary on the following day. Any person interested in this proceeding or representing a group or class of persons interested in this proceeding may make a presentation at the hearing provided a written request to participate is received by the Secretary of the Commission prior to 4:30 p.m., on June 18, 1979.

Requests to participate in the hearing should include a reference to Docket No. RM79-42 as well as a concise summary of the proposed oral presentation and a number where the person making the request may be reached by telephone. Prior to the hearing, each person filing a request to participate will be contacted by the presiding officer or his designee for scheduling purposes. At least five copies of the statement shall be submitted to the Secretary of the Commission prior to 4:00 p.m., on June 18, 1979. The presiding officer is authorized to limit oral presentation at the public hearing both as to length and as to substance. Persons participating in the public hearing should, if possible, bring 10 copies of their testimony to the hearing.

The hearing will not be a judicial or evidentiary-type hearing. There will be no cross-examination of persons presenting statements. However, the panel may question such persons, and any interested person may submit questions to the presiding officer to be asked of persons making statements. If time permits, at the conclusion of the initial oral statements, persons who have made oral statements will be given the opportunity to make a rebuttal statement. Any further procedural rules will be announced by the presiding officer at the hearing. A transcript of the hearing will be made available at the Commission's Office of Public Information.

(Natural Gas Policy Act of 1978, Pub. L. 95-621, 92 Stat. 3340, 15 U.S.C. § 3301 *et seq.*; Department of Energy Organization Act, Pub. L. 95-91, 91 Stat. 565, 42 U.S.C. § 7101 *et seq.*, E.O. 12009, 42 FR 46267.)

In consideration of the foregoing, the Commission proposes to amend Part 286, Subchapter I, Chapter I of Title 18, Code of Federal Regulations, as set forth below.

By direction of the Commission.

Kenneth F. Plumb,
Secretary.

Part 286, Subchapter I, Chapter I of Title 18, Code of Federal Regulations, is amended by adding a new § 286.103 to read as follows:

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§ 286.103 **Assessment of civil penalties.**

(a) *Scope.* This section applies to proceedings for the assessment of civil penalties pursuant to Section 504(b)(6) of the NGPA.

(b) *Penalties.* The Commission may assess a civil penalty of not more than $5.000 for any one violation against any person whom the Commission determines to have knowingly violated any provision of the NGPA or any provision of any rule or order of the Commission issued under the NGPA. In the case of a continuing violation, each day of violation shall constitute a separate violation.

(c) *Assessment procedure.*

(1) *Notice of assessment.* When the commission determines on the basis of information available to it that knowing violations have occurred or are occurring and that the imposition of civil penalties is appropriate, the Commission shall initiate assessment proceedings by issuing and serving upon the alleged violator a notice of the proposed penalty naming such person as respondent, setting forth the violations for which the penalty is to be assessed, and fixing the amount of the penalty. The notice shall also inform the respondent that he may, within 30 days following receipt of the notice submit factual information or legal arguments bearing on alleged liability or on the appropriate amount of the penalty to be assessed.

(2) *Assessment order.* Within 30 days following receipt of the respondent's submission, if any, the Commission shall issue and serve upon the respondent an assessment order or shall determine that no further action will be taken. The assessment order shall set forth the violations for which the penalty is assessed, fix the amount of the penalty assessment, and direct the respondent to pay the assessment within 60 days of the date the order issues.

(d) *Failure to pay.* If respondent has not paid the assessment within 60 days following receipt of the notice and order, the Commission may institue an action in the appropriate federal district court for an order affirming and enforcing the penalty assessment.

[FR Doc. 79-15514 Filed 5-17-79; 8:45 am]

BILLING CODE 6450-01-M

[18 CFR Part 290]

[Docket No. RM79-6]

Public Utility Regulatory Policies Act of 1978; Proposed Implementation

AGENCY: Federal Energy Regulatory Commission.

ACTION: Notice of Intent to Act.

SUMMARY: This notice advises that the Federal Energy Regulatory Commission intends to promulgate final regulations implementing section 133 of the Public Utility Regulatory Policies Act of 1978, by May 30, 1979.

DATES: Final Regulations by May 30, 1979.

FOR FURTHER INFORMATION CONTACT:

Gregory D. Martin, Office of Commissioner Matthew Holden, 825 N. Capitol St., N.E., Room 9010, Washington, D.C. 20426 (202) 275-4176

William Lindsay, Office of Electric Power Regulation, 825 N. Capitol St., N.E., Room 5200, Washington, D.C. 20426 (202) 275-4777.

Kenneth F. Plumb,

Secretary.

[FR Doc. 79-15517 Filed 5-17-79; 8:45 am]

BILLING CODE 6450-01-M

DEPARTMENT OF HEALTH, EDUCATION, AND WELFARE

Social Security Administration

[20 CFR Parts 401 and 422]

Disclosure of Official Records and Information; and Organization and Procedures; Availability of Information and Records to the Public

AGENCY: Social Security Administration, HEW.

ACTION: Notice of Decision to develop Regulations.

SUMMARY: The Social Security Administration plans to revise and relocate the rules in Part 422, Subpart E, on the availability of information and records to the public. We plan to review these rules for consistency with the HEW policies on Freedom of Information in 45 CFR Part 5. Also, we plan to rewrite the rules to make them easier to understand. We plan to move these rules from Part 422 to Part 401 so that our rules on the disclosure and availability of information are located in one place. The Health Care Financing Administration plans to transfer to 42 CFR Part 411 material concerning the medicare program.

FOR FURTHER INFORMATION CONTACT: Armand Esposito, Office of Regulations, Room 4-J-10, West High Rise Building, 6401 Security Boulevard, Baltimore, Maryland 21235, telephone 301-594-7455.

Dated: May 15, 1979.

Approved:

Standford G. Ross,

Commissioner of Social Security.

[FR Doc. 79-15619 Filed 5-17-79; 8:45 am]

BILLING CODE 4110-07-M

Food and Drug Administration

[21 CFR Parts 182 and 186]

[Docket No. 78N-0336]

Lard and Lard Oil; Proposed Affirmation of GRAS Status as Indirect Human Food Ingredients

AGENCY: Food and Drug Administration.

ACTION: Proposed Rule.

SUMMARY: The Food and Drug Administration (FDA) proposes to affirm the generally recognized as safe (GRAS) status of lard and lard oil as indirect human food ingredients. The safety of these ingrediants has been evaluated under the comprehensive safety review being conducted by the agency. This proposal would list these ingredients as food substances affirmed as GRAS.

DATES: Comments by July 17, 1979.

ADDRESS: Written comments to the Hearing Clerk (HFA-305), Food and Drug Administration, Rm. 4-65, 5600 Fishers Lane, Rockville, MD 20857.

FOR FURTHER INFORMATION CONTACT: Corbin I. Miles, Bureau of Foods (HFF-335), Food and Drug Administration, Department of Health, Education, and Welfare, 200 C St. SW., Washington, DC 20204, 202-472-4750.

SUPPLEMENTARY INFORMATION: The FDA is conducting a comprehensive safety review of direct and indirect human food ingredients classified as GRAS or subject to a prior sanction. The Commissioner of Food and Drugs has issued several notices and proposed regulation, published in the Federal Register of July 26, 1973 (38 FR 20040), initiating this review, under which the safety of lard and lard oil has been evaluated. In accordance with the provisions of § 170.35 (21 CFR 170.35), the Commissioner proposes to affirm the GRAS status of these ingredients.

Lard is the fat rendered from fresh, clean, sound, fatty tissues of swine (*Sus scrofa*) in good health at the time of slaughter. The tissues do not include bones, detached skin, head skin, ears, tails, organs, windpipes, large blood vessels, scrap fat, skimmings, settlings, or pressings, and are reasonably free of muscle tissues and blood.

Lard is a soft, white, unctuous mass that melts over a range of about 39° to 48° C. The saponification number of lard ranges from 192 to 203, and the iodine value from 45 to 70. The fatty acid components of the triglycerides that make up lard vary somewhat in nature and amount, depending on the diet of the animal, but generally are about as follows: oleic, 35 to 60 percent; palmitic, 20 to 32 percent; stearic, 5 to 18 percent; linoleic, 3 to 15 percent; palmitoleic, 2 to 4 percent; myristic, 0.5 to 2.5 percent. All other fatty acid components are less than 2 percent each. The free fatty acid content of lard is very low (0.2 to 0.7 percent expressed as oleic acid).

Lard oil is a low melting fraction that has been expressed from lard. Its saponification number is from 195 to 197, its iodine value is 58 to 74, and it solidifies at −2° to 4° C.

Lard and lard oil are listed in § 182.70 (21 CFR 182.70) as GRAS for use in food as substances migrating from cotton and cotton fabrics used in dry food packaging under regulations published in the **Federal Register** of June 10, 1961 (26 FR 5221). Lard oil is also listed under § 176.210 (21 CFR 176.210) as a defoaming agent used in the manufacture of paper and paperboard for food packaging.

Although lard is not on the GRAS list of direct human food ingredients, it is considered as a traditional food item. Moreover, it is listed as an optional ingredient in the food standards for bakery products in Part 136 (21 CFR Part 136) and in the food standard for margarine in § 166.110 (21 CFR 166.110). Lard is also used in various food products. However, direct use information, such as the names of the foods and the use levels, is, in general, not available to the Commissioner. The Commissioner therefore emphasizes that this proposal concerns the affirmation of GRAS status of lard and lard oil as indirect human food ingredients only.

No consumption data on lard and lard oil were included in the National Academy of Sciences (NAS) survey because they were not on the GRAS list of direct food ingredients. In 1960, 58 million pounds of lard were used in margarine, 497 million pounds in shortening, and 1,399 million pounds in all other foods. In 1973, these figures changed to 119, 316, and 685 million pounds, respectively. Therefore, an 834 million-pound decrease in all food uses occurred from 1960 (1,954 million pounds) to 1973 (1,120 million pounds). The decrease has been brought about by consumers' switching to vegetable oil products and by declining lard production. Lard production is currently estimated to be about 1.2 billion pounds, 0.9 billion pounds of which is accounted for by domestic disappearance. There is no information available on the amount of lard used annually for indirect food use and no guidelines to estimate the amount of lard migrating to food resulting from such indirect food use. Lard oil is more often used for industrial purposes, e.g., as a cutting oil or lubricant, than for food purposes.

Lard and lard oil have been the subject of a search of the scientific literature from 1920 to the present. The criteria used in the search were chosen to discover any articles that considered (1) chemical toxicity, (2) occupational hazards, (3) metabolism, (4) reaction products, (5) degradation products, (6) any reported carcinogenicity, teratogenicity, or mutagenicity, (7) dose response, (8) reproductive effects, (9) histology, (10) embryology, (11) behavioral effects, (12) detection, and (13) processing. A total of 519 abstracts were reviewed, and 45 particularly pertinent reports from the literature survey have been summarized in a scientific literature review.

The scientific literature review shows, among other studies, the following information as summarized in the report of the Select Committee on GRAS Substances (the Select Committee) chosen by the Life Sciences Research Office of the Federation of American Societies for Experimental Biology:

In chickens, the digestibility coefficients (percent of ingested fat that is digested) have been reported by various workers to range from 84 to 95 percent. The energy value was found by Peterson and Vik-Mo to be 7.92 kcal per g and by Renner and Hill to be 8.8 kcal per g. Hydrolysis of lard to the form of free fatty acids before administration reduced the digestibility coefficient of lard to 65 percent. Carlson and Bayley determined the digestibility coefficient of lard to be 81 percent when fed to young pigs as 10.7 percent of the diet (about 3.7 g per kg body weight). In tests with human volunteers who consumed 50 to 115 g of lard daily (about 0.8 to 1.9 g per kg body weight), Langworthy found lard to be digested to the extent of 97 percent. Three-day metabolic balance studies with normal, full-term infants five to nine days old on the first day of study, indicated that fecal excretion of fat averaged only 0.30 g per kg per day when intake of lard averaged 6.37 g per kg body weight per day, indicating that about 95 percent of the ingested lard was digested.

Acute toxicity studies have not been reported. Toxicity studies on the products of digestion of lard—the fatty acids and glycerol—have been described in other reports of the Select Committee, including glycerin and glycerides, tallow and stearic acid, coconut oil, peanut oil, oleic acid and linoleic acid, and hydrogenated soybean oil. None of these substances is toxic even in doses in excess of usual intakes. It should be borne in mind in considering the data that follow, that all of these studies involved doses of lard or lard oil that are vastly larger than would be expected to occur in foods due to the migration of lard from the packaging materials containing them.

In a six-week feeding study in which lard was fed to 12 twenty-one-day-old male Wistar rats at dietary levels providing from 10 to 73 percent of the calories (about 5 to 40 g per kg per day) Thomasson found that the food-efficiency of lard was comparable to that of summer butterfat and that feeding lard at these levels did not decrease survival.

Silberberg and Silberberg found that a 24 percent lard diet, (about 30 g lard per kg body weight) fed from weaning to death, significantly increased the mortality and shortened the life span of male (50 percent dead at a mean age of 447 days compared to 559 days in controls), but not female mice of the C57 strain. Male DBA mice were similarly affected but to a lesser degree (50 percent dead at a mean age of 325 days compared to 373 days in controls). Subsequently, the same authors fed a 25 percent (about 30 g lard per kg body weight) lard diet to C57 mice for five months beginning at ages one month, seven months or twelve months after which they were fed the control diet for life. The life span of the animals fed lard during the period of growth (starting at one month or seven months old) was as long as or longer than the controls (655 days and 664 days, respectively, as compared to 653 days for controls). Mean age at death of animals fed lard from weaning through life was 546 days.

In research by Santyany, Velasco and Pancaldi, 2 two-month-old female rats were maintained on a bread, milk, and water diet and three female litter mates were given, in addition, 4 to 5 g of lard daily (some 80 g of lard or more per kg body weight). This extraordinarily high proportion of fat in the diet would be expected to diminish the intake of nutrients provided by the control ration. A few days after the experiment was begun, the rats fed the lard supplement began to lose their appetites and became emaciated. This was accompanied by edema of the snout, eyes, and external genital organs. As the lard feeding continued, these disturbances diminished until they disappeared after 9 to 19 days to "recur periodically, and in a progressively more attenuated form." All five females produced litters. The pups from the rats fed lard were stunted (average weight 4 g compared to 5.7 g for pups from control dams), sickly, poorly nourished, cyanotic, and had dry, wrinkled skin. Livers were small, yellowish, and soft in consistency, indicative of a state of adiposis. These results were confirmed by repeating the lard feeding using three other females and examination of their offspring.

Vinson and Cerecedo raised Evans-Long rats through three generations and Wistar strain rats through four generations on diets containing 2, 5, and 10 percent lard (2, 5, and 10 g per kg body weight, respectively, at the start of feeding after weaning). Growth in both strains in all generations at all lard levels was excellent. There were four parent females of the Evans-Long strain, and 15 females in each of the F_1 and F_2 generations.

There were 27 parent females of the Wistar strain and 35, 13, and 7 females, respectively,

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in the F_1, F_2, and F_3 generations. The dams lost considerable weight during lactation but regained it rapidly when litters were separated. Provision of lard *ad libitum* (up to 8 g per day consumed), in addition to the above diet, failed to improve lactation performance. The addition of 500 mg of brewer's yeast per day prevented weight loss of lactating dams. The authors concluded the lard diet was inadequate in some essential constituent or that the large amounts of fat interfered with ingestion of adequate amounts of other food constituents.

Silberberg and Silberberg maintained more than 100 male C57 black mice throughout life on a stock diet containing 5 percent fat and supplemented with 25 percent lard (about 25 g lard per kg of body weight). Articular aging was hastened in the test animals as compared to that in a similar number of control animals. In general, the incidence of osteoarthritis was doubled. However, some mice remained free of articular changes even in old age. The test animals were considerably heavier than the controls (mean weight 31 to 40 g compared to 25 to 32 g in controls). These investigators compared their results with C57 mice to those observed with a DBA strain. The mice on the same high lard diet gained only 8 percent more weight than did the controls and with hardly any increase in fat deposits. These results were related by the authors to the more rapid growth rate of the DBA mice. In a similar study, three groups of C57 black mice were fed a diet enriched with 25 percent lard (about 25 g per kg body weight) or 23 percent lard plus 3 percent linoleic acid. The linoleic acid supplement partly reversed the osteoarthritic effect of the high fat diet. The aminals on the 25 percent lard diet showed the fastest growth to 12 months of age (mean maximum weight 36.4 g), but thereafter lost weight more rapidly (to mean weight of 26.7 g) than the mice receiving 3 percent linoleic acid or the controls. In contrast, Sokoloff and Mickelsen found DBA/2 JN male mice maintained on a 25 percent lard diet (more than 30 g per kg body weight at the start of the experiment) to be more obese than those on a cottonseed oil diet at the same level, but found no evidence of the development of degenerative joint disease.

No oral studies of the carcinogenicity of lard have been reported. However, lard was used as a vehicle for parenteral testing of various compounds for carcinogenicity in early work. Andervont injected subcutaneously each of 190 mice of five pure strains and one mixed stock with 1 ml of lard given in three doses over a four week period. After 27 weeks no animals had developed tumors. Barry and Cook injected 20 mice and 20 rats (strain not indicated) subcutaneously with a lard fraction that was liquid at 37° C. The dose in mice was 0.5 cc weekly at first and later 1 cc "at longer intervals"; in rats 1 cc at first and later 3 cc "at longer intervals." The mice observed after 40 weeks, and the rats after 124 weeks, showed no malignant injection-site tumors. Burrows *et al.* reported that of 143 rats (strain not indicated) subjected to weekly subcutaneous injections of 1 ml of lard to maintain a depot of lard under the skin, seven had spindle-cell tumors at the site of injection when examined after one year of treatment.

A number of studies have been conducted of the effects of dietary lard at doses up to 23 g per kg body weight on increasing the level of plasma lipids and the appearance of atherosclerotic signs in man and laboratory animals. However, considering the limited uses for lard and lard oil covered in this report, it is improbable that the very small intakes that would be expected could be significant factors in influencing serum cholesterol or fat levels. Other reports of the Select Committee, such as that on hydrogenated soybean oil, will consider the possible atherosclerotic impact of dietary fat.

Qualified scientists of the Select Committee have carefully evaluated all of the available safety information on lard and lard oil. In the Select Committee's opinion:

Lard has been consumed in pork, as an ingredient in foods, or has been added to food as the result of frying, for centuries. Aside for the implication of all animal fats as contributors to atherosclerosis, no deleterious effects have been recorded. Some adverse effects observed in experimental animals can be ascribed to very high levels of fat in the diet rather than to specific effects of lard. Sugh high dietary levels of lard or lard oil are unlikely to occur in the diet of man. Moreover, the amount of lard or lard oil transferable to food from lard-treated cotton fabrics used in packaging, is obviously minute compared to the amount of lard ingested in food.

The Select Committee concludes that there is no evidence in the available information on lard and lard oil that demonstrates, or suggests reasonable grounds to suspect, a hazard to the public when they are used in cotton and cotton fabric dry food packaging materials as now practiced or as they might reasonably be expected to be used for such purposes in the future. Based upon his own evaluation of the available information on lard and lard oil, the Commissioner agrees with this conclusion. Therefore, the Commissioner concludes that no change in the current GRAS status of lard and lard oil is justified, and proposes that they be affirmed as GRAS as indirect human food ingredients. The use of lard and lard oil permitted by other regulations is not affected by this GRAS affirmation action.

Copies of the scientific literature review on lard and lard oil, and the report of the Select Committee are available for review at the office of the Hearing Clerk (HFA–305), Rm. 4–65, Food and Drug Administration, 5600 Fishers Lane, Rockville, MD 20857 and may be purchased from the National Technical Information Service, 5285 Port Royal Road, Springfield, VA 22151 as follows:

Title	Order No.	Price code	Price[1]
Lard and lard oil (scientific literature review)	PB–234–891/AS	AO5	$6.00
Lard and lard oil (select committee report)	PB–270–368/AS	AO2	4.00

[1] Price subject to change.

This proposed action does not affect the present use of lard and lard oil for pet food or animal feed.

Therefore, under the Federal Food, Drug, and Cosmetic Act (secs. 201(s), 409(d) 701(a), 52 Stat. 1055, 72 Stat. 1784 as amended, 1787, (21 U.S.C. 321(s), 348(d), 371(a))) and under authority delegated to the Commissioner (21 CFR 5.1), it is proposed that Parts 182 and 186 be amended as follows:

PART 182—SUBSTANCES GENERALLY RECOGNIZED AS SAFE

§ 182.70 [Amended]

1. In § 182.70 *Substances migrating from cotton and cotton fabrics used in dry food packaging* by deleting "Lard" and "Lard oil" from the list of substances.

PART 186—INDIRECT FOOD SUBSTANCES AFFIRMED AS GENERALLY RECOGNIZED AS SAFE

2. In Part 186 by adding new §§ 186.1390 and 186.1391 to read as follows:

§ 186.1390 Lard.

(a) Lard is the fat rendered from fresh, clean, sound, fatty tissues of swine (*Sus scrofa*) in good health at the time of slaughter. The tissues do not include bones, detached skin, head skin, ears, tails, organs, windpipes, large blood vessels, scrap fat, skimmings, settlings, or pressings and are reasonably free of muscle tissues and blood. The fatty acid distribution of the triglycerides is approximately 35 to 60 percent oleic, 20 to 30 percent palmitic, 5 to 18 percent stearic, 3 to 15 percent linoleic, 2 to 4 percent palmitoleic, 0.5 to 2.5 percent myristic, and less than 2 percent other fatty acids having carbon chain lengths of 8 to 22 carbon atoms.

(b) The ingredient is of food grade and meets the requirements of § 172.860(b) of this chapter.

(c) The ingredient is used as a constituent of cotton and cotton fabrics used for food packaging.

(d) The ingredient is used at levels not to exceed good manufacturing practices in accordance with § 186.1(b)(1).

§ 186.139 Lard oil.

(a) Lard oil (CAS Reg. No. 8016–28–2) is a low melting fraction that has been expressed from lard. It is a colorless or pale yellow liquid, insoluble in cold water or alcohol; its major constituents are olein and stearin.

(b) The ingredient is of food grade and meets the requirements of § 172.860(b) of this chapter.

(c) The ingredient is used as a constitutent of cotton and cotton fabrics used for dry food packaging.

(d) The ingredient is used at levels not to exceed good manufacturing practices in accordance with § 186.1(b)(1).

The Commissioner hereby gives notice that he is unaware of any prior sanction for the indirect use of these ingredients in foods under conditions different from those proposed in this document. Any person who intends to assert or rely on such a sanction shall submit proof of its existence in response to this proposal. The regulations proposed above will constitute a determination that excluded uses would result in adulteration of the food in violation of section 402 of the act (21 U.S.C. 342), and the failure of any person to come forward with proof of such applicable prior sanction in response to this proposal constitutes a waiver of the right to assert or rely on the sanction at any later time. This notice also constitutes a proposal to establish a regulation under Part 181 (21 CFR Part 181), incorporating the same provisions, in the event that such a regulation is determined to be appropriate as a result of submission of proof of such an applicable prior sanction in response to this proposal.

Interested persons may, on or before July 17, 1979, submit to the Hearing Clerk (HFA–305), Food and Drug Administation, Rm. 4–65, 5600 Fishers Lane, Rockville, MD 20857, written comments regarding this proposal. Four copies of all comments shall be submitted, except that individuals may submit single copies of comments, and shall be identified with the Hearing Clerk docket number found in brackets in the heading of this document. Received comments may be seen in the above office between the hours of 9 a.m. and 4 p.m., Monday through Friday.

In accordance with Executive Order 12044, the economic effects of this proposal have been carefully analyzed, and it has been determined that the proposed rulemaking does not involve major economic consequences as defined by that order.

Dated: May 9, 1979.

William F. Randolph,

Acting Associate Commissioner for Regulatory Affairs.

[FR Doc. 79–15193 Filed 5–17–79; 8:45 am]

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[21 CFR Part 146]

[Docket No. 78P–0122]

Reduced Acid Frozen Concentrated Orange Juice; Establishment of Identity Standard

AGENCY: Food and Drug Administration.

ACTION: Proposed rule.

SUMMARY: This document proposes to establish a standard of identity for reduced acid frozen concentrated orange juice based upon a petition by the Coca-Cola Co. The petitioner stated that the purpose of this action is to meet the demand of consumers who wish to have a sweeter orange juice without the addition of a sweetener.

DATES: Comments by July 17, 1979; proposed compliance for products initially introduced into interstate commerce: July 1, 1981.

ADDRESS: Written comments to the Hearing Clerk (HFA–305), Food and Drug Administration, Rm. 4–65, 5600 Fishers Lane, Rockville, MD 20857.

FOR FURTHER INFORMATION CONTACT: F. Leo Kauffman, Bureau of Foods (HFF–414), Food and Drug Administration, Department of Health, Education, and Welfare, 200 C St. SW., Washington, DC 20204, 202–245–1164.

SUPPLEMENTARY INFORMATION: A temporary permit to market test reduced acid frozen concentrated orange juice was issued to the Coca-Cola Co., P.O. Box 2079, Houston, TX 77001, under 21 CFR 130.17 on August 6, 1975 (40 FR 33063), and later the brand name and market area were amended. The petitioner requested an extension of the permit (issued August 18, 1978 (43 FR 36695)) and, in compliance with the requirements of 21 CFR 130.17, has submitted a petition to establish a standard of identity for reduced acid frozen concentrated orange juice.

The product is prepared in the same manner as prescribed for frozen concentrated orange juice in 21 CFR 146.146, except: the product contains no added sweetening ingredients, some acid is removed, and the Brix/acid ratio is not less than 21 to 1 or more than 26 to 1. The acidity of the product is controlled by a process using an anionic ion-exchange resin that is regulated by § 173.25 *Ion-exchange resins* (21 CFR 173.25). The Coca-Cola Co. stated that the removal of citric acid from a portion of the orange juice produces a sweeter and smoother orange juice than standardized frozen concentrated orange juice, and it does not affect the wholesomeness of the product.

The Coca-Cola Co. reported that based on information gained under the temporary marketing permit, it is of the opinion that establishment of the standard of identity is in the interest of consumers in general and, in particular, of consumers who either do not use or limit their consumption of orange juice. The petitioner said the new product is nutritionally equivalent to frozen concentrated orange juice (21 CFR 146.146) and that it will provide consumers with a wider range of wholesome citrus products.

The Commissioner of Food and Drugs proposes that all reduced acid frozen concentrated orange juice products initially introduced into interstate commerce on or after July 1, 1981 shall comply with the regulation except as to any provisions that may be stayed by the filing of proper objections.

The Commissioner has considered the environmental effects of the issuance or amendment of food standards and has concluded in § 25.1(d)(4) (21 CFR 25.1(d)(4)) that food standards are not major agency actions significantly affecting the quality of the human environment. Therefore, an environmental impact statement is not required for this proposal.

Therefore, under the Federal Food, Drug, and Cosmetic Act (secs. 401, 701(e), 52 Stat. 1046 as amended, 70 Stat. 919 as amended (21 U.S.C. 341, 371(e)) and under authority delegated to him (21 CFR 5.1), the Commissioner proposes that Part 146 be amended by adding new § 146.18 to read as follows:

§ 146.148 Reduced acid frozen concentrated orange juice.

(a) Reduced acid frozen concentrated orange juice is the food that complies with the requirements for composition and label declaration of optional ingredients prescribed for frozen concentrated orange juice by § 146.146, except that it may not contain any added sweetening ingredient. A process involving the use of anionic ion-

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exchange resins permitted by § 173.25 of this chapter is used to reduce the acidity of the food so that the ratio of the Brix reading to the grams of acid, expressed as anhydrous citric acid, per 100 milliliters of juice is not less than 21 to 1 or more than 28 to 1.

(b) The name of the food is "Reduced acid frozen concentrated orange jucie".

Interested persons may, on or before July 17, 1979, submit to the Hearing Clerk (HFA–305), Food and Drug Administration, Rm. 4–65, 5600 Fishers Lane, Rockville, MD 20857, written comments regarding this proposal. Four copies of all comments shall be submitted, except that individuals may submit single copies of comments, and shall be identified with the Hearing Clerk docket number found in brackets in the heading of this document. Received comments may be seen in the above office between the hours of 9 a.m. and 4 p.m., Monday through Friday.

Executive Order 12044 does not apply to regulations issued in accordance with the formal rulemaking provisions of the Administrative Procedure Act (5 U.S.C. 556, 557). Food standards promulgated under 21 U.S.C. 341 and 371(e) fall under this exemption.

Dated: May 10, 1979.

William F. Randolph,

Acting Associate Commissioner for Regulatory Affairs.

[FR Doc. 79–15317 Filed 5–17–79; 8:45 am]

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[21 CFR Part 168]

[Docket No. 78N–0363]

Soft Sugars; Notice of Intent To Establish Standards; Extension of Comment Period

AGENCY: Food and Drug Administration.

ACTION: Extension of Comment Period.

SUMMARY: The agency is extending the comment period on an advance notice of proposed rulemaking that invited interested persons to review the Codex Alimentarius Commission (Codex) "Recommended International Standard for Soft Sugars" and to comment on the desirability and need for a U.S. standard for this food. This action is based upon a request from The Sugar Association, Inc.

DATE: Comments by June 25, 1979.

ADDRESS: Written comments to the Hearing Clerk (HFA–305), Food and Drug Administration, Rm. 4–65, 5600 Fishers Lane, Rockville, MD 20857.

FOR FURTHER INFORMATION CONTACT: P. G. Harrill, Bureau of Foods (HFF–411), Food and Drug Administration, Department of Health, Education, and Welfare, 200 C St. SW., Washington, DC 20204, 202–245–1164.

SUPPLEMENTARY INFORMATION: In the **Federal Register** of February 23, 1979 (44 FR 10747), the Food and Drug Administration (FDA) published an advance notice of proposed rulemaking that invited interested persons to review the Codex Alimentarius Commission (Codex) "Recommended International Standard for Soft Sugars" and to comment on the desirability and need for a U.S. standard for this food. Comments were to be filed by April 24, 1979.

Subsequently, FDA received a request from The Sugar Association, Inc., for a 60-day extension of the comment period. The Association stated that it is currently collecting relevant descriptive data on soft sugars and needs additional time to gather and collate as complete a set of data as possible.

The FDA concludes that The Sugar Association, Inc., has given sufficient grounds to support the need for additional time to comment on the notice. Therefore, under the Federal Food, Drug, and Cosmetic Act (secs. 401, 701(e), 52 Stat. 1046 as amended, 70 Stat. 919 as amended (21 U.S.C. 341, 371(e))) and under authority delegated to the Commissioner of Food and Drugs (21 CFR 5.1), the comment period on the advance notice of proposed rulemaking for soft sugars is extended to June 25, 1979.

Interested persons may, on or before June 25, 1979, submit to the Hearing Clerk (HFA–305), Food and Drug Administration, Rm. 4–65, 5600 Fishers Lane, Rockville, MD 20857, written comments regarding this proposal. Four copies of all comments shall be submitted, except that individuals may submit single copies of comments. The comments are to be identified with the Hearing Clerk docket number found in brackets in the heading of this document. Received comments may be seen in the above office between 9 a.m. and 4 p.m., Monday through Friday.

Dated: May 10, 1979.

William F. Randolph,

Acting Associate Commissioner for Regulatory Affairs.

[FR Doc. 79–15319 Filed 5–17–79; 8:45 am]

BILLING CODE 4110–03–M

[21 CFR Part 168]

[Docket No. 78N–0362]

White Sugar; Notice of Intent To Establish Standard; Extension of Comment Period

AGENCY: Food and Drug Administration.

ACTION: Extension of Comment Period.

SUMMARY: The agency is extending the comment period on an advance notice of proposed rulemaking that invited interested persons to review the Codex Alimentarius Commission (Codex) "Recommended International Standard for White Sugar" and to comment on the desirability and need for a U.S. standard for this food. This action is based upon a request from The Sugar Association, Inc.

DATE: Comment by June 25, 1979.

ADDRESS: Written comments to the Hearing Clerk (HFA–305), Food and Drug Administration, Rm. 4–65, 5600 Fishers Lane, Rockville, MD 20857.

FOR FURTHER INFORMATION CONTACT: P. G. Harrill, Bureau of Foods (HFF–411), Food and Drug Administration, Department of Health, Education, and Welfare, 200 C St. SW., Washington, DC 20204, 202–245–1164.

SUPPLEMENTARY INFORMATION: In the **Federal Register** of February 23, 1979 (44 FR 10749), the Food and Drug Administration (FDA) published an advance notice of proposed rulemaking that invited interested persons to review the Codex Alimentarius Commission (Codex) "Recommended International Standard for White Sugar" and to comment on the desirability and need for a U.S. standard for this food. Comments were to be filed by April 24, 1979.

Subsequently, FDA received a request from The Sugar Association, Inc., for a 60-day extension of the comment period. The Association stated that it is currently collecting relevant descriptive data on white sugars and needs additional time to gather and collate as complete a set of data as possible.

The FDA concludes that The Sugar Association, Inc., has given sufficient grounds to support the need for additional time to comment on the notice. Therefore, under the Federal Food, Drug, and Cosmetic Act (secs. 401, 701(e), 52 Stat. 1046 as amended, 70 Stat. 919 as amended (21 U.S.C. 341, 371(e))) and under the authority delegated to the Commissioner of Food and Drugs (21 CFR 5.1), the comment period on the advance notice of proposed rulemaking for white sugar is extended to June 25, 1979.

Interested persons may, on or before June 25, 1979, submit to the Hearing Clerk (HFA–305), Food and Drug Administration, Rm. 4–65, 5600 Fishers Lane, Rockville, MD 20857, written comments regarding this proposal. Four copies of all comments shall be submitted, except that individuals may submit single copies of comments. The comments are to be identified with the Hearing Clerk docket number found in brackets in the heading of this document. Received comments may be seen in the above office between 9 a.m. and 4 p.m., Monday through Friday.

Dated: May 10, 1979.

William F. Randolph,

Acting Associate Commissioner for Regulatory Affairs.

[FR Doc 79–15318 Filed 5–17–79; 8:45 am]

BILLING CODE 4110–03–M

DEPARTMENT OF AGRICULTURE

Forest Service

[36 CFR Part 251]

National Forest System Lands; Special Uses

AGENCY: Forest Service, USDA.

ACTION: Proposed rule.

SUMMARY: This is a proposal to revise the regulations governing the authorization of the occupancy of land and conduct of activities on National Forest System lands. It does not include those activities covered in the regulations on the disposal of timber, minerals and mineral materials, and livestock grazing.

The provisions on granting rights-of-way have been expanded and changed. These changes are necessary to implement Title V of the Federal Land Policy and Management Act of 1976. Procedures for authorizing other kinds of special uses are not significantly changed.

DATES: Comments must be received on or before August 16, 1979.

ADDRESS: Submit comments to: Chief John R. McGuire, Forest Service, Department of Agriculture, P.O. Box 2417, Washington, D.C. 20013.

FOR FURTHER INFORMATION CONTACT: S. W. Van Doran or William R. Boring, Lands Staff, Forest Service, USDA (703–235–8107).

SUPPLEMENTARY INFORMATION: The Federal Land Policy and Management Act of 1976 (FLPMA) replaced most authorities previously available to the Bureau of Land Management (BLM) and the Forest Service (FS) to grant rights-of-way. FLPMA is broadly stated and provides wide discretion.

Most aspects of either agency's current policies and procedures could have been continued. Those procedures were, however, different in some respects as a result of specific direction provided in authorities previously exclusive to one or the other agency and to divergence in the agency's basic assignment. Recognizing that significantly different procedures could result in unequal treatment of users, the two agencies set out to develop, insofar as possible, a common system for granting rights-of-way. Thus, while this set of regulations applies only to National Forest System lands, BLM's regulations for the public lands it administers will be procedurally similar.

Public Participation

Joint Agency staff teams developed an outline of suggested common right-of-way grant procedures. The outline was distributed November 14, 1977, to user groups, States and other affected governmental bodies and interested individuals and groups. Four informal public meetings were held to hear comments and answer questions. About 300 people attended the meetings and some 60 made presentations. In addition, about 160 written statements were received. Although comments were requested by February 1, 1978, all received have been carefully reviewed. In addition, agency members met with several individuals and groups to discuss specific concerns. Many comments lacked a necessary correlation with other Titles of FLPMA and other statutes. The basic policy statements in Title I, FLPMA, and the Multiple Use Sustained Yield Act; the emphasis on inventory and dynamic land use planning in Title II, FLPMA, and the National Forest Management Act, are important consideration in interpreting Title V of FLPMA (Rights-of-way).

The BLM and FS recognize the efforts and appreciate the thoughtful comments of the many participants in this joint rulemaking process. While individual response to each and every comment is not practical, all repetitive and significant comments have been integrated into the proposed rules or are addressed as follows:

Comment

Several industry groups urged the development of separate regulations designed specifically for their particular needs.

Response

Under careful analysis the request translated into predetermination by regulation of the type, duration, terms, etc., of any right-of-way granted for that use or to that group. To be fully satisfactory, the right-of-way granted would have to be adequate for the most demanding circumstances that might occur. This would not comply with the clear limitations in FLPMA to make the grant fit its particular circumstances with respect to the ground to be occupied, duration, and terms and conditions.

Separate regulations for size classes of a particular type of use only partially solved the problem and did not resolve different levels of other items, i.e., disclosures, needed under given circumstances. The initial Outline of Proposed Procedures illustrated this problem. It mentioned all of the possible disclosure requirements that might be necessary under any circumstance. Commentors were rightfully appalled and urged a much less stringent approach tailored to project and applicant circumstances. Several urged that the regulations describe a basic minimum process that would be supplemented only as necesary to fulfill particular requirements.

Forest Service regulations have in the past been very brief and basic. Where necessary, additional guidance has been provided to field officers in the Forest Service Manual. The Manual is written in relatively broad terms for agencywide guidance but is frequently supplemented at Regional and National Forest levels to achieve consistency along with appropriate adaptation to local conditions. The system has served well with few complaints.

The Congress has provided in FLPMA one set of essential instructions for a multitude of kinds and sizes of rights-of-ways. Following this example, these proposed rules describe a single basic system for receiving and processing applications and granting appropriately conditioned permits, easements and leases to use National Forest System lands.

Comment

Several States and the Federal Highway Administration pointed out that FLPMA did not preclude grants for highway purposes under Sections 107 and 317 of Title 23 of the United States Code. They added that the grants made by the Department of Transportation under Title 23 have satisfied their needs.

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Response

The Forest Service plans at this time to continue its current practice of consenting to appropriation of highway rights-of-way by the Federal Highway Administrator.

Comment

Owners of private lands adjacent to or intermingled with National Forest lands pointed out that FLPMA carefully avoids any modification of the provisions of the Act of October 13, 1964 (78 Stat. 1089; 16 U.S.C. 532–538), or conflict with present practices under that act. They urged that provisions of the act to grant road easements and to enter into cost-share road agreements be liberally interpreted and used in granting access to private lands within and outside of cost-share agreement areas.

Response

Practices under the 1964 act are covered in 36 CFR 212.8–12. No change is planned in this regulation or associated practices at this time. Section 510 of FLPMA provides that herafter no right-of-way for the purposes listed in Title V Rights-of-way shall be granted except under and subject to the provisions, limitations, and conditions contained in FLPMA. The 1964 Act and the Highway Act (Title 23) are the two specified exeptions.

We conclude that it was the intent of Congress to preserve the authority and practices under the 1964 act but only insofar as and in the manner in which they were being used. Any other right-of-way application should be made under and in full compliance with FLPMA.

Comments

The mining industry requested clarification of whether the joint procedures and proposed regulations would cover authorizations for roads and other access facilities to mining claims.

Response

Both agencis recognize the right of ingress and egress authorized by the Mining Law of 1872. Language differences between the FS Organic Act of 1897 and FLPMA (BLM's organic act), lead the two agencies to adopt somewhat different procedures.

Parties exercising rights of ingress and egress on National Forest System lands must, in accordance with the Act of June 4, 1897, " * * * comply with the rules and regulations covering such National Forest." The FS will continue its present procedure of approving the miner's operating plan and granting separate rights-of-way (under FLPMA) for access structures (roads, trams, etc.) to be constructed off the mining claim. BLM's authority in this area rests in Section 302(b) of FLPMA. It states: "In managing the public lands the Secretary shall, by regulation or otherwise, take any action necessary to prevent unnecessary or undue degradation of the lands." We anticipate that access across the public lands to unpatented mining claims will be authorized by BLM in the approved mining plan.

Comment

Several electric utilities and others objected to the requirement for a right-of-way issued by the land administering agency as well as a license from the Federal Energy Regulatory Commission (FERC) for elements of the same hydroelectric project.

Response

Section 510 of FLPMA provides that no right-of-way for the purposes listed shall be granted across National Forest lands except under the provisions of Title V. Only two exceptions are made: rights-of-way granted under the Act of October 13, 1964, and Sections 107 and 317 of Title 23, the Highway Act. Section 511 goes on to require that applicants seeking a license, cetificate or other authority from another agency but which involves a right-of-way across " * * * National Forest System lands must simultaneously apply to the Secretary * * * for the appropriate authority to use * * * ." those lands. Thus, rights-of-way necessary on National Forest System land must be authorized under FLPMA.

The regulatory authorities and responsibilities of the Federal Energy Regulatory Commission are carefully preserved in section 501(a)(4) which specifically includes "systems for generation, transmission, and distribution of electric energy" but requires that the applicant also comply with all applicable requirements of the Federal Power Commission (now FERC) under the Federal Power Act. Duplication is minimized to the fullest extent possible in the proposed rules. Land rental charges will not be duplicated.

Comment

Most commenters wanted decisionmaking authority at as close to the local level as possible. On the other hand, there was concern that broad discretionary authority could be abused by individual line officers resulting in unreasonable interpretation of criteria and a wide variation of decisions. Some asked for local expertise and on the ground knowledge; others opted for high-level management review and decisions to assure adequate expertise and consistency.

Response

The proposed rules recognize the need for both local expertise and uniform decisions. Uniformity could be obtained through extremely detailed regulations designed to cover all contingencies. However, this would eliminate the flexibility needed to respond to specific circumstances. The regulations will establish a basic process which will be supplemented with suitable guidance to field personnel through manuals and training. Authority to issue permits will be delegated to Forest Supervisors and, in some circumstances, District Rangers. Authority to grant easements will generally be retained at the Regional Office level to assure the level of uniformity and expertise commensurate with project complexity and the rights conveyed. Line officials are charged with making reasonable multiple use management decisions as a prerequisite of the position they hold. They and their staffs are trained for the express purpose of achieving efficiency and consistency. Opportunities for abuse of discretion are limited. Where unresolved differences of opinion occur, prompt administrative review by higher officers can be obtained by applicants and others under 36 CFR 211.19.

Comment

Almost without exception, the comments asked for a faster, more streamlined process, particularly for small projects with little environmental consequence.

Response

In order to expedite the application process we are urging initiation of a pre-application contact with local FS officials to enable the applicant and agency personnel to understand each other's needs. If used, application processing can be scheduled, and both the agency and the applicant can recognize the factors that determine processing time. A tentative schedule based on applicant needs, workload, the environmental sensitivity of the area, project complexity, and the quality of inventories and land use plans will serve to avoid agency delays and unattainable expectations by applicants.

Also, since the regulations provide a basic process which can be supplemented, the action on a project

can be tailored to its particular needs and circumstances.

Comment

Most commenters expressed support for the preapplication process described in the outline. Several pointed out that some early information regarding plans or proposals must be kept confidential.

Response

The regulations provide or confidentiality, when requested, to the extent reasonable and consistent with laws governing public information.

Comment

The largest number of comments received concerned the amount of detailed material that could be required of an applicant. Commenters uged that only minimal information be called for to identify the applicant, disclose plans and financial and technical capability, and describe the rights and privileges requested. They further visualized the creation of a hiatus where a grant would not be made until another agency had issued some necessary permit or clearance and that agency would not act until the right-of-way had been granted.

Response

The Oil and Gas Pipeline Right-of-way Act of 1973, upon which FLPMA was patterned, contains stringent mandatory disclosures of applicant organization and associated plans, contracts and agreements. FLPMA contains identical language except that the requirements are imposed only "as deemed necessary" for a determination as to whether a right-of-way shall be granted and what terms and conditions are to be included.

The Outline of Joint Procedures attempted to show a distinction between mandatory requirements and other material that might be necessary because of circumstances. Readers, however, assumed that agency officers would automatically require all possible information without regard to its usefulness, or need.

The legislative history provides guidance in this respect. The Senate Report states that informaton already on file need not be refiled and explains the required public disclosure of the ownership and control of business entities as follows:

> Requiring disclosure is based upon the principle that the Federal Government should know the true identity of the entity and individuals applying for permission to use the national resource lands.

The House Report states:

> The committee expects the Secretaries to be cautious in their demands or information. They are expected to seek only the minimum amount of information essential for making the determinations required by law.

The proposed regulations will depend upon the authorized officer to require only as much informaton as is necessary to assure that the applicant is a legal business entity possessing the technical and financial capability to construct, operate and maintain the proposed project. The findings of Public Utility Commissions, the Federal Energy Regulatory Commission and the Interstate Commerce Commission may be used, for example, in lieu of a finding by the authorized officer. Information already on file need not be refiled. To minimize duplication, copies of pertinent information submitted to other agencies for associated permits and clearances can be submitted to the Forest Service.

Since organizational structure frequently changes over time, authorizations to other than individuals will normally include a requirement that the holder will provide the details of its organizational structure upon demand of the authorized officer.

Unless the issuance of associated clearances is in doubt and the land would be subject to unnecessary environmental impacts, authorizations will normally be granted but made contingent upon the issuance of associated necessary clearances and permits.

The application procedure is designed to bring the applicant and the agency together much earlier than in the past to encourage an understanding of each other's needs and capabilities. Thereafter, the process is a mutual effort to determine what disclosures may be needed, the information and data necessary for environmental analysis, and acceptable alternatives. Environmental analysis will frequently be based upon conceptual plans and maps to be followed by such detailed plans, surveys, and standards as are determined to be necessary.

Comment

Many comments urged that the regulations impose time limits on the agencies for processing applications.

Response

This problem involves the time factors inherent in compliance with applicable statutes, such as the National Environmental Policy Act and the National Historic Preservation Act, and consultation with other agencies, local government and the interested public. It also reflects the difficulty of maintaining, funding, and efficiently scheduling an organization to handle a highly variable workload.

The House Report states:

> The Committee considered putting time limits on the Secretaries, requiring final action within a specified period after filing an application. It decided, however, to grant the Secretaries flexibility in this respect. *It expects them, however, to take every reasonable step to assure action at the earliest practical time.* (emphasis added).

We will do our best to respond promptly and these regulations are designed to streamline the application process.

Early contact and mutual coordination in the preapplication process will actively involve prospective users in the land use allocation and planning process. When land use plans fully consider right-of-way needs, processing of individual projects can be expedited. For example, many considerations will have been predetermined during the planning of a designated right-of-way corridor. In addition the expense and time of false starts can be avoided.

A deliberate effort has been made to limit the application process to reduce the burden on applicants. For example, disclosures are limited to the minimum necessary to comply with statutes and good business practices; and project details, plans, and surveys need only be commensurate with project size and complexity, anticipated impacts, and the commitment of lands and resources requested. Public involvement will also be tailored to the impacts and interests involved.

Applications can be processed at the same time associated permits and clearances are being obtained or grants can be made subject to their issuance.

Comment

The Outline for Joint Procedure provided for the issuance of temporary use permits to allow an applicant to enter upon the land to gather information. Many objected to or indicated the need for clarification of this provision.

Response

Receipt of an application will be acknowledged in writing. The acknowledgement will authorize the applicant to make non-disturbing use of National Forest land for studies and gathering of information necessary for completion of the application. Temporary use permits will be necessary where resource disturbance is likely such as clearing for surveys, digging of test pits, and other activities which result in noticeable disturbance

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of the land and resources or occupancy of the land by structures or other improvements. These temporary permits will require an application and environmental analysis, commensurate with the size and extent of impacts anticipated.

Comment

Several commenters demanded that the environmental analysis and the deicision whether or not to authorize a project be limited to the project itself and not address related activities made possibly by virtue of the grant, e.g., private land development.

Response

Considerations under the National Environmental Policy Act are not limited to a proposal by itself. Agencies are to use all practical means to foster the general welfare, create and maintain conditions under which man and nature can exist in productive harmony, and fulfill the social, economic, and other requirements of present and future generations. Environmental analysis should consider both primary and secondary consequences, favorable and adverse effects, irreversible and irretrievable commitments of resources, and cumulative impacts. Although emphasis is placed upon on-site impacts all anticipated environmental consequences must be addressed. It is appropriate therefore, to illuminate off-site consequences.

FLPMA requires that right-of-way grants contain terms and conditions to "(i) protect Federal property and economic interests; (ii) manage efficiently the lands which are subject to the right-of-way or adjacent thereto and protect the other lawful users of the land adjacent to or traversed by such right-of-way; (iii) protect lives and property; (iv) protect the interests of individuals living in the general area traversed by the right-of-way who rely on the fish, wildlife, and other biotic resources of the area for subsistence purposes; (v) require location of the right-of-way along a route that will cause least damage to the environment, taking into consideration feasibility and other relevant factors; and (vi) otherwise protect the public interest in the lands traversed by the right-of-way or adjacent thereto."

It is clear that the Congress is concerned with offsite consequences.

While valid rights cannot be abridged, it is inconceivable that the Congress intended that grants be made on Federal land which would trigger related actions obviously adverse to the public interest. These principles would also be applicable to transportation and utility corridors. We are not addressing corridor designation herein since it is considered part of the land management planning process and will be included in those procedures and rules in 36 CFR Part 219.

Comment

A few comments stated that the purpose of FLPMA was to grant, not deny, rights-of-way. One suggested that denials be limited to conflicts with Congressionally designated areas, e.g., Wilderness. Many expressed concern for appeal rights when applications are denied.

Response

FLPMA states that a decision of whether or not a right-of-way should be granted and the determination of terms and conditions rests with the Secretary involved. FLPMA and other special use authorities provide permissive authorities that may be used to accommodate the needs of individuals, groups and industries only when they are in, or are at least compatible with the public interest and will comply with the objectives, policies and applicable statutes for and under which the lands are managed.

Comments

Many electric utilities objected to the so-called "wheeling" provisions in the proposed outline for power transmission lines of 66 KV or higher.

Response

The House Report indicates the committee reviewed the policy requiring holders of transmission line rights-of-way to make excess capacity available for wheeling of power from other systems. The committee rejected suggestions to modify this policy and stated: "the action by the committee is to be considered a specific endorsement and support of * * *" this policy. Accordingly the wheeling provisions are included in these regulations unchanged except to reflect the transfer of the Power Marketing Administration to the Department of Energy.

Comment

Comments regarding terms and conditions of a grant varied greatly. In substance, many urged totally unconditioned grants. Several wanted all conditions expressed in regulations and no latitude in their application. Others urged selective application.

Response

Section 504(e) provides for regulations with respect to terms and conditions and for regular revision of such regulations. It goes on to state that such regulations shall be applicable to every right-of-way granted or renewed under Title V. Section 505 requires that each right-of-way shall contain terms and conditions and then provides criteria for conditions. The proposed rules closely parallel Section 505. The authorized officer will determine the terms and conditions necessary in each case to satisfy the public interest and applicable statutes. Upon acceptance by the applicant the grant shall become the agreement or contract between the holder and the agency.

Comment

Several expressed concern about possible interpretations of the payment requirement for mineral and vegetative materials removed, used, or destroyed to accommodate a right-of-way. For example, one urged that no payment be required for merely dislodging minerals.

Response

Contrary to some previous statutes and parts of statutes now replaced, FLPMA does not convey any rights to timber and mineral materials through a right-of-way grant. Removal, disposal or use of such materials must be authorized under applicable laws.

The Senate Report is helpful. It states that a right-of-way holder may not use mineral or vegetative material without obtaining an authorization under applicable law to do so. It goes on to state:

> This does not prevent the holder from excavating for construction purposes and using or moving earth and nonmerchantable vegetation and disposing of them in approved locations * * * It merely requires the holder to purchase mineral materials, such as gravel, and vegetative materials, such as timber, where the sale of such materials is authorized or otherwise required by statute or regulation.

The regulations concerning timber and mineral materials on National Forest lands appear in 36 CFR Part 221 and 251.4, respectively. Instructions concerning the charges to be made and the possibility of their waiver are covered in those sections.

Comment

A few comments urged that right-of-way holders pay for loss of wildlife habitat caused by their use.

Response

Under existing authorities payments of this nature would be deposited in the Treasury and would not be directly available for habitat work. We prefer to require appropriate mitigation measures. Properly designed and located rights-of-way often enhance wildlife habitat by furnishing needed variety of forage and valuable "edge effect" for wildlife. In addition, revegetation and other mitigating measures are carefully designed to protect or restore wildlife habitat. Replacement of wildlife habitat lost to water development projects can be required under other existing statutes.

Comment

A few commented on right-of-way widths and several objected to precise survey requirements for determining boundaries.

Response

These questions are addressed in the legislative history. The Senate Report states:

> The committee intends that all rights-of-way granted under this title be *limited* to the minimum amount of land reasonably necessary for conduct of the particular project or activity involved (their emphasis).
>
> The Committee has consciously avoided establishing arbitrary width limitations because experience has shown that they are not a practical guide to environmentally sound construction design; they are not amenable to technological change; and they limit the Secretary's discretion and ability to cope with unique circumstances.

Regarding surveys, the Senate report states:

> This subsection provides that the Secretary shall specify the boundaries of each right-of-way as precisely as is practicable. The Committee expects that the Secretary will exercise considerable flexibility in weighing the merits of each situation. Expensive and highly precise surveys are not normally required for many rights-of-way, such as low standard logging spurs or livestock driveways.
>
> Thus, it is expected that the Secretary will weigh the proportionate values involved when determining the appropriate level of accuracy in setting such rights-of-way boundaries.

The House Report states:

> The Secretaries are authorized to specify the boundaries of rights-of-way and limits the grant to the project facilities and such additional lands as are necessary for operation and maintenance and to protect the environment. The purpose of this is to permit identification of the lands in the right-of-way on the ground with such degree of precision as may be needed in each case.
>
> The requirement is not meant to suggest that the outside boundaries of a right-of-way have to be surveyed or even marked although there may be cases where this will be needed.

The proposed rules provide the authorized officer with wide flexibility in determining survey standards on a case by case basis. They also provide for filing surveys after construction, again to provide maximum flexibility and reduce costs to applicants.

Comments

Many comments addressed the duration or term of the grant. Most utilities recommended a 50-year term. Other users pointed out that a perpetual grant was appropriate for some rights-of-way, especially roads. Many emphasized that the duration for any particular kind of use must fully accommodate the needs of all such cases. It appeared that these users were requesting that the duration of grants be fixed by regulation.

Response

Section 504(b) FLPMA states: "*Each* right-of-way or permit granted, issued or renewed * * * shall be limited to a reasonable term in light of *all circumstances concerning the project.*" (emphasis added) FLPMA goes on to list several criteria to be used in determining duration, but implicit in the language is a case-by-case analysis. The section provides that the right-of-way shall specify whether it is or is not renewable and the terms and conditions applicable to renewal. Title I of FLPMA provides that although particular parcels may be disposed of in the national interest, the public lands will be retained in Federal ownership and be managed on the basis of multiple use and sustained yield. Future use of the land is to be projected through a land use planning process. Title II provides guidance for land use planning and the issuance of decisions to implement the plans. However, such decisions "* * * shall remain subject to reconsideration, modification and termination through revision * * *" of the land use plan. To respond to this direction, right-of-way grants need to retain reasonable opportunity to adjust to change. The legislative history is helpful. The Senate Report states: "One purpose of this section is to give the holder * * * a degree or certainty and security as to his tenancy so that adequate financing can be arranged. This is particularly necessary for major projects. In certain instances, due to the very long term nature of * * * investments * * * it may be appropriate to specify a length of term which is very long or even perpetual. In such cases there should be *provision for review and revision of terms and conditions* to reflect changing times and conditions." (emphasis added).

The House Report states: "The requirement that the term of a right-of-way be 'limited to a reasonable term' does not prevent the issuance * * * for indefinite terms, the exact duration of which will be contingent on continuation of specific events or circumstances." Two examples are given—a timber road could be issued for "so long as the lands served by it are managed for long term timber production"; and a reservoir could be authorized for "* * * so long as the power is produced in commercial quantities." The report goes on to say "an alternative would be to provide in the right-of-way a right of renewal so long as the same contingencies exist."

The proposed process has been modified to (1) state the objective as a term no longer than is necessary to accomplish the purpose of the authorization and reasonable in light of all circumstances concerning the use and (2) clearly identify project financing as one of the criteria for determining duration. Long term authorizations (those exceeding 30 years) will provide for revision of terms at specified times to provide an opportunity to reflect changing times and conditions.

Given the thrust of FLPMA for matching duration to the needs of individual projects and the wide variety of local situations, setting maximum terms in the regulations is inappropriate. Guidance in deciding duration will be in agency manuals. These are public documents.

Comment

A few commenters asked that only easements or short term temporary permits be granted.

Response

This comment is consistent with the provisions of Section 28 of the Mineral Leasing Act of 1920. FLPMA, however, provides for the granting of "rights-of-way" which is defined to include an easement, lease, permit, or license. The Senate Report states: "It is intended that the Secretary will use any mix of leases, licenses or permits as he finds appropriate for such uses." It is clear that the basic policies of both agencies require continuing management of the public lands in a manner that retains reasonable ability to make changes in the public interest. Easements however, grant an interest in the land and are not

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easily modified. The proposed rules provide for modification only at time of renewal or transfer or in accordance with specific terms and conditions included in the grant.

BLM and FS have used every avenue in this rulemaking to streamline and speed up the handling of applications. While this is not to say that the consideration of requests for revocable permits will be cursory, it is obvious that issuing officers must be entirely satisfied before making long term, irrevocable easement commitments of the land. In addition, to assure adequate expertise the granting of easements will generally be retained at higher management levels.

Historically, the Forest Service has issued only permits for most rights-of-way yet there have been very few instances when the revocability of these permits has proven a disadvantage to the holder.

The proposed rules provide for the use of permits and easements in the combination that most efficiently balances the needs of applicants, management, and the public.

Comment

Several parties asked recognition that exclusive use and control of rights-of-way may be necessary when their use could pose a threat to public safety or another use might be technically incompatible.

Response

Both agencies recognize safety and other hazards associated with mixing industrial and recreational or other public use. They also recognize the technical incompatibility or added cost burdens associated with the proximate location of some uses.

Section 503 of FLPMA states:

> In order to minimize adverse environmental impacts and the proliferation of separate rights-of-way, the utilization of rights-of-way in common shall be required to the extent practical, and each right-of-way or permit shall reserve to the Secretary concerned the right to grant additional rights-of-way or permits for compatible uses on or adjacent to rights-of-way granted pursuant to this Act.

The Secretaries are directed to take into consideration, "* * * National and State land use policies, environmental quality, economic efficiency, national security, safety, and good engineering and technological practices", in designating and confining rights-of-way to corridors.

It is clear that rights-of-way are to be granted and managed on a basis that provides only such exclusiveness as is truly necessary for the proposed use and is compatible with multiple use management and the public health and safety. Unsafe and untenable combinations will not be required. Further, common use of permit areas will be granted only after consultation with all parties involved.

Comment

Many commenters opposed the principle of imposing liability without fault upon users and urged low limits if adopted.

Response

We believe it is appropriate that those who place special risks on National Forest lands should assume a significant part of the cost of injury or damage and immediate corrective actions, e.g., control of fires, caused by the use.

We could agree that liability without fault would be unnecessary if it were possible to leave malfunctions unattended until rectified by the user. That is not possible, however, with uses having great destructive potential, (forest fires, oil spills, explosion, radioactivity]. In such cases, prompt action must be taken to avoid massive destruction and the loss of life and property. With regard to fire, a high level of public funds is invested in the development and maintenance of effective fire organizations. In fact, a good argument can be made for asking high-risk users to contribute to the organization and training of forces held in readiness to combat fires. On the other hand, the majority of risks can be reasonably reduced within existing technology for undergrounding, insulating, and improved system design, for example, thereby minimizing the user's liability.

Liability without fault will be imposed only in cases of high risk uses such as, but not limited to, powerlines and oil and gas pipelines.

Liability without fault will not be imposed for low risk uses such as roads, telephone facilities and fences.

When liability without fault is imposed, the authorization will state a limit commensurate with the foreseeable risks or hazards presented, but shall be no more than $1,000,000.

Comment

Many comments urged that right-of-way permits and easements be freely transferable by the holder without agency review or approval.

Response

Special use authorizations grant specified rights and privileges to named individuals or entities. At the same time they require certain responsibilities be assumed by the holder. Transfer of privileges and responsibilities must be controlled; i.e., approved, in order to maintain a viable contractual relationship between the user and the agency.

In addition, FLPMA and the Oil and Gas Pipeline Act require certain qualifications and disclosures from applicants. The agencies have a responsibility to determine that transferees qualify prior to the transfer.

Comment

Several commenters urged that grants be renewed, revised and transferred subject only to the initial terms and conditions.

Response

As discussed previously, the legislative history of FLPMA acknowledges the possible need for very long term grants but indicates that such grants should provide for revision of terms and conditions to reflect changing times. Title II gives guidance in land use planning and provides that management decisions shall remain subject to reconsideration, modification, and termination through revision of the land use plan involved. Land use authorizations need to be made in a manner that will retain reasonable opportunites to adjust to new perceptions of the public interest. An application to change the use authorized or the grant area is a recognition by the holder of a need for revision. Such application opens the contractual relationship for appropriate revisions in the interest of both the holder and the Government.

The proposed regulations provide for modification at time of transfer. The need to update terms and conditions and the specific changes will be explained prior to transfer thus reducing unexpected impacts on new owners.

Terms and conditions will also be reviewed and changed if appropriate at time of renewal. In addition, very long term grants will provide for modification in the public interest at specified times, generally keyed to the revision of land management plans.

Alternatives would involve denial of applications and issuing only short term grants and revokable permits, due to inability to predict future contingencies. We believe the maximum latitude will allow users and administering officers to work out the best combination under given circumstances. Modifications in the public interest will be applied in a reasonable manner.

Comment

The several comments about termination and suspension varied widely. A few indicated fear of unreasonable acts by the administering officers. At the same time one commenter felt that action should be taken only for repeated violations and another said only for willful and reckless misconduct.

Response

In accordance with FLPMA, failure to construct, non-use, abandonment of failure to comply with terms and conditions of the grant and regulations are sufficient grounds for termination. The proposed rules provide for written notice of the grounds for action and reasonable time to cure any non-compliance. Right-of-way easements will be terminated after an administrative proceeding under the Administrative Procedures Act (5 U.S.C. 554). Immediate temporary suspension may be effected when the authorized officer determines it to be necessary to protect the public health or safety or the environment. Prompt on-the-ground review by a superior officer will be arranged if requested by the holder. Permits may be terminated upon a clear showing of public interest grounds that override the individual interest involved.

Comment

Several commenters asked that if a right-of-way was to be terminated, sufficient time be granted to allow for budgeting of costs. A few asked that a right-of-way terminated only when a reasonable alternative route was available.

Response

The regulations provide for early notification. Normally the authorized officer will work with the holder to identify acceptable alternatives but agencies cannot bind themselves to do this in all cases. However, the need for termination seldom arises; such action must be fully justified and reasonable notice given.

Comment

Most comments objected to bonding to assure compliance with terms and conditions. Many requested that regulated utilities and major companies be exempted from bonding.

Response

Both agencies have had this authority in the past and have used it with discretion. Bonding guarantees that money to repair damages is available if necessary. Bonding will be used only when the potential for damage is significant. FLPMA's requirement that a right-of-way will not be issued until the authorized officer is satisfied that the holder is technically and financially capable, should reduce dependence on bonding.

Comment

The comments made about land rental fees were often contradictory. A few said fees should be based upon fair market value appraisal of the highest and best use of the land, others said not to use highest and best use. Still others asked, "fair market value of what?" Several requested a single lifetime payment, a few suggested five year payments, and others agreed with annual payments. Some urged individual appraisals while others said "keep it simple" or use standard predetermined rates, and a few demanded that everybody pay the same rates. Several recommended that fees not be adjusted with market changes and one urged that the holder be required to manage the land for wildlife production in lieu of fees.

Response

In Title I FLPMA the Congress declares that it is the policy of the United States that, "* * * (9) the United States receive *fair market value of the use* of the public lands and their resources unless otherwise provided for by statute." (emphasis added) FLPMA reflects the fee principles stated in the Natural Resources User Charges Study transmitted to Agencies by the former Bureau of the Budget in 1964. It states in part:

> Many Federal Government programs furnish specific, identifiable benefits to the individuals and businesses using them. Equity to all tax payers demands that those who enjoy the benefits should bear a greater share of the costs.
>
> Where federally owned resources or property are leased or sold, a fair market value should be obtained. Charges are to be determined by the application of sound business management principles and so far as practicable and feasible in accordance with comparable commercial practices.
>
> The Federal Government should recover fair market value for the use of Federal land resources. Competitive bidding will be used to establish the fair market value in all instances where an identifiable competitive interest exists. Where a competitive interest does not exist, fees should be comparable to those charged for the use of similar private lands. Fees and charges for long-term use should be established in such manner as will allow for periodic timely adjustment.

Following these principles, fees will be determined through land appraisal or other sound business management principles and will represent the fair market value of the benefits received by the holder of a special use authorization.

Appraisal techniques acceptable to the appraisal industry will be used. BLM and FS coordinate techniques and results for consistency, as appropriate.

Predetermined rates developed on local or regional bases through comparision to appraised cases will be used under the circumstances that do not warrant the expense of individual appraisals.

In accordance with the Act, annual fees will be charged except where the annual rental is less than $100. In such cases payment in advance for periods up to five-years may be required. Fees will be adjusted when necessary to reflect current fair market value.

Comment

Many comments requested that the regulation establish unequivocal free use or particular kinds of uses; e.g., telephones, industries (mining) and types of organizations (REA cooperatives and governmental bodies). Others urged that all users pay the same rates.

Response

The Act provides discretionary authority to waive rental fees where a right-of-way is granted in reciprocation for a right-of-way conveyed to the United States in connection with a cooperative cost-share program. It also provides discretionary authority to charge less than fair market value, including free use, to certain governmental and non-profit entities or where a valuable benefit is provided to the public or the programs of the agency without or at reduced, charges. The House Report indicates the committee considered and supported the long-time agency policy of providing special fee considerations favoring State and local governments and non-profit organizations. The Senate Report, however states "* * * it is not the intent of this committee to allow use of * * * land without charge except where the holder is the Federal Government itself * * *."

Failure to charge fair market value fees results in a subsidy by the public-at-large. It follows that free or reduced charges should be used only in those circumstances where the general public benefits from the use. Non-profit entities that are essentially tax or donaton supported who are engaged in a public or semi-public activity designed for the

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public health, safety or welfare will qualify for reduced charges.

As a matter of equity we believe it is inappropriate to either reduce fees or grant free use when the holder follows practices equivalent to private commercial enterprise. For this reason cooperatives and municipal utilities whose principle source of revenue is customer charges will, hereafter, be charged fair market value fees.

In view of wide variations in organization, purpose, and manner of doing business it is impractical to attempt to interpret in the regulations each and every circumstance that may or may not qualify for fee reductions. Fair and equitable application will rest with the authorized officer. Uniformity will be achieved through Manual guidance and training.

Comment

There was almost unanimous objection to various aspects of cost reimbursement. Several said that the Government should pay the cost of environmental studies because the public, not the applicant, benefits. Many asked to be exempt because their use was in the public interest through furnishing services needed by customers. Most felt that the non-refundable fee schedules were inequitable and too high. Many asked for itemized accounting and provisions for audit of agency records when actual costs rather than fee schedules are used. Several suggested that private land owners would reciprocate by charging for costs when granting rights-of-way to the government. Several also wanted cost recovery waived when rental fees were waived, mandatory refund of excess payments, and return of payments if the application was denied.

Response

It is generally the Forest Service practice to process applications without provision for cost recovery. The BLM initiated cost reimbursement for all non-governmental rights-of-way in 1975 based on existing authorities. In 1976 FLPMA gave BLM and the FS additional discretionary authority to recover "reasonable" costs. The authority to collect costs has been litigated under the previous authority, and most recently under FLPMA. In at least two cases, the Federal District Courts ruled that special studies and environmental reports were public benefits and their costs should not be charged to an applicant. The ruling on FLPMA is subject to appeal. In his 1965 budget message to the Congress, The President said, "Many Federal Government programs furnish specific, identifiable benefits to the individuals and businesses using them. Equity to all taxpayers demands that "those who enjoy the benefits should bear a greater share of the costs." However, practices of the several Federal agencies are not consistent. Also, the unsettled litigation casts doubts on the appropriateness of some elements of the procedures proposed in the Outline of Joint Procedures. For these reasons the two agencies have decided to continue individually with their current practices until overall Federal policy and legalities are better understood.

Comment

Many commenters objected to obtaining agency approval prior to modifying facilities within an authorized right-of-way. Some opposition was based on interpreting the language in the Outline of Proposed Procedures to require approval of every activity including internal changes (changing electronic equipment within communication vaults), replacing broken insulators, etc. Several asked that upgrading capacity and phased reinforcement of facilities be allowed without advance approval.

Response

The proposed rules are designed to accommodate normal maintenance without advance approval. Planned expansion, phased construction, upgrading, or reinforcement of authorized facilities can be included in the original application processing and authorized in the grant. When the grant is designed to accommodate changes, the contact and plan provision discussed below will involve minimal effort. The language now indicates that amended applications will be required when changes involve additional land or when the grant does not authorize the proposed use. The rules require contact with the office administering the land and the joint development of contingency plans when activities or changes will impact the resources or visual characteristics or make previous analysis invalid. Contact and plans are also required for changes that might adversely affect other users or the public. Contingency plans provide for appropriate protection, rehabilitation, and additional environmental analysis, if needed.

Redesignation of Sections

In addition to amending the text, the sections in Part 251 have been reorganized.

The following table shows the relationship of the regulations before and after the redesignation.

Prior designation	Subject	Moved to
251.1 (a) and (d)	Special uses	251.50.
251.1(b)(1)	Delegations	251.52.
251.1(b)(2)	Terms	251.56.
251.1(b)(3)	Termination	251.60.
251.1(b)(4)	Transfer	251.59.
251.1(b)(5)	Reasonable rates	251.56(f)(i).
251.1(c)	Other authorizations	251.53
251.2	Free use	251.57(b).
251.3	Charges	251.57.
251.6	Exchange of use	Deleted, now unnecessary, conflicts with Title IV FLPMA.
251.7	Alaskan home and industrial sites	Deleted, made ineffective by the National Forest Management Act of 1976 and Pub. L. 95-174.
251.8	Community improvements	Deleted, this now falls under Title V FLPMA.
251.50-65	Act of March 4, 1911, Procedures	Replaced by Title V FLPMA.

Impact Statements

It is hereby determined that publication of this proposed rulemaking is not a major Federal action significantly affecting the quality of the human environment and that no detailed statement is required pursuant to Section 102(2)(c) of the National Environmental Policy Act of 1969 (U.S.C. 4332(2)(c)).

The impact of this regulation has been considered against economic impact statement criteria and it has been determined that an economic impact statement is not required.

M. Rupert Cutler,

Assistant Secretary.

May 14, 1979.

In light of the foregoing, it is proposed to amend 36 CFR Part 251—Land Uses as follows:

1. By revising the table of contents to read as follows:

PART 251—LAND USES

Common Mineral Materials

Sec.
251.4 Disposal of materials.
251.4a Use and disposal of materials in acquired and related lands.

Natural Resources Control

251.9 Management of municipal watersheds.
251.9 Prohibition of location of mining claims within certain areas in the Custer State Park Game Sanctuary, South Dakota.
251.11 Governing mining locations under the mining laws of the United States within that portion of the Barney National Forest, State of South Dakota, designated as the Custer State Park Game Sanctuary.
251.14 Conditions, rules, and regulations to govern exercise of timber rights reserved in conveyances to the United States.
251.15 Conditions, rules and regulations to govern exercise of mineral rights reserved in conveyances to the United States.

Rights of Grantors

251.17 Grantor's right to occupy and use lands conveyed to the United States.
251.18 Rights-of-way reserved by the grantor on lands conveyed to the United States.
251.19 Exercise of water rights reserved by the grantor of lands conveyed to the United States.

Designation of Areas

251.23 Experimental areas and research natural areas.

Petersburg Watershed

Sec.
251.35 Petersburg Watershed.

Special Uses

251.50 Special uses.
251.51 Definitions.
251.52 Delegaton of authority.
251.53 Authorities.
251.54 Special use applications.
251.55 Nature of interest.
251.56 Terms and conditions.
251.57 Rental fees.
251.58 Cost reimbursement. [Reserved]
251.59 Transfer of special uses.
251.60 Termination and suspension.
251.61 Modification.
251.62 Acceptance.

Authority: Sec. 1, 30 Stat. 35, as amended, 62 Stat. 100, sec. 1, 33 Stat. 628; (16 U.S.C. 551, 472), unless otherwise noted; (43 U.S.C. 1761).

Special Use Permit (Heading Changed to Common Mineral Materials)

§§ 251.1–251.3 and 251.6–251.8 [Revoked]

2. By changing the heading of the first subpart from Special Use Permit to Common Mineral Materials and by revoking §§ 251.1 through 251.3 and 251.6 through 251.8.

Rights-of-Way for Electric Power Transmission Lines (Heading Changed to Special Uses)

3. By changing the heading of the last subpart from Rights-of-way For Electric Power Transmission Lines to Special Uses and by revising the subpart to read as follows:

Special Uses

§ 251.50 Special uses.

(a) All uses of National Forest lands, improvements and resources, excepting those provided for in the regulations govering the disposal of timber, minerals, and mineral materials, and the grazing of livestock shall be designated "special uses," and shall be authorized by special use permits, easements, or leases.

(b) Nothing in this section shall by construed to prohibit the temporary occupancy of National Forest lands without permit for the protection of life or property in emergencies, provided a special use permit for such use is obtained at the earliest opportunity.

(c) The temporary use or occupancy of National Forest lands by individuals for camping, picnicking, hiking, fishing, hunting, riding, boating, parking of vehicles and similar purposes may be allowed without a special use permit: *Provided,* That the prescribed fee is paid for such use or occupancy of sites for which a schedule of fees has been established; *And provided further,* That permits may be required for such uses when in the judgment of the Chief of the Forest Service the public interest or the protection of such lands requires the issuance of permits.

§ 251.51 Definitions.

(a) "Applicant"—any individual, partnership, corporation, association, or other business entity, and any Federal, State or governmental entity or agency which applies for a special use authorization.

(b) "Authorized Officer"—an employee of the Forest Service who has been delegated the authority to act for the Chief.

(c) "Chief"—the Chief of the Forest Service.

(d) "Easement"—Authorization for a nonexclusive right of use for a specified facility and purpose which conveys a conditioned interest in National Forest System land and which is revocable for abandonment or noncompliance only after an administrative proceeding pursuant to 5 U.S.C. section 554.

(e) "Holder"—any applicant who has received a special use authorization.

(f) "Lease"—An authorization which conveys a right of occupancy and use of National Forest System land for a specified facility, period, and purpose and is both revocable and compensable according to its terms.

(g) "National Forest System Lands"—all lands and interests in lands administered by the Forest Service.

(h) "Permit"—a special use authorization which provides permission, without conveying an interest in land, to occupy and use National Forest System land for specified purposes, and which is revocable at the discretion of the authorized officer.

(i) "Right-of-way"—An easement, permit, or lease that allows the use of Federal lands for the construction, operation, maintenance and termination of a project or facility passing over, upon, under or through such lands.

(j) "Secretary"—the Secretary of Agriculture.

(k) "Special Use Authorization"—a permit, lease, or easement which conveys occupancy and/or use privileges to a holder.

(l) "Term Permit"—a special use authorization to occupy and use National Forest System lands other than rights-of-way under 43 U.S.C. 1761, for a

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specified period and is both revocable and compensable according to its terms.

§ 251.52 Delegation of authority.

Special use authorizations shall be issued, granted, amended, or renewed by the Chief of the Forest Service, or upon authorization from him under existing delegation at 7 CFR Part 260, by the Regional Forester, Forest Supervisor, Forest Ranger, or other forest officer, and shall be in such form and contain such terms, stipulations, conditions, and agreements as may be required by the regulations of the Secretary of Agriculture and the instructions of the Chief of the Forest Service.

§ 251.53 Authorities.

The Chief of the Forest Service under authority duly delegated, or the Chief's delegated representative, is authorized to issue permits, term permits and leases and to grant easements, as follows:

(a) Permits under the Act of June 4, 1897 (30 Stat. 35; 16 U.S.C. 551) for purposes other than rights-of-way.

(b) Permits under the Act of June 8, 1906 (34 Stat. 225; 16 U.S.C. 431, 432), for the examination of ruins, the excavation of archaeological sites, and the gathering of objects of antiquity in conformity with the rules and regulations prescribed by the Secretaries of the Interior, Agriculture, and War, December 28, 1906 (43 CFR 3.1 to 3.17).

(c) Leases under the Act of February 28, 1899 (30 Stat. 908; 16 U.S.C. 495) for public sanitariums or hotels near or adjacent to mineral springs.

(d) Term permits under the Act of March 4, 1915 (38 Stat. 1101, as amended, 70 Stat. 708; 16 U.S.C. 497) for periods not exceeding thirty years and for not to exceed eighty acres for the purposes of (1) hotels, resorts, and other structures and facilities, other than rights-of-way for recreation, public convenience, or safety; (2) industrial or commercial purposes, other than rights-of-way; and (3) education or public activities; and for not to exceed five acres for summer homes and stores.

(e) Except for rights-of-way; permits, term permits, leases, and easements as authorized by the Act of September 3, 1954 (68 Stat. 1146; 43 U.S.C. 931c, 931d), to States, counties, cities, towns, townships, municipal corporations, or other public agencies for periods not in excess of 30 years, at prices representing the fair market value, fixed by the Chief, Forest Service, through appraisal for the purpose of constructing and maintaining on such lands public buildings or other public works.

(f) Term permits under Section 7 of the Act of April 24, 1950 (64 Stat. 84; 16 U.S.C. 580d) for periods not exceeding thirty years for the use of structures or improvements under the administrative control of the Forest Service and land used in connection therewith.

(g) Permits, term permits, and easements in the National Grasslands and other lands acquired or adminstered under Title III, Act of July 22, 1937 (50 Stat. 525; 7 U.S.C. 1011d) for purposes other than rights-of-way.

(h) Easements for rights-of-way for pipeline purposes for the transportation of oil and gas and products thereof; and permits for the temporary use of additional lands as is necessary in connection with construction, operation, maintenance or termination of the pipeline or to protect the natural environment or the public safety under Section 28 of the Mineral Leasing Act of 1920 (41 Stat. 449) as amended (30 U.S.C. 185).

(i) Permits, leases and easements under the Federal Land Policy and Management Act of 1976 (90 Stat. 2743; 43 U.S.C. 1761–71) for rights-of-way for:

(1) Reservoirs, canals, ditches, flumes, laterals, pipes, pipelines, tunnels and other facilities and systems for the impoundment, storage, transportation, or distribution of water;

(2) Pipelines and other systems for the transportation or distribution of liquids and gases, other than water and other than oil, natural gas, synthetic liquid or gaseous fuels, or any refined product produced therefrom, and for storage and terminal facilities in connection therewith;

(3) Pipelines, slurry and emulsion systems, and conveyor belts for transportation and distribution of solid materials, and facilities for the storage of such materials in connection therewith;

(4) Systems for generation, transmission, and distribution of electric energy, except that the applicant shall also comply with all applicable requirements of the Federal Energy Regulatory Commission under the Federal Power Act of 1935 (49 Stat. 847; 16 U.S.C. 791);

(5) Systems for transmission or reception of radio, television, telephone, telegraph, and other electronic signals and other means of communications;

(6) Roads, trails, highways, railroads, canals, tunnels, tramways, airways, livestock driveways, or other means of transportation except where such facilities are constructed and maintained in connection with commercial recreation facilities; or

(7) Such other necessary transportation or other systems or facilities which are in the public interest and which require rights-of-way over, upon, under, or through National Forest System lands; and

(8) Permits for the temporary use of additional lands as is reasonably necessary for the construction, operation, maintenance, or termination of a right-of-way project or a portion thereof, or for access thereto.

(j) Temporary or permanent easements under the Act of October 13, 1964 (78 Stat. 1089; 16 U.S.C. 532–38) for road rights-of-way over lands and interests in land administered by the Forest Service. The Regulations pertaining to procedures under this authority appear in 36 CFR 212.10.

(k) Permits under the Wilderness Act of September 3, 1964 (16 U.S.C. 1131–36) for temporary structures and commercial services and for access to valid mining claims or other valid occupancies and to surrounded State or private land within designated wilderness. The Regulations under this authority appear in 36 CFR Part 293.

(l) Permits under the Land and Water Conservation Fund Act of September 3, 1964 (86 Stat. 459) for group activities, recreation events, motorized recreation vehicles, and other specialized recreation uses.

§ 251.54 Special use applications.

(a) *Pre-application activity.* When occupancy and/or use of National Forest System land is desired a proponent is encouraged to contact the Forest Service office(s) responsible for management of the affected land as early as possible so potential constraints may be identified, the proposal can be considered in land management plans, and processing of an application can be tentatively scheduled. The proponent will be given guidance and information about: (1) Possible land use conflicts as identified by review of land management plans, landownership records, and other readily available information sources; (2) application procedures and probable time requirements; (3) applicant qualifications; (4) cost reimbursement requirements; (5) necessary associated clearances, permits, and licenses; (6) environmental and management considerations; (7) special conditions; and (8) identification of on-the-ground investigations which will require temporary use permits. If requested by the proponent, the Forest Service officer will, to the extent reasonable and authorized by law, not disclose project and program information revealed during preapplication contacts.

(b) *Filing applications.* Applications for special uses will be filed with the district ranger or forest supervisor having jurisdiction over the affected land (36 CFR 200.2) except:

(1) Applications for projects on lands under the jurisdiction of two or more administrative units of the Forest Service may be filed at the most convenient Forest Supervisor's Office having jurisdiction over part of the project and the applicant will be notified where subsequent communications should be directed;

(2) Applications for Federal Aid Highways will be filed in the form of a letter from the State Highway Department to the Federal Highway Administrator pursuant to regulations 23 CFR Part 712, Subpart E;

(3) Applications for cost-share and other road easements will be filed in accordance with regulations 36 CFR 212.10 (c) and (d);

(4) Applications for oil and gas pipeline rights-of-way crossing Federal lands under the jurisdiction of two or more Federal agencies shall be filed with the State Office, Bureau of Land Management, pursuant to regulations 43 CFR Part 2882.

(c) *Coordination of applications.* Some authorizations for use of National Forest System land will be contingent upon State, county, or other Federal agency license, permit, certificate or other approval document such as, Federal Communication Commission license, Federal Energy Regulatory Commission license, State water right, or county building permit. Applicants filing applications with other Federal, State or local agencies for a license, certificate, or other authority for a project on National Forest System land, other than an oil or gas pipeline right-of-way crossing land under the jurisdiction of two or more Federal agencies, will simultaneously file an application with the Forest Service under this section for the appropriate authority to use the National Forest System land. To minimize duplication, pertinent information from the application made to the other agency can be appended and referenced in the submittal to the Forest Service.

(d) *Rights of applicants.* The filing of an application entitles the applicant only to a full review of the application. No rights or use privileges are conveyed without written authorization.

(e) *Application content.* Applications shall include:

(1) *Applicant identification.* Identification of the applicant sufficient that the Government will know the true identity of the entity and/or individuals applying. The authorized officer may accept the the findings of an agency such as a Public Utility Commission, the Federal Energy Regulatory Commission, or the Interstate Commerce Commission, for example, in lieu of another detailed finding. Information required by this provision which is already on file with the Forest Service need not be refiled if reference is made to the previous filing date, place and case number. The applicant's name and address is required and, if the applicant is not an individual, the name and address of the applicant's agent who is authorized to receive notice of actions pertaining to the application. If called for by the authorized officer, the applicant shall furnish the following additional information:

(i) A State and local government agency: A copy of the authorization under which the application is made.

(ii) A public corporation: The statute or other authority under which it was organized.

(iii) A Federal government agency: The title of the agency official delegated the authority to file the application.

(iv) A private corporation: Evidence of incorporation and, if it is operating in a State other than that in which it is incorporated, a certificate from the Secretary of State or other proper official of that State indicating that it has complied with the laws of the State governing foreign corporations to the extent require to entitle the company to operate in good standing under the laws of that State; and the name and address of each shareholder owning 3 per centum or more of the shares, together with the number and percentage of any class of voting shares of the entity which such shareholder is authorized to vote, and the name and address of each affiliate of the entity together with, in the case of an affiliate, the number of shares and the percentage of any class of voting stock of that affiliate owned, directly or indirectly, by that entity and, in the case of an affiliate which controls that entity, the number or shares and the percentage of any class of voting stock of that entity owned, directly or indirectly, by the affiliate.

(v) A partnership, association or other unincorporated entity: A certified copy of the articles of association or other similar document, if any, creating the entity and a certificate of compliance entitling the partnership to operate in good standing under the laws of the State.

(2) *Technical and financial capability.* Sufficient evidence to satisfy the authorized officer that the applicant has or, prior to commencement of construction, will have the technical and financial capability to construct, operate, maintain, and terminate the project for which authorization is requested, and is otherwise acceptable.

(3) *Project description.* A project description in sufficient detail to enable the authorized officer to determine the feasibility of the project or activity proposed, its impacts on the environment, any benefits provided to the public, the safety of the proposal, the lands to be occupied or used, the terms and conditions to be included, and whether the proposal will comply with the Regulations of the Secretary of Agriculture.

(4) *Environmental protection plan.* For a new project which may have a significant impact on the environment, a plan for the protection and rehabilitation of the environment during construction, operation, maintenance, and termination of the project.

(5) *Additional information.* Any other information and data requested by the authorized officer to enable him to determine feasibility of the project or activity proposed; impacts on the environment; compliance with applicable statutes; compliance with requirements for associated clearances, certificates, permits, or licenses; and suitable terms and conditions to be included in the authorization; and, to make a decision to approve or deny the application.

(f) *Processing applications.* The authorized officer will acknowledge receipt of the application in writing. The acknowledgement will authorize the applicant to make nondisturbing use of National Forest land for studies and the gathering of information necessary for completion of the application. Surveys, test pits, studies, and other activities which result in land occupancy or noticeable disturbance of the land or resources may proceed only upon the issuance of appropriate special use permits. Thereafter, the authorized officer will issue temporary permits as necessary to allow the applicant to enter upon the land to gather information; assess the applicant's qualifications; complete an environmental analysis and/or an environmental impact statement in accordance with the National Environmental Policy Act of 1969; determine compliance with appliable statutes; consult with other agencies, local officials, or interested parties and hold public meetings when sufficient interest exists to warrant the time and expense; and take any other action necessary to fully evaluate and

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make a decision to approve or deny the application and to prescribe suitable terms and conditions. Federal, State, and local government agencies and the public will be given adequate notice and an opportunity to comment upon special use proposals in accordance with Forest Service practices established under the National Environmental Policy Act and OMB Circular A–95.

(g) *Special application procedures*—(1) *Application for oil and gas pipeline rights-of-way.* These will include the citizenship of the applicant(s) and disclose the identity of the participants in the entity. Such disclosure shall include, where applicable, the name and address of each partner, the name and address of each shareholder owning 3 per centum or more of the shares, together with the number and percentage of any class of voting shares of the entity which such shareholder is authorized to vote, and the name and address of each affiliate of the entity together with, in the case of an affiliate controlled by the entity, the number of shares and the percentage of any class of voting stock of that and the percentage of any class of voting stock of that entity owned, directly or indirectly, by the affiliate. Citizens of another country, the laws, customs, or regulations of which deny similar or like privileges to citizens or corporations of the United States of America, shall not own any interest in any oil and gas pipeline right-of-way or associated permit. The authorized officer shall notify the House Committee on Interior and Insular Affairs and the Senate Committee on Energy and Natural Resources, promptly upon receipt of an application for a right-of-way for a pipeline twenty-four (24) inches or more in diameter, and no right-of-way for such a pipeline shall be granted until sixty (60) days (not counting days on which the House of Representatives or the Senate has adjourned for more than three (3) days) after a notice of intention to grant the right-of-way, together with the Authorized Officer's detailed findings as to terms and conditions he proposes to impose, has been submitted to such committees, unless each committee by resolution waivers the waiting period.

(2) *Applications for electric power transmission lines of 66 KV or above.* Each application for authority to construct and maintain a facility for the generation of electric power and energy or for the transmission or distribution of electric power and energy of 66 kilovolts or higher under this subpart shall be referred to the Secretry of the Department of Energy to determine the relationship of the proposed facility to the power-marketing program of the United States. Where the proposed facility will not conflict with the program of the United States the authorized officer, upon notification to that effect, will proceed to act upon the application. In the case of necessary changes respecting the proposed location, construction, or utilization of the facility in order to eliminate conflicts with the power-marketing program of the United States, the authorized officer shall obtain from the applicant written consent to or compliance with such requirements before taking further action on the application: *Provided, however,* That if increased costs to the applicant will result from changes to eliminate conflicts with the power-marketing-program of the United States, and it is determined that a right-of-way should be granted, such changes will be required upon equitable contract arrangements covering costs and other appropriate factors.

(h). *Denial.* Denial of an application will be in writing and state the reasons therefor.

§ 251.55 Nature of interest.

(a) A holder is authorized only to occupy such land and conduct such activities as is specified in the special use authorization issued or granted to him. The holder may allow others to use the land only as his agent in furtherance of his rights and privileges. The holder may sublet the use and occupancy of the premises, and improvements authorized only with the prior written approval of the authorized officer but the holder shall continue to be responsible for compliance with all conditions of the special use authorization.

(b) All rights in land subject to a special use authorization no expressly granted are retained by the United States, including but not limited to (1) continuing rights of access to all National Forest System lands (including the subsurface and air space); (2) a continuing right of physical entry to any part of the authorized facilities for inspection, monitoring, or for any other purposes or reason consistent with any right or obligation of the United States under any law or regulation; and (3) the right to require common use of the land or to authorize the use of the land by others in any way not inconsistent with a holder's existing rights and privileges after consultation with all parties involved.

(c) Special use authorizations are subject to all outstanding valid rights.

(d) Each special use authorization will specify the lands to be used or occupied which shall be limited to that which the authorized officer determines: (1) Will be occupied by the facilities authorized; (2) to be necessary for the construction, operation, and maintenance of the authorized facilities or the conduct of authorized activities; and, (3) to be necessary to protect the public health and safety and the environment.

(e) The holder of a special use authorization will secure authorization under applicable law, and pay in advance, the value as determined by the authorized officer for any mineral and vegetative materials (including timber) to be cut, removed, used, or destroyed by the holder from the authorized use area or other National Forest System lands.

§ 251.56 Terms and conditions.

(a) *General.* Each special use authorization shall contain: (1) Terms and conditions which will (i) carry out the purposes of applicable statutes and rules and regulations issued thereunder; (ii) minimize damage to scenic and esthetic values and fish and wildlife habitat and otherwise protect the environment; (iii) require compliance with applicable air and water quality standards established by or pursuant to applicable Federal or State law; and (iv) require compliance with State standards for public health and safety, evironmental protection, and siting, construction, operation, and maintenance of or for such use if those standards are more stringent than applicable Federal standards; and (2) such terms and conditions as the authorized officer deems necessary to (i) protect Federal property and economic interests; (ii) manage efficiently the lands which are subject to the use or adjacent thereto and protect the other lawful users of the lands adjacent to or occupied by such use; (iii) protect lives and property; (iv) protect the interests of individuals living in the general area of the use who rely on the fish, wildlife, and other biotic resources of the area for subsistence purposes; (v) require location of the use to cause least damage to the environment, taking into consideration feasibility and other relevant factors; and (vi) otherwise protect the public interest.

(b) *Duration and renewability.* Each special use authorization will specify its duration and, if appropriate, renewability. The duration shall be limited to a term which the authorized officer determines to be no longer than is necessary to accomplish the purpose of the authorization and is reasonable in light of all circumstances concerning the use, including: (1) Land management

and other plans, (2) public benefits provided, (3) cost and life of the authorized facilities, (4) project financial arrangements, and (5) the life of associated facilities, licenses, etc. Authorizations exceeding 30 years will provide for revision of terms and conditions at specified intervals to reflect changing times and conditions.

(c) *Pre-construction approvals.* The Forest Service will approve the location of all developments. Approval of design and plans (or standards, if appropriate) for construction of facilities will be required prior to construction.

(d) *Liability.* (1) Holders of rights-of-way for high risk use and occupancy, such as, but not limited, to powerlines, and oil and gas pipelines, shall be held strictly liable for all injury, loss, or damage, including fire suppression costs: *Provided,* That the maximum strict liability shall be specified, but shall not exceed $1,000,000. Liability for injury, loss or damage, including fire suppression costs, in excess of the specified maximum shall be determined by laws governing ordinary negligence.

(2) Holders of rights-of-way for other than high risk uses shall pay the United States for all injury, loss, or damage, including fire suppression costs, in accordance with existing Federal and State laws.

(3) Holders of rights-of-way shall also indemnify the United States from any and all liability, loss, or damage the United States may suffer as a result of claims, demands, losses, or judgments against the United States arising from the use and occupancy of rights-of-way granted under these regulations.

(e) *Bonding.* The authorized officer may require the holder of a special use authorization to furnish a bond or other security satisfactory to him to secure the obligations imposed by the terms of the authorization.

(f) *Special terms and conditions.* (1) Public service enterprises. Special use permits authorizing the operation of public service enterprises, shall require that the permittee charge reasonable rates and furnish such services as may be necessary in the public interest.

(2) Common carriers. Oil and gas pipelines and related facilities authorized under Section 28 of the Mineral Leasing Act of 1920, as amended, shall be constructed, operated and maintained as common carriers.

The owners or operators of pipelines shall accept, convey, transport, or purchase without discrimination all oil gas delivered to the pipeline without regard to whether such oil or gas was produced on Federal or non-Federal lands. In the case of oil or gas produced from Federal lands or from the resources on the Federal lands in the vicinity of the pipeline, the Secretary may, after a full hearing with due notice thereof to interested parties and a proper finding of facts, determine the proportionate amounts to be accepted, conveyed, transported, or purchased. The common carrier provisions of this section shall not apply to any natural gas pipeline operated by any person subject to regulation under the Natural Gas Act or by any public utility subject to regulation by a State or municipal regulatory agency having jurisdiction to regulate the rates and charges for the sale of natural gas to consumers within the State or municipality. Where natural gas not subject to State regulatory or conservation laws governing its purchase by pipeline companies is offered for sale, each pipeline company shall purchase, without discrimination, any such natural-gas produced in the vicinity of the pipeline.

(3) Electric power transmission facilities having a voltage of 66 kilovolts or more. Unless waived on the advice of the power-marketing administration an applicant for a right-of-way for an electric power transmission facility having a voltage of 66 kilovolts or more must execute and file with its application a stipulation agreeing to accept the right-of-way grant subject to the following:

(i) In the event the United States, pursuant to law, acquires the applicant's transmission or other facilities constructed on or across such right-of-way, the price to be paid by the United States shall not include or be affected by any value of the right-of-way granted to the applicant under authority of the regulations of this part.

(ii) The Department of Energy—(hereinafter referred to as the "Department") shall be allowed to utilize for the transmission of electric power and energy any surplus capacity of the transmission facility in excess of the capacity needed by the holder of the grant (subsequently referred to in this paragraph as "holder") for the transmission of electric power and energy in connection with the holder's operations, or to increase the capacity of the transmission facility at the Department's expense and to utilize the increased capacity for the transmission of electric power and energy. Utilization by the Department of surplus or increased capacity shall be subject to the following terms and conditions:

(A) When the Department desires to utilize surplus capacity thought to exist in the transmission facility, notification will be given to the holder and the holder shall furnish the Department within 30 days a certificate stating whether the transmission facility has any surplus capacity not needed by the holder for the transmission of electric power and energy in connection with the holder's operations and, if so, the amount of such surplus capacity.

(B) Where the certificate indicates that there is not surplus capacity or that the surplus capacity is less than that required by the Department the authorized officer may call upon the holder to furnish additional information upon which its certification is based. Upon receipt of such additional information the authorized officer shall determine, as a matter of fact, if surplus capacity is available and, if so, the amount of such surplus capacity.

(C) In order to utilize any surplus capacity determined to be available, or any increased capacity provided by the Department at its own expense, the Department may interconnect its transmission facilities with the holder's transmission facility in a manner conforming to approved standards of practice for the interconnection of transmission circuits.

(D). The expense of the interconnection will be borne by the Department, and the Department will at all times provide and maintain adequate protective equipment to insure the normal and efficient operation of the holder's transmission facilities.

(E) After any interconnection is completed, the holder shall operate and maintain its transmission facilities in good condition, and, except in emergencies, shall maintain in a closed position all connections under the holder's control necessary to the transmission of the Department's power and energy over the holder's transmission facilities. The parties may, by mutual consent, open any switch where necessary or desirable for maintenance, repair or construction.

(F) The transmission of electric power and energy by the Department over the holder's transmission facilities will be effected in such manner as will not interfere unreasonably with the holder's use of the transmission facilities in accordance with the holder's normal operating standards, except that the Department shall have the exclusive right to utilize any increased capacity of the transmission facility which has been provided at the Department's expense.

(G) The holder will not be obligated to allow the transmission of electric power and energy by the Department to any person receiving service from the holder on the date of the filing of the

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application for a grant, other than statutory preference customers including agencies of the Federal Government.

(H) The Department will pay to the holder an equitable share of the total monthly cost of that part of the holder's transmission facilities utilized by the Department for the transmission of electric power and energy, the payment to be an amount in dollars representing the same proportion of the total monthly cost of such part of the transmission facilities as the maximum amount in kilowatts of the power transmitted on a scheduled basis by the Department over the holder's transmission facilities bears to the total capacity in kilowatts of that portion of the transmission facilities. The total monthly cost will be determined in accordance with the system of accounts prescribed by the Federal Energy Regulatory Commission, exclusive of any investment by the Department in the part of the transmission facilities utilized by the Department.

(I) If, at any time subsequent to a certification by the holder or determination by the authorized officer that surplus capacity is available for utilization by the Department, the holder needs for the transmission of electric power and energy in connection with its operations the whole or any part of the capacity of the transmission facility theretofore certified or determined as being surplus to its needs, the holder may request the authorized officer to modify or revoke the previous certification or determination by making application to the authorized officer not later than 36 months in advance of the holder's needs. Any modification or revocation of the certification or determination shall not affect the right of the Department to utilize facilities provided at its expense or available under a contract entered into by reason of the equitable contract arrangements provided for in this section.

(J) If the Department and the holder disagree as to the existence or amount of surplus capacity in carrying out the terms and conditions of this paragraph, the disagreement shall be decided by a board of three persons composed as follows: The holder and the authorized officer shall each appoint a member of the board and the two members shall appoint a third member. If the members appointed by the holder and the authorized officer are unable to agree on the designation of the third member, he shall be designated by the Chief Judge of the United States Court of Appeals of the circuit in which the major share of the facilities involved is located. The board shall determine the issue and its determination, by majority vote, shall be binding on the Department and the holder.

(K) As used in this section, the term "transmission facility" included (*1*) all types of facililties for the transmission of electric power and energy and facilities and (*2*) the entire transmission line and associated facilities, from substation or interconnection point to substation or interconnection point, of which the segment crossing the lands of the United States forms a part.

(L) The terms and conditions prescribed in this paragraph may be modified at any time by means of a supplemental agreement negotiated between the holder and the Secretary of Energy or his designee.

§ 251.57 Rental fees.

(a) Special use authorizations, except as otherwise provided in paragraph (b) of this section or when specifically authorized by the Secretary of Agriculture, shall require the payment in advance of an annual fee as determined by the authorized officer. The fee will be based upon the fair market value of the rights and privileges authorized as determined by appraisal or other sound business management principles. *Provided, however,* When the annual fee is less than $100 an advance lump-sum payment for up to five years may be required.

(b) A lesser charge, including free use, may be authorized when equitable and in the public interest, for the use and occupancy of National Forest System lands in the following circumstances:

(1) The holder is a Federal, State, or local government or any agency or instrumentality thereof; excluding municipal utilities and cooperatives whose principal source of revenue is customer charges.

(2) The holder is a nonprofit association or nonprofit corporation, which is not controlled or owned by profit-making corporations or business enterprises, and is engaged in public or semi-public activity which furthers public health, safety, or welfare.

(3) The holder provides without charge, or at reduced charges, a valuable benefit to the public or to the programs of the Secretary. A fee may be waived when a right-of-way is authorized in reciprocation for a right-of-way conveyed to the United States.

(4) When the value of the use is included in the fees for an authorized use or occupancy for which the United States is already receiving compensation.

(c) Special use permits issued under section 7 of the act of April 24, 1950, may require as all or a part of the consideration the reconditioning and manintenance of the government-owned or controlled structures, improvements, and land to a satisfactory standard: *Provided,* That the total consideration so received shall be commensurate with the value of the use authorized.

(d) Special use permits involving government-owned or controlled buildings, structures, or other improvements which require caretakers' services, or the furnishing of special services such as water, electric lights, and clean-up, may require the payment of an additional fee or charge to cover the cost of such services (15 FR 5902, August 31, 1950, as amended at 21 FR 7722, October 10, 1956).

(e) Rental fees may be initiated or adjusted whenever necessary to reflect current fair market value (1) as a result of fee review or (2) upon a change in the holder's qualifications under paragraph (b) of this section. Reasonable notice will be given prior to imposing or adjusting rental fees.

§ 251.58 Cost reimbursement. [Reserved]

§ 251.59 Transfer of special use privileges.

A special use authorization may be transferred with approval of the authorized officer, provided the transferree is qualified as an applicant (see § 251.54) and agrees to comply with and be bound by the terms and conditions of the authorization and such new conditions and stipulations as existing or prospective circumstances may warrant. If the holder of a special use authorization through voluntary sale or transfer or through enforcement of a valid legal proceeding or operation of law shall cease to be the owner of the authorized physical improvements other than any owned by the United States, the authorization shall be subject to cancellation to extinguish the rights and privileges granted therein.

§ 251.60 Termination and suspension.

(a) The authorized officer may terminate or suspend any special use authorization (1) for noncompliance with applicable statutes, regulations, or terms and conditions of the authorization; (2) for failure of the holder to exercise the rights and privileges granted; (3) with the consent of the holder; or (4) when, by its terms, the authorization terminated on the occurrence of a fixed or agreed upon condition, event, or time.

(b) Permits may be terminated in accordance with terms of the permit, for reasons in the public interest.

(c) Rights-of-way granted to a Federal agency will be terminated only with that agency's concurrence.

(d) Prior to suspension or termination, the authorized officer shall give the holder written notice of the grounds for such action and reasonable time to cure any noncompliance. *Provided, however,* Immediate temporary suspension may be required when the authorized officer determines it to be necessary to protect the public health or safety or the environment. In any such case, the superior of the authorized officer will, within 10 days of request of the holder, arrange for an on-the-ground review of the adverse conditions with the holder. Following this review the superior will take action to affirm, modify or cancel the suspension as soon as possible.

(e) A permittee may request administrative review of decisions giving notice of termination or suspension under 36 CFR 211.19.

(f) In the case of an easement, an appropriate administrative proceeding pursuant to 5 U.S.C. 554 shall be held. If the Administrative Law Judge determines that grounds for suspension or termination exist and such action is justified, the authorized officer shall suspend or terminate the easement. Provided, however, immediate temporary suspension may be affected prior to an administrative proceeding when the authorized officer determines it to be necessary to protect the public health or safety or the environment. No administrative proceeding shall be required where the easement by its terms, provides that it terminates on the occurrence of a fixed or agreed-upon condition, event, or time.

(g) Upon abandonment, termination, revocation, or cancellation of a special use authorization, the holder shall remove within a reasonable time his structures and improvements and shall restore the site, unless otherwise agreed upon in writing or in the authorization. If the holder fails to remove all such structures or improvements within a reasonable period, as determined by the authorized officer, they shall become the property of the United States, but that will not relieve the holder of liability of the cost of their removal and restoration of the site.

§ 251.61 Modifications.

(a) Material deviation during construction from the approved plans or the location shown in the application shall be made only upon the prior approval of the authorized officer. A significant deviation not considered in processing the application will receive appropriate review prior to approval.

(b) The holder may be required to furnish as-built plans, map(s), or survey(s) of the actual facilities upon completion.

(c) Holders will contact the responsible District Ranger or Forest Supervisor and develop contingency plans prior to maintenance or reconstruction activities that will materially impact the natural resources, other users, or the public.

(d) A holder will file a new application when a special use authorization must be amended to authorize new or additional use or area.

§ 251.62 Acceptance.

An easement, lease, or term permit shall be conditioned upon the signed acceptance of the applicant. Written acceptance shall constitute a contract between the applicant and the United States. Failure to accept within 60 days is sufficient reason for a denial of the application.

[FR Doc. 79-15832 Filed 5-17-79; 8:45 am]

BILLING CODE 3410-11-M

ENVIRONMENTAL PROTECTION AGENCY

[40 CFR Part 162]

[OPP-250018; FRL 1228-4]

Enforcement of the Federal Insecticide, Fungicide, and Rodenticide Act; Registration, Reregistration, and Classification Procedures

AGENCY: Environmental Protection Agency (EPA), Office of Pesticide Programs.

ACTION: Notification to the Secretary of Agriculture of Proposed Regulation prescribing terms and conditions whereby a State may issue a registration for a pesticide to meet a "special local need" under Section 24(c) of the Federal Insecticide, Fungicide, and Rodenticide Act (FIFRA), as amended in 1972, 1975, and 1978 (92 Stat. 819; 7 U.S.C. 136).

SUMMARY: Notice is hereby given as required by Section 25(a)(2)(D) of FIFRA that the Administrator, EPA, has forwarded to the Secretary of the U.S. Department of Agriculture, a copy of EPA's proposed regulation designed to implement Section 24(c) of FIFRA, which authorizes States to issue registrations for pesticides to meet a "special local need".

FOR FURTHER INFORMATION CONTACT: P. H. Gray, Jr., Operations Division (TS-770-M), Office of Pesticide Programs, EPA, 401 M St. SW., Washington, D.C. 20460. (202/472-9403).

SUPPLEMENTARY INFORMATION: Section 25(a)(2)(A) of FIFRA provides that the Administrator shall provide the Secretary of Agriculture a copy of any proposed regulation at least 60 days prior to signing it for publication in the **Federal Register.** If the Secretary comments in writing regarding the proposed regulation within 30 days after receiving it, the Administrator shall publish in the **Federal Register** (with the proposed regulation) the comments of the Secretary, if requested by the Secretary, and the response thereto of the Administrator. If the Secretary does not comment in writing within 30 days after receiving the proposed regulation, the Administrator may sign the regulation for publication in the **Federal Register** any time after such 30 day period.

Pursuant to FIFRA, Section 25(a)(3), a copy of this proposed regulation has been forwarded to the Committee on Agriculture of the House of Representatives and the Committee on Agriculture, Nutrition, and Forestry of the Senate. The Section 24(c) regulation has also been submitted for review to the FIFRA Scientific Advisory Panel as required by Section 25(d).

Dated: May 10, 1979.

Edwin L. Johnson,

Deputy Assistant Administrator for Pesticide Programs.

[FR Doc. 79-15651 Filed 5-17-79; 8:45 am]

BILLING CODE 6560-01-M

DEPARTMENT OF HEALTH, EDUCATION, AND WELFARE

Office of Education

[45 CFR Part 100b]

Consolidated Grant Applications for Insular Areas

Correction

In FR Doc. 79-15008 appearing at page 28012 in the issue for Monday, May 14, 1979, in the "**FOR FURTHER INFORMATION CONTACT**" paragraph, the telephone number should be corrected to read: "(202) 472-3730".

BILLING CODE 1505-01-M

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Social Security Administration

[45 CFR Parts 232, 233 and 302]

Aid to Families With Dependent Children, Child Support Enforcement; Redetermining Eligibility and Computing a Supplemental Payment in States Required To Do So

AGENCIES: Social Security Administration, HEW, Office of Child Support Enforcement, HEW.

ACTION: Notice of Decision To Develop Regulations.

SUMMARY: The Social Security Administration and the Office of Child Support Enforcement plan to recommend to the Secretary the publication of proposed regulations for redetermining eligibility and computing a monthly supplemental payment for AFDC recipients in States required to do so by Section 402(a)(28) of the Social Security Act. That section requires that monthly supplemental payments be made to recipients who have less disposable income because the law now requires that child support payments previously paid directly to the family be paid to the State Child Support Enforcement Agency (under Part IV–D of the Act).

This rule will affect assistance payments in three groups of States: (1) Those which did not, in July 1975, and which do not now, discount child support payments "dollar-for-dollar" in computing the amount of a family's assistance; (2) those which permit recipients to retain $5 per month of income, under 45 CFR 233.20(a)(4)(i), without any reduction in assistance; and (3) those which allow the conservation of certain kinds of income for the future identifiable needs of a child under section 402(a)(8)(B)(i) of the Act without any reduction in assistance.

This proposal will establish a new 45 CFR 232.21 and amend 45 CFR 233.20 and 302.32.

The Department of Health, Education, and Welfare has classified these regulations as policy significant.

FOR FURTHER INFORMATION CONTACT: Ms. Alice M. Stewart, 330 C Steet, S.W., Washington, D.C. 20201, telephone (202) 245–0521.

Dated: May 15, 1979.

Approved:

Stanford G. Ross,

Commissioner of Social Security and Director, Office of Child Support Enforcement.

[FR Doc. 79–15620 Filed 5–17–79; 8:45 am]

BILLING CODE 4110–07–M

FEDERAL MARITIME COMMISSION

Proposed Procedures for Environmental Policy Analysis

[46 CFR Part 547]

[Docket No. 79–51]

AGENCY: Federal Maritime Commission.

ACTION: Proposed rule.

SUMMARY: The rules proposed in Docket No. 75–6 are withdrawn and replaced by new proposed rules. The purpose and effect of this action is to provide procedures for implementing the National Environmental Policy Act of 1969, 42 U.S.C. 4321 *et seq.*

DATES: Comments (original and fifteen copies) on or before June 30, 1979.

ADDRESSES: Comments to: Secretary, Federal Maritime Commission, 1100 L Street, NW., Washington, D.C. 20573.

FOR FURTHER INFORMATION CONTACT: Francis C. Hurney, Secretary, Room 11101, Federal Maritime Commission, 1100 L Street, NW., Washington, D.C. 20573, (202) 523–5725.

SUPPLEMENTARY INFORMATION: The Commission commenced a rulemaking proceeding in Docket No. 75–6 to adopt rules implementing the National Environmental Policy Act of 1969 (NEPA). Because of several intervening events, the most important of which is the promulgation of final rules by the Council on Environmental Quality (CEQ), we are discontinuing Docket No. 75–6 and in its place proposing to amend Title 46 CFR by adding Part 547 as set forth below.

In drafting this proposal we have considered CEQ's final regulations, comments received in Docket No. 75–6, and recent judicial interpretations of NEPA. These rules differ in many respects from our earlier proposal, and more fully comport with the purposes of NEPA as it applies to our unique regulatory scheme.

Sections 547.1 and 547.2 set forth, respectively, the purpose and scope of the rules and the organizational structure for handling all activities pursuant to NEPA. Section 547.2 designates the Chief of the Office of Environmental Analysis (OEA), under the direction of the Director, Bureau of Industry Economics, as the Commission official responsible for such activities.

A general information section 547.4, requires all comments submitted pursuant to this Part to be addressed to the Secretary of the Commission, and states that information and status reports on NEPA activities will be available from the OEA.

The definitions section 547.3, includes definitions of "Potential Action" and "Proposed Action" which reflect the specific procedures applicable to the Commission's activities.

Section 547.5, *Categorical Exclusions,* expands the list of exclusions in response to comments received in Docket No. 75–6 and upon review of all Commission activities. This better enables the Commission to identify those actions having a significant environmental impact and to allocate its resources in the review of those actions.

Sections 547.6 and 547.7 concern environmental assessments and findings of no significant impact. If, after completing an environmental assessment, the OEA detemines that a Commission action will not signficantly affect the environment, a finding of no significant impact will be prepared and published in the **Federal Register.** Normally this document will signify the end of the Commission's environmental consideration of the action.

If an environmental impact statement is to be prepared, the procedures in § 547.8 will govern. This section uses the terms "potential action" and "proposed action" as disjunctives to encompass all Commission actions. In certain circumstances, therefore, the Commission will begin the NEPA process before there is a Commission proposal, as that term has been defined by CEQ.

In Docket No. 75–6, § 547.13 set forth a procedure whereby a final environmental impact statement (FEIS) would be introduced into evidence at any hearing before an Administrative Law Judge (ALJ). This section has been deleted. NEPA does not require the introduction of an impact statement at an evidentiary hearing. It only requires that an agency, at the time of its report or decision, consider the environment together with its normal decision-making criteria. In actions before the Commission, this occurs at the time of the Commissoin's decision and report, not on or before the Initial Decision of an ALJ in those cases where one is prepared.

The procedure incorporated as subsections 2, 3, 4 and 5 of § 547.8(c) applies to all Commission proceedings, not only to those for which a hearing is conducted before an ALJ. It allows any party to a proceeding, within twenty days of issuance of the FEIS, to raise a substantial and material error of fact concerning the FEIS and request a hearing thereon. The Commission may then refer any such issue to an ALJ for resolution. This procedure eliminates any confusion which might occur if

hearings related solely to Shipping Act issues were infused with environmental issues and the parties' responses to the FEIS. The factual issues for resolution will be narrowed only to those which are substantial and material and can, therefore, be resolved expeditiously.

As an alternative to this proposal, the Commission has considered retaining the hearing procedure provision of Docket No. 75–6, with certain modifications. As modified, this section would read:

Sec. 547.—*Hearing Procedures*

(a) *Proceedings before an Administrative Law Judge* (1) Subject to any procedural requirements imposed by the Administrative Law Judge consistent with this part, when a Commission action requiring preparation of an environmental impact statement is the subject of a hearing under the Administrative Procedure Act, 5 U.S.C. 501 *et seq.*, and the Commission's rules of practice and procedure, 46 CFR Part 502, the OEA shall, prior to the close of the record, submit the FEIS for the record. This FEIS shall be considered the direct testimony of the person responsible for its preparation, and it shall be admitted into evidence in accordance with Rule 156 of the Commission's rules of practice and procedure, 46 CFR 502.156.

(2) Any party to the proceeding may, in the discretion of the Administrative Law Judge, cross-examine as to matters contained in the FEIS and offer non-cumulative, probative evidence in support or in opposition thereto. Such cross-examination may include examination of the person preparing the statement with respect to the statement, and others with respect to comments submitted by them.

(3) The Director of the Bureau of Hearing Counsel, or his or her designee, shall represent the OEA at all hearings under this Part except that, in the event of a conflict of interest, the Commission's General Counsel shall appoint special counsel to represent the OEA.

(4) Where an environmental impact statement is submitted in a proceeding before an Administrative Law Judge, the initial decision of the Administrative Law Judge shall make all necessary findings and conclusions with respect to all environmental issues raised by such impact statement. To the extent that the findings and conclusions of the Administrative Law Judge are different from those in the FEIS, the statement shall be deemed modified to that extent, and the initial decision shall be distributed as provided for in section 547.

(5) If the Commission upon review, either on its own motion or after receiving exceptions filed pursuant to the Commission's Rules of Practice and Procedure, 46 CFR Part 502, reaches conclusions different from those contained in an initial decision with respect to environmental issues, the FEIS will be deemed modified to that extent. Unless otherwise directed by the Commission, the Commission Order will be deemed final when served.

(b) *Other proceedings.* (1) If any party, by petition to the Commission within 20 days of service of the FEIS, shows that the FEIS contains a substantial and material question of fact, the resolution of which requires a hearing, and expressly requests that such a hearing be held, the Commission shall refer any such issue(s) to an Administrative Law Judge for expedited resolution consistent with the procedures set forth in this section.

(2) The Administrative Law Judge shall make such findings of fact on the issue(s) designated by the Commission and shall then certify such findings to the Commission which shall be deemed a supplement to the FEIS. To the extent that such findings differ from the FEIS, it shall be modified by the supplement.

This section would permit the consideration of environmental impact statements in formal hearings. Environmental impact statements in hearings before an ALJ would be submitted pursuant to subsection (a) which provides that final impact statements be submitted before the record is closed. The impact statement would be considered the direct testimony of the person responsible for its preparation, and treated like other evidence submitted for the record. Cross-examination would be limited, in the ALJ's discretion, to those instances where oral testimony will aid in resolving material and substantial factual diputes. Oral rebuttal testimony will be limited in the same manner. To the extent the ALJ's Initial Decision alters the findings and conclusions of the impact statement, the impact statement would be modified accordingly.

In those proceedings not heard before an ALJ where facts in a final statement are contested, the procedures in subsection (b) would apply. If a party timely challenges a factual assertion in a final impact statement and expressly requests a hearing, the Commission could, if good cause exists, refer any such issue to an ALJ for expedited resolution. The ALJ would make findings of fact on the issues designated by the Commission and certify such findings to the Commission.

Comments on the procedures embodied in § 547.8(c) and the alternative proposal set forth are invited from all interested persons.

Section 547.9 enumerates, to the extent possible, those Commission actions which would ordinarily require the preparation of an environmental impact statement. Section 547.10 requires the Commission to identify all alternatives considered by it in preparing its public record of its decision.

Section 547.11 concerns circumstances in which certain information must be filed with the Commission. It also indicates that, where appropriate, parties should seek early assistance from the OEA. Additionally, it clarifies that only the Commission can formally require that information be submitted, but that in appropriate cases the Commission will seek information under section 21 of the Shipping Act.

Now therefore, it is ordered, That notice is hereby given that the Federal Maritime Commission is proposing to amend Title 46 CFR by adding a new Part 547;

It is further ordered, That notice of this order and the attached proposed rules be published in the **Federal Register;** and

It is further ordered, That all interested persons may participate in this rulemaking proceeding by filing with the Secretary, Federal Maritime Commission, Washington, D.C. 20573, on or before June 30, 1979, an original and 15 copies of their views and arguments pertaining to the proposed rule. All suggestions for changes in the text of the proposed rule should be accompanied by the language thought necessary to accomplish the desired change and statements and arguments in support thereof.

By the Commission.

Francis C. Hurney,

Secretary.

PART 547—PROCEDURES FOR ENVIRONMENTAL POLICY ANALYSIS

Sec.

547.1 Purpose and Scope.
547.2 Organization.
547.3 Definitions.
547.4 General Information.
547.5 Categorical Exclusions.
547.6 Environmental Assessments.
547.7 Finding of No Significant Impact.
547.8 Environmental Impact Statements.
547.9 Actions Normally requiring an EIS.
547.10 Record of Decision.
547.11 Information Required by the Commission.
547.12 Time Constraints for Final Administrative Actions.

Authority: Sec. 43, Shipping Act, 1916, (46 U.S.C. 841); sec. 102, National Environmental Policy Act of 1969, (42 U.S.C. 4332(2)(B)).

§ 547.1 Purpose and scope.

(a) *Purpose.* This part implements the National Environmental Policy Act of 1969 (NEPA) and incoporates and complies with the Council on Environmental Quality's (CEQ) Regulations (40 CFR parts 1500 *et seq.).*

(b) *Scope.* This part applies to all actions of the Federal Maritime

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Commission (Commission). To the extent possible, the Commission shall integrate the requirements of NEPA with its obligations under section 382(b) of the Energy and Conservation Act of 1975, 42 U.S.C. 6362.

§ 547.2 Organization.

The Commission's activities performed pusuant to this part will be performed by the Bureau of Industry Economics' Office of Environmental Analysis (OEA). The Chief of the OEA, shall administer the Commission's EPA responsibilities.

§ 547.3 Definitions.

(a) "Shipping Act" means the Shipping Act, 1916, as amended, 46 U.S.C. 801 *et seq.*

(b) "Common Carriers by Water or Other Persons Subject to the Act" means any common carrier by water as defined by section 1 of the Shipping Act, including conferences of such carriers, or any person not a common carrier by water carrying on the business of forwarding or furnishing wharfage, dock, warehouse, or other terminal facilities in connection with a common carrier by water.

(c) "Environmental Impact" means any alteration of existing environmental conditions of creation of a new set of environmental conditions, adverse or beneficial, caused or induced by the action under consideration.

(d) "Potential Action" means the range of possible Commission actions that may result from a Commission proceeding in which the Commission has not yet formulated a proposal. Such proceedings include investigations initiated pursuant to the Commission's statutory authority.

(e) "Proposed Action" means that stage of activity where the Commission has determined to take a particular course of action and the effects of that course of action can be meaningfully evaluated.

(f) "Environmental Assessment" means a concise document that serves to "briefly provide sufficient evidence and analysis for determining whether to prepare an environmental impact statement or a finding of no significant impact" (46 CFR 1508.9).

(g) "Recyclable" means any secondary material that can be used as a raw material in an industrial process in which it is transformed into a new product replacing the use of a depletable natural resource.

§ 547.4 General information.

(a) All comments submitted pursuant to this Part shall be addressed to the Secretary, Federal Maritime Commission, 1100 L Street, N.W., Washington, D.C. 20573.

(b) A list of Commission actions for which a finding of no significant environmental impact has been made or for which an environmental statement is being prepared will be maintained by the Commission in the Office of the Secretary and will be available for public inspection.

(c) Information or status reports on environmental statements and other elements of the NEPA process can be obtained from the Office of Environmental Analysis, Federal Maritime Commission, 1100 L Street, N.W., Washington, D.C. 20573 (telephone: [202] 523–5835).

§ 547.5 Categorical Exclusions.

(a) No environmental analyses need be undertaken or environmental documents prepared in connection with actions which do not individually or cumulatively have a significant effect on the quality of the human environment because they neither increase nor decrease air, water, or noise pollution; the use of fossil fuels, recyclables, or energy; or are purely ministerial actions. The following types of Commission actions are therefore excluded:

(1) Issuance, modification, denial and revocation of freight forwarder licenses, pursuant to section 44 of the Shipping Act.

(2) Certification of financial responsibility of passenger vessels pursuant to 46 CFR Part 540.

(3) Certification of financial responsibility for water pollution cleanup pursuant to 46 CFR Parts 542 and 543.

(4) Promulgation of procedural rules pursuant to 46 CFR Part 502.

(5) Acceptance or rejection of tariff filings in foreign and domestic commerce.

(6) Receipt of terminal tariffs pursuant to section 17 of the Shipping Act.

(7) Suspension of and/or decision to investigate tariff schedules pursuant to section 3 of the Intercoastal Shipping Act, 1933.

(8) Consideration of amendments to agreements filed pursuant to section 15 of the Shipping Act, which neither increase nor diminish the authority granted in the original approval of the section 15 agreement.

(9) Consideration of agreements between common carriers or other persons subject to the Shipping Act, to discuss, propose or plan future action, the implementation of which requires filing a further agreement under section 15 of the Shipping Act.

(10) Consideration of equipment interchange, husbanding or wharfage agreements filed for section 15 approval.

(11) Receipt of non-exclusive transshipment agreements pursuant to 46 CFR Part 524.

(12) Action relating to collective bargaining agreements pursuant to 46 CFR 530.9.

(13) Action pursuant to section 18(c) of the Shipping Act, concerning the justness and reasonableness of controlled carriers' rates, charges, classifications, rules or regulations.

(14) Receipt of self-policing reports and shipper requests and complaints pursuant to 46 CFR Parts 527 and 528.

(15) Receipt of financial reports prepared by common carriers by water in the domestic offshore trades pursuant to 46 CFR Parts 511 and 512.

(16) Adjudication of small claims pursuant to 46 CFR Part 502.301 *et seq.* and 46 CFR Part 502.311 *et seq.*

(17) Action taken on special docket applications pursuant to 46 CFR Part 502.92.

(18) Consideration of matters related solely to the issue of Commission jurisdiction.

(19) Investigations conducted pursuant to 46 CFR Part 513.

(20) Investigatory and adjudicatory proceedings pursuant to the Shipping Act, 1916, and the Merchant Marine Act of 1920, or portions thereof, the purpose of which is to ascertain past violations of these Act.

(21) Consideration of dual rate contract systems pursuant to section 14b of the Shipping Act.

(22) Action regarding access to public information pursuant to 46 CFR Part 503.

(23) Action regarding receipt and retention of minutes of conference meetings pursuant to 46 CFR Part 537.

(24) Administrative procurements (general supplies).

(25) Contracts for personal services.

(26) Personnel actions.

(27) Requests for appropriations.

(b) If interested persons nonetheless allege that a categorically excluded action will have a significant environmental effect (e.g., increased or decreased: Air, water or noise pollution; use of recyclables; use of fossil fuels or energy) they shall, by written submission to the OEA, explain in detail their reasons. The OEA shall review these submissions and determine whether to prepare an environmental assessment. If the OEA determines not to prepare an environmental assessment, such persons may petition the Commission for review of the OEA's decision within 15 days of receipt of notice of such determination.

(c) If the OEA determines that the individual or cumulative effect of a particular action otherwise categorically excluded offers a reasonable potential of having a significant environmental impact, it shall prepare an environmental assessment pursuant to § 547.6.

§ 547.6 Environmental Assessments.

(a) Every Commission action, not specifically excluded under § 547.5, or for which the OEA must prepare an Environmental Impact Statement (EIS) pursuant to § 547.9, shall be subject to an environmental assessment.

(b) In appropriate cases, the OEA may publish in the **Federal Register** a Notice of Intent to Prepare and Environmental Assessment briefly describing the nature of the potential or proposed action and inviting written comments to aid in the preparation of the environmental assessment and early identification of the significant environmental issues. Such comments must be received by the Commission no later than 20 days from the date of publicaton of the notice in the **Federal Register.**

§ 547.7 Finding of No Significant Impact.

(a) If upon completion of an environmental assessment the OEA determines that a potential or proposed action will not have a significant impact on the environment, a finding of no significant impact shall be prepared and published in the **Federal Register.** This document shall accompany the environmental assessment and shall briefly present the reasons why the potential or proposed action, not otherwise excluded under § 547.5, will not have a significant effect on the human environment and why, therefore, an EIS will not be prepared.

(b) Petitions for review of a finding of no significant impact must be received by the Commission within 20 days from the date of publication in the **Federal Register.** If no petitions are received, the Commission may adopt the finding of no significant impact. If petitions are received, the Commission shall review the petitions and either adopt the finding of no significant impact or order the OEA to prepare an EIS pursuant to § 547.8. The Commission shall publish in the **Federal Register** a notice of adoption of a finding of no significant impact or a notice of the preparation of an EIS.

§ 547.8 Environmental Impact Statements.

(a) *General.* (1) An EIS shall be prepared by the OEA when:

(i) The environmental assessment indicates that a potential or proposd action may have a significant impact upon the environment; or

(ii) A potential or proposed action comes within one of the classes of actions set forth in § 547.9.

(2) The EIS process will commence:

(i) For adjudicatory proceedings, when the Commission issues an order of investigation or a complaint is filed;

(ii) For rulemaking or legislative proposals, as close as possible to the commencement of such action; and

(iii) For other actions, the time the action is noticed in the **Federal Register.**

(3) The major decision point in the EIS process is when the Commission issues its final decision or report on the action.

(4) In appropriate cases, the EIS shall consider any significant effect upon the environment of the global commons outside the jurisdiction of any nation.

(b) *Draft Environmental Impact Statements.* (1) The OEA will initially prepare a draft environmental impact statement (DEIS) in accordance with 40 CFR 1502.

(2) The DEIS shall be distributed to every party to a Commission proceeding for which it was prepared. One copy per person will also be provided to interested persons at their request. To the extent practicable, no fee will be charged or, if necessary, the fee shall be that provided in 46 CFR 503.43.

(3) Comments on the DEIS must be received by the Commission within forty-five (45) days of the date the Environmental Protection Agency (EPA) publishes in the **Federal Register** notice that the DEIS was filed with it. Eighteen copies shall be submitted as provided in § 547.4(a). Comments shall specifically address the adequacy of the DEIS and/or the merits of the alternatives discussed in it. All comments received will be made available to the public. Extensions of time for commenting on the DEIS may be granted by the Commission for up to 15 days if good cause is shown.

(c) *Final Environmental Impact Statement.* (1) After receipt of comments on the DEIS, the OEA will prepare a Final Environmental Impact Statement (FEIS) pursuant to 40 CFR Part 1502, which shall include a discussion of the possible alternative actions to a potential or proposed action. The FEIS will be distributed in the same manner as specified in § 546.8(b)(2).

(2) The FEIS shall be prepared prior to the Commission's final decision and shall be filed with the Secretary, Federal Maritime Commission. Upon filing, it shall become part of the administrative record.

(3) If any party, by petition to the Commission within 20 days of EPA's notice in the **Federal Register,** asserts that the FEIS contains a substantial and material error of fact which can only by properly resolved by conducting an evidentiary hearing, and expressly requests that such a hearing be held, the Commission may refer any such issue(s) to an Administrative Law Judge (ALJ) for expedited resolution.

(4) The ALJ shall make findings of fact on the issue(s) designated by the Commission and shall certify such findings to the Commission as a supplement to the FEIS. To the extent that such findings differ from the FEIS, it shall be modified by the supplement.

(5) Discovery may be granted by the ALJ on a showing of good cause and, if granted, shall proceed on an expedited basis.

§ 547.9 Actions normally requiring an EIS.

(a) The following classes of Commission actions will ordinarily require the preparation of an EIS:

(1) Actions which substantially alter cargo routing patterns resulting in significant changes in the use of fossil fuels or the production of air, water or noise pollution;

(2) Actions which change rates and thereby substantially alter the volume of recyclables resulting in significant changes in the use of fossil fuels or the recyclable's virgin counterpart or the production of air or water pollution;

(3) Actions which substantially change the type, capacity or number of vessels employed in a specific trade resulting in significant changes in the use of fossil fuels or the production of air, water or noise pollution;

(4) Actions which substantially alter terminal or port facilities resulting in significant changes in the production of air, water or noise pollution.

(b) For any such action, the OEA shall commence the preparation of an EIS without first preparing an environmental assessment.

§ 547.10 Record of decision.

The Commission shall consider each alternative described in the FEIS in its decisionmaking and review process. At the time of its final report or order, the Commission shall prepare a record of decision pursuant to 40 CFR 1505.2.

§ 547.11 Information required by the Commission.

(a) Every person filing a complaint, protest, petition, section 15 application or dual rate contract application requesting Commission action that will:

(1) Alter cargo routing patterns between ports or change modes of transportation;

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(2) Change rates or services for recyclables;

(3) Change the type, capacity or number of vessels employed in a specific trade; or

(4) Alter terminal or port facilities;

shall submit to the Secretary, Federal Maritime Commission, no later than 15 days from the date of filing of such document, a statement setting forth in detail the impact of the requested Commissoin action on the quality of the human environment.

(b) The statement submitted shall include:

(1) A description of the requested Commission action;

(2) The probable impact of the requested Commission action on the environment (*e.g.*, the use of energy or natural resources, the effect on air, noise, water pollution) compared to the environmental impact created by existing uses in the area affected by it;

(3) Any adverse environmental effects which cannot be avoided if the Commission were to take or adopt the requested action;

(4) A description of any irreversible and irretrievable commitments of resources which will be involved in the requested action should it be taken or adopted by the Commission;

(5) The effect the requested action will have on the relationship between local short-term uses of the environment and the maintenance and enhancement of long-term productivity; and

(6) The alternatives to the requested Commission action.

If environmental impacts, either adverse or beneficial, are alleged, they must be sufficiently identified and quantified to permit meaningful review. Individuals may contact the OEA for informal assistance on how to prepare this statement. Early contact with the OEA is suggested. The OEA shall independently evaluate the information submitted and shall be responsible for assuring its accuracy if used by that official.

(c) In all cases, the OEA may request every common carrier by water, or other person subject to the Act, or any officer, agent or employee thereof, as well as all parties to proceedings before the Commission, to submit, within 25 days of such request, all material information necessary to comply with NEPA and this part. Such requests shall be informal. Information not produced in response to an informal request may be obtained by the Commission pursuant to section 21 of the Shipping Act.

§ 547.12 Time constraints for final administrative actions.

No decision on a proposed action shall be made or recorded by the Commission until the later of the following dates:

(a) Ninety (90) days after EPA's publication of the notice described in § 547.8(b) for a DEIS; or

(b) Thirty (30) days after publication of EPA's notice for an FEIS (40 CFR 1506.10(b)).

[FR Doc. 79-15617 Filed 5-17-79; 8:45 am]

BILLING CODE 6730-01-M

FEDERAL COMMUNICATIONS COMMISSION

[47 CFR Part 73]

[BC Docket No. 79-114; RM-3169]

FM Broadcast Station In North Platte, Nebr.; Proposed Changes In Table of Assignments

AGENCY: Federal Communications Commission.

ACTION: Notice of Proposed Rule Making.

SUMMARY: Action taken herein proposes the assignment of a third FM channel to North Platte, Nebraska. Petitioner, Tri-State Broadcasting Association, Inc., states the proposed station would provide an additional voice to a growing community.

DATES: Comments must be filed on or before July 9, 1979, and reply comments must be filed on or before July 30, 1979.

ADDRESSES: Federal Communications Commission, Washington, D.C. 20554.

FOR FURTHER INFORMATION CONTACT: Mildred B. Nesterak, Broadcast Bureau, (202) 632-7792.

SUPPLEMENTARY INFORMATION:

In the matter of amendment of § 73.202(b), Table of Assignments, FM Broadcast Stations. (North Platte, Nebraska); notice of proposed rule making.

Adopted: May 9, 1979.

Released: May 15, 1979.

By the Acting Chief, Broadcast Bureau:

1. *Petitioner, Proposal, Comments:*

(a) A petition for rule making [1] was filed on July 13, 1978, by Tri-State Broadcasting Association, Inc. ("petitioner"), licensee of daytime-only AM Station KJLT, North Platte, Nebraska, proposing the assignment of Class C Channel 278 as a third FM assignment to North Platte, Nebraska.

(b) The channel could be assigned in conformity with the minimum distance separation requirements.

(c) Petitioner states that, if the channel is assigned, it will apply for its use.

2. *Community Data:*

(a) *Location*: North Platte, seat of Lincoln County, is located in west central Nebraska, approximately 400 kilometers (250 miles) west of Omaha, Nebraska, and 384 kilometers (240 miles) northeast of Denver, Colorado.

(b) *Population*: North Platte—21,200; Lincoln County—29,538.[2]

(c) *Local Aural Broadcast Service:* North Platte is served locally by two full-time AM stations (KAHL and KODY). Two Class C FM channels (235 and 246) are assigned to North Platte. There is a pending application for one and a construction permit has been granted for the other.

3. *Economic Considerations:* Petitioner states that North Platte is the largest city in western Nebraska, and is the business and cultural center for the surrounding area. It asserts that the North Platte Chamber of Commerce estimates the present population of Lincoln County to be 37,000. Petitioner claims that the current estimated population of North Platte is 25,500. We are told that the area has a strong agricultural base with cattle ranching and the production of alfalfa for stock feeding as well as for the manufacture of alfalfa pellets being the significant aspects of the agricultural activity. Also, retail sales for North Platte are said to be increasing.

4. *Preclusion Studies and Coverage:* Preclusion would occur on all channels from 275 through 281. Twenty-one communities with populations greater than 1,000 will sustain preclusion on one or more of these channels. Twelve [3] of these have no FM channel assignments; two (Ainsworth and Cozad) have AM stations. A staff study verifies petitioner's list which indicated that alternate channels are available for assignment to nine of the twelve communities. Petitioner should provide information regarding available alternate channels for the remaining communities: Rushville, Cambridge and Cozad. It appears that no first or second FM or nighttime aural service would be provided.

5. *Additional Considerations:* Petitioner asserts that outside of the city of North Platte, the population is found mainly on ranches and farms, hence, the wide area of which North Platte is the focal point, is one which needs the FM signal, particularly for weather forecasts, news and informational broadcasts. It claims that although local service to the community is presently provided by two AM stations and that the two FM channels assigned to North Platte have been applied for, such communications outlets are not sufficient in light of North Platte's size and growth. Petitioner notes that FM radio is particularly advantageous during weather adversities to carry the needed information which is important in this tornado and blizzard area of the country.

6. The request for a third FM assignment to a community of 21,200 persons exceeds the FM population guidelines. Petitioner alleges that North Platte has increased in population but has supplied no documentation to this effect. It is requested to do so in comments. Because of the relative isolation of the community we are willing to consider the proposal even though it is in excess of the population criteria we employ. However, petitioner should supply additional information about the apparent relative scarcity of area radio services.

7. In light of the foregoing, the Commission proposes to amend the FM Table of Assignments (§ 73.202(b) of the Commission's Rules), with regard to North Platte, Nebraska, as follows:

City	Channel No.	
	Present	Proposed
North Platte, Nebr.	235, 246	235, 246, 276

8. The Commission's authority to institute rule making proceedings, showings required, cut-off procedures, and filing requirements are contained in the attached Appendix and are incorporated by reference herein.

Note.—A showing of continuing interest is required by paragraph 2 of the Appendix before a channel will be assigned.

9. Interested parties may file comments on or before July 9, 1979, and reply comments on or before July 30, 1979.

10. For further information concerning this proceeding, contact Mildred B. Nesterak, Broadcast Bureau, (202) 632-7792. However, members of the public should note that from the time a notice of proposed rule making is issued until the matter is no longer subject to Commission consideration or court review, all *ex parte* contacts are prohibited in Commission proceedings, such as this one, which involve channel assignments. An *ex parte* contact is a message (spoken or written) concerning the merits of a pending rule making other than comments officially filed at the Commission or oral presentation required by the Commission.

Federal Communications Commission.

Martin I. Levy,

Acting Chief, Broadcast Bureau.

Appendix

1. Pursuant to authority found in Sections 4(i), 5(d)(1), 303(g) and (r), and 307(b) of the Communications Act of 1934, as amended, and § 0.281(b)(6) of the Commission's Rules, it is proposed to amend the FM Table of Assignments, § 73.202(b) of the Commission's Rules and Regulations, as set forth in the *Notice of Proposing Rule Making* to which this Appendix is attached.

2. *Showings required.* Comments are invited on the proposal(s) discussed in the Notice of Proposed Rule Making to which this Appendix is attached. Proponent(s) will be expected to answer whatever questions are presented in initial comments. The proponent of a proposed assignment is also expected to file comments even if it only resubmits or incorporates by reference its former pleadings. It should also restate its present intention to apply for the channel if it is assigned, and, if authorized, to build the station promptly. Failure to file may lead to denial of the request.

3. *Cut-off procedures.* The following procedures will govern consideration of filings in this proceeding.

(a) Counterproposals advanced in this proceeding itself will be considered, if advanced in initial comments, so that parties may comment on them in reply comments. They will not be considered if advanced in reply comments. (See § 1.420(d) of Commission Rules.)

(b) With respect to petitions for rule making which conflict with the proposal(s) in this Notice, they will be considered as comments in the proceeding, and Public Notice to this effect will be given as long as they are filed before the date for filing initial comments herein. If they are filed later than that, they will not be considered in connection with the decision in this docket.

4. *Comments and reply comments; service.* Pursuant to applicable procedures set out in § 1.415 and 1.420 of the Commission's Rules and Regulations, interested parties may file comments and reply comments on or before the dates set forth in the *Notice of Proposed Rule Making* to which this Appendix is attached. All submissions by parties to this proceeding or persons acting on behalf of such parties must be made in written comments, reply comments, or other appropriate pleadings. Comments shall be served on the petitioner by the person filing the comments. Reply comments shall be served on the person(s) who filed comments to which the reply is directed. Such comments and reply comments shall be accompanied by a certificate of service. (See § 1.420(a), (b) and (c) of the Commission Rules.)

5. *Number of copies.* In accordance with the provisions of § 1.420 of the Commission's Rules and Regulations, an original and four copies of all comments, reply comments, pleadings, briefs, or other documents shall be furnished the Commission.

6. *Public inspection of filings.* All filings made in this proceeding will be available for examination by interested parties during regular business hours in the Commission's Public Reference Room at its headquarters, 1919 M Street, N.W., Washington, D.C.

[FR Doc. 79-15474 Filed 5-17-79; 8:45 am]

BILLING CODE 6712-01-M

[47 CFR Parts 83 and 87]

[PR Docket No. 79-100; FCC 79-258]

Restrictions governing the use of the frequency 157.425 MHz (Channel 88) by aircraft consistent with the restrictions applying to other marine VHF frequencies available to aircraft.

AGENCY: Federal Communications Commission.

ACTION: Proposed Rule Making.

SUMMARY: We are proposing to make the frequency 157.425 MHz subject to the same restrictions that are applicable to other marine VHF frequencies when being used by aircraft. Our rules presently contain inconsistencies on usage of marine VHF frequencies by aircraft and this action will eliminate the inconsistencies.

DATES: Comments must be received on or before June 18, 1979, and Reply Comments must be received on or before June 28, 1979.

ADDRESSES: Federal Communications Commission, Washington, D.C. 20554.

FOR FURTHER INFORMATION CONTACT: Kemp J. Beaty, Private Radio Bureau, (202) 632-7197.

SUPPLEMENTAL INFORMATION: In the Matter of amendment of Parts 83 and 87 of the rules to make the restrictions governing the use of the frequency 157.425 MHz (Channel 88) by aircraft consistent with the restrictions applying to other marine VHF frequencies available to aircraft.

Adopted: May 2, 1979.

Released: May 10, 1979.

Introduction

By the Commission: 1. On July 12, 1978, we adopted the Report and Order in Docket 21255 (FCC 78-488; 85438; released July 26, 1978; 43 FR 32797) which permitted aircraft to use certain marine VHF frequencies for communication with ships. By a later Order adopted September 1, 1979 (Mimeo 4047; released September 13,

[1] Public Notice of the petition was given on August 2, 1978, Report No. 1135.

[2] Population figures are taken from the 1970 U.S. Census.

[3] *Nebraska:* Grant (pop. 1,204); Ainsworth (2,073), Rushville (1,137) Chappell (1,204), Oshkosh (1,067), Cambridge (1,145), Curtis (1,166), Cozad (4,219); *South Dakota:* Martin (1,248), Pine Ridge (2,768); *Colorado:* Holyoke (1,640); *Kansas:* Oakley (2,327).

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1978; 43 FR 41896) these same amendments were placed in Part 87.

2. Aircraft engaged in fish spotting had been permitted to use the frequency 157.425 MHz (Channel 88) to communicate with vessels prior to the action in Docket 21255. The only restriction on this usage was that aircraft had to use a transmitter type accepted for Part 83. This permitted the use of 25 watts of output power on Channel 88. The other marine VHF frequencies authorized for use by aircraft are restricted to 5 watts output power and have an altitude restriction of 1000 feet. These restrictions are the same as those established by the International Telecommunication Union (ITU) for international use.[1]

3. Our present rules regarding the use of the Channel 88 by aircraft are in conflict with the philosophy of the international Radio Regulations and inconsistent with our other rules regarding the use of marine VHF frequencies by aircraft. It is only appropriate that we modify our rules regarding Channel 88 when used by aircraft to eliminate the conflict with the international Radio Regulations and to eliminate the inconsistency with our other rules regarding aircraft use of marine VHF frequencies.

Our Proposal

4. We are proposing to bring Channel 88 under the same conditions of use that presently affect the other maritime mobile VHF frequencies that may be used by aircraft. This would limit the aircraft's altitude to 1000 feet and the transmitter output power to five watts. In order that present users of Channel 88 not be penalized we are also proposing to permit the use of presently licensed equipment that has an output power of more than 5 watts until January 1, 1985.

5. Regarding questions on matters covered in this document contact Kemp J. Beaty, telephone (202) 632-7175.

6. The proposed amendments to the rules, as set forth in the Appendix are issued pursuant to the authority contained in Section 4(i) and Sections 303(c), (e), (f), (g) and (r) of the Communications Act of 1934, as amended.

7. Pursuant to applicable procedures set forth in Section 1.415 of the Commission's rules, interested persons may file comments on or before June 18, 1979, and reply comments on or before June 28, 1979. All relevant and timely comments and reply comments will be considered by the Commission before final action is taken in this proceeding. In reaching its decision, the Commission may take into consideration information and ideas not contained in the comments, provided that such information or a writing indicating the nature and source of such information is placed in the public file, and provided that the fact of the Commission's reliance on such information is noted in the Report and Order.

8. In accordance with the provisions of Section 1.419 of the Commission's rules, an original and 5 copies of all statements, briefs, or comments filed shall be furnished to the Commission. Responses will be available for public inspection during regular business hours in the Commission's Public Reference Room at its headquarters in Washington, D.C.

Federal Communications Commission.

William J. Tricarico,

Secretary.

Parts 83 and 87 of Chapter I of Title 47 of the Code of Federal Regulations are amended as follows:

PART 83—STATIONS ON SHIPBOARD IN THE MARITIME SERVICES

1. In Section 83.351, paragraph (a) Table is amended to read as follows:

§ 83.351 Frequencies available.

(a) * * *

Carrier frequency (MHz)	Conditions of use	
	Section	Limitations
* * * * *		
157.425	83.359	40, 49, 55, 72, 76
* * * * *		

2. In Section 83.359, paragraphs (b) and (b)(2) are amended to read as follows:

§ 83.359 Frequencies in the band 156–162 MHz available for assignment.

* * * * * *

(b) In addition to the limitations contained in § 83.351(b)(34) and (b)(55) aircraft may use the frequencies 156.3, 156.375, 156.4, 156.425, 156.450, 156.525, 156.625, 156.8, 156.9 and 157.425 MHz under the following circumstances and subject to the following limitations:

* * * * * *

(2) The mean power of aircraft station transmitters shall not exceed five watts; however, a power of one watt or less shall be used to the maximum extent possible. Aircraft stations authorized the use of 157.425 MHz with equipment having an output power of more than five watts may continue to use that equipment and higher power on that frequency until January 1, 1985.

* * * * * *

PART 87—AVIATION SERVICES

In Section 87.183, paragraphs (j)(2) and (j)(3)(ii) are amended to read as follows:

§ 87.183 Frequencies available.

* * * * * *

(j) * * *

(2) Except in the Great Lakes and along the St. Lawrence Seaway the frequency 157.425 MHz is available for assignment to aircraft stations for communication with commercial fishing vessels while engaged in commercial fishing activities. Operations by aircraft on this frequency will be subject to the conditions appearing in paragraph (j)(3) of this section.

(3) * * *

(ii) the mean power of aircraft station transmitters shall not exceed five watts; however, a power of one watt or less shall be used to the maximum extent possible. Aircraft stations authorized the use of 157.425 MHz with equipment having an output power of more than five watts may continue to use that equipment and higher power on that frequency until January 1, 1985.

* * * * * *

[FR Doc. 79-15483 Filed 5-17-79; 8:45 am]

BILLING CODE 6712-01-M

DEPARTMENT OF THE INTERIOR

Fish and Wildlife Service

[50 CFR Part 17]

Endangered and Threatened Wildlife and Plants; Review of the Status of Ten Birds and Two Mammals from Guam

AGENCY: Fish and Wildlife Service, Interior.

ACTION: Review of status of ten Guamanian birds and two Guamanian mammals.

SUMMARY: Upon petition from the Government of Guam, the Service is reviewing the status of ten birds and two mammals from Guam to determine if they should be listed as Endangered or Threatened species, and their Critical Habitat determined. The Government of Guam submitted substantial data with their petitions to indicate that all of these birds and mammals may be threatened by various factors and that listing them pursuant to the Endangered Species Act of 1973, and determining their Critical Habitat, may be an important element in assuring their survival. These data are summarized in the following notice. The Service welcomes additional data on their status as well as information which could lead to Critical Habitat determinations for each of the species under review.

DATES: Information regarding the status of these species should be submitted on or before June 17, 1979.

ADDRESSES: Comments and data submitted in connection with this review should be sent to the Director (OES), U.S. Fish and Wildlife Service, Department of the Interior, Washington, D.C. 20240.

FOR FURTHER INFORMATION CONTACT: Mr. John L. Spinks, Jr., Office of Endangered Species, Fish and Wildlife Service, United States Department of the Interior, Washington, D.C. 20240, Phone: (703) 235-2771.

SUPPLEMENTARY INFORMATION:

Background

The Service has received two petitions from the Government of Guam to list certain species from that island as Endangered species. The first of these petitions was sent on August 28, 1978, by the Honorable Ricardo J. Bordallo, then Governor of Guam, and requested the Service to list the following species: Marianas fruit dove *(Ptilinopus roseicapillus)*, Marianas gallinule *(Gallinula chloropus guami)*, Guam rail *(Rallus owstoni)*, edible nest swiftlet *(Collocalia inexpectata bartschi)*, Marianas fruit bat *(Pteropus mariannus mariannus)*, and the little Marianas fruit bat *(Pteropus tokudae)*. The second petition was sent by the Honorable Joseph E. Ada, Acting governor of Guam, on February 27, 1979. It petitioned the Service to list the Micronesian kingfisher *(Halcyon cinnamomina cinnamomina)*, Micronesian broadbill *(Myiagra oceanica freycineti)*, white throated ground dove *(Gallicolumba xanthonura xanthonura)*, cardinal honey-eater *(Myzomela cardinalis saffordi)*, Marianas crow *(Corvus kubaryi)*, and bridled white-eye *(Zosterops conspicillata conspicillata)*.

Data concerning the status of these species submitted in support of the petitions are summarized as follows:

Marianas fruit dove.—Excessive loss of habitat due to urbanization with substantial clearing of forested areas taking place in the last 15 years. The species was hunted on Guam until 1969; it is still illegally taken or accidentally shot during the hunting season for other species. Population on Guam, 100 birds; total population on Guam, Rota, Tinian and Saipan, less than 500 birds.

Marianas gallinule.—Loss of suitable freshwater wetlands through draining for agriculture has caused a decline in this species. Currently, less than 100 are found on Guam, and fewer than 50 on Tinian; the population on Saipan and Pagan is unknown.

Guam rail.—Introduced predators have played havoc on this flightless species. Only between 500 and 1000 birds continue to survive on Guam.

Edible nest swiftlet.—Heavy use of insecticides and herbicides during and following World War II has caused a major decline. Currently one to two hundred are found on Guam; unknown numbers occur on Rota, Tinian and Saipan.

Marianas fruit bat.—Two major factors relating to decrease in populations are habitat destruction and illegal hunting on Guam. Less than 100 occur on Guam; numbers elsewhere are unknown.

Little Marianas fruit bat.—Illegal hunting and loss of habitat are the two most significant factors responsible for the decline Extremely small numbers are reported for Guam.

Micronesian kingfisher.—Loss of much of the native limestone forest of Guam has caused the decline. Numbers are estimated at between 100 and 150 birds.

Micronesian broadbill.—Decline has been reported owing to clearing of much of the native habitat for urban development. Fewer than 100 birds remain on Guam.

White-throated ground dove.—Clearing of the native habitat due to increased urbanization has been the primary factor in the decline. Other factors are the use of defoliants in World War II rendering much of habitat useless to native bird populations; damage from super typhoon Pamela in 1976; and illegal and accidental shooting during the hunting season for other birds. Less than 100 of these doves remain on Guam; numbers unknown on other islands.

Cardinal honey-eater.—On Guam, the loss of most of the native limestone forest has restricted the species to the remaining areas of pristine limestone forest occuring in the northern cliffline. Heavy spraying of insecticides in World War II caused the virtual disppearance of the bird in the southern two thirds of the island. 100 to 200 birds occur now on Guam; numbers elsewhere unknown.

Marianas crow.—Loss of native forest habitat on Guam due to increased urbanization. Hunters and poachers shoot crows because they are considered pests. 100–150 birds are estimated to survive.

Bridled-white-eye.—Loss of native habitat due to urbanization and use of insecticides during and following World War II cause declines. Super typhoon Pamela in 1976 also was detrimental. Less than 150 birds are known to survive.

Acting Governor Ada recommends that for the Micronesian kingfisher, Micronesian broadbill, white-throated ground dove, cardinal honeyeater, Marianas crow and bridled white-eye, the following area be determined Critical Habitat for all: Northern cliffline of Guam from NCS Beach through Mangilao for a distance of 1.0 km from mean low water. No Critical Habitat recommendations were presented by former Governor Bordallo in his petition for the Guam rail, edible nest swiftlet, Marianas fruit bat and little Marianas fruit bat. He did; however, recommend the following as Critical Habitat: Marianas fruit dove—"From Naval Communications Station around the northern cliffline area through the Anao Conservation area to Mati Point from an elevation of 0' to 500' or for a distance of 0.5 km. from mean high water." Marianas gallinule—"Fena Lake, Agana Swamp and other wetlands."

A copy of the petition is available for examination during normal business hours at the Office of Endangered Species, 1000 N. Glebe Road, Arlington, Virginia, Suite 500.

The Service has determined that the two petitions present substantial evidence warranting a review of the status of these species and hereby announces that it is reviewing the status of the specified Guamanian species to determine whether or not any or all of them should be determined as Endangered or Threatened species. It is also reviewing data submitted on Critical Habitat to ascertain if the habitat specified above for the eight Guamnanian birds should be determined as Critical. The Service also solicits Critical Habitat data for the other species. The Service is particularly anxious to obtain information on the status of the above species which occur on other islands as well as Guam to determine whether those species should be listed throughout their ranges or whether only the Guam populations should be listed. This review is being conducted in compliance with Section 4(c)(2) of the Endangered Species Act of 1973, as amended, which requires that, in the case of petitions, a review must be made and published prior to the initiation of any subsequent procedures for listing such species as Endangered or Threatened.

With this notice of review, the Service is inviting and requesting anyone who may have information on any of the 12 species under consideration concerning

[1] Radio regulations Nos. 952A and 952B.

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their status, distribution, population trends, critical habitat or other pertinent data to contact the Director. The Service will analyze all data that is now has, as well as any data that are obtained as a result of this review, and will take appropriate action concerning listing and determining Critical Habitat for any or all of these species.

This notice of review was prepared by John L. Paradiso, Office of Endangered Species (703/235–1975).

Dated: May 2, 1979.

Lynn A. Greenwalt,

Director, Fish and Wildlife Service.

[FR Doc. 79–15499 Filed 5–17–79; 8:45 am]

BILLING CODE 4310–55–M

Notices

Federal Register

Vol. 44, No. 98

Friday, May 18, 1979

This section of the FEDERAL REGISTER contains documents other than rules or proposed rules that are applicable to the public. Notices of hearings and investigations, committee meetings, agency decisions and rulings, delegations of authority, filing of petitions and applications and agency statements of organization and functions are examples of documents appearing in this section.

DEPARTMENT OF AGRICULTURE

Farmers Home Administration

Rural Rental Housing Loan Policies, Procedures, and Authorizations; Memorandum of Understanding Between Farmers Home Administration and Administration on Aging

AGENCY: Farmers Home Administration, USDA.

ACTION: Notice.

SUMMARY: The Farmers Home Administration (FmHA) gives notice of the selection of the 10 counties for participation in the Joint Farmers Home Administration (FmHA) and Administration on Aging (AOA) demonstration effort to provide congregate housing projects with adequate support services in rural areas.

FOR FURTHER INFORMATION CONTACT: Mr. Paul R. Conn, telephone 202–447–7207.

SUPPLEMENTARY INFORMATION: On April 5, 1979, FmHA published in the **Federal Register** (44 FR 20396) the regulations implementing the Memorandum of Understanding betwen FmHA and AOA for a joint demonstration effort to provide congregate housing units for the elderly under FmHA's rural rental housing program with support services provided through AOA under the Older American Act of 1965 as amended. That publication provided that at least six demonstration areas would be selected. However, because of the overwhelming interest and support for this program, the demonstration effort has been expanded to 10. FmHA has, therefore, increased the funds earmarked for this program to $10,000,000 Which is $1,000,000 per project. AOA has increased its reservation of funds to $850,000 for each year for a 3-year program. The sites have been selected by FmHA and AOA based on statistical data measurements of the site selection criteria contained in the Memorandum of Understanding which was also published on April 5, 1979. The counties were selected using the following process:

1. Each State FmHA Office and the State Agency on Aging nominated at least one or two counties within the State for the National selection process following the site selection criteria of the Memorandum of Understanding.

2. In order to assure the diversity of rural areas and locations needed for this National demonstration effort, the nominated counties were then grouped according to their location in the 10 regions of the Department of Health, Education and Welfare (HEW).

3. The counties were then evaluated by the National Office staffs of FmHA and AOA on the basis of:

a. Percentage of elderly population.
b. Racial mix.
c. Income levels.
d. Poor housing conditions.
e. Support by State and local officials.
f. The ability of the appropriate Area Agency on Aging to provide support services.

4. The final selections were made based on the criteria listed above using the flexibility needed for a National demonstration effort.

Data used in the site selection process is available upon written request to the Farmers Home Administration, Rural Rental Housing Division, South Agriculture building, Room 5333, 14th & Independence Avenue SW., Washington, D.C. 20250. For further information contact Dr. Joyce Berry, phone (202) 447–3390 or Mr. Paul R. Conn, phone (202) 447–7207.

The sites selected for the 10 HEW Regions are as follows:

Region I—New Hampshire, Carroll County.
Region II—New York, Chautauqua County.
Region III—Virginia, Accomack County.
Region IV—Mississippi, Claiborne County.
Region V—Michigan, Lake County,
Region VI—New Mexico, Sierra County.
Region VII—Iowa, Decatur County.
Region VIII—South Dakota, Charles Mix County.
Region IX—California, Riverside County.
Region X—Oregon, Baker County.

One project, with a total development cost of approximately $1,000,000, is planned for new construction in each selected county.

Parties interested in participating in this program as applicants under FmHA's Section 515 rural rental housing program should contact the State Director of FmHA in the appropriate State for additional information.

The involved FmHA State Directors are:

1. *Vermont (for NH):* 141 Main Street, Post Office Box 588, Montpelier, VT 06502.
2. *New York:* U.S. Courthouse and Federal Building, Room 871, 100 South Clinton, Syracuse, NY 13260.
3. *Virginia:* Federal Building, Room 8213, 400 North Eighth Street, Post Office Box 10106, Richmond, VA 23240.
4. *Mississippi:* Milner Building, Room 830, Jackson, MS 39201.
5. *Michigon:* 1405 South Harrison Road, Room 209, East Lansing, MI 48823.
6. *New Mexico:* Federal Building, Room 3414, 517 Gold Avenue, SW., Albuquerque, NM 87102.
7. *Iowa:* Federal Building, Room 873, 210 Walnut, Des Moines, IA 50309.
8. *South Dakota:* Federal Building, Room 208, 200 Fourth Street, SW., Huron, SD 57350.
9. *California:* 459 Cleveland Street, Woodland, CA 95695.
10. *Oregon:* Federal Building, Room 1590, 1220 Southwest Third Avenue, Portland, OR 97204.

All applicant proposals for funding shall be submitted to the FmHA District Office or County Office having jurisdiction in the area for processing rural rental housing loans. All applications must contain the information prescribed in Exhibits F–6 and F–7 of Subpart D of Part 1822, Chapter XVIII, Title 7, Code of Federal Regulations. Additional requirements that follow must be met to assure that the housing facilities and the applicant can meet the requirements needed for this National demonstration effort.

Therefore, additional information must be submitted with the preapplication as follows:

1. *Community Involvement in the Planning and Development of the Project:* Each applicant must document its willingness to work, and the manner in which it will work, with local concerned citizens, prospective occupants, local lenders and public officials in the planning, design, location and support services program for the project.

2. *Involvement of the Area Agency on Aging.* Each applicant will be required to cooperate fully with the Area Agency on Aging in the developmental stages of

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the application and later in the operational stages of the project. Each applicant should, therefore, to the extent possible, at the time the preapplication is being submitted, indicate how it plans to work with the Area Agency on Aging.

3. *Site Location.* Each site for this National Demonstration Program must be identified and owned, optioned or otherwise under the control of the applicant at the time the preapplication is submitted. Thus, proof of this requirement must be included. Furthermore, a site analysis must be submitted showing where the site is located relative to services within the general areas such as shopping centers, medical facilities, banks, etc., and specifically showing facilities and activities immediately surrounding the site.

4. *Architectural Design Concepts.* Each applicant is required to obtain the services of a qualified architect to design the project. For the preapplication, complete working drawings should *not* be developed. However, to provide FmHA and AOA with basic understanding of how the architect proposes to design the project, preliminary (schematic) drawings, submitted with the preapplication, should be detailed enough to show how the building(s) will be located on the site, the number and size of units, and the location and size of space(s) that will be provided for the support services.

This information must be accompanied by an Architectural Program Narrative that describes the characteristics of the elderly population being served by the specific facility as well as the methodology by which specific user needs will be addressed by the architect in the development of the preliminary plans. At a minimum, these needs should address issues of the use of: interior and exterior space, security, recreation, provisions for individuality within living units, access to facilities from surrounding areas, and how the design will provide an aesthetically pleasing environment—thus preventing a sense of institutionalization on the part of the residents and promoting independent life styles. Further, the applicant should include a statement of qualifications and experiences of the architect in the design of similar or comparable facilities with the preapplication.

5. *Management Plans.* A detailed management plan indentifying the manager and his/her background and qualifications must be provided. The management plan, to the extent possible, should address fully how the project is to be operated. The applicant is encouraged to be innovative but efficient. Each project must provide the following support services:

(1) Meal service—full or partial;

(2) Housekeeping elements for those unable to perform these responsibilities;

(3) Personal care and services for those who need assistance in daily care;

(4) Transportation and other access to essential services; and

(5) Social and recreational activities.

A. *Selection Criteria*

Preapplications submitted to FmHA will be evaluated on the basis of the Memorandum of Understanding, the requirements of the Subpart D of Part 1822, Chapter XVIII, Title 7, Code of Federal Regulations, and the following:

1. Ability of applicant to provide competent management to operate a congregate housing project.

2. Desirability of site and its location.

3. Architectural competence and design of the project with specific relevance to the methodology by which the design reflects the individual and group needs of the elderly residents.

4. Ability of applicant to coordinate the development and operation of the housing project with the Area Agency on Aging, local officials, concerned citizens, and prospective occupants.

B. *Estimated Timetable for Funding and Final Selection Process*

1. *May*—Interested parties investigate and discuss program with FmHA State Directors and State and Area Agency on Aging.

2. *June 15*—All preapplications to be submitted to FmHA in final form. The FmHA State Director, with the assistance of the State and Area Agency on Aging, will review all the applications and make recommendations for funding. Applications will be evaluated on the basis of the requirements of Subpart D of Part 1822, Chapter XVIII, Title 7, Code of Federal Regulations, and selection criteria previously listed.

3. *June 30*—FmHA State Directors to have completed review of all preapplications and submit no more than three preapplications recommended for funding to the National Office for review and selection of the finalists by FmHA and AOA. The selection criteria shown in this publication will also be used at the National level to select the 10 finalists, with consideration being given to the need to have contrasting congregate housing models needed for this National demonstration program.

4. *July 30*—National Office of FmHA and AOA to have selected the final 10 projects to be funded and notified the FmHA State Director. The State will then inform the finalists of its selection along with any additional requirements that must be met.

5. Selected applicants, with assistance of FmHA and the Area Agency on aging, complete final applications and submit to the District Office for submission to the FmHA State Director by September 1, 1979.

6. All projects, unless notified otherwise, must be funded by FmHA by no later than September 15, 1979, in order to utilize the funds that have been set aside for use this fiscal year.

(42 U.S.C. 1480; delegation of authority by the Sec. of Agri., 7 CFR 2.23; delegation of authority by the Asst. Sec. for Rural Development, 7 CFR 2.279)

Dated: May 11, 1979.

Gordon Cavanaugh,

Administrator, Farmers Home Administration.

[FR Doc. 79-15497 Filed 5-17-79; 8:45 am]

BILLING CODE 3410-07-M

CIVIL AERONAUTICS BOARD

Application for an All-Cargo Air Service Certificate

May 11, 1979.

In accordance with Part 291 (14 CFR 291) of the Board's Economic Regulations (effective November 9, 1978), notice is hereby given that the Civil Aeronautics Board has received an application, Docket 35309, from Allegheny Airlines, Inc. of Washington, D.C. for an all-cargo air service certificate to provide domestic cargo transportation.

Under the provisions of section 291.12(c) of Part 291, interested persons may file an answer in opposition to this application within twenty-one (21) days after publication of this notice in the **Federal Register**. An executed original and six copies of such answer shall be addressed to the docket Section, Civil Aeronautics Board, Washington, D.C. 20428. It shall set forth in detail the reasons for the position taken and must relate to the fitness, willingness, or ability of the applicant to provide all-cargo air service or to comply with the Act or the Board's orders and regulations. The answer shall be served upon the applicant and state the date of such service.

Phyllis T. Kaylor,

Secretary.

[FR Doc. 79-15575 Filed 5-17-79; 8:45 am]

BILLING CODE 6320-01-M

Applications for Certificates of Public Convenience and Necessity and Foreign Air Carrier Permits Filed Under Subpart Q of the Board's Procedural Regulations

Notice is hereby given that, during the week ended CAB has received the applications listed below, which request the issuance, amendment, or renewal of certificates of public convenience and necessity or foreign air carrier permits under Subpart Q of 14 CFR 302.

Answers to foreign permit applications are due 28 days after the application is filed. Answers to certificate applications requesting restriction removal are due within 14 days of the filing of the application. Answers to conforming applications in a restriction removal proceeding are due 28 days after the filing of the original application. Answers to certificate applications (other than restriction removals) are due 28 days after the filing of the application. Answers to conforming applications or those filed in conjunction with a motion to modify scope are due within 42 days after the original application was filed. If you are in doubt as to the type of application which has been filed, contact the applicant, the Bureau of Pricing and Domestic Aviation (in interstate and overseas cases) or the Bureau of International Aviation (in foreign air transportation cases).

Phyllis T. Kaylor,

Secretary.

[FR Doc. 79-15574 Filed 5-17-79; 8:45 am]

BILLING CODE 6320-01-M

Subpart Q Applications

Date filed	Docket No.	Description
May 7, 1979	35485	Allegheny Airlines, Inc., Washington National Airport, Hangar No. 11, Washington, D.C. 20001. Application of Allegheny Airlines, Inc. requests the Board pursuant to Section 401 of the Act and Part 201 of the Board's Economic Regulations for amendment of its certificate of public convenience and necessity for Route 97 so as to authorize it to engage in scheduled nonstop air transportation of persons, property, and mail between the terminal point Dallas-Ft. Worth, Texas, and the terminal point Phoenix, Arizona. Answers and Conforming Applications are due on June 4, 1979.
May 7, 1979	35486	Allegheny Airlines, Inc., Washington National Airport, Hangar No. 11, Washington, D.C. 20001. Application of Allegheny Airlines, Inc. requests the Board pursuant to Section 401 of the Act and Part 201 of the Board's Economic Regulations for amendment of its certificate of public convenience and necessity for Route 97 so as to authorize it to engage in scheduled nonstop air transportation of persons, property, and mail between the terminal point Washington, D.C., and the terminal point Denver, Colorado. Answers and Conforming Applications are due on June 4, 1979.
May 7, 1979	35487	Allegheny Airlines, Inc., Washington National Airport, Hangar No. 11, Washington, D.C. 20001. Application of Allegheny Airlines, Inc. requests the Board pursuant to Section 401 of the Act and Part 201 of the Board's Economic Regulations for amendment of its certificate of public convenience and necessity for Route 97 to eliminate the one-stop restriction in Condition 4 which precludes nonstop service between Boston and Cleveland. Answers and Conforming Applications due on May 21, 1979.
May 10, 1979	35516	Trans-Mediterranean Airways, S.A.L., c/o Stanton D. Anderson, Esq., Surrey, Karasik and Morse, 1156 Fifteenth Street, N.W., Washington, D.C. 20005. Application of Trans-Mediterranean Airways, S.A.L. requests the Board pursuant to Section 402 of the Act and the Board's Rules of Practice, 14 C.F.R. Part 302, for renewal and modification of its foreign air carrier permit, authorizing it to engage in foreign air transportation with respect to property and mail between a point or points in Lebanon, with intermediate points in Basel, or points Amsterdam, Copenhagen, Stockholm, Frankfurt, Paris, London, and the terminal point New York, New York; with authority to engage in charter trips in foreign air transportation. Applicant requests that all flight frequency limitations be eliminated; that all restrictions be eliminated regarding the size of the aircraft which may be used; that the restriction be eliminated which imposes conditions upon its contractual relations with ARAMCO; and that other restrictions in its present permit, which reduce its operating flexibility, be eliminated. Answers and Conforming Applications are due on June 7, 1979.
May 10, 1979	35521	Braniff Airways, Inc., P.O. Box 35001, Dallas, Texas 75235. Application of Braniff Airways, Inc. requests the Board pursuant to Section 401(e)(7)(B) of the Act for an amendment of its certificate of public convenience and necessity to remove a restriction from its certificates for Route 153 and Route 151, segment 1 against nonstop service between Rio de Janeiro and Buenos Aires. Answers and Conforming Applications are due on May 25, 1979.
May 11, 1979	35531	Allegheny Airlines, Inc., Washington National Airport, Hangar No. 11, Washington, D.C. 20001. Application of Allegheny Airlines, Inc. requests the Board pursuant to Section 401 of the Act, and Part 201 of the Board's Economic Regulations, for an amendment of its certificate of public convenience and necessity for Route 97 so as to authorize it to engage in scheduled nonstop air transportation of persons, property, and mail in the following city-pair markets: Boston — Miami, Fort Lauderdale New York — Miami, Fort Lauderdale, Orlando, Tampa, West Palm Beach Newark — Fort Lauderdale, Orlando, Miami, Tampa, West Palm Beach Philadelphia — Miami, Fort Lauderdale Pittsburgh — Miami, Fort Lauderdale Washington — Miami Indianapolis — Miami Cincinnati — Miami Columbus — Fort Lauderdale, Tampa St. Louis — Sarasota, West Palm Beach Answers and Conforming Applications are due on June 8, 1979.

Nonstop or Single-Plane Service In a Market; Intent To Discontinue

The Civil Aeronautics Board is changing the way it processes carrier's notice of intent to discontinue nonstop or single-plane service in a market or markets. The notices are filed under section 401(j)(2) of the Federal Aviation Act and a newly adopted interim rule, Part 323 of the Procedural Regulations (44 FR 20635, April 6, 1979).

Until now, the CAB has issued a public document on every carrier-filed 401(j)(2) notice. Effective immediately, it will no longer do so unless the services terminated would have an impact on a

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community's essential air service or an objection is filed. The notices will, of course, be examined for compliance with the interim rule.

Requests for an exemption from 401(j)(2) to terminate service short of the full 60 days notice period will continue to be handled by Board order, as will any objections to a notice or any notice proposing service reductions which the Board determines have an impact on essential air transportation at any community.

The new procedures are effective immediately and apply to 401(j)(2) notices currently being processed as well as future filings.

By the Civil Aeronautics Board, May 10, 1979.

Phyllis T. Kaylor,

Secretary.

[FR Doc. 79-15578 Filed 5-17-79; 8:45 am]

BILLING CODE 6320-01-M

COMMISSION ON CIVIL RIGHTS

Arizona Advisory Committee; Agenda and Notice of Open Meeting

Notice is hereby given, pursuant to the provisions of the rules and regulations of the U.S. Commission on Civil Rights, that a planning meeting of the Arizona Advisory Committee (SAC) of the Commission will convene at 12 Noon and will end at 2:00 pm, on June 9, 1979, at the Ramada Inn, 3801 East Van Buren Street, Phoenix, Arizona.

Persons wishing to attend this open meeting should contact the Committee Chairperson, or the Western Regional Office of the Commission, 213 North Spring Street, Room 1015, Los Angeles, California 90012.

The purpose of this meeting is to plan projected activities concerning Arizona SAC projects.

This meeting will be conducted pursuant to the provisions of the rules and regulations of the Commission.

Dated at Washington, D.C., May 15, 1979.

John I. Binkley,

Advisory Committee Management Officer.

[FR Doc. 79-15518 Filed 5-17-79; 8:45 am]

BILLING CODE 6335-01-M

Nebraska Advisory Committee; Agenda and Notice of Open Meeting

Notice is hereby given, pursuant to the provisions of the rules and regulations of the U.S. Commission on Civil Rights, that a planning meeting of the Nebraska Advisory Committee (SAC) of the Commission will convene at 9:00 am and will end at 2:00 pm, on June 7, 1979, at the State Capitol, Room 1003, Lincoln, Nebraska 68509.

Persons wishing to attend this open meeting should contact the Committee Chairperson, or the Central States Regional Office of the Commission, Old Federal Office Building, Room 3103, 911 Walnut Street, Kansas City, Missouri 64106.

The purpose of this meeting is to conduct a committee orientation and training session in order to prepare for the Western Nebraksa Treatment of Minorities by Public Service Agencies Study.

This meeting will be conducted pursuant to the provisions of the rules and regulations of the Commission.

Dated at Washington, D.C., May 15, 1979.

John I. Binkley,

Advisory Committee Management Officer.

[FR Doc. 79-15519 Filed 5-17-79; 8:45 am]

BILLING CODE 6335-01-M

DEPARTMENT OF COMMERCE

Economic Development Administration

Agency Implementation of Executive Order 11988, Floodplain Management, and 11990, Protection of Wetlands: Extension of Comment Period

On April 5, 1979, the Economic Development Administration (EDA) published a notice in the **Federal Register** (44 FR 20471 *et seq.*) announcing the Agency's procedures for implementing Executive Order 11988 on Floodplain Management and Executive Order 11990 on Protection of Wetlands. In that notice, EDA requested that all comments be submitted to EDA by May 7, 1979.

EDA has received two comments requesting the Agency to extend the period for comment until May 31, 1979. In order to allow more time for comment, EDA is hereby extending the time for comment on these procedures until June 7, 1979. All comments should be submitted to EDA by that date. For further information concerning these procedures, contact John Hansel, Special Assistant for the Environment, U. S. Department of Commerce, Room 7217, Washington, D.C. 20230, (202) 377-4208.

Dated: May 14, 1979.

Robert T. Hall,

Assistant Secretary for Economic Development.

[FR Doc. 79-15520 Filed 5-17-79; 8:45am]

BILLING CODE 3510-24-M

Martin Wood Products, et al.; Petitions for Determinations of Eligibility To Apply for Trade Adjustment Assistance

Petitions have been accepted for filing from ten firms: (1) Martin Wood Products, 12275 Branford Street, Sun Valley, California 91352, a producer of wood tool handles (accepted May 4, 1979); (2) Art Braun, Inc., 4901 Perkins, Cleveland, Ohio 44103, a producer of knit tops, pants, dresses and swimwear for men and women (accepted May 7, 1979); (3) Microsonic Trading Corporation, 509 Spring Garden Street, Philadelphia, Pennsylvania 19123, a producer of watches (accepted May 7, 1979); (4) Atlas Radio, Inc., 417 Via Del Monte, Oceanside, California 92054, a producer of amateur radio equipment (accepted May 8, 1979); (5) Eastmoor Company, Inc., 800 Chicago Street, Michigan City, Indiana 46360, a producer of women's pants and skirts (accepted May 8, 1979); (6) Miss Erica, Inc., 7475 West 4th Avenue, Hialeah, Florida 33014, a producer of handbags (accepted May 9, 1979); (7) Activair Sportswear, Inc., 461 Eighth Avenue, New York, New York 10001, a producer of men's and women's shirts, pants, blazers and skirts (accepted May 9, 1979); (8) Dynaco, Inc., 9613 Oates Drive, Sacramento, California 95827, a producer of stereo equipment (accepted May 9, 1979); (9) R. Tain, Ltd., 1125 Wyckoff Avenue, Brooklyn, New York 11227, a producer of sweaters (accepted May 10, 1979); and (10) Abbott Machine Company, Inc., Wilton, New Hampshire 03086, a producer of yarn winding equipment (accepted May 11, 1979). The petitions were submitted pursuant to Section 251 of the Trade Act of 1974 (Pub. L. 93-618) and Section 315.23 of the Adjustment Assistance Regulations for Firms and Communites (13 CFR Part 315).

Consequently, the United States Department of Commerce has initiated separate investigations to determine whether increased imports into the United States of articles like or directly competitive with those produced by each firm contributed importantly to total or partial separation of the firm's workers, or threat thereof, and to a decrease in sales or production of each petitioning firm.

Any party having a substantial interest in the proceedings may request a public hearing on the matter. A request for a hearing must be received by the Chief, Trade Act Certification Division, Economic Development Administration, U.S. Department of Commerce, Washington, D.C. 20230, no later than the close of business of the tenth calendar day following the publication of the notice.

Jack W. Osburn, Jr.,

Chief, Trade Act Certification Division, Office of Eligibility and Industry Studies.

[FR Doc. 79-15521 Filed 5-17-79; 8:45 am]

BILLING CODE 3510-24-M

National Oceanic and Atmospheric Administration

Gulf of Mexico Fishery Management Council; Public Hearing

AGENCY: National Oceanic and Atmospheric Administration/ Commerce.

ACTION: Notice of a change in the date of a public hearing on a draft environmental impact statement/draft fishery management plan for the reef fish fishery of the Gulf of Mexico.

DATE CHANGE: The Gulf of Mexico Fishery Management Council announced a series of Public Hearings on its proposed fishery management plan for the reef fish fishery of the Gulf of Mexico in (44 FR 21681). The hearing originally scheduled for May 8, 1979 at the Bayfront Center Neptune Room in St. Petersburg, Florida has been rescheduled for May 30, 1979 at the same site. The May 8, 1979, meeting was canceled because of inclement weather. The meeting time, 7 p.m. to 10 p.m., remains unchanged.

FOR FURTHER INFORMATION CONTACT: Mr. Wayne E. Swingle, Gulf of Mexico Fishery Management Council, Lincoln Center, Suite 881, 5401 West Kennedy Boulevard, Tampa, Florida 33609.

Dated: May 11, 1979.

Winfred H. Meibohm,

Executive Director, National Marine Fisheries Service.

[FR Doc. 79-15500 Filed 5-17-79; 8:45 am]

BILLING CODE 3510-22-M

Sea-Arama, Inc.; Modification of Permit

Notice is hereby given that, pursuant to the provisions of § 216.33(d) and (e) of the Regulations Governing the Taking and Importing of Marine Mammals (50 CFR Part 216), the Public Display Permit No. 162 issued to Sea-Arma, Inc., on December 28, 1976, as modified August 1, 1978, is further modified as follows:

Section B is modified by deleting section B-6 and substituting therefor the following:

"6. This Permit is valid with respect to the taking authorized herein until June 1, 1981."

This modification is effective on May 18, 1979.

The Permit, as modified, and documentation pertaining to the modification is available for review in the following offices:

Assistant Administrator for Fisheries, National Marine Fisheries Service, 3300 Whitehaven Street, NW., Washington, D.C.;
Regional Director, National Marine Fisheries Service, Southwest Region, 300 South Ferry Street, Terminal Island, California 90731; and
Regional Director, National Marine Fisheries Service, Southeast Region, 9450 Koger Boulevard, Duval Building, St. Petersburg, Florida 33702.

Dated: May 11, 1979.

Winfred H. Meibohm,

Executive Director, National Marine Fisheries Service.

[FR Doc. 79-15501 Filed 5-17-79; 8:45 am]

BILLING CODE 3510-22-M

Sea World Inc.; Receipt of Application for Permit

Notice is hereby given that an Applicant has applied in due form for a Permit to take marine mammals as authorized by the Marine Mammal Protection Act of 1972 (16 U.S.C. 1361-1407), and the Regulations Governing the Taking and Importing of Marine Mammals (50 CFR Part 216).

1. Applicant:

a. Name: Sea World, Inc. (P2I).

b. Address: 1720 S. Shores Road, Mission Bay, San Diego, California 92109.

2. Type of Permit: Public Display.

3. Name and Number of Animals: Killer whale *(Orcinus orca)*, 1.

4. Type of Take: The applicant seeks a permit to import 1 killer whale from an aquarium in Canada.

5. Location of Activity: Niagara Falls, Canada.

6. Period of Activity: 2 years.

The arrangements and facilities for transporting and maintaining the marine mammals requested in the above described application have been inspected by a licensed veterinarian, who has certified that such arrangements and facilities are adequate to provide for the well-being of the marine mammals involved.

Concurrent with the publication of this notice in the **Federal Register** the Secretary of Commerce is forwarding copies of this application to the Marine Mammal Commission and the Committee of Scientific Advisors.

Written data or views, or requests for a public hearing on this application should be submitted to the Assistant Administrator for Fisheries, National Marine Fisheries Service, Department of Commerce, Washington, D.C. 20235, on or before June 18, 1979. Those individuals requesting a hearing should set forth the specific reasons why a hearing on this particular application would be appropriate. The holding of such hearing is at the discretion of the Assistant Administrator for Fisheries.

All statements and opinions contained in this application are summaries of those of the Applicant and do not necessarily reflect the views of the National Marine Fisheries Service.

Documents submitted in connection with the above application are available for review in the following offices:

Assistant Administrator for Fisheries, National Marine Fisheries Service, 3300 Whitehaven Street NW., Washington, D.C.;
Regional Director, National Marine Fisheries Service, Southwest Region, 300 South Ferry Street, Terminal Island, California 90731;
Regional Director, National Marine Fisheries Service, Southeast Region, Duval Building, 9450 Koger Boulevard, St. Petersburg, Florida 33702; and
Regional Director, National Marine Fisheries Service, Northeast Region, Federal Building, 14 Elm Street, Gloucester, Massachusetts 01930.

Dated: May 11, 1979.

William Aron,

Director, Office of Marine Mammals and Endangered Species, National Marine Fisheries Service.

[FR Doc. 79-15502 Filed 5-17-79; 8:45 am]

BILLING CODE 3510-22-M

COMMITTEE FOR PURCHASE FROM THE BLIND AND OTHER SEVERELY HANDICAPPED

Procurement List 1979; Correction of Addition

The document published in the **Federal Register** on May 14, 1979 (44 FR 28035) is amended to correct the Effective Date to May 14, 1979 for the following:

SIC 7349

Custodial Service
Federal Building
3rd and Hill Avenue
Gallup, New Mexico

E. R. Alley, Jr.,

Acting Executive Director.

[FR Doc. 79-15530 Filed 5-17-79; 8:45 am]

BILLING CODE 6820-33-M

Procurement List 1979; Deletion

AGENCY: Committee for Purchase from the Blind and Other Severely Handicapped.

ACTION: Deletion from Procurement List.

SUMMARY: This action deletes from Procurement List 1979 commodities

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produced by workshops for the blind or other severely handicapped.

EFFECTIVE DATE: May 18, 1979.

ADDRESS: Committee for purchase from the Blind and Other Severely Handicapped, 2009 14th Street North, Suite 610, Arlington, Virginia 22201.

FOR FURTHER INFORMATION CONTACT: C. W. Fletcher, (703) 557–1145.

SUPPLEMENTARY INFORMATION: On March 23, 1979 the Committee for Purchase from the Blind and Other Severely Handicapped published notice (44 FR 17767) of proposed deletion from Procurement List 1979, November 15, 1978 (43 FR53151).

After consideration of the relevant matter presented, the Committee has determined that the commodities listed below are no longer suitable for procurement by the Federal Government under 41 U.S.C. 46–48c, 85 Stat. 77.

Accordingly, the following commodities are hereby deleted from Procurement List 1979:

Class 7520

Pencil, Mechanical
7520–00–223–6674
7520–00–268–9912
7520–00–577–4570

E. R. Alley, Jr.,
Acting Executive Director.

[FR Doc. 79–15531 Filed 5–17–79; 8:45 am]
BILLING CODE 6820–33–M

Procurement List 1979; Proposed Additions

AGENCY: Committee for Purchase from the Blind and Other Severely Handicapped.

ACTION: Proposed Additions to Procurement List.

SUMMARY: The Committee has received proposals to add to Procurement List 1979 commodities to be produced by and service to be provided by workshops for the blind and other severely handicapped.

COMMENTS MUST BE RECEIVED ON OR BEFORE: June 20, 1979.

ADDRESS: Committee for Purchase from the Blind and Other Severely Handicapped, 2009 14th Street North, Suite 610, Arlington, Virginia 22201.

FOR FURTHER INFORMATION CONTACT: C. W. Fletcher, (703) 557–1145.

SUPPLEMENTARY INFORMATION: This notice is published pursuant to 41 U.S.C. 47(a)(2), 85 Stat. 77.

If the Committee approves the proposed additions, all entities of the Federal Government will be required to procure the commodities and service listed below from workshops for the blind or other severely handicapped.

It is proposed to add the following commodities and service to Procurement List 1979, November 15, 1978 (43 FR 53151):

Class 7530

Folder, File, Pressboard
7530–00–266–6924 (For GSA Regions 3, 9, 10)
Folder, File, Pressboard
7530–00–286–6923 (For GSA Regions 4, 5, 6, 7, 8, 9, 10)

SIC 0782

Grounds Maintenance
Mare Island Naval Base
Vallejo, California
At the following Housing Areas:
1. Coral Sea Village Bldg. 301D–4
2. Farragut South Bldg. 302D–3
3. Farragut Central Bldg. 303E–3
4. Farragut North

E. R Alley, Jr.,
Acting Executive Director.

[FR Doc. 79–15532 Filed 5–17–79; 8:45 am]
BILLING CODE 6820–33–M

DEPARTMENT OF DEFENSE

Department of the Air Force

USAF Scientific Advisory Board; Meeting

May 10, 1979.

The USAF Scientific Advisory Board Electronic Systems Division Advisory Group will hold meetings on June 21, 1979 from 8:30 a.m. to 5:00 p.m. and June 22, 1979 from 8:30 a.m. to 12:00 p.m., at Hanscom Air Force Base, Massachusetts in the Command Management Center, Building 1606.

The Group will receive classified briefings and hold classified discussions on selected Air Force Command, Control, and Communications Programs.

The meetings concern matters listed in Section 552(b) of Title 5, U.S.C., specifically subparagraph (1) thereof, and will be closed to the public.

For further information contact the Scientific Advisory Board Secretariat at (202) 697–8404.

Carol M. Rose,
Air Force Federal Register, Liaison Officer.

[FR Doc. 79–15568 Filed 5–17–79; 8:45 am]
BILLING CODE 3910–01–M

Department of the Army

Fort Sill, Okla., Military Operational Area; Filing of Environmental Impact Statement

In compliance with the National Environmental Policy Act of 1969, the Army, on May 18, 1979, provided the Environmental Protection Agency a Draft Environmental Impact statement (DEIS) concerning the proposed Military Operational Area (MOA) at Fort Sill, Oklahoma. Interested organizations or individuals may obtain copies for cost of reproduction from the Commander, Training and Doctrine Command (TRADOC), ATTN: ATTN–FE–NR, Fort Monroe, Virginia 23651.

In the Washington area, inspection copies may be seen during normal duty hours in the Environmental Office, Office of Assistant Chief of Engineers, Room 1E676, Pentagon, Washington, DC 20310, phone (202) 694–3434.

Bruce A. Hildebrand,
Deputy for Environment, Safety and Occupational Health, OASA (IL&FM).

[FR Doc. 79–14886 Filed 5–17–79; 8:45 am]
BILLING CODE 3710–08–M

Corps of Engineers

Intent To Prepare a Draft Environmental Impact Statement (DEIS) for Proposed Navigation Channel Improvements Authorized for Fields Landing Channel, Humboldt County, Calif.

AGENCY: U.S. Army Corps of Engineers, Department of Defense.

ACTION: Notice of Intent to Prepare a Draft Environmental Impact Statement (DEIS).

SUMMARY: 1. The proposed project involves deepening the channel from the entrance channel to Olson Terminal to −30 feet MLLW, and widening the channel about 200 feet between Beacons 3 and 7 and about 100–130 feet between Beacons 8 and 10, and widening the turning basin 300 feet south and 250 feet west of the existing lines.

2. The alternatives that will be studied in detail are as follows:

a. No Action.

b. Widening between Beacons 3 and 7, 8 and 10, and the turning basin.

c. Deepening the entire channel including the turning basin to −30 feet MLLW and widening the channel between Beacons 3 and 7 and Beacons 8 and 10 and the turning basin.

3. In October 1977 the Corps of Engineers presented an initial array of alternatives for channel improvements in an Environmental Working Paper. A public workshop was held on 30 November 1977 to identify significant issues to be evaluated in the DEIS. These issues included loss of three (3) acres of eelgrass and ten (10) acres of intertidal mudflat and the appropriate mitigation and/or compensation for these losses. The Fish and Wildlife Service provided the Corps of Engineers with a planning aid letter on 28 March 1978 which addressed all the alternatives identified in the working paper.

In June of 1978, the Fish and Wildlife Service submitted to the Corps of Engineers a draft letter report on the locally preferred plan and compensation measures. The Corps replied to the Fish and Wildlife Service Report in December 1978 and identified the selected plan which differed from the locally preferred plan. The final letter report form the Fish and Wildlife Service on the selected plan and compensation measures is scheduled for May of 1979.

The first meeting with the agencies to discuss mitigation and/or compensation was held on 4 May 1978. A second meeting with the agencies as well as interested parties was held on 28 January 1979 to discuss the feasibility of transplanting eelgrass in Humboldt Bay for mitigation. It was the feeling at the meeting that eelgrass could not be transplanted in Humboldt Bay and that compensation in the form of returning some diked land to salt marsh would be acceptable. The Corps and the Fish and Wildlife Service will meet in June of 1979 to survey some recommended compensation sites. In accordance with Pub. L. 92–532, the Marine Protection, Research, and Sanctuaries Act of 1972, bioassays on proposed dredged material are being conducted. The agencies were contacted in March of 1979 to discuss appropriate species for the bioassay tests. After completion of the bioassays, the agencies will meet with the Corps to discuss the results.

4. A scoping meeting was not held initially as the guidelines were not published at that time.

5. It is estimated that the DEIS will be made available to the public in early December 1979.

6. Questions about the proposed action and DEIS can be answered by Karen Daniels, U.S. Army Corps of Engineers/SPNED–ED, 211 Main Street, Room 809, San Francisco, California 94105.

Dated; May 11, 1979.

John M. Adsit,
Colonel, CE, District Engineer.

[FR Doc. 79–15569 Filed 5–17–79; 8:45 am]
BILLING CODE 3710–FS–M

Office of the Secretary

Task Force on Evaluation of Audit, Inspection and Investigative Components of the Department of Defense; Advisory Committee Meeting

Pursuant to the Federal Advisory Committee Act, as amended, § 10, 5 U.S.C. app. 10 (1976), notice is hereby given that a meeting of the Task Force on Evaluation of Audit, Inspection and Investigative Components of the Department of Defense will be held on May 31, 1979, at 10:00 AM in Room 3D981, The Pentagon, Washington, D.C.

The mission of the Task Force is to advise Congress and the Secretary of Defense with respect to the effectiveness of the audit, inspection and investigative components of the Department of Defense.

The meeting will be open to the public.

H. E. Lofdahl,
Director, Correspondence and Directives, Washington Headquarters Services, Department of Defense.

May 15, 1979.

[FR Doc. 79–15706 Filed 5–17–79; 8:45 am]
BILLING CODE 3810–70–M

DEPARTMENT OF ENERGY

Economic Regulatory Administration

Michaelson Producing Co.; Revised Proposed Remedial Order

Pursuant to 10 CFR 205.192(c), the Economic Regulatory Administration (ERA) of the Department of Energy hereby gives notice of a Revised Proposed Remedial Order which was issued to Michaelson Producing Company, 1404 Gihls Tower West, Midland, Texas 79701. This Revised Proposed Remedial Order charges Michaelson Producing Company (Michaelson) with pricing violations in the amount of $329,560.84 caused by Michaelson's having made sales of crude oil at prices in excess of those permitted under the Federal Energy Administration (now the DOE) price rule in 10 CFR 212.73. ERA maintained that the overcharges were the result of Michaelson's characterization of certain "old" crude oil as "new," "released" and "stripper" crude oil based upon Michaelson's interpretation of the term "property."

A copy of the Revised Proposed Remedial Order, with confidential information deleted, may be obtained from Wayne I. Tucker, District Manager, Southwest District Enforcement, Department of Energy, Economic Regulatory Administration, P. O. Box 35228, Dallas, Texas 75235, or by calling (214) 749–7628. On or before June 4, 1979, any aggrieved person may file a Notice of Objection with the Office of Hearings and Appeals, 2000 M Street, N.W., Washington, D.C. 20461, in accordance with 10 CFR 205.193.

Issued in Dallas, Texas, on the 7th day of May 1979.

Wayne I. Tucker,
District Manager of Enforcement, Southwest District.

[FR Doc. 79–15507 Filed 5–17–79; 8:45 am]
BILLING CODE 6450–01–M

Federal Energy Regulatory Commission

[Docket No. RP79–53, et al.]

Arkansas Louisiana Gas Co.; Pipeline Rates: Louisiana First Use Tax

In the matter of Arkansas Louisiana Gas Company (Docket Nos. RP 79–53 & RP 79–54); Columbia Gas Transmission Corporation (Docket No. RP 79–42); Consolidated Gas Supply Corporation (Docket No. RP 79–47); El Paso Natural Gas Company (Docket No. RP 79–37); Michigan Wisconsin Pipe Line Company (Docket No. RP 79–43); Natural Gas Pipeline Company of America (Docket No. RP 79–38); Northern Natural Gas Company (Docket No. RP 79–41); Panhandle Eastern Pipe Line Company (Docket No. RP 79–34); Southern Natural Gas Company (Docket No. RP 79–48); Tennessee Gas Pipeline (Docket No. RP 79–52); Texas Eastern Transmission Corporation (Docket No. RP 79–40); Texas Gas Transmission Corporation (Docket No. RP 79–31); Trunkline Gas Company (Docket No. RP 79–33); Transcontinental Gas Pipe Line Corporation (Docket No. RP 79–46).

Order Accepting Revised Tariff Sheets

Issued: May 9, 1979.

In Order Nos. 10, 10–A, and 10–B,[1] the Commission amended section 154.38 of its Regulations promulgated pursuant to the Natural Gas Act, by adding a new paragraph (18 CFR 154.38(h)). Paragraph (h), as amended, establishes procedures governing pipeline recovery of the State of Louisiana First Use Tax on Natural Gas.[2] Under paragraph (h) pipelines are permitted to collect the First Use Tax, subject to refund, pursuant to a

[1] State of Louisiana First Use Tax in Pipeline Rate Cases, Docket No. RM78–23, 43 FR 45553 (October 3, 1978); 43 FR 60435 (December 28, 1978); 44 FR 13460 (March 12, 1979).

[2] 1978 La. Sess. Law Serv. 482 (Act No. 294), to be codified as La. Rev. Stat. §§ 47:1301–47:1307. Hereinafter referred to as "First Use Tax."

temporary tracking mechanism similar to a purchased gas adjustment clause.

Pursuant to Order Nos. 10, 10–A, and 10–B eighteen pipeline companies filed tariff sheets to establish provisions for tracking and deferred accounting of the First Use Tax. On March 30, 1979, the Commission issued an order [1] accepting, conditionally accepting, or rejecting the tariff sheets filed to establish provisions for tracking and deferred accounting of the First Use Tax. The thirteen pipelines listed in Appendix A have filed revised tariff sheets in accordance with the various ordering paragraphs of the March 30 Order. El Paso Natural Gas Company has filed for clarification of that order. The revised tariff sheets were made to provide for (1) tracking provisions which terminate the tracking of the First Use Tax in accordance with Order No. 10–B; (2) pressure base corrections which would more accurately indicate the actual volumes subject to the First Use Tax; (3) deferred account provisions similar to the deferred account provisions of each pipeline's PGA clause; (4) more accurately defined refund provisions under the corporate undertaking and (5) elimination of hearing and surcharge provisions. The Commission finds that the revised tariff sheets comply with the ordering paragraphs in the March 30 Order and accepts the revised tariff sheets.

El Paso filed a letter requesting clarification of Ordering Paragraph (F) of the March 30 Order. Paragraph (F) stated that El Paso, among others, should file revised tariff sheets providing deferred account provisions similar to the deferred account provisions of El Paso's PGA tariff. Since El Paso was inadvertently listed in Ordering Paragraph (F), the Commission accepts the tariff sheets filed by El Paso which are listed in the March 30 Order.

The March 30 Order required the filing of revised tariff sheets within 15 days. Transcontinental Gas Pipe Line Corporation, and Southern Natural Gas Company filed a few days after the 15 day requirement. The Commission finds good cause to waive the 15 day requirement and accept these filings.

Northern Natural Gas Company requests that the Commission correct a tariff sheet designation contained on page 3 of Appendix A of the Commission's March 30 Order. Northern states that the error may have arisen because Northern's initial filing erroneously designated the tariff sheet. In accordance with Northern's revised filing, the Commission accepts Northern's Eighteenth Revised Sheet No. 1c to Original Volume No. 2 instead of Substitute Eighteenth Revised Sheet No. 1c to Original Volume No. 2.

Waiver of the 30 day notice requirement for these initial filings is granted in accordance with paragraph E of Order No. 10–B.

This order deals only with the compliance filings of the March 30 Order. Applications for rehearing and partial stay of the March 30 order will be dealt with by separate order.

The Commission Orders:

(A) Subject to the refund provisions of § 154.38(h) of the Commission's regulations, the First Use Tax tariff sheets of the pipeline companies listed in Appendix A, except for Michigan Wisconsin Pipe Line Company, are accepted effective as of April 1, 1979.

(B) Subject to the refund provisions of § 154.38(h) of the Commission's regulations, the First Use Tax tariff sheets of Michigan Wisconsin listed in Appendix A are accepted effective as of May 1, 1979.

(C) Subject to the refund provisions of § 154.38(h) of the Commission's regulations, the tariff sheets of El Paso Natural Gas Company listed in Appendix A of the Commission's March 30 Order are accepted.

(D) Pipelines shall file revised tariff sheets if the underlying rates of the proposed tariff sheets are reduced as a result of any ongoing Commission proceeding.

(E) In accordance with paragraph (E) of Order No. 10–B, waiver of the 30 day notice requirement is granted.

By the Commission.

Kenneth F. Plumb,

Secretary.

Appendix A

Company	Volume number(s)	Sheet number(s)	Date filed
Arkansas Louisiana Gas Company	1st Revised Vol. No. 1	Substitute Original Sheet Nos. 12G, 12H, and 12I.	4/13/79
	Original Vol. No. 3	Substitute Original Sheet Nos. 188E, 188F, and 188G.	4/13/79
Columbia Gas Transmission Corporation.	Original Vol. No. 1	Substitute Original Sheet No. 66	4/11/79
Consolidated Gas Supply Corporation.	3rd Revised Vol. No. 1	Substitute Original Sheet No. 75; Substitute 12th Revised Sheet No. 16.	4/9/79
Michigan Wisconsin Pipe Line Company.	Original Vol. No. 1	Original Sheet Nos. 48, 50; Substitute Original Sheet No. 49.	4/12/79 5/3/79
Natural Gas Pipeline Company of America.	3rd Revised Vol. 1	Substitute 36th Revised Sheet No. 5; Substitute Original Sheet No. 148.	4/16/79
Northern Natural Gas Company	3rd Revised Vol. No. 1	1st Substitute Original Sheet No. 74b	4/16/79
	Original Vol. No. 2	1st Substitute Original Sheet No. 1o	4/16/79
	Original Vol. No. 2	Eighteenth Revised Sheet No. 1c	3/15/79
Panhandle Eastern Pipe Line Company.	Original Vol. No. 1	1st Substitute Original Sheet No. 43–6	4/13/79
Southern Natural Gas Company	6th Revised Vol. No. 1	Substitute Original Sheet No. 45M	4/17/79
Tennessee Gas Pipeline	9th Revised Vol. No. 1	2nd Revised Sheet No. 213Q; 1st Revised Sheet Nos. 213R and 213S; and Original Sheet No. 213T.	4/16/79
Texas Eastern Transmission Corporation.	4th Revised Vol. No. 1	Substitute Original Sheet No. 119; Alternate 2nd Substitute 48th Revised Sheet Nos. 14, 14A, 14B, 14C and 14D.	4/16/79
Texas Gas Transmission Corporation.	3rd Revised Vol. No. 1	Substitute Original Sheet No. 106; Substitute 1st Revised Sheet No. 109.	4/4/79
Trunkline Gas Company	Original Vol. No. 1	1st Substitute Original Sheet Nos. 21M and 21N.	4/13/79
Transcontinental Gas Pipe Line Corporation.	2nd Revised Vol. No. 1	Substitute Original Sheet Nos. 254 and 255	4/25/79

[FR Doc. 79–15537 Filed 5–17–79; 8:45 am]

BILLING CODE 6450–01–M

[1] "Order Accepting Certain Tariff Sheets, Conditionally Accepting Certain Tariff Sheets, and Rejecting Certain Other Tariff Sheets Which Reflect the Louisiana First Use Tax in Pipeline Rates Pursuant to Order Nos. 10, 10–A, and 10–B" Arkansas Louisiana Gas Co., *et al.*, issued March 30, 1979 ("March 30 Order").

[Docket No. CP79–295]

Black Warrior Pipeline, Inc., Rayar Pipeline, Inc.; Application

May 11, 1979.

Take notice that on April 27, 1979, Black Warrior Pipeline, Inc. and Rayar Pipeline, Inc. (Applicants), 1030 Capital Towers, 125 South Congress Street, Jackson, Mississippi 39201, filed in Docket No. CP79–295 an application pursuant to Section 311(a)(2) of the Natural Gas Policy Act of 1978 for approval of the transportation of natural gas, and the rate charged therefor, for Southern Natural Gas Company (Southern) for a primary term of 15 years, all as more fully set forth in the application which is on file with the Commission and open to public inspection.

Applicants propose to transport up to 25,000 Mcf of natural gas per day to be purchased by Southern from Grace Petroleum Corp. in the Corinne Field, Monroe County, Mississippi; from field delivery points to a point of interconnection to be constructed between Applicants' proposed pipeline extension and Southern's 30-inch pipeline at the Muldon Storage Field, Monroe County, Mississippi. Applicants state that they would redeliver the quantity of gas taken for Southern's account at the field delivery points less Southern's *pro rata* share of gas used for compression and dehydration and any lost or unaccounted-for gas upstream of the redelivery point.

The application indicates that Applicants would charge Southern a two-part rate consisting of a demand charge (monthly) of $2.14 per Mcf of daily contract demand and a commodity charge of $.08 per Mcf for volumes of gas redelivered on any day up to the daily contract demand quantity and $.15 per Mcf for volumes of gas redelivered on any day in excess of daily contract demand quantity.

Applicants state that the proposed transportation service would provide Southern with the means for taking delivery of an additional source of gas without having to construct and operate additional facilities duplicative of Applicants' existing pipe line facilities which are accessible to Southern's gas supply in the Corinne Field.

Any person desiring to be heard or to make any protest with reference to said application should on or before June 4, 1979, file with the Federal Energy regulatory Commission, Washington, D.C. 20426, a petition to intervene or a protest in accordance with the requirements of the Commission's Rules of Practice and Procedure (18 CFR 1.8 or 1.10). All protests filed with the Commission will be considered by it in determining the appropriate action to be taken but will not serve to make the protestants parties to the proceeding. Any person wishing to become a party to a proceeding or to participate as a party in any hearing therein must file a petition to intervene in accordance with the Commission's Rules.

Kenneth F. Plumb,

Secretary.

[FR Doc. 79–15536 Filed 5–17–79; 8:45 am]

BILLING CODE 6450–01–M

[Docket No. CP78–459]

Cities Service Gas Co.; Petition To Amend

May 9, 1979.

Take notice that on April 23, 1979, Cities Service Gas Company (Petitioner), P. O. Box 25128, Oklahoma City, Oklahoma 73125, filed in Docket No. CP78–459 a petition to amend the order of October 16, 1978, issued in said docket pursuant to Section 7(c) of the Natural Gas Act and § 157.7(b) of the Regulations thereunder (18 CFR 157.7(b)) so as to authorize Petitioner to increase by 50 percent the total cost and single project cost of facilities constructed under its gas-purchase budget-type authorization, all as more fully set forth in the petition which is on file with the Commission and open to public inspection.

Petitioner states that pursuant to the Commission's order of October 16, 1978, it was authorized to construct and operate gas purchase facilities under budget-type authorization for the calendar year 1979. Petitioner indicates that the total cost of facilities constructed under the budget-type authorization is limited to $7,500,000, with no single project to exceed $1,500,000. Petitioner requests waiver of Section 157.7(b)(1) of the Commission's Regulations so as to increase by 50 per cent the previously mentioned cost limitations to $2,250,000 for a single project and $11,250,000 for total budget-type expenditures. It is stated that at the time that Petitioner filed its certificate application in this docket, it did not seek a waiver of cost limitations because it expected that the Commission would take action to increase the budget cost limitation and that such action would apply across the board. Petitioner states that while the Commission has not acted as yet, the Commission has determined that waivers of the current cost limitations are appropriate and would be granted on a case-by-case basis. Petitioner bases its request for a 50 percent increase in single project and total gas-purchase budget facilities costs on the Handy-Whitman Index of Public Utility Construction Costs which indicates that for the period January 1, 1975 to January 1, 1979, inflation has increased by an average of 46 per-cent of the total transmission plant construction costs for pipelines such as Petitioner, which operate in the south central, north central and plateau regions of the country. Petitioner states that if this inflation rate is trended through April 1979 the increase in total transmission plant construction costs due to inflation since January 1975, would average 50 percent.

Any person desiring to be heard or to make any protest with reference to said petition should on or before May 30, 1979, file with the Federal Energy Regulatory Commission, Washington, D.C. 20426, a petition to intervene or a protest in accordance with the requirements of the Commission's Rules of Practice and Procedure (18 CFR 1.8 or 1.10) and the Regulations under the Natural Gas Act (18 CFR 157.10). All protests filed with the Commission will be considered by it in determining the appropriate action to be taken but will not serve to make the protestants parties to the proceeding. Any person wishing to become a party to a proceeding or to participate as a party in any hearing therein must file a petition to intervene in accordance with the Commission's Rules.

Keneth F. Plumb,

Secretary.

[FR Doc. 79–15539 Filed 5–17–70; 8:45 am]

BILLING CODE 6450–01–M

[Docket No. CP79–301]

Coastal States Gas Producing Co.; Petition

May 9, 1979.

Take notice that on May 8, 1979, Coastal States Gas Producing Company (Petitioner), Five Greenway Plaza East, Houston, Texas 77046, filed in Docket No. CP79–301 a petition for emergency relief to permit temporary deliveries to LoVaca Gathering Company (LoVaca) of natural gas dedicated to Natural Gas Pipeline Company of America (Natural) while a *force majeure* condition exists on the system of Natural, all as more fully set forth in the petition on file with the Commission and open to public inspection.

Petitioner states that it operates a joint gathering system in Duval County, Texas, to which are attached certain wells from which gas is dedicated to Natural under Petitioner's FERC Gas Rate Schedule No. 7. Certain other production in the system is said to be dedicated to LoVaca by contract. The petition states that Natural has recently informed Petitioner that Natural will be unable to accept deliveries under Petitioner's FERC Gas Rate Schedule No. 7 while its pipeline is out of service

for testing and repair. Further, it is stated, certain of the wells from which gas is dedicated to Natural are stripper wells that could be lost should they be shut in for the period indicated by Natural (several weeks).

Petitioner requests that the Commission approve continued production of these wells and delivery of the gas therefrom to LoVaca. Upon termination of Natural's *force majeure* condition volumes of gas equivalent to those diverted to LoVaca would be delivered to Natural from LoVaca dedications. Petitioner requests that the Commission permit this plan without asserting jurisdiction over any of the parties involved as a result of the proposed transaction.

Any person desiring to be heard or to make any protest with reference to said petition should on or before June 1, 1979, file with the Federal Energy Regulatory Commission, Washington, D. C. 20426, a petition to intervene or a protest in accordance with the requirements of the Commission's Rules of Practice and Procedure (18 CFR 1.8 or 1.10). All protests filed with the Commission will be considered by it in determining the appropriate action to be taken but will not serve to make the protestants parties to the proceeding. Any person wishing to become a party to a proceeding or to participate as a party in any hearing therein must file a petition to intervene in accordance with the Commission's Rules.

Kenneth F. Plumb,

Secretary.

[FR Doc. 79-15540 Filed 5-17-79; 8:45 am]

BILLING CODE 6450-01-M

[Docket No. CP79-285]

Colorado Interstate Gas Co.; Application

May 11, 1979.

Take notice that on April 24, 1979, Colorado Interstate Gas Company (CIG), P.O. Box 1087, Colorado Springs, Colorado 80944, filed in Docket No. CP79-285 an application pursuant to Section 7(c) of the Natural Gas Act for a certificate of public convenience and necessity authorizing a revision of deliveries to Natural Gas Pipeline Company of America (Natural) under CIG's FERC Rate Schedules F-1 and H-1, all as more fully set forth in the application which is on file with the Commission and open for public inspection.

CIG states that as a result of declining field pressure and deliverability in the Texas Panhandle area, it has encountered mechanical and gas supply problems that precluded CIG from delivering the required volumes under Rate Schedule F-1 at the specified delivery points. This situation has necessitated supplemental deliveries of gas to Natural at the Forgan delivery point, Beaver County, Oklahoma, to be applied to CIG's sales obligation under Rate Schedule F-1, it is further stated. CIG has made supplemental Rate Schedule F-1 deliveries at Forgan delivery point for the past five years, it is said.

Pursuant to a service agreement dated March 1, 1979, between CIG and Natural which agreement provides for an average daily contract quantity of 210,000 Mcf and a total contract quantity of 76,650,000 Mcf and would remain in effect until September 30, 1989, it is stated.

It is said that the total contract quantity of 76,650,000 Mcf represents no increase in total annual deliveries to Natural but aggregates the total contract quantities of the current H-1 and F-1 service agreements and likewise, the average daily contract quantity of 210,000 Mcf aggregates the existing daily contract quantities. The natural gas delivered on a firm basis would be purchased by Natural under CIG's FERC rate schedules F-1 and H-1, it is asserted. It is CIG's intent to deliver under rate schedule F-1 the maximum volumes that CIG can prudently make available at the F-1 delivery points up to an aggregate volume of 160,000 Mcf on any day and CIG would deliver under rate schedule H-1 at the specified delivery points each day such remaining volumes as required to achieve the total delivery obligations pursuant to the agreement, it is asserted. Actual deliveries made each fiscal year would determine the portion of the total contract quantity applicable to each rate schedule, it is said.

CIG and Natural entered into the agreement dated March 1, 1979, since both parties recognized that CIG would not be able to meet the F-1 delivery volume obligation in the future at the existing delivery points, it is said. CIG has an annual contractual obligation of 76,650,000 Mcf to Natural and the proposed agreement would allow CIG to meet that obligation by providing a more flexible delivery arrangement, it is said.

CIG states that the firm natural gas delivered to Natural would be delivered under CIG's rate schedules F-1 and H-1 and the appropriate rate schedule to be applied to deliveries is dependent upon where the gas is delivered to Natural.

Deliveries made at rate schedule F-1 delivery points would be charged at the F-1 rate, and deliveries made at rate schedule H-1 delivery point would be charged at the H-1 rate, it is said.

Any person desiring to be heard or to make any protest with reference to said application should on or before June 4, 1979, file with the Federal Energy Regulatory Commission, Washington, D.C. 20426, a petition to intervene or a protest in accordance with the requirements of the Commission's Rules of Practice and Procedure (18 CFR 1.8 or 1.10) and the Regulations under the Natural Gas Act (18 CFR 157.10). All protests filed with the Commission will be considered by it in determining the appropriate action to be taken but will not serve to make the protestants parties to the proceeding. Any person wishing to become a party to a proceeding or to participate as a party in any hearing therein must file a petition to intervene in accordance with the Commission's Rules.

Take further notice that, pursuant to the authority contained in and subject to jurisdiction conferred upon the Federal Energy Regulatory Commission by Sections 7 and 15 of the Natural Gas Act and the Commission's Rules of Practice and Procedure, a hearing will be held without further notice before the Commission or its designee on this application if no petition to intervene is filed within the time required herein, if the Commission on its own review of the matter finds that a grant of the certificate is required by the public convenience and necessity. If a petition for leave to intervene is timely filed, or if the Commission on its own motion believes that a formal hearing is required, further notice of such hearing will be duly given.

Under the procedure herein provided for, unless otherwise advised, it will be unnecessary for CIG to appear or be represented at the hearing.

Kenneth F. Plumb,

Secretary.

[FR Doc. 79-15541 Filed 5-17-79; 8:45 am]

BILLING CODE 6450-01-M

Crystal Oil Co., et al.; Determination by a Jurisdictional Agency Under the Natural Gas Policy Act of 1978

May 11, 1979.

On May 2, 1979, the Federal Energy Regulatory Commission received notices from the jurisdictional agencies listed below of determinations pursuant to 18 CFR 274.104 and applicable to the indicated wells pursuant to the Natural Gas Policy Act of 1978.

Railroad Commission of Texas Oil and Gas Division

FERC Control Number: JD79-4421
API Well Number: 42-365-30605
Section of NGPA: 103
Operator: Crystal Oil Company
Well Name: Holt 1
Field: Panola
County: Panola
Purchaser: United Gas Pipeline Company
Volume: 4,000 MMcf.

FERC Control Number: JD79-4222
API Well Number: 42-365-30621
Section of NGPA: 103
Operator: Crystal Oil Company
Well Name: Gilliam 2
Field: Panola
County: Panola
Purchaser: United Gas Pipeline Company
Volume: 7,000 MMcf.

FERC Control Number: JD79-4223
API Well Number: 42-365-30612
Section of NGPA: 103
Operator: Crystal Oil Company
Well Name: Gilliam 1
Field: Panola
County: Panola
Purchaser: United Gas Pipeline Company
Volume: 7,000 MMcf.

FERC Control Number: JD79-4224
API Well Number: 42-365-30593
Section of NGPA: 103
Operator: Crystal Oil Company
Well Name: E. Douglas 2
Field: Panola
County: Panola
Purchaser: United Gas Pipeline Company
Volume: 9 MMcf.

FERC Control Number: JD79-4225
API Well Number:
Section of NGPA: 103
Operator: Crystal Oil Company
Well Name: E. Douglas 1
Field: Panola
County: Panola
Purchaser: United Gas Pipeline Company
Volume: 9 MMcf.

FERC Control Number: JD79-4226
API Well Number: 42-365-30308
Section of NGPA: 103
Operator: Crystal Oil Company
Well Name: Douglas Estate 7
Field: Panola
County: Panola
Purchaser: United Gas Pipeline Company
Volume: 55,000 MMcf.

FERC Control Number: JD79-4227
API Well Number: 42-365-30310
Section of NGPA: 103
Operator: Crystal Oil Company
Well Name: Douglas Estate 6
Field: Panola
County: Panola
Purchaser: United Gas Pipeline Company
Volume: 55,000 MMcf.

FERC Control Number: JD79-4228
API Well Number: 42-365-30174
Section of NGPA: 103
Operator: Crystal Oil Company
Well Name: Douglas Estate 5
Field: Panola
County: Panola
Purchaser: United Gas Pipeline Company
Volume: 55,000 MMcf.

FERC Control Number: JD79-4229
API Well Number: 42-365-30300
Section of NGPA: 103
Operator: Crystal Oil Company
Well Name: Douglas Estate 4
Field: Panola
County: Panola
Purchaser: United Gas Pipeline Company
Volume: 55,000 MMcf.

FERC Control Number: JD79-4230
API Well Number: 42-365-30298
Section of NGPA: 103
Operator: Crystal Oil Company
Well Name: Douglas Estate 2
Field: Panola
County: Panola
Purchaser: United Gas Pipeline Company
Volume: 55,000 MMcf.

FERC Control Number: JD79-4231
API Well Number: 42-365-30600
Section of NGPA: 103
Operator: Crystal Oil Company
Well Name: Caldwell 4
Field: Panola
County: Panola
Purchaser: United Gas Pipeline Company
Volume: 13,000 MMcf.

FERC Control Number: JD79-4232
API Well Number: 42-365-30599
Section of NGPA: 103
Operator: Crystal Oil Company
Well Name: Caldwell 3
Field: Panola
County: Panola
Purchaser: United Gas Pipeline Company
Volume: 13,000 MMcf.

FERC Control Number: JD79-4233
API Well Number: 42-365-30598
Section of NGPA: 103
Operator: Crystal Oil Company
Well Name: Caldwell 2
Field: Panola
County: Panola
Purchaser: United Gas Pipeline Company
Volume: .13 MMcf.

FERC Control Number: JD79-4234
API Well Number: 42-365-30309
Section of NGPA: 103
Operator: Crystal Oil Company
Well Name: Caldwell 1
Field: Panola
County: Panola
Purchaser: United Gas Pipeline Company
Volume: 13,000 MMcf.

FERC Control Number: JD79-4235
API Well Number: 42-365-30789
Section of NGPA: 103
Operator: Crystal Oil Company
Well Name: Anderson 1
Field: Panola
County: Panola
Purchaser: United Gas Pipeline Company
Volume: .6 MMcf.

FERC Control Number: JD79-4236
API Well Number: 42-239-31244
Section of NGPA: 103
Operator: Sovereign Exploration Company
Well Name: Sovereign No. 1 E. H. Seidel
Field: Edna East
County: Jackson
Purchaser: Tennessee Gas Pipeline
Volume: 190 MMcf.

FERC Control Number: JD79-4237
API Well Number: 42-025-30953
Section of NGPA: 103
Operator: Sovereign Exploration Company
Well Name: Sovereign No. Ella May
Field: Blanconia
County: Bee
Purchaser: United Gas Pipeline Company
Volume: 55 MMcf.

FERC Control Number: JD79-4238
API Well Number: 42-365-30282
Section of NGPA: 103
Operator: Pennzoil Producing Company
Well Name: Hull A-13L
Field: Carthage Cotton Valley
County: Panola
Purchaser: United Gas Pipeline Company
Volume: 240 MMcf.

FERC Control Number: JD79-4239
API Well Number: 42-365-30274
Section of NGPA: 103
Operator: Pennzoil Producing Company
Well Name: Mangham Unit No. 3
Field: Carthage Cotton Valley
County: Panola
Purchaser: United Gas Pipe Line Company
Volume: 450 MMcf.

FERC Control Number: JD79-4240
API Well Number:
Section of NGPA: 103
Operator: Key Production Company
Well Name: Longino, et al 79380
Field: Carthage Cotton Valley
County: Panola
Purchaser: Arkansas Louisiana Gas Company
Volume:

FERC Control Number: JD79-4241
API Well Number:
Section of NGPA: 103
Operator: Key Production Company
Well Name: Ruby Dodd 1 78938
Field: Carthage Cotton Valley
County: Panola
Purchaser: Arkansas Louisiana Gas Company
Volume:

FERC Control Number: JD79-4242
API Well Number: 42-495-30908
Section of NGPA: 103
Operator: Bass Enterprises Production Company
Well Name: J. B. Walton No. 74
Field: Keystone
County: Winkler
Purchaser: Transwestern Pipeline Company
Volume: 98 MMcf.

FERC Control Number: JD79-4243
API Well Number: 42-495-30917
Section of NGPA: 103
Operator: Bass Enterprises Production Company
Well Name: J. B. Walton "E" No. 76
Field: Keystone
County: Winkler
Purchaser: Transwestern Pipeline Company
Volume: 59 MMcf.

FERC Control Number: JD79-4244
API Well Number: 42-495-30909
Section of NGPA: 103
Operator: Bass Enterprises Production Company
Well Name: Gulf Jenkins No. 10
Field: Keystone
County: Winkler
Purchaser: Transwestern Pipeline Company

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Volume: 11 MMcf.
FERC Control Number: JD79–4245
API Well Number: 42–495–30915
Section of NGPA: 103
Operator: Bass Enterprises Production Company
Well Name: M. J. Bashara No. 59
Field: Keystone
County: Winkler
Purchaser: Transwestern Pipeline Company
Volume: 90 MMcf.

FERC Control Number: JD79–4246
API Well Number: 42–335–31227
Section of NGPA: 103
Operator: Sun Oil Company
Well Name: H. McKinney No. 1
Field: Jameson North Strawn
County: Mitchell
Purchaser: Lone Star Gas Company
Volume: 3 MMcf.

FERC Control Number: JD79–4247
API Well Number: 42–335–31182
Section of NGPA: 103
Operator: Sun Oil Company
Well Name: Frankie Stubblefield No. 7
Field: Jameson North Strawn
County: Mitchell
Purchaser: Lone Star Gas Company
Volume: 57 MMcf.

FERC Control Number: JD79–4248
API Well Number: 42–335–31168
Section of NGPA: 103
Operator: Sun Oil Company
Well Name: Frankie Stubblefield No. 6
Field: Jameson North Strawn
County: Mitchell
Purchaser: Lone Star Gas Company
Volume: 6 MMcf.

FERC Control Number: JD79–4249
API Well Number: 42–335–30853
Section of NGPA: 103
Operator: Sun Oil Company
Well Name: Frankie Stubblefield No. 4
Field: Jameson North Strawn
County: Mitchell
Purchaser: Lone Star Gas Company
Volume: 157 MMcf.

FERC Control Number: JD79–4250
API Well Number: 42–335–31235
Section of NGPA: 103
Operator: Sun Oil Company
Well Name: F. Stubblefield "A" No. 2
Field: Jameson North Strawn
County: Mitchell
Purchaser: Lone Star Gas Company
Volume: 25 MMcf.

FERC Control Number: JD79–4251
API Well Number: 42–335–30835
Section of NGPA: 103
Operator: Sun Oil Company
Well Name: F. Stubblefield No. 2
Field: Jameson North Strawn
County: Mitchell
Purchaser: Lone Star Gas Company
Volume: 35 MMcf.

FERC Control Number: JD79–4252
API Well Number: 42–335–30900
Section of NGPA: 103
Operator: Sun Oil Company
Well Name: F. Stubblefield "A" No. 1
Field: Jameson North Strawn
County: Mitchell
Purchaser: Lone Star Gas Company
Volume: 123 MMcf.

FERC Control Number: JD79–4253
API Well Number: 42–335–30902
Section of NGPA: 103
Operator: Sun Oil Company
Well Name: Dortha Rannefeld No. 1
Field: Jameson North Strawn
County: Mitchell
Purchaser: Lone Star Gas Company
Volume: 39 MMcf.

FERC Control Number: JD79–4254
API Well Number: 42–165–31243
Section of NGPA: 103
Operator: Mobil Oil Corporation
Well Name: H & J Sec. 127–B No. 7
Field: GMK SO (San Andres)
County: Gaines
Purchaser: Phillips Petroleum Company
Volume: 6.5 MMcf.

The applications for determination in these proceedings together with a copy or description of other materials in the record on which such determinations were made are available for inspection, except to the extent such material is treated as confidential under 18 CFR 275.206, at the Commission's Office of Public Information, Room 1000, 825 North Capitol Street, N.E., Washington, D.C. 20426.

Persons objecting to any of these final determinations may, in accordance with 18 CFR 275.203 and 18 CFR 275.204, file a protest with the Commission on or before June 4, 1979. Please reference the FERC Control Number in any correspondence concerning a determination.

Kenneth F. Plumb,

Secretary.

[FR Doc. 79–15552 Filed 5–17–79; 8:45 am]

BILLING CODE 6450–01–M

Dalport Oil Corp.; Determination by a Jurisdictional Agency Under the Natural Gas Policy Act of 1978

May 11, 1979.

On April 28, 1979, the Federal Energy Regulatory Commission received notices from the jurisdictional agencies listed below of determinations pursuant to 18 CFR 274.104 and applicable to the indicated wells pursuant to the Natural Gas Policy Act of 1978.

New Mexico Oil Conservation Division

FERC Control Number: JD79–4133
API Well Number:
Section of NGPA: 108
Operator: Dalport Oil Corporation
Well Name: Annie L. Christmas B–1
Field: Jalmat Tansill 7 Rivers Gas
County: Lea
Purchaser: El Paso Natural Gas Company
Volume: 5 MMcf.

FERC Control Number: JD79–4134
API Well Number: 30–025–25658
Section of NGPA: 103
Operator: John Yuronka
Well Name: Thomas No. 2
Field: Langlie Mattix
County: Lea
Purchaser: El Paso Natural Gas Company
Volume: 19 MMcf.

FERC Control Number: JD79–4135
API Well Number: 30–025–25831
Section of NGPA: 103
Operator: John Yuronka
Well Name: Thomas No. 3
Field: Langlie Mattix
County: Lea
Purchaser: El Paso Natural Gas Company
Volume: 108 MMcf.

FERC Control Number: JD79–4136
API Well Number: 30–025–26060
Section of NGPA: 103
Operator: John Yuronka
Well Name: Harrison No. 1
Field: Langlie Mattix
County: Lea
Purchaser: El Paso Natural Gas Company
Volume: 144 MMcf.

FERC Control Number: JD79–4137
API Well Number: 30–045–22684
Section of NGPA: 103
Operator: Manana Gas, Inc.
Well Name: Betty Hartman No. 1
Field: Basin Dakota
County: San Juan
Purchaser: El Paso Natural Gas Company
Volume: MMcf.

FERC Control Number: JD79–4138
API Well Number: 30–045–22869
Section of NGPA: 103
Operator: Manana Gas, Inc.
Well Name: Charlie No. 1
Field: Aztec Pictured Cliffs
County: San Juan
Purchaser: El Paso Natural Gas Company
Volume: MMcf.

FERC Control Number: JD79–4139
API Well Number: 30–045–08931
Section of NGPA: 108
Operator: Northwest Pipeline Corporation
Well Name: Aztec Com A No. 4
Field: Aztec
County: San Juan
Purchaser: Northwest Pipeline Corporation
Volume: 5 MMcf.

FERC Control Number: JD79–4140
API Well Number: 30–045–22683
Section of NGPA: 103
Operator: Manana Gas, Inc.
Well Name: Annie B No. 1
Field: Basin Dakota
County: San Juan
Purchaser: El Paso Natural Gas Company
Volume: MMcf.

FERC Control Number: JD79–4141
API Well Number: 30–045–21321
Section of NGPA: 108
Operator: Northwest Pipeline Corporation
Well Name: SJ 32–7 Unit No. 43
Field: Basin
County: San Juan
Purchaser: Northwest Pipeline Corporation
Volume: 6 MMcf.

FERC Control Number: JD79–4142
API Well Number: 30–039–NA
Section of NGPA: 108
Operator: Northwest Pipeline Corporation
Well Name: Rosa Unit No. 26
Field: Blanco
County: Rio Arriba
Purchaser: Northwest Pipeline Corporation
Volume: 19 MMcf.

FERC Control Number: JD79–4143
API Well Number: 30–045–20858
Section of NGPA: 103
Operator: Northwest Pipeline Corporation
Well Name: Stewart A Com B No. 3
Field: Aztec
County: San Juan
Purchaser: Northwest Pipeline Corporation
Volume: 18 MMcf.

FERC Control Number: JD79–4144
API Well Number: 30–045–21533
Section of NGPA: 108
Operator: Northwest Pipeline Corporation
Well Name: Jacques Com No. 1
Field: Harris Mesa
County: San Juan
Purchaser: Northwest Pipeline Corporation
Volume: 16 MMcf.

FERC Control Number: JD79–4145
API Well Number:
Section of NGPA: 108
Operator: Northwest Pipeline Corporation
Well Name: Davis No. 1
Field: Gavilan
County: Rio Arriba
Purchaser: Northwest Pipeline Corporation
Volume: 11 MMcf.

FERC Control Number: JD79–4146
API Well Number: 30–039–06144
Section of NGPA: 108
Operator: Northwest Pipeline Corporation
Well Name: Highsmith D No. 4
Field: Gavilan
County: Rio Arriba
Purchaser: Northwest Pipeline Corporation
Volume: 2 MMcf.

FERC Control Number: JD79–4147
API Well Number:
Section of NGPA: 108
Operator: Warren Petroleum Corporation
Well Name: H. T. Orcutt Well No. 1
Field: Monument Tubb Drinkard
County: Lea
Purchaser: El Paso Natural Gas Company
Volume: 6 MMcf.

FERC Control Number: JD79–4148
API Well Number:
Section of NGPA: 108
Operator: Northwest Pipeline Corporation
Well Name: Fee No. 3
Field: Gavilan
County: Rio Arriba
Purchaser: Northwest Pipeline Corporation
Volume: 8 MMcf.

FERC Control Number: JD79–4149
API Well Number:
Section of NGPA: 108
Operator: Northwest Pipeline Corporation
Well Name: Koon No. 1
Field: Gavilan,
County: Rio Arriba
Purchaser: Northwest Pipeline Corporation
Volume: 5 MMcf.

FERC Control Number: JD79–4150
API Well Number: 30–045–11453
Section of NGPA: 108
Operator: Northwest Pipeline Corporation
Well Name: SJ 32–7 Unit No. 3
Field: Los Pinos North
County: San Juan
Purchaser: Northwest Pipeline Corporation
Volume: 9 MMcf.

FERC Control Number: JD79–4151
API Well Number: 30–039–07756
Section of NGPA: 108
Operator: Northwest Pipeline Corporation
Well Name: S/J 30–5 Unit No. 16
Field: Blanco
County: Rio Arriba
Purchaser: Northwest Pipeline Corporation
Volume: 9 MMcf.

FERC Control Number: JD79–4152
API Well Number: 30–039–82388
Section of NGPA: 108
Operator: Northwest Pipeline Corporation
Well Name: S/J 31–6 Unit No. 15
Field: Blanco
County: Rio Arriba
Purchaser: Northwest Pipeline Corporation
Volume: 17 MMcf.

FERC Control Number: D79–4153
API Well Number: 30–039–07929
Section of NGPA: 108
Operator: Northwest Pipeline Corporation
Well Name: S/J 31–06 Unit No. 10
Field: Blanco
County: Rio Arriba
Purchaser: Northwest Pipeline Corporation
Volume: 12 MMcf.

FERC Control Number: JD79–4154
API Well Number: 30–039–07472
Section of NGPA: 108
Operator: Northwest Pipeline Corporation
Well Name: S/J 29–5 Unit No. 38
Field: Blanco
County: Rio Arriba
Purchaser: Northwest Pipeline Corporation
Volume: 14 MMcf.

The applications for determination in these proceedings together with a copy or description of other materials in the record on which such determinations were made are available for inspection, except to the extent such material is treated as confidential under 18 CFR 275.206, at the Commission's Office of Public Information, Room 1000, 825 North Capitol Street, N.E., Washington, D.C. 20426.

Persons objecting to any of those final determinations may, in accordance with 18 CFR 275.203 and 18 CFR 275.204, file a protest with the Commission on or before June 4, 1979. Please reference the FERC Control Number in any correspondence concerning a determination.

Kenneth F. Plumb,

Secretary.

[FR Doc. 79–15549 Filed 5–17–79; 8:45 am]

BILLING CODE 6450–01–M

El Paso Natural Gas Co. and Jerome P. McHugh; Determination by a Jurisdictional Agency Under the Natural Gas Policy Act of 1978

May 8, 1979.

On May 1, 1979, the Federal Energy Regulatory Commission received notices from the jurisdictional agencies listed below of determinations pursuant to 18 CFR 274.104 and applicable to the indicated wells pursuant to the Natural Gas Policy Act of 1978.

United States Department of the Interior, Geological Survey

FERC Control Number: JD79–3370
API Well Number: 30–045–22365
Section of NGPA: 103
Operator: El Paso Natural Gas Company
Well Name: Roelofs 3A (Pictured Cliffs)
Field: Blanco
County: San Juan
Purchaser: El Paso Natural Gas Company
Volume: 64 MMcf.

FERC Control Number: JD79–3371
API Well Number: 30–045–22365
Section of NGPA: 103
Operator: El Paso Natural Gas Company
Well Name: Roelofs 3–A (Mesaverde)
Field: Blanco
County: San Juan
Purchaser: El Paso Natural Gas Company
Volume: 236 MMcf.

FERC Control Number: JD79–3372
API Well Number: 30–045–22817
Section of NGPA: 103
Operator: El Paso Natural Gas Company
Well Name: Neil #9A (Pictured Cliffs)
Field: Blanco
County: San Juan
Purchaser: El Paso Natural Gas Company
Volume: 180 MMcf.

FERC Control Number: JD79–3373
API Well Number: 30–045–22817
Section of NGPA: 103
Operator: El Paso Natural Gas Company
Well Name: Neil #9A (Mesaverde)
Field: Blanco
County: San Juan
Purchaser: El Paso Natural Gas Company
Volume: 440 MMcf.

FERC Control Number: JD79–3374
API Well Number: 30–045–22509
Section of NGPA: 103
Operator: El Paso Natural Gas Company
Well Name: Mudge 5A (Pictured Cliffs)
Field: Blanco
County: San Juan
Purchaser: El Paso Natural Gas Company
Volume: 83 MMcf.

FERC Control Number: JD79–3375
API Well Number: 30–045–22509
Section of NGPA: 103
Operator: El Paso Natural Gas Company
Well Name: Mudge 5A (Mesaverde)
Field: Blanco
County: San Juan
Purchaser: El Paso Natural Gas Company
Volume: 545 MMcf.

FERC Control Number: JD79–3376
API Well Number: 30–045–22363
Section of NGPA: 103

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Operator: El Paso Natural Gas Company
Well Name: Vandewart A #5-A (Mesaverde)
Field: Blanco
County: San Juan
Purchaser: El Paso Natural Gas Company
Volume: 169 MMcf.

FERC Control Number: JD79-3377
API Well Number: 30-045-22363
Section of NGPA: 103
Operator: El Paso Natural Gas Company
Well Name: Vandewart A #5—A (Pictured Cliffs)
Field: Blanco
County: San Juan
Purchaser: El Paso Natural Gas Company
Volume: 30 MMcf.

FERC Control Number: JD79-3378
API Well Number: 30-045-22361
Section of NGPA: 103
Operator: El Paso Natural Gas Company
Well Name: Vandewart A #1A (Pictured Cliffs)
Field: Blanco
County: San Juan
Purchaser: El Paso Natural Gas Company
Volume: 117 MMcf.

FERC Control Number: JD79-3379
API Well Number: 30-045-22361
Section of NGPA: 103
Operator: El Paso Natural Gas Company
Well Name: Vandewart A #1A (Mesaverde)
Field: Blanco
County: San Juan
Purchaser: El Paso Natural Gas Company
Volume: 384 MMcf.

FERC Control Number: JD79-3380
API Well Number: 30-045-22488
Section of NGPA: 103
Operator: El Paso Natural Gas Company
Well Name: Riddle D 4A
Field: Blanco
County: San Juan
Purchaser: El Paso Natural Gas Company
Volume: 39 MMcf.

FERC Control Number: JD79-3381
API Well Number: 30-045-22487
Section of NGPA: 103
Operator: El Paso Natural Gas Company
Well Name: Barrett 3A
Field: Blanco
County: San Juan
Purchaser: El Paso Natural Gas Company
Volume: 359 MMcf.

FERC Control Number: JD79-3382
API Well Number: 30-045-22481
Section of NGPA: 103
Operator: El Paso Natural Gas Company
Well Name: Barrett 4A
Field: Blanco
County: San Juan
Purchaser: El Paso Natural Gas Company
Volume: 281 MMcf.

FERC Control Number: JD79-3383
API Well Number: 30-045-22822
Section of NGPA: 103
Operator: El Paso Natural Gas Company
Well Name: Barnes #15
Field: Blanco
County: San Juan
Purchaser: El Paso Natural Gas Company
Volume: 260 MMcf.

FERC Control Number: JD79-3384
API Well Number: 30-045-22824
Section of NGPA: 103
Operator: El Paso Natural Gas Company
Well Name: Fields #11
Field: Blanco
County: San Juan
Purchaser: El Paso Natural Gas Company
Volume: 120 MMcf.

FERC Control Number: JD79-3385
API Well Number: 30-045-22843
Section of NGPA: 103
Operator: El Paso Natural Gas Company
Well Name: Niel #6A
Field: Blanco
County: San Juan
Purchaser: El Paso Natural Gas Company
Volume: 360 MMcf.

FERC Control Number: JD79-3386
API Well Number: 30-045-22837
Section of NGPA: 103
Operator: El Paso Natural Gas Company
Well Name: Base 6A (Pictured Cliffs)
Field: Blanco
County: San Juan
Purchaser: El Paso Natural Gas Company
Volume: 105 MMcf.

FERC Control Number: JD79-3387
API Well Number: 30-045-22837
Section of NGPA: 103
Operator: El Paso Natural Gas Company
Well Name: Case 6A (Mesaverde)
Field: Blanco
County: San Juan
Purchaser: El Paso Natural Gas Company
Volume: 290 MMcf.

FERC Control Number: JD79-3388
API Well Number: 30-045-22713
Section of NGPA: 103
Operator: El Paso Natural Gas Company
Well Name: Day #3-A
Field: Blanco
County: San Juan
Purchaser: El Paso Natural Gas Company
Volume: 314 MMcf.

FERC Control Number: JD79-3389
API Well Number: 30-045-22712
Section of NGPA: 103
Operator: El Paso Natural Gas Company
Well Name: Day A #1-A
Field: Blanco
County: San Juan
Purchaser: El Paso Natural Gas Company
Volume: 240 MMcf.

FERC Control Number: JD79-3390
API Well Number: 30-045-22711
Section of NGPA: 103
Operator: El Paso Natural Gas Company
Well Name: Day #1-a
Field: Blanco
County: San Juan
Purchaser: El Paso Natural Gas Company
Volume: 191 MMcf.

FERC Control Number: JD79-3391
API Well Number: 30-045-22505
Section of NGPA: 103
Operator: El Paso Natural Gas Company
Well Name: Lucerne A 4A (Pictured Cliffs)
Field: Blanco
County: San Juan
Purchaser: El Paso Natural Gas Company
Volume: 132 MMcf.

FERC Control Number: JD79-3392
API Well Number: 30-045-22505
Section of NGPA: 103
Operator: El Paso Natural Gas Company
Well Name: Lucerne A 4A (Mesaverde)
Field: Blanco
County: San Juan
Purchaser: El Paso Natural Gas Company
Volume: 230 MMcf.

FERC Control Number: JD79-3393
API Well Number: 30-045-22400
Section of NGPA: 103
Operator: El Paso Natural Gas Company
Well Name: Barnes #4A (Pictured Cliffs)
Field: Blanco
County: San Juan
Purchaser: El Paso Natural Gas Company
Volume: 314 MMcf.

FERC Control Number: JD79-3394
API Well Number: 30-045-22400
Section of NGPA: 103
Operator: El Paso Natural Gas Company
Well Name: Barnes #4A (Mesaverde)
Field: Blanco
County: San Juan
Purchaser: El Paso Natural Gas Company
Volume: 286 MMcf.

FERC Control Number: JD79-3395
API Well Number: 30-045-22825
Section of NGPA: 103
Operator: El Paso Natural Gas Company
Well Name: Fields #3a
Field: Blanco
County: San Juan
Purchaser: El Paso Natural Gas Company
Volume: 544 MMcf.

FERC Control Number: JD79-3396
API Well Number: 05-067-6025
Section of NGPA: 108
Operator: Jerome P. McHugh
Well Name: Ute #4
Field: Ignacio Blanco Dakota
County: La Plata
Purchaser: Western Slope Gas Company
Volume: 18 MMcf.

FERC Control Number: JD79-3397
API Well Number: 05-067-6022
Section of NGPA: 108
Operator: Jerome P. McHugh
Well Name: Ute #1
Field: Ignacio Blanco Dakota
County: La Plata
Purchaser: El Paso Natural Gas Company
Volume: 8 MMcf.

The applications for determination in these proceedings together with a copy or description of other minerials in the record on which such determinations were made are available for inspection, except to the extent such material is treated as confidential under 18 CFR 275.206, at the Commission's Office of Public Information, Room 1000, 825 North Capitol Street, N.E., Washington, D.C. 20426.

Persons objecting to any of those final determinations, may, in accordance with 18 CFR 275.203 and 18 CFR 275.204, file a protest with the Commission on or before June 4, 1979. Please reference the FERC Control Number in any correspondence concerning a determination.

Kenneth F. Plumb,
Secretary.

[FR Doc. 79-15553 Filed 5-17-79; 8:45 am]
BILLING CODE 6450-01-M

[Docket No. CP79-290]

Equitable Gas Co.; Application

May 11, 1979.

Take notice that on April 30, 1979, Equitable Gas Company (Equitable), 420 Boulevard of the Allies, Pittsburgh, Pennsylvania 15219, filed in Docket No. CP79-290 an application pursuant to Section 7(c) of the Natural Gas Act for a certificate of public convenience and necessity authorizing the sale, on a firm basis, of an annual volume of 120,000 Mcf of natural gas to Revere Natural Gas Company (Revere), all as more fully set forth in the application which is on file with the Commission and open for public inspection.

Equitable states that it has provided gas service to Revere under Emergency Service Rate Schedule E-1 since 1952 for resale by Revere to customers in Pennsylvania.

Equitable futher states that it delivers natural gas to Revere at or near Thistlethwaite, Moredock, and Revere, Greene County, Pennsylvania and all gas delivered to Revere from Equitable since 1952 has been emergency services since Equitable and Revere have no contract for firm deliveries.

In 1978, Equitable made emergency deliveries to Revere of 108,481 Mcf, it is said. Equitable indicates in the application that it recognizes that Revere is dependent upon it for a major portion of its total gas supply and, therefore, Equitable proposes to provide such service on a firm basis. No additional facilities would be required to be constructed as Equitable would make such deliveries at the existing delivery points of Thistlethwaite, Moredock, and Revere, Greene County, Pennsylvania, it is indicated.

Therefore, Equitable proposes (1) to make deliveries to Revere for resale to residential and small commercial customers in Greene County; (2) to establish initial rates for the gas sold to Revere under a firm service contract; (3) to include a purchased gas adjustment clause in its FERC Gas tariff; (4) to operate three existing delivery points in Greene County, and (5) to withdraw its Emergency Service Rate Schedule E-1.

Any person desiring to be heard or to make any protest with reference to said application should on or before June 4, 1979, file with the Federal Energy Regulatory Commission, Washington, D.C. 20426, a petition to intervene or a protest in accordance with the requirements of the Commission's Rules of Practice and Procedure (18 CFR 1.8 or 1.10) and the Regulations under the Natural Gas Act (18 CFR 157.10). All protests filed with the Commission will be considered by it in determining the appropriate action to be taken but will not serve to make the protestants parties to the proceeding. Any person wishing to become a party to a proceeding or to participate as a party in any hearing therein must file a petition to intervene in accordance with the Commission's Rules.

Take further notice that, pursuant to the authority contained in and subject to jurisdiction conferred upon the Federal Energy Regulatory Commission by Sections 7 and 15 of the Natural Gas Act and the Commission's Rules of Practice and Procedure, a hearing will be held without further notice before the Commission or its designee on this application if no petition to intervene is filed within the time required herein, if the Commission on its own review of the matter finds that a grant of the certificate is required by the public convenience and necessity. If a petition for leave to intervene is timely filed, or if the Commission on its own motion believes that a formal hearing is required, further notice of such hearing will be duly given.

Under the procedure herein provided for, unless otherwise advised, it will be unnecessary for Equitable to appear or be represented at the hearing.

Kenneth F. Plumb,
Secretary.

[FR Doc. 79-15542 Filed 5-17-79; 8:45 am]
BILLING CODE 6450-01-M

Exxon Corp. et al.; Determination by a Jurisdictional Agency Under the Natural Gas Policy Act of 1978

May 11, 1979.

On May 2, 1979, the Federal Energy Regulatory Commission received notices from the jurisdictional agencies listed below of determinations pursuant to 18 CFR 274.104 and applicable to the indicated wells pursuant to the Natural Gas Policy Act of 1978.

Railroad Commission of Texas, Oil and Gas Division

FERC Control Number: JD79-3579
API Well Number: 42-103-31900
Section of NGPA: 103
Operator: Exxon Corporation
Well Name: J. B. Tubb AC 1 Well 164L
Field: Sand Hills (McKnight)
County: Crane
Purchaser: El Paso Natural Gas Company
Volume: 42 MMcf.

FERC Control Number: JD79-3580
API Well Number: 42-003-31145
Section of NGPA: 103
Operator: Exxon Corporation
Well Name: Fullerton Clearfork Unit No. 1233
Field: Fullerton
County: Andrews
Purchaser: Phillips Petroleum Company
Volume: 18 MMcf.

FERC Control Number: JD79-3581
API Well Number: 42-211-30950
Section of NGPA: 103
Operator: Philcon Development Co.
Well Name: Kelley No. 1-B
Field: Glazier N.W. (Morrow, Upper)
County: Hemphill
Purchaser: El Paso Natural Gas Company
Volume: 45 MMcf.

FERC Control Number: JD79-3582
API Well Number: 42-103-31510
Section of NGPA: 103
Operator: Exxon Corporation
Well Name: J. B. Tubb A/C-1, Well No. 130L
Field: Sand Hills (Tubb)
County: Crane
Purchaser: El Paso Natural Gas Company
Volume: 70 MMcf.

FERC Control Number: JD79-3583
API Well Number: 42-103-31754
Section of NGPA: 103
Operator: Exxon Corporation
Well Name: J. B. Tubb A/C-1, Well No. 141L
Field: Sand Hills (Tubb)
County: Crane
Purchaser: El Paso Natural Gas Company
Volume: 7 MMcf.

FERC Control Number: JD79-3584
API Well Number: 42-165-31211
Section of NGPA: 103
Operator: Mobil Oil Corporation
Well Name: P. G. Northrup No. 3
Field: GMK, So. (San Andres)
County: Graines
Purchaser: Phillips Petroleum Company
Volume: 3.0 MMcf.

FERC Control Number: JD79-3585
API Well Number: 42-165-31180
Section of NGPA: 103
Operator: Mobil Oil Corporation
Well Name: Tom May No. 26
Field: GMK, So. (San Andres)
County: Gaines
Purchaser: Phillips Petroleum Company
Volume: 40.0 MMcf.

FERC Control Number: JD79-3586
API Well Number: 42-165-30631
Section of NGPA: 103
Operator: Mobil Oil Corporation
Well Name: P. G. Northrup No. 2
Field: GMK, So. (San Andres)
County: Gaines
Purchaser: Phillips Petroeum Company
Volume: 4.0 MMcf.

FERC Control Number: JD79-3587
API Well Number: 42-211-30873
Section of NGPA: 103
Operator: Philcon Development Co.
Well Name: Ike No. 1
Field: Glazier N. W. (Morrow, Upper)
County: Hemphill

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Purchaser: Diamond Shamrock Corporation
Volume: 72 MMcf.

FERC Control Number: JD79–3588
API Well Number: 42–165–31199
Section of NGPA: 103
Operator: Mobil Oil Corporation
Well Name: Tom May No. 29
Field: GMK, So. (San Andres)
County: Gaines
Purchaser: Phillips Petroleum Company
Volume: 5.0 MMcf.

FERC Control Number: JD79–3589
API Well Number: 42–165–31201
Section of NGPA: 103
Operator: Mobil Oil Corporation
Well Name: Tom May No. 29
Field: GMK, So. (San Andres)
County: Gaines
Purchaser: Phillips Petroleum Company
Volume: 15.0 MMcf.

FERC Control Number: JD79–3590
API Well Number: 42–165–30605
Section of NGPA: 103
Operator: Mobil Oil Corporation
Well Name: Tom May No. 6
Field: GMK, So. (San Andres)
County: Gaines
Purchaser: Phillips Petroleum Co.
Volume: 4.0 MMcf.

FERC Control Number: JD79–3591
API Well Number: 42–165–30606
Section of NGPA: 103
Operator: Mobil Oil Corporation
Well Name: Tom May No. 7
Field: G–M–K, So. (San Andres)
County: Gaines
Purchaser: Phillips Petroleum Company
Volume: 13.5 MMcf.

FERC Control Number: JD79–3592
API Well Number: 42–165–31232
Section of NGPA: 103
Operator: Mobil Oil Corporation
Well Name: H & J Sec. 127–B No. 6
Field: G–M–K, So. (San Andres)
County: Gaines
Purchaser: Phillips Petroleum Co.
Volume: 5.0 MMcf.

FERC Control Number: JD79–3593
API Well Number: 42–165–31206
Section of NGPA: 103
Operator: Mobil Oil Corporation
Well Name: H & J Sec. 127–B, No. 4
Field: GMK, So. (San Andres)
County: Gaines
Purchaser: Phillips Petroleum Co.
Volume: 5.5 MMcf.

FERC Control Number: JD79–3594
API Well Number: 42–165–31268
Section of NGPA: 103
Operator: Mibil Oil Corporation
Well Name: Patrick J. Donahue No. 1
Field: Homann (San Andres)
County: Gaines
Purchaser: Phillips Petroleum Company
Volume: 14.0 MMcf.

FERC Control Number: JD79–3595
API Well Number: 42–165–31190
Section of NGPA: 103
Operator: Mobil Oil Corporation
Well Name: John Braddock No. 4
Field: G–M–K, So. (San Andres)
County: Gaines
Purchaser: Phillips Petroleum Company
Volume: 7.0 MMcf.

FERC Control Number: JD79–3596
API Well Number: 42–165–30597
Section of NGPA: 103
Operator: Mobil Oil Corporation
Well Name: P. G. Northrup No. 1
Field: GMK, So. (San Andres)
County: Gaines
Purchaser: Phillips Petroleum Co.
Volume: 3.0 MMcf.

FERC Control Number: JD79–3597
API Well Number: 42–165–31242
Section of NGPA: 103
Operator: Mobil Oil Corporation
Well Name: H. & J Sec. 127–B #8
Field: GMK, So. (San Andres)
County: Gaines
Purchaser: Phillips Petroleum Co.
Volume: 6.5 MMcf.

FERC Control Number: JD79–3598
API Well Number: 42–165–31363
Section of NGPA: 103
Operator: Mobil Oil Corporation
Well Name: H & J Sec. 127–B, #9
Field: GMK, So. (San Andres)
County: Gaines
Purchaser: Phillips Petroleum Co.
Volume: 4.4 MMcf.

FERC Control Number: JD793599
API Well Number: 42–165–31428
Section of NGPA: 103
Operator: Mobil Oil Corporation
Well Name: H & J Sec. 127–B, #12
Field: GMK, So. (San Andres)
County: Gaines
Purchaser: Phillips Petroleum Co.
Volume: 7.3 MMcf.

FERC Control Number: JD79–3600
API Well Number: 42–165–31324
Section of NGPA: 103
Operator: Mobil Oil Corporation
Well Name: Tom May, No. 21
Field: GMK So. (San Andres)
County: Gaines
Purchaser: Phillips Petroleum Co.
Volume: 4.0 MMcf.

FERC Control Number: JD79–3601
API Well Number: 42–165–31319
Section of NGPA: 103
Operator: Mobil Oil Corporation
Well Name: Tom May, No. 23
Field: DMK, So. (San Andres)
County: Gaines
Purchaser: Phillips Petroleum Co.
Volume: 3.0 MMcf.

FERC Control Number: JD79–3602
API Well Number: 42–227–31542
Section of NGPA: 103
Operator: Exxon Corporation
Well Name: Douthit Unit 514
Field: Howard-Glasscock
County: Howard
Purchaser: Phillips Petroleum Co.
Volume: 0.6 MMcf.

FERC Control Number: JD79–3603
API Well Number: 42–227–31198
Section of NGPA: 103
Operator: Exxon Corporation
Well Name: Douthit Unit 513
Field: Howard-Glasscock
County: Howard
Purchaser: Phillips Petroleum Co.
Volume: 5 MMcf.

FERC Control Number: JD79–3604
API Well Number: 42–165–31184
Section of NGPA: 103
Operator: Exxon Corporation
Well Name: Robertson Clfk Unit, Well No. 9602
Field: Robertson, N. (Clearford 7100)
County: Gaines
Purchaser: Phillips Petroleum Co.
Volume: 7 MMcf.

FERC Control Number: JD79–3605
API Well Number: 42–165–30638
Section of NGPA: 103
Operator: Exxon Corporation
Well Name: Robertson (Clfrk) Unit #5802
Field: Robertson, N. (Clearford 7100)
County: Gaines
Purchaser: Phillips Petroleum Co.
Volume: 1 MMcf.

FERC Control Number: JD79–3606
API Well Number: 42–003–31684
Section of NGPA: 103
Operator: Exxon Corporation
Well Name: Means SA Unit #1476
Field: Means
County: Andrews
Purchaser: Phillips Petroleum Co.
Volume: 3 MMcf.

FERC Control Number: JD79–3607
API Well Number: 42–003–31540
Section of NGPA: 103
Operator: Exxon Corporation
Well Name: Means SA Unit #1464
Field: Means
County: Andrews
Purchaser: Phillips Petroleum Co.
Volume: 1 MMcf.

The applications for determination in these proceedings together with a copy or description of other materials in the record on which such determinations were made are available for inspection, except to the extent such material is treated as confidential under 18 CFR 275.206, at the Commission's Office of Public Information, Room 1000, 825 North Capitol Street, N.E., Washington, D.C. 20426.

Persons objecting to any of these final determinations may, in accordance with 18 CFR 275.203 and 18 CFR 275.204, file a protest with the Commission on or before June 4, 1979. Please reference the FERC Control Number in any correspondence concerning a determination.

Kenneth F. Plumb,

Secretary.

[FR Doc. 79–15550 Filed 5–17–79; 8:45 am]

BILLING CODE 6450–01–M

Exxon Corp.; Determination by a Jurisdictional Agency Under the Natural Gas Policy Act of 1978

May 11, 1979.

On May 2, 1979, the Federal Energy Regulatory Commission received notices from the jurisdictional agencies listed below of determinations pursuant to 18 CFR 274.104 and applicable to the indicated wells pursuant to the Natural Gas Policy Act of 1978.

Railroad Commission of Texas, Oil and Gas Division

FERC Control Number: JD79–3672
API Well Number: 42–247–30822
Section of NGPA: 103
Operator: Exxon Corporation
Well Name: Nicefero Pena Well No. 9–F
Field: Kelsey, Deep (Zone 20–A, SW, III)
County: Jim Hogg
Purchaser: Trunkline Gas Company
Volume: 50 MMcf.

FERC Control Number: JD79–3673
API Well Number: 42–247–30806
Section of NGPA: 103
Operator: Exxon Corporation
Well Name: Mrs. A.M.K. Bass Well No. 35–C 79656
Field: Kelsey, Deep (Zone 18–A, W)
County: Jim Hogg
Purchaser: Trunkline Gas Company
Volume: 300 MMcf.

FERC Control Number: JD79–3674
API Well Number: 42–495–30980
Section of NGPA: 103
Operator: Bass Enterprises Production Co.
Well Name: J. B. Walton #84
Field: Keystone
County: Winkler
Purchaser: Transwestern Pipeline Company
Volume: 145 MMcf.

FERC Control Number: JD79–3675
API Well Number:
Section of NGPA: 103
Operator: Texas Oil & Gas Corp.
Well Name: Heyne "C" Well No. 1
Field: Bonus (Yegua 7300')
County: Wharton
Purchaser: Columbia Gas Transmission Corp.
Volume: 110 MMcf.

FERC Control Number: JD79–3676
API Well Number: 42–081–30677
Section of NGPA: 103
Operator: Exxon Corporation
Well Name: I.A.B. Unit Well #514
Field: I.A.B. (Menielle Penn)
County: Coke
Purchaser: Sun gas Company
Volume: 47 MMcf.

FERC Control Number: JD79–3677
API Well Number: 42–081–30690
Section of NGPA: 103
Operator: Exxon Corporation
Well Name: I.A.B. Unit, Well #515
Field: I.A.B. (Menielle Penn)
County: Coke
Purchaser: Sun Gas Company
Volume: 14 MMcf.

FERC Control Number: JD79–3678
API Well Number: 42–081–31619
Section of NGPA: 103
Operator: Exxon Corporation
Well Name: I.A.B. Unit, Well No. 371
Field: I.A.B. (Menielle Penn)
County: Coke
Purchaser: Sun Gas Company
Volume: 2 MMcf.

FERC Control Number: JD79–3679
API Well Number: 42–335–31311
Section of NGPA: 103
Operator: Sun Oil Company (Delaware)
Well Name: V. T. McCabe No. 9
Field: Jameson, North (Strawn)
County: Mitchell
Purchaser: Lone Star Gas Company
Volume: 8 MMcf.

FERC Control Number: JD79–3680
API Well Number: 42–335–31319
Section of NGPA: 103
Operator: Sun Oil Company (Delaware)
Well Name: V. T. McCabe No. 17
Field: Jameson, North (Strawn)
County: Mitchell
Purchaser: Lone Star Gas Company
Volume: 101 MMcf.

FERC Control Number: JD79–3681
API Well Number: 42–227–31140
Section of NGPA: 103
Operator: Sun Oil Company (Delaware)
Well Name: Rob, Well #13
Field: Howard Glassock
County: Howard
Purchaser: Phillips Petroleum Co.
Volume: 3 MMcf.

FERC Control Number: JD79–3682
API Well Number: 42–227–31560
Section of NGPA: 103
Operator: Sun Oil Company (Delaware)
Well Name: Rob, Well #14
Field: Howard-Glasscock (Clorieta)
County: Howard
Purchaser: Phillips Petroleum Co.
Volume: 1 MMcf.

FERC Control Number: JD79–3683
API Well Number: 42–335–31183
Section of NGPA: 103
Operator: Sun Oil Company (Delaware)
Well Name: V. T. McCabe "A" No. 4
Field: Jameson, North (Strawn)
County: Mitchell
Purchaser: Lone Star Gas Company
Volume: 215 MMcf.

FERC Control Number: JD79–3684
API Well Number: 42–335–31210
Section of NGPA: 103
Operator: Sun Oil Company (Delaware)
Well Name: V. T. McCabe "A" No. 5
Field: Jameson, North (Strawn)
County: Mitchell
Purchaser: Lone Star Gas Company
Volume: 112 MMcf.

FERC Control Number: JD79–3685
API Well Number: 42–335–31280
Section of NGPA: 103
Operator: Sun Oil Company (Delaware)
Well Name: V. T. McCabe "A" No. 6
Field: Jameson, North (Strawn)
County: Mitchell
Purchaser: Lone Star Gas Company
Volume: 133 MMcf.

FERC Control Number: JD79–3686
API Well Number: 42–335–3129
Section of NGPA: 103
Operator: Sun Oil Company (Delaware)
Well Name: V. T. McCabe "A" No. 7
Field: Jameson, North (Strawn)
County: Mitchell
Purchaser: Lone Star Gas Company
Volume: 48 MMcf.

FERC Control Number: JD79–3687
API Well Number: 42–335–31358
Section of NGPA: 103
Operator: Sun Oil Company (Delaware)
Well Name: V. T. McCabe "A" No. 8
Field: Jameson, North (Strawn)
County: Mitchell
Purchaser: Lone Star Gas Company
Volume:

FERC Control Number: JD79–3688
API Well Number: 42–335–31357
Section of NGPA: 103
Operator: Sun Oil Company (Delaware)
Well Name: V. T. McCabe "A" No. 9
Field: Jameson, North (Strawn)
County: Mitchell
Purchaser: Lone Star Gas Company
Volume: 9 MMcf.

FERC Control Number: JD79–3689
API Well Number: 42–335–31396
Section of NGPA: 103
Operator: Sun Oil Company (Delaware)
Well Name: V. T. McCabe "A" No. 11
Field: Jameson, North (Strawn)
County: Mitchell
Purchaser: Lone Star Gas Company
Volume: 53 MMcf.

FERC Control Number: JD79–3690
API Well Number: 42–335–31355
Section of NGPA: 103
Operator: Sun Oil Company (Delaware)
Well Name: V. T. McCabe "B" No. 30
Field: Jameson, North (Strawn)
County: Mitchell
Purchaser: Lone Star Gas Company
Volume: 18 MMcf.

FERC Control Number: JD79–3691
API Well Number: 42–335–31211
Section of NGPA: 103
Operator: Sun Oil Company (Delaware)
Well Name: V. T. McCabe "C" No. 5
Field: Jameson, North (Strawn)
County: Mitchell
Purchaser: Lone Star Gas Company
Volume: 8 MMcf.

FERC Control Number: JD79–3692
API Well Number: 42–335–31226
Section of NGPA: 103
Operator: Sun Oil Company (Delaware)
Well Name: V. T. McCabe "C" No. 6
Field: Jameson, North (Strawn)
County: Mitchell
Purchaser: Lone Star Gas Company
Volume: 25 MMcf.

FERC Control Number: JD79–3693
API Well Number: 42–335–31272
Section of NGPA: 103
Operator: Sun Oil Company
Well Name: V. T. McCabe "C" No. 8
Field: Jameson, North (Strawn)
County: Mitchell
Purchaser: Lone Star Gas Company
Volume: 61 MMcf.

FERC Control Number: JD79–3694
API Well Number: 42–335–31296
Section of NGPA: 103
Operator: Sun Oil Company (Delaware)
Well Name: V. T. McCabe "C" No. 10
Field: Jameson, North (Strawn)
County: Mitchell
Purchaser: Lone Star Gas Company
Volume: 80 MMcf.

FERC Control Number: JD79–3695
API Well Number: 42–335–30866
Section of NGPA: 103
Operator: Sun Oil Company (Delaware)
Well Name: V. T. McCabe "D" No. 9

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Field: Jameson, North (Strawn)
County: Mitchell
Purchaser: Lone Star Gas Company
Volume: 34 MMcf.

FERC Control Number: JD79-3696
API Well Number: 42-165-31442
Section of NGPA: 103
Operator: Exxon Corporation
Well Name: Robertson (Clfrk) Unit #4102
Field: Robertson, N. (Clearfork 7100)
County: Gaines
Purchaser: Phillips Petroleum Co.
Volume: 30 MMcf.

FERC Control Number: JD79-3697
API Well Number:
Section of NGPA: 108
Operator: Suburban Propane Gas Corp.
Well Name: Mayer et al. No. 2
Field: Mayer Canyon Sand
County: Sutton
Purchaser: Northern Natural Gas Co.
Volume: 20.77 MMcf.

FERC Control Number: JD79-3698
API Well Number: 42-007-30583
Section of NGPA: 103
Operator: Exxon Corporation
Well Name: Aransas Bay State Tract #168 Well No. 1 9081
Field: Nine Mile Point, West (P-1)
County: Aransas
Purchaser: Natural Gas Pipeline
Volume: 23 MMcf.

FERC Control Number: JD79-3699
API Well Number: 42-261-30233
Section of NGPA: 103
Operator: Exxon Corporation
Well Name: Mrs. S. K. East #86-F 77138
Field: Rita (8-A, II)
County: Kenedy
Purchaser: Natural Gas Pipeline Co. of Am.
Volume: 146 MMcf.

FERC Control Number: JD79-3700
API Well Number: 42-047-30622
Section of NGPA: 102
Operator: Exxon Corporation
Well Name: San Fe Ranch #39-D 79965
Field: Santa Fe (G-30)
County: Brooks
Purchaser: Natural Gas Pipeline Co. of Am.
Volume: 300 MMcf.

FERC Control Number: JD79-3701
API Well Number: 42-261-30411
Section of NGPA: 102
Operator: Exxon Corporation
Well Name: Sarita Fld O & G Unit 138-F 09167
Field: Sarita (7-B, NW)
County: Kenedy
Purchaser: Natural Gas Pipeline Co. of Am.
Volume: 3 MMcf.

FERC Control Number: JD79-3702
API Well Number: 42-247-30834
Section of NGPA: 102
Operator: Exxon Corporation
Well Name: Mrs. A. M. K. Bass "B" 17-F 80262
Field: Kelsey, Deep (6340)
County: Jim Hogg
Purchaser: Trunkline Gas Co.
Volume: 300 MMcf.

FERC Control Number: JD79-3703
API Well Number: 42-261-30430
Section of NGPA: 103
Operator: Exxon Corporation
Well Name: C. M. Armstrong 43-D 80349
Field: Candelaria (J-18-34)
County: Kenedy
Purchaser: Natural Gas Pipeline Co. of Am.
Volume: 433 MMcf.

FERC Control Number: JD79-3704
API Well Number: 42-195-30304
Section of NGPA: 102
Operator: H & L Operating Company
Well Name: Etling "A" #1
Field: Bernstein (Cherokee)
County: Hansford
Purchaser: Phillips Petroleum Company
Volume: 50 MMcf.

FERC Control Number: JD79-3705.
API Well Number: 42-409-31232.
Section of NGPA: 103.
Operator: Cities Service Company.
Well Name: Jones H-1 79067.
Field: Midway, S. (Shell Deep).
County: San Patricio.
Purchaser:
Volume: 350 MMcf.

FERC Control Number: JD79-3706.
API Well Number: 42-227-31528.
Section of NGPA: 103.
Operator: Wes-Tex Drilling Company.
Well Name: J. L. Jones Heirs No. 2.
Field: Vincent (Clear Fork, Lower).
County: Howard.
Purchaser: Getty Oil Company.
Volume: 9.125 MMcf.

FERC Control Number: JD79-3707.
API Well Number: 42-227-31437.
Section of NGPA: 103.
Operator: Wes-Tex Drilling Company.
Well Name: J. L. Jones Heirs No. 1.
Field: Vincent (Clear Fork, Lower).
County: Howard.
Purchaser: Getty Oil Company.
Volume: 9.125 MMcf.

FERC Control Number: JD79-3708.
API Well Number: 42-165-30661.
Section of NGPA: 103.
Operator: Mobil Oil Corporation.
Well Name: Tom May No. 18.
Field: GMK, So. (San Andres).
County: Gaines.
Purchaser: Phillips Petroleum Company.
Volume: 4.7 MMcf.

FERC Control Number: JD79-3709.
API Well Number: 42-165-30630.
Section of NGPA: 103.
Operator: Mobil Oil Corporation.
Well Name: Tom May #11.
Field: GMK So. (San Andres).
County: Gaines.
Purchaser: Phillips Petroleum Company.
Volume: 5.8 MMcf.

FERC Control Number: JD79-3710.
API Well Number: 42-393-30639.
Section of NGPA: 102.
Operator: Deep Reef Industries.
Well Name: Hodges #1-39.
Field: Hodges, Morrow Upper.
County: Roberts.
Purchaser: Northern Natural Gas Co.
Volume: 304 MMcf.

FERC Control Number: JD79-3711.
API Well Number:
Section of NGPA: 108.
Operator: Summit Energy, Inc.
Well Name: Parsell No. 1 (Texas RRC ID No. 45935).
Field: Parsell (Morrow Lower).
County: Roberts.
Purchaser: Transwestern Pipeline Company.
Volume: 13.53 MMcf.

FERC Control Number: JD79-3712.
API Well Number: 42-003-31664.
Section of NGPA: 103.
Operator: Exxon Corporation.
Well Name: Means SA Unit #2668.
Field: Means.
County: Andrews.
Purchaser: Phillips Petroleum Co.
Volume: 5 MMcf.

FERC Control Number: JD79-3713.
API Well Number: 42-272-31272.
Section of NGPA: 103.
Operator: Texas Oil & Gas Corp.
Well Name: Yeary Gas Unit Well No. 1.
Field: Yeary (Walsh).
County: Kleberg.
Purchaser: Tx. Eastern Transmission Corp.
Volume: 185 MMcf.

FERC Control Number: JD79-3714.
API Well Number: 42-481-31499.
Section of NGPA: 103.
Operator: Texas Oil & Gas Corp.
Well Name: Boettcher Gas Unit #1 Well #3.
Field: Bonus (Yegua 7500').
County: Wharton.
Purchaser: Tx. Eastern Transmission Corp.
Volume: 75 MMcf.

FERC Control Number: JD79-3715.
API Well Number: 42-505-30880.
Section of NGPA: 103.
Operator: Texas Oil & Gas Corp.
Well Name: Vergara #3.
Field: Los Mogotes, North (Wilcox 5100').
County: Zapata.
Purchaser: Natural Gas Pipeline Co. of Am.
Volume: 185 MMcf.

FERC Control Number: JD79-3716.
API Well Number:
Section of NGPA: 103.
Operator: Texas Oil & Gas Corp.
Well Name: Reynolds Well No. 2.
Field: Bonus (Yegua 7300').
County: Wharton.
Purchaser: Columbia Gas Transmission Corp.
Volume: 145 MMcf.

The applications for determination in these proceedings together with a copy or description of other materials in the record on which such determinations were made are available for inspection, except to the extent such material is treated as confidential under 18 CFR 275.206, at the Commission's Office of Public Information, Room 1000, 825 North Capitol Street, NE., Washington, D.C. 20426.

Persons objecting to any of these final determinations, may, in accordance with 18 CFR 275.203 and 18 CFR 275.204, file a protest with the Commission on or before June 4, 1979. Please reference the FERC Control Number in any correspondence concerning a determination.

Kenneth F. Plumb,
Secretary.

[FR Doc. 79-15551 Filed 5-17-79; 8:45 am]
BILLING CODE 6450-01-M

[Docket No. CP79-289]

Michigan Wisconsin Pipe Line Co.; Application

May 11, 1979.

Take notice that on April 30, 1979, Michigan Wisconsin Pipe Line Company (Michigan Wisconsin), One Woodward Avenue, Detroit, Michigan 48226, filed in Docket No. CP79-289 an application pursuant to Section 7(c) of the Natural Gas Act for a certificate of public convenience and necessity authorizing the construction and operation of 6.5 miles of loop line and appurtenant facilities necessary to provide increased peak day service commencing September 1, 1979, to those of Michigan Wisconsin's customers requesting an increase, all as more fully set forth in the application which is on file with the Commission and open for public inspection.

Michigan Wisconsin states that because of conservation efforts of its customers and the shifting of some industrial loads to alternate fuels, some of Michigan Wisconsin's customers are unable to utilize fully the annual gas supplies available to them under their service agreements with Michigan Wisconsin. Some of them have requested an increase in peak day deliveries to meet growth in their peak day requirements, it is said. Twenty out of Michigan Wisconsin's 52 customers requested increased contract demand volumes amounting to 42,428 Mcf, it is further said.

The requested increase in peak day entitlements would allow Michigan Wisconsin's customers to serve new residential hook-ups and other high priority consumers desiring to switch from fuel oil to gas, it is asserted.

The increase, from the existing aggregate contract demand of 3,776,779 Mcf to the proposed 3,819,207 Mcf, represents the full increase in contract demand for which Michigan Wisconsin's customers desire to contract and would result in an increase of only 1.1 percent in the peak day entitlements of its customers, it is stated.

Michigan Wisconsin can meet these minor increase requirements through expanding use of its authorized underground storage and the installation of a pipeline loop to transport the increased peak day volumes, it is asserted. Michigan Wisconsin proposes to install 6.5 miles of 42-inch main line loop near Joliet, Illinois, at an estimated cost of $6,114,500, it is further asserted. The cost would be financed from funds on hand, it is said.

Any person desiring to be heard or to make any protest with reference to said application should on or before June 4, 1979, file with the Federal Energy Regulatory Commission, Washington, D.C. 20426, a petition to intervene or a protest in accordance with the requirements of the Commission's Rules of Practice and Procedure (18 CFR 1.8 or 1.10) and the Regulations under the Natural Gas Act (18 CFR 157.10). All protests filed with the Commission will be considered by it in determining the appropriate action to be taken but will not serve to make the protestants parties to the proceeding. Any person wishing to become a party to a proceeding or to participate as a party in any hearing therein must file a petition to intervene in accordance with the Commission's Rules.

Take further notice that, pursuant to the authority contained in and subject to jurisidiction conferred upon the Federal Energy Regulatory Commission by Sections 7 and 15 of the Natural Gas Act and the Commission's Rules of Practice and Procedure, a hearing will be held without further notice before the Commission or its designee on this application if no petition to intervene is filed within the time required herein, if the Commission on its own review of the matter finds that a grant of the certificate is required by the public convenience and necessity. If a petition for leave to intervene is timely filed, or if the Commission on its own motion believes that a formal hearing is required, further notice of such hearing will be duly given.

Under the procedure herein provided for, unless otherwise advised, it will be unnecessary for Michigan Wisconsin to appear or be represented at the hearing.

Kenneth F. Plumb,
Secretary.

[FR Doc. 79-15543 Filed 5-17-79; 8:45 am]
BILLING CODE 6450-01-M

Midlands Gas Corp.; Determination by a Jurisdictional Agency Under the Natural Gas Policy Act of 1978

May 11, 1979.

On April 24, 1979, the Federal Energy Regulatory Commission received notices from the jurisdictional agencies listed below of determinations pursuant to 18 CFR 274.104 and applicable to the indicated wells pursuant to the Natural Gas Policy Act of 1978.

The Montana Board of Oil and Gas Conservation

FERC Control Number: JD79-4160
API Well Number: 25-071-21591
Section of NGPA: 102
Operator: Midlands Gas Corporation
Well Name: 1261 1-1261 Scott
Field: Bowdoin
County: Phillips
Purchaser: Kansas Nebraska Natural Gas Co., Inc.
Volume: 120 MMcf.

FERC Control Number: JD79-4161
API Well Number: 25-071-21490
Section of NGPA: 102
Operator: Midlands Gas Corporation
Well Name: 1370- 1-13 Rex Burwell
Field: Bowdoin
County: Phillips
Purchaser: Kansas Nebraska Natural Gas Co., Inc.
Volume: 36 MMcf.

FERC Control Number: JD79-4162
API Well Number: 25-005-21780
Section of NGPA: 108
Operator: Tricentrol United States, Inc.
Well Name: Roberts 15-14-31-19
Field: Tiger Ridge
County: Blaine
Purchaser: Northern Natural Gas Company
Volume: 14.4 MMcF.

FERC Control Number: JD79-4163
API Well Number: 25-005-21918
Section of NGPA: 103
Operator: Tricentrol United States, Inc.
Well Name: Blackwod 34-9-31-18
Field: Tiger Ridge
County: Blaine
Purchaser: Northern Natural Gas Company
Volume: 187.7 MMcf.

FERC Control Number: JD79-4164
API Well Number: 25-071-21590
Section of NGPA: 102
Operator: Midlands Gas Corporation
Well Name: 1060 No. 1 Hellie
Field: Bowdoin
County: Phillips
Purchaser: Kansas Nebraska Natural Gas Co., Inc.
Volume: 12 MMcf.

FERC Control Number: JD79-4165
API Well Number: 25-071-21539
Section of NGPA: 102
Operator: Midlands Gas Corporation
Well Name: 0270 1-2 Brown
Field: Bowdoin
County: Phillips
Purchaser: Kansas Nebraska Natural Gas Co., Inc.
Volume: 19 MMcf.

FERC Control Number: JD79-4166
API Well Number: 25-071-21563
Section of NGPA: 102
Operator: Midlands Gas Corporation
Well Name: 0161 No. 1-1 F. Anderson
Field: Bowdoin
County: Phillips
Purchaser: Kansas Nebraska Natural Gas Co., Inc.
Volume: 84 MMcf.

FERC Control Number: JD79-4167

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API Well Number: 25-083-21224
Section of NGPA: 103
Operator: UV Industries, Inc.
Well Name: Obergfell 1-34
Field: Southeast Putnam
County: Richland
Purchaser: Montana Dakota Utilities Company
Volume: 86.768 MMcf.

FERC Control Number: JD79-4168
API Well Number: 25-071-21538
Section of NGPA: 102
Operator: Midlands Gas Corporation
Well Name: 2460 No. 1-24 White
Field: Bowdoin
County: Phillips
Purchaser: Kansas Nebraska Natural Gas Co., Inc.
Volume: 36 MMcf.

FERC Control Number: JD79-4169
API Well Number: 25-071-21586
Section of NGPA: 108
Operator: Midlands Gas Corporation
Well Name: 2271 1-22 Lewis Miller
Field: Bowdoin
County: Phillips
Purchaser: Kansas Nebraska Natural Gas Co., Inc.
Volume: 8 MMcf.

FERC Control Number: JD79-4170
API Well Number: 25-083-21239
Section of NGPA: 102
Operator: UV Industries, Inc.
Well Name: Obergfell 2-23
Field: Southeast Putnam
County: Richland
Purchaser: Montana Dakota Utilities Company
Volume: 9.250 MMcf.

The applications for determination in these proceedings together with a copy or description of other materials in the record on which such determinations were made are available for inspection, except to the extent such material is treated as confidential under 18 CFR 275.206, at the Commission's Office of Public Information, Room 1000, 825 North Capitol Street, NE., Washington, D.C. 20428.

Persons objecting to any of those final determinations may, in accordance with 18 CFR 275.203 and 18 CFR 275.204, file a protest with the Commission on or before June 4, 1979. Please reference the FERC Control Number in any correspondence concerning a determination.

Kenneth F. Plumb,

Secretary.

[FR Doc. 79-15548 Filed 5-17-79; 8:45 am]

BILLING CODE 6450-01-M

[Docket No. ER78-425]

Minnesota Power & Light Co.; Extension of Time

May 3, 1979.

On April 25, 1979, Minnesota Power & Light Company filed a motion for extension of time to comply with the Commission's Order of March 26, 1979. The motion states that a settlement has been agreed to by all active parties and will be filed shortly.

Upon consideration, notice is hereby given that an extension for complying with Ordering Paragraph (B) of the order of March 26, 1979, is granted to and including June 25, 1979.

Kenneth F. Plumb,

Secretary.

[FR Doc. 79-15544 Filed 5-17-79; 8:45 am]

BILLING CODE 6450-01-M

[Docket No. CP75-151]

Southern Natural Gas Co.; Amendment

May 11, 1979.

Take notice that on April 24, 1979, Southern Natural Gas Company (Applicant), P.O. Box 2563, Birmingham, Alabama 35202, filed in Docket No. CP75-151 an amendment to its application filed in said docket pursuant to Section 7(c) of the Natural Gas Act for a certificate of public convenience and necessity authorizing the transportation of natural gas for United Gas Pipe Line Company (United), all as more fully set forth in the amendment which is on file with the Commission and open to public inspection.[1]

Applicant states that in its initial application in said docket, it misdescribed the nature of the service proposed to be rendered for United and inadvertently and erroneously requested authorization to exchange gas for United. Applicant further states that it does not desire or need authorization to exchange gas with United in order to be able to perform the transportation service contemplated in this docket, and, accordingly, presents said amendment to clarify its description of the nature of the proposed service and to delete from its request for certificate authorization all references to the exchange of gas with United.

Any person desiring to be heard or to make any protest with reference to said amendment should on or before June 4, 1979, file with the Federal Energy Regulatory Commission, Washington, D.C. 20426, a petition to intervene or a protest in accordance with the requirements of the Commission's Rules of Practice and Procedure (18 CFR 1.8 or 1.10) and the Regulations under the Natural Gas Act (18 CFR 157.10). All protests filed with the Commission will be considered by it in determining the appropriate action to be taken but will not serve to make the protestants parties to the proceeding. Any person wishing to become a party to a proceeding or to participate as a party in any hearing therein must file a petition to intervene in accordance with the Commission's Rules. All persons who have heretofore filed need not file again.

Kenneth F. Plumb,

Secretary.

[FR Doc. 79-15545 Filed 5-17-79; 8:45 am]

BILLING CODE 6450-01-M

[1] This proceeding was commenced before the FPC. By joint regulation of October 1, 1977 (10 CFR 1000.1), it was transferred to the Commission.

[Docket No. CP79-286]

Southwest Gas Corp.; Application

May 9, 1979.

Take notice that on April 24, 1979, Southwest Gas Corporation (Applicant), P.O. Box 15015, Las Vegas, Nevada 89114, filed in Docket No. CP79-286 an application pursuant to Section 7(c) of the Natural Gas Act for a certificate of public convenience and necessity authorizing the construction and operation of certain natural gas pipeline facilities on its Northern Nevada transmission system, all as more fully set forth in the application on file with the Commission and open to public inspection.

Applicant requests authorization to construct and operate 4.7 miles of 12-inch pipeline between its Reno City Gate No. 1 and Reno City Gate No. 2 in Washoe County, Nevada, and proposes to use such pipeline to transport a mixture of propane-air and natural gas between the two points. Applicant also requests authorization to construct 2.1 miles of 10-inch pipeline which pipeline would perform the same function as the 12-inch pipeline between the Carson City Gate Nos. 1 and 2 in Carson City County, Nevada. Further, Applicant proposes to modernize and reactivate an existing propane-air plant presently owned by Sierra Pacific Power Company at Reno City Gate No. 1. Between Carson City Gate Nos. 1 and 2, Applicant intends to construct and operate a propane-air peak shaving plant, it is stated. It is further stated that Applicant intends to construct and operate propane-air plants at Carson City Gate No. 3 and at the Elk City Gate. These two pipelines would parallel in part Applicant's existing transmission system in northern Nevada and are needed in conjunction with two of the four propane-air plants to be attached on Applicant's system, it is said.

Applicant indicates that it is necessary for it to construct and operate the above-designated propane facilities in order for it to meet the peak period high priority requirements of its customers. Consequently, Applicant requests authorization to amend the Purchased Gas Cost Adjustment provisions of its FERC Gas Tariff, Original Volume No. 1, so as to include therein the cost to be incurred by Applicant in purchasing propane supplies.

Applicant asserts that it believes that it only needs a certificate authorizing the construction and operation of the proposed pipeline facilities in Washoe and Carson City Counties, but that in the event the Commission determines that a certificate is needed for the total project, Applicant requests any necessary waiver and a certificate authorizing the construction and operation of 4 liquid propane plants and all appurtenant equipment including necessary pipelines to inject propane-air at all injection points.

Any person desiring to be heard or to make any protest with reference to said application should on or before May 30, 1979, file with the Federal Energy Regulatory Commission, Washington, D.C. 20426, a petition to intervene or a protest in accordance with the requirements of the Commission's Rules of Practice and Procedure (18 CFR 1.8 or 1.10) and the Regulations under the Natural Gas Act (18 CFR 157.10). All protests filed with the Commission will be considered by it in determining the appropriate action to be taken but will not serve to make the protestants parties to the proceeding. Any person wishing to become a party to a proceeding or to participate as a party in any hearing therein must file a petition to intervene in accordance with the Commission's Rules.

Take further notice that, pursuant to the authority contained in and subject to jurisdiction conferred upon the Federal Energy Regulatory Commission by Sections 7 and 15 of the Natural Gas Act and the Commission's Rules of Practice and Procedure, a hearing will be held without further notice before the Commission or its designee on this application if no petition to intervene is filed within the time required herein, if the Commission on its own review of the matter finds that a grant of the certificate is required by the public convenience and necessity. If a petition for leave to intervene is timely filed, or if the Commission on its own motion believes that a formal hearing is required, further notice of such hearing will be duly given.

Under the procedure herein provided for, unless otherwise advised, it will be unnecessary for Applicant to appear or be represented at the hearing.

Kenneth F. Plumb,

Secretary.

[FR Doc. 79-15546 Filed 5-17-79; 8:45 am]

BILLING CODE 6450-01-M

[Docket No. CP79-268]

United Gas Pipe Line Co.; Application

May 9, 1979.

Take notice that on April 12, 1979, United Gas Pipe Line Company (Applicant), P.O. Box 1478, Houston, Texas 77001, filed in Docket No. CP79-268 an application pursuant to Section 7(c) of the Natural Gas Act and § 157.7(g) of the Regulations thereunder (18 CFR 157.7(g)) for a certificate of public convenience and necessity authorizing the construction and for permission for and approval of the abandonment, during the 12-month period commencing the date of issuance of an order herein, and operation of field gas compression and related metering and appurtenant facilities, all as more fully set forth in the application on file with the Commission and open to public inspection

The stated purpose of this budget-type application is to augment Applicant's ability to act with reasonable dispatch in the construction and abandonment of facilities which would not result in changing Applicant's system salable capacity or service from that authorized prior to the filing of the instant application.

Applicant requests waiver of the single and total project cost limitations as set forth in subparagraph (iii) of Section 157.7(g) of the Regulations in order to permit an increase in the single project limitation of $500,000 to $750,000 and an increase in the total project limitation of $3,000,000 to $5,000,000. Applicant states that waiver of the Commission's Regulations in this instance is appropriate because issuance of a certificate in the amounts authorized by such rules would not compensate for the effects of inflation.

Any person desiring to be heard or to make any protest with reference to said application should on or before May 30, 1979, file with the Federal Energy Regulatory Commission, Washington, D.C. 20426, a petition to intervene or a protest in accordance with the requirements of the Commission's Rules of Practice and Procedure (18 CFR 1.8 or 1.10). and the Regulations under the Natural Gas Act (18 CFR 157.70). All protests filed with the Commission will be considered by it in determining the appropriate action to be taken but will not serve to make the protestants parties to a proceeding or to participate as a party in any hearing therein must file a petition to intervene in accordance with the Commission's Rules.

Take further notice that, pursuant to the authority contained in and subject to the jurisdiction conferred upon the Federal Energy Regulatory Commission by Section 7 and 15 of the Natural Gas Act and the Commission's Rules of Practice and Procedure, a hearing will be held without further notice before the Commission or its designee on this application if no petition to intervene is filed within the time required herein, if the Commission on its own review of the matter finds that a grant of the certificate and permission and approval for the proposed abandonment are required by the public convenience and necessity. If a petition for leave to intervene is timely filed, or if the Commission on its own motion believes that a formal hearing is required, further notice of such hearing will be duly given.

Under the procedure herein provided for, unless otherwise advised, it will be unnecessary for Applicant to appear or be represented at the hearing.

Kenneth F. Plumb,

Secretary.

[FR Doc. 79-15547 Filed 5-17-79; 8:45 am]

BILLING CODE 6450-01-M

Bradco Oil & Gas Co.; Determination by a Jurisdictional Agency Under the Natural Gas Policy Act of 1978

May 11, 1979.

On May 2, 1979, the Federal Energy Regulatory Commission received notice of a determination pursuant to 18 CFR 274.104 of the Natural Gas Policy Act of 1978 applicable to:

State of Louisiana, Department of Natural Resources, Office of Conservation

FERC Control Number: JD79-3617
API Well Number: 1705721396
Section: 103
Operator: Bradco Oil & Gas Co.
Well Name: Nicholls RA SUA; Boudreaux No. 1
Field: Rousseau

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County: Lafourche
Purchaser: Transcontinental Gas Pipe Line Corp.
Volume: 900 MMcf.

The application for determination in this matter together with a copy or description of other materials in the record on which such determination was made is available for inspection, except to the extent such material is treated as confidential under 18 CFR 275.206, at the Commission's Office of Public Information, Room 1000, 825 North Capitol Street, NE., Washington, D.C. 20426.

Persons objecting to this final determination may, in accordance with 18 CFR 275.203 and 18 CFR 275.204, file a protest with the Commission on or before June 4, 1979. Please reference the FERC Control Number in any correspondence concerning a determination.

Kenneth F. Plumb,

Secretary.

[FR Doc. 79-15559 Filed 5-17-79; 8:45 am]

BILLING CODE 6450-01-M

Dallas Bond; Determination by a Jurisdictional Agency Under the Natural Gas Policy Act of 1978

May 9, 1979.

On April 11, 1979, the Federal Energy Regulatory Commission received notices from the jurisdictional agencies listed below of determinations pursuant to 18 CFR 274.104 and applicable to the indicated wells pursuant to the Natural Gas Policy Act of 1978.

Ohio Department of Natural Resources

FERC Control Number: JD79-5651
API Well Number: 34 121 2 1916**14
Section of NGPA: 108
Operator: Dallas Bond
Well Name: D. Secrest W-7
Field: N/A
County: Noble
Purchaser: None
Volume: 3.5 MMcf.

FERC Control Number: JD79-5652
API Well Number: 34 121 2 1922**14
Section of NGPA: 108
Operator: Dallas Bond
Well Name: Bates-Bond W11
Field: N/A
County: Noble
Purchaser: None
Volume: 18 MMcf.

FERC Control Number: JD79-5653
API Well Number: 3405320230**14
Section of NGPA: 103
Operator: Cameron & Kincaid
Well Name: James Baird No. 4
Field: N/A
County: Gallia
Purchaser: None
Volume: 3.5 MMcf.

The applications for determination in these proceedings together with a copy or description of other materials in the record on which such determinations were made are available for inspection, except to the extent such material is treated as confidential under 18 CFR 275.206, at the Commission's Office of Public Information, Room 1000, 825 North Capitol Street, NE., Washington, D.C. 20426.

Persons objecting to any of those final determinations may, in accordance with 18 CFR 275.203 and 18 CFR 275.204, file a protest with the Commission on or before June 4, 1979. Please reference the FERC Control Number in any correspondence concerning a determination.

Kenneth F. Plumb,

Secretary.

[FR Doc. 79-15558 Filed 5-17-79; 8:45 am]

BILLING CODE 6450-01-M

[Docket No. ER79-70]

Detroit Edison Co.; Order on Rehearing—Electric Rates

Issued May 9, 1979.

On April 9, 1979, Detroit Edison Company (Edison or company) submitted an application for rehearing of the Commission's order issued in this docket on March 9, 1979. Edison sets forth two arguments in support of its application. According to the company: (1) the Commission erroneously decided to summarily exclude from Edison's Period II cost of service any annualizing adjustments associated with the company's Greenwood No. 1 Plant which was scheduled to become operational some three or four months after the beginning of the test period; and (2) the Commission exceeded its statutory authority in designating an August 11, 1979, effective date for the proposed rate increase.

Our March 9 order explained that the so-called "Greenwood adjustment" represented an effort by Edison to annualize the investment and costs related to a generating plant that actually was projected to be in service only for the last eight or nine months of the test year. The proposed annualization was opposed by the intervenors on a number of grounds, while Edison urged that its treatment of the Greenwood plant and related expense items served to provide a more representative cost of service for purposes of assessing rates which would extend into a future period. The Commission construed the future test year Regulations, particularly Section 35.13(b)(4)(iii), as precluding such adjustments to Period II cost of service estimates. Accordingly, we required Edison to revise its cost of service and rates by eliminating any annualizing adjustments associated with the Greenwood plant.

We shall not address the various contentions advanced in Edison's application for rehearing of our summary disposition with respect to this issue. Upon reconsideration, we believe that Edison should be permitted to present evidence and argument in support of its position. By enabling Edison to pursue the annualization issue at hearing, we do not intend to endorse such modifications to Period II estimates in this or any other proceeding. However, it is apparent that the annualization proposed by Edison is not proscribed *per se* by Commission precedent or our current Regulations and that summary disposition therefore would unduly jeopardize the rights of the company. In light of this determination, we shall reverse the March 9 order to the extent that it required revision of the proposed rates based upon the "Greenwood adjustment."

In directing Edison to refile its cost of service and rates based upon elimination of the "Greenwood adjustment," the March 9 order further required the Company to exclude its EPRI and LMFBR contributions from the revised wholesale rates. In view of the foregoing reversal of our determination concerning the "Greenwood adjustment", we shall also vacate our directive that Edison revise its filed rates to reflect our summary disposition with respect to the EPRI and LMFBR contributions. It does not appear that the magnitude of this issue alone, as compared to the overall rate increase, warrants interim revision of the rates.

As indicated above, the second of Edison's arguments or rehearing concerns the Commission's designation of an effective date for the proposed rates. The rates subject to investigation in this proceeding were originally tendered for filing on November 20, 1978. Edison was notified by letter dated December 20, 1978, that its filing was incomplete with respect to a number of specific requirements enumerated in Section 35.13(b)(4)(iii) of the Commission's Regulations. The company was further advised that no filing date would be assigned to the submittal pending receipt of the information that was specified in detail in the deficiency letter. Subsequently, on January 10, 1979, Edison supplemented the materials that originally had been submitted.

Over protests by the intervenors, our March 9, 1979 order concluded that Edison had responded to the deficiency letter in a satisfactory manner and that its filing, *as completed on January 10, 1979,* was in substantial compliance with the Regulations. Based upon our review of the proposed rates, the supporting data, the pleadings before us, and all attendant circumstances, we determined that the maximum five-month suspension period was appropriate. Accordingly, we designated Janaury 10, 1979 as the "filing date" and we ordered the rates to become effective, subject to refund, on August 11, 1979, or five months after the date upon which they otherwise would have become effective (sixty days after the filing date).

Edison submits that the foregoing course of action was improper in several respects. In each instance we find Edison's contentions to be without merit. For example, the company challenges the fact that our March 9 order did not elaborate on the underlying bases upon which the company's original filing was deemed deficient. However, the deficiency letter clearly identified the nature of the deficiencies and further informed Edison of the consequent deferral of a filing date. There was no need to express any additional findings concerning the foregoing reversal of our determination concerning the completed filing.

Edison asserts that the Commission was obliged to act upon the incomplete filing within the sixty-day statutory notice period. According to Edison, the Commission relinquished its suspension authority by failing to suspend the effectiveness of the rate increase within sixty days of the deficient filing. Contrary to the company's argument, the Commission, through its delegated representative, acted upon the rate proposal within thirty days of the original submittal by informing the company that its filing was inadequate. Our filing Regulations are designed to provide for meaningful notice of proposed rate changes. In view of Edison's substantial failure to comply with the Regulations, neither the Commission nor the public was supplied with sufficient information upon which to make informed judgments with respect to the proposed rates. In other words, prior to completion of the filing, Edison had not provided the notice contemplated by Section 205(d) of the Federal Power Act [1] or by our Regulations.

The Commission's treatment of Edison's filing was fully consistent with the provisions of the Federal Power Act and the Regulations promulgated thereunder. Section 35.13 of the Regulations identifies the materials which must accompany proposed rate schedule changes. The "filing date" for such rate changes is defined by Section 35.2(c) as "the date on which a rate schedule filing is completed by receipt * * * of all supporting cost and other data required to be filed * * *." Unless otherwise ordered by the Commission, the "effective date" of a rate schedule is measured by reference to the "filing date" (sixty days thereafter). *See* Section 35.2(e). In addition, the Regulations provide for the refusal to accept for filing rate schedules which are substantially incomplete or deficient. *See* Sections 1.14 (a)(2), 3.5(g)(14) and (15), 35.2(c), and 35.5. The Commission's authority to issue such Regulations and to enforce them as we have done in this proceeding has been judicially recognized. *E.g., Municipal Light Boards* v. *FPC,* 450 F. 2d 1341 (D.C. Cir. 1971).

Edison has identified no departure from the Commission's established procedures. Therefore, with respect to the August 11, 1979 effective date previously established, the company's application for rehearing will be denied.

The Commission orders:

(A) Edison's application for rehearing of the Commission's order of March 9, 1979, in this docket is hereby granted in part and denied in part.

(B) Ordering Paragraph (D) of the March 9, 1979 order is hereby vacated insofar as it summarily disposes of the annualizing adjustments associated with the Greenwood No. 1 plant and insofar as it requires Edison to refile its rates.

(C) In all respects other than those stated in Paragraph (B) above, the March 9, 1979 order is hereby affirmed.

(D) The Secretary shall cause prompt publication of this order to be made in the **Federal Register.**

By the Commission.

Kenneth F. Plumb,

Secretary.

[FR Doc. 79-15554 Filed 5-17-79; 8:45 am]

BILLING CODE 6450-01-M

[1] As amended by Section 207 of the Public Utilities Regulatory Policies Act.

Enserch Exploration, Inc.; Determination by a Jurisdictional Agency Under the Natural Gas Policy Act of 1978

May 11, 1979.

On April 25, 1979, the Federal Energy Regulatory Commission received notices from the jurisdictional agencies listed below of determinations pursuant to 18 CFR 274.104 and applicable to the indicated wells pursuant to the Natural Gas Policy Act of 1978.

State Oil and Gas Board of Alabama

FERC Control Number: JD79-4155
API Well Number: 01-057-20107
Section of NGPA: 103
Operator: Enserch Exploration, Inc.
Well Name: T. Rowland No. 1
Field: Fayette West (Carter)
County: Fayette
Purchaser: Coronado Transmission Company
Volume: 40 MMcf.

The applications for determination in these proceedings together with a copy or description of other materials in the record on which such determinations were made are available for inspection, except to the extent such material is treated as confidential under 18 CFR 275.206, at the Commission's Office of Public Information, Room 1000, 825 North Capitol Street, NE., Washington, D.C. 10426.

Persons objecting to any of those final determinations may, in accordance with 18 CFR 275.203 and 18 CFR 275.204, file a protest with the Commission on or before June 4, 1979. Please reference the FERC Control Number in any correspondence concerning a determination.

Kenneth F. Plumb,

Secretary.

[FR Doc. 15560 Filed 5-17-79; 8:45 am]

BILLING CODE 6450-01-M

[Docket No. RP70-6, et al.]

Lawrenceburg Gas Transmission Corp.; Report of Refunds

May 11, 1979.

Take notice that on April 27, 1979 Lawrenceburg Gas Transmission Corporation (Lawrenceburg) filed a Report of Refunds, pursuant to Article VI of its Stipulation and Agreement at Docket No. RP70-6, et. al., approved by Commission Order issued August 25, 1972. Lawrenceburg states that on April 23, 1979 it made gas refunds to its two (2) jurisdictional wholesale customers, Lawrenceburg Gas Company, in the amount of $1,601.48, and The Cincinnati Gas & Electric Company, in the amount of $653.65, for a total refund of $2,255.13.

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Lawrenceburg states that this refund, applicable to various periods between November 1, 1959 and July 13, 1972, constitutes a flow through of the allocated jurisdictional portion of a refund it received from Texas Gas Transmission Corporation dated March 22, 1979.

Lawrenceburg states that copies of its refund report have been mailed to its two jurisdictional customers and to the two interested State Commissions for the States of Indiana and Ohio.

Any person desiring to be heard or to protest said filing should file a petition to intervene (unless such intervention has previously been granted) or protest with the Federal Energy Regulatory Commission, 825 North Capitol Street, N.E., Washington, D.C. 20426, in accordance with Sections 1.8 and 1.10 of the Commission's Rules of Practice and Procedure (18 CFR 1.8, 1.10). All such petitions or protests should be filed on or before June 6, 1979. Protests will be considered by the Commisson in determining the appropriate action be taken, but will not serve to make protestants parties to the proceeding. Any person wishing to become a party must file a petition to intervene. Copies of this filing are on file with the Commission and are available for public inspection.

Kenneth F. Plumb,
Secretary.

[FR Doc. 79-15555 Filed 5-17-79; 8:45 am]
BILLING CODE 6450-01-M

[Docket No. CP79-288]

Mountain Fuel Supply Co.; Application

May 11, 1979.

Take notice that on April 26, 1979, Mountain Fuel Supply Company (Mountain Fuel), P.O. Box 11368, Salt Lake City, Utah 84139, filed in Docket No. CP79-288 an application pursuant to Section 7(c) of the Natural Gas Act for a certificate of public convenience and necessity authorizing the transportation and exchange of up to 20,000 Mcf per day of natural gas with Natural Gas Pipeline Company of America, (Natural), all as more fully set forth in the application which is on file with the Commission and open for public inspection.

Mountain Fuel states that it and/or Colorado Interstate Gas Company (CIG) have the optional purchase right of up to a combined total of 25 percent of the natural gas delivered to Mountain Fuel pursuant to a letter agreement between Natural, CIG and Mountain Fuel dated January 28, 1979.

Mountain Fuel states that Natural has under contract or otherwise owns or controls certain natural gas reserves in the Bonanza area of eastern Utah, which is a considerable distance from Natural's existing transmission system. Mountain Fuel has intrastate natural gas gathering and transmission facilities in the Bonanza area and would be willing to transport and exchange natural gas with Natural, it is further stated.

A gas purchase and transportation agreement dated October 3, 1978, provides for the transportation and exchange of Natural's supply of natural gas from the Bonanza area to an existing exchange point between Mountain Fuel and CIG, it is said.

Natural, pursuant to said agreement, would deliver to Mountain Fuel for transportation all volumes of natural gas obtained by Natural in the Bonanza area of Uintah County, Utah, it is asserted. Mountain Fuel would redeliver equivalent volumes subject to Mountain Fuel's and CIG's option to purchase up to 25 percent of the volumes delivered for transportation, at an existing point of interconnection known as the Kanda Exchange Point, in Sweetwater County, Wyoming, it is further asserted.

The said agreement is for a primary term of five years commencing on the first day of the month following the initiation of deliveries and on a year-to-year basis thereafter. Mountain Fuel estimates the initial volumes of gas to be delivered would be approximately 10,000 Mcf per day of which Mountain Fuel and CIG would have the option to purchase up to 25 percent. All natural gas received by Mountain Fuel from Natural for transportation and exchange would be ultimately consumed by Mountain Fuel's existing intrastate distribution system, it is said.

Mountain Fuel states that it proposes to charge CIG and Natural a cost of service based transportation rate of 13.22 cents per Mcf for gas delivered to it for transportation and 5.0 cents per Mcf for compression through the Kanda Exchange Point in addition to reimbursement for CIG's and Natural's share of compressor fuel. The transportation rate differs from the rate specified in the agreement dated October 3, 1978, because the calculated transportation rate is lower than the negotiated rate, it is said.

Any person desiring to be heard or to make any protest with reference to said application should on or before June 4, 1979, file with the Federal Energy Regulatory Commission, Washington, D.C. 20426, a petition to intervene or a protest in accordance with the requirements of the Commission's Rules of Practice and Procedure (18 CFR 1.8 or 1.10) and the Regulations under the Natural Gas Act (19 CFR 157.10). All protests filed with the Commission will be considered by it in determining the appropriate action to be taken but will not serve to make the protestants parties to the proceeding. Any person wishing to become a party to a proceeding or to participate as a party in any hearing therein must file a petition to intervene in accordance with the Commission's Rules.

Take further notice that, pursuant to the authority contained in and subject to jurisdiction conferred upon the Federal Energy Regulatory Commission by Sections 7 and 15 of the Natural Gas Act and the Commission's Rules of Practice and Procedure, a hearing will be held without further notice before the Commission or its designee on this application if no petition to intervene is filed within the time required herein, if the Commission on its own review of the matter finds that a grant of the certificate is required by the public convenience and necessity. If a petition for leave to intervene is timely filed, or if the Commission on its own motion believes that a formal hearing is required, further notice of such hearing will be duly given.

Under the procedure herein provided for, unless otherwise advised, it will be unnecessary for Mountain Fuel to appear or be represented at the hearing.

Kenneth F. Plumb,
Secretary.

[FR Doc. 79-15556 Filed 5-17-79; 8:45 am]
BILLING CODE 6450-01-M

[Docket No. CP79-228]

Transcontinental Gas Pipe Line Corp.; Intent To Act

May 9, 1979.

In this docket, the Commission has before it an application by Transcontinental Gas Pipe Line Corporation (Transco) for a limited term certificate of public convenience and necessity permitting interruptible service to enable transportation in interstate commerce of certain natural gas which Consolidated Edison Company of New York, Inc. (Con Ed) has agreed to purchase from Consolidated Gas Supply Corporation (Con Gas). The application also requests the granting of a temporary certificate. By this order, the Commission hereby gives notice of its intention to act on this application at its regularly scheduled meeting of May 16, 1979.

The Commission notes that on May 7, 1979, Con Ed filed a request for the immediate issuance of a temporary certificate. Con Ed alleges that the prospective seller, Con Gas, a natural gas company regulated by this Commission, intends to cancel the underlying gas sales contract unless the Commission acts affirmatively on the applied for certificate this week. Con Ed further argues that immediate action of this Commission is therefore required in order that the Commission's failure to act not "render this national interest matter moot".[1] Con Ed then notes various reasons attempting to demonstrate emergency need for the gas.

General Motors Corporation (GM) has filed in opposition to Con Ed's request for immediate issuance of a temporary certificate.[2] GM argues that the amounts of interstate gas supplies involved in this transaction may be substantial. It further notes that if Con Ed faces actual deficiencies in fuel oil supplies such that its service reliability would be jeopardized it would not object to the authorization of emergency deliveries. GM contends, however, that Con Ed has not made such a showing as would justify the granting of emergency relief.

Con Ed recognizes in its petition that several motions to intervene and requests for hearing have been filed in this docket. Substantial questions of law and fact underlie the Commission's consideration of this matter. In its request for comments on the proposed rule to displace fuel oil usage in Docket No. RM79-34, the Commission stated its intent to expeditiously consider applications which conformed to the provisions of that rule. This application, however, is not so conforming and instead raises additional policy questions which the Commission must consider. In recognition of these circumstances, the Commission hereby gives notice of its intention to act on this matter by May 16, 1979. Should Con Gas terminate the transaction now (as is represented by Con Ed), the Commission believes that Con Gas will have determined the matters at issue by its own action and must bear responsibility for it.

[1] Request of Consolidated Edison Company of New York, Inc. for Immediate Issuance of Temporary Certificate, Convening of Prehearing Conferences, and for Early Hearing Date, filed May 7, 1979, at pg. 2.

[2] Answer of General Motors Corporation to Request for Temporary Certificate, filed May 9, 1979.

By Direction of the Commission.

Lois D. Cashell,
Acting Secretary.

[FR Doc. 79-15587 Filed 5-17-79; 8:45 am]
BILLING CODE 6450-01-M

ENVIRONMENTAL PROTECTION AGENCY

[FRL 1230-1]

Availability of Environmental Impact Statements

AGENCY: Office of Environmental Review, Environmental Protection Agency.

PURPOSE: This Notice lists the Environmental Impact Statements which have been officially filed with the EPA and distributed to Federal Agencies and interested groups, organizations and individuals for review pursuant to the Council on Environmental Quality's Regulations (40 CFR Part 1506.9).

PERIOD COVERED: This Notice includes EIS's filed during the week of May 7 to May 11, 1979.

REVIEW PERIODS: The 45-day review period for draft EIS's listed in this Notice is calculated from May 18, 1979 and will end on July 2, 1979. The 30-day wait period for final EIS's will be computed from the date of receipt by EPA and commenting parties.

EIS AVAILABILITY: To obtain a copy of an EIS listed in this Notice you should contact the Federal agency which prepared the EIS. This Notice will give a contact person for each Federal agency which has filed an EIS during the period covered by the Notice. If a Federal agency does not have the EIS available upon request you may contact the Office of Environmental Review, EPA for further information.

BACK COPIES OF EIS'S: Copies of EIS's previously filed with EPA or CEQ which are no longer available from the originating agency are available from the Environmental Law Institute, 1346 Connecticut Avenue, Washington, D.C. 20038.

FOR FURTHER INFORMATION CONTACT: Kathi Weaver Wilson, Office of Environmental Review A-104, Environmental Protection Agency, 401 M Street, SW., Washington, D.C. 20460, (202) 755-0780.

SUMMARY OF NOTICE: Appendix I sets forth a list of EIS's filed with EPA during the week of May 7 to May 11, 1979 the Federal agency filing the EIS, the name, address, and telephone number of the Federal agency contact for copies of the EIS, the filing status of the EIS, the actual date the EIS was filed with EPA, the title of the EIS, the State(s) and County(ies) of the proposed action and a brief summary of the proposed Federal action and the Federal agency EIS number if available. Commenting entities on draft EIS's are listed for final EIS's.

Appendix II sets forth the EIS's which agencies have granted an extended review period or a waiver from the prescribed review period. The Appendix II includes the Federal agency responsibie for the EIS, the name, address, and telephone number of the Federal agency contact, the title, State(s) and County(ies) of the EIS, the date EPA announced availability of the EIS in the **Federal Register** and the extended date for comments.

Appendix III sets forth a list of EIS's which have been withdrawn by a Federal agency.

Appendix IV sets forth a list of EIS retractions concerning previous Notices of Availability which have been made because of procedural noncompliance with NEPA or the CEQ regulations by the originating Federal agencies.

Appendix V sets forth a list of reports or additional supplemental information on previously filed EIS's which have been made available to EPA by Federal agencies.

Appendix VI sets forth official corrections which have been called to EPA's attention.

Dated: May 15, 1979.

William Dickerson,
Acting Director, Office of Environmental Review.

Appendix I

EIS's Filed With EPA During the Week of May 7 to May 11, 1979

DEPARTMENT OF AGRICULTURE

Contact: Mr. Barry Flamm, Coordinator, Environmental Quality Activities, Office of the Secretary, U.S. Department of Agriculture, Room 412A, Washington, D.C. 20250, (202) 447-3965.

Forest Service

Draft

Hayden-Wolf Lodge Planning Unit, Land Mgmt. Plan, Kootenai County, Idaho. May 10: Proposed is a land management plan for the Hayden-Wolf Lodge Planning Unit in the Coeur d'Alene National Forest, of the Idaho Panhandle National Forests in Kootenai County, Idaho. The plan includes a preferred alternative with a mix of land uses with emphasis on timber management, wildlife, fisheries, recreation and esthetic values. National forest land comprises 53,890 acres of the 74,580 acres within the unit. Four alternatives are considered. (DES-01-04-79-07). (EIS Order No. 90482).

MAY 18 1979 UMI

National Forest System Planning, Regulations, Regulatory, May 8: Proposed is the issuance of regulations to guide land and resource management planning in the National Forest system. These rules require an integration of planning for National Forests and grasslands, including timber, range, fish and wildlife, water, wilderness, and recreation resources, together with resource protection activities and coordinated with fire management and the use of other resources, such as minerals. The proposed rules will implement provisions of the Forest and Rangeland Renewable Resources Planning Act of 1974, as amended by the National Forest Management Act of 1976. (EIS Order No. 90469).

Final

Pitch Project, Mining and Milling, Gunnison NF, Saguache County, Colorado, May 8: The proposed action is the issuance of approvals, permits, and licenses to the Homestake Mining Company for the implementation of the Pitch Project located in Gunnison National Forest, Saguache County, Colorado. The project will consist of mining and milling operations involving uranium are deposits which will take place over an estimated period of 20 years. A mill will be constructed and operated as long as ore is available. Waste materials will be buried onsite at the head end of a natural valley. (USDA–FS–R2–FES–(ADM)–FY–78–03). Comments made by: DOI, COE, HEW, EPA, HUD, DOE, USDA, AHP, State and local agencies, groups, individuals and businesses. (EIS Order No. 90472).

Ashland Land Management Plan, Custer NF, Rosebud, and Powder River Counties, Mont., May 11: Proposed is the selection and implementation of a land management plan for the Ashland Division Planning Unit, Custer National Forest, Rosebud and Powder River Counties, Montana. The unit contains 502,152 acres of Federal and other owned land, six management alternatives are considered, which in addition to consideration of population, provide emphasis on: 1) Partial accommodation of local livestock range demand with restriction of other resources; 2) National and local demands for beef and timber output; 3) Population increase; 4) Roadless and undeveloped areas; 5) Energy and population growth; and 6) Livestock range, recreation and timber management. (USDA–FS–ADM–FES–01–08–79–01). Comments made by: DOI, DOC, USDA, TREA, FERC, State agencies, groups, individuals and businesses. (EIS Order No. 90485).

Ochoco NF Timber Management Plan, several counties in Oregon, May 5: Proposed is the implementation of a revised, ten year timber management plan for the Ochoco National Forest in Crook, Harney, Grant and Wheeler Counties, Oregon. This statement deals with various levels of intensive timber management on those lands (545,098 acres) which have been classified as commercial forest land available for timber production. It also reflects the changes of land allocation as a result of land management planning. Five alternatives are considered. (USDA–FS–R6–FES–(ADM)–77–7). Comments made by: USDA, DOI, HUD, State and local agencies, groups, individuals and businesses. (EIS Order No. 90466).

Final

Western Spruce Budworm, Boise and Payette NFs, Several counties in Idaho, May 11: This statement replaces final EIS, No. 80373, filed 4–18–78 concerning the control of the Western Spruce Budworm in the Boise and Payette National Forests in the counties of Boise, Valley, Idaho, Adams and Gem of the State of Idaho. This statement considers short and long term management objectives and the consequent economic implications of alternative courses of action. The alternatives considered are chemical treatment and accelerated host type timber harvest. (USDA–FS–R4–AFES (Adm)–R4–78–2). Comments made by: DOI, EPA, AHP, HUD, USDA, state and local agencies, individuals and businesses. (EIS Order No. 90488.)

U.S. Army Corps of Engineers

Contact: Dr. C. Grant Ash, Office of Environmental Policy, Attn: DAEN–CWR–P, Office of the Chief of Engineers, U.S. Army Corps of Engineers, 1000 Independence Avenue, S.W., Washington, D.C. 20314 (202) 693–6795.

Draft

Louisa Generating Station, Permit, Transmission, Louisa, Iowa, Muscatine County, May 10: Proposed is the construction and operation of a 650,000 kilowatt, coal-fired, steam electric generating station adjacent to the Mississippi River in Louisa and Muscatine Counties, Iowa, to be known as Louisa generating station, included on the 1655 acre site will be a main building complex housing the steam boiler, a 650,000 kilowatt turbine generator, air pollution control facilities, coal and material handling and storage areas; a 610 foot stack; cooling tower; 4 wells; electric substation; river discharge structure; spur rail line; and ash storage ponds. The project will also require three 345kV transmission lines. (Rock Island District.) (EIS Order No. 90481.)

Verdigris River Fleeting Area Development, Permit, Rogers and Wagoner Counties, Okla., May 8: Proposed is the issuance of a permit for the construction, operation and maintenance of a fleeting area on the Verdigris River in Rogers and Wagoner Counties, Oklahoma. The fleeting area would provide storage for both empty and loaded barges and would consist of 21 deadmen capable of mooring 38 barges. The fleeting area would be located in the river cutoff on the right descending bank at mile 37.1 of the Verdigris River one-quarter mile upstream of the applicant's existing docking facility. (Tulsa District.) (EIS Order No. 90468.)

Final

South Fork Zumbro River Watershed, (S–2), Rochester, Minn., Olmsted County, May 9: This statement supplements a final EIS filed in May 1973 concerning flood control of the Zumbro River Basin located in Rochester and Olmsted Counties, Minnesota. The proposed plan is a combination of structural and nonstructural measures including channel modification, levees, insurance, reservoirs, and other measures. The COE filed a draft EIS on this project in 1972 followed by a final EIS, No. 31524, filed 9–19–73. The COE then replaced the original 1972 draft with revised draft, No. 61553, filed 10–26–76, which was then replaced by a second revised draft, No. 80797, filed 7–24–78. This final statement replaces the original final EIS (No. 31524). (Chief of Engineers.) Comments made by: EPA, USDA, DOE, DOI, HEW, HUD, DOT, DOC, FPC, state agencies. (EIS Order No. 90477.)

Final Supplement

Charleston Breakwater Extension, Coos Bay, Coos County in Oregon, May 7: This statement supplements a final EIS (No. 61676) filed in November 1976 concerning the operation and maintenance of Coos Bay, Coos County, Oregon. Proposed is: (1) construct an 800–foot breakwater extension north from the end of the present breakwater paralleling channel alignment; (2) raise the top elevation of the existing breakwater; and (3) construct a 400–foot long groin on the east side of the Charleston Channel to control channel shoaling. (Portland District.) Comments made by: EPA, USDA, DOC, FERC, AHP, DOT, state and local agencies. (EIS Order No. 90465.)

DEPARTMENT OF DEFENSE

Contact: Col. Charles E. Sell, Chief of the Environmental Office, Headquarters DAEN–ZCE, Office of the Assistant Chief of Engineers, Department of the Army, Room 1E676, Pentagon, Washington, D.C. 20310, (202) 694–4269.

Army

Draft

Fort Sill Military Operational Area (MOA), Comanche, Kiowa, and Caddo Counties, Okla., April 13. Proposed is the establishment of Fort Sills Military Operation Areas (MOA) located at Fort Sills, in Comanche, Kiowa, and Caddo Counties, Oklahoma. This action would permit fighter squadrons in this area to accomplish their assigned missions and missions required in support of army training. The Specified Areas are needed to comply with FAA regulations for operation of aircraft at speeds 250 knots at altitudes below 10,000 feet. On navigation charts the areas will be shown where high performance aircraft activity will occur so that other aircraft traveling low altitudes can avoid the area. (EIS Order No. 90476.)

Navy

Contact: Mr. Ed Johnson, Head, Environmental Impact Statement RDT&E Branch, Office of the Chief of Naval Operations, Department of the Navy, Washington, D.C. 20350, (202) 697–3689.

Final

COSO Geothermal Development, NWC China Lake, Inyo, Kern, and San Bernardino Counties, Calif., May 8: The proposed action is the award of a contract to develop geothermal power as an alternative to conventional power sources at the Naval Weapons Center (NWC), China Lake, Kern, Inyo and San Bernardino Counties, California. Under the contract, the contractor will be responsible for implementing a COSO geothermal development program on approximately 3½ square miles of 4½ square miles of Navy fee acquired land within the COSO known geothermal resource area (COSO KGRA). Successful completion of this project will provide the Navy with energy self-sufficiency at its NWC facility. Energy in excess will be made available to other West Coast DOD facilities. Comments made by: DOI, USN, EPA, State and local agencies, individuals and businesses. (EIS Order No. 90471.)

GENERAL SERVICES ADMINISTRATION

Contact: Mr. Carl W. Penland, Acting Director, Environmental Affairs Division, General Services Administration, 18th and F Streets, NW., Washington, D.C. 20405, (202) 566–1416.

Final

NRC Headquarters, Relocation and Consolidation, District of Columbia and Montgomery County, May 11: Proposed is the relocation and consolidation of the Nuclear Regulatory Commission headquarters. The GSA is presently considering two locations in the District of Columbia and three locations in Montgomery County, Maryland. NRC is presently housed in nine separate facilities, one of which is in downtown Washington, and eight in Montgomery County, Maryland. The proposed action will require that GSA lease approximately 600,000 square feet of occupiable space in a building to be constructed. Comments made by: EPA, COE, USDA, FERC, NCPC, State and local agencies, groups and individuals. (EIS Order No. 90487.)

DEPARTMENT OF HUD

Contact: Mr. Richard H. Broun, Director, Office of Environmental Quality Room 7274, Department of Housing and Urban Development, 451 7th Street, SW., Washington D.C. 20410, 202–755–6306.

Final

Sundown Subdivision, Mortagage Insurance, Harris County, Tex., May 8: Proposed is the issuance of HUD Home Mortgage Insurance for the Sundown Subdivision in Harris County, Tex. When completed, the subdivision, which encompasses approximately 349 acres, is expected to consist of approximately 837 single family and 590 multi-family dwelling units. Due to the relationship of the project to a floodplain, HUD has also incorporated the "Notice" required by Executive Order 11988, as an addendum to this EIS. (HUD-RO6-IES-79-15F). Comments made by: USDA, COE, DOE, DOI, DOT, State agencies. (EIS Order No. 90473.)

Section 104(H)

The following are community development block grant statements prepared and circulated directly by applicants pursuant to section 104(H) of the 1974 Housing and Community Development Act. Copies may be obtained from the office of the appropriate local executive. Copies are not available from HUD.

Final

Marina/Columbia Residential Development, San Diego County, Calif., May 8: Proposed is the Marina/Columbia Residential Development in the core of downtown San Diego in San Diego County, California. The project is currently being planned as a residential community, containing between 2,000 and 3,000 multilevel, multi-family dwelling units. Neighborhood Convenience and commercial development will be incorporated into the development. (13-79-MC-06-0542). Comments made by: COE, EPA, State agencies, groups, individuals and businesses. (EIS Order No. 90474.)

DEPARTMENT OF INTERIOR

Contact: Mr. Bruce Blanchard, Director, Environmental Project Review, Room 4256, Interior Bldg., Department of the Interior, Washington, D.C. 20240. 202–343–3891.

Bureau of Land Management

Draft

Little Lost-Birch Creek Range Management, several Counties in Idaho, May 11: Proposed is the implementation of a range management program for 332,570 acres of public land and 65,673 acres of DOE withdrawn land located in the Little Lost-Birch Creek Planning Unit, Butte, Clark, Lemhi, and Custer Counties, Idaho. Use of the area will include 27,164 aums for livestock and 10,453 aums for wildlife, grazing treatments would be implemented on 398,243 acres of public and withdrawal land consisting of rest-rotation on 181,232 acres, deferred rotation on 183,883, and seasonal grazing on 33,128 acres. (DES-79-24). (EIS Order No. 90484.)

Boise District Agricultural Development, Elmore, Owyhee, and Twin Falls, Counties, Idaho, May 11: Proposed is the development of 11,015 acres of public land for farming under the Desert Land Act and the Carey Act. The project is located in Elmore, Owyhee, and Twin Falls Counties, Idaho. In addition, about 37,00 acres of public land adjacent to farm locations would be reserved for public purposes such as wildlife habitat tracts, gravel sites, air strips, sanitary landfills, and other uses. This development would occur from 1980 through 1984 at about 22,000 acres per yer. Six alternatives are considered. (DES-79-28). (EIS Order No. 90486.)

DEPARTMENT OF TRANSPORTATION

Contact: Mr. Martin Convisser, Director, Office of Environmental Affairs, U.S Department of Transportation, 400 7th Street SW., Washington D.C. 20590, 202–426–4357

Federal Aviation Administration

Draft

Falcon Field, Expansion of Facilities, Mesa, Maricopa County, Ark., May 11: Proposed is a master plan for the orderly short, intermediate and long term expansion and development of Falcon Field located in the city of Mesa, Maricopa County, Arizona, the first phase of development will include: land acquisition, construction of a runway with associated taxiway system, construction of a shop maintenance and a fixed-base operator (FBO) hangar, expansion of terminal and administration building, and others. The second (intermediate and long range) phase includes construction of additional ramp and tie down areas, hangars, vehicle parking areas and FBO areas, additional underground utilities to serve the improved areas, and other features. (EIS Order No. 90483.)

Federal Highway Administration

Draft

Route 15 (Norco Reach) Magnolia Avenue to CA–60, Riverside, San Bernardino, Counties, Calif., May 8: Proposed is the construction of Route 15 between Magnolia Avenue in the city of Corona and CA–60 near the city of Norco in Riverside and San Bernardino Counties, California. The Facility would be either a freeway/conventional highway facility, or an 8-lane freeway, and would be approximately 11.2 to 19.1 miles in length, depending upon the alternatives, the alternatives include: A) No-build, B) A combination freeway/conventional highway, and C) Four freeway alternates. (FHWA-CA-EIS-79-03-D). (EIS Order No. 90467.)

Draft

U.S. 50/301, MD–70 to Chesapeake Bay Bridge, Anne Arundel County, Md., May 8: Proposed is the upgrading of seven miles of existing U.S. 50/301 from MD–70 to the toll plaza of the Chesapeake Bay Bridge in Anne Arundel County, Maryland. The facility would become a 6 to 8 lane divided freeway with full control of access. Included are increases in roadway capacity by the addition of through traffic lanes and frontage roads, and the provision for safety improvements with median barriers and vehicle recovery areas. Also proposed are interchanges at Old Mill Bottom Road and relocated St. Margaret's Road, and major improvements to the existing Severn River Bridge. (FHWA–MD–EIS–79–01–D). (EIS Order No. 90475.)

Final

U.S. 71 relocation, Fayetteville to McKissick Creek, Benton and Washington Counties, Ark., May 10: Proposed is the construction of a four-lane freeway-type facility on new location in northwest Arkansas. The facility will connect the Fayetteville bypass with U.S. Highway 71 at McKissick Creek and will extend 25 miles in length. The project is located in the counties of Benton and Washington, Arkansas. Six alternatives were considered. (FHWA–ARK–EIS–75–02–F). Comments made by: USDA, DOT, EPA, local agencies, groups and individuals. (EIS Order No. 90480.)

U.S. 50 Study Improvements, Vienna, Dorchester and Wicomico Counties, Md., May 10: Proposed is a study of the location and type of highway improvements required on U.S. 50 to provide improved traffic service for the local communities of Cambridge, Vienna, and Salisbury, in Dorchester and Wicomico Counties, Maryland. The recommended alternative involves the construction of a four-lane divided highway, with two 24-foot roadways separated by a graded median which requires a maximum right-of-way width of 300 feet. These right-of-

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way widths include provisions for control of access, frontage roads and drainage requirements. The project begins in the town of Vienna from the end of the dual highway to Old Bradley Road. Also included will be removal of Nanticoke River Bridge. Comments made by: USDA, DOI, EPA, DOT, COE, HEW, DOC, State agencies. (EIS Order No. 90479.)

Final

Robert E. Lee Bridge and Approaches, Virginia, May 10: The proposed project is the replacement of the Robert E. Lee Bridge across the James River in the city of Richmond, Virginia, along with improvements to the north and south approaches to handle expected future traffic flows. The southern terminus for the project is the intersection of Decatur Street and Jefferson Davis Highway (Route 1-301) one block south of U.S. Route 360 (Hull street) while the northern terminus is the intersection of Idlewood Avenue and Belvidere Street (Route 1-301) at the south end of the new bridge over the downtown expressway. The existing bridge would be demolished. (FHWA-VA-EIS-77-02-F). Comments made by: AHP, DOT, DOI, COE, State and local agencies, businesses. (EIS Order No. 90478.)

EIS's Filed During the Week of May 7 to 11, 1979

[Statement Title Index—By State and County]

State	County	Status	Statement title	Accession No.	Date filed	Orig. agency No.
Arkansas	Benton	Final	U.S. 71 Relocation, Fayetteville to McKissick Creek	90480	05-10-79	DOT
	Maricopa	Draft	Falcon Field, Expansion of Facilities, Mesa	90483	05-11-79	DOT
	Washington	Final	U.S. 71 Relocation, Fayetteville to McKissick Creek	90480	05-10-79	DOT
California	Inyo	Final	COSO Geothermal Development, NWC China Lake	90471	05-08-79	USN
	Kern	Final	COSO Geothermal Development, NWC China Lake	90471	05-08-79	USN
	Riverside	Draft	Route 15 (NORCO Reach) Magnolia Avenue to CA-60.	90467	05-08-79	DOT
	San Bernardino	Draft	Route 15 (NORCO Reach) Magnolia Avenue to CA-60.	90467	05-08-79	DOT
		Final	COSO Geothermal Development, NWC China Lake	90471	05-08-79	USN
	San Diego	Final	Marina/Columbia Residential Development	90474	05-08-79	HUD
Colorado	Saguache	Final	Pitch Project, Mining and Milling, Gunnison NF	90472	05-08-79	USDA
District of Columbia		Final	NRC Headquarters, Relocation and Consolidation	90487	05-11-79	GSA
Idaho	Several	Draft	Little Lost-Birch Creek Range Management	90484	05-11-79	DOI
	Elmore	Draft	Boise District Agricultural Development	90486	05-11-79	DOI
	Kootenai	Draft	Hayden-Wolf Lodge Planning Unit, Land Mgmt. Plan.	90482	05-10-79	USDA
	Owyhee	Draft	Boise District Agricultural Development	90486	05-11-79	DOI
	Twin Falls	Draft	Boise District Agricultural Development	90486	05-11-79	DOI
	Several	Final	Western Spruce, Budworm, Boise and Payette NFs	90488	05-11-79	USDA
Iowa	Louisa	Draft	Louisa Generating Station, Permit, Transmission	90481	05-10-79	COE
	Muscatine	Draft	Louisa Generating Station, Permit, Transmission	90481	05-10-79	COE
Maryland	Montgomery	Final	NRC Headquarters, Relocation and Consolidation	90487	05-11-79	GSA
	Anne Arundel	Draft	U.S. 50/301, MD-70 to Chesapeake Bay Bridge	90475	05-08-79	DOT
	Dorchester	Final	50 U.S. Study Improvements, Vienna	90479	05-10-79	DOT
	Wicomico	Final	U.S. 50 Study Improvements, Vienna	90479	05-10-79	DOT
Minnesota	Olmsted	Final	South Fork Zumbro River Watershed, (S-2)	90477	05-09-79	COE
	Rochester	Final	South Fork Zumbro River Watershed, (S-2)	90477	05-09-79	COE
Montana	Powder River	Final	Ashland Land Management Plan, Custer NF	90485	05-11-79	USDA
	Rosebud	Final	Ashland Land Management Plan, Custer NF	90485	05-11-79	USDA
Oklahoma	Caddo	Draft	Fort Sill Military Operational Area (MOA)	90476	05-09-79	USA
	Comanche	Draft	Fort Sill Military Operational Area (MOA)	90476	05-09-79	USA
	Kiowa	Draft	Fort Sill Military Operational Area (MOA)	90476	05-09-79	USA
	Rogers	Draft	Verdigris River Fleeting Area Development, Permit	90468	05-08-79	COE
	Wagoner	Draft	Verdigris River Fleeting Area Development, Permit	90468	05-08-79	COE
Oregon	Several	Final	Ochoco N.F. Timber Management Plan	90466	05-07-79	USDA
	Coos	Supple	Charleston Breakwater Extension, Coos Bay	90465	05-07-79	COE
Regulatory		Draft	National Forest System Planning, Regulations	90469	05-08-79	USDA
Virginia		Final	Robert E. Lee Bridge & Approaches	90478	05-10-79	DOT
Texas	Harris	Final	Sundown Subdivision, Mortgage Insurance	90473	05-08-79	HUD

Appendix II.—*Extension/Waiver of Review Periods on EIS's Filed With EPA*

Federal agency contact	Title of EIS	Filing status/accession No.	Date notice of availability published in "Federal Register"	Waiver/ extension	Date review terminates
DEPARTMENT OF INTERIOR					
Mr. Bruce Blanchard, Director, Environmental Project Review, Room 4256 Interior Building, Department of the Interior, Washington, D.C. 20240 (202) 343-3891.	North Loup/Pick Sloan, Missouri River Basin, Nebraska.	Final Supplement 90390	4/20/79	Extension	6/3/79

Appendix III.—*EIS's Filed With EPA Which Have Been Officially Withdrawn by the Originating Agency*

Federal agency contact	Title of EIS	Filing status/accession No.	Date notice of availability published in "Federal Register"	Date of withdrawal
None.				

Appendix IV.—*Notice of Official Retraction*

Federal agency contact	Title of EIS	Status/number	Date notice published in "Federal Register"	Reason for retraction
None.				

Appendix V.—*Availability of Reports/Additional Information Relating To EIS's Previously Filed With EPA*

Federal agency contact	Title of report	Date made available to EPA	Accession No.
None.			

Appendix VI.—*Official Correction*

Federal agency contact	Title of EIS	Filing status/accession No.	Date notice of availability published in "Federal Register"	Correction
DEPARTMENT OF COMMERCE				
Dr. Sidney R. Galler, Deputy Assistant Secretary, Environmental Affairs, Department of Commerce, Washington, D.C. 20230.	Reef Fish Resources of the Gulf of Mexico.	Draft 90342	4-13-79	Notice of retraction was published in the FEDERAL REGISTER 5/11/79. The date of official refiling was incorrectly listed as 4/2/79 in Appendix IV. The correct date is 5/1/79. Comments are due 6/15/79.

[FR Doc. 79-15030 Filed 5-17-79; 8:45 am]

BILLING CODE 6560-01-M

FEDERAL COMMUNICATIONS COMMISSION

[CC Docket No. 79-92, File No. 118-C2-P-70; CC Docket No. 79-93, File No. 285-C2-MP-70]

Mobile Telephone Co. of New Jersey, et al.; Designating Applications for Consolidated Hearing on Stated Issues, Memorandum Opinion and Order

Adopted: April 24, 1979.

Released: May 10, 1979.

In Re applications of Mobile Telephone Co. of New Jersey; For a Construction Permit to establish a new two-way station to operate on frequency 454.175 MHz in the Domestic Public Land Mobile Radio Service at North Bergen, New Jersey. Beep Communication Systems, Inc.; For a Construction Permit to establish additional facilities for two-way Station KEK287 to operate on frequency 454.175 MHz in the Domestic Public Land Mobile Radio Service at New York, New York.

1. Presently before the Chief, Common Carrier Bureau, pursuant to delgated authority are the applications of Mobile Telephone Company of New Jersey, File No. 118-C2-P-70, for a Construction Permit to establish a new two-way station to operate on frequency 454.175 MHz in the Domestic Public Land Mobile Radio Service at North Bergen, New Jersey and the application of Beep Communication Systems, Inc. for a Construction Permit to add the frequency 454.175 MHz to two-way Station KEK287 at New York, New York.

2. Because the above-referenced applications request use of the same frequency in the same geographic area they are electrically mutually exclusive. Accordingly, a comparative hearing must be held to determine which applicant would better serve the public interest, convenience and necessity. *Ashbacker Radio Corp.* v. *FCC*, 326, U.S. 327 (1945). Except to the extent indicated in Paragraph 4 below, we find the applicants to be legally, technically, financially and otherwise qualified to construct and operate the proposed facilities.[1]

3. Accordingly, it is ordered, That the application of the Mobile Telephone Company of New Jersey, File No. 118-C2-P-70, and the application of Beep Communication Systems, Inc., File No. 285-C2-MP-70, are designated for hearing in a consolidated proceeding upon the following issues:

(a) To determine, on a comparative basis, the nature and extent of service proposed by each applicant, including the rates, charges, maintenance personnel, practices, classifications, regulations, and facilities pertaining thereto;

(b) To determine, on a comparative basis, the areas and populations that each applicant will serve within the prospective 39 dBu contours, based upon the standards set forth in Section 21.504(a) of the Commission's Rules,[2] and to determine the need for the proposed services in said areas; and

c. To determine, in light of the evidence adduced pursuant to the foregoing issues, what disposition of the above-referenced applications would best serve the public interest, convenience, and necessity.

4. It is further ordered, That any authorization which may be issued to the Mobile Telephone Company of New Jersey will be expressly subject to whatever conditions may be appropriate as a result of the Commission's decision

[1] It is noted that Mr. Robert L. Starer is the principal of the Mobile Telephone Company of New Jersey. Mr. Starer is also involved in the proceeding initiated by *Arizona Mobile Telephone Company*, 66 FCC 2d 691 (1977). In that proceeding potentially disqualifying issues were specified against Mr. Starer.

[2] Section 21.504(a) of the Commission's Rules and Regulations describes a field strength contour of 39 decibels above one microvolt per meter as the limits of the reliable service area for base stations engaged in two-way communications service on frequencies in the 450MHz band. Propagation data set forth in § 21.504(b) are the proper bases for establishing the location of service contours (F 50, 50) for the facilities involved in this proceeding.

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in the proceeding initiated in *Arizona Mobile Telephone Company*, 66 FCC 2d 691 (1977).

5. It is further ordered, That the hearing shall be held at the Commission offices in Washington, D.C., at a time and place and before an Administrative Law Judge to be specified in a subsequent Order.

6. It is further ordered, That the Chief, Common Carrier Bureau, is made a party to the proceeding.

7. It is further ordered, That the applicants may avail themselves of an opportunity to be heard by filing with the Commission pursuant to § 1.221(c) of the Rules within 20 days of the release date hereof, a written notice stating an intention to appear on the date for the hearing and present evidence on the issues specified in this Memorandum Opinion and Order.

Larry F. Darby,

Chief, Common Carrier Bureau.

[FR Doc. 79-15461 Filed 5-17-79; 8:45 am]

BILLING CODE 6712-01-M

[FCC 79-299]

New Financial Qualifications Standard for Broadcast Television Applicants

May 11, 1979.

The Commission has modifided the financial qualifications standard for parties applying for new television stations and for transferees of "bare" television construction permits for stations not yet built or in operation. This action follows a similar revision in the financial requirement for aural applicants which was adopted July 27, 1978. The new television standard requires that applicants demonstrate sufficient capital to construct the station and then operate for 90 days without advertising or other broadcast revenue.

This new standard replaces the current financial requirement for construction and operating costs for one year without revenues which was first announced in *Ultravision Broadcasting Company, FCC 65-581, 1 FCC 2d 544 (1965) and an associated Public Notice (1 FCC 2d 550). The one year Ultravision test was orginally adopted to deal with UHF applications at a time when UHF development had not progressed very far and thus the viability of UHF stations was considered unsure.*

Based on recent economic developments in the television industry, especially in the UHF sector, and the changing desire of the Commission to ease barriers to entry for minorities and others, we believe that the one year standard is no longer necessary or desirable for television. The economic developoment of UHF television has progressed to a point where many of the uncertainties that once characterized the viability of individual stations are no longer present. The conservative standard also conflicts with Commisson policies favoring minority ownership and diversity because its stringency may inhibit potential applicants from seeking broadcast licenses and permits.

Our decision to adopt the 90 day standard is based on the conclusion that an applicant must demonstrate sufficient capital to cover construction costs and operation costs in the initial start-up period between commencement of broadcast operations and the point in time where advertising accounts begin to remit payments. We believe that the 90 day standard will adequately serve this purpose.

The new construction costs plus 90 day operating capital requirement will apply to all applications for new television stations now pending before the Commission as well as to those filed on and after the date of this Notice.

Action by the Commission May 10, 1979. Commissioners Ferris (Chairman), Lee, Quello, Washburn, Fogarty, Brown and Jones.

Federal Communications Commission.

William J. Tricarico,

Secretary.

[FR Doc. 79-15460 Filed 5-17-79; 8:45 am]

BILLING CODE 6712-01-M

FEDERAL MARITIME COMMISSION

Agreement Filed

Notice is hereby given that the following agreement has been filed with the Commission for review and approval, if required, pursuant to section 15 of the Shipping Act, 1916, as amended (39 Stat. 733, 75 Stat. 763, 46 U.S.C. 814).

Interested parties may inspect and obtain a copy of the agreement at the Washington office of the Federal Maritime Commission, 1100 L Street, NW, Room 10423; or may inspect the agreement at the Field Offices located at New York, N.Y., New Orleans, Louisiana, San Francisco, California, and Old San Juan, Puerto Rico. Comments on such agreements, including requests for hearing, may be submitted to the Secretary, Federal Maritime Commission, Washington, D.C., 20573, on or before May 29, 1979. Any person desiring a hearing on the proposed agreement shall provide a clear and concise statement of the matters upon which they desire to adduce evidence. An allegation of discrimination or unfairness shall be accompanied by a statement describing the discrimination or unfairness with particularity. If a violation of the Act or detriment to the commerce of the United States is alleged, the statement shall set forth with particularity the acts and circumstances said to constitute such violation or detriment to commerce.

A copy of any such statement should also be forwarded to the party filing the agreement (as indicated hereinafter) and the statement should indicate that this has been done.

Agreement No.: T-1887-A.

Filing party: Frank A. Fleischer, Regualtory Services, Sea-Land Service, Inc., 10 Parsonage Road, P.O. Box 900, Edison, New Jersey 08817.

Summary: Agreement No. T-1887-A, between Sea-Land Service, Inc. (Sea-Land) and I.T.O. Corporation of Ameriport, Inc. (ITO), provides for the sublease of terminal space at the Port of Philadelphia, subject to the conditions set forth in main lease agreement T-1887. According to the terms of the sublease, Sea-Land agrees to lease 7.08 acres of Pier 179 at the foot of Allegheny Avenue in the Port of Philadelphia for the monthly rental of $6,425.08.

By Order of the Federal Maritime Commission.

Dated: May 15, 1979.

Francis C. Hurney,

Secretary.

[FR Doc. 79-15596 5-17-79; 8:45 am]

BILLING CODE 6730-01-M

FEDERAL PREVAILING RATE ADVISORY COMMITTEE

Open Committee Meetings

Pursuant to the provisions of section 10 of the Federal Advisory Committee Act (Pub. L. 92-463), notice is hereby given that meetings of the Federal Prevailing Rate Advisory Committee will be held on:

Thursday, June 7, 1979,
Thursday, June 21, 1979.

The meetings will convene at 10 a.m., and will be held in Room 5A06a, Office of Personnel Management Building, 1900 E Street, NW., Washington, D.C.

The Federal Prevailing Rate Advisory Committee is composed of a Chairman, representatives of five labor unions holding exclusive bargaining rights for Federal blue-collar employees, and representatives of five Federal agencies. Entitlement to membership on the Committee is provided for in 5 U.S.C. 5347.

The Committee's primary responsibility is to review the prevailing rate system and other matters pertinent to the establishment of prevailing rates under subchapter IV, chapter 53, 5 U.S.C., as amended, and from time to time advise the Office of Personnel Management thereon.

These scheduled meetings will convene in open session with both labor and management representatives attending. During the meeting either the labor members or the management members may caucus separately with the Chairman to devise strategy and formulate positions. Premature disclosure of the matters discussed in these caucuses would impair to an unacceptable degree the ability of the Committee to reach a consensus on the matters being considered and disrupt substantially the disposition of its business. Therefore, these caucuses will be closed to the public on the basis of a determination made by the Director of the Office of Personnel Management under the provisions of Section 10(d) of the Federal Advisory Committee Act (Pub. L. 92-463) and 5 U.S.C., section 552b(c)(9)(B). These caucuses may, depending on the issues involved, constitute a substantial portion of the meeting.

Annually, the Committee publishes for the Office of Personnel Management, the President, and Congress a comprehensive report of pay issues discussed, concluded recommendations thereon, and related activities. These reports are also available to the public, upon written request to the Committee Secretary.

Members of the public are invited to submit material in writing to the Chairman concerning Federal Wage System pay matters felt to be deserving of the Committee's attention. Additional information concerning these meetings may be obtained by contacting the Secretary, Federal Prevailing Rate Advisory Committee, Room 1340, 1900 E Street, NW, Washington, D.C. 20415 (202-632-9710).

Jerome H. Rees,

Chairman, Federal Prevailing Rate Advisory Committee.

May 14, 1979.

[FR Doc. 79-15500 Filed 5-17-79; 8:45 am]

BILLING CODE 6325-01-M

DEPARTMENT OF HEALTH, EDUCATION, AND WELFARE

Food and Drug Administration

[Docket No. 79D-0124]

Drug Master Files; Availability of Guideline

AGENCY: Food and Drug Administration.

ACTION: Notice.

SUMMARY: This notice announces availability of a guideline for drug master files (DMF). The guideline sets forth a preferred format for DMF's submitted in support of a notice of claimed investigational exemption for a new drug (IND), a new drug application (NDA), and an antibiotic Form 5 or 6. The guideline also provides information about how DMF's are classified and recommends ways to prepare a DMF to ensure that the information submitted to the agency meets the requirements of the regulations.

ADDRESS: Written comments to the Hearing Clerk (HFA-305), Food and Drug Administration, Rm. 4-65, 5600 Fishers Lane, Rockville, MD 20857.

FOR FURTHER INFORMATION CONTACT: Harold Krcma, Bureau of Drugs (HFD-102), Food and Drug Administration, Department of Health, Education, and Welfare, 5600 Fishers Lane, Rockville, MD 20857, 301-443-4330.

SUPPLEMENTARY INFORMATION: The Food and Drug Administration (FDA) announces the availability of "Guidelines for Drug Master Files," prepared by the Bureau of Drugs, which provides information on how DMF's are classified and describes a format for DMF's submitted in support of a notice of claimed investigational exemption for a new drug (21 CFR Part 312), a new drug application (21 CFR Part 314), and an antibiotic Form 5 or 6 (21 CFR Parts 430 through 460). The guideline will help interested persons prepare DMF's so that the information submitted to the agency will meet the requirements of the regulations.

A DMF is a compilation of information about a specific facility, process, or article used in manufacturing, processing, packaging, or holding a substance that is the subject of a notice of claimed investigational exemption for a new drug, a new drug application, or an antibiotic Form 5 or 6. DMF's are currently subject to certain regulatory provisions (21 CFR 314.11) regarding their confidentiality. A DMF is submitted to FDA by a holder and is maintained by the agency. It is not, however, a substitute for an IND, an NDA, or an antibiotic Form 5 or 6.

A DMF is used when the DMF holder wants to incorporate by reference the content of the DMF to support a current application, or when a drug applicant/sponsor who is not the DMF holder receives proper authorization from the holder to incorporate by reference the content of the holder's master file to support an application, notice, or form. Because the information contained in a DMF may be used to support various submissions, a DMF must be well organized and coherent. The guideline is intended to assist persons submitting DMF's to the agency to meet these objectives.

The agency plans to review this guideline approximately every 2 years in the absence of specific requests that it do so or other circumstances warranting review.

This notice of availability is issued under § 10.90(b) [21 CFR 10.90(b)], which provides for the use of guidelines to establish procedures of general applicability that are not legal requirements but are acceptable to the agency. A person who follows a guideline is assured that his or her conduct will be acceptable to the agency. A person may also choose to use alternative procedures even though they are not provided for in the guideline. A person who chooses to do so may discuss the matter further with the agency to prevent expenditure of money and effort for work that the agency may later determine to be unacceptable. If a person chooses to depart from a guideline, he or she may discuss the matter further with the agency to prevent such expenditure.

The guideline is available for public examination between 9 a.m. and 4 p.m., Monday through Friday, in the office of the Hearing Clerk (address below). Copies of the guideline can be purchased from the Superintendent of Documents, U.S. Government Printing Office (GPO), Washington, D.C. 20402, for $1.00 per copy. Orders for copies should include the GPO stock number, 017-012-00270-6.

Interested persons may submit written comments on the guidleine to the Hearing Clerk (HFA-305), Food and Drug Administration, Rm. 4-65, 5600 Fishers Lane, Rockville, MD 20857. Such comments will be considered in determining whether further amendments to or revisions of the guideline are warranted. Comments should be in four copies (except that individuals may submit single copies), identified with the Hearing Clerk docket number found in brackets in the heading of this document. The guideline and received comments may be seen in the Hearing Clerk's office between 9 a.m. and 4 p.m., Monday through Friday.

Dated: May 11, 1979.

William F. Randolph,

Acting Associate Commissioner for Regulatory Affairs.

[FR Doc. 79-15489 Filed 5-17-79; 8:45 am]

BILLING CODE 4110-03-M

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[Docket No. 79N-0134]

Leukapheresis and Donor Safety Workshop; Public Meeting

AGENCY: Food and Drug Administration.

ACTION: Notice.

SUMMARY: The agency announces that a public meeting will be held to discuss centrifugal leukapheresis procedures and their relationship to donor safety. A discussion panel will answer questions regarding the safety and protection of leukocyte donors.

MEETING DATE: June 4, 1979.

ADDRESS: The meeting will be held in Rm. 115, Bldg. 29, Bureau of Biologics, 8800 Rockville Pike, Bethesda, MD 20205.

FOR FURTHER INFORMATION CONTACT: John Edgar French, Bureau of Biologics (HFB-210), Food and Drug Administration, Department of Health, Education, and Welfare, 8800 Rockville Pike, Bethesda, MD 20205, 301-496-2577.

SUPPLEMENTARY INFORMATION: Centrifugal leukapheresis is the separation of leukocytes by centrifugation from whole blood with the leukocyte-poor blood returned to the donor during the procedure. Leukapheresis is an experimental procedure under development and is known to carry some risk to the leukocyte donor. The agency's Bureau of Biologics will hold a public meeting so that interested persons may present current information on centrifugal leukapheresis procedures employing steroids and sedimenting agents and their relationship to donor safety. Summaries of recent adverse reaction reports will be presented. A discussion panel will answer questions concerning donor safety.

The workshop will be held from 8:30 a.m. to 4 p.m., June 4, 1979, in Rm. 115, Bldg. 29, Bureau of Biologics, 8800 Rockville Pike, Bethesda, MD 20205. Persons planning to attend must contact John Edgar French, Bureau of Biologics (address above), by May 28, 1979.

Dated: May 10, 1979.

William F. Randolph,

Acting Associate Commissioner for Regulatory Affairs.

[FR Doc. 79-15178 Filed 5-17-79; 8:45 am]

BILLING CODE 4110-03-M

[FDA-225-79-4009]

Oysters, Clams, and Mussels; Memorandum of Understanding With Mexico

AGENCY: Food and Drug Administration.

ACTION: Notice.

SUMMARY: The Food and Drug Administration (FDA) has executed a memorandum of understanding with the Secretariat of Health and Welfare, United States of Mexico. The purpose of the understanding is to set forth cooperative working arrangements regarding fresh and frozen oysters, clams, and mussels exported to the United States of America.

DATES: The agreement became effective March 7, 1979.

FOR FURTHER INFORMATION CONTACT: Gary Dykstra, Compliance Coordination and Policy Staff (HFC-13), Food and Drug Administration, Department of Health, Education, and Welfare, 5600 Fishers Lane, Rockville, MD 20857, 301-443-3470.

SUPPLEMENTARY INFORMATION: Pursuant to the notice published in the **Federal Register** of October 3, 1974 (39 FR 35697) stating that future memoranda of understanding and agreements between FDA and others would be published in the **Federal Register** (See 21 CFR 20.108(c)), the agency is publishing the following memorandum of understanding:

Memorandum of Understanding To Control the Sanitary Quality of Fresh or Fresh Frozen Bivalve Mollusca Destined for Exportation to the United States of America

Between the Food and Drug Administration, Department of Health, Education, and Welfare, United States of America, and the Secretariat of Health and Welfare of the United States of Mexico

The Secretariat of Health and Welfare of the United States of Mexico (SSA) and the Food and Drug Administration (FDA) of the Department of Health, Education and Welfare of the United States of America affirm by this document their intention to cooperate in assuring that fresh and fresh frozen oysters, clams and mussels exported to the United States of America are safe, wholesome and have been harvested, transported, processed and labeled in accordance with the provisions of the National Shellfish Sanitation Program (NSSP) and requirements of the Federal Food, Drug, and Cosmetic Act of the United States of America.

I. *Terms*

For purposes of this Memorandum, both parties agree to the following definitions:

Lot—A number of shellfish from no more than one day's harvest, from a single growing area, produced under conditions as nearly uniform as possible, placed in a collection of primary containers or units of the same size, type and style, and identified by a common container code or marking.

Central file—The location where shellfish control program information, data, and reports are stored and maintained.

Shellfish—All edible species of molluscan bivalves except scallop species from the family Pectinidae. Only shellfish that are offered for entry into the United States of America as fresh or fresh frozen products are covered under this Memorandum of Understanding.

Marine biotoxins—Natural toxins produced by marine dinoflagellates such as *Gonyaulax catenella, Gonyaulax tamarensis,* and *Gymnodinium breve* and concentrated by shellfish during the feeding process.

II. *Food and Drug Administration and the Secretariat of Health and Welfare*

A. Both parties agree to provide information concerning proposed changes in the following:

1. Methods and procedures for sampling.
2. Methods of analysis.
3. Methods of confirmation.
4. Administrative guidelines, tolerances, specification standards and nomenclature.
5. Reference standards.
6. Inspectional procedures.

B. Both parties agree to inform each other on a timely basis of the fundamentals of the following:

1. Proposed modification of existing Federal or local regulations.
2. Proposed new Federal regulations.
3. Proposed new legislation.
4. Proposed modifications to the national shellfish sanitation programs.

C. Both parties agree to name a liaison officer who will coordinate all operational matters relating to this Memorandum. The liaison officers will be responsible for facilitating exchanges of information and expeditiously informing other interested parties within their respective countries on shellfish control problems requiring prompt attention. Each party agrees to provide notification of any changes in liaison officer appointments. Such notification shall constitute a formality and does not require a revision of this agreement.

The Secretariat of Health and Welfare liaison officer is the *C. Director General de Coordinacion y Control Ambiental.*

The Food and Drug Administration liaison officer is the *Director, Mexican Liaison Staff.*

D. Both parties agree that the language used for the documents which are interchanged within this Memorandum is that of the country of origin, accompanied by a first (rough) draft translation in the language of the country [to which] it is destined.

III. *The Secretariat of Health and Welfare agrees To:*

A. Classify its shellfish harvesting waters in accordance with the procedures and standards set forth in the NSSP.

B. Assure that only shellfish harvested from areas which meet NSSP approved water quality and marine biotoxin standards and processed according to NSSP guidelines will be exported to the United States of America.

C. Inspect the harvesting, transporting and processing of shellfish at sufficient frequency to assure compliance with NSSP sanitary control practices.

D. Issue sanitation quality certificates for harvesting areas, only to those shellfish exporting firms and cooperatives that comply with NSSP recommended practices and to notify FDA of the name, location and certification number of these firms or cooperatives on Form FD-3038b "Shellfish Certification". To cancel a firm's certification, the SSA will send a completed Form FD-3038c "Certification Cancellation" to FDA.

E. Require that all containers or units of all lots of shellfish exported to the United States of America be identified by lot number and certification number, together with all other information required by the U.S. Federal Food, Drug and Cosmetic Act.

F. Invite technical observers of the FDA to visit the firms or cooperatives which have certificates, as well as the shellfish growing areas. Such visits will be made on an annual basis or at a frequency deemed appropriate by both parties to observe the operation of the Mexican Bivalve Mollusca Sanitation Program.

G. Make travel arrangements for the FDA technical observers and provide the necessary facilities for carrying out their observations within Mexico.

H. Participate in FDA's laboratory quality assurance programs.

These include:

1. Participation in the analysis of split samples of:

a. Seawater or shellfish meats to determine indicator bacteria or pathogens.

b. Shellfish meats to determine heavy metals and other chemical or radionuclide substances as may be deemed necessary.

2. The evaluation of new methods and procedures, including reagents, media, or other materials as well as instruments and equipment performance.

I. The establishment of a central office that will maintain a central file of laboratory results, including routine monitoring data and data from quality assurance programs. Standard formats for collecting and reporting data should be used and these will be printed in English and Spanish.

J. Promulgation and enforcement of sanitation laws and regulations governing the growing, harvesting, processing and shipment of shellfish to the United States of America are the sole responsibility of the SSA.

IV. *Food and Drug Administration (FDA) Agrees To:*

A. Publish the names, locations and certification numbers of firms or cooperatives submitted by the SSA. These will appear in the monthly INTERSTATE CERTIFIED SHELLFISH SHIPPERS LIST.

B. Upon request of the SSA, the FDA will provide training to technical personnel on administrative procedures, inspection and laboratory procedures, and classification of shellfish growing areas.

C. Whenever shellfish are detained by FDA due to noncompliance with recommended NSSP practices, FDA will inform SSA of the reason or reasons for the detention.

This information includes:

1. Commodity, lot and certification number.
2. Name and address of the shipper.
3. Reason for the detention.
4. Sampling procedure.
5. Methods of analysis and confirmation.
6. Administrative procedures.

D. FDA agrees to make travel arrangements for, and pay round trip transportation expenses of, its observation team between the United States of America and Mexico. FDA will also pay all per diem of the observation team.

V. *National Shellfish Sanitation Program (NSSP) of the United States of America*

The SSA may participate in workshops of the United States of America, cooperative research programs, seminars, training courses and other activities designed for the timely interchange of technical information, assistance and joint resolution of problems confronting the NSSP. The SSA may participate in a joint evaluation of the United States of America's program as it pertains to shellfish imports from Mexico.

The SSA may also:

A. Make recommendations for changes and improvements in NSSP procedures, methods and standards.

B. Be advised by FDA in case of questions by state or local food control officials regarding the certification, safety and wholesomeness of shellfish imported from Mexico. FDA will, if so requested, seek to determine the reason for the problem and inform the SSA of any action taken relative to United States of America state and local laws governing such shellfish imports.

This document will become effective on the date it is signed by both parties and shall remain in effect until one of the parties gives 60 days notice to the other of its intention to terminate or modify it.

In witness whereof, both parties sign this Memorandum of Understanding in the City of Mexico, on the 7th day of the month of March of 1979.

For the SSA, Mexico:

Ing. Humberto Romero Alvarez,

Subsecretario de Mejoramiento del Ambiente.

Dr. Ramon Alvarez Gutierrez,

Director General de Asuntos Internacionales.

For the FDA, United States of America

Sherwin Gardner,

Deputy Commissioner.

Effective date. This Memorandum of Understanding became effective March 7, 1979.

Dated: May 10, 1979.

Joseph P. Hile,

Associate Commissioner for Regulatory Affairs.

[FR Doc. 79-15488 Filed 5-17-79; 8:45 am]

BILLING CODE 4110-03-M

Office of Education

Community Education Advisory Council Meeting

AGENCY: Office of Education, HEW, Community Education Advisory Council

ACTION: This notice sets forth the schedule and proposed agenda of the forthcoming meeting of the Community Education Advisory Council. It also describes the functions of the Council. Notice of these meetings is required under section 10(a)(2) of the Federal Advisory Committee Act, Pub. L. 92-634. This document is intended to notify the general public of their opportunity to attend.

DATES: Meeting: June 7 and 8, 1979.

ADDRESS: U.S. Office of Education, 400 Maryland Avenue, Federal Office Building No. Six, Room 4003, Washington, D.C. 20202.

FOR FURTHER INFORMATION CONTACT: Margaret Beavan, Office of Education, Department of Health, Education, and Welfare, Regional Office Building No. Three, Room 5622, 7th and D Streets, S.W., Washington D.C. 20202, Telephone: (202) 245-0691.

SUPPLEMENTARY INFORMATION: The Community Education Advisory Council is authorized under Pub. L. 93-380. The Council is established to advise the Commissioner of Education on policy matters relating to the interest of community schools.

All sessions of this meeting will be open to the public. The meeting will begin each day at 9:00 a.m. and end at 4:30 p.m., and will be held in the Commissioner's Conference Room.

During their last meeting in Denver, Colorado on August 8 and 9, 1978, the Council devoted a large portion of time to a discussion of its mission and role and to long-range planning for Council activities. A priority goal emerging from the long-range planning was the establishment of linkages with other agencies, organizations and associations at the national, state, and local levels.

After the meeting in Denver, the terms of three members expired, leaving the Council without the necessary quorum for future meetings. Recently the Secretary of the Department of Health, Education, and Welfare, Joseph Califano, has made seven new

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appointments to the Council, thus allowing the continuation of full Council meetings.

A portion of time during this upcoming meeting will focus on orientation of these new members. A major portion of time also will be spent in the continuation of long-range planning for Council activities.

The proposed agenda includes:

(1) Installation ceremony for new members;

(2) Orientation activities;

(3) Discussion of Council mission/role and long-range planning for Council activities;

(4) Discussion of strategies for public comment on the new community education regulations;

(5) Planning for Council involvement in the Commissioner's School-Community-Home Initiative;

(6) Discussion of other administrative matters and related business; and,

(7) Planning for future meetings.

Records shall be kept of all Advisory Council proceedings and shall be available for public inspection in Room 5622, Regional Office Building No. Three, 7th and D Streets, S.W., Washington, D.C. 20202.

Signed at Washington, D.C. on May 15, 1979.

Julie Englund,

Director, Community Education Program.

[FR Doc. 79-15629 Filed 5-17-79; 8:45 am]

BILLING CODE 4110-02-M

Joint Funding Simplification Act; Applications Review Procedures

AGENCY: Office of Education, HEW.

ACTION: Notice of review procedures for applications under the Joint Funding Simplification Act.

SUMMARY: The Commissioner of Education gives notice of procedures for the review of applications under the Joint Funding Simplification Act. The procedures permit the submission of applications at any time without regard to the closing date notices for particular programs. The procedures are designed to facilitate joint applications and to ensure that joint applications are funded only if they are competitive with other applications under the programs from which they request assistance.

EFFECTIVE DATE: These provisions are expected to take effect 45 days after their transmission to the Congress. They were transmitted to the Congress several days before their publication in the **Federal Register.** The effective date is changed by statute if the Congress disapproves the provisions or takes certain adjournments. If you want to know the effective date of these provisions, call or write the Office of Education contact person.

FOR FURTHER INFORMATION CONTACT:

Mr. Charles Hansen, Executive Assistant to the Executive Deputy Commissioner for Educational Programs, Room 4015, 400 Maryland Avenue, SW., Washington, D.C. 20202. Telephone: (202) 245-8011.

SUPPLEMENTARY INFORMATION: 1. *Purpose.* This notice establishes procedures for the submission and review of preapplications and applications for Office of Education grants awarded under the Joint Funding Simplification Act of 1974 (Pub. L. 93-510). It supplements requirements and guidance contained in OMB Circular No. A-111 on how to submit a joint application.

The Act enables State and local governments or nonprofit private organizations to seek Federal funds from more than one program or agency source in a single application. It simplifies administration of a jointly awarded grant by providing for designation of a single Federal agency to act as liaison with the applicant or grantee. The Act authorizes joint funding of an application only if—

(a) A relationship exists—"through a commonality of purpose or ability to support a single goal or closely related goals"—among the programs from which funds are sought; and

(b) The specific activities to be supported are part of an overall strategy to achieve a common stated objective "consistent with the functional purposes of the applicant organization, and the general intent of the specific assistance programs requested." (Attachment B of OMB Circular No. A-111)

2. *Scope.* (a) This notice applies to the review by the Office of Education of preapplications and applications that seek joint funding of a grant from (1) an Office of Education program and (2) one or more other Office of Education programs, one or more other Federal agencies, one or more State agencies, or a combination of these programs or agencies.

(b) This notice applies only to the review of preapplications or applications for joint funding by the Office of Education for the purpose of determining whether programs in which it awards discretionary grants will participate in funding the joint project. These programs are listed in 45 CFR 100a.10.

(c) This notice does not apply to the review by State agencies of joint applications that seek subgrants under State-administered programs funded by the Office of Education.

(d) The provisions of this notice eventually will be made part of the final version of the Education Division General Administrative Regulations (EDGAR), which will replace the General Provisions for Office of Education Programs regulations. The Commissioner expects that this will occur in Fiscal Year 1980.

3. *Definitions.* as used in this notice—

(a) "Act" means the Joint Funding Simplification Act of 1974 (Pub. L. 93-510); and

(b) "Commissioner" means the U.S. Commissioner of Education or an employee of the Office of Education to whom the Commissioner delegates authority.

4. *Submission of preapplications and applications.* (a) Applicants that seek assistance for a jointly funded project from the Office of Education shall comply with all of the requirements in OMB Circular No. A-111 concerning preapplications and applications. That circular was published in the **Federal Register** on July 30, 1976 (41 FR 32040). Copies may be obtained by writing to the Office of Education's contact person whose name appears in this notice.

(b) Notwithstanding any published closing dates applicable to a program from which funding is sought for a jointly funded project, the Commissioner accepts preapplications and applications under the Act at any time.

(c) However, the Commissioner encourages an applicant for joint funding to submit its preapplication *prior to* or at the beginning of the fiscal year in which it seeks to have a grant awarded to it. If it does not do so, it may find that funds under Office of Education programs that might have supported its project have already been expended for other projects. The Commissioner does not reserve any program funds for joint projects.

5. *Review of preapplications and applications.* With regard to a preapplication or application subject to this notice, the Commissioner uses the following reviaw procedures, in addition to those specified in Attachments A and B of OMB Circular No. A-111:

(a) The Commissioner assembles a board to review the preapplication or application.

(b)(1) The board consists of—

(i) An Office of Education program officer from each program under which the applicant seeks assistance;

(ii) An Office of Education employee who does not work for any of these programs, but who is well qualified to review the preapplication or application; and

(iii) An Office of Education grants officer.

(2) The board may also include outside application readers who are knowledgeable about the programs from which funds are requested.

(c)(1) The board reviews the preapplication or application under the review criteria in OMB Circular No. A-111, Attachment A, Paragraph 5.

(2) In applying the criterion under paragraph 5a.(3) of attachment A (concerning the competitiveness of the proposed project with other applications), the board—

(i) Rates the preapplication or application under the published evaluation criteria for each OE program from which funds are requested; and

(ii) Compares the proposed project's rating with the ratings of any other pending applications for that program and with the ratings of projects funded by that program in the last grant competition.

(3) The board also reviews the preapplication or application to decide whether assisting the proposed project will have an adverse impact on the budget of the program.

(d) The board forwards the results of its review to the Commissioner.

(e) The Commissioner considers the board's results and decides, as appropriate at the preapplication or application stage, whether the project merits joint funding and which programs will fund it.

6. *Duration of jointly funded project.* (a) Notwithstanding any restrictions in particular program regulations on the duration of projects, the Commissioner may fund projects under the Act for a period of up to five years.

(b) Grants to continue a project are made on a non-competitive basis, subject to the availability of appropriations and a review showing that the applicant has made significant progress toward meeting the stated objectives.

(c) During the third quarter of each fiscal year for which an award has been made, the Commissioner assesses the applicant's progress toward meeting the stated objectives.

(d) In cooperation with any other participating Federal agencies, the Commissioner determines the frequency and scope of reports necessary to assure proper monitoring of the grant.

(20 U.S.C. 1221e-3(a)(1); 47 U.S.C. 4251-61)

Dated: March 23, 1979.

Ernest E. Boyer,

U.S. Commissioner of Education.

Approved: May 13, 1979.

Hale Champion,

Acting Secretary of Health, Education, and Welfare.

[FR Doc. 79-15563 Filed 5-17-79; 8:45 am]

BILLING CODE 4110-02-M

National Advisory Council on Extension and Continuing Education; Meeting

AGENCY: National advisory Council on Extension and Continuing Education.

ACTION: Notice of meeting.

SUMMARY: This notice sets forth the schedule and proposed agenda of a meeting of the National Advisory Council on Extension and Continuing Education. It also describes the functions of the Council. Notice of the meeting is required under the Federal Advisory Committee Act (5 U.S.C., Appendix 1, 10(a)(2). This document is intended to notify the general public of their opportunity to attend the meeting.

DATE: June 13, 14, and 15, 1979.

ADDRESS: The Denver Hilton Hotel, 1550 Court Place, Denver, Colorado.

FOR FURTHER INFORMATION: William G. Shannon, Executive Director, National Advisory Council on Extension and Continuing Education, 425 Thirteenth Street, N.W., Suite 529, Washington, D.C. 20004, Telephone: (202) 376-8888.

The National Advisory Council on Extension and Continuing Education is authorized under Public Law 89-329. The Council is required to report annually to the President, the Congress, the Secretary of HEW, and the Commissioner of Education in the preparation of general regulations and with respect to policy matters arising in the administration of Part A of Title I (HEA) including policies and procedures governing the approval of State plans under section 105; and to advise the Assistant Secretary of HEW on Part B (Lifelong Learning activities) of the title. The Council is required to review the administration and effectiveness of all Federally supported extension and continuing education programs.

The meetings of the Council are open to the public. However, those who are interested in attending any meeting are asked to call the Council's office beforehand. Limited seats will be assigned on a first-come basis.

The Council's meeting will begin on June 13, 1979 at 6:30 p.m., recessing at 9:00 p.m. It will resume on June 14 at 9:00 a.m., recessing at 5:00 p.m., and continue on June 15 at 9:00 a.m., adjourning at 12:30 p.m.

The agenda for the meeting will include the following items:

1. Report of the Chairperson
2. Report of the Executive Director
3. Approval of Minutes of Previous Council Meeting
4. Budget Review
5. Federal/State Relations
6. Report of International Committee
7. Evaluation of Federal Title I (HEA) administration
8. The Council's Special Report to the President and Congress
9. Current Legislative Developments
10. Future Council Activities

All records of the Council proceedings are available for public inspection at the Council's staff office, located in Suite 529, 425 Thirteenth Street, N.W., Washington, D.C.

Dated: May 11, 1979.

William G. Shannon,

Executive Director.

[FR Doc. 79-15571 Filed 5-17-79; 8:45 am]

BILLING CODE 4110-02-M

DEPARTMENT OF THE INTERIOR

Bureau of Land Management

[AA-6667-A through AA-6667-C]

Alaska Native Claims Selection

On July 4, 1974, Sta-Keh Corporation, for the Native village of Gulkana, filed selection application AA-6667-A, on November 29, 1974, filed selection application AA-6667-B and on December 4, 1974, filed selection application AA-6667-C under the provisions of Sec. 12 of the Alaska Native Claims Settlement Act of December 18, 1971 (85 Stat. 688, 701; 43 U.S.C. 1601, 1611 (1976)) (ANCSA), for the surface estate of certain lands in the vicinity of Gulkana and Gakona.

The village corporation selected lands which were withdrawn by Secs. 11(a)(1) and 11(a)(2) of ANCSA. Section 11(a)(2) specifically withdrew, subject to valid existing rights, all lands within the townships withdrawn by Sec. 11(a)(1) that had been selected by, or tentatively approved to, but not yet patented to the State of Alaska under the Alaska Statehood Act of July 7, 1958 (72 Stat. 339, 340; 48 U.S.C. Ch. 2, Sec. 6 (1976)).

Section 12(a)(1) of ANCSA provides that village selections shall be made from lands withdrawn by Sec. 11(a). Section 12(a)(1) further provides that no village may select more than 69,120 acres from lands withdrawn by Sec. 11(a)(2).

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The lands described below are State selected and, in part, tentatively approved lands which have been properly selected under village selection applications AA–6667–A, AA–6667–B or AA–6667–C. Accordingly, the tentative approvals given June 9, 1964 and November 26, 1965 are hereby rescinded and State selection application A–056792 rejected as to the following described lands:

Copper River Meridian, Alaska (Surveyed)

T. 5 N., R. 1 W.
Sec. 20, SE¼SE¼SW¼NE¼, S½NE¼ SE¼NE¼, E½SW¾SE¼NE¼, SW¼SW¼SE¼NE¼, SE¼SE¼NE¼, SW¼SE¼NE¼SW¼, E½SE¼, NE¼Nw¼SE¼, S½NW¼NW¼SE¼, S½NW¼SE¼;
Sec. 29, E½, S½NE¼NW¼, E½NW¼ NW¼, E½W½SW¼NW¼, E¼SW¼ NW¼,SE¼NW¼;
Sec. 32, NE¼, E½SE¼;
Those portions of Tract A more particularly described as: (protracted)
Secs. 3, 4, 5, 6, 7, 8, 9, 10, 15, 16, all;
Sec. 17, excluding Native allotment application AA–7068;
Sec. 18, all;
Secs. 21, 22, 27, 28, 33, all.

Containing approximately 11,033 acres.

This includes approximately 6,351 acres which were tentatively approved to the State on June 9, 1964 or November 26, 1965.

Community grant State selection application A–061160 filed March 12, 1964, pursuant to Sec. 6(a) of the Statehood Act is rejected as to the following lands which were also properly selected by Sta-Keh Corporation:

Copper River Meridian, Alaska (Surveyed)

T. 6 N., R. 1 W.
Sec. 14, Lots 1, 2, 3, 4, 5, 6, 7, 8, 9, 10, 11, 12, and 13, N½NE¼, SW¼NE¼, N½SE¼NE¼, W½SW¼NE¼SE¼, W½SE¼, N½SE¼SE¼, N½S½ SE¼SE¼.

Containing approximately 496 acres.

On December 16, 1968, the State filed general purposes grant selection application AA–4790, and on January 3, 1969, filed general purposes grant selection applications AA–5445, AA–5446 and AA–5448. These selection applications are also rejected as to the lands selected by 8 Gulkana. Public Land Order 4582, dated January 17, 1969, withdrew "all public lands in Alaska which are unreserved or which would otherwise become unreserved . . . from all forms of appropriation and disposition under the public land laws . . . including selection by the State of Alaska pursuant to the Alaska Statehood Act (72 Stat. 339). . . ." This reservation became effective prior to the date the selection applications were filed, when the telegram notifying the Alaska State Office of the proposed withdrawal was received on December 12, 1968, and the records were noted.

Paragraph 4 of PLO 4582 permitted the State to complete its selection of lands "which at the time of such filing were embraced in leases, licenses, permits, or contracts issued pursuant to the Mineral Leasing Act of 1920 or the Alaska Coal Leasing Act of 1914. . . ."

As there were oil and gas leases on the lands described below when the State selection applications were filed, the selections were valid as to these lands, and the acreage contained therein will also count against the 69,120 acres permitted by Sec. 12(a)(1) of ANCSA:

Copper River Meridian, Alaska (Surveyed)

State Selection AA–5448

U.S. Survey 4861, Tr. A, Tr. B and Tr. C.
Containing 346.26 acres.

T. 6 N., R. 1 W.
Sec. 1, all;
Sec. 2, Lots 1, 2, 7, 9, 10, 14, S½NE¼, N½SE¼, N½SW¼SE¼;
Sec. 3, lying West of East bank of the Gulkana River;
Sec. 10, all;
Sec. 11, Lots 3, 6, 9, 10, 11, 12, 13, 14, W½SW¼, E½SE¼;
Sec. 12, all;
Sec. 13, N½, SE¼, N½NE¼SW¼, SE¼NE¼SW¼, NE¼SE¼SW¼, and all of W½SW¼NE¼SW¼, E½W½SW¼, S½NW¼SW¼SW¼, SW¼SW¼SW¼, W½SE¼SW¼, excluding trade and manufacturing site A–054480.
Sec. 15, all;
Sec. 23, Lots 2, 3, 7, E½E½E½NW¼NE¼, S½NE¼SE¼NE¼, S½NW¼, NW¼NE¼SW¼, S½NE¼SW¼, NW¼SW¼, N½S½SW¼, SW¼SW¼SW¼, N½SE¼SW¼SW¼, N½S½SE¼SW¼, SW¼SW¼SE¼ SW¼, S½N½NE¼SE¼, S½NE¼SE¼, S½NE¼NW¼SE¼, S½NW¼SE¼, N½SW¼SE¼, N½SW¼SW¼SE¼, SE¼SW¼SE¼, SE¼SE¼;
Sec. 24, Lots 2, 4, 5, N½NW¼NW¼ excluding trade and manufacturing site A–054480, SW¼NW¼SW¼, and lands lying East of the Copper River;
Sec. 26, Lot 1, NE¼NE¼, E½NW¼NE¼, E½NE¼NW¼NW¼, N½NW¼ NW¼NW¼, SE¼NW¼NW¼, N½NE¼ SW¼NW¼;
Sec. 33, Lots 1, 3, S½NE¼NE¼, W½NE¼, SE¼NE¼, W¼, N½SE¼, SW¼SE¼;
Sec. 34, Lots 1, 2, 3, 4, 5, 6, 7, 8, 11, 12, 13, 14, SE¼NE¼NE¼NW¼, E½SW¼ NE¼NW¼, SE¼NE¼NW¼, W½NW¼NW¼, NW¼SW¼NW¼, W½SW¼SW¼NW¼, N½SE¼NW¼, N½SE¼, SW¼SE¼;
Sec. 35, all.

Containing approximately 6,556 acres.

State Selection AA–5447

T. 6 N., R. 2 W. (Protracted)
Secs. 11, 12, 13, 14, 15, 16, all.

Containing approximately 3,840 acres.

State Selection AA–5446

T. 7 N., R. 1 W.
Secs. 26 and 27, all;
Sec. 34, Lots 1, 2, 3, 4, and all lands lying West of East bank of Gulkana River;
Sec. 35, E½, E½W½, W½NW¼, NW¼SW¼.

Containing approximately 2,474 acres.

The total amount of lands within valid State selections herein rejected to permit conveyance to Sta-Keh Corporation is approximately 24,745 acres which is less than the 69,120 acres permitted by Sec. 12(a)(1) of ANCSA.

There were no mineral leases, etc., on the lands described below when the State applications were filed, so none of these lands were available for State selection. The following State selection applications are therefore rejected, but this acreage will not count against the 69,120 acres permitted by Sec. 12(a)(1) of ANCSA:

Copper River Meridan, Alaska (Surveyed)

State Selection AA–4790

T. 5 N., R. 2 W. (protracted),
Secs. 1, 2, 11, 12, 13, 14, 23, 24, all;
Sec. 25, excluding Native allotment application AA–5929.

Containing approximately 5,723 acres.

State Selection A–5448

T. 6 N., R. 1 W.
Secs. 4, 5, 6, 7, 8, 9, 16, 17, 18, 19, all;
Sec. 20, excluding Native allotment application AA–6231;
Secs. 21, 22, 25, all;
Sec. 27, Lots 2, 3, 4, 6, 19, 11, W½NW¼, N½NW¼SW¼, SE¼NW¼SW¼, NE¼SW¼SW¼, N½NE¼SE¼SW¼, NW¼SE¼SW¼;
Sec. 28, N½, SW¼, NW¼NW¼NW¼, SE¼, SW¼NW¼SE¼, W½SW¾SE¼;
Secs. 29, 30, 31, 32, 36, all.

Containing approximately 12,545 acres.

State Selection AA–5446

T. 7 N., R. 1 W.,
Sec. 3, Lots 1, 2, 3, 4, 5, 6, SE¼NE¼, SE¼SW¼, NE¼SE¼, S½SE½;
Sec. 4, all;
Secs. 7, 8, 9, 10, 11, all;
Sec. 14, E½, E½E½NW¼, SW¼;
Sec. 15, W½E½NE¼, W½NE¼, NW¼, S½;
Secs. 21, 22, 23, 28, 29, 30, 31, 32, 33, all.

Containing approximately 11,083 acres.

State Selection AA–5445

T. 7 N., R. 2 W. (protracted),
Secs. 12, 13, 25, 26, 35, 36, all.

Containing approximately 3,840 acres.

The invalid State selection applications rejected above aggregate approximately 33,191 acres.

Lands Proper for Village Selection

As to the lands described below, the applications, as amended, are properly filed and meet the requirements of the Alaska Native Claims Settlement Act and of the regulations issued pursuant thereto. These lands do not include any lawful entry perfected under or being maintained in compliance with laws leading to acquisition of title.

In view of the foregoing, the surface estate of the following described lands, selected pursuant to Sec. 12(a) of ANCSA, aggregating approximately 79,785 acres, is considered proper for acquisition by Sta-Keh Corporation and is hereby approved for conveyance pursuant to Sec. 14(a) of ANCSA:

U.S. Survey 3672, Lot 2, situated at the northerly end of Ewan Lake approximately 30 miles north of Glennallen, Alaska.

Containing 0.10 acres.

U.S. Survey 4861, Tr. A, Tr. B and Tr. C, situated at the village of Gulkana, Alaska.

Containing 346.26 acres.

Copper River Meridian, Alaska (Surveyed)

T. 5 N., R. 1 W.,
Sec. 19, N½NE¼SE¼;
Sec. 20, SE¼SE¼SW¼NE¼, S½NE¼ SE¼NE¼, E¼SW¼SE¼NE¼, SW¼SW¼SE¼NE¼, SE¼SE¼NE¼, SW¼SE¼NE¼SW¼, E½SE¼ NE¼SW¼, N½NW¼SW¼, E½SE¼, NE¼NW¼SE¼, S½NW¼NW¼SE¼, S½NW¼SE¼, SW¼SE¼;
Sec. 29, E½, S½NE¼NW¼, E½NW¼ NW¼, E½W½SW¼NW¼, E¼SW¼NW¼, SE¼NW¼;
Sec. 32, NE¼, E½SE¼.

Containing 897.50 acres.

T. 6 N., R. 1 W.,
Sec. 1 Lots 1, 2, 3, 4, S½N½, S½;
Sec. 2, Lots 1, 2, 7, 9, 10, 14, S½NE¼, N½SE¼, N½SW¼SE¼;
Sec. 11, Lots 3, 6, 9, 10, 11, 12, 13, 14, W½SW½, E½SE¼;
Sec. 12, all;
Sec. 13, Lots 1, 2, 3, 4, 5, N½, N½NE¼ SW¼, SE¼NE¼SW¼, NE¼SE¼SW¼, N½NW¼SE¼;
Sec. 14, Lots 1, 2, 3, 4, 5, 6, 7, 8, 9, 10, 11, 12, 13, N½NE¼, SW¼NE¼, N½SE¼NE¼, W½SW¼NE¼SE¼, W½SE¼, N½SE¼SE¼, N½S½SE¼SE¼;
Sec. 22, Lots 1, 2, 3, 4, and 5;
Sec. 23, Lots 2, 3, 7, S½NE¼SE¼NE¼, E½E½E½NW¼NE¼, S½NW¼, NW¼NE¼SW¼, S½NE¼SW¼, NW¼SW¼, N½S½SW¼, SW¼SW¼SW¼, N½SE¼SW¼SW¼, N½S½SE¼SW¼, SW¼SW¼SE¹ ⁄₄SW¼, S½N½NE¼SE¼, S½N½SE¼, S½NE¼NW¼SE¼, N½SW¼SE¼, N½SW¼SW¼SE¼, SE¼SW¼SE¼, SE¼SE¼;
Sec. 24, Lots 2, 4, 5, SW¼NW¼SW¼;
Sec. 25, Lots 1 and 2;
Sec. 26, Lot 1, NE¼NE¼, E½NW¼NE¼, E¼NE¼NW¼NW¼, N½NW¼NW¼ NW¼, SE¼NW¼NW¼, N½NE¼ SW¼NW¼;
Sec. 27, Lots 2, 3, 4, 8, 10, 11, W½NW¼, N½NW¼SW¼, SE¼NW¼SW¼, NE¼SW¼SW¼, N½NE¼SE¼SW¼, NW¼SE¼SW¼;
Sec. 28, N½, SW¼, NW¼NW¼NW¼ SE¼, SW¼NW¼SE¼, W½SW¼SE¼;
Sec. 33, Lots 1 and 3, S½NE¼NE¼, NW¼NE¼, S½NE¼, W½, NE¼SE¼, W½SE¼;
Sec. 34, Lots 1, 2, 3, 4, 5, 6, 7, 8, 11, 12, 13, 14, SE¼NE¼NE¼NW¼, E½SW¼ NE¼NW¼, SE¼NE¼NW¼, W½NW¼NW¼, NW¼SW¼NW¼, W½SW¼SW¼NW¼, N½SE¼NW¼, N½SE¼, SW¼SE¼;
Sec. 35, Lots 1, 2, 3, and 4.

Containing 5,517.76 acres.

T. 7 N., R. 1 W.,
Sec. 3, Lots 1, 2, 3, 4, 5, 6, SE¼NE¼, SE¼SW¼, NE¼SE¼, S½SE¼;
Sec. 4, Lots 1, 2, 3, 4, 5, 6, and 7;
Sec. 10, Lots 1, 2, 3, 4, 5, E½, E½NW¼;
Sec. 11, Lots 1, 2, 3, S½NE¼, W½, SE¼;
Sec. 14, Lots 1, 2, E½, E½E½NW¼, N½SW¼;
Sec. 15, Lots 1, 2, 3, 4, 5, 6, and 7;
Sec. 22, Lots 1, 2, and 3;
Sec. 23, Lots 1, 2, 3, 4, 5, E½, SE¼NW¼, E½SW¼;
Sec. 26, all;
Sec. 27, Lots 1, 2, 3, 4, 5, E½SE¼;
Sec. 34, Lots 1, 2, 3, and 4;
Sec. 35, E½, NW¼, N½SW¼, SE¼SW¼.

Containing 4,503.35 acres.

T. 8 N., R. 1 W.,
Sec. 5, Lots 1, 2, 3, 4, S½N½, S½;
Sec. 6, Lots 1, 2, 3, 4, 5, 6, 7, S½NE¼, SE¼NW¼, E½SW¼, SE¼;
Sec. 7, Lots 1, 2, 3, 4, 5, N½NE¼, SE¼NE¼, NE¼NW¼;
Sec. 8, Lot 1, E½, NW¼, N½SW¼, SE¼SW¼;
Sec. 9, all;
Sec. 16, Lots 1, 2, E½, N½NW¼, SW¼NW¼, E½SE¼NW¼, N½NW¼SE¼NW¼, SE¼NW¼ SE¼NW¼, E½SW¼SE¼NW¼, SW¼SW¼SE¼NW¼, E½SW¼;
Sec. 17, Lots 1, 2, 3, 4, 5, 6, 7, 8, NE¼NE¼;
Sec. 20, Lot 1;
Sec. 21, Lots 1, 2, 3, 4, NE¼, E½SE¼;
Sec. 28, Lots 1, 2, 3, 4, 5, E½SE¼;
Sec. 33, Lots 1, 2, 4, E½NE¼;
Sec. 34, N½, E½SW¼, SE¼.

Containing 5,192.89 acres.
Aggregating 16,457.76 acres.

Lands Requiring Additional Survey, Copper River Meridian, Alaska

T. 5 N., R. 1 W.,
Those portions of Tract "A" more particularly described as (protracted);
Sec. 3, excluding the Copper River;
Secs. 4, 5, 6, 7, 8, 9, all;
Secs. 10 and 15, excluding the Copper River;
Sec. 16, all;
Sec. 17, excluding Native allotment application AA–7068;
Sec. 18, all;
Secs. 21, 22, 27, all excluding the Copper River.
Sec. 28, all;
Sec. 33, excluding the Copper River.

The bed of the Gulkana River in Secs. 3, 4, 9, 10, 15.

Containing approximately 10,236 acres.

T. 5 N., R. 2 W.,
Those portions of the surveyed township more particularly described as (protracted);
Secs. 1, 2, 11, 12, 13, 14, 23, 24, all;
Sec. 25, excluding Native allotment application AA–5929.

Containing approximately 5,723 acres.

T. 6 N., R. 1 W.,
Sec. 13, W½SW¼NE¼SW¼, E½W½ SW¼, S½NW¼SW¼SW¼, SW½SW¼ SW¼, W½SE¼SW¼, all excluding trade and manufacturing site A–054480;
Sec. 24, N½NW¼NW¼ excluding trade and manufacturing site A–054480;
The bed of the Gulkana River in Secs. 2, 11, 14, 23, 33, and in Secs. 27 and 34 excluding U.S. Survey 4861;
Tract A, including the bed of the Gulkana River and excluding Native allotment application AA–6231;
Tract B, excluding the Copper River.

Containing approximately 14,364 acres.

T. 6 N., R. 2 W.,
Those portions of the surveyed township more particularly described as (protracted);
Secs. 11, 12, 13, 14, 15, 16, all.

Containing approximately 3,840 acres.

T. 7 N., R. 1 W.,
Sec. 11, that portion of the unnamed lake lying within surveyed section 11;
Those portions of Tr "A" more particularly described as (protracted);
Secs. 3, 4, lying West of East bank of Gulkana River;
Secs. 7, 8, all;
Secs. 9, 10, 14, 15, lying West of East bank of Gulkana River;
Sec. 21, all;
Secs. 22, 23, 27, lying West of East bank of Gulkana River;
Secs. 28, 29, 30, 31, 32, 33, all;
Sec. 34, lying West of East bank of Gulkana River.

Containing approximately 9,053 acres.

T. 7 N., R. 2 W.,
Those portions of surveyed township more particularly described as (protracted);
Secs. 12, 13, 25, 26, 35, 36, all.

Containing approximately 3,840 acres.
Aggregating approximately 47,658 acres.

Copper River Meridian, Alaska (Unsurveyed)

T. 8 N., R. 1 W.,
Secs. 4, 18, 19, 29, 30, 31, 32, all;
The unsurveyed land lying south and west of the East bank of the Gulkan River in Secs. 7, 8, 16, 17, 20, 33 and Secs. 21 and 28, excluding U.S. Survey 4910.
The bed of the Gulkana River except through U.S. Survey 4910.

Containing approximately 6,490 acres.

T. 8 N., R. 3 W.,
Secs. 10, 11, 12, 13, 14, 15, 21, 22, all;
Sec. 23, excluding U.S. Survey 3672 and Ewan Lake;
Sec. 24, excluding U.S. Survey 3672;
Sec. 25, all;
Secs. 26, 27, 28, 29, 32, 35, excluding Ewan Lake;
Sec. 36, all.

Containing approximately 9,180 acres.
Aggregating approximately 79,439 acres to be conveyed.

The conveyance issued for the surface estate of the lands described above shall contain the following reservations to the United States:

1. the subsurface estate therein, and all rights, privileges, immunities, and

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appurtenances, of whatsoever nature, accruing unto said estate pursuant to the Alaska Native Claims Settlement Act of December 18, 1971 (85 Stat. 688, 704; 43 U.S.C. 1601, 1613(f) (1976));

2. Pursuant to Sec. 17(b) of the Alaska Native Claims Settlement Act of December 18, 1971 (85 Stat. 688, 708; 43 U.S.C. 1601, 1616(b) (1976)), the following public easements, referenced by easement identification number (EIN) on the easement maps attached to this document, copies of which will be found in casefile AA–6667–EE, are reserved to the United States. All easements are subject to aplicable Federal, State, or municipal corporation regulation. The following is a listing of uses allowed for each type of easement. Any uses which are not specifically listed are prohibited.

25 Foot Trail—The uses allowed on a twenty-five (25) foot wide trail easement are: travel by foot, dogsled, animals, snowmobiles, two and three-wheel vehicles, and small all-terrain vehicles (less than 3,000 lbs Gross Vehicle Weight (GVW)).

50 Foot Trail—The uses allowed on a fifty (50) foot wide trail easement are: travel by foot, dogsleds, animals, snowmobiles, two and three-wheel vehicles, small and large all-terrain vehicles, track vehicles and four-wheel drive vehicles.

One Acre site—The uses allowed for a site easement are: vehicle parking (e.g., aircraft, boats, ATV's, snowmobiles, cars, trucks), temporary camping, and loading or unloading. Temporary camping, loading, or unloading shall be limited to 24 hours.

a. (EIN 8 C5, D9) An easement for an existing access trail twenty-five (25) feet in width from the Richardson Highway in Sec. 33, T. 8 N., R. 1 W., Copper River Meridian, westerly to site easement EIN 8a C5, D9 on the Gulkana River. The uses allowed are those listed above for a twenty-five (25) foot wide trail easement.

b. (EIN 8a C5, D9) A site easement upland of the ordinary high water mark in Sec. 33, T. 8 N., R. 1 W., Copper River Meridian, on the left bank of the Gulkana River. The site is one (1) acre in size with an additional twenty-five (25) foot wide easement on the bed of the river along the entire waterfront of the site. The uses allowed are those listed above for a one (1) acre site easement.

c. (EIN 11 C5) An easement for an existing access trail twenty-five (25) feet in width from the Richardson Highway in Sec. 28, T. 8 N., R. 1 W., Copper River Meridian, southeasterly to public lands in Sec. 27, T. 8 N., R. 1 W., Copper River Meridian. The uses allowed are those listed above for a twenty-five (25) foot wide trail easement.

d. (EIN 11a C5) An easement for a proposed access trail twenty-five (25) feet in width from the Richardson Highway in Sec. 14, T. 7 N., R. 1 W., Copper River Meridian, easterly to public land in Sec. 13, T. 7 N., R. 1 W., Copper River Meridian. The uses allowed are those listed above for a twenty-five (25) foot wide trail easement.

e. (EIN 12 C5, D9) An easement for an existing access trail twenty-five (25) feet in width from the Richardson Highway in Sec. 10, T. 7 N., R. 1 W., Copper River Meridian, southwesterly to site easement EIN 12a C5, D9 of the Gulkana River. The uses allowed are those listed above for a twenty-five (25) foot wide trail easement.

f. (EIN 12a C5, D9) A site easement upland of the ordinary high water mark in Sec. 15, T. 7 N., R. 1 W., Copper River Meridian, on the left bank of the Gulkana River. The site is one (1) acre in size with an additional twenty-five (25) foot wide easement on the bed of the river along the entire waterfront of the site. The uses allowed are those listed above for a one (1) acre site.

g. (EIN 12b C5, D9) An easement for a proposed access trail twenty-five (25) feet in width from site easement EIN 12a C5, D9, on the left bank of the Gulkana River in Sec. 15, T. 7 N., R. 1 W., Copper River Meridian southwesterly to public land in Sec. 16, T. 7 N., R. 1 W., Copper River Meridian. The uses allowed are those listed above for a twenty-five (25) foot wide trail easement.

h. (EIN 16 C5, D9) An easement for an existing access trail twenty-five (25) feet in width from the Richardson Highway in Sec. 14, T. 6 N., R. 1 W., Copper River Meridian, westerly to site easement EIN 16a C5, D9 on the Gulkana River. The use allowed are those listed above for a twenty-five (25) foot wide trail easement.

i. (EIN 16a C5, D9) A site easement upland of the ordinary high water mark in Sec. 14, T. 6 N., R. 1 W., Copper River Meridian, on the left bank of the Gulkana River. The site is one (1) acre in size with an additional twenty-five (25) foot wide easement on the bed of the river along the entire waterfront of the site. The uses allowed are those listed above for a one (1) acre site.

j. (EIN 17 C5, D1, D9) An easement for an existing access trail fifty (50) feet in width from the south border of Sec. 36, T. 8 N., R. 3 W., Copper River Meridian, northerly and northwesterly between Ewan Lake and Middle Lake to public lands in Sec. 9, T. 8 N., R. 3 W., Copper River Meridian. The uses allowed are those listed above for a fifty (50) foot wide trail easement.

k. (EIN 17b C5, D1, D9) An easement for a proposed access trail twenty-five (25) feet in width from the north shore of Ewan Lake in Sec. 23, T. 8 N., R. 3 W., Copper River Meridian, northerly to trail EIN 17 C5, D1, D9. The uses allowed are those listed above for a twenty-five (25) foot wide trail easement.

l. (EIN 23 C5, D9) An easement for an existing access trail fifty (50) feet in width from the Richardson Highway in Sec. 32, T. 5 N., R. 1 W., Copper River Meridian, easterly to site easement EIN 23a C5, D9 on Copper River. The uses allowed are those listed above for a fifty (50) foot wide trail easement.

m. (EIN 23a C5, D9) A one (1) acre site easement upland of the ordinary high water mark in Sec. 33, T. 5 N., R. 1 W., Copper River Meridian, on the right bank of the Copper River. The uses allowed are those listed above for a one (1) acre site.

n. (EIN 30 E) An easement for an existing access trail fifty (50) feet in width from trail easement EIN 17, C5, D1, D9 in Sec. 24, T. 8 N., R. 3 W., Copper River Meridian, northeasterly to public lands. The uses allowed are those listed above for a fifty (50) foot wide trail easement.

o. (EIN 31 C5, L) An easement one hundred (100) feet in width for an existing telephone line and powerline roughly paralleling the Richardson Highway from Sec. 32, T. 5 N., R. 1 W., Copper River Meridian, northerly to the southern terminus of right-of-way application A–062297 (EIN 31c C5, L), in Sec. 12, T. 6 N., R. 1 W., Copper River Meridian. The uses allowed are those activities associated with the operation and maintenance of the telephone and powerline.

p. (EIN 31a C5, L) An easement one hundred (100) feet in width for an existing telephone line and powerline roughly paralleling the Tok Cutoff from the junction with the Richardson Highway in Sec. 23, T. 6 N., R. 1 W., Copper River Meridian, easterly to Sec. 18, T. 6 N., R. 1 E., Copper River Meridian. The uses allowed are those activities associated with the operation and maintenance of the lines.

q. (EIN 31b C5, L) An easement one hundred (100) feet in width for existing telephone lines and powerlines from EIN 31 C5, L in Sec. 14, T. 6 N., R. 1 W., Copper River Meridian, easterly to Sec. 18, T. 6 N., R. 1 E., Copper River Meridian. The uses allowed are those associated with the operation and maintenance of the lines.

r. (EIN 31c C5, L) An easement fifty (50) feet in width for an existing telephone line and powerline roughly paralleling the Richardson Highway from EIN 31 C5, L in Sec. 12, T. 6 N., R. 1 W., Copper River Meridian, northerly to the southern terminus of right-of-way grant AA–11182 in Sec. 2, T. 6 N., R. 1 W., Copper River Meridian. The uses allowed are those activities associated with the operation and maintenance of the telephone and powerline.

s. (EIN 32 C4) An easement sixty (60) feet in width for an existing road from the Richardson Highway in Sec. 20, T. 5 N., R. 1 W., Copper River Meridian, westerly to the FAA withdrawal in Sec. 20, T. 5 N., R. 1 W., Copper River Meridian. The uses allowed are those listed above for a sixty (60) foot wide road easement. The use of this road is limited to government-related use only.

The grant of the above-described lands shall be subject to:

1. Those rights for pipeline purposes, and related facilities, granted to Amerada Hess Corporation, ARCO Pipeline Company, Exxon Pipeline Company, Mobil Alaska Pipeline Company, Phillips Petroleum Company, Sohio Pipeline Company, and Union Alaska Pipeline Company, their successors and assigns, by the Agreement and Grant dated January 23, 1974, as modified April 27, 1979, pursuant to Sec. 28, of the Mineral Leasing Act (30 U.S.C. 185), as amended November 16, 1973 (87 Stat. 576), more specifically identified as follows:

a. As to E½ Sec. 1, E½ Sec. 12, E½ Sec. 13, E½ Sec. 24, E½ Sec. 25, T. 5 N., R. 2 W., Copper River Meridian, E½ Sec. 12, E½ Sec. 13, T. 6 N., R. 2 W., Copper River Meridian, NW¼NW¼NW¼ Sec. 7, T. 7 N., R. 1 W., Copper River Meridian, E½ Sec. 12, E½ Sec. 13, E½ Sec. 25, E½ Sec. 36, T. 7 N., R. 2 W., Copper River Meridian, oil transportation pipeline AA–5847;

b. As to Sec. 35, T. 7 N., R. 1 W., Copper River Meridian, communciations site AA–6240;

c. As to Sec. 12, T. 6 N., R. 2 W., Copper River Meridian, communications site AA–8501 and equipment site AA–8621;

d. As to SE¼ Sec. 13, T. 5 N., R. 2 W., Copper River Meridian, communications site AA–8503 and main line equipment site AA–8623.

2. Those access road rights-of-way 50 feet in width granted to Alyeska Pipeline Service Company pursuant to Sec. 28 of the Mineral Leasing Act (30 U.S.C. 185), as amended November 16, 1973 (87 Stat. 576):

a. As to Sec. 35, T. 7, N., R. 1 W., Copper River Meridian, AA–9209;

b. As to Secs. 27, 28, 29, 30, T. 6 N., R. 1 W., Copper River Meridian, AA–9189;

c. As to Secs. 31, 32, 33, T. 6 N., R. 1 W. Copper River Meridian, AA–8864.

3. Those rights for pipeline purposes as have been issued to the owners of the Trans-Alaska Pipeline, their successors and assigns, pursuant to Sec. 28 of the Mineral Leasing Act (30 U.S.C. 185), as amended November 16, 1973 (87 Stat. 576), for construction zone permit AA–9149.

4. An easement for highway purposes, including appurtenant protective, scenic and service areas, extending 150 feet on each side of the centerline of the Richardson and the Glenn Highways, as established by Public Land Order 1613 (23 F.R. 2376), pursuant to the Act of August 1, 1956, (70 Stat. 898) and transferred to the State of Alaska pursuant to the Alaska Omnibus Act. P.L. 86–70 (73 Stat. 141), as to Secs. 4, 5, 6, 17, 20, 29, T. 5 N., R. 1 W., Secs. 2, 11, 12, 13, 14, 23, 24, 26, 27, 33, T. 6 N., R. 1 W., Secs. 3, 10, 11, 14, 23, 26, 35, T. 7 N., R. 1 W., and Secs. 6, 7, 8, 9, 16, 17, 21, 28, 33, T. 8 N., R. 1 W., Copper River Meridian.

5. The following rights-of-way for Federal Aid Highways, granted to the State of Alaska under the act of August 7, 1958, as amended (72 Stat. 885, 23 U.S.C. 317), as to:

a. Sec. 4, T. 5 N., R. 1 W., and Secs. 23, 26, 27, 33, T. 6 N., R. 1 W., Copper River Meridian, Serial No. AA–7047 (Richardson Highway);

b. Secs. 13, 23, 24, T. 6 N., R. 1 W., Copper River Meridian, Serial No. A–067583 (Glenn Highway-Tok Cutoff).

6. Rights-of-way for material sites granted under the Federal Aid to Highways, act of August 27, 1958, as amended (72 Stat. 885, 23 U.S.C. 317) as to:

a. Secs. 11, 14, T. 6 N., R. 1 W., Copper River Meridian, Serial No. A–068339;

b. Sec. 10, T. 7 N., R. 1 W., Copper River Meridian, Serial No. A–060162.

7. Right-of-way for a riprap and bank protection site on the Copper River, granted under the Federal Aid to Highways, act of August 27, 1958, as amended (72 Stat. 885, 23 U.S.C. 317) as to Sec. 13, T. 6 N., R. 1 W., Copper River Meridian, Serial No. A–058051.

8. Rights-of-way for electrical transmission lines granted under the act of March 4, 1911 (36 Stat. 1253; 43 U.S.C. 961) to the Copper Valley Electric Association, Inc.

a. Those lines running parallel to the Richardson Highway and the Tok Cutoff as to Secs. 4, 5, 8, 17, 20, 29, T. 5 N., R. 1 W., Copper River Meridian, and Secs. 2, 11, 12, 13, 14, 23, 24, 26, 27, 33, T. 6 N., R. 1 W., Copper River Meridian, Serial No. A–042054, 100 feet in width (50 feet on each side of the centerline);

b. That line running parallel to Richardson Highway, as to N½ Sec. 2 T. 6 N., R. 1 W., and W½ Sec. 35, T. 7 N., R. 1 W., Copper River Meridian, Serial No. AA–11182, 30 feet in width (15 feet on each side of the centerline);

c. As to Secs. 27, 28, 29, 30, T. 6 N., R. 1 W., Secs. 1, 12, 13, T. 5 N., R. 2 W., Secs. 12, 13, T. 6 N., R. 2 W., Sec. 7, T. 7 N., R. 1 W., and Secs. 12, 13, 25, 36, T. 7 N., R. 2 W., Copper River Meridian, Serial No. AA–9906, 30 feet in width (15 feet on each side of the centerline).

9. An easement and right-of-way 50 feet in width (25 feet on each side of the centerline), conveyed to RCA Alaska Communications, Inc. by Easement Deed dated January 10, 1971, Serial No. AA–6188, pursuant to the Alaska Communications Disposal Act (81 Stat. 441) (40 U.S.C. 771 et seq.) as to Secs. 4, 5, 8, 17, 20, 29, T. 5 N., R. 1 W., Copper River Meridian and Secs. 13, 23, 24, 26, 27, 33, 34, T. 6 N., R. 1 W., Copper River Meridian.

10. Issuance of a patent confirming the boundary description of the unsurveyed lands hereinabove granted after approval and filing by the Bureau of Land Management of the official plat of survey covering such lands.

11. Valid existing rights therein, if any, including but not limited to those created by any lease (including a lease issued under Sec. 6(g) of the Alaska Statehood Act of July 7, 1958 (72 Stat. 339, 341; 48 U.S.C. Ch. 2, Sec. 6(g) (1976))), contract, permit, right-of-way, or easement, and the right of the lessee, contractee, permittee, or grantee to the complete enjoyment of all rights, privileges, and benefits thereby granted to him. Further, pursuant to Sec. 17(b)(2) of ANCSA, any valid existing right recognized by ANCSA shall continue to have whatever right of access as is now provided for under existing law.

12. Requirements of Sec. 14(c) of the Alaska Native Claims Settlement Act of December 18, 1971 (85 Stat. 688, 703; 43 U.S.C. 1601, 1613(c) (1976)), that the grantee hereunder convey those portions, if any, of the lands hereinabove granted, as are prescribed in said section.

Sta-Keh Corporation is entitled to conveyance of 92,160 acres of land selected pursuant to Sec. 12(a) of ANCSA. Together with the lands herein approved, the total acreage conveyed or approved for conveyance is 79,183 acres. The remaining entitlement of approximately 12,977 acres will be conveyed at a later date.

Pursuant to Sec. 14(f) of ANCSA, conveyance of the subsurface estate of the lands described above shall be issued to AHTNA, Inc. when the surface

V-4498

estate is conveyed to Sta-Keh Corporation, and shall be subject to the same conditions as the surface conveyance.

Within the above described lands, only the following inland water bodies are considered to be navigable:

The Copper River and Ewan Lake.

In accordance with Departmental regulation 43 CFR 2650.7(d), notice of this decision is being published once in the **Federal Register** and once a week, for four (4) consecutive weeks, in the ANCHORAGE TIMES and the TUNDRA TIMES. Any party claiming a property interest in lands affected by this decision may appeal the decision to the Alaska Native Claims Appeal Board, P.O. 2433, Anchorage, Alaska 99510 with a copy served upon both the Bureau of Land Management, Alaska State Office, 701 C Street, Box 13, Anchorage, Alaska 99513 and the Regional Solicitor, Office of the Solicitor, 510 L Street, Suite 408, Anchorage, Alaska 99501, also:

1. Any party receiving service of this decision shall have 30 days from the receipt of this decision to file an appeal.

2. Any unknown parties, any parties unable to be located after reasonable efforts have been expended to locate, and any parties who failed or refused to sign the return receipt shall have until June 18, 1979, to file an appeal.

3. Any party known or unknown who may claim a property interest which is adversely affected by this decision shall be deemed to have waived those rights which were adversely affected unless an appeal is timely filed with the Alaska Native Claims Appeal Board.

To avoid summary dismissal of the appeal, there must be strict compliance with the regulations governing such appeals. Further information on the manner of and requirements for filing an appeal may be obtained from the Bureau of Land Management, 701 C Street, Box 13, Anchorage, Alaska 99513.

If an appeal is taken, the parties to be served with a copy of the notice of appeal are:

State of Alaska, Division of Lands, 323 East Fourth Avenue, Anchorage, Alaska 99501.
Sta-Keh Corporation, Gakona, Alaska 99587.
AHTNA, Inc., Drawer G, Copper Center, Alaska 99573.

Sue Wolf,

Chief, Branch of Adjudication.

[FR Doc. 79-15413 Filed 5-17-79; 8:45 am]

BILLING CODE 4310-84-M

[Serial No. A 11644]

Arizona; Application

Notice is hereby given that pursuant to Section 28 of the Mineral Leasing Act of 1920 (30 U.S.C. 185), as amended, by the Act of November 6, 1973 (87 Stat. 576), El Paso Natural Gas Company, P.O. Box 1492, El Paso, Texas 79978, filed an application for a right-of-way to construct a cathodic protection site consisting of a rectifier pole, low voltage, underground cable and annode pipe bed adjacent to their existing gas pipeline right-of-way on the following described National Resource Lands:

GSR Mer., Arizona

T. 6 S., R. 16 E.,
Sec. 21, NE¼NE¼.

The cathodic protection site is necessary to the preservation and reliability of service of the natural gas pipeline.

The purpose of this notice is to inform the public that the Bureau will be proceeding with consideration of whether the applicaton should be approved, and if so, under what terms and conditions.

Interested persons desiring to express their view on this matter should do so promptly. Persons submitting comments should include their name and address and send them to the District Manager, Bureau of Land Management, 2929 W. Clarendon, Phoenix, Arizona 85017.

Dated: May 9, 1979.

Mario L. Lopez,

Chief, Branch of Lands and Minerals Operations.

[FR Doc. 79-15493 Filed 5-17-79; 8:45 am]

BILLING CODE 4310-84-M

[Wyoming 67926]

Wyoming; Application

May 10, 1979

Notice is hereby given that pursuant to Section 28 of the Mineral Leasing Act of 1920, as amended (30 U.S.C. 185), the Cities Service Gas Company of Oklahoma City, Oklahoma filed an application for a right-of-way to construct a 4½ inch pipeline and appurtenant facilities for the purpose of transporting natural gas across the following described public lands:

Sixth Principal Meridian, Wyoming

T. 21 N., R. 94 W.,
Sec. 20, SE¼SW¼ and SW¼SE¼.

The proposed pipeline will transport natural gas from the Amoco R-1 well located in the SE¼SW¼ of section 20, T. 21 N., R. 94 W., to a point of connection with an existing pipeline located in the SW¼SE¼ of section 20, T. 21 N., R. 94 W., all within Sweetwater County, Wyoming.

The purpose of this notice is to inform the public that the Bureau will be proceeding with consideration of whether the application should be approved and, if so, under what terms and conditions.

Interested persons desiring to express their views should do so promptly. Persons submitting comments should include their name and address and send them to the District Manager, Bureau of Land Management, 1300 Third Street, P.O. Box 670, Rawlins, Wyoming 82301.

Harold G. Stinchcomb,

Chief, Branch of Lands and Minerals Operations.

[FR Doc. 79-15494 Filed 5-17-79; 8:45 am]

BILLING CODE 4310-84-M

[Wyoming 67938]

Wyoming; Application

May 10, 1979.

Notice is hereby given that pursuant to Section 28 of the Mineral Leasing Act of 1920, as amended (30 U.S.C. 185), the Marathon Pipe Line Company of Casper, Wyoming filed an application for a right-of-way to construct six 4 inch pipelines and related facilities for the purpose of transporting oil and other synthetic liquid fuels across the following described public lands:

Sixth Principal Meridian, Wyoming

T. 46 N., R. 91 W.,
Sec. 7, lots 6, 7, 8, 9, 10, NW¼NE¼ and E½NW¼.
T. 46 N., R. 92 W.,
Sec. 1, SE¼SW¼;
Sec. 12, lots, 1, 2, 4, SW¼NE¼, NE¼SW¼ and NW¼SE¼.

The proposed pipelines will transport oil and other synthetic liquid fuels from Altus 7-1 March, Altus 7-1 Nowater, Altus 7-2 March, Altus 12-2, Altus 12-4, and Tenneco 2-1 Well Extensions to points of connection with existing pipelines, all located within T. 46 N., Rs. 91 and 92 W., Washakie County, Wyoming.

The purpose of this notice is to inform the public that the Bureau will be proceeding with consideration of whether the application should be approved and, if so, under what terms and conditions.

Interested persons desiring to express their views should do so promptly. Persons submitting comments should include their name and address and send them to the District Manager, Bureau of Land Management, P.O. Box 119, 1700 Robertson Avenue, Worland, Wyoming 82401.

Harold G. Stinchcomb,

Chief, Branch of Lands and Minerals Operations.

[FR Doc. 79-15495 Filed 5-17-79; 8:45 am]

BILLING CODE 4310-84-M

[Wyoming 67642]

Wyoming; Application

May 8, 1979.

Notice is hereby given that pursuant to Section 28 of the Mineral Leasing Act of 1920, as amended (30 U.S.C. 185), the Colorado Interstate Gas Company of Colorado Springs, Colorado filed an application for a right-of-way to construct a 6⅝ inch O.D. buried pipeline and related meter and dehydration facilities for the purpose of transporting natural gas across the following described public lands:

Sixth Principal Meridian, Wyoming

T. 38 N., R. 89 W.,
Sec. 6, lots 1, 2, 9 and SW¼NE¼.
T. 39 N., R. 89 W.,
Sec. 31, SE¼SE¼;
Sec. 32, W½NE¼, NE¼NE¼, SE¼NW¼, N½SW¼ and SW¼SW¼.

The proposed pipeline will transport natural gas from the No. 1-32 Vail Well located in the NE¼NE¼ of section 32, T. 39 N., R. 89 W., to a point of connection with an existing pipeline located in lot 9, section 6, T. 38 N., R. 89 W., all within Fremont County, Wyoming. The proposed meter and dehydration facilities will be located within the proposed pipeline right-of-way boundary in the NE¼NE¼ of section 32, T. 39 N., R. 89 W., Fremont County, Wyoming.

The purpose of this notice is to inform the public that the Bureau will be proceeding with consideration of whether the application should be approved and, if so, under what terms and conditions.

Interested persons desiring to express their views should do so promptly. Persons submitting comments should include their name and address and send them to the District Manager, Bureau of Land Management, 1300 Third Street, P.O. Box 670, Rawlins, Wyoming 82301.

Harold G. Stinchcomb,

Chief, Branch of Lands and Minerals Operations.

[FR Doc. 79-15496 Filed 5-17-79; 8:45 am]

BILLING CODE 4310-84-M

[Wyoming 67643]

Wyoming; Application

May 8, 1979.

Notice is hereby given that pursuant to Section 28 of the Mineral Leasing Act of 1920, as amended (30 U.S.C. 185), the Colorado Interstate Gas Company of Colorado Springs, Colorado filed an application for a right-of-way to construct a 4½ inch O.D. buried pipeline and meter dehydration facilities for the purpose of transporting natural gas across the following described public lands:

Sixth Principal Meridian, Wyoming

T. 18 N., R. 92 W.,
Sec. 6, lots 6 and 7, E½SW¼.
T. 18 N., R. 93 W.,
Sec. 2, lot 5.

The proposed pipeline will transport natural gas from the Baumgartner-Federal No. 1-16-18-92 well located in the SE¼SW¼ of section 6, T. 18 N., R. 93 W., to a point of connection with an existing pipeline located in the SW¼SE¼ of section 35, T. 19 N., R. 93 W., all within Carbon County, Wyoming. The proposed meter and dehydration facilities will be located within the proposed pipeline right-of-way boundary in the SE¼SW¼ of section 6, T. 18 N., R. 92 W., Carbon County, Wyoming.

The purpose of this notice is to inform the public that the Bureau will be proceeding with consideration of whether the application should be approved and, if so, under what terms and conditions.

Interested persons desiring to express their views should do so promptly. Persons submitting comments should include their name and address and send them to the District Manager, Bureau of Land Management, 1300 Third Street, P.O. Box 670, Rawlins, Wyoming 82301.

Harold G. Stinchcomb,

Chief, Branch of Lands and Minerals Operations.

[FR Doc. 79-15497 Filed 5-17-79; 8:45 am]

BILLING CODE 4310-84-M

U.S. Fish and Wildlife Service

Endangered Species Permit; Receipt of Application

The applicants listed below wish to be authorized to conduct the specified activity with the indicated Endangered Species:

Applicant: Zoological Society of Philadelphia, 34th St. & Girard Ave., Philadelphia, Pennsylvania 19104. PRT 2-4197.

The applicant requests a permit to purchase in interstate commerce one male and two female Asiatic lions *(Panthera leo persica)* from the Cheyenne Mountain Zoological Park, Colorado Springs, Colorado, for zoological exhibition and enhancement of propagation.

Applicant: Arthur Heine, 412 Foster Rd., Staten Island, New York 10309. PRT 2-4199.

The applicant requests a permit to purchase in interstate commerce one female scarlet-chested parakeet *(Neophema splendida)* from H. Frey, Pittsburgh, Pennsylvania, for exhibition and enhancement of propagation.

Applicant: Henry Vilas Park Zoo, 702 S. Randall Ave., Madison, Wisconsin 53715. PRT 2-4200.

The applicant requests a permit to purchase in interstate commerce one male Bactrian camel *(Camelus bactrianus)* from African Lion Safari, Port Clinton, Ohio, for zoological exhibition and enhancement of propagation.

Humane care and treatment during transport, if applicable, has been indicated by the applicant.

Documents and other information submitted with these applications are available to the public during normal business hours in Room 601, 1000 N. Glebe Road, Arlington, Virginia, or by writing to the Director, U.S. Fish and Wildlife Service, WPO, Washington, D.C. 20240.

Interested persons may comment on these applications within 30 days of the date of this publication by submitting written data, views, or arguments to the Director at the above address.

Dated: May 10, 1979.

Larry La Rochelle,

Acting Chief, Permit Branch, Federal Wildlife Permit Office, U.S. Fish and Wildlife Service.

[FR Doc. 79-15454 Filed 5-17-79; 8:45 am]

BILLING CODE 4310-55-M

Endangered Species Permit; Receipt of Application

The applicants listed below wish to be authorized to conduct the specified

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activity with the indicated Endangered Species:

Applicant: Henry Doorly Zoo, Riverview Park, Omaha, Nebraska 68102. PRT 2–4189.

The applicant requests a permit to purchase in interstate commerce one captive-born male mandrill (*Papio sphinx*) from the Gladys Porter Zoo, Brownsville, Texas, for zoological exhibition and enhancement of propagation.

Applicant: St. Louis Zoological Park, Forest Park, St. Louis, Missouri 63110. PRT 2–4191.

The applicant requests a permit to import two female Bactrian camels (*Camelus bactrianus*) from the Kristiansand Dyre Park, Norway, for zoological exhibition and enhancement of propagation.

Humane care and treatment during transport, if applicable, has been indicated by the applicant.

Documents and other information submitted with these applications are available to the public during normal business hours in Room 601, 1000 N. Glebe Road, Arlington, Virginia, or by writing to the Director, U.S. Fish and Wildlife Service, WPO, Washington, D.C. 20240.

Interested persons may comment on these applications within 30 days of the date of this publication by submitting written data, views, or arguments to the Director at the above address.

Dated: May 9, 1979.

Donald G. Donahoo,

Chief, Permit Branch, Federal Wildlife Permit Office, U.S. Fish and Wildlife Service.

[FR Doc. 79–15455 Filed 5–17–79; 8:45 am]

BILLING CODE 4310–55–M

Endangered Species Permit; Receipt of Application

The applicants listed below wish to be authorized to conduct the specified activity with the indicated Endangered Species:

Applicant: Alan R. Harmata, Montana State University, Bozeman, Montana 59714. PRT 2–4164.

The applicant requests a permit to capture and band immature bald eagles (*Haliaeetus leucocephalus*) within the Yellowstone National Park and the Grand Teton National Park for scientific research.

Applicant: Terrence N. Ingram, Eagle Valley Environmentalists, Inc., Apple River, Illinois 61001. PRT 2–4174.

The applicant requests a permit to capture, band, color-mark, and radio-tag and release bald eagles within the states of Wisconsin, Illinois, Missouri, Iowa, and Kentucky for scientific research.

Applicant: Dr. Bern M. Levine, 6000 SW 118 Ave., Miami, Florida 33183. PRT 2–4182.

The applicant requests a permit to purchase in interstate commerce one male sub-adult organutan (*Pongo pygmaeus*) from the Oklahoma City Zoo, Oklahoma, for enhancement of propagation.

Humane care and treatment during transport, if applicable, has been indicated by the applicant.

Documents and other information submitted with this application are available to the public during normal business hours in Room 601, 1000 N. Glebe Road, Arlington, Virginia, or by writing to the Director, U.S. Fish and Wildlife Service, WPO, Washington, D.C. 20240.

Interested persons may comment on these applications within 30 days of the date of this publication by submitting written data, views, or arguments to the Director at the above address.

Dated: May 8, 1979.

Larry La Rochelle,

Acting Chief, Permit Branch Federal Wildlife Permit Office, U.S. Fish and Wildlife Service.

[FR Doc. 79–15456 Filed 5–17–79; 8:45 am]

BILLING CODE 4310–55–M

Endangered Species Permit; Receipt of Application

Applicant: John W. Twente, Dalton Research Center, University of Missouri, Columbia, Missouri 65211.

The applicant requests a permit to capture 30 hibernating Gray bats (*Myotis grisescens*) per year for 3 years for hibernation research. Bats will be released at the place where taken at the end of each season's research.

Humane care and treatment during transport has been indicated by the applicant.

Documents and other information submitted with this application are available to the public during normal business hours in Room 601, 1000 N. Glebe Road, Arlington, Virginia, or by writing to the Director, U.S. Fish and Wildlife Service (WPO), Washington, D.C. 20240.

This application has been assigned file number PRT 2–3421. Interested persons may comment on this application by submitting written data, views, or arguments to the Director at the above address within 30 days of the date of this publication. Please refer to the file number when submitting comments.

Dated: May 4, 1979

Donald G. Donahoo,

Chief, Permit Branch, Federal Wildlife Permit Office, U.S. Fish and Wildlife Service.

[FR Doc. 79–15457 Filed 5–17–79; 8:45 am]

BILLING CODE 4310–55–M

Threatened Species Permit; Receipt of Application

Applicant: John A. Chatfield, Dept. of Mathematics, South West Texas State University, San Marcos, Texas 78666.

The applicant wishes to apply for a Captive-Self Sustaining Population permit authorizing the purchase and sale in interstate commerce, for the purpose of propagation, all species of pheasants listed in 50 CFR Section 17.11 as T(C/P). Humane shipment and care in transit is assured.

Documents and other information submitted with this application are available to the public during normal business hours in Room 601, 1000 N. Glebe Road, Arlington, Virginia, or by writing to the Director, U.S. Fish and Wildlife Service (WPO), Washington, D.C. 20240.

This application has been assigned file number PRT 2–4190. Interested persons may comment on this application by submitting written data, views, or arguments to the Director at the above address within 30 days of the date of this publication. Please refer to the file number when submitting comments.

Dated: May 9, 1979.

Donald G. Donahoo,

Chief, Permit Branch, Federal Wildlife Permit Office, U.S. Fish and Wildlife Service.

[FR Doc. 79–15458 Filed 5–17–79; 8:45 am]

BILLING CODE 4310–55–M

DEPARTMENT OF LABOR

Employment and Training Administration

Employment Transfer and Business Competition Determinations Under the Rural Development Act; Applications

The organizations listed in the attachment have applied to the Secretary of Agriculture for financial assistance in the form of grants, loans, or loan guarantees in order to establish or improve facilities at the locations listed for the purposes given in the attached list. The financial assistance would be authorized by the Consolidated Farm and Rural Development Act, as amended, 7 U.S.C. 1924(b), 1932, or 1942(b).

The Act requires the Secretary of Labor to determine whether such Federal assistance is calculated to or is likely to result in the transfer from one area to another of any employment or business activity provided by operations of the applicant. It is permissible to assist the establishment of a new branch, affiliate or subsidiary, only if this will not result in increased unemployment in the place of present operations and there is no reason to believe the new facility is being established with the intention of closing down an operating facility.

The Act also prohibits such assistance if the Secretary of Labor determines that it is calculated to or is likely to result in an increase in the production of goods, materials, or commodities, or the availability of services or facilities in the area, when there is not sufficient demand for such goods, materials, commodities, services, or facilities to employ the efficient capacity of existing competitive commercial or industrial enterprises, unless such financial or other assistance will not have an adverse effect upon existing competitive enterprises in the area.

The Secretary of Labor's review and certification procedures are set forth at 29 CFR Part 75. In determining whether the applications should be approved or denied, the Secretary will take into consideration the following factors:

1. The overall employment and unemployment situation in the local area in which the proposed facility will be located.

2. Employment trends in the same industry in the local area.

3. The potential effect of the new facility upon the local labor market, with particular emphasis upon its potential impact upon competitive enterprises in the same area.

4. The competitive effect upon other facilities in the same industry located in other areas (where such competition is a factor).

5. In the case of applications involving the establishment of branch plants or facilities, the potential effect of such new facilities on other existing plants or facilities operated by the applicant.

All persons wishing to bring to the attention of the Secretary of Labor any information pertinent to the determinations which must be made regarding these applications are invited to submit such information in writing within two weeks of publication of this notice. Comments received after the two-week period may not be considered. Send comments to: Administrator, Employment and Training Administration, 601 D Street, N.W., Washington, D.C. 20213.

Signed at Washington, D.C. this 14th day of May 1979.

Ernest G. Green,

Assistant Secretary for Employment and Training.

Applications Received During the Week Ending May 11, 1979

Name of applicant and location of enterprise	Principal product or activity
Arroyo Pharmaceutical Corp., Arroyo, P.R.	Manufacture and fabrication of drugs in pharmaceutical preparations for human or veterinary use.
Crestpark Retirement Inns, Inc., West Helena, Ark.	Nursing home.
Gibson Manufacturing Co., Inc., Brook, Ind.	Manufacture of agricultural machinery and parts.
American Gypsum Co., Delanco, N.J.	Manufacture of gypsum products.
Suzy Curtains, Inc., King, N.C. and Calexico, Calif.	Manufacture of draperies and curtains.
R. M. Henning, Inc., New Philadelphia, Ohio	Manufacture and service of hydraulic components.

[FR Doc. 79–15415 Filed 5–12–79; 8:45 am]

BILLING CODE 4510–30–M

Federal Advisory Council on Unemployment Insurance; Meeting

A meeting of the Federal Advisory Council on Unemployment Insurance will be held on June 26, 1979 from 8:30 a.m. to 5:00 p.m. and June 27 from 8:30 a.m. to noon. The meeting will be held in Room S–4215 AB&C, Main Labor Building, which is located at 200 Constitution Avenue, N.W., Washington, D.C. The major items of the meeting are: A review of the Interim Report Recommendations of the National Commission on Unemployment Compensation published in November 1978, and an analysis of how those recommendations compare with the Resolutions and Agreements reached by Federal Advisory Council; consideration of a proposal to modify the current National Trigger for Extended Benefits; and other items relating to the UI program which are pertinent at the time the meeting is held. A more detailed agenda will be published at a later date.

Members of the public are invited to attend the proceedings. Written data, views, or arguments pertaining to the business before the Council must be received by the Council's Executive Secretary prior to the meeting date. Twenty duplicate copies are needed for distribution to the members and for inclusion in the meeting minutes.

Telephone inquiries and communications concerning this meeting should be directed to:

Mr. Morton Rosenbaum, Executive Secretary, Federal Advisory Council on Unemployment Insurance, Room 7000, Patrick Henry Building, 601 D Street, N.W., Washington, D.C. 20213.

Mr. Rosenbaum's telephone number is Area Code 202–376–7034.

Signed at Washington, D.C., this 10th day of May 1979.

Ernest G. Green,

Assistant Secretary for Employment and Training.

[FR Doc. 79–15509 Filed 5–17–79; 8:45 am]

BILLING CODE 4510–30–M

Mine Safety and Health Administration

[Docket No. M–79–48–C]

Maynard Branch Mining Co., Inc.; Petition for Modification of Application of Mandatory Safety Standard

Maynard Branch Mining Company, Inc., Route 1, Box 121, Elkhorn City, Kentucky 41522, has filed a petition to modify the application of 30 CFR 75.1710 (canopies), to its No. 1 Mine, located in Pike County, Kentucky. The petition is filed under section 101(c) of the Federal Mine Safety and Health Act of 1977, Public Law 95–164.

The substance of the petition follows:

1. The petition concerns the use of canopies on electric face equipment in the petitioner's mine.

2. The petitioner is mining in coal seam heights ranging from 36 to 40 inches and is constantly encountering undulations in the coal bed.

3. If canopies were installed low enough to prevent possible destruction of roof support, only 22 inches of vertical space would exist in the equipment operator's compartment.

4. This restricted space would limit the vision of the equipment operator, creating hazards for the operator and other miners in the area.

5. For these reasons, the petitioner believes that the application of the standard to its mine would result in a diminution of safety to its miners.

Request for Comments

Persons interested in this petition may furnish written comments on or before June 18, 1979. Comments must be filed

with the Office of Standards, Regulations and Variances, Mine Safety and Health Administration, 4015 Wilson Boulevard, Arlington, Virginia 22203. Copies of the petition are available for inspection at that address.

Dated: May 8, 1979.

Robert B. Lagather,

Assistant Secretary for Mine Safety and Health.

[FR Doc. 79-15808 Filed 5-17-79; 8:45 am]

BILLING CODE 4510-43-M

Occupational Safety and Health Administration

North Carolina Standards; Approval

1. *Background.* Part 1953 of Title 29, Code of Federal Regulations prescribes procedures under Section 18 of the Occupational Safety and Health Act of 1970 (hereinafter called the Act) by which the Regional Administrator for Occupational Safety and Health (hereinafter called the Regional Administrator) under a delegation of authority from the Assistant Secretary of Labor for Occupational Safety and Health (hereinafter called the Assistant Secretary), (29 CFR 1953.4) will review and approve standards promulgated pursuant to a State plan which has been approved in accordance with Section 18(c) of the Act and 29 CFR Part 1902. On February 1, 1973, notice was published in the Federal Register (38 FR 3041) of the approval of the North Carolina plan and the adoption of Subpart I to Part 1952 containing the decision.

The North Carolina plan provides for the adoption of Federal standards as State standards by reference. Section 1953.20 of 29 CFR provides that "where any alteration in the Federal program could have an adverse impact on the 'at least as effective as' status of the State program, a program change supplement to a State plan shall be required." In response to Federal standards changes, the State has submitted by letter dated September 29, 1977 from John C. Brooks, Commissioner, North Carolina Department of Labor, to Robert A. Wendell, Regional Administrator and incorporated as a part of the State plan, State standards comparable to the following Federal Standards: 29 CFR 1910.19 Special Provisions for Air Contaminants, dated January 17, 1978; 29 CFR 1910.1000 Air Contaminants, dated January 17, 1978; 29 CFR 1910.1045 Acrylonitrile, dated January 17, 1978; 29 CFR 1910.19 Special Provisions for Air Contaminants, dated February 10, 1978; 29 CFR 1910.20 Revoked, dated February 10, 1978; 29 CFR 1910.1000 Air Contaminants, dated February 10, 1978; 29 CFR 1910.1028 Benzene, dated February 10, 1978; 29 CFR 1910.1044 1,2-dibromo-3-chloropropane, dated March 17, 1978; amendments to 29 CFR 1910.1028 Benzene, dated March 28, 1978; amendments to 29 CFR 1910.1028 Benzene, dated March 31, 1978; 29 CFR 1910.1028 Benzene correction/stay dated April 4, 1978; 29 CFR 1910.19 Special Provisions for Air Contaminants, dated May 5, 1978; 29 CFR 1910.1000 Air Contaminants, dated May 5, 1978; 29 CFR 1910.1018 Inorganic Arsenic, dated May 5, 1978; 29 CFR 1910.19 Special Provisions for Air Contaminants, dated June 23, 1978; 29 CFR 1910.1000 Air Contaminants, dated June 23, 1978; 29 CFR 1910.1043 Cotton Dust, dated June 23, 1978; 29 CFR 1910.1046(a) Cotton Dust in Cotton Gins, dated June 23, 1978; 29 CFR 1928.21 Safety and Health Standards for Agriculture, dated June 23, 1978; Amendment to 29 CFR 1910.28 Benzene, dated June 27, 1978; Amendment to 29 CFR 1910.1018 Inorganic Arsenic, dated June 30, 1978; Corrections to 29 CFR 1910.19 Special Provisions for Air Contaminants, dated June 30, 1978; Corrections to 29 CFR 1910.1043 Cotton Dust, dated June 30, 1978; Correction to 29 CFR 1910.1046 Cotton Dust in Cotton Gins, dated June 30, 1978; 29 CFR 1928.113 Exposure to Cotton Dust in Gins, dated June 30 and August 8, 1978; 29 CFR 1910.20 Preservation of Records, dated July 19, 1978; Corrections to 29 CFR 1910.1043 Cotton Dust, dated August 8, 1978; Corrections to 29 CFR 1910.1046 Cotton Dust in Cotton Gins, dated August 8, 1978; 29 CFR 1910.19 Special Provisions for Air Contaminants, dated October 3, 1978; 29 CFR 1910.1000 Air Contaminants, dated October 3, 1978; 29 CFR 1910.1045 Acrylonitrile, dated October 3, 1978.

These Standards were promulgated by filing with the North Carolina Attorney General on July 29, 1977, January 26, 1978, May 18, 1978, June 30, 1978, July 11, 1978, July 25, 1978, August 28, 1978, October 13, 1978, respectively, pursuant to the North Carolina Occupational Safety and Health Act of 1973 (Chapter 295, General Statutes).

2. *Decision.* Having reviewed the State submission in comparison with Federal standards, it has been determined that the State standards are identical to the Federal standards and are hereby approved.

3. *Location of supplement for inspection and copying.* A copy of the standards supplement along with the approved plan, may be inspected and copied during normal business hours at the following locations: Office of the Commissioner of Labor, North Carolina Department of Labor, 11 West Edenton, Raleigh, North Carolina 27611; Office of the Regional Administrator, Suite 587, 1375 Peachtree Street, N.E., Atlanta, Georgia 30309; and Office of the Director of Federal Compliance and State Programs, Room N3112, 200 Constitution Avenue, N.W., Washington, D.C. 20210.

4. *Public participation.* Under 29 CFR 1953.2(c), the Assistant Secretary may prescribe alternative procedures to expedite the review process or for other good cause which may be consistent with applicable laws. The Assistant Secretary finds good cause exists for not publishing the supplement to the North Carolina State Plan as a proposed change and making the Regional Administrator's approval effective upon publication for the following reasons:

1. The standards are identical to the Federal standards and are therefore deemed to be at least as effective.

2. The standards were adopted in accordance with procedural requirements of State law and further participation would be unnecessary.

This decision is effective May 18, 1979.

(Sec. 18, Pub. L. 91-596, 84 Stat. 1608 (29 U.S.C. 667))

Signed at Atlanta, Georgia, this 1st day of November 1978.

R. A. Wendell,

Regional Administrator.

[FR Doc. 79-15602 Filed 5-17-79; 8:45 am]

BILLING CODE 4510-26-M

Oregon State Standards; Approval

1. Background

Part 1953 of Title 29, Code of Federal Regulations prescribes procedures under Section 18 of the Occupational Safety and Health Act of 1970 (hereinafter called the Act) by which the Regional Administrator for Occupational Safety and Health (hereinafter called the Assistant Secretary) (29 CFR 1953.4) will review and approve standards promulgated pursuant to a State plan which has been approved in accordance with Section 18(c) of the Act and 29 CFR Part 1902. On December 28, 1972, notice was published in the Federal Register (37 FR 28628) of the approval of the Oregon plan and the adoption of Subpart D to Part 1952 containing the decision. The Notice of Approval of Revised Developmental Schedule was further published on April 1, 1974 in the Federal Register.

The Oregon plan provides for the adoption of State standards which are at least as effective as comparable Federal standards promulgated under Section 6 of the Act. Section 1953.20 provides that "where any alteration in the Federal program could have an adverse impact on the at least as effective as" status of the State program, a program change supplement to a State plan shall be required.

In reponse to Federal standards changes, the State has submitted by letter dated July 20, 1978 from Darrel D. Douglas to James W. Lake and incorporated as part of the plan, State standards comparable to 29 CFR Part 1910, Subpart T, Commercial Diving Operations, as published in the Federal Register (42 FR 37650) dated July 22, 1977.

These State standards which are contained in OAR 437 Division 86, Commercial Diving, were promulgated after public hearings held on April 10, 1978.

2. Decision

Having reviewed the State submission in comparison with the Federal standards, it has been determined that the State standards are at least as effective as the comparable Federal standards and accordingly should be approved. The significant areas of difference are: § 1910.401, the scope of application which deletes coverage of Federal research activities; § 1910.402, the expanded definition of no-decompression limits; § 1910.421, pre-dive procedures amended to allow for inland operations; § 1910.421(h), warning signal amended to include the U.S. flag; § 1910.423(c)(2)(i), recompression capability amended by allowing the use of triple lock chamber (intent of rule is to disallow single lock chambers); § 1910.440(a), record-keeping, State does not required employer to submit records directly to NIOSH, those records are available to NIOSH through the State; §§ 1915.59, 1916.59, 1917.59, 1918.99, 1926.605(e), and 1928.21(b) now addressed by the State as OAR Chapter 437, Division 86 cover all diving operations under the jurisdiction of the State of Oregon. The detailed standards comparison is available at the locations specified below.

3. Location of Supplement for Inspection and Copying

A copy of the standards supplement, along with the approved plan, may be inspected and copied during normal business hours at the following locations: Office of the Regional Administrator, Occupational Safety and Health Administration, Room 6003, Federal Office Building, 909 First Avenue, Seattle, Washington 98174; Workers' Compenstaion Board, Labor & Industries Building, Salem, Oregon 97310; and the Techincial Data Center, Room N 2349 R, Third and Constitution Avenue, Washington, DC 20210.

4. Public Participation

Under 29 CFR 1953.2(c), the Assistant Secretary may prescribe alternative procedures to expedite the review process or for other good cause which may be consistent with applicable laws. The Assistant Secretary finds that good cause exists for not publishing the supplement to the Oregon plan as a proposed change and making the Regional Administrator's approval effective upon publication for the following reason:

The standards were adopted in accordance with the procedural requirements of State law which included public comment and further public particiaption would be repetitious.

This decision is effective May 18, 1979.

(Sec. 18, Pub. L. 91-596, 84 Stat. 1608 (29 U.S.C. 667)).

Signed at Seattle, Washington, this 21st day of February 1979.

James W. Lake,

Regional Administrator—OSHA.

[FR Doc. 79-15601 Filed 5-17-79; 8:45 am]

BILLING CODE 4510-26-M

Office of the Secretary

Alma Coal Corp., et al.; Investigations Regarding Certifications of Eligibility To Apply for Worker Adjustment Assistance

Petitions have been filed with the Secretary of Labor under Section 221(a) of the Trade Act of 1974 ("the Act") and are identified in the Appendix to this notice. Upon receipt of these petitions, the Director of the Office of Trade Adjustment Assistance, Bureau of International Labor Affairs, has instituted investigations pursuant to Section 221(a) of the Act and 29 CFR 90.12.

The purpose of each of the investigations is to determine whether absolute or relative increases of imports of articles like or directly competitive with articles produced by the workers' firm or an appropriate subdivision thereof have contributed importantly to an absolute decline in sales or production, or both, of such firm or subdivision and to the actual or threatened total or partial separation of a significant number or proportion of the workers of such firm or subdivision.

Petitioners meeting these eligibility requirements will be certified as eligible to apply for adjustment assistance under Title II, Chapter 2, of the Act in accordance with the provisions of Subpart B of 29 CFR Part 90. The investigations will further relate, as appropriate, to the determination of the date on which total or partial separations began or threatened to begin and the subdivision of the firm involved.

Pursuant to 29 CFR 90.13, the petitioners or any other persons showing a substantial interest in the subject matter of the investigations may request a public hearing, provided such request is filed in writing with the Director, Office of Trade Adjustment Assistance, at the address shown below, not later than May 29, 1979.

Interested persons are invited to submit written comments regarding the subject matter of the investigations to the Director, Office of Trade Adjustment Assistance, at the address shown below, not later than May 29, 1979.

The petitions filed in this case are available for inspection at the Office of the Director, Office of Trade Adjustment Assistance, Bureau of International Labor Affairs, U.S. Department of Labor, 200 Constitution Avenue, N.W., Washington, D.C. 20210.

Signed at Washington, D.C. this 10th day of May 1979.

Marvin M. Fooks,

Director, Office of Trade Adjustment Assistance.

Appendix

Petitioner: Union/workers or former workers of	Location	Date received	Date of petition	Petition No.	Articles produced
Alma Coal Corp. (workers)	Clothier, W. Va.	5/4/79	5/2/79	TA-W-5,370	Sub-contracting mining of coal.
Amherst Coal Co., Pargan Mine (U.M.W.W.)	Lundale, W. Va.	5/7/79	4/26/79	TA-W-5,371	Mining of coal.
Bergin Dyers, Inc. (workers)	Paterson, N. J.	5/7/79	4/30/79	TA-W-5,372	Dye acrylic machine knitting yarns.
Green Valley Trucking Co., Inc. (U.M.W.A.)	Greenbrier County, W. Va.	5/4/79	5/1/79	TA-W-5,373	Transports coal from mine to the cleaning plant.
Kay Windsor, Inc. (workers)	North Dartmouth, Mass.	5/7/79	4/26/79	TA-W-5,374	Ladies' dresses & sportswear.

Petitioner: Union/workers or former workers of	Location	Date received	Date of petition	Petition No.	Articles produced

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Petitioner: Union/workers or former workers of	Location	Date received	Date of petition	Petition No.	Articles produced
Pandora Industries, Inc., North View Division (workers).	Manchester, N.H.	5/7/79	5/1/79	TA-W-5,375	Children's, Jr's & women's sportswear.
Samco Sportswear, Inc. (ACTWU)	St. Paul Minn.	5/4/79	4/26/79	TA-W-5,376	Insulated underwear & ski wear.
Samco Sportswear of Crosby, Inc. (ACTWU)	Crosby, Minn.	5/4/79	4/26/79	TA-W-5,377	Snow mobile, ski & hunting wear.
Tempo Golf & Tennis, Inc. (workers)	New York, N.Y.	5/7/79	5/7/79	TA-W-5,378	Two-piece warmup suits also wrist and head band.
Wallace-Murray, Corp., Simonds Cutting Tools Division (USWA).	Fitchburg, Mass.	5/4/79	5/2/79	TA-W-5,379	Circular & band saws, hacksaws, machine knives, circular cutters, and shear knives.
White & Cole, Coal Co., Inc. No. 10 Mine (company).	Herndon, W. Va.	5/9/79	4/27/79	TA-W-5,380	Mining of coal.

[FR Doc. 79-15603 Filed 5-17-79; 8:45 am]

BILLING CODE 4510-28-M

Airline Deregulation Labor-Management Advisory Committee; Notice of Establishment

In accordance with the provisions of the Federal Advisory Committee Act and Office of Management and Budget Circular A-63 of March 1974, and after consultation with the General Services Administration, the Secretary of Labor has determined that the establishment of the Airline Deregulation Labor-Management Advisory Committee is in the public interest in connection with the performance of duties imposed on the Department by Section 43(d)(3) of the Airline Deregulation Act of 1978.

The Committee will be instrumental in advising the Assistant Secretary for Labor-Management Relations of ways in which the possible reemployment of employees within the industry can be facilitated. The Committee will also assist the Secretary of Labor in improving the effectiveness of the employee protection program established under Section 43(d) by giving advice on the development of the program and on its administration once regulations have been adopted.

The Committee will consist of a total of eighteen individuals chosen from the airline industry on the basis of their knowledge and leadership. Nine will be from the industry's labor leaders and an equal number from the management side.

The Committee will function solely as an advisory body and in compliance with the provisions of the Federal Advisory Committee Act.

Interested persons are invited to submit comments regarding the establishment of the Airline Deregulation Labor-Management Advisory Committee on or before June 4, 1979. Such comments should be addressed to:

Mr. Lary Yud, Chief, Division of Employee Protections, Room N-5639, U.S. Department of Labor, 200 Constitution Avenue, N.W., Washington, D.C. 20216. [Telephone (202) 523-6495.]

After consideration of the proposals received, the Committee's charter will be filed as required by Section 9(a)(2) of the Federal Advisory Committee Act.

Signed at Washington, D.C., this 10th day of May, 1979.

R. C. DeMarco,

Acting Assistant Secretary for Labor-Management Relations.

[FR Doc. 79-15196 Filed 5-17-79; 8:45 am]

BILLING CODE 4510-28-M

Ark-Less Corp., et al.; Investigations Regarding Certifications of Eligibility To Apply for Worker Adjustment Assistance

Petitions have been filed with the Secretary of Labor under Section 221(a) of the Trade Act of 1974 ("the Act") and are identified in the Appendix to this notice. Upon receipt of these petitions, the Director of the Office of Trade Adjustment Assistance, Bureau of International Labor Affairs, has instituted investigations pursuant to Section 221(a) of the Act and 29 CFR 90.12.

The purpose of each of the investigations is to determine whether absolute or relative increases of imports of articles like or directly competitive with articles produced by the workers' firm or an appropriate subdivision thereof have contributed importantly to an absolute decline in sales or production, or both, of such firm or subdivision and to the actual or threatened total or partial separation of a significant number or proportion of the workers of such firm or subdivision.

Petitioners meeting these eligibility requirements will be certified as eligible to apply for adjustment assistance under Title II, Chapter 2, of the Act in accordance with the provisions of Subpart B of 29 CFR Part 90. The investigations will further relate, as appropriate, to the determination of the date on which total or partial separations began or threatened to begin and the subdivision of the firm involved.

Pursuant to 29 CFR 90.13, the petitioners or any other persons showing a substantial interest in the subject matter of the investigations may request a public hearing, provided such request if filed in writing with the Director, Office of Trade Adjustment Assistance, at the address shown below, not later than May 29, 1979.

Interested persons are invited to submit written comments regarding the subject matter of the investigations to the Director, Office of Trade Adjustment Assistance, at the address shown below, not later than May 29, 1979.

The petitions filed in this case are available for inspection at the Office of the Director, Office of Trade Adjustment Assistance, Bureau of International Labor Affairs, U.S. Department of Labor, 200 Constitution Avenue, N.W., Washington, D.C. 20210.

Signed at Washington, D.C. this 14th day of May 1979.

Marvin M. Fooks,

Director, Office of Trade Adjustment Assistance.

Appendix

Petitioner: Union/workers or former workers of—	Location	Date received	Date of petition	Petition No.	Articles produced
Ark-Less Corp. (workers)	Watertown, Mass.	5/9/79	4/30/79	TA-W-5,381	Electrical components and switches.
Korelle Industries (company)	Avenel, N.J.	5/9/79	5/3/79	TA-W-5,382	Plastic coated fabrics.
Logan Mohawk Coal Company, Inc. (workers)	Logan, W.Va.	5/9/79	5/4/79	TA-W-5,383	Mining of coal.
Martil Clothing (ACTWU)	Philadelphia, Pa.	5/9/79	5/2/79	TA-W-5,384	Men's suits and sportscoats.
Marva Industries (Teamsters)	Elizabeth, N.J.	5/9/79	5/3/79	TA-W-5,385	Textile goods-knitwear material.
Monroe Auto Equipment Co. (company)	Paragould, Ark.	5/9/79	4/24/79	TA-W-5,386	Shock absorbers.

Petitioner: Union/workers or former workers of—	Location	Date received	Date of petition	Petition No.	Articles produced
Owens Illinois, Inc. (workers)	Bridgeton, N.J.	5/9/79	5/1/79	TA-W-5,387	Glass containers.
Parflex Rubber Thread Corp. (workers)	Providence, R.I.	5/10/79	5/1/79	TA-W-5,388	Extruded latex rubber threads.
R & R Cedar Products (workers)	Cottage Grove, Oreg.	5/10/79	5/2/79	TA-W-5,389	Cedar shingles and random cedar lumber.

[FR Doc. 79-15604 Filed 5-17-79; 8:45 am]

BILLING CODE 4510-28-M

[TA-W-4754]

Brookevale Manufacturing Co., Inc., Belle Vernon, Pa.; Negative Determination Regarding Eligibility To Apply for Worker Adjustment Assistance

In accordance with Section 223 of the Trade Act of 1974 (19 USC 2273) the Department of Labor herein presents the results of an investigation regarding certification of eligibility to apply for worker adjustment assistance.

In order to make an affirmative determination and issue a certification of eligibility to apply for adjustment assistance each of the group eligibility requirements of Section 222 of the Act must be met.

The investigation was initiated on January 29, 1979 in response to a worker petition received on January 24, 1979 which was filed on behalf of workers and former workers producing coats, sportcoats and suits at Brookevale Manufacturing Company, Incorporated, Belle Vernon, Pennsylvania. The investigation revealed that the plant produces men's sportcoats and suitcoats. In the following determination, at least one of the criteria has not been met:

That increases of imports of articles like or directly competitive with articles produced by the firm or appropriate subdivision have contributed importantly to the separations, or threat thereof, and to the absolute decline in sales or production.

The Department conducted a survey of the manufacturer for which Brookevale performs contract work. The survey revealed that the manufacturer did not purchase imported suits and sportcoats or utilize foreign contractors. Total sales of the manufacturer decreased in the first quarter of 1979 compared to the same period of 1978. A survey of some customers which decreased purchases from the manufacturer indicated that these customers did not purchase imported suits or sportcoats in 1978 or the first quarter of 1979.

Conclusion

After careful review, I determine that all workers of Brookevale Manufacturing Company, Incorporated, Belle Vernon, Pennsylvania are denied eligibility to apply for adjustment assistance under Title II, Chapter 2 of the Trade Act of 1974.

Signed at Washington, D.C. this 10th day of May 1979.

Michael Aho,

Director, Office of Foreign Economic Research.

[FR Doc. 79-15605 Filed 5-17-79; 8:45 am]

BILLING CODE 4510-28-M

[TA-W-5068]

Cecil Ainsworth, Ltd., New York, N.Y.; Termination of Investigation

Pursuant to Section 221 of the Trade Act of 1974, an investigation was initiated on March 29, 1979 in response to a worker petition received on March 28, 1979 which was filed on behalf of workers and former workers producing girl's dresses and sportswear at Ceil Ainsworth, Limited, New York, New York.

The Notice of Investigation was published in the **Federal Register** on April 6, 1979 (44 FR 20820-21). No public hearing was requested and none was held.

The petitioner requested withdrawal of the petition in a letter. On the basis of the withdrawal, continuing the investigation would serve no purpose. Consequently, the investigation has been terminated.

Signed at Washington, D.C. this 10th day of May 1979.

Marvin M. Fooks,

Director, Office of Trade Adjustment Assistance.

[FR Doc. 79-15606 Filed 5-17-79; 8:45 am]

BILLING CODE 4510-28-M

[TA-W-5088, et al.]

Continental Forest Industries, et al.; Negative Determination Regarding Eligibility To Apply for Worker Adjustment Assistance

In accordance with Section 223 of the Trade Act of 1974 (19 USC 2273) the Department of Labor herein presents the results of an investigation regarding certification of eligibility to apply for worker adjustment assistance.

In order to make an affirmative determination and issue a certification of eligibility to apply for adjustment assistance each of the group eligibility requirements of Section 222 of the Act must be met. In the following determination, at least one of the criteria has not been met.

[TA-W-5008]

Continental Forest Industries, Corrugated Group, Cambridge, Mass.

The investigation was initiated on March 30, 1979 in response to a worker petition received on March 23, 1979 which was filed on behalf of workers and former workers producing corrugated cartons and displays at Continental Forest Industries, Corrugated Group, Cambridge, Massachusetts. Without regard to whether any of the other criteria have been met, the following criterion has not been met:

That increases of imports of articles like or directly competitive with articles produced by the firm or appropriate subdivision have contributed importantly to the separations, or threat thereof, and to the absolute decline in sales or production.

The Cambridge, Massachusetts plant of the Corrugated Group of Continental Forest Industries produced corrugated cartons and displays. The petition alleges that increased imports of ground paper products (recycled paper) affected production and employment at Continental Forest Industries, Corrugated Group, Cambridge, Massachusetts. Imported ground paper products cannot be considered to be like or directly competitive with corrugated cartons and displays. Imports of corrugated cartons and displays must be considered in determining import injury to workers producing corrugated cartons and displays.

Imports of corrugated boxes supply only a very small percentage of the domestic market. The ratio of imports to domestic shipments of corrugated boxes has been below three-tenths of one percent in every year since 1974.

Conclusion

After careful review, I determine that all workers of the Cambridge, Massachusetts plant of Continental Forest Industries, Corrugated Group, are denied eligibility to apply for adjustment assistance under Title 11, Chapter 2 of the Trade Act of 1974.

[TA-W-4830]

Firestone Tire & Rubber Co., Pottstown, Pa.

The investigation was initiated on February 22, 1979, in response to a worker petition received on February 12, 1979, which was filed on behalf of workers and former workers producing tires at the Pottstown, Pennsylvania plant of Firestone Tire and Rubber Company. Without regard to whether any of the other criteria have been met, the following criterion has not been met.

That increases of imports of articles like or directly competitive with articles produced by the firm or appropriate subdivision have contributed importantly to the separations, or threat thereof, and to the absolute decline in sales or production.

Evidence developed during the Department's investigation revealed that the declines in production and employment at the Pottstown plant of Firestone Tire and Rubber Company were due to the discontinuation of one model of radial tire and its replacement by another model.

The Pottstown, Pennsylvania plant's Tire Division produced bias and radial passenger car tires, truck and tractor tires and industrial tires. Production of bias passenger car tires at Pottstown increased from 1976 to 1977 and from 1977 to 1978. Production of truck and tractor tires at Pottstown also increased from 1976 to 1977 and from 1977 to 1978. Industrial tires were an insignificant percentage of total tire production. The decline in total tire production at Pottstown from 1977 to 1978 can be attributed to the decline in radial tire production in the first, second, and third quarters of 1978 compared to the same quarters in 1977. This decline in radial tire production was caused by the recall and subsequent discontinuation of one model of radial tire and its replacement by a new radial model.

Subsequent to the shift to the new tire model, production of radial tires at Pottstown increased in the fourth quarter of 1978 both compared to the same quarter of 1977 and to the previous quarter, as the result of increased demand for the replacement model. As production increased workers were recalled. Employment began increasing on a monthly basis in the second half of 1978.

Firestone's companywide sales of all passenger car tires and sales of radial tires and bias ply tires increased from 1976 to 1977 and from 1977 to 1978. Company sales of all passenger car tires increased for seven consecutive quarters from the second quarter of 1977 through the fourth quarter of 1978 when compared to the same quarter of the previous year. Company sales of radial passenger car tires increased for eight consecutive quarters from the first quarter of 1977 through the fourth quarter of 1978, when compared to the same quarter of the previous year.

The petitioners allege that increased imports of automobiles have contributed importantly to the declines in production and employment at the Pottstown plant.

However, imports of automobiles cannot be considered to be like or directly competitive with tires.

Conclusion

After careful review, I determine that all workers of the Pottstown, Pennsylvania plant of Firestone Tire and Rubber Company are denied eligibility to apply for adjustment assistance under Title II, Chapter 2 of the Trade Act of 1974.

[TA-W-4999]

New Balance Athletic Shoes, Inc., Allston, Mass.

The investigation was initiated on March 20, 1979 in response to a worker petition received on March 16, 1979 which was filed on behalf of workers and former workers producing athletic shoes for men and women at the New Balance Athletic shoes, Incorporated, Allston, Massachusetts plants. Without regard to whether any of the other criteria have been met, the following criterion has not been met:

The increases of imports of articles like or directly competitive with articles produced by the firm or appropriate subdivision have contributed importantly to the separations, or threat thereof, and to the absolute decline in sales or production.

The two week shutdown at New Balance in February, 1979 was needed in order to adjust inventory. The lack of (any) December/January vacation slowdown in 1978/1979 and a changeover in the color of ladies' styles for spring necessitated the shutdown. Sales and employment have returned to normal levels by the beginning of the second quarter, 1979.

Sales and production of athletic shoes at New Balance increased from 1977 to 1978 and in every quarter from the first quarter of 1977 to the first quarter of 1979 compared to the same quarter of the previous year.

Employment at New Balance increased from 1977 to 1978 and in every quarter from the first quarter of 1978 to the first quarter of 1979 compared to the same quarter of the previous year.

Conclusion

After careful review, I determine that all workers of New Balance Athletic Shoes, Incorporated, Allston, Massachusetts plants are denied eligibility to apply for adjustment assistance under Title II, Chapter 2 of the Trade Act of 1974.

[TA-W-5003]

Wondermaid, Inc., Washington, Mo.

The investigation was initiated on March 20, 1979, in response to a worker petition received on March 14, 1979, which was filed on behalf of workers and former workers producing women's underwear and slips at the Washington, Missouri plant of Wondermaid, Incorporated. The investigation revealed that the plant produces women's slips. Without reard to whether any of the other criteria have been met, the following criterion has not been met:

That increases of imports of articles like or directly competitive with articles produced by the firm or appropriate subdivision have contributed importantly to the separations, or threat thereof, and to the absolute decline in sales or production.

Sales at Wondermaid, Incorporated increased absolutely in 1977 compared to 1976 and in 1978 compared to 1977. Production at the Washington, Missouri plant of Wondermaid, Incorporated increased in 1978 compared to 1977 and in the first quarter of 1979 compared to the first quarter of 1978. Sales and production decreases that occurred in the first quarter of 1979 compared to the last quarter of 1978 were the result of seasonal business declines.

Conclusion

After careful review, I determine that all workers of the Washington, Missouri plant of Wondermaid, Incorporated are denied eligibility to apply for adjustment assistance under Title II, Chapter 2 of the Trade Act of 1974.

Signed at Washington, D.C. this 10th day of May 1979 .

Michael Aho,

Director, Office of Foreign Economic Research.

[FR Doc. 79-15607 Filed 5-17-79; 8:45 am]

BILLING CODE 4510-28-M

[TA-W-2921]

Eagle Clothes, Inc., Brooklyn, N.Y.; Affirmative Determination Regarding Application for Reconsideration

In accordance with 29 CFR 90.18(c), on January 26, 1979, the Department of Labor issued a Notice of Negative Determination Regarding Application for Reconsideration regarding workers and former workers of Eagle Clothes Inc., Brooklyn, New York.

The notice was published in the **Federal Register** on February 2, 1979, (44 FR 6796).

Subsequent to the publication of the Negative Determination Regarding Application for Reconsideration, as a compromise in connection with current litigation, the Department of Labor offered to administratively reconsider the subject workers' petition. The purpose of this offer was to afford the petitioner in the light of new documentation an opportunity to address the legal issues contained in the Department of Labor's Notice of Negative Determination Regarding Application for Reconsideration in Eagle Clothes, Inc., Brooklyn, New York, TA-W-2921, dated January 26, 1979.

Conclusion

After review of the application, I conclude that the circumstances are such as to justify reconsideration of the Department of Labor's earlier decision denying certification of eligibility to workers of Eagle Clothes, Inc., engaged in preparing window and store displays at retail stores. The application is, therefore, granted.

Signed at Washington, D.C., this 9th day of May 1979.

James F. Taylor,

Director, Office of Management, Administration and Planning.

[FR Doc. 79-15606 Filed 5-17-79; 8:45 am]

BILLING CODE 4510-28-M

[TA-W-5072]

Elfskin Corp.; Negative Determination Regarding Eligibility To Apply for Worker Adjustment Assistance

In accordance with Section 223 of the Trade Act of 1974 (19 USC 2273) the Department of Labor herein presents the results of an investigation regarding certification of eligibility to apply for worker adjustment assistance.

In order to make an affirmative determination and issue a certification of eligibility to apply for adjustment assistance each of the group eligibility requirements of Section 222 of the Act must be met. In the following determination, at least one of the criteria has not been met.

[TA-W-5072]

Elfskin Corp., Worcester, Mass.

The investigation was initiated on March 29, 1979 in response to a worker petition received on March 27, 1979, which was filed on behalf of workers and former workers producing vinyl-coated, flocked, and sueded fabric at Elfskin Corporation, Cherry Valley, Massachusetts. The investigation revealed that Cherry Valley is a district in the city of Worcester, Massachusetts. The investigation also revealed that sueded and flocked fabric are the same product. Without regard to whether any of the other criteria have been met, the following criterion has not been met:

That increases of imports of articles like or directly competitive with articles produced by the firm or appropriate subdivision have contributed importantly to the separations, or threat thereof, and to the absolute decline in sales or production.

The petitioners allege that imports of shoes and other finished products that contain vinyl-coated and flocked fabric adversely affected production and employment levels at Elfskin Corporation. However, neither finished shoes nor other finished products that contain coated and flocked fabric can be considered to be like or directly competitive with vinyl-coated or flocked fabric. Imports of vinyl-coated and flocked fabric must be considered in determining import injury to workers producing vinyl-coated and flocked fabric.

The Department surveyed customers accounting for the decline in Elfskin's sales in 1978 compared with 1977 and in the first quarter of 1979 compared with the like period of 1978. The survey revealed that none of the customers imported vinyl-coated or flocked fabric during these periods.

Conclusion

After careful review, I determine that all workers of Elfskin Corporation, Worcester, Massachusetts are denied eligibility to apply for adjustment assistance under Title II, Chapter 2 of the Trade Act of 1974.

Signed at Washington, D.C. this 9th day of May 1979.

James F. Taylor,

Director, Office of Management, Administration and Planning.

[FR Doc. 79-15608 Filed 5-17-79; 8:45 am]

BILLING CODE 4510-28-M

[TA-W-4906]

Genesco, Inc.; Negative Determination Regarding Eligibility To Apply for Worker Adjustment Assistance

In accordance with Section 223 of the Trade Act of 1974 (19 USC 2273) the Department of Labor herein presents the results of an investigation regarding certification of eligibility to apply for worker adjustment assistance.

In order to make an affirmative determination and issue a certification of eligibility to apply for adjustment assistance each of the group eligibility requirements of Section 222 of the Act must be met. In the following determination, at least one of the criteria has not been met.

[TA-W-4906]

Genesco, Inc., Men's Apparel Sector, Ainsbrooke Division, Carmi, Ill.

In accordance with Section 223 of the Trade Act of 1974 (19 USC 2273) the Department of Labor herein presents the results of an investigation regarding certification of eligibility to apply for worker adjustment assistance.

In order to make an affirmative determination and issue a certification of eligibility to apply for adjustment assistance each of the group eligibility requirements of Section 222 of the Act must be met.

The investigation was initiated on March 8, 1979 in response to a worker petition received on March 1, 1979 which was filed on behalf of workers and former workers producing men's screen print "T" shirts, thermal underwear and men's boxer shorts at Genesco, Incorporated, Carmi Ainsbrooks Plant, Carmi, Illinois. The investigation revealed that the petition was filed on behalf of workers and former workers at the Carmi, Illinois plant of the Ainsbrooke Division of the Men's Apparel Sector of Genesco, Incorporated. The Carmi plant produced primarily men's underwear and men's knit tops in 1978. In the following determination, at least one of the criteria has been met:

That increases of imports of articles like or directly competitive with articles produced by the firm or appropriate subdivision have contributed importantly to the separations, or threat thereof, and to the absolute decline in sales or production.

A Department survey of Ainsbrook's customers indicated that most respondents purchased no imported men's underwear in 1977 or 1978. Customers which decreased purchases of underwear from Ainsbrooke in 1978 compared to 1977 did not increase purchases of imported underwear in the same time period.

The same survey indicated that customers which decreased purchases of knit tops form Ainsbrooke and increased purchases of imported knit shirts represented an insignificant proportion of Ainsbrooke's decline in total sales.

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Further evidence developed in the course of the investigation indicates that a decline in military sales was the major factor in Ainsbrooke's overall sales decline in 1978 compared to 1977. Ainsbrooke's Florence, Alabama plant is the only company facility approved to make underwear for the military; consequently, the decline in military sales in 1978 compared to 1977 resulted in unused production capacity at that facility. Production at the Carmi plant increased in 1978 compared to 1977 but the plant was closed in November 1978 and production consolidated at Florence in order to utilize the excess production capacity created by the decline in military sales.

Conclusion

After careful review, I determine that all workers of the Carmi, Illinois plant of the Ainsbrooke Division of the Men's Apparel Sector of Genesco, Incorporated are denied eligibility to apply for adjustment assistance under Title II, Chapter 2 of the Trade Act of 1974.

Signed at Washington, D.C. this 7th day of May 1979.

Harry J. Gilman,

Supervisory International economist, Office of Foreign Economic Research.

[FR Doc. 79-15610 Filed 5-17-79; 8:45 am]

BILLING CODE 4510-28-M

[TA-W-5258]

Lorraine Foundry, Maquoketa, Iowa; Termination of Investigation

Pursuant to Section 221 of the Trade Act of 1974, an investigation was initiated on April 18, 1979 in response to a worker petition received on April 10, 1979 which was filed by the International Molders and Allied Workers Union on behalf of workers and former workers producing grey ductile castings at the Lorraine Foundry, Masquoketa, Iowa.

During the course of the investigation, it was established that all workers of Lorraine Foundry were separated from employment on February 3, 1978. Section 223(b) of the Trade Act of 1974 states that no certification under this section may apply to any worker whose last total or partial separation from the firm or appropriate subdivision of the firm occurred more than one year prior to the date of the petition.

The date of the petition in this case is April 4, 1979 and, thus, workers terminated prior to April 4, 1978 are not eligible for program benefits under Title II, Chapter 2, Subchapter B of the Trade Act of 1974. The investigation is therefore terminated.

Signed at Washington, D.C. this 9th day of May 1979.

Marvin M. Fooks,

Director, Office of Trade Adjustment Assistance.

[FR Doc. 79-15611 Filed 5-17-79; 8:45 am]

BILLING CODE 4510-28-M

[TA-W-4870]

Rubber Corp. of Pennsylvania; Certification Regarding Eligibility To Apply for Worker Adjustment Assistance

In accordance with Section 223 of the Trade Act of 1974 (19 USC 2273) the Department of Labor herein presents the results of an investigation regarding certification of eligibility to apply for worker adjustment assistance.

In order to make an affirmative determination and issue a certification of eligibility to apply for adjustment assistance, each of the group eligibility requirements of Section 22 of the Act must be met. In the following case, it is concluded that all of the requirements have been met.

[TA-W-4870]

Rubber Corp. of Pennsylvania, West Hazleton, Pa.

The investigation was initiated on February 28, 1978 in response to a worker petition received on February 22, 1978 which was filed by the United Shoe Workers of America on behalf of workers and former workers producing athletic and casual footwear at the Rubber Corporation of Pennsylvania, West Hazleton, Pennsylvania. It is concluded that all of the requirements have been met.

U.S. imports of rubber and canvas footwear increased relative to domestic production from 1976 to 1977 and then increase absolutely and relative to domestic production in 1978 compared to 1977. The ratio of imports to domestic production was 207 percent in 1978.

U.S. imports of athletic footwear increased absolutely and relative to domestic production from 1976 to 1977 and then decreased absolutely and relative to domestic production from 1977 to 1978. The ratio of imports to domestic production for athletic footwear was 280 percent in 1978.

U.S. imports of rubber/plastic flexible sandals declined absolutely form 1976 to 1977 and then increased absolutely from 1977 to 1978.

The Department surveyed the customers of the Rubber Corporation of Pennsylvania. The survey revealed that some customers decreased purchases from the Rubber Corporation of Pennsylvania from 1977 to 1978 and increased purchases of imported athletic and casual footwear during the same time period.

Conclusion

After careful review of the facts obtained in the investigation, I conclude that increases of imports of articles like or directly competitive with athletic and casual footwear for men, women and children produced at Rubber Corporation of Pennsylvania, West Hazleton, Pennsylvania contributed importantly to the decline in sales or production and to the total or partial separation of workers of that firm. In accordance with the provisions of the Act, I make the following certification:

All workers of the Rubber Corporation of Pennsylvania, West Hazleton, Pennsylvania who became totally or partially separated from employment on or after July 28, 1978 are eligible to apply for adjustment assistance under Title II, Chapter 2 of the Trade Act of 1974.

Signed at Washington, D.C. this 10th day of May 1979.

Michael Aho,

Director, Office of Foreign Economic Research.

[FR Doc. 79-15612 Filed 5-17-79; 8:45 am]

BILLING CODE 4510-28-M

[TA-W-4910]

Slayton Manufacturing; Negative Determination Regarding Eligibility To Apply for Worker Adjustment Assistance

In accordance with Section 223 of the Trade Act of 1974 (19 U.S.C. 2273) the Department of Labor herein presents the results of an investigation regarding certification of eligibility to apply for worker adjustment assistance.

In order to make an affirmative determination and issue a certification of eligibility to apply for adjustment assistance each of the group eligibility requirements of Section 222 of the Act must be met. In the following determination, at least one of the criteria has not been met.

[TA-W-4910]

Slayton Manufacturing, Slayton, Minn.

The investigation was initiated on March 8, 1979 in response to a worker petition received on March 2, 1979 which was filed on behalf of workers and former workers sewing sleepwear for girls at Slayton Manufacturing, Slayton, Minnesota. Without regard to whether any of the other criteria have not met, the following criterion has not been met:

That increases of imports of articles like or directly competitive with articles produced by the firm or appropriate subdivision have contributed importantly to the separations, or threat thereof, and to the absolute decline in sales or production.

U.S. imports of women's, girls' and children's nightwear (excluding sets with robes) increased from 1976 to 1977 and from 1977 to 1978. However, industry sources stated that imports of girls' and children's nightwear are neglible due to the flammability standards for domestically-sold children's sleepwear.

A Departmental investigation revealed that all sleepwear sewn by Slayton Manufacturing was marketed by Lees Manufacturing Company, which was Slayton's parent firm. A survey of customers of Lees Manufacturing revealed that imports of girls' sleepwear are low relative to domestic production due to the flammability standards for children's sleepwear. The survey results showed that only one customer decreased purchases (when adjusted for price changes) from Lees Manufacturing from 1977 to 1978 and increased purchases of imported girls' sleepwear. This customer relied on imports for only a small portion of its supply. In addition, this customer did not exert a significant influence on Lees' total sales of girls' sleepwear.

Conclusion

After careful review, I determine that all workers of Slayton Manufacturing, Slayton, Minnesota are denied eligibility to apply for adjustment assistance under Title II, Chapter 2 of the Trade Act of 1974.

Signed at Washington, D.C., this 7th day of May 1979.

Michael Aho,

Director, Office of Foreign Economic Research.

[FR Doc. 79-15613 Filed 5-17-79; 8:45 am]

BILLING CODE 4510-28-M

[TA-W-4958]

Suntogs, Inc., Miami, Fla.; Certification Regarding Eligibility To Apply for Worker Adjustment Assistance

In accordance with Section 223 of the Trade Act of 1974 (19 U.S.C. 2273) the Department of Labor herein presents the results of an investigation regarding certification of eligibility to apply for worker adjustment assistance.

In order to make an affirmative determination and issue a certification of eligibility to apply for adjustment assistance, each of the group eligibility requirements of Section 222 of the Act must be met.

The investigation was initiated on March 15, 1979 in response to a worker petition received on March 12, 1979 which was filed on behalf of workers and former workers producing children's clothing at Suntogs, Inc., Miami, Florida. It is concluded that all of the requirements have been met.

Imports of children's swimwear, playwear, and shorts increased in 1978 compared to 1977.

Some customers of Suntogs, Inc. who were surveyed by the U.S. Department of Commerce increased purchases of imported children's clothing in 1978 while reducing purchases from Suntogs, Inc.

Conclusion

After careful review of the facts obtained in the investigation, I conclude that increases of imports of articles like or directly competitive with children's clothing produced at Suntogs, Inc., Miami, Florida contributed importantly to the decline in sales or production and to the total or partial separation of workers of that firm. In accordance with the provisions of the Act, I make the following certification:

All workers of Suntogs, Inc., Miami, Florida who became totally or partially separated from employment on or after March 5, 1978 are eligibile to apply for adjustment assistance under Title II, Chapter 2 of the Trade Act of 1974.

Signed at Washington, D.C. this 9th day of May 1979.

James F. Taylor,

Director, Office of Management Administration and Planning.

[FR Doc. 79-15614 Filed 5-17-79; 8:45 am]

BILLING CODE 4510-28-M

[TA-W-4893]

U.S. Steel Corp.; Negative Determination Regarding Eligibility To Apply for Worker Adjustment Assistance

In accordance with Section 223 of the Trade Act of 1974 (19 USC 2273) the Department of Labor herein presents the results of an investigation regarding certification of eligibility to apply for worker adjustment assistance each of the group eligibility requirements of Section 222 of the Act must be met. In the following determination, at least one of the criteria has not been met.

[TA-W-4893]

U.S. Steel Corp., Fairfield Works, Birmingham, Ala.

In accordance with Section 223 of the Trade Act of 1974 (19 U.S.C. 2273) the Department of Labor herein presents the results of an investigation regarding certification of eligibility to apply for worker adjustment assistance.

In order to make an affirmative determination and issue a certification of eligibility to apply for adjustment assistance each of the group eligibility requirements of Section 222 of the Act must be met.

The investigation was initiated on March 5, 1979 in response to a worker petition received on February 22, 1979 which was filed on behalf of workers and former workers producing steel rails at the Fairfield Works of U.S. Steel Corporation in Birmingham, Alabama. In the following determination, at least one of the criteria has not been met:

That increases of imports of articles like or directly competitive with articles produced by the firm or appropriate subdivision have contributed importantly to the separations, or threat thereof, and to the absolute decline in sales or production.

A survey was conducted on the major rail customers of the Fairfield Works of U.S. Steel. The surveyed customers accounted for over 95 percent of the rail sold by the Fairfield Works in 1978. Only one of the customers surveyed purchased any imported rails in 1978 and the quantity of imported rails purchased was insignificant when compared to the total sales of rails by the Fairfield Works. None of the customers surveyed had purchased any imported rails in 1979 to date. The customers surveyed indicated that imported rails had little or no effect on purchases from domestic manufacturers.

Conclusion

After careful review, I determine that all workers engaged in the production of steel rails at the Fairfield Works of U.S. Steel Corporation in Birmingham, Alabama are denied eligibility to apply for adjustment assistance under Title II, Chapter 2 of the Trade Act of 1974.

hearing in this proceeding will

may request permission to make a

Dated at Bethesda, Maryland this 11th day

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Signed at Washington, D.C. this 4th day of May 1979.

Harry J. Gilman,

Supervisory International Economist, Office of Foreign Economic Research.

[FR Doc. 79-15515 Filed 5-17-79; 8:45 am]

BILLING CODE 4510-28-M

NATIONAL SCIENCE FOUNDATION

Ad Hoc Oversight Subcommittee for Low Temperature Physics; Meeting

In accordance with the Federal Advisory Committee Act, Pub. L. 92-463, as amended, the National Science Foundation announces the following meeting:

Name: Ad Hoc Oversight Subcommittee for Low Temperature Physics, Condensed Matter Advisory Subcommittee, Advisory Committee for Materials Research.

Date and time: June 7 and 8, 1979—9 a.m.-5 p.m. each day.

Place: Room 421, National Science Foundation, 1800 G Street, N.W., Washington, D.C. 20550.

Type of meeting: Closed both days, 9 a.m.—5 p.m.

Contact person: Dr. Herbert S. Bennett, Director, Division of Materials Research, Room 408, National Science Foundation, Washington, D.C., Telephone (202) 632-7412.

Purpose of subcommittee: To provide advice and recommendations concerning support for research in Low Temperature Physics.

Agenda: Thursday, June 7, 1979—9 a.m. to 5 p.m.—closed. Review and comparison of declined proposals (and supporting documentation) with successful awards including review of peer review materials and other privileged materials.

Friday, June 8, 1979—9 a.m. to 5 p.m.—closed.

9 a.m.—Further discussions of declined proposals and awards.

12 noon—Lunch.

1 p.m.—Preparation of report on subcommittee findings and recommendations.

Reasons for closing: The Subcommittee will be reviewing grants and declination jackets which contain the names of applicant institutions and principal investigators and privileged information contained in declined proposals. This session will also include a review of the peer review documentation pertaining to applicants. These matters are within exemptions (4) and (6) of 5 U.S.C. 552(c), Government in the Sunshine Act.

Authority to close meeting: This determination was made by the Director, NSF, pursuant to provisions of Section 10(d) of Pub. L. 92-463.

M. Rebecca Winkler,

Committee Management Coordinator.

May 15, 1979.

[FR Doc. 79-15515 Filed 5-17-79; 8:45 am]

BILLING CODE 7555-01-M

Subcommittee on Neurobiology; Meeting

In accordance with the Federal Advisory Committee Act, as amended, Pub. L. 92-463, the National Science Foundation announces the following meeting:

Name: Subcommittee on Neurobiology of the Advisory Committee for Behavioral and Neural Sciences.

Date and time: June 4, 5, and 6, 1979: 9 a.m. to 5 p.m. each day.

Place: Room 338, National Science Foundation, 1800 G Street, NW., Washington, D.C.

Type of meeting: Closed.

Contact person: Dr. Janett Trubatch, Program Director, Neurobiology Program, Room 320, National Science Foundation, Washington, D.C. 20550, telephone 202/634-4036.

Purpose of subcommittee: To provide advice and recommendations concerning support for research in Neurobiology.

Agenda: To review and evaluate research proposals as part of the selection process for awards.

Reason for closing: The proposals being reviewed include information of a proprietary or confidential nature, including technical information; financial data, such as salaries; and personal information concerning individuals associated with the proposals. These matters are within exemptions (4) and (6) of 5 U.S.C. 552b(c), Government in the Sunshine Act.

Authority to close meeting: This determination was made by the Committee Management Officer pursuant to provisions of Section 10(d) of Pub. L. 92-463. The Committee Management Officer was delegated the authority to make such determinations by the Acting Director, NSF, on February 18,

M. Rebecca Winkler,

Committee Management Coordinator.

May 15, 1979.

[FR Doc. 79-15516 Filed 5-17-79; 8:45 am]

BILLING CODE 7555-01-M

NUCLEAR REGULATORY COMMISSION

Advisory Committee on Reactor Safeguards, Subcommittee on Reliability and Probabilistic Assessment; Meeting

The ACRS Subcommittee on Reliability and Probabilistic Assessment will hold an open meeting on June 2, 1979 in Room 1046, 1717 H St., NW, Washington, DC 20555 to discuss the 1979 Review and Evaluation of the NRC Safety Research Program.

In accordance with the procedures outlined in the **Federal Register** on October 4, 1978 (43 FR 45926), oral or written statements may be presented by members of the public, recordings will be permitted only during those portions of the meeting when a transcript is being kept, and questions may be asked only by members of the Subcommittee, its consultants, and Staff. Persons desiring to make oral statements should notify the Designated Federal Employee as far in advance as practicable so that appropriate arrangements can be made to allow the necessary time during the meeting for such statements.

The agenda for subject meeting shall be as follows:

Saturday, June 2, 1979—8:30 a.m. until the conclusion of business.

The Subcommittee will meet in Executive Session with any of its consultants who may be present, and with representatives of the NRC Staff and their consultants, to explore and exchange their preliminary opinions regarding matters which should be considered during the meeting and to formulate a report and recommendation to the full Committee.

At the conclusion of the Executive Session, the Subcommittee will hear presentations by and hold discussions with representatives of the NRC Staff and their consultants, pertinent to this review. The Subcommittee may then caucus to determine whether the matters identified in the initial session have been adequately covered and whether the project is ready for review by the full Committee.

Further information regarding topics to be discussed, whether the meeting has been cancelled or rescheduled, the chairmen's ruling on requests for the opportunity to present oral statements and the time allotted therefor can be obtained by a prepaid telephone call to the Designated Federal Employee for this meeting, Mr. Richard K. Major, (telephone 202/634-1414) between 8:15 a.m. and 5:00 p.m., EDT.

Background information concerning items to be considered at this meeting can be found in documents on file and available for public inspection at the NRC Public Document Room, 1717 H St., NW, Washington, DC 20555.

Dated: May 10, 1979.

John C. Hoyle,

Advisory Committee, Management Officer.

[FR Doc. 79-15123 Filed 5-17-79; 8:45 am]

BILLING CODE 7590-01-M

[Docket No. 50-358 OL]

Cincinnati Gas & Electric Co. et al.; Evidentiary Hearing

Before the Atomic Safety and Licensing Board; in the matter of Cincinnati Gas and Electric Co., et al., (William H. Zimmer Nuclear Station).

Please take notice that, in accordance with the Licensing Board's Orders of April 6 and May 11, 1979, an evidentiary hearing in this proceeding will commence at 9:30 a.m. on Tuesday, June 19, 1979, at a location in the Cincinnati, Ohio area to be announced in a later order. To the extent necessary, further sessions of the hearing will be held on June 20-22 and 26-29, 1979, beginning at 9 a.m.

Pursuant to the Atomic Energy Act of 1954, as amended (the Act), and the regulations in Title 10, Code of Federal Regulations, Part 50, "Licensing of Production and Utilization Facilities," Part 51, "Licensing and Regulatory Policy and Procedures for Environmental Protection," and Part 2, "Rules of Practice," notice is hereby given that the said evidentiary hearing will be held to consider the application filed under the Act by the Cincinnati Gas and Electric Co. on behalf of itself, the Columbus and Southern Ohio Electric Co., and the Dayton Power and Light Co. (Applicants), to possess, use and operate the William H. Zimmer Nuclear Power Station, Unit 1, a boiling water nuclear reactor located on the Applicants' site on the eastern shore of the Ohio River, one-half mile north of Moscow and about 24 miles southeast of Cincinnati, Ohio. The hearing will be conducted by an Atomic Safety and Licensing Board designated by the Chairman of the Atomic Safety and Licensing Board Panel. The Board's membership consists of Mr. Glenn O. Bright, Dr. Frank F. Hooper, and Mr. Charles Bechhoefer, Chairman.

In 1975, the Applicants submitted their application for an operating license. A Notice of Opportunity for Hearing was published on September 24, 1975 (40 FR 43959). Petitions for leave to intervene filed by the City of Cincinnati, Dr. David B. Fankhauser, Mrs. Mari B. Leigh, and the Miami Valley Power Project were subsequently granted and a Notice of Hearing was published on March 25, 1976 (41 FR 12361). (Mrs. Leigh is now deceased.) In accordance with the provisions of 10 CFR 2.760a, the hearing will be limited to the consideration of matters put into controversy by the parties to the proceeding and which have been determined by the Board to be issues in the proceeding, together with other issues, if any, where the Board has determined that a serious safety, environmental, or common defense and security matter exists. Depending on the resolution of those matters the Director of Nuclear Reactor Regulation, after making the requisite findings, will issue, deny, or appropriately condition the sought operating license.

Any person who has not been admitted as a party to this proceeding may request permission to make a limited appearance pursuant to the provisions of 10 CFR 2.715(a). A person making a limited appearance may make an oral or written statement on the record. He or she does not become a party but may state a position and raise questions which he or she would like to have answered, to the extent that the questions are within the purview of matters which may be considered in an operating license proceeding, as specified by 10 CFR 2.104(c). Limited appearances will be permitted at this evidentiary hearing, as well as at the prehearing conference on May 22 and 23, 1979 (see announcement at 44 FR 22229 (April 13, 1979) for details), within such limits and on such conditions as may be fixed by the Board. Persons desiring to make a limited appearance are requested to inform the Secretary of the Commission, U.S. Nuclear Regulatory Commission, Washington, DC 20555.

Dated at Bethesda, Maryland, this 11th day of May, 1979.

The Atomic Safety and Licensing Board.

Charles Bechhoefer,

Chairman.

[FR Doc. 79-15491 Filed 5-17-79; 8:45 am]

BILLING CODE 7590-01-M

[Docket Nos. 50-514, 50-515]

Portland General Electric Co., et al.; Memorandum and Order Concerning Conference Scheduled for June 20, 1979

Before the Atomic Safety and Licensing Board;

In the matter of Portland General Electric Co., et al., (Pebble Springs Nuclear Plant, Units 1 and 2).

A conference of the Parties in this proceeding is scheduled for Wednesday, June 20, 1979, at 9:00 a.m., local time at the following location:

Courtroom Number 2 (Third Floor), The Pioneer Courthouse, 555 S.W. Yamhill, Portland, Oregon 97204.

The purpose of this conference is to discuss schedules, the status of the State of Oregon proceeding, and the status in this proceeding of certain open items, namely:

(1) Alternative Sites.

(2) Financial Qualifications.

(3) Appendix I.

(4) "River Bend" Generic Safety Subjects.

(5) Need for Power.

Members of the public are invited to attend but limited appearances will not be received at this conference.

It is so ordered.

Dated at Bethesda, Maryland this 11th day of May 1979.

For the Atomic Safety and Licensing Board.

James R. Yore,

Chairman.

[FR Doc 79-15492 Filed 5-17-79; 8:45 am]

BILLING CODE 7590-01-M

PENNSYLVANIA AVENUE DEVELOPMENT CORPORATION

Board of Directors; Meeting

The Pennsylvania Avenue Development Corporation will hold a meeting of its Board of Directors on Thursday, May 24, 1979, beginning at 9:30 a.m. The meeting will be held in the tenth floor conference room of the National Capital Planning Commission, 1325 G Street, N.W., Washington, D.C.

The Board will take up a full agenda of general business matters, including any new business or unfinished business that members of the Board propose to consider. The meeting is expected to last approximately three hours, and most of it will be open to the public. The Chairman has determined that a brief portion of the meeting will be conducted in executive session, closed to the public, for discussion of confidential financial matters arising from the Corporation's negotiations with the proposed developers of property on Square 225 (the Willard Hotel block) and Square 254 (the National Theatre block). The closed portion of the meeting will take place at the end of the session.

A complete printed agenda for the meeting will be available by Monday, May 21, 1979, and may be obtained by request to: Ms. Barbara S. Austin, Secretary to the Board, Pennsylvania Avenue Development Corporation, 425 13th Street, N.W., Suite 1148, Washington, D.C. 20004; or, by visiting the offices of the Corporation at the foregoing address.

Dated: May 15, 1979.

Peter T. Meszoly,

Assistant Director/General Counsel.

[FR Doc. 79-15573 Filed 5-17-79; 8:45 am]

BILLING CODE 7630-01-M

PRESIDENTIAL COMMISSION ON WORLD HUNGER

Meeting

The sixth meeting of the Presidential Commission on World Hunger will be held on Wednesday, June 6, 1979, in Room 2010 of the New Executive Office Building, 726 Jackson Place, N.W., Washington, D.C. The meeting will

begin at 9:30 a.m. and conclude at approximately 4:30 p.m.

The agenda for the meeting will include a presentation by Director General Edouard Saouma of the Food and Agriculture Organization of the UN and a discussion of draft portions of the Commission's Report.

The meeting will be open to observation by the public to the extent space is available. Reservations are required and requests should be addressed to Presidential Commission on World Hunger, 734 Jackson Place, N.W. Washington, D.C. 20006. Reservations will be honored on the basis of the earliest postmarks of requests.

Donald B. Harper,

Administrative Officer, Presidential Commission on World Hunger.

[FR Doc. 79-15511 Filed 5-17-79; 8:45 am]

BILLING CODE 6820-87-M

SECURITIES AND EXCHANGE COMMISSION

[File No. 500-1]

Belscot Retailers, Inc.; Order of Suspension of Trading

May 11, 1979.

It appearing to the Securities and Exchange Commission that Belscot Retailers, Inc. has failed to file with the Commission its Annual Report on Form 10-K for its fiscal year ended January 27, 1979, and that, as a result, there is a lack of current adequate and accurate public information about the operations and financial condition of Belscot Retailers, Inc. The Commission is of the opinion that the public interest and the protection of investors require a summary suspension of trading in the securities of Belscot Retailers, Inc.

Therefore, it is ordered, pursuant to Section 12(k) of the Securities Exchange Act of 1934, that trading in such securities on a national securities exchange or otherwise is suspended, for the period from 10:00 a.m. (e.d.t.) on May 11, 1979 through May 20, 1979.

By the Commission.

George A. Fitzsimmons,

Secretary.

[FR Doc. 79-15594 Filed 5-17-79; 8:45 am]

BILLING CODE 8010-01-M

[Release No. 21044; 70-6300]

Consolidated Natural Gas Co. et al.; Proposed Intrasystem Financing, Issuance and Sale of Short-Term Notes to Banks and Commercial Paper by Holding Company, and Exception From Competitive Bidding

May 9, 1979.

In the matter of Consolidated Natural Gas Company, 30 Rockefeller Plaza, New York, New York 10020; CNG Coal Company; CNG Development Company Ltd.; CNG Producing Company; CNG Research Company; Consolidated Gas Supply Corportion; Consolidated Natural Gas Service Company, Inc.; Consolidated System LNG Company; The East Ohio Gas Company; The Peoples Natural Gas Company; The River Gas Company; West Ohio Gas Company.

Notice is hereby given that Consolidated Natural Gas Company ("Consolidated'), a registered holding company, and certain of its subsidiary companies, CNG Coal Company ("Coal Company"), CNG Development Company Ltd., CNG Producing Company ("Producing company"), CNG Research Company ("Research Company"), Consolidated Gas Supply Corporation ("Gas Supply"), Consolidated Natural Gas Service Company, Inc., Consolidated System LNG Company ("LNG Company"), The East Ohio Gas Company ("East Ohio"), The Peoples Natural Gas Company ("Peoples"), the River Gas Company ("River") and West Ohio Gas Company ("West Ohio") have filed an application-declaration with this commission pursuant to the Public Utility Holding company Act of 1935 ("Act"), designating sections 6(a), 6(b), 7, 9(a), 10, 12(b), and 12(f) of the Act and Rules 43, 45, and 50(a)(5) promulgated thereunder as applicable to the proposed transactions. All interested persons are referred to the application-declaration, which is summarized below, for a complete statement of the proposed transactions.

Consolidated proposes, from time to time up to May 31, 1980, to make long-term loans aggregating up to $110,000,000 to five subsidary companies in the amounts set forth in the table below, for the purpose of partially financing their 1979 capital expenditures. Capital expenditures for all of Consolidated's subsidiaries are estimated at $185,025,000 in 1979. Prior to completion of Consolidated's long-term financing in 1979, such loans to said subsidiary companies will be in the form of interim open account advances, payable on or before May 31, 1980, with interest at the prime commercial rate in effect from time to time at The Chase Manhattan Bank, N.A. ("Chase Manhattan"), with a retroactive adjustment of the interest rate on the advances to conform with the effective cost of money to Consolidated from its long-term financing. Following the long-term financing by Consolidated, the Interim open account advances to subsidiary companies, subject to an amendment being filed, will be converted into long-term financing of such subsidiary companies. Thereafter, loans to subsidiary companies for capital expenditures will be evidenced by such long-term financing.

Consolidated proposes to issue and sell up to $100,000,000 of short-term notes to a group of banks during 1979. Such notes will bear interest at the prime commercial rate in effect from time to time at Chase Manhattan. Prepayments may be made in whole or in part, from time, to time, upon five days' notice without penalty or premium. There will be no closing or related charges or commitment fee, and the notes will mature not more than twelve months from the date of the first borrowing. No compensating balance requirements will be imposed. The average of deposits regularly maintained by the Consolidated companies in the participating banks for normal operating purposes amounted to approximately $25,400,000 for 1978. It is stated that based on a requirement of 10% of the proposed credit line and 10% of average borrowings thereunder, the average compensating balances would have amounted to approximately $15,800,000 for the year 1978.

Consolidated proposes to use the proceeds from said bank borrowings to make open account advances to its subsidiary companies aggregating up to $100,000,000 for gas storage inventories, payable as gas is withdrawn and sold during the 1979-80 heating season. The advances to subsidiary companies will bear interest at the same rate as the related bank borrowings by Consolidated and will be made in amounts as set forth in the table below. Also shown in the following table are $75,000,000 of open account advances which Consolidated proposes to make from time to time up to May 31, 1980, to subsidiary companies for working capital requirements from part of the proceeds of Consolidated's proposed issuance and sale (described hereinafter) of up to $50,000,000 of

commercial paper and/or notes to a bank. It is stated that these advances should not exceed $40,000,000 at any one time. The advances will be repaid not more than one year from the date of the first advance to each subsidiary with interest at substantially the same effective rate as incurred by Consolidated on the related commercial paper sale and/or bank borrowings.

Subsidiary company	Interim advances and long-term notes	Advances for seasonal increase in gas storage inventories	Advances for working capital requirements
Producing Company	$27,500,000	.....	$12,500,000
Gas Supply	55,000,000	$ 70,000,000	23,000,000
LNG Company	.....	.....	10,000,000
East Ohio	20,000,000	15,000,000	20,000,000
Peoples	7,000,000	15,000,000	8,000,000
River	500,000	.....	500,000
West Ohio	.....	.....	1,000,000
Coal Company	.....	.....	.....
Research Company	.....	.....	.....
Service Company	.....	.....	.....
Total	110,000,000	100,000,000	75,000,000

Consolidated further proposes to acquire, and the subsidiary companies set forth below propose to issue and sell to Consolidated from time to time up to May 31, 1980, capital stock up to the following amounts at the par value thereof:

	Number of shares	Aggregate par value
Coal Company	40,000 ($100 par)	$4,000,000
Producing Company	50,000 ($100 par)	5,000,000
Research Company	25,000 ($100 par)	2,500,000
Gas Supply	100,000 ($100 par)	10,000,000
River	9,000 ($100 par)	900,000
Total		22,400,000

The proceeds derived from the proposed sale of stock will be used to finance, in part, the subsidiaries' capital expenditures. The purchase of said capital stock by Consolidated will be made principally with funds from internal cash generation, and from the sale of common stock pursuant to its stockholder and employee stock plans.

As indicated above, Consolidated proposes to issue and sell commercial paper, in the form of short-term promissory notes payable to bearer, in the aggregate face amount not to exceed $50,000,000 outstanding at any one time to a dealer in commercial paper from time to time up to May 31, 1980. The commercial paper will have varying maturities of not more than 270 days after the date of issue and will be issued and sold in varying denominations of not less than $50,000 and not more than $5,000,000 directly to the dealer at a discount which will not be in excess of the discount rate per annum prevailing at the date of issuance for commercial paper of comparable quality and like maturities. Consolidated proposes to sell commercial paper only so long as the effective interest cost for such commercial paper does not exceed the equivalent cost of borrowings from a commercial bank on the date of sale.

No commission or fee will be payable by Consolidated in connection with the issue and sale of such commercial paper notes. The dealer, as principal, will reoffer such notes at a discount not to exceed one-eighth of one percent per annum less than the prevailing discount rate to Consolidated. Such notes will be reoffered to not more than 200 identified and designated customers on a list (nonpublic) prepared in advance by the dealer and furnished to the Commission. It is anticipated that the commerical paper will be held by customers to maturity; however, if any commercial paper is repurchased by the dealer pursuant to a repurchase agreement, such paper will be reoffered only to others in the group of 200 customers. The issuance and sale of commerical paper is to provide $50,000,000 for working capital advances to subsidiary companies.

Consolidated proposes to the extent that it becomes impracticable to issue such commercial paper, to borrow, repay, and reborrow from Chase Manhattan, from time to time up to May 31, 1980, an aggregate principal amount not to exceed $50,000,000 outstanding at any one time, at the prime commercial rate of interest in effect on the date of each borrowing, upon the promissory note or notes of Consolidated having a maturity date not more than 90 days from the date of each borrowing, and with the right of prepayment, in whole or in part at any time or from time to time, without prior notice and without premium. The amount of commerical paper notes and said notes, if any, payable to Chase Manhattan will not collectively exceed $50,000,000 outstanding at any one time. There will be no closing or related charges and no commitment fee with respect to such bank loans, nor will there be any compensating-balance requirements.

Consolidated requests that, for the period commencing upon the date of the granting of this application-declaration and ending May 31, 1980, an exemption be allowed from the provisions of Section 6(a) of the Act pursuant to the first sentence of Section 6(b), relating to the issuance and sale of short-term notes, by increasing the 5% limitation on such notes to a maximum of 6% in order to permit Consolidated to have outstanding at any one time up to $50,000,000 principal amount of short-term notes during such period as proposed herein.

Consolidated requests exception from the competitive bidding requirements of Rule 50 with respect to the sale of commericial paper on the grounds that such commercial paper will have maturities of nine months or less, that current rates for commercial paper for prime borrowers, such as Consolidated, are published daily in financial publications, and that it is not practical to invite competitive bids for commercial paper. Consolidated also proposes that the Rule 24 certificates of notification regarding the proposed transactions be filed on a quarterly basis.

It is stated that CNG Development Company Ltd. and Consolidated Natural Gas Service Company, Inc., have no new financing requirements for 1979 at the time of filing and that if such requirements should arise, an amendment to that effect will be filed as part of this proceeding.

The application-declaration states that the Public Service Commission of West Virginia has jurisdiction over the proposed long-term and short-term borrowings and stock issuances of Gas Supply, that the Public Utilities Commission of Ohio has jurisdiction over the long-term borrowings of River and East Ohio and the stock issuance proposed by River, and that the

Pennsylvania Public Utility Commission has jurisdiction over the long-term borrowings of Peoples. It is further stated that no other state or federal commission, other than this Commission, has jurisdiction over the proposed transactions. The fees and expenses to be incurred in connection with the proposed transactions are estimated not to exceed $12,500, including $10,000 for the system service company charges, at cost. All of such fees and expenses are to be paid by Consolidated.

Notice is further given that any interested person may, not later than June 6, 1979, request in writing that a hearing be held in respect of such matter, stating the nature of his interest, the reasons for such request, and the issues of fact or law raised by said application-declaration which he desires to controvert; or he may request that he be notified should the Commission order a hearing thereon. Any such request should be addressed: Secretary, Securities and Exchange Commission, Washington, D.C. 20549. A copy of such request should be served personally or by mail upon the applicants-declarants at the above-stated address, and proof of service (by affidavit or, in case of an attorney at law, by certificate) should be filed with the request. At any time after said date, the application-declaration, as filed or as it may be amended, may be granted and permitted to become effective as provided in Rule 23 of the general rules and regulations promulgated under the Act, or the Commission may grant exemption from such rules as provided in Rules 20(a) and 100 thereof or take such other action as it may deem appropriate. Persons who request a hearing or advice as to whether a hearing is ordered will receive any notices and orders issued in this matter, including the date of the hearing (if ordered) and any postponements thereof.

For the Commission, by the Division of Corporate Regulation, pursuant to delegated authority.

George A. Fitzsimmons,

Secretary.

[FR Doc. 79-15585 Filed 5-17-79; 8:45 am]

BILLING CODE 8010-01-M

[Release No. 10688; 812-4461]

Massachusetts Mutual Life Insurance Co. and Massmutual Corporate Investors, Inc.; Filing of Application for Amendment of Prior Order Pursuant to Certain Joint Transactions

May 10, 1979.

In the matter of Massachusetts Mutual Life Insurance Company and Massmutual Corporate Investors, Inc., 1295 State Street, Springfiled, Massachusetts 01111.

Notice is hereby given that Massachusetts Mutual Life Insurance Company ("Insurance Company"), a mutual life insurance company organized under the laws of the Commonwealth of Massachusetts, and MassMutual Corporate Investors, Inc. ("Fund"), registered under the Investment Company Act of 1940 ("Act") as a non-diversified, closed-end, management investment company (hereinafter, the Insurance Company and the Fund are collectively referred to as "Applicants"), filed an application on May 7, 1979, for an order amending the conditions contained in a prior order of the Commission (Investment Company Act Release No. 6690, August 19, 1971) ("1971 Order") pursuant to Section 17(d) of the Act and Rule 17d-1 thereunder, which order authorized the Insurance Company (which serves as investment adviser to the Fund) to invest concurrently for its general account in each issue of securities purchased by the Fund at direct placement. All interested persons are referred to the application on file with the Commission for a statement of the representations contained therein, which are summarized below.

Section 17(d) of the Act and Rule 17d-1 thereunder, taken together, provide, in part, that it is unlawful for an affiliated person of a registered investment company, acting as principal, to effect any transaction in which such investment company is a joint participant, without the permission of the Commission. Rule 17d-1 provides, in part, that in passing upon applications for orders granting such permission, the Commission will consider (1) whether the participation of the investment company in such transaction on the basis proposed is consistent with the provisions, policies and purposes of the Act, and (2) the extent to which such participation is on a basis different from or less advantageous than that of other participants. Section 2(a)(3)(E) of the Act includes within the definition of "affiliated person" any investment adviser of an investment company.

As noted above, on August 19, 1971, the Commission issued an order, pursuant to Section 17(d) of the Act and Rule 17d-1 thereunder, permitting the Insurance Company, subject to certain conditions, to invest concurrently for its general account in each issue of securities purchased by the Fund at direct placement. The conditions require, among other things, that: (i) All securities that the Insurance Company is prepared to purchase at direct placement and that would be consistent with the investment policies of the Fund will be shared equally with the Fund (unless certain determinations are made by the Board of Directors of the Fund); (ii) the Insurance Company will invest an amount equal to the amount invested in the issue by the Fund; (iii) neither the Fund nor the Insurance Company will have any prior interest in the issuer or acquire any subsequent interest in the issuer, other than interests in all respects identical; and (iv) neither the Insurance Company nor the Fund will sell, exchange or otherwise dispose of any interest in any security of a class held by the Fund unless each makes such disposition at the same time, for the same unit consideration and in the same amount.

Applicants state that during the period in which the 1971 Order has been in operation, the Insurance Company and the Fund have filed over twenty applications with the Commission for special orders, pursuant to Section 17(d) of the Act and Rule 17d-1 thereunder, permitting proposed actions that were either clearly or arguably inconsistent with the conditions contained in the 1971 Order, but which Applicants believed were consistent with the purposes of the Act and did not involve participation by the Fund on a basis less advantageous than that of any other participants. Applicants further state that these applications were filed with respect to (i) actions proposed to be taken by the Insurance Company and the Fund concurrently and on the same terms, which they considered to be in both their interests, and (ii) actions proposed to be taken solely by the Insurance Company, which it considered to be in its own interest and which both it and the Fund considered to be either in the Fund's interest or "neutral" as far as the Fund's interest were concerned.

Applicants assert that such applications have consumed significant amounts of their time and subjected the Insurance Company to substantial legal expenses. In addition, they assert that the need to obtain special orders prior to making investments, or prior to taking certain actions with respect to existing

investments, has hindered them from acting quickly in response to opportunities and market conditions which require prompt action. Therefore, Applicants request that the 1971 Order be amended to rescind all conditions contained therein, and substitute, in lieu thereof, the following conditions:

1. Each time the Insurance Company proposes to participate in a direct placement involving its purchase of securities the purchase of which would be consistent with the investment policies of the Fund, the Insurance company will offer the Fund an opportunity to purchase an amount of each class of such securities equal to the amount of such securities proposed to be purchased by the Insurance Company. The Fund may choose to purchase none of such securities or an amount of such securities up to the entire amount of securities offered to it by the Insurance Company.

2. If the Fund chooses to participate in a direct placement and share equally with the Insurance Company in each class of such securities, the Insurance Company and the Fund may purchase such securities at the same times and at the same unit prices without further order of the Commission.

3. If the Fund chooses to participate in a direct placement on a basis other than an equal basis with the Insurance Company, an application for an order of the Commission specifically permitting such unequal participation must be filed with the Commission pursuant to Section 17(d) of the Act and Rule 17d-1 thereunder. In the event that the Commission shall not enter such an order prior to the scheduled closing date for the acquisition of such securities by the Fund, the Insurance Company will purchase the portion of such securities intended to be purchased by the Fund and will apply for an order of the Commission under Section 17(b) of the Act permitting the Insurance Company to sell such securities to the Fund at the price paid by the Insurance Company, plus accrued interest or dividends (and, in the case of any debt securities purchased by the Insurance Company for less or more than the principal amount thereof, adjusted to reflect the accrual of the original discount or the amortization of the original premium). If such order of the Commission shall be entered within three months after such closing date, then the Insurance Company shall sell to the Fund the portion of such securities which had been intended to be purchased by the Fund, such sale to be made at the price described in the preceding sentence. If such order shall not be granted within three months after such closing date, then the Insurance Company's obligation to sell such securities to the Fund will terminate.

4. If the Fund chooses not to participate in a direct placement offered to it by the Insurance Company, the Fund's decision must be approved by the Board of Directors of the Fund, including a majority of the directors of the Fund who are not "interested persons" of the Fund, as defined in the act. The Fund's determination not to participate in a direct placement and the reasons therefor will be recorded and become a part of the permanent records of the Fund.

5. Unless otherwise permitted by special order of the Commission, neither the Insurance Company nor the Fund will exercise warrants of a class held by both the Fund and the Insurance Company or conversion privileges or other rights relating to securities of a class held by both the Fund and the Insurance Company, except at the same times and in amounts proportionate to their respective holdings of such securities.

6. Unless otherwise permitted by special order of the Commission, neither the Insurance Company nor the Fund will sell, exchange or otherwise dispose of any interest in any security of a class held by both the Fund and the Insurance Company unless such dispositions are made at the same times, for the same unit consideration and in amounts proportionate to their respective holdings of such securities.

7. The expenses, if any, of the distribution of any securities registered for sale under the Securities Act of 1933 and sold by the Insurance Company and the Fund at the same time will be shared by the Insurance Company and the Fund in proportion to the respective amounts they are selling.

Applicants request that, for the purpose of this order, the term "class of securities" be defined to include any securities purchased or held by the Fund and the Insurance Company which are identical in all respects except for the fact that only the Fund's securities have voting rights. Applicants state that they would not consider securities held by the Insurance Company and the Fund to be identical and of the same class if the securities of the Insurance Company had voting rights but the securities held by the Fund did not.

Applicants submit that the foregoing conditions are adequate to ensure that the concurrent participation by the Insurance Company and the Fund in direct placements, and the subsequent exercise of warrants and conversion privileges and other rights relating to securities purchased by the Insurance Company and the Fund in such direct placements, would be consistent with the provisions, policies and purposes of the Act and would not result in the participation of the Fund being on a basis different from or less advantageous than that of the Insurance Company or any other participants.

Applicants state that the proposed conditions will give the Fund the opportunity (i) to acquire convertible securities and other securities having equity features on an equal basis with the Insurance Company and (ii) to decline to follow the Insurance Company in participating in a direct placement of such securities, depending on the best interests of the Fund. Applicants submit that there are ample safeguards to assure that any participation by the Fund in such direct placements will not be on a basis less advantageous than that of the Insurance Company. They assert that because the proposed conditions would permit the Insurance Company and the Fund to exercise warrants and conversion privileges and other rights relating to securities held by both the Insurance Company and the Fund, and to dispose of such securities, only in proportion to their respective holdings of such securities, such actions could not be taken in a manner which would be disadvantageous to the Fund as compared to the Insurance Company.

Notice is further given that any interested person may, not later than May 31, 1979, at 5:30 p.m., submit to the Commission in writing a request for a hearing on the matter accompanied by a statement as to the nature of his interest, the reason for such request, and the issues, if any, of fact or law proposed to be controverted, or he may request that he be notified if the Commission shall order a hearing thereon. Any such communication should be addressed: Secretary, Securities and Exchange Commission, Washington, D.C. 20549. A copy of such request shall be served personally or by mail upon Applicants at the address stated above. Proof of such service (by affidavit or, in case of an attorney-at-law, by certificate) shall be filed contemporaneously with the request. As provided by Rule 0-5 of the rules and regulations promulgated under the Act, an order disposing of the application will be issued as of course following said date unless the Commission thereafter orders a hearing upon request or upon the Commission's own motion. Persons who request a hearing, or advice as to whether a hearing is

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ordered, will receive any notices and orders issued in this matter, including the date of the hearing (if ordered) and any postponements thereof.

For the Commission, by the Division of Investment Management, pursuant to delegated authority.

George A. Fitzsimmons,

Secretary.

[FR Doc. 79-15586 Filed 5-17-79; 8:45 am]

BILLING CODE 8010-01-M

[Release No. 15811; SR-NYSE-79-10]

New York Stock Exchange, Inc.; Order Approving Proposed Rule Change

May 11, 1979.

On March 12, 1979, the New York Stock Exchange, Inc. ("NYSE"), 11 Wall Street, New York, New York 10005, filed with the Commission, pursuant to Section 19(b)(1) of the Securities Exchange Act of 1934, 15 U.S.C. 78(s)(b)(1) (the "Act") and Rule 19b-4 thereunder, copies of a proposed rule change which requires that each registered representative, office manager, and officer of each NYSE member firm, as a prerequisite for registration with the NYSE, sign an agreement [1] which includes a pledge to abide by the NYSE Constitution and Rules.[2]

Notice of the proposed rule change together with the terms of substance of the proposed rule change was given by publication of a Commission Release (Securities Exchange Act Release No. 34-15660, March 19, 1979) and by publication in the **Federal Register** (44 FR 18309, March 27, 1979). No comments were received with respect to the proposed rule filing.

The Commission finds that the proposed rule change is consistent with the requirements of the Act and the rules and regulations thereunder applicable to a national securities exchange, and in particular, the requirements of Section 6 and the rules and regulations thereunder.

It is therefore ordered, pursuant to Section 19(b)(2) of the Act, that the above-mentioned proposed rule change be, and it hereby is, approved.

[1] The text of the agreement will be submitted to the Commission by the NYSE as a new rule filing under Section 19(b)(3)(A) of the Act.

[2] The rule change, *inter alia*, expressly abrogates NYSE Rule 345.16(d)(D) which prohibits officers and registered representatives of a NYSE member organization from maintaining a cash or margin account in securities or commodities except with a member organization or a bank.

For the Commission, by the Division of Market Regulation pursuant to delegated authority.

George A. Fitzsimmons,

Secretary.

[FR Doc 79-15597 Filed 5-17-79; 8:45 am]

BILLING CODE 8010-01-M

SMALL BUSINESS ADMINISTRATION

[License No. 06/06-0206]

CADDO Capital Corp.; Issuance of License To Operate as a Small Business Investment Company

On November 14, 1978, a notice was published in the **Federal Register** (43 FR 52795) stating that an application has been filed by CADDO Capital Corporation, 214 Huntington Office Park, Shreveport, Louisiana 71109, with the Small Business Administration (SBA) pursuant to § 107.102 of the Regulations governing small business investment companies (13 CFR 107.102 (1978)), for a license to operate as a small business investment company (SBIC).

The company's address is now Suite 335, 2924 Knight Street, Shreveport, Louisiana 71105.

Interested parties were given until the close of business November 29, 1978, to submit their written comments to SBA. No comments were received.

Notice is hereby given that, pursuant to Section 301(c) of the Small Business Investment Act of 1958, as amended, and after having considered the application and all other information; SBA issued License No. 06/06-0206 on May 1, 1979, to CADDO Capital Corporation to operate as an SBIC.

(Catalog of Federal Domestic Assistance Program No. 59.011, Small Business Investment Companies)

Dated: May 11, 1979.

Peter F. McNeish,

Deputy Associate Administrator for Finance and Investment.

[FR Doc. 79-15526 Filed 5-17-79; 8:45 am]

BILLING CODE 8025-01-M

[Declaration of Disaster Loan Area #1630]

Illinois; Declaration of Disaster Loan Area

As a result of the President's major disaster declaration I find that Brown, Bureau, Calhoun, Cass, Fulton, Green, Jersey, LaSalle, Macon, Marshall, Mason, Morgan, Peoria, Pike, Putnam, Schuyler, Scott, Tazewell and Woodford Counties and adjacent counties within the State of Illinois, constitute a disaster area because of damage resulting from severe storms and flooding, beginning on or about March 1, 1979. Applications will be processed under the provisions of Pub. L. 94-305. Interest rate is 7⅜ percent. Eligible persons, firms and organizations may file applications for loans for physical damage until the close of business on June 29, 1979, and for economic injury until close of business on January 30, 1980, at:

Small Business Administration, District Office, 219 South Dearborn Street, Room 437, Chicago, Illinois 60604.

or other locally announced locations.

(Catalog of Federal Domestic Assistance Program Nos. 59002 and 59008).

Dated May 7, 1979.

William H. Mauk, Jr.,

Acting Administrator.

[FR Doc. 79-15523 Filed 5-17-79; 8:45 am]

BILLING CODE 8025-01-M

Declaration of Disaster Loan Area; Missouri

[Declaration of Disaster Loan Area No. 1622, Amdt. No. 1]

The above numbered Declaration (see 44 FR 26232) is amended in accordance with the President's declaration of April 21, 1979, to include the St. Louis City in the State of Missouri. The Small Business Administration will accept applications for disaster relief loans from disaster victims in the above-named city in Missouri. All other information remains the same; i.e., the termination dates for filing applications for physical damage is close of business on June 22, 1979, and for economic injury until the close of business on January 22, 1980.

(Catalog of Federal Domestic Assistance Program Nos. 59002 and 59008)

Dated: May 8, 1979.

William H. Mauk, Jr.,

Acting Administrator.

[FR Doc. 79-15524 Filed 5-17-79; 8:45 am]

BILLING CODE 8025-01-M

[Delegation of Authority No. 16-A, Amdt. 1]

Redelegation of Minority Small Business and Capital Ownership Development Activities

Delegation of Authority No. 16-A (44 FR 23145) is hereby amended to reflect a recent organizational change. The Office of Program Assistance has been abolished and a new Office of Development Assistance established.

Accordingly, Delegation of Authority No. 16-A is amended as follows:

* * * * *

D. *Director, Office of Development Assistance.*

* * * * *

E. *Deputy Director, Office of Development Assistance (Program Manager)*

* * * * *

Dated: May 11, 1979.

William A. Clement, Jr.,

Associate Administrator for Minority Small Business and Capital Ownership Development.

[FR Doc. 79-15527 Filed 5-17-79; 8:45 am]

BILLING CODE 8025-01-M

Wisconsin; Declaration of Disaster Loan Area

[Declaration of Disaster Loan Area No. 1632]

Jefferson County and adjacent counties within the State of Wisconsin constitute a disaster area as a result of damage caused by flooding beginning on or about March 20, 1979 through April 24, 1979. Applications will be processed under provisions of Pub. L. 94-305. Interest rate is 7-⅜ percent. Eligible persons, firms and organizations may file applications for loans for physical damage until the close of business on July 9, 1979 and for economic injury until the close of business on February 11, 1980, at:

Small Business Administration, District Office, 212 East Washington Avenue, 2nd Floor, Madison, Wisconsin 53703.

or other locally announced locations.

(Catalog of Federal Domestic Assistance Program Nos. 59002 and 59008)

Dated: May 9, 1979.

William H. Mauk, Jr.,

Acting Administrator.

[FR Doc. 79-15525 Filed 5-17-79; 8:45 am]

BILLING CODE 8025-01-M

Effects of Gasoline Shortage on Small Business: Hearing

• Pursuant to statutory authority set forth in Section 634(d) of Title 15, United States Code, the Chief counsel for Advocacy of the Small Business Administration, Milton D. Stewart, Esq., with the approval of the Administrator A. Vernon Weaver, will conduct public hearings in Los Angeles, California on June 5, 1979, on the Effects of the Gasoline Shortage on Small Business. The hearings will convene at 10:00 A.M. (P.D.T.) at the Golden State Room at the Los Angeles Hilton Hotel, 930 Wilshire Boulevard, Los Angeles, California

• The Office of the Chief Counsel for Advocacy will consider price and supply problems and the consequent effects on gasoline marketers and the small business community in general. In addition testimony will be heard relating to the development of fuel saving alternative transportation technologies and what barriers prevent their rapid commercialization.

• Participants will include gasoline marketers, small business representatives, appropriate government officials, and small business innovators.

• The hearing is open to the public. Any member of the public may make a verbal statement, but must file a written statement prior to the hearing. Any member of the public may file a written statement with the Office of the Chief Counsel for Advocacy before, during or after the hearings. All communicatons or inquiries regarding these hearings should be addressed to:

Christopher J. Burke, Office of the Chief Counsel for Advocacy, U.S. Small Business Administration, 1441 L Street, N.W., Room 219, Washington, D.C. 20416 (202) 653-6986.

Milton D. Stewart,

Chief Counsel for Advocacy.

[FR Doc. 79-15588 Filed 5-17-79; 8:45 am]

BILLING CODE 8025-01-M

[Declaration of Disaster Loan Area #1616, Amdt. #3]

Mississippi; Declaration of Disaster Loan Area

The above numbered Declaration (See 44 F.R. 24179), amendment #1 (See 44 F.R. 26232) and amendment #2 (See 44 F.R. 27782) are amended in accordance with the President's declaration of April 16, 1979, to include Wilkinson County in the State of Mississippi. The Small Business Administration will accept applications for disaster relief loans from disaster victims in the above-named county, and adjacent counties within the State of Mississippi. All other information remains the same; i.e., the termination dates for filing applications for physical damage is close of business on June 15, 1979, and for economic injury until the close of business on January 15, 1980.

(Catalog of Federal Domestic Assistance Program Nos. 59002 and 59008).

Dated: May 9, 1979.

William H. Mauk, Jr.,

Acting Administrator.

[FR Doc. 79-15591 Filed 5-17-79; 8:45 am]

BILLING CODE 8025-01-M

[License No. 02/02-0350]

Quidnet Capital Corp.; Filing of Application for Approval of Conflict of Interest Transaction Between Associates

Notice is hereby given that Quidnet Capital Corporation, (Quidnet) 32 Nassau Street, Princeton, New Jersey 08540, a Federal Licensee under the Small Business Investment Act of 1958, as amended, has filed an application pursuant to § 107.1004 of the regulations governing small business investment companies (13 CFR 107.1004 (1978)), for approval of a conflict of interest transaction.

Quidnet desires to provide financing in the amount of $28,875 to JP Industries, Inc. (JPI), Suite 1001, 3001 South State Street, Ann Arbor, Michigan 48104, by purchasing 165 of 2,104 new common shares which are being offered by JPI at $175 per share to its existing shareholders, for the purpose of raising additional working capital. JPI has 15 shareholders, all of which have accepted the offer to purchase additional common shares of JPI at $175 per share. Upon completion of the financing, Quidnet will own approximately 2 percent of the total outstanding shares of JPI.

An officer, director and stockholder of Quidnet is also a director of JPI, and, consequently, JPI is an "Associate of a Licensee" as that term is defined under § 107.103 of the Small Business Administration's Regulations. Pursuant to the provisions of Section 1004(b)(1) of SBA's Regulations, this affiliation requires Quidnet to obtain an exemption from the SBA in order to provide the proposed financing to JPI.

Notice is hereby given that any person may, not late than June 4, 1979, submit written comments to SBA on the proposed financing. Any such comments should be addressed to the Deputy Associate Administrator for Finance and Investment, 1441 "L" Street, N.W., Washington, D.C. 20416.

A copy of this notice shall be published by Quidnet Capital Corporation in a newspaper of general circulation in Princeton, New Jersey.

units that were built between 1947 and

service. Both locomotives are small

153.27, Customs Regulations (19 CFR

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(Catalog of Federal Domestic Assistance Program No. 59.011, Small Business Investment Companies)

Peter F. McNeish,

Deputy Associate Administrator for Finance and Investment.

May 14, 1979.

[FR Doc. 79-15590 Filed 5-17-79; 8:45 am]

BILLING CODE 8025-01-M

Region VI Advisory Council Public Meeting

The Small Business Administration Region VI Advisory Council, located in the geographical area of Albuquerque, New Mexico, will hold a public meeting on Friday, May 25, 1979, from 10:30 a.m. to approximately 3:00 p.m. at the Elks Club, 1642 University Boulevard, NE., Albuquerque, New Mexico, to discuss such business as may be presented by members, staff of the Small Business Administration, or others present.

For further information, write or call Anthony Panagakos, District Director, U.S. Small Business Administration, 5000 Marble Avenue, NE., Patio Plaza Building, Albuquerque, New Mexico 87110—(505)474-3574.

Dated: May 15, 1979.

K Drew,

Deputy Advocate for Advisory Councils.

[FR Doc. 79-15588 Filed 5-17-79; 8:45 am]

BILLING CODE 8025-01-M

[Declaration of Disaster Loan Area #1633]

Tennessee; Declaration of Disaster Loan Area

As a result of the President's major disaster declaration, I find that the following 6 counties: Crockett, Davidson, Hickman, Rutherford, Williamson and Wilson and adjacent counties within the State of Tennessee, constitute a disaster area because of damage resulting from severe storms, tornadoes, and flooding beginning on or about May 3, 1979. Applications will be processed under the provisions of Pub. L. 94-305. Interest rate is 7⅜ percent. Eligible persons, firms and organizations may file applications for loans for physical damage until the close of business on July 6, 1979, and for economic injury until close of business on February 7, 1980, at:

Small Business Administration, District Office, Parkway Towers, Room 1012, 404 James Robertson Parkway, Nashville, Tennessee 37219.

or other locally announced locations.

(Catalog of Federal Domestic Assistance Program Nos. 59002 and 59008.)

Dated: May 10, 1979.

William H. Mauk, Jr.,

Acting Administrator.

[FR Doc. 79-15592 Filed 5-17-79; 8:45 am]

BILLING CODE 8025-01-M

DEPARTMENT OF TRANSPORTATION

Federal Railroad Administration

Petitions for Waiver of Railroad Safety Appliance Standards

Notice is hereby given that six railroads have submitted requests for permanent waivers of compliance with certain requirements of the Railroad Safety Appliance Standards (49 CFR Part 231). Each of three petitions for waiver involves provisions of the Railroad Safety Appliance Standards that are applicable to locomotives used in road or switching service.

The Federal Railroad Administration (FRA) published a final rule on September 8, 1976 (41 FR 37782) that prescribed configurations for the handholds and uncoupling mechanisms of locomotives used in road service (49 CFR Part 231.29) and that prescribed configurations for the handholds, uncoupling mechanisms and stairways of locomotives used in switching service (49 CFR Part 231.30). These regulations are applicable to both existing locomotives and locomotives that will be constructed in the future. Full compliance for the entire locomotive fleet is scheduled for October 1, 1979.

The individual petitions for a waiver of compliance with the certain provisions of this regulation are described below. The description indicates the nature and extent of the relief requested as well as any information that has been submitted in support of the request for the waiver of compliance.

Interested persons are invited to participate in these proceedings by submitting written data, views or comments. FRA does not anticipate scheduling an opportunity for oral comment since the facts do not appear to warrant it. All communications concerning these petitions must identify the appropriate Docket Number (e.g. FRA Waiver Petition Docket No. SA-78-4) and should be submitted in triplicate to the Docket Clerk, Office of Chief Counsel, Federal Railroad Administration, 2100 Second Street, SW., Washington, D.C. 20590. Communications received before June 29, 1979 will be considered by the Federal Railroad Administration before date final action is taken. Comments received after that date will be available for examination during regular business hours, both before and after the closing date for comment, in Room 4411 Trans Point Building, 2100 Second Street, SW., Washington, D.C.

[Waiver Petition Docket No. SA-78-3]

Hillsboro & North Eastern Railway

The Hillsboro & North Eastern Railway (H&NE) seeks a waiver of compliance with § 231.30 for two diesel locomotives used in switching service. One locomotive was built by Plymouth Locomotive Corporation in 1933 and the other locomotive was built by Davenport Locomotive Works in 1942.

Both locomotives were designed with a vertical ladder-like step arrangement on all four corners. The H&NE indicates that it would not be possible to modify either locomotive in view of the original design of these units. Additionally, the H&NE considers these units to be antiques and desires to retain the present configuration of the locomotives.

These locomotives are used on an infrequent basis averaging only a total of two trips in any given week. The railroad operates the locomotives over approximately five miles of track in the State of Wisconsin. The H&NE seeks a permanent waiver of compliance for these units.

[Waiver Petition Docket No. SA-78-4]

Skaneateles Short Line Railroad

The Skaneateles Short Line Railroad (SSLR) seeks a waiver of compliance with § 231.30 for two diesel locomotives used in switching service. These locomotives are a 44-ton and a 45-ton General Electric diesel electric units built between 1950 and 1959.

These locomotives were designed with a vertical ladder-like step arrangement on all four corners. SSLR indicates that the design of these units and the close clearance restrictions make modification of these units impractical. SSLR indicates that only one locomotive is in service at any given time on this railroad since it operates over only three miles of track. A permanent waiver of compliance is sought for both locomotives used by the SSLR.

[Waiver Petition Docket No. SA-78-5]

Lowville & Beaver River Railroad

The Lowville & Beaver River Railroad (L&BR) seeks a waiver of compliance with § 231.30 for two diesel locomotives used in switching service. The locomotives are 44-ton General Electric units that were built between 1947 and 1950.

Both locomotives were designed with a vertical ladder-like step arrangement on all four corners. The L&BR indicates that it is not possible to modify these units since the original design will not provide the needed clearances.

The locomotives are operated over approximately eleven miles of track in the State of New York. The L&BR seeks a permanent waiver of compliance.

[Waiver Petition Docket No. SA-78-8]

Mount Vernon Terminal Railway

The Mount Vernon Terminal Railway (MVTR) seeks a waiver of compliance with § 231.30 for one diesel locomotive used in switching service. The locomotive was built by Plymouth Locomotive Corporation in 1943.

The locomotive was designed with a vertical ladder-like step arrangement near all four corners. Additionally, the unit was built with cast steel weights of ten-inch thickness near the step area. Consequently, MVTR believes that it is not possible to modify the unit to bring it into compliance with the regulation.

The locomotive is used exclusively within the terminal area that is located at Mount Vernon in the State of Washington. The MVTR seeks a permanent waiver of compliance for this locomotive.

[Waiver Petition Docket No. SA-78-9]

Maryland Midland Railway

The Maryland Midland Railway (MMR) seeks a waiver of compliance with § 231.30 for one diesel locomotive used in switching service. The locomotive was built by Whitcomb Locomotive Company at an undetermined date.

The locomotive was designed with a vertical ladder-like step arrangement on all four corners. Additionally, the area behind the steps is occupied by sandboxes that are flush with the steps. Consequently, MMR believes that it is not possible to modify the unit to bring it into compliance with the regulation.

The locomotive is currently being reconditioned and will be used over trackage between Walkersville, Maryland and Littlestown, Pennsylvania. The MMR seeks a permanent waiver of compliance for this locomotive.

[Waiver Petition Docket No. SA-78-10]

Warwick Railway

The Warwick Railway (WRWK) seeks a waiver of compliance with § 231.30 for two locomotives used in switching service. Both locomotives are small industrial switcher type units that were originally constructed for the Federal government and initially used on military bases during the period 1940 to 1945.

Both locomotives were designed with a vertical ladder-like step arrangement on all four corners. The WRWK indicates that it has explored several alternatives and concluded that the original design of these units makes it impossible to modify either unit to comply with the regulation.

The WRWK indicates that it basically performs industrial switching in the Edgewood area in the State of Rhode Island. The railroad operates the locomotives over approximately one mile of trackage. The WRWK seeks a permanent waiver for these units.

This notice is issued under the authority of sections 4, 6, and 12, 27 Stat. 531, as amended, section 6 (e) and (f), 80 Stat. 939; 45 U.S.C. 4, 6, 12; 49 U.S.C. 1655 and § 1.49(c) of the regulations of the Secretary of Transportation (49 CFR 1.49(c)).

Issued in Washington, D.C., on May 11, 1979.

J. W. Walsh,

Chairman, Railroad Safety Board.

[FR Doc. 79-15503 Filed 5-17-79; 8:45 am]

BILLING CODE 4910-06-M

DEPARTMENT OF THE TREASURY

Office of the Secretary

Portable Electric Typewriters From Japan; Antidumping Proceeding

AGENCY: U.S. Treasury Department.

ACTION: Initiation of Antidumping Investigation.

SUMMARY: This notice is to advise the public that a petition in proper form has been received and an antidumping investigation is being initiated for the purpose of determining whether imports of portable electric typewriters from Japan are being sold, or are likely to be sold, to the United States at less than fair value within the meaning of the Antidumping Act, 1921, as amended.

EFFECTIVE DATE: May 18, 1979.

FOR FURTHER INFORMATION CONTACT: Louis T. Balaban or Steven S. Lim, Operations Officers, U.S. Customs Service, Office of Operations, Duty Assessment Division, Technical Branch, 1301 Constitution Avenue, N.W., Washington, D.C. 20229, telephone (202-566-5492).

SUPPLEMENTARY INFORMATION: On April 9, 1979, a petition in proper form was received pursuant to sections 153.26 and 153.27, Customs Regulations (19 CFR 153.26, 153.27), from counsel on behalf of the Smith-Corona Group, Consumer Products Division, SCM Corporation, New Canaan, Connecticut, alleging that portable electric typewriters from Japan are being, or are likely to be, sold at less than fair value within the meaning of the Antidumping Act, 1921, as amended [19 U.S.C. 160 *et seq.*].

For purpose of this notice, portable electric typewriters are provided for in item 676.0510, Tariff Schedules of the United States Annotated.

In the petition, foreign market value is based on prices of several models of typewriters made for the Japanese home market in the case of two Japanese manufacturers; in the case of a third, constructed value is used because that company has virtually no home market sales or sales to third countries.

The above prices have been compared with either the purchase price in the United States of the manufacturer's export model which corresponds to the one sold in Japan, or with exporter's sales price. The latter is used in those instances where the Japanese manufacturer exports typewriters for sale in the United States by a marketing subsidiary.

Based upon the information set forth in the petition, it appears that the margins of dumping range from 9 percent to 115 percent.

There is evidence on record concerning injury, or likelihood of injury, to an industry in the United States from the alleged less than fair value imports of portable electric typewriters from Japan. This information shows the share represented by Japanese merchandise of total U.S. imports of portable electric typewriters in the years 1976-1978 grew markedly. In the same period, the data indicate that Smith-Corona, the sole domestic producer of the subject merchandise, accounted for a declining portion of the U.S. market. Furthermore, capacity utilization of the petitioner diminished during these years, as did the number of workers employed by the company, a fact which is significant in light of the increase of employment in manufacturing industries on a nationwide basis. Finally, Smith-Corona experienced a decline in profits in those years, a time when profits of related companies within SCM were increasing.

Having conducted a summary investigation as required by section 153.29 of the Customs Regulations (19 CFR 153.29), and having determined as a result thereof that there are grounds for so doing, the United States Customs Service is instituting an inquiry to verify information submitted and to obtain the

States. Traffic necessarily diverted by

Interstate Commerce Commission.

contracts, agreements or arrangements

facts necessary to enable the Secretary of the Treasury to reach a determination as to the fact or likelihood of sales at less than fair value.

This notice is published pursuant to section 153.30, Customs Regulations (19 CFR 153.30).

Robert H. Mundheim,

General Counsel of the Treasury.

May 14, 1979.

[FR Doc. 79-15572 Filed 5-17-79; 8:45 am]

BILLING CODE 4810-22-M

INTERSTATE COMMERCE COMMISSION

[Notice No. 87]

Assignment of Hearings

May 15, 1979.

Cases assigned for hearing, postponement, cancellation or oral argument appear below and will be published only once. This list contains prospective assignments only and does not include cases previously assigned hearing dates. The hearings will be on the issues as presently reflected in the Official Docket of the Commission. An attempt will be made to publish notices of cancellation of hearings as promptly as possible, but interested parties should take appropriate steps to insure that they are notified of cancellation or postponements of hearings in which they are interested.

MC 143978 (Sub-No. 3), Emerson Delivery, Inc., now assigned for hearing May 14, 1979 (2 days), at Chicago, IL., is canceled and application dismissed.

MC F-13763F, Crown Transport, Inc.—Purchase (Portion)—Masterson Transfer Co., MC-4484 (Sub-No. 5F), Crown Transport, Inc., now assigned for Prehearing Conference May 25, 1979 at the Office of the Interstate Commerce Commission, Washington, D.C.

MC 108633 (Sub-No. 16F), Barnes Freight Line, Inc., now assigned for Prehearing Conference June 21, 1979 at the Office of the Interstate Commerce Commission, Washington, D.C.

MC C-10245F, Purolator Courier Corp. v. Schaller Trucking Corporation and G.M.G. Express, Inc., now assigned for Prehearing Conference July 10, 1979, at the Office of the Interstate Commerce Commission, Washington, D.C.

MC 123179 (Sub-No. 5F), Arrow Freight Lines, Inc., now assigned for Prehearing Conference July 17, 1979, at the Offices of the Interstate Commerce Commission, Washington, D.C.

MC 123048 (Sub-No. 418F), Diamond Transportation System, Inc., now assigned for Prehearing Conference July 18, 1979, at the Office of the Interstate Commerce Commission, Washington, D.C.

Ex Parte 352, In the Matter of Clarence William Vandergrift, now assigned for Prehearing Conference July 11, 1979, at the Offices of the Interstate Commerce Commission, Washington, D.C.

MC 102616 (Sub-No. 947F), Coastal Tank Lines, Inc., now assigned for continued hearing on June 5, 1979, at the Office of the Interstate Commerce Commission, Washington, D.C.

MC 96925 (Sub-No. 9F), Crown Motor Lines, Inc., now assigned for hearing on May 21, 1979 at Tallahassee, FL, is canceled and transfered to Modified Procedure.

H. G. Homme, Jr.,

Secretary.

[FR Doc. 79-15577 Filed 5-17-79; 8:45 am]

BILLING CODE 7035-01-M

[I.C.C. Order No. P-22]

The Atchison, Topeka & Santa Fe Railway Co.; Passenger Train Operation

May 15, 1979.

To: The Atchison, Topeka and Santa Fe Railway Company. *It appearing,* That the National Railroad Passenger Corporation (Amtrak) has established through passenger train service between New Orleans, Louisiana, and Los Angeles, California. The operation of these trains requires the use of the tracks and other facilities of Southern Pacific Transportation Company. (SP). A portion of the SP tracks between Houston, Texas, and Rosenberg, Texas, are temporarily out of service because of a derailment. An alternate route is available via The Atchison, Topeka and Santa Fe Railway Company.

It is the opinion of the Commission that the use of such alternate route is necessary in the interest of the public and the commerce of the people; that notice and public procedure herein are impracticable and contrary to the public interest; and that good cause exists for making this order effective upon less than thirty days' notice.

It is ordered, (a) Pursuant to the authority vested in me by order of the Commission served March 6, 1978, and of the authority vested in the Commission by section 402(c) of the Rail Passenger Service Act of 1970 (45 USC § 562 (c)), The Atchison, Topeka and Santa Fe Railway Company (ATSF) is directed to operate trains of the National Railroad Passenger Corporation (Amtrak) between a connection with Southern Pacific Transportation Company at Houston, Texas, and Rosenberg, Texas.

(b) In executing the provisions of this order, the common carriers involved shall proceed even though no agreements or arrangements now exist between them with reference to the compensation terms and conditions applicable to said transportation. The compensation terms and conditions shall be, during the time this order remains in force, those which are voluntarily agreed upon by and between said carriers; or upon failure of the carriers to so agree, the compensation terms and conditions shall be as hereafter fixed by the Commission upon petition of any or all of the said carriers in accordance with pertinent authority conferred upon it by the Interstate Commerce Commission Act and by the Rail Passenger Service Act of 1970, as amended.

(c) *Application.* The provisions of this order shall apply to intrastate, interstate and foreign traffic.

(d) *Effective date.* This order shall become effective at 3:30 a.m., May 1, 1979.

(e) *Expiration date.* The provisions of this order shall expire at 11:59 p.m., May 2, 1979, unless otherwise modified, changed, or suspended by order of this Commission.

This order shall be served upon The Atchison, Topeka and Santa Fe Railway Company and upon the National Railroad Passenger Corporation (Amtrak), and that it be filed with the Director, Office of the Federal Register.

Interstate Commerce Commission.

Joel E. Burns,

Agent.

[FR Doc 79-15583 Filed 5-17-79; 8:45 am]

BILLING CODE 7035-01-M

[Revised I.C.C. Order No. 38 Under Service Order No. 1344]

Burlington Northern, Inc., and CP Rail; Rerouting Traffic

May 15, 1979.

To: All Railroads. In the opinion of Joel E. Burns, Agent, Burlington Northern Inc. and CP Rail are unable to transport promptly all traffic offered for movement to and from points in Canada, because of flooding.

It is ordered, (a) *Rerouting traffic.* Burlington Northern Inc. and CP Rail being unable to transport promptly all traffic offered for movement to and from points in Canada and routed via Noyes, Minnesota-CP Rail, and via Winnipeg, Manitoba, Canada-CP Rail, because of flooding, those lines and their connections are authorized to divert or reroute such traffic via Minot, North Dakota-Soo Line Railroad Company-Portal, North Dakota-CP Rail to expedite the movement. This rerouting applies only to the movement within the United States. Traffic necessarily diverted by authority of this order shall be rerouted so as to preserve as nearly as possible the participation and revenues of other carriers provided in the original routing. The billing covering all such cars rerouted shall carry a reference to the order as authority for the rerouting.

(b) *Concurrence of receiving roads to be obtained.* The railroad rerouting cars in accordance with this order shall receive the concurrence of other railroads to which such traffic is to be diverted or rerouted, before the rerouting or diversion is ordered.

(c) *Notification to shippers.* Each carrier rerouting cars in accordance with this order, shall notify each shipper at the time each shipment is rerouted or diverted and shall furnish to such shipper the new routing provided for under this order.

(d) Inasmuch as the diversion or rerouting of traffic is deemed to be due to carrier disability, the rates applicable to traffic diverted or rerouted by said Agent shall be the rates which were applicable at the time of shipment on the shipments as originally routed.

(e) In executing the directions of the Commission and of such Agent provided for in this order, the common carriers involved shall proceed even though no contracts, agreements or arrangements now exist between them with reference to the divisions of the rates of transportation applicable to said traffic. Divisions shall be, during the time this order remains in force, those voluntarily agreed upon by and between said carriers; or upon failure of the carriers to so agree, said divisions shall be those hereafter fixed by the Commission in accordance with pertinent authority conferred upon it by the Interstate Commerce Act.

(f) *Effective date.* This order shall become effective at 11:00 a.m., May 1, 1979.

Expiration date. This order shall expire at 11:59 p.m., May 15, 1979, unless otherwise modified, changed or suspended.

This order shall be served upon the Association of American Railroads, Car Service Division, as agent of all railroads subscribing to the car service and car hire agreement under the terms of that agreement, and upon the American Short Line Railroad Association. A copy of this order shall be filed with the Director, Office of the Federal Register.

Issued at Washington, D.C., May 1, 1979.

Interstate Commerce Commission.

Joel E. Burns,

Agent.

[FR Doc. 79-15585 Filed 5-17-79; 8:45 am]

BILLING CODE 7035-01-M

[I.C.C. Order No. 36 Under Service Order No. 1344]

Burlington Northern, Inc., and Soo Line Railroad Co.; Rerouting Traffic

May 15, 1979.

To: Burlington Northern Inc. and Soo Line Railroad Company. In the opinion of Robert S. Turkington, Agent, Burlington Northern Inc. is unable to transport promptly all traffic offered for movement to points in Canada, because of flooding.

It is ordered, (a) *Rerouting traffic.* Burlington Northern Inc. being unable to transport promptly all traffic offered for movement to points in Canada and routed via Noyes, Minnesota-CP Rail, and via Winnipeg, Manitoba, Canada-CP Rail, because of flooding, that line and its connections are authorized to divert or reroute such traffic via Minot, North Dakota-Soo Line Railroad Company-Portal, North Dakota-CP Rail to expedite the movement. This rerouting applies only to the movement within the United States. CP Rail has agreed to this handling of the traffic. Traffic necessarily diverted by authority of this order shall be rerouted so as to preserve as nearly as possible the participation and revenues of other carriers provided in the original routing. The billing covering all such cars rerouted shall carry a reference to the order as authority for the rerouting.

(b) *Concurrence of receiving roads to be obtained.* The railroad rerouting cars in accordance with this order shall receive the concurrence of other railroads to which such traffic is to be diverted or rerouted, before the rerouting or diversion is ordered.

(c) *Notification to shippers.* each carrier rerouting cars in accordance with this order, shall notify each shipper at the time each shipment is rerouted or diverted and shall furnish to such shipper the new routing provided for under this order.

(d) Inasmuch as the diversion or rerouting of traffic is deemed to be due to carrier disability, the rates applicable to traffic diverted or rerouted by said Agent shall be the rates which were applicable at the time of shipment on the shipments as originally routed.

(e) In executing the directions of the Commission and of such Agent provided for in this order, the common carriers involved shall proceed even though no contracts, agreements or arrangements now exist between them with reference to the divisions of the rates of transportation applicable to said traffic. Divisions shall be, during the time this order remains in force. Those voluntarily agreed upon by and between said carriers; or upon failure of the carriers to so agree, said divisions shall be those hereafter fixed by the Commission in accordance with pertinent authority conferred upon it by the Interstate Commerce Act.

(f) *Effective date.* This order shall become effective at 1:00 p.m., April 27, 1979.

Expiration date. This order shall expire at 11:59 p.m., May 15, 1979, unless otherwise modified, changed or suspended.

This order shall be served upon the Association of American Railroads, Car Service Division, as agent of all railroads subscribing to the car service and car hire agreement under the terms of that agreement, and upon the American Short Line Railroad Association. A copy of this order shall be filed with the Director, Office of the Federal Register.

Issued at Washington, D.C., April 27, 1979.

Interstate Commerce Commission.

Robert S. Turkington,

Agent.

[FR Doc. 79-15586 Filed 5-17-79; 8:45 am]

BILLING CODE 7035-01-M

[I.C.C. Order No. 37 Under Service Order No. 1344]

CP Rail; Rerouting Traffic

May 15, 1979.

To: CP Rail. In the opinion of Robert S. Turkington, Agent, CP Rail is unable to transport promptly all traffic offered for movement to and from points in the United States routed via Noyes, Minnesota-Burlington Northern, Inc.

It is ordered, (a) *Rerouting traffic.* CP Rail being unable to transport promptly all traffic offered for movement to and from points in the United States, routed via Noyes, Minnesota-Burlington Northern Inc. (BN), because of flooding, that line is authorized to divert or reroute such traffic via any available route to expedite the movement. This rerouting applies only to the movement within the United States. Traffic necessarily diverted by authority of this order shall be rerouted so as to preserve as nearly as possible the participation and revenues of other carriers provided in the original routing. The billing covering all such cars rerouted shall

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carry a reference to the order as authority for the rerouting.

(b) *Acceptance of traffic in interchange.* In the event CP Rail cannot accept traffic in interchange from Burlington Northern Inc. at Noyes, BN, after establishing such condition, may reroute or divert the traffic via Soo Line Railroad Company.

(c) *Concurrence of receiving roads to be obtained.* The railroad rerouting cars in accordance with this order shall receive the concurrence of other railroads to which such traffic is to be diverted or rerouted, before the rerouting or diversion is ordered.

(d) *Notification to shippers.* Each carrier rerouting cars in accordance with this order, shall notify each shipper at the time each shipment is rerouted or diverted and shall furnish to such shipper the new routing provided for under this order.

(e) Inasmuch as the diversion or reouting of traffic is deemed to be due to carrier disability, the rate applicable to traffic diverted or rerouted by said Agent shall be the rates which were applicable at the time of shipment on the shipments as originally routed.

(f) In executing the directions of the Commission and of such Agent provided for in this order, the common carriers involved shall proceed even though no contracts, agreements or arrangements now exist between them with reference to the divisions of the rates of transportation applicable to said traffic. Divisions shall be, during the time this order remains in force, those voluntarily agreed upon by and between said carriers; or upon failure of the carriers to so agree, said divisions shall be those hereafter fixed by the Commission in accordance with pertinent authority conferred upon it by the Interstate Commerce Act.

(g) *Effective date.* This order shall become effective at 11 a.m., April 26, 1979.

Expiration date. This order shall expire at 11:59 p.m., April 30, 1979, unless otherwise modified, changed or suspended.

This order shall be served upon the Association of American Railroads, Car Service Division, as agent of all railroads subscribing to the car service and car hire agreement under the terms of that agreement, and upon the American Short Line Railroad Association. A copy of this order shall be filed with the director, Office of the Federal Register.

Issued at Washington, D.C., April 26, 1979.

Interstate Commerce Commission.

Robert S. Turkington,

Agent.

[FR Doc. 79-15584 Filed 5-17-79; 8:45 am]

BILLING CODE 7035-01-M

[Permanent Authority Decisions Volume No. 57]

Decision-Notice

Decided: May 3, 1979.

The following applications filed on or before February 28, 1979, are governed by Special Rule 247 of the Commission's *Rules of Practice* (49 CFR 1100.247). For applications filed before March 1, 1979, these rules provide, among other things, that a protest to the granting of an application must be filed with the Commission within 30 days after the date notice of the application is published in the **Federal Register.** Failure to file a protest, within 30 days, will be considered as a waiver of opposition to the application. A protest under these rules should comply with Rule 247(e)(3) of the Rules of Practice which requires that it set forth specifically the grounds upon which it is made, contain a detailed statement of protestant's interest in the proceeding (as specifically noted below), and shall specify with particularity the facts, matters, and things relied upon, but shall not include issues or allegations phrased generally. A protestant should include a copy of the specific portions of its authority which protestant believes to be in conflict with that sought in the application, and describe in detail the method—whether by joinder, interline, or other means—by which protestant would use such authority to provide all or part of the service proposed.

Protests not in reasonable compliance with the requirements of the rules may be rejected. The original and one copy of the protest shall be filed with the Commission, and a copy shall be served concurrently upon applicant's representative, or upon applicant if no representative is named. If the protest includes a request for oral hearing, such request shall meet the requirements of section 247(e)(4) of the special rules and shall include the certification required in that section.

On cases filed on or after March 1, 1979, petitions for intervention either with or without leave are appropriate.

Section 247(f) provides, in part, that an applicant which does not intend timely to prosecute its application shall promptly request that it be dismissed, and that failure to prosecute an application under the procedures of the Commission will result in its dismissal.

If applicant has introduced rates as an issue it is noted. Upon request an applicant must provide a copy of the tentative rate schedule to any protestant.

Further processing steps will be by Commission notice, decision, or letter which will be served on each party of record. *Broadening amendments will not be accepted after the date of this publication.*

Any authority granted may reflect administratively acceptable restrictive amendments to the service proposed below. Some of the applications may have been modified to conform to the Commission's policy of simplifying grants of operating authority.

Findings

With the exceptions of those applications involving duly noted problems (e.g., unresolved common control, unresolved fitness questions, and jurisdictional problems) we find, preliminarily, that each common carrier applicant has demonstrated that its proposed service is required by the public convenience and necessity, and that each contract carrier applicant qualifies as a contract carrier and its proposed contract carrier service will be consistent with the public interest and the transportation policy of 49 U.S.C § 10101. Each applicant is fit, willing, and able properly to perform the service proposed and to conform to the requirements of Title 49, Subtitle IV, United States Code, and the Commission's regulations, Except where specifically noted this decision is neither a major Federal action significantly affecting the quality of the human environment nor a major regulatory action under the Energy Policy and Conservation Act of 1975.

In those proceedings containing a statement or note that dual operations are or may be involved we find, preliminarily and in the absence of the issue being raised by a protestant, that the proposed dual operations are consistent with the public interest and the transportation policy of 49 U.S.C § 10101 subject to the right of the Commission, which is expressly reserved, to impose such conditions as it finds necessary to insure that applicant's operations shall conform to the provisions of 49 U.S.C. 10930(a) (formerly section 210 of the Interstate Commerce Act).

In the absence of legally sufficient protests, filed within 30 days of publication of this decision-notice (or, if the application later becomes unopposed), appropriate authortity will be issued to each applicant (except

those with duly noted problems) upon compliance with certain requirements which will be set forth in a notification of effectiveness of this decision-notice. To the extent that the authority sought below may duplicate an applicant's existing authority, such duplication shall not be construed as conferring more than a single operating right.

Applicants must comply with all specific conditions set forth in the grant or grants of authority within 90 days after the service of the notification of the effectiveness of this decision-notice, or the application of a non-complying applicant shall stand denied.

By the Commission, Review Board Number 2, Members Boyle, Eaton, and Liberman.

H. G. Homme, Jr.,

Secretary.

MC 2229 (Sub-204F), filed February 26, 1979. Applicant: RED BALL MOTOR FREIGHT, INC., 3177 Irving Blvd., Dallas, TX 75247. Representative: Jackie Hill (same address as applicant). To operate as a *common carrier*, by motor vehicle, in interstate or foreign commerce, over regular routes, transporting *general commodities* (except those of unusual value, classes A and B explosives, household goods as defined by the Commission, commodities in bulk, and those requiring special equipment), (1) between Waco and San Antonio, TX, over Interstate Hwy 35, serving all intermediate points and serving the off-route points of Killeen, TX, (2) between Houston and San Antonio, TX, over Interstate Hwy 10, serving no intermediate points, (3) between Houston and Austin, TX, over U.S. Hwy 290, serving no intermediate points, (4) between San Antonio, TX, and Los Angeles, CA, from San Antonio over Interstate Hwy 10 to junction U.S. Hwy 290, then over U.S. Hwy 290, (or Interstate Hwy 10), to junction U.S. Hwy 80, then over U.S. Hwy 80 (or Interstate Hwy 10) to Phoenix, AZ, then over U.S. Hwy 60 (or Interstate Hwy 10) to Los Angeles, CA, and return over the same route, serving no intermediate points, and (5) between Austin, TX, and junction U.S. Hwy 290 and Interstate 10, over U.S. Hwy 290, serving no intermediate points. (Hearing site: San Antonio or Austin, TX.)

MC 144709 (Sub-7F), filed February 13, 1979. Applicant: MINERAL CARRIERS, INC., P.O. Box 110, Bound Brook, NJ 08805. Representative: Paul J. Keeler, P.O. Box 253, South Plainfield, NJ 07080. To operate as a *contract carrier*, by motor vehicle, in interstate or foreign commerce, over irregular routes, transporting (1) *activated carbon*, in dump vehicles, from Neville Island, PA, and Catlettsburg, KY, to points in CT, RI, NY, NJ, PA, DE, MD, VA, WV, OH, MI, IN, IL, KY, TN, NC, and DC; and (2) *spent carbon*, in dump vehicles, in the reverse direction, under continuing contract(s) in both (1) and (2) above, with Calgon Corporation, of Pittsburgh, PA. (Hearing site: Newark, NJ, or New York, NY.)

MC 144859 (Sub-3F), filed February 23, 1979. Applicant: SCOTT PALLETS, INC., Box 341 Amelia, VA 23002. Representative: Calvin F. Major, 200 West Grace Street, Suite 415, Richmond, VA 23220. To operate as a *contract carrier*, by motor vehicle, in interstate or foreign commerce, over irregular routes, transporting *wire and nails*, from points in OH, PA, and MD, to points in MO, under continuing contract(s) with American Nail Corporation, of Earth City, MO. (Hearing site: Richmond, VA.)

MC 146288 (Sub-2F), filed February 21, 1979. Applicant: AIR-SERVICE CONSOLIDATORS TRANSPORT, INC., P.O. Box 8714, Rochester, NY 14624. Representative: Michael R. Werner, P.O. Box 1409, 167 Fairfield Road, Fairfield, NY 07006. To operate as a *contract carrier*, by motor vehicle, in interstate or foreign commerce, over irregular routes, transporting (1) *copying and duplicating machines*, and *materials, equipment, and supplies* for copying and duplicating machines, in containers, between Rochester, NY, on the one hand, and, on the other New York, NY, restricted to the transportation of traffic having a prior or subsequent movement by air or water, and (2) *accessories, materials, and supplies* used in the manufacture, installation, lease, sale, and distribution of copying and duplicating machines, in containers, in the reverse direction, under continuing contract(s) in (1) and (2) above, with Xerox Corporation, of Webster, NY. (Hearing site: Rochester, NY.)

MC 146469F, filed January 24, 1979. Applicant: THOMAS & HOWARD COMPANY OF HICKORY, INC., P.O. Drawer 159, Hickory, NC 28601. Representative: Bruce E. McRoy, P.O. Drawer 2427, Rocky Mount, NC 27801. To operate as a *contract carrier*, by motor vehicle, in interstate or foreign commerce, over irregular routes, transporting *malt beverages and nonalcoholic beverages*, from Williamsburg, VA, and Detroit, MI, to Hickory, Newton, and Conover, NC, under continuing contracts with (a) Best of Beers, Inc., and (b) Quality Beers, Inc., both of Hickory, NC. Conditions: The carrier shall conduct separately its contract carrier operation and its other business activities. Carrier shall maintain separate accounting systems for each such business. Carrier shall not transport property as both a private and for-hire carrier at the same time and in the same vehicle. (Hearing site: Hickory or Charlotte, NC.)

[FR Doc. 79-15579 Filed 5-17-79; 8:45 am]

BILLING CODE 7035-01-M

Fourth Section Application for Relief

May 15, 1979.

This application for long-and-short-haul relief has been filed with the I.C.C.

Protests are due at the I.C.C. within 15 days from the date of publication of this notice.

FSA No. 43899, Southwestern Freight Bureau, Agent's No. B-2, rates on plasticizers or solvents, in tank carloads, from Taft, La., and Bayport, East Baytown, Houston, Nadeau and Texas City, Tex., to Newark and North Bergen, N.J., in Supplement 60 to its tariff ICC SWFB 3038-E, and Supplement 42 to ICC SWFB 3355-D, to become effective June 13, 1979. Grounds for relief—market competition.

By the Commission.

H. G. Homme, Jr.,

Secretary.

[FR Doc. 79-15578 Filed 5-17-79; 8:45 am]

BILLING CODE 7035-01-M

[I.C.C. Order No. 39 Under Service Order No. 1344]

Louisiana Midland Railway Co.; Rerouting Traffic

TO: Louisiana Midland Railway Company. In the opinion of Joel E. Burns, Agent, the Louisiana Midland Railway Company is unable to transport promptly all traffic offered for movement over its lines between Georgetown, Louisiana, and Packton, Louisiana, because of washouts.

It is ordered, (a) *Rerouting traffic.* The Louisiana Midland Railway Company, being unable to transport promptly all traffic offered for movement over its lines between Georgetown, Louisiana, and Packton, Louisiana, because of washouts, is authorized to divert or reroute such traffic via any available route to expedite the movement. Traffic necessarily diverted by authority of this order shall be rerouted so as to preserve as nearly as possible the participation and revenues of other carriers provided in the original routing. The billing covering all such cars rerouted shall carry a reference to this order as authority for the rerouting.

(b) *Concurrence of receiving roads to be obtained.* The railroad rerouting cars in accordance with this order shall

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Flemming, DS, ICC, 225 Federal Building return over the same route, serving all Owensboro over U.S. Hwy 231 to

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receive the concurrence of other railroads to which such traffic is to be diverted or rerouted, before the rerouting or diversion is ordered.

(c) *Notification of shippers.* Each carrier rerouting cars in accordance with this order, shall notify each shipper at the time each shipment is rerouted or diverted and shall furnish to such shipper the new routing provided under this order.

(d) Inasmuch as the diversion or rerouting of traffic is deemed to be due to carrier disability, the rates applicable to traffic diverted or rerouted by said Agent shall be the rates which were applicable at the time of shipment on the shipments as originally routed.

(e) In executing the directions of the Commission and of such agent provided for in this order, the common carriers involved shall proceed even though no contracts, agreements or arrangements now exist between them with reference to the divisions of the rates of transportation applicable to said traffic. Divisions shall be, during the time this order remains in force, those voluntarily agreed upon by and between said carriers; or upon failure of the carriers to so agree, said divisions shall be those hereafter fixed by the commission in accordance with pertinent authority conferred upon it by the Interstate Commerce Act.

(f) *Effective date.* This order shall become effective at 3:00 p.m., May 4, 1979.

(g) *Expiration date.* This order shall expire at 11:59 p.m., May 11, 1979, unless otherwise modified, changed or suspended.

This order shall be served upon the Association of American Railroads, Car Service Division, as agent of all railroads subscribing to the car service and car hire agreement under the terms of that agreement, and upon the American Short Line Railroad Association. A copy of this order shall be filed with the Director, Office of the Federal Register.

Issued at Washington, D.C., May 4, 1979.

Interstate Commerce Commission.

Joel E. Burns,

Agent.

[FR Doc. 79-15587 Filed 5-17-79; 8:45 am]

BILLING CODE 7035-01-M

[Notice No. 57]

Motor Carrier Temporary Authority Applications

May 8, 1979.

Important Notice: The following are notices of filing of applications for temporary authority under Section 210(a) of the Interstate Commerce Act provided for under the provisions of 49 CFR 1131.3. These rules provide that an original and six (6) copies of protests to an application may be filed with the field official named in the **Federal Register** publication no later than the 15th calendar day after the date the notice of the filing of the application is published in the **Federal Register**. One copy of the protest must be served on the applicant, or its authorized representative, if any, and the protestant must certify that such service has been made. The protest must identify the operating authority upon which it is predicated, specifying the "MC" docket and "Sub" number and quoting the particular portion of authority upon which it relies. Also, the protestant shall specify the service it can and will provide and the amount and type of equipment it will make available for use in connection with the service contemplated by the TA application. The weight accorded a protest shall be governed by the completeness and pertinence of the protestant's information.

Except as otherwise specifically noted, each applicant states that there will be no significant effect on the quality of the human environment resulting from approval of its application.

A copy of the application is on file, and can be examined at the Office of the Secretary, Interstate Commerce Commission, Washington, D.C., and also in the ICC Field Office to which protests are to be transmitted. NOTE: All applications seek authority to operate as a common carrier over irregular routes except as otherwise noted.

Motor Carriers of Property

MC 29642 (Sub-13TA), filed February 23, 1979, and published in the Federal Register issue of April 3, 1979, and republish as corrected this issue. Applicant: FIVE TRANSPORTATION COMPANY, 5505 Community Road, P.O. Box 1635, Brunswick, GA 31520. Representative: James M. Fiveash (same address as applicant). Authority sought to operate as a *common carrier*, by motor vehicle, over regular routes transporting *general commodities*, except those of unusual value, Classes A and B explosives, household goods as defined by the Commission, commodities in bulk, and commodities requiring special equipment, between Millen, GA, and Lyons, GA, serving all intermediate points, from Millen over US Hwy 25 to the junction of GA Hwy 121, then over GA Hwy 121 to Cobbtown, then over GA Hwy 152 to Lyons, and return over the same route; between Millen, GA, and Savannah, GA, serving all intermediate points, from Millen over GA Hwy 121 to Savannah, and return over the same route; between Millen, GA, and junction of GA Hwy 17 and US Hwy 80, serving all intermediate points, from Millen over GA Hwy 17 to the junction of US Hwy 80, and return over the same route; between Pembroke, GA, and Springfield, GA, serving all intermediate points, from Pembroke over GA Hwy 119 and SC Hwy 119 to Springfield, GA, and return over the same route; between Claxton, GA, and Sylvania, GA, serving all intermediate points, from Claxton over US Hwy 301 to Sylvania, and return over the same route; between Savannah, GA, and junction of Interstate 16 and GA Hwy 121, serving all intermediate points, from Savannah over Interstate 16 to the junction of GA Hwy 121 and return over the same route; between Blichton, GA, and junction of US Hwy 25 and GA Hwy 121, serving all intermediate points, from Blichton over US Hwy 80 to Statesboro, then over US Hwy 25 to the junction of GA Hwy 121, and return over the same route; between Pembroke, GA, and junction of GA Hwy 67 and US Hwy 25, serving all intermediate points, from Pembroke over GA Hwy 67 to the junction of US Hwy 25, and return over the same route, for 180 days. An underlying ETA seeks 90 days of authority. Supporting shipper(s): There are 22 shippers filed with this application which may be examined at the office listed below and Headquarters. Send protests to: G. H. Fauss, Jr., DC, ICC, Box 35008, 400 West Bay Street, Jacksonville, FL 32202. The purpose of this republication to completely show the territorial description as requested.

MC 107103 (Sub-10TA), filed February 23, 1979, and published in the Federal Register issue of April 3, 1979, and republished as corrected this issue. Applicant: ROBINSON CARTAGE COMPANY, 2712 Chicago Drive SW, Grand Rapids, MI 47509. Representative: Ronald J. Mastej, 900 Guardian Building, Detroit, MI 48226. Iron and steel, iron and steel articles and materials, equipment and supplies used or useful in the manufacture and distribution of the aforenamed commodities, between points on the International Boundary line between the United States and Canada located at Sault Ste. Marie, MI and points in MI, for 180 days. Supporting Shipper(s): The Algoma Steel Corporation Limited, Sault Ste. Marie, Ontario P6A 5P2. Send Protests to: C. R. Flemming, DS, ICC, 225 Federal Building, Lansing, MI 48933. The purpose of this republication is to show the territorial description which was previously omitted.

MC 110683 (Sub-138TA), filed March 20, 1979, and published in the **Federal Register** issue of April 24, 1979, and republished as corrected this issue. Applicant: SMITH'S TRANSFER CORPORATION, PO Box 1000, Staunton, VA 24401. Representative: Francis W. McInerny, 1000 16th Street NW., Washington, DC 20036. Authority sought to operate as a *common carrier*, motor vehicle, over regular routes, transporting *general commodities*, except those of unusual value, household goods as defined by the Commission, Classes A and B explosives, commodities in bulk, and those requiring special equipment, between Cincinnati, OH, and Mitchell, TN, serving all intermediate points, from Cincinnati over U.S. Hwy 42 to its junction with U.S. Hwy 31W, then over U.S. Hwy 31W to Mitchell and return over the same route, and serving points in Gallatin, Carroll, Henry, Trimble, Oldham, Shelby, Jefferson, Bullitt, Meade, Spencer, Hardin, Larue, Nelson, Breckinridge, Grayson, Hart, Green, Edmonson, Barren, Metcalfe, Monroe, Allen, Warren Butler, Logan, and Simpson Counties, KY, as off route points; between Lexington, KY, and Wickliffe, KY, serving all intermediate points, from Lexington over U.S. Hwy 60 to Wickliffe, and return over the same route serving points in Fayette, Scott, Jessamine, Woodford, Franklin, Anderson, Shelby, Spencer, Oldham, Jefferson, Bullitt, Hardin, Meade, Breckinridge, Hancock, Ohio, Daviess, McLean, Henderson, Grayson, Webster, Union, Crittenden, Livingston, Lyon, Marshall, Hopkins, Caldwell, McCracken, Graves, Ballard, and Carlisle Counties, KY, as off route points; between Versailles, KY, and Paducah, KY, serving all intermediate points, from Versailles over U.S. Hwy 62 to Paducah, and return over the same route, serving all points in Woodford, Anderson, Mercer, Spencer, Washington, Nelson, Bullitt, Larue, Hardin, Meade, Hart, Edmonson, Grayson, Butler, Ohio, McLean, Daviess, Muhlenberg, Hopkins, Todd, Christian, Caldwell, Trigg, Lyon, Livingston, Marshall, Calloway, Graves, and McCracken Counties, KY, as off route points; between Lexington, KY, and Columbus, KY, serving all intermediate points, from Lexington over U.S. Hwy 68 to its junction with KY Hwy 80, then over KY Hwy 80 to Columbus, and return over the same route, serving all points in Fayette, Jessamine, Woodford, Garrard, Mercer, Anderson, Washington, Larue, Marion, Taylor, Casey, Green, Adair, Russell, Hart, Metcalfe, Cumberland, Monroe, Barren, Edmonson, Allen, Warren, Butler, Simpson, Logan, Muhlenberg, Todd, Christian, Hopkins, Trigg, Caldwell, Lyon, Marshall, Calloway, McCracken, Graves, Ballard, Carlisle, Hickman, and Fulton Counties, KY, as off route points; between Russellville, KY, and Williamsburg, KY, serving all intermediate points, from Russellville over KY Hwy 100 to its junction with KY Hwy 90, then over KY Hwy 90 to its junction with KY Hwy 92, then over KY Hwy 92 to Williamsburg, and return over the same route, serving all points in Logan, Butler, Warren, Simpson, Edmonson, Barren, Allen, Metcalfe, Monroe, Adair, Cumberland, Russell, Clinton, Wayne, Pulaski, McCreary, Laurel, and Whitley Counties, KY, as off route points; between Edmonton, KY, and London, KY, serving all intermediate points, from Edmonton over KY Hwy 80 to London and return over the same route, serving points in Metcalfe, Green, Monroe, Adair, Taylor, Cumberland, Casey, Russell, Clinton, Lincoln, Pulaski, Wayne, McCreary, Laurel, Rockcastle, and Whitley Counties, KY, as off route points; between Elizabethtown, KY, and Static, KY, serving all intermediate points, from Elizabethtown over KY Hwy 611 to its junction with KY Hwy 210, then over KY Hwy 210, to its junction with KY Hwy 55 to its junction with U.S. Hwy 127, then over U.S. Hwy 127 to Static, Ky. and return over the same route, serving all points in Hardin, Nelson, Larue, Hart, Marion, Washington, Green, Metcalfe, Adair, Casey, Russell, Cumberland, Clinton, Pulaski, and McCreary Counties, KY, as off route points; between Paducah, KY, and Fulton, KY, serving all intermediate points, from Paducah over U.S. Hwy 45 to Fulton and return over the same route, serving all points in McCracken, Ballard, Livingston, Marshall, Calloway, Graves, Carlisle, Hickman, and Fulton Counties, KY, as off route points; between Henderson, KY, and Oak Grove, KY, serving all intermediate points, from Henderson over U.S. Hwy 41 to its junction with U.S. Hwy 41-A, then over U.S. Hwy 41-A to Oak Grove, and return over the same route, serving all points in Henderson, Union, Daviess, Webster, McLean, Caldwell, Hopkins, Muhlenberg, Trigg, Christian, and Todd Counties, KY, as off route points; between Owensboro, KY, and Adolphus, KY, serving all intermediate points, from Owensboro over U.S. Hwy 231 to Adolphus, and return over the same route, serving all points in Henderson, Daviess, Hancock, McLean, Ohio, Grayson, Muhlenberg, Butler, Edmonson, Logan, Warren, Simpson, Allen, Barrne, and Monroe Counties, KY, as off route points, for 180 days. Note: To the extent that any of the authority sought duplicates that presently held, applicant will accept a condition that only one operating authority will result and duplicating authorities may not be served by sale or otherwise. The purpose of this application is to eliminate the Cincinnati, Ohio gateway and to convert irregular route authority to regular routes. Restrictions: The above authority is restricted against the transportation of shipments between points in Kentucky. An underlying ETA seeks 90 days authority. Supporting Shipper(s): There are 160 supporting statements to this application which may be examined at the office listed below or at the Commission headquarters in Washington, DC. Send Protests to: Paul Collins, DS, ICC, Rm. 10-502 Federal Bldg., 400 North 8th Street, Richmond, VA 23240. The purpose of this republication is to show the territorial description which was previously omitted.

MC 114273 (Sub-551TA), filed February 16, 1979, and published in the **Federal Register** issue of April 3, 1979, and publish as corrected this issue. Applicant: CRST, INC., P.O. Box 68, Cedar Rapids, IA 52406. Representative: Kenneth L. Core (same as applicant). Paper and paper products, from Clinton, IA, to Eden and Greensboro, NC, for 180 days. An underlying ETA seeks 90 days authority. Supporting Shipper(s): International Paper Company, 200 Harrison Dr., Clinton, IA 52732. Send Protests To: Herbert W. Allen, DS, ICC, 518 Federal Building, Des Moines, IA 50309. The purpose of this republication is to correctly show the destination as "Greensboro, NC" in lieu of "Breensboro, NC" which was previously published.

MC 114273 (Sub-570TA), filed March 8, 1979, and published in the Federal Register issue of April 24, 1979, and republish as corrected this issue. Applicant: CRST, INC., P.O. Box 68, Cedar Rapids, IA 52406. Representative: Kenneth L. Core (same address as applicant). Flour, N.O.I., corn meal, macaroni products from Lincoln, NE to Fogelsville, PA and Bridgeport, NJ for 180 days. Note: Common control may be involved and this application will substitute single-line service for existing

joint-line service. Supporting shipper: Gooch Willing & Elevator Company, 540 South Street, Lincoln, NE 68501. Send Protests To: Herbert W. Allen, DS, ICC, 516 Federal Bldg., Des Moines, IA 50309. The purpose of this republication is to correctly show the destination of "Bridgeport, NJ" in lieu of "Bridgeport, NC" which was previously published.

MC 115162 (Sub-452TA), filed January 26, 1979, and published in the **Federal Register** issue of March 5, 1979, and publish as corrected this issue. Applicant: POOLE TRUCK LINE, INC., P.O. Drawer 500, Evergreen, AL 36401. Representative: Robert E. Tate, P.O. Drawer 500, Evergreen, AL 36401. *Aluminum and aluminum articles,* from the facilities of Kaiser Aluminum & Chemical Corporation at or near Ravenswood, WV to AL, AR, CT, DE, FL, GA, IL, IN, IA, KY, LA, ME, MD, MA, MI, MN, MS, MO, NH, NJ, NY, NC, OH, PA, RI, SC, TN, TX, VT, VA, WV, WI and DC. Supporting shipper: Kaiser Aluminum & Chemical Corporation; P.O. Box 98; Ravenswood, WV 26164. Send protests to: Mable Holston, Transportation Assistant: 1616–2121 Building; 2121 Eighth Avenue, North; Birmingham, AL 35203. The purpose of this republication is to include MA in the territorial description.

MC 115213 (Sub-7TA), filed March 16, 1979, and published in the **Federal Register** issue of April 24, 1979, and republished as corrected this issue. Applicant: ELLIOTT & FIKES TRUCK LINE, P.O. Box 8827, Pine Bluff, AR 71611. Representative: Horace Fikes, Jr., 414 National Building, Pine Bluff, AR 71601. *Iron and steel fence tubing, articles, materials and supplies* used in manufacture of fence tubing, from the facilities of Century Tube Corporation, Jefferson County, AR, to all points and places in the United States except Alaska and Hawaii, and from all points and places in the United States except Alaska and Hawaii to facilities of Century Tube Corporation, Jefferson County, AR, for 180 days. Supporting Shipper(s): Century Tube Corporation, P.O. Box 7612, Pine Bluff, AR 71611. Send Protests To: William H. Land, JR, DS, ICC, 3108 Federal Office Bldg., 700 West Capitol, Little Rock, AR 72201. The purpose of this republication is to completely show the territorial description.

MC 139743 (Sub-6TA), filed February 20, 1979, and published in the **Federal Register** issue of April 3, 1979, and republished as corrected this issue. Applicant: GEORGIA CARPET EXPRESS, INC., P.O. Box 1680, Dalton, GA 30720. Representative: Archie B. Culbreth, Suite 202, 2200 Century Parkway, Atlanta, GA 30345. Carpets, carpeting and carpet samples from the facilities of Galaxy Carpet Mills, Inc., at or near Chatsworth, GA, and the facilities of E. T. Barwick Industries, Inc., at or near Lafayette, GA, to points in AZ, NV, and NM, for 180 days. An underlying ETA seeks 90 days of authority. Supporting Shipper(s): Galaxy Carpet Mills, Inc., Chatsworth, GA 30705. E. T. Barwick Industries, Inc., P.O. Box 441, Lafayette, GA 30728. Send Protests To: Sara K. Davis, TS, ICC, Rm. 300, 1252 West Peachtree, NW, Atlanta, GA 30309. The purpose of this republication is to show the correct destination as "AZ" in lieu of "AR", as previously published.

MC 141932 (Sub-7TA), filed February 28, 1979. Applicant: POLAR TRANSPORT INC., 176 King Street, Hanover, MA 02339. Representative: A. C. Gardener (same address as applicant). Authority sought to operate as a common carrier, by motor vehicle, over irregular routes, transporting: *Paper Articles, Paper dishes, plates and trays and packaging materials; Horticultural Products, peat pots and growing blocks; Plastic Articles, and materials, equipment and supplies used in the manufacture, sales and distribution of these products (except commodities in bulk and commodities the transportation of which, because of size and weight require the use of special equipment).* Between Albertville and Gadsden, AL; Gary and Hammond, IN; New Iberia, LA; Bangor, Lewiston, Portland and Waterville, ME; Kansas City, MO; Troy, OH; Memphis, TN and Carrollton, TX, on the one hand, and on the other, points in the United States in and east of ND, SD, NE, CO, OK and TX. For 180 days. Restricted to shipments originating at or destined to the facilities or warehouses used by Keyes Fibre Company, and its subsidiary Huntsman Container Corporation. Supporting shipper(s) Keyes Fibre Company, Waterville, ME 04901. Send protests to: John B. Thomas, District Supervisor, Interstate Commerce Commission, 150 Causeway Street, Boston, MA 02114.

MC 142672 (Sub-49TA), filed February 9, 1979, and published in the **Federal Register** issue of March 27, 1979, and publish as corrected this issue. Applicant: DAVID BENEUX PRODUCE AND TRUCKING, INC., P.O. Box Drawer F, Mulberry, AR 72947. Representative: Don Garrison, P.O. Box 159 Rogers, AR 72756. (1) *Floor and wall covering materials; and (2) vacuum cleaners;* and (3) *materials, equipment and supplies used in the installation and maintenance of the commodities named in (1) and (2) above,* from points in the state of GA to the facilities of Dean's Discount Carpet, Inc., at or near Fort Smith AR, for 180 days. Supporting Shipper(s): Dean's Discount Carpet, Inc., 4200 Kelly Highway, Fort Smith, AR 72904. Send Protests To: William H. Land, Jr., DS, ICC, 3108 Federal Office Bldg., 700 West Capitol, Little Rock, AR 72201. The purpose of this republication is to show the territorial description which was previously omitted.

By the Commission.

H. G. Homme, Jr.,

Secretary.

[FR Doc. 79-15581 Filed 5-17-79; 8:45 am]

BILLING CODE 7035-01-M

[Notice No. 80]

Motor Carrier Temporary Authority Applications

May 15, 1979.

Important Notice: The following are notices of filing of applications for temporary authority under Section 210a(a) of the Interstate Commerce Act provided for under the provisions of 49 CFR 1131.3. These rules provide that an original and six (6) copies of protests to an application may be filed with the field official named in the **Federal Register** publication no later than the 15th calendar day after the date the notice of the filing of the application is published in the **Federal Register.** One copy of the protest must be served on the applicant, or its authorized representative, if any, and the protestant must certify that such service has been made. The protest must identify the operating authority upon which it is predicated, specifying the "MC" docket and "Sub" number and quoting the particular portion of authority upon which it relies. Also, the protestant shall specify the service it can and will provide and the amount and type of equipment it will make available for use in connection with the service contemplated by the TA application. The weight accorded a protest shall be governed by the completeness and pertinence of the protestant's information.

Except as otherwise specifically noted, each applicant states that there will be no significant effect on the quality of the human environment resulting from approval of its application.

A copy of the application is on file, and can be examined at the Office of the Secretary, Interstate Commerce Commission, Washington, D.C., and also in the ICC Field Office to which protests are to be transmitted.

Note.—All applications seek authority to operate as a common carrier over irregular routes except as otherwise noted.

Motor Carriers of Property

MC 908 (Sub-4TA), filed March 22, 1979. Applicant: CONSOLIDATED CARTAGE CO., INC., 7240 West 61st Place, Argo, IL 60501. Representative: Eugene L. Cohn, One North LaSalle Street, Chicago, IL 60602. Funnels, viz.: Bulb or Tube Subassemblies (necks and funnels without face plates) electric or electronic glass, without metal fittings, greatest dimension over 7 inches; plates, face or implosion, television or television tube; Boxes, fibreboard without wooden frames, KD Flat or folded flat, corrugated: Glassware, NOI, actual value exceeding 35¢ per pound but not exceeding $1.50 per pound; Glassware, NOI, released to a value not to exceed 35¢ per pound, and materials, equipment and supplies used in the manufacture and distribution of the aforementioned products: between the facilities of Corning Glass Works, Bluffton, IN and points in IL, for 180 days. An underlying ETA seeking 90 days authority has been filed. *Restricted:* against the transportation of commodities in bulk, commodities requiring special equipment, and those injurious or contaminating to other lading, articles of unusul value, dangerous explosives, and household goods as defined by the Commission. Supporting shipper(s): Corning Glass Works, P.O. Box 158, Corning, NY 14830. Send protests to: Annie Booker, TA, Interstate Commerce Commission, 219 South Dearborn Street, Room 1386, Chicago, IL 60604.

MC 2229 (Sub-206TA), filed April 16, 1979. Applicant: RED BALL MOTOR FREIGHT, INC., 3177 Irving Blvd., Dallas, TX 75247. Representative: Jackie Hill (address same as applicant). Common carrier, regular routes, *general commodities (except Classes A and B explosives, articles of unusual value, household goods as defined by the Commission, commodities in bulk, and those requiring special equipment),* between Winslow, AZ and Nogales, AZ as follows: from Winslow over I.S. Hwy 40 to junction with I.S. Hwy 17, then over I.S. 17 to junction I.S. Hwy 10, then over I.S. Hwy 10 to junction I.S. Hwy 19, then over I.S. Hwy 19 to Nogales, and return over the same route, serving the intermediate points of Phoenix and Tucson, AZ, restricted against the transportation of traffic between Phoenix, Tucson and Nogales, AZ, for 180 days. Underlying ETA for 90 days filed. Supporting shipper(s): There are seventy-five (75) supporting shippers. Send protests to: Opal M. Jones, Trans. Asst., Interstate Commerce Commission, 1100 Commerce Street, Room 13C12, Dallas, TX 75242.

MC 7228 (Sub-44TA), filed April 17, 1979. Applicant: COAST TRANSPORT, INC., 1906 S.E. 10th Avenue, Portland, OR 97214. Representative: James T. Johnson, 1610 IBM Bldg., Seattle, WA 98101. *Bananas and agricultural commodities exempt from regulation under Section 10526(a)(6) of the Interstate Commerce Act when transported in mixed loads with bananas.* Restricted to the transportation of traffic having a prior movement by water. A corresponding ETA was granted April 2, 1979 for 30 + 2. A permanent will be filed within 30 days. Supporting shipper(s): Del Monte Banana Company, 1201 Brickell Ave., Miami, FL 33101. Send protests to: R. V. Dubay, District Supervisor, Bureau of Operations, Interstate Commerce Commission, 114 Pioneer Courthouse, Portland, Oregon 97204.

MC 25798 (Sub-374TA), filed April 12, 1979. Applicant: CLAY HYDER TRUCKING LINES, INC., P.O. Box 1186, Auburndale, FL 33823. Representative: Tony G. Russell (same address as applicant). *Animal* and *poultry feed, fish feed* and *corn products* (1) from Brimingham and Decatur, AL to points in FL and GA, and (2) from Springfield, TN to points in AL, FL and GA for 180 days. An underlying ETA seeks 90 days authority. Supporting shipper(s): The Jim Dandy Company, P.O. Box 10687, Birmingham, AL 35202. Send protests to: Donna M. Jones, T/A, ICC–BOp, Monterey Bldg., Suite 101, 8410 N.W. 53rd Ter., Miami, Fl 33166.

MC 30089 (Sub-8TA), filed April 16, 1979. Applicant: FRANK W. LILLY, INC., P.O. Box 111, Turtle Creek, PA 15145. Representative: Christian V. Graf, 407 North Front Street, Harrisburg, PA 17101. *Contract Carrier,* irregular routes: *Dry sweetener and bouillon* from the facilities of Foodways National, Inc. at or near New Paltz, NY to the facilities of Heinz USA, Division of H. J. Heinz Co. at or near Mechanicsburg and Pittsburgh, PA, restricted to traffic orginating at and destined to the named origin and destinations, and further restricted to the transportation performed under a continuing contract with Heinz USA, Division of H. J. Heinz Co., Pittsburgh, PA for 180 days. Supporting shipper(s): Heinz USA, Division of H. J. Heinz Co., P.O. Box 57, Pittsburgh, PA 15230. Send protests to: J. England, DS, ICC, 2111 Federal Bldg., Pittsburgh, PA 15222.

MC 48958 (Sub-178TA), filed April 16, 1979. Applicant: ILLINOIS-CALIFORNIA EXPRESS, INC., 510 E. 51st Avenue, Denver, CO 80216. Respresentative: Lee E. Lucero, same. *Common Carrier:* Regular Route: *General Commodities, except those of unusal value, Classes A and B explosives, household goods as defined by the Commission, commodities in bulk, and those requiring special equipment,* Between Kansas City, MO and Oklahoma City, OK: from Kansas City, MO over U.S. Hwy 50 to junction U.S. Hwy 81 to Wichita, KS (also over Interstate Hwy 35 to Wichita, KS), then over Interstate Hwy 35 to Oklahoma City, OK, and return over same route, serving intermediate points of Wichita and Emporia, KS for 180 days. Applicant will task & interline. An underlying ETA seeks 90 days authority. Supporting shippers(s): 59 supporting shippers. Send protests to: District Supervisor R.L. Buchanan, Interstate Commerce Commission, 492 U.SA. Customs House, 721 19th Street, Denver, CO 80202.

MC 52579 (Sub-179TA), filed April 17, 1979. Applicant: GILBERT CARRIER CORP., One Gilbert Drive, Secaucus, NJ 07094. Representative: Julius Saltzman, One Gilbert Drive, Secaucus, NJ 07094. *Wearing apparel on hangers and in packages in mixed loads.* From: Points in TN to points in IL, NJ, & NY, for 180 days. An underlying ETA seeks 90 days authority. Supporting shipper(S): I, Appel, 99 Madison Avenue, New York, NY. Send protests to: Robert E. Johnston, D/S ICC 9 Clinton St. Newark, NJ 07102

MC 52579 (Sub-180TA), filed April 20, 1979. Applicant: GILBERT CARRIER CORP., One Gilbert Drive, Secaucus, NJ 07094. Representative: Julius Saltzman, One Gilbert Drive, Secaucus, NJ 07094. Wearing apparel on hangers and in packages, along with uncut material and wearing apparel accessories, supplies and equipment used in the conduct of apparel manufacturing. Between Hamburg, AR and New York, NY, for 180 days. An underlying ETA seeks 90 days authority. Supporting shipper(s): Stanley Michael, 114 West 26th Street, New York, NY 10001. Send protests to: Robert E. Johnston, D/S, ICC, 9 Clinton St., Newark, NJ 07102.

MC 59668 (Sub-13TA), filed April 17, 1979. Applicant: HAROLD G. CLINE, INC., Harding Highway & DuPont Road, Penns Grove, N.J. 08069. Representative: Glenn F. Morgan, Jr., 104 Azar Bldg. Glen Burnie, MD 21061. *Contract carrier:*

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irregular routes: *Such commodities as are dealt in or used by distributors or manufacturers of chemicals, dyes, and motor anti-knock compounds*, between points in NJ, DE and PA, on the one hand, and, on the other, the plant site of E. I. DuPont de Nemours & Company located at or near Old Hickory and New Johnsville, TN, for 180 days. Supporting shipper(s): E. I. Dupont de Nemours & Company, 1007 Market Street, Wilmington, DE 19898. Send protests to: District Supervisor, ICC, 428 East State Street, Room 204, Trenton, N.J. 08608.

MC 72069 (Sub-20TA), filed April 16, 1979. Applicant: BLUE HEN LINES, INC., P.O. BOX 280, Milford, DE 19963. Representative: Chester A. Zyblut, 1030 15th St. NW, Washington, DC 20005. *Canned goods*, from Sussex County, DE; Accomac and Northampton Counties, VA, and Caroline, Dorchester and Queen Anne Counties, MD to points in PA, WV, OH, IN, MI, WI, IL, MN, LA, MO, AR, OK, KS, NE, SD and ND, for 90 days. An underlying ETA for 90 days was granted. Supporting shipper(s): There are 5 supporting shippers. Their statements may be examined at the office listed below and Headquarters. Send protests to: W. L. Hughes, DS, ICC, 1025 Federal Bldg., Baltimore, MD 21201.

MC 78228 (Sub-117TA), filed April 17, 1979. Applicant: J. MILLER EXPRESS, INC., 962 Greentree Road, Pittsburgh, PA 15220. Representative: Henry M. Wick, Jr., Esquire, 2310 Grant Bldg., Pittsburgh, PA 15219. *Coke and coke breeze*, in bulk, in dump vehicles, from the facilities of Koppers Company, Inc., at Erie, PA and Toledo, OH to all points in ME, NH, VT, MA, RI, CT, NY, NJ, DE, MD, DC, VA, WV, PA, OH, KY, IN, MI, IL, WI, MN, IA, and MO, for 180 days. Supporting shipper(s): Koppers Company, Inc., 850 Koppers Building, Pittsburgh, PA 15219. Send protests to: J. A. Niggemyer, DS, 416 Old P.O. Bldg., Wheeling, WV 26003.

MC 78228 (Sub-118TA), filed April 23, 1979. Applicant: J. MILLER EXPRESS, INC., 962 Greentree Road, Pittsburgh, PA 15220. Representative: Henry M. Wick, Jr., Esq., 2310 Grant Bldg., Pittsburgh, PA 15219. *Iron and steel articles*, from the facilities of Doolan Industries, Inc., and Doolan Steel Company in Martins Ferry, OH to Philadelphia, PA and Camden, NJ, for 180 days. An underlying ETA seeks 90 days authority. Supporting shipper(s): Doolan Industries, Inc., 303 Harper Drive, Moorestown, NJ 08057. Send protests to: J. A. Niggemyer, DS, 416 Old P.O. Bldg., Wheeling, WV 26003.

MC 88619 (Sub-1TA), filed April 26, 1979. Applicant: MARVIN JAY HUTCHINSON, d.b.a. HUTCHINSON TRANSFER, 309 EAst 3rd Street, Thief River Falls, MN 56701. Representative: William J. Gambucci, 414 Gate City Building, P.O. Box 1660, Fargo, ND 58107. *Lumber, wood products and fence posts*, from ports of entry on the International Boundary Line between the United States and Canada located in ND and MN to points in IL, IA, MN, NE, ND, SD and WI, and from points in SD and MT to ports of entry on the International Boundary Lines between the United States and Canada located in ND and MN, for 180 days. Supporting shipper(s): P. H. Barnett Lumber, 165 Ryan Street, Winnipeg, Manitoba, Canada, R2R Prendiville Wood Preserves, 165 Ryan Stret, Winnipeg, Man., Can., ROJ. Send protests to: DS, ICC, Bureau of Operations, Room 268 Fed. Bldg. & U.S. Post Office, 657 2nd Avenue North, Fargo, ND 58102.

MC 99408 (Sub-6TA), filed April 17, 1979. Appliant: CITY DELIVERY SERVICE, INCORPORATED, 1 Passan Drive, Laflin Borough, Wilkes-Barre, PA 18702. Representative: Joseph F. Hoary, 121 S. Main St., Taylor, PA 18517. *General commodities* (except Classes A and B explosives, household goods as described by the Commission, such commodities as require special equipment or handling, and commodities in bulk), between the facilities of Valley Distributing and Storage Co., at or near Scranton and Wilkes-Barre, PA, on the one hand, and, on the other, points in MI, OH, CT, MA and VA. Restricted to transportation having an origin or destination at the facilities of Valley Distributing and Storage Co., for 180 days. An underlying ETA seeks 90 days authority. Supporting shipper(s): Valley Distributing and Storage Co., 1 Passan Drive, Laflin Borough, Wilkes-Barre, PA 18702. Send protests to: ICC, William J. Green, Jr., Federal Bldg., 600 Arch St., Philadelphia, PA 19106.

MC 103498 (Sub-59TA), filed April 19, 1979. Applicant: B & L TRUCK LINES, INC., 339 East 34th Street, Lubbock, TX 79404. Representative: Richard Hubbert, P.O. Box 10236, Lubbock, TX 79408. *Petroleum products* and *lubricating oils* (except in bulk), in packages and containers, from the facilities of Mobil Oil Corporation at or near Beaumont, TX to points in AR, KS, LA, MO, NM, OK, and TX, for 180 days. An underlying ETA seeks up to 90 days authority. Supporting shipper(s): Mobil Oil Corporation, 8350 N. Central Expressway, Dallas, TX 75206. Send protests to: Haskell E. Ballard, District Supervisor, Interstate Commerce Commission, Bureau of Operations, Box F-13206 Federal Building, Amarillo, TX 79101.

MC 103798 (Sub-34TA), filed April 2, 1979. Applicant: MARTEN TRANSPORT, LTD., Route 3, Mondovi, WI 54755. Representative: Robert S. Lee, 1000 First National Bank Building, Minneapolis, MN 55402. *Foodstuffs* from the facilities of Land O'Lakes, Inc. at Hudson, IA and points in MN and WI to AZ CA, CO, ID, MT, NE, NM, ND, OR, SD, UT, WA and WY, for 180 days. An underlying ETA seeks 90 days authority. Supporting shipper(s): Land O'Lakes, Inc., 614 McKinley Place, Northeast, Minneapolis, MN 55413. Send protests to: Delores A. Poe, TA, ICC, 414 Federal Building & U.S. Court House, 110 South 4th Street, Minneapolis, MN 55401.

MC 103798 (Sub-35TA), filed April 24, 1979. Applicant: MARTEN TRANSPORT, LTD., Route 3, Mondovi, WI 54755. Representative: Robert S. Lee, 1000 First National Bank Building, Minneapolis, MN 55402. *(1) Cheese, cheese products and synthetic cheese; and (2) Equipment, materials and supplies used in the manufacture of commodities in (1) above* from points in MN and WI to Logan, UT and points in MO, for 180 days. An underlying ETA seeks 90 days authority. Supporting shipper(s): L. D. Schreiber Cheese Co., Inc., P.O. Box 810, Green Bay, WI 54305. Send protests to: Delores A. Poe, TA, ICC, 414 Federal Building & U.S. Court House, 110 South 4th Street, Minneapolis, MN 55401.

MC 104149 (Sub-207TA), filed April 20, 1979. Applicant: OSBORNE TRUCK LINE, INC., P.O. box 10727, Birmingham, AL 35202. Representative: Maurice F. Bishop, 603 Frank Nelson Building, Birmingham, AL 35203. *Aluminum and aluminum articles and materials, equipment and supplies used in the manufacture and distribution* thereof; from New Orleans, LA and its commercial zone to the facilities of Reynolds Metals Company at or near Listerhill and Sheffield, AL. For 180 days. An underlying ETA seeks 90 days authority. Supporting shipper(s): Reynolds Metals Company, P.O. Box 910, Sheffield, AL 35660. Send protests to: Mabel E. Holston, T/A, ICC, Room 1616, 2121 Building, Birmingham, AL 35203.

MC 106398 (Sub-881TA), filed April 20, 1979. Applicant: NATIONAL TRAILER CONVOY, INC., 525 South Main, Tulsa, OK 74103. Representative: Irvin Tull (same address as applicant). *Steel pipe, tubing and accessories*, (1) from the facilities of the Oxylance Corporation at Atlanta, GA, to points in AL, AZ, AR, CA, DE, IL, IN, MI, NM, OH, OK, PA,

and TX; and (2) from Trussville, AL, to Atlanta, GA, for 180 days. An underlying ETA seeks 90 days authority. Supporting shipper(s): Oxylance Corporation, 2400 Tower Place, 3340 Peachtree Rd. NE, Atlanta, GA 30326. Send protests to: District Supervisor, Interstate Commerce Commission, Room 240 Old Post Office and Court House Bldg., 215 N.W. 3rd, Oklahoma City, OK 73102.

MC 106398 (Sub-882TA), filed April 20, 1979. Applicant: NATIONAL TRAILER CONVOY, INC., 525 South Main, Tulsa, OK 74103. Representative: Irvin Tull (same address as applicant). *Iron and steel articles*, between the facilities of Kirby Building Systems, located at Spanish Fork, UT, Houston, TX, and Portland, TN, for 180 days. An underlying ETA seeks 90 days authority. Supporting shipper(s): Kirby Building Systems, P.O. Box 36425, Houston, TX 77036. Send protests to: District Supervisor, Interstate Commerce Commission, Room 240 Old Post Office & Court House Bldg., 215 N.W. 3rd, Oklahoma City, OK 73102.

MC 107478 (Sub-46TA), filed April 17, 1979. Applicant: OLD DOMINION FREIGHT LINE, INC., P.O. Box 2006, High Point, NC 27261. Representative: Harry J. Jordan, Esquire, 1000 16th Street, N.W., Washington, DC 20036. *Particleboard, fibreboard and built up woods, including faced or finished* from the facilities of Masonite Corporation at Towanda, PA to points in DE, DC, GA, KY, MD, NJ, NC, OH, SC, TN, VA, and WV for 180 days. An underlying ETA seeks 90 days authority has been filed. Supporting shipper(s): Masonite Corporation, P.O. box 378, Waverly, VA 23890. Send protests to: Mr. Archie W. Andrews, D/S, ICC, P.O. Box 26896, Raleigh, NC 27611.

MC 108119 (Sub-147TA), filed April 4, 1979. Applicant: E. L. MURPHY TRUCKING COMPANY, P.O. Box 43010, St. Paul, MN 55164. Representative: Andrew R. Clark, 1000 First National Bank Building, Minneapolis, MN 55402. *Lumber, lumber mill products and wood products* from the facilities of Potlatch Corporation located at or near Coeur d'Alene, St. Maries, Potlatch, Lewiston, Kamiah, Spalding, Jaype (near Pierce), Santa and Post Falls, ID to all points in IN, MI, MO and OH, for 180 days. An underlying ETA seeks 90 days authority. Supporting shipper(s): Potlatch Corporation, P.O. Box 1016, Lewiston, ID 83501. Send protests to: Delores A. Poe, TA, ICC, 414 Federal Building & U.S. Court House, 110 South 4th Street, Minneapolis, MN 55401.

MC 108119 (Sub-148TA), filed April 6, 1979. Applicant: E. L. MURPHY TRUCKING COMPANY, P.O. Box 43010, St. Paul, MN 55164. Representative: Andrew R. Clark, 1000 First National Bank Building, Minneapolis, MN 55402. *Dry hydro desulfurization catalyst, in drums*, from points at or near Pasadena, TX to points in NJ, IL and CA, for 180 days. Supporting shipper(s): ARMAK, Catalyst Division, 13000 Bay Park Road, Pasadena, TX 77507. Send protests to: Delores A. Poe, TA, ICC, 414 Federal Building & U.S. Court House, 110 South 4th Street, Minneapolis, MN 55401.

MC 109449 (Sub-27TA), filed April 2, 1979. Applicant: KUJAK TRANSPORT, INC., Junction Avenue, Winona, MN 55987. Representative: Gary Huntbatch, same address as applicant. *Foodstuffs* from the plantsites and facilities utilized by Land O'Lakes, Inc. in MN and WI to points in OK, TX, AR, LA and MS, for 180 days. An underlying ETA seeks 90 days authority. Supporting shipper(s): Land O'Lakes, Inc., 614 McKinley Place, Northeast, Minneapolis, MN 55413. Send protests to: Delores A. Poe, TA, ICC, 414 Federal Building & U.S. Court House, 110 South 4th Street, Minneapolis, MN 55401.

MC 109449 (Sub-28TA), filed April 5, 1979. Applicant: KUJAK TRANSPORT, INC., Junction Avenue, Winona, MN 55987. Representative: Gary Huntbatch, same address as applicant. *Fertilizer* from Pine Bend, MN to points in IA and WI, and from LaCrosse, WI to points in MN and IA, for 180 days. An underlying ETA seeks 90 days authority. Supporting shipper(s): N-ReN Corporation, P.O. Box 418, South St. Paul, MN 55075. Send protests to: Delores A. Poe, TA, ICC, 414 Federal Building & U.S. Court House, 110 South 4th Street, Minneapolis, MN 55401.

MC 111289 (Sub-10TA), filed April 26, 1979. Applicant: RICHARD D. FOLTZ, 613 Hillcroft Avenue, Cressona, PA 17929. Representative: S. Berne Smith, Esq., NcNees, Wallace & Nurick, P.O. Box 1166, Harrisburg, PA 17108. *Contract carrier: irregular routes: Foodstuffs*, in vehicles equipped with mechanical refrigeration (except commodities in bulk), (1) from the facilities of Y & S Candies, Inc. and Hershey Foods Corporation in East Hempfield Township, Lancaster County, PA and the facilities of Dauphin Distribution Services Co. in Hampden Township, Cumberland County, PA to New Castle County, DE; Washington, DC; points in Atlantic, Burlington, Camden, Cape May, Cumberland, Gloucester, Mercer, Monmouth, Ocean and Salem Counties, NJ; points in NY on and west of Interstate 87; Baltimore, MD; points in Montgomery and Howard Counties, MD, on and east of Maryland Hwy 97 and those in Anne Arundel and Prince Georges Counties, MD, on and west of Maryland Hwy 3 and north of Maryland Hwy 4; points in Ohio south and east of a line beginning at the Ohio-Indiana state line and extending along Interstate 70 to its junction with U.S. Hwy 68; then along U.S. Hwy 68 to the Ohio-Kentucky state line; and Louisville, KY.; (2) from the facilities of San Giorgio Macaroni, Inc. in Louisville, KY and Auburn, NY, to the facilities of Dauphin Distribution Services Co. in Hampden Township, Cumberland County, PA. Restricted to transportation to be performed under continuing contracts with Hershey Foods Corporation, Hershey, PA, San Giorgio Macaroni, Inc., Lebanon, PA and Y & S Candies, Inc., Lancaster, PA for 180 days. An underlying ETA seeks 90 days authority. Supporting shipper(s) Hershey Foods Corporation; San Giorgio Macaroni, Inc.; and Y & S Candies, Inc., 19 East Chocolate Avenue, Hershey, PA 17033. Send Protests to: ICC, Federal Reserve Bank Bldg., 101 N. Seventh Street, Room 620, Philadelphia, PA 19106.

MC 111548 (Sub-18TA), filed April 11, 1979. Applicant: SHARPE MOTOR LINES, INC., P.O. Box 517, Hildebran, NC 28537. Representative: Edward G. Villalon, 1032 Penn Bldg., Penn. Ave & 13th St. NW, Washington, DC 20004. *Canned goods (except in bulk and frozen)* (1) from the facilities of Joan of Arc Company at Hoopeston and Princeville, IL to points in NC and SC; (2) from the facilities of Foell Packing Company at Chicago, IL to points in NC and SC, for 180 days. An underlying ETA seeks 90 days authority. Supporting shipper(s): Joan of Arc Company, 2231 W. Altorfer Dr., Peoria, IL 61615, and Foell Packing Company, 3117 West 47th St., Chicago, IL. Send protests to: District Supervisor Terrell Price, 800 Briar Creek Rd., Rm CC516, Mart Office Building, Charlotte, NC 28205.

MC 111548 (Sub-19TA), filed April 13, 1979. Applicant: SHARPE MOTOR LINES, INC., P.O. Box 517, Hildebran, NC 28537. Representative: Edward G. Villalon, 1032 Penn Bldg., Penn. Ave & 13th St. NW, Washington, DC 20004. *Foodstuffs* from points in Jacksonville, IL to points in NC and SC, for 180 days. An underlying ETA seeks 90 days authority. Supporting shipper(s): Anderson Clayton Foods, Inc., P.O. Box 226165, Dallas, TX 75236. Send protests to: District Supervisor Terrell Price, 800 Briar Creek Rd., Rm. CC516, Mart Office Building, Charlottte, NC 28205.

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MC 112908 (Sub-10TA), filed April 11, 1979. Applicant: KINGSWAY TRANSPORTS LIMITED, 123 Rexdale Blvd., Rexdale, Ontario M9W 1P3. Representative: John W. Bryant, 900 Guardian Bldg., Detroit, MI 48226. *Commodities, the transportation of which, because of size or weight requires the use of special equipment,* between Detroit, MI, and points in its commercial zone, on the one hand, and, on the other, ports of entry on the International boundary line between the United States and Canada at Detroit, MI, for 180 days. An underlying ETA seeks 90 days authority. Supporting shippers: Euclid Canada Limited, 200 Woodlawn Road West, Guelph, Ontario N1H 1B6. International Transport, Inc., 2450 Marion Road, S.E., Rochester, MN 55901. Peter Kiewit Sons Co. Limited, 1183 Finch Avenue West, Downsview, Ontario M3J 2G2. Send protests to: Richard H. Cattadoris, DS, ICC, 910 Federal Bldg., 111 West Huron Street, Buffalo, NY 14202. An underlying ETA seeks 90 days authority.

MC 112989 (Sub-96TA), filed April 10, 1979. Applicant: WEST COAST TRUCK LINES, INC., 85647 Highway 99 South, Eugene, OR 97405. Representative: John W. White, Jr., 85647 Highway 99 South, Eugene, OR 97405. *Lumber, lumber mill products and millwork* from points in Oregon and Washington to points in Utah, for 180 days. Supporting shipper(s): Dant & Russell, Inc., 1221 S. W. Yamhill, Portland, OR 97205, Champion International Corporation, Knightsbridge Dr., Hamilton, Ohio 45020. Send protests to: A. E. Odoms, DS., ICC, 114 Pioneer Courthouse, Portland, OR 97204.

MC 113678 (Sub-799TA), filed April 9, 1979. Applicant: CURTIS, INC., 4810 Pontiac Street, Commerce City, CO 80022. Representative: Roger M. Shaner (same address as above). *Bananas and agricultural commodities* exempt from regulation under Section 10526(a)(6) of the Interstate Commerce Act when transported in mixed loads with bananas, from Del Monte Banana Co., Port Hueneme, CA to points in CO, NE, ND, SD, and WY. Restricted to transportation of traffic having a prior movement by water. For 180 days. An underlying ETA seeks 90 days authority. Supporting shipper(s): Del Monte Banana Company, 1201 Brickell Avenue, Miami, Florida 33101. Send protests to: Herbert C. Ruoff, District Supervisor, 492 U.S. Customs House, 721 19th Street, Denver, CO 80202.

MC 113678 (Sub-800TA), filed April 9, 1979. Applicant: CURTIS, INC., 4810 Pontiac Street, Commerce City, CO 80022. Representative: Roger M. Shaner (same address as above). *Meats, meat products, meat by-products, and articles distributed by packinghouses,* from Chicago, IL, and its commercial zone to Wichita, KS; and from facilities of Dold Foods, Inc., to points in AZ, CA, CO, ID, MT, NV, OR, UT, WA, for 180 days. An underlying ETA seeks 90 days authority. Supporting shipper(s): Dold Foods, Inc., 2929 No. Ohio, Wichita, KS. Send protests to: Herbert C. Ruoff, 492 U.S. Customs House, 721 19th Street, Denver, CO 80202

MC 113678 (Sub-801TA), filed April 9, 1979. Applicant: CURTIS, INC., 4810 Pontiac Street, Commerce City, CO 80022. Representative: Roger M. Shaner (same address as above). *Meat, meat products, meat by-products, and articles distributed by meat packinghouses,* from facilities of Thies Packing Co., at Great Bend, Topeka and Wichita, KS, to points in AL, AZ, AR, CA, CO, FL, GA, ID, KY, MS, NV, NC, OK, OR, SC, TN, UT, WA, WY, and TX, for 180 days. An underlying ETA seeks 90 days authority. Supporting shipper(s): Thies Packing Co., Inc., Box 49, South Main, Great Bend, KS 67530. Send protests to: Herbert C. Ruoff, 492 U.S. Customs House, 721 19th Street, Denver, CO 80292.

MC 113678 (Sub-802TA), filed April 9, 1979. Applicant: CURTIS, INC., 4810 Pontiac Street, Commerce City, CO 80022. Representative: Roger M. Shaner (same address as above). *Glues, adhesives, caulks, specialty chemicals,* in containers packaged in cartons, 3-gal. pails and 55-gal. drums. Empty plastic containers, 1-gal. or less, in reshipper & bulk packs, from Franklin Chemical Industries, Inc., Columbus, OH to points in CO, MO, UT and TX, for 180 days. An underlying ETA filed for 90 days. Supporting shipper(s): Franklin Chemical Industries, Inc., 2020 Bruck Street, P.O. Box 07802, Columbus, Ohio 43207. Send protests to: Herbert C. Ruoff, 492 U.S. Customs House, 721 19th Street, Denver, Colorado 80202.

MC 113678 (Sub-803TA), filed April 11, 1979. Applicant: CURTIS, INC., 4610 Pontiac Street, Commerce City, CO 80022. Representative: Roger M. Shaner (same as address as above). *Foodstuffs, meats, meat products and meat by-products,* from Rocky Ford, CO to points in the United States (except AK, CO and HI), for 180 days. An underlying ETA seeks 90 days authority. Supporting shipper(s): Frozen Foods, P.O. Box 31, Rocky Ford, CO 81067. Send protests to: Herbert C. Ruoff, District Supervisor, 492 U.S. Customs House, 721 19th Street, Denver, CO 80202.

MC 114028 (Sub-28TA), filed April 11, 1979. Applicant: ROWLEY INTERSTATE TRANSPORTATION, 2010 Kerper Blvd., Dubuque, IA 52001. Representative: Wilmer B. Hill, Attorney at Law, Suite 805, 666 11th St. NW, Washington, D.C. 20001. *Water treatment chemicals, in drums,* from Frisco, PA (near Ellwood City) to points in IA for 180 days. An underlying ETA seeks 90 days authority. Supporting shipper(s): Calgon Corporation, P.O. Box 1346, Pittsburgh, PA 15230. Send protests to: Herbert W. Allen, DS, ICC, 518 Federal Bldg., Des Moines, IA 50309.

MC 114028 (Sub-29TA), filed April 11, 1979. Applicant: ROWLEY INTERSTATE TRANSPORTATION COMPANY, INC., 2010 Kerper Blvd., Dubuque, IA 52001. Representative: Carl L. Steiner, 39 S. LaSalle St., Chicago, IL 60603. *Pig skins* from Detroit, MI to Dubuque, IA for 180 days. An underlying ETA seeks 90 days authority. Supporting shipper(s): Keystone Gelatin Company, 2350 Kerper Blvd., Dubuque, IA 52001. Send protests to: Herbert W. Allen, DS, ICC, 518 Federal Blvd. Des Moines, IA 50309.

MC 114028 (Sub-30TA), filed April 16, 1979. Applicant: ROWLEY INTERSTATE TRANSPORTATION COMPANY, INC., 2010 Kerper Blvd., Dubuque, IA 52001. Representative: Carl L. Steiner, 39 S. LaSalle St., Chicago, IL 60603. *Petroleum and petroleum products in packages* from Reno and Rouseville, PA to IL, IN and WI for 180 days. An underlying ETA seeks 90 days Authority. Supporting shipper(s): Pennzoil Company, 108 Duncomb St., Oil City, PA 16301. Send protests to: Herbert W. Allen, DS, ICC, 518 Federal Bldg., Des Moines, IA 50309.

MC 114829 (Sub-20TA), filed March 29, 1979. Applicant: GENERAL CARTAGE COMPANY, INC., West Route 30, Rock Falls, IL 61071. Representative: Bernard J. Kompare, 10 South LaSalle Street, Suite 1600, Chicago, IL 60603. *Contract Carrier:* irregular route: (1) *Paper and paper products,* and (2) *equipment, materials and supplies used in the manufacture and distribution of the commodities named in (1) above,* except commodities in bulk, between Cedar Rapids, IA on the one hand, and, on the other, points in IL, KS, MN, MO, NE, SD and WI for 180 days. An underlying ETA for 90 days authority was granted. Supporting shipper(s): Weyerhaeuser Company, 100 South Wacker Drive, Chicago, IL 60606. Send protests to: Annie Booker, Interstate Commerce Commission, 219 South Dearborn Street, Room 1386, Chicago, IL 60604.

MC 116628 (Sub-25TA), filed April 23, 1979. Applicant: SUBURBAN TRANSFER SERVICE, INC., P.O. Box 168, Rutherford, NJ 07070. Representative: Thomas F. X. Foley, Esq., State Hwy 34, Colts Neck, NY 07722. Contract irregular. Such merchandise as dealt in by retail department stores, and materials and supplies used in the operation of such stores. Between New York, NY on the one hand, and, on the other, Chicago, IL and Troy, MI under a continuing contract or contracts with Bonwit Teller of New York, NY, for 180 days. An underlying ETA seeks 90 days authority. Supporting shipper(s): Bonwit Teller, Inc., 721 Fifth Avenue, New York, NY 10022. Send protests to: Joel Morrows, D/S, ICC, 9 Clinton St., Newark, NJ 07102.

MC 117119 (Sub-735TA), filed April 19, 1979. Applicant: WILLIS SHAW FROZEN EXPRESS, INC., P.O. Box 188, Elm Springs, AR 72728. Representative: L. M. McLean (same as applicant). Plastic liquid, NOI, plastic film and sheeting, NOI, chemicals, NOI, cleaning and scouring compounds, defoaming compounds, laminating machinery or parts, ink solvents, pallets, and empty containers (except commodities in bulk), from the facilities of Thiokol/Dynachem Corporation in Orange, County, CA, to Elmhurst, IL, Indianapolis and Terre Haute, IN, Tampa, FL, Woburn and South Hadley Falls, MA, Kearny, NJ, Farmingdale, NY, Charlotte and Matthews, NC and Herndon, VA, for 180 days as a common carrier over irregular routes. Supporting Shipper(s): Thiokol/Dynachem Corporation, P.O. Box 12047, Santa Ana, CA 92711. Send Protests to: William H. Land, Jr., District Supervisor, 3108 Federal Office Building, 700 West Capitol, Little Rock, AR 72201.

MC 117589 (Sub-61TA), filed March 22, 1979. Applicant: PROVISIONERS FROZEN EXPRESS, INC., 3801 7th Avene S., Seattle, WA 98108. Representative: Michael D. Duppenthaler, 211 S. Washington St., Seattle, WA 98104. *Inedible meats and pet food related products,* (in vehicles equipped with mechanical refrigeration) from points in UT to points in OR and WA, for 180 days. An underlying ETA seeks 90 days authority. Supporting shipper(s): Tyrrells, Inc., 155 North 35th St., Seattle, WA 98103. Send protests to: Shirley M. Holmes, T/A, ICC, 858 Federal Bldg., Seattle, WA 98174.

MC 118159 (Sub-329TA), filed April 19, 1979. Applicant: NATIONAL REFRIGERATED TRANSPORT, INC., P.O. Box 51366, Dawson, Station, Tulsa, OK 74151. Representative: Warren L. Troupe, 2480 E. Commercial Blvd., Fort Lauderdale, FL 33308. *Drugs or pharmaceuticals,* from the facilities of Hoechst-Roussel Pharmaceuticals, Inc., at or near Somerville, NJ, to the facilities of Hoechst-Roussel Pharmaceuticals, Inc., at or near Dallas, TX, for 180 days. Supporting shipper(s): Hoechst-Roussel Pharmaceuticals, Inc., Route 202–206 North, Somerville, NJ 08876. Send protests to: District Supervisor, Interstate Commerce Commission, Room 240 Old Post Office & Court House Bldg., 215 N.W. 3rd, Oklahoma City, OK 73102.

MC 118838 (Sub-48TA), filed April 12, 1979. Applicant: GABOR TRUCKING, INC., Rural Route #4, Box 124B, Detroit Lakes, MN 56501. Representative: Robert D. Gisvold, 1000 First National Bank Building, Minneapolis, MN 55402. *Metal rolling mill machinery, parts and supplies,* from Salem, OH to points in MN and IL, and St. Louis and Bridgeton, MO, for 180 days. An underlying ETA seeks authority for 90 days. Supporting shipper(s): Paxson Machine, Company, 300 Benton Road, Salem, OH 44460. Send protests to: DS, ICC, Bureau of Operations, Room 268 Fed. Bldg. & U.S. Post Office, 657 2nd Avenue North, Fargo, ND 58102.

MC 118959 (Sub-213TA), filed April 19, 1979. Applicant: JERRY LIPPS, INC., 130 S. Frederick St., Cape Girardeau, MO 63701. Representative: Donald B. Levine, 39 S. LaSalle ST., Chicago, IL 60603. *Paper and paper products,* and materials and supplies used in the manufacture, sale, or distribution thereof from the facilities of Proctor & Gamble Paper Products Company at or near Cheybogan, MI to Mehoopany, PA; and *paper and paper products* and *articles* distributed by manufacturers of paper and paper products from the facilities of Proctor & Gamble Paper Products Company at or near Mehoopany, PA to the State of MI, for 180 days. Supporting shipper(s): The Proctor & Gamble Paper Products Company, P.O. Box 599, Cincinnati, OH 45201. Send protests to: P. E. Binder, DS, ICC, Rm. 1465, 210 N. 12th ST., St. Louis, MO 63101.

MC 118959 (Sub-214TA), filed January 4, 1979. Applicant: JERRY LIPPS, INC., 130 S. Frederick Street, Cape Girardeau, MO 63701. Representative: Donald B. Levine, 39 S. LaSalle Street, Chicago, IL 60603. *Canned and Preserved Foodstuffs* from the facilities of H. J. Heinz Co., at or near Iowa City, IA to points in MO and points in IL on and south of Interstate 70. An underlying ETA seeks 90 days authority. Supporting shipper(s): H. J. Heinz Co., P.O. Box 57, Pittsburgh, PA. Send protests to: Peter E. Binder, ADS, Room 1465, 210 N. 12th St., St. Louis, MO 63101.

MC 119789 (Sub-575TA), filed March 26, 1979. Applicant: CARAVAN REFRIGERATED CARGO, INC., P.O. Box 226188, Dallas, TX 75266. Representative: James K. Newbold, Jr., same address as above. *(1) Foodstuffs (except in bulk) in mechanically refrigerated equipment; (2) restaurant furniture, fixtures and supplies, in mixed shipments with foodstuffs,* from Dallas, TX to Doraville, GA for 180 days. Underlying ETA for 90 days filed. Supporting shipper(s): NORCO Mfg. & Distributing Company, 2566 West Commerce, Dallas, TX 75212. Send protests to: Opal M. Jones, Trans. Asst., Interstate Commerce Commission, 1100 Commerce St., Room 13C12, Dallas, TX 752142.

MC 119789 (Sub-576TA), filed March 28, 1979. Applicant: CARAVAN REFRIGERATED CARGO, INC., P.O. Box 226188, Dallas, TX 75266. Representative: James K. Newbold, Jr. Address same as above. *Meats, meat products, and meat by-products, and articles distributed by meat packinghouses, as described in Sections A and C of Appendix I to the Report in Descriptions in Motor Carrier Certificates, 61 M.C.C. 209 and 766 (except hides and commodities in bulk),* from the facilities of Thies Packing Company at Great Bend, Topeka and Wichita, KS to KY, OH, PA, NJ, and NY for 180 days. Underlying ETA for 90 days filed. Supporting shipper(s): Thies Packing Company, P.O. Box 49, Great Bend, KS 67530. Send protests to: Opal M. Jones, Trans. Asst., Interstate Commerce Commission, 1100 Commerce Street, Room 13C12, Dallas, TX 75242.

MC 119789 (Sub-587TA), filed March 29, 1979. Applicant: CARAVAN REFRIGERATED CARGO, INC., P.O. Box 226188, Dallas, TX 75266. Representative: James K. Newbold, Jr. Same as above. *Foodstuffs (other than frozen),* from Akron, OH to AR, OK, KS, and TX for 180 days. Underlying ETA filed for 90 days. Supporting shipper(s): Ohio Pure Foods, 1680 E. Market St., Akron, OH 44305. Send protest to: Opal M. Jones, Trans. Asst., Interstate Commerce Commission, 1100 Commerce Street, Room 13C12, Dallas, TX 75242.

MC 119789 (Sub-578TA), filed March 29, 1979. Applicant: CARAVAN REFRIGERATED CARGO, INC., P.O. Box 226188, Dallas, TX 75266. Representative: James K. Newbold, Jr. Same as above. *Alcoholic Beverages,* from CA to Pensacola, FL for 180 days. Underlying ETA for 90 days filed. Supporting shipper(s): Standard

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Beverage Co., P.O. Box 1630, Pensacola, FL 32597. Send protests to: Opal M. Jones, Trans. Asst., Interstate Commerce Commission, 1100 Commerce Street, Room 13C12, Dallas, TX 75242.

MC 119789 (Sub-579TA), filed April 3, 1979. Applicant: CARAVAN REFRIGERATED CARGO, INC., P.O. Box 226188, Dallas, TX 75266. Representative: James K. Newbold, Jr., P.O. Box 226188, Dallas, TX 75266. *Foodstuffs (except in bulk),* from Chicago, IL and Van Wert, OH to AZ, CA, LA, OR, TX, UT, and WA for 180 days. Underlying ETA for 90 days filed. Supporting shipper(s): Borden Foods, Division of Borden, Inc., 180 E. Broad St., Columbus, OH 43215. Send protests to: Opal M. Jones, Trans. Asst., Interstate Commerce Commission, 1100 Commerce Street, Room 13C12, Dallas, TX 75242.

MC 119789 (Sub-580TA), filed April 4, 1979. Applicant: CARAVAN REFRIGERATED CARGO, INC., P.O. Box 226188, Dallas, TX 75266. Representative: James K. Newbold, Jr. Address same as above. *Frozen Foods, except in bulk,* from North East, PA to points in CA for 180 days. Underlying ETA filed. Supporting shipper(s): Rich Products Corp., 1145 Niagara St., Buffalo, NY 14213. Send protests to: Opal M. Jones, Trans. Asst., Interstate Commerce Commission, 1100 Commerce Street, Room 13C12, Dallas, TX 75242.

MC 119789 (Sub-581TA), filed April 6, 1979. Applicant: CARAVAN REFRIGERATED CARGO, INC., P.O. Box 226188, Dallas, TX 75266. Representative: James K. Newbold, Jr., P.O. Box 226188, Dallas, TX 75266. *Drugs and medicine,* from (1) Michigan City, IN to Burlington, MA; and (2) Michigan City, IN to Somerset, NJ for 180 days. Underlying ETA for 90 days filed. Supporting shipper(s): E. R. Squibb & Sons, Inc., 5 Georges Road, New Brunswick, NJ 08903. Send protests to: Opal M. Jones, Trans. Asst., Interstate Commerce Commission, 1100 Commerce Street, Room 13C12, Dallas, TX 75242.

MC 124078 (Sub-960TA), filed April 18, 1979. Applicant: SCHWERMAN TRUCKING CO., 611 S. 28th St., Milwaukee, WI 53215. Representative: Richard H. Prevette (same address as applicant). *Crude corn oil, in bulk, in tank vehicles,* from Milwaukee, WI to Chicago, IL, for 180 days. An underlying ETA seeks 90 days authority. Supporting shipper(s): Krause Milling Co., 611 E. Wisconsin Ave., Milwaukee, WI 53202. Send protests to: Gail Daugherty, TA, Interstate Commerce Commission, Bureau of Operations, U.S. Federal Building & Courthouse, 517 East Wisconsin Avenue, Room 619, Milwaukee, Wisconsin 53202.

MC 124408 (Sub-14TA), filed April 13, 1979. Applicant: THOMPSON BROS., INC., 3604 Hoveland Drive, Sioux Falls, SD 57101. Representative: Richard P. Anderson, 502 First National Bank Bldg., Fargo, ND 58126. (1) *Sewer pipe fittings,* (2) *materials and supplies (except liquid commodities in bulk, in tank vehicles), used in the manufacture of the commodities named in (1)* above from (1) the facilities of GPK Products, Inc., at Fargo, ND to points in CO, FL, IL, IN, KS, MO, MT, OH, OK, OR, SD, TX, WA and WY and (2) from Richardson, TX; Albertville, AL, Cleveland and Middlefield, OH, McPherson, KS; Grand Island, NE and San Clemente and Brea, CA to the facilities of GPK Products, Inc., at Fargo, ND for 180 days. An underlying ETA seeks 90 days authority. Supporting shipper(s): GPK Products, Inc., 1720—3rd Avenue North, Fargo, ND 58102. Send protests to: J. L. Hammond, DS, ICC, Room 455, Federal Bldg., Pierre, SD 57501.

MC 125368 (Sub-55TA), filed April 9, 1979. Applicant: CONTINENTAL COAST TRUCKING COMPANY, INC., P.O. Box 26, Holly Ridge, NC 28445. Representative: C. W. Fletcher (same address as applicant). *Meats, meat products, meat by-products and articles distributed by meat packinghouses* as described in Motor Carrier Certificates 61 MCC 209 and 766 (except hides and commodities in bulk) between the facilities of Galaxy International, Inc., at or near MA, NY, NJ, PA, DE, VA, SC, FL, and LA, on the one hand, and, on the other, points in MN, IA, MO, KS, AR, OK, TX, LA, MS, AL, GA, SC, FL, NC, TN, KY, IL, IN, OH, WI, MI, WV, VA, DE, MD, DC, PA, NY, NJ, CT, RI, MA, VT, NH, and ME for 180 days. An underlying ETA has been filed seeking 90 days authority. Supporting shipper(s) Galaxy International, 1717 Penn Avenue, Pittsburgh, PA 15221. Send protests to: Mr. Archie W. Andrews, D/S, ICC, P.O. Box 26896, Raleigh, NC 27611.

MC 125368 (Sub-56TA), filed April 9, 1979. Applicant: CONTINENTAL COAST TRUCKING COMPANY, INC., P.O. Box 26, Holly Ridge, NC 28445. Representative: C. W. Fletcher (same address as applicant). *Meats, meat products and supplies used in the manufacture of meat products* between the facilities of White Packing Company, North Bergen, NJ on the one hand, and, on the other, points in AL, AR, CA, CO, CT, DC, FL, GA, IL, IN, IA, KS, KY, LA, MD, MA, MI, MS, MO, NE, NH, NY, NC, OH, OK, PA, SC, SD, TN, TX, WV, and WI for 180 days. An underlying ETA seeking 90 days authority has been filed. Supporting shipper(s): White Packing Company, Inc., P.O. Box 95, King George, VA 22485. Send protests to: Mr. Archie W. Andrews, D/S, ICC, P.O. Box 26896, Raleigh, NC 27611.

MC 126118 (Sub-149TA), filed April 9, 1979. Applicant: CRETE CARRIER CORPORATION, P.O. Box 81228, Lincoln, NE 68501. Representative: Duane W. Acklie (same address as applicant). *Animal food (except in bulk), materials, supplies, and ingredients used in the manufacture, distribution, and sale of animal food (except in bulk), and pet supplies (except in bulk),* (1) Between Saline, York, and Lancaster Counties, NE, on the one hand, and, on the other, Billings, MT, and points in NY, OR, and WA; (2) Between York County, NE, on the one hand, and, on the other, points in AL, AR, AZ, CA, CO, DE, FL, GA, ID, IL (except Chicago), IN, IA, KS, KY, LA, MD, MI, MN (except St. Paul), MS, MO, MT (except Billings), NC, ND, NM, NV, OH, OK, SC, SD, TN, TX, UT, VA, WI, and WY; (3) Between Lancaster County, NE, on the one hand, and, on the other, points in AL, CA, DE, FL, GA, ID, IL (except Chicago), IN, KY, MD, MI, MS, MT (except Billings), NC, NV, OH, SC, TN, UT, VA, WI, and WY; and (4) from points in AR, AZ, CO, IA, KS, LA, MN, MO, ND, NM, OK, SD and TX to Lancaster County, NE. An underlying ETA seeks 90 days authority. Supporting shipper(s): Allen Products Company, P.O. Box 2187, Allentown, PA 18001. Send protests to: Max H. Johnston, District Supervisor, 285 Federal Building and Court House, 100 Centennial Mall North, Lincoln, NE 68508.

MC 126118 (Sub-150TA), filed April 9, 1979. Applicant: CRETE CARRIER CORPORATION, P.O. Box 81228, Lincoln, NE 68501. Representative: Duane W. Acklie (same address as applicant). Such commodities as are dealt in or used by manufacturers and distributors of plastic articles, from Wooster, OH, and its commercial zone to AZ, CA, CO, NV, NM, OK, OR, TX and WA. Supporting shipper(s): Rubbermaid, Incorporated, 1147 Akron Road, Wooster, OH 44691. Send protests to: Max H. Johnston, District Supervisor, 285 Federal Building and Court House, 100 Centennial Mall North, Lincoln, NE 68508.

MC 126899 (Sub-126TA), filed April 19, 1979. Applicant: USHER TRANSPORT, INC., P.O. Box 3156, 3925 Old Benton Road, Paducah, KY 42001. Representative: William P. Whitney, Jr., 708 McClure Building, Frankfort, KY 40601. *Malt beverages, in containers,*

and related advertising materials, from Evansville, IN to points in KY, for 180 days. An underlying ETA seeks 90 days authority. Supporting shipper(s): G. Heileman Brewing Company, Inc., 925 South Third Street, La Crosse, WI 54601. Send protests to: Floyd A. Johnson, District Supervisor, Interstate Commerce Commission, 100 North Main Building, Suite 2006, 100 North Main Street, Memphis, TN 38103.

MC 127539 (Sub-75TA), filed March 23, 1979. Applicant: PARKER REFRIGERATED SERVICE, INC., 1108 54th Ave. E., Tacoma, WA 98424. Representative: Michael D. Duppenthaler, 211 S. Washington St., Seattle, WA 98104. *Bananas and agricultural commodities exempt from regulation under Section 10526(a)(6) of the Interstate Commerce Act when transported in mixed loads with bananas,* from Port Hueneme, CA to points in OR, UT and WA, for 180 days. An underlying ETA seeks 90 days authority. Supporting shipper(s): Del Monte Banana Company, 1201 Brickell Ave., Miami, FL 33101. Send protests to: Shirley M. Holmes, T/A, ICC, 858 Federal Bldg., Seattle, WA 98174.

MC 127539 (Sub-76TA), filed March 21, 1979. Applicant: PARKER REFRIGERATED SERVICE, INC., 1108 54th Ave. E., Tacoma, WA 98424. Representative: Michael D. Duppenthaler, 211 S. Washington St., Seattle, WA 98104. *Chemicals, prepared food and beverage mixes (except in bulk, in tank vehicles),* between points in CA, OR and WA, restricted to traffic originating at or destined to facilities of Foremost-McKesson, Inc., for 180 days. An underlying ETA seeks 90 days authority. Supporting shipper(s): Foremost-McKesson, Inc., Crocker Plaza, One Post Street, San Francisco, CA 94104. Send protests to: Shirley M. Holmes, T/A, ICC, 858 Federal Bldg., Seattle, WA 98174.

MC 127938 (Sub-4TA), filed April 12, 1979. Applicant: MAXKER & SON LUMBER CO., 1798 South Yellowstone, Idaho Falls, ID 83401. Representative: Steven E. Ker (same address as above). *Brick and processed clay products,* from Boulder, Denver and Pueblo, CO to Burley and Boise, ID; from Ogden and Salt Lake City, UT to Burley and Boise, ID for 180 days. An underlying ETA seeks 90 days authority. Supporting Shipper(s): Pullman Brick Co., 5657 Warm Springs Ave., Boise, ID 83706. Send protests to: Barney L. Hardin, D/S, ICC, Suite 110, 1471 Shoreline Dr., Boise, ID 83706 An underlying ETA seeks 90 days authority.

MC 133689 (Sub-270TA), filed April 24, 1979. Applicant: OVERLAND EXPRESS, INC., 719 First Street, Southwest, New Brighton, MN 55112. Representative: Robert P. Sack, P.O. Box 6010, West St. Paul, MN 55118. *Foodstuffs (except in bulk)* from Fargo, ND to points in those states in and east of MN, IA, MO, AR, MS, TN, IL, IN, WI, MI, KY, AL, FL, GA, NC, SC, VA, OH, DC, DE, PA, NY, NJ, MA, NH and ME, for 180 days. An underlying ETA seeks 90 days authority. Supporting shipper(s): Roman Meal Company, 2101 South Tacoma Way, Tacoma, WA 98409. Send protests to: Delores A. Poe, TA. ICC, 414 Federal Building and U.S. Court House, 110 South 4th Street, Minneapolis, MN 55401.

MC 133689 (Sub-271TA), filed April 24, 1979. Applicant: OVERLAND EXPRESS, INC., 719 First Street, Southwest, New Brighton, MN 55112. Representative: Robert P. Sack, P.O. Box 6010, West St. Paul, MN 55118. *Paper, paper products and cellulose products* from the facilities of Proctor & Gamble at or near Cheboygan, MI, Green Bay, WI and Neelys Landing, MO to points in and east of ND, SD, NE, KS, OK, AR and LA, for 180 days. An underlying ETA seeks 90 days authority. Supporting shipper(s): Proctor & Gamble Co., Cincinnati, OH. Send protests to: Delores A. Poe, TA, ICC, 414 Federal Building and U.S. Court House, 110 South 4th Street, Minneapolis, MN 55401.

MC 134349 (Sub-26TA), filed April 23, 1979. Applicant: B.L.T. CORPORATION, 405 Third Avenue, Brooklyn, NY 11215. Representative: Eugene M. Malkin, Suite 6193—5 World Trade Center, New York, NY 10048. *Contract carrier,* irregular routes: *Such merchandise as is dealt in or used by a manufacturer and distributor of laboratory furniture, fixtures and supplies (except commodities in bulk and those which because of size or weight require the use of special equipment),* between the facilities of Duralab Equipment Corp. at or near Brooklyn, NY, on the one hand, and, on the other, points in AR, CA, CO, FL, GA, IL, IN, IA, KS, KY, LA, MN, MS, MO, NE, NC, SC, TN, TX and WI, under a continuing contract(s) with Duralab Equipment Corp. of Brooklyn, NY, for 180 days. An underlying ETA seeks 90 days authority. Supporting shipper(s): Duralab Equipment Corp., 107–23 Farragut Rd., Brooklyn, N.Y. 11236. Send protests to: Maria B. Kejss, Transportation Assistant, Interstate Commerce Commission, 26 Federal Plaza, New York, N.Y. 10007.

MC 134369 (Sub-15TA), filed March 26, 1979. Applicant: CARLSON TRANSPORT, INC., P.O. Box R, Byron, IL 61010. Representative: Allan C. Zuckerman, 39 South LaSalle Street, Chicago, IL 60603. *Sand,* in bulk, from Troy Grove, IL, and Bridgman, MI to points in IN, IL, and Louisville, KY for 180 days. An underlying ETA was granted for 90 days authority. Supporting shipper(s): Manley Bros., P.O. Box 538, Chesterton, IN 46304. Send protests to: Annie Booker, Interstate Commerce Commission, 219 South Dearborn Street, Room 1386, Chicago, IL 60604.

MC 135078 (Sub-49TA), filed April 16, 1979. Applicant: AMERICAN TRANSPORT, INC., 7850 "F" St., Omaha, NE 68127. Representative: Arthur J. Cerra, 2100 TenMain Center, P.O. Box 19250, Kansas City, MO 64141. *Motor vehicle parts, tools and related advertising materials,* from the facilities of Moog Automotive, Inc., at or near St. Louis, MO to points in AL, CT, DC, DE, GA, IN, KY, MA, MD, NH, NJ, NY, OH, PA, RI, TN, and VA, for 180 days. An underlying ETA seeks 90 days authority. Supporting shipper(s): Moog Automotive, Inc., P.O. Box 7224, St. Louis, MO 63177. Send protests to: Carroll Russell, ICC, Suite 620, 110 No. 14th St, Omaha, NE 68102.

MC 135208 (Sub-4TA), filed April 23, 1979. Applicant: GEORGE L. BIGELOW TRUCKING, INC., P.O. Box 421, 135 Wright St., Delavan, WI 53115. Representative: Richard Westley, 4506 Regent St., Suite 100, Madison, WI 53705. *Sheet steel* (1) from points in the Chicago, IL and Minneapolis-St. Paul Commercial Zones, as defined by the Commission, to the facilities of Dalco Metal Products, Inc. at or near Walworth, WI and (2) from the facilities of Dalco Metal Products, Inc. at or near Walworth, WI to points in IL, IN, IA, MI, MN & NE, for 180 days. An underlying ETA seeks 90 days authority. Supporting shipper(s): Dalco Metal Products, Inc., P.O. Box 808, Walworth, WI 53184. Send protests to: Gail Daugherty, TA, Interstate Commerce Commission, Bureau of Operations, U.S. Federal Building & Courthouse, 517 East Wisconsin Avenue, Room 619, Milwaukee, Wisconsin 53202.

MC 136818 (Sub-70TA), filed April 10, 1979. Applicant: SWIFT TRANSPORTATION CO., INC., 335 W. Elwood Rd., Phoenix, AZ 85030. Representative: Donald Fernaays, 4040 E. McDowell Rd., Phoenix, AZ. *Iron and steel grinding rods,* from Geneva, UT to Twin Buttes Mine, AZ, for 180 days. An underlying ETA seeks 90 days authority. Supporting shipper(s): Twin Buttes Mine, P.O. Box 127, Sahuarita, AZ 85629.

Davis, T/A, ICC, 1252 W. Peachtree St., those of unusual value, Class A & B Sara K. Davis, T/A, ICC, 1252 W.

Send protests to: Ronald R. Mau, District Supervisor, 2020 Federal Bldg., 230 N. 1st Ave., Pheonix, AZ 85025.

MC 138279 (Sub-11TA), filed April 11, 1979. Applicant: CONALCO CONTRACT CARRIER, INC., P.O. Box 968, Jackson, TN 38301. Representative: Robert L. Baker, United American Bank Building, Suite 618, Nashville, TN 37219. *Contract Carrier:* irregular routes: *Part I:* (1) *Copper, copper products, copper sulfate, and chemicals* (except commodities in bulk, in tank or hopper vehicles), and (2) *commodities used in the manufacture and distribution of the commodities in (1) above (except commodities in bulk, in tank or hopper vehicles),* between Maspeth, NY on the one hand, and, on the other, points in the US (except AK and HI), under a continuing contract with Phelps Dodge Refining Corporation. *Part II:* (1) *Copper, copper products and coble,* and (2) *commodities used in the manufacture and distribution of the commodities in (1) above (except commodities in bulk, in tank vehicles),* (a) between Los Angeles, CA on the one hand, and, on the other, points in the US in and east of IA, KS, MN, NE, OK and TX, and (b) between DuQuoin, IL, Starkville, MS, Elizabeth, NJ and Yonkers, NY on the one hand, and, on the other, points in the US (except AK and HI), under a continuing contract with Phelps Dodge Industries, Inc., for 180 days. An underlying ETA seeks 90 days authority. Supporting shipper(s): (1) Phelps Dodge Refining Corporation, 300 Park Avenue, New York, NY; (2) Phelps Dodge Industries, Inc., 300 Park Avenue, New York, NY. Send protests to: Floyd A. Johnson, District Supervisor, Interstate Commerce Commission, 100 North Main Building—Suite 2006, 100 North Main Street, Memphis, TN 38103.

MC 138306 (Sub-67TA), filed April 12, 1979. Applicant: KLM, INC., P.O. Box 6098, Jackson, MS 39208. Representative: Fred W. Johnson, Jr., P.O. Box 22628, Jackson, MS 39205. *New furniture parts* from the facilities of Basic Wood Products, Inc. at or near Pontotoc, MS to the facilities of Kroehler Mfg. Co. at or near Binghamton, NY, for 180 days. Supporting shipper(s): Kroehler Mfg. Co., 222 East Fifth Avenue, Naperville, Ill. 60540. Send protests to: Alan Tarrant, D/S, ICC, Rm. 212, 145 E. Amite Bldg., Jackson, MS 39201.

MC 138306 (Sub-68TA), filed April 23, 1979. Applicant: KLM, INC., P.O. Box 6098, Jackson, MS 39208. Representative: Donald B. Morrison, P.O. Box 22628, Jackson, MS 39205. *Plastic materials,* other than expanded, except in bulk, in tank vehicles, from Florence, MA and Wallingford, CT to the facilities of National Home Products, Inc. at or near Port Gibson, MS, for 180 days. Supporting shipper(s): National Home Products, Inc., P.O. Box 568, Port Gibson, MS 39150. Send protests to: Alan C. Tarrant, D/S, ICC, Rm. 212, 145 E. Amite Bldg., Jackson, MS 39201.

MC 138308 (Sub-69TA), filed April 24, 1979. Applicant: KLM, INC., P.O. Box 6098, Jackson, MS 39208. Representive: Donald B. Morrison, P.O. Box 22628, Jackson, MS 39205. *Foodstuffs* (except in bulk) from the facilities of Welch Foods, Inc. at or near Kennewick, WA to points in AR, CA, CO, ID, NV and UT, for 180 days. Supporting shippers(s): Welch Foods, Inc., 2 South Portage St., Westfield, NY 14787. Send protests to: Alan Tarrant, D/S, ICC, Rm. 212, 145 E. Amite Bldg., Jackson, MS 39201.

MC 138438 (Sub-45TA), filed April 19, 1979. Applicant: D. M. BOWMAN, INC., Rt. 2, Box 43A1, Williamsport, MD 21795. Representative: Edward N. Button, 1329 Pennsylvania Ave., Hagerstown, MD 21740. *Gypsum and gypsum products, and materials and supplies used in the installation thereof,* (1) from Wilmington, DE, and its commercial zone, to points in MD, PA, VA, WV, and DC, and (2) from Milford, VA, and its commercial zone, to points in DE, MD, NJ, PA, WV, and DC, for 180 days. An underlying ETA seeks 90 days authority. Supporting shipper(s): Georgia Pacific Corporation, Gypsum Division, 1062 Lancaster Ave., Rosemont, PA 19010. Send protests to: T. M. Esposito, TA, ICC, 600 Arch Street, Room 3238, Philadelphia, PA 19106.

MC 138469 (Sub-139TA), filed April 6, 1979. Applicant: DONCO CARRIERS, INC., P.O. Box 75354, Oklahoma City, OK 73107. Representative: William J. Green (same address as applicant). *Wooden furniture stock,* from the facilities of Triangle Pacific Corporation, at Jackson, TN, to the facilities of Triangle Pacific Corporation, at or near McKinney, TX, Atlanta, GA, Union City, IN, Nashau, NH, Lakeland, FL, Lodi, CA, and Carbondale and Thompsontown, PA, for 180 days. An underlying ETA seeks 90 days authority. Supporting shipper(s): Triangle Pacific Corporation, 4255 L.B.J. Freeway, Dallas, TX 75234. Send protests to: Connie Stanley, Transportation Assistant, Interstate Commerce Commission, Room 240 Old Post Office & Court House Bldg., 215 N.W. 3rd, Oklahoma City, OK 73102.

MC 138469 (Sub-140TA), filed April 23, 1979. Applicant: DONCO CARRIERS, INC., P.O. Box 75354, Oklahoma City, OK 73107. Representative: William J. Green (same address as applicant). *Chemicals and materials, equipment and supplies used in the manufacture and distribution of chemicals,* except commodities in bulk, from the facilities of National Starch and Chemical Corporation, located at or near Bloomfield, Finderne, and Plainfield, NJ, to points in CA, IL, IA, KS, MN, MO, NE, OK, TX, & WI, restricted to the transportation of traffic originating at the above named origins and destined to the above named destinations, for 180 days. Supporting shipper(s): National Starch and Chemical Corporation, P.O. Box 6500, Bridgewater, NJ 08807. Send protests to: District Supervisor, Interstate Commerce Commission, Room 240 Old Post Office & Court House Bldg., 215 N.W. 3rd, Oklahoma City, OK 73102.

MC 138869 (Sub-20TA), filed March 23, 1979. Applicant: W. T. MYLES TRANSPORTATION CO., P.O. Box 321, Conley, GA 30027. Representative: Archie B. Culbreth, Attorney-at-Law, Suite 202, 2200 Century Parkway, Atlanta, GA 30345. *Contract Carrier, irregular routes, (1) plumbers fittings, fixtures and supplies, vanities and vanity cabinets and plastic articles, and (2) materials, equipment and supplies used in the manufacture of distribution of commodities named in (1) above (except commodities in bulk),* between the facilities of Universal-Rundle Corporation located at or near Ottumwa, IA, on the one hand, and, on the other, points in IL, IN, KS, MI, MN, MO, NE, and WI. An underlying ETA seeks 90 days authority. Supporting shipper(s): Universal-Rundle Corporation, 217 N. Mill St., New Castle, PA 16101. Send protests to: Sara K. Davis, T/A, ICC, 1252 W. Peachtree St., N.W., Rm. 300, Atlanta, GA 30309.

MC 138869 (Sub-21TA), filed March 23, 1979. Applicant: W. T. MYLES TRANSPORTATION CO., P.O. Box 321, Conley, GA 30027. Representative: Archie B. Culbreth, Attorney-at-Law, Suite 202, 2200 Century Parkway, Atlanta, GA 30345. *Contract Carrier, irregular routes, (1) plumbers fittings, fixtures and supplies, vanities and vanity cabinets and plastic articles, and (2) materials, equipment and supplies used in the manufacture of distribution of commodities named in (1) above (except commodities in bulk),* between the facilities of Universal-Rundle Corporation located at or near New Castle, PA, on the one hand, and, on the other, points in DE, GA, IL, IN, IA, KY, MD, MI, MO, NE, NJ, TN and WI. An underlying ETA seeks 90 days authority. Supporting shipper(s): Universal-Rundle Corporation, 217 N, Mill St., New Castle, PA 16101. Send protests to: Sara K.

Davis, T/A, ICC, 1252 W. Peachtree St., N.W., Rm. 300, Atlanta, GA 30309.

MC 140389 (Sub-53TA), filed April 11, 1979. Applicant: OSBORN TRANSPORTATION, INC., P.O. Box 1830, Gadsden, AL 35902. Representative: Clayton R. Byrd, P.O. Box 12566, Atlanta, GA 30315. *Canned foodstuffs,* (except commodities in bulk), from the facilities of Pilgrim Farms, Inc., at Plymouth, IN, to points in KY and TN. For 180 days. Supporting shipper(s): Pilgrim Farms, Inc., 1430 Western Avenue, Plymouth, IN 46563. Send protests to: Mabel E. Holston, T/A, ICC, Room 1616, 2121 Building, Birmingham, AL 35203.

MC 140389 (Sub-54TA), filed April 19, 1979. Applicant: OSBORN TRANSPORTATION, INC., P.O. Box 1830, Gadsden, AL 35902. Representative: Clayton R. Byrd, P.O. Box 12566, Atlanta, GA 30315. *Sugar, condiments, and flavoring compounds,* except in bulk, from points in LA on and west of the Mississippi River and in and east of Terrebonne, Assumption, and St. James Parishes to points in AL, GA, NC, SC and TN, for 180 days. An underlying ETA seeks 90 days authority. Supporting shipper(s): The South Coast Corp., P.O. Box 8036, Houma, LA 70361; Supreme Sugar Company, Inc., Suite 320, One Shell Square, New Orleans, LA 70139; Southdown Sugars, Inc., Canal LaSalle Building, P.O. Box 52, New Orleans, LA 70112; Amstar Corporation, 7417 North Peters St., Arabi, LA 70032. Send protests to: Mabel E. Holston, T/A, ICC, Room 1616, 2121 Building, Birmingham, AL 35203.

MC 140389 (Sub-55TA), filed April 20, 1979. Applicant: OSBORN TRANSPORTATION, INC., P.O. Box 1830, Gadsden, AL 35902. Representative: Clayton R. Byrd, P.O. Box 12566, Atlanta, GA 30315. (1) *Foodstuffs* (except in bulk), from points in FL to points in AL, AZ, CA, CO, ID, KS, LA, MS, MT, NE, NV, NM, ND, OR, SD, UT, WA, and WY. For 180 days. Supporting shipper(s): Adams Packing Company, P.O. Box 37, Auburndale, FL 33823; The Coca-Cola Co. Food Div., P.O. Box 247, Auburndale, FL 33823. Doric Foods Corporation, P.O. Box 986, Mount Dora, FL 32757; Lydes Pasco Packing Co., P.O. Box 97, Dade City, FL 33525. Send protests to: Mabel E. Holston, T/A, ICC, Room 1616—2121 Building, Birmingham. AL 35203.

MC 146938TA, filed February 15, 1979. Applicant: TRI-J TRUCKING, INC., 2480 Baumann Avenue, San Lorenzo, CA 94580. Representative: Jack Leong (same as applicant). *Contract* carrier, irregular routes: (1) *General commodities* (except those of unusual value, Class A & B Explosives, Household goods as defined by the Commission, commodities in bulk, and those requiring special equipment) between the facilities of Executive Warehouse & Distribution at or near San Lorenzo, CA and points in Alameda, Contra Costa, Marin, Monterey, Napa, Sacramento, San Benito, San Francisco, San Joaquin, San Mateo, Santa Clara, Santa Cruz, Solano, Sonoma, Stanislaus and Yolo counties, CA under continuing contract with Executive Warehouse & Distribution of San Lorenzo, CA; (2) *Foods or foodstuffs, frozen,* in vehicles equipped with mechanical refrigeration, and *Foods or foodstuffs, other than frozen* (except commodities in bulk in tank vehicles), from the facilities, of General Foods Corporation in Alameda, Contra Costa, San Francisco, San Mateo and Santa Clara counties, CA to steamship docks or wharves, rail loading ramps or interstate truck terminals located in Alameda, Contra Costa, Marin, Monterey, Napa, Sacramento, San Benito, San Francisco, San Joaquin, San Mateo, Santa Clara, Santa Cruz, Solano, Sonoma, Stanislaus and Yolo counties, CA under continuing contaract with General Foods Corporation of San Leandro, CA; and (3) *Bakery goods,* NOI, other than frozen, from the facilities of Pepperidge Farms, Inc. at or near San Lorenzo, CA to points in Alameda, Contra Costa, Marin, Monterey, Napa, Sacramento, San Benito, San Francisco, San Joaquin, San Mateo, Santa Clara, Santa Cruz, Solano, Sonoma, Stanislaus and Yolo counties, CA under continuing contract with Pepperidge Farms, Inc. of San Lorenzo, CA, for 180 days. Supporting shipper(s): Executive Warehouse & Distribution, 2480 Baumann Avenue, San Lorenzo, CA 94580; General Foods Corporation, 100 Halcyon Drive, San Leandro, CA 94578; and Pepperidge Farms, Inc., 746 Bockman Road, San Lorenzo. CA 94580. Send protests to: A. J. Rodriguez, DS, ICC, 211 Main Street, Suite 500, San Francisco, CA 94105.

MC 146959TA, filed February 28, 1979. Applicant: JAMES W. CROWE, INC., 307 Brennan Road, Columbus, GA 31902. Representative: C. E. Walker, P.O. Box 1085, Columbus, GA 31902. *Contract carrier:* irregular routes: *Liquid fertilizers and fertilizer materials, in tank vehicles,* from Holy Trinity, AL to points in FL and GA for 180 days. An ETA for 90 days seeks authority. Supporting shipper(s): United Sttes Steel Corporation, USS Agri-Chemicals Division, 233 Peachtree Street, N.E., Atlanta, GA 30303. Send protests to: Sara K. Davis, T/A, ICC, 1252 W. Peachtree St., N.W., Rm. 300, Atlanta, GA 30309.

By the Commission.

H. G. Homme, Jr.,
Secretary.

[FR Doc. 79-15562 Filed 5-17-79; 8:45 am]
BILLING CODE 7035-01-M

Sunshine Act Meetings

PLACE: Commission Conference Room,

The revised Agenda for the Special

Earmarked contributions.

V 4 4 / 9 8 M Y 1 8 7 9 UMI

Sunshine Act Meetings

Federal Register
Vol. 44, No. 98
Friday, May 18, 1979

This section of the FEDERAL REGISTER contains notices of meetings published under the "Government in the Sunshine Act" (Pub. L. 94-409) 5 U.S.C. 552b(e)(3).

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1

[M-218, Amdt. 4; May 15, 1979]

CIVIL AERONAUTICS BOARD.

Notice of deletion of items from the May 17, 1979, meeting agenda.

TIME AND DATE: 1:30 p.m., May 17, 1979.

PLACE: Room 1027, 1825 Connecticut Avenue NW., Washington, D.C. 20428.

SUBJECT:

16. Dockets 34336 and 35210, Finalization of Show-Cause Order 79-3-97, tentatively adding Providence as an intermediate point on Air New England's Route 172 (Docket 34336) and proposing to grant the Providence authority at issue to applicants whose fitness can be established by officially noticeable material. (BPDA).

17. Dockets 34513, 26681 and 34565—Petition of the Port of Astoria for determination of essential air transportation and Hughes Airwest Petition for modification of orders granting temporary suspension and notice of intent to terminate service at Astoria/Seaside, Oregon (BPDA).

STATUS: Open.

PERSON TO CONTACT: Phyllis T. Kaylor, the Secretary, (202) 673-5068.

SUPPLEMENTARY INFORMATION: Additional staff work is needed on Items 16 and 17 so these items will be deleted from the May 17, 1979 agenda. Accordingly, the following Members have voted that agency business requires the deletion of these items from the May 17, agenda and that no earlier announcement of this change was possible:

Chairman, Marvin S. Cohen
Member, Richard J. O'Melia
Member, Elizabeth E. Bailey
Member, Gloria Schaffer

[S-1007-79 Filed 5-16-79; 3:24 pm]
BILLING CODE 6320-01-M

2

[M-218, Amdt. 3; May 15, 1979]

CIVIL AERONAUTICS BOARD.

Notice of addition of items to the May 17, 1979, meeting agenda.

TIME AND DATE: 1:30 p.m., May 17, 1979.

PLACE: Room 1027, 1825 Connecticut Avenue, NW., Washington, D.C. 20428.

SUBJECT:

16a. Docket 34650, Proposed rules establishing guidelines and procedures for essential air service determinations under the Small Community Air Service Program (BPDA).

25a. Pan American's proposed fuel-cost related fare increases in international Pacific and Latin American markets.

STATUS: Open.

PERSON TO CONTACT: Phyllis T. Kaylor, the Secretary, (202) 673-5068.

SUPPLEMENTARY INFORMATION: Chairman Cohen has requested that Item 16a be placed on the May 17 agenda for consideration by the Board so that the questionnaire may be mailed to all local and state officials as soon as possible. Item 25a is being added to the May 17 agenda because the draft order suspends tariffs, and should be submitted to the President no later than May 18, 1979. The item was not submitted to the Board earlier because staff analysis was delayed pending receipt of revised information from the carrier. Accordingly the following Members have voted that Items 16a and 25a be added to the May 17, 1979 agenda and that no earlier announcement of these additions was possible:

Chairman, Marvin S. Cohen
Member, Richard J. O'Melia
Member, Elizabeth E. Bailey
Member, Gloria Schaffer

[S-1006-79 Filed 5-16-79; 3:24 pm]
BILLING CODE 6320-01-M

3

COMMODITY FUTURES TRADING COMMISSION.

TIME AND DATE: 10 a.m., May 22, 1979.

PLACE: 2033 K Street NW., Washington, D.C., 5th Floor Hearing Room.

STATUS: Open.

MATTERS TO BE CONSIDERED:

Aggregation.
Fiscal year 1979: Second Quarter Review.
Foreign Traders.

CONTACT PERSON FOR MORE INFORMATION: Jane Stuckey, 254-6314.

[S-996-79 Filed 5-16-79; 10:06 am]
BILLING CODE 6351-01-M

4

COMMODITY FUTURES TRADING COMMISSION.

TIME AND DATE: 11:30 a.m., May 22, 1979.

PLACE: 2033 K Street NW., Washington, D.C., 5th Floor Hearing Room.

STATUS: Closed.

MATTERS TO BE CONSIDERED:

Discussion of offer of settlement and proposed public administrative proceedings:

CONTACT PERSON FOR MORE INFORMATION: Jane Stuckey, 254-6314.

[S-997-79 Filed 5-16-79; 10:06 am]
BILLING CODE 6351-01-M

5

COMMODITY FUTURES TRADING COMMISSION.

TIME AND DATE: 11 a.m., May 25, 1979.

PLACE: 2033 K Street NW., Washington, D.C., 8th Floor Conference Room.

STATUS: Closed.

MATTERS TO BE CONSIDERED: Market Surveillance Matters.

CONTACT PERSON FOR MORE INFORMATION: Jane Stuckey, 254-6314.

[S-998-79 Filed 5-16-79; 10:06 am]
BILLING CODE 6351-01-M

6

May 16, 1979.

COUNCIL ON ENVIRONMENTAL QUALITY.

TIME AND DATE: 11:30 a.m., May 24, 1979.

PLACE: Conference Room, 722 Jackson Place, N.W.

STATUS: Open.

MATTERS TO BE CONSIDERED:

1. Old Business.
2. Report on Committee on the Challenges of Modern Society meeting in Brussels.
3. Briefing on Status of Alasks Lands Legislation.
4. Briefing on status of Integrated Pest Management Report.
5. Report on Meeting of Environmental Ministers of the Organization for Economic Cooperation.
6. Report on State Progress to Preserve Farmlands.

CONTACT PERSON FOR MORE INFORMATION: Foster Knight, 395-4616.

[S-1003-79 Filed 5-16-79; 11:37 am]
BILLING CODE 3125-01-M

7

EQUAL EMPLOYMENT OPPORTUNITY COMMISSION.

TIME AND DATE: 9 a.m. (Eastern Time), Tuesday, May 22, 1979.

PLACE: Commission Conference Room, No. 5240, on the fifth floor of the Columbia Plaza Office Building, 2401 E Street NW., Washington, D.C. 20506.

STATUS: Part will be open to the public and part will be closed to the public.

MATTERS TO BE CONSIDERED:

Open to the Public

1. Proposed Regulations to Implement Age Discrimination in Employment Act Amendments of 1978.
2. Proposed Amendments to Regulations to Provide for Awarding of Attorneys' Fees in Connection with Federal EEO Complaints.
3. Proposed Delegation of Authority to Merit System Production Board to Decide Certain Cases.
4. Freedom of Information Act Appeal No. 79-2-FOIA-50, concerning a Request by a Respondent's Attorney for Access to the Commission's Investigative File.
5. Freedom of Information Act Appeal No. 79-2-FOIA-62, concerning Request by an Attorney for Statistical and Charge Information on a City Government.
6. Freedom of Information Act Appeal No. 79-3-FOIA-72, in regard to a Request for Documents concerning the Memorandum of Understanding between EEOC and the Federal Communications Commission.
7. Proposed Contract for Computer Analysis and Expert Witness Services from Charles R. Mann, Associates.
8. Report on Commission Operations by the Executive Director.

Closed to the Public

Litigation Authorization; General Counsel Recommendations.

Note.—Any matter not discussed or concluced may be carried over to a later meeting.

CONTACT PERSON FOR MORE INFORMATION: Marie D. Wilson, Executive Officer, Executive Secretariat, at (202) 634-6748.

This Notice Issued May 15, 1979.

[S-1005-79 Filed 5-16-79; 3:24 pm]
BILLING CODE 6570-06-M

8

FEDERAL COMMUNICATIONS COMMISSION.

PREVIOUSLY ANNOUNCED TIME AND DATE OF MEETING: 9:30 a.m., Wednesday, May 15, 1979, Cancelled and Rescheduled for May 17, 1979.

PLACE: Room 856, 1919 M Street NW., Washington, D.C.

STATUS: Special Open Commission Meeting, Wednesday, May 15, 1979, Cancelled and Rescheduled for May 17, 1979 at 9:30 a.m.

CHANGES IN THE MEETINGS: Common Carrier Items 1, 3 and 4 (See Public Notice No. 17451) Previously scheduled for May 17, 1979 will now be considered at the Special Open Meeting of May 31, 1979. Common Carrier Item 2 and General Item 1 will remain on the schedule for May 17, 1979.

The revised Agenda for the Special Open Meeting for May 17, 1979 is as follows:

Agenda, Item No., and Subject

Common Carrier—1—Docket No. 20828: "Second Computer Inquiry".
Common Carrier—2—Notice of Inquiry and Proposed Rulemaking pertaining to ratemaking guidelines for the offering of competitive common carrier services.
Common Carrier—3—Petitions for Reconsideration of First Report and Order in CC Docket No. 78-144, setting forth procedural rules for CATV pole attachment regulation; and Second Report and Order, containing substantive guidelines and rules for the resolution of pole attachment complaints.
General—1—Rule changes to expand the CARS band from 12.7-12.95 to 12.7-13.20 GHz.

The Special Closed Meeting Private Radio Bureau item previously announced for Thursday, May 17, 1979 will be taken up following the Special Open Meeting this date.

The Regular Agenda Open Meeting scheduled for Thursday, May 31, 1979 has been rescheduled for Thursday, June 7, 1979.

This meeting may be continued the following work day to allow the Commission to complete appropriate action.

Additional information concerning this meeting may be obtained from the FCC Public Affairs Office, telephone number (202) 632-7260.

[S-1004-79 Filed 5-16-79; 2:11 pm]
BILLING CODE 6712-01-M

9

FEDERAL ELECTION COMMISSION.

DATE AND TIME: Wednesday, May 23, 1979 at 10 a.m.

PLACE: 1325 K Street NW., Washington, D.C.

STATUS: This meeting will be closed to the public.

MATTERS TO BE CONSIDERED: Personnel and labor/management relations.

DATE AND TIME: Thursday, May 24, 1979 at 10 a.m.

STATUS: Portions of this meeting will be open to the public and portions will be closed.

MATTERS TO BE CONSIDERED:

Portions Open to the Public

Setting of dates for future meetings.
Correction and approval of minutes.
Advisory opinion 1979-18, Ms. Kelly Davall, Mr. Kurt Burkhart ("FEC-FEC").
Advisory opinion 1979-19, Mr. Kirby Cunningham, Cattleman's Action Legislative Fund ("CALF").
Senior Executive Service.
1980 Elections and related matters.
Earmarked contributions.
1976 Presidential audits.
Pending legislation.
Appropriations and budget.
Classification actions.
Routine administrative matters.

Portions Closed to the Public

Any matters not concluded on May 23, 1979.

PERSONS TO CONTACT FOR INFORMATION: Mr. Fred S. Eiland, Public Information Officer, Telephone 202-523-4065.

Marjorie W. Emmons,
Secretary to the Commission.

[S-1009-79 Filed 5-16-79; 3:45 pm]
BILLING CODE 6715-01-M

10

FEDERAL MARITIME COMMISSION.

TIME AND DATE: May 23, 1979, 10 a.m.

PLACE: Room 12126—1100 L Street NW., Washington, D.C. 20573.

STATUS: Parts of the meeting will be open to the public.

The rest of the meeting will be closed to the public.

MATTERS TO BE CONSIDERED:

Portions Open to the Public

1. Report of the Secretary on Notation Items disposed of during April, 1979.
2. Report of the Secretary on times shortened for submitting comments on section 15 agreements pursuant to delegated authority during April, 1979.
3. Report of the Secretary on Applications for Admission to Practice approved during April, 1979, pursuant to delegated authority.
4. Assignment of Informal Dockets by the Secretary during April, 1979.
5. Interisland Intermodal Lines, Inc., general rate increase of five percent in the Puerto Rico/Virgin Islands trades.
6. Stute International, Inc.—Application for an independent ocean freight forwarder license.
7. Proposed revision of General Order No. 6—Rules Governing the Right of Independent Action in Agreements.
8. Agreement No. 10320-1: Modification of a cargo revenue pooling and sailing arrangement in the trade from Brazil to the United States Gulf to provide for participation of nonnational flag lines.
9. Agreements Nos. 9902-10 and 9902-11: Modifications of the Euro-Pacific Joint Service Agreement to conform with Commission Order in Docket No. 77-4 and to add Intercontinental Transport as a party.
10. Docket No. 78-6: Puerto Rico Maritime Shipping Authority (PRMSA) and Trailer Marine Transport Corporation (TMT)—Proposed Reduced Rates—Appeal of denial of motion to discontinue.

Portions Closed to the Public

1. Docket No. 78-44: Pierpoint Management Company and Retla Steamship Company v. Holt Hauling & Warehousing System, Inc.—Review of order of discontinuance.

V 4 4 / 9 8

CONTACT PERSON FOR MORE INFORMATION: Francis C. Hurney, Secretary, (202) 523–5725.

[S–1002–79 Filed 5–16–79; 10:08 am]

BILLING CODE 6730–01–M

11

FEDERAL RESERVE SYSTEM.

FEDERAL REGISTER CITATION OF PREVIOUS ANNOUNCEMENT: 44 FR 25584, May 1, 1979.

PREVIOUSLY ANNOUNCED TIME AND DATE OF THE MEETING: 9:30 a.m., Friday, May 4, 1979.

CHANGES IN THE MEETING: The meeting has been cancelled.

CONTACT PERSON FOR MORE INFORMATION: Mr. Joseph R. Coyne, Assistant to the Board, (202) 452–3204.

[S–1006–79 Filed 5–16–79; 3:30 pm]

BILLING CODE 6210–01–M

12

NUCLEAR REGULATORY COMMISSION.

TIME AND DATE: May 16, 17 and 18, 1979 (Revised).

PLACE: Commissioners' Conference Room, 1717 H St. NW., Washington, D.C.

STATUS: Open and closed.

MATTERS TO BE CONSIDERED:

Wednesday, May 16, 1:30 p.m.

1. Meeting with UCS on Petition for Reconsideration (Approximately 1½ hours—Public meeting—as announced).

Thursday, May 17, 9:30 a.m.

1. Briefing on Facts of TMI Operational Sequence (Approximately 1½ hours—Public meeting—as announced).
2. Affirmation Session (Approximately 10 minutes—Public meeting—as announced): (a) PRM–50–22—Bonding to Ensure Decommissioning; (b) Petition to Defer Implementation of Security Personnel Qualification and Equipment.

Thursday, May 17, 2 p.m.

1. Staff Briefing on Oconee Order (Approximately 1 hour—Public meeting—rescheduled from May 16).
2. Discussion of Personnel Metter (Approximately 1½ hours—Closed—Exemption 6—as announced).

Friday, May 18, 9:30 a.m.

1. Continuation of Discussion of Uranium Mill Tailings Act (Approximately 1 hour—Public meeting—postponed from May 16).

CONTACT PERSON FOR MORE INFORMATION: Walter Magee, (202) 634–1410.

Walter Magee,

Office of the Secretary.

May 15, 1979.

[S–1000–79 Filed 5–16–79; 10:06 am]

BILLING CODE 7590–01–M

13

NUCLEAR REGULATORY COMMISSION.

TIME AND DATE: Week of May 21, 1979.

PLACE: Commissioners' Conference Room, 1717 H St., N.W., Washington, D.C.

STATUS: Open and Closed.

MATTERS TO BE CONSIDERED:

Monday, May 21, 2 p.m.

1. *Briefing on Mark I Containment* (Approximately 1 hour—Public meeting).
2. *Briefing on Physical Protection of Irradiated Fuel Shipments* (Approximately 1½ hours—Public meeting).

Tuesday, May 22, 9:30 a.m.

1. *Discussion of Proposed Executive Branch Format for Analysis of Export Applications* (Approximately 1½ hours—Public meeting—Portions will be Closed—Exemption 1).
2. *Discussion of Personnel Matter* (Approximately 1 hour—Closed—Exemption 6).

Tuesday, May 22, 3:30 p.m.

1. *Briefing by Executive Branch on International Safeguards Matters* (Approximately 1½ hours—Closed—Exemption 1).

Thursday, May 24, 9:30 a.m.

1. *Briefing by Oak Ridge on Soviet Reactor Safety Experience* (Approximately 1½ hours—Public meeting).
2. *Affirmation Session* (Approximately 10 minutes—Public meeting: (a) NRDC Petition for Rule Making, (b) Physical Protection of Category II and III Material, (c) Fialka FOIA Appeal.

CONTACT PERSON FOR MORE INFORMATION: Walter Magee, 202–634–1410.

Walter Magee,

Office of the Secretary.

May 14, 1979.

[S–1001–79 Filed 5–16–79; 10:06 am]

BILLING CODE 7590–01–M

14

SECURITIES AND EXCHANGE COMMISSION.

Notice is hereby given, pursuant to the provisions of the Government in the Sunshine Act, Pub. L. 940–409, that the Securities and Exchange Commission will hold the following meetings during the week of May 21, 1979, in Room 825, 500 North Capitol Street, Washington, D.C.

An open meeting will be held on Wednesday, May 23, 1979, at 10:00 a.m. A closed meeting will be held on Thursday, May 24, 1979, at 10:00 a.m.

The Commissioners, their legal assistants, the Secretary of the Commission, and recording secretaries will attend the closed meeting. Certain staff members who are responsible for the calendared matters may be present.

The General Counsel of the Commission, or his designee, has certified that, in his opinion, the items to be considered at the closed meeting may be considered pursuant to one or more of the exemptions set forth in 5 U.S.C. 552b(c)(4)(8)(9)(A) and (10) and 17 CFR 200.402 (a)(8)(9)(i) and (10).

Chairman Williams and Commissioners Loomis, Evans, Pollack and Karmel determined to hold the aforesaid meeting in closed session.

The subject matter of the open meeting scheduled for Wednesday, May 23, 1979, at 10:00 a.m., will be:

1. Consideration of whether to adopt amendments to Rule 17f–1 (17 CFR 240.17f–1) and modifications to the Lost and Stolen Securities Program, established thereunder. For further information, please contact Gregory C. Yadley at (202) 376–8129.
2. Consideration of applications of A. G. Edwards & Sons Inc. and Thomson McKinnon Securities Inc. for exemptions from the confirmation delivery requirements of Securities Exchanges Act Rule 10b–10 (17 CFR 240.10b–10) for certain transactions in securities of a "money market" investment company. For further information, please contact Arnold Dean at (202) 755–4372.
3. Consideration of a request by the National Association of Investment Clubs for an exemption from the broker-dealer registration requirement of Section 15(a)(1) of the Securities Exchange Act of 1934. For further information, please contact Jeffrey L. Steele at (202) 755–7587.
4. Consideration of a proposed amendment to 17 CFR 200.410(a), the Commission's rule regarding the electronic recording and photographing of Commission meetings, to allow private persons to record Commission meetings if the Commission's Secretary is notified 48 hours in advance of the meeting that the proceedings will be recorded. At the present time, the rule provides that the Secretary's permission must be obtained before a meeting may be recorded. For further information, please contact James H. Schropp or Theodore S. Bloch at (202) 376–3561.

The subject matter of the closed meeting scheduled for Thursday, May 24, 1979, at 10:00 a.m., will be:

Formal order of investigation.

Access to investigative files by Federal, State, or Self-Regulatory Authorities.

Settlement of administrative proceedings of an enforcement nature.

Settlement of administrative proceedings and settlement of injunctive action.

Institution of administrative proceedings of an enforcement nature.

Institution of injunctive actions.

Subpoena enforcement action.

FOR FURTHER INFORMATION, CONTACT: Beverly Rubman at (202) 755–1103.

May 15, 1979.

[S–999–79 Filed 5–16–79; 10:06 am]

BILLING CODE 8010–01–M

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May 18, 1979

Part II

Department of Health, Education, and Welfare

Food and Drug Administration

Medical Devices—Establishment of Procedures To Make a Device a Banned Device

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DEPARTMENT OF HEALTH, EDUCATION, AND WELFARE

Food and Drug Administration

21 CFR Part 895

[Docket No. 77N–0144]

Medical Devices; Establishment of Procedures To Make a Device a Banned Device

AGENCY: Food and Drug Administration.

ACTION: Final Rule.

SUMMARY: The agency is issuing final regulations setting forth procedures by which a device intended for human use that presents substantial deception or an unreasonable and substantial risk of illness or injury can be made a banned device. This final rule is issued under expanded authority of the Commissioner of Food and Drugs to protect the American public from dangerous or fraudulent medical devices.

EFFECTIVE DATE: July 17, 1979.

FOR FURTHER INFORMATION CONTACT: Dan R. Beardsley, Bureau of Medical Devices (HFK–114), Food and Drug Administration, Department of Health, Education, and Welfare, 8757 Georgia Ave., Silver Spring, MD 20910, 301–427–7218.

SUPPLEMENTARY INFORMATION: In the Federal Register of August 19, 1977 (42 FR 42000, the FDA proposed to establish, in new Part 895 (21 CFR Part 895), procedures for making a device a banned device. Interested persons were given until October 17, 1977 to comment. Twenty-five comments were received on the proposal.

The issues raised most often by these comments concerned the authority of the agency to require persons other than manufacturers to comply with the rule, the use and frequency of consultation with classification panels in the banning process, the use of the special effective date requirements, and questions on procedural matters such as notification and hearings.

In general, the final regulation is adopted as proposed, although several changes have been made in response to comments and to clarify the language of the regulation. The following discussion summarizes the comments received and the agency's responses to them:

General

1. Three comments on proposed § 895.1(d) suggested that there may be situations in which a single device is intended for use in both humans and animals. The comments stated that for such a device the veterinary use may not represent a substantial deception or an unreasonable or substantial risk of illness or injury even though such risk may exist for the device when used to treat humans. In those circumstances, the comments argued, relabeling should be permitted so that the product may continue to be marketed for veterinary purposes.

The agency agrees that proposed § 895.1(d) should be clarified so that a bona fide veterinary device that can be properly labeled for veterinary use does not come within the scope of a banned-device regulation. Proposed § 895.1(d) was intended to prevent a banned device from being relabeled for veterinary use as a subterfuge to permit its continued marketing. If, however, before being banned, a device was intended for both human and veterinary use, its continued marketing for veterinary use will be permitted under the following conditions: (1) the device must comply with all requirements under the Federal Food, Drug, and Cosmetic Act and the FDA regulations applicable to veterinary devices; and (2) the label for the device must bear the following statement: "For Veterinary Use Only. Caution: Federal law prohibits the distribution of this device for human use."

There may also be instances in which a manufacturer can demonstrate a bona fide veterinary use for a device that, before the banning order, was intended only for human use. Such a device may be permitted to be relabeled and marketed for veterinary use under the conditions noted above.

Accordingly, § 895.1(d) has been revised to allow for the bona fide veterinary use of an otherwise banned medical device. The Commissioner emphasizes, however, that § 895.1(d) has also been amended to state that banned devices labeled for veterinary use that are found to be intended for human use will be considered to be banned devices notwithstanding veterinary use labeling. The agency may consider the ultimate destination of a device in determining whether it is "intended for human use" within the meaning of § 895.1(d).

2. Numerous comment objected to use of the terms "owner" and "distributor" in the proposed regulations, specifically to "owner" in proposed § 895.22 on submission of data and information (the term was also used in proposed § 895.21 (a)(3) and (d)(3)), and to "owner" and "distributor" in proposed § 895.25 on labeling (which are also used in §§ 895.1(d) and 895.30(f)).

Comments regarding the submission of data and information under proposed § 895.22 argued that the term "owner" means the ultimate user or purchaser (e.g., physicians, hospitals, consumers, etc.) and that such persons cannot be required to submit data. Moreover, the comments assert that owners are not within the scope of section 519 of the act (21 U.S.C. 360i), which concerns the records and reports that the Commissioner may by regulation require only of manufacturers, importers, or distributors. Additionally, the comments claimed that the agency cannot require disclosure of the identity of patients who may be "owners." Another comment suggested that Congress never intended reporting requirements to be imposed on device owners. One comment argued to the contrary: Owners are in a better and particularly unique position to provide valuable, first-hand information on hazards associated with the use of a particular device, and the term "owners" should be included throughout the rule.

Comments regarding labeling stated that an "owner" such as a physician, hospital, or private user would not be in a position to relabel the device. One comment suggested that the term "distributor" has been used synonymously with "manufacturer" throughout the proposal where parallel obligations and responsibilities are inappropriate. The comment argued that the responsibility for halting production and marketing of a banned device, or for making label changes, should remain with the manufacturer or other party who introduced the device into commerce, and that in cases where the banning of a device is not sufficient to protect the public, other provisions of the act give the Secretary of Health, Education, and Welfare adequate authority to require customer notification, repair, replacement, and refund. The comment further suggested that the word "distributor" be deleted.

The agency emphasizes that section 516 of the act (21 U.S.C. 360f) requires that a finding of substantial deception or an unreasonable and substantial risk of illness or injury associated with the device be based on "all available data and information." No details are given in section 516 of the act regarding the method of obtaining these data and information. The Report by the Committee on Interstate and Foreign Commerce (94–853, Feb. 29, 1976, p. 19) states that the data and information may include information obtained under other provisions of the act and may include information supplied by the manufacturer. Section 519 of the act,

which provides the authority for the Commissioner to require reports of device manufacturers, importers, and distributors, does not, however, include "owners" within its terms. Therefore, the agency is deleting the term "owner" from § 895.22 and from associated § 895.21 (a)(3) and (d)(3). However, under section 519(a)(4) of the act, the identity of any patient may be required to be disclosed in records, reports, or information required from manufacturers, distributors, or importers to determine the safety and effectiveness of the device or to verify a record, report, or information submitted under § 895.22.

Because the agency must be in the position to obtain such other information as is necessary to make a finding based on "all available data and information," the agency intends to allow any interested person who may have an interest in the device to provide such data and information either for or against the proposal to ban. Therefore, owners, users, physicians, and hospitals, who would not generally be subject to the requirements of the act, may be requested to make voluntary submissions, and they may also do so on their own initiative. Accordingly, in § 895.21 (a)(3) and (d)(3), the agency has replaced the term "owner" with the statement "and information voluntarily submitted by any other interested persons."

The agency believes that Congress intended that the person responsible for the labeling of the device, usually the manufacturer, should also be the person responsible for any necessary relabeling of the device. Because persons other than the manufacturer may be responsible for the labeling of a device, FDA expanded the provision to include other likely parties, including importers, distributors, and owners. To clarify the agency's intent not to single out any individual, and to show that in most cases owners would not be responsible for labeling the device, the agency has replaced the term "owner" with the term "or any other person(s) responsible for the labeling of the device" in § 895.25 and in associated §§ 895.1(d) and 895.30(f). Comparable changes have been made in §§ 895.21(a)(2) and 895.30(a), which are the only other sections where the term "owner" appeared. Also, the terms "distributor" and "importer," which are referenced throughout proposed § 895.25, were inadvertently omitted from proposed § 895.25(b). These terms, therefore have been added to that section. The agency is not deleting the term "distributor" from any of the above-referenced sections in the final regulation because many distributors purchase products manufactured domestically, or import products, and then provide their own labeling, therefore often becoming the person most responsible for relabeling the device.

Procedures for a Banning Device

3. Two comments suggested that proposed § 895.21(a)(1) should include the term "unreasonable" in addition to "substantial" to conform to the statutory language relating to determination of risk of illness or injury.

The agency disagrees with the comments. Proposed § 895.21(a)(1) provides only an explanation of the basis by which the Commissioner determines whether deception or risk of illness or injury associated with a device is "substantial." This language is based on the Report by the Committee on Interstate and Foreign Commerce (p. 19).

4. One comment expressed concern about the failure to define "unreasonable risk" in § 895.21(a)(1) and the resulting potential for excessive FDA inspections and reporting requirements. Any medical procedure, it was argued, presents an element of risk to the patient. If excessive inspections occur, hospitals may be faced with exceptionally expensive reporting requirements that would transfer staff time from patient care activities to administrative duties.

The agency believes that the term "unreasonable risk" should apply both to the device and to the medical procedure. For the purpose of this regulation, the agency will conduct a careful analysis of risks associated with the use of the device relative to the state of the art and the potential hazard to patients and users. Inspections and requests for data and information will be made only when necessary to determine the need for banning a particular device.

5. Three comments expressed concern that the language in proposed § 895.21(a)(2) may lead to an arbitrary determination of whether to ban a device because proof of actual deception is not necessary. The comments argued that proof of deception should be required.

The agency disagrees with the comments. The Report by the Committee on Interstate and Foreign Commerce (p. 19) states that actual proof of deception of, or injury to, an individual is not required, and that a finding need be made only that a device presents the requisite degree of deception or risk on the basis of all available data and information (as provided in § 895.21(a)(3)). Therefore, no change in proposed § 895.21(a)(2) has been made.

6. One comment suggested that the Commissioner should consider whether the users of the device would be deceived or otherwise harmed. The comment suggested that § 895.21(a)(2) be expanded to require that the Commissioner take into consideration the sophistication and/or medical background of the user.

The agency advises that proposed § 895.21(a)(2) states that the Commissioner will consider whether users of the device may be deceived or otherwise harmed. However, the agency does not enumerate in the final rule all the possible elements that might be considered in making such a determination because such an enumeration could limit unduly the possibly relevant and useful information that interested persons would submit in response to a proposal to ban a device. The Commissioner will take into consideration the sophistication and medical background of the user, but only in the context of the entire banning process, and would not likely make the decision on that basis alone.

7. One comment suggested that before any public disclosure, the agency should resolve with the manufacturer all questions regarding safety, effectiveness, and reliability of the device. The comment suggested that the Commissioner should offer the manufacturer an opportunity to review, with the Food and Drug Administration (FDA), the details on the basis of which the agency is acting and as to which a public disclosure will be made. If the manufacturer does not act within a specified period of time, the agency could then proceed to make a device a banned device.

The agency disagrees that a mechanism should be put into these regulations dealing with prior contact with the manufacturer. The general operating procedures of the agency normally lend themselves to bringing these matters to the attention of the manufacturer by sending an information letter or regulatory letter to the firm to provide it with an opportunity to correct the problem. The initiation of other actions, such as seizing the device, enjoining the firm, or banning the device, may than be used in instances in which the manufacturer, distributor, importer, or other responsible person has not corrected the problem.

8. Six comments argued that proposed § 895.21(b) does not provide for the proper utilization of classification panels before initiating a proposal to

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ban a device. One comment suggested that oral communications with panel members be recorded in written memorandums. Another comment argued that telephone communication with individual panel members is inadequate and does not constitute consultation with the panel as required by the statute. At the very least, the comment continued, the Commissioner should, in lieu of consulting with the panel through correspondence, be required to make a conference call, in which all members of a panel could participate. Another comment argued that consultation with the panels should take place only in the context of full-scale panel meetings, except for emergencies, in which case it would be appropriate for the Commissioner to elicit written comments from individual panel members. Two comments urged that the Commissioner supply the panel with all information, both favorable and unfavorable, and that whatever information the Commissioner uses as the basis for the decision be made available to the panel. In addition, the comments suggested that all nonconfidential information supplied to the panel be available for inspection by the company or firm to which the information relates.

The agency is aware that section 516 of the act calls for consultation with the appropriate panel without specifying the method. The Report by the Committee on Interstate and Foreign Commerce (p. 19) states that the consultation is not to delay the banning process, and therefore no time period for panel review or a requirement that a panel approve a proposed action was established. Consequently, depending on the urgency or timeliness of the proposed banning, the Commissioner should have the flexibility to consult with the panel through a meeting, written correspondence, appropriate telephone conversations, or other means of communications, whichever may be the most practical and appropriate for a given situation. In most cases, before proposing to ban a device, attempts will be made to consult with the greatest number of available panel members. The agency does not believe, however, that Congress intended the term "consultation" to be limiting. The agency agrees that all telephone conversations and other forms of oral communication with the panel or its members should be recorded and has modified § 895.21(b) in the final rule accordingly. In conducting consultations, the agency will also seek to obtain, wherever reasonably possible, the benefit of the panel's collegial discussion and views rather than the views of individual members separately. In view of the legislative history, however, it would not be appropriate for the agency to delay the proceeding to prepare a ban in order to obtain collegial rather than separate views.

The Commissioner agrees in principle with the idea that information on which a decision is based should also be available to panel members. In some instances, however, when the data are cumbersome (for example, a large volume of computer printouts), only summaries need be provided. The actual data, of course, must be available to the Commissioner since a decision must a made on the basis of "all available data and information." Moreover, information on a firm's failure to relabel under § 895.25 would not be presented to the panel because such information normally would develop after the panel consultation. If the Commissioner were required to provide the panel with literally "all data and information" received, and the Commissioner did not provide all information such as computer printouts, information which may have been received after panel consultation, or any noncritical information, a procedural defect might result and prevent or delay the banning of the device. This is clearly not what Congress intended. Therefore, § 895.21(b) has not been changed in this regard.

The agency does not believe that any special mechanism is necessary to ensure the confidentiality of information because mechanisms to protect confidentiality are well established in the agency's public information regulation (21 CFR Part 20). The handling of requests for nonconfidential information is also covered in that regulation (see also paragraphs 12 and 22 of this preamble).

9. Five comments interpreted proposed § 895.21(c) to mean that the Commissioner has an option of choosing to ban a device or to require a labeling change. The comments stated that this is contrary to section 516(a)(2) of the act, which requires a labeling change if the change could correct the problem.

The agency intended that proposed § 895.21(c) be read in context, i.e., in reference to proposed § 895.25, which is cited in proposed § 895.21(c) and which discusses in detail the requirement for any necessary labeling changes under the law. However, to avoid confusion, language in proposed § 895.21(c) has been changed to provide that if the deception or risk can be corrected by labeling or changes in labeling, the Commissioner will require responsible persons to make such changes in accordance with § 895.25. If such action is not take in accordance with § 895.25, however, the Commissioner may initiate a proceeding to ban the device.

10. One comment suggested that § 895.21(c) be changed to require the Commissioner to consult with the panel before requiring a labeling change.

The agency disagrees that a change in the regulation is necessary. The question of labeling would be an issue that the panel or individual panel members could consider when the question of deception or risk of illness or injury is raised. In addition, the Commissioner may ask the panel whether the deception or risk of illness or injury presents an unreasonable, direct, or substantial danger to the health of individuals that might call for a special effective date as provided in proposed § 895.30. The agency agrees that, though not a prerequisite, consultation with the panel regarding the special effective date under § 895.30 may be a useful procedure to substantiate the need for such a measure. The agency cannot specify every instance, however, in which the panel would be consulted. The agency has attempted to make the proposed regulation brief while providing flexibility in the use of panel expertise on matters relating to a section 516 action.

11. One comment suggested that with regard to proposed § 895.21(d), the 30-day period within which interested persons may request an informal regulatory hearing after the date of publication of the proposed regulation may be too short, owing to communication delays in the postal system and internal mail systems of large companies. The comment suggested that 45 days be allowed for requesting an informal hearing.

The agency disagrees with the comment. Congress intended to allow the Commissioner to move quickly to protect the public from fraudulent or hazardous medical devices. To allow any more time than is necessary to forward such a request could compromise this intent.

12. One comment argued that the notice under proposed § 895.21(d) should not merely reference all the reasons for initiating a proposal to ban a device, but should include the substance of the findings, including the substance of the panel consultation.

The Commissioner agrees in part with the comment and has changed the word "reference" to "briefly summarize" in § 895.21(d). The information published will be adequately detailed to inform the public of the basis for the

Commissioner's decision. Also, to be more specific, the agency is amending § 895.21(d)(1) to include any determination made by the Commissioner under § 895.30 that the deception or risk of illness or injury presents an unreasonable, direct, and substantial danger to the health of individuals. A statement has also been added to provide that all nonconfidential information upon which the proposed finding is based, including the recommendations of the panel, will be available for public review (see also paragraphs 8 and 22 of this preamble). The agency disagrees, however, with the concept of publishing all the findings in the Federal Register because this would be cumbersome. Except for those that are confidential, such findings can be and will be made available for public review at the office of the Hearing Clerk, FDA.

13. Several comments suggested that the notice in proposed § 895.21(d) include an affirmative finding that labeling changes would be inadequate to ensure the safety and effectiveness of the device.

The agency agrees and has made the appropriate change in § 895.21(d).

14. Several comments suggested that the notice in proposed § 895.21(d) specify, with reasons, whether the proposed regulation would apply to devices already in commercial distribution and/or those already sold to the untimate user.

The agency agrees and has made the appropriate change in § 895.21(d). This provision supplements § 895.21(f), which requires that a final regulation specify whether devices already in commercial distribution or already sold to the ultimate user are banned.

Finally, the agency is amending proposed § 895.21(d) to provide that the Commissioner may include in the notice any other information believed pertinent to the matter of initiating a proceeding to ban a device.

15. Three comments on § 895.21(d) argued that all interested persons who request a hearing have a right to a hearing rather than merely an opportunity to request a hearing.

The agency agrees with the comment and has changed § 895.21(d) accordingly to conform to the requirement to afford all interested persons an opportunity for an informal hearing as set forth in section 516(a)(2) of the act.

16. One comment suggested deleting from proposed § 895.21(e) the option that would allow the Commissioner to list in a final regulation only a description of the device. The comment argued that listing only a description might reflect unfairly on devices that are similar to, or resemble, the banned device but are not hazardous, fraudulent, or deceptive.

The agency disagrees with the comment. In most cases, the Commissioner will list the name of the specific device along with its description. However, in certain situations, the Commissioner may wish to ban a class of devices that may be known under a number of brand names or for which the brand names are unknown, or have been recently changed. Under such circumstances, providing a description of these devices may be the only practicable means to ensure that the banning reaches the intended devices. For similar devices that may not be subject to the ban, the final regulation to ban a device might include specific exempting provisions to distinguish them from the affected device. To meet such situations, the Commissioner intends to keep the banning process as flexible as possible within the requirements of the act. Section 895.21(e)(1) has been clarified, however, to provide that a final regulation banning a device add "the name or the description of the device, or both" to the list of banned devices.

17. One comment suggested that a statement be added to proposed § 895.21(e)(1) to require the Commissioner to consult with the classification panel if additional information was obtained after the original consultation.

The agency disagrees that this should be a requirement. Under section 516(a) of the act, there is no mandate that the Commissioner, after initiating a proceeding to promulgate a regulation to ban a device, consult with the panel. Congress considered it important that the process of imposing a ban be an expeditious one. The banned device provisions are designed to allow the Commissioner to move quickly against potentially hazardous or deceptive devices. No device manufacturer should be concerned that the banning of a device will be treated lightly by the Commissioner. Neither basic principles of administrative law nor these regulations would permit such treatment. If the Commissioner believes that further consultation with a panel is appropriate, as suggested in paragraph 10 of this preamble, such consultation is not barred. The Commissioner will decide whether the additional information is of such a nature that it would warrant review and consultation with the panel. There is no justifiable reason, however, to require this procedural step only because additional information has become available.

18. One comment on proposed § 895.21(f) argued that the effective date of a banning provision should not be the date of publication of the final regulation but should be 30 days thereafter.

The agency disagrees with the comment. The protection of the public health requires the imposition of an effective date immediately upon publication in all situations in which there is unreasonable and substantial risk of illness or injury. In cases of substantial deception, the Commissioner may, as a matter of discretion, decide to delay the effective date, but no requirement to do so is included in the final rule.

19. One comment suggested that if a banned device is already on the market, a manufacturer should be given 2 weeks after the final order is effective to remove the device from channels of distribution.

The agency disagrees with the comment. A decision to grant a delay may be made if granting a delay is feasible and in accord with public health considerations. A decision to delay the effective date will include consideration of the nature of the device, the quantity of the device in commercial distribution, and the risk to the public health of allowing it to remain on the market beyond the effective date of the regulation.

Submission of Data and Information

20. One comment suggested that before requesting data and information under proposed § 895.22, the Commissioner should make a preliminary finding that the statutory basis for banning a device has been met.

There is no requirement in the statute for such a preliminary finding. Moreover, it may not be feasible to make such a finding before the submission of data and information because the reason why the Commissioner is requesting data and information is that field reports, letters from consumers, or other sources may not be sufficient to warrant "preliminary findings" but may be sufficient to warrant a request for data and information.

21. Many comments were concerned with the scope of proposed § 895.22, which allows the Commissioner to obtain all available data and information relevant to a proposal to ban a device. Some comments suggested that proposed § 895.22(a) exceeded the authority granted by section 516 of the act by contravening the requirements of

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publication of a notice to ban, all procedures set forth in § 7.40 (21 CFR addition to the corrective labeling

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particularity set forth in section 519 of the act, dealing with records and reports. Five comments argued that determining whether a device is "otherwise misbranded or adulterated" without applying the criteria established in section 516 is not relevant to the decision to ban a device, and that a device may be adulterated or misbranded without presenting a substantial deception or an unreasonable and substantial risk of illness or injury. Consequently, according to the comments, the manufacturer of an "otherwise misbranded or adulterated" device should not be required to submit data and information unless all the requirements of proposed § 895.21 are met. The comments contended that data requests beyond what are contemplated in section 516 of the act should be made in accordance with the requirements of section 519. One comment suggested that all requests for information should be in writing specifying precisely the information needed and the purpose for which it is to be used (essentially a section 519 requirement). The comment urged that the agency demand information only to fill gaps in information after considering data already on hand. The comment further argued that proposed § 895.22 should require only the data and information necessary to enable the Commissioner to make the determinations required by section 516 of the act and that the additional necessary data or information be identified to the fullest extent practicable under the then-prevailing circumstances.

The agency is aware of the requirements of section 519 of the act, but has determined that section 516 supplements section 519 for the purpose of banning a device. Congress recognized the importance of swift action in banning devices and gave the Commissioner a great deal of flexibility in obtaining necessary information. Section 895.22(b) states that any such request will be in writing, that the purpose of the request will be given, and that the identification of the required information will be given whenever possible. The Commissioner will make every effort to identify with particularity the information sought and will attempt to narrow the scope of the inquiry in such a manner as to obtain all relevant available data and information (i.e., the information the Commissioner is required by statute to consider) while not unduly burdening the person who may have the information.

The agency agrees that proposed § 895.22 should be revised to indicate that the decision to ban a device will be based on section 516 criteria. However, the data and information that the Commissioner may require in making a decision may relate to adulteration and misbranding. In response to a comment suggesting that the agency not limit its consideration to data required to be submitted, the agency advises that any information a person may have relevant to the inquiry may be submitted and will be reviewed even if it is not requested. Proposed § 895.22(a) has been revised to clarify both of these points. In view of the critical public health issues that may be involved, the agency is not foreclosing in advance consideration of any type of information that may be elicited to determine whether to make a device a banned device.

22. Three comments expressed concern over the confidentiality of submitted information in that trade secrets, marketing information, and internal audits may be made available under the Freedom of Information Act and that, as a result, submitters will be less than candid in what they submit.

As noted in response to a previous comment, there is no basis for the argument that confidential information will not be properly protected and will be made public. The Federal Food, Drug, and Cosmetic Act (sec. 301(j) (21 U.S.C. 331j)), the Freedom of Information Act, and the FDA public information regulations all preclude the release of trade secret or confidential commercial information. Therefore, there is no need for separate provisions in these regulations (see also paragraphs 8 and 12 of this preamble).

23. Several comments suggested that if a manufacturer cannot submit the requested data in 30 days as required under proposed § 895.22(c), an additional 30 to 90 days should be provided because 30 days is often insufficient time to organize and prepare the required information and data.

The agency disagrees with the comment. In most instances, the information will be in existence and readily available. The 30-day period is not a period to conduct initial or additional studies or analyses to support safety and effectiveness claims. Banning is designed to be an expeditious process, especially in instances involving risk of illness or injury, or unreasonable, direct, and substantial danger to health.

24. Four comments argued that failure to submit information, submission of insufficient information, or failure to submit within a prescribed time period under proposed § 895.22(e) should not alone allow the Commissioner to initiate a proceeding to ban a device. Another comment on proposed § 895.22(e) argued that failure to submit required data within a prescribed period of time should not be used as an exclusive reason for banning a product. The comment pointed out that some data may not be available at all, some may be available in a form not easily obtainable or transferable, and some may be available only from a foreign country in the case of importers, and that other mitigating circumstances (vacations, factory shutdowns, strikes, litigation, and acts of God) may prevent a timely submission of the data. The comment further argued that the Commissioner should independently determine whether a device presents a deception or risk and rely on failure to receive requested data only as part of the basis for a ban. The comment contended that proposed § 895.22(e) shifts the burden of proof from the Commissioner to the manufacturer, and that FDA should be required to give the manufacturer or other submitters of information notice of the agency's intended next steps. According to the comment, there may be situations in which the insufficiencies could be corrected; for example, a manufacturer could have materials on file that would be relevant in overcoming FDA's determination of insufficiency but were not submitted to the agency in response to a request because the manufacturer did not understand their importance at the time the information was submitted. In addition, two comments suggested that the affected persons should be so notified in writing if their submission is insufficient, specifying what is required and giving them time to comply.

The agency agrees that proposed § 895.22(e) needs clarification. Insufficiency of submitted information or the failure to submit will not be the exclusive basis for a decision to initiate a proceeding to ban a device. The agency is obligated to sustain the burden of proof and to provide substantial evidence to sustain that burden. The agency will consider insufficient data or failure to submit data in making any decision. The agency does not agree that additional time should be permitted to submit supplemental data if the first submission is inadequate. Affected persons may submit "all available data and information" regarding safety and effectiveness, labeling, etc., of the device. If the data submitted are not sufficient and the Commissioner has information that the device meets the statutory criteria for banning, a banning proceeding will be initiated. Upon

publication of a notice to ban, all interested persons are afforded further opportunity to submit written comments and to request a hearing to present evidence for consideration by the FDA before issuing a final order banning the device.

Labeling

25. Two comments noted that proposed § 895.25(a) refers to "unreasonable or substantial" risk, while the statute requires the finding of "unreasonable and substantial" risk.

The Commissioner agrees and has revised the wording of the phrase to read "unreasonable and substantial."

26. One comment on proposed § 895.25(a) pointed out that this section refers to the elimination or correction of "the unreasonable, direct, and substantial danger to the health of individuals" by labeling or labeling changes as part of the basis on which the agency may make a banning regulation effective on publication. However, the comment noted, there is nothing in the statute to require a labeling change to eliminate the type of danger couched in the terms of the quoted phrase. The comment asserted that the quoted phrase should be deleted from § 895.25.

The agency disagrees with the comment. Section 516(a) of the act allows a device to be relabeled to correct any deception or risk of illness or injury associated with its use. The unreasonable, direct, and substantial danger to the health of individuals referred to in section 516(b) of the act is caused by the deception or risk of illness or injury associated with the use of the device referred to in section 516(a). Although the provision to allow the relabeling of a device that presents a deception or risk of illness or injury is not repeated in section 516(b), the relabeling provision still applies. Section 516(b) is a special case under section 516(a), requiring expedited proceeding due to the additional hazard to health. It was not the intent of Congress to ban a device if such a condition could be corrected or eliminated by change in labeling. In this respect, § 895.25(a) remains unchanged.

27. Several comments objected to the corrective labeling requirements in proposed § 895.25(b), on the ground that there is no statutory authority or legislative history to support such requirements. The comments maintained that once the relableing is accomplished, the deception or risk is removed and any further necessary notification could be accomplished under section 518 of the act. In addition, the recall procedures set forth in § 7.40 (21 CFR 7.40) could be used for devices on the market that still has uncorrected labeling. Another comment argued that a person required to declare the previous labeling to be deceptive may be subject to private actions for damages and product liability; from a declaration that prior labeling was improper, an intent to deceive could be inferred, and under the law intent is not a prerequisite to initiating a relabeling procedure. Another comment indicated that the corrective labeling section should be deleted, and, if it is not, that the manufacturer should be allowed to include in the labeling a statement reserving the legal right to contest any findings relating to deception or risk of illness or injury.

The agency believes that corrective labeling is authorized by the statute and that the legislative history does not, as claimed, prohibit a corrective labeling procedure. Section 516 of the act directs the Commissioner to specify the labeling or labeling change to correct the deception or eliminate or reduce the risk of illness or injury. Accordingly, the labeling specified may be corrective or remedial in nature when necessary to accomplish the statutory purpose—correction of substantial deception or elimination or reduction of unreasonable and substantial risk. For example, when a device has long been on the market, users may no longer pay close attention to the labeling and fail to notice additions, deletions, or other changes in labeling. In instances involving risk of illness or injury or danger to health, a separate statement, warning, or notice in a specified format indentifying the risk may be necessary to fully alert all users. Congress did not intend to preclude a requirement for corrective statements when they are found to be necessary to avoid a ban. The extent to which the corrective labeling is used will depend on the nature and extent of the deception or risk caused by the previous labeling.

The notification process provided in section 518 of the act may be used by FDA to eliminate unreasonable risk of substantial harm only when "no more practicable means is available" under the act. In many instances, corrective labeling established under this regulation may be the more practicable means to protect the public and, therefore, section 518 would not apply. Also, section 518 does not apply in situations involving deception where there is no risk of harm. The corrective labeling procedures set forth in the final rule would be the appropriate regulatory action in such circumstances. In addition to the corrective labeling provided in this regulation, FDA may, in appropriate circumstances, use the procedures provided in section 518 or the recall procedures set forth in § 7.40, or both. Because a recall under § 7.40 is not mandatory, however, the corrective labeling section of the final rule will be used when conditions warrant such action.

The agency believes that intent to deceive is not a prerequisite to initiating the banning process or to requiring corrective labeling. The impression the corrective action leaves on the public cannot be predetermined, nor can the possibility of private lawsuits be eliminated.

The agency does not believe that labeling that includes a statement reserving legal rights to contest the findings is proper because it may confuse the message of the corrective labeling and thereby defeat its purpose. Individuals may contest the required labeling at any hearing provided by § 895.21(d) or § 895.30(c), or may refuse to relabel. If the device is then banned under section 516 of the act, the action could be appealed, because banning under section 516 is subject to judicial review under section 517 of the act (21 U.S.C. 360g).

The agency believes that the description of the required statement in proposed § 895.25(b) may be too specific and therefore may not be flexible enough. In addition, proposed § 895.25(b) does not state that such a statement would be required only for a specified period of time or list the basis upon which the period of time would be determined. Therefore, § 895.25(b) has been revised to provide that the Commissioner may require in the labeling for a device, and, if the device is a restricted device, in advertising, a statement, notice, or warning, prescribed in a manner and form identifying the deception, risks, or danger to health associated with the device as previously labeled. The warning may be required for a specified period of time, depending on the degree of deception or risk. The frequency of sale of the device, the length of time the device has been on the market, the intended uses of the device, the method of its use, and other factors that the Commissioner considers pertinent will be considered in determining the type and duration of labeling required. For clarification, FDA has replaced the phrase "risk or danger" in proposed § 895.25(b) with the phrase "risk of illness or injury or danger to health."

28. Several comments stated that with respect to proposed § 895.25(c), the

be marketed for use as a veterinary

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Commissioner is not authorized under section 516 of the act to prohibit devices from being introduced into interstate commerce until required labeling, change in labeling, or change in advertising has been made. The comments claimed such a prohibition would amount to banning the device without observing the procedural requirements for banning set forth in other sections of the proposed regulation and in the act itself.

The agency agrees that the Commissioner is not authorized by the statute to prohibit introduction of devices into interstate commerce until a labeling or advertising change has been made. However, the Commissioner may request that no additional devices be introduced into commerce until such changes have been made. If devices are introduced into commerce before such voluntary action is taken, the Commissioner may take action under other sections of the act, i.e., seizure for adulteration or misbranding and administrative detention. Section 895.25(c) has been changed accordingly.

29. Several comments relating to proposed § 895.25(d) suggested that failure to accomplish required labeling changes should not be used in itself as a basis for initiating a proceeding to ban a device or for activating the special effective date provision of proposed § 895.30. The comments argued that the word "failure" should be changed to "refusal." One comment suggested that the proposal be changed to provide that before requesting a change in labeling the Commissioner must make a separate finding of substantial deception or unreasonable and substantial risk of illness or injury as required under section 516 of the act.

The agency advises that such a separate finding will be made before requesting any change in labeling. Section 895.25(a) is very specific in this regard. Section 895.25(b) provides additional information regarding what may be required in the referenced labeling change, and § 895.25(c) provides information regarding the time period within which the change in labeling must be accomplished. Proposed § 895.25(d), which is questioned by the comments, then states that the failure to accomplish the required change in labeling in accordance with "this section" (meaning § 895.25 (a), (b), and (c)) may serve as a basis for initiating a proceeding to make a device a banned device in accordance with § 895.21(d) or to establish a special effective date in accordance with § 895.30.

Both section 516 of the act and the Report by the Committee on Interstate and Foreign Commerce (p. 19) specifically state that if the required change in labeling is not accomplished within the specified time period, the Commissioner may initiate a proceeding to ban the device whether the failure to change labeling occurs because of inaction or refusal on the part of the responsible party. Consequently, no clarification is needed in proposed § 895.25(d).

Special Effective Date

30. One comment argued that either the banning process should not be expedited as provided in proposed § 895.30. or the manufacturer, distributor, or importer should be warned at least 10 days before publication that the special effective date will be imposed.

The agency disagrees with both suggestions. Section 516(b) of the act authorizes the special effective date, and, in section 516(b)(2), provides only that before the date of the publication of the regulation, the Commissioner notify the device manufacturer that the regulation is to be made effective upon publication. Notice and an opportunity for hearing under section 516 of the act provide adequate procedural safeguards to the manufacturer.

31. One comment suggested that the manufacturer must be notified before the special effective date of a banning provision. The comment pointed out that as proposed § 895.30(a) is phrased, the Commissioner has the option of notifying any one of four concerned individuals.

The agency agrees with the comment. Section 516(b) of the act requires notification of the manufacturer. However, in instances where the device is not manufactured domestically, the Commissioner would notify the importer of record and attempt to notify the foreign manufacturer when the name and address of the foreign manufacturer are readily available. The Commissioner may also notify the distributor or other responsible persons. Accordingly, § 895.30(a) has been clarified to reflect the statutory mandate and the concerns of the comment.

32. One comment argued that the special effective date should be imposed only if the danger is imminent, not merely if there is a possibility of long-term risk.

The Commissioner disagrees with this comment. The Report by the Committee on Interstate and Foreign Commerce (p. 20) states, under the discussion of the special effective date, that such danger need not be imminent and may involve a serious long-term risk, and that what is relevant is the degree of danger, not whether injury is likely to occur immediately. Therefore, no substantive changed in proposed § 895.30(c) has been made.

33. One comment suggested that in proposed § 895.30(c), the notice of hearing be referenced in proposed § 895.30(e) and that proposed § 895.30(a) be amended to allow for an opportunity for hearing, not merely the opportunity to request a hearing.

The agency agrees with this comment and has made the appropriate changes in § 895.30 (c) and (e). The notice referenced in proposed § 895.30(e) is in paragraph (c) and not in paragraph (b) as proposed, and § 895.30(e) has been changed accordingly.

34. One comment suggested that the language in proposed § 895.30(d) would more adequately reflect the requirement in section 516(b) of the act if the Commissioner were required to affirm, modify, or revoke the proposed regulation as expeditiously as possible after the hearing, if any, and after considering all comments and data.

The agency agrees with this comment and has revised § 895.30(d) accordingly.

35. One comment stated that under proposed § 895.30(d), publication merely of a device's description would likely prejudice similar devices not subject to the ban.

The agency disagrees for the same reasons given in paragraph 16 of this preamble, regarding a similar comment on proposed § 895.21(e). Accordingly, the agency has made the same clarifications in proposed § 895.30(d) as in proposed § 895.21(e)(1) concerning the published listing of a banned device or its description.

36. Two comments stated that proposed § 895.30(d) and (e) should provide for consultation with the appropriate classification panel before making a final decision on the special effective date. One comment argued that the Commissioner should not be allowed to base the decision, either on or after publication of the proposal, on new information or reconsideration of existing information without consulting the panel and, in addition, without the other safeguards set forth in the proposed procedures.

The agency disagrees with the comment. There is no statutory requirement that panels be consulted under the circumstances addressed in either proposed § 895.30(d) or (e). However, the Commissioner may consult with a panel if it is desirable to do so (see paragraph 8 of this preamble).

Action based in new information, however, should follow a positive finding regarding the unreasonable or direct or substantial danger involved with the device.

37. One comment suggested that merely referencing section 516 of the act (21 U.S.C. 360h) in proposed § 895.30(f) does not provided the agency with sufficient authority to invoke these provisions when it considers banning a device. The comment argued that section 518 requires separate hearings and different findings and should therefore be deleted from proposed § 895.30(f).

The agency disagrees with the comment. There is no implication in proposed § 895.30(f) that, if section 518 of the act were employed as a supplement to section 516, all the safeguards and requirements of section 518 would not be rigorously adhered to. As a matter of practicality, if a device has been banned, the section 518 criteria would likely also be met regarding such elements as design and manuafacture relative to the state of the art, and regarding the question of risk caused by user error rather than by the manufacturer, importer, distributor, or retailer of the device. Therefore, the agency has not deleted the reference to section 518 or further elaborated upon section 518 in the final regulations.

38. One comment argued that the only types of device that should be subject to section 516 of the act are those manufactured after the effective date of publication.

The agency disagrees because, to protect the public health, it is imperative that deceptive devices or devices presenting a risk of illness or injury that have already entered commerce be subject to regulatory action. The agency is aware of situations where data and information about device problems that would warrant taking the device off the market have been developed years after a device is first marketed.

39. One comment objected to allowing these proposed regulations to be used as interim guidelines before finalization.

During the pendency of this rulemaking, FDA did not initiate any proceedings to ban a device. Thus, upon the effective date of this regulation, the issue raised in the comment will be moot. Two additional points, however, must be made. Because section 516 of the act is self-executing, FDA could have initiated a proceeding to ban a device even if the procedures set forth in this regulation were not in place. Therefore, it is immaterial whether the procedures are guidelines or regulations. More importantly, however, the FDA regulations relating to guidelines (21 CFR 10.90) authorize the procedure followed here. The agency advises that the use and effect of FDA guidelines, and their relationship to FDA advisory opinions (see 21 CFR 10.85), were explained in detail in the preamble to the proposed FDA administrative practices and procedures regulations, published in the Federal Register of September 3, 1975 (40 FR 40682).

Therefore, under the Federal Food, Drug, and Cosmetic Act (secs. 502(r), 516, 518, 519, 701(a), 52 Stat. 1055, 90 Stat. 560, 562–65, 577–578 (21 U.S.C. 352(r), 360f, 360h, 360i, 371)) and under authority delegated to the Commissioner (21 CFR 5.1), Chapter I of Title 21 of the Code of Federal Regulations is amended by adding new Part 895 to read as follows:

PART 895—BANNED DEVICES

Subpart A—General Provisions

Sec.
- 895.1 Scope.
- 895.20 General
- 895.21 Procedures for banning a device.
- 895.22 Submission of data and information by the manufacturer, distributor, or importer.
- 895.25 Labeling.
- 895.30 Special effective date.

Subpart B—Listing of Banned Devices [Reserved]

Authority.—Secs. 502(r), 516, 518, 519, 701(a), 52 Stat. 1055, 90 Stat. 560, 562–565, 577–578 (21 U.S.C. 352(r), 360f, 360h, 360i, 371).

Subpart A—General Provisions

§ 895.1 Scope.

(a) This part describes the procedures by which the Commissioner may institute proceedings to make a device intended for human use that presents substantial deception or an unreasonable and substantial risk of illness or injury a banned device.

(b) This part applies to any "device", as defined in section 201(h) of the Federal Food, Drug, and Cosmetic Act (act) that is intended for human use.

(c) A device that is made a banned device in accordance with this part is adulterated under section 501(g) of the act. A restricted device that is banned may also be misbranded under section 502(q) of the act.

(d) Although this part does not cover devices intended for animal use, the manufacturer, distributor, importer, or any other person(s) responsible for the labeling of the device that is banned cannot avoid the ban by relabeling the device for veterinary use. A device that has been banned from human use but that also has a valid veterinary use may be marketed for use as a veterinary device only under the following conditions: The device shall comply with all requirements applicable to veterinary devices under the Federal Food, Drug, and Cosmetic Act and this chapter, and the label or the device shall bear the following statement: "For Veterinary Use Only. Caution: Federal law prohibits the distribution of this device for human use." A device so labeled, however, that is determined by the Food and Drug Administration to be intended for human use, will be considered to be a banned device. In determining whether such a device is intended for human use, the Food and Drug Administration will consider, among other things, the ultimate destination of the device.

§ 895.20 General.

The Commissioner may initiate a proceeding to make a device a banned device whenever the Commissioner finds, on the basis of all available data and information, and after consultation with the appropriate device panel, that the device presents substantial deception or an unreasonable and substantial risk of illness or injury that the Commissioner determines cannot be, or has not been, corrected or eliminated by labeling or by a change in labeling, or by a change in advertising if the device is a restricted device.

§ 895.21 Procedures for banning a device.

(a) Before initiating a proceeding to make a device a banned device, the Commissioner shall find that the continued marketing of the device presents a substantial deception or an unreasonable and substantial risk of illness or injury.

(1) In determining whether the deception or risk of illness or injury is substantial, the Commissioner will consider whether the deception or risk posed by continued marketing of the device, or continued marketing of the device as presently labeled, is important, material, or significant in relation to the benefit to the public health from its continued marketing.

(2) In determining whether a device is deceptive, the Commissioner will consider whether users of the device may be deceived or otherwise harmed by the device. The Commissioner is not required to determine that there was an intent on the part of the manufacturer, distributor, importer, or any other responsible person(s) to mislead or otherwise harm users of the device or that there exists any actual proof of deception of, or injury to, an individual.

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(3) In determining whether a device presents deception or risk of illness or injury, the Commissioner will consider all available data and information, including data and information that the Commissioner may obtain under other provisions of the act, data and information that may be supplied by the manufacturer, distributor, or importer of the device under § 895.22, and data and information voluntarily submitted by any other interested persons.

(b) Before initiating a proceeding to make a device a banned device, the Commissioner will consult with the classification panel established under section 513 of the act that has expertise with respect to the type of device under consideration. The consultation with the panel may occur at a regular or specially scheduled panel meeting or may be accomplished by correspondence or telephone conversation with panel members. The Commissioner may request that the panel submit in writing any advice on the device under consideration. The Commissioner will record in written memorandums any oral communications with the panel or its members.

(c) If the Commissioner determines that any substantial deception or unreasonable and substantial risk of illness or injury or any unreasonable, direct, and substantial danger to the health of individuals presented by a device can be corrected or eliminated by labeling or change in labeling, or change in advertising if the device is a restricted device, the Commissioner will notify the responsible person of the required labeling or change in labeling or change in advertising in accordance with § 895.25. If such required relabeling or change in advertising is not accomplished in accordance with § 895.25, the Commissioner may initiate a proceeding to ban the device in accordance with § 895.21(d) and, when appropriate, may establish a special effective date in accordance with § 895.30.

(d) If the Commissioner decides to initiate a proceeding to make a device a banned device, a notice of proposed rulemaking will be published in the **Federal Register** to this effect. The notice will briefly summarize—

(1) The Commissioner's finding under paragraph (a) of this section that the device presents substantial deception or an unreasonable and substantial risk of illness or injury, and, when appropriate, the Commissioner's determination under § 875.30 that the deception or risk of illness or injury presents an unreasonable, direct, and substantial danger to the health of individuals;

(2) The reasons why the Commissioner initiated the proceeding;

(3) The evaluation of data and information obtained under other provisions of the act, submitted by the manufacturer, distributer, or importer of the device, or voluntarily submitted by any other interested persons under paragraph (a)(3) of this section, if any;

(4) The consultation with the classification panel under paragraph (b) of this section;

(5) The determination as to whether the deception or risk of illness or injury or the danger to the health of individuals could be corrected by labeling or change in labeling, or change in advertising if the device is a restricted device;

(6) The determination of whether the required labeling or change of labeling, or change in advertising if the device is a restricted device, if any, has been made in accordance with paragraph (c) of this section;

(7) The determination as to whether, and the reasons why, the banning should apply to devices already in commercial distribution or those already sold to the ultimate user, or both; and

(8) Any other data and information that the Commissioner believes are pertinent to the proceeding.

The notice will afford all interested persons an opportunity to submit written comments and request an informal hearing, as defined in section 201(y) of the act, before the Food and Drug Administration within 30 days after the date of publication of the proposed regulation. If a request for an informal hearing is granted, the hearing will be conducted as a regulatory hearing under the applicable provisions of Part 16 of this chapter. All nonconfidential information upon which the proposed finding is based, including the recommendations of the panel, will be available for public review in the office of the Hearing Clerk, Food and Drug Administration.

(e)(1) If, after reveiwing the administrative record of the regulatory hearing before the Food and Drug Administration, if any, the written comments received on the proposed regulation, and any additional available data and information, the Commissioner determines to ban a device, a final regulation to this effect will be published in the **Federal Register**. The final regulation will amend Subpart B by adding the name or description of the device, or both, to the list of banned devices.

(2) If the Commissioner determines not to ban the device, a notice of withdrawal and termination of rulemaking proceedings and reasons therefor will be published in the **Federal Register**.

(f) The effective date of a final regulation to make a device a banned device, promulgated under paragraph (e) of this section, will be the date of publication of the final regulation in the **Federal Register** unless the Commissioner, for reasons stated, determines that the effective date should be later than the date of the publication and specifies that date in the notice. Each such regulation will specify whether devices already in commercial distribution or sold to the ultimate user or both are banned.

(g) A regulation promulgated under paragraph (e) of this section is final agency action, subject to judicial review under section 517 of the act.

(h) Upon petition of any interested person submitted in accordance with § 10.30 of this chapter, or as a matter of discretion, the Commissioner may institute proceedings to amend or revoke a regulation that made a device a banned device if the Commissioner finds that the conditions that constituted the basis for the regulation banning the device are no longer applicable. When appropriate, the procedures in this section will be employed in such proceedings.

§ 895.22 Submission of data and information by the manufacturer, distributor, or importer.

(a) A manufacturer, distributor, or importer of a device may be required to submit to the Food and Drug Administration all relevant and available data and information to enable the Commissioner to determine whether the device presents substantial deception, unreasonable and substantial risk of illness or injury, or unreasonable, direct, and substantial danger to the health of individuals. The data and information required by the Commissioner may include scientific or test data, reports, records, or other information, including data and information on whether the device is safe and effective for its intended use or when used as directed, whether the device performs according to the claims made for the device, and information on adulteration or misbranding. Any relevant information that is voluntarily submitted will also be reviewed.

(b) A manufacturer, distributor, or importer of a device required to submit data and information as provided in paragraph (a) of this section will be notified in writing by the Food and Drug Administration that such data and information shall be submitted. The written notification will advise the manufacturer, distributor, or importer of the device that the purpose for the request is to enable the Commissioner to determine whether any of the conditions listed in paragraph (a) of this section or § 895.30(a)(1) exists with respect to the device such that a proceeding should be initiated to make the device a banned device. When the required data and information can be identified by the Food and Drug Administration at the time of the notification, the agency will provide such identification to the manufacturer, distributor, or importer of the device.

(c) The required data and information shall be submitted to the Food and Drug Administration no more than 30 days after the date of receipt of the request, unless the Commissioner determines that the data and information shall be submitted by some other date and so informs the manufacturer, distributor, or importer, in which case the data and information shall be submitted on the date specified by the Commissioner.

(d) If the data or information submitted to the Food and Drug Administration is sufficient to persuade the Commmissioner that the deception or risk of illness or injury or the danger to the health of individuals presented by a device could be corrected or eliminated by labeling or change in labeling, or change in advertising if the device is a restricted device, the Commissioner will proceed in accordance with § 895.25.

(e) If the data or information submitted to the Food and Drug Administration is insufficient to show that the device does not present a substantial deception or an unreasonable and substantial risk of illness or injury, or an unreasonable, direct, and substantial danger to the health of individuals, or if the manufacturer, distributor, or importer fails to submit the required information, the Commissioner may rely upon this insufficiency or failure to submit the required information in considering whether to initiate a proceeding to make the device a banned device under § 895.21(d) and, when appropriate, to establish a special effective date in accordance with § 895.30. The Commissioner may also initiate other regulatory action as provided in the act or this chapter.

§ 895.25 Labeling.

(a) If the Commissioner determines that the substantial deception or unreasonable and substantial risk of illness or injury or the unreasonable, direct, and substantial danger to the health of individuals presented by a device can be corrected or eliminated by labeling or a change in labeling, or change in advertising if the device is a restricted device, the Commissioner will provide written notice to the manufacturer, distributor, importer, or any other person(s) responsible for the labeling or advertising of the device specifying (1) The deception or risk of illness or injury or the danger to the health of individuals, (2) The labeling or change in labeling, or change in advertising if the device is a restricted device, necessary to correct the deception or eliminate or reduce such risk or danger, and (3) The period of time within which the labeling, change in labeling, or change in advertising must be accomplished.

(b) In specifying the labeling or change in labeling or change in advertising to correct the deception or to eliminate or reduce the risk of illness or injury or the danger to the health of individuals, the Commissioner may require the manufacturer, distributor, importer, or any other person(s) responsible for the labeling or advertising of the device to include in labeling for the device, and in advertising if the device is a restricted device, a statement, notice, or warning. Such statement, notice, or warning shall be in the manner and form prescribed by the Commissioner and shall identify the deception or risk of illness or injury or the unreasonable, direct, and substantial danger to the health of individuals associated with the device as previously labeled. Such statement, notice, or warning shall be used in the labeling and advertising of the device for a time period specified by the Commissioner on the basis of the degree of deception, risk of illness or injury, or danger to health; the frequency of sale of the device; the length of time the device has been on the market; the intended uses of the device; the method of its use; and any other factors that the Commissioner considers pertinent.

(c) The Commissioner will allow a manufacturer, distributor, importer, or any other person(s) responsible for the labeling or advertising of the device a reasonable time, considering the deception or risk of illness or injury or the danger to the health of individuals presented by the device, within which to accomplish the required labeling, change in labeling, and, if the device is a restricted device, any change in advertising. The Commissioner may, however, request that no additional devices be introduced into commerce until the labeling or change in labeling, or change in advertising is accomplished by the manufacturer, distributor, importer, or other person(s) responsible for the labeling or advertising of the device.

(d) If such voluntary action is not taken, the Commissioner may take action under other sections of the act to prevent the introduction of the devices into commerce. The Commissioner may consider the failure of a manufacturer, distributor, importer, or any other person(s) responsible for the labeling or advertising of the device to accomplish the required labeling or change in labeling, or change in advertising in accordance with this section as a basis for initiating a proceeding to make a device a banned device in accordance with § 895.21(d) and when appropriate to establish a special effective date in accordance with § 895.30.

§ 895.30 Special effective date.

(a) The Commissioner may declare a proposed regulation under § 895.21(d) to be effective upon its publication in the **Federal Register** and until the effective date of any final action taken respecting the regulation if (1) The Commissioner determines, on the basis of all available data and information, that the deception or risk of illness or injury associated with use of the device that is subject to the regulation presents an unreasonable, direct, and substantial danger to the health of individuals, and (2) Before the date of the publication of such regulation, the Commissioner notifies the domestic manufacturer and importer, if any, of the device that the regulation is to be made so effective. If necessary, the Commissioner may also notify the distributor or any other responsible person(s). In addition, the Commissioner will attempt to notify any foreign manufacturer when the name and address of the foreign manufacturer are readily available.

(b) This procedure may be used when the Commissioner determines that the potential or actual injury involved is a serious one that the Commissioner believes will endanger the health of individuals who have been, or will be, exposed to the device. In assessing the degree of danger, the Commissioner need not find that the danger is immediate, and it shall be sufficient for the Commissioner to determine that the danger may involve a serious long-term risk.

(c) If the Commissioner makes a proposed regulation effective in accordance with this section, the Commissioner will, as expeditiously as possible, give interested persons prompt notice of this action in the **Federal Register** and will provide an opportunity

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for an informal hearing in accordance with Part 16 of this chapter.

(d) After the hearing, if any, and after considering any written comments submitted on the proposal and any additional available information and data, the Commissioner will as expeditiously as possible either affirm, modify, or revoke the proposed regulation making the device a banned device. If the Commissioner decides to affirm or modify the proposed regulation to make a device a banned device, the Commissioner will amend Subpart B by adding the name or description of the device, or both, to the list of banned devices. If the Commissioner decides to revoke a proposed regulation making a device a banned device, a notice of termination of rulemaking proceedings and reasons therefor will be published in the Federal Register.

(e) The Commissioner may declare the special effective date provided by this section to be in effect after the publication of a proposed regulation under § 895.21(d), if, based on new information, or upon reconsideration of previously available information, the Commissioner makes the determination and provides the appropriate notices and an opportunity for a hearing in accordance with paragraphs (a) and (c) of this section.

(f) Those devices that have been named banned devices under § 895.30 and that have already been sold to the public may be subject to relabeling by the manufacturer, distributor, importer, or any other person(s) responsible for the labeling of the device or may be subject to the provisions of section 518(a) or (b) of the act.

Subpart B—Listing of Banned Devices [Reserved]

Effective date. This regulation shall be effective July 17, 1979.

(Secs. 502(r), 516, 518, 519, 701(a), 52 Stat. 1055, 90 Stat. 560, 562–565, 577–578 (21 U.S.C. 352(r), 360f, 360h, 360i, 371).)

Dated: May 7, 1979.

Joseph P. Hile,

Associate Commissioner for Regulatory Affairs.

[FR Doc. 79-15076 Filed 5-17-79; 8:45 am]

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federal register

Friday
May 18, 1979

Part III

Department of Labor

Employment Standards Administration

Minimum Wages for Federal and Federally Assisted Construction; General Wage Determination Decisions

DEPARTMENT OF LABOR

Employment Standards Administration

Minimum Wages for Federal and Federally Assisted Construction; General Wage Determination Decisions

General wage determination decisions of the Secretary of Labor specify, in accordance with applicable law and on the basis of information available to the Department of Labor from its study of local wage conditions and from other sources, the basic hourly wage rates and fringe benefit payments which are determined to be prevailing for the described classes of laborers and mechanics employed in construction activity of the character and in the localities specified therein.

The determinations in these decisions of such prevailing rates and fringe benefits have been made by authority of the Secretary of Labor pursuant to the provisions of the Davis-Bacon Act of March 3, 1931, as amended (46 Stat. 1494, as amended, 40 U.S.C. 276a) and of other Federal statutes referred to in 29 CFR 1.1 (including the statutes listed at 36 FR 306 following Secretary of Labor's Order No. 24–70) containing provisions for the payment of wages which are dependent upon determination by the Secretary of Labor under the Davis-Bacon Act; and pursuant to the provisions of part 1 of subtitle A of title 29 of Code of Federal Regulations, Procedure for Predetermination of Wage Rates (37 FR 21138) and of Secretary of Labor's Orders 12–71 and 15–71 (36 FR 8755, 8756). The prevailing rates and fringe benefits determined in these decisions shall, in accordance with the provisions of the foregoing statutes, constitute the minimum wages payable on Federal and federally assisted construction projects to laborers and mechanics of the specified classes engaged on contract work of the character and in the localities described therein.

Good cause is hereby found for not utilizing notice and public procedure thereon prior to the issuance of these determinations as prescribed in 5 U.S.C. 553 and not providing for delay in effective date as prescribed in that section, because the necessity to issue construction industry wage determination frequently and in large volume causes procedures to be impractical and contrary to the public interest.

General wage determination decisions are effective from their date of publication in the **Federal Register** without limitation as to time and are to be used in accordance with the provisions of 29 CFR Parts 1 and 5. Accordingly, the applicable decision together with any modifications issued subsequent to its publication date shall be made a part of every contract for performance of the described work within the geographic area indicated as required by an applicable Federal prevailing wage law and 29 CFR, Part 5. The wage rates contained therein shall be the minimum paid under such contract by contractors and subcontractors on the work.

Modifications and Supersedeas Decisions to General Wage Determination Decisions

Modifications and supersedeas decisions to general wage determination decisions are based upon information obtained concerning changes in prevailing hourly wage rates and fringe benefit payments since the decisions were issued.

The determinations of prevailing rates and fringe benefits made in the modifications and supersedeas decisions have been made by authority of the Secretary of Labor pursuant to the provisions of the Davis-Bacon Act of March 3, 1931, as amended (46 Stat. 1494, as amended, 40 U.S.C. 276a) and of other Federal statutes referred to in 29 CFR 1.1 (including the statutes listed at 36 FR 306 following Secretary of Labor's Order No. 24–70) containing provisions for the payment of wages which are dependent upon determination by the Secretary of Labor under the Davis-Bacon Act; and pursuant to the provisions of part 1 of subtitle A of title 29 of Code of Federal Regulations, Procedure for Predetermination of Wage Rates (37 FR 21138) and of Secretary of Labor's Orders 13–71 and 15–71 (36 FR 8755, 8756). The prevailing rates and fringe benefits determined in foregoing general wage determination decisions, as hereby modified, and/or superseded shall, in accordance with the provisions of the foregoing statutes, constitute the minimum wages payable on Federal and federally assisted construction projects to laborers and mechanics of the specified classes engaged in contract work of the character and in the localities described therein.

Modifications and supersedeas decisions are effective from their date of publication in the **Federal Register** without limitation as to time and are to be used in accordance with the provisions of 29 CFR Parts 1 and 5.

Any person, organization, or governmental agency having an interest in the wages determined as prevailing is encouraged to submit wage rate information for consideration by the Department. Further information and self-explanatory forms for the purpose of submitting this data may be obtained by writing to the U.S. Department of Labor, Employment Standards Administration, Office of Government Contract Wage Standards, Division of Wage Determinations, Washington, D.C. 20210. The cause for not utilizing the rulemaking procedures prescribed in 5 U.S.C. 553 has been set forth in the original general wage determination decision.

Modifications to General Wage Determination Decisions

The numbers of the decisions being modified and their dates of publication in the **Federal Register** are listed with each State.

Connecticut	
CT79–2010; CT79–2011	Apr. 6, 1979.
Indiana	
IN78–2162	Dec. 8, 1978.
IN78–2163	Dec. 1, 1978.
Louisiana	
LA79–4001; LA79–4002	Jan. 5, 1979.
Nebraska	
NE79–4028	Feb. 16, 1979.
New Jersey	
NJ78–3009	Apr. 21, 1978.
Pennsylvania	
PA78–3054	Aug. 11, 1978.
PA79–3009	May 4, 1979.
Texas	
TX79–4003; TX79–4004; TX79–4011	Jan. 5, 1979.
TX79–4050	Mar. 16, 1979.

Supersedeas Decisions to General Wage Determination Decisions

The numbers of the decisions being superseded and their dates of publication in the **Federal Register** are listed with each State. Supersedeas Decision numbers are in parentheses following the numbers of the decisions being superseded.

Colorado	
CO78–5132(CO79–5116)	Nov. 17, 1978.
Iowa	
IA78–4027(IA79–4064)	Apr. 7, 1978.
Mississippi	
MS75–1077(MS79–1064)	Aug. 22, 1975.
New York	
NY78–3007 (NY79–3011)	Mar. 10, 1978.
North Carolina	
NC76–1073(NC79–1085)	July 9, 1976.
Pennsylvania	
PA78–3090(PA79–3012)	Oct. 27, 1978

Cancellation of General Wage Determination Decisions

General Wage Determination Decision No. IN79–2002, as it applies to Carroll County, Indiana only, is cancelled. Agencies with building construction projects pending in Carroll County should utilize the project determination procedure by submitting form SF–308. See Regulations Part 1 (29 CFR), Section 1.5. Contracts for which bids have been opened shall not be affected by this notice, and consistent with 29 CFR 1.7 (b) (2), the incorporation of Decision No. IN79–2002 in specifications the opening of bids for which is within ten (10) days of this notice need not be affected.

Signed at Washington, D.C., this 11th day of May 1979.

Dorothy P. Come,

Assistant Administrator, Wage and Hour Division.

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MODIFICATIONS P. 1

DECISION NO. CT79-2011 - MOD #3
(44 FR 20921 April 6, 1979)
Hartford, Middlesex, New Haven, New London and Tolland Counties, Connecticut

	Basic Hourly Rates	Fringe Benefits Payments: H & W	Pensions	Vacation	Education and/or Appr. Tr.
CHANGE:					
ELEVATOR CONSTRUCTORS	$10.79	.895	.56	a&b	.025
ELEVATOR CONSTRUCTORS HELPERS	7.55	.895	.56	a&b	.025
ELEVATOR CONSTRUCTORS HELPERS (PROB.)	SOEJR				
PAINTERS:					
New London Co.: Norwich Brush	10.30	.60	.70		.01
LABORERS (Building Construction)					
Blasters	8.90	.60	.80		.10

DECISION NO. CT79-2010 - MOD #3
(44 FR 20913 - April 6, 1979)
Fairfield, Litchfield and Windham Counties, Connecticut

CHANGE:					
IRONWORKERS:					
Ornamental; Reinforcing; Structural and Precast Concrete Erection	$12.25	.90	1.45	1	.08
PLUMBERS:					
Windham Co. Windham	10.96	1.10	1.39		.01
LABORERS: (Building Construction)					
Blasters	8.90	.60	.80		.10
POWER EQUIPMENT OPERATORS:					
Class 2	11.83	1.05	.95	a	.15

MODIFICATIONS P. 2

DECISION NO. IN78-2162 - MOD #3
(43 FR 57789 - December 8, 1978)
Lake, LaPorte, Porter & St. Joseph Counties Indiana

	Lake Counties: Basic Hourly Rates	Remaining Counties: Basic Hourly Rates	Fringe Benefits Payments: H & W	Pensions	Vacation	Education and/or Appr. Tr.
CHANGE:						
LABORERS:						
HEAVY & HIGHWAY CONSTRUCTION						
GROUP 1	$ 9.00	$ 8.30	.70	.70		.09
GROUP 2	9.15	8.45	.70	.70		.09
GROUP 3	9.20	8.50	.70	.70		.09
GROUP 4	9.30	8.60	.70	.70		.09
GROUP 5	9.85	9.15	.70	.70		.09

	Basic Hourly Rates	Fringe Benefits Payments: H & W	Pensions	Vacation	Education and/or Appr. Tr.
ADD:					
TRUCK DRIVERS					
Heavy & Highway Construction St. Joseph Co.					
GROUP A	$ 9.805	31.00a	37.00a		
GROUP B	9.755	31.00a	37.00a		
GROUP C	9.705	31.00a	37.00a		
GROUP D	9.655	31.00a	37.00a		
GROUP E	9.605	31.00a	37.00a		
GROUP F	9.555	31.00a	37.00a		
GROUP G	9.505	31.00a	37.00a		
GROUP H	9.455	31.00a	37.00a		
GROUP I	9.405	31.00a	37.00a		
GROUP J	9.355	31.00a	37.00a		
GROUP K	9.305	31.00a	37.00a		
GROUP L	9.205	31.00a	37.00a		

MODIFICATIONS P. 3

DECISION NO. IN78-2162 (Cont'd)

CLASSIFICATIONS

GROUP A - Acey Wagons over 3 Buckets
GROUP B - Acey Wagons to and including 3 Buckets
GROUP C - Tandem-tandem Semi-Trucks; Truck Mechanics and Welders; Heavy Equipment Type Water Wagon over 5,000 Gallons; Tri-Axle Trucks pulling Tilt-Top Trailers; Low Boys, Tandem-tandem Axle
GROUP D - Tri-Axle Trucks; Tandem Axle Trucks; Equipment not self loaded or pusher loaded such as Koehring or similar Dumpster, Track Truck, Euclid Bottom Dump and Hug Bottom Dump, Tournatrailers, Tournarockers, Athey Wagons, or similar equipment over 12 cu. yd.; Tandem Axle Trucks pulling Tilt-Top Trailers; LowBoys; Tandem Axle Tri-Axle Batch
GROUP E - Tandem "Dog-Legs" Trucks; Semi-Water Trucks; Sprinkler Trucks; Heavy Equipment Type Water Wagons 5,000 Gallons & Under
GROUP F - Truck Mounted Pavement Breakers; Tandem Trucks over 15 Ton Payload; Single Axle Semi-Trucks; Farm Tractors hauling material; Equipment not self loaded or Pusher loaded such as Koehring or similar Dumpster; Track Truck, Euclid Bottom Dump and Hug Bottom Dump, Tournatrailers, Tournarockers, Athey Wagons or similar equipment 12 cubic yds. & under; Mixer Trucks, All Types; Single Axle Trucks pulling Tilt-Top Trailer; Lowboys, Single Axle
GROUP G - Tandem Axle Fuel Trucks; Tandem Axle Water Trucks; Bituminous Distributor (one man)
GROUP H - Single Axle Dog-Legs; Tandem Trucks or Dog Legs; Winch Trucks or A Frames used for Transportation; Batch Trucks Wet or Dry over 3 (34E) Batches-Grease and Maintenance Truck Servicing Tandem Axle Trucks
GROUP I - Single Axle Fuel Trucks; Single Axle Water Trucks; Bituminous Distributors, (two man)
GROUP J - Single Axle Straight Trucks; Wet or Dry 3 (34E) Batches or less; Grease & Maintenance Trucks servicing Single Axle Trucks
GROUP K - Helpers; Greasers; Tire men; Batch Board Tenders
GROUP L - Pick-Up trucks

FOOTNOTE: a-PER WEEK PER EMPLOYEE

MODIFICATIONS P. 4

DECISION NO. IN78-2163 - MOD #3
(43 FR 56382 - December 1, 1978)
Statewide, except Lake, LaPorte, Porter and St. Joseph Counties, Indiana

	Basic Hourly Rates	Fringe Benefits Payments: H & W	Pensions	Vacation	Education and/or Appr. Tr.
CHANGE:					
CEMENT MASONS:					
Daviess, Gibson, Knox, Martin & Pike Cos.	$11.05	.80	.80		
PAINTERS:					
Adams, Allen, DeKalb, Grant, Huntington, LaGrange, Noble, Steuben, Wabash, Whitley & Wells (Northern ½ of Co. to & incl. Bluffton):					
Brush; Paperhangers; Rollers; & Tapers	9.90	.60	.85		.12
Sandblasters; Spray	10.90	.60	.85		.12
Blackford, Cass, Delaware, Fulton, Howard, Jay, Madison, Miami, Tipton, & Wells (to the south city limits of Bluffton) Cos.:					
Brush	9.95		.70		
Spray	10.95		.70		
Dearborn, Ohio, Ripley & Switzerland Cos.:					
Brush; Roller; Wallwashing; Drywall Taping & Finish; Paperhanging & Vinyl; Seamless Floors & Finishing Floors; Sanding	11.00				
Sandblasting & Steam Clean -	11.75				
Spray; Epoxy	11.50				
Tanks, Elevators, Bridges, Steeples over 40 ft.	12.10				
Fayette, Franklin, Henry, Randolph, Rush, Union & Wayne Cos.:					
Brush	9.35				
Sandblasting; Spray	10.35				
Structural Steel; Scaffold over 30 ft.	9.60				

MODIFICATIONS P. 5

DECISION NO. 1N78-2163 (Cont'd)

	Basic Hourly Rates	Fringe Benefits Payments			
		H & W	Pensions	Vacation	Education and/or Appr. Tr.
LABORERS: HEAVY & HIGHWAY CONSTRUCTION					
GROUP 1	8.30	.70	.70		.09
GROUP 2	8.45	.70	.70		.09
GROUP 3	8.50	.70	.70		.09
GROUP 4	8.60	.70	.70		.09
GROUP 5	9.15	.70	.70		.09
POWER EQUIPMENT OPERATORS:					
TUNNEL AND SEWER CONSTRUCTION:					
Adams, Allen, Blackford, DeKalb, Huntington, Jay, Steuben, Wells, & Whitley Counties					
GROUP I	11.57	.75	.65		.10
GROUP II	10.23	.75	.65		.10
GROUP III	9.65	.75	.65		.10
GROUP IV	8.59	.75	.65		.10
OMIT:					
POWER EQUIPMENT OPERATORS (Heavy & Highway Construction)					
ADD:					
CEMENT MASONS: Hamilton (Northern ½ of Co.), Hancock (Eastern ½ of Co.), Henry, Madison & Tipton Cos.	$10.61	.65	.50		
POWER EQUIPMENT OPERATORS (Heavy & Highway Construction)					
TRUCK DRIVERS Schedule					

MODIFICATIONS P. 6

DECISION NO. 1N78-2163 (Cont'd) POWER EQUIPMENT OPERATORS (Heavy & Highway Construction)	Basic Hourly Rates	Fringe Benefits Payments			
		H & W	Pensions	Vacation	Education and/or Appr. Tr.
Adams, Allen, Benton, Blackford, Carroll, Cass, Clinton, Dekalb, Delaware, Fayette, Grant, Hamilton, Hancock, Henry, Howard, Huntington, Jay, Johnson, Madison, Marion, Miami, Randolph, Rush, Shelby, Steuben, Tippecanoe, Tipton, Union, Wabash, Wayne, Wells, White, & Whitley Counties:					
GROUP I	$11.57	.75	.65		.10
GROUP II	10.23	.75	.65		.10
GROUP III	9.65	.75	.65		.10
GROUP IV	8.59	.75	.65		.10
Elkhart, Fulton, Jasper, Kosciusko, LaGrange, Marshall, Newton, Noble, Pulaski, & Starke, Cos.:					
GROUP I	10.79	1.10	1.10		.08
GROUP II	9.45	1.10	1.10		.08
GROUP III	8.87	1.10	1.10		.08
GROUP IV	7.81	1.10	1.10		.08
Bartholomew, Brown, Clark, Crawford, Dearborn, Decatur, Dubois, Floyd, Franklin, Gibson, Harrison, Jackson, Jefferson, Jennings, Lawrence, Martin, Ohio, Orange, Perry, Pike, Posey, Ripley, Scott, Spencer, Switzerland, Vanderburgh, Warrick, & Washington Counties:					
GROUP I	11.69	.50	.80		.08
GROUP II	10.35	.50	.80		.08
GROUP III	9.77	.50	.80		.08
GROUP IV	8.71	.50	.80		.08
Boone, Clay, Daviess, Fountain, Greene, Hendricks, Knox, Monroe, Montgomery, Morgan, Owen, Parke, Putnam, Sullivan, Vermillion, Vigo, & Warren Counties:					
GROUP I	11.49	.75	.75		.08
GROUP II	10.15	.75	.75		.08
GROUP III	9.57	.75	.75		.08
GROUP IV	8.51	.75	.75		.08

MODIFICATIONS P. 7

DECISION NO. 1N78-2163 (Cont'd)

TRUCK DRIVERS:	Basic Hourly Rates	Fringe Benefits Payments			
		H & W	Pensions	Vacation	Education and/or Appr. Tr.
GROUP A	$ 9.805	31.00a	37.00a		
GROUP B	9.755	31.00a	37.00a		
GROUP C	9.705	31.00a	37.00a		
GROUP D	9.655	31.00a	37.00a		
GROUP E	9.605	31.00a	37.00a		
GROUP F	9.555	31.00a	37.00a		
GROUP G	9.505	31.00a	37.00a		
GROUP H	9.455	31.00a	37.00a		
GROUP I	9.405	31.00a	37.00a		
GROUP J	9.355	31.00a	37.00a		
GROUP K	9.305	31.00a	37.00a		
GROUP L	9.205	31.00a	37.00a		

CLASSIFICATIONS

GROUP A - Acey Wagons over 3 Buckets

GROUP B - Acey Wagons to and including 3 Buckets

GROUP C - Tandem-tandem Semi-Trucks; Truck Mechanics and Welders; Heavy Equipment Type Water Wagon over 5,000 Gallons; Tri-Axle Trucks pulling Tilt-Top Trailers; Low Boys, Tandem-tandem Axle

GROUP D - Tri-Axle Trucks; Tandem Axle Trucks; Equipment not self loaded or pusher loaded such as Koehring or similar Dumpster, Track Truck, Euclid Bottom Dump and Hug Bottom Dump, Tournatrailers, Tournarockers, Athey Wagons, or similar equipment over 12 cu. yd.; Tandem Axle Trucks pulling Tilt-Top Trailers; LowBoys; Tandem Axle Tri-Axle Batch

GROUP E - Tandem "Dog-Legs" Trucks; Semi-Water Trucks; Sprinkler Trucks; Heavy Equipment Type Water Wagons 5,000 Gallons & Under

GROUP F - Truck Mounted Pavement Breakers; Tandem Trucks over 15 Ton Payload; Single Axle Semi-Trucks; Farm Tractors hauling material; Equipment not self loaded or Pusher loaded such as Koehring or similar Dumpster, Track Truck, Euclid Bottom Dump and Hug Bottom Dump, Tourna-Trailers, Tournarockers, Athey Wagons or similar equipment 12 cubic yds. & under; Mixer Trucks, All Types; Single Axle Trucks pulling Tilt-Top Trailer; Lowboys, Single Axle

GROUP G - Tandem Axle Fuel Trucks; Tandem Axle Water Trucks; Bituminous Distributor (one man)

GROUP H - Single Axle Dog-Legs; Tandem Trucks or Dog Legs; Winch Trucks or A Frames used for Transportation; Batch Trucks Wet or Dry over 3 (34E) Batches-Grease and Maintenance Truck Servicing Tandem Axle Trucks

GROUP I - Single Axle Fuel Trucks; Single Axle Water Trucks; Bituminous Distributors, (two man)

GROUP J - Single Axle Straight Trucks; Wet or Dry 3 (34E) Batches or less; Grease & Maintenance Trucks servicing Single Axle Trucks

GROUP K - Helpers; Greasers; Tire men; Batch Board Tenders

GROUP L - Pick-Up trucks

FOOTNOTE: a-PER WEEK PER EMPLOYEE

MODIFICATIONS P. 8

	Basic Hourly Rates	Fringe Benefits Payments			
		H & W	Pensions	Vacation	Education and/or Appr. Tr.
DECISION #LA79-4001 - Mod. #6 (44 FR 1634 - January 5, 1979) Statewide Louisiana					
Change:					
Electricians:					
Zone 7 - Electricians	$12.65	1.45	3%		1%
Cable splicers	13.10	1.45	3%		1%
DECISION #LA79-4002 - Mod. #5 (44 FR 1650 - January 5, 1979) Bossier, Caddo, Calcasieu Parishes, Louisiana					
Change:					
Electricians:					
Bossier & Caddo Parishes:					
Electricians	12.65	1.45	3%		1%
Cable splicers	13.15	1.45	3%		1%
DECISION #NE79-4028 - Mod. #1 (44 FR 10234 - February 16, 1979) Lancaster County, Nebraska					
Change					
Bricklayers, stonemasons	$10.775		.60		
Carpenters:					
Carpenters	9.625	.65	.50		.05
Piledrivermen	9.875	.65	.50		

MODIFICATIONS P. 9

DECISION #NJ78-3009 - Mod. #9
(42 FR-17223 - April 21, 1978)
Bergen, Essex, Hudson, Hunterdon, Middlesex, Morris, Passaic, Somerset, Sussex, Union, & Warren Counties, New Jersey

	Basic Hourly Rates	Fringe Benefits Payments			
		H & W	Pensions	Vacation	Education and/or Appr. Tr.
Change:					
~~Asbestos~~ Workers:					
Zone 1	12.10	.90	1.05		.025
Bricklayers, Stone Masons, Cement Masons, & Plasterers:					
Zone 7	12.65	.50	.70		.02
Zone 8	12.04	.85	.75		.11
Carpenters, Insulators, & Millwrights:					
Zone 4					
Carpenters & Insulators	12.13	8%	7%		4%
Millwrights	12.38	8%	7%		4%
Electricians & Cable Splicers					
Zone 2	13.84	7%	6%+.75		.02
Glaziers:					
Zone 3	12.45	1.00	2.00		.05
Laborers, Building Construction:					
Zone 3					
Regular Laborers	8.95	.65	.65		.07
Mortar Mixers, scaffold men, pneumatic hammer operators, bell men, & carpenter tenders	9.20	.65	.65		.07
Zone 5	8.50	.75	.85		.07
Zone 10					
Laborers, wrecking, demolition concrete mixers, w/o hoppers, Drill runners, Jackhammers, Mason Tenders, Mortar Mixers, Excavations & Foundations, Scaffold Builders, Carpenter Tenders, & Grading for Concrete	9.10	.50	.50		.07
Zone 11					
Laborers, Air Tool Operators (Jackhammer, Vibrator), Mason Tender, Mortar Mixers, Plasterer Tenders, Pipelayers, Wreckers & Excavation	8.95	.65	.50		.07
Zone 13	8.50	.75	.85		.07
Zone 16					
Common Laborers, Air Tool Operators, Mason Tenders, Plasterer Tenders, and Mortar Mixers	8.50	.75	.85		.07

MODIFICATIONS P. 10

DECISION #NJ78-3009- Mod. #9

	Basic Hourly Rates	Fringe Benefits Payments			
		H & W	Pensions	Vacation	Education and/or Appr. Tr.
Labrers, Heavy & Highway Construction:					
Group 1	9.85	1.00	1.00	e	.10
Group 2	9.70	1.00	1.00	e	.10
Group 3	9.45	1.00	1.00	e	.10
Group 4	9.40	1.00	1.00	e	.10
Group 5	9.30	1.00	1.00	e	.10
Group 6	9.20	1.00	1.00	e	.10
Group 7	8.95	1.00	1.00	e	.10
Group 8	8.80	1.00	1.00	e	.10
Group 9	8.75	1.00	1.00	e	.10
Laborers, Free Air Tunnel Jobs:					
Group 1	10.22	1.00	1.00	e	.10
Group 2	9.82	1.00	1.00	e	.10
Group 3	9.66	1.00	1.00	e	.10
Group 4	9.15	1.00	1.00	e	.10
Laborers, Asphalt Construction:					
Zone 1					
Street:					
Head Raker	8.80	.91	.84	e	.10
Rakers & Screen men	8.65	.91	.84	e	.10
Tampers, Smoothers, Kettlemen, Painters, Top Shovelers & Roller Boys	8.40	.91	.84	e	.10
Plant:					
Scale Mixer & Burner Men	8.65	.91	.84	e	.10
Feeders & Dust Men	8.40	.91	.84	e	.10
Marble Setter, Terrazzo Workers, & Tile Setters:					
Zone 1	12.04	.85	.95		.11
Painters:					
Zone 3					
Painters on new construction and major alterations	10.75	.70	.60	.35	.05
Painters on repaint work	9.80	.70	.60	.35	.05
Spray or application of hazardous or dangerous materials on repaint work	10.40	.70	.60	.35	.05
Exterior work exceeding 3 stories in height for painting of open structural steel and tanks under 3 stories in height except flat tanks on the ground and on interior work which					

MODIFICATIONS P. 11

DECISION #NJ78-3009 - Mod. #9

	Basic Hourly Rates	Fringe Benefits Payments			
		H & W	Pensions	Vacation	Education and/or Appr. Tr.
Painters:					
Zone 3					
requires painting higher than 20' above the ground or floor (this shall not be applicable to machinery or equipment located therein)	10.90	.70	.60	.35	.05
Repaint work as described above	9.95	.70	.60	.35	.05
On bridges, television and radio towers, structural steel and tanks above 3 stories in height (30' or over), smoke stacks, water towers, sandblasting, steam-cleaning, spraying or application of hazardous materials	11.35	.70	.60	.35	.05
Pipefitters:					
Bergen & Hudson County and the city of Passaic in Passaic County	12.00	1.00	1.90	1.00	.25
Plumbers					
Zone 1	13.60	1.00	1.35		.25
Zone 2	13.60	1.00	1.35		.25
Zone 3	13.60	1.00	1.35		.25
Plumbers & Pipefitters:					
Zone 2:					
Plumbers	13.60	1.00	1.35		.25
Pipefitters	12.00	1.00	1.90	1.00	.25
Plumbers & Steamfitters:					
Zone 1					
Plumbers	13.60	1.00	1.35		.25
Zone 5					
Plumbers	13.60	1.00	1.35		.25
Steamfitters	12.00	1.00	1.90	1.00	.25
Zone 6					
Plumbers	13.60	1.00	1.35		.25
Steamfitters	12.00	1.00	1.90	1.00	.25
Sheet Metal Workers:					
Essex & Passaic Counties:	11.75	4%+.67	4%+.46	8%	.01

MODIFICATIONS P. 12

DECISION #PA78-3054 - Mod. #4
(43 FR 35868 - August 11, 1978)
Bucks, Chester, Delaware, Montgomery, Philadelphia Counties, Pennsylvania

	Basic Hourly Rates	Fringe Benefits Payments			
		H & W	Pensions	Vacation	Education and/or Appr. Tr.
Carpenters	11.12	2.48	1.40	a	.13
Laborers					
Group 1	9.75	.95	.65		
Group 2	9.55	.95	.65		
Group 3	9.45	.95	.65		
Group 4	9.60	.95	.65		
Group 5	9.35	.95	.65		
Group 6	10.00	.95	.65		
Group 7	9.85	.95	.65		
Group 8	9.70	.95	.65		
Power Equipment Operators:					
Heavy Construction:					
Group 1	13.17	7%	10.3%	c	1.8%
Group 2	12.91	7%	10.3%	c	1.8%
Group 3	12.06	7%	10.3%	c	1.8%
Group 4	11.83	7%	10.3%	c	1.8%
Group 5	11.52	7%	10%	c	1.8%
Group 6	11.35	7%	10.3%	c	1.8%
Group 7	10.84	7%	10.3%	c	1.8%
Group 8	10.10	7%	10.3%	c	1.8%

MODIFICATIONS P. 13

DECISION #PA78-3054 - Mod. #4

HEAVY CONSTRUCTION CLASSIFICATION DEFINITIONS

Group I Handling steel and stone in connection with erection, cranes, doing hook work, any machines handling machinery, cable spinning machine, helicopters, machines similar to above

Group II All types of cranes, all types of backhoes, cableways, draglines, keystones all types of shovels derricks, trench shovels, trenching machines, Pippin type backhoes, Hoist with two towers, pavers 21E and over, all types overhead cranes, building hoists - double drum (unless used as single drum), mucking machines in tunnel, gradalls, front-end loaders 3½ cu. yds. & over, Boat Captain, tandem scrapers, tower type crane operation; erecting, dismantling, jumping or jacking, Drille self-contained (drillmaster type), fork lift (20ft. and over), motor patrols (fine grade) batch plant with mixer, machines similar to the above

Group III Conveyors (except building conveyors), buildign hoist (single drum), scrapers and tournapulls, asphalt engineer, roller (high grade finishing) frount end loaders under 3½ cu. yds., Mechanic- welder, spreaders high or low pressue boilers, concrete pumps, well drillers, fork lift trucks of all types, bulldozers and tractors, ditch witch type treocher, motor patrol, machines similar to the above.

Group IV Concrete breaking machines Rollers Machines similar to the above

GROUP V Seaman pulverizing mixer fireman on power equipment maintenance engineer (power Boat) machines similar to the above

GROUP VI Conveyors (Building) welding machines, heaters, wellpoints, compressaors, farm tractors, fine grade machines, form line graders, road finishing machioes, form line graders, road finishing machines, pumps, power broom (Self-contained), seed spreader, machioes similar to the above

GROUP VII Fireman, grease truck

GROUP VIII Oilers and deck hands (personnel boats), grease truck helper

MODIFICATIONS P. 14

Decision No. PA78-3054 - Mod. #4 Cont'd.

POWER EQUIPMENT OPERATORS
HIGHWAY CONSTRUCTION

	Basic Hourly Rates	Fringe Benefits Payments			
		H & W	Pensions	Vacation	Education and/or Appr. Tr.
GROUP 1	12.92	7%	10.3%	c	1.8%
GROUP 2	12.69	7%	10.3%	c	1.8%
GROUP 3	12.08	7%	10.3%	c	1.8%
GROUP 4	11.56	7%	10.3%	c	1.8%
GROUP 5	11.19	7%	10.3%	c	1.8%
GROUP 6	10.84	7%	10.3%	c	1.8%
GROUP 7	10.10	7%	10.3%	c	1.8%

HIGHWAY CONSTRUCTION CLASSIFICATIONS

WAGE GROUP 1 Handling steel and stone in connection with erection, cranes doing hook work, andymachine handing machinery, helicopters, machines similar to the above

WAGE GROUP II All types of cranes, all types of backhoes, cableways, draglines, keystones, all types of shovels, pavers 21E and over, trenching machines, gradalls, front-end loaders 3½ c.y. and over, boat captain, pippin type backhoes, tandem scrapers, tower type crane operation, erecting, dismantling, jumping or jacking, drills self-contained, (Drillmaster type), forklift (20 ft. and over), motor patrols (fine grade), batch plant with mixer, machines similar to the above

WAGE GROUP III Carryalls, scrapers, tournapulls, asphalt plant engineers, roller (high grade finishing) front-end loaders under 3½ c.y., spreaders (asphalt), concrete pumps, well drillers, bulldozers and tractors, ditch witch (small trencher), motor patrols, mechanic welder, machines similar to the above

WAGE GROUP IV Conveyor loader, seaman pulverizer, ten-ton roller (grader fill stone base) concrete breaking machines, machines similar to the above

WAGE GROUP V Form line grader, fine grade machines, farm tractors, road finishing, concrete spreaders, compressors, power broom self contained, seed spreader, pumps, welding machines, tireman, power equipment, maintenance engineers (power boats), machines similar to the above

WAGE GROUP VI Fireman, Grease truck

WAGE GROUP VII Oilers and deckhands (Personnel Boats), Grease Truck Helper

MODIFICATIONS P. 15

DECISION #PA79-3009 - Mod. # 1 (44 FR 26518 - May 4, 1979) Bucks, Chester, Delaware, Montgomery & Philadelphia Counties, Pennsylvania	Basic Hourly Rates	Fringe Benefits Payments			
		H & W	Pensions	Vacation	Education and/or Appr. Tr.
Change:					
Asbestos workers					
Zone 1	$12.81	.90	1.05		.08
Bricklayers:					
New Residential					
Under 4 stories	11.23	.77	.80		.02
All other work:					
Zone 3	11.46	1.07	1.45		.02
Carpenters:					
Residential					
Under 4 stories:					
Bucks, Chester, Delaware, and Montgomery Counties	8.43	1.08	1.40		.13
Philadelphia County	10.57	2.48	1.40		.13
All other work	10.67	2.48	1.40		.13
Cement masons					
Zone 3	10.29		1.65		
Electricians					
Commercial					
Zone 1	13.45	.81	3%+.81		.27
Zone 7	11.75	.70	3%+.80		.02
Laborers:					
All other work					
Class 1	9.50	.90	.65		
Class 2	9.60	.90	.65		
Class 3	9.65	.90	.65		
Class 4	9.80	.90	.65		
Class 5	9.90	.90	.65		
Class 6	9.44	.90	.65		
Line Construction					
Zone 1					
Linemen	14.62	.45	3%		1%
Groundmen	8.77	.45	3%		1%
Winch truck operator	10.23	.45	3%		1%
Plasterers					
Zone 2	10.31		1.65		
Plumbers					
Zone 3	12.87	.81	1.30		.14
Zone 1	13.27	.81	1.30		.14
Sheet metal workers					
Zone 1 (Commercial)	12.65	1.47	1.18		.03

MODIFICATIONS P. 16

DECISION #PA79-3009 - Mod. # 1, Cont'd.

	Basic Hourly Rates	Fringe Benefits Payments			
		H & W	Pensions	Vacation	Education and/or Appr. Tr.
Roofers:					
All other work					
Zone 1					
Composition, damp, and waterproofers	13.47	1.40	.95	e	
Roofers, Assistant	6.50	1.40	.95	e	
Sheet metal workers					
Residential					
Zone 2	7.08	1.02	.165		
Soft floor layers					
All other work	9.58	2.18	1.40		.13
Steamfitters:					
Zone 1	13.16	.80	1.45		.11
POWER EQUIPMENT OPERATORS:					
GROUP 1	13.17	7%	10.3%	a	1.8%
GROUP 2	12.91	7%	10.3%	a	1.8%
GROUP 3	12.04	7%	10.3%	a	1.8%
GROUP 4	11.83	7%	10.3%	a	1.8%
GROUP 5	11.52	7%	10.3%	a	1.8%
GROUP 6	11.35	7%	10.3%	a	1.8%
GROUP 7	10.84	7%	10.3%	a	1.8%
GROUP 8	10.10	7%	10.3%	a	1.8%

Decision #PA79-3009 - Mod. #1 Cont'd.

MODIFICATIONS P. 17

POWER EQUIPMENT OPERATORS CLASSIFICATIONS

GROUP - I Handling steel and stone in connection with erection, cranes doing hook work, any machine handling machinery, cable spinning machine, helicopters, machines similar to above
GROUP - II All types of cranes, all types of backhoes, cableways, draglines, keystones, all types of shovels, derricks, trench shovels, trenching machines, pippin type backhoes, hoist with two towers, pavers 21E and over, all types overhead cranes, building hoists - double drum (unless used as single drum) mucking machines in tunnel, gradalls, front-end loaders 3½ cu. yd. 7 over boat captain, tandem, scrapers, tower type crane operation, erecting, dismantling, jumping or jacking, drills self-contained (drillmaster type) fork lift (20 ft. and over), motor patrols (fine grade) batch plant with mixer, machine similar to the above
GROUP III - Conveyors (except building conveyors) building hoists (single drum) scrapers and tournapulls, asphalt plant engineers, roller (high grade finishing) frone-end loaders under 3½ cu. yds. mechanic-welder, spreaders, high or low pressure boilers, concrete pumps, well drillers, front lift trucks of all types bulldozers and tractors, ditch witch type trencher, motor patrol, machines similar to the above
GROUP - IV Concrete breaking machines rollers, machines similar to the above
GROUP - V Seaman pulverizing mixer, fireman on power equipment maintenance engineer (power boat) machines similar to the above
GROUP - VI Conveyors (building) welding machines, heaters, wellpoints, compressors, farm tractors, fine grade machines, form line graders, road finishing machines, pumps, power broom (self-contained), seed spreader, machines similar to the above
GROUP VII - Fireman, grease truck
GROUP VIII - Oilers and deck hands (personnel boats) grease truck helper

MODIFICATIONS P. 18

DECISION #TX79-4003 - Mod. #5 (44 FR 1671 - January 5, 1979) Brazos County, Texas	Basic Hourly Rates	Fringe Benefits Payments H & W	Pensions	Vacation	Education and/or Appr. Tr.
Change:					
Power Equipment Operators:					
Group 1	$11.94	.75	1.00		.07
Group 2	10.08	.75	1.00		.07
Group 3	9.45	.75	1.00		.07
DECISION #TX79-4004 - Mod. #5 (44 FR 1673 - January 5, 1979) El Paso County, Texas					
Change:					
Carpenters:					
Carpenters	8.74	.77			.03
Millwrights & piledriversmen	9.29	.77			.03
Stationary radial power saw op.	8.92	.77			.03
Floor layers	8.74	.77			.03
Electricians - Electricians	9.85	.45	3%		1/10%
Cable splicers	10.10	.45	3%		1/10%
Laborers - Group 1	6.71	.63	.40		
Group 2	6.46	.63	.40		
Group 3	6.21	.63	.40		
Group 4	6.09	.63	.40		
Group 5	5.96	.63	.40		
Group 6	5.81	.63	.40		
DECISION #TX79-4011 - Mod. #5 (44 FR 1683 - January 5, 1979) Galveston & Harris Cos., Texas					
Change:					
Laborers - Group 1	8.57	.47	.80		.02
Group 2	8.755	.47	.80		.02
Group 3	8.865	.47	.80		.02
Group 4	9.16	.47	.80		.02
Group 5	8.705	.47	.80		.02
Group 6	9.025	.47	.80		.02
Painters:					
Galveston Co. - Group 1	11.01	.70	.55	1.00	.035
Group 2	11.26	.70	.55	1.00	.035
Group 3	10.255	.70	.55	1.00	.035
Power Equipment Ops. - Group 1	11.94	.75	1.00		.07
Group 2	10.08	.75	1.00		.07
Group 3	9.45	.75	1.00		.07
Group 4	9.24	.75	1.00		.07

MODIFICATIONS P. 19

DECISION #TX79-4050 - Mod. #2 (44 FR 16334 - March 16, 1979) Bell, Bosque, Coryell, Falls, Hill & McLennan Cos., Texas	Basic Hourly Rates	Fringe Benefits Payments H & W	Pensions	Vacation	Education and/or Appr. Tr.
Change:					
Building Construction:					
Plumbers & pipefitters:					
Zone 1	$10.17	.30	.40		.04
Zone 2	10.88	.30	.40		.04
Incidental Paving & Utilities:					
Plumbers (Bell & Coryall Cos.):					
Zone 1	10.17	.30	.40		.04
Zone 2	10.88	.30	.40		.04

SUPERSEDEAS DECISION

STATE: Colorado COUNTY: Statewide
DECISION NUMBER: CO79-5116 DATE: Date of Publication
Supersedes Decision No. CO78-5132 dated November 17, 1978, in 43 FR 53966.
DESCRIPTION OF WORK: Heavy and Highway Projects

	Basic Hourly Rates	Fringe Benefits Payments H & W	Pensions	Vacation	Education and/or Appr. Tr.
CARPENTERS:					
Carpenters					
*Zone I	$ 9.87	.90	.95	.85	.07
*Zone II	10.37	.90	.95	.85	.07
Underground Carpenters					
*Zone I	10.07	.90	.95	.85	.07
*Zone II	10.57	.90	.95	.85	.07
Working on Creosoted coated lumber or other toxic materials, Sawmen continuously assigned to 1½ HP saw at job site.	10.17	.90	.95	.85	.07
High work 35' above ground or above permanent floor or deck	10.22	.90	.95	.85	.07
CEMENT MASONS:					
*Zone I	10.01	.55	1.25	.30	.12
*Zone II	10.51	.55	1.25	.30	.12
ELECTRICIANS:					
Adams, Arapahoe, Boulder, Clear Creek, Denver, Douglas, Eagle, Gilpin, Grand, Jefferson, Lake, Larimer, Logan, Morgan, Phillips, Sedgwick, Summit, Washington, Weld and Yuma Counties					
Electricians	13.00	.70	3%+.75		3/10%
Cable Splicers	13.25	.70	3%+.75		3/10%
Delta, Dolores, Garfield, Gunnison, Hinsdale, La Plata, Mesa, Moffat, Montezuma, Montrose, Ouray, Pitkins, Rio Blanco, Routt, San Juan and San Miguel Counties					
Electricians	12.40	.72	3%+.25		1%
Cable Splicers	12.65	.72	3%+.25		1%

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DECISION NO. CO79-5116 Page 2

	Basic Hourly Rates	Fringe Benefits Payments			
		H & W	Pensions	Vacation	Education and/or Appr. Tr.
ELECTRICIANS: (Cont'd)					
Alamosa, Archuleta, Baca, Bent, Chaffee, Crowley, Custer, Fremont, Huerfano, Kiowa, Las Animas, Mineral, Otero, Prowers, Pueblo and Rio Grande Counties					
Zone 1 (Within 12 miles from Pueblo Main Post Office)					
Electricians	$ 11.40	.72	3%+.80		1½%
Cable Splicers	12.54	.72	3%+.80		1½%
Zone 2 (12 to 20 miles from Pueblo Main Post Office)					
Electricians	11.80	.72	3%+.80		1½%
Cable Splicers	12.94	.72	3%+.80		1½%
Zone 3 (30 to 40 miles from Pueblo Main Post Office)					
Electricians	12.15	.72	3%+.80		1½%
Cable Splicers	13.29	.72	3%+.80		1½%
Zone 4 (40 miles and over from Pueblo Main Post Office)					
Electricians	13.28	.72	3%+.80		1½%
Cable Splicers	14.42	.72	3%+.80		1½%
Electricians on electrical contracts less than $20,000 in Zones 3 and 4	9.65	.72	3%+.80		1½%
Cheyenne, Elbert, El Paso, Kit Carson, Lincoln, Park, and Teller Counties					
Electricians	11.50	.72	3%+.50		.015
IRONWORKERS:					
Structural, Ornamental, and Reinforcing	11.60	1.04	1.25		.12
LINE CONSTRUCTION:					
Cable Splicer	12.78	.45	3%+.35		3/4%
Journeyman Lineman Cableman	11.97	.45	3%+.35		3/4%
Journeyman Lineman	11.90	.45	3%+.35		3/4%
Line Equipment Maintenance Man	10.13	.45	3%+.35		3/4%

DECISION NO. CO79-5116 Page 3

	Basic Hourly Rates	Fringe Benefits Payments			
		H & W	Pensions	Vacation	Education and/or Appr. Tr.
LINE CONSTRUCTION: (Cont'd)					
Line Equipment Operator, Class 1: Crawler Equipment, Wire equipment Pullers, Tensioners, Cranes, over 8 tons, Heavy Pole Trucks (such as diesel, twin screws), All Bucket Trucks - 75 ft. reach and over, Trenchers, 4 ft. and over and Backhoes	$ 10.13	.45	3%+.35		3/4%
Line Equipment Operator, Class 2: Trenchers under 4 ft. depth, Hydro Cranes, under 8 tons, Bobcats, Trucks under 3 tons, G.T.M. Classification	9.05	.45	3%+.35		3/4%
Groundman	8.35	.45	3%+.35		3/4%
PAINTERS:					
Adams, Arapahoe, Boulder, Clear Creek, Delta, Denver, Douglas, Eagle, Elbert, Garfield, Gilpin, Grand, Gunnison, Jackson, Jefferson, Lake, Larimer, Logan, Mesa, Moffat, Montrose, Morgan, Park (Northern half), Phillips, Pitkin, Rio Blanco, Routt, Sedgwick, Summit, Washington, and Weld Counties					
Brush	11.15	.70	1.00		.07
Spray, Swing Stage	11.75	.70	1.00		.07
Baca, Bent, Crowley, Custer, Huerfano, Kiowa, Las Animas, Otero, Prowers and Pueblo Cos.					
Brush	8.82	.50	.50		.04
Steel	9.32	.50	.50		.04
Spray	9.82	.50	.50		.04
Steel Spray	10.32	.50	.50		.04

DECISION NO. CO79-5116 Page 4

	Basic Hourly Rates	Fringe Benefits Payments			
		H & W	Pensions	Vacation	Education and/or Appr. Tr.
PAINTERS: (Cont'd)					
Archuleta, Chaffee, Cheyenne, Dolores, El Paso, Fremont, Hinsdale, Kit Carson, La Plata, Lincoln, Mineral, Montezuma, Ouray, Park (Southern half), Rio Grande, Saguache, San Juan, San Miguel and Teller Counties					
Brush	$ 9.69	.70	.50		.04
Spray	10.44	.70	.50		.04
Steel	10.19	.70	.50		.04
Steel Spray	10.94	.70	.50		.04

DECISION NO. CO79-5116 Page 5

	Basic Hourly Rates	Basic Hourly Rates	Fringe Benefits Payments			
			H & W	Pensions	Vacation	Education and/or Appr. Tr.
LABORERS	Zone 1	Zone 2				
Group 1	$ 8.14	$ 8.64	.55	.65	.10	.05
Group 2	8.24	8.74	.55	.65	.10	.05
Group 3	8.54	9.04	.55	.65	.10	.05
Group 4	8.69	9.19	.55	.65	.10	.05
Group 5	8.89	9.39	.55	.65	.10	.05
LABORERS (Tunnels)						
Group 1	8.14	8.64	.55	.65	.10	.05
Group 2	9.04	9.54	.55	.65	.10	.05
Group 3	9.14	9.64	.55	.65	.10	.05
Group 4	9.22	9.72	.55	.65	.10	.05
Group 5	9.29	9.79	.55	.65	.10	.05
Group 6	9.94	10.44	.55	.65	.10	.05
(Shafts, Raises, Missile Silos and all underground work other than Tunnels)						
Group 1	9.14	9.64	.55	.65	.10	.05
Group 2	9.29	9.79	.55	.65	.10	.05
Group 3	9.39	9.89	.55	.65	.10	.05
Group 4	9.67	10.17	.55	.65	.10	.05
Group 5	9.72	10.22	.55	.65	.10	.05
Group 6	10.07	10.57	.55	.65	.10	.05

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LABORERS

Group 1: Minimum Labor, including Caissons to 8'; Carrying Reinforcing Rods; Work on Cross Culverts, connections and side drains in connection with highway work, whether corrugated metal or concrete pipe; Fence Erectors; Metal Mesh; Dowel Bars; Tie Bars and Chairs in concrete paving; Flagman; Nursery Man including seeding, mulching and planting of trees, shrubs and flowers; Stake Chaser; Gabion Baskets and Reno Mattressess; Pipe plants and yards, stringing of pipe or skids, handling and signaling on pipe line work

Group 2: Chuck Tenders, Nippers, Core and Diamond Drill Helpers, Powdermen Helepr; Bot Asphalt Labor, Rakers, Boxtenders, Asphalt Curb Machines, Potmen (not mechanical); Multi-plate Culvert Pipe; Air, gas and electrical tool operators; Barco Hammers; Spaders, electric hammers; Air Tampers; Cutting Torches on demolition work; Caissons 8' to 12'; Cofferdams; Power operated Concrete Buggies; Operators of concrete saws on pavement (other than gang saws); Timber and Chain Saws; Stresser or Stretcherman on Post Tension or Prestressed Concrete on or off jobsite; Tool Room Man and Checkers; Cement Finisher Helper; Sand Blaster; Sand Blaster Helper; Concrete processing material; Monitor; Spotters; Signalmen; Dumpmen; Transverse Concrete Conveyor Operator; Mechanical Grouters; Boring Machine (air hydraulic); Automatic Concrete Power Curbing Machine; Jack Hammer; Vibrators; Paving Breakers; Frostproofing; Any laborer performing bridge work over 40' above the ground or above a floor and working from a Bos'n Chair; Swing Stage, Life Belt or Block and Tackle as safety requirement. (All lines and safety belts used shall be of a type approved by State and Federal laws); Gunniting and Shotcrete Helpers; Caissons over 12'; Scalers; Timbermen, underpinning and shoring; Form-setters and/or stringmen on roads, highways, streets and airport runways; Distribution, placing and hooking of landing mats; Bull Float (hand operated) and Center Expansion Machines; Grade Checkers if required by employer; Pipe Wrappers; Dopers; Jeep Holiday Detector Men, Bandage Makers; Laborers working in trenches on all pipe lines, sewer, water, gas, oil, telephone conduit, Pen Stock, Siphons, drainage lines, Caulkers, Yarners, Fine Graders, air, gas, electric and hydraulic tools, Boring Machines, Hydraulic Jacks, Drills, Tampers, and similar operated tools; Wiping of Joint Concrete Pipe, inside and out; Labor, applicable to pipe coating or wrapping, plants and yards; Rammelers of pipe, inside and out

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LABORERS (Cont'd)

Group 3: Powdermen and Blasters; Gunnite Nozzlemen; Shotcrete Operator; Pipe Layer on truck pipe lines in connection with highway work; Relining Pipe; Mixer Man; Pipelayer; Hydro-broom

Group 4: Wagon Drills and Air Tracks; Jack Hammer Operators in Caissons over 12'; Bellers and Stemmen; Licensed Powdermen; Diamond and Core Drills powered by air

Group 5: Any work, other than on bridges, performed by Laborers working from a Bos'n Chair, Swinging Stage, Life Belt or Block and Tackle as a safety requirement. All lines and safety belts used shall be of a type approved by State and Federal laws; Pugs and Galleys in Dams

LABORERS
(Tunnels)

Group 1: Outside Labor

Group 2: Minimum Tunnel Labor, Dry Houseman

Group 3: Cable or Hose Tenders, Chuck Tenders, Concrete Laborers, Dumpmen, Whirley Pump Operators

Group 4: Helpers on Shotcrete, Gunniting and Sand Blasting; Helpers, Core and Diamond Drills; Pot Tenders

Group 5: Cement Finisher Helper, applying or concrete processing materials

Group 6: Collapsible from movers and setters, Miners, Machine Men and Bit Grinders, Nippers, Powdermen and Blasters, Reinforcing Steel Setters, Timbermen (steel or wood tunnel support, including the placement of sheeting when required) and all cutting and welding that is incidental to the Miner's work; Tunnel Liner Plate Setters; Vibrator Men, internal and external; Unloading, stopping and starting of Moran Agitator Cars; Diamond and Core Drill Operators; Cement Finisher (underground); Shotcrete Operator; Gunnite Nozzlemen, Sand Blasters, Pump Concrete placement Men

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LABORERS (Cont'd)
(Shafts, Raises, Missile Silos and all Underground Work other than Tunnels)

Group 1: Laborers, Topmen, Bottommen and Cagers

Group 2: Chucktenders, Concrete Laborers, Whirley Pump Operators

Group 3: Helpers in Shotcrete Gunniting and Sand Blasting; Helpers on Core and Diamond Drills; Pot Tenders; Cement Finisher Helpers; applying of Concrete processing material

Group 4: Collapsible form movers and setters, Miners, Machine Men and Bit Grinders, Nippers, Powdermen and Blasters, Reinforcing Steel Setters, Timbermen (steel or wood tunnel support, including the placement of sheeting when required) and all cutting and welding that is incidental to the Miner's work; Liner plate Setters; Vibrator Men, internal and external

Group 5: Diamond and Core Drill Operators; Cement Finisher (underground); Gunnite Nozzlemen; Shotcrete Operators; Sand Blasters and Pump Concrete Placement Men

Group 6: Any employee performing work underground from a Bos'n Chair, Swinging Stage, Life Belt or Block and Tackle as a safety requirement. (All lines and safety belts used shall be of a type approved by State and Federal laws)

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	Basic Hourly Rates	Basic Hourly Rates	Fringe Benefits Payments			
			H & W	Pensions	Vacation	Education and/or Appr. Tr.
POWER EQUIPMENT OPERATORS (Other than for work in Tunnels, Shafts and Raises)	ZONE 1*	ZONE 2*				
Group 1	$ 9.25	$10.00	.79	$1.00	.45	.07
Group 2	9.60	10.35	.79	1.00	.45	.07
Group 3	9.95	10.70	.79	1.00	.45	.07
Group 4	10.10	10.85	.79	1.00	.45	.07
Group 5	10.25	11.00	.79	1.00	.45	.07
Group 6	10.40	11.15	.79	1.00	.45	.07
(For work in Tunnels, Shafts, and Raises)						
Group 1	9.40	10.15	.79	1.00	.45	.07
Group 2	9.75	10.50	.79	1.00	.45	.07
Group 3	9.85	10.60	.79	1.00	.45	.07
Group 4	10.10	10.85	.79	1.00	.45	.07
Group 5	10.25	11.00	.79	1.00	.45	.07
Group 6	10.65	11.40	.79	1.00	.45	.07

POWER EQUIPMENT OPERATORS
(Other than for work in Tunnels, Shafts and Raises)

Group 1: Air Compressor; Asphalt Screed; Oiler; Brakeman; Drill Operator - smaller than Williams MF and similar; Helper to Heavy Duty Mechanic and/or Welder; Operators of 5 or more light plants, Welding Machines, Generator, single unit conveyor; Pumps; Vacuum Well Point System; Tractor, under 70 HP with or without attachments; Rodman, Chainman; Grade Checker

Group 2: Conveyor, handling building materials; Ditch Witch and similar Trenching Machine; Fireman or Tank Heater, road; Forklift; Haulage Motor Man; Pugmill; Portable; Screening Plant with or without a spray bar; Screening Plants, with classifier; Self-propelled Roller, rubber-tired under 5 tons

POWER EQUIPMENT OPERATORS (Cont'd)
(Other than for work in Tunnels, Shafts and Raises)

Group 3: Asphalt Plant; Backfiller, Bituminous Spreader or Laydown Machine; Cableway Signalman; Caisson Drill; Williams MF, similar and larger; C.M.I. and similar; Concrete Batching Plants; Concrete Finish Machine; Concrete Gang Saws on Concrete paving; Concrete Mixer, less than 1 yd.; Concrete Placement Pumps, under 8 inches; Distributors, Bituminous Surfaces; Drill, Diamond or Core; Drill Rigs, rotary, churn, or cable tool; Elevating Graders, Equipment Lubricating and service Engineer; Engineer Fireman; Grout Machine; Gunnite Machine; Hoist, 1 drum; Hydraulic Backhoes, wheel mounted under 3/4 yd.; Loader, Barber Green, etc.; Loader up to and including 6 cu. yds.; Machine Doctor; Mechanic; Motor Grader/Blade, rough; Road Stabilization Machine; Rollers, self-propelled, all types over 5 tons; Sandblasting Machine; Single unit portable crusher, with or without washer; Tie Tamper, wheel mounted; Tractor, 70 HP and over with or without attachments; Trenching Machine Operator; Welder; Winch on truck; Instrument Man

Group 4: Cable operated Crane, track mounted; Cable operated power Shovels, Draglines, Clamshells, and Backhoes, 5 cu. yds. and under; Concrete Mixer over 1 cu. yd.; Concrete Paver 34E or similar; Concrete Placement Pumps, 8 inches and over; Crane, 50 tons and under; Hoist, 2 drums; Hydraulic Backhoe, 3/4 yd. and over; Loader, over 6 cu. yds.; Mechanic-welder, heavy duty; Mixer Mobile; Motor Grader/blade, finish; Multiple unit portable Crusher, with or without washer; Piledriver; Scrapers, single bowl under 40 cu. yds.; Self-propelled Hydraulic Crane; Tractor with sideboom; Truck mounted Hydraulic Crane

Group 5: Cable operated power Shovels, Draglines, Clamshells and Backhoes over 5 cu. yds.; Crane, over 50 tons carrier mounted; Derrick; Electric Rail type Tower Crane; Hoist, 3 drum or more; Quad Nine and similar push unit; Scrapers - single bowl including pups 40 cu. yds. and tandem bowls and over

Group 6: Cableway; Climbing Tower Crane; Crawler or truck mounted Tower Crane; Wheel Excavator, Tower Crane, truck type

(For Work in Tunnels, Shafts and Raises)

Group 1: Brakeman

Group 2: Motorman

Group 3: Compressor (900 CFM and over) serving Tunnels, Shafts and Raises

Group 4: Air Tractors; Grout Machine; Gunnite Machine; Jumbo Form; Mechanic Welder

Group 5: Concrete Placement Pumps, 8" and over discharge; Mechanic-welder, heavy duty; Mucking Machines and Front End Loaders, under-ground; Slusher; Mine Hoist Operator

Group 6: Mole

TRUCK DRIVERS	Basic Hourly Rates	Basic Hourly Rates	Fringe Benefits Payments			
			H & W	Pensions	Vacation	Education and/or Appr. Tr.
	ZONE 1*	ZONE 2*				
Group 1	$ 8.78	$ 9.28	.84	.63	.30	
Group 2	8.88	9.38	.84	.63	.30	
Group 3	8.98	9.48	.84	.63	.30	
Group 4	9.03	9.53	.84	.63	.30	
Group 5	9.08	9.58	.84	.63	.30	
Group 6	9.13	9.63	.84	.63	.30	
Group 7	9.18	9.68	.84	.63	.30	
Group 8	9.23	9.73	.84	.63	.30	
Group 9	9.33	9.83	.84	.63	.30	
Group 10	9.38	9.88	.84	.63	.30	
Group 11	9.48	9.98	.84	.63	.30	
Group 12	9.63	10.13	.84	.63	.30	
Group 13	9.68	10.18	.84	.63	.30	
Group 14	9.78	10.28	.84	.63	.30	
Group 15	9.88	10.38	.84	.63	.30	
Group 16	9.98	10.48	.84	.63	.30	
Group 17	10.08	10.58	.84	.63	.30	
Group 18	10.28	10.78	.84	.63	.30	

TRUCK DRIVERS

Group 1: Pickups; Helpers; Scalemen; Checkers; Spotters; Dumpmen

Group 2: Dump Trucks, to and including 6 cu. yds.; Sweepers; Flat Rack, single axle; Liquid and Bulk Tankers, single axle; Warehouse men; Washers; Greasemen; Servicemen; Ambulance Drivers

Group 3: Dump Trucks, over 6 cu. yds. to and including 14 cu. yds.; Flat Rack, tandem axle; Battery Men; Mechanics' Helpers; Material Checkers; Cardex Men; Expeditors; Man Haul Shuttle Truck or Bus

Group 4: Straddle Truck; Lumber Carrier; Liquid and Bulk, Tankers, tandem axle

Group 5: Fork Lift Driver; Fuel Truck; Grease Truck; Combination Fuel and Grease

Group 6: Distributor Truck Driver; Cement Mixer, Agitator Truck to and inlcuding 10 cu. yds.; Liquid and Bulk Tankers, semi or combination

Group 7: Multi-purpose Truck; Speciality and Hoisting

Group 8: Dump Trucks, over 14 cu. yds. to and including 29 cu. yds.; High Boy, Low Boy, Floats, semi; Cab operated Distributor Truck Driver, semi; Liquid and Bulk Tankers, Euclid, Electric or similar; Truck Drivers; Dumptor type Youngbuggy, Jumbo and similar type equipment

Group 9: Truck Driver, Snow Plow

Group 10: Cement Mixer, Agitator Truck, over 10 cu. yds., to and including 15 cu. yds.

Group 11: Dump Trucks, over 29 cu. yds. to and including 39 cu. yds.

Group 12: Cement Mixer, Agitator Truck, over 15 cu. yds.

Group 13: Dump Trucks, over 39 cu. yds. to and including 54 cu. yds.; Tireman

Group 14: Mechanic

Group 15: Dump trucks, over 54 cu. yds. to and including 79 cu. yds.

Group 16: Heavy Duty Diesel, Mechanics, Body Men, Welders or Combination Men

Group 17: Dump Trucks, over 75 cu. yds. to and including 104 cu. yds.

Group 18: Dump Trucks, over 104 cu. yds.

ZONE DESCRIPTION
FOR
CARPENTERS

Counties entirely within Zone 1:

Adams	Crowley	Gilpin	Morgan
Alamosa	Custer	Huerfano	Otero
Arapahoe	Delta	Jefferson	Phillips
Archuleta	Denver	La Plata	Prowers
Bent	Douglas	Lake	Pueblo
Boulder	Eagle	Larimer	Rio Grande
Chaffee	El Paso	Las Animas	Sedgwick
Clear Creek	Elbert	Logan	Teller
Conejos	Fremont	Mesa	Weld
Costilla	Garfield	Montezuma	

Counties entirely within Zone 2:

Baca	Jackson	Moffat	Routt
Cheyenne	Kiowa	Ouray	San Juan
Dolores	Kit Carson	Park	San Miguel
Grand	Lincoln	Pitkin	Summit
Gunnison	Mineral	Rio Blanco	Yuma
Hinsdale			

Legal description of the portions of Montrose, Saguache and Washington Counties which are included within Zone 1, as follows:

All of Montrose County lying Northerly of the North Line of Ouray County and said North Line extended West to the Township Line between R11W and R12W, said part being East of said Township Line of the New Mexico Principal Meridian, and the Eastern portion of Saguache County; from Highway 285 to the town of Saguache, and Highway 114 to the County Line, and all of Washington County lying North of the 40°00'00" Latitude base line.

Legal description of the portions of Montrose, Saguache and Washington Counties which are included within Zone 2, as follows:

All of Montrose County except that part lying Northerly of the North Line of Ouray County and said North Line extended West to the Township Line between R11W, and R12W, said point being East of said Township Line of the New Mexico Principal Meridian and the Western portion of Saguache County; from Highway 285 to Town of Saguache and Highway 114 to County Line, and all of Washington County lying South of the 40°00'00" Latitude base line.

LABORERS - Zone Descriptions

Zone 1: The area encompassed by 15 driving miles from the main Post Office at Craig, Steamboat Springs, and Meeker. Also included are all other Counties not outlined in Zone 2.

Zone 2: The Counties of Jackson, Moffat, Rio Blanco and Routt.

DECISION NO. CO79-5116

ZONE DESCRIPTIONS
Cement Masons, Power Equipment Operators and Truck Drivers

A. Counties entirely within Zone 1:

Alamosa	Custer	Huerfano	Otero
Archuleta	Delta	Jefferson	Phillips
Bent	Denver	La Plata	Prowers
Boulder	Douglas	Larimer	Pueblo
Chaffee	El Paso	Logan	Rio Grande
Clear Creek	Fremont	Mesa	Sedgwick
Conejos	Garfield	Montezuma	Teller
Costilla	Gilpin	Morgan	Weld
Crowley			

B. Counties entirely within Zone 2:

Baca	Jackson	Moffat	Saguache
Cheyenne	Kiowa	Ouray	San Juan
Dolores	Kit Carson	Park	San Miguel
Grand	Lake	Pitkin	Summit
Gunnison	Lincoln	Rio Blanco	Yuma
Hinsdale	Mineral	Routt	

C. Legal description of the portions of Adams, Arapahoe, Eagle, Elbert, Las Animas, Montrose and Washington Counties which are included within Zone 1, as follows:
All of Adams, Arapahoe, Elbert and Las Animas Counties lying west of the Township line between R59W and R60W of the 7ty Guide Meridian West; and all of Eagle County lying west of the Township line between R80W and R81W of the 10th Guide Meridian West. All of Montrose County lying East of said Township line of the New Mexico Principal Meridian, and all of Washington County lying North of the 40°00'00" Latitude Base Line.

D. Legal description of the portions of Adams, Arapahoe, Eagle, Elbert, Las Animas, Montrose and Washington Counties which are included within Zone 2, as follows:
All of Adams, Arapahoe, Elbert and Las Animas lying East of the Township Line between R59W and R60W of the 7th Guide Meridian West, and all of Eagle County lying East of the Township Line between R80W and R81W of the 9th Guide Meridian West and all of Montrose County except that part lying Northerly of the North line of Ouray County and said North line extended West of the Township line between R11W and R21 W, said point being East of said Township line of the New Mexico Principal Meridian and all of Washington County lying South of the 40°00'00" Latitude Base Line.

SUPERSEDEAS DECISION

STATE: Iowa
DECISION NO. IA79-4064
COUNTY: Statewide except Scott County
DATE: Date of Publication
Supersedes Decision No. IA78-4027, dated April 7, 1978, in 43 FR 14855
DESCRIPTION OF WORK: Heavy and Highway Construction (does not include building structures in rest area projects and work on or pertaining to the Mississippi or Missouri Rivers

	Basic Hourly Rates	Fringe Benefits Payments: H & W	Pensions	Vacation	Education and/or Appr. Tr.
CITY OF COUNCIL BLUFFS					
Carpenters & Piledrivermen	10.21	.67	.55		.05
Cement Masons	10.30	.67	.60		
Laborers:					
Group I	7.87	.60	.45		.05
Group II	7.47	.60	.45		.05
Group III	7.52	.60	.45		.05
Group IV	7.41	.60	.45		.05
Group V	7.20	.60	.45		.05
Group VI	7.32	.60	.45		.05
Power Equipment Operators:					
Group I	9.15	.70	.70		.08
Group II	8.75	.70	.70		.08
Group III	8.35	.70	.70		.08
Truck Drivers:					
Single axle	8.18	.60	.50		
Tandem axle, euclids, power lift form trucks	8.24	.60	.50		
Three axle tandem	8.30	.60	.50		
Lowboys, tractor trailers, water pulls	8.38	.60	.50		
Tandem dump with auxiliary end dump trailer	8.44	.60	.50		
Lumber Carrier	8.56	.60	.50		
LINN & POLK COUNTIES AND THE CITIES OF AMES AND DUBUQUE					
Carpenters & Piledrivermen	9.42	.45	.25		
Cement Masons	9.42	.45	.25		
Laborers:					
Group I	8.61	.30	.40		.05
Group II	8.36	.30	.40		.05
Group III	8.11	.30	.40		.05
Group IV	7.96	.30	.40		.05
Group V	7.86	.30	.40		.05
Power Equipment Operators:					
Group I	9.91	.70	.70		.08
Group II	9.51	.70	.70		.08
Group III	9.11	.70	.70		.08
Truck Drivers	8.68	.45			
CITIES OF BURLINGTON AND CLINTON AND BURLINGTON ORDINANCE PLANT					
Carpenters & Piledrivermen	9.42	.45	.25		
Cement Masons	9.42	.45	.25		
Laborers:					
Group I	8.61	.30	.40		.05
Group II	8.36	.30	.40		.05

DECISION NO. IA79-4064

	Basic Hourly Rates	Fringe Benefits Payments: H & W	Pensions	Vacation	Education and/or Appr. Tr.
Laborers Cont'd:					
Group III	8.11	.30	.40		.05
Group IV	7.96	.30	.40		.05
Group V	7.86	.30	.40		.05
Power Equipment Operators:					
Group I	9.91	.70	.70		.05
Group II	9.51	.70	.70		.05
Group III	9.11	.70	.70		.05
Truck Drivers	8.68	.45			
CITY OF FORT DODGE					
Carpenters & Piledrivermen	8.78	.45	.25		
Cement Masons	8.78	.45	.25		
Laborers:					
Group I	8.26	.30	.40		.05
Group II	8.01	.30	.40		.05
Group III	7.76	.30	.40		.05
Group IV	7.61	.30	.40		.05
Group V	7.51	.30	.40		.05
Power Equipment Operators:					
Group I	9.91	.70	.70		.08
Group II	9.51	.70	.70		.08
Group III	9.11	.70	.70		.08
Truck Drivers	7.64	.45			
CITY OF IOWA CITY					
Carpenters & Piledrivermen	9.42	.45	.25		
Cement Masons	9.42	.45	.25		
Laborers:					
Group I	8.61	.30	.40		.05
Group II	8.36	.30	.40		.05
Group III	8.11	.30	.40		.05
Group IV	7.96	.30	.40		.05
Group V	7.86	.30	.40		.05
Power Equipment Operators:					
Group I	9.91	.70	.70		.08
Group II	9.51	.70	.70		.08
Group III	9.11	.70	.70		.08
Truck Drivers	8.68	.45			
CITY OF MASON CITY					
Carpenters & Piledrivermen	8.78	.45	.25		
Cement Masons	8.78	.45	.25		
Laborers:					
Group I	8.26	.30	.40		.05
Group II	8.01	.30	.40		.05
Group III	7.76	.30	.40		.05
Group VI	7.61	.30	.40		.05
Group V	7.51	.30	.40		.05

DECISION NO. IA79-4064

	Basic Hourly Rates	Fringe Benefits Payments: H & W	Pensions	Vacation	Education and/or Appr. Tr.
Power Equipment Operators:					
Group I	9.91	.70	.70		.08
Group II	9.51	.70	.70		.08
Group III	9.11	.70	.70		.08
Truck Drivers	7.64	.45			
BLACK HAWK COUNTY					
Carpenters & Piledrivermen	9.42	.45	.25		
Cement Masons	9.42	.45	.25		
Laborers:					
Group I	8.61	.30	.40		.05
Group II	8.36	.30	.40		.05
Group III	8.11	.30	.40		.05
Group IV	7.96	.30	.40		.05
Group V	7.86	.30	.40		.05
Power Equipment Operators:					
City of Waterloo:					
Group I	9.91	.70	.70		.08
Group II	9.51	.70	.70		.08
Group III	9.11	.70	.70		.08
Remainder of Black Hawk Co:					
Group I	9.91	.70	.70		.08
Group II	9.51	.70	.70		.08
Group III	9.11	.70	.70		.08
Truck Drivers	8.68	.45			
ZONE 1					
Carpenters & Piledrivermen	7.39	.20			
Cement Masons	7.39	.20			
Laborers:					
Group I	6.27	.30	.40		.05
Group II	6.00	.30	.40		.05
Group III	5.80	.30	.40		.05
Group IV	5.65	.30	.40		.05
Group V	5.55	.30	.40		.05
Group VI	5.45	.30	.40		.05
Power Equipment Operators:					
Group I	7.94	.40	.20		
Group II	7.70	.40	.20		
Group III	7.55	.40	.20		
Group IV	7.34	.40	.20		
Truck Drivers	6.60	.25			
ZONE 2					
Carpenters & Piledrivermen	6.74				
Cement Masons	6.74				

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	Basic Hourly Rates	Fringe Benefits Payments			
		H & W	Pensions	Vacation	Education and/or Appr. Tr.
Laborers:					
Group I	5.96	.20	.10		
Group II	5.42	.20	.10		
Group III	5.16	.20	.10		
Group IV	4.89	.20	.10		
Group V	4.68	.20	.10		
Group VI	4.78	.20	.10		
Power Equipment Operators:					
Group I	7.16	.40	.20		
Group II	6.73	.40	.20		
Group III	6.36	.40	.20		
Group IV	5.66	.40	.20		
Truck Drivers	5.58	.20	.05		
ZONE 3					
Carpenters & Piledrivermen	6.26				
Cement Masons	6.26				
Laborers:					
Group I	5.85	.20	.10		
Group II	5.32	.20	.10		
Group III	5.05	.20	.10		
Group IV	4.68	.20	.10		
Group V	4.35	.20	.10		
Group VI	4.19	.20	.10		
Power Equipment Operators:					
Group I	6.62	.40	.20		
Group II	6.25	.40	.20		
Group III	5.71	.40	.20		
Group IV	5.07	.40	.20		
Truck Drivers	4.89	.20	.05		
ZONE 4					
Carpenters & Piledrivermen	6.26				
Cement Masons	6.15				
Laborers:					
Group I	5.85	.20	.10		
Group II	5.31	.20	.10		
Group III	5.05	.20	.10		
Group IV	4.68	.20	.10		
Group V	4.25	.20	.10		
Group VI	4.03	.20	.10		
Power Equipment Operators:					
Group I	6.30	.40	.20		
Group II	5.93	.40	.20		
Group III	5.39	.40	.20		
Group IV	4.75	.40	.20		
Truck Drivers	4.99	.15	.05		

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	Basic Hourly Rates	Fringe Benefits Payments			
		H & W	Pensions	Vacation	Education and/or Appr. Tr.
ZONE 5					
Carpenters & Piledrivermen	6.05				
Cement Masons	6.05				
Laborers:					
Group I	5.64	.20	.10		
Group II	5.10	.20	.10		
Group III	4.84	.20	.10		
Group IV	4.46	.20	.10		
Group V	4.03	.20	.10		
Group VI	3.82	.20	.10		
Power Equipment Operators:					
Group I	6.09	.40	.20		
Group II	5.71	.40	.20		
Group III	5.18	.40	.20		
Group IV	4.54	.40	.20		
Truck Drivers	4.78	.15	.05		

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NOTE - All cities listed in this determination include all abutting municipalities.

DEFINITIONS OF ZONES

Zone 1 Pottawattamie County (area west of the eastern boundaries of Minden, York, Washington and Silver Creek Townships), Benton, Boone, Buchanan, Cedar, Clinton, Dallas, Delaware, Dubuque, Jackson, Jasper, Johnson, Jones, Madison, Marion, Marshall, Story, Warren, and Webster Counties (excluding the cities of Ames, Clinton, Council Bluffs, Dubuque, Fort Dodge, and Iowa City and their abutting municipalities).

ZONE 2 Des Moines, Louisa, nad Muscatine Counties (excluding City of Burlington and abutting municipalities and the Burlington Ordnance Plant).

ZONE 3 Allamakee, Appanoose, Bremer, Butler, Cerro Gordo, Chickasaw, Clayton, Davis, Fayette, Floyd, Franklin, Grundy, Hamilton, Hancock, Hardin, Henry, Howard, Iowa, Jefferson, Keokuk, Lee, Mahaska, Mitchell, Monroe, Poweshiek, Tama, Van Buren, Wapello, Washington, Winnebago, Winneshiek, Worth and Wright Counties (excluding City of Mason City and abutting municipalities.

ZONE 4 Adair, Adams, Audubon, Calhoun, Carroll, Cass, Clark, Crawford, Decatur, Fremont, Greene, Guthrie, Harrison, Ida, Lucas, Mills, Monona, Montgomery, Page, Ringgold, Sac, Shelby, Taylor, Union, Wayne, and Woodbury Counties, and Pottawattami County (east of Minden, York, Washington and Silver Creek Townships).

ZONE 5 Buena Vista, Cherokee, Clay, Dickinson, Emmet, Humboldt, Kossuth, Lyon, O'Brien, Osceola, Palo Alto, Plymouth, Pocahontas and Sioux Counties.

LABORERS CLASSIFICATION DEFINITIONS

PERTAINS TO: All cities (except Council Bluffs) and their abutting municipalities; Polk, Lynn and Black Hawk Counties.

GROUP I Sandblasters, powdermen; blasters; piplayers, sewer, water, telephone conduits, etc.; sewer utility man; gunnite nozzleman; diamond and core drills, powered by air, all work performed by laborers working from a boa'n chair, swinging stage, life belt, tagline or block and tackle; drill operator of air track, wagon drills and similar drills.

GROUP II Tree climber; form setters, rakers; boxtenders; asphalt curb machines; potmen, not mechanical; bull float, hand operated; scalers; timberman, underpinning and shoring; caissons over 12 ft.; grade checker and cutting torches on demolition work.

GROUP III Power buggyman; concrete and pavin' sawman; form liner, expansion joint assembler; bottom man; caulker and jointer and painter; timber and chain saw man; mechanical groutera; automatic concrete power curbing machines; stress or stretcherman on post-tension or pre-stressed concrete on or off the job; powderman helpers.

GROUP IV Form tamper; air, gas & electric tool operators, vibrators, barco hammer, paving breakers, spaders, tampers; electric drills, hammers & jack hammers; tree grounmen; chuck tenders; drill helpers; tool room men & checkers; sand blaster helper; concrete processing material & monitors; cement finisher helper; stringman on paving work.

GROUP V Fence erectors; handling & placing metal mesh, dowel bars, reinforcing bars & chairs; dumpmen & spotters; carrying reinforcing rods; corrugated culvert pipe; concrete drainage pipe; stake chaser, seeding mulching & planting trees, shrubs & flowers; water boy; common laborer; roomen; tending carpenters; hot asphalt laborer, flagman.

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PERTAINS TO: City of Council Bluffs and abutting municipalities

GROUP I Common laborers

GROUP II Towboat and dredge deckhands

GROUP III Form setters helpers

GROUP IV Rakers & screedmen on asphalt work; mortar mixers chain saw operators

GROUP V Pipelayers; Concrete saw operator

GROUP VI Form setters and precast manhole setters; inlet builder and manhole setters

PERTAINS TO ZONES 1, 2, 3, 4, & 5

GROUP I Pipe layer (utilities); sand blaster

GROUP II Form setter (structures); grade checker

GROUP III Caulker, jointer, painte, grouter & joint assembler; cure cart operator form setter (paving) & expasion joint assembler; paving sawman, power buggyman; raker

GROUP IV Air, gas & electric tool operator; cement finisher helper; concrete processing material & monitoring; stringman on paving work

GROUP V Common laborer; dump person and spotter; fence erector; scaleman; handling and placing of metal mesh, dowel bars, reinforcing bars and chairs

GROUP VI Flag person

POWER EQUIPMENT OPERATORS CLASSIFICATION DEFINITIONS

PERTAINS TO: All Cities and abutting municipalities; Polk, Linn, & Black Hawk Counties

GROUP I Power shovel, crane, backhoe & dragline; central mix plant op.; dredge engineer; dredge leverman; paver or spreader op.; hoisting eng (steel erection); motor patrol; piledriver; concrete mixer; tow or push op.; master mechanic; CMI paver; CMI subgrader or equivalent; asphalt plant; front end loader; scraper; bulldozer; push cat; tractor pulling scraper; sidebroom tractor; churn or rotary drill; trenching machine (Cleavland 80 or similar cap.); asphalt laydown; asphalt screed; asphalt heater-planer unit; asphalt roller; self propelled elevating grader or similar machine; spreader (concrete); horizontal boring machine; mechanics welders; group equipment greaser; concrete pump; self propelled curb machine

GROUP II Concrete curb breaker; concrete widening machine; pavingbreaker; barber-greene, haisa loader or similar machine; tractor pulling ripper, disc, sheepsfoot or flat roller; self-propelled sheepsfoot roller, self-propelled roller other than asphalt; distributor; screening and washing plant; self-propelled vibrating compactor; trenching machine (other than above); steel placing machine; conveyor; finishing machine (on concrete); flexplane; bull float; form grader.

GROUP III Boiler; mechnaical broom; oiler, mechanics helper, group greaser helper; farm type tractor pulling disc, harrow or roller; welding machine; pump operator other than dredge; boom & winch truck; compressor; tank car heater (combination boiler & boster); Pumps on well points & deep wells for dewatering; truck crane combination driver-oiler; concrete curbing machine; safety boat operator; batch plant (dry).

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PERTAINS TO: Zones 1, 2, 3, 4, & 5

GROUP I Power shovel, crane, backhoe, dragline, dredge engineer & leverman, hoisting engeer (steer erection) motor patrol (finish), pile driver, master mechanic, sideboom tractor, horizontal boring machine.

GROUP II Central mix plant, paver on self-propelled spreader; tow or push boat, CMI paver, subgrader or equivalent, asphalt plant, scraper over 12 c.y., bulldozer (finish) push cat, churn or rotary drill, trenching machine (Cleveland 80 or similar cap.), asphalt laydown, asphalt screed, asphalt heater-planer, concrete pump, self-propelled curb machine.

GROUP III Motor patrol (rough), front end loader (3 c.y. or over), scraper (12 c.y. & under bulldozer (rough), asphalt roller, mechanics-welders, group equipment greaser, concrete curb breaking machine, concrete widening machine, paving breaker, barber-greene - haiss loader or similar machine, crawler tractor (pulling disc, sheepsfoot, ripper or flat roller, self-propelled sheepsfoot roller, self propelled roller, distributor, screening and washing plant, self-propelled vibrating compactor, trenching machine (other than above), steel placing machine, conveyor, finishing machine (on concrete), flex plane, bull float, form grader.

GROUP IV Boiler, mechanical boom, oiler or mechanics helper or group greasers helper, farm type tractor (pulling disc, harrow or roller), welding machine, pump operator (other than dredge), boom and winch trucks, compressor, tank car heater (combination boiler and booster), pumps on well points and deep wells for dewatering, truck crane combination driver-oiler, concrete curbing machine, safetu boat, batch plant dry, spreader attachments, utility tractor with attachments.

SUPERSEDEAS DECISION

STATE: Mississippi COUNTIES: See below*
DECISION NO.: MS79-1084 DATE: Date of Publication
Supersedes Decision No. MS75-1077 dated August 22, 1975 in 40 FR 36935
DESCRIPTION OF WORK: Residential Construction Projects consisting of single family homes and garden type apartments up to and including 4 stories.

*Counties: Harrison, Pearl River, Stone, George, Jackson, and Hancock

	Basic Hourly Rates	Fringe Benefits Payments			
		H & W	Pensions	Vacation	Education and/or Appr. Tr.
Air conditioning mechanic	5.25				
Bricklayers	6.84				
Carpenters	5.47				
Drywall finisher	7.00				
Drywall hanger	7.00				
Electricians	6.50				
Insulators	4.00				
Ironworkers, reinforcing	6.00				
Laborers:					
Laborers	3.36				
Mason tenders	3.50				
Mortar mixers	3.50				
Painters, brush	5.34				
Plasterers	5.75				
Plumbers and pipefitters	5.92				
Roofers	5.00				
Sheet metal workers	4.90				
Soft floor layers	5.40				
Welders - rate for craft					
POWER EQUIPMENT OPERATORS:					
Dozer	5.75				
Trenching machine	4.50				

SUPERSEDEAS DECISION

STATE: New York COUNTIES: Bronx, Kings, Queens, New York And Richmond
DECISION NO.: NY79-3011 DATE: Date of Publication
Supersedes Decision No. NY78-3007 dated March 10, 1978 in 43 FR 10247
DESCRIPTION OF WORK: Building Construction (does not include single family homes and garden type apartments up to and including 4 stories), Heavy and Highway Construction.

	Basic Hourly Rates	Fringe Benefits Payments			
		H & W	Pensions	Vacation	Education and/or Appr. Tr.
Asbestos Workers	12.38	1.02	1.82		
Boilermakers	13.19	5%	15%	7%	.02
Bricklayers	11.25	1.27	3.68		
Carpenters, Building: Carpenters, Dock Builders, Pile-driverмen, Soft Floor Layers	11.80	1.50	1.78	.85	.04
Millwrights	12.13	1.55	1.78	.95	.02
Carpenters, Heavy: Carpenters, Dock Builders, and Piledrivermen	11.70	1.50	1.78	.91	.04
Cement Masons	11.40	1.74	1.19		.02
Divers	14.47	1.575	1.78	1.03	.05
Diver Tenders	11.08	1.575	1.78	1.03	.05
Electricians and Linemen	12.85	7%	3%+a	6%b	½%
Elevator Constructors	11.32	.745	.35+e	c+d	.02
Elevator Constructors Helpers	8.44	.745	.35+e	c+d	.02
Elevator Constructors Helpers (Probationary)	5.66				
Elevator Constructors Modernization	9.35	.495	.32+e	c+d	.02
Elevator Constructors Modernization Helpers	7.01	.495	.32+e	c+d	.02
Elevator Constructors Repair	8.50	.495	.32+e	c+m	.02
Elevator Constructors Repair Helpers	6.38	.495	.32+e	c+d	.02
Glaziers	12.20	.66	1.66	.67	.01
Ironworkers:					
Ornamental Finisher	11.03	1.48	2.55	.78	.14
Reinforcing	10.41	1.325	1.985	.75+g	.03
Structural	11.50	1.55	3.00	1.60+f	.07
Laborers:					
Asphalt Laborers	10.30	1.25	1.05	h	
Asphalt Rakers	10.56	1.25	1.05	h	
Asphalt Tampers	10.32	1.25	1.05	h	
Cement Concrete Workers	10.40	.9525	1.4525	i	
Mason Tenders	9.40	.687	1.495		
Blasters (Heavy)	12.29	1.02	1.74	1.75	
Concrete Breakers, Chippers, Jackhammers, Pneumatic Tools, Spades (Heavy)	10.82	1.02	1.74	1.75	
Drill Runner, Air Trac, Wagon Drills, (Heavy) Quarrybar	11.05	1.02	1.74	1.75	
Powder Carriers (heavy)	9.92	1.02	1.74	1.75	
Magazine Keeper (Heavy)	6.07	1.02	1.74	1.75	
Nippers	9.44	1.02	1.74	1.75	

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	Basic Hourly Rates	Fringe Benefits Payments			
		H & W	Pensions	Vacation	Education and/or Appr. Tr.
Laborers (cont'd):					
Laborers (Building & Heavy)	9.05	1.35	1.48		
Curb Setters (Highway)	12.26	1.10	1.05	h	
Laborers, Puddlers, Concrete Rakers	9.88	1.10	1.05	h	
Pavers (Highway)	12.26	1.10	1.05	h	
Rammers (Highway)	11.16	1.10	1.05	h	
Demolition:					
Barmen	9.80	8%	10%		
Barmen Helpers	9.50	8%	10%		
Plasterers Helpers (Kings)	9.70	2.80		.80	
Plasterers Helpers (Queens)	9.60	1.55		1.35	.01
Plasterers Helpers (Bronx, NY, Richmond)	8.60	.90	1.40	.35	
Lathers, Mettalic	10.79	1.325	1.985	.75+p	.03
Lathers, Nail-on (Kings, Queens)	8.40	.655	1.655	.70	.01
Lathers, Nail-on (Bronx, NY, Richmond)	8.60		.25		.01
Leadburners	10.75	.40	.25	f	.01
Marble Setters:					
Carvers	10.60	1.21	1.71	k	
Cutters and Setters	10.45	1.21	1.71	k	
Polishers	10.93	1.21	1.71	k	
Crane Operators	9.55	1.21	1.71	k	
Painters:					
Brush	9.55	8%%	5%+q	3%	
Spray, Spray Gun, Scaffold Work	11.38	8%%	5%+q	3%	
Structural Steel	11.68	11%	14%	1%	
Structural Steel Spray	12.68	11%	14%	1%	
Pointers Caulkers and Cleaners	10.17	1.10	1.87		.05
Plasterers:					
Kings	10.60	1.10		1.40	.01
Queens	10.10	1.75		1.35	.01
Bronx, NY, Richmond	10.15	1.10	1.54	.90	.01
Plumbers:					
NY, Bronx	10.55	4.70	s		
Kings, Queens	11.35	4.79+j			
Richmond	11.25	1.30+l	2.01	1.05	.30
Roofers:					
Composition, Damp, Waterproofers	9.65	1.79	2.65	.65	
Slate, Tile (Kings, Queens)	11.07	.55			
Slate, Tile (Bronx, NY, Richmond)	9.70	.50	1.40	1.60	

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	Basic Hourly Rates	Fringe Benefits Payments			
		H & W	Pensions	Vacation	Education and/or Appr. Tr.
Sheet Metal Workers	13.74	2.30	1.54		.16
Sprinkler Fitter and Steamfitters	12.33	2.75	1.12	1.00	.07
Stonemasons	11.00	.50	1.00		
Stone Derrickmen and Riggers	12.12	.98	1.01		
Terrazzo Workers	11.18	1.21	1.50		
Terrazzo Workers Helpers	9.84	1.21	1.50		
Tile Setters	10.95	1.15	.75		
Tile Setters Helpers	7.90	.50	1.27		
Timbermen (Heavy)	10.41	1.40	1.78	.70	.04
Tuckpointers:					
Sandblasters	10.02	1.05	1.82	.70	.05
Steamcleaners	9.17	1.05	1.82	.70	.05
Waterproofers	8.92	1.05	1.82	.70	.05
Truck Drivers, Building; Ready Mix Concrete, Sand, Gravel and Asphalt	9.44	.9675	1.8525	n+p	
Euclids and Turnapulls	8.825	.9675	1.8525	n+p	
4-Wheel, Hi-Lo Lift Operators	7.525	.9675	1.8525	n+p	
Euclids and Turnapulls (Heavy)	8.825	.9675	1.8525	n+p	
Welder-receive rate prescribed for craft performing operation to which welding is incidental.					

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PAID HOLIDAYS:
A-New Year's Day; B-Memorial Day; C-Independence Day; D-Labor Day; E-Thanksgiving Day; F-Christmas Day.

FOOTNOTES:

a. Employer contributes $8.00 per day to an Annuity and Security Benefit fund.

b. Holidays: A through F, Columbus Day, Washington's Birthday, Election Day.

c. Holidays: A through F, Columbus Day, Election Day, Lincoln's Birthday, Washington's Birthday, Armistice Day.

d. Employees with 6 months or more but less than 5 years service receive 2 weeks vacation, 5 or more years of service receive 3 weeks vacation.

e. Employer contributed $8.00 per day to an Annuity Fund

f. Holidays: New Year's Eve and Christmas Eve provided the employee works a full half day preceeding the holiday.

g. Work on Christmas Eve and New Year's Eve will terminate at Noon, but employee will receive a full days pay.

h. Holidays: B, C, D, E, Election Day, Columbus Day and Veterans' Day providing the employee works at least 1 day in the week in which the holiday occurs.

i. If men work the last regular work day before Christmas Day or the last regular day before New Year's Day, the work day will end at Noon, but men will be paid for a full 7 hour day; However, if men are required to work after Noon they will be paid an additional time and a half for the hours worked.

j. Employer contributes $6.00 per day to Annuity Fund

k. One half days pay for Labor Day.

l. Employer contributes $6.01 per day to Annuity Fund.

m. Employee with 6 months or more but less than 5 years service receive 2 weeks vacation, 5 or more years of service but less than 15 years service receive 3 weeks vacation, 15 or more years of service receive 4 weeks vacation.

n. Holidays: A through F, Lincoln's Birthday, Washington's Birthday, Election Day, Veterans' Day, provided the employee works 2 days in the calendar week in which the holiday falls and each remaining work day during such calendar week.

p. For each 15 days worked within the contract year an employee will receive one day's vacation with pay with a maximum vacation of 3 weeks per year.

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BUILDING CONSTRUCTION	Basic Hourly Rates	Fringe Benefits Payments			
		H & W	Pensions	Vacation	Education and/or Appr. Tr.
POWER EQUIPMENT OPERATORS:					
Double Drum Hoist	$11.66	.93	1.95	.70+a	.02
Stone Derrick, Cranes, Cherry Pickers	12.17	.93	1.95	.70+a	.02
Hoists, Fork Lifts, House Cars, Plasterer (platform machine), Plasterer Bucket, Plasterer Pump, Compressors-Welding Machines (cutting concrete-tank work), Paint Spraying, Sandblasting, and All Equipment Used For Hoisting Material	11.74	.93	1.95	.70+a	.02
Cranes: All types-crawler or truck					
100' to 149' Boom	12.67	.93	1.95	.70+a	.02
150' to 249' Boom	12.92	.93	1.95	.70+a	.02
250' to 349' Boom	13.17	.93	1.95	.70+a	.02
350' to 450' Boom	13.67	.93	1.95	.70+a	.02
Steel Erection: Three Drum Derricks Cranes, 2 Drum Derricks, Cherry Pickers	12.25	.93	1.95	.70+a	.02
Compressors, Welding Machines	11.74	.93	1.95	.70+a	.02
Tower Cranes	10.51	.93	1.95	.70+a	.02
	12.19	.93	1.95	.70+a	.02

FOOTNOTE:

A. Paid Holidays: New Year's Day, Lincoln's Birthday, Washington's Birthday, Good Friday (Iron League Only), Decoration Day, Independence Day, Labor Day, Columbus Day, Election Day, Armistice Day, Thanksgiving Day and Christmas Day providing the employee is employed during the payroll week in which the holiday occurs.

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HEAVY AND HIGHWAY CONSTRUCTION	Basic Hourly Rates	Fringe Benefits Payments			
		H & W	Pensions	Vacation	Education and/or Appr. Tr.
POWER EQUIPMENT OPERATORS:					
Class 1	$11.66	.93	1.95	.70+a	.02
Class 2	11.58	.93	1.95	.70+a	.02
Class 3	11.33	.93	1.95	.70+a	.02
Class 4	11.11	.93	1.95	.70+a	.02
Class 5	10.88	.93	1.95	.70+a	.02
Class 6	10.87	.93	1.95	.70+a	.02
Class 7	10.59	.93	1.95	.70+a	.02
Class 8	10.36	.93	1.95	.70+a	.02
Class 9	9.89	.93	1.95	.70+a	.02
Class 10					
a	12.08	.93	1.95	.70+a	.02
b	12.33	.93	1.95	.70+a	.02
c	12.58	.93	1.95	.70+a	.02
d	12.08	.93	1.95	.70+a	.02
Class 11	12.07	.93	1.95	.70+a	.02
Class 12	11.78	.93	1.95	.70+a	.02
Class 13	11.58	.93	1.95	.70+a	.02
Class 14	11.13	.93	1.95	.70+a	.02

FOOTNOTE:

a. Paid Holidays: New Year's Day, Lincoln's Birthday, Washington's Birthday, Memorial Day, Independence Day, Labor Day, Columbus Day, Election Day, Veteran's Day, Thanksgiving Day, Christmas Day, providing the employee works one day in the payroll week in which the holiday occurs.

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POWER EQUIPMENT OPERATORS
HEAVY AND HIGHWAY CONSTRUCTION

Class 1: Backhoes, Power shovels.

Class 2: Mine hoist, Cranes, etc, used as mine hoists.

Class 3: Gradalls, Ketstones, Cranes (with digging buckets including sand dock cranes, bridge cranes), Trenching machines.

Class 4: Rigs (under direction of a dockbuilder foreman), Derrick boats, Tunnel shovels, Piledrivers.

Class 5: Raise Bore Drill.

Class 6: Mucking machines, Back filling machines, Cranes, Paver dual drums.

Class 7: Elevator (manually operated), Concrete pavers, Cableways, Land Derricks, Mixers, Power Houses (which contain low pressure units).

Class 8: Power Houses (other than above), Compressors (3 or more in battery), Stone Crusher, Double Drum Hoist, Concrete pumps, Well point pumps, Tugger machines (caissons), Drilled in caissons, Soil solidification equipment, Welding machines (used for steel erection), Concrete plant, Conveyor attachment, Well Drilling machine.

Class 9: River cofferdam pumps, Welding machines, Boilers, High pressure, Compressors (portable, single or two in a battery), not over 100' apart, Concrete breaking machines, Hoists, Single drum, Load Masters, Locomotives and Dinkies over 10 tons, Mixers (concrete with loading attachment), Push button machines.

Class 10: Long Boom Land Cranes:
a---100' to 149'
b---150' to 249'
c---250' to 450'
d---350' to 450'

Class 11: Junior engineers when operating loaders rubber-tired and/or tractor type with a manufacturer's minimum rated bucket capacity of 6 cubic yards and over.

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POWER EQUIPMENT OPERATORS (CONT'D)
HEAVY AND HIGHWAY CONSTRUCTION

Class 12: Junior engineers when operating the following equipment and attachments: Scrapers, Turnapulls, Tugger hoists used exclusively for handling excavated material, Tractors (rubber tired and/or track type), Hysters and roustabout cranes, Back scratchers, Cherrypickers under 20 tons, Austin Western and machines of a similar nature, Bulldozers, Loaders rubber tired and/or tractor type with a manufacturer's minimum rated bucket capacity or less than 6 cubic yards, Conveyors, Motor Graders, Curb and Gutter Pavers and machines of a similar nature.

Class 13: Junior engineers when operating the flowing pieces of minor equipment: Tractors, Locomotives 10 tons and under, Post hole diggers, Motor Geeerators, Road Finishing machines, Mixers 16S and under with or without loading devices, Rollers 5 tons and under, Tugger hoists, Dual purpose trucks, Fork lifts, Dempster Dumpsters, Firemen tending to: Steam operated shovels, power boilers, steam operated piledrivers, steam operated derrick boats, steam operated water rigs.

Class 14: Apprentice engineers and oilers (all gasoline, electric, diesel, or air operated), Shovels, Cranes, Draglines, Backhoes, Keystones, Gradalls, Pavers, Treoching machines, Concrete pumps, Gunite machines, Compressors (3 or more in a battery), Power Houses, there duties shall be to assist the engineer in oiling, greasing and repairing of all machines, giving signals when necessary, chaining buckets and scale boxes, driving truck cranes, driving and operating fuel and grease truck.

SUPERSEDEAS DECISION

STATE: North Carolina
DECISION NUMBER: NC79-1085
Supersedes Decision No.: NC76-1073 dated July 9, 1976 in 41 FR 28469.
DESCRIPTION OF WORK: Residential Construction consisting of single family homes and garden type apartments up to and including 4 stories.

COUNTY: See below*
DATE: Date of Publication

*Counties: Craven, Carteret, Duplin Green, Johnson, Jones, Lenior, Onslow, Pamilco, and Wayne.

	Basic Hourly Rates	Fringe Benefits Payments			
		H & W	Pensions	Vacation	Education and/or Appr. Tr.
Air conditioniog mechanic	$5.00				
Bricklayers	6.50				
Carpenters	5.83				
Cement masons	5.00				
Dry wall Finishers	7.00				
Electricians	5.30				
Insulator installer	4.00				
Laborers:					
Laborers	3.00				
Masons tenders	4.00				
Mortar mixers	4.00				
Pipelayers	4.75				
Painters	5.00				
Plumbers & Pipefitters	5.00				
Roofers	5.52				
Sheet metal workers	6.00				
Soft floor layers	5.50				
Tile setters	6.50				
Truck drivers	4.00				
Welder - Rate for craft.					
POWER EQUIPMENT OPERATORS:					
Asphalt raker	4.80				
Backhoe	5.00				
Bulldozer	5.00				
Crane	6.25				
Grader	5.00				
Loader	5.00				
Paving machine op.	6.00				
Roller	4.36				
Scraper	4.50				
Tractor	4.15				

SUPERSEDEAS DECISION

STATE: Pennsylvania
Columbia, Cumberland, Dauphin, Juniata, Lackawanna, Lancaster, Lebanon, Lehigh, Luzerne, Lycoming, Monroe, Montour, Northampton, Northumberland, Perry, Pike, Schuylkill, Snyder, Sullivan, Susquehanna, Tioga, Union, Wayne, Wyoming & York
DECISION NO. PA793012
Supersedes Decision No. PA78-3090, dated October 27, 1978, in 43 FR 50357.
DESCRIPTION OF WORK: Heavy and Highway Construction.

COUNTIES: Adams, Berks, Bradford, Carbon,
DATE: Date of Publication

HEAVY & HIGHWAY	Basic Hourly Rates	Fringe Benefits Payments			
		H & W	Pensions	Vacation	Education and/or Appr. Tr.
Carpenters/Piledrivermen	9.87	.55	.65		
Ironworkers:					
Structural, Ornamental & Reinforcing:					
Adams, Cumberland, Dauphin, Lancaster, Lebanon, Lycoming, Montour, Northumberland, Juniata, Perry, Snyder, Union & York Counties	12,105	1.14	1.35		.03
Laborers:					
Asphalt, tampers, concrete pitmen, puddlers & rubbers, Highway guard rail, right of way and property line fence, Highway slab reinforcing placers, laborers, landscape, planters, seeders and arborists, magazine tenders, railroad trackmen & signalmen, leaser beam men (pipe laying, paving machine)	8.56	.40	.20		
Pneumatic and electric tool op. jackhammers, paving breakers, concrete saws, whacker vibrators, sheet hammers, steward, chain saws, pipelayers, asphalt rake, lute or screed men, concrete block layers	8.76	.40	.20		
Caisson-open air-below 8 feet, cofferdam open air-below 8 feet where excavations for circular caissons and cofferdams 8 feet and below level of natural grade adjacent to starting point, form setters (road) wagon drill diamond point drill, gunite nozzle operators	9.11	.40	.20		
Blasters	9.34	.40	.20		
Reinforcing steel placers, bonding, aligning and securing and burning and welding in conjunction with reinforcing steel	9.40	.40	.20		

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	Basic Hourly Rates	Fringe Benefits Payments			
		H & W	Pensions	Vacation	Education and/or Appr. Tr.
Laborers (Cont'd)					
Concrete surfaces	9.78	.40	.20		
Free Air Tunnels and Rock Shafts					
Outside laborers in conjunction tunnels & rock shafts	9.20	.40	.20		
Chuck tenders, muckers, nippers, miners, & drillers helpers, inside laborers	9.49	.40	.20		
Miners, drillers, blasters, pneumatic shield operators, lining, spotting & timers workmen, reinforcing steel placer placers, bonding, aligning and securing and concrete sufacers	9.97	.40	.20		
Line Construction:					
Adams, Cumberland, Dauphin, Juniata, Perry & York Counties, Pennsylvania					
Journeyman Lineman	10.76	.45	3%		.053
Experienced Winch Truck	7.49	.45	3%		.037
2nd. 1000 Hrs.	7.30	.45	3%		.036
1st. 1000 Hrs.	7.12	.45	3%		.035
Experienced Truck Driver	6.94	.45	3%		.034
2nd. 1000 Hrs.	6.76	.45	3%		.033
1st. 1000 Hrs.	6.58	.45	3%		.032
Experienced Groundman	6.40	.45	3%		.032
2nd. 1000 Hrs.	6.21	.45	3%		.031
1st. 1000 Hrs.	6.03	.45	3%		.030
Easton, Northampton County					
Journeyman Lineman	12.43	.45	.124		.062
Experienced Winch Truck	8.66	.45	.086		.043
2nd. 1000 Hrs.	8.45	.45	.084		.042
1st. 1000 Hrs.	8.24	.45	.082		.041
Experienced Truck Driver	8.03	.45	.080		.040
2nd. 1000 Hrs.	7.82	.45	.078		.039
1st. 1000 Hrs.	7.61	.45	.076		.038
Experienced Groundman	7.40	.45	.074		.037
2nd. 1000 Hrs.	7.19	.45	.071		.035
1st. 1000 Hrs.	6.98	.45	.069		.034

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	Basic Hourly Rates	Fringe Benefits Payments			
		H & W	Pensions	Vacation	Education and/or Appr. Tr.
Line Construction: (Cont'd)					
Berks, Lancaster, Lebanon, and Lehigh Counties					
Journeyman Lineman	11.46	.45	.114		.057
Experienced Winch Truck	7.98	.45	.079		.039
2nd. 1000 Hrs.	7.78	.45	.077		.038
1st. 1000 Hrs.	7.59	.45	.075		.037
Experienced Truck Driver	7.40	.45	.074		.037
2nd. 1000 Hrs.	7.20	.45	.072		.036
1st. 1000 Hrs.	7.01	.45	.070		.035
Experienced Groundman	6.82	.45	.068		.034
2nd. 1000 Hrs.	6.62	.45	.066		.033
1st. 1000 Hrs.	6.43	.45	.064		.032
Bradford, Carbon, Columbia, Lackawanna, Luzerne, Lycoming, Monroe, Montour, Northumberland, Pike, Schuylkill, Snyder, Sullivan, Susquehanna, Tioga, Union, Wayne, Wyoming, Counties, Pa.					
Journeyman Lineman	10.80	.50	.32		.08
Experienced Winch Truck	7.59	.50	.22		.05
2nd 6 months	7.41	.50	.22		.05
1st 6 months	7.21	.50	.21		.05
Experienced Truck Driver	7.43	.50	.22		.05
2nd 6 months	7.21	.50	.21		.05
1st 6 months	7.04	.50	.21		.05
Experienced Groundman	7.26	.50	.22		.05
2nd 6 months	7.04	.50	.21		.05
1st 6 months	6.82	.50	.20		.05
Power Equipment Operator Zone I (Heavy Construction)					
Group 1	12.81	7%	10.3%	a	1.8%
Group 2	12.52	7%	10.3%	a	1.8%
Group 3	11.64	7%	10.3%	a	1.8%
Group 4	10.87	7%	10.3%	a	1.8%
Group 5	10.39	7%	10.3%	a	1.8%
Group 6	9.47	7%	10.3%	a	1.8%
Group 7	13.06	7%	10.3%	a	1.8%
Group 7-A	13.31	7%	10.3%	a	1.8%
Group 7-B	13.56	7%	10.3%	a	1.8%

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	Basic Hourly Rates	Fringe Benefits Payments			
		H & W	Pensions	Vacation	Education and/or Appr. Tr.
Power Equipment Operators: Heavy Construction (Cont'd)					
Zone II					
Group 1	12.86	7%	10.3%	a	1.8%
Group 2	12.57	7%	10.3%	a	1.8%
Group 3	11.70	7%	10.3%	a	1.8%
Group 4	10.93	7%	10.3%	a	1.8%
Group 5	10.46	7%	10.3%	a	1.8%
Group 6	9.55	7%	10.3%	a	1.8%
Group 7	13.11	7%	10.3%	a	1.8%
Group 7-A	13.36	7%	10.3%	a	1.8%
Group 7-B	13.60	7%	10.3%	a	1.8%

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AREA COVERED BY POWER EQUIPMENT OPERATORS
HEAVY CONSTRUCTION

Zone - I - Lackawanna, Susquehanna, Wyoming. Pike, Wayne, Monroe, and Luzerne Counties.
Zone - II - Adams, Berks, Bradford, Carbon, Columbia, Cumberland, Dauphin, Juniata, Lancaster, Lebanon, Lehigh, Lycoming, Montour, Northampton, Nothumberland, Perry, Schuylkill, Snyder, Sullivan, Tioag, Union and York Counties.

POWER EQUIPMENT OPERATORS CLASSIFICATION DEFINITIONS

Group 1: Machines doing hook work, any machine handling machinery, cable spinning machines, helicopters, machines similar to the above.

Group 2: All types of cranes, all types of backhoes, cableways, draglines, keystones, all types of shovels, derricks, derricks, trench shovels, trenching machines, hoist with two towers, pavers 21E and over, all types ovarhes cranes, building hoists (double drum) gradalls, mucking machines in tunnel, all front end loaders 3½ c.y. and over, tandem scrapers, pippin type backhoes, boat Captains batch plant operators (concrete)drills, self-contained rotary drills, fork lifts, 20 ft. lift and over machine to the above.

Group 3: Conveyors, building hoists (singel drum) scrapers and tournapulls, spreaders, high or low pressure boilers, concrete pumps, well drillers, bulldozers and tractors, asphalt plant engineers, roller (high grade finishing), ditch witch type trencher, all loaders under 3½ cu. yds., mechanic-welders, motor patrols, drill helper-self contained rotary drills, core drill operator, forklift trucks under 20 ft. lift, machines similar to the above.

Group 4: Welding machines, well points, compressors, pumps, heraters, farm tractors, form line grader, fine grade machines, road finishing machines, concrete breaking machines, rollers, seaman pulverizing mixer, power broom, seeding spreader, tireman (for power equipment), machines similar to above.

Group 5: Fireman, grease truck

Group 6: Oilers and deck hands (personnel boats), core drill helper

Group 7: All machines with booms (including jib, mast, leads, etc.): 100 ft. and over

Group 7-A: 150 ft. and over

Group 7-B: 200 ft. and over

FOOTNOTE:
a. Paid Holidays: New Year's Day, Memorial Day, Independence Day, Labor Day, Thanksgiving Day and Christmas Day, provided the employee works the day before and after the holiday.

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Power Equipment Operators Highway Construction	Basic Hourly Rates	Fringe Benefits Payments			
		H & W	Pensions	Vacation	Education and/or Appr. Tr.
Group 1	11.26	7%	10.3%		1.8%
Group 2	10.42	7%	10.3%		1.8%
Group 3	9.91	7%	10.3%		1.8%
Group 4	9.47	7%	10.3%		1.8%
Group 5	8.92	7%	10.3%		1.8%
Group 6	11.51	7%	10.3%		1.8%
Group 6-A	11.76	7%	10.3%		1.8%
Group 6-B	12.01	7%	10.3%		1.8%

Group 1: Pile drivers or engineers working with dock builders and pile drivers. All types of cranes, all types of backhoes, draglines, keystones, all types of shovels, derricks, trench shovels, trenching machines, pavers 21E and over, gradalls, all front end loaders, 4 cu. yds, and over, tandem scrapers, Pippin type backhoes, Boat Captains, Batch plant with mixer, drill self contained (drillmaster type), CMI autograde, machines similar to above.

Group 2: Conveyor loader (EUC type), scrapers and tournapulls, spreaders, high or low pressure boilers, concrete pumps, bulldozers and tractors, asphalt plant engineers, rollers (high grade finishing), all loaders under 4 cu. yds., mechanic-welders, motor patrols, machines similar to above

Group 3: Welding machine, well points, compressors, pumps heaters, farm tractors, form line graders, Fine grade machine, ditch witch type trencher, road finishing machines, concrete breaking machines, rollers, seaman pulverizing mixer, power broom, seeding spreader, fireman - (for power equipment) conveyor loaders other than EUC type, conveyors, machines similar to above

Group 4: Fireman

Group 5: Oilers and deck hands

Group 6: On all machines with booms (including jibs, masts, leads, etc.) 100 ft. and over

Group 6-A: 150 ft. and over

Group 6-B: 200 ft. and over

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Truck Drivers:	Basic Hourly Rates	Fringe Benefits Payments			
		H & W	Pensions	Vacation	Education and/or Appr. Tr.
Class I					
Helper, stake body truck (single axle), dumpster	9.52				
Class II					
Dump trucks, tandem & batch trucks, semi-trailers, agitator mixer trucks, ready mix and dumpcrete type vehicles, asphalt distributor when used for transportation stake body truck (tandem)	9.59				
Class III					
Euclid type, off-highway equipment back or belly dump truck and double hitched equipment, straddle (ross) carrier, low-bed trailers	10.08				
Welders - Rate for Craft					

federal register

Friday
May 18, 1979

Part IV

Department of the Interior

Geological Survey

Revised Outer Continental Shelf Orders Governing Oil and Gas Lease Operations

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DEPARTMENT OF THE INTERIOR

Geological Survey

Revised Outer Continental Shelf Orders Governing Oil and Gas Lease Operations

Notice is hereby given that, pursuant to Title 30 CFR Part 250.11, the Chief, Conservation Division, U.S. Geological Survey, has approved the issuance of revisions to the Outer Continental Shelf (OCS) Orders for the following OCS Areas:

Gulf of Mexico
Pacific
Gulf of Alaska
Atlantic

Revised Area OCS Orders Nos. 1, 2, 3, 4, 5, 7, and 12 will be effective July 1, 1979. These Orders supersede the corresponding Orders currently in effect for the OCS Areas listed above.

During the development of the final version of these Orders, it was determined that the requirements for the Orders for the North, South, and Mid-Atlantic Areas were the same. Therefore, the requirements were incorporated into a single set of Atlantic Area OCS Orders.

OCS Order No. 5 supersedes the paragraphs listed below for OCS Order No. 8 for the Gulf of Mexico and for the Pacific Areas. The remainder of OCS Order No. 8 for these Areas remains in effect.

Area	Superseded Paragraphs
Gulf of Mexico	4 through 7
Pacific	2

Due to the development of the Platform Verification Program, it is necessary to revise extensively the previously published OCS Order No. 8 to reflect the implementation of the Program; therefore, a proposed revision of this Order will be published at a later date, with a solicitation for comments.

These Orders incorporate appropriate suggestions which were received in response to the solicitation for comments on the proposed National OCS Orders, which were published in the **Federal Register** on June 29, 1977, Vol. 42, No. 125, and August 25, 1977, Vol. 42, No. 165.

Due to the enactment of the OCS Lands Act Amendments of 1978, it will be necessary to review and revise existing rules and regulations relating to OCS Oil and Gas Activities. Since this review may have an impact on the concept of National OCS Orders, no further action will be taken to issue National OCS Orders at this time. During the development of National OCS Orders, the Department deferred issuing revisions to existing Area OCS Orders, pending issuance of National OCS Orders.

Many requirements were incorporated which improve the safety and antipollution precautions of the Orders. The Department has determined that it is in the public interest to incorporate these improved requirements into revised Area OCS Orders at this time. It is also recognized that some of these requirements will be reorganized and restructured when the existing regulations are revised to reflect the enactment of the Outer Continental Shelf Lands Act Amendments.

Comments were received from the following organizations:

Alaska Offshore Operators Committee
American Petroleum Institute
Atlantic Richfield Co.
Brown & Root, Inc.
California State Lands Commission
Cape May County Planning Board, New Jersey
Chevron USA, Inc.
Continental Oil Co.
State of Delaware
ENMET Corporation
Exxon Company, USA
Georgia Office of Planning and Budget
Global Marine, Inc.
Gulf Energy and Minerals Co.-USA
Herbert S. Hiller Corporation
International Association of Drilling Contractors
Interstate Natural Gas Association of America
Marathon Oil Co.
Massachusetts Secretary of Environmental Affairs
Mobil Oil Corporation
Natural Resources Defense Council, Inc.
New Jersey Department of Environmental Protection
Offshore Operators Committee
Glenn Paulson, Assistant Commissioner for Science, New Jersey
Phillips Petroleum Co.
Paul Purser, Professional Engineer
Shell Oil Co.
Sun Production Co.
Texaco, Inc.
Texas Eastern Transmission Corporation
The Offshore Co.
Trans-Continental Gas Pipeline Corp.
U.S. Coast Guard
U.S. Department of Commerce
U.S. Environmental Protection Agency
Western Oil & Gas Association
Edward Wilson, Coordinator OCS Activities, Virginia

Summaries of the comments received, discussions for accepting or rejecting the suggestions of the commenters, and the final versions of the Orders are published below. The requirements of certain paragraphs and subparagraphs are different for the various Areas due to environmental, geological, geophysical, or geographical differences. The Areas which are affected by these varying requirements are identified in the appropriate paragraphs and subparagraphs of the Orders. Booklet copies of the final Orders for each Area will contain only those requirements which are applicable to that Area.

The term OCS Area as used herein is defined as an established organizational unit of a U.S. Geological Survey Region which is under the jurisdiction of an Area Oil and Gas Supervisor. An Area is comprised of one or more Districts which are under the administration of a District Supervisor.

These Area OCS Orders are applicable to leases on the Outer Continental Shelf. The term "Outer Continental Shelf" means all submerged lands lying seaward and outside of the area of lands beneath navigable waters as defined in section 2 of the Submerged Lands Act (Public Law 31, 83rd Congress, 1st Session) and of which the subsoil and seabed appertain to the United States and are subject to its jurisdiction and control.

Where these Area OCS Orders refer to approvals or determinations by the Supervisor, these references mean the appropriate Area Oil and Gas Supervisor. In those instances where approvals or determinations are to be made by the District Supervisor, the Orders so state and the determination is made by the appropriate District Supervisor.

Departures granted under the provisions of the previous Area OCS Orders shall remain in effect, provided those specific provisions under which the departures were granted remain unrevised in these Orders.

For further information, contact Mr. Richard B. Krahl, Chief of the Branch of Marine Oil and Gas Operations, Conservation Division, U.S. Geological Survey, Mail Stop 620, Reston, Virginia 22092 (703–860–7531). The primary author of this document is Mr. Lloyd M. Tracey, OCS Orders and Standards Section, Branch of Marine Oil and Gas Operations, Conservation Division, U.S. Geological Survey (703–860–7835).

Copies of the revised Area OCS Orders and copies of maps indicating the boundaries of jurisdictional Areas are available from the following:

Conservation Manager, Gulf of Mexico Region, U.S. Geological Survey, P.O. Box 7944, Metairie, Louisiana 70011.
Conservation Manager, Eastern Region, U.S. Geological Survey, 1725 K Street, N.W., Washington, D.C. 20244.
Conservation Manager, Western Region, U.S. Geological Survey, 345 Middlefield Road, Menlo Park, California 94025.
Area Oil and Gas Supervisor, Alaska Area, Skyline Building, Room 212, 800 A St., P.O. Box 259, Anchorage, Alaska 99501.
Area Oil and Gas Supervisor, Pacific Area, 7744 Federal Building, 300 N. Los Angeles St., Los Angeles, California 90012.
Chief, Conservation Division, U.S. Geological Survey, Mail Stop 620, National Center, 12201 Sunrise Valley Drive, Reston, Virginia 22092.

Copies of the U.S. Geological Survey Standards, which are referenced in Area OCS Order No. 2, are available from the Chief, Conservation Division, at the address above.

Dated: May 11, 1979.

J. R. Balsley,
Acting Director.

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OCS Order No. 1

Title and Preamble

Comments. No comments received.

Discussion. The title of OCS Order No. 1 was revised by adding the words "Mobile Drilling Units" to be consistent with the content of the Order.

The preamble was revised to state that the Order is "issued" rather than "established," pursuant to the authority prescribed in 30 CFR 250.11. The last sentence of the preamble pertaining to departures was deleted and inserted into the last paragraph of the Order, as this is a requirement that should appear in the text of the Order rather than in the preamble. These revisions of the preamble will be incorporated into all OCS Orders.

Paragraphs Nos. 1, 3, and 4.

Comments. One commenter expressed concern that paragraphs Nos. 1 and 3 did not address the lighting of fixed structures and suggested that the marking of submerged objects should include "all-weather" aides to navigation. Another commenter suggested that marker buoys would not remain in place; therefore, the Order should require the owner to notify the U.S. Coast Guard (USCG) and the fishing and shrimping associations of the location of the object.

The USCG suggested the Order should state that the requirements for the marking of submerged objects should be determined by the U.S. Coast Guard District Commander.

Discussion. OCS Order No. 1 does not address the lighting of all surface facilities because the lighting of artificial islands and mobile drilling vessels is governed by regulations of the USCG.

Since the determination of hazards to navigation or to commercial fishing operations is a function of the U.S. Coast Guard District Commander, we have adopted the suggestion of the USCG and have revised paragraph No. 4 as follows:

"4. *Identification of Subsea Objects.* All subsea objects resulting from lease operations which are determined by the U.S. Coast Guard District Commander to be hazards to navigation or to the deployment of commercial fishing devices shall be identified by suitable aid-to-navigation devices as directed by the District Commander. Prior to the establishment of a subsea object, or in the event of the accidental submergence of an object, the owner shall inform the District Commander of the object's description, location, and unobstructed depth of water above the object's highest point. Based on this information, the District Commander will determine what marking and permits, if any, will be required (14 USC 83, 85; 43 USC 1333; 33 CFR 67). The owner shall maintain these navigational markings onsite and properly functioning at all times while the obstruction remains."

Paragraph No. 2

Comments. One commenter suggested that paragraph No. 2, "Identification of Nonfixed Platforms or Structures," should be titled "Identification of Mobile Drilling Units" because the paragraph addressed semi-submersibles, jack-ups, and drill ships. This terminology would also be consistent with proposed OCS Order No. 2 and with the U.S. Coast Guard regulations.

Discussion. The title has been revised to reflect this change.

United States Department of the Interior; Geological Survey Conservation Division

OCS Order No. 1, Effective July 1, 1979; Identification of Wells, Platforms, Structures, Mobile Drilling Units, and Subsea Objects

This Order is issued pursuant to the authority prescribed in 30 CFR 250.11 and in accordance with 30 CFR 250.37.

1. *Identification of Fixed Platforms or Structures.* Platforms and structures shall be identified at two diagonal corners by a sign with letters and figures not less than 30 centimeters (12 inches) in height with the following information:

a. The name of the lease operator.

b. The area designation based on OCS Official Protraction Diagrams.

c. The block number in which the platform or structure is located.

d. The platform or structure designation.

The information shall be abbreviated as in the following example:

The Blank Oil Company operates "C" platform on Block 999 of the Salisbury Area. The identifying sign on the platform would indicate: BOC–SAL–999–C.

2. *Identification of Mobile Drilling Units.* Floating semisubmersible platforms, bottom-setting mobile rigs, and drilling ships shall be identified by one sign with letters and figures not less than 30 centimeters (12 inches) in height affixed to the derrick so as to be visible to approaching traffic and containing the following information:

a. The name of the lease operator.

b. The area designation based on OCS Official Protraction Diagrams.

c. The block number in which the drilling unit is located.

d. The OCS lease number.

e. The well number.

3. *Identification of Wells.* The OCS lease and well numbers shall be painted on, or a sign affixed to, the wellhead of each singly completed well. In multiply completed wells, each completion shall be individually identified at the wellhead. All identifying signs shall be maintained in a legible condition.

4. *Identification of Subsea Objects.* All subsea objects resulting from lease operations which are determined by the U.S. Coast Guard District Commander to be hazards to navigation or to the deployment of commercial fishing devices shall be identified by suitable aid-to-navigation devices as directed by the District Commander. Prior to the establishment of a subsea object or in the event of the accidental submergence of an object, the owner shall inform the District Commander of the object's description, location, and unobstructed depth of water above the object's highest point. Based on this information, the District Commander will determine what marking and permits, if any, will be required (14 USC 83, 85; 43 USC 1333; 33 CFR 67). The owner shall maintain these navigational markings onsite and properly functioning at all times while the obstruction remains.

5. *Departures.* All departures from the requirements specified in this Order shall be subject to approval, pursuant to 30 CFR 250.12(b).

Approved:

Don E. Kash,

Chief, Conservation Division.

OCS Order No. 2

General Comments

Comments. No comments received.

Discussion. Due to technical and editorial revisions, the paragraph numbering has been changed in this Order. In the discussions of the revisions, the new paragraph numbering coincides with the final Order. The former paragraph numbering is shown in parentheses.

Comments. One commenter stated that "Onshore impacts from OCS Sales will be felt by the coastal communities prior to the adoption of the various state Coastal Zone Management plans." It was recommended that "A special lease stipulation should be promulgated to require OCS lessees to certify that their exploration and development plans are consistent with adopted Regional Master Plans as well as State Coastal Zone Management plans."

Discussion. Since the publishing of the proposed National OCS Orders in the **Federal Register**, revised 30 CFR 250.34 was published in the **Federal Register**, Vol. 43, No. 19, on January 27, 1978. A proposed revision to this regulation, conforming to the recently enacted 1978 amendments to the OCS Lands Act (PL95–372), was also published in the **Federal Register**, Vol. 44, No. 12, January 17, 1979. Since both of these publications require the submittal of documents certifying that exploration and development plans are consistent with approved State Coastal Zone Management programs, it is not believed that a special lease stipulation will be necessary.

Comments. One commenter stated that "The proposed order, in its entirety, appears to ignore existing API documents which outline adequate industry procedure."

Discussion. The United States Geological Survey (USGS) disagrees with this statement. Appropriate recommended practices and specifications published by the American Petroleum Institute (API) are referenced throughout the OCS Orders as well as standards established by other organizations and the USGS.

Preamble

Comments. One commenter addressed the second sentence of the first paragraph of the Preamble, stating that the phrase "* * * in effect until field rules are issued" should definitely be kept in this Order.

Discussion. The statement has been retained in the Order; however, the requirements for the establishment of field drilling rules are now incorporated into a new paragraph 10, "Field Drilling Rules." The intent of the preamble is to cite the authority for the issuance of the Orders, rather than to state specific requirements. Other requirements, pertaining to plans and applications, which were in the preamble were incorporated into the body of the Order for the same reason.

Paragraph 1

Comments. No comments received.

Discussion. The requirements for the submittal of plans and the Application for Permit to Drill, which were formerly addressed in the preamble, were incorporated into a new paragraph 1, "Plans and Applications," for the reason given in the preceding discussion. All subsequent paragraphs were renumbered.

Subparagraph 1.2

Comments. No comments received.

Discussion. The following sentence was added: "Additionally, the Supervisor will prescribe the number of public information copies to be submitted." The additional copies are required for submittal to States requesting copies in accordance with 30 CFR 250.34.

Subparagraph 2.1.1

Comments. It was suggested that the second sentence in subparagraph 2.1.1 (1.1.1) be changed to "The operator or drilling contractor shall * * *."

Discussion. This suggestion was not accepted because the lessee is legally responsible for drilling and developing the lease. The drilling contractor is considered the lessee's agent. Therefore, the word "operator" was replaced by the word "lessee." This revision was incorporated wherever the word "operator" appeared in all of the Orders.

Comments. One commenter suggested that the second sentence of 2.1.1 (1.1.1) was redundant and should be deleted because the requirements of the proposed subparagraphs 1.1.2, 1.1.4 and 1.2(a) and (b) addressed the same subject.

Discussion. The intent of this sentence was to state the requirement for the lessee to furnish evidence of the fitness of the drilling unit to perform the planned operations. The proposed subparagraph 1.1.4 recited the information which is required to evaluate the fitness of the drilling unit. The language of the subparagraph was revised to require the "rated capacity of all major drilling equipment * * *." This language was then incorporated into subparagraph 2.1.1 instead of a separate subparagraph (1.1.4). Refer to the comments and discussion of subparagraph 2.1.4 (1.1.4).

Comments. It was recommended that "* * * insertion of the intent of the Memorandum of Understanding (MOU) dated April 11, 1977, between the United States Coast Guard (USCG) and the USGS into this section will minimize duplication of regulatory efforts, reduce the burden on industry, and provide equal or more effective safety and pollution control."

Discussion. The third sentence of subparagraph 2.1.1 was revised to indicate the intent of the MOU. The subparagraph requires the submittal of information on equipment "associated with the drilling operation"; therefore, this requirement does not constitute a duplication of regulatory efforts. The USCG will inspect and approve the drilling equipment, its related systems, and the use of a mobile drilling unit at a particular location; whereas, the USGC will inspect and approve the systems relating to the safety and health of personnel, the general safety and integrity of the unit, and the marine and industrial systems as outlined in the MOU between the USCG and the USGS.

Comments. One commenter suggested that "Seismic (including tsunamis) conditions should be inserted along with oceanographic and meteorological considerations."

Discussion. Subparagraph 2.2b (1.2b) has been revised to require that application for drilling from mobile drilling units shall include "seismic motion to be encountered at the drill site during the period of drilling operations." Forces due to tsunamis would be included in this seismic motion data. Furthermore, subparagraph 2.3 (1.3) requires that applications for placement of fixed drilling platforms or structures shall be submitted in accordance with OCS Order No. 8, which in turn requires that the design of all artificial islands or structures shall consider forces due to seismic motion.

The following discussion is quoted from a report entitled "Environmental Design Data for the Gulf of Alaska (Update No. 3)," September 1977, which was prepared for the USGS by the Aerospace Corporation:

The damaging effects of tsunamis are primarily limited to very shallow water and coastal areas where the tsunami may be transformed to a breaking wave of great magnitude. In the open waters of the OCS lease, however, the tsunami is felt only as a rapid rise in sea level which imparts very little horizontal force to structures it may encounter. Since this phenomenon is frequently misunderstood, it is useful to place it in perspective by comparing the forces generated by both a large storm wave and a tsunami. According to Horrer (1975), a large tsunami which raised the water level 30 feet in 5 minutes at a site where the water depth is 200 feet would produce water particle horizontal accelerations and velocity maxima of 0.15 ft/sec ^{2} and 7 ft/sec., respectively. Similar water particle accelerations and velocities for a 90-foot-high storm wave with a 16-second period in the same water depth would be 8 ft/sec ^{2} and 20 ft/sec at the surface and 4 ft/sec ^{2} and 10 ft/sec at the bottom. Thus, from an offshore platform design standpoint, tsunamis can be treated in the same manner as a rise in water level elevation.

In view of the conclusions of the Aerospace Corporation's report, we believe that our requirement for the submission of seismic motion data and maximum-anticipated wave heights for both fixed and mobile platforms adequately covers the requirement for this data.

Comments. One commenter submitted a discussion of the merits and favorable aspects of using drill ships over other types of mobile drilling units in the Gulf of Alaska.

Discussion. The USGS considers the guidelines in new subparagraphs 2.1.1, "Fitness of Drilling Unit," and 2.1.2, "Pre-Drilling Inspection," sufficient and appropriate to determine the suitability of a mobile drilling unit to be approved for drilling in any OCS area, regardless of its configuration.

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Subparagraph 2.1.2

Comments. It was suggested that the word "available" be added to the first sentence of subparagraph 2.1.2 (1.1.2) so that "a positive flow of events will occur with no unnecessary lost rig days."

Discussion. The suggestion was adopted for clarity.

Comments. It was suggested that the word "area" be clearly defined in subparagraphs 2.1.2 (1.1.2) and 2.2 (1.2).

Discussion. The word "area" has been defined in the preamble of this Notice. Copies of maps indicating the boundaries of these jurisdictional areas are available from the Conservation Managers at the addresses listed in the preamble of this Notice.

Subparagraph 2.1.3

Comments. It was recommended that the statement "* * * other surveys as required by the Supervisor * * *" be deleted from subparagraph 2.1.3 (1.1.3), and the wording changed to apply this section to exploratory wells only.

Discussion. The intent of the subparagraph was to recognize the Supervisor's authority to require archaeological or biological surveys. These surveys may be included in lease stipulations.

Comments. It was asked if well-site surveys "remain" with the District Supervisor. It was stated that the surveys should be forwarded to each involved State for review by appropriate personnel.

Discussion. Well-site survey data is maintained by the District Supervisor and may be reviewed by the public in accordance with subparagraph 2.10c of OCS Order No. 12 and the regulations set forth in 30 CFR 252.

Comments. It was suggested that "To be consistent with section 1.1.5, this section should mention that the requirements for well site surveys will be issued in an OCS Notice to Lessees."

Discussion. The subparagraph was not changed since survey requirements may vary within an OCS area. Survey requirements shall be considered on a case-by-case basis. A Notice to Lessees may not be the appropriate document to require these surveys.

Former Subparagraph 1.1.4

Comments. Several commenters addressed the original subparagraph 1.1.4 stating that in the first sentence, the term "performance data" should be changed to "rated capability." Furthermore, the word "major" should be inserted between the words "all" and "drilling." The reasons for these revisions concerned the necessity of submitting large volumes of data and drawings "* * * of *all* components of the rig's minor equipment."

Discussion. These comments have been adopted to clarify the intent of the subparagraph.

The original subparagraph 1.1.4 has been rewritten and is now included in subparagraph 2.1.1 beginning with the third sentence. Accordingly, original subparagraphs 1.1.4, 1.1.5, and 1.1.6 have been renumbered 2.1.3, 2.1.4, and 2.1.5, respectively.

Former Subparagraph 1.1.5

Comments. It was suggested that "* * * oceanographic and meteorological conditions be made available not just at any point in operation but in time to determine the fitness of the drilling units proposed for use."

Discussion. The U.S. Naval Oceanographic Office and the National Oceanographic and Atmospheric Administration (NOAA) have data that can be used by lessees to gain oceanographic and meteorological knowledge of most OCS areas. We agree that all available data should be used to determine the fitness of the drilling unit. It is the lessees' responsibility to gather this information and use it in formulating their programs for approval. Operational data will add to this data base.

Subparagraph 2.2

Comments. It was suggested that the USGS collaborate with the drilling contractor for criteria needed under subparagraph 2.2 (1.2), rather than with the operator.

Discussion. The USGS disagrees for the same reasons stated under subparagraph 2.1.1 on this subject.

Comments. It was suggested that subparagraph 2.2b (1.2b) be deleted because "* * * 'an average recurrence interval of 100 years' is extremely excessive * * *."

Discussion. The USGS agrees that the recurrence interval may vary as to the total length of time that a drilling unit may work in a given area. Accordingly, the subparagraph was rewritten to eliminate the 100-year recurrence interval. The revision requires that the information to be submitted shall be based on conditions "to be encountered at the drill site during the period of drilling operations."

Comments. It was noted that unless subparagraph 2.2c (1.2c) is deleted, "The USGS proposed requirement would require stacking of all domestic noncertified units until the U.S. Coast Guard certification program is implemented * * *."

Discussion. It is not the intent of the USGS to cause domestic noncertified rigs to be stacked in the Gulf of Mexico or in any other OCS Area. Until the USCG certification program is implemented, departures can be submitted in accordance with 30 CFR 250.12(b), as indicated in paragraph 11 of this Order. Departures would be granted for any Mobile Offshore Drilling Unit (MODU) which is waiting for the USCG to issue a Certificate of Inspection, provided the certificate is not being withheld due to failure to pass USCG inspection.

Comments. One comment was directed to subparagraph 2.2c stating that the USCG " 'Certificate of Inspection' is the proper reference, rather than 'Certificate of Fitness' * * *."

Discussion. This Order was revised to correct the misnomer.

Comments. It was suggested that subparagraph 2.2c be restructured as follows: "Current American Bureau of Shipping Classification *and* U.S. Coast Guard Certificate of Inspection * * *."

Discussion. It is concluded that substituting the word "and" for the word "or" would render the statement somewhat redundant. In consultation with the USCG concerning the subject of inspection of mobile drilling vessels, they assure that *all* mobile offshore drilling units must meet all applicable USCG safety standards. Moreover, all foreign drilling vessels operating in any United States waters will be inspected by the USCG. Additionally, if a mobile drilling unit is moved from one OCS area to another OCS area, it will also be inspected by the USCG.

Comments. One commenter stated that "The bulk of the units drilling in the North Atlantic are not likely to be covered under these regulations."

Discussion. The phrase "or other appropriate classifications" was added to recognize that other foreign classifications might be acceptable as evidence of the fitness of the vessel.

Paragraph 3

Comments. No comments received.

Discussion. The requirements of paragraph 3 (2), "Well Casing and Cementing," were reorganized and segregated into the following subparagraphs:

3.1 "General Requirements"
3.2 "Drive or Structural Casing"
3.3 "Conductor and Surface Casing Setting and Cementing Requirements"
3.3.1 "Conductor and Surface Casing Setting Depths"
3.3.2 "Conductor Casing Cementing Requirements"
3.3.3 "Surface Casing Cementing Requirements"
3.4 "Intermediate Casing Setting and Cementing Requirements"
3.5 "Production Casing"
3.6 "Pressure-Testing of Casing"

These editorial revisions present the requirements in a logical sequence and provide an improved index of the requirements.

Subparagraph 3.1

Comments. A number of commenters addressed several aspects of paragraph 3 (2), "Well Casing and Cementing," subparagraph 3.1, "General Requirements." One commenter noted: "For the surface and intermediate casing strings the statement concerning improper cementing is unnecessary and leads to confused interpretation. The critical operation at this point is the pressure test below the surface & intermediate casing shoe, which is required. If this shoe test shows that the surface & intermediate casing, the cementing job, and the formation immediately below it are capable of supporting the maximum mud weight required to reach the next casing point, there would be no valid reason for repairing an "indicated improper" cement job. If the formation leaks off below the desired mud weight, squeeze cementing below the surface and intermediate casing shoe would be the desired course of action regardless of the other indications during the primary cementing operation. The current requirement is also objectionable from the standpoint that the phrase 'make the necessary repairs' could be construed to require squeezing through perforations, which is probably the least desirable solution.

"The requirement for a temperature or cement bond log is not included in the current Gulf of Mexico Order 2 and we feel that it is inappropriate to include it in the National Order."

Discussion. The USGS is in general agreement with the foregoing comments; however, temperature surveys and cement bond logs are very useful tools in determining the top of cement in cases where there is a question as to the actual placement of the cement. The paragraph has been restructured to allow greater flexibility in conducting these operations. This allows a choice of the means to determine the adequacy of the cement job and the remedial action to be taken, based on an engineering evaluation.

Comments. One commenter stated: "We are aware that in some instances in the South Atlantic OCS, the primary limestone aquifer extends offshore and may be within 20 feet of the ocean floor. Should well abandonment in an area where the aquifer is within 20 feet of the ocean floor require washing out of cement to facilitate the abandonment process, there is a strong possibility that the aquifer would be unprotected from contamination or leakage. We recommend that appropriate provision be made in this Order for adequate protection of the aquifer during and after abandonment."

Discussion. It is intended that subparagraph 3.1 provide for protection of all freshwater zones, regardless of depth. If special provisions are required to protect very shallow freshwater zones on the OCS, the District Supervisor shall consider these aspects before approval of the lessee's Application for Permit to Drill.

Comments. Several commenters suggested that the phrase "design wellhead pressure" be inserted between "pressures" and "and" in the fourth line. It was contended that "The design wellhead pressure will take into account the expected well conditions such as mud density to be used, the exposed formation fracture pressure, the well and casing setting depths the mud weights used outside the casing being drilled through, and any other pertinent drilling factors." The rationale for this suggestion is quoted as follows: "The proposal of design wellhead pressure allows the designer of the well to base equipment selection on well conditions and permits the selection of equipment with higher safety factors and avoids penalizing operators that use higher pressure rating BOP's for convenience or heavier wall casing for wear allowance."

Discussion. The USGS does not agree. Lessees may evaluate all of the design aspects considered in this comment. However, one set of design factors for one lessee may be quite different from the design factors adopted by another lessee, and still another set of design factors established by a third lessee. Consequently, different wellhead (working/test pressure) assemblies may result.

We know of nothing restrictive or penalizing in the use of the phrase "maximum-anticipated surface pressure" instead of "design wellhead pressure." The lessee is free to use "higher safety factors" and to use "higher pressure rating BOPs." Refer to subparagraph 5.1.1. (4.1.1.), 5.2 (4.2), 5.3 (4.3), and 5.6 (4.6). There are no limits on the selection of the weights and grades of the casing strings. The lessee is free to select higher weights and grades for safety considerations and wear allowances. Finally, the term "maximum-anticipated surface pressure" allows for the theoretical possibility of a full column of reservoir gas pressure at the surface, with no liquids in the well, and in a drilling area of abnormally high pressure gradients.

Comments. It was suggested that the third paragraph under subparagraph 3.1 (2) be revised to include the following: "A request to waive this requirement shall be accompanied by sufficient supporting offset well experience and formation data to verify that the proposed well will not penetrate abnormally pressured intervals."

Discussion. This suggestion was not adopted. The lessee has the option to utilize appropriate drilling technology which the District Supervisor has approved for use.

Comments. One commenter stated: "All casing is required to be new pipe which meets API quality standards or reconditioned used pipe that has been tested to insure it will meet API quality standards. What is the basis for reliance on the API standard? What review of this standard has been made by USGS? What happens if the standard is modified after the Orders are adopted? Does the API standard represent the best available and safest technology (BAST)? None of the answers to these questions can be determined from the Order."

Discussion. Prior to referencing in an OCS Order, any specification, standard, or Recommended Practice published by the API, American Society of Mechanical Engineers (ASME), American National Standards Institute (ANSI), or any other organization, published standards on the subject are reviewed. The most appropriate standard which accomplishes the intended purpose is selected for referencing in the Order. These documents reflect the best available technology because they undergo continued review and updating on a periodic basis by committees responsible for maintaining the documents. This review system assures that the documents reflect current technology.

Generally, when a standard is referenced in an OCS Order, a specific edition is indicated, normally the most current edition. Before another or later revision of the standard would be accepted, a review of that edition would be conducted by personnel of the USGS to see that it continues to accomplish the intended purpose. The Chief, Conservation Division, will therefore approve the use of any modified standard. In this particular paragraph, the intention is to assure that all casing, whether new or used manufactured domestically or foreign, meet the minimum accepted standards for collapse, tension, internal yield pressure, and mill test data.

There are at least 10 API documents which apply to oil-well casing. Since the lessee may elect to cite several of these documents as requirements for the casing installation for a particular well condition, it is deemed sufficient to refer to applicable API Standards.

Subparagraph 3.2

Comments. The following comment was made on subparagraph 3.2 (2.1): "There are many areas where hard sea floor outcrops make 100' of 36" or 48" hole very impractical. The attempt to set a specific, minimum length of casing for *all* areas of OCS waters ignores and denies the intelligent use of shallow hazards survey data by both the District Supervisor and the operator."

Discussion. The USGS is aware of areas where hard seafloors exist, and agrees that in these areas some flexibility should be allowed. Accordingly, the first sentence of this subparagraph was changed to "* * * a minimum depth of 30 meters (98 feet) below the oceanfloor or to other depths, as may be required or approved by the District Supervisor * * *."

Subparagraph 3.3.2

Comments. One commenter addressed subparagraph 3.3.2 (2.2.1) and recommended the following addition to the end of the first sentence: "except that in floating drilling operations this casing shall be cemented with a minimum quantity of cement sufficient to fill the calculated annular space to a point within 30 meters (98 feet) of the bottom of the drive or structural casing.

"The proposed revision for floating drilling operations would provide flexibility to the operator to use lesser amounts of cement which would greatly facilitate casing salvage and subsequent abandonment operations, if conducted; and would virtually eliminate the possibility of fouling the template with cement returns to the Gulf floor. No added safety margin is gained by cementing the conductor-structural string annulus back to the Gulf floor since the formation immediately below the shoe of the structural string is relatively incompetent."

Discussion. This suggestion was not adopted since provision has been made to wash out the top 12 meters (39 feet) below the ocean floor. The following provision is included in subparagraph 3.1: "In cases where cement has filled the annular space back to the ocean floor, upon approval by the District Supervisor, the cement may be washed out or displaced to a depth not exceeding 12 meters (39 feet) below the ocean floor to facilitate casing removal upon well abandonment."

Comments. It was proposed that the word "annular" be inserted between the words "calculated" and "space" in the first sentence of subparagraph 3.3.2 (2.2.1). It was contended that "* * * the word 'annular' properly defines 'space' in this sentence."

Discussion. The USGS agrees, and the suggestion was adopted.

Subparagraph 3.3.3

Comments. One commenter suggested that in subparagraph 3.3.3 (2.2.2) "* * * the term 'freshwater sands' be changed to read 'freshwater zones' so as to ensure protection of the limestone aquifer which may also occur in that shallow surface zone offshore."

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Discussion. The USGS agrees, and has changed the phrase to "freshwater zones."

Comments. It was suggested that the following be added after the second sentence of subparagraph 3.3.3 (2.2.2): "For floating drilling operations that use a one stack blowout preventer system, a lesser volume of cement is permissible to prevent sealing the bottom of the annular space between the conductor casing and surface casing. Any annular space open to the drilled hole below must be sealed as required by Order 3 upon abandonment."

The rationale for this addition is quoted: "If the surface-conductor casing annulus is sealed at the bottom when using a one-stack subsea blowout preventer system, the subsea casing hanger pack-off sealing this annulus cannot be effectively pressure tested without danger of collapse of the surface casing or the bursting of the conductor casing each time the BOP's are tested to pressures exceeding the collapse pressure of the casing. With some formation exposed below the conductor pipe, the formation should break down before collapse of the surface pipe or burst of the conductor pipe, if a leak occurs in the sealing arrangement."

Discussion. This suggestion was not adopted. For the purposes of this discussion, case "A" will represent the condition wherein surface casing has been set and cement is extended into the surface/conductor annulus. Case "B" is the condition whereby the surface is set and the top of cement is below the conductor shoe (which could expose porous and permeable zones). The USGS believes that case "A" is the better surface-casing setting and cementing procedure than case "B." Surface casing is intended to protect all freshwater zones and to provide an anchor for the BOP stack.

If a wellhead seal leak should develop which would allow pressure communication in the surface/conductor annulus, then no pressure testing of the BOPs would be possible under case "B" until the seal is repaired. Otherwise, a porous formation could take fluid indefinitely.

If the lessee is concerned that a BOP pressure testing under case "A" could cause collapse of the surface casing or burst of the conductor casing, then pressure should be monitored on the conductor/surface annulus during the pressure test. If a leak is indicated, the lessee should take remedial action.

Subparagraph 3.4

Comments. One commenter was concerned with the requirement of drilling 100' of new hole below the casing shoe as stated in subparagraph 3.4 (2.3). It was contended that "The stipulation allowing an operator to drill nearly 100' of new hole below a casing shoe is not prudent in all OCS areas. It would be sound operating practice to limit this to 49' or 15 meters."

Discussion. It is acknowledged that long cement plugs in "soft" formations can cause inadvertent hole-deviation problems. Accordingly, the subparagraph was changed to adopt this suggestion.

Comments. Another commenter concerned with the wording of subparagraph 3.4 (2.3) suggested: "Add the following after the second sentence of the second paragraph: 'This isolation requirement may be satisfied by squeezing prior to completion or abandonment.' "

Discussion. This recommendation was included in the subparagraph.

Comments. One commenter stated that subparagraph 3.4 (2.3) was unclear. It was contended that the "Order is unclear." We assume the wording on pressure testing below the casing shoe was intended to be consistent with Section 2.2.2. Our recommendation on Section 2.2.2 also applies to this section." It was stated in a comment on subparagraph 3.3.3 (2.2.2) that "We do not think it necessary or advantageous to determine fracture gradients on *all* OCS wells, particularly all wells after the first on multiwell platforms." The commenter also stated: "In addition determination of the fracture gradient requires that the formation immediately below the casing shoe be pumped into * * *."

Discussion. It was intended that subparagraphs 3.3.3. (2.2.2) and 3.4 (2.3) be consistent. Both subparagraphs were revised as follows: "After drilling a maximum of 15 meters (49 feet) of new formation, a pressure test shall be conducted to obtain data to be used in estimating the formation fracture gradient. Pressure data shall be obtained either by testing to formation leak-off or by testing to a predetermined equivalent mud weight."

Pressure tests below the casing shoes (surface and intermediate) are intended to "aid" the lessee in his estimation of formation fracture gradients and maximum mud weights to carry into intermediate and production holes. The Order does not require fracturing of the formation. The pressures from the tests are used to estimate the true fracture gradient and pore pressure.

When field drilling rules are established, allowance will be made for the pressure-testing requirements for the determination of formation fracture gradients on multiwell platforms.

Comments. One commenter expressed concern regarding the "wide range of casing setting depths" which are permitted. "It is recommended that the Pacific Area requirements for the conductor and surface casing setting depths be adopted for the other areas with the provision to set an intermediate casing string at 4500' or shallower, if required by leak-off tests performed after drilling out of the surface casing. This would provide for the desired safety in the shallow and intermediate drilling and yet permit deeper drilling which may be the case in these other areas."

Discussion. The USGS does not agree that intermediate casing should 'set "at 4500' or shallower" for all areas, or even throughout a given area. Due to geological, geophisical, and other reasons, this amount of surface pipe may be required in an area. For the same reasons, intermediate casing may not be required at several thousand feet below this depth. Moreover, to adopt a fixed depth for all areas is not feasible and can cause a lessee to set multiple intermediate strings which would not be required for the safe drilling and may prevent the completion of a well due to insufficient well-bore diameter.

Subparagraph 3.5

Comments. Several commenters objected to subparagraph 3.5 (2.4), "Production Casing," stating that" * * * paragraph 2.4 is so written that an open-hole gravel pack completion would not be allowed. Although this type completion procedure is not in common usage offshore, we see no reason why it should not be permitted."

Discussion. It was not the intent of this subparagraph to preclude open-hole completions. This subparagraph was amended to state that hole and slotted-liner completions are permitted when approved by the District Supervisor.

Comments. It was suggested that the second sentence in this subparagraph be revised to: " * * * annular fillup to a minimum of 150 meters (492 feet) above the uppermost hydrocarbon bearing zone."

Discussion. The meaning of the sentence is not changed by the addition or deletion of the word "bearing."

Subparagraph 3.6

Comments. The third sentence of subparagraph 3.6 (2.5) was objected to. It was recommended that the following be added: "except in floating drilling operations."

Discussion. It is agreed that testing the casing with mud instead of with water would simplify the testing operation. Accordingly, the sentence was deleted.

Comments. It was suggested that the third sentence in this subparagraph be deleted to eliminate testing the casing string with water. An unsafe situation could be created by displacing the mud in the top 30 meters (98 ft) with water, due to the reduction of the hydrostatic head of the fluid column.

Discussion. The USGS agrees with this suggestion, and the sentence was deleted.

Comments. It was suggested that the second and third paragraphs of this subparagraph be revised as follows: "After cementing any of the above strings, drilling shall not be commenced until a time lapse of 8 hours under pressure for conductor casing string or 12 hours under pressure for all other strings, or until the cement has reached a 500 psi compressive strength, whichever is earliest. Cement is considered under pressure if one or more float valves are employed and are shown to be holding the cement in place or when other means of holding pressure is used. All casing pressure tests shall be recorded on the driller's log. The typical performance data for the particular cement mix used in the well shall be used to determine the time lapse required."

Discussion. The phrase "* * * or until the cement has reached a 500 psi compressive strength, whichever is earliest" was not adopted because of the uncertainty of determining the true compressive strength under actual well conditions.

Comments. One commenter stated that "It is not prudent operating practice to stress tubular goods in a drilling mode to the new tubular, internal yield. This requirement, coupled with the .22 psi/ft test on production or intermediate casing set at 12,000' or deeper

with high mud weights will operate excessive test pressures.

"The gel cement used on some strings of drilled-in structural casing takes in excess of 8 hours to attain 500 psi compressive. For the case of soft sea bed sediments, the cement, when it finally attained 500 psi compressive strength would be several times stronger than sediments. This would make the WOC time a useless waste of rig time. The concept is sound for all other casing strings and should be rigorously applied. However, the structural casing should not be included in this requirement."

Discussion. It is not intended that tubular goods be overstressed, regardless of their age and usage. A requriement has been added to limit pressure testing of casing to 70 percent of the minimum internal-yield pressure. When testing casing set at any depth, allowance shall be made for mud weights, the 0.22 psi/ft factor, and for other considerations. As stated in subparagraph 3.6 (2.5), structural casing is not included in this requirement.

Comments. No comments received.

Discussion. A new paragraph has been added following the table in subparagraph 3.6 to require certain tests to verify the integrity of the surface casing after unscheduled side-tracking operations or fishing operations.

Comments. It was suggested that the third sentence of this subparagraph be changed to "* * * 3 percent in 10 minutes * * *" to reduce rig time.

Discussion. This suggestion was not adopted because a 3 percent pressure increment would be too small to read on a high pressure gage and 10 minutes is not considered sufficient time for temperatures to stabilize in the well. Furthermore, this leak-detection criteria has been successfully used in the Gulf of Mexico OCS Area since August 28, 1969.

Paragraph 4

Comments. Several commenters were concerned with the allowable deviation angles in paragraph 4 (3), "Directional Surveys," and suggested that "an average of" be added between the words "exceed" and "three" in the first sentence, and the same notation for the first sentence of the second paragraph. The principal reason for this suggestion is that the proposed maximum of 3 degrees is too restrictive for vertical holes.

Discussion. The USGS agrees with the suggestions and has adopted the phrase, "Wells are considered vertical if inclination does not exceed an average of 3 degrees from the vertical or the maximum individual inclination survey does not exceed 6 degrees."

Comments. Several commenters recommended that directional surveys should be taken at each 300 meters (984 ft) instead of the required 150 meter (498 ft) intervals in vertical wells. Conversely, one commenter recommended that " * * * the minimum intervals be reduced to at least 60 meters to be more consistent with industry practices."

Discussion. The USGS disagrees that directional surveys should be conducted at each 300 meter (984 ft) interval in frontier areas where rank wildcats are to be drilled. Numerous factors which cause the bit to deviate from the vertical include (but are not limited to):

1. Bit configuration.
2. Nature and relative position of the formations being drilled.
3. Presence of faults, etc.

In some OCS areas, there has been *no exploratory drilling experience.* Hence, it is not known what hole-deviation characteristics will be experienced. When sufficient drilling experience has been gained in these frontier OCS areas, new survey intervals will be considered and the requirement changed, if justified.

Experience in the Gulf of Mexico OCS Area has confirmed that a survey interval of 300 meters (984 ft) is satisfactory for vertical wells; therefore, this requirement will remain unchanged for the Gulf of Mexico OCS Area.

Subparagraph 5.1.1

Comments. It was noted that on subsea blowout-preventer stacks "annular preventers are not currently available for working pressures greater than 5,000 psi in 16¾-inch and larger sizes."

Discussion. The USGS appreciates this correction. The subparagraph was revised accordingly.

Subparagraph 5.1.1a

Comments. It was suggested that "8,300 kPa (1,204 psi)" be replaced with 1,400 kPa (203 psi) in subparagraph 5.1.1a (4.1.1a) to be consistent with API RP 53.

Discussion. The USGS acknowledges this error and the suggested values have been included in the subparagraph.

Comments It was suggested that the first sentence in this subparagraph be reworded to eliminate the "vague and undefined term, 50 percent operating fluid reserve" and adopt "1.5 times the volume to close all BOP equipment units * * *."

Discussion. The USGS agrees that the suggested term more clearly defines the requirement, and the suggestion has been adopted.

Comments. It was recommended that the second sentence in this subparagraph be reworded for clarification as follows: "An accumulator backup system supplied by a secondary power source independent of the primary power source * * *."

Discussion. The USGS concurs and acknowledges that there is no need for two complete accumulator systems.

Subparagraph 5.1.1d

Comments. It was suggested that subparagraph 5.1.1d (4.1.1d) be reworded for clarity.

Discussion. The USGS agrees with this suggestion and has reworded this subparagraph as suggested.

Subparagrtaph 5.1.1f

Comments. It was observed that the fill-up line referred to in subparagraph 5.1.1f (4.1.1f) should be located above the top preventer to eliminate an unsafe practice of filling up below the preventers through a valve that must hold full working pressure.

Discussion. The USGS agrees with the suggestion and has adopted the comment. The USGS admits that on subsea BOP stacks, no valve or outlet should be below the BOP stack. If the valve should get knocked off, the entire BOP system is lost.

Subparagraph 5.1.1h

Comments. It was recommended that a new subparagraph 5.1.1h (4.1.1h) be added to state that "The wellhead assembly shall have a working pressure at least equal to the designed wellhead pressure."

Discussion. The USGS accepts this suggestion. However, the term "maximum-anticipated surface pressure" has been adopted. The reasons for this substitution have been stated earlier in the discussions for OCS Order No. 2.

Subparagraph 5.1.2c

Comments. It was stated that subparagraph 5.1.2c (4.1.2c) "* * * should be deleted since we believe it unnecessary and it would be impractical to carry a safety valve for every size of casing to be run."

Discussion. The USGS disagrees with this suggestion. A swage and a valve can be used to satisfy this requirement.

Subparagraph 5.1.3

Comments. One commenter noted that ethylene glycol is mixed with a BOP control fluid additive to form solutions as strong as 43 percent, to prevent freezing. It was also stated that "ethylene glycol appears to be toxic to aquatic organisms." Therefore, it would be desirable to use a less toxic substance in the BOP system, or to consider other alternatives such as devising a method of recovering the fluids after the BOP stack has been tested.

Discussion. This comment would not apply to surface-blowout preventer stacks since the hydraulic-control unit is a closed system and no fluid is lost when the preventers are actuated. In the case of subsea-blowout preventer stacks, water-based hydraulic fluids are available. Work is in progress to reduce the toxicity of hydraulic fluids to minimum levels and to provide adequate antifreeze protection under all operational environments. When nontoxic antifreeze compounds are developed, their use will be required. It is recognized that small volumes of hydraulic fluid may be discharged; therefore, the USGS is receptive to other alternatives.

Subparagraph 5.2

Comments. Several organizations commenting on subparagraph 5.2 (4.2), "Subsea BOP Requirements," suggested that the annular or packoff head on top of the marine riser be deleted from the drive-pipe drilling operation. The marine riser should also be deleted. It was pointed out that "The use of a marine riser and a preventer on drive pipe is an inherently unsafe operating practice. There are very few areas where the shallow seafloor sediments below structural casing will support weighted drilling fluids in excess of seatwater. In the case of a gas flow, there would be an immediate loss of head when the riser unloaded. Without the riser, the sea would hold a constant back pressure on the formation. Without a riser, the rig can be moved off the hole with no structural

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damage to the casing or base-plate assembly. The soft-bottom sediments exposed below the structured casing would not be broached in this case.

"The use of a riser will require excessive drilling times for the conductor pipe since this entire section would have to be underreamed."

Discussion. We agree that the use of a riser, when drilling below drive or structural pipe, is dependent upon the competency of the seafloor sediments below these strings. In those areas where a riser is used, however, we believe that a diverter system is required. We also agree that it would be imprudent to attempt to contain pressure below drive or structural pipe by the use of a pressure rotating packoff bead. Therefore, the Order was revised by deleting the requirement for an annular or pressure rotating packoff-head-type preventer and by adding the following note:

"Note: 1. When drilling fluids are circulated to the drilling vessel, a diverter system as described in subparagraph 5.4.1 shall be installed on top of the marine riser."

Comments. It was suggested that the requirement for two 15 cm (6 inch) internal diameter diverter lines and full opening valves "would result in the obsolescence of equipment that is and has satisfactorily performed floating drilling well control in the Gulf of Mexico."

Discussion. Note 4 for the Gulf of Mexico OCS Area has been revised to recognize that many drilling rigs in the Gulf of Mexico OCS Area have complied with the requirement for 10 cm (4 inch) diameter diversion lines in accordance with Gulf of Mexico OCS Order No. 2 which became effective January 1, 1965. The USGS also believes that 15 cm (6 inch) diameter lines provide greater protection; therefore, the note was revised to require that new installations or modifications of diverter systems made after the effective date of the Order would require the use of 15 cm (6 inch) diameter lines.

Comments. It was suggested that the word "additionally" be deleted in Note 5 (***) in subparagraph 5.2 (4.2) and Note 2 (**) in subparagraph 5.3 (4.3) since "* * * this could be interpreted to require an added ram-type BOP."

Discussion. Note 5 in subparagraph 5.2 (4.2) and Note 2 in subparagraph 5.3 (4.3) were revised to make it clear that the BOP stack must be equipped with rams to fit each size of pipe in a tapered drill string.

Comments. It was suggested that the second sentence in the second paragraph of subparagraph 5.2 (4.2) be revised to provide for a suitable alternate to the subsea accumulator system, and that the term "power fluid" be added to clarify the meaning of "connection." It was further contended that " 'Loss of connection', as now stated, is vague in that it could pertain to either a loss of a control fluid connection, a loss of a power fluid connection, or both."

Discussion. USGS has no objection to include "a suitable alternate approved by the District Supervisor." The sentence was also changed to include the phrase "power fluid connection."

Comments. It was suggested that the second and third sentences of the second paragraph should be deleted because the requirements for a subsea accumulator, "failsafe-design" and "failsafe-valving," "* * * would render obsolete equipment that has been and is currently being used satisfactorily * * *."

Discussion. The second sentence was revised to allow for an alternative to a subsea accumulator system. The third sentence was revised as follows: "The blowout-preventer system shall include dual pod control systems in accordance with API RP 53, First Edition, February 1976, reissued February 1978, subsection 5.B.13, or subsequent revisions which the Chief, Conservation Division, has approved for use."

Subparagraph 5.3

Comments. No comments received.

Discussion. Note 1 (*) of subparagraph 5.3 (4.3) was revised to be identical with Note 4 (**) of subparagraph 5.2 (4.2). Refer to the discussion for subparagraph 5.2 (4.2).

Subparagraph 5.4

Comments. The general comments on subparagraph 5.4 (4.4) indicated that the requirements for surface BOPs and subsurface BOPs were not clear.

Discussion. A review of the comments on this subparagraph indicated that the subparagraph on surface BOPs and the subparagraph on subsurface BOPs should be reorganized to clarify the intent. Therefore, the original subparagraph 4.4.1, "Surface BOPs," was reorganized and retitled 5.4.1, "Drilling Operations from Bottom-Supported Rigs." The original subparagraph 4.4.2, "Subsea BOP," was also reorganized and retitled 5.4.2, "Floating Drilling Operations." The details of the reorganization and revisions are discussed under separate headings for each subparagraph.

Subparagraph 5.4.1

Comments. It was recommended that the second sentence of subparagraph 5.4.1 (4.4.2) be revised as follows: "The diverter system shall be equipped with remote control valves in the main and diverter flow lines that can be operated from the control panel prior to shutting in the well."

It was stated that "A catastrophic situation could be caused by the inability of an automatic valve being able to reliably detect and select the downwind diversion. This system should be manually controlled for the safest operation."

Discussion. The USGS considered that this suggestion was an added point in the safety of operation, and the suggestion was adopted.

Subparagraph 5.4.2

Comments. It was suggested that subparagraph 5.4.2 (4.4.3), "Floating Drilling Operations," be revised to clarify that the conductor hole may be drilled with or without a riser/diverter system.

Discussion. The subparagraph was changed to clarify this point. This point was further clarified by the revision of Note 1 (*) of subparagraph 5.2 (4.2) which requires the use of a diverter when a riser is used. Refer to the discussion of subparagraph 5.2.

Comments. It was the consensus of opinion to delete the requirement for drilling a small diameter pilot hole to obtain shallow hazards data because of mechanical and deviation control problems.

It was also contended that "A one barrel kick in an 8¾" hole reduces the hydrostatic head much more than a one barrel kick in a 17½" hole." It was further contended that "* * * drilling a pilot hole will increase the risk if shallow hazards or hydrocarbons are encountered, rather than decrease them, since the hole will need to be reamed to full diameter and will be open longer in total time than if a full sized hole were drilled to begin with and surface casing promptly set."

Discussion. The USGS agrees with the comments and has deleted the small diameter pilot hole requirement.

Subparagraph 5.6

Comments. It was suggested that subparagraph 5.6 (4.6b) be changed by deleting the phrase "In addition to the above," and also by deleting the word "additionally" to clarify that "* * * additional preventer bodies are not needed on the BOP stack but that pipe rams of the proper size must be installed."

Discussion. During our review of the comments on this subparagraph, it became apparent that editorial revisions were required because some of the material in subparagraphs a, b, c, d, and f have been previously addressed under subparagraph 5.1, "General Requirements." The requirements of the proposed subparagraph 4.6a were incorporated into subparagraph 5.6 to elaborate on the minimum requirements as stated in tabular form in subparagraphs 5.2 and 5.3. The content of subparagraph 4.6b was incorporated into Note 5 of subparagraph 5.2 and Note 2 of subparagraph 5.3. The phrase "in addition to the above" and the word "additionally" were deleted. Refer to the discussion for the revisions of subparagraph 5.2 (4.2). The original subparagraphs 4.6 c, d, e, and f were deleted since these requirements are addressed in subparagraph 5.1, "General Requirements."

Subparagraph 5.7

Comments. It was suggested that subparagraph 5.7 (4.7) should be revised to segregate the testing requirements into separate subparagraphs addressing testing requirements for surface blowout-preventer stacks and testing requirements for subsea blowout-preventer stacks. This suggestion was adopted by changing the title of paragraph 5.7 (4.7) to "Testing of BOP Systems" and reorganizing the requirements into the following subparagraphs:

5.7.1 "BOP Testing Frequency"
5.7.2 "Pressure Testing Surface BOP Systems"
5.7.3 "Pressure Testing Subsea BOP Systems"
5.7.4 "Actuation of Surface BOP Systems"
5.7.5 "Actuation of Subsea BOP Systems"

The comments and discussion on each of these subparagraphs are addressed under separate headings.

Subparagraph 5.7.1

Comments. No comments received.

Discussion. As indicated in the discussion for subparagraph 5.7, the title of this subparagraph has been changed to "BOP Testing Frequency." The content of the original subparagraph 4.7.1, "BOP Controls," has been incorporated into subparagraph 5.1.1b.

The revised subparagraph states the testing frequency required for surface and subsea BOP stacks.

Subparagraph 5.7.2

Comments. It was suggested that the requirements for pressure testing of surface blowout-preventer stacks should be rewritten as follows: "Ram type blowout-preventers and related control equipment shall be tested to at least the design wellhead pressure, except that the annular-type preventers shall not be tested above 70% of their rated working pressure."

Discussion. This suggestion was partially adopted. The subparagraph was rewritten to require that surface blowout-preventer stacks be pressure tested to the maximum-anticipated surface pressure or at 70 percent of the minimum internal yield pressure of the casing, whichever is less. The annular-type BOP shall be tested at 70 percent of its rated working pressure or 70 percent of the minimum internal yield pressure of the casing, whichever is less. The rationale for the use of the phrase "maximum-anticipated surface pressure" instead of "design wellhead pressure" has been previously addressed in the discussion for subparagraph 3.1. The revised language makes it clear that the minimum internal yield pressure of the casing must be considered in determining the test pressure of the blowout-preventer stack. The subparagraph was also revised to require that the blind ram shall be tested as required for pipe rams before drilling out of each casing or liner shoe. This revision eliminates the necessity of setting a casing plug to allow the testing of the blind rams. A sentence was also added to make it clear that the smaller-sized pipe rams in a tapered string shall be tested when the smaller pipe is within the stack during a trip. This sentence makes it clear that it is not necessary to make a "special trip" to test the smaller pipe rams in a tapered drill string. The revision also adopts the suggestion that annular-type preventers should not be tested above 70 percent of their rated working pressure. This limitation is intended to reduce the wear of the annular blowout preventers.

Subparagraph 5.7.3

Comments. It was suggested that subparagraph 5.7.3 (4.7.2) be revised as follows: "Subsea BOPs and all related well-control equipment shall be stump tested at the surface with water to at least the design wellhead pressure, except that the annular-type BOP shall not be tested above 70 percent of its rated working pressure."

Discussion. This suggestion was adopted except that the phrase "maximum-anticipated surface pressure" was used in lieu of the phrase "design wellhead pressure." The rationale for the use of the phrase "maximum-anticipated surface pressure" has been addressed in the discussion of subparagraph 3.1.

Comments. It was suggested that the ocean floor pressure tests of subsea blowout-preventer stacks should be based on the same criteria as the pressure test for surface blowout preventers.

Discussion. This suggestion was adopted by incorporating the following language into the subparagraph: "After the installation of the BOP stack on the seafloor, the control equipment and pipe rams, conforming to the drill string within the stack, shall be tested as required under subparagraph 5.7.2. Before drilling out of each casing or liner shoe, the blind-shear rams shall be tested as required for blind rams under subparagraph 5.7.2."

Subparagraph 5.7.4

Comments. It was recommended in subparagraph 5.7.4 (4.7.3a) that daily operational tests of pipe rams on subsea blowout preventers be eliminated due to excessive wear on the ram rubbers.

Discussion. The USGS agrees that complete closure of the pipe rams is not necessary to verify proper functioning. We have also recognized that this is true for both surface blowout-preventer stacks and subsea blowout-preventer stacks. Subparagraph 5.7.4a was revised by adding the following sentence: "In order to prevent damage to the rams, complete closure of the rams on drill pipe is not required, provided proper operation is indicated." Subparagraph 5.7.5, "Actuation of Subsea BOP Systems," was revised to make this requirement applicable to subsea blowout-preventer systems.

Subparagraph 5.7.5

Comments. It was suggested that subparagraph 5.7.5 (4.7.3) should require that all hydraulic systems except those actuating the blind-shear rams should be actuated from each control station and each control system to test the proper functioning of each station and systems.

Discussion. This suggested requirement was incorporated into the revised subparagraph.

Subparagraph 5.8

Comments. Several commenters suggested that the last two sentences of subparagraph 5.8 (4.8) be deleted because "The presently required actuation and test procedures are the most reliable method of determining subsea equipment problems * * *."

Discussion. This subparagraph was changed by rewording the penultimate sentence to allow for unfavorable weather and sea conditions. The last sentence was left in the subparagraph since the use of television equipment is an acceptable method of subsea inspections.

Comments. It was suggested that the phrase "manufacturer's recommended procedures" be changed to "industry accepted standards such as API RP 53."

Discussion. The USGS disagrees with this suggestion. We know of no better source than the manufacturer's manuals concerning parts, lubrication, and operational procedures on blowout preventers. The API RP 53 is an excellent document and is endorsed by the USGS. This document also refers to the manufacturer. The maintenance procedures of subsection 7.A.12b recommends: "Using closing pressures recommended by the manufacturer." Moreover, API RP 53 contains no information on the maintenance of subsea installations.

Subparagraph 5.9

Comments. It was suggested that the fifth sentence of the proposed subparagraph 4.9 be deleted. It was contended that the nature of drilling operations precludes the precise scheduling of drills, especially when the remoteness of locations and communications are considered.

Discussion. It is agreed that the scheduling of drills would impose an unnecessary burden on the lessee. Furthermore, drills should not be scheduled in order to retain the element of surprise as a test of the state of readiness of the drilling crew and equipment. The sentence was deleted.

Comments. No comments received.

Discussion. The title of the subparagraph was changed to "Blowout-Preventer Drills" to accurately describe the contents. The paragraph was revised to require that blowout-preventer drills shall be conducted in accordance with the well-control drill requirements of the USGS Outer Continental Shelf Standard, "Training and Qualifications of Personnel in Well-Control Equipment and Techniques for Drilling on Offshore Locations," No. T 1 (GSS–OCS–T 1), First Edition, December 1977, and subsequent revisions thereto. The subsection of the standard entitled "Well-Control Drills" outlines the requirements in greater detail then the requirements of the original subparagraph.

Subparagraph 6.1

Comments. The overall comments on subparagraph 6.1 (5.1) indicated that the subparagraph should be reorganized to state the requirements in a more logical sequence.

Discussion. The subparagraph was reorganized by first stating the criteria which is to be used to determine when the hole is to be filled. This requirement was then followed by a sentence which requires that the number of stands of drill pipe and drill collars that may be pulled prior to filling the hole and the equivalent mud volume shall be calculated and posted. This requirements was then followed by the sentence which requires the use of a device for measuring the amount of mud required to fill the hole.

Comments. It was suggested that the second paragraph should be revised as follows: "When coming out of the hole with the drill pipe, the annulus shall be filled before the change in mud level decreases bottom-hole pressure 75 psi or every five stands of drill pipe, whichever gives a lower decrease in bottom-hole pressure (BHP)."

Discussion. This suggestion was adopted. This language is superior to the original reference point of "98 feet of head loss." The revised language improves the definition of the critical parameters of loss of bottom-hole pressure and the time interval required between checks.

equipment, drilling safety systems, and other

c. Maximum-anticipated surface pressure.

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Comments. It was suggested that the sentence which required the posting of the maximum pressure which may be applied under the blowout preventer should be revised to require the posting of the "maximum pressure to be contained under the blowout preventer."

Discussion. This suggestion was adopted. The revised language accurately describes the process of containing and controlling the back pressure by the use of the blowout preventer and choke manifold.

Comments. It was pointed out that the phrase "vacuum type gas separator" should be used instead of "degasser" because a "degasser" is a specific type of gas separator.

Discussion. The USGS agrees and has changed the sentence accordingly. The USGS does not intend to allow the use of rig-fabricated, atmospheric-type separators in OCS waters. A vacuum-type gas separator will more efficiently remove the gas from the mud than atmospheric-pressure separators.

Subparagraph 6.2d

Comments. In a comment on subparagraph 6.2d (5.2d), it was suggested that derrick floor indicators of hydrocarbon data not be required if a mud logging unit is in use, provided that the monitoring is on a continuous basis, and a means for immediate communication with the derrick floor is provided.

Discussion. The USGS agrees with the suggestion, and this subparagraph was changed to provide that "* * * with indicators located in the mud-logging compartment or on the derrick floor. If the indications are in the mud-logging compartment, there shall be a means of immediate communication with the rig floor, and the equipment shall be continually manned."

Subparagraph 6.3a

Comments. On subparagraph 6.3a (5.3a), many of the commenters objected to the use of the phrase "Twice the volume * * *." It was contended that in a large number of drilling conditions, the dry storage capacity of the drilling unit would be exceeded.

Discussion. Subparagraph 6.3a (5.3a) was changed to delete the "twice the volume" requirement in acknowledgment that there are numerous drilling conditions where mud quantities of this magnitude would exceed the capacity of many drill units. The subparagraph now requires that the minimum quantities of mud material shall be based on the volume required to replace the calculated capacity of the downhole and active surface systems. The second paragraph was revised as follows: "When the mud quantity required exceeds the storage capacity of the drilling facility, the lessee shall maintain maximum mud inventories and must receive approval from the District Supervisor of the lessee's plans to resupply mud inventories in the event of an emergency. The plan shall include an estimate of the time required for delivery of the mud supplies."

Subparagraph 7.3

Comments. On subparagraph 7.3 (6.3), several commenters recommended that 1 year be allowed for compliance with the USGS Training Standard No. T 1 (GSS–OCS–T 1).

Discussion. The subparagraph was revised to require compliance by December 1, 1979. A paragraph was also added to recognize that any driller, toolpusher, or operator's representative who received training in well-control between December 1, 1975, and December 1, 1979, will be credited as having met the training requirements of the Standard. These dates and the guidelines which were published in the **Federal Register**, Vol. 43, No. 39, February 27, 1978, and Vol. 43, No. 246, December 21, 1978, will be utilized in the determination of the acceptability of training.

Comments. One commenter stated that they "had not yet seen OCS T–1," and suggested that API RP T–3 treated the subject of training adequately. "However, if it is your intention to use OCS Standard T 1 we would strongly suggest that industry comment be sought and considered."

Discussion. Industry, all interested parties, and individuals were given two opportunities to submit written comments from two draft publications in the **Federal Register** as follows:

1. A Notice of intent to draft a training standard was first published in the **Federal Register**, Vol. 41, No. 105, May 26, 1976. Two draft standards were published as a basis for comments; one by the State of California, and the other was API RP T–3. Written comments were requested to be submitted by June 28, 1976.

2. The proposes USGS Training Standard was published in the **Federal Register**, Vol. 41, No. 212, November 2, 1976. In addition to the initial USGS draft form of the Training Standard, this publication included "Comments on the Publication, May 28, 1976, With Geological Survey Rationale." Comments were requested to be submitted by January 1, 1977.

Finally, the First Edition of the USGS Training Standard, GSS–OCS–T 1, dated December 1977, was published in the **Federal Register**, Vol. 42, No. 251, December 30, 1977.

Paragraph 8

Comments. No comments were received on paragraph 8 (7), "Hydrogen Sulfide." However, several comments were received on the contents of the proposed revision of the USGS Outer Continental Shelf Standard, "Safety Requirements for Drilling Operations in a Hydrogen Sulfide Environment," No. 1, (GSS–OCS–1), which was published in the **Federal Register**, Vol. 43, No. 128, July 3, 1978.

Discussion. This paragraph was revised to reference the Second Edition of GSS–OCS–1 which incorporates appropriate comments as a result of the **Federal Register** solicitation. The Second Edition clearly defines the requirements for areas which are known to contain H_2S, for areas where the presence of H_2S is unknown, and for areas known to be free of H_2S.

Paragraph 9

Comments. A commenter suggested that paragraph 9 (8) be deleted. The commenter stated: "However, if a special provision of this nature is to be required, the following wording would be a significant improvement from the standpoint of clarity and operator flexibility." The commenter then presented a revised introductory paragraph which suggested that the critical operations and curtailment plan should be applicable to the entire OCS Area covered by the Order, rather than the Area of individual leases. The commenter then listed three items which required that the plans should include guidelines which the operator would follow to assure coordination control and curtailment of drilling operation, identify the person in charge at the site, and include an outline for additional safety and antipollution measures.

Discussion. The USGS review of the comments received on this subparagraph, the original proposed paragraph, and the commenter's suggested modifications indicated that the requirements for the plans for mature areas need not be as detailed as those for frontier areas; therefore, separate paragraphs were written for the Gulf of Mexico Area and the other Areas of the OCS. The requirements of the Gulf of Mexico Area are different because numerous drilling operations over the years have caused the lessee to encounter problems, weigh risks, and develop solutions for critical operations. This experience has also allowed the lessee to formulate plans in advance of commonly anticipated situations and to find the need for and methods of curtailment of certain operations.

An example of foreknowledge can be witnessed almost every year during hurricane season when lessee expedite emergency evacuation operations which consist of securing facility and moving personnel. The language suggested by the commenter was revised and adopted for the Gulf of Mexico Area. A paragraph was added which required the lessee to review the plan at least annually, to notify the District Supervisor of the results of the review, and to recognize that any amendments or modifications of the plan are subject to the approval of the District Supervisor.

Since the requirements for the Gulf of Mexico Area would remain constant for many leases, the introductory paragraph requires a plan to be submitted for each District Area.

The introductory paragraph for the requirements for the other Areas of the OCS was revised to be consistent with the paragraph for the Gulf of Mexico Area, except that a Contingency Plan is to be submitted for each lease. This difference is required because in these Areas environmental conditions, water depths, and bottom stability may vary from lease to lease and affect the criticality of certain operations. A new paragraph was added to require the identification of the person in charge at the site.

United States Department of the Interior, Geological Survey, Conservation Division

OCS Order No. 2, Effective July 1, 1979; Drilling Operations

This Order is issued pursuant to the authority prescribed in 30 CFR 250.11. All exploratory and development wells drilled

for oil and gas shall be drilled in accordance with 30 CFR 250.34, 250.41, 250.91, and the provisions of this Order except for those provisions superseded by the issuance of field drilling rules.

1. *Plans and Applications*

1.1 *Exploration Plan and Development and Production Plan.* In accordance with 30 CFR 250.34, the lessee shall submit Exploration Plans and Development and Production Plans to the Supervisor for approval. All wells drilled under the provisions of this Order shall be included in the appropriate plan.

1.2 *Application for Permit to Drill.* Prior to commencing drilling under an approved Exploration Plan or a Development and Production Plan, the lessee shall file, in triplicate, an Application for Permit to Drill (Form 9–331 C) with the District Supervisor for approval. Additionally, the Supervisor will prescribe the number of public information copies to be submitted. If drilling activity does not commence within 6 months after the approval date, the Permit to Drill will expire.

2. *Drilling From Fixed Platforms and Mobile Drilling Units*

2.1 *General Requirements.*

2.1.1 *Fitness of Drilling Unit.* All fixed and mobile drilling units shall be capable of withstanding the oceanographic and meteorological conditions for the proposed area of operations. The lessee shall submit evidence to the District Supervisor of the fitness of the drilling unit to perform the planned drilling operation. This evidence shall include drawings and specifications of the following:

a. The rated capacity of all major drilling equipment.

b. Drilling safety systems.

c. Firefighting equipment.

d. Pollution-prevention equipment associated with the drilling operation.

e. A schematic diagram of the drilling unit.

2.1.2 *Pre-Drilling Inspection.* Prior to commencing operations in an OCS Area, all fixed drilling platforms and mobile drilling units shall be made available for a complete inspection by the District Supervisor.

2.1.3 *Well-Site Surveys.* Lessees shall conduct a shallow geologic hazards survey, and other surveys as required by the Supervisor. In areas where shallow hazards or hydrocarbons are unknown, shallow high-resolution geophysical data shall be obtained. The results of these surveys and an analysis of the geological hazards shall be furnished to the District Supervisor. All data obtained from the surveys and all geophysical data relating to shallow hazards shall be furnished upon request to the District Supervisor.

2.1.4 *Oceanographic, Meterological, Performance Data.* Operators shall collect and report oceanographic, meteorological, and performance data during the period of operations. The type of information collected, method of collection, and report requirements will be as specified by the Supervisor.

2.1.5 *Subfreezing Operations.* Operators shall furnish evidence that the drilling equipment, drilling safety systems, and other associated equipment and materials are suitable for operations in those Areas which are subject to subfreezing conditions.

2.2 *Mobile Drilling Units.* Applications for drilling from mobile drilling units shall include the following:

a. Maximum environmental design criteria, operational criteria, and a critical operations plan as described in paragraph 9 of this Order.

b. Environmental data, statistical data and calculations which indicate the maximum-anticipated wave, wind, current values, and forces due to ice, icing, storm surges, and seismic motion to be encountered at the drill site during the period of drilling operations.

c. Current American Bureau of Shipping Classification, U.S. Coast Guard Certificate of Inspection, or other appropriate classifications, with operational limitations. Unless required by the Supervisor, after a mobile drilling unit has been approved for use in an area, the information detailed in subparagraph 2.1.1 need not be resubmitted unless there are changes in equipment which affect the rated capability of the unit.

2.3 *Fixed Drilling Platforms.* Applications for installations of fixed drilling platforms or structures, including artificial islands, shall be submitted in accordance with OCS Order No. 8.

3. *Well Casing and Cementing*

3.1 *General Requirements.* All wells shall be cased and cemented in accordance with the requirements of 30 CFR 250.41(a)(1). The Application for Permit to Drill shall include the casing design safety factors for collapse, tension, and burst. Wells drilled in areas which are underlain by freshwater aquifers shall have casing programs which are designed to protect the freshwater zones. In cases where cement has filled the annular space back to the ocean floor, upon approval by the District Supervisor, the cement may be washed out or displaced to a depth not exceeding 12 meters (39 feet) below the ocean floor to facilitate casing removal upon well abandonment. For the purpose of this Order, the several casing strings in order of normal installation are drive or structural, conductor, surface, intermediate, and production casing. If there are indications of inadequate cementing (such as lost returns, cement channeling, or mechanical failure of equipment in the surface-, intermediate-, and production-casing strings), the lessee shall evaluate the adequacy of the cementing operations by pressure testing the casing shoe, running a cement bond log, running a temprature survey, or a combination thereof before continuing operations. If the evaluation indicates inadequate cementing, the lessee shall recement or take other actions in accordance with the instructions of the District Supervisor. The lessee shall verify the adequacy of the remedial cementing operations as required by the District Supervisor.

The design criteria for all wells shall consider all pertinent factors for well control, such as:

a. Formation fracture gradients.

b. Formation pressure.

c. Maximum-anticipated surface pressure.

d. Casing setting depths.

The lessee shall utilize appropriate drilling technology and state-of-the-art methods, such as drilling-rate evaluation, shale-density analysis, or other appropriate methods in order to enhance the evaluation of conditions of abnormal pressure and to minimize the potential for the well to flow or kick.

All casing, except drive pipe or structural casing, shall be new pipe which meets or exceeds American Petroleum Institute (API) standards, or reconditioned used pipe that has been tested to assure that it will meet or exceed API standards for new pipe. If casing which is not fabricated to API standards is used, the manufacturer's specifications shall be included on the Application for Permit to drill (Form 9–331 C).

3.2 *Drive or Structural Casing.* This casing shall be set by drilling, driving, or jetting to a minimum depth of 30 meters (98 feet) below the ocean floor or to other depths, as may be required or approved by the District supervisor, in order to support unconsolidated deposits and to provide hole stability for initial drilling operations. If this portion of the hole is drilled, the drilling fluid shall be of a type that is in compliance with the liquid disposal requirements of OCS Order No. 7, and a quantity of cement sufficient to fill the annular space back to the ocean floor shall be used.

3.3 *Conductor and Surface Casing Setting and Cementing Requirements.*

3.3.1 *Conductor and Surface Casing Setting Depths.*

Gulf of Mexico

Casing design and setting depths shall be based upon all engineering and geologic factors, including the presence or absence of hydrocarbons, other potential hazards, and water depths. These strings of casing shall be set at the depths specified, subject to approved variation to permit the casing to be set in a competent bed, or through formations determined desirable to be isolated from the well by pipe for safer drilling operations; however, the conductor casing shall be set immediately prior to drilling into formations known to contain oil or gas, or, if unknown, upon encountering such formations. These casing strings shall be run and cemented prior to drilling below the specified setting depths. The District Supervisor may prescribe the exact setting depths for those wells which may encounter abnormal pressure conditions. Conductor casing setting depths shall be between 152 meters (499 feet) and 305 meters (1,000 feet) TVD below the Gulf floor. Surface casing setting depths shall be between 457 meters (1,499 feet) and 1,372 meters (4,500 feet) TVD below the Gulf floor.

Engineering and geologic data which are used to substantiate the proposed setting depths of the conductor and surface casing (such as estimated fracture gradients, pore pressures, shallow hazards, etc.) shall be furnished with Application for Permit to Drill.

Pacific

Casing design and setting depths shall be based upon all engineering and geologic factors, including the presence or absence of

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hydrocarbons, other potential hazards, and water depths. These strings of casing shall be set at the depths specified, subject to approved variation to permit the casing to be set in a competent bed, or through formations determined desirable to be isolated from the well by pipe for safer drilling operations; however, the conductor casing shall be set immediately prior to drilling into formations known to contain oil or gas, or, if unknown, upon encountering such formations. These casing strings shall be run and cemented prior to drilling below the specified setting depths. The District Supervisor may prescribe the exact setting depths for those wells which may encounter abnormal pressure conditions. Conductor casing setting depths shall be between 91 meters (298 feet) and 152 meters (499 feet) TVD below the ocean floor. Surface casing setting depths shall be between 305 meters (1,000 feet) and 366 meters (1,200 feet) TVD below the ocean floor, but may be set 457 meters (1,499 feet) in the event that conductor casing is set as deep as 137 meters (499 feet) TVD below the ocean floor.

Engineering and geologic data which are used to substantiate the proposed setting depths of the conductor and surface casings (such as estimated fracture gradients, pore pressures, shallow hazards, etc.) shall be furnished with the Application for Permit to Drill.

Gulf of Alaska and Atlantic

Casing design and setting depths shall be based upon all enineering and geologic factors, including the presence or absence of hydrocarbons, other potential hazards, and water depths. These strings of casing shall be set at the depths specified, subject to approved variation to permit the casing to be set in a competent bed, or through formations determined desirable to be isolated from the well by pipe for safer drilling operations; however, the conductor casing shall be set immediately prior to drilling into formations known to contain oil or gas, or, if unknown, upon encountering such formations. These casing strings shall be run and cemented prior to drilling below the specified setting depths. The District Supervisor may prescribe the exact setting depths for those wells which may encounter abnormal pressure conditions. Except as may otherwise be prescribed, conductor casing setting depths shall be between 91 meters (298 feet) and 305 meters (1,000 feet) TVD below ocean floor, and surface casing setting depths shall be between 305 meters (1,000 feet) and 1,400 meters (4,593 feet) TVD below ocean floor.

Engineering, geophysical, and geologic data used to substantiate the proposed setting depths of the conductor and surface casings (such as estimated fracture gradients, pore pressures, shallow hazards, etc.) shall be furnished with the Application for Permit to Drill.

3.3.2 *Conductor Casing Cementing Requirements.* Conductor casing shall be cemented with a quantity of cement sufficient to fill the calculated annular space back to the ocean floor. Cement fill to the ocean floor shall be verified by the observation of cement returns. In the event that observation of cement returns is not feasible or possible, an excess volume of cement shall be used to assure fill to the ocean floor. The excess volume shall be approved by the District Supervisor.

3.3.3 *Surface Casing Cementing Requirements.*

Gulf of Mexico, Gulf of Alaska, and Atlantic

Surface casing shall be cemented with a quantity of cement sufficient to protect all freshwater zones, to provide well control until the next string of casing is set, and with sufficient cement to fill the calculated annular space to at least 60 meters (197 feet) inside the conductor casing.

After drilling a maximum of 15 meters (49 feet) of new hole, a pressure test shall be conducted to obtain data to be used in estimating the formation fracture gradient. Pressure data shall be obtained either by testing to formation leak-off or by testing to a predetermined equivalent mud weight.The results of this test and any subsequent tests of the formation shall be recorded on the driller's log and used to determine the depth and maximum mud weight to be used in the intermediate hole.

Pacific

Surface casing shall be cemented with a quantitiy of cement sufficient to protect all freshwater zones, to provide well control until the next string of casing is set, and with sufficient cement to fill the calculated annular space to the ocean floor, or as approved by the District Supervisor.

After drilling a maximum of 15 meters (49 feet) of new hole, a presure test shall be conducted to obtain data to be used in estimating the formation fracture gradient. Pressure data shall be obtained either by testing to formation leak-off or by testing to a predetermined equivalent mud weight. The results of this test and any subsequent tests of the formation shall be recorded on the driller's log and used to detemmine the depth and maximum mud weight to be used in the intermediate hole.

3.4 *Intermediate Casing Setting and Cementing Requirements.* One or more strings of intermediate casing shall be set when required by anticipated normal pressure, mud weight, sediment, and other well conditions. The setting depth for intermediate casing shall be based on the pressure tests of the exposed formation below the surface casing shoe or on subsequent pressure tests. After drilling a maximum of 15 meters (49 feet) of new hole, a pressure test shall be conducted to obtain data to be used in estimating the formation fracture gradient. Pressure data shall be obtained either by testing to formation leak-off or by testing to a predetermined equivalent mud weight. The results of this test and any subsequent tests of the formation shall be recorded on the driller's log and used to detemine the depth and maximum mud weight to be used in the hole below the intermediate-casing string.

A quantitiy of cement sufficient to cover and isolate all hydrocarbon zones and to isolate abnormal pressure intervals shall be used. This requirement for isolation may be satisfied by squeeze cementing prior to completion, suspension of operations, or abandonment, whichever occurs first. Sufficient cement shall be used to provide annular fill-up to a minimum of 150 meters (492 feet) above the zones to be isolated or 150 meters (492 feet) above the casing shoe in cases where zonal coverage is not required.

If a liner is used as an intermediate string, it shall be lapped a minimum of 30 meters (98 feet) into the previous casing string and cemented as required for intermediate casing. The liner shall be tested by a fluid entry or pressure test to determine whether a seal between the liner top and the next larger string has been achieved. The test shall be recorded on the driller's log. If the test indicates an improper seal, the top of the liner shall be squeeze cemented. When such liner is used as production casing, it shall be extended to the surface and cemented to avoid surface casing being used as production casing.

3.5 *Production Casing.* Production casing shall be set before completing the well for production. It shall be cemented in a manner necessary to cover or isolate all zones above the shoe which contain hydrocarbons; but in any case, a calculated volume sufficient to fill the annular space at least 150 meters (492 feet) above the uppermost hydrocarbon zone must be used. Open-hole and slotted-liner completions are permitted when approved by the District Supervisor.

When a liner is used as production casing below intermediate casing, it shall be lapped a minimum of 30 meters (98 feet) into the previous casing string and cemented as required for the production casing. Testing of the seal between the liner top and the next larger string shall be conducted as in the case of intermediate liners and recorded on the driller's log. If the test indicates an improper seal, the top of the liner shall be squeeze cemented.

3.6 *Pressure-Testing of Casing.* Prior to drilling the plug after cementing, all casing strings, except the drive or structural casing, shall be pressure-tested as shown in the table below. The test pressure shall not exceed 70 percent of the internal yield pressure of the casing. If the pressure declines more than 10 percent in 30 minutes or if there is another indication of a leak, the casing shall be recemented, repaired, or an additional casing string run, and the casing tested again. The above procedures shall be repeated until a satisfactory test is obtained.

Casing	Minimum surface pressure
Conductor	1,400 kilopascals (kPa) (203 psi)
Surface	6,900 kPa (1,000 psi).*
Intermediate, Liner, and Production.	10,400 kPa (1,508 psi) or 5 kPa/m (0.22 psi/ft.) whichever is greater.*

* Must not exceed 70 percent of the minimum internal yield pressure.

In the event of unscheduled drill pipe operations such as an unscheduled side-tracking operation or a fishing operation, the surface pipe shall be pressure tested, calipered, or otherwise evaluated, as approved by the District Supervisor.

After cementing any of the above strings, drilling shall not be resumed until a time lapse of 8 hours under pressure for the conductor casing string or 12 hours under pressure for all other strings. Cement is considered under pressure if one or more float valves are employed and are shown to be holding the cement in place or when other means of holding pressure is used. All casing pressure tests shall be recorded on the driller's log.

In addition to the time lapse stated above, sufficient time must elapse to allow the bottom 153 meters (502 feet) of annular cement fill, or total length of annular cement fill, if less, to attain a compressive strength of at least 3,448 kPa (500 psi) or as approved by the District Supervisor before drilling resumes.

The typical performance data for the particular cement mix used in the well shall be used to determine the time lapse required.

4. *Directional Surveys*

Gulf of Mexico

The requirements of this paragraph for the Gulf of Mexico Region are the same as the requirements for the Areas listed below. The only exception is that the survey interval of 150 meters (492 ft), specified in the first subparagraph of this paragraph, is changed to 300 meters (984 ft) for the Gulf of Mexico requirements.

Pacific, Gulf of Alaska, and Atlantic

Wells are considered vertical if inclination does not exceed an average of 3 degrees from the vertical or the maximum individual inclination survey does not exceed 6 degrees. Inclinational surveys shall be obtained on all vertical wells at intervals not exceeding 150 meters (492 feet) during the normal course of drilling.

Wells are considered directional if inclination exceeds an average of 3 degrees from the vertical or the maximum individual inclination survey exceeds 6 degrees. Directional surveys giving both inclination and azimuth shall be obtained on all directional wells at intervals not exceeding 150 meters (492 feet) during the normal course of drilling and at intervals not exceeding 30 meters (98 feet) in all planning angle-change portions of the hole.

On both vertical and directional wells, directional surveys giving both inclination and azimuth shall be obtained at intervals not exceeding 150 meters (492 feet) prior to, or upon, setting surface for intermediate casing, liners, and at total depth. Composite directional surveys shall be filed with the District Supervisor. The interval shown will be from the botton of conductor casing or, in the absence of conductor casing, from the botton of drive or structural casing to total depth. In calculating all surveys, a correction from true north to Universal Transverse Mercator Grid north or Lambert Grid north shall be made after making the magnetic-to-true-north correction.

5. *Blowout-Preventer (BOP) Equipment Requirements*

5.1 *General Requirements.* Blowout preventers and related well-control equipment shall be installed, used, maintained, and tested in a manner necessary to assure well control.

5.1.1 *BOP Equipment.* Blowout-preventer equipment shall consist of an annular preventer and the specified number of ram-type preventers. The pipe rams shall be of proper size to fit the drill pipe in use. The working pressure of any blowout preventer shall exceed the maximum-anticipated surface pressure to which it may be subjected, except that the working pressure of the annular preventer need not exceed 34,475 kPa (5,000 psi).

Information submitted with the Application for Permit to Drill shall include the maximum-anticipated surface pressure and the criteria used to determine this pressure. All blowout-preventer systems shall be equipped with:

a. A hydraulic actuating system that provides sufficient accumulator capacity to supply 1.5 times the volume necessary to close all BOP equipment units with a minimum pressure of 1,400 kPa (203 psi) above the precharge pressure. An accumulator backup system, supplied by a secondary power source independent from the primary power source, shall be provided with sufficient capacity to close all blowout preventers and hold them closed. Locking devices shall be provided on the ram-type preventers. The method of BOP actuation control such as hydraulic, acoustic, or other methods, shall be described and included in the Application for Permit to Drill.

b. At least one operable remote blowout-preventer-control station, in addition to the one on the drilling floor. This control station shall be in e readily accessible location away from the drilling floor.

c. A drilling spool with side outlets, if side outlets are not provided in the BOP body, to provide for separate kill and choke lines.

d. A kill line equipped with 2 kill-line valves is required. The master valve shall be located adjacent to the BOP. This valve shall not normally be used for opening or closing on flowing fluid. The second valve shall be located adjacent to the master valve. This valve shall be used as the control valve.

e. A fill-up line above the uppermost preventer.

f. A choke manifold equipped in accordance with "API Recommended Practice for Blowout-Prevention Equipment Systems," API RP 53, First Edition, February 1978, reissued February 1978, Sections 3A and 3B, or subsequent revisions which the Chief, Conservation Division, has approved for use.

g. Valves, pipes, and fittings upstream of, and including, the choke manifold shall have a pressure rating at least equal to the maximum-anticipated surface pressure.

h. A wellhead assembly with a working pressure at least equal to the maximum-anticipated surface pressure.

5.1.2 *Auxiliary Equipment.* The following auxiliary equipment shall be provided and maintained in operable condition at all times:

a. A kelly cock shall be installed below the swivel and an essentially full-opening valve of such design that it can be run through blowout preventers shall be installed at the bottom of the kelly. A wrench to fit each valve shall be stored in a conspicuous location readily accessible to the drilling crew.

b. An inside blowout preventer and an essentially full-opening drill string safety valve in the open position shall be maintained on the righ floor at all times while drilling operations are being conducted. These valves shall be maintained on the rig floor to fit all connections that are in the drill string.

c. A safety valve shall be available on the rig floor assembled with the proper connection to fit the casing string that is being run in the hole at the time.

5.1.3 *Subfreezing Operations.* The blowout preventers and related control equipment shall be suitable for operations in those Areas which are subject to subfreezing conditions.

5.2 *Subsea BOP Requirements.* The minimum requirements for drilling below the casing strings for subsea blowout-preventer stacks are tabulated below:

Drive or structural	None required.[1 2]
Conductor	1—Annular. 1—Diverter System.[3 4]
Surface	1—Annular. 2—Pipe Rams. 1—Blind Shear Ram.
Intermediate	1—Annular. 2—Pipe Rams.[5] 1—Blind Shear Ram.

Note.—1. When drilling fluids are circulated to the drilling vessel, a diverter system as described in subparagraph 5.4.1 shall be installed on top of the marine riser.

2. If returns to the surface cannot be established, refer to subparagraph 5.4.2.

3. The choke and kill lines or equivalent vent lines, equipped with necessary connections and fittings, can be used for diversion, if approved by the Supervisor, or an annular preventer or pressure-rotating, packoff-type head, equipped with suitable diversion lines, shall be installed on top of the marine riser.

Gulf of Mexico

4. To be installed on top of the marine riser. Diverter systems installed prior to the effective date of this Order shall include a minimum of two 10-centimeter (4-inch) internal diameter lines and full-opening valves. Diverter systems installed or modified after the effective date of this Order shall include a minimum of two 15-centimeter (6-inch) internal diameter lines and full-opening valves.

Pacific, Gulf of Alaska, and Atlantic

4. To be installed on top of marine riser. The diverter system shall provide, as a minimum, two 15-centimeter (6-inch) internal diameter lines and full-opening valves.

All Areas

5. When a tapered drill string is in use, the BOP stack shall be equipped with pipe rams to fit both sizes of drill pipe.

Subsea blowout-preventer stacks shall be equipped with blind shear rams. A subsea accumulator or a suitable alternate approved by the District Supervisor is required to provide fast closure of the preventers and to operate all critical functions in case of loss of power fluid connection to the surface. The

6.1 *Mud Control.* Before starting out of the

This indicator shall include both a visual and

After December 1, 1979, in order to

blowout-preventer system shall include dual pod control systems in accordance with API RP 53, First Edition, February 1976, reissued February 1978, subsection 5.B.13, or subsequent revisions which the Chief, Conservation Division, has approved for use. Prior to the removal of the marine riser for installing casing, the riser shall be displaced with sea water. Sufficient hydrostatic head shall be maintained within the well bore to compensate for the reduction to head and to maintain a safe well condition. If repair or replacement of the blowout-preventer stack is necessary after installation, this work shall be accomplished after casing has been cemented prior to drilling out the casing shoe or by setting a cement or bridge plug to assure safe well conditions.

5.3 *Surface BOP Requirements.* The minimum requirements for drilling below the casing strings for conventional surface blowout-preventer stacks are tabulated below:

Drive or structural	1—Diverter System.[1]
Conductor	1—Annular. 1—Diverter System.[2 4]
Surface	1—Annular. 2—Pipe Rams. 1—Blind Ram.
Intermediate	1—Annular. 2—Pipe Rams.[3] 1—Blind Ram.

Gulf of Mexico

Note.—1. Diverter systems installed prior to the effective date of this Order shall include a minimum of two 10-centimeter (4-inch) internal diameter lines and full-opening valves. Diverter systems installed or modified after the effective date of this Order shall include a minimum of two 15-centimeter (6-inch) internal diameter lines and full-opening valves.

Pacific, Gulf of Alaska, and Atlantic

1. The diverter system shall include a minimum of two 15-centimeter (6-inch) internal diameter lines and full-opening valves.

All Areas

2. When a tapered drill string is in use, the BOP stack shall be equipped with pipe rams to fit both sizes of drill pipe.

5.4 *Drive Pipe or Structural Casing BOP Requirements.*

5.4.1 *Drilling Operations from Bottom-Supported Rigs.* Before drilling below this string with a bottom setting rig, a diverter system and related equipment shall be installed for circulating the drilling fluid to the drilling structure. The diverter system shall be equipped with remote control valves in the main and diverter flow lines that can be operated from the control panel prior to shutting in the well. The diverter lines shall vent in different directions to prevent downwind diversion. A schematic diagram and operational procedures for the diverter system shall be submitted with the Application for Permit to Drill (Form 9–331 C) to the Drill Supervisor for approval.

5.4.2 *Floating Drilling Operations.* In drilling operations where a floating or semi-submersible type of drilling vessel is used and formation competency at the structural casing setting depth is not adequate to permit circulation of drilling fluids to the vessel while drilling the conductor hole, a program which provides for safety in these operations shall be described and submitted to the District Supervisor for approval. This program shall include all known pertinent information, including seismic and geologic data, water depth, drilling-fluid hydrostatic pressure, a schematic diagram indicating the equipment to be installed from the rotary table to to proposed conductor-casing seat, and a contingency plan for moving off locations.

5.5 *Conductor Casing.* Before drilling below this string, at least one remote-controlled, annular-type blowout preventer shall be installed. A diverter system and other equipment for circulating the drilling fluid to the drilling structure or vessel shall be installed as described in subparagraph 5.4.1.

5.6 *Surface and Intermediate Casing.* Before drilling below these strings, the blowout-preventer system shall consist of at least four remote-controlled, hydraulically operated blowout preventers including at least two equipped with pipe rams, one with blind rams, and one anular type. Subsea blowout-preventer stacks used with floating drilling vessels shall include one set of blind shear rams.

5.7 *Testing of BOP Systems.* Prior to conducting high-pressure tests, all BOPs shall be tested to a low pressure of 1,400 to 2,000 kPa (203 to 290 psi).

5.7.1 *BOP Testing Frequency.* Surface and Subsea BOP stacks shall be tested as follows:

a. When installed.

b. Before drilling out after each string of casing has been set.

c. At least once each week, but not exceeding 7 days between tests, alternating between control stations. A period of more than 7 days between tests may be allowed where drilling problems prevent testing and remedial efforts are being made, provided BOP tests will be conducted as soon as possible. Testing shall be at staggered intervals to allow each drilling crew to operate the equipment.

d. Following repairs that require disconnecting a pressure seal in the assembly.

5.7.2 *Pressure Testing Surface BOP Systems.* Ram-type BOPs and related control equipment shall be tested at the maximum-anticipated surface pressure or at 70 percent of the minimum internal yield pressure of the casing, whichever is the lesser. The annular-type BOP shall be tested at 70 percent of its rated working pressure or 70 percent of the minimum internal yield pressure of the casing, whichever is the lesser. Before drilling out of each casing or liner shoe, the blind rams shall be tested as required for pipe rams. When a tapered drill string is in use, the smaller pipe rams shall be tested when the smaller pipe is within the stack during a trip.

5.7.3 *Pressure Testing Subsea BOP Systems.* Subsea BOPs and all related well-control equipment shall be stump tested at the surface with water to the maximum-anticipated surface pressure, except that the annular-type BOP shall not be tested above 70 percent of its rated working pressure. After the installation of the BOP stack on the sea floor, the control equipment and pipe rams, conforming to the drill string within the stack, shall be tested as required under subparagraph 5.7.2. Before drilling out of each casing or liner shoe, the blind shear rams shall be tested as required for blind rams under subparagraph 5.7.2.

5.7.4 *Actuation of Surface BOP Systems.* The following minimum-actuation frequencies are required:

a. Pipe Rams—Daily. In order to prevent damage to the rams, complete closure of the rams on drill pipe is not required, provided proper operation is indicated.

b. Blind Rams—Once each trip while the drill pipe is out of the hole. If multiple trips are made, only one action per day is required.

c. Annular-Type Preventer—Once each week in conjunction with the pressure test.

d. Control Stations—Once each trip while the drill pipe is out of the hole; however, not more than once each day, if multiple trips are made.

e. Choke manifold valves, kelly cocks, drill pipe safety valves—Weekly.

5.7.5 *Actuation of Subsea BOP Systems.* The actuation frequency requirements for subsea BOP systems shall be the same as those listed in subparagraph 5.7.4 for surface BOP systems, except item "b" pertaining to blind rams.

The blind shear rams shall be actuated once each trip from alternate control stations and control systems; however, not more than once each day, if multiple trips are made. During the weekly pressure tests, all hydraulic systems except those actuating the blind shear rams shall be actuated from each control station and control system.

5.8 *Inspection and Maintenance.* All BOP systems, marine risers, and associated equipment shall be inspected and maintained in accordance with the manufacturer's recommended procedures. The BOP systems and marine risers shall be visually inspected at least once each day if the weather and sea conditions permit the inspection. Inspection of subsea installations may be accomplished by the use of television equipment.

5.9 *Blowout-Preventer Drills.* All drilling personnel shall be indoctrinated in blowout-preventer drills and be familiar with the blowout-preventer equipment before starting work on the well. A blowout-preventer drill shall be conducted for each drilling crew in accordance with the well-control drill requirements of the U.S. Geological Survey Outer Continental Shelf Standard, "Training and Qualifications of Personnel in Well-Control Equipment and Techniques for Drilling on Offshore Locations," No. T 1 (GSS–OCS–T 1), First Edition, December 1977, and subsequent revisions thereto. A BOP drill may be required by a U.S. Geological Survey designated representative at any time during the drilling operation.

6. *Mud Program.* The characteristics, use, and testing of drilling mud and the implementation of related drilling procedures shall be designed to prevent the loss of well control. Sufficient quantities of mud materials shall be maintained readily accessible for use at all times to assure well control.

6.1 *Mud Control.* Before starting out of the hole with drill pipe, the mud shall be properly conditioned. Proper conditioning requires either circulation with the drill pipe just off bottom to the extent that the annular volume is displaced, or proper documentation in the driller's log prior to pulling the drill pipe as follows:

a. There was no indication of influx of formation fluids prior to starting to pull the drill pipe from the hole.

b. The weight of the returning mud is not less than the weight of the mud entering the hole.

c. Other mud properties recorded on the daily drilling log are within the specified ranges required by the mud program.

When the mud in the hole is circulated, the driller's log shall be so noted.

When coming out of the hole with drill pipe, the annulus shall be filled with mud before the change in mud level decreases the hydrostatic pressure 517 kPa (75 psi) or every 5 stands of drill pipe, whichever gives a lower decrease in hydrostatic pressure. The number of stands of drill pipe and drill collars that may be pulled prior to filling the hole and the equivalent mud volume shall be calculated and posted. A mechanical, volumetric, or electronic device for measuring the amount of mud required to fill the hole shall be utilized.

When there is an indication of swabbing or influx of formation fluids, the necessary safety devices and action shall be employed to control the well. The mud shall be circulated and conditioned, on or near bottom, unless well or mud conditions prevent running the drill pipe back to the bottom.

For each casing string, the maximum pressure to be contained under the blowout preventer, before controlling excess pressure by bleeding through the choke, shall be posted near the driller's control console.

An operable vacuum-type gas separator shall be installed in the mud system prior to commencement of drilling operations. The separator shall be maintained for use throughout the drilling and completion of the well.

The mud in the hole shall be circulated or reverse-circulated prior to pulling drill-stem test tools from the hole.

6.2 *Mud Testing and Monitoring Equipment.* Mud-testing equipment shall be maintained on the drilling rig at all times, and mud tests shall be performed once each tour, or more frequently, as conditions warrant. Such tests shall be conducted in accordance with procedures outlined in "API Recommended Practice for Standard Procedure for Testing Drilling Fluids," API RP 13B, Seventh Edition, April 1978, or subsequent revisions which the Chief, Conservation Division, has approved for use. The results of the tests shall be recorded and maintained at the drill site.

The following mud-system monitoring equipment shall be installed with derrick floor indicators and used when mud returns are established and throughout subsequent drilling operations:

a. Recording mud pit level indicator to determine mud pit volume gains and losses. This indicator shall include both a visual and an audio warning device.

b. Mud-volume measuring device for accurately determining mud volumes required to fill the hole on trips.

c. Mud-return indicator to determine that returns essentially equal the pump discharge rate.

d. Gas-detecting equipment to monitor the drilling mud returns, with indicators located in the mud logging compartment or on the derrick floor. If the indicators are in the mud-logging compartment, there shall be a means of immediate communication with the rig floor, and the equipment shall be continually manned.

6.3 *Mud Quantities.* The lessee shall include, with his Application for Permit to Drill, a tabulation of well depth versus minimum quantities of mud material, including weighting material, to be maintained at the drill site. The minimum quantities of mud material required shall be based on the following:

a. The volume required to replace the calculated capacity of the downhole and active surface mud system.

b. The quantity of weighting material required to overcome the highest-anticipated formation pressure.

When the mud quantity required exceeds the storage capacity of the drilling facility, the lessee shall maintain maximum mud inventories and must receive approval from the District Supervisor of the lessee's plans to resupply mud inventories in the event of an emergency. The plan shall include an estimate of the time required for delivery of the mud supplies.

Daily inventories of mud materials, including weighting material, shall be recorded and maintained at the well site. Drilling operations shall be suspended in the absence of minimum quantities of mud material specified in the table or as modified in the approved plan.

7. *Supervision, Surveillance, and Training*

7.1 *Supervision.* A representative of the operator shall provide onsite supervision of drilling operations on a 24-hour basis.

7.2 *Surveillance.* From the time drilling operations are initiated and until the well is completed or abandoned, a member of the drilling crew or the toolpusher shall maintain rig-floor surveillance continuously, unless the well is secured with blowout preventers, bridge plugs, or cement plugs.

7.3 *Training.* By December 1, 1979, lessee and drilling contractor personnel shall be trained and qualified in accordance with the provisions of the USGS Outer Continental Shelf Standard, "Training and Qualifications of Personnel in Well-Control Equipment and Techniques for Drilling on Offshore Locations," No. T 1, (GSS–OCS–T 1), First Edition, December 1977, and subsequent revisions thereto.

Any driller, toolpusher, or operator's representative who received training in well-control operations between December 1, 1975, and December 1, 1979, will be credited with having met the training requirements of GSS–OCS–T 1.

After December 1, 1979, in order to maintain qualification, employees must successfully complete a USGS-approved refresher course annually and repeat the basic well-control course every 4 years, as described in the provisions of GSS–OCS–T 1. Credit for these courses shall be obtained from USGS-approved schools.

The refresher course shall be completed within 45 days of the student's anniversary date. The anniversary date is established upon the student's successful completion of a basic course in well control.

Records shall be maintained at the drill site for the affected personnel, indicating the specific training and refresher courses sucessfully completed, the dates of completion, and the names and dates of the courses.

In those Areas which are subject to subfreezing conditions, the lessee shall ensure that personnel responsible for maintenance of the blowout-preventer stack, the associated-control equipment, and the hydraulic-control fluids shall be instructed in the proper procedures to prevent freezing of the hydraulic-control fluids in the control system and the fluids in the choke and kill lines.

8. *Hydrogen Sulfide.* When drilling operations are planned which will penetrate reservoirs known or expected to contain hydrogen sulfide, (H_2S), or in those areas where the presence of H_2S is unknown, or upon encountering H_2S, the preventive measures and the operating practices set forth in U.S. Geological Survey Outer Continental Shelf Standard, "Safety Requirements for Drilling Operations in a Hydrogen Sulfide Environment," No. 1 (GSS–OCS–1) Second Edition, June 1979, or subsequent revisions thereto, shall be followed.

9. *Critical Operations and Curtailment Plans*

Gulf of Mexico

Certain operations performed in drilling are more critical than others with respect to well control, and for the prevention of fire, explosion, oil spills and other discharges or emissions. The lessee shall file with the District Supervisor, for approval, a Critical Operations and Curtailment Plan to be followed while conducting drilling operations in each District area. This plan shall include:

a. The guidelines the operator will follow to assure coordination, control, and, if necessary, curtailment of drilling activities.

b. The name of the person who has overall responsibility, as the person in charge at the site, for safety of drilling operations.

c. An outline of any additional safety or antipollution measures that are required when conducting critical drilling operations.

The lessee shall review the plan at least annually. The lessee shall notify the District Supervisor of the results of this review. Any amendments or modifications of the plan are subject to the approval of the District Supervisor.

Pacific, Gulf of Alaska, and Atlantic

Certain operations performed in drilling are more critical than others with respect to well control, and for the prevention of fire,

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explosion, oil spills, and other discharges or emissions. The lessee shall file with the District Supervisor, for approval, a Critical Operations and Curtailment Plan to be followed while conducting drilling operations on each lease. This plan shall include:

a. A list or description of the critical drilling operations that are, or are likely to be, conducted on the lease. This list or description shall specify the operations to be ceased, limited, or not to be commenced under given circumstances or conditions. This list shall include operations such as:

(1) Drilling in close proximity to another well.

(2) Drill-stem testing.

(3) Running and cementing casing.

(4) Cutting and recovering casing.

(5) Logging or wireline operations.

(6) Well-completion operations.

(7) Moving the drilling vessel off location in an emergency, repositioning the vessel on location, and reestablishing entry into the well.

b. A list or description of circumstances or conditions under which such critical operations shall be curtailed. This list or description shall be developed from all the factors and conditions relating to the conduct of operations on the lease, and shall consider but not necessarily be limited to the following:

(1) Whether the drilling operations are to be conducted from mobile or fixed platforms.

(2) The availability and capability of containment and cleanup equipment and spill-control system response time.

(3) Abnormal or unusual conditions expected to be encountered during drilling operations.

(4) Known or anticipated meteorological or oceanographical conditions.

(5) Availability of personnel and equipment for particular operations to be conducted.

(6) Other factors peculiar to the particular lease under consideration.

c. The name of the person who has overall responsibility, as the person in charge at the site, for safety of drilling operations.

When any circumstance or condition listed or described in the plan occurs or other operational limits are encountered, the lessee shall notify the District Supervisor and shall curtail the critical operations as set forth under 9a.

Deviations from the plan shall require prior approval of the District Supervisor. If emergency action requires deviation from the plan, the District Supervisor shall be notified as soon as possible.

The lessee shall review the plan at least annually. The lessee shall notify the District Supervisor of the results of this review. Any amendments or modifications of the plan are subject to the approval of the District Supervisor.

10. *Field Drilling Rules.* When sufficient geological and engineering information is obtained as a result of drilling operations, the lessee may make an application or the Supervisor may require an application for the establishment of field drilling rules. After field drilling rules have been established by the Supervisor, development wells shall be drilled in accordance with these rules and the requirements of this Order which are not affected by such rules.

11. *Departures.* All departures from the requirements specified in this Order shall be subject to approval pursuant to 30 CFR 250.12(b).

Approved:

Don E. Kash,

Chief, Conservation Division.

OCS Order No. 3

Subparagraph 1.1

Comments. It was suggested that the phrase "or to prevent migration of fluids in the well bore" is redundant.

Discussion. The intent of OCS order No. 3 is to prevent the migration of formation fluids within the well bore. The subparagraph was revised by changing the title to "Isolation of Zones in Open Hole." The second sentence was revised as follows:

"The placement of additional cement plugs to prevent the migration of formation fluids in the well bore may be required by the District Supervisor."

This revision clarifies the intent and recognizes the District Supervisor's authority to require additional plugs.

Subparagraph 1.4

Comments. It was suggested that the phrase "cannot be used" is ambiguous and that the phrase should read "if the foregoing preferred methods are not used."

Discussion. The subparagraph was revised to eliminate the phrase "if the foregoing methods cannot be used." A new lead-in sentence was added as follows:

"If casing is cut and recovered leaving a stub, one of the following methods shall be used to plug the casing stub."

Two new subparagraphs were added, 1.4.1 and 1.4.2, to differentiate between the requirements of stubs terminating inside casing and stubs terminating below the casing strings.

Subparagraph 1.7

Comments. It was suggested that all plugs should be verified in the same manner as the first plug below the top plug.

Discussion. OCS Order No. 3 requires the testing of the first plug below the surface plug. Past well history has indicated that it is not necessary to test the plugs below the surface plug. The subparagraph was reorganized by adding a new lead-in sentence stating that the plug shall be verified by one of the following methods: "a" or "b". The methods were segregated into the following segments: "a" and "b". The revision also makes it clear that if cement is placed above a bridge plug or a retainer, the cement need not be tested.

Subparagraph 1.9

Comments. There was a divergence of opinion on the wording which provides flexibility for the District Supervisor to approve the removal of casing at depths less than 5 meters (16 feet) below the ocean floor.

Discussion. OSC Order No. 3 states that the approval of the Supervisor is required to remove casing at depths less than 5 meters (16 feet) "after a review of data on the ocean-bottom conditions." There have been instances where it was impossible to remove casing which had been severed at 5 meters (16 feet). In the Gulf of Alaska, a casing string was severed at 5 meters (16 feet) and could not be pulled with a force of 181,437 kilograms (400,000 pounds). The pipe was then cut at 2 meters (6 feet) below the ocean floor and was successfully pulled with a force of 136,078 kilograms (300,000 pounds). This problem is prevalent where hard bottoms exist. In a hard bottom where erosion of the ocean floor is unlikely, the depth of the severance is not critical. In a soft bottom which is subject to erosion, there would be no difficulty in removing the casing at 5 meters (16 feet) below the ocean floor.

Paragraph 2

Comments. No written comments received.

Discussion. The paragraph was revised, however, by the Conservation Division staff after it was realized that the requirement for setting a cement plug in the open hole of a temporarily abandoned drilling well has caused an unintentional sidetrack while trying to drill out of the 100-foot cement plug below the casing. This can easily occur when the formation is softer than the cement plug. Such sidetracking and the resultant dog leg are highly undesirable. The following two sentences were added to the paragraph:

"When a drilling well is temporarily abandoned, a bridge plug or a cement plug shall be set at the base of the deepest casing string. If a cement plug is set, it is not necessary for the cement plug to extend below the casing shoe into the open hole."

It was also suggested by Conservation Division personnel that this paragraph should address the requirements for the marking of casing stubs which extend above the ocean floor. The last sentence of the paragraph was revised as follows:

"When a casing stub extends above the ocean floor, the operator shall comply with the following requirements:

"a. A mechanical, retrievable, or permanent bridge plug, or a cement plug at least 30 meters (98 feet) in length shall be set in the casing between 5 and 60 meters (16 and 197 feet) below the ocean floor.

"b. The requirements of OCS Order No. 1, paragraph 4, 'Identification of Subsea Objects.' "

United States Department of the Interior; Geological Survey Conservation Division

OCS Order No. 3, Effective July 1, 1979; Plugging and Abandonment of Wells

This Order is issued pursuant to the authority prescribed in 30 CFR 250.11 and in accordance with 30 CFR 250.15. The operator shall comply with the following minimum plugging and abandonment procedures which have general application to all wells drilled for oil or gas. Plugging and abandonment operations shall not be commenced prior to obtaining approval from the appropriate District Supervisor. Oral or telegraphic approvals shall be in accordance with 30 CFR 250.13.

1. *Permanent Abandonment*

1.1 *Isolation of Zones in Open Hole.* In uncased portions of wells, cement plugs shall be spaced to extend 30 meters (98 feet) below the bottom to 30 meters (98 feet) above the top of any oil, gas, and freshwater zones so as to isolate them in the strata in which they are found and to prevent them from escaping into other strata or the surface. The placement of additional cement plugs to prevent the migration of formation fluids in the well bore may be required by the District Supervisor.

1.2 *Isolation of Open Hole.* Where there is open hole below the casing, a cement plug shall be placed in the deepest casing string in accordance with "a" or "b" below. In the event lost circulation conditions have been experienced or are anticipated, a permanent-type bridge plug may be placed in accordance with "c" below:

a. A cement plug set by the displacement method so as to extend a minimum of 30 meters (98 feet) above and 30 meters (98 feet) below the casing shoe.

b. A cement retainer with effective back-pressure control set not less than 15 meters (49 feet) nor more than 30 meters (98 feet) above the casing shoe, with a cement plug calculated to extend at least 30 meters (98 feet) below the casing shoe and 15 meters (49 feet) above the retainer.

c. A permanent-type bridge plug set within 45 meters (148 feet) above the casing shoe with 15 meters (49 feet) of cement on top of the bridge plug. This bridge plug shall be tested in accordance with subparagraph 1.7 prior to placing subsequent plugs.

1.3 *Plugging or Isolating Perforated Intervals.* A cement plug shall be set by the displacement method opposite all open perforations (perforations not squeezed with cement) extending a minimum of 30 meters (98 feet) above and 30 meters (98 feet) below the perforated interval or down to a casing plug, whichever is less. In lieu of setting a cement plug by the displacement method, the following two methods are acceptable, provided the perforations are isolated from the hole below:

a. A cement retainer with effective back-pressure control set not less than 15 meters (49 feet) nor more than 30 meters (98 feet) above the top of the perforated interval with a cement plug calculated to extend at least 30 meters (98 feet) below the bottom of the perforated interval and 15 meters (49 feet) above the retainer.

b. A permanent-type bridge plug set within 45 meters (148 feet) above the top of the perforated interval with 15 meters (49 feet) of cement on top of the bridge plug.

1.4 *Plugging of Casing Stubs.* If casing is cut and recovered leaving a stub, one of the following methods shall be used to plug the casing stub.

1.4.1 *Stub Termination Inside Casing String.* A stub terminating inside a casing string shall be plugged by one of the following methods:

a. A cement plug set so as to extend 30 meters (98 feet) above and 30 meters (98 feet) below the stub.

b. A cement retainer set 15 meters (49 feet) above the stub with 45 meters (148 feet) of cement set below and 15 meters (49 feet) above.

c. A permanent bridge plug set 15 meters (49 feet) above the stub and capped with 15 meters (49 feet) of cement.

1.4.2 *Stub Termination Below Casing String.* If the stub is below the next larger string, plugging shall be accomplished in accordance with either subparagraph 1.1 or 1.2.

1.5 *Plugging of Annular Space.* Any annular space comunicating with any open hole and extending to the ocean floor shall be plugged with cement.

1.6 *Surface Plug.* A cement plug at least 45 meters (148 feet) in length, with the top of the plug 45 meters (148 feet) or less below the ocean floor, shall be placed in the smallest string of casing which extends to the ocean floor.

1.7 *Testing of Plugs.* The setting and location of the first plug below the surface plug shall be verified by one of the following methods:

a. By placing a minimum pipe weight of 6,800 kilograms (15,000 pounds) on the cement plug, cement retainer, or bridge plug. The cement placed above the bridge plug or retainer need not be tested.

b. By testing the plug with a minimum pump pressure of 6,900 kPa (1,000 psi) with no more than a 10-percent pressure drop during a 15-minute period.

1.8 *Mud.* Each of the respective intervals of the hole between the various plugs shall be filled with mud fluid of sufficient density to exert hydrostatic pressure exceeding the greatest formation pressure encountered while drilling the intervals between the plugs.

1.9 *Clearance of Location.* All casing, wellhead equipment, and piling shall be removed to a depth of at least 5 meters (16 feet) below the ocean floor or at a depth approved by the District Supervisor after a review of data on the ocean-bottom conditions. The operator shall verify that the location has been cleared of all obstructions.

2. *Temporary Abandonment.* Any drilling well which is to be temporarily abandoned shall be mudded and cemented as required for permanent abandonment except for the requirements in subparagraphs 1.6 and 1.9. When a drilling well is temporarily abandoned, a bridge plug or a cement plug shall be set at the base of the deepest casing string. If a cement plug is set, it is not necessary for the cement plug to extend below the casing shoe into the open hole. When a casing stub extends above the ocean floor, the operator shall comply with the following requirements:

a. A mechanical, retrievable, or permanent bridge plug, or a cement plug at least 30 meters (98 feet) in length shall be set in the casing between 5 and 60 meters (16 and 197 feet) below the ocean floor.

b. The requirements of OCS Order No. 1, paragraph 4, "Identification of Subsea Objects."

3. *Departures.* All departures from the requirements specified in this Order shall be subject to approval, pursuant to 30 CFR 250.12(b).

Approved:

Don E. Kash,

Chief, Conservation Division.

OCS Order No. 4

Preamble

Comments. It was suggested that the fourth sentence of the Preamble should be revised by changing the word "may" to "shall" and by adding the phrase "and reasonable and prudent efforts are being made to comply with the requirements."

Discussion. The intent of the Preamble was not to make it mandatory that the Supervisor grant a suspension of production. The Supervisor has specific guidelines to be used in his determination of the approval or the denial of a request for a suspension of production. The Supervisor has the discretion of approving or disapproving requests for suspensions of production based on these guidelines.

New Paragraph 1

Comments. No comments received.

Discussion. A new paragraph 1 was added to require the timely submittal of an application for determination of well producibility. This application is to be submitted to the District Supervisor to request his determination of well's capability of producing oil or gas in paying quantities for each new well drilled on a non-producible lease. The application must be submitted within 60 days after the drilling rig has moved from the well. This requirement allows the Supervisor to evaluate the diligence of the lessee in the development of the lease at an early stage. All subsequent paragraphs of the Order were renumbered.

Paragraphs 1, 2, and 3

Comments. Two commenters indicated that the intent of the Order was not clear. A lack of clarity was cited in the paragraphs which allow the demonstration of production capability through production tests, logs, or other proven formation evaluation techniques.

Discussion. We agree with these comments and have reorganized the Order as follows:

Paragraph 2, "Criteria for the Determination of Well Producibility," was written to incorporate and clarify the intent of the last sentence of the proposed Preamble. This new introductory paragraph states that the Supervisor shall prescribe which of certain criteria is to be used to determine the capability of a well to produce in paying quantities. This language makes it clear that the determination will be based either on production tests as outlined in subparagraph 2.1 or on a production capability determination as outlined in subparagraph 2.2.

The content of the original paragraph 4, "Witnessing and Results," was incorporated into the lead-in sentence of subparagraph 2.1, "Production Tests." The requirements for production tests for oil wells and gas wells, which were contained in the original paragraphs 1 and 2, were listed in separate subparagraphs "a" and "b" of subparagraph 2.1.

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The original paragraph 3, "Production Capability," was retitled as a new paragraph 2.2, "Production Capability Determination." For the Gulf of Mexico Region, it has been determined that certian well data may be considered as reliable evidence that a well is capable of producing oil or gas in paying quantities; therefore, the Gulf of Mexico lists the type of data which the District Supervisor would evaluate in his determination of production capabilities. The Supervisor has the discretion to make a determination to accept this data or to require a production test. Since the Pacific, Gulf of Alaska, and Atlantic Areas do not have sufficient production history and data upon which to base a judgment on the reliability of well data as an indication of production capability, the production capability determination requirement was worded as follows:

"When the District Supervisor determines that open-hole evaluation data, such as wireline formation tests, drill stem tests, core data, and logs, have been demonstrated as reliable in a geologic area, such data may be considered as acceptable evidence that a well is capable of producing in paying quantities."

Comments. It was suggested that the proposed Appendix for the Gulf of Mexico does not parallel the requirements of the Order because the Order requires a flow test plus an analysis of pertinent engineering, geologic, and economic data to determine whether a well is capable of producing in paying quantities.

Discussion. As previously stated, the revised introductory sentence for paragraph 2 makes it clear that the Supervisor will determine whether production tests or well data are to be used in the determination of production capability.

Comments. It was suggested that the proposed subparagraph 3A(2) of the Appendix for the Gulf of Mexico should allow for the consideration of an apparent water resistivity ratio (Rwa) of 3:1 as an alternative to a minimum true resistivity ratio of 5:1 in a determination of production capability.

Discussion. The apparent water resistivity ratio is not considered a reliable indicator. The Rwa may be erroneous due to the presence of gas, shale, whole washout, or uncompacted sediments. The requirement for the Gulf of Mexico was not revised.

Comments. It was suggested that the words "absolutely," "conclusively," and "water free" are too positive for the intent of the proposed subparagraph 3C for the Gulf of Mexico Region.

Discussion. We agree with these comments and have deleted the words from the requirement for the Gulf of Mexico Region.

United States Department of the Interior; Geological Survey Conservation Division

OCS Order No. 4, Effective July 1, 1979; Determination of Well Producibility

This Order is issued pursuant to the authority prescribed in 30 CFR 250.11 and in accordance with 30 CFR 250.12. An OCS lease provides for extension beyond its primary term for as long as oil or gas may be produced from the lease in paying quantities. The term "paying quantities" as used herein means production of oil and gas in quantities sufficient to yield a return in excess of operating costs. An OCS lease may be maintained beyond the primary term, in the absence of actual production, when a suspension of production has been approved in accordance with 30 CFR 250.12.

1. *Application for Determination of Well Producibility.* An application shall be submitted to the District Supervisor for the determination of every new well's capability of producing until a well, drilled on the lease, has been determined to be capable of producing oil or gas in paying quantities. The application shall be submitted within 60 days after the drilling rig has been moved from the well.

2. *Criteria for the Determination of Well Producibility.* The Supervisor shall prescribe which of the following criteria is to be used to determine the capability of a well to produce in paying quantities.

2.1 *Production Tests.* All tests must be witnessed by an authorized representative of the U.S. Geological Survey. Test data accompanied by operator's affidavit, or third-party test data, may be accepted in lieu of a witnessed test, provided approval is obtained from the District Supervisor prior to the performance of the test. All tests must conform to the following minimum requirements:

a. A production test for oil wells of at least 2 hours' duration following stabilization of flow.

b. A deliverability test for gas wells of at least 2 hours' duration following stabilization of flow or a 4-point back-pressure test.

2.2 *Production Capability Determination.*

Gulf of Mexico

The following may be considered as reliable evidence that a well is capable of producing oil or gas in paying quantities:

a. A resistivity log of the well showing a minimum of 15 feet of producible sand in one section that does not include any interval which appears to be water-saturated. All of the section counted as producible shall exhibit the following properties:

(1) Electrical spontaneous potential exceeding 20 negative millivolts beyond the shale base line. If mud conditions prevent a 20-negative-millivolt reading beyond the shale base line, a gamma ray log deflection of at least 70 percent of the maximum gamma ray deflection in the nearest clean water-bearing sand may be substituted.

(2) A minimum true resistivity ratio of the producible section to the nearest clean water-bearing sand of at least 5:1.

(3) A porosity log indicating porosity in the producible section.

b. Sidewall cores and core analyses which indicate that the section is capable of producing oil or gas.

c. The aforementioned criteria will ascertain that a well is producible. However, recognizing the fact that all geologic formations in the Gulf of Mexico Region do not possess the same physical properties and, therefore, do not lend themselves to one single method of log analysis, the U.S. Geological Survey may, at its discretion, accept sound log-interpretation techniques which demonstrate that a well would produce hydrocarbons in a particular area, even though the well might not qualify under items "a" and "b". The lessee can support the determination of well producibility by submitting further evidence such as wireline formation tests and/or mud logging analyses.

Pacific, Gulf of Alaska, and Atlantic

When the District Supervisor determines that open-hole evaluation data, such as wireline formation tests, drill stem tests, core data, and logs, have been demonstrated as reliable in a geologic area, such data may be considered as acceptable evidence that a well is capable of producing in paying quantities.

3. *Departures.* All departures from the requirements specified in this Order shall be subject to approval, pursuant to 30 CFR 250.12(b).

Approved:

Don E. Kash,
Chief, Conservation Division.

OCS Order No. 5

Title

Comments. No comments received.

Discussion. The title of the Order was changed from "Subsurface Safety Devices and Surface Safety Systems" to "Production Safety Systems." The new title is consistent with the content of the Order.

Preamble

Comments. One commenter stated that "We do not believe the wording in the preamble to this Order is in accord with the objectives of the Memorandum of Understanding (MOU) between DOI and DOT which delineates the jurisdictional limits of DOI–USGS and DOT–OPSO for transmission pipelines and facilities boarding producer's platforms. The intent and the language of the MOU should be taken into consideration in delineation of jurisdiction."

Discussion. This Order is concerned with well and platforms safety devices; the objectives of the MOU between DOT and DOI are within the purview of OCS Order No. 9, "Oil and Gas Pipelines."

Paragraph 1

Comments. It was suggested that paragraph 1 be revised "to read as follows: Technological improvement. The operator is encouraged to continue development of new and improved safety device technology, and as technological research, progress, and product improvement result in increased effectiveness of existing safety devices or the development of new devices or systems, such devices or systems may be used or required. For new subsurface-safety devices or systems, field testing shall be approved by the District Supervisor, and applications for routine use shall include evidence that the device or system has been field tested at least once each month for a minimum of 6 consecutive months, and that each test indicated proper operation."

Discussion. Only the first sentence of this suggestion was adopted to be consistent with the quality-assurance paragraph of this Order. The USGS encourages the development of new safety devices and systems; however, it is intended that new safety devices be tested according to the qualification test requirments of ANSI/ASME SPPE–1–1977 (formerly ANSI/ASME OCS–1–1977). (Refer to subparagraphs 2a and 2b.) It is not the objective to have uncertified and unproved devices field tested. The field testing of uncertified and unproved safety devices requires a departure in accordance with paragraph 10 of this Order.

Comments. Another commenter noted that "if the technology improves in a specific area, the USGS should be in a position to require its use." It was also contended that the best available equipment should be used on "• • • all existing operations (where practicable) and on all new operations, where necessary to protect public health, safety or the environment."

Discussion. The objectives and requirements of paragraphs 1 and 4 of this Order are consistent with these comments.

Paragraph 2

Comments. No comments received.

Discussion. Since the quality assurance and performance requirements of the original subparagraph 2.3.1 are applicable to both surface- and subsurface-safety devices, it was determined that these requirements should be listed under a separate paragraph rather than a subparagraph concerned with subsurface-controlled subsurface-safety devices. Therefore, the requirement was revised and retitled as a new paragraph 2, "Quality Assurance and Performance of Safety and Pollution-Prevention Equipment." The subsequent paragraphs were renumbered. The revised subparagraph refers to subparagraph 3.2 for compliance dates for subsurface-safety valves and to 4.3 for compliance dates for surface-safety valves.

Comments. It was suggested that the following "grandfather clause" should be incorporated into the first sentence of paragraph 2 (2.3.1), "All subsurface-safety devices purchased for installation after the date of this Order shall • • •." It was contended that "a grandfather clause is needed to prevent the wasteful replacement of these devices."

Another commenter stated that "These sections (2.3.1 and 2.3.2) require that the operator shall conform to API Specification 14A and API Recommended Practice (RP) 14B in selection, installation, and testing of subsurface safety devices."

It was also noted that "While the subsurface safety devices we currently use in our operations meet the intent of 14A and 14B, a rigorous analysis would find them lacking in certain minor areas. The forced replacement of these perfectly acceptable devices is unnecessary and wasteful."

Discussion. The dates for compliance with API Specification 14A and API RP 14B are stated in subparagraphs 3.2 and 3.3, respectively. Provision has been made for existing wells. It is not the intent of the USGS to cause unnecessary replacement of these subsurface devices.

Subparagraph 3.1

Comments. It was suggested that a date change be made to Appendix I, Gulf of Mexico as follows: "Change 'June 5, 1972' in six places in 2(a), 2(a)(1), 2(a)(2), 2(b), 2(b)(1), and 2(b)(2)." It was contended that "Existing OCS Order No. 5 for the Gulf of Mexico Area would have allowed installation of a subsurface-controlled safety device in a well initially completed or for which tubing was removed and reinstalled between June 5, 1972, the effective date of the Order, and December 1, 1972, the compliance date given in the Order. Any well which was so completed and which has not had the tubing pulled and reinstalled since December 1, 1972, could still have a subsurface-controlled subsurface-safety device and be in compliance with OCS Order No. 5. The use of the June 5, 1972, date in subparagraphs 2(a), 2(a)(1), and 2(a)(2) of the proposed Order would required that these devices be immediately changed even if the tubing does not need to be pulled and reinstalled. Revising the date in these three subparagraphs to be December 1, 1972, would retain the status quo on these wells."

Another commenter suggested that subparagraph 3.4 (2.3) be revised as follows: *"Except as provided below and in subparagraph 2.4,* all tubing installations open to and capable of producing from hydrocarbon-bearing zones shall be equipped with a surface-controlled subsurface safety device. The surface controls may be located on site or remotely. *Wells with a shut-in tubing pressure of 4,000 psig or greater shall be equipped with a subsurface-controlled subsurface safety device in lieu of a surface-controlled subsurface safety device. A surface-controlled subsurface safety device may be installed if approved by the Supervisor. When the shut-in tubing pressure declines below 4,000 psig, a surface-contolled subsurface safety device shall be installed when the tubing is first removed and reinstalled."*

It was contended that "The suggested revision incorporates the exception in existing Gulf of Mexico OCS Order No. 5 for high pressure wells into the National Order. The Gulf of Mexico Order recognizes the limited availability of surface-controlled subsurface safety valves for high pressure wells. We know of no justification for deviating from the Gulf of Mexico requirements, which have been proven by experience to provide adequate safety."

Discussion. The comments summarized above are interrelated; therefore, this discussion addresses several concerns.

It has been determined that the pressure criteria which were proposed in the original Gulf of Mexico Appendix are applicable to all Areas; therefore, subparagraph 3.1 (2.1) has been rewritten as an "all Areas" requirement. This determination is based on an assessment of technical problems which have been encountered in the control systems of subsurface-controlled subsurface-safety valves in wells with shut-in tubing pressures greater than 4,000 psig in the Gulf of Mexico Area.

It is recognized that December 1, 1972, is the effective date for the requirements of subparagraph 3.1 for the Gulf of Mexico Area; however, it is not necessary to stipulate a retroactive effective date for any Area. The existing requirements for all Areas are legally binding until the requirements are superseded by the revised order, which will become effective on July 1, 1979.

The subparagraph has been segregated into interdependent categories as follows:

(1) Wells and tubing installations completed after the effective date of the Order.

(2) Wells and tubing installations completed prior to the effective date of the Order.

(3) Shut-in tubing pressures greater than 4,000 psig.

(4) Shut-in tubing pressures less than 4,000 psig.

Comments. It was suggested that the first sentence of subparagraph 3.1 (2.1), "Installation," be changed to: "All tubing installations open to and capable of producing from hydrocarbon-bearing zones shall be equipped with a subsurface safety device unless, after application and justification, the well is determined to be incapable of flowing *oil or gas."*

It was contended that "The suggested addition of the phrase 'oil or gas' to the end of this sentence retains a requirement in the existing Gulf of Mexico Area OCS Order No. 5. There is no justification for requiring subsurface safety devices in wells which are incapable of flowing hydrocarbons.

"The USGS has shown no justification for deviating from the Gulf of Mexico Order, which has been proven by experience to provide adequate safety."

Discussion. This suggestion was not adopted. The intent is to require subsurface-safety devices in wells which are capable of flowing saltwater. High-salinity and high-temperature saltwater are also pollutants.

Subparagraph 3.2

Comments. No comments received.

Discussion. A new subparagraph 3.2 was written to incorporate a "grandfather clause" and to specify a date for compliance with "API Specification for Subsurface Safety Valves," API Spec 14A. This requirement was formerly in the proposed subparagraph 2.3.1. Refer to the discussion for paragraph 2.

Former Subparagraph 2.2

Comments. No comments received.

Discussion. The originally proposed subparagraph 2.2 was deleted and the requirements were incorporated into subparagraph 3.3.

Subparagraph 3.3

Comments. No comments received.

Discussion. A new subparagraph 3.3, "Design Installation and Operation," was written to consolidate the requirements of the original subparagraphs 2.2 and 2.3.2, and to add a "grandfather clause" for compliance with the requirements of API RP 14B. The test frequency requirement which was formerly in the original subparagraph 2.3.2 has been included in subparagraph 3.4.1. The subsequent subparagraphs were renumbered.

Subparagraph 3.4

Comments. It was recommended that the references to appendices III, IV, or V are not necessary because the requirements for "Subfreezing Operations" could be condensed into a one-sentence statement and placed in the Order.

Discussion. This suggestion was adopted.

Subparagraph 3.4.1

Comments. A large number of comments addressed subparagraph 3.4.1 (2.3.2), "Installation and Testing," objecting to the test frequency of surface-controlled subsurface-safety valves. The requirement is quoted: " * * * installed in a well shall be tested in place for proper operation when installed, or reinstalled, at least monthly for the next six months, and quarerly thereafter." The consensus was that the proposed testing periods were too frequent, burdensome, and unnecessary.

Conversely, one commenter stated that "Testing frequency should be increased over the life of the device, however, since equipment tends to get less reliable with age, rather than more reliable. Again we see reliance on API Recommended Practice, with no justification provided."

Discussion. After considering the above comments, the test frequency was changed to " * * * at least monthly for the first 3 months, and thereafter at intervals not exceed 6 months." It is believed that the initial three monthly tests are necessary to establish reliability; the subsequent semiannual tests are sufficient to verify functional operation for the remainder of the service-life of the device. The subparagraph was also revised to require the valves to be tested in accordance with Appendix E of API RP 14B. This appendix describes the test proeedure.

Justification for reliance on API documents has been previously discussed in the Comments/Discussion section of OCS Order No. 2, paragraph 3.

Subparagraph 3.5 and 3.5.1

Comments. No comments received.

Discussion. In the proposed National OCS Order, subparagraph 2.4, "Subsurface-Controlled Subsurface-Safety Devices," there was no requirement for subsurface-controlled subsurface-safety devices for any Area of the OCS except the Gulf of Mexico Area. Our review of the Order indicated that the Order should provide for the installation of subsurface-controlled subsurface-safety valves in wells from single well and multiwell satellite caissons or jackets and ocean floor completions. It was concluded that the Order should allow the optional use of these valves instead of surface- or other remote-controlled subsurface-safety valves for the satellite or subsea-type well completions. This option is necessary because it may be impractical to use surface-controlled subsurface-safety valves in satellite caisson and subsea-type completions. A new subparagraph 3.5.1, "Inspection and Maintenance of Subsurface-Controlled Subsurface-Safety Valves," was also added to provide assurance of the proper functioning of the valves.

The closing-pressure and the flowrate design criteria which were specified in subparagraph 2d of the original appendix for the Gulf of Mexico OCS Area were deleted. These requirements are not necessary because these design criteria are specified in API RP 14B.

The new subparagraph 3.3 references API RP 14B as a requirement.

Subparagraph 3.6

Comments. The comments on the original subparagraphs 2.5, "Shut-in Wells," and 2.7, "Tubing Plugs," indicated that these subparagraphs are interrelated and, therefore, should be combined into a new paragraph entitled "Tubing Plugs in Shut-in Wells."

Discussion. The content of the original subparagraphs 2.5 and 2.7 were edited and combined into the new subparagraph 3.6, "Tubing Plugs in Shut-in Wells."

Comments. One commenter referred to subparagraph 3.6 (2.5), stating that "It appears that the pump-through type of retrievable plug may be more susceptible to leaks than a simple blanking plug. The reason for specifying this type of plug is unclear. Provision should be made for alternative plugging techniques."

Discussion. A pump-through type of tubing plug is required because this type of plug permits control of the well without removing the plug.

Comments. A number of commenters objected to subparagraph 3.6 (2.7) concerning the minor leakage of tubing plugs. One commenter proposed that the second and third sentences be revised as follows: *"If sustained liquid flow exceeds 400 cc/min, or gas flow exceeds 15 cu ft/min,* the plug shall be removed, repaired, and reinstalled or an additional tubing plug may be installed in lieu of removal and repair."

It was contended that "The very minimal flow rates allowed by the existing Gulf of Mexico Order permit confirmation that the plug is holding without having to wait for hours unitl *all* flow stops. Temperature fluctuations will also indicate very small flow rates (fluid expansion) without any leak through the plug."

Discussion. The tubing-plug-leakage factor has been reevaluated, and the suggestions were adopted.

Subparagraph 3.7

Comments. One commenter suggested that subparagraph 3.7 (2.6), "Injection Wells," be revised as follows: "Surface-controlled subsurface-safety devices, *except as specified in subparagraph 2.4,* shall be installed in all injection wells unless, after application and justification, it is determined that the well is incapable of flowing *oil or gas."*

It was contended that "Existing OCS Order No. 5 for the Gulf of Mexico Area allows the use of subsurface-controlled subsurface-safety devices in some older wells as long as the tubing has not been removed and reinstalled. The proposed order would require that all of these subsurface-controlled valves be replaced immediately with surface-controlled valves. The suggested revision would maintain the status quo and would only require replacement of the subsurface-controlled valve with a surface-controlled valve when the tubing is pulled and reinstalled on these older wells."

Discussion. The subparagraph was revised to segregate the requirements into two categories: (1) wells which were placed in injection service after the effective date of this order and (2) wells which were placed in injection service prior to the effective date of this order. This requirement is consistent with the existing OCS Order for the Gulf of Mexico which contains a compliance date of December 1, 1972. This requirement is also consistent with the existing requirements for the other Areas of the OCS. It is not necessary to specify specific compliance dates for each Area of the OCS because the existing orders are binding until the requirements are superseded by the revised Order, which will become effective July 1, 1979.

The phrase "oil or gas" was not added to the Order because injection wells often contain residual volumes of oil and/or entrained gas. These residual volumes collect in the well bore when injection is terminated; therefore, such injection wells are capable of oil or gas. High-salinity and high-temperature saltwater are also pollutants.

Subparagraph 3.8

Comments. No comments received.

Discussion. The subparagraph was revised to clarify the requirements for reporting the temporary removal of subsurface-safety devices and the requirements for attending the well when the subsurface-safety device has been removed.

Subparagraph 3.9

Comments. No comments received.

Discussion. The title of this subparagraph has been changed from "Additional Protective Equipment" to "Additional Safety Equipment" to more accurately describe the intent of the subparagraph.

Comments. Several commenters addressed subparagraph 3.9 (2.9), "Additional Safety Equipment," and suggested that the first sentence be revised as follows: "All tubing installations *made after June 5, 1972,* in which a wireline- or pumpdown-retrievable subsurface-safety device is to be installed shall be equipped with a landing nipple, with flow couplings, or other protective equipment, above and below, to provide for setting of the subsurface-safety device."

The commenter also noted that "Tubing installations made before June 5, 1972, in the Gulf of Mexico Area do not have to be equipped with a landing nipple and related equipment under the provisions of the current Gulf of Mexico OCS Order No. 5. The proposed Order would require that these wells be so equipped. The suggested revision would retain the status quo for these tubing installations."

Discussion. The subparagraph was revised by adding the clause "after the effective date of this Order." This revision is compatible with the existing requirements for all Areas of the OCS. Refer to the rationales pertaining to post effective dates in the discussion of subparagraph 3.1.

Comments. It was suggested that the second sentence of subparagraph 3.9 (2.9) be revised as follows: "All wells in which a subsurface-safety device or tubing plug is installed shall have the tubing-casing annulus packed off above the uppermost open perforations. *Unless otherwise approved by the District Supervisor, all tubing installations made after the effective date of this Order and in which a subsurface-safety device or tubing plug is installed* shall have the tubing-casing annulus packed off at least 30 meters (98 feet) below the measured or calculated top of cement on the production string or the intermediate string."

Discussion. The second sentence was deleted because the requirements will be included in a revision of OCS Order No. 6, "Well Completions and Workover Operations."

Comments. Another commenter suggested that the following phrase be added to the end of the last sentence of subparagraph 3.9 (2.9): "or of an independent remote shut-in system."

Discussion. In order to clarify the intent, the last sentences have been revised as follows: "The control system for all surface-controlled subsurface-safety valves shall be an integral part of the platform Emergency Shutdown System (ESD) as defined in API RP 14C Appendix C, Section C1. In addition to the activation of the ESD system, by manual action on the platform, the system may be activated by a signal from a remote location. Surface-controlled subsurface-safety valves shall close in response to shut-in signals from the ESD system or the fire loop, or both."

Former Subparagraph 2.10

Comments. No comments received.

Discussion. The proposed subparagraph 2.10, "Departures," was deleted because departures are now covered in the new paragraph 10. All subsequent subparagraphs have been renumbered.

Subparagraph 3.10

Comments. One commenter pointed to an error under subparagraph 3.10 (2.11), "Emergency Action," stating that "' ' ' reference to subparagraph 2.7 appears to be a typographical error, and it should probably refer to subparagraph 2.1."

Discussion. The suggestion is correct; subparagraph 3.1 (2.1) also should have been referenced. New subparagraph 3.10, "Emergency Action," has been revised to include the phrase "' ' ' in accordance with the provisions of this Order ' ' '." Therefore, specific paragraphs are not referenced.

Subparagraph 3.11

Comments. In response to subparagraph 3.11 (2.12), "Records," one commenter stated that "This requires records on subsurface-safety devices to be kept for a period of one year. Records on safety devices should be kept continuously throughout the life of the operation."

Discussion. The subparagraph has been changed to require a minimum record-retention period of 5 years for subsurface-safety devices. The 5-year record-retention period was adopted to be consistent with the American National Standards Institute/American Society of Mechanical Engineers Standard "Quality Assurance and Certification of Safety and Pollution Prevention Equipment Used in Offshore Oil and Gas Operations," OCS-1-1977. This standard has been adopted and is referenced in new subparagraph 2a.

The paragraph "Records," the subparagraph "Field Records," and the subparagraph "Other Records" were combined into one paragraph, "Records."

It was determined that the limited storage space in offshore field offices makes the storage of 5 years of records difficult. The Order was revised to state that records could be moved to the onshore office after 2 years. With this change, there was then no need to differentiate between field records and other records. The paragraph and subparagraphs were edited and combined.

Comments. One commenter addressed subparagraph 3.11d (2.12.1b) as follows: "Proposed Order No. 5, paragraph 2.12.1(b) would require verification of assembly by a qualified person in charge of installing the device and installation date. These downhole safety devices are actually factory assembled; therefore, offshore wireline operators could only verify installation and *not* assembly of such devices."

Discussion. The USGS agrees with this comment; subparagraph 3.11f (2.12.1b) has been revised as follows: "The qualifications of the personnel who directed all installations and removals ' ' '." The verification of the assembly is assured by the revision of subparagraph 3.11b which requires a record verifying that the assembly was manufactured in accordance with the quality-assurance requirements of ANSI-ASME SPPE-1-1977. The installation and removal dates are required by the new subparagraph 3.11g. A new item "c" has been added to require a record of all configuration modifications.

Comments. Several commenters objected to the requirement for the quarterly failure-analysis reports which were required by subparagraph 3.11 (2.12.2), "Other Records," and subparagraph 3.12 (2.13), "Reports." It was suggested that these reports should be submitted semiannually or annually.

Discussion. The "quarterly failure-analysis reports" requirement has been deleted from both of these subparagraphs. A new paragraph 6, "Failure and Inventory Reporting," has been added to this Order to cover equipment-failure reporting. The intention of the USGS to include the requirements for a failure and inventory reporting system (FIRS) in OCS Order No. 5 was announced in a **Federal Register** Notice, Vol. 43, No. 111, June 8, 1978. A discussion of the USGS rationale for the addition of the new paragraph 6 is given under a separate heading for that paragraph.

Subparagraph 4.1

Comments. Subparagraph 4.1 (3.1), "New Platforms," referenced API RP 14C; it was suggested that the phrase "or subsequent revisions as approved by the Supervisor" immediately follow the reference.

Discussion. The USGS has adopted the following phrase: "or subsequent revisions which the Chief, Conservation Division, has approved for use."

Subparagraph 4.2

Comments. A number of commenters were not in favor of the proposed date of December 1, 1977, for existing platforms to be in compliance with the provisions of API RP 14C, as stated in subparagraph 4.2 (3.2). It was contended that this date was "overly stringent," "exceedingly difficult," and "probably impossible to comply with." It was further contended that "Since the effective date of the National Order has not yet been established, then neither should this effective date of compliance by existing platforms be established."

Discussion. It has been recognized that the effective date for existing production platform facilities to be in compliance with the requirements of this subparagraph must be consistent with the existing Orders for those Areas which have existing production platforms. The currently effective OCS Order No. 8 for the Gulf of Mexico Area requires conformance on new platforms with the provisions of API RP 14C by April 1, 1977 (6 months after the October 1, 1976, effective date of the Order). This OCS Order also required compliance with the requirements of subparagraph 4D, "Additional Safety and Pollution Control Requirements," as follows:

a. Platforms installed after October 1, 1976, shall comply by April 1, 1977.

b. Existing platforms shall comply by October 1, 1977.

Shortly after the issuance of the September 7, 1976, revision of the Gulf of Mexico OCS Order No. 8, it was recognized that the OCS Order did not state the requirements for compliance with API RP 14C on existing platforms. All lessees in the Gulf of Mexico OCS Area were subsequently informed that Conservation division policy would require compliance with these requirements by October 1, 1977.

Subparagraph 4.2, "Existing Platforms," for the Gulf of Mexico Area has been written to require immediate compliance with the provisions of API RP 14C and with the additional requirements of paragraphs 4 and 5 of the Order.

Since the OCS Orders for the other Areas have not previously required compliance with the provisions of API RP 14C or certain specific requirements of paragraph 4 and 5 of OCS Order No. 5, subparagraph 4.2 for the Pacific, Gulf of Alaska, and Atlantic has been written to require compliance by January 1, 1980.

Subparagraph 4.3

Comments. No comments received.

Discussion. A new subparagraph 4.3 was written to incorporate a "grandfather clause" and to specify a date for compliance with "API Specification for Wellhead Surface Safety Valves for Offshore Service," API Spec 14D. This specification was not referenced in the proposed National OCS Orders because the Second Edition of the standard was not finalized and issued until November 1977. Refer to the discussion of

Subparagraph 5.1.2

Subparagraph 5.1.4

for exceptions, the term "building, room, or

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paragraph 2. The subsequent subparagraphs were renumbered.

Subparagraph 4.4

Comments. It was suggested that the following sentence be added to the first paragraph of subparagraph 4.4 (3.4): "The information shall be reviewed for approval by the District Supervisor within 60 days after being submitted.

Discussion. This suggestion was not adopted because the USGS has no control over the number of applications which are received in a certain time period. A time limit could result in an insufficient scrutiny of design proposals, if a large number were to be received in a 60-day period. The USGS plans to continue its policy of handling urgent matters as expeditiously as possible while fully discharging its regulatory responsibilities.

Subparagraph 4.4f

Comments. It was suggested that the word "smoke" be deleted in the first sentence of subpargraph 4.4f (3.4f). The reason for this suggestion is: "Experience has proven that enclosed high-hazard areas can be adequately protected with gas and fire detectors. API RP 14C only requires gas detectors in inadequately ventilated areas. The suggested revision makes it clear that three different types of fire sensors are not needed."

Discussion. The USGS has adopted this suggestion.

Subparagraph 4.4g

Comments. It was suggested that "This requirement is out of place in the proposed Order since 4.1.10 covers only electrical equipment. It appears that it should be added to 3.4 to be in the proper location."

Discussion. The USGS agrees with this comment. The requirement was revised and incorporated into subparagraph 4.4g.

Comments. This subparagraph was objected to by the following comment: "We seriously object to this requirement. It may be reasonable that designs be certified by appropriate registered professional engineers. It is absolutely not necessary for them to supervise installation, however. This should be done by qualified technicians and/or inspectors."

Another commenter suggested that the word "appropriate" should be deleted, because "in some states, registration by a particular engineering discipline is not used."

Discussion. This subparagraph has been rewitten to delete "appropriate" and to not require "supervision" of an installation by registered professional engineers. The revised subparagraph requires certification of the designs by registered professional engineers.

Subparagraph 5.1.1a

Comments. The following sentence was proposed to be added to the first paragraph of subparagraph 5.1.1a (4.1.1a): "All existing platforms are exempt from this requirement." It was stated that "The added sentence exempts older existing platforms from what would be a massive refitting job to meet a code written after they were constructed."

Discussion. The USGS does not agree. Pressure and fired vessels used in the production of oil or gas should be equipped with properly designed and sized pressure-relief valves, regardless of the age of the vessel.

Lessees who operate in the Gulf of Mexico have known since September 7, 1976, that pressure-relief valves shall conform to ASME boiler and pressure-vessel codes, and new platform production facilities should conform to API RP 14C.

The revision of subparagraph 4.2, "Existing Platforms," requires immediate compliance with the requirements of paragraphs 4 and 5 for the Gulf of Mexico and compliance by January 1, 1980, for all other Areas of the OCS. The rationale for the compliance dates is covered in the discussion for subparagraph 4.2. Furthermore, subparagraph 5.1.1e permits the use of existing uncoded pressure vessels, provided thay are hydrostatically pressure tested to 1.5 times their working pressure.

Comments. Another commenter addressed this subparagraph and suggested that the word "minimize" be deleted and the word "prevent" be substituted.

Discussion. This suggestion was adopted.

Comments. Another commenter addressed the following: "Reference to the ASME Boiler and Pressure Vessel Code, July 1, 1974, or subsequent revisions thereto approved by the Supervisor is used in paragraph (a), but 'subsequent revisions' are not listed in paragraphs (b), (c), and (e). We believe they should be for the sake of consistency."

Discussion. This suggestion was adopted by including the "subsequent revisions" phrase into the introductory paragraph of subparagraph 5.1.1. It is intended that this phrase apply to subsequent subparagraphs.

Subparagraph 5.1.1c

Comments. A commenter suggested that the following second sentence of subparagraph 5.1.1c (4.1.1c) be adopted: "The high pressure shut-in sensor shall activate sufficiently below the maximum allowable working pressure to positively insure operation before the relief valve starts relieving." It was contended that "It would be unsafe to set a high pressure alarm sensor to alert for a pressure which exceeds the manufacturer's 'maximum allowable working' pressure."

Discussion. The USGS review of this comment indicated that subparagraphs 5.1.1a and 5.1.1c should be revised to segregate the requirements for relief valves from the requirements for pressure sensors. The requirements of the original subparagraph 4.1.1c pertaining to the sizing and relieving requirements for relief valves have been incorporated into the revised subparagraph 5.1.1a. A clause was added to subparagraph 5.1.1a which requires relief valves to be set no higher than the maximum-allowable working pressure of the vessel.

Subparagraph 5.1.1c was revised to address the requirements for setting the actuation pressures for the high- and low-pressure shut-in sensors. This subparagraph requires that the high-pressure sensor be set sufficiently below the relief-valve set pressure to ensure that the pressure source is shut in before the relief valve starts relieving. This requirement, combined with the requirement of subparagraph 5.1.1a, prescribes the upper limit of the high-pressure sensor to be below the maximum-allowable pressure for the vessel, since the relief valve must be set below this pressure.

Comments. One commenter questioned the use of kilopascals as the accepted metric unit for pressure: "Is kilopascals or Kg/Cm^2 the accepted metric equivalent of psi?"

Discussion. The kilopascal (kPa) is the accepted unit of pressure by International Systems of Units (SI), and this unit has been adopted by the USGS.

Subparagraph 5.1.1d

Comments. A commenter was concerned with the ASME Boiler and Pressure Vessel Codes referenced in subparagraph 5.1.1d (4.1.1e), and the following statement was made: "In summary, it seems all of those could reference the latest revision. * * * Furthermore, if the government absolutely doesn't accept future revisions without subsequent approvals, this concept should be uniformly applied to all codes; *and* the subsequent approvals should be done once at the National USGS Director level, not duplicated repeatedly at each Supervisor level."

Discussion. The USGS does not bestow "blanket" approval on latest revision to any document, from all sources, without first reviewing the document to determine its applicability and suitability to OCS operations. The "subsequent revisions phrase" has been added to the introductory paragraph of subparagraph 5.1.1 in order to make this phrase applicable to the subsequent subparagraphs. All referenced standards are reviewed and approved by the Chief, Conservation Division, for use in all Areas of the OCS.

Comments. It was recommended that the word "installed" be changed to "ordered" in subparagraph 5.1.1d (4.1.1e). It was stated that "After a vessel is ordered, a change in specifications can be very costly and time consuming, especially if the change must be made at the time the vessel is being installed."

Discussion. This change was adopted.

Comments. Another commenter stated that "Consideration should be given to allow the use of small, uncoded pressure vessels when such vessels are fabricated solely, from pipe and factory made pipe fittings which meet the minimum material requirements for other piping and provided such vessels do not have any internal weldments and are hydrostatically tested to at least 1.5 times their working pressure, all as permitted by OPSO Part 192."

Discussion. The intent of the Order is to require that all pressure vessels, regardless of size, installed after the effective date of this Order shall be coded pressure vessels. Subparagraph 5.1.1d allows uncoded pressure vessels to be used on existing installations provided they have been pressure tested to at least 1.5 times their working pressure.

Subparagraph 5.1.2

Comments. It was proposed that the fourth sentence in subparagraph 5.1.2 (4.1.2) be changed to the following: "The high-pressure shut-in sensor shall be set no higher than 10 percent or 400 psi, whichever is greater, above the highest operating pressure of the line; but, in all cases, it shall be set sufficiently below the design working pressure of the well or the gas-lift supply pressure to assure actuation of the surface-safety valve."

It was also suggested that the fifth sentence of 5.1.2 be ended with the phrase "Before the designed working pressure is exceeded."

Discussion. These suggestions were not adopted. If the 400 psi criteria were adopted, then all wells with flowing tubing pressure of 400 psi, or less, would have their sensors set at the flowing pressure plus 400 psi. We believe that in many cases of low-pressure wells, the 400 psi could be excessive, whereas, the 10 percent is believed to be a better overall criteria, and would shut in the wells on signal of a downstream emergency.

The primary function of the high-pressure sensor is to shut in the wells in response to a downstream emergency. The secondary function of the high-pressure sensor is to protect the flowline from pressures in excess of the maximum-allowable working pressure. Therefore, the term "maximum shut-in pressure" was retained.

Comments. Another commenter proposed that "In the last phase of the third sentence the words should read 'below the maximum shut-in wellhead pressure', if *wellhead* pressure is what is intended."

Discussion. This proposal was adopted.

Subparagraph 5.1.3

Comments. No comments received.

Discussion. The original subparagraph 4.1.1d addressed general requirements for pressure sensors. The USGS concluded that these requirements should be covered under a separate heading, instead of including this requirement under the heading of pressure vessels; therefore, the requirements were incorporated into a new subparagraph 5.1.3, "Pressure Sensors."

Comments. A commenter responded to subparagraph 5.1.3 (4.1.1d), stating that "The wording of this requirement which specifies that a 'non-automatic *reset* relay shall be installed' is unduly restrictive in that it precludes certain design options the engineer (operator) may choose for the design on unmanned and automated unattended platforms. For example, a design objective might provide that when the pressure parameters normalize, the facility would automatically resume operations. There is no need to send a service crew by helicopter for shutdowns occassioned by minor self-correcting upsets or deviations."

Discussion. The USGS does not agree. There are also numerous examples of wellhead and platform equipment failures which could contribute to a fire and to pollution, with an automatic reset system.

It is intended that the "shutdown condition" shall remain in effect until the cause of the abnormal condition has been determined and corrected.

Subparagrah 5.1.4

Comments. No comments received.

Discussion. The title of subparagraph 5.1.4 (4.1.3) was changed from "Remote Shut-In Systems" to "Emergency Shutdown (ESD) System." This change was made to be consistent with the terminology of API RP 14C.

Comments. It was suggested that subparagraph 5.1.4 (4.1.3) be changed to allow for the use of a plastic loop of the control-pressure line. This loop may be located at the boat landings of the platform. It was stated that this arrangement would "* * * allow a platform to be shut in without personnel having to board the platform by breaking these plastic loops with boat hooks."

Discussion. In order to be consistent with subparagraphs 4. 1 and 4.2 which require conformance with API RP 14C, the following sentence was added following the first sentence of the subparagraph: "ESD stations may utilize a loop of breakable synthetic tubing in lieu of a valve."

Comments. Several commenters objected to the requirement that the platform shut-in shall be completed within 45 seconds after a shut-in control is activated. It was felt that a 45-second-response time would be unsafe and impractical for very large hydraulic systems.

Discussion. Although special consideration may be justified for very large shut-in systems on new and existing platforms, the USGS believes that a response time of 45 seconds is generally feasible and this response time is sanctioned by API RP 14C, Section C2, Second Edition, January 1978.

Subparagraph 5.1.6

Comments. Several commenters suggested that subparagraph 5.1.6 (4.1.5) should permit glycol-dehydration units to be equipped with a pressure-relief value "or an adequate vent."

Discussion. This suggestion was adopted.

Subparagraph 5.1.7

Comments. It was suggested that in subparagraph 5.1.7a(1) (4.1.6a(1)) the word "on" be changed to "to protect." In support of this, it was noted that "PSV's and PSH's are commonly installed upstream of coolers, not on interstate scrubbers." This change may also be applied to the following subparagraphs of 5.1.7 (4.1.6): a(1), a(2), a(3), b(1), and b(2).

Discussion. The USGS agrees and has adopted the new phrase in the above subparagraphs.

Comments. In a comment on subparagraph 5.1.7a(4) (4.1.6a(4)), one commenter stated that "The word 'building' is subject to interpretation. We suggest that the words 'room' or 'compartment' be substituted for 'building.' In cold weather climates, the entire platform may be totally enclosed and considered one building. The compressors are often located inside enclosures which may be considered as rooms in a building and shutdown devices (SDV's) may be located in a separate adjacent room for added safety."

Discussion. There are compressor stations in buildings on the OCS; however, to allow for exceptions, the term "building, room, or compartment" was adopted.

Comments. It was suggested that the second paragraph of the original subparagraph 4.1.6c be moved to subparagraph 4.1.6b(2) since the paragraph covers the use of level safety low shut-in controls.

Discussion. The suggestion is appropriate and has been moved to become the second sentence of new subparagraph 5.1.7b(2).

Comments. No comments received.

Discussion. The second paragraph of the original subparagraph 4.1.6b(3) was deleted. These requirements are covered by 5.1.7b(4) and the reference to subsection A8.3 of API RP 14C.

Comments. In a comment on subparagraph 5.1.7b(4) (4.1.6c), it was noted that "* * * level safety low shut-in controls * * * should be changed to "level safety *high* shut-in controls.

Discussion. The USGS agrees and has adopted the change. For editorial clarity, the former subparagraph 4.1.6c was renumbered 5.1.7b(4) and the former subparagraph 4.1.6d was renumbered 5.1.7c, and retitled, "Small Compressor Installations."

Former Subparagraph 4.1.7

Comments. The comments received on the original subparagraph 4.1.7 indicated that the requirements for "Curbs, Gutters, and Drains" was misplaced in this Order.

Discussion. The USGS review of the comments on the requirements of the proposed subparagraph 4.1.7, "Curbs, Gutters, and Drains," of the proposed OCS Order No. 5 and the comments received on subparagraph 1.1.4, "Curbs, Gutters, and Drains," of the proposed OCS Order No. 7, indicated that the requirements of these subparagraphs should be addressed only in OCS Order No. 7, "Pollution Prevention and Control." Therefore this paragraph was deleted from OCS Order No. 5 and the requirements were included under subparagraph 1.1.3, "Curbs, Gutters, and Drains for Fixed Platforms or Structures and Mobile Drilling Units." Refer to the discussions for subparagraph 1.1.3 for OCS Order No. 7.

Subparagraph 5.1.8

Comments. "Wording should be changed to be the Gulf of Mexico wording since it is too early to tell if requirements for other Areas need to be different from the Gulf of Mexico. Also, the National Orders should be written for Areas of minimum requirements. If increased requirements are justified in other Areas, then these should be separately identified in an appendix."

Discussion. Since this Order was published in proposed form, the API has completed and published API "Recommended Practice for Fire Prevention and Control on Open Type Offshore Production Platforms," API RP 14G, First Edition, September 1978. Our review has indicated that subsection 5.2, "Fire Water Systems," contains requirements which are applicable to all Areas of the OCS. Therefore, this subparagraph was rewritten to require that installations completed after the effective date of this Order shall conform

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with subsection 5.2 and the additional requirements of subparagraph 5.1.8 of OCS Order No. 5. This revision deletes the requirements for an alternate pump, and requires that fuel or power be available for a period of 30 minutes after platform shut in. This provides sufficient time to either control the fire or to take other actions.

Subparagraph 5.1.9

Comments. It was suggested that the first sentence of subparagraph 5.1.9a (4.1.9a) be changed to the following: "Fire (flame, heat, or smoke) sensors * * *." It was stated that "Experience has proven that enclosed high-hazard areas can be adequately protected with gas and fire detectors. API Rp 14C only requires gas detectors in inadequately ventilated areas. The suggested revision make it clear that three different types of fire sensors are not needed."

Discussion. The USGS believes the suggestion has merit and has adopted this recommendation.

Comments. One commenter suggested that "* * * purge and pressurizing techniques as provided in National Electrical Code be included as an alternate to installation of detectors listed in 4.1.9(b)."

Discussion: The USGS does not believe that purge systems may be used as an alternative to fire and gas detection systems; however, a new subparagraph, 5.1.9e, has been added to reference the National Electrical Code.

Comments. A commenter recommended that subparagraph 5.1.9b (4.1.9b) be changed to delete the phrase "in the areas in which the detection devices are located."

Discussion. New subparagraph 5.1.9b has been changed to the following: "All detection systems shall be capable of continuous monitoring. The systems shall be of the manual-reset type."

Comments. Several commenters addressed subparagraph 5.1.9c (4.1.9c), and recommended that "as well as" be changed to "is an acceptable alternate to."

Discussion. It is recognized that odorants have certain disadvantages; however, they can be safely used. It is intended that the odorant act as a backup in the event of a malfunction of the gas-detection system. Considering the consequences of a gas leak, fire, or an explosion, we believe that this redundancy is justified.

Comments. A commenter stated that "Enclosed, continuously manned areas of the facility which do not have any gas handling or using equipment are presumably exempt from the automatic gas detection and alarm system requirements."

Another commenter stated that "The intent of this subparagraph is unclear."

Discussion. Subparagraph 5.1.9a has been changed to define a highly hazardous area. Under the definition, gas-detection equipment would not be required in manned areas where no fuel gas is used.

Subparagraph 5.1.10

Comments. It was suggested that subparagraph 5.1.10a (4.1.10a) be revised as follows: "All engines shall be equipped with a low-tension ignition system designed and maintained to minimize release of sufficient electrical energy to cause ignition of an external combustible material."

Discussion. This subparagraph was not revised. While this proposal would delete the phrase "low-fire-hazard type" from the description of engine ignition systems, the major concern is not with the wording but with the interception by USGS personnel that in order to satisfy this requirement, the ignition systems must be shielded. This interpretation did not originate with the USGS and is consistent with petroleum industry-recommended practices for engines operating in a hazardous area. Paragraph 6.4.5.1 of "Reciprocating Compressors for the General Refinery Services" API Standard 618, Second Edition, July 1974, states: "If a hazardous area is specified, all parts of the ignition system shall be as explosion-proof as possible. The spark plugs shall be shielded, and all low-tension wiring shall be enclosed in grounded steel conduits, but spark plug connecting cables shall be enclosed in grounded, metal-shielded, flexible conduits." The 1964 issue of API Standard 618 described such a system with the phrase "low-fire-hazard type of ignition system."

Additionally, the National Electrical Code and its supporting documents dealing with the hazardous classification of areas defines the area about a hydrocarbon compressor or pump, engine combination, as Class I, Division 1 or 2. This area classification would require the use of an ignition system as defined by paragraph 6.4.5.1 of API Standard 618.

It is our intention that the shielded ignition system requirement and the interpretation of the hardware required to satisfy the requirement remain the same until the ASME committee on "Shielded Ignition System for Industrial Engines" has produced an acceptable industry standard which could be referenced.

Subparagraph 5.1.10b

Comments. It was proposed that the last word in subparagraph 5.1.10b (4.1.10b) be changed from "installation" to "approval."

Discussion. This proposal was adopted.

Subparagraph 5.1.10c

Comments. Another similar suggestion was to change the last word in subparagraph 5.1.9c (4.1.10c) from "installation" to "approval."

Discussion. This proposal was adopted. The subparagraph was rewritten to reference the latest editions of the National Electrical Code and the Institute of Electric and Electronic Engineers (IEEE) Standard 45–1977.

Former subparagraph 4.1.10e

Comments. It was proposed that the sentence be changed to add the following prefix: "For installations made after the effective date of this order."

Discussion. The USGS has reevaluated this requirement and has determined that the statement is too general in meaning. In some installations, it may be desirable to provide lockouts for certain equipment functions. These lockouts would constitute special requirements, dependent upon the complexity of the platform. These special requirements will be considered during the review and approval process of new platform installations. Because of these reasons, this subparagraph has been deleted.

Subparagraph 5.1.10e

Comments. It was recommended that subparagraph 5.1.10e (4.1.10f) be deleted. It was contended that "Posting of such a schematic would serve no useful purpose in enhancing platform safety. Only skilled electrical technicians can interpret and work on such systems, and highly detailed schematics are required for their work."

Discussion. It is intended that the schematic must be elementary, functional, and simple to interpret. It is not intended that the drawing be highly detailed. The subparagraph refers to the "elementary" electrical schematic required by subparagraph 4.3e(2), which requires the schematic to have "a functional legend." The intent of the requirement is that the schematic would indicate "How the electrical safety system functions;" therefore, the following sentence was added to the subparagraph: "This schematic shall indicate the control functions of all electrically actuated safety devices." It is considered desirable and necessary that all crew members become familiar with the platform safety-shutdown system, know the purpose of each electrical control, and know where they are located.

Comments. Another commenter suggested that "The posting of the safety shutdown system schematic should not be limited to electrical, but should include all shutdowns including pneumatic and/or hydraulic."

Discussion. The USGS agrees with this suggestion. Subparagraph 5.1.4, "Emergency Shutdown (ESD) System," was revised to require the posting of a schematic of the ESD system indicating the control functions of *all* safety devices. The pneumatic, hydraulic, and/or electrical controls would be included on this schematic.

Subparagraph 5.1.10f

Comments. It was suggested that "This requirement is out of place in the proposed Order since 4.1.10 covers only electrical equipment. It appears that it should be added to 3.4 to be in the proper location."

Discussion. The USGS agrees with this comment. The first sentence was revised and incorporated into subparagraph 4.3g. The second sentence was retained in subparagraph 5.1.10f. Other comments on the original subparagraph 4.1.10g have been answered in the discussions for the new subparagraph 4.3g.

Subparagraph 5.1.11

Comments. One commenter recommended that the annual report date in subparagraph 5.1.1 (4.1.11) be changed from September to December, noting that most survey work is done in the summer months. "The September 1 reporting date does not allow sufficient time to submit data for the current year."

Another commenter stated that "We feel that this should be changed to say that erosion control shall be in effect for wells or fields having a history of sand production.

New wells in a known sand producing field will not have a history of sand production, but since the field does, the new wells should be protected."

Discussion. These suggestions were adopted. The last sentence was also revised to require that the annual report shall indicate which wells have an erosion-control program in effect.

Subparagraph 5.2

Comments. It was suggested that the second sentence in subparagraph 5.2 (4.2) be reworded as follows: "Subsurface safety devices and systems on wells which are capable of flow shall not be bypassed or blocked out of service, unless necessary during maintenance operations, etc. The comma after necessary must be removed for this sentence to make sense."

Discussion. This sentence was changed to the following: "Safety devices may be pypassed or blocked out of service if they are temporarily out of service due to startup, maintenance, or testing procedures, provided that personnel are monitoring the blocked-out functions."

Subparagraph 5.3

Comments. The consensus on subparagraph 5.3 (4.3), "Simultaneous Platform Operations," was that a "plan" should not be required for each well operation or for each platform. It was recommended that the phrase "for each platform" be deleted. It was contended that "There is no need for a completely separate plan for each platform as evidenced by experience in the Gulf of Mexico. The existing Gulf of Mexico Order 8 does not contain a phrase which is recommended for deletion."

Another commenter stated that "* * * the value of furnishing these plans to the district supervisor is not real clear."

Discussion. The Gulf of Mexico OCS Order No. 8, effective October 1, 1976, does contain the phrase "for each platform." Subparagraph 4D(2)(c), "Simultaneous Operations," is quoted in part: "A plan shall be submitted by each lessee/operator for each platform existing as of the effective date of this Order."

It is considered feasible, however, to delete the phrase "for each platform" and to rewrite the subparagraph which is quoted in part as follows: "* * * a 'General Plan for Conducting Simultaneous Operations' in a producing field shall be filed for approval with the District Supervisor. This plan shall be modified and updated by supplemental plans when actual simultaneous operations are scheduled."

These plans shall be submitted to the District Supervisor as it is not administratively feasible for the USGS to monitor each individual simultaneous operation. Therefore, a general plan detailing all potential simultaneous operations for each field and supplemental plans covering scheduled simultaneous operations should provide an effective method for supervising proposed operations.

The subparagraph includes specific requirements for the designation of one person to be responsible for all operations being conducted on the platform.

Subparagraph 5.4

Comments. A commenter stated that the last part of the third sentence in the first paragraph of subparagraph 5.4 (4.4) should be changed to the following: "* * * are pulled in the final abandonment or suspension of the last well on the platform." It was contended that "Just because the well is completed is not reason for cancelling these welding practices and procedures."

Discussion. The USGS agrees with this comment. The first paragraph of the subparagraph was revised accordingly.

The United States Coast Guard supervises welding practices and procedures on offshore mobile-drilling units which are not in the drilling mode.

Comments. One commenter stated that "We urge that the provisions of 4.4 not apply to mobile drilling vessels." It was contended that "The amount of welding on mobile drilling rigs is minor * * *."

Discussion. The danger is considered equal to mobile- or nonmobile-drilling units when an unexpected high-pressure gas zone is encountered and the mud becomes gas cut. The revision of the subparagraph requires the same precautions, regardless of the type of rig.

Comments. It was proposed that the following requirement be deleted from this subparagraph: "All offshore welding and burning shall be minimized by onshore fabrication when feasible."

Discussion. This statement was not deleted. The intent is to minimize offshore welding. The lessee has the option to determine if it is more feasible to fabricate platform components either onshore or offshore.

Subparagraph 5.4b

Comments. Another commenter suggested that "The Fire Watch should also maintain a continuous surveillance with a gas detector during welding."

Discussion. The USGS considers this an added contribution to safety in welding operations. This suggestion was adopted by adding the following sentence to subparagraph 5.4b (4.4d): "If welding is to be done in an area which is not equipped with a gas detector, the Fire Watch shall also maintain a continuous surveillance with a portable gas detector during welding."

Subparagraph 5.4d

Comments. It was recommended that the first sentence of subparagraph 5.4d (4.4f) should contain the word "piping."

Discussion. The USGS agrees and has adopted this recommendation.

Subparagraph 5.4e

Comments. It was contended in a comment on subparagraph 5.4e (4.4g) that "Some platforms have several wellhead compartments widely separated from one another and welding in one would not provide an ignition source for well operation in the other." It was suggested that the first sentence be reworded as follows: "In the event drilling, workover, or wireline operations are in progress on the platform, welding operations in the well room, compartment or area where these operations are in progress, may be conducted only if the well(s) * * *."

Discussion. Subparagraph 5.4 (4.4), "Welding Practices and Procedures," was written to cover general platform floor plans. This comment is based on wellhead compartments which are widely separated from each other. These conditions would merit consideration for departure.

Subparagraph 5.4f

Comments. It was recommended that subparagraph 5.4f (4.4h) be deleted. It was contended that welding operations can be conducted safely while maintaining production if adequate safety precautions are taken beforehand.

Discussion. This subparagraph was not changed. We believe that all welding or burning operations in the area of the wellhead, well bay, or production areas are potentially hazardous, and we believe the possibility of potential fire and/or explosion should be precluded. Except in emergencies, welding operations should be scheduled when the platform is shut in.

Subparagraph 5.5a

Comments. Several commenters objected to the semiannual testing of pressure relief valves required by subparagraph 5.5a (4.5a). The commenters contended that annual testing has proven satisfactory.

Discussion. This time period has been reconsidered and the annual period has been adopted.

Subparagraph 5.5c

Comments. A number of commenters objected to the requirement in subparagraph 5.5c (4.5c) that all surface-safety valves (SSV's) shall be checked for operation on a "weekly" basis. The consensus was that a "weekly" basis is excessive and a "monthly" basis is sufficient to establish the fact that these valves function properly.

Discussion. The operational testing of these valves on a "weekly" basis has been reconsidered and a "monthly" basis has been adopted.

Comments. Several commenters indicated that the allowable leakage rates for automatic wellhead safety devices and check valves should be different; therefore, these requirements should be segregated into separate paragraphs.

Discussion. The requirements were segregated into separate subparagraphs 5.5c and 5.5d, addressing the testing requirements for testing of surface-safety valves (SSV's) and flow safety valves (FSV's). The terminology of the requirements was revised to be consistent with API AP 14C. All subsequent items under subparagraph 5.5 were relettered.

Comments. Another commenter proposed that a wellhead safety valve leakage allowance be provided, not to exceed 200 cc/min liquid or 10 cfm gas. When these values are exceeded, the valve should be repaired or replaced.

Discussion. The USGS finds no justification to allow wellhead safety valve leaks. If

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valves, with the correct sizing, working pressure, and seating arrangement, are selected and correctly installed by the lessee, no leaks should be anticipated. The numerous valve manufacturers do not design and fabricate valves with the intent that some "leakage tolerance" should be allowed. This is consistent with the requirements of paragraph 4 of this Order which prescribe that all wellhead surface-safety valves installed after July 1, 1978, shall conform to API Specification 14D. The performance tests in this specification state that "no leakage shall be allowed."

Subsection 5.5c has been revised to require SSV's to be tested for operation and leakage in accordance with API RP 14C. The subparagraph requires replacement of the valve if any fluid flow is observed in step 3 of the leakage-test procedure.

The USGS recognizes that the purpose of an FSV is to control backflow of fluid and that leakage is not as critical as leakage from an SSV. The SSV is intended to stop all flow from the well. Therefore, a new subparagraph 5.5d has been added which requires FSV's to be tested in accordance with API RP 14C and provides a leakage tolerance of 400 cc/min for liquid flow and 7 dm^3/sec (15 cubic ft/min) for gas flow.

Subparagraph 5.5e

Comments. In a comment on subparagraph 5.5e (4.5d), it was proposed that "An alternate provision should be made for testing such controls on dry vessels or those vessels with limited liquid entry, such as to hand-trip the external switch in order to test its function."

Discussion. This proposal was not adopted because these controls should be tested in normal operating sequences. It is desirable to preclude the possibility of internal malfunction such as a stuck float, etc.

Subparagraph 5.5j (4.5.i)

Comments. It was suggested in a comment on subparagraph 5.5j (4.5i) that "smoke, fire, and gas" be changed to "fire and gas."

Discussion. The term "fire (flame, heat or smoke) and gas" was adopted to be consistent with subparagraph 5.1.9a.

Subparagraph 5.5k

Comments. Another commenter recommended that the second and third sentences in subparagraph 5.5k (4.5j) be deleted. It was stated that "While an initial test and inspection of the integrated safety system would be useful, the repetition of this test and inspection at 6-month intervals serves no useful purpose. Most safety devices are tested monthly and all are tested at least every 6 months. In addition, the USGS report entitled 'Policies, Practices, and Responsibilities for Safety and Environmental Protection in Oil and Gas Operations on the Outer Continental Shelf,' published in June of 1977, indicates that the USGS inspects all major platforms at least semiannually and all minor platforms at least once each 15 months. In addition, scheduling such tests so that they can be witnessed by USGS representatives would result in significant lost production."

Discussion. The USGS has reevaluated the requirement for a complete test and inspection of the integrated safety system every 6 months. The subparagraph has been revised to require pre- and postproduction tests and inspections. These tests, together with the frequency of the testing requirements for the individual components, are considered adequate to assure that the safety system will function properly.

During inspection of the platform by USGS inspectors, the integrated safety system may be tested at any time.

Comments. It was noted that "Offshore operations are both costly and highly weather dependent, and, therefore, any delays to accommodate schedule itineraries of government inspection representatives should be minimized."

Discussion. The revision of the subparagraph, as discussed above, provides for the coordination and scheduling of the tests.

Subparagraph 5.6

Comments. It was suggested in a comment on subparagraph 5.6 (4.5) that the 1-year record-retention period be extended as follows: "to ensure adequate safety devices are being used, continuous records on safety devices at the operations should be kept and must be available."

Discussion. A new subparagraph 5.6, "Records," has been added to be consistent with the recordkeeping requirements for subsurface-safety valves required by subparagraph 3.11 and ANSI/ASME OCS–1–1977. The new subparagraph requires a record-retention period of 5 years. Refer to the discussion for subparagraph 3.11.

Subparagraph 5.6.1

Comments. No comments received.

Discussion. A new subparagraph 5.6.1 has been added to address the quality-assurance recordkeeping requirements of ANSI/ASME–SPPE–1 (formerly ANSI/ASME–OCS–1) for surface-safety valves.

Subparagraph 5.7

Comments. Several commenters objected to the October 1, 1978, date of compliance with the training requirements as stated in subparagraph 5.7 (4.6).

Discussion. In the Gulf of Mexico Area, this requirement was originally in subparagraph 4.D(4) of OCS Order No. 8, which was revised and published in the Federal Register, Vol. 41, No. 174, September 7, 1976. This revision became effective October 1, 1976, and required that personnel be trained by October 1, 1978. Therefore, the Gulf of Mexico OCS Order was revised accordingly. The Orders were revised for all other Areas to allow 1 year for submittal of a training plan and 2 years for the qualification of personnel.

Comments. It was suggested that the fourth paragraph and subparagraphs (a) through (g) be deleted. It was noted that "The fourth paragraph of this section would require that the operator report to the USGS as to how it intends to comply with the first paragraph."

The comments concerning subparagraphs (a) through (g) generally stated that "* * * should not concern the USGS," or other statements with similar meaning.

Discussion. The USGS does not agree with these comments concerning subparagraphs (a) through (g), nor with the suggested deletion of the fourth paragraph. This requirement has been rewritten as follows: "* * * the lessee shall submit an application for approval to the Chief, Conservation Division, describing the training to be conducted and the methods the lessee will utilize." This revision will assure consistency in the training plans of all Areas of the OCS.

The Gulf of Mexico OCS Order No. 8, effective October 1, 1978, required that a plan be submitted for approval within 1 year after the effective date of the Order and training be completed by October 1, 1978. These requirements have not been changed. The requirements of the other Areas have been revised to state the same time limitations for compliance as were given in the Gulf of Mexico OCS Order.

The USGS is concerned that all lessees operating on the OCS properly train their personnel in the installation, inspection, testing, and maintenance of safety devices.

Paragraph 6

Comments. Comments pertaining to the content of this paragraph were received in response to the Federal Register solicitations for comments dated April 12, 1976, and May 13, 1976.

Discussion. A new paragraph 6, "Failure and Inventory Reporting," has been added to this Order. The content of this paragraph was developed after considering comments received pertaining to a "Safety Device Inventory Reporting" system, which was published in the Federal Register, Vol. 41, No. 71, April 12, 1976, and from a solicitation for comments pertaining to a "Safety Device Failure and Activity Reporting System," which was published in the Federal Register, Vol. 41, No. 94, May 13, 1976. Our review of the comments indicated that the requirements for a Safety Device Failure and Inventory Reporting System (FIRS) should be incorporated into an OCS Order, instead of into two separate Notices to Lessees and Operators, as originally proposed.

A Notice was published in the Federal Register, Vol. 43, No. 111, June 8, 1978, which announced our intention to include the FIRS requirements in National OCS Order No. 5. As stated in the preamble of the "Revised Outer Continental Shelf Orders Governing Oil and Gas Lease Operations in All Areas," the Department has determined that it is in the public interest to issue revised Area OCS Orders instead of National OCS Orders at this time. Therefore, the FIRS requirements have been incorporated into paragraph 6 of the revisions of OCS Order No. 5 for all Areas of the OCS. Refer to the Federal Register Notice of June 8, 1978, for a discussion of the comments received and our rationales for the final FIRS requirements.

Paragraph 8

Comments. One commenter stated in a comment on paragraph 8(6) that "* * * the criteria described are excessive in their requirements. 'Instill * * * a conscious desire

to achieve' is a goal that would require extensive training and still be ineffective on many individuals."

Discussion. This paragraph has been rewritten to delete the phrase "* * * to instill in each individual * * *." The following sentence has been added: "A program to achieve safe and pollution-free operations shall be established." It is intended that individuals working offshore be properly trained, and that safe and pollution-free operations be stressed as part of their job responsibilities.

Subparagraph 9.2

Comments. It was proposed in a comment on subparagraph 9.2 (7.2) that new items 7.1f and 7.2c be added which would state that "When the rig is not owned by the operator, the operator shall require the contractor to have a welding practices and procedures plan and personnel training program which meet, as a minimum, the requirements of this Order."

Discussion. The intent of the OCS Orders is to ensure that the lessee is responsible for all operations on the lease. Therefore, the lessee is required to assure compliance with all requirements, regardless of who performs the work.

Comments. No comments received.

Discussion. The original item 7.1a was deleted because the original subparagraph 4.1.7, "Curbs, Gutters, and Drains," was moved to OCS Order No. 7.

A new item 9.1b was added because subparagraph 5.3, "Simultaneous Platform Operations," is applicable to drilling rigs on fixed structures.

The original item 7.1d was deleted because crane operations are a separate requirement and should not be included under the heading of "Requirements for Drilling Rigs."

United States Department of the Interior; Geological Survey Conservation Division

OCS Order No. 5, Effective July 1, 1979; Production safety systems

This Order is issued pursuant to the authority prescribed in 30 CFR 250.11 and 250.12(a), and in accordance with 30 CFR 250.41(b), 250.42, and 250.46. The lessee shall be responsible for compliance with the requirements of this Order in the installation and operation of the production safety systems on all platforms and structures including those facilities not operated or owned by the lessee. All applications for approval under the provisions of this Order shall be submitted to the District Supervisor.

1. *Technological Improvement.* The lessee is encouraged to continue the development of safety-system technology. As research and product improvement result in increased effectiveness of existing safety equipment or the development of new equipment systems, such equipment may be used or required.

2. *Quality Assurance and Performance of Safety and Pollution-Prevention Equipment.* Safety and Pollution-Prevention Equipment (SPPE) shall conform to the following quality assurance standards or subsequent revisions which the Chief, Conservation Division, has approved for use.

a. American National Standards Institute/American Society of Mechanical Engineers Standards "Quality Assurance and Certification of Safety and Pollution Prevention Equipment Used in Offshore Oil and Gas Operations," ANSI/ASME SPPE–1–1977, December 1977 (formerly ANSI/ASME–OCS–1–1977).

b. American National Standards Institute/American Society of Mechanical Engineers Standard "Accreditation of Testing Laboratories for Safety and Pollution Prevention Equipment Used in Offshore Oil and Gas Operations," ANSI/ASME–SPPE–2–1977, December 1977 (formerly ANSI/ASME–OCS–2–1977).

The dates for compliance with these quality assurance standards, the applicable SPPE components, and the applicable SPPE specifications are identified in subparagraph 3.2 and subparagraph 4.3.

3. *Subsurface-Safety Devices.*

3.1 *Installation.* All tubing installations open to hydrocarbon-bearing zones shall be equipped with a subsurface-safety device such as a Surface-Controlled Subsurface-Safety Valve (SCSSV), a Subsurface-Controlled Safety Valve (SSCSV), an injection valve, or a tubing plug, unless, after application and justification, the well is determined to be incapable of flowing. The device shall be installed at a depth of 30 meters (98 feet) or more below the ocean floor within 2 days after production is stabilized. The well shall be attended at the wellhead while open to a hydrocarbon-bearing zone, unless a subsurface-safety device is installed.

3.1.1 *Subsurface-Safety Valves.* The requirements for subsurface-safety valves vary according to when the wells are completed. Alternatives to the following requirements may be approved by the Supervisor when greater reliability or safety can be demonstrated.

a. *Wells completed after the effective date of this Order.*

(1) All tubing installations shall be equipped with a surface-or other remotely controlled subsurface-safety device if the shut-in tubing pressure of the well is 27,600 kPa (4,000 psig) or less.

(2) If the shut-in tubing pressure of the well is greater than 27,600 kPa (4,000 psig), the well shall be equipped with a subsurface-controlled subsurface-safety valve. When the shut-in tubing pressure declines below 27,600 (4,000 psig), a surface-or other remotely controlled subsurface-safety valve shall be installed when the tubing is first removed and reinstalled.

b. *Wells completed prior to the effective dote of this Order.*

(1) Wells with shut-in tubing pressure of 27,600 kPa (4,000 psig) or less shall be equipped with a surface-or other remotely controlled subsurface-safety valve. If wells are equipped with a subsurface-controlled subsurface-safety valve on the effective date of this Order, they shall be equipped with a surface-or other remotely controlled subsurface-safety device when the tubing is first removed and reinstalled.

(2) Wells with a shut-in tubing pressure greater than 27,600 kPa (4,000 psig) shall be equipped with a subsurface-controlled subsurface-safety valve. If wells are equipped with a surface-or other remotely controlled subsurface-safety valve on the effective date of this Order, They shall be equipped with a subsurface-controlled subsurface-safety valve when the tubing is first removed and reinstalled. When the shut-in tubing pressure declines below 27,600 kPa (4,000 psig), a surface-or other remotely controlled subsurface-safety valve shall be installed when the tubing is first removed and reinstalled.

3.2 *Specification for Subsurface-Safety Valve.* Surface-controlled and subsurface-controlled subsurface-safety valves required by subparagraphs 3.4 and 3.5 which are installed on new installations or replaced on old installations after July 1, 1979, shall conform to "American Petroleum Institute (API) Specification for Subsurface-Safety Valves," API Spec 14A, Third Edition, November 1978, or subsequent revisions which the Chief, Conservation Division, has approved for use at the time of installation.

3.3 *Design, Installation, and Operation.* After the effective date of this Order, new installations, or replacements of old installations of subsurface-safety valves shall be in accordance with "API Recommended Practice for Design, Installation, and Operation of Subsurface Safety Valve Systems," API RP 14B, First Edition, October 1973, or subsequent revisions which the Chief, Conservation Division, has approved for use.

3.4 *Surface-Controlled Subsurface-Safety Valves.* After the effective date of this Order, all tubing installations open to a hydrocarbon-bearing zone shall be equipped with a surface-controlled subsurface-safety valve, except as specified in subparagraphs 3.1, 3.5, and 3.6. The surface controls may be located on the site or at a remote location.

The lessee shall furnish evidence that the surface-controlled subsurface-safety devices and related equipment are capable of normal operation in those Areas which are subject to subfreezing conditions.

3.4.1 *Testing of Surface-Controlled Subsurface-Safety Valves.* Each surface-controlled, or other remotely controlled, subsurface-safety valve installed in a well shall be tested in accordance with Appendix E of API RP 14B, when installed or reinstalled, at least monthly for the first 3 months, and thereafter at intervals not to exceed 6 months. If the device does not operate properly, it shall be promptly removed, repaired, reinstalled, or replaced, and tested to ensure proper operation.

3.5 *Subsurface-Controlled Subsurface-Safety Valves.* Tubing installations in wells completed from single-well and multiwell satellite caissons or jackets and ocean floor completions may be equipped with a subsurface-controlled subsurface-safety valve in lieu of surface-or other remotely controlled subsurface-safety valves.

3.5.1 *Inspection and Maintenance of Subsurface-Controlled Subsurface-Safety Valves.* Each subsurface-controlled subsurface-safety valve installed in a well

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shall be removed, inspected, and repaired or adjusted as necessary and reinstalled at intervals not exceeding:

(1) 6 months for those valves not installed in a landing nipple.

(2) 12 months for those valves installed in a landing nipple.

3.2 *Tubing Plugs in Shut-in Wells.* A tubing plug shall be installed in lieu of, or in addition to, other subsurface-safety devices if a well has been shut in for a period of 6 months. Tubing plugs shall be set at a depth of 30 meters (98 feet) or more below the ocean floor. All retrievable plugs installed after the date of this Order shall be of the pump-through type. All wells perforated and completed but not placed on production shall be equipped with a subsurface-safety valve or tubing plug within 2 days after completion. A surface-controlled subsurface-safety valve of the pump-through type may be used as a pump-through tubing plug for the purpose of this subparagraph, provided the surface control has been rendered inoperative. A shut-in well which is equipped with a tubing plug shall be inspected for leakage by opening the well to possible flow at intervals not exceeding 6 months. If a liquid leakage rate in excess of 400 cc/min or a gas leakage rate in excess of 7 dm^3/sec (15 cubic ft/min) is observed, the plug shall be removed, repaired, and reinstalled, or an additional tubing plug may be installed in lieu of removal and repair.

3.7 *Injection Wells.* A surface-controlled subsurface-safety valve or an injection valve capable of preventing backflow shall be installed in all wells placed in injection service after the effective date of this Order.

Wells which were placed in injection service prior to the effective date of this Order shall be equipped ith a surface-controlled subsurface-safety valve or injection valve capable of preventing backflow when the tubing is first removed and reinstalled.

This requirement is not applicable if the District Supervisor concurs that the well is incapable of flowing. The lessee shall verify the no-flow condition of the well annually and submit an annual report certifying the no-flow status of the well.

3.8 *Temporary Removal for Routine Operations.* Each wireling- or pumpdown-retrievable subsurface-safety device may be removed, without further authorization or notice, for a routine operation which does not require the approval of a Sundry Notice and Report on Wells (Form 9–331), for a period not to exceed 15 days. The well shall be identified by a sign on the wellhead stating that the subsurface-safety device has been removed. The removal of the subsurface-safety device shall be noted in the records as required by subparagraph 3.11g. The well shall be attended at the wellhead until the subsurface-safety device has been reinstalled, unless attendance has been waived by the District Supervisor.

3.9 *Additional Safety Equipment.* All tubing installations in which a wireline- or pumpdown-retrievable subsurface-safety device is installed after the effective date of this order shall be equipped with a landing nipple, flow couplings to prevent internal abrasion, or other protective equipment, above and below, to provide for the setting of the subsurface-safety valve. The control system for all surface-controlled subsurface-safety valves shall be an integral part of the platform Emergency Shutdown System (ESD) as defined in API RP 14C, Appendix C, Section C1. In addition to the activation of the ESD system by manual action on the platform, the system may be activated by a signal from a remote location. Surface-controlled subsurface-safety valves shall close in response to shut-in signals from the ESD system or the fire loop, or both.

3.10 *Emergency Action.* All tubing installations open to hydrocarbon-bearing zones in which the subsurface-safety device has been removed, in accordance with the provisions of this Order, shall be identified by a sign on the wellhead stating the subsurface-safety device has been removed. A subsurface-safety device shall be available for each well on the platform. In the event of an emergency such as an impending storm, this device shall be properly installed as soon as possible with due consideration being given to personnel safety.

3.11 *Records.* The lessee shall maintain records for a minimum period of 5 years for each subsurface-safety device installed. These records shall be maintained in the nearest offshore field office for a minimum period of 2 years. The records may then be transferred to the onshore field office for the remaining 3 years of the 5-year retention period. These records shall be available for review by any authorized representative of the U.S. Geological Survey (USGS)., The records to be maintained shall contain verification of:

a. The design, including make, model, and type. For subsurface-controlled valves, number of the spacers, size of beans, springs, and the pressure settings.

b. The devices having been manufactured in accordance with the quality-assurance requirements of ANSI/ASME–SPPE–1 (formerly ANSI/ASME–OCS–1) as required by paragraph 2.

c. The completion and return of the receiving report to the manufacturer as required by ANSI/ASME–SPPE–1.

d. The record of all configuration modifications to the certified design.

e. Installation at the required setting depth and in accordance with the manufacturer's instructions and API RP 14B.

f. The qualifications of the personnel who directed all installations and removals.

g. The results of tests required by this Order, the dates of removals and reinstallations, and the reasons for removals and reinstallations.

h. The completion and submission of all failure reports required by paragraph 6 and all investigation reports required by paragraphs OE–2529 and OE–2670 and ANSI/ASME–SPPE–1.

3.12 *Reports.* Well completion reports (Form 9.330) and any subsequent reports of workover (Form 9.331) shall include the type and the depth of the subsurface-safety devices.

4. *Design, Installation, and Operation of Surface Production Safety Systems.* All production facilities, including separators, treaters, compressors, headers, and flowlines, shall be designed, installed, and maintained in a manner which will facilitate an efficient, safe, and pollution-free operation.

The lessee shall furnish evidence that the surface-safety systems and related equipment are capable of normal operation in those Areas which are subject to subfreezing conditions, and that all equipment and operating procedures take into account floating ice and other extreme environmental conditions that may occur in the Area.

4.1 *New platforms.* New platform production facilities shall be protected with a basic and ancillary surface-safety system designed, analyzed, tested, and maintained in operating condition in accordance with the provisions of "API Recommended Practice for Analysis, Design, Installation, and Testing of Basic Surface Safety Systems on Offshore Production Platforms," API RP 14C, Second Edition, January 1978, except Section A9, "Pipelines," which will be covered under OCS Order No. 9, or subsequent revisions which the Chief, Conservation Division, has approved for use and the additional requirements of the Order. For this application, the word "should" contained in API RP 14C shall be read "shall," except for those contained in explanatory statements, sections 3.4c and 4.3a(4) (a)–(f). If processing components are to be utilized, other than those for which Safety Analysis Checklists (SAC's) are included in API RP 14C, the analysis technique and documentation specified therein shall be utilized to determine the effects and requirements of these components upon the safety system.

4.2 *Existing Platforms.*

Gulf of Mexico

Existing platforms shall comply with the provisions of API RP 14C, except Section A9, "Pipelines," which will be covered under OCS Order No. 9, with the additional safety and pollution-control requirements of paragraphs 4 and 5 of this Order. The submittal of information relative to design and installation features, as listed in subparagraph 4.4, is not required until an equipment modification to an existing facility is performed (other than those necessary for proper maintenance of the facility).

Pacific, Gulf of Alaska, and Atlantic

Existing platforms shall comply with the provisions of API RP 14C, except Section A9, "Pipelines," which will be covered under OCS Order No. 9, with the additionals safety and pollution-control requirements of paragraphs 4 and 5 of this Order, by January 1, 1980. The submittal of information relative to design and installation features, as listed in subparagraph 4.4, is not required until an equipment modification to an existing facility is performed (other than those necessary for proper maintenance of the facility).

4.3 *Specification for Wellhead Surface-Safety Valves.* All wellhead Surface-Safety Valves (SSV's) required by subparagraphs 4.1 and 4.2, which are installed on new installations or replaced on old installations after July 1, 1979, shall conform to "API Specification for Wellhead Surface Safety Valves for Offshore Service," API Spec 14D, Second Edition, November 1977, as amended by Supplement 1, March 1978, or subsequent revisions which the Chief, Conservation Division, has approved for use at the time of installation.

4.4 *Submittal of Safety-System Design and Installation Features.* Prior to installation, the lessee shall submit for approval to the District Supervisor, in duplicate, information relative to design and installation features, as indicated in subparagraphs a through g. This information shall also be maintained at the lessee's onshore field engineering office. All approvals are subject to field verifications. This information shall include:

a. A schematic flow diagram showing size, capacity, and design working pressure of separators, treaters, storage tanks, compressors, pipeline pumps, and metering devices.

b. A schematic flow diagram (reference API RP 14C, example: figure E1) and the related Safety Analysis Function Evaluation (SAFE) chart (reference API RP 14C, Subsection 4.3c). These diagrams and charts shall be developed in accordance with the provisions of API RP 14C and the additional requirements of this Order.

c. A schematic piping diagram showing the size and design pressure with reference to welding specification(s) or code(s) used. The maximum-allowable working pressures shall be determined in accordance with "API Recommended Practice for Design and Installation of Offshore Production Platform Piping Systems," API RP 14E, First Edition, August 1975, and Supplement 2, October 1977, or subsequent revisions which the Chief, Conservation Division, has approved for use. The recommendations contained in API RP 14E are acceptable for the design and installation of the platform piping system.

d. A diagram of the fire-fighting system.

e. Electrical system information including the following:

(1) A plan of each platform deck outlining any nonrestricted area, i.e., areas which are unclassified with respect to electrical equipment installations and outlining areas in which potential ignition sources, other than electircial, are to be installed. The area outline shall include the following information:

(a) Any surrounding production or other hydrocarbon source and a description of the deck, overhead, and firewall.

(b) Location of generators, control rooms, panel boards, major cabling or conduit routes, and identification of the wiring method, including the identification of each wire and cable type that is utilized.

(2) Elementary electrical schematic of any platform safety-shutdown system with a functional legend.

(3) Classification of areas for electrical installations in accordance with the National Electrical Code, 1978 Edition, and with the "API Recommended Practice for Classification of Areas for Electrical Installations at Drilling Rigs and Production Facilities on lands and on marine Fixed and Mobile Platforms," API RP 500B, Second Edition, July 1973, or subsequent revisions which the Chief, conservation division, has approved for use.

f. The design and schematics of the installation and maintenance of all fire and gas detection systems shall include the following:

(1) Type, location, and number of detection heads.

(2) Type and kind of alarm, including emergency equipment to be activated.

(3) Method used for detection.

(4) Method and frequency of calibration.

(5) Name of organization to perform system inspection and calibration.

(6) A functional block diagram of the detection system, including the electric power supply.

g. Certification that the design for the mechanical and electrical systems were approved by registered professional engineers. After these systems are installed, the lessee shall submit a statement to the District Supervisor certifying that the complete installations conform to the approved designs or the lessee shall request approval of the "As-Built" changes.

5. *Additional Safety and Pollution-Control Requirements.* The following requirements modify or are in addition to those contained in API RP 14C.

5.1 *Design, Installation, and Operation.*

5.1.1 *Pressure Vessels.* Pressure vessels shall be designed, fabricated, stamped, and maintained in accordance with specific sections of the ASME Boiler and Pressure Vessel Code as listed below. The pressure vessels shall conform to the July 1, 1977, edition of the Code or subsequent revisions which the Chief, Conservation Division, has approved for use.

a. Pressure relief valves shall be designed, installed, and maintained in accordance with applicable provisions of sections I, IV, and VIII. The relief valves shall conform to the valve-sizing and pressure-relieving requirements specified in these documents; however, the relief valves shall be set no higher than the maximum-allowable working pressure of the vessel. All relief valves and vents shall be piped in such a way as to prevent fluid form striking personnel or ignition sources.

b. Steam generators shall be equipped with low-water-level controls in accordance with applicable provisions of sections I and IV.

c. The lessee shall determine and record the operating pressure ranges of all pressure-operated vessels in order to establish the pressure-sensor settings. The high-pressure shut-in sensor shall be set no higher than 10 percent above the highest operating pressure of the vessel. This setting shall also be sufficiently below the relief valve's set pressure to assure that the pressure source is shut in before the relief valve starts relieving. The low-pressure shut-in sensor shall activate no lower than 15 percent or 35 kilopascals (kPa) (5 psi), whichever is greater, below the lowest pressure in the operating range.

d. All pressure or fired vessels used in the production of oil or gas, ordered after the effect date of this Order, shall conform to the requirements stipulated in the edition of the ASME Boiler and Pressure Vessel Code, section I, IV, and VIII, as appropriate, in effect at the time the vessel is ordered. Uncoded vessels now in use shall have been hydrostatically tested to a pressure 1.5 times their work pressures.

The test date, test pressure, and working pressure shall be marked on the vessel in a prominent place. A record of the test shall be maintained by the lessee in the field area.

5.1.2 *Flowlines.*—a. All flowlines from wells shall be equipped with high- and low-pressure shut-in sensors located downstream of a well choke. All pressure sensors shall be equipped to permit testing with an external pressure source. The lessee shall determine and record the operating pressure ranges in order to establish pressure-sensor settings. The high-pressure shut-in sensor shall be set no higher than 10 percent above the highest operating pressure of the line; but, in all cases, it shall be set sufficiently below the maximum shut-in wellhead pressure or the gas-lift supply pressure to assure actuation of the surface-safety valve. The low-pressure shut-in sensor shall be set no lower than 10 percent or 35 kPa (5 psi), whichever is greater, below the lowest operating pressure of the line in which it is installed.

b. If a well flows directly to the pipeline before separation, the flowline and valves from the well located upstream of, and including, the header inlet valve(s) shall be able to withstand the maximum shut-in pressure of the well, unless the flowline is protected by one of the following:

(1) A relief valve which vents into the platform flare scrubber of some other location approved by the District Supervisor.

(2) A additional automatic shutdown valve controlled by an independent high-pressure sensor. The platform flare scrubber shall be designed to handle, without liquid-hydrocarbon carryover to the flare, the maximum-anticipated flow of liquid-hydrocarbons which may be relieved to the vessel.

5.1.3 *Pressure Sensors.* Pressure sensors may be of the automatic- or nonautomatic-reset type. When the automatic-reset types are used, a nonautomatic-reset relay shall be installed. All pressure sensors shall be equipped to permit testing with an external pressure source.

5.1.4 *Emergency Shutdown System.* The manually operated ESD valve shall be quick-opening and nonrestricted to enable the rapid actuation of the shutdown system. ESD stations may utilize a loop of breakable synthetic tubing in lieu of a valve. The time for the safety system to effect platform shutdown shall not exceed 45 seconds after the automatic detection of an abnormal condition or the actuation of an ESD station. A schematic of the ESD system shall be posted at a prominent location on the platform. This schematic shall indicate the control functions of all safety devices.

5.1.5 *Engine Exhausts.* Engine exhausts shall be equipped to comply with the insulation and personnel-protection requirements of API RP 14C, Section 4.2c(4). Exhaust piping from internal-combustion engines shall be equipped with spark arrestors.

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5.1.6 *Glycol-Dehydration Units.* A pressure relief systems or an adequate vent shall be installed on the glycol regenerator, or at a location approved by the District Supervisor, which will prevent overpressurization of all glycol-dehydration units. The set pressure of the pressure-relief system shall be determined by the lessee and approved by the District Supervisor. The discharge of the relief valve must be vented in a nonhazardous manner. The glycol-dehydration unit shall be properly maintained to prevent overpressurization of the unit.

5.1.7 *Gas Compressors.* a. *Existing Compressor Installations.* Each compressor installation existing as of the effective date of this Order shall be equipped with the following protective equipment:

(1) a Level Safety High (LSH) and a Pressure Safety Valve (PSV) to protect each interstage scrubber.

(2) A Pressure Safety High (PSH) and a Pressure Safety Low (PSL) to protect each interstage scrubber, unless protected by a Temperature Safety High (TSH) shutdown control on the compressor cylinders.

(3) A Level Safety Low (LSL) to protect each interstafe scrubber, unless fluid dump is through a choke restriction to another pressure vessel.

(4) Compressor installations which are installed in a building, room, or compartment are excluded from the requirements of API RP 14C, Subsection A8.3b, "Flow Safety Devices (FSV)," and Subsection A8.3d, "Shutdown Devices (SDV)," which requires that these devices be located outside of the building.

b. *New Compressor Installations.* Each compressor installed after the effective date of this Order shall be equipped with the following protective equipment:

(1) A PSH, a PSL, a PSV, and an LSH to protect each interstage scrubber.

(2) An LSL to protect each interstage scrubber, unless the fluid is dumped through a choke restriction to another pressure vessel. An LSL shut-in control(s) installed in interstage scrubber(s) may be designed to actuate the automatic Shutdown Valve(s) (SDV's) installed in the scrubber dump line(s).

(3) A TSH on each compressor cylinder or other components as applicable.

(4) In addition to the provisions of API RP 14C, Subsection A8.3, PSH and PSL shut-in sensors and LSH shut-in controls protecting compressor suction and interstage scrubbers shall be designed to actuate automatic SDV's located in each compressor suction and fuel gas line so that the compressor unit and the associated vessels can be isolated from all input sources.

All automatic SDV's installed in compressor suction and fuel gas piping shall also be actuated by the shutdown of the prime mover.

c. *Small Compressor Installations.* Compressor installations of 745 kilowatts (1,000 horsepower) or less are excluded from those requirements of API RP 14C, A8, 3d, which provide for installation of a blowdown valve (BDV) on the discharge line.

5.1.8 *Firefighting Systems.* Firefighting systems installed after the effective date of this Order shall conform to Subsection 5.2, "Fire Water Systems," of "API Recommended Practice for Fire Prevention and Control on Open Type Offshore Production Platforms," API RP 14G, First Edition, September 1978, or to subsequent revisions which the Chief, Conservation Division, has approved for use and to the additional requirements of this subparagraph.

A firewater system consisting of rigid pipe with firehose stations shall be installed. A fixed water-spray system shall be installed in the well bays. The system shall be installed to provide needed protection at all times in all areas where production-handling equipment is located.

Acceptable pump drivers include diesel engines, natural gas engines, and electric motors. Fuel or power shall be available for at least 30 minutes of run-time during platform shut-in time. If necessary, an alternate fuel supply shall be installed to provide for this pump-operating time.

A firefighting system using chemicals may be used or may be required in lieu of a water-spray system if the District Supervisor determines that the use of a chemical system provides equivalent fireprotection control. A diagram of the firefighting system showing the location of all firefighting equipment shall be posted in a prominent place on the platform or structure.

Existing firefighting systems shall be reworked to conform to these requirements on or before July 1, 1980.

5.1.9 *Fire and Gas Detection System.* a. Fire (flame, heat, or smoke) sensors shall be used in all enclosed high-hazard areas. Gas sensors shall be used in all inadequately ventilated, enclosed, high-hazard areas. A high-hazard area is defined as:

(1) Any enclosed area containing a gas source, except a meter house with adequate ventillation.

(2) A compressor building.

(3) Any nonsealed enclosed area within 25 feet of a producing well or service area of a producing well, unless the enclosed area does not contain an ignition source. A diagram of the detection system showing the location of all detection points shall be posted in a prominent place on the platform or structure.

b. All detection systems shall be capable of continuous monitoring. The systems shall be of the manual-reset type.

C. A fuel gas odorant and an automatic gas-detection and alarm system are required in enclosed, continuously manned areas of the facility.

d. The District Supervisor may require a gas detector or alarm in any potentially hazardaous area.

e. Fire and gas detection systems shall be of a type as defined in the National Electrical Code, 1978 Edition, or subsequent revisions which the Chief, Conservation Division, has approved for use.

5.1.10 *Electrical Equipment.* The following requirements shall be applicable to all electrical equipment and systems:

a. All engines with ignition systems shall be equipped with a low-tension ignition system of a low-fire-hazard type and shall be designed and maintained to minimize the release of sufficient electrical energy to cause ignition of an external, combustible mixture.

b. All electrical generators, motors, and lighting systems shall be installed, protected, and maintained in accordance with the edition of the National Electrical Code and API RP 500B in effect at the time of approval.

c. At the time of approval, wiring methods shall conform to the National Electrical Code, 1978 Edition, or to the Institute of Electrical and Electronic Engineers (IEEE) "Recommended Practice for Electric Installation on Shipboard," IEEE Std. 45–1977, or subsequent revisions which the Chief, Conservation Division, has approved for use. Each conductor of a wire, a cable, or a bus bar shall be made of copper on all new installations constructed after the effective date of this Order.

d. An auxiliary power supply shall be installed to provide emergency power, capable of operating all electrical equipment required to maintain safety of operations, in the event of a failure in the primary electrical power supply.

e. The elementary electrical schematic of the platform safety-shutdown system required by subparagraph 4.3e(2) shall be posted in a prominent place on the platform or structure. This schematic shall indicate the control functions of all electrically actuated safety devices.

f. Maintenance of these systems shall be by qualified personnel.

5.1.11 *Erosion.* A program of erosion control shall be in effect for wells or fields having a history of sand production. The erosion-control program may include sand probes, X-ray, ultrasonic, or other satisfactory monitoring methods. An annual report, by lease, indicating the wells which have erosion-control programs in effect and the results of the programs shall be submitted by the first of December to the appropriate District Supervisor.

5.2 *General Platform Operations.* a. Safety devices and safety systems on wells which are capable of producing shall not be bypassed or blocked out of service. Safety devices may be bypassed or blocked out of service if they are temporialy out of service due to startup, maintenance, or testing procedures, provided that personnel are monitoring the blocked-out functions. Any device on wells, vessels, or flowlines which is temporialy out of service shall be flagged.

b. When wells are disconnected from producing facilities and blind-flanged or equipped with a tubing plug, compliance is not required with the provisions of API RP 14C or this Order concerning:

(1) Installation of automatic fail-close SSV on wellhead assemblies.

(2) Installation of the PSH and the PSL shut-in sensors downstream of the choke in flowlines from wells.

(3) Installation of flow safety valves (FSV's) in header individual flowlines.

c. All open-ended lines connected to producing facilities shall be plugged or blind-flanged, except those lines designed to be open-ended, such as flare or vent lines.

5.3 *Simultaneous Platform Operations.* Prior to conducting activities simultaneously with production operations which could increase the possibility of occurrence of undesirable events, such as harm to personnel or to the environment or damage to equipment, a "General Plan for Conducting Simultaneous Operations" in a producing field shall be filed for approval with the District Supervisor. This plan shall be modified and updated by supplemental plans when actual simultaneous operations are scheduled. Activities requiring these plans are drilling, completion, workover, wireline, pumpdown, and major construction operations.

The "General Plan for Conducting Simultaneous Operations" shall include:

a. A narrative description of operations.

b. Procedures for the mitigation of potentially undesirable events including:

(1) The guidelines the lessee will follow to assure coordination and control of simultaneous activities.

(2) An indication of the person having overall responsibility at the site for the safety of platform operations.

The "Supplemental Plan for Conducting Simultaneous Operations" shall include:

a. A floor plan of each platform deck indicating critical areas of simultaneous activities.

b. An outline of any additional safety measures that are required for simultaneous operations.

c. Specification of any added or special equipment or procedural conditions imposed when simultaneous activities are in progress.

5.4 *Welding Practices and Procedures.* The following requirements are applicable to any welding practice or procedure performed on:

a. An offshore mobile-drilling unit during the drilling mode.

b. A mobile workover unit during any drilling, completion, recompletion, remedial, repair, stimulation, or other workover activity.

c. A platform, structure, artificial island, or other installation during any drilling, completion, workover, or production operation.

d. A platform, structure, artificial island, or other installation which contains a well open to a hydrocarbon-bearing zone.

For the purpose of this Order, the terms "welding" and "burning" are defined to include arc or acetylene cutting and arc or acetylene welding.

Each lessee shall file, for approval by the District Supervisor, a "Welding and Burning Safe Practices and Procedures Plan." The plan shall be filed within 90 days after the effective date of this Order and shall include the qualification standards or requirements for personnel and the methods by which the lessee will assure that only personnel meeting such standards or requirements are utilized. A copy of this plan shall be available in the field area. Any person designated as a welding supervisor shall be thoroughly familiar with this plan.

Prior to welding or burning operations, the lessee shall establish approved safe-welding areas. These areas shall be constructed of noncombustible or fire-resistant materials, be free of combustible or flammable contends, and be suitably segregated from adjacent areas. National Fire Protection Association Bulletin "Cutting and Welding Processes," No. 51B, 1971, or subsequent revisions which the Chief, Conservation Division, has approved for use, shall be used as a guide to designate these areas. A drawing showing the location of these areas shall be posted in a prominent place on the facility. All offshore welding and burning shall be minimized by onshore fabrication when feasible.

All welding equipment shall be inspected prior to beginning any welding or burning. Welding machines located on production or process platforms shall be equipped with spark arrestors and drip pans. Welding leads shall be completely insulated and in good condition; oxygen and acetylene bottles secured in a safe place; and hoses leak-free and equipped with proper fittings, gauges, and regulators.

All welding which cannot be done in the approved safe-welding area shall be performed in compliance with the procedures outlined below:

a. Prior to the commencement of any welding or burning operation on a structure, the lessee's designated person-in-charge at the installation shall personally inspect the qualifications of the welder or welders to assure that they are properly qualified in accordance with the lessee-approved qualification standards or requirements for welders. The designated person-in-charge and the welders shall personally inspect the work area for potential fire and explosion hazards. After it has been determined that it is safe to proceed with the welding or burning operation, the designated person-in-charge shall issue a written authorization for the work.

b. During all welding and burning operations, one or more persons shall be designated as a Fire Watch. Persons assigned as a Fire Watch shall have no other duties while actual welding or burning operations are in progress. The Fire Watch shall not be a member of the welding crew. If welding is to be done in an area which is not equipped with a gas detector, the Fire Watch shall also maintain a continuous surveillance with a portable gas detector during welding.

c. Prior to any welding or burning operation, the Fire Watch shall have in his possession firefighting equipment in a usable condition. At the end of the welding operation, the equipement shall be returned to a usable condition.

d. No welding shall be done on piping, containers, tanks, or other vessels which have contained a flammable substance unless the contents have been rendered and determined to be safe for welding or burning by the designated person-in-charge.

e. If drilling, workover, or wireline operations are in progress on the platform, welding operations in other than approved safe-welding areas shall not be conducted unless the well(s) where these operations are in progress contain noncombustible fluids and the entry of formation hydrocarbons into the wellbore is precluded. All other provisions of this section shall also be applicable.

f. If welding or burning operations are conducted on wells or in the well-bay area, all producing wells shall be shut in at the surface-safety valve.

5.5 *Safety Device Testing.* The safety-system devices which are required by this Order shall be tested by the lessee at the interval specified below or more frequently if operating conditions warrent.

Testing shall be in accordance with API RP 14C, appendix D, and the following:

a. All PSV's shall be tested for operation at least annually. These valves shall be either bench-tested or equipped to permit testing with an external pressure source.

b. All Pressure Sensors-High/Low (PSHL) shall be tested at least once each calendar month, but at no time shall more than 6 weeks elapse between tests.

c. All SSV's shall be tested for operation and for leakage at least once each calendar month, but at no time shall more than 6 weeks elapse between tests. The SSV's shall be tested for operation in accordance with the test procedure specified in API RP 14C, appendix D, section D4, table D2, subsection L, and tested for leakage in accordance with subsection M. If the valve does not operate properly or any fluid flow is observed in step 3 of the leakage test, the valve shall be repaired or replaced.

d. All flowline FSV's shall be checked for leakage at least once each calendar month, but at no time shall more than 6 weeks elapse between tests. The FSV's shall be tested for leakage in accordance with the test procedures specified in API RP 14C, appendix D, section D4, table D2, subsection B. If the leakage measured in step 6 exceeds a liquid flow of 400 cm/min or a gas flow of 7 dm^3/sec (15 cubic ft/min), the FSV's shall be repaired or replaced.

e. All LSH and LSL controls shall be tested at least once each calendar month, but at no time shall more than 6 weeks elapse between tests. These tests shall be conducted by raising and lowering the liquid level across the level-control detector.

f. All automatic inlet SDV's which are actuated by a sensor on a vessel or a compressor shall be tested for operation at least once each calendar month, but at no time shall more than 6 weeks elapse between tests.

g. All SDV's located in liquid-discharge lines and actuated by vessel low-level sensors shall be tested for operation once each calendar month, but at no time shall more than 6 weeks elapse between tests.

h. The TSH shutdown controls installed in all compressors which are protected against abnormal pressures solely by temperature safety devices shall be tested semiannually and repaired or replaced as necessary.

i. All pumps for firefighting water systems shall be inspected and test-operated weekly.

j. All fire (flame, heat, or smoke) and gas detection systems shall be tested for operation and recalibrated semiannually, if necessary.

k. The lessee shall notify the District Supervisor when the lessee is ready to conduct a preproduction test and inspection of the integrated safety system. The lessee shall also notify the District Supervisor upon commencement of production in order that a

updated to reflect this change. Inventory

6.1.4.3 *Failure Definition.* The safety and

b. Paragraph 8, "Employee Orientation and

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post-production test and inspection of the integrated system may be conducted.

l. All other safety devices shall be tested annually and repaired or replaced as necessary.

5.6 *Records.* The lessee shall maintain records for a minimum period of 5 years for each surface-safety device installed. These records shall be maintained in the nearest offshore field office for a minimum period of 2 years. The records may then be transferred to the onshore field office for the remaining 3 years of the 5-year retention period. These records shall be available for review by any authorized representative of the U.S. Geological Survey (USGS). The records shall show the present status and history of each device, including dates and details of installation, inspection, testing, repairing, adjustments, and reinstallation. The records shall also include all failure and inventory reports required by paragraph 6 of this Order.

5.6.1 *Surface-Safety Valve and Associated Actuator Records.* Records for surface-safety valves and associated actuators which require compliance with paragraph 2 shall contain additional information showing verification of:

a. The devices having been manufactured in accordance with the quality assurance requirements of ANSI/ASME–SPPE–1 (formerly ANSI/ASME–OCS–1) as required by paragraph 2.

b. The completion and return of the receiving report to the manufacturer as required by ANSI/ASME–SPPE–1.

c. The completion and submission of all failure reports required by paragraph 6 and all investigation reports required by paragraphs OE–2529 and OE–2670 of ANSI/ASME–SPPE–1.

5.7 *Safety Device Training.*

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Personnel engaged in installing, inspecting, testing, and maintaining these safety devices are required to be qualified under a program as recommended by "API Recommended Practice for Qualification Programs for Offshore Production Personnel Who Work With Anti-Pollution Safety Devices," API RP T–2, revised October 1975, or subsequent revisions which the Chief, Conservation Division, has approved for use.

Documented evidence of the qualifications of individuals performing these functions shall be maintained in the field area.

Manufacturers' representatives need not be qualified in accordance with API RP T–2 if they are working on equipment supplied by their company and if they are directly supervised by a qualified person who is capable of evaluating the impact of the work on the total system.

On-the-job trainees working with safety devices shall be directly supervised by a qualified person.

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Before July 1, 1981, the lessee shall ensure that all personnel engaged in installing, inspecting, testing, and maintaining these safety devices will have been qualified under a program as recommended by "API Recommended Practice for Qualification Programs for Offshore Production Personnel Who Work With Anti-Pollution Safety Devices," API RP T–2, revised October 1975, or subsequent revisions which the Chief, Conservation Division, has approved for use.

Documented evidence of the qualifications of individuals performing these functions shall be maintained in the field area.

Manufacturers' representatives need not be qualified in accordance with API RP T–2 if they are working on equipment supplied by their company and if they are directly supervised by a qualified person who is capable of evaluating the impact of the work on the total system.

On-the-job trainees working with safety devices shall be directly supervised by a qualified person.

Before July 1, 1980, the lessee shall submit an application for approval to the Chief, Conservation Division, describing the training to be conducted and the methods the lessee will utilize. The application shall include:

a. A designation of the lessee's representative who is responsible for training and coordinating training matters with the USGS.

b. The categories of personnel to be qualified.

c. The training organizations and courses to be utilized.

d. The method for ensuring the qualification of third-party personnel.

e. The method for determining when additional training or requalification is required and the method for obtaining this training and requalification.

f. The method of monitoring operations to ensure that only qualified personnel perform certain functions.

g. The method of maintaining documented evidence of qualification at the work site.

6. *Failure and Inventory Reporting System (FIRS).* The USGS has established a safety and pollution-prevention device Failure and Inventory Reporting System (FIRS) to enhance the reliability and safety of operations in the OCS. This system applies to offshore structures, including satellites and jackets, which produce or process hydrocarbons and includes the attendant portions of hydrocarbon pipelines, when physically located on the structure.

When the devices specified herein are used as a part of the production-safety and pollution-prevention system, the lessee shall:

a. Submit an initial inventory and periodic updates in accordance with the procedures described in subparagraph 6.1.3.

b. Report all device failures which occur. The report content and format shall be in accordance with the procedures described in subparagraph 6.1.4.

Inventory and failure data required by this Order shall be submitted to the USGS Conservation Manager in the appropriate regional office.

6.1 *Data and Reporting Requirements.*

6.1.1 *Format.* Inventory and failure data shall be submitted in a format containing the same information that is in the Safety Device Inventory Report (Form 9–1994) and the Safety Device Failure Report Form (Form 9–1995) and as outlined in the respective User's Instruction Booklets. Copies of the forms and booklets may be obtained from the USGS Conservation Manager in the appropriate regional office.

The specific method of submitting the required data may be selected from the following:

a. USGS Forms 9–1994 and 9–1995, using a standard coding convention (e.g., all letters capitalized, Z, I, letter C, number 0).

b. ADP card decks of standard 80-column cards.

c. Magnetic tapes which are 9-track, 800 BPI, unlabeled, blocking cannot exceed 1040 characters, odd parity, single gap (i.e., compatible with IBM equipment EBCDIC).

6.1.2 *Device Coverage.* Inventory and failure reports are to be submitted on the safety- and pollution-prevention devices on offshore structures, including satellites and jackets, which produce or process hydrocarbons, and the hydrocarbon pipelines thereon. These reports shall be submitted on the following:

a. Blowdown Valve—(BDV)
b. Burner Flame Detector—(BSL)
c. Check Valve—(FSV)
d. Combustible Gas Detector—(ASH)
e. Emergency Shutdown Valve—(ESD)
f. Level Sensor:
  High—(LSH)
  Low—(LSL)
  Hi/Lo—(LSHL)
g. Pressure Sensor:
  High—(PSH)
  Low—(PSL)
  Hi/Lo—(PSHL)
h. Relief Valve—(PSV)
i. Shutdown Valve—(SDV)
j. Subsurface-Safety Valve—(SSSV)
k. Surface-Safety Valve—(SSV)
l. Temperature Sensor:
  High—(TSH)
  Low—(TSL)
  Hi/Lo—(TSHL)
m. Valve Actuator on, the shutdown valve, the blowdown valve, the surface-safety valves—(VA)

6.1.3 *Device Inventory Reporting.*

6.1.3.1 *Initial Inventory.* a. For platforms in existence at the time this Order becomes effective, a complete inventory of the safety and pollution-prevention devices shall be submitted no later than 6 months after the effective date of this Order.

b. For platforms completed after this Order becomes effective, a complete inventory of the safety and pollution-prevention devices shall be submitted no later than 1 month after the initial platform production date.

6.1.3.2 *Inventory Updates.* An updating of or addition/deletion to the latest inventory shall be submitted on a monthly basis so as to maintain a current and accurate data base. The inventory will be updated by using the contents of the Safety Device Inventory Report (Form 9–1994) and the Safety Device Failure Report (Form 9–1995).

Inventory updating due to the addition, deletion, or chargeout of a device is accomplished by the lessee's reporting of all the data required on the Safety Device Inventory Report (9–1994).

Whenever a device fails and is either replaced with a new device or "fixed" and put back into service, the inventory shall be updated to reflect this change. Inventory updating, due to the failure of a device, will be performed by the USGS, using the contents of the Safety Device Failure Report (Form 9–1995). Inventory updating information shall be received no later than 30 days following the month in which the device change was made.

6.1.3.3 *Inventory-Reporting Methods.* inventory data shall be reported either on the Safety Device Inventory Reporting Forms (Form 9–1994), punched cards, or magnetic tapes. The reports shall contain all of the required information in the standard format as described in subparagraph 6.1.1.

6.1.3.4 *Inventory Verification.* The device inventory shall be verified by the lessee to ensure that the inventory data base is maintained on a current basis and that changes are being incorporated as they occur. The verification shall be accomplished no more frequently than once each 6-month period. When verification is required, the USGS will provide the lessee with a copy of the information on record, in the lessee's selected reporting format. The lessee shall review the information and either submit a letter stating that the information is correct, or make the appropriate corrections to the information provided by the USGS. The letter or appropriate corrections shall be received no later than 30 days following the month in which the inventory information which is to be verified was forwarded to the lessee.

6.1.3.5 *Inventory-Reporting Deviation.* A lessee may submit an inventory, update, or verification report differing from that described in subparagraph 6.1.3 when authorized by the USGS.

6.1.4 *Device Failure Reporting.*

6.1.4.1 *Failure-Data Submittal.* Device failure data shall be recorded as soon as possible after detecting the failure as defined in subparagraph 6.1.4.3. This data shall be received no later than 30 days following the month in which the failure was detected. This data must contain all of the required information and be submitted in the standard format either on Safety Device Failure Report forms (Form 9–1995), punched cards, or magnetic tape, as previously described in subparagraph 6.1.1. Information on the failed device must match that previously submitted in inventory reporting. A formal failure analysis is not required by this Order, but each failed device shall undergo sufficient test/disassembly to establish the basic cause(s) of the failure.

6.1.4.2 *Failure-Data Verification.* After receipt of the complete failure data from the lessee, a printout shall be made of all failures by manufacturer, model, and reported cause. Each manufacturer listed shall be furnished a copy of the printout containing the reported failures of his devices only. If he disagrees with the reported failure causes, he is invited to investigate the questioned causes in coordination with the reporting lessee and provide a coordinated reply within 30 days after receipt of the printout. If no reply is received within that time period, the originally reported causes shall be considered to be correct, and the data shall be evaluated accordingly.

6.1.4.3 *Failure Definition.* The safety and pollution-prevention device Failure and Inventory Reporting System does not differentiate between a malfunction and a failure. For the purpose of this program, a failure is defined as the inability of a device to perform its designed function within specified limits. A device is considered to have failed if it does not operate (perform its function) as required within the specified tests' tolerances.

A failure report is not required for:

a. Adjustments made within specified tolerances.

b. Adjustments required due to changes in operating conditions.

7. *Crane Operations.* Cranes shall be operated and maintained to ensure the safety of facility operations in accordance with the provisions of "API Recommended Practice for Operation and Maintenance of Offshore Cranes," API RP 2D, October 1972, or subsequent revisions which the Chief, Conservation Division, has approved for use. Records of inspection, testing, maintenance, and crane operators qualified in accordance with the provisions of API RP 2D shall be kept in the field area for a period of 2 years.

"API Specification for Offshore Cranes," API Specification 2C, February 1972, or subsequent revisions which the Chief, Conservation Division, has approved for use, shall be used as a guideline for the selection of cranes.

8. *Employee Orientation and Motivation Programs for Personnel Working Offshore.* The lessee shall make a planned, continuing effort to eliminate accidents due to human error. This effort shall include the training of personnel in their functions. A program to achieve safe and pollution-free operations shall be established. This program shall include instructions in the provision of "API Recommended Practice Orientation Program for Personnel Going Offshore for the First Time," API RP T–1, January 1974, or subsequent revisions which the Chief, Conservation Division, has approved for use. "API Employee Motivation Programs for Safety and Prevention of Pollution in Offshore Operations," API Bulletin T–5, September 1974, or subsequent revisions which the Chief, Conservation Division, has approved for use, shall be used as a guide in developing employee safety and pollution-prevention motivation programs.

9. *Requirements for Drilling Rigs.*

9.1 *Fixed Structures.* The following requirements contained in this Order are applicable to drilling rigs on fixed structures:

a. Subparagraph 5.1.10, "Electrical Equipment."

b. Subparagraph 5.4, "Welding Practices and Procedures."

c. Paragraph 8, "Employee Orientation and Motivation Programs for Personnel Working Offshore."

9.2 *Mobile Drilling Units.* The following requirements contained in this Order are applicable to drilling rigs on mobile drilling units:

a. Subparagraph 5.4, "Welding Practices and Procedures."

b. Paragraph 8, "Employee Orientation and Motivation Programs for Personnel Working Offshore."

10. *Departures.* All departures from the requirements specified in this Order shall be subject to approval, pursuant to 30 CFR 250.12(b).

Approved:

Don E. Kash,

Chief, Conservation Division.

OCS Order No. 7

Paragraph 1

Comments. One commenter stated that the requirements of "This section should flatly prohibit any pollution of the ocean. Effluent limitations should be set for all discharges and should be based on best available technology."

Discussion. A number of studies have been done on the impacts of the disposal of drilling mud into the Pacific, Cook Inlet (Tanner Bank), and around live-bottom areas in the Gulf of Mexico. None of these studies have indicated significant detrimental impacts as a result of drilling muds. We, therefore, do not believe that it is appropriate to totally prohibit the discharge of muds; but to closely monitor the disposal practices and to restrict the discharges in areas that may be sensitive, such as the coral reefs and live-bottom fishing banks.

Comments. One commenter suggested that "In addition to the list of drilling mud components and special mud additives provided as a part of the Application for a Permit to Drill, individual well records should be maintained on the quantity, concentrations and components of the drilling muds * * *."

Discussion. Lessees are required to submit a detailed list of the quantities of drilling mud used and of the components of drilling mud. It is, however, very difficult to determine the concentrations of the various substances which are discharged, because of the variable amount of dilution associated with each discharge. The dilution of mud, which is discharged with the cuttings, is dependent upon the current and water depth. Excess mud which is generated during drilling is normally stored in reserve tanks. When the reserve tanks are full, excess mud is diluted and discharged as required to maintain the desired levels in the storage tanks. When drilling is completed, heavily weighted mud may be saved and used on subsequent development wells (mud cannot be reused on exploratory wells because of the presence of microscopic, formation-identifying, fossils) or the entire volume of mud may be diluted and discharged, after approval by the District Supervisor.

In order to assess the environmental effect of discharging drilling mud, a detailed chemical and biological survey has to be conducted during the drilling operation. This is not practical or necessary at every drill site. Such surveys have been run in the Gulf of Mexico, Cook Inlet, and Pacific areas with no indications of detrimental effects from the muds and cuttings discharged. These surveys indicate that the amount of dilution which takes place prior to discharge and the

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subsequent dilution in the sea is sufficient to assure the protection of the environment.

Subparagraph 1.1.1

Comments. In comments on subparagraph 1.1.1 (1.1.2), several commenters objected to the requirement that approval of the disposal of drilling mud into the ocean must be obtained from the District Supervisor. One commenter claimed that "These requirements are redundant since the operator is required to provide data on the proposed method of disposal in the Application for Permit to Drill * * *."

Discussion. We do not believe this requirement is redundant because environmental conditions may change after the proposed method of disposal has been approved. Each mud-disposal program will be approved on a site-specific basis, considering the biologic and environmental conditions. We recognize that to date the disposal of drilling muds has not resulted in any negative impacts in the Gulf of Mexico or in other offshore areas. However, we must assure that discharges do not impact potentially sensitive areas, particularly coral reefs and fishing banks where there has been no drilling.

Comments. One commenter asked the following questions pertaining to the District Supervisor's decision to approve or disapprove the method of disposal of drilling mud: "* * * on what basis does the Supervisor make his decision? Does he contact the proper State fisheries personnel for site specific information first?"

Discussion. In making a decision to approve or disapprove the method of disposal of drilling mud, the District Supervisor considers information contained in the following documents which are required by 30 CFR 250.34:

1. Lessee's Environmental Report (Exploration).
2. Lessee's Environmental Report (Development/Production).
3. Oil and Gas Supervisor's Environmental Assessment of 1 or 2 above.
4. Environmental Impact Statement, if required by 3 above.

When these documents identify biologically sensitive areas, the District Supervisor consults with the appropriate Federal and State agencies, prior to approving the method of disposal of drilling mud.

Comments. One commenter stated that "Currently three agencies address the question on drilling mud disposal * * *," and suggested that the last two sentences should be revised as follows: "Approval of the drilling mud disposal method by the District Supervisor shall be consistent with any lease stipulations or other Federal regulations."

Discussion. We are currently working with the Environmental Protection Agency (EPA) to develop a memorandum of understanding that will deal with the disposal of drilling muds, cuttings, and other waste materials. The following sentence was added to recognize the EPA's authority in the regulation of discharges: "The disposal of drilling mud is subject to the Environmental Protection Agency's permitting procedures, pursuant to the Federal Water Pollution Control Act as amended."

Subparagraph 1.1.2

Comments. In a comment on subparagraph 1.1.2 (1.1.3), it was suggested that the requirements "* * * should be expanded to assure adherence to air quality and performance standards under the Clean Air Act Amendments of 1977."

Discussion. The United States Geological Survey (USGS) is currently developing air quality regulations in accordance with the OCS Lands Act Amendments of 1978.

Comments. One commenter suggested that "Periodic monitoring of this (hydrocarbon handling) equipment should be conducted to assure that it is functioning properly."

Discussion. This requirement is contained in OCS Order No. 5.

Subparagraph 1.1.3

Comments. Several commenters recommended that the term "mobile drilling unit" be deleted from this requirement in subparagraph 1.1.3 (1.1.4). One commenter interpreted that mobile drilling units were the responsibility of the U.S. Coast Guard (USCG). Another commenter felt that these requirements are inconsistent with OCS Order No. 5.

Discussion. The USGS review of the comments on the requirements of the proposed subparagraph 4.1.7, "Curbs, Gutters, and Drains," of the proposed OCS Order No. 5, and the comments received on subparagraph 1.1.4, "Curbs, Gutters, and Drains," of the proposed OCS Order No. 7, indicated that the requirements of these subparagraphs should be addressed only in OCS Order No. 7. Therefore, this paragraph was deleted from OCS Order No. 5 and the requirements were included in subparagraph 1.1.3 of OCS Order No. 7. The subparagraph has been retitled and rewritten to recognize the U.S. Coast Guard's authority to prescribe requirements for deck drainage systems on mobile drilling units which are not associated with the drilling operation. This revision is consistent with the Memorandum of Understanding (MOU) between the USCG and the USGS dated April 11, 1977. Comments which were received on subparagraph 4.1.7 of OCS Order No. 5 are discussed below.

Comments. Several commenters were concerned with the second sentence which required: "All walking and working surfaces shall be kept free of all liquid accumulations." The consensus of opinion was that this requirement was not practical and it would be impossible to comply with.

Discussion. This sentence has been changed to the following: "All walking and working surfaces shall be equipped with proper drainage to provide safety for personnel and to prevent pollution."

Comments. It was recommended that "Sump piles should also be closed, not open to the ocean and the language of the paragraph should be changed to make this clear."

Discussion. The OCS Orders for the Pacific, Alaska, and Atlantic areas were revised to require all drainage to be collected in a closed sump. The Gulf of Mexico OCS Order was revised to require the use of existing open-ended sump piles to be discontinued within 12 months after the effective date of the Order.

Comments. A commenter stated that "It is not mentioned whether petroleum contaminants would be passed through an oily water separator, incinerated on board the vessel, or transported to shore for disposal."

Discussion. A sentence was added to require the contaminants which are removed from sumps to be disposed of in a manner which will not create pollution.

Subparagraph 1.1.4

Comments. Several comments on the proposed subparagraphs 1.1.5, "Fixed Structure Discharges," and 1.1.6, "Mobile Drilling Unit Discharges," suggested that these subparagraphs should reflect the Environmental Protection Agency's (EPA)'s authority to regulate discharges from mobile drilling units and fixed drilling platforms.

Discussion. It has been determined that the EPA has jurisdiction over all types of discharges on the OCS, regardless of the source. Therefore, the contents of the original subparagraphs 1.1.5 and 1.1.6 have been incorporated into a new subparagraph 1.1.4, "Discharges from Fixed Platforms or Structures and Mobile Drilling Units." The revised subparagraph states that discharges from fixed platforms or structures and mobile drilling units are subject to EPA's permitting procedures, pursuant to the Federal Water Pollution Control Act, as amended.

Former Subparagraph 1.1.6

Comments. It was suggested that the proposed subparagraph 1.1.6, "Mobile Drilling Unit Discharges," placed no restrictions on the amount of oily substances from the mobile drilling unit, and the USGS should adopt the following language: "Discharges from mobile drilling units, including produced water and deck drainage shall contain no free oil and shall not cause a sheen to form on the surface of the ocean.

'Alternatively, a 50 ppm oil standard could be established."

Another commenter suggested that the term "free oil," which was used in the original subparagraph 1.1.1, "Oil-Cut Drilling Mud," should be defined.

Discussion. These suggestions were not adopted. The term "free oil" has been deleted from the proposed subparagraphs 1.1.1 and 1.2.1. The final versions of subparagraphs 1.1.1, 1.1.4, and 1.2.1 reflect EPA's authority to regulate discharges from all sources. The EPA is currently developing revised guidelines for the approval of discharge permits. When these guidelines are published, this Order will be revised, if necessary, to maintain consistency.

Subparagraph 1.2.1

Comments. A commenter stated, "Drill cuttings, sands and other well solids, unassociated with free oil, should not be allowed to be dumped into the ocean with no regulation whatsoever."

Discussion. As previously stated, the subparagraph was revised to reflect EPA's authority to regulate discharges from all sources. A sentence was also added to require the District Supervisor's approval of the method of disposal of drill cuttings, sand, and other well solids.

Comments. One commenter stated that "The term 'all of the free oil has been removed' is too broad and restrictive a term. The word 'all' would infer absolutely no oil would be present. It would be more realistic to specify a mg/l value. Once solids have been exposed to oil it is doubtful that absolutely all of it could be removed by conventional treatment."

Another commenter suggested that "* * * under certain conditions, disposal of drilling muds, and other solids from which the 'free' oil has been removed could violate the effluent guidelines for disposal of these materials by creating free oil on the surface waters. We suggest that the wording of 1.1.1 and 1.2.1 be revised to be consistent with EPA's effluent guidelines."

Discussion. Subparagraphs 1.1.1, 1.2.1, and 1.4.1 have been revised in response to these comments. Refer to the discussion for former subparagraph 1.1.6.

Subparagraph 1.2.3

Comments. One commenter suggested that the location and description of equipment which is disposed of into the ocean under emergency conditions should be reported to the U.S. Coast Guard.

Discussion. This suggestion was adopted. The subparagraph was revised to require that equipment which is disposed of into the ocean under emergency conditions shall be reported to the District Supervisor and to the U.S. Coast Guard in accordance with paragraph 4 of OCS Order No. 1.

Subparagraph 2.1

Comments. A recommendation was made to require "All personnel, including those engaged in drilling operations, platform and pipeline construction and supply boat operations, shall be thoroughly instructed in the procedures and methods of operation of the fishing industry and in the measures which can be taken to avoid potential conflicts between the fishing and petroleum industries."

Discussion. In those Areas where conflicts between the fishing and petroleum industries have occurred, special training may be required by lease stipulations.

Subparagraph 2.2

Comments. A commenter stated, "All facilities whether manned or unattended should be required to have a pollution monitoring system in place and functioning at all times. Monitoring reports should be filed periodically and there should be periodic testing of the monitoring system to determine its accuracy."

Discussion. The Order already requires the lessee to inspect all facilities daily. Subparagraph 2.3 outlines how spills are to be reported. We believe that daily inspection of the facilities is the best method for detecting pollution or conditions which will cause pollution. Production equipment sensors are designed to automatically shut down production in the event of a malfunction, as required by OCS Order No. 5. No effective equipment has been developed for monitoring pollution around a platform.

Subparagraph 2.2.2

Comments. The majority of the commenters objected to the requirement to inspect unattended facilities daily. One commenter stated, "Daily inspection of unattended facilities would be excessively burdensome to the operators and under certain meteorological conditions dangerous to inspectors." The commenters suggested that inspections be required at frequent intervals prescribed by the District Supervisor.

Discussion. The requirement was not changed. It is the USGS' belief that early detection of situations that could cause pollution is the key to pollution prevention and the key to a rapid cleanup effort when a spill has occurred.

Subparagraph 2.3

Comments. Two commenters suggested that this subparagraph should require oil spills to be reported directly to the U.S. Coast Guard (USCG) and to the District Supervisor. Another commenter suggested that spills should be reported "* * * orally to the District Supervisor and in accordance with the reporting structure outlined in the Oil Pollution Liability Regulations (33 CFR 153.203) and confirmed in writing to the District Supervisor."

Discussion. The latter suggestion was adopted. The following sentence was added to the subparagraph: "All spills of oil and liquid pollutants shall also be reported in accordance with the procedure contained in 33 CFR 153.203." The USGS, the USCG, and the EPA are currently working to develop an MOU which will clarify the reporting requirements. When this MOU is finalized, this Order will be revised, if necessary, to maintain consistency.

Subparagraph 2.3.1

Comments. Several commenters expressed concern over the volume/time schedule for the reporting of oil spills.

Discussion. It has been found necessary through operational experience to set a limit on the size of an oil spill which poses a threat to the environment and could be removed or should require an onsite investigation. Oil spills of less than 1 cubic meter (6.3 barrels) are not considered to be a major threat to the environment. Spills greater than 1 cubic meter (6.3 barrels) have the potential to be a major threat. Therefore, the subparagraph provides for the appropriate degree of urgency in the reporting requirements by stipulating the 12-hour and without-delay reporting time periods. Regardless of the time period specified, the lessee is required by 33 CFR 153.203 to report without delay any oil spill which threatens public health or welfare or results in critical public concern. It should be noted that the National Oil and Hazardous Substances Pollution Contingency Plan defines a minimum discharge of oil in coastal waters as 10,000 gallons (238 barrels). The reporting procedure does not lessen the operator's responsibility to report the pollution incident, remove the pollutant, or be responsible for the results of any pollution damage.

Subparagraph 2.3.2

Comments. One commenter suggested that the requirement that lessees shall notify each other upon observation of equipment malfunction or pollution resulting from another's operations is an unnecessary requirement which should be deleted from the Order.

Discussion. This suggestion was not adopted. The intent of the Order is to promote mutual pollution-prevention efforts among lessees in a given area, especially on unmanned facilities.

Subparagraph 3.1

Comments. Several commenters expressed concern over the requirement that pollution-control equipment shall be maintained at an offshore location or at locations required by the Supervisor. One commenter suggested that "* * * this requirement is not specific enough as to the location of the equipment, nor does it necessarily provide an appropriate level of protection to the marine environment, particularly in view of the delay authorized in reporting spills of less than five cubic meters * * *." The commenter recommended that the subparagraph be revised as follows:

"3.1 *Equipment.* As a minimum, a sufficient amount of standby pollution control equipment should be maintained at each site to permit the efficient and timely removal of up to 5.0 cubic meters of oil. Additional containment and removal equipment, sufficient to control all spills larger than 5.0 cubic meters should be readily accessible to the operator. Accessibility may be determined by direct ownership, joint ownership, cooperative venture or contractual agreement. This shall include * * *."

Discussion. The first sentence of the subparagraph was revised as follows: "Pollution-control equipment and materials shall be maintained by, or shall be available to, each lessee at an offshore location, or at a location approved by the Supervisor." It has been determined that certain pollution-control equipment can be stored at offshore locations while other equipment requires storage either onshore or possibly on floating equipment in estuary areas. Due to platform size, configuration, or location, it may be undesirable to store certain pollution-control equipment on an active drilling or production platform. In the event of a fire, an explosion, or a blowout, the equipment could be destroyed or be inaccessible. The intent of the revised language is to assure that pollution-control equipment will be stored in areas that provide the minimum response time, if an oil spill occurs. The Supervisor evaluates the adequacy of the response time on a case-by-case basis during his review of the Contingency Plans.

Comments. One commenter suggested that the third sentence of the requirement of this subparagraph should be changed to state "The use of chemical agents or other additives shall be permitted only * * *" rather

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than stating "The use of chemicals shall be permitted only * * *." This language would be consistent with Annex X of the National Oil and Hazardous Substances Pollution Contingency Plan.

Discussion. This suggestion has been adopted. However, this requirement is related to spill control and removal; therefore, the sentence was added as the last sentence of paragraph 5, "Spill Control and Removal."

Comments. A commenter recommended that "* * * in addition to monthly inspections, all pollution control equipment on drilling rigs be inspected and tested by factory representatives or other knowledgeable personnel prior to well-spudding operations."

Discussion. This recommendation was not adopted. We believe the drills and training required by paragraph 4 of this Order provide an adequate test of the performance of the men and equipment.

Subparagraph 3.2

Comments. One commenter stated that his State would like to review Oil Spill Contingency Plans. The commenter also requested that "* * * the State be included as a party required to be notified in the case of an oil discharge."

Discussion. Oil Spill Contingency Plans are public information, as specified in OCS Order No. 12, and they will be made available by the Supervisor. We do not believe that the Order should require the lessee to notify the affected States when an oil discharge occurs. The National Oil and Hazardous Substances Pollution Contingency Plan, Title 40 CFR Part 1510.34(c), invites affected States to furnish liaison to the Regional Response Team (RRT) for planning and preparedness activities. When the Team is activated for a pollution emergency, the affected State or States are invited to participate in RRT deliberations.

Our review of this comment indicated that requirements for an annual review of the Contingency Plan should be included in subparagraph 3.2 rather than in paragraph 6, "Contingency Plan Review"; therefore, former paragraph 6 was deleted.

Subparagraph 3.2c

Comments. One commenter suggested that "* * * the term 'biological sensitivity' is too restrictive to cover the various types of damage which occur as a result of oil spills.". The commenter stated that "It is also considered necessary to identify the possible impact areas before a protection plan can be devised. It was recommended that 3.2c be revised as follows: "Provisions for identifying and protecting areas of special environmental sensitivity."

Discussion. This suggestion was adopted. The addition of the words "for identifying" is consistent with 30 CFR 250.34–3.

Subparagraph 3.2e(3)

One commenter stated that "In order to provide the person in charge of cleanup operations with the best information available as to the status and progress of the cleanup, the operations center should be located as close as possible to the spill incident." The commenter recommended that the following sentence be added to the subparagraph: "The location selected should be as close as possible to the probable spill area. The operations center may be either a fixed or mobile facility, provided that adequate communications are available."

Discussion. This recommendation was not adopted. It is assumed that the lessee will exercise prudent judgment in the selection of a preplanned location for the oil-spill-response operations center. If a lessee selected a location which was excessively remote from the probable spill areas, the Supervisor has the discretion to disapprove the Oil Spill Contingency Plan.

Paragraph 4

Comments. One commenter recommended "* * * that an additional paragraph be added to section 4 stating that at least one supervisory individual on each offshore unit must receive formal oil spill control instructions and be so certified by the instructing institution."

Discussion. This recommendation was adopted. For editorial clarity, the requirements were segregated into two subparagraphs, 4.1, "Drills," and 4.2, "Training."

Comments. Several commenters expressed concern over the adequacy of onshore drills. It was suggested that the phrase " 'onshore locations where pollution and containment equipment is based,' should be deleted." Other commenters expressed concerns over the requirement for "A drill schedule acceptable to the Supervisor * * *." Other commenters expressed concern over the adequacy of drills where all equipment is not deployed.

Discussion. The new subparagraph 4.1, "Drills," has been rewritten in response to some of these comments. The provision for drills at onshore locations has been deleted. The sentence, "All equipment need not be deployed at each drill," has been deleted and replaced with the following two sentences: "A time schedule with a list of equipment to be deployed shall be submitted to the Supervisor for approval. The drill schedule shall provide sufficient advance notice to allow U.S. Geological Survey personnel to witness any of the drills."

These revisions recognize the Supervisor's authority to approve the timing of the drills and to make a judgment on the adequacy of the list of equipment to be deployed. The Supervisor would not require the deployment of duplicate sets of equipment, if adequate training and deployment capability could be demonstrated by the deployment of one set.

Paragraph 5

Comments. One commenter suggested: "The policy of the United States requiring the removal of spilled oil should be unequivocally stated. Also stated should be a preference for the use of mechanical removal methods, such as the use of sorbents, booms, and skimmers over the use of chemical agents."

Discussion. This suggestion was not adopted. The policy of the United States regarding the lessee's responsibility for the removal of pollutants is clearly stated in 30 CFR 250.43 and 33 CFR 153. Methods and procedures for the removal of discharged oil are detailed in 33 CFR 153.305. The respective responsibilities of the USGS and the USCG are defined in the MOU between the Department of the Interior and the Department of Transportation, dated August 16, 1971. We believe the pollution removal policies of the United States are adequately covered in these documents.

U.S. Department of the Interior, Geological Survey, Conservation Division

OCS Order No. 7, Effective July 1, 1979: Pollution Prevention and Control

This Order is issued pursuant to the authority prescribed in 30 CFR 250.11 and in accordance with 30 CFR 250.43. The lessee shall comply with the following requirements.

1. *Pollution Prevention.* During the exploration, development production, and transportation of oil and gas, the lessee shall prevent pollution of the ocean. Furthermore, by the disposal of waste materials into the ocean, the lessee shall not create conditions which will adversely affect the public health, life, property, aquatic life, wildlife, recreation, navigation, commercial fishing or other uses of the ocean.

1.1 *Liquid Disposal.*

1.1.1 *Drilling-Mud Components.* The lessee shall submit, as a part of the Application for Permit to Drill (Form 9–331C), a detailed list of drilling-mud components including the common chemical or chemical trade name of each component, a list of the drilling-mud additives anticipated for use in meeting special drilling requirements, and the proposed method of drilling-mud disposal. The disposal of drilling mud is subject to the Environmental Protection Agency's permitting procedures, pursuant to the Federal Water Pollution Control Act, as amended. Approval of the method of drilling-mud disposal into the ocean shall be obtained from the District Supervisor; each request will be decided on a case-by-case basis.

1.1.2 *Hydrocarbon-Handling Equipment.* All hydrocarbon-handling equipment for testing and production such as separators, tanks, and treaters shall be designed and operated to prevent pollution. Maintenance or repairs which are necessary to prevent pollution of the ocean shall be undertaken immediately.

1.1.3 *Curbs, Gutters, and Drains for Fixed Platforms or Structures and Mobile Drilling Units.*

Gulf of Mexico:

a. *Fixed Platforms or Structures.*

(1) *New Installations.* Curbs, gutters, and drains shall be installed in all deck areas so that all contaminants are collected in a closed sump. When open decks are used, drip pans or the equivalent shall be placed under equipment and piped to a closed sump. Closed sumps shall automatically maintain fluid at a level sufficient to prevent the discharge of oil into the ocean. Contaminants that are removed from sumps shall be disposed of in a manner which will not create pollution.

All walking and working surfaces shall be equipped with proper drainage to provide safety for personnel and to prevent pollution.

(2) *Existing Installations.* The use of open-ended sump piles as a processing device to treat or skim liquid hydrocarbons or to dispose of sand shall be discontinued within the 12-month period which immediately follows the effective date of this Order, or within a period of time approved by the District Supervisor.

b. *Mobile Drilling Units.* Curbs, gutters, and drains which collect contaminants associated with the drilling operation on a mobile drilling unit shall be installed as required by subparagraph 1.1.3a.

Curbs, gutters, and drains which collect contaminants not associated with the drilling operation are subject to regulation by the U.S. Coast Guard.

Pacific, Gulf of Alaska, Atlantic

a. *Fixed Platforms or Structures.* Curbs, gutters, and drains shall be installed in all deck areas to collect all contaminants in a closed sump. When open decks are used, drip pans or the equivalent shall be placed under equipment and piped to a closed sump. Closed sumps shall automatically maintain fluid at a level sufficient to prevent the discharge of oil into the ocean. Contaminants that are removed from sumps shall be disposed of in a manner which will not create pollution.

All walking and working surfaces shall be equipped with proper drainage to provide safety for personnel and to prevent pollution.

b. *Mobile Drilling Units.* Curbs, gutters, and drains which collect contaminants associated with the drilling operation on a mobile drilling unit shall be installed as required by subparagraph 1.1.3a.

Curbs, gutters, and drains which collect contaminants not associated with the drilling operation are subject to regulation by the U.S. Coast Guard.

1.1.4 *Discharges from Fixed Platforms or Structures and Mobile Drilling Units.* Discharges from fixed platforms or structures and mobile drilling units, including sanitary waste, produced water, drilling mud, and deck drainage, are subject to the Environmental Protection Agency's permitting procedures, pursuant to the Federal Water Pollution Control Act, as amended.

1.2 *Solid Material Disposal.*

1.2.1 *Well solids.* The disposal of drill cuttings, sand, and other well solids containing oil is subject to the Environmental Protection Agency's permitting procedures, pursuant to the Federal Water Pollution Control Act, as amended. Approval of the method of disposal of drill cuttings, sand, and other well solids shall be obtained from the District Supervisor.

1.2.2 *Containers.* Containers and other similar solid-waste materials shall not be disposed of into the ocean.

1.2.3 *Equipment.* Disposal of equipment into the ocean is prohibited except under emergency conditions. The location and description of any equipment disposed of into the ocean shall be reported to the District Supervisor and to the U.S. Coast Guard in accordance with paragraph 4 of OCS Order No. 1.

2. *Personnel, Inspections, and Reports.*

2.1 *Personnel.* The lessee's personnel shall be instructed in the techniques of equipment maintenance and operation for the prevention of pollution. Contractor personnel providing services offshore shall be informed in writing, prior to executing contracts, of the lessee's obligations to prevent pollution and of the provisions of this Order.

2.2 *Pollution Inspections.*

2.2.1 *Manned Facilities.* Manned drilling and production facilities shall be inspected daily to determine if pollution is occurring. Maintenance or repairs which are necessary to prevent pollution of the ocean waters shall be undertaken and performed immediately.

2.2.2 *Unattended Facilities.* Unattended facilities, including those equipped with remote control and monitoring systems, shall be inspected daily or at intervals prescribed by the District Supervisor to determine if pollution is occurring. Necessary maintenance or repairs shall be made immediately.

2.3 *Pollution Reports.* All spills of oil and liquid pollutants shall be reported orally to the District Supervisor and shall be confirmed in writing. All reports shall include the cause, location, volume of spill, and action taken. Reports of spills of more than 5.0 cubic meters (31.5 barrels) shall include information on the sea state, meteorological conditions, size, and appearance of slick. All spills of oil and liquid pollutants shall also be reported in accordance with the procedure contained in 33 CFR 153.203.

2.3.1 *Spills.* Spills shall be reported orally within the following time limits:

a. Within 12 hours, if spills are 1.0 cubic meters (6.3 barrels) or less.

b. Without delay, if spills are more than 1.0 cubic meter (6.3 barrels).

2.3.2 *Observed Malfunctions.* Lessees shall notify each other of observed pollution resulting from another's operation.

3. *Pollution-Control Equipment and Materials and Oil Spill Contingency Plans.* The lessee shall submit a description of procedures, personnel, and equipment that will be used in reporting, cleanup, and prevention of the spread of any pollution resulting from an oil spill which might occur during exploration or development activities. The following subparagraphs describe the minimum requirements for pollution-control equipment and procedures.

3.1 *Equipment and Materials.* Pollution-control equipment and materials shall be maintained by, or shall be available to, each lessee at an offshore location or at a location approved by the Supervisor. The equipment shall include containment booms, skimming apparatus, cleanup materials, and chemical agents which shall be available prior to the commencement of operations. The equipment and materials shall be inspected monthly and maintained in a state of readiness for use. The results of the inspections shall be recorded and maintained at the site.

3.2 *Oil Spill Contingency Plans.* The lessee shall submit an Oil Spill Contingency Plan for approval by the Supervisor, prior to the approval of an Exploration Plan or a Development and Production Plan. Oil Spill Contingency Plans shall be reviewed annually. All modifications of the Oil Spill Contingency Plan and the results from the review of the plan shall be submitted to the Supervisor for approval. The Oil Spill Contingency Plan shall contain the following:

a. Provisions to assure that full resource capability is known and can be committed during an oil spill, including the identification and inventory of applicable equipment, materials, and supplies which are available locally and regionally, both committed and uncommitted, and the time required for deployment of the equipment.

b. Provisions for varying degrees of response effort depending on the severity of the oil spill.

c. Provisions for identifying and protecting areas of special biological sensitivity.

d. Establishment of procedures for the purpose of early detection and timely notification of an oil spill including a current list of names, telephone numbers, and addresses of the responsible persons and alternates on call to receive notification of an oil spill; and the names, telephone numbers, and addresses of regulatory organizations and agencies to be notified when an oil spill is discovered.

e. Provisions for well-defined and specific actions to be taken after discovery and notification of an oil spill, including:

(1) Specification of an oil-spill-response operating team consisting of trained, prepared, and available operating personnel.

(2) Predesignation of an oil-spill-response coordinator who is charged with the responsibility and is delegated commensurate authority for directing and coordinating response operations.

(3) A preplanned location for an oil-spill-response operations center and a reliable communications system for directing the coordinated overall response operations.

(4) Provisions for disposal of recovered spill materials.

4. *Drills and Training.*

4.1 *Drills.* Drills for familiarization with pollution-control equipment and operational procedures shall be held by the lessee. The personnel identified as the oil-spill-response operating team in the Contingency Plan shall participate in these drills. The drills shall be realistic and shall include deployment of equipment. A time schedule with a list of equipment to be deployed shall be submitted to the Supervisor for approval. The drill schedule shall provide sufficient advance notice to allow U.S. Geological Survey personnel to witness any of the drills. Drills shall be recorded, and the records shall be made available to U.S. Geological Survey personnel. Where drill performance and results are deemed inadequate, the Supervisor may require an increase in the frequency or a change in the location of the drills until satisfactory results are achieved.

4.2 *Training.* The lessee shall ensure that training classes for familiarization with pollution-control equipment and operational procedures are provided for the oil-spill-response operating team. The supervisory personnel responsible for directing the oil-spill-response operations shall receive oil-spill-control instruction suitable for all seasons. The lessee shall retain course-completion certificates or attendance records

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issued by the organization where the instruction is provided. These records shall be available to any authorized representative of the U.S. Geological Survey, upon request.

5. *Spill Control and Removal.* Immediate corrective action shall be taken in all cases where pollution has occurred. Corrective action taken under the lessee's Oil Spill Contingency Plan shall be subject to modification when directed by the Supervisor. The primary jurisdiction to require corrective action to abate the source of pollution shall remain with the Supervisor, pursuant to the provisions of this Order and the Memorandum of Understanding (MOU) between the Department of Transportation (U.S. Coast Guard) and the Department of the Interior (U.S. Geological Survey) dated August 16, 1971. The use of chemical agents or other additives shall be permitted only after approval by the Supervisor in accordance with Annex X, National Oil and Hazardous Substances Pollution Contingency Plan and in accordance with the previously mentioned MOU.

6. *Departures.* All departures from the requirements specified in this Order shall be subject to approval, pursuant to 30 CFR 250.12(b).

Approval:

Don E. Kash,

Chief, Conservation Division.

OCS Order No. 12

Paragraph 1

Comments. One commenter objected to "the withholding of a lessee's or operator's geophysical and geological information from public scrutiny." This commenter does not believe "5 USS § 552 authorizes such an exemption." The commenter believes "reports should be available for public inspection."

Discussion. Pursuant to revisions of the Freedom of Information Act [5 U.S.C. § 552(b)(9)], Title 43 CFR Part 2 was revoked in its entirety and a revised Part 2 was adopted. Specifically, § 2.13(c), "Statutory Exemptions," (9) was revised to provide for the exemption of geophysical and geological data. These revised regulations became effective when the revisions were published in the **Federal Register**, Vol. 40, No. 34, Wednesday, February 19, 1975.

In accordance with the authority vested in the Secretary of the Interior by the Outer Continental Shelf Lands Act of August 7, 1953, Title 30 CFR 250.97 was amended to provide for the release of geophysical data 10 years after the date of submission or after the expiration of the lease, whichever occurs first. This amendment also provided for the release of geological data 2 years after the date of submission or after the expiration of the lease, whichever occurs first. These amendments became effective when signed by the Secretary of the Interior on June 11, 1976. The amendments were subsequently published in the **Federal Register**, Vol. 41, No. 122, Wednesday, June 23, 1976. These amendments are applicable to leases issued after June 11, 1976. Therefore, paragraph 3, "Information Exempt from Public Inspection," has been revised to provide for the implementation of these regulation amendments.

Paragraph 2

Comments. It was suggested that records, pertaining to leases and wells, which have been classified as proprietary data and withheld from public information "• • • should be made available to the States at least under such a provision as is included in the Bureau of Land Management's proposed rulemaking published in the September 28, 1977, **Federal Register**. These proposed rules provide that data protected from general release as Public Information shall be available to the Governor's designee on a protected confidential basis."

Discussion. The final revision of the Bureau of land Management's regulation, 43 CFR 3301.8(d), as published in the **Federal Register**, Vol. 43, No. 19, January 27, 1978, states in part: "no data or information determined to be exempt from public disclosure under such Act and regulations shall be made available for public disclosure or provided to any affected state or to the executive of any local government." This final regulation is consistent with 30 CFR 250.34, 250.97, and 43 CFR 2.13. Subparagraph 2.10, "Availability of Data and Information Submitted by Lessees," lists various nonproprietary data which is available.

Comments. One commenter stated that "All information on the monthly reports should be available for public inspection, including the category designated 'Remarks'." The commenter suggested that "No reason is ever given for exempting the remarks from public scrutiny.

The commenter also objected to the withholding of information on "the type, location, and producing interval of the wells," prior to commencement of production.

Discussion. In the "Remarks" section of the monthly report, the operator is usually discussing operational matters concerning producing intervals. This is considered proprietary data and is not available for public scrutiny.

The type, location, and producing interval of wells is also considered proprietary data because this information could be used to develop a contour map of the producing structure. The paragraph was not changed.

Comments. One commenter suggested that "there should be a provision for timely (weekly or montly) cataloging of the records available for public inspection in the Area office."

Discussion. The Order contains a complete listing of the information which is available in the public information room of the Area office. The current status on the receipt of specific information from specific leases or wells is available upon request. The public information room is open to the public during normal working hours. Therefore, the cataloging of the available records is unnecessary.

Subparagraph 2.4

Comments. One commenter suggested that "the casing program for the drive or structural and conductor casings should not be proprietary."

Discussion. The setting depths of all casing strings are based on geological data; therefore, this information is exempt from public disclosure.

Subparagraph 2.10

Comments. One commenter suggested that the phrase "except for those portions which the lessee shall designate, with the Supervisor's approval, as trade secrets and commercial or financial information which is privileged or confidential" be moved from subparagraph 2.10c and inserted at the end of the lead-in sentence. The commenter stated: "In addition to results of site surveys required prior to drilling or placement structures, other information submitted in items (a) through (f) may contain privileged or confidential information which should not be made available for public inspection."

Discussion. The USGS agrees with this comment and has revised the Order accordingly. Subparagraph 2.10c was revised further by adding the phrase, "such as shallow geologic hazards surveys, archaeological/cultural resource surveys, or other surveys related to the placement of platforms or structures." This revision clarified the type of site surveys which are to be made available.

Subparagraph 2.10b

Comments. It was suggested that subparagraph 2.10b be deleted. The commenter suggested that the subparagraph "has several very undesirable aspects" which he believes include:

"1. It reduces competition between the operating companies in that data accumulated at great cost by one company is obtained free by another company.

"2. It reveals proprietary data on performance of a contractor's vessel to his competitor. This again reduces competition.

"3. It is not in the national interest to publish detailed data on performance of our drilling units while receiving nothing in return from foreign nations which can, at least through a third party, obtain the data.

"4. This information is detailed technical data and is not in the form which is of use to the public."

Discussion. We cannot agree that competition will be reduced by furnishing oceanographic data and meteorological data: Each company operating in the OCS will be contributing; therefore, an exchange of data would be mutually beneficial to all. We agree that drilling-vessel performance data should not be made available without the consent of the lessee; therefore, the requirement for the release of performance data was deleted.

Subparagraph 2.10d

Comments. The commenter, quoted in the comments for subparagraph 2.10b, also suggested that this subparagraph be deleted for the same reasons.

Discussion. Subparagraph 2.10d was revised by replacing the words "performance data" with the words "rated capability."

Subparagraph 2.10e

Comments. One commenter stated that "Much of the data required by this section has been acquired through exhaustive and expensive private research and is, therefore, proprietary in nature." The commenter recommended that the subparagraph be revised to require that proprietary data "shall not be disclosed without prior notification to the affected party and appropriate hearings."

Discussion. The revision of subparagraph 2.10 provides for the exemption of proprietary information with the approval of the Supervisor.

Subparagraph 2.11

Comments. No comments received.

Discussion. In accordance with 30 CFR 250.97, a new subparagraph 2.11, "Expired Leases," was added to provide for the release of information pertaining to expired leases.

Paragraph 3

Comments. One commenter stated that "Legal means should be provided to decide whether or not specific information is or is not proprietary in nature and, therefore, subject to disclosure."

Discussion. As outlined in the discussions of the revision of paragraph 1, paragraph 3 has been revised completely to elaborate on the release of information which is exempt from public inspection. The Freedom of Information Act § 552 sets forth guidelines for the determination of proprietary data. These guidelines are the "legal means" for the determination of proprietary data. The requirements for the release of information have also been set forth in 30 CFR 252.6 as published in the **Federal Register**, Vol. 43, No. 19, Friday, January 27, 1978.

U.S. Department of the Interior; Geological Survey Conservation Division

OCS Order No. 12, Effective July 1, 1979; Public Inspection of Records

This Order is issued pursuant to the authority prescribed in 30 CFR 250.11 and in accordance with 30 CFR 250.34, 250.97, 252.6, and 43 CFR Part 2. Requests for information made under the Freedom of Information Act, 5 U.S.C. § 552, will be governed by the provisions of 43 CFR Part 2 (40 FR 7304, February 19, 1975).

1. *Filing of Reports.* All reports on forms 9–152, 9–330, 9–331, 9–331 C, 9–1869, 9–1870 and the forms used to report the results of multipoint back-pressure tests shall be filed by the lessee in accordance with the following:

a. All reports submitted on these forms shall include a copy with the words "Public Information" shown on the lower right-hand corner. This copy of the form shall be made available for public inspection.

b. All items on the form not marked "Public Information" shall be completed in full, and such forms and all attachments thereto shall not be available for public inspection.

c. The copy marked "Public Information" shall be completed in full except that the items described in subparagraphs 2.1 through 2.4 below and the attachments relating to such items may be excluded.

2. *Availability of Records.* It has been determined that certain records pertaining to leases and wells in the Outer Continental Shelf (OCS) and submitted under 30 CFR 250 shall be made available for public inspection, as specified below, in the Area office.

2.1 *Form 9–152—Monthly Report of Operations.* All information contained on this form shall be available except the information required in the "Remarks" column.

2.2 *Form 9–330—Well-Completion or Recompletion Report and Log.*

2.2.1 *Prior to Commencement.* Prior to commencement of production, all information contained on this form shall be available except:

a. Item 1a, Type of Well.

b. Item 4, Location of Well, at top production interval and at total depth.

c. Item 22, If Multiple Completion, how many.

d. Item 24, Producing Interval.

e. Item 26, Type Electric and Other Logs Run.

f. Item 28, Casing Record.

g. Item 29, Liner Record.

h. Item 30, Tubing Record.

i. Item 31, Perforation Record.

j. Item 32, Acid, Shot, Fracture, Cement Squeeze, Etc.

k. Item 33, Production.

l. Item 37, Summary of Porous Zones.

m. Item 38, Geologic Markers.

2.2.2 *After Commencement of Production.* After commencement of production, all information shall be available except Item 37, Summary of Porous Zones, and Item 38, Geologic Markers.

2.2.3 *5 Years' Elapsed Time.* If production has not commenced after an elapsed time of 5 years from the date of filing Form 9–330 as required in 30 CFR 250.38(b), excluding the total time that operations and production are suspended by direction of the Secretary of the Interior or his duly authorized representative, and further excluding the total time that operations and production are stopped or prohibited by Court order, all information contained on this form shall be available except Item 37, Summary of Porous Zones, and Item 38, Geologic Markers. Within 90 days prior to the end of the 5-year period, exclusive of exceptions noted above, the lessee shall file a Form 9–330 containing all information requested on the form except Item 37, Summary of Porous Zones, and Item 38, Geologic Markers, to be made available for public inspection. Objections to the release of such information may be submitted with the completed Form 9–330.

2.3 *Form 9–331—Sundry Notices and Reports on Wells.*

2.3.1 *"Request for Approval to."* When used as a "Request for Approval to:" conduct operations, all information contained on this form shall be available except Item 4, Location of Well, at top production interval and at total depth, and Item 17, Describe Proposed or Completed Operations.

2.3.2 *"Subsequent Report of."* When used as a "Subsequent Report of:" operations, and after commencement of production, all information contained in this form shall be available, except information contained in Item 17 pertaining to subsurface locations and measured and true vertical depths for all markers and zones not placed on production.

2.4 *Form 9–331 C—Application for Permit to Drill, Deepen, or Plug Back.* All information contained on this form and the location plat attached thereto shall be available except Item 4, Location of Well at Proposed Production Zone, and Item 23, Proposed Casing and Cementing Program.

2.5 *Form 9–1869—Quarterly Oil-Well-Test Report.* All information contained on this form shall be available.

2.6 *Form 9–1870—Semi-Annual Gas-Well-Test Report.* All information contained on this form shall be available.

2.7 *Multi-point Back-Pressure-Test Report.* All information contained on this form shall be available.

2.8 *Sales of Lease Production.* Information contained on the monthly U.S. Geological Survey computer printout showing sales volumes, value, and royalty on production of oil, condensate, gas, and liquid products by lease shall be made available.

2.9 *Availability of Inspection Records.* All accident-investigation reports, pollution-incident reports, facilities-inspection data, and records of enforcement actions are also available for public inspection.

2.10 *Availability of Data and Information Submitted by Lessees.* It has been determined that much information submitted by lessees, as a result of OCS Orders and OCS Notices to Lessees and Operators, is nonproprietary in nature or that release of such information is necessary for the proper development of the lease. This information will be made available for public inspection, except for those portions which the lessee shall designate, with the Supervisor's approval, as trade secrets and commercial or financial information which is privileged or confidential. The available information will include:

a. Notices of support activity.

b. Oceanographic and meteorological data collected from drilling units and production facilities during the period of operations.

c. Results of site surveys required prior to drilling or placement of platforms or structures, such as shallow geologic hazard surveys, archeological/cultural resource surveys, or other surveys related to the placement of platforms or structures.

d. Drawings, maximum environmental design criteria, and rated capability data of mobile drilling units and structures.

e. Oil Spill Contingency Plans.

f. Critical Operations and Curtailment Plans.

g. Other data required under 30 CFR 250.34.

2.11 *Expired Leases.* All information is available upon the expiration of a lease.

3. *Information Exempt from Public Inspection.* The information in subparagraphs 2.1 through 2.4 which has been restricted from public inspection is classified as geological and geophysical data. The release of this data is subject to the following restrictions.

3.1 *Leases Issued Prior to June 11, 1976.* For leases issued prior to June 11, 1976, the classified data is exempt from disclosure under exemption No. (9) of the Freedom of Information Act [5 U.S.C. § 552(b)(9) and 43 CFR 2.13 subsection (c), *"Statutory Exemptions." (9)].*

3.2 *Leases Issued After June 11, 1976.* For leases issued after June 11, 1976, the classified data is available in accordance with 30 CFR 250.97, *Public Inspection of Records*, as follows:

a. *Geophysical Data.* Geophysical data shall not be available for public inspection, except as provided in 2.10c, without consent of the lessee as long as the lease remains in effect or for a period of 10 years after the date of submission, whichever is less, unless the Supervisor, with the approval of the Director, determines that earlier release of this information is necessary for proper development of the field or area.

b. *Geological Data.* Geological data shall not be made available for public inspection without the consent of the lessee as long as the lease remains in effect or for a period of 2 years after the date of submission, whichever is less, unless the Supervisor, with the approval of the Director, determines that earlier release fo such information is necessary for the proper development of the field or area. In accordance with 30 CFR 250.38, *Well Records*, data and well records shall be transmitted to the Supervisor upon request or, if not requested, within 30 days following completion or suspension of any well. For the purpose of orderly release of data, in all cases the date of submission will be considered to be 30 days following such completion or suspension.

4. *Departures.* All departures from the requirements specified in this Order shall be subject to approval, pursuant to 30 CFR 250.12(b).

Approved:

Don E. Kash,

Chief, Conservation Division.

[FR Doc. 79-15392 Filed 5-17-79; 8:45 am]

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federal register

Friday
May 18, 1979

Part V

Department of the Interior

Office of the Secretary

Department of Commerce

National Oceanic and Atmospheric Administration

Fish and Wildlife Coordination Act, Uniform Procedures for Compliance

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DEPARTMENT OF THE INTERIOR

Office of the Secretary

DEPARTMENT OF COMMERCE

National Oceanic and Atmospheric Administration

[50 CFR Part 410]

Fish and Wildlife Coordination Act; Notice of Proposed Rulemaking

AGENCY: National Oceanic and Atmospheric Administration, Commerce; Office of the Secretary, Interior.

ACTION: Proposed rulemaking.

SUMMARY: This Notice invites public participation in the development of rules which would establish uniform procedures for federal agency compliance with the Fish and Wildlife Coordination Act (FWCA). The President's Water Policy Message of June 6, 1978 and the President's Water Policy Memorandum dated July 12, 1978, directed the publication of these rules. These rules would standardize agency procedures and interagency relationships in the analysis of the impacts of federal, or federally-approved, water-related projects upon wildlife resources. They relate closely to the procedures established for compliance with the National Enviornmental Policy Act [NEPA].

DATES: Written comments must be received no later than July 17, 1979.

ADDRESS: Comments should be addressed to: Associate Director (AE), Fish and Wildlife Service, Department of the Interior, Washington, D.C. 20240.

Written and oral comments will be received at public hearings to be convened in the following cities on dates to be later announced by notice published in the Federal Register:
Arlington (Dallas/Ft. Worth), Texas
Washington, D.C.
San Francisco, California
New Orleans, Louisiana
Denver, Colorado

FOR FURTHER INFORMATION CONTACT:
Thomas J. Bond, Fish and Wildlife Service, Division of Ecological Services, 18th and E Sts. NW., Washington, D.C. 20240, (202) 653–5952.
James R. Chambers, National Marine Fisheries Service, 3300 Whitehaven St. NW., Page Building II, Washington, DC 20235, (202) 634–7940.

SUPPLEMENTARY INFORMATION:

I. Procedural Background

In a Water Policy Memorandum dated July 12, 1978, President Carter directed that—

> The Secretary of the Interior in cooperation with the Secretary of Commerce shall promulgate regulations by March 1, 1979, defining the requirements and procedures that must be met for fully complying with the Fish and Wildlife Coordination Act.* * * Then, not later than 3 months after promulgation of such final regulations, Federal agencies with consultative responsibilities under the [FWCA] shall publish . . . separate procedures to be followed in implementing the regulations for [the FWCA]. These procedures shall be reviewed, and if consistent with the regulations, approved within 60 days by the Secretary of the Interior . . . and shall be published in final form. These regulations shall include acceptable methods for determining adequate measures to prevent or to mitigate losses to fish, wildlife, . . . and other resources protected by [the FWCA] . . . and procedures to ensure compliance of all projects not yet constructed with [the FWCA] and these regulations.[1]

A Notice of Intent to Propose Rules under the FWCA was published in the **Federal Register** on September 29, 1978. 43 FR 44870–44872. We received a large number of responses to the questions asked in that Notice, particularly from state fish and wildlife agencies. The staff of the Fish and Wildlife Service (FWS) and the National Oceanic and Atmospheric Administration (NOAA) which participated in the drafting of these rules held numerous conferences with interested Congressional staffs and with most federal agencies which would be affected by these rules. In addition, the President's Water Policy Implementation Task Force on Environmental Statutes discussed, and held public hearings on, the President's proposal for FWCA rules.

II. The FWCA

The FWCA requires federal agencies (hereinafter "action agencies") which propose, or are authorized, to undertake the impoundment, diversion, deepening, or other control or modification of waters of any stream or other body of water, or which are asked to approve such activity in some way, to provide wildlife conservation equal consideration with other features of such projects throughout the agencies' planning and decision-making processes. It requires such agencies, or applicants to such agencies, to first consult with state and federal wildlife agencies with a view to ascertaining what project facilities, operations, or measures may be considered necessary by those agencies to mitigate and compensate for project-occasioned losses to wildlife resources, as well as to enhance those resources.

The FWCA further requires that the reports and recommendations of wildlife agencies on the wildlife aspects of such projects shall be presented to action agency decision-makers and (where applicable) the Congress, and that the action agencies shall give full consideration to those reports. Action agencies are required to include in project plans such means and measures for wildlife conservation as they may find justifiable to obtain maximum overall project benefits, and the costs thereof are to be considered integral to those of the project.

III. Relationship of the FWCA and This Proposal to NEPA and Other Environmental Review Requirements

Because of the breadth of the concerns imposed upon wildlife agencies by the FWCA, more is required of wildlife agencies in carrying out their commenting responsibilities under NEPA than is required of most other agencies who comment upon environmental impact statements (EIS). The Eighth U.S. Circuit Court of Appeals has noted that "[t]he proposed mitigation plans go to the very heart of the question before the [agency] preparing its environmental impact statement—whether the project should proceed at the present time in view of its environmental consequences." *Environmental Defense Fund v. Froehlke,* [Cache River], 473 F.2d 346, 351 (8th Cir. 1972).

The procedures established in these proposed FWCA rules can be carried out at the same time that action agencies are complying with the NEPA regulations, particularly prior to and during the preparation of a draft EIS.[2]

[1] The President also directed the submission of annual reports to the Office of Management and Budget which demonstrate compliance with environmental protection statutes, including the FWCA. Finally, the President directed that—

> In all project construction appropriation requests, agencies shall include designated funds for all environmental mitigation required for the project and shall require that mitigation funds be spent concurrently and proportionately with construction funds throughout the life of the project.

These reporting and funding directives are being analyzed by the President's Water Policy Implementation Task Force on Environmental Statutes and are not addressed in this Notice. However, should that Task Force so recommend, these rules may be amended at a later date to incorporate the procedures adopted for complying with these latter two directives.

[2] It has been stated that "compliance with the National Environmental Policy Act . . . is *de facto* compliance with [the FWCA]." *Cape Henry Bird Club v. Laird,* 359 F. Supp. 404 (W.D. Va. 1973). This conclusion was presumed by that Court to be justified by *Environmental Defense Fund, Inc. v. Corps of Engineers* [Gillham Dam], 325 F. Supp. 749, 754 (E.D. Ark. 1971), which held that where a federal agency observes the requirements of NEPA, "it will automatically take into consideration all factors

Footnotes continued on next page

The relationship between the NEPA regulations and these proposed rules has been carefully drawn here and specific cross-citations have been made to the NEPA regulations where appropriate. § 410.3 (definitions of "compensation," "loss prevention," "mitigation"); § 410.16(a); (general relationship); § 410.15 (lead agencies); § 410.22(b)(4) (scoping); § 410.22(a)(1) (preliminary review of applications); § 410.23(b) (timing of reports by wildlife agencies); § 410.24(a)(2) (findings on justification for wildlife mitigation measures in draft EIS); §§ 410.32(b), 410.32(d)(1)(i) (compliance with NEPA in development of General Plans); § 410.33(c) (post-authorization monitoring).

The requirements of NEPA and the FWCA are similar in many respects. First, by requiring that wildlife conservation be given "equal consideration" with other features of water resource development programs, the FWCA assigns a weight to wildlife values in making determinations on the content of Federal project plans or Federal approvals. This parallels the goals and policies of Section 101 of NEPA, and the requirements in Section 102(4) and (B) that agencies use a systematic interdisciplinary approach to insure that environmental values and amenities are given appropriate consideration along with economic and technical factors. The legislative history of the FWCA shows that Congress was prepared to accept a reduction in the benefits of other project purposes in order to obtain the benefits of fish and wildlife conservation.

Secondly, NEPA's requirement that wildlife impacts and mitigation alternatives be considered in environmental impact statements carries with it an obligation to undertake mitigation activities to the fullest extent possible in order to achieve the goals of Section 101. See NEPA Section 102 and 40 CFR 1505.2(c) and 1505.3. The FWCA requires (1) the preparation of a plan containing specific measures to mitigate and compensate wildlife losses, as well as to enhance wildlife resources, (2) the submission of that plan to Congress at the same time project reports are submitted, and, (3) the implementation of the authorized mitigation plan concurrently with construction.

The FWCA is more than a mere consultative responsibility; it is an affirmative mandate to action agencies, of which consultation with wildlife agencies is only a part. Like NEPA, it requires early planning and post-consultation findings and implementation. Moreover, it speaks specifically to benefit-cost calculations and allocates responsibilities for paying the costs of mitigation. 16 U.S.C. 662(c),(d), 663(b). This complements the requirements of NEPA's Sections 102(2)(C) and 102(2)(E). In the case of projects requiring EIS's, the NEPA regulations provide that when benefit-cost analyses are prepared, they shall be incorporated by reference or appended to the EIS to assist in the evaluation of alternatives, and of environmental consequence. 40 CFR 1502.23. These proposed reguations are thus fully consistent with and complement NEPA and the NEPA regulations.

These rules will also advance the President's directive that federal agencies should coordinate and simplify invironmental review requirements. See President's Invironmental Message of May 23, 1977, 13 WEEKLY COMP. OF PRES. DOC. 782, 794. FWCA compliance is to be coordinated with other federal environmental review requirements. See §§ 410.23(b) and 410.23(c)(6).

In addition, § 410. 15 permits two or more action agencies which each have jurisdiction over an action, and which would separately have to comply with the FWCA, to complete the consultation and reporting phases of FWCA compliance through one (lead) agency. Section 410.16(b) requires action agencies which are considering the approval of a project to which the FWCA applies to require their applicants to make a showing of compliance with other permit programs to which the FWCA applies separately; namely, sections 402 and 404 of the Clean Water Act and sections 9 and 10 of the River and Harbor Act of 1899. Action agency observance of these two provisions could avoid placing wildlife agencies in the position of commenting upon the same proposed project at different times. This is the "two bites at the apple" problem which is posed for any federal agency administering a federal environmental review requirement respecting an action over which several other federal agencies may also initiate primary jurisdiction. This problem is exacerbated when an applicant for one of these various federal approvals makes application to the agencies at different points in time. Such results also occur when one federal regulation becomes applicable to a project only after the jurisdiction of another agency has been invoked by an application filed under a different program.

Footnotes continued from last page

required by [the FWCA] and it is not reasonable to require them to do both separately." While it may not have been appropriate to require the Corps in that case to consult again with wildlife agencies—it having done so previously under NEPA—it is quite another matter to suggest the NEPA and the FWCA impose identical burdens. Other cases considering the relationship of the two Acts have recognized their distinct requirements. *Zabel v. Tobb,* 430 F.2d 199 (5th Cir. 1970); *Akers v. Resor,* 339 F. Supp. 1375 (D. Tenn. 1972); *National Wildlife Federation v. Andrus,* 440 F. Supp. 1245 (D.D.C. 1977); *Texas Committee on Natural Resources v. Alexander,* —— F. Supp.—— (E.D. Texas, December 8, 1978) unofficially reported 12 ERC 1676.

IV. Applicability

Subpart B of these rules establishes a compliance procedure for all projects covered by the FWCA, with slightly different procedures applied, depending upon whether the project in question is federal or "non-federal." Latitude is provided to action agencies during the proposed rulemaking and implementing procedures phases of this initiative to discuss with the Secretary of the Interior and the Administrator of NOAA FWCA compliance procedures which would be carefully tailored to their individual needs and programs.

No procedures would be established in advance for FWCA compliance by comprehensive water and related land resources planning programs, for certain projects undertaken in emergencies, and for federal programs administered by states. An opportunity is provided during the proposed rulemaking and implementing procedures phases of this initiative to devise FWCA review procedures appropriate to these types of activities.

V. Project Accounting

Several provisions of these proposed rules should resolve some of the confusion which exists over the treatment of wildlife resource-related project accounting for benefit-cost, reimbursement, and budgeting purposes. These rules make a distinction between "mitigation" and "enhancement". See § 410.3. This is necessary for two reasons. First, the costs of installing fish and wildlife enhancement measures at federal projects are reimbursed to the United States under rules which differ substantially from those which govern the reimbursement of the costs of loss prevention and mitigation measures. *Compare* 16 U.S.C. 4601–12, *et seq., with* 16 U.S.C. 662(b), 662(d).

Second, the costs of fish and wildlife loss prevention and mitigation measures are required by the FWCA to be considered as costs, not benefits, for the purposes of any benefit-cost analysis which may be required by other law. See § 410.24(b). Although the costs of adopted wildlife resource loss-compensation measures, and of uncompensated losses, would be figured as costs in the overall project benefit-

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cost ratio, conservation measures would not be subjected to normal benefit-cost analysis in order to determine whether they are justified. See § 410.24(b)(3)(ii) and § 410.24(a)(2).

These rules also make it clear that the total costs of wildlife compensation measures (acquisition, operation, maintenance, replacement, and management) are to be included in cost analysis. See § 410.24(a)(2). In the case of federal profects, the budgeting of such costs will be by the construction agency, in order that the true costs of water projects can be recognized. See § 410.32(e); 16 U.S.C. 663(b). Lack of agency and Congressional attention to funding of OM&R costs has been a major factor foreclosing authorized mitigation.

VI. Techniques for Evaluating Project Impacts on Fish and Wildlife Resources

These rules respond to the President's directive that "these regulations shall include acceptable methods for determining adequate methods to prevent or to mitigate losses to fish, wildlife, * * * and other resources protected by * * *" the FWCA. This is consistent with and carries out NEPA's Section 102(2)(3), which requires "to the fullest extent possible" that all agencies identify and develop methods and procedures which will insure that presently unquantified environmental amenities and values may be given appropriate consideration in decision-making, along with economic and technical considerations. These rules would require, at least for federal projects, that the federal construction agency receive, consider, and transmit to the Congress an analysis of the extent of wildlife resource productivity lost to, or gained with, the proposed project, and an analysis of the compensation measures which are required to replace that loss, measured in terms of equivalent wildlife resource productivity. See §§ 410.23(c)(3), 410.24(a)(1)(ii), 410.24(c). In preparing their reports under the FWCA, wildlife agencies are directed to use evaluation techniques in describing project effects and identifying conservation measures which are directed at qualifying and quantifying potential effects on wildlife, their habitat and related values. See § 410.23(c)(1). Action agency findings on conservation measures which they deem justifiable must be based upon the use of assessment and evaluation techniques reflecting wildlife habitat values. See § 410.24(b)(1).

VII. Section-by-Section Analysis

A general overview of the remaining, more significant provisions of the proposed rules follows. The FWCA and these rules apply to water-related federal actions; defined as "projects". Different procedures are provided, depending upon whether the projects in question are federal undertakings, as opposed to "non-federal" projects which are "approved" by a federal agency. These procedures are set forth in Subpart B.

In § 410.3, the terms "action agency", "approval", and "project" are defined. "Project" defines the kind and location of impacts covered by the FWCA. "Action agency" defines the kinds of federal actions which are the predicate for application of the FWCA. "Approval" refers to a federal agency action which provides entitlements for *non*-federal projects.

The terms "loss prevention", "mitigation", and "enhancement" have been defined and distinguished after extensive deliberations among wildlife resource planners. They are distinguished because (1) they have different economic and financial connotations (described above), and (2) in order to emphasize them as separate steps in the action agency approval and authorization process. Enhancement is recognized to be a separate planning objective which is just as important as mitigation. See §§ 410.24(b)(1), 410.21.

"Compensation" is used to state an objective or measure of loss prevention and mitigation planning. It is a term used in the FWCA.

The definition of "Regional Directors", as applied in § 410.22(a) (1) and (2), confirms the fact that the jurisdiction of the Departments of the Interior and Commerce over all projects to which the FWCA applies will be totally concurrent. It is recognized that different levels of effort will be devoted to various projects by the two federal agencies, depending upon such factors as project location, resource impact, program emphasis, and staffing. Should the pending proposal for executive reorganization become effective, appropriate changes will be made to this proposal.

"Wildlife agency" is defined and used to refer to federal and state wildlife agencies collectively. In the case of state agencies, the FWCA is construed to require consultation with the state agency which exercises "immediate and direct administration over the fish and wildlife resources" of the affected state or states.

"Wildlife" and "wildlife resources" are defined by taxonomic classifications, as well as by reference to habitat elements. As applied in § 410.24(b)(1), the rules require that action agencies consider impacts upon wildlife resource not only in the project area, but wherever they "occur". For example, an upstream water project could have significant impacts upon the wildlife resources of an estuary far removed from the project site.

"Wildlife resource properties", as applied in § 410.32, refers to areas designated by federal agencies in connection with federal projects for the conservation of wildlife resources. Areas set aside in connection with non-federal projects are not affected by these proposed rules.

Section 410.11(a) should resolve a great deal of confusion which has arisen over the applicability of the FWCA to certain federal programs, project locations, actions indirectly affecting water, and types of water resources. It is recognized that by defining the applicability of the FWCA, in part, by reference to actions which "depend upon, or necessarily result in, a diversion, control or other modification of a stream or other body of water," there will be a point at which the effects of that federal action upon water are remote. During proposed rulemaking or the implementing procedures phase of the President's initiative, action agencies and the public may recommend to the Secretary of the Interior whatever special compliance procedures they feel should be applied to these programs.

Section 410.11 (b) and (c) restate the exemptions or exclusions contained in the FWCA for certain programs or projects. Public and agency views are particularly solicited on the extent to which the FWCA applies to certain of such programs directly. Agreements have been reached between wildlife agencies and some of those agencies to insure that wildlife resource considerations are factored into their decision-making processes. These agreements will appear in the Appendices to this Part. Though the FWCA may not apply to such agency programs directly, the FWCA does apply through other agency environmental review programs applicable to these otherwise exempt projects and programs. The most apparent of those other agency programs are: the Section 103(b), 402, and 404 permit programs under the Clean Water Act; the permit programs under §§ 9 and 10 of the River and Harbor Act of 1899.

Section 410.12 deals with the timing and extent to which these rules will be applied to particular projects which are in various stages of authorization, approval, or construction. It is responsive to the President's directive that these rules should "insure compliance of all projects not yet constructed with [the FWCA]". This includes, *inter alia*, projects which are authorized and on which construction is not complete. Guidance is sought from the affected agencies and the public on screening criteria [see § 410.12(c)(1)] which could be use to selectively apply these rules to projects where construction has begun but has not yet advanced to a stage where compensation measures are foreclosed.

A vast potential exists for examining the fish and wildlife resource conservation potentials of authorized federal water projects, particularly those authorized many years ago. Should the procedures of Subpart B become applicable to such projects in accordance with this provision, the relevant decision-makers and the Congress would be provided with up-to-date analyses of the fish and wildlife resource needs and potentials of these projects.

It is understood that the views, needs, and rights of federal projects sponsors would be taken into account during the observance of these procedures, and in any later submissions which may be made to the Congress for implementing the ensuing recommendations of the Executive Branch.

Subpart B sets forth the basic FWCA compliance procedure. Section 410.21 provides substance to the term "equal consideration," as used in the FWCA. It emphasizes the relative weight to be accorded to wildlife resource conservation. It identifies enhancement as a separate project objective of equal importance with the objective of merely compensating for wildlife resource losses. It defines the FWCA compliance process as involving four steps; not just as the consultation and avoidance process which sometimes characterizes the practices of action and wildlife agencies today.

Section 410.22 largely restates existing action agency practices for the initiation of wildlife agency involvement in their planning and approval processes. The intent of this section is to get wildlife agencies involved early so that they can complete their necessarily extensive review in time for action agencies to use their input in a meaningful way. For larger projects which are likely to have the most significant impact upon wildlife resources, action agencies are required to provide, in their application procedures for non-federal projects, that applicants for such projects must provide documentation showing that the applicant has previously consulted with the wildlife agencies. This practice has been used successfully by the Federal Energy Regulatory Commission. Delays in action agency approval processes are avoided by the development of environmentally sound project applications. Often, tardy, post-application consultation with wildlife agencies places them in a reactive posture, often with a short time frame for response. The resultant delays caused by honest attempts to carry out FWCA responsibilities are characterized as faults in the FWCA and wildlife agencies.

No period of time is specified for this consultation in advance of the application in question. This is left to the judgment of the applicant. Since this procedure applies only in the case of larger projects—which doubtless will require an extensive period of pre-application planning—it should not be burdensome. To the extent that this procedure may encourage the filing of well-conceived applications, it will result in a saving of action agency resources.

Section 410.24 deals with the decision-making processes of action agencies. It requires action agencies to make a record of their decisions concerning the wildlife resource component of environmental mitigation. It also requires public disclosure of, and public participation in, action agency decisions on which wildlife conservation measures will be incorporated into the project. It identifies the financial cost of wildlife conservation measures as the subject of benefit-cost analysis. These cost are to be developed for alternatives so that a true comparison can be made among them, and so that, if an alternative to the primary proposal is selected, appropriate conservation measures are available for inclusion in the authorization.

Section 410.24(b)(3) specifies some considerations which may not be taken into account by action agencies in making the statutorily-required findings as to which wildlife conservation measures recommended by wildlife agencies are justified to maximize overall project benefits. Whereas it is true that action agencies have the ultimate authority under the FWCA to make these findings, it is also true that, at least in the case of federal projects, the Congress, not the federal action agency, makes the final determination. Moreover, these findings are made by action agencies in the context of certain objectives and requirements of the FWCA.

Paragraphs (b)(3)(ii) and (b)(3)(iii) of § 410.24 provoked much discussion during the preparation of these proposed rules, partly because they are misunderstood. These rules apply only to measures recommended for the "compensation" of wildlife resource losses, not to "enhancement." The FWCA provides that wildlife resource compensation measures are to be considered costs of doing business in public resource areas. Thus, the fact that measures necessary for compensation of wildlife resource losses may produce "benefits" under one of a number of different methods of calculation is totally irrelevant to the question of whether those measures are justified under the FWCA.

Similarly, the unwillingness of non-federal entities to fund or reimburse their statutory share of federal project costs otherwise deemed justified to compensate for wildlife resource losses should not be a reason for refusing to seek authorization of such measures. Paragraph 410.24(b)(3)(iii) does not apply to non-federal projects. If, prior to federal project authorization, non-federal entities indicate an unwillingness to fund an appropriate share of these project costs, the project would not be recommended for authorization. Subsequent to authorization, if the action agency determines that wildlife resource compensation measures which had not previously been authorized should be recommended for authorization, then alternative cost-sharing provisions can be recommended in those cases where non-federal entities are unwilling (e.g., by reason of contract rights) to share the costs. Nothing in these rules would require the adoption of such measure in those circumstances or require the imposition of such burdens on non-federal entities.

Section 410.32 should provide an incentive for wildlife agencies and action agencies to devote more attention to wildlife areas which had been proposed to justify project authorizations. If, as a result of the FWCA compliance process, a project is authorized in part upon the representation that land and water areas will be acquired and managed in order to replace the wildlife productivity lost to the project, and then the affected agencies do not provide resources to make good that representation, then the wildlife resource and the public have been short-changed. Bare acquisition, without management, is not mitigation.

VIII. Alternative Approaches

This discussion focuses upon alternatives which were considered to those provisions of these proposed rules which would make significant changes in action agency procedures.

The procedures contained in Subparts B and C apply to all projects to which the FWCA applies, unless they are rendered inapplicable by specific provision of these rules or by Secretarial action during the implementing procedures phase of the President's initiative. See § 410.12. The Departments of the Interior and Commerce are not in a position at this time to review and analyze all federal programs to determine whether the procedures of Subparts B and C can be meaningfully applied to all such programs. Action agencies are in a much better position to examine these questions in the first instance and to seek selective modification, when necessary.

Section 410.12(c) is responsive to the President's directive that these rules should apply to authorized but not completed *federal* projects. These rules would not apply to all such projects. In certain of these cases, the Secretary of the Interior can consider specified criteria and find that these procedures will be applied. In such cases, affected federal agencies are provided an opportunity to state whether they believe the rules should apply. However, if an authorized project is not exempt, action agencies are admonished not to make "any irreversible or irretrievable commitment of resources pending compliance with these rules which would foreclose the consideration of alternatives to compensate for wildlife resource losses."

Alternatives considered included a provision making these rules applicable immediately upon their effective date and a provision which would direct the action agencies not to seek funding for these projects until these rules were complied with. We also considered making these rules applicable to approved, non-federal projects. It was determined that the proposal adopted was the least burdensome alternative which was still acceptable from the standpoint of meeting the intent of the President's directive.

Section 410.22(a)(1) would require action agencies to change their procedures for receiving applications for non-federal projects which they approve. It would require a showing that the applicant undertook pre-application consultation with the wildlife agencies. This requirement applies only to applications for the larger, potentially more damaging projects (from the perspective of wildlife resource conservation). An alternative considered and rejected would have applied this procedure to all, or wider, classes of projects. Also rejected was a proposal to require pre-application consultation with wildlife agencies prior to a fixed period in advance of filing an application with the action agency. The proposal which was adopted was considered acceptable from the standpoint of promoting environmentally sound non-federal projects applications.

Although the findings which would be required of action agencies by § 410.24(a) are being made as a matter of practice by some action agencies, this provision was deemed necessary to ensure that wildlife agencies and the public are able to participate in this aspect of decision-making by all action agencies. In many cases, the wildlife agencies and the public are excluded from action agency decision-making on wildlife conservation recommendations and are provided no meaningful rationale for why they were rejected. Alternative procedures which were rejected included (1) publication of these findings in only one media (the **Federal Register**), (2) a provision requiring action agency decision-makers to provide their rationale for rejecting wildlife conservation measures recommended by their own staffs, and (3) a provision for mandatory public hearings upon the request of wildlife agencies.

Section 410.24(b)(1) requires that findings made by action agencies as to loss prevention and mitigation measures deemed justified to maximize overall project benefits "shall be made using assessment and evaluation techniques based upon wildlife habitat values. Monetary values may be displayed and used in measuring the cost-effectiveness of alternative mitigation plans but shall not be used for justification purposes." This provision recognizes the limitations of monetary or user-day computations of value in determining whether recommended loss prevention and mitigation measures will compensate for wildlife resources lost, and therefore should be adopted. Alternatives considered included a proposal that assessment and evaluation techniques based upon wildlife habitat values should be emphasized, but not required in such findings. Also considered and rejected was a provision requiring the use of a particular assessment and evaluation technique, once approved or certified by the Secretary of the Interior, coupled with a ban upon the use of other such techniques subsequent to certification.

The selected proposal serves the function of forcing wildlife and action agencies to focus upon losses to wildlife resources, rather than on the human use of such resources. If habitat productivity is lost to a project, no amount of human use of the project features will replace it. The fact that a value can be attached to human use of project features or of "replacement" habitat is gratuitous but bears no relation to the assessment of what must be done to replace habitat productivity lost to a project. The use of computational methods other than those based on wildlife habitat productivity (or values) has persisted because there has been insufficient incentive such as these rules to abandon them.

IX. Rulemaking Requirements

The Department of the Interior and the Department of Commerce have determined that the rulemaking procedures of the Department of the Interior will be followed. The Department of the Interior has determined that this document is a regulatory analysis under Executive Order 12044, and 43 CFR Part 14. An enviornmental assessment has been prepared and is available from the Associate Director, Environment, Fish and Wildlife Service, Department of the Interior, Washington, D.C. 20240 [(202) 343-4767].

The policy of the Department of the Interior is, whenever practicable, to afford the public an opportunity to participate in the rulemaking process. Accordingly, interested persons may submit written and oral comments, suggestions, or objections regarding this proposal in the manner set forth above.

In the Notice of Intent to Propose Rules, published at 43 FR 44870-44872, it was proposed that these rules be codified in Part 403 of Title 50, CFR. In order to provide more room in the 400 series of Title 50 for endangered species regulations, these joint rules will, when adopted, be codified as Part 410 of Title 50.

The joint authors of this document are:

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It is therefore proposed to amend 50 CFR, Chapter IV, by adding a new Part 410 in the manner set forth below.

Dated this 11 day of May, 1979.

James A. Joseph,
Acting Secretary of the Interior.

Elsa A. Porter,
Acting Secretary of Commerce.

PART 410—FISH AND WILDLIFE COORDINATION ACT

Subpart A—General Provisions

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Appendix E—FWS Guidelines For Review of Fish and Wildlife Aspects of Proposals In or Affecting Navigable Waters.

Authority.—Fish and Wildlife Coordination Act, Pub. L. 85-264, 72 Stat. 563 (16 U.S.C. 661, *et seq.*); National Environmental Policy Act of 1969, sec. 102(2)(A) and (B), Pub. L. 91-190, 83 Stat. 853 (42 U.S.C. 4332(2)(A), (B)); 5 U.S.C. 552; Fish and Wildlife Act of 1956, sec. 7, 70 Stat. 1122 (16 U.S.C. 742f); President's Memorandum on Environmental Quality and Water Resources Management, July 12, 1978 [See also, Weekly Comp. of Pres. Doc. 105 (June 6, 1978)]; U.S.C. 301.

Subpart A—General Provisions

§ 410.1 Scope.

This Part implements the National Environmental Policy Act (NEPA), 42 U.S.C. 4332, and sections 1-4, 8, and 9 of the Fish and Wildlife Coordination Act (FWCA), 72 Stat. 563, as amended (16 U.S.C. 661-664, 666b, 666c (1976)). The FWCA recognizes that wildlife resources make a vital contribution to the Nation and that federal and non-federal water and related land resources developments will affect such resources. It mandates that wildlife conservation shall receive equal consideration and be coordinated with other features of water resource development programs throughout the action agencies' planning and decision-making processes. It requires such agencies, or applicants to such agencies, to first consult with state and federal wildlife agencies to ascertain what means and measures may be considered necessary by those agencies to prevent and mitigate project-related losses of wildlife resources, as well as to enhance those resources.

The FWCA further requires that reports and recommendations from wildlife agencies be presented to action agency decision-makers and (in the case of federal projects) the Congress, and that the action agencies shall give full consideration to those reports and recommendations. Action agencies are required to include in project plans such means and measures for wildlife conservation as they may find justifiable to obtain maximum overall project benefits to the public. The costs of such means and measures are to be considered integral to those of the project.

§ 410.2 Purpose.

The purpose of these rules is to ensure that wildlife conservation of fully considered and weighted equally with other project features in agency decision-making processes by integrating such considerations into project planning, NEPA compliance procedures, financial and economic analyses, authorization documents, and project implementation. This Part will—

(a) Establish procedures to be followed in achieving compliance with the FWCA in the development and consideration of alternative project plans which provide for the conservation of wildlife resources;

(b) Minimize delays in project authorization decisions and require the development of environmentally sound project plans without needless waste of public and private resources by establishing procedures for the timing and integration of FWCA compliance into decision-making processes while plans are still flexible;

(c) Ensure that planning for wildlife resource conservation measures addresses loss prevention, mitigation, compensation, and enhancement;

(d) Establish guidelines which ensure that applicants for selected classes of non-federal project approvals by action agencies will consult with wildlife agencies before making such applications;

(e) Describe factors to be considered by an action agency in determining what measures are justifiable to obtain maximum overall project benefits to the public;

(f) Require the use of techniques based upon habitat values as the means for assessing impacts on wildlife resources and for evaluating loss prevention, mitigation and compensation measures;

(g) Ensure that comparative benefit-cost analyses of alternative project plans include the construction, acquisition, operation, maintenance, and replacement costs of wildlife conservation measures, and, if quantifiable, the costs of uncompensated wildlife resource losses;

(h) Provide for inter-agency review of, and public participation in, wildlife and action agency decisions on means and measures for wildlife resource conservation.

§ 410.3 Definitions.

As used in this Part:

"Action agency" means a department, agency or instrumentality of the United States which plans, constructs, operates or maintains a project, or which plans for or approves a grant, loan, loan guarantee, financial or technical assistance, permit, lease, license, or contract for projects.

"Approval" or "approve" means final action agency action on an application by a federal, state, or other applicant for a grant, loan, loan guarantee, financial or technical assistance, permit, lease, license, or contract.

"Compensation" means completely offsetting losses to wildlife resource values using measures described in the NEPA regulations [40 CFR 1508.20].

"Conservation" means wildlife resource loss prevention, mitigation, compensation, and enhancement.

"Enhancement" means development or improvement of wildlife resource values of the area affected by the project beyond that which would occur without the project. This term is synonomous with the term

(b) *Completed or approved projects.* (i) Its location, and the source and
agency which obtains the concurrence

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"development and improvement," as used in the FWCA.

"Federal project" means a project planned or constructed by or on behalf of a federal agency.

"Loss prevention" means designing and implementing a project to avoid adverse impacts on wildlife resources. [40 CFR 1508.20(b)]

"Mitigation" means (1) lessening wildlife resource losses to a project through use of loss prevention measures and (2) offsetting losses through use of other structural and non-structural measures. [40 CFR 1508.20(b)–(e)]

"Project" means any action, or planning process which could condition an action, which impounds, diverts, deepens the channel of, or otherwise controls, pollutes, or modifies any water body for any purpose whatsoever. Such water bodies include, without limitation, wetlands and the waters of any stream, including their associated ground water, or estuarine or marine waters seaward to the outer margin of continental shelf (OCS) or fisheries conservation zone, whichever is farther.

"Regional Directors" means the named officials, or designees, of the Fish and Wildlife Service (FWS) [including the Area Director for Alaska] and the National Marine Fisheries Service (NMFS) in whose geographic areas of jurisdiction the project may be located. For projects outside the U.S. territorial sea, "Regional Director" means the named official of both agencies whose area of jurisdiction is closest to the project. [See App. A for addresses and areas of jurisdiction of federal Wildlife agency Regional Directors].

"Reporting Officer" means that action agency official responsible for preparing the project report, obtaining public and agency views, and making recommendations on a proposed project to higher authority (if any) within the agency. Implementing procedures of action agencies will identify appropriate reporting officer(s).

"Wildlife agency" means the FWS, NMFS, and, if the project is to be sited within the boundaries of States of the United States, the state agency(ies) exercising immediate and direct administration over the fish or wildlife resources of the particular state(s) wherein projects are proposed to be, or have been, constructed. For projects to be sited outside the territorial sea, this term means the head of the wildlife agency(ies) of the state(s) nearest the project.

"Wildlife" and "wildlife resources" mean birds, fish, mammals and all other classes of wild animals, and all types of aquatic and land vegetation upon which wildlife is dependent. "Wildlife resources" include the biotic and abiotic factors upon which wildlife depends; i.e. habitat.

"Wildlife resource properties" means the lands, waters, or interests therein to be acquired, reserved, or otherwise set aside by federal agency for the conservation of wildlife resources in connection with a federal project, pursuant to the provisions of section 3 and section 4 of the FWCA.

§ 410.11 Applicability of the FWCA.

(a) *General.* The FWCA applies to federal projects and to non-federal projects which are approved by an action agency. It applies to federal projects which are authorized by the federal construction agency itself, as well as those authorized by the Congress. Examples of projects covered by the FWCA are:

(1) Discharges of pollutants, including municpal, mining and industrial wastes or dredged and fill material, into water or wetlands;

(2) Those involving the construction, operation, or maintenance of channels, turning basins, or other navigation features;

(3) Those involving the construction of dams, impoundments, and/or water diversion structures for flood control, hydroelectric power generation, water supply, cooling ponds, irrigation, recreation, fish and wildlife, or other purposes;

(4) Those which depend upon, or necessarily result in, a diversion, control or other modification of a stream or other body of water, such as: federal water and hydro-power marketing, allocation or contracting decisions; changes in reservoir release and storage plans; diversions for or discharges from power plants; mineral exploration or extraction permits, leases, or licenses on the OCS; reservoir rights-of-way on federal or Indian trust lands; projects conducted in beds of intermittent streams, or those temporarily dewatered; water-related aspects of federal mining or mineral leases, or of mining plans adopted under the Surface Mining Control and Reclamation Act;

(5) Those undertaken to abate damages or causes of erosion, storms, or floods [See paragraph 410.22(a)(2)(iii) for expedited FWCA compliance procedures in these cases];

(6) Those involving the rehabilitation or lining of water conveyance systems;

(7) Water resource and water quality planning programs.

(b) *Previously authorized or approved projects.* Prior authorization or approval of a project does not constitute a waiver, *per se,* of FWCA requirements. By reason of section 2(g) of the FWCA, section 2 of the FWCA does not apply to projects (or project units) authorized or approved prior to August 12, 1958, which were completed or substantially completed on August 12, 1958. A project or project unit is deemed to be substantially completed when sixty percent or more of then-estimated construction costs (as of August 12, 1958) had been obligated for expenditure. However, the FWCA does apply to projects (or project units) authorized or approved prior to August 12, 1958, which were not substantially completed at that time, and to projects (or project units) authorized or approved subsequent to August 12, 1958, regardless of their state of construction or whether completed.

Section 2 applies to action agency initiation of a process of developing a report on the modification or supplementation of plans for previously authorized federal projects (whether or not constructed). It also applies to any application for the renewal or modification of a federal approval.

(c) *Agencies or agency projects specifically exempt from the FWCA.* The FWCA does not apply to the Tennessee Valley Authority, the small watershed program of the Soil Conservation Service (as authorized by Section 3 of the Watershed Protection and Flood Prevention Act of 1954), to impoundment projects where the aggregate maximum surface area of such impoundments is less than ten acres, or to activities for or in connection with programs primarily for land management and use carried out by federal agences with respect to federal lands under their jurisdiction. However, where such projects require other water-related federal approvals, the FWCA applies through those programs.

§ 410.12 Applicability of this part.

Except as provided in §§ 410.13, 410.14, and 410.22(a)(2)(iii), this Part shall apply to projects to which the FWCA applies and shall govern the content of implementing procedures issued in accordance with Subpart D. They shall become applicable as follows:

(a) *Projects not authorized or approved.* For projects in a planning phase and not yet approved or authorized for construction on the effective date of these rules, action agencies shall comply with the procedures and methods prescribed by this Part which are applicable to the planning or approval stages remaining on that date.

(b) *Completed or approved projects.* This Part applies upon action agency initiation of a process of developing a report on the modification or supplementation of plans for previously authorized federal projects (whether or not constructed). It applies to applications for renewal, modification, or relicensing of a non-federal project. It applies to actions which are defined as projects and which are proposed or undertaken at those authorized projects covered by § 410.11(b). These rules will apply to completed federal, and other federally-approved, projects as the action agency may, from time to time, determine practicable.

(c) *Authorized but not completed federal projects.* (1) This Part will become applicable to federal projects, or separately-authorized units thereof, which were authorized for construction but not completed on the effective date of this Part to the same extent that the Principles and Standards Manual of Procedures, issued pursuant to the President's Water Policy Initiatives of July 12, 1978, will be applied to such projects. The Secretary of the Interior may nevertheless determine that this Part will apply to projects otherwise exempt by reason of the foregoing if, after a review of evidence submitted in accordance with paragraph (c)(3) of this section, the Secretary determines that—

(i) Authorized fish and wildlife conservation measures will not be installed or will not substantially compensate for fish and wildlife resource losses caused by the project, and

(ii) The impacts of the project upon wildlife resources are significant, or

(iii) Construction has not proceeded to the point that all options for wildlife conservation are practically foreclosed. Where appropriate, the Secretary of the Interior will consult with the Administrator of NOAA in making this determination.

(2) If this Part becomes applicable to a Federal project in accordance with paragraph (c)(1) of this section, action agencies shall not make any irreversible or irretrievable commitment of resources pending compliance with this Part which would foreclose the consideration or alternatives to compensate for wildlife losses.

(3) Within Ninety (90) days of a written request by the Secretary of the Interior, action agencies will submit the following information to the Secretary of the Interior with respect to each federal project, and separately-authorized federal project unit, which is otherwise exempt by reason of paragraph (c)(1) of this section:

(i) Its location, and the source and date of authorization;

(ii) The state of constuction (if any) and the percentage of current total estimated project cost which has been expended;

(iii) A description of the mitigation and enhancement measures which were authorized and a discussion of any difficulties encountered which could defeat adoption of such measures;

(iv) Where mitigation and enhancement measures may be under consideration for future authorization, an explanation of the status of planning and approval of such proposals within the action agency;

(v) If mitigation or enhancement land acquisition was authorized, a statement of the percentage of the authorized amount which has been acquired;

(vi) A ranking of those projects most in need of Secretarial action under paragraph (c)(1), stating the rationale for such ranking and listing those not under active consideration for construction;

(vii) A statement of whether the project meets one or more of the criteria referred to in paragraph (c)(1) and, if it does, whether the procedure of this Part should nonetheless apply.

(d) *Waivers by States or NMFS.* Where, in the judgment of a Regional Director of NMFS or the head of a state wildlife agency, their involvement in the procedures set forth in Subparts B and C would be inappropriate, he or she may waive those requirements as applied to said agency.

§ 410.13 Comprehensive water resources planning requirements.

With the exception of Level C studies undertaken by federal action agencies, Subpart B will not apply to comprehensive water or related land resources planning requirements. However, § 410.21 does apply to such programs. Wildlife agencies will be involved in such programs as provided in Subpart D.

§ 410.14 Federal programs administered by States.

Subpart B will not apply to projects approved under federal programs administered in whole or in part by States, except as provided pursuant to § 410.41.

§ 410.15 Lead action agencies.

Wildlife agencies will coordinate action compliance with the procedural requirements of §§ 410.22 and 410.23 of this Part through lead action agencies designated in accordance with NEPA regulations [40 CFR 1501.5], or, where not so designated, through an action agency which obtains the concurrence of other action agencies which may have jurisdiction over the project in question to act in that capacity. Notwithstanding such agreement, action agencies must comply with the other requirements of the FWCA and this Part.

§ 410.16 Relation to other environmental review requirements.

(a) Compliance with NEPA and the Principles and Standards of the Water Resources Council are complementary to, but not a substitute for, compliance with the FWCA or these rules. To the maximum extent possible, the reports and recommendations of wildlife agencies will accompany environmental assessments and be incorporated into the draft and final decision document and the draft and final environmental impact statement (EIS), and Principles and Standards analysis.

(b) If a permit is required under sections 103(b), 402, or 404 of the Clean Water Act or section 9 or 10 of the River and Harbor Act of 1899 for projects of, or pending approval before, a federal agency, that agency shall ensure compliance with those permit programs before, or at the same time, approves, seeks authorization of, or seeks construction funding for the project.

(c) Many statutory authorities require consultation with the Departments of the Interior and/or Commerce on the wildlife impacts of federal actions. Federal, state, or private agencies or individuals are encouraged to adopt and employ the procedures or methods prescribed by these rules to obtain the full loss prevention, mitigation, and enhancement potential of projects, whenever authorized.

Subpart B—FWCA Compliance Procedure

§ 410.21 Equal consideration.

Equal consideration of wildlife resource values in project planning and approval is the essence of the FWCA compliance process. It requires action agencies to involve wildlife agencies throughout their planning, approval, and implementation process for a project and highlights the need to utilize a systematic approach to analyzing and establishing planning objectives for wildlife resource needs and problems and developing and evaluating alternative plans. Wildlife resources will be conserved in action agency project planning and approval by minimizing adverse effects, compensating for wildlife resource losses, and enhancing wildlife resource values.

Compliance with the equal consideration mandate requires:

(1) *Consultation* between action agencies (or applicants to them) and wildlife agencies on measures necessary to conserve wildlife in project planning, construction, and operation;

(2) *Reporting* by wildlife agencies on the effects of the project and its alternatives upon wildlife resources and on measures recommended to conserve wildlife resources in connection with the project and its alternatives;

(3) Full *consideration* by the action agencies of measures recommended to conserve wildlife resources, both with regard to the project and its alternatives;

(4) *Implementation* of justifiable conservation measures.

§ 410.22 Consultation.

(a) *Initiation.* The FWCA compliance process may be initiated by a potential applicant, an action agency, or a wildlife agency.

(1) Potential Applicants. Implementing procedures of action agencies shall provide that applicants for those non-federal project approvals enumerated below contain written evidence that they initiated the FWCA compliance process with both Regional Directors and the head of the state wildlife agency exercising administration over the fish and wildlife resources of the state(s) wherein the project is to be constructed. This pre-application procedure applies to projects which—

(i) Involve drainage, dredging, filling, or other modification of wetlands greater than ten acres, create impoundments greater than fifty acres, involve one half mile of dredging or stream channel modification, or

(ii) Require a water-dependent power project approval from the Federal Energy Regulatory Commission (FERC), the Nuclear Regulatory Commission (NRC), or the Rural Electrification Administration (REA). This paragraph also applies to preliminary permit (FERC) and early site review (NRC) applications. The intent of this paragraph (a)(1) of this section is to assist applicants in designing environmentally sound projects without waste of their planning resources and to minimize the potential for delay in the processing of applications. Action agency implementing procedures shall advise that consultation should be initiated by the applicant at the earliest stages of its project planning, and that its submissions to wildlife agencies shall indicate the general work or activity being considered, its purpose(s), and the general area in which it is contemplated. The information provided to wildlife agencies will be specific enough to allow them to identify possible effects on wildlife and to identify potential conservation measures (including alternatives), and yet be general and flexible enough to allow the incorporation of justifiable conservation measures prior to submission of a formal application to the action agency. Wildlife agencies will provide to the potential applicant a brief analysis of potential impacts to wildlife resources, suggested modifications or alternatives, and an indication of which project features, if any, would likely be viewed as being unacceptable at the time of permit or license review. The detail of analysis and refinement of recommendations will be related to the level of detail of the proposed plan. The wildlife agencies shall identify any areas of concern or analysis that require further detail or study. The results of this analysis should be integrated in or accompany the action agency's NEPA environmental assessment.

(2) Action agencies. Notwithstanding any applicant consultation which may be required by paragraph (a)(1) of this section, action agencies shall initiate (or continue) the FWCA compliance process in the following manner:

(i) Federal projects. Action agencies shall notify both Regional Directors and the head of the state wildlife agency (through OMB Circular A–95 procedures, or otherwise) upon initiation of studies or actions which may lead to the authorization of a federal project. This also applies to the initiation of planning for the modification or supplementation of project reports on previously authorized project. See § 410.12(b)(2). Action agencies shall invite wildlife agencies to participate actively throughout the planning process. [For existing Memoranda of Understanding, see App. B and Cj.

(ii) Federally-approved projects. Appropriate written notice of preliminary permit (FERC) and early site review (NRC) applications, as well as NRC and FERC construction license and permit or renewal applications, will be forwarded for comment to both the Secretaries of the Interior and of Commerce and to the head of the wildlife agency for the state(s) wherein the proposed construction may occur. Appropriate written notice of all other applications to federal agencies for approvals, including renewal applications, shall be forwarded promptly after their receipt to both Regional Directors and to the head of the wildlife agency for the state(s) wherein the proposed construction may occur. The evidence which is required by paragraph (a)(1) of this section shall accompany these notices.

(iii) Emergencies. (A) If a major disaster will be declared by the President under authority of the Disaster Relief Act Amendments of 1974, the designated Federal Coordinating Officer (FCO) of the Federal Emergency Management Agency (FEMA), will consult with the Regional Directors and the affected state wildlife agency to determine the need for FWCA compliance during the course of the emergency. When continuing detailed coordination is determined necessary by wildlife agencies, the FCO will provide facilities for a wildlife agency coordinator(s) at the Disaster Field Office (DFO). Field level coordination will occur between the designated wildlife coordinator(s) and the FEMA Public Assistance Officer (PAO) responsible for the DFO. In the event of unresolved conflicts between the wildlife coordinator(s) and the PAO, the matter will be referred to the Federal Coordinating Officer for resolution.

(B) Procedures for FWCA compliance in other action agency programs or actions in emergency situations will be identified during the period for approval of implementing procedures.

(3) Wildlife agencies. Where FWCA compliance is not initiated where required, it shall be deemed initiated upon notice by a wildlife agency.

(b) *Coordinated planning.* (1) Particularly in the case of federal projects and NRC, FERC, and REA-approved projects, wildlife and action agencies shall utilize a systematic approach in analyzing wildlife resource needs and problems, establishing planning goals therefor, and developing and evaluating alternative resource management plans.

(2) Wildlife agencies will cooperate with action agencies in the development of analyses, recommendations, and reports to action agencies on means and measures for the conservation of wildlife resources.

(3) Action agencies shall provide wildlife agencies adequate opportunity to prepare FWCA reports and recommendations and transmit them to the action agency for timely consideration with NEPA environmental assessments, and for incorporation into the draft EIS and other decision documents.

(4) In the case of federal projects and FERC, NRC, and REA-approved projects, the action agencies shall convene scoping meetings with the wildlife agencies and (where applicable) applicants upon initiation of the FWCA compliance process. Such meeting need not be convened where consultation has occurred in accordance with paragraph (b)(1) of this section. To the fullest extent possible, these meetings should be combined with the NEPA scoping process where the proposal requires preparation of a draft EIS. 40 CFR 1501.7. Such meetings may also be convened in the case of other applications for approvals at the request of a wildlife agency or the action agency. Such meetings will be for the purposes of—

(i) Developing plans of study which ensure full wildlife agency participation throughout each phase of the planning or approval process,

(ii) Determining who, as among the federal and state agencies or the applicant, will undertake and oversee the required studies and investigations,

(iii) Establishing mutually acceptable target dates for the initiation and completion of studies and the submission of FWCA reports and recommendations,

(iv) Coordinating FWCA compliance with other environmental review requirements,

(v) Ensuring that conservation of wildlife resources is given equal consideration with other study or project purposes or goals, and

(vi) Ensuring that action agencies provide wildlife agencies with adequate descriptions of alternative project plans under consideration. A record of the agreements reached and responsibilities assigned in scoping meetings shall be distributed to the participating parties and included in the administrative record of the action agency. All parties share a responsibility for early and timely exchange of information required for completion of assigned studies, investigations, reports, and recommendations.

§ 410.23 Reporting.

(a) *Authority.* Except in the case of NRC and FERC-licensed projects, the authority to transmit FWCA reports and recommendations of the Secretaries of the Interior and Commerce is exercised by the Regional Directors. In the case of FERC and NRC-approved projects, such authority is exercised for the Secretary of Commerce by the Assistant Administrator for Fisheries, NOAA, and for the Secretary of the Interior by the Assistant Secretary for Polcy, Budget, and Administration, acting upon the recommendation of the FWS and the Office of Environmental Project Review.

(b) *Timing.* Consistent with NEPA regulations [40 CFR 1501.6 and 1502.25], wildlife agencies shall, to the maximum extent possible, forward their reports and recommendations to action agencies within an agreed-upon time frame sufficient to permit preliminary action agency decisions on incorporation of those recommendations into project plans, and to permit their inclusion and analysis in the draft decision document and/or the environmental assessment or draft EIS. See § 410.24(a). To the maximum extent possible, preparation and transmittal of FWCA reports will be coordinated and combined with the preparation and transmittal of reports or other reviews required of the Department of the Interior or National Oceanic and Atmospheric Administration (NOAA) by other federal environmental review requirements, including—

(1) Endangered Species Act of 1973,

(2) Estuary Protection Act,

(3) § 6(a) of the Federal Water Project Recreation Act,

(4) Coastal Zone Management Act,

(5) §§ 103(b), 401, 402, 404, 303, and 208 of the Clean Water Act of 1977,

(6) § 5(d) and 7(b) of the Wild and Scenic Rivers Act.

Memoranda of understanding or agreements which may provide time limits for the referral of FWCA reports and recommendations for certain classes of projects appear in Appendices B and C.

(c) *Content.* (1) Wildlife agencies will prepare reports that describe project-related effects upon wildlife resources and identify alternative means and measures necessary to conserve wildlife resources. Evaluation techniques used in describing effects and identifying conservation measures will be directed at quantifying and qualifying potential effects upon wildlife, their habitat and its productivity and related values.

(2) Wildlife agencies shall prepare and submit reports to action agencies that describe—

(i) Wildlife problems and needs and recommended fish and wildlife planning goals,

(ii) The positive and negative effects and impacts of alternative project plans upon wildlife and recommended conservation features,

(iii) The positive and negative effects and impacts of the construction and operation of the selected plan upon wildlife, the conservation measures identified during plan formulation, and specific recommendations for conservation measures that should be included in the selected plan,

(iv) The results and impacts expected from implementing these recommendations, and

(v) The plan, if any, which they prefer from the standpoint of wildlife conservation.

(3) Wildlife agency reports on federal projects shall include an analysis of the extent of wildlife resource productivity lost to, or gained with, the proposed project and of the conservaton measures required to replace that loss (if that is possible), measured without reference to values attributed to human use ("user-day") or other monetary computations. This analysis may be provided for non-federal projects and for alternative project plans.

(4) FWCA reports and recommendations will contain a review of the disposition of wildlife agency recommendations previously made.

(5) If features of project design, construction, or operation are not sufficiently developed that their effects can be properly assessed, the report of the wildlife agencies will so state and will list the areas requiring further study to identify necessary conservation measures. Any consultation or coordination necessary in the implementation of conservation measures will be identified.

(6) When analyzing project effects and impacts, wildlife agencies will take into account other water-related project planning and review requirements, such as: Executive Orders 11988 (floodplains) and 11990 (wetlands); § 73 of the Water Resources Development Act of 1974 (non-structural alternatives); Indian trust environmental review requirements; the Marine Protection, Research, and Sanctuaries Act of 1972; § 102(b) of the Clean Water Act; federal water policy; the potential effects of the proposed project upon federal property and public trust interests, including reserved water rights.

(d) *Public participation.* Where significant wildlife resource issues are involved, wildlife agencies will invite public participation in the process of developing FWCA reports and recommendations in accordance with guidelines which they develop.

(e) *Inability to report.* If a wildlife agency is unable to prepare an FWCA report or otherwise participate in the planning or approval process, it shall notify the action agency within 30 days of the receipt of an action agency's request to initiate consultation, detailing the reasons therefor. Such notification does not relieve action agencies of the requirements of the FWCA or §§ 410.21 and 410.24 of this Subpart.

(f) *Follow-through.* Once wildlife agency reports are sent to action agencies, all wildlife agenceis should actively pursue such means as will

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ensure that necessary studies and recommended measures are undertaken and implemented.

§ 410.24 Consideration.

(a) *Action agency findings.* (1) The reporting officer shall prepare for the administrative record (project plan or planning report, where applicable) written findings on which of the measures recommended by wildlife agencies with respect to the selected project plan and its alternatives are and are not believed to be justified, and why. This documentation will include:

(i) A summation of measures adopted during plan formulation to prevent and compensate for wildlife resource losses;

(ii) In the case of federal projects, a finding whether the selected plan fully compensates for losses to wildlife resource productivity, measured in terms of equivalent wildlife resource productivity;

(iii) The justification for tradeoffs made between wildlife conservation and other project features in arriving at the selected plan;

(iv) An identification of any issues of disagreement remaining between the action agency and the wildlife agencies.

(2) In addition to the matter required for federal projects by § 2(f) of the FWCA (16 U.S.C. 662(f)), the reporting officer on federal projects and projects pending consideration by NRC and FERC, shall analyze and discuss the acquisition, operation, maintenance, replacement, and management costs, and the environmental impacts, of wildlife conservation measures proposed by each wildlife agency for each alternative treated in the draft and final environmental impact statement, in benefit-cost analyses of alternatives, and (where applicable) in the evaluation accounts of the Principles and Standards of the Water Resources Council. The reporting officer shall also treat uncompensated damages to fish and wildlife resources as a cost chargeable to the project. All such costs (monetary and non-monetary) shall be estimated over the life of the project, regardless of whether the U.S. Treasury or non-federal parties will bear them.

(3) In making the findings required by paragraphs (a)(1) and (a)(2) of this section, the reporting officer and each higher action agency decision-making authority shall use the criteria established in paragraph (b) of this section.

(4) Where the findings required by paragraphs (a)(1) and (a)(2) of this section have not been disclosed in a draft EIS, in publicly circulated planning document, or in public or adjudicatory hearings, the reporting officer shall publish those findings in the **Federal Register** or other appropriate media and afford the public reasonable opportunity to present its views. In the case of FERC and NRC-approved projects, opportunities for administrative or court review of the findings of action agency initial or final decision-makers will not be considered compliance with this paragraph.

(5) The reporting officer shall transmit the information required by paragraphs (a)(1) through (a)(4) to counterpart officials in the wildlife agency(ies) concerned for an agreed-upon period of time for comment prior to final agency action on the matter. If there are differences at this stage between a wildlife agency and the action agency on the reporting officer's disposition of wildlife agency recommendations, the wildlife agency may request the action agency to hold a public hearing on the matter. Action agency implementing procedures shall require an ensuing reconsideration of the matter and, if such hearings are deemed appropriate by the action agency, full consideration of information generated by such public hearings. Differences not resolved in this manner shall be made a matter of record and, if requested by either the action or wildlife agency, promptly referred to successively higher authority of both agencies for resolution. Where memoranda of understanding or agreement do not already so provide [see App. B and C], implementing procedures shall provide a means of complying with this paragraph.

(6) If, despite best efforts, wildlife agencies cannot identify loss prevention, mitigation, and enhancement measures in detail prior to project authorization or approval, action agencies shall include in their recommendations to higher authorities the requirements necessary to ensure that, once identified and described, these measures will be proposed for authorization or approval and, if authorized and funded or approved, will be implemented. Action agencies should avoid committing resources which foreclose adoption of alternative wildlife conservation measures.

(b) *Decision criteria.* (1) Action agencies are required to make findings on wildlife conservation measures which they deem justified to be included in projects to obtain maximum overall project benefits to the public. Action agencies must regard wildlife conservation as a programmatic and project purpose or goal equal to other project purposes or goals. Certain project benefits may be diminished to obtain these conservation goals. Findings directed at loss prevention and mitigation measures shall be made using assessment and evaluation techniques based upon wildlife habitat values. Monetary values may be displayed and used in measuring the cost-effectiveness of alternative mitigation plans, but shall not be used for justification purposes. Enhancement measures may be evaluated using other techniques, but should be measured using habitat-based techniques, where possible. Such findings shall be made with the objectives of both preventing and compensating for wildlife resource losses, and of enhancing wildlife resource values. To the extent practicable and justifiable, action agencies shall ameliorate project-related losses to wildlife resources, wherever they occur. With the exception of the enhancement component, wildlife resource conservation measures do not create benefits for the purposes of benefit-cost analysis; they are to be considered as avoiding or abating costs (losses) to existing resources and values.

(2) Action agencies may not reject recommended wildlife conservation measures for federal projects on the grounds that wildlife conservation is not a "purpose" for which a federal project was or can be authorized, or on the grounds that they are not authorized to so condition a non-federal project approval. The FWCA amends the organic authorities of action agencies to provide these authorities. In the case of federal projects undertaken by the Department of the Interior, the Fish and Wildlife Act of 1956, 70 Stat. 1122 (16 U.S.C. 742f(4)–(5) (1976)), supplements such authority.

(3) Action agencies must justify the adoption or rejection of means and measures for wildlife resource conservation using substantive economic, environmental, and social reasons. Measures recommended by wildlife agencies for compensation of wildlife resource losses cannot be considered unjustified because—

(i) That agency or other agencies may not have adopted a habitat-based wildlife impact assessment and evaluation procedure,

(ii) Those measures, either alone or collectively, do not have a favorable monetary benefit-cost ratio,

(iii) Project beneficiaries or other non-federal entities are unwilling to fund the appropriate share of increased federal project costs necessary to compensate for wildlife resource losses,

(iv) There are other proposed uses for land or waters recommended for wildlife compensation purposes, unless

their proposed use is found to be more in the public interest than the proposed mitigation, or

(v) Recommended wildlife resource properties or compensation measures are outside the immediate project boundaries.

(4) If an action agency finds that a measure recommended by wildlife agencies for compensation of wildlife resource losses is not justifiable because it would render the monetary benefit-cost ratio of the project unfavorable or because project beneficiaries or other non-federal entities are unable to fund the appropriate share of increased federal project costs necessary to mitigate/compensate for the wildlife resource losses involved, the action agency shall explain in detail, in terms of obtaining maximum overall project benefits, its reasons for so finding.

(5) Justifiable means and measures for wildlife resource conservation shall be incorporated as conditions or stipulations in action agency approvals where the practical effect of not doing so is that the means and measures will not be adopted.

(c) *Requests for project authorization.* The reports, recommendations, and findings required by §§ 410.23 and 410.24 shall be made an integral part of (1) action agency reports submitted to the Office of Management and Budget and the Congress in connection with a construction authorization proposal, and (2) submission to action agency final decision-maker(s) of recommendations on projects they may approve or authorize.

Subpart C—Project Implementation

§ 410.31 Congressional liaison.

Wildlife agencies will make themselves available to testify in authorization and appropriations committee hearings concerning proposals for Congressional authorization or funding of wildlife conservation measures.

§ 410.32 General plans for management of wildlife resource properties.

A General Plan is a document that designates the lands which are to become transferred for wildlife resource management properties and generally describes the use of such properties for wildlife management purposes. The objective of General Plans is to ensure a realization of the wildlife resource conservation measures which formed a basis for the justification and authorization of the project. The FWCA requires the execution of a General Plan prior to action agency transfer of administrative or legislative jurisdiction over the area to the agency which will administer the area for wildlife purposes.

(a) *The determination of which agency shall manage the wildlife resource properties.* (1) Properties with migratory bird values. After investigation, the Secretary of the Interior will determine whether wildlife resource properties have value in carrying out the national migratory bird program. When the Secretary concludes that the properties have such value, the Department of the Interior may administer the lands directly, or in accordance with a cooperative agreement with the appropriate state wildlife agency. The Secretary may manage such properties through another public or private agency or organization. The action agency shall make such wildlife resource properties available, without cost, for administration to—

(i) The Secretary of the Interior, when the Department of the Interior will be responsible for administering the property either directly, or through cooperation with a public or private agency or organization, or

(ii) The state wildlife agency, if it is jointly determined by the Secretary of the Interior and such state wildlife agency that state administration of those wildlife resources would be in the public interest.

(2) *Other properties.* When the Secretary concludes that the wildlife resource properties have value other than for migratory bird management, the state wildlife agency shall be afforded the opportunity to assume management of the lands.

(3) *Interim administration.* During the period after the action agency has acquired the wildlife resource properties and before the joint approval of the General Plan, wildlife resource properties shall be made available upon request and without cost to the FWS for interim administration of the property for wildlife resource conservation purposes. The FWS and the state wildlife agency may agree which agency shall assume interim administrative responsibility. If for any reason, the state wildlife agency cannot assume or continue the administration of wildlife resource properties, the FWS shall be afforded the opportunity to assume administration of such property for wildlife resource purposes on an interim basis, or to enter into cooperative arrangements with the action agency whereby that agency shall administer such property for wildlife resource purposes.

(b) *NEPA compliance.* Action agencies are responsible for NEPA compliance respecting General Plans. Where possible, the information referred to in subsection (d) of this section should appear in the project EIS.

(c) *Development and approval of general plans.* (1) After consultation with the state wildlife agency, the Regional Director of NMFS, the action agency and (if different) the agency exercising primary jurisdiction over the area ("primary jurisdiction agency"), the FWS will initiate the development of a preliminary draft of a general plan for the management of the wildlife resources of wildlife resource properties. In cases where the area in question will likely be managed by a State, the FWS will request the state wildlife agency to prepare the draft. The major features of the draft shall be based on the wildlife agencies' reports and recommendations which are required by section 2(b) of the FWCA and these rules. The draft shall be submitted concurrently to the wildlife agencies, the action agency, and (if different) the primary jurisdiction agency, for their review and responsive recommendations.

(2) Any differences between the action and/or primary jurisdiction agency and the FWS on the proposed General Plan that cannot be resolved by staff shall be resolved by—

(i) The Secretary of the Interior, when the said agency is an agency in the Department of the Interior, or

(ii) The Secretary of the Interior, in consultation with the head of any other department or agency of which the action or primary jurisdiction agency may be a part.

(3) Any differences over the content of the proposed General Plan between FWS and state wildlife agency that cannot be resolved by them will be resolved by the Governor of the affected state and the Secretary of the Interior.

(4) General plans shall be approved at the same time as the document which transfers administration of the lands from the primary jurisdiction agency to the agency or organization designated in accordance with paragraph (a) of this section. The General Plan shall be approved or modified jointly by—

(i) The head of the agency exercising primary jurisdiction over the area,

(ii) The Secretary of the Interior, and

(iii) The head of the wildlife agency of the state wherein the proposed project may be or is constructed.

(5) Where the FWS and NMFS agree that wildlife resources of interest to NMFS would be substantially affected by management of the wildlife resource property which is the subject of the

(m) Surface Mining Control and

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General Plan, the responsibilities assigned to Interior officials by paragraphs (c)(2) through (c)(4) of this section shall be performed jointly by the appropriate official of NOAA and Interior.

(d) *Content of a general plan.* A General Plan shall: (1) Describe the uses of the wildlife resource property by generally detailing—

(i) The wildlife management goals for the area, as discussed in the project EIS (where applicable),

(ii) The principal species and habitats to be managed,

(iii) The general management concepts and practices to be employed,

(iv) The wildlife development, facilities, or other features to be constructed,

(v) Any restrictions on use of the wildlife resource properties, and

(vi) The availability of the land for public access;

(2) Designate the agency or organization responsible for the administration of the wildlife resource properties, as governed by the provisions of paragraph (a) of this section;

(3) Describe the boundaries and location of the wildlife resource management properties;

(4) Identify capital, operation, maintainence and replacement costs;

(5) Contain provisions for continued consultation between the agency administering the property for wildlife purposes and the primary jurisdiction agency to coordinate wildlife resource management with the management of the project.

(e) *Funding and reports.* Funds for operation, maintainence, management, and replacement of wildlife resource properties acquired or made available for compensation of project-related wildlife resources losses shall be computed by the administering agency and included in the annual budget submissions of action agencies. Together with other project features adopted for compensation of wildlife resource losses, these costs are integral project costs. Any agency administering wildlife resource properties may be requested to prepare annual reports to action and federal wildlife agencies demonstrating how authorized wildlife conservation measures and the General Plan are being implemented and how compensation and enhancement is being achieved.

§ 410.33 Study or modification of authorized federal projects.

If it is decided to undertake post-authorization wildlife resource studies of Federal projects, they should be made either by wildlife agencies, or by others after consultation with wildlife agencies. Post-authorization studies should determine the need for added wildlife conservation measures. In addition to the monitoring provided for in NEPA regulations [40 CFR 1505.3], post-construction studies should evaluate the impact of any non-implementation of measures recommended by wildlife agencies, as well as the effectiveness of implemented measures.

All reports, findings, and determinations resulting from such studies shall be incorporated into any reports on modification or supplementation of plans for previously-authorized projects and employed in complying with the FWCA and these rules. See § 410.11(b).

Subpart D—Implementation of This Part

§ 410.41 Action agency implementing procedures.

(a) Within three months of the publication (not effective) date of these rules, action agencies shall propose to the Secretary of the Interior procedures which would implement this Part. Action agencies will first identify in that proposal the typical classes of projects of, or approved by, them which are referred to in paragraphs 410.11 (a) through (c) and § 410.14 of Subpart A, and in § 410.22(a)(2)(iii) of Subpart B. For each class of projects so identified, action agencies shall provide responses to the following:

(1) What are the statutory and U.S. Code citations under which authority the class of projects may be authorized;

(2) Do existing procedures already satisfy the following provisions of this Part (if so, give specific CFR or other citations to appropriate sections of action agency procedures), particularly—

(i) Section 410.3 ("Regional Directors," "reporting officer" and "wildlife agency") and § 410.22(a)(2)—routing of consultation requests, and

(ii) Section 410.11(c) and § 410.16(b)—coordination with the Clean Water Act and River and Harbor Act permit programs.

(3) Does the law applicable to the action agency positively bar the adoption of any requirement of this Part applicable to a class in question;

(4) What implementing procedures are required to put into effect the provisions set forth in paragraph (a)(2);

(5) How would this be accomplished—by codified regulation, by a public proceeding, or by other instructions—and what time delay is required by procedural preconditions to their adoption;

(6) If any applicable provisions of this Part are believed to be inappropriate for a class of projects, are there reasons why such classes should be exempt, or is there an alternative which satisfies the substance and intent of the provisions?

(b) In consultation with the Administrator of NOAA and the head of the federal agency in question, the Secretary of the Interior will resolve any differences on interpretation and applicability of this Part which may arise and cannot be resolved by staff during the process of approval of implementing procedures.

(c) The Secretary will approve acceptable implementing procedures which are proposed in accordance with paragraph 410.41(a) within one hundred fifty (150) days of the publication date of this Part.

§ 410.42 Comprehensive planning requirements.

Within three months of the publication date of these rules, action agencies will review the comprehensive water and related land resources and water quality planning programs administered by them to determine what level(s) of wildlife agency involvement therein are presently provided for by written action agency procedures. Action agencies will report such determinations to the Secretary of the Interior and, if necessary, propose to the Secretary new coordination procedures for wildlife agency involvement in such programs, including (but not limited to) those authorized by, or referred to as—

(a) Water Resources Planning Act of 1965,

(b) Sections 201, 208, 303, and 314 of the Clean Water Act of 1977,

(c) Type IV studies of the Soil Conservation Service,

(d) Coastal Zone Management Act of 1972,

(e) Federal Land Policy and Management Act,

(f) Land and Water Conservation Fund Act,

(g) Wild and Scenic Rivers Act,

(h) Resource Conservation and Development Act,

(i) Forest and Renewable Resources Planning Act of 1974,

(j) Urban Studies of the Corps of Engineers,

(k) National Forest Management Planning Act of 1976,

(l) Soil and Water Resource Conservation Act of 1977,

(m) Surface Mining Control and Reclamation Act,

(n) Outer Continental Shelf Lands Act.

Appendix A. Regional Directors, Fish and Wildlife Service

Region I

U.S. Fish and Wildlife Service, Lloyd 500 Building, Suite 1692, 500 N.E. Multnomah Street, Portland, Oregon 97232.

Region II

U.S. Fish and Wildlife Service, 500 Gold Avenue, S.W., P.O. Box 1306, Albuquerque, New Mexico 87103.

Region III

U.S. Fish and Wildlife Service, Federal Building, Fort Snelling, Twin Cities, MN 55111.

Region IV

U.S. Fish and Wildlife Service, 17 Executive Park Drive, N.E., P.O. Box 95067, Atlanta, Georgia 30347.

Region V

U.S. Fish and Wildlife Service, One Gateway Center, Suite 700, Newton Corner, Massachusetts 02158.

Region VI

U.S. Fish and Wildlife Service, P.O. Box 25486, 134 Union Boulevard, Lakewood, Colo. 80228.

Alaska Area Office

U.S. Fish and Wildlife Service, 1011 East Tudor Road, Anchorage, Alaska 99503.

Regional Directors, National Marine Fisheries Service

Regional Director, National Marine Fisheries Service, Northeast Region, Federal Building, 191 Main Street, Gloucester, Massachusetts 01930.

Regional Director, National Marine Fisheries Service, Southeast Region, Duval Building, 9450 Gandy Boulevard, St. Petersburg, Florida 33702.

Regional Director, National Marine Fisheries Service, Northwest Region, 1700 Westlake Avenue, North, Seattle, Washington 98109.

Regional Director, National Marine Fisheries Service, Southwest Region, 300 South Ferry Street, Terminal Island, California 90731.

Regional Director, National Marine Fisheries Service, Alaska Region, P.O. Box 1668, Juneau, Alaska 99801.

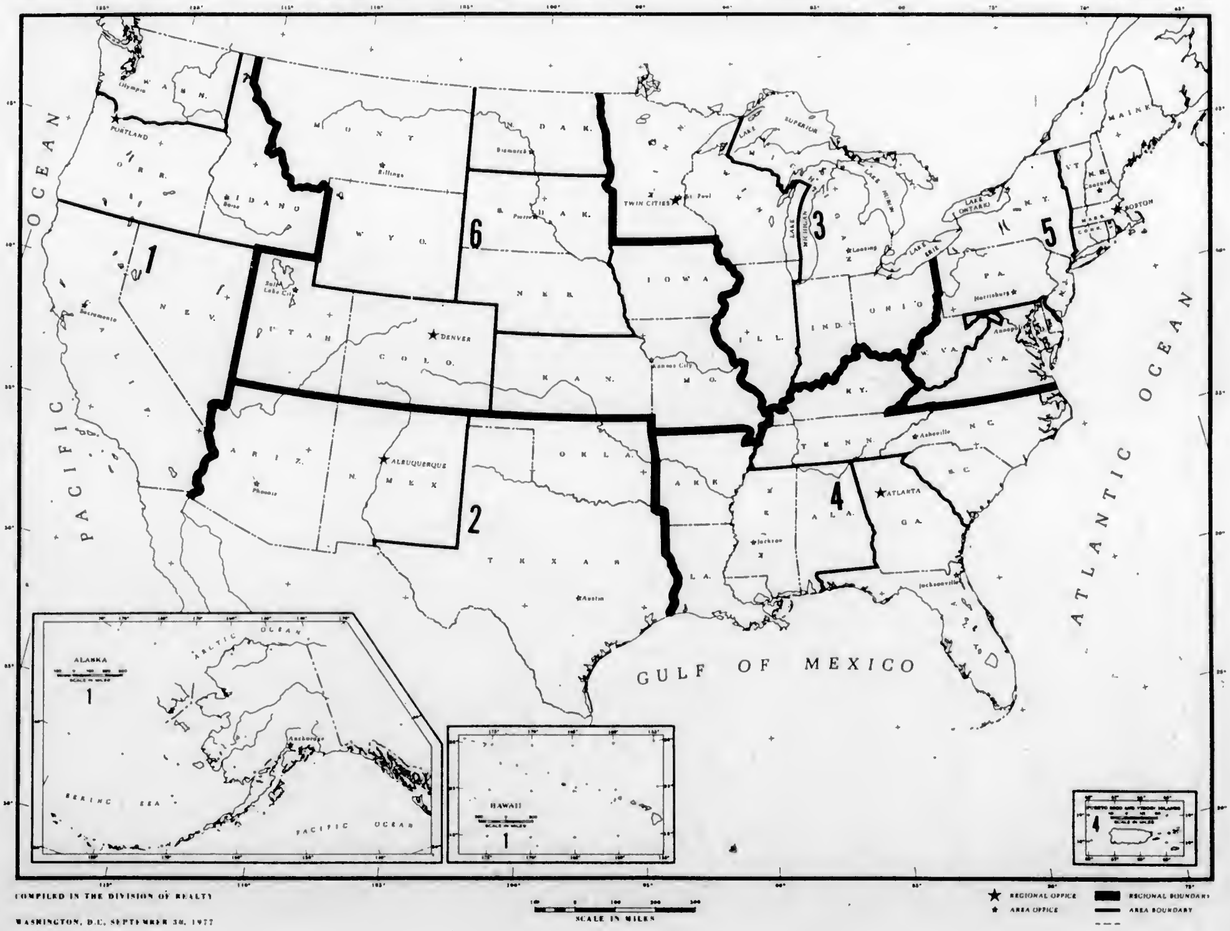
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UNITED STATES DEPARTMENT OF THE INTERIOR

FWS REGIONAL AND AREA OFFICE BOUNDARIES

UNITED STATES FISH AND WILDLIFE SERVICE



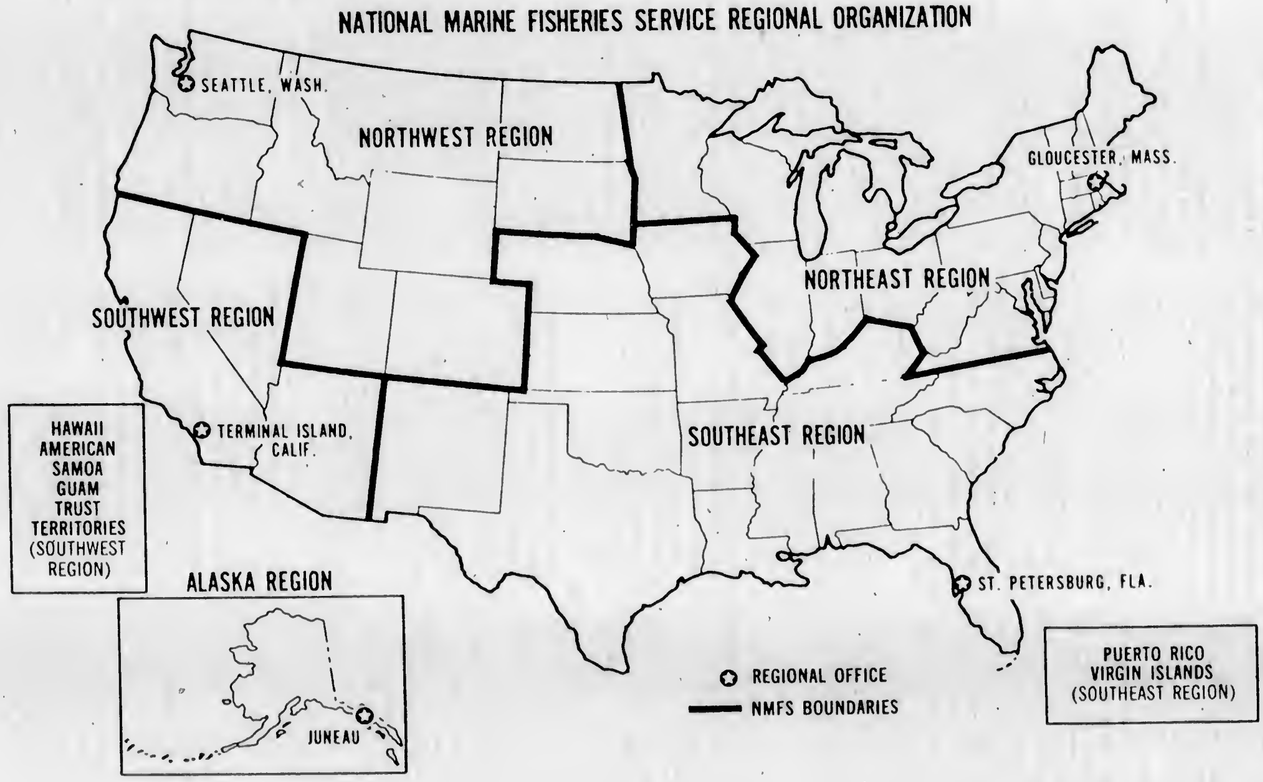
COMPILED IN THE DIVISION OF REALTY

WASHINGTON, D.C. SEPTEMBER 30, 1977

U.S. DEPARTMENT OF COMMERCE
National Oceanic and Atmospheric Administration

Exhibit 2 to DOO 25-5B

NATIONAL MARINE FISHERIES SERVICE REGIONAL ORGANIZATION



OCTOBER 16, 1978

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Appendix B—Part A–28 Land Acquisition

Exhibit 1.—General Plans—A–28.1

Procedures for Developing General Plans for Fish and Wildlife Management

The agreement between the Fish and Wildlife Service and the Corps of Engineers, approved by the Acting Secretary of the Interior on August 6, and by the Secretary of the Army on August 20, 1954, provides in Section 7 that General Plans for Fish and Wildlife Management, as specified in Section 3 of the Coordination Act (Pub. L. 732, 79th Congress, approved August 14, 1946, 60 Stat. 1080) shall be developed jointly by the Corps of Engineers, the Fish and Wildlife Service, and the appropriate State agency for all project lands and waters where management for fish and wildlife purposes is proposed. The agreement further provides, in Section 8, that standard procedures for the development of General Plans for Fish and Wildlife Management shall be developed jointly by the Office of the Chief of Engineers and the Fish and Wildlife Service. Section 8 further provides that copies of such procedures will be made available to all field offices of both agencies.

General Plans for Fish and Wildlife Management are prepared for the purpose of designating the type of use as between the national migratory bird management program of the Department of the Interior and the wildlife programs of the respective State and therein to define the lands and waters to be administered by each. Such Plans should be only as detailed in those respects as may be necessary to indicate the agencies, the areas, and the general purposes to be accomplished under each assignment. The Plans should not be burdened with operating details which are properly a part of the cooperative agreements understood to be necessary between the Corps of Engineers and the Fish and Wildlife Service or the State in making areas available to the latter two agencies subsequent to the completion of the General Plans for Fish and Wildlife Management.

In accordance with Section 8 of the August agreement, the following procedures for the development of General Plans for Fish and Wildlife Management have been developed jointly by the Office of the Chief of Engineers and the Fish and Wildlife Service.

A. *Specific Procedures*

1. Reports prepared by the Fish and Wildlife Service in cooperation with the appropriate State fish and game agency, in accordance with Section 2 of the Act of August 14, 1946, shall specify, when appropriate, the necessity for a General Plan for Fish and Wildlife Management in the recommendations of the reports. In accordance with previously established procedure, the reports will be transmitted to the District Engineer.

2. Whenever the use of project lands and waters for fish and wildlife management purposes is proposed, the Service or the appropriate State agency may request the preparation of a General Plan for Fish and Wildlife Management. The formulation of a General Plan for Fish and Wildlife Management shall be a joint cooperative endeavor by the District Engineer, Corps of Engineers; Regional Director of the Service; and the Head of the appropriate State agency, by mutual exchange of information pertaining thereto, discussions, and agreement. Normally the Service or the State will initiate the preliminary draft of a General Plan for Fish and Wildlife Management after determining the views of the other agencies. Such draft of a General Plan for Fish and Wildlife Management will be submitted concurrently for comment to the other two agencies. Such General Plan for Fish and Wildlife Management will be subject to approval by the Secretary of the Army, the Secretary of the Interior, and the Head of the agency exercising administration over the wildlife resources of the State wherein the lands and waters lie.

3. After the field offices of the Corps, the State and the Service have reached agreement as to the form and context of the General Plan for Fish and Wildlife Management, signature in triplicate by the appropriate State official will be obtained thereto signifying concurrence, and the signed copies thereof will be forwarded by the Corps through channels to higher authority for approval and execution by the respective Secretaries of the two Departments.

4. After completion, conformed copies of the General Plan for Fish and Wildlife Management shall be supplied by the Secretary of the Army to each of the three respective parties.

B. *General Provisions*

1. Every reasonable effort will be made to reach mutual agreement at an early date with respect to the provisions of a General Plan for Fish and Wildlife Management for a project. Where a General Plan is to be prepared, wildlife agencies of the affected States and the Fish and Wildlife Service will be consulted by the Corps of Engineers on wildlife matters with a view to reaching tentative agreement on lands and waters to be utilized for wildlife management purposes prior to public hearings on Master Reservoir Management Plans.

2. It is agreed that project lands and waters of particular value for the conduct of the national migratory bird management program made available to the Fish and Wildlife Service may subsequently, through a cooperative agreement, be administered by a State in accordance with Section 4 of the Coordination Act, if such action appears to be in the public interest.

3. It is understood that the Federal and State agencies managing the project lands for wildlife may utilize same for the production of food for the wildlife involved.

Approved: March 9, 1955.

John L. Farley,

Director, Fish and Wildlife Service.

Approved: April 6, 1955.

S. D. Shugs,

Chief, Corps of Engineers.

Memorandum of Understanding Between the Fish and Wildlife Service, U.S. Department of the Interior, and the Forest Service, U.S. Department of Agriculture

Whereas the Fish and Wildlife Service is the agency of the Federal Government primarily responsible for the welfare of fish and wildlife resources and research thereon; and

Whereas the Forest Service is the agency of the Federal Government primarily responsible for the administration and management of the National Forests and for all aspects of forestry research;

Now, Therefore, it is mutually agreed that the geheral functions of the two agencies under this memorandum within the limits of their resources, will be as follows:

1. Administration and Monagement

a. The Fish and Wildlife Service will act in an advisory capacity to the Forest Sevice in matters pertaining to fish and wildlife management on lands administered by the Forest Service. The responsibility and authority for correlation and integration of fish and wildlife habitat management with recreation, watershed management, timber production, range management and other uses of these lands will rest at all times with the Forest Service.

b. The Forest Service will act in an advisory capacity to the Fish and Wildlife Service in matters pertaining to timber, watershed and range management on forest and related lands under the control of the Fish and Wildlife Service. The responsibility and authority for correlation and integration of timber, watershed and grazing management with recreation, game, fish and other uses on these areas will rest at all times with the Fish and Wildlife Service.

c. The Fish and Wildlife Service will operate fish hatcheries and rearing facilities, and may provide fish for the stocking of water on national forest lands on mutually agreeable terms. The Fish and Wildlife Service may conduct stream and lake surveys and related investigations to determine principles upon which fishery management should be based in the national forests, and will cooperate with the Forest Service and the State Fish and Game Departments in carrying out fish management programs.

d. Federal predator control projects on national forests will be conducted by the Fish and Wildlife Service, but only after the program has been approved by the Forest Service. Programs to control non-game animals damaging forest resources may be conducted by either agency, after joint approval, in accordance with methods approved by the Fish and Wildlife Service. Where State predator control projects are carried out on national forests, it is the responsibility of the Forest Service to coordinate this program with that of the Fish and Wildlife Service.

e. No introduction of an exotic wild animal species will be undertaken or authorized on the national forests without the approval of both agencies.

f. Studies of water-use projects on national forest lands, required to be made under the Fish and Wildlife Coordination Act and the Federal Power Act, will be planned and conducted by the Fish and Wildlife Service in cooperation with the Forest Service and State fish and game agencies.

2. Research

The Fish and Wildlife Service and the Forest Service will conduct cooperative research relating to fish and wildlife, including rodents, and wildlife habitat management on forest and range lands wherever and whenever it is of mutual interest to the two agencies. Such cooperative research will be guided by the following:

a. Generally, research involving the two agencies will be coordinated, with the Fish and Wildlife Service emphasizing the wild animal phase and the Forest Service emphasizing the vegetation and land-use phases.

b. Where lack of finances limits the participation of either agency in coordinated research, joint planning and evaluation of results will remain the guiding principle.

3. There will at all times be a free exchange of pertinent data and frank discussions between members of the two agencies. Members of both agencies will refrain from expressing in public a view contrary to the mutually accepted polciy or plans of the other.

4. Nothing in this memorandum of understanding is intended to modify in any manner the present cooperative programs of either agency with States, other public agencies, or educational institutions.

5. The Cooperative Agreement between the Forest Service and the Fish and Wildlife Servive, dated September 16, 1952, is superseded by this Memorandum of Understanding.

6. This Memorandum of Understanding will become effective upon the date subscribed by the last signatory, and shall continue in force and effect until terminated by either agency upon ninety days written notice to the other.

Dated: October 6, 1960.

U.S. Department of the Interior, Fish and Wildlife Service.

Arnie J. Suomela,

Commissioner of Fish and Wildlife.

Dated: October 19, 1960.

U.S. Department of Agriculture, Forest Service.

R. E. McArdle,

Chief, Forest Service.

Memorandum of Understanding Between the Geological Survey, Bureau of Land Management, Fish and Wildlife Service

Whereas, the Geological Survey, hereinafter referred to as the Survey, is responsible for the issuance of mineral exploration permits and for the supervision of development and production of mineral resources on the Outer Continental Shelf of the United States;

Whereas, the Bureau of Land Management, hereinafter referred to as the Bureau, is responsible for the administration and issuance of leases thereon; and is responsible for the examination and assessment, under the National Environmental Policy Act of 1969, of foreseeable environmental impact that could result from the development of mineral deposits; and

Whereas, the Fish and Wildlife Service, hereinafter referred to as the Service, is responsible for the conservation and management of fish and wildlife resources, and has the capability to provide advice and assistance on biological, chemical and physical factors affecting these resources to the foregoing agencies; and

Whereas, the Survey and the Bureau, in meetng their responsibilities for administering and supervising mineral exploration, leasing, development, and production, and assessing environmental impact, desire to engage in mutual cooperation and exchange of information and to solicit the cooperation and expertise of the Service;

Now, Therefore, it is mutually agreed that:

A. The Survey and the Bureau will cooperate with the Service in minimizing harm to fish and wildlife resources and their environment by providing the Service with:

1. Information regarding the conduct of marine geophysical explorations supervised by the Survey.

2. Opportunity to make recommendations on conditions to be included in permits for such geophysical explorations and in leases for mineral development.

3. Opportunity to observe geophysical explorations in areas of interest and, when in the course of such observation, it appears that adverse environmental effects may result, to recommend such action as may be necessary to reduce such possibility.

4. Information regarding areas of the Outer Continental Shelf that are expected to be or are being considered for a possible call for nominations.

B. The Service will cooperate with the Survey and Bureau in assessing the potential environmental impact of administering OCS leasing, and of administering and supervising exploration, development and production of mineral resources with minimal environmental harm by providing:

1. Results of periodic studies on problems relating to the impact of mineral exploration and exploitation on estuarine and coastal resources.

2. Information which relates directly or indirectly to the assessment of potential environmental impact, and to the administration and supervision of mineral exploration and production of the Outer Continental Shelf lands by the Bureau or the Survey.

3. Information useful in the identification and designation of restricted use areas including Marine Preserves.

C. Designation of Coordinating Offices for Purposes of this Memorandum:

1. For the Survey, the Conservation Division is designated as the coordinating office in Washington, and the office of the appropriate Regional Conservation Manager or the Conservation Manager, Gulf of Mexico OCS Operations, as the field level coordinating office.

2. For the Bureau, the Division of Marine Minerals is designated as the coordinating office in Washington, and the office of the appropriate Outer Continental Shelf Manager as the field level coordinating office.

3. For the Service, the Office of Environmental Quality, Bureau of Sport Fisheries and Wildlife is designated as the coordinating office in Washington, and the office of the appropriate Regional Director of the Bureau of Sport Fisheries and Wildlife as the field level coordinating office.

D. General Provisions:

All assistance rendered under this Agreement will be carried out in full compliance with the objectives, policies, and responsibilities of the Department. Any unresolved matters concerning Outer Continental Shelf management where there is a mutual interest shall be referred for resolution to the next supervisory level involved.

Arrangements will be made by the three agencies at beadquarters and field offices as may be necessary to implement the intent and purposes of this Agreement.

Dated: November 8, 1972.

Spencer H. Smith,

Director, Bureau of Sport Fisheries and Wildlife.

Dated: November 20, 1972.

Burt Silcock,

Director, Bureau of Land Management.

Dated: November 16, 1972.

V. E. McKelvey,

Director, Geological Survey.

Memorandum of Understanding Between Bureau of Land Management, Fish and Wildlife Service, and U.S. Geological Survey Concerning OCS Environmental Research and Monitoring Activities

Purpose: The purpose of this Memorandum of Understanding (MOU) is to detail procedures and responsibilities of the Bureau of Land Management (BLM), the U.S. Geological Survey (USGS), and the Fish and Wildlife Service (FWS) in the conduct of environmental research and monitoring associated with the OCS minerals program. This ensues from Section 2 of Secretarial Order 2974. The environmental research and monitoring activities are carried out in the context of a BLM program for administration, management, funding, the construction of environmental studies related to the effects of OCS development, and which include benchmark data collection, subsequent monitoring, and special investigations. Benchmark and monitoring studies will be designed, conducted, or overseen in the manner described below. Special studies initiation, implementation, and monitoring are outlined i.. the subsequent section.

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A. Benchmark and Monitoring Studies

In order to facilitate inter-bureau coordination with respect to benchmark and monitoring studies related to OCS minerals development, BLM, USGS, and FWS agree to the following procedures:

1. BLM will apprise USGS and FWS of any schedule (including schedule changes) of forthcoming benchmark or monitoring studies for each OCS lease area as soon as such schedule is prepared, or a change is made. In order that BLM may have full knowledge of ongoing or occasional studies being performed or funded by FWS and USGS in the area, the transmittal of a studies schedule by BLM shall oblige FWS and USGS to prepare lists of ongoing environmental studies, future (within present and the succeeding fiscal years) proposed studies, and past (within previous two years) studies, and transmit them to BLM within 30 days. Studies to be listed are defined as those studies which collect data on biotic, physical, and geologic systems on the OCS and in the coastal zone, or specific effects studies of limited geographic or subject scope.

2. (a) To provide specifically for the participation of USGS and FWS in the design phase of benchmark or monitoring studies on an area-by-area basis, one or more planning conferences will be scheduled for each separately identified OCS area in which such studies are to be conducted. Staff representatives of BLM, USGS, and FWS will meet to formulate a study plan. At the conference(s), USGS and FWS will make Recommndations concerning (1) specific elements to be incorporated in the studies, including scope, intensity, timing, required funding, etc., and (2) allocation of funds and the levels of effort among various study elements. The conference(s) will normally be under Washington Office control; a period of one month after notification by BLM of its desire to construct a study plan will be allowed for field office recommendations to reach the Washington Office of the respective bureaus.

(b) Each study plan will be formally reviewed at the Washington Office level for comment by USGS and FWS prior to the issuance of a request for proposals (RFP), non-competitive contract, or arrangements for development of study plans and management of the study with other agencies. A time period of one week after the final planning conference will be allowed for the formal study plan review.

(c) After due consideration of all views and recommendations, BLM will approve the study plan for implementation and will notify GS and FWS of its decision. If GS and FWS do not agree with the final decision of BLM, they may notify the Assistant Secretary—Program Development and Budget of the nature of the disagreement through the appropriate line Assistant Secretary (as specified in Section 5 of Secretarial Order 2974) within 5 working days after notification of the decision. In such a case, the Assistant Secretary—Program Development and Budget will inform the Director, BLM that he has received an appeal of the decision. The Assistant Secretary—Program Development and Budget will then take appropriate steps to resolve the disagreement. If GS or FWS do not notify the Assistant Secretary—Program Development and Budget of a disagreement within 5 working days, the decision of BLM will be considered uncontested and implementation will proceed.

3. (a) Subsequent to the development of a study plan, but in all cases prior to the issuance of an RFP, non-competitive procurement, or interagency agreement for any or all work elements, a meeting will be held to mutually consider the desirability of FWS or USGS participation in the performance or management of work elements identified in each study plan developed. Such meeting should be held within two weeks of a completed study plan, unless significant revision of the study plan is anticipated by other sources (such as the OCS Research Management Advisory Board). Provisions for such participation will then be made if, and as, appropriate. Recommendations from FWS and USGS regarding the type of procurement should be made at this meeting.

(b) At the meeting mentioned in 3.(a), FWS and USGS should indicate to BLM those aspects of each study plan in which each agency has a special interest and would like to monitor in some fashion. As both bureaus are already standing members of the Technical Proposal Evaluation Committee, monitoring may take the form of:

(1) Participation in post-contract award planning and coordination with contractors.

(2) Assignment as the contracting Officer's authorized representative (COAR) and/or inspector.

After consideration of the interests of FWS and USGS, BLM will determine appropriate arrangements for such study monitoring and will notify USGS and FWS of its decision. If USGS and FWS do not agree with the final decision of BLM, they may notify the Assistant Secretary—Program Development and Budget of the nature of the disagreement through the appropriate line Assistant Secretary (as specified in Section 5 of Secretarial Order 2974) with 5 working days after notification of the decision. In such a case the Assistant Secretary—Program Development and Budget will inform the Director, BLM that he has received an appeal of the decision. The Assistant Secretary—Program Development and Budget will then take appropriate steps to resolve the disagreement. If GS or FWS do not notify the Assistant Secretary—Program Development and Budget of a disagreement within 5 working days, the decision of BLM will be considered uncontested and implementation will proceed.

B. Special Investigations

In order that BLM may obtain the expert advice from FWS and USGS regarding special investigations that do not lie within the framework of benchmark or monitoring studies, FWS and USGS will submit to BLM on or before January 1 and July 1 of each year their recommendations for special investigations. Each set of recommendations should be constructed and directed toward those investigations which:

(1) may affect decisionmaking by the Secretary

(2) are non-duplicative of planned or ongoing efforts

(3) fill data gaps in the Department's research effort toward determining the effects of OCS mineral development.

Recommendations should not be restricted to in-house capabilities or interests, but should examine the scientific and technical questions from as many theoretical aspects as possible. BLM will direct the investigation of duplication of effort with Federal, State, and private agencies through the Inter-Bureau Coordinating Committee on the OCS Minerals Program, OCS Research Management Advisory Board, contracts, and informal contacts. To aid BLM in this investigation, the FWS and USGS will list those ongoing or proposed in-house studies that could relate to the special investigations portion of the OCS environmental studies program.

1. At the beginning of budget review cycles (fiscal funding, supplemental appropriations), BLM will conduct a meeting with FWS and USGS concerning accumulated recommendations (including BLM's). The topical nature of said meeting will be the examination of each recommended special investigation, its scope, feasibility and tractability, anticipated funding, and management. A mutually agreed upon set of special investigations recommended for BLM funding will be developed, except that, in all cases, any additional BLM recommended investigations will not be subject to agreement. Comments and criticism by FWS and USGS concerning BLM recommended studies are actively solicited, however, BLM recommended studies are actively solicited, however, BLM reserves the right to prioritize special investigations pursuant to approved funding levels.

2. When special investigations are given budgetary approval, FWS and USGS will be notified of the anticipated special investigations.

3. BLM will decide timing of initiation of each and every BLM funded special investigation. When such a determination is made, FWS and/or USGS (depending on needed expertise) will meet with BLM to discuss design of the investigation. In general, the sequence of events outlined in Section A above will then be followed to insure inter-bureau participation and involvement throughout the study period.

Dated: March 30, 1976.

Curt Berklund,

Director, Bureau of Land Management.

Dated: April 20, 1976.

W. A. Radlinski,

Director U.S. Geological Survey.

Dated: April 30, 1976.

Lynn A. Greenwalt,

Director, Fish and Wildlife Service.

Memorandum of Understanding Between Bureau of Land Management and the Fish and Wildlife Service on Interfacing Activities Regarding OCS Leasing Process

Purpose: The purpose of this Memorandum of Understanding (MOU) is to outline general procedures providing for Fish and Wildlife Service (FWS) input to the Bureau of Land Management (BLM) in relation to interfacing activities associated with the OCS leasing process. This ensues from Sections 2 and 3 of Secretarial Order 2974. The activities are carried out in the context of a BLM program for the administration and management of the OCS leasing program which includes baseline studies, resource assessments, tract selections environment impact statements, and other inputs to the decision process. The varous activities will be conducted in the manner outlined below.

A. Baseline Studies

The FWS participate in the formulation of the environmental baseline studies program. This involvement is set forth in the BLM–USGS–FWS Memorandum of Understanding on environmental research and monitoring activities.

B. Proposed Sale

1. *Preliminary Resource Assessment.*—The FWS in response to a formal request from the BLM will provide an assessment of fish and wildlife resources within a general proposed lease area, and those nearby areas which will be affected by activity in the lease area. The assessment will be based on existing knowledge.

2. *Supplemental Information Prior to Tract Selection.*—Because, at the time of the Call for Nominations, the proposed sale area is better defined, FWS may provide additional information which might bear upon potential leasing and development of particular tracts. This response will be based on additional data or assessments which were not available at the time of preliminary resource assessment. This additional during the tract selection process.

C. Tract Selection Process

Tract Selections—The FWS will participate, as outlined in S.O. 2974, in the tract selection process and will be represented at field and Washington office tract selection meetings as appropriate. The Regional representative will prepare a memorandum for attachment to the BLM–GS field recommendation. An FWS Washington office representative will surname the memorandum to the Secretary recommending the tentative tract selection.

D. Draft Environmental Impact Statement

1. *Data for Impact Statements.*—The appropriate FWS regional office will work directly with the BLM OCS Office to provide such data and insight on the fish and wildlife resources within and immediately adjacent to a proposed sale area as is available. The BLM will develop lease stipulations to protect fish and wildlife resources in consultation with the FWS.

2. *Review Draft Environmentol Impact Statement.*—Draft environmental impact statements will be reviewed for content and substance.

3. *Attend Public Hearings.*—The FWS will attend public hearings on draft environmental impact statements usually representing the Assistant Secretary for Fish and Wildlife and Parks.

E. Decision Process

1. *FWS Input to Program Decision Option Document (PDOD).*— The FWS will provide input to the PDOD regarding fish and wildlife resources of concern in relation to the proposed sale. Input should discuss aspects of resources that are controversial, questioned, unresolved or otherwise the subject of discussion which warrant consideration by the Secretary.

FWS will prepare and forward to BLM options for the sale which are concerned with the fish and wildlife protection issues that FWS identifies.

Options presented will include a list of the tracts affected, the manner in which the area in each option will be affected, and, if possible, quantitative/qualitative estimates of the value of the resource based on the best information available.

2. *Review Final Environmentol Impact Statement.*—The review process will be the same as for the draft statement except that comment will usually be restricted to important new information or where, in the opinion of FWS, comments on the draft were not adequately considered.

3. *Program Decision Option Document.*—FWS will review the draft PDOD, especially with regard for the issues as FWS views them and the sale options as FWS perceives them from a fish and wildlife resource advocacy viewpoint. Any FWS position in relation to fish and wildlife resource protection provided by the options will be provided to the secretary for his consideration in the decisionmaking process.

4. *Notice of Sale.*—The FWS will review the notice of sale and surname the document if appropriate.

Dated: March 30, 1976.

Curt Berklund,

Director, Bureau of Land Management.

Dated: March 3, 1976.

Lynn A. Greenwalt,

Director, Fish and Wildlife Service.

October 9, 1975.

United States Department of the Interior, Fish and Wildlife Service,
Washington, D.C. 20240.

Memorandum to: Associate Director, Environment and Research; Associate Director, Fish and Wildlife Management; Assistant Director, Administration; Regional Directors; Alaska Area Director, and Western Field Coordinator.

From: Director, Fish and Wildlife Service.

Subject: Memorandum of Understanding Between the National Park Service and the Fish and Wildlife Service.

A few weeks ago we mailed several hundred copies of the subject Memorandum of Understanding to the Regional Offices. If it has not been done already, please see that they are distributed to the appropriate offices for careful review and implementation.

Assistant Scretary Reed has asked us to prepare a report one year from the date the Memorandum of Understanding was signed outlining the steps that have been taken to implement it. He stressed "the need for all of our personnel to improve their cooperation, coordination and liaison to insure that the Interior family is working together toward mutual goals."

May we have your progress report, including highlights of implementation of this Memorandum of Understanding, by July 1, 1976.

Lynn A. Greenwalt,
Director, Fish and Wildlife Service.

Memorandum of Understanding Between the National Park Service and the U.S. Fish and Wildlife Service

1. WHEREAS the National Park Service and the Fish and Wildlife Service are both concerned with the conservation and the management of lands, waters, and fish and wildlife resources and their use and enjoyment by the public; and

2. WHEREAS the National Park Service is responsible for the administration and the management of the natural, historic, and recreation areas of the National Park System and the fish and wildlife resources therein, including the development and interpretation of research and resources management plans; and is authorized to conduct and to direct research necessary to fulfill these responsibilities; and is authorized to furnish technical assistance to other agencies on recreational planning, development and operations; and

3. WHEREAS the Fish and Wildlife Service administers lands on which there are fish, wildlife and recreational resources, and is authorized to cooperate with other Federal agencies in the conduct of research, surveys, and investigations to provide a sound biological basis for fish and wildlife conservation and management; and

4. WHEREAS the complexities of natural resources management demand integrated skills and knowledge from many disciplines of the natural, social and physical sciences; and

5. WHEREAS both agencies have developed recognized experience and skill in their paramount fields of responsibilities and desire to exchange their knowledge on mutually satisfactory terms in furtherance of the recognized objectives, policies, and responsibilities of each,

NOW, THEREFORE, it is agreed that:

a. The Fish and Wildlife Service will assist the National Park Service in the attainment of its basic objectives by conducting research and by providing technical advice and services required to preserve and to manage fish and wildlife resources on lands administered by the National Park Service; and

b. The National Park Service will assist the Fish and Wildlife Service in the attainment of

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its basic objectives by conducting studies and by providing technical advice and services required to develop and to operate recreational and interpretive use facilities and programs on lands administered by the Fish and Wildlife Service.

In Effecting This Understanding

A. The Fish and Wildlife Service will when requested: 1. Assist the National Park Service by planning and by conducting research on fish and wildlife occurring on lands and waters of the National Park System or proposed for addition to such system. Such research may include, but not necessarily be limited to: studies concerned with taxonomy and distribution, ecology, population dynamics, behavior, life histories, habitat requirements, food habits, parasites, diseases, pesticide-wildlife relationships, and other factors affecting the numbers and conditions of fish and wildlife.

This research will be designed to:

a. Advance technical knowledge on fish and wildlife resources to achieve a better understanding of ecological relationships.

b. Provide information basic to the conservation, management, and interpretation of fish and wildlife on lands administered by the National Park Service.

c. Provide such information as necessary in order to assess the impacts of other activities and programs carried out in units of the National Park System on the fish and wildlife resources.

2. Assist the National Park Service by conducting investigations and providing technical assistance and services in fish and wildlife management. Such management services may include, but will not be limited to:

a. Surveys of marine and fresh water resources conducted to determine: the status of populations of fishes and other aquatic life, catch by anglers, fishermen use, needs for replenishing fish stocks, feasibility of native fish restoration, aquatic habitat reclamation, the degree of protection necessary for the preservation of threatened and endangered species of aquatic plant and animal life and the applicability of fishing regulations.

b. Surveys of animal resources to determine: the status of animal populations, conditions of the habitat, occurrence of diseases, parasites and other factors affecting the number and conditions of animal species, the degree of protection and/or management of threatened animal species and habitats necessary to insure their survival, and measures required to protect or to restore native species of animals and their habitat.

c. Studies concerned with the effects of proposed water resource projects and other developments upon the fauna and flora of established areas in the National Park System or in areas proposed for inclusion in the System.

d. Provision of fishes from national fish hatcheries for distribution in park waters under approved stocking programs and assistance in fish stocking operations.

e. Participation in the planning and the conduct of fish restoration or aquatic habitat reclamation projects.

f. Technical assistance in projects directed toward the control of surplus, problem or non-native animals.

g. Evaluation of the effects of pollutants on fish and wildlife and their habitats in units of the National Park System.

h. Management of fish and wildlife resources on recreation areas in the National Park System, when so agreed upon through approved management plans.

B. The National Park Service will when requested: 1. Assist the Fish and Wildlife Service by planning for recreational development and use by the public on lands under Fish and Wildlife Service jurisdiction.

This assistance may include, but is not limited to:

a. Recreational surveys and analysis of present and projected visitor use of Fish and Wildlife Service areas.

b. Assistance in developing recreational use plans for Fish and Wildlife Service areas having potential for public use. These general development plans will include proposals for primary and supportive visitor use facilities which are compatible with the basic mission of the area.

c. Assistance in providing necessary professional services for the designing and developing of recreational facilities, and in the analyzing of traffic flow and visitor use patterns as a guide for developing future recreational facilities.

d. Assistance in designing exhibits and interpretive materials depicting interesting and educational features of the area's natural resources.

e. Assistance in operating recreational and interpretive programs and facilities on lands under the jurisdiction of the Fish and Wildlife Service, when so agreed upon through approved management plans.

f. Archeology, history and cultural anthropology surveys and assistance in developing preservation or restoration plans for Fish and Wildlife areas.

2. Assist the Fish and Wildlife Service by planning and conducting training programs for Fish and Wildlife Service employees engaged in recreation management and interpretation of fish and wildlife to the public. This assistance may include attendance by Fish and Wildlife Service personnel at National Park Service training schools or provision of special instruction by National Park Service personnel at Fish and Wildlife Service training sessions. The objective shall be the development of suitable programs, including interpretation, as features of an expanded Fish and Wildlife Service effort to provide recreation related to fish and wildlife.

3. Recognize and facilitate the use of national parks by the Fish and Wildlife Service for studies and investigations designed essentially for Fish and Wildlife Service purposes when not in conflict with the park mission.

4. Consider proposals for the collection of scientific specimens by the Fish and Wildlife Service under permit issued by the Superintendent of the area in which collecting is done.

5. Assist the Fish and Wildlife Service in surveys of fish and wildlife resources and in the conduct of approved restoration projects being conducted for the National Park Service by furnishing such manpower, equipment, and facilities as may be available for the purpose.

6. Evaluate any proposals to transfer fish and fish eggs from park waters for cultural or restoration purposes or to transfer wildlife from park lands for restoration purposes when these activities will not jeopardize the welfare of the native species in the park and will not conflict with other park values.

7. Consider cooperative proposals to use National Park Service lands to reintroduce endangered plant and animal species historically indigenous to the areas.

C. General Provisions

1. All assistance and services rendered under this agreement by either Service for the benefit of the other will be carried out in full compliance with the program objectives, policies, and responsibilities of the benefiting Service. Reference should be made to his Memorandum of Understanding in other agreements with State agencies that may pertain to fish and wildlife resources of the National Park System. If cooperative projects are to be undertaken in a particular area, an initial meeting between the appropriate personnel will be held to develop a thorough understanding of project objectives and responsibilities.

2. The extent to which the National Park Service and the Fish and Wildlife Service will undertake substantial cooperative projects falling within the terms of this Memorandum of Understanding will depend upon availability of funds and personnel. By mutual agreement, funds may be transferred from one Service to the other or the work performed on a reimbursable basis for this purpose. In order to staff and finance substantial cooperative projects, it is essential that the work be programmed in advance and a determination made as to which Service should budget the work before it is undertaken. Projects undertaken within the terms of this Memorandum of Understanding will be implemented after a work plan is developed which sets forth the work to be accomplished, source and level of funding, manpower requirements, and respective agency responsibilities have been approved by both agencies.

3. Irrespective of 2. above, personnel of each Service are encouraged to provide routine advice and assistance to one another. Advance programming or an exchange of funds between the Service shall not be required for this purpose.

4. The parties to this Memorandum agree to exchange information and consult with each other prior to implementing plans, programs, or activities that may directly or indirectly affect the other party.

5. Publication of research and technical reports shall be encouraged and shall follow the normal editorial and review policies of the author's respective agency. Other reports, manuscripts, and informational materials related to National Park Service and Fish and Wildlife Service policies, administration and management programs resulting from projects covered in this Memorandum will be released or published only after mutual agreement in each specific case. Advice and information on all cooperative projects will be freely exchanged. The Service issuing the reports or informational materials will provide copies of these releases to the other.

6. Scientific specimens collected in the course of investigations conducted essentially for Fish and Wildlife Service purposes shall be deposited in the study collections of the Fish and Wildlife Service until such time as they are catalogued as part of the U.S. National Museum collection. Specimens collected in the course of investigations conducted essentially for National Park Service purposes shall be deposited in the study collection of the park concerned. Other suitable depositories for such specimens may be used by either Service upon mutual consent. Each Service will provide duplicate specimens to the other upon request.

7. The Fish and Wildlife Service is recognized as the lead Service in matters pertaining to threatened and endangered species of plant and animals under authority given to the Secretary of the Interior by the Endangered Species Act of 1973 (16 U.S.C. 1531–1543; 87 Stat. 884). The National Park Service recognizes its unique responsibilities in this matter by providing essential habitat and protection of existing populations within several of the national parks for many of the plant and animal forms covered by this Act. The Fish and Wildlife Service will, as appropriate, cooperatively assist the National Park Service in carrying out the Endangered Species Program within parks administered by the National Park Service in accordance with regulations and policies of the National Park Service. The Fish and Wildlife Service will provide consultation and supportive services as prescribed in the Endangered Species Act of 1973 which will benefit special National Park Service management programs pertaining to threatened and endangered species of plants and animals.

8. This Memorandum of Understanding supersedes the Memorandum of Understanding between the National Park Service and the Bureau of Sport Fisheries and Wildlife dated August 5, 1966. Supplementary agreements between the Bureau of Sport Fisheries and Wildlife, now known as the U.S. Fish and Wildlife Service, and the National Park Service, presently in force, remain in effect until superseded or terminated by mutual consent. Supplementary agreements will be entered into and implemented by the two Services at appropriate administrative levels to carry out the function and objectives outlined in this Memorandum of Understanding.

9. This Memorandum of Understanding shall become effective when approved by the Assistant Secretary of the Interior for Fish and Wildlife and Parks and shall continue in force and effect until terminated by either party with the concurrence of the Assistant Secretary. This Memorandum may be amended by mutual consent and with the concurrence of the Assistant Secretary.

Dated: June 23, 1975.

Gary Everhardt,

Director, National Park Service.

Dated: July 10, 1975.

Lynn A. Greenwalt,

Director, Fish and Wildlife Service.

Approved:

Nathanial P. Reed,

Assistant Secretary of the Interior for Fish and Wildlife and Parks.

Memorandum of Agreement between the Bureau of Outdoor Recreation and the Bureau of Sport Fisheries and Wildlife

(Supersedes the Memorandum of Understanding approved on February 3, 1965)

In view of the mutual necessity for close cooperation between the Bureau of Outdoor Recreation and the Bureau of Sport Fisheries and Wildlife to insure that fish and wildlife resources and outdoor recreation make the greatest possible contribution to the welfare of the American public, it is mutually agreed that the two Bureaus will carry out their respective responsibilities and programs with full coordination and shall specifically operate in the following manner.

1. *Planning:* There will be frequent consultation between planning offices of the two Bureaus in the development of plans for programs of the type specified in this agreement. Where so designated herein, each Bureau will furnish the other with one or more copies of the completed plans. Site plans of the Bureau of Sport Fisheries and Wildlife—master plans for refuges, hatcheries, and laboratories—will be furnished only when they have a bearing on a cooperative endeavor between the two Bureaus.

2. *Planning Related to Water Resource Development Programs:* The purpose of this section is (1) to promote sound planning for recreation related to fish and wildlife and other outdoor recreation in conection with Federal water resource projects and programs and with similar projects subject to Federal license or permit; and (2) to establish procedures which will avoid duplication of effort and insure inter-Bureau coordination.

A. The Bureau of Sport Fisheries and Wildlife will conduct investigations and prepare reports to construction agencies concerning the fish and wildlife aspects of water resource projects. These reports will contain, among other things, recommendations for the conservation, development, and utilization of fish and wildlife resources for recreational, commercial, and other purposes, including recommendations, where appropriate, for the acquisition and use of lands and waters for such purposes.

B. The Bureau of Outdoor Recreation will conduct investigations and prepare reports to construction agencies concerning the total outdoor recreation aspects of water resource projects. These reports will include, where appropriate, data on fish and wildlife to be supplied by the Bureau of Sport Fisheries and Wildlife. These reports also will contain, among other things, recommendations concerning the preservation, development, and utilization of lands and water for all types of outdoor recreation opportunities and will reflect coordination of planning to provide for such opportunities.

C. The Bureau of Sport Fisheries and Wildlife will furnish to the Bureau of Outdoor Recreation for inclusion on the project report of that Bureau information concerning the conservation, development, and utilization of fish and wildlife resources for sport fishing, hunting, and other related recreation purposes. This information will cover such specific subjects as: present and future demand for hunting, fishing, and other recreation uses of fish and wildlife; existing and prospective supplies of fish and wildlife resources; recommended measures for the conservation, development, and utilization of fish and wildlife resources; and anticipated benefits and costs in dollars and/or other measures. To the extent appropriate, the Bureau of Outdoor Recreation may refer in its reports to the findings and recommendations of the Bureau of Sport Fisheries and Wildlife.

D. The Bureau of Outdoor Recreation will furnish to the Bureau of Sport Fisheries and Wildlife for inclusion in the project report of that Bureau information concerning the conservation, development, and utilization of land and water for general and specialized outdoor recreation purposes. This information will cover such subjects as: present and future demand for all recognized outdoor recreation activities; existing and prospecting supplies; recommended measures for the preservation, development, and utilization of recreation opportunity; and anticipated benefits and costs in dollars and/or other measures. To the extent appropriate, the Bureau of Sport Fisheries and Wildlife may refer in its reports to the findings and recommendations of the Bureau of Outdoor Recreation.

E. In recognition of the problems of separating hunting, fishing, photography, and nature study from other closely associated general recreation activities such as camping, boating, and picnicking, the reporting officers will make a special effort to identify areas of mutual and separable interests and take them into account in the planning process. Where hunting, fishing, and other recreation use of fish and wildlife resources are experienced by visitors to a project area the extent and value of this use will be determined by the Bureau of Sport Fisheries and Wildlife. The extent and value of other uses of recreation opportunity afforded by a project area including such activities as camping, which may be experienced in conjunction with hunting, fishing, and allied uses of fish and wildlife resources, will be determined by the Bureau of Outdoor Recreation.

F. To the extent practicable, the Bureau of Outdoor Receation and the Bureau of Sport Fisheries and Wildlife when reporting on a specific river basin or project area will employ the same or equivalent basic data relating to population, mobility, income levels, and other economic factos in their determination of needs, resource requirements, and recommended action.

G. Reports of the two Bureaus on a given water resource project will be consistent one with the other insofar as the effects of the

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project on conservation, development, and utilization of fish and wildlife are concerned.

H. Reporting officers of the two Bureaus will cooperate closely with a view toward attaining compatible use of water resource projects for various outdoor recreation activities including fishing and hunting.

I. Information made available by one Bureau to the other under the terms of this agreement will be treated as preliminary and subject to revision until the Bureau supplying the information has released or is prepared to release such information in its own reports and/or has granted approval of its release by the other agency.

J. The Bureau of Outdoor Recreation, after consultation with the Bureau of Sport Fisheries and Wildlife, will include in its report on any Federal water resource project a finding on the extent to which the proposed recreation and fish and wildlife development conforms to and is in accordance with the State Comprehensive Plan developed pursuant to Subsection 5(d) of the Land and Water Conservation Fund Act of 1965 (Pub. L. 88–578), as required by Subsection 6(a) of the Federal Water Project Recreation Act of July 9, 1965 (Pub. L. 89–72).

K. Procedures shall be devised by the two Bureaus to provide for the equitable division of dual-use separable costs involving general recreation and fish and wildlife enhancement to facilitate cost-sharing and administration negotiations with non-Federal public bodies pursuant to Subsection 2(a) of the Federal Water Project Recreation Act of July 9, 1965.

3. *Studies of Demand for Outdoor Recreation:* The Bureau of Outdoor Recreation conducts studies of demand for outdoor recreation in connection with the Nationwide Outdoor Recreation Plan, which it prepares in accordance with the directive of the Congress in Public Law 88–29. The Bureau of Sport Fisheries and Wildlife conducts hunting and fishing surveys under the authority of the Fish and Wildlife Act of 1956, as amended, and the Fish and Wildlife Coordination Act, as amended.

In view of the close relationships between these types of demand studies, each Bureau agrees to inform the other, in writing, as to its plans for the conduct of such studies, and to consult with the other as to the content of the studies in order to promote maximum coordination of demand data and to avoid duplication of effort.

4. *Financial Assistance to States for Planning and Program Development:* Under authority of the Land and Water Conservation Fund Act of 1965, the Bureau of Outdoor Recreation may provide financial assistance to States for the preparation and maintenance of comprehensive statewide outdoor recreation plans, required by that Act as a prerequisite to receiving acquisition and development grants. Under authority of the Federal Aid in Wildlife Restoration Act (Pittman-Robertson Act) and the Federal Aid in Fish Restoration Act (Dingell-Johnson Act), the Bureau of Sport Fisheries and Wildlife may provide financial assistance to the States for the preparation of statewide plans and programs for the utilization and development of fish and wildlife resources which would be important segments of the State outdoor recreation plans.

A. In view of the close relationship of these two types of financial assistance, the two Bureaus agree to keep each other informed as to these matters and to coordinate their efforts in the review and approval of the two programs.

B. The Bureau of Outdoor Recreation will inform the Bureau of Sport Fisheries and Wildlife of those "701" urban planning grants made to States by the Department of Housing and Urban Development for recreation planning, provided under authority of Section 701 of the Housing Act of 1954, as amended.

C. Whenever possible, the Bureau of Outdoor Recreation will finance fish and wildlife planning under its grants to the extent such planning contributes to and is an integral part of the State Comprehensive Outdoor Recreation Plan.

D. The Bureau of Outdoor Recreation will encourage the Department of Housing and Urban Development to include provisions for fish and wildlife planning, to the extent cited above, in such "701" grants as are made to State planning agencies for developing recreation plans.

E. The Bureau of Outdoor Recreation and the Bureau of Sport Fisheries and Wildlife agree to work out any additional details and procedures which may be necessary to implement this agreement.

5. *Financial Assistance to States for Acquisition and Development:* Land acquisition and development projects which are submitted for financial assistance under either Bureau's grant program will be reviewed by the receiving Bureau for consistency with the Statewide Comprehensive Outdoor Recreation Plan.

A. Each Bureau will study project proposals for grant assistance with consideration for programs of the other. Those that would affect a project assisted by the other Bureau will be referred to that Bureau for review. Projects for the acquisition or development of facilities for the production of fish and game for stocking purposes will be referred to the Bureau of Sport Fisheries and Wildlife for review and comments as to the need for and desirability of the Project.

B. The Bureau of Outdoor Recreation shall submit to the Bureau of Sport Fisheries and Wildlife any project proposal for acquisition or development adjacent to National Wildlife Refuges, National Fish Hatcheries, or areas managed under the small wetlands waterfowl production program; or any proposal affecting rare and endangered species, anadromous fish, or migratory birds. If no comments are made by the Bureau of Sport Fisheries and Wildlife within thirty (30) days, the project will be presumed to have no adverse effects on fish or wildlife.

6. *Threatened Species of Fish or Wildlife:* One of the purposes of funds allocated to Federal agencies under the Land and Water Conservation Fund Act is the acquisition of land for the preservation of habitat for species of fish and wildlife threatened with extinction. The Bureau of Sport Fisheries and Wildlife will:

A. Compile all available information on such species.

B. Prepare plans to insure preservation.

C. Support Bureau of Outdoor Recreation budget requests as agreed upon.

D. Ascertain, acquire, and manage such lands, and will designate them as national areas for this purpose, and, wherever feasible, will develop their utility for wildlife-oriented outdoor recreation.

7. *Regional Liaison and Cooperation:* Since both Bureaus are organized on a regional basis (although not congruent) and since broad authority has been delegated to the respective regional directors, active liaison and cooperation will be fostered at the regional level. As specific procedures are formulated, such will be incorporated in the respective Bureau operating instuctions or manuals.

8. *Terms of Agreement:* This Agreement supersedes the Memorandum of Understanding between the Bureau of Outdoor Recreation and the Bureau of Sport Fisheries and Wildlife, dated February 3, 1965.

This Agreement shall become effective upon the date subscribed by the last signatory and shall continue in full force and effect until terminated by either Bureau upon sixty (60) days written notice to the other.

IN WITNESS WHEREOF the parties hereto have executed this Memorandum of Agreement as of the dates entered below:

Dated: November 19, 1966.

John S. Gottschalk,

Director, Bureau of Sport Fisheries and Wildlife.

Dated: January 24, 1970.

Douglas Hoft,

Director, Bureau of Outdoor Recreation.

Memorandum of Agreement between the Bureau of Sport Fisheries and Wildlife and the Bureau of Outdoor Recreation, United States Department of the Interior

(Supplements the Memorandum of agreement of January 24, 1979)

WHEREAS, hunting and fishing and associated recreation activities are important segments of the total recreation province and planning for those activities should be an integral part of the comprehensive statewide outdoor recreation plan prepared for purposes of the Land and Water Conservation Fund Act of 1965; as amended, as well as for the state comprehensive fish and wildlife resource management plan prepared under the authorities of the Federal Aid in Fish and Wildlife Restoration Acts, as amended; and

WHEREAS, it is of mutual benefit to the state planning programs assisted by those Acts that close coordination between the programs be maintained; and

WHEREAS, the Bureau of Outdoor Recreation has been delegated responsibility by the Secretary of the Interior as the agency responsible for the administration of the Land and Water Conservation Fund Act of 1965, as amended; and

WHEREAS, the Bureau of Sport Fisheries and Wildlife has been delegated responsibility by the Secretary of the Interior as the agency responsible for the administration of the Federal Aid in Fish and Wildlife Restoration Act, as amended;

NOW THEREFORE, it is mutually agreed that the general functions of the two agencies under this memorandum within the limits of their resources, will be as follows:

A. *Coordination of State Planning Efforts.* Both Bureaus will encourage their counterpart State planners to:

1. Develop the overall assessment of hunting and fishing within the State as an integral part of the statewide outdoor recreation plan as well as the State comprehensive fish and wildlife plan.

2. Effect close planning coordination to avoid duplication in the collection of data pertinent to both plans.

3. Use the same methodologies for inventorying physical resources, estimating and projecting hunting, fishing and other recreation demand and determining future requirements for the environmental, scientific, and recreational enrichment of the people.

4. Use the same basic estimates and projections of population, and other supply and demand variables as those used for overall comprehensive planning in the State.

5. Use common target years for projections.

6. use common or consistent intra-State planning regions to the extent possible.

7. Summarize and reflect in the appropriate sections of the statewide comprehensive outdoor recreation plan the needs and proposed actions of the comprehensive plan for fish and wildlife management.

B. *Federal Review of Planning Documents.*

1. Within their respective Regions, the Regional Directors, Bureau of Sport Fisheries and Wildlife, will be accorded an opportunity to review each statewide comprehensive outdoor recreation plan submitted to the Bureau of Outdoor Recreation, and the Regional Directors, Bureau of Outdoor Recreation will be accorded the opportunity to review each State comprehensive fish and wildlife plan submitted to the Bureau of Sport Fisheries and Wildlife.

2. Thirty days will be allowed for the review and comments, if any, that the Regional Director may wish to make.

3. Comments received will be of assistance in the review process and will serve as a basis for discussions with the State planners for subsequent updating and improvement of the plan.

4. Where they are still available, the Regional Directors, Bureau of Outdoor Recreation, will endeavor to make arrangements with each State to furnish the appropriate Regional Director, Bureau of Sport Fisheries and Wildlife, with a copy of the current statewide outdoor recreation plan. Where copies are no longer available, the Regional Director, Bureau of Sport Fisheries and Wildlife, upon his request, will be accorded an opportunity to review the file or working copy held by the Bureau of Outdoor Recreation.

5. Each Regional Director will encourage each State to furnish copies of plans developed under their respective Federal grant programs to the appropriate counterpart Regional Director for his information and files.

6. Amendments or updated strategic or operational plans submitted for approval under either Federal grant program will be exchanged by the Regional Directors for review and comment as under B1 and B2 of this memorandum.

This agreement supplements but does not supersede or replace the Memorandum of Agreement of January 24, 1970, between the Bureau of Outdoor Recreation and the Bureau of Sport Fisheries and Wildlife.

This agreement shall become effective on the date subscribed by the last signatory and shall continue in full force and effect until terminated by either Bureau upon sixty (60) days written notice to the other.

IN WITNESS WHEREOF, the parties hereto have executed this Memorandum of Agreement as of the dates entered below.

Dated: November 20, 1973.

United States Department of the Interior, Bureau of Outdoor Recreation.

James G. Watt,

Director.

Dated: October 26, 1973.

United States Department of the Interior, Bureau of Sport Fisheries and Wildlife.

Lynn A. Greenwalt,

Director.

Memoradum of Understanding Between the Secretary of the Interior and the Secretary of the Army

In recognition of the responsibilities of the Secretary of the Army under section 10 and 13 of the Act of March 3, 1899 (33 U.S.C. 403 and 407), relating to the control of dredging, filling, and excavation in the navigable waters of the United States, and the control of refuse in such waters, and the interrelationships of those responsibilities with the responsibilities of the Secretary of the Interior under the Federal Water Pollution Control Act, as amended (33 U.S.C. 466 *et seq.),* the Fish and Wildlife Coordination Act, as amended (16 U.S.C. 661–666c), and the Fish and Wildlife Act of 1956, as amended (16 U.S.C. 742a *et seq.),* relating to the control and prevention of water pollution in such waters and the conservation of the Nation's natural resources and related environment, including fish and wildlife and recreational values therein; in recognition of our joint responsibilities under Executive Order No. 11288 to improve water quality through the prevention, control, and abatement of water pollution from Federal and federally licensed activities; and in recognition of other provisions of law and policy, we, the two Secretaries, adopt the following policies and procedures:

Policies

It is the policy of the two Secretaries that there shall be full coordination and cooperation between their respective Departments on the above responsibilities at all organizational levels, and it is their view that maximum efforts in the discharge of those responsibilities, including the resolution of differing views, must be undertaken at the earliest practicable time and at the field organizational unit most directly concerned. Accordingly, District Engineers of the U.S. Army Corps of Engineers shall coordinate with the Regional Directors of the Secretary of the Interior on fish and wildlife, recreation, and pollution problems associated with dredging, filling, and excavation operations to be conducted under permits issued under the 1899 Act in the navigable waters of the United States, and they shall avail themselves of the technical advice and assistance which such Directors may provide.

2. The Secretary of the Army will seek the advice and counsel of the Secretary of the Interior on difficult cases. If the Secretary of the Interior advises that proposed operations will unreasonably impair natural resources or the related environment, including the fish and wildlife and recreational values thereof, or will reduce the quality of such water in violation of applicable water quality standards, the Secretary of the Army in acting on the request for a permit will carefully evaluate the advantages and benefits of the operations in relation to the resultant loss or damage, including all data presented by the Secretary of the Interior, and will either deny the permit or include such conditions in the permit as he determines to be in the public interest, including provisions that will assure compliance with water quality standards established in accordance with law.

Procedures for Carrying Out These Policies

1. Upon receipt of an application for a permit for dredging, filling, excavation, or other related work in navigable waters of the United States, the District Engineers shall send notices to all interested parties, including the appropriate Regional Directors of the Federal Water Pollution Control Administration, the United States Fish and Wildlife Service, and the National Park Service of the Department of the Interior, and the appropriate State conservation, resources, and water pollution agencies.

2. Such Regional Directors of the Secretary of the Interior shall immediately make such studies and investigations as they deem necessary or desirable, consult with the appropriate State agencies, and advise the District Engineers whether the work proposed by the permit applicant, including the deposit of any material in or near the navigable waters of the United States, will reduce the quality of such waters in violation of applicable water quality standards or unreasonably impair natural resources or the related environment.

3. The District Engineers will hold public hearings on permit applications whenever response to a public notice indicates that hearings are desirable to afford all interested parties full opportunity to be heard on objections raised.

4. The District Engineer, in deciding whether a permit should be issued, shall weigh all relevant factors in reaching his decision. In any case where Directors of the Secretary of the Interior advise the District Engineers that proposed work will impair the water quality in violation of applicable water quality standards or unreasonably impair the natural resources or the related environment,

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he shall, within the limits of his responsibility, encourage the applicant to take steps that will resolve the objections to the work. Failing in this respect, the District Engineers shall forward the case for the consideration of the Chief of Engineers and the appropriate Regional Director of the Secretary of the Interior shall submit his views and recommendations to his agency's Washington headquarters.

5. The Chief of Engineers shall refer to the Under Secretary of the Interior all those cases referred to him containing unresolved substantive differences of views and he shall include his analysis thereof, for the purpose of obtaining the Department of the Interior's comments prior to final determination of the issues.

6. In those cases where the Chief of Engineers and the Under Secretary are unable to resolve the remaining issues, the cases will be referred to the Secretary of the Army for decision in consultation with the Secretary of the Interior.

7. If in the course of operations within this understanding either Secretary finds its terms in need of modification, he may notify the other of the nature of the desired changes. In that event the Secretaries shall within 90 days negotiate such amendment as is considered desirable or may agree upon termination of this understanding at the end of the period.

Dated: July 13, 1967.

Steward L. Udall,

Secretary of the Interior.

Dated: July 13, 1967.

Stanley Resor,

Secretary of the Army.

Memorandum of Understanding for the Geothermal Program, U.S. Geological Survey—Bureau of Land Management—U.S. Fish and Wildlife Service, Cooperative Procedures in the Geothermal Program

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Memorandum of Understanding for the Geothermal Program

U.S. Geological Survey—Bureau of Land Management—U.S. Fish and Wildlife Service

The following guidelines are for the mutual cooperative efforts of the U.S. Geological Survey, Bureau of Land Management, and U.S. Fish and Wildlife Service in implementing the Federal geothermal resources program pursuant to the Geothermal Steam Act of 1970.

Abbreviations used hereafter for the various agencies, offices, and reports are as follows:

BLM—Bureau of Land Management
BLM–DO—Bureau of Land Management District Office
BLM–SO—Bureau of Land Management State Office
GS—U.S. Geological Survey
GS–RCM—U.S. Geological Survey, Regional Conservation Manager
AGS—Area Geothermal Supervisor
GS–AG—U.S. Geological Survey Area Geologist
GS–DG—U.S. Geological Survey District Geologist
FWS—Fish and Wildlife Service
FWS–RO—Fish and Wildlife Service Regional Office
FWS–AO—Fish and Wildlife Service Area Office
EAR—Environmental Analysis Record (prepared by BLM)
EA—Environmental Analysis (prepared by GS)
GEAP—Geothermal Environmental Advisory Panel (Sec. Order 2962)

1. *Priorities and Scheduling of Lease Sales and Non-Competitive Leasing.* (Primary responsibility—BLM.)

Primary contacts will be the AGS, the FWS–RO, the BLM–SO involved.

(a) *Competitive Lease Sale Scheduling.* BLM–SO may on its own motion, on recommendation from GS, or through nominations from industry, select areas for and schedule competitive lease sales in Known Geothermal Resource Areas (KGRA's). The BLM–SO will consult with GS–RCM as to KGRA leasing priorities, recommendations for lease stipulations, total area to be covered by the EAR, and overall priority and scheduling of the EAR and the sale. The BLM–SO will consult with FWS–AO and RO concerning fish and wildlife resources and related habitat, and regarding recommended stipulations and mitigating measures to protect these resources.

Generally, the areas to be covered by the EAR, prepared by BLM–DO, should include the maximum number of non-competitive lease applications in the vicinity of the KGRA. Determination of priority of sheduling lease sales will generally be based upon the geothermal potential of the area, its environmental sensitivity, and industry, interest. If nominations are either solicited or received from industry, BLM–SO will send an information copy of nominations to AGS, Menlo Park, and the FWS–AO.

(b) *Scheduling for Non-Competitive Leasing.* Where non-competitive leasing only is involved, BLM–SO should consult with AGS and FWS–RO to determine area, priority, and scheduling of EAR's. Where withdrawn lands are involved, the BLM–SO shall consult with the appropriate land management agencies with he basic authority to permit leasing. The criteria for scheduling of EAR's to be prepared by the BLM-DO should include geothermal potential of the area, its environmental sensitivity, and industry interest. AGS will furnish, upon request by BLM–SO, a priority listing of potential geothermal areas with copies to the FWS–RO.

2. *Environmental Analysis Considerations.*

(a) *Pre-Lease Environmental Analysis Record (EAR).* (Primary responsibility—BLM.)

(1) Upon initiation or revision of an EAR for either competitive or non-competitive leasing, BLM–DO will notify in writing the AGS and the FWS–AO of the area covered by the EAR. The AGS and FWS–AO will furnish BLM–DO with technical advice and information for consideration in the EAR, including recommended stipulations and mitigating measures. BLM–DO should specify deadline for such input with a minimum of 30 days advance notice. Maximum lead time should be provided.

(2) BLM–DO will furnish a copy of the draft EAR, with proposed special lease stipulations, to the AGS and FWS–AO and FWS–RO for review and comments prior to submission of EAR to BLM–SO.

(3) BLM–SO will furnish AGS the final BLM stipulations which are to be attached to non-competitive leases, or included in the notice of competitive lease sale, for the AGS review and concurrence with the stipulations. FWS–RO will be furnished a copy of the stipulations for review and comment.

(4) BLM–SO will furnish AGS and FWS–RO with two copies each of the final EAR.

(b) *Post-Lease Environmental Analysis (EA).* (Primary responsibility—AGS)

(1) For each proposal which requires a Plan of Operations, an Environmental Analysis (EA) will be prepared by the AGS. The AGS will request the technical advice on fish and wildlife matters, surface management, and environmental expertise of the BLM–SO and FWS–AO. The FWS–AO and the BLM–SO will provide technical advice and information in their areas of expertise to AGS for consideration in the EA which will include the recommended surface protection and reclamation requirements.

(2) When the GEAP chooses to review the draft EA, BLM–DO and FWS–RO will also be sent copies of the AGS draft EA for its review and comment.

(3) In every case, BLM–SO and FWS–AO and GEAP will be provided with a copy of the final EA.

3. *Competitive Lease Sales.* (Primary responsibility—BLM.)

In steps (a) through (h) below, the GS contact will be the AGS, and the FWS contact the appropriate FWS–AO. In step (d) below, the BLM contact will be the BLM–DO involved. For all other lease sale matters, the appropriate BLM–SO involved will be the primary contact.

(a) To facilitate the sale procedure BLM–SO shall notify AGS and FWS–AO in writing at least 90 calendar days prior to sale date concerning:

(1) Areas within KGRA to be considered for competiitve lease sale.

(2) Problems as they may relate to parceling; i.e., grandfather rights, environmentally sensitive areas (described by legal subdivision), pending law suit or restraining orders, etc.

(3) Any indentifiable proposed lease stipulations even though there may be subsequent additions to or modification thereof.

(4) Request GS–RCM recommendations for parceling of tracts or leasing units and for rental and royalty rates at least 60 days prior to scheduled sale date.

(b) It will be BLM–SO responsibility to establish priority of processing and scheduling with input from the GS–RCM and FWS–RO.

(c) GS–RCM will recommend rental and royalty rates and parceling into tracts or leasing units for the competitive sale, submitting such information with 30 calendar days from date of request, whenever possible, to BLM–SO.

(d) EAR preparation will be the responsibility of the BLM–SO as outlined in Section 2(a).

(e) Publication of Lease-Sale Notice will be the responsibility of the BLM–SO. AGS concurrence must be received prior to publication. The BLM–SO will send a copy of the lease sale notice and lease stipulations to the ACS and the FWS–AO for final review, allowing at least 10 working days for comment.

(f) GS–RCM will prepare a pre-sale geothermal resources economic evaluation for all tracts in the sale. Prior to the schedule sale the GS–RCM or his designee shall be available to meet with the BLM–SO and present the technical evaluation of the offered tracts and be prepared to discuss the geologic, engineering, and economic factors upon which the evaluation have been prepared.

(g) Immediately after the sale, the GS–RCM evaluation committee will meet to study the results of the sale. The committee will review its geologic, geophysical, economic and engineering data on all tracts and identify those tracts recommended for acceptance and for rejection supporting the recommendations with appropriate technical information. Immediately following this evaluation, the BLM–SO and GS–RCM committee will meet jointly and the GS–RCM or his designee shall present the GS technical evaluation of and recommendations on each tract for which bids have been received. The GS–RCM will submit his recommendations in writing to the BLM–SO.

(h) BLM–SO will send two copies of the executed lease, including lease terms, to the AGS for his records.

4. *Non-Competitive Lease Applications* (Primary responsibility—BLM.)

(a) *Serial Register Page.*—The BLM–SO receives applications for non-competitive leases, prepares Serial Register Pages, and processes applications (at end of filing period) to determine if acceptable and if lands are available. Where an agency other than BLM administers withdrawn or acquired lands, BLM–SO will obtain a title report from that agency. The BLM–SO wil send information copy of Serial Register Page to BLM–DO, AGS, and the FWS–AO,

(b) *Competitive Interest Overlaps.*—After reviewing each month's applications BLM–SO will send GS two copies (one to AGS and one direct to the GS–AG or GS–DG listed below) of those applications which result in competitive interest overlap as defined by 43 CFR 3200.0–5(k)(3); a copy of the land status plat showing applications and overlaps will also be sent to the GS–AG or GS–DG listed below. GS–RCM will review competitive interest overlap as soon as practical after receipt from BLM–SO. GS–RCM will notify BLM–SO as soon as KGRA's have been defined.

For applications within States of	*Send overlap information to*
Montana	GS–DG, Billings, Montana.
Wyoming	GS–AG, Casper, Wyoming.
Utah	GS–DG, Salt Lake City, Utah.
Colorado	GS–AG, Denver, Colorado.
New Mexico	GS–AG, Roswell, New Mexico.
Alaska	GS–AG, Anchorage, Alaska.
California, Oregon, Washington, Idaho, Nevada, Arizona.	GS–AG, Menlo Park, California.
Eastern States	GS–AG, Washington, D.C.

(c) *Environmental Considerations.*—BLM–DO will prepare an EAR requesting input and technical advice and information from the AGS, the FWS–AO and other agencies as necessary.

(d) *KGRA Clear Listing—Issuance of Lease* BLM–SO will prepare lease forms and develop lease stipulations in consultation with the AGS, which will be sent to the AGS for final review and concurrence. Upon receipt of AGS concurrence, BLM–SO will forward lease form for applicant's signature. Upon receipt of lease signed by applicant, BLM–SO will forward lease forms to the AGS for final clear listing. The AGS will forward lease forms to the appropriate GS–AG or GS–DG who will then submit a KGRA clear listing report and return the lease forms to the BLM–SO. The GS–AG or GS–DG will also provide the AGS with an informational copy of the clear listing report. The BLM–SO will then issue the lease providing the AGS with two copies, including the stipulations.

5. *Pre-Lease Exploration Permit* (Primary responsibility—BLM)

(a) Upon receipt of a Notice of Intent to Conduct Geothermal Resources Exploration Operations, the BLM–DO will forward a copy of the Notice of Intent and any attachments to the AGS and the FWS–AO. This may include appropriate stipulation or documents relating to access routes across BLM lands.

The AGS and FWS–AO will notify the BLM–DO within five working days of any recommended stipulations considered desirable. The BLM–DO will send the AGS a copy of the approved permit.

(b) It will be the responsibility of the BLM–DO to see that the operator conducts exploration in accordance with regulations and terms of the permit. AGS and FWS–AO personnel are available, on request, to assist in supervision of operations under such permit.

(c) The BLM–DO will send the AGS a copy of the Notice of Completion of Exploration Operations for his records (Form 3200–10).

6. *Post-Lease Notice of Intent to Conduct Geothermal Resources Exploration Operations* (Primary responsibility—GS)

(a) Upon receipt of a Notice of Intent to Conduct Geothermal Resource Exploration Operations from an operator on an existing lease (as required by 30 CFR 270.78), the AGS will immediately forward a copy of the Notice and the required Plan of Operation to the BLM–DO and FWS–AO. The BLM–DO and FWS–AO will recommend any additional surface protection, reclamation requirements, and fish and wildlife protection measures including mitigations within their area of expertise.

(b) Upon receipt of the Notice of Intent and the required Plan of operation, an Environmental Analysis (EA) will be prepared by the AGS.

(c) It will be the responsibility of the AGS to see that exploratory operations on the lease concerned are conducted in accordance with regulations, GRO Orders, the approved Plan of Operation and Notice of Intent. The AGS will notify the BLM–DO in writing if the permittee does not comply with surface protection, fish and wildlife protection measures, reclamation requirements, and the corrective action taken or recommended. In cases of emergency, where serious surface or environmental damage occurs, or appears imminent, the BLM–DO may, if the AGS or his representative is not immediately available, issue a stop order to the lessee or his representative and then immediately notify the AGS.

7. *Plan of Operation and Application for Permit to Drill (APD)* (Primary responsibility—GS)

(a) Upon receipt by the AGS of an Application for Permit to Drill, the ACS will immediately send a copy of the Plan of Operation (per 30 CFR 270.34) and APD (from 9–331C with proprietary information deleted as necessary) to the BLM–DO, the FWS–AO and the FWS–RO.

(b) For exploratory wells, and for all other drilling operations where GS, BLM, or FWS considers such necessary, the AGS will schedule with BLM–DO, FWS–AO, and the operator, a joint on-site inspection and discussion of the proposed operation and proposed access routes over BLM lands. The operator will normally be encouraged to discuss the proposed action and conduct the on-site inspection with the BLM–DO, AGS, and FWS–AO, prior to writing his drilling program and Plan of Operation.

(c) If BLM–DO, FWS–AO, or AGS consider that additional information is necessary in the Plan of Operation, the AGS shall request the operator to provide such input as deemed necessary.

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(d) When such additional information is requested, the operator will submit a final Plan of Operation or supplements to the Plan of Operation to the AGS who will forward a copy of same to BLM–DO and the FWS–AO.

(e) The BLM–DO and the FWS–AO will notify the AGS in writing of any special conditions which are recommended for inclusion in the approved plan of Operation.

(f) Upon receipt of the Plan of Operation, an EA will be prepared by the AGS. The EA prepared for subsequent well operations or for the post-lease Notice of Intent to Conduct Geothermal Resource Exploration Operation may vary in level of detail depending on the nature of the operation, the sensitivity of the area, and other appropriate considerations.

(g) The AGS will prepare and sign a letter of approval of the Plan of Operation containing conditions of approval mutually agreeable to both the BLM–DO and the AGS, and send the signed letter to the BLM–DO for approval.

(h) BLM–DO will sign the letter to complete the joint approval of Plan of Operation and forward an approved copy to lessee and an executed copy to the AGS and FWS–AO. The BLM–DO also forwards other documents relating to access over BLM lands outside the leased area to the operator with an information copy to the AGS and FWS–AO.

(i) The AGS will then approve the Application for Permit to Drill (Form 9–331C) and furnish a copy to the BLM–DO and the FWS–AO.

(j) The AGS will be responsible for compliance inspections of all operations conducted under the Plan of Operation and Application to Drill in the Area of Operations. However, BLM–DO and FWS–AO may inspect operations to assure conditions of the approved Plan of Operation are being met and will notify AGS of any non-compliance observed. The AGS will seek and utilize BLM–DO and the FWS–AO on surface management reclamation and fish and wildlife matters, and will request inspection assistance when considered necessary within their areas of expertise. AGS is the sole contact with operators except in cases of emergency. BLM–DO may issue instructions, notices, or orders to the operator only under the following emergency circumstances and conditions: (1) emergency situation exists that clearly threaten immediate serious or irreparable damage to the environment and resources or to the health and safety of employees and/or the public; or (2) the AGS representative is not timely available to take the necessary immediate action. The BLM–DO may in such emergency situations order the immediate cessation or correction of activities responsible for the emergency situation and may order repair or correction of damages, such orders to be followed by prompt telephoned and documented notification to the AGS of the action taken. BLM–DO will be responsible for all acitivities outside the Area of Operation, within the leasehold.

(k) Any desired significant changes in a Plan of Operation must be jointly approved by both BLM–DO and AGS.

8. *Plans of Operation for Surface Installations or Subsequent Well Work*

A Plan of Operation as per 30 CFR 270.34 will be required for all surface construction operations and subsequent well work. Procedure for approval will be as per 7(a) through (h) above. Joint on-site inspections may not be required, unless specifically considered necessary by AGS, BLM–DO or FWS–AO. The AGS will be responsible for compliance inspections in the Area of Operations. BLM will have the same option covered in 7(j).

9. *Plans of Development, Injection, or Production*

The operator will be required to submit (1) a Plan of Development prior to entering the development stage of its operation as determined by mutual agreement between the operator and the AGS, (2) a Plan of Injection where fluid injection is proposed, and (2) a Plan for Production prior to commencing production for commercial utilization of the geothermal resource. Procedure for joint BLM–DO and AGS approval will be essentially as per 7(a) through (h), described above for the Plan of Operation. The AGS will be responsible for compliance inspections in the Area of Operations.

10. *Designation of Operator*

The AGS will furnish BLM–DO a copy of any Designation of Operator received.

11. *Filing and Termination of Bonds*

(a) BLM–SO will routinely advise the AGS of the filing of any lease compliance (3206.1–1(b)) or protection bonds (3206.1–1(c)). The AGS will not permit operations on a lease until advised by BLM–SO that such bonds have been filed.

(b) The period of liability under any bond shall not be terminated by BLM until the AGS has advised the BLM–SO and FWS–AO that all terms and conditions, insofar as operations on the lease are concerned, have been fulfilled.

12. *Relinquishments*

BLM–SO will furnish the AGS a copy of any lease relinquishment filed. The AGS will furnish BLM–SO and the FWS–RO a report as to satisfactory restoration and abandonment of any affected portion of leased lands.

13. *Annual Environmental Report*

The AGS will furnish the BLM–DO a copy of the leassee's annual report of compliance with environmental protection requirements as required under 30 CFR 270.76. These reports will be available for inspection at either office for FWS–AO inspection.

14. *Annual Report of Diligent Exploration*

AGS will advise BLM–SO of the amount of expenditures considered qualified for diligent exploration pursuant to 43 CFR 3203.5.

15. *Designation of Coordinating Offices for Purposes of the Memorandum*

(a) For the U. S. Geological Survey, the office of the Assistant Division Chief of Operations, Conservation Division is designated as the coordinating office.

(b) For the Bureau of Land Management, the Division of Minerals Resources is designated as the coordinating office.

(c) For the U.S. Fish and Wildlife Service, the Office of Biological Services is designated as the coordinating office.

16. *General Provisions*

All assistance rendered under this Agreement will be carried out in full compliance with the objectives, policies, and responsibilities of the Department. Any unresolved matters concerning geothermal program where there is a mutual interest shall be referred for resolution to the next supervisory level involved.

The above cooperative procedures are in accord with S.O. 2948 between BLM and GS and supersedes all other implementing cooperative procedures involving geothermal leasing, administration, and supervision.

The AGS, BLM–SO and FWS–RO will meet, as necessary, to surface internal problems which occur as a result of implementing the requirements of this Agreement and to develop strategies for mitigating those problems.

This Agreement shall become effective upon execution hereof by the Directors. At least three months prior to the first and subsequent anniversary dates hereof, the AGS, BLM–SO, and FWS–RO shall apprise their respective coordinating offices of any suggested modifications in this Agreement which would improve its workability, reduce duplication of effort, and enhance the ability of the Department to perform its assigned functions relating to the leasing of Federal lands for geothermal resources and approval of operations in a more timely manner.

George W. Milias,

Acting Director, Fish and Wildlife Service.

Dated: June 7, 1976.

George L. Turcott,

Acting Director, Bureau of Land Management.

Dated: May 28, 1976.

W. A. Radlinski,

Acting Director, Geological Survey.

Dated: June 1, 1976.

Interagency Agreement Related to Classifications and Inventories of Natural Resources

Purpose

The purpose of this Agreement is to provide for liaison and cooperation between Bureau of Land Management, Fish & Wildlife Service, Forest Service, and Soil Conservation Service in survey, inventory, appraisal, assessment, and planning activities with particular emphasis on renewable resources. Principal objectives of this Agreement will be to provide guidelines and to assure administraive action to minimize duplication and overlapping efforts and to enhance and encourage overall data collection, data sharing, appraisal efficiency, program compatibility, and expedite technology transfer.

In carrying out the terms of this Agreement, each Agency will provide up to two representatives with authority to speak for their Agency Head in activities discussed below under "Area of Responsibility." Other Agencies will be included, as needed, to ensure coordination and communication.

Area of Responsibility

The concerned Agencies, by the formulation of appropriate technical working groups and the prompt resolution of differences, will provide for liaison and cooperation for those activities related to resource inventories, surveys, and monitoring; assessment and appraisal; program evaluation; development of program strategies; preparation of statements of policy; and resource planning. Status reports will be prepared to keep Agency Heads informed of joint activities. Should unresolvable conflicts arise, they will be elevated to the Agency Heads for resolution.

Recognizing that each Agency has different objectives in design, development, and implementation of inventory, assessment/appraisal, and resource planning activities, this Agreement will provide for coordination of the following areas:

1. Land Classification System;
2. Data element definitions and units of measure;
3. Intensity and subject matter of surveys and inventories;
4. Statistical reliability;
5. Land-base being inventoried;
6. Compatibility for data exchange;
7. Compatibility of analytical assumptions;
8. Identification of Agency activities;
9. Data acquisition procedures—tie to Interagency Remote Sensing Committee;
10. Division of responsibilities;
11. Criteria for evaluation, sensitivity, and cost-benefit analysis;
12. Preparation of needed interagency agreements;
13. Involvement and coordination with States;
14. Coordination of budgets to avoid duplication and to take advantage of joint opportunities;
15. Program evaluation;
16. Statements of policy;
17. Development of program strategies; and
18. Resource planning.

Special Assignments

The Agency representatives will also advise and consult with the Director of the Rocky Mountain Forest and Range Experiment Station on the activities of the Station's Evaluation of alternative research directions, assignment of priorities and personnel, establishment of technical working arrangements, as needed, and related matters.

Procedures

The Agency representatives will meet on the last Thursday of each month. Staff from each Agency will participate, as appropriate, on subject items to be coordinated. Existing working relationships and agreements that now exist between the Agencies will not be preempted. Additional working relationships will be established as needed.

The meetings will be chaired alternately by the Agencies. Minutes will be taken of each meeting and distributed to Agency Heads and others as deemed necessary. Additional meetings will be called or regular meetings canceled or rescheduled by mutual agreement of Agency representatives.

This agreement shall be effective on the date of the last signature hereto. Any agency may withdraw from the agreement upon written notice to the others. The agreement may be terminated upon mutual consent of the parties.

Frank Gregg,

Director, Bureau of Land Management.

Dated: June 6, 1978.

R. A. Resler,

Acting Chief, Forest Service.

Dated: June 6, 1978.

Lynn A. Greenwalt,

Director, Fish & Wildlife Service.

Dated: June 6, 1978.

R. M. Davis,

Administrator, Soil Conservation Service.

Dated: June 6, 1978.

October 30, 1978.

In Reply Refer To:
FWS/PL

Memorandum

To: Agency Representatives.
From: Fish and Wildlife Service.
Subject: Interagency Agreement Related to Classifications and Inventories of Natual Resources.

Attached is a copy of the amendment to the subject agreement adding the United States Geological Survey as a member.

Attachment.

Interagency Agreement Related to Classification and Inventories of Natural Resources

Effective the date of the last signature hereto the above agreement is amended to include the United States Geological Survey.

Frank Gregg,

Director, Bureau of Land Management.

Dated: October 24, 1978.

R. A. Resler,

Chief Forest Service.

Dated: October 26, 1978.

Lynn A. Greenwalt,

Director, Fish & Wildlife Service.

Dated: October 24,1978.

R. M. Davis,

Administrator Soil Conservotion Service.

Dated: October 25, 1978.

J. R. Balsley,

Acting Director, Geological Survey.

Dated: October 24, 1978.

Memorandum of Understanding Between the Environmental Protection Agency and U.S. Department of the Interior

I. Purpose

This Memorandum of Understanding has been developed in accordance with the provisions of the Interagency Memorandum, of Agreement prescribed in section 304(j)(1) of Pub. L. 92–500, and executed on August 30, 1973, by the Administrator, Environmental Protection Agency (EPA) and the Secretaries of the Army, Agriculture and the Interior. The purpose of this Memorandum is to: coordinate the programs of the U.S. Fish and Wildlife Service, the National Park Service, and the Heritage Conservation and Recreation Service (HCRS) with the water quality management process administered by the Environmental Protection Agency under sections 201, 208, and 303 of the Clean Water Act; facilitate the participation of these Interior Bureaus in the State and local establishment of water quality goals and the development and implementation of State and local programs to achieve those goals; and assure adequate consideration, under the Clean Water Act, of program needs of these Interior Bureaus.

II. Provisions

A. The U.S. Fish and Wildlife Service, National Park Service, and Heritage Conservation and Recreation Service will to the extent resources permit:

1. Establish a central point in the National and Regional Offices to facilitate Bureau involvement in the water quality management planning process, seek to derive Interior program benefits from improved water quality, and coordinate and integrate regional and field program activities with water quality management programs.

2. Participate in State and local review and State revision of water quality standards providing technical assistance and information on the identification of water uses and water quality criteria necessary to protect water uses including outdoor recreation needs, protection and propagation of aquatic life and wildlife, and preservation of natural and cultural resources under the administrative jurisdiction or trustee-ship of the Agency.

3. Participate in the development, implementation, and evaluation of State and areawide water quality management plans, provide appropriate technical assistance and information, and serve on advisory committees where appropriate.

4. Comment to EPA on State adopted water quality standards and state and areawide water quality management plans submitted to EPA for approval.

5. Provide EPA with appropriate technical and other material for inclusion in guidance and other memoranda circulated to EPA Regional Offices and State and areawide agencies.

6. Within 5 months after the effective date of this agreement recommend guidelines to EPA for designating Outstanding National Resource Waters.

7. Within 6 months from the date of publication of mutually approved guidance under E. 12, identify waters under jurisdiction of the Assistant Secretary which should be considered for designation as Outstanding National Resource Waters. Participate in identifying such waters in the State water quality standards review and revision process.

8. Submit a work plan for implementing this agreement within 90 days of the signing of this memorandum and prepare an annual progress report reviewing activities of the previous year under this agreement and updating the work plan.

B. United States Fish and Wildlife Service (FWS)—In addition, the U.S. Fish and Wildlife Service will to the extent resources permit:

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1. Conduct research and provide technical assistance and information on development of water quality criteria.

2. Advise EPA and State and areawide water quality management planning agencies of FWS monitoring results which indicate pollution levels that are detrimental to fish, wildlife, or their habitat.

3. In cooperation with HCRS, develop integrated water quality/water quantity modeling methods and criteria for determining minimum and optimum stream flows and other physical parameters that are necessary for protection of fish and wildlife and recreational objectives.

4. Assist States and areawide water quality management planning agencies as requested in identifying endangered and threatened species and their critical habitats identified pursuant to Pub. L. 93–205 in the planning area which are impacted by water quality. Recommend water quality standards and other water quality management plan provisions to the States and areawide agencies where necessary to protect and enhance such species and habitats. FWS will assist, where appropriate, in the development of those provisions.

5. In waters under FWS jurisdiction, comply with applicable Federal, State, interstate and local requirements including State water quality standards as provided in section 313 of the Clean Water Act.

8. Coordinate FWS activities which affect or concern water quality with appropriate water quality management planning agencies.

7. Take an active role in selected special study projects under the water quality management planning process and FWS programs to:

(a) Identify water quality management planning activities to protect resources of concern to the FWS;

(b) Assist in the development of work plans; and

(c) Participate in the development and implementation of the water quality management planning program in cooperation with local, State and other federal agencies.

8. Encourage State Fish and Wildlife agency involvement in the development, review and revision of water quality standards and development and implementation of water quality management plans.

9. Encourage consideration of public boat ramp and nature trail construction in facilities planning.

10. Consistent with section 208 and related provisions of the Clean Water Act of 1977 and to the extent resources are made available through FWS budget channels:

(a) Complete a National Wetlands Inventory, develop interpretive reports, and make such information available to planning agencies as specified in the Clean Water Act;

(b) Provide technical assistance to EPA Regional Offices and State 208 agencies through training, handbooks, workshops, and direct consultation and advice;

(c) Develop environmental requirements and management techniques for key species in wetlands or riparian habitats.

(d) Develop and demonstrate supplemental nonpoint source Best Management Practices to protect or enhance fish and wildlife resources.

(e) Develop and demonstrate methods and strategies to utilize sewage wastewater for fish and wildlife habitat enhancement.

(f) Initiate research to provide supplemental data on the effects of environmental contaminants on fish and wildlife and their supporting ecosystems from key pollutants listed in Table 1 of the House Committee Print 95–33 (Committee on Public Works and Transportation) and any additional pollutants designated under 307(a).

C. Heritage, Conservation and Recreation Service—In addition, the HCRS will to the extent resources permit:

1. Identify recreation and open space opportunities and methods. Provide general advice concerning the protection of natural and cultural resources.

2. Prepare program guidelines for State and local governments encouraging the use of Land and Water Conservation Fund grants for the development of recreation and open space opportunities in conjunction with existing and planned wastewater treatment works.

3. Coordinate program activities with the water quality management planning and the statewide Comprehensive Outdoor Recreation Plan process to maximize outdoor recreational benefits derived from improved water quality and protect natural and cultural resources.

4. Develop guidance, in coordination with EPA and the FWS, encouraging and assisting State and areawide water quality management planning agencies in enhancing outdoor recreation opportunities and protecting natural and cultural resources. HCRS regional offices will distribute the guidance to park and recreation agencies and encourage those agencies to address outdoor recreation in the water quality management process.

5. Encourage appropriate State and local park, recreation, and natural resource agencies and public constituencies to maximize HCRS program benefits derived from improved water quality and to coordinate with and participate in water quality management planning.

6. Provide EPA with appropriate technical material relating to primary and supplemental public recreational opportunities and protection of natural and cultural resources.

7. Convene, in cooperation with EPA, regional conferences to develop an awareness of the primary and supplemental public recreation opportunities of State and local water quality management planning programs.

8. Encourage through guidance the provision of adequate facilities to accept and treat wastes from watercraft equipped with containment devices.

9. In cooperation with FWS, develop integrated water quality/water quantity modeling methods and criteria for determining minimum and optimum stream flows and other physical parameters that are necessary to achieve viable fish, wildlife and recreational objectives.

10. Participate in the development of State and areawide water quality management plans to assure proper consideration and protection of natural and cultural resources which include properties listed in or eligible for the National Register of Historic Places and the National Register of Natural Landmarks. Assist as requested with water quality management plan implementation.

11. Encourage consideration of public boat ramp and nature trail construction in facilities planning.

D. National Park Service (NPS)—The National Park Service will to the extent resources permit:

1. Assist State and areawide water quality management planning agencies in the review and revision of water quality standards to identify:

(a) Water quality conditions necessary to preserve and protect natural and cultural resources within the National Park System;

(b) Appropriate water uses consistent with the NPS responsibility;

(c) Waters which should be considered for designation as Outstanding National Resource Waters.

2. Participate in the development and implementation of State and areawide water quality management plans as necessary to assure proper consideration and protection of natural and cultural resources within the National Park System.

3. Serve on advisory committees in water quality management planning areas where water quality impacts units of the National Park System.

4. Encourage State natural resource management agency involvement in the review and revision of water quality standards and development and implementation of water quality management plans.

5. Take an active role in select demonstration-type projects under water quality management planning and NPS programs to:

(a) identify water quality management planning programs to protect resources under NPS jurisdiction;

(b) assist in the development of work plans;

(c) participate in the development and implementation of water quality management plans to maintain, restore, and enhance the chemical, physical and biological integrity of waters associated with or affecting the involved units of the National Park System.

6. Comply with State water quality standards in waters within units of the National Park System.

7. Coordinate NPS activities which affect or concern water quality with appropriate water quality management planning agencies.

8. Identify endangered and threatened species and their habitats in units of the National Park System for appropriate State and areawide water quality management planning agencies.

9. Assure that adequate facilities exist in units of the National Park System to accept and treat wastes from watercraft equipped with containment devices.

10. Exercise such other legal authorities and responsibilities as are or may be available to assure the maintenance, restoration, and/or enhancement of existing water quality in units of the National Park System.

E. Environmental Protection Agency—The Environmental Protection Agency will to the extent resources permit:

1. Establish contact points in the National and Regional offices for coordinating the activities under this memorandum.

2. Provide assistance and all necessary information including National guidance to facilitate the timely involvement of Interior Bureaus in the development of water quality management plans. Assist these Interior Bureaus in securing placement on appropriate State and areawide water quality management planning agency mailing lists.

3. Assure that State and areawide water quality management planning agencies actively seek the advice and involvement of these Interior Bureaus and their State and local counterparts in the water quality management planning process including State/EPA Agreement and areawide work program formulation, advisory groups, and development and implementation of water quality management plans.

4. Assure that State and areawide water quality management planning agencies coordinate their activities with the appropriate Interior Bureau activities affecting the planning area.

5. Provide these Interior Bureaus with the opportunity to review and comment on proposed criteria and information developed under sections 304(a) and 403 of the Clean Water Act.

6. Provide these Interior Bureaus with the opportunity to review and comment on proposed regulations, guidance and technical publications under sections 208 and 303 of the Clean Water Act.

7. Respond to Interior Bureau comments transmitted under paragraphs 5 and 6 above.

8. Encourage State and areawide water quality management planning agencies to consider nonstructural solutions to water pollution control problems that will preserve and enhance fish and wildlife habitat, open space and outdoor recreation.

9. Ensure that State water quality standards revisions describe the water quality necessary to meet requirements of the Act, including protection of existing and designated beneficial uses and designated Outstanding National Resource Waters.

10. Assure that State and areawide water quality managment planning agencies consider State Comprehensive Outdoor Recreation Plan (SCORP) priorities and State fish and wildlife plan priorities and Comprehensive Statewide Historic Preservation Plan priorities.

11. Consult with these Interior Bureaus in the development of guidelines identifying open space and recreation opportunities that can be expected to result from improved water quality, the planning of wastewater treatment works, and waste management policies under section 201(f) of the Clean Water Act.

12. Consult with Interior Bureaus for the purpose of developing EPA guidelines for identifying Outstanding National Resource Waters; within 9 months after the effective date of this agreement, issue the mutually approved guidelines for consideration by the States in the development of water quality standards.

13. During the next scheduled (after mutually approved guidelines are published under E. 12) review and revision of Water Quality Standards encourage States to apply the guidelines and consider designating waters identified under A. 7 of this agreement by the Assistant Secretary; encourage States to submit a written justification for failure to designate waters identified under A. 7 as Outstanding National Resource Waters; upon request of the Assistant Secretary, review (in consultation with the Assistant Secretary and the State) the State's action and, in the absence of a State designation, take under consideration the promulation of designations pursuant to Section 303(c)(4) of the Clean Water Act, where appropriate.

14. Provide the Regional Directors of these Interior Bureaus with the opportunity to review and comment on water quality management plans and State water quality standards submitted to the EPA Regional Administrators for review and approval. The EPA Regional Administrators will carefully consider comments submitted by these Interior Bureaus in the EPA review and approval process. Upon request if the Director of FWS, HCRS, or NPS, the Deputy Assistand Administrator for Water Planning and Standards will review unresolved concerns and will seek to resolve them prior to approval. The Assistant Administrator for Water and Waste Management will participate upon request of the Assistant Secretary.

15. Support these Interior Bureaus in obtaining resources to implement the provisions of this agreement.

16. Submit a work plan to the Assistant Secretary for implementing EPA responsibilities under this agreement within 90 days from the signing of this memorandum and prepare an annual progress report reviewing activities of the previous year under this agreement and updating the work plan.

Within five years from the effective date of this agreement, the Deputy Administrator and the Assistant Secretary shall review the effectiveness of this agreement in achieving the stated purposes. If, based upon that review or at any time during the course of implementation of this agreement, either the Deputy Administrator or the Assistant Secretary determines that the memorandum needs modification, the Deputy Administrator and the Assistant Secretary shall within 90 days after official notice negotiate such amendments considered appropriate.

Cecil D. Andrus,

Secretary, U.S. Department of the Interior.

Dated: November 10, 1978.

Douglas M. Costle,

Administrator, U.S. Environmental Protection Agency.

Dated: November 13, 1978.

Memorandum of Agreement Between Environmental Protection Agency and Bureau of Sport Fisheries and Wildlife, Department of the Interior

In accordance with the advice of the President to Congress in his July 9, 1970 Message Relative to Reorganization Plans Nos. 3 and 4, this Agreement takes cognizance of several scientific and technical environmental matters of common concern to the Agency and the Bureau: research, including monitoring and field appraisal, on effects of chemical contaminants (pesticides, PCB's, heavy metals, and other pollutants) on fish and wildlife; questions of pollution and its abatement at Bureau installations; establishment of water quality criteria and standards as these may affect fish and wildlife; chemical contamination in food chains; and the registration of chemicals and drugs. This Agreement recognizes the merit of avoiding duplication and of exchanging information and expertise in the interest of the public service.

The elements of the Agreement are as follows:

1. Research and Monitoring of Environmental Contaminants

The Bureau's four primary centers for research on the effects of environmental pollutants (Laurel, Maryland; Denver, Colorado; Columbia, Missouri; and Ann Arbor, Michigan) will continue and, as possible, broaden efforts at understanding and anticipating the effects of pollutants on survival, reproduction, physiology, behavior, and other factors critical to the well-being and management of fish and wildlife and the conservation of wildlife populations. The Bureau will seek to understand the mode of action, methods of inhibition, and movements through the ecosystem of chemicals and formulations in common or anticipated use.

The Bureau agrees to provide, to the designated offices or officers of the Agency, regularly scheduled data and progress reports based upon current Notifications of Research Projects (NRP's) submitted to the Science Information Exchange of the Smithsonian Institution.

The Bureau will continue to provide to the Agency, on request, all available information and advice that may be helpful in evaluating pollutants or in preparing for hearings. The Bureau will allow employees of the Agency to utilize the Bureau's specialized reprint files and will permit them to photocopy reprints in reasonable numbers on Bureau machines, as available, without charge.

The Agency agrees to provide, to the designated offices or officers of the Bureau, information concerning current or anticipated pesticide or other pollutant problems upon which research would be desirable.

In the interests of efficiency, economy, and avoidance of duplication, the concern of the Bureau and its expertise in research on the effects of pollutants on wildlife and freshwater fish, particularly on effects that are important to conservation, management, and recreational use of fish, wildlife, and associated food organisms and environment, are recognized. The Agency will depend especially heavily on the Bureau for research,

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data, information, and analyses in relation to wildlife.

Both parties agree that the EPA is concerned and has expertise with respect to many environmental areas including effects of pollutants on man and laboratory mammals, effects of pollutants on the aquatic environment, determination of pollutant sources, regulation of pesticides, control of pollutants, studies of air and water quality, and control of air and water quality. The Bureau recognizes that some of these fields do and will require tests with fish.

When the Agency requires research or analyses within the expertise of the Bureau, the Agency may ask the Bureau to undertake this work in its entirety or to participate in Agency research or analysis. The Bureau will make a concerted effort to provide such service, retaining the option for in-house or contract services. The cost of such work will be borne by the requesting party. A similar relationship will prevail when the Bureau requires special work within the expertise of the Agency.

The Bureau has not only the expertise for evaluating the effects of toxicants on fish and wildlife resources, but also the capability to conduct on-site studies by using its own professional field people who are already trained and strategically located throughout the country.

The Bureau will continue to monitor residue levels of organochlorine insecticides, heavy metals, and other contaminants in birds and freshwater fish under the National Pesticide Monitoring Program in cooperation with the Council on Environmental Quality (CEQ). As part of its research and monitoring programs, it will conduct field observations on the effects of pollutants upon fish and wildlife. The Bureau will review all plans involving the proposed use of pesticides on Bureau lands.

The Bureau will make monitoring data available to the Agency as quickly as possible after chemical analyses are completed, assembled, and reviewed. The Agency will consult the Bureau for its views on the interpretation of monitoring data with respect to hazards to fish and wildlife. The Agency needs meaningful data in considering the possible impact of pesticides and other contaminants upon man and other living organisms. The Bureau and the Agency will take such steps as they deem necessary to ensure free exchange of information on a scientist-to-scientist basis, which will benefit both agencies in meeting their responsibilities on environmental matters.

The Agency reserves the right to be the first to release or to publish data resulting from work it has performed or financed independently of the Bureau. The Bureau reserves the same right in respect to work it has performed or financed. Work done jointly by the Agency and the Bureau, or done by one with the financial aid of the other, will be released or published only if agreed to by both parties. If the Agency and the Bureau differ on the advisability of releasing given data that have resulted from joint action, either party may release the data 30 days after giving written notice to the other party. Notwithstanding this agreement, such data may be entered into any statutory or judicial review procedure without the 30 days notice.

2. Federal Aid in Pesticide Programs

Nothing in this Agreement will limit the authority of the States to carry out research, development, and management programs using chemical agents, including herbicides and other pesticides, nor the authority of the Bureau to enter into agreements with the States to finance such programs under Federal Aid in Fish and Wildlife Restoration, and other grant or contractual programs, subject to guidelines published by EPA for Federal agencies or mutually acceptable requirements for specific projects.

3. Pollution Elimination at Bureau Installations

The Bureau recognizes the Agency's expertise in, and its own responsibilities for prevention, control and abatement of environmental pollution at Bureau installations. The Bureau will need the Agency's advice and assistance in interpretation of water quality standards and effluent limitations, review of proposed pollution elimination facilities, and other aspects of wastes and effluents.

In addition, each of the parties to this Agreement will provide for the timely exchange of information which would be of apparent benefit to either agency (for example: new knowledge or new developments in such areas as general water chemistry, hydraulics, monitoring devices, heating or cooling mechanisms, filtering methods or equipment, pumps, and aerators).

4. Provision of Test Fish

The Bureau agrees to provide to the Agency reasonable numbers and available species of fish from its National Fish Hatcheries, as may be required for the Agency's research. Requirements for unusual numbers, species, or sizes of fish will be specified at least 12 months in advance of the time the fish are needed.

5. Registration of Chemicals

The Bureau and its Federal Aid-supported State programs have urgent need for certain chemicals for fish and wildlife management (for example, herbicides for vegetation control in hatchery waters, control agents for pest animals). Bureau research centers and field stations will continue to do research pertinent to the registration and clearance of these chemicals. The Agency agrees to furnish the Bureau prompt authoritative statements from the Agency on minimum requirements for clearance and registration of such materials as the Agency regulates. The Agency agrees to provide guidelines for the research and testing needed to secure clearance and registration; to review research protocols from the Bureau promptly; and to inform the Bureau, upon request, of the status of any particular pesticide or device within the registration process.

The Agency, in its responsibility for registration of pesticidal chemicals, requires expert advice in establishing guidelines and protocols for evaluating the effects of these chemicals on fish and wildlife. The Agency recognizes the experience, responsibility, and interest of the Bureau in this field and may consult the Bureau in the preparation and trial of protocols for laboratory, field, and simulated field tests with fish and wildlife. The Bureau may assist in the evaluation of given tests proposed for inclusion in protocols designed for use with fish and wildlife. The Bureau agrees, within the limits of its resources, to conduct methodological research on this subject as mutually agreed upon; to provide copies of publications and reports on this subject that result from its own research; and on request to provide knowledgeable professionals for membership on panels and task forces.

The Agency recognizes that the Bureau requires much reliable information on pesticides and pollutants in the course of its work, and that the Bureau cannot meet this need by duplicating the vast amount of toxicological work already performed by industry on given chemicals. The Agency will, therefore, release to the Bureau, on request, as much information on given pesticides and other materials as is legally permissible and economically practicable.

6. Water Quality Criteria and Standards

The Bureau recognizes the Agency's responsibility for promulgating water quality criteria, for approving State water quality standards and establishing standards when necessary, and for conducting or sponsoring research that will lead to more effective standards. The Agency recognizes the Bureau's responsibility to conduct research to determine the water quality required for the health and productivity of the fish and wildlife resource. The Agency will consult the Bureau for aid in defining water quality criteria for protection of the fish and wildlife.

In discharging their responsibilities in these areas, the Agency and the Bureau agree to maintain close liaison to avoid needless duplication of research effort; to keep each other apprised of research progress; to be responsive to each other's needs in planning future research; and, when mutually beneficial, to share facilities and equipment, or to collaborate on research programs.

7. Joint Actions

In reviewing plans for federally constructed, permitted, licensed or supported water resource development projects, the Bureau will provide information to the Agency on the water quality criteria and flow regimens necessary for fish and wildlife and the fish and wildlife mitigation or enhancement benefits these will provide. Since these evaluations also will be used in the Bureau report to the sponsoring or licensing agency, any modification of such evaluations in reports of the Agency should be limited to those concurred in by the Bureau.

Each signatory party is obligated to call the attention of the other to needed actions in all areas of common concern. Each will identify for the other the areas in which they are unable to act and will inform the other of activities they are undertaking. When the nominally responsible agency is unable to carry out work in an important area involving fish and wildlife, this Agreement provides for interim cooperative agreements for reassignment of the work, for the transfer of funds, and for loan of equipment and manpower to accomplish the task. In such instances, the transfer of resources will be implemented by a separate interagency agreement which specifically describes the work to be undertaken.

When informed of large losses of fish or wildlife presumably caused by pollution, each agency will promptly inform the other and will state its plans for investigating the situation. These investigations may be made singly or jointly, as each agency deems best in specific cases.

Whenever any ad hoc or standing committee involving both fish and wildlife resources and water quality is established by either agency, the other agency may be invited to nominate a representative to sit on the committee as a regular member.

This Memorandum of Agreement, entered into in good faith for the public good, the mutual benefit of the agreeing agencies, and the promotion of efficiency in Government, may be amended by common consent or terminated in whole or in part after not less than 60 days notice of intention by either party.

Approvals:

For the Environmental Protection Agency.

John R. Quarles, Jr.,

Deputy Administrator, Environmental Protection Agency.

Dated: October 10, 1973.

For the Bureau of Sport Fisheries and Wildlife.

Lynn A. Greenwalt,

Director, Bureau of Sport Fisheries and Wildlife, Department of the Interior.

Dated: January 31, 1974.

Department of Agriculture Soil Conservation Service Water resources Project Type Activities

Channel Modification Guidelines

Agency: Soil Conservation Service (Department of Agriculture) and Fish and Wildlife Service (Department of the Interior).

Action: Notice of Final Guidelines for Use of Channel Modification as a Means of Water Management in water resource project type activities of the Soil Conservation Service (SCS). The guidelines are not intended to have the force of rules or regulations, but are published for the information of the interested public.

Summary: An interdisciplinary team of specialists from the Department of the Interior's Fish and Wildlife Service (FWS) and the Department of Agriculture's Soil Conservation Service has worked cooperatively over the past several months to develop the attached guidelines for channel modification. The guidelines are based on these professional's own experienced judgment, plus the suggestions of many other interested Federal and State agencies, organizations, and individuals whose views were solicited. The heads of both agencies, Lynn A. Greenwalt and R. W. (Mel) Davis, have personally guided this effort and support the guidelines.

For the guidelines to be effective, reasoned judgment will be required among professional planners, biologists, and others. Compromises will need to be negotiated. We expect users of the guidelines to suggest refinements. After a reasonable period of use, we will review their effectiveness and rewrite them if the need is apparent. The guidelines should be studied thoroughly and applied intelligently. In general, they provide that:

1. SCS and FWS will use an interdisciplinary planning process which permits a balancing of the need to both maintain a viable, naturally functioning ecosystem and provide for projected food and fiber, economic, and other social needs.

2. Measures other than channel work will be suggested, analyzed, evaluated, an accepted if channel work will cause measurable habitat losses and if other alternatives will contribute to project objectives with less damaging effects. Channel work normally will be a "last resort" measures.

3. Channel work will not be undertaken when it would destroy or modify critical habitat for endangered or threatened species.

4. Wetland types 3–20 will not purposely drained, and any indirect drainage of these types will be avoided unless appropriate mitigation or compensation is provided. Types 1 and 2 will be evaluated as to their ecological importance and preservation strongly recommended in accordance with provisions in the guidelines.

5. The intent and spirit of the Federal Wild and Scenic River Act and similar State legislation will be respected.

6. Important fish and wildlife habitat values will be maintained or enhanced. Conservation easements or other comparable means will be utilized wherever necessary to provide reasonable protection for wetlands subject to secondary drainage predicted to occur as a result of, or be facilitiated by, channel modification.

Effective date:

For further information contact: Dr. F. Eugene Hester, Associate Director, Environment and Research, U.S. Fish and Wildlife Service (202–343–5715).

Mr. Joseph W. Haas, Assistant Administrator for Water Resources, Soil Conservation Service (202–447–4527).

Supplementary information: On August 8, 1977, the Soil Conservation Service and the Fish and Wildlife Service published in the **Federal Register** (42 FR 40119) proposed guidelines for use of channel modification as a means of water management in water resource project type activities of the Soil Conservation Service. During the 37-day commenting period numerous comments were received from Federal agencies, State agencies, organizations, and individuals. All written comments were given consideration in developing the final guidelines. The full text of all comments received is on file and available for public inspection in: Room 5226, South Agriculture Building, Washington, D.C., Room 849, 1730 K Street, N.W., Washington, D.C.

Accordingly, the following final guidelines are published for information purposes.

Robert L. Herbst,

Assistant Secretary for Fish and Wildlife and Parks, U.S. Department of the Interior.

M. Rupert Cutler,

Assistant Secretary for Conservation, Research, and Education, U.S. Department of Agriculture.

Channel Modification Guidelines

Prepared by U.S. Department of the Interior, Fish and Wildlife Service; U.S. Department of Agriculture, Soil Conservation Service.

Published in the **Federal Register**, Vol. 43, No. 41, Wednesday, March 1, 1978, pp. 8276–8280

Channel Modification Guidelines

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Channel Modification Guidelines

I. Introduction

A. Purpose. These guidelines are promulgated by the Soil Conservation Service (SCS) and the Fish and Wildlife Service (FWS) to guide their personnel in identifying when and where channel modification may be used as a technique for implementing water and related land resource projects. They will be used in the planning of all SCS projects or measures which qualify for either technical, financial, and/or credit assistance under the authorities for flood prevention projects, small watershed projects, and resource conservation and development projects. These program authorities contain provisions for maintaining and enhancing fish and wildlife resources as well as achieving other water management objectives.

B. Policy. It is the policy of SCS and FWS that care and effort will be made to maintain and restore streams, wetlands, and riparian vegetation as functioning parts of a viable ecosystem upon which fish and wildlife resources depend.

It is also the policy of SCS and FWS to use an interdisciplinary planning process which will permit a balancing of the need to maintain a viable, naturally functioning ecosystem and projected food and fiber, economic, and other social needs.

The application of these guidelines, the resource inventory, interpretation, and planning assistance provided by SCS and FWS will ensure identification and consideration of alternatives to channel modification.

C. Applicability. These guidelines become effective as of the date they are approved. They will be applied to: (1) all new planning starts; (2) all projects in the planning phase, unless SCS and FWS agree it is not important

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and feasible to apply the guidelines: (3) all projects approved for construction, (a) when supplements or revisions are prepared which would result in an increase in the amount or type of channel modification which would increase the potential adverse environmental impact; or (b) when SCS and FWS agree that (i) important fish and wildlife habitat is involved and threatened; (ii) project modification is feasible; and (iii) project modification to minimize adverse environmental impact has not been accomplished as a result of reviews mandated by the National Environmental Policy Act or other congressional, Presidential, or Secretarial initiatives.

After the guidelines have been in use for a year or more, their effectiveness will be reviewed, and changes will be made if determined to be necessary. These guidelines may be terminated at the request of either agency.

II. Background

Congress has recognized that erosion, floodwater, and sediment can cause damage in the watersheds of the rivers and streams of the United States. It has found that loss of life and damage to property constitute a menace to the national welfare and that the Federal Government should cooperate with States and their political subdivisions for the purposes of preventing such damages and of furthering the conservation, development, utilization, and disposal of water. In so doing, this action will also preserve, protect, and improve the Nation's land and water resources and the quality of the environment.

Congress has also recognized that rivers and streams, wetlands, and riparian vegetation constitute a valuable resource which is vital to the public interest in naturally functioning ecosystems, water transport, and maintenance of fish and wildlife populations. Dependent upon the situation, wetlands can serve as: (1) natural flood detention areas; (2) sediment and debris traps; (3) water purifiers and in recycling nutrients; (4) groundwater recharge areas; (5) nursery areas for aquatic animal species; (6) important habitats for a wide variety of plant and animal species, some of which have been depleted to the point that their continued existence is endangered; and (7) areas which produce highly valuable crops of timber, fish, and wildlife.

High flows in rivers and streams and periodic overflow have significant value in creating and maintaining meandering channels and in cleansing and redistributing substrates. This action by water provides riffles, pools, or other habitat for fish spawning and rearing and production of aquatic invertebrates. It also provides diverse plant successional areas and other types of shoreline habitat that fulfill fish and wildlife food and cover requirements. However, it is also recognized that many areas adjacent to streams and wetlands are well-suited for and have a long history of agricultural and urban uses.

Channel modification, used in a sensitive manner, is one method that can be utilized in solving specific water management problems. It may be needed to restore a water course impaired or damaged naturally or through man's unwise use or management of adjacent or upstream lands. It may also be needed to provide a safe and health environment and for the maintenance of existing agricultural productivity.

However, channel modification can cause serious damage to fish and wildlife resource values. In addition to the direct impacts on the stream and immediate environs, the practice has, on occasion, led directly or indirectly to major drainage of wetlands, clearing of bottomland forests for intensive agriculture, and increased flooding and siltation in downstream areas. Channel modification for flood control, drainage, and irrigation projects has often resulted in severe conflict with the function of the associated ecosystems, changing or reducing both the variety and abundance of fish and wildlife resources.

Because of the variety of values associated with water, it is incumbent upon the SCS and the FWS to continue to share their technical expertise to help ensure decisions which will result in the maximum benefits to assure long-term agricultural productivity and optimum environmental quality.

III. Guidelines

A. Alternatives. The guidelines for channel modification will be used when formulating alternative plans under the Water Resources Council's Principles and Standards. The planning process will include an inventory of resources, including fish and wildlife habitats and their geographic delineation. It will also identify appropriate means for minimizing adverse impacts on habitat values. Measurement of habitat values will be determined on a case-by-case basis in accordance with habitat evaluation procedures promulgated by FWS and developed jointly with SCS.

Alternative plans will be formulated to: (1) emphasize environmental quality; (2) optimize national economic development; and (3) provide varying mixes of the components of the environmental quality and national economic development objectives. For each alternative plan, there will be a display of accounting of relevant beneficial and adverse effects. A comparison of the displays will identify trade-offs between the environmental quality and economic development objectives. Within this framework and in compliance with the requirements of the National Environmental Policy Act (NEPA), equal consideration will be given to environmental and economic and technical aspects in the decisionmaking process.

In compliance with the mandates of NEPA and the Water Resources Council's Principles and Standards, the FWS will assist the SCS develop, evaluate, and recommend alternatives, if any, to channel modification when it is expected to cause, directly or indirectly, measurable losses of fish and wildlife resources. Channel modifications will not be considered if a practical alternative exists. A practical alternative is one which meets *all* of the following tests: (1) is consistent with the Water Resources Council's Principles and Standards; (2) makes a significant contribution to project objectives; and (3) results in less damage to fish and wildlife habitat. Thus, channel modification will normally emerge as the last resort measure.

The following three broad types of alternatives will be considered singly or in combination:

1. Soil and Water Conservation practices.

2. Nonstructural—nonstructural measures may include, but are not limited to, land use regulation, land acquisition, the maintenance of aquatic areas, floodplain zoning, floodproofing existing buildings, flood forecasting, flood warning, flood hazard information, flood insurance, tax adjustments, emergency assistance, and relocation of properties and people.

3. Structural—structural alternatives to channel modification include, but are not limited to, dams, floodways, dikes, levees (including set back levees), flood walls, pumping plants, diversions, and wetland development, maintenance, and restoration.

B. Types of Channel Modification. Channel modification is defined in these guidelines to include actions such as riprapping, selective snagging, clearing and snagging, widening, deepening, realignment, and lining, listed *generally* in order of ascending impact on fish and wildlife resources.

1. Selective Snagging—The selective removal of obstructions from a channel to increase its capacity to convey water. This includes, but is not limited to, the removal of downed timber and accumulations of debris or obstructions.

2. Clearing and Snagging—The removal of obstructions from the channel and stream banks, including the removal of vegetation and accumulations of bedload material, to increase its capacity to convey water. It may include the removal of sediment bars, drifts, logs, snags, boulders, piling, piers, headwalls, and debris.

3. Riprapping—The placement of irregular permanent material such as rock in critical areas along the watercourse to protect the earth materials against excessive erosive forces.

4. Widening—The overall widening of a channel to restore or increase its capacity to convey water. This usually involves clearing, snagging, and excavation of a portion of the channel side slope(s). Where practical, widening is performed on one side only with appropriate consideration given to alternating from one side to the other.

5. Deepening—The overall deepening of a channel to increase its capacity to convey water and/or provide drainage. Deepening usually involves clearing or snagging and excavation of a portion of the channel bottom and the channel side slope(s).

6. Realignment—The construction of a new channel or a new alignment and may involve the clearing, snagging, widening, and/or deepening of the existing channel where the new alignment coincides with the existing channel. It may include straightening the alignment to restore or increase the capacity of the channel to convey water.

7. Lining—Placement of a nonvegetative protective lining over all or part of the perimeter of a channel to prevent erosion or

to increase the capacity of the channel to convey or conserve water.

C. Channel Modification as an Alternative. The following criteria will be utilized in the planning process for determining when channel modification can be considered an alternative. It used, channel modification will be the minimum required, either alone or in combination with other measures. It will be accomplished using the least damaging construction techniques and equipment in order to retain as much of the existing characteristics of the channel and riparian habitat as possible. Construction practices may include, but are not limited to, such things as seasonal construction, minimum clearing, reshaping spoil, limiting excavation to one bank (on alternating sides where appropriate), and prompt revegetation of disturbed areas.

Channel modification may be considered as an alternative for project purposes for which the SCS is currently authorized by law and which are in conformance with agency (SCS) policy and regulations, provided the modification is designed to resolve specific problems and *would not cause* directly or indirectly any of the following to occur:

1. Jeopardize the continued existence of endangered species and threatened species designated or formally proposed [1] by the destruction or modification of habitat of such species which is determined to be critical under the Endangered Species Act of 1973 or species similarly classified under law of the State(s) in which the project is located.

2. Result in restricted access to use of streams or stream segments developed specifically for recreation or fish and wildlife use by the general public.

3. The intent or purpose is to drain or otherwise alter wetland types 3 through 20,** or the result of the modification would be to indirectly alter wetlands types 3 through 20 and provisions for appropriate mitigation or compensation by establishment of similar habitat values in the project area are not provided. Wetland types 1 and 2 with important fish and wildlife habitat values will be treated in accordance with item 3 below, and their preservation will be strongly recommended when they are adjacent to types 3 through 20 or are needed to maintain a balanced aquatic or semi-aquatic ecosystem.

Also, channel modification will not be considered as an alternative unless it can be accomplished with little or no direct or indirect adverse*** effect on:

1. Stream or stream segments now designated or undergoing study under the Wild and Scenic Rivers Act or officially designated pursuant to other Federal or State(s) legislative actions for their important natural, esthetic, or recreational values.

2. Streams located in or flowing through or contiguous to established wilderness areas, parks, refuges, or other areas set aside pursuant to Federal or State(s) legislative actions for fish and wildlife esthetic or recreational values.

3. Important fish and wildlife habitat values, including riparian habitat, in the project impact area, State, or Nation after providing for all appropriate mitigation, compensation, or preservation measures. Conservation easements or other comparable means will be utilized wherever necessary to provide reasonable life of project protection for wetlands or riparian areas subject to secondary drainage predicted to occur as a result of, or be facilitated by, channel modification. (Measurement of habitat values will be determined on a case-by-case basis in accordance with habitat evaluation procedures to be promulgated by FWS and developed jointly with SCS.)

IV. Coordination and Interaction

The FWS and the SCS recognize that the application of the above guidelines can most effectively be accomplished through cooperative effort during all planning phases of a water resource project. The FMS and the SCS will work cooperatively with State fish and wildlife agencies to inventory and assess the fish and wildlife resources and to plan alternatives, enhancements, replacement, or necessary mitigation measures.

The level of effort to be devoted by FWS to each watershed project will be proportional to the value of the resources and expected impact on fish and wildlife resources. If FWS determines at any stage of planning that it cannot, for any reason, participate, it will so notify SCS in writing stating reasons for discontinued participation. Even though FWS discontinues participation in planning, they will eventually, as prescribed by law, become involved with reviewing and commenting on the watershed plan. In such instances, FWS will not oppose the project plan on the basis of channel modifications unless it is clearly evident that the plan is not in conformance with the provisions of these guidelines after consultation with SCS determining this to be the case.

The following procedures will be used in the planning of water resource projects. The coordination identified is between the field levels of FWS and SCS; however, *both agencies recognize that planning will always involve State fish and wildlife agencies as well as the interested public and sponsoring agencies at all stages througout the planning process.*

[1] Applicable only during a 6-month period immediately following the date a proposal is published in the Federal Register by FWS in compliance with the Endangered Species Conservation Act of 1973.

** Wetland types as described in FWS Circular #39 or subsequent publications.

*** Rule of reason must be used in applying these guidelines and determining the actual net effects and their significance at the field level considering the value of the resource and importance of the project objectives.

Coordination of Field Level Planning [1]

Process	SCS action	FWS action
Preapplication	Potential application under consideration. Notifies FWS that potential application is being considered and issued invitation to meetings.	Participate in meetings.
	Assists sponsors in developing information when appropriate. (Normally requires from one to several days.) Request from FWS available fish and wildlife information and viewpoints concerning potentials for and impacts of a probable project.	Furnishes available information and FWS viewpoint concerning potentials for and impacts of a probable project. If requested, participates jointly with SCS and State fish and wildlife agency studies needed and reports findings as may be required. (Field level letter.)
Application	Receives application. Notifies FWS in writing that application has been received and when field examination is to begin. Issues invitation to FWS to participate in all meetings and in study and evaluation of available information. (Field examination may require a few days to several weeks.).	Participates in meetings.
	Initiates field examination and assembles available information, coordinates study and evaluation of available information and data. Begins environmental assessment.	Participates in field examination. Assembles and furnishes available fish and wildlife information and data. Participates in study and evaluation of available information and data and in identification of problems and study needs and potential solutions worthy of further study.
	Identifies problems and needs, potential solutions, and broad alternatives worthy of further study. Request FWS to work cooperatively with SCS and State fish and wildlife agency in any special studies required in this step.	Works cooperatively with SCS and State fish and wildlife agency in any special studies required and in preparing an appropriate report.
	Prepares field examination report (includes pertinent fish and wildlife information from FWS) and provides copy to FWS.	Provides inputs (letter report) for the field examination report.
	Requests FWS to participate in developing a plan of study. Prepares the study plan.	Participates with SCS in developing a plan of study. FWS will advise as to scope and detail of specific studies needed, capability of FWS to perform studies, and its desire to participate in design of any contracts to secure necessary information.
	Requests planning authority (submits views of FWS with request for planning authorization).	

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Coordination of Field Level Planning [1]—Continued

Process	SCS action	FWS action
Planning	Receives notice of planning authorization. Notifies FWS in writing. Initiates and coordinates Preliminary Investigation (PI) and continues environmental assessment. Notifies FWS in writing. (PI may require from several weeks to 2 years.).	Participates in meetings and preparation of joint FWS–State fish and wildlife agency-SCS fish and wildlife inventory, assessment, base line data, and report.
	SCS initiates preparation of PI report and update of the study plan. Requests FWS participation in PI and update of plan of study.	Furnishes additional inputs to problems, needs, alternatives and impacts as the PI process progresses and jointly makes recommendations for mitigation, compensation, and enhancement. Furnishes inputs for the PI report and updating of study plan.
	Sends PI report to FWS and others	Participates with SCS to review the PI report with the public.
Detailed Planning	Coordinates the detailed planning stage and continuation of the environmental assessment. Notifies FWS that detailed planning is to commence and issues invitation to participate in detailed planning and in meetings.	Participates with SCS and others in detailed planning of alternatives and the components. Works cooperatively with State fish and wildlife agency and SCS to formulate the alternatives and to assess fish and wildlife impacts. Works cooperatively with SCS and State in preparation of recommendations for mitigation, compensation, and enhancement for initial draft plan and, when prepared, an EIS. Participates in meetings. Provides detailed report in accordance with Fish and Wildlife Coordination Act and Section 12 of P.L. 83–566.
	Prepares initial draft plan and, when required, an EIS. Initiates local field review and issues an invitation to FWS to participate in this review. Provides FWS with initial draft plan and an EIS, if prepared.	Provides review comments on initial draft and participates in local field review.
Review (Formal)	Prepares a draft plan and EIS, if required, and circulates for interagency review.	Provides comments to Interior and works with SCS in an attempt to resolve issues, if warranted.
	SCS prepares final plan and EIS, if required. Forwards plan and EIS through system for approval and authorization.	Review plan and EIS according to FWS and Interior instructions.
Operations	Receives notice of authorization for installation. Notifies FWS. (Regional and area offices.) Prepares construction plans and invites FWS to review them.	Reviews pertinent construction plans.
	Notifies FWS of supplement when the channel modification guidelines are applicable. (See page 2.) Prepares supplemental plans when necessary and circulates for local field review.	Participates in formulating supplemental plan when the channel modification guidelines are applicable. Same involvement as in planning and provides inputs for supplemental plan. Also provides comments on supplemental plan when circulated for local field review.
	Forwards supplemental plan for approval. Provides FWS copy of supplemental plan.	
Maintenance	Advises FWS and State fish and wildlife agency of scheduled maintenance inspections during the life of the project.	Participates in maintenance inspections at FWS discretion. If appropriate, makes recommendations for changes in O&M agreement if necessary to ensure that proper maintenance is accomplished.

[1] All steps apply to planning for small watershed projects. Appropriate steps will be followed for P.L. 78–534 and Resource Conservation and Development measures planning.

NOTES.—1. SCS notifies FWS when planning is suspended, project action terminated, or other stop actions are taken.

2. The level of effort to be devoted by the FWS to each watershed project will be proportional to the value of the resources and expected impact on fish and wildlife resources. If FWS determines at any stage of planning that it cannot, for any reason, participate, it will so notify SCS in writing stating reasons for discontinued participation.

V. Resolution of Issues

General. It is recognized that issues may develop which cannot be resolved at the field level. When issues arise, it will be the practice of the FWS and the SCS to refer such cases and issues to the next higher respective administrative level for resolution and ultimately, if necessary, to the Secretaries of Agriculture and Interior. The Secretary of Agriculture will seek the advice and counsel of the Secretary of the Interior in reaching his decision. Consultation between the two agencies will, at each level, occur throughout the decision process.

Procedure. 1. Most of the problems in applying the guidelines will be identified at the field planning level. When this occurs, the SCS Planning Staff Leader will consult directly with the FWS Field Supervisor (Ecological Services) and attempt to resolve the issue.

2. Should the SCS Planning Staff Leader and the FWS Area of Field Supervisor be unable to reach agreement, the issue should be referred and coordinated as follows:

USDA in Consultation With USDI

State Conservationist, SCS	Regional Director and/or Area Manager, FWS as appropriate
Administrator, SCS	Director, FWS
Assistant Secretary for Conservation, Research and Education	Assistant Secretary for Fish and Wildlife and Parks
Secretary of Agriculture	Secretary of the Interior

The decision on whether channel modification will be part of a project plan shall rest with the Secretary of Agriculture. If disagreement still exists at the Secretary's level, the FWS views and recommendations will be appended to the project plan.

At all levels in the decision process, the desires and needs of the local sponsors, environmental groups, State and Federal agencies, and interested public will be taken fully into account.

Dated: February 21, 1978.

Lynn A. Greenwalt,

Director, Fish and Wildlife Service.

February 22, 1978.

R. M. Davis,

Administrator, Soil Conservation Service.

Water Project Planning and Analysis, Federal Interagency Agreements, 2.541c

Joint Policy of the Departments of the Interior and of the Army Relative to Reservoir Project Lands

Acquisition of lands for reservoir projects. In so far as permitted by law, it is the policy of the Departments of the Interior and of the Army to acquire, as a part of reservoir project construction, adequate interest in lands necessary for the realization of optimum values for all purposes including additional land areas to assure full realization of optimum present and future outdoor recreational and fish and wildlife potentials of each reservoir.

1. *Lands for reservoir construction and operation.* The fee title will be acquired to the following:

a. Lands necessary for permanent structures.

b. Lands below the maximum flowage line of the reservoir including lands below a selected freeboard where necessary to safeguard against the effects of saturation, wave action, and bank erosion and to permit induced surcharge operation.

c. Lands needed to provide for public access to the maximum flowage line as described in paragraph 1b, or for operation and maintenance of the project.

2. *Additional lands for correlative purposes.* The fee title will be acquired for the following:

a. Such lands as are needed to meet present and future requirements for fish and wildlife as determined pursuant to the Fish and Wildlife Coordination Act.

b. Such lands as are needed to meet present and future public requirements for outdoor recreation, as may be authorized by Congress.

3. *Easements* in lieu of fee title may be taken only for lands that meet all of the following conditions:

a. Lands lying above the storage pool.

b. Lands in remote portions of the project area.

c. Lands determined to be of no substantial value for protection or enhancement of fish and wildlife resources, or for public outdoor recreation.

d. It is to the financial advantage of the Government to take easements in lieu of fee title.

4. *Blocking out.* Blocking out will be accomplished in accordance with sound real estate practices, for example, on minor sectional subdivision lines; and normally, land will not be acquired to avoid severance damage if the owner will waive such damage.

5. *Mineral rights.* Mineral, oil and gas rights will not be acquired except where the development thereof would interfere with project purposes, but mineral rights not acquired will be subordinated to the Government's right to regulate their development in a manner that will not interfere with the primary purposes of the project, including public access.

6. *Buildings.* Buildings for human occupancy as well as other structures which would interfere with the operation of the project for any project purpose will be prohibited on reservoir project lands.

This joint agreement will be published in the **Federal Register.**

Approved: February 16, 1962.

Stewart L. Udall,

Secretary of the Interior.

Stephen Ailes,

Acting Secretary of the Army

February 19, 1962.

Appendix—Part A–26—Broad Liaison and Coordination

Exhibit 1—Agreement Between Fish and Wildlife Service and Corps of Engineers, August 20, 1954, A–26.1

This agreement is entered into for the purpose of promoting sound planning on fish and wildlife matters related to river basin projects of the Corps of Engineers. The agreement is designed to cover the application of the Coordination Act of August 14, 1946 (60 Stat. 1080), to these projects for the guidance of all personnel in the Corps of Engineers and the Fish and Wildlife Service.

Recommendations of the Fish and Wildlife Service

1. Recommendations of the Fish and Wildlife Service shall be as specific as is practicable as to purpose, lands to be utilized or acquired, costs, and results expected, and insofar as feasible shall be presented to the public and to State agencies for coordination. If necessary, supplementary hearings shall be held jointly by the Fish and Wildlife Service and by the Corps for this purpose. Costs of carrying out the recommendations of the Fish and Wildlife Service shall be estimated by the Corps except for recommendations involving facilities for fish and wildlife which are separable from other project features.

2. The District Engineer shall incorporate in the body of his signed report the substance of the report of the Fish and Wildlife Service. Findings of the Fish and Wildlife Service shall indicate both gains and losses to fish and wildlife, including sport fishing opportunities, expected to result from Corps of Engineers' reservoirs.

3. The District Engineer shall incorporate in the body of his signed report language specifically accepting each of the recommendations in the report of the Fish and Wildlife Service (including recommendations for land acquisition) * which are considered satisfactory to him. If any of the Service's recommendations are not acceptable, the District Engineer shall incorporate in the body of his signed report his reasons for considering them unacceptable. If any recommendations are not specific, it is understood that the District Engineer's opinion can be given only tentatively, subject to definite project studies after authorization. The Corps of Engineers cannot recommend substantial remedial measures for wildlife losses, except with an estimate of cost, or with the understanding that the additional cost will be nominal.

4. For reports prepared by District Engineers prior to this agreement, but not transmitted to the Congress by the Secretary of the Army, the signed report or supplemental report of the Chief of Engineers shall deal with recommendations of the Fish and Wildlife Service in the manner specified in 2 and 3 above for reports of the District Engineer.

5. The report of the Fish and Wildlife Service shall be incorporated in full in the appendix of the report of the Corps of Engineers.

Statement of Project Purposes

6. Where the effects of a project on fish and wildlife resources are significant, the report of the Corps of Engineers on that project shall include fish and wildlife conservation as one of the purposes of the project. Recommendations for fish and wildlife conservation shall be consistent with current standards and procedures established by the Bureau of the Budget for including such improvements in water resource development programs.

General Plans

7. General plans, as specified in Section 3 of the Coordination Act (60 Stat. 1080) shall be developed jointly by the Corps of Engineers, the Fish and Wildlife Service, and the appropriate State agency for all project lands and waters where management for fish and wildlife purposes is proposed. The parties hereto will endeavor to see that a general plan agreement is entered into by the three parties in all such cases, irrespective of whether the lands and waters have particular value in carrying out the national migratory bird management program.

* The project authorization and general authorities available to the Corps of Engineers including the Coordination Act (60 Stat. 1080) allow the submission of requests by the Corps of Engineers to Congress for additional funds for fish and wildlife conservation on previously authorized projects, but do not give statutory authority to construction agencies either for (a) acquisition of additional land for replacement of habitat or as compensation for fish and wildlife damage caused by a project or for (b) major changes in project scope, cost or purpose, unless the project document, the authorizing legislation, or other legislation, provide specific statutory authority.

8. Standard procedures for development of general plans shall be developed jointly by the Office of the Chief of Engineers and the Fish and Wildlife Service, and copies of such procedures will be made available to all field offices of both agencies. It is agreed that every endeavor will be made to develop such procedures by not later than 1 December 1954. This plan shall be referred to as the General Plan for Fish and Wildlife Management to avoid confusion with other types of reservoir plans.

Leases of Project Lands

9. Leases of project lands by the Corps of Engineers for agricultural purposes shall specify that these lands shall be open to public hunting and fishing in accordance with applicable State and Federal laws, provided that a lessee may request permission to post such lands, giving his reasons in detail. Such a request will be considered jointly by the Corps of Engineers, the Fish and Wildlife Service and the appropriate State fish and game agency before being acted upon by the Corps of Engineers.

Approved: August 6, 1954.

John L. Farley,

Director, Fish and Wildlife Service.

Approved: August 6, 1954.

Ralph A. Tudor,

Acting Secretary of the Interior.

Approved: August 12, 1954.

S. D. Sturgis,

Chief of Engineers.

Approved: August 20, 1954.

Robert T. Stevens,

Secretary of the Army.

Memorandum of Understanding

With Regard to Procedures for Cooperation Between the Atomic Energy Commission and the Department of the Interior Pertaining to Location and Operation of Proposed Nuclear Installations Subject to Licensing and Regulation by the Commission

(1) Desiring that information and technical capabilities possessed by the Department may be put at the disposal of the Commission to assist it in discharging its licensing and regulatory responsibilities to protect health and safety of the public, the two signatory Agencies hereby agree to follow procedures whereby: in response to Commission requests, information and assistance within the scope of the Department's special capabilities will be made available to the Commission's Director of Regulation.

(2) As new studies, investigations of consultations are desired by the Commmission, in connection with its licensing and regulatory functions, the Commission's Director of Regulation will proceed to arrange for the desired cooperation by the appropriate Service, Bureau, or Office (henceforth in this Memorandum the term "Bureau" is understood also to apply to Departmental units called "Service" or "Office") of the Department in the following manner.

(3) The Director of Regulation will advise the Director of such Bureau of specific sites

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or areas for which information, studies, or other technical assistance are needed. The Director of regulation, in Coordination with the Bureau, will develop the scope of information, study, or survey desired.

(4) The Director of Regulaton will provide to the Bureau all pertinent available reports, documents, and other information relating to such sites or areas. The Director of Regulation will also arrange with applicants or licensees for access by authorized personnel of the Bureau to sites, excavations, drill samples, etc., as may be necessary for the work to be performed .

(5) Staff consultation between the staffs of the Director of Regulation and of the Bureau will be held at suitable times and places as work proceeds. From time to time, the Director of Regulation may request the Bureau personnel to participate in informal staff conferences and technical discussions with the applicant or licensee and with the Advisory Committee on Reactor Safeguards. Bureau personnel may also be asked to present formal testimony at public hearings.

(6) The Bureau will prepare such reports on the work under this arrangement as may be mutually agreed upon. These may in different cases consist of preliminary surveys, memoranda, or formal reports for public release.

(7) The timing of public release of material prepared for publication by a Bureau in accordance with this procedure will be determined by the Director of Regulation after consultation with the Bureau Director, or his designated representative. Normally such releases will by made at the same time that the Commission's "Hazards Analysis" and other consultant reports are distributed to the press and the public.

(8) It is understood that the Bureau will be reimbursed for costs incurred in connection with services preformed hereunder in accordance with existing or future agreements between the Bureau and the Commission.

Dated: March 27, 1964.

Approved:

Gleen T. Seaborg,

Choirman, Atomic Energy Commission.

Dated: March 20, 1964.

Approved:

Stewart L. Udall,

Secretary of the Interior.

WO–54—Section 304(j) of the Federal Water Pollution Control Act Amendments of 1972 (Pub. L. 92–500) Agreement of September 25, 1973, Involving Policy and Guidelines for Coordination Between Federal Water Programs and Section 208 Areawide Programs

Agreement Between the Departments of Interior, Agriculture, the Army, and the Environmental Protection Agency

Purpose. Section 304(j) of Pub. L. 92–500 states that the Administrator of the Environmental Protection Agency, hereinafter identified as the Administrator, shall enter into agreements with the Secretary of Agriculture, the Secretary of the Army and the Secretary of the Interior to provide for maximum utilization of the appropriate programs authorized under other Federal laws to be carried out by such Secretaries for the purpose of achieving and maintaining water quality through appropriate implementation of plans approved under Section 208 of this Act. It is understood that other agreements may be developed between the Administrator and the individual Secretaries delineating areas of mutual interest and specific agency responsibilities under this and other statutory authorities.

Goal. The goal of this Agreement is to implement the intent of Congress as expressed in Section 304(j).

Planning assistance. In each planning area under Section 208(a)(2) the Environmental Protection Agency will, as a condition of the grant proposal under Section 208(f)(3), require that the planning agency provide for the creation of an advisory committee and invite the Departments of Agriculture, Army and the Interior to participate by designating representation. Each Department may or may not participate as it deems appropriate. Participation by these Departments will serve as a means of providing for the experience and programs of the individual Departments to be made available, as resources permit, to assist the areawide planning agency in plan development and to assure that relevant Federal and State agency programs and the areawide plan are compatible.

Implementation assistance. The Departments of Agriculture, Army and the Interior have various authorized programs that can implement portions of plans approved under Section 208. These programs extend to both private and Federal land ownership. These programs shall be utilized to the degree that resources may be available through the agency programs, or be made available supplementally through Section 304(j) to achieve and maintain water quality as provided for in plans developed under Section 208. The Environmental Protection Agency will coordinate with the appropriate Secretary or Secretaries to insure that their individual programs supplement and complement the implementation of approved Section 208 plans. Where feasible the Secretaries of Agriculture, Army and the Interior, or their representatives may enter into collective or individual agreements with the waste treatment management agencies designated under Section 208(c) to implement provisions of the approved plan.

Fund transfer. The Administrator is authorized to supplement from funds available under Section 304(j)(3) any otherwise appropriated funds available to Agriculture, Army and/or the Interior to carry out programs provided for in approved Section 208 plans. The Administrator shall trnasfer funds to the Secretaries for individual program accelerations and/or modifications. Program accelerations and modifications will be conditioned upon implementation needs set forth in the approved Section 208 plans. Arrangements for transfer of funds from the Environmental Protection Agency which may be appropriated under Section 304(j)(2) will be developed as an amendment to this Agreement at the time areawide plans are available for implementation.

Effective date. This Agreement will be effective on signature of the parties. The parties to this Agreement are the Administrator of the Environmental Protection Agency and the Secretaries of Agriculture, Army and the Interior.

Conditions. Nothing in this Agreement for implementation of Section 304(j) is to be construed as intending to limit the activities of the Secretaries to only Section 208 activities nor to relinquish any of the authorities and responsibilities granted to the Secretaries in the Federal Water Pollution Control Act Amendments of 1972. Failure of the Administrator to act under the authority of Section 304(j)(2) will not be construed as affecting, other than by non-receipt of supplemental funds, the programs of the Departments of Agriculture, Army, or the Interior.

Amendments of this Agreement will be possible by mutual consent of all parties signatory to this document. Such amendments may be initiated by any signatory to the Agreement.

Dated: September 18, 1973.

Earl L. Butz,

Secretary of Agriculture.

Dated: September 7, 1973.

Howard H. Callaway,

Secretary of the Army.

Dated: September 25, 1973.

John C. Whitaker,

Secretary of the Interior (Acting).

Dated: August 30, 1973.

John Quarles,

Administrator, Environmental Protection Agency (Acting).

WO–79—Memorandum of Understanding Between the Department of the Interior and the Energy Research and Development Administration Regarding Establishment of Program Coordination and Implementation

I. Background

The Department of the Interior (DOI) has by law responsibilities for the conservation and management of natural resources in the United States, including 500 million acres of Federal land, the Outer Continental Shelf lands, Indian lands, the territories, and the Trust territories of the Pacific Islands; for the research and investigation necessary to understand and develop energy, minerals, and water resources of the United States; for the health and safety of persons engaged in mining and extraction; and for the protection of fish and wildlife.

The Energy Research and Development Administration (ERDA) has by law responsibilities for planning and developing a vigorous, environmentally sound, national program in energy research and development. in the exercise of its responsibilities, ERDA is directed to utilize the technical and management capabilities of other Federal agencies.

II. Purpose

The purpose of this Memorandum of Understanding is to establish a policy of cooperation between DOI and ERDA, to describe the general conditions under which cooperative efforts will be formulated, and to outline overall management approaches and procedures that will govern program coordination and implementation.

This Memorandum of Understanding does not apply to ERDA National Security programs, including Naval Reactors and related activities.

III. Policy

It is the policy of the two agencies that they will work together in mutually supporting ways in the formulation and execution of programs (and projects) that contribute to the national effort for the development and utilization of energy resources. it is agreed that this policy of cooperation will be implemented in ways which utilize the existing capabilities and facilities of each agency to the greatest possible extent, either in making these resources available to each other or for the joint planning and execution of activities. Specifically, the agencies will coordinate their activities in the following areas, where each agency has closely related responsibilities and interests, and will not undertake programs in those areas without prior notification of that agency.

1. Technology, Research and Development, and Basic Sciences. ERDA's responsibilities include the development of technology for the enhanced recovery, conversion, utilization, and conservation of fossil fuels; for increased utilization of solar energy; for nuclear fusion; for the utilization of geothermal energy; for expanding the development and utilization of nuclear power; for reliable and efficient electric power transmission and distribution systems; and for programs in the areas of basic science research as well as environmental and health research. ERDA is also responsible for the development of technology necessary for optimal integration of supply technologies into the energy system, and the development of technologies directed toward conserving energy resources and improving end-use efficiencies.

DOI's scientific and technological programs include resource and reserves assessment and the delineation of areas and geologic environments favorable for the occurrence of energy resources; improving mining and drilling technology, both for economical and efficient recovery and for mine health and safety; metallurgical research; development of coal preparation technology; exploration R&D; mined land rehabilitation and restoration; research on the ecological impact of energy development and on means of minimizing environmental damage; definition of geological and hydrologic processes that relate to the storage and disposal of radioactive waste; the development of criteria and knowledge for the safe siting of nuclear power plants; and geothermal and pumped-storage research.

Both agencies have responsibility for developing technology for the more efficient utilization of electrical power.

2. Federal Land Management. DOI has responsibility for the planning, management, and/or trusteeship of the Public Land, the National Park System, the National Wildlife Refuge System, certain other reservations and withdrawals from public lands, the Outer Continental Shelf, acquired lands and Indian lands, and the Federal Mineral Estate. ERDA's programs for energy research, development; and demonstration affect the utilization of various Federal lands for which the DOI is responsible through: (1) the use of these lands by ERDA for demonstration plants and other activities which need to be considered early in the process of preparing multiframework plans and (2) the impact that ERDA's efforts, to further the development of alternative forms of energy, will have on DOI programs for leasing energy resources.

3. Environmental Coordination. Both agencies are responsible for developing methods to enumerate the environmental consequences of major energy developments, for preparing Environmental Impact Statements on major Federal actions, and for proposing solutions to mitigate undesirable environmental consequences. Both agencies also serve as major reviewers of EIS statements, particularly EIS statements on major Federal actions involving the development of energy resources and/or technologies. In addition, Interior has responsibility for commenting on the impact of Federally-assisted and Federally-permitted water and related land resource development projects on fish and wildlife resources and for recommending means of minimizing these impacts.

4. Energy Supply and Demand. DOI has broad responsibility for identifying, inventorying, and assessing fuels and energy resources and reserves and estimating both long- and short-range fuel and energy demands, supplies, and constraints, and for developing supply expansion programs pursuant to the Mineral Leasing Acts, the Defense Production Act, and other legislation, ERDA's responsibilities include formulating energy supply and demand assessments, developing energy supply strategies and plans, and pursuing technological developments to solve the Nation's energy problems.

5. Energy Conservation. DOI has programs for enhanced recovery of energy resources, more efficient utilization, reduced energy requirements, and substitution of energy minerals. DOI also has responsibility for electrical research, development, experimentation, tests, and investigation related to construction, operation, and maintenance of transmission systems and facilities. ERDA's energy conservation programs include research, development and demonstration of more efficient use of both existing and new sources of energy in industry, buildings, transportation, and the generation of electricity, together with more efficient storage, transmission, and distribution of energy.

6. Water for Energy. The Nation's water resources are becoming an increasingly important constraint in the development of alternate energy sources. ERDA must appraise present and future water demands for energy technology and help coordinate and balance them with competing uses. DOI provides basic national data on water supply and quality as well as assuming the basic responsibility for developing water projects for the generation of hydroelectric power and to supply water for agricultural, industrial, and municipal uses in the West. DOI also is responsible for assuring that biotic resources including fish and wildlife receive appropriate consideration in all Federal water resource development projects and activities.

IV. Policy Management and Review

A. Once each year, the Secretary of the Interior and the Administrator of ERDA will meet to review the scope and progress of activities covered by this Memorandum of Understanding and any associated Interagency Agreements.

B. To provide liaison, policy guidance, and management review of activities coming within the purview of this Memorandum of Understanding, the Secretary of the Interior and the Administrator, ERDA, will each name his respective cochairman of an Interior-ERDA Steering Group. Other members of the Steering Group will be chosen by the cochairmen and will normally be Assistant Secretaries (Assistant Administrators/ Bureau Heads/or Division Chiefs). The Steering Group will meet as necessary, but at least quarterly with the cochairmen present.

C. The cochairmen of the Steering Group will name working committees and make assignments to them, including the study and recommendations of the respective roles and responsibilities of each agency in specific areas of work. The recommendation of these working committees will be subject to approval of the cochairmen of the Steering Group.

D. Each year before finalizing and prior to submission of the agency budgets to OMB, both DOI and ERDA will review each others' budget and submit comments or recommendations for modifications based on the related programs of the two agencies. The Steering Group will establish procedures for this budget coordination.

E. DOI and ERDA will coordinate their activities related to State interests in energy development in such areas as notifying Governors of current and future programs, answering State inquiries, and requesting State assistance and cooperation in energy planning and implementation. The Steering Group will establish procedures for such coordination.

V. Communicotions and Documentotion

A. None of the provisions of this Memorandum of Understanding are intended to preclude, inhibit, or substitute for regular and direct communications between DOI and ERDA program officials involved in managing cooperative or related work activities.

B. Under the cognizance of the cochairmen of the Steering Group, DOI and ERDA program officials are encouraged to develop Interagency Agreements to govern the initiating and implementing of large or major programs to be carried out under this Memorandum of Understanding. These

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Agreements will provide operational and management guidelines and specify the reporting requirements.

C. In other cases, program plans with appropriate detail will serve as program documentation and will set forth the specific arrangements under which implementation will take place. Such plans will set forth necessary arrangements and procedures for handling various levels of decisions. Such management arrangements will clearly set forth the decision and delegation levels considered appropriate for each cooperative program and will clearly describe the management and reporting coordination processes between DOI and ERDA.

VI. General Guidelines

Under the cognizance of the Steering Group the current programs in the areas outlined in Section III will be jointly reviewed on the basis of priorities identified by the Steering Group. The review will include program definition and objectives, responsibilities, and support arrangements. Where necessary, the Steering Group may request that the agencies modify existing plans and operations to effect better coordination and cooperation. For the areas outlined in Section III, the Steering Group will review new or proposed programs to determine where joint planning is necessary. For these programs, the Steering Group, on behalf of the agencies, will:

1. Establish the scope, objectives, and relative priority of new programs.

2. Determine the contribution each agency can make to the successful completion of each such program and will specity the necessary support.

3. Establish the lead agency for each program. This determination will be based on factors including the origin and history of the statutory authority and funding, and the skills and experience needed. Duplication and overlap will be avoided. It is recognized that lead agency responsibility may shift as a program develops.

VII. Program Funding

The details of the levels of funding to be provided by the agencies with respect to approved programs will be set forth in specific Interagency Agreements. Following such agreements, DOI and ERDA will provide mutual support in budget justification and hearings before OMB and Congress with respect to programs on which the agencies have reached agreement.

VIII. Procurement Policy

Program activities undertaken by DOI for ERDA or vice versa under the provisions of this Memorandum of Understanding may involve contractual arrangements with non-government entities, organizations, or institutions. When such arrangements are necessary, they shall be conducted in a manner consistent with the policy, regulations, and procedures of the contracting agency.

IX. Public Information Coordinotion

Timely release of information to the public regarding program jointly implemented under this Memorandum of Understanding will be by mutual agreement of the cochairman of the Steering Group or their designees.

X. Amendment and Termination

A. This Memorandum of Understanding may be modified or amended, by written agreement between DOI and ERDA.

B. This Memorandum of Understanding may be terminated by written notification of either party.

XI. Effective Date

This Memorandum of Understanding is effective when signed by both agencies.

Dated: September 15, 1976.

Thomas S. Kleppe,

Secretary.

Dated: September 15, 1976.

Robert C. Seamans, Jr.,

Administrator.

Memorandum of Understanding Between Bureau of Land Management and the Fish and Wildlife Service, Interagency Committee for Program Coordination for the Establishment of the Joint BLM/FWS Subcommittee on Program and Budget Development

A. The Fish and Wildlife Service and the Bureau of Land Management have several programs of mutual interest for which coordination of program development and budget preparation is important. Adequate coordination requires fully coordinated BLM-FWS Program and Budget proposals to the Department of the Interior, Office of Management and Budget, and Congress. To help accomplish this coordination, there is established the Joint BLM-FWS Subcommittee on Program and Budget Coordination as a standing subcommittee of the BLM-FWS Interagency Committee for Program Coordination. The responsibilities of the subcommittee are to:

1. Identify programs within the missions and competence of the two agencies which should be planned and/or undertaken jointly.

2. Insure that the planning and budgeting for these programs are fully coordinated.

This Committee's role is oriented toward budgetary matters, e.g., program budget preparation, budget justifications and formulation of Annual Work Plans. Its involvement with program development is from a program budget viewpoint.

B. The following general program areas will be subject to periodic subcommittee review and coordination. A more detailed listing of specific programs and a fuller identification of general program areas will be prepared and updated as needed by the subcommittee.

1. *Energy and Minerals Management.*—Included are onshore and offshore leasing management programs for both energy and non-energy minerals. Of particular interest is the number and location (where identified) or proposed leases and the necessary environmental studies and their timing which must precede such leases. Other areas where mutual knowledge is beneficial include research and development efforts, environmental protection requirements and lease management functions.

2. *Land and Reolty Management.*—Included in this category are pipeline and utility corridors, responses to private energy initiatives, and preparation and review of environmental impact analyses and statements required by right-of-way and other land use requests on the part of industry.

3. *Wildlife Management.*—Significant changes in livestock grazing patterns, and changes in animal damage control techniques or emphasis are areas of mutual interest, as are the implementation plans for the Sikes Act and any changes in program or resources associated with jointly managed lands.

4. *Endangered Species.*—Included are specific management needs and programs for high priority species.

5. *Planning for Multiple Use Management.*—Included are programs for the development, update or revision of formal planning systems which guide and direct land and natural resource allocation decisions.

C. Coordination by this subcommittee will be a continuous process ranging from the inception of programs through the development of annual budgets to the execution of programs via annual work plans. Critical periods within these three coordination phases and the information to be developed and/or exchanged are identified on the attached exhibits.

D. The subcommittee on Program and Budget coordination will be chaired jointly by the Chief, Division of Budget and Program Development, BLM and the Assistant Director, Planning and Budget, FWS. There will be equal membership from both agencies drawn as required from the program divisions of the two agencies. The subcommittee may appoint joint working groups to study and report on assigned topics.

Dated: October 30, 1975.

George L. Turcott,

Cochairman, Associate Director, BLM.

Dated: October 30, 1975.

F. Victor Schmidt,

Cochairman, Assistant to the Director, FWS.

Memorandum of Understanding Between Bureau of Land Management and Fish and Wildlife Service on Establishment of the Joint BLM/FWS Subcommittee on Energy and Mineral Development

Sec. 1 *Purpose.* In order to improve and formalize coordination in the planning and operating functions of the minerals program of the Bureau of Land Management (BLM) and the programs of the Fish and Wildlife Service (FWS) there is hereby established the Joint BLM/FWS Subcommittee on Energy and Minerals Development.

Sec. 2 *Scope.* The following general program areas will be subject to periodic subcommittee review and coordination. These program areas include both onshore and offshore minerals management programs for both energy and non-energy minerals. A more detailed listing of specific programs and a fuller identification of the general program areas will be prepared and updated as needed by the subcommittee.

A. Environmental Research and Monitoring.—Includes baseline, monitoring and special studies.

B. Environmental Data Collection.—Includes reviews or compilations of existing data.

C. EIS Review and Coordination.—Includes both informal and formal reviews.

D. Mineral Operations Activities.—Includes all phases of program operations by both agencies that may affect each other.

Sec. 3 *Organization.* The Subcommittee on Energy and Minerals Development will be chaired jointly by the Assistant Director, Minerals Management, Bureau of Land Management and the Associate Director, Environment and Research, Fish and Wildlife Service. There will be equal membership from both agencies drawn as required from the appropriate staffs of the two agencies. The subcommittee may appoint joint working groups to study and report on assigned topics.

Sec. 4 *Meetings.* Coordination by this subcommittee will be a continuous process with meetings called as necessary by either subcommittee cochairman.

Dated: October 6, 1975.

George L. Turcott,

Cochairman, Associate Director, BLM.

Dated: October 6, 1975.

F. V. Schmidt,

Cochairman, Deputy Director, FWS.

Memorandum of Understanding Between Director, Bureau of Land Management and Director, Fish and Wildlife Service Relating to Interagency Committee for Program Coordination

Inasmuch as the Bureau of Land Management (BLM) and the Fish and Wildlife Service (FWS) have responsibilities for programs of important significance to wildlife and their habitat, it is the national interest that such programs be closely coordinated and mutually supportive. To this end, there is hereby established a BLM-FWS Interagency Committee for Program Coordination with the following responsibilities:

1. To coordinate related programs within the full range of interface between the two agencies.

2. To arrange for cooperation, support, and standards in the operational conduct of programs relating to wildlife.

3. To provide for exchange of data, information, findings, and services of mutual concern.

4. To coordinate budget and program execution activities.

The Committee will have the authority to make decisions within its areas of responsibility where the Cochairmen of both agencies agree. Disagreements, if any, will be resolved by the Directors of the two agencies.

The Committee will have the authority to establish and change working groups to report to its on specific proposals or problem areas, as required.

The Committee will be jointly chaired by the Associate Director, BLM, and the Deputy Director, FWS. There will be equal membership from both agencies, preferably with officials at the policy level concerned with the activities involved. It will meet at least once every two months at the call of the Cochairman.

Dated: December 3, 1974

Curt Berklund,

Director, Bureou of Land Management.

Dated: January 23, 1975.

Lynn A. Greenwalt,

Director, U.S. Fish and Wildlife Service.

Memorandum of Understanding (MOU) Between the Bureau of Land Management (BLM) and the Fish and Wildlife Service (FWS) on Coal

I. Purpose

The purpose of this agreement is for BLM and FWS to assure the effective consideration of fish and wildlife resources in coal related activities on public lands in a manner that recognizes existing cooperative relationships with the States. It is also to promote harmonious working relationships and program efficiency in the public interest.

A. Responsibilities.—The key to achieving the purpose of this agreement is clear definition of BLM and FWS roles and responsibilities within respective statutory authorities. Broad responsibilities are defined below. Specific responsibilities and relationships are set forth in section II of this agreement.

1. The BLM has the statutory responsibility for inventory, planning, and multiple-use management of the public lands and public land resources, including coal and fish and wildlife. In connection with this responsibllity, BLM must have the capability to efficiently inventory, manage and protect fish and wildlife habitat.

2. FWS has statutory responsibilities for protection of migratory birds, including eagles, and threatened or endangered species and their habitats. The Fish and Wildlife Coordination Act responsibilities of FWS extend to some water development projects on public lands.

3. FWS and BLM have general responsibilities to conduct research and to compile information on the status of the fish, wildlife and plant resources and those factors affecting them in their respective area of responsibility. These general assessments for wildlife and vegetative conditions and trends extend to concerns within major coal regions.

4. Both Agencies have wildlife advocacy roles within their statutory authorities or other assigned functions.

B. General Principles.—1. The cooperative relationship between the two Agencies is built upon the concept that field level input into the BLM land use planning system will achieve the basic objectives of each Agency, and the Department of the Interior (DOI). The BLM has a statutory responsibility to see that fish and wildlife resources are effectively considered in all stages of its land management programs and activities. Procedures consistent with this MOU will be established by BLM State Directors and FWS Regional Directors to provide for regular exchange of information and advice as early as feasible in the BLM planning process. FWS input will reflect BLM's responsibility of the need to balance wildlife interests with other concerns in coal development and multiple-purpose land management. In those cases where there are disagreements, such disagreements should be expressed through the chain of command of the two Agencies beginning at the lowest appropriate field level.

2. BLM has responsibility for assuring the collection, inventory, and susbsequent analysis of fish, wildlife and vegetative data on the public lands. FWS also has responsibilities for collection and analysis of data to meet its requirements. FWS concerns in this area relate to the adequacy of the data and analysis as these relate to responsibilities of FWS relative to endangered species, migratory birds, and other species. FWS is also concerned with the general adequacy of data and analysis for management and protection of wildlife, wildlife habitat, and threatened and endangered plant species on a national and regional basis. These responsibilities and concerns can best be met by FWS participation in appropriate components of the planning system as identified in subsequent sections of this MOU. Both Agencies will coordinate inventory system development and applicable data gathering activities to foster a common and compatible resource data base, to share information, and to minimize conflicts and disagreements concerning adequacy of wildlife data related to coal development decisions from the outset. BLM will seek FWS participation in the actual conduct of data collection activities to meet its requirements where such participation is mutually advantageous. In turn, FWS will seek BLM participation in data collection and analysis to meet its requirements where it is appropriate.

3. The BLM State Offices and the FWS Regional Offices or their delegated Offices will be the primary Offices through which field coordination will take place. Each is responsible for ensuring that appropriate Offices of their organization are involved whenever appropriate. On matters pertaining to coal related field studies or investigations, the FWS Regional Director or the BLM State Director will determine which items of mutual interest are administered by their respective Office and which items should be referred to other field organizational units (i.e., BLM Denver Service Center, FWS Research Centers and National Teams). Upon referral, the Directors or Leaders of the field unit will be the coordination focal point for that activity or activities within the respective Bureaus. Additionally, the Directors or Leaders of these field units will apprise FWS Regional Directors and BLM State Directors of planned or ongoing coal related studies, projects, and activities. Frequent informal consultation on matters of mutual concern is to be encouraged at all levels.

4. BLM State Directors and FWS Regional Directors will keep each other appraised of actions planned or taken with State wildlife agencies on wildlife matters of concern in coal areas. Whenever coal-related research actions and nonoperational studies are proposed with State wildlife agencies by field

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units within BLM and FWS that are not administered by the FWS Regional Director or BLM State Director, it shall be the responsibility of the Director or Leader of that field unit to keep both the Regional and State Director informed. BLM will ensure State wildlife agency involvement in the coal programs. Officials of both Agencies will also keep each other informed of their respective activities relating to coal resources on public lands.

5. FWS will otherwise assist BLM in a manner consistent with the MOU, through cooperative procedures mutually agreed by BLM State Directors and FWS Regional Directors, or as appropriate, Directors or Leaders of other BLM or FWS field units. Some examples include participation in certain field projects, providing highly specialized expertise, developing methodologies for data collection and interpretation and assessing major impacts on wildlife for preventing or mitigating damage to important habitats, and conducting and sharing research findings to support BLM identified needs.

C. General Coordination.—1. *Meetings.* There shall be annual coordination meetings between State and District BLM Offices and appropriate FWS Regional and Area Offices, and such other Offices as deemed appropriate, timed to coincide with the budget cycle, to discuss programs and plans relative to coal and other items of mutual concern to both Agencies. WO level meetings shall be held by the BLM/FWS Coordinating Committee.

2. *Written Communication.* When FWS advice/recommendations are solicited on subjects related to this agreement, the FWS will be afforded 30 days unless specified otherwise in which to make its views known to BLM to the extent time deadlines imposed on BLM permit. If no response is received within the 30 days or other specified time period, BLM will assume that FWS either concurs or has no comments to offer.

3. *Supplemental Agreements.* BLM and FWS field organizations or other appropriate organizational units may enter into supplemental agreements where needed to specify interrelationships in detail or for specific project type activities. Such agreements must be within the policy parameters of this agreement. Both BLM State Directors and FWS Regional Directors will make every effort to ensure coordination is achieved at their lowest appropriate field units. Where mutually agreeable, BLM State Directors and FWS Regional Directors will delegate coordination functions to their field units.

II. Functional Coordination

This section outlines Agency responsibilities and working relationships by functional area.

A. Preleasing.—1. Subject: Resource Inventories—

a. *Description:* Inventories must be conducted to determine the nature and extent of living and nonliving resources; to provide a basis for land use planning and decisionmaking; and to identify the nature, extent, and condition of all resources located in planning areas with potential for coal development.

b. *Responsibilities:* The Federal land Policy and Management Act (FLPMA) directs BLM to maintain resource inventories on a continuing basis. FWS has legislative responsibilities to conduct nationwide inventories related to migratory birds, wetlands, and threatened and endangered species. Both Agencies may also be assigned responsibilities for inventory via Presidential or Departmental direction. BLM has responsibility for inventory work relative to data necessary for public land management. This includes inventory and planning responsibilities for threatened and endangered species on public lands in coal areas pursuant to regulations regarding Section 7 of the Endangered Species Act (ESA). FWS will provide support in terms of cooperative development of new methodology and inventory techniques and supply applicable data to BLM. FWS Regional Directors and BLM State Directors will take steps to ensure that appropriate organizational units, e.g., FWS Area Offices and BLM District Offices will periodically coordinate their activities and capabilities. Joint efforts in this regard will be guided by the Interagency Agreement Relative to Classification and Inventory of Natural Resources, effective June 6, 1978. In accordance with that agreement, both Agencies will work in partnership to ensure that needed data are obtained in a cost effective and expedient manner.

The BLM's planning system contains several inventory steps applicable to coal activities. These steps, including their overall purposes, are outlined together with the nature of specific FWS inputs at the field or BLM planning unit levels:

Step	BLM responsibility	FWS input(s)
1. Preplanning Analysis	Determine wildlife resource data needs; develop planning/inventory schedule for wildlife resources; estimate financial requirements.	Help identify general wildlife situations in coal areas, and recommend data elements needed to address wildlife issues.
2. Unit Resource Analysis (URA)	Identification of existing wildlife resource conditions and potentials on planning areas basis.	Heid identify knows significant wildlife habitats (existing and potential) and provide other assistance, technical support, and advice.

2. Subject: Land Use Planning.

a. *Description:* Land use plans must be developed as a requisite for management and decisionmaking regarding allocation and use of resources location on public lands, in accordance with planning mandates in the FLPMA, the Federal Coal Leasing Amendment Act of 1975, and the Secretary's decision of October 22, 1977, which calls for plans prior to identification of lease tracts. In BLM, such plans are called management framework plans (MFP's).

b. *Responsibility:* The FLPMA directs development, with public involvement, of BLM land use plans which provide, by tracts or areas, for the use of the public lands. Such plans must address: multiple-use and sustained-yield, areas of critical environmental concern (ACEC), interdisciplinary concerns, present and potential uses for wildlife and other resources, and certain other requirements. To the extent consistent with law, these plans must be coordinated with land use inventory and management programs of other Federal Agencies and State and local governments. Therefore, FWS will provide comment on URA's/MFP's in potential coal production areas by participating in a consultative manner to minimize conflicts and disagreements. Such comments will be considered and incorporated, as deemed appropriate, into decisionmaking by BLM District Managers, as well as comments from other Federal and State agencies and private organizations.

3. Subject: Identification of Areas to be Excluded From Leasing and Lands Unsuitable for Mining—

a. *Description:* Certain areas that may be excluded from leasing or identified as unsuitable for mining because of: (1) statutes or (2) policy determinations such as for high socioeconomic or ecological values associated with wildlife, archaeology, cultural and other resources, and (3) for reasons of public health and safety.

b. *Responsibility:* The FLPMA directs that critical environmental areas be identified during BLM land use planning. The Federal Coal Leasing Amendments Act requires planning prior to coal leasing. Also, the interagency agreement between BLM, Geological Survey (GS), and the Office of Surface Mining Reclamation and Enforcement (OSM), approved July 1978, delineates Agency responsibilities for identification of "areas unsuitable for mining" as directed by the Surface Mining Control and Reclamation Act (SMCRA). In accordance with these authorities and relationships, BLM must decide which areas of public lands are areas which are of environmental concern and, thus, which may be unsuitable for mining or excluded from leasing.

The Department is providing BLM with criteria relative to land suitability for leasing.

Such criteria will serve as a basis for unsuitability designations or excluding lands from leasing. Within the parameters of Departmental criteria, FWS may provide to BLM information which it feels should be considered in making these designations during the land use planning process.

4. Subject: Tract Selection—

a. *Description:* This involves identification and selection of specific tracts for short and long term leasing, preference right leasing, and land use decisions by BLM District Managers. Selection of such tracts will be after decisions are reached on areas unsuitable for mining, or excluded from leasing.

b. *Responsibilities:* BLM is responsible for selection of tracts suitable for leasing after decisions are made as to "areas unsuitable for mining." Using information available through the land use planning process and from specific recommendations from FWS, States, and others, tracts will be selected then ranked for priority of leasing. Thus, through participation in the planning and tract selection process, FWS will have opportunity to provide information and opinions in the tract decision process.

5. Subject: Lease Stipulations, Terms, and Conditions—

a. *Description:* This involves preparing special stipulations and terms regarding environmental performance standards and other protective provisions in coal related leases.

b. *Responsibility:* The FLPMA directs that all actions necessary be taken to prevent unnecessary or undue degradation of the public lands. BLM is the official representative of the Secretary in dealing with lease applicants and, as such, is responsible for placing protective provisions and stipulations on coal leases.

Such stipulations and provisions are developed based upon decisions flowing from the MFP, upon findings in environmental impact analysis, and the technical examination.

BLM is responsible for incorporating stipulations and conditions into leases after consideration of all recommendations, including those from FWS. FWS recommendations or suggested modifications will be solicited for appropriate analysis in coal lease stipulations.

6. Subject: Environmental Analysis—

a. *Description:* This involves preparation of regional or, when warranted, site specific prelease environmental analysis report (EAR) or environmental statements (ES) concerning lease tract selections.

b. *Responsibilities:* Sec. 102(2)(c) of the National Environmental Policy Act (NEPA) requires agencies taking major Federal actions significantly affecting the quality of the human environment to prepare ES's on those actions. Extraction or mining of coal and related activities, such as issuance of rights-of-way and water developments to support such industrial activities are also among the actions to be considered. Present "lead agency" responsibilities for preparation of such analyses rest with BLM except in special exceptions where another agency may be designated as lead agency. These responsibilities must be carried out in consultation with all appropriate agencies and organizations, including the FWS. The following procedures are hereby established to ensure close working relationships between the two Agencies in this regard:

(1) BLM will keep FWS appraised of current and projected ES schedules via the regularly scheduled meetings of the FWS-BLM Coordinating Committee and other means, as appropriate.

(2) BLM will request FWS data and other inputs into the applicable ES's at the earliest possible date. Where FWS has special expertise or unique talent needed for the ES, such will be made available to the BLM ES team under terms and conditions mutually agreeable to the concerned FWS Regional Director and BLM State Director. This may include detail of FWS personnel to assist in ES preparation.

(3) FWS and BLM budget requests for ES's and associated work will be coordinated to reflect their respective responsibilities in the most cost-effective approach and to foster clear communications between the two Agencies. The FWS-BLM Coordinating Committee will be the principal vehicle for ensuring such coordination at the Washington Office (WO) level. Coordination at the field level will be in accordance with procedures agreed to by FWS Regional Directors and BLM State Directors.

(4) BLM will provide FWS review copies of draft ES's at the earliest possible time for official review and comment within specified time frames.

7. Subject: Endangered Species Consultation—

a. *Description:* BLM must consult with FWS on any action which may affect threatened or endangered species or their habitats.

b. *Responsibilities:* Whenever it is found that threatened or endangered species or their habitat may be affected by coal leasing or mining activities, the concerned BLM State Director must initiate written formal consultation in accordance with Interagency Cooperation Regulations dated January 4, 1978. To the extent that the concerned BLM State Director and the FWS Regional Director can agree, and as provided for in the above regulations, an aggregate approach to consultation in coal areas will be followed. Whenever FWS rules that additional data are needed upon which to issue a biological opinion, such data must be provided by BLM before the consultation process can be concluded. It is jointly agreed that not all habitat modifications are prohibited, only those which diminish habitat for the species in question. The FWS will provide methodology, expertise and recommendations, upon request, to help resolve operational problems caused by endangered species in coal areas.

B. Post Leasing.—1. Subject: Compliance With Lease Stipulations—

a. *Description:* This involves monitoring exploration and associated activities to ensure compliance with lease stipulations and/or special terms and conditions.

b. *Responsibilities:* BLM is responsible for ensuring that lessees abide by lease terms and conditions. Where in the course of other activities, FWS personnel find or become aware that a lessee is not in compliance with lease terms or conditions, such personnel should immediately advise the nearest BLM Office. The BLM will then take necessary action.

2. Subject: Emergency Environmental Situations—

a. *Description:* Some situations may arise in leased areas that involve either imminent danger to public health or safety or where conditions, practices, or violations of regulations or lease terms are causing or may cause significant, imminent environmental harm to land, air or water, or other resources or significant waste of coal. In such cases, it may be necessary to order cessation of such activities or violations and to order immediate remedial action.

b. *Responsibility:* The BLM has such authority when authorized mine inspectors are unable to take action before significant harm or damage will occur. If in the course of other activities FWS personnel become aware that such conditions exist, the appropriate BLM State Director and/or District Manager is to be so informed immediately and who will take appropriate action to resolve the situation.

3. Subject: Review of Reclamation Plans and Abandonment Procedures—

a. *Description:* Lessees must prepare adequate plans for reclaiming mined areas which meet the reclamation requirements of the SMCRA and multiple-use management requirements of FLPMA.

b. *Responsibilities:* The OSM has primary Federal authority to inspect and approve abandonment procedures. BLM must concur in such abandonment procedures as related to protection and postmining use of the lands regarding fish, wildlife and other natural resources. BLM resource staffs will analyze the adequacy of such procedures. Where such procedures are found to be inadequate, BLM will suggest needed changes and improvements. FWS will be afforded an opportunity to provide comments to BLM as to the adequacy of proposed procedures prior to BLM concurrence, in accordance with procedures agreed to by appropriate BLM and FWS field officials. BLM will notify/negotiate/resolve with applicable agencies and groups, including FWS, any issues which would serve as grounds for BLM nonconcurrence.

III. Research and Development

Annual meetings shall be held at the field and WO levels to coordinate research surveys, investigations, and studies being conducted that is of mutual program interest to both Agencies. This includes such work being conducted by the FWS WELUT and the EELUT, cooperative research units, or other applicable entities of FWS and BLM's Denver Service Center. Such meetings shall be initiated, scheduled, and organized by mutual agreement of appropriate officials of both Agencies. Agenda items should provide for discussion/resolution of Agency needs and priorities relative to coal activities and associated wildlife considerations.

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When it is of mutual interest, the FWS and the BLM may conduct cooperative research in coal areas.

Each Agency will be given an opportunity to identify and review research proposals relating directly to its lands or management responsibilities developed by the other for the purpose of avoiding duplication and to determine if similar research is being conducted by other agencies. Pertinent research results of either Agency will be made available to the other on a timely basis, including significant interim findings. The FWS will provide a periodic report summarizing wildlife research pertinent to coal.

IV. Informotion Transfer

It is recognized that a wide variety of biological, ecological, and scientific information, published and unpublished, exists within both Agencies. This includes information and data relating to resource conditions and trends, wildlife and habitat inventories and baseline studies, economic or other values, demand/supply, and use statistics. Free exchange of this information in compatible and standardized formats is essential.

It is, therefore, mutually agreed that procedures will be developed under the direction of the national BLM/FWS Coordinating Committee for more formalized transfer of information between BLM and the FWS at all levels.

V. Permits Regarding Work in Navigable Waters

The Secretary of the Interior has delegated to the FWS Director and Regional Directors authority to act for the Department in the review and reporting on permit applications administered by the USA–CE (503 DM 1, August 3, 1973). Procedures and necessary evaluations of permit application for coal operations on public lands, as required under Secs. 402 and 404 of the Federal Water Pollution Control Act and by the Rivers and Harbors Act of 1899, shall be coordinated at the FWS Area Office and BLM District Office or other appropriate level before a formal application is made to the U.S. Corps of Engineers.

VI. Relotionships to State, Other Agencies, and Institutions

Nothing in this MOU is intended to modify in any manner the present or future cooperative programs of either Agency with States, other public agencies, or educational institutions. Both Agencies share the concern that State fish and wildlife resource agencies be consulted on a routine basis to strengthen coordination and cooperative relationships. Every effort will be made to prevent duplicative requests or contracts to these State agencies for information and data assistance relative to coal.

VII. Obligation of Funds

Nothing in this agreement shall be construed as obligating either party to the expenditure of funds in excess of appropriations authorized by law or otherwise commit either Agency to actions for which it lacks statutory authority.

VIII. Effective Date, Review, Amendment, and Termination

This agreement shall become effective upon the date subscribed by the last signatory, and shall remain in force until terminated by either Agency upon 90 days written notice. It shall be reviewed by all parties no later than Calendar Year 1981 for adequacy and timeliness. Amendments to existing wording within this agreement may be proposed by either Agency at any time and shall become effective upon joint approval.

IX. Budget Coordination

To insure maximum compatibility of budgetary requests and the subsequent distribution and utilization of funds, the following coordinating functions shall apply:

A. *Joint Review of Budget Materials.* 1. Prior to formulating coal related budget instructions, the BLM and FWS shall jointly review the coal program to determine program objectives and budget assumptions.

2. Each Agency shall provide the other an opportunity to review budgetary material relating to all activities on behalf of coal leasing and coal development. Where coal related work is supported by a number of activities, these will be identified to facilitate review of budgetary plans.

3. To the extent possible, review opportunity shall be given sufficiently in advance of budgetary due dates to permit meaningful input and discussion before such budget material must be finalized.

4. Neither Agency shall advance a program which is directly linked or referenced to the activities, actions, or authorities of the other Agency without advance consultation and mutual understanding as to the nature of that program and actions to be undertaken within the scope of this agreement.

5. Budget materials as used herein apply to Departmental Program Strategy Papers, Office of Management and Budget (OMB) Estimates, Budget Justifications for Congressional review, and any amendments or supplementals thereto.

B. *Budget Year Consultation.* 1. Where the budget (or appropriations act) for the upcoming fiscal year (FY) in one Agency contains funds or positions earmarked for direct transfer to the other Agency, such funds and positions shall be identified in writing prior to the start of the FY for budget planning.

2. Where funds and manpower are to be retained in the Agency, but are to be committed toward those efforts related to coal leasing and coal development, each Agency shall, to the extent known, inform the other as to the approximate level of direct funding, its distribution, and expected accomplishments for the upcoming FY. Each Agency's plans shall be communicated to respective field offices to facilitate further coordination at the State-Regional level.

3. Funds earmarked for cooperative research shall be identified and transferred to the Agency designate as "lead Agency" for the research project.

C. *Coordination Points.* Coordination activities, as described in this section, shall be the primary responsibility of:

For BLM—Chief, Division of Budget and Program Development and

For FWS—Assistant Director—Planning and Budget.

X. Conflict Resolution

Should interagency controversy arise at any working level, the facts regarding such controversy shall be forwarded to the next higher level of authority for resolution.

Dated: September 26, 1978.

Frank Gregg,

Director, Bureau of Land, Management.

Dated: September 26, 1978.

Lynn A. Greenwalt,

Director, Fish and Wildlife Service.

Dated: October 2, 1978,

I Concur:

Guy R. Martin,

Assistant Secretory, Land and Woter Resources.

Dated: October 3, 1978.

Robert Herbst

Assistant Secretary for Fish and Wildlife and Porks.

Memorandum of Understanding Between the Chief of the Forest Service, U.S. Department of Agriculture and the Director of the National Marine Fisheries Service, National Oceanic and Atmospheric Administration, U.S. Department of Commerce

The National Marine Fisheries Service, a component of the National Oceanic and Atmospheric Administration, is an agency of the Federal Government with primary responsibilities for research and development, protection, conservation and management of the living marine, including estuarine, inland commercial, and certain anadromous fisheries resources.

The Forest Service, U.S. Department of Agriculture, is the agency of the Federal Government responsible for the administration of the National Forest System lands, including fish habitat within the boundaries and many aspects of wildland and associated waters research. The Forest Service cooperatively works with State and private landowners regarding sound forestry, aquatic and wildlife habitat practices on non-Federal forested lands.

The purpose of this memorandum is to establish and record, agreed upon principles and policies of collaboration, and coordination of aquatic environment and related land resource activities with living marine, including estuarine, certain anadromous and inland commercial fisheries resources. The mutually agreed upon principles and policies of the two agencies under this memorandum, within the limits of their resources, will be as follows:

1. Administration: a. The National Marine Fisheries Service will act in an advisory capacity to the Forest Service in matters pertaining to development, protection, conservation, and management of the living marine, including estuarine, and certain anadromous and inland commercial fisheries resources on lands administered by the Forest Service. The responsibility and authority for the correlation and integration of fish habitat management with outdoor recreation, watershed management, wildlife habitat management, timber production, livestock forage production, and other uses of these lands will rest at all times with the Forest Service.

b. Studies of water-use projects on National Forest lands affecting the National Marine Fisheries Service's area of responsibility required to be made under the Fish and Wildlife Coordination Act as amended (16 U.S.C. 661 et seq.) the Federal Power Act (16 U.S.C. 811), and any other legislative authority will be planned and conducted by the National Marine Fisheries Service in cooperation and consultation with the Forest Service.

2. Research: The National Marine Fisheries Service and the Forest Service will conduct cooperative research relating to fishery resources and supporting habitat management wherever and whenever it is of mutual interest to the two agencies. Close coordination will be especially necessary in the research on living marine including estuarine and certain anadromous fishery resources. Cooperative research will be guided by the following:

a. Generally, research involving the two agencies will be coordinated with the National Marine Fisheries Service emphasizing the fish and related animal phase and the Forest Service emphasizing the habitat and land use phases.

b. Where the finances limit the participation of either agency in coordinated research, joint planning and evaluation of results will remain the guiding principle.

3. General: The National Marine Fisheries Service and the Forest Service agree: a. To review annually the current and long-range program of land management and research on the living marine, including estuarine and certain anadromous fishery resources to provide maximum opportunity for coordination of related programs. Such reviews to be held by the Regional Director of National Marine Fisheries, and/or his representatives; the Regional Forester, Area Director; and/or Station Directors for the Forest Service, not later than May 15 of each year.

b. To identify areas where cooperative administrative studies, demonstration areas, or research projects can be mutually beneficial and prepare supplemental Memorandum of Agreement to define the project purpose and the contribution of personnel, equipment, funds, and supplies each shall make to the effort. The Regional Forester, Area Director, or Station Director for the Forest Service and the Regional Director for the National Marine Fisheries Service are delegated authority to negotiate and sign supplemental agreements under the legal, fiscal, and other limitations governing each.

c. To develop a mutually acceptable plan of work to include cooperative research field surveys of living marine including estuarine and certain anadromous and inland commercial fishery areas and anticipated Forest Service requests for advice and assistance in complex environmental problems.

d. To meet as needed at the national level.

The parties hereto have executed this Memorandum of Agreement which shall continue in force and effect until terminated by either agency upon ninety (90) days written notice to the other.

Dated: October 5, 1973.

U.S. Department of Commerce, National Oceanic and Atmospheric Administration, National Marine Fisheries Service.

Robert W. Schoning,

Director,

U.S. Department of Agriculture, Forest Service.

Dated: June 20, 1973.

R. M. Hensley,

Acting Deputy Chief.

DEPARTMENT OF THE INTERIOR

Fish and Wildlife Service

[40 FR 55804–55807]

Oil and Gas Exploration and Development Activities in Territorial and Inland Navigable Waters and Wetlands

Dated: November 21, 1975.

Lynn A. Greenwalt,

Director, U.S. Fish and Wildlife Service.

1. *Introduction.* 1.1 The U.S. Fish and Wildlife Service recognizes that an adequate and dependable supply of petroleum products is essential to meet the economic and standard of living needs of this Nation. The Service also recognizes the need for a strong, uniform policy for planning, evaluating, and reporting on oil and gas exploration and production activities affecting navigable waters and related natural resources. This pamphlet is directed toward meeting and satisfying the Nation's environmental and energy needs by presenting the Service's guidelines for geophysical, drilling and completion operations, pipeline construction, onshore facilities, and other associated exploration and development activities. These guidelines discourage the exploitation of one resource at the expense of another and encourage the use of environmentally sound planning criteria. Basically, these guidelines focus on the conservation, development, and improvement of fish and wildlife, their habitats, naturally functioning ecosystems, other environmental values, and related human uses of the Nation's waters and wetlands.

2. *Basis.* 2.1A. Federal permits are required for works proposed in the Nation's navigable waters and associated wetlands. Placing of any structure in or over such waters and wetland areas or excavating from or depositing material in such areas is unlawful unless a permit has been issued by the Department of the Army, Corps of Engineers, under authority of Section 10 of the River and Harbor Act of March 3, 1899 (33 U.S.C. 403). The U.S. Coast Guard, Department of Transportation, has special authority to regulate the location and clearances of bridges and causeways over navigable waters of the United States under Section 9 of the 1899 Act (33 U.S.C. 401) and the Department of Transportation Act (49 U.S.C. 1653).

B. Permits issued by the Environmental Protection Agency (EPA) or by a State agency under EPA overview also are required under Section 402 of the Federal Water Pollution Control Act Amendments of 1972 (33 U.S.C. 1251) for pollutant discharges into navigable waters. This Act also provides for certification by EPA or the State, that activities otherwise federally permitted will not abridge water quality requirements (Section 401), for permitting by the Corps of Engineers (Corps) of the placement of dredged and fill materials in defined disposal areas (Section 404), and for regulation by EPA of the disposal of sewage sludge which would result in pollutants entering navigable waters (Section 405).

C. Applications for permits described in the preceding paragraphs are made, as appropriate, to the District Engineer, Corps of Engineers; the District Commander, U.S. Coast Guard; or the Regional Administrator, Environmental Protection Agency (or the State water quality agency) for the District or Region in which the work or activity is proposed. *All persons or other entities, including Federal and other government agencies, are required to obtain the appropriate permits prior to commencing any construction or other activity in navigable waters.*

D. All of the above described Federal regulatory programs are subject to the provisions of the Fish and Wildlife Coordination Act (16 U.S.C. 661) and the National Environmental Policy Act of 1969 (42 U.S.C. 4321) which mandate, respectively, full consideration of fish and wildlife and environmental values in weighing the balance of the public interest in deciding whether a permit should be issued for a proposed activity.

3. *Authorities and responsibilities of the Department of the Interior.* 3.1A. The Secretary of the Interior, acting through the Bureau of Land Management, the U.S. Geological Survey, the Bureau of Indian Affairs, the U.S. Fish and Wildlife Service, the National Park Service, and the Bureau of Outdoor Recreation, has broad authority in the administration of public lands, reservations, and the mineral resources of such lands held in trust, and in providing consultation and advice on the protection of the Nation's fish, wildlife, scenic, natural, historic, recreational, and other environmental resources.

B. One such law administered for the Department of the Interior by the U.S. Fish and Wildlife Service is the Fish and Wildlife Coordination Act. This Act specifically requires (16 U.S.C. 662): "* * * *whenever the waters of any stream or body of woter are proposed or authorized to be* impounded, diverted, the channel deepened, or the stream or other body of water otherwise *controlled or modified for any purpose whatever,* including navigation and drainage, by any department or agency of the United States, *or by any public or private agency under Federal permit or license, such department or*

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agency first shall consult with the United Stotes Fish and Wildlife Service, Department of the Interior, and *with the head of the agency exercising administration over the wildlife resources of the particular Stote* • • • with a view to the conservation of wildlife resources by preventing loss of and damage to such resources as well as providing for the development and improvement thereof • • •." [1] (Similar responsibilities under the Fish and Wildlife Coordination Act are administered by the National Marine Fisheries Service for the Department of Commerce.)

C. Additional authorities mandating the concern of the Department of the Interior for environmental values include the Migratory Bird Conservation Act (16 U.S.C. 701), the National Historic Preservation Act of 1966 (16 U.S.C. 470), the Fish and Wildlife Act of 1956 (16 U.S.C. 742a), the Wilderness Act (16 U.S.C. 1131), the Anadromous Fish Conservation Act (16 U.S.C. 757a), the Estuary Protection Act (16 U.S.C. 1221), the Wild and Scenic Rivers Act (16 U.S.C. 1271), the Endangered Species Act of 1973 (16 U.S.C. 1361), and the National Environmental Policy Act of 1969 (42 U.S.C. 4321).

The U.S. Fish and Wildlife Service also has advisory and consultative roles under the Coastal Zone Management Act of 1972 (16 U.S.C. 1451) and the Marine Protection, Research, and Sanctuaries Act of 1972 (33 U.S.C. 1401), and shares the mandates of the Fish and Wildlife Coordination Act with the States.

4. *Objectives and policies of the Fish and Wildlife Service concerning the usage and development of the Nation's waters and wetlands.* 4.1 The following outline presents the overall objectives and policies of the Fish and Wildlife Service in its advisory, consultive, and review role regarding works and activities in the Nation's waters and associated wetlands.

4.2 *Objectives.* 4.2A. The objectives of the U.S. Fish and Wildlife Service in relation to oil and gas exploration, development, and production activities are to prevent or minimize damages to fish and wildlife resources, their associated habitat, and other environmental resources, and to preserve public trust rights of use and enjoyment of such resources in and associated with navigable and other waters of the United States. The Service strives to meet these objectives by encouraging the industry to use every practical means, method, and alternative to prevent harmful environmental impacts and degradations.

B. More specifically the Service has the following long-range objectives respecting navigable waters, their tributaries, and related wetlands:

(1) Providing assistance to other Federal agencies in their enforcement of regulatory programs to prevent unauthorized activities from occurring, damaging, or posing a threat of damage to the naturally functioning aquatic and wetlands ecosystems and other environmental resources, values, and uses.

[1] Wildlife and wildlife resources are defined by the Act to include: "birds, fishes, mammals, and all other classes of wild animals and all types of aquatic and land vegetation upon which wildlife is dependent."

(2) Ensuring that all authorized works, structures, and activities are (a) judged to be the least ecologically damaging alternative or combination of alternatives (e.g., all appropriate means have been adopted to minimize environmental losses and degradations) and (b) in the public's interest in safeguarding the environment from loss and degradation. Water dependency of a work, structure, or activity will be considered when criterion (a) above has not been met.

In determining whether criteria (a) and (b) have been met, the Service will always consider: (1) The long-term effects of the proposed work, structure, or activity; (2) its cumulative effects, when viewed in the context of other already existing or foreseeable works, structures, or acitivities of the same kind; and/or (3) its cumulative effects, when viewed in the context of other already existing or foreseeable works, structures, or activities of different kinds.

4.3A. *Policies.* (1) The U.S. Fish and Wildlife Service exercises and encourages all efforts to preserve, restore, and improve fish and wildlife resources and associated aquatic and wetlands ecosystems, and supports State actions designed to protect areas of special biological significance.

(2) The Service opposes activities and developments in or affecting the Nation's waters and wetlands which would individually, or cumulatively with other developments on a waterway or group of related waterways, needlessly destroy, damage, or degrade fish and wildlife resources, associated aquatic and wetland ecosystems, and the human satisfactions dependent thereon.

(3) The Service places special emphasis on the protection of vegetated and other productive shallow waters and wetlands and on fish and wildlife species for which the Secretary of the Interior has delegated and specifically mandated responsibilities. These include:

(a) Wetlands as described in Wetlands of the United States, Circular 39 of the U.S. Fish and Wildlife Service, published in 1956, republished in 1971.

(b) Estuarine and Great Lakes area as defined in the Estuary Protection Act, the Coastal Zone Management Act of 1972, and Sec. 104(n) of the Federal Water Pollution Control Act.

(c) Migratory birds, anadromous and Great Lakes fishes, and endangered species as defined respectively in the Migratory Bird Treaty Act, Anadromous Fish Conservation Act, and the Endangered Species Act of 1973, respectively.

5. *Procedures for review of permit applications.* 5.1A. The U.S. Fish and Wildlife Service considers that each notice of application should demonstrate that the proposed works are water-oriented or water-dependent, served a recognized public need, and minimize environmental damages as, set forth in item 4.2B.(2). In instances where this is not demonstrated and/or additional items of information are needed to determine project impacts on fish and wildlife resources (ref. Sections 6.1A. (1)–(4)), the Service will immediately advise the applicant of informational needs or at least within 15 days following receipt of a notice of application (public notice or letter of permission). Such requests will be promptly confirmed by letter to the regulatory agency with a copy being provided the applicant.

However, if Service investigations and reviews indicate avoidable fish and wildlife losses, the Service will recommend to the Corps of Engineers, the Environmental Protection Agency, or the U.S. Coast Guard, as appropriate, that the permit be denied. In cases where denial is recommended to the Corps of Engineers, the July 13, 1967, Memorandum of Understanding between the Secretaries of the Departments of the Army and the Interior provides that the applicant will be notified, and an effort will be made to reach a solution at the District and Regional levels, respectively. If resolution at that level fails, the case will be forwarded for the consideration of the Chief of Engineers, Department of the Army, and Under Secretary, Department of the Interior. The final administrative decision in such cases rests with the Secretary of the Army. It must be emphasized that the Service does not have the responsibility, as do the regulatory agencies, of making the final determination of the overall acceptability of a proposal, all factors considered. These guidelines are not intended nor should they be interpreted to be addressed to such a final decision. They are intended to reflect the Service's responsibility to contend for the special public interest in fish and wildlife resources, their related and associated habitats and ecosystems, and the environmental values dependent thereon; and to be compatible and reasonably consistent with relevant provisions of Federal laws, decisions of Federal courts, and the rules, regulations, and administrative practices of Federal regulatory agencies.

B. The Department of the Interior has no similar agreements with the Environmental Protection Agency or the Department of Transportation (U.S. Coast Guard), but envisions that referral of unresolved issues from those agencies will be handled under procedures similar to those set forth in the agreement with the Department of the Army, with the final decision resting with the Secretary or the Administrator of the regulatory agency.

6. *Information necessary to assess fish and wildlife effects of proposed works and activities requiring Federal permit.* 6.1A. The U.S. Fish and Wildlife Service assists and promotes an orderly and expeditious review of Federal permit applications. Toward this goal, the following items of information may be requested, if applicable, in conjunction with an application.

(1) Overall map (based on a U.S. Coast and Geodetic navigation chart or Geological Survey quadrangle map) showing project location in relation to:

(a) Water depths at and in the vicinity of the proposed project.

(b) Direction of sheetflow in wetland areas and of water currents in river and coastline areas, and duration and amplitude of ebb and flood tides in estuarine and bay areas.

(c) Location of freshwater outflows, including surface drainageways, streams,

aquifers, and springs where known or identified within the area of project influence.

(d) Location of shellfish lease areas within the area of project influence.

(2) Aerial photograph of project area, if available.

(3) Scale drawings and project area maps showing proposed works in relation to ordinary high water, mean high or mean of the higher high water, and ordinary low water, mean low or mean of the lower low water elevations and lines (as locally proper and where technologically possible), and the following detailed information:

(a) A description of methods and kinds of equipment to be used, means of access to activity sites, proposed geophysical operations, and duration and season of activities.

(b) Types, locations, and dimensions, including vertical cross sections of shallow water and wetland areas to be excavated and/or filled (e.g., canals, channels, roadways, fill and apoil areas, and dikes).

(c) Details of all planned facilities where construction or operation could alter or disturb shallow waters and wetlands.

(4) For purposes of environmental protection:

(a) Information known by an applicant concerning known threatened and/or endangered species, including their associated habitats in the area of project influence, should be provided.

(b) Plans for maintenance of natural drainage patterns and freshwater-saltwater exchanges in waters and wetlands (prevention of unnatural saltwater or freshwater intrusion and dewatering of wetlands).

(c) Plans for minimization of erosion, sedimentation, and turbidity, including stabilization of construction sites.

(d) Other plans or measures to prevent or minimize losses of fish and wildlife and public utilization, and other environmental values, including special construction and operation procedures.

(5) Names, addresses, and telephone numbers of the applicant's liaison.

7. *General guidelines.* 7.1A. Permits issued for oil and gas exploration and development operations in territorial waters and wetlands should be limited to a reasonable time period essential to the work proposed. These permits also should provide such explicit conditions as will minimize damages to fish and wildlife resources.

B. Proposals for other associated activities and works involved in mineral exploration and developments should meet the applicable general provisions to minimize environmental degradation particularly from: The spillage of oil; release of refuse including polluting substances and solid wastes; spoiling on productive wetlands; dredging of productive shallows; alteration of current patterns, tidal exchanges, and freshwater outflow, and erosion and sedimentation.

C. The U.S. Fish and Wildlife Service will consider the following criteria to ascertain if works requiring a Federal permit in shallow waters and wetlands can be implemented without significant damages to fish, wildlife, and the environment:

(1) In instances where proposed structures, facilities, or activities will utilize land fill procedures which involve the adverse alteration or destruction of estuarine or wetland areas, the applicant should demonstrate that practicable alternate upland sites are not available for proposed works.

(2) Permit applications for an unauthorized existing excavation, fill, structure, facility, or building will be examined on an individual basis. The condition, present use, and future potential of a particular work, and alternatives to its continued existence will be considered in determining whether or not to recommend denial of the permit, removal of the unauthorized work, and possible restoration.

D. This Service will recommend denial of Federal permits for proposed projects as follows:

(1) Projects which needlessly degrade or destroy wetland types identified in the Fish and Wildlife Service's Circular 39, Wetlands of the United States, published 1956, republished 1971. The decision whether a project needlessly degrades or destroys wetland types will be made with reference to the three criteria set forth in item 4.2B.(2).

(2) Projects not designed to prevent or minimize significant fish, wildlife and environmental damages.

(3) Projects which do not utilize practicable, suitable, and available upland sites as alternatives to wetland areas.

(4) Projects located on upland which do not assure the protection of adjacent wetland areas.

8. *Specific project guidelines.* 8.1A. The Service will utilize the following specific project guidelines when reviewing permit applications:

(1) *Geophysicol operations.* (a) Gas or airguns, sparkers, vibrators, and other electromechanical and mechanical transducers should be used where practicable.

(b) When explosive charges must be used, the smallest charge consistent with acceptable recording should be used.

(c) Use of explosives should be avoided in important fish and wildlife spawning, nesting, nursery, and rearing areas during periods of high concentration or intense activity by the fish and/or wildlife of concern.

(d) All explosive charges should be fired in compliance with applicable State and Federal regulations.

(2) *Docks and piers.* (a) The size and extension of a dock or pier should be limited to that required for the intended use.

(b) Project proposals should include transfer facilities for the proper handling of litter, wastes, refuse, spoil drilling mud, and petroleum products.

(c) Piers and catwalks will be encouraged in preference to solid fills to provide needed access across biologically productive shallows and marshes to navigable water.

(3) *Bulkheads or seawalls.* Construction of bulkheads, seawalls, or the use of riprapping generally will be acceptable in areas having unstable shorelines. Except in special circumstances such as eroding shorelines, structures should be located no further waterward than the mean or normal high water line, and designated so that reflected wave energy does not destroy stable marine bottoms or constitute a safety hazard. In areas which have undergone extensive development, applications for bulkheads will be acceptable that esthetically and/or ecologically enhance the aquatic environment.

However, denial of permits for the construction of bulkheads on barrier and sand islands, where such will adversely affect the natural transport and deposition of sand materials, will normally be recommended.

(4) *Cables and transmission lines.* Installation of aerial or submerged cables and transmission lines located and designed to provide maximum compatibility with the environment will be acceptable. Particular emphasis will be placed on measures to protect fish and wildlife resources, esthetics, and unique natural areas. In operational areas, routes should make maximum use of existing rights-of-ways.

(5) *Access roads.* (a) Existing roadways should be utilized.

(b) Timber, other matting, or special low impact vehicles should be utilized where possible when temporary access is required in shallows and wetlands.

(c) When access roads to a drilling site must be constructed, the roads should be minimal in size and number.

(d) Selection of location and design of proposed roadways should be based on wet-season conditions to minimize disruption of normal sheetflow, waterflow, and drainage patterns or systems.

(e) Adequate culverts must be placed in all roadways to minimize disruption of natural sheetflow, waterflow, and drainage patterns or systems.

(f) Shoulder and slope surfaces should be stabilized with natural vegetation plantings or by seeding of native species, where possible, or by riprapping.

(g) Upon abandonment of a project site, temporary access roads will be evaluated for their wildlife potential and will be recommended for their retention or removal.

(6) *Bridges.* (a) Designs and alignments should minimize disruption of sheetflow, waterflow, and drainage patterns or systems.

(b) Approaches to permanent structures in wetland areas should be located, to the maximum extent possible, on pilings rather than solid fill causeways.

(7) *Jetties, groins, and breakwaters.* Jetties, groins, and breakwaters that do not create adverse sand transportation patterns or unduly disturb the aquatic ecosystem will be acceptable.

(8) *Levees and dikes.* (a) Designs and alignments should minimize disruption of natural sheetflow, waterflow, and drainage patterns or systems.

(b) Shoulder and slope surface should be stabilized following construction with natural vegetation plantings or by seeding of native species, where possible, or by riprapping.

(c) Upon abandonment of a project site, levees and dikes will be evaluated for their wildlife potential and will be recommended for their retention or removal.

(a) Discharge of pollutants into navigable

case the structure may be built under

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(9) *Lagoons, impoundments, waste pits, and emergency pits.* (a) Construction should minimize disruption of natural sheetflow, waterflow, and drainage patterns or systems.

(b) Areas should be excavated to an impermeable soil formation at the time of construction, or lined or scaled.

(c) Operation and use must be in strict compliance with applicable local, State, and Federal regulations.

(10) *Navigation channels and access canals.* (a) Designs and alignments should minimize disruption or natural sheetflow, waterflow, and drainage patterns or systems.

(b) Designs should meet demonstrated navigational needs.

(c) Designs should prevent the creation of pockets or other hydraulic conditions which would cause stagnant water problems.

(d) Designs should minimize shoreline or other erosion problems and interference with natural sand and sediment transport processes.

(e) Designs, where recommended, should use temporary dams or plugs in the seaward ends of canals or waterways until excavation has been completed.

(f) Designs should minimize changes in tidal circulation patterns, salinity regimes, or related nutrient and aquatic life distribution patterns.

(g) Alignments will be recommended by the Service that avoid or minimize damages to shellfish grounds, beds of productive aquatic vegetation, coral reefs, and other shallow water and wetland areas of value to fish and wildlife resources.

(h) Alignments should make maximum use of existing natural channels.

(i) Construction should be conducted in a manner that minimizes turbidity and dispersal of dredged material.

(j) Construction should follow schedules, which may be recommended by the Service. These schedules will aim at minimizing interference with fish and wildlife migrations, spawning, and nesting or the public's enjoyment and utilization of these resources.

(11) *Excavation of fill material.* Excavation and dredging in shallow waters and wetlands will be discouraged and the Service will recommend that any permit issued contains conditions to minimize adverse effects and activities in important fish and wildlife spawning, nesting, nursery, and rearing areas, and prohibit construction during critical periods of migration, spawning, and nesting activity.

(12) *Disposal of spoil and refuse material.* In-bay, open-water, and deep-water disposal generally will be considered acceptable by the Service only after all upland and other alternative disposal sites have been explored and rejected for good cause. Deep-water disposal will be acceptable only at sites specifically selected, including those selected for deposit of suitable material for habitat improvement, where agreed upon by all concerned agencies.

(13) *Drilling and injection wells, and production facilities.* (a) Directional drilling techniques should be used where practicable.

(b) Drilling and production facilities should utilize equipment that prevents or controls, to the maximum extent practicable, the discharge of pollutants.

(c) All drilling muds should be stored in tanks or diked non-wetland areas.

(d) Upon abandonment of a project site, pertinent facilities will be evaluated for their wildlife potential and will be recommended for retention or removal.

(14) *Pipelines.* (a) Pipeline routes that avoid or minimize damages to important spawning, nesting, nursery, or rearing areas will be encouraged by the Service.

(b) In established operational areas, pipeline routes should make maximum use of existing rights-of-way.

(c) In all areas, pipelines should be confined to areas which will minimize environmental impact; special care should be taken in unaltered areas.

(d) Where recommended, pipeline access canals should be immediately plugged at the seaward end and subsequently maintained to prevent freshwater or saltwater intrusion.

(e) Where recommended, bulkheads, plugs, or dams should be installed and maintained at all stream, bay, lake, or other waterway or water body crossings.

(f) Pipeline placement should be designed with a wide margin of safety against breakage from mud slides, currents, earthquakes, or other causes. In areas of high natural seismic activity, pipelines should be designed and situated, to the maximum extent possible, to be "earthquake proof."

(g) Pipeline placement by the push method in marshlands will be encouraged.

9. *Assistance to applicants and prospective applicants.* 9.1A. All applications for works or activities subject to Federal jurisdiction over navigable waters will be considered within the framework of foregoing policies and guidelines. It is the position of the Service that these guidelines, if followed, will facilitate the orderly review of permit applications for oil and gas exploration and development activities. Protection is a national responsibility that cannot be shirked or comprised if future generations are to enjoy a satisfying and healthy environment. The Service considers that adherance to these guidelines is requisite to this national responsibility and the Nation's goal of environmental quality.

B. The Service stands ready at all times to assist permit applicants in formulating environmentally sound proposals and in avoiding unnecessary delays in developing environmentally compatible plans. Contacts should be made through the appropriate Regional Office of the Fish and Wildlife Service. The addresses and telephone numbers of the Service's Regional Offices and a map of the States each Region covers are contained, respectively, in Appendices 1 and 2 below.

DEPARTMENT OF THE INTERIOR

Fish and Wildlife Service

REVIEW OF FISH AND WILDLIFE ASPECTS OF PROPOSALS IN OR AFFECTING NAVIGABLE WATERS

(40 FR 55810–55824)

Navigable Waters Handbook

1. *Introduction.*

1.1 *Purpose and orrangement of material.* A. This brings together the policy and procedural guidelines and pertinent reference materials applicable to the program of the Division of Ecological Services, Fish and Wildlife Service, regarding dredge, fill, materials discharge and disposal and related Federal and federally permitted work and activities conducted in and adjoining the Nation's waters.

B. The guidelines are presented in this 10-section main part of the handbook, and the reference materials are organized in 9 appendixes: A through I. Appendixes A, B, and C include, respectively, form letters and reports, recording forms and other procedural aids, and standard recommendations. Appendix D contains legal and related references; Appendix E, official policy statements of Interior; Appendix F, official policy statements of other entities; Appendix G, technical references; Appendix H, general educational material; and Appendix I, procedural references, including definitions of terms.

1.2 *Developments and activities covered—* A. *Summary of coverage.* These guidelines are applicable to all works and dredge, fill and other activities affecting navigable waters that are sanctioned, permitted, assisted, or conducted by the Federal Government. The central focus of the handbook is on the navigation permit program of the Corps (Corps of Engineers, U.S. Department of the Army) conducted under the Act of March 3, 1899, and related Acts (App. D–2a), but the coverage includes:

(1) Works and activities in navigable waters, federally permitted by the Corps under Sec. 10 of the Act of March 3, 1899, App. D–2a. These include various works and activities secondarily permitted by the Corps such as: Mineral exploration and development on outer continental shelf and other public lands for which leasing and certain basic permitting authority rests with the Secretary of the Interior; rights of way on public lands for which authority rests in a number of Federal land administering agencies including several bureaus of Interior, the Forest Service and others; and use, occupancy, and filling of and removal of sand, gravel, and coral from tidelands, submerged lands, and filled lands in or adjacent to Guam, the Virgin Islands, and American Samoa which is permitted by the Secretary of the Interior under Sec. 2 of the Act of November 20, 1963, App. D–2w.

(2) Discharges of pollutants and the disposal of materials in navigable waters and the transportation for and dumping of materials in ocean waters will be the subject of a separate handbook, but they are covered in summary here because of their relation to the fully covered activities:

(a) Discharge of pollutants into navigable waters, federally permitted by the EPA (Environmental Protection Agency) or by the State with oversight by the EPA under Sec. 402 of the FWPCA (Federal Water Pollution Control Act, as amended by Pub. L. 92–500)—the NPDES Permits (National Pollutant Discharge Elimination System Permits), App. D–2s.

(b) Disposal of dredged and fill material in navigable waters and transportation of dredging material for ocean dumping, federally permitted by the Corps with oversight (and veto power) by the EPA under Sec. 404 of the FWPCA, App. D–2s and under Sec. 103 of the Marine Protection, Research, and Sanctuaries Act of 1972 (MPRSA), App. D–2x.

(c) Transportation of materials other than dredged material for dumping in ocean waters and dumping of such materials in the territorial sea federally permitted by EPA under Sec. 102 of the MPRSA, App. D–2x.

(d) Disposal of sewage sludge which would result in any pollutant entering navigable waters, federally permitted by the EPA or by a State with oversight by the EPA under Sec. 405 of the FWPCA, App. D–2s.

(3) Bridges and causeways over navigable waters federally permitted by the U.S. Coast Guard (Coast Guard) under Pub. L. 89–670, App. D–2m, and basically under Sec. 9 of the 1899 Act, App. D–2a.

(7) Other federally conducted or sanctioned work such as channels, highways, airports, transmission lines, etc.

(8) Steam electric plants and other facilities using natural waters for cooling will be the subject of a separate handbook. They are covered here in summary fashion because they frequently require a permit from the Corps under Sec. 10 of the 1899 Act and a NPDES permit under Sec. 402 of the FWPCA as well as a construction permit and operating license from the NRC (Nuclear Regulatory Commission) if nuclear fueled.

B. *Corps, EPA, and Coast Guard permits.* (1) The Secretary of the Army is authorized by the Act of March 3, 1899, to issue permits to construct piers, jetties, or similar structures, or to dredge and fill in the navigable waters of the United States. This authority is assigned to the Corps, except that the Coast Guard, Department of Transportation, issues permits for construction of bridges and causeways over navigable waters as provided in Pub. L. 89–670, the Department of Transportation Act.

(2) The 1899 Act makes it unlawful for anyone to conduct any work or activity in navigable waters of the U.S. without a Federal permit. Government agencies, Federal, State, and local, as well as persons, corporations, and other entities must apply for a permit when they propose works or an activity in such waters, and they must obtain a permit prior to commencing the construction or other activity.

(3) Dikes, dams, and similar obstructions to navigation require the consent of the Congress as well as approval of plans by the Chief of Engineers and the Secretary of the Army (see App. D–4a, Sec. 9) unless the navigable portions of the involved water body lie wholly in one State. In the latter case the structure may be built under authority of the State legislature but the plans and any modification thereof must still be approved by the Chief and the Secretary.

(4) When the District Engineer (CE) or District Commander (CG) receives an application for a permit, he routinely issues a public notice given the details of the work to be performed under the permit. These notices are distributed to the appropriate Service regional and area offices and to other bureaus of Interior, the EPA, the National Oceanic and Atmospheric Administration (NOAA), and other Federal or State agencies and interested individuals, usually with a 30-day deadline for receipt of any comments and recommendations.

(5) The authority of the Corps to issue permits for the discharge of refuse into or affecting navigable waters under section 13 of the Act of March 3, 1899, was greatly modified by the Federal Water Pollution Control Act Amendments of 1972 (Sec. 2 of Pub. L. 92–500, October 18, 1972).

No Section 13 permits may be issued henceforth by the Corps for the discharge of pollutants into navigable waters from point sources. Section 13 permits in existence and pending applications for such permits for point sources were made one with the NPDES permit system administered by EPA or the State with EPA oversight under Section 402 of the FWPCA. Section 13 remains a viable prohibition against any type of unauthorized discharge or deposit covered by this section for which application for permit has not been made and against certain other violations. Permits for disposal or deposit of dredged or fill material in navigable waters, issued by the Corps under Section 10 of the 1899 Act, now require approval of EPA under provisions of the FWPCA relating to these permits and those for disposal of sewage sludge. Note also that under Section 403 of the FWPCA, special provision is made for control of ocean discharges, through NPDES permits. Transportation for and dumping of materials in ocean waters are controlled by EPA and the Corps under provisions of the Marine Protection, Research, and Sanctuaries Act of 1972 (Pub. L. 92–532, October 23, 1972; App. D–2x).

(6) The Coast Guard processes applications for bridges and causeways much the same as the Corps does applications for other work (see flow chart App. B–4a). Service review and reporting on CG applications is similar to those for the Corps, with the substitution of proper agency references.

(7) The processing of NPDES permit applications by the EPA or the States and of ocean dumping permits by EPA will provide for review and comment by the Service at the Regional Office level much the same as with applications handled by the Corps. Each Regional Office must assure itself that it is properly notified of permit applications and apprised of actions related to the Service interest in these new programs approved in 1972 (see App. D–2s and D–2x).

(8) The Department has no interagency agreement with the Department of Transportation (Coast Guard) or with the EPA on procedures for Secretarial review as it has with the Department of the Army (Memorandum of Understanding of July 13, 1967, see App. E–3) so that any issues that cannot be resolved at the Regional Office must be submitted to the Central Office for resolution on a case-by-case basis.

C. *Permits involving both Federal public lands or other Federal responsibility and navigable waters.* (1) Various private works and activities are permitted on Federal public lands, e.g., mineral exploration and development, canal and transmission line crossings, hydroelectric power development, etc. Other works involve federally assigned responsibility, e.g., nuclear steam-electric powerplants. These works and activities when they impinge on navigable waters also require a permit under Section 10 of the 1899 Act. They also may require other permits for discharges or materials dumping and water quality certifications and marine sanctuary certifications under the FWPCA or the MPRSA.

(2) Construction, operation, and maintenance of physical structures of hydroelectric projects licensed under the Federal Power Act do not require such separate permits because all public interest aspects including navigation are provided for under the Act. However, plans for any dam or other structure of the FPC project that affects navigation must have the approval of the Chief of Engineers and the Secretary of the Army. Also, any dredging, filling, discharge, or disposal related to an FPC project but not constituting construction, operation, or maintenance of the project's physical structures does require Federal permits of the Army. Some FPC licensed works and related activities also may require an NPDES permit and water quality certification.

(3) Outer continental shelf and other public land leases for oil and minerals exploration and development are executed by the Secretary of the Interior through the Bureau of Land Management and permits for drilling and other mineral developments are issued by the Geological Survey with the advice of other Interior bureaus.

Also Interior bureaus, the Forest Service, and other Federal land management agencies issue rights-of-way and other permits which, in particular cases, involve navigable waters. It is apparent, therefore, that related navigation permits issued by the Corps and Coast Guard and NPDES permits issued by EPA or a State to cover these may involve two separate Service reviews.

(a) Any Service review of inhouse Interior leasing and permitting actions, excepting rights-of-way, usually has taken place at the Washington level. Procedures for interbureau coordination within Interior on the selection of areas to be offered for lease sales and as to conditions to be included in drilling and other exploration and development permits to be issued by GS are the subject of an interbureau memorandum of understanding (App. E–2) and detailed procedural guidelines are being developed.

(b) Rights-of-way applications made to Interior bureaus and the Forest Service are normally reviewed by the Service at Regional Office level on a case-by-case basis under

Respecting all other waters and wetlands

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somewhat loosely defined procedures similar to those for Federal projects.

(c) Dr. King's September 23, 1971, instructional memorandum and enclosures on outer continental shelf lands (App. E–9) explain the procedures with respect to applications for Section 10 permits of the Corps on these Interior approved activities. Essentially, District Engineers of the Corps review applications for permit on outer continental shelf activities only from the standpoint of navigation and national security.

The Secretary of the Army desires and has asked Interior to provide the District Engineer with assurance in writing for each application related to outer continental shelf lands "that fish and wildlife and other environmental matters were reviewed and that there is no objection * * *" to the issuance of a permit. Interior has agreed to this procedure based on the fact that the Secretary has adequate authority to protect the environment through leasing and regulatory authorities on the outer continental shelf lands. No doubt the Corps will want similar assurance on other applications where the primary approval is given by Interior. Likewise, the Coast Guard will want such assurance in similar situations.

(4) No definite arrangements have been made for interbureau review in Interior of the permits for use, occupancy, filling, and excavation of tidelands and submerged lands of Guam, the Virgin Island, and American Samoa issued by the Secretary although those related to the Virgin Islands have been informally conducted at regional level. Efforts are underway to develop suitable comprehensive procedures.

(5) As noted above, activities primarily approved by Interior may also require a Corps permit, processed at regional level. In these cases the Corps permit is issued subsequent to the Interior permit and, as noted, is only addressed to navigation and national security with Interior having full responsibility for environmental matters. Other permits and certifications under the FWPCA and the MPRSA also may be involved.

In all of these cases where two or more Federal permits are required for a particular works or activity, great care must be observed that the Service position is consistent. If it is found impossible to be consistent due to change of circumstances as between separate reviews, the change of position should be reviewed within the Department and clearly explained to the Corps of Engineers. Similar care should be taken with review of environmental impact statements which may be handled at a different time or by a different reviewer than the related permit or license.

D. *Federal and other dredge and fill activities.* (1) The Corps itself conducts dredge and fill activities both by contract and with its own equipment largely in relation to its responsibilities for flood control and maintaining navigation channels, harbors, and beaches and other civil and military works. These activities and works are subject to provisions of the FWPCA and MPRSA as well as NEPA and the Coordination Act. Public notices of intention to conduct such work usually are distributed in the same way as notices of permit application and deadlines for response are similarly short.

Dredge and fill work conducted in relation to original construction or major modification of Federal or federally assisted navigation and flood control projects normally is known to the Service long in advance, and reviews of proposals for such work are programmed, budgeted, and scheduled in consonance with the lead agency reporting schedules.

(2) As to dredge and fill activities conducted on non-navigable waters in relation to transmission and pipeline crossings and other riparian installations, the Service may not receive adequate early notice. Belated notice may be received through circulation and review of environmental impact statements prepared under NEPA. Notice on highway and airport projects should be received from the Department of Transportation under provision of Sec. 4(f) of the Department of Transportation Act (App. D–2m) and Sec. 16(c)(4) of the Airport and Airway Development Act (App. D–2t). Notice may also come in certain cases from applications to the Bureau of Land Management or other land management bureaus of the Department, including the Service, or the Forest Service for rights-of-way across Federal lands.

(3) Dredge, fill, and other activities conducted in or so as to affect navigable waters by Federal agencies in relation to their land management and other functions also are subject to provisions of Sec. 10 of the 1899 Act and to those of the Federal Water Pollution Control Act. Thus, for example, the Service's activities in improving tidal marshlands on its coastal refuges require a Federal permit if they involve navigable waters and wetlands. Similarly, the Service's facilities on navigable waters require a NPDES permit from EPA. The Service, as well as other Interior bureaus and other Federal agencies, must be especially vigilant to avoid real or apparent violations of the law lest their sincerity and dedication to environmental preservation and restoration become suspect.

E. *Detection of violations of the Interstate Land Sales Full Disclosure Act.* (1) The Department of Housing and Urban Development (HUD), Office of Interstate Land Sales Registration (OILSR) has requested and the Service has agreed to cooperate through its permit review activities in the detection of violations of the Interstate Land Sales Full Disclosure Act (App. D–2u). Essentially the Service has agreed to provide all practicable cooperation and specifically to provide to the Administrator of OILSR copies of all reports to the Corps on suspected unauthorized activities and of all comments on major permit applications.

(2) Detailed procedural guidelines on this coordination are provided in Instructional Memorandum RB–46 (App. E–23).

1.3 *Ecological services activities involved.* Sec. 2 of this handbook presents an overview of the objectives and policies of the Service applicable to the activities covered in the handbook. Detailed policy guidelines are presented in Sec. 5 and detailed procedural guidelines are presented in other sections as follows:

Sec. 3, preliminary screening of proposals.
Sec. 4, field investigations.
Sec. 7, reporting, including reviews of environmental impact statements and reporting apparently illegal activities.
Sec. 8, Surveillance of illegal work and monitoring of ongoing and completed work.
Sec. 9, education of the public.
Sec. 10, hearings and court testimony.

2. *Objectives and policies.*

2.1 *Objectives* of the Department and Service in relation to dredge and fill and other water-related activities are to protect and preserve fish and wildlife habitat, conserve fish and wildlife resources, and protect public trust rights of use and enjoyment in and associated with navigable and other waters of the United States.

A. The Service strives to meet these objectives by encouraging developers to use every possible means, method, and alternative (including non-development) to prevent harmful environmental impacts and degradations, to restore habitat, and increase opportunities for public use through proper development and land use control.

B. The Service also assists, within the limits of its resources, the programs of other agencies, and especially those of other Interior bureaus dedicated to the public interest in man's environment.

C. More specifically the Service, through taking of every appropriate, useful action, has the following long-range objectives or goals:

(1) Respecting navigable waters, their tributaries and related wetlands of the United States:

(a) Stopping and remedying all illegal activities which are damaging or posing a threat of damage to the naturally functioning aquatic and wetland ecosystems or the dependent human uses and satisfaction, and assisting the actions of other bureaus in protection of environmental resources, values, and uses for which they and the Department of the Interior have responsibilities, including natural, cultural, and general recreational resources, values, and uses, and the water quality aspects of such values and uses.

(b) Ensuring that all authorized works, structures, and activities are (1) judged to be the least ecologically damaging alternative or combination of alternatives (*e.g.*, all appropriate means have been adopted to minimize environmental losses and degradations) and (2) in the public's interest in safeguarding the environment from loss and degradation. Water dependency of a work, structure or activity will be considered when criterion (1) above has not been met.

In determining whether criteria (1) and (2) have been met, the Service will always consider: (a) the long-term effects of the proposed work, structure, or activity; (b) its cumulative effects when viewed in the context of other already existing or forseeable works, structures, or activities of the same kind; and/or (c) its cumulative effects, when viewed in the context of other already existing or forseeable works, structures, or activities of different kinds.

Respecting all other waters and wetlands of the Nation not determined to be navigable waters in the context of Federal law, particularly with respect to proposals activities, and sanctioning actions of the Federal Government and where the concerned resources involve a national interest: long-range objectives or goals are identical to those above-stated for navigable waters, insofar as legally possible.

2.2 *Policies.* A. The Service exercises and encourages all efforts to preserve, restore, and improve the fish, wildlife, and naturally functioning aquatic and wetland ecosystems and assists in the preservation of other environmental resources of the Nation, for the benefit of man.

(1) The Service reviews, investigates, and cooperates fully in providing ecological advice on formulation of Federal and federally permitted, assisted, and sanctioned plans for activities and developments in the Nation's waters and wetlands under provisions of the Fish and Wildlife Coordination Act, App. D–2e.

(2) The Service prepares comments and recommendations on proposals for Federal and federally permitted, assisted, and sanctioned activities and developments in the Nation's waters and wetlands.

(3) The Service provides technical guidance and assistance to government agencies and concerned citizens on environmental aspects of management of waters and wetlands. It encourages development and adoption of comprehensive regional and statewide plans for the management of such waters and lands as anticipated by the Water Resources Planning Act, the Estuary Protection Act, the Coastal Zone Management Act of 1972, as provided by certain State and local zoning actions, and as may be provided by any comprehensive national land-use act.

(4) The Service encourages and provides technical guidance and assistance to local and State programs, symposia, and other organized efforts designed to further public education and awareness of environmental values and actions to abate threats to waters and wetlands of the Nation.

The Service assists all Federal agencies involved in planning construction or permitting and licensing activities in the Nation's waters and wetlands to meet their responsibilities under Section 7 of the Endangered Species Act of 1973. This includes helping to ensure that the continued existence of an endangered or threatened species is not further jeopardized nor will the actions to be taken result in the destruction or modification of such species habitat that is determined critical. Such assistance should enable these agencies to avoid initiation of proposals which could place such species or their critical habitat in jeopardy.

(6) The Service assists particularly other bureaus of the Department of the Interior in meeting their special responsibilities for the Nation's environmental values, including cultural and natural values, general recreation values, and water quality, among others.

B. The Service actively discourages activities and developments in or affecting the Nation's waters and wetlands which would individually or cumulatively with other developments on a waterway or group of related waterways unnecessarily destroy, damage, or degrade fish, wildlife, naturally functioning aquatic and wetland ecosystems, and/or the dependent human satisfactions. In this, the Service assists other Interior bureaus and seeks their aid in protecting all environmental resources under the purview of the Department of the Interior.

(1) The Service considers navigable waters to include all waters, water bodies, and wetlands subject to Federal jurisdiction under provisions of the River and Harbor Act of 1899 and the Federal Water Pollution Control Act Amendments of 1972, as clarified by Federal regulations and court decisions or as modified by Federal law.

(a) For nonwater-dependent works, particularly where biologically productive wetlands are involved and alternative upland sites are available (as may be suggested from field appraisal—see Sec. 4.1A—by a Service biologist), the Service usually recommends denial of a permit unless the public interest requires further consideration. Further consideration may be indicated by an approved land use plan (see Sec. 5.2A(2)) or in the absence of such a master plan, from the determination made by the responsible Federal regulatory agency after carefully weighing all factors relevant to the public interest and reflecting the national concerns for both protection and utilization of important resources (see paragraphs (f) and (g)(3) of 33 CFR 209.120, App. D–4a(2)).

(b) For water-dependent works, the Service discourages the occupation and destruction of biologically productive wetlands and shallows. The Service usually recommends that the site occupied involve the least loss of area on the least valuable of the alternative sites; that avoidable loss or damage to such productive wetlands and shallows, their fish and wildlife, and their human uses be prevented; and that any damages or losses of such resources, proved unavoidable, be reasonably mitigated or compensated.

(2) The Service places special emphasis on vegetated and other productive shallow waters and wetlands and on fish and wildlife species for which the Secretary of the Interior has delegated and specifically mandated responsibilities:

(a) Wetlands as described in "Wetlands of the United States." Circular 39 of the U.S. Fish and Wildlife Service, published in 1956, republished in 1971.

(b) Estuarine and Great Lakes areas as defined in the Estuary Protection Act, the Coastal Zone Management Act of 1972, and Sec. 104(n) of the Federal Water Pollution Control Act, App. D–2o, D–2v, and D–2s.

(c) Migratory birds, anadromous and Great Lakes fishes, and endangered species as defined respectively in the Migratory Bird Treaty Act, Anadromous Fish Conservation Act and the Endangered Species Act of 1973, App. D–2b, D–21 and D–2q.

(3) The Service alerts NMFS and State wildlife agencies and consults with them on all matters related to their interest and responsibilities in keeping with provisions of the Fish and Wildlife Coordination Act, App. D–2E. In like manner, the Service alerts and consults with the NPS on potential degradations of cultural and natural values. The BOR on recreational aspects, and other agencies, particularly Interior bureaus, on any special environmental or other involvements of the proposed work in their special interest such as BR and GS on water quality and BLM and BIA as well as NPS on involved lands and resources under their jurisdiction (Section 6—Coordination, Liason, and negotiation).

(4) The Service discourages exclusionary occupation of navigable waters and their shorelines by riparian owners or by anchored boats (see Rec. XVIII of House Report 91–1433, App. D–6) and other cumulatively harmful uses of such waters and shorelines.

(5) The Service requests guarantees that the authorized work is actually carried out as promised and as required by conditions of the permit, provisions of law, or agreements formalized in writing. In appropriate cases, a performance bond may be requested of a private permittee as a condition of the permit. With a Federal project the Service will strive to have important fish and wildlife provisions specifically mentioned in the authorizing act.

(6) The Sevice conducts and urges surveillance of unauthorized activities and developments in navigable waters; indentifies and investigates illegal dredging, filling, other work and installations in such waters; reports the illegal work to the Corps or Coast Guard; and otherwise supports Federal actions against violators of Federal law in cooperation with the Solicitor and U.S. Attorneys.

(7) The Service assists and promotes surveillance of navigable waters for unauthorized discharges of harmful pollutants, escape of harmful pollutants from non-point, fixed and deposited sources on upland, spills of oil and hazardous substances, dumping of materials in ocean waters and other water pollution sources endangering fish and wildlife or their uses in cooperation with the EPA, Corps, NMFS, and Coast Guard; reports water pollution situations harmful to environmental and human-use values to the responsible regulatory agency; and otherwise assists and supports Federal actions against violators of the Federal Water Pollution Control Act and the Marine Protection, Research, and Sanctuaries Act of 1972.

Authorities and references supporting the foregoing Objectives and Policies are included in App. D, E, F, and G.

3. *Preliminary screening of proposals.*

3.1 *General outline of screening procedure.* A. Upon receipt of notice of permit application or initiation of a study, the proposed work project or activity is first logged and scheduled for investigations and reporting if appropriate. (The logging form presented in App. B–1 is to be used by all Offices.)

It is absolutely essential to maintain complete, up-to-date records to assure timely actions and afford an accurate basis for summarizing accomplishments. A flow chart showing action sequence in review of permit applications is given in App. B–4a.

B. All public notices of applications for permits received from the Corps, EPA, or

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Coast Guard are then screened to exclude from further consideration those where the proposal obviously will have no impact or at most an inconsequential impact on fish and wildlife resources. Such "no-interest" notices are to be appropriately marked to show determination, initialed by the reviewer, its log entry completed, and the notice filed. A response usually is advisable on such notices (see below).

(1) On the basis of notice received, the Ecological Services biologist screens each proposal in his office preliminary to further action so as to determine:

(a) The adequacy of the information supplied and available for proper review.

(b) The apparent environmental significance—what resources would be affected and how seriously? Is the impact of the proposal significant in view of its anticipated direct and secondary effects and in light of existing or potential cumulative effects of similar or other developments affecting the same resources?

(c) The apparent social and economic significance—who would benefit and in what way?

(d) The degree of water dependency.

(e) The apparent need for the work in terms of public health, safety, and welfare.

(f) Whether an environmental statement has been prepared and whether one is necessary or advisable.

(g) The desirability of and apparent opportunities for modifying the design, construction methods, and operating procedures of the proposal and/or selecting an alternative site to minimize environmental damages or restore and improve environmental and social values.

(2) It is the Service position that it is proper to assess the total impact of the total development, including any part to be located on uplands and any secondary effects. The totality of existing and projected cumulative impact of all developments effecting a waterway or group of related waterways and the dependent resources thereof also must be considered.

(3) With Federal proposals for study or work, both new and maintenance, there normally is water dependency and a presumption of Service interest. Excepting periodic maintenance work, the Service activity normally will have been scheduled and budgeted in program documents.

(4) There may appear to be no necessity to respond to notices having no Service interest, but it is usually desirable for a number of reasons to record the lack of interest particularly if response is requested by the lead or regulatory agency. (See App. A–1 for suggested form letters for no action cases.)

(5) It is essential to respond within the set times especially where there is Service interest even if the response is only a request for more time. Such timely response will assure that the Corps, EPA, Coast Guard or planning agency will not have cause to act prior to receipt of the Service report.

C. If the applicant has failed to supply needed information this fact is promptly conveyed to the regulatory agency together with a request that the permit application be held in abeyance until the information (including an EIS if found necessary) has been received or otherwise obtained by the Service and adequate opportunity has been afforded for review, consultation, and presentation of recommendations. (See suggested form letter in App. A–2 and information required of applicants by Corps regulation in paragraph (h) of 33 CFR 209.120, App. D–4a(2).)

(1) The Service makes every effort to assist applicants and other project sponsors in a timely manner in formulating environmentally acceptable plans and resolving related problems, but it cannot cooperate or act in the absence of needed information nor without adequate time. The Service will request extensions of time as required to effect a proper investigation and to consummate necessary coordination and negotiations. (See App. A–3 for suggested form letter.)

(2) Where biologically productive wetlands or other ecologically important resources and values are involved, it is the Service position that the burden of proof is on the applicant to demonstrate that his proposal is environmentally sound and in the public interest (see paragraphs (g)(3)(iv) and (h)(3) of 33 CFR 209.120, App. D–4a(2).) Consequently, any delay occasioned by the Service's request for necessary information may derive from the applicant's failure to properly prepare his proposal for consideration of its acceptability. (See the reverse side of the information request form, App. A–2, and information check list, App. B–3).

3.2 *Suggested aids to screening.* It is of great assistance to expeditious screening of applications for permits in navigable waters, as well as to reporting on them, to prepare and maintain in each field office habitat type maps, with related notes and data descriptive of each type, for all waters and wetlands under the purview of that office. The maps should be of sufficient scale and detail to permit ready and certain decisions as to the likelihood of damage and the kinds of habitat and associated species expected to be affected based on the information on, and keyed to, the map.

Useful source books and maps should be kept at hand organized for ready reference. Good general sources include:

A. "The National Atlas" [U.S.G.S. 1970] provides physical data on costal areas of the United States, pp. 78–84, which although gross for our purposes provide useful checks on landforms, shoreline characteristics, bottom sediments, surface currents, tidal types and ranges, surface sea temperatures and salinities, and wave heights. Similarly, publications on national and local distribution of plans and animals frequently include maps showing general distributtion by species that can serve as gross checks. (See Sec. 9.2D for additional sources.)

B. Many States are now collecting detailed data on their wetlands and most of them have habitat type data published in their files, or in the knowledge of their field personnel and research people. These and other data should be collated and entered on the field office's habitat type maps. Intensive studies on especially critical areas can often be conducted in cooperation with NMFS, State, and university personnel. The latter may be encouraged to involve students in special cases to add to the data base.

4. *Field investigations.* The depth and detail of field investigation varies considerable, mainly in relation to the apparent severity of the anticipate environmental impact and the available Service resources, but also with whether the proposal is Federal or non-Federal.

Normally appropriate studies are programmed, budgeted, and scheduled in advance for Federal proposals while field studies for non-Federal proposals must be done on an ad hoc basis.

Service personnel will at all times act and promote actions by others to achieve an orderly processing of Federal permit applications and planning of federally assisted and Federal projects.

4.1 *Non-Federal proposals—permit applications.* The Service position of the burden of proof being on the applicant to demonstrate the environmental soundness and public interest merit of his proposal implies that the applicant must arrange for any needed detailed field investigations. (See paragraphs (h)(2) and (h)(3), particularly paragraph (h)(2)(vi), of 33 CFR 209.120, App. D–4a(2).) This position certainly must be maintained with respect to planning, design and monitoring studies, but certain investigations must nevertheless be conducted by the Service and others in support of the environmental interests.

A. A reconnaissance of the project area must be made by the responsible Service biologist to provide a first-hand viewpoint and appreciation of the site values and potentials. A field surveillance and appraisal report form (App. B–2) will be completed at the time of the reconnaissance investigation for each permit application which proves to have Service interest to assure that all significant factors are considered. The form should be reviewed prior to taking to the field and partly filled in with the required information that is only obtainable from the permit application and other off-site sources. This completed form is made a part of the permit file.

(1) The field investigator will accomplish the following items of work on-site:

(a) Assess the relative environmental significances of the selected site in contrast to apparent alternative sites.

(b) Assess any possibilities for modifying the proposal to lessen environmental impacts (see Sec. 5 for review guidelines).

(c) Obtain information from knowledgeable local persons on species distribution and diversity, resource uses and values, and public interest relative to priviate interest.

(d) Determine if work has been started and, if so, its apparent legality.

(e) Document the on-site observations through map notations, photographs, records of interviews, sampling data, physical measurements, and completion of the standard field surveillance and appraisal report form (App. B–2).

(f) Note any potential involvements of other Interior bureaus particularly NPS (cultural and natural values), BOR (wild and scenic rivers, scenic values, general recreation values), BIA and BLM (lands and resources), and BR and GS (water and water quality) and later alert and consult with these agencies.

(2) The appraisal form is designed as both a checklist and a record of the on-site investigation; it must be completed in the field in appropriate part to avoid errors of recall.

(a) Although the field appraisal form may appear to be tedious in detail, the worth of the conscientiously completed form is invaluable to preparation of Service comments and recommendations and to any negotiations that may ensue. Therefore, it is essential that the form be completed as fully as possible in every case selected for field investigation and substantive comment.

(b) Since the details required to be completed are a function of the enviornmental significance of the proposal, relatively less consequential proposals will involve completion of fewer details of the form.

(c) Where appropriate, the Ecological Services biologists may find it efficient to arrange a joint reconnaissance of the project site with the applicant and representatives of appropriate State agencies, NMFS, EPA, the Corps, or others.

B. *Need for detailed field studies.* (1) Where the reconnaissance appraisal indicates that highly productive habitat would be degraded or lost if the proposal were carried out as planned, it may be necessary for the Service to conduct or arrange for more detailed studies to support its position and to:

(a) Affirm conclusion of species diversity and resource value.

(b) Provide a firmer basis for negotiation with the applicant on project modifications.

(c) Justify recommendations of permit conditions or denial of permit.

(d) Provide data required for administrative or judicial review.

(2) It is the Service position that there exists a national recognition that wetlands and shallow water habitats have such high ecological and social values as to admit of their destruction or degradation only where there is no question that the public interest demands it.[1]

(3) Widespread national recognition is very helpful to the necessarily expedited review of permit applications since it is not reasonably possible for the Service to conduct field studies sufficient to provide unequivocal ecological answers. A useful discussion of study limitations and values as well as methods is included in App. G–1, taken from a publication of the Atomic Energy Commission.

(4) In view of the national recognition of wetlands values and the inherent limitations of time and resources, the Service will not normally attempt to prove its case in relation to permit applications by assembling detailed, on-site ecological or use data. On-site reconnaissance, as discussed above, will nevertheless be detailed enough to generally and accurately define the resource conditions and values. Proof normally will be supported by reference to indepth studies such as those of ecologist, Dr. Eugene Odum and others (App. G–4 and G–5), the logic of universal dependence of marine and estuarine ecosystems and related resource values on shallows and wetlands, and the great body of long-standing law recognizing the public trust rights in the lands involved (App. D–1b and D–3b).

(5) Permit applications involving steam-electric, steel, paper, petroleum, chemical, and other industrial plants having thermal and other pollutant effects on natural waters often require pre- and post-projects studies, monitoring of environmental changes, and mathematical and hydraulic model studies. The predictive studies should be conducted on-site where possible, and control studies for the monitoring should be conducted at the site pre-project and at an appropriate nearby site post-project.

Certain dredge and fill projects and many Federal navigation, hurricane protection, and beach erosion-control projects also should be subjected to model and monitoring studies to predict and measure environmental impacts—all with a view to improving designs in the interest of the environment.

(6) Detailed studies are generally the responsibility of the project sponsor. The Service has neither the fiscal and manpower resources nor the responsibility to conduct model, monitoring or other detailed studies, but it does have the responsibility to insist not only that they be conducted but that they be done in a scientific, objective manner.

Nevertheless, detailed field investigations by the Service are required in support of testimony in judicial and quasijudicial hearings and occasionally for other purposes, as outlined above. Guidelines for such detailed investigations are outlined in Sec. 10.2 of this handbook.

4.2. *Federal Surveys and Project Proposals—A. Programmend work.* (1) The Service has the responsibility under the Fish and Wildlife Coordination Act, the Anadromus Fish Conservcation Act, the Estuary Protection Act, the Fish and Wildlife Act of 1956, the Watershed Protection and Flood Prevention Act and other authorities to conduct field investigations related to Federal and federally assisted water development surveys and project studies. These investigations are normally programmed, budgeted, and acheduled in harmony with the schedule of the lead Federal agency.

(2) The investigations conducted by the Service in relation to studies of Federal agencies are generally of greater depth and detail than those described above for non-Federal proposals. They should be of comparable detail to those conducted by the lead agency. Principles and guidelines for these investigations are presented in the Division Manual, Secs. 2.300 through 2.999.

B. *Maintenance and emergency work.* Certain types of Fedeal work such as the maintenance dredging of navigation channels conducted by the Corps and emergency flood disaster activities in streams conducted by the Corps, Bureau of Reclamation, and the Soil Conservation Service must be investigated and reported upon on an ad hoc basis and in a manner similar to that described above for non-Federal proposals, except that responsibility for needed fish and wildlife studies largely devolves on the Service, NMFS, and the State fish and game agency. Counsequently, the Ecological Services field supervisor must maintain liaison with the Federal and State agencies and their personnel responsible for these kinds of activities to assure himself that proper notice is afforded and opportunity provided to make field investigations and timely recommendations.

4.3 *Investigations of unauthorized work and activities.* A. Service personnel must maintain continuous surveillance of navigable waters of their area of responsibility to detect any unauthorized work in a timely manner (see also Secs. 5.2B, 6.3, 7.3 and 8 and App. B–4b and B–5).

(1) Offices of the Division should make necessary arrangements to serve as clearinghouses for alerts from Service personnel and cooperating NMFS and State personnel who detect unauthorized work and Division personnel must investigate and report on each such alert.

(2) Service personnel should arrange for all possible assiatance from and cooperation with NMFS and State personnel as well as others with like interests to increase their effectiveness.

(3) Service personnel should cooperate fully with the Corps, Coast Guard, and the EPA in such surveillance and with the Department of Justice in any subseqent enforcement actions.

B. Field surveillance investigations of an apparently unauthorized work or activity must be circumspect on site and confined to making as complete an assessment of the facts as possible. In no event should the investigating biologist voice any allegations of illegality, accuse a person of improper action, or take any other direct action to stop or alter the observed ongoing activity.

C. A field surveillance and appraisal report form (App. B–2) is completed on site as fully as possible keeping in mind the items outlined in Sec. 4.1A, above. Particular attention must be given to obtaining full coverage of the activity site and area of influence with good photographs and to obtaining other evidence (water and biological samples) demonstrating the kind, location, and effects of the observed activity. If possible, the investigating biologist should use a camera providing positive prints directly upon exposure (Polaroid) or take care that the photographic as well as other evidence submitted to other persons for processing is properly certified by use of a "transfer of evidence" form (see note on the back of the first page of App. B–2 form).

D. Following discovery and appraisal of an apparently illegal activity, the regulatory agency will be immediately contacted to determine if the work is being done lawfully. If it is not, the Regional Director will

[1] As evidenced in Federal law, App. D–2f, o, and v; in Federal regulations, see paragraph (g)(3) of 33 CFR 209.120, App. D–4a(2); by the President's Environmental Message of Feburary 8, 1972, App. D–4a; and otherwise in executive policy, particularly EPA's wetlands policy, App. F–2a, b, and c; as well as in wetlands laws of many States. See also App. G, especially G–4 and G–5, for the scientific basis of this recognition.

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promptly request the regulatory agency to issue a cease and desist order. A flow chart of surveillance actions is given in App. B–4b, and related guidelines are presented in sections 5.2B, 6.3, 7.3, and 8.

5. *Policy guidelines for Review of proposals.*

5.1 *Basis.* A. In discussing a proposal with its sponsor and in developing written comments and recommendations to assure that the proposal can be implemented without significant damages to fish, wildlife, and related environmental resources under purview of the Service and the Department (being alert for potential adverse environmental effects in the province of other Interior bureaus so as to coordinate and exploit mutual concerns), Service personnel will observe the policy guidelines set out in this handbook. (App. D, E, and F provide legal references and official policy statements relevant to these guidelines.) In a like manner, the Service will maintain close cooperation and coordination with other State and Federal agencies (Section 6—Coordination, Liaison, and Negotiation).

B. To account for local or regional peculiarities of geography, resources, and social, political, institutional and economic constraints, special adaptations and modifications of these guidelines may be proposed for approval and may be subsequently adopted. Also, more detailed guidelines covering particular situations may be proposed in the future and adopted as required, such as for mineral exploration and development, powerplants, high marsh areas, etc.

C. The Service's policy and procedural guidelines expressed in this handbook are intended to be compatible and reasonably consistent with relevant provisions of law, decisions of the courts, and rules, regulations and administrative practices of Federal regulatory agencies. But the Service does not have the responsibility, as do the regulatory agencies, of making the final determination of the overall acceptability of a proposal, all factors considered. These guidelines are not intended nor should they be interpreted to be addressed to such final decision. They are intended to reflect the Service responsbility to contend for the special public interests in fish and wildlife, their related habitats and ecosystems, and the human uses and environmental values dependent on such resources.

D. Service personnel must critically note that each guideline is qualified to admit of reasoned interpretation on the merits of a particular proposal in its particular ecosystem setting and must be so interpreted in each case. Blanket, absolute opposition to any specific type of development or site situation must not be construed from the language of any policy or policy guideline of this handbook. Each proposal must be weighed on its individual merts not only in the light of the main thrust of applicable guidelines but in light of the qualifications of these guidelines, the specific biological and environmental conditions of the proposal site, and the particular expected environmental impacts of the proposal.

5.2 *General policy guidelines*—A. *New work proposals.* (1) Encroachments into navigable waters and wetlands will be discouraged where such encroachments would significantly damage biologically productive shallows and wetlands or unreasonably infringe on public rights of access, use, and enjoyment.

(2) Sites and design will be encouraged to be in compliance with any applicable comprehensive regional or statewide plant for land use and/or shoreline development which properly balances public needs and properly accommodates site and upland drainange, waste discharges, and erosion forces (as indicated by plans developed by the State under the Coastal Zone Management Act of 1972 and be a State under and State land use act that may be applicable).

(3) A proposal which in combination with other developments would, due to cumulative effects, unreasonably degrade environmental resources, or diminish the human satisfactions dependent on such a resources on a waterway or group of related waterways will not be acceptable to the Service and will be strongly discouraged.

(4) Nonwater-dependent structures, facilities, or activities generally will be considered by the Service to be unaccpetable uses of public waters unless it has been demonstrated that the proposed use is required in the public interest (see Sec. 2.2B(1) and no alternative site mutally acceptable to the Service and the applicant is available.

Although in many cases a restaurant, motel, trailer park, golf course, or other service facility may be more attractive to its customers if it has water frontage, this attraction does not necessarily require encroachment into navigable waters and wetlands. A set-back location that preserves public access to the water usually can provide as good or better water view, assure greater safety from storm hazards, and otherwise accord more fully with both the private and public interest.

(5) Proposals to fill ecologically valuable wetlands or site sewage lagoons or other treatment works on them will be discouraged, and where no feasible upland site for such works is available, the Service will urge adoption of tertiary treatment processes which do not require lagoons or other extensive works with consequent destruction of wetlands (see EPA's wetlands policy, App. F–2a, b, and c).

(6) The Service will object to or request denial of Federal permit for any proposed project not properly designed or located to avoid preventable significant damages to fish, wildlife, and/or other environmental values.

B. *Unauthorized work and activity in navigable waters and applications for after-the-fact permits therefor.* Unauthorized excavation, fill, structure, facility, building, or ongoing activity in or affecting navigable waters will be considered to be in violation of the law as prescribed in the River and Harbor Act of 1899. App. D–2a; the Federal Water Pollution Control Act (Sec. 301), App. D–2s; and the Marine Protection, Research and Sanctuaries Act (Sec. 101), App. D–2x. See also Secs. 4.3, 6.3, 7.3, and 8 of this handbook for other aspects of unauthorized work.

(1) Where necessary to achieve removal of unauthorized harmful works and/or obtain other appropriate remedy, the Service will request the responsible Federal regulatory agency to institute enforcement action, including judicial procedures through the Justice Department if required.

(2) The Service may, where immediate action is warranted to avert great loss of fish and wildlife or their habitat, request the Solicitor, Department of the Interior, to take any appropriate steps to speed legal action.

(3) Where after-the-fact application is made for existing work which resulted in significant environmental damage, the Service will confer with the responsible Federal regulatory agency to assist it in determining the need and the possibilities for restoration and compensation of damages to fish and wildlife, their habitat, and related human use values.

(4) If legal action is not taken or is taken and fails adequately to remedy the damage, the Service will continue to aid negotiations with the applicant, seek appropriate conditioning of any permit, and take such other remedial measures as are available.

(5) Where satisfactory means and measures for restoration and compensation have been imposed upon or negotiated with the applicant, Service personnel will urge that the permit include conditions to assure their implementaion.

(6) The Service may ask that the applicant be required to furnish a performance bond when there appears to be substantial risk of non-performance.

(7) In case of judicial action, Service personnel must expect to testify with appropriate Departmental clearances required and to have developed substantial evidence in support of the environmental aspects of the case. In such event, expert opinion is only a feeble substitute for firsthand testimony based on in-depth investigation (see Sec. 10).

C. *Proposals determined to be acceptable.* The Service will urge that the applicant be required to provide assurances, through acceptance of permit conditions, that the works will be built and operated in such a way as to minimize the impact on fish and wildlife and the detriments to the public interest in the lands and waters affected.

(2) In cases where compensational measures are developed with the applicant to protect the resources, the natural functioning ecosystem, and other environmental values, Service personnel may recommend that a performance bond be required of the applicant to guarantee implementation of the compensational measures.

(3) Assurances for Federal projects will be obtained by the Service through clear and specific inclusion of means and measures in project authorizing documents and diligent follow-up during construction and operation.

5.3 *Detailed policy guidelines.* Service personnel will observe additional detailed guidelines in screening and reviewing permit applications and Federal proposals as

indicated below for particular types of protects (Note that where excavation of fill or deposition of spoil are involved in a proposal, the guidelines of items I or J are applicable in addition to the guidelines listed for the specific main proposed works or activity):

A. *Docks, moorages, piers, and platform structures.* (1) In crowded areas, individual single-purpose docks will be discouraged, and multiple-use facilities common to several property interests providing common pollution control works and minimizing occupation of public waters will be actively encouraged.

(2) Joint-use moorage facilities will be encouraged for subdivisions, motels, and multiple dwellings in preference to individual moorage.

(3) The size of docks and piers and their extension beyond the normal high water line will be recommended to be restricted to that required for the intended use.

(4) Anchor buoys will be encouraged in preference to docks.

(5) Piers or catwalks will be encouraged in preference to fills to provide needed access to navigable water.

(6) Dry storage on upland will be encouraged for small boats in preference to water moorage in crowded areas.

(7) Removal of docks, piers, or platform structures in existence without a Federal permit will be recommended where practicable and especially where the particular structure is found to interfere with or preclude preservation, management, or utilization of fish and wildlife resources and otehr environmental values.

(8) Removal will also be recommended of all piers and similar structures receiving little use, in a state of disrepair, and/or serving no demonstrated public purpose.

(9) Overwater location of apartments, shops, restaurants, and other nonwater-dependent facilities on pile structures or fills will generally be viewed by the Service as destructure intrusions upon the aquatic environment. Denial of a permit for a structure intended solely for such uses will be recommended unless it is clearly shown that the particular structure is required in the public interest (see Sec. 2.2B(1)(a) and Sec. 5.2A) and no alternative site mutually acceptable to the Service and the applicant is available.

(10) Permits for docks, piers, and other overwater structure will be recommended to be conditioned to require removal once the structure no longer serves the purpose for which it was originally permitted.

(11) Houseboat anchorage and moorage in public waters outside of publicly established harbor areas for more than 30 days will be discouraged.

(12) Service review of applications for the repair or replacement of previously permitted docks, piers, and moorages will be expedited.

B. *Marinas and port facilities.* (1) Designs that minimize disruption of currents, restriction of the tidal prism, excavation in shallow waters and wetlands, removal of barrier beaches, and filling of shallow waters and wetlands that do not occupy waters with poor flushing characteristics or sites with high situation rates; and that preserve environmental values in general will be strongly encouraged.

(2) Facilities for the proper handling of boat and site-generated sewage, litter, other wastes and refuse, petroleum products and precipitation runoff will be insisted upon with all marina and port proposals, including modifications to existing facilities, insofar as required by law.

(3) Regional and statewide planning for balanced land use and specifically to locate suitable spoil disposal sites, reduce unneeded dredging, and properly locate any new or expanded port, other necessary navigation and other water-dependent facilities will be encouraged. Shipping and support facilities including marine railways and launching ramps will be encouraged to make full utilization of developed areas to forestall disturbing new areas of high environmental value.

C. *Bulkheads and seawalls.* (1) Bulkheads and seawalls generally will be acceptable in areas having unstable shorelines, but their construction will be discouraged where marsh, mangrove, or other naturally protective and productive areas would be disturbed. In the latter situations, any neccesary bulkhead should not reflect wave energy so as to destroy productive wetlands. In rapidly eroding situations where natural, protective vegetation or other controls are inadequate, bulkheads placed in navigable waters may be acceptable if properly designed to mitigate but not aggravate natural forces and processes.

(2) In extensively developed areas, rip-rap and/or designs utilizing natural vegetation will be encouraged in lieu of bulkheads of wood, concrete, or metal. Bulkheads will be acceptable that esthetically and/or ecologically enhance the aquatic environment.

(3) On barrier and sand islands and sand beaches, bulkheads which would adversely affect the littoral drift and natural deposition of sand materials will not be acceptable.

D. *Cables, pipelines, transmission lines, bridges and causeways.* (1) The Service will enourage the establishment of transportation-utility access corridors crossing navigable and other waters and wetlands at sites that localize and minimize environmental impact by limiting the encroachments to least valuable and productive areas.

(2) To be acceptable, aerial or submerged cables, pipelines, and transmission lines must be located and designed for maximum compatibility with the environment. In assessing environmental compatibility, Service personnel will give particular emphasis to the provisions made to protect water quality, fish and wildlife resources (notably, interference with migration routes) and to prevent interference with fishing and other public uses. Where unique natural areas, cultural sites, or significant impacts on scenic beauty or public access appear to be involved, Service personnel will alert and cooperate with concerned Interior bureaus and other agencies.

(3) Alternation of the natural water flow circulation patterns or salinity regimes through improper design or alignment will be discouraged.

(4) Enhancement of public access by the installation of fishermen catwalks, boat launching ramps, or other structural features will be encouraged.

(5) Bridge approaches required to be located in wetland areas will be recommended to be placed on pilings rather than constructed as solid fill causeways.

E. *Jetties, groins, and breakwaters.* Jetties, groins, and breakwaters that do not interfere with or, preferably, that enhance public access, and do not create adverse sand transportation patterns or unduly disturb the aquatic ecosystem will be acceptable. Service personnel will place particular emphasis on preventing project-related erosion and other harmful impacts caused by the installation—such as destruction of sand dunes and beaches and filling of shallows and tidal wetlands due to changes in littoral currents and drift—as well as on protecting fish and wildlife resources and uses.

F. *Lagoons and impoundments.* Lagoons or impoundments for waste treatment, cooling, or aquaculture which would occupy or damage significant wetlands or other ecologically productive areas in navigable waters will be unacceptable to the Service and denial of permit normally will be recommended. (A NPDES permit is required to discharge from these; see EPA's wetlands policy, App. F–2 a, b, and c.)

G. *Navigation channels and access canals.* (1) Construction or extension of canals primarily to obtain fill material will be discouraged or opposed as appropriate.

(2) Designs and alignments should adequately serve the needs of commercial and sport fisheries and other water recreation as well as other demonstrated public needs.

(3) Designs should not create pockets, interior channels, or other hydraulic conditions which would cause stagnant water problems.

(4) Designs should not create or aggravate shoreline erosion problems or interfere with natural processes of beach nourishment.

(5) Channel alignments and spoil sites should avoid shellfish grounds, eelgrass beds, beds of other productive aquatic vegetation, coral reefs, fish spawning and nursery areas, fish and wildlife feeding areas, and other shallow water and wetland areas of value to fish and wildlife resources and uses.

(6) Alignments should make maximum use of natural or existing deep water channels.

(7) Designs should include temporary dams or plugs in the seaward ends of canals or waterways and competent confining dikes around spoiling sites to serve until excavation has been completed and all sediment has settled out.

(8) Designs should not alter tidal circulation patterns adversely, create change in salinity regimes, or change related nutrient and aquatic life distribution patterns.

(9) Construction should be conducted in a manner that minimizes turbidity and dispersal of dredged material into productive areas and on schedules that minimize interference with fish and wildlife migrations, spawning, nesting, or human uses.

(10) In addition, the Service will recommend that the applicant or permittee be

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required to supply the Service with a schedule of the dredging anticipated during the life of the permit (frequency, duration, type of dredge, amounts of material, etc.) and where appropriate give a two-week notification prior to the commencement of work at each location or phase of construction. Recommendation also will be made to required Service notification when work is completed and the amount of materials removed. Similar advice and notice will be requested for previously coordinated Federal projects.

H. *Drainage canals and ditches.* Construction of canals and ditches that would drain or facilitate drainage of any of the wetland types identified in the Fish and Wildlife Service's Circular 39, "Wetlands of the United States," will be discouraged, and denial of permit usually will be recommended by the Service. Channels draining such wetlands will be acceptable to the Service only where the following situation has been conclusively demonstrated: Insect vector control or some other public health, safety, or welfare measure is required as a public necessity and drainage would be the least damaging or only practicable means of accomplishment. But in these instances, the quantity and quality of any discharged waters should be controlled as required by the FWPCA and so as not to adversely affect the aquatic ecosystem unduly (a NPDES permit covering such discharges may be required).

I. *Excavation of fill material.* (1) Excavation and dredging in shallow waters and wetlands will be discouraged and any permits issued or Federal work approved will be recommended to be conditioned to prohibit activities in fish and wildlife nursery areas and during periods of migration, spawning, and nesting activity.

(2) Whenever the excavation of fill materials from productive submerged or intertidal wetland areas or from wetland types identified in Circular 39 (see Sec. 2.2B(2)) is considered detrimental to fish and wildlife resources and unacceptable, permit denial for such work will be recommended by the Service.

(3) Uncontrolled stockpiling of dredged material in shallow water or on wetlands to achieve full bucket loads will not be acceptable. Unloading barges should be employed wherever possible to avoid such stockpiling of materials. Where stockpiling is required, the use of competently diked upland areas usually will be recommended.

(4) Excavations should not create stagnant sumps or cul de sacs that trap and kill aquatic life.

(5) Dredging operations should be conducted so as to prevent petroleum spill, deposit of refuse, and avoidable dispersal of silt or other fines or other discharges of harmful materials (a NPDES permit may be required).

J. *Filling and deposition of spoil and refuse materials.* (1) Filling in navigable waters generally will be discouraged and will be strongly objected to where the proposed development is nonwater dependent or would not serve a demonstrated public need.

(2) Whenever the filling of waters and wetlands is considered detrimental to fish and wildlife resources and unacceptable, permit denial for such work will be recommended by the Service.

(3) Spoil confinement works should be properly designed, constructed, and maintained to avoid discharge of fines, other particulates, or harmful material to natural waters and be located on dry upland. The location of outlets and other means of control of the effluent from the spoil retention area should yield water quality that will preserve the aquatic ecosystem (a NPDES permit may be required).

(4) Toxic, oxidizable organic, and other highly harmful materials must be disposed on dry upland areas behind impervious dikes or by other safe and environmentally protective means.

(5) Dikes should be vegetated immediately to prevent erosion.

(6) In-bay, open-water, and deep-water disposal generally will be considered acceptable by the Service only after all upland and other alternative disposal sites have been explored and rejected for good cause. Deep-water disposal will be acceptable only at sites designated under State or Federal regulations or at sites specifically selected, including those selected for deposit of clean material for habitat improvement, where agreed upon by all concerned agencies.

(7) Sediment and/or effluent analysis will be recommended to be required in cases where there is suspected contamination by heavy metals or other toxicants. In cases where contaminant levels are high, the Service will either urge disposal on fully confined impervious upland sites or by other safe and approved means, or recommend denial of permit application.

(8) Turbidity and dispersal of dredged material will be recommended to be controlled in relation to open water dredging and disposal by means of fine-meshed curtains or other effective means.

(9) The foregoing guidelines on spoil deposition are also particularly applicable to Federal channel excavation and maintenance.

K. *Mineral exploration and development, territorial waters.* (1) To be acceptable, blanket permits issued for mineral exploration and development (including oil, gravel, sand, fossil shell, phosphates, sulfur, salt, placer metals, etc.) must be limited to the shortest time period essential to the work proposed and should provide by explicit conditions of the permits for such of the following that can be utilized to minimize environmental degradation: Areal exclusions; special exploration and development procedures (e.g. slant drilling); use of special equipment (e.g. use of shallow draft barges and low-impact swamp vehicles on wetlands); and limitations on dredging, filling, and spoiling (i.e. use of existing channels wherever possible rather than new ones, avoidance of productive wetlands and shallows for filling and spoiling, etc.).

(2) To be acceptable, proposed activities and works must be described as fully as possible in the original permit application, and to the extent that these cannot be described for the entire extent of the work and period of the permit, the underscribed extension and modifications when known and proposed must be subject to provision of adequate notice and opportunity for on-site assessment of potential environmental impact by the Service or its designee, and the permit must be further conditioned as may be required to protect environmental resources on the basis of such recommendations as the Service may make.

(3) To be acceptable, proposals must meet the applicable general and detailed guidelines set out hereinabove for other particular activities and works involved in the proposed mineral exploration and development.

(4) To be acceptable proposals must make adequate provisions to keep environmental degradation to the minimum, particularly that from spillage of oil; release of refuse including polluting substances and solid wastes; spoiling on productive wetlands; dredging of productive shallows; and alteration of current patterns, tidal exchanges, freshwater outflow, erosion and sedimentation.

L. *Mineral and other developments, including rights of way, on public lands.* (1) As discussed more fully in Section 1, Interior bureaus and other Federal land management agencies are involved variously in leasing lands and granting permits for rights of way, mineral exploration and development, hydroelectric power development, and other activities on public lands of the United States. To the extent that these activities would involve identifiable effects on navigable waters they also require a permit from the Corps or Coast Guard under the 1899 Act and/or the Federal Water Pollution Control Act Amendments of 1972, and in certain cases a NPDES permit from EPA or the State.

(2) These guidelines do not cover procedures for the intra-Interior review of outer continental shelf and other public lands, mineral leases, and permits nor rights-of-way permits, but it is expected that Service personnel will apply any of the pertinent policy guidelines of this handbook as are appropriate.

(3) Corps, Coast Guard, and EPA permit applications covering such activities should be reviewed in the field for potential site-specific impacts as with any other permit, keeping in mind, however, that general protective conditions are included in the Interior permits which are deemed adequate for all known situations and contingencies and that known highly damageable areas have been excluded from the lease offers and use permits for lands of the Territories.

(4) If a particular case appears to the reviewing biologist to involve substantial impacts of a nature not certainly covered by conditions of the Interior permit, he should initiate action to so notify the district or regional office of the concerned regulatory agency and the responsible office of the concerned Interior bureau or for the Territory. If the responsible local Interior office cannot satisfy the Service concern, the matter should be referred to the Central Office for resolution and the district or regional office of the regulatory agnecy should be so apprised.

M. *Log handling, moorage, and storage.* (1) Log handling, moorage, and storage sites proposed to be located on salmon-spawning and other fish productive streams, shellfish grounds, or shallow water and wetland areas of value to fish and wildlife resources and uses will not be acceptable to the Service.

(2) Log handling, moorage, and storage in public waters will be discouraged, particularly where such activities would obstruct or impede public access, fishing, hunting, and other legitimate public uses of the water body; degrade and destroy fish and wildlife resources; or otherwise degrade environmental values.

(3) Environmentally sound practices of log handling will be encouraged through recommendations for conditioning of any required Federal permit or contract and otherwise, as follows:

(a) Use of positive controls over bark, other debris, and leachates, including proper confinement, collection and disposal of all floatable, soluble, and settleable refuse. Rapidly flowing water, steep shores or other sites must be avoided for log dumping where positive controls cannot be effected.

(b) Use of easy let-down devices for placing logs in water to avoid safety and environmental hazards of violent free-fall dumping.

(c) Limiting the quantity of logs and the duration of their moorage and storage in public waters to the minimum required for efficiency.

(d) Use of upland sites for bundling of logs and disassembling the bundles.

N. *Steam electric powerplants and other facilities using navigable waters for cooling.* Although these facilities will be treated in detail in a separate Steam Electric Powerplant and Cooling Facilities Handbook, broad, general guidelines are included here:

(1) As a general rule, once-through cooling systems will be discouraged and closed-cycle cooling will be encouraged where the facility is proposed to be sited on or so as to affect biologically productive navigable waters. In particular, any facility will be strongly discouraged which would significantly change the environment and values of an estuarine area or other biologically productive navigable water by withdrawal and discharge of large volumes of water—thereby depleting aquatic life by entrainment and impingement; altering the natural or existing regime of salinity, temperture, and dissolved oxygen and the patterns of water currents, tidal exchange, volume, tidal excursion, and freshwater flow; disturbing the populations, dynamics, and distribution of aquatic life; scouring productive water bottoms or otherwise endangering the viability and productivity of the ecosystem; and lessening the human satisfaction dependent thereon.

(2) A facility to divert water from and release heated water to navigable waters where proposed to be sited so as to affect harmfully salmonid spawning, rearing, or migration waters or any water or wetland supporting highly sensitive and/or highly valued species of fish or wildlife will not be acceptable to the Service unless such facility is fitted with a closed-cycle cooling system and otherwise incorporates protective features that insure against any significant harm to such species at all times and under all foreseeable conditions.

(3) To be acceptable any facility incorporating once-through cooling involving navigable waters must:

(a) Be sited where wetland destruction, other habitat damage, interference with fish and wildlife and their uses, and overall environmental harm will be at the minimum compared to other possible sites in the region:

(b) Involve a plan layout based on preoperational baseline studies defining current, temperature, salinity, tidal, migratory fish or wildlife, and other patterns sufficient to select the smallest and most desirable heat mixing zone, providing adequate zone of passage, and other plan arrangements, including those of the transmission lines and other appurtenant facilities, that will minimize harmful impact on fish and wildlife, their habitats and uses as well as overall environmental damages;

(c) Incorporate design features and operating programs and rules to avoid all avoidable harm to fish and wildlife, habitats, and uses as well as other environmental resources and uses; specifically:

(i) Incorporate a cooling system design employing the best available technology and combination of facilities to minimize harmful effects on the environment, including: Mechanical rather than chemical scale and algae controls; intake-outlet arrangements which minimize impingement, and entrainment, and damage to productive bottoms; fish bypasses and other saving devices as well as screens at intakes;

(ii) Schedule shutdowns to avoid harm to aquatic life as fully as possible;

(iii) Meet all applicable water quality requirements and goals; and

(iv) Adequately monitor the operations to satisfy the burden of proof upon the permittee or licensee that the foregoing and other appropriate environmental standards are met.

6. *Coordination, liaison, and negotiation.* It is difficult to overemphasize the value of taking steps at the earliest possible time to gain participation in the planning process to permit offering suggestions of modifications and alternatives and discouraging selection of naturally productive sites or harmful methods of development. This is difficult with piecemeal private developments, but even with these, publicizing Service concerns in the media, assisting concerned citizens who responsibly involve themselves in surveillance, accepting speaking engagements, arranging symposia, educating local planning, zoning, and administrative boards, and other means can be of help in the long run.

With the Federal activities close liaison by the Division Field Supervisor with the Federal planning agencies usually leads to early notice of actions and invitation to informal consultation during formulation of plans. This early consultation can be the most productive effort made by Division personnel in relation to Federal activities. If possible the consultation should be between the Division biologist and the lead agency planner assigned to the specific survey or project.

The Ecological Services biologist also must maintain early and continuing liaison and coordination with NMFS and State biologists in connection with each assignment. Summary coordination guidelines follow:

6.1 *Coordination with the State, NMFS, EPA, Corps, other Interior bureaus, and other concerned governmental agencies.* A. Early in his review of a proposal, the Division biologist consults with his counterparts in other agencies to:

(1) Gather information from knowledgeable experts.

(2) Identify mutual interests and information sources and obtain useful data and views.

(3) Transmit project data to cooperating entities not otherwise supplied.

(4) Arrange any appropriate joint field studies.

B. As his preliminary assessment and field reconnaissance are completed and he prepares his draft report and recommendations the Division biologist continues coordination and liaison with agencies having coordinate and related responsibilities to:

(1) Assess the public interest and other professional opinion on the merits of the proposal and consider proper means of resolving any environmental issues.

(2) Alert other agencies, particularly other Interior bureaus, to any special environmental concerns in their interest discovered in the Service assessment or reconnaissance and explore any mutual environmental involvements of the proposal with such agencies.

(3) Formulate any appropriate joint position on the proposal among agencies having coordinate responsibilities.

6.2 *Coordination with the applicant or Federal Lead Agency.* A. Early consultation with the Federal lead planning agency can often forestall wasteful efforts addressed to environmentally unsound design or site; yet this advantage is normally long past with permit applicants. Improvements in the latter situation may result from educational efforts by concerned entities and court decisions favorable to the environment which encourage prospective applicants to seek early consultation.

B. Negotiation with the applicant or lead agency planner is conducted as appropriate throughout the Service review process.

(1) If the field appraisal has confirmed that the proposal will have adverse effects on fish and wildlife, their habitat or the naturally functioning ecosystem, efforts must be made either through the regulatory agency (in permit applications) or by direct contact with the applicant or lead agency planners, to have the plan modified to minimize damage to the resource base.

(2) The posture to be maintained by the Service representative in negotiating with applicants or lead agency planners should:

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(a) Encourage acceptance of the validity of the national recognition of intrinsic high public value of shallow water and wetlands habitats through citation of Zabel 1 Tabb, other Federal case and statutory law, local law (statutory wetlands and zoning laws and related case law), and findings of the Reuss Committee and ecologists (see App. D and G).

(b) Avoid acceptance of monetary value as the full measure of significance of ecological and other environmental impacts.

(c) Avoid expedient resolution of issues with the sponsor of the work or activity which do not satisfactorily resolve the environmental issues.

C. If the applicant or sponsor rejects suggestions for making his plans environmentally acceptable, it must be made clear that the burden of proof is on him to demonstrate that such suggestions are infeasible and that his proposal is of overriding public interest. Without such demonstration the Service policy requires that denial of the application be requested or objection to the project be raised as otherwise proper.

D. The assistance of other governmental agencies having coordinate responsibilities and interest should be requested, even urged, in direct participation and support of negotiations. Also, interested private conservation groups should be advised of the Service position.

E. Following successful negotiations, the agreed upon plan modifications for environmental purposes can be handled by:

(1) The applicant submitting a new application with acceptable plan to the permitting authority, which is then specifically comprehended by the permit and its conditions, or

(2) The applicant submitting in writing to the permitting authority his intention to adopt specific plan modifications, thus amending the application, which is then specifically comprehended by the permit and its conditions, or

(3) The Service and Department recommending and the permitting authority adopting the necessary specific conditions or stipulations as part of the permit which fully and specifically comprehend the plan modifications required for environmental and fish and wildlife protection and conservation purposes.

6.3 *Coordination on unathorized work and activities.* A. The conduct of Service personnel in exercising surveillance investigations must be cautious and above reproach. Their on-site actions must be limited to gathering information on suspected unauthorized work without unduly exciting workmen or the sponsors of the work. (See Sec. 4.3.)

B. Enforcement actions are generally the prerogative of the Corps, EPA, Coast Guard, and Justice. Once Service personnel have obtained the pertinent biological and other information necessary for action on the case and the Regional Director has alerted and formally notified the Corps, EPA, or the Coast Guard, as appropriate, with copy to the Regional Solicitor and to the appropriate U.S. Attorney, the Service should normally defer to the regulatory agency for further action. Where NMFS interests are involved, a copy of the formal notification or report on a violation should be sent to NMFS when the regulatory agencies are informed. Where expedited action is justified by immediacy of the threat to highly valued resources, the Regional Director may seek assistance from the Office of the Solicitor. (See also Secs. 5.2B, 7.3, and 8.)

7. *Reporting procedures.*

7.1 *Reports and correspondence.* A. Guidelines for preparation and transmission of routine letters and reports are included in Secs. 3.000–3.999 of the Division Manual. The manual guidelines cover all kinds of river basin activities and should be followed where applicable.

B. Special letter and report formats applicable to review of permit applications are included in App. A. Standard Forms, checklists, and flow chargs are included in App. B, and commonly appropriate standard recommendations for permit applications are included in App. C.

C. *General guidelines on report conclusions and recommendations.* Any of the following situations may serve as a basis for Service recommendation of denial of a Federal permit or objection to the authorization of a Federal project for similar work in navigable water. (More detailed general and specific guidelines for determining acceptability of plans are included In Sec. 5, above):

(1) The project or activity will directly destroy, damage, or degrade fish and wildlife, their habitat, or other significant environmental values, including part or all of a natural functioning ecosystem.

(2) The project will lead to, encourage, or make possible the destruction, damage or degradation of fish and wildlife, habitat, or other significant environmental values, including part or all of a natural functioning ecosystem.

(3) Public use of a natural or other environmental resource will be restricted or curtailed.

(4) Public benefits will not clearly exceed public losses, ignoring any private gains not clearly related to health, safety, or protection of property.

(5) The project purposes are not water related or dependant.

(6) Alternative upland sites are available for the proposal which would involve less environmental costs and generally better satisfy the public interest.

D. *Format and disposition of reports.* (1) Service reports on NPDES permits are submitted by the Regional Director directly to the EPA or the State. Those on nuclear steam-electric plants are submitted through the Director to the Departmental Office of Environmental Project Review for inclusion in the Departmental report.

(2) Service reports on Federal and federally assisted projects are submitted directly to the appropriate office of the sponsoring Federal agency by the Regional Director.

(3) Procedures for review, submission of comments, and resolution of issues on navigation permit applications made to the Corps of Engineers, Department of the Army, are prescribed for all bureaus and offices of the Department of the Interior in 503 DM 1. This Departmental Manual release implements the July 13, 1967 Memorandum of Understanding between the Departments of the Army and the Interior with respect to review of applications for permits for dredging, filling, excavation, and other related work in the navigable waters of the United States issued by the Corps of Engineers. This release assigns responsibility regarding such review to the Director, Fish and Wildlife Service, and delegates responsibility for coordination among Departmental field offices and for submission of formal Departmental communications with District and Division Engineers of the Corps to the Service's Regional Directors.

(4) A different procedure is to be followed where both the permit application and the related draft environmental impact statements are to be reviewed concurrently as described in Sec. 7.2, below.

(5) Under 503 DM 1 the Service normally has a dual role: providing the consultation and review functions mandated by the Fish and Wildlife Coordination Act and coordination and consolidation of views and recommendations of all Departmental bureaus and offices, including those of the Service, into a formal Departmental letter of comment under Fish and Wildlife Service letterhead.

(6) Informal communications with the Corps by the bureaus and offices are not precluded by 503 DM 1; in fact, each bureau and office is directed to make its own arrangements for receipt of public notices and is encouraged to conduct any necessary informal discussions with Corps personnel.

(7)(a) The role of the Service Regional Directors under 503 DM 1 is to coordinate, collate, and transmit all formal Department communications, including requests for extension of time to respond or for more information and the formal Departmental letters of comment (and/or reports) on navigation permits to District Engineers and where appropriate, to Division Engineers.

(b) The Service Regional Director must assure himself that all interested bureaus and offices of the Department have had adequate opportunity to offer comments and that all substantive comments, timely received, are reflected in the formal Departmental response to the Corps on each permit application.

(c) Any unresolved cases of disagreement among field offices of Interior bureaus will necessarily be submitted promptly to headquarters as will any other case which the Corps has indicated it will refer to Washington under the Memorandum of Understanding or which has become so controversial that either the Corps or the applicant is likely to refer it to Washington (See Sec. 7.1E(3)–(6), below).

(8) The Service does not have the above-outlined coordinating function with respect to EPA or the Coast Guard. Nor does it have such function with any other regulatory agency or in relation to review of any Federal or federally assisted project proposals.

(9) The Regional Director's coordinated letter to the responsible Corps officer

prepared under 503 DM 1, although on FWS letterhead, is the official Departmental report on a permit application and is to be so identified in the text of the letter.

(a) The first sentence of the letter report stating the Departmental position should include the Public Notice number and date, the Corps District, the waterway or other locational references, and the State.

(b) Service surveys and investigations on permits, prepared in accordance with provisions of the Fish and Wildlife Coordination Act, are to be incorporated in the letter report to the District Engineer.

(c) In the common case where the substantive comments are limited to those of the Service and any compatible views of other Interior bureaus and offices, the letter will incorporate the Service report and the other comments and views and will state that its content represents the Departmental position, or reflects fully the Departmental views and findings on the identified permit application.

(d) Service letters on such matters as unauthorized activities, failure of a permittee to abide by permit conditions, requests for extension of time, etc., may also note Departmental sanction of the concern or request.

(10) Service letters of comment and reports on other than Corps permits do not necessarily represent the Departmental position and should not so indicate unless Departmental sanction has been determined.

(11) The Departmental letter and/or Service report may be released to cooperating State and Federal agencies and the general public once the Departmental or Service letter has reached the District or Division Engineer of the Corps, Regional Administrator of EPA, or District Commander, Coast Guard.

E. *Recording permit actions and filing of reports.* (1) Records must be maintained in the area and regional offices of the disposition of each public notice received, actions taken, reports filed, and any required follow-up activity accomplished.

(a) Regional offices must maintain records of both Service and Departmental actions in keeping with the role of the Regional Directors as Departmental coordinators for Corps permits.

(b) In addition to maintaining a comprehensive log of permit actions, each public notice received should be filed bearing a notation of its disposition and a reference keying it to the entries made on it in the log (public notices deemed not to involve a Departmental or Service interest are nevertheless logged to assure completeness of records and ease of retrieval in event of later action).

(2) Central Office files must not be burdened. As instructed in Dr. King's memorandum of November 14, 1972 (App. E–16) only those file materials on permits specifically requested by the Central Office should normally be submitted. Exceptions are noted in par. 7.1E(5), below.

(3) The Director should be promptly alerted to permit applications and violations involving properties administered by the Service or another bureau of the Department (i.e., refuges, hatcheries, parks, recreation areas, etc.) and to situations involving policy and other significant Departmental or Service interest.

(4) Alerts on permit involvements of other bureaus of the Department should be forwarded through the Director to the Assistant Secretary for Fish and Wildlife and Parks only where the other bureau so requests, or where after notification of the other bureau that bureau agrees that inadequate attention was accorded an environmental problem.

(5) The Director should be promptly alerted to controversial permit situations which the Corps as indicated it will refer to Washington under the Memorandum of Understanding or where the applicant or the regulatory agency has so clearly objected to the Service or another bureau's recommendations that the matter will likely be referred to Washington for resolution. Where referral to Washington is deemed to be imminent the alert, in exception to par. 7.1E(2), above, should be accompanied by essential file materials and a concise summary of the case and the Department's involvements (see 503 DM 1).

(6) In cases defined above where file materials are submitted to the Central Office, only single copies of the following are required: The Public Notice and any fact sheet, a project location map (with site superimposed on quadrangle sheet or navigation chart), the completed Field Appraisal form, the Service report, any other pertinent correspondence or hearing records, and the Departmental report.

F. *Resolution of issues following report release.* (1) Follow-up with the regulatory agency is to be made on a continuing basis to determine the disposition of cases of concern to the Service and the Department. Copies of permits issued are to be obtained for Service files, with copy to the Central Office if appropriate.

(2) Every effort is to be made to resolve problems at the field level. However, if this is not possible, the Corps in accordance with the July 13, 1967, Memorandum of Understanding, will refer the controversial permit matters to the Under Secretary. The following procedure is followed after Interior's report is filed with the District Engineer:

The District Engineer, in deciding whether a permit should be issued, shall weigh all relevant factors in reaching his decision. In any case where Directors of the Secretary of the Interior advise the District Engineers that proposed work will impair the water quality in violation of applicable water quality standards or unreasonably impair the natural resources or the related environment, he shall, within the limits of his responsibility, encourage the applicant to take steps that will resolve the objections to the work. Failing in this respect, the District Engineer shall forward the case for the consideration of the Chief of Engineers and the appropriate Regional Director of the Secretary of the Interior shall submit his views and recommendations to his agency's Washington Headquarters.

The Chief of Engineers shall refer to the Under Secretary of the Interior all those cases referred to him containing unresolved substantive differences of views and shall include his analysis thereof, for the purpose of obtaining the Department of the Interior's comments prior to final determination of the issues.

In those cases where the Chief of Engineers and the Under Secretray are unable to resolve the remaining issues, the cases will be referred to the Secretary of the Army for decision in consultation with the Secretary of the Interior.

(3) The Associate Director—Environment and Research is to represent the Service on a review committee to advise the Secretariat of the course of action to be followed in the efforts at resolution.

(4) Although procedures have not been agreed upon with regulatory agencies other than the Corps for cases of failure or resolution in the field, any such cases should be referred promptly to the Director with full particulars so that he may attempt resolution of the controversial matters at Washington level.

7.2 *Environmental impact statements.* A. Federal agencies have a responsibility to seek consultation with the Service in relation to their preparation of environmental statements required by Sec. 102(2)(C) and other provisions of the NEPA (National Environmental Policy Act) and the Service has a responsibility by law and expertise to advise such agencies.

B. The Service also has a responsibility to review draft environmental statements and to prepare comments thereon as a part of the Departmental comments made in response to requests for official review and comment on prepared draft environmental impact statements.

C. Distinction must be maintained between these two types of responsibility, as follows:

In the first, the Service should provide such advice as it considers appropriate directly to the Federal agency at field level upon its request. Where Service responsibilities are known or suspected of being involved the Service may offer any appropriate advice or remind the agency of its responsibility to consult with the Service and other environmentally expert and responsible bureaus and agencies.

In the second, the Service must make its contribution through the Department's Office of Environmental Project Review. It should comment on the accuracy of the statement with respect to fish and wildlife and related matters, on the completeness and comprehensiveness of the statement in relation to these matters, and on the compliance with the requirements of the NEPA and the guidelines of the Council on Environmental Quality.

D. Consistency must be observed as fully as possible by Service personnel not only in meeting these responsibities but in reporting on the one or more Federal permits required for the proposal at issue. This will require some considerable care and attention in cases particularly where different persons or different times are involved in the several actions. Concurrent actions by different individuals must be closely coordinated. But in many cases, earlier action on review of a

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permit application must be carefully reviewed and accounted for in preparation of comments on a subsequent permit application or draft environmental statement.

If circumstances have changed so that current comment necessarily must differ from an earlier comment, a full explanation of such circumstances must be given and a persuasive justification made for the current position taken. In no case should the reviewer fail to search out and thoroughly consider the validity of earlier actions before taking a different position. On the other hand, a faulty earlier position cannot be ignored, it must be forthrightly addressed and disposed with minimum embarrassment to the Service and Department. It is expected that the problems of non-consistency will be less likely to occur in the future in that coordination among regulatory and review agencies will encourage if not demand concurrent review actions on related permit applications and environmental impact statements.

E. Regional offices of the Service should expect to receive documents and requests for concurrent review of permit applications and draft environmental impact statements to come to them from the Office of Environmetal Project Review in Washington, particularly those involving major and extensive proposals. In these cases, the procedure described in paragraph 1.4D of 503 DM 1 will be followed, but in addition, the Service report mandated by the Fish and Wildlife Coordination Act will either be incorporated into the official Departmental comments as an identified section or where appropriate because of the length of the report or other reason, a summary of the report thus incorporated and the report itself filed directly by the Service with the appropriae office of the responsible Federal regulatory agency.

7.3 *Reporting unauthorized work or activity.* A. Although a detailed report is usually not prepared on unauthorized work, complete records must be maintained (see App. B–5), a field surveillance and appraisal report prepared (App. B–2), and a request made to the regulatory agency by the Regional Director for enforcement action if it is determined that the work or activity is in fact being conducted unlawfully (i.e. without permit or in violation of the permit). It usually will be found more effective for the Regional Director to transmit his request by certified mail (see App. A–5 and A–6).

B. If action is not taken in a reasonably timely maner, the Regional or Field Solicitor should be requested to intercede to elicit any essential expedited action. See the flow chart of actions on apparent illegal activities, App. B–4b. If court action ensues the investigating biologist is likely to be called to testify; see Sec. 10 for advice on such participation.

8. *Follow-up of permit work and surveillance of illegal work.* Successful achievement of the Service objectives and goals in relation to dredge and fill activities requires continuing, consistently diligent surveillance of waters and wetlands throughout the Nation by Service biologists in coordination with responsible Federal regulatory agencies to maintain a comprehensive monitoring of all activities conducted in waters under their purview.

8.1 A variety of techniques have been suggested and used to intensify surveillance coverage with the limited Service resources. These inc'ude:

A. Intensive, complete coverage of critical areas—preferably periodic (bi-weekly, monthly, or as resources permit) but varied as to timing to avoid strict regularity.

B. Comprehensive, semi-intensive coverage of an entire length of coast, river, or lake—periodic as under Sec. 8.1A, above.

C. Random, occasional coverage of a critical area or length of coast, river, or lake incidental to field reconnaissance of permit applications and other field studies.

D. Comprehensive coverage with assistance of NMFS, district biologists of the State, and/or concerned citizens, and/or Service personnel of other divisions LE, Refuges, Technical Assistance—periodic (quarterly, semiannual, or as resources permit).

8.2 Assistance in surveillance and in intensifying regulatory agency monitoring can be furthered in a number of ways:

A. Sponsoring work shops and symposia.

B. Issuing special reports documenting the value of shallow waters and wetlands in key areas, such as estuaries, and otherwise supporting the need for regional, environmentally sensitive land management planning and control.

C. Eliciting support from government agencies with coordinate interests, conservation groups, and other influential entities in urging intensified surveillance for illegal work and monitoring of permitted activities by the regulatory agency.

9. *Education of the public.*

9.1 *Basis.* Informing the general public and decisionmakers of the ecological, hydrological, and legal bases of the concepts underlying the Service's intensified efforts to save the naturally functioning aquatic and related terrestrial ecosystems of shallow waters and wetlands of the Nation is essential to attaining Service goals.

This is as true for the potholes of the Midwest "duck factory" as it is for the bottomland hardwoods of the Southeast, the extensive, estuarine complexes of the Atlantic, Gulf, and Alaska Coasts, the discrete estuaries of Maine and Pacific Coasts, the bays and shoreline marshes of the Great Lakes, and the oxbows and islands of our major rivers.

9.2 *Means.* A. The Ecological Services biologist must take every opportunity to inform the public of the scientific and legal bases and assist others who are concerned to do so. But he should not merely react to opportunities, for many times these will only permit restatement of the facts to those who already are informed or are at least environmentally oriented and sympathetic. The facts of wetland and other environmental values should be brought to local governments and others who may encourage environmentally damaging development.

B. The legal references of App. D and the technical references of App. G should be perused and frequently consulted in this regard by every Division biologist, and App. H and I are useful aids to the biologists and to his efforts of educating the public and public officials.

C. To be effective in educating others, the biologist must first fully educate himself and continually renew and add breadth and depth to his vision and understanding. The involved ecosystems are in no way simple nor well-understood by even those physical and biological scientists in the forefront of research on these matters. Nevertheless, much is known and the literature is extensive, particularly on coastal and estuarine ecosystems.

D. The following items of literature cover much of the basic knowledge which must be comprehended by all Division biologists involved in dredge and fill activites:

Annon., 1956. *Wetlands of the United States.* Circ. 39, USFWS (Repub. 1971).

Leopold, L. B. and W. B. Langbein, 1960. *A Primer on Water. USGS.*

Swenson, H. A. and H. L. Baldwin, 1965. *A Primer on Water Quality.* USGS.

Teal, J. M. and M. Teal, 1969. *Life and Death of the Salt Marsh.* Audubon/Ballantine (Paperback Ed.).

Annon., 1970. *National Estuary Study.* USFWS. 7 Vols. (especially App. A. Vol. 2; App. B, Vol. 3; and App. I, Vol. 6).

Annon., 1970. *Our Waters and Wetlands: How the Corps of Engineers Can Prevent Their Destruction and Pollution.* U.S. Congress, House Report 91–917 (see App. D–6).

Wharton, C. H., 1970. *The Southern River Swamp—A Multiple-Use Environment.* Georgia State University.

Annon., 1972. *Increasing Protection for Our Waters, Wetlands and Shorelands: The Corps of Engineers.* U.S. Congress, House Report 92–1323 (see App. D–6).

Clark, John, 1974. *Coastal Ecosystems, Ecological Considerations for Management of the Coastal Zone.* The Conservation Foundation.

Many other citations could be listed, of course, but the above, mainly written for the general reader, provide a basic essential overview from which the biologist can branch out to more definitive works. Additional technical sources are cited in the above-listed references and in the App. G–4 and G–5 articles.

E. Many methods and techniques can be used to educate the public, some of which have been noted above in relation to follow-up and surveillance activities:

(1) The media should be utilized as fully as possible to inform the public of ecological principles through articles on locally newsworthy, current situations. Contacts can be made through concerned citizens or directly with news media to properly present the environmental viewpoint of dredge and fill issues. Discretion must be used, however, to avoid jeopardizing any ongoing negotiations with the applicant or lead agency.

(2) Participation in school programs can be helpful in furthering the education of the public on ecological principles. Here are some of the ways:

(a) Lectures and slide talks to primary, secondary, and college-level classes.

(b) Show-me field trips and summer field study classes made in cooperation with schools and summer camps organized by charitable groups, churches, etc.

(c) Field investigations, particularly inventory studies of important habitats, organized with schools to utilize student classes in ecology or field biology for the collection and identification of species, mapping of habitat types, etc.

(3) Lectures, slide talks, and show-me fields trips can be profitably arranged with adult groups, especially with organizations of adults such as Rotary, Kiwanis, religious groups, etc.

F. In connection with the foregoing direct involvements with the public, further publicity can be arranged with news media and the education success can be heightened by distribution of printed material.

Such printed material is available in the Service's popular pamphlets on estuaries, endangered species, and the like, as well as from State sources, Sierra Club, Soil Conservation Service, local conservation groups, and many others.

Also, special publications can be prepared by the Service such as those prepared by the Northeast Region on the Long Island wetlands, by the Pacific Region on Southern California estuaries and coastal wetlands, and by the Southeastern Region on guideline for permit applications.

10. *Participation in judicial and other hearings.*

10.1 *Basis.* A. Involvements with navigation permits frequently requires participation by Service personnel in the resolution of issues through hearings.

B. Participation in judicial hearings, and presumably in those quasi-judicial hearings and proceedings of regulatory agencies such as the Corps, EPA, AEC, and FPC, must be authorized in writing by the Regional Director (see Service Manual 6 AM–3.1). If the Director on advice of the Regional Director decides that participation is not proper, the Solicitor, acting for the Secretary, reviews the decisions and provides counsel on related legal actions.

C. The Office of the Solicitor should be kept advised of any judicial involvements of the Service; his office should be called upon to serve as liaison with U.S. and other attorneys and to provide any other needed counsel. Any publicity of hearing matters must be restricted to that approved by counsel.

D. This section is addressed to participation by Service personnel on matters of fact or expert optinion in hearings in relation to Government business and records. Participation by Service employees as expert witnesses in proceedings between private litigants is normally prohibited. Yet an employee may be permitted to testify as an expert on his own time at his own expense if he clearly avoids representing his testimony as in any way stating official position.

10.2 *Gathering information in support of testimony at hearings.* A. On-site, first-hand observations and data usually will provide far more persuasive evidence in judicial hearings than evidence from the literature, although familiarity with the literature and other sources of information is also essential to well rounded testimony.

B. In preparation for cases to be brought to court or other formal hearing the Service biologist must not only search out all available knowledge from cooperators and other sources, but he must also make as detailed and comprehensive field studies as time and his resources of manpower and equipment will permit.

C. Field investigations on-site ideally include:

(1) An inventory (population estimates by species) and delineation on maps of the distribution of all important species of plants and animals in the impact area;

(2) Determination of the salient physical and chemical characteristics of impact area waters—temperatures, salinities, current patterns, tidal ranges, sediment transport and shoaling patterns, turbidity, dissolved oxygen, degree of pollution, stream discharge rates, turnover or flushing rates, etc.;

(3) Estimation of human uses and satisfactions including sport and commercial harvests;

(4) Comparison of topographic and other data furnished by the project sponsor with that observed on-site to detect any discrepancies;

(5) Assessment of the physical, biological, and esthetic impacts of the proposed works from on-site observations made while visualizing and imagining the planned works in place and noting the agreement of plan orientation points, borrow areas, fill areas, roads, etc., to observed physical, biological, and other environmental features of the site, including tide marks, vegetation lines (by species), depth lines, water current lines, etc.; and

(6) Documentation by written field notes, photographs, map notations, instrument readings, biological samples, records of interviews etc., including completed field appraisal forms for each significantly different instance of field observation (see App. B–2 and B–3).

10.3 *Preparation of material for legal briefs or submission for the record.* A. The witness must prepare his testimony and record material in the closest possible harmony with his attorney.

B. Since each hearing officer or judge has wide latitude in laying down requirements of format, time of submittal, number of copies, and other matters related to presentation of record material within the differing guidelines of the several regulatory or judicial forums, only a few general guiding principles can be set forth here:

(1) The points of fact or opinion to be developed must be jointly selected by the attorney and witness, seeking those that can be presented most persuasively and eschewing weak points and those on which the attorney and witness are not both fully conversant.

(2) The points selected must be thoroughly researched by the witness and explored fully with the attorney to reach common understanding and develop the proper means of presentation.

(3) The points selected must also be critically examined with help of counsel to discover potential weaknesses and develop rebuttal answers to questions that may be posed by opposing attorneys.

(4) With guidance from his attorney, the witness must prepare his brief and record material strictly in accordance with the standards and requirements of the hearing officer or court.

10.4 *Oral testimony.* A. Advice on this point is given in the Service Manual (6 Am. 3.1B) as follows:

In an appearance on the witness stand, an employee should keep this advice in mind:

(1) Be sure the question is understood before giving an answer.

(2) Do not be rushed into answering; stay calm and deliberate.

(3) Be as courteous and responsive as possible.

(4) Stick to facts and do not venture into hearsay and opinion. (An exception might be in the case of expert opinions.)

B. The Manual advice is good. However, the Ecological Services biologist usually will be testifying as an expert witness and need not hesitate to express opinion he believes to be well founded on his training and experience.

C. Some additional advice particularly related to adversary proceedings follows:

(1) Avoid involved answers which open up debatable points or burden the proceedings. Yet do not assume the hearing officer knows or already understands the facts of the situation or the basic ecological principles; give simple, concise, and fully intelligible answers that form a complete record.

(2) Be alert for questions which permit fuller development of your position.

(3) Do not try to answer unanswerable questions or those for which you do not know the factual answer, unless the question admits of developing your position in a tangential way.

(4) Shun belligerency; it is never helpful to your credibility or position.

(5) Avoid evasive, counter-punching, or "cute" answers which can only alienate the hearing officer or judge; such answers will not help your position.

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Friday
May 18, 1979

Part VI

Department of Health, Education, and Welfare

Health Care Financing Administration

Medicare Program; Proposed Schedule of Limits on Skilled Nursing Facility Inpatient Routine Service Costs—Cost Reporting Periods Beginning on or After October 1, 1979

4/4/98

DEPARTMENT OF HEALTH, EDUCATION, AND WELFARE

Health Care Financing Administration

Medicare Program; Proposed Schedule of Limits on Skilled Nursing Facility Inpatient Routine Service Costs for Cost Reporting Periods Beginning on or After October 1, 1979

AGENCY: Health Care Financing Administration (HCFA), HEW.

ACTION: Notice of Proposed Schedule of Limits on Skilled Nursing Facility Inpatient Routine Service Costs.

SUMMARY: The Health Care Financing Administration proposes an initial schedule of limits on skilled nursing facility (SNF) inpatient routine service costs that may be reimbursed under the Medicare program.

This proposed schedule replaces the proposed schedule published in the Federal Register on August 27, 1976 (41 FR 36237). The limits cover adjusted SNF inpatient routine service costs, and would apply to entire cost reporting periods beginning on or after October 1, 1979.

They would not apply to the cost of ancillary services or capital-related costs. Revised schedules of limits will be published on a periodic basis.

DATE: We will carefully consider any written comments or suggestions received on or before July 17, 1979.

ADDRESSES: Please refer to file code MAB-012-N and address your comments to: Administrator, Health Care Financing Administration, Department of Health, Education, and Welfare, P.O. Box 2372, Washington, D.C. 20013. Comments will be available for public inspection, beginning approximately 2 weeks from today in room 5231 of the Department's offices at 330 C Street, SW, Washington, D.C. on Monday through Friday of each week from 8:30 a.m. to 5:00 p.m. (telephone 202-245-0950).

FOR FURTHER INFORMATION CONTACT: Carl Slutter, Medicare Bureau, Health Care Financing Administration, Room 403 East Highrise Building, 6401 Security Boulevard, Baltimore, Maryland 21235, 301-594-9441.

SUPPLEMENTARY INFORMATION:

Background

Section 1861(v)(1) of the Social Security Act (42 U.S.C. 1395(v)(1) of the Social Security Act (42 U.S.C. 1395x(v)(1)) authorizes the Secretary to set prospective limits on the costs that are reimbursed under Medicare, based on estimates of the costs necessary in the efficient delivery of needed health services. The limits may be applied to the direct or indirect overall costs or to costs incurred for specific items or services furnished by a Medicare provider. Regulations implementing this authority are set forth at 42 CFR 405.460.

Under this authority, proposed limits on SNF inpatient general routine service costs were published in the Federal Register on August 27, 1976 (41 FR 36237). Numerous comments were received which questioned the proposed methodology, and suggested alternative approaches. As a result of our experience in the hospital cost limit program, the proposed scheduled of limits.

1. Limits on adjusted SNF inpatient routine service costs. Such costs do not include capital-related costs;

2. A wage index, developed from service industry wages, to adjust the wage portion of the limits to reflect differing wage levels among the areas in which the SNFs are located;

3. A classification system based on whether a SNF is located within a Standard Metropolitan Statistical Area (SMSA) or a Non-SMSA area, and on the basis of whether the SNF is hospital-based or free-standing. In the New England area, New England County Metropolitan Areas (NECMA) are used to determine urban location. Bed size is not used as a variable;

4. A market basket index developed from the costs of goods and services purchased by hospitals to account for the impact of changing wage and price levels on SNF costs. This index will be used to adjust SNF cost data from the cost reporting periods represented in the data collection to the cost reporting periods to which the limits will apply; and

5. Establishing the limits at 115% of the average per diem cost of the comparison group.

Discussion of Proposed Limits

The proposed limits are the result of the Department's continuing evaluation of the cost limits program and the Department's concern for the rising costs of health care and consideration of comments (see items 3, 4, and 6) received on the Notice, published in the **Federal Register** on August 27, 1976.

1. *Use of Adjusted SNF Inpatient Routine Service Costs.*

This proposed schedule would apply to SNF inpatient routine service costs (as defined in 42 CFR 405.452(d)(2), plus an inpatient routine nursing salary cost differential) adjusted by the exclusion of capital-related costs. Capital-related costs include interest, depreciation, insurance, rent and fixed asset related costs which are normally included in the depreciation accounts for Medicare reimbursement purposes.

A large part of the difference in routine service costs among otherwise similar SNFs is attributable to capital-related costs (which vary, among other reasons, because of the age of the physical plant). With the removal of these costs, a major source of disparity between costs of otherwise similar providers has been eliminated.

2. *Use of Wage Index in Calculation Cost Limits.*

We propose to use an area by area index developed from data supplied by the Bureau of Labor Statistics to adjust the portion of the cost limit attributable to wages. The data used would be those for the "service industry," a standard BLS reporting category that includes SNFs.

This is the same index used for the proposed limits for hospitals which were published in the **Federal Register** on March 1, 1979 (44 FR 11612). Because of the comparability between SNFs and the other types of employment covered under the service industry, it is reasonable to expect SNF costs to increase at approximately the same rate of increase as the service industry as a whole.

The wage index is based on data for the year 1977 and is the latest available data. Data for 1978 will not be available until late in 1979.

The index we propose to use was developed by computing the national SMSA (or NECMA) average wage for the service industry and dividing this average into the average service industry wage for each SMSA (or NECMA). The result is expressed as an index number, which is used to adjust the wage portion of the group limit. For non-SMSA areas, the index was developed by computing the national non-SMSA average wage for the service industry and dividing this average into the average service industry wage for all non-SMSA counties in a State. The index then applies to all non-SMSA counties in the State.

We propose to use the Routine Cost Weight for wages and salaries from the Market Basket Index (62.8%) to determine the wage portion of all group limits. This percentage is multiplied by each basic group limit to determine the wage cost portion of the limit. The wage cost portion is then adjusted by the application of the appropriate wage index. We welcome comments on this proposal.

An example of how the wage index is used in adjusting the cost limits is set forth below and the wage indices for urban and rural areas are set forth in Tables IIIA and IIIB.

3. *Use of Separate Limits for Hospital-Based and Free-Standing SNFs.*

The proposed schedule includes separate limits for hospital-based and free-standing facilities. The proposed limits published on August 27, 1976, did not include separate limits. At that time we requested comments on the issue of separate limits. No hard data were submitted to justify the cost differentials between hospital-based and free-standing SNFs. In the interim we have considered sources of this cost differential, such as the allocation methodology for overhead costs and the argument that hospital-based SNFs have more seriously ill patients who require more frequent and intensive routine care. While these potential sources of the cost differential do not, either singly or in total, account for the entire amount of the differential, there is a certain amount of validity in each as a source of part of the differential. Since at least a portion of the higher costs of hospital-based SNFs appears to be attributable to elements which are not controllable through more efficient operation, the establishment of separate limits was necessary to recognize these costs which appear to be unique to and beyond the control of the hospital-based SNF. Further study will be made in this area and subsequent limits may be changed to reflect the results of these studies.

4. *Bed Size Not Used In Classification.* Bed size was not used as a classifier in the proposed limits published on August 27, 1976. An analysis of SNF cost data at that time found a random distribution of per diem costs of small, medium and large bed size SNFs. A subsequent study conducted by the Department of Health, Education, and Welfare was again unable to establish a strong correlation between bed size and cost. In the absence of such a correlation, separate limits based on bed size are inappropriate.

5. *Use of a Market Basket Index.* We have identified two market basket indices which can be used to adjust cost limits for the effects of changing wage and price levels. One of these is an index based on goods and services used by all long-term care facilities. The other is based on a "market basket" of goods and services typically used by a hospital, and is the same index which was used for the hospital cost limits. We believe, based on levels of care furnished, that the hospital index is a much more accurate predictor of SNF costs. Therefore, we propose to use the hospital market basket for the SNF limits pending the development of an index which will reflect the mix of goods and services purchased by SNFs. Comments on this proposal are welcomed.

The market basket is comprised of the most commonly used categories of hospital routine operating expenses. The categories we are using are based on those currently used by the American Hospital Association in the analysis of costs, by the U.S. Department of Commerce in publishing price indexes by industry, and by the health Care Financing Administration in its cost reports.

The categories of expenses are then weighted according to the estimated proportion of hospital routine operating costs attributable to each category. These weights are based on surveys by the AHA, the Department of Commerce's input-output studies, and from our analysis of Medicare cost reports. Column 2 of the table specifies the weights for each category.

The next step in developing the market basket index is to obtain historical and projected rates of increase in the resource prices for each category. The table, in columns 3 and 4, identifies the price variables used in this process and the source of the forecast for the period August 1978 through December 1979. As more current data becomes available, we will update the forecasts. We are also reviewing whether and how to make retrospective adjustments in the cost limits if our forecasts turn out to be erroneous. Comments on this point are welcome.

Derivation of "Market Basket" Index for Routine Inpatient Hospital Care

Category of costs	Routine cost weight (percent) [1]	Wage-price proxy variable used	Price-wage forecaster for 1978 and 1979
1. Wages and salaries	62.8	Average payroll expense per full time equivalent community hospital worker through 1978; index of hourly earnings of service workers, Bureau of Labor Statistics, 1979 [2].	HCFA currently, DRI [3] beginning mid-March 1979.
2. Fringe benefits-social security	4.7	Employer contributions for social insurance per worker in non-agricultural establishments.	DRI.
3. Fringe benefits-pensions	2.3	Same as cost category No. 1 above (wages and salaries)	HCFA currently, DRI beginning mid-March 1979.
4. Fringe benefits-health insurance	1.2	Weighted average of American Hospital Association's cost per adjusted patient day (weight is .67) and per capita expenditures for physicians services (weight is .33).	HCFA.
5. Fringe benefits-all other	1.0	All items consumer price index, all urban	DRI.
6. Professional fees	0.6	Index of hourly earnings of production and non-supervisory workers, Bureau of Labor Statistics.	DRI.
7. Premiums for malpractice insurance.	2.2	Historical time-series data on malpractice premiums, American Hospital Association.	HCFA.
8. Food	4.8	Food and beverages component of consumer price index, all urban.	DRI.
9. Fuel and other energy	2.6	Fuels and related products and power component of wholesale price index.	DRI.
10. Rubber and miscellaneous plastics.	1.8	Rubber and plastic products component of wholesale price index.	DRI.
11. Business travel	1.6	Consumption of transportation services component of implicit price deflator.	DRI.
12. Apparel and textiles	1.6	Textile products and apparel component of wholesale price index.	DRI.
13. Business services	4.4	All services component of consumer price index, all urban	DRI.
14. All other, miscellaneous, expenses.	8.4	Commodities less food and beverages component of consumer price index, all urban.	DRI.
Total	100.0		

[1] The weights were derived from special studies by the Health Care Financing Administration using primarily 1977 data from the American Hospital Association and data from HCFA Medicare cost reports.

[2] For the period through 1977 average payroll expense per full time equivalent community hospital worker was taken from the American Hospital Association's annual survey as reported in *Hospital Statistics* (1978 edition). For 1978 the percent change in payroll expense per full time equivalent hospital worker was projected by HCFA using data reported in *Hospitals* magazine in the mid-month issues. For 1979 the percent change in the index of hourly earnings for service workers was projected by HCFA. Beginning in Spring 1979, Data Resources, Inc., 29 Hartwell Avenue, Lexington, Mass., will be forecasting the percent change in the index of hourly earnings for service workers.

[3] Data Resources, Inc., 29 Hartwell Avenue, Lexington, Massachusetts.

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6. *Setting the Cost Limits at 115% of the Group Average Per Diem Cost.* The schedule published on August 27, 1976, proposed limits at the 90th percentile plus 10 percent of the median. The proposed limits were set at this liberal level because the classification system did not fully take into account variations in SNF's costs, due principally to the age of the facility and area wage differentials. The change from the concept of limits on inpatient routine service costs to limits on "adjusted routine service costs" results in similar costs being subject to the limits. These costs, together with the direct adjustment of the wage portion of the group limits, justify a change in the level at which the limits will be set. We are therefore proposing that the limits be set at 115% of the average per diem cost of the group.

Our preliminary analysis of the impact of this proposed schedule of limits indicates that it may have a disparate effect on different regions of the country. We welcome suggestions on this point.

7. *Exceptions, Exemptions and Classification Adjustments.* The provisions of the 20 CFR 405.460 providing that exceptions, exemptions and classification adjustments may be made to the application of the limits where certain required conditions are present, apply to SNFs as well as to hospitals.

Methodology for Determining Per Diem Routine Service Cost Limit

1. *Data.* The proposed limits have been determined by using actual SNF inpatient routine service cost data obtained from the latest Medicare cost reports available as of January 31, 1979, less capital-related costs. The cost data were then adjusted by means of the market basket index discussed above. These costs report data were projected from the midpoint of the cost report period used in the data collection to the midpoint of the first cost reporting period to which the limits will apply.

The percentage increases in the market basket over the previous year which were used for this projection are:

1975	10.6
1976	8.9
1977	8.2
1978	8.5
1979	8.9
1980	8.6
1981	8.5

2. *Group Basic Limit.* A basic limit was calculated for each group established in accordance with the SNF's urban/nonurban location and type (hospital-based/free-standing). This limit, which is 115% of the average per diem cost of the comparison group, was obtained by averaging the adjusted routine service costs of all SNFs in the group and determining 115% of the average per diem cost.

3. *Adjusted Limit.* The basic limit has been divided into its wage and and nonwage components on the basis of the Routine Cost Weight for wages and salaries from the Market Basket Index—62.8%. The wage component of the basic limit is adjusted using a wage index developed from wage levels for service industry workers in the areas in which the SNFs are located. The adjusted limit which will apply to any SNF will be the sum of the nonwage component of the basic limit, plus the adjusted wage component.

Example—Calculation of Adjusted Limit

Limit from Schedule—$60
Labor Portion—$40 (published in Tables I and II.)
SMSA Wage Index—1.2000

Computation of Adjusted Limit

$60 − $40 = $20 Nonlabor Portion of Limit
$40 × 1.20 (wage index) = $48.00 = Adjusted Labor Portion
$48 + $20 = $68 Adjusted Limit for the SMSA Facility Type Group

The wage indices for each SMSA/NECMA and for the non-SMSA areas of each State are published in Table III.

4. *Adjustment for Cost Reporting Year.* If a SNF has a cost reporting period beginning on or after November 1, 1979, the published limit will be revised upward by a factor for each elapsed month between the midpoint of the period which the published limits cover—March 31, 1980—and the midpoint of the SNF's cost reporting period. This factor is derived by dividing the projected increase in the appropriate market basket index by 12 and is used to account for inflation in costs which will occur after the date on which the limits become effective.

Example 1

SNF A's cost reporting period begins January 1, 1980; midpoint is June 30, 1980. The base group limit for SNF A's group is $50.

Computation of Revised Group Limit

Group Limit—$50
Plus Adjustment for 3 month period (March 30–June 30)
3 × .717 = 2.151%
1.02151 × $50 = $51.08

The revised basic group limit applicable to SNF A for the cost reporting period beginning January 1, 1980, is $51.08.

Example 2

SNF B's cost reporting period begins September 1, 1980; midpoint is February 28, 1981. The base group limit for SNF B's group is $50.

Computation of Revised Group Limit

Group Limit—$50
Adjustment for 1980—9 months (March 30–December 31)
9 × .717 = 6.453%
Adjustment for 1981—2 months (January 1–February 28)
2 × .708 = 1.416%
Adjustment for 11 month period (March 30, 1980–February 28, 1981)
6.453 + 1.416 = 7.869%
1.07869 × 50 = $53.93

The revised basic group limit applicable to SNF B for the cost reporting period beginning September 1, 1980, is $53.93.

This basic group limit will be divided into its labor and nonlabor portions, using the percentage published in Table I and II, and the labor portion will be adjusted by use of the wage index. The sum of the adjusted labor portion plus the nonlabor portion will be the SNF's adjusted per diem routine operating cost limit.

If a SNF uses a cost report period of less than 12 months duration, a special calculation of the adjustment factor must be made. Projections are computed to the midpoint of a cost reporting period and the factor is based on an assumed 12 month reporting period. For cost reporting periods other than 12 months, the calculation must be done specifically for the midpoint of the cost reporting period. The SNF's intermediary will obtain this adjustment factor from the Health Care Financing Administration.

Schedule of Limits

Under the authority of section 1861(v) of the Social Security Act, the following proposed group per diem limits would apply to the adjusted SNF inpatient routine service cost (including the inpatient routine nursing salary differential) for cost reporting periods beginning on and after October 1, 1979. The adjusted limits (using the wage index published in Table III) would be computed by the fiscal intermediaries and each SNF would be notified of its applicable limit.

Table I.—*Group Limits for Hospital-Based SNF's*

Location	Group Limit	Labor portion	Percent labor portion
SMSA	$88.66	$55.80	.626
Non-SMSA	$65.32	$41.02	.626

Table II.—*Group Limits for Free-Standing SNF's*

Location	Group Limit	Labor portion	Percent labor portion
SMSA	$47.60	$29.89	.628
Non-SMSA	$38.76	$24.34	.628

Table III A—Wage Index for Urban Areas

SMSA	Index
Abilene, TX	.7559
Akron, OH	.9742
Albany, GA	.8224
Albany-Schenectady-Troy, NY	.9550
Albuquerque, NM	1.0481
Alexandria, LA	.7489
Allentown-Bethlehem-Easton, PA-NJ	.8416
Altoona, PA	.8502
Amarillo, TX	.7898
Anaheim-Santa Ana-Garden Grove, CA	1.0101
Anchorage, AK	1.7764
Anderson, IN	.7855
Ann Arbor, MI	1.0657
Anniston, AL	.7798
Appleton-Oshkosh, WI	.9212
Asheville, NC	.9093
Atlanta, GA	.9759
Atlantic City, NJ	.8049
Augusta, GA-SC	.8839
Austin, TX	.8504
Bakersfield, CA	.9121
Baltimore, MD	.9665
Baton Rouge, LA	.9750
Battle Creek, MI	1.0044
Bay City, MI	1.0310
Beaumont-Port Arthur-Orange, TX	.8257
Billings, MT	.9025
Biloxi-Gulfport, MS	.8468
Binghamton, NY-PA	.8276
Birmingham, AL	.9251
Bloomington, IN	1.0658
Bloomington-Normal, IL	.8218
Boise City, ID	.9156
Boston-Lowell-Brockton-Lawrence-Haverhill, MA-NH	1.0141
Bradenton, FL	.8683
Bridgeport-Stamford-Norwalk-Danbury, CT	1.1296
Brownsville-Harlingen-San Benito, TX	.6988
Bryan-College Station, TX	.8758
Buffalo, NY	.8571
Burlington, NC	.7857
Canton, OH	.8630
Cedar Rapids, IA	.8151
Champaign-Urbana-Rantoul, IL	.9087
Charleston-North Charleston, SC	.8464
Charleston, WV	.9283
Charlotte-Gastonia, NC	.9046
Chattanooga, TN-GA	.8149
Chicago, IL	1.0979
Cincinnati, OH-KY-IN	.9563
Clarksville-Hopkinsville, TN-KY	.7542
Cleveland, OH	1.0232
Colorado Springs, CO	.8310
Columbia, MO	1.0303
Columbia, SC	.8596
Columbia, GA-AL	.7714
Columbus, OH	.9985
Corpus Christi, TX	.8026
Dallas-Fort Worth, TX	.9371
Davenport-Rock Island-Moline, IA-IL	.7533
Dayton, OH	.9837
Daytona Beach, FL	.8240
Decatur, IL	.8056
Denver-Boulder, CO	.9715
Des Moines, IA	.8855
Detroit, MI	1.1438
Dubuque, IA	.8023
Duluth-Superior, MN-WI	.8420
Eau Claire, WI	.9476
El Paso, TX	.7724
Elmira, NY	.7930
Erie, PA	.8518
Eugene-Springfield, OR	.9753
Evansville, IN-KY	.8336
Fargo-Moorhead, ND-MN	.8720
Fayetteville, NC	.8083
Fayetteville-Springdale, AR	.7981
Flint, MI	1.0678
Florence, AL	1.0039
Fort Collins, CO	.8553
Fort Lauderdale-Hollywood, FL	1.0810
Fort Myers, FL	.8779
Fort Smith, AR-OK	.9052

Table III A—Wage Index for Urban Areas—Continued

SMSA	Index
Fort Wayne, IN	.8115
Fresno, CA	.8673
Gadsden, AL	.8053
Gainesville, FL	.9670
Galveston-Texas City, TX	1.0808
Gary-Hammond-East Chicago, IN	.8962
Grand Forks, ND-MN	.8665
Grand Rapids, MI	.8697
Great Falls, MT	.9034
Greeley, CO	.8428
Green Bay, WI	.8967
Greensboro-Winston-Salem-High Point, NC	.8729
Greenville-Spartanburg, SC	.9082
Hamilton-Middletown, OH	.9748
Harrisburg, PA	.9240
Hartford-New Britain-Bristol, CT	.9285
Honolulu, HI	.9120
Houston, TX	1.0404
Huntington-Ashland, WV-KY-OH	.8520
Huntsville, AL	.9635
Indianapolis, IN	.9052
Jackson, MI	1.0383
Jackson, MS	.8793
Jacksonville, FL	.9034
Jersey City, NJ	.9516
Johnson City-Kingsport-Bristol, TN-VA	.8683
Johnstown, PA	.8846
Kalamazoo-Portage, MI	.9726
Kankakee, IL	.7169
Kansas City, MO-KS	.9220
Kenosha, WI	.8854
Killeen-Temple, TX	.8520
Knoxville, TN	.7916
Kokomo, IN	.8114
La Crosse, WI	.9461
Lafayette, LA	1.0175
Lafayette-West Lafayette, IN	1.0446
Lake Charles, LA	.8265
Lakeland-Winter Haven, FL	.8174
Lancaster, PA	.7927
Lansing-East Lansing, MI	1.0212
Laredo, TX	.6532
Las Vegas, NV	1.0793
Lawrence, KS	1.0441
Lawton, OK	.6948
Lewiston-Auburn, ME	.7622
Lexington-Fayette, KY	.9446
Lima, OH	.8311
Lincoln, NE	.7449
Little Rock-North Little Rock, AR	.9181
Long Branch-Asbury Park, NJ	1.0838
Longview, TX	.7353
Lorain-Elyria, OH	.9117
Los Angeles-Long Beach, CA	1.1442
Louisville, KY-IN	.8242
Lubbock, TX	.7523
Lynchburg, VA	.7893
Macon, GA	.7806
Madison, WI	1.0658
Manchester-Nashua, NH	.7704
Mansfield, OH	.8471
McAllen-Pharr-Edinburg, TX	.7461
Melbourne-Titusville-Cocoa, FL	1.0946
Memphis, TN-AR-MS	.9055
Miami, FL	1.1009
Midland, TX	.8377
Milwaukee, WI	.9970
Minneapolis-St. Paul, MN-WI	.8441
Mobile, AL	.7967
Modesto, CA	.8796
Monroe, LA	.8512
Montgomery, AL	.8403
Muncie, IN	.9429
Muskegon-North Shores-Muskegon Heights, MI	.9065
Nashville-Davidson, TN	.8763
Nassau-Suffolk, NY	1.0336
New Bedford-Fall River, MA	.7909
New Brunswick-Perth Amboy-Sayreville, NJ	1.0730
New Haven-Waterbury-Meriden, CT	.9417
New London-Norwich, CT	.8878
New Orleans, LA	.8900
New York, NY-NJ	1.2086
Newark, NJ	1.1663
Newport News-Hampton, VA	.8537
Norfolk-Virginia Beach-Portsmouth, VA-NC	.8542
Northeast Pennsylvania, PA	.8596
Odessa, TX	.9752
Oklahoma City, OK	.8904
Omaha, NE-IA	.8888
Orlando, FL	.8690
Owensboro, KY	.7394
Oxnard-Simi Valley-Ventura, CA	.9923
Panama City, FL	.7320

Table III A—Wage Index for Urban Areas—Continued

SMSA	Index
Parkersburg-Marietta, WV-OH	.7764
Pascagoula-Moss Point, MS	.7954
Paterson-Clifton-Passaic, NJ	1.0070
Pensacola, FL	.8461
Peoria, IL	.9152
Petersburg-Colonial Heights-Hopewell, VA	.7886
Philadelphia, PA-NJ	1.0175
Phoenix, AZ	.9320
Pine Bluff, AR	.8387
Pittsburgh, PA	.9970
Pittsfield, MA	.7645
Portland, ME	.8198
Portland, OR-WA	.9903
Poughkeepsie, NY	.9211
Providence-Warwick-Pawtucket, RI	.8324
Provo-Orem, UT	.9816
Pueblo, CO	.8720
Racine, WI	.9439
Raleigh-Durham, NC	.9989
Reading, PA	.9500
Reno, NV	.9566
Richland-Kennewick, WA	1.3653
Richmond, VA	.8660
Riverside-San Bernardino-Ontario, CA	.8499
Roanoke, VA	.7368
Rochester, MN	1.0714
Rochester, NY	.9296
Rockford, IL	.8617
Sacramento, CA	.9664
Saginaw, MI	1.0666
St. Cloud, MN	.7772
St. Joseph, MO	.7785
St. Louis, MO-IL	.8734
Salem, OR	.9315
Salinas-Seaside-Monterey, CA	.8420
Salt Lake City-Ogden, UT	.8727
San Angelo, TX	.7260
San Antonio, TX	.9274
San Diego, CA	.9598
San Francisco-Oakland, CA	1.1055
San Jose, CA	1.1245
Santa Barbara-Santa Maria-Lompoc, CA	1.0012
Santa Cruz, CA	.7777
Santa Rosa, CA	.9172
Sarasota, FL	.9377
Savannah, GA	.8912
Seattle-Everett, WA	1.0421
Sherman-Denison, TX	.7631
Shreveport, LA	.8317
Sioux City, IA-NE	.7653
Sioux Falls, SD	.7848
South Bend, IN	.7861
Spokane, WA	.9020
Springfield, IL	.8404
Springfield, MO	.8363
Springfield, OH	.8460
Springfield-Chicopee-Holyoke, MA	.8850
Steubenville-Weirton, OH-WV	.8369
Stockton, CA	.9115
Syracuse, NY	.9333
Tacoma, WA	.8922
Tallahassee, FL	.9038
Tampa-St. Petersburg, FL	.9101
Terre Haute, IN	.8011
Texarkana, TX-Texarkana, AR	.7598
Toledo, OH-MI	.9936
Topeka, KS	.8904
Trenton, NJ	1.0610
Tucson, AZ	.8892
Tulsa, OK	.9445
Tuscaloosa, AL	.9002
Tyler, TX	.8757
Utica-Rome, NY	.7914
Vallejo-Fairfield-Napa, CA	.9829
Vineland-Millville-Bridgeton, NJ	.8606
Waco, TX	.8454
Washington, DC-MD-VA	1.2233
Waterloo-Cedar Falls, IA	.8688
West Palm Beach-Boca Raton, FL	.9589
Wheeling, WV-OH	.8078
Wichita, KS	.9092
Wichita Falls, TX	.7143
Williamsport, PA	.8109
Wilmington, DE-NJ-MD	.8864
Wilmington, NC	.8340
Worcester-Fitchburg-Leominster, MA	.8074
Yakima, WA	.8275
York, PA	.7633
Youngstown-Warren, OH	.9222

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Table III B—*Wage Index for Rural Areas*

State	Index
Alabama	1.1085
Alaska	2.0477
Arizona	.9757
Arkansas	.8865
California	1.0310
Colorado	.9443
Connecticut	1.0736
Delaware	1.0483
Florida	1.0226
Georgia	1.0082
Hawaii	.9781
Idaho	1.1509
Illinois	.8257
Indiana	.9112
Iowa	.9583
Kansas	.9309
Kentucky	.9683
Louisiana	1.0592
Maine	.9476
Maryland	.9856
Massachusetts	.9704
Michigan	1.1298
Minnesota	.7740
Mississippi	.9904
Missouri	.8754
Montana	1.0581
Nebraska	.8067
Nevada	1.2869
New Hampshire	.9531
New Jersey	1.0024
New Mexico	1.0318
New York	1.0244
North Carolina	.9599
North Dakota	.9332
Ohio	1.0486
Oklahoma	.8933
Oregon	1.1500
Pennsylvania	1.1025
Rhode Island	.9183
South Carolina	.9116
South Dakota	.8907
Tennessee	.9736
Texas	.8416
Utah	.8675
Vermont	.9717
Virginia	1.0337
Washington	1.0900
West Virginia	1.0825
Wisconsin	1.0362
Wyoming	1.0136

(Sections 1102, 1814(b), 1861(v)(1), 1866(a), and 1871 of the Social Security Act: 42 U.S.C. 1302, 1395f(b), 1395x(v)(1), 1395cc(a) and 1395hh.)

(Catalog of Federal Domestic Assistance Program No. 13.773, Medicare—Hospital Insurance.)

Dated: April 23, 1979.

Leonard D. Schaeffer,

Administrator, Health Care Financing Administration.

Approved: May 10, 1979.

Hale Champion,

Acting Secretary.

[FR Doc. 79-15449 Filed 5-17-79; 8:45 am]

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Friday
May 18, 1979

Part VII

General Services Administration

Improving Government Regulations; Semiannual Agenda

(2) *Contact point:* Edward K. Swanson, Director, Office of Policy Development, Office of Human Development Services, 330 C Street, SW., Washington, D.C. 20201, (202) 245-0021.

(3) *Statutory authority:* Section 1102 of the Social Security Act, as amended (Sec. 205(c), 63 Stat. 390; 40

Automated Data and

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GENERAL SERVICES ADMINISTRATION

[32A CFR Chapter 1]

[41 CFR Chapter 101]

Agenda of Significant Regulatory Activity

AGENCY: General Services Administration.

ACTION: Semiannual agenda.

SUMMARY: This agenda announces the significant regulatory actions that GSA plans for the 6-month period from mid-May 1979 to mid-November 1979. This agenda was developed under the guidelines in Executive Order 12044, Improving Government Regulations (43 FR 12661, Mar. 24, 1978). GSA's purpose in publishing this agenda is to allow interested persons an opportunity to participate in the early stages of the rulemaking process.

FOR FURTHER INFORMATION CONTACT: John T. Gilmartin, Director, Paperwork Management Division (202–566–0857).

SUPPLEMENTARY INFORMATION: On December 4, 1978, GSA published its final report on implementation plans for Executive Order 12044 at 43 FR 56728. As explained in the report, GSA will publish a semiannual agenda of significant regulatory activity during May and November of each year. The agenda lists, for each of GSA's services and staff offices, new significant regulations that are being considered, changes that are planned to existing significant regulations, significant regulations that will be reviewed during the upcoming 6-month period, and the status of items from the previous agenda.

Dated: May 11, 1979.

Clarence A. Lee, Jr.,

Acting Administrator of General Services.

Federal Preparedness Agency

A. New Regulations

No new significant regulations are being considered.

B. Changes to Existing Regulations

1. Procurement in high-unemployment areas (32A CFR Part 134). A proposed rule was published in the **Federal Register** on April 2, 1979 (43 FR 19207).

a. *Need for change:* Being revised in accordance with Executive Order 12073 and to preserve the mobilization aspects of the labor surplus area program.

b. *Legal basis:* Public Law 95–89 and Executive Orders 10480, 11051, 11725, and 12073.

c. *Contact point:* James J. Delaney, Planning Officer (202–566–0760).

d. *Regulatory analysis:* Will not be prepared.

2. Health Manpower Occupations (32A CFR Part 106).

a. *Need for change:* Update list of health manpower occupations and simplify the language.

b. *Legal basis:* Defense Production Act of 1950 and Executive Orders 11490 and 11921.

c. *Contact point:* Frederick J. Haase, Resources Management Division (202–566–0760).

d. *Regulatory analysis:* Will not be prepared.

C. Regulations Scheduled for Review

Since the November 17, 1978, agenda report, no additional significant regulations are scheduled for review.

D. Status of Agenda Items Published on November 17, 1978 (43 FR 53821).

1. Changes to existing regulations.

a. Stabilization Regulations for Prices, Rents, Wages, and Salaries (32A CFR Part 151).

(1) Deletion of Part 151 was published in the **Federal Register** on December 20, 1978 (43 FR 59378).

(2) *Contact point:* Dorinda L. Lowery, Management Services Division (202–566–1975).

2. Regulations scheduled for review.

(a) Dispersion and Protective Construction; Policy, Criteria, and Responsibilities (32A CFR Part 101).

(1) *Expected completion date for review* postponed from November 30, 1978, to November 1979.

(2) *Contact point:* Edward K. Zabrowski, Acting Assistant Director for National Resources Preparedness (202–566–0800).

b. Maintenance of the Mobilization Base (32A CFR Part 102).

(1) *Estimated completion date for Review* postponed from November 30, 1978, to November 1979.

(2) *Contact point:* Edward K. Zabrowski, Acting Assistant Director for National Resources Preparedness (202–566–0800).

c. Emergency Action for Maintenance of the Mobilization Base (32A CFR Part 102a).

(1) *Expected completion date for review* postponed from November 30, 1978, to November 1979.

(2) *Contact point:* Edward K. Zabrowski, Acting Assistant Director for National Resources Preparedness (202–566–0800).

d. Defense Production; Priorities and Allocations Authority (32A CFR Part 103).

(1) *Expected completion date for review* postponed from November 30, 1978, to November 1979.

(2) *Contact point:* Edward K. Zabrowski, Acting Assistant Director for National Resources Preparedness (202–566–0800).

e. Guidance on Priority Use of Resources in Immediate Postattack Period (32A CFR Part 104).

(1) *Expected completion date for review* postponed from November 30, 1978, to November 1979.

(2) *Contact point;* Edward K. Zabrowski, Acting Assistant Director for National Resources Preparedness (202–566–0800).

f. National Security Policy Governing Scientific and Engineering Manpower (32A CFR Part 105).

(1) *Expected completion date for review* postponed from November 30, 1978, to November 1979.

(2) *Contact point:* Edward K. Zabrowski, Acting Assistant Director for National Resources Preparedness (202–566–0800).

g. Health Manpower Occupations (32A CFR Part 106).

(1) *Expected completion date for review:* Review was completed. A proposed rule was published in the Federal Register on February 28, 1979 (44 FR 11241). (See item B2, above.)

(2) *Contact point:* Nina Winkler, Office of the Director (202–566–1627).

h. Policy Guidance for a National Emergency Blood Program (32A CFR Part 107).

(1) *Expected completion date for review* postponed from November 30, 1978, to November 1979.

(2) *Contact point:* Edward K. Zabrowski, Acting Assistant Director for National Resources Preparedness (202–566–0800).

i. Program for Expansion of Supplies of Materials Needed for Defense Purposes in the Event of a Major Disaster (32A CFR Part 108).

(1) *Expected completion date for review* postponed from November 30, 1978, to November 1979.

(2) *Contact point:* Edward K. Zabrowski, Acting Assistant Director for National Resources Preparedness (202–566–0800).

j. Provision of Materials Under Government Control as Needed to Supplement Supplies Commercially Available in the Event of a Major Disaster (32A CFR Part 109).

(1) *Expected completion date for review* postponed from November 30, 1978, to November 1979.

(2) *Contact point:* Edward K. Zabrowski, Acting Assistant Director for National Resources Preparedness (202–566–0800).

k. Policy on Use of Government-Owned Industrial Plant Equipment by Private Industry (32A CFR Part 110).

(1) *Expected completion date for review* postponed from November 30, 1978, to November 1979.

(2) *Contact point:* Edward K. Zabrowski, Acting Assistant Director for National Resources Preparedness (202–566–0800).

l. General Policies for Strategic and Critical Materials Stockpiling Policy (32A CFR Part 111).

(1) *Expected completion date for review* postponed from November 30, 1978, to November 1979.

(2) *Contact point:* Edward K. Zabrowski, Acting Assistant Director for National Resources Preparedness (202–566–0800).

m. Use of Priorities and Allocation Authority for Federal Supply Classification (FSC) Common Use Items (32A CFR Part 112).

(1) *Expected completion date for review* postponed from November 30, 1978, to November 1979.

(2) *Contact point:* Edward K. Zabrowski, Acting Assistant Director for National Resources Preparedness (202–566–0800).

n. Policy Guidance and Delegation of Authorities for Use of Priorities and Allocations to Maximize Domestic Energy Supplies (32A CFR Part 113).

(1) *Expected completion date for review* postponed from November 30, 1978, to November 1979.

(2) *Contact point:* Edward K. Zabrowski, Acting Assistant Director for National Resources Preparedness (202–566–0800).

National Archives and Records Service

A. New Regulations

No new significant regulations are being considered.

B. Changes To Existing Regulations

1. Public Use of Archives and FRC Records (41 CFR 105–61.1)—in which only § 105–61.104, Access to National Security Information, has been defined as significant—is being revised to reflect new procedures on declassification of security classified documents.

a. *Need for change:* Executive Order 12065, National Security Information, mandated new declassification procedures.

b. *Legal basis:* Federal Property and Administrative Services Act of 1949, as amended (Sec. 205(c), 63 Stat. 390; 40 U.S.C. 486(c)).

c. *Contact point:* Adrienne C. Thomas, Director, Planning and Analysis Division (202–523–3214).

d. *Regulatory analysis:* Will not be prepared.

2. Public Use of Donated Historical Materials (41 CFR 105–61.2) is being revised to correct certain citations.

a. *Need for change:* Executive Order 12065, National Security Information, mandated new declassification procedures that must be cited.

b. *Legal basis:* Federal Property and Administrative Services Act of 1949, as amended (Sec. 205(c), 63 Stat. 390; 40 U.S.C. 486(c)).

c. *Contact point:* Richard A. Jacobs, Deputy Assistant Archivist, Office of Presidential Libraries (202–523–3073).

d. *Regulatory analysis:* Will not be prepared.

C. Regulations Scheduled For Review

No significant regulations are presently being reviewed.

D. Status of Agenda Items Published on November 17, 1978 (43 FR 53821)

See items B1 and B2, above.

Office of Controller—Administration

A. New Regulations

1. Procedures for implementation of section 504 of the Rehabilitation Act of 1973.

a. *Need for regulations:* The Rehabilitation Act of 1973 requires each Federal agency administering programs or activities that resulted in awarding Federal financial assistance to develop regulations designed to implement section 504 of the act.

b. *Legal basis:* Rehabilitation Act of 1973, Public Law 93–112, as amended by the Rehabilitation Act Amendments of 1974, Public Law 93–516, 29 U.S.C. 794.

c. *Contact point:* Linda Goodwin, Equal Opportunity Staff (202–566–0488).

d. *Regulatory analysis:* Will not be prepared.

B. Changes To Existing Regulations

No significant regulations are scheduled to be changed.

C. Regulations Scheduled for Review

No significant regulations are scheduled for review.

D. Status of Agenda Items Published on November 17, 1978 (43 FR 53821)

No items were listed on the previous agenda.

Automated Data and Telecommunications Service

No significant regulatory actions are planned.

Federal Property Resources Service

No significant regulatory actions are planned.

Federal Supply Service

No significant regulatory actions are planned.

Office of Acquisition Policy

No significant regulatory actions are planned.

Office of General Counsel

No significant regulatory actions are planned.

Public Buildings Service

No significant regulatory actions are planned.

Transportation and Public Utilities Service

No significant regulatory actions are planned.

[FR Doc. 79–15418 Filed 5–17–79; 8:45 am]

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Friday
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Part VIII

Department of Health, Education, and Welfare

Public Health Service

Medical Facility Construction and Modernization; Requirements for Provision of Services to Persons Unable to Pay and Community Service by Assisted Health Facilities

DEPARTMENT OF HEALTH,

For Subpart G ("Community

written comments submitted, appears in

interests of the intended beneficiaries in

inflation factor) even if that means the

which it is provided, has resulted in

DEPARTMENT OF HEALTH, EDUCATION, AND WELFARE

Public Health Service

42 CFR Part 124

Medical Facility Construction and Modernization; Requirements for Provision of Services to Persons Unable To Pay and Community Service by Assisted Health Facilities

AGENCY: Public Health Service, HEW.

ACTION: Final rules.

SUMMARY: The Secretary of Health, Education, and Welfare is issuing new rules establishing requirements for health care facilities assisted by the Department under Titles VI and XVI of the Public Health Service Act to fulfill assurances required to be given in their applications for assistance that they would make their services available to all persons in the community and that they would make available a reasonable volume of services to persons unable to pay. Public comment received on the proposed rules and the Department's own experience in monitoring compliance with the current rules, has indicated the need for revision of the current rules applying to those assurances. Therefore, the Secretary is issuing the rules below to carry out his duty under section 1602(6) of the Act and to establish standards of compliance that will promote better delivery of services under the assurances and more effective monitoring of compliance with the assurances.

EFFECTIVE DATES: For Subpart F ("Uncompensated Services"): (a) For facilities whose next fiscal year begins on or after September 1, 1979, these rules are effective at the beginning of that fiscal year.

(b) For facilities whose next fiscal year begins after May 18, 1979, but before September 1, 1979, these rules are effective no later than September 1, 1979. At facility option, these rules may be implemented as early as the beginning of the facilities' next fiscal year. For facilities covered by this paragraph, the annual compliance standard, and excess and deficit provisions, in § 124.503 are effective at the beginning of the facilities' next fiscal year. Credit for uncompensated services provided by a facility before it implements these new rules, or before September 1, 1979 if later, will be given towards the new compliance standard to the extent that those services are provided in accordance with the procedures under the current rules at 42 CFR 53.111.

For Subpart G ("Community Services"): September 1, 1979 for all facilities.

FOR FURTHER INFORMATION CONTACT: Ms. Florence B. Fiori, Director, Bureau of Health Facilities Financing, Compliance, and Coversion, Room 6–50, Center Building No. 1, 3700 East-West Highway, Hayattsville, Maryland 20782, 800–638–0742 (Md. Res. call: 800–492–0359).

SUPPLEMENTARY INFORMATION: On October 25, 1978, the Secretary proposed new rules to implement the requirement of section 1602(6) of the Public Health Service Act (42 U.S.C. 300o–1(6)). 43 FR 49954. That section requires the Secretary to prescribe:

> The general manner in which each entity which receives financial assistance under this title [XVI] or title VI shall be required to comply with the assurances required to be made at the time such assistance was received and the means by which such entity shall be required to demonstrate compliance with such assurances.

The proposed rules proposed requirements concerning the assurances given by assisted facilities that they would provide a reasonable volume of services to persons unable to pay and a community service. Title VI assisted facilities gave assurances that—

> (1) The facility or portion thereof to be constructed or modernized will be made available to all persons residing in the territorial area of the applicant; and (2) there will be made available in the facility or portion thereof to be constructed or modernized a reasonable volume of services to persons unable to pay therefor, but an exception shall be made if such a requirement is not feasible from a financial viewpoint. Section 603(e), PHS Act; 42 U.S.C. 291c(e)(3).

The assurances required of Title XVI assisted facilities are that—

> At all times after such application is approved (i) the facility or portion thereof to be constructed, or modernized, or converted will be made available to all persons residing or employed in the area served by the facility, and (ii) there will be made available in the facility or portion thereof to be constructed, modernized, or converted a reasonable volume of services to persons unable to pay therefor and the Secretary, in determining the reasonableness of the volume of services provided, shall take into consideration the extent to which compliance is feasible from a financial viewpoint. Section 1304(b)(1)(J), PHS Act; 42 U.S.C. 300o–3(b)(1)(J).

In addition to inviting comments on the proposed rules, the Department held public hearings in Washington, D.C. on December 5 and 6, 1978. A summary of comments received, both through the hearings and the approximately 1,000 written comments submitted, appears in Appendix I.

The Department found the public participation very helpful in developing these final rules. A wide range of interests was represented at the hearing and in the written comments. Individual consumers related their personal experiences and difficulties in attempting to get health services from assisted facilities; consumer organizations and consumer legal representatives from different parts of the country described member or client problems with the administration of the program by state and federal officials, and by facilities; hospital administrators, financial management experts, and national and state hospital associations contributed their views of the effectiveness of the current program and the impact of the proposed rules on facilities' financial positions and ability to deliver services efficiently; and state and local governments, health systems agencies and other major health organizations contributed their expertise and perspectives. Although it was not possible to accept all of the suggestions made at the hearing or in written comments, the final rules reflect the Department's attempt to be responsive to as many of the concerns expressed as was consistent with its responsibilities to assure effective enforcement of the assurances and the financial and administrative integrity of the assisted facilities.

Summary of Objectives and Policies of the Final Rules

The basic objective of these rules is to assure that recipients of Titles VI and XVI who give the uncompensated services and the community service assurances provide those services within the contest of sound planning for and management of the delivery of health care services. Based on public comments, as well as his own experience in monitoring the existing assurances program, the Secretary believes that changes in the regulations are necessary to assure effective provision of those services consistent with the statutory requirements.

In making changes to the regulation the Secretary has sought to minimize the burdens imposed on facilities to the extent possible, in keeping with the President's policy of imposing on recipients of the Federal funds only those burdens necessary for proper and efficient program implementation. He has also sought to preserve the flexibility of facilities to provide those services consistent with their own and local needs, without sacrificing the

interests of the intended beneficiaries in a fair and effective delivery of those services. To minimize misunderstanding of what facilities are required to do and to facilitate monitoring and enforcement, the rules articulate clear-cut compliance standards wherever possible.

Finally, these rules provide for Federal enforcement and administration of the assurances program in recognition of Congress demonstrated concern over past lax enforcement and its imposition of specific monitoring responsibilities on the Department. However, States able to assist the Secretary will be given and opportunity to do so. Moreover, the final rules clearly disclaim any intention to interfere with enforcement programs established by States under State law so long as the State programs do not prevent the Secretary from enforcing minimum Federal standards for assisted facilities.

Uncompensated Services

The specific objectives of the uncompensated services rules are to prescribe a minimum level of uncompensated services to be provided and to interfere as little as possible in the method by which they are provided. This is clear in the compliance standards of the rules.

The rules eliminate the present choice of compliance standards, and substitute a single, dollar-volume compliance level, so that both facilities and recipients will know how much uncompensated care will be available. The dollar-volume standard is the one included in the proposed rules—the lesser of three percent of operating costs or ten percent of the federal assistance under Title VI, XVI and supplementary programs. In order to keep the volume of uncompensated services provided from further declining each year, the compliance level for years after the effective date of the regulations is adjusted using the percentage change in the national Consumer Price Index for medical care.

The standard of performance required under these rules will be measured over the full 20 year period during which assisted facilities under Title VI are obligated to provide uncompensated services. However, facilities may meet the "20 year" standard in more than 20 years, if lack of community need or financial limitations preclude speedier compliance (so long as they comply with all of the requirements in the regulations). Thus, if a Title VI facility provides less than the annual standard *for any reason* it will be required to make up the deficit (adjusted by the inflation factor) even if that means the 20 year period will be extended.

Similarly, facilities that provide more than the minimum standard in any year may obtain credit for these additional services against their total obligation, thus permitting them to fulfill their assurances in less than the 20 years. This excess credit provision should encourage facilities to provide early and adequate provision of services when the need for them exists in the community and permit facilities to adapt their uncompenated services obligation to other institutional or governmental requirements for providing services to poor persons.

In summary, under the new procedures facilities will in essence determine the dollar balance of their 20 years' obligation, and credit towards that balance the amount provided in any year. The remaining balance will be adjusted using the CPI. Uncompensated services will be provided until the balance is exhausted. This new approach has permitted the Department to eliminate the burdensome and speculative process that was originally proposed for advance applications and approvals of lower levels of compliance when financial problems at the facility or demand for uncompensated services in a particular community is not great enough to meet the annual compliance standard. Review of facility performance will, in most cases, be after-the-fact, when hard facts are available. If community demand appears to be lower than the annual standard, an affirmative action program will be required to assure that those needing the services are alerted to its availability, and services provided after implementation of a satisfactory plan will be assumed to meet community need. When a deficit is incurred because of claimed financial problems, the facility will be permitted to make up those deficits in future years when it is able to, but a swifter pace will be required when the financial infeasibility claim proves unjustified.

The Secretary believes this approach is the best way to assure that a "reasonable volume" of services is actually made available during the period of obligation. This new system will apply only to years of the 20 year obligation remaining for Title VI facilities after the rules become effective. (Since facilities assisted under Title XVI do not have a time-limited obligation, those facilities will be required to make up deficits only if due to noncompliance with the regulations.)

The emphasis on the amount of care provided, rather than the method by which it is provided, has resulted in procedural requirements that leave facilities maximum discretion in devising their uncompensated services programs. The regulations include those procedures that the Secretary believes will promote public awareness of the uncompensated services requirement, equitable eligibility determinations, and self-enforcement by beneficiaries, and that will minimize the burden on limited HEW and State resources.

Facilities are required to publish plans for allocating uncompensated services that describe the types of services available, when during the year they will be available, and whether reduced cost care will be given in addition to free care. Consistent with the objectives of local option and facility flexibility, facilities may tailor those plans according to their best judgment, so long as community need is considered by the facility in the plan's development. We have provided an opportunity for advisory participation by the HSA for the area and by others in the community to assure that community preferences can be heard, but final decisions are up to the facility. The final regulation increases the scope of facility discretion as to the contents of an allocation plan and permits revisions to the plans whenever the facility deems it advisable.

In order to ensure that persons who qualify for uncompensated services know about them, the rules require published, posted and individual notices. Prompt eligibility determinations on request are also required. To minimize the administrative burdens of these requirements, though, the individual notice requirement does not apply when uncompensated services are not available in the facility; the posted notices will be supplied by the Secretary in English and Spanish; and the prior determination requirement for crediting uncompensated services has been eliminated as proposed. Under the new procedures, persons unable to pay may request and can obtain a determination of eligibility before services are provided or after collection action has begun.

Eligibility for uncompensated services will be determined using national income-based criteria, so that both facilities and recipients may readily determine who is eligible. Two tiers of eligibility are established using the CSA poverty guidelines. Facilities must provide services without charge to persons with incomes in the lower tier (below the poverty level), but have the option of providing services at no, partial or full charge to persons with

incomes in the upper tier. This will

in the community who need services on

September 1, 1979. This should also give

longer or shorter period, a facility

"Facility" means an entity that

incomes in the upper tier. This will permit facilities to target their limited uncompensated services to the neediest.

Reporting, recordkeeping and investigation provisions have been designed with the intention of minimizing both the Department's and the facilities' burdens of proving compliance, maximizing the Department's and the public's ability to ascertain compliance, and making most effective use of limited enforcement resources. All of the details of required reports are not established in these rules, but will be set in connection with the development and clearance of an assurances-monitoring reporting form. However, these reports, needed to assist the Department in conducting periodic investigations, will only be required every three years (instead of every year) for facilities meeting their annual compliance standard, and in any year that the annual level is not reached or the Secretary determines a report is needed for sound administration. Clear recordkeeping requirements are also established to avoid the current problem of distinguishing between uncompensated services qualifying for credit and "bad debts," "courtesy allowances" and other write-offs that do not qualify.

The final rules also recognize that because of expected volume, all complaints cannot possibly be resolved promptly by the Secretary. Therefore, complainants will be given the opportunity to request early dismissal to permit them to file a court action if desired. In addition, in order to permit concentration of resouces on serious program implementation problems, the final rules permit the Secretary, on his own initiative, to dismiss complaints that cannot be reached on a timely basis and to focus his investigation resources on far reaching compliance issues. To avoid unncessary and premature litigation, however, facilities will be given prompt notice of the filing of a complaint, and a minimum 45 day period in which to try to obtain voluntary settlement if they wish.

Community Services

With one important exception, the final rules are not significantly changed from the proposed rule. Under the final rules, assisted facilities must make their services available on a nondiscriminatory basis; they must participate, if qualified, in major governmental and third party reimbursement programs (medicaid, medicare, Blue Cross, etc.) and they must not rely on admissions policies that have the effect of excluding persons in the community who need services on grounds other than availability of the service in the facility, or inability to pay or qualify for uncompensated services. As requested by providers, consumers and governmental agencies, the regulation includes specific illustrations of the admissions practices that may have the prohibited exclusionary effects, and possible alternatives available to facilities to remedy the problem.

The Secretary has determined that one new provision is needed to correct a problem that has arisen under the current rules. Facilities that provide emergency services will not be in compliance with their assurance to make their services available to residents of the community if they deny needed emergency services to any such person. Uncompensated services credit may be claimed for such services if the individual served is eligible and the facility's obligation has not been satisfied, or the facility may, if it does not include emergency services in its uncompensated services allocation plan, bill and institute collection procedures to obtain payment for these cases. In either event, however, emergency treatment cannot be withheld, whether or not the individual can demonstrate in advance of treatment the ability to pay for the services.

The reporting, recordkeeping, and enforcement provisions parallel those in the uncompensated services regulations.

Analysis of Comments and Rules

Appendix I to the rules below is a more complete statement of the basis and purpose of the provisions of the final rules. It includes a summary of the significant comments received and the Department's response to those comments, and an explanation of the basis for significant changes from the proposed rules.

Effective Date

The community service rules are effective for all facilities on September 1, 1979. In establishing the effective date for the uncompensated services rules the Secretary took account of two competing needs, namely the facilities' and Department's need for orderly and efficient implementation of the new procedural requirements, and beneficiaries' needs for prompt and effective provision of health services by assisted facilities. To avoid unnecessary disruption of facilities' accounting and bookkeeping practices that would occur if the rules took effect in the middle of a fiscal year, the new rules will be effective at the beginning of a facility's next fiscal year beginning on or after September 1, 1979. This should also give facilities enough time to conform their practices to the new procedural requirements and to develop the necessary allocation plan with community comment.

Many facilities begin their next fiscal year during June, July, or August, and many of those facilities may not be able to fully implement the new procedural requirements at the beginning of the next fiscal year given the short time remaining. Therefore, for these facilities the new procedures are also effective on September 1, 1979. For this first year, publication of proposed allocation plans is required 60 days before September 1, 1979, rather than 60 days prior to the beginning of the fiscal year. Any facility able to implement the new procedures earlier in their next fiscal year may, and is encouraged, to do so.

The additional time into the fiscal year given to these facilities to implement the new rules is not a basis for reducing their total uncompensated services obligation in their next fiscal year. The Department will measure compliance for these facilities' next fiscal year using the annual compliance standard in these new rules, and will apply the deficit make up provisions for the entire fiscal year. Credit will be given for uncompensated services provided before the revised rules are required to be implemented in accordance with the rules that are currently in effect. Any deficit incurred in the next fiscal year will be required to be made up. This procedure therefore gives facilities with fiscal years beginning too soon to implement the new rules sufficient time to do so, while at the same time this extra lead time does not excuse facilities from their uncompensated services obligation for the period beginning with the next fiscal year and ending on September 1, 1979.

Regulatory Analysis

In accordance with the requirements of Executive Order No. 12044, the Department has prepared a Regulatory Analysis of the final rules. This analysis is published as Appendix II.

Reevaluation

The Secretary recognizes the need for monitoring the impact of these rules and reassessing their effectiveness on a continuing basis. Therefore, the Department will develop an evaluation plan that will provide it with the information required, and will obtain public comment on that plan and on the impact of the regulations. The Department's intention is to begin its review of these rules, particularly the inflation factor and the various administrative compliance costs, in 1981, and complete it by the end of 1982. Should the evaluation results demonstrate that costs unexpectedly and significantly exceed current estimates, the Department will reconsider the applicable provisions earlier than 1982.

Accordingly, 42 C.F.R. Part 124 is amended as set forth below.

Dated: May 10, 1979.

Charles Miller II,

Acting Assistant Secretary for Health.

Approved: May 10, 1979.

Hale Champion,

Acting Secretary.

Part 124 of Title 42, *Code of Federal Regulations*, is amended by adding a new Subpart F and a new Subpart G, to read as follows:

Subpart F—Reasonable Volume of Uncompensated Services to Persons Unable To Pay

Sec.

124.501 Applicability.
124.502 Definitions.
124.503 Compliance level.
124.504 Affirmative action requirement.
124.505 Notice of availability of uncompensated services.
124.506 Financial eligibility criteria for identifying persons unable to pay.
124.507 Allocation of services: plan requirement.
124.508 Determinations of eligibility.
124.509 Exclusions from uncompensated services.
124.510 Reporting and record maintenance requirements.
124.511 Investigation and enforcement.
124.512 Agreements with State agencies.

Authority: Sec. 215, 1525, 1602(6), Public Health Service Act as amended; 58 Stat. 690, 88 Stat. 2249, 88 Stat. 2259; (42 U.S.C. 216, 300m–4, 300o–1(6)).

Subpart F—Reasonably Volume of Uncompensated Services to Persons Unable To Pay

§ 124.501 Applicability.

(a) The provisions of this subpart apply to any recipient of Federal assistance under Title VI or XVI of the Public Health Service Act that gave an assurance that it would make available, in the facility or portion of the facility constructed, modernized or converted with that assistance, a reasonable volume of services to persons unable to pay for the services.

(b) The provisions of this subpart apply to facilities for the following periods:

(1) *Facilities assisted under Title VI.* Except where the deficit and excess compliance provisions provide for a longer or shorter period, a facility assisted under Title VI of the Act shall provide uncompensated services at the annual compliance level required by § 124.503(a) for:

(i) Twenty years after the completion of construction, in the case of a facility for which the Secretary provided grant assistance under section 606 of the Act; or

(ii) The period from completion of construction until the amount of a direct loan under sections 610 or 623 of the Act, or the amount of a loan with respect to which the Secretary provided a guarantee and interest subsidy under section 623 of the Act, is repaid, in the case of a facility for which such a loan was made.

(iii) "Completion of construction" means:

(A) The date on which the Secretary determines the facility was opened for service;

(B) If the opening date is not available, it means the date on which the Secretary approved the final part of the facility's application for assistance under Title VI of the Act;

(C) If the date of final approval is not available, it means whatever date the Secretary determines most reasonably approximates the date of final approval.

(2) *Facilities assisted under Title XVI.* The provisions of this subpart apply to a facility assisted under Title XVI of the Act at all times following the Secretary's approval of the facility's application for assistance under Title XVI, except that if the facility does not at the time of that approval provide health services, the assurance applies at all times following the facility's initial provision of health services to patients, as determined by the Secretary.

§ 124.502 Definitions.

As used in this subpart—

"Act" means the Public Health Service Act, as amended.

"Allowable credit" for services provided to a specific patient means the lesser of the facility's usual charge for those services, or the usual charge multiplied by the percentage which the total allowable cost as reported by the facility in the facility's preceding fiscal year under Title XVIII of the Social Security Act (42 U.S.C. 1395) and Subpart D of the implementing regulations (42 CFR 405.401 *et seq.*) bears to the facility's total patient revenues for the year.

"Applicant" means a person who requests uncompensated services or on whose behalf uncompensated services are requested.

"Facility" means an entity that received assistance under Title VI or XVI of the Act and provided an assurance that it would provide a reasonable volume of services to persons unable to pay for the services.

"Federal assistance" means assistance received by the facility under Title VI or Title XVI of the Act and any assistance supplementary to that Title VI or Title XVI assistance received by the facility under any of the following acts: the District of Columbia Medical Facilities Construction Act of 1968, 82 Stat. 631 (Pub. L. 90–457); the Public Works Acceleration Act of 1962 (42 U.S.C. 2641, *et seq.*); the Public Works and Economic Development Act of 1965 (42 U.S.C. 3121, *et seq.*); the Appalachian Regional Development Act of 1965, as amended (40 U.S.C. App.); the Local Public Works Capital Development and Investment Act of 1976 (Pub. L. 94–369). In the case of a loan guarantee with interest subsidy, or a direct loan sold and guaranteed by the Secretary with an interest subsidy, the amount of Federal assistance under Title VI or Title XVI for a fiscal year is the total amount of the interest subsidy that the Secretary will have paid by the close of that fiscal year, as well as any other payments which the Secretary has made as of the beginning of the fiscal year on behalf of the facility in connection with the loan guarantee or the direct loan which has been sold.

"Fiscal year" means the facility's fiscal year.

"Health Systems Agency" or "HSA" means an agency fully or conditionally designated by the Secretary under section 1515 of the Act.

"Operating costs" for any fiscal year means the total operating expenses of a facility as set forth in an audited financial statement, minus the amount of reimbursement, if any, received (or if not received, claimed) in that year under Titles XVIII and XIX of the Social Security Act.

"Persons unable to pay" means persons who meet the income criteria set out in § 124.506 of this subpart.

"Request for uncompensated services" means any indication by or on behalf of an individual seeking services of the facility of the individual's inability to pay for services. A request for uncompensated services may be made at any time, including following institution of a collection action against the individual.

"Secretary" means the Secretary of Health, Education, and Welfare or his delegatee.

"State agency" means the agency of a State fully or conditionally designated

unable to pay who request uncompensated services; and

satisfied its obligation for the fiscal year or appropriate period, and when

Administration (as set forth in 45 CFR 1060.2–1 *et seq.*) that applies to the

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by the Secretary as the State health planning and development agency under section 1521 of the Act.

"Uncompensated services" means services that are made available to persons unable to pay for them without charge or at a charge which is less than the allowable credit for those services. The amount of uncompensated services provided in a fiscal year is the total allowable credit for services less the amount charged for the services following an eligibility determination. In determining the amount of uncompensated services, the Secretary includes only those services provided to individuals with respect to whom the facility has made a written determination of eligibility.

§ 124.503 Compliance level.

(a) *Annual compliance level.* (1) A facility is in compliance with its assurance to provide a reasonable volume of services to persons unable to pay if it provides for the fiscal year uncompensated services at a level not less than the lesser of—

(i) Three percent of its operating costs for the most recent fiscal year for which an audited financial statement is available; or

(ii) Ten percent of all Federal assistance provided to or on behalf of the facility, adjusted by a percentage equal to the percentage change in the national Consumer Price Index for medical care between the year in which the facility received assistance or 1979, whichever is later, and the most recent year for which a published Index is available. For purposes of this paragraph, the Federal assistance in the case of a loan which is guaranteed or made and sold by the Secretary will be deemed to have been provided in the year in which the Secretary made the loan.

(b) *Deficit in compliance.* (1) *Facilities assisted under Title VI.*—If in any fiscal year a facility assisted under Title VI of the Act fails to meet its annual compliance level, it shall provide uncompensated services in an amount sufficient to make up that deficit (as adjusted under paragraph (d)). The facility may make up a deficit at any time during its period of obligation or in the year or years (if necessary) immediately following, except where the facility failed to provide uncompensated services at the required level although financially able to do so, or where the facility did not comply with the requirements of this subpart.

(2) *Facilities assisted under Title XVI.* If in any fiscal year a facility assisted under Title XVI of the Act fails to meet its annual compliance level but has otherwise complied with the requirements of this subpart, the amount of uncompensated services provided in that year constitutes compliance with this subpart.

(c) *Excess compliance.* (1) Whenever a facility provides in a fiscal year uncompensated services in an amount exceeding its annual compliance level, it may apply the amount of excess (as adjusted under paragraph (d)) to reduce its annual compliance level in any subsequent fiscal year. The facility may use any excess amount to reduce its annual compliance level only if the services in excess of the annual compliance level are provided in accordance with the requirements of this subpart.

(2) A facility assisted under Title VI may in any fiscal year apply the amount of excess credited under this paragraph to satisfy the remainder of its obligation to provide uncompensated services. In any fiscal year, the amount of uncompensated services required to satisfy the remainder of the facility's obligation is its annual compliance level for that fiscal year provided multiplied by the number of years remaining in its period of obligation, plus any deficits required to be made up under this section.

(d) *Calculation and adjustment of deficit and excess.* (1) The amount of a deficit or excess in uncompensated services in any fiscal year is the difference between the facility's annual compliance level for that year and the amount of uncompensated services the facility provided in that year.

(2) The amount of any deficit the facility makes up, and the amount of any excess compliance applied to reduce a facility's annual compliance level, must be adjusted by a percentage equal to the percentage change in the National Consumer Price Index for medical care between the fiscal year in which the facility had a deficit or provided the excess, and the fiscal year in which the facility makes up the deficit or applies the excess to reduce its annual compliance level or satisfy its remaining obligations.

§ 124.504 Affirmative action requirement.

(a) A facility that fails to meet its annual compliance level in any fiscal year shall adopt and implement an affirmative action plan, except where it claims and reports to the Secretary that it was financially unable to provide uncompensated services at the annual compliance level.

(b) The affirmative action plan must include provisions that reasonably can be expected to enable the facility to meet its annual compliance level. An affirmative action plan may include, among other approaches devised by the facility:

(1) Wide notice pf the availability of uncompensated services at the facility. Notice under this paragraph may include:

(i) publication of notices in newspapers of general circulation in the area;

(ii) announcement of the availability of uncompensated services in other communication media in the area (such as radio and television stations); and

(iii) notification of the availability of uncompensated services to organizations in the area that would be likely to refer persons in need of uncompensated services to the facility (such as legal services organizations, community action agencies, and other public and private social services agencies).

(2) If the facility's allocation plan restricts the types of services that will be provided as uncompensated services, or restricts uncompensated services to persons in Category A, expansion of the allocation plan to include other types of services or persons in Category B.

(3) Expansion of the area served by the facility for the purpose of providing uncompensated services; and

(4) Establishment of arrangements with other providers of health care under which those providers (if willing and able to do so) will refer to the facility persons requesting uncompensated services.

(c) The facility shall implement its affirmative action plan when it submits it to the Secretary under § 124.510(a), and shall provide uncompensated services in accordance with the plan, incorporating any changes the Secretary may require, until the annual compliance level is reached in a fiscal year.

§ 124.505 Notice of availability of uncompensated services.

(a) *Published notice.* A facility shall, no later than 60 days before the beginning of its fiscal year, publish in a newspaper of general circulation in its area notice of its uncompensated services obligation. The notice shall include, at a minimum:

(1) The plan of allocation the facility proposes to adopt;

(2) The amount of uncompensated services the facility intends to make available in the fiscal year or a statement that the facility will provide uncompensated services to all persons unable to pay who request uncompensated services; and

(3) An explanation if the amount of uncompensated services the facility intends to make available in a fiscal year is less than the annual compliance level, either because it is not financially able to meet this level or because it has credited excess compliance from another fiscal year. If a facility has satisfied its remaining uncompensated services obligation since the last published notice under this paragraph, or will satisfy the remaining obligation during the fiscal year, the explanation must include this information.

(b) *Notice to HSA.* (1) The facility shall simultaneously provide a copy of the notice under paragraph (a) to the HSA for the area. The HSA may seek public comment, comment to the facility on the extent to which the allocation plan will or will not meet community needs, or take any other appropriate action.

(2) The facility may revise the plan published under paragraph (a) based on comments received from the HSA or the public. The facility shall send a copy of the plan as adopted to the HSA at the beginning of the fiscal year.

(3) A facility may change its allocation plan during a fiscal year after providing notice to the HSA of the revised plan.

(c) *Posted notice.* (1)(i) The facility shall post notices, which the Secretary supplies in English and Spanish, in appropriate areas in the facility, including but not limited to the admissions area, the business office and the emergency room.

(ii) If in the service area of the facility the "usual language of households" of ten percent or more of the population, according to the most recent figures published by the Bureau of the Census, is other than English or Spanish, the facility shall translate the notice into that language and post the translated notice on signs substantially similar in size and legibility to, and posted with, those supplied under paragraph (c)(1)(i) of this section.

(iii) The facility shall make reasonable efforts to communicate the contents of the posted notice to persons who it has reason to believe cannot read the notice.

(2) If a facility determines that it has provided uncompensated services in an amount sufficient to meet its annual compliance level for the fiscal year or its allocation for any period specified in its allocation plan, and that it will not continue to provide uncompensated services during the fiscal year of the appropriate period, it may post an additional notice stating that it has satisfied its obligation for the fiscal year or appropriate period, and when additional uncompensated services will be available.

(d) *Individual notice.* (1) In any period during a fiscal year in which uncompensated services are available in the facility, the facility shall provide individual written notice of the availability of uncompensated services to each person who seeks services in the facility on behalf of himself or another. The individual written notice must:

(i) State that the facility is required by law to provide a reasonable amount of care without or below charge to people who cannot afford care;

(ii) Set forth the criteria the facility uses for determining eligibility for uncompensated services (in accordance with the financial eligibility criteria and the allocation plan);

(iii) State the location in the facility where anyone seeking uncompensated services may request them; and

(iv) State that the facility will make a written determination of whether the person will receive uncompensated services, within two working days of a request for uncompensated services.

(2) The facility shall provide the individual written notice before providing services, except where the emergency nature of the services provided makes prior notice impractical. If this exception applies, the facility shall provide the written notice to next of kin or to the patient as soon as practical, but not later than when first presenting a bill for services.

(3) The facility shall make reasonable efforts to communicate the contents of the individual written notice to persons who it has reason to believe cannot read the notice.

§ 124.506 Financial eligibility criteria for identifying persons unable to pay.

(a) A person unable to pay for health services is a person who falls into either of the following categories:

(1) *Category A*—A person whose individual or family income, as applicable, for the 12 months preceding the determination of eligibility is not more than the current poverty income guideline of the Community Services Administration (as set forth in 45 CFR 1060.2–1 *et seq.*) that applies to the individual or family. The facility shall provide uncompensated services to persons in this category without charge.

(2) *Category B*—A person whose individual or family income, as applicable, for the 12 months preceding the determination of eligibility is greater than the current poverty income guideline of the Community Services Administration (as set forth in 45 CFR 1060.2–1 *et seq.*) that applies to the individual or family but not more than twice that guideline. If persons in Category B are included in the allocation plan, the facility shall provide uncompensated services to these persons without charge, or in accordance with a schedule of charges, as specified in the allocation plan.

(b) A person is eligible for uncompensated services if his annual income is at or below the level established under paragraph (a) when calculated by either of the following methods:

(1) Multiplying by four the person's income for the three months preceding the determination of eligibility; or

(2) Using the person's actual income for the 12 months preceding the determination of eligibility.

§ 124.507 Allocation of services: plan requirement.

(a) A facility shall provide its uncompensated services in accordance with a plan that sets out a method by which the facility will distribute its uncompensated services among persons unable to pay. In developing its plan the facility shall take into consideration comments it receives from the HSA or others with respect to community need. The plan must:

(1) Include the type of services that will be made available;

(2) Specify the method, if any, for distibuting those services in different periods of the year;

(3) State whether persons eligible under Category B criteria will be provided uncompensated services, and if so, whether the services will be available without charge or at a reduced charge;

(4) If services will be made available to Category B persons at a reduced charge, specify the method used for reducing charges, and provide that this method is applicable to all persons in Category B; and

(5) Provide that the facility provides uncompensated services to all persons eligible under the plan who request uncompensated services.

(b) A facility may adopt any allocation plan that meets the requirements of paragraph (a). If the facility fails to adopt and publish a plan as required by § 124.505 it will be presumed to have adopted a plan under which it provides all services of the facility without charge to all persons unable to pay who first request such services, until its annual compliance level has been met for the fiscal year.

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§ 124.508 Determinations of eligibility.

(a) A facility shall make a written determination of eligibility for each person who requests uncompensated services. The determination must be made within two working days of the request.

(b) The facility shall make the determination in accordance with the financial eligibility criteria and the allocation plan.

(c) The facility shall provide uncompensated services to persons who are eligible under the allocation plan, without charge or at a reduced charge in accordance with a schedule of charges, as specified in the allocation plan.

(d) Any amount for which reimbursement would be available

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§ 124.508 Determinations of eligibility.

(a) *Determinations.* In any period or periods in a fiscal year in which uncompensated services are available, the facility shall make a determination of eligibility for uncompensated services within two working days following the request for uncompensated services. The facility shall give the applicant a copy of the determination promptly.

(b) *Content of favorable determinations.* A determination that an applicant is eligible must indicate:

(1) That the facility will provide uncompensated services at no charge or at a specified charge less than the allowable credit for the services;

(2) The date on which services were requested;

(3) The date on which the determination was made;

(4) The income of the applicant; and

(5) The date on which services were or will be first provided to the applicant.

(c) *Reasons for denial.* The facility shall provide each applicant who requests uncompensated services and is denied them, in whole or in part, a written and dated statement of the reasons for the denial when the denial is made. This requirement applies throughout the facility's fiscal year.

(d) *Verification.* A facility may, as a condition to providing uncompensated services to any applicant, require the applicant to furnish any information that is reasonably necessary to substantiate the applicant's income.

§ 124.509 Exclusions from uncompensated services.

A facility may not include the following in computing the uncompensated services it provides:

(a) Any amount that the facility has received, or is entitled to receive, from a third party insurer or under a governmental program, except where the person to whom the facility provides services refused to take reasonable actions necessary to obtain the entitlement.

(b) Any amount in excess of the payment that the facility has received, or is entitled to receive, from a third party insurer or under a governmental program where the facility has agreed or is otherwise required to accept this payment as payment in full for the services;

(c) Any amount for services provided 96 hours or more following notification to the facility by a professional standards review organization (PSRO) that the PSRO disapproved the services under section 1155(a)(1) of the Social Security Act; and

(d) Any amount for which reimbursement would be available under a governmental program (such as medicare or medicaid) in which the facility, although eligible to do so, and required by § 124.603(c)(1) to do so, does not participate.

§ 124.510 Reporting and record maintenance requirements.

(a) *Reporting requirements.* (1) *Timing of reports.*—(i) A facility shall submit to the Secretary a report to assist the Secretary in determining compliance with this subpart once every three fiscal years, on a schedule to be prescribed by the Secretary.

(ii) A facility shall submit the required report more frequently than once every three years under the following circumstances:

(A) If the facility determines that in the preceding fiscal year it did not provide uncompensated services at the annual compliance level, it shall submit a report in the fiscal year in which the deficit is determined.

(B) If the Secretary determines, and notifies the facility in writing, that a report is needed for proper administration of the program, the facility shall submit a report within 90 days after receiving notice from the Secretary, or within 90 days after the close of the fiscal year, whichever is later.

(iii) Except as specified in paragraph (a)(ii)(B) of this section, the reports required by this section shall be submitted within 90 days after the close of the fiscal year, unless a longer period is approved by the Secretary for good cause.

(2) *Content of report.* The report must include the following information, in a form prescribed by the Secretary:

(i) Information that the Secretary prescribes to permit a determination of whether a facility has met the annual compliance level for the fiscal years covered by the report;

(ii) The date on which the notice required by § 124.505(a) was published and sent to the HSA for the area, and the name of the newspaper that printed the notice;

(iii) If the amount of uncompensated services provided by the applicant in the preceding fiscal year was lower than the annual compliance level, an explanation of why the facility did not meet the required level. If the facility claims that it failed to meet the required compliance level because it was financially unable to do so, it shall explain and document its claim;

(iv) If the facility is required to submit an affirmative action plan, a copy of the plan. If an affirmative action plan was in effect during the preceding fiscal year, documentation of actions taken to implement the plan; and

(v) Other information that the Secretary prescribes.

(3) A facility shall provide a copy of any report to the HSA for the area when submitting it to the Secretary.

(4) *Institution of suit.* Not later than 10 days after being served with a summons or complaint, the facility shall notify the Regional Health Administrator for the Region of HEW in which it is located of any legal action brought against it alleging that it has failed to comply with the requirements of this subpart.[1]

(b) *Record maintenance requirements.* (1) A facility shall maintain, make available for public inspection consistent with personal privacy, and provide to the Secretary on request, any records necessary to document its compliance with the requirements of this subpart in any fiscal year, including:

(i) any documents from which the information required to be reported under paragraph (a) of this section was obtained;

(ii) accounts which clearly segregate uncompensated services from other accounts; and

(iii) copies of the determinations of eligibility under § 124.508(b).

A facility shall maintain these records until 180 days following the close of the Secretary's investigation under § 124.511(a).

(2) In any fiscal year a facility may stop providing individual written notice, and may stop making eligibility determinations, only if it maintains records that document on a current basis that it has met its annual compliance level for the fiscal year or appropriate period specified in its allocation plan.

(3) A facility shall, within 60 days of the end of each fiscal year, ascertain the amount of uncompensated services it provided in that fiscal year. Documents that support the facility's determination shall be made available to the public or the HSA for the area on request. If a report is or will be filed under § 124.510 a facility may respond to a request by providing a copy of the report to the requester.

§ 124.511 Investigation and enforcement.

(a) *Investigations.* (1) The Secretary periodically investigates the compliance of facilities with the requirements of this subpart, and investigates complaints.

(2)(i) A complaint is considered to be filed with the Secretary on the date the following information is received in the Office of the Regional Health Administrator for the Region of HEW in which the facility is located:

(A) The name and address of the person making the complaint or on whose behalf the complaint is made;

(B) The name and location of the facility;

(C) The date or approximate date on which the event complained of occurred; and

(D) A statement of what actions the complainant considers to violate the requirements of this subpart.

(ii) The Secretary promptly provides a copy of the complaint to the facility named in the complaint.

(3) When the Secretary investigates a facility, the facility shall provide to the Secretary on request any documents, records and other information concerning its operations that relate to the requirements of this subpart.

(4) Section 1612(c) of the Act provides that if the Secretary dismisses a complaint or the Attorney General has not brought an action for compliance within six months from the date on which the complaint is filed, the person filing it may bring a private action to effectuate compliance with the assurance. If the Secretary determines that he will be unable to issue a decision on a complaint or otherwise take appropriate action within the six month period, he may, based on priorities for the disposition of complaints that are established to promote the most effective use of enforcement resources, or on the request of the applicant, dismiss the complaint without a finding as to compliance prior to the end of the six month period, but no earlier than 45 days after the complaint is filed.

(b) *Enforcement.*

(1) If the Secretary finds, based on his investigation under paragraph (a) of this section, that a facility did not comply with the requirements of this subpart, he may take any action authorized by law to secure compliance, including but not limited to voluntary agreement or a request to the Attorney General to bring an action against the facility for specific performance.

(2) A facility that has denied uncompensated services to any person because it failed to comply with the requirements of this subpart will not be in compliance with its assurance until it takes whatever steps are necessary to remedy fully the noncompliance.

(3)(i) If in a fiscal year a facility fails to provide uncompensated services in an amount sufficient to meet its compliance level, and the Secretary determines—

(A) that, contrary to the report filed under § 124.510, the facility was financially able to provide some or all of the deficit amount in the fiscal year in question; or

(B) that the deficit was due to the facility's failure to comply with a requirement of this subpart—the facility shall provide uncompensated services in an amount sufficient to make up the deficit in the fiscal year following the finding, unless the Secretary determines that it is financially unable to do so. If the Secretary determines that the facility is not financially able to provide all of the deficit in the fiscal year following the finding, the Secretary sets a compliance level for that year and subsequent years that permits the deficit to be made up in as short a period of time as he determines is consistent with the financial stability of the facility. Any deficit is calculated and adjusted in accordance with § 124.503(d).

(ii) Where a facility indicates in its published notice that it will provide uncompensated services in an amount below the annual compliance level because of a financial inability to meet the annual compliance level, and the Secretary determines during the fiscal year that the facility is financially able to provide additional uncompensated services, he may require the facility to provide additional appropriate amounts of uncompensated services during the fiscal year.

(iii) In determining whether a facility was or is financially able to meet its annual compliance level, the Secretary will consider factors such as:

(A) the ratio of revenues to expenses;

(B) the occupancy rate;

(C) the ratio of current assets to current liabilities;

(D) the average cost per patient day;

(E) the number of days of operating expenses in accounts payable;

(F) the number of days of revenues in accounts receivable;

(G) the sinking fund (or depreciation fund) balance;

(H) the debt coverage ratio; and

(I) the availability of restricted or unrestricted funds (such as an endowment) available for charitable use. In making this determination the Secretary will consider any comments submitted by the HSA for the area or by other persons.

(4)(i) Where a facility submits an affirmative action plan, the Secretary reviews the plan. If the Secretary determines that the plan is inadequate, he notifies the facility of additional actions it shall incorporate into the plan, including but not limited to, any of the illustrative approaches listed in § 124.504(b).

(ii) In determining whether an affirmative action plan is acceptable, the Secretary will consider any comments submitted by the HSA for the area or by other persons.

§ 124.512 Agreements with State agencies.

(a) Where the Secretary finds that it will promote the purposes of this subpart, and the State agency is able and willing to do so, he may enter into an agreement with the State agency for the State agency to assist him in administering this subpart in the State. An agreement may be terminated by the Secretary or the State agency on 60 days' notice.

(b) Under an agreement, the State agency will provide the Secretary with any assistance he requests in any one or more of the following areas, as set out in the agreement:

(1) Investigation of complaints regarding noncompliance;

(2) Monitoring of the compliance of facilities with the requirements of this subpart;

(3) Review of affirmative action plans submitted under § 124.504;

(4) Review of reports submitted under § 124.510;

(5) Making initial decisions for the Secretary with respect to compliance, subject to appeal by any party to the Secretary or review by the Secretary on his own initiative; and

(6) Application of any sanctions available to it under State law (such as license revocation or termination of State assistance) against facilities determined to be out of compliance with the requirements of this subpart.

(c) A State agency may use funds received under section 1525 of the Act to pay for expenses incurred in the course of carrying out this agreement.

(d) Nothing in this subpart precludes any State from taking any action authorized by State law regarding the provision of uncompensated services by facilities in the State as long as the action taken does not prevent the Secretary from enforcing the requirements of this subpart.

Subpart G—Community Service

Sec.
124.601 Applicability.
124.602 Definitions.
124.603 Provision of services.
124.604 Posted notices.
124.605 Reporting and record maintenance requirements.
124.606 Investigation and enforcement.
124.607 Agreements with State agencies.

[1] The addresses of the Regional Offices of HEW are set out in 45 CFR 5.31.

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Authority: Sec. 215, 1525, 1602(6), Public

persons who are unable to pay for them

facilities, are employed) in the

requiring acceptance of referrals as a

this section shall be submitted not later

(C) The date or approximate date on

Authority: Sec. 215, 1525, 1602(6), Public Health Service Act as amended; 58 Stat 690, 88 Stat. 2249, 88 Stat. 2259; 42 U.S.C. 216, 300m–4, 300o–1(6).

Subpart G—Community Service

§ 124.601 Applicability.

The provisions of this subpart apply to any recipient of Federal assistance under Title VI or XVI of the Public Health Service Act that has given an assurance that it would make the facility or portion thereof assisted available to all persons residing (and, in the case of Title XVI assisted applicants, employed), in the territorial area it serves. This assurance is referred to in this subpart as the "community service assurance."

§ 124.602 Definitions.

As used in this subpart—

"Act" means the Public Health Service Act, as amended.

"Facility" means the an entity that received assistance under Title VI or Title XVI of the Act and provided a community service assurance.

"Fiscal year" means facility's fiscal year.

"Secretary" means the Secretary of Health, Education, and Welfare or his delegatee.

"Service area" means the geographic area designated as the area served by the facility in the most recent State plan approved by the Secretary under Title VI, except that, at the request of the facility, the Secretary may designate a different area proposed by the facility when he determines that a different area is appropriate based on the criteria in 42 CFR 53.1(d).

"State agency" means the agency of a state fully or conditionally designated by the Secretary as the State health planning and development agency of the State under section 1521 of the Act.

§ 124.603 Provision of services.

(a) *General.*

(1) In order to comply with its community service assurance, a facility shall make the services provided in the facility or portion thereof constructed, modernized, or converted with Federal assistance under Title VI or XVI of the Act available to all persons residing (and, in the case of facilities assisted under Title XVI of the Act, employed) in the facility's service area without discrimination on the ground of race, color, national origin, creed, or any other ground unrelated to an individual's need for the service or the availability of the needed service in the facility. Subject to paragraph (b) (concerning emergency services) a facility may deny services to persons who are unable to pay for them unless those persons are required to be provided uncompensated services under the provisions of Subpart F.

(2) A person is residing in the facility's service area for purposes of this section if the person:

(i) is living in the service area with the intention to remain there permanently or for an indefinite period;

(ii) is living in the service area for purposes of employment; or

(iii) is living with a family member who resides in the service area.

(b) *Emergency services.*

(1) A facility may not deny emergency services to any person who resides (or, in the case of facilities assisted under Title XVI of the Act, is employed) in the facility's service area on the ground that the person is unable to pay for those services.

(2) A facility may discharge a person that has received emergency services, or may transfer the person to another facility able to provide necessary services, when the appropriate medical personnel determine that discharge or transfer will not subject the person to a substantial risk of deterioration in medical condition.

(c) *Third party payor programs.*

(1) The facility shall make arrangements, if eligible to do so, for reimbursement for services with:

(i) Those principal State and local governmental third-party payors that provide reimbursement for services that is not less than the actual costs, as determined in accordance with accepted cost accounting principles; and

(ii) Federal governmental third-party programs, such as medicare and medicaid.

(2) The facility shall take any necessary steps to insure that admission to and services of the facility are available to beneficiaries of the governmental programs specified in subparagraph (1) of this paragraph without discrimination or preference because they are beneficiaries of those programs.

(d) *Exclusionary admissions policies.* A facility is out of compliance with its community service assurance if it uses an admission policy that has the effect of excluding persons on a ground other than those permitted under paragraph (a) of this section. Illustrative applications of this requirement are described in the following paragraphs:

(1) A facility has a policy or practice of admitting only those patients who are referred by physicians with staff privileges at the facility. If this policy or practice has the effect of excluding persons who reside (or for Title XVI facilities, are employed) in the community from the facility because they do not have a private family doctor with staff privileges at the facility, the facility would not be in compliance with its assurance. The facility is not required to abolish its staff physician admissions policy as a usual method for admission. However, to be in compliance with its community service assurance it must make alternative arrangements to assist area residents who would otherwise be unable to gain admission to obtain services available in the facility. Examples of alternative arrangements a facility might use include:

(i) authorizing the individual's physician, if licensed and otherwise qualified, to treat the patient at the facility even though the physician does not have staff privileges at the facility;

(ii) for those patients who have no physician, obtaining the voluntary agreement of physicians with staff privileges at the facility to accept referrals of such patients, perhaps on a rotating basis;

(iii) if an insufficient number of physicians with staff privileges agree to participate in a referral arrangement, requiring acceptance of referrals as a condition to obtaining or renewing staff privileges;

(iv) establishing a hospital-based primary care clinic through which patients needing hospitalization may be admitted; or

(v) hiring or contracting with qualified physicians to treat patients who do not have private physicians.

(2) A facility, as required, is a qualified provider under the Title XIX medicaid program, but few or none of the physicians with staff privileges at the facility or in a particular department or sub-department of the facility will treat medicaid patients. If the effect is that some medicaid patients are excluded from the facility or from any service provided in the facility, the facility is not in compliance with its community service assurance. To be in compliance a facility does not have to require all of its staff physicians to accept medicaid. However, it must take steps to ensure that medicaid beneficiaries have full access to all of its available services. Examples of steps that may be taken include:

(i) obtaining the voluntary agreement of a reasonable number of physicians with staff privileges at the facility and in each department or sub-department to accept referral of medicaid patients, perhaps on a rotating basis;

(ii) if an insufficient number of physicians with staff privileges agree to participate in a referral arrangement,

requiring acceptance of referrals as a condition to obtaining or renewing staff privileges;

(iii) establishing a clinic through which medicaid beneficiaries needing hospitalization may be admitted; or

(iv) hiring or contracting with physicians to treat medicaid patients.

(3) A facility requires advance deposits (pre-admission or pre-service deposits) before admitting or serving patients. If the effect of this practice is that some persons are denied admission or service or face substantial delays in gaining admission or service solely because they do not have the necessary cash on hand, this would constitute a violation of the community service assurance. While the facility is not required to forego the use of a deposit policy in all situations, it is required to make alternative arrangements to ensure that persons who probably can pay for the services are not denied them simply because they do not have the available cash at the time services are requested. For example, many employed persons and persons with other collateral do not have savings, but can pay hospital bills on an installment basis, or can pay a small deposit. Such persons may not be excluded from admission or denied services because of their inability to pay a deposit.

§ 124.604 Posted notice.

(a) The facility shall post notices, which the Secretary supplies in English and Spanish, in appropriate areas of the facility, including but not limited to the admissions area, the business office and the emergency room.

(b) If in the service area of the facility the "usual language of households" of ten percent or more of the population, according to the most recent figures published by the Bureau of the Census, is other than English or Spanish, the facility shall translate the notice into that language and post the translated notice on signs substantially similar in size and legibility to, and posted with, those supplied under paragraph (a).

(c) The facility shall make reasonable efforts to communicate the contents of the posted notice to persons who it has reason to believe cannot read the notice.

§ 124.605 Reporting and record maintenance requirements.

(a) *Reporting requirements.*

(1) *Timing of reports.*

(i) A facility shall submit to the Secretary a report to assist the Secretary in determining compliance with this subpart once every three fiscal years, on a schedule to be prescribed by the Secretary. The report required by this section shall be submitted not later than 90 days after the end of the fiscal year, unless a longer period is approved by the Secretary for good cause shown.

(ii) A facility shall also submit the required report whenever the Secretary determines, and so notifies the facility in writing, that a report is needed for proper administration of the program. In this situation the facility shall submit the report specified in this section for the filing of reports, within 90 days after receiving notice from the Secretary, or within 90 days after the close of the fiscal year, whichever is later.

(2) *Content of report.* The report must be submitted on a form prescribed by the Secretary and must include information that the Secretary prescribes to permit a determination of whether a facility has met its obligations under this subpart.

(3) The facility shall provide a copy of any report to the HSA for the area when submitting it to the Secretary.

(4) *Institution of suit.* Not later than 10 days after being served with a summons or complaint, the applicant shall notify the Regional Health Administrator for the Region of HEW in which it is located of any legal action brought against it alleging that it has failed to comply with the requirements of this subpart.[1]

(b) *Record maintenance requirements.*

(1) A facility shall maintain, make available for public inspection consistent with personal privacy, and provide to the Secretary on request, any records necessary to document its compliance requirements of this subpart in any fiscal year, including documents from which information required to be reported under paragraph (a) of this section was obtained. A facility shall maintain these records until 180 days following the close of the Secretary's investigation under § 124.606(a).

§ 124.606 Investigation and enforcement.

(a) *Investigations.*

(1) The Secretary periodically investigates the compliance of facilities with the requirements of this subpart, and investigates complaints.

(2)(i) A complaint is filed with the Secretary on the date on which the following information is received in the Office of the Regional Health Administrator for the Region of HEW in which the facility is located:

(A) The name and address of the person making the complaint or on whose behalf the complaint is made;

(B) The name and location of the facility;

(C) The date or approximate date on which the event complained of occurred, and

(D) A statement of what actions the complainant considers to violate the requirements of this subpart.

(ii) The Secretary promptly provides a copy of the complaint to each facility named in the complaint.

(3) When the Secretary investigates a facility, the facility shall provide to the Secretary on request any documents, records and other information concerning its operations that relate to the requirements of this subpart.

(4) The Act provides that if the Secretary dismisses a complaint or the Attorney General has not brought an action for compliance within six months from the date on which the complaint is filed, the person filing it may bring a private action to effectuate compliance with the assurance. If the Secretary determines that he will be unable to issue a decision on a complaint or otherwise take appropriate action within the six month period, he may, based on priorities for the disposition of complaints that are established to promote the most effective use of enforcement resources, or on the request of the complainant, dismiss the complaint without a finding as to compliance prior to the end of the six month period, but no earlier than 45 days after the complaint is filed.

(b) *Enforcement.*

(1) If the Secretary finds, based on his investigation under paragraph (a) of this section, that a facility did not comply with the requirements of this subpart, he may take any action authorized by law to secure compliance, including but not limited to voluntary agreement or a request to the Attorney General to bring an action against the facility for specific performance.

(2) If the Secretary finds, based on his investigation under paragraph (a) of this section, that a facility has limited the availability of its services in a manner proscribed by this subpart, he may, in addition to any other action that he is authorized to take in accordance with the Act, require the facility to establish an effective affirmative action plan that in his judgment is designed to insure that its services are made available in accordance with the requirements of this subpart.

§ 124.607 Agreements with State agencies.

(a) Where the Secretary finds that it will promote the purposes of this subpart, and the State agency is able and willing to do so, he may enter into an agreement with the State agency for

[1] The addresses of the Regional Office of HEW are set out in 45 C.F.R. 5.31.

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the State agency to assist him in administering this subpart in the State.

(b) Under an agreement, the State agency will provide the Secretary with any assistance he requests in any one or more of the following areas, as set out in the agreement:

(1) Investigation of complaints of noncompliance;

(2) Monitoring the compliance of facilities with the requirements of this subpart;

(3) Review of affirmative action plans submitted under § 124.606(b);

(4) Review of reports submitted under § 124.605;

(5) Making initial decisions for the Secretary with respect to compliance, subject to appeal by any party to the Secretary or review by the Secretary on his own initiative; and

(6) Application of any sanctions available to it under State law (such as license revocation or termination of State assistance) against facilities determined to be out of compliance with the requirements of this subpart.

(c) A State agency may use funds received under section 1525 of the Act to pay for expenses incurred in the course of carrying out this agreement.

(d) Nothing in this subpart precludes any State from taking any action authorized by State law regarding the provision of services by any facility in the State as long as the action taken does not prevent the Secretary from enforcing the requirements of this subpart.

Appendix I

SUMMARY OF PUBLIC COMMENTS AND DEPARTMENT'S ACTIONS ON THE UNCOMPENSATED SERVICES AND COMMUNITY SERVICE REGULATIONS

The public comments and the Department's actions on the proposed rules are summarized below. The discussion proceeds sequentially through the regulations. In order to ease understanding of the comments and the Department's response, a brief background statement of the existing and proposed rules precedes each section.

Uncompensated Services

I. Applicability of the rules.

A. Background.

The present rules, set out at 42 CFR 53.111, apply only to Title VI facilities. They apply to facilities assisted with grants for 20 years after completion of construction and to facilities assisted with loans or loan guarantees during the period in which the loan remains unpaid. 42 CFR 53.111(a).

The proposed rules retained the policies of the present rules for Title VI facilities, adding a definition of the term "completion of construction." For Title XVI assisted facilities, the rules applied "at all times" following approval of the Title XVI application, except where the facility assisted did not provide health services when approved. In that case, the rules became applicable when the facility began to provide services. Proposed 42 CFR 124.501.

B. Public comment.

1. Consumers generally opposed the 20 year limit for Title VI facilities as proposed. A large number argued that it should be eliminated entirely, on grounds such as the following: substantial consumer need and hospitals' ability to provide services; the alleged failure of the Department and Title VI State agencies to enforce the obligations in the past; the lack of statutory support for the 20 year limit. Many consumers asserted that prior to 1972, when the 20 year limit was established, the duty to provide uncompensated care was essentially unrecognized and that since 1972 enforcement has been inadequate or inconsistent. Several consumers emphasized that the durational limitation is strictly regulatory. Thus, they argue that facilities which received aid before 1972 did not rely on the limitation. According to consumers, the cases cited in the proposed rules as upholding the 20 year limit merely endorse the Department's authority to apply a limitation but would not bar the removal or alteration by the Department of it.

Other consumers, however, acknowledged that 20 years of actually providing services might be "reasonable", as well as politically more acceptable than restoration of an unlimited duty. They therefore suggested various modifications of the durational limitation. The proposals most commonly made were having the 20 years run from (1) the effective date of the new regulations; (2) the date the facility can document its provision of uncompensated care or the completion of construction, whichever is later; or (3) 1972, when the existing regulations were issued, on the theory that there were no compliance standards (and hence no compliance) before that date. If the 20 year limitation were to run from the effective date of the new regulations, a few comments suggested that the regulations provide for a credit for years in which a facility met the "3%" or "10%" level of care under the present regulations. Consumer comments also urged that if the present 20 year limit is maintained, it be enforced retrospectively.

2. Another consumer suggestion was that the supplemental programs included in the Federal assistance base upon which the 10% compliance level is calculated should be added to § 124.501(a), thereby making these regulations applicable to those supplementary programs.

3. Provider comments consistently supported the proposed retention of the Title VI time limits on the uncompensated services obligation. It was argued that the durational limit is statutorily required, i.e., that the obligation to the government should last only as long as the government's right of recovery (section 609 of the Act) and that the term "reasonable volume" implies an absolute dollar amount of services that is inconsistent with an open-ended obligation. Numerous providers also argued that eliminating or extending the durational limitation now would constitute "impairment of contract", particularly with respect to those facilities assisted after 1972. They argued that any extension of the obligation would impair their long-term financial solvency and divert funds from patient care, and that facilities that have undertaken long-term financial plans and commitments relying on their limited obligations under the present regulations would be significantly harmed.

4. Providers generally opposed the applicability of the uncompensated services assurance without a durational limitation for Title XVI assisted facilities. See proposed § 124.501(b)(2). Some asserted that the perpetual obligation was unauthorized, and that the period of obligation should be the same as for Title VI assisted facilities. Some argued that the Department has misinterpreted the statutory language "at all times," and that the phrase only meant "at all times" during the period in which the obligation applies (that is, 20 years). Providers also expressed the view that it would be prohibitively costly to assume an open-ended obligation and that the net effect of such a rule would be to discourage providers from seeking assistance under Title XVI, a result not intended by Congress. Others argued that the effect of the rule would be to perpetually penalize private-pay patients, who must bear the cost of the uncompensated services provided.

5. A few provider and government comments opposed the clarification of the term "completion of construction" in the proposed rules. They argued that this change would only cause confusion, since for most Title VI facilities the commencement of the obligation is already clearly established.

C. Department's Actions and Response

Although the Department has retained the 20 year period of obligation for Title VI assisted facilities it has made one change that is responsive to those comments that urged that the 20 year period should not be used to "forgive" non-compliance during the 20 year period. Section 124.501(b)(1) now permits lengthening or shortening of the durational limitations for Title VI facilities, to be consistent with the deficit make-up and excess compliance provisions of § 124.503 (b) and (c). The concept underlying those sections is that Title VI facilities undertook to provide a total "volume" of services. The size of that volume is a function of both the annual compliance level and the remaining period of obligation, but it is in essence a fixed amount of services. That being the case, facilities that fail to provide that volume before their 20 year period of obligation expires should not benefit from their failure, while facilities that more than meet their obligation in some years should be credited with the extra amount of services provided. These considerations dictated adjustment of the period of obligation. The discussion below of the compliance level and deficit and excess compliance provisions explains the Department's position more fully.

With respect to those comments it has not accepted the Department responds as follows:

1. While the Department agrees with consumers that it did not have to interpret the uncompensated services assurance as being limited to 20 years, it does not agree that once having done so it can now "wipe the state clean" and completely eliminate or substantially modify that limitation. As pointed out in the preamble to the proposed rules, the courts have consistently upheld the validity of this interpretation of the statute, so it cannot seriously be contended that the limitation itself is contrary to law. The Department recognizes that any facilities that have avoided their obligations in the past will benefit from the limitation. Nevertheless, the proposal to eliminate or recalculate the limitation clearly raises significant legal and practical questions. Moreover, the Department has no grounds for making the factual assumption that would be implied if it eliminated or recalculated the limitation—namely, that *all* facilities have avoided their obligation and therefore should get no credit for past years of compliance. Moreover, it is persuaded that there has been provider reliance on the 20 year rule, certainly by those facilities funded after 1972 and, to some extent, in the long-term financial planning since that time by all assisted facilities.

The suggestion that facilities be credited with compliance for only those years since 1972 in which compliance is clearly established answers some of these problems, but has difficulties of its own. It would require the Department to audit thousands of facilities to establish which years could be credited. This effort would entail a diversion of Department resources that would significantly impair its ability to implement these rules. In addition, many facilities did not retain records sufficient to establish compliance for all those years, nor did the current regulations require that they do so. In many cases, therefore, past compliance will be impossible to establish administratively. The Department expresses no opinion as to the possible remedies available to a private litigant against a particular facility.

Finally, the Department notes that it has accepted—prospectively, to be sure—the theory behind most of the consumer suggestions. Unlike the policy of the present regulation, the durational limitation is no longer absolute; the passage of time will no longer avoid the obligation of a noncomplying facility. Although the Department does not believe it can rectify all the injustices of the past, it has taken steps to assure that they do not recur in the future.

2. The Department has not accepted the suggestion that these regulations apply to the supplemental programs. Those programs lie outside the scope of this regulation, which addresses Titles VI and XVI assistance only. Also, four of the five acts are not totally administered by the Secretary, and thus may lie outside his power to regulate unilaterally. The Department is presently looking into whether it may and should issue regulations to cover the assurances given under these Acts in connection with projects not funded in conjuction with Title VI projects. Finally, to the extent that assistance under those programs is "supplemental" to Title VI or XVI assistance and not "freestanding," it is in effect covered by their inclusion in the term "Federal assistance" as defined in § 124.502.

3. As discussed above, the Department is persuaded by the reasons given by the providers in support of the retention of the durational limitation. Their comments are hence not discussed extensively here. However, the Department has not accepted the provider position completely, in that it has provided for extension of the period of obligation where there is a deficit in the amount of uncompensated services provided. The Department does not believe that any extension of the period of obligation constitutes "impairment of contract" as many providers urged. Assuming for discussion that the government-facility relationship is a contractual one, the obligation facilities assumed was to provide "a reasonable volume" of services. The extension of the period of obligation where a deficit occurs does not increase what facilities are required to provide but rather merely assures that the facilities live up to their end of the bargain.

4. The Department has not modified the unlimited period of obligation proposed for Title XVI assisted facilities. The "at all times" language is statutory. See section 1604(b)(1)(J), discussed in the preamble. The Department does not believe that the "at all times" language means "at all times" for a 20 year period, as argued by many providers. The change in language from that in the Title VI assurance would make no sense if this theory were correct, since that has alway been the interpretation of the Title VI assurance. Moreover, when Congress intended a 20 year period to apply in Title XVI, it clearly said so. See section 1631(a).

5. In defining the term "completion of construction," the Department intended to codify and clarify longstanding administrative practice. Moreover, since the Department believes that its definition accords with the way the term has been administered in the past, it does not believe that the confusion anticipated by some comments will materialize.

II. Definitions

A. Background

The proposed rules carried forward several of the definitions of the current rules either unchanged or with only technical modifications. However, a few terms of the current regulations were modified, and two new terms introduced. The term "operating costs" (which is used as the base for the 3% compliance level) was changed to make clear that the costs to be considered are those of a previous, rather than the current, fiscal year. The term "Federal assistance" was expanded to include assistance under programs supplemental to Title VI. The term "uncompensated services" was modified to eliminate the reference to "reasonable cost" and reflect the new "allowable credit" approach. The term "allowable credit" was proposed, to provide a more precise means of calculating the extent to which services provided to a person unable to pay may be credited toward a facility's uncompensated services quota.

B. Public comment

The public comment focused on the changed and new definitions described above, although one definition unchanged from the current regulations ("applicant") evoked criticism. The definitions below are discussed in the order they appear in the final rules.

1. *"Allowable credit":* This definition drew comment from a number of providers. Most objected to the use of the Medicare allowable cost factor and asserted that computation on a cost basis is unfair to charge-based payors and is unworkable. A common objection was that the allowable credit excludes Medicare nonallowable costs, while the base for computing the option of 3% of operating costs includes Medicare nonallowable costs. This, it was argued, results in a two-step inflation of the obligation (for 3% facilities) and an arbitrary application of Medicare cost principles, and the Department was urged to base the credit on the facility's operating expenses or customary charges. Arguing that the regulations should use the ratio of actual cost to charges in determining credit, providers urged that since uncompensated services patients benefit from upgraded services which may nevertheless be unallowable under Medicare (e.g., telephones), they should participate in their cost. Other specific suggestions were made for use of various ratios based on usual charges or operating expenses to determine allowable credit.

Providers also pointed out that if the definition of allowable credit requires use of post-audit figures then it would be impossible for a facility to tell during the year what the status of its obligation was. However, if the unaudited figures are used (as implied by the proposed rules), then the allowable credit will be based on inaccurate figures.

2. *"Applicant":* This term was generally characterized as difficult and ambiguous. Consumer comments suggested that "applicant" be replaced with "facility" or "federally-assisted facility" to reflect the fact that covered facilities have already received Federal funds.

3. *"Federal assistance":* Providers protested that, unless specifically provided for by the statutes governing the supplemental programs listed, any expansion of the Titles VI and XVI obligations to include such funds is unauthorized. Consumers, on the other hand, argued that the regulations must cover the listed supplemental construction programs, which "look like Hill-Burton, act like Hill-Burton, were filed on Hill Burton forms and were accompanied by the same Hill-Burton promises."

Providers also objected that "Federal assistance" for loans and loan guarantees is inappropriately defined to include the total amount of interest subsidy that has been "or will be" provided over the life of the loan. Providers argued that the definition should cover only interest subsidies that have been made as of the year in which the obligation computation is made. Failure to do this

community without having to submit to

combined free care with bad debts and other

10% compliance level amounts to a higher

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would, together with the inflation factor, make the cost of the loan money exceed usury rates.

4. *"Operating costs"*: Consumer comments proposed that the definition should not exclude payments received from Medicare and Medicaid, arguing that exclusion of such payments implied that they were "inappropriate or inadequate." Another consumer suggestion was that operating costs be defined not in terms of an audited financial statement for a prior year but rather in terms of a combination of actual and projected costs for the current year to avoid minimizing the obligation due to intervening inflation in costs.

5. *"Request for services"*: Several consumer comments urged that the terms "request for services" and "promptly" be defined carefully, so that the standard for compliance with the eligibility determination requirement would be clear. Time periods such as 2 and 5 working days were suggested.

6. *"Service area"*: Several consumer comments urged that the term "service area" be defined for these regulations. One suggested that it be whatever area the facility said it would serve in its Title VI or XVI application.

7. *"State agency"*: A governmental comment urged that the term State agency be expanded to include other agencies accredited by the Secretary.

8. *"Uncompensated services"*: some providers interpreted the exclusion of amounts "actually charged" for services to prohibit determinations of eligibility after rendition of a bill, and urged a change in the definition to exclude "amounts actually collected from" rather than "amounts actually charged" such persons. Substantially similar points were made by a few consumers.

C. Department's Actions and Response

1. *"Allowable credit"*: The rules clarify that past allowable cost figures must be used, to eliminate the problems with using projected figures noted by providers. Otherwise, the definition remains unchanged. The Department believes that the ratio of allowable cost to revenues is a reasonable one for purposes of calculating what portion of charges should be credited towards fulfillment of the obligation. It believes that costs credited towards the obligation should not take into account costs not directly related to patient care; use of Medicare "allowable costs" accomplishes this. The consumer suggestion that only the allowable cost to revenues ratio be used has been rejected, however, because where care is subsidized the usual charge will be less than the ratio; in such cases the benefit to persons unable to pay is simply the amount not being charged.

2. *"Applicant"*: The Department agrees with those comments characterizing the term "applicant" as used in the proposed rules as confusing. That term now is used to denote persons who apply for uncompensated services; the term "facility" is now used to denote the assisted facility.

3. *"Federal assistance"*: The Department agrees with consumers that it should include the programs of supplemental assistance in the base for calculation of the "10%" compliance level. As for the provider argument that it has no legal authority to include those programs, the Secretary is clearly authorized to define what is a "reasonable volume of services". Inclusion of the supplemental programs in the base of Federal assistance on which the 10% compliance level is calculated is reasonable, since funding under those programs was, by definition, provided for the Title VI project. The uncompensated services assurance, given for the Title VI project as a whole, can thus reasonably be said to have been given for the supplemental programs also.

The Department is persuaded by the provider comments that the inclusion of future assistance in the amount of "Federal assistance" for purposes of the loan and loan guarantee program is onerous. Accordingly, the definition has been changed to make clear that only accrued assistance is "Federal assistance" for purposes of the 10% compliance level.

4. *"Operating costs"*: The consumer suggestion that the definition of operating costs include Medicaid/Medicare reimbursements has been rejected. The exclusion mirrors that in the existing regulations. To eliminate it would change the 3% compliance level, which is not the Department's intent. Rather, except for the inflation factor, the Department believes that the present dollar-volume compliance levels are a reasonable measurement of "reasonable volume" and should therefore not be changed. The suggestion that operating costs be based on combined actual and projected costs has been rejected as unworkable. Because of accounting lags, current and projected numbers are inherently subjective, open to question and subject to revision. It is far more important that facilities, the public and the Secretary know currently and with certainly what a 3% facility's current compliance obligation is than that the method by which that obligation is calculated incorporate any cost increases of the most recent few months.

5. *"Request for uncompensated services"*: A definition of this term has been added in response to the many requests that it be defined. The definition is discussed fully in section XI below.

6. *"Service area"*: This term has not been defined for the uncompensated services regulations. It is not needed here, because the scope of a facility's service area is not relevant to its obligations under these rules, unlike the community service rules, which require services to be available to all persons residing in the service area. The term has been defined for the community service regulations.

7. *"State agency"*: The suggestion that this term include State agencies other than the Title XV State agency has not been accepted. The Department does not believe that a viable arrangement with an agency of a State can be established absent compensation. At present the only authority under which Federal funds may be used for the assurances programs is section 1525 of the Act, the grant to the Title XV State agency.

8. *"Uncompensated services"*: This definition has been changed to make clear, as suggested by many comments, that the amount of uncompensated services excludes amounts charged following an eligibility determination, but not charges forgiven as a result of such a determination. The suggestion that only amounts actually collected should be deducted was not accepted because amounts charged after a determination that a person is eligible for uncompensated services, i.e. to a Category B patient, should not be credited towards satisfaction of the facility's obligation if they are not actually collected. These amounts are by definition amounts the individual was considered able to pay under the applicable criteria and therefore are no different than other uncollectible amounts.

III. Compliance Level

A. Background

The current regulations give facilities two options as to the amount of uncompensated services they must provide in a fiscal year: (1) the lesser of "3%" of operating costs of "10%" of Federal assistance; or (2) they may certify that they will turn no one away on the basis of inability to pay and will provide uncompensated services to those so admitted who are eligible for them. 42 CFR 53.111(d). This later option is popularly known as the "open door" option. If a facility selects one of these options, the State agency may not set a higher compliance level for it. 42 CFR 53.111(h)(1).

The proposed rules proposed elimination of the open door option, leaving just one annual compliance level—the lesser of 3% of operating costs or 10% of Federal assistance. See proposed § 124.503(a). Although the 3% standard was left essentially unchanged, it was proposed to modify the 10% standard by requiring that the Federal assistance received be multiplied by an "inflation factor", so that the real value of services to be provided under this standard would stay constant. The inflation factor proposed was the national Consumer Price Index for medical care. If a facility could not meet the annual compliance level, it could ask the Secretary to set a lower level of compliance for it, following the procedures set out in proposed § 124.504.

B. Public Comment

Proposed § 124.503 generated the most comment of any section of the proposed rules. In general, these comments centered on the elimination of the open door option and the inflation factor. The lower level of compliance procedure received extensive comment in conjunction with the comments on the open door option, but those comments are discussed in section V below.

1. *Elimination of the open door option.* a. Providers opposed the elimination of the open door option. Many maintained the option is the most appropriate compliance method for the many hospitals that have an open door policy based on traditional practice or state and local laws. It was also claimed that the open door is the only option "that truly addresses the needs of individual communities," by permitting the facility to fulfill whatever level of need exists in the community without having to submit to complicated administrative requirements for seeking annual exceptions.

Providers and State agencies claimed the proposed regulations will create problems for facilities that never turn anyone away, such as public-general hospitals, hospitals always maintaining an open door, hospitals that are the sole providers in the community, or hospitals that are mandated by state or local law to maintain an open door. Many providers argued that the elimination of the open door option would result in less uncompensated services being provided. They also urged retention of the option because it is easier to administer, stating that less paperwork and reporting was involved. Many also stated that a particular quota is unnecessary because most facilities provide care regardless of the individual's ability to pay. One community hospital asserted that removal of the open door option would increase its bad debts by $35,000 annually.

Numerous providers objected to the removal of the option on the grounds that there was insufficient need in their communities to enable them to meet the 3% or 10% compliance levels. For example, one acute care 167-bed general hospital in Nebraska pointed out that in 1976 and 1977 its bad debts and charity care combined would not have met the 3% option. Some providers pointed out that community need fluctuates from year to year as employment and other local conditions change, and others that community need may be low in States where welfare benefits are high or people resent or refuse to accept "charity." The open door option, it was argued, enables facilities to adapt to such situations.

Many providers argued that the existing mechanisms are functioning and there has been no showing of substantial violation to substantiate the need for the new regulations. The Department's statistics were cited as showing that few complaints have been made to the State agencies; they were also cited for the proposition that open door facilities are providing their proportionate share of uncompensated services. Others pointed out that if the problem with the option lies in monitoring it, the remedy is not to eliminate it but to set up reporting requirements that will permit adequate monitoring. Alternatively, it was suggested that the option be eliminated for those facilities that abuse it.

Several comments stated that the option was most consistent with the statutory requirement that uncompensated services be "made available," not that they be "provided." Others argued that elimination of the option would constitute impairment of contract.

b. Consumer response to the proposed elimination of the option was mixed. For example, several legal aid societies opposed its elimination, arguing that it is the best opportunity for providing care to the needy. They argued that if the open door method has been misunderstood in the past, as represented in the preamble to the proposed rules, it was a result of inadequate and vague regulations. Although good data concerning facilities' use of the open door option is lacking and facilities have frequently combined free care with bad debts and other uncompensated services, these comments emphasized that proof of compliance would not be impossible, given new regulations concerning recordkeeping, and written determinations of eligibility. Acknowledging that a carryover of any deficit would not be appropriate with the open door option, the comments suggest that the Department require the facilities to reimburse all costs incurred by an individual wrongly deemed ineligible.

A large number of consumers felt that because of past abuse of the open door option, its elimination is, as a general matter, a good idea. For example, some stated they agreed with the proposed policy because it has served as "a long standing 'dodge' for hospitals that sought to evade their responsibilities." One stated that, based on the unaudited reports of a group of Rhode Island hospitals, in only 7 out of 40 instances where open door facilities reported on their uncompensated services level did those facilities provide uncompensated services equal to the amount they would have been obligated to give under the 10% option. In response to the asserted concern by providers that eliminating the option might limit facilities' charitable intentions, comments suggested that the open door option be continued if no less than 3% or 10% is provided and advance, written individual notice is provided to patients.

2. *Inflation Factor.* a. Providers generally objected both to the use of the inflation factor and to the use of the percentage change in the national Consumer Price Index for medical care as the measure of inflation. The general theme of the comments was that a 200% return of the original aid was sufficient, and that use of an inflation factor changed the original terms of the contract and resulted in an impossible burden on facilities.

The inflation factor was characterized as being itself inflationary, resulting in imposition of additional charges on paying patients. Providers claimed that addition of the inflation factor could result in an institution's obligation increasing geomatrically and overwhelmingly. Providers also stated that inflation reduces facilities' ability to provide uncompensated services, particularly should the Administration succeed in restricting the amount facilities can collect in revenue.

Providers also objected that if an inflation adjustment is to be added, the medical care component of the Consumer Price Index is not an appropriate measure of inflation. These comments claimed that the CPI includes inappropriate factors in addition to straight inflation. Providers also alleged that the proposed formula would discriminate against institutions and areas of the country where costs increases have been held to a level below the national average. Some providers suggested that instead of using the CPI, the regulations should provide for application of changes in the cost of money or the prime rate, since those most nearly reflect the opportunity cost of commercial construction money.

b. Consumers generally supported the use of an inflation factor. Some argued that if the 10% compliance level amounts to a higher level of care than the 3% level the facility should be required to choose the former because it is more logical to require free care in proportion to the grant or loan than in proportion to the facility's operating costs.

While praising the concept of the inflation factor, some comments argued that it should be applied retrospectively to the date the federally-assisted construction was completed or to 1972. Pointing to the past increase in the CPI for medical costs they noted the ease with which the computation can be made and stated that the failure to apply inflation retrospectively "condemned consumers to appreciate less than half of the Hill-Burton entitlement."

3. *Other comments.* a. A few comments suggested that the entire approach of proposed § 124.503 was inappropriate for public and private facilities that primarily serve the indigent. In such cases, uncompensated services far in excess of the compliance levels is provided. It was argued that to burden such facilities with the extensive procedural and administrative requirements of these regulations is unnecessary.

b. Several consumers urged that a mechanism for community and/or HSA review and approval of a facility's compliance level be built into § 124.503. It was argued that if "community need" were greater than what the facility was required to provide under that section, the compliance level should be adjusted upwards.

C. Department's Actions and Response

The final rules retain the compliance levels contained in proposed § 124.503(a), although the practical effect of those levels is considerably affected by the deficit and excess compliance provisions discussed below.

1. *Elimination of the open door option.* The Department continues to believe that elimination of the open door option is necessary, for the reasons stated in the preamble to the proposed rules and by many consumers. A clear dollar standard against which facility performance can be measured will simplify monitoring and administration, gain public confidence that a "reasonable volume" of services has in fact been made available, and will result in facilities shouldering relatively equal minimum obligations to serve the medically indigent. This decision will not result in less uncompensated services being provided, as argued by numerous comments. These comments miss the point of the annual compliance level requirement. That requirement is simply a minimum. It does not preclude facilities from exceeding it; indeed, they will get credit if they do. See § 124.503(c). Moreover, facilities are also specifically authorized to adopt a policy under which all persons needing services will receive them regardless of ability to pay. See § 124.507. The Department will only use the dollar compliance level as a standard to assure a minimum level of service.

The Department does not agree with the numerous comments arguing for retention of the open door option because it is cheaper

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and easier to administer. Compliance with the option either requires eligibility determinations for virtually every person seeking admission, or individual notice and an opportunity for every such person to request a determination. This option is therefore more difficult and expensive to administer than the other option under the present regulations, which requires determinations only on request. It is clearly no easier or cheaper than these final rules. Indeed, these comments (and the comment suggesting that bad debts would somehow increase when the open door was eliminated) prove the Department's position that the option is "ill understood". They also illustrate the fallacy of the reported statistics, since those statistics by definition do not show how many persons who should have been provided uncompensated services by open door facilities were denied them. Moreover, the statistics themselves are based on aggregate reports by State agencies, and almost certainly reflect some erroneous reporting (e.g., inclusion of bad debts, or other forms of charity care).

The Department recognizes that the open door option, properly applied, would serve a valid purpose where there is insufficient community need fully to meet the compliance level for a particular year. Nevertheless, it does not believe that it is the only reasonable accommodation to such situations. Nor does it believe that insufficient need for a particular year should serve to reduce the total obligation for Title VI facilities. The deficit make-up provisions of the final regulations, together with the affirmative action requirement, therefore permit Title VI facilities to extend their compliance period to adapt to insufficient community need. See § 124.503(b) and § 124.504, discussed in section IV below.

2. *Inflation factor.* The Department continues to believe that the inflation factor is appropriate policy. The effect of the policy is to keep the value of the services provided constant, so that the indigent are not deprived of services by inflation. Moreover, since the value of the services provided will stay approximately constant, the Department cannot agree that what is not an "onerous burden" now will become one in the future. Nevertheless, in view of the costs of this policy (see Appendix II), the Department will reevaluate it in light of experience with it over the next three years.

The Department does not believe that this policy "impairs the contract" between assisted facilities and the government. As noted above, the "contract" is for the facilities to provide a "reasonable volume of services." Adjusting the 10% compliance levels by the inflation factor represents a reasonable Federal interpretation of what a "reasonable volume" is over time, and it also makes this compliance level consistent with the 3% of operating costs compliance level, since the latter automatically incorporates inflation as costs increase.

While the Department recognizes that the CPI for medical care does not perfectly reflect inflation in the cost of services from facilities, that index is the closest approximation available and hence has been retained. It is used rather than the various measures of change in the cost of money proposed, since what is being measured is the required level of *services*, not the underlying base of Federal assistance. Although the Department recognizes that use of a national index penalizes those facilities whose cost have stayed below the national rate, it nevertheless believes that use of a national index is necessary in light of the compelling need to have readily ascertainable compliance standards, which the national CPI for medical care provides.

The consumer suggestions that the inflation factor be calculated from 1972 or an earlier date are rejected. To do so would subject assisted facilities to a suddenly increased obligation for which they have had no opportunity to plan. The argument that facilities be required to comply with the 10% compliance level where it is higher (as well as lower) than the 3% compliance level is also rejected. If such a rule were adopted, the resulting burden for facilities that had received substantial assistance in the past would by definition exceed 3% of their operating costs and—given the margins many facilities operate under—create ongoing financial problems for them.

3. *Other comments.* We disagree with the suggestion that the approach of the regulation, i.e., setting an annual compliance standard and minimum procedural requirements designed to assure compliance with the standard, is inappropriate as applied to those facilities that primarily serve the indigent. The Department notes that, under § 124.503(c) (discussed below), a facility may in effect adopt an "open door" approach to providing uncompensated services, and credit excess amounts of compliance against future years' obligations. This enables those facilities to "buy out" of the program and its procedural requirements early should they wish to do so, but retains the basic approach needed in those facilities that are not designed primarily to serve the indigent and therefore might not provide the required volume of services but for these rules. See § 124.503(c) and section IV below.

The consumer suggestion that "community need" be built into the compliance levels has not been adopted. It appears unworkable, in that it would result in potentially open-ended or not readily ascertainable compliance levels, which would preclude sound financial planning by facilities. Moreover, it is fundamentally unfair to subject facilities to different compliance standards, particularly where the effect of such a test would have the anomalous result of giving the heaviest burden to facilities that are located in the poorest communities and are therefore least likely to be able to afford the extra burden.

IV. Deficits and excesses in compliance

A. Background

The current regulations contain no provision for make-up of any deficit in the amount on uncompensated services provided in a fiscal year, although if a deficit occurs the facility is required to submit an affirmative action plan to the State agency. 42 CFR 53.111(e)(2)(iii). Under the proposed rules, where a facility did not meet the annual compliance level or the lower level established under proposed § 124.504, it was required to make up the deficit in the following year unless the Secretary extended the period for make-up. See proposed § 124.503(b).

B. Public comment.

1. The deficit make-up provision was vigorously opposed by providers and a few State agencies. They argued that it would require facilities to give more care than is reasonably needed. Providers contended in general that this provision constituted impairment of contract or was *ex post facto* legislation. It was argued that where there is no suggestion of noncompliance with the procedures specified by the regulation, the requirement would constitute an unlawful expansion of the obligation. Rather, a number of providers urged that the deficit make-up be applied only where the facility has willfully failed to comply with the regulations, not merely where there had been a shortfall in the amount of uncompensated services provided.

Numerous providers also stated that if the carryover of a shortfall is to be applied, fairness demanded that a reciprocal carryover for *excess* uncompensated services which are provided be added.

2. Consumers uniformly endorsed the notion of a deficit make-up, occasionally suggesting stronger penalties or more vigorous application. For example, consumer comments suggested that the deficit make-up be applied retrospectively and that the amount to be made up include an inflation factor to deter facilities from carrying over deficits to future years when they can be paid in dollars cheapened by inflation. Similarly, other consumer comments proposed that if the durational limitation is to run from completion of the constructon, a facility that selected the 3% or 10% option should be required to make up any deficit incurred since 1972. Arguing for deficit make-up for 1973–78, one comment pointed out that facilities have been on notice of their duty since 1972 and a failure to apply the make-up factor will let many avoid their obligation entirely.

Another consumer suggestion was that, in addition to retrospective application of the make-up, an add-on for facilities that substantially failed in their open door undertakings in the past be applied, requiring that an extra year of 3% or 10% or of open door services be provided for each year of past failure. It was also urged that in order to deter noncompliance, a surcharge of at least 10% of the facility's obligation in addition to its make-up quota be added for facilities that failed to comply with the regulations. Consumers suggested that the deficit make-up also be applied to years when a facility's application for a lower level of compliance was granted.

Another consumer suggestion was that the deficit be made up before section 1122 review or review of any proposed use of Federal funds by a facility is conducted by the HSA or State health planning and development agency. It was argued that only with such

sanctions would there be assurance that the deficit would be provided.

C. Department's actions and response

The deficit make-up requirement has been retained, but the application of it has been significantly modified. See § 124.503(b). The changes in the deficit make-up requirement parallel the other major change to this section, the addition of a provision enabling facilities to take credit for any excess in uncompensated services provided. See § 124.503(c).

The theory of both § 124.503(b) and § 124.503(c) is that facilities are obligated to provide a fixed "volume" of uncompensated services over the entire period of their obligation. As indicated earlier, for Title VI facilities, the precise amount of that "volume" is determined by looking to both their annual compliance level (including the rate of inflation) and their remaining period of obligation. Given a fixed obligation, it is illogical to allow the passage of time to enable facilities which have failed to meet that obligation to avoid it entirely. Similarly, as providers repeatedly pointed out, the logic of the deficit make-up requirement compels the conclusion that facilities that provide more than the compliance level of services in a fiscal year should be able to reduce their obligation in the future by an equivalent amount. The Department has therefore provided for such reduction.

What is critical for Title VI assisted facilities under this new approach is timing. The proposed rules would have permitted facilities to avoid the deficit make-up requirement by applying to the Secretary in advance for a lower compliance level. These rules eliminate that procedure entirely, with the result that Title VI facilities may no longer be excused from any of their obligation. Now, the only question is *when* those services are provided. Under these rules, the answer to that question depends on why the deficit occurred. If the deficit was due to the facility's financial straits or the lack of community need for the services, then the facility may decide when to make up the deficit; if the deficit was due to noncompliance, then the deficit must be made up in the next year, unless the Secretary extends this time.

The obligation of Title XVI facilities is not limited by time (see § 124.501 (b)(2)); the obligation is therefore defined solely by the annual compliance level. However, the statute requires the Secretary to "take into consideration" their financial condition in determining the amount of services they should provide. The regulations implement this by providing that to the extent a Title XVI assisted facility fails to meet its annual compliance level because it was financially unable to do so, the amount of uncompensated services provided constitutes its compliance level for that year. Similarly, where the deficit was due to insufficient community need for the services, the deficit clearly caused no "harm" to the community and it would therefore be anomalous to carry it forward. In such a situation, the amount of services provided likewise constitutes compliance. Where the deficit was due to noncompliance, however, the same make-up rule for Title VI assisted facilities applies to Title XVI assisted facilities.

The rules for Titles VI and XVI assisted facilities are the same with regard to use of the excess to reduce the annual compliance level. Since a facility with excess compliance in a fiscal year has by definition met its annual compliance level under § 124.503(a) for that year, it may decide when to use that excess to reduce its compliance level. A facility may thus "buy out" of the program in future years by providing more uncompensated services now; a specific methodology for this has been provided for Title VI assisted facilities. See § 124.503(c)(2). If a facility claims an excess that it did not in fact provide, the amount erroneously claimed in subject to the deficit make-up provisions. In addition, the regulation specifically provides that excess compliance credit will be given only if the excess was provided in accordance with this subpart. This means that to obtain excess credit the uncompensated services must be provided in accordance with the allocation plan, and that individual notices required by § 124.505(d) were given out and eligibility determinations required by § 124.506 were made throughout the period of time for which excess compliance credit is claimed.

Consistent with the theory underlying the inflation factor as applied to the annual compliance level—that the value of the "volume" of services provided should stay constant—the final rules apply the inflation factor to deficits and excesses. See § 124.503(d). This ensures that inflation does not cheapen the value of an excess to a facility when it is used in a future year; it will also remove any incentive facilities might have not to comply in the present so that their obligation becomes cheaper in the future.

The above policies incorporate many suggestions of the public comments. The consumer suggestion that the deficit be made retroactive has not been accepted. This proposal raises the same resource, recordkeeping and legal problems as were described in connection with the proposed retroactive changes in the applicability requirement in section I above. The other consumer suggestions for a federally mandated penalty and use of the health planning process for sanction purposes are considered to be unauthorized by the statute.

V. Lower level of compliance; Affirmative action plans

A. Background

The present rules provide procedures by which a facility may ask the State agency to establish a compliance level for it lower than the applicable presumptive compliance level of § 53.111(d). 42 CFR 53.111(h)(3). They also provide that where a facility fails to meet its presumptive compliance level in a fiscal year, it must provide an affirmative action plan to the State agency for the next year. 42 CFR 53.111(e)(2)(ii).

The proposed rules provided for a procedure by which a facility could request the Secretary to establish a compliance level for the fiscal year lower than the annual compliance level. The procedures called for local announcement of the request, opportunity for review of it by the local Health Systems Agency (HSA), and decision by the Secretary as to the ultimate level for the fiscal year within approximately 4 months after the year began. The Secretary would establish a lower compliance level where either the facility was financially unable to meet the compliance level or there was insufficient community need for uncompensated services at the compliance level. See proposed § 124.504.

B. Public Comment

A large number of providers objected that the procedures for applying and obtaining a lower level of compliance were extremely cumbersome and lengthy, disrupting a facility's budget 120 days into its fiscal year and requiring facilities to engage in an almost continuous application process. Numerous providers also objected to the involvement of HSAs.

Some providers argued that the criteria for determining whether a lower level of compliance was warranted, particularly the imminent bankruptcy standard suggested in the preamble to the proposed rules, were too stringent, and the regulations too vague about the documentation required. One provider suggested that validation of a facility's request for an exception be carried out during the normal audit by the local Medicare fiscal intermediary.

A number of consumers voiced a fundamental disagreement with the notion of a lower level of compliance based on insufficient need, asserting that no place in the United States has "insufficient need for uncompensated services." Similarly, some consumers believed that there was no statutory basis for an insufficient need exception from the established reasonable amount. Suggesting that availability of public or charity hospitals in the area might justify a request for a lower level, one critic claimed that the lack of need exception would encourage dual hospital systems, one for affluent and whites, one for poor and minorities. As an alternative to a grant of a lower level on the basis of insufficient need, consumers suggested that the service area of the facility be expanded or that other measures be adopted designed to increase utilization of the facility's uncompensated services.

To deter the use of the lower level as a loophole, consumers recommended that, after the facility becomes economically able to provide services at the 3 or 10% level, it be required to make up the amount previously excused. A provider, noting the difficulty of determining in advance when bankruptcy was likely to occur, also recommended deferral of the obligation as part of the lower level procedure. Other comments stressed the need for a definition of "financially unable to provide uncompensated services" and specific criteria to be used in evaluating applications.

C. Department's Actions and Response

The Department has substantially altered § 124.504 in response to the public comments.

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It agrees that the prior approval procedure of

uncompensated services in any year in which

newspaper, be required to be "conspicuous"

office and provide the address of the State agency for the filing of complaints. When a

address this third problem, one provider group suggested that facilities be permitted to

patient self-enforcement if the admissions staff does not hand out the individual notice

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It agrees that the prior approval procedure of that section would be unduly burdensome and unworkable. Moreover, the "fixed obligation" approach for Title VI facilities discussed in the preceding section makes the prior approval approach unnecessary, since the obligation can now only be postponed, not avoided. Therefore the approach has been abandoned, and the following adopted in its place.

Calculation of a facility's success in meeting the annual compliance level requirement will now generally be determined by the Department only after the fiscal year ends. (In fact, the Department is presently exploring the feasibility of making a routine investigation part of the Medicare audit process, as suggested by the public comment.) As stated above, if a Title VI assisted facility's failure to meet the compliance level is due to financial inability or insufficient community need, it must make up the deficit in services, but can control the timing of that make-up, within limits. If it is due to noncompliance, the deficit must be made up immediately, as must the deficit for noncomplying Title XVI assisted facilities. See § 124.511(b)(1). If a Title XVI assisted facility's deficit is due to financial inability or insufficient community need, the deficit is excused.

As recommended by the public comment, indicators to enable the Secretary to determine financial inability have been added. They are those presently in use in the Title VI loan program to signal default potential. They contain no bright-line tests, but the Secretary anticipates that they will give him sufficient data to permit him to make an informed judgment as to the financial capability of the facility to meet the annual compliance level. See § 124.511 (b)(1)(iii). The enforcement section of the regulation (§ 124.511) gives the Secretary, despite the general rule that compliance will be determined after the fiscal year, the ability to require a facility to increase the level of services it is providing when it appears that a lower level is not justified by the facility's financial situation.

The Department has not accepted the consumer contention that nowhere in the nation is there a community with a need for uncompensated services in any year that is less than the annual compliance level. Indeed, the experience of the 167-bed Nebraska hospital described above suggests that some areas simply do not have as great an annual need for uncompensated services as provided for in the annual standard. On the other hand, the Department does not have the data or resources to make the complex individual judgments that would be called for to evaluate a particular community's need for uncompensated services. More importantly, the Secretary has determined that a lack of need for uncompensated services at the annual compliance level in a particular year should not permanently excuse a facility from a portion of its total obligation, but rather the facility should satisfy the community's need over a longer period of time.

Under this approach, the only critical question is whether a facility has accurately reflected a community's need for uncompensated services in any year in which it has incurred a deficit. The Department has resolved this question as follows: If a facility fails to meet its compliance level, it is required to devise and implement an affirmative action plan unless its failure was because of financial liability to provide services at the annual level. See § 124.504. The plan may include such steps as appropriate publication of the availability of uncompensated services through local media, expansion of the area served, expansion of the allocation plan to include additional types of services and expanded financial eligibility criteria, and establishment of referral arrangements with nearby overcrowded facilities. The plan is subject to review by the Secretary, who may require the facility to strengthen it or to take such specific additional steps as he finds appropriate under the circumstances. See § 124.511(b)(2). However, if a facility has an approved affirmative action plan in place, it is the Department's view that if it then fails to meet its compliance level, its failure is due to insufficient community need. In other words, compliance with the affirmative action plan requirement establishes the presence or absence of community need for a facility's incompensated services. Of course, if a facility fails to comply with the affirmative action plan requirement although financially able to do so, its deficit will then be considered to be due to noncompliance, and the accelerated make-up requirement of § 124.511(b)(1)(i) will apply.

VI. Published notice

A. Background

The current rules require the State agency to publish annually, in a newspaper of general circulation in a facility's service area, the compliance level established for the facility. 42 CFR 53.111(h)(4). The proposed rules required each facility to publish in a newspaper 60 days before the beginning of its fiscal year notice of the amount of uncompensated services it would make available and its proposed allocation plan. The facility was also required to provide the notice to the local HSA. See proposed § 124.505(a).

B. Public comment

Providers generally considered the published notice requirement to be reasonable. However, some asserted that newspaper notices would encourage inappropriate shifts in referral and utilization patterns in areas where there are both Title VI and non-Title VI hospitals and create excess demand. Some providers also claimed that published notice was redundant, that HSA involvement was inappropriate, and that such notice would cause Title VI assisted facilities to be perceived as "charity institutions." An accounting firm proposed a combined newspaper report for area hospitals, instead of individual notices.

Consumers generally suggested refinement of the requirement. For example, a number of consumer organizations suggested that the required newspaper notice take the form of a block ad of a particular size and/or be run other than in the legal notices column of the newspaper, be required to be "conspicuous" and written in lay language, and be multilingual if necessary. Consumers also suggested that the rules require wider distribution, a public hearing by the HSA and a copy of the published notice to be appended to the facility's compliance report.

C. Department's actions and response

The final rule changes the proposed rule in three respects: (1) facilities are required to explain the basis for any provision of services less than the required compliance level; (2) a requirement is added for provision of an additional notice to the HSA if a facility changes its allocation plan during the fiscal year; and (3) newspaper publication of the final allocation plan is not required since interested members of the public who participated in the development of the proposed plan will have more effective means for ascertaining the final plan. See § 124.505 (a) and (b).

The Department is retaining the proposed policy because it believes that the published notice requirement is the most appropriate vehicle for giving advance notice to community groups of the amount and kind of services a facility intends to provide, so that they may attempt to influence a facility to change its plans before they are put into effect. The changes to the rule described above are consistent with this purpose, in that they serve to alert the public as to relevant issues concerning the facility's uncompensated services obligation.

Since the primary target of the notice is local organizations and groups, which will be a comparatively knowledgeable audience, the Department does not believe that extensive requirements as to wording and size of the notice as suggested by consumers are necessary. Nor do they appear desirable, in light of the additional compliance and monitoring problems they would create.

The Department discounts the possibility, raised by providers, of the published notice changing demand, since the present published notice requirement does not appear to have had that effect. Nor does it agree that the notice is redundant since its main purpose, explained above, is clearly different from that of the posted and individual notices, which are designed to alert patients of the availability of uncompensated services when they are seeking services. With respect to the suggestion for combined notices, the Department notes that § 124.505(a) does not prohibit such notices, as long as its requirements are met. HSAs might be helpful in arranging for such joint notices.

The provider and consumer suggestions regarding HSA involvement are discussed at the end of section X of this appendix, since they are so closely related to many aspects of the comments on that section.

VII. Posted notice

A. Background

The current rules require facilities to post notice (which must be multilingual in a multilingual community) in appropriate areas of the facility regarding the availability of uncompensated services in the facility. The notice must direct inquiries to the business office and provide the address of the State agency for the filing of complaints. When a facility's quota is met, it has the option of providing an additional notice to this effect. 42 CFR 53.111(i).

The proposed rules retained and clarified these policies, defining the term "multilingual" and spelling out size and legibility requirements. Procedure for complaining to the Secretary was added to the notice language, to reflect the proposed change-over to Federal administration of the program. The provision for additional notice was made mandatory. See proposed § 124.505(b).

B. Public comment

Providers objected to the text of the proposed notice as being "over-regulation" or "cast negatively" and not including the eligibility requirements. It was argued that omission of this information will also create misunderstandings of the obligation and unrealistic expectations, resulting in inappropriate applications and disappointed patients. Providers suggested that failure to explain the eligibility requirements could discourage payment by those who could afford it and who are not, in fact, eligible, while their inclusion would limit confusion and permit self-screening by patients. Numerous providers suggested changes in the language of the notice.

Some providers and governmental agencies stated that if individual notice is provided, posted notice is unnecessary. In general, however, providers appeared to accept the requirement. For example, some stated that, since facilities are currently required to post signs, § 124.505(b) would not create a major problem; they objected only to the expense of replacing existing notices. Providers and consumers alike suggested that rather than face disputes about what comprises "normal vision," the Department should require signs of some reasonable size to be posted in patient reception areas having unrestricted visibility by patients approaching the service desks or areas in such places. One provider group recommended a brief posted notice with details provided in the individual written notice. In addition to the above, consumers suggested that the Department print and disseminate copies of the notices to be posted, for ease of administration and enforcement, uniformity and standardization of print.

Providers noted several problems with the requirements that posted notices be multilingual whenever a group comprises 5% or more of the community: (1) the 5% requirement is inconsistent with other Department guidelines such as Program Policy Notice 78–32, which suggests a threshold of 10% for multilingual activities; (2) accurate data on the multilingual composition of communities is not available and would therefore require an estimate by facilities; (3) the proposed posting of separate and complete signs in several languages may be impractical in areas with several significant linguistic populations because of the required size of the signs and wall space limitations. (Chicago, with seven or eight ethnic communities, was cited as an example.) To address this third problem, one provider group suggested that facilities be permitted to post a modified multilingual sign that provides the necessary sized heading, a basic statement of the obligation and eligibility requirements, and a reference to complete translations which are available at specified locations. Some providers requested tha the Department provide the multilingual notices in the many languages needed.

C. Department's action and response

The Department is persuaded by and has accepted many of the suggestions above. To eliminate questions about the size and legibility of the signs, and the cost of preparing them, the Department will prepare the signs in English and Spanish, and provide them to facilities at no cost to the facilities. As suggested, the signs will refer to the community service obligation as well. The sign itself (and what therefore is required to be translated in multilingual communities) will be very brief. It will alert persons seeking services in the facility of the existence of the uncompensated services obligation and refer them to appropriate facility personnel and the more detailed individual notice for a fuller explanation of the scope of available benefits. It is noted that the Department's Office for Civil Rights is presently developing, under Title VI of the Civil Rights Act of 1964, bilingual guidelines to be applied in health and human development programs. When those guidelines are issued, any changes in these regulations that are necessary for conformity with them will be made. For the present, as suggested, the definition of "multilingual" has been changed to ten percent, to be consistent with Program Policy Notice 78–32.

Also consistent with that Notice, facilities are required to make reasonable efforts to communicate the contents of the notice to persons who cannot read. The provision for additional notice when the uncompensated services obligation is satisfied has been simplified and made optional. See § 124.505(c).

The above approach means that the posted notices will not contain eligibility information. However, the Department does not believe that the confusion or payment problems forecast will arise. As far as it can tell, such problems have not arisen with the present posted notices, which likewise do not contain such information. Moreover, any confusion that may arise should be dispelled by the individual written notice, which will contain the information.

The Department has dealt with the suggestions regarding requiring "prominent" posting as follows: (1) it intends to provide notices which are sufficiently noticeable to prevent them from being overlooked; and (2) it has required the notices to be posted in appropriate areas, such as the admissions office, business office and emergency room.

Finally, the Department notes that the posted notice requirement is not redundant, as argued by many providers. It backs up the individual notices, which may get lost in the bulk of materials given to many patients at admission. Moreover, it serves an independent notice function permitting patient self-enforcement if the admissions staff does not hand out the individual notice as required, and as a general notice of the program if the faculty suspends the giving of individual notices during part of the fiscal year when uncompensated services are not available. See § 124.505(d)(1).

VIII. Individual notice

A. Background

Aside from the possibility that individual notice would be required as part of an affirmative action plan, the current rules contain no requirement for such notice. The proposed rules required the provision of individual written notice to each person seeking services in the facility of: the availability of uncompensated services, the eligibility criteria, the allocation plan, and the availability of a prompt eligibility determination. The notice was required to be provided prior to service except in emergency cases; in such cases notice could be provided no later than the first bill. See proposed § 124.505(c).

B. Public Comment

Many providers challenged the Department's legal authority to require such notice except in cases of noncompliance. Numerous others stated that the requirement would promote fraudulent applications for uncompensated services, increase delays in treatment, intensify patient stress, duplicate the existing procedures of some facilities, and antagonize patients who "want nothing to do with charity."

The most common objection, however, was cost. One provider group stated that a substantial majority of the 123 million patients who are cared for each year in Title VI facilities are covered by insurance or are otherwise able to pay for their care. They therefore objected to the burden of providing 123 million notices to patients, many of whom clearly would not be eligible for uncompensated care. Widely varying but nonetheless high cost estimates were offered.

In light of these costs, providers requested discretion in handing out notices, or an exception for persons who because of third party coverage are obviously ineligible, or suspension of the requirement when the annual compliance level is met. One accounting firm suggested that instead of a separate notice, a waiver of uncompensated services be added to the admitting form.

Consumers generally approved the individual notice requirement but suggested numerous refinements to it. The following requirements were suggested: oral notice; braille notice; provision of interpreters for the deaf; standards for the use of interpreters for non-English speaking people consistent with the standards set for the use of multilingual notices; multilingual individual notices.

Some consumer (and provider) comments suggested that both the individual and the posted notice include a brief description of the source of the legal obligation to provide uncompensated care, on the ground that benefits may be more acceptable to individuals when they realize that they are part of a facility's obligation and not "welfare" or "charity." Other consumer

comments suggested that patients be required to sign a waiver or other form showing they have been notified of the availability of uncompensated care.

C. Department's Actions and Response

The Department has retained the individual written notice requirement. In its view, it clearly has the legal authority to impose such a requirement, if it believes (as it does) that the requirement is consistent with and necessary for proper and efficient administration of the program. See section 1602(6) above, as well as the decision in *Newson* v. *Professional Adjustment Service, Inc.*, 453 F. Supp. 401 (M.D. Tenn. 1978), holding that individual notice is required.

Under § 124.505(d) the content of the notice is changed only in minor respects from that proposed; the changes reflect the deletion of information from the posted notice.

The Department recognizes that the individual notice requirement will add to facilities' costs of administering their assurances. Nevertheless, it does not believe that it should abandon the requirement, assuming that it could. Since under these rules a facility's limited uncompensated services obligation will be used up by those eligible persons who first request the services, it is important to give all persons an equal chance to request them. If facilities were permitted not to give the individual notice to persons whose income or insurance coverage *appeared* to render them ineligible, those persons would not have an equal chance at the services should it later turn out that they were in fact eligible. Individual notice will also play a significant role in assuring that the uncompensated services obligation is widely known, and will therefore permit self-enforcement by patients who need help in paying their bills.

The Department has tried to minimize the costs of complying with the notice requirements in § 124.505 as much as possible. First, it is eliminating much of the cost of the posted notice requirement by supplying notices. More important, however, as suggested by a few providers, the rules allow facilities to stop giving out the individual notice when uncompensated services are not available in the facility. See § 124.505(d)(1). The requirement that the eligibility and allocation criteria be set out in the individual notice should discourage frivolous requests for uncompensated services and consequent expense.

The Department agrees with the intent, but not the specific details, of many of the consumer suggestions that are designed to communicate the contents of the notice to persons unable to read it. The final rules require facilities to make "reasonable efforts" to convey the contents of the notice to such persons. We intend that facilities will make whatever arrangements are needed in particular cases to assure that such persons are aware of the potential benefits of the program. This appears to be a much more workable alternative than mandatory hiring of interpreters, use of braille, and other costly techniques. The Department has not accepted the various suggestions for written acknowledgement of receipt and waiver of uncompensated services. It believes that such requirements would clearly be burdensome because of the recordkeeping that would be required.

IX. Eligibility Criteria

A. Background

The current rules provide that eligibility for uncompensated services is established according to criteria set by the State agency. 42 CFR 53.111(g). The proposed rules established a two-tier system of national criteria. Under the proposed rules, persons with incomes at or below the CSA Poverty Income Guideline ("Category A") would qualify for services at no charge; persons with incomes above that level up to twice that level ("Category B") would qualify for services at charges reduced in proportion to income. Two methods for calculating income were provided; while the facility could select the method, it had to use the same method for the entire fiscal year. See proposed § 124.506.

B. Public Comment

1. While some providers praised the uniform Federal eligibility standards as simplifying the determination process, most objected to it. It was asserted that the failure to recognize regional variations in income levels was an attempt at inappropriate uniformity that would create inequities. For example, in States where the cost of living and income levels are higher than the national guidelines, some individuals would not be eligible even though they are unable to pay; in lower cost and income States, persons who could pay might be eligible, thereby unduly burdening paying patients. Alleging that the Medicare and Medicaid systems recognize geographical differences, providers proposed that basic eligibility should be governed by State-by-State income guidelines, that Federal criteria provide for State-by-State variations, or that States with higher criteria be permitted to retain them.

2. Providers and governmental groups asked that the eligibility test be modified to permit consideration of resources such as property, securities, availability of insurance, pensions, rental income. Numerous providers pointed out that farmers, who may own substantial real estate, frequently have fluctuating incomes that could qualify them if income were measured only over a three month period. Providers also mentioned that the relationship between the size of the bill and income affected the patient's ability to pay and requested either a sliding scale matched to the bills, or an individualized procedure, with discretion in the facility to determine the reduced charge through a process of consultation between financial personnel and individual patients. Other providers, however, praised the use of a simple test based solely on income, without consideration of resources, as easier to administer and "less degrading" to individual applicants.

3. Providers pointed out problems with both the 3- and 12-month tests (the periods of time over which the applicant's income could be evaluated to determine eligibility) and requested that application of the particular test be left at the option of the hospital in the individual case. Some governmental groups recommended use of only the 12-month test, to avoid aiding the patient whose income is "well above the poverty level" but who experiences a temporary loss of income.

Consumers agreed with providers that the annual choice between the 3- and 12-month options for income determination was a problem. Some consumers suggested that the 12-month standard be eliminated altogether since it could never account for recent reverses in an individual's ability to pay. Others suggested that the most advantageous of the two tests be used in any particular case. Another suggestion was substitution or addition of a test of the prior one month's income multiplied by 12, to include very recently unemployed individuals. By contrast, another group suggested that eligibility be based on current or anticipated income for the subsequent 30 days.

4. Consumers supported the general concept of the proposed national income standards, excluding consideration of resources. As one group explained, present rules leave such matters up to the whim of the State agency and facility, which may make "unreasonable demands." Accordingly, consumer comments were frequently directed toward eliminating elements of facility discretion. For example, many comments suggested that the Department prescribe a schedule for payments to be made by patients in Category B. Urging that the pay schedule be removed from the facility's discretion (least the facility turn it into a full pay program), some groups urged that the schedule be treated like the allocation plan, with publicity, a hearing, and HSA participation. A legal services organization suggested that persons in Category B pay the percentage of the allowable credit for the service by which their income exceeds the CSA guideline. Other comments suggested that the schedule set by the Department for persons in Category B relate the size of the bill and the person's income. Spend-down provisions, under which eligibility can be acquired once income in excess of the financial criteria is expended on medical care, were also suggested, to address the problems of a person with an income of $20,000 but medical bills of $50,000.

C. Department's actions and response

The final rules are the same as the policies proposed in the proposed rule, with two exceptions (explained below): (1) as suggested by some providers, a facility is given complete flexibility with regard to its policy for charging Category B patients, as long as it publishes its policy as part of its allocation plan; and (2) as suggested by some consumers, eligibility is established if the patient's income meets *either* the 3-month or the 12-month test.

The Department's response to the comments is as follows:

1. The Department continues to use the CSA Poverty Income Guidelines rather than the various State or locality-based eligibility criteria suggested by many provider and consumer comments. Use of the Guidelines has obvious administrative advantages for facilities as well as the Department over their various State or locality-based counterparts. Furthermore, although median income and other income tests do vary from State to State, it does not follow that there are comparable variations in relative poverty levels. That is, someone with income at or below the poverty level in a low income State is likely to be as "poor" in terms of his purchasing power as a person with the same income in a high income State. The Department believes it is fair to assume that persons with incomes at or below the Guidelines (Category A), will be unable to pay for necessary medical care, and so should qualify for services without charge under this program.

The Department notes that the change in policy with respect to Category B patients described above will also enable facilities that do not consider persons with income at that level "poor" for their area to target their uncompensated services accordingly. If a facility can meet its annual compliance level entirely with Category A patients, § 124.506 permits it to do so.

2. The Department does not believe that the grant of discretion to facilities to set their charging policy for Category B patients will lead to the arbitrariness and discrimination that is of so much concern to consumers. Although facilities may control their charge policies for Category B patients, those policies must be published, and must be complied with once established. Thus, facilities will not be able to discriminate between similarly situated Category B patients. Also, since the charge policy must be published as part of the allocation plan, it will be subject to the public comment procedures applicable to that plan, as recommended by some consumers.

3. The Department is retaining an income-only test, rather than one based on both income and resources as advocated by many providers and consumers. The Department recognizes that this approach may lead to some inequities, but is convinced that the other approach will lead to significant problems of interpretation and application for facilities, lead to extensive delays in determinations and create substantial compliance problems. These considerations also led to the rejection of a "spend-down" approach.

X. Allocation Plans

A. Background

Although the State agency may establish allocation requirements for Title VI assisted facilities, the current rules contain no specific requirements as to how they are to allocate their uncompensated services among persons unable to pay. The proposed rules provided two options for how such services are allocated; facilities must either (1) divide their uncompensated services into approximately equal quarterly allocations and provide services to the persons who first request them, or (2) use another allocation plan. The latter approach could only be used if it were published in accordance with § 124.505(a), and provided for some distribution of services throughout the year, the provision of some services to Category A individuals, and provided that all persons coming within the plan would receive uncompensated services until the obligation was met. See proposed § 124.507.

B. Public Comment

1. While providers praised the regulations for permitting facilities to develop their own allocation plans there was some objection to particular requirements.

a. With respect to the quarterly allocation requirement, providers argued that it incorrectly assumes that facilities experience community need greatly in excess of the presumptive compliance level and that all facilities cut off charity care when they meet their compliance level. Moreover, providers and governmental groups pointed out that the need for charity services is not constant but expands and contracts at different times during the year based on numerous factors and illness and in general is impossible to predict. Finally, they asserted that neither the patient nor the physician who selects a facility that has met its quota is likely to accept the suggestion of returning for care at a later time or shopping around for another Title VI assisted facility that has not met its obligation.

Providers and others also protested that the quarterly allocation requirement was inflexible. They objected that the system could exclude credits to a facility's obligation for services provided to eligible patients who were admitted just as the facility was reaching its quarterly obligation level. They also objected that the entire quarterly obligation could be used up by a few patients, and that the quarterly requirement could decrease the amount of uncompensated care available to summer migrant workers. Providers therefore feared that an allocation plan developed in good faith would result in unforseen implementation problems and non-compliance by the facility.

b. Providers also criticized the role of the HSA and the community in the allocation process. It was pointed out that various community interest groups may disagree on an appropriate allocation, and the provision requiries facilities to act as arbiters in situations where local employment conditions and inadequate government program benefits have created extensive demands for charity care. Providers also generally argued that the HSA role in formulating the allocation plan was inappropriate, as they are intended to be planning, not regulatory, bodies, a concern repeatedly expressed in connection with other provisions of the regulation and echoed by some planning agencies.

c. In addition, providers disagreed with the requirement in proposed § 124.507(b) that the facility provide all services of the facility to eligible persons. They objected that facilities are requiried to provide uncompensated services only in the facility or portion thereof which has received assistance.

2. Consumers generally regarded the proposed allocation system as an improvement over the present regulations. However, consumers also protested that the proposed regulations still left too much authority to the facilities. A number suggested that the HSA's comments must be included with the allocation plan when submitted to the Secretary or that HSA and/or Department approval of any allocation plan other than first-come-first-aerved should be required. Numerous other specific consumer suggestions for divesting facilities of control over the allocation plan were also made, such as that a facility's allocation plan be based on community need and that public hearings be required. Consumers also advocated a far more decisive, regulatory role for HSAs in this, as well as other sections of the regulations.

C. Department's Actions and Response

The Department is persuaded by the numerous provider and governmental comments objecting to the quarterly allocation requirement, and has dropped it. Otherwise, § 124.507 below retains the policies of the proposed rules essentially unchanged, except that provision is added requiring the allocation plan to set out how Category B persons will be charged. This new requirement is consistent with the change in § 124.506 discussed in the preceding section.

The Department has not accepted the numerous consumer suggestions that it (or HSAs) regulate precisely how facilities allocate their uncompensated services. As discussed in connection with the affirmative action plan requirement above, the Department is unable to make complex judgments as to what constitutes "community need," as advocated by many consumers, and it does not believe that it can require HSAs to do it in its place. The Department believes that facilities are able to make sensitive and difficult judgments as to which services are needed locally and hopes they will be responsive to legitimate community need. The publication and HSA notice requirements of § 124.505(a) and (b) should help deter facilities from setting arbitrary policies totally unrelated to community need by exposing them to public comment and pressure.

In addition, the Department has made one change in the final rules that is intended to further clarify the facilities' obligation to consider community need when determining the type of allocation plan they wish to adopt. The final regulations specifically require facilities to take into consideration any comments as to whether proposed allocation plans are reasonably related to community need that are submitted to them by the HSA or others. In this manner, the Department seeks to promote the development of rational, community-wide programs for the allocation of limited uncompensated services in a manner most responsive to the needs of persons unable to pay. For example, one facility in a community may, after consideration of HSA and public comments, decide that its allocation plan should give greatest priority to emergency services. Another facility in the area might decide, in light of the services available in the first facility, to give greatest priority to those in need of inpatient care. Yet a third facility might decide to place highest priority on outpatient clinic services because of the excellence and uniqueness of its clinic. If this were to happen, the results of three allocation

plans would be a coordinated, balanced

of reasons to persons denied uncompensated

specified time could be set: "what is prompt

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plans would be a coordinated, balanced approach to meeting the needs of persons unable to pay in that community. We emphasize, however, that the final determination as to whether a facility's allocation plan is reasonably related to the need in the community for uncompensated services rests solely with the facility. The Secretary does not, under these regulations, have the authority to dictate the terms of a facility's allocation plan.

With respect to the provider comment that there is no legal basis for the requirement of § 124.507(b) that "all services" of the facility be made available, the Department notes that § 124.507(c) permits the facility to restrict its services to the "portion" of the facility assisted, so long as doing so is consistent with the underlying obligation.

The Department has not changed the role of the HSAs in the enforcement process from that proposed. Aside from questions about its legal authority to require a stronger role, it does not believe that increased requirements in this regard are presently feasible or advisable given the variation among HSAs in their ability to undertake a more regulatory role. In this regard, a few national planning organizations concurred that the balance of involvement by HSAs struck in the proposed (and hence, these) rules was the proper one. The Department has rejected the provider objections to the proposed HSA role of commenting on how uncompensated services are delivered in their area. This function is clearly appropriate given the planning and review functions of those bodies and their general purpose of promoting the proper use and distribution of health services.

XI. Eligibility Determinations

The current rules provide that in order to count services provided to a patient as uncompensated a facility must make a determination of eligibility for uncompensated services prior to their provision. However, there are several circumstances in which the determination may be made after services are rendered: in emergency circumstances, where the person's circumstances have changed, and where the determination is delayed by false or erroneous information provided by the patient. 42 CFR 53.111(f)(1). This section was adopted in response to the decision in *Corum v. Beth Israel Medical Center*, 373 F. Supp. 550 (S.D.N.Y. 1974), which declared invalid the prior provision of the regulation permitting facilities to count as uncompensated services services for which they had rendered a bill, on the ground that persons unable to pay should know whether or not they will be receiving uncompensated services before assuming liability for them.

The proposed rules eliminated the preservice determination requirement. Instead, they required that in order to count services provided as "uncompensated", a facility must make a determination promptly on request. To facilitate monitoring and compliance, specific requirements were set out as to what information the determination must contain; facilities were required to provide a copy of it to the patient. Facilities were required to provide written statements of reasons to persons denied uncompensated services. It was also provided that facilities could condition the provision of uncompensated services on verification by individuals of their eligibility for them. See proposed § 124.508.

B. Public Comment

1. For the most part, providers favored the proposal that eligibility be determined "on request" rather than "in advance." Some providers insisted the prior determination requirement was better, arguing that permitting determinations upon request had the net effect of an open-door policy and required the facility to allow benefits at any time requested. It was protested that failing to require the patient to make a "timely" request would be expensive because patients would not request uncompensated services until after collection suits were filed.

Other providers displayed confusion about proposed § 124.508, apparently assuming that it would require eligibility determinations prior to billing. One facility protested that this was impractical since it billed patients four days days after providing the service, while it might take weeks for eligibility for other benefit programs to be determined. Others asserted that only a conditional statement pending verification could be issued prior to rendering services. Clarification that eligibility determinations can be made after billing was requested.

Consumers generally approved the proposed change in the regulations concerning determinations of eligibility. For example, one group stated that they had found the 1975 post-*Corum* rules requiring preservice determinations to be inadequate, forcing patients to argue that they fell into one of the exceptional categories where a postservice determination of eligibility was permitted. Other consumers, however, recommended that the Department either maintain the present requirement of a prior determination of eligibility or require facilities to have the ability to make determinations to meet the *Corum* requirement that the patient be told in advance whether treatment will be uncompensated, and establish a deadline by which the determination must be made.

2. While some providers requested deletion of the phrase "on request," claiming that patients would not ask, others suggested that a written request from the patient be required. Consumers likewise recommended that the phrase "on request" be defined, but asked that it be defined broadly. Pointing out that the term "request" is used in several sections of the regulations, one asked that the phrase be given "some consistent and practical meaning, or eliminated." Another suggestion was that the term "on request" be broadly defined to include any expression or indication by a person seeking care of inability to pay.

3. A number of providers asked that a definition be provided for "promptly," as used in proposed § 124.508(a)(2). However, some—while requesting the clarification that determinations were permissible after services had been performed and bills rendered—stated that no specified uniform specified time could be set: "what is prompt will depend in each case upon the individual facts of when the patient presents himself, how long he stays, and how difficult the investigation may be." A number of consumers also asked that the term "promptly" be specifically defined and suggested 2, 3, or 5 business days.

4. A number of providers asked for further clarification of the verification provision. Some predicted that the verification provision would be inadequate to prevent abuses resulting from individual notice. Other providers asked for a broad interpretation of the right to verify, such as by providing that an eligibility decision may be reversed if the information provided by the patient is not accurate.

Consumers raised a number of objections to the verification provision. In general, it was urged that the provision would be used to exclude eligible individuals or to discriminate against certain categories of low income persons, such as migrant farmworkers. Some groups voiced the fear that verification requirements would be used to harass and discourage eligible individuals from asking for uncompensated services.

If the provision is retained, consumers urged a number of modifications of it. Specifically, the Department was urged to: make the provision of services on an uncompensated basis conditional upon subsequent verification; require addition to the application form of a statement that knowing and willful provision of false or inaccurate information will subject the applicant to a denial of uncompensated care and to penalties for perjury; specify the evidence of income which the facility is allowed to obtain, clearly excluding confidential information; limit the information to be verified to income of the patient or responsible relatives during the relevant time period; limit verification to a single source; require facilities to adopt written standards and apply them uniformly; require that verification not be limited to particular methods but be permitted by any means that will reasonably establish the existence of the condition; and require that a facility not be allowed to deny an application for free care for lack of verification without advance notice.

5. Consumers suggested that the Department provide standardized forms for facilities' determination of eligibility including an explanation of the individual's right to complain or appeal a denial of uncompensated care. Citing the *Newsom* decision, a legal services group asked that the Department provide for review of an adverse decision within the facility or at the community level.

C. Department's actions and response

The policies of the proposed rule have been retained. The Department notes that in general both provider and consumer comments support the shift from "prior" determinations to determinations "on request." However, it has made the following changes in the proposed rule. First, as requested by many comments, a definition of "request for uncompensated services" has

been added. The definition adopts the suggestions of several consumer comments that any indication of an inability to pay for services be treated as a request. This definition will protect needy applicants without requiring facilities to make determinations of eligibility in cases where it is not needed because full insurance, medicaid, or other source of payment is clearly available to the patient. See § 124.502. Second, as also requested, the term "promptly" has been eliminated and a requirement that the eligibility determination be made within 2 working days of the request for uncompensated services substituted. See § 124.508(b)(1). Third, the provision for verification has been modified to clarify that only facts relevant to eligibility may be verified. Fourth, to lessen the burden of the financial eligibility determination requirement, the requirement applies only when uncompensated services are available in the facility. See § 124.508(a). In all periods of the year, however, denials of uncompensated services must be explained by a statement of reasons. Of course, where the reason is that the allocation has been exhausted for the period, the statement may rely on this ground and a financial eligibility decision is not required.

The Department stress that these rules do not require a determination prior to service. Under § 124.508, the timing of the determination depends solely upon when the request for uncompensated services is made. The determination may be made after service (or even after institution of suit), if that is when the request is made. To clarify this, the words "at any time" are included in the definition of "request for uncompensated services." As for those comments concerned that the "on request" policy may prove more expensive than the "prior determination" requirement, the Department notes that facilities may minimize collection expense by making extra efforts to alert persons to the availability of uncompensated services early in the collection process.

The Department does not agree with the consumer comments that challenged the "on request" policy as inconsistent with *Corum*. Under the individual notice requirement, the applicant is told in advance of service that he can get a determination of whether or not he will get uncompensated services within 2 working days. This will permit persons who are so concerned about the cost of services that they are reluctant to incur them without assurance of payment, the situation which concerned the *Corum* court, to obtain that assurance in a timeframe that is consistent with sound medical care.

The change in the verification provision responds to the concern underlying many of the consumer comments, that verification not be used as a "fishing expedition" or to harass or discourage applicants for uncompensated services. However, the Department continues to believe that provision for verification itself is reasonable, as it will enable facilities to provide their uncompensated services to persons who in fact qualify for them. The Department interprets the requirement that verification be limited to information "necessary" to establish eligibility to mean that any reasonable method of verification should be accepted and that duplicative forms of verification should not be demanded. The simple answer to the provider concern as to whether a determination of eligibility that subsequently fails to "check out" may be reversed is that it may. This is inherent in the provision of § 124.508(d) that verification may be made a "condition" of the provision of uncompensated services.

As suggested by some consumers, the Department intends to develop and make available forms for use or adaptation by facilities in the eligibility determination. However, it will not mandate use of such forms, since facilities may find it convenient to combine the eligibility determinations with other forms.

Although the Department does not oppose having facilities establish procedures for review of denials of uncompensated services, it is not requiring that they do so as a condition of compliance. The governing statute does not require facilities to establish review procedures, and at the present time the Department does not have a sufficient factual basis for concluding that review procedures are necessary for proper administration of the assurances.

XII. Exclusions from uncompensated services

A. Background

The current rules provide that the cost of services provided in the following circumstances cannot be counted as "uncompensated": (1) where the facility has received or is entitled to receive payment for the services under a governmental program or from a third party insurer; and (2) where the facility would be entitled to receive payment under such a program if it participated in it. 42 CFR 53.111(f)(2). The proposed rules added the following circumstances: (1) where the facility was reimbursed by a program under which it had agreed or was required to accept such payment as payment in full for the services; and (2) where the services were disapproved by a PSRO under section 1155(a)(1) of the Social Security Act. See proposed § 124.509.

B. Public comment

1. Providers objected to the exclusion from uncompensated services under proposed § 124.509(b) of any difference between the amount reimbursed under certain third party payment programs and the actual expense of providing the services. It was argued that this exclusion is inappropriate particularly with respect to Medicaid, because in many States Medicaid reimburses at rates substantially below the actual expense of providing the services.

A similar problem was raised in connection with a locally funded medical care program. Under that program, the facility provides for the care of the medically indigent and is reimbursed by the program for approximately one-quarter of the average cost of the services provided. The facility stated that, should the interpretation of this section be that none of that difference could be counted toward meeting the Title VI obligation, it would have to consider seriously not renewing its provider agreement.

2. Providers asked that the regulation require that persons eligible for but not receiving Medicaid benefits be required to apply for such benefits before applying for uncompensated care.

3. Providers urged deletion of proposed § 124.509(c) on the ground that it fails to recognize problems that frequently result from implementing PSRO decisions. For example, when a PSRO determines that a patient should be transferred from acute care to skilled nursing care and there are no skilled nursing beds available in the area the facility frequently has no option but to continue providing care to the patient until a skilled nursing bed is available. Consumers, on the other hand, generally approved of this exclusion.

4. Few consumers commented on proposed § 124.509. In general, they endorsed the underlying policy of making this program one of "last resort". However, it was requested that facilities be responsible for making preliminary determinations of eligibility, rather than simply referring all uncompensated care applicants to the local welfare office whether they are likely to be eligible for Medicaid or not.

5. Consumers also asked that the regulations expressly exclude bad debts or provisions for uncollectible accounts from the computation of uncompensated services, as well as unreimbursed emergency care which the facility had an independent obligation to provide under Federal, State, local or common law.

C. Department's actions and response

Both the provider and consumer comments indicated no substantial disagreement with the policies of the present rules, carried forward in the proposed rules. They are thus retained in § 124.509 unchanged. The additional policies set out in the proposed rules (§ 124.509(b) and (c)) are likewise retained, for the following reasons.

1. The Department continues to believe that it is reasonable to prohibit providers from charging off as uncompensated services the cost of services for which they have been partially reimbursed when they have agreed or are required to accept that payment as payment in full. In those situations no uncompensated services are actually provided *to the applicant*, who is not obligated for any part of the cost of care. Therefore, a contrary policy would, we believe, provide a "windfall" to facilities in such cases, and that windfall would be at the expense of other persons unable to pay.

2. The provision respecting exclusion of services disapproved by a PSRO has been retained, as the Department believes in general that facilities should not provide "unnecessary" services on an uncompensated basis.

3. With respect to the provider and consumer suggestions regarding conditioning uncompensated services on application for Medicaid and other programs, the Department stresses that the effect of the exception to § 124.508(a) is that a facility may condition provision of uncompensated

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of the report are being considered in the

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the program. It was urged that State level

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services on an applicant's applying for benefits under other programs. While this choice is left up to the facility, the Department notes that the decision to impose such a requirement is clearly consistent with its view of uncompensated services as a "last resort payment" program. However, the Department also notes that nothing in § 124.509(a) permits a facility to delay an eligibility determination under § 124.508, once requested. Thus, these requirements together mean that where an eligibility determination is requested and a question as to third party coverage exists, the facility must make a determination within 2 working days, although if eligibility exists it may condition the provision of uncompensated services on the applicant's following through to obtain whatever third party payment he is entitled to. Then, if the third party payment subsequently materializes, the facility must exclude the services provided from its uncompensated services account.

4. No explicit provision for bad debts or uncollectible accounts, as those terms are generally used, has been made in these rules. The effect of permitting a request for uncompensated services to be made "at any time," including after institution of suit for collection by the facility, is to allow certain accounts that could otherwise be considered to be "bad debts" to qualify as uncompensated services. Specifically, the rules permit facilities to claim credit only for services provided to persons determined to be eligible. A facility may not assume that all uncollected accounts are eligible and claim credit for these accounts or that basis. Since these rules do not treat all "bad debts" or "uncollectibles" in the same way, and permit some to be credited as uncompensated services, i.e., those in which eligibility for uncompensated services is established, we think that use of those terms would be confusing and misleading.

5. The Department does not believe that it is appropriate to deny uncompensated services credit for emergency services provided to individuals because of requirements of local law. If some of the individuals would qualify for uncompensated services, they should not be denied that benefit; concommitantly, the facilities should not be denied appropriate credit if they forego their right to bill for such services.

XIII. Reporting and record maintenance requirements

A. Background

The current rules provide that facilities must file an annual statement with the State agency not later than 120 days after the end of their fiscal years. The annual statement must set forth the facility's operating costs, the amount of uncompensated service provided in the prior year, a proposed budget and a justification and affirmative action plan for any past or projected shortfall in the amount of care. 42 CFR 53.111(e). The current rules contain no specific requirements concerning maintenance of records relating to compliance with the assurances.

The proposed rules required facilities to submit an annual report not later than 60 days after their fiscal year, reporting financial data and compliance information similar to that currently required. The Secretary could also request other compliance reports in writing. Facilities were required to report to him the institution of any compliance suit against them within 10 days of suit. See proposed § 124.510 (a), (c). The proposed rules also required facilities to maintain relevant records for a period of five years. See proposed § 124.510(b), § 124.508(a)(2).

B. Public comment

1. Many providers criticized as impractical and unreasonable the requirement that the report be submitted within 60 days after the close of the fiscal year. Providers suggested an extension to 90 or 120 days after the close of the fiscal year, on the ground that the Medicare cost report is completed 90 days after the close of the fiscal year.

2. Several providers and auditors objected that the regulations would require a costly expansion of the scope of audits to review individual determinations for compliance. The references to "other information" and "other documents" which could be required by the Secretary were also opposed by providers as "overbroad" and "overregulation."

3. Providers suggested various ways of minimizing the reporting obligations, mainly by relying on existing mechanisms. For example, a State hospital association suggested that for data and records that are routinely prepared for other purposes, the format and filing dates for information required under the Title VI regulations should be consistent with already required reports. Another comment suggested that reporting take the form of additions to the current Medicare cost report. Providers also recommended that if a facility is in compliance with its Title VI obligation, routine reporting be eliminated or streamlined.

4. Providers also opposed the requirement in proposed § 124.510(b) that various documents be made available to the public for inspection. For example, some providers strongly objected to public inspection of facilities' budget and other financial data, on the grounds that such a disclosure would subtantially impair the competitive position of those facilities. They suggested that publication of only those portions of the budget which are "material" to the program should be required. Finally, some facilities protested only that the phrase "any other documents" was too broad and could compel disclosure of medical and other confidential records.

Providers also objected that the record retention requirement of five years was burdensome, and bore no relation to the needs of the Department or of consumers for monitoring.

5. There was some protest against the requirement of proposed § 124.510(c) that the facility notify the Department of legal actions brought against it as burdensome.

6. Consumer comments generally praised the reporting and disclosure requirements. However, according to a number of comments, in light of the limited resources available to the Department for monitoring and enforcement, it is important to explore the potential for expanded compliance monitoring through expansion of the reporting form itself. Accordingly, additional requirements to be imposed on facilities were suggested. Various comments suggested that the final regulation should explicitly require maintenance of numerous items of data such as specific numbers of patients, specific amounts of care provided and other pertinent details that will allow for detection of patterns of discrimination or non-compliance, copies of all written eligibility determinations, and so on.

7. Many consumers supported the requirements of § 124.510(b) (and the parallel requirement of § 124.604(b)) that financial information related to Hill-Burton compliance be disclosed to the public. In addition, many asked that copies of the annual report and other compliance records be made readily available to the public at the facility and at the local HSA to facilitate independent monitoring by local consumer groups and the press.

C. Department's Actions and Response

1. The Department is persuaded by the many provider comments concerning the timing of the required reports and the need to minimize reporting burdens by coordinating the timing of the reporting under this subpart with other required reporting. Accordingly, it is requiring that the reports be submitted at the same time as the Medicare cost reports. Since much of the data generated for the Medicare cost report will be useful for preparation of the required assurances compliance report, this requirement will enable facilities to coordinate their preparation. See § 124.510(a)(1). More significantly, the Department is also persuaded that annual reporting is unduly burdensome for facilities that are meeting their annual compliance requirement. Thus, § 124.510(a)(1)(i) requires facilities to report only once every three years (on a staggered schedule, to be subsequently prescribed by the Secretary). However, where a facility falls short of its annual compliance level, or the Secretary determines, based on other information available to him, that more frequent reporting is needed, then the facility must report more often than once every three years. See § 124.510(a)(1)(ii). This latter requirement is needed for monitoring: where possible noncompliance exists (as in the case of a deficit), the Department obviously should be alerted to it and obtain the relevant facts as soon as possible, rather than allowing two or three years to go by while relying solely on the compliance mechanism to catch those situations.

2. The report requirement is very general, and does not require numerous specific items of information as advocated by the consumer comments. Nevertheless, the Department believes that this general authority will enable it to require many of the specific items of information suggested while at the same time enabling it to change the requirements based on experience with the reports and changes in its needs. The consumer and provider suggestions for the specific content

of the report are being considered in the development currently underway of the reporting form under section 1602 of the Act.

As for the provider concern that a general approach is "overbroad", § 124.510(a)(2) clearly limits what may be required to information relevant to compliance. As long as providers are told in advance what is required of them, and they will be, the Department does not believe that such a requirement is either unreasonable or in excess of its authority. See the last two sentences of section 1602. Moreover, it notes that any specific reporting forms it issues are subject to 44 U.S.C. 3509, so that the process insures that reporting burden will be taken into account in developing the form.

3. The Department is not persuaded by the provider comments criticizing as burdensome § 124.510(a)(4), regarding notifying the Secretary of institution of suit. An analogous provision arguably implicitly exists under the current rules (42 CFR 53.111(k)(2)). In any event, the Department believes that this requirement is reasonable in view of the Secretary's responsibility for enforcing the assurances.

4. The Department is persuaded by the thrust of many of the consumer comments that what is really needed for adequate monitoring and enforcement is facility *records* that are adequate to establish compliance. However, it also recognizes a concomitant provider interest in knowing what records facilities must maintain and in not maintaining those records for any longer than the minimum time needed. Thus, it has added a new provision to clearly establish that relevant records must be kept and spell out more precisely what the recordkeeping obligations of facilities are. See § 124.510(b). That section also ties the duration of the requirement to the Secretary's investigation under section 1612(c) of the Act. This will give the public an opportunity to bring discrepancies in the records or inadequacies in the investigation to the Department's attention promptly, but will not prolong the recordkeeping requirement indefinitely.

5. The record maintenance requirements retain provision for public access to and inspection of compliance records. The Department considers this provision to be clearly authorized by and consistent with section 1612(c), which gives persons a "private right of action" to enforce compliance. Moreover, the Department believes that assisted facilities should be accountable to the community in their fulfillment of the assurances, and that interested members of the public working closely with facilities can be helpful in assuring compliance without federal intervention. Providing consumer advocates access to records as a routine matter should discourage the filing of suits simply to get access to records through discovery. Of course, facilities may—and indeed are encouraged to—protect confidential records and information. Thus, if what is sought is information regarding the dollar amounts charged off to uncompensated services, patient accounts could be provided with the information which would publicly identify the patients deleted.

XIV. Enforcement

A. Background

The current rules give the State agencies primary enforcement responsibility. Under § 53.111(j), the Title VI State plan is required to include provision for handling complaints about facilities' compliance with their assurances, and appropriate sanctions.

In enacting Title XVI, Congress expressed dissatisfaction with the enforcement of the Title VI assurances by both the State agencies and the Secretary. See S. Rep. No. 93–1285 at 61. In addition to requiring the Secretary to issue regulations concerning compliance and require periodic reporting under section 1602 above, it gave him explicit enforcement responsibilities for both Title VI and Title XVI facilities under section 1612(c):

> The Secretary shall investigate and ascertain, on a periodic basis, with respect to each entity which is receiving financial assistance under this title or which has received financial assistance under title VI or this title, the extent of compliance by such entity with the assurances required to be made at the time such assistance was received. If the Secretary finds that such an entity has failed to comply with any such assurance, the Secretary shall take the action authorized by subsection (b) or take any other action authorized by law (including an action for specific performance brought by the Attorney General upon request of the Secretary) which will effect compliance by the entity with such assurances. An appropriate action to effectuate compliance with any such assurance may be brought by a person other than the Secretary only if a complaint has been filed by such person with the Secretary and the Secretary has dismissed such complaint or the Attorney has not brought a civil action for compliance with such assurance within 6 months after the date on which the complaint was filed with the Secretary.

The proposed rules took these changes in the assurances program into account by providing for Federal, rather than State, administration of enforcement. See discussion at 43 FR 49956. They provided that the Secretary could enter into an agreement with any State agency designated under secion 1521 of the Act by which that agency would assist the Secretary in carrying out part of his monitoring and enforcement functions, but the primary responsibility would be the Secretary's. See proposed § 124.512. With respect to those responsibilities, the proposed rules set out specific requirements for the filing of complaints (see proposed § 124.511(a)(1)) and required facilities records and information to be made available to the Secretary (see proposed § 124.511(a)(2)).

B. Public Comment

1. Providers generally urged that administration of the assurances program be left with the Title VI State agencies. They argued that the proposed shift to Federal administration was unwarranted by the history of the program and would add administrative problems for both the Government and facilities, without benefit to the program. It was urged that State-level administration is far more appropriate, since both community needs and resources are better known at that level. Providers also asserted that the regulations are inconsistent in that they justify Federal administration because of insufficient funding at the State level, but also refer to limited Federal resources. It was also asserted that the Department has no authority to remove administrative functions from the States.

A California consumer group urged that enforcement should remain at the State level in California, on the ground that local agencies are more accessible and responsive. It also pointed out that resources for frequent on-site visits and financial audits are necessary and questioned whether the necessary Federal resources exist. Similarly, a Massachusetts comment pointed out that a few State agencies have recently begun to enforce the assurances actively. For indigent patients in such states, a change to Federal monitoring and enforcement, with attendant long delay and procedural complexities, would represent a serious step backward. Continuation of the State agency role was urged.

Consumers who regarded their State agency's enforcement of Hill-Burton assurances as lax generally supported the proposed transfer of administrative responsibility to the Department. For example, a Georgia legal aid society recommended that before a State agency be allowed to contract with the Department to administer the assurances under § 124.512, satisfactory documentation of adequate past enforcement and monitoring efforts be required. Other groups recommended that the Secretary handle all enforcement functions.

A migrant group expressed fear that a State which poorly administered a program in the past might enter into agreement with the Department to continue to do so, and criticized as unclear the role of the States in the monitoring and administration of the program in the proposed regulation. Other comments argued that the proposed rules seemed to leave room for wide variations in monitoring by States and suggested enhanced uniformity in the administration of the assurances program.

2. Providers expressed numerous objections to the investigation mechanisms described in § 124.511. For example, they alleged that the proposed split of investigative responsibility between HRA and OCR, described in the preamble to the proposed rules, would impose burdens on the Government, on providers, and on beneficiaries of the program. They also opposed any accelerated right-to-sue notice the Department might provide to individuals (also proposed in the preamble to the proposed rules) on the ground that both exhaustion of remedies and avoidance of unnecessary litigation should be encouraged. A few provider and governmental groups argued that the investigative and enforcement mechanisms should operate strictly on a complaint basis.

Consumer groups asked that the frequency of investigation be specified in the regulation. With respect to the complaint mechanism,

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by using the Title XVI plan for that purpose.

race, creed, color, or national origin. This

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consumers criticized it as too demanding. Consumers suggested that the Department provide a standardized complaint form and afford greater opportunity for participation by the complainant in the investigation process. Consumer groups also asked that the regulations specifically permit groups as well as individuals to file complaints. Generally, consumers supported the concept of a right-to-sue notice.

3. The suggestion that the preamble to the proposed rules the Department might add mediation procedures was endorsed by a few providers, on the ground that it would help determine which complaints are legitimate, minimize the cost of nuisance complaints, and lessen the investigative workload of the Department. This comment anticipated that the State could be involved in such a process through the inclusion of local citizens on mediation boards. The American Arbitration Association also supported the mediation principle.

In general, however, providers and consumers were opposed for varying reasons to addition of a mediation mechanism. Some providers and consumers opposed mediation because they believed the issues involved were factual ones to be determined based on official standards, not negotiated through bargaining power. Some providers foresaw mediation as a source of more complaints and cost increases. A State board of health suggested that the facility instead provide an ombudsman and an appeal process. Consumers also objected to erecting another administrative hurdle and both providers and consumers suggested instead that the regulation require that all administrative complaints sent to the Secretary be sent to the facility as well, thereby giving the facility the opportunity to cure the alleged violation on its own. Another suggestion was that the regulations should require a local impartial review of denials to resolve individual denial disputes, so that the Department could focus on systemic noncompliance investigations.

Consumers groups argued for enhanced remedies for complaints. Their suggestions included the following: defendants in collection actions should be permitted to raise a facility's alleged violation of its assurance as a defense; the inflation factor should be added to the deficit amount; a penalty equal to 10% of the deficit should be added to the deficit; Federal reimbursement under Medicare and Medicaid attributable to the depreciation allowance on assets financed with Title VI or XVI funds or other forms of Federal financial assistance to facilities found out of compliance by the Department or a court should be terminated.

C. Department's actions and respose

1. The Department has retained the proposed changeover to Federal administration of the program. See § 124.511. It is unpersuaded by the provider comments advocating continuation of the *status quo*, since that *status quo* has resulted in unsatisfactory enforcement in many places. It believes also that it will be able to provide more vigorous enforcement than has generally been the case. Moreover, since it now has by statute an undeniable enforcement role, it believes that the federalization of the enforcement program will minimize possible duplication of effort and inconsistency of administration that might have occurred had the present scheme been continued.

As for those consumer comments urging continuation of the State role based on the performance of a few States that are performing well, the Department notes that those States, or any others, may seek to enter into an agreement with the Secretary under § 124.512 and thereby continue their activities. In addition, a provision has also been added to clarify that these regulations do not supersede independent remedies available to States under State law. See § 124.512(d). Thus, States are free to impose additional requirements and to make available additional legal remedies, so long as the Secretary's right to enforce the requirements of these regulations is not impeded. For example, States may work to obtain and use authority to review allocation plans, and eligibility criteria, to require more reporting, and to impose more rigorous sanctions. Accordingly, the Department believes that it has fully answered the concerns expressed by those comments.

The Department shares the concern expressed by many consumers that States unable to do a good job of monitoring and enforcement should not be given shared responsibilities with the Department under a State agreement. The regulation specifically provides that only States "able" to do the job will be given the opportunity to enter into an agreement with the Secretary. In making this decision the Secretary will certainly take into consideration State performance in administering the current rules as well as any additional information bearing on their ability to assist in administering these rules in the future. Moreover, the final regulation gives the Secretary (and the State) the right to terminate an agreement on 60 days' notice. This will permit the Secretary to terminate an agreement when State performance is inadequate.

2. The complaint procedure has been retained. The most significant change is that a provision for early, nonsubstantive dismissal of complaints has been added, as advocated by many consumer comments. See § 124.511(a)(4). This will mean that complainants whose complaints the Department is not able to dispose of within the six month waiting period before court action may be instituted will not be delayed by six months of inaction. The Department will grant such dismissals either at the request of the complainant or on its own initiative based on enforcement priorities. This will enable the Department to concentrate resources on the most significant and far reaching compliance issues. In order to help facilities avoid unnecessary litigation, however, the Department has also provided that it will promptly notify facilities of any complaints filed against them, and will not dismiss any complaint for a minimum 45 day period. This will enable the facility to begin negotiations with the complainants promptly should they wish to do so.

The Department has retained the requirements for filing of complaints. It does not think they are too burdensome, and believes they are the minimum needed for effective use of staff time. The information required in a complaint has also been simplified. For example, the "location" rather than specific address of the facility is required. In addition, the Department intends to make every effort to obtain the required information from complainants when missing from the complaint. Moreover, the Department is looking into the feasibility of providing standardized complaint forms or formats, suggested by some consumers.

As for the suggestion that the Department's investigative efforts operate on a complaint-owned basis, the Department does not believe that this is unauthorized. The first sentence of section 1612(c) requires the Secretary to undertake periodic investigations. While the Department is not committing itself in these rules to any particular frequency of investigations because it needs flexibility to tailor the frequency to its resources and the need it sees for such investigations based on experience, it does intend to do investigations on a regular basis.

3. The Department has accepted the majority of comments opposing adoption of a mediation process. Such a process may not be suitable for this program, at least until more experience is gained operating under the new rules. Also, the revised complaint and dismissal procedure, with early notice to facilities will enable facilities to settle complaints short of Department or court action.

4. With regard to the question of enforcement and sanctions, the proposed rule has been changed to provide for Secretarial determination of whether a facility was financially unable to meet its annual compliance level to conform to the changes made by the elimination of the procedure for the advance applications for lower levels of compliance. Consistent with the framework explained in connection with § 124.503 above, provision is also added for prompt make-up where a deficit is due to noncompliance. See § 124.511(b)(3)(i). Finally, a provision is added to make clear that a facility that has wrongly denied uncompensated services to a person unable to pay who should have received them under the facility's allocation plan must correct its action to be in compliance with the assurance. See § 124.511(b)(2). These corrective steps must include, where appropriate, termination of collection action (including lawsuits) and repayment of bills wrongfully collected.

The Department believes that the above changes should provide it with the tools necessary for effective enforcement, by providing significant disincentives for noncompliance. It thus believes it has answered the general consumer concerns in this area.

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COMMUNITY SERVICE

I. Applicability of the rules

A. Background

The present rules, set out at 42 CFR 53.113, apply only to Title VI facilities. Unlike the uncompensated services obligation, however, which applies only for the 20-year period following completion of construction, the obligation to provide a community service is not time-limited. The proposed rule applied to both Title Vi and Title XVI-assisted facilities, and similarly had no time limit. See proposed § 124.601.

B. Public comment

Some providers objected to the unlimited duration of the community service obligations, claiming that it places an unreasonable burden on facilities.

C. Department's actions and response

The Department has left proposed § 124.601 unchanged except for minor editorial changes. As pointed out in the preamble to the proposed rules (43 FR at 49955), a regulatory 20-year limitation on the duration of the community service assurance as it then applied to Title VI facilities was struck down in *Cook* v. *Ochsner Foundation Hospital*, Civil No. 70–1969 (E.D. La. 1975), and *Lugo* v. *Simon*, 426 F. Supp. 28 (N.D. Ohio 1976). Section 1604(b)(1)(J) of the Act specifically provides that the community service assurance applies to Title XVI facilities "at all times after [the] application [for assistance under that title] is approved."

II. Definitions

A. Background

The definitions set out in the proposed rules (§ 124.602) represented no substantive change from those contained in the present regulations (42 CFR 53.1113(b)), except for the necessary expansion of coverage to include facilities assisted under Title XVI (see definition of "Applicant" in proposed § 124.602).

B. Public comment

The public comment focused on the need for a definition of the "service area" of the facility, to clarify the requirement of proposed § 124.603(a) that a facility must make its services available "to all persons residing (and, in the case of applicants under Title XVI of the Act, employed) in the area serviced by the facility. . . ."

Both consumers and providers pointed to the need for such a definition. Some providers suggested that facilities' "service areas" be derived from their long-range planning; others that they reflect certificate of need applications or other planning documents. Consumer groups proposed that a facility's service area be deemed equivalent to or broader than the health service area (designated under Title XV, PHS Act) in which the facility is located, or that HSAs participate in the definition process.

While some suggested the use of medical trade areas as described for purposes of State medical facilities plans developed under Title XVI, the fear was also expressed that other aspects of health planning could be hampered by using the Title XVI plan for that purpose. It was also suggested that service areas could be based on patient origin data submitted by each facility. Finally, it was pointed out that some publicly-owned facilities are established to serve particular areas.

C. Department's actions and response

The Department agrees that a definition of the term "service area" is needed in order to avoid confusion as to the scope of a facility's community service obligation. In searching for a useful defintion, however, the Department found the suggestions offered by the public to be generally unsatisfactory. Reliance upon planning documents developed by facilities themselves for other purposes was considered unwise, since those documents either do not necessarily reflect current situations or do not presently exist for all covered facilities. Adoption of health service areas is simply unworkable as a general matter, since those areas are unrelated to the areas served by individual health facilities. (Many entire States, for example, are health service areas.) Title XVI State medical facilities plans are not yet developed, and will not be in the near future, since no funds have been requested to carry out the Title XVI allotment program this year.

The Department, as suggested in the preamble to the proposed rules, has chosen to base its definition of the term "service area" on the most recent Hill-Burton plan approved by the Secretary for the State in which a particular facility is located. These plans are, in the Department's view, the best articulation currently available of health facility areas of service. It is recognized that Title VI plans will not accurately reflect the current areas of service of all facilities, since in some States the plans have not been updated since the early 1970's. For that reason, each facility is given the opportunity to propose, for the Secretary's approval, a service area that differs from that contained in the most recent Hill-Burton plan where it can demonstrate that the former area no longer applies. In evaluating such requests, the Secretary will apply the criteria that guided the Hill-Burton State agencies in their delineation of service areas for Title VI State plan purposes: Population distribution, natural geographic boundaries, and transportation and trade patterns (see 42 CFR 53.1(d)). For the most part, however, it is expected that those areas will be satisfactory.

III. Provision of services

A. Background

The language of proposed § 124.063, which set out the principal requirements for compliance with the community service obligation under the proposed rules, differed in certain important respects from the analogous provision of the present regulation, 42 CFR 53.113(d), although many of those changes were intended for clarification or to make explicit what was already implicit in the present regulations.

Proposed § 124.603(a) explicitly stated what was implicit in § 53.113(d)(1), namely that a facility may not discriminate in the provision of its services on the ground of race, creed, color, or national origin. This language was added for clarification purposes and, as pointed out in the preamble to the proposed rules, complaints of discrimination that raise questions of compliance with other acts (such as the Civil Rights Act of 1964) will be investigated under those other acts.

The proposed regulation further provided that a facility may not discriminate on "any . . . ground unrelated to an individual's need for the service or the availability of the needed service in the facility," and specifically stated that a facility would be considered to be out of compliance with its community service assurance if it should adopt an admissions policy having the effect of excluding persons on grounds other than need for or availability of the services. However, the proposed rule would have permitted facilities to deny services to persons who are unable to pay and have no source of payment. Concern was expressed in the preamble that admission policies such as preadmission deposit requirements and admission only through physicians with staff privileges have served to limit access to facilities by persons in need of their services, particularly beneficiaries under governmental programs such as Medicaid. Comment was specifically invited on the possible prohibition of preadmission deposits for Title VI and Title XVI facilities.

Proposed § 124.603(b) essentially followed the present § 53.113(d)(2) in requiring that services be provided to beneficiaries of governmental programs, in accordance with the boldings in *Cook* and *Lugo*, *supra*, that discrimination against such beneficiaries is inherently inconsistent with the community service assurance.

B. Public comment

Not surprisingly, proposed § 124.603 provided the area of greatest controversy in the proposed community service regulations. Providers generally argued that regulation of admissions procedures is inappropriate and improper, and requested that preadmission deposits not be barred. Consumers supported an explicit ban on such deposits.

1. Numerous providers pointed out that only doctors have authority to admit patients to a hospital, and asserted that they, (hospitals) have no power to provide services not ordered by a physician or to require staff physicians to participate in governmental programs; that if there is no physician who participates in a governmental program who will order the admission or service, compelling the hospital to provide the service will result in violation of local law or other requirements; that the regulations would have the effect of driving doctors away from Hill-Burton facilities; and that the Secretary has no direct authority to require doctors to treat particular classes of patients.

2. In response to the Secretary's request for comment on whether preadmission deposits should be barred, many hospitals supplied analyses of the effect on their financial situations of such a ban. While some of these hospitals expressed understanding of the Secretary's concern that preadmission deposits limit access to required health

hiring or contracting with physicians to

ultimately pay (e.g. is employed, or has some

Appendix II.—DHEW Regulatory Analysis of

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services, all opposed an outright prohibition. Consumers generally supported such a prohibition.

The following is a summary of the comments received from providers and provider organizations:

a. Provider organizations asserted that a prohibition on preadmission deposits would be illegal, inasmuch as Titles VI and XVI both state that the provision of assistance to a facility thereunder does not confer Federal control over the administration or operation of the facility.

b. Many hospitals insisted that preadmission deposits are necessary to their financial stability, and that barring them altogether would impair their cash flow and cause an increase in bad debts, and would result in a reduction in hospital accessibility. For example, one large medical center in the Southwest stated that it receives approximately $550,000 in preadmission deposits per year, a large portion of which is obstetrics. Because a large percentage of these patients make no further payment for services and these accounts are subsequently written off as bad debts, this facility estimates that elimination of the preadmission deposit would reduce collections by an estimated $300,000 per year (the cost of delivery and care for 291 mothers and babies).

c. Some hospitals characterized their preadmission deposit policies as screening processes to identify individuals who are unable to pay. Thus, it was argued that preadmission deposits do not exclude patients from admission. The hospital's financial counseling departments are able to work with patients to assist them in obtaining assistance from families, governmental programs, etc. If none of these are available, services may be provided under the uncompensated services obligation or general charity.

d. Many providers, while recognizing that preadmission deposits might be used to exclude the medically indigent, asserted that their own do not have that effect because of the availability and frequent use of waivers of the preadmission deposit requirements. These providers generally argued that elimination of all such requirements would be unduly harsh, and recommended instead that the regulations require a determination of eligibility for uncompensated services before a preadmission deposit could be requested.

e. Some facilities explained that they use advance deposits for specific elective procedures or for maternity cases, as a method for installment payment that eases the financial burden of hospitalization, particularly important for those without insurance or with limited maternity coverage; and that without this collection tool, bad debts and costs to paying patients would increase.

Many consumers and their organizations requested that an explicit ban on preadmission deposits be placed in the regulations. One suggestion was that such deposits be forbidden in all cases where the prospective patient (1) is eligible for uncompensated services; or (2) is in need of services on an emergency or urgent basis; or (3) desires elective services and is willing to sign a promissory note with a reasonable payment schedule.

3. A number of consumer organizations proposed the deletion from the proposed regulation of the language which permits a facility to deny services to persons unable to pay after the facility's uncompensated services obligation for a given period has been satisfied, on the ground that the community service assurance bars discrimination in admission on the ground of inability to pay.

4. Consumers generally supported the language of proposed § 124.603(a) concerning admission policies which have the *effect* of excluding persons on grounds unrelated to their need for and the availability of the service. One comment suggested substitution of "maintain" for "adopt," to emphasize that current as well as new policies which have the effect will be considered violations of the assurances. Some consumers and providers requested enumeration of specific policies that might come within the provision, and examples of ways to remedy the problems created by such policies.

5. One legal services organization urged inclusion of more specific language to ensure survival of the community service benefit when a federally-funded facility closes or relocates.

6. Several consumer comments urged the inclusion in the regulations of a public notice requirement similar to that required under the uncompensated services provisions.

7. A number of comments from consumers and consumer-oriented groups urged the addition in the regulations of provisions to check "dumping" of financially undesirable patients by nonprofit private facilities.

C. Department's actions and response

Following consideration of the comments summarized above, the Department has altered the regulation in a number of significant respects. See § 124.603.

1. The Department has retained the provision prohibiting the use of admissions practices that have the effect of excluding persons residing in the service area on grounds other than need for or the availability of the services when requested. In this regard, the rule refers to "use" of practices and policies to make clear that it applies to new or existing practices and policies. With an important exception described in paragraph 2 below, facilities may deny services to persons who are unable to pay or who have no source of payment unless they are eligible for uncompensated services under Subpart F.

Facilities assisted with federal funds agreed to make their services available to all persons in the service area, and the Department believes that this agreement is not fulfilled when methods of admission are used to prevent such persons from taking advantage of the available services.

As an aid to facilities and consumers, the regulation now includes three illustrative applications of the rule. These examples are intended to illustrate some of the situations that may arise in which policies or practices of the facility have an exclusionary effect, and to outline the Department's view of some of the alternatives that facilities may adopt to ensure that the services are fully accessible to the community. The examples are not intended to be exhaustive of the rule's application.

Facilities are encouraged to take any or all of the actions suggested in the illustrations, or to develop other alternatives that will similarly counteract the exclusionary effect of current policies or practices. It is emphasized that no specific admissions policies are required. So long as persons in the facility's area are not excluded on the prohibited grounds, the facility is free to use any policies it considers appropriate. Cooperation with medical staff is encouraged so that systems can be devised that provide access to all community residents, and that will work smoothly.

The Department disagrees with those comments that suggested that facilities might lack the authority necessary to implement some of the alternatives set forth in the regulation. It is the Department's view that a hospital has the legal right to condition a physician's membership or renewal of membership on a medical staff on the physician's agreement to take actions reasonably necessary to permit the hospital to fulfill its legal obligation under these regulations. We are aware of no courts that have taken a contrary view, and in fact, the case law relating to termination of physician staff privileges very clearly supports the hospital's right to impose reasonable conditions on staff privileges. While some courts have held that certain conditions imposed on physicians by the governing board of a hospital were unreasonable, we are aware of no instance in which conditions reasonably related to the hospital's ability to carry out obligations prescribed by federal law were held to be unreasonable.

The standards set forth in the accreditation manual for hospitals, published by the Joint Commission on Accreditation of Hospitals and relied upon by the vast majority of hospitals as well as the Department, also lend support to a hospital's authority to impose reasonable requirements on its medical staff. For example, Standard 7 (p. 51 of the 1979 edition) states that "the governing body, through its executive officer shall take all reasonable steps to conform to all applicable laws and regulations." Throughout the chapter on governing bodies, the JCAH manual emphasizes that the governing body has corporate, legal control over all of the hospital's operation and cannot delegate away that responsibility to anyone, including the medical staff. (See, for example, p. 47.) The medical staff is responsible to the governing body and the governing body may, and in some cases must, place requirements on the medical staff to ensure that the hospital is providing quality care of the kind needed by the community.

In addition to placing conditions on physician staff privileges, the Department also expects that some facilities will choose to hire or contract with physicians to assist them in carrying out their obligations under these regulations. We are aware of no state laws that would preclude facilities from

hiring or contracting with physicians to perform medical services on behalf of the hospital. Quite apart from the requirements of these regulations, hospitals are increasingly turning to such arrangements to ensure that appropriate medical care is provided within the hospital. Hospitals routinely contract with emergency room physicians, radiologists and pathologists; many hospitals, including the U.S. Public Health Service hospitals and public hospitals operated by state and local government, have a staff of salaried physicians. Such arrangements may well be useful to a facility in complying with its community service assurance.

Again, the Department emphasizes that the choice of how best to assure that services are available to all residents is up to the facility.

2. As mentioned, facilities may generally deny services to persons without a source of payment. However, the Department does not believe that a facility is fulfilling its community service assurance if it denies services needed on an emergency basis because the person cannot establish an ability to pay. Where a facility has an emergency capability it may not refuse emergency treatment. Persons served may be billed and collection actions instituted, or the facility may, if it wishes, credit some or all of the services provided on an emergency basis towards the uncompensated services obligation, if not already exhausted. The facility would simply include emergency services in its allocation plan to the extent it wishes to get uncompensated services credit.

The requirement that emergency services be made available without regard to ability to pay does not prohibit the transfer or discharge of a patient once the emergency is treated. Transfer or discharge is acceptable so long as there is no substantial risk of deterioration in the patient's medical condition, as determined by the appropriate medical personnel of the facility. This means personnel generally responsible for making such determinations for the facility.

The Department has not interpreted the community service assurance as requiring facilities to provide nonemergency services to persons unable to pay who do not qualify for uncompensated services. While persons unable to pay have a legitimate need for all medically indicated services, requiring service in nonemergency cases could have a serious impact on facilities' financial stability. In these nonemergency cases there is at least an opportunity for alternative arrangements to be made for the needed care.

3. After considering the many comments received on the issue of preadmission deposits, the Department has decided against imposing an outright ban on such deposits at this time. We shall continue to monitor the effect of preadmission deposit requirements on hospital accessibility, however. It is emphasized that where such requirements (or any others) have the effect of excluding persons on grounds other than need for or availability of services, facilities that impose them will be considered out of compliance with their community service obligation. As the illustration in the regulation indicates, a deposit may not be used if it results in services being denied to a person who can ultimately pay (e.g. is employed, or has some other future source of income) but is unable to come up with the ready cash to meet the full deposit requirement before services are provided.

4. We think the issue of whether the community service benefit survives the closing or relocation of an assisted facility is adequately covered by other existing statutory and regulatory provisions. In short, the effect of those provisions is that while the benefit can be transferred to another facility, in many cases, there are some instances in which the benefit will not survive. Under section 609 of the Public Health Service Act, 42 U.S.C. 291i, the United States is entitled to recover from either the transferor or the transferee its proportionate share of the value of a facility with respect to which Title VI grant funds have been paid where the facility, within 20 years after completion of construction, either ceases to be a facility for which a grant could have been made under Title VI or is transferred to any entity which either is not qualified to apply for a Title VI grant or is not approved as a transferee by the State agency. Title XVI contains a similar provision (section 1631, PHS Act; 42 U.S.C. 300s–1). The Secretary, for good cause, may waive recovery. Among the elements to be considered by the Secretary in determining whether recovery may be waived is where a facility "ceases to be" a facility for which a grant could have been made under Title VI (see 42 CFR 53.135) are (a) whether the facility will be devoted to a public or nonprofit purpose which will promote the purpose of the Act, and (b) whether other substantially equivalent facilities will be utilized for the purpose for which the facility was constructed. These criteria are adequate to assure that waivers of recovery will only be granted where the needs of the community will continue to be served. Where such waivers are not granted, the community service obligation of the facility ceases upon recovery by the United States of its proportionate share of the value of the facility.

5. The final regulations have been changed to include a requirement that public notice of the community service obligation must be provided. See § 124.604. The Secretary will supply the notices in English and Spanish. See the discussion of the comparable provision in the uncompensated services regulations, above.

6. The final rules include a definition of "resides" to make clear that migrant workers and others who reside in the service area of Title VI assisted facilities may not be denied services on the ground that they are not permanent residents. Persons who reside in any area permanently or who have no present intention to leave the area are, of course, covered as area residents. In addition, persons residing in the area for purposes of employment, i.e. who are looking for a job, are on a job, or have recently completed a job, are also covered, as are family members living with them.

Appendix II.—DHEW Regulatory Analysis of the Cost Impact of Title XVI Assurances Regulations (April 1979)

Executive Order 12044, on Improving Government Regulations, was issued by President Carter on March 23, 1978. The Order requires, among other things, that regulations be drafted to assure that compliance burdens, including both program and paperwork costs, be held to a reasonable minimum. The Order also requires that regulations with "major economic consequences" receive a "Regulatory Analysis." [1] This document, as required by the Executive Order, represents the HEW Regulatory Analysis which accompanies the Title XVI Assurances Regulation and its preamble.

Highlights [2]

Titles VI and XVI of the PHS Act can be characterized as an expression of two major principles. First, this legislation stresses the premise that health facilities [3] obtaining Federal financial assistance or Federal dollars generally continue to provide charitable services, consistent with the historical practice of providing such services. Second, it reaffirms the Federal commitment to assure provision of health care services in a non-discriminatory fashion. The predominant objectives of the regulation are: to prescribe a standard for a reasonable volume of uncompensated services which ensures that a constant amount of care is provided from year to year independent of changes in the cost of care; and to allow facilities maximum flexibility in the way they choose to distribute these services consistent with the first objective.

The cost analysis for the Title XVI Assurances Regulations focuses on the cost of providing uncompensated care and the cost of administering the regulations in the institutions and Government.

On an overall basis, if all facilities use 10% option with the inflation factor, the uncompensated care liability for all obligated institutions involved goes from $395 million in 1980 to $537 million in 1984 ($467 million in 1982). Actually, some facilities will find the 3% option to be less and thus the actual total liability for all institutions will be less than this.

—Assuming that previous regulations had been rigidly enforced, the above costs would not represent new costs associated with the regulation (except for the inflation factor noted below, and other technical differences).

—A number of distributional and other technical effects also act to reduce the

[1] The threshold level for "major economic consequences" is an annual cost of $100 million.

[2] The terms included in this brief section are clarified and elaborated upon as the reader continues through the text.

[3] Almost 7000 institutions received Hill-Burton grants. 5284 still fall under the 20 year assurances obligation period, their grant amounts totalling $3.275 billion. These include 3572 inpatient (83% of funds awarded), 462 nursing homes, and 1250 outpatient and other health care facilities. In addition, 368 institutions receive Federal assistance (on loans and loan guarantees) in the form of interest subsidies estimated to total eventually to $531 million.

the Act were extremely general. Various

required and *whether* they are actually

estimating the costs resulting from improved enforcement. Finally, a significant proportion,

continually track the impact of the inflationary factor. When additional costs

the statute; retaining the 20 year limitation without any further qualifications

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increment in service costs imposed by the regulation.

In terms of uncompensated care, a significant new cost is incurred by the inclusion of an inflation factor with the exercise of the 10% option. The annual increment due to this factor alone, assuming all obligated institutions exercise this option, ranges from $39 million in 1980 to $199 million in 1984.

—This cost is somewhat lower than otherwise due to incorporation of an alternative approach for including interest subsidies in the base which reduces the added costs due to the inflation factor as much as $18 million by 1984.

—The Department will reassess its position on the inflation factor *before* it results in added costs of $100 million annually. This level of additional costs will probably not be reached until some time in 1982.

Administrative costs of the provisions in this regulation may amount to the equivalent of one staff person year annually in each institution, and perhaps as much as an additional 100 or so staff/person years in the Government. At $12,000/staff person year, total costs will approximate $58 million for the institutions and just over $1.5 million for the Government.

—Not all administrative costs to the institutions are new. It is assumed that under the previous regulation, some administrative costs were borne by the institutions. Had the previous regulations been fully enforced, however, then it is reasonable to assume that the administrative cost of these new regulations would only be slightly different than in the past.

—Although the Federal Government may experience an increase of $1 million, the savings to those States which no longer monitor and enforce these regulations (as under the old regulations) offset the additional Federal costs. (Potential savings in State administrative costs are not estimated in this Analysis).

—The final regulation reduced the administrative burden that would have been imposed by the NPRM. Changing the requirement for lower level of compliance applications may have saved as much as $4,000,000. Reducing reporting requirements from once a year to once every three years may annually save the Government and the institutions over $4,000,000.

Background

The Hospital Survey and Construction Act (Hill-Burton) as originally passed in 1946 authorized the Secretary to require facilities which received Federal money through the Act to: (1) make their services available to all persons residing in the facility's area (the community service assurance); and (2) provide a reasonable volume of uncompensated services to persons unable to pay (the uncompensated care assurances).

The community service obligation as it stood in the original Act, specified that Hill-Burton grantees were not to discriminate on grounds of race, creed, or color. During the first 20–25 years, the provisions for regulating the Act were extremely general. Various court cases led to changes in the regulations: deletion from the Act of the "separate but equal" language in 1963; and a 1972 series of changes which specified that State Hill-Burton agencies were to administer the assurance compliance, set eligibility criteria for persons unable to pay, and conduct a monitoring and enforcement program. These 1972 changes also specified new compliance options: three percent of operating costs, 10 percent of Federal assistance, and the "open door" option (in which a facility agreed to admit and provide uncompensated services to persons who could not pay). Various court cases filed after 1972 upheld the 3 and 10 percent options, as well as language in the regulations which limited an aided-facility's compliance to 20 years for grants or to the time the loan remains unpaid for loans and loan guarantees.

The Hill-Burton regulations were again amended on October 6, 1975. This amendment required that facilities make prior determinations of eligibility in providing uncompensated services and post notices of the availability of these services.

In January 1975, Congress passed Pub. L. 93–641 which replaced the Title VI program of assistance with Title XVI. The language in Title XVI made several changes in the assurance program. The most important of these were: (1) facilities would be obligated for an unlimited period after receiving aid under Title XVI, (2) facilities which received aid under Title VI or XVI were required to file periodic reports on their compliance with assurances, (3) rather than a joint State-Federal monitoring and enforcement process, the Secretary was now solely responsible for determining compliance and conducting investigations, and (4) individuals could file complaints with the Secretary charging noncompliance by a facility.

Proposed regulations for these provisions were issued October 25, 1978. Nearly 1,000 comments were received during the public comment period. During that same period, two days of public hearings were held. We stipulated under court supervision we would publish the assurances regulations by the end of March 1979. HEW subsequently requested and received a 30–day extension to this deadline.

Internal HEW analysis of the many comments received has resulted in significant adjustments in the NPRM. These key changes are summarized in the following section. Subsequent portions of this Analysis are concerned with a discussion of alternative adjustments considered by the Department, with respective cost implications, and further detail concerning the cost estimates used in this Analysis.

The Regulation: Changes, Objectives, and Cost Implications

The predominant objectives of the regulation are to prescribe a level of uncompensated services that must be provided, and to allow as much flexibility as possible to each facility in the way it chooses to distribute these services. The regulation, thus, focuses as much as possible on defining the amount of uncompensated services required and *whether* they are actually provided, and as little as possible on *how* they are provided.

The regulation establishes a standard of performance that is measured over the full 20-year period during which Title VI assisted facilities are presently obligated to provide uncompensated services. However, facilities may meet the standard in *less* than the 20 years, or in *more* than the 20 years so long as they follow the minimum required procedures in good faith. The 20-year standard works as follows:

1. An annual compliance standard is established at the lesser of three percent of operating costs or ten percent of Federal construction assistance received. The latter standard is adjusted each year after 1979 to account for inflation in the cost of medical care.

2. If a Title VI facility provides less than the annual standard for *any* reason it must make up the deficit even if that means that the 20-year period will be extended. The deficit may be made up at any time, but the inflation factor will be applied to the deficit when it is made up. Also, if the facility has not complied with the requirements of the regulations, the Secretary can require it to speed up the pace at which it is providing uncompensated services.[4]

3. If a facility provides more than the annual standard, it gets credit for the "excess in compliance," thereby permitting the facility to end its obligation in less than 20 years.

This new approach has permitted the Department to eliminate the burdensome and speculative process under which applications would be filed with HEW for prior approval of a lower compliance level. Under the NPRM the lower level would have been based either on an alleged lack of community need or a facility's financial inability to meet the required level. Under the final regulation, if fewer persons request free services than are needed to meet the annual standard, the facility is required to establish an outreach plan, and then provide uncompensated service for any additional persons who seek services under that plan. If the facility cannot afford to provide the annual level of care in any year, it need not do so. In either event, however, facilities assisted under Title VI must make up the deficit in future years. Facilities assisted under Title XVI are also required to make up deficits which are due to noncompliance but may not have to make up deficits due to financial inability.

Several aspects of the changes in the regulations and its cost impact are worth stressing. First, it is not possible to develop a precise estimate of the additional service costs which the proposed regulation would impose. Such an estimate would depend on previous knowledge of the costs of the current regulation. These costs are simply unknown. Moreover, the Department intends to enforce the regulation vigorously; but there is no current or forseeable basis for

[4] Title XVI assisted facilities will be required to make up deficits only when they violate procedures in the regulations. The difference in treatment is appropriate because, unlike Title VI facilities, Title XVI facilities are forever obligated to provide incompensated services.

estimating the costs resulting from improved enforcement. Finally, a significant proportion, perhaps the majority, of the costs involved under the regulation are not "real" costs, but involve shifts in financing for services which would be provided in any event. (This point is developed later in this paper.)

Second, this regulation changes NPRM requirements on how institutions administer the regulation: it allows a much more flexible procedure for determining an allocation plan; it reduces reporting requirements; it simplifies and clarifies recordkeeping requirements; it eliminates the requirement for individual written notices after an institution meets its annual compliance level for any given year; and it provides greater flexibility in regard to when a determination of eligibility for free care must be rendered.

The net overall effect of the administrative requirements associated with the regulation will result in a need for just over one staff person year per institution (see Table 6 later in this report). It is difficult to know the difference between this requirement and requirements for administrative resources under the previous regulation. However, we can estimate savings among the alternatives considered for this regulation (see Tables 3, 4, 5, and 6 later).

A major saving in administrative cost arises due to the elimination from the NPRM of procedures for requesting lower levels of compliance—resulting in administrative savings of perhaps as much as $4 million annually to the institutions and the Department (see footnote 2 in Table 6). Furthermore, the new deficit and excess provisions also make it easier to reduce the overall reporting requirements associated with the regulation, from an annual to a triennial requirement savings perhaps another $4 million annually.

Third, these regulations represent significant changes over past regulations in the matter of computing the annual compliance level for amount of uncompensated care to be provided by an institution. The final regulation eliminates the so-called open-door policy as the measurable standard for compliance. However, there is nothing to stop institutions from continuing an open-door policy on their own part. The regulation also adds to the base for calculating the 10 percent compliance standard, assistance received under certain supplemental Federal programs. This provision results in additional costs over previous regulations amounting to $14.1 million in 1979 rising to $22.5 million in 1984.

These regulations, like the NPRM, include an inflation factor in order to retain an equivalent amount of uncompensated services provided by facilities from year to year irrespective of increases in hospital costs after 1979. This is not a problem with facilities using the three percent of operating costs option. Their obligation automatically increases in direct proportion with increases in operating costs. As stated above, the inflation factor would add no more than 39 million in 1980, 118 million in 1982, and 199 million in 1984.

In view of these costs, the regulation also indicates that the Department will continually track the impact of the inflationary factor. When additional costs due to this factor approach $100 million (not until sometime in 1982), the Department will reassess its position in this regard and take appropriate action in the light of evidence accumulated to that point.

Analysis of Policy Alternatives: In the course of developing the Title XVI regulations, the Department sought input from providers and consumers of health care services as well as from interested State agencies and local health planning agencies. Through testimony offered at the public hearing held on December 5 and 6, 1978, written comments on the proposed regulations, and advice offered orally during informal consultations with members of various groups, the Department was provided with a wide range of alternatives on almost every issue addressed in the regulations.

The decisions reflected in the final regulations are the results of careful consideration of many substantive and procedural alternatives. They represent the Department's attempt to establish a set of feasible, enforceable regulations which implement the statutory uncompensated care and community service assurances without imposing unfair or unmanageable burdens on institutions, the Government or the public. This section highlights the decisions the Department has made on major policy issues, including a brief description of the alternatives considered for each. A fuller discussion of each regulatory provision, including an analysis of the public comments received and the implications of decisions made, is provided in the Preamble to the final regulations.

1. *Twenty year limitation on Title VI obligations to provide a reasonable volume of free or below cost services to persons unable to pay.* The 20-year limitation on the provision of uncompensated services, as adopted by HEW regulations in 1972, has been retained, but with some qualifications. Under the new regulations, if a facility does not fully satisfy its annual compliance level in a given year, the deficit will be carried over to future years, potentially extending beyond 20 years the time required to fulfill the obligation. On the other hand, the new regulations also provide that if a facility exceeds its annual compliance level in a given year, the facility may receive credit toward the satisfaction of its obligation in future years, thereby possibly shortening the duration of its total obligation to less than 20 years.

A number of other alternatives were considered with respect to the "twenty years" issue. Among other things, the Department considered the following: retaining the 20 year limitation but beginning it in 1972 (the date of the regulation establishing the limitation) rather than in the year the grant or loan was given; retaining the 20 year limitation, but beginning it in 1979 with the issuance of new regulations to ensure that only those years of demonstrated compliance would be credited toward the 20 years; deleting the 20 year limitation altogether since there is no such limitation in the statute; retaining the 20 year limitation without any further qualifications.

The 20 year limitation in conjunction with the compliance levels has been accepted by the courts as a reasonable standard for measuring the volume of services a facility is obligated to provide under the law. The Department is concerned, however, that this volume of services be actually provided and that a facility not escape its obligation through the passage of the 20 years. Thus, the Department has chosen to retain the 20 year limitation but has adopted a deficit make up provision and an excess compliance credit provision to ensure that at least subsequent to the effective date of the new regulations all facilities provide a reasonable volume of care. (See discussion of deficit make up and excess compliance credit below).

The Department seriously considered requiring facilities to demonstrate that they had been in compliance with the 1972 regulations during each year since 1972, and if they could not, to make up the deficit. However, due to lax enforcement in the past, much of the documentation necessary for determining compliance since 1972 is simply not available. The Department has determined, therefore, that the best use of its resources is to focus on/and ensure compliance in the future.

Thus, in the interests of ease of administration and to minimize burdens for the facilities and HEW, the Department chose not to mandate institutions in general to make up previous deficits simply because they are not able to *demonstrate* past compliance. This final regulation does, however, clarify the intention that a facility which received Title VI assistance must make up all future deficits incurred for any reason.

2. *A facility which fails in any year to provide its annual level of uncompensated services will be required to make up the deficit in subsequent years.* As explained in the preceding discussion of the 20 year limitation, the deficit make up provision is critical to ensuring that Title VI facilities are not excused from their obligation to provide a reasonable volume of uncompensated services merely because 20 years have gone by irrespective of whether they have met their annual compliance levels. The excess compliance credit provision complements this deficit make up provision. It ensures that if a facility provides more than its annual requirement, then the facility will get credit for the excess in compliance and potentially allow the facility to end its obligation in less than 20 years. In this later case, the facility's administrative burden would thereby be reduced in proportion to the number of years it could eliminate by virtue of its excess compliance credits. In both the case of deficits and credits, the new regulations apply to those deficits or credits which occur in any year after the effective date of the regulations.

An additional advantage to the deficit make up procedure established in the new regulations is that it eliminates the need for a facility to request a lower annual compliance level in a year in which it is financially unable to provide the requisite amount of

uncompensated services.[5] Instead, the facility

factor only to the deficit incurred by a facility

the inflation factor under the 10% option was

insufficient demand for the services. Without this additional minimal administrative

consumer groups pointed out that it would be beneficial if in some cases determinations of

administering the regulations in the institutions and Government. Under the

uncompensated services.[5] Instead, the facility will provide whatever it can afford, report to HEW at the end of the year, and tack the deficit on to its obligation in future years. Unless HEW later finds that the facility unjustifiably provided less than its annual compliance level in any given year, the facility would not be out of compliance with the regulations despite the fact that it is providing a lesser amount of uncompensated services than otherwise required. However, the facility's obligation will continue until the deficit has been erased.

The Department adopted this procedure in lieu of the NPRM scheme that required prior applications by facilities requesting permission to provide a lower level of services in any years. The Department estimates that the administrative costs to facilities and to HEW will be eased considerably ($1.6–4 million a year—see footnote 2 in Table 6) by eliminating the applications and prior approval process and relying instead on the facility's judgment of its financial capabilities, subject to later verification by HEW audit.

3. *The annual level of uncompensated services that a facility must provide (not less than the lesser of three percent of operating costs or ten percent of the Federal grant or interest subsidy received) will be adjusted each year after 1979 to account for inflation in the cost of medical care.* This inflation adjustment will ensure that a facility will provide in each year of its obligation a volume of services equivalent to that required in 1979 in direct proportion to the rising cost of care.

The Department considered a number of other alternatives before settling on the inflation adjustment described above. For example, the Department seriously considered calculating the inflation factor back to the year in which the facility received its grant or loan. However, because this method would have imposed upon the facilities a sudden, extreme increase in their uncompensated services obligation—an increase which they were unable to plan for during the years prior to 1979—the Department decided against it. For example, a $500,000 financial assistance base that began in 1970 would approximately double by 1979 if it were to have been inflated from 1970 to 1979. Thus, rather than providing 50,000 in uncompensated care in 1979, the institution would have been required to provide $100,000. In contrast, the inflation adjustment adopted by the Department in the new regulations imposes a gradual increase in the facility's obligation, merely keeping pace with inflation from now on. The gradual adjustment allows the facility to plan and budget for the provision of an increased level of uncompensated care, just as the costs of most other items in an institution's budget are adjusted upward each year to allow for inflation.

Another alternative that the Department considered would have applied the inflation factor only to the deficit incurred by a facility in any given year; that is, the basic dollar amount of services to be provided each year would not increase to adjust for inflation, but if the facility failed to meet its annual compliance level, the deficit would be inflated and added on to the amount of uncompensated services due in the following year (see Table 7 later). The Department decided against this alternative primarily because it would not be sufficient to counteract the erosion due to inflation of the actual volume of services to be provided. Without an overall adjustment of the total assistance base, less and less uncompensated service would be provided each year and soon the "volume" would become "unreasonably" small.[6]

Finally, the Department considered using no inflation factor at all. However, for the reasons already stated, the Department determined that an inflation factor was necessary to appropriately and fairly retain in future years a reasonable volume of uncompensated services equivalent to that initially required in terms of actual services rather than dollar cost. Thus, under these regulations, the inflation factor would be applied equally to deficits, excess credits, and to the base amount of the grant from which the annual compliance level is calculated. As noted earlier, this option adds about $39 million to the cost of the regulation in 1980, rising annually to $199 million in 1984. Nevertheless, in 1981, the Department will begin a reassessment of its decision based on information collected between now and then.

4. *Loan Payout.* On Federal loans and loan guarantees the assistance base for calculating the 10% option is related to the amount of interest subsidy paid by the Federal Government. Prior to this final regulation, the assistance base was taken to be the total amount of the interest subsidy to be paid over the life-time of the loan. Institutions would have been required to provide each year from year one of their loan, an amount of free care related to payments which were not going to be made by the Government until later years of the loan. Thus, for example, an institution with a typical $1,000,000 loan would have been required to provide $42,000 of uncompensated care in the first year of the loan, but would have received only $30,000 in interest subsidies that year. And beyond that the care liability increases with inflation every year and the interest subsidy decreases as the loan principal decreases.

This was judged by many to be inconsistent with the basis for computing the 10% option for grants. In the case of grants, the institution received all of its money at the time of award. But as noted above in the case of loans, it was given only small portions of its money each year, not receiving the last amount until the final year of the loan repayment period. Thereby, the Department felt that this requirement when amplified by the inflation factor under the 10% option was unnecessarily onerous. Instead it simply adjusted this requirement to include in the Federal assistance base only that amount of interest subsidy received by an institution up to and including the current fiscal year. This alternative has been dubbed the "payout" method. Under the 10% option with the inflation provision, the "payout" method turns out to require $40 million less care in 1980, rising gradually to roughly $46 million less care in 1984, as compared to the total subsidy method required previously. The Department, therefore, uses the payout method in the Final regulation to define the Federal assistance base related to interest subsidies.

5. *If a facility does not provide the required level of uncompensated services in any year due to insufficient demand or for any reason other than financial infeasibility, the facility must adopt an affirmative action plan.* Under this provision, the facility will be required to take such steps as the following: widely publicize the availability of free care, adjust eligibility requirements for uncompensated services to enlarge the pool of eligible patients, expand its definition of service area if the current definition limits the area from which persons seeking free care must come, and establish arrangements with other providers in the area to refer persons needing uncompensated services. If after instituting such a plan, a facility still falls short of meeting its annual compliance level of uncompensated care, the remaining deficit will be made up in the following year or years until the full obligation has been satisfied.

The Department adopted this procedure in lieu of the "open door" provision in the current regulations. Under the "open door" provision, no dollar amount of care was established as the compliance standard: a facility needed only to agree to provide uncompensated services to any person unable to pay. The "open door" has been an unsatisfactory standard primarily because compliance cannot readily be monitored, and the Department found substantial evidence of past noncompliance with the "open door" provision. However, the Department recognized that some facilities might be in compliance with all other portions of the regulations but have trouble providing the required dollar amount of uncompensated services due to insufficient demand for such services in their area. Thus, a better alternative to the "open door" was sought.

One alternative considered was to require facilities that anticipated such a problem to apply early in the year for permission to provide a lower level of uncompensated services. However, the burdens on both facilities and the Department under this alternative would have been substantial. Instead, the Department chose to establish an affirmative action plan as described above, linked with the deficit make-up requirement. This alternative will eliminate the burden of unnecessary paperwork, ensure that the full obligation of a facility is met, and yet not stigmatize a facility which in good faith attempts to provide the required level of uncompensated services but is met with

[5] However, it should be noted that those Title VI facilities which might have been granted lower levels of compliance previously will now have to carry any deficits forward. Effectively, a greater total amount of uncompensated care will therefore be delivered under this regulation as compared with the proposed rule.

[6] It should be noted that the inflation factor as described applies only to the 10% option. Since operting costs of a facility usually rise each year with inflation, no additional inflation factor will be applied to the level of uncompensated services under the option requiring 3% of operating costs.

insufficient demand for the services. Without this additional minimal administrative requirement, it would not have been feasible to eliminate requests for lower level of compliance, and thus the consequent larger savings there would not have been realized.

6. *In addition to published and posted notice, facilities must provide individual written notice that uncompensated services are available.* In the Department's view, no other alternative for notifying potentially eligible persons of the availability of free care would be as effective as individual written notice. Further, the burden on facilities of providing such notice is anticipated to be very small, and the benefits to the public are anticipated to be substantial. Finally, if a facility meets its compliance level during its fiscal year, it may stop providing individual written notices and making eligibility determinations for the remainder of that fiscal year. Thus, although posted notice and written denial requirements continue to apply, this results in a valuable reduction of an institution's administrative burden as compared to requirements of the NPRM.

7. *Each facility must adopt and publish a plan for allocating its available uncompensated services.* The Department considered a number of alternative allocation requirements, including the following: mandating a first-come, first-serve plan for all services provided at the facility; mandating that a mix of inpatient, outpatient, and emergency room services be provided; and mandating that a certain proportion of services be provided on a part-pay basis and a certain proportion be provided totally free. The Department instead decided that the primary purpose of the allocation plan—to ensure that uncompensated services are distributed fairly and to provide advance notice to the public of what kinds of services are available and how they will be allocated—could be achieved without mandating through regulations the content of the allocation plan. Under the new regulations, *a facility may decide for itself* how to allocate its services, and simply notify the public and the local Health Systems Agency (HSA) of its plan. The regulations permit and encourage community input into the plan through HSA involvement, but HSA involvement and approval of the plan is not mandated. Final discretion in this area is left to the facility.

8. *Determinations of eligibility for uncompensated services must be made on request, but may be made either before or after the provision of services to the person.* Under the current regulations, with a few limited exceptions, determinations of eligibility are required to be made *prior* to the provision of services if the facility is to credit such services to its uncompensated services obligation. This requirement was intended to prevent facilities from writing off "bad debts" as part of their uncompensated services obligation, and to give patients advance notice that they would not have to pay the bill they were about to incur. Many institutions pointed out the complexity and costliness of this provision in their administration of the regulation, and consumer groups pointed out that it would be beneficial if in some cases determinations of eligibility could be requested after services have been provided.

As a result, under the new regulations, the Department has adopted an alternative which will be less burdensome for both facilities and eligible patients. Under this provision, the institution has two working days within which to answer any request, either for elective or emergency admission; and the patient has the right to request and receive a determination of eligibility any time before or after receiving care. If the person is determined to be eligible and to come within the allocation plan, the facility may add the uncompensated cost of that person's services to its total for the year, even if so doing results in an excess compliance credit. Thus, the new provision includes all the safeguards of the "prior determination" rule, but is less burdensome and more beneficial to both the facilities and potentially eligible patients.

9. *Facilities which provide the required annual level of uncompensated services must submit reports to the Department every three years. Facilities which provide less than the annual compliance level must submit a report in each year for which a deficit is determined.* The Department considered a number of reporting alternatives to implement the statutory requirement of "periodic" reporting. Yearly reports for all facilities were considered. Reports every four of five years were also considered. The Department determined that yearly reporting was burdensome and not necessary as a general rule, but that for facilities which were not providing the required level of uncompensated services, yearly reporting was critical to allow for proper compliance monitoring. The resultant savings over NPRM administrative costs to the institution and Government amount to over four million dollars annually (see footnote 4 in Table 4).

10. *Although the assurances program will be federally administered, the Department may enter into agreements with State agencies that are able and willing to do so to assist in administering the program in their States.* A number of States have developed effective programs for monitoring and enforcing compliance with the uncompensated services and community service assurances. Although Title XVI places primary responsibility for the program with the Federal Government, some States may wish to continue to use their own resources to enforce the assurances. In fact, State Health Planning and Development Agencies may use funds received under section 1525 of the Act for expenses of this sort. States can be effective in reducing non-compliance and in mitigating the need to process complaints. If this happens, the costs to the Department will be decreased and Federal resources can be focused more sharply on enforcing the regulations in other States.

Cost Analysis Review and Detail

The cost analysis presented in this report, as indicated earlier, focuses on the total cost of providing uncompensated care and the cost of administering the regulations in the institutions and Government. Under the 10% option and using the NPRM method for including interest subsidies, the uncompensated care liability for the 5392 institutions obligated in 1980 is $435 million, and for the 4164 institutions still obligated in 1984 it is $583 million. If inflation is ignored, these totals would go instead from $396 million in 1980 to $366 million in 1984. Thus, the annual increment due in this case to the inflation factor [7] alone ranges from $39 million in 1980 to $217 million in 1984. Using an alternative approach for including interest subsidies in the base would reduce the inflated totals about $40–45 million per year and the non-inflated totals about $41–28 million per year. For most facilities, the 3% option would require a higher liability than the 10% option. Some will find the 3% option to be lower, however, and thus the actual total liability for all institutions will be less than the figures given for the 10% option.

Administrative costs were much more difficult to estimate. Four subsets of these administrative costs were examined: lower level of compliance, investigation and enforcement, other general activities, and elimination of requests for lower levels of compliance. The general activities were assumed to be relatively invariate in terms of alternative approaches. Thus, we assume each institution would need about 1 staff year (includes professional and support) annually to perform them (see Table 4). In estimating costs of investigation and enforcement, we used three alternative approaches which varied to the extent that reports or complaints were cross-checked or audited. Totals for the Government ranged between 5.7 and 57 staff years annually (see Table 5).

In view of the high estimated cost of administering requests for lower levels of compliance as proposed in the NPRM, a fourth alternative was developed for the final regulation. The alternative approach, while still requiring the same total amount of uncompensated care to be provided by each obligated institution, allows each institution to vary the yearly amounts delivered according to annual demand and financial conditions until its total obligation is exhausted. It also requires affirmative action in some cases. The first three alternatives differ in the extent to which required data was available or had to be collected from

[7] As noted earlier in the text, the Department intends to reassess the cost implications of the inflationary factor before its effect adds $100 million annually (probably not until 1982).

presented are self-explanatory. A few general

These levels are (1) from existing institutional

scratch. Total institutional costs were 29 years, 157 years, 288 years, and 79 years, respectively. The Government costs were 65, 131, 196 years, and 74 years, respectively (see Table 3).

Uncompensated Care Liability

The provision for uncompensated care liability (UCL) discontinues the "Open Door Option" and requires either a 10% or 3% option. The 10% option means that an institution's UCL is 10% of the amount of their Federal assistance plus a yearly adjustment for inflation. The 3% option means the UCL is 3% of the difference between annual operating expense and Medicare/Medicaid receipts.

The Federal assistance base consists of Federal grants and interest subsidies. The proposed rule requires grants to be included for 20 years and interest subsidies for the life of the loan. The NPRM set the value of the interest subsidy at the sum of all subsidy payments due over the life of the loan.

Thus, institutions would have been required to provide each year from year 1 of their loan, an amount of free care related to payments not made by the Government until later years of the loan. Thus, we adopted an alternative way to include interest subsidy in the base, namely, the "Payout" method. This method includes in the base only that amount already paid out by the Government.

The current regulatory provision of UCL differs from the last version of the regulation in that it discontinues the open door and requires that the Federal assistance base for the 10% option be increased yearly by the inflation rate. Table 1 shows the uninflated UCL vs. the inflated UCL under the 10% option for two ways in including interest subsidies, total and payout.

It is not possible to estimate the effect of eliminating the open door option. Some suggest there is simply a distributional effect (see the later section on distributional effects). The effect of inflating the base under the 10% option can, however, be estimated. It is shown in Table 2.

Table 1.—*Uncompensated Care Liability*

[In $1,000,000 units]

	Assistance base				10% option				3% option
	Active grants		Interest subsidies		Not inflated		Inflated		
	VI & XVI	Other	Total	Payout	1+2+3	1+2+4	1+2+3	1+2+4	
	1	2	3	4	5	6	7	8	9
Year:									
1980	3,286	141	537	173	396.4	355.7	435.4	395.0	777
1981	3,233	141	537	204	391.1	354.7	474.2	432.7	849
1982	3,155	141	537	232	383.3	350.0	510.3	467.5	900
1983	3,075	141	537	258	375.3	344.8	537.6	504.4	938
1984	2,981	141	537	262	365.9	338.0	582.9	537.0	980

Notes:
1. Column 1 excludes those amounts (see Table A3) for which the 20 year obligation expires in the respective year.
2. These grants include: D.C. Construction Act, Public Works, Appalachian.
3. Column 3 is total of yearly interest subsidy payments due over the life of the loan.
4. Column 4 is cumulative amount paid through the respective year (see Table A4).
5. Columns 7 and 8 are inflated by HEW rates: 1979—9.84%; 1980—10-38%; 1981—9.81%; 1982—9.84%; 1983—8.94%. Column 7 involves a straightforward compounding of Column 5. Column 8 compounds the sum of Column 1+2 and inflates Column 4 according to the respective year of payout.
6. Column 9 comes from Table A2 in the Appendix.

Table 2.—*Effect of Inflating the Base*

	Grants and total interest subsidies [1]	Grants and interest subsidy payout [2]
1980	39.0	39.3
1981	83.1	78.0
1982	127.0	117.5
1983	182.3	159.8
1984	217.0	199.0

[1] Column 7 minus Column 5 from Table 1.
[2] Column 8 minus Column 6 from Table 1.

The estimates in Tables 1 and 2 assume all institutions choose the 10% option or that all choose the 3% option. In fact, institutions will choose whichever provides them a lower UCL. Nevertheless, the total National UCL will not exceed the amounts calculated under the assumption that every institution uses the 10% option. If an institution chooses the 3% option because it is lower, the National total UCL would then be reduced from the 10% option totals in Table 1.

Administrative Costs

This section reports estimates of the administrative costs of the assurance program. Estimated costs are provided for each section of the proposed regulation where explicit activities are identified.[3] In cases where feasible, three optional levels of activities are provided; thus decision-makers may choose among activities on the basis of their estimated costs. For the most part, the tables in which the estimated costs are presented are self-explanatory. A few general comments are provided below.

[3] In Tables 3, 4, and 5, staff days are divided by 220 to conservatively calculate staff years.

Table 3: We anticipate that applications for a reduced level of compliance would have been submitted by some 60 percent of the obligated institutions. To a certain degree, the burden of administration would have varied with the requirements for justifying and documenting requests imposed by the final regulations. Thus, we have estimated costs for four alternative levels of documentation. These levels are (1) from existing institutional data; (2) from existing institutional data supplemented by demographic and other information available from the census, HSAs, HSP, or SHP, and other general sources; (3) from the above source plus primary data that must be developed by each institution for its specific request; and (4) requires a report if the intention to provide less care is due to financial reasons and an affirmative action plan if for other reasons.

Table 3.—*Lower Level of Compliance*

Level of Documentation	L1 [1]	L2 [2]	L3 [3]	L4 [4]
ACTIVITY				
Applications [4]	2,886	2,886	2,886	1,443
Effort/facility	2 days	2 weeks	4 weeks	2 days
Total Effort	26.2 yrs	131 yrs	262 yrs	13.2 yrs
Publication of Notice (or Affirmative Action Plan) [4]				(Assume 20% will reacquire AAP)
Effort/facility	1 day	2 days	2 days	3 weeks
Total Effort	13.1 yrs	26.2 yrs	26.2 yrs	65.8 yrs
Review Application [5] (or AAP's)	1 day	2 days	3 days	2 days/report 3 days/AAP
Incorporate Public Input/Application	4 days	8 days	12 days	8 days/AAP
Total Effort	65.5 yrs	131 yrs	196.5 yrs	74.3 yrs

[1] Requires only a form report requesting data available within institution.
[2] Requires L1 plus generally available data.
[3] Requires primary data to be developed by applicant.
[4] Borne by applicant. From Table A5, average number of obligated facilities between 1979–84 is 4,810. Assume 60% or 2,886 apply under L1, L2, L3, and under L4 that 30% of facilities, or 1,443, annually claim and report to the Secretary that they were financially unable to meet compliance level.
[5] Borne by Government.
[6] This option eliminates the need for institutions to request a lower level of compliance. Instead an institution need only report their intention to provide less care if due to financial inability to meet their established compliance level, or file an affirmative action plan if due to other reasons.

Table 4: No variable elements are considered to be present in the facility cost of administering the elements of the proposed rule included in table 4. Thus, total personnel cost has been estimated. In the estimate, the cost of reporting pursuant to Sections 125.510 and 124.604 have been combined. We have not attempted to estimate the legal costs which will be borne by institutions.

Table 5: The estimated costs to the Government of investigation and enforcement activities are shown in Table 5. The table shows activities required by both Sections 124.511 and 124.605. Three optional levels of enforcement activity are shown: E1) a presumptive level, predicated on the presumption that facilities are in compliance, in which monitoring and enforcement is limited to receiving and processing facilities reports and investigating complaints; E2) an extension of E1 which provides additional confirmation of reports and investigation of discrepancies in reports and of facilities with above average frequencies of complaints; and E) which involves a preventive approach to enforcement through on-site audits of ⅓ of the obligated institutions reporting in a given year.

The estimates for investigation and enforcement assume that the Government will receive 1,200 complaints per year under each subpart, of which 48 per year under each subpart will be found to require further action.

Because of the absence of provisions for funding, it has been concluded that few states will wish to make agreement pursuant to § 124.512 and 124.606.

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Table 4

Notices, Eligibility, Exclusion, and Reporting[1/]

Section		Activity	
.505	--	Notice of Availability Promulgation of notice, testimony @ HSA hearings	
.508	--	Determination of Eligibility Interview applicants; determine eligibility; verify information	
.509	--	Exclusion from Uncompensated Service Processing third party claims, billing and collection	
.510 .604	--	Reporting[4/]	
Effort/facility		1/2 time staff @ 15,000/year	7,500
		1/2 time sec'y @ 9,000/year	4,500
Cost/facility[2/]			12,000
Cost all facilities[3/]		4810 x $12,000 =	$57,720,000

1/ These costs are assumed to be roughly equivalent to the administrative costs of the most recent Title VI regulations.

2/ The effort estimates are meant to allow for staff time spent by others in the institution who will be occasionally involved in the routine conduct of activity under these sections.

3/ Average of 4810 facilities between 1979-84 (see Table A5).

4/ Assuming an average of 4810 institutions (see Table A5) and 10 staff days per report (including support staff), and assuming it takes two staff weeks to prepare a report, annual reporting would require 218 staff years each for both the Government and institutions. Triennial reporting reduces this from 536 staff years to about 179 years for a savings of over $4 million (357 x $12,000).

Table 5

Investigation and Enforcement

Enforcement Level / Activity	E1	E2	E3
Processing Reports (Sections 124.511 and 124.605 inclusive)	Acknowledge and check reports; automatic data processing	E1 plus cross-checking with HCFA audits and reports	E1 + #2 plus preventive audits of 1/3 reports annually
# of Reports	1604	1604	1604
Effort/report	2/day	1/day	1/3 @ 2 days
Total Effort Report	3.7 yrs.	7.4 yrs.	E1 + E3: 8.6 yrs. E2 + E3: 12.3 yrs.
Processing Complaints Section 124.511	Acknowledge and check complaints	E1 plus remote audit of each facility generating an excessive number of complaints per year (assume 10% of facilities)	E2 plus preventive audits of 1/3 of all institutions annually
# of Complaints/yr.*	1200	1200	1200
Effort/Complaint	6/day	E1 + 10% @ 1/day	E2 + 1/3 @ 3 days
Total Effort-Complaint	1 yr.	1.5 yr.	21.5 yrs.
Processing Complaints for Section 124.605	Same as for 124.511	Same as for 124.511	Same as for 124.511
Total Effort, 124.605	1 yr.	1.5 yrs.	21.5 yrs.

Enforcement	Institutions	Government
Section 124.511		
Fact Finding/Mediation-48 cases/year	3 weeks/case	2 weeks/case
Total Effort	3 years	2 years
Litigation - 12 cases per year to be forwarded to OGC		
Section 124.605 Forwarded to OCR - 48 cases/year		

*Assumes five times recent volume.

Alternatives to Administering Lower Levels of Compliance

difference, inflated by the current year's rate

instead of municipal or county charity

V 4 4 / 9 8 M Y 1 8 7 9 UMI

Table 6

Summary Table 1/

	Institution				Government			
	L1	L2	L3	L4 2/	L1	L2	L3	L4 2/
.504 Compliance Level	39.3	157.2	288.2	78.8	65.5	131	196.5	74.3
.505 Notice .508 Eligibility .509 Exclusion .510 Reporting .604 Reporting	1 staff year/institution Average of 4810							
Investigation and Enforcement	E1	E2	E3		E1	E2	E3	
.511 & .604 Reports					3.7	7.4	9-12	
.511 Complaints					1	1.5	21.5	
.605 Complaints					1	1.5	21.5	
.511 Enforcements	3	3	3	3	2	2	2	
Total Staff Years	4852	4970	5101	4892	74	145	254	E1:82 E2:87 E3:132

1/ Entries are total staff years for all institutions as summarized from Tables 3, 4, and 5.

2/ Savings from adoption of L4 over NPRM options can be calculated by subtracting L4 and L3/L2 columns. L2-L4 = 4970-4892 + 145-87 = 136 years; L3-L4 = 5101-4892 + 254-132 = 331 years. At $12,000/staff year this totals about $1.6 million and $4 million, respectively.

BILLING CODE 4110-83-C

Alternatives to Administering Lower Levels of Compliance

In view of the high estimated cost of administering Section 124.504 as proposed in the NPRM, alternative approaches were considered. One approach involved eliminating the proposed annual compliance requirement in favor of a system in which obligated facilities carry a balance of uncompensated care outstanding which they eliminate over a period of years as demand and/or financial circumstances permit.

In the proposed system, a facility would begin with a balance of uncompensated care owed the public equal to the sum of its annual uncompensated care liability over the remaining years of its obligations. Each year, the amount of uncompensated care provided would be deducted from the balance. If the amount provided in a year were less (or more) than the 10% option called for, the difference, inflated by the current year's rate of inflation, would be added to (or deducted from) the facilities balance due. The balance due will also be inflated each year by the current rate of inflation before being carried forward to each succeeding year (for an example, see Table 7).

In this way, each facility is obligated to provide an amount equal to its remaining uncompensated care obligation, valuated in 1980 dollars, over a period of years depending on the community's need and the institution's financial condition. The fact that the period of the payout is optional will negate the need for institutions applying for waivers and thus eliminate the large administrative burden depicted in Table 3 and summarized in Table 6 in the first row. Under this option, administrative costs of investigating and mediating complaints may be increased by a modest amount above that estimated in Table 5.

Table 7.—*Calculating Accounts (Alternative to Lower Level of Compliance* [6]

	Inflation rate (percent)	FAB [1]	UCL [2]	UCD [3]	Account [4]	Payoff at beginning of year [5]
Year:						
1980	10	$1,000,000	$100,000	$90,000	$-10,000	$2,000,000
1981	10	1,100,000	110,000	90,000	-20,000-11,000	2,090,000
1982	10	1,210,000	121,000	90,000	-31,000-34,100	2,178,000
1983	10	1,331,000	133,100	193,100	+80,000-71,810	2,262,700
1984	10	1,464,100	146,410	176,410	+30,000-12,771	2,342,560

[1] FAB—Federal Assistance Base increases annually by inflation rate.
[2] UCL—Uncompensated Care Liability computed as 10% of current FAB.
[3] UCD—Uncompensated Care Delivered during current year * * * may be more or less than UCL.
[4] Account—Difference between UCD and UCL plus last year account balance increased by this year's inflation rate. For example, in 1981, UCD fell short of UCL by 20,000; 1980's (last year) account balance was 10,000 which was inflated by 10% to 11,000. In 1982, UCD fell short of UCL by 31,000; 1981's account balance was 31,000 which was inflated by 10% to 34,100.
[5] Payoff—Present value of UCL summed over the remaining life of the loan. Because future UCL is rising by the inflation rate, and because we use the inflation rate to discount future dollars of UCL to the present, the Payoff is equal to the current year's UCL times the remaining years in the life of the obligation. For example, if in 1980, the loan obligation had 20 years to go, the payoff at the beginning of 1980 is 20×100,000, or 2,000,000. Similarly, the payoff in 1982 is 18×121,000, or 2,178,000. Taken another way, the payoff is always equal to the inflated difference between the previous year's payoff, less the previous years' UCL. For example, the 1981 payoff equals 2,000,000 less 100,000, or 190,000, inflated by 10% to 2,090,000. Similarly in 1983, the payoff is 2,178,000 less 121,000 or 2,057,000, times 1.10, or 2,262,700.
[6] Obligation—If an institution delivered an amount of care equal to this year's payoff less last year's account balance, their obligation would be satisfied. Thus, any time this year's payoff less last year's account balance goes to zero or below, their obligation is satisfied.

Distributional Effects

The service costs imposed by the proposed regulation are not necessarily additional "real" costs, as ordinarily defined in economic theory. To a substantial degree (probably well over half),[9] these services will go to persons who would otherwise be served, either on a fee basis or in charity hospitals. As a result, the proposed regulation will affect the *incidence* of health care financing. The following effects are likely to be significant:

Under a rigorous enforcement scheme, hospitals will have incentives to identify as free care patients some persons who otherwise would have been required to pay from own sources. Income redistribution from other sources (see below) to the poor will occur.

Some patients will utilize Hill-Burton facilities (or different Hill-Burton facilities) instead of municipal or county charity hospitals. Non Hill-Burton hospitals may reduce their charity load. Thus, the burden on some hospitals will decrease and on others increase. In the particular case of municipal hospitals, some costs will be shifted from the city taxpayer to private sources and, in some cases, the suburban taxpayer.

Much of the effect on charity hospitals (many of which are among the largest recipients of Hill-Burton funds) will be a wash. These hospitals will recategorize their existing patients, and the local public budget will still pay the costs.

Medicare and Medicaid, which together pay on average about 40% of all hospital charges, do not reimburse for "unrelated" costs such as free care or bad debts. Unless current policy is changed, Medicare and Medicaid will not be an offsetting source of funds.

Most of the redistribution will involve a shift to increased charges to (a) non-poor uninsured private persons (a small population), (b) privately insured persons (e.g., Blue Cross), and (c) philanthropy.

[9] If one assumed that all persons who *require* hospitalization already received it, the effects would be completely redistributional. However, there are persons refused admission on the basis of inability to pay, who fail to request admission because of inability to pay, who are sent home early when a longer stay is medically indicated, etc. While these phenomena are undoubtedly small in the population as a whole, they are likely to be significant in the populations most affected by Hill-Burton—e.g., poor, male headed families (in some states), poor singles, and the uninsured near poor.

Appendix A

Table A1.—*Federal Assistance Plan*

	Obligated Facilities as of 1979	Estimated Federal obligations (millions)
Grand total	5,392	$4,040.1
Grants	5,264	
Title VI		3,275.1
Title XVI		51.0
Loans: Interest subsidies	[2] 108	[3] 573.0
Federal supplements	[4]	
D.C. Const. Act:		
Grants		31.3
Interest subsidies		[4]
Accel. Pub. Works		15.8
Appalachia:		
Sec. 214		93.9
Sec. 202		[4]
Other regional commissions (coastal plain, etc.)		[4]

[1] Estimated as 43% of loan principal over average maturity of 23.5 years.
[2] 368 facilities now receive interest subsidies, but 260 of these also have grants and are thus included in the total of 5,264 above.
[3] Estimate not yet available.

Table A2.—*National UCL for 3-Percent Option*

[In billions of dollars, except as noted]

	Operating costs all hospitals [2]	Less 40 percent for medicare medicaid reimbursements	Obligated hospitals as percent of all hospitals [3]	Adjusted costs for obligated hospitals	3 percent UCL obligated hospitals	Estimated [4] for all institutions
Year: [1]						
1980	$60.0	$36.0	59.8	$21.5	0.645	0.777
1981	67.2	40.3	58.4	23.5	0.705	0.849
1982	74.2	44.5	56.0	24.9	0.747	0.900
1983	81.5	48.9	53.0	25.9	0.777	0.936
1984	89.5	53.7	40.4	27.1	0.813	0.980

[1] Figures in the table are from previous year except in last column.
[2] HEW estimates but similar to AHA estimates for non-Federal short-term general and other special hospitals.
[3] Entries in this column are the totals from Table A5 divided by 5973, the number of non-Federal short-term general and other specified hospitals, as reported by AHA for 1977.
[4] 83% of all Title VI grants went to these inpatient facilities; thus adjust by dividing previous column by 0.83. The accuracy of this adjustment depends to the extent that operating costs at institutions other than hospitals maintain similar relations as those represented in these columns for hospitals.

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Table A3.—*Expiration of 20 Year Period*

	No. of institutions	Title VI grant funds
Year:		
1979	198	39,572,421
1980	215	53,034,788
1981	291	77,832,317
1982	245	80,785,144
1983	279	93,695,120

Table A4.—*Interest Subsidy Payments* [1]

[In millions of dollars]

	Annual	Cumulative
73–78	95.6	95.6
79	34.3	129.9
80	42.9	172.8
81	30.8	203.6
82	28.3	231.9
83	26.1	258.0
84	23.9	261.8

[1] Includes interest subsidies paid during construction periods only for years 1973 through 1980. Remaining paragraphs are estimated from amortization schedules effective after construction. However, after 1980, very few projects are expected to be in construction.

Table A5.—*Annual Number of Obligated Institutions*

	Total	Inpatient	Nursing home
1979	5,392	3,572	462
1980	5,194	3,490	445
1981	4,979	3,342	431
1982	4,688	3,166	418
1983	4,443	3,010	398
1984	4,164	2,823	377
Grand total	28,860		
Average	4,810		

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federal register

Friday
May 18, 1979

Part IX

Department of Health, Education, and Welfare

Office of Human Development Services and Rehabilitation Services Administration

Vocational Rehabilitation; Availability of Grant Funds for a New Model Spinal Cord Injury System

V 4 4 / 9 8 M Y 1 8 7 9 UMI

V 4 4 / 9 8 M Y 1 8 7 9 UMI

DEPARTMENT OF HEALTH, EDUCATION, AND WELFARE

Office of Human Development Services

Rehabilitation Services Administration

[Program Announcement No. 13626-791]

Special Projects and Demonstrations in Vocational Rehabilitation

AGENCY: Office of Human Development Services, HEW.

SUBJECT: Announcement of Availability of Grant Funds for a New Model Spinal Cord Injury System.

SUMMARY: The Rehabilitation Services Administration (RSA) announces the availability of grant funds for one new Model Spinal Cord Injury System project authorized by Title III, Section 311(a)(1) of the Rehabilitation Act of 1973, as amended (29 U.S.C. 762). Regulations governing Special Projects and Demonstrations in Vocational Rehabilitation were published in the Federal Register in Subpart A and Subpart B, Part 1362 of Chapter XIII of Title 45 of the *Code of Federal Regulations* (45 CFR, Part 1362) on November 25, 1975.

DATE: Applications for grants must be received in OHDS by July 20, 1979.

Scope of This Program Announcement

This announcement provides information solely relating to the designation and award of one new Model Spinal Cord Injury System project for Fiscal Year 1979.

Program Purpose

The purpose of the Special Projects and Demonstrations Program specified in section 311 of the Rehabilitation Act of 1973 is to establish programs for providing vocational rehabilitation services which hold promise of expanding or otherwise improving rehabilitation services to handicapped individuals, including individuals with spinal cord injuries.

Program Objectives

The objectives of the program are to:

1. Establish within a catchment area or region of natural patient flow, a multidisciplinary system of providing comprehensive rehabilitation services to meet the wide range needs of persons disabled by spinal cord injury—from point of injury requiring emergency treatment and transportation, through acute care, rehabilitation services, including vocational and educational preparation, community and job placement and long-term community follow-up and health maintenance;

2. Demonstrate and evaluate the benefits for persons who have become spinal cord injured served in, and the degree of cost effectiveness of, such a regional system;

3. Establish within the system a rehabilitation research environment for the achievement of new knowledge leading to the reduction and treatment of complications arising from SCI and the development of new techniques of medical management and rehabilitation;

4. Demonstrate and evaluate the development and application of improved methods and equipment essential to the care, management and rehabilitation of individuals with SCI;

5. Demonstrate methods of community outreach and education for the SCI in areas such as housing, transportation, recreation, employment and other community activities.

Eligible Applicants

Any State vocational rehabilitation agency, and other public or nonprofit agency or organization, including institutions of higher learning, may apply for a grant under this announcement.

Available Funds

Of the $4.5 million appropriated by the Congress for Model Spinal Cord Injury Systems in Fiscal Year 1979, the Rehabilitation Services Administration expects to award an estimated $200,000 for one new grant.

Generally, this project will be supported for a period of three (3) years. The funds currently available will sustain the budget for the first year of the project. Support of any additional time remaining in the project will depend on funds available and the grantee's satisfactory performance in achieving the project objectives for which the grant was awarded.

Grantee Share of the Project

It is expected that grantees will provide at least five (5) percent of the costs of the Model Spinal Cord System project. The grantee share may be cash or in-kind, and be project related and allowable under the Department's regulations under Subpart G and Q in 45 CFR, Part 74, (see 43 FR 34076, August 2, 1978).

The Application Process

Availability of Application Forms

Application kits which contain the prescribed application forms, the project description, and information for the application may be obtained by making a request to:

Division of Grants and Contracts Management, Office of Human Development Services, DHEW, Room 1427, Mary E. Switzer Building, 300 "C" Street, SW., Washington, D.C. 20201. Attention: 13626-791—Telephone 202/245-0051.

Application Submission

Completed applications should be submitted to the address provided above.

The application shall be signed by an individual authorized to act for the applicant agency and to assume the obligations imposed by the terms and conditions of the grant award.

One signed original and three (3) copies of the grant application, including all attachments, are required. The original and two (2) copies, which are for review purposes, are to be submitted to the central receiving office of the Office of Human Development Services. The other copy is to be submitted concurrently to the cognizant State vocational rehabilitation agency. This agency reviews the applications and forwards its comments to the Commissioner.

Circular A-95 Notification Process

In compliance with the Department of Health, Education, and Welfare's implementation of Office of Management and Budget Circular No. A-95 Revised (interim procedures at 41 FR 3160, July 29, 1976), applicants who request grant support must, prior to submission of an application, notify both the State and Areawide A-95 Clearinghouses of the intent to apply for Federal assistance. If the application is for a statewide project which does not affect areawide or local planning and programs, the notification need be sent only to the State Clearinghouse. Some State and Area Clearinghouses provide their own forms on which such information is to be submitted. Applicants should contact the appropriate State Clearinghouse (listed at 42 FR 2210, January 10, 1977) for information on how they can meet the A-95 requirements.

Application Consideration

The Commissioner determines the final action to be taken with respect to each grant application.

All accepted applications are subjected to a competitive review and evaluation conducted by qualified persons outside of Federal employment. The results of the competitive review supplement and assist the Commissioner's consideration of the competing applications. The Commissioner's consideration also takes into account the comments of the State agencies of vocational rehabilitation, the HEW Regional Offices and the headquarters program office. Comments on the applications may also be requested from appropriate specialists and consultants inside and outside of the Government.

When the Commissioner has reached a decision either to disapprove or not to fund a competing grant application, the unsuccessful applicant is notified of that decision.

Criteria for Review and Evaluation of Grant Applications

Competing grant applications will be reviewed and evaluated by persons outside of the Rehabilitation Research and Demonstrations Office against the following criteria: To be considered for support, grant applications for a Regional System must give clear evidence of reasonable project costs and that the applicant organization has established in all aspects of spinal cord injury services the (1) recognized expertise and competence, (2) available staff, (3) essential medical, rehabilitation and other service facilities as required without project cost for further alteration, expansion or renovation and (4) effective interagency relationships and communications within the patient flow area. These elements, including the proposed methodology, must assure that the following are provided in meeting program objectives:

1. To spinal cord injured persons, regardless of source of economic sponsorship, a comprehensive, multidisciplinary, balanced continuum of services covering all phases of care and rehabilitation form the point of injury or disability through successful long-term community adjustment. The following range of services must be included:

(a) Acute care:

(1) Evacuation and transportation;

(2) Emergency and early acute care (1–10 days post onset);

(b) Rehabilitation services

(1) Physical restoration (10–120 days post onset);

(2) Vocational-educational preparation (should be initiated during care);

(3) Community placement and adjustment;

(c) Long-term, comprehensive follow-up (includes medical, social, psychological, and vocational).

2. The accessibility of care, including the identification of persons with recently incurred spinal cord injury, through a well-developed, emergency evacuation and transportation subsystem. Such a system must include a communications network from transportation units in the field through a coordinating focal point to the designated emergency and acute medical facility or facilities.

(a) Personnel should be trained in proper handling and evacuation of SCI and severely traumatized persons.

(b) Evacuation personnel must be under medical supervision. Facilities for emergency and acute care that possess the necessary environment, equipped and staffed by specialists in all aspects of spinal injury care, for maximal stabilization and maintenance of vital bodily functions. Emphasis must be placed upon all measures which may alleviate or eliminate the impairments imposed by spinal cord injury including the application of immediate treatment techniques for spinal shock and other traumatic mechanisms of the cord.

3. A program of physical restoration and rehabilitation services that assures the opportunity for improving functional capacity and potential in all areas, including activities of daily living, bowel and bladder care and training, fitting of rehabilitation equipment, vocational evaluation and early training services, psychological assessment and support, family and social evaluation, etc. The availability, of multi-specialty medical consultation must be assured, i.e., urology, plastic surgery, orthopaedics, etc.

4. A vocational rehabilitation program through which effective coordination and communication assures maximal use of all necessary agencies, institutions, and private enterprises within the region to meet the individualized vocational or educational needs of SCI persons. This requires established working relationships via written cooperative arrangements with each VR agency in the patient flow area which is expected to have a formalized relationship to the project, with emphasis upon case services. Such cooperative arrangements should specifically describe referral procedures, cost reimbursements, scope of services to be provided, staff sharing programs and other information as might be necessary.

5. A comprehensive, long-term follow-up program emphasizing community placement, health maintenance, and vocational and social adjustment and assuring that each is evaluated and monitored regularly through direct contact by trained follow-up personnel. Such a follow-up system should provide an up-to-date registry including a dynamic, current status evaluation of all SCI persons discharged from the various subsystems.

6. A program of community outreach and community education in connection with the problems of housing, transportation, recreation, employment, and community activities.

7. Coordination of services, and appropriate program and advocacy administered and guided by a physician who has specialized training and experience in rehabilitating the SCI during the early care phase of rehabilitation, and an allied rehabilitation professional as coordinator during the vocational and placement phases.

8. An adequate and substantial volume of patients to support such a demonstration project. For a 30–40 dedicated bed spinal cord injury service, a minimum of 70–100 new cases a year must be available, not including a census of 100–300 previously disabled persons. Prior rates of case identification, admissions, readmissions, and discharges will be used to evaluate this requirement.

9. Opportunities and the environment for clinical research and evaluation of program effectiveness. This requires a sophisticated data collection, retrieval and analysis capability for each subsystem and the total system collectively. Cost effectiveness and systems analysis studies will evaluate the benefits of the various subsystems and the total system in light of regional variations and differences in project structure and design.

10. For the sharing of medical and allied rehabilitation staff by the acute medical care and rehabilitation services components, for rehabilitation plan development, treatment, research collaboration and training.

11. Training opportunities for specialists in the various disciplines involved in the rehabilitation of persons with SCI.

12. Appropriate agency liaison, public and community education programs to decrease the incidence of traumatic spinal cord injury (prevention).

Closing Date for Receipt of Application

The closing date for receipt of applications under this program announcement is July 20, 1979. Applications may be mailed or hand delivered to the receiving office. Hand delivered applications are accepted during the work hours of 9:00 a.m. to 5:30 p.m.

An application will be considered to have arrived by the closing date if:

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1. The application was sent by registered or certified mail no later than July 20 as evidenced by the U.S. Postal Service postmark or the original receipt from the U.S. Postal Service;

2. The application is sent by mail and received on or before the closing date in the Department of Health, Education, and Welfare, Office of Human Development Services' mailroom as evidenced by the time date stamp or other documentary evidence of receipt maintained by such mailroom; or

3. The application is hand delivered to the office designated to receive the application in the application instructions. Hand delivered applications will be accepted no later than c.o.b. July 20, in any case.

Late Applications

Late applications will not be accepted and applicants will be notified accordingly.

(Catalog of Federal Domestic Assistance Program Number: 13626, Special Projects and Demonstrations)

Dated: April 13, 1979.

Robert R. Humphreys,

Commissioner of Rehabilitation Services.

Approved: May 11, 1979.

Arabella Martinez,

Assistant Secretary for Human Development Services.

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federal register

Friday
May 18, 1979

Part X

Department of Transportation

Federal Railroad Administration

Requirements for Lifting Lugs

International Pullman Leasing Company in stabilizing and lifting cars during

lugs be subjected to unintended use from the standard box car. Because tank vertical exceeding the 15 degree

DEPARTMENT OF TRANSPORTATION

Federal Railroad Administration

[49 CFR Chapter II]

[Docket No. RSSI-78-6; Notice No. 4]

Association of American Railroads Requirement for Lifting Lugs; Termination of Safety Inquiry

AGENCY: Federal Railroad Administration, DOT.

ACTION: Termination of special safety inquiry.

SUMMARY: This document terminates the Federal Railroad Administration (FRA) special safety inquiry into an Association of American Railroads (AAR) requirement that all freight cars ordered after July 1, 1978, be equipped with provisions for lifting. The FRA has concluded that the AAR requirement, with certain adjustments related to tank cars used for the transportation of hazardous materials, has not been shown to affect adversely the safety of railroad wreck clearance operations.

DATES: The special safety inquiry is terminated on publication of this notice in the Federal Register.

FOR FURTHER INFORMATION CONTACT: Rolf Mowatt-Larssen, Office of Safety, FRA, 202-426-0924 or Grady C. Cothen, Jr., Office of Chief Counsel, FRA, 202-426-8220.

SUPPLEMENTARY INFORMATION:

Background

In 1977, the AAR adopted a standard entitled "Provision for Lifting Freight Cars;" which was made applicable to all cars authorized for use in interchange service and ordered after July 1, 1978 (Performance Specification S-234). Issued as a part of AAR Mechanical Division Circular D.V: 1897, this standard states in part:

> The purpose of this provision is to provide a means to vertically lift a loaded upright car. This provision is for new and rebuilt cars to facilitate rerailing operations and to improve the method of handling derailed cars.

Provisions for lifting of the kind described in the circular are generally known as "Lifting lugs" and provide a place of securement for crane hooks used in the course of wreck clearance operations.

On September 15, 1978, the FRA received a "Petition for Emergency Exemption" from the following: General American Transportation Division of GATX Corporation, North American Car Corporation Division of Tiger International, Pullman Leasing Company Division of Pullman, Inc., Shipper Car line Division of ACF Industries, Inc., and Union Tank Car Company Division of Trans Union Corporation. Although referring to alternate authority, the petitioners relied principally on 49 CFR 107.113, which governs the processing of petitions for emergency exemption from the Department of Transportation Hazardous Materials Regulations. Petitioners urged that the action of the AAR Mechanical Division in making the lifting lug standard applicable to tank cars represented an exercise of authority delegated by the Department to the AAR under 49 CFR 179.3 and 179.4. It was and remains the opinion of the FRA that the action of the AAR did not fall within the scope of any delegation from the Department and, thus, that neither FRA nor the Materials Transportation Bureau (MTB) could properly take jurisdiction of the petition under 49 CFR 107.113.

However, the FRA believed that issues raised by the petition concerning the safety of the design specifications set forth by the AAR for lifting lugs were of sufficient gravity to warrant examination prior to the construction of a significant number of cars under the AAR design standard. Therefore, utilizing its authority under the Federal Railroad Safety Act of 1970, the FRA published an order temporarily staying the effectiveness of the AAR lifting lug requirement (43 FR 46106; October 5, 1978). At the same time, FRA commenced a special safety inquiry to examine the safety of lifting lugs with respect to all freight cars, including tank cars (43 FR 46052; October 5, 1978).

Public Hearing

On October 31, 1978, a public hearing was held in Washington, D.C., for the purpose of receiving public comment on the matter of the AAR standard. A total of 16 witnesses testified at the hearing, including representatives of the AAR, two firms specializing in wreck clearance operations, and the tank car companies. Written submissions were received from several additional parties. An FRA Board of Inquiry addressed questions to the witnesses based on the testimony presented and FRA data relating to wreck clearance operations.

At the conclusion of the hearing, it was FRA's general conclusion that no evidence had been presented which would justify the issuance of Federal regulations either requiring or prohibiting the application of lifting lugs to tank cars or other freight cars. The testimony did tend to indicate that, properly utilized, lifting lugs could assist in stabilizing and lifting cars during wreck clearance operations. However, FRA remained concerned that lugs designed to the minimum specifications of the AAR standard might be subject to misuse under certain limited circumstances, posing a safety hazard to railroad employees and the general public.

Safety Considerations

The AAR design standard contemplates that four lifting lugs be placed on each car, "preferably in or near the body bolster at the side sill." The standard further provides:

> The design force at each provision for the upright car must be 40 percent of the gross rail load applied within 15 degrees of the vertical axis of the upright car. Each connection zone must be designed to support the above load without exceeding the yield strength of the material except that local deformation is permitted to achieve hook bearing area.

The principal question raised in relation to this standard was whether it presented an undue invitation to misuse. Since the AAR standard contemplates the use of lifting lugs only when a car is essentially upright and the angle of lift falls within a 15 degree "cone", lugs designed to the minimum specification could not be safely employed in many situations. Therefore, FRA was prompted to ask: would the risk that lugs might be used beyond tolerances incorporated in the AAR design outweigh their usefulness when employed as intended?

The written and oral testimony presented at the hearing, together with FRA's own analysis of recent fatalities related to wreck clearance operations, pointed to several basic conclusions. First, wreck operations are, by their nature, ad hoc undertakings which involve inherent dangers. The application of crane hooks to portions of freight cars not intended for the purpose of lifting is a common, and sometimes necessary, expedient. The sue of a sling arrangement for lifting, while often a preferred strategy, is not always possible. Even when it is possible, employees engaged in placing the sling around the car may be subjected to extreme hazard unless the car is properly stabilized.

The second conclusion that emerged from the testimony was that most standard freight car designs will permit the application of lugs that greatly exceed the AAR standard with respect to directionality of load capacity. It is expected that most lugs applied on the body bolster at the side sill will, in fact, provide a margin of safety should the lugs be subjected to unintended use beyond 15 degrees from the vertical centerline of the car.

The third conclusion that may be derived from the evidence is that places of securement for crane hooks on freight car bodies can, if properly utilized, prevent undesired movement of hooks and loss of control. In 1978, two fatalities were caused, in separate accidents, when crane hooks became dislodged from portions of freight car bodies. One of those instances, which involved a loaded covered hopper car, recalled a similar accident on the Lehigh Valley Railroad in 1974 which resulted in two fatalities. FRA notes in this regard that, by virtue of their design and high center of gravity, certain covered hopper cars present special problems in wreck clearance operations and should be handled with great care. The application of properly reinforced lugs to those cars could materially facilitate their handling in wreck clearance operations.

The fourth conclusion developed from the hearing was that the history of lugs applied to locomotives and passenger cars, as well as an undertermined number of freight cars, does not reveal any pattern of failure of lugs during wreck clearance operations.

The fifth conclusion derived from the special safety inquiry is that no standard procedures for wreck clearance exist within the railroad industry. FRA is hopeful that the convening of a special safety inquiry into the safety of lifting lugs will, at a minimum, serve to remind the railroads and wreck clearance specialists that lifting lugs should be used within the limitations of the design standard. Further, FRA is hopeful that the inquiry may promote a recognition within the industry of the need to develop comprehensive guidelines for the conduct of wreck clearance operations.

In order to promote the development of techniques and guidelines for the safe conduct of wreck clearance operations, the FRA Office of Research and Development is undertaking a study of wreck clearance procedures. FRA will seek the active participation of the railroad industry and wreck clearance specialists in the conduct of the study. Special attention will be given to the handling of hazardous materials cars following derailments.

The final conclusion derived from the special safety inquiry is that modern railroad tank cars used for the transportation of hazardous materials present special problems with respect to the application of lifting lugs. Stub sill tank cars are, by design quite different from the standard box car. Because tank cars are more difficult to handle during wreck clearance operations, it can be predicted with some certainty that lugs will be used frequently and in a number modes. Unfortunately, tank car bolsters are not as readily adaptable to the application of lugs that provide a margin of safety in excess of the AAR standard. Further, the mishandling of a loaded tank car that may have been damaged in a derailment could result in the release of hazardous materials. Therefore, FRA determined that further action would be appropriate to strengthen the AAR standard as applies to tank cars used for the transportation of hazardous materials.

FRA Recommendation to AAR

By letter of November 8, 1978, the Federal Railroad Administration recommended to the AAR that the design standard for lifting lugs be strengthened with respect to the application of lugs to tank cars used in hazardous materials service. In particular, FRA recommended that the AAR adopt a more rigorous standard for lugs applied to tank cars, including provisions for testing.

It should be noted that these recommendations were issued on the assumption that the AAR has determined to leave in place the requirements of the lifting lug standard with respect to all freight cars. The FRA does not express any view as to whether provisions for lifting should be required or whether the AAR requirement is cost beneficial, since those matters are beyond the scope of this inquiry. Rather, the FRA is concerned that any lifting lugs that are applied to cars be reasonably safe for their intended use.

Subsequent to the letter of November 8, 1978, the AAR referred FRA's recommendations to its several technical committees. An informal conference was held with representatives of the AAR on March 2, 1979. At that time, the FRA clarified its written recommendations by noting that the proposed test requirement relating to tank lugs was intended to apply only to the prototype of each lug design. AAR representatives noted the importance of retaining a standard lug specification to avoid confusion over the circumstances in which lugs may be used for lifting tank cars and other freight cars. At that time, the AAR indicated its willingness to incorporate into its standards for tank cars a requirement that lug designs for tank cars be tested to asssure a reasonable margin of safety that would resist failure should a car be inadvertently lifted at an angle to the vertical exceeding the 15 degree standard.

On April 20, 1979, the AAR issued a test requirement for tank cars [AAR 24-6 Lifting Provision Test), which applies to new tank cars ordered after July 1, 1979:

> This test refers to the lifting provision requirements shown in Performance Specification S-234 of the Manual of Standards and Recommended Practices. Each design of a tank car lifting provision is subject to a test by loading at least one of the lifting provisions as follows:
>
> 1. The vertical component of the load applied to each lifting provision tested must be a minimum of 25% of the gross weight on rail.
>
> 2. The direction of the applied load must be at 45° from the vertical and as near as possible to a vertical plane parallel to the longitudinal center line of the car and extending through center of lifting provision.
>
> 3. After application and release of the required load, visual inspection must reveal no evidence of permanent deformation in the tank car tank, bolster or lifting provision except that local deformation is permitted in the hook bearing area.
>
> Lug designs capable of meeting this test should provide an adequate margin of safety beyond the 15 degree design standard to avoid failure in the case of inadvertent misuse.
>
> It should be emphasized that the design and use specification of the AAR requirement remains unchanged. Lugs are to be used to lift only cars which are in an essentially upright position. On January 5, 1979, the AAR acted to commence distribution of information concerning the proper use of lugs by issuing an instructional bulletin.
>
> In consideration of the AAR's undertakings and the information received throught the special safety inquiry, the FRA has determined that the special safety inquiry on lifting lugs should be concluded and that the initiation of further proceedings related to the subject matter of the inquiry is not necessary. Accordingly, FRA Docket No. RSSI-78-6 is closed. By separate notice published elsewhere in today's Federal Register, FRA has also vacated the stay order which temporarily enjoined the operation of the AAR standard.

Issued in Washington, D.C. on May 15, 1979.

John M. Sullivan,
Administrator.

[FR Doc. 79-15533 Filed 5-17-79; 8:45 am]
BILLING CODE 4910-06-M

Friday

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DEPARTMENT OF TRANSPORTATION

Federal Railroad Administration

[Docket No. RSSI-78-6; Notice No. 3]

Association of American Railroads; Requirement for Lifting Lugs; Removal of Temporary Stay

AGENCY: Federal Railroad Administration, DOT.

ACTION: Revocation of Temporary Stay Order.

SUMMARY: The Federal Railroad Administration (FRA), after hearing, has determined that a temporary order staying the effectiveness of the Association of American Railroads (AAR) requirement concerning provisions for lifting on newly constructed freight cars should be vacated. This action permits a portion of an AAR circular that specifies requirements for cars used in interchange service to become effective.

DATES: The temporary stay is vacated effective on publication in the Federal Register.

FOR FURTHER INFORMATION CONTACT: *Primary program drafter:* Rolf Mowatt-Larssen, Office of Safety, FRA, 202-426-0924; *Primary legal drafter:* Grady C. Cothen, Jr., Office of Chief Counsel, FRA, 202-426-8220.

SUPPLEMENTARY INFORMATION: The FRA describes, in a separate document published in the proposed rules section of today's Federal Register, the findings and conclusions reached in its special safety inquiry concerning the AAR requirement that freight cars ordered after July 1, 1978, be equipped with provisions for lifting ("lifting lugs"). For reasons set forth in that document, the temporary stay order published in the Federal Register of October 5, 1978 (43 FR 46106), is vacated.

Issued in Washington, D.C. on May 15, 1979.

John M. Sullivan,
Administrator.

[FR Doc. 79-15534 Filed 5-17-79; 8:45 am]
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federal register

Friday
May 18, 1979

Part XI

Department of Health, Education, and Welfare

Health Care Financing Administration and Office of the Secretary

Medicaid Requirements for State Programs of Early and Periodic Screening, Diagnosis, and Treatment of Individuals Under 21

also contained numerous exceptions, however.) Many commenters objected to

(2) A child who had not requested assistance in getting services did not

including the obligation to provide the support services required by the State

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DEPARTMENT OF HEALTH, EDUCATION, AND WELFARE

Health Care Financing Administration

42 CFR Part 441

Medicaid Requirements for State Programs of Early and Periodic Screening, Diagnosis, and Treatment of Individuals Under 21

AGENCY: Health Care Financing Administration (HCFA), HEW.

ACTION: Final regulation.

SUMMARY: This regulation revises and clarifies the Medicaid requirements for State programs of early and periodic screening, diagnosis, and treatment (EPSDT) for children under 21. It also revises the enforcement procedure under which a penalty may be assessed against a State that fails to meet minimum requirements, by reducing the Federal share of payments to the States for Aid to Families with Dependent Children (AFDC) by one percent. Experience with existing regulations indicates a need for greater clarity and for updating certain provisions.

EFFECTIVE DATES: October 1, 1979 for all section except § 441.56(a)(3), the screening requirement for developmental assessments, which is effective on January 1, 1981.

FOR FURTHER INFORMATION CONTACT: Mary Tierney (202) 245–7443

SUPPLEMENTARY INFORMATION:

Summary of Regulations

These regulations revise both State plan and penalty requirements applicable to the early and periodic screening, diagnosis, and treatment (EPSDT) program.

The new State plan requirements prescribe minimum elements to be included as part of screening examinations, specify that States must develop screening periodicity schedules for individuals up to 21 years of age, and specify that States must provide scheduling and transportation assistance to EPSDT families.

Penalty requirements revise procedures that States must employ to inform, screen and treat persons receiving cash benefits under the Aid to Families with Dependent Children (AFDC) program. Specifically, these regulations prescribe the manner, timing, and content of States' informing obligations. The regulations also specify steps States must take in providing referral assistance to individuals whose treatement needs do not have State plan coverage. Documentation requirements are specified as are the bases for the imposition of the penalty. States' performance will be measured against percentages for timely informing of families and timely service delivery to those persons who have requested EPSDT services.

Background

Since 1967 the Federal government has tried to design, implement and enforce a program that would assure comprehensive, preventive health care for Medicaid children. Major studies conducted during the early and mid-1960's demonstrated that permanent harm was done to the nation's poor children because treatable medical problems were not detected at early stages of the illness. In response to this concern we proposed and Congress passed, in 1967, a new section 1905(a)(4)(B) of the Social Security Act. This requires that States include in their Medicaid plans a program of early and periodic screening, diagnosis, and treatment of individuals under 21 who are eligible for Medicaid. The EPSDT program requires States to ascertain the children's physical or mental conditions, and to provide for health care, treatment, and other corrective health measures.

Congress expressed its concern about the slowness with which we and the States were implementing the EPSDT program by including in the Social Security Amendments of 1972 a penalty provision which would reduce by one percent a State's Title IV AFDC funds in a quarter during which it failed to:

"(1) inform all families in the State receiving aid to families with dependent children . . . of the availability of child health screening services [under Medicaid] • • •

(2) provide or arrange for the provision of such screening services in all cases where they are requested, or

(3) arrange for (directly or through referral to appropriate agencies, organizations, or individuals) corrective treatment the need for which is disclosed by such child health screening services."

This new provision, which became section 403(g) of the Act, gave the Federal government an expanded role in ensuring that each State successfully screened and treated those children who requested EPSDT services. In addition, it gave HEW an enforcement tool, the penalty of one percent of AFDC funds, which was easier to apply and less disruptive to the program than compliance action.

Since the passage of the 1972 amendments, we have attempted to issue regulations which penalize non-performing States and which grant complying States flexibility in program implementation. The initial implementing regulations were issued on August 2, 1974, one month after the penalty provisions took effect.

To address the problems which quickly became apparant in the initial regulation, we issued two Notices of Proposed Rule Making (NPRM): the first on August 20, 1975 (40 FR 36378) and the second on September 8, 1977 (42 FR 45278). These two NPRMs, were designed to: (1) Clarify requirements necessary to implement the EPSDT program; (2) revise the basis on which the penalty would be assessed; and (3) increase the effectiveness of the program.

The second NPRM was published rather than final regulations because the commenters responding to the 1975 NPRM offered varied and frequently conflicting points of view on all of its provisions. Based on the comments, we decided that the 1975 NPRM had not achieved its purpose. We then had meetings with 45 States, interest groups, and providers. As a result of these meetings we developed and published the 1977 NPRM. We received approximately 100 comments on it from various sources, including agencies in 26 States, 2 governors, 3 child advocacy groups, 3 legal organizations and 4 health professional organizations.

In addition to these comments, in October 1978 we consulted further with representatives of States, child advocacy groups and Congress. These further consultations focused primarily on how to convert some of the process requirements in the 1977 NPRM into performance standards. The principal areas affected were the sections on the application of the penalty and requirements for support services.

These final regulations were developed based on the cumulative knowledge acquired during the entire comment period.

Since the proposals in the 1977 NPRM superseded those published in 1975, all references in this preamble to "the NPRM" refer to the 1977 one.

There were five areas of major concern raised during this process:

A. Application of the penalty.

B. Informing eligible families.

C. Providing or arranging for EPSDT services.

D. Family's choice of provider.

E. Documentation.

A. *Application of the Penalty*

The NPRM proposed that the penalty would be imposed if EPSDT services were not delivered within 120 days of a request in at least 90 percent of the cases reviewed by HCFA. (The NPRM

also contained numerous exceptions, however.) Many commenters objected to this proposal. They did not believe that the 120-day period, even with the exceptions, was sufficient to complete initial or periodic screening and to initiate all necessary follow-up services. Provider scarcity and failure in States' case management systems were cited as reasons for the inability to meet the requirement. HEW recognizes the need for flexibility.

1. *Basic Provisions.* Commenters pointed out both the importance of the timely delivery of health care and the problems encountered by States in delivering this care. We have tried to achieve a balance among the need for specificity in order to facilitate enforcement, State needs for administrative flexibility, and eligible families' need for comprehensive, preventive health care.

The final regulation provides the following criteria for applying the penalty. For those cases in the sample—

(1) A State must have screened and begun treatment of at least 75% of the recipients who requested services within 120 days of the initial request or within 120 days of the date of a child's rescreening according to the State's periodicity schedule.

(2) A State must have screened and begun treatment of at least 95% of the recipients who requested screening within 180 days of the initial request or within 180 days of the date for a child's rescreening according to the State's periodicity schedule.

If less than 75 percent compliance is achieved within the 120-day requirement, we will assess the penalty. If the State complies with the 75 percent test, the sample will be further analyzed to determine whether service delivery was achieved within 180 days. If compliance is less than 95 percent within 180 days, we will assess the penalty.

2. *Scope of State's Responsibility for Timely Delivery of Services.* The issue of State versus family responsibility for the delivery of health care to a child who requests EPSDT services is complex and subtle. The NPRM addresed the issue by precisely defining what a State must do to discharge its share of the responsibility. After the State performed the required actions, the family became totally responsible. The State was required to make a follow-up within 150 days of the request for services, and to reoffer help with an appointment and transportation, if:

(1) A child, who had requested State assistance in getting services, did not keep the scheduled appointment, or

(2) A child who had not requested assistance in getting services did not schedule an appointment or keep a scheduled appointment.

Many commenters addressed this issue; most agreed that the State and the family each bear a share of responsibility. Many State officials stated that a State should not have to establish extensive case management systems either to ensure that a family kept a State-scheduled appointment or to ensure that a family made its own appointment after declining State-offered assistance. Some commenters stated that HEW was requiring State administrator to become paternalistic or coercive.

Other commenters pointed out that the manner in which States offer assistance influences the number of families who accept needed support services. In addition, the State, by scheduling either a convenient or inconvenient appointment, strongly influences the percentage of families who keep scheduled appointments.

We have resolved the issue of defining the relative responsibilities of the State and the family in the following way. First, the regulation does not make provision of support services (transportation and scheduling assistance) subject to the penalty in those cases where services are provided on a timely basis. Instead, they have been added as State plan requirements. This is not done to downplay their importance. Rather, it is done primarily to avoid the anomaly of taking a penalty, even though each child received EPSDT services, because support services were not offered or provided. Our approach thus serves to focus the penalty provision on outcomes rather than process requirements.

Second, we have established a high performance level of 95 percent for timely service delivery, which conforms to Congressional intent, and which, by being high, places primary responsibility with the State. Then, we deal with these circumstances for which the State is properly held to have fully discharged its obligations and the responsibility is borne by the family:

The State is not penalty liable for those cases for which it can show, with supportive evidence, that:

(1) The family lost eligibility; or

(2) The State was not able to locate the family despite a good faith effort to do so; or

(3) The child's failure to receive necessary services was due to an action or decision by the family, rather than a failure by the State to comply with the requirements of this regulation, including the obligation to provide the support services required by the State plan.

Thus, the State has the responsibility to make it possible for recipients to receive EPSDT services. It is then the family's responsibility to make use of them if they wish. If, for example, the State has evidence that it offered and provided requested transportation and scheduling assistance required under the State plan, and the child did not receive EPSDT services in a timely manner, the State will not be held at fault. Conversely, if the State does not have evidence that it offered and provided requested support services and the child did not receive EPSDT services in a timely manner, the State *will* be held at fault.

In keeping with our emphasis on outcome rather than process, we are not specifying the form of evidence that States must have to meet this requirement. However, since effective case management requires case records that would normally contain this type of information, we do not believe requirement places any undue additional burden on States.

We believe that this approach to penalty monitoring both provides for timely treatment of medical problems and accommodates difficulties that States might encounter in assuring timely service delivery.

B. *Informing Eligible Families*

Approximately 60 comments were received on this issue, principally concerning which families were to be informed and how.

1. *Methods of Informing.* The NPRM proposed to require States to use both face-to-face contact and written materials to inform families that are eligible for AFDC of the nature and benefits of the EPSDT program. Numerous commenters objected to the face-to-face contact provision. We intended this to apply only to families who have become eligible for the first time. In addition, the NPRM permitted a State to inform families at the intake interview, even though their eligibility had not been formally determined.

The fact-to-face requirement represents a compromise between home vists, the most effective means of informing families, and mass mailings, the least effective method. We recognize that home visits would require costly increases in manpower and other expenditures for States. We also realize that a weak informing requirement would reduce the effectiveness of the EPSDT program. Four years of EPSDT program experience show that there

must be face-to-face contact to ensure

follow-up could be done either by

notifies the family can therefore be left

assure (1) that medical intervention would be beneficial for the treatment of

outside the scope of the plan. (See Senate Report No. 92-1230, p. 298.)

Federal program requirements. In this manner, recipients may develop the kind

must be face-to-face contact to ensure that clients are properly informed and that the outreach obligations of the program are fulfilled. Thus, we have retained the requirement to use both face-to-face contact and written materials. The face-to-face contact can take place at the intake interview or up to 60 days following AFDC eligibility determination. By allowing these options, we are giving the States the administrative flexibility that we and the commenters agree is needed. However, it is widely acknowledged that using the AFDC intake interview for EPSDT informing is the least effective method because the family's attention is concentrated on the need for cash assistance rather than on the benefits of a preventive health program. Therefore, we hope that States that now do more than the minimum required by the regulation will continue to do so, and that other States will begin to use effective techniques.

We have further clarified the informing requirement by specifying that face-to-face contact must occur both for families that have become eligible for AFDC for the first time and for those families that have regained AFDC eligibility after a period of ineligibility. It is not required when a State makes a periodic redetermination of eligibility for a family that has been continuously eligible. Moreover, in order to deal with the possibility that families may lose and regain eligibility for AFDC numerous times within a 12-month period, the State need not inform a family more than twice in a 12-month period.

2. *Categories of families informed.* Many commenters noted that neither the NPRMs nor the existing regulations mention specifically that children receiving AFDC foster care are eligible for EPSDT. The definition of "dependent child" in section 408(a) of the Social Security Act includes those dependent children of families for whom Federal payments for foster care are made. Therefore, these children are a mandated category of eligibles and were covered by the NPRM. However, for brevity, we have explicitly included AFDC foster care children in the definition of a "family" in the final regulation.

3. *Undecided Families and Families That Decline Services.* For families who were undecided about accepting EPSDT services at the time of initial informing, the NPRM proposed to require that States make one attempt to recontact them within 60 days after being initially informed and to document the outcome of the notification. We intended that this follow-up could be done either by telephone, face-to-face contact, or mail. In addition, the NPRM proposed to require States to inform families annually about the availability of EPSDT services if they had declined or did not use the services.

Some commenters objected to these provisions because they were perceived as coercive or paternalistic, or because they would require additional tracking by States. Other commenters believed that it was vital to recontact families who were undecided about accepting EPSDT services or who declined these services. The commenters stated that families are under stress at the time they apply for cash assistance and this often prevents careful consideration of the advantages of preventive medical care for their children. Also, many commenters believed that families who declined EPSDT services should be given an opportunity to reconsider this opportunity for preventive services.

The final regulation requires that a State recontact once each year all recipients who either decline the service or who were undecided. We believe this is necessary so that the family can reconsider its earlier decision not to use the services or can make a decision if the family was undecided earlier. By permitting States one year for contacting undecided families, the regulation enables States to use regularly scheduled mailings, telephone calls, or the more preferable practice of explaining the value of EPSDT at eligibility redetermination sessions or a home visit. The time required for reinforming families who decline services is the same as that for undecided families; consequently, States may use one system to notify both types of families.

4. *Informing families about periodic assessments.* The NPRM proposed to require States to inform families already in the EPSDT system of their children's eligibility for another screening. This informing procedure had to be in writing and within the frequency required by the State's periodicity schedule. Eighteen comments were received regarding this provision. Few objected to the concept of periodic notification, but did comment that a new system to track the families would have to be developed.

The final regulation does not require States to reinform families of their children's rescreening, because the rescreening itself is a penalty-liable event. This regulation requires that a State rescreen each child according to the periodicity schedule. How the State notifies the family can therefore be left to the discretion of the State.

5. *Informing families who have missed appointments.* Many commenters objected to the NPRM requirement that States recontact families who did not keep screening and treatment appointments which either the family or the State had scheduled. Some commenters pointed out that families should have responsibility for their own actions. Other commenters pointed out that State actions, such as scheduling convenient appointments or providing transportation, greatly influence the percentage of families who keep appointments. The balancing of family versus State responsibility was discussed earlier.

The final regulation does not require that States recontact families. It does, however, require the State to have a State plan provision dealing with support services. At this time, States have considerable discretion in how to provide these support services and, in particular, whether to recontact a family after a missed appointment. If subsequent studies show that more specificity is warranted, we will initiate further rulemaking.

C. *Providing or Arranging for EPSDT Services*

1. *Timely delivery of services.* The NPRM proposed to require that all requested screening and necessary treatment services be initiated within 120 days of the request for screening. Initiation of treatment was defined as the first encounter between the child and the health provider at which time treatment is begun for those conditions found as a result of screening. This meant, for example, if a child had three medical and two dental problems, that an initial visit to a doctor and one to a dentist had to occur within the 120-day limit. The requirement was intended to assure that eligible individuals receive EPSDT services and necessary treatment within a reasonable period, while allowing States time to devise flexible schedules for screening and treatment. Commenters believed either that the time period was too long or not long enough. Some wanted a continuation of the current regulation time limit of 60 days. Some agreed with the greater flexibility afforded by a single period, but others disagreed. Still others thought that the State should be responsible only for arranging an appointment for treatment within 120 days.

We think that a period longer than 120 days, or a requirement merely to arrange an appointment, would not reasonably

assure (1) that medical intervention would be beneficial for the treatment of conditions found during screening, or (2) that arrangements for delivery of complete screening services could be made in such a way that the family would maintain its continuing interest and motivation to keep appointments. We also know from experience that any period longer than 4 months between a request for services and the initiation of treatment increases the possibility that the family loses eligibility for Medicaid. A period shorter than 120 days would not allow sufficient time for States to deliver the full screening package and initiate all necessary follow-up treatment services for all eligible families that request services.

Some States thought that the NPRM would have required a substantial change in their mode of delivering health services. The final regulation requires screening and initiation of treatment within 180 days after the request for at least 95% of those who request services. In our view, based on our understanding of State programs, this will not require any major administrative modification in State procedures. In addition, some States alleged there is a scarcity of providers, especially in specialty services, and that this might preclude their meeting the requirements of this regulation. We believe that there are adequate resources available to meet the needs of the EPSDT program, if they are properly coordinated.

To accommodate varying State capabilities in assuring the timely delivery of services, the final regulation provides some flexibility by altering the percentages of cases subject to the time requirements. This system is fully discussed above under "Application of the Penalty." Also, the regulation specifies, as did the 1975 and 1977 NPRMs, that States will be required to provide both scheduling and transportation assistance to those persons requesting such help. These support services are applicable to both screening and treatment, as requested by the family.

2. *Referral for services not covered under the State plan.* Because States have the option of limiting the scope of their Medicaid program, it is possible that conditions will be discovered through screening for which there is no coverage for treatment under the State plan. However, Congress was clear in its direction that all persons having positive screening findings be treated and that a State be responsible for referring eligible children to other sources for treatment services that are outside the scope of the plan. (See Senate Report No. 92–1230, p. 298.) Therefore, the NPRM proposed to require States to provide referral assistance for treatment services not covered under the State's Medicaid plan.

Several commenters noted that the scope of the referral requirement was unclear. We have addressed these concerns by specifying that States must give families the names, addresses and telephone numbers of providers who have expressed a willingness to furnish services at little or no expense to the family.

3. *The use of "comprehensive care" providers.* The NPRM proposed to require States to verify that certain families were receiving services from "comprehensive care providers". A comprehensive care provider was defined as one who provides the full range of screening, diagnostic, and treatment services as well as medical case management. The intent of the provision was to encourage families to develop permanent provider relationships.

More than 50 comments were received concerning this issue. A majority of them objected to the special treatment accorded comprehensive care providers. The 1977 NPRM contained several exceptions from generally applicable requirements, because many commenters on the 1975 NPRM indicated a need to ensure that comprehensive care providers (such as Title V grantees) continue to give the preventive care they normally give and yet not have to meet some of the "process" requirements of the EPSDT regulations. We thought that this special treatment would stimulate more provider participation and lessen chances of duplication of services available through existing comprehensive care providers. However, strong objections were raised concerning this provision, focusing primarily on the fact that comprehensive care providers would have less accountability and that this provision would create a sizable monitoring burden on the States.

We agree that the proposed exceptions for special types of service delivery should be dropped. We do not believe that this should be interpreted, however, to mean that we wish to discourage the use of these comprehensive care providers.

Rather, we encourage States to make arrangements with comprehensive care providers for the delivery of EPSDT services and to make these providers accountable for compliance with Federal program requirements. In this manner, recipients may develop the kind of regular and direct relationships with the health care system that is generally not in evidence today. While current authority requires that States be held directly accountable to the Department for compliance with all EPSDT requirements, States are free within this framework to design and implement EPSDT delivery systems that meet their own particular needs.

4. *Screening services.* The NPRM outlined the minimum screening services which States must provide. Most commenters strongly supported the components of screening as proposed, but felt that States would need additional time and technical assistance to develop procedures for providing developmental assessments.

Basically, the regulation adopts the "screening package" as proposed in the NPRM. However, since States need time to formulate procedures for developmental assessments, this requirement will not be effective until January 1, 1981. We will issue guidelines covering the nature and scope of the assessments prior to the effective date.

In addition, in response to further review of our experience in the program and comments from recipient groups, we will require that States refer all medically screened children directly to a dentist for treatment. Despite considerable evidence which shows that 95% of screened children over 3 years of age require dental treatment, under current State practices only 25% receive it. Lack of proper dental care leads to the development of more serious and costly problems in adolescence and adulthood. Since almost all children over 3 need dental treatment, no purpose is served by continuing to require a separate dental screen. Therefore, we are eliminating the separate dental screening requirement and mandating the more efficient direct referral to a dentist.

D. *Family's Choice of Provider*

The NPRM provided that families could choose to continue to receive EPSDT services from their own health care provider. In such cases, however, States would have been required, within 120 days of a request for EPSDT, to verify which components of the screening package had been provided, along with the necessary follow-up treatment. In screening or treatment was imcomplete, States would have been required to provide those services in the screening package that these providers could not or would not complete. Many commenters objected to this provision

for two reasons: (1) Verifying services

compliance with specific program

Subpart B—Early and Periodic

(b) *Treatment.* In addition to any

centers, rural health centers, rural health

180 days after the initial request for

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for two reasons: (1) Verifying services from private providers is difficult, if not impossible; and (2) the monitoring procedures needed to ensure case management for these families would be cumbersome and too costly.

We believe that States should provide a mechanism for allowing those families who are already receiving health care from their own providers to continue to do so. In no instance should the State interfere with the client's right to choose his own provider. Families should not feel that they are choosing between their own providers and EPSDT but, rather, that they can freely choose both.

In response to the many comments regarding this issue, the final regulation provides for a continuation of the family's relationship with its regular provider. It also includes a provision to assure that recipients receive the full range of EPSDT services by requiring States to offer families any EPSDT services which are not available from a provider and providing those services, if the family requests it.

E. *Documentation*

The NPRM specified the documentation States must make available to HCFA as evidence that the penalty requirements have been met. Comments about these requirements ranged from claims that no documentation is needed to suggestions that we add major additional categories of documentation. In many instances, however, commenters were unclear as to where records are to be kept and how much and what kind of evidence would be needed to document that the requirements have been met. The most frequent comment regarding the documentation requirements concerned the provisions for comprehensive care providers, which have now been eliminated.

The final regulation requires that States make written documentation available for review. Since the publication of the two proposed rules, States have generally made significant strides in maintaining much of the documentation that the final regulation now requires. For this reason, we expect that much, if not all, of the documentation needed by Federal monitors will be available at the State or local agency office. We recognize, however, that certain documentation may be located at the provider's office. Federal monitors will attempt to obtain these data; if they cannot, they will turn to the State to furnish the missing data. Documentation may be in the form of reports, claim forms, case records, or any other written material reflecting compliance with specific program requirements.

Recodification

Existing penalty regulations appear in 45 CFR 205.146(c). Since all other Medicaid regulations now appear in 42 CFR Chapter IV, Subchapter C, the penalty regulations are therefore revised and the Medicaid portion transferred to 42 CFR Part 441. Although the penalty is taken on AFDC funds, State Medicaid agencies are responsible for administering the EPSDT program. Therefore, we believe that regulations affecting this program more logically belong with all other Medicaid regulations. Amendments to 45 CFR 205.146(c) that reflect this redesignation are published today at page ——. In place of the detailed penalty regulations, § 205.146(c) now states that a one percent penalty on AFDC funds will be imposed if conditions in 42 CFR Part 441 are not met.

42 CFR Part 441 is amended as set forth below:

1. The table of contents for Subpart B is revised to read as follows:

PART 441—SERVICES: REQUIREMENTS AND LIMITS APPLICABLE TO SPECIFIC SERVICES

* * * * *

Subpart B—Early and Periodic Screening, Diagnosis, and Treatment (EPSDT) of Individuals Under Age 21

Sec.

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Authority: Sec. 403(g), 1102 and 1905(a)(4) the Social Security Act (42 U.S.C. 603(g), 1302 and 1396(a)(4)).

Subpart B—Early and Periodic Screening, Diagnosis, and Treatment (EPSDT) of Individuals Under Age 21

2. Subpart B is revised to read as follows:

§ 441.50 Basis and purpose.

This subpart implements—

(a) Section 1905(a)(4)(B) of the Social Security Act, by prescribing State plan requirements for providing early and periodic screening and diagnosis of eligible Medicaid recipients under age 21 to ascertain physical and mental defects, and providing treatment to correct or ameliorate defects and chronic conditions found; and

(b) Section 403(g) of the Act, by specifying the conditions under which HEW will impose a penalty on States by reducing Federal financial participation under title IV–A of the Act (Aid to Families with Dependent Children), for failure to provide EPSDT services to eligible AFDC recipients under age 21. (See 45 CFR 205.146(c) for penalty reduction in AFDC.)

§ 441.51 Definitions.

For purposes of this subpart—

"Family" means an assistance unit receiving cash assistance under title IV–A of the Act and includes children for whom Federal payments for AFDC foster care are made.

"Initiation of treatment" means the first encounter for treatment of the medical and the dental problems disclosed during screening.

State Plan Requirements

§ 441.55 Basic requirement.

A State plan must provide that the Medicaid agency meets the requirements of §§ 441.56–441.62, with respect to EPSDT services, as defined in § 440.40(b) of this subchapter.

§ 441.56 Required services.

(a) *Screening.* The agency must provide for at least the following screening services:

(1) Health and developmental history.

(2) Unclothed physical examination.

(3) Effective January 1, 1981, developmental assessment.

(4) Immunizations which are appropriate for age and health history.

(5) Assessment of nutritional status.

(6) Vision testing.

(7) Hearing testing.

(8) Laboratory procedures appropriate for age and population groups.

(9) For children 3 years of age and over, dental services furnished by direct referral to a dentist for diagnosis and treatment.

(b) *Treatment.* In addition to any treatment services included in the plan, the agency must provide the following services, even if they are not included in the plan—

(1) Treatment for defects in vision and hearing, including eyeglasses and hearing aids; and

(2) Dental care needed for relief of pain and infections, restoration of teeth and maintenance of dental health.

§ 441.57 Discretionary services.

Under the EPSDT program, the agency may provide for any other medical or remedial care specified in Part 440 of this subchapter, even if the agency does not otherwise provide for these services to other recipients or provides for them in a lesser amount, duration, or scope.

§ 441.58 Periodicity schedule.

The agency must implement a periodicity schedule that—

(a) Is developed after consultation with representatives of recognized medical and dental professional groups;

(b) Specifies screening services applicable at each stage of the recipient's life, up to age 21, including a neonatal examination; and

(c) Identifies the time period, based on the recipient's age in years and months, that defines when screening services will be delivered.

§ 441.59 Administration.

The agency must—

(a) Identify available screening and diagnostic facilities; and

(b) Ensure that the services offered by these facilities are available for recipients under age 21.

§ 441.60 Identifying, informing, and referring eligible recipients to title V services.

The agency must—

(a) Identify those recipients eligible for EPSDT services who can obtain needed medical or remedial services through a grantee under title V of the Act (Maternal and Child Health and Crippled Children's Services); and

(b) Ensure that recipients eligible for title V services are informed of available services, and referred if they desire to title V grantees that offer services appropriate to the recipients' needs.

§ 441.61 Maximum utilization of existing services.

The agency must make maximum use of existing screening, diagnostic, and treatment services provided by public and voluntary agencies such as well-baby clinics, neighborhood health centers, rural health centers, rural health clinics, and similar agencies.

§ 441.62 Transportation and scheduling assistance.

The agency must offer to the family or recipient, and provide if requested—

(a) Assistance with transportation as required under § 431.53 of this chapter; and

(b) Assistance with scheduling appointments for services.

Penalty for Failure To Provide EPSDT Services

§ 441.70 Imposition of penalty.

For each quarter that a State fails to comply with the requirements to provide EPSDT services to AFDC recipients, as specified in §§ 441.71–441.90, HEW will reduce by one percent Federal financial participation in State payments for AFDC.

§ 441.71 Application of the penalty.

(a) HEW will impose penalties under this subpart if a State fails to maintain accurately the documentation required in § 441.90 or if a State fails to meet the following measures of compliance with the requirements of this subpart:

(1) In at least 95 percent of the sample cases reviewed by HCFA, the State has met all informing requirements as specified in § 441.75.

(2) For families or recipients that request EPSDT services, in at least 75 percent of the sample cases reviewed by HCFA, either—

(i) Screening must have been completed and treatment initiated, as specified in §§ 441.80 and 441.85, within 120 days after the initial request for screening or the date rescreening was due under the State's periodicity schedule; or

(ii) The State can show, with supportive evidence, that within the 120-day time periods, either—

(A) The family or recipient lost eligibility;

(B) The State was not able to locate the family or recipient despite a good faith effort to do so; or

(C) The recipient's failure to receive necessary services was due to an action or decision by the family or recipient, rather than a failure by the State to meet requirements of this subpart, including the requirement to offer and provide the support services specified in § 441.62.

(3) For families or recipients that request EPSDT services, in at least 95 percent of the sample cases reviewed by HCFA, either—

(i) Screening must have been completed and treatment initiated, as specified in §§ 441.80 and 441.85, within 180 days after the initial request for screening or the date rescreening was due under the State's periodicity schedules; or

(ii) The State can show, with supportive evidence, that, within the 180-day time periods, either—

(A) The family or recipient lost eligibility;

(B) The State was not able to locate the family or recipient despite a good faith effort to do so; or

(C) The recipient's failure to receive necessary services was due to an action or decision by the family or recipient, rather than a failure by the State to meet requirements of this subpart, including the requirement to offer and provide the support services specified in § 441.62.

(b) To determine if a penalty will be imposed, HCFA will use the following—

(1) Documentation compiled by the agency as specified in § 441.90;

(2) Sampling techniques; and

(3) Other procedures as HCFA finds necessary.

(c) Whenever a penalty is imposed under this section, the agency is entitled, upon request, to a reconsideration of the penalty in accordance with section 1116(d) of the Act and 45 CFR Part 16.

§ 441.75 Informing a family of the availability of EPSDT services.

(a) No later than 60 days following the date of a family's initial AFDC eligibility determination or of determination after a period of ineligibility, the agency must inform each family of the availability of EPSDT services. This must be done in writing and using face-to-face contact by a person who can explain EPSDT services and benefits. The agency need not inform any family more than twice in a 12-month period.

(b) If no member of an eligible family participates in the EPSDT program, the agency must inform the family in writing at least once each year beginning with [effective date of regulation].

(c) The agency must use each of the following to inform an eligible family:

(1) Clear, nontechnical materials for those families that are to be informed in writing.

(2) Procedures suitable for informing persons who are illiterate, blind, deaf, or cannot understand the English language.

(d) When informing a family about the EPSDT program the agency must give the following information—

(1) The benefits of preventive health services;

(2) How EPSDT services can be obtained;

(3) How specific information can be obtained on the location of the nearest providers participating in EPSDT;

(4) The screening services that the agency offers under its plan;

(5) A summary of the State's periodicity schedule;

(6) That recipients can receive both initial and periodic screening according to the State's periodicity schedule;

(7) That treatment services covered under the plan will be provided for problems disclosed during screening;

(8) That assistance in referral will be given for services not covered under the plan;

(9) That the agency will provide assistance with transportation, to the extent covered under the plan, if the family or recipient requests it;

(10) That the agency will assist in scheduling appointments if the family or recipient requests this assistance;

(11) That as long as the family or recipient remains eligible for AFDC, it may request EPSDT services at any time in the future if it chooses to postpone its decision at the time it is initially informed;

(12) (i) That the family or recipient may choose to receive EPSDT services from a provider of its choice; and

(ii) That if the provider does not offer the full range of EPSDT services as specified in the plan, the family or recipient can receive the services not offered, if the family or recipient requests them from the agency; and

(13) That the EPSDT services covered under the plan are available at no cost.

§ 441.80 Providing for EPSDT services.

(a) The agency must provide for at least those screening and treatment services as specified in § 441.56(a) and (b).

(b) The agency must provide screening services according to a periodicity schedule, as specified in § 441.58.

(c) If a family or recipient chooses to receive EPSDT services from a provider that does not furnish the full range of EPSDT services, the agency must, if requested, provide for all EPSDT services that are not offered by that provider. The agency must provide for such services in the manner specified in this section. In this case, the time frames specified in § 441.71(a)(2) and (3) begin on the date that the family or recipient requests the services from the State that are not offered by the provider.

§ 441.85 Referral for services not in the State plan.

The agency must provide referral assistance for treatment not covered by the plan, but found to be needed as a result of conditions disclosed during screening and diagnosis. This referral assistance must include giving the family or recipient the names, addresses, and telephone numbers of providers who have expressed a willingness to furnish uncovered services at little or no expense to the family.

§ 441.90 Documentation.

The agency must have available, or make available upon request, the following written documentation at the State or local level for review:

(a) Administrative information:

(1) The agency's periodicity schedule.

(2) Written materials used to inform families.

(3) Procedures used to inform those who are illiterate, blind, deaf or cannot understand the English language.

(b) Records or information on services and recipients:

(1) Monthly lists or a sample of those lists as specified by HEW containing, for that month, names and case numbers of:

(i) newly approved AFDC cases;

(ii) AFDC cases where no member of an eligible family participates in the EPSDT program;

(iii) AFDC recipients requesting screening, and the dates of those requests; and

(iv) AFDC recipients due for rescreening under the State's periodicity schedule.

(2) For the cases comprising the sample drawn in paragraph (b) (1) of this section—

(i) Names of AFDC families informed of the availability of EPSDT services, either within 60 days of eligibility determination or on an annual basis, as specified in § 441.75(a) or (b), and the date they were informed;

(ii) Names of AFDC families or recipients who decline initial or periodic EPSDT services, and the date of that declination;

(iii) Names of AFDC families or recipients who choose to receive services from a provider who does not provide the full range of EPSDT services, the date on which they request services that are not covered by that provider, and the dates that these requested services are provided; and

(iv) Names of AFDC families or recipients who were offered and declined support services as specified in § 441.62, and the dates of offer and declination.

(v) Names of AFDC families or recipients who requested support services as specified in § 441.62, and the dates on which the agency provided this assistance.

(3) For each recipient screened by a provider who provides the full range of EPSDT medical services or dental services, or both—

(i) The name and case number of the recipient;

(ii) The dates of each screening;

(iii) The screening services provided and each screening finding, including findings on conditions needing follow-up treatment;

(iv) The dates on which follow-up treatment was initiated for those conditions requiring treatment; and

(v) The names of each recipient who required treatment for conditions not covered by the plan and the efforts to refer them to providers willing to treat them at little or no expense to the family.Q04

(Secs. 403(g), 1102 and 1905(a)(4) of the Social Security Act (42 U.S.C. 603(g), 1302, and 1396d(a)(4))

(Catalog of Federal Domestic Assistance Program No. 13.714, Medical Assistance Program)

Dated: April 4, 1979.

Leonard D. Schaeffer,

Administrator, Health Care Financing Administration.

Approved: May 14, 1979.

Joseph A. Califano, Jr.,

Secretary.

[FR Doc. 79-15529 Filed 5-17-79; 8:45 am]

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Office of the Secretary

45 CFR Part 205

Reduction in Federal AFDC Funds for Failure To Provide Early and Periodic Screening, Diagnosis, and Treatment (EPSDT) Services

AGENCY: Office of the Secretary, HEW.

ACTION: Final regulation.

SUMMARY: This amendment deletes requirements from title 45 specifying the conditions under which Federal AFDC funds will be reduced if a State fails to provide early and periodic screening, diagnosis, and treatment (EPSDT) under Medicaid for AFDC children. These requirements are revised and transferred to 42 CFR Chapter IV, Subchaper C, which contains other Medicaid rules. This rule is a conforming amendment to regulations in title 42.

EFFECTIVE DATE: October 1, 1979.

FOR FURTHER INFORMATION: Mary Tierney (202) 245-7443.

SUPPLEMENTARY INFORMATION: Requirements are now set forth in 45 CFR 205.146(c) that specify the conditions under which a one percent penalty must be levied against the

Federal share of AFDC funds for failure to provide EPSDT services. Published elsewhere in today's **Federal Register** is a regulation that revises and transfers them to 42 CFR Part 441, Subpart B of the Medicaid regulations. Since State Medicaid agencies are responsible for carrying out EPSDT program activities necessary to preclude imposition of the penalty, it is appropriate to publish the penalty regulations with other Medicaid requirements.

This is merely a technical amendment to conform with the Medicaid regulations which were previously published as a proposal with opportunity for public comment. I, therefore, find that there is good cause to waive notice of proposed rulemaking.

45 CFR 205.146 is amended by revising paragraph (c) to read as follows:

§ 205.146 Specific limitations on Federal financial participation under Title IV-A.

* * * * *

(c) *Penalty for failure to provide early and periodic screening, diagnosis and treatment of children under Title XIX of the Act.* Pursuant to section 403(g) of the Act, notwithstanding any other provision of this chapter, total payments to a State under Title IV-A of the Act shall be reduced by 1 percentage point (calculated without regard to any other reduction under this section), on a quarterly basis if the State fails to comply with the requirements set forth in 42 CFR 441.70 through 441.90.

(Sec. 1102 of the Social Security Act (42 U.S.C. 1302).)

(Catalog of Federal Domestic Assistance Program No. 13.808 Public Assistance—Maintenance Assistance (State Aid))

Dated: May 14, 1979.

Joseph A. Califano, Jr.,

Secretary.

[FR Doc. 79-15637 Filed 5-17-79; 8:45 am]

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AGENCY PUBLICATION ON ASSIGNED DAYS OF THE WEEK

The following agencies have agreed to publish all documents on two assigned days of the week (Monday/Thursday or Tuesday/Friday).

This is a voluntary program. (See OFR NOTICE FR 32914, August 6, 1976.)

Monday	Tuesday	Wednesday	Thursday	Friday
DOT/COAST GUARD	USDA/ASCS		DOT/COAST GUARD	USDA/ASCS
DOT/NHTSA	USDA/APHIS		DOT/NHTSA	USDA/APHIS
DOT/FAA	USDA/FNS		DOT/FAA	USDA/FNS
DOT/OHMO	USDA/FSQS		DOT/OHMO	USDA/FSQS
DOT/OPSO	USDA/REA		DOT/OPSO	USDA/REA
CSA	MSPB*/OPM*		CSA	MSPB*/OPM*
	LABOR			LABOR
	HEW/FDA			HEW/FDA

Documents normally scheduled for publication on a day that will be a Federal holiday will be published the next work day following the holiday.

Comments on this program are still invited. Comments should be submitted to the Day-of-the-Week Program Coordinator, Office of the Federal Register, National Archives and Records Service, General Services Administration, Washington, D.C. 20408

***NOTE: As of January 1, 1979, the Merit Systems Protection Board (MSPB) and the Office of Personnel Management (OPM) will publish on the Tuesday/Friday schedule. (MSPB and OPM are successor agencies to the Civil Service Commission.)**

REMINDERS

The items in this list were editorially compiled as an aid to Federal Register users. Inclusion or exclusion from this list has no legal significance. Since this list is intended as a reminder, it does not include effective dates that occur within 14 days of publication.

Rules Going Into Effect Today

HOUSING AND URBAN DEVELOPMENT DEPARTMENT

23067 4–18–79 / Nursing Homes and intermediate care facilities mortgage insurance

Rules Going Into Effect Saturday; May 19, 1979

POSTAL SERVICE

23219 4–19–79 / Ineligibility of mail order catalogs for space available airlift to overseas military post offices

23220 4–19–79 / Revocation of special bulk Third Class rate authorizations for non-use

List of Public Laws

Note: No public bills which have become law were received by the Office of the Federal Register for inclusion in today's List of Public Laws.

Last Listing May 14, 1979

THE FEDERAL REGISTER: WHAT IT IS AND HOW TO USE IT

FOR: Any person who uses the Federal Register and Code of Federal Regulations.

WHO: The Office of the Federal Register.

WHAT: Free public briefings (approximately 2½ hours) to present:

1. The regulatory process, with a focus on the Federal Register system and the public's role in the development of regulations.
2. The relationship between Federal Register and the Code of Federal Regulations.
3. The important elements of typical Federal Register documents.
4. An introduction to the finding aids of the FR/CFR system.

WHY: To provide the public with access to information necessary to research Federal agency regulations which directly affect them, as part of the General Services Administration's efforts to encourage public participation in Government actions. There will be no discussion of specific agency regulations.

WASHINGTON, D.C.

WHEN: June 1, 15; July 6, at 9 a.m. (identical sessions).
WHERE: Office of the Federal Register, Room 9409, 1100 L Street NW., Washington, D.C.
RESERVATIONS: Call Mike Smith, Workshop Coordinator, 202–523–5235.

NEW YORK, NEW YORK

WHEN: May 29 and 30 at 9:30 a.m. (identical sessions).
WHERE: Federal Building, Conference Room 3A, 26 Federal Plaza, New York City.
RESERVATIONS: Call Ms. Dorothy Gemallo, 212–264–3514.

BOSTON, MASSACHUSETTS

WHEN: June 13 and 14 at 9:30 a.m. (identical sessions).
WHERE: John F. McCormack Federal Building, Conference Room 208, Boston.
RESERVATIONS: Call James Mullen, 617–223–2868.

LOS ANGELES, CALIFORNIA

WHEN: June 28 and 29 at 9:00 a.m. (identical sessions).
WHERE: Federal Building, Army Corps of Engineers Conference Room 7412, 300 N. Los Angeles Street
RESERVATIONS: Federal Information Center, 213–688–3800.

SAN FRANCISCO, CALIFORNIA

WHEN: June 28 and 29 at 9:00 a.m. (identical sessions).
WHERE: Federal Building, Room 2007, 450 Golden Gate Avenue
RESERVATIONS: Call Mike Modena or Judy Barbee, Federal Executive Board, 415–556–0250.

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Highlights

29632 **Flexible Subsidy Program** HUD establishes policies and procedures for implementation of troubled multifamily projects; effective 6-19-79, comments by 7-20-79 (Part V of this issue)

29458 **Community Food and Nutrition Program** CSA files final rule revising policy statement; effective 6-20-79

29604 **Railroad Locomotive Inspection** DOT/FRA proposes amendments which would update, consolidate and clarify existing rules; comments by 7-23-79; hearing on 7-10-79 (Part IV of this issue)

29539 **Clean Air** EPA describes status of decision to list arsenic for regulations

29534 **Wastewater Treatment** EPA publishes complete version of guidance issued to EPA regional water divisions

29503 **Hazardous Materials** DOT/RSPA and MTB propose to amend certain regulations pertaining to shipment by aircraft; comments by 7-20-79

29550, 29551 **Hazardous Materials** DOT/MTB issues notice of applications for renewal or modification of exemptions or application to become a party to an exemption of the Department's regulations; comments by 6-5-79

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FEDERAL REGISTER Published daily, Monday through Friday, (not published on Saturdays, Sundays, or on official holidays), by the Office of the Federal Register, National Archives and Records Service, General Services Administration, Washington, D.C. 20408, under the Federal Register Act (49 Stat. 500, as amended; 44 U.S.C. Ch. 15) and the regulations of the Administrative Committee of the Federal Register (1 CFR Ch. I). Distribution is made only by the Superintendent of Documents, U.S. Government Printing Office, Washington, D.C. 20402.

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There are no restrictions on the republication of material appearing in the **Federal Register**.

Area Code 202–523–5240

29580 **Coastal Energy Impact Program** Commerce/NOAA provides rules governing grants and credit assistance to coastal States and communities to help deal with impacts of coastal energy; effective 5–21–79

29431 **Energy: Administrative Procedures** DOE issues notice of interpretation to various regulations

29502 **Federal Acquisition** OMB/FPPO issues notice of availability and request for comment on draft regulation; comments by 7–17–79

29456 **Contract Appeals** GSA/FSS modifies its rules by adding new procedures pertaining to small claims and subpenas; effective 3–1–79

29486 **Air Carriers** CAB proposes to amend existing rules on smoking aboard; comments by 8–20–79

29533 **Light Vehicle Noise Emission** EPA solicits comments on adoption of test procedure; comments by 8–13–79

29492 **Alaska Native Claims Settlement** Interior/BIA proposes certain business procedures of affected lands withdrawn for native selection; comments by 6–20–79

29489 **Sugar and Syrups From the Philippines** Treasury/Customs publishes notice of initiation of countervailing duty investigation; effective 5–21–79

29478 **Totoaba** Commerce/NOAA and Interior/FWS list as endangered species

29566 **Endangered Species–Status Review** Interior/FWS lists wildlife classified as endangered or threatened prior to 1975; comments by 8–20–79 (Part II of this issue)

29552 **Series T–1981** Treasury invites tenders for approximately $2,250,000,000

29563 **Sunshine Act Meetings**

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29566 **Part II, Interior/FWS**
29580 **Part III, Commerce/NOAA**
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Rules and Regulations

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This section of the FEDERAL REGISTER contains regulatory documents having general applicability and legal effect, most of which are keyed to and codified in the Code of Federal Regulations, which is published under 50 titles pursuant to 44 U.S.C. 1510.
The Code of Federal Regulations is sold by the Superintendent of Documents. Prices of new books are listed in the first FEDERAL REGISTER issue of each month.

DEPARTMENT OF AGRICULTURE

Agricultural Marketing Service (Marketing Agreements and Orders; Milk)

7 CFR Part 1079

[Milk Order No. 79; Docket No. AO-295-A33]

Milk in the Iowa Marketing Area; Order Amending Order

AGENCY: Agricultural Marketing Service. USDA.

ACTION: Final rule.

SUMMARY: This action amends the order based on proposals considered at a public hearing held in September 1978. The amended order modifies the definition of "handler", and the basis for pooling distributing plants and supply plants is revised. The changes are needed to reflect current marketing conditions and to insure orderly marketing in the area.

FOR FURTHER INFORMATION CONTACT: Martin J. Dunn, Marketing Specialist, Dairy Division, Agricultural Marketing Service, U.S. Department of Agriculture, Washington, D.C. 20250, 202-447-7311.

SUPPLEMENTARY INFORMATION: Prior documents in this proceeding:

Notice of hearing: Issued September 5, 1978, published September 8, 1978 (43 FR 4028).

Recommended decisions: Issued January 25, 1979, published January 30, 1979 (44 FR 5887).

Final decision: Issued April 16, 1979, published April 19, 1979 (44 FR 23245).

Suspension of rule: Issued April 25, 1979, published April 26, 1979 (44 FR 24560).

Findings and Determinations

The findings and determinations hereinafter set forth are supplementary and in addition to the findings and determinations previously made in connection with the issuance of the aforesaid order and of the previously issued amendments thereto; and all of the said previous findings and determinations are hereby ratified and affirmed, except insofar as such findings and determinations may be in conflict with the findings and determinations set forth herein.

(a) *Findings upon the basis of the hearing record.* Pursuant to the provisions of the Agricultural Marketing Agreement Act of 1937, as amended (7 U.S.C. 601 *et seq.*), and the applicable rules of practice and procedure governing the formulation of marketing agreements and marketing orders (7 CFR Part 900), a public hearing was held upon certain proposed amendments to the tentative marketing agreement and to the order regulating the handling of milk in the Iowa marketing area.

Upon the basis of the evidence introduced at such hearing and the record thereof, it is found that:

(1) The said order as hereby amended, and all of the terms and conditions thereof, will tend to effectuate the declared policy of the Act;

(2) The parity prices of milk, as determined pursuant to section 2 of the Act, are not reasonable in view of the price of feeds, available supplies of feeds, and other economic conditions which affect market supply and demand for milk in the said marketing area, and the minimum prices specified in the order as hereby amended, are such prices as will reflect the aforesaid factors, insure a sufficient quantity of pure and wholesome milk, and be in the public interests; and

(3) The said order as hereby amended, regulates the handling of milk in the same manner as, and is applicable only to persons in the respective classes of industrial or commercial activity specified in, a marketing agreement upon which a hearing has been held.

(b) *Determinations.* It is hereby determined that:

(1) The refusal or failure of handlers (excluding cooperative associations specified in Sec. 8c(9) of the Act) of more than 50 percent of the milk, which is marketed within the marketing area, to sign a proposed marketing agreement, tends to prevent the effectuation of the declared policy of the Act;

(2) The issuance of this order, amending the order, is the only practical means pursuant to the declared policy of the Act of advancing the interests of producers as defined in the order as hereby amended; and

(3) The issuance of the order amending the order is approved or favored by at least two-thirds of the producers who during the determined representative period were engaged in the production of milk for sale in the marketing area.

Order Relative to Handling

It is therefore ordered, That on and after the effective date hereof, the handling of milk in the Iowa marketing area shall be in conformity to and in compliance with the terms and conditions of the aforesaid order, as amended, and as hereby further amended, as follows:

1. In § 1079.7, paragraph (a)(2) is revised, a new paragraph (a)(3) is added, and paragraph (b) is revised to read as follows:

§ 1097.7 Pool plant.

* * * * *

(a) * * *

(2) Not less than 15 percent of such receipts are disposed of as route disposition (except filled milk) in the marketing area; and

(3) A unit consisting of at least two plants operated by a handler shall be considered as one distributing plant for the purpose of meeting the requirements of this paragraph if:

(i) Fluid milk products are processed and packaged at each plant;

(ii) Each plant meets the requirements of paragraph (a)(2) of this section; and

(iii) The handler notified the market administrator in writing before the first day of the month that the plants should be considered as a unit. The unit shall continue from month to month thereafter without further notification. To add plants to the unit, to drop them, or to discontinue the unit, the handler shall notify the market administrator in writing on or before the first day of the month such change is to be made.

(b) Any plant (which, if qualified pursuant to this paragraph, shall be known as a "pool supply plant") that is approved by a duly constituted regulatory agency for the handling of Grade A milk and from which during the

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Federal Register in accordance with the

purchasers. The bulk plants, which are

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month the volume of bulk fluid milk products transferred to pool distributing plants during each of the months of September through November is 35 percent or more and during each of the months of December through August is 20 percent or more of the total Grade A milk received at the plant from dairy farmers and handlers described in § 1079.9(c), including milk diverted therefrom by the plant operator pursuant to § 1079.13, subject to the following conditions:

(1) The shipping percentages of this paragraph may be increased or decreased up to 10 percentage points by the Director of the Dairy Division if he finds that such revision is necessary to result in needed shipments to pool distributing plants for Class I use, or to prevent uneconomic shipments, subject to the following conditions:

(i) Before making such a finding, the Director shall investigate the need for revision either on his own initiative or at the request of interested persons. If the investigation shows that a revision of the shipping percentage might be appropriate, he shall issue a notice stating that the revision is being considered and invite data, views, and arguments; and

(ii) No plant may qualify as a pool plant due to a reduction in the shipping percentage pursuant to this subparagraph unless it had been a pool supply plant during each of the immediately preceding three months.

(2) For plants located within the States of Iowa, Minnesota, Wisconsin, or that portion of Illinois north of Interstate 80, the shipping requirements of this paragraph may also be met in the following ways:

(i) A cooperative association that operates a supply plant may include as qualifying shipments its deliveries to pool distributing plants directly from farms of producers pursuant to § 1079.9(c);

(ii) A proprietary handler may include as qualifying shipments milk diverted pursuant to § 1079.13(d) to pool distributing plants;

(iii) The operator of a supply plant may include as qualifying shipments transfers of fluid milk products to distributing plants regulated under other Federal orders, except that credit for such transfers shall be limited to the amount of milk, including milk shipped directly from producers' farms, delivered to pool distributing plants under this order; and

(iv) Two or more supply plants operated by the same handler or by one or more cooperative associations may qualify for pooling as a unit by meeting the applicable percentage requirements of this paragraph in the same manner as a single plant if the handler submits a written request to the market administrator prior to the first day of September requesting that such plants qualify as a unit for the period of September through August of the following year.

The request shall list the plants to be included in the unit in the sequence in which they shall qualify for pool plant status based on the minimum deliveries required. If the deliveries made are insufficient to qualify the entire unit for pooling, the plant last on the list shall be excluded from the unit, followed by the plant next-to-last on the list, and continuing in this sequence until remaining plants on the list have met the minimum shipping requirements. Each plant that qualifies as a pool plant within a unit shall continue each month as a plant in the unit through the following August unless the plant fails subsequently to qualify for pooling or the handler submits a written request to the market administrator prior to the first day of the month that the plant be deleted from the unit or that the unit be discontinued. Any plant that has been so deleted from the unit, or that has failed to qualify in any month, will not be part of the unit for the remaining months through August. No plant may be added in any subsequent month through the following August to a unit that qualifies in September.

* * * * *

2. In § 1079.9, paragraphs (b) and (c) are revised as follows:

§ 1079.9 Handler.

* * * * *

(b) Any cooperative association with respect to milk of a producer that is diverted for the account of the cooperative association from a pool plant in accordance with § 1079.13;

(c) Any cooperative association with respect to milk that it receives for its account from the farm of a producer for delivery to a pool plant in a tank truck owned and operated by, or under the control of, such cooperative association. If the milk is delivered to the pool plant of another handler, the plant operator may be the handler for such milk if both the cooperative association and the operator of the pool plant notify the market administrator prior to the time that such milk is delivered to the pool plant that the plant operator will purchase such milk on the basis of weights determined from its measurements at the farm and butterfat tests determined from farm bulk tank samples. Milk for which the cooperative is the handler pursuant to this paragraph shall be deemed to have been received by the cooperative at the location of the pool plant to which such milk is delivered;

* * * * *

3. In § 1079.42, paragraph (e) is revised as follows:

§ 1079.42 Classification of transfers and diversions.

* * * * *

(e) *Transfers by a handler described in § 1079.9(c) to pool plants.* Skim milk and butterfat transferred in the form of bulk milk by a handler described in § 1079.9(c) to a pool plant shall be classified pursuant to § 1079.44 pro rata with producer milk received at the transferee-handler's plant.

4. In § 1079.60, paragraph (g) is revised as follows:

§ 1079.60 Handler's value of milk for computing uniform price.

* * * * *

(g) Subtract, for a handler described in § 1079.9(c) the amount obtained from multiplying the Class III price for the preceding month by the hundredweight of skim milk and butterfat contained in inventory at the beginning of the month that was delivered to a handler's pool plant during the month.

5. In § 1079.71, paragraph (a)(2)(i) is revised as follows:

§ 1079.71 Payments to the producer-settlement fund.

(a) * * *

(2) * * *

(i) The value at the uniform price, as adjusted pursuant to § 1079.75, of such handler's receipts of producer milk and milk received from a handler described in § 1079.9(c). In the case of a handler described in § 1079.9(c), less the amount due from handlers pursuant to § 1079.73, exclusive of differential butterfat values; and

* * * * *

(Secs. 1–19, 48 Stat. 31, as amended; 7 U.S.C. 601–674)

Effective date: July 1, 1979.

Signed at Washington, D.C. on: May 15, 1979.

Jerry C. Hill,

Deputy Assistant Secretary.

[FR Doc. 79-15718 Filed 5-18-79; 8:45 am]

BILLING CODE 3410-02-M

DEPARTMENT OF ENERGY

10 CFR Part 205

Administrative Procedures and Sanctions; 1979 Interpretations of the General Counsel

AGENCY: Department of Energy.

ACTION: Notice of Interpretations.

SUMMARY: Attached are the interpretations issued by the Office of General Counsel of the Department of Energy under 10 CFR Part 205, Subpart F, during the period April 1, 1979, through April 30, 1979. Appendix B identifies those requests for interpretation which have been dismissed during the same period.

FOR FURTHER INFORMATION CONTACT: Diane Stubbs, Office of General Counsel, Department of Energy, 12th & Pennsylvania Avenue NW., Room 1121, Washington, D.C. 20461 (202) 633–9070.

SUPPLEMENTARY INFORMATION: Interpretations issued pursuant to 10 CFR 205, Subpart F, are published in the **Federal Register** in accordance with the editorial and classification criteria set forth in 42 FR 7923 (February 8, 1977), as modified in 42 FR 46270 (September 15, 1977).

These interpretations depend for their authority on the accuracy of the factual statement used as a basis for the interpretation (10 CFR Part 205.84(a)(2)) and may be rescinded or modified at any time (§ 205.85(d)). Only the persons to whom interpretations are addressed and other persons upon whom interpretations are served are entitled to rely on them (§ 205.85(c)). An interpretation is modified by a subsequent amendment to the regulation(s) or ruling(s) interpreted thereby to the extent that the interpretation is inconsistent with the amended regulation(s) or ruling(s) (§ 205.85(e)). The interpretations published below are not subject to appeal.

Issued in Washington, D.C., May 15, 1979.

Everard A. Marseglia, Jr.,

Assistant General Counsel for Interpretations and Rulings, Office of General Counsel.

Appendix A.—*Interpretations*

No.	To	Date	Category	File No.
1979–6	Richard L. Robinson, d.b.a. Remington Blue Flame Leon Ritenour, d.b.a. North Manchester Blue Flame Robert E. Snyder, d.b.a. North Webster Blue Flame Robert Blocker, d.b.a. Markle Blue Flame Sulphur Springs L.P. Gas, Inc. Claude Wright, d.b.a. Deshler Blue Flame, Inc. James R. Boone, d.b.a. Madison Blue Flame Robert Ernst, d.b.a. Columbia City Blue Flame D. Gene Bennett, d.b.a. Winamac Blue Flame Chester C. Moore, d.b.a. Blue Blaze Gas Co., Inc. Norman Grosch, d.b.a. Grosch Blue Flame Jerry Spratt, d.b.a. Hillsdale Blue Flame.	Apr. 2	Allocation	A-316 through A-327.
1979–7	Gulf Oil Corporation Mobil Oil Corporation	Apr. 10	Price	A-276 and A-265.

Interpretation 1979–6

To: Richard L. Robinson, d.b.a. Remington Blue Flame; Leon Ritenour, d.b.a. North Manchester Blue Flame; Robert B. Snyder, d.b.a. North Webster Blue Flame; Robert Blocker, d.b.a. Markle Blue Flame; Sulphur Springs L.P. Gas, Inc.; Claude Wright, d.b.a. Deshler Blue Flame, Inc.; James R. Boone, d.b.a. Madison Blue Flame; Robert Ernst, d.b.a. Columbia City Blue Flame; D. Gene Bennett, d.b.a. Winamac Blue Flame; Chester C. Moore, d.b.a. Blue Blaze Gas Co., Inc.; Norman Grosch, d.b.a. Grosch Blue Flame; Jerry Spratt, d.b.a. Hillsdale Blue Flame.

Regulations and Rulings Interpreted: 10 CFR 210.62, 211.51, and Ruling 1975–8.

Code: GCW—AI—Normal business practices and wholesale purchaser-reseller, def.

Facts

Blue Flame Gas Corporation (Blue Flame), a subsidiary of Tenneco Oil Company, supplies liquefied petroleum gas (propane), an allocated product for the purposes of 10 CFR Part 211, to the 12 above-referenced consignees in Indiana and Ohio. These consignees have each filed separate Requests for Interpretation pursuant to 10 CFR 205.80 with the Department of Energy (DOE), all of which are addressed in this Interpretation because they raise essentially the same legal issues in substantially similar factual contexts.

Each of the 12 consignees operates according to the terms and obligations set forth in a "Distributor Agreement," as amended, or "Manager Agreement," as amended, entered into with Blue Flame.[1] Pursuant to these agreements, Blue Flame is obligated to supply propane to bulk plants for delivery to various retail and wholesale purchasers. The bulk plants, which are owned by Blue Flame, consist of a bulk tank with appropriate pumping and metering equipment, propane cylinders and cylinder loading equipment, truck tanks, and cylinders leased to customers. Delivery of the propane for sale by Blue Flame is performed by the 12 consignees, who obtain the product from the Blue Flame bulk plants on a consignment basis. Upon the consummation of the sale to a retail or wholesale purchaser, title to the product passes from Blue Flame directly to the purchaser, and the consignee receives a commission specified in a Blue Flame commission schedule.

The agreements further provide that Blue Flame pays all taxes and insurance on the real property and storage tanks which it owns. However, each consignee assumes responsibility for furnishing all labor and truck chassis necessary for the delivery of propane to customers, as well as the payment of all operating expenses associated with the delivery of Blue Flame's product, including truck maintenance and depreciation, comprehensive automobile liability insurance, fuel for the trucks, licenses, workmen's compensation, unemployment taxes, payrolls, and other related expenses.

The consignees are also obligated by the terms of the agreements to solicit new customers for Blue Flame, while Blue Flame maintains the right to approve credit terms and set propane prices for these customers.[2] Payments collected by the consignees in sales of propane are deposited into a bank account in Blue Flame's name. All customer accounts unpaid for more than 90 days (unless different credit terms have been approved by Blue Flame) become the obligation of the consignee, from whose commissions is deducted the amount of the unpaid account plus interest. However, a consignee has the authority to terminate any customer that fails to settle its account in a timely manner.

The assets utilized by the 12 consignees in the business of distributing Blue Flame product are also substantially the same with certain noted exceptions. All of the consignees own and maintain miscellaneous tools necessary for servicing customers, including specialized propane equipment; an inventory of copper tubing, fittings, repair parts and tank fittings; substantial office equipment required to maintain customer records and service customer repairs; delivery truck chassis, including piping, pumping and metering equipment; and pickup trucks used for delivering 100-pound containers. In addition to these items, Jerry Spratt owns all the 100-pound cylinders used in his business, one delivery truck tank, and the office building and land where he conducts his business; Norman Grosch owns one delivery truck tank; Chester Moore owns two delivery truck tanks and all 100-pound bottle-gas containers used in his business;

[1] For purposes of this Interpretation, the 12 individual agreements between the consignees and Blue Flame will be treated together since the relevant provisions are essentially the same. All of the agreements were entered into prior to June 1971.

[2] The consignees may deliver products at prices lower than those established by Blue Flame if they are willing to accept a commensurate commission decrease.

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and James Boone owns one delivery truck tank and the office building and land where he conducts his business.

The commissions paid by Blue Flame to the consignees constitute their sole remuneration for the services which they perform related to the distribution of Blue Flame's propane. In August 1974, Blue Flame and the 12 consignees executed amendments to their separate agreements which altered the method of computing the commissions paid by Blue Flame.[3]

Based on these facts, the consignees seek classification under the Mandatory Petroleum Allocation Regulations as wholesale purchaser-resellers. If the consignees qualify for such treatment under 10 CFR Part 211, they further assert that the amendments to their commission schedules occurring subsequent to the base period should be treated as deviations from normal business practices in violation of 10 CFR 210.62, and therefore void.

Issues

1. Do these consignees operating as propane distributors for Blue Flame in the manner described above qualify under 10 CFR 211.51 as wholesale purchaser-resellers?

2. If the consignees qualify as wholesale purchaser-resellers, does the normal business practices rule of 10 CFR 210.62 prohibit amendments which have been mutually agreed upon by the parties, and which alter the method by which the consignees' commissions are calculated?

Interpretation

For the reasons set forth below, consignees that distribute propane under the circumstances set forth above qualify as wholesale purchaser-resellers, as that term is defined in 10 CFR 211.51. However, inasmuch as the commissions which the consignees receive for their services in no way constitute an aspect of price related to the sale of an allocated product, the provisions of 10 CFR 210.62 do not prohibit Blue Flame (through amendments to the original commission schedules) from changing the method of computing the consignees' commissions.

A wholesale purchaser-reseller is defined in 10 CFR 211.51 as "any firm which purchases, receives through transfer, or otherwise obtains (as by consignment) an allocated product and resells or otherwise transfers it to other purchasers without substantially changing its form." 39 FR 35472 (October 1, 1974).

The use of the term "as by consignment" in this definition was interpreted in Ruling 1975-8, 40 FR 30037 (July 17, 1975), to allow firms which obtain and resell or otherwise transfer allocated products to qualify as wholesale purchaser-resellers without regard to whether they take legal title to the allocated product. The Ruling further stated:

Therefore, those consignees which have a *substantial degree of operational independence* in the conduct of their business of transfer and sale of a supplier's products (rather than merely providing a distribution service between the supplier and the supplier's customers or functioning like an employee of the supplier) fully qualify as wholesale purchaser-resellers and are subject to the same benefits and obligations of the allocation program which apply to jobbers. (Emphasis added.)

Some of the factors to be considered in determining whether a particular consignee exercises a "substantial degree of operational independence in the conduct of [its] business" were set forth in the following language of Ruling 1975-8:

A consignee which operates in the same manner as an independent jobber, and thereby qualifies as a wholesale purchaser-reseller, *will generally have most (but not necessarily all) of the following characteristics:* (a) appropriate facilities and equipment for the conduct of the business of selling and distributing its supplier's products; (b) responsibility, independent of its supplier, for its internal financial management and physical and administrative operations, (c) responsibility to its supplier and others for expenses and liabilities arising from and connected with the business of transfer and sale of its supplier's products and (d) independent control over the disposition of the allocated product, including the right to enter into and terminate relationships with customers rather than solely being restricted to distributing product to customers designated by the supplier. (Emphasis added.)

It is clear from the above language in Ruling 1975-8, *supra*, that the dispositive issue in determining the status of these 12 consignees is whether they generally have most of the aforementioned characteristics necessary to exhibit a "substantial degree of operational independence" in their business of distributing Blue Flame propane. Since Ruling 1975-8, *supra*, was "intended to provide only general guidance for determining which consignees" qualify as wholesale purchaser-resellers, firms were directed by the Ruling to file a Request for Interpretation with the Office of General Counsel when in doubt as to a particular consignee's status.

On October 14, 1977, the DOE issued an Interpretation to Kellermyer's, Inc., a Blue Flame consignee that distributed propane, concluding that the firm qualified under 10 CFR 211.51 and Ruling 1975-8 as a wholesale purchaser-reseller. *Kellermyer's, Inc.*, Interpretation 1977-39, 42 FR 61271 (December 2, 1977). In a recent Decision and Order denying an appeal of *Kellermyer's* by Tenneco Oil Company (on behalf of Blue Flame), the DOE stated:

We believe that Kellermyer retains a sufficient degree of autonomy in his business to warrant the designation wholesale purchaser-reseller. He owns the trucks used to deliver propane. He hires employees. He pays the expenses of delivery. He solicits new customers. He may unilaterally terminate the contracts of customers who do not pay their bills. Most importantly, Kellermyer must fully compensate Blue Flame for accounts over 90 days due. These facts indicate that Kellermyer plays a considerably greater role than an employee or delivery agent for Blue Flame.

Tenneco Oil Company, No. DIA-0147 (January 15, 1979). These facts and circumstances, as well as the pertinent contractual provisions (including commission schedule amendments) under which Kellermyer's, Inc., operated, are in all essential respects identical to those of the 12 consignees currently seeking an interpretation. Consequently, based upon the determination made in *Kellermyer's*, the DOE concludes that the 12 consignees currently under consideration exercise the substantial degree of operational independence required to qualify as wholesale purchaser-resellers, and they are therefore entitled to the applicable benefits and subject to the applicable obligations prescribed by the Mandatory Petroleum Allocation Regulations.

In their Requests for Interpretation, the 12 consignees have also sought an interpretation that as wholesale purchaser-resellers the contractual amendments modifying the method by which their commissions are computed are void as contrary to 10 CFR 210.62. They assert that such modifications of practices in effect during the base period would constitute a deviation from normal business practices as that term is used in § 210.62.

The relationship between a supplier of petroleum products and a distributor that delivers those products to customers for an agreed-upon commission has been analyzed previously. In *Rotary Gasoline Dealers*, Interpretation 1975-48, 42 FR 23751 (May 10, 1977), we discussed the commissions paid to distributors [4] of petroleum products in the context of the Mandatory Petroleum Price Regulations. That Interpretation determined that the regulations set forth in 10 CFR Part 212 had no application to the distributors' commissions since there was no sale of a covered product by the distributor. In that regard, the Interpretation stated:

[C]ommission agents generally perform services for a seller in connection with the sale of petroleum products, for which they are compensated by the seller pursuant to the terms of a contract between the seller and the agents. There is no sale of product and, hence, no product price is established between the seller and the agent that could be subject to FEA price regulations. The price regulations simply establish the maximum lawful prices the seller may charge in sales made through commission agents.

There are no FEA regulations applicable to the specific terms under which sellers contract for distribution services, just as there are no regulations applicable to the terms under which sellers obtain other services * * *.

Id. at 23751-52. Thus, according to *Rotary Gasoline Dealers*, the Mandatory Petroleum Price Regulations have no application to the terms under which a supplier pays a distributor of petroleum products for its services.

[3] For purposes of this Interpretation, we must presume that such amendments were legally executed by both parties. Claims by consignees of certain defects in the bargaining and execution of these amendments are not appropriately resolved in the context of this Interpretation.

[4] No determination was made in *Rotary Gasoline Dealers* as to whether the particular commission agents involved qualified as wholesale purchaser-resellers.

Notwithstanding the clear application of Part 211 to the Blue Flame consignees that have qualified as wholesale purchaser-resellers, there is no basis upon which to apply either Part 212 or Part 210 of the DOE regulations to their commissions. As stated in 10 CFR 212.2, the price rules are applicable to "each sale or purchase of a covered product in the United States." Inasmuch as consignees do not actually purchase or take title to the products which they distribute, they do not make a sale for purposes of the Mandatory Petroleum Price Regulations. This conclusion was clearly enunciated in *R.C. Fresh, et al.*, Interpretation 1977-8, 42 FR 31144 (June 20, 1977).[5] That Interpretation also addressed the question of the applicability of § 210.62 to the commissions paid to consignees that qualify as wholesale purchaser-resellers. In that regard, the Interpretation stated:

10 CFR § 210.62 is a general regulation concerning "purchasers of an allocated product" and does not govern the consignee-agent relationships which are the subject of this interpretation * * *.

Id. at 31145. Accordingly, the provisions of § 210.62 do not apply to the amendments under consideration which alter the method for computing the commissions paid by suppliers to wholesale purchaser-resellers that receive on a consignment basis allocated products which they deliver to actual purchasers.[6]

Based on the foregoing, Blue Flame is obligated to continue supplying the 12 consignees that qualify as wholesale purchaser-resellers with their allocations of propane in accordance with the Mandatory Petroleum Allocation Regulations. However, since these consignees fail to purchase or take title to the propane which they deliver, § 210.62 does not prohibit a change in the method by which their commissions are calculated.

Issued in Washington, D.C. on April 2, 1979.

Everard A. Marseglia, Jr.,

Assistant General Counsel for Interpretations and Rulings.

Interpretation 1979-7

To: Gulf Oil Corporation, Mobil Oil Corporation

Rule Interpreted: 10 CFR 212.83(c)(2)(iii)(E).

Code: GCW-PI—Refiner Price Formula, "N" Factor, Non-product Cost Increases.

Facts

The Mobil Oil Corporation (Mobil) and the Gulf Oil Corporation (Gulf) are refiners of covered products as those terms are defined in 10 CFR 212.31. Mobil and Gulf are therefore subject to the provisions of Subpart E of the Mandatory Petroleum Price Regulations. 10 CFR 212.81 *et seq.* Accordingly, in determining the maximum prices that they may lawfully charge for covered products to any class of purchaser, Mobil and Gulf must calculate their increased marketing costs pursuant to the provisions of § 212.83(c)(2)(iii)(E).

Issue

Do the provisions of § 212.83 (c)(2)(iii) (E), which govern the computation of increased non-product costs, permit a refiner to calculate the "marketing cost increase" as the difference between the *per-unit* cost of marketing covered products in the month of measurement and the *per-unit* cost of marketing covered products in the month of May 1973?

Interpretation

The Mandatory Petroleum Price Regulations require refiners to calculate the "marketing cost increase" by computing the difference between the total cost of marketing covered products in the month of measurement and the total cost of marketing covered products in the month of May 1973. The regulations do not permit this calculation to be made on a per-unit basis, whether for each unit of refinery output or for each unit of sales volume.

The formulae that refiners are required to use to calculate the maximum allowable price for each covered product are set forth in § 212.83(c)(2). The "N" factor in those formulae is used to compute increases in non-product cost. 10 CFR 212.83(c)(2)(iii)(E). Marketing cost increases, the $F_i{}^1$ factor, constitue an element of the overall non-product cost calculation. The $F_i{}^1$ factor is currently defined as:

$F_i{}^1$ = the marketing cost increase and is the difference between *the cost of marketing covered products* in the month of measurement and the cost of marketing covered products in the month of May, 1973. "Cost of marketing covered products" means the costs attributable to marketing operations with respect to covered products provided that such costs are included only to the extent that they are so attributable under the customary accounting procedures generally accepted and historically and consistently applied by the firm concerned and are not included in computing May 15, 1973 prices, in computing increased product costs, or in computing other increased non-product costs. (Emphasis added.)

10 CFR 212.83(c)(iii)(E).

A full understanding of the calculation of marketing cost increases requires a review of the history of the "F_i" factor. Effective December 1, 1974, the Federal Energy Administration (FEA), a predecessor agency of the Department of Energy, amended the Mandatory Petroleum Price Regulations to define more specifically the categories of non-product cost increases that a refiner is permitted to pass through in prices of covered products. 10 CFR 212.87, 39 FR 42368 (December 5, 1974). Marketing costs were considered to be permissible cost for passthrough purposes and were to be multiplied by a volumetric factor [1] to yield increased non-product costs attributable to those products covered by the Mandatory Petroleum Price Regulations.

However, on August 29, 1975, the FEA amended this provision of the price regulations effective December 1, 1974. 40 FR 39849 (August 29, 1975). As a result, increases in marketing costs were no longer expressly subject to the "V" factor in the formula for "N" used to compute total increased non-product costs. In the preamble FEA explained:

[B]ecause § 212.87(c)(4) defines marketing cost increases as the difference in the marketing costs of only *covered products* in the month of measurement and May 1973, only the increased marketing cost of covered products is calculated. Consequently, there is no need to subsequently multiply this amount by the volume factor of § 212.87(b)(1), since this results in the increased marketing costs attributable to non-covered products being deducted twice. Accordingly, by rewording § 212.87(b) so that "marketing cost increases" are not multiplied by the volume factor, "V''_i/V^o the marketing cost increases attributable to non-covered products are deducted only once. (Emphasis in original.)

The FEA subsequently deleted all of § 212.87 and incorporated it into § 212.83, effective February 1, 1976. 41 FR 15330 (April 12, 1976). At that time, the FEA required computation of increased marketing costs pursuant to the "F_i" factor. The "F_i" factor is the element of the formula set forth in the "N" factor, which is used in computing total increased non-product costs. All other categories of non-product cost increases are computed pursuant to the "E" factor of this formula. The preamble to this amendment clearly specified that "F_i" was to be computed separately from all other non-product cost categories, according to product type, and therefore would not be subject to the '$V_i{}^a$/V^{ao} volumetric allocation factor, which operates on the "E" factor of the formula and therefore on all ono/Product cost categories except marketing cost increase. The present definition of the "F_i" factor, as well as the accompanying limitations on the amount of increased marketing costs for each covered product that may be applied to compute maximum allowable prices, has been in effect since February 1, 1976. Under these circumstances, Mobil's and Gulf's arguments that they were confused as to the proper method for calculating increased marketing costs are not persuasive.[2]

[5] Although this Interpretation refers to the petitioners as "consignee-agents," it had been previously determined that these consignees qualified as wholesale purchaser-resellers in *National Association of Texaco Consignees, Inc.*, Interpretation 1975-19, 42 FR 23736 (May 10, 1977).

[6] It should be noted that this Interpretation, and *R.C. Fresh* apply only to the facts and issues presented in each of them. Thus these Interpretations represent our determination that § 210.62 does not apply to the commissions paid to consignees that qualify as wholesale purchaser-resellers. The Interpretations do not address the application of that regulation to other aspects of the supplier/purchaser relationship established between Blue Flame and the 12 consignees.

[1] The "V" factor appeared as "V''_i/V^o" in 10 CFR 212.87(b), 39 FR 42373 (December 5, 1974). The FEA amended this volumetric factor effective April 1, 1975, and it appeared as "V''_i/V^o" 40 FR 10449 (March 6, 1975).

[2] Mobil and Gulf allege confusion as to the proper method of calculating increased marketing costs. As the source of this confusion they refer to the January 19, 1977, preamble adopting amendments to the "E" factor of § 212.83(c)(2)(iii)(E) (the total increased non-product costs, excluding marketing costs) which stated that "the amount of increase in each category of non-product cost shall be computed by determining the difference between the amount of that cost in the month of measurement *per unit* of refinery output and the amount of that cost in May

Footnotes continued on next page

This conclusion is not altered by the fact that the regulatory limitations on the amounts of marketing cost increase that may be passed through as a portion of total increased non-product costs for various covered products are expressed in terms of cents per gallon. Subsequent limitations on the calculation of total increased marketing costs do not alter the clear language of the marketing cost increase definition, which requires the simple subtraction of the cost of marketing covered products in the month of May 1978 from the cost of marketing covered products in the month of measurement.

However, for the purpose of computing total increases in marketing costs according to product type, refiners must attribute marketing cost increases ("F") in the month fo measurement ("t") to a covered product ("i").[3] An initial accounting allocation between increased marketing costs attributable to non-petroleum products and those attributable to petroleum products may be accomplished by any reasonable method so long as the method selected is one that has been historically and consistently applied by the refiner, is a generally accepted accounting procedure, and accurately accounts for attributable marketing cost increases. A refiner may choose to use a sales dollar basis to perform this accounting allocation because it would be meaningless to add volumes of petroleum products and "volumes" of non-petroleum products (such as automotive tires). Thus, sales dollars provide a common denominator for allocating marketing cost increases between petroleum and non-petroleum products. Allocation of costs between covered and non-covered petroluem products may be made on the basis of volume or sales dollars, so long as the method selected is one that has been historically and consistently applied by the refiner, is a generally accepted accounting procedure and accurately accounts for attributable marketing cost increases.

In summary, from December 1, 1974, to the present, the regulations governing the computation of total increased non-product costs have required that refiners calculate increases in marketing costs by computing the difference between the cost of marketing covered products in the month of measurement and the cost of marketing covered products in the month of May 1973. To determine "the cost of covered products" refiners may use sales dollar comparisons or any other reasonable method that they have historically and consistently applied in order to distinguish accurately between costs of petroleum and non-petroleum products and between costs of covered and non-covered products.

Footnotes continued from last page

1973 *per unit* of refinery output * * *." (Emphasis added.) 42 FR 5023 (January 27, 1977). However, because the amendments adopted to effect this change use a per-unit calculation which operates on the "E" factor (and not the "F_i" factor), and because the definition of the "E" factor itself excludes marketing cost increase, it is clear that these amendments were directed solely towards refining costs and did not deal with marketing costs.

[3] The time period referenced by the superscript "t" is the month of measurement (month preceding the current month). The type of covered products is referenced by the subscript "i".

Accordingly, the regulations relating to marketing cost (F_i) do not permit the use of marketing cost increases calculated on the basis of units of refinery output or sales volume for the purpose of determining a refiner's total increased non-product costs under Subpart E.

Issued in Washington, D.C., April 10, 1979.

Everard A. Marseglia, Jr.,

Assistant General Counsel for Interpretations and Rulings.

Appendix B—*Cases Dismissed*

File No. and Requestor		Category	Date dismissed
A-266	Ethyl Corp	Price	April 10.
A-395	M. T. Stalter	Price	April 25.
A-386	The Termo Co	Price	April 24.

[FR Doc. 79-15662 Filed 5-18-79; 8:45 am]

BILLING CODE 6450-01-M

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

14 CFR Part 39

[Docket No. 78-WE-26-AD; Amdt. 39-3472]

McDonnell Douglas Model DC-9 Series and Military C-9 Series Airplanes; Airworthiness Directives

AGENCY: Federal Aviation Administration (FAA) DOT.

ACTION: Final rule.

SUMMARY: This amendment adopts a new Airworthiness Directive (AD) which requires inspection, rework, and replacement, as necessary, of the forward passenger entry door lock mechanism crank assembly on certain McDonnell Douglas DC-9 airplanes. This AD is necessary to preclude possible failure of the crank assembly that could result in jamming of the full passenger door locking mechanism and prevent the door from being opened.

DATES: Effective June 20, 1979. Compliance schedule—As prescribed in the body of the AD.

ADDRESSES: The applicable service information may be obtained from: McDonnell Douglas Corporation, 3855 Lakewood Boulevard, Long Beach, California 90846, Attn: Director of Publications and Training, C1-750 (54-60).

Also, a copy of the service information may be reviewed at, or a copy obtained from:

Rules Docket in Room 916, FAA, 800 Independence Avenue, SW., Washington, D.C. 20591, or

Rules Docket in Room 6W14, FAA Western Region, 15000 Aviation Boulevard, Hawthorne, California 90261.

FOR FURTHER INFORMATION CONTACT: Jerry J. Presba, Executive Secretary, Airworthiness Directive Review Board, Federal Aviation Administration, Western Region, P.O. Box 92007, World Way Postal Center, Los Angeles, California 90009. Telephone: (213) 536-6351).

SUPPLEMENTARY INFORMATION: A proposal to amend Part 39 of the Federal Aviation Regulations to include an Airworthiness Directive requiring a one time inspection, and rework or replacement, as necessary, of the forward passenger door lock mechanism crank assembly on McDonnell Douglas Model DC-9 airplanes was published in the Federal Register at 44 FR 5149. The proposal was prompted by reports of cracks in the forward passenger entry door locking mechanism crank assembly on McDonnell Douglas DC-9 airplanes, which, if allowed to go undetected, could result in failure of the crank assembly and subsequent jamming of the locking mechanism which could prevent the door from being opened.

Interested persons have been afforded an opportunity to participate in the making of this amemdment, and due consideration has been given to all comments received in response to this notice.

Several commenters recommended that the proposed 1,500 landing compliance time be increased to permit the inspection during a major maintenance check. The FAA has considered the various recommendations and has determined that the 1,500 landing compliance time can be extended without an adverse effect on safety. The rule as adopted, therefore, provides for an inspection compliance time of 3,500 landings.

One commenter questioned the need for reworking the crank assembly parts if the assembly can be properly adjusted during rigging of the locking mechanism. The FAA concurs and the AD as adopted provides for reinstallation of an unmodified part.

One commenter recommended that the AD apply only to those operators who had reworked the crank assembly part(s) in a manner other than that specified in Service Bulletin 52-111, and that relief be given to those operators who have been performing an appropriate inspection of the locking mechanism and crank assembly. The FAA agrees in part with this recommendation. Although some operators may have reworked the part(s) other than as specified in the Service Bulletin 52-111 with the result that an unserrated part was riding on an unserrated surface of the mating part, it is possible that this condition may exist on other DC-9 airplanes and can only be detected by inspection. However, the AD as adopted provides relief for those operators who have conducted inspections per Service Bulletin 52-111 or equivalent inspections.

One commenter noted that this type of failure was an isolated case and the failure was caused by a load in excess of those imposed on the handle during structural substantiation tests conducted by the manufacturer, and therefore, the AD is inappropriate. The FAA agrees in part with these comments; the particular type of failure and subsequent jamming of the door is considered an isolated case however, the FAA continues to believe this general failure could occur in other products of the same type design. The tests referenced in the commenter's discussion were conducted on a new part, and the failed part had evidence of a crack approximately 30% through the root of the serration, prior to the overload that caused the failure. Although this overload was in excess of the handle rigging load, it was determined to be approximately one-third of the test load. If the cracks were allowed to go undetected, it is possible that the strength of the crank assembly could be reduced to a level at which a load approaching that of the rigging load could fail the part and jam the door locking mechanism.

The commenter also stated that there are from five to seven emergency exits on all DC-9 airplanes depending on model and configuration, and that the DC-9 has been demonstrated to have an evacuation capability with only three of the seven or two of the five exits in use. In addition, it was stated that the forward passenger door is used regularly and any malfunction of the door would, in all likelihood, be detected during normal use instead of during one of the infrequent emergency evacuations. The FAA Regulations require all exits on both sides to be available for use during any emergency. In addition, the FAA does not agree that a malfunctioning door would always be detected during normal use. In order to maintain the redundancy of exits and have all exits available and operational during an emergency evacuation, any known defect which would render an exist unusable must be corrected.

Adoption of the Amendment

Accordingly, pursuant to the authority delegated to me by the Administrator, § 39.13 of Part 39 of the Federal Aviation Regulations (14 CFR 39.13) is amended, by adding the following new airworthiness directive:

McDonnell Douglas applies to DC-9 Series and Military C-9 Series airplanes, certificated in all categories.

Compliance is required as indicated.

To detect fatigue cracks in the forward passenger entry door lock mechanism crank assembly parts, P/N 4918613-3 (crank) and P/N 4918613-5 (clevis) accomplish the following:

(a) Within the next 3,500 landings after the effective date of this AD, or before accumulating 22,500 total landings whichever occurs later, comply with the applicable program of inspections and/or corrective actions in accordance with paragraphs (b) and (c) below:

(b) Prior to disassembly, visually inspect the crank assembly P/N 4918613-1 for proper engagement of serrations. If the serrations of the -3 and/or -5 parts are observed to be riding on the unserrated surface of the mating -3 and/or -5 parts, replace both parts per the requirements of paragraph (C)(1)(i) and/or (C)(1)(ii) and/or (C)(1)(iii) of this AD.

(c) If visual inspection of the P/N 4918613-1 crank assembly shows proper engagement of serrations, perform the dye penetrant inspections on the crank assembly parts, P/N 4918613-3 (crank) and P/N 4918613-5 (clevis), in accordance with instructions in Paragraph 2 of McDonnell Douglas DC-9 Service Bulletin 52-111, dated November 15, 1978.

(1) If a crack(s) is found in the -3 crank and/or the -5 clevis or there is evidence, (abrasion, etc.), that a serrated part was riding on an unserrated surface of the mating face, before further flight:

(i) Replace the part(s) with an unmodified -3 crank and/or -5 clevis; or,

(ii) Replace the part(s) with a -3 crank and/or a -5 clevis modified in accordance with instructions of McDonnell Douglas DC-9 Service Bulletin 52-111, dated November 15, 1978; or,

(iii) Replace the cracked part(s) with a new crank, P/N 4918613-11, and/or a new clevis, P/N 4918613-13, in accordance with the instructions in the McDonnell Douglas DC-9 Service Bulletin 52-111, dated November 15, 1978.

Note.—Any combination of parts listed in subparagraphs (i), (ii) and (iii) is acceptable.

(2) If no cracks are found and there is no evidence of a serrated part riding on the unserrated surface of the mating face:

(i) Reinstall the part; or,

(ii) Replace the part(s) per (C)(1)(i) and/or (C)(1)(ii) and/or (C)(1)(iii) above.

(d) Reinstallation and/or replacement of parts in accordance with paragraphs (b), (c)(1) and (c)(2) constitutes terminating action for this AD.

(e) Operators who have accomplished the objective of this AD prior to the effective date of this AD in a manner approved by the Chief, Aircraft Engineering Division, FAA Western Region are exempt from the provisions of this AD.

(f) Alternative inspections, modifications or other actions which provide an equivalent level of safety may be used when approved by the Chief, Aircraft Engineering Division, FAA Western Region.

(g) Special flight permits may be issued in accordance with FAR 21.197 and 21.199 to operate airplanes to a base for the accomplishment of inspections and modifications required by this AD.

(h) For the purpose of complying with this AD, subject to the acceptance by the assigned FAA Maintenance Inspector, the number of landings may be determined by dividing each airplane's hour's time in service by the operator's fleet average time from takeoff to landings for the airplane type.

(i) Upon request of operator, an FAA maintenance inspector, subject to prior approval of the Chief, Aircraft Engineering Division, FAA Western Region may adjust the inspection interval specified in this AD to permit compliance at an established inspection period of the operator, if the request contains substantiating data to justify the increase for that operator.

This amendment becomes effective June 20, 1979.

(Secs. 313(a), 601, and 603, Federal Aviation Act of 1958, as amended [49 U.S.C. 1354(a), 1421, and 1423); sec. 6(c) Department of Transportation Act (49 U.S.C. 1655(c)); and 14 CFR 11.89)

Issued in Los Angeles, California on May 7, 1979.

Leon C. Daugherty,

Director, FAA Western Region.

[FR Doc. 79-15467 Filed 5-18-79; 8:45 am]

BILLING CODE 4910-13-M

14 CFR Part 39

[Docket No. 79-CE-9-AD; Amendment 39-3475]

Cessna 140A, 150, A150, 170, 172, R172, 175, P172, 177, 180, 182, 185/A185, 188/A188, 205, 206, U206/TU206, P206/TP206, 207/T207, 210/T210, 336, and 337/T337 Series Airplanes; Airworthiness Directive

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Final Rule, supersedure of existing Airworthiness Directive.

SUMMARY: This Amendment adds a new Airworthiness Directive (AD), applicable to the above Cessna Series airplanes, which supersedes AD 78-26-09, Amendment 39-3379, (43 FR 60140, 60140, 60141). The new AD revises, clarifies and adds provisions resulting from field comments and FAA investigations and action subsequent to the issuance of AD 78-26-09. It requires installation of vented fuel caps or modifications of existing fuel caps to provide alternate fuel tank venting. This action is necessary because there have been several instances of fuel tank vent system obstruction by foreign material and/or sticking of the fuel vent valve in

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the existing fuel tank vent system. These have caused loss of engine power and resulted in aircraft accidents.

EFFECTIVE DATE: May 29, 1979.

COMPLIANCE TIME: Within 100 hours time-in-service after the effective date of this AD.

ADDRESSES: Cessna Service Letters No. SE77–6, dated March 4, 1977, and ME78–47 (Rev #1), dated February 12, 1979, applicable to this AD, may be obtained from Cessna Aircraft Company, Marketing Division, Attention: Customer Service Department, Wichita, Kansas 67201. Copies of the service instructions cited above are contained in the Rules Docket, Room 916, 800 Independence Avenue, S.W., Washington, D.C. 20591, and at the Office of the Regional Counsel, Room 1558, FAA, Central Region, 601 East 12th Street, Kansas City, Missouri 64106.

FOR FURTHER INFORMATION CONTACT: Donald L. Page, Engineering and Manufacturing Branch, FAA, Central Region, 601 East 12th Street, Kansas City, Missouri 64106; Telephone (816) 374–3446.

SUPPLEMENTARY INFORMATION: On December 26, 1978, the FAA issued AD 78–26–09, Amendment 39–3379 (43 FR 60140, 60141), applicable to certain Cessna Series Airplanes. AD 78–26–09, which became effective January 30, 1979, required installation of vented fuel caps with related adapters and placards, as necessary, in accordance with Cessna Service Letter SE77–6 dated March 4, 1977. Subsequent to the issuance of AD 78–26–09 field comments, FAA investigation, approval of equivalent methods of compliance and release of additional manufacturer's service information have established a need for supersedure of this AD. Specifically, it is necessary to take the following actions: (1) revise the applicability statement to include serial numbers erroneously omitted and to make serial numbers listed consistent with those on the data plates of the affected airplanes; (2) expand the lead-in paragraph of the AD so that the reason for its issuance is more fully explained; (3) add the words "fuel servicing" before the word "placards" in Paragraph A of the AD in order to clarify the placards required; (4) in Paragraph A of the AD, add reference to Cessna Service Letter ME78–47 (Rev #1) dated February 12, 1979, to reflect approval of later improved vented fuel caps on Cessna Models 336 and 337/T337 airplanes; (5) list in Paragraph A of this AD, two presently approved means of compliance, STCs SA728NW and SA2976SW, as alternates to the presently required fuel cap replacements; (6) add a note following Paragraph A of the AD setting forth instructions pertinent to aircraft having two filler caps in each fuel tank; (7) add a new Paragraph B to the AD which permits the owner/operator authorized to perform preventive maintenance under FAR 43 to accomplish the AD where only installation of a different fuel tank cap is required (8) redesignate Paragraph B of the AD to Paragraph C and include therein the mailing address of the Chief, Engineering & Manufacturing Branch, FAA, Central Region; and (9) add a note following Paragraph C of the AD which sets forth identifying information pertaining to the two STC holders and service letters set forth in Paragraph A of the AD.

Due to the numerous changes set forth herein, the FAA has decied to supersede AD 78–26–09 with a new AD applicable to certain serial numbers of Cessna 140A, 150, A150, 170, 172, R172, 175, P172, 177, 180, 182, 185/A185, 188/A188, 205, 206, U206/TU206, P206/TP206, 207/T207, 210/T210, 336 and 337/T337 series airplanes. The new AD, by incorporating these changes, makes additional information respecting compliance with the AD avaiable to the public.

Since these changes are in part either clarifying or relieving in nature and since a situation exists that requires expeditious adoption of this regulation, it is found that notice and public procedure hereon are impracticable and good cause exists for making this amendment effective in less than 30 days.

Adoption of the Amendment

Accordingly, and pursuant to the authority delegated to me by the Administrator, Sec. 39.13 of Part 39 of the Federal Aviation Regulations (14 CFR 39.13) is amended by adding the following new airworthiness directive:

Cessna. Applies to the following series and serial number airplanes certified in all catergories:

Series and Serial Numbers

140A—15200 through 15724
150—617; 628; 649; 17001 through 17999; 59001 through 59016; 15059019 through 15077005
A150—15064970; A1500001 through A1500609
170—609; 18729 through 27169
172—610; 612; 615; 622; 625; 630; 638; 28000 through 29999; 36000 through 36999; 46001 through 47746; 17247747 through 17265684
175—619; 28700A; 55001 through 56777; 17556778 through 17557119
P172—P17257120 through P17257188
R172—P17227189; R1720001 through R1720617
177—661; 17700001 through 17701471; 17701473 through 17701597
180—604; 624; 645; 30000 through 32999; 50001 through 50911; 18050912 through 18052202
182—613; 631; 634; 33000 through 34999; 51001 through 53007; 18253008 through 18260638
185/A185—632; 185–0001 through 185–1599; 18501600 through 18501896
188/A188—With wing tanks; serials: 653; 188–0446 through 188–0572; 18800573 through 18800762
205—641; 205–0001 through 205–0577
206—206–0001 through 206–0275
U206/TU206—U206–0276 through U206–1444; U20601445 through U20601666
P206/TP206—P206–0001 through P206–0603; P20600604 through P20600647
207/T207—20700001 through 20700203
210/T210—616; 618; 57001 through 57575; 21057576 through 21059361; T210–0001 through T210–0454
336—336–0001 through 336–0195
337/T337—337–0001 through 337–1193; 33701194 through 33701405

Compliance: Required as indicated unless already accomplished.

To provide an alternate source of fuel tank venting in case of fuel tank vent obstruction by foreign material and/or sticking of the fuel tank vent valve, within the next 100 hours time-in-service after the effective date of this AD, accomplish the following:

(A) Install applicable vented fuel cap(s) with related adapters and fuel servicing placards in accordance with Cessna Service Letter SE 77–6 dated March 4, 1977, or alternatively for 336 and 337/T337 series airplanes in accordance with Cessna Service Letter ME 78–47 (Rev #1) dated February 12, 1979, or as an equivalent, modify existing fuel tank caps in accordance with STC SA728NW or STC SA2976SW, if applicable.

Note.—On those airplanes having two fuel tank caps in each fuel tank, install only one vented cap in each tank in the outboard filler opening.

(B) The modification required by this AD may be accomplished by those owner/operators authorized to perform preventive maintenance under FAR 43 provided only installation of a different fuel tank cap is necessary. The person accomplishing this modification should make an entry in the aircraft maintenance record indicating compliance with this AD; i.e., "AD 79– – complied with by installing replacement fuel filler cap, Cessna P/N ——— this date ———,

Signature ———.

(C) Any equivalent method of compliance with this AD must be approved by the Chief, Engineering and Manufacturing Branch, ACE–210, FAA, Central Region, 601 E. 12th Street, Kansas City, Missouri 64106.

Note.—Supplemental Type Certificate SA728NW is held by Mr. Dennis H. Ward, Venting Engineering, 5420 A Street, Tacoma, Washington 98408, Phone 206–474–6458. Supplemental Type Certificate SA2976SW is held by Mr. Charles M. Seibel, Flight Bonus Inc., P.O. Box 665, Hurst, Texas 76053, Phone 817–265–1650. Copies of Cessna Service Letters SE 77–6 dated March 4, 1977, and ME 78–47 (Rev #1) dated February 12, 1979, may be obtained from Cessna Aircraft Company, Marketing Division, Attn: Customer Service Department, Wichita, Kansas 67201.

This AD supersedes AD 78–26–09, Amendment 39–3379 (43 FR 60140, 60141).

This Amendment becomes effective May 29, 1979.

(Secs. 313(a), 601, and 603, Federal Aviation Act of 1958, as amended, (49 U.S.C. 1354(a), 1421, and 1423); Sec. 6(c), Department of Transportation Act (49 U.S.C. 1655(c)); and Sec. 11.89 of the Federal Aviation Regulations (14 CFR 11.89).)

Note.—The FAA has determined that this document involves a regulation which is not significant under Executive Order 12044, as implemented by DOT Department of Transportation Regulatory Policies and Procedures (44 FR 11034; February 26, 1979). A copy of the final evaluation prepared for this document is contained in the docket. A copy of it may be obtained by writing to Donald L. Page, Aerospace Engineer, Engineering and Manufacturing Branch, FAA, Central Region, 601 East 12th Street, Kansas City, Missouri; telephone (816) 374–3446.

Issued in Kansas City, Missouri on May 11, 1979.

C. R. Melugin, Jr.,
Director, Central Region.

[FR Doc. 79–15468 Filed 5–18–79; 8:45 am]
BILLING CODE 4910–13–M

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14 CFR Part 39

[Docket No. 79–NW–1–AD Amdt. 39–3474]

Boeing Models 707–300/–400/–300B/–300C Series Airplanes; Airworthiness Directives

AGENCY: Federal Aviation Administration (FAA) DOT.

ACTION: Final rule.

SUMMARY: This Amendment requires inspection to the Boeing Models 707–300/–400/–300B/–300C aircraft to detect stress corrosion cracks in the rear spar upper and lower chords of the horizontal stabilizer. Cracked chords could result in a safety of flight problem if they are not repaired.

DATES: Effective date June 25, 1979.

ADDRESSES: Boeing Service Bulletins specified in this directive may be obtained upon request to the Boeing Commercial Airplane Company, P.O. Box 3707, Seattle, Washington 98124. These documents may also be examined at FAA Northwest Region, 9010 East Marginal Way South, Seattle, Washington 98108.

FOR FURTHER INFORMATION CONTACT: Mr. Harold N. Wantiez, P.E., Airframe Section, Engineering and Manufacturing Branch, FAA Northwest Region, 9010 East Marginal Way South, Seattle, Washington 98108, telephone (206) 767–2516.

SUPPLEMENTARY INFORMATION:

History

Recent inspections of Boeing 707–300 aircraft have detected spanwise stress corrosion cracks in the vertical leg of the upper and lower chord of the horizontal stabilizer rear spar. The cracks are located along a rivet line and at the tangent of the radius and have been found as far outboard as stabilizer Sta 265 and inboard to stabilizer Sta 96. To date, cracks have been found on 50% of the aircraft inspected. If cracks are allowed to go unrepaired, they could coalesce resulting in the structural capability of the outer portion of the horizontal stabilizer being compromised. This amendment is based on a Notice of Proposed Rulemaking [NPRM], (44 FR 6929, February 5, 1979). It was proposed that an Airworthiness Directive (AD) be issued, which would require repetitive inspection, and repair as necessary, of the vertical flange of the rear spar upper and lower chords. The NPRM would require an inspection of the stabilizer chords within six months of the AD's effective date, and thereafter at 18 month intervals until terminating modification action per Boeing Service Bulletin 3356 is accomplished.

Public Participation

All interested persons have been given an opportunity to participate in the making of this amendment, and due consideration has been given to all matters presented. The Boeing Commercial Airplane Company commented, and the Air Transport Association of America (ATA) commented on behalf of the principal U.S. 707–300/–400 operators. ATA also transmitted comments it had received on the proposal from foreign operators. At a joint operators/FAA/Manufacturers meeting held on March 13, 1979, the ATA requested the deadline for comments be extended from March 15, 1979, to April 9, 1979, to permit the submittal of additional economic data by the operators, and an evaluation thereof by the FAA. In 44 FR 19205, April 2, 1979, the comment period was so extended.

Discussion of Comments

The commentators agree that an inspection and rework of the horizontal stabilizer is necessary but they disagree with the initial inspection time of six months from the AD's effective date. Both the manufacturer and the ATA pointed out that, to date, only small cracks have been found which do not compromise the failsafe capability of the stabilizer. It is believed that the cracks have been in existence for many years without detrimental effect and it is doubtful that new ones will be formed in the future. The FAA agrees that the stress corrosion cracks which have been found are primarily the result of manufacturing techniques and have existed for many years. There has been no evidence of fatigue growth, and cracks are in a direction which do not induce fatigue cracking. Since the airlines are currently engaged in an extensive rework of the horizontal stabilizer in accordance with AD 79–01–06 (44 FR 2363, January 11, 1979), they propose that the initial compliance deadline be extended to December 31, 1980 and that, in lieu of inspection, all stabilizers be modified by then, which is coincidental with the terminating action required by AD 79–01–06.

Conclusions

As the commentators pointed out, AD 79–01–06 requires extensive rework of the horizontal stabilizer. That directive principally affects the inboard portion of the stabilizer, including the mid-chord, while the proposal considered herein deals primarily with the outboard portion of the upper and lower chords. However, both modifications require the disassembly of the stabilizer and if the compliance date were extended, as requested, both could be accomplished contemporaneously. Hence, at any given time between now and December 31, 1980, many stabilizers will be modified and the structural problems, as to them, eliminated. Service experience to date has shown that the largest continous crack found has been approximately eleven inches. Fail safety is not compromised until a crack is considerably longer. Such data, over a period extending back as much as ten years, adequately justifies granting the operators request.

After review of all comments, the FAA agrees that action on the horizontal stabilizer chords, with respect to stress corrosion cracks, can be taken, consistent with safety, coincidentally with the mandatory modification action required by AD 79–01–06, which affects the same aircraft structure. In place of inspection, the rule will require modification of the stabilizer but will provide for a compliance date contemporaneously with that established in the companion AD.

Adoption of Amendment

Accordingly, pursuant to the authority delegated to me by the Administrator, Section 39.13 of the Federal Aviation Regulations (14 CFR 3913) is amended by adding the following new Airworthiness Directive.

SUMMARY: This amendment alters

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BOEING: Applies to all Boeing 707–300/–400/–300B/–300C airplanes noted in Boeing Service Bulletin 3356.

No later than December 31, 1980 modify the horizontal stabilizer in accordance with the terminating action specified in Boeing Service Bulletin 3356, or in a manner approved by the Chief, Engineering and Manufacturing Branch, FAA Northwest Region.

The manufacturer's specifications and procedures identified and described in this directive are incorporated herein and made a part hereof pursuant to 5 U.S.C. 552(a)(1). All persons affected by this directive who have not already received these documents from the manufacturer, may obtain copies upon request to the Boeing Commercial Airplane Company, P.O. Box 3707, Seattle, Washington 98124. These documents may also be examined at FAA, Northwest Region, 9010 East Marginal Way South, Seattle, Washington 98108.

(Secs. 313(a), 601, 603, Federal Aviation Act of 1958, as amended (49 U.S.C. 1354(a), 1421, 1423); Sec. 6(c) Department of Transportation Act (49 U.S.C. 1655(c)); 14 CFR 11.89)

Note.—The FAA has determined that this document involves a regulation which is not considered to be significant under the provisions of Executive Order 12044, as implemented by Department of Transportation Regulatory Policies and Procedures (44 FR 11034; February 26, 1979).

Issued in Seattle, Washington, May 10, 1979.

C. B. Walk, Jr.,

Director, Northwest Region.

The incorporation by reference provisions in the document were approved by the Director of the Federal Register on June 19, 1967.

[FR Doc. 79–15469 Filed 5–18–79; 8:45 am]

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14 CFR Part 39

[Docket No. 79–CE–8–AD; Amendment 39–3473]

Cessna Models 401, 401A, 401B, 402, 402A, 402B, 411, and 411A Airplanes; Airworthiness Directive

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Final rule, supersedure of existing Airworthiness Directive.

SUMMARY: This amemdment adopts a new Airworthiness Directive (AD), applicable to all Cessna 401, 401A, 401B, 402, 402A, 402B, 411 and 411A airplanes, which supersedes AD 77–02–05. The new AD requires continuation of the repetitive inspections of certain areas of the wing as previously required by AD 77–02–05 and adds requirements for repetitive inspections of one newly defined area. Procedures for accomplishing all of the above inspections are contained in Cessna Multiengine Service Information Letter ME 79–16, dated April 2, 1979. This action, to be conducted in accordance with the above noted service letter, is required to detect fatigue cracks that may exist or develop in critical areas of the wing front spar lower cap on these model airplanes and assure repair or replacement of cracked components pursuant to instructions provided by the manufacturer.

EFFECTIVE DATE: May 25, 1979.

COMPLIANCE SCHEDULE: As prescribed in the body of the AD.

ADDRESSES: Cessna Multiengine Service Information Letter ME 79–16 applicable to this AD, may be obtained from Cessna Aircraft Company, Marketing Division, Attention: Customer Service Department, Wichita, Kansas 6701; Telephone (316) 685–9111. A copy of the service letter is contained in the Rules Docket, Office of the Regional Counsel, Room 1558, 601 East 12th Street, Kansas City, Missouri 64106 and at Room 916, 800 Independence Avenue, S.W., Washington, D.C. 20591.

FOR FURTHER INFORMATION CONTACT:

Lawrence S. Abbott, Aerospace Engineer, Engineering and Manufacturing District Office Number 43, Room 238, Mid-Continent Airport, Wichita, Kansas 67209; Telephone (316) 942–4219.

SUPPLEMENTARY INFORMATION:

Amendment 39–2815 (39 FR 20784), AD 77–02–05, published in the Federal Register on January 24, 1977, currently requires repetitive eddy current inspections of certain portions of the wing front spar lower cap on all Cessna Model 401, 402, and 411 series airplanes. The inspections, to be accomplished in accordance with Cessna Service Letter ME 76–19, were required to detect fatigue cracks that may have developed in critical areas of the cap and assure the repair or replacement of cracked components pursuant to instructions provided by the manufacturer.

Inspection procedures provided by Service Letter ME 76–19 identified the three areas to be inspected as Areas A, B and C. Inspections for each of these areas on Models 401 and 402 were required within 200 hours' time-in-service on aircraft with 10,800 or more, or upon accumulation of 11,000 hours' time-in-service and at each 1,000 hour's time-in-service interval thereafter. On Model 411 airplanes the initial inspection was required within 200 hours' time-in-service on aircraft with 8,800 or more hours' time-in-service or upon accumulation of 9,000 hours' time-in-service and at each 1,000 hours' time-in-service interval thereafter.

Subsequent to the issuance of AD 77–02–05 an inspection of a Model 402 airplane revealed a separation of the wing front spar lower cap at a location that was not included in those areas that were required to be inspected by AD 77–02–05. Following the manufacturer's investigation of this failure, it has isssued Multiengine Service Information Letter ME 79–16 which provides instructions needed to inspect portions of the lower cap not included in Service Letter ME 76–19. This new service letter continues to identify Inspection Areas A and B as the same locations that were previously identified and no changes have been made in the inspection procedure of these areas. Inspection Area C has been expanded in the new service letter, and procedures for inspecting the newly defined area have been revised from those previously identified.

In addition to the above identified change in the procedures for inspection, Cessna has also recommended that the initial inspection of all three areas be accomplished on Models 401 and 402 airplanes at 6,500 hours with repetitive inspections at 1,000-hour intervals thereafter for Areas A and B, and 400-hour inspection intervals thereafter for Area C. For the Model 411 airplane, Cessna recommends that the initial inspection be accomplished at 5,500 hours with the same intervals between inspections as proposed for the Model 401 and 402 airplanes.

The FAA believes that the latest incident of separation and the investigation of it has shown that sufficient justification exists for requiring the initial inspections of Areas A, B, and C to be accomplished at 6,500 hours' time-in-service on affected Models 401 and 402 airplanes, and at 5,500 hours' time-in-service on affected Model 411 airplanes, with repeated inspections on all affected airplanes at 1,000-hour (Areas A and B) and 400-hour (Area C) intervals thereafter.

Accordingly, FAA has decided to supersede AD 77–02–05 with a new AD applicable to Cessna 401, 401A, 401B, 402, 402A, 402B, 411, and 411A airplanes making compliance with Cessna Multiengine Service Information Letter ME 79–16 mandatory.

Since a situation exists that requires the expeditious adoption of this regulation, it is found that notice and public procedure hereon are impracticable, and good cause exists for making this amendment effective in less than 30 days.

Adoption of the Amendment

In consideration of the foregoing, and pursuant to the authority delegated to me by the Administrator, Section 39.13 of Part 39 of the Federal Aviation Regulations (14 CFR 39.13) is amended by adding the following new Airworthiness Directive:

CESSNA: Applies to Models 401, 401A, 401B, 402, 402A, 402B, 411 and 411A airplanes.

COMPLIANCE: Required as indicated, unless already accomplished.

To detect fatigue cracks in critical components of the wing structure, accomplish the following:

(A) On all 401, 401A, 401B, 402, 402A, and 402B airplanes within 100 hours' time-in-service after the effective date of this AD on aircraft with 6,400 or more hours' time-in-service, or upon the accumulation of 6,500 hours' time-in-service for aircraft with less than 6,400 hours' time-in-service and at each 1,000 hours' time-in-service interval thereafter, and

On all 411 and 411A airplanes within 100 hours' time-in-service after the effective date of this AD on aircraft with 5,400 or more hours' time-in-service or upon the accumulation of 5,500 hours' time-in-service, for aircraft with less than 5,400 hours' time-in-service and at each 1,000 hours' time-in-service interval thereafter:

Inspect areas of the front wing spar lower cap and wing front spar root attach fittings identified as Areas A and B in Figures 1 and 2 of Cessna Multiengine Service Information Letter ME 79–16 dated April 2, 1979, for fatigue cracks using eddy current inspection methods at six (6) locations along the wing front spar lower cap (3 locations on the right wing and 3 identical locations on the left wing) in accordance with Part 2 of the instruction provided in the Service Information Letter.

Note.—High frequency eddy current inspection is used for Areas A and B).

(B) On all 401, 401A, 401B, 402, 402A and 402B airplanes within 100 hours' time-in-service after the effective date of this AD on aircraft with 6,400 or more hours' time-in-service, or upon the accumulation of 6,500 hours' time-in-service for aircraft with less than 6,400 hours' time-in-service and at each 400 hours' time-in-service interval thereafter, and

On all 411 and 411A airplanes within 100 hours' time-in-service after the effective date of this AD on aircraft with 5,400 or more hours' time-in-service or upon the accumulation of 5,500 hours' time-in-service for aircraft with less than 5,400 hours' time-in-service and at each 400 hours' time-in-service interval thereafter:

Inspect right and left front wing spar lower cap areas identified as Area C (crosshatched areas) in Figure 3 of Cessna Multiengine Service Information Letter ME 79–16 dated April 2, 1979, for fatigue cracks using eddy current inspection methods in accordance with Part 3 of the instructions provided in said Service Information Letter.

Note.—Low frequency eddy current inspection is used for Area C).

(C) If cracks are found as a result of any inspection performed pursuant to Paragraphs A and B of this AD, prior to further flight, contact Cessna Aircraft Corporation for repair or replacement instructions approved in accordance with its Delegation Option Authorization and satisfactorily perform said instructions.

(D) Inspection intervals set forth in Paragraphs A and B of this AD may be adjusted up to maximum intervals of 1,050 and 420 hours' time-in-service respectively to allow said inspections to be performed at regularly scheduled inspections or maintenance periods.

(E) Aircraft may be flown in accordance with Federal Aviation Regulation 21.197 to a location where the inspections required by this AD can be performed.

(F) Any equivalent method of compliance with this AD must be approved by the Chief, Engineering and Manufacturing Branch, FAA, Central Region.

Note.—Cessna Aircraft Company requests, in Part 4 of ME 79–16, reporting of the initial inspection results to their Customer Service Department. The FAA encourages mechanics and owner/operators to comply with this request to facilitate the manufacturer's monitoring of this inspection program.

This AD supersedes AD 77–02–05, Amendment 39–2815 (39 FR 20784).

This Amendment becomes effective May 25, 1979.

(Secs. 313(a), 601 and 603, Federal Aviation Act of 1958, as amended (49 U.S.C. 1354(a), 1421, and 1423); Sec. 6(c), Department of Transportation Act (49 U.S.C. 1655(c)); and Sec. 11.89 of the Federal Aviation Regulations (14 CFR 11.89).)

Note.—The FAA has determined that this document involves a regulation which is not significant under Executive Order 12044, as implemented by DOT Department of Transportation Regulatory Policies and Procedures (44 FR 11034; February 26, 1979). A copy of the final evaluation prepared for this document is contained in the docket. A copy of it may be obtained by writing to Lawrence S. Abbott, Aerospace Engineer, Engineering and Manufacturing Branch Office #43, Room 238, FAA, Central Region, Mid-Continent Airport, Wichita, Kansas 67209; Telephone (316) 942–4219.

Issued in Kansas City, Missouri, on May 10, 1979.

C. R. Melugin, Jr.

Director, Central Region.

[FR Doc. 79–15470 Filed 5–18–79; 8:45 am]

BILLING CODE 4910–13–M

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14 CFR Part 73

[Airspace Docket No. 79–EA–21]

Alteration of Restricted Area

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Final rule.

SUMMARY: This amendment alters Restricted Area R–4001B, Aberdeen, Md., by reducing its time of designation and lowering its designated altitudes. An airspace review indicates that the usage of R–4001B can be modified consistent with using agency requirements. This action restores airspace to the public for greater periods of time than the current designation.

EFFECTIVE DATE: August 9, 1979.

FOR FURTHER INFORMATION CONTACT:

Mr. John Watterson, Airspace Regulations Branch (AAT–230), Airspace and Air Traffic Rules Division, Air Traffic Service, Federal Aviation Administration, 800 Independence Avenue, SW., Washington, D.C. 20591; telephone: (202) 426–8525.

SUPPLEMENTARY INFORMATION: The purpose of this amendment to Part 73 of the Federal Aviation Regulations (14 CFR Part 73) is to reduce the time of designation and altitudes of R–4001B from "Surface to unlimited 0700 to 2400 local time and surface to 10,000 feet MSL, 0000 to 0700 local time"; "higher altitudes by NOTAM issued 24 hours in advance" to "Surface to 10,000 feet MSL, higher altitudes by NOTAM issued 24 hours in advance." The time of designation is changed to "Intermittent, as activated by NOTAM 24 hours in advance." Since this action restores airspace for public use for greater periods of time than the current designation, the public has no particular reason to comment, therefore, notice and public procedure are considered unnecessary.

Adoption of the Amendment

Accordingly, pursuant to the authority delegated to me by the Administrator, § 73.40 of Part 73 of the Federal Aviation Regulations (14 CFR Part 73) as republished (44 FR 695) is amended, effective 0901 G.m.t., August 9, 1979, as follows:

Under R–4001B, Aberdeen, Md.

The title and text of Designated altitudes and Time of designation are revoked in their entirety and "Designated altitudes. Surface to 10,000 feet MSL, higher altitudes by NOTAM issued 24 hours in advance." and "Time of designation. Intermittent, as activated by NOTAM 24 hours in advance." are substituted therefor.

(Secs. 307(a) and 313(a), Federal Aviation Act of 1958 (49 U.S.C. 1348(a) and 1354(a)); sec. 6(c), Department of Transportation Act (49 U.S.C. 1655(c)); and 14 CFR 11.69).

Note.—The FAA has determined that this document involves a regulation which is not significant under Executive Order 12044, as

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implemented by DOT Regulatory Policies and Procedures (44 FR 11034; February 26, 1979).

Since this regulatory action involves an established body of technical requirements for which frequent and routine amendments are necessary to keep them operationally current and promote safe flight operations, the anticipated impact is so minimal that this action does not warrant preparation of a regulatory evaluation.

Issued in Washington, D.C., on May 14, 1979.

William E. Broadwater,

Chief, Airspace and Air Traffic Rules Division.

[FR Doc. 79-15712 Filed 5-18-79; 8:45 am]

BILLING CODE 4910-13-M

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14 CFR Part 73

[Airspace Docket No. 79-NE-4]

Alteration of Restricted Area

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Final rule.

SUMMARY: This amendment alters Restricted Area R-4105, No Man's Land Island, Mass., by reducing its time of designation. This action reduces the burden on the public by restoring heretofore restricted airspace for public use on a more frequent basis. The results of a review of the restricted area indicated that a change in operation hours would reflect current and planned usage of the restricted area airspace.

EFFECTIVE DATE: June 20, 1979.

FOR FURTHER INFORMATION CONTACT: Mr. John Watterson, Airspace Regulations Branch (AAT-230), Airspace and Air Traffic Rules Division, Air Traffic Service, Federal Aviation Administration, 800 Independence Avenue, SW., Washington, D.C. 20591; telephone: (202) 426-8525.

SUPPLEMENTARY INFORMATION: The purpose of this amendment to Part 73 of the Federal Aviation Regulations (14 CFR Part 73) is to reduce the time of designation for R-4105 from "0700 to 2400 EST" to "Sunrise to sunset, other times by NOTAM at least 48 hours in advance." This action is taken because a review of the restricted area indicated that a change in operation hours could be effected to meet current and planned usage of the airspace. Since this action restores airspace for public use on a more frequent basis and reduces the burden on the public, there is no particular reason for the public to comment. Therefore, notice and public procedure are unnecessary.

Adoption of the Amendment

Accordingly, pursuant to the authority delegated to me by the Administrator, § 73.41 of Part 73 of the Federal Aviation Regulations (14 CFR Part 73) as republished (44 FR 697) is amended, effective as follows:

Under R-4105, No Man's Land Island, Mass.

Time of designation. "0700 to 2400 EST" is deleted and "Sunrise to sunset, other times by NOTAM at least 48 hours in advance." is substituted therefor.

(Secs. 307(a) and 313(a), Federal Aviation Act of 1958 (49 U.S.C. 1348(a) and 1354(a)); sec. 6(c), Department of Transportation Act (49 U.S.C. 1655(c)); and 14 CFR 11.69).

Note.—The FAA has determined that this document involves a regulation which is not significant under Executive Order 12044, as implemented by DOT Regulatory Policies and Procedures (44 FR 11034; February 26, 1979). Since this regulatory action involves an established body of technical requirements for which frequent and routine amendments are necessary to keep them operationally current and promote safe flight operations, the anticipated impact is so minimal that this action does not warrant preparation of a regulatory evaluation.

Issued in Washington, D.C., on May 14, 1979.

William E. Broadwater,

Chief, Airspace and Air Traffic Rules Division.

[FR Doc. 79-15713 Filed 5-18-79; 8:45 am]

BILLING CODE 4910-13-M

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14 CFR Part 95

[Docket No. 19156; Amdt. No. 95-285]

IFR Altitudes; Miscellaneous Amendments

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Final rule.

SUMMARY: This amendment adopts miscellaneous amendments to the required IFR (instrument flight rule) altitudes and changeover points for certain Federal airways, jet routes, or direct routes for which a minimum or maximum en route authorized IFR altitude is prescribed. These regulatory actions are needed because of changes occurring in the National Airspace System. These changes are designed to provide for the safe and efficient use of the navigable airspace under instrument conditions in the affected areas.

EFFECTIVE DATE: June 14, 1979.

FOR FURTHER INFORMATION CONTACT: Lewis O. Ola, Flight Procedures and Airspace Branch (AFS-730), Aircraft Programs Division, Flight Standards Service, Federal Aviation Administration, 800 Independence Avenue, SW., Washington, D.C. 20591; telephone: (202) 426-8277.

SUPPLEMENTARY INFORMATION: This amendment to Part 95 of the Federal Aviation Regulations (14 CFR Part 95) prescribes new, amended, suspended, or revoked IFR altitudes governing the operation of all aircraft in IFR flight over a specified route or any portion of that route, as well as the changeover points (COPs) for Federal airways, jet routes, or direct routes as prescribed in Part 95. The specified IFR altitudes, when used in conjunction with the prescribed changeover points for those routes, ensure navigation aid coverage that is adequate for safe flight operations and free of frequency interference.

The reasons and circumstances which create the need for this amendment involve matters of flight safety, operational efficiency in the National Airspace System, and are related to published aeronautical charts that are essential to the user and provides for the safe and efficient use of the navigable airspace. In addition, those various reasons or circumstances require making this amendment effective before the next scheduled charting and publication date of the flight information to assure its timely availability to the user. The effective date of this amendment reflects those considerations. In view of the close and immediate relationship between these regulatory change and safety in air commerce, I find that notice and public procedure before adopting this amendment is unnecessary, impracticable, or contrary to the public interest and that good cause exists for making the amendment effective in less than 30 days.

Adoption of the Amendment

Accordingly and pursuant to the authority delegated to me by the Administrator, Part 95 of the Federal Aviation Regulations (14 CFR Part 95) is amended as follows effective at 0901 G.m.t.

[Secs. 307 and 110, Federal Aviation Act of 1958 (49 U.S.C. §§ 1348 and 1510); Sec. 6(c), Department of Transportation Act (49 U.S.C. § 1655(c)); and 14 CFR 11.49(b)(3).]

Note.—The FAA has determined that this document involves a regulation which is not significant under Executive Order 12044, as implemented DOT Regulatory Policies and Procedures (44 FR 11034; February 26, 1979). Since this regulatory action involves an established body of technical requirements for which frequent and routine amendments are necessary to keep them operationally current and promote safe flight operations,

the anticipated impact is so minimal that this action does not warrant preparation of a regulatory evaluation.

Issued in Washington, D.C., on May 14, 1979.

James M. Vines,

Chief, Aircraft Programs Division.

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§95.48 GREEN FEDERAL AIRWAY 8
is amended to read in part:

FROM	TO	MEA
Mordi INT, Alas.	Cold Bay, Alas. NDB	6000
(HF Communication required 6000 to 8000).		

§95.1001 DIRECT ROUTES—U.S.
is amended by adding:

FROM	TO	MEA
Meridian, Miss. VORTAC	Nashville, Tenn. VORTAC	24000 MAA—45000
San Louis Obispo, Calif. VOR	Fellows, Calif. VOR	6400
San Louis Obispo, Calif. VOR	Bakersfield, Calif. VOR	6000
Fellows, Calif. VOR	Sant Marie, Calif. VOR	7000
Fellows, Calif. VOR	Gaviota, Calif. VOR	8000
Fellows, Calif. VOR	Gorman, Calif. VOR	11000
Fellows, Calif. VOR	Bakersfield, Calif. VOR	6400
Fellows, Calif. VOR	Santa Barbara, Calif. VOR	8600
INT. 241 M rad Parkersburg VOR & 160 M rad Zanesville VOR *2500—MOCA	INT 160 M rad Zanesville VOR &240 M rad Bellaire VOR	*3000
INT, 160 M Rad Zanesville VOR & 240 M Rad Bellaire VOR *2500—MOCA	Bellaire, Ohio VOR	*3000
INT. 042 M rad Ardmore VOR 172 M rad Tulsa VOR *2800—MOCA	Tulsa, Okla. VOR	*7000

§95.1001 DIRECT ROUTES—U.S.
is amended to delete:

FROM	TO	MEA
Flint, Mich. VOR	St. Johns INT, Mich.	*2600
Wellington INT, Kans. *2400—MOCA	Ponca City, Okla. VOR	*2800
Wichita, Kans. VOR *2600—MOCA	Wellington INT, Kans.	*2900
Bruce, Ga. NDB	Floyd, Ga. NDB	3100
Sugarloaf MTN. N.C. VOR *6100—MOCA	Liberty, N.C. VOR	*7000

Bahama Routes

V62 is amended by adding

Freeport, Bh. VOR.	Jakel INT, Bh.	2000
Jakel INT, Bh. *1200—MOCA	Angee INT, Bh.	*3000
Angee INT, Bh.	Vero Beach, Fla. VOR	2000

Panama Routes

UG4 is amended by adding

Taboga Island, R.P. NDB	Arnal INT, R.P.	18000 MAA—45000

UB8 is amended by adding

Taboga Island, R.P. NDB	Duxun INT, R.P.	18000 MAA—45000

UB10 is amended by adding

Taboga Island, R.P. NDB	Colby INT, R.P.	18000 MAA—45000

UB11 is amended by adding

Taboga Island, R.P. NDB	Kasor INT, R.P.	18000 MAA—45000

§95.6004 VOR FEDERAL AIRWAY 4
is amended to read in part:

FROM	TO	MEA
Westfall INT, Kans. *2800—MOCA	Salina, Kans. VOR	*4000
Hill City, Kans. VOR Via S alter. *3900—MOCA	Hays, Kans. VOR Via S. alter.	*4500
Hays, Kans VOR Via S alter. *4000—MRA	*Glide INT, Kans. Via S alter.	3900
Glide INT, Kans. Via S alter. *2800—MOCA	Salina, Kans. VOR Via S alter.	*3600
Denver, Colo. VOR	Thurman, Colo. VOR	8000

§95.6006 VOR FEDERAL AIRWAY 6
is amended to read in part:

FROM	TO	MEA
Sidney, Neb. VOR	North Platte, Neb. VOR	6000

§95.6008 VOR FEDERAL AIRWAY 8
is amended to read in part:

FROM	TO	MEA
Akron, Colo. VOR *5770—MOCA	Hayes Center, Neb. VOR	*6400
Hayes Center, Neb VOR Via S alter. *4100—MOCA	Sprit INT, Neb Via S alter.	*6000

§95.6010 VOR FEDERAL AIRWAY 10
is amended to read in part:

FROM	TO	MEA
Disks INT, Kans. Via N alter. *4000—MRA **3300—MOCA	*Steal INT, Kans. Via N alter.	**4500

§95.6012 VOR FEDERAL AIRWAY 12
is amended to read in part:

FROM	TO	MEA
Anthony, Kans. VOR *3400—MRA **2600—MOCA	*Miror INT, Kans.	**3300

§95.6016 VOR FEDERAL AIRWAY 16
is amended by adding:

FROM	TO	MEA
Los Angeles, Calif. VOR Via S alter	Seal Beach, Calif. VOR Via S alter	2500
Seal Beach, Calif. VOR via S alter * 11200—MCA March VOR, SE—bound	*March, Calif. VOR Via S alter	8000
March, Calif. VOR Via S alter	Bands INT, Calif Via S alter W-bound	8000
	E-bound	13000
Bands INT, Calif. Via S alter	Garne INT, Calif. Via S alter	13000
Garne INT, Calif. Via S alter	Palm Springs, Calif. VOR Via S alter W-bound	12000
	E-bound	8000

§95.6035 VOR FEDERAL AIRWAY 35
is amended to delete:

FROM	TO	MEA
Albany, Ga. VOR Via W Alter.	Stier INT, Ga. Via W alter.	2000
Stier INT, Ga. Via W alter.	Pator INT, Ga. Via W alter.	2300
Pator INT, Ga. Via W alter. *2000—MOCA	Byroe INT, Ga. Via W alter.	*3000
Byroe INT, Ga. Via W alter.	Macon, Ga. VOR Via W alter.	2000

§95.6035 VOR FEDERAL AIRWAY 35
is amended to read in part:

FROM	TO	MEA
ST. Petersburg, Fla. VOR	Ended INT, Fla.	2500

§95.6071 VOR FEDERAL AIRWAY 71
is amended to read in part:

FROM	TO	MEA
Pawnee City, Neb. VOR	Lincoln, Neb VOR	3000

§95.6073 VOR FEDERAL AIRWAY 73
is amended to read in part:

FROM	TO	MEA
Fraks INT, Okla.	Wichita, Kans. VOR	3400

§95.6089 VOR FEDERAL AIRWAY 89
is amended to read in part:

FROM	TO	MEA
Albin INT, Wyo. Via E alter.	Scottsbluff, Neb. VOR Via E alter.	7800

§95.6095 VOR FEDERAL AIRWAY 95
is amended to read in part:

FROM	TO	MEA
Zeans DME Fix, Colo.	Powes INT, Colo.	16100
Powes INT, Colo.	*Gunnison, Colo. VOR S-bound	16100
	N-bound	12500
*12500—MCA Gunnison VOR, S-bound *13000—MCA Gunnison VOR, NE-bound		
Gunnison, Colo. VOR	Baloo INT, Colo. NE-bound	16200
	SW-bound	12000
Baloo INT, Colo.	Trees INT, Colo.	16200

§95.6112 VOR FEDERAL AIRWAY 112
is amended to read in part:

FROM	TO	MEA
The Dalles, Ore. VOR *6000—MRA	*Loams INT, Ore.	5300
Loams INT, Ore. *6000—MRA	*Echad INT, Ore.	4000
Echad INT, Ore.	Pendleton, Ore. VOR	4000

§95.6121 VOR FEDERAL AIRWAY 121
is amended to read in part:

FROM	TO	MEA
*Eugene, Ore. VOR Via N alter	Cobur INT, Ore Via N alter NE-bound	5000
	SW-bound	4400
*3300—MCA Eugene VOR, NE-bound		
Cobur INT, Ore. Via N alter	Mobil INT, Ore. Via N alter NE-bound	7000
	SW-bound	5200

§95.6122 VOR FEDERAL AIRWAY 122
is amended to read in part:

FROM	TO	MEA
Obrin INT, Ore. *10000—MRA	*Apple INT, Ore	*8000
Apple INT, Ore.	Gnats DME Fix, Ore.	8000
Gnats DME Fix, Ore.	Medford, Ore. VOR SW-bound	8000
	NE-bound	5500

§95.6132 VOR FEDERAL AIRWAY 132
is amended to read in part:

FROM	TO	MEA
Orion INT, Kans. *10000—MRA **3800—MOCA	*Ranso INT, Kans.	**10000
Ranso INT, Kans. *3500—MOCA	Disks INT, Kans.	*10000
Disks INT, Kans. *4000—MRA **3300—MOCA	*Steal INT, Kans.	**4500
Chanute, Kans. VOR	Walle INT, Kans.	2800
Walle INT, Kans.	Nashe INT, Mo.	2700

§95.6138 VOR FEDERAL AIRWAY 138
is amended to read in part:

FROM	TO	MEA
Grand Island, Kans. *3000—MOCA	Brady INT, Neb.	*3600
Brady INT, Neb. *3100—MOCA	Sewah INT, Neb.	*4000
Sewah INT, Neb.	Lincoln Neb. VOR	3200

§95.6148 VOR FEDERAL AIRWAY 148
is amended to read in part:

FROM	TO	MEA
Hayes Center, Neb. VOR *4400—MOCA	North Platte, Neb. VOR	*4900

§95.6159 VOR FEDERAL AIRWAY 159
is amended to read in part:

FROM	TO	MEA
Blair INT, NEB Via W alter *3500—MRA	Decka INT, Neb. Via W alter	*3000

§95.6160 VOR FEDERAL AIRWAY 160
is amended to delete:

FROM	TO	MEA
Denver, Colo. VOR *7000—MOCA	Rayme INT, Colo.	*8000

§95.6160 VOR FEDERAL AIRWAY 160
is amended to read in part:

FROM	TO	MEA
Denver, Colo. VOR	Flats INT, Colo.	7500
Flats INT, Colo.	Keann INT, Colo.	8000
Keann INT, Colo. *7000—MOCA	Smity INT, Colo.	*9000
Smity INT, Cola *11000—MCA Crikk INT, SW-bound	*Crikk INT, Colo.	11000
Crikk INT, Colo.	Sidney, Neb. VOR	7000

§95.6162 VOR FEDERAL AIRWAY 162
is amended to read in part:

FROM	TO	MEA
Lucketts INT, Va.	Caris INT, Pa.	5000
Caris INT, Pa.	Harrisburg, Pa. VOR	4000

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§95.6169 VOR FEDERAL AIRWAY 169
is amended by adding:

FROM	TO	MEA
Bismarck, N.D. VOR	Devils Lake, N.D. VOR	4000

§95.6169 VOR FEDERAL AIRWAY 169
is amended to read in part:

FROM	TO	MEA
Chadron, Neb. VOR	Wayside INT, VOR	6900

§95.6172 VOR FEDERAL AIRWAY 172
is amended to read in part:

FROM	TO	MEA
Wolbach, Neb. VOR	Columbus, Neb. VOR	*3800
*3300—MOCA		

§95.6181 VOR FEDERAL AIRWAY 181
is amended to read in part:

FROM	TO	MEA
Omaha, Neb. VOR	Kenar INT, Neb.	3500
Kenar INT, Neb.	Norfolk, Neb. VOR	*3500
*3000—MOCA		

§95.6207 VOR FEDERAL AIRWAY 207
is amended to read in part:

FROM	TO	MEA
Gill, Colo. VOR	Scottsbluff, Neb. VOR	7300

§95.6214 VOR FEDERAL AIRWAY 214
is amended to read in part:

FROM	TO	MEA
Wooly INT, Md.	Baltimore, Md VOR	2300

§95.6220 VOR FEDERAL AIRWAY 220
is amended to read in part:

FROM	TO	MEA
Denver, Colo. VOR	Flats INT, Colo.	7500
Flats INT, Colo.	Keann INT, Colo.	8000
Keann INT, Colo.	Wiggi INT, Colo.	*9000
*7000—MOCA		

§95.6231 VOR FEDERAL AIRWAY 231
is amended to read in part:

FROM	TO	MEA
Salmon, Ida. VOR	Tuffy INt, Mont.	12000
Tuffy INT, Mont.	*Missoula, Mont. VOR	
	S-bound	12000
	N-bound	9000
*10000—MCA Missoula VOR, S-bound		

§95.6234 VOR FEDERAL AIRWAY 234
is amended to read in part:

FROM	TO	MEA
Liberal, Kans. VOR	Flack INT, Kans.	4600
Krier INT, Kans.	Byway INT, Kans.	*7100
*3700—MOCA		
Emporia, Kans. VOR	Butler, Mo. VOR	3000

§95.6244 VOR FEDERAL AIRWAY 244
is amended to read in part:

FROM	TO	MEA
Hays, Kans. VOR	*Glide INT, Kans.	3900
*4000—MRA		

§95.6247 VOR FEDERAL AIRWAY 247
is amended to read in part:

FROM	TO	MEA
Scottsbluff, Neb. VOR	Douglas, Wyo. VOR	8100

§95.6263 VOR FEDERAL AIRWAY 263
is amended to read in part:

FROM	TO	MEA
Hugo, Colo. VOR	Denver, Colo. VOR	8000

§95.6298 VOR FEDERAL AIRWAY 298
is amended by adding:

FROM	TO	MEA
*Seattle, Wash. VOR	Vamps INT, Wash	
	E-bound	8000
	W-bound	4000
*4300—MCA Seattle VOR, E-bound		
Vamps INT, Wash.	Rumar INT, Wash.	8000
Rumar INT, Wash.	Pertt INT, Wash.	*8000
*7500—MOCA		
Pertt INT, Wash.	Yakima, Wash. VOR	6500

§95.6313 VOR FEDERAL AIRWAY 313
is amended to read in part:

FROM	TO	MEA
Decatur, Ill. VOR	Pontiac, Ill. VOR	3000

§95.6316 VOR FEDERAL AIRWAY 316
is amended to read in part:

FROM	TO	MEA
Hermy INT, Mich	Marquette, Mich. VOR	*4000
*3100—MOCA		

§95.6362 VOR FEDERAL AIRWAY 362
is amended to read:

FROM	TO	MEA
Macon, Ga. VOR	Norcross, Ga. VOR	*5000
*3000—MOCA		

§95.6494 VOR FEDERAL AIRWAY 494
is amended to read in part:

FROM	TO	MEA
*Geter INT, Calif.	Santa Rosa, Calif VOR	4000
*7000—MRA		

§95.6516 VOR FEDERAL AIRWAY 516
is amended to read in part:

FROM	TO	MEA
Tyrae INT, Kans.	Oswego INT, Kans.	2700

§95.6536 VOR FEDERAL AIRWAY 536
is amended to read in part:

FROM	TO	MEA
Shedd INT, Ore	Lathe INT, Ore.	4000
Lathe INT, Ore.	*Trams INT, Ore.	6000
*8300—MCA Trams INT, E-bound		
Trams INT, Ore.	Monte INT, Ore.	*10000
*7800—MOCA		
Monte INT, Ore.	Redmond, Ore. VOR	10000

§95.7004 JET ROUTE NO. 4
is amended by adding:

FROM	TO	MEA	MAA
Los Angeles, Calif. VORTAC	Twentynine Palms, Calif. VORTAC	18000	45000

§95.7009 JET ROUTE NO. 9
is amended to delete:

FROM	TO	MEA	MAA
Daggett, Calif. VORTAC	Boulder City, Nev. VORTAC	18000	45000
Boulder City, Nev. VORTAC	Milford, Utah VORTAC	18000	45000

§95.7009 JET ROUTE NO. 9
is amended by adding:

FROM	TO	MEA	MAA
Daggett, Calif. VORTAC	Las Vegas, Nev. VORTAC	18000	45000
Las Vegas, Nev. VORTAC	Milford, Utah. VORTAC	18000	45000

§95.7076 JET ROUTE NO. 76
is amended to delete:

FROM	TO	MEA	MAA
Boulder City, Nev. VORTAC	Tuba City, Ariz. VORTAC	18000	45000

§95.7076 JET ROUTE NO. 76
is amended by adding:

FROM	TO	MEA	MAA
Las Vegas, Nev. VORTAC	Tuba City, Ariz. VORTAC	18000	45000

§95.7078 JET ROUTE NO. 78
is amended to delete:

FROM	TO	MEA	MAA
Los Angeles, Calif, VORTAC	Ontario, Calif. VORTAC	18000	45000
Ontario, Calif. VORTAC	Parker, Calif. VORTAC	18000	45000

§95.7078 JET ROUTE NO. 78
is amended by adding:

FROM	TO	MEA	MAA
Las Angeles, Calif. VORTAC	Seal Beach, Calif. VORTAC	18000	45000
Seal Beach, Calif. VORTAC	Thermal, Calif. VORTAC	18000	45000
Thermal, Calif. VORTAC	Parker, Calif. VORTAC	18000	45000

§95.7093 JET ROUTE NO. 93
amended to read

FROM	TO	MEA	MAA
U.S. Mexican Border	Julian, Calif. VORTAC	18000	45000
Julian, Calif. VORTAC	Ontario, Calif. VORTAC	18000	45000
Ontario, Calif. VORTAC	Los Angeles, Calif. VORTAC	18000	45000

§95.7096 JET ROUTE NO. 96
is amended to delete:

FROM	TO	MEA	MAA
Los Angeles, Calif. VORTAC	Seal Beach, Calif. VORTAC	18000	45000
Seal Beach, Calif, VORTAC	Thermal, Calif. VORTAC	18000	45000
Thermal, Calif. VORTAC	Parker, Calif. VORTAC	18000	45000
Parker, Calif. VORTAC	Prescott, Ariz. VORTAC	18000	45000
Prescott, Ariz. VORTAC	Gallup, N. Mex. VORTAC	22000	45000

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§95.7096 JET ROUTE NO. 96
is amended by adding:

FROM	TO	MEA	MAA
Los Angeles, Calif. VORTAC	Ontario, Calif. VORTAC	18000	45000
Ontario, Calif. VORTAC	Parker, Calif. VORTAC	18000	45000
Parker, Calif. VORTAC	Prescott, Ariz. VORTAC	18000	45000
Prescott, Ariz. VORTAC	Gallup, N. Mex. VORTAC	18000	45000

§95.7100 JET ROUTE NO. 100
is amended to delete:

FROM	TO	MEA	MAA
Daggett, Calif. VORTAC	Boulder City, Nev. VORTAC	18000	45000
Boulder City, Nev. VORTAC	Bryce Canyon, Utah VORTAC	18000	45000

§95.7100 JET ROUTE NO. 100
is amended by adding:

FROM	TO	MEA	MAA
Daggett, Calif. VORTAC	Las Vegas, Nev. VORTAC	18000	45000
Las Vegas, Nev. VORTAC	Bryce Canyon, Utah VORTAC	18000	45000

§95.7104 JET ROUTE NO. 104
is amended by adding:

FROM	TO	MEA	MAA
Los Angeles, Calif. VORTAC	Twentynine Palms, Calif. VORTAC	18000	45000

§95.6107 JET ROUTE NO. 107
is amended to delete:

FROM	TO	MEA	MAA
Los Angeles, Calif. VORTAC	Daggett, Calif. VORTAC	18000	45000
Daggett, Calif. VORTAC	Boulder City, Nev. VORTAC	18000	45000

§95.7107 JET ROUTE NO. 107
is amended by adding:

FROM	TO	MEA	MAA
Los Angeles, Calif. VORTAC	Ontario, Calif. VORTAC	18000	45000
Ontario, Calif. VORTAC	Hector, Calif. VORTAC	18000	45000
Hector, Calif. VORTAC	Boulder City, Nev. VORTAC	18000	45000

§95.6128 JET ROUTE NO. 128
is amended to delete:

FROM	TO	MEA	MAA
Los Angeles, Calif. VORTAC	Hector, Calif. VORTAC	18000	45000
Hector, Calif. VORTAC	Peach Springs, Calif. VORTAC	18000	45000

§95.7128 JET ROUTE NO. 128
is amended by adding:

FROM	TO	MEA	MAA
Los Angeles, Calif. VORTAC	Ontario, Calif. VORTAC	18000	45000
Ontario, Calif. VORTAC	Peach Springs, Calif. VORTAC	25000	45000

§956134 JET ROUTE NO.134
is amended to delete:

FROM	TO	MEA	MAA
Los Angeles, Calif. VORTAC	Twentynine Palms, Calf. VORTAC	18000	45000
Twentynine Palms, Calif. VORTAC	Choos INT, Ariz.	20000	45000
Choos INT, Ariz.	Winslow, Ariz. VORTAC	18000	45000
Winslow, Ariz, VORTAC	Gallup, N.M. VORTAC	18000	45000

§95.7134 JET ROUTE NO. 134
is amended by adding:

FROM	TO	MEA	MAA
Los Angeles, Calif. VORTAC	Seal Beach, Calif. VORTAC	18000	45000
Seal Beach, Calif, VORTAC	Thermal, Calif. VORTAC	18000	45000
Thermal, Calif. VORTAC	Parker, Calif. VORTAC	18000	45000
Parker, Calif. VORTAC	Prescott, Ariz. VORTAC	18000	45000
Prescott, Ariz. VORTAC	Gallup, N. Mex. VORTAC	18000	45000

§95.6146 JET ROUTE NO. 146
is amended to delete:

FROM	TO	MEA	MAA
Los Angeles, Calif. VORTAC	Ontario, Calif. VORTAC	18000	45000
Ontario, Calif. VORTAC	Hector, Calif. VORTAC	18000	45000
Hector, Calif. VORTAC	Boulder City, Nev VORTAC	18000	45000
Boulder City, Nev. VORTAC	Dove Creek, Colo. VORTAC	#18000	45000

#MEA is established with a gap in navigation signal coverage

FROM	TO	MEA	MAA

is amended by adding:
§95.7146 JET ROUTE NO. 146

Los Angeles, Calif. VORTAC	Daggett, Calif. VORTAC	18000	45000
Daggett, Calif. VORTAC	Las Vegas, Nev. VORTAC	18000	45000
Las Vegas, Nev. VORTAC	Dove Creek, Colo. VORTAC	#19000	45000

#MEA is established with a gap in navigation signal coverage

§95.7154 JET ROUTE NO 154 is deleted:

§95.6164 JET ROUTE NO. 164 is deleted:

§95.7198 JET ROUTE NO 198 is amended to delete:

FROM	TO	MEA	MAA
Linden, Calif. VORTAC	Mina, Nev. VORTAC	23000	45000

§95.7200 JET ROUTE NO 200 is deleted:

2. By amending Sub-part D as follows:

§95.8005 JET ROUTES CHANGEOVER POINTS

AIRWAY SEGMENT FROM	TO	CHANGEOVER POINT DISTANCE FROM	
J-96 is amended by adding:			
Prescott, Ariz. VORTAC	Gallup, N. Mex. VORTAC	77	Prescott
J-128 is amended by adding:			
Ontario, Calif. VORTAC	Peach Springs, Ariz. VORTAC	103	Ontario
J-134 is amended by adding:			
Prescott, Ariz. VORTAC	Gallups, N. Mex. VORTAC	77	Prescott

[FR Doc. 79-15466 Filed 5-18-79; 8:45 am]
BILLING CODE 4910-13-C

property must not be commingled with

DEPARTMENT OF COMMERCE

Industry and Trade Administration

15 CFR Part 373

Revision of the Distribution License Procedure and the List of Computer Consignee Countries

AGENCY: Office of Export Administration, Bureau of Trade Regulation, U.S. Department of Commerce.

ACTION: Final rule.

SUMMARY: This revision amends controls to allow the export of more sophisticated computers to certain destinations under special license procedures. This revision is made in order to keep controls in step with rapidly advancing computer technology.

EFFECTIVE DATE: May 21, 1979.

FOR FURTHER INFORMATION CONTACT: Dale F. Snell, Jr., Chief, Management Services Branch, Operations Division, Office of Export Administration, U.S. Department of Commerce, Washington, D.C. 20230 (Tel. 202–377–2440).

SUPPLEMENTARY INFORMATION: It has been determined that this regulatory revision is "not significant" within the meaning of Department of Commerce Administrative Order 218–7 (44 FR 2082 *et seq.*, January 9, 1979) and Industry and Trade Administration Administrative Instructions 1–6 (44 FR 2093 *et seq.*, January 9, 1979), which implement Executive Order 12044 (43 FR 12661 *et seq.*, March 23, 1978), "Improving Government Regulations."

This revision amends the Distribution License procedure to permit exports of more complex computers to certain destinations, so that these computers may now be exported to approved consignees without the case-by-case review that has been required in the past.

This change is effected by dividing the Computer-Consignee Destinations that have been listed in Supplement No. 2 to Part 373 into two lists of countries and by footnoting the first computer entry in Supplement No. 1 to Part 373 to indicate which computers may be sent to the destinations in each list. A new footnote is added to both computer entries to indicate that computers related to nuclear activity may not be exported under the Distribution License procedure. These changes also apply to the Foreign-Based Warehouse procedure until that procedure is revoked on June 30, 1979.

Accordingly, Part 373 of the *Export Administration Regulations* (15 CFR Part 373) is amended as follows:

1. Supplement No. 1 to Part 373 is amended as follows:

Supplement No. 1 to Part 373—Commodities Excluded From Certain Special License Procedures

* * * * *

1565[1,2] Electronic computers exceeding a CPU bus rate of 60 million bits per second or a processing data rate of 20 million bits per second.

1565[2,3] Other electronic computers, analog or digital (including digital differential analyzers).

2. Supplement No. 2 to Part 373 is revised to read as follows:

Supplement No. 2 to Part 373—Computer—Consignee Destinations (List A)

Note.—See Footnote No. 1 to entry number 1565 in Supp. No. 1 to Part 373 for computers that may be exported to countries listed below.

Australia, Belgium, Denmark, France, Germany, Federal Republic of, Greece, Iceland, Italy, Japan, Luxembourg, Netherlands, New Zealand, Norway, Portugal, Turkey, United Kingdom.

3. A new Supplement No. 3 to Part 373 is established as follows:

Supplement No. 3 to Part 373—Computer—Consignee Destinations (List B)

Note.—See Footnote No. 1 to entry number 1565 in Supp. No. 1 to Part 373 for computers that may be exported to countries listed below.

Afghanistan, Austria, Bahamas, The, Barbados, Benin, Bolivia, Botswana, Burundi, Cameroon, Central African Empire, Chad, Colombia, Congo, Costa Rica, Cyprus, Dominican Republic, Ecuador, El Salvador, Ethiopia, Fiji, Finland, Gabon, Gambia, The, Ghana, Grenada, Guatemala, Guinea-Bissau, Haiti, Honduras, Hong Kong, Indonesia, Iran, Ireland, Ivory Coast, Jamaica, Jordan, Kenya, Korea, Republic of, Lebanon, Lesotho, Liberia, Liechtenstein, Luxembourg, Madagascar, Malaysia, Maldives, Mali, Malta, Mauritius, Mexico, Morocco, Nepal, Nicaragua, Nigeria, Panama, Paraguay, Peru, Philippines, Rwanda, San Marino, Senegal, Sierra Leone, Singapore, Somalia, Sri Lanka, Sudan, Surinam, Swaziland, Sweden, Switzerland, Thailand, Togo, Tonga, Trinidad and Tobago, Tunisia, Upper Volta, Uruguay, Vatican City, Venezuela, Western Samoa, Yugoslavia, Zaire.

(Sec. 4, Pub. L. 91–184, 83 Stat. 842 (50 U.S.C. App. 2403), as amended; E.O. 12002, 42 FR 35623 (1977); Department Organization Order 10–3, dated December 4, 1977, 42 FR 64721 (1977); and Industry and Trade Administration Organization and Function Order 45–1, dated December 4, 1977, 42 FR 64716 (1977).)

Stanley J. Marcuss,

Deputy Assistant Secretary for Trade Regulation.

[FR Doc. 79–15721 Filed 5–16–79; 1:33 pm]

BILLING CODE: 3510–25–M

[1] Under the Distribution License procedure, electronic computers that do not exceed either a CPU bus rate of 500 million bits per second or a processing data rate of 225 million bits per second may be exported to approved consignees in destinations listed in Supplement No. 2 to Part 373. Electronic computers that do not exceed either a CPU bus rate of 200 million bits per second or a processing data rate of 60 million bits per second may be exported under the Distribution License procedure to approved consignees in destinations listed in Supplement No. 3 to Part 373.

This exception also applies to any device, apparatus or accessory that upgrades a computer within the limits defined above.

[2] Distribution licenses are not valid for the export of computers to ultimate consignees engaged directly or indirectly in any of the following activities—

(a) Designing, developing or fabricating nuclear weapons or nuclear explosive devices; or devising, carrying out, or evaluating nuclear weapons tests or nuclear explosions;

(b) Designing, assisting in the design of, constructing, fabricating or operating facilities for the chemical processing of irradiated special nuclear material, for the production of heavy water, for the separation of isotopes of any source or special nuclear material, or specially designed for the fabrication of nuclear reactor fuel containing plutonium;

(c) Designing, assisting in the design of, constructing, fabricating or furnishing equipment or components specially designed, modified or adapted for use in such facilities; or

(d) Training personnel in any of the above activities.

[3] Excluded from Project License Procedure. Any device, apparatus or accessory that upgrades a computer within the limits set forth in the first 1565 entry or in footnote 1 above may be exported under the Distribution License procedure.

COMMODITY FUTURES TRADING COMMISSION

General Regulations Under the Commodity Exchange Act; Definition of "Proprietary Account"

17 CFR Part 1

AGENCY: Commodity Futures Trading Commission.

ACTION: Final rule.

SUMMARY: The Commodity Futures Trading Commission ("Commission") is amending the definition of the term "proprietary account" contained in Title 17, Chapter I, Part 1, § 1.3, paragraph (y) of the Code of Federal Regulations. The purpose of the amendment is to provide that the term shall mean a commodity futures account of which ten percent or more is owned by one, or of which an aggregate of ten percent or more is owned by more than one, of the persons listed in § 1.3(y). Under the Commission's present definition certain accounts, such as commodity pool accounts, which are even partly owned

by such persons are classified as proprietary rather than customer accounts, and, as a result, such accounts are denied the benefits and protections afforded customer accounts under the Commodity Exchange Act ("Act") and the Commission's regulations under that Act. The effect of the amendment is to narrow the definition of the term "proprietary account" under § 1.3(y) and thereby increase the number of accounts which are accounts of "customers" as defined in § 1.3(k) (17 CFR 1.3(k)) of the Commission's regulations.

EFFECTIVE DATE: July 20, 1979.

FOR FURTHER INFORMATION CONTACT: Lawrence B. Patent, Attorney, Office of the Chief Counsel, Division of Trading and Markets, Commodity Futures Trading Commission, 2033 K Street, N.W., Washington, D.C. 20581, (202) 254–8955.

SUPPLEMENTARY INFORMATION: On December 5, 1978, the Commission published a proposed rule change (43 FR 56904) to amend the definition of "proprietary account" (17 CFR 1.3(y)). As the Commission stated at that time, the present definition of the term "proprietary account" was adopted by the Commission's predecessor, the Commodity Exchange Authority (39 FR 28618, August 9, 1974). The primary purpose of the proposed change was to narrow the definition of the term "proprietary account" under § 1.3(y) and thereby increase the number of accounts which are accounts of "customers" as defined in § 1.3(k) (17 CFR 1.3(k)) of the Commission's regulations.

All of the comments received in response to the proposed amendment favored its adoption on grounds similar to those stated by the Commission in its proposal to amend § 1.3(y).[1] Accordingly, the Commission has decided to adopt the amendment to § 1.3(y) in the same form in which it was proposed.

Purpose of the Amended Rule

Under § 1.3(k) the terms "customer" or "commodity customer" refer to a customer trading in any commodity (as defined in the Commission's regulations). Pursuant to this same section, however, an owner or holder of a proprietary account as defined in § 1.3(y) is not deemed to be a customer within the meaning of section 4d of the Act, the regulations that implement sections 4d and 4f of the Act, and § 1.35 of the Commission's regulations.[2] These provisions relate principally to certain requirements in four areas: (a) registration; (b) segregation; (c) record keeping; and (d) minimum financial. In each such area (with the exception of the minimum financial requirements), certain benefits and protections are afforded to customer accounts which are not afforded to proprietary accounts. By narrowing the definition of proprietary account to exclude those commodity accounts not significantly owned by one of the persons listed in § 1.3(y), owners of such accounts will no longer be excluded from the definition of "customer" contained in § 1.3(k) and will receive the benefits and protections which result from this classification.

Registration

Section 4d of the Act and § 1.7 of the Commission's regulations basically require each person engaged in the solicitation or acceptance of orders for the purchase or sale of any commodity for future delivery, on or subject to the rules of any contract market, to register as a futures commission merchant ("FCM"). However, persons trading solely for a proprietary account within the meaning of § 1.3(y) are excluded from this registration requirement. Thus, by reclassifying certain proprietary accounts as customer accounts, persons engaged in the activities described in § 1.7 with respect to the solicitation or acceptance of orders involving commodity futures transactions for such accounts will be required to register pursuant to that section. This will mean that persons owning such reclassified accounts will benefit from the safeguards of the registration requirements with respect to the qualification and fitness of these individuals and firms.

Segregation

Section 4d(2) of the Act requires FCM's to account separately for money, securities and property of their customers and, among other things, provides that such money, securities and property must mot be commingled with the funds of the FCM or be used to margin or guarantee the trades or contracts, or to secure or extend the credit, of any customer other than the one for whom the same are held.

Sections 1.20 through 1.30 of the Commission's regulations establish specific requirements with respect to such customer money, securities and property. On the other hand, money, securities, or property in proprietary accounts need not be treated in accordance with these requirements; therefore, the reclassification of accounts from proprietary accounts to customer accounts, as described above, will have the effect of extending the protection of these requirements to the persons owning such reclassified accounts.

Recordkeeping

The Commission's recordkeeping rules, §§ 1.31 through 1.39, require FCM's to maintain certain records with respect to the accounts of their customers which, with some exceptions, FCM's are not required to keep for proprietary accounts. For example, § 1.33 requires the FCM, subject to certain qualifications, to send a monthly statement to each of its customers; and § 1.35 relates to the recording and receipt of customer orders. Thus, the owners of accounts reclassified as customer accounts by virtue of the amendment to the definition of "proprietary account" will be afforded the additional protections of the Commission's recordkeeping rules.

Minimum Financial Regulations

Accounts which are jointly owned by customers and persons listed in the definition of proprietary account contained in § 1.3(y) are currently subject to the requirements of § 1.17(c)(5)(ix) of the Commission's regulations[3] which, among other things, requires a safety factor charge to the capital of the FCM for non-customer accounts to the extent that such accounts are under-margined in exess of two business days. Accounts reclassified as above will become subject to the requirements of § 1.17(c)(5)(viii) which requires a safety factor charge for under-margined customer futures accounts to the extent of the amount of funds required in each such account to meet the maintenance

[1] In view of the changes which have taken place in the industry since § 1.3(y) was first adopted and its broadened regulatory responsibilities under the Act, the Commission, in addition to requesting comments with respect to the proposed rule change described above, also requested comments concerning the desirability of further amendments to the definitions of the term "proprietary account" and of the term "customer." Two commentators addressed these possible further amendments only and did not comment upon the amendment to § 1.3(y). These submissions were not directly related to the instant rule amendment; however, they will be made part of the record for consideration in connection with a possible further rulemaking proceeding in this area.

[2] 7 U.S.C. 6d and 6f (1976) as amended by the Futures Trading Act of 1978, Pub. L. No. 95–405, §§ 4 and 5, 92 Stat. 869 (1978). All references to Commission regulations can be found in Title 17 of the Code of Federal Regulations at the identical section number. For example, § 1.35 of the Commission's regulations is found at 17 CFR 1.35.

[3] Reference is to § 1.17 as recently amended by the Commission. *See* the Commission's release dated September 1, 1978 (43 FR 39956, September 8, 1978). The amendment to § 1.17 became effective on December 20, 1978. When this section is codified in the Code of Federal Regulations, it will be cited 17 CFR 1.17.

margin requirements after application of calls for margin or other required deposits, which are outstanding five business days or less until December 31, 1980, four business days or less until December 31, 1982, and three business days or less thereafter. Thus, the rule change and concomitant reclassification of accounts permits a somewhat longer time period within which the FCM's may collect amounts due in reclassified, under-margined accounts without incurring a safety factor charge to their capital. Therefore, the amendment has the potential for permitting slightly increased financial risks to firms. The Commission believes, nonetheless, that this factor is outweighed by the benefits of extending the protections described above to an increased number of accounts.

In consideration of the foregoing, the Commission hereby amends Title 17, Chapter I, Part 1 of the Code of Federal Regulations, by revising § 1.3(y) to read as follows:

§ 1.3 Definitions.

* * * * *

(y) *Proprietary account.* This term shall mean a commodity futures trading account carried on the books and records of an individual, a partnership, corporation or other type association, (1) for one of the following persons, or (2) of which ten percent or more is owned by one of the following persons, or an aggregate of ten percent or more of which is owned by more then one of the following persons: * * *

* * * * *

(Sec. 4d, Pub. L. 74–675, 49 Stat. 1494 (7 U.S.C. 6d), as amended, Pub. L. 90–258, 82 Stat. 27, Pub. L. 93–463, 88 Stat. 1392, Pub. L. 95–405, 92 Stat. 869; Sec. 4f, Pub. L. 74–675, 49 Stat. 1495 (7 U.S.C. 6f), as amended, Pub. L. 90–258, 82 Stat. 28, Pub. L. 93–463, 88 Stat. 1392, Pub. L. 95–405, 92 Stat. 869; Sec. 4g, Pub. L. 74–675, 49 Stat. 1496 (7 U.S.C. 6g), as amended, Pub. L. 90–258, 82 Stat. 28, Pub. L. 93–463, 88 Stat. 1392, 1415, Pub. L. 95–405, 92 Stat. 869; Sec. 8a(5), Pub. L. 74–675, 49 Stat. 1501 (7 U.S.C. 12a(5)), as amended, Pub. L. 90–258, 82 Stat. 33, Pub. L. 93–463, 88 Stat. 1392)

Issued in Washington, D.C., on May 15, 1979, by the Commission.

James M. Stone,

Chairman, Commodity Futures Trading Commission.

[FR Doc. 79-15719 Filed 5-18-79; 8:45 am]

BILLING CODE 6351-01-M

DEPARTMENT OF STATE

22 CFR Part 151

[Dept. Reg. 108.777]

Compulsory Liability Insurance for Diplomatic Missions and Personnel

AGENCY: Department of State

ACTION: Final rule

SUMMARY: These regulations specify the insurance required under the Diplomatic Relations Act of all diplomatic missions, members of missions and their families and officials of the United Nations entitled to diplomatic immunity, including the limits of liability, and describe the evidence of insurance necessary before the Department of State endorses applications for diplomatic automobile license plates or exemptions from registration fees.

EFFECTIVE DATE: June 1, 1979.

FOR FURTHER INFORMATION CONTACT: David P. Stewart, Special Assistant to the Legal Adviser, Department of State, Washington, D.C. 20520, telephone 202–632–2149.

SUPPLEMENTARY INFORMATION: The Diplomatic Relations Act, Pub. L. 95–393, September 30, 1978 (22 U.S.C. 254a et seq., 28 U.S.C. 1364) ("the Act") became effective December 29, 1978. As of that date, previous statutes on diplomatic immunity dating from the eighteenth century (22 U.S.C. 252–254) were repealed and the privileges and immunities provisions of the 1961 Vienna Convention on Diplomatic Relations (23 UST 3227, 500 UNTS 95), were established as the United States law on diplomatic immunity.

Section 6 of the Act requires diplomatic missions, members of missions, their families, and senior officials of the United Nations who are entitled to diplomatic immunity to have and maintain liability insurance against risks arising from their operation of motor vehicles, vessels or aircraft. The President was directed to establish the requirements for this liability insurance by regulation. Executive Order 12101 (43 FR 54195) delegated to the Secretary of State the authority to prescribe these regulations.

On December 6, 1978, the Department of State published in the **Federal Register** a proposed regulation to implement these requirements (43 FR 57159). In response to that notice, the Department received three written comments. A public meeting to receive oral comments was held on February 5, 1979, at which one person testified.

One written comment expressed concern that the Act permits claimants to bring civil suits directly against the insurers of persons subject to the Act but deprives those insurers of the defenses that the insured is immune from suit, is an indispensable party or, in the absence of fraud or collusion, has violated a term of the contract. The comment considered that the Act thus severely impairs the ability of the insurer to defend itself in the event that the insured refuses to cooperate. The comment urged that the regulation include a statement that the insured would be expected to comply with provisions of the contract relating to cooperation with the insurer. Language to that effect has been included in § 151.7.

Another comment recommended that procedures be included to permit the Department to verify statements of self-certification submitted under § 151.8 by having copies of cancellation notices sent to the Department by insurers and by "spot checking" with designated insurers. The Department considered this recommendation but determined that including such a procedure for having cancellation notices sent to the Department was neither necessary nor appropriate, particularly in view of the fact that cancellation notices are often issued for non-payment of premiums, a matter later rectified by remittance of the premium. In respect of "spot checking", the Department has amended § 151.8 to respond to this concern.

The third comment suggested that the definition of "authorized insurer" in § 151.6 be broadened to include "surplus lines" insurers in order to conform the regulation to existing industry practice and to reflect the international character of the business. The Department was concerned not to exclude from the scope of the definition insurers permitted to write insurance by the applicable laws of the jurisdiction. By the same token, however, the Department did not wish to include those not permitted to write insurance under local law. Accordingly, § 151.6 has been amended to include insurers which are licensed "or otherwise authorized by applicable law" to do business in the jurisdiction concerned.

Further review of the proposed regulation by the Department indicated the need for additional modifications of a clarifying and procedural nature. These include: (a) Adding to § 151.2, for ease of reference, the statutory definitions set forth in Section 2 of the Act; (b) specifying that evidence of insurance required by § 151.9 may be submitted either by the Chief of Mission

or by any other duly authorized mission official; and (c) clarifying that evidence of insurance under § 151.8 must be submitted upon official request as well as on a periodic basis.

Accordingly, by virtue of the authority vested in the President by Section 6(b) of the Diplomatic Relations Act (22 U.S.C. 254e(b)) and delegated to the Secretary of State by Executive Order No. 12101, a new Part 151 is hereby added to title 22 of the Code of Federal Regulations as set forth below:

For the Secretary of State.

Dated: May 15, 1979.

Ben H. Read,

Under Secretary for Management.

Subchapter F—Diplomatic Privileges and Immunities

PART 151—COMPULSORY LIABILITY INSURANCE FOR DIPLOMATIC MISSIONS AND PERSONNEL

Sec.

151.1 Purpose.
151.2 Definitions.
151.3 Types of insurance coverage required.
151.4 Minimum limits for motor vehicle insurance.
151.5 Recommended limits for motor vehicle insurance.
151.6 Authorized insurer.
151.7 Policy terms consistent with the Act.
151.8 Evidence of insurance for motor vehicles.
151.9 Evidence of insurance required for diplomatic license plates and waiver of fees.
151.10 Minimum limits of insurance for aircraft and/or vessels.
151.11 Notification of ownership, maintenance, or use of vessel and/or aircraft; evidence of insurance.

Authority: Sec. 4, 63 Stat. 111 (22 U.S.C. 2658); Sec. 6 Pub. L. 95–393 (92 Stat. 809, 22 U.S.C. 254e); E.O. 12101 (43 FR 54195).

§ 151.1 Purpose.

This part establishes regulations required under section 6 of the Diplomatic Relations Act (Pub. L. 95–393; 22 U.S.C. 254e). These regulations require all missions, members of missions and their families, and those officials of the United Nations who are entitled to diplomatic immunity to have and maintain liability insurance against the risks of bodily injury, including death, and property damage, including loss of use, arising from the ownership, maintenance, or use in the United States of any motor vehicle, vessel, or aircraft.

§ 151.2 Definitions.

(a) "Act" means the Diplomatic Relations Act, Pub. L. 95–393 (22 U.S.C. 254a et seq., 28 U.S.C. 1364).

(b) "Persons subject to the Act", as defined in Section 2 of the Act, means: (1) The head of a mission and members of the diplomatic staff, administrative and technical staff, and service staff of a mission, as such terms are defined in Article 1 of the Vienna Convention on Diplomatic Relations of April 18, 1961 (TIAS 7502, 23 U.S.T. 3227); (2) members of the family of a member of the diplomatic staff of a mission who form part of his or her household if they are not nationals of the United States, and members of the family of a member of the administrative and technical staff of a mission who form part of his or her household if they are not nationals or permanent residents of the United States; and (3) senior officials of the United Nations as defined in paragraph (d) of this section.

(c) "Missions", as defined in Section 2 of the Act, means missions within the meaning of the Vienna Convention on Diplomatic Relations and any missions representing foreign governments, individually or collectively, which are extended the same privileges and immunities, pursuant to law, as are enjoyed by missions under the Vienna Convention.

(d) "Senior United Nations official" means a United Nations official entitled to diplomatic immunity as provided in § 19 of the Convention on Privileges and Immunities of the United Nations of February 13, 1946 [21 UST 1418; 1 UNTS 16].

(e) "Insurance" means insurance as required by the Act and these regulations.

§ 151.3 Types of insurance coverage required.

(a) Every person subject to the Act and every mission shall have and maintain with respect to any motor vehicle, vessel or aircraft owned by, leased to, or furnished for the regular use of every such person or mission liability insurance in accordance with the form, terms, and conditions provided for in these regulations.

(b) The insurance shall provide coverage against the following risks to third parties arising from the ownership, maintenance, or use in the United States of any motor vehicle, vessel, or aircraft:

(1) Bodily injury, including death;

(2) Property damage, including loss of use; and

(3) Any additional coverage required to be included in liability insurance policies by the jurisdiction where the motor vehicle, vessel or aircraft is principally garaged, berthed, or kept, such as uninsured motorist coverage or first party no-fault coverage.

§ 151.4 Minimum limits for motor vehicle insurance.

The insurance shall provide not less than the minimum limits of liability specified in the financial responsibility, compulsory insurance or other law of the jurisdiction where the motor vehicle is principally garaged.

§ 151.5 Recommended limits for motor vehicle insurance.

Every person subject to the Act and every mission should have and maintain insurance adequate to afford reasonable compensation to accident victims. Minimum limits of liability of $100,000 per person and $300,000 per incident for bodily injury, including death, and $50,000 per incident for property damage, including loss of use, are recommended to meet this objective.

§ 151.6 Authorized insurer.

The insurance must be issued by an insurer licensed or otherwise authorized by applicable law to do business in the jurisdiction where the motor vehicle, vessel or aircraft is principally garaged, berthed or kept.

§ 151.7 Policy terms consistent with the Act.

(a) The insurance shall be construed in conformity with the Act. In particular, no effect shall be given to any policy terms which are inconsistent or in conflict with those provisions of the Act stating that any suit against the insurer under the policy shall not be subject to any of the following defenses:

(1) That the insured is immune from suit;

(2) That the insured is an indispensable party; or

(3) In the absence of fraud or collusion, that the insured has violated a term of the contract, unless the contract was canceled before the claim arose.

(b) Notwithstanding the provisions of paragraph (a) of this section, the insured is expected to respond to reasonable requests from the insurer for cooperation.

§ 151.8 Evidence of insurance for motor vehicles.

(a) Every mission must periodically, and otherwise upon official request, furnish evidence satisfactory to the Department of State that the required insurance is in effect for the mission, its members and their families. Every senior United Nations official must also periodically furnish evidence satisfactory to the Department of State that the required insurance is in effect.

(b) The Department of State will accept as satisfactory evidence that the required insurance is in effect:

(1) A written statement of self-certification signed by the Chief of Mission, indicating that the mission, its members and their families have and will maintain insurance throughout the period of registration of all vehicles owned or leased or otherwise regularly used, and showing the name of the insurance company or companies and identifying each policy by number and name of insured; and

(2) A written statement of self-certification signed by each senior United Nations official, indicating that he or she has and will maintain insurance throughout the period of registration on all motor vehicles owned or leased or otherwise regularly used, and showing the name of the insurance company or companies and identifying each by number and name of insured.

(c) A certification under paragraph (b) of this section by a Chief of a Mission to the United Nations or by a senior United Nations official shall be delivered to the Counselor for host country affairs of the United States Mission to the United Nations. All other certifications shall be delivered to the Chief of Protocol, Department of State.

§ 151.9 Evidence of insurance required for diplomatic license plates and waiver of fees.

The Department of State will not endorse on behalf of any person subject to the Act or any mission any application for diplomatic motor vehicle license plates or any application for waiver of motor vehicle registration fees without prior receipt of satisfactory evidence from the Chief of Mission or other duly authorized official that the required insurance is in effect.

§ 151.10 Minimum limits of insurance for aircraft and/or vessels.

Insurance in respect of vessels and/or aircraft shall provide limits of liability adequate in light of reasonably foreseeable risks from the ownership, maintenance, or other regular use of vessels and/or aircraft.

§ 151.11 Notification of ownership, maintenance or use of vessel and/or aircraft; evidence of insurance.

(a) Each person subject to the Act and each mission must notify the Department of State in writing of the ownership, maintenance or other regular use of a vessel or aircraft in the United States by such mission or person.

(b) Notices under paragraph (a) of this section shall identify the vessel and/or aircraft with specificity, including model and manufacturer's name, and serial and registration numbers. Each notification shall be accompanied by a copy of the insurance policy or policies issued in respect of the vessel and/or aircraft. Such policy or policies need not be issued by the insurer providing liability insurance for motor vehicles.

(c) With regard to senior United Nations officials, missions to the United Nations and members of such missions as have diplomatic status and their families, notices and evidence of insurance under this section shall be delivered to the counselor for Host Country Affairs of the United States Mission to the United Nations. All other notices under this section shall be delivered to the Chief of Protocol, Department of State.

[FR Doc. 79-15802 Filed 5-18-79; 8:45 am]

BILLING CODE 4710-20-M

DEPARTMENT OF HOUSING AND URBAN DEVELOPMENT

Federal Insurance Administration

24 CFR Part 1917

[Docket No. FI-4699]

National Flood Insurance Program; Final Flood Elevation Determination for the Township of Flint, Genesee County, Mich.

AGENCY: Federal Insurance Administration, HUD.

ACTION: Final rule.

SUMMARY: Final base (100-year) flood elevations are listed below for selected locations in the Township of Flint, Genesee County, Michigan. These base (100-year) flood elevations are the basis for the flood plain management measures that the community is required to either adopt or show evidence of being already in effect in order to qualify or remain qualified for participation in the National Flood Insurance Program (NFIP).

EFFECTIVE DATE: The date of issuance of the Flood Insurance Rate Map (FIRM), showing base (100-year) flood elevations, for the Township of Flint, Genesee County, Michigan.

ADDRESS: Maps and other information showing the detailed outlines of the flood prone areas and the final elevations for the Township of Flint are available for review at the Township Hall, 1490 South Dye Road, Flint, Michigan.

FOR FURTHER INFORMATION CONTACT: Mr. Richard Krimm, Assistant Administrator, Office of Flood Insurance, (202) 755-5581 or toll free line (800) 424-8872, Room 5270, 451 Seventh Street SW., Washington, D.C. 20410.

SUPPLEMENTARY INFORMATION: The Federal Insurance Administrator gives notice of the final determinations of flood elevations for the Township of Flint, Genesee County, Michigan.

This final rule is issued in accordance with section 110 of the Flood Disaster Protection Act of 1973 (Pub. L. 93-234), 87 Stat. 980, which added section 1363 to the National Flood Insurance Act of 1968 (Title XIII of the Housing and Urban Development Act of 1968 (Pub. L. 90-448), 42 U.S.C. 4001-4128, and 24 CFR Part 1917.4(a)). An opportunity for the community or individuals to appeal this determination to or through the community for a period of ninety (90) days has been provided. No appeals of the proposed base flood elevations were received from the community or from individuals within the community.

The Administrator has developed criteria for flood plain management in flood-prone areas in accordance with 24 CFR Part 1910.

The final base (100-year) flood elevations for selected locations are:

Source of flooding	Location	Elevation in feet, national geodetic vertical datum
Flint River	At downstream corporate limit.	690
	950 feet downstream of Hartshorn Drain confluence.	695
	Just downstream of Ballenger Highway.	702
Swartz Creek	Just upstream of Ballenger Highway at downstream corporate limit.	737
	Just upstream of Interstate 75.	741
	Just upstream of Claude Road.	743
	4,300 feet upstream of Claude Road.	746
	730 feet downstream of Interstate 69.	751
	Just downstream of Bristol Road.	752
	4,100 feet downstream of Maple Avenue.	758
	Just downstream of Maple Avenue.	761
West Branch Swartz Creek.	At confluence with Swartz Creek.	751
	Just downstream of Bristol Road.	752
	Just upstream of Dye Road	756
	Just upstream of Golf Course dam.	758
	1,550 feet downstream of Interstate 69.	761
	Just downstream of Elms Road.	764
Hartshorn Drain	At confluence with Flint River	696
	980 feet downstream of Linden Road.	696
	100 feet downstream of Linden Road.	703
	100 feet upstream of Linden Road.	709
Carman Creek	Just upstream of Hemphill Road.	755
	1,350 feet upstream of Hemphill Road.	756
	Just downstream of Fenton Road.	759
Massmore Cronk Drain.	Just upstream of Elms Road.	740
	Just upstream of Calkins Road.	750
	Just upstream of Yorkshire Road.	753
	Just upstream of West Court Street.	759
	150 feet upstream of Corunna Road.	761
	2,560 feet upstream of Corunna Road.	763

(National Flood Insurance Act of 1968 (Title XIII of Housing and Urban Development Act of 1968), effective January 28, 1969 (33 FR 17804, November 28, 1968), as amended (42 U.S.C. 4001-4128); and the Secretary's delegation of authority to Federal Insurance Administrator (43 FR 7719).)

In accordance with Section 7(o)(4) of the Department of HUD Act, Section 324 of the Housing and Community Amendments of 1978, Pub. L. 95-557, 92 Stat. 2080, this rule has been granted waiver of Congressional review requirements in order to permit it to take effect on the date indicated.

Issued: March 30, 1979.

Gloria M. Jimenez,

Federal Insurance Administrator.

[FR Doc. 79-15723 Filed 5-18-79; 8:45 am]

BILLING CODE 4210-23-M

ENVIRONMENTAL PROTECTION AGENCY

40 CFR Part 52

[FRL 1221-8]

Approval and Promulgation of Implementation Plans; Massachusetts Revision

AGENCY: Environmental Protection Agency (EPA).

ACTION: Final rule.

SUMMARY: The Environmental Protection Agency (EPA) is taking final action to approve four revisions to the Massachusetts State Implementation Plan (SIP) permanently extending Massachusetts Regulation 310 CMR 7.05(1) "Sulfur Content of Fuels and Control Thereof" for the Pioneer Valley Air Pollution Control District (APCD) the Massachusetts portion of the Hartford-New Haven-Springfield Interstate Air Quality Control Region (AQCR), Metropolitan Boston APCD the same geographical boundaries as the Metropolitan Boston Intrastate AQCR, Southeastern Massachusetts APCD the Massachusetts portion of the Metropolitan Providence Interstate AQCR, and Merrimack Valley APCD the Massachusetts portion of the Merrimack Valley-Southern New Hampshire Interstate AQCR. The regulation being extended permits the burning of higher sulfur content fuels by certain sources under specified conditions. EPA is also approving two revisions to Massachusetts Regulation 310 CMR 7.05(4) "Ash Content of Fuels" to permit the burning of fossil fuels with ash content in excess of nine percent, by dry weight, at any facility in the Pioneer Valley APCD and Metropolitan Boston APCD.

EFFECTIVE DATE: May 21, 1979.

FOR FURTHER INFORMATION CONTACT: Victor M. Trinidad, Air Branch, EPA Region I, Room 1903, J.F.K. Federal Building, Boston, Massachusetts 02203, (617)223-5609.

SUPPLEMENTARY INFORMATION: On March 15, 1979, the Regional Administrator published in the Federal Register (44 FR 15738) a notice proposing approval of six revisions to the Massachusetts SIP. The SIP revisions, submitted by the Commissioner of the Massachusetts Department of Environmental Quality Engineering (the Department) on July 20, 1978, December 28, 1978 and January 3 and 31, 1979, included a permanent extension to Massachusetts Regulation 310 CMR 7.05(1) "Sulfur Content of Fuels and Control Thereof" (formerly Regulation 5.1) for each of four Massachusetts Air Pollution Control Districts (APCD's): Pioneer Valley, Metropolitan Boston, Merrimack Valley and Southeastern Massachusetts. Two revisions to Massachusetts Regulation 310 CMR 7.05(4) "Ash Content of Fuels" were also submitted for Pioneer Valley APCD and Metropolitan Boston APCD.

The original Massachusetts SIP was approved by EPA on May 31, 1972 (37 FR 10842). It established specified limits for the sulfur content of fuels. Massachusetts Chapter 494 of the Acts of 1974 requires the Department to periodically review the control strategies and to relax any regulation more stringent than necessary to comply with National Ambient Air Quality Standards (NAAQS). As a result of Chapter 494, SIP revisions have been submitted allowing certain sources to burn higher sulfur fuels. To insure adequate review, analysis, and public input into the evaluation of the impacts of burning higher sulfur fuels, the initial revisions were temporary with specific end dates. Each date was extended until July 1, 1979. The revisions being approved today would rescind the expiration date and will implement the regulation on a permanent basis. The Department submitted a list of over 80 eligible sources with heat input capacities over 100 million Btu per hour.

EPA determined that it could not adequately review and take action on the entire list by July 1, 1979. Therefore, in order to permit the continuous burning of higher sulfur fuel at facilities burning it, EPA, in consultation with the Department, divided the list in two parts. EPA proposed to approve certain sources on March 15, 1979 (44 FR 15738). A complete history of the initial revisions and extensions was presented in the March 15, 1979 Federal Register proposal.

EPA is approving today the sulfur-in-fuel regulations for the following sources:

Metropolitan Boston Air Pollution Control District—Sulfur Content of Fuel

Facility	Pounds per million Btu's [1]
1. New England Power Co., Salem Harbor Station, Salem	1.21
2. Boston Edison, L Street, New Boston Station, Boston	0.55
3. Boston Edison, Mystic Station, Everett	0.55
4. Ventron Corp., Danvers	1.21
5. General Electric, Lynn River Works, Lynn	1.21
6. U.S.M. Corp., Beverly	1.21
7. Medfield State Hospital, Medfield	1.21
8. General Dynamics, Quincy	1.21
9. Hollingsworth and Vose, East Walpole	1.21
10. Kendal Co., Walpole	1.21
11. Dennison Manufacturing Co., Framingham	1.21

[1] Heat release potential.

Southeastern Massachusetts APCD—Sulfur Content of Fuel

Facility	Pounds per million Btu's [1]
1. New England Power Co., Brayton Point Station, Somerset	1.21
2. Montaup Electric Co., Somerset Station, Somerset (provided it is limited to 75 percent capacity while burning higher sulfur fuels)	1.21
3. Canal Electric Co., Sandwich	1.21
4. Taunton Municipal Lighting Plant, Somerset Avenue, Taunton	1.21

[1] Heat release potential.

Pioneer-Valley APCD—Sulfur Content of Fuel

Facility	Pounds per million Btu's [1]
1. Amherst College, Amherst	1.21
2. Brown Co., Holyoke	1.21
3. Monsanto Polymer and Petrochemical Co., Bldg. 21, Springfield	1.21
4. Monsanto Polymer and Petrochemical Co., Bldg. 49, Springfield	1.21
5. Mount Holyoke College, S. Hadley	1.21
6. Uniroyal Tire Inc., Chicopee	1.21
7. Smith College, Northampton	1.21
8. West Springfield Generating Station, Western Massachusetts Electric, West Springfield	1.21
9. Deerfield Specialty Paper, Monroe Bridge	1.21

[1] Heat release potential.

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Merrimack Valley APCD—Sulfur Content of Fuels

Facility	Pounds per million Btu's [1]
1. Hollingsworth and Vose, West Groton	1.21
2. James River Pepperell, Pepperell	1.21
3. Haverhill Paperboard, Haverhill	0.75
4. All residual oil burning facilities less than 100 million Btu's/hour heat input capacity except in the city of Lawrence and towns of Andover, Methuen and North Andover	1.21

[1] Heat release potential.

All other residual fuel burning sources in the four AQCR's remain subject to the requirements of the original SIP.

The Department (as in the temporary revisions), at any time could require the sources to establish and operate an ambient air monitoring network around the sources or mandate the sources to return to burn lower sulfur fuels if violations of NAAQS or other State regulations (i.e., particulate matter emission limitations or the opacity requirement) occur.

There have been no monitored violations of the NAAQS for SO_2 in Massachusetts since regulation 310 CMR 7.05 (permitting burning of higher sulfur fuel oil in certain facilities) has been in effect.

Although there have been monitored violations for total suspended particulates (TSP) in the vicinity of some of the sources, the Department determined that emissions from the sources did not have an impact on such violations.

EPA is also approving today the revisions to allow fossil fuel-burning facilities in Pioneer Valley APCD and Metropolitan Boston APCD with capacities less than 250 million Btu per hour heat input to burn fossil fuel with an ash content in excess of nine percent by dry weight. The original Massachusetts SIP approved on May 31, 1972 (37 FR 10842) specified both a particulate emission limit and a limit of nine percent by dry weight on the ash content, but only the ash limitation will be relaxed by this rulemaking.

Five comments were received during the 30-day comment period. All of them supported the revision.

The SIP revisions approved today are not subject to the requirements of 40 CFR 51.24 concerning Prevention of Significant Deterioration (PSD) of Air Quality. In all cases the State had submitted the original revisions increasing the sulfur in fuel levels before August 7, 1977, and those revisions or extensions of those revisions were pending approval before the Administrator on August 7, 1977. Therefore, the allowable emissions from the sources are included in the baseline concentration and do not represent increased air quality deterioration over this baseline. Further, the two revisions allowing the change to the ash content regulation do not require an analysis for PSD increment consumption (40 CFR 51.24) since the particulate emission limitation will not be changed and no air quality deterioration will result.

The Agency finds that good cause exists for making this action effective immediately so as to prevent interruption of the burning of higher sulfur fuel by the named sources.

After evaluation of the Department's submittals, the Administrator has determined that these revisions meet the requirements of the Clean Air Act and 40 CFR Part 51. Accordingly, these revisions are approved as revisions to the Massachusetts State Implementation Plan.

(Sec. 110(a)(2)A–K and 301, Clean Air Act, as amended (42 U.S.C. 7410, 7601).)

Dated: May 11, 1979.

Douglas M. Costle,

Administrator.

Part 52 of Chapter I, Title 40, Code of Federal Regulations, is amended as follows:

Subpart W—Massachusetts

1. In § 52.1120 paragraph (c) is amended by adding the following:

§ 52.1120 Identification of plan

* * * * *

(c) The plan revisions listed below were submitted on the dates specified.

* * * * *

(20) A revision permanently extending Regulation 310 CMR 7.05(1) (formerly Regulation 5.1) "Sulfur Content of Fuels and Control Thereof" and a revision for the Metropolitan Boston APCD, and Merrimack Valley APCD submitted on December 28, 1978, by the Commissioner of the Massachusetts Department of Environmental Quality Engineering.

(21) A revision permanently extending Regulation 310 CMR 7.05(1) (formerly Regulation 5.1), "Sulfur Content of Fuels and Control Thereof" and a revision to Regulation 310 CMR 7.05(4) "Ash Content of Fuels" for the Pioneer Valley Air Pollution Control District, submitted on January 3, 1979 by the Acting Commissioner of the Massachusetts Department of Environmental Quality Engineering.

(22) A revision permanently extending Regulation 310 CMR 7.05(1) (formerly Regulation 5.1), "Sulfur Content of Fuels and Control Thereof" for the Southeastern Massachusetts APCD, submitted on January 31, 1979 by the Commissioner of the Massachusetts Department of Environmental Quality Engineering.

(23) A revision to Regulation 310 CMR 7.05(4) "Ash Content of Fuels" for the Metropolitan Boston Air Pollution Control District, submitted on July 20, 1978 by the Commissioner of the Massachusetts Department of Environmental Quality Engineering.

§ 52.1126 [Amended]

2. Section 52.1126, paragraph (b) is revised to read as follows:

* * * * *

(b) Massachusetts Regulation 310 CMR 7.05(1) (formerly Regulation 5.1) for the Pioneer Valley Air Pollution Control District, which allows a relaxation of sulfur in fuel limitations under certain conditions, is approved for the following sources. All other sources remain subject to the previously approved requirements of Regulation 7.05(1) which stipulate that sources are required to burn residual fuel oil having a sulfur content not in excess of 0.55 pounds per million Btu heat release potential (approximately equivalent to 1 percent sulfur content.)

Deerfield Specialty Paper Company, Monroe Bridge; Amherst College, Amherst; Brown Company, Holyoke; Monsanto Polymer and Petrochemical Company, Building 21, Springfield; Monsanto Polymer and Petrochemical Company, Building 49, Springfield; Mount Holyoke College, South Hadley; Uniroyal Tire Inc., Chicopee; Smith College, Northampton; West Springfield Generating Station, Western Massachusetts Electric, West Springfield.

* * * * *

3. Section 52.1126, paragraph (d) is revised to read as follows:

* * * * *

(d) Massachusetts Regulation 310 CMR 7.05(1) (formerly Regulation 5.1) for the Southeastern Massachusetts Air Pollution Control District, which allows a relaxation of sulfur in fuel limitations under certain conditions is approved for the following sources. All other sources remain subject to the previously approved requirements of Regulation 7.05(1) which stipulate that sources are required to burn residual fuel oil having a sulfur content not in excess of 0.55 pounds per million Btu heat release potential (approximately equivalent to 1 percent sulfur content.)

New England Power Company, Brayton Point Station, Somerset; Montaup Electric Company, Somerset Station, Somerset (limited to 75% capacity while burning higher sulfur fuels.) Canal Electric Company, Sandwich; Taunton Municipal Lighting Plant, Somerset Avenue, Taunton.

* * * * *

4. Section 52.1126, paragraph (e) is revised to read as follows:

* * * * *

(e) Massachusetts Regulation 310 CMR 7.05(1) (formerly Regulation 5.1) for the Merrimack Valley Air Pollution Control District, excluding the City of Lawrence and the towns of Andover, Methuen, and North Andover, which allows a relaxation of sulfur in fuel limitations under certain conditions, is approved for the following sources. All other sources remain subject to the previously approved requirements of Regulation 7.05(1) which stipulates that sources are required to burn residual fuel oil having a sulfur content not in excess of 0.55 pounds per million Btu heat release potential (approximately equivalent to 1 percent sulfur content).

Hollingsworth and Vose, West Groton; James River Paper, Pepperell; Haverhill Paperboard Corp., Haverhill. Residual oil burning facilities less than 100 million Btu's per hour heat input capacity, except in the City of Lawrence, and Towns of Andover, Methuen, and North Andover.

* * * * *

5. Section 52.1126, paragraph (f) is revised to read as follows:

* * * * *

(f) Massachusetts Regulation 310 CMR 7.05(1) (formerly Regulation 5.1) for the Metropolitan Boston Air Pollution Control District, which allows a relaxation of sulfur in fuel limitations under certain conditions, is approved for the following sources. All other sources remain subject to the previously approved requirements of Regulation 7.05(1) which stipulate that sources in Arlington, Belmont, Boston, Brookline, Cambridge, Chelsea, Everett, Malden, Medford, Newton, Somerville, Waltham, and Watertown (the Boston Core Area) are limited to burn fuel with a sulfur content not in excess of 0.28 pounds per million Btu heat release potential (approximately 0.5% sulfur content residual oil; sources in the remaining APCD are limited to burn fuel with a sulfur content not in excess of 0.55 pounds per million Btu heat release potential (approximately 1% sulfur content residual oil).

New England Power Company, Salem Harbor Station, Salem; Boston Edison, L Street, New Boston Station, Boston; Boston Edison, Mystic Station, Everett; Ventron Corporation, Danvers; General Electric, Lynn River Works, Lynn; U.S.M. Corporation, Beverly; Medfield State Hospital, Medfield; General Dynamics, Quincy; Hollingsworth and Vose, East Walpole; Kendal Company, Walpole; Dennison Manufacturing Company, Framingham.

[FR Doc. 79-15647 Filed 5-18-79; 8:45 am]

BILLING CODE 6560-01-M

40 CFR Part 65

[FRL 1222-7]

Delayed Compliance Order for Phillips Petroleum Co.

AGENCY: U.S. Environmental Protection Agency.

ACTION: Final rule.

SUMMARY: By this rule, the Administrator of U.S. EPA issues a Delayed Compliance Order to Phillips Petroleum Company (Phillips). The Order requires the Company to bring air emissions from its volatile organic material storage and loading facility at Clermont, Indiana into compliance with certain regulations contained in the federally approved Indiana State Implementation Plan (SIP). Phillips' compliance with the Order will preclude suits under the Federal enforcement and citizen suit provisions of the Clean Air Act (Act) for violations of the SIP regulations covered in the Order.

DATES: This rule takes effect May 21, 1979.

FOR FURTHER INFORMATION CONTACT: Mr. Arthur E. Smith, Jr., Attorney, United States Environmental Protection Agency, Region V, 230 South Dearborn Street, Chicago, Illinois 60604, Telephone (312) 353–2082.

SUPPLEMENTARY INFORMATION: On December 19, 1978 the Regional Administrator of U.S. EPA's Region V Office published in the **Federal Register** (43 FR 59103) a notice setting out the provisions of a proposed Federal Delayed Compliance Order for Phillips. The notice asked for public comments and offered the opportunity to request a public hearing on the proposed Order. No public comments and no request for a public hearing were received in response to the notice.

Therefore, a Delayed Compliance Order effective this date is issued to Phillips by the Administrator of U.S. EPA pursuant to the authority of Section 113(d) of the Act, 42 U.S.C. Section 7413(d). The Order places Phillips on a schedule to bring its volatile organic material storage and loading facility at Clermont into compliance as expeditiously as practicable with Regulation APC–15, Section 3 and 4, a part of the federally approved Indiana State Implementation Plan. Phillips is unable to immediately comply with this regulation. The Order also imposes interim requirements which meet Sections 113(d)(1)(C) and 113(d)(7) of the Act, and emission monitoring and reporting requirements. If the conditions of the Order are met, it will permit Phillips to delay compliance with the SIP regulation covered by the Order until July 1, 1979.

Compliance with the Order by Phillips will preclude Federal enforcement action under Section 113 of the Act for violations of the SIP regulation covered by the Order. Citizen suits under Section 304 of the Act to enforce against the source are similarly precluded. Enforcement may be initiated, however, for violations of the terms of the Order, and for violations of the regulation covered by the Order which occurred before the Order was issued by U.S. EPA or after the Order is terminated. If the Administrator determines that Phillips is in violation of a requirement contained in the Order, one or more of the actions required by Section 113(d)(9) of the Act will be initiated. Publication of this notice of final rulemaking constitutes final Agency action for the purposes of judicial review under Section 307(b) of the Act.

U.S. EPA has determined that the Order shall be effective May 21, 1979, because of the need to immediately place Phillips on a schedule for compliance with the Indiana State Implementation Plan.

(42 U.S.C. secs. 7413(d), 7601.)

Dated: May 11, 1979.

Douglas M. Costle,

Administrator.

In consideration of the foregoing, Chapter I of Title 40 of the Code of Federal Regulations is amended as follows:

PART 65—DELAYED COMPLIANCE ORDERS

By adding the following entry to the table in § 65.190:

§ 65.190 Federal delayed compliance orders issued under section 113(d) (1), (3), and (4) of the Act.

Source	Location	Order No.	Date of FR proposal	SIP regulation involved	Final Compliance Date
Phillips Petroleum Company	Clermont, Indiana	EPA–5–79–A–33	12/19/78	APC–15, secs. 3 and 4.	7/1/79.

[FR Doc. 79-15645 Filed 5-18-79; 8:45 am]

BILLING CODE: 6560-01-M

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40 CFR Part 65

[FRL 1223-4]

Delayed Compliance Order for Metropolitan Wastewater Treatment Plant, St. Paul, Minn.

AGENCY: U.S. Environmental Protection Agency.

ACTION: Final rule.

SUMMARY: By this rule, the Administrator of U.S. EPA approves a Delayed Compliance Order to Metropolitan Wastewater Treatment Plant (Metroplant). The Order requires the Metroplant to bring air emissions from its sludge processing and disposal plant at St. Paul, Minnesota, into compliance with certain regulations contained in the federally approved Minnesota State Implementation Plan (SIP). Metroplant's compliance with the Order will preclude suits under the Federal enforcement and citizen suit provisions of the Clean Air Act (Act) for violations of the SIP regulations covered in the Order.

DATES: May 21, 1979.

FOR FURTHER INFORMATION CONTACT: Cynthia Colantoni, United States Environmental Protection Agency, Region V, 230 South Dearborn Street, Chicago, Illinois 60604, Telephone (312) 353-2082.

SUPPLEMENTARY INFORMATION: On February 6, 1979 the Regional Administrator of U.S. EPA's Region V Office published in the **Federal Register** (44 FR 7184) a notice setting out the provisions of a proposed State Delayed Compliance Order for Metroplant. The notice asked for public comments and offered the opportunity to request a public hearing on the proposed Order. No public comments and no request for a public hearing were received in response to the notice.

Therefore, a Delayed Compliance Order effective this date is approved to Metroplant by the Administrator of U.S. EPA pursuant to the authority of Section 113(d)(2) of the Act, 42 U.S.C. 7413(d)(2). The Order places Metroplant on a schedule to bring its sludge processing and disposal plant at St. Paul, Minnesota, into compliance as expeditiously as practicable with Minnesota Regulation APC-28(b)(1)(cc) and APC-28(b)(2), (APC-7(b)(1)(cc), APC 7(b)(2) and APC 11(b)) of the Minnesota Implementation Plan. Metroplant is unable to immediately comply with these regulations. The Order also imposes interim requirements which meet Sections 113(d)(1)(C) and 113(d)(7) of the Act, and emission monitoring and reporting requirements. If the conditions of the Order are met, it will permit Metroplant to delay compliance with the SIP regulations covered by the Order until July 1, 1979.

Compliance with the Order by Metroplant will preclude Federal enforcement action under Section 113 of the Act for violations of the SIP regulations covered by the Order. Citizen suits under Section 304 of the Act to enforce against the source are similarly precluded. Enforcement may be initiated, however, for violations of the terms of the Order, and for violation of the regulations covered by the Order which occurred before the Order was issued by U.S. EPA or after the Order is terminated. If the Administrator determines that Metroplant is in violation of a requirement contained in the Order, one or more of the actions required by Section 113(d)(9) of the Act will be initiated. Publication of this notice of final rulemaking constitutes final Agency action for the purposes of judicial review under Section 307(b) of the Act. U.S. EPA has determined that the Order shall be effective upon publication of this notice because of the need to immediately place Metroplant on a schedule for compliance with the Minnesota State Implementation Plan.

(42 U.S.C. 7413(d), 7601)

Dated: May 11, 1979.

Douglas M. Costle,
Administrator.

In consideration of the foregoing, Chapter 1 of Title 40 of the Code of Federal Regulations is amended as follows:

PART 65—DELAYED COMPLIANCE ORDERS

By adding the following entry to the table in § 65.281:

§ 65.281 U.S. EPA approval of State delayed compliance orders issued to major stationary sources.

The State Order identified below has been approved by the Administrator in accordance with Section 113(d)(2) of the Act and with this Part. With regard to this Order, the Administrator has made all the determinations and findings which are necessary for approval of the Order under Section 113(d) of the Act.

Source	Location	Order No.	Date of FR proposal	SIP regulation involved	Final compliance date
Metroplant wastewater treatment plant.	St. Paul, Minn.		2/6/79	APC-7(b)(1)(cc), APC-7(b)(2), APC-11(b).	7/1/79

[FR Doc. 79-15921 Filed 5-18-79; 8:45 am]

BILLING CODE 6560-01-M

GENERAL SERVICES ADMINISTRATION

Federal Supply Service

41 CFR Part 5A-60

[Adm. 2806.4 Chge. 1]

Contract Appeals; Adoption of Rules Providing for Optional Small Claims and Accelerated Procedures and Rules for Subpoenas

AGENCY: General Services Administration.

ACTION: Interim rules.

SUMMARY: The General Services Administration Board of Contract Appeals has modified its rules by adding new procedures pertaining to small claims and subpoenas as required by the Contract Disputes Act of 1978, Pub. L. 95-563.

EFFECTIVE DATE: March 1, 1979.

FOR FURTHER INFORMATION CONTACT: Patricia M. Black, Deputy Chief Counsel for Law and Procedure, GSA Board of Contract Appeals (202-566-0720).

SUPPLEMENTARY INFORMATION: Effective March 1, 1979, the Contract Disputes Act of 1978, Pub. L. 95-563 provides for various changes in prior contract dispute policies and practices. The General Services Administration Board of Contract Appeals has been reestablished pursuant to § 8(a)(1) of that act to resolve contract appeals under the act. The following interim rules of the Board are adopted as additions to the existing rules pending issuance by the Office of Federal Procurement Policy of final procedural guidelines under section 8(h) of Pub. L. 95-563.

Section 5A-60.101 is amended by adding rules 12.1 and 34 to read as follows:

§ 5A-60.101 Rules of the GSA Board of Contract Appeals (GSBCA).

* * * * *

Preliminary Procedures

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12. *Optional accelerated procedure.*

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12.1. *Optional small claims and accelerated procedures.* These procedures are available solely at the election of the appellant.

(a) *Elections to utilize small claims and accelerated procedures.* (1) In appeals where the amount in dispute is $10,000 or less, the appellant may elect to have the appeal processed under a small claims procedure requiring decision of the appeal, whenever possible, within 120 days after the Board receives written notice of the appellant's election to utilize this procedure. The details of this procedure appear in paragraph (b) of this rule 12.1. An appellant may elect the accelerated procedure rather than the small claims procedure for any appeal eligible for the small claims procedure.

(2) In appeals where the amount in dispute is $50,000 or less, the appellant may elect to have the appeal processed under an accelerated procedure requiring decision of the appeal, whenever possible, within 180 days after the Board receives written notice of the appellant's election to utilize this procedure. The details of this procedure appear in paragraph (c) of this rule 12.1.

(3) The appellant's election of either the small claims procedure or the accelerated procedure may be made by written notice within 20 days after receipt of notice of docketing, unless this period is extended by the Board for good cause. The election may not be withdrawn except with permission of the Board and for good cause.

(4) In deciding whether the small claims procedure or the accelerated procedure is applicable to a given appeal, the Board shall determine the amount in dispute by adding the amount claimed by the appellant against the respondent to the amount claimed by the respondent against the appellant. If either party making a claim against the other party does not otherwise state in writing the amount of its claim, the amount claimed by such party shall be the maximum amount which such party represents in writing to the Board that it can reasonably expect to recover against the other.

(b) *The small claims procedure.* (1) This procedure shall apply only to appeals where the amount in dispute is $10,000 or less as to which the appellant has elected the small claims procedure.

(2) In cases proceeding under the small claims procedure, the following time periods shall apply: (i) Within 10 days from the respondent's first receipt from either the appellant or the Board of a copy of the appellant's notice of election of the small claims procedure, the respondent shall send the Board the documents required by rule 4; (ii) within 15 days after the Board has acknowledged receipt of the notice of election, either party desiring an oral hearing shall so inform the Board. If either party requests an oral hearing, the Board shall promptly schedule such a hearing for a mutually convenient time consistent with administrative due process and the 120-day limit for a decision, at a place determined under rule 17. If a hearing is not requested by either party within the time prescribed by this rule, the appeal shall be deemed to have been submitted under rule 11 without a hearing.

(3) In cases proceeding under the small claims procedure, pleadings, discovery, and other prehearing activity will be allowed only as consistent with the requirements to conduct the hearing on the date scheduled or, if no hearing is scheduled, to close the record on a date that will allow decision within the 120-day limit. The Board, in its discretion, may shorten time periods prescribed elsewhere in these rules as necessary to enable the Board to decide the appeal within 120 days after the Board has received the appellant's notice of election of the small claims procedure, allowing up to 30 days for preparation of the decision after closing the record and the filing of briefs, if any.

(4) Written decision by the Board in cases processed under the small claims procedure will be short and contain only summary findings of fact and conclusions. Decisions will be rendered for the Board by a single Administrative Judge. If there has been a hearing, the Administrative Judge presiding at the hearing may, in the Judge's discretion, at the conclusion of the hearing and after entertaining such oral arguments as deemed appropriate, render on the record oral summary findings of fact, conclusions, and a decision of the appeal. Whenever such an oral decision is rendered, the Board will furnish the parties a typed copy of the oral decision for record and payment purposes and to establish a date of commencement of the period for filing a motion for reconsideration under rule 29.

(5) Decisions of the Board under the small claims procedure will not be published, will have no value as precedents, and, in the absence of fraud, cannot be appealed.

(c) *The accelerated procedure.* (1) This procedure shall apply only to appeals where the amount in dispute is $50,000 or less as to which the appellant has made the requisite election.

(2) In cases proceeding under the accelerated procedure, the parties are encouraged, to the extent possible consistent with adequate presentation of their factual and legal positions, to waive pleadings, discovery, and briefs. The Board, in its discretion, may shorten time periods prescribed elsewhere in these rules as necessary to enable the Board to decide the appeal within 180 days after the Board has received the appellant's notice of election of the accelerated procedure, allowing up to 30 days for the preparation of the decision after closing the record and the filing of briefs, if any.

(3) Written decisions by the Board in cases processed under the accelerated procedure will normally be short and contain only summary findings of fact and conclusions. Decisions will be rendered for the Board by a single Administrative Judge with the concurrence of the Chairman or Vice Chairman or other designated Administrative Judge, or by a majority among these two and an additional designated member in case of disagreement. Alternatively, in cases where the amount in dispute is $10,000 or less as to which the accelerated procedure has been elected and in which there has been a hearing, the single Administrative Judge presiding at the hearing may, with the concurrence of both parties, at the conclusion of the hearing and after entertaining such oral arguments as he deems appropriate, render on the record oral summary findings of fact, conclusions, and a decision of the appeal. Whenever such an oral decision is rendered, the Board will subsequently furnish the parties a typed copy of the oral decision for record and payment purposes and to establish the date of commencement of the period for filing a motion for reconsideration under rule 29.

(d) *Motions for Reconsideration in rule 12.1 cases.* Motions for Reconsideration of cases decided under either the small claims procedure or accelerated procedure need not be decided within the time periods prescribed by this rule 12.1 for the initial decision of the appeal, but all of these motions shall be processed and decided rapidly so as to fulfill the intent of this rule.

* * * * *

Subpoenas

34. *Subpoenas.*

(a) *General.* Upon written request of either party filed with the Clerk, or on his own initiative, the Administrative Judge to whom a case is assigned or who is otherwise designated by the Chairman may issue a subpoena requiring:

initiate or expand food program participation

subjectivity than some other methods

themselves, rather than their "self-

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(1) Testimony at a deposition—the deposing of a witness in the city or county where he resides or is employed or transacts his business in person, or at another location convenient for him that is specifically determined by the Board;

(2) Testimony at a hearing—the attendance of a witness for the purpose of taking testimony at a hearing; and

(3) Production of books, papers, documents, or tangible things—in addition to (1) or (2), above, the production by the witness at the deposition or hearing of relevant books, papers, documents, or tangible things designated in the subpoena.

(b) *Voluntary cooperation.* Each party is expected (1) to cooperate and make available witnesses and books, papers, document, or tangible things under its control as requested by the other party, without issuance of a subpoena and (2) to secure voluntary attendance of desired third-party witnesses and production of desired third-party books, papers, documents, or tangible things.

(c) *Requests for subpoenas.* (1) A request for a subpoena shall normally be filed at least:

(i) 15 days before a scheduled deposition where the attendance of a witness at a deposition is sought;

(ii) 30 days before a scheduled hearing where the attendance of a witness at a hearing is sought. The Board may honor requests for subpoenas not made within these time limitations.

(2) A request for a subpoena shall state the reasonable scope and general relevance to the case of the testimony and of any books, papers, documents, or tangible things sought.

(d) *Requests to quash or modify.* Upon written request by the person subpoenaed or by a party made within 10 days after service but in any event not later than the time specified in the subpoena for compliance, the Board may (1) quash or modify the subpoena if it is unreasonable and oppressive or for other good cause shown or (2) require the person in whose behalf the subpoena was issued to advance the reasonable cost of producing subpoenaed books, papers, documents, or tangible things. Where circumstances require, the Board may act upon such a request at any time after a copy has been served upon the opposing party.

(e) *Form, issuance.* (1) Every subpoena shall state the name of the Board and the title of the appeal and shall command each person to whom it is directed to attend and give testimony and, if appropriate, to produce specified books, papers, documents, or tangible things, at a time and place specified therein. In issuing a subpoena to a requesting party, the Administrative Judge shall sign the subpoena and may, at the discretion of the Judge enter the name of the witness or leave it blank. The party to whom the subpoena is issued shall complete the subpoena before service.

(2) Where the witness is located in a foreign country, a letter rogatory or subpoena may be issued and served under the circumstances and in the manner provided in 28 U.S.C. 1781–1784.

(f) *Service.* (1) The Administrative Judge may arrange for service of the subpoenas or may release them to the parties for service, at the discretion of the Judge.

(2) A subpoena requiring the attendance of a witness at a deposition or hearing may be served at any place. A subpoena may be served by a United States marshal or his deputy, or by any other person who is not a party and not less than 18 years of age. Service of a subpoena upon a person named therein shall be made by personally delivering a copy to him and tendering to him the fees for 1 day's attendance and the mileage provided by 28 U.S.C. 1821 or other applicable law; however, where the subpoena is issued on behalf of the Government, money payments need not be tendered in advance of attendance.

(3) The party at whose instance a subpoena is issued shall be responsible for the payment of fees and mileage of the witness and of the officer who serves the subpoena. The failure to make payment of these charges on demand may be deemed by the Board to be sufficient ground for striking the testimony of the witness and the evidence the witness has produced.

(g) *Contumacy or refusal to obey a subpoena.* In case of contumacy or refusal to obey a subpoena by a person who resides, is found, or transacts business within the jurisdiction of a United States District Court, the Board will apply to the Court through the Attorney General of the United States for an order requiring the person to appear before the Board or a member thereof to give testimony or produce evidence, or both. Any failure of any such person to obey the order of the Court may be punished by the Court as a contempt thereof.

(Sec. 205(c), 63 Stat. 390; (40 U.S.C. 486(c)))

Dated: April 25, 1979.

Paul E. Goulding,

Acting Administrator of General Services.

[FR Doc. 79-15787 Filed 5-18-79; 8:45 am]

BILLING CODE 6820-61-M

COMMUNITY SERVICES ADMINISTRATION

45 CFR Part 1061

[CSA Instruction 6132-2b]

Community Food and Nutrition Program (CFNP)

AGENCY: Community Services Administration.

ACTION: Final rule.

SUMMARY: The Community Services Administration (CSA) is filing a final rule revising its policy statement for the Community Food and Nutrition Program (CFNP) funded under section 222(a)(1) of the Economic Opportunity Act of 1964 as amended. This final rule is required since CSA has determined there is a need to revise certain aspects of the previous year's funding policy and procedures and to inform applicants of those changes. The rule details policies and application procedures relevant to funding Community Food and Nutrition projects with Fiscal Year 1979 funds.

DATE: This rule is effective June 20, 1979.

FOR FURTHER INFORMATION CONTACT: Community Food and Nutrition Program, Community Services Administration, 1200 Nineteenth Street, N.W., Washington, D.C. 20506, Telephone: (202) 632–6694, Teletypewriter: (202) 254–6218.

SUPPLEMENTARY INFORMATION: Comments received prior to April 9, 1979 were considered in drafting the final rule. Of a total of 102 comments received, 41 were from Community Action Agencies (CAA's), 29 from non-profit private anti-hunger organizations, 9 from Indian organizations, 8 from State Economic Opportunity Offices (SEOO's), 7 from CSA regional offices, 4 from migrant organizations, 1 from a state CAP Association, 1 from another federal agency, 1 from a local government agency and 1 from a private organization.

The great majority of the respondents expressed strong support of the basic policy initiatives of the CFNP and most of the refinements introduced in this year's proposed rule. Among the changes receiving widespread support were: A stronger emphasis upon advocacy, mobilization of resources, and coordination with other organizations engaged in anti-hunger activities; the elimination of bonus points for access and self-help, thus allowing applicants to establish priorities most nearly suited to local needs; giving funding preference in special support projects to state-wide anti-hunger coalitions; permitting CAA's to form consortiums; and reviewing, rating and ranking applications in their entirety rather than by program account.

Typical of the letters expressing support of the basic policy thrust of the CFNP was that of Carol Tucker Foreman, Assistant Secretary for Food and Consumer Services, USDA. She states:

"I am once again pleased to write to you to support the thrust of the proposed rules for the Community Food and Nutrition Program. The emphasis on advocacy, mobilization of resources, and coordination with other anti-hunger efforts will continue to make the CFNP a valuable partner to the Food and Nutrition Service programs which represent this nation's commitment to eliminate poverty-related malnutrition.

As in past years, CFNP grantees have played an important role as a source of information on food program operations, of innovative approaches to improved administration, of catalytic activities to help initiate or expand food program participation, and of pressure on this agency to improve its performance in the field. This has been, and I hope will continue to be a useful, if at times difficult, relationship.

In the coming year, FNS will undertake several initiatives of major importance in the fight against hunger. These include an expanded and significantly restructured Child Care Food Program, an expanded Supplemental Food Program for Women, Infants and Children, and major new outreach and performance standards in the Food Stamp Program. Considerable public attention and monitoring will be necessary for these changes to succeed. CFNP grantees are crucial to this success. As I have repeatedly stated, School Breakfast expansion is a *major priority* for FNS in the coming year. Local outreach and advocacy is the single most important element in this expansion and is an activity much better performed by community-based organizations than by USDA which must concentrate on national activities. Finally, continued scrutiny of the changes of the last year in anti-hunger programs, such as the total revision of the Food Stamp Program, is crucial to our ongoing assessment of progress and problems in the field.

Again, I appreciate the opportunity to comment on these proposed rules, I look forward to working with CSA and CFNP grantees in the continuing fight against hunger in this country."

A number of commentators made constructive recommendations, some of which have been incorporated in the final rule. Likewise, a number made thoughtful suggestions which, for a variety of reasons, we felt we could not include this year. Some commentators, for example, felt that we should eliminate the competitive process, with some arguing that competition discourages coordination, and others that a basic minimum funding level should be given to each CAA with the remainder of the funds awarded competitively. While each of these recommendations has merit, we felt that, in terms of allocating CFNP funds where there is the greatest need, and with a limited CFNP budget and uncertainty about the level of funds which Congress will appropriate for FY 80, we should continue with the competitive process for FY 79. It should be noted that, whether CSA followed a formal competitive process or not, there would be more applications for CFNP funds than there would be funds available for those applicants. Thus some criteria for selecting grantees would have to be used in any case. Since this is true, CSA has chosen to formalize the process and select grantees who we hope will be capable of performing the best job. We believe this process both rewards excellence and at the same time embodies less subjectivity than some other methods which might be employed to select grantees.

Some commentators suggested that self-help and crisis relief should be given higher priority. In view of the great potential which the other federal feeding programs have for making a substantial impact upon the problems of hunger and malnutrition among the poor, we cannot agree with this recommendation and must continue to stress the importance of "access" activities. However, in the proposed rule we dropped last year's bonus points, for "access" and "self-help" and increased the number of points for "analysis of needs" so as to allow an applicant to select without penalty, a program category that truly fits the needs of a given community. We have kept this change in the final rule.

Some respondents suggested that SEOO's and CAP associations not be permitted to apply for funds. They pointed out, for example, that SEOO's are in conflict-of-interest situations where they are permitted to recommend a governor's veto of a competitor's grant. We recognize that a potential problem exists here. However, we believe that to prohibit SEOO's from applying at all would be too drastic an action. The Director of CSA continues to have the power to override a governor's veto, where circumstances warrant, and we continue to believe that there is an appropriate role for SEOO's and CAP associations in the Community Food and Nutrition Program. Therefore, we have retained their eligibility to apply as stipulated in 1061.50–9(4).

Some commentators suggested that the new items (13) and (14) under Access, § 1061.50–7(a), were redundant, since these activities are permissible under (10) in the same section. We agree and have dropped these activities.

Several commentators suggested that the term "un-capped area" be defined and that CAA's be permitted to operate projects in those areas. Again we agree and have included that term among the definitions in § 1061.50–2 and have added a statement in § 1061.50–9(3) making it clear that CAA's are not precluded from operating projects in those areas if they are otherwise legally permitted to do so.

Several respondents pointed out that our requirement that the poor, rather than their representatives, participate in the selection of priorities other than access, was in violation of CSA's instructions regarding the participation of the poor on CAA governing boards. We concur and have made the needed correction. What we intended to say was that low-income residents themselves, rather than their "self-appointed representatives", should participate in establishing the priorities of a CFNP project. We have also strengthened the requirement regarding the "participation of the poor" and are requiring that documentation of such participation be required of all applicants in establishing priorities regardless of which program category they select.

One suggestion made was that CSA should clarify its authority to "monitor" other federal agency programs. We have done that. The term "monitoring" now appears in the section on definitions and CSA's authority for doing such is outlined in Appendix A, Section 3.

There was strong opposition on the part of a number of respondents to the use of the simple number of poor as a basis of allocating funds to the regions and there was considerable support for keeping last year's formula. It was agreed, for example, that an allocation formula based strictly on the number of poor would penalize rural areas where infant mortality and non-participation rates in the Food Stamp Program are higher. We are persuaded that for the time being, or until CSA can devise a better method of determining the extent of hunger and malnutrition among the nation's low-income citizens, we should keep last year's formula. We will continue to redistribute funds among the regions, based on that formula, with the provision that no region will be decreased by more than 10 percent.

An overwhelming number of commentators expressed support for the concept of multi-year funding. While this recommendation cannot be put into effect for FY 79, CSA will give serious consideration to instituting such a plan for a limited number of grantees in FY 80, if circumstances warrant such. About an equal number of respondents were for and against target allocations. CSA is tabling this idea for FY 79.

A considerable number of comments centered around the complexities of the A–95 clearinghouse procedures and the lack of necessary lead time both to comply with that process and to adequately prepare applications. CSA has requested and OMB has granted a procedural variation of the clearinghouse procedure for this fiscal year. While applicants are urged to submit their applications to the clearinghouses as soon as possible, they may submit their applications simultaneously to the clearinghouses and to CSA for concurrent review. (See § 1061.50–11). CSA also wishes to note that the regulations are being published much earlier this year than last, and that

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applicants will have more time in which to prepare their applications than they had last year. We hope to be able to improve on this record for next year.

A substantial number of commentators recommended that all applicants be required to submit a project narrative so as to include relevant information not rquired by the Form 419 and to provide for a more detailed explanation of some of the items on the Form 419. The importance of this recommendation has been recognized and such a requirement has been included. Both the application and review procedures should be simplified as a result and applicants placed on a more equal footing in the review process.

Another recommendation supported by a number of commentators was that CSA notify both winners and losers on a timely basis and establish an appeals procedure for applicants who feel they may have been treated unfairly. The importance of these recommendations, also, is recognized and CSA has taken steps to carry out both (See Appendix A, Section 5).

Several references were made to the need to clarify certain key terms such as "catalytic", "advocacy", and "mobilization of resources", and the overlapping of these terms in the rating criteria was criticized. We agree that clarification of these terms was needed and have attempted to meet this need by redefining them. (See § 1061.50–2), as well as adding a further elaboration upon their meaning in Appendix A, Section 3. We have also revised the rating criteria to reflect this clarification.

A number of commentators suggested that Indians and migrants should be required to meet the same minimum standards as other applicants in the rating process. Also, some migrant and Indian commentators recommended altering the rating criteria to meet more precisely the unique needs of the migrant and Indian populations. Both of these recommendations have been adopted and are reflected in § 1061.50–9 (e) and (f) and in the new rating criteria for Indians and Migrants in Appendices C and D. (Note: We have also published a separate rating sheet for Special Support Projects. See Appendix E.)

The proposed rule stated that the CSA regional offices would publish in the Federal Register annually a list of T&TA requirements for the guidance of T&TA applicants in preparing their proposals. That procedure is being dropped. CSA has decided instead to publish *one* statement of regional T&TA needs which applies to *all* regions. That statement, which was based upon the recommendations of our regional offices, is found in § 1061.50–9(c).

While no specific reference has been made thus far about the comments received prior to the publication of the proposed rule, those comments were analyzed and for the most part they are reflected in the comments received after the publication of the proposed rule. Also, a number of the recommendations made earlier were included in the proposed rule. CSA wishes to thank all who took the time to comment. While not every recommendation could be adopted, we believe that, though this process, these regulations have been greatly strengthened and we hope that a more supportive relationship between CSA and its grantees has been forged.

Graciela (Grace) Olivarez,
Director.

45 CFR 1061 is amended by revising § 1061.50–1 through § 1061.50–13 (Subpart) to read as follows:

Subpart—Community Food and Nutrition Program (CFNP)

Sec.

1061.50–1 Applicability.
1061.50–2 Defmitions.
1061.50–3 Purpose of the subpart.
1061.50–4 Introduction.
1061.50–5 Policy.
1061.50–6 Purposes of the program.
1061.50–7 Program categories.
1061.50–8 Eligible Participants.
1061.50–9 Eligible Applicants.
1061.50–10 Funding.
1061.50–11 Application procedures.
1061.50–12 Reporting requirements.
1061.50–13 Current fiscal year application and review information.
Appendix A.
Appendix B.
Appendix C.
Appendix D.
Appendix E.
Appendix F.
Appendix G.
Appendix H.

Authority: Sec. 602, 78 Stat. 530, 42 U.S.C. 2942.

§ 1061.50–1 Applicability.

This subpart is applicable to all grants and contracts funded under section 222(a)(1) of the Economic Opportunity Act of 1964, as amended, when the assistance is administered by the Community Services Administration.

§ 1061.50–2 Definitions.

(a) *Program.* The provision of federal funds and administrative direction to accomplish a prescribed set of objectives through the conduct of specific activities. Example: CSA's Community Food and Nutrition Program.

(b) *Project.* The implementation level of a program where resources are used to produce an end product that directly contributes to the objectives of the program. Example: The School Breakfast Expansion Campaign of the Milwaukee CAP.

(c) *Limited Purpose Agency.* An organization or agency funded under sections 221 or 222 of the Act to conduct a specific program or programs, rather than the broad spectrum of programs conducted by a CAA. Limited purpose agencies are not subject to the requirements for local government designation and comprehensive community representation applicable to CAA's.

(d) *"Un-copped Area".* An "uncapped" area is any geographical area not officially served by a community action agency. An area officially served by a CAA is that area designated by the local government as such and recognized by CSA.

(e) *Catalytic Activity.* According to the dictionary, a catalyst is "a person or thing acting as a stimulus in bringing about or hastening a result". In this rule, "catalytic activity" means an activity which, through a modest investment of CFNP staff time and money, sets in motion a process or series of events which results, for low-income persons, in benefits that are far-reaching and whose value significantly exceeds the cost of the original investment. (See Appendix A, Section 3 for further clarification.)

(f) *Direct Service Delivery.* One-on-one activity (for example, outreach activity) whose purpose is to provide goods or services directly to low-income individuals or families. The provision of direct services can be a catalytic or non-catalytic activity. It is catalytic if it triggers a process that is carried forward by the individual, either on his own or with the assistance of groups or agencies other than the CFNP project. (See Appendix A, Section 3 for additional clarification.)

(g) *Advocacy.* According to the dictionary, an *advocate* is "one who pleads the cause of another" or "defends or maintains a cause or proposal." In this rule, advocacy means a type of catalytic activity which is directed at institutions or at the general public on behalf of low-income individuals in order to insure that, in the area of food and nutrition, the views of such individuals are heard, their rights are observed, the benefits to which they are entitled are provided and their needs are met (to the extent possible) by the institutions which have the ability or responsibility to meet those needs. Successful advocacy can bring about either *institutional change* (a change in

a law, regulation, policy, procedure, behavior or attitude affecting the low-income population) or a *mobilization of additional resources* (whether they be dollars or in-kind services) from public or private sources to support food and nutrition programs for the low-income population. (See Appendix A, Section 3 for further clarification.)

(h) *Monitoring.* Monitoring is a variety of advocacy. To "monitor" is to "observe critically". To monitor a program operated by another federal or state agency means to *observe critically* that program; to gather relevant information about its operations in order to make sure that it is adhering to relevant statutes and regulations in its delivery of services to low-income families and individuals; and where there are problems, to bring them to the attention of the administering agency and to assist that agency in finding a solution. (See Appendix A, Section 3 for further clarification.)

§ 1061.50–3 Purpose of the subpart.

This subpart sets forth CSA's policy for the Community Food and Nutrition Program (CFNP) authorized under section 222(a)(1) of the Economic Opportunity Act of 1964, as amended. It discusses the purposes and categories of activities, participant and applicant eligibility criteria, application procedures and reporting requirements. The Appendices provide additional information relating to funding for the current fiscal year and the process for reviewing, rating and ranking applications.

§ 1061.50–4 Introduction.

(a) Section 201(a)(1) of the Economic Opportunity Act of 1964 as amended states that the basic purpose of all title II programs, including the Community Food and Nutrition Program, is "* * * to *stimulate* a better focusing of all available local, State, private and Federal resources upon the goal of enabling low-income families and low-income individuals * * * *to become fully self-sufficient*" (emphasis added).

(b) This statement sums up CSA's historic mission which has been to serve as a *stimulator* or *catalyst* of activities conducted by other public and private institutions rather than as a provider of services in competition with these institutions. CSA's limited funds make it necessary, in any event, for CFNP projects to reduce their involvement in non-catalytic direct service delivery and to function primarily as advocates and catalytic agents.

(c) A second important point made in the statement quoted above is that the catalytic activity of Title II programs, including the CFNP, should be directed to helping the poor escape the cycle of poverty. The relevance of the CFNP to this objective is underscored by a report entitled "Dietary Goals for the United States" (2nd Edition) issued in February 1978, by the U.S. Senate's Select Committee on Nutrition and Human Needs. According to the report, an inadequate diet is a principal cause of six of the ten leading killer diseases—the six being diabetes, strokes and hypertension, heart disease, some cancers, arteriosclerosis and cirrhosis of the liver. An inadequate diet leads to unemployability and chronic dependence on public assistance programs. Hence, the importance of a concentrated attack on the problem of malnutrition among the poor.

§ 1061.50–5 Policy.

(a) Section 222(a)(1) of the Economic Opportunity Act authorizes: "A program to be known as Community Food and Nutrition designed to provide, on an emergency basis, directly or by delegation of authority pursuant to the provisions of Title VI of this Act, financial assistance for the provision of such supplies and services, nutritional foodstuffs, and related services as may be necessary to counteract conditions of starvation or malnutrition among the poor. Such assistance may be provided by way of supplement to such other assistance as may be used to extend and broaden such programs to serve economically disadvantaged individuals and families where such services are not now provided."

(b) In its effort to "supplement and extend and broaden" other Federal food programs, the CFNP must not lose sight of the essentially *catalytic* nature of CSA's mission referred to in § 1061.50–4. Funds should be used primarily as seed money or in ways that have a multiplier effect and not for duplicative or long-term feeding programs. The emphasis on catalytic activity does not preclude the use of CNFP funds, in emergency situations, for the direct delivery of foodstuffs and related services to individuals and families within CSA poverty guidelines who are insufficiently served or not served at all by other programs. (See 1061.50–7(d)(4) below.) Benefits received under the CFNP shall not be considered as income for the purposes of determining eligibility for other federal food programs.

(c) Each CFNP project will be expected to include *advocacy* as an *essential* and *integral* element of both its design and implementation. While an applicant may select the program category (Access, Self-Help, Nutrition/Consumer Education, Crisis Relief) which best meets the needs of the poor in the community(ies) served, the element of advocacy should always be a part of whatever category is selected. Advocacy efforts should focus upon articulating the views and needs of the poor to the public at large but, more particularly, to those institutions and organizations which have the ability or responsibility to serve the poor. Advocacy efforts should not only include speaking *on behalf of the* poor, but helping the poor to articulate their own needs and to participate in activities which are designed to assure that the benefits to which the poor are entitled are provided. Advocacy should be aimed at initiating new programs to benefit the poor as well as improving and expanding existing ones.

(d) All CFNP projects will be expected to conform to as many of the purposes of Title II programs as possible (listed below in § 1061.50–6). CSA Instruction 7850–1a requires that each project must contribute to the achievement of one or more purposes. CSA is requiring in FY 79 that CFNP grantees meet at least three general purposes and one specific purpose. Applicants are advised that the rating criteria (See Appendices) include three of the five general purposes.

§ 1061.50–6 Purposes of program.

(a) The following are the purposes of Title II Programs, including the CFNP, listed in Sections 201(a) and 222 of the Economic Opportunity Act and reflected in CSA's general standards of effectiveness:

(1) *Planning and Coordination:* Strengthening community capabilities for planning and coordination so as to insure that available assistance related to the elimination of poverty can be more responsive to local needs and conditions;

(2) *Improvement of Service Delivery:* Better organization of services related to the needs of the poor;

(3) *Maximum Feasible Participation:* Maximum feasible participation of the poor in the development and implementation of all programs and projects designed to serve the poor;

(4) *Mobilization of Resources:* Broadened resource base of programs directed to the elimination of poverty so as to include all elements of the community able to influence the quality and quantity of services to the poor;

(5) *Innovative Approaches:* Greater use of new types of services and innovative approaches in attacking causes of poverty, so as to develop

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increasingly effective methods of employing available resources.

(b) The following are legislatively mandated purposes of the Community Food and Nutrition Program (Specific Standards of Effectiveness):

(1) *Improvement in the nutritional status of the target population;*

(2) *Reduction in hunger among the target population.*

§ 1061.50–7 Program categories.

The categories of projects eligible for funding under the Community Food and Nutrition Program are listed in priority order as follows:

(a) *Access:* To improve the opportunities for low-income people to gain access to, and participate in, federal and non-federal food and nutrition programs. Activities eligible for funding under the "access" category include but are not limited to:

(1) The monitoring of programs conducted by other agencies and in particular monitoring the implementation by USDA and state and local governments of the Food Stamp Act of 1977, in order to insure compliance with relevant federal and state statutes and regulations;

(2) Seeking changes in federal and state statutes and regulations to insure a more equitable distribution of food and nutrition benefits to the poor;

(3) Stimulating through consultation with parents, school administrators and other officials, the establishment or expansion of various federally funded food programs such as: the School Breakfast and School Lunch Programs, the WIC Program, the Summer Food Service Program for Children, the Nutrition Program for the Elderly, etc.

(4) Participating with a state in the development of state plans, certification manuals, etc., for food and nutrition programs;

(5) Building coalitions to make possible community input into the improvement and implementation of programs which improve the nutritional status of low-income persons;

(6) Designing and carrying out strategies for obtaining matching funds for new and existing projects supported from CFNP funds, and for spinning off such projects to other agencies (e.g., projects funded under HEW and USDA such as Title XX or food stamp outreach);

(7) Catalyzing an expanded and more effective outreach program on the part of other agencies;

(8) Initiating, or stimulating the formation of, community education programs aimed at apprising low-income persons of their entitlements under federal and non-federal food programs;

(9) Stimulating efforts to provide the poor with assistance in prescreening and application procedures and with adequate representation in administrative hearings, etc.;

(10) Initiating, or stimulating the formation of, feeding programs (e.g., Meals on Wheels) which are urgently needed and are not being provided in the community, on the condition that significant mobilization of other resources and early spin-off of the project to a more appropriate agency is included in the application;

(11) Developing and seeking to get adopted innovative proposals to increase the amount of food available to the poor, e.g., tax incentives for food industry donations to the poor;

(12) Organizing consumer action relating to public and private sector food policies, food sales and sales taxes so as to lower costs for the poor;

(b) *Self-Help.* To impove the ability of low-income people to produce and purchase foodstuffs in a manner that fosters self-sufficiency. (Note: Applicants for Self-Help projects, which by design should ultimately become self-sustaining, e.g., food co-ops, buying clubs, and canneries, should include in their applications specific plans for the eventual phase-out of CFNP funding.) Activities eligible for funding under this category include but are not limited to:

(1) Conservation, distribution and utilization of foodstuffs, such as:

(i) Organizing family and community gardens;

(ii) Organizing food co-ops and buying clubs;

(iii) Establishing greenhouses, canneries, etc.;

(iv) Organizing food gleaning campaigns.

(Note.—A number of states have passed legislation providing a tax benefit for small unincorporated farmers who donate excess produce to organizations serving the low-income population; while similar legislation is being proposed in Congress)

(2) Activities which support self-help projects such as:

(i) Mobilizing the resources of state agriculture departments, land grant colleges, co-op extension services, USDA (e.g., the Agricultural Stabilization and Conservation Service), VISTA, CETA, etc., for obtaining seeds, plants, land, water and information;

(ii) Cooperating with land grant and other colleges to provide more assistance to small scale (even part-time) growers, etc.;

(iii) Promoting the utilization of unused federal, state, and local land for food production;

(iv) Seeking to change laws and regulations that impede the involvement of the poor in food production, processing and distribution, etc.

(c) *Nutrition and Consumer Education.* To improve, through catalytic activity in the area of nutrition and consumer education, the ability of low-income individuals and families to understand the connection between diet and health, to obtain at the lowest prices nutritionally superior foods and to prepare and preserve these foods in ways that minimize the loss of nutrients. Activities eligible for funding under this category include but are not limited to:

(1) Developing and demonstrating new and more effective techniques for communicating nutritional information to the poor;

(2) Stimulating the establishment by other agencies or institutions of educational programs to acquaint the low-income public with the potential benefits of altering food preparation and eating habits in the light of the "Dietary Goals for the United States" recommended by the U.S. Senate's Committee on Nutrition and Human Needs;

(3) Stimulating the establishment of educational programs to improve the ability of low-income individuals and families to understand written guidance on food selection and to make comparisons between foods based on nutrition labeling and price;

(4) Engaging in advocacy efforts to induce federal agencies such as USDA and HEW to design new (and redesign existing) nutrition and consumer education programs so they are more responsive to the needs of low-income consumers;

(5) Devising and carrying out strategies to insure that state nutrition education plans address the needs of children, teachers, and food service workers in schools and low-income communities and that advisory councils set up to oversee state nutritional education programs include representatives of the poor;

(6) Engaging in advocacy efforts to induce such private organizations as the American Dietetic Association, American Heart Association and American Diabetes Association etc., to direct more of their nutrition education activities to the poor, and to coordinate such activities with CSA's CFNP network;

(7) Engaging in research to determine the status and quality of nutrition education efforts aimed at the poor, identify gaps in those efforts, and recommend ways in which CSA, CAA's and CFNP grantees should be involved in nutrition education.

(d) *Crisis Relief:* To improve community crisis relief mechanisms. Activities eligible for funding under this category include but are not limited to:

(1) Organizing food banks and food salvaging operations;

(2) Negotiating for improvement in public welfare systems for distributing, in natural disasters and widespread emergency circumstances, Emergency Food Stamps, WIC packages or vouchers, USDA commodities, local food bank resources, etc. Among federal agencies the U.S. Department of Agriculture, in conjunction with the Federal Disaster Assistance Administration, is responsible for the delivery of foodstuffs to needy households in disasters and other widespread emergencies.

(3) Assisting communities to improve their crisis relief programs so that those most in need will receive swift relief;

(4) Providing foodstuffs directly and/or issuing food vouchers, but only if at least one of the following conditions is satisfied:

(i) There is a temporary individual or family emergency and timely help is not forthcoming from other agencies or,

(ii) The provision of relief is a catalytic effort which includes a plan to establish a community-based entity which will provide such services in the future, or a plan to transfer the activities, within a specified period of time, to an agency which already has an assigned responsibility for providing foodstuffs, vouchers, etc. to the poor. A commitment from such an agency to take over the project should be included in the application, if possible.

§ 1061.50–8 Eligible participants.

(a) All activities supported from CFNP funds must be targeted on low-income individuals and families as defined in CSA Income Poverty Guidelines (§ 1061.2 or CSA Instruction 6004–1k and changes thereto). It is important to stress this since in the case of some programs, such as the Food Stamp Program and the National School Lunch Program, the persons eligible for benefits form a larger group than those who fall within CSA poverty guidelines. In such cases, the rule-of-thumb should be that a *majority* of the individuals or families served are within CSA guidelines.

(b) Individuals are eligible to participate upon a self-declaration of need without the delay of a "means test" or income investigation. Self-declaration of need makes possible immediate assistance for those suffering from hunger and in danger of malnutrition.

§ 1061.50–9 Eligible applicants.

(a) *General Community Projects.*

(1) Section 222(a) of the Economic Opportunity Act states that the Director shall provide financial assistance "* * * in a manner that will encourage, wherever feasible, *the inclusion of assisted projects in community action programs* * * *" (emphasis added). In addition, Section 222(a)(1) of the Act required that the Director carry out the CFNP "* * * in a manner that will insure the availability of * * * supplies and services, nutritional foodstuffs and related services *through a community action agency where feasible,* or other agencies and organizations if no such (community action) agency exists or is able to administer the program) * * *" (emphasis and parentheses added).

(2) Therefore community action agencies (CAA's) will be regarded as *prime sponsors* of projects utilizing general community funds. Any other organization desiring to operate a project in a geographical area served by a CAA must do so as a delegate agency of the CAA. If such organizations are unable to work out a delegate agency agreement with the CAA, then they may apply *directly* to the appropriate Regional Office of CSA. However, such applications will be considered *only if* the CAA does not submit a proposal, or submits a proposal which is not funded. (The deadline for submission of applications by prospective delegate agencies outlined in paragraph 2 of CSA Instruction 6441–1 do not apply to this program.)

(3) Other public and private, non-profit organizations, including SEOO's and CAP Associations, which meet CSA's general eligibility criteria may apply directly to the appropriate CSA regional office for general community funds to operate projects in geographical areas not served by CAA's ("un-capped areas").

Note.—This paragraph does not preclude CAA's from operating projects outside their officially designated boundaries where they are otherwise legally permitted to do so.

(4) SEOO's and CAP Associations may not apply as conduits for other applicants when the purpose or effect of such an arrangement is to allow those applicants to avoid the competitive process.

Note.—As an exception to CSA's general policy, an SEOO may apply as a conduit for other applicants within a state where the following conditions are met: (i) the applicant has CSA's written advance approval, (ii) the low income residents of the area to be served were involved in the planning of the project, and (iii) two or more of the following activities are carried out on a statewide basis: (A) advocacy, (B) improved planning and coordination, and (C) mobilization of a broader range of resources. In such a case the complete work programs and budgets of the delegate applicants must be submitted to CSA along with the conduit application.

These applications will then be reviewed, rated and ranked on a competitive basis like any other application, and they must receive a minimum score of 65 points in order to be considered eligible for funding. Likewise the work program and budget of the conduit will be rated and must receive a minimum score of 65 points.

(5) CAA's and anti-hunger groups are strongly encouraged to work together where possible. This can take the form of a CAA's delegating part or all of its work program to an anti-hunger group, or vice versa; close and systematic coordination on the part of both groups in the planning, implementation and evaluation of CFNP projects; and *close collaboration in the development of state anti-hunger strategies.* The formation of such alliances contributes to at least *one* of the general standards of effectiveness (planning and coordination) and in most cases will contribute to more.

Note.—CAA's must indicate in their applications the efforts which have been undertaken to involve various community groups and organizations—including anti-hunger organizations—in the planning and implementation of their proposed activities. In the rating and ranking of applicants points will be given to applicants who furnish evidence that such coordination has taken or will take place.)

(b) *Special Support Projects.*

(1) Public and private non-profit organizations which meet CSA's eligibility criteria—other than CAA's, SEOO's, and CAP Associations—may apply for special support funds.

(2) Special support projects must be designed to have a *broad impact* on the problems of hunger and malnutrition among the poor, i.e., an *impact* that extends beyond the boundaries of particular communities. The objective of special support projects is to assist in the development, coordination and expansion of food and nutrition programs for the poor and/or engage in advocacy efforts to improve those programs on a statewide or multi-state basis.

(3) Special support projects must relate to one or more of the four program categories outlined in § 1061.50–7.

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Special support activities may include but are not limited to:

(i) Developing or strengthening statewide or multi-state anti-hunger coalitions and task forces;

(ii) Monitoring and interpreting changes in relevant federal and state laws, regulations, and procedures;

(iii) Developing or improving statewide food and nutrition information centers or clearinghouses;

(iv) Initiating and/or stimulating the provision by others (e.g., grantees of the National Legal Services Corporation) of legal services aimed at improving the delivery of food and nutrition services to the poor.

(v) Providing assistance to low-income individuals or their representatives to attend meetings and conferences on food and nutrition issues, etc.

Note.—In making funding decisions on applications for special support funds, CSA will give preference to applicants (a) who propose to initiate or strengthen *statewide* anti-hunger coalitions which will address a broad range of hunger problems and issues and (b) whose governing boards include low-income residents or their duly elected representatives as well as *representatives of community action agencies* and other appropriate institutions and organizations which have a concern for the nutritional status of low-income families and individuals.

(4) Applicants must show evidence of successful experience and competence in carrying out the kinds of activities described above. *In addition, applicants must indicate on their applications how CAA's have been involved in the planning of their projects and how they intend to coordinate their proposed activities with CAA's in, or adjacent to the areas they propose to serve, other CFNP grantees and the SEOO in the state(s) to be served.*

(c) *Regional Training and Technical Assistance (T&TA) Projects.*

(1) Public and private nonprofit organizations and agencies which meet CSA's general eligibility criteria may apply for Regional T&TA funds. Regional T&TA providers may operate on either a regionwide or subregional basis.

(2) Applicants for Regional T&TA projects must present in their applications a detailed statement of the following:

(i) The kinds of T&TA they propose to deliver;

(ii) How they intend to go about it;

(iii) A timetable for the delivery of such;

(iv) The results they expect to achieve; and

(vi) How they plan to evaluate results.

(3) T&TA applicants must indicate how they will assist CFNP grantees to achieve or carry out the major policy initiatives of the CFNP, such as:

(i) Shifting the emphasis from service delivery to catalytic activity;

(ii) Undertaking advocacy as a major component of each CFNP project;

(iii) Effective techniques of mobilizing public and private resources, and

(iv) Coordinating activities with other institutions and organizations involved in anti-hunger efforts.

(4) In the area of program planning and management, T&TA applicants must indicate how they will assist CFNP grantees in more precisely determining the nutritional problems and needs of low-income individuals, how to set priorities, establish realistic goals, design project strategies, and evaluate results.

(5) T&TA applicants must indicate in their proposals an understanding of the four program categories described in § 1061.50–7 and an ability to assist CFNP grantees in carrying out the activities listed there. This presupposes that the applicant has an expert knowledge of the various federal feeding programs (such as Food Stamps, School Breakfast, School Lunch, WIC, Day Care Food, Nutrition Program for the Elderly, etc.) and the ability to communicate such knowledge to CFNP grantees.

It also presupposes on the part of the applicant successful experience in such activities as:

(i) How to organize coalitions and effectively conduct campaigns or other activities to initiate or expand the various federal feeding programs listed above;

(ii) How to stimulate the establishment of more effective outreach efforts by the agencies which administer these programs;

(iii) How to "monitor" such programs to assure their compliance with relevant statutes and regulations;

(iv) How to organize family and community gardens, food co-ops and buying clubs, etc. and assist them to become self-sustaining;

(v) How to train low-income residents to seek and obtain assistance from agencies which have a responsibility to serve them (such as agricultural extension services) or to speak on their own behalf in seeking benefits from agencies (e.g. Food Stamp "fair hearings");

(vi) How to help CFNP grantees engage in advocacy efforts to induce federal and state agencies to design new and redesign existing nutrition education programs so they are more responsive to the needs of low-income consumers; and

(vii) How to organize community food banks supported and sustained by a variety of resources in the community at large to meet the emergency needs of low-income individuals and families.

Note.—This list is *illustrative* and not exhaustive of the fields of expertise which may be required of the T&TA provider.

(6) T&TA applicants must not only show evidence of successful experience and competence in carrying out the kinds of activities described above, they must indicate how they will coordinate their activities with the CSA regional office, the SEOO's, special support projects and national T&TA providers. In addition they must, as soon as possible after funding decisions are reached, review the propoals of the FY 79 CFNP grantees (within their areas of coverage) and revise their work programs, in consultation with the Regional Offices, so as to more precisely meet the needs of CFNP grantees in FY 79.

(d) *Headquarters Training and Technical Assistance (T&TA) Projects and Research and Demonstration (R&D) Projects.*

(1) Public and private nonprofit organizations or agencies which meet CSA's general eligibility criteria may apply for headquarters T&TA and R&D funds.

(2) As distinct from regional T&TA projects, headquarters T&TA projects will focus on grantee needs that are common to a number of regions or require a national strategy. In addition headquarters T&TA projects may be required to address the needs of other projects administered directly from headquarters, e.g., migrant conduits.

(3) The objective of R&D projects is to develop new knowledge or demonstrate new hypotheses relevant to the solution of the problems of hunger and malnutrition among the poor. Activities proposed in applications for R&D funds should relate to activities described under the four program categories defined earlier in this subpart but should emphasize new and untried approaches to solving problems of hunger and malnutrition and potential solutions so as to have maximum impact on these problems nationwide.

(e) *Migrant Projects.* Farmworker-governed organizations which meet CSA's eligibility requirements may apply for funding under this category. Migrant conduits and other applicants proposing activities of a national or multi-regional scope will apply directly

to CSA headquarters and will be exempt from the competitive process.

Applicants proposing to operate local projects, and which meet CSA's eligibility criteria (preferably farmworker-governed organizations), may apply as sub-contractors to the appropriate migrant conduit. Applicants applying as sub-contractors of the migrant conduits will follow the procedures outlined in § 1061.50–11 and Appendix A. Their applications will be reviewed, rated and ranked by the migrant conduits on the basis of the criteria listed in Appendix D. The funding process will be competitive, with applicants with the highest scores being given funding preference.

Note.—Applicants for local migrant projects will be required to achieve the minimum score of 65 points in order to be considered eligible for funding. However, CSA may waive this requirement in unusual circumstances where such is necessary in order to serve the most needy migrant populations.

(f) *Indian Projects.* Indian groups whose governance is controlled by the populations to be serve are eligible to apply for Indian project funds. This includes Indian nations, tribes, bands, pueblos, or other organized groups or communities, including Alaskan Native villages as defined in the Alaskan Claims Settlement Act who are either indigenous to the United States or who otherwise have a special relationship to the United States, or a state, through treaty agreement, executive order, law, court order, or administrative action of the Department of Interior, except as otherwise provided by federal law. Urban Indian groups are eligible to apply for funds under this category. Applicants for Indian projects should submit their applications to the appropriate CSA regional office and should follow the application procedures outlined in § 1061.50–11 and Appendix A. Their applications will be reviewed, rated and ranked according to the criteria in Appendix C and the funding process will be competitive, with funding preference being given to applicants with the highest scores.

Note.—The CSA review panels for Indian projects will include Indians and Indian applicants will be required to achieve the minimum score of 65 points in order to be considered eligible for funding. However, CSA may waive this requirement where such is necessary in order to serve the most needy Indian populations.

§ 1061.50–10 Funding.

(a) *Non-Federal Share.* The non-Federal share is waived for CFNP projects (see § 1068.20 or CSA Instruction 6802–3a). However, grantees are expected to mobilize local and state resources throughout the life of the project.

(b) *Federal Share.* Federal share as matching funds granted under section 222(a)(1) may be used to match USDA funds to support food stamp outreach projects, as well as nutrition projects for the elderly funded under Title XX of the Social Security Act as amended.

(c) *One-time funding.* Applicants should note that funds awarded for CFNP projects are provided on a one-time only basis. Therefore applicants should apply for projects which can be successfully completed within the proposed funding period or which will be continued beyond the funding period with funds from other sources. There is no stated or implied obligation or commitment on the part of CSA to refund any project. Consequently, applicants should inform their employees, beneficiaries and the local community that this funding is on a one-time basis in order that they may prepare for the possibility that an application for funding under CFNP in a subsequent year may not prevail in the competitive process.

§ 1061.50–11 Application procedures.

(a) *Required forms and documents.*

(1) SF 424: Federal Assistance (See CSA Instruction 6710–3a) This form initiates the A–95 clearinghouse process.

(2) OEO Form 395: Eligibility Documents (See CSA instruction 6710–1 CH 11. Note: All applicants are required to have on file with CSA the following documents in order to establish eligibility to receive CSA funds. Current grantees should check to make certain these documents are up-to-date, making changes where necessary and resubmitting. New applicants should submit them either prior to or along with the submission of their formal applications.)

(i) Articles of Incorporation (See CSA Instruction 6710–1 CH 11)

(ii) By-laws or Rules of Organizations (See CSA Instruction 6710–1 CH 11)

(iii) Personnel Policies and Procedures (See 6900 series of CSA Instructions)

(iv) Biographic Data on Key Staff (See Instruction 6710–1 CH 11)

(v) Statement of Accounting System (CSA Form 380—see OEO Instruction 6801–1)

(vi) Current Bond (See CSA Instruction 6800–3)

(vii) Participation of the Poor (See OEO Instruction 6005–1)

(A) List of current Board Members (CAA's only—See OEO Instruction 6400–01, 02)

(B) List of Policy Advisory Committee Members (LPA's Only—See OEO Instructions 6005–1)

(viii) Applicant Cerifications (CSA Form 301—New applicants only)

(ix) Certification of Applicant's Attorney (OEO Form 393—New applicants only—See Instruction 6710–1 CH 11)

(3) Project Narrative (See Appendix A)

(4) OEO Form 419: Summary of Work Program & Budget (See CSA Instruction 6710–1 CH 11)

(5) CAP Form 25 & 25a: Program Account Budget and Support Sheet (See OEO Instruction 6710–1)

(6) CAP Form 84: Participant Characteristics Plan (See OEO Instruction 6710–1)

(7) OEO Form 394: Checkpoint Procedure for Coordination (*Optional.* Applicants are encouraged to use this form to indicate coordination linkages and agreements with local agencies. However, if the question of coordination is adequately addressed in the project narrative; the applicant need not include this form. See Instruction 6710–1 CH 11.)

(8) CAP Form 440: Program Progress Review Report (See CSA Instruction 6800–9. Note: Although this form is not an application document, and not normally required with an application, CSA is requiring an up-dated Form 440 from applicants currently operating CFNP projects.)

When Delegating Projects

(9) CAP Form 85: Administering Agency Funding Estimate (See OEO Instruction 6710–1)

(10) CAP Form 67: Delegate Agency Basic Information (See OEO Instruction 6710–1)

(11) CAP Form 11: Assurance of Compliance with Civil Rights (See OEO Instruction 6710–1)

(12) OEO Form 280: Agreement for Delegation of Activities (Self-explanatory)

(b) *Clearinghouse review.* (A–95). Applicants are reminded that they must comply with the requirments of OMB Circular A–95 (See CFR § 1067.10 and/or CSA Instruction 6710–3a), including the following:

(i) Ordinarily, applicants must, at least 60 days prior to the actual submission of applications to CSA, notify through the SF 424 the appropriate clearinghouses of their intent to apply. In order to comply with this requirement, applicants were urged in the proposed rule (**Federal Register**, March 8, 1979) to initiate the clearinghouse process on or about April 1. Since OMB has granted a procedural

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term "advocacy". Because advocacy, unlike

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variation for fiscal year 1979 (Administrative Note No. 9, Dated May 7, 1979), applicants who have not yet submitted their letters of intent to the clearinghouses may still do so, *but not later than May 30, 1979.* Applicants are urged to notify the clearinghouses of their intent immediately. They should also alert the clearinghouse of the deadline for the submission of applications to CSA and request, in view of the short time frame, that clearinghouses wishing to review an application notify the applicant promptly and expedite their review process as much as possible once the formal application is submitted to the clearinghouse.

(ii) Where the clearinghouse, in response to the notification of intent to apply, indicates that it wishes to review and comment on the application, applicants should forward applications to the clearinghouse as soon as possible. Applicants normally are required to submit the comments of the clearinghouse along with their applications to CSA. However, some, if not most applicants, will not be able to submit their applications to the clearinghouses in time for clearinghouse review and comment *before* the deadline for submitting applications to CSA. In order not to impose an impossible burden on both applicants and the clearinghouses, CSA has requested, and OMB has granted, *a procedural variation for FY 79* which will permit concurrent review of applications by CSA and the clearinghouses. Therefore, applicants who are unable to attach clearinghouse comments at the time of submission of their applications to CSA, should request the clearinghouse to send their comments directly to CSA headquarters or the appropriate CSA regional office. Only comments received from the clearinghouses by August 6 will be considered. Funding decisions will be announced by August 10.

(iii) Applicants proposing *statewide* projects need only submit their proposals to the state clearinghouse for review. Such applicants should indicate in writing to the state clearinghouse that their proposed project is statewide and will not be submitted to area clearinghouses. Applicants serving as conduits must submit the applications of their delegates or sub-grantees to the appropriate area or state clearinghouses if their application will be part of such conduits' application to CSA. Indian applicants who are part of a federally recognized tribal government or local sub-unit of such tribal governments are not required to submit their applications to area or state clearinghouses but are encouraged to coordinate with the appropriate clearinghouses.

Migrant conduits are responsible for submitting subcontractor or delegate agency applications to the state clearinghouses for review pursuant to the procedural variation of the A–95 process granted by OMB. Migrant procedures for clearinghouse coordination were explained directly to the conduits in a letter dated May 8, 1979. Applicants may obtain clearinghouse addresses from the appropriate CSA Regional office or, in the case of applicants for projects of national scope, CSA headquarters.

(c) *Where to Apply.*—According to category of project send applications to:

General Community: Appropriate CSA Regional Office.

Special Support: Appropriate CSA Regional Office.

Regional T&TA: Appropriate CSA Regional Office.

Headquarters T&TA: CSA Headquarters.

Migrants: Migrant conduits and applications with a multi-state or national scope, CSA Headquarters. Applicants proposing projects of a local nature apply to appropriate migrant conduit (see Appendix H).

Indians: Appropriate CSA Regional Office.

§ 1061.50–12 Reporting requirements.

Grantees will follow the financial and project reporting requirements outlined in CSA Instructions 6800–8 and 6800–9 respectively.

Note.—As provided in CSA Instruction 6800–9, CSA is waiving the requirement that CAAs submit the self-evaluation of CFNP projects with the 440 submitted for PA 01. For this program 440s will be submitted semi-annually and annually based on the effective date of the CFN grant.

§ 1061.50–13 Current fiscal year application and review information.

The appendices to this subpart provide additional information relevant to funding CFNP projects in the current fiscal year.

Appendix A—Fiscal Year 1979 Funding Process

1. Timetable for Accepting Applications

Applications will be accepted from the effective date of the final rule through June 30, 1979. Applications postmarked later than June 30th will not be accepted. Exception: Migrant conduits will be notified by letter of the deadline for submission of their applications and those of their sub-contractors.

2. Fiscal Year 1979 Program Category Priorities

The program categories listed in § 1061.50–7 are listed in priority order: (1) Access, (2) Self-Help, (3) Nutrition/Consumer Education, and (4) Crisis Relief. While no minimum funding percentages or bonus points are being assigned to any of the categories, it is hoped that each state will develop strong projects in the "Access" category since activities in this category are known to have, in general, the greatest impact on the problem of hunger and malnutrition among the poor.

In developing their proposals, applicants should take into account not only national priorities but also local needs. If the poor in a particular locality—and not merely "self-appointed representatives" of the poor, or those administering programs for the poor—believe that projects in categories other than Access are more suitable or address a more urgent need than Access projects, then such projects may be given a higher priority and applicants will not be penalized for their choice. However, the applicant must document the ways in which and extent to which low-income residents were involved in selecting a particular priority.

While applicants may select the program categories that best meet the needs of the poor served by them, projects in all program categories are expected to be *catalytic*, to contain a *strong advocacy thrust*, and to *mobilize significant other resources*. These three factors account for a substantial number of the total points in the rating criteria and failure to include them as essential elements in a project proposal may result in a applicant not being funded.

3. Further Clarification of the Key Terms—"Catalytic Activity", "Advocacy", "Direct Service Delivery" and "Monitoring"—Defined in § 1061.50–2

Contrary to the interpretation of some, the intent of the FY 1978 CFNP rule was not to completely eliminate direct service delivery from the CFNP, in favor of catalytic activity and advocacy. The intent was rather to shift the *emphasis* from non-catalytic to catalytic activity in general and from direct service delivery to advocacy in particular.

Part of the confusion arose from the failure of the rule to make clear that direct service delivery can, under some circumstances, be truly catalytic. Consistent with the intent of last year's rule, the CFNP rule for 1979 makes explicit two assumptions: (1) that not all catalytic activity is advocacy and (2) that some forms of direct service delivery can be catalytic. These assumptions can be diagrammed as follows:

	Activity Aimed at Individuals	Activity Aimed at Institutions
	DIRECT SERVICE	ADVOCACY
CATALYTIC	One-on-one activity (for example, some types of out-reach activity) whose purpose is to deliver goods or services to low-income individuals and families in such a manner as to trigger a process that is carried forward by the recipient, either on his own or with the assistance of groups and agencies other than the CFNP project.	Activity whose purpose is to insure that the views of low-income individuals and families are heard, their rights observed, the benefits to which they are entitled are actually provided and their needs met to the extent possible, whether this is achieved by a change in a law, regulation, policy, procedure or attitude or by leveraging additional public or private resources.
	DIRECT SERVICE	
NON-CATALYTIC	One-on-one activity (for example, some types of outreach activity) whose sole effect is the delivery by a CFNP worker of goods or services to low-income individuals and families.	Activity which results in CFNP staff being co-opted into performing, without reimbursement, services which are properly the the responsibility of another group or agency.

Direct Service as a Catalytic Activity

Although providing one-on-one service makes little sense in the context of advocacy and coalition-building at the state level and even less sense at the level of the national anti-hunger groups and T&TA providers, such service is important at the level at which community action agencies operate. A local CFNP project which completely severs the service link between its staff and low-income individuals, not only risks a loss of credibility in the community but is depriving itself of one of its richest resources, first-hand knowledge of the nutritional problems of those the CFNP is ultimately intended to benefit. In addition, the one-on-one relationship created through out-reach activity at the local level has two other consequences which are vital for the success of the CFNP: (1) by enhancing the opportunity to involve recipients of services in the planning and implementation of programs set up to serve them, it contributes to the achievement of the overall goal of Title II programs—self-sufficiency—and (2) it makes possible the kind of grass-roots support needed for really effective advocacy at the state and national levels.

However, as indicated earlier (§ 1061.50–4 (a) and (b) above), the same passage of the EOA which establishes the goal of self-sufficiency, points to *catalytic* activity as the principal means of achieving this goal. This should not be construed as ruling out one-on-one service. If the delivery of a direct service by a CFNP worker to a low-income individual produces a benefit which has a continuing and expanding effect on that individual and others, even after the reduction or termination of direct CFNP support, then the delivery of that service qualifies as a catalytic activity. Non-catalytic service delivery, on the other hand, should be kept to a minimum, be provided on a temporary or emergency basis only and be supported wherever possible from local initiative funds. The intent of the EOA is reinforced by a practical consideration: the very limited funding of the CFNP. The fact that the CFNP budget is only 3/10ths of 1% of the total federal food outlay suggests not only that most of the direct service provided should be of the catalytic variety, but that there should be a very strong emphasis on that type of catalytic activity known as advocacy.

Advocacy as a Catalytic Activity

It can be inferred from the statement of the five purposes of Title II programs (see § 1061.50–6) that the two most important objectives of the CFNP are the mobilization of resources and institutional change. The techniques used to bring about these two results are what is meant in this rule by the term "advocacy". Because advocacy, unlike catalytic activity of the direct service variety, is aimed at institutions and the general public, it obviously has the potential for producing far greater dividends for the low-income population than direct service.

The intent of the rule is that an advocacy component be built into *each project* but not necessarily into each project activity. For example, a self-help project may include as one of its activities the provision of seeds and technical assistance to low-income gardeners. The catalytic potential of this one-on-one service could be greatly increased if the project were to include a specific plan to induce other public or private institutions to make land available and assume at least part of the burden of providing seeds and technical assistance.

It may be difficult and sometimes impossible to score successes in local advocacy activity. But the rule calls on all local project operators to make a *bona fide* effort in this direction. It is especially important, in this era of dwindling public funds, to engage in vigorous *private sector* advocacy. Grantees inexperienced in advocacy techniques should seek help from the CFNP's regional and national T&TA providers.

The following examples may help to further clarify what is meant by catalytic direct service, advocacy, etc., and how these different activities can be combined in one project:

1. *Under Access.* a. *Direct Service.* Any one-on-one direct service activity in the Access category can be considered, for the purposes of this rule, to be catalytic. For example, an activity which is catalytic and therefore quite acceptable is searching out low-income persons eligible for food stamps, alerting them to their entitlements and referring them to the local certification office for additional counseling and enrollment in the Food Stamp program. Another example is representing an applicant for food stamps at a local or state-level hearing. Some activities, however, are more catalytic than others, that is, they produce an even greater return for the dollars invested. For example, a CFNP project, instead of directly representing individuals at Food Stamp hearings, may help low-income individuals learn the techniques needed to enable them to speak for themselves at Food Stamp hearings and to organize and train others to do the same. The most catalytic approach of all is the advocacy approach.

Advocacy. Examples of advocacy in the Access category are: (1) working out arrangements with a grantee of the national Legal Services Corporation to provide one-on-one legal counseling and representation for food stamp recipients experiencing difficulties with welfare offices; (2) monitoring of local welfare offices to insure that they comply with USDA regulations so that clients obtain the benefits to which they are entitled; (3) organizing a corps of county volunteers to provide elderly food stamp recipients with support services, such as transportation to food stamp outlets and grocery stores; (4) disseminating information locally on the national School Breakfast

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Program and seeking to persuade local officials and school board members to institute breakfast programs in schools serving low-income communities.

2. *Under Self-Help.* a. *Direct Service.* Any one-on-one direct service in the Self-Help category is catalytic. For example, the provision of seeds and T&TA to low-income gardeners not only stimulates them to pursue an activity which promotes self-sufficiency (the goal of all Title II programs), but the gardeners, by investing their own labor at no cost to the project, are able to produce and preserve food whose value far exceeds the cost of the seeds and T&TA. Nonetheless, a gardening project becomes catalytic in the full sense if, in addition to providing seeds and T&TA, it includes a strong advocacy component.

b. *Advocacy.* Examples of advocacy in the Self-Help category are: (1) negotiating with USDA's Extension Service or other public or private agencies to provide seeds and on-going T&TA for low-income gardeners; (2) persuading a local government to change its regulations governing the use of vacant land so as to make it available for family and community gardens; (3) negotiating with local governments to remove barriers, resulting from local ordinances or regulations, to the establishment of farmers' markets and food co-ops.

3. *Under Nutrition/Consumer Education.* a. *Direct Service.* As in the case of "Access" and "Self-help" activities, it is hard to think of a direct service activity in the "Nutrition Education" category which does not have some catalytic effect. For example, there is surely some multiplier effect in the activity of teaching a group of low-income individuals how to compare foods and shop wisely, in terms of nutritional content or price or both. But given the fact that other agencies have been furnished federal monies to carry out nutrition education activities, a more cost-effective expenditure of limited CFNP funds would be on advocacy activities relating to nutrition education.

b. *Advocacy.* Examples of advocacy in the Nutrition Education category are: (1) working with USDA's Extension Service or with other appropriate state agencies to insure that federally-financed nutrition education programs are, to the extent provided for under the law, designed for and directed at the low-income population; (2) organizing groups in the low-income community to monitor in local retail food outlets price increases that exceed Administration inflation guidelines.

4. *Under Crisis Relief.* a. *Direct Service.* Most direct service activity in the Crisis Relief category is non-catalytic, for example, issuing emergency food vouchers, paid for by CFNP funds, to a family in need.

b. *Advocacy.* Examples of advocacy in the Crisis Relief category are: (1) spinning off a currently CAA-operated food voucher program to a community coalition that raises funds to carry on the program independently of CAA subsidy; (2) negotiating with USDA, the Federal Disaster Assistance Administration, church and civic groups and local government entities to establish a mechanism in the community that will insure prompt distribution of foodstuffs to low-income individuals in emergency situations; (3) monitoring the operation of a local food stamp program to insure that the new USDA regulation is followed which cuts food stamp issuance time for a destitute individual or family to the same day the application is filed (the so-called "same-day-service").

Monitoring

The Statutory authority for CSA's and CSA grantees' monitoring of other federally-administered programs is found in Title IX of the Economic Opportunity Act which states: "The Director shall, directly through grants or contracts, measure and evaluate the impact of all programs authorized by this Act and of poverty-related programs authorized by other Acts, in order to determine their effectiveness in achieving stated goals, their impact on related programs, and their structure and mechanisms for delivery of services * * *".

Since the USDA is the principal operator of federal food programs, the bulk of CFNP monitoring activities will be aimed at programs operated by USDA at the state and local level. Carol Tucker Foreman, Assistant Secretary for Food and Consumer Services, USDA, in commenting upon last year's proposed CFNP regulations, recognized and supported this critically important role of CSA's CFNP grantees. Having stated her commitment to improve the operation of USDA's food programs she said:

"We need support and, I am not afraid to admit, pressure. * * * we need the help and expertise of CFNP grantees. We can write the rules and publish guidelines, but we cannot peer into every community in this land to see how our programs reach people. We need to see how the programs function and receive guidance as to how they can be improved. *CFNP must see this function as its major responsibility.* There must be informed and aggressive actions state-wide and in communities across the country to *monitor* program implementation, to help governmental agencies do their jobs and, where necessary, insure that the law is enforced. Certainly we intend to improve our capacity to aid in this process, but most of this work must be undertaken locally where only CFNP, and the volunteer work of other civic organizations, can truly be effective." (emphasis added)

Thus the monitoring role of CFNP grantees has not only been recognized by USDA, it has been strongly encouraged, and the letter of Ms. Foreman in response to this year's proposed rule, quoted earlier in the preamble, underscores once again its importance.

It should be emphasized that the type of monitoring described above is *not* the same as the monitoring and oversight functions that USDA and other federal agencies, by law, must *themselves* carry out to insure that programs they administer comply with relevant statutes and regulations, are managed soundly, and achieve the purposes for which they were instituted. Therefore, in carrying out this function, CFNP grantees should carefully avoid conveying the impression that they are supplanting or usurping the monitoring functions proper to these other agencies.

4. Review Process

The review process for applications except Headquarters applicants will be competitive, i.e., each application will be reviewed, rated, and ranked according the the criteria published in Appendices B and C, with funding preference being given those with the highest scores. Unlike last year, applications will be reviewed, rated and ranked in their entirety, rather than by program category. Each applicant must score a minimum of 65 points in order to be funded. An applicant who scores the minimum points *may* be funded, if funds are available, but funding is not guaranteed.

The review process for all applications will be undertaken by the office to which applications are submitted as indicated in § 1061.50–11 of this subpart. Regional Offices and Migrant conduits' ratings, rankings and favorable or unfavorable funding decisions will be reviewed by CSA Headquarters before decisions become final. Applications from conduit organizations must include copies of the applications from the sub-contractors or delegate agencies to which the conduit is redistributing CFNP funds.

4. Notification and Appeals

CSA will complete its funding decision and mail notifications of results to all applicants on August 10, 1979. The letter of notification will indicate whether the applicant was selected for funding, and will give the applicant's score and rank standing. If an applicant believes that the score assigned was unfair or that an incorrect decision regarding eligibility was made, the applicant may request additional information about the decision or may file a written appeal to the CSA Regional Director. The applicant has until August 20 to file an appeal. The appeal should state succinctly why the applicant believes the decision of CSA to be incorrect or unfair. The Regional Director will promptly schedule a meeting with the applicant, hear the applicant's complaint, provide any additional pertinent information as to why the applicant was not funded, and present a written decision on the appeal to the applicant by September 7, 1979. The decisions of the Regional Directors will be final with respect to regional appeals. Migrant subcontractors will follow the same procedure outlined above except that their appeals will be made to the appropriate Migrant Conduit's Executive Director whose decision will be final. There will be no appeals process for CSA Headquarters applicants since they are not funded on a competitive basis.

5. CSA Form 419 and Project Narrative

All applicants for CFNP funds are required to submit a CSA Form 419 (Summary of Work Program and Budget). Since funds for most applicants will be awarded on a competitive basis, it is absolutely essential that applicants provide, through the Form 419 and project narrative, as complete and specific a picture as possible of *what* they propose to do and *how* they intend doing it. In preparing the narrative, applicants should refer to the discussions in the rating criteria in the following section.

Note: The consistency of a project with legislative purposes (General Standards of Effectiveness) is dropped from the rating criteria for FY 1979. This does *not mean* that the requirement to conform to those purposes is being eliminated or is of less importance. On the contrary, it means that the requirement to conform both to the General Standards of Effectiveness and the Specific Standards of Effectiveness described in § 1061.50–6 must be met *in order for an applicant to be considered eligible for funding.*

Therefore, applicants must not only list in Item 11 of CSA Form 419 the standards which are being met in each program category, they must describe in the project narrative exactly how the standards will be addressed. In other words, in addressing the General Standards of Effectiveness, the applicant must show how the project will (1) strengthen the community's planning and coordination capabilities, and/or (2) improve service delivery systems, and/or make use of innovative approaches, and/or (4) involve maximum feasible participation by the poor in the planning and implementation of the project, and/or (5) mobilize a broad range of resources.

In addressing the specific standards of effectiveness applicants must list on the Form 419 the particular standard which is being met and describe in the project narrative the extent to which the project will result in (1) improvement in the nutritional status of the target population or (2) reduction in hunger among the target population. Projects that do not meet a minimum of *three* of the general standards of effectiveness and one of the specific standards *will not be considered eligible for funding.* In order to expedite the review process applicants are requested to identify in the project narrative their discussion of the standards of effectiveness with the heading:

Standards of Effectiveness Addressed:

In keeping with the President's efforts to keep down inflation, each applicant shall include in the project narrative a statement indicating what efforts are being made both to keep down project costs and to help low-income citizens cope with rising food costs.

6. Rating Criteria

In preparing the Form 419 and project narrative, applicants should keep in mind the seven criteria (discussed below) which will be used by CSA reviewing teams in rating and ranking applications.

(a) *Participation of the Poor.* Fundamental to all CSA-funded programs, including the CFNP Program, is the requirement that low-income residents in the areas to be served be substantively involved in the planning, conduct, and evaluation of projects at the community level. The minimum requirements for the participation of the poor are spelled out in OEO Instruction 6005–1 and all applicants are advised to review it carefully. (Note: Limited Purpose Agencies are reminded that they must "have either a governing body made up of one-third representatives of the poor or a policy advisory committee composed of at least 50 percent democratically selected representatives of the poor being served by the CSA-funded program".)

Although participation of the poor is an *eligibility requirement,* it is included in rating criteria for FY 1979 in order to highlight the added emphasis that is being placed on it in the Community Food and Nutrition Program and to enable CSA to make a judgement about the *quality* of an applicant's efforts to secure such participation. Thus, applicants will be rated on (a) the extent to which they have involved the low-income residents of the areas to be served in the planning of the project—including the selection of goals and priorities—and (b) the ways in which the poor will be involved in operating and evaluating the project.

(b) *Needs/analysis.* The first criterion—the analysis of needs—refers to the initial step in the planning process which lies behind the project described in the Form 419 and project narrative. CSA Instruction 6710–1, change 11, requires Title II grantees to develop and maintain planning documents which contain, among other things, an analysis of the particular needs the project is addressing.

The needs analysis must describe the *nature* and *extent* of the problems of hunger and malnutrition among the poor in the community the project will serve. The analysis should indicate what *efforts are currently being undertaken* to meet those needs, what *gaps or shortfalls there* are in these efforts and the *extent to which* the needs or *problems remain unmet* or unsolved. The applicant should clearly identify, among the range of needs listed, the precise need(s) the proposed project will address. Appropriate statistics to document the need(s) should be supplied—for example, the number of persons participating in the food stamp program as compared with the number of eligible persons not participating, or the number of children in need of but not receiving school breakfasts, or the number of families which could benefit from a gardening project, or the number of persons in need of emergency food assistance.

The needs analysis must indicate which of the problems described will be addressed and why these particular problems (priorities) were selected. If the applicant is addressing other problems and needs of low-income persons, the needs analysis should indicate the order of priority which the problem of hunger and malnutrition has among those needs and should include a description of the types and level of resources already committed to solving that problem. (Community Action Agencies should indicate the amount of local initiative funds, as well as other resources, which are currently being applied to anti-hunger activities.)

(c) *Adequacy of work program and budget.* The second criterion—the adequacy of the work program and budget—refers to the project goals, activities, and budget described in the Form 419 and project narrative. The project goals (item 11 of Form 419) should be stated in *specific* and *measurable* terms and they should be *appropriately related to the needs* described in the needs analysis. They should reflect the *changes* or *results* which the project activities are expected to bring about. The activities should be listed in summary form on the Form 419 (item 13) and described in detail in the project narrative. The description should indicate not only *what* will be done but *how* it will be done, i.e., the *strategy* that will be pursued in achieving goals. The activities should be *appropriately related to the goals.*

If an applicant is proposing to carry out activities in more than one program category the categories should be listed on the Form 419 in priority order, and the goals, activities and budgets for *each category* should be clearly delineated. While the application will be reviewed, rated and ranked *in its entirety* (rather than by program category), this information is needed in order for CSA to know the kinds of activities that are being funded and the funding level of each program category.

(d) *Anticipated Impact.* The statement of project goals should include a description of what the applicant intends to accomplish, i.e., what results or changes the applicant intends to bring about in relation to the problem to be solved. Thus the statement of goals is a statement of anticipated impact. The anticipated impact of the project should be stated in specific and measurable terms and should include the number of persons to be served, the extent to which their nutritional needs will be met and the extent to which unmet needs will remain after the project is completed. The applicant should also include a statement indicating the per/person cost of serving those for whom the project is intended and the dollar value of services or benefits derived.

(e) *Coordination.* Each applicant must indicate to what extent other organizations conducting anti-hunger activities were involved in the planning of the project, and the ways in which the project will be coordinated in the implementation phase with the activities of these organizations. Where such is appropriate, CAA's must indicate how they intend to coordinate their activities with anti-hunger groups and anti-hunger groups must indicate how they intend to coordinate their activities with CAA's.

(f) *Catalytic Effect of Project on Institutions.* Catalytic activity which is aimed at institutions should attempt to bring about two results: *institutional change* and *mobilization of resources.* The means of achieving these is *advocacy.* The applicant, therefore, should describe in detail how the project staff will, through advocacy for low-income persons before public and private institutions, seek to change interpretations of laws, regulations, policies, procedures, and attitudes in order to insure that low-income persons receive the benefits to which they are entitled. Advocacy of this sort may and should include enlisting the poor to speak on their own behalf in order to insure that their views are heard, their rights are observed, the benefits to which they are entitled are provided, and their needs are met.

The applicant should also state how the project staff will, through advocacy for low-income persons before public and private institutions, leverage dollars or in-kind contributions from other elements in the community in support of the project and what

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the overall or end effect of the project itself will be in terms of leveraging dollars or services for low-income individuals.

(g) *Ability of Applicant to Perform.* CSA Instruction 6800-9 requires Title II grantees to submit a semi-annual and annual project progress review report (CSA Form 440). This report provides an analysis of the accomplishments in relation to each goal in grantee's currently approved work program, and includes an assessment of grantee status with respect to general and/or specific standards of effectiveness applicable to each goal.

Since the ability of applicants to successfully carry out their proposed work program is one of the important criteria, applicants who are currently operating (or have operated in the past) a CFNP project must attach to the application a copy of the CFNP portion of the most recent Form 440, updating it where necessary. CSA grantees who have never operated a CFNP project must attach to the application that portion of their most recent Form 440 which relates to a project they have operated that is similar to CFNP projects. Applicants not previously funded by CSA should attach to the application a third-party of self evaluation of a project they have been operating that is similar to CFNP projects, along with a brief statement summarizing their overall administrative ability and general performance record.

All applicants currently operating CFNP projects are encouraged to conduct a third-party evaluation of their current CFNP project (or in the absence of such, a self-evaluation) and attach copies of these evaluations to their applications.

7. Training and Technical Assistance

The applicant's need for training and technical assistance in carrying out the project should be carefully described in item 15 of the Form 419. It is presumed that most, if not all, projects will need some form of technical assistance. The training and technical assistance plans proposed by the regional T&TA providers will be revised, as necessary, in light of the statement of goals, activities, and T&TA needs expressed by applicants on their Form 419s. It is important therefore, that applicants be precise and specific in defining and articulating their T&TA needs.

8. Allocation of FY 79 Funds

The regional allocations of FY 79 CFNP funds had not been determined at the time this rule was submitted to the **Federal Register.** However, they will be published separately at a later date and will be based on the three-factor formula of last year, i.e., the number of poor, the number of infant deaths, and the number eligible but not participating in the Food Stamp Program. The distribution of funds by type of project (e.g., General Community, Special Support, etc.) will be announced at the same time.

9. Program Accounts

For the purposes of the Fiscal Year 1979 funding process, the following program account numbers for the national program categories should be entered in item 16 of Form 419:

Program Accounts for CFNP Activities

12—Access.
13—Self-Help.
15—Nutrition education.
16—Crisis relief.
29—Research.
39—Demonstration.
42—T&TA.
48—Evaluation.

If the applicant proposes to address more than one national program category in the same project, only one Form 419 is needed for the project but the goals and activities falling in separate program categories (program accounts) must be clearly separated from each other on the Form 419 and a separate budget (Forms 25 and 25a) should be attached for *each* program account.

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APPENDIX B

RATING CRITERIA – GENERAL COMMUNITY PROJECTS	
1. Participation of the Poor(5 pts) -Substantive participation by the poor is ensured in the planning, conduct, and evaluation of the project.	
2. Analysis of Needs/Priorities(0-15 pts) -Nature and extent of problem is adequately described and documented(0-8 pts) -Priorities selected represent the most serious needs(0-7 pts)	
3. Adequacy of Work Program and Budget(0-20 pts) -Goals are appropriately related to need and are specific and measurable (0-5 pts) -Activities are adequately described and appropriately related to goals (0-10 pts) -Budget is appropriately related to activities and adequately documented (0-5 pts)	
4. Anticipated Impact(0-15 pts) In relation to the problem to be solved and the resources committed to the project, the -Impact is minimal(0-5 pts) -Impact is moderate(6-10 pts) -Impact is substantial(11-15 pts)	
5. Coordination(0-10 pts) -Applicant has involved other institutions and organizations, where appropriate, in the planning of the project(0-5 pts) -Other institutions/organziations will be involved in the implementation of the project(0-5 pts)	
6. Catalytic Effect of Project on Institutions (ADVOCACY)(0-25 pts) A. Institutional Change(0-15 pts) Grantee, through advocacy for low-income persons before public and private institutions, seeks to change interpretations of laws, regulations, policies, procedures, and attitudes in order to insure that low-income persons receive that to which they are entitled. B. Mobilization of Community Resources(0-10 pts) Grantee, through advocacy for low-income persons before public and private institutions, leverages dollars or in-kind contributions from other elements in the community. - 0-10% of total budget(0 pts) - 10-25% of total budget(1-5 pts) - 25% and up(6-10 pts)	
7. Ability of Applicant to Perform(0-10 pts) -Assessment of past CFNP or other relevant projects (including written self or third party evaluations, progress reports, or CSA on-site assessments.) (0-5 pts) -Assessment of appplicant's overall administrative ability and general track record.(0-5 pts)	
TOTAL POINTS POSSIBLE: 100	

APPENDIX D

APPENDIX C

RATING CRITERIA - INDIAN PROJECTS

1. Participation of the Poor(5 pts) -Substantive participation by the poor is ensured in the planning, conduct, and evaluation of the project.	. . .
2. Analysis of Needs/Priorities(0-20 pts) -Nature and extent of problem is adequately described and documented(0-10pts) -Priorities selected represent the most serious needs(0-10 pts)	
3. Adequacy of Work Program and Budget(0-20 pts) -Goals are appropriately related to need and are specific and measurable (0-5 pts) -Activities are adequately described and appropriately related to goals (0-10 pts) -Budget is appropriately related to activities and adequately documented (0-5 pts)	
4. Anticipated Impact(0-15 pts) In relation to the problem to be solved and the resources committed to the project, the -Impact is minimal(0-5 pts) -Impact is moderate(6-10 pts) -Impact is substantial(11-15 pts)	
5. Coordination(0-10 pts) -Applicant has involved other institutions and organizations, where appropriate, in the planning of the project(0-5 pts) -Other institutions/organizations will be involved in the implementation of the project(0-5 pts)	
6. Catalytic Effect of Project on Institutions (ADVOCACY)(0-20 pts) A. Institutional Change(0-10 pts) Grantee, through advocacy for low-income persons before public and private institutions, seeks to change interpretations of laws, regulations, policies, procedures, and attitudes in order to insure that low-income persons receive that to which they are entitled. B. Mobilization of Community Resources(0-10 pts) Grantee, through advocacy for low-income persons before public and private institutions, leverages dollars or in-kind contributions from other elements in the community. - 0-10% of total budget(0 pts) - 10-25% of total budget(1-5 pts) - 25% and up(6-10 pts)	
7. Ability of Applicant to Perform(0-10 pts) -Assessment of past CFNP or other relevant projects (including written self or third party evaluations, progress reports, or CSA on-site assessments.) (0-5 pts) -Assessment of appplicant's overall administrative ability and general track record.(0-5 pts)	
TOTAL POINTS POSSIBLE: 100	

APPENDIX D

RATING CRITERIA - MIGRANT PROJECTS

1. Participation of the Poor(5 pts) -Substantive participation by the poor is ensured in the planning, conduct, and evaluation of the project.	
2. Analysis of Needs/Priorities(0-15 pts) -Nature and extent of problem is adequately described and documented(0-8 pts) -Priorities selected represent the most serious needs(0-7 pts)	
3. Adequacy of Work Program and Budget(0-20 pts) -Goals are appropriately related to need and are specific and measurable (0-5 pts) -Activities are adequately described and appropriately related to goals (0-10 pts) -Budget is appropriately related to activities and adequately documented (0-5 pts)	
4. Anticipated Impact(0-15 pts) In relation to the problem to be solved and the resources committed to the project, the -Impact is minimal(0-5 pts) -Impact is moderate(6-10 pts) -Impact is substantial(11-15 pts)	
5. Coordination(0-10 pts) -Applicant has involved other institutions and organizations, where appropriate, in the planning of the project(0-5 pts) -Other institutions/organizations will be involved in the implementation of the project(0-5 pts)	
6. Catalytic Effect of Project on Institutions (ADVOCACY)(0-25 pts) A. Institutional Change(0-20 pts) Grantee, through advocacy for low-income persons before public and private institutions, seeks to change interpretations of laws, regulations, policies, procedures, and attitudes in order to insure that low-income persons receive that to which they are entitled. B. Mobilization of Community Resources(0-5 pts) Grantee, through advocacy for low-income persons before public and private institutions, leverages dollars or in-kind contributions from other elements in the community. - 0-10% of total budget(0 pts) - 10-25% of total budget(1-2 pts) - 25% and up(3-5 pts)	
7. Ability of Applicant to Perform(0-10 pts) -Assessment of past CFNP or other relevant projects (including written self or third party evaluations, progress reports, or CSA on-site assessments.) (0-5 pts) -Assessment of appplicant's overall administrative ability and general track record.(0-5 pts)	
TOTAL POINTS POSSIBLE: 100	

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APPENDIX E

RATING CRITERIA - SPECIAL SUPPORT PROJECTS

1. Participation of the Poor(5 pts) -Substantive participation by the poor is ensured in the planning, conduct, and evaluation of the project. 2. Analysis of Needs/Priorities(0-15 pts) -Nature and extent of problem is adequately described and documented(0-8 pts) -Priorities selected represent the most serious needs(0-7 pts)	
3. Adequacy of Work Program and Budget(0-20 pts) -Goals are appropriately related to need and are specific and measurable (0-5 pts) -Activities are adequately described and appropriately related to goals (0-10 pts) -Budget is appropriately related to activities and adequately documented (0-5 pts)	
4. Anticipated Impact(0-10 pts) In relation to the problem to be solved and the resources committed to the project, the -Impact is minimal(0-3 pts) -Impact is moderate(4-6 pts) -Impact is substantial(7-10 pts)	
5. Coordination(0-10 pts) -Applicant has involved other institutions and organizations, where appropriate, in the planning of the project(0-5 pts) -Other institutions/organizations will be involved in the implementation of the project(0-5 pts)	
6. Catalytic Effect of Project on Institutions (ADVOCACY)(0-30 pts) A. Institutional Change(0-20 pts) Grantee, through advocacy for low-income persons before public and private institutions, seeks to change interpretations of laws, regulations, policies, procedures, and attitudes in order to insure that low-income persons receive that to which they are entitled. B. Mobilization of Community Resources(0-10 pts) Grantee, through advocacy for low-income persons before public and private institutions, leverages dollars or in-kind contributions from other elements in the community. - 0-10% of total budget(0 pts) - 10-25% of total budget(1-5 pts) - 25% and up(6-10 pts)	
7. Ability of Applicant to Perform(0-10 pts) -Assessment of past CFNP or other relevant projects (including written self or third party evaluations, progress reports, or CSA on-site assessments.) (0-5 pts) -Assessment of appplicant's overall administrative ability and general track record.(0-5 pts)	
TOTAL POINTS POSSIBLE: 100	

APPENDIX F

RATING CRITERIA - REGIONAL T & TA PROJECTS

1. Applicant has Skills/Abilities to Perform Adequately(0-30 pts) -Applicant's past experience (0-10 pts) -Quality of staff: -Knowledge of Food and Nutrition Field (including other federal food programs)(0-10 pts) -Knowledge/skills in four program categories(0-10 pts)	
2. Proposal is Responsive to CSA Policy Priorities(0-25 pts) Applicant demonstrates an understanding of an adequate plan to assist CFNP grantees in moving from a service delivery to a catalytic role by engaging in advocacy to effect: -Institutional change(0-15 pts) -Mobilization of resources(0-10 pts)	
3. Proposal is Responsive to CFNP Grantee Needs for T&TA in Four Program Categories(0-25 pts) -Plan is adequate to meet grantee needs(0-15 pts) -Plan is appropriately related to the activities in the four categories (0-10 pts)	
4. Proposal is Responsive to CFNP Grantee Needs for T&TA in Program Management (0-10 pts) Applicant proposes an appropriate and adequate plan to assist grantees to improve their ability to: -Assess needs -Set goals and priorities -Evaluate results	
5. Proposal Includes a Plan to Coordinate T&TA Activities with Other Appropriate Entities (0-5 pts) 6. Proposal Includes a Plan to Evaluate Results of Applicant's Efforts(0-5 pts)	
TOTAL POINTS POSSIBLE: 100	

[6315-01-C]

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Appendix G

Regional Offices

REGION I (Serving: Connecticut, Maine, Massachusetts, New Hampshire, Rhode Island, Vermont)

Community Services Administration, CFNP Coordinator: Franklyn B. Jackson, Jr., John F. Kennedy Federal Bldg., Rm. 432, Boston, MA 02203, *Phone (617) 223–0975.

Regional Director: Mr. Ivan Ashley, *Phone (617) 223–4080.

REGION II (Serving: New Jersey, New York, Puerto Rico, Virgin Islands)

Community Services Administration, CFNP Coordinator: Saundra Hamilton, 26 Federal Plaza, 32nd Floor, New York, NY 10007, *Phone (212) 264–1946.

Regional Director: Mr. John Finley, *Phone (212) 264–1900.

REGION III (Serving: Delaware, District of Columbia, Maryland, Pennsylvania, Virginia, West Virginia)

Community Services Administration, CFNP Coordinator: Norma Clarkson, Old U.S. Courthouse, 9th & Market Streets, Philadelphia, PA 19104.

Regional Director: Dr. W. Astor Kirk, *Phone (215) 597–1139.

REGION IV (Serving: Alabama, Florida, Georgia, Kentucky, Mississippi, North Carolina, South Carolina, Tennessee)

Community Services Administration, CFNP Coordinator: Raymond Keigher (Acting), 101 Marietta Street, NW., Atlanta, GA 30303, Phone (404) 221–2799.

Regional Director: Mr. William "Sonny" Walker, Phone (404) 221–2717.

REGION V (Serving: Illinois, Indiana, Michigan, Minnesota, Ohio, Wisconsin)

Community Services Administration, CFNP Coordinator: Elizabeth Newsome, 300 S. Wacker Drive, 24th Floor, Chicago, Illinois 60606, *Phone (312) 353–6021.

Regional Director: Mr. Glenwood Johnson, *Phone (312) 353–5562.

REGION VI (Serving: Arkansas, Louisiana, New Mexico, Oklahoma, Texas)

Community Services Administration, CFNP Coordinator: Mr. Hamah King, 1200 Main Street, Dallas, TX 75202, Phone (214) 767–6146.

Regional Director: Mr. Ben Haney, Phone (214) 767–6125.

REGION VII (Serving: Iowa, Kansas, Missouri, Nebraska)

Community Services Administration, CFNP Coordinator: Ms. Grace Ledwidge, 911 Walnut Street, Kansas City, MO 64106, Phone (816) 374–3561.

Regional Director: Mr. Wayne Thomas, Phone (816) 374–3761.

REGION VIII (Serving: Colorado, Montana, North Dakota, South Dakota, Utah, Wyoming)

Community Services Administration, CFNP Coordinator: Willard O'Berry, Federal Bldg., 1961 Stout Street, Denver, CO 80294, Phone (303) 837–3211.

Regional Director: Mr. David Vanderburgh, Phone (303) 837–4767.

REGION IX (Serving: Arizona, California, Hawaii, Nevada, Trust Territories)

Community Services Administration, CFNP Coordinator: Carl Shaw (Acting), 450 Golden Gate Avenue, San Francisco, CA 94102, *Phone (415) 556–7895.

Regional Director: Mr. Alphonse Rodrigues, *Phone (415) 556–5400.

REGION X (Serving: Alaska, Idaho, Oregon, Washington)

Community Services Administration, CFNP Coordinator: Alberta Adams, 1321 Second Avenue, Seattle, WA 98101, Phone (206) 442–7194.

Regional Director: Mr. Dean Morgan, Phone (206) 442–4910.

*The commercial and FTS exchange are the same.

Migrant Conduits

Minnesota Migrant Council (Serving: Illinois, Indiana, Michigan, Minnesota, Ohio, Wisconsin, Iowa, Kansas, Missouri, Nebraska, North Dakota, South Dakota)

P.O. Box 1231, St. Cloud, Minnesota 56301.

CFNP Coordinator: Rich Echola, Phone (612) 253–7010.

Migrant and Seasonal Farmworkers Association (Serving: Alabama, Mississippi, Georgia, Louisiana, West Virginia, Tennessee, South Carolina, Maryland, Virginia, North Carolina)

P.O. Box 33315, 3929 Western Blvd., Raleigh, North Carolina 27606.

CFNP Coordinator: Marian Tucker, Phone (919) 851–7611.

Florida Farmworker's Council (Serving: Florida)

1975 East Sunrise Boulevard, Suite 850, Ft. Lauderdale, Florida 33304.

CFNP Coordinator: Anita McGruder, Phone (305) 763–5252.

Rural New York (Serving: Connecticut, Maine, Massachusetts, New Hampshire, Rhode Island, Vermont, New Jersey, New York, Delaware, Pennsylvania)

339 East Avenue, Suite 305, Rochester, New York 14604.

CFNP Coordinator: Kathleen Hynes, Phone (716) 546–7180.

Campesinos Unidos (Serving: New Mexico, Arizona, California, Nevada)

P.O. Box 203, Brawley, California 92227.

CFNP Coordinator: Jose Lopez, Phone (714) 344–4500.

Idaho Migrant Council (Serving: Colorado, Washington, Wyoming, Montana, Utah, Idaho)

7155 Capital Blvd., Suite 406, Boise, Idaho 83706.

CFNP Coordinator: Sam Byrd, Phone (208) 345–9761).

Colonias del Valle (Serving: Oklahoma, Arkansas, Texas)

P.O. Box 907, San Juan, Texas 78759.

CFNP Coordinator: Isiais Aguayo, Phone (512) 787–9901.

[FR Doc. 79-15899 Filed 5-18-79; 8:45 am]

BILLING CODE 6315-01-M

INTERSTATE COMMERCE COMMISSION

49 CFR Part 1036

[Ex Parte No. 252 (Sub-No. 2)]

Incentive Per Diem Charges on Gondolas

AGENCY: Interstate Commerce Commission.

ACTION: To make regulations effective.

SUMMARY: The Commission has decided to make effective the regulations in Part 1036 as they pertain to the application of an incentive element on gondola cars. The regulations were previously stayed at 42 FR 26985, May 26, 1977. The reason for implementing the regulations at this time is because the plain gondola car fleet is found to be inadequate to meet the future needs of the Nation. The regulations are also modified. The level of incentive charges has been reduced and the 15-year guarantee eliminated. Given recent changes in basic car-hire compensation the Commission believes that the former level of incentive charges and the guarantee are no longer necessary. The parties have 20 days from the publication of this notice to file comments in regard to the modification of the regulations.

EFFECTIVE DATE: The amended rules are to be effective as of June 1, 1979.

FOR FURTHER INFORMATION CONTACT: Janice M. Rosenak, Interstate Commerce Commission, Washington, D.C. 20423; Phone No. 202–275–7693

SUPPLEMENTAL INFORMATION: The proceeding was to determine if incentive per diem (IPD) charges should be applied to plain gondola cars. Based upon an extensive record, the Commission found in a report and order served April 14, 1977, 353 I.C.C. 612, that IPD charges should be applied to plain gondolas. The Commission stated that no significant net shortages of plain gondolas were reported at the time. However, it nevertheless determined that the supply of plain gondolas was inadequate. This conclusion was based on the chronic shortages experienced in the past, and on the expectation that with the "expected economic recovery," significant plain gondola shortages would occur in the near future.

Contrary to the expectations of most economists, the expected economic recovery did not occur to the extent forecast. The steel industry experienced layoffs and declines in profits. An econometric model produced by the Data Resources, Inc., which had been relied upon in the earlier finding of inadequate supply, reversed its conclusion on the needs of the steel industry. That led the Commission, upon petition, to reexamine the finding of inadequate car supply, and particularly its forecast of gondola car shortages caused by anticipated future steel production. In an order served February 2, 1978, the Commission determined that expectations for the production and consumption of steel were down considerably from the time of its earlier report. Since much of the traffic carried by plain gondolas consists of domestic steel products, the forecast for plain gondola car demand was also revised downward. The revised economic analysis found that projected carloadings per car would not recover to its 1973 and 1974 levels until at least 1983, which was at least five years away. Because the supply of plain gondolas appeared adequate for IPD purposes the Commission stayed the regulations establishing IPD charges on those cars. In that same order, the Commission allowed parties to file comments and replies to its appended economic analysis and conclusions.

After considering the comments filed by the parties, the Commission has refined and updated its projection of the supply and demand for gondola cars and concluded that the supply of plain gondola cars is inadequate to meet the future needs of the Nation. Accordingly, it was decided on May 16, 1979 that an incentive element shall be made applicable to plain gondolas, effective June 1, 1979. It was also decided that the level of incentive charges initially proposed resulted in a combination of incentive plus basic charges that was unnecessarily high. The Commission decided to reduce the level of incentive charges. Furthermore, the Commission has decided that the 15-year guarantee applicable to newly purchased or acquired plain gondola cars is no longer necessary and should be eliminated. The parties are allowed to file comments discussing the charges in the regulations, however such comments should not exceed 10 pages.

PART 1036—INCENTIVE PER DIEM CHARGES ON BOXCARS AND GONDOLAS

It is ordered that regulations prescribed in Part 1036 of Subchapter A, Chapter X of Title 49 of the Code of Federal Regulations, and in the Commission report, 353 I.C.C. 612, published 40 FR page 23511 on May 9, 1977; and modified by Commission order dated September 14, 1977, published in 42 FR page 48883; be amended as follows:

Sections 1036.2, 1036.6 and 1036.7 are amended to read as follows, while 1036.8 is eliminated (the former § 1036.8 is replaced as § 1036.7).

§ 1036.2 Amount of incentive charge.

The incentive hourly charges applicable in each cost bracket by age group are set forth below:

Amount of Incentive Hourly Charge Collectible on Unequipped Boxcars for a 6-Month Period From September 1 of Each Year Through February 28 of the Following Year and a Year-Round Basis for XF-Cars

Cost bracket	0–5 years hourly charge (cents)	6–10 years hourly charge (cents)	11–15 years hourly charge (cents)	16–20 years hourly charge (cents)	21–25 years hourly charge (cents)	26–30 years hourly charge (cents)	Over 30 years hourly charge (cents)
$0–$1,000	1	1	1	1	1	1	1
1,001–3,000	3	2	2	1	1	1	1
3,001–5,000	5	5	4	3	2	1	1
5,001–7,000	6	7	6	4	3	2	1
7,001–9,000	11	9	7	6	4	2	1
9,001–11,000	14	11	9	7	5	3	1
11,001–13,000	18	14	11	8	6	3	2
13,001–15,000	19	16	13	10	7	4	2
15,001–17,000	22	18	15	11	8	4	2
17,001–19,000	24	20	16	12	9	5	3
19,001–21,000	27	23	18	14	10	5	3
21,001–23,000	30	25	20	15	10	6	3
23,001–25,000	32	27	22	17	11	6	4
25,001–27,000	35	29	24	18	12	7	4
27,001–29,000	38	32	26	19	13	7	4
29,001–31,000	41	34	27	21	14	8	4
31,001–33,000	43	36	29	22	15	8	5
33,001–35,000	46	38	31	24	16	9	5
35,001–37,000	49	41	33	25	17	9	5
37,001–39,000	51	43	35	26	18	10	6
39,001–41,000	54	45	37	28	19	10	6

Amount of Incentive Hourly Charge in Cents Collectible on Unequipped Gondola Cars on a Year-Round Basis

Cost bracket	0–5 years (cents)	6–10 years (cents)	11–15 years (cents)	16–20 years (cents)	21–25 years (cents)	26–30 years (cents)	Over 30 years (cents)
$0–$1,000	1	1	1	1	1	1	1
1,001–3,000	2	1	1	1	1	1	1
3,001–5,000	3	4	3	2	1	1	1
5,001–7,000	5	5	4	3	2	2	1
7,001–9,000	8	6	5	4	3	2	1
9,001–11,000	9	7	6	5	3	2	1
11,001–13,000	11	10	8	5	4	2	1
13,001–15,000	12	11	9	7	5	3	2
15,001–17,000	15	12	10	8	6	3	2
17,001–18,000	16	14	10	8	6	4	2
19,001–21,000	18	16	12	10	6	4	2
21,001–23,000	20	17	13	10	6	4	2
23,001–25,000	22	18	15	12	8	4	3
25,001–27,000	23	20	16	13	8	5	3
27,001–29,000	26	22	18	13	9	5	3
29,001–31,000	28	23	18	15	9	5	3
31,001–33,000	29	25	20	15	11	5	3
33,001–35,000	31	26	21	17	11	6	3
35,001–37,000	34	28	23	17	11	6	3
37,001–38,000	34	29	24	18	12	6	4
39,001–41,000	37	31	26	20	12	7	4

§ 1036.6 Effective date.

The rules set forth in §§ 1036.1 and 1036.2 shall apply for a 6 month period from September 1 of each year through February 28 of the following year on general service, unequipped boxcars, and on a year-round basis for XF cars. The rules set forth in §§ 1036.1, 1036.2, and 1036.5 shall apply on a year-round basis for gondola cars, effective June 1, 1979.

§ 1036.7 Rules and regulations suspended.

The operation of all rules and regulations, insofar as they conflict with the provisions of this part, is hereby suspended. The charge herein provided shall be paid for each day cars are held, but nothing in this part shall prevent the operation of hourly or per diem reclaim

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agreements customarily employed by and between particular railroads to provide for special situations, or with the use of customary methods of settling balance of hourly or per diem accounts.

H. G. Homme, Jr.,
Secretary.

[FR Doc. 79-15804 Filed 5-18-79; 8:45 am]
BILLING CODE 7035-01-M

DEPARTMENT OF COMMERCE

National Oceanic and Atmospheric Administration

DEPARTMENT OF THE INTERIOR

Fish and Wildlife Service

50 CFR Parts 17 and 222

Totoaba; Listing as an Endangered Species

AGENCIES: National Marine Fisheries Service, National Oceanic and Atmospheric Administration, Department of Commerce and the U.S. Fish and Wildlife Service (FWS), Department of the Interior.

ACTION: Final Regulation.

SUMMARY: The National Marine Fisheries Service ("NMFS") determined the totoaba (*Cynoscion macdonaldi*) to be an endangered species throughout its range, pursuant to Section 4 of the Endangered Species Act of 1973, as amended (16 U.S.C. 1531 et seq.) (the "Act"). This species is added to the List of Endangered and Threatened Wildlife found in 50 CFR 17.11 and 50 CFR 222.23.

FOR FURTHER INFORMATION CONTACT:
Dr. William Aron, Director, Office of Marine Mammals and Endangered Species, NMFS, Washington, D.C. 20235 (202) 634-7287.

SUPPLEMENTARY INFORMATION:

Background

On December 30, 1976, NMFS/FWS published a proposal to list the totoaba as an endangered species under the Act (41 FR 56839). This action was taken pursuant to Section 4(a) of the Act which provides that the Secretary may list a species because of any of the following circumstances:

(1) The present or threatened destruction, modification, or curtailment of its habitat or range;

(2) Overutilization for commercial, sporting, scientific, or educational purposes;

(3) Disease or predation;

(4) The inadequacy of existing regulatory mechanisms; or

(5) Other natural or man-made factors affecting its continued existence.

With the exception of enforcement responsibilities for certain plants, the Act defines "Secretary" to mean either the Secretary of the Interior or the Secretary of Commerce. Most marine species, including the totoaba, are the sole responsibility of the Secretary of Commerce. The authority of the Secretary has been delegated to the Assistant Administrator for Fisheries, NOAA.

The proposal summarized the information from the scientific literature and particular scientists that led to the proposed listing of totoaba as an endangered species. In September 1978, a workshop to evaluate the biological status of totoaba was convened by the NMFS at its Southwest Fisheries Center in La Jolla, California (the "Workshop"). The Workshop included scientists from the United States and Mexico who were most knowledgeable with this species and who reviewed the available information from the literature and from recent field work conducted in the upper Gulf of California.

The conclusions of the scientists participating in the Workshop were similar to those supporting the original proposal and they were summarized in a report which is available for public inspection upon request (see later discussion of the National Environmental Policy Act).

(1) *The present or threatened destruction, modification or curtailment of its habitat or range.* The totoaba spawns in the mouth of the Colorado River in the spring (probably April and May). In late winter, mature adults move out of the deeper waters of the northern half of the Gulf of California into the shallower waters along the east side of the Gulf. They form schools that move northward to the mouth of the Colorado River where spawning takes place. It has been postulated that this pattern of spawning migration responded historically to a salinity gradient or train of "odors" of freshwater or river substrate formed by the spring flood waters of the river mixing with the saline water of the upper Gulf. The result was a brackish water environment at the head of the Gulf that was apparently favored by totoaba as a spawning and nursery area.

Diversions of Colorado River water began in the early 1900's and spring floods essentially have been controlled since 1935 with the completion of Hoover Dam. Extensive diversion and construction of storage facilities occurred throughout the latter half of the 1930's, and into the 1950's.

Southwest regional and international agreements for diversion of the Colorado River water were negotiated throughout this period resulting in a situation where Mexico is guaranteed a minimum of 1.5 million acre feet of water annually. The entire remainder of river flow (recent average is 11-13 million acre feet) is either stored or diverted for crop irrigation and municipal water supply within the southwestern United States. After the completion of Morelos Dam by Mexico in 1950, Mexico had the capability to use their entire allocation. However, some water continued to flow into the Gulf until the early 1960's because in years of above average flow the United States sometimes provided extra water to Mexico and drainage from irrigation by Mexico was returned to the main channel of the Colorado River.

It was demonstrated at the Workshop that at the present time (and for the past 10-15 years) essentially no water has entered the upper Gulf of California through the channel of the Colorado River. There was agreement among the Workshop participants that the reduction in river flow was one of several factors that contributed to the initial reduction of the totoaba population by altering the spawning and nursery habitat.

(2) *Overutilization for commercial, sporting, scientific, or educational purpose.* The totoaba is found exclusively in Mexican waters in the Gulf of California. It is the largest species (reportedly reaching a length of 2 m. and a weight of 90 kgs.) of the genus *Cynoscion* in the family *Sciaenidae* (which includes the California white sea bass, corvina, and other game fish.

As mentioned above, totoaba spawn in the spring. They leave the deep water in the northern half of the Gulf and migrate northward in shallower waters along the east side of the Gulf to the spawning area near the mouth of the Colorado River. Spawning behavior leads to a high density of fish within a limited area. During this period, as well as during the northern migration, the fish are highly vulnerable to sport and commercial fishing.

The commercial catch of totoaba for human consumption began in the early 1920's. From the time that the Mexican Government began keeping records (1929) the catch increased steadily to a peak in excess of 2,000 metric tons (m.t.) in 1942 (Flanagan and Hendrickson, 1976, Attachment VIII of the Totoaba

Workshop Report, 1978 [1]). The catch declined steadily after that to a 1958 low of about 300 m.t. It increased again from 1959 to 1966 when it peaked at about 1,100 m.t. The second increase may have been, in part, a response to protective measures that had been implemented in 1955 (creation of a sanctuary at the mouth of the Colorado River and a 45 day closed season during the spring spawning period) that may have allowed the population to increase, and/or, more efficient gear (nylon gillnets, for example) that allowed an increased catch, regardless of the population trend (Hendrickson, pers. comm., October 1978). The catch decreased again after 1966, to an all-time low of only 58 m.t. in 1975. There are no recent (last 20 years) estimates of the take in the sport fishery.

The added mortality of juveniles taken incidentally by shrimp trawls in the upper Gulf area was, and continues to be, another important point of vulnerability, although to an unknown extent. Some shrimp fishing is known to occur (illegally) in the sanctuary area of the head of the Gulf (field observations of Walker, et al., Spring, 1978 [1]) but there are no data to indicate the actual amount of shrimping or the magnitude of the incidental catch of totoaba. Workshop participants indicated that although the total shrimp catch, which increased steadily during recent years, has apparently stabilized, the number of boats has continued to increase (about 40 new boats were preparing to enter the fishery in the fall of 1978). That implies a steady increase in effort and suggests an increase in incidental take of totoaba in the shrimp fishery.

Scientists participating in the Workshop [1] confirmed conclusions in the original proposal that overfishing by both directed fisheries and incidental take in the shrimp fishery, the diversion of the Colorado River flow (that caused changes in the spawning habitat), and possibly insecticides, drastically reduced the population of totoaba initially in the 1940's and 1950's to an unknown fraction of its former abundance. It was also noted that the directed fisheries and incidental take continued after the protective measures were instituted in 1955, with the commercial catch increasing markedly from 1959 to 1966 when it most recently peaked. Incidental catch in the shrimp fishery may have also increased. The catch declined steadily thereafter to the all-time low in 1975, whereupon Mexico recognized the totoaba as a protected species on June 19, 1975, and declared an indefinite prohibition on all forms of directed fishing for the species. The Workshop concluded that the totoaba is very likely endangered and that the continued incidental take of both juveniles (in the shrimp fishery) and adults (in the gillnet fisheries for other species) was currently the principal threat to the species.

(3) *Disease or predation.* There are no diseases known to be significantly affecting this species. Predation of eggs, larvae and juveniles by other species of fish and other animals undoubtedly occurs, but to an unknown extent.

(4) *The inadequacy of existing statutory mechanisms.* The totoaba is currently listed as a protected species by Mexico and all directed fisheries are prohibited. Incidental catch, however, is allowed in the shrimp and gillnet finfisheries of the northern Gulf of California. In addition, the totoaba is currently listed on Appendix I of the International Convention on Trade in Endangered Species of Fauna and Flora (CITES) which prohibits the importation of this species for other than scientific purposes or for enhancement or propagation of the species. This final listing duplicates the prohibition on importation and is expected to provide the following added benefits to the species: an additional deterrent to commercial and sporting take by persons subject to U.S. jurisdiction; an impetus to development of joint research with Mexico; and an encouragement to Mexico to reduce the remaining take to allow rebuilding of the population.

(5) *Other natural or man-made factors affecting its continued existence.* There are no other known factors significantly affecting this species.

Summary of Comments and Recommendation

Five comments were received favoring the proposal. Only one negative comment was received from a fish importer in southern California who protested the action as unnecessary. He pointed out that the fish was caught in Mexico and asserted that the Mexican Fisheries Department had the totoaba situation well in hand. The information available to the NMFS, however, indicates that the totoaba situation remains serious and that the listing as endangered is entirely appropriate.

Effect of This Rulemaking

Section 9(a) of the Act sets forth a series of general prohibitions which apply to all endangered species of fish and wildlife. With respect to any endangered species listed pursuant to Section 4 of the Act, it is unlawful for any person subject to the jurisdiction of the United States to:

(1) Import any such species into, or export any such species from, the United States;

(2) Take any such species within the United States or the territorial sea of the United States;

(3) Take any such species upon the high seas;

(4) Possess, sell, deliver, carry, transport, or ship, by any means whatsoever, any such species taken in violation of (2) or (3) above;

(5) Deliver, receive, carry, transport, or ship in interstate or foreign commerce, by any means whatsoever and in the course of a commercial activity, any such species;

(6) Sell or offer for sale in interstate or foreign commerce any such species; or

(7) Violate any regulations pertaining to such species and promulgated by the Secretary pursuant to authority provided by the Act.

The term "take" means to harass, harm, pursue, hunt, shoot, wound, kill, trap, capture, or collect, or to attempt to engage in any such conduct.

Section 4(a)(1), as amended on November 10, 1978, also states that "At the time any such regulation is proposed, the Secretary shall also by regulation, to the maximum extent prudent, specify any habitat of such species which is then considered to be critical habitat." Since the totoaba occurs only in Mexican waters no critical habitat is designated for this species. The Act does not contemplate the designation of critical habitat in foreign countries and, under previously established policy, the United States has refrained from making foreign designations.

National Environmental Policy Act

The Assistant Administrator has determined that the proposed designation of the totoaba as an endangered species is not a major Federal action which would significantly affect the quality of the human environment within the meaning of the National Environmental Policy Act of 1969. An environmental assessment pertaining to this determination is available for public review in the Office of Marine Mammals and Endangered Species, National Marine Fisheries

[1] Report of the Workshop to Evaluate the Biological Status of Totoaba, *Cynoscion macdonaldi*, held at the National Marine Fisheries Service Southwest Fisheries Center, La Jolla, California. September 18-19, 1978, with 9 attachments. This report, which confirms previous biological conclusions about totoaba, is attached to the Environmental Assessment pertaining to this listing. The assessment may be reviewed or obtained as indicated in the National Environmental Policy Act section of the preamble.

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Service, 3300 Whitehaven Street, N.W., Washington, D.C. or may be obtained by writing to the Assistant Administrator for Fisheries, National Oceanic and Atmospheric Administration, Department of Commerce, Washington, D.C. 20235. The workshop report referred to in this preamble is attached to the Environmental Assessment.

Miscellaneous: Under Executive Order 12044 (43 FR 23170) and Department of Commerce Administrative Order 218–7 (44 FR 2082), the Assistant Administrator for Fisheries has determined that this final action is not a significant regulation in accordance with established agency criteria and that preparation of a regulatory analysis is not required.

The primary author of this final rule is Dr. Robert V. Miller, Office of Marine Mammals and Endangered Species, (202) 634–7461.

Regulation Promulgation

Accordingly, 50 CFR Chapter I, Part 17 and Chapter II, Part 222, are amended as follows:

§ 17.11 [Amended]

(1) The list of endangered and threatened wildlife in 50 CFR § 17.11 is amended by adding the totoaba under the class entitled "FISHES" and immediately before "Trout, Arizona," as follows:

Species		Population	Range		Status	When listed	Special rules
Common name	Scientific name		Known distribution	Portion endangered			
Totoaba	*Cynoscion macdonaldi*	N/A	Gulf of California	Entire	E		N/A

Dated: April 12, 1979.

Lynn A. Greenwalt,

Director, U.S. Fish and Wildlife Service.

[FR Doc. 79–15803 Filed 5–18–79; 8:45 am]

BILLING CODE 3510–22–M

§ 222.23 [Amended]

(2) 50 CFR § 222.23(a) is amended by adding "Totoaba (*Cynoscion macdonaldi*)" immediately after "Shortnose Sturgeon (*Acipenser brevirostrum*)" in the second sentence.

Proposed Rules

Federal Register
Vol. 44, No. 99
Monday, May 21, 1979

This section of the FEDERAL REGISTER contains notices to the public of the proposed issuance of rules and regulations. The purpose of these notices is to give interested persons an opportunity to participate in the rule making prior to the adoption of the final rules.

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

[14 CFR Ch. I]

Proposed Alteration of Terminal Control Area; Kansas City, Mo.; Informal Airspace Meeting No. 1

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Notice of Informal Airspace Meeting.

SUMMARY: This notice announces an informal airspace meeting to be held at 1:00 PM, Monday, June 18, 1979, in Room 140, at the Federal Office Building, 601 East 12th Street, Kansas City, Missouri. The purpose of this meeting is to discuss a proposed alteration of the Kansas City, Missouri, Terminal Control Area (TCA), Docket 18605–ACE–1. Comments on the potential economic and environmental effects are also invited. Attendance is open to the interested public, but is limited to the space available.

With the approval of the Chairman, members of the public may present statements at the meeting. Individual speakers will be limited to five minutes, with ten minutes for a group spokesman. There will be no relinquishing of time by one speaker to another. The time limit may be waived at the discretion of the Chairman. Written statements in addition to, or in lieu of, oral presentations will be accepted. These should be submitted to the Chairman or as directed at the meeting.

DATE: Monday, June 18, 1979; 1:00 p.m.

ADDRESS: Room 140, Federal Office Building, 601 East 12th St., Kansas city, Missouri.

FOR FURTHER INFORMATION CONTACT: Dwaine E. Hiland, Airspace Specialist, Operations, Procedures and Airspace Branch, Air Traffic Division, ACE–537, FAA, Central Region, 601 East 12th Street, Kansas City, Missouri 64106, Telephone (816) 374–3408.

Issued in Kansas City, Missouri, on May 4, 1979.

Robert I. Gale,

Chief, Air Traffic Division, FAA Central Region.

[FR Doc. 79–15255 Filed 5–18–79; 8:45 am]

BILLING CODE 4910–13–M

[14 CFR Ch. I]

Proposed Alteration of Terminal Control Area; St. Louis, Missouri; Informal Airspace Meeting No. 2

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Notice of Informal Airspace Meeting.

SUMMARY: This notice announces an informal airspace meeting to be held at 7:00 PM, Wednesday, June 20, 1979, in the McDonnell Douglas World Headquarters Building, Special Event Theater, Brown Road & Airport Road, St. Louis, Missouri. The purpose of this meeting is to discuss a proposed alteration of the St. Louis, Missouri, Terminal Control Area (TCA), Docket 18605–ACE–2. Comments on the potential economic and environmental effects are also invited. Attendance is open to the interested public, but is limited to the space available.

With the approval of the Chairman, members of the public may present statements at the meeting. Individual speakers will be limited to five minutes, with ten minutes for a group spokesman. There will be no relinquishing of time by one speaker to another. The time limit may be waived at the discretion of the Chairman. Written statements in addition to, or in lieu of, oral presentations will be accepted. These should be submitted to the Chairman or as directed at the meeting.

DATE: Wednesday, June 20, 1979; 7:00 p.m.

ADDRESS: McDonnell Douglas World Headquarters Building, Special Event Theater, Brown Road & Airport Road, St. Louis, Missouri.

FOR FURTHER INFORMATION CONTACT: Dwaine E. Hiland, Airspace Specialist, Operations, Procedures and Airspace Branch, Air Traffic Division, ACE–537, FAA, Central Region, 601 East 12th Street, Kansas City, Missouri 64106, Telephone (816) 374–3408.

Issued in Kansas City, Missouri, on May 4, 1979.

Robert I. Gale,

Chief, Air Traffic Division, FAA Central Region.

[FR Doc. 79–15256 Filed 5–18–79; 8:45 am]

BILLING CODE 4910–13–M

[14 CFR Ch. I]

Proposed Terminal Control Area; Des Moines, Iowa; Informal Airspace Meeting No. 3

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Notice of Informal Airspace Meeting.

SUMMARY: This notice announces an informal space meeting to be held at 7:00 PM, Monday, June 21, 1979, in Classroom A at the Iowa Air National Guard, 3100 McKinley Avenue, Des Moines, Iowa. The purpose of this meeting is to discuss a proposed Des Moines, Iowa, Terminal Control Area (TCA), Docket 18605–ACE–3. Comments on the potential economic and environmental effects are also invited. Attendance is open to the interested public, but is limited to the space available.

With the approval of the Chairman, members of the public may present statements at the meeting. Individual speakers will be limited to five minutes, with ten minutes for a group spokesman. There will be no relinquishing of time by one speaker to another. The time limit may be waived at the discretion of the Chairman. Written statements in addition to, or in lieu of, oral presentations will be accepted. These should be submitted to the Chairman or as directed at the meeting.

DATE: Thursday, June 21, 1979; 7:00 p.m.

ADDRESS: Iowa Air National Guard 3100 McKinley Avenue Des Moines, Iowa.

FOR FURTHER INFORMATION CONTACT: Dwaine E. Hiland, Airspace Specialist, Operations, Procedures and Airspace Branch, Air Traffic Division, ACE–537, FAA, Central Region, 601 East 12th Street, Kansas City, Missouri 64106, Telephone (816) 374–3408.

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Issued in Kansas City, Missouri, on May 4, 1979.

Robert I. Gale,
Chief, Air Traffic Division, FAA, Central Region.

[FR Doc. 79-15257 Filed 5-18-79; 8:45 am]
BILLING CODE 4910-13-M

[14 CFR Part 71]

[Airspace Docket No. 79-GL-13]

Proposed Alteration of Transition Area

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Notice of Proposed Rule Making.

SUMMARY: The nature of this federal action is to designate additional controlled airspace near South Bend, Indiana, to accommodate a new Runway 21 instrument approach procedure into the Jerry Tyler Memorial Airport, Niles, Michigan, established on the basis of a request from the Tyler Airport officials to provide that airport with an additional instrument approach procedure. The intended effect of this action is to insure segregation of the aircraft using this approach procedure in instrument weather conditions and other aircraft operating under visual weather conditions.

DATES: Comments must be received on or before June 25, 1979.

ADDRESSES: Send comments on the proposal to FAA Office of Regional Counsel, AGL-7, Attention: Rules Docket Clerk, Docket No. 79-GL-13, 2300 East Devon Avenue, Des Plaines, Illinois 60018.

A public docket will be available for examination by interested persons in the Office of the Regional Counsel, Federal Aviation Administration, 2300 East Devon Avenue, Des Plaines, Illinois 60018.

FOR FURTHER INFORMATION CONTACT: Doyle Hegland, Airspace and Procedures Branch, Air Traffic Division, AGL-530, FAA, Great Lakes Region, 2300 East Devon Avenue, Des Plaines, Illinois 60018, telephone (312) 694-4500, extension 456.

SUPPLEMENTARY INFORMATION: The floor of the controlled airspace will be lowered from 1200 feet above the surface to 700 feet for a distance of approximately one mile beyond that now depicted. The development of the proposed procedure necessitates the FAA to alter the designated airspace to insure that the procedure will be contained within controlled airspace. The minimum descent altitudes for this procedure may be established below the floor of the 700 foot controlled airspace. In addition, aeronautical maps and charts will reflect the area of the instrument procedure which will enable other aircraft to circumnavigate the area in order to comply with applicable visual flight rule requirements.

Comments Invited

Interested persons may participate in the proposed rulemaking by submitting such written data, views or arguments as they may desire. Communications should be submitted in triplicate to Regional Counsel, AGL-7, Great Lakes Region, Rules Docket No. 79-GL-13, Federal Aviation Administration, 2300 East Devon Avenue, Des Plaines, Illinois 60018. All communications received on or before June 25, 1979, will be considered before action is taken on the proposed amendment. The proposal contained in this notice may be changed in the light of comments received. All comments submitted will be available, both before and after the closing date for comments, in the Rules Docket for examination by interested persons.

Availability of NPRM

Any person may obtain a copy of this notice of proposed rulemaking (NPRM) by submitting a request to the Federal Aviation Administration, Office of Public Affairs, Attention: Public Information Center, APA-430, 800 Independence Avenue, SW., Washington, D.C. 20591, or by calling (202) 426-8058. Communications must identify the notice number of this NPRM. Persons interested in being placed on a mailing list for future NPRMs should also request a copy of Advisory Circular No. 11-2 which describes the application procedures.

The Proposal

The FAA is considering an amendment to Subpart G of Part 71 of the Federal Aviation Regulations (14 CFR 71) to alter the transition area airspace near South Bend, Indiana. Subpart G of Part 71 was published in the Federal Register on January 2, 1979 (44 FR 442).

The Proposed Amendment

Accordingly, the FAA proposes to amend Subsection 71.181 of Part 71 of the Federal Aviation Regulations as follows:

IN § 71.181 (44 FR 442) the following transition area is amended to read:

South Bend, Indiana

That airspace extending upward from 700 feet above the surface with a 6-mile radius of Michigan Regional Airport, South Bend, Indiana (latitude 41°42'15"N., longitude 86°18'59"W.) and within 5 miles south and 8 miles north of the South Bend ILS localizer east course, extending from Michigan Regional Airport to 12 miles east of the ILS outer marker and within 5 miles west and 8 miles east of the South Bend, Indiana VOR 360° radial, extending from the Michigan Regional Airport to 12 miles north of the VOR and within a 5-mile radius of Tyler Memorial Airport, Niles, Michigan (latitude 41°50'30"N., longitude 86°13'30"W.), extending from the Niles (Tyler Memorial Airport) 2.5 miles either side of the Litchfield, Michigan VORTAC 239° radial to eight miles northeast of the Tyler Airport, excluding that airspace which overlies the Dowagiac, Michigan transition area.

This amendment is proposed under the authority of Section 307(a), Federal Aviation Act of 1958 (49 U.S.C. 1348(a)); Sec. 6(c), Department of Transportation Act (49 U.S.C. 1655(c)); Sec. 11.61 of the Federal Aviation Regulations (14 CFR 11.61).

The Federal Aviation Administration has determined that this document involves a regulation which is not significant under Executive Order 12044, as implemented by Department of Transportation Regulatory Policies and Procedures (44 FR 11034; February 26, 1979). A copy of the draft evaluation prepared for this document is contained in the docket. A copy of it may be obtained by writing to the Federal Aviation Administration, Attention: Rules Docket Clerk (AGL-7), Docket No. 79-GL-13, 2300 East Devon Avenue, Des Plaines, Illinois.

Issued in Des Plaines, Illinois, on May 10, 1979.

Wayne J. Barlow,
Acting Director, Great Lakes Region.

[FR Doc. 79-15465 Filed 5-18-79; 8:45 am]
BILLING CODE 4910-13-M

[14 CFR Part 71]

[Airspace Docket No. 79-CE-3]

Transition Area, Liberal, Kansas; Proposed Alteration

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Notice of Proposed Rule Making (NPRM).

SUMMARY: This Notice proposes to alter the 700-foot transition area at Liberal, Kansas, to provide additional airspace for aircraft executing a new instrument approach procedure to the Liberal, Kansas Municipal Airport, which is based on the Liberal Non-Directional Radio Beacon, a navigational aid.

DATES: Comments must be received on or before June 28, 1979.

ADDRESSES: Send comments on the proposal to: Federal Aviation Administration, Chief, Operations, Procedures and Airspace Branch, Air Traffic Division, ACE-530, 601 East 12th Street, Kansas City, Missouri 64106, Telephone (816) 374-3408.

The official docket may be examined at the Office of the Regional Counsel, Central Region, Federal Aviation Administration, Room 1558, 601 East 12th Street, Kansas City, Missouri.

An informal docket may be examined at the Office of the Chief, Operations, Procedures and Airspace Branch, Air Traffic Division.

FOR FURTHER INFORMATION CONTACT: Benny J. Kirk, Airspace Specialist, Operations, Procedures, and Airspace Branch, Air Traffic Division, ACE-538, FAA, Central Region, 601 East 12th Street, Kansas City, Missouri 64106, Telephone (816) 374-3408.

SUPPLEMENTARY INFORMATION:

Comments Invited

Interested persons may participate in the proposed rule making by submitting such written data, views or arguments as they may desire. Communications should identify the airspace docket number, and be submitted in duplicate to the Operations, Procedures and Airspace Branch, Air Traffic Division, Federal Aviation Administration, 601 East 12th Street, Kansas City, Missouri 64106. All communications received on or before June 28, 1979 will be considered before action is taken on the proposed amendment. The proposal contained in this Notice may be changed in light of the comments received. All comments received will be available both before and after the closing date for comments in the Rules Docket for examination by interested persons.

Availability of NPRM

Any person may obtain a copy of this NPRM by submitting a request to the Federal Aviation Administration, Operations, Procedures and Airspace Branch, 601 East 12th Street, Kansas City, Missouri 64106 or by calling (816) 374-3408. Communications must identify the notice number of this NPRM. Persons interested in being placed on a mailing list for further NPRMs should also request a copy of Advisory Circular No. 11-2 which describes the application procedure.

The Proposal

The FAA is considering an amendment to Subpart G, § 71.181 of the Federal Aviation Regulations (14 CFR 71.181), by altering the 700-foot transition area at Liberal, Kansas. To enhance airport usage, a new instrument approach procedure is being developed for the Liberal, Kansas Municipal Airport, utilizing the Liberal NDB as a navigational aid. The establishment of an instrument approach procedure based on this navigational aid entails alteration of the transition area at Liberal, Kansas, at and above 700 foot above ground level (AGL) within which aircraft are provided additional air traffic control service. The intended effect of this action is to ensure segregation of aircraft using the new approach procedure under Instrument flight Rules (IFR) and other aircraft operating under Visual Flight Rules (VFR).

Accordingly, the Federal Aviation Administration proposes to amend Subpart G, Section 71.181, of the Federal Aviation Regulations (14 CFR 71.181) as republished on January 2, 1979 (44 FR 442), by altering the following transition area:

Liberal, Kansas

That airspace extending upwards from 700 feet above the surface within a ten mile radius of the Liberal Municipal Airport (latitude 37°02'40" N.; longitude 100°57'42" W.), and within 3 miles each side of the 180° bearing from the Liberal NDB (latitude 36°57'.32" N.; longitude 100°57'20.86" W.), extending from the 10 mile radius area to 8 miles south of the NDB.

(Sec. 307(a), Federal Aviation Act of 1958 as amended (49 U.S.C. 1348); Sec. 6(c), Department of Transportation Act (49 U.S.C. 1655(c)); Sec. 11.61 of the Federal Aviation Regulations (14 CFR 11.61).)

The FAA has determined that this document involves a proposed regulation which is not significant under Executive Order 12044, as implemented by DOT Regulatory Policies and Procedures (44 FR 11034; February 26, 1979). Since this regulatory action involves an established body of technical requirements for which frequent and routine amendments are necessary to keep them operationally current and promote safe flight operations, the anticipated impact is so minimal that this action does not warrant preparation of a regulatory evaluation.

Issued in Kansas City, Missouri, on May 9, 1979.

C. R. Melugin, Jr.,
Director, Central Region.

[FR Doc. 79-15464 Filed 5-18-79; 8:45 am]
BILLING CODE 4910-13-M

[14 CFR Part 71]

[Airspace Docket No. 79-SW-11]

Rescission of Alternate Airway Segments

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Notice of proposed rulemaking.

SUMMARY: This notice proposes to alter V-15, V-16 and V-66 airways by deleting an alternate airway segment in each of their definitions. V-15E between Scurry, Tex., and Blue Ridge, Tex., V-16S between Acton, Tex., and Scurry, and V-66N between Bridgeport, Tex., and Blue Ridge are no longer required or used for controlling air traffic and can no longer be justified as an assignment of airspace. This action would reduce chart clutter and make available additional airspace for other types of use.

DATES: Comments must be received on or before June 20, 1979.

ADDRESSES: Send comments on the proposal in triplicate to: Director, FAA Southwestern Region, Attention: Chief, Air Traffic Division, Docket No. 79-SW-11, Federal Aviation Administration, P.O. Box 1689, Forth Worth, Tex. 76101. The official docket may be examined at the following location: FAA Office of the Chief Counsel, Rules Docket (AGC-24), Room 916, 800 Independence Avenue, SW., Washington, D.C. 20591. An informal docket may be examined at the office of the Regional Air Traffic Division.

FOR FURTHER INFORMATION CONTACT: Mr. Everett L. McKisson, Airspace Regulations Branch (AAT-230), Airspace and Air Traffic Rules Division, Air Traffic Service, Federal Aviation Administration, 800 Independence Avenue, SW., Washington, D.C. 20591; telephone: (202) 426-3715.

SUPPLEMENTARY INFORMATION:

Comments Invited

Interested persons may participate in the proposed rulemaking by submitting such written data, views or arguments as they may desire. Communications should identify the airspace docket number and be submitted in triplicate to the Director, Southwest Region, Attention: Chief, Air Traffic Division, Federal Aviation Administration, P.O. Box 1689, Fort Worth, Tex. 76101. All communications received on or before June 20, 1979, will be considered before action is taken on the proposed amendment. The proposal contained in this notice may be changed in the light of comments received. All comments submitted will be available, both before and after the closing date for comments, in the Rules Docket for examination by interested persons.

Availability of NPRM

Any person may obtain a copy of this notice of proposed rulemaking (NPRM) by submitting a request to the Federal Aviation Administration, Office of Public Affairs, Attention: Public Information Center, APA-430, 800

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Independence Avenue, SW., Washington, D.C. 20591, or by calling (202) 426–8058. Communications must identify the docket number of this NPRM. Persons interested in being placed on a mailing list for future NPRMs should also request a copy of Advisory Circular No. 11–2 which describes the application procedures.

The Proposal

The FAA is considering an amendment to Subpart C of Part 71 of the Federal Aviation Regulations (14 CFR Part 71) that would delete three unused alternate airway segments in the vicinity of Dallas-Forth Worth, Tex. This action would reduce chart clutter and make available more off-airway space.

The Proposed Amendment

Accordingly, pursuant to the authority delegated to me, the Federal Aviation Administration proposes to amend § 71.123 of Part 71 of the Federal Aviation Regulations (14 CFR Part 71) as republished (44 FR 307) as follows:

Under V–15 "Blue Ridge, Tex., including an east alternate via INT Scurry 023° and Blue Ridge 153° radials;" is deleted and "Blue Ridge, Tex.;" is substituted therefor.

Under V–16 "Scurry, Tex., including a south alternate;" is deleted and "Scurry, Tex.;" is substituted therefor.

Under V–66 "Blue Ridge, Tex., including a north alternate via INT Bridgeport 069° and Blue Ridge 285° radials;" is deleted and "Blue Ridge, Tex.;" is substituted therefor.

(Secs. 307(a), 313(a), Federal Aviation Act of 1958 (49 U.S.C. 1348(a) and 1354(a)); sec. 6(c), Department of Transportation Act (49 U.S.C. 1655(c)); and 14 CFR 11.65).

Note.—The FAA has determined that this document involves a proposed regulation which is not significant under Executive Order 12044, as implemented by DOT Regulatory Policies and Procedures (44 FR 11034; February 26, 1979). Since this regulatory action involves an established body of technical requirements for which frequent and routine amendments are necessary to keep them operationally current and promote safe flight operations, the anticipated impact is so minimal that this action does not warrant preparation of a regulatory evaluation and a comment period of less than 45 days is appropriate.

Issued in Washington, D.C., on May 14, 1979.

William E. Broadwater,

Chief, Airspace and Air Traffic Rules Division.

[FR Doc. 79-15714 Filed 5-18-79; 8:45 am]

BILLING CODE 4910-13-M

[14 CFR Parts 71 and 75]

[Airspace Docket No. 79-AL-1]

Alteration of Airways and Jet Routes

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Notice of Proposed Rulemaking.

SUMMARY: This notice proposes to realign VOR Federal Airway V–436 and Jet Route J–125 in the Achorage, Alaska, area and establish a new VOR Federal Airway in the vicinity of Big Lake, Alaska. These airway/route changes would improve traffic flow in the Anchorage terminal area.

DATES: Comments must be received on or before June 20, 1979.

ADDRESSES: Send comments on the proposal in triplicate to: Director, FAA Alaskan Region, Attention: Chief, Air Traffic Division, Docket No. 79–AL–1, Federal Aviation Administration, 632 Sixth Avenue, Anchorage, Alaska 99501. The official docket may be examined at the following location: FAA Office of the Chief Counsel, Rules Docket (AGC–24), Room 916, 800 Independence Avenue, SW., Washington, D.C. 20591. An informal docket may be examined at the office of the Regional Air Traffic Division.

FOR FURTHER INFORMATION CONTACT:
Mr. Everett L. McKisson, Airspace Regulations Branch (AAT–230), Airspace and Air Traffic Rules Division, Air Traffic Service, Federal Aviation Administration, 800 Independence Avenue, SW., Washington, D.C. 20591; telephone (202) 426–3715.

SUPPLEMENTARY INFORMATION:

Comments Invited

Interested persons may participate in the proposed rulemaking by submitting such written data, views or arguments as they may desire. Communications should identify the airspace docket number and be submitted in triplicate to the Director, Alaskan Region, Attention: Chief, Air Traffic Division, Federal Aviation Administration, 632 Sixth Avenue, Anchorage, Alaska 99501. All communications received on or before June 20, 1979, will be considered before action is taken on the proposed amendments. The proposals contained in this notice may be changed in the light of comments received. all comments submitted will be available, both before and after the closing date for comments, in the Rules Docket for examination by interested persons.

Availability of NPRM

Any person may obtain a copy of this notice of proposed rulemaking (NPRM) by submitting a request to the Federal Aviation Administration, Office of Public Affairs, Attention: Public Information Center, APA–430, 800 Independence Avenue, SW., Washington, D.C. 20591, or by calling (202) 426–8058. Communications must identify the docket number of this NPRM. Persons interested in being placed on a mailing list for future NPRMs should also request a copy of Advisory Circular No. 11–2 which describes the application procedures.

The Proposal

The FAA is considering amendments to Parts 71 and 75 of the Federal Aviation Regulations (14 CFR Parts 71 and 75) that would realign V–436 and J–125 near the Anchorage, Alaska, area, and establish new VOR Federal Airway V–491 in the vicinity of Big Lake, Alaska. These changes would provide additional route/airway segments that would give controllers additional airspace flexibility in the Anchorage terminal area to expedite traffic. This action would increase aviation safety and reduce controller workload by providing reliever routes thereby improving traffic flow. Subpart C of Part 71 and Subpart B of Part 75 was republished in the Federal Register on January 2, 1979 (44 FR 307 and 722).

The Proposed Amendment

Accordingly, pursuant to the authority delegated to me, the Federal Aviation Administration proposes to amend Part 71 and Part 75 of the Federal Aviation Regulations (14 CFR Parts 71 and 75) as republished (44 FR and 341 and 722) as follows:

§ 71.125 [Amended]

1. Under V–436, "From Anchorage, Alaska, via Talkeetna, Alaska;" would be deleted and "From Anchorage, Alaska, via INT Anchorage 347°T (322°M) and Talkeetna, Alaska 196°T (170°M) radials; Talkeetna;" would be substituted therefor.

2. "V–491 From Big Lake, Alaska; to Talkeetna, Alaska." would be added.

§ 75.100 [Amended]

Under Jet Route No. 125 "via Anchorage, Alaska; Talkeetna, Alaska" would be deleted and "via Anchorage, Alaska; INT Anchorage 347°T (322°M) and Talkeetna, Alaska, 196°T (170°M) radials; Talkeetna;" would be substituted therefor.

(Secs. 307(a) and 313(a), Federal Aviation Act of 1958 (49 U.S.C. 1348(a) and 1354(a)); sec. 6(c), Department of Transportation Act (49 U.S.C. 1655(c)); and 14 CFR 11.65).

Note.—The FAA has determined that this document involves a proposed regulation which is not significant under Executive Order 12044, as implemented by DOT Regulatory Policies and Procedures (44 FR 11034; February 26, 1979). Since this regulatory action involves an established body of technical requirements for which frequent and routine amendments are necessary to keep them operationally current and promote safe flight operations, the anticipated impact is so minimal that this action does not warrant preparation of a regulatory evalutation and a comment period of less than 45 days is appropriate.

Issued in Washington, D.C., on May 14, 1979.

William E. Broadwater,

Chief, Airspace and Air Traffic Rules Division.

[FR Doc. 79-15716 Filed 5-18-79; 8:45 am]

BILLING CODE 4910-13-M

[14 CFR Part 75]

[Airspace Docket No. 79-WA-4]

Alteration of Jet Route

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Notice of proposed rulemaking.

SUMMARY: This notice proposes to realign Jet Route No. 18 from Bradford, Ill., over St. Joseph, Mo., to Salina, Kans., to bypass Kirksville, Mo. This proposed action would reduce traffic congestion in the vicinity of Kirksville and would provide for more efficient use of the airspace.

DATES: Comments must be received on or before June 20, 1979.

ADDRESSES: Send comments on the proposal in triplicate to: Director, FAA Central Region, Attention: Chief, Air Traffic Division, Docket No. 79–WA–4, Federal Aviation Administration, 601 E. 12th Street, Kansas City, Mo. 64106. The official docket may be examined at the following location: FAA Office of the Chief Counsel, Rules Rocket (AGC–24), Room 916, 800 Independence Avenue, SW., Washington, D.C. 20591. An informal docket may be examined at the office of the Regional Air Traffic Division.

FOR FURTHER INFORMATION CONTACT:
Mr. John Watterson, Airspace Regulations Branch (AAT–230), Airspace and Air Traffic Rules Division, Air Traffic Service, Federal Aviation Administration, 800 Independence Avenue, SW., Washington, D.C. 20591; telephone: (202) 426–8525.

SUPPLEMENTARY INFORMATION:

Comments Invited

Interested persons may participate in the proposed rulemaking by submitting such written data, views or arguments as they may desire. Communications should identify the airspace docket number and be submitted in triplicate to the Director, Central Region, Attention: Chief, Air Traffic Division, Federal Aviation Administration, 601 E. 12th Street, Kansas City, Mo. 64106. All communications received on or before June 20, 1979, will be considered before action is taken on the proposed amendment. The proposal contained in this notice may be changed in the light of comments received. All comments submitted will be available, both before and after the closing date for comments, in the Rules Docket for examination by interested persons.

Availability of NPRM

Any person may obtain a copy of this notice of proposed rulemaking (NPRM) by submitting a request to the Federal Aviation Administration, Office of Public Affairs, Attention: Public Information Center, APA–430, 800 Independence Avenue, SW., Washington, D.C. 20591, or by calling (202) 426–8058. Communications must identify the docket number of this NPRM. Persons interested in being placed on a mailing list for future NPRMs should also request a copy of Advisory Circulator No. 11–2 which describes the application procedures.

The Proposal

The FAA is considering an amendment to § 75.100 of Part 75 of the Federal Aviation Regulations (14 CFR Part 75) to realign Jet Route No. 18 from Bradford, Ill., to Salina, Kans., via St. Joseph, Mo., rather than over Kirksville, Mo. Flight, are frequently radar vectored to Salina from north of J–18 and from over Bradford. Realignment of Jet Route No. 18 via St. Joseph would eliminate the need for radar navigation by ATC and would reduce traffic congestion in the vicinity of Kirksville.

The Proposed Amendment

Accordingly, pursuant to the authority delegated to me, the Federal Aviation Administration proposes to amend § 75.100 of the Federal Aviation Regulations (14 CFR Part 75) as republished (44 FR 722) as follows:

In § 75.100 under Jet Route No. 18 "Kirksville" is deleted and "St. Joseph" is substituted therefor.

(Secs. 307(a), 313(a), Federal Aviation Act of 1958 (49 U.S.C. 1348(a) and 1354(a)); sec. 6(c), Department of Transportation act (49 U.S.C. 1655(c)); and 14 CFR 11.65).

Note.—The FAA has determined that this document involves a proposed regulation which is not significant under Executive Order 12044, as implemented by DOT Regulatory Policies and Procedures (44 FR 11034; February 26, 1979). Since this regulatory action involves an established body of technical requirements for which frequent and routine amendments are necessary to keep them operationally current and promote safe flight operations, the anticipated impact is so minimal that this action does not warrant preparation of a regulatory evaluation and a comment period of less than 45 days is appropriate.

Issued in Washington, D.C., on May 14, 1979.

William E. Broadwater,

Chief, Airspace and Air Traffic Rules Division.

[FR Doc. 79-15715 Filed 5-18-79; 8:45 am]

BILLING CODE 4910-13-M

[14 CFR Part 75]

[Airspace Docket No. 79-WA-2]

Realignment of Jet Route

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Notice of proposed rulemaking.

SUMMARY: This notice proposes to realign Jet Route J–25 between Tulsa, Okla., and Des Moines, Iowa, via Kansas City, Mo., rather than via Butler, Mo. This realignment would eliminate two doglegs in this route segment thereby reducing the distance and fuel consumption required.

DATES: Comments must be received on or before June 20, 1979.

ADDRESSES: Send comments on the proposal in triplicate to: Director, FAA Central Region, Attention: Chief, Air Traffic Division, Docket No. 79–WA–2, Federal Aviation Administration, 601 E. 12th Street, Kansas City, Mo. 64106. The official docket may be examined at the following location: FAA Office of the Chief Counsel, Rules Docket (AGC–24), Room 916, 800 Independence Avenue, SW., Washington, D.C. 20591. An informal docket may be examined at the office of the Regional Air Traffic Division.

FOR FURTHER INFORMATION CONTACT:
Mr. Everett L. McKisson, Airspace Regulations Branch (AAT–230), Airspace and Air Traffic Rules Division, Air Traffic Service, Federal Aviation Administration, 800 Independence Avenue, SW., Washington, D.C. 20591; telephone: (202) 426–3715.

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SUPPLEMENTARY INFORMATION:

Comments Invited

Interested persons may participate in the proposed rulemaking by submitting such written data, views or arguments as they may desire. Communications should identify the airspace docket number and be submitted in triplicate to the Director, Central Region, Attention: Chief, Air Traffic Division, Federal Aviation Administration, 601 E. 12th Street, Kansas City, Mo. 64106. All communications received on or before June 20, 1979, will be considered before action is taken on the proposed amendment. The proposal contained in this notice may be changed in the light of comments received. All comments submitted will be available, both before and after the closing date for comments, in the Rules Docket for examination by interested persons.

Availability of NPRM

Any person may obtain a copy of this notice of proposed rulemaking (NPRM) by submitting a request to the Federal Aviation Administration, Office of Public Affairs, Attention: Public Information Center, APA–430, 800 Independence Avenue, SW., Washington, D.C. 20591, or by calling (202) 426–8058. Communications must identify the docket number of this NPRM. Persons interested in being placed on a mailing list for future NPRMs should also request a copy of Advisory Circular No. 11–2 which describes the application procedures.

The Proposal

The FAA is considering an amendment to Part 75 of the Federal Aviation Regulations (14 CFR Part 75) that would realign a segment of J–25 to extend from Tulsa to Des Moines via Kansas City which is on a direct route between these points. This route would bypass Butler and an INT south of Lamoni. A segment of J–89 would continue to be designated from Tulsa to Kirksville, Mo., via Butler. This would retain a jet route segment for use between Tulsa and Butler. Flight planning and pilot/controller coordination would be reduced by the use of the proposed route.

The Proposed Amendment

Accordingly, pursuant to the authority delegated to me, the Federal Aviation Administration proposes to amend § 75.100 of Part 75 of the Federal Aviations Regulations (14 CFR Part 75) as republished (44 FR 722) as follows:

Under Jet Route No. 25 "Butler, Mo.; INT of the Butler 009° and the Des Moines, Iowa, 196° radials; Des Moines;" is deleted and "Des Moines, Iowa;" is substituted therefor.

(Secs. 307(a), 313(a), Federal Aviation Act of 1958 (49 U.S.C. 1348(a) and 1354(a)); sec. 6(c), Department of Transportation Act (49 U.S.C. 1655(c)); and 14 CFR 11.65).

Note.—The FAA has determined that this document involves a proposed regulation which is not significant under Executive Order 12044, as implemented by DOT Regulatory Policies and Procedures (44 FR 11034; February 26, 1979). Since this regulatory action involves an established body of technical requirements for which frequent and routine amendments are necessary to keep them operationally current and promote safe flight operations, the anticipated impact is so minimal that this action does not warrant preparation of a regulatory evaluation and a comment period of less than 45 days is approprate.

Issued in Washington, D.C., on May 14, 1979.

William E. Broadwater,

Chief, Airspace and Air Traffic Rules Division.

[FR Doc. 79–15717 Filed 5–18–79; 8:45 am]

BILLING CODE 4910–13–M

CIVIL AERONAUTICS BOARD

[14 CFR Part 252]

[EDR–377; Docket No. 29044, Dated: May 16, 1979]

Proposed Restrictions on Smoking Aboard Aircraft

AGENCY: Civil Aeronautics Board.

ACTION: Notice of Proposed Rulemaking.

SUMMARY: This notice proposes to amend the existing rule on smoking aboard aircraft in various ways, including special seating for susceptible passengers, buffer zones, and special locations for cigar and pipe smoking. The Board is issuing the proposal on its own initiative.

INITIAL COMMENTS: August 20, 1979.
Reply comments: September 19, 1979.

Comments and other relevant information received after these dates will be considered by the Board only to the extent practicable.

Requests to be put on the Service List: June 11, 1979. Docket Section prepares the Service List and sends it to each person listed, who then serves his comments on others on the list.

ADDRESSES: Twenty copies of comments should be sent to Docket 29044, Civil Aeronautics Board, 1825 Connecticut Avenue, NW., Washington, D.C. 20428. Individuals may submit their views as consumers without filing multiple copies. Comments may be examined in Room 711, Civil Aeronautics Board, 1825 Connecticut Avenue, NW., Washington, D.C. as soon as they are received.

FOR FURTHER INFORMATION CONTACT: Richard B. Dyson, Associate General Counsel, Civil Aeronautics Board, 1825 Connecticut Avenue, NW., Washington, D.C. 20428, 202–673–5444.

SUPPLEMENTARY INFORMATION: By ER–1091, (44 FR 5071, January 25, 1979) the Board amended its rules on smoking aboard aircraft to provide airline passengers more effective protection from tobacco smoke. This amendment was made on the basis of notice of proposed rulemaking EDR–306, 41 FR 44424, October 8, 1976. The new requirements are for special segregation of cigar and pipe smokers, and such other procedures as may be necessary to avoid exposing persons in no-smoking areas to smoke from cigars and pipes; a no-smoking area for each class of service and for charter service consisting of at least two rows of seats; enough seats in no-smoking areas for all persons who wish to be seated there, with provision for expansion of no-smoking areas to meet passenger demand; special provisions to ensure that if a no-smoking section is placed between smoking sections, the non-smoking passengers are not unreasonably burdened; and carrier measures to prevent smoking in no-smoking areas.

The Board has not finally decided whether the rules as now amended will be sufficient to protect non-smokers from unreasonable exposure to tobacco smoke. Various other suggestions have been advanced by petitioners and commenters in this proceeding. We would like to receive further comment on some of these possibilities, while at the same time observing the effect of the recent amendments to see whether more stringent actions are called for. Although we are presenting all of these porposals in rule form for ease of understanding, they certainly will not all be included in any final rule (some are mutually exclusive). They should be considered as options, which might be issued by the Board in various combinations.

Persons Unusually Susceptible to Tobacco Smoke

Several authorities have been cited by commenters to the effect that severe physical reactions to tobacco smoke are experienced by persons with certain medical conditons. Based on expert medical testimony that exposure to tobacco smoke causes extreme distress to some individuals, a New Jersey court has held that an employee who suffered

allergic reactions to the inhalation of ambient smoke was entitiled to work in a smoke-free environment.[1] In letters to the Board dated January 11, 1978, and August 3, 1978, the Secretary of the Department of Health, Education, and Welfare, citing the harm suffered by individuals with certain allergies and respiratory diseaes, called for the special protection of such travelers.

While action to accommodate unusually susceptible individuals may be justified, we do not find practicable ASH's proposal to ban all smoking on any flight where a passenger indicates that exposure to smoke will cause "serious physical injury or other impairment." Restricting all passengers upon the request of a susceptible individual could cause last-minute controversies between passengers and difficult administrative problems for the airlines. There may be merit, however, in requiring airlines to take more action with regard to persons with special problems. Some airlines have been dealing with the problem of persons with unusual susceptibility to smoke by placing them in seats that are farthest from the smoking areas. We are proposing to make the practice general, by requiring carriers to seat persons who advise them of special susceptibility to smoke either in the area of the plane that is farthest from any smoking area, or in a position shown by objective tests to be the freest from smoke. We request that commenters on this proposal address these questions:

How should carriers decide which persons are entitlied to special accommodation?

Should there be a list of qualifying medical conditions?

Should a medical certificate be required, and if so what should be the minimum requirements for the certificate?

Is uniformity of carrier rules important?

Sandwiching

A few carriers that offer more than one class of service per compartment place the no-smoking area for both classes together in a split-section seating configuration, so that non-smokers are, in effect, "sandwiched" between smokers. This seating arrangment has been the subject of complaints to the Board's Bureau of Consumer Protection. Allegheny Airlines has agreed to cease and desist from employment of this configuration. Order 76–4–160, April 28, 1976. Allegheny had, as a result of self-monitoring, already found that this configuration did not provide effective separation of smokers and non-smokers on it DC–9–30 aircraft and discontinued the practice.

To remedy the problems created by sandwiching, EDR–306 proposed to amend § 252.2 to require that there be no more than one smoking area per aircraft compartment. This proposal was opposed both by carriers and by advocates of stricter smoking regulations.

Those opposed to smoking on aircraft found the allowance of one smoking area in each compartment too lenient. Many individuals filing comments took the position that all smokers should be seated together and isolated in one area from which there is the least possible flow of smoke to non-smokers. Many suggested that this area should be the rear of the aircraft. In addition, ASH urged that there should be no smoking area at all in forward first class, because its small size prevents effective separation, and because smoke drifts back into the tourist no-smoking area even when a curtain is drawn.

There has been no convincing demonstration, however, that grouping all smokers together would solve the problems associated with smoking on aircraft. Although we recognize the problem, we do not find that a ban on all smoking in first class is warranted at this time. In order to provide more effective separation, carriers might make use of "don't care" passengers or empty seats as buffers between smokers and those non-smokers who object to any exposure to smoke. While intensity of feeling on the part of large numbers of non-smokers is evident in the comments, there may be a substantial group of non-smokers who would not feel burdened by sitting in the row behind first class smoking section. Pan American indicates that it has had success with the use of "don't cares" and vacant seats, and this aspect of its seating procedures may be usable by other carriers.

Some carriers objected to limiting smoking areas to one per compartment. Objections related primarily to the relative merits of sandwiching, and to possible interference with the marketing of various classes of service. ATA stated that no limit smoking areas to one per compartment in situations where the rear compartment accommodates more than one class, a carrier would have to either discriminate by denying smoking to one class or combine smokers without regard to class. Continental argued that sandwiching of non-smokers provides them better protection than they would receive under the proposed rule, because placing coach and economy smokers together would make the smoke more dense, reduce the speed with which it is cleared, and have an adverse psychological effect by presenting non-smokers with a concentrated area of smoke. It makes more detailed arguments with respect to the B–727 and the DC–10, contending that sandwiching reduces the points of contact between smokers and non-smokers on these aircraft.

The Board would like to have the benefit of additional comments on the technical issues raised by Continental's objections. A proposal to limit smoking areas to one per compartment is therefore included in this notice, to obtain more data on the effects of various seating configurations.

Special Segregation of Pipes and Cigars

ER–1091 (44 FR 5071, January 25, 1979) was based partly on a finding that non-smokers require special segregation from pipe and cigar smoke in order to receive "adequate" and "reasonable" service. It leaves the specifics of this special segregation requirement to the discretion of each air carrier. While we expect full and effective compliance with this general mandate, we are also interested in receiving comments on more detailed regulations concerning pipe and cigar smoking.

The Cigar Association filed a petition for rulemaking on December 9, 1977 (Docket 31805), proposing a buffer-zone arrangement between cigar and pipe smokers and non-smokers. In Order 78–5–139 the Board consolidated the Cigar Association's petition with the present rulemaking proceeding. The Cigar Association proposed a three-part approach to the restriction of cigars and pipes: (1) A buffer zone of three rows between non-smokers and any cigar and pipe smoker in coach-class cabin, and of one row in a first class cabin; (2) restriction of cigar or pipe smokers to the window seats or seats closest to an air outtake vent; and (3) a requirement that any cigar or pipe smoking passenger extinguish his cigar or pipe if any other passenger makes such a request through a flight attendant.

This scheme is one approach toward achieving special segregation of pipe and cigar smokers. With some changes, we are including it in the proposal, to stimulate public comment on the subject of more specific rules. We are proposing a seven-row buffer zone between cigar and pipe smokers and non-smokers, and a one-row buffer zone around the total smoking section where there is not an equivalent amount of space or a

[1] *Shimp* v. *New Jersey Bell Telephone Co.*, 368 A. 2d 408 (Superior Ct., Ch. Div., N.J. 1976).

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physical barrier between the smoking and non-smoking sections. The Board also proposes and requests comments on buffer zones of any different sizes. For buffer zones to be practicable when the plane is full, they must be occupied by persons who neither smoke nor object to sitting next to the smoking area. Finding persons in this category may involve the offering of incentives by carriers, such as a free drink or higher-class service. We invite comment on all aspects of buffer zones, including experience carriers may have had in using incentives for these or analogous purposes.

Other proposals included here, which will be considered as either cumulatives or alternative possibilities, are the restriction of cigar and pipe smokers to positions nearest the air vents or at the back of the plane, requiring partitions to separate smokers and non-smokers, and a rule requiring putting out cigars or pipes at the request of a non-smoker.

EDR-306, 41 FR 44424, October 8, 1976, proposed a ban on cigar and pipe smoking, and other smoking prohibitions conditioned on the type of aircraft (for example, banning smoking on planes with 30 or fewer seats) and length of flight (for example, banning smoking on all flights of less than one hour). No action has yet been taken on those proposals, but they remain live options for final rule action and are reproposed here. We also propose and request comments on other possible physical bases on which to delineate aircraft on which smoking should be prohibited, such as whether the cabin is pressurized.

Finally, we propose a provision to advise that the Board will consider requests for waivers from one or more of these rules, so that carriers may experiment with various methods of separating smokers and non-smokers or with innovative ventilating devices or other technological solutions. For example, Continental's sandwiching technique might be permitted on a portion of its operations to allow a comparison between multiple and single smoking areas. Another example might be "smoker flights" on second sections of shuttle services on which non-smokers could travel if they wish.

We are not proposing a ban on all tobacco smoking aboard aircraft at this time, although it has been urged in thousands of comments in this proceeding. At this stage our focus is on arriving at a set of restrictions, short of a total ban, that will best accommodate the conflicting desires of the smoking and non-smoking public. We are not ruling out the possibility of such a ban at some future time, but we want the comments in response to this notice to help us in our search among the detailed options, and not to be distracted by the immediate prospect of a total ban.

O'Melia, Member, Concurring: As more and more papers stack up telling us in great and specific detail what to do about smoking aboard aircraft and as more and more individual complaints cross my desk, I have come to the conclusion that we need some reliable scientific tests on the flow of smoke, whether cigar, cigarette or pipe aboard aircraft. We need more hard information, and perhaps less grandiloquence and harangue, before we can, with any confidence, put the smokers in the back of the plane or in the window seats or throw them out altogether.[2] I believe the Board should call upon FAA, DOT, HEW, the National Academy of Sciences, the Bureau of Standards or someone to conduct such tests. If we must decide these touchy questions, we should have specific answers at hand on the effects of tobacco smoking aboard aircraft. Signed Richard J. O'Melia.

Accordingly the Civil Aeronautics Board proposed to amend Part 252 of the Economic Regulations (14 CFR Part 252) to read as set forth below. It should be noted that, as discussed above, some of the provisions would be considered as alternatives and they are set out here cumulatively only to facilitate comment.

PART 252—SMOKING ABOARD AIRCRAFT

Sec.
252.1 Applicability.
252.1a Special segregation of cigar and pipe smokers.
252.1b Special requirements for cigar and pipe smoking.
252.2 No-smoking areas.
252.2a Ban on smoking when ventilation systems not fully functioning.
252.2b Special seating for unusually susceptible persons.
252.2c Ban on cigar and pipe smoking.
252.2d Ban on smoking on short flights.
252.2e Ban on smoking on small aircraft.
252.3 Enforcement.
252.3a Waivers.
252.4 Manual containing carrier smoking rules.
252.5 Board may modify carrier rules.

Authority: Secs. 204(a), 404(a), and 407, Federal Aviation Act of 1958, as amended, 72 Stat. 743, 760, 766; (49 U.S.C. 1324, 1374, and 1377).

§ 252.1 Applicability.

This part establishes rules for the smoking of tobacco aboard aircraft. It applies to each direct air carrier that holds a certificate of public convenience and necessity, authorizing the transporation of persons, issued pursuant to Section 401 of the act (hereafter called "carriers"). Nothing in this regulation requires carriers to permit the smoking of tobacco aboard aircraft.

§ 252.1a Special segregation of cigar and pipe smokers.

Carriers shall adopt and enforce rules providing for special segregation of cigar and pipe smokers, and for such other procedures as may be necessary to avoid exposing persons seated in no-smoking areas to smoke from cigars and pipes.

§ 252.1b Special requirements for cigar and pipe smoking.

Each carrier shall enforce the following rules regarding cigar and pipe smoking:

(1) Cigar and pipe smoking shall be limited to an area at least seven rows from the non-smoking section.

(2) A smoking section shall be separated from any non-smoking section by a physical barrier or at least one row or the equivalent distance, that is either vacant or occupied by persons who neither smoke nor object to being seated next to the smoking section.

(3) Cigars and pipes may be smoked only by persons seated closest to the air vent in each row.

(4) The section where cigars and pipes may be smoked must be at the rear of the compartment.

(5) Cigar and pipe smoking shall be prohibited in a compartment if any person seated in the compartment requests such a ban through a flight attendant.

§ 252.2 No-smoking areas.

Carriers shall ensure that non-smoking passengers are not unreasonably burdened by breathing smoke and to that end shall provide at a minimum:

(a) A no-smoking area for each class of service and for charter service;

(b) A no-smoking section of at least two rows of seats;

(c) A sufficient number of seats in the no-smoking areas of the aircraft for all persons who wish to be seated there;

(d) Specific provision for expansion of no-smoking areas to meet passenger demand;

(e) Special provisions to ensure that if a no-smoking section is placed between smoking sections, the non-smoking passengers are not unreasonably burdened.

[2] For example, we say we will consider putting passengers who are particularly susceptible to smoke in the area of the plane freest from smoke. I'm not yet sure just where that is.

(f) That each smoking area shall be separated from any other smoking area by a curtain or partition.

§ 252.2a Ban on smoking when ventilation systems not fully functioning.

Carriers shall adopt and enforce rules prohibiting the smoking of tobacco whenever the ventilation system is not fully functioning. A ventilation system shall be considered fully functioning only when all parts are in working order and operating at the capacity designed for normal service.

§ 252.2b Special seating for unusually susceptible persons.

Carriers shall provide special accommodations for persons who are unusually suseptible to physical ill effects from inhalation of tobacco smoke, and who so inform the carrier in advance of the flight. These accommodations shall consist of seating in a location either as far as possible from smoking areas or one shown by objective tests to provide the maximum freedom from smoke.

§ 252.2c Ban on cigar and pipe smoking.

Carriers shall adopt and enforce rules prohibiting the smoking of cigars and pipes aboard aircraft.

§ 252.2d Ban on smoking on short flights.

Carriers shall adopt and enforce rules prohibiting the smoking to tobacco on all flights 1 hour or less.

§ 252.2e Ban on smoking on small aircraft.

Carriers shall adopt and enforce rules prohibiting the smoking of tobacco on aircraft with 30 seats or less.

§ 252.3 Enforcement.

Each carrier shall take such action as is necessary to ensure that smoking is not permitted in no-smoking areas and to enforce its rules with respect to the segregation of passengers in smoking and no-smoking areas.

§ 252.3a Waivers.

Carriers may file applications for waivers with the Civil Aeronautics Board, Bureau of Consumer Protection, to be relieved from one or more of the requirements of this part in order to experiment with methods of protecting non-smokers from tobacco smoke to the maximum possible degree.

§ 252.4 Manual containing carrier smoking rules.

Each carrier shall maintain an employee manual containing its rules on smoking by passengers aboard aircraft. Two copies of the manual shall be filed with the Bureau of Pricing and Domestic Aviation, and revisions and amendments shall be filed within 15 days following adoption by the carrier.

§ 252.5 Board may modify carrier rules.

If the Board finds that any carrier rule is at variance with any provision of this part, the Board may by order modify the rule to the extent necessary to make it conform to this part.

(Secs. 204(a), 404(a), and 407, Federal Aviation Act of 1958, as amended, 72 Stat. 743, 760, 766; (49 U.S.C. 1324, 1374, and 1377)).

By the Civil Aeronautics Board.

Phyllis T. Kaylor,

Secretary.

[FR Doc. 79-15809 Filed 5-18-79; 8:45 am]

BILLING CODE 6320-01-M

DEPARTMENT OF THE TREASURY

Customs Service

[19 CFR Part 146]

Foreign-Trade Zones; Proposed Rule Relating to Processing Costs Incurred in Foreign-Trade Zones

AGENCY: U.S. Customs Service, Department of the Treasury.

ACTION: Proposed rule.

SUMMARY: Customs includes the cost of processing "nonprivileged" merchandise in a foreign-trade zone, and profit realized, in the dutiable value of that merchandise when it enters the customs territory of the United States. The present policy results in Customs assessing duty on the costs of American labor, overhead and facilities, and profit. This document requests the public to comment on a proposal to change Customs appraisement practice so as to exclude the cost of processing and profit realized in a foreign-trade zone when determining the dutiable value of articles produced entirely from nonprivileged merchandise (whether foreign or domestic), or from a combination of nonprivileged and privileged merchandise (whether foreign or domestic).

DATE: Comments must be received on or before July 20, 1979.

ADDRESS: Written comments should be addressed to the Commissioner of Customs, Attention: Regulations and Legal Publications Division, U.S. Customs Service, Room 2335, 1301 Constitution Avenue, N.W., Washington, D.C. 20229.

FOR FURTHER INFORMATION CONTACT: Thomas Lobred, Classification and Value Division, U.S. Customs Service, 1301 Constitution Avenue, N.W., Washington, D.C. 20229 (202-566-2938).

SUPPLEMENTARY INFORMATION:

Background

Foreign-trade zones ("zones") are established under the Foreign-Trade Zones Act (19 U.S.C. 81a–81u) and the general regulations and rules of procedure of the Foreign-Trade Zones Board contained in 15 CFR Part 400. Part 146 of the Customs Regulations (19 CFR Part 146) governs the admission of merchandise into a zone; manipulation, manufacture, or exhibition of merchandise in a zone, exportation of merchandise from a zone; and transfer of merchandise from a zone into the customs territory of the United States ("customs territory").

Foreign or domestic merchandise may be admitted into a zone for, among other things, manipulation, manufacture, assembly, or other processing, or for storage or exhibition, provided these operations are not otherwise prohibited by law. Normal customs entry pocedures and payment of duty are not required for merchandise located in a zone unless and until the merchandise is removed from a zone and entered into the customs territory.

Upon approval of the required application filed with the district director of Customs (19 CFR Part 146, Subpart C), foreign or domestic merchandise may attain "privileged" status. Privileged foreign merchandise is subject to appraisement and tariff classification according to its condition and quantity, and to the rates of duty and tax in force, on the date the application is filed with the district director, regardless of when the merchandise actually leaves the zone and enters the customs territory. Privileged domestic merchandise may be returned to the customs territory free of quota, duty or tax. A component of foreign privileged merchandise would be appraised and dutiable in its character and condition on the date the application is filed for privileged status. A component of domestic priviledged merchandise would not be included in the dutiable value of the article.

Merchandise admitted to a zone which is not accorded "privileged" status or "zone-restricted" status (as set forth in section 146.25, Customs Regulations (19 CFR 146.25)) is "nonprivileged." Section 146.48(e), Customs regulations (19 CFR 146.48(e)), sets forth the appraisement and tariff classification treatment of articles composed solely of nonprivileged merchandise (whether foreign or domestic) and articles composed both of privileged and nonprivileged merchandise (whether foreign or

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domestic). Under section 146.48(e), an article composed in whole or in part of nonprivileged merchandise is subject to appraisement and tariff classification according to its character and condition at the time of its "constructive transfer" to the customs territory. A "constructive transfer" means that the merchanidse is considered to have been transferred to the customs territory without physical removal from the zone, and takes place upon approval of the required application by the district director.

Section 146.48(e) requires the dutiable value of nonpriviledge merchandise to be determined under section 402 or 402a of the Tariff Act of 1930, as amended (19 U.S.C. 1401a, 1402). Labor and overhead costs incurred, and prifit realized, in the zone are included in the dutiable value of articles composed entirely of, or derived entirely from, foreign or domestic nonprivileged merchandise, and articles composed in part of, or derived in part from, foreign or domestic nonprivileged merchandise and in part of or from foreign or domestic privileged merchandise.

Processing costs and profit attributable to nonprivileged merchandise or nonprivileged components are included in the dutiable value of the article when it subsequently enters the customs territory. Since 1954, Customs has ruled (Treasury Decision 53493(2)) that when privileged and nonprivileged components (foreign or domestic) are combined in a zone to produce an article, the processing costs incurred must be distributed between the privileged and nonprivileged components according to their relative values. Consequently, the effect of section 146.48(e) is to assess duty on the use of American labor and facilities, overhead expenses and profit, thus increasing the cost of utilizing a zone.

An advance notice of proposed rulemaking inviting comments on the advisability of changing current Customs appraisement practice to exclude the cost of American labor, overhead and facilities, and profit when determining the dutiable value of articles produced entirely or in part from nonprivileged foreign merchandise in a zone was published in the Federal Register on October 4, 1978 (43 FR 45885). The vast majority of the comments received favored the proposed change in appraisement practice ("proposal") as set forth in the advance notice.

Discussion of Possible Economic Effects

The present appraisment method by which Customs duties are assessed is considered by most zone proponents to be a deterrent to the establishment of new facilities in zones, and an impediment to the avowed purposes of zones, to help expand U.S. employment and U.S. foreign commerce and to assist American business by enabling the processing and manufacture of certain types of articles at lower costs. However, those opposed to the proposal argue that it would lead to a net loss of jobs in the United States and would result in economic injury to U.S. manufacturers of parts and components, as well as to U.S. manufacturers of finished products. The question to be analyzed, therefore, is whether the proposal will indeed lead to a net increase in U.S. employment and lower costs for U.S. industries, or whether it would be counterproductive. The answer to this question requires a determination of (1) who would benefit from the proposal and (2) who would be affected adversely by the change.

Generally, most zone proponents view the proposal as instrumental to the fulfillment of the congressional objective underlying the establishment of the zones, namely the expansion of U.S. industry and labor. Also, adoption of the proposal is considered to be anti-inflationary, and could provide greater investment opportunities in the United States as well as increased employment and additional tax revenues.

Effect on U.S. Manufacturers

At present, only about 10 percent of the space in zones is used for manufacturing. The proposal likely will result in the opening of new manufacturing/assembly facilities in a zone and perhaps requests for the establishment of new zones. Industries which would benefit most are those that normally request nonprivileged status for foreign parts and components because the parts and components have higher duty rates than the finished products. Under present appraisement practice, these industries are able to bring high-duty foreign parts and components into a zone, process or manufacture them into a finished product, and pay the (lower) duty rate of the finished product. Implementation of the proposal (in which U.S. labor, processing, and profit would not be dutiable) could result in significant cost savings for those industries, and could provide further incentives for those industries to establish or expand their processing or manufacturing capabilities in zones. Moreover, some U.S. manufacturers could realize cost savings by switching processing/manufacturing operations from foreign localities to zones in the United States.

A number of companies have indicated that the proposal would be of importance in any decision to expand or establish operations in a zone. Specifically, firms producing the following products and product parts could be encouraged by adoption of the proposal to increase their usage of zones: automobiles, motorcycles, snowmobiles, computers, electronics and audio equipment, television receivers and components, scientific instruments, medical equipment and supplies, watches, cameras, typewriters, piano components, meat packing, textiles, and athletic footwear. To reiterate, the expansion of these industries into zones could lead to significant growth in zone operations due to the structure of the Tariff Schedules of the United States (TSUS) (19 U.S.C. 1202), which, because of higher duties on some foreign parts and components rather than on finished products, sometimes may serve as a disincentive to assembly or manufacturing in the United States. In addition, some U.S. manufacturers of parts and components also could stand to benefit from adoption of the proposed rulemaking, since over a period of time there could be some substitution of U.S. parts and components for foreign parts and components in the zones.

On the other hand, it is possible that some U.S. manufacturers of parts and components as well as of finished products could be affected adversely by the proposal. By making the utilization of (nonprivileged) foreign parts and components immediately more attractive, the proposal could lead to the substitution of foreign parts and components for U.S. parts and components. However, the Foreign-Trade Zones Board, U.S. Department of Commerce, has the authority to screen carefully operations in zones to assure that they do not harm the public interest.

The proposal also could benefit manufacturers in certain geographical areas. This could occur because the proposal would end current disparities resulting from the location of some zones in areas where real estate and labor costs are high.

Effect on Employment

Approximately 5,000 persons currently are employed in zones. The number of new jobs that could be created by the proposal is unknown. However, any gain in employment could be diminished somewhat by a possible loss in employment if there were a major shift away from U.S. parts manufacturers in favor of increased usage of foreign parts. On the other hand, it is likely that the proposal could encourage a number of U.S. manufacturers not to move their operations overseas, or encourage them to reestablish operations in the United States which are currently offshore. It also could encourage foreign companies who presently ship finished products to the United States to set up operations within the United States. In this way, employment in the United States could be increased.

Effect on Foreign Investment in the United States

With regard to the question of new foreign investment created by the proposal, indications are that there could be some increase in that investment, although the extent to which foreign companies increasingly would invest in the United States is unknown.

Effect on U.S. Imports

The effect of the proposal on U.S. imports could be to increase U.S. imports of foreign parts and components into zones, while causing a decrease in imports of finished products. During FY 1977, approximately $180 million in foreign parts, components, and malleable, transformable materials (excluding crude petroleum) entered zones. It is possible that those imports into zones could increase substantially over the next few years if the appraisement practice were to be changed.

Effect on U.S. Exports

One of the major reasons for the establishment of zones was to encourage U.S. exports by enabling foreign parts and components to be imported duty-free and combined with U.S. materials to produce finished products for export. This procedure is the current rationale for setting up zones in developing countries, where labor is less costly, unemployment is high, and manufacturing/export capabilities are desired. In U.S. zones, however, exports and re-exports have not been especially prominent; in FY 1978, about 31 percent of goods forwarded from zones were exported. It is anticipated that the proposal will have only a marginal impact on exports, since it applies only to valuation of goods which are imported. Any increase in exports which would occur would be a result of the anticipated increase of activity within the zones.

Effect on Customs Revenues

The proposal could lead to a net decrease in Customs revenues. Not only would the U.S. cost of labor, processing, and profit no longer be dutiable, but also high-duty foreign parts and components increasingly could be transformed in zones into lower-duty finished products. Moreover, the expected decrease in finished products directly entering the United States could lead to lower revenues. However, this net decrease in revenue is expected to be somewhat offset by the increased volume and value of foreign goods which might be processed and transformed in zones, due to the upsurge in manufacturing and other activity which is anticipated.

Effect on the U.S. Balance of Trade

The proposal is likely to have a positive benefit on the U.S. balance of trade. Although the change could lead to some increase in zone imports of parts, components, and raw materials, there also could be a resulting decrease in direct imports of finished products; thus, the net value of direct imports could decrease, since the values of imported parts, etc., would be lower than the value of finished products. Moreover, some of the new manufacturing which could occur in zones due to the change ultimately may be exported, which again could benefit the balance of trade.

Effect on the General U.S. Economy

The proposal, to the extent that it lowers the cost of processing and manufacturing in the United States, is anti-inflationary. In addition, the proposal could afford an added tax base provided there in an increase in employment and the scope of operations in the zones. Above all, the proposal could contribute to increased assembly and manufacturing in the United States by both U.S. and foreign firms.

Circumvention of Quotas

It is possible that adoption of the proposal, resulting in the increased use of zones, could lead to the circumvention of existing "quotas". Depending on the specific language of a particular quota provision, foreign producers may export "quota" goods to zones, process them, and then transport the finished article into the United States free of any quantitative restriction.

Conclusion

Although the proposal could lead to some substitution of foreign parts and components for domestic ones, or could result in some circumvention of import quotas, it is anticipated that the proposal would be beneficial to U.S. industries, employment, and the general U.S. economy, by attracting increased assembly and manufacturing operations to the United States. Customs is particularly interested in comments which might affect this conclusion and will fully consider all such information before making a final decision on this matter. These comments should be as specific as possible.

Authority

This amendment is proposed under the authority of R.S. 251, as amended (19 U.S.C. 66), and section 8, 46 Stat. 1000 (19 U.S.C. 81h).

Comments

Customs invites written comments (preferably in quadruplicate) from all interested parties on the proposal to change its appraisement practice so as to exclude the cost of processing and profit when determining the dutiable value of articles produced entirely or in part from nonprivileged components in zones. Comments are desired particularly on the possible economic effects of the proposal. Comments made on the advance notice of proposed rulemaking will be considered to have been made in response to this notice and will be considered fully before deciding on whether a final rule should be published. Accordingly, unless the commenters to the advance notice wish to provide additional comments or elaborate on previously made comments, they need not respond to this notice.

Comments submitted will be available for public inspection in accordance with section 103.8(b), Customs Regulations (19 CFR 103.8(b)), during regular business hours at the Regulations and Legal Publications Division, Room 2335, Headquarters, U.S. Customs Service, 1301 Constitution Avenue, N.W., Washington, D.C. 20229.

Inapplicability of E.O. 12044

The document is not subject to the Department of Treasury directive implementing Executive Order 12044, Improving Government Regulations, because the regulation was in the process of preparation prior to May 22, 1978.

Drafting Information

The principal author of this document was Todd J. Schneider, Regulations and Legal Publications Division, Office of Regulations and Rulings, U.S. Customs Service. However, personnel from other Customs offices and the Treasury Department participated in its development.

Proposed Amendment

It is proposed to amend § 146.48(e), Customs Regulations (19 CFR 146.48(e)),

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by replacing the period at the end of the section with a comma and adding the following:

146.48 Treatment of merchandise not elsewhere provided for in this subpart.

* * * * *

(e) *Appraisement and tariff classification.* * * * except that the processing costs incurred, and the profit realized, in a foreign-trade zone shall be excluded when determining the dutiable value of articles produced entirely from nonprivileged merchandise (whether foreign or domestic), or from a combination of nonprivileged and privileged merchandise (whether foreign or domestic).

Robert E. Chasen

Commissioner of Customs.

Approved: April 24, 1979.

Richard J. Davis,

Assistant Secretary of the Treasury.

[FR Doc. 79-15565 Filed 5-18-79; 8:45 am]

BILLING CODE 4810-22-M

DEPARTMENT OF HOUSING AND URBAN DEVELOPMENT

Federal Insurance Administration

[24 CFR Part 1917]

[Docket No. FI-4997]

National Flood Insurance Program; Proposed Flood Elevation Determination for the City of Quincy, Adams County, Ill.

Correction

In FR Doc. 79-2388, appearing at page 5465 in the issue of Friday, January 26, 1979, on page 5466, in the middle column, in the table, correct the location for Tributary 3 to read "1400 feet upstream of Burlington Northern Railroad".

BILLING CODE 1505-01-M

DEPARTMENT OF THE INTERIOR

Bureau of Indian Affairs

[25 CFR Part 114]

Procedures for Collection, Deposit, Investment, Interest Computation and Payment of Proceeds of Affected Lands Withdrawn for Native Selection Pursuant to the Alaska Native Claims Settlement Act

May 8, 1979.

AGENCY: Bureau of Indian Affairs, Department of the Interior.

ACTION: Proposed revision to 25 CFR Part 114.

SUMMARY: Notice is hereby given that it is proposed to revise Part 114 of Title 25 of the Code of Federal Regulations. The revision adds those procedures the Commissioner of Indian Affairs proposes to use to invest and pay out, together with interest, funds collected and deposited into an escrow account established under the provisions of Pub. L. 94-204 as it amends the Alaska Native Claims Settlement Act for proceeds derived from contracts, leases, permits, and rights-of-ways or easements pertaining to affected lands withdrawn for Native selection pursuant to the Alaska Native Claims Settlement Act. The deposit procedures for the escrow account have been published in Part 114 of the Code of Federal Regulations.

DATE: Comments must be received on or before June 20, 1979.

ADDRESS: Comments are to be sent to: Chief, Division of Accounting Management, Bureau of Indian Affairs, P.O. Box 127, Albuquerque, New Mexico, 87103.

FOR FURTHER INFORMATION CONTACT: Barton W. Wright, 505-766-3496, FTS 474-3496; and Donald M. Gray, 505-766-3496, FTS 474-3496

SUPPLEMENTARY INFORMATION: This notice is published in exercise of authority delegated by the Secretary of the Interior to the Assistant Secretary—Indian Affairs in 209 DM 8. This revision is proposed pursuant to the authority contained in the Act of January 2, 1976 (89 Stat. 1145, [43 U.S.C. 1613).

Note.—The Department of the Interior has determined that this document is not a significant rule and does not require a regulatory analysis under Executive Order 12044 and 43 CFR Part 14.

The Primary author of this document is Donald M. Gray, P.O. Box 127, Albuquerque, N.M. 87103 Phone: (505) 766-3496.

PART 114—PROCEDURES FOR COLLECTION, DEPOSIT, INVESTMENT, INTEREST COMPUTATION AND PAYMENT OF PROCEEDS OF AFFECTED LANDS WITHDRAWN FOR NATIVE SELECTION PURSUANT TO THE ALASKA NATIVE CLAIMS SETTLEMENT ACT

Sec.

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114.7 Investment of Proceeds.
114.8 Payment from the Escrow Account.
114.9 Proceeds from Affected Lands Not Conveyed.
114.10 Reports and Reconciliations.

Authority.—89 Stat. 1145.

§ 114.1 Purpose.

The purpose of the regulations in this part is to describe the procedure to be used by all Departments and Agencies of the Federal government and the State of Alaska for the collection and deposit of proceeds derived from contracts, leases, permits, and rights-of-way or easements pertaining to affected lands or resources in affected lands withdrawn for native selection pursuant to the Alaska Native Claims Settlement Act and to describe the procedures for the investment, interest computation and payment of such proceeds by the Bureau of Indian Affairs.

§ 114.2 Definitions.

(a) *Affected lands* means those lands that on January 1, 1976, were withdrawn by or pursuant to sections 11, 14, 16, 17(d)(2)(E), or 19 of the Alaska Native Claims Settlement Act (ANCSA) for Native selection and, from the time of withdrawal, lands subsequently withdrawn for Native selection by, under, or pursuant to the ANCSA and amendments thereto, and for so long as these lands remain withdrawn for Native selection and conveyance.

(b) *Conveyance* means the issuance of a document which conveys legal title.

(c) *Escrow account* means an account entitled "Deposits of Proceeds of Lands Withdrawn for Native Selection, Bureau of Indian Affairs", which has been established in the Treasury of the United States pursuant to section 2(a) of the Act for deposit, withdrawal, and disbursement of proceeds.

(d) *Grantee* means the individual, association, corporation, or other Native entity that receives a conveyance from the United States under the ANCSA, as amended.

(e) *Payment* means (1) disbursement of proceeds and appropriate interest and investment return of monies in the escrow account to the grantee of the surface and/or subsurface estate, (2) disbursement of proceeds of monies in the escrow account into the appropriate federal account as provided in section 2 (a) of the Act, or (3) deposit into miscellaneous receipts of the Treasury of the interest and investment return accruing to proceeds that are to be returned to the appropriate federal account.

(f) *Proceeds* means all monies received on or after January 1, 1976, from contracts, leases, permits, rights-of-way, or easements pertaining to affected lands, or the resources thereof, except (1) filing and similar administrative fees, (2) trespass and similar damages, and (3) all income received by the Federal Government which is a reimbursement of federal expenses. Proceeds from contracts, leases, permits, rights-of-way, or easements involving the subsurface resources of lands within Naval Petroleum Reserve No. 4 and units of the National Wildlife Refuge System are not subject to the provision of section 2 of the Act, except those proceeds which may derive from the specific Kenai National Moose Range lands identified for conveyance in section 12 of the Act.

(g) *Withdrawn* means that lands have been set aside either by section 11(a)(1) or (2) or 16(a) or (d) of the ANCSA, as amended, or a positive action by the Secretary of the Interior in the form of a Public Land Order for selection by native entities under the ANCSA.

§ 114.3 Collection of proceeds.

(a) The office, bureau, or agency administering lands in Alaska subject to section 2 of the Alaska Native Claims Settlement Act is responsible for determining and collecting amounts due from contracts, leases, permits, rights-of-way or easements pertaining to the affected lands.

(b) All Departments or Agencies of the Federal Government and the State of Alaska receiving such proceeds are to devise and maintain a record which includes (1) the identity of the specific contract, lease, etc., involved; (2) the statutory authority under which the proceeds were collected; (3) the account to which the proceeds would have otherwise been deposited; (4) the specific description of the lands involved in the contract, lease, etc.; (5) whether the proceeds were derived from the surface or subsurface estate; and (6) deposit information as described in §§ 114.5 and 114.6.

§ 114.4 Deposit of proceeds—Escrow account.

All Departments or Agencies of the Federal Government and the State of Alaska will deposit the proceeds derived from contracts, leases, permits, rights-of-way, or easements pertaining to affected lands in an escrow account in the Treasury of the United States entitled, "Deposits of Proceeds of Lands Withdrawn for Native Selection, Bureau of Indian Affairs". The depositing office, bureau, or agency is to advise the Commissioner—Indian Affairs of all deposits.

§ 114.5 Deposit of proceeds received by Federal offices, bureaus, and agencies.

(a) *Direct deposits.* (1) Depositor will prepare Deposit Ticket (SF 215), using Agency Accounting Station Code 14-20-0650.

(2) In Block (6) Fund Symbol 14×6140 will be inserted as well as the following: Credit to Bureau of Indian Affairs, Branch of Finance and Accounting, P.O. Box 127, Albuquerque, New Mexico 87103.

(3) Memorandum copy and confirmed copy of Deposit Ticket will be mailed to above address, immediately upon completion and confirmation.

(4) Depositor will provide information (lease, contract or other identification) which will identify each deposit with a particular plot of affected land. This information can be shown in Block (6) of the SF 215 if space permits, or on an attached listing. The information must be in sufficient detail to permit positive identification to the specific affected lands from which the proceeds were derived and must provide the date of original deposit.

(b) *Periodic Deposits.* (1) In some circumstances, collection from Withdrawn Lands will be in such small amounts and such frequency as to be administratively burdensome to make individual direct deposits to the escrow account or escrow funds may be mixed with collections to be credited to other funds. In such instances depositing agencies may initially deposit the collections to their own suspense account. Such deposits will then be transferred to the escrow account 14×6140 no less frequently than monthly. Interest is earned on the proceeds from the confirmed date of receipt to the depositors suspense account instead of the escrow account 14×6140. The "Pay to" side of the SF 1081 will be completed as follows:

Department, Interior, Bureau, Indian Affairs, Agency Station Symbol, 14-20-0650, Address, P.O. Box 127, Albuquerque, New Mexico 87103, Appropriation or Fund Symbol, 14×6140.

and will be supported by sufficient detail to permit positive identification of each deposit, the specific affected land from which derived and date of original deposit into the depositor's suspense account. An advance copy of the SF 1081, with supporting documentation will be forwarded to the BIA at Albuquerque immediately.

(2) Agencies not using the SF 1081 procedures will issue a check made payable to the Treasurer of the United States, and forward it to:

Juneau Area Office, Bureau of Indian Affairs, P.O. Box 8000-B, Juneau, Alaska 99802

accompanied by a listing containing the same information as required for a SF 1081 transfer.

§ 114.6 Deposit of proceeds received by the State of Alaska.

The State agency responsible for making collections will deposit the proceeds to the credit of the State of Alaska. A check will then be issued, payable to the Treasurer of the United States, and will be forwarded to the Juneau Area Office, Bureau of Indian Affairs, accompanied by a detailed listing providing information which will permit indentification of the funds with each particular parcel of affected land. The BIA Juneau Area Office will deposit all such receipts to the escrow account 14×6140, forwarding the memorandum copy to the Branch of Finance and Accounting immediately, together with the detail information described above provided by the State of Alaska.

§ 114.7 Investment of proceeds.

As the balance of funds on deposit in the escrow account 14×6140 reaches $10,000.00, the funds will be withdrawn and invested by the Branch of Investments, Bureau of Indian Affairs pursuant to 25 U.S.C. 162a. Funds will be invested as a single fund, with interest being computed monthly. Investment interest earnings will be reinvested at maturity of related investment.

§ 114.8 Payment from the escrow account.

Upon issuance of a conveyance document to a Native entity, the Director, Bureau of Land Management will furnish the Commissioner—Indian Affairs, and the head of any other agency known by the Bureau of Land Management to be administering all or part of the affected lands, a copy of the conveyance document.

(a) *Determination of amount of proceeds due.* The Agency administering the affected land conveyed will determine the proceeds due the ANCSA grantee from contract, lease, permit, rights-of-way, or easement collected on the affected land. The determination will be on the percentage of acreage conveyed included in the proceeds deposited in the escrow account. Where the contract, lease, permit, right-of-way, or easement does not fall entirely within the conveyed land or interest, the grantee shall receive a payment based

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on the proportionate amount that results from multiplying the total proceeds and appropriate interest and investment return attributable to the contract, lease, etc., by a fraction in which the numerator is the acreage of the contract, lease etc., falling within the conveyance and the demoninator is the total acreage within the contract, lease, etc. However, in the case of timber sale contracts involving more than one specific cutting area, each such cutting area will be considered a separate "contract" for purposes of computing the payment. Thus, if the entire cutting area falls within the area conveyed, the entire proceeds from that cutting area shall be paid. If only a portion of the cutting area falls within the area conveyed, the prorate amount as provided above shall apply.

(b) *Payment data required by BIA.* The agency administering the land shall provide the following information to the Commissioner—Bureau of Indian Affairs:

(1) The name and current address of the ANCSA grantee.

(2) The total amount of proceeds deposited in the escrow account due the grantee and the fraction, if applicable, as determined by the procedure described in § 114.8(a).

(3) List of Treasury deposits due grantee showing amount of each deposit, date of each deposit, and Deposit Ticket (SF 215) number. Note that if the deposit(s) to the escrow are periodic (§ 114.5(b)) the date of deposit is that for the agencies suspense account, not the date of transfer to the escrow.

(4) Reference to or a copy of the BLM land conveyance to the grantee.

(5) Certification by head of the agency administering the land conveyed that the amount of deposited proceeds requested to be paid from the escrow are due and payable to the grantee. The above information is to be submitted to the following address:

Division of Accounting Management, Bureau of Indian Affairs, P.O. Box 127, Albuquerque, New Mexico 87103.

(c) *Computation of interest factor.* The Branch of Investments, Bureau of Indian Affairs, shall compute an interest factor for invested funds by determining the total dollar-days of capital (including previously earned interest) in each monthly interest period and dividing that total into the interest earned through investments for that period. Dollar-days are defined as the total number of dollars in investments at the end of each calendar day. The interest factor so calculated shall be applied to each deposit to determine the total amount due for payment. The interest factor for the preceding interest period shall be used to compute earnings on payments during the interest period current at the time of payment.

(d) *Payment of proceeds plus interest earnings.* Payment requests received by the BIA on and after the 15th of a month shall normally be paid on or before the 15th of the succeeding month, but no later than 30 days from the date of receipt of the request. The Division of Accounting Management, Bureau of Indian Affairs, will compute the amount of interest earnings payable. Treasury interest on escrow deposits will be computed semiannually from the date of each deposit with simple interest at the rate determined by the Secretary of the Treasury to be the rate payable on short-term obligations of the United States prevailing during each semiannual interest period the rate prevailing for the preceding semiannual interest period will be used to compute earnings on payments from the escrow to a grantee during the interest period current at time of payment. Interest on invested escrow deposits will be determined by applying the factor computed in paragraph (c) of this section. The Division of Accounting Management will prepare a voucher for payment of the appropriate proceeds, Treasury interest and investment earnings. Payment will be by U.S. Treasury check.

§ 114.9 Proceeds from affected lands not conveyed.

In an area where (a) there have been no selections and the selection period has terminated, (b) the selections have been rejected and the decision is final, or (c) the final action has been taken on all pending selections by Native entities, the Director, BLM, shall inform the Commissioner—Indian Affairs and the head of any other agency known by BLM to be administering the affected lands of the description of lands not selected or conveyed. Agencies administering affected lands should provide the Commissioner—Indian Affairs with a list of those accounts where the final action has been taken so that the Commissioner—Indian Affairs may (1) return any remaining proceeds in the escrow account attributable to such lands to the appropriate Federal account to which they would have otherwise been deposited; (2) deposit the interest and investment return attributable to the remaining proceeds to miscellaneous receipts, Treasury; and (3) notify the "original" collection agency of such return.

§ 114.10 Reports and reconciliations.

The Commissioner—Indian Affairs will provide no less frequently than semiannually a statement of total deposits received and disbursements made during the period covered by the statement to the depositing administering agency of the affected lands for reconciliation purposes. Differences will be immediately communicated by the administering agency to the Bureau of Indian Affairs with a listing of all deposits made during the reporting period.

Rick Lavis,

Deputy Assistant Secretary—Indian Affairs.

[FR Doc. 79-15800 Filed 5-18-79; 8:45 am]

BILLING CODE 4310-02-M

DEPARTMENT OF TRANSPORTATION

Coast Guard

[33 CFR Part 117]

[CGD 79-040]

Drawbridge Operation Regulations; Blackwater River, Fla.

AGENCY: Coast Guard, DOT.

ACTION: Proposed rule.

SUMMARY: At the request of the Louisville and Nashville (L&N) Railroad Company, the Coast Guard is considering changing the regulations governing the L&N railroad bridge across the Blackwater River, Milton, Florida, by requiring 8 hours advance notice be given from 8 p.m. to 4 a.m. This change is being considered because of limited requests for openings during this period. This action may relieve the bridge owner of the burden of having a person constantly available to open the draw while still providing for the reasonable needs of navigation.

DATE: Comments must be received on or before June 18, 1979.

ADDRESS: Comments should be submitted to and are available for examination at the office of the Commander (obr), Eighth Coast Guard District, Hale Boggs Federal Building, 500 Camp Street, New Orleans, Louisiana 70130.

FOR FURTHER INFORMATION CONTACT: Frank L. Teuton, Jr., Chief, Drawbridge Regulations Branch (G-WBR/73), Room 7300, Nassif Building, 400 Seventh Street, SW., Washington, D.C. 20590 (202-426-0942).

SUPPLEMENTARY INFORMATION: Interested persons are invited to participate in this proposed rule making by submitting written views, comments, data or arguments. Persons submitting comments should include their name and address, identify the bridge, and give reasons for concurrence with or any recommended change in the proposal.

The Commander, Eighth Coast Guard District, will forward any comments received with his recommendations to the Chief, Office of Marine Environment and Systems, U.S. Coast Guard Headquarters, Washington, D.C., who will evaluate all communications received and recommend a course of final action to the Commandant on this proposal. The proposed regulations may be changed in the light of comments received.

DRAFTING INFORMATION: The principal persons involved in drafting this proposal are: Frank L. Teuton, Jr., Project Manager, Office of Marine Environment and Systems, and Coleman Sachs, Project Attorney, Office of Chief Counsel.

Discussion of the Proposed Regulations

These proposed regulations are being considered in an effort to relieve the bridge owner of the responsibility of having a draw tender constantly on duty. The data submitted by the applicant showed that there were a total of 760 openings from September 1977 through August 1978. Of these, 87 or 11.4 percent were from 8 p.m. to 4 a.m. To express this differently, there is approximately one opening every four days from 8 p.m. to 4 a.m. Based on these data the Coast Guard feels that this proposal will probably meet the reasonable needs of navigation. Public comment is requested.

In consideration of the foregoing, it is proposed that Part 117 of the Title 33 of the Code of Federal Regulations be amended by adding a new § 117.245(i)(6-b) immediately after § 117.245(i)(6-a) to read as follows:

PART 117—DRAWBRDIGE OPERATION REGULATIONS

§ 117.245 Navigable waters discharging into the Atlantic Ocean south of and including Chesapeake Bay and into the Gulf of Mexico, except the Mississippi River and its tributaries and outlets; bridges where constant attendance of draw tenders is not required.

* * * * *

(i) * * *

(6-b) Blackwater River, Florida. The draw of the Louisville and Nashville railroad bridge at Milton shall open on signal from 4 a.m. to 8 p.m. From 8 p.m. to 4 a.m. the draw shall open on signal if at least 8 hours notice is given.

* * * * *

(Sec. 5, 28 Stat. 362, as amended, sec. 6(g)(2), 80 Stat. 937; (33 U.S.C. 499, 49 U.S.C. 1655(g)(2)); 49 CFR 1.46(c)(5)).

Dated: May 10, 1979.

J. B. Hayes,

Admiral, U.S. Coast Guard Commandant.

[FR Doc. 79-15812 Filed 5-18-79; 8:45 am]

BILLING CODE 4910-14-M

[33 CFR Part 157]

[CGD 76-075]

Certain Existing Tank Vessels Segregated Ballast; Withdrawal of Proposal

AGENCY: Coast Guard, DOT.

ACTION: Withdrawal of Proposal.

SUMMARY: The Coast Guard published an advance notice of proposed rule making in the **Federal Register** of May 13, 1976 (41 FR 19672) for the purpose of soliciting comments from the public on the cost of retrofitting existing tank vessels of 70,000 DWT and over for segregated ballast capability, the inflationary impact of requiring retrofitting, and the technical and other problems that could be expected during and as a result of implementing this concept. This proposal has been incorporated in, and superseded by, the proposed rules for tank vessels of 20,000 DWT or more carrying oil in bulk, which were published in the **Federal Register** of February 12, 1979 (44 FR 9894). Consequently, the Coast Guard is withdrawing the proposed regulatory project, CGD 76-075.

FOR FURTHER INFORMATION CONTACT: Commander George F. Ireland, Merchant Marine Technical Division (G-MMT-1/82), Room 8207, U.S. Coast Guard, Nassif Building, 400 Seventh Street, SW, Washington, D.C. 20590 (202-426-4431).

SUPPLEMENTARY INFORMATION: The principal persons involved in drafting this withdrawal are Mr. Frank K. Thompson, Regulations Specialist, Office of Merchant Marine Safety, and Mr. Stanley Colby, Project Attorney, Office of Chief Counsel.

(46 U.S.C. 391a and 49 CFR 1.46(n)(4))

Dated: May 9, 1979.

W. D. Markle, Jr.,

Captain, U.S. Coast Guard, Acting Chief, Office of Merchant Marine Safety.

[FR Doc. 79-15811 Filed 5-18-79; 8:45 am]

BILLING CODE 4910-14-M

ENVIRONMENTAL PROTECTION AGENCY

[40 CFR Ch. I]

[FRL 1232-4]

Indiana-Kentucky Power Co.; Notice of Proceedings under Section 126—Clean Air Act, Hearing

AGENCY: Environmental Protection Agency.

ACTION: Notice of Proceedings under Section 126 of the Clean Air Act.

PURPOSE: The purpose of this notice is to solicit public comment on the issue of whether the Indiana-Kentucky Power Company, Clifty Creek Power Plant, located in Jefferson County, Indiana emits sulfur dioxide in violation of the prohibition of section 110(a)(2)(E)(i) of the Clean Air Act, to request the submission of factual information on this issue, and to give notice that a public hearing will be held to assist the Adminstrator in determining whether a finding should be made pursuant to section 126 (b) and (c) of the Clean Air Act.

DATES: Public hearing date June 20, 1979; Requested Deadline for submission of notice of appearance at the public hearing June 13, 1979; Requested Deadline for submission of written comments and factual information for incorporation into the public hearing and presentations June 13, 1979; Requested Deadline for submission of written materials and closing of public hearing record July 6, 1979.

ADDRESSES: The hearing will be held at the Canterbury Room of the Executive Inn, located at the Junction of Interstate 65 and Interstate 264 (Waterson Expy. at Fairgrounds), Louisville, Kentucky. The hearing will be convened at 7:00 p.m.

FOR FURTHER INFORMATION CONTACT: Ms. Mary Gade, Assistant Regional Counsel Office of Regional Counsel, U.S. Environmental Protection Agency, Region V, 230 South Dearborn Street, Chicago, Illinois 60604 (312) 353-2205.

SUPPLEMENTARY INFORMATION:

Background

The United States Environmental Protection Agency (USEPA) has been petitioned by the Governor of the Commonwealth of Kentucky to initiate proceedings pursuant to section 126 (b) and (c) of the Clean Air Act as amended in 1977 (42 U.S.C. 7401 *et seq.*). The petition concerns sulfur dioxide emissions from the Indiana-Kentucky Power Company, Clifty Creek Power Plant, in Jefferson County, Indiana.

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Section 126(b) authorizes any state or political subdivision to petition the Administrator of the USEPA for a finding that any major source emits or will emit an air pollutant in violation of the prohibition of section 110(a)(2)(E)(i) of the Clean Air Act. This section prohibits any stationary source within a state from emitting any air pollutant in amounts which will prevent attainment or maintenance by any other state of any national primary or secondary ambient air quality standard, or intefere with measures required to be included in the applicable implementation plan for any other state under Part C of the Act to prevent significant deterioration of air quality or to protect visibility. After public hearings, the Administrator either makes a finding that seciton 110(a)(2)(E)(i) is being violated or denies the petition. If the finding is made, section 126(c) provides that operation of the source for more than three months after the finding has been made shall be a violation of the applicable implementation plan unless the Administrator permits continued operation of the source conditioned on its compliance with emission limitations and compliance schedules provided by the Administrator. Compliance with the requirements contained in section 110(a)(2)(E)(i) must be as expeditious as practicable but no later than three years after the date of such finding.

Issues

(1) Whether sulfur dioxide emissions from the Indiana-Kentucky Power Company, Clifty Creek Power Plant, in Jefferson County, Indiana, prevent attainment or maintenance in the Commonwealth of Kentucky of the national primary or secondary ambient air quality standards for sulfur dioxide, or interfere with measures required to be included in the Kentucky State implementation Plan under Part C of the Act to prevent significant deterioration of air quality or to protect visibility.

(2)If a positive finding is made, what is an appropriate emission limitation and compliance schedule for this source?

Conduct Of Public Hearings

A panel of Agency officials will conduct an informal, legislative type public hearing on the above issues. Although no cross-examination will take place at the hearing, the panel may ask questions of witnesses to clarify issues or to make the record complete. Written questions directed at the witnesses may be submitted to the panel by members of the audience. Any person wishing to make a presentation or submit material for inclusion in the hearing record should provide written notice of this intention to Ms. Gade by June 13, 1979, at the address given above. This notice should include the following information: 1) name(s), title(s), and affiliation(s); 2) amount of time necessary for presentation; 3) 8 copies of an outline of the presentation or, if available, the full text of the presentation; 4) 8 copies of material to be included in the record. The time allotted for each presentation will depend on the number of persons seeking an opportunity to appear.

A verbatim transcript of the hearing, copies of written statements, and copies of other material will be made available for public inspection and copying during normal working hours at the U.S. Environmental Protection Agency Region V, Air Programs Branch, 230 South Dearborn Street, Chicago, Illinois 60604 and at U.S. Environmental Protection Agency Region IV, Air Programs Branch, 345 Courtland Street, N.E., Atlanta, Georgia 30308.

Submission of Written Materials

USEPA solicits and will accept written materials relevant to the issues set forth above from all interested parties. Eight copies of the material must be submitted. We encourage the filing of written statements prior to the hearing, but they may be filed at the hearing itself. The public hearing record will be kept open until July 6, 1979 to provide an opportunity for the public to submit rebuttal and supplementary information on the data presented at the hearing. Written materials should be submitted to Ms. Gade at the above address.

The Agency recognizes that interested persons may require a period of time prior to the hearing to read the written submissions of other interested parties so that informed comments can be made at the public hearing. All written comments prior to the public hearing will be available for public inspection and copying during normal working hours at the following address: U.S. Environmental Protection Agency Region V, Air Programs Branch, 230 South Dearborn Street, Chicago, Illinois 60604.

Final Determination Under These Proceedings

The EPA recommendations will be based upon the preponderance of the evidence of record and will be announced in the **Federal Register** in the form of a proposal upon which the public will be given an opportunity to comment. Final action, following the public comment period, will be announced in the **Federal Register**.

May 15, 1979.

John McGuire,

Regional Administrator.

[FR Doc. 79-16015 Filed 5-18-79; 10:00 am]

BILLING CODE 6560-01-M

[40 CFR Part 52]

[FRL 1229-2]

Approval and Promulgation of Implementation Plans; Availability of 1979 Implementation Plan Revisions for Nonattainment Areas in Florida

AGENCY: Environmental Protection Agency, Region IV.

ACTION: Notice of availability.

SUMMARY: EPA announces today that the Florida implementation plan revisions due for submittal by January 1, 1979, under the Clean Air Act Amendments of 1977 have been received and are available for public inspection. The public is invited to submit written comments. A notice of proposed rulemaking describing the revisions will be published in the **Federal Register** later; the period for the submittal of written comments will extend for 30 days after the publication of the Notice of Proposed Rulemaking.

ADDRESSES: The Florida submittal may be examined during normal business hours at the following EPA offices:

Public Information Reference Unit, Library Systems Branch, Environmental Protection Agency, 401 M Street, S.W., Washington, D.C. 20460.

Library, Environmental Protection Agency, Region IV, 345 Courtland Street, N.E., Atlanta, Georgia 30308.

In addition, the Florida revisions may be examined at the offices of the Florida Department of Environmental Regulation, Bureau of Air Quality Management, 2600 Blair Stone Road, Tallahassee, Florida, 32301. Comments should be addressed to the EPA Region IV Air Programs Branch, 345 Courtland St., N.E., Atlanta, Georgia, 30308.

FOR FURTHER INFORMATION CONTACT: Brian Mitchell of EPA's Region IV Air Programs Branch by telephone at 404/881-3286 (FTS 257-3286).

SUPPLEMENTARY INFORMATION: Section 172 of the Clean Air Act, as amended 1977, requires that States submit revisions in their implementation plans by January 1, 1979, to provide for the attainment of the national ambient air quality standards in areas designated nonattainment. On March 3, 1978, the Administrator designated a number of areas in Florida as non attainment (43 FR 8962). Florida has responded by preparing implementation plan revisions as required by the Clean Air Act. The purpose of this notice is to call the public's attention to the fact that these have been formally submitted and are available for public inspection. Also, the public is encouraged to submit written comments on them. A description of the revisions will be published in the **Federal Register** at a later date as part of a notice of proposed rulemaking.

(Secs. 110, 172, Clean Air Act (42 U.S.C. 7410 and 7502)).

Dated: May 9, 1979.

John C. White,

Regional Administrator, Region IV

[FR Doc. 79-15656 Filed 5-18-79; 8:45 am]

BILLING CODE 6560-01-M

[40 CFR Part 52]

[FRL 1228-6]

Availability of Implementation Plan; Revision for Nonattainment Areas in Texas

AGENCY: Environmental Protection Agency (EPA).

ACTION: Notice of Availability.

SUMMARY: This is a notice of the availability of Texas State Implementation Plan (SIP) revisions for review and comment. The revisions were approved by the Governor on April 13, 1979, to fulfill the requirements of the Clean Air Act Amendments of 1977.

DATES: Interested persons are invited to submit comments on the Texas SIP revisions on or before June 20, 1979.

ADDRESSES: Written comments may be sumitted to the address below.

Environmental Protection Agency, Region 6, Air Program Branch, 1201 Elm Street, Dallas, Texas 75270.

Copies of the Texas SIP revisions are available for inspection during normal business hours at the EPA Regional Office above and at the following addresses:

Environmental Protection Agency, Public Information Reference Unit, Room 2922, EPA Library, 401 M Street, S.W., Washington, D.C.

Texas Air Control Board, 8520 Shoal Creek Boulevard, Austin, Texas 78758.

In addition, the revisions may be examined at the following regional offices of the Texas Air Control Board (TACB).

Region 1 Office—TACB, 1218 N. 4th, Suite 205, Abilene, Texas 79601.

Region 2 Office—TACB, Briercroft Office Park, Bldg. 15, Lubbock, Texas 79412.

Region 3 Office—TACB, 1512 Lake Air Drive, Suite 114, Waco, Texas 76710.

Region 4 Office—TACB, Matz Bldg., Room 201, 513 E. Jackson, Harlingen, Texas 78550.

Region 5 Office—TACB, 1305 Shoreline Blvd., Suite 124, Corpus Christi, Texas 78401.

Region 6 Office—TACB, 835 Tower Street, Odessa, Texas 79760.

Region 7 Office—TACB, 5555 West Loop, Suite 300, Bellaire, Texas 77401.

Region 8 Office—TACB, 3915-A Highway 377, (Benbrook Hwy.), Fort Worth, Texas 76116.

Region 9 Office—TACB, 4538 Centerview Dr., Suite 130, San Antonio, Texas 78228.

Region 10 Office—TACB, 600 Pine Street, Beaumont, Texas 77701.

Region 11 Office—TACB, 9615 Sims Drive, El Paso, Texas 79925.

Region 12 Office—TACB, 1304 South Vine Avenue, Tyler, Texas 75701.

FOR FURTHER INFORMATION CONTACT: Jerry M. Stubberfield, Environmenatal Protection Agency, Region 6, Air Program Branch, 1201 Elm Street, Dallas, Texas 75270, (214) 767-2742.

SUPPLEMENTAL INFORMATION: The revisions to the Texas SIP were adopted and submitted in accordance with the requirements of 40 CFR 51.4 and 51.6. The SIP revisions are intended to provide attainment and maintenance of the national ambient air quality standards in the nonattainment areas of Texas identified under Section 107 of the Act (43 FR 9016).

The pollutants and areas involved are shown below.

Pollutant	Area
Carbon monoxide	El Paso
Oxidants (ozone)	Bexar County
	Brazoria County
	Dallas County
	Ector County
	El Paso County
	Galveston County
	Gregg County
	Harris County
	Jefferson County
	McLennan County
	Nueces County
	Orange County
	Tarrant County
	Travis County
	Victoria County
Particulate matter	El Paso
	San Benito
	Brownsville
	McAllen
	Progresso
	Corpus Christi
	Dallas
	Fort Worth
	Harris County
	Texas City
	Eagle Pass
	San Antonio

Subsequent to these designations under Section 107, the State of Texas determined that Travis and McLennan Counties, designated as nonattainment for ozone, are now meeting the national ambient air quality standard, due to the recent promulgation of the new ozone standard. The State also determined that for eleven areas, designated as nonattainment for particulate matter, three should be redesignated as attainment on the basis of the Rural Fugitive Dust Policy, and eight should be redesignated as unclassified on the basis of unacceptably sited monitors. Texas Air Control Board Resolution R79-2 has been submitted requesting redesignation of these areas.

The EPA is currently reviewing the revisions to Texas' SIP. the Agency's intended action regarding approval of the revisions will be proposed in the **Federal Register** at a later date. An additional public comment period of at least 30 days will be provided at that time.

This notice is issued under the authority of section 110(a) of the Clean Air Act, as amended, 42 U.S.C. 7410-(a).

Dated: May 1, 1979.

Earl N. Kari,

Acting Regional Administrator.

[FR Doc. 79-15653 Filed 5-18-79; 8:45 am]

BILLING CODE 6560-01-M

[40 CFR Part 52]

[FRL 1228-8]

Approval and Promulgation of Implementation Plans; California Plan Revision: Administrative Chapters

AGENCY: Environmental Protection Agency (EPA).

ACTION: Notice of Proposed Rulemaking.

SUMMARY: On December 29, 1978, and March 29, 1979, the California Air Resources Board (ARB) submitted a revision to the State Implementation Plan (SIP) to the EPA. This revision consists of six administrative chapters. The six chapters present an overall statewide perspective on air quality and outline specific State programs dealing with emission source compliance procedures, air quality monitoring, surveillance of emission sources, resources to implement the SIP, and intergovernmental relations. The intended effect of this revision is to address certain requirements of section 110 of the Clean Air Act (CAA), as amended, and 40 CFR Part 51, to update the SIP, and to inform the public on these matters. The EPA invites public comments on this revision, especially as to its consistency with the CAA.

DATES: Comments may be submitted up to June 20, 1979.

ADDRESSES: Comments may be sent to: Regional Administrator, Attn: Air & Hazardous Materials Division, Air

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Technical Branch, Regulatory Section (A–4–2), Environmental Protection Agency, Region IX, 215 Fremont Street, San Francisco, CA 94105.

Copies of the revision and the evaluation report are available for public inspection during normal business hours at the EPA Region IX Library at the above address and at the following locations:

California Air Resources Board, 1102 "Q" Street, P.O. Box 2815, Sacramento, CA 95814.

Public Information Reference Unit, Room 2922 (EPA Library), 401 "M" Street, S.W., Washington, D.C. 20460.

FOR FURTHER INFORMATION CONTACT:
Douglas Grano, Chief, Regulatory Section, Air & Hazardous Materials Division, EPA, Region IX, (415) 556–2938.

SUPPLEMENTARY INFORMATION:

Background

The CAA was enacted by Congress in 1963 and amended several times thereafter. Under the CAA, the EPA established National Ambient Air Quality Standards (NAAQS) for certain pollutants. Each State was required to adopt a plan (the SIP) to attain and maintain the NAAQS throughout the State.

The State of California adopted an SIP and submitted it to the EPA in 1972. That plan was partly approved and partly disapproved. Since 1972, the SIP has been amended in part many times, becoming somewhat fragmented in the process. For this reason, the ARB is in the process of revising and updating its overall plan. The six chapters now being considered in this notice are part of that task.

Description

The six chapters of the revised California SIP addressed in this notice are summarized as follows:

Chapter 2, *Statewide Perspective:* The current status of air quality, with respect to seven pollutants, is presented for the State, its air basins, and its counties. Eleven-year trends for three pollutants are depicted. Various issues relating energy to air quality are discussed. The history of air pollution control efforts in California is reviewed.

Chapter 20, *Compliance:* This chapter is intended to respond to the compliance requirements of 40 CFR 51.15 (Compliance Schedules) and Part 65 (Delayed Compliance Orders). For stationary sources, the procedures for granting variances are described, as are Federal compliance actions and ARB enforcement actions. Standards for mobile sources are briefly mentioned. Chapter 20 also includes three appendices, covering (a) relevant portions of the Clean Air Act and the State Health and Safety Code, (b) a list of variances submitted by ARB in 1976 and 1977, and (c) the text of 40 CFR Part 65.

Chapter 22, *Air Quality Monitoring:* The present air quality monitoring network, including its purposes, siting criteria, and station locations, both permanent (EPA-required) and supplementary, is described. Most of the text is devoted to "Issues and Anticipated Actions," listing unresolved problems and aspects of monitoring which are undergoing change. The chapter also includes maps showing the SIP monitoring stations in each air basin.

Chapter 23, *Source Surveillance:* This chapter is intended to respond to the requirements of 40 CFR 51.19 (Source Surveillance). Surveillance of stationary sources is discussed and tabulated. Mobile source programs, both existing and under consideration, are described. The emission inventory, as it relates to major point sources, area sources, and motor vehicles, is discussed, as is the modeling of transportation control measures.

Chapter 24, *Resources:* This chapter is intended to address the requirements of 40 CFR 51.20 (Resources) and 51.60 (AQMA Plan: Resources). The introduction presents an overview of local, State, and Federal resource relationships. Air pollution control district (APCD) resources for 1977–78 are tabulated, by function, in dollars and person-years, for each APCD. ARB resources are similarly summarized for 1977–78 and 1978–79, and the functions of each ARB division are briefly described. Future funding problems are mentioned. Most of the chapter consists of two appendices, dealing with ARB/APCD roles in stationary source control and with the organization of the ARB staff.

Chapter 25, *Intergovernmental Relations:* This chapter is intended to address the requirements of 40 CFR 51.21 (Intergovernmental Cooperation) and 51.58 (AQMA Plan: Intergovernmental Cooperation), as well as sections 121 (Consultation) and 174 (Planning Procedures) of the CAA, as amended. The roles and interrelationships of the ARB, the APCD's, the Basinwide Air Pollution Control Councils, and the Councils of Governments are described, with respect to several air-related planning programs. Also described are the relationships among over 13 State agencies concerned with air quality. State-Federal relations are discussed, including those between the State and the EPA, the Federal Highway Administration, the Department of Energy, the Department of Housing and Urban Development, and others. Interstate relations (between California and Nevada, Oregon, and Arizona) and international relations with Mexico are described.

Discussion

As a revision to the SIP, these six administrative chapters appear to be approvable because, in general, they constitute an updating and clarification of the 1972 SIP and are consistent with the requirements of 40 CFR Part 51. The EPA now proposes to approve these chapters and incorporate them into the SIP.

The subject of this notice is considered to be "non-significant", because it is informational and administrative in nature. No new requirements would be imposed, nor would any requirements be withdrawn. For these reasons, a 30-day public comment period is deemed sufficient.

Public Comments

Under Section 110 of the Clean Air Act, as amended, and 40 CFR Part 51, the Administrator is required to approve or disapprove revisions to the SIP submitted by the State. The Regional Administrator hereby issues this notice setting forth the above described revisions as proposed rulemaking and advises the public that interested persons may participate by submitting written comments to the Region IX Office during the specified comment period. Comments received will be available for public inspection at the EPA Region IX Library, the EPA Public Information Reference Unit, and the ARB Office in Sacramento.

The Administrator's decision to approve or disapprove the proposed revisions will be based on the comments received and on a determination whether the revisions meet the requirements of section 110(a)(2) of the Clean Air Act, as amended, and 40 CFR Part 51, Requirements for Preparation, Adoption, and Submittal of State Implementation Plans.

(Sec. 110, 301(a), Clean Air Act, as amended (42 U.S.C. 7410 and 7601(a)))

Dated: May 8, 1979.

Sheila M. Prindiville,

Acting Regional Administrator.

[FR Doc. 79–15654 Filed 5–18–79; 8:45 am]

BILLING CODE 6560–01–M

[40 CFR Part 52]

[FRL 1229–3]

Approval and Promulgation of Implementation Plans, Extension for Submittal of State Implementation Plans

AGENCY: Environmental Protection Agency (EPA).

ACTION: Proposed Rule.

SUMMARY: EPA is today giving notice of its intention to approve requests submitted by the Idaho State Department of Health and Welfare, the Oregon Department of Environmental Quality and the Washington Department of Ecology for 18-month extensions in submitting a plan to control Total Suspended Particulate matter (TSP) for certain non-attainment areas.

DATE: Comments are requested by June 20, 1979.

ADDRESS:

Environmental Protection Agency, Region X M/S 629, 1200 Sixth Avenue, Seattle, WA 98101.

Environmental Protection Agency, Public Information Reference Unit, Room 2922, 401 M Street SW., Washington, D.C. 20460.

FOR FURTHER INFORMATION CONTACT:
Clark L. Gaulding, Chief, Air Programs Branch (M/S 629), Environmental Protection Agency, Region X, 1200 Sixth Avenue, Seattle, WA 98101, Telephone No. (206) 442–1230, (FTS) 399–1230.

SUPPLEMENTAL INFORMATION: Pursuant to § 51.31, Title 40, Code of Federal Regulations, a state may request an extension, for a period of not to exceed 18 months, of a deadline for submitting the portion of a plan that implements a secondary National Ambient Air Quality Standard. Such request for an extension must show that attainment of the standard will require emission reductions exceeding those which can be achieved through the application of Reasonably Available Control Technology.

EPA Region X has received three requests for extension of the secondary standards for TSP under the provisions in 40 CFR 51.31. The requests are from:

1. The Idaho Department of Health and Welfare (IDHW). By a letter dated February 16, 1979, the IDHW requested an extension for all secondary TSP non-attainment areas in the State of Idaho.

2. The Oregon Department of Environmental Quality (DEQ). By letters dated March 2, 1979 and April 6, 1979, the DEQ requested extensions for the following secondary TSP non-attainment areas in the State of Oregon; Portland, Eugene-Springfield, and Medford-Ashland.

3. The Washington Department of Ecology (DOE). By its letter of April 4, 1979, the DOE requested an extension for all secondary TSP non-attainment areas in Washington.

The requested extensions will provide the States adequate time to conduct studies and develop control strategies necessary to attain the above noted secondary TSP standard.

EPA is therefore today proposing to approve the States' request for 18-month extensions. Comments on the proposed approval are invited for a period of 30 days and should be directed to Mr. Clark Gaulding at the address listed at the beginning of this notice. EPA will review and evaluate any comments received and publish a Notice of Final Rulemaking in the Federal Register after the public comment period.

Part 52 of Chapter I, Title 40, Code of Federal Regulations is proposed to be amended as follows:

1. Section 52.672 is amended by adding paragraph (d) as follows:

§ 52.672 Extensions.

* * * * *

(d) The Regional Administrator hereby extends to July 1, 1980, the statutory timetable for submission of Idaho's plan for the attainment and maintenance of the secondary standards for Total Suspended Particulate in all non-attainment areas in Idaho.

2. Section 52.1981 is amended by adding paragraph (d) as follows:

§ 52.1981 Extensions.

* * * * *

(d) The Regional Administrator hereby extends to July 1, 1980, the Statutory timetable for submission of Oregon's plan for the attainment and maintenance of the secondary standards for Total Suspended Particulate matter in the Portland, Springfield-Eugene, and Medford-Ashland non-attainment areas in Oregon.

3. Section 52.2472 is amended by adding paragraph (b) as follows:

§ 52.2472 Extensions.

* * * * *

(b) The Regional Administrator hereby extends to July 1, 1980, the statutory timetable for submission of Washington's plan for the attainment and maintenance of the secondary standards for Total Suspended Particulate matter in all non-attainment areas in Washington.

Sec. 110a, Clean Air Act (42 U.S.C. 7410(a).)

Dated: May 4, 1979.

L. Edwin Coate,

Acting Regional Administrator.

[FR Doc. 79–15657 Filed 5–18–79; 8:45 am]

BILLING CODE 6560–01–M

[40 CFR Part 65]

[Docket No. DCO–79–62; FRL 1228–7]

Proposed Approval of an Administrative Order Issued by the Morgan County Board of Health, Morgan County, Ala., to Amoco Chemicals Corp.

AGENCY: Environmental Protection Agency.

ACTION: Proposed Rule.

SUMMARY: EPA proposes to approve an administrative order issued by the Morgan County Board of Health of Morgan County, Alabama, to Amoco Chemicals Corporation. The Order requires Amoco Chemicals Corporation to bring air emissions from its #3, 4 and 5 oxidation unit thermal oxidizer systems in Decatur, Alabama, into compliance with air pollution control regulations contained in the federally approved Alabama State Implementation Plan (SIP) by June 30, 1979. Because the order has been issued to a major source of air pollution and permits a delay in compliance with provisions of the SIP, the Administrative Order must be approved by EPA before it becomes effective as a delayed compliance order under the Clean Air Act (the Act). If approved by EPA, the order will constitute an addition to the SIP. In addition, a source in compliance with an approved order may not be sued under the federal enforcement or citizen suit provisions of the Act for violations of the SIP regulations covered by the order. The purpose of this notice is to invite public comment on EPA's proposed approval of the order as a delayed compliance order.

DATE: Written comments must be received on or before June 20, 1979.

ADDRESSES: Comments should be submitted to Director, Enforcement Division, EPA, Region IV, 345 Courtland Street, NE., Atlanta, Georgia 30308. The State order, supporting material, and public comments received in response to this notice may be inspected and copied (for appropriate charges) at this address during normal business hours.

FOR FURTHER INFORMATION CONTACT:
Hugh Hazen, Air Enforcement Branch, U.S. Environmental Protection Agency, Region IV, 345 Courtland Street, NE.,

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Atlanta, Georgia 30308, Telephone Number: (404) 881-4253.

SUPPLEMENTARY INFORMATION: Amoco Chemicals Corporation operates an organic chemical manufacturing plant located northwest of Decatur, Morgan County, Alabama. The Order under consideration addresses particulate emissions from three xylene oxidation processes (#3, #4 and #5), which are subject to Morgan County Air Pollution Control Regulation 6.10.2. This regulation limits the emission of particulate matter and is part of the federally approved Alabama State Implementation Plan. The order requires final compliance with the regulation by June 30, 1979, through the implementation of the following schedule for the construction or installation of control equipment on each of the three units:

(1) Issue purchase order for major equipment by November 1, 1978.

(2) Begin construction by January 1, 1979.

(3) Complete construction of control equipment by June 23, 1979.

(4) Complete performance testing and achieve compliance with all applicable rules and regulations by June 30, 1979.

The source is required to submit bimonthly reports by the 15th day of every other month indicating progress toward each milestone in the schedule of compliance. If any delay is anticipated in meeting said milestones, the Amoco Chemicals Corporation shall immediately notify the Morgan County Health Department in writing of the anticipated delay and reasons therefor. Notification of the delay shall not excuse the delay. In addition, Amoco Chemicals Corporation shall submit, in the progress report immediately following the deadline for completion of each milestone required by the above schedule, certification to the Morgan County Health Department whether or not such milestone has been met.

As an interim control measure, particulate emissions from #3, #4 and #5 xylene oxidation processes shall not exceed 30 lbs/hr for #3; 20 lbs/hr for #4; and 26 lbs/hr for #6.

Because this Order has been issued to a major source of particulate emissions and permits a delay in compliance with the applicable state air pollution control regulation, it must be approved by EPA before it becomes effective as a delayed compliance order under Section 113(d) of the Clean Air Act (the Act). EPA may approve the order only if it satisfies the appropriate requirements of this subsection. EPA has tentatively determined that the above-referenced order satisfies these legal requirements.

If the submitted Administrative Order is approved by EPA, source compliance with its terms would preclude federal enforcement action under Section 113 of the Act against the source for violations of the regulations covered by the order during the period the order is in effect. Enforcement against the source under the citizen suit provision of the Act (Section 304) would be similarly precluded. If approved, the Order would also constitute an addition to the Alabama SIP. Compliance with the proposed order will not exempt the company from the requirements contained in any subsequent revision to the SIP which are approved by EPA.

All interested persons are invited to submit written comments on the proposed Order. Written comments received by the date specified above will be considered in determining whether EPA may approve the Order. After the public comment period, the Administrator of EPA will publish in the Federal Register the Agency's final action on the Order in 40 CFR Part 65.

(42 U.S.C. 7413, 7601)

Dated: May 11, 1979.

John C. White,

Regional Administrator, Region IV.

[FR Doc. 79-15644 Filed 5-18-79; 8:45 am]

BILLING CODE 6560-01-M

[40 CFR Part 81]

[FRL 1229-1]

Air Quality Control Regions, Criteria, and Control Techniques; Attainment Status Designations: North Carolina

AGENCY: U.S. Environmental Protection Agency, Region IV.

ACTION: Proposed rule.

SUMMARY: The Clean Air Act Amendments of 1977 required that the Environmental Protection Agency (EPA) designate the attainment status of all areas within the States on a State-by-State, pollutant-by-pollutant basis. This was done on March 3, 1978 (43 FR 8962). Either the State or EPA can initiate changes in these designations, and such changes, if finalized by the Administrator, will replace extant designations. Air quality data gathered in Spruce Pine, North Carolina during calendar year 1978 shows no violation of the primary standards for particulate matter. It is proposed to change the designation of this area from nonattainment to unclassifiable for the primary standards; the nonattainment designation would remain in effect for the secondary standard. The public is invited to submit written comments on the proposed change.

DATE: Written public comment should be submitted to the person named below, and must be received on or before June 20, 1979, to be considered.

FOR FURTHER INFORMATION CONTACT: Mr. Walter Bishop, Air Programs Branch, EPA Region IV, 345 Courtland Street, N.E., Atlanta, GA 30308; telephone 404/881-2864 (FTS 257-2864).

SUPPLEMENTARY INFORMATION: On March 3, 1978 (43 FR 8962 at 9019), the Administrator designated portions of Avery, Mitchell, and Yancey Counties, North Carolina in and around Spruce Pine as nonattainment for particulate matter. This designation was based on information submitted by the State showing that the primary standards for this pollutant had been exceeded in 1976 and in 1977. The annual standard was violated in 1976 (annual geometric mean, 84 $\mu g/m^3$) and both annual and 24-hour standards were violated in 1977 (annual geometric mean, 101.5 $\mu g/m^3$; second highest 24-hour measurement, 276 $\mu g/m^3$).

On February 1, 1979, the North Carolina Division of Environmental Management submitted particulate data gathered at the Spruce Pine monitoring site during calendar year 1978 and validated by the agency's Quality Assurance Coordinator. This data shows no violations of the primary standards, and only a single violation of the secondary standard (annual geometric mean, 70.5 $\mu g/m^3$; second highest 24-hour measurement, 156 $\mu g/m^3$). This improvement in air quality is attributed to the completion of a road construction project which was in progress in the vicinity (within 0.3 mile) of the monitoring site in 1976 and 1977.

The Division of Environmental Management requested that the Spruce Pine nonattainment area be redesignated unclassifiable for the primary stndards, and that the designation of nonattainment apply to the secondary standard only. Also, the Division requested an extension to July 1, 1980, of the deadline for submitting an implementation plan revision providing for the attainment of the secondary particulate standard in the Spruce Pine area. The latter request will be dealt with in a later Federal Register notice.

EPA is proposing to redesignate the Spruce Pine area as the State has requested. Before taking final action on this change, the Agency will verify that the data submitted by the State satisfies all applicable EPA criteria established to assure the validity and representativeness of air quality data.

(Secs. 107, 171, 301, Clean Air Act (42 U.S.C. 7407, 7501, and 7601))

Dated: May 8, 1979.

John C. White,

Regional Administrator.

It is proposed to amend Part 81 of Chapter I, Title 40, Code of Federal Regulations, as follows:

Subpart C—Section 107 Attainment Status Designations

* * * * *

In § 81.334, the attainment status designation table for TSP is revised to read as follows:

§ 81.334 North Carolina.

North Carolina—TSP

Designated area	Does not meet primary standards	Does not meet secondary standards	Cannot be classified	Better than national standards
Certain portions of Mitchell, Avery, and Yancey Counties within and around Spruce Pine		X	X	
Carteret County			*X	
Forsyth County			X	
Rest of State				X

* EPA designation replaces State designation.

[FR Doc. 79-15655 Filed 5-18-79; 8:45 am]

BILLING CODE 6560-01-M

DEPARTMENT OF THE INTERIOR

Office of the Secretary

[43 CFR Part 17]

Nondiscrimination on the Basis of Handicap

AGENCY: Department of the Interior.

ACTION: Correction.

SUMMARY: 43 CFR Part 17, Subpart B—Nondiscrimination on the Basis of Handicap, was erroneously published in the Federal Register on April 13, 1979 (FR Doc. 79-11481, 44 FR 22372) as a "Notice of Intent, final rule." It was not the intent of the Department to publish this document as a final rule. Comments are being solicited and will be considered when the proposed rule is developed at a later date.

Therefore, the ACTION line is corrected to read: **ACTION:** Advance Notice of Proposed Rulemaking.

And, the amendatory language immediately following the signature is corrected to read: Accordingly, it is proposed: to retitle 43 CFR Part 17 as Nondiscrimination in Federally-Assisted Programs of the Department of the Interior; to redesignate 43 CFR Sections 17.1 through 17.19 as Subpart A—Effectuation of Title VI of the Civil Rights Act of 1964; and to add a new Subpart B to read as follows:

EFFECTIVE DATE: April 13, 1979.

FOR FURTHER INFORMATION CONTACT: Melvin Fowler, 202-343-6335, or Jim Poole, 202-343-4331.

William L. Kendig,

Acting Deputy Assistant Secretary of the Interior.

[FR Doc. 79-15793 Filed 5-18-79; 8:45 am]

BILLING CODE 4310-10-M

Bureau of Land Management

[43 CFR Part 1600]

Planning, Programming, and Budgeting; Reopening of the Comment Period

AGENCY: Bureau of Land Management, Interior.

ACTION: The comment period on section 1601.6-1 of the proposed rulemaking on the planning system that was published in the Federal Register of December 15, 1978 (43 FR 58772) is reopened to receive additional comments.

SUMMARY: The comment period is being reopened to allow public comment on material covering the same subject as contained in section 1601.6-1 that was received as part of the comments on another proposed rulemaking.

DATES: Comments must be received by May 30, 1979.

ADDRESS: Comments should be sent to: Director (210), Bureau of Land Management, 1800 C Street, NW., Washington, D.C. 20240. Comments will be available for public review in Room 5555 of the above address from 7:45 a.m. to 4:15 p.m. during regular working days.

FOR FURTHER INFORMATION CONTACT: Robert A. Jones (202) 343-5682 or Robert Uram (202) 343-4803.

SUPPLEMENTARY INFORMATION: This notice reopens the comment period on one section of the Bureau of Land Management's proposed rulemaking on land-use planning as published in the Federal Register of December 15, 1978 (43 FR 58764), for a period ending on May 30, 1979, to allow public comments on that section of the proposed rulemaking on land-use planning.

This section, section 1601.6-1, relates to the scope and standards for protests to the Director, Bureau of Land Management, on land-use planning. The comment period is being reopened to allow public comment on comments received on another proposed rulemaking during its comment period. The comment covers the same subject matter as that covered by section 1601.6-1. This comment was received after the close of comment period on the proposed rulemaking on land-use planning.

The Department of the Interior has conducted two rulemaking proceedings, one on land-use planning and one on coal management. These two rulemakings have separate but parallel time schedules. The time schedule for the land-use planning rulemakings was publication of the proposed rulemaking on December 15, 1978, with a comment period that closed on April 1, 1979. The final rulemaking is scheduled for publication by June 15, 1979.

The time schedule for the coal management rulemaking was publication of a notice to propose rulemaking, with an example rulemaking made available by the notice, on December 15, 1978 (43 FR 58776). The proposed rulemaking on coal management was published on March 19, 1979 (44 FR 16600), a minor amendment was published on April 19, 1979 (44 FR 23508). The comment period for the proposed rulemaking published on March 19, 1979, ends on May 19, 1979, and the comment period on the amendment of April 19, 1979, ends on May 21, 1979. The final rulemaking on coal management is scheduled for publication by June 22, 1979.

At a meeting on April 26, 1979, to discuss the proposed rulemaking on coal management, the Department received a proposed change to the coal management rulemaking that would give interested citizens the right to protest

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management framework plans to the Director, Bureau of Land Management.

During the meeting, the Department suggested that it might be more appropriate to respond to the comment in connection with the proposed rulemaking on land-use planning rather than the proposed rulemaking on coal management. A copy of the comments and notes resulting from the meeting have been included in the dockets of both of the rulemakings.

Although the comments received during the meeting on the proposed rulemaking on coal management were similar to those received during the comment period on the proposed rulemaking on land-use and similar to the language contained in the proposed rulemaking of the Department of the Interior, the Department is reopening the comment period on section 1601.6–1 of the proposed rulemaking on land-use planning. The comment period is being reopened because a comment was received after the close of the comment period on the proposed rulemaking on land-use planning, although during the comment period on the proposed rulemaking on coal management. This will give interested persons opportunity to comment on the material received on the proposed coal management rulemaking. In view of the previous opportunity to comment, the small amount of information added, the nature of the issue involved and the intervening holiday, the Department of the Interior will accept comments until May 30, 1979. Comments should be directed to the substance of the new information and its relationship to the proposed section.

Gary J. Wicks,

Deputy Assistant Secretary of the Interior.

May 16, 1979.

[FR Doc. 79–15833 Filed 5–18–79; 8:45 am]

BILLING CODE 4310–84–M

OFFICE OF MANAGEMENT AND BUDGET

Office of Federal Procurement Policy

[48 CFR Parts 4, 8, and 15]

Draft Federal Acquisition Regulation Availability and Request for Comment

AGENCY: Office of Federal Procurement Policy, Office of Management and Budget.

ACTION: Notice of Availability and Request for Comment on draft Federal Acquisition Regulation.

SUMMARY: The Office of Federal Procurement Policy is making available for public and Government agency review and comment segments of the draft Federal Acquisition Regulation (FAR) regarding Administrative Matters, Acquisition from Federal Prison Industries Inc., Acquisition from Blind and Other Severly Handicapped, Acquisition of Printing and Related Supplies and Unsolicited Proposals. Availability of additional segments for comment will be announced on later dates. The regulation is being developed to replace the current system of procurement regulations.

DATE: Comments must be received on or before July 17, 1979.

ADDRESS: Obtain copies of the draft regulation from and submit comments to William W. Thybony, Assistant Administrator for Regulations, Office of Federal Procurement Policy, 726 Jackson Place, N.W., Room 9025, Washington, D.C. 20503.

FOR FURTHER INFORMATION CONTACT: William Maraist, or Strat Valakis (202) 395–300.

SUPPLEMENTARY INFORMATION: The fundamental purpose of the FAR is to reduce proliferation of regulations; to eliminate conflicts and redundancies; and to provide an acquisition regulation that is simple, clear and understandable. The intent is not to create new policy. However, because new policies may arise concurrently with the FAR project, the notice of availability of draft regulations will summarize the section or part available for review and describe any new policies therein.

The following subparts of the draft Federal Acquisition Regulation are available upon request for public and Government agency review and comment.

Part 4—Administrative Matters

4.1 *Documentation of Contract Actions.* This subpart requires that the head of the contracting activity ensure the maintenance of official records of all contractual actions. It prescribes the minimum content of these records.

4.2 *Contract Execution.* This subpart requires that only contracting officers shall sign contracts on behalf of the United States. It also contains regulations, regarding contractor's signature, including partnerships, corporations, joint ventures, individuals, and agents.

4.3 *Contract Distribution.* This subpart prescribes the minimum distribution to be made of copies of each contract and modification.

Part 8—Required Sources of Supplies and Services

8.6 *Acquisition from Federal Prison Industries, Inc.* This subpart requires Agencies to purchase required supplies of the classes listed in the Schedule of Products made in Federal Penal and Correctional Institutions using the procedures in this subpart. It contains ordering procedures, exceptions and clearance requirements.

8.7 *Acquisition from the Blind and Other Severely Handicapped.* This subpart prescribes the policies and procedures for implementing the Javits-Wagner-O'Day Act (41 U.S.C. 46–48c) and the rules of the committee for Purchase from the Blind and Other Severely Handicapped (41 CFR Part 5). The Act requires the Government to purchase supplies or services on the Procurement List established by the Committee.

8.8 *Acquisition of Printing and Reloted Supplies.* This subpart provides policy limiting acquisition of Government printing and related supplies as required by 44 U.S.C. 501, 502, 504 and 1121 and the Government Printing and Binding Regulations, Published by the Congressional Joint Committee on Printing (JCP). Generally, all Government printing is done at the Government Printing Office (GPO) except when the JCP approves otherwise.

Part 15—Contracting by Negotiation

15.5 *Unsolicited Proposals.* This subpart prescribes policies and procedures for submission, receipt, evaluation, and acceptance of unsolicited proposals. It states the policy that Agencies shall encourage the submission of unsolicited proposals and avoid organizational or regulatory constraints that may inhibit generation and acceptance of innovative ideas from prospective contractors.

Dated: May 16, 1979.

William W. Thybony,

Assistant Administrator for Regulations.

[FR Doc. 79–15801 Filed 5–18–79; 8:45 am]

BILLING CODE 3110–01–M

DEPARTMENT OF TRANSPORTATION

Materials Transportation Bureau

[49 CFR Parts 107, 172, 173, and 175]

[Docket No. HM–166B; Notice 79–8]

Shipment of Hazardous Materials by Air; Miscellaneous Proposals

AGENCY: Materials Transportation Bureau, Research and Special Programs Administration, Department of Transportation (DOT).

ACTION: Notice of Proposed Rulemaking.

SUMMARY: The Material Transportation Bureau is proposing to amend certain regulations pertaining to the shipment of hazardous materials by aircraft. This notice involves package orientation markings, package inspection requirements, and proposed changes to allow full or partial exceptions for items such as wheelchairs equipped with nonspillable batteries, escape and evacuation slides, transport incubators, organ preservation units, and dry ice. Also included in this notice is a proposal to allow certain exceptions from the maximum transport index and separation requirements for radioactive materials aboard cargo-only aircraft under a strict radiation control program to be established by the carriers. These proposals are based upon either a petition for rulemaking or on the initiative of the Bureau to clarify, simplify, or eliminate existing regulations relating to air shipments of hazardous materials.

DATE: Comments on or before July 20, 1979.

ADDRESS: Send comments to Dockets Branch, Materials Transportation Bureau, U.S. Department of Transportation, Washington, D.C. 20590. It is requested that five copies be submitted.

FOR FURTHER INFORMATION CONTACT: John C. Allen, Office of Hazardous Materials Regulation, Materials Transportation Bureau, Research and Special Programs Administration, 2100 2nd Street S.W., Washington, D.C. 20590. (202–755–4962).

SUPPLEMENTARY INFORMATION: The Material Transportation Bureau published a Notice of Proposed Rulemaking (Docket HM–166, Notice 78–11) on November 30, 1978 (43 FR 56070) entitled Shipment of Hazardous Materials by Water. It was indicated in the Supplementary Information in that notice that Docket HM–166 would be a docket used to incorporate changes in the hazardous materials regulations based on either petitions for rulemaking or on the Bureau's own initiative. This is the third notice under HM–166 and considers petitions and proposals relating to the shipment of hazardous materials by air. The proposals are categorized as follows:

1. *Wheelchairs with non-spillable batteries (§ 173.250).*

Wet electric storage batteries are forbidden from shipment by passenger-carrying aircraft. However, § 173.250(a) excepts automobiles or other specifically named self-propelled vehicles equipped with wet electric storage batteries from all hazardous materials regulations including shipment by passenger aircraft. Most items meeting this shipping description are too large to be stowed in the smaller compartments on passenger-carrying aircraft and therefore are shipped by cargo-only aircraft. However, a problem arises with respect to the shipment of smaller "self-propelled vehicles, engines, or other mechanical apparatus" which are equipped with wet electric storage batteries. These items are often small enough to be laid sideways in the cargo compartment. Some, for example electric wheelchairs, are even collapsible. This has resulted in incidents where the storage batteries have leaked battery fluid because the vehicle or apparatus to which they are attached is not stowed in an upright position, particularly on passenger-carrying aircraft where cargo compartments may not be very large.

The Bureau proposes to alleviate this problem by generally forbidding the carriage of automobiles and other self-propelled vehicles equipped with electric storage batteries by passenger-carrying aircraft. An exception will be provided in § 173.250 for items such as wheelchairs which are equipped with batteries of the non-spillable type.

2. *Escape and evacuation slides (§§ 172.101, 173.906).*

On March 2, 1978, the Bureau amended the hazardfous materials regulations under Docket HM–139 (43 FR 8519) to provide for the shipment of inflatable liferafts containing small quantities of hazardous materials as an ORM–C. A general packaging section was added in § 173.906 and a new entry was added to § 172.101 to accomplish this.

MTB proposes to expand these provisions to include inflatable escape and evacuation slides. These items, similar to inflatable liferafts, are emergency equipment often installed in aircraft for use as lifesaving apparatus. The proposal would provide for the transportation of these slides, which contian small quantities of hazardous materials, aboard aircraft as long as they are adequately protected by a strong outside packaging.

3. *Transport incubators and organ preservation units (§ 175.10).*

The Bureau is proposing under certain conditions to except transport incubators and organ preservation units from the hazardous materials regulations when shipped by air. These life-saving apparatus utilize oxygen or other types of compressed gas in transporting infants or human organs for transplant purposes. The compressed gas would be required to be in an authorized DOT cylinder to qualify for the exception. This equipment has been carried in passenger compartments under DOT exemptions for the past several years with no reported problems.

4. *Package orientation markings (§ 172.312).*

The Bureau is proposing to amend § 172.312 which pertains to orientation markings on packages with inside packagings containing liquid hazardous materials. This section requires such packages to be marked "THIS SIDE UP" or "THIS END UP" and requires the inside containers to be packed with closures up. An exception is allowed for flammable liquids in inside containers of one quart capacity or less. The Bureau believes that in order to qualify for this exception when shipping by air, the shipper should insure that there is ample absorption material in the package to completely absorb the liquid contents. Accordingly, § 172.312 would be revised by adding paragraphs (d) and (e) which would separate the flammable liquid exception pertaining to air shipments from the exception pertaining to other modes.

5. *Exceptions from transport index limits and separation requirements for non-fissile radioactive materials shipped in cargo-only aircraft (§ 175.705).*

It is proposed to add a new section to Part 175 to allow the use of cargo-only aircraft for the carriage of non-fissile radioactive materials under a professionally supervised radiation protection program. Several air carriers have very successfully operated under such a program since 1976 as authorized by DOT Exemption No. 7060.

Essentially air carriers would be allowed to carry radioactive materials whose total transport indices exceed 50 in cargo-only aircraft without meeting the separation distance requirements of § 175.700(a). In order to qualify for these exceptions, the carrier must have established a radiation protection program which must include the following:

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Supervision by a competent health physicist meeting certain minimum professional requirements.

Keeping exposure limits within the standards established by the Occupational Safety and health Administration (OSHA) in 29 CFR 1910.96 and otherwise as low as reasonably achievable.

Conducting monthly contamination surveys and submitting results to the local FAA office.

6. *Exceptions for certain flammable liquids (§ 172.100(g)(3)).*

Several petitioners have requested that an exception now located in § 172.100(g)(3) be moved to § 173.118 for clarification. The exception pertains to the net quantity limitations for flammable liquids with flash points above 73°F aboard aircraft. Petitioners argue that this exception should appear in § 173.118 which contains limited quantity exceptions for flammable liquids. The Bureau agrees and it is proposed to re-locate the provisions of § 172.100(g)(3) to § 173.118(b).

7. *Carbon dioxide, solid (Dry Ice) (§§ 173.615, 175.10).*

Solid carbon dioxide, or dry ice, is often used as a refrigerant to preserve perishable items in a package. It is subject to the hazardous materials regulations only when shipped by air or water under the hazard class of ORM–A. The Bureau recently published an amendment to the packaging requirements in § 173.615 which allowed an exception from the shipping paper and certification requirements when dry ice is used a a refrigerant for diagnostic or medical treatment materials (Docket HM–147, 42 FR 5059). This amendment was in response to indications that such medical supplies, often in need of quick and expeditious movement, were being unnecessarily frustrated by documentation requirements.

MTB has now been petitioned to extend this exception to include dry ice used for refrigeration of any material that is not otherwise regulated as a hazardous material as long as there is 5 pounds or less of dry ice in the package and it is packaged and marked as now required. It is argued that dry ice used for preserving such innocuous items as ice cream, fish and chickens are now subject to documentation requirements while medical diagnostic materials are excepted.

The Bureau believes that some exceptions should be allowed for small quantities of solid carbon dioxide which is used for refrigeration of other non-hazardous articles. Consequently, it is proposed to except dry ice from shipping paper and certification requirements and from the provisions of part 175 when there is 5 pounds or less of dry ice per package and when the package meets the requirements of § 173.615(a) and is marked with both the name of the contents being refrigerated and "DRY ICE" or "CARBON DIOXIDE, SOLID." Marking the name of the material being refrigerated on the package is being required to allay fears that shippers will try to pack regulated hazardous materials with dry ice and thus avoid other requirements.

It is also being proposed to except packages containing 5 pounds or less of dry ice from the provision in § 173.615(a) which requires advance arrangement between shippers and carriers prior to each air shipment.

8. *Informing passengers of hozardous materials restrictions (§ 175.25).*

It is being proposed to add a new provision in Part 175 to require air carriers to display FAA approved notices at appropriate locations within the airport to inform passengers of restrictions against carrying hazardous materials in personal baggage aboard aircraft and the penalties associated with such practice.

It is contended by the Airline Pilots Association (ALPA) that incidents involving hazardous materials carried in passenger baggage continue to occur. ALPA maintains that such incidents "range from ignition of fuel contained in camp stoves which are inside campers' backpacks to leakage of chemicals such as nitric acid from samples carried by business travelers."

Although it is not clear that such incidents are commonplace, the Bureau believes there is merit to the ALPA proposal. Passengers may often be unaware of the dangers involved in carrying hazardous materials in their baggage. In addition, it is contended that some passengers knowingly violate restrictions on hazardous materials to circumvent the "red tape" which they believe would otherwise be involved. Consequently, MTB proposes to add § 175.25 to require aircraft operators to inform passengers of the hazardous materials restrictions and penalties.

9. *Inspection of hazardous materials packages (§ 175.30).*

The air carrier is required by § 175.30 to inspect a package containing hazardous materials for its integrity prior to placing the package aboard an aircraft. MTB is proposing to "except" certain specifically named items from this requirement where there is no useful purpose to be served from the package inspection.

For example, ORM–D materials packed in freight containers and offered for transportation by one consignor are presently excepted from the package inspection requirements. All other hazardous materials packed in a freight container must be inspected by the air carrier. MTB believes this is an important and necessary requirement for the originating carrier. However, the Bureau questions the usefulness of requiring each succeeding air carrier to open the freight container each time it is transferred from one carrier to another. It is being proposed in this notice to require only the originating carrier to open and inspect the contents of a freight container loaded with packages of hazardous materials as long as written notification of package inspection is transferred to each subsequent air carrier.

In addition, two other specifically identified items should be excepted from package inspection. Packages containing magnetizing materials do not require inspection since these materials need to be identified only for the purpose of proper location aboard the aircraft. Dry ice (carbon dioxide, solid) should be identified as to quantity and cargo location, but actual package inspection serves very little purpose. Consequently, it is proposed to except these materials also from the package inspection requirements.

Two other editorial amendments to § 175.30 are being proposed merely for clarity and to avoid confusion. Paragraph (b) pertains to the actual inspection of the package before it is placed on an aircraft. MTB proposes to add the word "immediately" before the word "prior" to clearly establish that the package should be inspected for integrity just before placing it aboard the aircraft. This is to preclude the possibility where the inspection is conducted several days before actually being placed on the aircraft. Finally, paragraph (a)(1) of § 175.30 would be amended to reference § 175.310 as well as § 172.101 for applicable quantity limitations aboard aircraft.

10. *Explosives carried under § 175.320.*

A proposed change to § 175.320(b)(8) would delete the requirement for obtaining route approval when carrying Class A explosives. The Bureau believes that this requirement is unreasonable and does not contribute to safety since route approval, or clearance, is largely determined by the Federal Airways System. The intent of this requirement was to insure that aircraft carrying Class A explosives avoid flight over highly populated areas whenever possible. This is a responsibility that can be accomplished by the aircraft operator through careful planning of his own route. The approval of every route by an FAA inspector is an unnecessary step and reduces the flexibility which is necessary in a flight plan to consider other important variables. When the aircraft is operating under radar control, however, the aircraft operator will be required to request appropriate vectors to avoid heavily populated areas.

11. *Miscellaneous changes.*

MTB proposes to amend the introductory wording of Appendix B to Part 107 pertaining to the additional requirements placed on air carriers operating under exemptions. The second part of Appendix B is entitled "Flights of Civil Aircraft." This part of Appendix B should be applicable only to cargo-only aircraft. For example, if condition number one were applicable to passenger aircraft, then no passenger would be allowed on any flight which carried a hazardous material under a DOT exemption. In addition, Docket HM–168 (43 FR 57928) has proposed that the word "civil" be deleted from this title. Consequently the title of this portion of Appendix B would be amended to read "Flights of Cargo-only Aircraft" and the first sentence would be changed to reflect this.

Sections 175.305(a)(4) and 175.310(c)(4)(iii) now require air carriers to maintain a certain "ventilation rate" in compartments loaded with self-propelled vehicles and with containers of flammable liquids respectively. The Bureau believes this to be an impractical burden on aircraft operators. Means for determining ventilation rates are not readily available except to some manufacturers of aircraft or perhaps to large and sophisticated maintenance facilities. These requirements would be re-worded to simply require air carriers to prevent the dangerous accumulation of fuel vapors.

Section 172.100(g)(2) would be amended by deleting the word "outside" in the first sentence. This would eliminate some existing confusion since the word "outside" is not used in Column (6)(b) of the Hazardous Materials Table in § 172.101 to which this regulation refers. Also, the term "package" is clearly defined in § 171.8 and the descriptive word "outside" is not necessary in this particular instance.

Another proposed amendment to eliminate confusion and provide clarity is to re-word § 172.100(f) which explains the nature of Column 5 of the Hazardous Materials Table in § 172.101. It is stated that Column 5(a) contains references to "exceptions" from the packaging references given in Column 5(b). However, these are not the only exceptions from the packaging requirements. There are other exceptions relating to the specific mode of transportation in Parts 174, 175, 176 and 177 and this fact would be reflected in § 172.100(f).

The Bureau has also been petitioned to amend the requirements in § 173.307(a)(2) and § 175.10 pertaining to the shipment by air of inflated tires. The regulations now require the tires to be inflated to not more than 100 psig at 70° F in order to qualify for exceptions. The Bureau is proposing to allow tires to be inflated to their rated service pressure.

Finally, an editorial change is being proposed to § 175.33 relating to notification of the pilot of hazardous materials aboard the aircraft. The last word in the introductory paragraph which is "takeoff" would be changed to "departure." This is merely for consistency since the term departure is used in a similar manner in § 175.35.

The principal drafters of this document are John C. Allen, Office of Hazardous Materials Regulation, and George W. Tenley of the Office of Chief Counsel, Research and Special Programs Administration.

In consideration of the foregoing, Parts 107, 172, 173, and 175 of Title 49 Code of Federal Regulations, would be amended as follows:

PART 107—HAZARDOUS MATERIALS PROGRAM PROCEDURES

1. In Appendix B following Subpart B of Part 107, the title to the second section and the introductory sentence preceding paragraph (1) would be amended to read as follows:

Appendix B—Standard Conditions Applicable to Exemptions

* * * * *

Flights of Cargo-only Aircraft

Exemptions from the regulations governing the transportation of hazardous materials on cargo-only aircraft are subject to the following conditions:

* * * * *

PART 172—HAZARDOUS MATERIALS TABLE AND HAZARDOUS MATERIALS COMMUNICATIONS REGULATIONS

2. In § 172.100, paragraph (f), the introductory text of paragraph (g), and paragraph (g)(2) would be revised; paragraph (g)(3) would be deleted as follows:

§ 172.100 Purpose and use of the table.

* * * * *

(f) Column 5 references the applicable packaging section of Part 173. Exceptions from some of the requirements of this subchapter are noted in column 5(a). Other exceptions relating to the specific mode of transportation are contained in Parts 174, 175, 176 and 177 of this subchapter. Reference to specific packaging requirements are certain additional exceptions are noted in column 5(b).

(g) Column 6 specifies the maximum net quantity in one package for air transportation or passenger railcar. An exception for certain flammable liquids in provided in § 173.118 of this subchapter.

(1) * * *

(2) Column 6(b) specifies the maximum net quantity for one package on cargo-only aircraft. Packaging must bear the CARGO AIRCRAFT ONLY label when the quantity of hazardous material exceeds that authorized on passenger-carrying aircraft, or is forbidden on passenger-carrying aircraft.

(3) [Deleted]

* * * * *

3. In § 172.101 the Hazardous Materials Table would be amended as follows:

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(1)	(2)	(3)	(4)	(5)	(6)	(7)	
				Packaging	Maximum net quantity in one package	Water shipments	
S/W/A	Hazardous materials descriptions and proper shipping names	Hazard class	Label(s) required (if not excepted)	(a) Exceptions	(b) Specific requirements	(a) Passenger carrying aircraft or railcar	(b) Cargo only aircraft	(a) Cargo vessel	(b) Passenger vessel	(c) Other requirements
	*		*			*		*		*
	(Change)									
	*		*			*		*		*
	Battery electric storage, wet, with automobile, auto parts, engine (or other specifically named mechanical apparatus)	Corrosive materials	Corrosive	173.250	173.260	Forbidden	No limit	1,2	1,2	Keep dry
	*		*			*		*		*

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4. In § 172.312 the introductory text of paragraph (a) would be revised, paragraphs (d) and (e) would be added to read as follows:

§ 172.312 Liquid hazardous materials.

(a) Except as provided in this section, each package having an inside packaging containing liquid hazardous materials must be—

* * * * *

(d) Except when offered for transportation by air, limited quantities of flammable liquids packed in inside packagings of one quart or less are excepted from the orientation marketing requirements of this section.

(e) When offered for transportation by air, limited quantities of flammable liquid are excepted from the orientation marking requirements of this section when packed in inside packagings of one quart or less with sufficient absorption material between the inner and outer packagings to completely absorb the liquid contents.

PART 173—SHIPPERS—GENERAL REQUIREMENTS FOR SHIPMENTS AND PACKAGING

5. In § 173.118 paragraph (b) would be amended by adding the following sentence at the end of the paragraph:

§ 173.118 Limited quantities of flammable liquids.

* * * * *

(b) * * * Notwithstanding § 172.101 of this subchapter, the net quantity limitation for flammable liquids meeting the conditions of this paragraph is one-gallon per package for carriage aboard passenger-carrying aircraft or railcar, and 55 gallons per package for carriage aboard cargo-only aircraft.

* * * * *

6. In § 173.250 a new sentence would be added at the end of paragraph (a) to read as follows:

§ 173.250 Automobiles, other self-propelled vehicles, engines or other mechanical apparatus.

(a) * * * This exception does not apply for shipment by passenger-carrying aircraft unless batteries installed in the vehicles are of the non-spillable type.

* * * * *

7. In § 173.307 paragraph (a)(2) would be revised to read as follows:

§ 173.307 Exceptions for compressed gases.

(a) * * *

(2) Tires when inflated to a pressure not greater than the rated service pressure of tire.

* * * * *

8. In § 173.615 paragraph (a) would be revised to read as follows:

§ 173.615 Carbon dioxide, solid (dry ice).

(a) Solid carbon dioxide, when offered for transportation by aircraft or water, must be packed in packaging designed and constructed to permit the release of carbon dioxide gas to prevent a build-up of pressure that could rupture the packaging. For each shipment by air exceeding five pounds per package, advance arrangements between the shipper and each carrier must be made.

* * * * *

9. § 173.906 would be revised to read as follows:

§ 173.906 Inflatable life-rafts and evacuation slides.

An inflatable life-raft, escape or evacuation slide, serviced and ready for use as a life-saving appliance aboard a vessel or aircraft, containing small quantities of hazardous materials which are required as part of the life-saving appliance, (e.g., non-flammable compressed gas packaged in cylinders in accordance with this subchapter, Class C explosives that are pyrotechnic signal devices, and flammable liquids in repair kits) must be packed in a strong outside packaging.

PART 175—CARRIAGE BY AIRCRAFT

10. In § 175.10 paragraph (a)(2)(x) would be revised; paragraphs (a)(13) and (a)(14) would be added to read as follows:

§ 175.10 Exceptions.

(a) * * *

(2) * * *

(x) Items of replacement therefor, except that batteries, aerosol dispensers, and signaling devices must be packed in strong outside containers, and tires may not be inflated beyond their rated service pressure.

* * * * *

(13) Carbon dioxide, solid (dry ice) in quantities not exceeding 5 pounds per package when packed as required by § 173.615(a) of this subchapter, used as a refrigerant for the contents of the package, marked with the name of the contents being refrigerated, and also marked "CARBON DIOXIDE, SOLID" or "DRY ICE."

(14) A transport incubator unit necessary to protect life or an organ preservation unit necessary to protect human organs provided—

(i) The unit is secured in a "no smoking" area,

(ii) The compressed gas used to operate the unit is in an authorized DOT specification cylinder prescribed by this subchapter,

(iii) Each battery used in the operation of the unit is of the non-spillable type, and

(iv) The unit is accompanied by a person qualified to operate the unit.

11. § 175.25 would be added to read as follows:

§ 175.25 Informing passengers about hazardous materials.

Each aircraft operator who engages in the transportation of passengers shall display notices to passengers concerning the requirements and penalties associated with the carriage of hazardous materials in baggage aboard aircraft. Such warnings shall be prominently displayed in locations at airports where passengers obtain tickets, check baggage, and check-in prior to boarding aircraft. A sample notice meeting the requirements of this section may be obtained from FAA certificate holding offices.

12. In § 175.30 the introductory text of paragraph (a), paragraphs (a)(1), (b) and (c) would be revised to read as follows:

§ 175.30 Accepting shipments.

(a) Except as provided in this section, no person may accept a hazardous material for transportation aboard an aircraft unless the hazardous material is—

(1) Authorized, and is within the quantity limitations specified for carriage aboard aircraft according to § 172.101 of this subchapter or as otherwise specifically provided by this subchapter.

* * * * *

(b) Except as provided in paragraph (c) of this section, no person may carry any hazardous material aboard an aircraft unless, immediately prior to placing the material aboard the aircraft, the operator of the aircraft has inspected the package, or the outside container prepared in accordance with § 173.25 of this subchapter which contains the material, and has determined that it has no holes, leakage or other indication that its integrity has been compromised, and for radioactive materials that the package seal has not been broken.

(c) The requirements of paragraph (b) of this section do not apply to—

(1) An ORM–D material packed in a freight container and offered for transportation by one consignor;

(2) A hazardous material in a freight container transferred to a subsequent

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air carrier provided a written notification is transferred with the freight container to each subsequent air carrier indicating that the inspection required by paragraph (b) of this section has been accomplished by the originating carrier;

(3) Dry ice (carbon dioxide, solid); or

(4) Magnetized materials.

13. In § 175.33 the introductory paragraph would be revised to read as follows:

§ 175.33 Notification of pilot-in-command.

When materials subject to the provisions of this subchapter are carried in an aircraft, the operator of the aircraft shall give the pilot-in-command the following information in writing before departure:

* * * * *

14. In § 175.85 paragraph (f) would be added to read as follow:

§ 175.85 Cargo location.

* * * * *

(f) Paragraph (a) or (e) of this section does not apply to a person operating an aircraft under § 175.310 which, because of its size and configuration, makes it impossible for that person to comply.

15. In § 175.305 paragraph (a)(4) would be revised to read as follows:

§ 175.305 Self-propelled vehicles.

(a) * * *

(4) Each area or compartment in which a self-propelled vehicle in being transported in suitably ventilated to prevent the presence of fuel vapors.

* * * * *

16. In § 175.310 paragraph (c)(4)(iii) would be deleted; paragraph (e) would be revised to read as follows:

§ 175.310 Transportation of flammable liquid fuel in small, passenger-carrying aircraft.

* * * * *

(c) * * *

(4) * * *

(iii) [Deleted].

* * * * *

(e) Each area or compartment in which the fuel is loaded is suitably ventilated to prevent the presence of fuel vapors.

* * * * *

17. In § 175.320(b)(8) would be revised to read as follows:

§ 175.320 Cargo-only aircraft; only means of transportation.

* * * * *

(b) * * *

(8) When Class A explosives are carried aboard cargo-only aircraft under the provisions of this section, the aircraft operator shall take all possible action to insure that routes over heavily populated areas are avoided commensurate with the safety of flight considerations. During the approach and landing phase, the aircraft operator shall request appropriate vectors when under radar control to avoid heavily populated areas.

* * * * *

17. § 175.705 would be added to read as follows:

§ 175.705 Special requirements for radioactive materials in cargo-only aircraft.

(a) Radioactive materials, except fissile radioactive materials, may be carried on cargo-only aircraft operated by holders of FAA Certificates and Operations Specifications issued under 14 CFR without meeting the requirements of §§ 175.75(a)(3) or 175.700(a) of this subchapter only under the following conditions.

(b) The carrier must establish and maintain a radiation protection program that will assure maximum exposure limits as follows:

(1) Exposure shall not exceed that established for employees who work in restricted areas where individuals may be exposed to radiation as prescribed in 29 CFR 1910.96. Notwithstanding these maximum exposure limits, the carrier shall make every effort to maintain exposure limits as low as reasonably achievable.

(2) For those persons not covered by 29 CFR 1910.96(d)(2), but who may be in the vicinity of the aircraft, the radiation dose rate shall not exceed 2 millirem per hour.

(c) The carrier must establish radiation control procedures to include the following:

(1) Conduct contamination surveys of the inside of the aircraft after each use for transporting radioactive materials to assure that there is no significant removable radioactive surface contamination as defined in § 173.397 of this subchapter,

(2) Assess radiation exposure on a monthly basis and submit the results of contamination surveys and the records required by 29 CFR 1910.96(n) to the FAA certificate holding office each month,

(3) Obtain written assurance from the shipper that packages of radioactive materials offered for shipment do not include fissile radioactive materials.

(d) The carrier must have available the services of a competent health physicist to supervise its radiation protection program. This person must have at least six years of professional experience in health physics. At least three of these six years must have been in applied radiation protection work, including experience in the kind of radiation protection problems likely to arise in the carrier's operation.

(e) The carrier must instruct its personnel concerning the requirements of this section and the nonapplicability of this section to the placing of radioactive materials in a transport vehicle for surface transportation.

(1) Aircraft operator personnel may not participate in the loading of any motor vehicle in a manner that would cause a violation of § 177.842 of this subchapter.

(49 U.S.C. 1804; 49 CFR 1.53, App. A to Part 1, and paragraph (a)(4) of App. A, Part 106.)

Note.—The Materials Transportation Bureau has determined that this proposed regulation will not have a major economic impact under the terms of Executive Order 12044 and DOT implementing procedures (43 FR 9582). A regulatory evaluation is available for review in the Docket.

Issued in Washington, D.C. on May 10, 1979.

Alan I. Roberts,

Associate Director for Hazardous Materials Regulation, Materials Transportation Bureau.

[FR Doc. 79-15562 Filed 5-18-79; 8:45 am]

BILLING CODE 4910-60-M

Notices

Federal Register

Vol. 44, No. 99

Monday, May 21, 1979

This section of the FEDERAL REGISTER contains documents other than rules or proposed rules that are applicable to the public. Notices of hearings and investigations, committee meetings, agency decisions and rulings, delegations of authority, filing of petitions and applications and agency statements of organization and functions are examples of documents appearing in this section.

DEPARTMENT OF AGRICULTURE

Office of the Secretary

Notice of Annual Comprehensive Review

Notice is hereby given that the Department of Agriculture is conducting an annual comprehensive review to determine which, if any, of its advisory committees are no longer serving a valid purpose and should be abolished. This review is required by Section 7(b) of the Federal Advisory Committee Act.

Advisory Committee on Export Sales Reporting
Advisory Committee on Foreign Animal Diseases
Advisory Committee on Meat and Poultry Inspection
Advisory Committee on State and Private Forestry
Animal Health Science Research Advisory Board
Bridger-Teton National Forest Grazing Advisory Board
Caribou National Forest Grazing Advisory Board
Cascade Head Scenic-Research Area Advisory Council
Challis National Forest Grazing Advisory Board
Citizens Advisory Committee on Equal Opportunity
Coconino National Forest Grazing Advisory Board
Committee of Nine
Committee of State Foresters
Cooperative Forestry Research Advisory Board
Cooperative Forestry Research Advisory Committee
Coronado National Forest Grazing Advisory Board
Flue-Cured Tobacco Advisory Committee
General Conference Committee of the National Poultry Improvement Plan
Gila National Forest Grazing Advisory Board
Gospel-Hump Area Advisory Committee
Grain Standards Act Advisory Committee
Hop Marketing Advisory Board
Humboldt National Forest Grazing Advisory Board
Joint Council on Food and Agricultural Sciences
Lewis and Clark National Forest Grazing Advisory Board
Los Padres National Forest Grazing Advisory Board
Malheur National Forest Grazing Advisory Board
Modoc National Forest Grazing Advisory Board
National Advisory Council on Child Nutrition
National Advisory Council on Maternal, Infant and Fetal Nutrition
National Agricultural Research and Extension Users Advisory Board
National Arboretum Advisory Council
National Forest Management Act Committee of Scientists
National Forest System Advisory Committee
National Plant Genetic Resources Board
Nezperce National Forest Grazing Advisory Board
Ochoco National Forest Grazing Advisory Board
Pacific Crest National Scenic Trail Advisory Committee
Payette National Forest Grazing Advisory Board
Plant Variety Protection Board
Prescott National Forest Grazing Advisory Board
Routt National Forest Grazing Advisory Board
Targhee National Forest Grazing Advisory Board
Tonto National Forest Grazing Advisory Board
Uinta National Forest Grazing Advisory Board.

Persons interested in commenting on this review should submit such comments to the Management Staff, Room 115–A, U.S. Department of Agriculture, Washington, D.C. 20250, before April 1, 1979.

Dated: May 15, 1979.

Bob Bergland,

Secretary.

[FR Doc. 79-15578 Filed 5-18-79; 8:45 am]

BILLING CODE 3410-01-M

CIVIL AERONAUTICS BOARD

Great Northern Airlines, Inc.; Application for an All-Cargo Air Service Certificate

May 15, 1979.

In accordance with Part 291 (14 CFR 291) of the Board's Economic Regulations (effective November 9, 1978), notice is hereby given that the Civil Aeronautics Board has received an application, Docket 35333, from Great Northern Airlines, Inc., P.O. Box 6768, Anchorage, Alaska 99502 for an all-cargo air service certificate to provide domestic cargo transportation.

Under the provisions of § 291.12(c) of Part 291, interested persons may file an answer in opposition to this application on or before June 8, 1979. An executed original and six copies of such answer shall be addressed to the Docket Section, Civil Aeronautics Board, Washington, D.C. 20428. It shall set forth in detail the reasons for the position taken and must relate to the fitness, willingness, or ability of the applicant to provide all-cargo air service or to comply with the Act or the Board's orders and regulations. The answer shall be served upon the applicant and state the date of such service.

Phyllis T. Kaylor,

Secretary.

[FR Doc. 79-15778 Filed 5-18-79; 8:45 am]

BILLING CODE 6320-01-M

[Order 79-5-112; Docket 32851; Agreement C.A.B. 1175]

International Air Transport Association; Order

Adopted by the Civil Aeronautics Board at its office in Washington, D.C. on the 14th day of May, 1979.

By Order 78-6-78, served June 12, 1978, we instituted this proceeding to determine whether we should continue to approve under Section 412 of the Federal Aviation Act (the "Act"), the agreements adopted by the International Air Transport Association ("IATA") relating to the traffic conferences, and continue to immunize these agreements from the operation of the antitrust laws under section 414 of the Act. Our tentative conclusion in Order 78-6-78 was that we should discontinue our approval of the IATA agreements.

On November 2, 1978 IATA filed for our approval amendments to its *Provisions for the Regulation and Conduct of the IATA Traffic Conferences* and also filed a motion requesting (1) that the question of permanent approval of those amendments under section 412 be consolidated into this proceeding, and (2) that we approve those amendments on an interim basis pending our final decision in this case. On April 6, 1979, IATA filed a motion for expedited

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treatment of its proposed traffic conference amendments that has been supported by a number of other parties.

There has been an enormous response to the inquiry proposed by Order 78–6–78. The original period for comments and replies was expanded several times, with the final submissions received on February 12, 1979. We have received responses, ranging in length from one page to over 100 pages, from 48 countries and 65 organizations, including travel agencies, airlines, and shipping interests. The volume of the submissions and our desire to give the most careful consideration to a question of great importance to all countries that participate in international air transportation has required extensive analysis and unfortunate, but unintentional, delay. We anticipate that the actions and futher proceedings announced in this order will permit final resolutions of the issues raised by Order 78–6–78 in the least amount of time consistent with the seriousness of the issues.

Summary

We have decided to take the following actions, which will be discussed in detail in the remainder of this order.

1. The motion for consolidation in this docket of IATA's proposed amendments to the Provisions for the Conduct of the Traffic Conferences is granted.

2. The proposed amendments are approved, on an interim basis, and antitrust immunity is granted. [1]

3. Resolutions dealing with rates or related matters will be considered in this docket.

With respect to those "trade association" or "facilitation" resolutions listed in Appendix B, the tentative finding of disapproval is withdrawn and the investigation announced in Order 78–6–78 is terminated. Other resolutions of this type will be dealt with in proceedings to be described in a future order.

Those resolutions that govern the relationship between IATA carriers and their passenger travel agents are severed from this docket and will be considered in a subsequent proceeding to be instituted shortly. Resolutions dealing with cargo agents are also severed and will be considered in a future order.

4. Further proceedings will be held in this docket, including a "legislative" hearing, briefs, and oral argument to the Board.

[1] To the extent that this order satisfies IATA's request for expedited consideration of the questions of consolidation and interim approval, the motion of April 6, 1979 is granted.

1. Consolidation

The amendments proposed by IATA would effect a reorganization of the traffic conference structure. Members of IATA would be required to participate in conferences dealing with "trade association" activities, which are generally defined as:

> • • • Technical, Medical, Legal, Facilitation, Clearing House, standardization of passenger baggage and cargo handling, Multilateral Interline Traffic agreements.

Membership in tariff coordinating conferences, with responsibility for rates, would become optional. In addition, carriers participating in tariff confereces would have some increased latitude to introduce unilateral fares without disturbing the conference rates, and the tariff conferences themselves might be suspended in certain circumstances.

In connection with the submission of its proposed amendments, IATA moved that consideration of the amendments, be consolidated with the comprehensive review that we instituted in Order 78–6–78. Concern for the efficient conservation of the resources of the Board and the many parties dictates that we consider "old" and "new" IATA in the same proceeding. Little would be gained by a Board pronouncement devoted solely to a system that IATA itself now wishes to change. Only the Department of Justice has opposed consolidation; their argument that the attention of the Board would somehow be "diverted" by consolidation is not persuasive. Accordingly, we grant IATA's motion for consolidation.

2. Interim Approval

IATA also requested interim approval and antitrust immunity for its proposed amendments, pending final resolution of the question of permanent approval. In support IATA argued (a) that the amendments are modifications of agreements previously approved by the Board and not finally disapproved by Order 78–6–78; (b) that the amendments should be at least "as attractive" to the Board as previous agreements; and (c) that interim approval and subsequent implementation of the amendments would produce experience under the restructured system that would be valuable to the Board in deciding the question of permanent approval.

We have determined that interim approval and antitrust immunity for the amendments during the period of our review would not be adverse to the public interest. Since we have already determined to continue our approval of the old system, with immunity, pending a final decision on one or more substantial issues in this docket (Order 78–6–78), we see no reason to deviate from that approach with respect to the proposed amendments.

The many countries whose flag carriers are members of IATA and who have commented in this proceeding are virtually unanimous in their support of interim approval. Indeed, we are informed that the requisite approval of the amendments has been given by all other interested governments.[2] IATA will, therefore, be in a position to implement the amendments during the period we have established for our review. If it does, those carriers who wish to withdraw from some, or all, tariff conferences will have the opportunity to do so. Furthermore, those carriers remaining in tariff conferences will have the chance—and the incentive provided by the upcoming peak travel season—to take advantage of the flexibility provided by the amendments to introduce innovative competitive fares.

Having decided to grant interim approval, we believe that it is important that neither IATA nor the other parties misinterpret the significance of our action. In its motion for interim approval, IATA suggested that our failure to approve the amendments "might reasonably be construed as a summary resolution of the complex issues" raised by Order 78–6–78.[3] We reject that conclusion and the logic that supports it. We also wish to stress that our interim approval should not be construed as a resolution of the issues—summary, initial, tentative, or otherwise—in favor of the amendments. We do not accept the argument that the amendments are necessarily "as attractive" as that which preceded them, and we do not intend to convey any assessment of the relative, or absolute, legality or desirability of the amended structure. Furthermore, our interim approval does not create a presumption in favor of the amendments that can be relied upon by the proponents or that must be rebutted by opponents.[4]

In Order 78–6–78 we expressed serious concerns about many aspects and activities of IATA. Those concerns still remain. We intend to use the further proceedings scheduled by this order to

[2] IATA's Motion for Expedited Treatment, April 6, 1979 at 2.

[3] IATA's Motion for Consolidation and Interim Approval, November 2, 1978, p. 11.

[4] IATA's argument that the amendments deserve approval merely because they are modifications of previously approved agreements is seriously, if not fatally, undercut by the concurrent claim that the changes are the most sweeping and significant in IATA's history.

explore and finally resolve the issues. Despite our interim approval, the parties should be prepared for the possibility that our final determination may disapprove or modify the amendments as well as some or all of the specific resolutions put in issue by Order 78–6–78.[5]

The parties should also be on notice that our final action need not necessarily be total approval or total disapproval. The legal and policy considerations that provide the framework for our decision may well apply differently to various aspects of the IATA scheme. For example, air transportation to or from the United States may merit different treatment than air transportation that does not directly affect the United States. "Trade association" activities, and the newly structured IATA conferences responsible for them, may merit different treatment than resolutions and conferences that establish fixed rates.

Parties may wish to address in future proceedings the possibility that we may (a) approve the entire new structure of IATA as it affects air transportation not involving the United States directly; (b) approve the "trade association" conferences as they affect the United States; and (c) disapprove the tariff conferences to the extent they affect rates to or from the United States. Without implying that this is the course we will ultimately adopt, we do note that such a result would be equivalent to our total approval of the IATA amendments followed by the voluntary withdrawal of all carriers from tariff conferences that involve the United States.[6] Since that outcome is provided for by the amendments, any action of ours that mandated a similar result would not necessarily interfere with or impede the implementation of the new structure or its smooth operation.

We have also decided that the public interest requires that the proposed amendments be granted antitrust immunity. The convenience of the travelling and shipping public would not be best served were the IATA system subjected to possible disruption by invocation of the antitrust laws during the relatively short period preceding the completion of our review. A final decision on immunity will be made at the same time as our decision on approval.

3. Specific Resolutions

Order 78–6–78 put in issue the many specific resolutions previously adopted by IATA and our interim approval of the amended structure does not affect them. In view of the large number of these resolutions and because they do not all cause the same degree of concern, we have decided that consideration of all of them in this docket is not the most efficient course.

The comments filed to date demonstrate clearly that the parties realized that our primary focus in Order 78–6–78 was IATA's system of fixed rates established by agreement. Although we do not wish to suggest that other aspects of IATA are not troublesome, there can be no doubt that the anticompetitive nature of rate-setting causes us the greatest concern. Therefore, we will consider in this docket all resolutions that establish rates or conditions of service, and any other resolutions that are related to them. We have included as Appendix C a tentative list of "rate and rate-related" resolutions. While it has not been possible to be sure that those resolutions are all that should be included in this category, the parties should not have any difficulty in determining the general subject matter of resolutions here at issue. Should further investigation reveal that other specific resolutions are sufficiently similar to warrant inclusion, a supplementary list will be issued.

As Order 78–6–78 recognized, many IATA resolutions "are not anti-competitive in nature and may result in valuable efficiencies." [7] Resolution of this description have in the past been referred to as "facilitation" agreements, and under the amended IATA structure would presumably be the responsibility of the "trade association" conferences, the Passenger and Cargo Services Conferences. Since Order 78–6–78 was issued, we have undertaken a review of the many resolutions that fall into this category. As a result of our study, we have found, with respect to a number of these resolutions, no basis to conclude that our prior approval and grant of immunity should not be continued. Therefore, we withdraw the tentative finding of disapproval and terminate the investigation announced in Order 78–6–78, as to those resolutions listed in Appendix B.

The resolutions in this category are designed to standardize and thus simplify a variety of interactions between carriers so that the complex network of international aviation can function smoothly and passengers can move easily between the various components of the system. The size, content and methods of preparation of documents, forms, tickets and tags are established. Standard definitions of terms are provided, as are procedures for various inter-carrier communications and transactions—*i.e.*, forwarding tickets, confirming interline reservations, handling baggage and dealing with unaccompanied minors. In general, these resolutions deal with the relationship between carriers, or between carriers and passengers, in ways that do not have competitive implications.

Our review has also revealed that a significant number of trade association resolutions present problems that prevent us from terminating the investigation at this time. With respect to those resolutions we will institute in the near future an investigation, separate from this docket, in which justifications for those resolutions may be presented and considered.

We have decided to sever from this docket all resolutions relating to IATA's passenger agency program. In most major respects the IATA program closely parallels ATC's agency program in the United States. Since examination of either program would involve consideration of similar elements and justifications—and in many cases identical language—we believe that efficiency dictates that the two programs be dealt with simultaneously. We will, therefore, institute shortly an investigation that encompasses both agency programs.

The IATA cargo agency program involves issues that are somewhat similar to those involved in the passenger program. We will be in a better position to deal with matters peculiar to the cargo system after we have considered the passenger program. Therefore, we will also sever from this docket those resolutions dealing with cargo agency matters, and institute a further investigation following our combined review of the IATA/ATC passenger agency program.

4. Further Proceedings

Virtually all parties have urged that the issues raised by Order 78–6–78 are so complex that further proceedings are necessary. We realize now, as we did when Order 78–6–78 was issued, that "alteration or withdrawal of (our) approval of the traffic conference mechanism would have far-reaching

[5] Of course, our interim approval of the restructured IATA conferences is not a blanket approval of the resolutions that may be adopted by those conferences. Individual resolutions will still be subject to our review.

[6] We recognize that the simplicity of our hypothesis is complicated slightly because tariff conferences, as now defined, include countries other than the U.S. In theory it would be a relatively simple process to restructure the conferences to accommodate the result we envision should our ultimate decision make it necessary.

[7] Order 78–6–78 at 7.

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consequences for the international airline system".[8] Despite the volume of the submissions filed in this docket, we believe that further exploration of factual and policy questions would be valuable in assisting us in our final determination. Consequently, we will conduct a "legislative" hearing, before the full Board, to study the economic justifications for continued approval of IATA and the international ramifications of possible disapproval. We also contemplate a further round of briefs, and oral argument by counsel before our final decision.

Before describing in more detail the scope of the testimony we hope to receive and the format in which we intend to scrutinize it, some comments are in order as to the legal context in which we are proceeding. First, no party has argued that this is a case of on-the-record adjudication subject to Sections 554 and 557 of the Administrative Procedure Act. Second, the parties also appear to recognize that Section 412(d) of the Federal Aviation Act, which authorizes "hearings" in cases like these, is clearly and expressly permissive, and that courts have consistently held that adjudicatory trials are not generally required to meet its mandate. *See, e.g., National Air Carrier Ass'n* v. *C.A.B.* (NACA II), 442 F.2d 862 (D.C. Cir. 1971). We believe, moreover, that the reference to "substantial evidence" in Section 1006 of the Act cited by IATA, [9] does not, standing by itself, require us to convene an evidentiary hearing. *See, Industrial Union Department, A.F.L.–C.I.O.* v. Hodgson, 499 F.2d 267 (D.C. Cir. 1974).

IATA's claim that Order 78–6–78 rests on unexamined "adjudicative facts" is entirely unpersuasive.[10] Adjudicative facts are useful in determining specific controversies between specific parties as to the consequence of past conduct, and usually answer the questions of who did what, where, when, how, why, and with what motive or intent. They are distinguished from "legislative" facts, which help an agency decide broad policy issues of general applicability. *See,* Davis, *Administrative Law Text,* 160 (1972). Our decision in this case will be influenced primarily by our perception of the public interest and our assessment of current and future economics and relationships in the international aviation area. This sort of inquiry into the realm of policy clearly involves legislative not adjudicative facts. As the Second Circuit has well summarized: "(a)djudicatory hearings serve an important function when the agency bases its decision on the peculiar situation of individual parties who know more about this than anyone else. But when, as here, a new policy is based upon the general characteristics of an industry, rational decision is not furthered by requiring an agency to lose itself in an excursion of detail that too often obscures fundamental issues rather than clarifies them". *WBEN, Inc.* v. *United States,* 396 F.2d 601, 618 (1968). *See also American Airlines* v. *C.AB.* 359 F.2d 624 (D.C. Cir.), *cert. denied* 385 U.S. 843 (1966); *Shell Oil Co.* v. *FPC,* 520 F.2d 1961 (5th Cir. 1975).

We are mindful of the views expressed in *National Air Carrier Ass'n* v. *C.A.B.* (NACA I), 436 F.2d 186 (D.C. Cir. 1970) that our inquiry and findings be particularly searching when serious antitrust issues are involved. Even where agencies have considered such issues under statutes with an explicit requirement for "notice and hearing" before decision, however, the courts have held that the proceedings "may approach the legislative rather that the adjudicatory model". *Marine Space Enclosures, Inc.* v. *Federal Maritime Commission,* 420 F.2d 577, 589–90 (.C. Cir. 1969). Plainly, we are free to devise those fair and efficient procedures which are best calculated to enlighten the Board and assist in reaching an informed decision within a reasonable time.

We have concluded that assignment of this case to an administrative law judge would not be the best vehicle to help us in rendering a correct decision. While an ALJ's comments on the case would undoubtedly be helpful, that course would likely result in a substantial delay, and, even more importantly, preclude us from directly confronting experts in an area where the exercise of our judgment and expertise is paramount. Adversarial cross-examination, in our view, is not particularly well suited to exploring alternative policy options. A record fully responsive to our concerns and those of the parties can best be developed through our direct and active involvement.

The scope of the hearing will be broad and we will entertain all submissions that bear on the questions remaining before us in this docket: should we approve the IATA structure, "old" or "new", and should we continue our approval of rate and rate-related resolutions. The majority of the comments we have received thus far have concentrated on legal issues, and further discussion of purely legal questions should be saved for briefs and argument to the Board. In preparing testimony for the hearing, the parties are encouraged to address all issues of fact or policy that they believe should be of decisional significance. Although we realize that many of the issues do not lend themselves to easy answers, the Board would derive the greatest benefit from submissions characterized by concreteness, precision, and succinctness whenever possible. Special efforts should be made to provide detailed economic analysis of the costs and benefits—to consumers, carriers and countries—of the three major options open to us: continued approval of IATA, total disapproval or partial disapproval.[11] Similar support should be given if different treatment is advocated for different phases of, particpants in, air transportation.[12]

As a guide to the parties, we would welcome testimony supporting or supplementing positions previously taken with respect to the specific questions posed in Order 78–6–78[13] as well as the factual statements appearing in that order. We would also expect that the parties would address the actions taken and questions raised by this order, especially the possibility of partial approval of the IATA scheme. In addition, we have listed in appendix D. suggested topics that some parties may wish to consider.

Although we have not established a limitation on the length of original testimony, we do request that parties provide a summary of all submissions that a) states succinctly the questions the party is addressing and the position taken, and b) is no longer than 10 pages.[14] Replies should be limited to 25 pages. In addition, we encourage parties with similar interests or positions to

[8] Order 78–6–78, p. 8.

[9] Actually, section 1006 merely states that the Board's findings of fact are conclusive on judicial review if supported by substantial evidence.

[10] Examples of "adjudicative" facts cited by IATA include whether "many resolutions would be flatly prohibited by our basic antitrust law, the Sherman Act", whether "U.S. carriers have ceased to dominate international aviation", and whether "changes in the circumstances" since the Board's original approval of the IATA mechanism have occurred. (Response to Show Cause Order, pp. 65–66).

[11] Order 78–6–78, Question 1, p. 8.

[12] *Id.,* Question 8, p. 9.

[13] Questions 3 and 4, p. 8, concerning the extra-territorial reach of the U.S. antitrust laws and the Board's regulatory powers, are primarily legal and should not be specifically addressed. However, the general question of the consequences of removal of immunity from some or all of the activites of IATA may be considered.

[14] While testimony should be self-contained—i.e., the reader should be provided with all of the witness's assumptions as well as the means to verify factual assertions—we recognize that some references to the published literature may be necessary. In such cases, the witness should be prepared to proved, upin request, copies of any document relied upon, as well as copies of workpapers in general.

submit joint written presentations and sponsor joint witnesses, in order to eliminate duplication of effort for the parties and the Board.

At the hearing we expect to question witnesses in panels, organized to the extent possible by subject matter.[15] We will be assisted by senior members of the staff, and will rely on our own review of the submissions as well as questions proposed by the parties.[16] In addition, we have requested staff to work actively with the parties to ensure that a full range of opinion is fairly represented in the proceedings. Staff is authorized to invite qualified persons to present their views to the Board, if desirable toward this end. Staff will also be responsible, subject to our approval, for organizing the witnesses into panels and preparing a preliminary schedule for the hearing.[17]

The scope of the proceedings we have outlined as well as the schedule for their completion,[18] will involve a substantial commitment of time and effort by the Board, its staff and the parties. We believe the importance of the issues warrants such an effort.

Accordingly, pursuant to the Federal Aviation Act, as amended, and particularly sections 102, 204(a), 412 and 414 thereof,

It is ordered, That: 1. The motion for consolidation in this docket of IATA's proposed amendments to the Provisions for the Conduct of the Traffic Conferences is granted.

2. The proposed amendments are approved, on an interim basis, and antitrust immunity is granted.

3. With respect to those resolutions listed in Appendix B, the tentative finding of disapproval is withdrawn and the investigation announced by Order 78–6–78 is terminated.

4. The remaining "trade association" or "facilitation" resolutions are severed from this docket, as are resolutions concerning passenger and cargo experts.

5. Further proceedings will be held pursuant to the schedule in Appendix A.

6. This order shall be served on all parties who have previously filed in this docket.

This Order shall be published in the **Federal Register.**

By the Civil Aeronautics Board.[19]

Phyllis T. Kaylor,

Secretary.

Appendix A

Schedule

June 29—Original Testimony.
July 13—Reply Testimony/Proposed Questions.
July 23–25—Oral Presentation.
August 17—Legal Briefs.
Sept. 12—Oral Argument.
Sept. 13—Instructions to Staff.
Oct. 15—Opinion.

Appendix B

The following list includes those "trade association" or "facilitation" resolutions that are "approved"—the tentative finding that they should be disapproved is withdrawn and the investigation announced by Order 78–6–78 is terminated. Some of these resolutioins refer to other resolutions, or may be tied, either by subject matter or logical connection, to other resolutions or series of resolutions, not hereby approved. If the latter are subsequently disapproved, the resolutions listed below would have to be amended to eliminate the reference or other possible inconsistencies.

IATA Resolution No.

020	025	270	270a	270b	274	275a
275bb	275d	275e	275h	275i	275j	276
277	277a	277b	278b	280	280a	290
291	293	295	300	300a	301	301b
302	302a	303	303a	305	307	308
308a	308b	310a	313	316	700	701
720	720a	720b	720c	721b	721e	750
751	810g	850c	850e	850f	850g	852
1008	1010f	1077	1200	1201	1202	1270
1271	1272	1273	1275	1279	1280	1281
1282	1283	1284	1285	1286	1287	1288
1289	1290	1291	1292	1293	1294	1295
1296	1296a	1296b	1296c	1300	1300a	1300b
1301	1303b	1303c	1305	1305a	1310	1314
1316	1318	1319	1411	1700	1702d	1703
1704	1721f	1725	1726	1727	1729	1953

Appendix C.—*Rate and Rate-Related Resolutions*

001	001b series	001e	001f
001g	001i	001k	001m
001r	001s	001t	001z
001aa	001dd	001ee	001pp
001qq	001tt	001vv	001mm
001ss	001xx	002 series	004 series
006	007	008	008a
009	009a	010a	010b
011 series	012 series	013 series	014 series
015 series	017	021 series	022
023 series	026	030, 031, 032, 033, series	035
036	037	038	039
047	048	049 series	050–059 series
060–069	070–079	080–090	091–097
098 series	100 series	102 series	105 series

Appendix C.—*Rate and Rate-Related Resolutions*—Continued

106	115 series	116	140
150	151	153 series	150a
151a	154	200 series (except resos. f & g)	201 series
203 series	204	205	250
281	283 series	308b	312
LA16	LA 21	LA29	SA

Appendix D

Suggested Topics

1. Is multilateral rate-setting necessary? What are its benefits? What are its detriments?

2. What percentage of international air traffic is to or from the U.S.? What percent of that is purchased by U.S. citizens?

3. In the absence of capacity controls (which are not relevant to this proceeding):

(a) Is the rate of return for carriers in markets where there is no effective multilateral rate agreement higher, lower, or the same as in comparable markets where a multilateral rate agreement is in force?

(b) Are rates in markets where there is no effective multilateral rate agreement higher, lower, or the same as in comparable markets where a multilateral rate is in force?

(c) Are traffic growth rates in markets where there is no effective multilateral rate agreement higher, lower, or the same as in comparable markets where a multilateral rate agreement is in force?

4. Will CAB disapproval of traffic conferences lead to lower fares? Will such fares be maintained without traffic conferences at economically viable levels? Will lower fares lead to increased international travel and international commerce and, if so, will all nations benefit?

5. Will any countries or group of countries be more seriously affected than others by CAB disapproval or withdrawal of immunity from traffic conferences? Is different treatment justified? Feasible?

6. To what extent do nations subsidize internal air travel by their nationals? External traffic? Does the existence of subsidy by other nations of their national carriers have policy significance for a CAB decision to approve or disapprove traffic conferences?

7. To the extent that IATA's "unanimity rule" has tended to fix rates at a level that covers the costs of the least efficient carrier, the IATA conference system might be seen as a form of cross-subsidization. Should the CAB continue approval of such a system? Are there alternatives to such a system, on a regional or international level?

8. What would happen if all carriers opted out of conferences affecting the U.S.?

9. Are: (1) "mutual disapproval" rate articles; (2) "country of origin" rate articles; or (3) bilateral negotiations with "Bermuda I" rate articles workable substitutes for traffic conference ratemaking?

10. Is any method of staged or gradual transition to non-conference rates feasible? Would such a system allow carriers of other countries to adjust their practices and operations so that they are better able to

[15] Parties wishing to present witnesses at the hearing should indicate their intentions at the same time as their replies.

[16] Parties wishing to propose questions for witnesses should submit them separately at the same time as their replies. The Board will review the proposed questions but cannot, of course, guarantee that all will be used.

[17] An undertaking of this sort is inevitably burdened with logistical problems. All participants should strive to remain as flexible as possible in their scheduling during the week we have set aside for the hearing. Filing and service requirements will be in accordance with the Board's Rules of Procedure, 14 C.F.R. Part 302. Our present intention is to adopt all testimony into the record by motion, in order to allow the fullest possible time for the exchange and interplay of facts and opinion. Staff is available to assist any party in complying with this Order. Please contact Paul H. Karlsson, BPDA, 673–5914.

[18] A complete schedule is set forth in Appendix A. We intend to adhere to it and will require the parties to do so.

[19] All Members concurred except Member O'Melia who concurred and dissented with a concurring and dissenting statement to follow.

function successfully in an openly competitive environment?

[FR Doc. 79-15776 Filed 5-18-79; 8:45 am]

BILLING CODE 6320-01-M

COMMISSION ON CIVIL RIGHTS

Nevada Advisory Committee; Agenda and Notice of Open Meeting

Notice is hereby given, pursuant to the provisions of the Rules and Regulations of the U.S. Commission on Civil Rights, that a planning meeting of the Nevada Advisory Committee (SAC) of the Commission will convene at 7:00 pm and will end at 9:00 pm, on June 8, 1979, at the Hotel Maxim, 160 East Flamingo Road, Las Vegas, Nevada.

Persons wishing to attend this open meeting should contact the Committee Chairperson, or the Western Regional Office, 312 North Spring Street, Room 1015, Los Angeles, California 90012.

The purpose of this meeting is to discuss SAC report and to evaluate projected activities.

This meeting will be conducted pursuant to the provisions of the Rules and Regulations of the Commission.

Dated at Washington, D.C., May 15, 1979.

John I. Binkley,

Advisory Committee Management Officer.

[FR Doc. 79-15795 Filed 5-18-79; 8:45 am]

BILLING CODE 6335-01-M

Oregon Advisory Committee; Agenda and Notice of Open Meeting

Notice is hereby given pursuant to the provisions of the Rules and Regulations of the U.S. Commission on Civil Rights, that a planning meeting of the Oregon Advisory Committee (SAC) of the Commission, will convene at 1:30 pm and will end at 4:30 pm, on June 6, 1979, at the Federal Building Room 333, Third and Madison, Portland, Oregon.

Persons wishing to attend this open meeting should contact the Committee Chairperson, or the Northwestern Regional Office, 915 Second Avenue, Room 2852, Seattle, Washington 98174.

The purpose of this meeting is introduction of members and new chair; orientation for newly appointed SAC members; consideration of program issues for next project.

This meeting will be conducted pursuant to the provisions of the Rules and Regulations of the Commission.

Dated at Washington, D.C., May 16, 1979.

John I. Binkley,

Advisory Committee Management Officer.

[FR Doc. 79-15796 Filed 5-18-79; 8:45 am]

BILLING CODE 6335-01-M

DEPARTMENT OF COMMERCE

Industry and Trade Administration

President's Export Council; Notice of Meeting

Pursuant to Section 10(a)(2) of the Federal Advisory Committee Act, as amended, 5 U.S.C. App. (1976) notice is hereby given that a meeting of the President's Export Council will be held on Thursday, May 24, at 9:00 a.m. in the Department of Commerce, Room 4830. The President's Export Council was initially established by Executive Order 11753 of December 20, 1973, subsequently extended by Executive Order 11827 of January 4, 1975, Executive Order 11948 of December 20, 1976, and Executive Order 12110 of December 28, 1978. The President's Export Council was reconstituted by Executive Order 12131 of May 4, 1979, to advise the President on matters relating to United States export trade, including advice on the implementation of the President's National Export Policy. This meeting is being called on short notice because of the need to convene the Council at the earliest date and to schedule the initial meeting in order to facilitate attendance by the President and the Council members.

The agenda for the meeting will be as follows:

1. Welcoming members and opening remarks.
2. Introduction of members, objectives and structure of the President's Export Council.
3. Report on the President's National Export Policy.
4. Report on the Multilateral Trade Negotiations.
5. Comments by members on export expansion actions in their respective sectors and general discussions to identify problems to be adressed by the Council.
6. Other organizational business, announcements and plans for the next meeting.

The Council will proceed to the White House to be welcomed by the President.

A limited number of seats at the Commerce Department meeting will be available to the public on a first-come basis. The public may file written statements with the Council before or after each meeting. Oral statements may be presented at the end of the meeting to the extent that time is available.

Copies of the minutes of the meeting will be made availabe on written request, addressed to the Freedom of Information Officer, Industry and Trade Administration, Records Inspection Facility, Room 3012, U.S. Department of Commerce, Washington, D.C. 20230.

Further information concerning the President's Export Council may be obtained from Ms. Jill Feltheimer, Industry and Trade Administration, U.S. Department of Commerce, Washington, D.C. 20230, telephone (202) 377-5603.

Dated: May 17, 1979.

Peter G. Gould

Deputy Assistant Secretary for Export Development.

[FR Doc. 79-16003 Filed 5-18-79; 8:45 am]

BILLING CODE 3510-25-M

National Oceanic and Atmospheric Administration

Marine Mammals; Receipt of Application for Permit

Notice is hereby given that an Applicant has applied in due form for a Permit to take marine mammals as authorized by the Marine Mammal Protection Act of 1972 (16 U.S.C. 1361-1407), and the Regulations Governing the Taking and Importing of Marine Mammals (50 CFR Part 216).

1. Applicant:

a. Name: National Marine Mammal Laboratory, Northwest amd Alaska Fisheries Center, National Marine Fisheries Service.

b. Address: 7600 Sand Point Way N.E., Building 32, Seattle, Washington 98115.

2. Type of Permit: Scientific Research.

3. Name and Number of Animals: Northern elephant seals (*Mirounga angustirostris*), 4.

4. Type of Take: Beached and stranded animals will be held up to 6 months to study the effects of ciguatoxin on marine mammals. Two animals will be sacrificed for toxicology and histopathology studies. The two remaining animals, if successfully rehabilitated, will be returned to the facility where obtained.

5. Location of Activity: California.

6. Period of Activity: One year.

Concurrent with the publication of this notice in the **Federal Register** the Secretary of Commerce is forwarding copies of this application to the Marine Mamal Commission and the Committee of Scientific Advisors.

Written data or views, or requests for a public hearing on this application should be submitted to the Assistant Administrator for Fisheries, National Marine Fisheries Service, Department of Commerce, Washington, D.C. 20235, within 30 days of the publication of this notice. Those individuals requesting a hearing should set forth the specific reasons why a hearing on this particular application would be appropriate. The holding of such hearing is at the discretion of the Assistant Administrator for Fisheries.

All statements and opinions contained in this application are summaries of those of the Applicant and do not necessarily reflect the views of the National Marine Fisheries Service.

The arrangements and facilities for transporting and maintaining the marine mammals requested in the above described application have been inspected by a licensed veterinarian, who has certified that such arrangements and facilities are adequate to provide for the well-being of the marine mamals involved.

Documents submitted in connection with the above application are available for review in the following offices:

Assistant Administrator for Fisheries, National Marine Fisheries Service, 3300 Whitehaven Street, NW., Washington, D.C.;
Regional Director, National Marine Fisheries Service, Southwest Region, 300 South Ferry Street, Terminal Island, California 90731; and
Regional Director, National Marine Fisheries Service, Northwest Region, 1700 Westlake Avenue, North, Seattle, Washington.

Dated: May 14, 1979.

William Aron,

Director, Office of Marine Mammals and Endangered Species.

[FR Doc. 79- 15779 Filed 5-17-79; 8:45 am]

BILLING CODE 3510-22-M

New England Fishery Management Council's Scientific and Statistical Committee; Meeting

AGENCY: National Marine Fisheries Service, NOAA.

SUMMARY: The New England Fishery Management Council, established by Section 302 of the Fishery Conservation and Management Act of 1976 (Public Law 94-265), has established a Scientific and Statistical Committee (SSC) which will meet to discuss: (1) logbooks; (2) groundfish—task force and recreational; (3) Silver Hake FMP development; and (4) other business.

DATES: The meeting will convene on Monday, June 11, 1979, at approximately 9:30 a.m. and adjourn at approximately 5 p.m. The meeting is open to the public.

ADDRESS: The meeting will take place at the Carriage House, Woods Hole Oceanographic Institution, Woods Hole, Massachusetts.

FOR FURTHER INFORMATION CONTACT: New England Fishery Management Council, Peabody Office Building, One Newbury Street, Peabody, Massachusetts, Telephone: (617) 535-5450.

Dated: May 16, 1979.

Winfred H. Meibohm,

Executive Director, National Marine Fisheries Service.

[FR Doc. 79-15805 Filed 5-18-79; 8:45 am]

BILLING CODE 3510-22-M

Sea Grant Review Panel; Cancellation of Meeting

The Sea Grant Review Panel meeting scheduled for May 30 and 31, 1979, (**Federal Register**, May 3, 1979, p. 25895) has been cancelled due to Administrative difficulties.

R. L. Carnahan,

Acting Assistant Administrator for Administration.

[FR Doc. 79-15781 Filed 5-18-79; 8:45 am]

BILLING CODE 3510-22-M

DEPARTMENT OF DEFENSE

Corps of Engineers

Intent To Prepare a Draft Environmental Impact Statement (DEIS) for a Proposed Small Boat Basin on the Siuslaw River at Florence, Oreg.

AGENCY: U.S. Army Corps of Engineers (DOD).

ACTION: Notice of Intent to prepare a Draft Environmental Impact Statement (DIES).

SUMMARY: 1. The proposed project is a small boat basin to be constructed under Section 107 of the River and Harbor Act of 1960. The facility would be located at River Mile 1 on the north side of The Siuslaw River, Florence, Oregon. The facility, as proposed, would provide berths for 65 commercial boats and 250 sport boats. Space would also be provided for 10 transient commercial boats. It is anticipated that a fish-receiving station would locate at the basin.

2. Alternatives being actively evaluated are expansion of an existing facility in Florence, Oregon, 5 river miles upstream, and no action.

3. The scoping process will entail submission of a summary of the proposal to affected Federal, State, and local agencies and interested private organizations and parties to afford them the opportunity to comment on the significant issues which should be addressed in the DEIS. It is expected that among these issues will be impacts on aquatic life and land use generated by implementation of the proposal. Further agency and public input will be obtained during preparation of the DEIS and as part of the formal DEIS review process.

4. The DEIS is expected to be available to the public in February 1980.

5. Questions about the proposed action and DEIS can be answered by: District Engineer, U.S. Army Corps of Engineers, Portland District, ATTN: NPPEN-PL-3, P.O. Box 2946, Portland, Oregon 97208.

Dated: May 10, 1979.

J. C. Huetter,

Acting Chief, Engineering Division.

[FR Doc. 79-15782 Filed 5-18-79; 8:45 am]

BILLING CODE 3710-AR-M

Office of the Secretary of Defense

DOD Advisory Group on Electron Devices; Advisory Committee Meeting

The DoD Advisory Group on Electron Devices (AGED) will meet in closed session on 28 June 1979, at the National Bureau of Standards, Boulder, Colorado. 80303.

The mission of the Advisory Group is to provide the Under Secretary of Defense for Research and Engineering, the Director, Defense Advanced Research Projects Agency and the Military Departments with technical advice on the conduct of economical and effective research and development programs in the area of electron devices.

The Working Group C meeting will be limited to review of research and development programs which the Military Departments propose to initiate with industry, universities or in their laboratories. This special device area includes such programs as infrared and night vision sensors. The review will include classified program details throughout.

In accordance with 5 U.S.C. App. 1, § 10(d) (1976), it has been determined that this Advisory Group meeting concerns matters listed in 5 U.S.C. § 552b(c)(1) (1976), and that accordingly, this meeting will be closed to the public.

H. E. Lofdahl,

Director, Correspondence and Directives, Washington Headquarters Services, Department of Defense.

May 15, 1979.

[FR Doc. 79-15709 Filed 5-18-79; 8:45 am]

BILLING CODE 3810-70-M

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DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

Advisory Committee on Revision of Rules of Practice and Procedure; Subcommittee on Review of Commission Decisional Process Meeting

May 16, 1979.

Pursuant to the provisions of the Federal Advisory Committee Act (Pub. L. 92-463, 86 Stat. 770), notice is hereby given that the Subcommittee on Review of the Commission Decisional Process of the Advisory Committee on revision of Rules of Practice and Procedure will meet Friday, June 8, 1979 from 10 a.m. to 3 p.m., at the Federal Energy Regulatory Commission, 825 N. Capitol St., N.E., Hearing Room A., Washington, D.C.

The purpose of the meeting is to continue the discussions initiated at the first meeting and to provide individual members an opportunity to report on the work they have been doing since the last meeting.

The meeting is open to the public. A transcript of the meeting will be available for public review and copying at FERC's Office of Public Information, Room 1000, 825 N. Capitol St., N.E., between the hours of 8:30 a.m. and 5:00 p.m. Monday through Friday except Federal Holidays. In addition, any person may purchase a copy of the transcript from the reporter.

Kenneth F. Plumb,
Secretary.

[FR Doc. 79-15770 Filed 5-18-79; 8:45 am]
BILLING CODE 6450-01-M

[Docket No. ER79-360]

Appalachian Power Co.; Filing

May 15, 1979.

The filing Company submits the following:

Take notice that Appalachian Power Company (APCo), on May 9, 1979, tendered for filing a power sales agreement executed with the City of Salem, Virginia dated March 27, 1979. This agreement is intended to replace the existing service agreement between APCo and the City of Salem, designated by the Commission as Appalachian Power Company FERC Rate Schedule No. 77, that by its terms expired on April 1, 1979. The new agreement provides for an increase in contract capacity and a change in the term of service to April 30, 1984.

Any person desiring to be heard or to protest said application should file a petition to intervene or protest with the Federal Energy Regulatory Commission, 825 North Capitol Street, N.E., Washington, D.C. 20426, in accordance with Sections 1.8 and 1.10 of the Commission's rules of practice and procedure (18 CFR 1.8, 1.10). All such petitions or protests should be filed on or before June 4, 1979. Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceeding. Any person wishing to become a party must file a petition to intervene. Copies of this application are on file with the Commission and are available for public inspection.

Kenneth F. Plumb,
Secretary.

[FR Doc. 79-5677 Filed 5-18-79; 8:45 am]
BILLING CODE 6450-01-M

[Docket No. ER79-90]

Central Kansas Power Co., Inc.; Compliance Filing

May 15, 1979.

Take notice that on April 9, 1979, Central Kansas Power Company Inc., (CKP), tendered for filing pursuant to Ordering Paragraphs "J" and "K" of the Commission's Order issued January 31, 1979, as part of its existing FERC Electric Tariff, copies of Supplements No. 7 and No. 8 to its Rate Schedule FERC No. 1.

CKP states that the Ordering Paragraphs "J" and "K" of the Commission's January 31, 1979 Order rejected CKP's purchased power adjustment clause, granted summary disposition of the ADITC, Federal income tax rate, fuel stock and demand ratchet issues, and ordered CKP to refile its capital structure and rates to reflect the summary disposition of these issues. Supplements No. 7 and No. 8 to Rate Schedule FERC No. 1 reflects the summary disposition of the aforesaid issues, and Supplement No. 8 in addition reflects the rejection of the purchased power adjustment clause.

In addition, CKP filed herewith the following:

(a) Statement of the Nature, the reasons and the Basis for the Proposed Rate Change;

(b) Supplement No. 7 to Rate Schedule FERC No. 1;

(c) Supplement No. 8 to Rate Schedule FERC No. 1;

(d) Revised Supporting Statements A through P, as described in Section 35.13(b)(4) of the Commission's Regulations, including return, Taxes, depreciation and operating expenses, and an allocation of such costs the service rendered based on estimates for the twelve (12) consecutive months beginning immediately after the end of Period I (these Statements are also labelled "Period II" in the upper-right corner).

Any person desiring to be heard or to protest said filing should file comments or protests with the Federal Energy Regulatory Commission, 825 North Capitol St., N.E., Washington, D.C. 20426, in accordance with the Commission's rules of practice and procedure (18 CFR 1.8, 1.10). All such comments or protests should be filed on or before May 29, 1979. Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceeding. Copies of this filing are on file with the Commission and are available for public inspection.

Kenneth K. Plumb,
Secretary.

[FR Doc. 79-15678 Filed 5-18-79; 8:45 am]
BILLING CODE 6450-01-M

Crystal Oil Co., et al.; Determination by a Jurisdictional Agency Under the Natural Gas Policy Act of 1978

May 14, 1979.

On May 2, 1979, the Federal Energy Regulatory Commission received notices from the jurisdictional agencies listed below of determinations pursuant to 18 CFR 274.104 and applicable to the indicated wells pursuant to the Natural Gas Policy Act of 1978.

Railroad Commission of Texas, Oil and Gas Division

FERC Control Number: JD79-4221
API Well Number: 42-365-30605
Section of NGPA: 103
Operator: Crystal Oil Company
Well Name: Holt 1
Field: Panola
County: Panola
Purchaser: United Gas Pipeline Company
Volume: 4,000 MMcf.

FERC Control Number: JD79-4222
API Well Number: 42-365-30621
Section of NGPA: 103
Operator: Crystal Oil Company
Well Name: Gilliam 2
Field: Panola
County: Panola
Purchaser: United Gas Pipeline Company
Volume: 7,000 MMcf.

FERC Control Number: JD79-4223
API Well Number: 42-365-30612
Section of NGPA: 103
Operator: Crystal Oil Company
Well Name: Gilliam 1
Field: Panola
County: Panola
Purchaser: United Gas Pipeline Company
Volume: 7,000 MMcf.

FERC Control Number: JD79-4224
API Well Number: 42-365-30593
Section of NGPA: 103
Operator: Crystal Oil Company
Well Name: E. Douglas 2
Field: Panola
County: Panola
Purchaser: United Gas Pipeline Company
Volume: 9 MMcf.

FERC Control Number: JD79-4225
API Well Number:
Section of NGPA: 103
Operator: Crystal Oil Company
Well Name: E. Douglas 1
Field: Panola
County: Panola
Purchaser: United Gas Pipeline Company
Volume: 9 MMcf.

FERC Control Number: JD79-4226
API Well Number: 42-365-30308
Section of NGPA: 103
Operator: Crystal Oil Company
Well Name: Douglas Estate 7
Field: Panola
County: Panola
Purchaser: United Gas Pipeline Company
Volume: 55,000 MMcf.

FERC Control Number: JD79-4227
API Well Number: 42-365-30310
Section of NGPA: 103
Operator: Crystal Oil Company
Well Name: Douglas Estate 6
Field: Panola
County: Panola
Purchaser: United Gas Pipeline Company
Volume: 55,000 MMcf.

FERC Control Number: JD79-4228
API Well Number: 42-365-30174
Section of NGPA: 103
Operator: Crystal Oil Company
Well Name: Douglas Estate 5
Field: Panola
County: Panola
Purchaser: United Gas Pipeline Company
Volume: 55,000 MMcf.

FERC Control Number: JD79-4229
API Well Number: 42-365-30300
Section of NGPA: 103
Operator: Crystal Oil Company
Well Name: Douglas Estate 4
Field: Panola
County: Panola
Purchaser: United Gas Pipeline Company
Volume: 55,000 MMcf.

FERC Control Number: JD79-4230
API Well Number: 42-365-30298
Section of NGPA: 103
Operator: Crystal Oil Company
Well Name: Douglas Estate 2
Field: Panola
County: Panola
Purchaser: United Gas Pipeline Company
Volume: 55,000 MMcf.

FERC Control Number: JD79-4231
API Well Number: 42-365-30600
Section of NGPA: 103
Operator: Crystal Oil Company
Well Name: Caldwell 4
Field: Panola
County: Panola
Purchaser: United Gas Pipeline Company
Volume: 13,000 MMcf.

FERC Control Number: JD79-4232
API Well Number: 42-365-30599
Section of NGPA: 103
Operator: Crystal Oil Company
Well Name: Caldwell 3
Field: Panola
County: Panola
Purchaser: United Gas Pipeline Company
Volume: 13,000 MMcf.

FERC Control Number: JD79-4233
API Well Number: 42-365-30598
Section of NGPA: 103
Operator: Crystal Oil Company
Well Name: Caldwell 2
Field: Panola
County: Panola
Purchaser: United Gas Pipeline Company
Volume: .13 MMcf.

FERC Control Number: JD79-4234
API Well Number: 42-365-30309
Section of NGPA: 103
Operator: Crystal Oil Company
Well Name: Caldwell 1
Field: Panola
County: Panola
Purchaser: United Gas Pipeline Company
Volume: 13,000 MMcf.

FERC Control Number: JD79-4235
API Well Number: 42-365-30789
Section of NGPA: 103
Operator: Crystal Oil Company
Well Name: Anderson 1
Field: Panola
County: Panola
Purchaser: United Gas Pipeline Company
Volume: .8 MMcf.

FERC Control Number: JD79-4236
API Well Number: 42-239-31244
Section of NGPA: 103
Operator: Sovereign Exploration Company
Well Name: Sovereign No. 1 E. H. Seidel
Field: Edna East
County: Jackson
Purchaser: Tennessee Gas Pipeline
Volume: 190 MMcf.

FERC Control Number: JD79-4237
API Well Number: 42-025-30953
Section of NGPA: 103
Operator: Sovereign Exploration Company
Well Name: Sovereign No. Ella May
Field: Blanconia
County: Bee
Purchaser: United Gas Pipeline Company
Volume: 55 MMcf.

FERC Control Number: JD79-4238
API Well Number: 42-365-30282
Section of NGPA: 103
Operator: Pennzoil Producing Company
Well Name: Hull A-13L
Field: Carthage Cotton Valley
County: Panola
Purchaser: United Gas Pipeline Company
Volume: 240 MMcf.

FERC Control Number: JD79-4239
API Well Number: 4236530274
Section of NGPA: 103
Operator: Pennzoil Producing Company
Well Name: Mangham Unit No. 3
Field: Carthage Cotton Valley
County: Panola
Purchaser: United Gas Pipe Line Company
Volume: 450 MMcf.

FERC Control Number: JD79-4240
API Well Number:
Section of NGPA: 103
Operator: Key Production Company
Well Name: Longino, et al 79380
Field: Carthage Cotton Valley
County: Panola
Purchaser: Arkansas Louisiana Gas Company
Volume:

FERC Control Number: JD79-4241
API Well Number:
Section of NGPA: 103
Operator: Key Production Company
Well Name: Ruby Dodd 1 78938
Field: Carthage Cotton Valley
County: Panola
Purchaser: Arkansas Louisiana Gas Company
Volume:

FERC Control Number: JD79-4242
API Well Number: 42-495-30908
Section of NGPA: 103
Operator: Bass Enterprises Production Company
Well Name: J. B. Walton No. 74
Field: Keystone
County: Winkler
Purchaser: Transwestern Pipeline Company
Volume: 98 MMcf.

FERC Control Number: JD79-4243
API Well Number: 42-495-30917
Section of NGPA: 103
Operator: Bass Enterprises Production Company
Well Name: J. B. Walton "E" No. 76
Field: Keystone
County: Winkler
Purchaser: Transwestern Pipeline Company
Volume: 59 MMcf.

FERC Control Number: JD79-4244
API Well Number: 42-495-30969
Section of NGPA: 103
Operator: Bass Enterprises Production Company
Well Name: Gulf Jenkins No. 10
Field: Keystone
County: Winkler
Purchaser: Transwestern Pipeline Company
Volume: 11 MMcf.

FERC Control Number: JD79-4245
API Well Number: 42-495-30915
Section of NGPA: 103
Operator: Bass Enterprises Production Company
Well Name: M. J. Bashara No. 59
Field: Keystone
County: Winkler
Purchaser: Transwestern Pipeline Company
Volume: 90 MMcf.

FERC Control Number: JD79-4246
API Well Number: 42-335-31227
Section of NGPA: 103
Operator: Sun Oil Company
Well Name: H. McKinney No. 1
Field: Jameson North Strawn
County: Mitchell
Purchaser: Lone Star Gas Company
Volume: 3 MMcf.

FERC Control Number: JD79-4247
API Well Number: 42-335-31182
Section of NGPA: 103
Operator: Sun Oil Company
Well Name: Frankie Stubblefield No. 7
Field: Jameson North Strawn
County: Mitchell

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Purchaser: Lone Star Gas Company
Volume: 57 MMcf.

FERC Control Number: JD79–4248
API Well Number: 42–335–31168
Section of NGPA: 103
Operator: Sun Oil Company
Well Name: Frankie Stubblefield No. 6
Field: Jameson N. Strawn
County: Mitchell
Purchaser: Lone Star Gas Company
Volume: 6 MMcf.

FERC Control Number: JD79–4249
API Well Number: 42–335–30853
Section of NGPA: 103
Operator: Sun Oil Company
Well Name: Frankie Stubblefield No. 4
Field: Jameson North Strawn
County: Mitchell
Purchaser: Lone Star Gas Company
Volume: 157 MMcf.

FERC Control Number: JD79–4250
API Well Number: 42–335–31235
Section of NGPA: 103
Operator: Sun Oil Company
Well Name: F. Stubblefield "A" No. 2
Field: Jameson North Strawn
County: Mitchell
Purchaser: Lone Star Gas Company
Volume: 25 MMcf.

FERC Control Number: JD79–4251
API Well Number: 42–335–30835
Section of NGPA: 103
Operator: Sun Oil Company
Well Name: F. Stubble Field No. 2
Field: Jameson North Strawn
County: Mitchell
Purchaser: Lone Star Gas Company
Volume: 35 MMcf.

FERC Control Number: JD79–4252
API Well Number: 42–335–30900
Section of NGPA: 103
Operator: Sun Oil Company
Well Name: F. Stubblefield "A" No. 1
Field: Jameson North Strawn
County: Mitchell
Purchaser: Lone Star Gas Company
Volume: 123 MMcf.

FERC Control Number: JD79–4253
API Well Number: 42–335–30902
Section of NGPA: 103
Operator: Sun Oil Company
Well Name: Dortha Rannefeld No. 1
Field: Jameson North Strawn
County: Mitchell
Purchaser: Lone Star Gas Company
Volume: 39 MMcf.

FERC Control Number: JD79–4254
API Well Number: 42–165–31243
Section of NGPA: 103
Operator: Mobil Oil Corporation
Well Name: H & J Sec 127–B No. 7
Field: GMK SO (San Andres)
County: Gaines
Purchaser: Phillips Petroleum Company
Volume: 8.5 MMcf.

The applications for determination in these proceedings together with a copy or description of other materials in the record on which such determinations were made are available for inspection, except to the extent such material is treated as confidential under 18 CFR 275.206, at the Commission's Office of Public Information, Room 1000, 825 North Capitol Street, N.E., Washington, D.C. 20426.

Persons objectiong to any of these final determinations may, in accordance with 18 CFR 275.203 and 18 CFR 275.204, file a protest with the Commission on or before June 5, 1979. Please reference the FERC Control Number in any correspondence concerning a determination.

Kenneth F. Plumb,
Secretary.

[FR Doc. 79–15697 Filed 5–18–79; 8:45 am]
BILLING CODE 6450–01–M

[Docket No. ER79–359]

Electric Energy, Inc.; Notice of Filing

May 15, 1979.

The filing Company submits the following: Take notice that on May 8, 1979, Electric Energy, Inc. (EEInc.) tendered for filing a supplement to Rate Schedule FERC No. 8, dated April 27, 1979, and entitled "Fifth Revised Service Schedule B" to the Interim Supplemental and Surplus Power Agreement, Amendment No. 5. This agreement is between EEInc. and its Sponsoring Companies: Central Illinois Public Service Company (CIPS), Illinois Power Company (IP), Kentucky Utilities Company (KU), and Union Electric Company (UE). The Sponsoring Companies concurred in the filing. EEInc. states that Fifth Revised Service Schedule B provides for an increase in the reservation charge for the supply of Supplemental Power by the Sponsoring Companies to EEInc.

EEInc. states that the reason for the increase is to cover the Sponsoring Companies' increased costs and to set the reservation charge at a level that is competitive with other reservation charges prevailing in the Companies' service areas.

The Company requests that Fifth Revised Service Schedule B be permitted to become effective on July 1, 1979.

According to EEInc. copies of this filing have been sent to the Sponsoring Companies, the Illinois Commerce Commission, the Kentucky Energy Regulatory Commission, and the United States Department of Energy.

Any person desiring to be heard or to protest said filing should file a petition to intervene or protest with the Federal Energy Regulatory Commission, 825 North Capitol Street, N.E., Washington, D.C. 20426, in accordance with Sections 1.8 and 1.10 of the Commission's Rules of Practice and Procedure (18 C.F.R. 1.8, 1.10). All such petitions or protests should be filed on or before June 4, 1979. Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceeding. Any person wishing to become a party must file a petition to intervene. Copies of this filing are on file with the Commission and are available for public inspection.

Kenneth F. Plumb,
Secretary.

[FR Doc. 79–15679 Filed 5–18–79; 8:45 am]
BILLING CODE 6450–01–M

[Docket No. ES79–41]

El Paso Electric Co.; Application

May 15, 1979.

Take notice that on May 8, 1979, El Paso Electric Company (Applicant) filed an application with the Commission, pursuant to section 204 of the Federal Power Act and Part 34 of the Commission's regulations for authority to negotiate the private placement of up to $15 million of new Preferred Stock. The Applicant is a Texas Corporation, with its principal office at El Paso, Texas, and is engaged in the electric utility business in Texas and New Mexico.

The net proceeds from the sale of the Preferred Stock will be used to repay short-term debt outstanding.

Any person desiring to be heard or to make any protest with reference to the application should on or before June 1, 1979, file with the Federal Energy Regulatory Commission, 825 North Capitol Street, N.E., Washington, D.C. 20426, petitions or protests in accordance with the Commission's rules of practice and procedure (18 CFR 1.8 or 1.10). The application is on file with the Commission and is available for public inspection.

Kenneth F. Plumb,
Secretary.

[FR Doc. 79–15680 Filed 5–18–79; 8:45 am]
BILLING CODE 6450–01–M

El Paso Natural Gas Co.; Determination by a Jurisdictional Agency Under the Natural Gas Policy Act of 1978

May 14, 1979

On May 8, 1979, the Federal Energy Regulatory Commission received notices from the jurisdictional agencies listed below of determinations pursuant to 18 CFR 274.104 and applicable to the indicated wells pursuant to the Natural Gas Policy Act of 1978.

New Mexico Oil Conservation Division

FERC Control Number: JD79–5654
API Well Number: 30039211690000
Section of NGPA: 108
Operator: El Paso Natural Gas Company
Well Name: Lindrith Unit Com 68
Field: Blanco, South-Pictured Cliffs Gas
County: Rio Arriba
Purchaser: El Paso Natural Gas Company
Volume: 17.0 MMcf.

FERC Control Number: JD79–5655
API Well Number: 30039213340000
Section of NGPA: 108
Operator: El Paso Natural Gas Company
Well Name: Lindrith Unit Com 91
Field: Blanco, South-Pictured Cliffs Gas
County: Rio Arriba
Purchaser: El Paso Natural Gas Company
Volume: 16.0 MMcf.

FERC Control Number: JD79–5656
API Well Number: 30039213330000
Section of NGPA: 108
Operator: El Paso Natural Gas Company
Well Name: Lindrith Unit Com 92
Field: Blanco, South-Pictured Cliffs Gas
County: Rio Arriba
Purchaser: El Paso Natural Gas Company
Volume: 9.0 MMcf.

The applications for determination in these proceedings together with a copy or description of other materials in the record on which such determinations were made are available for inspection, except to the extent such material is treated as confidential under 18 CFR 275.206, at the Commission's Office of Public Information, Room 1000, 825 North Capitol Street, N.E., Washington, D.C. 20426.

Persons objecting to any of those final determinations may, in accordance with 18 CFR 275.203 and 18 CFR 275.204, file a protest with the Commission on or before June 5, 1979. Please reference the FERC Control Number in any correspondence concerning a determination.

Kenneth F. Plumb,
Secretary.

[FR Doc. 79–15693 Filed 5–18–79; 8:45 am]
BILLING CODE 6450–01–M

Enserch Exploration, Inc.; Determination by a Jurisdictional Agency Under the Natural Gas Policy Act of 1978

May 14, 1979.

On April 25, 1979, the Federal Energy Regulatory Commission received notices from the jurisdictional agencies listed below of determinations pursuant to 18 CFR 274.104 and applicable to the indicated wells pursuant to the Natural Gas Policy Act of 1978.

State Oil and Gas Board of Alabama

FERC Control Number: JD79–4155
API Well Number: 01–057–20107
Section of NGPA: 103
Operator: Enserch Exploration, Inc.
Well Name: T. Rowland No. 1
Field: Fayette West (Carter)
County: Fayette
Purchaser: Coronado Transmission Company
Volume: 40 MMcf.

The applications for determination in these proceedings together with a copy or description of other materials in the record on which such determinations were made are available for inspection, except to the extent such material is treated as confidential under 18 CFR 275.206, at the Commission's Office of Public Information, Room 1000, 825 North Capitol Street, N.E., Washington, D.C. 20426.

Persons objecting to any of those final determinations may, in accordance with 18 CFR 275.203 and 18 CFR 275.204, file a protest with the Commission on or before June 5, 1979. Please reference the FERC Control Number in any correspondence concerning a determination.

Kenneth F. Plumb,
Secretary.

[FR Doc. 79–15699 Filed 5–18–79; 8:45 am]
BILLING CODE 6450–01–M

Exxon Corp. et al.; Determination by a Jurisdictional Agency Under the Natural Gas Policy Act of 1978

May 14, 1979.

On May 2, 1979, the Federal Energy Regulatory Commission received notices from the jurisdictional agencies listed below of determinations pursuant to 18 CFR 274.104 and appliable to the indicated wells pursuant to the Natural Gas Policy Act of 1978.

Railroad Commission of Texas Oil and Gas Division

FERC Control Number: JD79–4170
API Well Number: 42–261–30233
Section of NGPA: 103
Operator: Exxon Corporation
Well Name: Mrs. S. K. East Well No. 86–D
Field: Rita (7–E, II)
County: Kenedy
Purchaser: Natural Gas Pipeline Company.
Volume: 183 MMcf.

FERC Control Number: JD79–4171
API Well Number: 42–495–30985
Section of NGPA: 103
Operator: Bass Enterprises Production Co.
Well Name: J. B. Walton No. 85
Field: Keystone
County: Winkler
Purchaser: Transwestern Pipeline Company
Volume: 127 MMcf.

FERC Control Number: JD79–4172
API Well Number: 42–219–32383
Section of NGPA: 103
Operator: Bass Enterprises Production Co.
Well Name: Slaughter Unit No. 1 Well No. 10
Field: Slaughter
County: Hockley
Purchaser: Amoco Production Company
Volume: 7 MMcf.

FERC Control Number: JD79–4173
API Well Number: 42–495–30959
Section of NGPA: 103
Operator: Bass Enterprises Production Company
Well Name: J. B. Walton No. 83
Field: Keystone
County: Winkler
Purchaser: Transwestern Pipeline Company
Volume: 163 MMcf.

FERC Control Number: JD79–4174
API Well Number: 42–495–30950
Section of NGPA: 103
Operator: Bass Enterprises Production Company
Well Name: J. B. Walton No. 82
Field: Keystone
County: Winkler
Purchaser: Transwestern Pipeline Company
Volume: 101 MMcf.

FERC Control Number: JD79–4175
API Well Number: 42–495–30940
Section of NGPA: 103
Operator: Bass Enterprises Production Company
Well Name: J. B. Walton No. 80
Field: Keystone
County: Winkler
Purchaser: Transwestern Pipeline Company
Volume: 140 MMcf.

FERC Control Number: JD79–4176
API Well Number: 42–495–30923
Section of NGPA: 103
Operator: Bass Enterprises Production Company
Well Name: J. B. Walton No. 77
Field: Keystone
County: Winkler
Purchaser: Transwestern Pipeline Company
Volume: 57 MMcf.

FERC Control Number: JD79–4177
API Well Number: 42–495–30978
Section of NGPA: 103
Operator: Bass Enterprises Production Company
Well Name: M. J. Bashara No. 63
Field: Keystone
County: Winkler
Purchaser: Transwestern Pipeline Company
Volume: 38 MMcf.

FERC Control Number: JD79–4178
API Well Number: 42–605–30052
Section of NGPA: 103
Operator: Mitchell Energy Offshore Corp.
Well Name: State Tract 179–S No. 2
Field: Block 176–S (Miocene S–4, FB–1)
County: Galveston
Purchaser: Natural Gas Pipeline Co. of America
Volume: 38.5 MMcf.

FERC Control Number: JD79–4179
API Well Number:
Section of NGPA: 103
Operator: Michel T. Halbouty
Well Name: Rocker "B" LSE No. 10
Field: Sprayberry
County: Reagan
Purchaser: El Paso Natural Gas Company
Volume: 13 MMcf.

FERC Control Number: JD79–4180

API Well Number:
Section of NGPA: 103
Operator: Geo. O. Shettle
Well Name: T. D. Blessing No. 1
Field: Nemec
County: Nueces County, Texas
Purchaser: Tennessee Gas Pipeline
Volume: 140,000 MMcf.

FERC Control Number: JD79–4181
API Well Number:
Section of NGPA: 103
Operator: Michel T. Halbouty
Well Name: Rocker "B" LSE No. 6
Field: Sprayberry
County: Reagan
Purchaser: El Paso Natural Gas Co.
Volume: 14 MMcf.

FERC Control Number: JD79–4182
API Well Number: 42–165–30604
Section of NGPA: 103
Operator: Mobil Oil Corporation
Well Name: Tom May No. 9
Field: Cmk So. San Andres
County: Gaines
Purchaser: Phillips Petroleum Company
Volume: 5.0 MMcf.

FERC Control Number: JD79–4183
API Well Number: 42–165–30632
Section of NGPA: 103
Operator: Mobile Oil Corporation
Well Name: W. A. Lindsey "B" No. 1
Field: GMK So. San Andres
County: Gaines
Purchaser: Phillips Petroleum Company
Volume: 1.8 MMcf.

FERC Control Number: JD79–4184
API Well Number: 42–165–3–699
Section of NGPA: 103
Operator: Mobil Oil Corporation
Well Name: H & J Sec. 127–B No. 2
Field: GMK So. San Andres
County: Gaines
Purchaser: Phillips Petroleum Company
Volume: 6.0 MMcf.

FERC Control Number: JD79–4185
API Well Number: 42–165–31188
Section of NGPA: 103
Operator: Mobil Oil Corporation
Well Name: John Braddock No. 3
Field: GMK So. San Andres
County: Gaines
Purchaser: Phillips Petroleum Company
Volume: .400 MMcf.

FERC Control Number: JD79–4186
API Well Number: 42–165–31170
Section of NGPA: 103
Operator: Mobil Oil Corporation
Well Name: Tom May No. 25
Field: GMK So. San Andres
County: Gaines
Purchaser: Phillips Petroleum Company
Volume: 5.8 MMcf.

FERC Control Number: JD79–4187
API Well Number: 42–165–31200
Section of NGPA: 103
Operator: Mobil Oil Corporation
Well Name: Tom May No. 17
Field: GMK So. San Andres
County: Gaines
Purchaser: Phillips Petroleum Company
Volume: .730 MMcf.

FERC Control Number: JD79–4188
API Well Number: 42–165–30633
Section of NGPA: 103
Operator: Mobile Oil Corporation
Well Name: Tom May No. L#
Field: GMK So. San Andres
County: Gaines
Purchaser: Phillips Petroleum Company
Volume: 5.0 MMcf.

FERC Control Number: JD79–4189
API Well Number: 42–165–30628
Section of NGPA: 103
Operator: Mobile Oil Corporation
Well Name: Tom May No. 10
Field: GMK So. San Andres
County: Gaines
Purchaser: Phillips Petroleum Company
Volume: 2.5 MMcf.

FERC Control Number: JD79–4190
API Well Number: 42–165–30648
Section of NGPA: 103
Operator: Mobile Oil Corporation
Well Name: Tom May No. 15
Field: GMK So. San Andres
County: Gaines
Purchaser: Phillips Petroleum Company
Volume: 11.0 MMcf.

FERC Control Number: JD79–4191
API Well Number: 42–175–31157
Section of NGPA: 103
Operator: SA–GU Corporation
Well Name: Lambert Heirs Well No. 2
Field: Circle A
County: Goliad
Purchaser: United Gas Pipe Line Co.
Volume: 91 MMcf.

FERC Control Number: JD79–4192
API Well Number: 42–105–30199
Section of NGPA: 108
Operator: Shenandoah Oil Corporation
Well Name: Glegg 1–61 No. 1
Field: Ozona Canyon Sand
County: Crockett
Purchaser: Northern Natural Gas Company
Volume: 1 MMcf.

FERC Control Number: JD79–4193
API Well Number:
Section of NGPA: 103
Operator: Michel T. Halbouty
Well Name: Rocker "B" LSE No. 4
Field: Sprayberry
County: Reagan
Purchaser: El Paso Natural Gas Company
Volume: 13 MMcf.

FERC Control Number: JD79–4194
API Well Number: 42–105–30216
Section of NGPA: 108
Operator: Shenandoah Oil Corporation
Well Name: Clegg 1–83
Field: Ozona Canyon Sand
County: Crockett
Purchaser: Northern Natural Gas Company
Volume: 12 MMcf.

The applications for determination in these proceedings together with a copy or description of other materials in the record on which such determinations were made are available for inspection, except to the extent such material is treated as confidential under 18 CFR 275.206, at the Commission's Office of Public Information, Room 1000, 825 North Capitol Street, N.E., Washington, D.C. 20426.

Persons objecting to any of those final determinations may, in accordance with 18 CFR 275.203 and 18 CFR 275.204, file a protest with the Commission on or before June 5, 1979. Please reference the FERC Control Number in any correspondence concerning a determination.

Kenneth F. Plumb,

Secretary.

[FR Doc. 79–15696 Filed 5–18–79; 8:45 am]

BILLING CODE 6450–01

[Docket No. ER79–363]

Florida Power & Light Co.; Revised Exhibit A

May 15, 1979.

The filing Company submits the following: Take notice that on May 9, 1979, Florida Power & Light Company (FPL) tendered for filing a revised Exhibit A which provides for a change in voltage level to Lee County Electric Cooperative, Inc. at the Lee delivery point.

FPL proposes an effective date of April 16, 1979, and therefore requests waiver of the Commission's notice requirements.

Any person desiring to be heard or to protest said filing should file a petition to intervene or protest with the Federal Energy Regulatory Commission, 825 North Capitol Street, N.E., Washington, D.C., 20426, in accordance with Sections 1.8 and 1.10 of the Commission's rules of practice and procedure (18 CFR 1.8, 1.10). All such petitions or protests should be filed on or before June 4, 1979. Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceeding. Any person wishing to become a party must file a petition to intervene. Copies of this filing are on file with the Commission and are available for public inspection.

Kenneth F. Plumb,

Secretary.

[FR Doc. 79–15681 Filed 5–18–79; 8:45 am]

BILLING CODE 640–01–M

IMC Exploration Co. et al.; Determination by a Jurisdictional Agency Under the Natural Gas Policy Act of 1978

May 14, 1979.

On May 2, 1979, the Federal Energy Regulatory Commission received notices from the jurisdictional agencies listed below of determinations pursuant to 18 CFR 274.104 and applicable to the indicated wells pursuant to the Natural Gas Policy Act of 1978.

State of Louisiana, Department of Natural Resources, Office of Conservation

FERC Control Number: JD79–3494
API Well Number: 17–111–00242
Section of NGPA: 108
Operator: IMC Exploration Company
Well Name: Grayling Lbr. #58
Field: Monroe Gas Field
County: Union
Purchaser: Mid Louisiana Gas Company
Volume: 8.8 MMcf.

FERC Control Number: JD79–3495
API Well Number: 17–071–20020
Section of NGPA: 103
Operator: Florida Gas Exploration Co.
Well Name: L&N Railroad No. 6
Field: Unknown Pass
County: Orleans Parish
Purchaser: Southern Natural Gas Company
Volume: 1,300 MMcf.

FERC Control Number: JD79–3496
API Well Number: 17–015–010190000
Section of NGPA: 108
Operator: Pennzoil Producing Company
Well Name: Webb No. A–1
Field: Sligo
County: Bossier
Purchaser: United Gas Pipe Line Company
Volume: 17 MMcf.

FERC Control Number: JD79–3497
API Well Number: 17–073–21056
Section of NGPA: 108
Operator: Lobo Oil & Gas Corporation
Well Name: Phillips #1
Field: Monroe Gas
County: Ouachita Parish
Purchaser: United Gas Pipe Line Company
Volume: 4.2 MMcf.

FERC Control Number: JD79–3498
API Well Number: 17–073–21058
Section of NGPA: 108
Operator: Lobo Oil & Gas Corporation
Well Name: Phillips #2
Field: Monroe Gas
County: Ouachita Parish
Purchaser: United Gas Pipe Line Company
Volume: 3.4 MMcf.

FERC Control Number: JD79–3499
API Well Number: 17–073–21059
Section of NGPA: 108
Operator: Lobo Oil & Gas Corporation
Well Name: Phillips #3
Field: Monroe Gas
County: Ouachita Parish
Purchaser: United Gas Pipe Line Company
Volume: 3.1 MMcf.

FERC Control Number: JD79–3500
API Well Number: 17–073–21060
Section of NGPA: 108
Operator: Lobo Oil & Gas Corporation
Well Name: Phillips #4
Field: Monroe Gas
County: Ouachita Parish
Purchaser: United Gas Pipe Line Company
Volume: 4.0 MMcf.

FERC Control Number: JD79–3501
API Well Number: 17–073–21061
Section of NGPA: 108
Operator: Lobo Oil & Gas Corporation
Well Name: Phillips #5
Field: Monroe Gas
County: Ouachita Parish
Purchaser: United Gas Pipe Line Company
Volume: 4.2 MMcf.

FERC Control Number: JD79–3502
API Well Number: 17–073–21062
Section of NGPA: 108
Operator: Lobo Oil & Gas Corporation
Well Name: Phillips #6
Field: Monroe Gas
County: Ouachita Parish
Purchaser: United Gas Pipe Line Company
Volume: 6.4 MMcf.

FERC Control Number: JD79–3503
API Well Number: 17–073–21083
Section of NGPA: 108
Operator: Lobo Oil & Gas Corporation
Well Name: Phillips #7
Field: Monroe Gas
County: Ouachita Parish
Purchaser: United Gas Pipe Line Company
Volume: 3.6 MMcf.

FERC Control Number: JD79–3504
API Well Number: 17–073–21084
Section of NGPA: 108
Operator: Lobo Oil & Gas Corporation
Well Name: Phillips #8
Field: Monroe Gas
County: Ouachita Parish
Purchaser: United Gas Pipe Line Company
Volume: 3.9 MMcf.

FERC Control Number: JD79–3505
API Well Number: 17–073–21086
Section of NGPA: 108
Operator: Lobo Oil & Gas Corporation
Well Name: Phillips #9
Field: Monroe Gas
County: Ouachita Parish
Purchaser: United Gas Pipe Line Company
Volume: 3.9 MMcf.

FERC Control Number: JD79–3506
API Well Number: 17–027–20059
Section of NGPA: 108
Operator: Hassie Hunt Exploration Company
Well Name: H'ville B Suc Harrell B 2 125978
Field: Lisbon
County: Claiborne
Purchaser: Texas Eastern Transmission Corp.
Volume: 5* MMcf.

FERC Control Number: JD79–3507
API Well Number: 17–109–22104
Section of NGPA: 103
Operator: Union Oil Company of California
Well Name: L. V. Gaidry Well No. 1
Field: Houma
County: Terrebonne Parish
Purchaser: United Gas Pipeline Company
Volume: 900 MMcf.

FERC Control Number: JD79–3508
API Well Number: 17–109–22103
Section of NGPA: 103
Operator: Union Oil Company of California
Well Name: Calvert & Todd Well No. 10
Field: Houma
County: Terrebonne Parish
Purchaser: United Gas Pipe Line Company
Volume: 900 MMcf.

FERC Control Number: JD79–3509
API Well Number: 17–027–20472
Section of NGPA: 103
Operator: Tideway Oil Programs, Inc.
Well Name: Nolan Shaw No. 2
Field: Leatherman Creek
County: Claiborne
Purchaser: Louisiana Gas Intrastate, Inc.
Volume: 100 MMcf.

FERC Control Number: JD79–3510
API Well Number: 17–027–20154
Section of NGPA: 108
Operator: Hassie Hunt Exploration Company
Well Name: H'ville B. Sua Deason #1 Serial No. 13449
Field: Lisbon
County: Claiborne
Purchaser: Texas Eastern Treansmission Corp.
Volume: 1.4* MMcf.

FERC Control Number: JD79–3511
API Well Number: 17–101–21033
Section of NGPA: 103
Operator: Texaco Inc.
Well Name: SL 340 West Cote Blanche Bay #720
Field: West Cote Blanche Bay
County: St. Mary Parish
Purchaser: Michigan Wisconsin Pipe Line Co.
Volume: 870 MMcf.

FERC Control Number: JD79–3512
API Well Number: 17–045–20545
Section of NGPA: 103
Operator: Texaco Inc.
Well Name: SL 334 Vermilion Bay #B–72
Field: Vermilion Bay
County: Iberia Parish
Purchaser: Columbia Gas Transmission Corp.
Volume: 548 MMcf.

FERC Control Number: JD79–3513
API Well Number: 17–045–20539
Section of NGPA: 103
Operator: Texaco Inc.
Well Name: SL 334 Vermilion Bay #B–71
Field: Vermilion Bay
County: Iberia Parish
Purchaser: Columbia Gas Transmission Corp.
Volume: 438 MMcf.

FERC Control Number: JD79–3514
API Well Number: 17–045–20486
Section of NGPA: 103
Operator: Texaco Inc.
Well Name: SL 334 Vermilion Bay #B–66
Field: Vermilion Bay
County: Iberia Parish
Purchaser: Columbia Gas Transmission Corp.
Volume: 158 MMcf.

FERC Control Number: JD79–3515
API Well Number: 17057214230000
Section of NGPA: 103
Operator: Gulf Oil Corporation
Well Name: Delata Securities Co. Inc. Well #122
Field: Bully Camp
County: Lafourche
Purchaser: Tennessee Gas Pipeline Co.
Volume: 54 MMcf.

FERC Control Number: JD79–3516
API Well Number: 17–111–01681
Section of NGPA: 108
Operator: IMC Exploration Company
Well Name: Montgomery B #68
Field: Monroe Gas Field
County: Union
Purchaser: Mid Louisiana Gas Company
Volume: 11.3 MMcf.

FERC Control Number: JD79–3517
API Well Number: 17–111–01680
Section of NGPA: 108
Operator: IMC Exploration Company

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Well Name: Montgomer B #71
Field: Monroe Gas Field
County: Union
Purchaser: Mid Louisiana Gas Company
Volume: 8.8 MMcf.

FERC Control Number: JD79–3518
API Well Number:
Section of NGPA: 108
Operator: IMC Exploration Company
Well Name: Moore B #2
Field: Monroe Gas Field
County: Ouachita
Purchaser: Mid Louisiana Gas Company
Volume: 7.1 MMcf.

FERC Control Number: JD79–3519
API Well Number: 17–073–00021
Section of NGPA: 108
Operator: IMC Exploration Company
Well Name: Moore B #4
Field: Monroe Gas Field
County: Ouachita
Purchaser: Mid Louisiana Gas Company
Volume: 3.2 MMcf.

FERC Control Number: JD79–3520
API Well Number: 17–073–00046
Section of NGPA: 108
Operator: IMC Exploration Company
Well Name: Moore B #5
Field: Monroe Gas Field
County: Ouachita
Purchaser: Mid Louisiana Gas Company
Volume: 4.7 MMcf.

FERC Control Number: JD79–3521
API Well Number:
Section of NGPA: 108
Operator: IMC Exploration Company
Well Name: Morris #1
Field: Monroe Gas Field
County: Union
Purchaser: Mid Louisiana Gas Company
Volume: 2.9 MMcf.

FERC Control Number: JD79–3522
API Well Number: 17–111–01409
Section of NGPA: 108
Operator: IMC Exploration Company
Well Name: Navarro #1
Field: Monroe Gas Field
County: Union
Purchaser: Mid Louisiana Gas Company
Volume: 8.3 MMcf.

FERC Control Number: JD79–3523
API Well Number: 17–067–20026
Section of NGPA: 108
Operator: IMC Exploration Company
Well Name: J. B. Miles #F–15
Field: Monroe Gas Field
County: Morehouse
Purchaser: Mid Louisiana Gas Company
Volume: 16.2 MMcf.

FERC Control Number: JD79–3524
API Well Number: 17–067–20049
Section of NGPA: 108
Operator: IMC Exploration Company
Well Name: J. B. Miles #F–43
Field: Monroe Gas Field
County: Morehouse
Purchaser: Mid Louisiana Gas Company
Volume: 8.2 MMcf.

FERC Control Number: JD79–3525
API Well Number: 17–067–20106
Section of NGPA: 108
Operator: IMC Exploration Company
Well Name: J. B. Miles #F–46
Field: Monroe Gas Field
County: Morehouse
Purchaser: Mid Louisiana Gas Company
Volume: 9.6 MMcf.

FERC Control Number: JD79–3526
API Well Number: 17–067–20119
Section of NGPA: 108
Operator: IMC Exploration Company
Well Name: J. B. Miles #F–52
Field: Monroe Gas Field
County: Morehouse
Purchaser: Mid Louisiana Gas Company
Volume: 10.2 MMcf.

FERC Control Number: JD79–3527
API Well Number: 1706720118
Section of NGPA: 108
Operator: IMC Exploration Company
Well Name: J. B. Miles #F–53
Field: Monroe Gas Field
County: Morehouse
Purchaser: Mid Louisiana Gas Company
Volume: 7.1 MMcf.

FERC Control Number: JD79–3528
API Well Number: 171101811
Section of NGPA: 108
Operator: IMC Exploration Company
Well Name: Montgomery #58
Field: Monroe Gas Field
County: Union
Purchaser: Mid Louisiana Gas Company
Volume: 15.8 MMcf.

FERC Control Number: JD79–3529
API Well Number: 1711101809
Section of NGPA: 108
Operator: IMC Exploration Company
Well Name: Montgomery #61
Field: Monroe Gas Field
County: Union
Purchaser: Mid Louisiana Gas Company
Volume: 8.0 MMcf.

FERC Control Number: JD79–3530
API Well Number: 17031203500000
Section of NGPA: 108
Operator: E. Conway Butts, Inc.
Well Name: P SU BB; Ramsey Unit No. 1
Field: Belle Bower
County: De Soto
Purchaser: Arkansas Louisiana Gas Company
Volume: 17.5 MMcf.

FERC Control Number: JD79–3531
API Well Number: 17031203560000
Section of NGPA: 108
Operator: E. Conway Butts, Inc.
Well Name: P Suy; M W Wells No. 1
Field: Belle Bower
County: De Soto
Purchaser: Arkansas Louisiana Gas Company
Volume: 3.2 MMcf.

FERC Control Number: JD79–3532
API Well Number: 17031203800000
Section of NGPA: 108
Operator: E. Conway Butts, Inc.
Well Name: P SU GG; Ramsey No. 2
Field: Belle Bower
County: De Soto
Purchaser: Arkansas Louisiana Gas Company
Volume: 18.0 MMcf.

FERC Control Number: JD79–3533
API Well Number: 1703120724
Section of NGPA: 103
Operator: Sawyer Drilling & Service, Inc.
Well Name: Hoss RA SU 15; Means #1
Field: Holly
County: De Soto
Purchaser: Louisiana Intrastate Gas Corp.
Volume: 200 MMcf.

FERC Control Number: JD79–3534
API Well Number: 1703120759
Section of NGPA: 103
Operator: Sawyer Drilling & Service, Inc.
Well Name: Hoss RA SU 35; Brummett #1
Field: Holly
County: De Soto
Purchaser: Louisiana Intrastate Gas Corp.
Volume: 200 MMcf.

FERC Control Number: JD79–3535
API Well Number: 1703120772
Section of NGPA: 103
Operator: Sawyer Drilling & Service, Inc.
Well Name: Hoss RA SU 6; Robert T. Means #1
Field: Holly
County: De Soto
Purchaser: Louisiana Intrastate Gas Corp.
Volume: 140 MMcf.

FERC Control Number: JD79–3536
API Well Number: 1711920075
Section of NGPA: 108
Operator: Franks & Petrofunds, Inc.
Well Name: Hoss A SU G; LA. Meth. Orph. 1–D
Field: Sibley
County: Webster
Purchaser: United Gas Pipeline Co.
Volume: 6 MMcf.

FERC Control Number: JD79–3537
API Well Number: 1701320055
Section of NGPA: 108
Operator: Franks & Petrofunds, Inc.
Well Name: FL SU J; Williams Est. 1–D
Field: Driscoll
County: Bienville
Purchaser: United Gas Pipeline Company
Volume: 8 MMcf.

The applications for determination in these proceedings together with a copy or description of other materials in the record on which such determinations were made are available for inspection, except to the extent such material is treated as confidential under 18 CFR 275.206, at the Commission's Office of Public Information, Room 1000, 825 North Capitol Street, N.E., Washington, D.C. 20426.

Persons objecting to any of these final determinations may, in accordance with 18 CFR 275.203 and 18 CFR 275.204, file a protest with the Commission on or before June 5, 1979. Please reference the FERC Control Number in any correspondence concerning a determination.

Kenneth F. Plumb,
Secretary.

[FR Doc. 79–15698 Filed 5–18–79; 8:45 am]
BILLING CODE 6450–01–M

[Docket No. RP75–79]

Lehigh Portland Cement Co. and Florida Gas Transmission Co.; Extension of Time

May 11, 1979.

On May 2, 1979, Gardinier, Inc. filed a motion to extend the briefing date set by Commission order of April 24, 1979 in this proceeding. The motion states that the reason for the request is the illness of Gardinier's principal counsel.

Upon consideration, notice is hereby given that a extension of time for filing briefs is granted to and including June 5, 1979.

Kenneth F. Plumb,
Secretary.

[FR Doc. 79–15682 Filed 5–18–79; 8:45 am]
BILLING CODE 6450–01–M

Midlands Gas Corp. et. al.; Determination by a Jurisdictional Agency Under the Natural Gas Policy Act of 1978

May 14, 1979.

On April 24, 1979, the Federal Energy Regulatory Commission received notices from the jurisdictional agencies listed below of determinations pursuant to 18 CFR 274.104 and applicable to the indicated wells pursuant to the Natural Gas Policy Act of 1978.

The Montana Board of Oil and Gas Conservation

FERC Control Number: JD79–4160
API Well Number: 25–071–21591
Section of NGPA: 102
Operator: Midlands Gas Corporation
Well Name: 1261 1–1261 Scott
Field: Bowdoin
County: Phillips
Purchaser: Kansas Nebraska Natural Gas Co., Inc.
Volume: 120 MMcf.

FERC Control Number: JD79–4161
API Well Number: 25–071–21490
Section of NGPA: 102
Operator: Midlands Gas Corporation
Well Name: 1370 1–13 Rex Burwell
Field: Bowdoin
County: Phillips
Purchaser: Kansas Nebraska Natural Gas Co., Inc.
Volume: 36 MMcf.

FERC Control Number: JD79–4162
API Well Number: 25–005–21780
Section of NGPA: 108
Operator: Tricentrol United States, Inc.
Well Name: Roberts 15–14–31–19
Field: Tiger Ridge
County: Blaine
Purchaser: Northern Natural Gas Company
Volume: 14.4 MMcf.

FERC Control Number: JD79–4163
API Well Number: 25–005–21918
Section of NGPA: 103
Operator: Tricentrol United States, Inc.
Well Name: Blackwood 34–9–31–18
Field: Tiger Ridge
County: Blaine
Purchaser: Northern Natural Gas Company
Volume: 187.7 MMcf.

FERC Control Number: JD79–4164
API Well Number: 25–071–21590
Section of NGPA: 102
Operator: Midlands Gas Corporation
Well Name: 1060 No. 1 Hellie
Field: Bowdoin
County: Phillips
Purchaser: Kansas Nebraska Natural Gas Co., Inc.
Volume: 12 MMcf.

FERC Control Number: JD79–4165
API Well Number: 25–071–21539
Section of NGPA: 102
Operator: Midlands Gas Corporation
Well Name: 0270 1–2 Brown
Field: Bowdoin
County: Phillips
Purchaser: Kansas Nebraska Natural Gas Co., Inc.
Volume: 19 MMcf.

FERC Control Number: JD79–4166
API Well Number: 25–071–21563
Section of NGPA: 102
Operator: Midlands Gas Corporation
Well Name: 0161 No. 1–1 F. Anderson
Field: Bowdoin
County: Phillips
Purchaser: Kansas Nebraska Natural Gas Co., Inc.
Volume: 84 MMcf.

FERC Control Number: JD79–4167
API Well Number: 25–083–21224
Section of NGPA: 103
Operator: UV Industries, Inc.
Well Name: Obergfell 1–34
Field: Southeast Putnam
County: Richland
Purchaser: Montana Dakota Utilities Company
Volume: 86.768 MMcf.

FERC Control Number: JD79–4168
API Well Number: 25–071–21538
Section of NGPA: 102
Operator: Midlands Gas Corporation
Well Name: 2460 No. 1–24 White
Field: Bowdoin
County: Phillips
Purchaser: Kansas Nebraska Natural Gas Co., Inc.
Volume: 36 MMcf.

FERC Control Number: JD79–4169
API Well Number: 25–071–21586
Section of NGPA: 108
Operator: Midlands Gas Corporation
Well Name: 2271 1–22 Lewis Miller
Field: Bowdoin
County: Phillips
Purchaser: Kansas Nebraska Natural Gas Co., Inc.
Volume: 8 MMcf.

FERC Control Number: JD79–4170
API Well Number: 25–083–21239
Section of NGPA: 102
Operator: UV Industries, Inc.
Well Name: Obergfell 2–23
Field: Southeast Putnam
County: Richland
Purchaser: Montana Dakota Utilities Company
Volume: 9.250 MMcf.

The applications for determination in these proceedings together with a copy or description of other materials in the record on which such determinations were made are available for inspection, except to the extent such material is treated as confidential under 18 CFR 275.206, at the Commission's Office of Public Information, Room 1000, 825 North Capitol Street, N.E., Washington, D.C. 20426.

Persons objecting to any of those final determinations may, in accordance with 18 CFR 275.203 and 18 CFR 275.204, file a protest with the Commission on or before June 5, 1979. Please reference the FERC Control Number in any correspondence concerning a determination.

Kenneth F. Plumb,
Secretary.

[FR Doc. 79–15692 Filed 5–18–79; 8:45 am]
BILLING CODE 6450–01–M

[Docket No. ER79–358]

Minnesota Power & Light Co.; Cancellation

May 15, 1979.

Take notice that Minnesota Power & Light Company (MP&L) on March 4, 1979, tendered for filing a notice of cancellation of Rate Schedule FPC No. 29, applicable to service being rendered to Itasca-Montrap Cooperative Electrical Association. MP&L proposes an effective date of June 18, 1979.

Any person desiring to be heard or to protest said filing should file a petition to intervene or protest with the Federal Energy Regulatory Commission, 825 North Capitol Street, N.E., Washington, D.C. 20426, in accordance with Sections 1.8 and 1.10 of the Commission's rules of practice and procedure (18 CFR 1.8 and 1.10). All such petitions or protests should be filed on or before June 1, 1979. Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceeding. Any person wishing to become a party must file a petition to intervene. Copies of this filing are on file

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with the Commission and are available for public inspection.

Kenneth F. Plumb,

Secretary.

[FR Doc. 79-15683 Filed 5-18-79; 8:45 am]

BILLING CODE 6450-01-M

[Docket No. RM79-3]

Natural Gas Policy Act of 1978; Receipt of Report of Determination Process

May 15, 1979.

Pursuant to section 18 CFR 274.105 of the Federal Energy Regulatory Commission's Regulations, a jurisdictional agency may file a report with the Commission describing the method by which such agency will make certain determinations in accordance with sections 102, 103, 107, and 108 of the Natural Gas Policy Act of 1978.

Reports in conformance with 18 CFR 274.105 have been received by the Commission from the following jurisdictional agencies:

Agency and Date

Alabama State Oil and Gas Board—November 30, 1978
State of Alaska, Oil and Gas Conservation Commission—December 11, 1978
State of Arizona, Oil and Gas Conservation Commission—December 14, 1978
Arkansas Oil and Gas Commission—February 12, 1979
State of California, Department of Conservation, Division of Oil and Gas—December 4, 1978
State of Colorado, Department of Natural Resources—December 5, 1978
(Supplemental Report)—April 4, 1979
(Revised Supplemental Report)—April 16, 1979
State of Florida, Department of Natural Resources—January 3, 1979
State of Illinois, Department of Mines and Minerals, Oil and Gas Division—January 5, 1979
State of Indiana, Department of Natural Resources—December 26, 1978
(Supplemental Report)—March 26, 1979
Kansas State Corporation Commission, Conservation Division—November 30, 1978
Commonwealth of Kentucky, Department of Mines and Minerals, Division of Oil and Gas Conservation—February 5, 1979
State of Louisiana, Department of Conservation—November 29, 1978
State of Michigan, Department of Natural Resources, Geological Survey Division—December 1, 1978
State Oil and Gas Board of Mississippi—November 30, 1978
State of Montana, Department of Natural Resources and Conservation—January 29, 1979
State of Nebraska Oil and Gas Conservation Commission—December 15, 1978
State of New Mexico, Energy and Mineral Department, Oil Conservation Division—November 19, 1978
New York State, Department of Environmental Conservation—February 23, 1979
(Supplemental Report)—May 2, 1979
State of North Dakota, Geological Survey—January 4, 1979
State of Ohio, Department of Natural Resources, Division of Oil and Gas—December 6, 1978
State of Oklahoma, Corporation Commission—March 29, 1979
Osage Agency, Osage County, Oklahoma, Bureau of Indian Affairs—April 2, 1979
State of Pennsylvania, Department of Environmental Resources, Division of Oil and Gas—December 26, 1978
State of South Dakota, Department of Natural Resources Development—March 14, 1979
State of Tennessee, Oil and Gas Board—December 19, 1978
Railroad Commission of Texas—November 30, 1978
United States Department of Interior, Geological Survey—January 19, 1979
State of Utah, Department of Natural Resources, Division of Oil, Gas, and Mining—January 30, 1979
Commonwealth of Virginia, Department of Labor and Industry, Division of Mines and Quarries—December 4, 1978
West Virginia Department of Mines, Oil and Gas Division—November 30, 1978
State of Wyoming, Office of Oil and Gas Conservation Commission—December 4, 1978

Copies of these reports are available for public inspection in the Commission's Office of Public Information, Room 1000, 825 North Capitol Street, N.E., Washington, DC. 20426.

Kenneth F. Plumb,

Secretary.

[FR Doc. 79-15684 Filed 5-18-79; 8:45 am]

BILLING CODE 6450-01-M

[Docket Nos. G-20273 and RP 66-7 et al.]

The Ohio Fuel Gas Co., et al.; Amendment to Petition

May 15, 1979.

In the matter of The Ohio Fuel Gas Co., Docket Nos. G-20273 and RP66-7; Texas Gas Transmission Corp. Docket Nos. G-18886, RP61-15 and RP67-10; Panhandle Eastern Pipe Line Co., Docket Nos. RP68-15 and RP69-3; Tennessee Gas Pipeline Co., a Division of Tenneco, Inc., Docket Nos. G-11980, G-17166 and G-19983.

Take notice that on April 16, 1979, Columbia Gas Transmission Corporation (Columbia) filed an amendment to its July 16, 1976 petition for an order releasing refunds held in escrow.

Any person desiring to be heard or to protest said filing should file a petition to intervene or protest with the Federal Energy Regulatory Commission,, 825 North Capitol Street, N.E., Washington, D.C. 20426, in accordance with Sections 1.8 and 1.10 of the Commission's rules of practice and procedure (18 CFR 1.8, 1.10). All such petitions or protests should be filed on or before May 30, 1979. Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceeding. Any person wishing to become a party must fle a petition to intervene. Copies of this filing are on file with the Commission and are available for public inspection.

Kenneth F. Plumb,

Secretary.

[FR Doc. 79-15685 Filed 5-18-79; 8:45 am]

BILLING CODE 6450-01-M

[Docket No. RP73-48]

Peoples Natural Gas Division of Northern Natural Gas Co.; Rate Change Pursuant To Purchased Gas Cost Adjustment Provision

May 15, 1979.

Take notice that on April 27, 1979, Peoples Natural Gas Division of Northern Natural Gas Company (Peoples Division) tendered for filing as part of its FPC Gas Tariff, Original Volume No. 4, the following tariff sheet:

Twenty-third Revised Sheet No. 3a

Twenty-third Revised Sheet No. 3a is filed pursuant to Peoples Division's Purchased Gas Adjustment provision of its FPC Gas Tariff, Original Volume No. 4. This change in rates reflects the increase in Peoples Division's average estimated cost of purchased gas, pursuant to Paragraph 19.3(b) of its FPC Gas Tariff Original Volume No. 4.

Copies of the filing were served upon the Gas Utility Customers and interested State Commissions.

Any person desiring to be heard or to protest said filing should file a petition to intervene or protest with the Federal Energy Regulatory Commission, 825 North Capitol Street, N.E. Washington, D.C. 20426, in accordance with Sections 1.8 and 1.10 of the Commission's rules of practice and procedure (18 CFR 1.8, 1.10). All such petitions or protests should be filed on or before May 29, 1979. Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceeding. Any person wishing to become a party must file a petition to

intervene. Copies of this filing are on file with the Commission and are available for public inspection.

Kenneth F. Plumb,

Secretary.

[FR Doc. 79-15686 Filed 5-18-79; 8:45 am]

BILLING CODE 6450-01-M

Pennzoil Co.; Determination by a Jurisdictional Agency Under the Natural Gas Policy Act of 1978

May 14, 1979.

On May 2, 1979, the Federal Energy Regulatory Commission received notices from the jurisdictional agencies listed below of determinations pursuant to 18 CFR 274.104 and applicable to the indicated wells pursuant to the Natural Gas Policy Act of 1978.

State of West Virginia, Department of Mines, Oil and Gas Division

FERC Control Number: JD79-3549
API Well Number: 47-041-1169
Section of NGPA: 108
Operator: Pennzoil Company
Well Name: A. L. Griggs #5
Field: Freeman's Creek
County: Lewis
Purchaser: Consolidated Gas Supply Corp.
Volume: 1.2 MMcf.

FERC Control Number: JD79-3550
API Well Number: 47-041-0877
Section of NGPA: 108
Operator: Pennzoil Company
Well Name: A. L. Griggs #4
Field: Freeman's Creek
County: Lewis
Purchaser: Consolidated Gas Supply Corp.
Volume: 1.2 MMcf.

FERC Control Number: JD79-3551
API Well Number: 47-041-0973
Section of NGPA: 108
Operator: Pennzoil Company
Well Name: A. L. Griggs #3
Field: Freeman's Creek
County: Lewis
Purchaser: Consolidated Gas Supply Corp.
Volume: 1.2 MMcf.

FERC Control Number: JD79-3552
API Well Number: 47-041-0917
Section of NGPA: 108
Operator: Pennzoil Company
Well Name: A. L. Griggs #2
Field: Freeman's Creek
County: Lewis
Purchaser: Consolidated Gas Supply Corp.
Volume: 1.2 MMcf.

FERC Control Number: JD79-3553
API Well Number: 47-041-0046
Section of NGPA: 108
Operator: Pennzoil Company
Well Name: A. L. Griggs #1
Field: Freeman's Creek
County: Lewis
Purchaser: Consolidated Gas Supply Corp.
Volume: 1.2 MMcf.

FERC Control Number: JD79-3554
API Well Number: 47-017-1329
Section of NGPA: 108
Operator: Pennzoil Company
Well Name: Thurman Spurgeon #7
Field: Cove
County: Doddridge
Purchaser: Consolidated Gas Supply Corp.
Volume: 0.5 MMcf.

FERC Control Number: JD79-3555
API Well Number: 47-017-1283
Section of NGPA: 108
Operator: Pennzoil Company
Well Name: Thurman Spurgeon #3
Field: Cove
County: Doddridge
Purchaser: Consolidated Gas Supply Corp.
Volume: 0.5 MMcf.

FERC Control Number: JD79-3556
API Well Number: 47-017-2271
Section of NGPA: 108
Operator: Pennzoil Company
Well Name: W. M. Stout #14
Field: New Milton
County: Doddridge
Purchaser: Consolidated Gas Supply Corp.
Volume: 4.9 MMcf.

FERC Control Number: JD79-3557
API Well Number: 47-033-1405
Section of NGPA: 108
Operator: Pennzoil Company
Well Name: Jehu Shahan No. 1
Field: Ten Mile
County: Harrison
Purchaser: Consolidated Gas Supply Corp.
Volume: 1.0 MMcf.

FERC Control Number: JD79-3558
API Well Number: 47-033-1547
Section of NGPA: 108
Operator: Pennzoil Company
Well Name: Dorothy Young #1
Field: Ten Mile
County: Harrison
Purchaser: Consolidated Gas Supply Corp.
Volume: 1.8 MMcf.

FERC Control Number: JD79-3559
API Well Number: 47-085-2249
Section of NGPA: 108
Operator: Pennzoil Company
Well Name: S. C. Collins #1
Field: Murphy District
County: Ritchie
Purchaser: Consolidated Gas Supply Corp.
Volume: 2.5 MMcf.

FERC Control Number: JD79-3560
API Well Number: 47-021-2015
Section of NGPA: 108
Operator: Pennzoil Company
Well Name: Porter Maxwell #10
Field: Troy
County: Gilmer
Purchaser: Consolidated Gas Supply Corp.
Volume: 2.8 MMcf.

FERC Control Number: JD79-3561
API Well Number: 47-085-3440
Section of NGPA: 108
Operator: Pennzoil Company
Well Name: Z. Flanagan #20
Field: Union
County: Ritchie
Purchaser: Consolidated Gas Supply Corp.
Volume: 0.1 MMcf.

FERC Control Number: JD79-3562
API Well Number: 47-085-3290
Section of NGPA: 108
Operator: Pennzoil Company
Well Name: Z. Flanagan #19
Field: Union
County: Ritchie
Purchaser: Consolidated Gas Supply Corp.
Volume: 0.1 MMcf.

FERC Control Number: JD79-3563
API Well Number: 47-013-1457
Section of NGPA: 108
Operator: Pennzoil Company
Well Name: Annie C. Boyles #2
Field: Lee
County: Calhoun
Purchaser: Consolidated Gas Supply Corp.
Volume: 3.2 MMcf.

FERC Control Number: JD79-3564
API Well Number: 47-013-0555
Section of NGPA: 108
Operator: Pennzoil Company
Well Name: Sharp, J. S. #5
Field: Sherman
County: Calhoun
Purchaser: Consolidated Gas Supply Corp.
Volume: 0.8 MMcf.

FERC Control Number: JD79-3565
API Well Number: 47-017-1296
Section of NGPA: 108
Operator: Pennzoil Company
Well Name: S. L. Chapman #2
Field: Cove Dod
County: Doddridge
Purchaser: Consolidated Gas Supply Corp.
Volume: 4.6 MMcf.

The applications for determination in these proceedings together with a copy or discription of other materials in the record on which such determinations were made are available for inspection, except to the extent such material is treated as confidential under 18 CFR 275.206, at the Commission's Office of Public Information, Room 1000, 825 North Capitol Street, N.E., Washington, D.C. 20426.

Persons objecting to any of those final determinations may, in accordance with 18 CFR 275.203 and 18 CFR 275.204, file a protest with the Commission on or before June 5, 1979. Please reference the FERC Control Number in any correspondence concerning a determination.

Kenneth F. Plumb,

Secretary.

[FR Doc. 79-15700 Filed 5-18-79; 8:45 am]

BILLING CODE 6450-01-M

Pennzoil Co.; Determination by a Jurisdictional Agency Under the Natural Gas Policy Act of 1978

May 14, 1979

On April 24, 1979, the Federal Energy Regulatory Commission received notices from the jurisdictional agencies listed below of determinations pursuant to 18 CFR 274.104 and applicable to the indicated wells pursuant to the Natural Gas Policy Act of 1978.

West Virginia Department of Mines, Oil and Gas Division

FERC Control Number: JD79–4156
API Well Number: 47–039–1005
Section of NGPA: 108
Operator: Penzoil Company
Well Name: Black Band Fuel No. 12
Field: Washington
County: Kanawha
Purchaser: Consolidated Gas Supply Corporation
Volume: 3.6 MMcf.

FERC Control Number: JD79–4157
API Well Number: 47–039–1004
Section of NGPA: 108
Operator: Penzoil Company
Well Name: Black Band Fuel No. 11
Field: Washington
County: Kanawha
Purchaser: Consolidated Gas Supply Corporation
Volume: 8.0 MMcf.

FERC Control Number: JD79–4158
API Well Number: 47–039–0955
Section of NGPA: 108
Operator: Penzoil Company
Well Name: Black Band Fuel No. 5
Field: Washington
County: Kanawha
Purchaser: Consolidated Gas Supply Corporation
Volume: 6.0 MMcf.

FERC Control Number: JD79–4159
API Well Number: 47–039–0999
Section of NGPA: 108
Operator: Penzoil Company
Well Name: Black Band Fuel No. 9
Field: Washington
County: Kanawha
Purchaser: Consolidated Gas Supply Corporation
Volume: 14.0 MMcf.

The applications for determination in these proceedings together with a copy or description of other materials in the record on which such determinations were made are available for inspection, except to the extent such material is treated as confidential under 18 CFR 275.206, at the Commission's Office of Public Information, Room 1000, 825 North Capitol Street, N.E., Washington, D.C. 20426.

Persons objecting to any of these final determinations may, in accordance with 18 CFR 275.203 and 18 CFR 275.204, file a protest with the Commission on or before June 5, 1979. Please reference the FERC Control Number in any correspondence concerning a determination.

Kenneth F. Plumb,

Secretary.

[FR Doc. 79-15702 Filed 5-18-79; 8:45 am]

BILLING CODE 6450-01-M

[Docket No. ER79-356]

Southern California Edison Co.; Tariff Change

May 15, 1979.

The filing Company submits the following: Take notice that Southern California Edison Company (Edison) on May 7, 1979, tendered for filing a change of transmission service charges under the provisions of Edison's agreement with the Arizona Power Pooling Association, Inc. as embodied in Rate Schedule FERC No. 93.

The change of rate for transmission service charges is as follow:

Current rate (8.98 percent rate of return)	New rate (9.6 percent rate of return)	Increase
(a) $0.0900/kW-mo	$0.0940/kW-mo	$0.0040/kW-mo.
(b) $0.1161/kW-mo	$0.1204/kW-mo	$0.0043/kW-mo.

(a) From Arizona-Nevada border to Eldorado Substation.
(b) From Eldorado Substation to Mead Substation.

Said filing is in accordance with terms of the agreement stating that whenever the California Public Utilities Commission (CPUC) finds a new overall rate of return on retail operations to be reasonable for Edison the charges for transmission services shall be adjusted based on said new rate of return. Said new rate of return of 9.6% was authorized in CPUC Decision No. 89711, effective January 1, 1979.

Copies of this filing were served upon the Arizona Power Pooling Association, Inc. and the Public Utilities Commission of the State of California.

Any person desiring to be heard or to protest this application should file petition to intervene with the Federal Energy Regulatory Commission, 825 North Capitol Street N.E., Washington, D.C. 20426, in accordance with § 1.8 and § 1.10 of the Commission's rules of practice and procedure (18 CFR 1.8, 1.10). All such petitions or protests should be filed on or before June 1, 1979. Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceeding. Any person wishing to become a party must file a petition to intervene. Copies of this application are on file with the Commission and are available for public inspection.

Kenneth F. Plumb,

Secretary.

[FR Doc. 79-15687 Filed 5-18-79; 8:45 am]

BILLING CODE 6450-01-M

Pennzoil Co. et.al.; Determination by a Jurisdictional Agency Under the Natural Gas Policy Act of 1978

May 14, 1979.

On May 2, 1979, the Federal Energy Regulatory Commission received notices from the jurisdictional agencies listed below of determinations pursuant to 18 CFR 274.104 and applicable to the indicated wells pursuant to the Natural Gas Policy Act of 1978.

State of West Virginia, Department of Mines, Oil and Gas Division

FERC Control Number: JD79–3608
API Well Number: 47–013–2773
Section of NGPA: 108
Operator: Pennzoil Company
Well Name: Henry Brannon #1
Field: Sherman District
County: Calhoun
Purchaser: Consolidated Gas Supply Corp.
Volume: 0.8 MMcf.

FERC Control Number: JD79–3609
API Well Number: 47–017–2268
Section of NGPA: 108
Operator: Pennzoil Company
Well Name: W. M. Stout #1
Field: New Milton
County: Doddridge
Purchaser: Consolidated Gas Supply Corp.
Volume: 4.9 MMcf.

FERC Control Number: JD79–3610
API Well Number: 47–021–3366
Section of NGPA: 108
Operator: Pennzoil Company
Well Name: Porter Maxwell #6
Field: Troy
County: Gilmer
Purchaser: Consolidated Gas Supply Corp.
Volume: 2.8 MMcf.

FERC Control Number: JD79–3611
API Well Number: 47–017–1293
Section of NGPA: 108
Operator: Pennzoil Company
Well Name: S. L. Chapman #1
Field: Cove
County: Doddridge
Purchaser: Consolidated Gas Supply Corp.
Volume: 4.6 MMcf.

FERC Control Number: JD79–3612
API Well Number: 47–013–1386
Section of NGPA: 108
Operator: Pennzoil Company
Well Name: Robinson, H. L. #1
Field: Sherman
County: Calhoun
Purchaser: Consolidated Gas Supply Corp.
Volume: 8.6 MMcf.

FERC Control Number: JD79–3613
API Well Number: 47–013–0695
Section of NGPA: 108
Operator: Pennzoil Company
Well Name: F. E. Rothlisberger #8
Field: Sherman District
County: Calhoun
Purchaser: Consolidated Gas Supply Corp.
Volume: 0.5 MMcf.

FERC Control Number: JD79–3614
API Well Number: 47–013–0601
Section of NGPA: 108
Operator: Pennzoil Company
Well Name: Sharp, J. S. #7
Field: Sherman
County: Calhoun
Purchaser: Consolidated Gas Supply Corp.
Volume: 0.8 MMcf.

FERC Control Number: JD79–3615
API Well Number: 47–013–0495
Section of NGPA: 108
Operator: Pennzoil Company
Well Name: Henry Brannon #4
Field: Sherman District
County: Calhoun
Purchaser: Consolidated Gas Supply Corp.
Volume: 1.6 MMcf.

FERC Control Number: JD79–3616
API Well Number: 47–013–0457
Section of NGPA: 108
Operator: Pennzoil Company
Well Name: Sharp, J. S. #3
Field: Sherman
County: Calhoun
Purchaser: Consolidated Gas Supply Corp.
Volume: 0.8 MMcf.

The applications for determination in these proceedings together with a copy or description of other materials in the record on which such determinations were made are available for inspection, except to the extent such material is treated as confidential under 18 CFR 275.206, at the Commission's Office of Public Information, Room 1000, 825 North Capitol Street, N.E., Washington, D.C. 20426.

Persons objecting to any of these final determinations may, in accordance with 18 CFR 275.203 and 18 CFR 275.204, file a protest with the Commission on or before June 5, 1979. Please reference to FERC Control Number in any correspondence concerning a determination.

Kenneth F. Plumb,

Secretary.

[FR Doc. 79-15701 Filed 5-18-79; 8:45 am]

BILLING CODE 6450-01-M

Phillips Petroleum Co.; Determination by a Jurisdictional Agency Under the Natural Gas Policy Act of 1978.

May 14, 1979.

On April 24, 1979, the Federal Energy Regulatory Commission received notice of a determination pursuant to 18 CFR 274.104 of the Natural Gas Policy Act of 1978 applicable to:

New Mexico Oil Conservation Division

FERC Control Number: JD79–3657
API Well Number: 30–025–03996
Section: 108
Operator: Phillips Petroleum Company
Well Name: Monument No. 1
Field: Eumont Queen Yates—7 Rivers
County: Lea
Purchaser: El Paso Natural Gas Co.
Volume: 1.1 MMcf.

The application for determination in this matter together with a copy or description of other materials in the record on which such determination was made is available for inspection, except to the extent such material is treated as confidential under 18 CFR 275.206, at the Commission's Office of Public Information, Room 1000, 825 North Capitol Street, N.E., Washington, D.C. 20426.

Persons objecting to this final determination may, in accordance with 18 CFR 275.203 and 18 CFR 275.204, file a protest with the Commission on or before June 5, 1979. Please reference the FERC Control Number in any correspondence concerning a determination.

Kenneth F. Plumb,

Secretary.

[FR Doc. 79-15694 Filed 5-18-79; 8:45 am]

BILLING CODE 6450-01-M

[Docket No. ER79-361]

Southern California Edison Co.; Tariff Change

May 15, 1979.

The filing Company submits the following: Take notice that Southern California Edison Company (Edison) on May 8, 1979, tendered for filing a change of monthly carrying charges under the provisions of Edison's agreement with the Arizona Power Pooling Association, Inc. as embodied in Rate Schedule FERC No. 92.

The adjustment of monthly carrying charges is as folows:

Current rate (8.98% rate of return)	New rate (9.6% rate of return)	Increase
$2,133/month	$2,361/month	$228/month.

Said filing is in accordance with terms of the agreement stating that whenever the California Public Utilities Commission (CPUC) finds a new overall rate of return on retail operations to be reasonable for Edison the monthly carrying charge shall be adjusted based on said new rate of return. Said new rate of return of 9.6% was authorized in CPUC Decision No. 89711, effective January 1, 1979.

Copies of this filing were served upon the other interested Parties and the Public Utilities Commission of the State of California.

Any person desiring to be heard or to protest this application should file a petition to intervene with the Federal Energy Regulatory Commission, 825 North Capitol Street N.E., Washington, D.C. 20426, in accordance with § 1.8 and § 1.10 of the Commission's rules of practice and procedure (18 CFR 1.8, 1.10). All such petitions or protests should be filed on or before June 4, 1979. Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceeding. Any person wishing to become a party must file a petition to intervene. Copies of this application are on file with the Commission and are available for public inspection.

Kenneth F. Plumb,

Secretary.

[FR Doc. 79-15688 Filed 5-18-79; 8:45 am]

BILLING CODE 6450-01-M

[Docket Nos. RP77-141, et al.]

Tennessee Gas Pipeline Co., a Division of Tenneco, Inc.; Motion for Waiver of Tariff Provisions

May 15, 1979.

Take notice that on May 9, 1979, Tennessee Gas Pipeline Company, a Division of Tenneco Inc. (Tennessee) filed a motion requesting waiver of Section 2.4 of its curtailment plan in Article XXIV of the General Terms and Conditions in Ninth Revised Volume No. 1 of its FERC Gas Tariff. Tennessee states that the requested waiver would permit it to increase the entitlements of its Small Customers to reflect 100 percent of their base period requirements in priority categories 0 through 9 whenever it has similarly increased the level of entitlements of the other customers on its system to reflect 100 percent of their base period requirements in priority categories 0 through 9.

Tennessee states that Section 2.4 precludes it from increasing the

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entitlements of its small customers above their base period requirements in priority categories 0, 1, and 2 even though it has established entitlements for its other customers equal to their full base period requirements in priority categories 0 through 9. Tennessee states that it has increased entitlements for its other customers for the period May—October, 1979 to reflect 100% of base period requirements in categories 0 through 9 and the requested waiver will not result in the reduction of the entitlements of any other customers. Tennessee requests the waiver be effective on May 1, 1979, the date it increased the entitlement of its other customers, and further requests that the waiver be granted *pendente lite*.

Due to the nature of the requested action the Commission has determined that a shortened period for comments is appropriate. Accordingly, any person desiring to be heard or to protest said filing should file a petition to intervene or protest with the Federal Energy Regulatory Commission, 825 North Capitol Street, NE., Washington, D.C. 20426, in accordance with Sections 1.8 and 1.10 of the Commission's rules of practice and procedure (18 CFR 1.8, 1.10) on or before May 29, 1979. Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceeding. Any person wishing to become a party will file a petition to intervene; provided, however, that any person who has previously filed a petition to intervene in this proceeding is not required to file a further petition. Copies of this filing are on file with the Commission and are available for public inspection.

Kenneth F. Plumb,

Secretary.

[FR Doc. 79-15689 Filed 5-18-79; 8:45 am]

BILLING CODE 6450-01-M

[Docket No. RP78-87 and RP79-5]

Texas Eastern Transmission Corp.; Informal Settlement Conference

May 15, 1979.

Take notice that the informal settlement conference in this proceeding will reconvene on Tuesday, May 29 at 2:00 P.M. The conference will be held at the Civil Aeronautics Board, 1875 Connecticut Avenue in Hearing Room 1003-A.

Customers and other interested persons will be permitted to attend, but if such persons have not previously been permitted to intervene by order of the Commission, attendance at the conference will not be deemed to authorize intervention as a party in the proceeding.

Kenneth F. Plumb,

Secretary.

[FR Doc. 79-15690 Filed 5-18-79; 8:45 am]

BILLING CODE 6450-01-M

Texas Oil and Gas Corp. et al.; Determination by a Jurisdictional Agency Under the Natural Gas Policy Act of 1978

May 14, 1979.

On May 2, 1979, the Federal Energy Regulatory Commission received notices from the jurisdictional agencies listed below of determinations pursuant to 18 CFR 274.104 and applicable to the indicated wells pursuant to the Natural Gas Policy Act of 1978.

Railroad Commission of Texas, Oil and Gas Division

FERC Control Number: JD79-3717
API Well Number: 42-481-31483
Section of NGPA: 103
Operator: Texas Oil and Gas Corporation
Well Name: Reynolds Well No. 3
Field: Bonus
County: Wharton County
Purchaser: Columbia Gas Transmission Corp.
Volume: 150 MMcf.

FERC Control Number: JD79-3718
API Well Number: 42-499-00000
Section of NGPA: 103
Operator: Gamblin G. H. No.
Well Name: Crystal Oil Company 1
Field: Winnsboro
County: Wood
Purchaser: Lone Star Gas Company
Volume: 24,000 MMcf.

FERC Control Number: JD79-3719
API Well Number:
Section of NGPA: 103
Well Name: Crystal Oil Company
Operator: Vira Harrell No. 12
Field: Saxet
County: Nueces
Purchaser: Delhi Gas Pipeline Corp.
Volume: 42 MMcf.

FERC Control Number: JD79-3720
API Well Number: 42-355-31238
Section of NGPA: 103
Well Name: Crystal Oil Company
Operator: Isensee T. H. No. 12
Field: Saxet
County: Nueces
Purchaser: Delhi Gas Pipeline Corp.
Volume: 60 MMcf.

FERC Control Number: JD79-3721
API Well Number: 42-365-30784
Section of NGPA: 103
Well Name: Crystal Oil Company
Operator: Pippen Estate 3
Field: Panola
County: Panola
Purchaser: United Gas Pipeline Co.
Volume: .8 MMcf.

FERC Control Number: JD79-3722
API Well Number: 42-365-30783
Section of NGPA: 103
Well Name: Crystal Oil Company
Operator: Pippen Estate 2
Field: Panola
County: Panola
Purchaser: United Gas Pipeline Co.
Volume: .8 MMcf.

FERC Control Number: JD79-3723
API Well Number: 42-365-30780
Section of NGPA: 103
Well Name: Crystal Oil Company
Operator: Pippen Estate No. 1
Field: Panola
County: Panola
Purchaser: United Gas Pipeline Co.
Volume: 8,000 MMcf.

FERC Control Number: JD79-3724
API Well Number: 42-365-30788
Section of NGPA: 103
Well Name: Crystal Oil Company
Operator: Myers 3
Field: Panola
County: Panola
Purchaser: United Gas Pipeline Co.
Volume: 19,000 MMcf.

FERC Control Number: JD79-3725
API Well Number: 42-365-30790
Section of NGPA: 103
Well Name: Crystal Oil Company
Operator: Myers 2
Field: Panola
County: Panola
Purchaser: United Gas Pipeline Co.
Volume: 19,000 MMcf.

FERC Control Number: JD79-3726
API Well Number: 42-365-30791
Section of NGPA: 103
Well Name: Crystal Oil Company
Operator: Myers 1
Field: Panola
County: Panola
Purchaser: United Gas Pipeline Co.
Volume: 19,000 MMcf.

FERC Control Number: JD79-3627
API Well Number: 42-365-30781
Section of NGPA: 103
Well Name: Crystal Oil Company
Operator: Lizzie Griffin 5
Field: Panola
County: Panola
Purchaser: United Gas Pipeline Co.
Volume: 28,000 MMcf.

FERC Control Number: JD79-3728
API Well Number: 42-365-30776
Section of NGPA: 103
Well Name: Crystal Oil Company
Operator: Lizzie Griffin 3
Field: Panola
County: Panola
Purchaser: United Gas Pipeline Co.
Volume: 28 MMcf.

FERC Control Number: JD79-3729
API Well Number: 42-365-30717
Section of NGPA: 103
Well Name: Crystal Oil Company
Operator: Lizzie Griffin 2
Field: Panola
County: Panola
Purchaser: United Gas Pipeline Co.
Volume: 28,000 MMcf.

FERC Control Number: JD79-3730
API Well Number: 42-365-30662
Section of NGPA: 103
Well Name: Crystal Oil Company
Operator: Holt 2
Field: Panola
County: Panola
Purchaser: United Gas Pipeline Co.
Volume: 4,000 MMcf.

FERC Control Number: JD79-3731
API Well Number: 42-285-31281
Section of NGPA: 102
Well Name: Texas Oil and Gas Corp.
Operator: Stovall "O" Well No. 1
Field: Speaks, S. W.
County: Lavaca County
Purchaser: Texas Eastern Transmission Corp.
Volume: 145 MMcf.

FERC Control Number: JD79-3732
API Well Number: 42-261-30398
Section of NGPA: 102
Well Name: Texas Oil and Gas Corporation
Operator: Erck Well No. 5
Field: McGill
County: Kenedy County
Purchaser: Florida Gas Transmission Co.
Volume: 183 MMcf.

FERC Control Number: JD79-3733
API Well Number: 42-261-30413
Section of NGPA: 102
Well Name: Texas Oil and Gas Corporation
Operator: Erck Well No. 6
Field: McGill
County: Kenedy County
Purchaser: Florida Gas Transmission Co.
Volume: 365 MMcf.

FERC Control Number: JD79-3734
API Well Number: 42-261-30397
Section of NGPA: 102
Well Name: Texas Oil and Gas Corp.
Operator: Erck Well No. 4
Field: McGill
County: Kenedy County
Purchaser: Florida Gas Transmission Co.
Volume: 146 MMcf.

FERC Control Number: JD79-3735
API Well Number: 42-409-31215
Section of NGPA: 103
Well Name: Texas Oil and Gas Corporation
Operator: Griffith and Associates
Field: Papalote
County: Bee County
Purchaser: Transcontinental Gas Pipeline Corp.
Volume: 110 MMcf.

FERC Control Number: JD79-3736
API Well Number: 42-301-30072
Section of NGPA: 107
Well Name: Exxon Corporation
Operator: Linebery Gas Unit 1 Well 2
Field: Linebery
County: Loving County
Purchaser: Northern Natural Gas Company
Volume: 183 MMcf.

FERC Control Number: JD79-3737
API Well Number: 42-261-30239
Section of NGPA: 102
Well Name: Exxon Corporation
Operator: John G. Kenedy, Jr., "E" Well No. 22-D
Field: El Paistle
County: Kenedy
Purchaser: Natural Gas Pipeline Co.
Volume: 146 MMcf.

The applications for determination in these proceedings together with a copy or description of other materials in the record on which such determinations were made are available for inspection, except to the extent such material is treated as confidential under 18 CFR 275.206, at the Commission's Office of Public Information, Room 1000, 825 North Capitol Street, N.E., Washington, D.C. 20426.

Persons objecting to any of those final determinations may, in accordance with 18 CFR 275.203 and 18 CFR 275.204, file a protest with the Commission on or before June 5, 1979. Please reference the FERC Control Number in any correspondence concerning a determination.

Kenneth F. Plumb,

Secretary.

[FR Doc. 79-15696 Filed 5-18-79; 8:45 am]

BILLING CODE 6450-01-M

[Docket No. ER79-357

Vermont Electric Power Co., Inc.; Rate Schedule Filing

May 15, 1979.

The filing Company submits the following: Take notice that on May 7, 1979, Vermont Electric Power Company, Inc. (VELCO) tendered for filing a Rate Schedule containing a Bulk Power Purchase Agreement between VELCO and Long Island Lighting Company (LILCO) of Hicksville, New York, dated as of February 23, 1979.

VELCO states that the service to be rendered under this Rate Schedule is the provision of 40,000 kw capacity and related energy from the Vermont Yankee Nuclear Electric Generating Station, at a monthly rate estimated to be $243,000.00 per month. Service from VELCO to LILCO under the Rate Schedule will consist of approximately 20,440,000 kilowatt-hours/month. Charges for this power will be at VELCO's cost. Therefore, VELCO states that there will be no change in the overall rate of return of VELCO.

VELCO states that service under this Rate Schedule commenced on April 1, 1979, and will terminate on November 30, 1979. An effective date of April 1, 1979, and waiver of the requirements of Section 35.11 of the Commission's Regulations are requested.

Copies of the filing were served upon the Long Island Lighting Company and the Vermont Public Service Board.

Any person desiring to be heard or to protest said application should file a petition to intervene or protest with the Federal Energy Regulatory Commission, 825 North Capitol Street, N.E., Washington, D.C. 20426, in accordance with sections 1.8 and 1.10 of the Commission's rules of practice and procedure (18 CFR 1.8, 1.10). All such petitions or protests should be filed on or before June 1, 1979. Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceeding. Any person wishing to become a party must file a petition to intervene. Copies of this application are on file with the Commission and are available for public inspection.

Kenneth F. Plumb,

Secretary.

[FR Doc. 79-15691 Filed 5-18-79; 8:45 am]

BILLING CODE 6450-01-M

ENVIRONMENTAL PROTECTION AGENCY

[OPP—180295; FRL 1230-5]

Indiana State Chemist and Seed Commissioner; Issuance of Specific Exemption To Use Aldicarb on Mint To Control Lesion Nematode

AGENCY: Environmental Protection Agency, (EPA), Office of Pesticide Programs.

ACTION: Issuance of a specific exemption.

SUMMARY: EPA has granted a specific exemption to the Indiana State Chemist and Seed Commissioner (hereafter referred to as the "Applicant") to use aldicarb on up to 1,500 acres of spearmint and peppermint for the control of lesion nematode in seven counties in Indiana. The specific exemption expires on May 30, 1979.

FOR FURTHER INFORMATION CONTACT: Emergency Response Section, Registration Division (TS-767), Office of Pesticide Programs, EPA, 401 M Street, S.W., Room E-315, Washington, D.C. 20460. It is suggested that interested persons telephone before visiting the EPA Headquarters, so that the appropriate files may be made conveniently available for review purposes.

SUPPLEMENTARY INFORMATION: According to the Applicant, there has been a steady build-up of the lesion nematode in commercial plantings of peppermint (*Mentha piperita*) and two kinds of spearment (*M. spicata* and *M. cardiaca*) in northern Indiana. The mints are vegetatively propagated from dormant stolons dug by the grower from existing plantings. This practice has

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been a major factor in the dissemination of the nematode since it is readily spread from field to field with contaminated planting stock. Once an area is infested, a grower has no means of preventing further spread. The build-up in established fields has been rapid and the Applicant reports that fields which would have been expected to be in production for periods of three to five years or longer do not support profitable production after one or two years.

The causal organism is the lesion nematode (*Pratylenchus penetrans*). Damage is apparent as soon as the plants emerge in the spring with stunted, discolored plants, thin stands, and poor growth. Cultural practices such as crop rotation are of little value because of the relatively broad host range of the nematode. Crops rotated to mints include onion, potatoes, and corn, all of which are hosts of the nematode. Annual planting is of little value since planting stock is dug from existing fields. There are no sources of nematode-free planting stock, the Applicant reports. The Applicant states that there are currently no pesticides registered for use on mints for control of the lesion nematode under the conditions described.

The Applicant proposed a single application in the counties of Jasper, Kosciusko, Marshall, Porter, Pulaski, St. Joseph and Starke in northern Indiana. The product Temik 15% G, which contains the active ingredient aldicarb, will be used.

Without the use of aldicarb, the Applicant estimates direct losses at $90,000. In addition, indirect losses due to under-use or discontinued use of equipment are expected.

EPA has determined that the residue levels of aldicarb in mint foliage should not exceed 1.5 parts per million (ppm), and in mint oil 75 ppm from this use. These levels have been judged to be adequate to protect the public health.

Since aldicarb is highly toxic to mammals and birds, and their exposure to aldicarb from this use is likely, EPA has imposed a number of restrictions. If these restrictions are followed, no unreasonable adverse effect on the environment is expected.

After reviewing the application and other available information, EPA has determined that (a) a pest outbreak of lesion nematode has occurred or is likely to occur; (b) there are no effective pesticides currently registered and available for this use in Indiana; (c) there are no alternative means of control taking into account the efficacy and hazard; (d) significant economic problems may result if the lesion nematode is not controlled; and (e) the time available for action to mitigate the problems posed is insufficient for a pesticide to be registered for this use. Accordingly, the Applicant has been granted a specific exemption to use the pesticide noted above until May 30, 1979, in the manner set forth in the application. The specific exemption is also subject to the following conditions:

1. The registered product Temik 15% Granular Aldicarb (EPA Reg. No. 1016–78) will be used;

2. Application will be restricted to 1,500 acres located in the counties named above;

3. Aldicarb will be applied once at the rate of three pounds per acre (twenty pounds product);

4. Application shall be by ground equipment only with the pesticide being tilled into the soil to a depth of four to six inches;

5. A 120 day pre-harvest interval shall be observed;

6. Applications will be made by State-certified pesticide applicators;

7. All applicable precautions on the label regarding human and wildlife safety must be observed;

8. Deep disking of granules in turn areas and row ends as well as spill areas must take place;

9. Personnel from the Indiana Department of Natural Resources are to conduct pretreatment on-site inspections of designated treatment areas to ensure that large numbers of non-target wildlife (that is, migratory waterfowl and other avian species) are not utilizing these areas;

10. These same personnel are to conduct a post-treatment (one or two days after treatment) census to determine non-target utilization and possible adverse effects;

11. In the event of high non-target mortality:

a. All planned treatments are to be stopped immediately;

b. All dead or dying wildlife should be collected and necropsied, where possible, in order to check for the presence of aldicarb granules or residues;

c. Treated fields are to be either irrigated or deep disked to prevent further exposure to wildlife; and

d. The EPA shall be notified immediately;

12. The accompanying labeling must include the following statement: "This pesticide is extremely toxic to wildlife. Use with care when applying to areas frequented by wildlife. Treated granules exposed on soil surface may be hazardous to birds and other wildlife. Cover or incorporate granules which are spilled during loading. Incorporate granules visible on the soil surface in turn areas. Keep out of lakes, streams, and ponds. Do not contaminate water by cleaning of equipment or disposal of wastes."

13. Mint foliage and mint oil from mint treated according to the above provisions should not exceed residue levels of aldicarb of 1.5 ppm in foliage and 75 ppm in oil. Mint foliage and mint oil within these residue levels may enter interstate commerce. The Food and Drug Administration, U.S. Department of Health, Education, and Welfare, has been advised of this action; and

14. The Applicant is responsible for assuring that all of the provisions of this specific exemption are met, and must submit a report summarizing the results of this program by August 30, 1979.

(Section 18 of the Federal Insecticide, Fungicide, and Rodenticide Act (FIFRA), as amended in 1972, 1975, and 1978 (92 Stat. 819; 7 U.S.C.).)

Dated: May 15, 1979.

Edwin L. Johnson,

Deputy Assistant Administrator for Pesticide Programs.

[FR Doc. 79-15790 Filed 5-18-79; 8:45 am]

BILLING CODE 6560-01-M

[OPP-180290; FRL 1230-6]

Minnesota Department of Agriculture; Issuance of Specific Exemption To Use Asulox To Control Wild Oats, Wild Buckwheat, and Foxtails

AGENCY: Environmental Protection Agency (EPA), Office of Pesticide Programs.

ACTION: Issuance of a specific exemption.

SUMMARY: EPA has issued a specific exemption to the Minnesota Department of Agriculture (hereafter referred to as the "Applicant") to use Asulox on 26,720 acres of flax in five counties in northwest Minnesota to control wild oats, wild buckwheat, and foxtails. This exemption ends on August 1, 1979.

FOR FURTHER INFORMATION CONTACT: Emergency Response Section, Registration Division (TS–767), Office of Pesticide Programs, EPA, 401 M Street, S.W., Room E–315, Washington, D.C. 20460, Telephone: 202/755–4851. It is suggested that interested persons telephone before visiting the EPA Headquarters so that the appropriate files may be made conveniently available for review purposes.

SUPPLEMENTARY INFORMATION: Flax does not compete well with weeds; weed infestations result in poor stands of flax by reducing germination and competing with the developing flax plants. Wild oats and foxtails are common weed pests of flax. According to the Applicant, these weeds are present in all areas where flax is produced in Minnesota, and due to heavy snowfall and rain this past winter, heavy weed growth is expected.

Eptam, Avadex, dalapon, Carbyne, MCP Amine and Bromoxynil are registered for selective weed control in flax. According to the Applicant, the registered alternative pesticides are either not effective or are not acceptable control methods for wild oats, wild buckwheat and foxtails for this season's wet conditions.

Kittson, Marshall, Pennington, Roseau, and Lake of the Woods Counties, where flax is a major crop, grow from 75,000 to 95,000 acres of flax annually. A loss of 3.24 to 4.86 million dollars in agricultural income may be incurred, the Applicant claimed, if the exemption was not granted.

The Applicant proposed to use an asulam formulation, Asulox, EPA Reg. No. 359–662, in a single post-emergence application when wild oats are in the three- to four-leaf stage. Applications will be made by both private and commercial State-certified applicators using both ground and air equipment in the five counties named above. The Applicant claimed that studies conducted in Minnesota demonstrated that Asulox gave acceptable control of wild oats and suppressed the growth of foxtails and wild buckwheat.

EPA has determined that the available data are adequate to support the proposed use of Asulox on flax. Residues of the active ingredient (a.i.) asulam are not likely to exceed 2.0 parts per million (ppm) in flax seed and its fractions or 2.5 ppm in flax straw. EPA has deemed these levels to be adequate to protect the public health. An appropriate crop rotation restriction has been imposed. No unreasonable adverse effect on the environment from this use of asulam is anticipated.

After reviewing the application and other available information, EPA has determined that (a) an outbreak of wild oats, wild buckwheat, and foxtails in flax has occurred or is about to occur; (b) there is no effective pesticide presently registered and available for use to control these weeds in flax in Minnesota; (c) there are no alternative means of control, taking into account the efficacy and hazard; (d) significant economic problems may result if these weeds are not controlled; and (e) the time available for action to mitigate the problems posed is insufficient for a pesticide to be registered for this use. Accordingly, the Applicant has been granted a specific exemption to use the pesticide noted above until August 1, 1979, to the extent and in the manner set forth in the application. The specific exemption is also subject to the following conditions:

1. A single post-emergence application of Asulox (EPA Reg. No. 359–662) is authorized;

2. Application shall be made by air and/or ground equipment at a rate not to exceed 1.25 pounds a.i. per acre;

3. A maximum of 33,400 pounds a.i. may be applied to 26,720 acres of flax in the five counties mentioned above;

4. Applications will be made when wild oats are in the 3–4 leaf stage;

5. All applications shall be made by State-certified private and commercial applicators;

6. Precautions shall be taken to avoid or minimize spray drift from target area. Application may not be made when weather conditions favor spray drift;

7. Residue levels of asulam are not expected to exceed 2.0 ppm in flaxseed and its fractions (meal, oilseed cake, refined oil, and soapstock) and 2.5 ppm in the flax straw. Any resulting residues in meat, milk, poultry and eggs will be well below detectable levels (0.05 ppm in meat, 0.025 ppm in milk, and 0.1 ppm in poultry tissues and eggs). The Food and Drug Administration, U.S. Department of Health, Education, and Welfare, has been advised of this action;

8. Crops other than small grains may not be planted in the treated area within 12 months of application. Small grain crops may not be planted within ten months of application. Root crops may not be planted in the treated area within 18 months of application. Fodder from grain crops rotated to treated flax fields may not be grazed or cut for forage;

9. All applicable directions, restrictions, and precautions on the EPA-registered label must be followed;

10. Application of Asulox to flax may result in crop injury and reduction in yield under stress conditions or if the herbicide is applied at stages of growth other than those specified;

11. The Applicant will provide the EPA Region V office, Pesticides Branch, with a list of distributors for Asulox. The distributors will be required to maintain point of sale records;

12. The EPA shall be immediately informed of any adverse effects resulting from the use of Asulox in connection with this exemption; and

13. The Applicant is responsible for ensuring that all of the provisions of the specific exemption are met and must submit a report summarizing the results of this program by January 15, 1980.

(Section 18 of the Federal Insecticide, Fungicide, and Rodenticide Act (FIFRA), as amended in 1972, 1975, and 1978 (92 Stat. 819; 7 U.S.C. 136).)

Dated: May 15, 1979.

Edwin L. Johnson,

Deputy Assistant Administrator for Pesticide Programs.

[FR Doc. 79-15788 Filed 5-18-79; 8:45 am]

BILLING CODE 6560-01-M

[OPP-180288; FRL 1230-4]

North Dakota Department of Agriculture; Issuance of Specific Exemption To Use Diclofop To Control Foxtail Grasses and Wild Oats

AGENCY: Environmental Protection Agency (EPA), Office of Pesticide Programs.

ACTION: Issuance of a specific exemption.

SUMMARY: EPA has issued a specific exemption to the North Dakota Department of Agriculture (hereafter referred to as the "Applicant") to use diclofop to control foxtail grasses and wild oats in 200,000 acres of hard red spring wheat, durum wheat, and barley in North Dakota. This exemption ends on July 30, 1979.

FOR FURTHER INFORMATION CONTACT: Emergency Response Section, Registration Division (TS–767), Office of Pesticide Programs, EPA, 401 M Street, S.W., Room E–315, Washington, D.C. 20460, Telephone: 202/755–4851. It is suggested that interested persons telephone before visiting EPA Headquarters so that the appropriate files may be made conveniently available for review purposes.

SUPPLEMENTARY INFORMATION: According to the Applicant, foxtail grasses (*Setaria viridis* and *S. lutescens*) and wild oats (*Avena fatua*) are widespread weed problems in North Dakota, causing reduced yield of wheat and barley by their competition. EPA issued a specific exemption to North Dakota on March 31, 1979 for the use of propanil (Stam F–34) to control foxtail grasses in hard red spring wheat. The applicant did not request use of propanil on durum wheat and barley since field studies indicate significant yield reduction with durum wheat, and data are not available to evaluate the use of propanil on barley. Propanil is not known to be effective as a chemical control for wild oats. It appears that pre-emergence materials have lost much of their practicality, leaving wheat and

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barley growers without any pesticidal means of controlling weeds. Hand weeding appears to be a thing of the past because of high labor costs and the large acreage involved in modern farming.

Currently, there are no herbicides (pre- or post-emergence) registered for use on barley to control foxtail. The Applicant claimed that losses could be from $624,000 to $936,000 on the 60,000 acres proposed for treatment. Another problem associated with foxtail infestations is the high moisture content of their seeds. When mixed with the barley grain, problems with mold and mildew damage to the grain during storage can and does occur, according to the Applicant.

There are currently no registered herbicides for use on durum wheat as a post-emergence treatment to control foxtails and wild oats. Treflan (trifluralin) is registered for use on wheat as a soil incorporated pre-emergence treatment. The Applicant, however, has stated that this herbicide causes excessive drying of the soil and can cause excessive wind erosion because of the double harrowing. The Applicant estimates that losses of up to $1.2 million could be incurred on the 50,000 aces of durum wheat proposed for treatment due to foxtails, and the presence of wild oats could increase losses up to fifty percent.

Similarly, there are no registered herbicides for use as a post-emergence treatment to control wild oats in hard red spring wheat. The Applicant estimates losses of up to $4.86 million due to wild oats on the 90,000 acres proposed for treatment. In addition, harvested wheat grain contaminated with wild oats can lower the price of a bushel of wheat by twenty cents or more.

The Applicant proposed to use Hoelon 3 EC, which contains the active ingredient (a.i.) diclofop, in a single post-emergence application at a dosage rate of 0.75 to 1.25 pounds a.i. per acre. Diclofop would be applied to wild oats when they are in the 1–3 leaf stage and to foxtails when they are two inches or less in height.

EPA has determined that the proposed use will not result in residues of diclofop and its metabolites in excess of 0.1 part per million (ppm). This level is judged to be adequate to protect the public health. Applicators will be required to wear protective clothing and respirators.

A restriction of the grazing or foraging of treated land and a prohibition against the use of treated hay or straw as animal feed has been imposed. Since diclofop is acutely toxic to fish, EPA has imposed a restrictive which would prohibit the application of diclofop within 100 feet of any aquatic habitat.

After reviewing the application and other available information, EPA has determined that (a) pest outbreaks of foxtail grasses and wild oats have occurred or are likely to occur; (b) there are no effective pesticides currently registered and available for this use in North Dakota; (c) there are no alternative means of control taking into account the efficacy and hazard; (d) significant economic problems may result if foxtail grasses and wild oats are not controlled; and (e) the time available for action to mitigate the problems posed is insufficient for a pesticide to be registered for this use. Accordingly, the Applicant has been granted a specific exemption to use the pesticide noted above until July 30, 1979 in the manner set forth in the application. The specific exemption is also subject to the following conditions:

1. The American Hoechst product Hoelon 3EC, which contains the a.i. diclofop (methyl 2-[4-(2,4-dichlorophenoxy)] phenoxy propanate) is authorized at the following dosage rates and methods of application:

a. Ground equipment: two to three and one-half pints of product (0.75 to 1.25 pounds a.i.)/minimum of ten gallons of water/acre/season; and

b. Aerial equipment: two to three and one-half pints of product (0.75 to 1.25 pounds a.i.)/minimum of five gallons of water/acre/season;

2. Up to 175,000 pounds a.i. diclofop are authorized;

3. Applications are to be made only by State-certified commercial and private applicators, and following protective apparel must be sworn during all loading and mixing operations of diclofop and when diclofop is applied:

a. With ground equipment: gloves, waterproof boots, impermeable pants and shirts, goggles, and a cartridge-type respirator; and

b. Aerial pilots are not to be involved in the mixing and loading of diclofop unless the aforementioned equipment is worn. Pilots must wear a cartridge-type respirator when applying diclofop;

4. Applications of diclofop shall be made only when a knowledgeable expert determines that densities of wild oats in barley, durum wheat, or hard red spring wheat, or foxtail grasses in barley or durum wheat are at a level where the use of herbicides registered for use on wheat to control these weeds are not likely to provide sufficient eonomic control of those weeds. These experts may include personnel of the North Dakota Department of Agriculture, Extension Service, or licensed pesticide consultants not engaged in the sale of pesticides;

5. Diclofop is highly toxic to fish. It must be kept out of lakes, streams, ponds, tidal marshes, and estuaries. Direct applications or drift of spray material to water surfaces must be avoided. It may not be applied within one hundred feet of aquatic habitats. Aerial applications may not be made when the wind is above five miles per hour. Care must be taken to prevent contamination of arable land or water by the cleaning of equipment or disposal of waste;

6. Available data indicate that Hoelon is highly toxic to fish and may bio-accumulate in aquatic organisms. Fish from aquatic sites near at least one treated field must be analyzed for residues of Hoelon. The body concentrations should be reported for the whole fish. A minimum of fifteen juveniles should be analyzed before application and fifteen juveniles after application;

7. Fields treated with diclofop must not be grazed or foraged. Likewise, barley and wheat hay or straw must not be fed to lievstock;

8. Barley and wheat grain with residues of diclofop not exceeding 0.1 ppm may enter interstate commerce. The Food and Drug Administration, U.S. Department of Health, Education, and Welfare, and has been advised of this action; and

9. The Applicant is responsible for ensuring that all the provisions of this specific exemption are met, and must submit a full report summarizing the amounts of diclofop used and the economic benefits derived as a result of the specific exemption to the EPA by January 15, 1980.

(Section 18 of the Federal Insecticide, Fungicide, and Rodenticide Act (FIFRA), as amended in 1972, 1975, and 1978 (92 Stat. 819; 7 U.S.C.).

Dated: May 15, 1979.

Edwin L. Johnson,

Deputy Assistant Administrator for Pesticide Programs.

[FR Doc. 79-15791 Filed 5-18-79; 8:45 am]

BILLING CODE 6560-01-M

[FRL 1230-8]

Science Advisory Board, Economic Analysis Committee; Open Meeting

As required by Public Law 92-463, notice is hereby given that a meeting of the Economic Analysis Subcommittee of the Science Advisory Board will be held beginning at 9:00 a.m., June 13, 1979, at the Ramada Inn-Rosslyn, Room

Shenandoah B, and at 9:00 a.m., June 14, 1979, at the Ramada Inn-Rosslyn, the Club Room.

The subcommittee is meeting to review and discuss various aspects of the economic analysis currently being done by the Environmental Protection Agency.

The agenda will include briefings from various program offices regarding the scope and depth of economic analysis presently being done, and comments and questions of subcommittee members. Additional comments from members of the public will also be considered.

The meeting is open to the public. Any member of the public wishing to attend, participate, or obtain information should contact Dr. Douglas B. Seba, Executive Secretary, or Mr. Barry Gold, Staff Assistant, Economic Analysis Subcommittee (703) 557-7720 by June 5, 1979.

Burton Levy,

Acting Staff Director, Science Advisory Board.

May 16, 1979.

[FR Doc. 79-15788 Filed 5-18-79; 8:45 am]

BILLING CODE 6560-01-M

[FRL 1229-8]

Noise Emission Standards for Surface Transportation Equipment Light Vehicles

AGENCY: U.S. Environmental Protection Agency.

ACTION: Notice of Availability of Draft Light Vehicles Noise Emission Test Procedure.

SUMMARY: This document provides notice that the U.S. Environmental Protection Agency is soliciting comments on the adoption of a Light Vehicle Noise Emission Test Procedure.

For further information related to the Light Vehicle Noise Emission Test Procedure contact: Mr. John A. Thomas, Project Officer—Light Vehicles, Standards and Regulations Division (ANR-490), U.S. Environmental Protection Agency, Washington, D.C. 20460, (703) 557-7666.

SUPPLEMENTARY INFORMATION: In considering whether light vehicle regulatory action is requisite to the protection of the public health and welfare from noise from such vehicles, it is necessary to define a suitable method for measuring light vehicle noise emissions. Several methods have been developed and accepted for motor vehicle noise measurement. These methodologies as applicable to automobiles and light trucks are generally considered to be unsuitable for potential regulatory purposes since they are not representative of the way in which these vehicles are typically operated, and hence their noise impact on the community is not appropriately identified. With this realization, the U.S. EPA has embarked on a program to develop and validate a noise measurement procedure which is more consistent with the noise generated by light motor vehicles as they operate in the U.S. urban environment. A general requirement of such a procedure is that it be applicable for all categories of light motor vehicles and be technically and economically reasonable to implement. Although such a procedure could be used for compliance and enforcement of a Federal Government new product noise regulation, we believe that a simpler and thus less expensive test can and should be considered for implementing specific noise regulations.

The light vehicle noise measurement procedure in use in the United States by the automotive industry, and which has been adopted as the measurement standard for several State and local government regulations applicable to noise from light vehicles, is the Society of Automotive Engineers (SAE) J986a procedure. This procedure specifies the measurement of noise for full-throttle vehicle operation at speeds in excess of 30 mph. Full-throttle acceleration is not a typical mode of operation for most light vehicles, and hence is responsible for only a part of the noise impact received by urban communities from light vehicles. Further, vehicle operation surveys show that vehicles which are equally noisy when measured in accordance with the SAE J986a procedure do not necessarily contribute equally to community noise.

The test procedure which we developed is, we believe, representative of typical light vehicle operating conditions in urban communities. While being representative of such vehicle operations, it appears to also be a good indicator of community noise impact resulting from light vehicle operations. Any test procedure which might be adopted for use by the U.S. EPA, and which could serve as the basis for a potential Federal light vehicle noise emission regulation for newly manufactured light vehicles, could also, we believe, be used by State and local authorities, to establish their own noise emission regulations for newly manufactured light vehicles in the event that we do not establish Federally preemptive noise emission regulations for light vehicles. At the present time there has been no determination regarding whether EPA will regulate the noise from light vehicles in any way. The question of whether or not the EPA should regulate light vehicle noise emissions is outside the scope of this notice.

In June 1977, we invited all manufacturers of light vehicles being marketed in the United States, other members of the automotive industry, voluntary standards groups, and several States and cities concerned with light vehicle noise, to meet with us to review and comment on our technical findings relative to a light vehicle test procedure. Light vehicle manufacturers and other interested parties have subsequently tried out the proposed EPA test procedure and submitted informal recommendations to us to improve the procedure. On October 10, 1978, we informed the automotive industry, Society of Automotive Engineers and others of our intent to publish for public comment a revised EPA test procedure. We requested the submission of their comments on all aspects of the test procedure as well as any alternative test procedure which they would recommend be considered by EPA as the test procedure for characterizing community noise impact from light vehicles and which would be used by EPA in the development of any potential future regulatory actions on light vehicles noise.

A number of comments were received to this request. General Motors Corporation, besides submitting comments on the draft EPA procedure, also sumitted an alternative test procedure for consideration by us. It appears that the General Motors recommended procedure, although similar to the EPA procedure in many respects, has sufficient merit to warrant its consideration as an alternative to the EPA procedure. Accordingly, we are soliciting comments on the General Motors, as well as the EPA, test procedure.

The suitability of a test procedure for regulatory compliance and enforcement is tied to the issue of the extensiveness or the amount of testing to be conducted by the manufacturer, or other parties in demonstrating compliance with a regulation or ordinance. Several forms of compliance and enforcement programs related to product manufacturers are already in-use by Federal, State and local agencies. These programs require either total government testing, total manufacturer testing, or shared testing responsibilities between governmental agencies and the manufacturers. Accordingly, we are

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soliciting comments on the practicality of the EPA and GM test procedures when viewed form the perspective of different compliance and enforcement approaches for newly manufactured light vehicles, should such a test, with attendant not-to-exceed noise levels, be adopted by State or local ordinances, or through Federal Regulations.

Throughout the development of the draft EPA procedure, governmental, corporate and technical representatives of the European and Japanese motor vehicle community have been invited to and have participated in the EPA program. Additional discussions with these representatives will be held as part of the continuing dialogue on the adoption of a test procedure and its implications to them.

Copies of the Draft EPA Light Vehicle Noise Emission Test Procedure, the comments received earlier by EPA relative to this procedure, and the General Motors Corporation recommended test procedure, may be obtained from: Director, Standards and Regulations Division (ANR-490), Attn: Docket No. 79-02: Light Vehicle Test Procedure, U.S. Environmental Protection Agency, Washington, D.C. 20460, (703) 557-7370.

All comments should be received by the Agency no later than August 13, 1979. Comments should be submitted to: Director, Standards and Regulations Division (ANR-490), Attn: Docket No. 79-02: Light Vehicle Test Procedure, U.S. Environmental Protection Agency, Washington, D.C. 20460.

All comments received will be available for public inspection and copying at the U.S. Environmental Protection Agency, Public Information Reference Unit, Room 2922, 401 M Street, S.W., Washington, D.C. 20460.

Dated: May 14, 1979.

David G. Hawkins,

Assistant Administrator for Air, Noise and Radiation.

[FR Doc. 79-15643 Filed 5-18-79; 8:45 am]

BILLING CODE 6560-01-M

[FRL 1229-4; OPP-66054]

Intent To Cancel Registrations of Certain Pesticide Products

Pursuant to section 6(a)(1) of the Federal Insecticide, Fungicide, and Rodenticide Act (FIFRA), as amended in 1972, 1975, and 1978 (92 Stat. 819; 7 U.S.C. 136) firms listed below have requested that the Environmental Protection Agency (EPA) cancel the registrations of certain pesticide products. Such cancellation shall be effective on or before June 20, 1979, unless the registrant or an interested person with the concurrence of the registrant, requests that the registration be continued in effect.

The Agency has determined that the distribution and sale of stocks of these products which were produced on or before the effective date of cancellation would not be inconsistent with the purposes of FIFRA and would not have an unreasonable adverse effect on the environment. Therefore, the distribution and sale of existing stocks of these products shall be permitted until the supply is exhausted or for one year after the effective date of cancellation, whichever occurs earlier, provided that these products shall be used only in a manner consistent with the label and labeling registered with EPA. Production of these products after the effective date of cancellation will be considered a violation of FIFRA.

Requests that the registration of these products be continued may be submitted in triplicate to the Process Coordination Branch, Registration Division (TS-767), Office of Pesticide Programs, EPA, 401 M St., SW., Washington, D.C. 20460. Any comments filed regarding this notice of intended cancellation will be available for public inspection in the office of the Process Coordination Branch from 8:30 a.m. to 4:00 p.m. Monday through Friday.

The registrants concerned and the products affected by this action are listed below.

Dated: May 11, 1979.

Edwin L. Johnson,

Deputy Assistant Administrator for Pesticide Programs.

EPA Reg. No.	Product name	Registrant
239-2330	Ortho Fence & Grass Edger	Chevron Chemical Co., 940 Hensley St., Richmond, CA 94804.
1730	Cytox 4310	American Cyanamid Co., Wayne, NJ 07470.
1730-37	Baco D-131	Do
1730-39	Baco R-110	Do.
8790-1	5% Pentachlorophenol Solutions	Republic Powdered Metal, 2628 Pearl Road, Medina, OH 44256.

[FR Doc. 79-15658 Filed 5-18-79; 8:45 am]

BILLING CODE 6560-01-M

[FRL 1228-1]

Review of Advanced Treatment Projects; Program Guidance

AGENCY: Environmental Protection Agency.

ACTION: Program Guidance.

SUMMARY: This is a complete version of the guidance issued to the EPA regional water divisions on the review of advanced treatment projects, i.e. those requiring municipal wastewater treatment more stringent than secondary. This guidance was developed following action in September 1978 by the House/Senate Appropriations Conference Committtee requiring the EPA Administrator to personally approve construction grant program funds for advanced projects in cases where the incremental cost of the advanced treatment is greater than $1 million and to ensure, as a prerequisite for such approval, that the project will definitely result in significant water quality and public health improvements; for projects with an incremental cost for advanced treatment of $1 million or less, final approval remains at the regional level. The purpose of the guidance is to implement the mandate of Congress for additional review of advanced projects. This concern arose within EPA as well as Congress because advanced treatment projects can be very costly both in an absolute sense and in proportion to the added amount of pollution control obtained.

The guidance requires that all advanced treatment projects receive added scrutiny of the need for treatment beyond secondary. Two types of advanced projects are identified and each type is reviewed differently.

One group of projects comprises those treatment facilities that can produce effluent of a higher quality than secondary, still using primarily secondary treatment technology; these projects would have to meet effluent limits from 10 to 29 milligrams per liter (mg/1) for Biochemical Oxygen Demand (BOD) and Suspended Solids (SS). This treatment is referred to as advanced secondary or AST. For AST projects, a checklist is to be used by EPA regional offices in review. The checklist is to determine if basic issues in water quality evaluation (modeling, streamflow, standards violations) and in facility evaluation (total capital and O&M costs, process design) have been adequately evaluated in the facility plan to justify the need for AST. In addition, reviewers must determine if such alternatives as seasonal operation and land treatment have been evaluated. Review for AST projects that do not have complex issues can be completed quickly; if the EPA Administrator's approval review is required (because the cost for AST treatment is greater than $1 million), the necessary Headquarters final review will be completed within 25 working days of receipt of the project.

The second group of projects comprises facilities that need to meet very stringent effluent limitations of less than 10 mg/1 BOD and SS or nitrogen removal of greater than 50 percent. These projects are called advanced waste treatment or AWT projects. These projects must satisfy six criteria relating to the achievement of beneficial uses, water quality criteria, cost-effectiveness, supportable wasteload allocations, costs, and evaluation of land treatment. Normally review of AWT projects and complex AST projects at Headquarters will be completed within 45 to 60 days.

If review of either type of project shows that all or part of the project cannot be fully justified, appropriate alternatives such as redesign, segmenting or postponement will be considered. Certain projects may be excepted from this review and allowed to proceed if they incorporate innoviative or alternative technology including land treatment or if the added costs for advanced treatment are not substantially in excess of costs for secondary treatment.

This guidance became effective upon the date of issuance of March 9, 1979, and applies to projects prepared for funding of the Step 2 (design) or Step 3 (construction) stages.

EPA anticipates that the increased review given to all advanced projects frequently will result in reduced project costs and lower user costs, will eliminate unnecessary unit processes, and will delay advanced projects or elements thereof for which no water quality analysis or other justification is available until additional data is developed. Comments on this guidance memorandum are solicted and should be sent to: Michael B. Cook, Director, Facility Requirements Division (WH-595), Environmental Protection Agency, 401 M Street, SW., Room E1137D, Washington, D.C. 20460, telephone 202-426-9404.

For purposes of program guidance, the Environmental Protection Agency issued the following Program Requirements Memorandum (PRM 79-7) on March 9, 1979.

Subject: Grant Funding of Projects Requiring Treatment More Stringent Than Secondary

From: **Thomas C. Jorling, Assistant Administrator.**

To: Water Division Directors, Regions I-X.

Purpose

This memorandum sets forth Agency policy and procedures for Headquarters and regional review of wastewater treatment projects designed to meet effluent requirements more stringent than secondary treatment. It also groups such projects into two categories—advanced secondary treatment (AST) and advanced waste treatment (AWT) and defines these terms. In addition, this memorandum provides a standard for reviewing the financial impact of advanced projects upon small communities.

We anticipate that the review porcess will result in the development of improved national guidance on wasteload allocations and the water quality standards-setting process. Thus, these review requirements will be supplemented in the future by such guidance.

Discussion

The Agency has in the past expressed growing concern with the high cost and energy consumption of publicly-owned treatment works in many communities. These high costs and energy demands are frequently attribuable to optimistic projections of anticipated growth or sophisticated extra unit processes. Funding facilities with these conditions with limited grant funds results in fewer projects being funded overall, delay in accomplishing basic secondary treatment goals, and, particularly in smaller communities, the financial burden of high operation and maintenance as well as construction costs.

Consequently, the Agency has to take a hard look at the number and types of projects that are planned for treatment more stringent than secondary to achieve the Clean Water Act goals. Regions and States are reminded in this connection of the checklist procedure for all Step 2 and Step 3 projects that was instituted in the June 8, 1978, joint memo from Rhett/Davis. The checklist procedure and the independent justification described in the following sections are meant to supplement, not replace, the review of cost-effectiveness and appropriateness of facility design normally given to projects.

In action approving the FY 79 appropriation for the Construction Grants Program, the Appropriations Conference Committee agreed "that grant funds may be used for construction of new facilities providing treatment greater than secondary * * * only if the incremental cost of the advanced treatment is $1 million or less, or if the Administrator personally determines that advanced treatment is required and will definitely result in significant water quality and public health improvements."

All advanced projects with an incremental capital cost over $1 million that are recommended for funding by the regions or States must be reviewed at EPA Headquarters after completion of basic facility plan review and collection of supplementary materials by the regions or States. All other projects more stringent than secondary but with an incremental capital cost of $1 million or less shall receive a comparably intensive review at the regional/State level.

Clarification is needed for terminology used in review of projects. The Agency has defined secondary treatment as a treatment level meeting effluent limitations for Biochemical Oxygen Demand (BOD) and Suspended Solids (SS) of 30/30 mg/l on a maximum monthly average basis or 85 percent removal of these parameters, whichever is more stringent. The group of projects requiring treatment more stringent than secondary can be divided into two groups: advanced secondary treatment (AST) and AWT.

To arrive at the above distinctions the Agency reviewed about 6,300 projects shown in the 1976 Needs Survey as requiring treatment more stringent than secondary. Of the 6,300, 1,200 projects as yet unbuilt will be required to meet very stringent levels of treatment of BOD less than 10 mg/l and/or nitrogen removal. Additional analysis by the agency showed distinct cost increases and shifts to more sophisticated technology to achieve these levels. Therefore, the popularized term "AWT" should only be used to refer to treatment levels providing for maximum monthly average BOD/SS less than 10 mg/l and/or total nitrogen removal of greater than 50 percent. ("Total Nitrogen removal" = TKN plus nitrite+nitrate). These projects are subject to especially intensive review and require independent justification. Other projects requiring treatment more stringent than secondary but not to AWT levels can be referred to as "advanced secondary treatment." Review procedures for these projects are somewhat less rigorous.

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A treatment facility designed to meet effluent limitations of BOD/SS 30/30 mg/l or 85 percent removal with just disinfection processes shall be considered as a secondary rather than advanced secondary treatment facility for purposes of this PRM. Other definitions of secondary treatment (e.g., 25/30 or 20/20) may be used if included in approved State criteria, if secondary treatment technologies would be used to achieve these levels, and if any extra costs (present worth) beyond those for meeting 30/30 limits would be a very small percentage of the present worth costs of the entire treatment facility. Secondary treatment facilities with just phosphorus removal add-ons with a capital cost more than $1 million and derived from the international agreement for the Great Lakes basin shall be considered advanced secondary, but not subject to Headquarters review.

The policy of the Agency is to encourage land treatment facilities and other alternative technologies which provide for reuse of wastewater or recycling of nutrients and other pollutants. Such projects usually afford water quality enhancement beyond the minimum established in permits, and water management benefits as well. Accordingly, where land treatment or other reuse/recycling technologies are designed to meet effluent limitations more stringent than secondary, the procedures herein would allow such projects to proceed without special review unless their costs were found to be excessive. Excessive costs are defined as those which would exceed the high cost criterion presented in section 3 of this memorandum or the average present worth costs of AST and AWT projects (roughly estimated at 25 percent above secondary for the former category and 50 percent for the latter).

Some AWT projects, particulary those featuring waste stabilization ponds plus filtration, may not cost more than AST projects. Thus, AWT projects with a present worth cost not exceeding that for secondary treatment by more than 25 percent may be reviewed under procedures established herein for AST projects.

The cost of treatment—secondary as well as more stringent than secondary—can have severe local fiscal impacts. The latest Title II regulations give more emphasis to alternative or individual systems and require a cost-effectiveness analysis that could result in lower project costs, especially to small communities. This emphasis, along with increased review, should help ensure that projects with excessive capacity for growth or unnecessarily designed to meet effluent requirements more stringent than secondary, with capital or operations and maintenance costs that may place an intolerable financial burden upon the community, do not receive grant funds.

Additional guidance on coordination of reviews of advanced treatment projects with the interim municipal enforcement policy will be developed in conjunction with the EPA Office of Water Enforcement.

Policy

The Agency will conduct a rigorous review of projects designed for treatment more stringent than secondary. The incremental additional capital costs of a project that are attributable to effluent limitations or water quality requirements more stringent than secondary must be based on a justification showing significant receiving water quality improvement and mitigation of public health problems where they exist. In addition, projects requiring treatment more stringent than secondary should be evalated for their financial impact upon the community. Also, the inflationary costs for delay should be considered in project reviews. The regions will review all such projects. They will decide how to proceed in accordance with this PRM for projects having incremental costs beyond secondary of $1 million or less, and for other projects explicitly designated in this PRM for final regional decison. Headquarters review and decision on how to proceed will follow preliminary regional review for the remaining projects with incremental capital costs beyond secondary greater than $1 million.

For projects with an incremental cost of $1 million or less, the review is a delegable function under the 205(g) delegation agreements. For projects with an incremental cost of greater than $1 million, States may do the initial review but regions must concur with the State's conclusions before transmitting the project to Headquarters.

Beginning in FY 1980, the delegation of that group of project reviews now conducted by Headquarters to those regional offices demonstrating capability to perform such reviews well will be considered.

Review of the projects should proceed as outlined below:

Procedure

Preliminary steps in the review should be 1) determination of the explicit effluent requirements for the project and identification as secondary, advanced secondary or AWT, and 2) determination of incremental capital cost of advanced treatment as more or less than $1 million.

1. *Review of Projects Identified os AST.* If a project is identified as having to meet advanced secondary treatment standards (more stringent than secondary but not AWT), the checklist should be used to review the project.

For project approval, the review must determine that:

1. Seasonal operation has been evaluated;

2. The land treatment alternative has been considered;

3. The advanced secondary portions of the project will definitely result in significant water quality improvements and mitigation of public health problems where they exist.

Reviews of project costs and local financial impacts must comply with section 3. If the checklist review demonstrates that the required level of treatment is not well justified, Federal funding of all or part of the project should be postponed until the project is redesigned (if necessary) or the level of treatment is fully justified.

If the project involves land treatment or other innovative/alternative technologies featuring wastewater reuse or recycling of pollutants, does not exceed the high cost criterion given in section 3 below and its incremental present worth cost does not exceed 25 percent of the cost of a new secondary treatment plant, then the project should proceed without further review. If the project does exceed the high cost or present worth criteria, the procedures prescribed herein for AST projects shall apply.

a. *Incremental cost of AST is $1 million or less.* Regions should follow the criteria and procedures given above. The decision will be made at the regional level.

b. *Incrementol cost of AST is greater than $1 million.* If, after the above review, the Regional Administrator wants to proceed with funding, the project must receive approval from the Administrator in EPA Headquarters. The following material should be sent to the Office of Water Program Operations: attention Michael B. Cook, USEPA, Facility Requirements Division (WH 595), 401 M Street, SW., Washington, D.C. 20460, telephone (202) 426–9404, for final review and approval:

(1) Facility plan (draft or final) including supporting documentation on alternatives considered with region's review and comments;

(2) Completed checklist with detailed answers to supplement checked responses;

(3) Region's evaluation of water quality and public health benefits that will result from advanced secondary treatment based upon data submitted concerning the project;

(4) Region's evaluation of seasonal operation of AST portion of project; and

(5) The major documents summarizing the establishment of water quality standards and effluent limitations for the project.

Headquarters has developed procedures for the internal review of advanced secondary projects which rely heavily upon regional/State evaluations. Advanced secondary projects without complex issues are expected to be reviewed within 25 working days of receipt of the project at Headquarters.

2. *Review of Projects Identified as AWT.* Regions should assist grantees and the State in developing the data needed for an independent justification of AWT. This should include at a minimum:

(1) Facility plan (draft or final) and supporting documents, particularly on alternatives considered with region's review and comments.

(2) Completed checklist with detailed answers to supplement checked responses;

(3) Region's evaluation of water quality and public health benefits that will result from both secondary treatment and the additional treatment beyond secondary based upon data submitted for the project;

(4) Region's evaluation of seasonal operation of AST portion of project; and

(5) The major documents summarizing the establishment of water quality standards and effluent limitations for the project;

(5) An identification and review of the need for each proposed unit process included in the proposed treatment facility for meeting the effluent limitation identified in item (4). Particular attention should be given to an assessment of the impact on beneficial uses of dropping one or a few treatment processes (or redesigning one or more treatment processes to provide a lesser degree of treatment) and the cost savings associated with these options:

(6) A detailed review of land treatment and seasonal operation alternatives; and

(7) If the item 5 and 6 review indicates a more cost-effective option, an estimate for the 20-year planning period of the capital, operation and maintenance, and total present worth costs of that option.

The review of an AWT project must determine whether the project meets all of the following criteria:

(1) The beneficial uses established for the receiving water can be attained or, if not, lesser uses can be achieved when the effluent limits are met, and industrial sources meet their pretreatment and permit conditions. Where Best Management Practices for nonpoint source control are required to achieve standards not now being attained, these controls must be in place or part of a draft or an EPA approved water quality management plan. The differences must be significant between water quality and beneficial uses attained or enhanced by the proposed project compared with water quality and uses attainable from the project with one or a few treatment processes beyond secondary dropped or modified and with less stringent effluent limitations reflecting their ommission or modification.

(2) State laws or requirements or criteria within State water quality standards are not more stringent than the Red Book criteria unless fully justified as essential to achieve and sustain the beneficial uses.

An exception to this criterion may be allowed if a project is necessary to prevent degradation of the following types of "national resources waters":

a. National Parks.
b. National Wildlife Refuges.
c. National Seashores.
d. National Monuments.
e. National Marine Sanctuaries.
f. National Estuarine Sanctuaries.

Funding necessary to prevent degradation of other waters of national, rather than regional or State, importance may be allowed on a case-by-case if both the following conditions are met:

a. The water is of truly national, rather than regional or State importance.

b. Federal legislation or regulations are directed toward protecting the specific body of water from degradation.

(3) The wasteload allocations or other analysis resulting in the effluent limitations, along with the assumptions on which the analysis is based, are scientifically supported by intensive water qualtiy surveys or appropriate field investigations conducted on the water bodies in question, and calibrated and verified models or other technically sound analyses.

(4) The treatment processes are the most cost-effective means of meeting the prescribed effluent limitations.

(5) The community is aware of the project's costs for treatment and reserve capacity. Cost information on total capital costs, local financing, and annual or monthly operating and debt service costs should be presented at a public hearing as required in PRM 76–3. Review of project costs and local financial impacts must comply with section 3.

(6) Land treatment has been fully evaluated.

If the above conditions are not met, either the entire project or its AWT elements (if they can be separated out) should not be funded pending further action.

Federal funding of all or the unjustified part of the project should be postponed until the project (if necessary) is redesigned or the level of treatment is fully justified. The advanced wastewater treatment increment of the project that is not justified should not be funded unless and until the project will result in significant water quality and public health improvements.

Should the review show that AWT cannot be justified, but that some treatment greater than secondary can be justified under the rules for review of AST projects, then the justified portion should be funded. The project should be segmented to permit funding of the justified portion and that section should be designed, if practicable, to allow addition of the other segment at a later date after further analyses.

Projects may be excepted from the AWT review procedures under the following circumstances:

(1) Project features land treatment or other innovative/alternative technologies affording wastewater reuse or recycling of pollutants where the project's cost would not exceed the high cost criterion described in section 3. Also, the incremental present worth cost of such a project must not exceed 50 percent of the present worth cost of a new secondary treatment project. If these criteria are met, the project may proceed without further review.

(2) The AWT project's incremental present worth cost does not exceed 25 percent of the present worth cost of a new secondary treatment facility. Project review must, nevertheless, conform with AST review procedures.

a. *Incremental cost of AWT is $1 million or less.* Regions should follow the criteria and procedures given above. The decision will be made at the regional level.

b. *Incremental capital cost of AWT is greater than $1 million.* If the Regional Administrator is satisfied that the project meets all of the required criteria and wants to proceed with funding, the project must receive approval from the Administrator in EPA Headquarters.

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The region shall furnish a report covering all of the criteria listed in section 2 and forward each of the documents listed in section 2 to the Office of Water Program Operations: attention Michael B. Cook, Director, Facility Requirements Division (WH 595), United States Environmental Protection Agency, 401 M Street, SW., Washington, D.C. 20460, telephone (202) 426-9404, as soon as possible after the need for Headquarters review is identified.

Headquarters has developed internal procedures for a task force review of complex AST and AWT projects that will review the major issues and questions intensively based upon the material sent in by regions and States. Decisions will be made on the basis of the criteria outlined above. It is planned for the Administrator's decision on the project to be made within 45 to 60 working days of receipt of the project at Headquarters. This decision will be communicated to the regions.

3. *Local Financial Impacts.* All projects designed to achieve treatment more stringent than secondary must be evaluated in terms of financial impact upon the communuity. This evaluation should supplement the display and disclosure of financial information and local costs required of all facility plans and described in PRM 76-3. Total annual costs to a typical domestic user comprise both the existing preproject costs and the increase attributable to the proposed new facilities. A project shall be considered high-cost when the total average annual cost (debt service, operation and maintenance, connection costs) to a domestic user exceeds the following percentage of median household incomes:

1.50 percent when the median income is under $6,000.
2.00 percent when the median income is $6,000-$10,000.
2.50 percent when the median income is over $10,000.

If review shows that a project is high cost, try to determine which elements of the project are responsbile. Determine whether it is the treatment processes selected, excessive reserve capacity, new sewer construction, or other factors in the physical setting that may cause excessive costs in either construction or operation of the facility. Work with the grantee and the State to revise the facility plan or redesign the project to reduce the costs, or obtain assistance from the Farmer's Home Administration (FmHA) or another source with the local share. There is agreement between FmHA, EPA and Economic Development Administration for all to use the above rule-of-thumb in review of projects. Regions should proceed with a project determined to be high cost under this criterion only after consulting with the Facility Requirements Division in Headquarters.

Implementation

This policy shall be implemented immediately as follows. Regions shall advise States of the policy of strict review in the regions and Headquarters of treatment more stringent than secondary (advanced secondary and AWT). They should also be advised of the Agency's policy not to fund such projects if not justified. The policy should be applied to all projects prepared for Step 2 or 3 funding.

Dated: March 9, 1979.

Thomas C. Jorling,

Assistant Administrator for Water and Waste Management.

[FR Doc. 79-15648 Filed 5-18-79; 8:45 am]

BILLING CODE 6560-01-M

[FRL 1228-2; PP 9G2150/T206]

Establishment of a Temporary Tolerance; Glyphosate

Monsanto Co., 800 N. Lindbergh Blvd., St. Louis, MO 63166, submitted a pesticide petition (PP 9G2150) to the Environmental Protection Agency (EPA). This petition requested that a temporary tolerance be established for combined residues of the herbicide glyphosate [*N*-(phosphonomethyl)glycine) and its metabolite aminomethylphosphonic acid in or on the raw agricultural commodity stone fruit at 0.2 part per million (ppm). This temporary tolerance will permit the marketing of the above raw agricultural commodity when treated in accordance with an experimental use permit (524-EUP-47) that has been issued under the Federal Insecticide, Fungicide, and Rodenticide Act, as amended in 1972, 1975, and 1978 (92 Stat. 819; 7 U.S.C. 136).

An evaluation of the scientific data reported and other relevant material showed that the requested tolerance was adequate to cover residues resulting from the proposed experimental use, and it was determined that the temporary tolerance would protect the public health. The temporary tolerance has been established for the pesticide, therefore, with the following provisions:

1. The total amount of the pesticide to be used must not exceed the quantity authorized by the experimental use permit.

2. Monsanto Co. must immediately notify the EPA of any findings from the experimental use permit that have a bearing on safety. The firm must also keep records of production, distribution, and performance and on request make the records available to any authorized officer or employee of the EPA or the Food and Drug Administration.

This temporary tolerance expires April 16, 1981. Residues not in excess of 0.2 ppm remaining in or on stone fruit after this expiration date will not be considered actionable if the pesticide is legally applied during the term of an in accordance with the provisions of the experimental use permit and temporary tolerance. This tempoarary tolerance may be revoked if the experimental use permit is revoked or if any scientific data or experience with this pesticide indicates such revocation is necessary to protect the public health. Inquiries concerning this notice may be directed to Mr. Robert Taylor, Product Manager 25, Registration Division (TS-767), Office of Pesticide Programs, 401 M Street SW., Washington, DC 20460 (202/755-7013).

(Sec. 408(j), Federal Food, Drug, and Cosmetic Act (21 U.S.C. 346a(j))).

Dated: May 10, 1979.

Douglas D. Campt,

Director, Registration Division.

[FR Doc. 79-15649 Filed 5-18-79; 8:45 am]

BILLING CODE 6560-01-M

[FRL 1228-3; OPP-30163]

Receipt of Applications To Register Pesticide Products Containing New Active Ingredient

Applications have been submitted to the Environmental Protection Agency (EPA) to register pesticide products containing active ingredients which have not been included in any previously registered pesticide products. Notice of these applications is given pursuant to the provisions of the Federal Insecticide, Fungicide, and Rodenticide Act (FIFRA) as amended in 1972, 1975, and 1978 (92 Stat. 819; 7 U.S.C. 136) and the regulations thereunder (40 CFR Part 162). Notice of receipt of these applications does not indicate a decision by the Agency on the applications.

Interested persons are invited to submit written comments on any applications referred to in this notice to the Federal Register Section, Program Support Division (TS-757), Office of Pesticide Programs, EPA, Room 401 East Tower, 401 M St., SW, Washington, DC 20460. The comments must be received on or before June 20, 1979, and should

bear a notation indicating the EPA file symbol number of the application to which the comments pertain. Comments received within the specified time period will be considered before a final decision is made; comments received after the specified time period will be considered only to the extent possible without delaying processing of the application. Specific questions concerning these applications and the data submitted should be directed to the designated Product Manager (PM), Registration Division (TS-767), Office of Pesticide Programs, at the above address or appropriate telephone number cited. The labels furnished by each applicant, as well as all written comments filed pursuant to this notice, will be available for public inspection in the office of the Federal Register Section from 8:30 a.m. to 4:00 p.m. Monday through Friday.

Notice of approval or denial of the applications to register pesticide products will be announced in the **Federal Register**. Except for such material protected by Section 10 of FIFRA, the test data and other information submitted in support of registration as well as other scientific information deemed relevant to the registration decision may be made available after approval under the provisions of the Freedom of Information Act. The procedures for requesting such data will be given in the **Federal Register** if an application is approved.

Dated: May 10, 1979.

Douglas D. Campt,

Director, Registration Division.

Applications Received

EPA File Symbol 7969-LE. BASF Wyandotte Corp., 100 Cherry Hill Road, Parsippany, NJ 07054. PIX COTTON PLANT REGULATOR. Active Ingredient: *N,N-dimethylpiperidinimum chloride* 4.2%. Application proposes that this product be classified for general use as a foliar-applied plant regulator in cotton. Product Manager (PM) 25, Mr. Robert Taylor, 202/755-2196.

EPA File Symbol 11273-EE. Sandoz, Inc., 480 Camino del Rio South, Suite 204, San Diego, CA 92108. SAFROTIN—4 EMULSIFIABLE CONCENTRATE INSECTICIDE. Active Ingredient: *Propetamphos [(E)-1-methylethyl 3-[[(ethylamino) methoxyphosphinothioyl] oxy]-2-butenoate]* 50%. Application proposes that this product be classified restricted for the indoor control of cockroaches. Product Manager (PM) 16, William H. Miller, 202/755-9315.

EPA File Symbol 11273-ER. Sandoz, Inc. TECHNICAL PROPETAMPHOS (Manufacturing Use Only). Active Ingredient: Propetamphos 91%. Application proposes that this product be used as a technical ingredient only in formulating insecticides. PM16.

[FR Doc. 79-15650 Filed 5-18-79; 8:45 am]

BILLING CODE 6560-01-M

[FRL 1228-5]

Status of Listing Decision on Arsenic Under Section 122 of the Clean Air Act and Call for Further Information

This notice describes the status of EPA's decision on whether to list arsenic for regulation under the Clean Air Act. That decision is required by section 122 of the Act, which was added by the Clean Air Act Amendments of 1977. Section 122 requires EPA to determine whether or not emissions of arsenic into the ambient air will cause or contribute to air pollution which may reasonably be anticipated to endanger public health. If the finding is affirmative, the Agency is required to list arsenic for regulation under the appropriate section of the Act (section 108, 111, or 112).

On May 22 and 23, 1978, EPA submitted three draft documents on the health effects of arsenic to a subcommittee of the Agency's Science Advisory Board (SAB) for its review: (1) A Risk Assessment, (2) Human Exposure to Atmospheric Arsenic, and (3) an Assessment of the Health Effects of Arsenic Germane to Low Level Exposures. The subcommittee recommended substantial changes to these documents. The documents were therefore revised and resubmitted to the SAB subcommittee on January 10, 1979.

After reviewing the revised documents, the subcommittee concluded that the association between exposure to arsenic and the development of cancer was well established. The SAB subcommittee also recommended, however, that further work be done on the documents to improve in various respects their treatment of the health effects of arsenic. EPA has therefore undertaken further revision of these health effects documents. This final revision is expected to be completed sometime in August.

The Agency remains interested in receiving any information on the health effects of arsenic that has not been considered in the draft documents submitted to the SAB subcommittee. Persons having such information are requested to submit it as soon as possible to: Dr. Lester Grant, Director, Environmental Criteria and Assessment Office, Environmental Protection Agency, Mail Drop 52, Research Triangle Park, North Carolina 27711.

For further information on the status of the Agecny's decision on listing arsenic, contact: Mr. Joseph Padgett, Director, Strategies and Air Standards Division, Environmental Protection Agency, Mail Drop 12, Research Triangle Park, North Carolina 27711.

Dated: May 11, 1979.

Walter C. Barber,

Deputy Assistant Administrator for Air Quality Planning and Standards.

[FR Doc. 79-15652 Filed 5-18-79; 8:45 am]

BILLING CODE 6560-01-M

FEDERAL COMMUNICATIONS COMMISSION

FM and TV Translator Applications Ready and Available for Processing; and

The following entry appeared on the Public Notice (Mimeo #16815) released April 26, 1979, FR 79-13739 listing translator applications which would be considered as ready and available for processing on June 14, 1979.

BPTT-781222IC, New, Tucson, Arizona, Seven Hills Television Company, Req: Channel 40, 626-632 MHz, 10 watts, Primary: KTVW-TV, Phoenix, Arizona.

The entry is corrected to read as follows:

BPTT-781222IC, New, Tucson, Arizona, Seven Hills Television Company, Req: Channel 40, 626-632 MHz, 1000 watts, Primary: KTVW-TV, Phoenix, Arizona.

Federal Communications Commission.

William J. Tricarico,

Secretary.

[FR Doc. 79-15771 Filed 5-18-79; 8:45 am]

BILLING CODE 8712-01-M

FEDERAL MARITIME COMMISSION

Agreements Filed

The Federal Maritime Commission hereby gives notice that the following agreements have been filed with the Commission for approval pursuant to section 15 of the Shipping Act, 1916, as amended (39 Stat. 733, 75 Stat. 763, 46 U.S.C. 814).

Interested parties may inspect and obtain a copy of each of the agreements and the justifications offered therefor at the Washington Office of the Federal Maritime Commission, 1100 L Street, N.W., Room 10423 or may inspect the agreements at the Field Offices located at New York, N.Y.; New Orleans, Louisiana; San Francisco, California; Chicago, Illinois; and San Juan , Puerto Rico. Interested parties may submit comments on each agreement, including

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requests for hearing, to the Secretary, Federal Maritime Commission, Washington, D.C., 20573, on or before June 11, 1979. Comments should include facts and arguments concerning the approval, modification, or disapproval of the proposed agreement. Comments shall discuss with particularity allegations that the agreement is unjustly discriminatory or unfair as between carriers, shippers, exporters, importers, or ports, or between exporters from the United States and their foreign competitors, or operates to the detriment of the commerce of the United States, or is contrary to the public interest, or is in violation of the Act.

A copy of any comments should also be forwarded to the party filing the agreements and the statement should indicate that this has been done.

Agreement No. T-3756-1.

Filing party: Einar C. Petersen, Deputy City Attorney, The City of Long Beach, City Hall, 333 West Ocean Boulevard, Long Beach, California 90802.

Summary: Agreement No. T-3756-1, between the City of Long Beach and Seamount, Inc. (Seamount) modifies the parties basic agreement which provides for Seamount's one-year lease (with renewal options) of a portion of the Queen Mary Plaza Administration Building on Pier J, Long Beach, California to be used for offices. The purpose of the modification is to re-establish the commencement date of the term of the lease as February 27, 1979.

Agreement No. T-3800.

Filing party: Leslie E. Still, Jr., Senior Deputy City Attorney, City of Long Beach, Harbor Administration Building, P.O. Box 570, Long Beach, California 90801.

Summary: Agreement No. T-3800, between City of Long Beach (City) and General Steamship Terminals, Ltd., and Kerr Terminals, Inc., a Joint Venture, doing business as California United Terminals (CUT), provides for the preferential assignment to CUT of specified berths and back area on Pier B and C, including certain specified buildings and structures, but not including two container cranes. The agreement provides for a term of ten years, with two additional five-year options. As compensation for the assigned premises, CUT will pay accrued tariff charges to the port, with a guaranteed annual minimum to be paid, and with the tariff charges for wharfage, dockage, wharf storage and demurrage apportioned as set forth in the agreement.

AGREEMENT NO. T-3807.

Filing party: Randall V. Adams, Port of Palm Beach, Traffic, P.O. Box 9935, Riviera Beach, Florida 33404.

Summary: Agreement No. T-3807, between the Port of Palm Beach (Port) and Florida Power & Light Company (FPL), provides for the granting by the Port to FPL of an easement for the installation, maintenance, repair, improvement and operation of underground oil transfer pipelines, as well as for the installation, operation and maintenance of valve pits and unloading arm pits for the purpose of loading and unloading marine oil tankes into the underground oil transfer pipelines. As compensation, FPL agrees to transport a minimum of 500,000 short tons of fuel, upon which the Port will derive wharfage, dockage and any other applicable tariff charges.

By order of the Federal Maritime Commission.

Dated: May 16, 1979.

Francis C. Hurney,

Secretary.

[FR Doc. 79-15780 Filed 5-18-79; 8:45 am]

BILLING CODE 6730-01-M

DEPARTMENT OF HEALTH, EDUCATION, AND WELFARE

Office of Education

National Advisory Council on Adult Education; Meeting

AGENCY: National Advisory Council on Adult Education.

ACTION: Notice of meeting.

SUMMARY: This notice sets forth the schedule and proposed agenda of a forthcoming meeting of the National Advisory Council on Adult Education. This notice also describes the functions of the Council. Notice of this meeting is required under the Federal Advisory Committee Act (Pub. L. 92-463, Sec. 10(a)(2)).

DATE: June 21, 1979, 3:30 p.m. to 5:30 p.m., Executive Committee Meeting; June 22, 1979, 9:30 a.m. to 5:00 p.m.; June 23, 1979, 9:00 a.m. to 1:00 p.m.

ADDRESS: June 21 & 23, 1979, Santa Barbara Inn, Santa Barbara, California; June 22, 1979, 9:30 a.m. to 11:00 a.m., Work Training Program, Inc., Santa Barbara, California, and 11:30 a.m. to 5:00 p.m., Santa Barbara City College, Santa Barbara, California.

FOR FURTHER INFORMATION CONTACT: Dr. Gary A. Eyre, Executive Director, National Advisory Council on Adult Education, 425 13th St., NW., Washington, D.C. 20004 (202/376-8892).

SUPPLEMENTARY INFORMATION: The National Advisory Council on Adult Education is established under Section 313 of the Adult Education Act (20 U.S.C. 1201). The Council is directed to:

Advise the Commissioner in the preparation of general regulations and with respect to policy matters arising in the administration of this title, including policies and procedures governing the approval of State plans under section 306 and policies to eliminate duplication, and to effectuate the coordination of programs under this title and other programs offering adult education activities and services.

The Council shall review the administration and effectiveness of programs under this title, make recommendations with respect thereto, and make annual reports to the President of its findings and recommendation (including recommendations for changes in this title and other Federal laws relating to adult education activities and services). The President shall transmit each such report to the Congress together with his comments and recommendations.

The meeting of the Council shall be open to the public.

The proposed agenda includes:

FY-81 Council Budget
Annual Report
Committee Reports—Legislation/Appropriations, Liaison, Program Effectiveness
USOE Report—State Plans and Regulations
Work Training Program, Inc.
Santa Barbara City College—Adult and Continuing Education Overview, Campus Programs, Fine Arts
Comprehensive Legislation

Records shall be kept of all Council proceedings, and shall be available for public inspection at the Office of the National Advisory Council on Adult Education, 425 13th St., NW., Suite 323, Washington, D.C. 20004.

Signed at Washington, D.C., on May 15, 1979.

Gary A. Eyre,

Executive Director, National Advisory Council on Adult Education.

[FR Doc. 79-15786 Filed 5-18-79; 8:45 am]

BILLING CODE 4110-02-M

Office of the Secretary

Meeting of the Secretary's Advisory Committee on the Rights and Responsibilities of Women

The Secretary's Advisory Committee on the Rights and Responsibilities of Women, which is established to provide advice to the Secretary of Health, Education, and Welfare on the impact of the policies, programs, and activities of the Department on the status of women will meet on Tuesday, June 5, 1978 from 9:30 a.m. to 5:00 p.m., and on Wednesday, June 6, 1979, from 9:00 a.m. to 3:00 p.m., in Room 1137, HEW North Building, 330 Independence Avenue, S.W., Washington, D.C. The agenda will include reports from Title IX, Health, Family Policy, Social Security and Equal Employment Task Forces and action decisions based upon those reports.

Further information on the Committee may be obtained from: Susan C. Lubick, Executive Secretary, telephone 202/245-8454. These meetings are open to the public.

Dated: May 15, 1978.

Susan C. Lubick,

Executive Secretary, Secretary's Advisory Committee on the Rights and Responsibilities of Women.

[FR Doc. 79-15806 Filed 5-18-79; 8:45 am]

BILLING CODE 4110-12-M

DEPARTMENT OF THE INTERIOR

Bureau of Indian Affairs

Public Service Co. of New Mexico's Four Corners to Ambrosia Lake to Albuquerque 500 kV Transmission Line; Intent To Prepare an Environmental Impact Statement and Scoping Meeting

May 16, 1979.

This notice is published in the exercise of authority delegated by the Secretary of the Interior to the Assistant Secretary-Indian Affairs by 209 DM 8.

The Bureau of Indian Affairs, Navajo Area Office will prepare an environmental impact statement for the proposed construction and operation of a 500 kV electrical power transmission line by the Public Service Company of New Mexico from the Four Corners Generating Station to Ambrosia Lake to Albuquerque, lying entirely within the state of New Mexico.

The proposed project would require the Bureau of Indian Affairs, The Bureau of Land Management, and the U.S. Forest Service to issue rights-of-way across Indian, Natural Resources, and National Forest lands respectively. The environmental impact statement will address the effects of the construction and operation of the power line on the physical, biological and scio-economic environment.

Pursuant to the requirements of 40 CFR 1501.7, a public scoping meeting will be held to identify interested public and private entities with an interest in the proposal, and identify the major and minor areas of impact. The meeting will be held on June 12, 1979, from 3:00 p.m. to 5:00 p.m. and from 7:00 p.m. to 9:00 p.m., in the Tesuque Room of the Albuquerque Convention Center in Albuquerque, New Mexico. Interested parties are encouraged to attend the meeting or submit comments in writing to this office.

For further information concerning the proposed action, the scoping meeting or the environmental impact statement, contact Howard Zeutzius, Environmental Quality Coordinator, Navajo Area Office, Bureau of Indian Affairs, Window Rock, Arizona 86515, telephone number (602) 871-5151, extension 5314 or FTS 479-5314.

Dated: May 16, 1979.

Forrest J. Gerard,

Assistant Secretary—Indian Affairs.

[FR Doc. 79-15722 Filed 5-18-79; 8:45 am]

BILLING CODE 4310-02-M

Bureau of Land Management

Burley District, Idaho; Redelegation of Authority to Area Managers

In accordance with Bureau Order No. 701 of July 23, 1964, (FR Doc. 64-7492; 29 FR 10526) as amended, the Area Managers of the Magic, Raft River and Bannock-Oneida Resource Areas of the Burly District, Idaho, are authorized to perform in their respective areas of responsibility in accordance with existing policies and regulations of this Department and under the direct supervision of the District Manager, the functions listed below, subject to the limitations set forth in Bureau Order No. 701, as amended, together with any limitations specified below.

Section 3.2—General and miscelaneous matters. On matters in which he/she is authorized to act, the Area Manager may take all action on:

(b) Cancellations or surrenders of contracts.

Section 3.3—FISCAL AFFAIRS. On matters in which he/she is authorized to act, the Area Manager may take all actions on:

(b) Contributions, donations, and refunds.

(d) *Treaspass.* Determine liability for trespass on the public lands when actual damages do not exceed $5,000. Accept payment in full irrespective of amount. Dispose of resources recovered in trespass cases for not less than the appraised value thereof.

Section 3.6—Minerals. The Area Manager may take all actions on:

(m) Oil and gas exploration operations pursuant to 43 CFR Subpart 3045.

(n) *Geothermal Resource Leases.* Take all actions involving geothermal resource exploration and operations as provided in 43 CFR 3203.6 and Subpart 3209.

Section 3.7—Range management. The Area Manager may take all listed actions on:

(a) *Grazing District Administration.*

(1) Licenses and permits to graze or trail livestock, including authority to issue Sec. 3 Grazing Decisions.

(2) Permits or cooperative agreements to construct and maintain range improvements and determine the value of such improvements.

(3) The expenditure of funds appropriated by Congress, or contributed by individuals, associations, advisory boards, or others for the construction, purchase or maintenance of range improvements.

(8) Refunds pursuant to 43 CFR 4115.2-1(k)(2).

(b) Grazing leases—including authority to issue Sec. 15 Grazing Decisions.

(c) Appropriation of water.

(d) Soil and moisture conservation; control of *Halogeton glomeratus.*

(f) Protection of wild, free-roaming horses and burros. Except authorizations to capture and remove excess animals.

Section 3.8—Forest management. The Area Manager may take all actions on:

(a) Disposition of forest products except sales of timber in excess of 10,000,000 feet board measure must be approved by State Directors or their delegates, prior to advertisements.

Section 3.9—Land use. The Area Manager may take all the listed action on:

(g) Material other than forest products not exceeding $2,000.00.

(m) *Rights-of-Way.* Grant rights-of-way over public and acquired land pursuant to 43 CFR Subpart 2811.

(o) *Special land-use permits.*

(1) Issue special land use permits for public lands within the grazing district.

(3) Special land-use permits for lands outside the established grazing district when specifically authorized by the District Manager.

(z) *Recreation.* All actions relating to recreation management pursuant to 43 CFR Parts 6000 through 6290.

Section 3.10—Designation of acting officials.

(a) Area Managers may, by written order, designate any qualified employee of the Resource Area to perform the functions of the Area Manager in his/her absence.

(b) Each employee who serves in such capacity (a) above, shall prepare a memorandum to be kept in the district office showing the date and hour of the commencement and termination of each period of his/her service in that capacity.

This Delegation supersedes all previous Bureau Order No. 701 redelegations to Area Managers by the Burley District Manager.

This redelegation will be effective May 21, 1979.

Nick James Cozakos,

District Manager.

Approved: May 8, 1979.

William L. Mathews,

State Director.

[FR Doc. 79-15783 Filed 5-18-79; 8:45 am]

BILLING CODE 4310-84-M

Intent To Prepare a Grazing Environmental Impact Statement for the Tonopah Resource Area, Nev.

The Bureau of Land Management, Battle Mountain District Office, will be preparing a Grazing Environmental Impact Statement for the Tonopah Resource Area, located in south-central

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Nevada. The Bureau's proposed action to be analyzed in the statement is to implement a program of allocating vegetation to cattle, sheep, domestic horses, mule deer, wild horses, antelope, bighorn sheep, and elk. The action will also identify kinds of livestock, livestock numbers, periods of use, and range improvement projects (e.g., chaining, fencing, water development). This allocation program will be accomplished through the Bureau of Land Management's Planning System on approximately 3.75 million acres of BLM administered lands.

Alternatives to the proposed action that will be analyzed include: 1) No Action—This is defined as the existing range management program in the Tonopah Resource Area; 2) No Livestock Grazing—This is the exclusion of all livestock grazing from BLM administered public lands in the Tonopah Resource Area; 3) Maximizing Livestock Grazing—This is the maximum allocation of vegetation to livestock. Allocations to wild horses would not be made; 4) Maximizing Wild Horses—This is the allocation of vegetation for maximum numbers of wild horses in the Tonopah Resource Area; and 5) Maximizing Wildlife Habitat—This is the allocation of vegetation for maximum big game habitat by use areas that have been designated by the Nevada Department of Fish and Game. It could also include allocations to other wildlife in critical use areas.

The Bureau of Land Management's scoping process for the Tonopah Environmental Impact Statement will include: 1) An identification of issues to be addressed; 2) Contact of interested individuals, groups, and agencies for additional information concerning these issues; and 3) An identification of persons within the agency who can answer questions about the proposed action and alternatives.

The following steps will be utilized to accomplish the scoping process:

1. A formal meeting will be held between the Bureau of Land Management and the Nevada State Clearinghouse. The meeting will be held on June 13, 1979, at the BLM Carson City District Office, 1050 East Williams Street, Suite 335 in Carson City, Nevada, at 0900 A.M. This meeting will be a briefing of State Agencies concerning the proposed action and alternatives and for getting their input on the issues of the BIS.

2. Letters of invitation will be mailed to all affected Federal, State, and local agencies, any affected Indian tribes, and other interested persons concerning the issues of the Environmental Impact Statement. Briefing meetings will be held if requested.

The following individuals will be available by appointment, between May 31–June 8, 1979, to answer questions about the proposed action or to receive information concerning the Environmental Impact Statement: 1) Gene Nodine, District Manager, P.O. Box 194, Battle Mountain, Nevada 89820—Phone 635–5181; 2) Rex Rowley, Tonopah Area Manager, Bld. M102 Military Circle, Tonopah, Nevada 89049—Phone 482–6214; 3) Neil Talbot, Environmental Team Leader, P.O. Box 194, Battle Mountain, Nevada 89820—Phone 635–5181; and 4) Mike Walker, Environmental Coordinator, Room 3008 Federal Building, 300 Booth Street, Reno, Nevada 89509—Phone 784–5602.

A news release regarding the start of the environmental statement process will be issued by the Battle Mountain District following the publication of this notice.

Written comments will be accepted until June 27, 1979. They should be sent to Gene Nodine, District Manager, P.O. Box 194, Battle Mountain, Nevada 89820.

Dated: May 8, 1979.

E. I. Rowland,

State Director, Nevada.

[FR Doc. 79-15708 Filed 5-18-79; 8:45 am]

BILLING CODE 4310-84-M

National Park Service

Colorado National Monument; Partial Boundary Correction, Clarification, and Revision; Correction Notice

The above-titled publication appearing in FR Doc. 78–2479, Vol. 44, No. 43, Friday, March 2, 1979, contained two errors in the description as published. Both errors are on page 11851.

1. In the middle column on line 31 from the bottom, change "* * * T. 11 S., R. 101 W., * * *" to "* * * T. 11 S., R. 102 W., * * *".

2. In the third column on the last line, change "* * * sec. 21; * * *" to "* * * sec. 27; * * *".

Dated: May 8, 1979.

Glen T. Bean,

Regional Director, Rocky Mountain Region.

[FR Doc. 79-15792 Filed 5-18-79; 8:45 am]

BILLING CODE 4310-70-M

Revised Land Acquisition Policy

Correction

In FR Doc. 79–12831 appearing at page 24790 in the issue for Thursday, April 26, 1979, make the following corrections:

(1) On page 24794, in the third column, and on page 24795, in the first and second columns, in paragraphs (1) through (11), the word "Resevoir" should be changed to read "Reservor" wherever it appears.

(2) On page 24794, in the third column, in paragraph (2), in the ninth line, the word "oridinances" should be spelled "ordinances".

BILLING CODE 1505-01-M

DEPARTMENT OF JUSTICE

Office of the Attorney General

Proposed Consent Decree In Action To Enjoin Discharge of Water Pollutants

In accordance with Departmental Policy, 28 CFR § 50.7, 38 FR 19029, notice is hereby given that on May 4, 1979, a proposed consent decree in *United States* v. *Hunt-Wesson* was lodged with the United States District Court for the Eastern District of Louisana. The proposed decree would require Hunt-Wesson to construct and operate a secondary treatment facility in order to achieve compliance with its NPDES permit and the recommended penalty upon entry of the judgment.

The Department of Justice will receive until June 20, 1979, written comments relating to the proposed judgmnt. Comments should be addressed to the Assistant Attorney General, Land and Natural Resources Division, Department of Justice, Washington, D.C. 20530, and refer to *United States* v. *Hunt-Wesson*, D. J. Ref. 90–5–1–1–1146.

The proposed consent decree may be examined at the office of the United States Attorney, Hale Boggs Federal Building, 500 Camp Street, New Orleans, Louisana, 70130, at the Region VI office of the Environmental Protection Agency, First International Building, 1201 Elm Street, Dallas, Texas, 75270, and at the Pollution Control Section, Land and Natural Resources Division, Department of Justice, (Room 2625), Ninth Street and Pennsylvania Avenue, N.W., Washington, D.C. 20530. A copy of the proposed consent decree may be obtained in person or by mail from the Pollution Control Section, Land and Natural Resources Division, Department of Justice.

James W. Moorman,

Assistant Attorney General, Land and Natural Resources Division.

[FR Doc. 79-15784 Filed 5-18-79; 8:45 am]

BILLING CODE 4410-01-M

Proposed Consent Decree In Action To Enjoin Discharge of Air and Water Pollutants

In accordance with Departmental Policy, 28 CFR § 50.7, 38 FR 19029, a notice is hereby given that on May 7, 1979, a proposed consent decree in *United States* v. *Crucible, Inc. and Colt Industries, Inc.*, was lodged with the United States District Court for the Western District of Pennsylvania. The proposed decree requires the companies to construct pollution control facilities to meet the requirements of the Clean Air Act and Clean Water Act at their Midland, Pennsylvania, steel-making plant and imposes a civil penalty of $2 million.

The Department of Justice will receive for 30 days from the date of publication of this notice written comments relating to the proposed judgment. Comments should be addressed to the Assistant Attorney General for the Land and Natural Resources Division, Department of Justice, Washington, D.C. 20530, and refer to *United States* v. *Crucible, Inc. and Colt Industries, Inc.*, D.J. Ref. 90–5–2–3–1004.

The proposed consent decree may be examined at the office of the United States Attorney, Western District of Pennsylvania, U.S. Courthouse, Pittsburgh, Pennsylvania; the Clerk of the District Court, Western District of Pennsylvania, U.S. Courthouse, Pittsburgh, Pennsylvania; and the Pollution Control Section, Land and Natrual Resources Division, Department of Justice, Room 2623, Department of Justice Building, Ninth Street and Pennsylvania Avenue, Northwest, Washington, D.C. 20530. A copy of the proposed consent judgment may be obtained in person or by mail from the Pollution Control Section.

James W. Moorman,

Assistant Attorney General, Land and Natural Resources Division.

[FR Doc. 79-15785 Filed 5-18-79; 8:45 am]

BILLING CODE 4410-01-M

NATIONAL COMMISSION ON EMPLOYMENT AND UNEMPLOYMENT STATISICS

Public Meeting

Notice is hereby given that the National Commission on Employment and Unemployment Statistics will hold a public meeting on June 21 and June 22, 1979, in Room 550, 2000 K Street, NW., Washington, D.C. 20006.

The National Commission on Employment and Unemployment Statistics was established under Section 13 of the Emergency Jobs Program Extension Act of 1975, Public Law 94–444. Its purpose is to advise the President and the Congress on reliable and comprehensive measurements of employment and unemployment by examining the procedures, concepts, and methodology involved in employment and employment statistics, and suggesting ways and means of improving them.

The meetings will begin each day at 9:00 a.m. to review the draft of the commission's final report. The public is invited to attend. Official records of the meetings will be available for public inspection by contacting:

Mr. Wesley H. Lacey, Administrative Officer, National Commission on Employment and Unemployment Statistics, Suite 550, 2000 K Street NW., Washington, D.C. 20006.

Signed at Washington, D.C., this 15th day of May, 1979.

Sar A. Levitan,

Chairman.

[FR Doc. 79-15710 Filed 5-18-79; 8:45 am]

BILLING CODE 4510-23-M

NATIONAL FOUNDATION ON THE ARTS AND HUMANITIES

Expansion Arts Advisory Panel; Meeting

Pursuant to Section 10 (a) (2) of the Federal Advisory Committee Act (Public Law 92–463), as amended, notice is hereby given that a meeting of the Expansion Arts Advisory Panel to the National Council on the Arts will be held June 6, 1979, from 9:00 a.m. to 5:30 p.m., and June 7, 1979, from 9:30 a.m. to 5:30 p.m., in Room 1426, Columbia Plaza, 2401 E Street, N.W., Washington, D.C.

A portion of this meeting will be open to the public on June 6, 1979 from 9:00 a.m. to 12:30 p.m. The topic of discussion will be Policy.

The remaining sessions of this meeting on June 6, 1979, from 12:30 p.m. to 5:30 p.m., and June 7, 1979, from 9:30 a.m. to 5:30 p.m. are for the purpose of Panel review, discussion, evaluation, and recommendation on applications for financial assistance under the National Foundation on the Arts and the Humanities Act of 1965, as amended, including discussion of information given in confidence to the agency by grant applicants. In accordance with the determination of the Chairman published in the **Federal Register** March 17, 1977, these sessions will be closed to the public pursuant to subsections (c) (4), (6) and 9 (b) of section 552b of Title 5, United States Code.

Further information with reference to this meeting can be obtained from Mr. John H. Clark, Advisory Committee Management Officer, National Endowment for the Arts, Washington, D.C. 20506, or call (202) 634–6070.

John H. Clark,

Director, Office of Council and Panel Operations, National endowment for the Arts.

May 15, 1979.

[FR Doc. 79-15807 Filed 5-21-79; 8:45 am]

BILLING CODE 7537-01-M

NUCLEAR REGULATORY COMMISSION

Applications for Licenses to Export Nuclear Facilities or Materials

Pursuant to 10 CFR 110.40, "Public Notice of Receipt of an Application," please take notice that the Nuclear Regulatory Commission has received the following applications for export licenses. A copy of each application is on file in the Nuclear Regulatory Commission's Public Document Room located at 1717 H Street, N.W., Washington, D.C.

Dated this day May 14, 1979, at Bethesda, Maryland.

For the Nuclear Regulatory Commission.

Gerald G. Oplinger,

Assistant Director, Export/Import and International Safeguards, Office of International Programs.

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Name of applicant, date of application, date received, application number	Material type	Material in kilograms: Total element	Material in kilograms: Total isotope	End-use	Country of destination
1. Transnuclear, Inc., 05/03/79, 05/04/79, XU08461.	0.3% Depleted Uranium	126,000	378	For metallurgical alloy tests	France.
2. Transnuclear, Inc., 05/03/79, 05/04/79, XSNM01506.	3.35% Enriched Uranium	22990.900	740.046	Fuel for Gosgen-Daniken Reactor	Switzerland.
3. Mitsui & Co., 05/01/79, 05/07/79, XSNM01509.	3.95% Enriched Uranium	3,808	102	Fuel for Fukushima I, Unit No. 3	Japan.
4. General Electric, 04/25/79, 05/03/79, XCOM0240.				Miscellaneous parts and components for Tarapur Units 1 and 2. Value $180,000.	India.
5. Edlow Internat'l, 05/07/79, 05/07/79, XUO8460.	.711% Natural Uranium	1,000,000		For conversion and return to U.S.	United Kingdom.

[FR Doc 79-15674 Filed 5-18-79; 8:45 am]
BILLING CODE 7590-01-M

[Docket No. 50-237]

Commonwealth Edison Co.; Issuance of Amendment to Provisional Operating License

The U.S. Nuclear Regulatory Commission (the Commission) has issued Amendment No. 43 to Provisional Operating License No. DPR-19, issued to Commonwealth Edison Company (the licensee), which revised the license and its appended Technical Specificiations for operation of Dresden Nuclear Power Station, Unit No. 2 (the facility) located in Grundy County, Illinois. The amendment is effective as of its date of issuance.

The amendment (1) authorizes operation with 160 8 x 8 R fuel assemblies, (2) incorporates operating limits based on plant specific analyses for Reloan No. 4, and (3) modifies License Condition 3.F to revise end-of-cycle coastdown limits for Cycle 4 conditions.

The application for the amendment complies with the standards and requirements of the Atomic Energy Act of 1954, as amended (the Act), and the Commission's rules and regulations. The Commission has made appropiate findings as required by the Act and the Commission's rules and regulations in 10 CFR Chapter I, which are set forth in the license amendment.

Notice of Proposed Issuance of Amendment to Provisional Operating License in connection with Item (1) above was published in the **Federal Register** on March 6, 1979 (44 FR 12302). No request for a hearing or petition for leave to intervene was filed following notice of the proposed action. Prior public notice of Items (2) and (3) above was not required since these matters do not involve a significant a significant hazards consideration.

The Commission has determined that the issuance of this amendment will not result in any significant environmental impact and that pursuant to 10 CFR § 51.5(d)(4) an environmental impact statement or negative declaration and environmental impact appraisal need not be prepared in connection with issuance of this amendment.

For further details with respect to this action, see (1) the application for amendment dated January 15, 1979, and supplements thereto dated March 2, 1979, April 6, 1979, April 12, 1979, and April 20, 1979, (2) Amendment No. 43 to License No. DPR-19, and (3) the Commission's related Safety Evaluation. All of these items are available for public inspection at the Commission's Public Document Room, 1717 H Street, NW., Washington, D.C. and at the Morris Public Library, 604 Liberty Street, Morris, Illinois 60451. A single copy of items (2) and (3) may be obtained upon request addressed to the U.S. Nuclear Regulatory Commission, Washington, D.C. 20555, Attention: Director, Division of Operating Reactors.

Dated at Bethesda, Maryland, this 24th day of April, 1979.

For the Nuclear Regulatory Commission.

Dennis L. Ziemann,

Chief, Operating Reactors Branch # 2, Division of Operating Reactors.

[FR Doc. 79-15663 Filed 5-18-79; 8:45 am]
BILLING CODE 7590-01-M

[Docket Nos. 50-245 and 50-336]

Connecticut Light & Power Co.; Issuance of Amendments To Operating Licenses and Negative Declaration

The U.S. Nuclear Regulatory Commission (the Commission) has issued Amendment No. 60 to Provisional Operating License No. DPR-21 and Amendment No. 51 to Facility Operating License No. DPR-65 to Connecticut Light and Power Company, The Hartford Electric Light Company, Western Massachusetts Electric Company, and Northeast Nuclear Energy Company, which revised the Technical Specifications for operation of the Millstone Nuclear Power Station, Unit Nos. 1 and 2 (the facilities), located in the Town of Waterford, Connecticut. The amendments are effective as of their date of issuance.

These amendments to the Environmental (Appendix B) Technical Specifications will provide more flexibility in the sampling schedules and sample collection for aquatic monitoring and reflect improved techniques and modified program objectives.

The application for the amendments complies with the standards and requirements of the Atomic Energy Act of 1954, as amended (the Act), and the Commission's rules and regulations. The Commission has made appropriate findings as required by the Act and the Commission's rules and regulations in 10 CFR Chapter I, which are set forth in the license amendments. Prior public notice of these amendments was not required since the amendments do not involve a significant hazards consideration.

The Commission has prepared an environmental impact appraisal relating to the action and has concluded that an environmental impact statement for this particular action is not warranted because there will be no significant environmental impact attributable to the action other than that which has already been predicted and described in the Commission's Final Environmental Statement for the facilities dated June 1973.

For further details with respect to this action, see (1) the application for amendments dated March 21, 1978, (2) Amendment Nos. 60 and 51 to License Nos. DPR-21 and DPR-65, respectively, and (3) the Commission's related Environmental Impact Appraisal. All of these items are available for public inspection at the Commission's Public Document Room, 1717 H Street NW., Washington, D.C. and at the Waterford Public Library, Rope Ferry Road, Route 156, Waterford, Connecticut. A copy of items (2) and (3) may be obtained upon request addressed to the U.S. Nuclear Regulatory Commission, Washington, D.C. 20555, Attention: Director, Division of Operating Reactors.

Dated at Bethesda, Maryland, this 24th day of April 1979.

For the Nuclear Regulatory Commission.

Dennis L. Ziemann,

Chief, Operating Reactors Branch #2, Division of Operating Reactors.

[FR Doc. 79-15664 Filed 5-18-79; 8:45 am]
BILLING CODE 7590-01-M

[Docket Nos. 50-250 and 50-251]

Florida Power & Light Co. et al; Issuance of Amendments to Facility Operating Licenses

The U.S. Nuclear Regulatory Commission (the Commission) has issued Amendment Nos. 48 and 40 to Facility Operating License Nos. DPR-31 and DPR-41, respectively, issued to Florida Power and Light Company which revised Technical Specifications for operation of the Turkey Point Plant Unit Nos. 3 and 4, located in Dade County, Florida. These amendments are effective as of the date of issuance.

The amendments revise the Technical Specifications to require actuation of safety injection based on two out of three channels of low pressurizer pressure.

The application for amendment complies with the standards and requirements of the Atomic Energy Act of 1954, as amended (the Act), and the Commission's rules and regulations. The Commission has made appropriate findings as required by the Act and the Commission's rules and regulations in 10 CFR Chapter I, which are set forth in the license amendments. Prior public notice of these amendments was not required since the amendments do not involve a significant hazards consideration.

The Commission has determined that the issuance of these amendments will not result in any significant environmental impact and that pursuant to 10 CFR § 51.5(d)(4) an environmental impact statement or negative declaration and environmental impact appraisal need not be prepared in connection with issuance of these amendments.

For further details with respect to this action, see (1) the application for amendments dated May 2, 1979, (2) Amendment Nos. 48 and 40 to License Nos. DPR-31 and DPR-41 and (3) the Commission's related Safety Evaluation. All of these items are available for public inspection at the Commission's Public Document Room, 1717 H Street, NW., Washington, D.C. and at the Environmental & Urban Affairs Library, Florida International University, Miami, Florida 33199. A copy of items (2) and (3) may be obtained upon request addressed to the U.S. Nuclear Regulatory Commission, Washington, D.C. 20555, Attention: Director, Division of Operating Reactors.

Dated at Bethesda, Maryland, this 4th day of May 1979.

For The Nuclear Regulatory Commission.

A. Schwencer,

Chief, Operating Reactors Branch #1, Division of Operating Reactors.

[FR Doc. 79-15665 Filed 5-18-79; 8:45 am]
BILLING CODE 7590-01-M

[Docket Nos. 50-498A, 50-499A]

Houston Lighting & Power Co. et al.; Conference With Counsel

In the Matter of Houston Lighting & Power Company, et al. (South Texas Project, Units 1 and 2), [Docket Nos. 50-498A, 50-499A,] Texas Utilities Generating Company, et al. (Comanche Peak Steam Electric Station, Units 1 and 2), [Docket Nos. 50-445A, 50-446A]

May 15, 1979

A number of contested motions relating to various aspects of discovery are pending, as well as motions for summary disposition and responses thereto. The Licensing Board will hear arguments of counsel and will consider all motions and other pending matters at a conference with counsel.

Please take notice that a conference with counsel in these proceedings will be held at the Nuclear Regulatory Commission Hearing Room on June 1, 1979, commencing at 9:00 a.m., local time, located at 4350 East West Highway, 5th Floor, Bethesda, Maryland 20014.

It is so ordered.

Dated at Bethesda, Maryland this 15th day of May 1979.

For the Atomic Safety and Licensing Board.

Marshall E. Miller,

Chairman.

[FR Doc. 79-15666 Filed 5-18-79; 8:45 am]
BILLING CODE 7590-01-M

[Docket No. 50-322]

Long Island Lighting Co., Shoreham Nuclear Power Station; Order Extending Construction Completion Date

Long Island Lighting Company is the holder of Construction Permit No. CPPR-95, issued by the Atomic Energy Commission * on April 14, 1973, for construction of the Shoreham Nuclear Power Station. This facility is presently under construction at the applicant's site on the north shore of Long Island in the town of Brookhaven, Suffolk County, New York.

On December 18, 1978, the applicant requested an extension of the latest completion date because construction has been delayed by the following events beyond its control:

1. strikes
2. insufficient craft manpower
3. severe weather conditions
4. regulatory changes
5. late delivery of critical equipment

This action involves no significant hazards consideration; good cause has been shown for delay; and the extension is for a reasonable period, the bases for which are set forth in an NRC staff evaluation dated May 14, 1979.

The preparation of an environmental impact statement for this particular action is not warranted because there will be no environmental impact attributable to the action authorized by the Order other than that which has already been predicted and described in the Commission's Final Environmental Statement—Operating License Stage for the Shoreham facility, published in October 1977 and the Final Environmental Statement-Construction Permit Stage published in September 1972. A negative declaration and an environmental impact appraisal have been prepared and are available, as are the above stated documents, for public inspection at the Commission's Public Document Room, 1717 H Street NW., Washington, D.C. 20555 and at the Shoreham-Wading Public Library, Route 25A, Shoreham, New York 11786.

It is hereby ordered that the latest completion date for Construction Permit No. CPPR-95 is extended from May 1, 1979 to December 31, 1980.

For The Nuclear Regulatory Commission.

Date of Issuance: May 14, 1979.

Roger S. Boyd,

Director Division of Project Management, Office of Nuclear Reactor Regulation.

[ER Doc. 79-15667 Filed 5-18-79; 8:45 am]
BILLING CODE 7590-01-M

[Docket No. 50-322]

Negative Declaration Supporting Extension Of Construction Permit No. CPPR-95 Expiration Date for Shoreham Nuclear Power Station, Unit 1

The U.S. Nuclear Regulatory Commission (the Commission) has reviewed the Long Island Lighting Company (permittee) request to extend the expiration date of the construction permit for the Shoreham Nuclear Power

* Effective January 19, 1975, the Atomic Energy Commission became the Nuclear Regulatory Commission and permits in effect on that day were continued under the authority of the Nuclear Regulatory Commission.

Station, Unit 1 (CPPR–95) which is located in Suffolk County in the state of New York. The permittee requested a 14 month extension to allow for completion of construction of the plant.

The Commission's Division of Site Safety and Environmental Analysis has prepared an environmental impact appraisal relative to this change to CPPR–95. Based on this appraisal, the Commission has concluded that an environmental impact statement for this particular action is not warranted because there will be no environmental impact attributable to the proposed action other than that which has already been described in the Commission's Final Environmental Statements (FES) which have been issued at both the construction permit and operating license stages. (While an operating license has yet to be issued for the Shoreham facility, the FES concerning operation was issued in October 1977.)

The environmental impact appraisal is available for public inspection at the Commission's Public Document Room, 1717 H Street, N.W., Washington, D.C., and at the Shoreham-Wading River Public Library, Route 25A, Shoreham, New York.

Dated at Bethesda, Maryland, this 14th day of May, 1979.

For The Nuclear Regulatory Commission.

Wm. H. Regan, Jr.

Chief, Environmental Projects Branch 2, Division of Site Safety and Environmental Analysis.

[FR Doc. 79–15668 Filed 5–18–79; 8:45 am]

BILLING CODE 7590–01–M

[Docket Nos. 50–404 and 50–405]

North Anna Power Station, Units No. 3 (CPPR–114) and 4 (CPPR–115); Negative Declaration Supporting Order Relating to the Extension of Dates for Completion of Construction

The U.S. Nuclear Regulatory Commission (the Commission) has reviewed the Order relating to the extension of construction permits for the North Anna Power Station, Unit 3 (CPPR–114) and Unit 4 (CPPR–115), located in Louisa County, Virginia, issued to Virginia Electric and Power Company. The Order would authorize the extension of the dates for completion of construction of Units 3 and 4 to December 31, 1983, and December 31, 1984, respectively.

The Commission's Division of Site Safety and Environmental Analysis has prepared an environmental impact appraisal for the Order and has concluded that an environmental impact statement for this particular action is not warranted because there will be no environemtnal impact attributable to the Order other than that which has already been predicted and described in the Commission's Final Environmental Statement for North Anna Power Station, Units Nos. 1, 2, 3 and 4, published in April 1973, and considered in the Atomic Safety and Licensing Board's Initial Decision dated July 18, 1974.

The environmental impact appraisal is available for public inspection at the Commission's Public Document Room 1717 H Street, NW, Washington, DC and at the Board of Supervisors, Louisa County Courthouse, Louisa, Virginia and Alderman Library, Manuscripts Department, University of Virginia, Charlottesville, Virginia. A copy may be obtained upon request addressed to the U.S. Nuclear Regulatory Commission, Washington, DC 20555, Attention: Director, Division of Site Safety and Environmental Analysis.

Dated at Bethesda, Maryland, this 18th day of April 1979.

For the Nuclear Regulatory Commission.

Wm. H. Regan, Jr.,

Chief, Environmental Projects Branch 2, Division of Site Safety and Environmental Analysis.

[FR Doc. 79–15672 Filed 5–18–79; 8:45 am]

BILLING CODE 7590–01–M

Public Service Electric & Gas Co.; Hearing

Before the Atomic Safety and Licensing Board.

In the Matter of Public Service Electric & Gas Co., (Salem Nuclear Generating Station, Unit 1), (Spent Fuel Expansion), (Docket No. 50–272).

Notice is hereby given that the evidentiary hearing in the above proceeding shall be reconvened on July 10, 1979 at 9:30 a.m. in the Freeholders Meeting Room (Room 7), New Salem County Courthouse, 94 Market Street, Salem, New Jersey.

Testimony to be offered at the above hearing shall be filed in writing by June 19, 1979. Parties filing testimony shall also describe all accompanying exhibits and documents, specifying those which the parties wish to have officially noticed, make all requests for stipulations concerning admissibility, and state the proposed order of proof. Objections to this testimony, or to documents, exhibits or the order of proof, shall be filed in writing by June 29, 1979. Parties shall also file an outline of cross-examination by July 29, 1979. The word "file" as used here means deposited appropriately in the United States mail on the date stated.

It Is So Ordered.

Dated at Bethesda, Maryland this 14th day of May 1979.

For The Atomic Safety and Licensing Board.

Gary L. Milhollin,

Chairman.

[FR Doc. 79–15669 Filed 5–18–79; 8:45 am]

BILLING CODE 7590–01–M

[Docket Nos. 50–259, 50–260 and 50–296]

Tennessee Valley Authority; Issuance of Amendments to Facility Operating Licenses

The U.S. Nuclear Regulatory Commission (the Commission) has issued Amendment No. 51 to Facility Operating License No. DPR–33, Amendment No. 45 to Facility Operating License No. DPR–52 and Amendment No. 23 to Facility Operating License No. DPR–68 issued to Tennessee Valley Authority (the licensee), for operation of the Browns Ferry Nuclear Plant, Units Nos. 1, 2 and 3, located in Limestone County, Alabama. The amendments are effective as of the date of issuance.

The amendments add a condition to the license for each facility authorizing TVA to improve the performance of the emergency core cooling systems by changing the power supply to the low pressure coolant injection (LPCI) system in each Unit and to modify the Unit No. 3 loop selection logic circuitry.

The application for the amendments complies with the standards and requirements of the Atomic Energy Act of 1954, as amended (the Act), and the Commission's rules and regulations. The Commission has made appropriate findings as required by the Act and the Commission's rules and regulations in 10 CFR Chapter I, which are set forth in the license amendments. Prior public notice of these amendments was not required since the amendments do not involve a significant hazards consideration.

The Commission has determined that the issuance of these amendments will not result in any significant environmental impact and that pursuant to 10 CFR Section 51.5(d)(4) an environmental impact appraisal need not be prepared in connection with issuance of these amendments.

For further details with respect to this action, see (1) the application for amendments dated December 28, 1977, (2) Amendment No. 51 to License No. DPR–33, Amendment No. 45 to License No. DPR–52, and Amendment No. 23 to License No. DPR–68, and (3) the

Commission's related Safety Evaluation. All of these items are available for public inspection at the Commission's Public Document Room, 1717 H. Street, N.W., Washington, D.C. and at the Athens Public Library, South and Forrest, Athens, Alabama 35611. A copy of items (2) and (3) may be obtained upon request addressed to the U.S. Nuclear Regulatory Commission, Washington, D.C. 20555, Attention: Director, Division of Operating Reactors.

Dated at Bethesda, Maryland, this 11th day of May 1979.

For the Nuclear Regulatory Commission.

Thomas A. Ippolito,

Chief Operating Reacting Branch #3, Division of Operating Reactors.

[FR Doc. 79–15670 Filed 5–18–79; 8:45 am]

BILLING CODE 7590–01–M

[Docket Nos. 50–404 and 50–405]

Virginia Electric and Power Co.; North Anna Power Station, Units 3 and 4; Order Extending Construction Completion Dates

Virginia Electric and Power Company is the holder of Construction Permits No. CPPR–114 and CPPR–115 issued by the Atomic Energy Commission* on July 26, 1974, for the construction of the North Anna Power Station, Units 3 and 4, presently under construction at the Company's site in Louisa County, Virginia.

By letter, dated November 21, 1978, and supplemented by letter dated January 17, 1979, the Company filed a request for an extension of the latest construction completion dates because construction has been delayed due to (1) lack of construction funds and (2) voluntary postponement in construction activities due to efforts at conservation and load management. Potential future delays are expected due to (1) unknown future construction budget, pending a decision by the Virginia State Corporation Commission on Virginia Electric and Power Company's requested rate relief and (2) possible design changes necessary to conform with current regulatory requirements. This action involves no significant hazards consideration; good cause has been shown for the delay; and the extension is for a reasonable period, the bases for which are set forth in the staff evaluation, dated May 8, 1979. The preparation of an environmental impact statement for this particular action is not warranted because there will be no significant environmental impact attributable to the Order other than that which has already been predicted and described in the Commission's Final Environmental Statement for the North Anna Power Station, Units 1, 2, 3, and 4, published in April 1973, and considered in the Atomic Safety and Licensing Board's Initial Decision, dated July 18, 1974. A Negative Declaration and Environmental Impact Appraisal have been prepared and are available, as are the above documents, for public inspection at the Commission's Public Document Room, 1717 H Street, N.W., Washington, D.C. and the Local Public Document Rooms established for the North Anna facility in the Alderman Library, Manuscripts Department, University of Virginia, Charlottesville, Virginia and at the Office of the Board of Supervisors, Louisa County Courthouse, Louisa, Virginia.

It is hereby ordered that the latest completion dates for CPPR–114 and CPPR–115 are extended from December 31, 1978 and December 31, 1979, respectively, to December 31, 1983 and December 31, 1984, respectively.

Date of Issuance: May 14, 1979.

For the Nuclear Regulatory Commission.

Roger S. Boyd,

Director, Division of Project Management, Office of Nuclear Reactor Regulation.

[FR Doc. 79–15671 Filed 5–18–79; 8:45 am]

BILLING CODE 7590–01–M

* Effective January 20, 1975, the Atomic Energy Commission became the Nuclear Regulatory Commission and permits in effect on that date continued under the authority of the Nuclear Regulatory Commission.

[Docket Nos. 50–266 and 50–301]

Wisconsin Electric Power Co.; Issuance of Amendments to Facility Operating Licenses

The U.S. Nuclear Regulatory Commission (the Commission) has issued Amendment Nos. 38 and 43 to Facility Operating License Nos. DPR–24 and DPR–27 issued to Wisconsin Electric Power Company, which revised Technical Specifications for operation of Point Beach Nuclear Plant Unit Nos. 1 and 2, located about 15 miles north of Manitowoc, Wisconsin. The amendments are effective as of the date of issuance.

The amendments require actuation of safety injection based on two out of three channels of low pressurizer pressure, revise the opening logic for the pressurizer power-operated relief valves, authorize modifications to the power supplies for safety injection actuation channels, and require that a unit be shutdown in the event certain channels should fail pending completion of the power supply modifications.

The applications for the amendments complies with the standards and requirements of the Atomic Energy Act of 1954, as amended (the Act), and the Commission's rules and regulations. The Commission has made appropriate findings as required by the Act and the Commission's rules and regulations in 10 CFR Chapter I, which are set forth in the license amendments. Prior public notice of these amendments was not required since the amendments do not involve a significant hazards consideration.

The Commission has determined that the issuance of these amendments will not result in any significant environmental impact and that pursuant to 10 CFR § 51.5(d)(4) an environmental impact statement or negative declaration and environmental impact appraisal need not be prepared in connection with issuance of these amendments.

For further details with respect to this action, see (1) the application for amendments dated April 27, 1979, as supplemented May 7, 1979, (2) Amendment No. 38 to License No. DPR–24, (3) Amendment No. 43 to License No. DPR–27, and (4) the Commission's related Safety Evaluation. All of these items are available for public inspection at the Commission's Public Document Room, 1717 H Street, NW., Washington, D.C. 20555 and at the University of Wisconsin, Stevens Point Library, Stevens Point, Wisconsin 54481. A copy of items (2), (3) and (4) may be obtained upon request addressed to the U.S. Nuclear Regulatory Commission, Washington, D.C. 20555, Attention: Director, Division of Operating Reactors.

Dated at Bethesda, Maryland, this 11th day of May, 1979.

For The Nuclear Regulatory Commission.

A. Schwencer,

Chief, Operating Reactors Branch # 1, Division of Operating Reactors.

[FR Doc. 79–15673 Filed 5–18–79; 8:45 am]

BILLING CODE 7590–01–M

Privacy Act of 1974; Systems of Records; Minor Amendments

AGENCY: U.S. Nuclear Regulatory Commission.

ACTION: Adoption of minor amendments to system of records.

SUMMARY: The Nuclear Regulatory Commission is amending System of Records, NRC–27, which contains personal information about individuals and from which such information can be retrieved by an individual identifier. Amendments are made to paragraphs entitled "Categories of individuals

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covered by the system" and "Routine uses of records maintained in the system * * *." The amendments are minor. The amendment of the "Routine uses" paragraph is of a clarifying nature and does not add any new use or intended use of the information in the system.

EFFECTIVE DATE: These amendments become effective on May 21, 1979.

FOR FURTHER INFORMATION CONTACT: Joseph M. Felton, Director, Division of Rules and Records, Office of Administration, U.S. Nuclear Regulatory Commission, Washington, DC 20555, telephone: (301) 492-7211.

SUPPLEMENTARY INFORMATION: In accordance with the Privacy Act of 1974, the Nuclear Regulatory Commission has published notices of those systems of records maintained by the NRC which contain personal information about individuals and from which such information can be retrieved by an individual identifier. The notices have been published as documents subject to publication in the annual compilation of Privacy act documents.

The amendments set forth below amend the paragraph entitled "Categories of individuals covered by the system" of NRC-27, "Radiation Exposure Information and Reports System (REIRS) Files—NRC" to include records of individuals who may have been exposed to radiation or radioactive materials off-site from a facility, plant, installation, or other place of use of licensed materials, or in unrestricted areas, as a result of an incident involving byproduct, source, or special nuclear material. The amendments also clarify the paragraph entitled "Routine uses of records * * *." This clarification does not add any new use or intended use of the information in the system, but only states that records of individuals who may have been exposed to radiation are part of the data that may be provided to others under the system's routine use provisions.

Because these amendments relate solely to minor matters, good cause exists for omitting notice and public procedure thereon, as unnecessary, and for making the amendments effective on May 21, 1979.

Pursuant to the atomic Energy act of 1954, as amended, the Energy Reorganization Act of 1974, as amended, sections 552 and 552a of title 5 of the United States Code, notice is hereby given of the adoption of the following amendments to NRC System of Records, NRC-27, which are published as a document subject to publication in the annual compilation of Privacy Act documents.

The paragraphs of NRC-27 entitled "Categories of individuals covered by the system" and "Routine uses of records maintained in the system, including categories of users and the purposes of such uses" are revised to read as follows:

NRC-27

* * * * *

CATEGORIES OF INDIVIDUALS COVERED BY THE SYSTEM:

Individuals monitored for radiation exposure while employed by or visiting or temporarily assigned to certain NRC licensed facilities; individuals who are exposed to radiation or radioactive materials in incidents required to be reported pursuant to 10 CFR 20.401 and 20.405 by all NRC licensees; individuals who may have been exposed to radiation or radioactive materials off-site from a facility, plant, installation, or other place of use of licensed materials, or in unrestricted areas, as a result of an incident involving byproduct, source, or special nuclear material; monitored individuals terminating their service with the Navy, as required by NAVMED P-5055, Radiation Health Protection Manual; and monitored employees of all the registrants of the State of Illinois.

* * * * *

ROUTINE USES OF RECORDS MAINTAINED IN THE SYSTEM, INCLUDING CATEGORIES OF USERS AND THE PURPOSES OF SUCH USES:

Information in these records may be used:

a. To provide data to other Federal and state agencies involved in monitoring and/or evaluating radiation exposure received by individuals as enumerated in the paragraph "Categories of individuals covered by the system;" and

b. For any of the routine uses specified in the Prefatory Statement.

Dated at Bethesda, Md., this 2nd day of May 1979.

For the Nuclear Regulatory Commission.

Lee V. Gossick,

Executive Director for Operations.

[FR Doc. 79-15861 Filed 5-18-79; 8:45 am]

BILLING CODE 7590-01-M

OFFICE OF MANAGEMENT AND BUDGET

Agency Forms Under Review

Background

When executive departments and agencies propose public use forms, reporting, or recordkeeping requirements, the Office of Management and Budget (OMB) reviews and acts on those requirements under the Federal Reports Act (44 USC, Chapter 35). Departments and agencies use a number of techniques including public hearings to consult with the public on significant reporting requirements before seeking OMB approval. OMB in carrying out its responsibility under the Act also considers comments on the forms and recordkeeping requirements that will affect the public

List of Forms Under Review

Every Monday and Thursday OMB publishes a list of the agency forms received for review since the last list was published. The list has all the entries for one agency together and grouped into new forms, revisions, or extensions. Each entry contains the following information:

The name and telephone number of the agency clearance officer;

The office of the agency issuing this form;

The title of the form;

The agency form number, if applicable;

How often the form must be filled out;

Who will be required or asked to report;

An estimate of the number of forms that will be filled out;

An estimate of the total number of hours needed to fill out the form; and

The name and telephone number of the person or office responsible for OMB review.

Reporting or recordkeeping requirements that appear to raise no significant issues are approved promptly. In addition, most repetitive reporting requirements or forms that require one half hour or less to complete and a total or 20,000 hours or less annually will be approved ten business days after this notice is published unless specific issues are raised; such forms are identified in the list by an asterisk (*).

Comments and Questions

Copies of the proposed forms and supporting documents may be obtained from the agency clearance officer whose name and telephone number appear under the agency name. Comments and questions about the items on this list shoud be directed to the OMB reviewer or office listed at the end of each entry.

If you anticipate commenting on a form but find that time to prepare will prevent you from submitting comments promptly, you should advise the reviewer of your intent as early as possible.

The timing and format of this notice have been changed to make the publication of the notice predictable and to give a clearer explanation of this process to the public. If you have comments and suggestions for further improvements to this notice, please send them to Stanley F. Morris, Deputy Associate Director for Regulatory Policy and Reports Management, Office of Management and Budget, 726 Jackson Place, Northwest, Washington, D.C. 20503.

DEPARTMENT OF AGRICULTURE

Agency Clearance Officer—Donald W. Barrowman—447-6202

Revisions

Economics, Statistics, and Cooperatives Service,
*Livestock Receipts and Prices
Monthly,
Livestock auctions, comm. firms and slaughter plants, 2,520 responses; 1,260 hours
Charles A. Filett, 395-5080

DEPARTMENT OF ENERGY

Agency Clearance Officer—Albert H. Linden—633-8477

Revisions

Refiners Monthly Cost Allocation Report
EIA-14
Monthly
Refiners of crude oil, 3,180 responses; 50,880 hours
Jefferson B. Hill, 395-5867

DEPARTMENT OF HOUSING AND URBAN DEVELOPMENT

Agency Clearance Officer—John T. Murphy—755-5190

New Forms

Administration (Office of Ass't Sec'y)
Title I Monthly Statement
Reconcilement of Insurance, Changes
HUD 646
Monthly
HUD approved financial institutions (T-I), 84,000 responses; 42,000 hours
Arnold Strasser, 395-5080

Administration (Office of Ass't Sec'y)
Fee Reconcilement
FHA 1041
Monthly
HUD approved financial institutions, 210,000 responses; 105,000 hours
Arnold Strasser, 395-5080

DEPARTMENT OF LABOR

Agency Clearance Officer—Philip M. Oliver—523-6341

Revisions

Occupational Safety and Health Administration
Quarterly Report of State Compliance and Standard Activity (Migrant Housing Inspections)
OSHA-120 and OSHA-120A and 124
Quarterly
OSHA State designees, 104 responses; 4,043 hours
Arnold Strasser, 395-5080

Extensions

Employment Standards Administration
*Notice to Deputy Commissioner That the Payment of Compensation Has Begun Without Awaiting Award
LS-206
On occasion
Insurance companies and self-insured employers, 1,053 responses; 36 hours
Arnold Strasser, 395-5080

Occupational Safety and Health Administration Occupational Safety and Health Complaint Form OSHA-7
On occasion any employee, 25,000 responses; 15,000 hours Arnold Strasser, 395-5080

DEPARTMENT OF TRANSPORTATION

Agency Clearance Officer—Bruce H. Allen—426-1887

New Forms

Federal Highway Administration
Inspection, Repair and Maintenance of Commercial Motor Vehicles On occasion, motor car. and dri. of interest, mot. car. of prop. and passen.
Susan B. Geiger, 395-5867

Revisions

Federal Aviation Administration *Safety Improvement Report/Counselor Activity Report FAA 8740-5 and 8740-6 On occasion the gen. avi. pub., E.G. pilots, fli instr., mechan., etc., 4,000 responses; 664 hours Susan B. Geiger, 395-5867

ACTION

Agency Clearance Officer—W. D. Baldridge—254-7845

New Forms

*Applicant Race/Ethnic Data Sheet On occasion VISTA and Peace Corps applicants, 28,000 responses; 280 hours, Barbara F. Young, 395-6132

Extensions

RSVP Descriptive Survey Single time project staff, advisory council, station super., 3,036 responses; 2,438 hours
Barbara F. Young, 395-6132

EQUAL EMPLOYMENT OPPORTUNITY COMMISSION

Agency Clearance Officer—Sally E. Crocker—634-6963

Extensions

Equal Employment Opportunity Employer Information, Report EEO-1 SF-100 Annually Firms w/100+ and gov. contractors w/50+ employees, 50,000 responses; 1,000,000 hours C. Louis Kincannon, 395-3772

FEDERAL RESERVE SYSTEM

Agency Clearance Officer—Carolyn B. Doying—452-3512

Extensions

Confidential Report of Member Firm of Selected Securities Exchanges FR 240 Annually Brokers and dealers extending margin credit, 325 responses; 1,625 hours Susan B. Geiger, 395-5867

VETERANS ADMINISTRATION

Agency Clearance Officer—R. C. Whitt—389-2282

Extensions

State Veterans Home Project Planning Report, 10-1493 Annually State veterans homes, 40 responses; 80 hours David P. Caywood, 395-6140.

Stanley E. Morris,

Deputy Associate Director for Regulatory Policy and Reports Management.

[FR Doc. 79-15794 Filed 5-18-79; 8:45 am]

BILLING CODE 3110-01-M

DEPARTMENT OF TRANSPORTATION

Coast Guard

[CGD 79-070]

Chemical Transportation Advisory Committee, Subcommittee on Breakbulk, Containers and Bulk Solid Waterfront Facilities; Public Meeting

Pursuant to section 10(a)(2) of the Federal Advisory Committee Act (pub. L. 92-463; 5 USC App. I) notice is hereby given of a meeting of the Chemical Transportation Advisory Committee's Subcommittee on Breakbulk, Containers and Bulk Solid Waterfront Facilities to be held on Tuesday, June 12, 1979, beginning at 10:00 A.M., Room 6200, Nassif Building, 400 Seventh Street, S.W., Washington, D.C. 20590. The agenda for this meeting is as follows:

1. Report by Captain Gates, Subcommittee Chairman, on status of

4/4/99

Subcommittee proposals on waterfront facilities.

2. Open discussion on Subcommittee report.

3. Report by LCDR Bonekemper on status of Coast Guard Waterfront Facilities Task Force activities and status of Coast Guard rulemaking.

4. Open discussion.

Attendance is open to the interested public. With the approval of the Chairman, members of the public may present oral statements at the meeting. Persons wishing to attend and persons wishing to present oral statements should notify, no later than the day before the meeting, LT. D. C. Dickman, c/o Commandant (G-WLE-1/73), U.S. Coast Guard, Washington, DC 20590, 202-426-1927. Any member of the public may present a written statement to the committee at any time.

Issued in Washington, D.C. on May, 14, 1979.

F. P. Schubert,

Captain, U.S. Coast Guard, Acting Chief, Office of Marine Environment and Systems.

[FR Doc. 79-15810 Filed 5-18-79; 8:45 am]

BILLING CODE 4910-14-M

Federal Railroad Administration

Louisville & Nashville Railroad Co. Accident Near Crestview, Fla.; Informal conference

The Federal Railroad Administration (FRA), through its Railroad Safety Board, will hold an informal conference on Wednesday, May 30, 1979, concerning the Louisville & Nashville Railroad Company (L&N) train accident which occurred near Crestview, Florida, on April 6, 1979. The purpose of the conference will be to discuss the preliminary findings and analysis of causal factors contained in a draft FRA report on the accident.

Interested persons are invited to attend the conference and comment on the proposed findings and conclusions set forth in the draft report. Persons having relevant information that has not been previously made available to FRA in connection with the investigation are requested to submit that information at the conference. Written comments and analysis may also be submitted to the Secretary, Railroad Safety Board (RRS-3), Federal Railroad Administration, 2100 Second Street, S.W., Washington, D.C. 20590, by June 6, 1979.

Both the FRA and the National Transportation Safety Board (NTSB) have conducted extensive field investigations of this accident. In order to avoid any duplication of effort, FRA ordinarily does not issue a published report on any accident with respect to which the NTSB has decided to issue a full report. However, FRA has direct regulatory responsibilities which necessitate the early resolution of this investigation. The line segment on which the subject accident occurred is the only portion of the L&N system presently excluded from the operation of Emergency Order No. 11 (44 FR 8402, February 9, 1979; see 44 FR 21725, April 11, 1979). It is important that all available information be brought together at an early date in order to determine whether further action is required to protect the public safety on this line segment. The NTSB has not scheduled a public hearing on this matter. Therefore, FRA has elected to proceed its investigation to an early conclusion and conduct a conference open to the public at which further information or analysis can be received.

Copies of the draft accident investigation report will be available on May 24 and may be obtained from the Office of Standards and Procedures, FRA, Room 4414, 2100 Second Street, S.W., Washington, D.C. 20590. Telephone requests for copies of the draft report may be directed to the Director, Office of Standards and Procedures (202-426-0924).

The informal conference will be convened at 9:30 a.m. on Wednesday, May 30, 1979, in Room 2230, Nassif Building, 400 Seventh Street, S.W., Washington, D.C. The conference will be a non-adversary proceeding conducted by the Railroad Safety Board with the participation of FRA staff and interested parties. Further procedures for the conduct of the conference may be announced by the presiding officer.

(Authority: 45 U.S.C. § 40; 49 U.S.C. § 1655(e)(1)(K); 45 U.S.C. 437; 49 CFR § 1.49.)

Issued in Washington, D.C. on May 18, 1979.

J. W. Walsh,

Chairman, Railroad Safety Board.

[FR Doc. 79-16017 Filed 5-18-79; 10:27 am]

BILLING CODE 4910-06-M

Materials Transportation Bureau

Technical Pipeline Safety Standards Committee; Public Meeting

Pursuant to Section 10(a)(2) of the Federal Advisory Committee Act (Pub. L. 92-463, 5 USC App. 1), notice is hereby given of a meeting of the Technical Pipeline Safety Standards Committee on June 12 thru 15, 1979, at 9 a.m. in the auditorium of the Transportation Systems Center, 55 Broadway, Cambridge, Massachusetts 02139.

The purpose of the meeting is to discuss a recently issued notice of proposed rulemaking (Docket No. OPSO-46, Notice 4) on the development of new safety standards for liquefied natural gas facilities (FR DOC. 79-4374) and (FR DOC. 79-9729).

Attendance is open to the public, but limited to the space available. With prior approval of the chairman of the Committee, members of the public may present oral statements related to the item scheduled for review. Due to the limited time available, each speaker who wishes to make an oral statement is requested to notify Ms. Barbara Smith, Room 6226, 2100 Second Street, S.W., Washington, D.C., telephone 202-426-2392, of the topics to be addressed and the time requested to address each topic. Each speaker is urged to be as brief as possible. The chairman may deny any request to present an oral statement and may limit the time of any oral presentation. Members of the public may present written statements to the Committee before or after any session of the meeting.

The opportunity for public participation at the meeting is intended to provide information for the Committee to consider in formulating its recommendations to the Materials Transportation Bureau. The opportunity is not intended as an extension of the time allowed for participation in Docket OPSO-46, Notice 4, which ended May 9, 1979.

Dated: May 14, 1979.

Cesar De Leon,

Associate Director for Pipeline Safety Regulation, Materials Transportation Bureau.

[FR Doc. 79-15567 Filed 5-18-79; 8:45 am]

BILLING CODE 4910-60-M

Applications for Exemptions

AGENCY: Materials Transportation Bureau, D.O.T.

ACTION: List of Applications for Exemptions.

SUMMARY: In accordance with the procedures governing the application for, and the processing of, exemptions from the Department of Transportation's Hazardous Materials Regulations (49 CFR Part 107, Subpart B), notice is hereby given that the Office of Hazardous Materials Regulation of the Materials Transportation Bureau has received the applications described herein.

DATES: Comment period closes on June 20, 1979.

ADDRESSED TO: Dockets Branch, Information Services Division, Materials Transportation Bureau, U.S. Department of Transportation, Washington, D.C. 20590.

Comments should refer to the application number and be submitted in triplicate.

FOR FURTHER INFORMATION: Copies of the applications are available for inspection in the Dockets Branch, Room 6500, Trans Point Building, 2100 Second Street, S.W., Washington, D.C.

Each mode of transportation for which a particular exemption is requested is indicated by a number in the "Nature of Application" portion of the table below as follows: 1—Motor vehicle, 2—Rail freight, 3—Cargo vessel, 4—Cargo-only aircraft, 5—Passenger-carrying aircraft.

This notice of receipt of applications for new exemptions is published in accordance with Section 107 of the Hazardous Materials Transportation Act.

(49 CFR U.S.C. 1806; 49 CFR 1.53(e).)

Issued in Washington, D.C., on May 9, 1979.

J. R. Grothe,

Chief, Exemptions Branch, Office of Hazardous Materials Regulation, Materials Transportation Bureau.

[FR Doc. 79-15563 Filed 5-18-79; 8:45 am]

BILLING CODE 4910-60-M

New Application

Application No.	Applicant	Regulation(s) affected	Nature of application
8185-N	Liqui-Box Corp., Worthington, Ohio	49 CFR 178.211	To manufacture, mark and sell DOT Specification 12P packaging having inside two 2½ gallon Specification 2U containers for shipment for various hazardous materials. (Modes 1, 2, 3.)
8186-N	King-Seeley thermos Co., Kendallville, Ind.	49 CFR 173.206	To authorize shipment of small quantities of sodium potassium contained in a thermostat as non-regulated. (Modes 1, 2, 3, 4.)
8187-N	PPG Industires, Inc., Pittsburgh, Pa.	49 CFR 173.119(e)(3)	To authorize shipment of paint or lacquer thinning compounds with flash points 20° F or less in DOT Specification 17E 20/18 gauge drums having triple seamed top and bottom chimes (Mode 1.)
8188-N	Owens-Illinois, Toledo, Ohio	49 CFR 173.128(a)	To manufacture, mark and sell DOT Specification 34 reusable polyethylene containers of 30 gallon capacity for the shipment of paint, liquid. (Mode 1.)
8190-N	Ethyl Corp., Baton Rouge, La.	49 CFR 173.245(a)(32)	To authorize shipment of dimethyl chlorothiophosphate as a corrosive liquid n.o.s. in DOT Specification 105A300W tank cars. (Mode 2.)
8191-N	Kay Fries, Inc., Stoney Point, N.Y.	49 CFR 173.314	To return partially filled tank car containing anhydrous hydrogen chloride. (Mode 2.)
8193-N	U.S. Department of the Army, Washington, D.C.	49 CFR 173.276(a)(2)	To authorize shipment of hydrazine anhydrous in DOT Specification 3E and 3A cylinders. (Modes 1, 4.)
8194-N	Pennwalt Corp., Philadelphia, Pa.	49 CFR 178.205-17	to authorize the use of a one-piece, die-cut design closure lock for the DOT Specification 12B fiberboard box prescribed for organic peroxides. (Modes 1, 3.)
8195-N	McDonnell Douglas Corp., St. Louis, Mo.	49 CFR Parts 173, Subparts D, E, F, and H.	To authorize use of non-DOT specification metal drum as outside container in lieu of prescribed DOT Specification fiberboard or wooden containers for shipments subject to § 178.6(b)(3). (Modes 1, 2, 3, 4.)
8196-N	E. I. du Pont de Nemours and Co., Inc., Wilmington, Del.	49 CFR 173.315(a)(1)	To authorize shipment of certain compressed gases (refrigerants) in non-DOT specification IMCO Type 5 portable tanks. (Modes 1, 3.)
8197-N	Container Corporation of America, Wilmington, Del.	49 CFR 173.119, 173.221(e), 173.256, 173.264, 173.346, 173.347.	To manufacture, mark and sell a non-DOT Specification 35 gallon polyethylene drum tight-head, for shipment of various hazardous materials. (Modes 1, 2, 3.)
8198-N	Technicon Instruments Corp., Tarrytown, N.Y.	49 CFR 172.101, 173.65, 175.3	To authorize shipment of a device containing minute quantities of picric acid, sodium hydroxide and non-regulated materials as flammable solid, n.o.s. (Modes 1, 2, 3, 4.)
8199-N	Dow Corning Corp., Midland, Mich.	49 CFR 173.315	To authorize shipment of anhydrous hydrogen chloride in non-DOT specification tank motor vehicle. (Mode 1.)
8200-N	Fleming International, Airways, Miami, Fla.	49 CFR 175.320	To transport Class A and Class C explosives either forbidden or in quantities greater than permitted for cargo-only aircraft. (Mode 4.)

Applications for Renewal or Modification of Exemptions or Applications to Become a Party to an Exemption

AGENCY: Materials Transportation Bureau, DOT.

ACTION: List of Applications for Renewal or Modification of Exemptions or Application to Become a Party to an Exemption.

SUMMARY: In accordance with the procedures governing the application for, and the processing of, exemptions from the Department of Transportation's Hazardous Materials Regulations (49 CFR Part 107, Subpart B), notice is hereby given that the Office of Hazardous Materials Regulation of the Materials Transportation Bureau has received the applications described herein. This notice is abbreviated to expedite docketing and public notice. Because the sections affected, modes of transportation, and the nature of application have been shown in earlier Federal Register publications, they are not repeated here. Except as otherwise noted, renewal applications are for extension of the exemption terms only. Where changes are requested (e.g., to provide for additional hazardous materials, packaging design changes, additional mode of transportation, etc.) they are described in footnotes to the application number. Application numbers with the suffix "X" denote renewal; application numbers with the suffix "P" denote party to. These applications have been separated from the new applications for exemptions to facilitate processing.

DATES: Comment period closes on June 5, 1979.

ADDRESSED TO: Dockets Branch, Information Services Division, Materials Transportation Bureau, U.S. Department of Transportation, Washington, D.C. 20590. Comments should refer to the application number and be submitted in triplicate.

FOR FURTHER INFORMATION: Copies of the applications are available for inspection in the Dockets Branch, Room 6500, Trans Point Building, 2100 Second Street SW., Washington, D.C.

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Application No.	Applicant	Renewal of Exemption
5716-X	Virginia Chemicals Inc., Portsmouth, Va.	5716
5749-X	E. I. du Pont de Nemours & Co., Inc., Wilmington, Del. [1]	5749
5778-X	Lif-O-Gen, Cambridge, Md.	5778
5895-X	Explosive Technology, Fairfield, Calif. [2]	5895
6016-X	Livingston Medical Products Co., Modesto, Calif.	6016
6016-X	S. J. Smith Company, Inc., Davenport, Iowa.	6016
6092-X	Fisher Scientific Co., Fair Lawn, N.J.	6092
6092-X	MC/B Manufacturing Chemists, Inc., Cincinnati, Ohio.	6092
6234-X	Pennwalt Corp., Philadelphia, Pa	5234
6253-X	Interpool, New York, N.Y.	6253
6296-X	Olin Chemicals Group, Stamford, Conn.	6296
6571-X	American LNG Co., Oak Brook, Ill.	6571
6652-X	Airesearch Manufacturing Company of Arizona, Phoenix, Artz. [3]	6652
6686-X	Chilton Metal Products Division, Chilton, Wis.	6686
6712-X	Air Products and Chemicals, Inc., Allentown, Pa.	6712
6757-X	FMC Corp., Philadelphia, Pa	6757
6769-X	E. I. du Pont de Nemours & Co., Inc., Wilmington, Del.	6769
6773-X	E. I. du Pont de Nemours & Co., Inc., Wilmington, Del.	6773
6864-X	Bacardi International Ltd., Hamilton, Bermuda [4]	6864
7035-X	Owens-Illinois, Toledo, Ohio [5]	7035
7046-X	J. T. Baker Chemical Co., Phillipsburg, N.J. [6]	7046
7208-X	National Aeronautics and Space Administration, Greenbelt, Md.	7208
7455-X	E. I. du Pont de Nemours & Co., Inc., Wilmington, Del.	7455
7512-X	Puerto Rico Marine Management, Inc., Elizabeth, N.J.	7512
7520-X	Puerto Rico Marine Management, Inc., Elizabeth, N.J.	7520
7690-X	Prestex Products Co., St. Paul, Minn.	7690
7909-X	Dow Chemical Co., Midland, Mich. [7]	7909
7910-X	Union Carbide Corp., Bound Brook, N.J.	7910
7938-X	Bignier Schmid-Laurent, Ivry sur Seine, France.	7938
8049-X	U.S. Department of Defense, Washington, D.C. [8]	8049
8109-X	Lowaco S.A., Geneva, Switzerland [9]	8109
8110-X	Fauvet-Girel, Paris, France [10]	8110
8189-X	Shell Oil Co., Houston, Tex. [11]	8189

[1] To authorize use of another tank motor vehicle with a design pressure of 250 psig. for hydrogen chloride gas mixture.

[2] To authorize shipment of a device similar to the jet-axe device presently authorized.

[3] To authorize nitrogen—helium gas mixture as an additional commodity.

[4] To authorize containers-on-flat-car service as an additional method of transportation by rail.

[5] Request modification of exemption to authorize shipment of paint in 55 gallon drums.

[6] Request authorization to ship perchloric acid as an additional commodity in DOT Specification MC-312 Cargo tank.

[7] Request alternate packing method using expanded foam end caps.

[8] To renew and to add the words "Class" and "Military" to the description on the label.

[9] To provide for cumene hydroperoxide as an additional commodity.

[10] To add new tanks identical to those previously authorized except for larger capacity.

[11] To extend the expiration date of the exemption, issued on an emergency basis, authorizing continued shipments of an organic phosphate compound, liquid in DOT specification tank motor vehicles and drums.

Application No.	Applicant	Parties to exemption
5112-P	U.S. Department of Defense, Washington, D.C. [1]	5112
6293-P	Hercules Inc., Wilmington, Del	6393
6712-P	Suburban Welders Supply Company Inc., Ashland, Mass.	6712
6820-P	T-Chem Products, Santa Fe Springs, Calif.	6820

Application No.	Applicant	Parties to exemption
7052-P	Sangamo Western, Inc., Atlanta, Ga.	7052
7052-P	Matsushita Battery Industrial Co., Ltd., Moriguchi—Osaka, Japan.	7052
7616-P	The Kansas City Southern Railway Company, Kansas City, Mo.	7616
7620-P	Pennwalt Corp., Philadelphia, Pa	7620
7924-P	Matsushita Battery Industrial Co., Ltd., Moriguchi—Osaka, Japan.	7924
7983-P	Matsushita Battery Industrial Co, Ltd., Moriguchi—Osaka, Japan.	7983
8005-P	Container Luzern, Mannheim, West Germany.	8005
8109-P	Transport International Containers, S.A., Paris, France.	8109
8110-P	Transport International Containers, S.A., Paris, France.	8110
8146-P	Rocket Research Company, Redmond, Wash.	8146
8159-P	Transport International Containers, S.A., Paris, France.	8159

[1] To become a party to the exemption and to expand on the point of origin listed in the exemption.

This notice of receipt of applications for renewal of exemptions and for party to an exemption is published in accordance with Section 107 of the Hazardous Materials Transportation Act [49 CFR U.S.C. 1806; 49 CFR 1.53(e)].

Issued in Washington, D.C., on May 10, 1979.

J. R. Grothe,

Chief, Exemptions Branch, Office of Hazardous Materials Regulation, Materials Transportation Bureau.

[FR Doc. 79-15564 Filed 5-18-79; 8:45 am]

BILLING CODE 4910-60-M

DEPARTMENT OF THE TREASURY

Office of the Secretary

[Department Circular Public Debt Series—No. 11-79]

Treasury Notes of May 31, 1981, Series T-1981

May 17, 1979.

1. Invitation for Tenders

1.1. The Secretary of the Treasury, under the authority of the Second Liberty Bond Act, as amended, invites tenders for approximately $2,250,000,000 of United States securities, designated Treasury Notes of May 31, 1981, Series T-1981 (CUSIP No. 912827 JR 4). The securities will be sold at auction with bidding on the basis of yield. Payment will be required at the price equivalent of the bid yield of each accepted tender. The interest rate on the securities and the price equivalent of each accepted bid will be determined in the manner described below. Additional amounts of these securities may be issued to Government accounts and Federal Reserve Banks for their own account in exchange for maturing Treasury securities. Additional amounts of the new securities may also be issued at the average price to Federal Reserve Banks, as agents for foreign and international monetary authorities, to the extent that the aggregate amount of tenders for such accounts exceeds the aggregate amount of maturing securities held by them.

2. Description of Securities

2.1. The securities will be dated May 31, 1979, and will bear interest from that date, payable on a semiannual basis on November 30, 1979, and each subsequent 6 months on May 31 and November 30, until the principal becomes payable. They will mature May 31, 1981, and will not be subject to call for redemption prior to maturity.

2.2. The income derived from the securities is subject to all taxes imposed under the Internal Revenue Code of 1954. The securities are subject to estate, inheritance, gift or other excise taxes, whether Federal or State, but are exempt from all taxation now or hereafter imposed on the principal or interest thereof by any State, any possession of the United States, or any local taxing authority.

2.3. The securities will be acceptable to secure deposits of public monies. They will not be acceptable in payment of taxes.

2.4. Bearer securities with interest coupons attached, and securities registered as to principal and interest, will be issued in denominations of $5,000, $10,000, $100,000, and $1,000,000. Book-entry securities will be available to eligible bidders in multiples of those amounts. Interchanges of securities of different denominations and of coupon, registered and book-entry securities, and the transfer of registered securities will be permitted.

2.5. The Department of the Treasury's general regulations governing United States securities apply to the securities offered in this circular. These general regulations include those currently in effect, as well as those that may be issued at a later date.

3. Sale Procedures

3.1. Tenders will be received at Federal Reserve Banks and Branches and at the Bureau of the Public Debt, Washington, D.C. 20226, up to 1:30 p.m., Eastern Daylight Saving time, Tuesday, May 22, 1979. Noncompetitive tenders as defined below will be considered timely if postmarked no later than Monday, May 21, 1979.

3.2. Each tender must state the face amount of securities bid for. The minimum bid is $5,000 and larger bids must be in multiples of that amount. Competitive tenders must also show the yield desired, expressed in terms of an annual yield with two decimals, e.g., 7.11%. Common fractions may not be used. Noncompetitive tenders must show the term "noncompetitive" on the tender form in lieu of a specified yield. No bidder may submit more than one noncompetitive tender and the amount may not exceed $1,000,000.

3.3. All bidders must certify that they have not made and will not make any agreements for the sale or purchase of any securities of this issue prior to the deadline established in Section 3.1. for receipt of tenders. Those authorized to submit tenders for the account of customers will be required to certify that such tenders are submitted under the same conditions, agreements, and certifications as tenders submitted directly by bidders for their own account.

3.4. Commercial banks, which for this purpose are defined as banks accepting demand deposits, and primary dealers, which for this purpose are defined as dealers who make primary markets in Government securities and report daily to the Federal Reserve Bank of New York their positions in and borrowings on such securities, may submit tenders for account of customers if the names of the customers and the amount for each customer are furnished. Others are only permitted to submit tenders for their own account.

3.5. Tenders will be received without deposit for their own account from commercial banks and other banking institutions; primary dealers, as defined above; Federally-insured savings and loan associations; States, and their political subdivisions or instrumentalities; public pension and retirement and other public funds; international organizations in which the United States holds membership; foreign central banks and foreign states; Federal Reserve Banks; and Government accounts. Tenders from others must be accompanied by a deposit of 5% of the face amount of securities applied for (in the form of cash, maturing Treasury securities or readily collectible checks), or by a guarantee of such deposit by a commercial bank or a primary dealer.

3.6. Immediately after the closing hour, tenders will be opened, followed by a public announcement of the amount and yield range of accepted bids. Subject to the reservations expressed in Section 4, noncompetitive tenders will be accepted in full, and then competitive tenders will be accepted, starting with those at the lowest yields, through successively higher yields to the extent required to attain the amount offered. Tenders at the highest accepted yield will be prorated if necessary. After the determination is made as to which tenders are accepted, a coupon rate will be established, on the basis of a ⅛ of one percent increment, which results in an equivalent average accepted price close to 100.000 and a lowest accepted price above the original issue discount limit of 99.500. That rate of interest will be paid on all of the securities. Based on such interest rate, the price on each competitive tender allotted will be determined and each successful competitive bidder will be required to pay the price equivalent to the yield bid. Those submitting noncompetitive tenders will pay the price equivalent to the weighted average yield of accepted competitive tenders. Price calculations will be carried to three decimal places on the basis of price per hundred, e.g., 99.923, and the determinations of the Secretary of the Treasury shall be final. If the amount of noncompetitive tenders received would absorb all or most of the offering, competitive tenders will be accepted in an amount sufficient to provide a fair determination of the yield. Tenders received from Government accounts and Federal Reserve Banks will be accepted at the price equivalent to the weighted average yield of accepted competitive tenders.

3.7. Competitive bidders will be advised of the acceptance or rejection of their tenders. Those submitting noncompetitive tenders will only be notified if the tender is not accepted in full, or when the price is over par.

4. Reservations

4.1. The Secretary of the Treasury expressly reserves the right to accept or reject any or all tenders in whole or in part, to allot more or less than the amount of securities specified in Section 1, and to make different percentage allotments to various classes of applicants when the Secretary considers it in the public interest. The Secretary's action under this Section is final.

5. Payment and Delivery

5.1. Settlement for allotted securities must be made or completed on or before Thursday, May 31, 1979, at the Federal Reserve Bank or Branch or at the Bureau of the Public Debt, wherever the tender was submitted. Payment must be in cash; in other funds immediately available to the Treasury; in Treasury bills, notes or bonds (with all coupons detached) maturing on or before the settlement date but which are not overdue as defined in the general regulations governing United States securities; or by check drawn to the order of the institution to which the tender was submitted, which must be received at such institution no later than:

(a) Tuesday, May 29, 1979, if the check is drawn on a bank in the Federal Reserve District of the institution to which the check is submitted (the Fifth Federal Reserve District in case of the Bureau of the Public Debt), or

(b) Friday, May 25, 1979, if the check is drawn on a bank in another Federal Reserve District.

Checks received after the dates set forth in the preceding sentence will not be accepted unless they are payable at the applicable Federal Reserve Bank. Payment will not be considered complete where registered securities are requested if the appropriate identifying number as required on tax returns and other documents submitted to the Internal Revenue Service (an individual's social security number or an employer identification number) is not furnished. When payment is made in securities, a cash adjustment will be made to or required of the bidder for any difference between the face amount of securities presented and the amount payable on the securities allotted.

5.2. In every case where full payment is not completed on time, the deposit submitted with the tender, up to 5 percent of the face amount of securities allotted, shall, at the discretion of the Secretary of the Treasury, be forfeited to the United States.

5.3. Registered securities tendered as deposits and in payment for allotted securities are not required to be assigned if the new securities are to be registered in the same names and forms as appear in the registrations or assignments of the securities surrendered. When the new securities are to be registered in names and forms different from those in the inscriptions or assignments of the securities presented, the assignment should be to "The Secretary of the Treasury for (securities offered by this circular) in the name of (name and taxpayer identifying number)." If new securities in coupon form are desired, the assignment should be to "The Secretary of the Treasury for coupon (securities offered by this circluar) to be delivered to (name and address)." Specific instructions for the issuance and delivery of the new securities, signed by the owner or authorized representative, must accompany the securities presented. Securities tendered in payment should be surrendered to the Federal Reserve Bank or Branch or to the Bureau of the Public Debt, Washington, D.C. 20226.

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The securities must be delivered at the expense and risk of the holder.

5.4. If bearer securities are not ready for delivery on the settlement date, purchasers may elect to receive interim certificates. These certificates shall be issued in bearer form and shall be exchangeable for definitive securities of this issue, when such securities are available, at any Federal Reserve Bank or Branch or at the Bureau of the Public Debt, Washington, D.C. 20226. The interim certificates must be returned at the risk and expense of the holder.

5.5. Delivery of securities in registered form will be made after the requested form of registration has been validated, the registered interest account has been established, and the securities have been inscribed.

6. General Provisions

6.1. As fiscal agents of the United States, Federal Reserve Banks are authorized and requested to receive tenders, to make allotments as directed by the Secretary of the Treasury, to issue such notices as may be necessary, to receive payment for and make delivery of securities on full-paid allotments, and to issue interim certificates pending delivery of the definitive securities.

6.2. The Secretary of the Treasury may at any time issue supplemental or amendatory rules and regulations governing the offering. Public announcement of such changes will be promptly provided.

Treasury Securities—Treasury Announces Auction of Series T–1981 Notes

Supplementary statement

The announcement set forth above does not meet the Department's criteria for significant regulations and, accordingly, may be published without compliance with the Departmental procedures applicable to such regulations.

Paul H. Taylor,

Fiscal Assistant Secretary.

[FR Doc. 79–15629 Filed 5–18–79; 8:45 am]

BILLING CODE 4810–40–M

INTERSTATE COMMERCE COMMISSION

[Finance Docket No. 28972]

Burlington Northern, Inc.—Merger—Spokane, Portland & Seattle Railway Co., Exemption From Prior Approved Requirement

AGENCY: Interstate Commerce Commission.

ACTION: Notice of proposed exemption.

SUMMARY: Burlington Northern, Inc. (BN) and the Spokane, Portland and Seattle Railway Company (SP&S) intend to merge into one corporate entity. They filed a petition on March 2, 1979, seeking exemption from 49 U.S.C. 11343–11347, which requires prior consideration and approval of the transaction by the Interstate Commerce Commission. BN and SP&S are seeking exemption from these sections under 49 U.S.C. 10505 on the basis that prior Commission review of the transaction is unnecessary.

DATES: Comments must be received on or before: June 20, 1979.

ADDRESS: Send comments to: Interstate Commerce Commission, 12th St. and Constitution Ave., N.W., Washington, D.C. 20423. All written submissions will be available for public inspection during regular business hours at the same address.

FOR FURTHER INFORMATION CONTACT: Michael Erenberg, 202–275–7245.

SUPPLEMENTARY INFORMATION: BN and SP&S filed a petition for exemption under 49 U.S.C. 10505 on March 2, 1979, so that their merger could be exempted from the requirement of obtaining prior Commission approval under 49 U.S.C. 11343–11347.

BN and SP&S claim that the transaction will be a "paper merger," not affecting other carriers, railroad employees, shippers or existing operations of BN and SP&S. These assertions should be addressed in the comments.

The Transaction

BN is a Class I railroad. With its subsidiaries it owns and operates approximately 14,519 miles of main lines and 10,431 miles of branch lines for a system total of 24,950 miles. These lines are in California, Colorado, Idaho, Illinois, Iowa, Kansas, Kentucky, Minnesota, Missouri, Montana, Nebraska, New Mexico, North Dakota, Oregon, South Dakota, Texas, Washington, Wisconsin, and Wyoming, and the Provinces of British Columbia and Manitoba, Canada. BN's principal routes extend from: (1) Chicago to Denver via Lincoln, NE; (2) Chicago to Seattle via Twin Cities and Spokane; (3) Lincoln, NE to Laurel, MT, via Alliance, NE; (4) Spokane to Portland; (5) Seattle to northern California via Portland, OR and Wishram, WA; and (6) Denver to Houston.

SP&S is a non-operating lessor railroad. It owns approximately 600 miles of track in Oregon and Washington. It generally extends from Portland, OR easterly to Spokane, WA and westerly to Astoria, OR. SP&S owns 100 percnet of the stock of the Oregon Electric Railway Company (OE), which operates approximately 185 miles of trackage from Eugene and Foster to Bowers Junction, OR. SP&S also owns all of the stock of the Oregon Trunk Railway Company (OT), which operates approximately 152 miles of trackage from Bend, OR to Wishram, WA.

BN was authorized to control SP&S and lease for 10 years the lines of railroad and other properties owned, used or operated by SP&S in *Great Northern Pac. & B. Lines, Merger-Great Northern*, 331 I.C.C. 228 (1967) (the Northern Lines Merger). Through the lease, BN was authorized to control the SP&S carrier subsidiaries (OE and OT). The lease was entered into on March 2, 1970, and will terminate on March 2, 1980

One objective of the Northern Lines Merger was to integrate the SP&S operations into BN through control and the lease. SP&S was not merged into BN at the time of the Northern Lines Merger because of (1) the potential use of $54,000,000 of SP&S bonds as a future financing vehicle for BN, and (2) the avoidance of a possible adverse tax impact.

BN leases all of the properties, franchise interests, and rights (real, personal, tangible or intangible) of SP&S except the franchise of SP&S to be a corporation, and corporate books and records (to the extent required to preserve its corporate existence and perform the lease).

Under the lease, BN pays rent consisting of all taxes, rentals, debt service, pensions, and other expenses otherwise payable by SP&S. BN is authorized to operate, manage, and control the SP&S property; determine and collect rates and charges; undertake capital improvements; acquire additional property; exercise all the SP&S rights, powers, and franchises; abandon, retire, sell or otherwise dispose of property; enforce claims; grant subleases or trackage rights; assume SP&S pension obligations; and pay all SP&S expenses, liabilities, obligations and claims. With regard to SP&S securities and investments, BN has all of the rights of SP&S. This includes the rights to dividends and interest, voting rights, and the right to sell or otherwise dispose of the securities and investments.

The Board of Trustees and the officers of SP&S are all officers of BN. SP&S has no other employees. BN owns 100 percent of the SP&S 400,000 shares of $100 per value capital stock, and 100 percent of the SP&S $42,710,000 outstanding First Mortgage 4 percent Gold Bonds due March 1, 1981.

BN proposes to merge SP&S into it, with BN the surviving corporation. BN believes that the adverse tax consequences that were an obstacle to an earlier merger can be overcome as a result of changes in BN's tax situation. In lieu of treating the bond discount as income in the year the bonds are canceled, BN can elect to reduce its basis in SP&S assets by an equivalent amount, indefinitely deferring a substantial portion of the tax liability. BN also has a substantial accumulation of unused investment tax credit which can be used to offset the income tax liability.

As a result of the merger, all SP&S's assets and property will vest in BN, and BN will assume all liabilities and obligations of SP&S. All outstanding capital stock and bonded indebtedness of SP&S , owned by BN, will be canceled. BN will issue no securities in connection with the merger. It will obtain direct control of OE and OT.

SP&S is operated by BN employees. No change in operations will result from the merger, and there will be no impact on other carriers, employees, shippers, or rail service.

Under the lease BN is responsible for maintenance, capital expenditures, and all expenses and obligations of SP&S. No increased financial obligations will accrue to BN as a result of the merger.

BN states that the merger benefits are limited to administrative and incidental savings resulting from corporate simplification. Separate record keeping, intercompany billing and accounting will be eliminated as well as the administrative burden of maintaining the separate corporate existence of SP&S.

The Statute

The merger of the properties of two carriers into one corporation requires the approval and authority of the Commission under 49 U.S.C. 11343. To seek Commission approval an application must be filed in compliance with the ICC *Railroad Acquisition, Control, Merger, Consolidation, Coordination Project, Trackage Rights and Lease Procedures*, 49 C.F.R. Part 1111 (1977) (Consolidation Procedures). BN has requested an exemption from 49 U.S.C. 11343 so that it will not have to file an application under the Consolidation Procedures.

We can exempt a matter related to a rail carrier under 49 U.S.C. 10505. This section provides:

(a) In a matter related to a rail carrier providing transportation subject to the jurisdiction of the Interstate Commerce Commission under this subchapter, the Commission shall exempt a person, class of persons, or a transaction or service because of the limited scope of the transaction or service, when the Commission finds that the application of a provision of this subtitle—

(1) Is not necessary to carry out the transportation policy of section 10101 of this title;

(2) Would be an unreasonable burden on a person, class of persons, or interstate and foreign commerce; and

(3) Would serve little or no useful public purpose.

(b) the Commission may begin a proceeding under this section on its own initiative or on application by the Secretary of Transportation or an interested party. The Commission may specify the period of time during which the exemption is effective.

(c) The Commission may revoke an exemption, to the extent it specifies, when it finds that application of a provision of this subtitle to the person , class, or transportation is necessary—

(1) to carry out the transportation policy of section 10101 of this title;

(2) to achieve effective regulation by the Commission; and

(3) to serve a useful public purpose.

(d) The Commission may act under this section only after an opportunity for a proceeding.

BN believes that this merger is a "paper transaction" resulting in a corporate simplification that will not impact shippers employees, other carriers, or the general public. It requests that the exemption be limited to this merger, acknowledging that after the merger BN would continue to be subject to Commission regulation. BN maintains that the application of the Commission's regulatory requirements to this transaction would result in an unreasonable expense and administrative burden.

Before granting an exemption, we are required to provide the opportunity for a proceeding. This request for comments on the requested exemption of the proposed transaction is that opportunity. All comments filed in response to this notice, along with BN's petition, will be used to determine whether or not the exemption under 49 U.S.C. 10505 should be granted.

This proceeding is instituted under the authority of 49 U.S.C. 10505 and pursuant to 5 U.S.C. 553, 559.

This proceeding is not a major Federal action significantly affecting energy consumption or the quality of the human environment.

Dated: May 7, 1979.

By the Commission, Chairman O'Neal, Vice Chairman Brown, Commissioners Stafford, Gresham, Clapp, and Christian.

H. G. Homme, Jr.,

Secretary.

[FR Doc. 79–15580 Filed 5–18–79; 8:45 am]

BILLING CODE 7035–01–M

[Exception No. 1 to Corrected Second Revised Service Order No. 1301]

Burlington Northern, Inc.; Boxcar Authorization

Pursuant to the authority vested in me by Section (a)(4) of Corrected Second Revised Service Order 1301, Burlington Northern Inc. Is authorized to use 40-ft. narrow-door plain boxcars owned by Canadian National Railways or by C P Rail from stations in States of North Dakota, South Dakota, and Minnesota destined to Duluth, Minnesota, and Superior, Wisconsin, subject to the following conditions:

1. Cars must be used in compliance with United States Customs regulations.

2. Cars must be used in compliance with Car Service Rules 1 and 2 adopted by the Commission in Docket Ex Parte No. 241.

3. Car Relocation Directives and Car Assistance Directives issued by the Car Service Division, Association of American Railroads, applicable to such cars remain fully in effect.

Effective May 1, 1979.
Expires May 15, 1979.

Issued at Washington, D.C., May 1, 1979.

Joel E. Burns,

Director, Bureau of Operations.

[FR Doc. 79–15787 Filed 5–18–79; 8:45 am]

BILLING CODE 7035–01–M

[I.C.C. Order No. 36 Under Service Order No. 1344]

Canadian National Railways; Rerouting of Traffic

In the opinion of Robert S. Turkington, Agent, the Canadian National Railways is unable to transport promptly all traffic offered for movement via Emerson, Manitoba, Canada, and Noyes, Minnesota, because of flooding.

It is ordered: (a) *Rerouting traffic.* The Canadian National Railways being unable to transport promptly all traffic offered for movment to and from points in the United States, routed over that line, moving via Emerson, Manitoba, Canada and Noyes, Minnesota, because of flooding, that line and its connections are authorized to divert or reroute such traffic via any available route to expedite the movement. This rerouting

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applies only to the movement within the United States. Traffic necessarily diverted by authority of this order shall be rerouted so as to preserve as nearly as possible the participation and revenues of other carriers provided in the original routing. The billing covering all such cars rerouted shall carry a reference to the order as authority for the rerouting.

(b) *Acceptance of traffic in interchange.* In the event the Canadian National Railways cannot accept traffic in interchange from a connecting carrier, the delivering carrier, after establishing such condition, may reroute or divert the traffic via any available route.

(c) *Concurrence of receiving roads to be obtained.* The railroad rerouting cars in accordance with this order shall receive the concuurence of other railroads to which such traffic is to be diverted or rerouted, before the rerouting or diversion is ordered.

(d) *Notification to shippers.* Each carrier rerouting cars in accordance with this order, shall notify each shipper at the time each shipment is rerouted or diverted and shall furnish to such shipper the new routing provided for under this order.

(e) Inasmuch as the diversion or rerouting of traffic is deemed to be due to carrier disability, the rates applicable to traffic diverted or rerouted by said Agent shall be the rates which were applicable at the time of shipment on the shipments as originally routed.

(f) In executing the directions of the Commission and of such Agent provided for in this order, the common carriers involved shall proceed even though no contracts, agreements or arrangements now exist between them with reference to the divisions of the rates of transportation applicable to said traffic. Divisions shall be, during the time this order remains in force, those voluntarily agreed upon by and betweeen said carriers; or upon failure of the carriers to so agree, said divisions shall be those hereafter fixed by the Commission in accordance with pertinent authority conferred upon it by the Interstate Commerce Act.

(g) *Effective date.* This order shall become effective 9:00 a.m., April 26, 1979.

Expiration date. This order shall expire at 11:59 p.m., may 15, 1979, unless otherwise modified, changed or suspended.

This order shall be served upon the Association of American Railroads, Car Service Division, as agent of all railroads subscribing to the car service and car hire agreement under the terms of that agreement, and upon the American Short Line Railroad Association. A copy of this order shall be filed with the Director, Office of the Federal Register.

Issued at Washington, D.C., April 26, 1979.

Interstate Commerce Commission.

Robert S. Turkington,

Agent.

[FR Doc. 79-15798 Filed 5-18-79; 8:45 am]

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[Decisions Volume No. 49]

Permanent Authority Applications; Decision-Notice

Decided: May 14, 1979.

The following applications filed on or before February 28, 1979, are governed by Special Rule 247 of the Commission's *Rules of Practice* (49 CFR § 1100.247). For applications filed before March 1, 1979, these rules provide, among other things, that a protest to the granting of an application must be filed with the Commission within 30 days, after the date notice of the application is published in the Federal Register. Failure to file a protest, within 30 days, will be considered as a waiver of opposition to the application. A protest under these rules should comply with Rule 247(e)(3) of the Rules of Practice which requires that it set forth specifically the grounds upon which it is made, contain a detailed statement of protestant's interest in the proceeding, (as specifically noted below), and shall specify with particularity the facts, matters, and things relied upon, but shall not include issues or allegations phrased generally. A protestant should include a copy of the specific portions of its authority which protestant believes to be in conflict with that sought in the application, and describe in detail the method—whether by joinder, interline, or other means—by which protestant would use such authority to provide all or part of the service proposed.

Protests not in reasonable compliance with the requirements of the rules may be rejected. The original and one copy of the protest shall be filed with the Commission, and a copy shall be served concurrently upon applicant's representative, or upon applicant if no representative is named. If the protest includes a request for oral hearing, such request shall meet the requirements of section 247(e)(4) of the special rules and shall include the certification required in that section.

On cases filed on or after March 1, 1979, petitions for intervention either with or without leave are appropriate.

Section 247(f) provides, in part, that an applicant which does not intend timely to prosecute its application shall promptly request that it be dismissed, and that failure to prosecute an application under the procedures of the Commission will result in its dismissal.

If applicant has introduced rates as an issue it is noted. Upon request an applicant must provide a copy of the tentative rate schedule to any protestant.

Further processing steps will be by Commission notice, decision, or letter which will be served on each party of record. *Broadening amendments will not be accepted after the date of this publication.*

Any authority granted may reflect administratively acceptable restrictive amendments to the service proposed below. Some of the applications may have been modified to conform to the Commission's policy of simplifying grants of operating authority.

Findings

With the exceptions of those applications involving only noted problems (e.g., unresolved common control, unresolved fitness questions, and jurisdictional problems) we find, preliminarily, that each common carrier applicant has demonstrated that its proposed service is required by the public convenience and necessity, and that each contract carrier applicant qualifies as a contract carrier and its proposed contract carrier service will be consistent with the public interest and the transportation policy of 49 U.S.C. § 10101. Each applicant is fit, willing, and able properly to perform the service proposed and to conform to the requirements of Title 49, Subtitle IV, United States Code, and the Commission's regulations. Except where specifically noted this decision is neither a major Federal action significantly affecting the quality of the human environment nor a major regulatory action under the Energy Policy and Conservation Act of 1975.

In those proceedings containing a statement or note that dual operations are or may be involved we find, preliminarily and in the absence of the issue being raised by a protestant, that the proposed dual operations are consistent with the public interest and the transportation policy of 49 U.S.C. § 10101 subject to the right of the Commission, which is expressly reserved, to impose such conditions as it finds necessary to insure that applicant's operations shall conform to the provisions of 49 U.S.C. § 10930(a) [Formerly section 210 of the Interstate Commerce Act].

In the absence of legally sufficient protests, filed within 30 days of publication of this decision-notice (or, if the application later becomes unopposed), appropriate authority will be issued to each applicant (except those with duly noted problems) upon compliance with certain requirements which will be set forth in a notification of effectiveness of this decision-notice. To the extent that the authority sought below may duplicate an applicant's existing authority, such duplication shall not be construed as conferring more than a single operating right.

Applicants must comply with all specific conditions set forth in the grant or grants of authority within 90 days after the service of the notification of the effectiveness of this decision-notice, or the application of a non-complying applicant shall stand denied.

By the Commission, Review Board Number [1]. Members.

H. G. Homme, Jr.,

Secretary.

MC 11207 (Sub-469F), filed February 13, 1979. Applicant: DEATON, INC., P.O. Box 938, Birmingham, AL 35201. Representative: Kim D. Mann, Suite 1010, 7101 Wisconsin Ave., Washington, DC 20014. To operate as a *common carrier*, by motor vehicle, in interstate or foreign commerce, over irregular routes, transporting *sugar, (except in bulk), from Supreme, LA, to points in AL, FL, GA, and MS. (Hearing site: New Orleans, LA or Washington, DC.)*

MC 26377 (Sub-25F), filed February 7, 1979. Applicant: LEONARDO TRUCK LINES, INC., 511 South 1st Street, Selah, WA 98942. Representative: Lawrence V. Smart, Jr., 419 N.W. 23rd Avenue, Portland, OR 97210. To operate as a *common carrier*, by motor vehicle, in interstate or foreign commerce, over irregular routes, transporting *foodstuffs*, and *materials, equipment*, and *supplies* used in the manufacture and distribution of foods, between points in Benton, Chelan, and Yakima Counties, WA, on the one hand, and, on the other points in CA, AZ, OR, UT, NV, and ID. (Hearing site: Yakima, WA.)

MC 42487 (Sub-903F), filed February 8, 1979. Applicant: CONSOLIDATED FREIGHTWAYS CORPORATION OF DELAWARE, 175 Linfield Drive, Menlo Park, CA 94025. Representative: V. R. Oldenburg, P.O. Box 3062, Portland, OR 97208. To operate as a *common carrier*, by motor vehicle, in interstate or foreign commerce, over irregular routes, transporting *general commodities* (except those of unusual value, classes A and B explosives, household goods as defined by the Commission, commodities in bulk, and commodities requiring special equipment), between Kingsport, TN, and Bristol, TN serving no intermediate points: over U.S. Hwy 11-W. (Hearing site: Knoxville, TN.)

MC 60157 (Sub-28F), filed February 13, 1979. Applicant: C.A. WHITE TRUCKING CO., a corp., 5327 N. Central expressway, Suite 310, Dallas, TX 75205. Representative: Bernard H. English, 6270 Firth Rd., Fort Worth, TX 76116. To operate as a *common carrier*, by motor vehicle, in interstate or foreign commerce, over irregular routes, transporting (1) *iron and steel articles and pipe*, from the facilities of Fort Worth Pipe and Supply Co., at or ner Conroe, TX to points in the United States, including AK but excluding HI, and (2) *Materiols, equipment and supplies* used in the Production, manufacture or distribution of the above named commodities, in the reverse direction. (Hearing site: Dallas or Fort Worth, TX.)

MC 61396 (Sub-367F), filed February 6, 1979. Applicant: HERMAN BROS., INC., 2565 St. Marys Avenue, P.O. Box 189, Omaha, NE 68101. Representative: Duane L. Stromer (same address as applicant). To operate as a *common carrier*, by motor vehicle, in interstate or foreign commerce, over irregular routes, transporting *cement*, from (1) Knoxville, TN, and (2) the facilities of Penn-Dixie Industries, Inc., at or near Richard City, TN, to points in AL, AR, GA, FL, KY, MS, NC, SC, VA, and WV. (Hearing site: Pittsburgh, PA or Omaha, NE.)

Note.—Dual operations may be involved in this proceeding.

MC 65626 (Sub-34F), filed February 15, 1979. Applicant: FREDONIA EXPRESS, INC., P.O. Box 222, Fredonia, NY 14063. Representative: David C. Venable, 805 McLachlen Bank Building, 666 Eleventh Street, N.W., Washington, DC 20001. To operate as a *common carrier*, by motor vehicle, in interstate or foreign commerce, over irregular routes, *such commodities as are* dealt in or used by grocery and food business houses, between the facilities of Ralston Purina Company at or near Dunkirk, NY, on the one hand, and, on the other, points in MD, NJ, OH, PA, and WV. (Hearing site: Buffalo, NY or Washington, DC.)

MC 69116 (Sub-219F), filed February 12, 1979. Applicant: SPECTOR INDUSTRIES, INC., d.b.a. SPECTOR FREIGHT SYSTEM, 1050 Kingery Highway, Bensenville, IL 60106. Representative: Edward G. Bazelon, 39 South LaSalle St., Chicago, IL 60603. To operate as a *common carrier*, by motor vehicle, in interstate or foreign commerce, over irregular routes, transporting *wallboard*, from Meridian, MS, to points in AL, AR, CT, DE, FL, GA, IL, IN, IA, KS, KY, LA, ME, MD, MA, MI, MN, MS, MO, NE, NH, NJ, NY, NC, ND, OH, OK, PA, RI, SC, SD, TN, TX, VT, VA, WV, and WI. (Hearing site: Chicago, IL.)

MC 69116 (Sub-220F), filed February 12, 1979. Applicant: SPECTOR INDUSTRIES, INC., d.b.a. SPECTOR FREIGHT SYSTEM, 1050 Kingery Highway, Bensenville, IL 60106. Representative: Edward G. Bazelon, 39 South LaSalle St., Chicago, IL 60603. To operate as a *common carrier*, by motor vehicle, in interstate or foreign commerce, over irregular routes, transporting *plastic pipe, plastic pipe fittings, and plastic building materials*, from the facilities of Certain Teed Corp., at Social Circle, GA, to points in DE, IL, IN, KY, MD, NY, NC, OH, PA, SC, and VA. (Hearing site: Chicago, IL.)

MC 69116 (Sub-221F), filed February 12, 1979. Applicant: SPECTOR INDUSTRIES, INC., d.b.a. SPECTOR FREIGHT SYSTEM, 1050 Kingery Highway, Bensenville, IL 60106. Representative: Edward G. Bazelon, 39 South LaSalle St., Chicago, IL 60603. To operate as a *common carrier*, by motor vehicle, in interstate or foreign commerce, over irregular routes, transporting *railway and locomotive car wheels*, from Keokuk, IA, to points in PA, OH, and WV. (Hearing site: Chicago, IL.)

MC 100666 (Sub-432F), filed February 8, 1979. Applicant: MELTON TRUCK LINES, INC., P.O. Box 7666, Shreveport, LA 71107. Representative: Wilburn L. Williamson, Suite 615-East, The Oil Center, 2601 Northwest Expressway, Oklahoma City, OK 73112. To operate as a *common carrier*, by motor vehicle, in interstate or foreign commerce, over irregular routes, transporting (1) *building materials*, and (2) *materials and supplies* used in the manufacture of the above named commodities, (except commodities in bulk, in tank vehicles), between the facilities of GAF Corporation in the United States (except AK and HI), on the one hand, and, on the other, points in the United States (except AK and HI). (Hearing site: Dallas, TX.)

MC 100666 (Sub-435F), filed February 9, 1979. Applicant: MELTON TRUCK LINES, INC., P.O. Box 7666, Shreveport, LA 71107. Representative: Wilburn L. Williamson, Suite 615-East, The Oil Center, 2601 Northwest Expressway, Oklahoma City, OK 73112. To operate as a *common carrier*, by motor vehicle, in

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interstate or foreign commerce, over irregular routes, transporting (1) *construction materials,* and (2) *equipment, materials and supplies* used in the manufacture and distribution of the commodities named in (1) above (except commodities in bulk), between points in the United States (except AK and HI), restricted to traffic originating at or destined to facilities of The Celotex Corporation. (Hearing site: New Orleans, LA.)

MC 100666 (Sub-436F), filed February 12, 1979. Applicant: MELTON TRUCK LINES, INC., P.O. Box 7666, Shreveport, LA 71107. Representative: Wilburn L. Williamson, Suite 615-East, The Oil Center, 2601 Northwest Expressway, Oklahoma City, OK 73112. To operate as a *common carrier,* by motor vehicle, in interstate or foreign commerce, over irregular routes, transporting *bentonite clay* and *lignite coal,* from the facilities of American Colloid Co. in Big Horn, Weston and Crook Counties, WY, Phillips County, MT, Bowman County, ND, and Butte County, SD, to points in AR, LA, NM, OK, and TX. (Hearing Site: Dallas, TX.)

MC 105886 (Sub-33F), filed February 13, 1979. Applicant: MARTIN TRUCKING, INC., East Poland Avenue, Bessemer, PA 16112. Representative: Henry M. Wick, Jr., 2310 Grant Building, Pittsburgh, PA 15219. To operate as a *common carrier,* by motor vehicle, in interstate or foreign commerce, over irregular routes, transporting *cement,* from Winfield Township, Butler County, PA, to points in MD, OH, WV, and NY. (Hearing site: Washington, DC or Pittsburgh, PA.)

MC 107496 (Sub-1188F), filed February 9, 1979. Applicant: RUAN TRANSPORT CORPORATION, 666 Grand Avenue, Des Moines, IA 50309. Representative: E. Check, P.O. Box 855, Des Moines, IA 50304.To operate as a *common carrier,* by motor vehicle, in interstate or foreign commerce, over irregular routes, transporting *grease, non-edible oils and tallow* (1) from St. Joseph, MO, to points in IL, KS, MO, OH, TN, and TX, (2) from Rockport, MO, to points in KS, and (3) between Sioux Falls, SD, and Estherville, IA, on the one hand, and, on the other points in IL, IA, MN, MO, NE, and WI. (Hearing site: Des Moines, IA or Kansas City, Mo.)

MC 109736 (Sub-45F), filed January 10, 1979. Applicant: CAPITOL BUS COMPANY, a corporation, 1061 South Cameron Street, P.O. Box 3343, Harrisburg, PA 17105. Representative: S. Berne Smith, 100 Pine Street, P.O. Box 1166, Harrisburg, PA 17108. To operate as a *common carrier,* by motor vehicle, in interstate or foreign commerce, over irregular routes, transporting *passengers and their baggage,* express, and newspapers, in the same vehicle with passengers, (1) between Harrisburg, PA, and the Baltimore-Washington International Airport, MD, from Harrisburg over Interstate Hwy 83 to junction Interstate Hwy 695, then over Interstate Hwy 695 to the Baltimore-Washington Parkway (MD Hwy 295), then over the Baltimore-Washington Parkway to junction MD Hwy 46, then over MD Hwy 46 to the Baltimore-Washington International Airport, and return over the same route, serving the intermediate points of Manchester and Springettsbury Townships, (York County, PA), and serving the junction of Interstate Hwy 83 and PA Hwy 114 and the junction of MD Hwy 46 and Baltimore-Washington Parkway for purposes of joinder only, (2) between the junction of Interstate Hwy 83 and PA Hwy 114, and the Capital City Airport in Harrisburg, PA, over PA Hwy 114, serving no intermediate points and serving the junction of Interstate Hwy 83 and PA Hwy 114 for purposes of joinder only, (3) between junction Interstate Hwy 83 and Interstate Hwy 76, and the junction of Interstate Hwy 76 and U.S. Hwy 15, over Interstate Hwy 76, serving no intermediate points, (4) between Harrisburg, PA, and the Harrisburg International Airport; from Harrisburg over Interstate Hwy 83 to junction Interstate Hwy 283, then over Interstate Hwy 283 to PA Hwy 283, then over PA Hwy 283 to Airport Access Road to Harrisburg International Airport, and return over the same route, serving the junction of Interstate Hwy 283 and Interstate Hwy 76 (Interchange No. 19) for purposes of joinder only, and (5) between the junction of Interstate Hwy 283 and Interstate 76, and the junction of Interstate Hwy 76 and Interstate Hwy 83, over Interstate Hwy 76, serving no intermediate points, restricted in (1) above to the transportation of traffic originating at or destined to the Baltimore-Washington International Airport. (Hearing site: Harrisburg, PA, or Washington, DC.)

MC 111956 (Sub-45F), filed November 3, 1978. Applicant: SUWAK TRUCKING COMPANY, a corporation, 1105 Fayette Street, Washington, PA 15301. Representative: Henry M. Wick, Jr., 2310 Grant Building, Pittsburgh, PA 15219. To operate as a *common carrier,* by motor vehicle, in interstate or foreign commerce, over irregular routes, transporting *general commodities* (except those of unusual value, classes A and B explosives, household goods as defined by the Commission, commodities in bulk, and those requiring special equipment), (1) between Washington, PA, and Mansfield, OH; from Washington over Interstate Hwy 79 to junction U.S. Hwy 22, then over U.S. Hwy 22 to junction PA Hwy 60, then over PA Hwy 60 to junction PA Hwy 51, then over PA Hwy 51 to the PA-OH State line, then over OH Hwy 14 to junction OH Hwy 14a, then over OH Hwy 14a to Salem, OH, and then (a) over U.S. Hwy 62 to Canton, OH, then over U.S. Hwy 30 to Mansfield, and (b) over OH Hwy 14a to Deerfield, OH, then over U.S. Hwy 224 to Akron, OH, then over Interstate Hwy 76 to its junction with U.S. Hwy 42, over U.S. Hwy 42 to Mansfield, (2) between Deerfield, OH, and Bryan, OH; from Deerfield over OH Hwy 14 to junction Interstate Hwy 80, then over Interstate Hwy 80 to U.S. Hwy 127, then over U.S. Hwy 127 to Bryan, and return over the same route, (3) between junction OH Hwy 14 and OH Hwy 7, and Mentor, OH; from junction OH Hwy 14 and OH Hwy 7 over OH Hwy 7 to Youngstown, OH, then over U.S. Hwy 422 (a) to junction OH Hwy 44, then over OH Hwy 44 to Mentor, and (b) to Cleveland, OH, then over OH Hwy 2 to Mentor, and return over the same route, (4) between junction U.S. Hwys 42 and 224 near Lodi, OH, and Defiance, OH, from junction U.S. Hwys 42 and 224 over U.S. Hwy 224 to Ottawa, OH, then over OH Hwy 15 to Defiance, and return over the same route, (5) between Cleveland and Mansfield, OH, over Interstate Hwy 71, (6) between Cleveland and Dover, OH, over Interstate Hwy 77, (7) between Sandusky and Ashland, OH; over U.S. Hwy 250, (8) between junction Interstate Hwy 79 and U.S. Hwy 30, and Ashtabula, OH, from junction Interstate Hwy 79 and U.S. Hwy 30 over U.S. Hwy 30 to OH Hwy 11, then over OH Hwy 11 to Ashtabula, and return over the same route, (9) between Washington, PA, and Canton, OH; from Washington over PA Hwy 18 to U.S. Hwy 22, then over U.S. Hwy 22 to Steubenville, OH, then over OH Hwy 43 to Canton, and return over the same route, (10) between Washington, PA, and Wooster, OH; from Washington over Interstate Hwy 70 to Bridgeport, OH, then over U.S. Hwy 250 to Wooster, and return over the same route, (11) between Defiance, OH, and Antwerp, OH, over U.S. Hwy 24, (12) between Toledo and Defiance, OH, over U.S. Hwy 24, (13) between Mansfield and Van Wert, OH, over U.S. 30 serving in (1)–(13) above, all intermediate points in Ohio and those points in OH on and north of U.S. Hwy 250 and U.S. Hwy 30 as off-route points.

Condition: Issuance of a certificate in this proceeding is subject to the prior or coincidental cancellation of carrier's certificate in MC–111956 Sub 22. (Hearing site: Pittsburgh, PA, or Washington, DC)

Note.—The purpose of this application is to convert applicant's existing irregular-route authority to regular-route authority.

MC 112627 (Sub-33F), filed February 16, 1979. Applicant: OWENS BROS., INC., P.O. Box 247, Dansville, NY 14437. Representative: S. Michael Richards, P.O. Box 225, Webster, NY 14580. To operate as a *common carrier,* by motor vehicle, in interstate or foreign commerce, over irregular routes, transporting (1) *alcoholic beverages,* and (2) *materials, supplies, and equipment* used in the manufacture and distribution of alcoholic beverages, between Peoria, IL, on the one hand, and on the other, points in CT, NJ, NY, and PA. Restricted in (1) and (2) above against the transportation of commodi ies in bulk. (Hearing site: Chicago, IL or Buffalo, NY.)

MC 113666 (Sub-151F), filed February 12, 1979. Applicant: FREEPORT TRANSPORT, INC., 1200 Butler Road, Freeport, PA 16229. Representative: Daniel R. Smetanick (same address as applicant). To operate as a *common carrier,* by motor vehicle, in interstate or foreign commerce, over irregular routes, transporting *iron and steel articles,* between the facilities of Allegheny Ludlum Steel Corporation at (1) Bagdad, (2) Brackenridge, and (3) West Leechburg, PA, on the one hand, and, on the other, points in AL, AR, IL, IN, KY, MO, NY, NC, OH, and TN. (Hearing site: Pittsburgh, PA, or Washington, DC.)

MC 113666 (Sub-153F), filed February 12, 1979. Applicant: FREEPORT TRANSPORT, INC., 1200 Butler Road, Freeport, PA 16229. Representative: Daniel R. Smetanick (same address as applicant). To operate as a *common carrier,* by motor vehicle, in interstate or foreign commerce, over irregular routes, transporting (1) *grouting compounds,* and (2) *materials and supplies* used in the production and installation of the above named commodities, between Wilmington, DE, on the one hand, and, on the other, points in the United States (except AK and HI). (Hearing site: Pittsburgh, PA, or Washington, DC.)

MC 114457 (Sub-477F), filed February 6, 1979. Applicant: DART TRANSIT COMPANY, 2102 University Avenue, St. Paul, MN 55114. Representative: James H. Wills (same address as applicant). To operate as a *common carrier,* by motor vehicle, in interstate or foreign commerce, over irregular routes, transporting *containers, container closures, and materials, equipment and supplies* used in the manufacture and distribution of containers (except commodities in bulk), between the facilities of National Can Corporation at or near (1) Danbury and Ridgebury, CT, (2) Piscataway and Edison, NJ, (3) Fogelsville, Fairless Hills and Hanover, PA, (4) Baltimore, Cambridge and Sparrows Point, MD, and (5) Maspeth, L.I., NY, on the one hand, and, on the other, points in OH, MI, IN, WI, IL, MN, IA, MO, KS, OK, TX, LA and AR. (Hearing site: Newark, NJ or St. Paul, MN.)

MC 114457 (Sub-478F), filed February 7, 1979. Applicant: DART TRANSIT COMPANY, 2102 University Avenue, St. Paul, MN 55114. Representative: James H. Wills, (same address as applicant). To operate as a *common carrier,* by motor vehicle, in interstate or foreign commerce, over irregular routes, transporting (A) *paper and paper products and* (B) *materials, supplies and equipment used in the production and distribution of paper and paper products,* between the facilities of Union Camp Corporation at or near (1) Tifton and Savannah, GA, and (2) Richmond, VA, on the one hand, and on the other, points in the United States (except AK and HI), restricted against the transportation of commodities in bulk. (Hearing site: Newark, NJ or St. Paul, MN.)

MC 115826 (Sub-390F), filed January 29, 1979. Applicant: W. J. DIGBY, INC., 6015 East 58th Ave., Commerce City, CO 80022. Representative: Howard Gore (same address as applicant). To operate as a *common carrier,* by motor vehicle, in foreign commerce, over irregular routes, transporting *bananas* from ports of entry in TX, LA, MS and AL, to points in CO, restricted to traffic having a prior movement by water. (Hearing site: Denver, CO.)

MC 115826 (Sub-396F), filed February 8, 1979. Applicant: W. J. DIGBY, INC., 6015 East 58th Ave., Commerce City, CO 80022. Representative: Howard Gore (same address as applicant). To operate as a *common carrier,* by motor vehicle, in interstate or foreign commerce, over irregular routes, transporting (1) (a) *plastic film and sheeting* (other than cellulose) and (b) *articles, materials, supplies and equipment* used in the manufacture and distribution of the commodities in (a) (except commodities in bulk), between those points in the United States in and west of TX, OK, KS, NE, ND, and SD (except AK and HI), restricted to the transportation of traffic originating at or destined to the facilities of Borden Chemical Division of Borden, Inc., 2 (a) *paper and paper products, plastic and plastic products,* and (b) *materials, supplies and equipment* used in the manufacture and distribution of the commodities in (2 (a)) between points in the United States (except AK and HI), restricted to transportation of traffic originating at or destined to the facilities of Union Camp Corporation. (Hearing site: Denver, CO.)

MC 119657 (Sub-23F), filed February 12, 1979. Applicant: GEORGE TRANSIT LINE, INC., 760–764 N.E. 47th Place, Des Moines, IA 50313. Representative: Kenneth F. Dudley, 611 Church Street, P.O. Box 279, Ottumwa, IA 52501. To operate as a *common carrier,* by motor vehicle, in interstate or foreign commerce, over irregular routes, transporting *agricultural pesticides* (except in bulk, in tank vehicles), between points in IL, IN, IA, MI, MN, MO, NE, ND, SD, and WI. (Hearing site: Des Moines, IA.)

MC 119726 (Sub-157F), filed January 22, 1979. Applicant: N. A. B. TRUCKING CO., INC., 1644 West Edgewood Avenue, Indianapolis, IN 46217. Representative: James L. Beattey, 130 East Washington Street, Suite One Thousand, Indianapolis, IN 46204. To operate as a *common carrier,* by motor vehicle, in interstate or foreign commerce, over irregular routes, transporting (1) *containers, container closures, glassware, paper, packaging products, container components, scrap materials, and absorbents,* and (2) *such commodities* as are dealt in or used by manufacturers and distributors of the commodities named in (1) above, (except commodities in bulk, in tank vehicles, and those which because of size or weight require the use of special equipment), between points in the United States (except AK and HI). (Hearing site: Indianapolis, IN.)

MC 123407 (Sub-538F), filed February 12, 1979. Applicant: SAWYER TRANSPORT, INC., South Haven Square, U.S. Hwy 6, Valparaiso, IN 46383. Representative: Gerald K. Gimmel, Suite 145, 4 Professional Drive, Gaithersburg, MD 20760. To operate as a *Common carrier,* by motor vehicle, in interstate or foreign commerce, over irregular routes, transporting *iron and steel articles,* between the facilities of Tex-Ark Joist Co. at or near Hope, AR on the one hand, and, on the other, points in the United States (except AK and HI), restricted to the transportation of traffic originating at or destined to the facilities of Tex-Ark Joist Co. (Hearing site: Washington, DC.)

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MC 125996 (Sub-73F), filed February 6, 1979 Applicant: ROAD RUNNER TRUCKING, INC., 2200 South 400 West, Salt Lake City, UT 84115. Representative: John P. Rhodes, P.O. Box 5000, Waterloo, IA 50704. To operate as a *Common carrier*, by motor vehicle, in interstate or foreign commerce, over irregular routes, transporting such commodities as are distributed by manufacturers of explosives, and *materials and supplies* used in the manufacture and distribution of explosives, oxidizers, and boosters (except commodities in bulk) (a) between W. Jordan and Lehi, UT, Bonne Terre, Mo, Plymouth, IN, and Biwabik, MN, and (b) between W. Jordan and Lehi, UT and Plymounth, IN, on the one hand, and, on the other, points in the United States (except AK and HI). The grant of authority here, to the extent it authorizes the transportation of dangerous commodities is limited in point of time to a period of five (5) years from the date of issuance. (Hearing site: Salt Lake City, UT or San Francisco, CA.)

Note.—Dual operations may be involved.

MC 125996 (Sub-74F), filed February 12, 1979. Applicant: ROAD RUNNER TRUCKING, INC., P.O. Box 26908, Salt Lake City, UT 84125. Representative: John P. Rhodes, P.O. Box 5000, Waterloo, IA 50704. To operate as a *Common carrier*, by motor vehicle, in interstate or foreign commerce, over irregular routes, transporting (1) *meats, meat products, and meat byproducts, and articles* distributed by meat-packing houses, as described in sections A and C of Appendix I to the report in *Descriptions in Motor Carrier Certificates*, 61 M.C.C. 209 and 766 (except hides and commodities in bulk), from the facilities Armour and Company at or near Omaha, NE, Worthington, MN, and Huron, SD, to points in AZ, CA, NM, OR, WA, UT, NV, ID, MT, and WY , and (2) the commodities named in (1) above, (except foodstuffs), and *foodstuffs*, from the facilities of Geo. A. Hormel & Co. at or near Austin and St. Paul, MN, and Fort Dodge and Ottumwa, IA, to points in AZ, CA, CO, and UT, restricted in (1) above to the transportation of traffic originating at the named origins and destined to the indicated destinations. (Hearing site: Omaha, NE, or St. Paul, MN.)

Note.—Dual operations may be involved.

MC 134427 (Sub-4F), filed February 12, 1979. Applicant: JOHN T. SISK, Route 2, Box 182–B, Culpeper, VA 22701. Representative: Frank B. Hand, Jr., P.O. Drawer C, Berryville, VA 22611. To operate as a *contract carrier*, by motor vehicle, in interstate or foreign commerce, over irregular routes, transporting *flour*, in bulk, from Culpeper, VA, to points in CT and NY, under continuing contract(s) with Seaboard Allied Milling Corporation of Kansas City, MO. (Hearing site: Richmond, VA or Washington, DC.)

Note.—Dual operations may be involved.

MC 134477 (Sub-329F), filed February 14, 1979. Applicant: SCHANNO TRANSPORTATION, INC., 5 West Mendota Road, West St. Paul, MN 55118. Representative: Robert P. Sack, P.O. Box 6010, West St. Paul, MN 55118. To operate as a *common carrier*, by motor vehicle, in interstate or foreign commerce, over irregular routes, transporting *meats, meat products, and meat byproducts, and articles distributed by meat-packing houses*, as described in sections A and C of Appendix I to the report in *Descriptions in Motor Carrier Certificates*, 61 M.C.C. 209 and 766 (except hides and commodities in bulk), from the facilities of Wilson Foods Corporation at Marshall, MO, to points in DE, CT, ME, MD, MA, NH, NJ, NY, PA, RI, VT, and DC, restricted to the transportation of traffic originating at the named origin and destined to the indicated destinations. (Hearing site: Dallas, TX, or St. Paul, MN.)

MC 135797 (Sub-179F), filed February 6, 1979. Applicant: J. B. HUNT TRANSPORT, INC., P.O. Box 200, Lowell, AR 72745. Representative: Paul R. Bergant (same address as applicant). To operate as a *common carrier*, by motor vehicle, in interstate or foreign commerce, over irregular routes, transporting (1) *tools* from the facilities of Brunner Industries at Springdale, AR, to points in the United States (except AK and HI), and (2) *materials, equipment and supplies* used in the manufacture and distribution of tools, in the reverse direction. (Hearing site: Little Rock, AR.)

MC 136086 (Sub-12F), filed July 28, 1978, previously noticed in the **Federal Register** issue of November 2, 1978. Applicant: GUILEY TRUCKING, INC., 8615 Pecan Avenue, Fontana, CA 92335. Representative: Milton W. Flack, 4311 Wilshire Blvd., Suite 300, Los Angeles, CA 90010. To operate as a *contract carrier*, by motor vehicle, in interstate or foreign commerce, over irregular routes, transporting (1) *steel roofing, steel siding*, and *steel floor decking*, (a) from the facilities of Verco Manufacturing, Inc., at Phoenix, AZ, to points in OR, WA, and WY, (b) from the facilities of Verco Manufacturing, Inc., at Fontana, CA, to points in CO, NM, and TX, and (c) from the facilities of Verco Manufacturing, Inc., at Everett, WA, to points in AZ, CA, CO, NM, OR, TX, UT, and WY; (2) *coiled sheet steel*, (a) from points in CA, TX, and WA, to the facilities of Verco Manufacturing, Inc., at (i) Everett, WA, and (ii) Fontana, CA, and (b) from points in TX and WA, to the facilities of Verco Manufacturing, Inc., at Phoenix, AZ; and (3) *dunnage*, from points in WA, OR, ID, and UT, to the facilities of Verco Manufacturing, Inc., at (a) Phoenix, AZ, (b) Fontana, CA, and (c) Everett, WA, under continuing contract(s) in (1), (2), and (3) above, with Verco Manufacturing, Inc., of Phoenix, AZ. (Hearing site: Los Angeles, CA.)

Note.—This republication is to show CO as a destination point instead of CD in (1)(c).

MC 138126 (Sub-35F), filed February 8, 1979. Applicant: WILLIAMS REFRIGERATED EXPRESS, INC., P.O. Box 47, Federalsburg, MD 21632. Representative: Chester A. Zyblut, 366 Executive Bldg., 1030 Fifteenth St., NW., Washington, DC 20005. To operate as a *common carrier*, by motor vehicle, in interstate or foreign commerce, over irregular routes, transporting (A) *foodstuffs*, from the facilities of Campbell Soup Company at or near (1) Milford and Clayton, DE, and (2) Salisbury, Pocomoke City and Baltimore, MD; and Downingtown, PA, to points in AR, FL, GA, NE and TX; and (B) *frozen foodstuffs*, from the facilities of Campbell Soup Company at or near Omaha, NE, to Salisbury, MD, and Milford, DE. (Hearing site: Washington, DC.)

MC 139577 (Sub-32F), filed February 8, 1979. Applicant: ADAMS TRANSIT, INC., P.O. Box 338, Freisland, WI 53935. Representative: Wayne W. Wilson, 150 E. Gilman Street, Madison, WI 53703. To operate as a *common carrier*, by motor vehicle, in interstate or foreign commerce, over irregular routes, transporting *such commodities* as are dealt in or used by grocery and food business houses, between the facilities of the Ralston Purina Company at or near Clinton and Davenport, IA, and Louisville, KY on the one hand, and, on the other, points in IN, IL, IA, KY, MI, MN, MO, OH, TN, and WI. (Hearing site: St. Louis, MO.)

MC 140676 (Sub-14F), filed February 12, 1979. Applicant: POWELL TRUCKING COMPANY, INC., Route 3, Box 13, Sumrall, MS 39482. Representative: Fred W. Johnson, Jr., 1500 Deposit Guaranty Plaza, P.O. Box 22628, Jackson, MS 39205. To operate as a *contract carrier*, by motor vehicle, in interstate or foreign commerce, over irregular routes, transporting *posts, poles, and pilings*, from the facilities of Crown-Zellerbach Corporation at (1) Gulfport, MS, and (2) Mobile, AL, to points in CO, GA, MA, MD, ME, NC, NJ, NM, NY, OK, SC, TX, VA, VT, and WV, under continuing contract(s) with Crown-Zellerbach Corporation of Bogalusa, LA., (Hearing site: Jackson, MS, or New Orleans, LA.)

MC 141597 (Sub-7F), filed February 8, 1979. Applicant: RIVERSIDE TRUCK LINE, INC., 919 4th Avenue South, Denison, IA 51442. Representative: James M. Hodge, 1980 Financial Center, Des Moines, IA 50309. To operate as a *contract carrier*, by motor vehicle, in interstate or foreign commerce, over irregular routes, transporting *meats, meat products and meat byproducts, and articles distributed by meat-packing houses*, as described in sections A and C of Appendix I to the report in *Descriptions in Motor Carrier Certificates*, 61 MCC 209 and 766 (except hides and commodities in bulk), from the facilities of Farmland Foods, Inc., at or near (1) Denison, (2) Iowa Falls, and (3) Carroll, IA, and (4) Crete, NE, to points in AZ, CA, CO, ID, MT, NV, OR, UT, and WA, under continuing contract(s) with Farmland Foods, Inc., of Denison, IA. (Hearing site: Omaha, NE.)

MC 142956 (Sub-2F), filed February 9, 1979. Applicant: M & S TRUCKING CO., INC., 1430 North Clarence, Wichita, KS 67202. Representative: Donald J. Quinn, Suite 900, 1012 Baltimore, Kansas City, MO 64105. To operate as a *contract carrier*, by motor vehicle, in interstate or foreign commerce, over irregular routes, transporting *beef carcasses*, from Mankato, KS, to points in CT, IL, IN, ME, MD, MA, NH, NJ, NY, OH, PA, RI and DC, under continuing contract(s) with Dubuque Packing Company of Mankato, KS. (Hearing site: Kansas City, MO.)

MC 143778 (Sub-2F), filed February 7, 1979. Applicant: C. D. B., INCORPORATED, 5170 36th Street, S.E., Grand Rapids, MI 49508. Representative: Karl L. Gotting, 1200 Bank of Lansing Building, Lansing, MI 48933. To operate as a *common carrier*, by motor vehicle, in interstate or foreign commerce, over irregular routes, transporting (1) *chemicals and plastic products*, (except commodities in bulk, in tank vehicles, and expanded plastic products), and (2) *equipment and supplies* used in the manufacture and distribution of commodities named in (1) above, from the facilities of The Dow Chemical Company at Midland, MI, to Atlanta, GA, Los Angeles and Oakland, CA, Linden, NJ, and Houston and Dallas, TX. (Hearing site: Lansing or Grand Rapids, MI.)

Note.—Dual operations may be involved.

MC 144326 (Sub-10F), filed February 7, 1979. Applicant: RICHARDSON TRUCKING, INC., d/b/a/ TRIARC TRANSPORT, 903 37th Avenue Court, Greeley, CO 80631. Representative: William J. Lippman, 50 South Steele Street—Suite 330, Denver, CO 80209. To operate as a *common carrier*, by motor vehicle, in interstate or foreign commerce, over irregular routes, transporting *waterbed bedding*, from the facilities of Hydro-Dynamics at Lake Havasu City, AZ, to the facilities of Bruce Carlisle d/b/a/ NCF Distributing at Greeley, CO. (Hearing site: Denver, CO.)

Note.—Dual operations may be involved.

MC 144696 (Sub-4F), filed February 12, 1979. Applicant: MEEUWSEN PRODUCE, INC., 9525 Ransom Street, Zeeland, MI 49464. Representative: Edward N. Button, 1329 Pennsylvania Avenue, Post Office Box 1417, Hagerstown, MD 21740. To operate as a *contract carrier*, by motor vehicle, in interstate or foreign commerce, over irregular routes, transporting *frozen foods*, from points in Oceana, Ionia and Kent Counties, MI, to Kansas City, KS, and Chicago, IL, and points in Salem, Gloucester and Cumberland Counties, NJ, under a continuing contracts with Seabrook Foods, Inc., of Fresno, CA. (Hearing site: Grand Rapids, MI.)

MC 144776 (Sub-6F), filed February 2, 1979. Applicant: APACHE TRANSPORT, INC., 833 Warner St., SW, Atlanta, GA 30310. Representative: Virgil H. Smith, Suite 12, 1587 Phoenix Boulevard, Atlanta, GA 30349. To operate as a *common carrier*, by motor vehicle, in interstate or foreign commerce, over irregular routes, transporting (1) *plastic articles and plastic materials*, (except commodities in bulk), and (2) *equipment and supplies* used in the manufacture and distribution of the commodities named in (1) above, (except commodities in bulk), between the facilities of Mobil Chemical Company, Plastics Division, at points in GA, on the one hand, and, on the other, points in the United States (except AK and HI), restricted to the transportation of traffic originating at or destined to the facilities of Mobil Chemical Company, Plastics Division. (Hearing site: Atlanta, GA.)

MC 145207 (Sub-1F), filed February 9, 1979. Applicant: BOWERS TRUCKING, a corporation, 2892 Foothill Boulevard, Oroville, CA 95965. Representative: David P. Christianson, 707 Wilshire Boulevard, Suite 1800, Los Angeles, CA 90017. To Operate as a *contract carrier*, by motor vehicle, in interstate or foreign commerce, over irregular routes, transporting *precoated and prefinished plywood paneling and wooden molding*, between points in Los Angeles County, CA, on the one hand, and, on the other, points in OK, TX, KS, CO, NM, and ID, under a continuing contract(s) with National Plywood, Inc. of Long Beach, CA. (Hearing site: Los Angeles, CA.)

MC 145276 (Sub-4F), filed February 6, 1979. Applicant: MINNESOTA EXPRESS, INC., P.O. Box 427, Willmar, MN 56201. Representative: James T. Flescher, 1745 University Avenue, St. Paul, MN 55104. To Operate as a *common carrier*, by motor vehicle, in interstate or foreign commerce, over irregular routes, transporting *fresh meat* from Howard, SD, to St. Cloud, MN. (Hearing site: St. Paul, MN.)

Note.—Dual operations may be involved.

MC 145406 (Sub-15F), filed February 12, 1979. Applicant: MIDWEST EXPRESS, INC., 380 E. Fourth Street, Dubuque, IA 52001. Representative: Richard A. Westley, 4506 Regent Street, Suite 100, Madison, WI 53705. To Operate as a *common carrier*, by motor vehicle, in interstate or foreign commerce, over irregular routes, transporting *meats, meat products, meat by-products* and *articles distributed by meat-packing houses* (except hides and commodities in bulk), as defined in Sections A and C of Appendix I to the Report in *Descriptions in Motor Carrier Certificates*, 61 M.C.C. 209 and 766, from the facilities of Wilson Foods Corporation or near (1) Albert Lea, MN and (2) Cedar Rapids, Cherokee, and Des Moines, IA, to points to CA. (Hearing site: Dallas, TX or Kansas City, MO.)

MC 144407 (Sub-8F), filed February 13, 1979. Applicant: DECKER TRANSPORT COMPANY, INCORPORATED, 412 Route 23, Pompton, Plains, NJ 07444. Representative: George A. Olsen, P.O. Box 357, Gladstone, NJ 07934. To Operate as a *common carrier*, by motor vehicle, in interstate or foreign commerce, over irregular routes, transporting (1) *nonalcholic beverages and concentrates*, not forzen, and *equipment, materials and supplies*, used in the manufacture and distribution of the above named commodities (except in bulk), and (2) *fruit salads*, in mixed loads with the commodities described in (1) above, between the facilities of Doric Foods Corporation at or near Anaheim, CA, on the one hand, and, on the other, points in AR, CO, ID, MT, NV, NM, OR, TX, UT, and WA. (Hearing site: San Francisco, CA or Washington, DC.)

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Note.—Dual operations may be involved.

MC 145406 (Sub-16F), filed February 14, 1979. Applicant: MIDWEST EXPRESS, INC., 380 E. Fourth Street, Dubuque, IA 52001. Representative: Richard A. Westley, 4506 Regent Street, Suite 100, Madison, WI 53705. To operate as a *common carrier*, by motor vehicle, in interstate or foreign commerce, over irregular routes, transporting *meats, meat products, and meat byproducts, and articles distributed by meat-packing houses* as described in sections A, B, & C of Appendix I to the report in *Descriptions in Motor Carrier Certificates*, 61 M.C.C. 209 and 766 (except hides, skins and commodities in bulk), from the facilities of John Morrell & Co., at or near (1) Sioux Falls, SD, (2) Estherville and Sioux City, IA, (3) Worthington, MN, (4) Arkansas City and Wichita, KS, (5) East St. Louis, IL, and (6) St. Louis, MO, to points in AL, AZ, CA, CT, DE, FL, GA, IL, IN, KY, LA, MD, MA, MI, MS, MO, NH, NJ, NY, NM, NC, OH, OK, PA, RI, SC, TN, TX, WI, and DC. (Hearing site: Chicago, IL.)

MC 146327F, filed February 12, 1979. Applicant: UNITED TRUCKING COMPANY, a corporation, P.O. Box 1158, Miles City, MT 59301. Representative: Joe Gerbase, 100 Transwestern Bldg., Billings, MT 59101. To operate as a *common carrier*, by motor vehicle, in interstate or foreign commerce, over irregular routes, transporting *ammonium nitrate*, from Hardin, MT, points in WY, ND, and SD, to (Hearing site: Billings, MT.)

MC 146346F, filed February 6, 1979. Applicant: C. R. TARR, INC., RFD #1, Pomfret Center, Pomfret, CT 06259. Representative: Gerald A. Joseloff, 80 State Street, Hartford, CT 06103. To operate as a *contract carrier*, by motor vehicle, in interstate or foreign commerce, over irregular routes, transporting *lumber*, and *wood chips*, between points in CT, MA and RI, on the one hand, and, on the other, points in ME, NH, VT, MA, CT, RI, NY, NJ, PA, DE, and MD, under continuing contract(s) with Northland Forest Products of Kingston, NH, Rossco Forest Products, of Burlington, VT, Bear Paw Timber Corp, of Fryeburg, ME, Hull Forest Products, Inc. of Pomfret Center, CT, Bridge Manufacturing Co., of Enfield, CT, Rossi Corp, of Higganum, CT and Baillie Lumber Co., of Hamburg, NY. (Hearing site: Hartford, CT or Washington, DC.)

MC 146467F, filed February 1, 1979. Applicant: TRIAD MOTOR LINES, INC., Route 8, Box 374, Burlington, NC 27215. Representative: L. C. Major, Jr., Suite 400, 6121 Lincolna Road, Alexandria, VA 22312. To operate as a *common carrier*, by motor vehicle, in interstate or foreign commerce, over irregular routes, transporting *passengers and their baggage*, in the same vehicle with passengers, in charter and special operations, beginning and ending at points in Alamance County, NC, and extending to points in AL, FL, GA, IN, KY, LA, MD, MS, NY, NC, OH, PA, SC, TN, VA, WV, and DC. (Hearing site: Burlington, NC or Durham, NC.)

MC 146476F, filed February 12, 1979. Applicant: BADDER BUS SERVICE LIMITED, R.R. 1, Thamesville, Ontario, Canada NOP 2KO. Representative: Robert D. Gunderman, 710 Statler Building, Buffalo, NY 14202. To operate as a *common carrier*, by motor vehicle, in foreign commerce only, over irregular routes, transporting *passengers and their baggage*, in special and charter operations, in sightseeing and pleasure tours, beginning and ending at ports of entry on the international boundary line between the United States and Canada and extending to points in the United States, including AK, but excluding HI. (Hearing site: Buffalo, NY.)

MC 146286 (Sub-2F), filed February 12, 1979. Applicant: P & C TRUCKING, INC., 8011 Green Bay Road, Kenosha, WI 53412. Representative: Michael J. Wyngaard, 150 East Gilman Street, Madison, WI 53703. To operate as a *contract carrier*, by motor vehicle, in interstate or foreign commerce, over irregular routes, transporting (1) *precast concrete* and *concrete products*, and (2) *materials, equipment, and supplies* used in the manufacture and distribution of the commodities named in (1) above, between the facilities of Modern Building Materials, Inc., at or near Kenosha, WI, on the one hand, and, on the other, points in IL, IA, and IN, under continuing contract(s) with Modern Building Materials, Inc., of Kenosha, WI. (Hearing site: Milwaukee, WI.)

MC 146487F, filed February 12, 1979. Applicant: J. W. RIGGINS, P.O. Box 2509, 561 S. York, Denver, CO 80201. Representative: Ronald R. Adams, 600 Hubbell Building, Des Moines, IA 50309. To operate as a *common carrier*, by motor vehicle, in interstate or foreign commerce, over irregular routes, transporting *materials, equipment, and supplies* used in the manufacture and distribution of products manfactured by foundries (except commodities in bulk), (1) from points in PA, OH, MI, IN, IL, WI, CA, AL, IA, WY, WA, MO, TX, and OR, to the facilities of Western Industrial Supply Company, at or near Englewood, CO, (2) from points in PA, OH, WI, IL, MI, TX, CA, IA, WA, CO, OR, WY, and SD, to the facilities of Larsen Foundry Supply at or near Salt Lake City, UT, and (3) between the facilities of Western Industrial Supply Company at or near Englewood, CO, and the facilties of United Western Supply Companies at or near (1) Phoenix, AZ, (2) El Paso, TX, (3) Berkley, CA, and (4) Seattle, WA, and the facilities of Spanish Forks Foundry at or near Spanish Forks, UT. (Hearing site: Denver, CO, or Omaha, NE.)

[FR Doc. 79-15799 Filed 5-18-79; 8:45 am]
BILLING CODE 7035-01-M

Sunshine Act Meetings

Federal Register
Vol. 44, No. 99
Monday, May 21, 1979

This section of the FEDERAL REGISTER contains notices of meetings published under the "Government in the Sunshine Act" (Pub. L. 94-409) 5 U.S.C. 552b(e)(3).

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1

FEDERAL HOME LOAN BANK BOARD.

"FEDERAL REGISTER" CITATION OF PREVIOUS ANNOUNCEMENT: Vol. 44, No. 94, May 14, 1979, pages 38148 and 28149.

PREVIOUSLY ANNOUNCED TIME AND DATE OF MEETING: 9:30 a.m., May 17, 1979.

PLACE: 1700 G Street NW., sixth floor, Washington, D.C.

STATUS: Open meeting.

CONTACT PERSON FOR MORE INFORMATION: Franklin O. Bolling (202-377-6677).

CHANGES IN THE MEETING: The following item has been added to the agenda for the open meeting:

Application for Permission to Convert to a Federal Chartered Stock Association—North Carolina Federal Savings and Loan Association, Albemarle, N.C.

No. 239, May 17, 1979.

[S-1014-79 Filed 5-17-79; 3:45 pm]
BILLING CODE 6720-01-M

2

FEDERAL MARITIME COMMISSION.

"FEDERAL REGISTER" CITATION OF PREVIOUS ANNOUNCEMENT: May 16, 1979; 44 FR 28747.

PREVIOUSLY ANNOUNCED TIME AND DATE OF THE MEETING: 10 a.m., May 17, 1979.

CHANGE IN THE MEETING: Time of meeting changed from 10 a.m. to 11 a.m. on May 17, 1979.

[S-1012-79 Filed 5-17-79; 3:04 pm]
BILLING CODE 6730-01-M

3

NATIONAL SCIENCE BOARD.

DATE AND TIME: 1 p.m., May 17, 1979. Open session; 9 a.m., May 18, 1979. Closed session.

PLACE: Room 540, 1800 G Street NW., Washington, D.C.

STATUS: Change in agenda.

MATTERS TO BE CONSIDERED AT THE CLOSED SESSION: Addition to agenda: "Discussion of proposed reorganization of certain parts of the National Science Foundation".

CONTACT PERSON FOR MORE INFORMATION: Miss Vernice Anderson, Executive Secretary, (202) 632-5840.

[S-1011-79 Filed 5-17-79; 12:13 pm]
BILLING CODE 7555-01-M

4

SECURITIES AND EXCHANGE COMMISSION.

"FEDERAL REGISTER" CITATION OF PREVIOUS ANNOUNCEMENT: May 11, 1979; 44 FR 27808.

STATUS: Closed meeting.

PLACE: Room 825, 500 North Capitol Street, Washington, D.C.

DATE PREVIOUSLY ANNOUNCED: Monday, May 7, 1979.

CHANGES IN MEETING: Additional items.

The following additional item was considered at a closed meeting held on Tuesday, May 15, 1979, at 10 a.m.:

Consideration of amicus participation.

The following additional items will be considered at a closed meeting scheduled for Thursday, May 17, 1979, immediately following the 4 p.m. open meeting:

Formal order of investigation.
Subpoena enforcement action.

Chairman Williams and Commissioners Loomis, Evans, Pollack, and Karmel determined that Commission business required the above changes and that no earlier notice thereof was possible.

May 16, 1979.

[S-1010-79 Filed 5-17-79; 9:07 am]
BILLING CODE 8010-01-M

5

TENNESSEE VALLEY AUTHORITY.

TIME AND DATE: 9:30 a.m., Thursday, May 24, 1979.

PLACE: Conference room B-32, West Tower, 400 Commerce Avenue, Knoxville, Tenn.

STATUS: Open.

MATTER FOR DISCUSSION: 1. Preliminary rate review.

MATTERS FOR ACTION:

Personnel Actions

1. Change of status for Roy H. Dunham from Director of Engineering Design to Manager of Engineering Design, Knoxville, Tenn.
2. Change of status for Horace H. Mull from Director of Construction to Manager of Construction, Knoxville, Tenn.
3. Change of status for James R. Durall from Power Financing Officer to Assistant Manager of Power (Finance and Budget), Chattanooga, Tenn.
4. Change of status for Jimmy L. Cross from Chief, Power Strategic Planning Staff, to Executive Assistant to the Manager of Power, Chattanooga, Tenn.

Note.—These items were approved by individual Board members. This would give formal ratification to the Board's action.

Consulting and Personal Services Contracts

1. Personal services contract with Kenneth D. McCasland, Sr., for services as a member and Chairman of the TVA Board of Contract Appeals as required by the Contract Disputes Act of 1978.

Purchase Awards

1. Req. No. 156488—Rebuild Baldwin locomotive at Kingston Steam Plant.
2. Req. No. 824841—Structural steel reactor coolant system supports and accessories, embedments, and shock suppressor systems for Yellow Creek Nuclear Plant.
3. Req. No. 825419—Insulated conductors—signal cable—for Hartsville and Phipps Bend Nuclear Plants.
4. Amendment to Contracts 73C60-75210 and 75K60-84840-1 for nuclear steam supply systems for Hartsville and Phipps Bend Nuclear Plants.

Note.—Item 4 was approved by individual Board members. This would give formal ratification to the Board's action.

Project Authorizations

1. No. 3438—Acquire site and design and construct the Morristown, Tennessee, Power Service Center.
2. No. 3440—Chlorine Minimization/Optimization Project relating to studies at Kingston, Allen, Shawnee, and Paradise Steam Plants.
3. No. 3422—Bellefonte and Hartsville/Phipps Bend Nuclear Plant simulators for the Power Production Training Center.

Power Items

1. Deed conveying to Upper Cumberland Electric Membership Corporation a 0.71-acre portion of TVA's Algood 69-kV Substation site located in Putnam County, Tennessee.
2. Lease and Amendatory Agreement with Hickman-Fulton Counties Rural Electric Cooperative Corporation covering arrangements for consolidated 69-kV delivery at TVA's Clinton 161-kV Substation.

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3. Lease and Amendatory Agreement with Marshall-DeKalb Electric Cooperative covering arrangements for separate 46-kV deliveries at TVA's Albertville 161-kV and Geraldine 46-kV Substations.

Real Property Transactions

1. Modification of deed to 16.7-acre tract of land in the little Bear Creek Club Site subdivision on Kentucky Reservoir—Tract XGIR-3:9.
2. Sale of certain Tims Ford Reservoir land at public auction—Tract XTMFR-8.
3. Filing of condemnation suits.

Unclassified

1. Proposed sale of surplus property—Various items of heavy equipment at Paradise Steam Plant.
2. Sale of surplus property used in mining of coal at the Fabius Mine in Northern Alabama and the Eads Mine in Southern Illinois.
3. Adoption of supplemental resolution authorizing 1979 Series B Bonds.
4. Resolution authorizing the Chairman and other executive officers to take further action relating to issuance and sale of 1979 Series B Bonds.

DATED: May 17, 1979.

CONTACT PERSON FOR MORE INFORMATION: James L. Bentley, Director of Information, or a member of his staff can respond to requests for information about this meeting. Call (615) 632-3257, Knoxville, Tennessee. Information is also available at TVA's Washington Office (202) 566-1401.

[S-1013-79 Filed 5-17-79; 3:27 pm]

BILLING CODE 8120-01-M

federal register

Monday
May 21, 1979

Part II

Department of the Interior

Fish and Wildlife Service

Endangered and Threatened Wildlife and Plants

Notice of Status Review for Wildlife Classified as Endangered or Threatened Prior to 1975

takings and commerce restrictions

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DEPARTMENT OF THE INTERIOR

Fish and Wildlife Service

[50 CFR Part 17]

Endangered and Threatened Wildlife and Plants; Notice of Status Review for Wildlife Classified as Endangered or Threatened Prior to 1975

AGENCY: Fish and Wildlife Service, Interior.

ACTION: Notice of Status Review.

SUMMARY: Section 4(c)(4) of the Endangered Species Act of 1973, as amended, requires the Service to conduct a status review of all species listed at least once every five years. The purpose of this section is to insure that the listing accurately reflects the most current status of the listed species. In order to aid the Service in discharging this responsibility, the Director is requesting comments and appropriate data from any party which could potentially alter the status for the selected species of endangered or threatened wildlife listed below. If as a result of this review, the present classification of endangered or threatened does not comport with current evidence, the Secretary is authorized to change such classification accordingly.

DATES: Comments must be received no later than August 20, 1979.

ADDRESSES: Submit comments to Director (OES), Fish and Wildlife Service, U.S. Department of the Interior, Washington, D.C. 20240. Comments and materials received will be available for public inspection during normal business hours (7:45 a.m. to 4:15 p.m.) at the Service's Office of Endangered Species, Suite 500, 1000 North Glebe Road, Arlington, Virginia.

FOR FURTHER INFORMATION CONTACT: Mr. John L. Spinks, Jr., Chief, Office of Endangered Species, Fish and Wildlife Service, U.S. Department of the Interior, Washington, D.C. 20240 (Phone 703/235–2771).

SUPPLEMENTARY INFORMATION:

Background: The Lists of Endangered and Threatened Wildlife and Plants are found in 50 CFR 17.11 (wildlife) and 50 CFR 17.12 (plants). The most recent such lists were published in the **Federal Register** of January 17, 1979 (44 FR 3636–3654). The Endangered Species Act of 1973, as amended, requires the Service to conduct a review of each listed species at least once every five years. Species which are to be considered under the present review are listed below. Species listed before 1975 which subsequently have been affected by rules reclassifying all or significant parts of their populations are not included in this notice. Most of the species to be reviewed under this notice had been classified as endangered under previous legislation and were included in the present lists under the provisions of section 4(c)(3) of the Act.

Definitions: The following definitions are provided to assist those persons who contemplate submitting information regarding the status of the species listed below:

(1) "Critical Habitat" means the specific areas within the geographical area occupied by an endangered or threatened species on which are found those physical features (a) essential to its conservation, and (b) which may require special management considerations or protection, as well as specific areas outside the geographical area occupied by the species that the Secretary of the Interior determines are essential for its conservation. These areas exclude existing man-made structures or settlements not essential to the normal needs or survival of the listed species.

The defined area of land, water, and airspace stated for each zone or area of critical habitat will, by necessity, include some areas that are not essential to the survival and conservation of the species. The biological or physical constitutent elements *within* the defined area of critical habitat determine the specific sites or habitats that are essential to the species. Examples of such features are as follows: roost site, nesting site, feeding site, seasonal wetland or dryland, water quality or quantity, host animal or plant, pollinator, tide, geologic formation, and specific soil type.

The Director considers the physiological, behavioral, ecological, and evolutionary requirements for the survival and recovery of listed species in determining what areas or parts of habitat are critical. These requirements include, but are not limited to:

(a) Space for individual and population growth and for normal behavior;

(b) Food, water, air, light, minerals, or other nutritional or physiological requirements;

(c) Cover or shelter;

(d) Sites for breeding, reproduction, rearing of offspring, germination, or seed dispersal; and, generally,

(e) Habitats that are protected from disturbances or are representative of the geographical distributions of the listed species.

(2) "Endangered" means any species which is in danger of extinction throughout all or a significant portion of its range.

(3) "Species" includes any biological species, or subspecies, of fish or wildlife or plants, and any distinct population segment of any species or subspecies of a vertebrate which are capable of interbreeding when mature. A species is determined to be endangered or threatened because of any of the following factors:

(a) The present or threatened destruction, modification, or curtailment of its habitat or range;

(b) Overutilization for commercial, sporting, scientific, or educational purposes;

(c) Disease or predation;

(d) The inadequacy of existing regulatory mechanisms, or

(e) Other natural or man-made factors affecting its continued existence.

(4) "Threatened" means any species which is likely to become an endangered species within the foreseeable future throughout all or a significant portion of its range.

Effects of Status Review:

If substantial evidence is already available to the Service or is presented by any party for one or more below listed species, the Director intends to propose new rules that would do any of the following: a) reclassify a species from endangered to threatened, b) reclassify a species from threatened to endangered, or c) remove a species from the List of Endangered or Threatened Wildlife. Distinct geographic populations of vertebrate species as well as subspecies of all wildlife species may be proposed for either separate reclassification to a different status than the presently listed species or removal from the list. If no substantial data is available or presented to suggest a status change for a particular species, then the next formal status review will be announced no later than five years hence.

Once a species has been determined to be threatened or endangered, the Act imposes certain restrictions on activities involving the species. Generally, it is unlawful for a person subject to the jurisdiction of the United States to take an endangered species or to engage in foreign and domestic commerce involving an endangered species or its parts or products, 16 U.S.C. 1538(a)(1); 50 CFR 17.21. The Secretary has discretion in determining whether the taking and commercial restrictions will be made applicable to threatened species, 16 U.S.C. 1533(d). As a general rule, the

taking and commerce restrictions applicable to endangered species are made applicable to threatened species by 50 CFR 17.31. However, the Secretary does promulgate special rules for some species, varying the taking and commerce prohibitions. See, *e.g.*, 50 CFR 17.40(b), Special Rule for Grizzly Bears.

Public comments solicited: The Director requests any comments concerning the status of the below species be sent to him. Comments from the public, other concerned governmental agencies, the scientific community, industry, or any other interested party are hereby solicited. Such comments must be in writing and contain the name, signature, address, telephone number, and the association, institution, or business, if any, of the party. Receipt of all comments will be acknowledged in writing by the Service. If significant data are available, warranting a change in a species' classification under the Act, the Director will propose a rule to modify the present status of the listed species. In order to determine if the comments contain significant data, the Director will consider whether the document:

(1) Clearly indicates the scientific and any common name of the species involved, and, if prudent, the precise area recommended as critical habitat;

(2) Contains a detailed narrative describing, as appropriate, the past and present numbers and distribution of the involved species, subspecies, or distinct vertebrate geographic population; the particular threatening factors affecting the species; and, if appropriate, the features and importance of any critical habitat;

(3) Is accompanied, as appropriate, by supporting documentation, such as maps, a list of bibliographic references, reprints of pertinent publications, or copies of written reports or letters from authorities; and

(4) Does not essentially repeat scientific, commercial, or other relevant information already cited by the Director in an earlier proposal or notice of review.

The primary author of this notice is Jay M. Sheppard, Office of Endangered Species, U.S. Fish and Wildlife Service (Phone: 703/235–1975).

BILLING CODE 4310-55-M

List of Species - 1979 Status Review

SPECIES			RANGE				
Common Name	Scientific Name	Population	Known Distribution	Portion of range where threatened or endangered	Status	When Listed	Special rules
MAMMALS:							
Anoa	Bubalus (Anoa) depressicornis	N/A	Indonesia	Entire	E	3	N/A
Armadillo, pink fairy	Chlamyphorus truncatus	N/A	Argentina	Entire	E	3	N/A
Ass, African wild	Equus asinus	Somalia, Sudan, Ethiopia	Somalia, Sudan, Ethiopia	Entire	E	3	N/A
Ass, Asian wild	Equus hemionus	N/A	Southwestern and Central Asia	Entire	E	3	N/A
Avahis	Avahi spp. (all species)	N/A	Malagasy Republic (Madagascar)	Entire	E	4	N/A
Aye-Aye	Daubentonia madagascariensis	N/A	Malagasy Republic (Madagascar)	Entire	E	3	N/A
Bandicoot, barred	Perameles bougainville	N/A	Australia	Entire	E	4	N/A
Bandicoot, desert	Perameles eremiana	N/A	Australia	Entire	E	6	N/A
Bandicoot, lesser rabbit	Macrotis leucura	N/A	Australia	Entire	E	4	N/A
Bandicoot, pig-footed	Chaeropus ecaudatus	N/A	Australia	Entire	E	4	N/A
Bandicoot, rabbit	Macrotis lagotis	N/A	Australia	Entire	E	4	N/A
Banteng	Bos banteng	N/A	Southeast Asia	Entire	E	4	N/A
Bat, Hawaiian hoary	Lasiurus cinereus semotus	N/A	USA (Hawaii)	Entire	E	2	N/A
Bat, Indiana	Myotis sodalis	N/A	Eastern and Middle-western USA	Entire	E	1	N/A
Bear, Mexican grizzly	Ursus arctos nelsoni	Mexico	Mexico	Entire	E	3	N/A
Bison, wood	Bison bison athabascae	N/A	Canada, western USA	Canada	E	3	N/A
Cat, tiger	Felis tigrina	N/A	Costa Rica to Northern South America	Entire	E	4	N/A
Cheetah	Acinonyx jubatus	N/A	Africa to India	Entire	E	3,5	N/A
Colobus, Zanaibar red	Colobus kirkii	N/A	Tanzania	Entire	E	4	N/A
Cougar, eastern	Felis concolor couguar	N/A	Eastern North America	Entire	E	6	N/A
Deer, Bawean	Axis (Hyelaphus) porcinus kuhli	N/A	Indonesia	Entire	E	3	N/A
Deer, Columbian white-tailed	Odocoileus virginianus leucurus	N/A	USA (Washington, Oregon)	Entire	E	1	N/A
Deer, Eld's brow-antlered	Cervus eldi	N/A	India, Southeast Asia	Entire	E	4	N/A
Deer, key	Odocoileus virginianus clavium	N/A	USA (Florida)	Entire	E	1	N/A
Deer, marsh	Blastocerus dichotomus	N/A	Argentina, Uruguay, Paraguay, Brazil	Entire	E	4	N/A
Deer, McNeill's	Cervus elaphus macneilli	N/A	China	Entire	E	4	N/A
Deer, Persian fallow	Dama dama mesopotamica	N/A	Iraq, Iran	Entire	E	3	N/A
Deer, swamp	Cervus duvauceli	N/A	India, Nepal	Entire	E	4	N/A
Dibbler	Antechinus apicalis	N/A	Australia	Entire	E	4	N/A
Dog, Asiatic wild (Dhole)	Cuon alpinus	N/A	Soviet Union, India	Entire	E	4	N/A
Dugong	Dugong dugon	N/A	East Africa to Ryukyu Islands including USA (Trust territories)	Entire	E	4	N/A
Ferret, black-footed	Mustela nigripes	N/A	USA (Western), Western Canada	Entire	E	1,3	N/A
Forester, Tasmanian (kangaroo)	Macropus giganteus tasmaniensis	N/A	Australia	Entire	E	6	N/A
Fox, Northern swift	Vulpes velox hebes	N/A	USA (Northern Plains), Canada	Canada	E	3	N/A
Fox, San Joaquin kit	Vulpes macrotis mutica	N/A	USA (California)	Entire	E	1	N/A
Gazelle, Clark's (Dibatag)	Ammodorcas clarkei	N/A	Somalia, Ethiopia	Entire	E	3	N/A
Gazelle, Cuvier's	Gazella cuvieri	N/A	Morocco, Tunisia	Entire	E	4	N/A
Gazelle, Mhorr	Gazella dama mhorr	N/A	Morocco	Entire	E	4	N/A
Gazelle, Moroccan (Dorcas)	Gazella dorcas massaesyla	N/A	Morocco, Algeria	Entire	E	4	N/A
Gazelle, Rio de Oro Dama	Gazella dama lozanoi	N/A	Spanish Sahara	Entire	E	4	N/A
Gazelle, slender-horned (Rhim)	Gazella leptoceros	N/A	Sudan, Algeria, Egypt, Libya	Entire	E	4	N/A
Gorilla	Gorilla gorilla	N/A	Central and Western Africa	Entire	E	4	N/A
Hartebeest, Swayne's	Alcelaphus buselaphus swaynei	N/A	Ethiopia	Entire	E	4	N/A
Hog, pygmy	Sus salvanius	N/A	India, Nepal, Bhutan, Sikkim	Entire	E	4	N/A
Hyena, Barbary	Hyaena hyaena barbara	N/A	Morocco	Entire	E	4	N/A
Hyena, brown	Hyaena brunnea	N/A	South Africa	Entire	E	4	N/A

SPECIES			RANGE				
Common Name	Scientific Name	Population	Known Distribution	Portion of range where threatened or endangered	Status	When Listed	Special rules
Ibex, Pyrenean	Capra tyrenaica pyrenaica	N/A	Spain	Entire	E	3	N/A
Ibex, Walia	Capra walie	N/A	Ethiopia	Entire	E	3	N/A
Impala, black-faced	Aepyceros melampus petersi	N/A	Namibia, Angola	Entire	E	4	N/A
Indris	Indris spp. (all species)	N/A	Malagasy Republic (Madagascar), Comoro I. sd.	Entire	E	3,4	N/A
Jaguar	Panthera onca	N/A	U.S. (Southwestern) to South America	Entire, except USA	E	4	N/A
Kangaroo, eastern gray (see also Forester, Tasmanian)	Macropus giganteus (all subspecies except tasmaniensis	N/A	Australia	Entire	T	7	17.40(a)
Kangaroo, red	Megaleia rufa	N/A	Australia	Entire	T	7	17.40(a)
Kangaroo, western gray	Macropus fuliginosus	N/A	Australia	Entire	T	7	17.40(a)
Kouprey	Bos sauveli	N/A	Cambodia	Entire	E	3	N/A
Langur, Douc	Pygathrix nemaeus	N/A	Cambodia, Laos, China, Vietnam	Entire	E	4	N/A
Langur, Pagi Island	Simias concolor	N/A	Indonesia	Entire	E	4	N/A
Leopard	Panthera pardus	N/A	Africa and Asia	Entire	E	3,5	N/A
Leopard, Formosan clouded	Neofelis nebulosa brachyurus	N/A	Taiwan	Entire	E	4	N/A
Leopard, snow	Panthera uncia	N/A	Central Asia	Entire	E	5	N/A
Lion, Asiatic	Panthera leo persica	N/A	India	Entire	E	3	N/A
Lynx, Spanish	Felis (Lynx) lynx pardina (Felis pardina)	N/A	Spain	Entire	E	3	N/A
Macaque, lion-tailed	Macaca silenus	N/A	India	Entire	E	3	N/A
Manatee, Amazonian	Trichechus inunguis	N/A	South America; Amazon River Basin	Entire	E	3	N/A
Manatee, West Indian (Florida)	Trichechus manatus	N/A	USA (Southeastern), Caribbean Ocean, South America	Entire	E	1,3	N/A
Mangabey, Tana River	Cercocebus galeritus	N/A	Kenya	Entire	E	3	N/A
Margay	Felis wiedii	N/A	Central and South America, USA (Texas)	Entire, except USA	E	5	N/A
Marmoset, Goeldi's	Callimico goeldii	N/A	Brazil, Colombia, Ecuador, Peru	Entire	E	4	N/A
Marsupial, eastern jerboa	Antechinomys laniger	N/A	Australia	Entire	E	4	N/A
Marsupial-mouse, large desert	Sminthopsis psammophila	N/A	Australia	Entire	E	4	N/A
Marsupial-mouse, long-tailed	Sminthopsis longicaudata	N/A	Australia	Entire	E	4	N/A
Marten, Formosan yellow-throated	Martes flavigula chrysospila	N/A	Taiwan	Entire	E	4	N/A
Monkey, red-backed squirrel	Saimiri oerstedii (Saimiri sciureus oerstedii)	N/A	Costa Rica, Panama	Entire	E	3	N/A
Monkey, spider	Ateles geoffroyi frontatus	N/A	Costa Rica, Nicaragua	Entire	E	3	N/A
Monkey, spider	Ateles geoffroyi panamensis	N/A	Costa Rica, Panama	Entire	E	3	N/A
Monkey, woolly spider	Brachyteles arachnoides	N/A	Brazil	Entire	E	4	N/A
Mouse, Field's	Pseudomys fieldi	N/A	Australia	Entire	E	4	N/A
Mouse, Gould's	Pseudomys gouldii	N/A	Australia	Entire	E	6	N/A
Mouse, New Holland	Pseudomys novaehollandiae	N/A	Australia	Entire	E	4	N/A
Mouse, salt marsh harvest	Reithrodontomys raviventris	N/A	USA (California)	Entire	E	2	N/A
Mouse, Shark Bay	Pseudomys praeconis	N/A	Australia	Entire	E	4	N/A
Mouse, shortridge's	Pseudomys shortridgei	N/A	Australia	Entire	E	4	N/A
Mouse, Smoky	Pseudomys fumeus	N/A	Australia	Entire	E	4	N/A
Mouse, Western	Pseudomys occidentalis	N/A	Australia	Entire	E	4	N/A
Native-cat, Eastern	Dasyurus viverrinus	N/A	Australia	Entire	E	6	N/A
Numbat	Myrmecobius fasciatus	N/A	Australia	Entire	E	6	N/A
Ocelot	Felis pardalis	N/A	Central and South America, USA (AZ,TX)	Entire, except USA	E	5	N/A
Orangutan	Pongo pygmaeus	N/A	Indonesia, Malaysia, Brunei	Entire	E	3	N/A
Oryx, Arabian	Oryx leucoryx	N/A	Arabian Peninsula	Entire	E	3	N/A
Otter, Cameroon clawless	Paraonyx microdon	N/A	Cameroon	Entire	E	4	N/A
Otter, giant	Pteronura brasiliensis	N/A	South America	Entire	E	3	N/A
Otter, La Plata	Lutra platensis	N/A	Uruguay, Argentina, Bolivia, Brazil	Entire	E	4	N/A

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Panther, Florida	Felis concolor coryi	N/A	Florida	Entire	E	1	N/A
Planigale, little	Planigale subtilissima	N/A	Australia	Entire	E	4	N/A
Planigale, Southern	Planigale tenuirostris	N/A	Australia	Entire	E	4	N/A
Porcupine, thin-spined	Chaetomys subspinosus	N/A	Brazil	Entire	E	3	N/A
Possum, mountain pygmy	Burramys parvus	N/A	Australia	Entire	E	4	N/A
Possum, scaly-tailed	Wyulda squamicaudata	N/A	Australia	Entire	E	4	N/A
Prairie Dog, Mexican	Cynomys mexicanus	N/A	Mexico	Entire	E	4	N/A
Prairie Dog, Utah	Cynomys parvidens	N/A	USA (Utah)	Entire	E	6	N/A
Pronghorn, Sonoran	Antilocapra americana sonoriensis	N/A	USA (Arizona), Mexico	Entire	E	1,3	N/A
Quokka	Setonix brachyurus	N/A	Australia	Entire	E	6	N/A
Rabbit, volcano	Romerolagus diazi	N/A	Mexico	Entire	E	4	N/A
Rat, false water	Xeromys myoides	N/A	Australia	Entire	E	4	N/A
Rat, stick-nest	Leporillus conditor	N/A	Australia	Entire	E	6	N/A
Rat, Morro Bay kangaroo	Dipodomys heermanni morroensis	N/A	USA (California)	Entire	E	2	N/A
Rat-kangaroo, brush-tailed	Bettongia penicillata	N/A	Australia	Entire	E	4	N/A
Rat-kangaroo, Gaimard's	Bettongia gaimardi	N/A	Australia	Entire	E	6	N/A
Rat-kangaroo, Lesuer's	Bettongia lesueur	N/A	Australia	Entire	E	4	N/A
Rat-kangaroo, plain	Caloprymnus campestris	N/A	Australia	Entire	E	4	N/A
Rat-kangaroo, Queensland	Bettongia tropica	N/A	Australia	Entire	E	4	N/A
Rhinoceros, great Indian	Rhinoceros unicornis	N/A	India, Nepal	Entire	E	4	N/A
Rhinoceros, Javan	Rhinoceros sondaicus	N/A	Indonesia, Burma, Thailand	Entire	E	3	N/A
Rhinoceros, northern white	Ceratotherium simum cottoni	N/A	Zaire, Uganda, Sudan Central African Republic	Entire	E	4	N/A
Rhinoceros, Sumatran	Didermoceros sumatrensis	N/A	Bangladesh to Vietnam to Indonesia (Borneo)	Entire	E	3	N/A
Saki, white-nosed	Chiropotes albinasus	N/A	Brazil	Entire	E	4	N/A
Seal, Mediterranean monk	Monachus monachus	N/A	Mediterranean, North-west African Coast and Black Sea	Entire	E	3	N/A
Seledang (Gaur)	Bos gaurus	N/A	India, Southeast Asia, Bangladesh	Entire	E	4	N/A
Serval, Barbary	Felis serval constantina	N/A	Algeria	Entire	E	4	N/A
Shou	Cervus elaphus wallichi	N/A	Tibet, Bhutan	Entire	E	4	N/A
Sitakas	Propithecus spp. (all species)	N/A	Malagasy Republic (Madagascar)	Entire	E	4	N/A
Sloth, Brazilian three-toed	Bradypus torquatus	N/A	Brazil	Entire	E	4	N/A
Solenondon, Cuban	Atopogale cubana	N/A	Cuba	Entire	E	4	N/A
Solenondon, Haitan	Solenodon paradoxus	N/A	Dominican Republic, Haiti	Entire	E	4	N/A
Squirrel, Delmarva Peninsula fox	Sciurus niger cinereus	N/A	USA (Maryland)	Entire	E	1	N/A
Stag, Barbary	Cervus elephus barbarus	N/A	Tunisia, Algeria	Entire	E	3	N/A
Stag, Kashmir	Cervus elephus hanglu	N/A	Kashmir	Entire	E	3	N/A
Tamaraw	Bubalus (Anoa) mindorensis	N/A	Philippines	Entire	E	4	N/A
Tamarin, golden-rumped (golden-headed Tamarin; golden-lion Marmoset)	Leontideus spp. (all species)	N/A	Brazil	Entire	E	3	N/A
Tapir, Brazilian	Tapirus terrestris	N/A	Venezuela, Argentina, Brazil, Colombia	Entire	E	4	N/A
Tapir, Central American	Tapirus bairdii	N/A	Southern Mexico to Colombia and Ecuador	Entire	E	4	N/A
Tapir, mountain	Tapirus pinchaque	N/A	Colombia, Ecuador	Entire	E	4	N/A
Tiger	Panthera tigris	N/A	Temperate & Tropical Asia	Entire	E	3,5	N/A
Tiger, Tasmanian (Thylacine)	Thylacinus cynocephalus	N/A	Australia	Entire	E	3	N/A
Uakari	Cacajao spp. (all species)	N/A	Peru, Colombia, Brazil, Venezuela, Ecuador	Entire	E	3	N/A
Vicuna	Vicugna vicugna	N/A	Peru, Bolivia, Argentina	Entire	E	3	N/A
Wallaby, banded hare	Lagostrophus fasciatus	N/A	Australia	Entire	E	4	N/A

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Wallaby, brindled	Onychogalea frenata	N/A	Australia	Entire	E	4	N/A
Wallaby, crescent nail-tailed	Onychogalea lunata	N/A	Australia	Entire	E	4	N/A
Wallaby, Parma	Macropus parma	N/A	Australia	Entire	E	4	N/A
Wallaby, western hare	Lagorchestes hirsutus	N/A	Australia	Entire	E	4	N/A
Wallaby, yellow-footed rock	Petrogale xanthopus	N/A	Australia	Entire	E	6	N/A
Wolf, maned	Chrysocyon brachyurus	N/A	Argentina, Bolivia, Brazil, Paraguay	Entire	E	4	N/A
Wolf, red	Canis rufus	N/A	Texas, Louisiana	Entire	E	2	N/A
Wombat, Barnard's	Lasiorhinus barnardi	N/A	Australia	Entire	E	4	N/A
Wombat, Queensland hairy-nosed	Lasiorhinus gillespiei	N/A	Australia	Entire	E	6	N/A
Yak, wild	Bos grunniens mutus	N/A	China (Tibet), India	Entire	E	4	N/A
BIRDS:							
Akepa, Hawaii (honeycreeper)	Loxops coccinea coccinea	N/A	USA (Hawaii)	Entire	E	2	N/A
Akepa, Maui (honey-creeper)	Loxops coccinea ochracea	N/A	USA (Hawaii)	Entire	E	2	N/A
Akialoa, Kauai (honeycreeper)	Hemignathus procerus	N/A	USA (Hawaii)	Entire	E	1	N/A
Akiapolaau (honeycreeper)	Hemignathus wilsoni	N/A	USA (Hawaii)	Entire	E	1	N/A
Albatross, short-tailed	Diomedea albatrus	N/A	North Pacific Ocean: Japan, Soviet Union, USA	Entire, except USA	E	3	N/A
Bobwhite, masked (quail)	Colinus virginianus ridgwayi	N/A	USA (Arizona), Mexico (Sonora)	Entire	E	1,3	N/A
Bristlebird, western	Dasyornis brachypterus longirostris	N/A	Australia	Entire	E	4	N/A
Bulbul, Mauritius olivaceous	Hypsipetes borbonicus olivaceus	N/A	Mauritius	Entire	E	3	N/A
Bullfinch, Sao Miguel (finch)	Pyrrhula pyrrhula murina	N/A	Eastern Atlantic Ocean: Azores	Entire	E	3	N/A
Bushwren, New Zealand	Xenicus longipes	N/A	New Zealand	Entire	E	3	N/A
Bustard, great Indian	Choriotis nigriceps	N/A	India, Pakistan	Entire	E	3	N/A
Cahow (Bermuda Petrel)	Pterodroma cahow	N/A	Western Atlantic Ocean: Bermuda	Entire	E	4	N/A
Condor, Andean	Vultur gryphus	N/A	Colombia to Chile and Argentina	Entire	E	4	N/A
Condor, California	Gymnogyps californianus	N/A	USA (OR,CA), Mexico (Baja California)	Entire	E	1	N/A
Coot, Hawaiian	Fulica americana alai	N/A	USA (Hawaii)	Entire	E	2	N/A
Crane, booded	Grus monacha	N/A	Japan, Soviet Union	Entire	E	4	N/A
Crane, Japanese	Grus japonensis	N/A	China, Japan, Korea, Soviet Union	Entire	E	4	N/A
Crane, Mississippi sandhill	Grus canadensis pulla	N/A	USA (Mississippi)	Entire	E	6	N/A
Crane, Siberian white	Grus leucogeranus	N/A	Soviet Union (Siberia) to India	Entire	E	4	N/A
Crane, whooping	Grus americana	N/A	Canada, USA, Mexico	Entire	E	1,3	N/A
Creeper, Molokai (Kakawahie)	Loxops maculata flammea	N/A	USA (Hawaii)	Entire	E	2	N/A
Creeper, Oahu (Alauwahio)	Loxops maculata maculata	N/A	USA (Hawaii)	Entire	E	2	N/A
Crow, Hawaiian (Alala)	Corvus tropicus	N/A	USA (Hawaii)	Entire	E	1	N/A
Cuckoo-shrike, Mauritius	Coquus (=Coracina) typicus	N/A	Indian Ocean, Mauritius	Entire	E	3	N/A
Cuckoo-shrike, Reunion	Coquus (=Coracina) newtoni	N/A	Indian Ocean: Reunion Island	Entire	E	3	N/A
Curassow, red-billed	Crax blumenbachii	N/A	Brazil	Entire	E	4	N/A
Curassow, Trinidad white-headed	Pipile pipile pipile	N/A	West Indies: Trinidad	Entire	E	3	N/A

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Curlew, Eskimo	Numenius borealis	N/A	Alaska to Argentina	Entire	E	1,3	N/A
Dove, cloven-feathered	Drepanoptila holosericea	N/A	Southwest Pacific Ocean: New Caledonia	Entire	E	4	N/A
Dove, Grenada	Leptotila wellsi	N/A	West Indies: Grenada	Entire	E	4	N/A
Dove, Palau ground	Gallicolumba canifrons	N/A	West Pacific Ocean: USA (Palau Islands)	Entire	E	4	N/A
Duck, Hawaiian (Koloa)	Anas wyvilliana	N/A	USA (Hawaii)	Entire	E	1	N/A
Duck, Laysan	Anas laysanensis	N/A	USA (Hawaii)	Entire	E	1	N/A
Duck, white-winged wood	Cairina scutulata	N/A	India, Burma, Thailand, Malaysia, Indonesia	Entire	E	3	N/A
Eagle, Philippine	Pithecophaga jefferyi	N/A	Philippines	Entire	E	3	N/A
Eagle, Spanish imperial	Aquila heliaca adalberti	N/A	Spain, Morocco, Algeria	Entire	E	4	N/A
Egret, Chinese	Egretta eulophotes	N/A	China, Korea	Entire	E	4	N/A
Falcon, American peregrine	Falco peregrinus anatum	N/A	Canada, USA, Mexico	Entire	E	2,3	N/A
Falcon, Arctic peregrine	Falco peregrinus tundrius	N/A	Alaska to Greenland, south to South America	Entire	E	2,4	N/A
Finch, Laysan (honeycreeper)	Telespyza (=Psittirostra) cantans	N/A	USA (Hawaii)	Entire	E	1	N/A
Finch, Nihoa (honeycreeper)	Telespyza (=Psittirostra) ultima	N/A	USA (Hawaii)	Entire	E	1	N/A
Flycatcher, Euler's	Empidonax euleri johnstonei	N/A	West Indies: Grenada	Entire	E	3	N/A
Flycatcher, Palau fantail	Rhipidura lepida	N/A	West Pacific Ocean: USA (Palau Islands)	Entire	E	4	N/A
Flycatcher, Seychelles paradise	Terpsiphone corvina	N/A	Indian Ocean: Seychelles	Entire	E	4	N/A
Flycatcher, Tahiti	Pomarea nigra nigra	N/A	South Pacific Ocean: Tahiti	Entire	E	3	N/A
Flycatcher, Tinian monarch	Monarcha takatsukasae	N/A	Western Pacific Ocean: USA (Marianas Islands)	Entire	E	3	N/A
Fody, Seychelles (Weaver-finch)	Foudia sechellarum	N/A	Indian Ocean	Entire	E	3	N/A
Gallinule, Hawaiian	Gallinula chloropus sandvicensis	N/A	USA (Hawaii)	Entire	E	1	N/A
Goose, Aleutian Canada	Branta canadensis leucopareia	N/A	Western USA (AK,WA, OR,CA), Japan	Entire	E	1,4	N/A
Goose, Hawaiian (Nene)	Branta sandvicensis	N/A	USA (Hawaii)	Entire	E	1	N/A
Goshawk, Christmas Island	Accipiter fasciatus natalis	N/A	Indian Ocean: Australia (Christmas Island)	Entire	E	3	N/A
Grackle, slender-billed	Cassidix palustris	N/A	Mexico	Entire	E	4	N/A
Grasswren, Eyrean (flycatcher)	Amytornis goyderi	N/A	Australia	Entire	E	4	N/A
Grebe, Atitlan	Podilymbus gigas	N/A	Guatemala	Entire	E	3	N/A
Guan, horned	Oreophasis derbianus	N/A	Guatemala, Mexico	Entire	E	3	N/A
Gull, Audouin's	Larus audouinii	N/A	Mediterranean Sea and adjacent islands	Entire	E	3	N/A
Hawk, Anjouan Island sparrow	Accipiter francesii pusillus	N/A	Indian Ocean: Comoro Islands	Entire	E	3	N/A
Hawk, Galapagos	Buteo galapagoensis	N/A	Ecuador (Galapagos Islands)	Entire	E	3	N/A
Hawk, Hawaiian (Io)	Buteo solitarius	N/A	USA (Hawaii)	Entire	E	1	N/A
Honeycreeper, crested (Akohekohe)	Palmeria dolei	N/A	USA (Hawaii)	Entire	E	1	N/A
Honeyeater, helmeted	Meliphaga cassidix	N/A	Australia	Entire	E	4	N/A
Ibis, Japanese crested	Nipponia nippon	N/A	China, Japan, Korea, Soviet Union	Entire	E	3	N/A
Kagu	Rhynochetos jubatus	N/A	Southwest Pacific Ocean: New Caledonia	Entire	E	3	N/A
Kakapo (owl-parrot)	Strigops habroptilus	N/A	New Zealand	Entire	E	4	N/A
Kestrel, Mauritius	Falco punctatus	N/A	Indian Ocean: Mauritius	Entire	E	3	N/A
Kestrel, Seychelles	Falco araea	N/A	Indian Ocean: Seychelles Islands	Entire	E	3	N/A
Kite, Cuba hook-billed	Chondrohierax wilsonii	N/A	Cuba	Entire	E	4	N/A
Kite, Grenada hook-billed	Chondrohierax uncinatus mirus	N/A	West Indies: Grenada	Entire	E	4	N/A
Kite, Everglade (snail kite)	Rostrhamus sociabilis plumbeus	N/A	USA (Florida)	Entire	E	1	N/A
Kokako (Wattlebird)	Callaeas cinerea	N/A	New Zealand	Entire	E	3	N/A

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Magpie-robin, Seychelles (thrush)	Copsychus sechellarum	N/A	Indian Ocean: Seychelles islands	Entire	E	3	N/A
Malkoha, red-faced (cuckoo)	Phaenicophaeus pyrrhocephalus	N/A	Sri Lanka	Entire	E	3	N/A
Megapode, La Perouse's	Megapodius laperouse	N/A	Western Pacific Ocean: USA (Palau Islands, Marianas Islands)	Entire	E	4	N/A
Megapode, Maleo	Macrocephalon maleo	N/A	Indonesia (Celebes)	Entire	E	4	N/A
Millerbird, Nihoa (willow warbler)	Acrocephalus familiaris kingi	N/A	USA (Hawaii)	Entire	E	1	N/A
Nukupuu (honeycreeper)	Hemignathus lucidus	N/A	USA (Hawaii)	Entire	E	2	N/A
Oo, Kauai (Oo Aa) (honeyeater)	Moho Braceatus	N/A	USA (Hawaii)	Entire	E	1	N/A
Ostrich, Arabian	Struthio camelus syriacus	N/A	Jordan, Saudi Arabia	Entire	E	3	N/A
Ostrich, West African	Struthio camelus spatzi	N/A	Spanish Sahara	Entire	E	4	N/A
Ou (honeycreeper)	Psittirostra psittacea	N/A	USA (Hawaii)	Entire	E	1	N/A
Owl, Anjouan scops	Otus rutilus capnodes	N/A	Indian Ocean: Comoro Islands	Entire	E	3	N/A
Owl, Palau	Otus podargina	N/A	Western Pacific Ocean: USA (Palau Islands)	Entire	E	4	N/A
Owl, Seychelles	Otus insularis	N/A	Indian Ocean: Seychelles Islands	Entire	E	3	N/A
Owlet, Mrs. Morden's	Otus ireneae	N/A	Kenya	Entire	E	3	N/A
Palila (honey-creeper)	Psittirostra bailleui	N/A	USA (Hawaii)	Entire	E	1	N/A
Parakeet, golden	Aratinga guarouba	N/A	Brazil	Entire	E	4	N/A
Parakeet, golden-shouldered	Psephotus chrysopterygius	N/A	Australia	Entire	E	4	N/A
Parakeet, Mauritius ring-neck	Psittacula krameri echo	N/A	Indian Ocean: Mauritius	Entire	E	4	N/A
Parakeet, ochre-marked	Pyrrhura cruentata	N/A	Brazil	Entire	E	4	N/A
Parakeet, orange-bellied	Neophema chrysogaster	N/A	Australia	Entire	E	4	N/A
Parakeet, paradise	Psephotus pulcherrimus	N/A	Australia	Entire	E	4	N/A
Parakeet, scarlet-chested	Neophema splendida	N/A	Australia	Entire	E	4	N/A
Parakeet, turquoise	Neophema pulchella	N/A	Australia	Entire	E	4	N/A
Parrot, ground	Pezoporus wallicus	N/A	Australia	Entire	E	6	N/A
Parrot, imperial	Amazona imperialis	N/A	West Indies: Dominica	Entire	E	4	N/A
Parrot, Australian night	Geopsittacus occidentalis	N/A	Australia	Entire	E	3	N/A
Parrot, Puerto Rican	Amazona vittata	N/A	USA (Puerto Rico)	Entire	E	1	N/A
Parrot, red-browed	Amazona rhodocorytha	N/A	Brazil	Entire	E	4	N/A
Parrot, St. Lucia	Amazona versicolor	N/A	West Indies: St. Lucia	Entire	E	4	N/A
Parrot, St. Vincent	Amazona guildingii	N/A	West Indies: St. Vincent	Entire	E	3	N/A
Parrot, thick-billed	Rhynchopsitta pachyrhyncha	N/A	Mexico, USA (Arizona, New Mexico)	Mexico	E	3	N/A
Parrotbill, Maui (honeycreeper)	Pseudonestor xanthophrys	N/A	USA (Hawaii)	Entire	E	1	N/A
Pelican, brown	Pelecanus occidentalis	N/A	USA, West Indies, Central and South America: Coastal	Entire	E	2,4	N/A
Penguin, Galapagos	Spheniscus mendiculus	N/A	Ecuador (Galapagos Islands)	Entire	E	2,4	N/A
Petrel, Hawaiian dark-rumped	Pterodroma phaeopygia sandwichensis	N/A	USA (Hawaii)	Entire	E	1	N/A
Pheasant, bar-tailed	Symaticus humiae	N/A	Burma, China	Entire	E	3	N/A
Pheasant, Blyth's tragopan	Tragopan blythii	N/A	Burma, China, India	Entire	E	3	N/A
Pheasant, brown eared	Crossoptilon mantchuricum	N/A	China	Entire	E	3	N/A
Pheasant, Cabot's tragopan	Tragopan caboti	N/A	China	Entire	E	3	N/A
Pheasant, Chinese monal	Lophophorus lhuysii	N/A	China	Entire	E	3	N/A
Pheasant, Edward's	Lophura edwardsi	N/A	Vietnam	Entire	E	3	N/A
Pheasant, imperial	Lophura imperialis	N/A	Vietnam	Entire	E	3	N/A
Pheasant, Mikado	Symaticus mikado	N/A	Taiwan	Entire	E	4	N/A
Pheasant, Palawan peacock	Polyplectron emphanum	N/A	Philippines	Entire	E	3	N/A
Pheasant, Sclater's monal	Lophophorus sclateri	N/A	Burma, China, India	Entire	E	3	N/A

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Pheasant, Swinhoe's	Lophura swinhoii	N/A	Taiwan	Entire	E	3	N/A
Pheasant, western tragopan	Tragopan melanocephalus	N/A	India, Pakistan	Entire	E	3	N/A
Pheasant, white eared	Crossoptilon crossoptilon	N/A	China (Tibet), India	Entire	E	4	N/A
Pigeon, Azores wood	Columba palumbus azorica	N/A	East Atlantic Ocean: Portugal (Azores)	Entire	E	3	N/A
Pigeon, Chatham Island	Hemiphaga novaeseelandiae chathamensis	N/A	New Zealand	Entire	E	4	N/A
Pigeon, Puerto Rican plain	Columba inornata wetmorei	N/A	USA (Puerto Rico)	Entire	E	2	N/A
Plover, New Zealand Shore	Thinornis novaseelandiae	N/A	New Zealand	Entire	E	4	N/A
Prairie chicken, Attwater's greater	Tympanuchus cupido attwateri	N/A	USA (Texas)	Entire	E	1	N/A
Rail, Aukland Island	Rallus pectoralis muelleri	N/A	New Zealand	Entire	E	3	N/A
Rail, California clapper	Rallus longirostris obsoletus	N/A	USA (California)	Entire	E	2	N/A
Rail, light-footed clapper	Rallus longirostris levipes	N/A	USA (California), Mexico (Baja Calif.)	Entire	E	2	N/A
Rail, Yuma clapper	Rallus longirostris yumanensis	N/A	Mexico (Sonora), USA (Arizona, California)	Entire	E	1	N/A
Rhea, Darwin's	Pterocnemia pennata	N/A	Argentina, Bolivia, Peru, Uruguay	Entire	E	4	N/A
Robin, Chatham Island	Petroica traversi ultima	N/A	New Zealand	Entire	E	4	N/A
Robin, scarlet-breasted (flycatcher)	Petroica multicolor multicolor	N/A	Australia (Norfolk Island)	Entire	E	3	N/A
Rockfowl, grey-necked	Picathartes oreas	N/A	Cameron	Entire	E	3	N/A
Rockfowl, white-necked	Picathartes gymnocephalus	N/A	Africa: Togo to Sierra Leone	Entire	E	3	N/A
Roller, long-tailed ground	Uratelornis chimaera	N/A	Malagasy Republic (Madagascar)	Entire	E	4	N/A
Scrub-bird, noisy	Atrichornis clamosus	N/A	Australia	Entire	E	3	N/A
Shama, Cebu black (thrush)	Copsychus niger cebuensis	N/A	Philippines	Entire	E	3	N/A
Sparrow, Cape Sable	Ammospiza maritima mirabilis	N/A	USA (Florida)	Entire	E	1	N/A
Sparrow, dusky seaside	Ammospiza maritima nigrescens	N/A	USA (Florida)	Entire	E	1	N/A
Sparrow, Santa Barbara song	Melospiza melodia graminea	N/A	USA (California)	Entire	E	6	N/A
Starling, Ponape mountain	Aplonis pelzelni	N/A	Western Pacific Ocean: USA (Caroline Islands)	Entire	E	4	N/A
Starling, Rothschild's (Myna)	Leucopsar rothschildi	N/A	Indonesia (Bali)	Entire	E	4	N/A
Stilt, Hawaiian	Himantopus himantopus knudseni	N/A	USA (Hawaii)	Entire	E	2	N/A
Stork, oriental white	Ciconia ciconia boyciana	N/A	China, Japan, Korea, Soviet Union	Entire	E	4	N/A
Tern, California least	Sterna albifrons browni	N/A	Mexico, USA (California)	Entire	E	2,4	N/A
Thrasher, white-breasted	Ramphocinclus brachyurus	N/A	West Indies: Martinique, St. Lucia	Entire	E	3	N/A
Thrush, large Kauai	Phaeornis obscurus myadestina	N/A	USA (Hawaii)	Entire	E	2	N/A
Thrush, Molokai (Olomau)	Phaeornis obscurus rutha	N/A	USA (Hawaii)	Entire	E	2	N/A
Thrush, New Zealand (wattlebird)	Turnagra capensis	N/A	New Zealand	Entire	E	3	N/A
Thrush, small Kauai (Puaiohi)	Phaeornis palmeri	N/A	USA (Hawaii)	Entire	E	1	N/A
Trembler, Martinique brown (thrasher)	Cinclocerthia ruficauda gutturalis	N/A	West Indies: Martinique	Entire	E	3	N/A
Wanderer, plain	Pedionomus torquatus	N/A	Australia	Entire	E	6	N/A
Warbler (wood), Bachman's	Vermivora bachmanii	N/A	Cuba, USA (Southeastern)	Entire	E	1,4	N/A
Warbler (wood), Barbados yellow	Dendroica petechia petechia	N/A	West Indies: Barbados	Entire	E	4	N/A
Warbler (wood), Kirtland's	Dendroica kirtlandii	N/A	USA, West Indies: Bahama Islands	Entire	E	1,4	N/A
Warbler, reed	Acrocephalus luscinia	N/A	Western Pacific Ocean: Marianas Islands	Entire	E	3	N/A
Warbler, Rodrigues	Bebrornis rodericanus	N/A	Mauritius (Rodrigues Island)	Entire	E	3	N/A
Warbler, Semper's	Leucopeza semperi	N/A	West Indies: St. Lucia	Entire	E	3	N/A

SPECIES			RANGE				
Common Name	Scientific Name	Population	Known Distribution	Portion of range where threatened or endangered	Status	When Listed	Special rules
Warbler, Seychelles	Bebrornis sechellensis	N/A	Indian Ocean: Seychelles Island	Entire	E	3	N/A
Whipbird, Western	Psophodes nigrogularis	N/A	Australia	Entire	E	4	N/A
Whip-poor-will, Puerto Rican	Caprimulgus noctitherus	N/A	USA (Puerto Rico)	Entire	E	6	N/A
White-eye, Ponape great	Rukia sanfordi	N/A	Western Pacific Ocean: USA (Caroline Islands)	Entire	E	4	N/A
White-eye, Seychelles	Zosterops modesta	N/A	Indian Ocean: Seychelles	Entire	E	4	N/A
Woodpecker, imperial	Campephilus imperialis	N/A	Mexico	Entire	E	3	N/A
Woodpecker, ivory billed	Campephilus principalis	N/A	Cuba, USA (South-central and south-eastern)	Entire	E	1,3	N/A
Woodpecker, red-cockaded	Picoides (=Dendrocopos) borealis	N/A	USA (Southcentral and Southeastern)	Entire	E	3	N/A
Woodpecker, Tristam's	Dryocopus javensis richardsi	N/A	Korea	Entire	E	3	N/A
Wren, Guadeloupe house	Troglodytes aedon guadeloupensis	N/A	West Indies: Guadeloupe	Entire	E	3	N/A
Wren, St. Lucia house	Troglodytes aedon mesoleucus	N/A	West Indies: St. Lucia	Entire	E	3	N/A
REPTILES:							
Boa, Jamaican	Epicrates subflavus	N/A	Jamaica	Entire	E	4	N/A
Boa, Puerto Rico	Epicrates inornatus	N/A	USA (Puerto Rico)	Entire	E	2	N/A
Crocodile, Cuban	Crocodylus rhombifer	N/A	Cuba	Entire	E	3	N/A
Crocodile, Morelet's	Crocodylus moreletii	N/A	Mexico, Belize, Guatemala	Entire	E	4	N/A
Crocodile, Nile	Crocodylus niloticus	N/A	Africa	Entire	E	4	N/A
Crocodile, Orinoco	Crocodylus intermedius	N/A	South America: Orinoco River Basin	Entire	E	4	N/A
Gavial (Gharial)	Gavialus gangeticus	N/A	Pakistan, India, Burma, Bangladesh	Entire	E	4	N/A
Gecko, day	Phelsuma newtoni	N/A	Mauritius	Entire	E	4	N/A
Gecko, Round Island day	Phelsuma guentheri	N/A	Mauritius	Entire	E	4	N/A
Iguana, Anegada ground	Cyclura pinguis	N/A	West Indies: Virgin Islands (Anegada Island)	Entire	E	3	N/A
Iguana, Barrington land	Conolophus pallidus	N/A	Ecuador: Galapagos Islands	Entire	E	4	N/A
Lizard, blunt-nosed leopard	Crotaphytus silus	N/A	USA (California)	Entire	E	1	N/A
Snake, San Francisco garter	Thamnophis sirtalis tetrataenia	N/A	USA (California)	Entire	E	1	N/A
Terrapin, river (Tuntong)	Batagur baska	N/A	Burma, India, Indonesia, Malaysia, Bangladesh	Entire	E	4	N/A
Tortoise, Galapagos	Geochelone elephantopus	N/A	Ecuador: Galapagos Islands	Entire	E	4	N/A
Tortoise, Madagascar radiated	Geochelone radiata	N/A	Malagasy Republic (Madagascar)	Entire	E	4	N/A
Tortoise, short-necked or swamp	Pseudemydura umbrina	N/A	Australia	Entire	E	4	N/A
Tuatara	Sphenodon punctatus	N/A	New Zealand	Entire	E	4	N/A
Turtle, aquatic box	Terrapene coahuila	N/A	Mexico	Entire	E	6	N/A
Turtle, hawksbill sea	Eretmochelys imbricata	N/A	Tropical Seas	Entire	E	3	N/A
Turtle, Kemp's (Atlantic) Ridley sea	Lepidochelys kempii	N/A	Tropical & Temperate Seas	Entire	E	4	N/A
Turtle, leatherback sea	Dermochelys coriacea	N/A	Tropical and Temperate Seas	Entire	E	3	N/A
Turtle, South American	Podocnemis expansa	N/A	South America: Orinoco and Amazon River basins	Entire	E	3	N/A
Turtle, South American	Podocnemis unifilis	N/A	South America: Orinoco and Amazon River basins	Entire	E	4	N/A
Yacare (Caiman)	Caiman yacare	N/A	Bolivia, Peru, Argentina, Brazil	Entire	E	3	N/A

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SPECIES			RANGE				
Common Name	Scientific Name	Population	Known Distribution	Portion of range where threatened or endangered	Status	When Listed	Special rules
AMPHIBIANS:							
Frog, Israel painted	Discoglossus nigriventer	N/A	Israel	Entire	E	4	N/A
Frog, Stephen Island	Leiopelma hamiltoni	N/A	New Zealand	Entire	E	4	N/A
Salamander, desert slender	Batrachoseps aridus	N/A	USA (California)	Entire	E	6	N/A
Salamander, Santa Cruz long-toed	Ambystoma macrodactylum croceum	N/A	USA (California)	Entire	E	1	N/A
Salamander, Texas blind	Typhlomolge rathbuni	N/A	USA (Texas)	Entire	E	1	N/A
Toad, Houston	Bufo houstonensis	N/A	USA (Texas)	Entire	E	2	N/A
FISHES:							
Ala Balik	Salmo platycephalus	N/A	Turkey	Entire	E	3	N/A
Ayumodoki	Hymenophysa curta	N/A	Japan	Entire	E	3	N/A
Blindcat, Mexican	Prietella phreatophila	N/A	Mexico	Entire	E	3	N/A
Bonytail, Pahranagat	Gila robusta jordani	N/A	USA (Nevada)	Entire	E	2	N/A
Catfish	Pangasius sanitwongsei	N/A	Thailand	Entire	E	3	N/A
Catfish, giant	Pangasianodon gigas	N/A	Thailand	Entire	E	3	N/
Chub, humpback	Gila cypha	N/A	USA (AZ,UT,WY)	Entire	E	1	N/A
Chub, Mohave	Gila mohavensis	N/A	USA (California)	Entire	E	2	N/A
Cicek	Acanthorutilus handlirschi	N/A	Turkey	Entire	E	3	N/A
Cisco, longjaw	Coregonus alpenae	N/A	USA (Lakes Michigan, Huron and Erie)	Entire	E	1	N/A
Cui-ui	Chasmistes cujus	N/A	USA (Nevada)	Entire	E	1	N/A
Dace, Kendall Warm Springs	Rhinichthys osculus thermalis	N/A	USA (Wyoming)	Entire	E	2	N/A
Dace, Moapa	Moapa coriacea	N/A	USA (Nevada)	Entire	E	1	N/A
Darter, fountain	Etheostoma fonticola	N/A	USA (Texas)	Entire	E	2	N/A
Darter, Maryland	Etheostoma sellare	N/A	USA (Maryland)	Entire	E	1	N/A
Darter, Okaloosa	Etheostoma okaloosae	N/A	USA (Florida)	Entire	E	6	N/A
Darter, watercress	Etheostoma nuchale	N/A	USA (Alabama)	Entire	E	2	N/A
Gambusia, Big Bend	Gambusia gaigei	N/A	USA (Texas)	Entire	E	1	N/A
Gambusia, Clear Creek	Gambusia heterochir	N/A	USA (Texas)	Entire	E	1	N/A
Gambusia, Pecos	Gambusia nobilis	N/A	USA (Texas)	Entire	E	2	N/A
Killifish, Pahrump	Empetrichythys latos	N/A	USA (Nevada)	Entire	E	1	N/A
Nekogigi	Coreobagrus ichikawai	N/A	Japan	Entire	E	3	N/A
Pike, blue	Stizostedion vitreum glaucum	N/A	USA (Lakes Erie and Ontario)	Entire	E	1	N/A
Pupfish, Comanche Springs	Cyprinodon elegans	N/A	USA (Texas)	Entire	E	1	N/A
Pupfish, Devil's Hole	Cyprinodon diabolis	N/A	USA (Nevada)	Entire	E	1	N/A
Pupfish, Owens River	Cyprinodon radiosus	N/A	USA (California)	Entire	E	1	N/A
Pupfish, Tecopa	Cyprinodon nevadensis calidae	N/A	USA (California)	Entire	E	2	N/A
Pupfish, Warm Springs	Cyprinodon nevadensis pectoralis	N/A	USA (Nevada)	Entire	E	2	N/A
Squawfish, Colorado River	Ptychocheilus lucius	N/A	USA (AZ, CA, CO, NM, NV VT, WY)	Entire	E	1	N/A
Stickleback, unarmored three-spine	Gasterosterus aculeatus williamsonii	N/A	USA (California)	Entire	E	2	N/A
Sturgeon, shortnose	Acipenser brevirostrum	N/A	USA (Atlantic Coast of US and Canada)	Entire	E	1	N/A
Tango, Miyako	Tanakia tanago	N/A	Japan	Entire	E	3	N/A
Topminnow, Gila	Poeciliopsis occidentalis	N/A	USA (Arizona), Mexico	Entire	E	1	N/A
Trout, Gila	Salmo gilae	N/A	USA (New Mexico)	Entire	E	1	N/A
Woundfin	Plagopterus argentissimus	N/A	USA (Arizona, Nevada, Utah)	Entire	E	2	N/A
SNAILS:							
Snail, Manus Island tree	Papustyla pulcherrima	N/A	Admiralty Islands (Manus Islands)	Entire	E	4	N/A

BILLING CODE 4310-55-C

1—32 FR 4001; March 11, 1967
2—35 FR 16047; October 13, 1970
3—35 FR 8495; June 2, 1970
4—35 FR 18320; December 2, 1972
5—37 FR 6476; March 30, 1972
6—38 FR 14678; June 4, 1973
7—39 FR 44991; December 30, 1974

Dated: May 7, 1979.

F. Eugene Hester,

Acting Director, U.S. Fish and Wildlife Service.

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federal register

Monday
May 21, 1979

Part III

Department of Commerce

National Oceanic and Atmospheric Administration

Coastal Energy Impact Program

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DEPARTMENT OF COMMERCE

National Oceanic and Atmospheric Administration

15 CFR Part 931

Coastal Energy Impact Program

AGENCY: National Oceanic and Atmospheric Administration (NOAA), Department of Commerce

ACTION: Final rule.

SUMMARY: These final regulations describe administrative procedures to implement the Coastal Energy Impact Program (CEIP). The CEIP provides grants and credit assistance to coastal States and communities to help them deal with the impacts of coastal energy development. These regulations will become effective on publication and supersede CEIP administrative regulations (15 CFR Part 931) published in the Federal Register on February 23, 1978.

EFFECTIVE DATE: May 21, 1979.

FOR FURTHER INFORMATION CONTACT: James B. Robey or Dan Hoydysh, Office of Coastal Zone Management, National Oceanic and Atmospheric Administration, 3300 Whitehaven Street, N.W., Washington, D.C. 20235 (202) 634–4128

SUPPLEMENTARY INFORMATION:

I. Explanatory Statement

The Coastal Energy Impact Program (CEIP) was created by the 1976 amendments to the Coastal Zone Management Act of 1972 Pub. L. 934–370; 16 U.S.C.A. 1451, *et seq.)* and signed into law on July 26, 1976. The National Oceanic and Atmospheric Administration (NOAA) published proposed regulations for the CEIP on October 22, 1976 (41 FR 46724), interim-final regulations on January 5, 1977 (42 FR 1164), and final regulations on February 23, 1978 (43 FR 7545). The preamble to these regulations discussed in detail the issues raised and comments made during the rule-making process. In addition both an environmental impact statement and an economic impact statement were prepared for the final CEIP implementing regulations.

On September 18, 1978, the Outer Continental Shelf Lands Act Amendments of 1978 (OCSLAA; Pub. L. 95–327) were signed into law changing the CEIP as follows:

The authorization level for section 308(b) formula grants is raised from $50 million to $130 million per fiscal year and the authorization period for these grants is extended from September 30, 1984 to September 30, 1988.

The formula used to allot funds appropriated for formula grants is modified—the *new employment* factor related to outer Continental Shelf (OCS) energy activity has been deleted and the weight given the remaining factors in the formula adjusted.

A ceiling of 37.5% and a floor of 2% of the amount appropriated is established as the maximum and minimum amount that States faced with impacts from OCS energy activity may receive in a fiscal year.

The requirement is deleted that other CEIP financing—credit assistance under section 308(d)—be unavailable before a State or local community can utilize section 308(b) formula grants to plan for, develop, and to carry out projects and programs necessary to provide new or improved public facilities and services required as a result of OCS energy activity. Also deleted is the requirement that the OCS activity that necessitates the new or improved public facilities or public services be *new or expanded.*

Two OCSLAA created amendments to the CEIP are not being implemented in the regulations issued today. They are: (1) the discretionary authority of the Secretary of Commerce (by delegation, the Assistant Administrator of NOAA for Coastal Zone Management) to establish by rule criteria for describing geographic areas in which public facilities and public services are presumed to be required as a result of OCS energy activity; and (2) the establishment of a new fund for the provision of grants to enable States to perform their responsibilities under the amended OCS Lands Act. A decision whether to implement the Assistant Administrator's discretionary authority to designate impact areas will be made after a thorough analysis of the implications of this change for CEIP administration. Regulations for the OCS State Participation Grants Program are being promulgated in a separate rule-making process. Proposed regulations for this program were published in the Federal Register on March 19, 1978, as Subpart L of Part 931.

NOAA is reissuing today final regulations to implement the CEIP as amended by the OCSLAA. In addition to implementing the statutory amendments these regulations contain improvements in CEIP operations that are being instituted on the basis of two years of operating experience. These regulations supersede CEIP administrative regulations published in the Federal Register on February 23, 1978 (43 FR 7545) and will become effective May 21, 1979.

It is necessary that the regulations be effective on publication because final regulations should be in place before applications for impact funds may be processed and financial assistance awarded pursuant to the statutory changes. Further delay in implementing the mandated changes would severely disrupt the operations of State agencies designated to administer CEIP assistance and lead to delay in providing impact funds to areas of need. Therefore, pursuant to 5 U.S.C. 553(d)(3), NOAA finds for good cause that the effective date of these regulations should not be delayed for 30 days after publication.

NOAA has determined that issuing these regulations is not a major action significantly affecting the quality of the human environment and does not require preparation of an Environmental Impact Statement under the National Environmental Policy Act of 1969. NOAA also has determined that these are not significant regulations and do not require preparation of a regulatory analysis under Executive Order 12044.

II. Discussion of Major Changes to the CEIP, Comments and NOAA Responses.

Proposed regulations implementing the amended CEIP were published in the Federal Register on January 15, 1979, and a 45-day comment period was provided ending on March 3, 1979. Comments were received from thirteen States: Alabama, Alaska, California, Florida, Maine, Massachusetts, Michigan, New York, Ohio, Oregon, Rhode Island, South Carolina, and Wisconsin; two Federal agencies: the Environmental Protection Agency (EPA), and the Heritage Conservation and Recreation Service of the Department of Interior; one individual Stauble; and one public interest group, the Natural Resources Defense Council (NRDC).

All comments were given full consideration. Some were adopted in their entirety or in modified form, others have been rejected as inappropriate or legally impermissible. Of the comments rejected in their entirety the vast majority suggested changes to definitions or procedures expressly specified in section 308 of the statute and therefore not within NOAA's discretion. Other rejected comments concerned basic differences in interpretation of section 308 and Congressional intent.

The following discussion focuses on the major changes being instituted in the CEIP, the comments received on the proposed regulations and NOAA's responses to these comments.

Subpart A—General. The changes in this Subpart are largely editorial and are made to clarify the general structure of the CEIP and its objectives.

One commentator objected to the statement that one of the objectives of the CEIP is to provide a mechanism for balancing the major National goals of attaining a greater degree of energy self-sufficiency and protection of the environment. This commentator suggested that the objectives specified in § 931.2 be rewritten to emphasize the environmental protection aspects of the program over the encouragement of necessary energy development. NOAA believes that the goals as written clearly reflect Congressional intent to maintain a balance between environmental protection and energy development. The CEIP contribution to the national objective of attaining a greater degree of energy self-sufficiency is specifically recognized in section 302(i) of the Coastal Zone Management Act of 1972.

Subpart B—General Definitions. The definition of OCS energy activity is modified to reflect more closely the Congressional intent embodied in the statutory definition. The definitions of *new employment, new or expanded OCS energy activity,* and *unavailability of credit assistance* are deleted because the statutory changes to the CEIP make reference to these terms unnecessary. Other changes in this Subpart are largely editorial.

Coastal energy activity is defined as any OCS energy activity or any of a set of specified activities relating to coal, oil, natural gas or liquefied natural gas that has a "technical requirement" that it be carried out near the coast. One commentator stated that the definition of "technical requirement" is § 931.12 was too broad and that most energy activities could therefore qualify as coastal energy activities. According to this commentator a narrow definition is needed to prevent tremendous pressure on the States to site unneeded facilities in the coastal zone in order to obtain public facility or planning money. Since the definition of coastal energy activity encompasses only a specific set of activities, even a broad definition of "technical requirement" would allow only the above mentioned activities to qualify as coastal energy activities. Moreover, since Congress chose not to expressly define the term "technical requirement" the Assistant Administrator has the discretion to define the term within the purposes for which the CEIP was established. Because a large portion of the population resides in the coastal zone the siting of energy facilities to serve this population is inevitable. An unnecessarily restrictive definition would have the effect of allowing significant impacts to occur in the coastal zone that could be prevented or mitigated with CEIP funds. Accordingly the definition of "technical requirement" remains unchanged except that subsection (c)(7) has been deleted as vague and confusing.

One commentator questioned whether the definition of "significantly affected" in § 931.14 includes losses as well as increases in population and employment. Significantly affected is defined in terms of *changes* in population and employment which includes losses as well as increases.

At the suggestion of one commentator the definition of "significantly affected" in § 931.14 has been amplified to include damage or threat of damage to public health or any violation or threat of violation of any Federal, State, or local environmental standard.

One commentator questioned how transportation systems such as helicopters, crew boats and supply boats are covered under the definition of OCS energy activity as presently written. § 931.17 defines OCS energy activity in nonexclusive terms. The definition is intended to encompass any equipment that is used primarily in the exploration, development or production of OCS oil and gas. Transportation systems such as helicopters, and supply boats qualify as OCS energy activity to the extent they are used to support OCS exploration or development and production.

One commentator suggested broadening the definition of "coastal energy activity" by including fuel refining and processing. This suggestion is rejected as being incompatible with the statutory definition which limits coastal energy activity to any transportation, transfer, or storage of oil, natural gas or coal.

Subpart C—Basic Eligibility. The contents of this Subpart have been restructured. The explanation of what constitutes making satisfactory progress in developing a management program consistent with the policies set forth in section 303 is now a separate section (§ 931.26). An additional section § 931.27 has been added explaining the procedure for determining a State's eligibility to receive CEIP financial assistance.

The final regulations provide that no allotment or award of funds will be made to a State that is not eligible as defined in Subpart C. Funds previously allotted but not awarded to a State at the time the State loses eligibility will be held by the Assistant Administrator in the State's account until the end of the fiscal year in which the State has lost its eligibility. If the State has not regained eligibility under Subpart C at the end of that fiscal year the retained funds will be reallotted among other eligible coastal States as soon as practicable.

Subpart D—Planning for the Consequences of Energy Facilities. This Subpart has been substantially modified. In response to one comment that the proposed regulations permit the Assistant Administrator to allot minimum shares of less than $35,000, § 931.37 has been changed to prohibit the Assistant Administrator from allotting a minimum share of less than $35,000. This floor on the amount of funds that a State may receive under section 308(c)(1) (formerly section 308(c)) is intended to improve State planning by providing the States with more certainty as to the minimum amount of funding they are likely to receive in any fiscal year.

In response to comments that the 10% ceiling imposed on allotments under section 308(c)(1) was not in accordance with Congressional intent that planning grants are to be distributed on the basis of need, the ceiling was raised to 20%. A ceiling on the section 308(c)(1) allotment is imposed because the allotment formula is not an absolute measure of planning need but only estimates the relative need among States. Imposition of a ceiling assures that all States have sufficient funds to address the impacts from new energy facilities.

One commentator objected that decreasing the period of availability of allotted funds would create administrative difficulties for the States in soliciting and processing applications for CEIP assistance from local governments. To provide States with as much time as possible to apply for CEIP assistance the regulations establish a time table for making final allotments under section 308(c)(1). Final allotments will normally be provided to the States within 30 days after the beginning of the fiscal year for which allotments are made.

Several commentators inquired whether funds reverting to the Assistant Administrator will be reallotted for the same purposes for which originally allotted. In general, reverted funds will be reallotted for their original purposes.

One commentator suggested that §§ 931.36 and 931.37 describing the allotment process were overly long and confusing. The entire allotment process under Subpart D has been rewritten, and

the explicit description of the allotment formula has been deleted. There is no requirement in the statute that the Assistant Administrator specify by rule a formula for allotting planning grants. NOAA has determined that not specifying the allotment formula in the regulations both simplifies the regulations and increases program flexibility. However, the Assistant Administrator will use a formula for allotting section 308(c)(1) grants and will circulate the formula for comment before computing final allotments.

In response to several commentators who found the allowable uses of planning grants described in § 931.33 to be confusing and contradictory these sections have been rewritten to clarify the purposes for which funds may be expended under Subpart D.

One commentator suggested that the regulations should expressly state that section 308(c)(1) planning grants could be used to supplement or coordinate ongoing planning activities such as Water Quality Management Plans under the Clean Water Act and Air Quality Plans under the Clean Air Act. To the extent that the planning is related to new or expanded energy facilities significantly affecting the coastal zone this suggestion has been incorporated into § 931.33(a)(2)(vii).

Subpart E—Financing Public Facilities and Public Services. The procedures for allotting credit assistance have been clarified. The period of availability to a State of allotted credit assistance under section 308(d)(1) has been shortened. States must now submit applications by July 1 of the fiscal year in which the credit assistance is allotted or risk having these funds recalled by the Assistant Administrator. However, States may by July 1 request an extension for submitting applications and the Assistant Administrator may grant such extension but not beyond January 1 of the following fiscal year.

Allotted credit assistance that is recalled because it was not applied for within the prescribed time limits will be made available to *all* eligible coastal States by application. Priority of access to this recalled credit assistance will be determined by the priority in submitting a completed application. However, under exceptional circumstances the Assistant Administrator may grant priority to a later application on the basis of immediacy of need and equity in distribution of CEIP credit assistance. A limitation of 50% of the amount available has been imposed as the limit that any State may receive in a fiscal year from the recalled credit assistance.

The requirement that section 308(b) grants can only be used to provide public facilities and services required as a result of "new or expanded" OCS energy activity was deleted in accordance with the OCSLAA. Public facilities and public services can now be provided under section 308(b) if they are required as a result of ongoing or past OCS energy activity. In addition, the requirement that a State first use its credit assistance before accessing its formula grant allotment has been removed in accordance with the OCSLAA.

One commentator suggested that the formula for allotting credit assistance include a factor that considers the vulnerability of the coastal area to be impacted. This suggestion was rejected because section 308(d) limits the factors that may be used in the allotment formula to those stated in § 931.46.

In response to one commentator, the definition of health care in § 931.42(b)(4) has been expanded to include epidemiologic screening.

Several commentators noted that the June deadline established by § 931.51(a) did not allow States sufficient time to process applications and was confusing in light of the July 1 deadline for submitting applications established by § 931.49. These sections have been rewritten to clarify that only one deadline for submission of applications exists—July 1. In addition it is the intent of the Assistant Administrator that final allotments be provided to the States within 30 days after the beginning of the fiscal year for which the funds are allotted.

Subpart F—Repayment Assistance. The changes in the subpart are largely editorial. However, the appeal procedure specified in § 931.69 has been simplified. The requirement that the Administrator of NOAA will, upon request, order a formal hearing on the record to resolve disputes concerning repayment assistance has been deleted as imposing an unnecessary administrative burdens on NOAA. The simplified appeals process is sufficient to protect the legitimate interests of applicants for CEIP financial assistance.

Subpart G—Grants for Unavoidable Losses of Valuable Coastal Environmental and Recreational Resources. The definitions of the terms *valuable, environmental resource,* and *recreational resource,* are consolidated to clarify the concept of *valuable environmental resource* and *valuable recreational resource.* The definition of *unavoidable* is modified to conform more closely with the statutory definition. The description of the process for allotting section 308(b) formula grants (formerly contained in § 931.76) is modified in accordance with the OCSLAA mandated changes and made into a separate subpart of this Part 931—Subpart K.

The procedure for allotting section 308(d)(4) environmental and recreational grants has been changed in accordance with the Congressional intent that these grants are to be used primarily by States that do not receive the benefits of section 308(b) formula grants. Therefore, the regulations provide that section 308(d)(4) grants will be allotted first among those States that do not receive a formula grant allotment in a fiscal year. If any funds remain after this initial allotment they will be allotted among all coastal States eligible under section 308(d)(4).

The time period during which funds allotted under section 308(d)(4) will remain available to a costal State is shortened to one fiscal year. Allotted funds for which applications are not received by the end of the fiscal year in which the funds have been allotted will revert to the Assistant Administrator at the end of the fiscal year. Funds that were allotted under section 308(d)(4) for fiscal year 1978 will revert to the Assistant Administrator on September 30, 1979, unless the State submits applications for these funds by the date.

One commentator strenuously objected to CEIP funds being used under § 931.73 to cover the increased costs due to construction of a more environmentally sound facility than would be required under minimum Federal, State, or local standards. NOAA finds that such an expenditure is not only proper but one of the primary purposes for which the CEIP was established. The specific objection of this commentator was that if a facility could be designed to reduce environmental damage then that loss is not unavoidable. The regulation as written recognizes that there is a difference between designing a facility that meets the highest possible environmental standards and obtaining the funds to build that facility. The intent of § 931.73 is to provide funding to allow the construction of facilities that exceed minimum standards and therefore encourage the prevention of environmental damage that may otherwise occur because of a lack of sufficient funding to obtain the best available technology.

One commentator suggested that the definitions of environmental and recreational resources include resources identified in a State Comprehensive Outdoor Recreation Plan and a State Historic Preservation Plan. This suggestion has been adopted to the extent that the definitions of valuable environmental and recreational resources contained in § 931.72 have been changed to include resources identified in *any* State plan.

One commentator suggested that the term unavoidable loss include a loss for which no alternative location exists. The regulations do not define unavoidable in terms of alternative siting locations because section 308(i) expressly prohibits the conditioning of CEIP assistance on the siting of any facility in a particular location.

One commentator was concerned that limiting the use of CEIP funds to those projects for which other funds are not available would unnecessarily hamper the provisions of CEIP assistance. This limitation is imposed by section 308(k)(2) and may not be disregarded.

One commentator suggested that the regulations should be modified to protect cultural resources as well as environmental and recreational resources. The regulations expressly define recreational resources to include cultural resources and CEIP funds may therefore be used to prevent damage to cultural resources as defined in § 931.72(b).

One commentator suggested that a loss should not be considered unavoidable if it could have been prevented by a reasonable exercise of a State's regulatory authority. NOAA agrees with this comment and has incorporated this concept in § 931.78(d).

One commentator suggested that it is not appropriate to refer to "ameliorating" environmental damage. This is the expression Congress used in section 308, and it is intended to mean the improvement of adverse conditions resulting from energy development. The Congressional language will continue to be used in the regulations.

Subpart H—Lateral Seaward Boundaries. No substantive changes have been made to this subpart. However, language inadvertently left out of proposed § 931.82 has been added to clarify the basis for delimitation of lateral seaward boundaries. This change was previously published in the Federal Register on July 23, 1978, (43 FR 2379) but was omitted from the proposed rules, inadvertently, in the printing process.

Subpart I—General Provisions. Substantial editorial changes have been made to this Subpart. Certain information and guidance regarding applications for CEIP assistance originally contained in this Subpart have been transferred to other Subparts where they more properly belong. However, the substantive requirements imposed by this Subpart are not changed.

In response to comments that the procedures to be followed for reviewing the environmental impacts of projects funded under the CEIP were vague and overly broad § 931.94 has been clarified. Reference to "threshold criteria" is deleted. The criteria that will be used to decide whether an environmental impact statement will be prepared under the National Environmental Policy Act of 1969 (NEPA) are specified in the regulations. In accordance with the spirit of the Council of Environmental Quality (CEQ) regulations that unnecessary paperwork should be avoided, the regulations establish categorical exclusions of projects that do not individually or cumulatively have a significant effect on the environment and are therefore exempt from the requirements for an environmental assessment under NEPA. However, the Assistant Administrator will review the proposed expenditure of all CEIP funds to assure that the policies of NEPA are effectively implemented.

In response to several comments § 931.94 expressly requires that all CEIP assistance will comply with Executive Orders 11988 (Floodplain Management) and 11990 (Wetlands Protection) and the requirements for protecting historical and cultural properties established by the Council on Historical Preservation (36 CFR Part 880).

Subpart J—Intrastate Allocation of Financial Assistance. The threshold amount that triggers a State's compliance with the "a" process is raised to $1 million in CEIP grants. The amount of credit assistance allotted to a State is no longer a factor in determining whether a State must comply with the "a" or "b" process.

Subpart K—Allotment of Section 308(b) Formula Grants. This Subpart is new. It contains the detailed procedures established by the OCSLAA for allotting formula grants among eligible coastal States.

Several commentators correctly pointed out that the States of South Carolina and Virginia were missing from the list of States in Region I. This inadvertant omission has been corrected.

One commentator objected that the formula for computing section 308(b) formula grants is not equitable because half of the formula grant allotment is based on the number of acres leased and therefore in one year half the appropriation could be allotted to one State while in another year half the appropriation might be shared by several States. This observation is only partially correct. It does not consider the provision of the two percent grants which, in the discretion of the Assistant Administrator, may be used to make equitable distribution among the coastal States of funds appropriated for formula grants. It also does not consider the 37.5% ceiling which limits the amount of funding that any State may be allotted in any fiscal year. More importantly, the formula is expressly specified in section 308 and not within NOAA's discretion to change.

Comments of General Applicability

One commentator suggested that an Environmental Impact Statement (EIS) under the National Environmental Policy Act of 1969 be prepared before these regulations are issued. This suggestion is not accepted. Both an EIS and an economic impact statement were prepared for the initial CEIP implementing regulations. The amendments that are being implemented by these revised regulations do not sufficiently change the basic program to necessitate preparing an additional or supplemental EIS.

One commentator suggested that procedures be established to allow the public to comment on the formulae and data used to compute the allotments to coastal States. The allotments to the States along with the data and formulae used for computations are considered public information. The formulae or their primary elements are specifically described in the statute or regulations. The data base is from public sources and all of the information is provided to the States for comment at least 30 days before final allotments are computed. Most States provide for participation by local governments as a part of their intrastate allocation process. In addition, the award of CEIP financial assistance is subject to the public participation requirements contained in OMB Circular A-95. NOAA will gladly provide any information on the allotment process to any interested member of the public, but NOAA does not believe that a formal public review beyond the presently required notifications is necessary.

One commentator stated that the proposed regulations should tighten the procedures for awarding financial assistance to prevent Federal money from being wasted on unnecessary projects. NOAA believes the final regulations contain adequate safeguards to assure that CEIP funds are spent only for authorized projects. Further restricting access to CEIP funds would

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only create unnecessary delay in channeling much needed impact funds to prevent environmental damage and social disruption in the coastal zone. The intent of the CEIP is to allow State and local governments maximum control over the uses of allotted funds. The final CEIP regulations provide a workable balance between State and local discretion and Federal control.

R. L. Carnahan,

Acting Assistant Administrator for Administration.

May 11, 1979.

In consideration of the foregoing, Part 931 is revised as follows:

PART 931—COASTAL ENERGY IMPACT PROGRAM

Subpart A—General

Section
931.1 Coastal Energy Impact Program—General Description.
931.2 Objectives of the CEIP.

Subpart B—General Definitions

931.9 Index to definitions.
931.10 Act.
931.11 Coastal zone.
931.12 Fund.
931.13 Coastal energy activity.
931.14 Significantly affected.
931.15 New or expanded coastal energy activity.
931.16 Outer Continental Shelf.
931.17 Outer Continental Shelf energy activity.
931.18 Energy facility.
931.19 New or expanded energy facility.
931.20 Unit of general purpose local government.
931.21 Unit of local government.
931.22 NOAA and OCZM.
931.23 Assistant Administrator.
931.24 NEPA and EIS.

Subpart C—Basic Eligibility

931.25 Eligible coastal State.
931.26 Satisfactory progress.
931.27 Eligibility determination.

Subpart D—Planning for the Consequences of Energy Facilities

931.30 General.
931.31 Objectives.
931.32 Eligibility for planning assistance under this subpart.
931.33 Allowable uses of planning grants.
931.34 Limitations.
931.35 Planning inventory.
931.36 Section 308(c)(1) Allotment formula.
931.37 Allotment of 308(c)(1) planning grants among coastal States.
931.38 Application for planning grants.
931.39 Reversion of funds allotted under section 308(c)(1).

Subpart E—Financing Public Facilities and Public Services

931.40 General.
931.41 Objectives.
931.42 Definitions.
931.43 Eligibility.
931.44 Allowable uses.
931.45 Credit assistance inventory.
931.46 Allotment formula.
931.47 Allotment of credit assistance.
931.48 Recall and Reversion of allotted credit assistance funds.
931.49 Application for recalled or reverted credit assistance.
931.50 Application for financial assistance to provide public facilities and services.
931.51 Special requirements for section 308(d)(1) loans.
931.52 Special requirements for section 308(d)(2) Federal guarantees.

Subpart F—Repayment Assistance

931.60 General.
931.61 Objectives.
931.62 Definitions.
931.63 Purposes.
931.64 Sources of repayment assistance.
931.65 General eligibility.
931.66 Reports.
931.67 Review for repayment assistance.
931.68 Award of repayment assistance.
931.69 Appeal procedure.

Subpart G—Grants for Unavoidable Losses of Valuable Coastal Environmental and Recreational Resources

931.70 General.
931.71 Objectives.
931.72 Definitions.
931.73 Eligibility.
931.74 Allowable uses.
931.75 Allotment of section 308(d)(4) environmental and recreational grants.
931.76 Reversion of allotted funds.
931.77 Application for environmental and recreational grants.
931.78 Limitations.

Subpart H—Lateral Seaward Boundaries

931.80 General.
931.81 Establishment of delimitation lines when agreements exist between States.
931.82 Establishment of delimitation lines when no agreements exist between States.
931.83 Establishment of delimitation lines under later compacts or agreements.
931.84 Procedures for defining delimitation lines by equidistance principles.
931.85 Formula grants impounded for disputed areas.

Subpart I—General Provisions

931.90 Allowable costs.
931.91 Administrative procedures.
931.92 Compliance with OMB Circular A-95 requirements.
931.93 Other Federal requirements.
931.94 Environmental review.
931.95 Records.
931.96 Audit.
931.97 Recovery of funds.
931.98 Other sources of Federal funding.
931.99 Coordination with State coastal zone management agency.

Subpart J—Intrastate Allocation of Financial Assistance

931.110 General.
931.111 Objective.
931.112 Intrastate allocation.
931.113 Forms of assistance.
931.114 Appeal to Assistant Administrator.

Subpart K—Allotment of Section 308(b) Formula Grants

931.120 General.
931.121 Definitions.
931.122 OCS regions.
931.123 Impacted State.
931.124 Eligibility.
931.125 Allotment of section 308(b) formula grants.
931.126 Recall of formula grants.

Authority: Section 308, Coastal Zone Management Act of 1972 (Public Law 92-583, 86 Stat. 1280, U.S.C. 1451 et seq.), as amended by Public Law 95-327.

Subpart A—General

§ 931.1 Coastal Energy Impact Program—general description.

The Coastal Energy Impact Program (CEIP) was established under section 308 of the Act to provide coastal states and local governments in such states with Federal financial assistance to meet certain needs that result from specified energy development activities. Such assistance includes:

(a) Grants to coastal states under subsection b(5)(B) for the study of, planning for, development of, and the carrying out of projects and programs to provide new or improved public facilities or public services required as a result of outer continental shelf energy activity;

(b) Grants under subsections (b)(5)(C) and (d)(4) for preventing, reducing, or ameliorating unavoidable losses of valuable coastal environmental or recreational resources when such losses result from coastal energy activity;

(c) Grants under subsection (c)(1) for the study of, and planning for significant economic, social, or environmental consequences in the coastal zone when such consequences result from the siting, construction or operation of new or expanded energy facilities;

(d) Credit assistance under subsections d(1) and d(2) and appropriate forms of repayment assistance under subsections d(3) and b(5)(A) to provide new or improved public facilities or public service required as a result of coastal energy activity;

(e) Grants under subsection c(2) to assist coastal States likely to be affected by outer continental shelf energy activity in carrying out their responsibilities under the Outer Continental Shelf Lands Act.

§ 931.2 Objectives of the CEIP.

(a) The principle objectives of the CEIP are:

(1) To improve and strengthen coastal zone management in the United States by providing financial assistance only for programs and projects that are in accord with the policy of the Coastal Zone Management Act and the coastal zone management objectives of the individual States.

(2) To preserve and enhance the Nation's valuable coastal recreational and environmental resources by

(i) Encouraging the timely and thorough planning for and the management of adverse consequences in the coastal zone caused by energy facility siting and energy resource development; and

(ii) Encouraging coastal States and local governments to exercise effectively their responsibilities to minimize losses to valuable coastal environmental or recreational resources that could result from coastal energy activity.

(3) To advance the National objective of obtaining a greater degree of energy self sufficiency by encoraging the rational and timely development of domestic coastal energy resources and energy resource transportation systems.

(4) To protect and improve the quality of the human environment in the coastal zone by providing financial assistance to coastal States and units of local government for new and improved public facilities required as a result of coastal energy activity.

(5) To provide financial assistance that is simple to administer and that permits the coastal States and units of local government a high degree of control and discretion.

(6) To assist coastal States likely to be affected by outer continental shelf energy activity in carrying out their responsibilities under the OCS Lands Act.

(b) The CEIP will be administered in a manner that will strike a balance between the major National goals of obtaining a greater degree of energy self sufficiency and protecting the coastal environment:

(1) Only coastal energy activity necessary for the rational, timely and orderly development of the Nation's coastal energy resources will be encouraged; and

(2) Unnecessary development in the coastal zone will be discouraged by providing financial assistance only for those public facilities and public services that are actually needed because of coastal energy activity.

Subpart B—Definitions

§ 931.9 Index to definitions.

The following listing includes important terms defined in Part 931 keyed to the section where they are defined.

Term	Section
Act	931.10(a)
Assistant Administrator	931.23
Borrower	931.62
Coastal energy activity	931.13
Coastal zone	931.11
Development	931.17(d)
EIS	931.24(b)
Eligible coastal State	931.25
Energy facility	931.18
Exploration	931.17(c)
First landed	931.121(a)
Fund	931.12
In close proximity to	931.13(d)
Joint funding	931.98(c)
Loss	931.72(c)
NEPA	931.24(a)
New or expanded coastal energy activity	931.15
New or expanded energy facility	931.19
New or improved public facility	931.42(d)
New or improved service	931.42(e)
NOAA	931.22
OCZM	931.22
Outer Continental Shelf	931.16
Outer Continental Shelf energy activity	931.17
Person	931.72(e)
Production	931.17(e)
Public facility	931.42(a)
Public service	931.42(c)
Section	931.10(b)
Significantly affected	931.14
Unavoidable	931.72(d)
Unit of general purpose local government	931.20
Unit of local government	931.21
Valuable environmental resource	931.72(a)
Valuable recreational resource	931.72(b)

§ 931.10 Act.

(a) The term "Act" means the Coastal Zone Management Act of 1972, as amended, (16 U.S.C. 1451 et. seq.).

(b) The term "section" or "subsection" means a section or subsection of the Coastal Zone Management Act of 1972, as amended, unless it is clear from the context that some other meaning is intended.

§ 931.11 Coastal zone.

The "coastal zone" is that area of land and water whose boundaries are determined by a State under § 920.11 of this chapter for purposes of the development of a coastal zone management program under section 305, or under § 923.11 of this chapter for purposes of administering a coastal zone management program under section 306, or as part of a management program which is consistent with the policies set forth in section 303. Such boundaries must be approved by the Assistant Administrator.

§ 931.12 Fund.

The term "Fund" means the Coastal Energy Impact Fund established under section 308(h).

§ 931.13 Coastal energy activity.

(a) The term "coastal energy activity" is limited to the following activities:

(1) Any Outer Continental Shelf energy activity;

(2) Any transportation, conversion, treatment, transfer, or storage of liquefied natural gas; or

(3) Any transportation, transfer, or storage of oil, natural gas, or coal (including, but not limited to, by means of any deepwater port, as defined in section 3(10) of the Deepwater Ports Act of 1974 (33 U.S.C. 1502(10)).

(b) An activity is a "coastal energy activity" only to the extent that:

(1) The conduct, support, or facilitation of such activity requires and involves the siting, construction, expansion or operation of any equipment or facility; and

(2) The Assistant Administrator determines that a technical requirement exists which necessitates that such siting, construction, expansion, or operation be carried out in, or in close proximity to, the coastal zone of any coastal State.

(c) Such technical requirements are limited to:

(1) Dependency on coastal waters;

(2) Safety;

(3) Proximity to oil, natural gas, or coal fields;

(4) Location of markets;

(5) Federal siting regulations or decisions; and

(6) Type and amount of required land.

(d) The siting, construction, expansion, or operation of any equipment or facility shall be considered to be "in close proximity to" the coastal zone of any coastal State if such coastal zone has been or is likely to be significantly affected by such siting, construction, expansion, or operation.

§ 931.14 Significantly affected.

The coastal zone of a coastal State is "significantly affected" by the siting, construction, expansion, or operation of an energy facility if such siting, construction, expansion, or operation:

(a) Causes or is likely to cause population changes in the coastal zone;

(b) Changes or is likely to change employment patterns in the coastal zone, including those in fishing and tourism;

(c) Damages or threatens to damage or degrade any valuable environmental or recreational resources in the coastal zone, including ambient air, water or noise quality, or any other Federal, State, or local environmental standard.

(d) Increases or threatens to increase risks to public health, safety, or real property in the coastal zone.

§ 931.15 New or expanded coastal energy activity.

(a) The term "new or expanded coastal energy activity" means any coastal energy activity of the siting, construction, expansion, initial operation, or replacement, in whole or in part, of any equipment or facility required by the conduct, support, or facilitation of such activity takes place after July 26, 1976.

(b) The term "expansion" includes both the physical expansion of a facility and the expansion of the output of the facility.

(c) The term "initial operation" is intended to include the case in which a previously operating but then idle energy facility is reactivated after July 26, 1976.

§ 931.16 Outer Continental Shelf.

The term "Outer Continental Shelf" or "OCS" means all submerged lands lying seaward and outside of the area of lands beneath navigable waters, as defined in 43 U.S.C. 1301, and of which the subsoil and seabed appertain to the United States and are subject to its jurisdiction and control.

§ 931.17 Outer Continental Shelf energy activity.

(a) The term "Outer Continental Shelf energy activity" means:

(1) Any exploration for, or any development or production of, oil or natural gas from the Outer Continental Shelf; or

(2) The siting, construction, expansion or operation of any new or expanded energy facilities that are directly required by such exploration, development or production.

(b) The term "directly" required by Outer Continental Shelf energy activity refers to a new or expanded energy facility that has a technical requirement that necessitates its location in or in close proximity to the coastal zone and is:

(1) Any equipment or facility used primarily in the exploration for or the development, production or transportation of any oil or natural gas from the Outer Continental Shelf; or

(2) Any facility or equipment used primarily for the manufacture, production or assembly of equipment, machinery, or devices that are necessary to and ordinarily used in the exploration for, or development or production or transportation of oil or natural gas from the Outer Continental Shelf.

Such equipment and facilities include but are not limited to:

(i) Gas processing and treatment plants

(ii) Platform fabrication yards

(iii) Pipe coating yards

(iv) Service bases

(v) Marine pipelines

(vi) Drilling rigs and drill ships

(vii) Production platforms

(viii) Offshore terminals

(ix) Marine repair and maintenance facilities

(x) Oil storage terminals

(c) The term "exploration" means the process of searching for oil or natural gas, including (1) geophysical surveys where magnetic, gravity, seismic, or other systems are uses to detect or imply the presence of oil or natural gas, and (2) any drilling, whether on or off known geological structures, including the drilling of a well in which a discovery of oil or natural gas in paying quantities is made and the drilling of any additional delineation well after such discovery which is needed to delineate any reservoir and to determine whether to proceed with development and production.

(d) The term "development" means those activities which take place following discovery of oil or natural gas in paying quantities, including geophysical activity, drilling, platform construction, and operation of all onshore support facilities, and which are for the purpose of ultimately producing the oil and gas discovered.

(e) The term "production means those activities which take place after the successful completion of any means for the removal of oil or natural gas, including such removal, field operations transfer of oil or natural gas to shore, operation monitoring, maintenance, and work-over drilling.

§ 931.18 Energy facility.

(a) The term "energy facility" means any equipment or facility which is or will be used primarily:

(1) In the exploration for, or the development, production, conversion, storage, transfer, processing, or transportation of, any energy resource; or

(2) For the manufacture, production, or assembly of equipment, machinery, products, or devices which are involved in the activities described in paragraph (a)(1) of this section.

(b) The term includes:

(1) Electric generating plants, including those utilizing fossil or biomass fuels, nuclear power, solar energy, ocean thermal energy conversion, tidal, wave or, wind power, or geothermal energy, and associated transmission systems;

(2) Petroleum refineries and associated facilities;

(3) Gasification plants;

(4) Facilities used for the transportation, conversion, treatment, transfer, or storage of liquefied natural gas;

(5) Uranium enrichment or nuclear fuel processing facilities;

(6) Coal storage, transportation or transfer facilities;

(7) Drilling rigs, platforms, subsea completions, and subsea production systems;

(8) Construction yards for platforms and exploration rigs, pipe coating yards, bases supporting platforms and pipeline installation, and crew and supply bases;

(9) Oil and gas storage facilities;

(10) Marine pipeline systems;

(11) Oil and gas processing facilities;

(12) Facilities, including deepwater ports, for the transfer of petroleum;

(13) Facilities for geopressurized gas; and

(14) Terminals which are associated with any of the foregoing.

§ 931.19 New or expanded energy facility.

The term "new or expanded energy facility" refers to an energy facility whose siting, construction, expansion, initial operation, or replacement, in whole or in part, takes place after July 26, 1976.

§ 931.20 Unit of general purpose local government.

(a) The term "unit of general purpose local government" means:

(1) Any political subdivision of any coastal State that (in whole or in part) is located in or has authority over any portion of such State's coastal zone; or

(2) Any political subdivision of any coastal State that is located within a political subdivision of such coastal State that (in whole or in part) is located in or has authority over any portion of such State's coastal zone; or

(3) Any special entity created by such coastal State or political subdivision that (in whole or in part) is located in or has authority over any portion of such State's coastal zone.

(b) The term "unit of general purpose local government" is limited to those entities described in subsection (a) of this section that provide any public facility or public service financed in whole or in part by taxes or user fees.

§ 931.21 Unit of local government.

The term "unit of local government" means any unit of general purpose local government, as defined in § 931.20 or any agency recognized or designated as an areawide or regional comprehensive planning and development agency pursuant to Office of Management and Budget Circular A-95, under section 204 of the Demonstration Cities and Metropolitan Development Act of 1966, or under Title IV of the Intergovernmental Cooperation Act of 1968.

§ 931.22 NOAA and OCZM.

(a) The acronym "NOAA" means the National Oceanic and Atmospheric Administration, U.S. Department of Commerce.

(b) The acronym "OCZM" means the Office of Coastal Zone Management of the National Oceanic and Atmospheric Administration, U.S. Department of Commerce.

§ 931.23 Assistant Administrator.

The term "Assistant Administrator" means the Assistant Administrator for Coastal Zone Management, National Oceanic and Atmospheric Administration, U.S. Department of Commerce.

§ 931.24 NEPA and EIS.

(a) The acronym "NEPA" means the National Environmental Policy Act of 1969 (42 U.S.C. 4321 et seq.).

(b) The acronym "EIS" means an Environmental Impact Statement prepared pursuant to NEPA.

Subpart C—Basic Eligibility

§ 931.25 Eligible coastal State.

(a) No coastal State is eligible to receive an allotment or any financial assistance under this Part unless such State:

(1) Has a management program that is approved under section 306; or

(2) Is receiving a grant under sections 305(c) or (d); or

(3) Is making, in the judgment of the Assistant Administrator, satisfactory progress toward the development of a management program that is consistent with the policies set forth in section 303; and

(4) The governor of such State has designated a State agency or agencies:

(i) To apply for financial assistance under section 308;

(ii) To assure, to the maximum extent practicable, that financial assistance provided under section 308 is apportioned, allocated, and granted to units of local government within such State on a basis which is proportional to the extent to which such units need such assistance; and

(iii) To receive and administer section 305 grants or section 306 grants pursuant to § 923.91 of this chapter, or to administer a State coastal management program which is consistent with the policies set forth in section 303.

(b) While preferable in terms of coordination, it is not required that a single agency perform all three functions stated in (a)(4) and it is permissible to designate a separate agency to apply for and receive financial assistance under section 308(c)(2). However, in the event different agencies are designated under (a)(4)(i), (ii), and (iii), one agency must be designated to assure coordination with the others.

§ 931.26 Satisfactory progress.

(a) The Assistant Administrator shall judge that a State is making satisfactory progress toward the development of a management program consistent with the policies set forth in section 303 if one of the following conditions is met:

(1) A coastal State has exhausted its eligibility for program development funding under section 305 without achieving program implementation approval under section 306, but is still pursuing development and implementation of a management program consistent with the policies set forth in section 303; or

(2) A coastal State's eligibility for program funding under section 305 or section 306 has been suspended or terminated but the State is making adequate efforts to reacquire eligibility under sections 305 or 306 while still pursuing development of a management program consistent with the policies set forth in section 303; or

(3) A coastal State is otherwise pursuing a comprehensive management program which is consistent with the policies set forth in section 303 and for good cause shown is not developing or implementing such program under sections 305 or 306.

(b) The phrase "consistent with the policies set forth in section 303" refers to a management program which incorporates:

(1) Policies which provide for the preservation, protection, development, and, where possible, the restoration or enhancement of the resources of the State's coastal zone;

(2) Provisions which insure wise use of the land and water resources of the coastal zone, giving full consideration to ecological, cultural, historic, and esthetic values, as well as to needs for economic development. Such provisions shall include, but are not limited to:

(i) Identification of a coastal zone which is capable for being delineated and which is subject to management under the program;

(ii) Identification of permissible land and water uses for the area within the coastal zone;

(iii) Procedures for assuring that land and water uses of regional and national benefit are not arbitrarily restricted or excluded in policies or management mechanisims developed pursuant to the State's program;

(iv) State and local legal authorities and organizational structures sufficient to effectuate management over identified land and water uses within the coastal zone; and

(v) Coastal zone water pollution and air pollution control consistent with the requirements of the Clean Water Act, as amended, and the Clean Air Act, as amended.

(3) An adequate opportunity for Federal agencies having interests affecting the State's coastal zone to participate in the development of the State's management program and have their views adequately considered; and

(4) An adequate opportunity for local governments, State and regional agencies, commercial and industrial groups, and the general public to participate in the development of the State's management program and have their views adequately considered.

§ 931.27 Eligibility determination.

Before allotting or awarding any financial assistance to any coastal State under this Part the Assistant Administrator will determine whether the State is eligible as described in this Subpart C. No allotments will be made and no funds will be awarded if the State is not eligible, and all funds previously allotted will be held in the State's account until the end of the fiscal year in which the State is deterimined to be not eligible. If the State has not regained eligibility under this Subpart by the end of that fiscal year those funds will be reallotted among other eligible coastal States as soon as practicable.

Subpart D—Planning for the Consequences of Energy Facilities

§ 931.30 General.

This subpart sets forth the objectives of providing planning assistance to coastal States under sections 308(c)(1) and 308(b) and its allowable uses. It also describes procedures for allotting section 308(c)(1) moneys among eligible coastal States and for applying for planning assistance under sections 308(c)(1) and 308(b). Procedures for allotting section 308(b) assistance are described in Subpart K.

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§ 931.31 Objectives.

The objectives of assistance under this subpart are:

(a) To assist coastal States and units of local government in the study of and planning for any economic, social, or environmental consequence which has occurred, is occurring, or is likely to occur in such State's coastal zone as a result of the siting, construction, expansion, or operation of new or expanded energy facilities;

(b) To encourage rational, timely, and thorough planning for and the management of the impacts from energy resource development;

(c) To help coastal States and units of local government plan for the provision of public facilities and public services required as a result of OCS energy activity.

§ 931.32 Eligibility for planning assistance under this subpart.

(a) A coastal State is eligible for financial assistance if it meets the basic eligibility requirements of Subpart C.

(b) A unit of local government may apply for assistance under this Subpart through its State.

§ 931.33 Allowable uses of planning grants.

(a) Allowable uses of section 308(c)(1) funds include:

(1) Studying and planning for any economic, social, or environmental consequence that has occurred, is occuring, or is likely to occur in the coastal zone as a result of siting, constructing, expanding of operating new or expanded energy facilities that significantly affect the coastal zone including, but not limited to, the following:

(i) Effects on population;

(ii) Effects on employment patterns;

(iii) Effects on demand for housing, and public facilities and services;

(iv) Effects on economic resources such as tourism and fishing;

(v) Effects on environmental and recreational resources such as wetlands, beaches, barrier islands, estuarine and marine sanctuaries, and air, water and noise quality.

(vi) Effects on ecological systems and wildlife habitat;

(vii) Effects on shoreline erosion;

(viii) Effects on public safety;

(ix) Effects on local economic conditions such as local price inflation;

(x) Effects on tax and user fee revenues and intergovernmental transfers.

(2) Planning studies, such as the following, provided they are related to the siting, construction, expansion or operation of new or expanded energy facilities that significantly affect the coastal zone.

(i) Analyzing federal, state or local regulatory decisions or policies;

(ii) Performing cost/benefit analyses or otherwise comparing the consequences of alternative energy facility sites or types;

(iii) Devising strategies or plans for protecting valuable coastal environmental or recreational resources;

(iv) Devising strategies for preventing or mitigating adverse social or economic impacts;

(v) Devising strategies or plans for maintaining or improving public safety;

(vi) Forecasting employment, population, public facility and service needs and costs, and tax or user-fee revenues.

(vii) Supplementing or coordinating on-going planning activities such as Water Quality Management Plans under the Clean Water and Air Quality Plans under the Clean Air Act.

(3) Any allowable use described in paragraphs (a)(1) or (2) of this section if it is related to the phasing out or termination of operation of new or expanded energy facilities.

(4) Paying for the reasonable costs of administering the provision of assistance under section 308 including designing and carrying out an intrastate allocation process as described in Subpart J.

(5) Developing and applying to specific locations and energy facilities an energy planning process that meets the requirements of section 305(b)(8).

(6) Preparing the environmental analysis required for any project that is funded under section 308.

(7) Planning for the provision of public facilities eligible for funding under section 308 including engineering feasibility studies.

(b) Allowable uses of section 308(b) planning grants under this Subpart include:

(1) Planning and study that are necessary to provide new or improved public facilities and public services which are required as a result of OCS energy activity including, but not limited to, the following:

(i) Architectual and engineering services for the design and construction of new or improved public facilities required as a result of OCS energy activity;

(ii) Preparing the environmental analysis required for any project or program which is necessary to provide new or improved public facilities or services required as a result of OCS energy activity;

(iii) Forecasting the demand for new or improved public facilities or services which may be required as a result of OCS energy activity;

(iv) Analyzing the effect of secondary development that may be induced by the construction of new or improved public facilities or the provision of public services required as a result of OCS energy activity; and

(v) Performing cost benefit analysis or otherwise evaluating or comparing the consequences of alternate sites, designs or types of public facilities and public services required as a result of OCS energy activity.

(2) Paying for the reasonable costs of administering the provision of assistance under section 308 including designing and carrying out the intrastate allocation process described in Subpart J to the extent that funding for these administrative costs is not available under section 308(c)(1).

(c) All awards and expenditures of funds under this Subpart are subject to the applicable requirements of Subpart I.

§ 931.34 Limitations.

(a) Grants awarded to a coastal State under section 308(c)(1) may not exceed 80 percent of the actual cost of the study or planning. States may use in-kind contributions as the non-Federal matching share in accord with Office of Management and Budget Circular A-102.

(b) Although the use of section 308(c)(1) planning assistance must be related to new or expanded energy facilities that significantly affect the coastal zone, there is no requirement that the use of this planning assistance be tied to the specific energy facilities on the planning inventory described in § 931.35 because it is recognized that the planning inventory will not in all cases capture every new or expanded energy facility.

(c) Section 308(c)(1) planning assistance may not be used for general, energy related, studies or plans divorced from actual, proposed, or likely new or expanded energy facilities that significantly affect the coastal zone.

§ 931.35 Planning inventory.

(a) At the end of each fiscal year the Assistant Administrator will compile for each eligible coastal State an inventory of new or expanded energy facilities that have significantly affected, are significantly affecting, or are likely to significantly affect the coastal zone of that State.

(b) The purpose of the planning inventory is:

(1) To identify those significant social, environmental or economic consequences in the coastal zone that may be prevented, mitigated or controlled through proper study and planning; and

(2) To provide a basis for estimating the relative planning need among coastal States eligible to receive financial assistance under section 308(c)(1).

(c) To assure that the planning inventory reasonably reflects actual planning need, new or expanded energy facilities that significantly affect the coastal zone will be placed on the planning inventory only if:

(1) A state or federal permit has been applied for to site, construct, expand or initially operate such facility;

(2) The facility is described in an OCS exploration or development and production plan submitted to the Department of the Interior.

(3) The Assistant Administrator determines on the basis of reasonable evidence submitted by the eligible coastal State that such facility is likely to be sited, constructed, expanded or initially operated in the near future.

(d) To assure an equitable distribution of financial assistance among coastal States, facilities shall not be placed on the planning inventory or shall be removed from the planning inventory if:

(1) Such facility began operating at planned capacity in the fiscal year for which the inventory is compiled;

(2) Such facility has been on the inventory for a total of four fiscal years for which the State has received section 308(c)(1) assistance; or

(3) The Assistant Administrator determines that the study of, or planning for, the consequences of such facility is no longer required.

(e) The Assistant Administrator may allow facilities to remain on the inventory for more than four fiscal years if the State can demonstrate that such inclusion is necessary to prevent significant impacts on the coastal zone.

§ 931.36 Section 308(c)(1) allotment formula.

(a) The Assistant Administrator will develop a formula for allotting section 308(c)(1) funds among eligible coastal States. This formula will be designed to estimate the need to plan for the social, economic and environmental consequences associated with the siting, construction, expansion or operation of new or expanded energy facilities that significantly affect the coastal zone.

(b) Each fiscal year, before computing an allotment the Assistant Administrator will submit this formula to all eligible coastal States for review and comment. If appropriate the formula will be revised before any final allotments are calculated.

§ 931.37 Allotment of 308(c)(1) planning grants among coastal States.

(a) Funds available in a fiscal year under section 308(c)(1) shall consist of:

(1) Funds appropriated under section 308(c)(1) for that fiscal year;

(2) Funds allotted in previous fiscal years under section 308(c)(1) reverting to the Assistant Administrator under § 931.39 because they were not applied for by the recipient coastal State within the time periods allowed by that section;

(3) Funds allotted in previous years under section 308(c)(1) recalled under § 931.97 because such funds were expended for unauthorized uses; and

(4) Funds from any other sources that may be used in that fiscal year under section 308(c)(1).

(b) The Assistant Administrator will allot available section 308(c)(1) funds among eligible coastal States according to the following procedures.

(1) *State Review.* It is the intent of the Assistant Administrator to provide to each eligible coastal State thirty (30) days before the beginning of each fiscal year for which funds under section 308(c)(1) are available the following information:

(i) The inventory of new or expanded energy facilities (planning inventory) described in § 931.35; and

(ii) the allotment formula described in § 931.36. The States will have 30 days to submit comments to the Assistant Administrator who will revise the inventory or formula as appropriate. Final allotments will be calculated within 30 days after the end of the 30-day State review period.

(2) *Minimum Share.* The Assistant Administrator will allot to each eligible coastal State an equal minimum share. This minimum share will be an amount which in the Assistant Administrator's discretion is considered sufficient to allow the recipient State to effectively participate in the CEIP. However, the minimum share will not be less than $35,000.

(3) *Formula Share.* The funds remaining after the minimum shares are subtracted from the total amount available will be allotted according to the formula described in § 931.36.

(4) *Maximum Allotment.* An eligible coastal State's allotment of section 308(c)(1) funds will be the sum of the minimum share and the formula share except that no State's allotment may exceed 20% of the total amount available.

(i) If the sum of the minimum share and the formula share exceeds 20% of the amount available under section 308(c)(1) the allotment of such State will be reduced to an amount equal to 20% of the amount available. Any excess funds obtained by reducing State allotments will be redistributed among the other eligible coastal States using the allotment formula.

(ii) If after reducing any State's allotment to the maximum amount it is not mathematically possible to redistribute the excess funds without exceeding the 20% ceiling then the redistribution of such excess funds will be carried out without regard for the ceiling.

§ 931.38 Application for planning grants.

(a) Applications for planning assistance under this Subpart should be submitted as soon as allotments of section 308(c)(1) or section 308(b) funds are calculated.

(b) It is the intent of the Assistant Administrator to process completed applications within 45 days of receipt.

(c) Applications for assistance under this Subpart should be submitted on NOAA Form 36-25 and must contain the following certifications and information:

(1) A certification by the State agency designated under § 931.25 that the planning assistance has been or will be allocated within the State in accord with the intrastate allocation process described in subpart J of this part;

(2) A certification by the State agency designated under § 931.25(a)(4)(iii) that the planning assistance will be used in a manner that is compatible with the State's developing, or consistent with the State's approved, coastal zone management program;

(3) A showing, if the application for assistance has not been submitted to the Project Notification and Review System established by OMB Circular No. A-95 (Part I), that a memorandum of agreement for coordinating planning under section 308 has been consummated with appropriate areawide clearinghouses in the State's coastal zone, pursuant to Part IV, Attachment A, of OMB Circular A-95; and

(4) A brief description of the activity or activities to be performed indicating the relationship to allowable uses under § 931.33.

(d) In addition, applications for section 308(b) grants must contain assurances that the State will repay to the United States:

(1) Any amount received under section 308(b) that the Assistant Administrator determines was expended or committed by the State for

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purposes not authorized under this Subpart.

(2) Any amount received under section 308(b) that is not expended or committed before the close of the fiscal year following the fiscal year in which the amount was awarded to the State.

§ 931.39 Reversion of funds allotted under section 308(c)(1).

(a) Subject to the requirements of subsection (b), allotted funds for which applications are not received in the fiscal year for which the funds are allotted will revert to the Assistant Administrator at the end of that fiscal year;

(b) Allotted funds, for which applications received in the fiscal year of allotment are disapproved or withdrawn, will remain available for reapplication for 60 days after disapproval or withdrawal without regard to the fiscal year limitation on the submission of applications established by paragraph (a).

(c) Funds reverting to the Assistant Administrator under this section will be realloted as soon as practicable among eligible coastal States according to the procedures of this Subpart.

Subpart E—Financing Public Facilities and Public Services

§ 931.40 General.

(a) This Subpart states the objectives for providing assistance to coastal States and units of general purpose local government to finance new or improved facilities and public services under sections 308(d) (1) and (2) and sections 308(b)(5) (B) and (C). This Subpart also describes the procedures for allotting section 308(d) credit assistance among eligible coastal States and the procedures for applying for credit assistance and section 308(b) formula grants to construct new or improved public facilities or to provide new or improved public services.

(b) The procedures for allotting section 308(b) formula grants are described in Subpart K.

§ 931.41 Objectives.

The objectives of assistance under this subpart are:

(a) To help coastal States and units of general purpose local government provide new or improved public facilities and public services needed because of coastal energy activity or OCS energy activity;

(b) To provide front-end financing that can be expected to be repaid later from revenues generated by the coastal energy activity;

(c) To assure that necessary development in coastal areas is consistent with State coastal zone management objectives, the safeguarding of valuable national coastal environmental and recreational resources, and public safety; and

(d) To discourage unnecessary development in the coastal zone by providing assistance only for those public facilities and public services actually needed because of coastal energy activity or OCS energy activity.

§ 931.42 Definitions.

(a) The term "public facility" includes, but is not limited to, the facilities listed in subsection (b) to the extent they are owned, operated, or financed by the State or unit of general purpose local government. The term "public facility" does not include facilities to the extent they primarily serve industrial facilities unless:

(1) Industrial user charges will be a primary source of revenue to repay the loan received or obligation guaranteed under this subpart; or

(2) The Assistant Administrator finds that the facility is necessary to prevent significant adverse impacts in the coastal zone.

(b) *Public Facility.* (1) *Education.* Day care centers; primary, secondary, and general vocational schools, including portable classrooms and temporary facilities; school equipment; libraries, including books and equipment;

(2) *Environmental protection.* Facilities and equipment used to: improve, monitor, or prevent degradation of air, water, noise or solid waste standards; prevent or mitigate damage to environmental or recreational resources; assure the continued viability of fish, shellfish, and wildlife habitat; prevent or control erosion. Land aquisition for environmental protection;

(3) *Government administration.* Facilities and equipment essential for general government administration;

(4) *Health care.* Emergency medical facilities and equipment, including ambulances; clinic and hospital buildings and equipment; alcohol and drug abuse centers; emergency shelter and sanitary facilities; and epidemiological screening or other assistance to assure community health.

(5) *Public safety and law enforcement.* Detention centers, police equipment and stations, fire stations and firefighting equipment, fire training centers, animal control facilities, communication facilities and equipment, and rescue facilities and equipment;

(6) *Recreation.* Facilities and equipment for amateur sports and performing arts, community recreational centers, local parks and playgrounds acquisition of parkland or beaches or of public access to such land or beaches;

(7) *Transportation.* Street and street lighting, roads, bridges, road maintenance equipment, parking associated with public facilities, docks, air and water navigation aids, canals and navigation facilities, air terminals in remote areas, mass transit including bus and ferry systems;

(8) *Public utilities.* Electric generating plants and distribution systems; natural gas distribution systems; solid waste collection systems; waste collection and treatment systems, including drainage; water supply systems; and telephone systems.

(9) *Housing.* Single and multi-family housing owned and operated by a public entity and all necessary public infrastructure to support public housing developments.

(c) The term "public service" means any service authorized by law to be provided by a State or unit of general purpose local government to the extent that it is provided or financed by a State or unit of general purpose local government. The term "public service" does not include a service to the extent it primarily serves industrial users unless:

(1) Industrial user charges will be a primary source of revenue to repay the loan received or obligation guaranteed under this Subpart; or

(2) The Assistant Administrator finds that this service is necessary to prevent or mitigate significant adverse impacts in the coastal zone.

(d) A public facility is considered "new or improved" if it is constructed, expanded, renovated, initially operated, or if its efficiency is improved after July 26, 1976.

(e) A public service is considered "new or improved" if:

(1) The proposed type or increased level of service was not offered in the fiscal year before the application for assistance for such service, or

(2) If it improves the efficiency of existing public services.

§ 931.43 Eligibility.

(a) To be eligible for financial assistance under this Subpart, a coastal State must meet the basic eligibility requirements of Subpart C.

(b) A unit of general purpose local government may apply for assistance under this Subpart through its State.

§ 931.44 Allowable uses.

(a) Credit assistance available from the Fund under sections 308(d) (1) and (2) is to be used to finance new or improved public facilities and public services that are required as a result of coastal energy activity.

(b) Grant assistance under section 308(b) is to be used for the development of, and the carrying out of projects and programs necessary to provide new or improved public facilities and public services that are required as a result of OCS energy activity.

(c) The following are allowable project costs under this Subpart to the extent they are reasonable and necessary to provide new or improved public facilities or public services:

(1) Land acquisition including fee simple, leases, easements, and rights-of-way.

(2) Architectural, engineering, and other technical service fees or costs except that:

(i) Compensation must be comparable to the cost of similar work awarded through open competitive bidding;

(ii) Compensation must not be based on a cost plus a percentage-of-cost; and

(iii) Design and performance standards must conform to professionally recognized national standards.

(3) Construction expenses, including, but not limited to, construction materials, fixtures, appurtenances, and fixed machinery and equipment. The purchase of movable construction related equipment such as dump trucks and excavating equipment will be allowable only if expressly authorized in the grant or loan agreement;

(4) Site preparation and improvement;

(5) The acquisition of movable equipment essential for the maintenance of new or improved public facilities or services; and

(6) Public services to the extent that the applicant can illustrate that State or local funds will be available to meet the cost of the service in the future; or that the service is of the type that a one-time expenditure of funds will meet a stated goal without the dependency of future funding for successful completion.

(7) The assessment and mitigation of environmental, social, and economic impacts of the proposed project.

(8) The following, but only if the project or program is funded under sections 308(d) (1) or (2):

(i) Capitalized interest during construction for a project in which it is necessary or advantageous for the recipient to borrow funds to finance construction costs and where State law permits such a loan.

(ii) Capitalized interest during development limited to that which is required to meet interest payments after the project is operating but before income is sufficient to provide such payment. However, such amounts will be an eligible project cost only to the extent that the recipient does not have any other funds or sources of revenue for such interest payments.

(iii) Initial public service expenses (operating costs) including supply inventories, salaries and utilities limited to those required to meet public service expenses after the project is operating but before income is sufficient to provide for such services. However, such amounts will be an eligible project cost only to the extent that the recipient does not have any other funds or sources of revenue for such public service expense.

(d) All awards and expenditures of funds under this Subpart are subject to the applicable requirements specified in Subpart I.

§ 931.45 Credit assistance inventory.

(a) At the end of each fiscal year the Assistant Administrator will compile for each eligible coastal State an inventory of new or expanded coastal energy activities.

(b) The purpose of this inventory is:

(1) To identify those new or expanded coastal energy activities that have caused, are causing, or are likely to cause a need for new or improved public facilities and public services; and

(2) To provide a basis for estimating the relative need for credit assistance among eligible coastal States.

(c) To assure that the credit assistance inventory reasonably reflects actual need for new or improved public facilities and public services, a new or expanded coastal energy activity will be placed on the inventory only if the Assistant Administrator determines that such activity is likely to necessitate new or improved public facilities or public services, and

(1) A major state or federal permit has been approved to conduct such activity; or

(2) Such activity is described in exploration plans or production and development plans approved by the Department of the Interior; or

(3) The Assistant Administrator, based on reasonable evidence submitted by the State, determines that such activity is likely to be carried out in the near future.

(b) To assure an equitable distribution of credit assistance among coastal States, a coastal energy activity will not be placed on the inventory for a fiscal year if such activity:

(1) Was on the inventory in any preceding fiscal year in which credit assistance was allotted to the State on account of this activity; and

(2) The Assistant Administrator determines that adequate credit assistance was allotted to a coastal State as a result of such activity. The State may submit evidence to the Assistant Administrator showing the inadequacy of any credit assistance allotment.

§ 931.46 Allotment formula.

(a) The Assistant Administrator will develop a formula for allotting funds appropriated under sections 308(d) (1) and (2). This formula will be designed to estimate the need for new or improved public facilities and services and will be based on, and limited to, the following factors:

(1) The number of additional individuals who are expected to become employed in new or expanded coastal energy activity and will reside in the coastal State;

(2) The new population in the Coastal State associated with such energy activity; and

(3) The standardized unit costs for new or improved public facilities and public services required as a result of such expected employment and related new population.

(b) The Assistant Administrator may periodically review and, if appropriate, revise this formula on the basis of the best available data concerning the need for public facilities and services created by coastal energy activity. However before making any revisions in the formula the Assistant Administrator will submit any proposed changes to all eligible coastal States for comment.

§ 931.47 Allotment of credit assistance.

(a) *State review.* (1) It is the intent of the Assistant Administrator to provide to each eligible coastal State thirty (30) days before the beginning of each fiscal year for which funds under section 308(d)(1) have been appropriated the following information:

(i) The inventory of coastal energy activity described in § 931.45 on which the allotment of appropriated funds will be based;

(ii) Data on new employment and related new population for each activity on the credit assistance inventory;

(iii) The allotment formula described in § 931.46; and

(iv) A description of the procedures for computing the allotment.

(2) Eligible coastal States will have 30 days to submit comments on this information to the Assistant Administrator who will revise the inventory, employment and population

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data, formula, and allotment computations as appropriate.

(3) Final allotments will be calculated no more than 30 days after the end of the 30-day State review period.

(b) *Allotment Computation.* After the State review described in paragraph (a) a public facility and public serviced need equivalency will be calculated for each activity shown on the credit assistance inventory by applying the allotment formula to each such activity. A State's need factor will be the sum of the need factors for all activities on that State's credit inventory. A State's allotment of credit assistance will equal the product of:

(1) The amount appropriated under section 308(d) (1) and (2); and

(2) The ratio of that State's public facility and public service need equivalency to the sum of the public facility and public service need equivalencies of all States.

§ 931.48 Recall and reversion of allotted credit assistance.

(a) This section applies only to credit assistance allotted under § 931.47.

(b) Allotted credit assistance may be recalled by the Assistant Administrator 30 days after notification of the State agency designated in § 931.25(a)(4).

(1) No credit assistance will be recalled before July 1 of the fiscal year in which the credit assistance was allotted.

(2) Allotted credit assistance for which an application or request for extension is submitted before July 1 will remain available to the State until award or the application is withdrawn or disapproved.

(3) The time for submitting applications will not be extended beyond January 1 of the following fiscal year.

(4) Allotted credit assistance for which timely applications have been disapproved or withdrawn will remain available to the State for reapplication for 90 days after the disapproval or withdrawal without regard to any limitations on the submission of applications established by this section.

(c) A request for extension must contain:

(1) The name of the expected applicant for the credit assistance;

(2) The use to which the assistance would be put;

(3) The amount of funding to be requested;

(4) The date an application is expected to be submitted; and

(5) An explanation of how the project is required as a result of coastal energy activity.

(d) Allotted funds for which neither an application nor a request for extension is received by the end of the fiscal year in which such funds were allotted will revert to the Assistant Administrator at the end of that fiscal year.

§ 931.49 Application for recalled or reverted credit assistance.

(a) Funds recalled by or reverted to the Assistant Administrator under § 931.48 will be available to all eligible coastal States by application according to the procedures of this section.

(b) Coastal States may submit applications for loans at any time.

(c) Priority among loan applications will be based on the priority in submitting a completed application.

(d) Under exceptional circumstances the Assistant Administrator may grant priority to a later application on the basis of:

(1) Immediacy of need;

(2) Degree of impact sought to be prevented or mitigated;

(3) Equity of distribution of CEIP credit assistance; and

(4) Availability of other financing, including private sources.

(e) No State will receive more than 50% of the amount available under this section in any fiscal year.

§ 931.50 Application for financial assistance to provide public facilities and services.

(a) Applications for credit assistance under this Subpart should be submitted on NOAA Form 36–23. Applications for formula grants should be submitted on NOAA Form 36–25 for construction projects and on NOAA Form 36–26 for nonconstruction projects. Applications should be submitted as soon as allotments of section 308(b) grants and section 308(d) credit assistance are computed.

(b) It is the intent of the Assistant Administrator to process completed applications within 45 days of receipt unless an EIS for the proposed project is required.

(c) All applications for assistance under this Subpart must contain the following:

(1) A certification by the State agency designated under § 931.25(a)(4)(ii) that the assistance has been or will be allocated within the State in accord with the intrastate allocation process described in Subpart J of this part;

(2) A certification by the State agency designated under § 931.25(a)(4)(iii) that the assistance will be used in a manner that is compatible with the State's developing, or consistent with the State's approved, coastal zone management program;

(3) For construction projects, as defined in Office of Management and Budget Circular A–102, the following:

(i) Environmental impact assessment data in sufficient detail to allow the Assistant Administrator to determine whether an EIS will be required under NEPA;

(ii) Copies of all necessary Federal, State and local permit or license applications or approvals;

(iii) A map showing the project in relation to the coastal zone; and

(iv) A Preliminary Engineering Report.

(4) A showing that such applications for assistance have complied with the requirements of the Project Notification and Review System established by Office of Management and Budget Circular A–95 (Part I).

(d) In addition to the certifications and information described in subsection (c) applications for credit assistance must contain the following information:

(1) A description of the coastal energy activity, the impacts that are sought to be prevented or mitigated, and the proposed public facility or public service in sufficient detail to allow the Assistant Administrator to verify that the proposed public facility or service is required as a result of coastal energy activity.

(2) An estimate of current levels of utilization of public facilities and public services in the borrower's jurisdiction similar to those for which credit assistance is sought; and

(3) Appropriate fiscal schedules, including financial and economic information, required to evaluate the payback potential on the request for credit assistance. Such fiscal schedules will include the best available historical data on the revenues and expenditures of the borrower for five years preceding the year of application.

(4) The information contained in the fiscal schedules described in paragraph (b)(3) of this section will be used to negotiate with the borrower the terms and conditions of the loan or guarantee agreements as described in § 931.52(c) and § 931.53(f) and will be used in setting the conditions under which repayment assistance will be available, as incorporated into the terms and conditions of the loan or guarantee agreements.

(e) In addition to the certifications and information described in subsection (c) applications for formula grants must contain the following:

(1) A description of the OCS energy activity, the impacts sought to be prevented or mitigated, and the

proposed public facility or public service in sufficient detail to allow the Assistant Administrator to verify that the proposed public facility or service is required as a result of OCS energy activity;

(2) Assurances that the State will repay to the United States:

(i) Any amount received under section 308(b) that the Assistant Administrator determines was expended or committed by the State for purposes not authorized under this Subpart,

(ii) Any amount received under section 308(b) that is not expended or committed before the close of the fiscal year following the fiscal year in which the amount was awarded to the State.

(f) Before awarding any financial assistance under this Subpart the Assistant Administrator will determine whether an EIS will be required and prepare an EIS when necessary.

§ 931.51 Special requirements for section 308(d)(1) loans.

(a) *Interest rate.* The interest rate shall be the current average market yield for outstanding marketable obligations of the United States with remaining periods to maturity comparable to the maturity of such loans. The Assistant Administrator may under special circumstances approve lower interests rates. The Assistant Administrator will provide to all coastal States criteria for determining under what conditions special circumstances will be found. These criteria will be updated periodically.

(b) *Eligibility.* A loan to an otherwise eligible borrower may be made even though the fiscal schedules described in § 931.50(d)(3) or other financial information does not indicate adequate coverage for debt service. Loans may be made under section 308(d)(1) to State agencies established for the purpose of financing public facilities. Such loans shall be subject to such terms and conditions as the Assistant Administrator may prescribe.

(c) *Loan agreements.* Each loan agreement will incorporate in detail the conditions of the loan including repayment assistance described in Subpart F of this part. These conditions will be binding upon the Assistant Administrator and the borrower.

(d) *Repayment schedule.* Each loan agreement will contain a mutually agreed-upon repayment schedule, which will be tailored to the repayment ability of the borrower as indicated in the fiscal schedule described in § 931.50(d)(3) or in other financial information. This repayment schedule will set forth the borrower's annual loan service (principal and interest) payments. The borrower may accelerate payment with no prepayment penalties.

(e) *Maturity of loans.* Loans will be made for a period not to exceed the normal useful life of the project. In no event will a loan be made with a maturity exceeding 30 years from the date of the final loan closing.

(f) *Security.* Loans made under section 308(d)(1) will be secured as determined by the Assistant Administrator and in the manner customary or legally allowed under respective State statute and local government charters and ordinances for projects of the type for which credit assistance is requested. NOAA's interest may be perfected, where appropriate, by a filing under the Uniform Commercial Code as adopted by the subject State, or, in any jurisdiction where the Uniform Commercial Code has not been enacted, by the recording of a mortgage.

(g) *Disbursement of loan funds.* Loan funds may be disbursed on a phased basis. Approval of such loan advances will be made after receipt by the Assistant Administrator of:

(1) A favorable preliminary approving opinion of bond counsel on the validity of the proposed interim and final bond or promissory note and,

(2) Satisfactory evidence of receipt of firm construction, service, and/or supply bids as well as compliance with the other loan conditions required to be fulfilled before disbursement. Advances or partial purchases will ordinarily be made in units of not less than 25 percent spaced so as to enable the borrower to pay incurred costs as they come due. Advances must be deposited in a bank with Federal Deposit Insurance Corporation coverage, and the balances exceeding such coverage must be collaterally secured as provided in 12 U.S.C. 265.

(h) *Interim financing on loan projects.* The terms and conditions of the interim financing are subject to prior approval. Upon request, the borrower will be provided with an appropriate letter of intent to aid the borrower in obtaining interim financing from sources other than the CEIP.

(i) *Bond counsel.* The borrower shall retain bond counsel to represent it in each loan transaction. Such bond counsel must receive the prior approval of the Assistant Administrator.

§ 931.52 Special requirements for section 308(d)(2) Federal guarantees.

(a) *Eligibility.* A borrower's legal debt will be considered eligible for guarantee under this subpart if the Secretary of the Treasury approves such debt and it meets other requirements set forth in section 308(f).

(b) *Taxable obligations.* The interest paid on any obligation which is guaranteed under section 308(d)(2) and which is received by the purchaser of such obligation (or the purchaser's successor in interest) shall be included in gross income for the purposes of chapter 1 of the Internal Revenue Code of 1954.

(c) *Interest subsidy.* The Assistant Administrator may pay out of the Fund, pursuant to the terms of the bond or other evidence of indebtedness, to the coastal State or the unit of general purpose local government issuing an obligation guaranteed under section 308(d)(2) not more than the portion of the interest on such obligation as exceeds the amount of interest that would be due at a comparable rate for loans made under section 308(d)(1) at the time the obligation is guaranteed by the Assistant Administrator.

(d) *Fees for guarantees.* A fee will be levied for providing a Federal guarantee. This fee will be set on the basis of the administrative costs incurred in providing and monitoring such guarantee. The fee may be waived in the event repayment assistance (as described in Subpart F of this part) is required.

(e) *Default procedures and guarantee incontestability.* If a borrower defaults on a bond or other evidence of indebtedness guaranteed under the Fund, the holder of the bond or other evidence of indebtedness may demand, pursuant to the terms of the bond or other evidence of indebtedness, payment from the Assistant Administrator of the principal and accrued interest of the obligation in accord with section 308(f)(5)(B). The validity of such a guarantee shall be considered incontestable, except when the holder of the obligation is guilty of fraud or misrepresentation or was aware of fraud or misrepresentation at the time he purchased the obligation.

(f) *Guarantee agreements.* Each obligation guaranteed under this subpart will entail agreements setting forth in detail the conditions under which the repayment assistance described in subpart F of this part will be available. These conditions will be binding upon the borrower. In addition, all provisions in the underlying documents for obligations guaranteed under section 308(d)(2) will be subject to the approval and will contain such additional provisions as the Assistant Administrator may require.

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(g) *Bond counsel.* The borrower shall retain bond counsel to represent it in each guarantee transaction. Such bond counsel must receive the prior approval of the Assistant Administrator.

Subpart F—Repayment Assistance

§ 931.60 General.

This Subpart sets forth objectives, purposes and procedures for awarding various forms of repayment assistance under sections 308(d)(3) and 308(b)(5)(A).

§ 931.61 Objectives.

The objectives of the repayment assistance are to ensure that:

(a) Credit obligations will be modified and tailored according to ability to repay so that defaults can be avoided; and

(b) Net fiscal losses to the States or units of general purpose local government resulting from coastal energy activity will be minimized.

§ 931.62 Definitions.

The term "borrower" refers to an eligible coastal State, a special purpose agency of the State, or a unit of general purpose local government that has been awarded credit assistance under sections 308(d)(1) or (d)(2).

§ 931.63 Purposes.

(a) The purpose of repayment assistance under sections 308(d)(3)(A–C) is to assist a borrower who is temporarily unable to meet scheduled repayments of loans or guaranteed obligations.

(b) The purpose of a repayment grant under section 308(b) is to assist a borrower in meeting scheduled repayments of a guaranteed bond when the remedies of sections 308(d)(3)(A–C) are inadequate.

(c) The purpose of a repayment grant from a State's allotted credit assistance from the Fund under section 308(d)(3)(D) is to assist a borrower in meeting scheduled repayments of a loan or guaranteed obligation when the remedies of sections 308(d)(3)(A–C) are inadequate and formula grants are not available for that purpose. If the State's allotment is insufficient, a grant will be made from the Fund.

§ 931.64 Sources of repayment assistance.

(a) *Primary sources.* The primary sources of repayment assistance are modification of credit assistance terms and conditions under section 308(d)(3)(A), refinancing of a loan under section 308(d)(3)(B), or making a supplemental loan under section 308(d)(3)(C) to enable the borrower to repay principal and interest pursuant to the terms of a loan or guaranteed obligation.

(b) *Secondary sources.* If the borrower is unable to meet scheduled repayments by means of one or more of the primary sources of repayment assistance, and if the inability to repay results from a change in scope of the coastal energy activity or the related new population, the secondary sources of repayment assistance may be used to meet obligations. These secondary sources are the proceeds of the State's allotment of formula grants under section 308(b) and grants from the State's allotment of moneys from the Fund under section 308(e)(1), or directly from the Fund if the State's allotment is insufficient.

§ 931.65 General eligibility.

(a) A borrower is eligible for repayment assistance only if:

(1) It has been awarded a loan under section 308(d)(1) or a guarantee under section 308(d)(2); and

(2) It has submitted a report, as required under § 931.66, updating the fiscal schedules described in § 931.50(d)(3).

(b) A borrower does not have to be in default before qualifying for repayment assistance. The default of a borrower will nevertheless automatically occasion review for repayment assistance by the Assistant Administrator.

§ 931.66 Reports.

After submitting its original credit assistance application, and until the full repayment of its loan or guaranteed obligation, the borrower shall submit periodically to the Assistant Administrator a report updating the information described in § 931.51(c). The frequency of submission of this report will be established by the Assistant Administrator in consultation with the borrower. This report should contain whatever new information the borrower has received and can document concerning the coastal energy activity and its likely effects on revenues and expenditures.

§ 931.67 Review for repayment assistance.

(a) At the request of the borrower or on the initiative of the Assistant Administrator, a review for repayment assistance will be carried out. Before the initiation of this review by the Assistant Administrator, the borrower must submit a report (described in § 931.66) updating the fiscal schedules described in § 931.50(d)(3). The Assistant Administrator will examine the information and forecasts contained in the report, particularly those relating to the status and effects of the coastal energy activity involved.

(b) All terms and conditions of the loan or guarantee, as enumerated in the loan or guarantee agreements, will remain in effect pending the review for repayment assistance.

(c) Even when the likelihood of eventual repayment assistance seems high, the Assistant Administrator will not normally require that the borrower raise its tax rates above or alter its tax methods from those generally prevailing when the applicant is requesting repayment assistance. However, if the tax base or revenues available to the borrower are reduced for reasons unrelated to the failure of the economic activity connected with energy development, the borrower will be expected to meet its principal and interest payments according to the loan or guarantee.

§ 931.68 Award of repayment assistance.

(a) It is the Assistant Administrator's intent to offer repayment assistance within 45 days after the request for repayment assistance described in § 931.67, if, pursuant to the terms and conditions of the loan or guarantee agreements, the borrower is found unable to meet its annual loan service payment or obligation under a guarantee in accord with its repayment schedule because the economic activity generated by the coastal energy activity and associated facilities have failed to provide adequate revenues.

(b) If the Assistant Administrator finds that any coastal State or unit of general purpose local government which is a borrower is unable to meet its obligations pursuant to a loan made under section 308(d)(1) of the Act because the actual increases in employment and related population resulting from coastal energy activity and the facilities associated with such activity do not provide adequate revenues to enable the State or unit to meet such obligations in accordance with the appropriate repayment schedule, the Assistant Administrator shall, after review of the information submitted by the State or unit pursuant to section 308(e)(3) of the Act, take, subject to the special conditions contained in the loan agreement, any of the following actions:

(1) Modify appropriately the terms and conditions of such loan;

(2) Refinance such loan;

(3) Make a supplemental loan to the State or unit, the proceeds of which shall be applied to the payment of principal and interest due under such loan; and

(4) Make a grant to the State or unit the proceeds of which shall be applied to the payment of principal and interest due under such loan.

(*Comment.* The award of repayment assistance will be based only on an objective comparison of the information submitted in the updating report as described in § 931.66 with the terms and conditions of the original loan or guarantee agreements.)

(c) When the Assistant Administrator offers one of the courses of action in § 931.68(b)(1–4), the borrower may submit to the Assistant Administrator a formal acceptance of the recommended form of repayment assistance. In the case of a repayment grant from the proceeds of a State's formula grant under section 308(b) for a bond guaranteed under section 308(d)(2), the borrower shall submit this formal acceptance through the State agency designated under § 931.25(a)(4)(i), and the acceptance shall include the adequate assurances required by § 931.50(e)(2). The repayment assistance will take effect as soon as the Assistant Administrator receives the formal acceptance.

(d) If the formula grants allotted the State are insufficient for all the repayment grants recommended by the Assistant Administrator in a fiscal year, the State agency designated under § 931.25(a)(4)(i) shall indicate which bonds it wishes to retire with the proceeds of available formula grants, giving priority to local bonds in accordance with section 308(b)(5)(A). Those borrowers whose bonds the State has indicated it cannot retire with the proceeds of formula grants may request repayment grants from the State's allotment of credit assistance and, when necessary, which may be awarded directly from the Fund. Borrowers in States that have no allotted formula grants may request the recommended repayment grants, which will be awarded from the State's allotment of credit assistance and, when necessary, directly from the Fund.

(e) If, after the review for repayment assistance, the Assistant Administrator determines that no repayment assistance is warranted, or if the borrower does not formally accept such assistance, the borrower will remain subject to the terms and conditions of the loan or guarantee and to the requirements of Subpart I of this part.

§ 931.69 Appeal procedure.

(a) Whenever a dispute arises concerning the Assistant Administrator's finding made pursuant to § 931.68(a) regarding the existence of conditions which require an offer of repayment assistance the borrower may appeal the Assistant Administrator's decision to the Administrator of NOAA by submitting a request for review to the Office of the Administrator of NOAA.

(b) The Administrator of NOAA will issue a written decision on the appeal within 60 days of the borrower's request for review.

(c) The appeal procedure provided for in paragraphs (a) and (b) of this section is intended to provide a timely and impartial forum for resolving disputes concerning repayment assistance. Such appeal procedures may be initiated by the borrower, but do not expressly or by implication limit the borrower's other remedies at law or in equity. The borrower may seek appropriate judicial relief in a court of competent jurisdiction without the consent of the Assistant Administrator or the Administrator of NOAA, and without first having exhausted the appeal procedures provided in paragraphs (a) and (b) of this section.

Subpart G—Grants for Unavoidable Losses of Valuable Coastal Environmental and Recreational Resources

§ 931.70 General.

This Subpart states the objectives for awarding environmental and recreational grants to eligible coastal States under section 308 (b)(5)(C) and (d)(4), and describes their allowable uses. It also describes the procedures for allotting section 308(d)(4) grants and the procedures for applying for environmental recreational grants.

§ 931.71 Objectives.

The objectives for providing assistance under sections 308(b)(5)(C) and 308(d)(4) are:

(a) To help coastal States and units of local government in such States to prevent, reduce or ameliorate losses in the coastal zone of valuable environmental or recreational resources when such losses result from coastal energy activity;

(b) To ensure that the person or persons responsible for these environmental or recreational losses pay for their full cost whenever possible; and

(c) To encourage the prevention of environmental or recreational losses by providing assistance only when the losses cannot be prevented through a reasonable exercise of State or local regulatory authorities.

§ 931.72 Definitions.

(a) The term "valuable environmental resource" refers to any of the following to the extent they are located in a State's coastal zone.

(1) Areas of land or water that are or have been largely in a natural state, or whose value derives primarily from ecological considerations;

(2) Important animal and plant populations and their habitat;

(3) Air, water, or noise quality; or

(4) An area that has been designated under a State's approved coastal zone management program or other regional, State or local plans as an area of particular concern for environmental purposes.

(b) The term "valuable recreational resource" refers to areas of land or water located in a State's coastal zone that have characteristics making them desirable for one or more types of recreational activities, or which have been designated under a State's approved coastal zone management program, or other regional, State or local plans, as areas of particular concern or potential use for recreational, preservation or restoration purposes. Included are areas that have important cultural, historic or archeological significance which are essential to the well being of all citizens.

(c) The term "loss" refers to any damage to, or degradation of, or any threat of damage to, or degradation of, a valuable environmental or recreational resource, including the impairment or threat of impairment of public access to that resource and any degradation, or threat of degradation, of the use of a resource that may result from overcrowding.

(d) A loss of a valuable environmental or recreational resource will be considered "unavoidable" if:

(1) The loss is caused by coastal energy activity; and

(i) the loss cannot be attributed to an identifiable person or persons; or

(ii) the costs of reduction or amelioration of the loss cannot feasibly be directly or indirectly assessed against an identifiable person or persons because no reasonable cause of action exists for the collection of money damages; or

(2) The loss is *projected to occur* as a result of current or future coastal energy activity and funds are sought to design, implement, or administer strategies, or projects to prevent, reduce or ameliorate such loss.

(e) The term "person" means any individual; any corporation, partnership, association, or other entity organized or existing under the laws of any State; the

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Federal Government; any State, regional, or local government; or any entity of any such Federal, State, regional, or local government.

§ 931.73 Eligibility.

(a) To be eligible for assistance under sections 308(b)(5)(C) and 308(d)(4), a coastal State must meet the basic eligibility requirements of Subpart C of this part.

(b) A unit of general purpose local government may apply for financial assistance under this Subpart from its State.

§ 931.74 Allowable uses.

(a) Assistance is provided in sections 308(b)(5)(C) and 308(d)(4) to help States and units of local government design and implement projects to prevent, reduce or ameliorate unavoidable losses to valuable coastal environmental and recreational resources resulting from coastal energy activity including, but not limited to:

(1) Protection restoration, replacement, acquisition or improvement of environmental or recreational resources.

(2) The design and implementation of programs and strategies to prevent, reduce or ameliorate unavoidable environmental and recreational losses, including the cumulative effects of coastal energy activity.

(3) The cost differential between methods of providing a public facility required as a result of coastal energy activity which meets minimum State environmental and construction standards, and a higher cost method that further reduces an environmental loss.

(b) The following are allowable project costs under this Subpart to the extent they are reasonable and necessary to prevent, reduce, or ameliorate unavoidable losses to valuable environmental or recreational resources in the coastal zone:

(1) Land acquisition including fee simple, leases, easements, and rights-of-way.

(2) Architectural, engineering, and other technical service fees or costs except that:

(i) Compensation must be comparable to the cost of similar work awarded through open competitive bidding;

(ii) Compensation must not be based on a cost plus a percentage-of-cost; and

(iii) Design and performance standards must conform to professionally recognized National standards.

(3) Construction expenses, including, but not limited to, construction materials, fixtures, appurtenances, and fixed machinery and equipment. However the purchase of movable construction related equipment such as dump trucks and excavating equipment will be allowable only if expressly authorized in the grant or loan agreement;

(4) Site preparation and improvement;

(5) The acquisition of movable equipment essential for the protection, reduction or amelioration of unavoidable losses to valuable coastal environmental or recreational losses.

(c) All awards and expenditures of funds under this Subpart are subject to the applicable requirements specified in Subpart I.

§ 931.75 Allotment of section 308(d)(4) environmental and recreational grants.

(a) Funds available in any fiscal year under subsection 308(d)(4) will be allotted among coastal States according to the procedures of this section and will consist of:

Funds appropriated under section 308(d)(4) for that fiscal year;

(2) Funds alloted in previous fiscal years under section 308(d)(4) reverting to the Assistant Administrator under § 931.76;

(3) Funds allotted in previous fiscal years under section 308(d)(4) and recalled under § 931.97 because such funds were expended for unauthorized uses; and

(4) Money from any other source available under section 308(d)(4).

(b) *Allotment Computation.* Available funds will be allotted first among those eligible coastal States that do not receive in that fiscal year a section 308(b) formula grant allotment. This allotment will be carried out according to the procedures for allotting credit assistance under § 931.47.

(1) If after the computation of the allotment described in paragraph (b) any State's allotment is less than 5 percent of the amount available that State's allotment will be raised to 5 percent of the amount available.

(2) If after the computation of the allotment described in paragraph (b) any State's allotment is greater than 25 percent of the total amount available then such State's allotment will be reduced to 25 percent of the amount available.

(3) If after the calculations in paragraphs (1) and (2) the amount that would be required to be allotted exceeds the amount available then each State's allotment will be reduced proportionally until the total allotment equals the amount available.

(4) If after the calculations in paragraphs (1) and (2) the amount that would be required to be allotted is less than the amount available then such unallotted funds will be available for allotment according to the procedures of § 931.47 among all eligible coastal States.

§ 931.76 Reversion of allotted funds.

(a) Allotted funds for which applications are not received by the end of the fiscal year in which such funds were allotted will revert to the Assistant Administrator at the end of such fiscal year.

(b) Allotted funds for which applications are received within the fiscal year in which such funds were allotted will remain available to the State until awarded. Funds for which timely applications are disapproved or withdrawn will remain available for reapplication by the State for 60 days after such disapproval or withdrawal. If a substitute application is not submitted for these funds before the 60-day time period expires such funds will revert to the Assistant Administrator at the end of the fiscal year or at the end of the 60-day period whichever occurs last.

(c) *FY 1978 Funds.* Funds allotted in fiscal year 1978 under section 308(d)(4) will be treated as if allotted in fiscal year 1979 and will be subject to the requirements of this section.

§ 931.77 Applications for environmental and recreational grants.

(a) Application for environmental/recreational grants under this Subpart should be submitted on NOAA Form 36–26 for construction projects and on NOAA Form 36–25 for nonconstruction projects. Applications should be submitted as soon as allotments of section 308(b) and section 308(d)(4) funds are computed.

(b) It is the intent of the Assistant Administrator to process completed applications within 45 days of receipt unless an EIS for the proposed project is required.

(c) All applications for assistance under this Subpart must contain the following:

(1) A certification by the State agency designated under § 931.25(a)(4)(ii) that the assistance has been or will be allocated within the State in accord with the intrastate allocation process described in subpart J of this part;

(2) A certification by the State agency designated under § 931.25(a)(4)(iii) that the assistance will be used in a manner that is compatible with the State's developing, or consistent with the State's approved, coastal zone management program;

(3) A description of the unavoidable environmental or recreational loss, the coastal energy activity causing this loss, and the proposed project in sufficient detail to allow the Assistant Administrator to verify that the proposed project will prevent, reduce, or ameliorate an unaviodable loss of a valuable environmental or recreational resource. The applicant must indicate how the loss is unavoidable as defined in § 931.72.

(4) For construction projects, as defined in the Office of Management and Budget Circular A–102, the following:

(i) Environmental impact assessment data in detail sufficient to allow the Assistant Administrator to determine whether an EIS will be required under NEPA;

(ii) Copies of all necessary Federal, State, and local permit or license applications or approvals;

(iii) A map showing the project in relation to the coastal zone; and

(iv) A Preliminary Engineering Report.

(v) A showing that such applications for assistance have complied with the requirements of the Project Notification and Review System established by Office of Management and Budget Circular A–95 (Part I).

(5) For nonconstruction projects, a showing, if the application has not been submitted to the Project Notification and Review System established by OMB Circular No. A–95 (Part I), that a memorandum of agreement for coordinating planning under section 308 has been consummated with appropriate areawide clearinghouses in the State's coastal zone, pursuant to Part IV, Attachment A, of OMB Circular A–95.

(d) In addition to the certifications and information described in subsection (c), applications for formula grants must contain assurances that the State will repay to the United States:

(1) Any amount received under section 308(b) that the Assistant Administrator determines was expended or committed by the State for purposes not authorized under this Subpart,

(2) Any amount received under section 308(b) that is not expended or committed before the close of the fiscal year immediately following the fiscal year in which the amount was awarded to the State.

(e) Before awarding any financial assistance under this Subpart the Assistant Administrator will determine whether an EIS will be required and prepare an EIS when necessary.

§ 931.78 Limitations.

The proceeds of grants awarded under sections 308(b) and 308(d)(4) may not be used:

(a) For the prevention, reduction, or amelioration of any loss of an environmental or recreational resource that is directly attributable to the sale, lease, rental, or conversion to other uses of such resource by a State agency or unit of local government when such sale, lease rental or conversion occurred after July 26, 1976;

(b) To pay for that part of the cost of a project designed to prevent, reduce, or ameliorate the loss of a valuable environmental or recreational resource which is incommensurate with the value of the loss;

(c) To pay for that part of the cost of a project designed to prevent, reduce or ameliorate the loss of an environmental resource which can be paid for with funds readily available from any other Federal program.

(d) To pay for that part of a loss:

(1) That occurs after July 26, 1976; and

(2) That could have been prevented by a reasonable exercise of a State's existing regulatory authority.

Subpart H—Lateral Seaward Boundaries

§ 931.80 General.

For the calculations of formula grant allotments under Subpart K, Outer Continental Shelf acreage and production shall be considered adjacent to a particular coastal State if such acreage and production lie on that State's side of the extended lateral seaward boundaries of that State. These extended lateral seaward boundaries of a coastal State shall be determined by delimitation lines established by the Assistant Administrator according to the procedures of this subpart. These delimitation lines are to be established solely for determining a State's adjacency to Outer Continental Shelf acreage and production for the purposes of section 308(b), and they are not intended to have application under any other law or treaty of the United States.

§ 931.81 Establishment of delimitation lines when agreements exist between States.

If a lateral seaward boundary extending to a State's seaward boundary (see the Submerged Lands Act, 43 U.S.C. 1301(b) and 1312) has been clearly defined or fixed by an inter-State compact, agreement, or judicial decision as of July 26, 1976, a delimitation line extending the lateral seaward boundary through the Outer Continental Shelf shall be based on the principles used to delimit or define the lateral seaward boundary in such compact, agreement, or decision. A copy of all such compacts, agreements, or decisions must be submitted to the Assistant Administrator before calculations of State allotments are made.

If a portion of a lateral seaward boundary has been clearly defined or fixed by an inter-State compact, agreement or judicial decision as of July 26, 1976, a delimitation line shall be based on the principles used to delimit or define the lateral seaward boundary in such compact, agreement or decision to the extent that such principles are applicable.

§ 931.82 Establishment of delimitation lines when no agreements exist between States.

If no lateral seaward boundary, or any portion thereof, has been clearly defined or fixed by inter-State compact, agreement, or judical decision, a delimitation line extending from the State's seaward boundary through the Outer Continental Shelf shall be established in the following manner:

(a) If, on or before August 4, 1977, a lateral seaward boundary to the State's seaward boundary is delimited or defined by an inter-State compact or agreement, the Assistant Administrator will establish a delimitation line through the Outer Continental Shelf based upon the same principles used to delimit or define the lateral seaward boundary in such compact or agreement. A lateral seaward boundary established by inter-State compact or agreement may be based on any principles which are mutually acceptable to the States involved. When such a boundary requires a measurement from a baseline, that baseline will be as defined in § 931.84(a). The lateral seaward boundary delimited or defined by such a compact or agreement, must be appropriately documented to the Assistant Administrator no later than August 4, 1977. Appropriate documentation shall include data sufficient to define the lateral seaward boundary and may include dimensionally stable base maps, geographical positions, azimuths, computations, and written descriptions.

(b) If a lateral seaward boundary is not defined or delimited by compact or agreement on or before August 4, 1977, delimitation lines will be established by the Assistant Administrator according to the applicable principles of law, including the principles of the Convention on the Territorial Sea and

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The Contiguous Zone. The Assistant Administrator will extend this time period up to February 4, 1978, if the Governors of the States concerned each request such an extension. The Assistant Administrator also has discretion to extend the time period for other delimitation lines which may be affected by the one for which an extension has been requested. Prior to establishing these delimitation lines, the Assistant Administrator will allow an additional 6-month period during which time the States failing to delimit or define a lateral seaward boundary may submit written arguments in support of their respective positions. After expiration of the period allowed for submission of arguments by States, the Assistant Administrator will establish the required delimitation lines according to the applicable principles of law. The procedures of this paragraph may be invoked at any time after these regulations become effective if the States concerned jointly seek a determination by the Assistant Administrator.

If the lateral seaward boundary is a matter in litigation prior to the time of delimitation by the Assistant Administrator, such delimitation may be deferred by the Assistant Administrator until a final judicial decision is rendered.

(c) If after July 26, 1976, a judical decision is rendered to clearly define or fix a lateral seaward boundary such a decision may be used by the Assistant Administrator in establishing a line of delimitation.

§ 931.83 Establishment of delimitation lines under later compacts or agreements.

If, after February 4, 1977, two or more States enter into or amend an interstate compact or agreement, in order to clearly define or fix a lateral seaward boundary, delimitation lines extending such a boundary through the Outer Continental Shelf will be based on principles used to delimit or define the lateral seaward boundry in such compact or agreement. For the purpose of calculating formula grant allotments under Subpart K, the Assistant Administrator also may accept agreements between States on the proportional sharing of formula grant funds within a specified area, without the need for agreement on a specific line. However, delimitation lines so extended or altered, and allotments so calculated, will not affect grants made previously in accord with calculations under Subpart K.

§ 931.84 Procedures for defining delimitation lines by equidistance principles.

(a) In the event that the Assistant Administrator establishes a line of delimitation based on measurement from a baseline, that baseline will be the intersection of the National Ocean Survey (NOS) low water datum of reference with the land, as described and published by the NOS on large scale nautical charts of the area, as modified by the application of the principles of the Convention on the Territorial Sea and the Contiguous Zone, as interpreted by the Ad Hoc Committee on U.S. Coastline Delimitation.

This committee, which has the responsibility to apply principles of international law and the Convention on the Territorial Sea and the Contiguous Zone in delimiting the territorial sea and the contiguous zone of the United States, will be charged with the identification of the baseline, including closing lines, on NOS charts as required to establish the baselines.

(b) If delimitation lines established by the Assistant Administrator are based on a measurement from the baseline, they shall be delineated by the NOS, which shall determine the geographic positions of these points by either graphical or analytical procedures, and document the delimitation lines for review and comment by the above Ad Hoc Committee and final approval by the Assistant Administrator.

§ 931.85 Formula grants impounded for disputed areas.

(a) That portion of a State's allotment of section 308(b) formula grants which is dependent on Outer Continental Shelf acreage and production in disputed areas, as determined by the Assistant Administrator, will be impounded in the Treasury of the United States until such time as the required delimitation lines have been established by the Assistant Administrator using the procedures outlined in § 931.82.

(b) That portion of a State's allotment of section 308(b) formula grants which is dependent on Outer Continental Shelf acreage, production and landings in areas disputed between the Federal Government and the State will be impounded in the Treasury of the United States until such time as the issue is resolved.

Subpart I—General Provisions

§ 931.90 Allowable costs.

(a) Allowable costs will be determined in accord with Federal Management Circular 74–4, Cost Principles Applicable to Grants and Contracts with State and Local Governments (34 CFR 255), the grant/loan agreement, and with the unique requirements of the Coastal Energy Impact Program. Specifically, project costs must:

(1) Be necessary and reasonable for proper and efficient administration of the program, not be a general expense required to carry out the overall responsibilities of States or units of local governments;

(2) Be authorized or not prohibited under State or local laws or regulations;

(3) Conform to any limitations or exclusions set forth in these priniciples, Federal laws, or other governing limitations as to types or amounts of cost items;

(4) Be consistent with policies, regulations, and procedures that apply uniformly to both federally assisted and other activities of the unit of government of which the recipient is a part;

(5) Be accorded consistent treatment through application of generally accepted accounting principles appropriate to the circumstances;

(6) Not be allocable to or included as a cost of any other federally financed program in either the current or a prior period; and

(7) Be net of all applicable credits.

(b) The cost of activities conducted, or assets acquired, prior to approval of an assistance application are allowable costs only when specifically provided for in the grant or loan or agreement and to the extent that they meet the requirements set forth in paragraph (a) of this section, OMB Circular A–102 and FMC 74–4. For nonconstruction projects, such costs must have been incurred not more than three months prior to the grant start date. Purchase options for land and materials essential to the project or program may be an allowable project cost.

§ 931.91 Administrative procedures.

Administrative procedures for grants and credit assistance are based to the maximum extent practicable upon Office of Management and Budget Circulars A–95, "Evaluation, Review and Coordination of Federal and Federally Assisted Programs and Projects" (Fed. Reg. 2052, 1–13–76) and A–102, "Uniform Administrative Requirements for Grants-in-Aid to State and Local Governments" (34 CFR 256).

§ 931.92 Compliance with OMB Circular A–95 requirements.

(a) Preapplications, if used, and applications for assistance for public facilities and public services and for environmental and recreational grants for construction projects are subject to the Project Notification and Review System established by Office of Management and Budget Circular No. A–95, (Part I), as implemented by regulations promulgated by NOAA, 15 CFR 905.

(b) Applications for assistance for planning under sections 308(c)(1) and 308(b)(5)(C), for nonconstruction projects or programs for environmental/recreational purposes under sections 308(b)(5)(C) and 308(d)(4), and for assistance under section 308(c)(2) are not subject to Part I of OMB Circular No. A–95 if a memorandum of agreement for coordinating planning under section 308 has been executed between the state agency designated under § 931.25(a)(4)(i) and the appropriate areawide clearinghouses in the State's coastal zone pursuant to Part IV, Attachment A, of OMB Circular No. A–95.

§ 931.93 Other Federal requirements.

Compliance with all other Federal statutory provisions and regulations which are applicable to Federal assistance programs and recipients of such assistance is a condition of CEIP assistance.

§ 931.94 Environmental review.

Before awarding CEIP financial assistance the Assistant Administrator will consider the environmental consequence of each proposed use of CEIP funds according to the provisions of this section.

(a) For each proposed construction project the Assistant Administrator will conduct an environmental impact assessment pursuant to NEPA and the Council of Environmental Quality Guidelines (40 CFR 1500.1 et. seq.) to determine whether an EIS is required except that such an assessment will not be required for minor repair, replacement, maintenance, or improvement projects.

(b) An environmental assessment under NEPA and the CEQ Guidelines will not be required for:

(1) The payment of administrative costs.

(2) Repayment assistance for projects previously funded under the CEIP.

(3) Environmental assessments.

(4) Other nonconstruction projects except that the Assistant Administrator will monitor expenditure for nonconstruction projects to assure that the policies of NEPA are effectively implemented.

(5) Any project that is exempt from environmental review under any other Federal statute or regulation.

(c) All data and information on the environmental impacts of a proposed project will be provided by the potential recipient of assistance under this part, according to the CEIP Environmental Guidelines.

(d) The Assistant Administrator may prepare a regional or programmatic EIS on a group of similar or related projects, if appropriate.

(e) The provisions of financial assistance for construction projects is subject to compliance with the requirements of Executive Orders 11988 (Floodplain Management) and 11990 (Protection of Wetlands) and the requirements for protecting historical and cultural properties established by the Council on Historical reservation (36 CFR 880).

§ 931.95 Records.

(a) All initial recipients of financial assistance under section 308 shall keep and preserve, and shall require each unit of local government to which it passes the assistance to keep and preserve, detailed project control records reflecting acquisitions, work progress, expenditures, and commitments, indicating in each instance their relationship to estimated costs and schedules. All recipients shall also keep and preserve such full written financial records, accurately disclosing the amount and the disposition of the assistance, together with the amounts and disposition of other funds applied to the project, program, or other undertaking, as shall adequately establish compliance with the requirements of section 308, the terms and conditions upon which such financial assistance was made, and the standards for financial management systems contained in Attachment G to Office of Management and Budget Circular A–102. Such records shall be retained until:

(1) An audit is completed and all questions arising from it are resolved; or

(2) Three years after completion of the project, program, or other undertaking and submission of the final Financial Status Report, whichever is sooner.

§ 931.96 Audit.

The Assistant Administrator, the Secretary of Commerce, and designee of the Assistant Administrator or Secretary of Commerce, and the Comptroller General of the United States shall have access for purposes of audit and examination to any records, books, documents, and papers which belong to, or are used under this part or controlled by, any recipient of the assistance or any person who entered into any transaction relating to such financial assistance and which is pertinent, for purposes of determining if such financial assistance is being or was used in accordance with section 308, the terms and conditions upon which such financial assistance was made, Office of Management and Budget Circular A–102, and Federal Management Circular 74–4.

§ 931.97 Recovery of funds.

(a) This section sets forth requirements and procedures to ensure that grant proceeds received by States may be recovered by NOAA if such proceeds have been expended or committed for the purposes and activities other than those set forth in the grant award, and if 308(b) grant proceeds have not been expended or committed by the State before the close of the fiscal year immediately following the fiscal year of project award.

(b) *Procedures for the recovery of funds.* (1) Upon receipt from NOAA of a written request for repayment which contains a finding that the proceeds of a grant received by the State have been expended or committed by the State for purposes other than those set forth in the grant award, and, in the case of 308(b) grant proceeds, if the funds have not been expended or committed before the close of the fiscal year immediately following the fiscal year in which the grant proceeds were awarded, such State shall provide a written response within 15 days to either refute or admit such findings.

(2) NOAA shall make a determination that repayment by the State will or will not be required, and shall notify the State of this determination no later than 45 days from the receipt by the State of the request for repayment described in (b)(1) of this section.

(3) If NOAA determines that repayment is required, the State shall have 30 days from the date of receipt of such determination to file a request for reconsideration with NOAA or 60 days from the date of receipt of such determination to make a repayment by check in the amount stated in such determination.

(i) If the State's request for reconsideration is denied, the State shall have 15 days from the date of such denial to make a repayment by check in the amount determined to be owed to the United States.

(ii) If, as a result of the State's request for reconsideration, NOAA modifies its determination of the amount required to be repaid by the State, such State shall have 15 days from the date of such modification to make the repayment, if any, by check.

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(4) If no repayment is received within the time period established by paragraph (b)(3) of this section, NOAA shall take necessary action to recover the amount due. Methods of recovery may include, but are not limited to:

(i) The modification or termination of a grant being received by such State under section 308(b);

(ii) The modification or termination of financial assistance under sections of the Act other than section 308(b);

(iii) The withholding of future financial assistance to the State under any section of the Act; and

(iv) The modification or termination of financial assistance being received by such State under other programs administered by the Department of Commerce, or the withholding of future financial assistance to such State under these programs.

(5) Actions undertaken under paragraph (b) of this section shall not in any way prejudice any rights of NOAA to pursue such other remedies as may be legally available and appropriate under the circumstances, including the referral of the claim against the State to the Department of Justice.

(c) If a State has received a written request for repayment uder § 931.97(b)(1) NOAA may require such additional assurances as it finds necessary to protect the interests of the United States in the making of grants to the State.

§ 931.98 Other sources of Federal funding.

(a) The Assistant Administrator will, to the extent practicable, administer the provision of financial assistance under section 308:

(1) On the basis that section 308 financial assistance will be in addition to and not in lieu of any Federal funds that any coastal State or unit of local government may obtain under any other Federal law; and

(2) To avoid duplication of Federal funds that any coastal State or unit of local government may obtain under any other Federal law.

(b) When assistance from other Federal programs is insufficient to cover a project or when combinations of assistance from multiple Federal programs are appropriate and beneficial, States and units of local government may request joint funding by the CEIP and other Federal programs in accordance with OMB Circular A–111, 41 FR 32040.

(c) The term "joint funding" means the coordination of multiple Federal assistance under the authority and provisions of the Joint Funding Simplification Act of 1974 (Pub. L. 93–510) in support of and consistent with the CEIP.

§ 931.99 Coordination with State coastal zone management agency.

(a) In the event the coastal State is implementing a management program approved under section 306, all applications for financial assistance under section 308 shall be reviewed for consistency with the State's management program by the State agency administering the State's coastal management program in accordance with the requirements of section 307(d).

(b) In the event the coastal State is developing a management program pursuant to section 305 or in a manner consistent with the policies of section 303, all applications for financial assistance under section 308 shall be reviewed for compatibility with the State's developing coastal management program by the State agency developing the management program.

Subpart J—Intrastate Allocation of Financial Assistance

§ 931.110 General.

This subpart sets forth policies, requirements, and criteria required by sections 308(e)(2) and (g)(2) and related to the intrastate allocation of financial assistance provided under section 308.

§ 931.111 Objective.

The objective of these requirements is to assure, to the maximum extent practicable, that section 308 assistance allotted to coastal States is distributed among units of local government in amounts which are proportional to need and in a manner which is equitable and expeditious.

§ 931.1 12 Intrastate allocation.

Each coastal State must establish a process to allocate its allotted section 308 (b), (c)(1), (d) assistance among State agencies and units of local government based on need for such assistance. This process may be periodically reviewed by the Assistant Administrator to determine whether its application results in a distribution of assistance which, to the maximum extent practicable, is proportional to need. States may amend or modify their intrastate allocation process subject to approval by the Assistant Administrator. The form of the allocation process will depend on the amount of assistance allotted to the State.

(a) States that receive in a fiscal year an allotment of $1 million or more in grants under sections 308 (b), (c)(1) and (d)(4) must develop an intrastate allocation process for that fiscal year's allotment. Such process must be approved by the Assistant Administrator and must:

(1) Indicate the State agency designated under § 931.25 which will assume the lead role for administering the process;

(2) Describe the methods and procedures used to assure direct and effective participation by affected State agencies and units of local Government throughout the development and implementation of the allocation process.

(3) Describe the methods to be used to allocate financial assistance and to evaluate and select projects based on criteria which include immediacy or severity of impacts, the fiscal capacity of units of local Government, and protection of the environment;

(4) Assure that information on the allocation of financial assistance is available to the public throughout the allocation process;

(5) Stipulate reasonable time limits for the allocation of financial assistance; and

(6) Establish a timely procedure by which units of local government may appeal to the State;

(i) the results of its allocation decisions; or

(ii) whether the State complied with the intrastate allocation process described in this section and approved by the Assistant Administrator.

(b) Those States which receive an allotment of less than $1 million in 308 grants in any fiscal year must provide under sections 308 (b), (c)(1), (d)(4) an allocation process which will be submitted along with applications and requisitions for section 308 assistance. This process will not be subject to prior approval of the Assistant Administrator. The submission by the State must describe:

(1) The methods used to evaluate and select projects and to allocate financial assistance.

(2) The methods used to provide for formal notification of, direct consultation with, and comments by, affected State agencies and units of local government in the allocation of all 308 funds.

(c) Eligible U.S. Territories are exempt from the requirements to provide an intrastate allocation process.

§ 931.113 Forms of assistance.

To the maximum extent practicable and in accord with the intrastate allocation process established pursuant to § 931.112:

(a) States that receive grants under section 308 for purposes specified in Subparts D and G of this part must pass this assistance through to State agencies and units of local government in the form of grants;

(b) States that receive grants under section 308 for purposes specified in Subparts E and F of this part must pass this assistance through to State agencies and units of general purpose local government in the form of grants;

(c) States that are allotted credit assistance under section 308 (d)(1) and (d)(2) must pass this assistance through to State agencies and units of general purpose local government using one of the following methods:

(1) State agencies may borrow to provide public facilities and public services needed to meet either State or local needs;

(2) State agencies may borrow to reloan or to grant this assistance to units of general purpose local government for public facilities and public services needed to meet local needs; or

(3) State agencies and units of general purpose local government may submit applications to the State to borrow from the Fund to provide needed public facilities and public services.

§ 931.114 Appeal to Assistant Administrator.

(a) A unit of local government may appeal to the Assistant Administrator to determine whether the State complied with the approved intrastate allocation process described in § 931.112 and approved by the Assistant Administrator. Such an appeal must be made within 30 days after the unit of local government has exhausted the appeal procedure described in § 931.112. Such an appeal will be limited to the application of the State's process and the Assistant Administrator may require additional information necessary to make an objective review and finding. The Assistant Administrator will notify the State and unit of local government of NOAA's findings within 45 days of the receipt of the appeal.

(b) If the Assistant Administrator finds that the State has not substantially complied with the approved process, section 308 assistance will be withheld until the State reallocates the assistance in accord with the approved process.

Subpart K—Allotment of Section 308(b) Formula Grants

§ 931.120 General.

The purpose of this subpart is to describe the procedure for allotting among eligible coastal States moneys appropriated in any fiscal year under section 308(b).

§ 931.121 Definitions.

(a) The term "first landed" in a particular coastal State refers to oil and natural gas produced from the OCS that is first unloaded from tankers or barges within that state, or is brought to shore in pipelines that first touch non-submerged land and create a significant impact in that State.

(b) The term "adjacent" is defined in § 931.80.

§ 931.122 OCS regions.

For purposes of this subpart in the coastal States will be assigned to OCS regions as follows:

(a) Region I: Connecticut, Delaware, Georgia, Maine, Maryland, Massachusetts, New Hampshire, New Jersey, New York, North Carolina, Pennsylvania, Rhode Island, South Carolina, the Commonwealth of Puerto Rico, Virginia and the Virgin Islands.

(b) Region II: Alabama, Florida, Louisiana, Mississippi, and Texas.

(c) Region III: California, Hawaii, Oregon, and Washington.

(d) Region IV: Alaska.

§ 931.123 Impacted State.

(a) For purposes of awarding a two percent formula grant allotment the Assistant Administrator will determine that a State "is being or will be impacted by OCS energy activity" if:

(1) The Assistant Administrator finds that a State was impacted by OCS energy activity that took place in the fiscal year preceding the fiscal year for which the allotments are calculated; or

(2) In the Assistant Administrator's judgment that State will be impacted as a result of OCS energy activity that took place in the fiscal year preceding the fiscal year for which the formula grant allotments are calculated.

(b) The projection of impacts that "will" occur necessarily implies that the Assistant Administrator make anticipatory judgments that may not be supported by hard data. The Assistant Administrator will decide which States "will be impacted" within the context of the purposes for which the CEIP was established and will base the analysis of future impacts on the immediacy of impact, equity in distribution of appropriated funds, and the reasonable need for such funds.

(c) The impacts that the Assistant Administrator will consider when making two percent formula grant allotments include, but are not limited to:

(1) Any significant loss, damage, degradation of or impairment of access to any valuable coastal environmental or recreational resource or any threat of such loss, damage, degradation, or impairment;

(2) Any changes or threat of changes in the social, governmental or economic infrastructure in the coastal zone which would necessitate the provision of new or improved public facilities or public services; or

(3) Any demographic changes or threat of change in the coastal zone which would necessitate the provision of new or improved public facilities or public services or which would degrade the quality of the human environment.

§ 93.124 Eligibility.

No coastal State will receive an allotment of section 308(b) formula grants unless it meets the basic eligibility requirements of Subpart C.

§ 93.125 Allotment of section 308(b) formula grants.

(a) Funds available under section 308(b) will be allotted according to the procedures specified in this section and will consist of:

(1) Funds appropriated under section 308(b) in a fiscal year; and

(2) Funds available in a fiscal year under section 308(b) from any other sources.

(b) *State Review.* (1) Tentative allotments of formula grants will be computed and submitted to all eligible coastal States as soon as practicable after OCS acres leased, OCS oil and gas produced, and OCS oil and gas first landed data become available for the fiscal year preceding the year for which allotments are calculated. These data usually become available in November of the fiscal year for which allotments are calculated.

(2) Eligible coastal States will have 30 days to submit comments on these tentative allotments to the Assistant Administrator who will revise the allotments as appropriate.

(3) Final allotments will be calculated no more than 30 days after the end of the 30-day State review period.

(c) The allotment of section 308(b) formula grants that a State receives will be the result of the calculations in paragraphs (c)(1) through (5) of this section.

(1) *Formula Amount.* The amount allotted to an eligible coastal State in a fiscal year under the formula specified in section 308(b)(2) is the formula amount and is given by the following equation:

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$$\text{Formula Amount} = \tfrac{1}{2}\frac{A}{A_T} \times TA + \tfrac{1}{4}\frac{P}{P_T} \times TA + \tfrac{1}{4}\frac{L}{L_T} \times TA$$

A=The amount of OCS acreage that is adjacent to the eligible coastal State and is newly leased by the Federal government in the fiscal year preceding the fiscal year for which the allotment is made.

A_T=The total amount of OCS acreage that is adjacent to all eligible coastal States and is newly leased by the Federal government in the preceding fiscal year.

P=The volume of oil and natural gas produced from OCS acreage adjacent to the eligible coastal State in the preceding fiscal year.

P_T=The total volume of oil and natural gas produced from OCS acreage adjacent to all eligible coastal States in the preceding fiscal year.

L=The volume of oil and natural gas produced from OCS acreage that is first landed in the State in the preceding fiscal year.

L_T=The total volume of oil and natural gas produced from the OCS that is first landed in all eligible coastal States in the preceding fiscal year.

TA=The total amount of funds available for section 308(b) purposes in the fiscal year for which the allotment is made.

(2) *Two Percent Amount.* The Assistant Administrator will allot to any eligible coastal State in a fiscal year an amount equal to 2% of the total amount available in that fiscal year under section 308(b) if:

(i) That State's formula amount is greater than zero but less than 2 percent of the total amount available in such fiscal year; or

(ii) That State's formula amount is zero; and

(A) The Assistant Administrator determines that State is being or will be impacted by OCS energy activity; and

(B) The Assistant Administrator determines that State will be able to expend or commit the proceeds of such allotment in accordance with the purposes set forth in section 308(b)(5); and

(C) Any other eligible coastal State in the same OCS region is allotted a formula amount greater than zero.

(3) *Proportional Reduction.* If after calculating the formula amount and the 2 percent amount the total amount of funds that would be required to be allotted is greater than the total funds available in a fiscal year under section 308(b), the Assistant Administrator will deduct from each coastal State whose formula amount exceeds 2 percent of the amount available an amount represented by the following expression:

$$(T - TA) \times \left[\frac{F - 2\% \text{ of } TA}{SF - (2\% \text{ of } TA \times S)}\right]$$

T=Total amount that would be required to be allotted to all coastal States before the proportional reduction.

TA=Total amount available under section 308(b).

F=Formula amount for that State.

SF=Sum of the formula amounts that exceed 2 percent of the amount available.

S=Number of States where formula amount exceed 2 percent.

(4) *Maximum Amount.* If after the calculations performed in paragraphs (c)(1) and (3) of this section any coastal State would receive an allotment that is greater than 37½ percent of the amount available, the Assistant Administrator shall reduce the allotment of that State to 37½ percent of the amount available.

(5) *Redistribution.* Any amount not allotted by virtue of application of paragraph (c)(4) of this section will be reallotted proportionally among those coastal States that at this point in the calculation receive an allotment greater than 2 percent but less than 37½ percent of the amount available. For purposes of this paragraph "reallotted proportionally" means allotment in accordance with the provisions of paragraph (c)(1) of this section except that only those States that receive an allotment greater than 2 percent and less than 37½ percent will participate in the calculations described in that paragraph.

§ 931.126 Recall of formula grants.

(a) Except as provided in Subpart C, funds allotted under this Subpart will remain available for application by the recipient coastal State until September 30, 1988. Funds not applied for by this date will be returned to the United States Treasury.

(b) Funds allotted under this Subpart and which have been awarded to a State must be expended or committed by the State by the end of the fiscal year immediately following the fiscal year in which such funds were awarded or be subject to recovery under § 931.97.

(c) If an application for which funds have been committed by a State is withdrawn either within sixty (60) days before the end of the fiscal year that follows the fiscal year in which the funds were awarded to the State, or anytime after the end of the fiscal year that follows the fiscal year in which the funds were awarded to the State, the State will have sixty (60) days to amount available an amount represented by the following expression: resubmit an application for these funds. If a substitute application is not submitted within this time period the funds will be subject to recovery under § 931.97. Funds recovered under this section and § 931.97 will be reallotted among eligible coastal States as soon as practicable.

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Monday
May 21, 1979

Part IV

Department of Transportation

Federal Railroad Administration

Locomotive Inspection Provisions

intervals of less than 30 days. This regarding jackshafts was one example.

Locomotive Inspection

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DEPARTMENT OF TRANSPORTATION

Federal Railroad Administration

[49 CFR Parts 229 and 230]

[Docket No. LI-6, Notice No. 1]

Locomotive Inspection; Miscellaneous Proposed Revisions

AGENCY: Federal Railroad Administration (FRA), Department of Transportation (DOT).

ACTION: Notice of Proposed Rulemaking.

SUMMARY: This notice proposes to amend the rules pertaining to Railroad Locomotive Inspection. The proposed amendments would update, consolidate, and clarify existing rules and would eliminate certain rules no longer considered necessary for safety. This action is taken by FRA in an effort to improve its safety regulatory program.

DATES: (1) Written Comments: Written comments must be received before July 23, 1979. Comments received after that date will be considered so far as possible without incurring additional expense or delay. (2) Public hearing: A public hearing will be held at 10:00 a.m. on July 10, 1079. Any person who desires to make an oral statement at the hearing should notify the Docket Clerk before July 6, 1979, by phone or by mail.

ADDRESSES: (1) Written Comments: Written comments should identify the docket number and the notice number and must be submitted in triplicate to the Docket Clerk, Office of the Chief Counsel, Federal Railroad Administration (Trans Point Building), 2100 Second Street, S.W., Washington, D.C. 20590. Written comments will be available for examination, both before and after the closing date for written comments, during regular business hours in room 4406 of the Trans Point Building at the above address. (2) Public Hearing: A public hearing will be held in room 3201 of the Trans Point Building. Persons desiring to make oral statements at the hearing should notify the Docket Clerk by telephone (202–426–8836) or by writing to: Docket Clerk, Office of the Chief Counsel, Federal Railroad Administration, Trans Point Building, at the above address.

FOR FURTHER INFORMATION CONTACT:

Principal Authors

Principal Program Person: Rolf Mowatt-Larssen, Office of Standards and Procedures, Federal Railroad Administration, Washington, D.C. 20590. Telephone 202–426–0924. Principal Attorney: Michael E. Chase, Office of the Chief Counsel, Federal Railroad Administration, Washington, D.C. 20590. Telephone 202–426–8836.

SUPPLEMENTARY INFORMATION:

Background

Regulatory Reform

On March 23, 1978, the President issued Executive Order 12044. In that Order, he directed all Executive Agencies to adopt procedures to improve existing and future regulations. As a matter of policy, the Order requires that regulations be as simple and clear as possible, achieve legislative goals effectively and efficiently, and not impose unnecessary burdens. To achieve this policy objective, the Order requires Agencies to address the following considerations, among others, when developing regulations: (1) The need for and purpose of the regulation must be clearly established; (2) An opportunity must be provided for early participation and comment by other Federal Agencies, state and local governments, businesses, organizations, and individual members of the public; (3) Meaningful alternatives must be considered and analyzed before the regulation is issued; and (4) Compliance costs, paperwork, and other burdens on the public must be minimized.

In response to the policies set forth in Executive Order 12044, FRA initiated a General Safety Inquiry for the purpose of evaluating and improving its safety regulatory program. This inquiry was announced in the May 8, 1978, issue of the **Federal Register** (43 FR 19696).

That notice also announced the FRA would conduct a series of two-day public hearings. The notice stated that the purpose of the hearings would be to obtain information from the public that would help FRA to determine whether many of its existing regulations should be expanded in scope, revised, or revoked.

The notice indicated that the first general area to be considered would be rolling equipment which would include locomotives, freight cars safety appliances, and power brakes. Track and related structures, appliances, and devices were included in the second general area identified in the notice. The third and final general area defined includes signal and communications systems.

The FRA has conducted five two-day hearings, completing the public hearing phase of the safety inquiry. These hearings have dealt with the following subjects: (1) Locomotives (June 14 and 15, 1978), (2) freight cars and safety appliances (July 12 and 13, 1978), (3) power brakes (September 13 and 14, 1978), (4) track and related structures, appliances, and devices (November 15 and 16, 1978), and (5) signal and communications systems February 21 and 22, 1979.

Hearing on Locomotives

Since this notice contains proposed revisions to the current requirements for Locomotive Inspection set forth in Part 230 (49 CFR Part 230), the following discussion will focus on the matters receiving most emphasis at the hearing on those standards. At that hearing, extensive testimony was presented in response to the five issues set forth in the hearing notice (43 FR 19696). This testimony and the related written comments submitted by those interested persons unable to appear at the hearing have been fully considered. The testimony and written comments have been placed in Docket No. RSSI-78-5. Interested persons may examine that docket during regular business hours in room 4406 of the Trans Point Building, 2100 Second Street, S.W., Washington, D.C. 20590.

Monthly Locomotive Inspection

At the hearing, the Association of American Railroads (AAR) and the individual railroads argued that the present requirement for a 30-day locomotive inspection (49 CFR 230.331) should be changed to a quarterly inspection. Several reasons for this change, which was the subject of an AAR petition for rulemaking dated April 10, 1977, were advanced.

First, the AAR and the railroads argue that the modern diesel electric locomotive is a well designed piece of equipment that does not require a specilly designated inspection at 30-day intervals. They noted that the requirement for an inspection at least once every 30 days has its origin in the regulations applicable to steam locomotives and dates back to the 1920's. The safety problems inherent in steam locomotives, which may have warranted monthly inspection, are not present in diesel locomotives.

Second, the railroads stated that the requirement for a daily inspection under 49 CFR 230.203 provides a more than adequate level of safety. Although there was some variation among the railroads that testified at the hearing about the differences between a daily inspection and a monthly inspection, the differences were said to be minor.

Third, several commenters noted that a locomotive is regularly in the shop for routine maintenance, usually at

intervals of less than 30 days. This provides additional opportunities for detecting defects. The present requirement for an inspection every 30 days is alleged to be redundant.

Several railroads estimated the savings they would realize if the 30 day inspection was changed to a quarterly inspection. The Missouri Pacific Railroad Company (Mo-Pac) estimated that $3.5 million would be saved because of increased efficiency, fuel savings, and decreased locomotive downtime. The Chesapeake and Ohio Railway Company (C&O) estimated its saving at $3 million.

On the other hand, the Railway Labor Executives Association (RLEA) was opposed to any change in the 30-day inspection requirement. According to the RLEA, the number of locomotive defects uncovered by FRA inspectors is evidence that the 30-day locomotive inspection interval should not be lengthened. The daily inspection is superficial in the opinion of the RLEA. The 30-day inspection is qualitatively different because the persons conducting the inspection have greater technical expertise and experience in locomotive maintenance and repair. The RLEA agreed, however, that a time interval longer than 30 days might be possible if the daily inspections were to be performed better.

Daily Inspections

The AAR suggested revision of the daily inspection requirement of 49 CFR 230.203. It contended that the requirement for an inspection of road locomotives every 24 hours is unnecessarily restrictive. A calendar day inspection instead would allow greater flexibility and bring the road locomotive requirement in line with the yard locomotive requirement.

Modernization of the Regulations

The commenters, both labor and management, agreed that the locomotive inspection regulations should be revised and updated. The AAR and several railroads were of the opinon that steam locomotive regulations, Subparts A and B of Part 230, could be eliminated entirely. Other commenters suggested that the steam rules be deleted from the Code of Federal Regulations since so few steam locomotives are still operating. However, these commenters thought the requirements should remain in force for those steam locomotives that remain in service.

There was also general agreement that certain requirements in Subparts C and D could be eliminated because they are out of date. Section 230.216 regarding jackshafts was one example. Updating language, such as changing the term "steam boiler" to "steam generator", was also suggested. The RLEA expressed concern that modernization of the regulations would alter language that has developed a clearly understood meaning in the railroad industry over many years.

The Relationship of Operating Environment to Locomotive Design, Maintenance, and Inspection.

One area addressed at the hearing was how safety requirements for the design, inspection, and maintenance of locomotives should differ according to the type of service and operating environment. The AAR and most railroad commenters rejected the idea that type of service and operating environment should be used as a basis for differing safety requirements. With respect to design of locomotives, the AAR stated that railroads and locomotive manufacturers should be free from regulatons that could stifle innovation. The AAR and several railroad commenters noted that the diesel-electric locomotive is an example of private sector development and initiative. One commenter pointed out that many locomotives operate in more than one type of service and in a variety of different operating environments. Hence, different design standards for different types of service would not be possible or useful. A number of commenters doubted the existence of adequate data and understanding to develop useful design standards.

The use of type of service or operating environment as factors for setting inspection and maintenance intervals was also rejected by the AAR. The difficulty of keeping a record for each locomotive detailing the type service and the operating environment was cited as one reason. Several railroad commenters noted that each railroad is in the best position to develop a maintenance plan for its own locomotives because each railroad is aware of its special operating conditions. These commenters thought Federal regulation was unnecessary since railroads already tailor their maintenance practices to operating conditions.

Another commenter, American Shortline Railroad Association, favored different regulations for different types of service. In its opinion, the distinction between low-speed yard power and high-speed freight engines merited varying treatment. The RLEA also suggested that high speed locomotives may need special standards.

Locomotive Inspection

History

Railroad locomotive inspection requirements are one of the oldest areas of Federal safety regulation. The basic statutory authority, the Locomotive Inspection Act (45 U.S.C. §§ 22–34), dates back to 1911. It was enacted because of the number and severity of boiler explosions on steam locomotives. The steam locomotive was an extremely dangerous piece of equipment and railroads often did not perform adequate inspections because of the need for motive power. Congress stepped in to attempt to promote the safety of employees and passengers.

More than half a century later, the Locomotive Inspection Act remains virtually unchanged. The requirement that a locomotive be safe to operate is still the cornerstone of Federal involvement. Section 2 of the Act provides that "* * * it shall be unlawful for any carrier to use or permit to be used on its line any locomotive unless said locomotive, its boiler, tender, and all parts and appurtenances thereof are in proper condition and safe to operate in the service to which the same are put, that the same may be employed in the active service of such carrier without unnecessary peril to life or limb, and unless said locomotive, its boiler, tender, and all parts and appurtenances thereof have been inspected from time to time in accordance with the provisions of this Act and are able to withstand such test or tests as may be prescribed in the rules and regulations hereinafter provided for."

Section 2 is broad in its sweep and makes clear that each carrier is responsible to insure that locomotives used on its line are safe. Even the extensive requirements of 49 CFR Part 230 are not intended to be exhaustive in scope, and with or without that regulatory structure the railroads remain directly responsible for finding and correcting all hazardous conditions.

The purpose of Federal regulation of locomotives is to promote the safety of employees and the public. In particular, current Part 230 implements the requirement of the Locomotive Inspection Act with respect to the inspection and testing of locomotives. And since testing necessarily involves reference to a benchmark, the regulations specify conditions that are safety defects on locomotives.

Another important aspect of the Locomotive Inspection Act is its pervasive scope. Section 2 encompasses the "locomotive * * * and all parts and appurtenances thereof." Given the

complexity of a locomotive as a piece of equipment, Federal regulation to implement the law has resulted in substantial and relatively detailed requirements.

The proposed update and revision would substantially reduce the length of the locomotive inspection regulations and would eliminate or alter numerous requirements. Under the proposed revision, however, a comprehensive safety regulatory structure would remain. The FRA believes that the locomotive inspection regulations have significant safety implications and that the scope of the language of the Locomotive Inspection Act mandates a comprehensive approach.

Apart from the elimination of archaic provisions and language, the present requirements of Subparts C and D of Part 230 were generally endorsed by commenters at the locomotive hearing. The RLEA strongly supported the existing requirements. The AAR and most railroad commenters directed their attention to only a few items such as the monthly inspection, while endorsing other requirements, such as the daily inspection. Modernizing Part 230, not eliminating it, was a consensus goal.

Accidents/Incidents

Part 225 of Title 49 CFR requires all railroads to file with the FRA monthly accident/incident reports. On the basis of these reports, the FRA publishes an accident/incident bulletin for each calendar year. Accidents/incidents reported to the FRA are classified as train accidents, train incidents, or non-train incidents.

Train accidents are collisions, derailments, fires, explosions, acts of God or other events involving operation of railroad on-track equipment (standing or moving) that result in more than a specified amount of damages to railroad on-track equipment, signals, track, track structures, and roadbed.

The dollar damage reporting threshold is adjusted biennially to reflect changes in labor and material costs. The present reporting threshold is $2,900; during 1977 and 1978, it was $2,300.

During the 21-month period January 1, 1977 to September 30, 1978, a total of 308 train accidents were reported to be caused by locomotives (annual average of 176). These resulted in 51 injuries (29.14 annual average) and $11,562,156 in property damage of the type required to be reported ($6,606,946 annual average). There was not any reported fatality during the period. These accidents consisted of 9 collisions (5.14 annual average), resulting in 3 injuries (1.71 annual average) and $76,494 in reported property damage ($43,711 annual average); 103 derailments (58.86 annual average), resulting in 31 (17.71 annual average) injuries and $6,312,071 in property damage ($3,606,898 annual average); and 196 other accidents (112 annual average), resulting in 17 injuries (9.71 annual average) and $5,173,591 ($2,956,338 annual average) in property damage.

Coupler/draft system failures caused 5 of the 9 collisions and brake system failure accounted for 2 collisions. Suspension system failures resulted in 54 of the 103 derailments attributed to locomotives and brake system failures accounted for 29 derailments. With respect to other accidents caused by locomotives, 108 of a total of 196 accidents were electrical or oil fires.

In addition to these train accidents, a total of 2,441 train and non-train incidents involving railroad employees operating locomotives were reported for this 21-month period (1394.86 annual average). They resulted in 2,321 injuries (1326.29 annual average), 146 illnesses (83.43 annual average) and 18,782 lost or restricted workdays (10,732.57 annual average). No fatalities were reported.

Incidents are events that result in a reportable injury, illness or death but do not result in sufficient property damage to be classified as an accident. Incidents that occur in connection with the movement of a locomotive are classified as train incidents; all other incidents involving locomotives are non-train incidents.

The incidents most frequently reported during this 21-month period were: Foreign object in eye (778); unexpected movement, slack action, or sudden stopping of locomotives (388); stumbles, slips and falls (200); parts of body striking against equipment (199). Cumulatively, they account for almost two-thirds of all incidents and more than one-falf of the resulting lost or restricted workdays. If exposures to fumes and gases (146) and cab seat incidents (141) are added, more than three-fourths of all reported incidents and more than two-thirds of the resulting lost or restricted workdays are accounted for.

The average number of lost or restricted workdays for *all* incidents involving railroad employees operating locomotives may be used to assess the relative severity of injuries resulting from the various types of incidents. For this 21-month period, this average is slightly less than 7½ days. The types of incidents that result in significantly higher than average lost or restricted workdays were: defective cab seats (8.7 days); unexpected movement, slack action, or sudden stopping of locomotives (12.7 days); stumbles, slips and falls (11.5 days); checking, oiling or servicing locomotives (11.1 days); and burns or electrical shocks (10.0 days).

Types of incidents that were both frequently reported and resulted in significantly higher than average lost or restricted workdays were:

(1) Unexpected movement, slack action, or sudden stopping of locomotives—388 incidents with an average of 12.7 lost or restricted workdays;

(2) Stumbles, slips and falls—200 incidents with an average of 11.5 lost or restricted workdays;

(3) Cab seat incidents—141 incidents with an average of 8.7 lost or restricted workdays.

These three types of incidents, which constitute almost 30% of reported incidents during this 21-month period, accounted for more than 46% of the lost or restricted workdays. In contrast the most frequently reported incident—foreign object in eye—constituted almost 32% of the reported accidents but resulted in less than 8% of the lost or restricted workdays.

A more detailed breakdown of these incidents together with resulting casualties and lost or restricted workdays appear in Table 1.

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TABLE 1

SUMMARY OF TRAIN AND NON-TRAIN INCIDENTS INVOLVING EMPLOYEES OPERATING LOCOMOTIVES

January 1, 1977 - September 30, 1978 (21 Months)

Description of Incident	Number of Incidents	Number of Employee Fatalities	Number of Employee Injuries	Number of Employee Illnesses	Total Lost or Restricted Work Days	Average Number of Lost or Restricted Work Days per Incident
Burn or Electrical Shock (101,101T)	33	-	33	-	331	10.0
Striking Parts of Body Against Equipment While Moving about Locomotive (102,102T)	190	-	201	-	1874	9.4
Struck By Tools or Other Falling Objects (103,103T)	57	-	57	-	333	5.8
Stumbles, Slips, Falls, Stepping on Foreign Object or Irregular Object (104,104T)	200	-	201	-	2294	11.5
Checking, Oiling or Servicing Locomotive (105,105T)	126	-	125	1	1400	11.1
Unexpected Movement, Slack Action, and Sudden Stops of Locomotive (106T, 107T, 108T)	388	-	400	-	4915	12.7
Exposure to Fumes and Gases (109, 109T)	146	-	26	122	842	5.8
Defective Cab Seats or Adjusting of Cab Seats (110, 110T, 111, 111T)	141	-	139	2	1220	8.7
Foreign Object in Eye (112, 112T)	778	-	776	4	1396	1.8
Other Accident/Incidents while Operating Locomotive (119, 119T)	374	-	363	17	3553	9.5
TOTAL	2442		2321	146	18158	7.4

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Three yardsticks that may be used to assess locomotive safety are:

(1) The locomotive-caused accident rate per locomotive per year;

(2) The number of train miles per locomotive-caused accident; and

(3) The number of train miles per locomotive incident.

According to FRA records, a total of approximately 32,000 locomotives of all types were in service in 1977 and there were 163 locomotive-caused accidents reported for that year. Accordingly, the accident rate per locomotive during 1977 is .005. Stated differently, the average locomotive would cause an accident every 196 years.

Using the second yardstick, locomotives caused 163 accidents in 1977 and the total number of train miles for that year was approximately 750 million. On the basis of these figures, a locomotive would cause a train accident every 4.6 million train miles.

Using the third yardstick, in 1977, there were 1408 reported incidents involving railroad employees operating locomotives and the total number of train miles for that year was approximately 750 million. On the basis of these figures, the average locomotive would be involved in an incident every 532,700 train miles.

After reviewing the locomotive accident/incident record and taking into consideration the technological advances in the design and construction of locomotives that have occurred since the locomotive inspection rules were last revised, the FRA believes that many of the present requirements should be changed or eliminated. This is especially true with respect to the prescribed inspection intervals now in effect.

Objectives of Revision

Update Language and Reorganize

The proposed revision of Part 230 has several objectives designed to improve railroad safety. The first objective is to update the language of the locomotive inspection requirements and reduce the length of the existing regulations through reorganization. This would be accomplished in several ways. Subparts A and B (§ 230.1 through § 230.162), which deal with steam powered locomotives, would be removed from the Code of Federal Regulations. Although not published in the CFR, the current requirements would remain applicable to the few remaining steam locomotives. The table of contents for the subparts and an amended § 230.0 would continue to be published in the CFR. As amended, § 230.0 would provide that no common carrier by railroad may operate a steam locomotive unless that locomotive meets the requirements in effect on October 1, 1978.

Subparts C and D of current Part 230 would be merged into a new Part 229. These subparts deal with locomotives that are not powered by steam. Although Subpart D addresses a special class of locomotives, multiple operated electric locomotives (MU), a significant amount of the language is duplicative of Subpart C. Under the proposed revision, the requirements of Part 229 would apply to all locomotives unless otherwise specified, including MU and cab control locomotives. Archaic language would also be revised. For example, "steam boiler" would become "steam generator."

The result of the proposed revision would be a reduction of over 80 percent in the total number of pages in the CFR and a reduction of over 70 percent in length of what are now Subparts C and D. This reduction should make the regulations easier to learn and apply. Additionally, proposed Part 229 is organized in a more logical format than the current regulations. The new format should facilitate ease of understanding the requirements.

Consolidate Similar Provisions

The second objective is to consolidate or modify provisions that can be covered in a summary approach. The current regulations have numerous sections or parts of sections that address the guarding of components that can cause personal injury, e.g., gears and pinions, fan openings, exposed moving part of the internal combustion engine, high-tension equipment. These would be consolidated in a single section.

There are also a number of sections in the current regulations that have essentially identical requirements relating to different components, e.g., that a component not be cracked or broken. These sections would also be consolidated under the proposed revision.

Apart from repetitiveness, certain sections in the regulations address components that are almost unknown in the modern railroad environment. The FRA believes that a general requirement that all systems and components on locomotives shall be free of unsafe conditions would be sufficient to handle the infrequent and isolated problems stemming from archaic components. A general condition requirement, which tracks the concept of "safe to operate" in section 2 of the Locomotive Inspection Act, would also reduce the need to have exhaustive and detailed regulations to cover the potential safety hazards, however slight, of each component on a modern locomotive. This requirement would also maximize the opportunity for innovation consistent with safety.

Eliminate Nonessential Requirements

The third objective of the proposed revision is to eliminate or modify requirements that are no longer necessary for reasons of safety. The orifice test would be eliminated because the FRA believes that improvements in air compressors and the questionable value of the orifice test in identifying defective compressors warrant its elimination.

Second, the insulation dielectric test, commonly called the "high pot test", would be eliminated. This test may adversely affect the insulation. More important, the high voltages involved in the test can endanger life if the test is not properly made. Several fatalities have occurred in recent years when persons making the test have come in contact with high voltage.

Third, the interval for the main reservoir test would be extended from the current 18 months to 24 months.

Fourth, the interval for cleaning or replacing the filtering devices in the main reservoir supply line to the air brake system would be extended from the current 6 month interval to a 12 month interval.

Fifth, the wheel flange thickness requirement would be modified to permit an additional 1/16 inch wear. This would bring the locomotive wheel flange thickness requirement in line with that proposed recently for railroad freight cars (44 FR 1419).

Sixth, the fuel gauge requirement of § 230.256(b) would be deleted because of its minimal impact on safety.

Seventh, a number of the requirements relating to steam boilers would be eliminated because they are not applicable to the modern steam generator, e.g., the numerous provisions relating to various types of staybolts. Also, the boiler washing requirements of § 230.320 would be deleted since a steam generator will merely shut down if it does not receive regular washings.

Eighth, the requirement that road locomotives and MU locomotives be inspected every 24 hours would be modified to allow calendar day inspections. This would increase the railroad's flexibility in using locomotives while continuing the requirement for an inspection each day.

Ninth, the requirement for a 30-day inspection would be modified to require a periodic inspection at least once every 92 days.

Tenth, the amount of required paperwork would be substantially reduced. FRA Form 1–B (quarterly boiler inspection), FRA Form 4–B (boiler specification), FRA Form 19–B (boiler alteration), the boiler washout record, and the air card have all been eliminated. Much of the information that is now contained in these reports would be eliminated. Some of the information would be maintained only in the carriers' records. Some of the material would be consolidated on revised FRA Form F 6180.49. A single revised form, FRA Form F 6180.49A, would be required for each locomotive and would cover a 1-year period. It would be filed with the FRA once a year. On an annual basis, this consolidation would reduce the total number of forms filed by carriers with the FRA by approximately 40,000. It would also extend the reporting period to require an annual filing rather than a semi-annual filing.

The elimination or modification of these requirements should have significant beneficial effect. The extension of the 30-day inspection period to 92 days is particularly important. The AAR estimated that the capital cost of purchasing additional locomotives to make up for the extra downtime due to a 30-day rather than a 92-day inspection period would be several hundred million dollars. Two railroads estimated their individual annual savings to be several million dollars. The FRA believes that significant savings are possible and that the extended inspection interval is warranted. The modern electric and diesel-electric locomotive is capable of running for 92 days without a major inspection. The cost saving and increased flexibility can have a positive effect on safety by providing additional resources to insure that both the daily inspection and the periodic inspection are done in a more thorough manner. The reallocation of resources to correcting locomotive defects should reduce the number of defects from the current level found by FRA inspectors. Additionally, the reduction in the number of forms and other requirements would minimize the burden of the locomotive inspection regulations and help focus attention on correcting locomotive defects.

Propose New Safety Requirements

The fourth objective of the proposed revision of Part 230 is to add new safety requirements and update existing requirements that are necessary to insure that locomotives are safe to operate. Much of the "updating" would be clarification of the existing requirements in explicit language.

Under the proposal, traction motor gear cases would be specifically mentioned in the general provision relating to cracks in components that affect the structural integrity of those components. A traction motor gear case can cause a derailment if it falls to the track structure. The proposal also includes an updated provision on maximum brake cylinder piston travel. It would provide that the maximum travel may not exceed two inches less than the possible piston travel. The consequence of this revision is that all types of brake cylinders would be covered, whereas the current requirement has an incomplete list of brake cylinder types.

The current provision regarding the control of locomotives, § 230.201(c), would be rewritten for clarity. It would specify that when locomotives are coupled in multiple control, the auxiliary brake systems in use shall respond to control from the cab of the controlling locomotive.

Specific standards for locomotive headlights and horns are proposed. The existing regulations do not contain a sound level standard for the locomotive horn. The headlight standards are antiquated and unscientific. The proposed standards are not intended to create new burdens. The FRA believes that the existing locomotive fleet meets these standards.

Several totally new provisions are proposed. First, all locomotives with powered axles would be required to be built with wheel slip/slide indicators beginning in 1980.

Second, speed indicators would be required on locomotives that operate singly or as a lead locomotive at speeds in excess of 20 miles per hour.

Third, locomotives operated singly or as a lead locomotive would be required to have an end plate, a pilot, or a snowplow. Most locomotives are already so equipped. However, some locomotives that were previously equipped with foot boards do not now have protection against derailment caused by objects on the track.

Fourth, the revision includes proposed cab sound level exposure standards. The standards are the same as the current workplace noise exposure levels prescribed by the Occupational Safety and Health Administration (OSHA). The FRA believes that the existing locomotive fleet will meet these standards without modification so long as the locomotives are properly maintained.

Fifth, new requirements are proposed to help seal the cab of a locomotive in order to prevent entry of flammable liquids into the cab in the event of an accident.

Sixth, a new provision would prohibit a variation of more than ¾ inch in diameter between wheel sets on three-powered-axle trucks or more than 1¼ inch in diameter between wheel sets on different trucks. The wheel set diameter is the average diameter of the two wheels on an axle.

Seventh, the gauge of wheel sets with wide flange wheels would be specified. A different gauge is necessary for wide flange wheels since their thicker flange can result in interference with the rail.

Eighth, the visual return water-flow indicator of the steam generator would have to be removed and inspected at every fourth periodic inspection. The glass in the indicator is subject to wear than can lead to a break.

Ninth, a new section is proposed to provide an acceptable and permissible method for the movement of locomotives for repair that are not in compliance with the regulations. This provision would encompass the movement of locomotives that do not have required slip/slide protection as a result of an internal combustion engine problem.

Costs of Revision

The FRA has estimated that the annual cost savings of the proposed revision, exclusive of the cost increases, as follows:

Non-MU locomotive inspections	$26,900,000
MU inspections	14,400,000
Fuel oil	4,200,000
Locomotive availability	7,800,000
Orifice test	960,000
Filters (air)	480,000
Records (40,000)	1,150,000
Wheels	1,656,000
High pot test	480,000
Total	58,026,000

These figures are based on the following determinations:

1. Man-hour (including fringe benefits) = $15.00.

2. A 30-day inspection (non-MU locomotives) = 8 man-hours per locomotive.

3. A 30-day inspection (MU locomotives) = 30 man-hours per locomotive.

4. Fuel oil costs = 37.5 cents per gallon.

5. Combining 8 wheel and 12 wheel locomotives, on average a locomotive has 9 wheels; the additional permissible wear of the wheel flange would increase wheel life by 5 percent (3,600 wheels per year); the wheel changeout labor = 4 man-hours; a wheel costs $400.00.

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The saving for the 30-day locomotive inspections of non-MU locomotives is calculated by multiplying the number of inspections that would be eliminated (8), times the number of locomotives (28,000), times the estimated cost of each inspection (8 hours×$15 per hour). The saving for the 30-day inspections of the 4,000 MU locomotives is identically calculated except that the number of hours per inspection is higher.

The fuel oil saving is calculated by multiplying the number of gallons used at each 30-day inspection (50 gallons), times the number of inspections eliminated (8 inspections×28,000 locomotives), times the cost per gallon of fuel oil (37.5 cents).

The savings from increased locomotive availability are based on the estimate that the reduction in locomotive downtime for inspections would enable 99 locomotives under the proposed revision to do the same work that it takes 100 locomotives to do today. Thus, there could be a 1 percent reduction in the fleet (or additional traffic could be moved). The maintenance savings for 1 percent of the non-MU locomotive fleet (280 locomotives) is estimated at $7.8 million.

The savings for the orifice test, high pot test, main reservoir filter, or dirt collector and record keeping were similarly calculated. The man-hours involved were estimated for each of the items and multiplied by the number of tests or procedures that would be eliminated.

Finally, in addition to the cost savings already addressed, the FRA estimates that a one time capital cost saving of about $200 million will be realized. This is based on an estimated increased utilization of the locomotive fleet of 1 percent that would result from the extension of the 30-day inspection interval to 92 days. This increased utilization of 1 percent is equivalent to increasing the national locomotive fleet by 1 percent. Stated differently, it is equivalent to purchasing 320 new locomotives at $600,000 each.

In order to determine the net cost savings of the proposed revision it is necessary to deduct the additional costs involved. The FRA has not determined a precise net cost saving because some of the areas of increased cost cannot be determined without additional factual information. However, the areas of possible increased costs can be identified and discussed generally. The FRA requests comments on the increased costs that may be involved.

The proposed revision includes a requirement that beginning January 1, 1980, all new locomotives capable of being used in road service shall be designed with a wheel slip/slide device for each powered axle that produces an audible or visual alarm in the cab. The FRA believes the added cost from this requirement would be minimal because new locomotives are currently being equipped with wheel slip/slide devices.

A speed indicator would be required under the proposal on locomotives used as a controlling locomotive at speeds in excess of 20 miles per hour. FRA believes that the costs of this provision will be relatively small. Survey information developed as early as 1972 indicated that substantially all road locomotives were so equipped. FRA is not aware of any road locomotive delivered since that time that has not been so equipped. Estimated annual maintenance costs range from $150 to $300 per locomotive. However, the greater portion of this maintenance is already undertaken by most railroads.

FRA also believes that the costs associated with the proposed requirement that each lead locomotive be equipped with an end plate, a pilot, or a snowplow will be relatively small. The added protection from a possible costly derailment caused by an object on the track will offset part of those costs. Most locomotives will already meet this proposed requirement.

The proposed requirements for headlight intensity, horn sound level, and cab noise level exposure are also requirements that FRA believes will be met by most of the existing locomotive fleet. FRA noise investigations have noted that in some cases the air horn location and the air brake exhaust can result in high noise levels in the cab. The proposed cab sound level exposure requirements might necessitate relocation of the horn or muffling of the air brake exhaust on a few locomotives.

Another potential source of additional cost is the proposed requirement that the forward facing openings in the front portion of locomotive be sealed or arranged so that they do not provide an entry way for flammable liquids in the event of an accident. As with many of the other proposed new requirements, FRA believes that most of the existing locomotive fleet will meet this requirement.

When the increased costs are subtracted from the costs savings, the FRA estimates that the annual net cost saving would still be substantial, approximately $50 million.

Speed Recorders

On February 8, 1974, the FRA published an advance notice of proposed rulemaking concerning the development of regulations to require that locomotives be equipped with devices to (1) indicate train speed to the crew, (2) provide a continuous record of train speed, and (3) alert the locomotive crew that the powered wheels of any locomotive in the consist are slipping or sliding. 39 FR 4929 (FRA Docket No. LI–4). The matter of slip/slide indicators was the subject of a subsequent notice of proposed rulemaking. 49 FR 2994.

The proposed revision directly addresses the speed indicator and wheel slip/slide issues. They are discussed elsewhere in this notice, under the section by section analysis of the pertinent sections. The FRA believes that the other issue from the 1974 ANPRM, speed recorders, should also be finally resolved.

Locomotive speed recorder perform a number of useful functions related to operational safety. Output from a recorder can assist in the reconstruction of an accident and the determination of its cause. Locomotive events recorders, which record events such as brake applications and throttle adjustments in addition to speed, can be particularly helpful in this regard. Speed recorders can assist railroad management in policing compliance with carrier operating rules and established maximum speeds. They can also be used to gather information on equipment utilization. At the time of the 1972 survey conducted by the Association of American Railroads in cooperation with the FRA and the Transportation Systems Center, roughly half of the fleet of line locomotives was equipped with speed recorders that were being used on a regular or "casual" basis. Another one-quarter of line locomotives were equipped with devices that were not being utilized. More than 5,000 units equipped with speed indicators did not have recording capability. FRA inspections of equipped locomotive units have corroborated the view of commenters responding to the advance notice that many recording devices are not in operable condition.

The FRA does not believe that the "state of the art" for locomotive speed recorders has yet progressed to a point at which it is practical to mandate their universal application. More significantly, FRA does not believe that the safety benefits of speed recorders are sufficiently immediate and direct to warrant the expenditures which would be required to equip remaining non-equipped locomotives, repair inoperative units, and conduct periodic maintenance. A conservative estimate of initial costs to complete installation of recorders on the existing road locomotive fleet, including replacement of some existing units, is $7,000,000. Annual maintenance costs and costs associated with the interpretation and storage of data would also be substantial.

Some of the safety benefits which flow from the use of speed recorders can be achieved by other, less costly means. For instance, computations of time between two points can often disclose speed violations. Rotation of motive power on assignments can facilitate the selective use of speed or data recorders to evaluate crew performance. Finally, although speed recorders are helpful in accident investigations, they seldom provide the sole indicium of speed available to the investigator.

Therefore, FRA proposes to terminate the proposals contained in Docket No. LI–4 relating to speed recorders.

Discussion of Proposal

The following is a discussion of the substantive proposed revisions to the current safety standards applicable to locomotives. Since these revisions are extensive in nature, they are discussed below under separate headings.

Subparts A and B of Part 230

§ 230.0 *Steam powered locomotives.* Current § 230.0 provides a definition of a locomotive. This definition would be deleted under the proposal and a revised definition included in proposed § 229.5. In place of the current definition, an amended § 230.0 would provide that no railroad may use on its line a steam powered locomotive unless that locomotive meets the requirements of 49 CFR Part 230, Subpart A (§§ 230.1–230.55) and Subpart B (§§ 230.101–230.162) as in effect on October 1, 1978.

It would also provide that any interested person may consult the October 1, 1978 revision of 49 CFR Parts 200–999 or obtain a copy of the regulations by contacting the FRA. This provision would be necessary since the FRA proposes to remove the entire text of Subparts A and B from the Code of Federal Regulations. The current regulations for steam locomotives would remain in effect even though they would not be reprinted in the CFR.

The FRA is proposing to remove Subparts A and B from the CFR for several reasons. First, the FRA estimates that less than 90 steam locomotives are currently subject to the subparts. Hence, the lengthy and detailed requirements have only a very limited applicability. Moreover, these few locomotives are usually used only in the summertime and occasionally on weekends throughout the rest of the year. Second, the technology of the steam locomotive is essentially static. The FRA is not aware of any steam locomotive that was built after the mid 1940's. The remaining steam locomotives are generally used for special excursion trips of historical interest and not in the regular service of a railroad. Third, the FRA does not anticipate making any changes in the regulations applicable to steam locomotives. These reasons have led the FRA to conclude that the annual reprinting of almost 30 pages of steam locomotive regulations in the CFR is no longer warranted.

Subparts C and D of Part 230

General. Under the proposed revision, Subparts C and D of Part 230 would be combined into a new Part 229. The discussion of the proposed changes to the current rules will be made within the context of the structure of proposed Part 229.

Certain proposed changes to the current rules embodied in proposed part 229 are not identified or discussed individually. First, archaic language has been revised without comment where the substantive requirements would not be changed, e.g., enginemen would be changed to engine crew. Second, some provisions have been reworded for clarity. Again, these are identified only if the provision would be substantively changed. Third, where interpretations published in the Code of Federal Regulations have been incorporated into the text of the rule, no specific comment has been provided. Fourth, under the proposal, time intervals would be measured by "periodic inspections" rather than by months. The periodic inspection interval is a maximum of 92 days, or approximately three months. Where the time interval between tests remains essentially the same as the current interval except that it is measured by periodic inspections rather than by months, the change is not specifically identified. Fifth, minor changes such as the assignment of new form numbers are not identified. Finally, the comparison between the proposed rule and the current rule uses the Subpart C rule; the parallel section in Subpart D of Part 230 is not identified unless it differs substantially from the requirements of Subpart C.

Certain other proposed changes to the current requirements are discussed prior to the section by section analysis of proposed Part 229. This has been done because there are no counterpart provisions for these requirements in proposed Part 229. These changes are as follows:

First, the requirement of § 230.213(a) and (b) to stamp certain information on driving and truck axles would be deleted. This information is primarily of interest to the railroad for purposes of their maintenance program. Stamping axles is a current requirement of the AAR, and the FRA believes that stamping would continue if the requirements of § 230.213 were eliminated.

Second, the requirement that a locomotive be provided with "classification and marker lights as may be required by the rules of the railroad operating the locomotive" would be deleted. The FRA believes that these lights relate to carrier operation rather than to locomotive safety. The issue of safe accessibility to these lights will be addressed in the upcoming revision of the safety appliance regulations.

Third, the FRA proposes to delete current § 230.236, that prescribes requirements for the location of headlights, sand boxes, bells, and whistles. The existing locomotive fleet meets the requirements prescribed in the section and there is every reason to believe that new locomotives will be designed that safely locate these items without Federal regulation.

Fourth, the FRA proposes to delete the existing requirement in § 230.253 for an insulation dielectric test. The dielectric test requires the use of high voltages that are inherently dangerous. If improperly made, the test can be life endangering. Several persons have died from accidental contact with high voltage while attempting the test.

Fifth, the requirement in § 230.260 for a starting device on internal combustion engines of more than 5 horsepower would be deleted under the proposed revision. FRA is not aware of any specific instances where deletion of the rule would have any adverse impact on safety.

Sixth, § 230.334, which provides extensions of time for performing required tests and inspections, would be deleted. Out of service credit and extensions are covered by § 229.23.

Seventh, the section on modification of rules, § 230.336, would be deleted because the procedure for petitions for waivers of safety rules is set forth in Subpart C of 49 CFR Part 211.

Eighth, the safety appliance requirements applicable to MU locomotives, § 230.456, are not included in proposed Part 229. These requirements will be addressed in an upcoming revision of the safety appliance regulations and will remain in effect without change until then.

Subpart A—General

§ *229.1 Scope.* This section sets forth the scope of the part. The part includes all locomotives propelled by other than steam power. This section reflects the merger of current Subparts C and D into Part 229. The merger is proposed because most of the rules in these subparts are identical in substance and intent. Whenever the merger of the subparts would change an existing substantive requirement, it will be noted.

§ *229.3 Applicability.* This section sets forth the applicability of the part. The part would apply to any common carrier by railroad subject to the Interstate Commerce Act, as defined by the Locomotive Inspection Act.

§ *229.5 Definitions.* This section defines terms that are necessary to understand the part. The definition of locomotive in current § 230.201(a) would be amended by broadening it to encompass MU locomotives and cab control locomotives. This is made necessary by the proposed merger of current subparts C and D. The word "unit" would not continue to be used to signify a single locomotive, either in the definition or elsewhere in the proposal. The term "locomotive" would be singular only. Where more than one locomotive is involved, the proposal uses the language, "two or more locomotives", or the word, "consist". The terms "MU locomotive" and "cab control locomotive" would be separately defined because some proposed requirement apply only to these locomotives.

§ *229.7 Prohibited acts.* Paragraph (a) restates the general requirements of the Locomotive Inspection Law regarding the condition, safety, inspection, and testing of locomotives. Paragraph (b) provides for a penalty of not less than $250 and not more than $2,500 for each violation of the Locomotive Inspection Act or of Part 229.

§ *229.9 Movement for repair.* This provision has no counterpart in the current regulations. It is proposed in order to clarify the proper method of moving locomotives for repair. Paragraph (a) provides that a locomotive that does not comply with Part 229 may not be moved from a point where repairs necessary to bring it into compliance can be made. Thus, a non-complying locomotive must be repaired if it is at a location where repairs can be made. Whether the particular location is one where the locomotive can be repaired is determined by the facts. The FRA recognizes that some repairs cannot be made except at a major repair facility, e.g., traction motor replacement. Many repairs, however, can be made outside of a repair facility if parts and repair personnel can be reasonably sent to the point where the non-complying locomotive is located.

Paragraph (b) provides that a non-complying locomotive may be moved only to the nearest point or the nearest forward point where repairs necessary to bring it into compliance can be made. This movement is subject to two requirements. First, the carrier must verify that the locomotive is safe to move and prescribe any restrictions necessary to assure the safety of the movement. This restriction is to clarify that the movement permitted by the section for a locomotive that does not otherwise comply with the requirements of Part 229, does not relieve the carrier of its obligation under the Locomotive Inspection Act to insure that the locomotive is safe to operate in the service to which it is put. Second, the carrier must display "Bad Order" tags or other written notice in the cabs of the controlling locomotive and the non-complying locomotive that contain information on the nature of the defects, movement restrictions, destination, and other pertinent facts. This requirement is designed to assure that the movement is made for the limited purpose of repair and that the engine crew has notice of the non-complying locomotive and prescribed restrictions.

Paragraph (c) provides that locomotive remains a locomotive even if its propelling motors are inoperative, or its jumper cables are down, or both. In simple terms, it means that a locomotive is always a locomotive for purposes of the part. Since the current regulations do not provide any method for moving non-complying locomotives to a point where repairs can be made, the FRA (and the ICC before it) had decided as a discretionary enforcement policy that it would not treat a locomotive with its jumper cables down as locomotive under Part 230.

The FRA has concluded that a systemized procedure for the movement of non-complying locomotives would increase safety and provide other benefits. Under the current approach, a locomotive with its "jumpers down" has not been subject to any safety requirements except safety appliance requirements. This means a locomotive with, for example, a serious defect to its running gear may be hauled dead in a train without any restriction whatsoever. It may even be hauled from a point or beyond a point where the running gear could be repaired. Moreover, movement of a locomotive with the jumper cables down deprives the locomotive of all wheel slip/slide protection. The proposed rule would insure that the number of movements of non-complying locomotives is minimized by forbidding any movement from a point where repairs can be made; providing that a movement may be made only after a specific determination that the locomotive is safe to move; and requiring that the locomotive be tagged to insure that the persons who are involved in moving the locomotive are aware of the condition.

The proposed section should also benefit the carriers. One consequence of the "jumpers down" policy of moving non-complying locomotives is that the locomotive cannot be used to supply power. This inability to use the locomotive to provide power is the implicit penalty of the current approach. The penalty acts to discourage casual movement of non-complying locomotives. However, this hidden penalty reduces operating efficiency in those instances where the non-complying locomotives could safely provide power. Moreover, the jumpers down requirement also reduces safety because it precludes wheel slip/slide protection.

Another consequence of the "jumpers down" policy is confusion surrounding the interrelationship between tagging an internal combustion engine that has been shut down for repairs (current § 230.262(a); proposed § 229.101), wheel slip/slide requirements for road locomotives (current § 230.201(d); proposed § 229.115), and movement of non-complying locomotives (current "jumpers down" policy; proposed § 229.9). Under the proposed rule, any movement of a non-complying locomotive must be made in accordance with the movement for repair section. The absence of wheel slip/slide protection on a locomotive in road service is a non-complying condition. Therefore, whenever an engine shut down negates wheel slip/slide protection on a locomotive in road service, the locomotive may only be moved to the nearest point or nearest forward point where repairs necessary to restore wheel slip/slide protection can be made. To make this point totally clear, proposed § 229.101 states this explicitly. In fact, the current rules demand the same conclusion. Nothing in the current rule on tagging an internal combustion engines suggests that tagging relieves the carrier of the obligation to have the locomotive meet the wheel slip/slide requirements of § 230.201(d). The tagging mechanism

only allows the locomotive to continue in service with an internal combustion engine that would not otherwise be in "proper condition" under the Locomotive Inspection Act.

Though the FRA believes this to be the proper conclusion, it must be admitted that the FRA has shared in creating confusion on this issue. Since removing the jumpers eliminates slip/slide protection, the "cure" for an engine shut down that negates slip/slide protection seems as bad as the disease. In fact, on locomotives with more than one internal combustion engine, removing the jumpers could then increase the number of axles that lack slip/slide protection. This logical inconsistency created by the "jumpers down" policy is reflected in the ANPRM (39 FR 4929) and the NPRM (42 FR 2994) dealing with the relationship between slip/slide and tagging, which treat the relationship as a special situation that is not encompassed under current Part 230. The rule proposed in the 1977 NPRM provided that a locomotive with an engine shut down that negated wheel slip/slide protection "may not be moved beyond a facility where the necessary repairs may be made".

The apparent critical nature of wheel slip/slide protection that resulted in the 1977 NPRM (42 FR 2994) cannot be squared with a "jumpers down" policy that allows the unrestricted movement of locomotives with every other kind of non-complying condition without slip/slide protection. The proposed rule in this notice would eliminate the inconsistency. Under the proposal, the necessity for a method to safely and lawfully move non-complying locomotives, the need for wheel slip/slide protection, and the usefulness of engine tagging are dealt with on their individual merits and their interrelatonship made clear.

§ *229.11 Locomotive identification.* This provision is identical to current § 230.201(b), except that Form 4–A, locomotive specification card, would be deleted. The requirement to file the form was deleted in May 1971.

§ *229.13 Control of locomotives.* Current § 230.201(c) would be rewritten for clarity. Proposed § 229.13 would include a specific requirement that any auxiliary brake system in use, including dynamic and regenerative brake systems, shall respond to control from the cab of the controlling locomotive. This requirement is a clarification of the current language that all parts and components of each locomotive "capabe of supplying the retarding effect * * * to control the speed of the train * * * shall respond to control" from the cab of the controlling locomotive. The words "in use" are included because the use of an auxiliary brake system is optional.

§ *229.15 Final report.* Current § 230.333 would be revised for clarity.

§ *229.17 Accident reports.* This provision is essentially identical to current § 230.335. Proposed § 229.17 would require that the telephone report of the accident include the name, title, and phone number of the person making the call.

Subpart B—Inspection and Tests

§ *229.21 Daily inspection.* The daily inspection requirements of current § 230.203 would be amended in three ways. First, the requirement that MU locomotives and road locomotives be inspected every 24 hours would be changed to a requirement that they be inspected at least once each calendar day. Yard locomotives are currently on a calendar day system. This change would substantially increase carrier flexibility in scheduling daily inspections to improve utilization of motive power. The FRA believes that the experience of calendar day inspections for yard locomotives has demonstrated the viability of a calendar day inspection system.

Second, the current requirement for an approved form has been deleted. A carrier may adopt any type of written report so long as it includes the information required by the section. This would allow a carrier to adapt the written report to its own automated reporting and retrieval system.

Third, paragraphs (c), (d), (e), and (f) of the current section have been deleted as unnecessary or non-regulatory in character. Paragraph (c) of the current rule is essentially not regulatory since it does not prescribe any standards for competency and since the railroad has total control of the designation. Paragraph (d) would be unnecessary under the proposal since approval of the inspection report would not be required. Similarly, the requirements relating to FRA Form No. 2–A in paragraph (f) would not be necessary since under the proposal FRA Form 2–A would be eliminated.

§ *229.23 Periodic inspection.* Current § 230.331, "Monthly locomotive unit inspection and report", would be substantially revised. This revision is necessary because of the proposed change of the inspection interval. The current 30-day inspection would be altered to require a periodic inspection at intervals that do not exceed 92 days. The periodic inspection would include both the locomotive and the steam generator and would have to be done at a location where a person may safely inspect the entire undercarriage of the locomotive.

Paragraph (b) of the proposed section would provide that the inspection may be postponed if the locomotive is out of service on the day a periodic inspection is due. However, the locomotive would have to receive a periodic inspection before being returned to service.

Paragraph (c) of the proposal would provide a mechanism for a locomotive to continue in service even if the steam generator is out of service. It would require that the water suction pipe to the water pump and the leads to main switch (steam generator switch) be disconnected and that the train line shut-off-valve be wired closed or a blind gasket applied. These procedures are designed to insure that a defective steam generator will not be inadvertently started and are in addition to the tagging requirement of § 229.113. The steam generator would have to be inspected before it is returned to service.

Paragraph (d) of the proposal is designed to provide for transition from the existing inspection system to the proposed system. It would require that each locomotive receive an initial periodic inspection before April 2, 1980. The April 2, 1980 date assumes an effective date of January 1, 1980 for the proposed revision. The initial periodic inspection would include every test, procedure, and inspection required by proposed Part 229, with two minor exceptions. If the main reservoir tests required by § 229.31 or the air brake cleaning and testing required by § 229.29 was made during calendar year 1979, the test or tests could be postponed until the fifth periodic inspection.

Paragraph (e) of the proposal would provide that the initial periodic inspection shall be numbered "1" and succeeding inspections numbered consecutively. The numbering system is designed to assist the FRA and the carriers by providing an easy reference for determining when the various tests and inspections are due. Thus, if a certain test is due at every fourth periodic inspection and the last such test was made at periodic inspection number 5, the test would be due at periodic inspection number 9.

Paragraph (g) of the proposal provides that any test done between periodic inspections shall be attributed to the periodic inspection preceding the date of the test. The purpose of this provision and of the proposed inspection system is to insure that each locomotive receives a thorough inspection at each periodic inspection. Paragraph (g) is also

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necessary since all tests under the proposal would be tied to the periodic inspection number rather than to specific dates.

§ 229.25 Tests: Every periodic inspection. Proposed § 229.25 brings together the tests and procedures that are to be accomplished at every periodic inspection. These tests and procedures are currently scattered throughout Part 230. Paragraph (a) is essentially identical with current § 230.207(b). The change in terminology from "air gauges" to "brake gauges" is intended to include hydraulic gauges, brake pipe flow indicators, and other types of gauges used in the brake system. Load meters used in conjunction with a auxiliary brake system would not be included since they would be covered by proposed § 229.27(b).

Paragraph (b) is similar to current § 230.254, except that electrical devices would now be covered. Also, the time interval would be every periodic inspection rather than monthly.

Paragraph (c) is essentially identical to current § 230.247(b).

Paragraph (d) is a revised version of current §§ 230.307(c); 230.308(b); 230.315(b), (c), and (d); and 230.316(b).

§ 229.27 Tests: Every Fourth periodic inspection. Proposed § 229.27 brings together the tests and procedures that are to be done at least once every fourth periodic inspection. Paragraph (a) is derived from current § 230.208(a), (b), and (d). Under the proposed revision, the time interval for cleaning, repairing, or replacing the filtering devices and dirt collectors located in the main air reservoir supply line would be extended from the current six month interval to every fourth periodic inspection. FRA believes that this change is warranted because filtering devices now in use have proved to be more than adequate for present operations. Also, the current rule requires that each part be stenciled with the date and place of the testing or cleaning, or that a card containing that information be displayed in the cab of the locomotive. Under the proposal, only the date and place of the testing or cleaning would be entered on FRA Form 6180.49A. At the carrier's option, the detailed information for each part may be retained in the carriers' maintenance records or on a card in the cab.

Paragraph (b) is a concise revision of current § 230.252. The test interval for load meters (voltmeters and ammeters) on units receiving power from an outside source would be changed from "not less frequently than once every six months" to "at least once every fourth periodic." This change would make the test interval for all load meters uniform. The FRA believes that the change will not diminish safety because of the absence of injuries stemming from load meters receiving power from an outside source.

Paragraph (c) of the proposal is derived in part from current § 230.309(a). It is also proposed to require that the visual return water-flow indicator be removed and inspected. The sight glass of the indicator is subject to wear which can cause it to break, thus creating a personal injury hazard.

§ 229.29 Test: Every eight periodic inspection. The proposed section is essentially identical to current § 230.208(c).

§ 229.31 Main reservoir tests. The proposed section is essentially identical to current § 230.206. However, the interval between main reservoir tests for non-aluminum reservoirs would be extended from 18 months to every eight periodic inspection, which would normally be 24 months. MU locomotive main reservoirs and aluminum main reservoirs are currently on a 24-month test interval. The time extension between tests is based on the current performance record. The FRA is not aware of any main reservoir failures or any accidents attributable to mechanical defects in the main reservoir. FRA estimates that less than 300 locomotives have reservoirs that require a hammer or a hydro test.

Subpart C—Safety Requirements

General Requirements

§ 229.41 Protection against personal injury. The proposal brings together the various provisions in the current regulations that relate to protection against personal injury, including §§ 230.229(i) (fan openings), 230.218(a) (gears and pinions), 230.258(a) (exposed moving parts), and 230.244 and 230.246 (electrical equipment). The general requirement would also cover other situations that may arise which present a personal injury hazard.

§ 229.43 Exhaust gases. Proposed § 229.43 is a consolidation of current §§ 230.259 and 230.327. The provision is written to cover all products of combustion of a locomotive.

§ 229.45 General condition. Proposed § 229.45 would require that all systems and components of a locomotive be free of conditions that endanger the safety of the crew, locomotive, or train. While this is a broadly stated provision, it tracks the concept of section 2 of the Locomotive Inspection Act that a locomotive and all its parts must be in proper condition and safe to operate in the service to which it is put. The discretion of FRA inspectors to determine unsafe conditions is a necessary element of locomotive inspection regulation. This discretion is found throughout the current rules in phrases such as "safe and suitable" and "ample strength".

The general requirement provides a mechanism that will allow a significant reduction in the regulations that deal with components that are only rarely found in the current locomotive fleet. Motor, main, and side rods, crank pins, and trolly appurtenances are examples of components that are still in use on a very limited number of locomotives. The general requirement also eliminates the necessity of repeating in each provision a requirement that a component must be in place and performing its intended function.

The provision on the general condition of a locomotive sets forth certain categories of unsafe conditions. These categories provide a method of consolidating several current provisions that are essentially similar, e.g., sections that all deal with leaks. The first category is insecure attachment of components, including third rail shoes and beams, traction motor and motor gear cases, and fuel tanks. The second category is leaks, including fuel, oil, water, steam, and other leaks that create a personal injury hazard. This would consolidate current §§ 230.250 (liquid filled transformers) 230.255(a) and 230.323(a) (fuel tanks and related piping), 230.262(b) (engine and accessories), and 230.321(a) (steam generator). The third category is improper functioning of components, including slack adjusters (§ 230.209(b)), pantagraph operating cylinders (§ 230.238(f)), circuit breakers, contactors, relays, switches, and fuses (§ 230.246). The fourth category is cracks, breaks, excessive wear, and other structural infirmities of components, including quill drives (§ 230.217), axles (§ 230.213), gears and pinions (§ 230.218), pantagraph shoes and horns (§ 230.238(e)), third rail beams (§ 230.240(b)), wires and cables (§ 230.248), traction motor gear cases, and fuel tanks.

Brake Systems

§ 229.46 Brakes: General. This provision is a more concise restatement of current § 230.204(a). The requirement that oil be drained from the air brake system is incorporated from an essentially identical requirement in current § 230.205(f), which would be deleted.

§ 229.47 Emergency brake pipe. Proposed § 229.47 is essentially identical

to current § 230.204(b). However, the requirements of the section would be extended to MU locomotives. FRA believes that all MU locomotives currently meet the proposed requirements because they are equipped with an emergency brake pipe valve in the vestibule of the locomotive.

§ 229.49 Main reservoir system. The proposed requirements for air compressors differ from the existing requirements in several ways. Current § 230.205(d), which requires that an orifice test be made not less frequently than every three months, would be deleted. The FRA believes that improvements in air compressors and the questionable value of the orifice test in identifying defective compressors warrant its elimination.

The capacity requirement for the air compressor in current § 230.205(e) would also be eliminated because a compressor with less than 80 percent of original capacity might provide sufficient air and one with more than 80 percent capacity might not.

Current paragraph (f) would be deleted from this section because proposed § 229.46 would require that oil be drained from the air brake system.

FRA does not have any reports of accidents or casualties resulting from the inadequacy of the air compressor production capacity. It is anticipated that there will be an annual savings of approximately $1 million from the elimination of the orifice test.

§ 229.51 Aluminum main reservoirs. This section is the same as current § 230.206a.

§ 229.53 Brake gauges. Proposed § 229.53 is essentially identical with current § 230.207(a). The term "air gauge" would be changed to "brake gauge". This change would bring hydraulic and other types of gauges used in brake systems under the scope of the section. The proposed rule also would provide that a gauge may not be more than 3 pounds in error. This standard is designed to insure the accuracy of the gauges within reasonable tolerances.

§ 229.55 Piston travel. The proposed section is derived from current § 230.209. Paragraph (a) of the proposal is the same as § 230.209(a). Under current § 230.209(b), the maximum travel is prescribed for various types of brakes, but certain newer brakes are not covered. Rather than lengthen the list, a general requirement for all brake pistons is being proposed. It provides that the brake cylinder piston travel may not exceed two inches less than the total possible piston travel. Slack adjusters would be covered in § 229.45 under the proposed revision.

§ 229.57 Foundation brake gear. The foundation brake gear requirements of current § 230.210 would be clarified under the proposal by spelling out what is intended by the current language, "ample strength". Proposed § 229.57 would provide that foundation brake components may not be worn through more than 30 percent of their cross-sectional area or cracked.

§ 229.59 Leakage. Except for editorial changes, proposed § 229.59 is the same as current § 230.211.

Draft System

§ 229.61 Droft systems. Current § 230.212 sets forth the requirements for various types of coupler arrangements, including drawgear, drawbar, chafing irons, automatic couplers, friction draft gear, pins, and draft gear. Proposed § 229.61 would revise and restructure the current rule to clarify and simplify the language. The proposed section would encompass yoke, draft gear, and securement pin requirements, and it would spell out more clearly what are defects in draft arrangements. Though the proposed language differs from the existing language, the revision is not intended to change the substantive requirements of the section.

Suspension System

§ 229.63 Lateral motion. The current requirements of § 230.220 would remain unchanged except that language considered by the FRA to be surplusage has been deleted.

§ 229.64 Plain bearings. The current requirements in § 230.219 applicable to bearings are drafted in archaic language and unnecessary detail. The proposal would require that a plain bearing box contain free oil and not be cracked to the extent that it will leak oil. During the period January 1, 1977, to September 30, 1978, only five accidents were caused by a failure of a bearing.

§ 229.65 Spring rigging. The proposed section is similar to current § 230.222. Paragraph (a) of the current rule would be deleted since the concept of proper functioning of components would be encompassed in the general condition requirement of § 229.45. Second, a new paragraph covering shock absorbers would be added. Third, the proposed revision would permit one elliptical spring in a spring nest of three or more springs to have its top leaf or any three leaves broken. This change is warranted because the current rule was drafted with a single spring rather than a spring nest in mind.

§ 229.67 Trucks. The proposed provision is quite similar to current § 230.223 in the significant substantive areas. Paragraph (b) (centering devices), and paragraph (f) (radius bar pins), would be deleted from the current rule under the proposal. The provision on radius bar pins is obsolete. The requirement for a centering device is unnecessary because of current locomotive design. Additionally, paragraph (c) of the current rule, which requires safety chains to prevent sluing in case of derailment, would be broadened to allow the use of other devices or arrangements that will prevent the truck and locomotive body from separating in case of derailments. Finally, paragraphs (d), (e), (g), and (h) of § 230.223 have been consolidated into a new paragraph (§ 229.67(c)).

§ 229.69 Side bearings. Proposed § 229.69 is essentially identical to current § 230.224.

§ 229.71 Clearance above top of rail. The proposed provision is identical to the current provision in § 230.225.

§ 229.73 Wheel sets. Proposed § 229.73 is based upon current § 230.226. Paragraphs (a), (e), (f), (g), (h), (i), (j), and (k) of the current rule would be deleted under the proposed revision. The FRA feels that the requirements in those provisions are obsolete or have very limited applicability because of the number of wheels affected. Also, some of the requirements have only an indirect relation to safety.

Second, the permissable variation of the size of the wheels mounted on the same axle would be amended to two tape sizes from the current requirment (§ 230.226(b)) that the wheel diameters may not vary more than $\frac{3}{32}$ inch. Except for MU's, the substantive change would be minimal, and the proposed unit of measurement would conform to industry practice. Under current § 230.420(b), circumference of wheels on the same axle on an MU locomotive may not vary more than $\frac{1}{16}$ inch. Two tape sizes (equivalent to $\frac{1}{4}$ inch) would be an increase in the permissable tolerance.

Third, wheel gauge requirements for wide flange wheels would be specified under proposed paragraph (c). There is currently a possibility of direct interference between wide flange wheels and the track. This problem has been implicated in past derailments.

Fourth, paragraph (b) of the proposal includes a new requirement that would prohibit a variation of more than $\frac{3}{4}$ inch in the diameter of any two wheel sets on a three-powered-axle truck. It would also prohibit a variation of more than $1\frac{1}{4}$ inch in the diameter of wheel sets on different trucks of a locomotive that has

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three-powered-axle trucks. (The diameter of a wheel set is the average diameter of the wheels on an axle.) The FRA believes that this requirement is necessary because excessive mismatch can induce false wheel slip indications and subsequent sanding. The sanding may substantially increase the ratio of lateral to vertical forces.

§ 229.75 Wheel and tire defects. This provision is substantially the same as current § 230.227. The current provision would be revised by deleting paragraph (1) because out of gauge wheels are dealt with in proposed § 229.73(c).

Second, proposed § 229.75 would make all wheel and tire requirements uniform. Current § 230.228 (minimum tire thickness) would be deleted.

Third, the restrictions on welded wheels, current § 230.227(o), would be amended to clarify that a wheel that has been welded always remains a welded wheel. The welding process affects the heat tempering of the wheel and reduces its strength. Even if the weld has worn off through wear and is no longer visable, the wheel would remain a welded wheel since its strength is still reduced.

Fourth, the flange width condemning limit has been reduced to ⅞ inch from 1 5/16 inch. Since the adoption of the current limits, the quality of wheels has substantially improved due to the introduction of new materials and more advanced manufacturing practice. Iron wheels have been replaced by steel wheels. The FRA believes that advances in forging and casting techniques and heat control have improved the structural integrity of wheels to justify the proposed extended wear limits.

Fifth, two current requirements applicable to MU locomotives (Subpart D of Part 230) would be changed to conform with the requirements for other locomotives in current Subpart C. Slide flat spot defects and shelled out spot defects on MU locomotive wheels would be extended from the current 1½ inches to 2½ inches. FRA believes that a single limit applicable to all locomotives powered by other than steam power is preferable and that this change will not adversely affect safety.

§ 229.77 Current collectors. Proposed § 229.77 is essentially identical with paragraphs (b), (c), and (d) of current § 230.238. Paragraphs (a), (e), and (f) would be consolidated in proposed § 229.45.

§ 229.79 Third rail shoes and beams. Proposed § 229.79 is essentially identical to current § 230.240(a). Paragraph (b) of § 230.240 would be consolidated in proposed § 229.45.

§ 229.81 Emergency pole; shoe insulation. Proposed § 229.81 is identical with current § 230.241.

§ 229.83 Insulation or grounding of metal parts. This provision is essentially identical to current § 230.243.

§ 229.85 Doors and cover plates marked "Danger". This provision is essentially identical to current § 230.245.

§ 229.87 Hand operated switches. The provision is essentially identical to current § 230.246(a). Paragraphs (b) and (c) of current § 230.246 would be incorporated in proposed §§ 229.45 and 229.41.

§ 229.89 Jumpers; cable connections. Proposed § 229.89 is derived from paragraphs (a) and (c) of current § 230.247, which have been rewritten for clarity.

§ 229.91 Motor and generators. This provision is an edited version of current § 230.249. The present requirement in §§ 230.249 and 230.444 that motors and generators be "securely fastened in place" would be covered under § 229.45. The requirements applicable to MU locomotives under current § 230.444 are not as specific as those proposed. The proposed additional language, however, would not add any new substantive requirements.

Internal Combustion Equipment

§ 229.93 Safety cut-off valve. This provision is essentially the same as current §§ 230.255(b) and 230.323(b).

§ 229.95 Venting. The requirements of this proposed section are found in current §§ 230.256(a) and 230.323(c). The FRA proposes to delete the requirement of § 230.256(b) for a guage that will indicate the level of fuel in the fuel reservoirs. While such a gauge may be useful, the FRA does not believe it is necessary from the standpoint of locomotive safety.

§ 229.97 Grounding fuel tanks. This provision is identical to current § 230.257.

§ 229.99 Safety hangers. This provision is essentially the same as current § 230.261.

§ 229.101 Engines. This provision is an edited version of current § 230.262. The revision would clarify the relationship of tagging, slip/slide requirements, and movement of locomotive with a tagged engine. It would provide explicitly that whenever an engine shut down on a locomotive in road service negates wheel slip/slide protection, the locomotive may only be moved to the nearest point or the nearest forward point where repairs necessary to restore wheel slip/slide protection can be made. It also specifically provides that a locomotive with a tagged engine may continue in service if wheel slip/slide protection required by § 229.115 is not negated.

Steam Generators

Sections 230.300 through 230.329 of the current rules relate to "steam boilers" used with locomotives powered by other than steam. The FRA proposes to revise and update these sections since many are archaic in language and substance. There are currently only about 450 steam generators available for use. The total includes many steam generators that are in storage. Approximately 170 locomotives are equipped with one or more steam generators. All 450 steam generators were built by the same manufacturer and are similar in design and performance.

FRA proposes to delete the following current provisions pertaining to steam boilers:

§ 230.301 Stresses, staybolts, braces.
§ 230.302 Strength of materials.
§ 230.304 Interior inspection.
§ 230.305 Method of inspection.
§ 230.306 Cracks.
§ 230.308 Exterior inspection.
§ 230.310 Test of rigid staybolts.
§ 230.311 Staybolts with caps; examination.
§ 230.312 Flexible staybolts without caps.
§ 230.313 Broken staybolts.
§ 230.314 Telltale holes.
§ 230.319 Water tubes; flared or beaded; defects.
§ 230.320 Boiler washing.
§ 230.322 Feed-water tanks and piping.
§ 230.323 Fuel tanks and piping.
§ 230.324 Feed-water and fuel-oil reservoir testing.
§ 230.325 Boiler and reservoir inspection.
§ 230.326 Steam headers.
§ 230.332 Quarterly boiler inspection and report.

Additionally, FRA proposed to delete portions of current § 230.303, 230.307, 230.309, 230.316, 230.317, 230.321, and 230.327. Finally, FRA proposed to reword and clarify many of the remaining rules or portions of the rules.

These changes are proposed for a number of reasons. First, the provisions regarding fire tube boilers and staybolts are archaic. Steam generators now in use do not have these features. Second, Form 4B, "Specification for Boilers", and Form 19B, "Alteration Report for Boiler", were designed for steam locomotive boilers.

The detailed information and control provided by these reports was necessary for steam locomotive boilers due to the wide variation of boiler types. Third, the boiler washout requirement is not necessary for safety for current generation steam generators. The requirement was necessary for safety for tube type boilers, but steam

generators have a forced circulation type boiler. Hence, inadequate boiler washout will only lead to inefficiency or shut-down. Fourth, the test procedures in current § 230.309(b) are obsolete and inappropriate for steam generators. The general requirement in proposed § 229.45 that the steam generator be free from leaks provides an adequate safeguard. Similarly, the test procedures of current § 230.316(b) requiring two gauges are obsolete. Fifth, the provisions relating to feed-water appliances are maintenance oriented. Failure of these devices will cause an automatic shut-down, but do not create a safety hazard. Sixth, the requirement of current § 230.323 (fuel tanks and related piping) are not necessary since the fuel system would be subject to proposed §§ 229.45, 229.93, and 229.95.

The following chart is a cross-reference of the proposed sections on steam generators to the current sections:

Proposed	Current
§ 229.103	§ 230.300
§ 229.105	§ 230.303(a)
§ 229.107	§ 230.315(a), (d)
§ 229.109	§ 230.316(a)
§ 229.111	§ 230.317(f), (g), (h), (i)
§ 229.113	§ 230.321(e)

The proposed sections do not establish any new substantive requirements. The proposed section on tagging (§ 229.113) specificially provides that a locomotive with a tagged steam generator may continue in service until the next periodic inspection. Under § 229.23 (a) and (c) of the proposed revision, the steam generator would either have to be repaired at the next periodic inspection or certain steps taken to render the steam generator inoperable.

Cabs and Cab Equipment

§ 229.115 Slip/slide alarms. The requirements relating to slipping or sliding wheel alarms in current § 230.201(d) would be revised. Paragraph (a) of the proposal provides that when locomotives used in road service are coupled in multiple control, the alarm for each locomotive shall be shown in the cab of the controlling locomotive. This is a clarification of the current rule.

It is also proposed to require that all new locomotives built after January 1, 1980, be designed with a wheel slip/slide device for each powered axle that produces an audible or visual alarm in the cab. The FRA believes that all locomotives now being built are equipped with some type of slip/slide device. However, certain MU locomotives being built may not have devices that produce an alarm in the cab.

§ 229.117 Speed indicators. The FRA is proposing to require that all locomotives used at speeds in excess of 20 miles per hour (m.p.h.) be equipped with operative, reasonably accurate speed indicators. Since the proposed rule would apply to any locomotive operated at speeds above 20 m.p.h., most yard locomotives and other locomotives operated wholly under carrier "restricted speed" rules would not be subject to the rule.

The importance of speed control to railroad safety is manifest. Compliance with the FRA Track Safety Standards (49 CFR Part 213) assumes accurate knowledge of speed on the part of engine crews. Similarly, compliance with requirements for signal protection (I.C.C. Docket No. 25943) is not possible absent careful attention to train speeds. High speed operations and environmental conditions such as fog and heavy rain often make reliable estimation of speed difficult or impossible, for even a seasoned locomotive engineer. Indeed, exact estimation of speed is difficult under any conditions.

Each speed indicator would have to be accurate to within 3 m.p.h. of actual speed at speeds at and above 20 m.p.h. While some comments elicited by the advance notice [39 FR 4929] suggested that greater tolerances might be appropriate, the FRA has noted that the commonly employed devices make provision for calibration to account for wheel wear and other factors. Since speed control is critical to the safety of railroad operations, the FRA believes it would be proper to allow for a greater margin of error only if a convincing technical case can be made that a significant number of the devices now in service cannot be maintained within the 3 m.p.h. limitation, given a reasonable level of periodic attention.

The proposed rule would also require that the speed indicator be clearly readable from the position of the individual in control of the locomotive under all light conditions. A test of the speed indicator by means of a speed test section or an equivalent procedure would be required as soon as possible after departure.

Based on available data, the FRA does not believe that the proposed requirements for speed indicators would impose significant costs on the railroad industry. While installation costs for speed indicators may range well in excess of $1,000 per unit depending on the technology employed, survey information developed as early as 1972 indicated that substantially all locomotives used in road service were already so equipped. The FRA is not aware of any road locomotive produced since that time that was not equipped with a speed indicator.

§ 229.119 Cabs, floors, and passageways. Proposed § 229.119 is a revised version of current § 230.229. Paragraph (a) of the current rule, defining a cab, would be found in the proposed definition section (§ 229.5(a)). A new paragraph (a) would require that the cab seats be securely mounted and braced, and that the cab doors be equipped with an operable latching device. Between January 1, 1977, and September 30, 1978 there was a total of 141 injuries related to cab seats and 190 injuries related to locomotive doors.

The current requirements in § 230.229(b) that the cab and superstructure be securely attached and braced would also be deleted. This requirement is a carry over from the steam locomotives where the cab was a separate component attached to the locomotive frame. The requirements relating to cab windows in paragraphs (b) and (c) of the current rule would be consolidated into a new paragraph (b). Cab windows in the lead locomotive would have to provide an undistorted view of the right of way for the crew from their normal position under all operating conditions. Thus, the glazing material would have to be free of cracks, tinting, crazing, or other conditions that distort the crew's vision. Means would also have to be provided to insure an undistorted view in rain and frost conditions and to keep the window free of foreign matter. The current requirements regarding the type of glazing material would be deleted since glazing material requirements are the subject of a pending Notice of Proposed Rulemaking (43 FR 47579). The current glazing requirements of current § 230.229(b) would be retained until other glazing requirements are established.

The current requirement in § 230.229(e) for floor coverings would be deleted because modern locomotive design make it unnecessary. FRA also proposes to delete that portion of current § 230.229(f) that specifies where and how the cab temperature is to be determined. Proposed § 229.119(d) provides simply the cab shall be provided with a heating arrangement that will maintain a temperature of not less than 50 degrees Fahrenheit.

A new paragraph (e) in § 229.119 would provide that all forward facing openings in the front of the locomotive be sealed or arranged so that they do

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not provide an entry for flammable liquids into the cab in the event of an accident. This proposed requirement is now an industry standard for new locomotives. FRA believes that retrofitting the existing fleet is warranted in light of the number and severity of grade crossing accidents involving tank trucks. The FRA believes that only a very small portion of the locomotive fleet would have to be retrofitted. There was a reported total of 13 grade crossing accidents between 1974 and 1977 in which flammable liquids entered a locomotive cab. These accidents resulted in three fatalities and 12 injuries.

§ *229.121 Locomotive cab noise.* Proposed § 229.121 provides that noise level exposure in the cab may not exceed specific prescribed levels. Employee exposure would be limited to 90 dB(A) as an eight-hour time-weighted average, with a 5 dB doubling rate (the amount by which the exposure intensity may be increased when exposure time is decreased). For example, if the noise intensity doubled from 90 dB(A) to 95 dB(A), the permissible exposure time would be reduced from 8 hours to 4 hours. The proposed noise standards also include an absolute upper noise level limit of 115 dB(A). These standards are generally accepted and are the General Industry Standard adopted by the Occupational Safety and Health Administration, Department of Labor (29 CFR 1910.95).

The FRA believes that these noise limits take into account speech interference, risk of hearing impairment, and the need for preserve employee altertness. FRA noise investigations have noted that in some cases air horns and air brake exhaust can cause high noise levels in the cab. The proposed noise level requirements might necessitate relocation of the air horn and muffling or redirection of the air brake exhaust on a few locomotives. Apart from these two items, FRA's tests of older locomotives indicate that they can meet the proposed standards if they are properly maintained.

§ *229.123 Pilots, snowplows, end plates.* Proposed § 229.123 would alter the current provisions of § 230.230 in two ways. First, it would include snowplows and end plates. Additionally, each lead locomotive would be required to be equipped with a pilot, a snowplow, or an end plate to help deflect objects on the track. The FRA believes that most locomotives meet the requirements of proposed § 229.123. However, with the recent removal of footboards from switching locomotives, one of these devices should be installed on those locomotives. In calendar year 1977, 68 derailments resulted from foreign objects on the track.

§ *229.125 Headlights.* Proposed § 229.125 is a modified and condensed version of current § 230.231. It would be modified to set specific light intensities, measured in candela. The current approach for determining light intensities is imprecise and unscientific. Section 230.231 uses language such as "usual visual capacity required of enginemen", "large as a man of average size", and "dark object." Proposed § 229.125 would specify that locomotives used in road service shall have a headlight that produces at least 200,000 candela and that yard locomotive have at least 60,000 candela headlights. FRA believes that the intensity levels precribed in the proposed rule are sufficient and can be met by locomotives in the existing fleet.

§ *229.127 Cab lights.* Proposed § 229.127 is essentially the same as current § 230.233. Paragraph (c) of the current rule would be deleted since it is redundant of paragraph (a). Paragraph (d) of the current rule (proposed § 229.127(c)) would be revised to delete the requirement for dual lighting circuitry where the cab lights are not supplied from storage batteries and to add the requirements that batteries be kept from gassing. FRA believes that the dual circuitry requirement does not need to be mandated in light of current locomotive design. Gassing batteries present a personal injury hazard.

§ *229.129 Audible warning device.* Proposed § 229.129 would update the current whistle requirements in current § 230.234 in two ways. The revision would use the term "audible warning devices" instead of "whistle" and would set minimum sound level standards for the required device. The minimum sound level would be 96 dB(A) measured at 100 feet forward of the locomotive in its direction of travel. It is also proposed to require that at least one chime of the device face in the direction of travel.

FRA believes that these requirements are necessary to insure that the devices sound at an adequate intensity level in the direction of travel. The intensity level is an important element of the warning to persons and vehicles that the device is designed to provide. The FRA believes that there is an inherent hazard where all chimes face in the forward direction and the locomotive is being operated in reverse. This type of operation greatly reduces the sound propagation in the direction of locomotive movement and, therefore, impairs the effectiveness of the audible warning device.

The FRA recognizes that audible warning devices cannot always be relied upon as the primary means of warning at rail-highway grade crossings. Therefore, recent regulatory efforts have been directed towards enchaning other warning capabilities of a locomotive (ANPRM, Strobe Lights On Locomotives, 43 FR 9324).

The FRA believes that locomotives in the existing fleet can meet the sound intensity level if the audible warning device is functioning properly. The FRA estimates that approximately 95% of road locomotives and 33% of switching locomotives are presently equipped with forward and rearward facing horns.

§ *229.131 Sanders.* The proposed section on sanders is essentially a restatement of the current requirements in § 230.235. Section 229.135 would exclude MU and cab control locomotives from the requirement to have sanders. MU locomotives are not now required to have sanders. Cab control locomotives would be excluded because they do not have powered wheels. The requirement in the proposal that sanders shall be operable replaces the current requirement that the sanding apparatus be tested before each trip.

Subpart D—Design Requirements

§ *229.141 Body structure, MU locomotives.* This provision is the same as current § 230.457.

Environmental Impact

On March 16, 1979, the FRA published (44 FR 16062) revised procedures for insuring full consideration of the environmental impacts of FRA actions as required by the National Environmental Policy Act ("NEPA", 42 U.S.C. 4321 *et seq.*), the Department of Transportation Act ("DOT Act", 49 U.S.C. 1651 *et seq.*), other environmental statutes, executive orders, and DOT Order 5610.113.

These FRA procedures require that an "environmental assessment" be performed prior to all major FRA actions. The procedures contain a provision that enumerates seven criteria which, if met, demonstrate that a particular action is not a "major" action for environmental purposes. These criteria involve diverse factors, including environmental controversiality; the availability of adequate relocation housing; the possible inconsistency of the action with Federal, State, or local law; the possible adverse impact on natural, cultural, recreational, or scenic environments; the use of properties covered by section 4(f) of the DOT Act; and the possible increase in traffic congestion. The proposed revision of locomotive inspection requirements meets the seven criteria that establish an action as a non-major action.

For the reasons above, the FRA has determined that the proposed revision of Part 230, locomotive inspection requirements, does not constitute a major FRA action requiring an environmental assessment.

Economic Impact

FRA has determined that this notice does not contain a significant regulatory proposal. Therefore, a Regulatory Analysis under Executive Order 12044 is not required (E.O. 12044, 43 FR 12661, March 24, 1978).

In addition, FRA has evaluated this proposal in accordance with DOT's policies for the evaluation of regulatory impacts. Since the proposed regulations would, on balance, reduce the number of regulatory requirements currently in effect, and reduce existing regulatory burdens, FRA concludes that a detailed evaluation is not warranted (Regulatory Policies and Procedures, 44 FR 11034, February 26, 1979).

Written Comments and Hearing

Interested persons are invited to participate in this proceeding by submitting written data, views, or comments. Communications should identify the regulatory docket number and the notice number, and must be submitted in triplicate to the Docket Clerk, Office of the Chief Counsel, Federal Railroad Administration, 2100 Second Street, S.W., Washington, D.C. 20590. Communications received before July 23, 1979 will be considered before final action is taken on the proposed rules. All comments received will be available for examination by interested persons at any time during regular working hours in Room 4406, Trans Point Building, 2100 Second Street, S.W., Washington, D.C. 20590.

In addition, the FRA will conduct a public hearing on July 10, 1979, in Room 3201, 2100 Second Street, S.W., Washington, D.C. at 10:00 a.m. The hearing will be informal, and not a judicial or evidentiary hearing. There will be no cross examination of persons making statements. A staff member of FRA will make an opening statement outlining the matter set for the hearing. Interested persons will then have the opportunity to present their oral statements.

At the completion of all initial oral statements, those persons who wish to make rebuttal statements will be given the opportunity to do so in the same order in which they made their initial statements. Additional procedures for conducting the hearing will be announced at the hearing.

Interested persons may present oral or written statements at the hearing. All statements will be made a part of the record of the hearing and will be a matter of public record. Any person who wishes to make an oral statement at the hearing should notify the Docket Clerk, Office of Chief Counsel, Federal Railroad Administration, 2100 Second Street, S.W., Washington, D.C. 20590 (Phone 202-426-8836), before July 6, 1979, stating the amount of time required for the initial statement.

(Secs. 1, 2, 5, 9, 36 Stat. 913, 914 (45 U.S.C. 22, 23, 28, 34); sec. 6(e) and (f), 80 Stat. 939, 940 (49 U.S.C. 1655(e) and (f).)

Issued in Washington, D.C. on July 16, 1979.

John M. Sullivan,
Administrator.

The proposals contained in this notice may be changed in light of the oral statements made at the public hearing, or the written comments submitted in response to this notice.

The Proposed Rule

In consideration of the foregoing, the FRA proposes the following:

1. To revise Part 230 (49 CFR Part 230) to read as follows:

PART 230—STEAM LOCOMOTIVE INSPECTION

§ 230.0 Steam powered locomotives.

(a) No railroad may use a steam powered locomotive on its line unless that locomotive meets the requirements of 49 CFR Part 230, Subpart A (§§ 230.1–230.55) and Subpart B (§§ 230.101–230.162) as in effect on October 1, 1978.

(b) Any interested person may consult the October 1, 1978 revision of 49 CFR Parts 200–999 or obtain a copy of these regulations by contacting the Federal Railroad Administration, Office of Standards and Procedures, 400 7th St., SW., Washington, D.C. 20590.

Subpart A—Boilers and Appurtenances (Limited Applicability) [Reserved] Subpart B—Steam Locomotives and Tenders (Limited Applicability) [Reserved]

(Secs. 1, 2, 5, 9, 36 Stat. 913, 914 (45 U.S.C. 22, 23, 28, 34); sec. 6(e) and (f), 80 Stat. 939, 940 (49 U.S.C. 1655(e) and (f)).)

2. To adopt a new Part 229 (49 CFR Part 229) to read to follows:

PART 229—RAILROAD LOCOMOTIVE SAFETY STANDARDS

Subpart A—General

Sec.
229.1 Scope.
229.3 Applicability.
229.5 Definitions.
229.7 Prohibited acts.
229.9 Movement for repair.
229.11 Locomotive identification.
229.13 Control of locomotives.
229.15 Final report.
229.17 Accident reports.

Subpart B—Inspections and Tests

229.21 Daily inspection.
229.23 Periodic inspection: General.
229.25 Tests: Every periodic inspection.
229.27 Tests: Every fourth periodic inspection.
229.29 Test: Every eighth periodic inspection.
229.31 Main reservoir tests.

Subpart C—Safety Requirements

General Requirements
229.41 Protection against personal injury.
229.43 Exhaust gases.
229.45 General condition.

Brake System
229.46 Brakes: General.
229.47 Emergency brake pipe.
229.49 Main reservoir system.
229.51 Aluminum main reservoirs.
229.53 Brake gauges.
229.55 Piston travel.
229.57 Foundation brake gear.
229.59 Leakage.

Draft System
229.61 Draft system.

Suspension System
229.63 Lateral motion.
229.64 Plain bearings.
229.65 Spring rigging.
229.67 Trucks.
229.69 Side bearings.
229.71 Clearance above top of rail.
229.73 Wheel sets.
229.75 Wheel and tire defects.

Electrical System
229.77 Current collectors.
229.79 Third rail shoes.
229.81 Emergency pole; shoe insulation.
229.83 Insulation or grounding of metal parts.
229.85 Doors and cover plates marked "Danger".
229.87 Hand-operated switches.
229.89 Jumpers; cable connections.
229.91 Motors and generators.

Internal Combustion Equipment
229.93 Safety cut-out valve.
229.95 Venting.
229.97 Grounding fuel tanks.
229.99 Safety hangers.
229.101 Engines.

Steam Generators

229.103 Safe working pressure; factor of safety.
229.105 Steam generator number.
229.107 Pressure gauge.
229.109 Safety valves.
229.111 Water-flow indictor.
229.113 Tagging.

Cabs and Cab Equipment

229.115 Slip/slide alarms.
229.117 Speed indicators.
229.119 Cabs, floors, and passageways.
229.121 Locomotive cab noise.
229.123 Pilots, snowplows, end plates.
229.125 Headlights.
229.127 Cab lights.
229.129 Audible warning device.
229.131 Sanders.

Subpart D—Design Requirements

229.141 Body structure, MU locomotives.
Appendix A—Form FRA 6180.49A

Authority: Secs. 1, 2, 5, 9, 36 Stat. 913, 914 (45 U.S.C. 22, 23, 28, 34); sec. 6(e) and (f), 80 Stat. 939, 940 (49 U.S.C. 1655(e) and (f)).

Subpart A—General

§ 229.1 Scope

This part prescribes minimum Federal safety standards for all locomotives except those propelled by steam power.

§ 229.3 Applicability.

This part applies to all common carriers by railroad as defined in the Locomotive Inspection Act (45 U.S.C. 22).

§ 229.5 Definitions.

As used in this part—

(a) "Cab" means that portion of the superstructure occupied by the crew in controlling the locomotive.

(b) "Carrier" means a common carrier by railroad subject to the Locomotive Inspection Act (45 U.S.C. 22).

(c) "Control cab locomotive" means a locomotive without propelling motors but with one or more control stands.

(d) "Locomotive" means a piece of equipment—

(1) With propelling motors designed for moving other equipment;

(2) With propelling motors designed to carry freight or passenger traffic or both; or

(3) Without propelling motors but with one or more control stands.

(e) "MU locomotive" means a locomotive within the meaning of paragraph (d)(2) or (3) of this section that is a multiple operated electrical locomotive.

§ 229.7 Prohibited acts.

(a) The Locomotive Inspection Act (45 U.S.C. 22–34) makes it unlawful for any carrier to use or permit to be used on its line any locomotive unless the entire locomotive and its appurtenances—

(1) Are in proper condition and safe to operate in the service to which they are put, without unnecessary peril to life or limb; and

(2) Have been inspected and tested as required by this part.

(b) A carrier that fails to comply with any provision of the Locomotive Inspection Act or of this part is subject to a penalty of not less than $250 and not more than $2,500 (45 U.S.C. 34)

§ 229.9 Movement for repair.

(a) A locomotive that does not comply with this part may not be moved from a point where repairs necessary to bring it into compliance can be made.

(b) A locomotive that does not comply with this part may only be moved to the nearest point or the nearest forward point where repairs necessary to bring it into compliance can be made if the carrier—

(1) Verifies that the locomotive is safe to move and prescribes appropriate restrictions to assure that the movement is made in a safe manner; and

(2) Displays "Bad order" tags or other written notices in the cabs of the controlling locomotive and the non-complying locomotive that contain the following information:

(i) The reporting mark and number of the defective locomotive.

(ii) The name of the inspecting railroad.

(iii) The inspection location and date.

(iv) The nature of the defect and movement restrictions.

(v) The destination for shopping and repair.

(vi) The signature of the person that determines the locomotive is safe to move and prescribes appropriate movement restrictions to assure safety.

(c) A locomotive within the meaning of § 229.5(d) does not cease to be a locomotive for purposes of this section because its propelling motors are inoperative or because its jumper cables are not connected or both.

§ 229.11 Locomotive identification.

The letter "F" shall be legibly shown on each side of every locomotive near the end which for identification purposes will be known as the front end. The locomotive number shall be displayed in clearly legible numbers on each side of each locomotive.

§ 229.13 Control of locomotives.

Whenever two or more locomotives are coupled in multiple control, the propulsion system, the sanders, the power brake system, and any auxiliary brake system if that auxiliary system is in use, including dynamic and regenerative brake systems, of each locomotive shall respond to control from the cab of the controlling locomotive.

§ 229.15 Final report.

(a) When a locomotive is permanently retired from sevice, the Form FRA F 6180–49A on the locomotive at that time shall be removed and filed within 30 days with the Federal Railroad Administration, RRS–25, Washington, D.C. 20590. Each form filed shall contain the following.

(1) The words "locomotive will not again be used by this company."

(2) The date and place the locomotive is retired from service; and

(3) A statement of the disposition of the locomotive.

(b) When a locomotive steam generator is permanently retired from service the Form FRA F 6180–49A on the locomotive shall contain the following:

(1) The words "steam generator will not again be used by this company."

(2) The date and place the steam generator is retired from service; and

(3) A statement of the disposition of the steam generator.

§ 229.17 Accident reports.

In the case of an accident due to a failure from any cause of a locomotive or any part or appurtenance of a locomotive, or a person coming in contact with an electrically energized part or appurtenance, that results in serious injury or death of one or more persons, the carrier operating the locomotive shall immediately report the accident by toll free telephone, Area Code 800–424–0201. The report shall state the nature of the nature of the accident, number of persons killed or seriously injured, the place at which it occurred, the location at which the locomotive may be inspected by the FRA, and the name, title and phone number of the person making the call. Where the locomotive is disabled to the extent that it cannot move under its own power, the part or parts affected by the accident shall be preserved by the carrier, so far as possible without hindrance or interference to traffic, until after the FRA inspection. Confirmation of this report shall be immediately mailed to the Federal Railroad Administration, RRS–25, Washington, D.C. 20590, and contain a detailed description of the accident, including to the extent known, the causes and a complete list of the killed and injured.

Subpart B—Inspections and Tests

§ 229.21 Daily inspection.

(a) Except for MU locomotives, each locomotive in service shall be inspected at least once during each calendar day. A written report of the inspection shall be made. This report of the inspection shall be made. This report shall contain the name of the railroad; the initials and number of the locomotive; the place, date and time of the inspection; a description of the non-complying conditions disclosed by the inspection; and the signature of the employee making the inspection. Except as provided in § 229.9(b), any conditions that constitute a violation of the Locomotive Inspection Act or any Federal Railroad Administration regulation shall be repaired before the locomotive is used. A notation shall be made on the report to indicate that the repairs have been made or that the locomotive has been tagged in accordance with § 229.9(b)(2). If repairs are made, the person making the repairs shall sign the report. The report shall be filed in the office of the railroad at the terminal at which the locomotive is cared for and retained for at least one year. A record shall be maintained on each locomotive showing the place, date and time of the previous inspection.

(b) Each MU locomotive in service shall be inspected at least once during each calendar day and a written report made of the inspection. This report may be part of a single master report covering an entire group of MU's. If any non-complying conditions are found, a separate, individual report shall be made containing the name of the railroad; the initials and number of the locomotive; the place, date, and time of the inspection; the non-complying conditions found; and the signature of the inspector. Except as provided in § 229.9(b), any conditions that constitute a violation of the Locomotive Inspection Act or any FRA regulation shall be repaired before the locomotive is used. The reports shall be filed in the office of the railroad at the place where the inspection is made and retained for at least one year.

§ 229.23 Periodic inspection: General.

(a) Each locomotive and steam generator shall be inspected at each periodic inspection to determine whether they comply with this part. All non-complying conditions shall be repaired before the locomotive or the steam generator is returned to service. Except as provided in paragraph (b) and (c) of this section, the interval between any two periodic inspections may not exceed 92 days. Periodic inspections shall only be made where adequate facilities are available. At each periodic inspection, a locomotive shall be positioned so that a person may safely inspect the entire undercarriage of the locomotive.

(b) If a locomotive is out of service when a periodic inspection becomes due, the periodic inspection of the locomotive and of its steam generator may be postponed indefinitely but shall be accomplished before the locomotive is returned to service.

(c) If a locomotive steam generator is out of service on the date that its periodic inspection becomes due, that periodic inspection may be postponed indefinitely if the water suction pipe to the water pump and the leads to the main switch (steam generator switch) are disconnected, and the train line shut-off-valve is wired closed or a blind gasket applied. However, the steam generator shall be so inspected before it is returned to service.

(d)(1) After December 31, 1979, each new locomotive shall receive an initial periodic inspection before it is placed in service. Before April 2, 1980, each locomotive in service on December 31, 1979 shall receive an initial periodic inspection. Except as provided in subparagraph (2) of this paragraph, the initial periodic inspection shall include every test, procedure, and inspection required in this part.

(2) The main reservoir tests specified by § 229.31 may be deleted from the initial periodic inspection of a locomotive if that locomotive received a main reservoir test during calendar year 1979. The air brake test specified by § 229.29 may be deleted from the initial periodic inspection of a locomotive if that locomotive received the air brake test during calendar year 1979. If a test is deleted from the initial periodic inspection, it shall be accomplished by not later than the fifth periodic inspection.

(e) The initial periodic inspection for each locomotive shall be numbered "1" and each succeeding periodic inspection shall be numbered consecutively. The date, place and periodic inspection number of each periodic inspection shall be recorded on Form FRA F 6180–49A. The form shall be signed by the person conducting the inspection and certified by that person's supervisor that the work was done. The form shall be displayed under a transparent cover in a conspicuous place in the cab of each locomotive. When a new form FRA F 6180–49A is placed in the cab, the last periodic inspection number, place, and date, and the last date, place, and periodic inspection number of each test performed under § 229.27 (a) and (b), 229.29, 229.31 (a), (b), and (d) shall be recorded on the form.

(f) At the first periodic inspection in each calendar year the carrier shall remove from each locomotive the Form FRA F 6180–49A covering the previous calendar year. If a locomotive does not receive its first periodic inspection in a calendar year before April 2nd because it is out of service, the form shall be promptly replaced. The FRA F 6180–49A forms for all locomotives, in or out of service, shall be certified by the railroad official responsible for the locomotive and filed not later than May 1 of each year with the Federal Railroad Administration, RRS–25, Washington, D.C. 20590.

(g) Any test required by this part that is made between any two periodic inspections shall be attributed to the preceding periodic inspection.

(h) The mechanical officer of each railroad in charge of a locomotive shall maintain in his office a secondary record of the information reported to the FRA on Form F 6180–49A under this part. The secondary record shall be retained for at least two years.

§ 229.25 Tests: Every periodic inspection.

Each periodic inspection shall include the following:

(a) All gauges used by the engineer for braking the train or locomotive, except load meters used in conjunction with an auxiliary brake system, shall be tested by comparison with a dead-weight tester or a test gauge designed for this purpose.

(b) All visible insulation and electrical devices shall be inspected.

(c) All cable connections between locomotives and jumpers that are designed to carry current of 600 volts or more shall be thoroughly cleaned, inspected, and tested. They shall be tested by immersing the cable portion in water and subjecting each conductor with another, and with the water, to a current of at least one and three-fourths times the normal working voltages for at least one minute. The date and place of the most recent inspection and test shall be legibly marked on the jumper or cable or on a securely attached tag.

(d) Each steam generator that is not isolated as prescribed in § 229.23(c) shall be inspected and tested as follows:

(1) All automatic controls, alarms and protective devices shall be inspected and tested.

(2) Steam pressure gauges shall be tested by comparison with a dead-weight tester or a test gauge designed for this purpose. The siphons to the

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steam gauges shall be removed and their connections examined to determine that they are open.

(3) Safety valves shall be set and tested under steam after the steam pressure gauge is tested.

§ 229.27 Tests: Every fourth periodic inspection.

The following tests and inspections shall be made on each locomotive at least once every fourth periodic inspection:

(a)(1) The filtering devices or dirt collectors located in the main reservoir supply line to the air brake system shall be cleaned, repaired, or replaced.

(2) Brake cylinder relay valve portions, main reservoir safety valves, brake pipe vent valve portions, feed and reducing valve portions in the air brake system (including related dirt collectors and filters) shall be cleaned, repaired, and tested.

(3) The date and place of the cleaning, repairing, and testing shall be recorded on Form FRA F 6180–49A and the person performing the work and that person's supervisor shall sign the form. A record of the parts of the air brake system that are cleaned, repaired, and tested shall be kept in the carrier's files or in the cab of the locomotive.

(b) Load meters shall be tested. Errors of less than five percent do not have to be corrected. The date and place of the test shall be recorded on FRA F 6180–49A and the person conducting the test and that person's supervisor shall sign the form.

(c) Each steam generator that is not isolated as prescribed in § 229.23(c), shall be subjected to a hydrostatic pressure at least 25 percent above the working pressure and the visual return water-flow indicator shall be removed and inspected.

§ 229.29 Test: Every eighth periodic inspection.

Except for the valves and valve portions cleaned, repaired, and tested ever fourth periodic inspection as prescribed in § 229.27(a), all valves and valve portions in the air brake system (including related dirt collectors and filters) shall be cleaned, repaired, and tested not less frequently than once every eighth periodic inspection. The date and place of the cleaning, repairing, and testing shall be recorded on Form FRA F 6180–49A, and the person performing the work and that person's supervisor shall sign the form. A record of the parts of the air brake system that are cleaned, repaired, and tested shall be kept in the carrier's files or in the cab of the locomotive.

§ 229.31 Main reservoir tests.

(a) Except as provided in paragraph (c) of this section, before it is put in service and at least once every eighth periodic inspection, each main reservoir other than an aluminum reservoir shall be subjected to a hydrostatic pressure of at least 25 percent more than the maximum working pressure fixed by the chief mechanical officer. The test date, place, and pressure shall be recorded on Form FRA F 6180–49A, and the person performing the test and that person's supervisor shall sign the form.

(b) Except as provided in paragraph (c) of this section, each main reservoir other than an aluminum reservoir shall be hammer tested over its entire surface while the reservoir is empty at least once every eighth periodic inspection. The test date and place shall be recorded on Form FRA F 6180–49A, and the person performing the test and that person's supervisor shall sign the form.

(c) Each welded main reservoir originally constructed to withstand at least five times the maximum working pressure fixed by the chief mechanical officer of the railroad may be drilled over its entire surface with telltale holes that are three-sixteenths of an inch in diameter. The holes shall be spaced not more than 12 inches apart, measured both longitudinally and circumferentially, and drilled from the outer surface to an extreme depth determined by the formula—

$$D=(.6PR/(S-0.6P))$$

Where:

D = extreme depth of telltale holes in inches but in no case less than one-sixteenth inch;
P = certified working pressure in pounds per square inch;
S = one-fifth of the minimum specified tensile strength of the material in pounds per square inch; and
R = inside radius of the reservoir in inches.

One row of holes shall be drilled lengthwise of the reservoir on a line intersecting the drain opening. A reservoir so drilled does not have to meet the requirements of paragraphs (a) and (b) of this section, except the requirement for a hydrostatic test before it is placed in service. Whenever any such telltale hole shall have penetrated the interior of any reservoir, the reservoir shall be permanently withdrawn from service. A reservoir now in service may be drilled in lieu of the tests provided for by paragraphs (a) and (b) of this section, but it shall receive a hydrostatic test before it is returned to service.

(d) Each aluminum main reservoir before being placed in service and at least once every eighth periodic inspection thereafter, shall be—

(1) Cleaned and given a thorough visual inspection of all internal and external surfaces for evidence of defects or deterioration; and

(2) Subjected to a hydrostatic pressure at least twice the maximum working pressure fixed by the chief mechanical officer, but not less than 250 p.s.i. The test date, place, and pressure shall be recorded on Form FRA F 6180–49A, and the person conducting the test and that person's supervisor shall sign the form.

Subpart C—Safety Requirements

General Requirements

§ 229.41 Protection against personal injury.

Fan openings, exposed gears and pinions, exposed moving parts of mechanisms, pipes carrying hot gases, and high-tension equipment, switches, circuit breakers, contactors, relays, and fuses shall be in non-hazardous locations or equipped with guards to prevent personal injury.

§ 229.43 Exhaust gases.

Products of combustion shall be released entirely outside the cab and other compartments. Exhaust stacks shall be of sufficient height or means provided to prevent entry of product of combustion into the cab or other compartments.

§ 229.45 General condition.

All systems and components on a locomotive shall be free of conditions that endanger the safety of the crew, locomotive or train. These conditions include: insecure attachment of components, including third rail shoes or beams, traction motors and motor gear cases, and fuel tanks; fuel, oil, water, steam, and other leaks that create a personal injury hazard; improper functioning of components, including slack adjusters, pantagraph operating cylinders, circuit breakers, contactors, relays, switches, and fuses; and cracks, breaks, excessive wear and other structural infirmities of components, including quill drives, axles, gears, pinions, pantagraph shoes and horns, third rail beams, traction motor gear cases, and fuel tanks.

Brake System

§ 229.46 Brakes: General.

The carrier shall know before each trip that the locomotive brakes and pressure devices, including but not limited to the automatic and independent brake values, operate as intended and that the water and oil has drained from the air brake system.

§ 229.47 Emergency brake pipe.

Each locomotive shall be equipped with a brake pipe valve that is accessible to a member of the crew other than the engineer. On car body type locomotives, a brake pipe valve shall be attached to the wall adjacent to each end exit door. The words "Emergency Brake Valve" shall be legibly stenciled near each brake pipe valve or shall be shown on an adjacent badge plate.

§ 229.49 Main reservoir system.

(a)(1) The main reservoir system of each locomotive shall be equipped with at least one safety valve that shall prevent an accumulation of pressure of more than 15 pounds per square inch above the maximum working air pressure fixed by the chief mechanical officer of the carrier operating the locomotive.

(2) Each locomotive that has a pneumatically actuated system of power controls shall be equipped with a separate reservoir of air under pressure to be used for operating controls other than brake controls. The reservoir shall be provided with means to automatically prevent the loss of pressure in the event of a failure of main air pressure, have storage capacity for not less than three complete operating cycles of control equipment and be located where it is not exposed to damage.

(b) A governor shall be provided that stops and starts or unloads and loads the air compressor within 5 pounds per square inch above or below the maximum working air pressure fixed by the carrier.

(c) Each compressor governor used in connection with the automatic air brake system shall be adjusted so that the compressor will start when the main reservoir pressure is not less than 15 pounds per square inch above the maximum brake pipe pressure fixed by the carrier and will not stop the compressor until the reservoir pressure has increased at least 10 pounds.

§ 229.51 Aluminun main reservoirs.

(a) Aluminum main reserviors used on locomotives shall be designed and fabricated as follows:

(1) The heads and shell shall be made of Aluminum Association Alloy No. 5083–0, produced in accordance with American Society of Mechanical Engineers (ASME) Specification SB–209, as defined in the "ASME Boiler and Pressure Vessel Code" (1971 edition), Section II, Part B, page 123, with a minimum tensile strength of 40,000 p.s.i. (40 k.s.i.).

(2) Each aluminum main reservoir shall be designed and fabricated in accordance with the "ASME boiler and Pressure Vessel Code," Section VIII, Division I (1971 edition), except as otherwise provided in this part.

(3) An aluminum main reservoir shall be constructed to withstand at least five times its maximum working pressure or 800 p.s.i., whichever is greater.

(4) Each aluminum main reservior shall have at least two inspection openings to permit complete circumferential visual observation of the interior surface. On reservoirs less than 18 inches in diameter, the size of each inspection opening shall be at least that of 1½-inch threaded iron pipe, and on reservoirs 18 or more inches in diameter, the size of each opening shall be at least that of 2-inch threaded iron pipe.

(b) The following publications, which contain the industry standards incorporated by reference in paragraph (a) of this section, may be obtained from the publishers and are also on file in the Office of Safety of the Federal Railroad Administration, Washington, D.C. 20590. Sections II and VIII of the "ASME Boiler and Pressure Vessel Code" (1971 edition) are published by the American Society of Mechanical Engineers, United Engineering Center, 345 East 47th Steeet, New York, New York 10017.

§ 229.53 Brake gauges.

All gauges used by the engineer for braking the train or locomotive shall be located so that they may be conveniently read by the enginer from his usual position in the cab. A gauge may not be more than three pounds per square inch in error.

§ 229.55 Piston travel.

(a) Brake cylinder piston travel shall be sufficent to provide brake shoe clearance when the brakes are released.

(b) When the brakes are applied on a standing locomotive, the brake cylinder piston may not exceed two inches less than the total possible piston travel.

§ 229.57 Foundation brake gear.

A lever, rod, brake beam, hanger, or pin may not be worn through more that 30 percent of its cross-sectional area or cracked. All pins shall be secured in place with cotters, split keys, or nuts. Brake shoes shall be fastened with a brake shoe key and aligned in relation to the wheel to prevent localized thermal stress in the edge of the rim or the flange.

§ 229.59 Leakage.

(a) Leakage from the main air reservoir and related piping may not exceed an average of 3 pounds per square inch per minute for 3 minutes after the pressure has been reduced to 60 percent of the maximum pressure.

(b) Brake pipe leakage may not exceed 5 pounds per square inch per minute.

(c) With a full service application at maximum brake pipe pressure and with communication to the brake cylinders closed, the brakes shall remain applied at least 5 minutes.

(d) Leakage from control air reservoir, related piping, and pneumatically operated controls may not exceed an average of 3 pounds per square inch per minute for 3 minutes.

Draft system

§ 229.61 Draft System.

(a) A coupler may not have any of the following conditions:

(1) A distance between the guard arm and the knuckle nose of more than 5⅛ inch on standard type couplers (MCB contour 1904); 5⁵⁄₁₆ inch on all other couplers.

(2) A crack or break in the side wall exceeding the limits shown in Figure 1 in the unshaded area shown in that figure or in the pulling face of knuckle.

(3) A coupler assembly without anti-creep protection.

(4) Free slack in the coupler or drawbar not aborbed by friction devices that exceeds one-half inch.

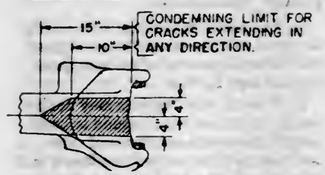
(5) A broken or cracked coupler carrier.

(6) A broken or cracked yoke.

(7) A broken draft gear.

(b) A device shall be provided under the lower end of all drawbar pins and articulated connection pins to prevent the pin from falling out of place in case of breakage.

FIGURE 1



Suspension System

§ 229.63 Lateral motion.

The total uncontrolled lateral motion between the hubs of the wheels and boxes, between boxes and pedestals or

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both, on any pair of wheels may not exceed 1 inch on non-powered axles and ¾ inch on powered axles.

§ 229.64 Plain bearings.

A plain bearing box shall contain free oil and may not be cracked to the extent that it will leak oil.

§ 229.65 Spring rigging.

(a) Protective construction or safety hangers shall be provided to prevent spring planks, spring seats or bolsters from dropping to track structure in event of a hanger or spring failure.

(b) An elliptical spring may not have its top (long) leaf broken or any other three leaves broken except when that spring is part of a nest of three or more springs and none of the other springs in the nest has its top leaf or any three leaves broken. An outer coil spring or saddle may not be broken. An equalizer, hanger, bolt, gib, or pin may not be cracked or broken. A coil spring may not be fully compressed when the locomotive is at rest.

(c) A shock absorber may not be broken or leaking oil.

§ 229.67 Trucks.

(a) The male center plate shall extend into the female center plate not less than ¾ inch. On trucks constructed to transmit tractive effort through the center plate or center pin, the male center plate shall extend into the female center plate not less than 1½ inches. Maximum lost motion in a center plate assemblage may not exceed ½ inch.

(b) Each locomotive shall have a device or securing arrangement to prevent the truck and locomotive body from separating in case of derailment.

(c) A truck may not have a loose tie bar or a cracked or broken center casting, motor suspension lug, equalizer, hanger, gib or pin. A truck frame may not be broken or have a crack in a stress area that may affect its structural integrity.

§ 229.69 Side bearings.

(a) Friction side bearings with springs designed to carry weight may not have more than 25 percent of the springs in any one nest broken.

(b) Friction side bearings may not be run in contact unless designed to carry weight. Maximum clearance of side bearings may not exceed one-fourth inch on each side or a total of one-half inch on both sides, except where more than two side bearings are used under the same rigid superstructure. The clearance on one pair of side bearings under the same rigid superstructure shall not exceed one-fourth inch on each side or a total of one-half inch on both sides; the other side bearings under the same rigid superstructure may have one-half inch clearance on each side or a total of 1 inch on both sides. These clearances apply where the spread of the side bearings is 50 inches or less; where the spread is greater, the side bearing clearance may only be increased proportionately.

§ 229.71 Clearance above top of rail.

No part or appliance of a locomotive except the wheels and flexible nonmetallic sand pipe extension tips may be less than 2½ inches above the top of rail.

§ 229.73 Wheel sets.

(a) The variation in circumference of wheels on the same axle may not exceed two tape sizes when mounted or turned.

(b) The maximum variation in the diameter between any two wheel sets in a three-powered-axle truck may not exceed ¾ inch. The maximum variation in the diameter between any two wheel sets on different trucks on a locomotive that has three-powered-axle trucks may not exceed 1¼ inch. The diameter of a wheel set is the average diameter of the two wheels on an axle.

(c) On standard gauge locomotives, the distance between the inside gauge of the flanges on non-wide flange wheels may not be less than 53 inches or more than 53½ inches. The distance between the inside gauge of the flanges on wide flange wheels may not be less than 53 inches or more than 53¼ inches.

(d) The distance back to back of flanges of wheels mounted on the same axle shall not vary more than ¼ inch.

§ 229.75 Wheel and tire defects.

Wheels and tires may not have any of the following conditions:

(a) A single flat spot that is 2½ inches or over in length, or two adjoining spots that are each two or more inches in length.

(b) A missing or chipped portion of the flange that is more than 1½ inches in length and ½ inch in width.

(c) A broken rim, if the tread, measured from the flange at a point five-eighths inch above the tread, is less than 3¾ inches in width.

(d) A shelled-out spot 2½ inches or over, or a spall 1 inch in diameter or more in any area.

(e) A seam running lengthwise that is within 3¾ inches of the flange.

(f) A flange worn to a ⅞ inch thickness or less, gauged at a point ⅜ inch above the tread.

(g) A tread worn hollow 5/16 inch or more on road locomotive and ⅜ inch or more in switching service.

(h) A flange height of 1½ inches or more from tread to top of flange.

(i) Tires less than 1½ inches thick.

(j) Rims less than 1 inch thick in road service or less than ¾ inch in yard service.

(k) A radial crack or break in the flange, tread, rim, plate, or hub.

(l) A loose wheel or tire.

(m) Fusion welding may not be used on tires or steel wheels of locomotives, except for the repair of flat spots and worn flanges on locomotives used exclusively in yard service. A wheel that has been welded is a welded wheel for the life of the wheel.

Electrical System

§ 229.77 Current collectors.

(a) Pantographs shall be so arranged that they can be operated from the engineer's normal position in the cab. Pantographs that automatically rise when released shall have an automatic locking device to secure them in the down position.

(b) Each pantograph operating on an overhead trolley wire shall have a device for locking and grounding it in the lowest position, that can be applied and released only from a position where the operator has a clear view of the pantograph and roof without mounting the roof.

§ 229.79 Third rail shoes and beams.

When locomotives are equipped with both third rail and overhead collectors, third-rail shoes shall be deenergized while in yards and at stations when current collection is exclusively from the overhead conductor.

§ 229.81 Emergency pole; shoe insulation.

(a) Each locomotive equipped with a pantograph operating on an overhead trolley wire shall have an emergency pole suitable for operating the pantograph. The part of the pole which can be safely handled shall be marked. This pole shall be protected from moisture when not in use.

(b) Each locomotive equipped with third-rail shoes shall have a device for insulating the current collecting apparatus from the third rail.

§ 229.83 Insulation or grouding of metal parts.

All unguarded noncurrent-carrying metal parts subject to becoming charged shall be grounded or thoroughly insulated.

§ 229.85 Doors and cover plates marked "Danger.".

All doors and cover plates guarding high-tension equipment shall be marked with the word "Danger" and the normal voltage carried by the parts so protected.

§ 229.87 Hand-operated switches.

All hand-operated switches carrying currents with a potential of more than 150 volts that may be operated while under load shall be covered and shall be operative from the outside of the cover. Means shall be provided to show whether the switches are open or closed. Switches that should not be operated while under load shall be legibly marked with the words "must not be operated under load" and the voltage carried.

§ 229.89 Jumpers; cable connections.

(a) Jumpers and cable connections between locomotives shall be so located and guarded to provide sufficient vertical clearance. They may not hang with one end free.

(b) Cable and jumper connections between locomotive may not have any of the following conditions:

(1) Broken or badly chafed insulation.

(2) Broken plugs, receptacles or terminals.

(3) Broken or protruding strands of wire.

§ 229.91 Motors and generators.

A motor or a generator may not have any of the following conditions:

(a) Be shorted or grounded.

(b) Throw solder.

(c) Show evidence of coming apart.

(d) Have an overheated support bearing.

Internal Combustion Equipment

§ 229.93 Safety cut-out valve.

The fuel line shall have a safety cut-out valve that—

(a) Is located adjacent to the fuel supply tank or in another safe location;

(b) Closes automatically when tripped and can be reset without hazard; and

(c) Can be hand operated from a clearly marked location inside the cab and on each exterior side of the locomotive.

§ 229.95 Venting.

Fuel tank vent pipes may not discharge on the roof nor on or between the rails.

§ 229.97 Grounding fuel tanks.

Fuel tanks and related piping shall be electrically grounded.

§ 229.98 Safety hangers.

Drive shafts shall have safety hangers.

§ 229.101 Engines.

The temperature and pressure alarms, controls and related switches of internal combustion engines shall function properly. Whenever an engine has been shut down due to mechanical or other problems, a distinctive tag giving reason for the shut-down shall be conspicuously attached near the engine starting control until repairs have been made. A locomotive with a tagged engine may continue in service if wheel slip/slide protection is provided whenever required by § 229.115. Whenever an engine shut down on a locomotive in road service negates wheel slip/slide protection, the locomotive may only be moved to the nearest point or the nearest forward point where repairs necessary to restore wheel slip/slide protection can be made.

Steam Generators

§ 229.103 Safe working pressure; factor of safety.

The safe working pressure for each steam generator shall be fixed by the chief mechanical officer of the carrier. The minimum factor of safety shall be four. The fixed safe working pressure shall be indicated on FRA Form F 6180–49A.

§ 229.105 Steam generator number.

An identification number shall be marked on the steam generator's separator and that number entered on FRA Form F 6180–49A.

§ 229.107 Pressure gauge.

(a) Each steam generator shall have an illuminated steam gauge that correctly indicates the pressure. The steam pressure guage shall be graduated to not less than one and one-half times the allowed working pressure of the steam generator.

(b) Each steam pressure gauge on a steam generator shall have a siphon that prevents steam from entering the gauge. The pipe connection shall directly enter the separator and shall be steam tight between the separator and the gauge.

§ 229.109 Safety valves.

Every steam generator shall be equipped with at least two safety valves that have a combined capacity to prevent an accumulation of pressure of more than five pounds per square inch above the allowed working pressure. The safety valves shall be independently connected to the separator and located as closely to the separator as possible without discharging inside of the generator compartment. The ends of the safety valve discharge lines shall be located or protected so that discharged steam does not create a hazard.

§ 229.111 Water-flow indicator.

(a) Steam generators shall be equipped with an illuminated visual return water-flow indicator.

(b) Steam generators shall be equipped with an operable test valve or other means of determining whether the steam generator is filled with water. The fill test valve may not discharge steam or hot water into the steam generator compartment.

§ 229.113 Tagging.

Whenever any steam generator has been shut down because of defects, a distinctive tag giving reasons for the shut-down shall be conspicuously attached near the steam generator starting controls until the necessary repairs have been made. The locomotive in which the tagged steam generator is located may continue in service until the next periodic inspection.

Cabs and Cab Equipment

229.115 Slip/slide alarms.

(a) Except for MU locomotives, each locomotive used in road service shall be equipped with a device that provides an audible or visual alarm in the cab of either slipping or sliding powered wheels. When two or more locomotives are coupled in multiple control, the wheel slip/slide alarm of each locomotive shall be shown in the cab of the controlling locomotive.

(b) Effective January 1, 1980, all new locomotives capable of being used in road service shall be designed with a wheel slip/slide device for each powered axle that produces an audible or visual alarm in the cab. A powered axle is an axle equipped with a traction device.

229.117 Speed indicators.

(a) After December 31, 1979, each locomotive used as a controlling locomotive at speeds in excess of 20 miles per hour shall be equipped with a speed indicator which is—

(1) Accurate within $\pm^3$ miles per hour of actual speed at speeds of 10 miles per hour and more; and

(2) Clearly readable from the engineer's normal position under all light conditions.

(b) Each speed indicator required shall be tested as soon as possible after departure by means of speed test sections or equivalent procedures.

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(c) Where the cab is designed or arranged to be occupied by other crew members, the speed indicator on locomotives built after December 31, 1979 shall also be readable by a crew member other than the engineer from that crew member's normal position in the cab.

229.119 Cabs, floors, and passageways.

(a) Cab seats shall be securely mounted and braced. Cab doors shall be equipped with a secure and operable latching device.

(b) Cab windows of the lead locomotive shall provide an undistorted view of the right-or-way for the crew from their normal position in the cab.

(c) Floors of cabs, passageways, and compartments shall be kept free from oil, water, waste or any obstruction that creates a slipping, tripping or fire hazard. Floors shall be properly treated to provide secure footing.

(d) The cab shall be provided with proper ventilation and with a heating arrangement that maintains a temperature of at least 50 degrees Fahrenheit.

(e) After January 1, 1981, all forward facing openings in the front portion of the locomotive including nose doors, classification lights, number lights, headlights, and ventilation openings must be sealed or otherwise arranged so that they do not provide an entry way for flammable liquids into the cab in the event of an accident.

(f) Similar locomotives with open end platforms coupled in multiple control and used in road service shall have a means of safe passage between them; no passageway is required through the nose of car body locomotives. There shall be a continuous barrier across the full width of the end of a locomotive or a continuous barrier between locomotives.

(g) Closed metal containers shall be provided for carrying fusees and torpedoes. A single container may be used if it has a partition to separate fusees from torpedoes.

229.121 Locomotive cab noise.

(a) Noise level exposure in a locomotive cab may not exceed the following levels:

Duration per day hours of exposure	Sound level dB(A) slow response
16	85
12	87
8	90
6	92
4	95
2	100
1½	102
1	105
½	110
¼ or less	115

No exposure shall exceed 115dB(A).

(b) Noise measurements shall be made using a sound level meter conforming, at a minimum, to the requirements of ANSI S1.4–1971, Type 2, and set to an A-weighted slow response or with an audiodosimeter of equivalent accuracy and precision.

(c) When the daily noise exposure is composed of two or more periods of noise exposure of different levels, their combined effect shall be considered. Exposure to different levels for various periods of time shall be computed according to the following formula:

$$D = T_1/L_1 + T_2/L_2 + \ldots . T_n/L_n$$

Where:
D = daily noise dose.
T = the period of noise exposure at any essentially constant level.
L = the duration of the noise exposure at the constant level (from the table).
If the value of D exceeds 1, the exposure exceeds permissable levels.

§ 229.123 Pilots, snowplows, end plates.

Each lead locomotive shall be equipped with an end plate that extends across both rails, a pilot, or a snowplow. The minimum clearance above the rail of the pilot, snowplow or end plate shall be 3 inches, and the maximum clearance 6 inches.

§ 229.125 Headlights.

(a) Each locomotive used in road service shall have a headlight that produces at least 200,000 candela. If the locomotive is regularly required to run backward for any portion of its trip other than to pick up a detached portion of its train or to make terminal movements, it shall also have a rear headlight that produces at least 200,000 candela.

(b) Each locomotive used in yard service shall have two headlights, one located on the front of the locomotive and one on the rear. Each headlight shall produce at least 60,000 candela.

(c) Headlights shall be provided with a device to dim the light.

§ 229.127 Cab lights.

(a) Each locomotive shall have cab lights which will provide sufficient illumination for the control instruments, meters, and gauges to enable the engine crew to make accurate readings from their normal positions in the cab. These lights shall be located, constructed, and maintained so that light shines only on those parts requiring illumination and does not interfere with the crew's vision of the track and signals. Each locomotive shall also have a conveniently located light that can be readily turned on and off by the persons operating the locomotive and that provides sufficient illumination for them to read train orders and timetables.

(b) Cab, passageways, and compartments shall have adequate illumination.

(c) Battery containers shall be vented and batteries kept from gassing.

§ 229.129 Audible warning device.

Each lead locomotive shall be provided with an audible warning device that produces a minimum sound level of 96dB(A) at 100 feet forward of the locomotive in its direction of travel. The device shall be arranged so that it can be conveniently operated from the engineer's normal position in the cab. At least one chime shall be facing in the direction of travel. Measurement of the sound level shall be made using a sound level meter conforming, at a minimum, to the requirements of ANSI S1.4–1971, Type 2, and set to an A-weighted slow response.

§ 229.131 Sanders.

Except for MU locomotives, each locomotive shall be equipped with operable sanders that deposit sand on each rail in front of the first power operated wheel set in the direction of movement.

Subpart D—Design Requirements

§ 229.141 Body structure, MU locomotives.

(a) MU locomotives built new after April 1, 1956 that are operated in trains having a total empty weight of 600,000 pounds or more shall have a body structure designed to meet or exceed the following minimum specifications:

(1) The body structure shall resist a minimum static end load of 800,000 pounds at the rear draft stops ahead of the bolster on the center line of draft, without developing any permanent deformation in any member of the body structure.

(2) An anti-climbing arrangement shall be applied at each end that is designed so that coupled MU locomotives under full compression shall mate in a manner that will resist one locomotive from climbing the other. This arrangement shall resist a vertical load of 100,000 pounds without exceeding the yield point of its various parts or its attachments to the body structure.

(3) The coupler carrier and its connections to the body structure shall be designed to resist a vertical downward thrust from the coupler shank of 100,000 pounds for any horizontal position of the coupler, without exceeding the yield points of the materials used. When yielding type of coupler carrier is used, an auxiliary arrangement shall be provided that complies with these requirements.

(4) The outside end of each locomotive shall be provided with two main vertical members, one at each side of the diaphram opening; each main member shall have an ultimate shear value of not less than 300,000 pounds at a point even with the top of the underframe member to which it is attached. The attachment of these members at bottom shall be sufficient to develop their full shear value. If reinforcement is used to provide the shear value, the reinforcement shall have full value for a distance of 18 inches up from the underframe connection and then taper to a point approximately 30 inches above the underframe connection.

(5) The strength of the means of locking the truck to the body shall be at least the equivalent of an ultimate shear value of 250,000 pounds.

(b) MU locomotives built new after April 1, 1956 that are operated in trains having a total empty weight of less than 600,000 pounds shall have a body structure designed to meet or exceed the following minimum specifications:

(1) The body structure shall resist a minimum static end load of 400,000 pounds at the rear draft stops ahead of the bolster on the center line of draft, without developing any permanent deformation in any member of the body structure.

(2) An anti-climbing arrangement shall be applied at each end that is designed so that coupled locomotives under full compression shall mate in a manner that will resist one locomotive from climbing the other. This arrangement shall resist a vertical load of 75,000 pounds without exceeding the yield point of its various parts or its attachments to the body structure.

(3) The coupler carrier and its connections to the body structure shall be designed to resist a vertical downward thrust from the coupled shank of 75,000 pounds for any horizontal position of the coupler, without exceeding the yield points of the materials used. When a yielding type of coupler carrier is used, an auxiliary arrangement shall be provided that complies with these requirements.

(4) The outside end of each MU locomotive shall be provided with two main vertical members, one at each side of the diaphragm opening; each main member shall have an ultimate shear value of not less than 200,000 pounds at a point even with the top of the underframe member to which it is attached. The attachment of these members at bottom shall be sufficient to develop their full shear value, the reinforcement shall have full value for a distance of 18 inches up from the underframe connection and then taper to a point approximately 30 inches above the underframe connection.

(5) The strength of the means of locking the truck to the body shall be at least the equivalent of an ultimate shear value of 250,000 pounds.

BILLING CODE 4910-06-M

APPENDIX A - Form FRA 6180.49A

(FRONT)

DEPARTMENT OF TRANSPORTATION
FEDERAL RAILROAD ADMINISTRATION

LOCOMOTIVE INSPECTION AND REPAIR RECORD

In accordance with the Locomotive Inspection Act, 36 Stat. 913, as amended and the regulations issued pursuant to that Act, the parts and appurtenances of the locomotive unit have been inspected and all defects disclosed by the inspection have been properly repaired.

Reporting year 19____ Check if new loco. ☐ If loco. renumbered give previous no. ____

1. OPERATED BY	RR CODE	2. OWNED BY (Railroad)	RR CODE

3. MODEL NO.	4. LOCO. NO.	5. YR. BUILT	6. PROPELLED BY	7. HORSEPOWER	8. TYPE OF SERVICE: ROAD ☐ SWITCH ☐ PASSENGER ☐ OTHER ☐

LAST PERIODIC INSPECTION: 9. NO. 10. DATE 11. PLACE

PERIODIC INSPECTIONS

12. INSP. NO.	13. DATE mo day yr	14. PLACE	15. ITEM *	16. PERSON CONDUCTING	17. ITEM *	18. PERSON CONDUCTING	19. CERTIFIED BY

* ITEM CODES: [1] BRAKES [2] RUNNING GEAR [3] CAB. EQUIP. [4] ELECT. [5] MECH. [6] STEAM GEN. [7] SAFETY APPL.

TESTS

20. INSP. NO.	21. TYPE	22. FREQUENCY	23. AUTH. SEC. NO.	24. PERSON CONDUCTING	25. CERTIFIED BY	26. PREVIOUS TEST A. INSP. NO.	B. DATE	C. PLACE
	A. Meter Test	Not to exceed every 4th per. insp						
	B. Air Brake-1	Not to exceed every 4th per. insp						
	C. Insulation	Not to exceed every 4th per. insp	HIGH VOLTAGE RESISTANCE					
	D. Hydro-hammer	Not to exceed every 8th per. insp	PRESSURE					
	E. Air Brake-2	Not to exceed every 8th per. insp						
	F. Steam Gen.	As required	GEN. 1: SAFE PRESS.:		GEN. 2: SAFE PRESS.:			
	G. Loco Noise	As required	LOCATION:		TYPE:			
	H.							

Certification of true copy.
I certify that this is a true copy of the inspection and repair record of locomotive no ____

(Officer-in-charge) DATE

FOR FRA INSPECTOR'S USE ONLY

INSPR. NO.	DATE	INSPR. NO.	DATE	INSPR. NO.	DATE
INSPR. NO.	DATE	INSPR. NO.	DATE	INSPR. NO.	DATE

ATTENTION: *A false entry on this form is punishable by fine or imprisonment (U.S. Code, Title 18, Sec. 1001).*

FORM FRA F6180-49 A (Rev.) OMB Approval No.

(BACK)

Instructions:

1. OPERATED BY: Enter the name and code* of the railroad primarily responsible for operating the locomotive at the time the report is placed in the locomotive. Operator changes, including dates, must be noted in "Remarks".

2. OWNER: Enter the name and code* of the owner. Changes in ownership must be submitted as final reports.

3. MODEL NO. Enter the original builder's model number.

4. LOCOMOTIVE NO. Enter only the locomotive number. Include letters only if they are part of the locomotive markings. If the locomotive number is changed, include information at the top of the form.

5. YEAR BUILT: Enter the year the locomotive was built or rebuilt.

6. PROPELLED BY: Enter diesel-electric, electric, etc.

7. HORSEPOWER: Enter horsepower rating.

8. TYPE OF SERVICE: Enter type of service the locomotive is assigned to when the report is placed in the locomotive.

9. LAST PERIODIC INSPECTION: This report covers the annual period (January 1 to December 31). The report shall be retained in the locomotive until the first periodic inspection is made after January 1 of each year or until the form is replaced as required by §229.23(f). When a new Form 6180.49A is placed in the locomotive, enter the last periodic inspection information onto the new form in items Nos. 9, 10, 11 and 26. Tests that are not required should be noted "Not Applicable" (NA).

12. INSPECTIONS: Persons making the required periodic inspections must sign for the items inspected. The employee's supervisor must certify that the inspections were completed.

20. TESTS: Enter under Item 20 the periodic inspection number of any test performed under Item No. 21. (If any test is performed at a time other than the periodic inspection, the inspection number in Item 20 shall be the number of the preceding periodic inspection. The carrier shall also put under "Remarks" the type of test, the actual date of the test, and the actual place of the test. The information on the actual date and place of the test under "Remarks" shall be included in items 26(b) and (c) of the next FRA Form 6180.49A).

ITEM 21(c): Enter test pressure.

ITEM 21(e): Enter steam generator number(s) and safe working pressure(s).

*Carriers are required to enter only the code assigned by FRA to their railroad.

REMARKS: The carrier should enter under "Remarks" any other clarifying or explanatory information.

[FR Doc. 79-15706 Filed 5-18-79; 8:45 am]
BILLING CODE 4910-06-C

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federal register

Monday
May 21, 1979

Part V

Department of Housing and Urban Development

Office of Assistant Secretary for Housing—Federal Housing Commissioner

Flexible Subsidy Program; Interim Rule

V 4 4 / 9 9

DEPARTMENT OF HOUSING AND URBAN DEVELOPMENT

Office of Assistant Secretary for Housing—Federal Housing Commissioner

24 CFR Part 219

[Docket No. R-79-658]

Flexible Subsidy Program; Interim Rule

AGENCY: Department of Housing and Urban Development.

ACTION: Interim Rule.

SUMMARY: This interim rule amends Title 24 of the Code of Federal Regulations by adding a new Part 219 to Chapter II. Part 219 establishes policies and procedures for implementing the Flexible Subsidy Program for troubled multifamily projects pursuant to Section 201 (Operating Assistance for Troubled Multifamily Housing Projects) of the Housing and Community Development Amendments of 1978. The goals of this program are to:

(1) Reduce claims on the Department's insurance funds by aiding projects in financial distress where existing sources of financial relief are inadequate to cure the problems and restore financial soundness; and (2) to preserve and protect the existing supply of low- and moderate-income housing by upgrading the quality of management services and effecting physical and financial improvements which will enable the project to become self-sustaining and assure the long-term economic operation of the project. Assistance payments under this program may be used to correct physical deficiencies resulting from deferral of regular maintenance, to reduce deficiencies in replacement reserve funds and to fund project operating deficits.

EFFECTIVE DATE: June 19, 1979.

COMMENTS DUE: July 20, 1979.

ADDRESS: Comments should be submitted to the Rules Docket Clerk, Office of the General Counsel, Room 5218, Department of Housing and Urban Development, 451 Seventh Street, S.W., Washington, D.C. 20410. A copy of each communication will be available for public inspection during regular business hours at the above address.

FOR FURTHER INFORMATION CONTACT: Fred W. Pfaender, Acting Director, Office of Multifamily Housing Management and Occupancy, Housing, Department of Housing and Urban Development, Washington, D.C. 20410, (202) 755-5677.

SUPPLEMENTAL INFORMATION: The Flexible Subsidy Program was developed in response to the findings and recommendations of the Department's 1977/78 Task Force on Multifamily Property Utilization. The Task Force concluded that existing subsidies and loan servicing tools did not adequately address the full range of problems confronting multifamily projects. Under existing programs, the amount of subsidy is determined by factors other than total project needs (i.e., by the mortgage interest rate in the Section 236 and Section 221(d)(3) BMIR program and by tenant rent/income ratios in the Section 8, rent supplement, and RAP programs). Present subsidies do not provide lump sum cash payments for correction of deferred maintenance items that have accumulated because of the project's past inability to raise rents due to the low-income levels of the tenants. Tenants were already paying excessive percentages of their income for rent and tenant incomes were not increasing as rapidly as operating expenses. Similarly, present forms of financial relief (e.g., mortgage modifications, etc.) could not always generate assistance in the total amount or at the time it is needed.

Under the flexible Subsidy Program, the amount of assistance will be based upon an analysis of the project's total needs. Assistance payments may be used to correct physical deficiencies resulting from deferral of regular maintenance, to reduce deficiencies in replacement reserve funds and to fund operating deficits, thereby holding rents at a level which tenants can afford to pay with a reasonable percentage of their incomes. Contracts will be written for one-year periods and payments will be released at least quarterly. Because both the initial allocation and continued receipt of assistance will be conditioned upon the project owner's ability to provide for management satisfactory to HUD, the Flexible Subsidy Program should provide project owners with an incentive for continuing management improvements.

The Flexible Subsidy Program will provide a major tool for stabilizing conditions in existing subsidized housing projects by providing assistance to restore financial and physical soundness, to upgrade management and maintain their low and moderate income character. This program enables the Department to address the major problems of distressed projects which have been found to lead to mortgage defaults assignments and foreclosures. Because many projects will be stabilized under this program, the Department should realize significant savings to the insurance funds as a result of the reduction in the number of claims. Due to the identified need for this type of assistance, and the inadequacy of other available resources to address such need, HUD has determined that the public interest would be served by making these provisions effective on an interim basis. Publication as an interim rule is necessary to make the program operational within the time frames established by HUD in order to meet the Congressional objectives of Section 201 of the Housing and Urban Development Amendments of 1978 on an expedited basis.

The Department has determined that an Environmental Impact Statement is not required with respect to this rule. The Finding on Inapplicability in accordance with HUD's environmental procedures (HUD Handbook 1390.1), is available for inspection at the Office of the Rules Docket Clerk, at the above address.

PART 219—FLEXIBLE SUBSIDY PROGRAM

Accordingly, a new Part 219 is added to read as follows:

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219.101 Purpose.
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219.115 Local government assurances.
219.120 Use and amount of assistance.
219.125 Estimating project revenue and operating expenses.
219.130 Payment schedule.
219.135 Waivers.

Authority: Sec. 201(g) of the Housing and Community Development Amendments of 1978, 12 U.S.C. 17152-1.

§219.101 Purpose.

The purposes of the Flexible Subsidy Program are to provide assistance to restore or maintain the financial soundness, to assist in the improvement of management and to maintain the low- to moderate-income character of certain projects assisted or approved for assistance under the National Housing Act of under the Housing and Urban Development Act of 1965.

§ 219.105 Eligible projects.

A rental or cooperative housing project is eligible for assistance only if the project:

(a) Is assisted under Section 236 or the proviso of Section 221(d)(5) of the National Housing Act, or under Section 101 of Housing and Urban Development Act of 1965, except that assistance may not be provided before October 1, 1979, for any such projects which are not insured under the National Housing Act, or

(b) Met above criteria before acquisition by the Secretary and has been sold by the Secretary subject to a mortgage insured or held by the Secretary and subject to an agreement (in effect during the period of assistance under this part) which provides that the low- and moderate-income character of the project will be maintained; except that with respect to projects sold after October 1, 1978, assistance shall not exceed a three-year period.

§ 219.110 Conditions for approval.

(a) Assistance may not be made available unless it has been determined by the Secretary that:

(1) This assistance, when considered with other resources available to the project is necessary and will restore or maintain the financial soundness and maintain the low- and moderate-income character of the project. Other resources include but are not limited to modification agreements, owner contributions, Section 223 or 241 loan programs.

(2) This assistance will be less costly to the Federal Government over the useful life of the project than other reasonable alternatives by which the Secretary could maintain the low- and moderate-income character of the project;

(3) The project owner, together with the mortgagee in the case of projects not insured under the National Housing Act, has provided or agreed to provide assistance to the project in a manner as determined by the Secretary.

(4) The project is or can be reasonably made structurally sound, as determined from information resulting from an on-site inspection of the project;

(5) Project management is being conducted by persons who meet satisfactory levels of competency and experience as prescribed by the Secretary; and

(6) The project is being operated and managed in accordance with a management-improvement-and-operating plan which is designed to reduce the operating costs of the project. The plan which has been approved by the Secretary shall include the following:

(i) A detailed maintenance schedule; (ii) a schedule for correcting past deficiencies in maintenance, repairs and replacements; (iii) a plan to upgrade the project to meet cost effective energy efficiency standards prescribed by the Secretary; (iv) a plan to improve financial and management control systems; (v) a detailed annual operating budget taking into account such standards for operating costs in the area as may be determined by the Secretary; and (vi) a plan setting forth the specific controls and procedures which will result in a reduction in operating costs together with an estimate of the cost saving.

(b) The field office shall give funding priority to projects presently experiencing financial and management problems in which conditions can be stabilized by assistance under this part. To the extent that funds remain available, assistance may be provided to projects with potential problems which, on the basis of a financial and management analysis, appear to have a high probability of having such financial and management problems within approximately the next five years consistent with the requirements set forth in paragraph (a) of this section.

§ 219.115 Local government assurances.

Prior to making assistance available to a project, the Secretary shall consult with the appropriate officials of the unit of local government in which such project is located and seek assurances that:

(a) the community in which the project is located is or will provde essential services to the project in keeping with the community's general level of these services;

(b) the real estate taxes on the project are or will be no greater than would be the case if the property were assessed in a manner consistent with normal property assessment procedures for the community; and

(c) assistance to the project under this part would not be inconsistent with local plans and priorities.

§ 219.120 Use and amount of assistance.

Assistance shall be provided in any amount which the Secretary determines is consistent with the project's management-improvement and-operating plan, subject to the availability of funds appropriated by the Congress in annual appropriation acts. Assistance will not exceed the sum of:

(a) An amount determined by the Secretary to be necessary to correct project deficiencies existing at the beginning of the first year of assistance, which were caused by the deferral of regularly scheduled maintenance and repairs or the failure to make necessary and timely replacements of equipment and other components of the project, and for which payment has not previously been made. Any project deficiencies which require capital improvements are eligible for funding only if: (1) They are necessary to meet local building codes or to maintain the project in a decent, safe, and sanitary condition, and (2) such expenditure is necessary and the most efficient method to make the improvement.

(b) An amount determined by the Secretary to be necessary to maintain the low- and moderate-income character of the project by reducing deficiencies, existing at the beginning of the first year of such assistance and for which payment has not previously been made, in the reserve funds established by the project owner for the purpose of replacing capital items; and

(c) An amount not greater than the amount by which the estimated operating expenses for the year of such assistance, exceeds the estimated revenues to be received by the project during such year.

§ 219.125 Estimating project revenue and operating expenses.

(a) Computing Estimated Project Revenue. The estimated revenues for any project with respect to any year shall be equal to the sum of:

(1) The estimated amount of rent which is to be expended by the tenants of such project during such year, as determined by the Secretary, without regard to whether the mortgagor has established and is collecting a basic rent in accordance with the formula set forth in Section 236(f)(1) of the National Housing Act;

(i) The estimated amount of rent to be expended by tenants, shall include: (A) The rent being paid or projected to be paid at the time project revenue is estimated, but at least 25 percent (or such lesser percentage as is provided under other Federal housing assistance programs in which such tenant is a participant) of the income of each such tenant, whichever is greater, or (B) in the case of a tenant paying his or her own utilities, a percentage of income which is less than 25 percent and which takes into account the reasonable costs of such utilities, except that no amount shall be provided for any Section 236 tenant which is in excess of the fair market rental charge. The tenant contribution computation can be based on the most recent tenant income certification.

(ii) In computing the estimated amount of rent to be expended by tenants and the estimated amount of assistance payments to be made on behalf of such tenants, the Secretary may permit a vacancy allowance of not more than 6 percent of the estimated amount of such rent and payment computed, without

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regard to such allowance, except that with respect to the first three years, in which assistance is provided to a project, the Secretary may permit such allowance for such project to exceed 6 percent by an amount which the Secretary determines is appropriate to carry out the purposes of this part.

(2) The estimated amount of assistance payments to be made on behalf of such tenants during such year, other than assistance made under this part;

(3) The estimated amount of assistance payments to be made on behalf of the project owner under the proviso of Section 221(d)(5) or Section 236 during such year; and

(4) Other income attributable to the project as determined by the Secretary.

(b) Computing Estimated Project Operating Expenses. The estimated operating expenses of any project with respect to any year, shall include all estimated operating costs which the Secretary determines to be necessary and consistent with the management-improvement-and operating-plan for the project for such year, including but not limited to taxes, utilities, maintenance and repairs [except for maintenance and repairs which should have been performed in previous years), management, insurance, debt service, and payments made by the owner for the purpose of establishing or maintaining a reserve fund for replacement costs. The estimated operating expenses may not include any return on the equity investment of the owner. In order to carry out the purposes of this program, in establishing a rental charge, there may be excluded from the cost of operating a project, an amount equivalent to the amount of assistance payments made for the project under this Part.

§ 219.130 Payment schedule.

Assistance payments shall be computed on an annual basis, payable at such intervals as prescribed by the Secretary, but at least quarterly, in an amount determined by the Secretary, except that the sum of such assistance payments for any year may not exceed the amount computed pursuant to § 219.120. At the time of the payments, the operations of the project shall be reviewed by the Secretary to determine that such operations are consistent with the management-improvement and-operating plan. Continued assistance shall be contingent upon satisfactory performance.

§ 219.135 Waivers.

Basic Provision. Upon determination of good cause, the Secretary of Housing and Urban Development may, subject to statutory limitations, waive any provision of this part. Each such waiver shall be in writing and shall be supported by documentation of the pertinent facts and grounds.

(Sec. 201(g), Housing and Community Development Amendments of 1978 (12 U.S.C. 1715z-1))

Issued at Washington, D.C., March 8, 1979.

Lawrence B. Simons,

Assistant Secretary for Housing—Federal Housing Commissioner.

[FR Doc. 79-15773 Filed 5-18-79; 8:45 am]

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AGENCY PUBLICATION ON ASSIGNED DAYS OF THE WEEK

The following agencies have agreed to publish all documents on two assigned days of the week (Monday/Thursday or Tuesday/Friday). This is a voluntary program. (See OFR NOTICE FR 32914, August 6, 1976.)

Monday	Tuesday	Wednesday	Thursday	Friday
DOT/COAST GUARD	USDA/ASCS		DOT/COAST GUARD	USDA/ASCS
DOT/NHTSA	USDA/APHIS		DOT/NHTSA	USDA/APHIS
DOT/FAA	USDA/FNS		DOT/FAA	USDA/FNS
DOT/OHMO	USDA/FSQS		DOT/OHMO	USDA/FSQS
DOT/OPSO	USDA/REA		DOT/OPSO	USDA/REA
CSA	MSPB*/OPM*		CSA	MSPB*/OPM*
	LABOR			LABOR
	HEW/FDA			HEW/FDA

Documents normally scheduled for publication on a day that will be a Federal holiday will be published the next work day following the holiday.

Comments on this program are still invited. Comments should be submitted to the Day-of-the-Week Program Coordinator, Office of the Federal Register, National Archives and Records Service, General Services Administration, Washington, D.C. 20408

*NOTE: As of January 1, 1979, the Merit Systems Protection Board (MSPB) and the Office of Personnel Management (OPM) will publish on the Tuesday/Friday schedule. (MSPB and OPM are successor agencies to the Civil Service Commission.)

REMINDERS

The items in this list were editorially compiled as an aid to Federal Register users. Inclusion or exclusion from this list has no legal significance. Since this list is intended as a reminder, it does not include effective dates that occur within 14 days of publication.

Rules Going Into Effect Today

FEDERAL COMMUNICATIONS COMMISSION

FM broadcast stations, changes in table of assignments—

22740 4–17–79 / Yucca Valley, Calif.

22741 7–17–79 / Pinconning, Mich.

22741, 25231 4–17–79, 4–30–79 / Gouverneur and Ogdenburg, N.Y.

22078 4–13–79 / Anadarko, Okla. and Memphis, Tenn.

Television broadcast stations, changes in table of assignments—

22742, 22743 4–17–79 / Salem, Ore. and Tomah, Wisc.

FEDERAL RESERVE SYSTEM

23813 4–23–79 / Definition of creditor

HOUSING AND URBAN DEVELOPMENT DEPARTMENT

Federal Housing Commissioner—

23515 4–20–79 / Debenture interest rates; retroactive to 1–1–79

TRANSPORTATION DEPARTMENT

Coast Guard—

23218 4–19–79 / Portland, Maine; drawbridge operations

Materials Transportation Bureau—

23225 4–19–79 / Shipment of hazardous materials by water

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Note: No public bills which have become law were received by the Office of the Federal Register for inclusion in today's List of Public Laws.

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[A Cumulative checklist of CFR issuances for 1978 appears in the first issue of the Federal Register each month under Title 1. In addition, a checklist of current CFR volumes, comprising a complete CFR set, appears each month in the LSA (List of CFR Sections Affected)]

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federal register

Tuesday
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Highlights

29637 **National Museum Day** Presidential proclamation

29635 **Women's Business Enterprise** Executive order

29832–29864 **Indian Education** Interior/BIA proposes rules regarding school system administration, transfer of functions, personnel, allocation of funds, student rights and responsibilities and Community College grants, and specifies method for establishing school construction ranking system; comments by 6–21 and 7–6–79 (7 documents) (Part IV of this issue)

29789, 29792 **Imported Steel Mill Products** Treasury/Sec'y announces third-quarter 1979 trigger prices, new and adjusted trigger prices, and "extras" (2 documents)

29644 **Certain Unit Investment Trusts** SEC adopts rules providing for "start-up" exemptions from minimum net worth, frequency of capital gains distributions, and forward pricing requirements; effective 5–15–79

29683 **Private Foundations** Treasury/IRS proposes regulations relating to taxes on excess business holdings; comments by 7–23–79

29653 **Diagnostic X-Ray Systems** HEW/FDA amends performance standard, effective 6–21–79

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Area Code 202–523–5240

Highlights

29822 **Public Health and Environmental Protection** Interagency Regulatory Liasion Group Publishes Activities Report (Part II of this issue)

29666 **Temporary Residence of the President** Treasury/SS adopts rules designating buildings and grounds and governing access

29691 **Wine Regulation** Treasury/ATF solicits views on recodification proposal; comments by 8–20–79

29673 **Federal Government Alternative Work Schedules** OPM proposes regulations implementing Federal Employees Flexible and Compressed Work Schedules Act of 1978; comments by 7–23–79

29728 **Health Professions Educational Assistance** HEW/PHS and HRA publishes direct and affiliated medical residency program data

29678 **Securities** SEC republishes proposed rules regarding pricing of investment company shares; comments by 6–29–79

29647 **Contract Disputes** TVA prescribes procedures to be used in prehearings, hearings, making determinations, and issuing and enforcing administrative subpoenas

29785 **Low Cost Housing Project in Peru** State/AID authorizes loan guaranty for lenders

29740 **Commodity Classification System for International Trade** ITC releases for public comment drafts of and draft U.S. comments on certain chapters of the *Harmonized Commodity Description and Coding System;* comments by 6–15–79

29731 **Crude Oil Transportation Systems** Interior/Sec'y offers opportunity for comment on final environmental impact statement and Federal, State and local government views; comments by end of September, 1979

29668, 29723 **Federal Procurement** GSA adopts rules on acquisition policy and issues bulletin providing interim guidance on cost accounting standards administration; effective 5–9–79 (2 documents)

29819 **Sunshine Act Meetings**

Separate Parts of this Issue

29822 **Part II, Interagency Regulatory Liaison Group**
29828 **Part III, EPA**
29832 **Part IV, Interior/BIA**

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Federal Register
Vol. 44, No. 100
Tuesday, May 22, 1979

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Title 3—
The President

Proclamation 4661 of May 18, 1979

National Museum Day, 1979

By the President of the United States of America

A Proclamation

Museums are the custodians of a substantial part of humankind's heritage, whether produced by the skill of our ancestors or by our contemporaries.

Museums are centers of research for scholars, of education, of enlightenment for younger generations, and a source of enjoyment and cultural enhancement for all.

Museums enrich the quality of our communities and provide a sense of continuity and perspective which can enhance, in a unique way, the cultural opportunities which are provided by schools, colleges, universities, libraries and other institutions of learning.

In recognition of the contribution made by the museums of our Nation to the preservation of the heritage of the United States and to the furtherance and understanding of the peoples of the United States the 96th Congress, by House Joint Resolution 262, has designated May 18, 1979, as National Museum Day.

NOW, THEREFORE, I, JIMMY CARTER, President of the United States of America, do hereby proclaim May 18, 1979, as National Museum Day, and call upon the people of the United States, State and local government agencies, and interested organizations to observe that day with appropriate ceremonies, activities, and programs.

IN WITNESS WHEREOF, I have hereunto set my hand this 18th day of May, in the year of our Lord nineteen hundred seventy-nine, and of the Independence of the United States of America the two hundred and third.

Jimmy Carter

[FR Doc. 79-16155
Filed 5-18-79; 3:24 pm]
Billing code 3195-01-M

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Presidential Documents

Executive Order 12138 of May 18, 1979

Creating a National Women's Business Enterprise Policy and Prescribing Arrangements for Developing, Coordinating and Implementing a National Program for Women's Business Enterprise

In response to the findings of the Interagency Task Force on Women Business Owners and congressional findings that recognize:

1. the significant role which small business and women entrepreneurs can play in promoting full employment and balanced growth in our economy;

2. the many obstacles facing women entrepreneurs; and

3. the need to aid and stimulate women's business enterprise;

By the authority vested in me as President of the United States of America, in order to create a National Women's Business Enterprise Policy and to prescribe arrangements for developing, coordinating and implementing a national program for women's business enterprise, it is ordered as follows:

1–1. *Responsibilities of the Federal Departments and Agencies.*

1–101. Within the constraints of statutory authority and as otherwise permitted by law:

(a) Each department and agency of the Executive Branch shall take appropriate action to facilitate, preserve and strengthen women's business enterprise and to ensure full participation by women in the free enterprise system.

(b) Each department and agency shall take affirmative action in support of women's business enterprise in appropriate programs and activities including but not limited to:

(1) management, technical, financial and procurement assistance,

(2) business-related education, training, counseling and information dissemination, and

(3) procurement.

(c) Each department or agency empowered to extend Federal financial assistance to any program or activity shall issue regulations requiring the recipient of such assistance to take appropriate affirmative action in support of women's business enterprise and to prohibit actions or policies which discriminate against women's business enterprise on the ground of sex. For purposes of this subsection, Federal financial assistance means assistance extended by way of grant, cooperative agreement, loan or contract other than a contract of insurance or guaranty. These regulations shall prescribe sanctions for noncompliance. Unless otherwise specified by law, no agency sanctions shall be applied until the agency or department concerned has advised the appropriate person or persons of the failure to comply with its regulations and has determined that compliance cannot be secured by voluntary means.

1–102. For purposes of this Order, affirmative action may include, but is not limited to, creating or supporting new programs responsive to the special needs of women's business enterprise, establishing incentives to promote business or business-related opportunities for women's business enterprise, collecting and disseminating information in support of women's business enterprise, and insuring to women's business enterprise knowledge of and

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ready access to business-related services and resources. If, in implementing this Order, an agency undertakes to use or to require compliance with numerical set-asides, or similar measures, it shall state the purpose of such measure, and the measure shall be designed on the basis of pertinent factual findings of discrimination against women's business enterprise and the need for such measure.

1–103. In carrying out their responsibilities under Section 1–1, the departments and agencies shall consult the Department of Justice, and the Department of Justice shall provide legal guidance concerning these responsibilities.

1–2. *Establishment of the Interagency Committee on Women's Business Enterprise.*

1–201. To help insure that the actions ordered above are carried out in an effective manner, I hereby establish the Interagency Committee on Women's Business Enterprise (hereinafter called the Committee).

1–202. The Chairperson of the Committee (hereinafter called the Chairperson) shall be appointed by the President. The Chairperson shall be the presiding officer of the Committee and shall have such duties as prescribed in this Order or by the Committee in its rules of procedure. The Chairperson may also represent his or her department, agency or office on the Committee.

1–203. The Committee shall be composed of the Chairperson and other members appointed by the heads of departments and agencies from among high level policy-making officials. In making these appointments, the recommendations of the Chairperson shall be taken into consideration. The following departments and agencies and such other departments and agencies as the Chairperson shall select shall be members of the Committee: the Departments of Agriculture; Commerce; Defense; Energy; Health, Education, and Welfare; Housing and Urban Development; Interior; Justice; Labor; Transportation; Treasury; the Federal Trade Commission; General Services Administration; National Science Foundation; Office of Federal Procurement Policy; and the Small Business Administration. These members shall have a vote. Nonvoting members shall include the Executive Director of the Committee and at least one but no more than three representatives from the Executive Office of the President appointed by the President.

1–204. The Committee shall meet at least quarterly at the call of the Chairperson, and at such other times as may be determined to be useful according to the rules of procedure adopted by the Committee.

1–205. The Administrator of the Small Business Administration shall provide an Executive Director and adequate staff and administrative support for the Committee. The staff shall be located in the Office of the Chief Counsel for Advocacy of the Small Business Administration, or in such other office as may be established specifically to further the policies expressed herein. Nothing in this Section prohibits the use of other properly available funds and resources in support of the Committee.

1–3. *Functions of the Committee.* The Committee shall in a manner consistent with law:

1–301. Promote, coordinate and monitor the plans, programs and operations of the departments and agencies of the Executive Branch which may contribute to the establishment, preservation and strengthening of women's business enterprise. It may, as appropriate, develop comprehensive interagency plans and specific program goals for women's business enterprise with the cooperation of the departments and agencies.

1–302. Establish such policies, definitions, procedures and guidelines to govern the implementation, interpretation and application of this order, and generally perform such functions and take such steps as the Committee may deem to be necessary or appropriate to achieve the purposes and carry out the provisions hereof.

1–303. Promote the mobilization of activities and resources of State and local governments, business and trade associations, private industry, colleges and universities, foundations, professional organizations, and volunteer and other groups toward the growth of women's business enterprise, and facilitate the coordination of the efforts of these groups with those of the departments and agencies.

1–304. Make an annual assessment of the progress made in the Federal Government toward assisting women's business enterprise to enter the mainstream of business ownership and to provide recommendations for future actions to the President.

1–305. Convene and consult as necessary with persons inside and outside government to develop and promote new ideas concerning the development of women's business enterprise.

1–306. Consider the findings and recommendations of government and private sector investigations and studies of the problems of women entrepreneurs, and promote further research into such problems.

1–307. Design a comprehensive and innovative plan for a joint Federal and private sector effort to develop increased numbers of new women-owned businesses and larger and more successful women-owned businesses. The plan should set specific reasonable targets which can be achieved at reasonable and identifiable costs and should provide for the measurement of progress towards these targets at the end of two and five years. Related outcomes such as income and tax revenues generated, jobs created, new products and services introduced or new domestic or foreign markets created should also be projected and measured in relation to costs wherever possible. The Committee should submit the plan to the President for approval within six months of the effective date of this Order.

1–4. *Other Responsibilities of the Federal Departments and Agencies.*

1–401. The head of each department and agency shall designate a high level official to have the responsibility for the participation and cooperation of that department or agency in carrying out this Executive order. This person may be the same person who is the department or agency's representative to the Committee.

1–402. To the extent permitted by law, each department and agency upon request by the Chairperson shall furnish information, assistance and reports and otherwise cooperate with the Chairperson and the Committee in the performance of their functions hereunder. Each department or agency shall ensure that systematic data collection processes are capable of providing the Committee current data helpful in evaluating and promoting the efforts herein described.

1–403. The officials designated under Section 1–401, when so requested, shall review the policies and programs of the women's business enterprise program, and shall keep the Chairperson informed of proposed budget, plans and programs of their departments or agencies affecting women's business enterprise.

1–404. Each Federal department or agency, within constraints of law, shall continue current efforts to foster and promote women's business enterprise and to support the program herein set forth, and shall cooperate with the Chairperson and the Committee in increasing the total Federal effort.

1–5. *Reports.*

1–501. The Chairperson shall, promptly after the close of the fiscal year, submit to the President a full report of the activities of the Committee hereunder during the previous fiscal year. Further, the Chairperson shall, from time to time, submit to the President the Committee's recommendations for legislation or other action to promote the purposes of this Order.

1–502. Each Federal department and agency shall report to the Chairperson as

1–502. Each Federal department and agency shall report to the Chairperson as hereinabove provided on a timely basis so that the Chairperson and the Committee can consider such reports for the Committee report to the President.

1–6. *Definitions.* For the purposes of this Order, the following definitions shall apply:

1–601. "Women-owned business" means a business that is at least 51 percent owned by a woman or women who also control and operate it. "Control" in this context means exercising the power to make policy decisions. "Operate" in this context means being actively involved in the day-to-day management.

1–602. "Women's business enterprise" means a woman-owned business or businesses or the efforts of a woman or women to establish, maintain or develop such a business or businesses.

1–603. Nothing in subsections 1–601 or 1–602 of this Section (1–6) should be construed to prohibit the use of other definitions of a woman-owned business or women's business enterprise by departments and agencies of the Executive Branch where other definitions are deemed reasonable and useful for any purpose not inconsistent with the purposes of this Order. Wherever feasible, departments and agencies should use the definition of a woman-owned business in subsection 1–601 above for monitoring performance with respect to women's business enterprise in order to assure comparability of data throughout the Federal Government.

1–7. *Construction.* Nothing in this Order shall be construed as limiting the meaning or effect of any existing Executive order.

Jimmy Carter

THE WHITE HOUSE,
May 18, 1979.

[FR Doc. 79–16156
Filed 5–18–79; 3:25 pm]
Billing code 3195–01–M

Rules and Regulations

Federal Register
Vol. 44, No. 100
Tuesday, May 22, 1979

This section of the FEDERAL REGISTER contains regulatory documents having general applicability and legal effect, most of which are keyed to and codified in the Code of Federal Regulations, which is published under 50 titles pursuant to 44 U.S.C. 1510.
The Code of Federal Regulations is sold by the Superintendent of Documents. Prices of new books are listed in the first FEDERAL REGISTER issue of each month.

DEPARTMENT OF AGRICULTURE

Animal and Plant Health Inspection Service

7 CFR Part 331

Emergency Plant Pest Regulations Governing Interstate Movement of Certain Products and Articles; West Indian Sugarcane Root Borer

Correction

In FR Doc. 79–12500 appearing at page 24036 in the issue for Tuesday, April 24, 1979, on page 24038, in the third column, in the first full paragraph, the "diagram of the life cycle from observations in Puerto Rico:" should read as follows: "From egg to larva—7 days; from larva to pupae (6 to 16 instars plus diapause)—less than 1 year or over 2 years; and from pupae to adult—2 to 3 weeks."

BILLING CODE 1505–01–M

Agricultural Marketing Service

7 CFR Part 916

[Nectarine Reg. 11]

Nectarines Grown in California; Grade and Size Requirements

AGENCY: Agricultural Marketing Service, USDA.

ACTION: Final rule.

SUMMARY: For the period May 23 through July 25, 1979, this regulation sets a minimum grade of U.S. No. 1 for all varieties of nectarines shipped except that slightly less scarring would be allowed, but an additional 25 percent tolerance for fruit not well formed but not badly misshapen would be provided. In addition, the regulation specifies minimum sizes for 50 named varieties of nectarines. The regulation adds Early Red, Ed's Red, Royal Giant, Ruby Grand, Tasty Free and 61–61 varieties and drops Harry Grand, Kings Kanyon, and Red King varieties from those specifically named. Such action is necessary to promote orderly marketing of suitable quality and sizes of California nectarines in the interest of producers and consumers.

EFFECTIVE DATES: May 23, 1979, through July 25, 1979.

FOR FURTHER INFORMATION CONTACT: Malvin E. McGaha, (202) 447–5975.

SUPPLEMENTARY INFORMATION: *Findings.* This regulation is issued under the marketing agreement, as amended, and Order No. 916, as amended (7 CFR Part 916), regulating the handling of nectarines grown in California. The agreement and order are effective under the Agricultural Marketing Agreement Act of 1937, as amended (7 U.S.C. 601–674). This action is based upon the recommendations and information submitted by the Nectarine Administrative Committee, established under the marketing agreement and order, and upon other available information. It is hereby found that the regulation of shipments of nectarines will tend to effectuate the declared policy of the act.

This regulation has not been determined significant under the USDA criteria for implementing Executive Order 12044.

The committee estimates shipments of California nectarines at 14.8 million packages, compared with actual shipments of 12.0 million packages last season. The committee reports that the 1979 California nectarine crop is maturing slightly later than last season but is sizing normally.

The grade and size requirements are necessary to prevent the shipment of California nectarines of a lower grade or smaller size than specified and are designed to provide ample supplies of good-quality fruit in the interest of producers and consumers pursuant to the declared policy of the act.

It is further found that it is impracticable and contrary to the public interest to give preliminary notice, engage in public rulemaking, and postpone the effective date of this regulation until 30 days after publication in the **Federal Register** (5 U.S.C. 553) because of insufficient time between the date when information upon which this regulation is based became available and the effective date necessary to effectuate the declared policy of the act. Interested persons were given an opportunity to submit information and views on this regulation at an open meeting held May 9, 1979. It is necessary to effectuate the declared purposes of the act to make these regulatory provisions effective as specified, and handlers have been apprised of such provisions and the effective time.

§ 916.353 Nectarine Regulation 11.

Order. (a) Nectarine Regulation 10 (43 FR 20218; 29265) is hereby terminated as of the effective date hereof.

(b) During the period May 23, 1979, through July 25, 1979, no handler shall handle:

(1) Any package or container of any variety of nectarines unless such nectarines meet the requirements of U.S. No. 1 grade: *Provided,* That nectarines 2 inches in diameter or smaller, shall not have fairly light colored, fairly smooth scars which exceed the aggregate area of a circle ⅜ inch in diameter, and nectarines larger than 2 inches in diameter shall not have fairly light colored, fairly smooth scars which exceed an aggregate area of a circle ½ inch in diameter: *Provided further,* That an additional tolerance of 25 percent shall be permitted for fruit that is not well formed but not badly misshapen.

(2) Any package or container of Mayred variety nectarines unless:

(i) Such nectarines, when packed in molded forms (tray pack) in a No. 22D standard lug box, are of a size that will pack, in accordance with the requirements of a standard pack, not more than 112 nectarines in the lug box;

(ii) Such nectarines in any container when packed other than as specified in subdivision (i) of this subparagraph (2) are of a size that a 16-pound sample, representative of the nectarines in the package or container, contains not more than 105 nectarines.

(3) Any package or container of Mayfair variety nectarines unless:

(i) Such nectarines, when packed in molded forms (tray pack) in a No. 22D standard lug box, are of a size that will pack, in accordance with the requirements of a standard pack, not more than 108 nectarines in the lug box;

(ii) Such nectarines in any container when packed other than as specified in

the certificate is valid at the time of

Marketing Agreement No. 104 and this

cattle because of scabies, is hereby

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subdivision (i) of this subparagraph (3) are of a size that a 16-pound sample, representative of the nectarines in the package or container, contains not more than 102 nectarines.

(4) Any package or container of Apache, Armking, Crimson Gold, Early Red, Early Star, Early Sungrand, Firebrite, Independence, June Belle, June Grand, Kent Grand, May Grand, Moon Grand, Red Diamond, Red June, Spring Grand, Spring Red, Star Grand I, Star Grand II, Summer Grand, Sun Grand, or Zee Gold variety nectarines unless:

(i) Such nectarines, when packed in molded forms (tray pack) in a No. 22D standard lug box, are of a size that will pack, in accordance with the requirements of a standard pack, not more than 96 nectarines in the lug box; or

(ii) Such nectarines in any container when packed other than as specified in subdivision (i) of this subparagraph (4) are of a size that a 16-pound sample, representative of the nectarines in the package or container, contains not more than 90 nectarines.

(5) Any package or container of Autumn Grand, Bob Grand, Clinton-Strawberry, Ed's Red, Fairlane, Fantasia, Flamekist, Flavortop, Gold King, Granderli, Grand Prize, Hi-Red, Late Le Grand, Le Grand, Niagara Grand, Red Free, Red Grand, Regal Grand, Richards Grand, Royal Giant, Royal Grand, Ruby Grand, September Grand, Tasty Free, Tom Grand, or 61–61 variety nectarines unless:

(i) Such nectarines, when packed in molded forms (tray pack) in a No. 22D standard lug box, are of a size that will pack, in accordance with the requirements of a standard pack, not more than 88 nectarines in the lug box; or

(ii) Such nectarines in any container when packed other than as specified in subdivision (i) of this subparagraph (5) are of a size that a 16-pound sample, representative of the nectarines in the package or container, contains not more than 78 nectarines.

(c) As used herein, "U.S. No. 1" and "standard pack" mean the same as defined in the United States Standards for Grades of Nectarines (7 CFR 2851.3145–3160); "No. 22D standard lug box" means the same as defined in Section 1387.11 of the "Regulations of the California Department of Food and Agriculture." All other terms mean the same as defined in this marketing order.

(Secs. 1–19, 48 Stat. 31, as amended; (7 U.S.C. 601–674))

Dated: May 17, 1979.

D. S. Kuryloski,

Acting Deputy Director, Fruit and Vegetable Division, Agricultural Marketing Service.

[FR Doc. 79-15998 Filed 5-21-79; 8:45 am]

BILLING CODE 3410-02-M

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7 CFR Part 953

Irish Potatoes Grown in the Southeastern States; Handling Regulation

AGENCY: Agricultural Marketing Service, USDA.

ACTION: Final rule.

SUMMARY: This regulation requires fresh market shipments of potatoes grown in designated counties of Virginia and North Carolina to be inspected and meet minimum grade and size requirements. The regulation is needed to promote orderly marketing of such potatoes and keep less desirable qualities and sizes from being shipped to consumers.

EFFECTIVE DATE: June 5, 1979.

FOR FURTHER INFORMATION CONTACT: Donald S. Kuryloski, Acting Deputy Director, Fruit and Vegetable Division, AMS, U.S. Department of Agriculture, Washington, D.C. 20250. Telephone: (202) 447–6393.

SUPPLEMENTARY INFORMATION: Marketing Agreement No. 104 and Order No. 953, both as amended (7 CFR Part 953), regulate the handling of potatoes grown in designated counties of Virginia and North Carolina. It is effective under the Agricultural Marketing Agreement Act of 1937, as amended (7 U.S.C. 601–674). The Southeastern Potato Committee, established under the order, is responsible for its local administration.

Notice of rulemaking was published in the April 25, 1979, Federal Register (44 FR 24297). The notice afforded interested persons through May 11, 1979, to file written comments on the proposal. None was filed.

This regulation is based upon recommendations made by the committee at its public meeting in Norfolk, Virginia, on April 5, 1979.

These grade and size requirements are the same as those issued for the production area during past seasons. They are necessary to prevent potatoes of poor quality or undersirable sizes from being distributed to fresh market outlets. The requirements will benefit consumers and producers by standardizing and improving the quality of the potatoes shipped from the production area.

Exceptions are provided when certain of these requirements would be inappropriate or unreasonable.

Shipments to certain special purpose outlets need not meet the grade, size, and inspection requirements, provided safeguards are met to prevent such potatoes from reaching unauthorized outlets. Shipments for use as livestock feed are exempt because requirements for this outlet differ from those for fresh market. Since no purpose would be served by regulating potatoes used for charity, such shipments also are exempt. Also, potatoes for most processing uses are exempt under the legislative authority for this part.

After consideration of all relevant matters, including the proposal in the notice, it is found that the following handling regulation will tend to effectuate the declared policy of the act by setting the minimum grade, size and inspection requirements which the Secretary has found should be maintained for orderly marketing.

It is further found that good cause exists for not postponing the effective date of this section until 30 days after its publication in the Federal Register (5 U.S.C. 553) in that (1) shipments of potatoes grown in the production area will begin on or about the effective date of June 5, 1979, (2) to maximize benefits to producers, the regulation should apply to as many shipments as possible during the marketing season, and (3) handlers under this part should be able to complete all preparations to comply with the regulation, which is similar to those of previous marketing seasons, by June 5, 1979.

This regulation has not been determined significant under the USDA criteria for implementing Executive Order 12044.

The regulation is as follows:

§ 953.319 Handling regulation.

During the period June 5 through July 31, 1979, no person shall ship any potatoes produced in the production area unless such potatoes meet the requirements of paragraphs (a) and (b) of this section or unless such potatoes are handled in accordance with paragraphs (c) and (d), or (e) of this section.

(a) *Minimum grade and size requirements.* All varieties of U.S. No. 2, or better grade, 1½ inches (38.1 mm) minimum diameter.

(b) *Inspection.* Except as provided in paragraphs (c) and (e), no handler shall ship any potatoes unless the Federal-State Inspection Service has issued an inspection certificate covering them and

the certificate is valid at the time of shipment.

(c) *Special purpose shipments.* The grade, size, and inspection requirements set forth in paragraphs (a) and (b) of this section shall not apply to potatoes shipped for canning, freezing, "other processing" as defined under paragraph (f) of this section, livestock feed, or charity, except that the handler of the potatoes shall comply with the safeguard requirements of paragraph (d) of this section.

(d) *Safeguards.* Each handler shipping potatoes for canning, freezing, "other processing," livestock feed, or charity in accordance with paragraph (c) of this section shall:

(1) Notify the committee of his intent to ship potatoes for such a special purpose by applying on a committee form for a Certificate of Privilege;

(2) Obtain an approved Certificate of Privilege;

(3) Prepare on a committee form a special purpose shipment report for each such shipment; and

(4) Forward copies of each special purpose shipment report to the committee office and to the receiver with instructions that each receiver sign and return a copy to the committee office. Failure of the handler or receiver to report all such shipments by promptly signing and returning each special purpose shipment report to the committee office shall be cause for suspension of the Certificate of Privilege allowing such special purpose shipments.

(e) *Minimum quantity exemption.* Each handler may ship up to, but not to exceed five hundredweight of potatoes any day without regard to the inspection requirements of this part, but this exception shall not apply to any portion of a shipment that exceeds five hundredweight of potatoes.

(f) *Definitions.* The term "U.S. No. 2" means the same as when used in the U.S. Standards for Grades of Potatoes as amended (7 CFR 2851.1540–2851.1566), including the tolerances set forth in it. The term "other processing" means the same as when used in the act as amended, in which it is specified as the preparation of potatoes for market involving the application of heat or cold to such an extent that the natural form or stability of the potatoes is substantially changed. Certain uses this includes are potatoes for dehydration, chips, shoestrings, starch, and flour. The act of peeling, cooling, slicing, dicing, or applying material to prevent oxidation does not constitute "other processing." All other terms used in this section have the same meanings as when used in Marketing Agreement No. 104 and this part, both as amended.

(g) *Applicability to imports.* Pursuant to section 8e of the act and § 980.1 "Import regulations" (7 CFR 980.1), Irish potatoes of the round white type imported during the effective period of this section shall meet the grade, size, quality, and maturity requirements specified in paragraph (a) of this section.

(Secs. 1–19, 48 Stat. 31, as amended; (7 U.S.C. 601–674))

Dated May 17, 1979, to become effective June 5, 1979.

D. S. Kuryloski,

Acting Deputy Director, Fruit and Vegetable Division, Agricultural Marketing Service.

[FR Doc. 79-15997 Filed 5-21-79; 8:45 am]

BILLING CODE 3410-02-M

Animal and Plant Health Inspection Service

9 CFR Part 73

Scabies in Cattle; Area Released From Quarantine

AGENCY: Animal and Plant Health Inspection Service, USDA.

ACTION: Final rule.

SUMMARY: The purpose of this amendment is to release a portion of Bureau County in Illinois from the areas quarantined because of cattle scabies. Surveillance activity indicates that cattle scabies no longer exists in the area quarantined. No areas remain under quarantine in the State of Illinois because of psoroptic cattle scabies.

EFFECTIVE DATE: May 16, 1979.

FOR FURTHER INFORMATION CONTACT: Dr. Glen O. Schubert, Chief Staff Veterinarian, Sheep, Goat, Equine, and Ectoparasites Staff, USDA, APHIS, VS, Federal Building, Room 737, 6505 Belcrest Road, Hyattsville, MD 20782, 301–436–8322.

SUPPLEMENTARY INFORMATION: This amendment releases a portion of Bureau County in Illinois from the areas quarantined because of cattle scabies. Therefore, the restrictions pertaining to the interstate movement of cattle from quarantined areas contained in 9 CFR Part 73, as amended, will not apply to the released area, but the restrictions pertaining to the interstate movement of cattle from nonquarantined areas contained in said Part 73 will apply to the released area.

Accordingly, Part 73, Title 9, Code of Federal Regulations, as amended, restricting the interstate movement of cattle because of scabies, is hereby amended in the following respect:

In § 73.1a, paragraph (f), relating to the State of Illinois is deleted.

(Secs. 4–7, 23 Stat. 32, as amended; Secs. 1 and 2, 32 Stat. 791–792, as amended; Secs. 1–4, 33 Stat. 1264, 1265, as amended; Secs. 3 and 11, 76 Stat. 130, 132; 21 U.S.C. 111–113, 115, 117, 120, 121, 123–126, 134b, 134f; 37 FR 28464, 28477; 38 FR 19141.)

The amendment relieves restrictions no longer deemed necessary to prevent the spread of cattle scabies from certain areas which have been determined to be free of cattle scabies. This amendment should be made effective immediately in order to permit affected persons to move cattle interstate from such area without unnecessary restrictions.

Therefore, pursuant to the administrative procedure provisions in 5 U.S.C. 553, it is found upon good cause that notice and other public procedure with respect to this final rule are impracticable and contrary to the public interest and good cause is found for making this final rule effective less than 30 days after publication of this document in the Federal Register.

Further, this final rule has not been designated as "significant," and is being published in accordance with the emergency procedures in Executive Order 12044 and Secretary's Memorandum 1955. It has been determined by J. K. Atwell, Assistant Deputy Administrator, Animal Health Programs, APHIS, VS, USDA, that the emergency nature of this final rule warrants publication without opportunity for public comment or preparation of an impact analysis statement at this time.

This final rule implements the regulations in Part 73. It will be scheduled for review in conjunction with the periodic review of the regulations in that Part required under the provisions of Executive Order 12044 and Secretary's Memorandum 1955.

Done at Washington, D.C., this 16th day of May 1979.

Pierre A. Chaloux,

Deputy Administrator, Veterinary Services.

[FR Doc. 79-15869 Filed 5-21-79; 8:45 am]

BILLING CODE 3410-34-M

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SECURITIES AND EXCHANGE COMMISSION

17 CFR Part 200

[Release No. 34-15776]

Delegation of Authority to the Director of the Division Market Regulation

AGENCY: Securities and Exchange Commission.

ACTION: Final rule.

SUMMARY: The Commission is amending its rules to delegate authority to the Director of the Division of Market Regulation to approve amendments to plans filed by self-regulatory organizations to implement the FOCUS reporting system.

EFFECTIVE DATE: May 4, 1979.

FOR FURTHER INFORMATION CONTACT: Elizabeth S. York, Esq., Office of Financial Responsibility and Securities Processing Regulations, Division of Market Regulations, Securities and Exchange Commission, 500 North Capital Street, Washington, D.C. 20549, (202) 376-8137.

SUPPLEMENTARY INFORMATION: Section 17(a) of the Securities Exchange Act of 1934 (the "Act") authorizes the Commission by rule to prescribe, among other things, such reports as are necessary or appropriate in the public interest, for the protection of investors, or are otherwise in furtherance of the purposes of the Act. Rules 17a-5 (17 CFR 240.17a-5) and 17a-10 (17 CFR 240.17a-10) adopted thereunder prescribe that every registered broker and dealer shall file specified periodic reports on Form X-17A-5 (17 CFR 249.617) with the Commission unless the Commission has approved a plan, submitted by the self-regulatory organization which is the designated examining authority for the broker-dealer, for the collection of such reports.[1] The Commission has approved such a plan for each national securities exchange and registered securities association.

From time to time, those plans require amendment, among other reasons, to conform to revisions in the reporting structure implemented under Rules 17a-5 and 17a-10 and to establish parameters for special reports. In order to expedite action on such filings where they do not necessitate consideration by the Commission itself, the Commission is amending its Rules of General Organization Rule 30-3 (17 CFR 200.30-3) to delegate to the Director of the Division of Market Regulation the authority to approve amendments to these plans.

[1] Rule 17d-1 (17 CFR 240.17d-1).

The Commission finds, in accordance with 5 U.S.C. 533(b)(A) and 5 U.S.C. 533(d) of the Administrative Procedure Act, that the foregoing action relates solely to a rule of agency organization, procedure, or practice and does not relate to a substantive rule. Accordingly, the foregoing action becomes effective immediately. In addition, the Commission finds that there is not burden on competition imposed by the foregoing action.

Part 200 of Title 17 of the Code of Federal Regulations is amended by adding paragraph (a)(30) to § 200.30-3, as follows:

§ 200.30-3 Delegation of Authority to Director of Division of Market Regulation.

* * * * *

(a) * * *

(30) Pursuant to Section 17(a) of the Act, 15 U.S.C. 78q, to approve amendments to the plans which are consistent with the reporting structure of Rules 17a-5(a)(4) and 17a-10(b) filed by self-regulatory organizations pursuant to Rules 17a-5(a)(4) and 17a-10(b).

(Sec. 2, Pub. L. 94-29, 89 Stat. 97 (15 U.S.C. 78b);
(Sec. 25, Pub. L. 94-29, 89 Stat. 163 (15 U.S.C. 78d-1);
(Sec. 16, Pub. L. 94-29, 89 Stat. 146 (15 U.S.C. 78s);
(Sec. 18, Pub. L. 94-29, 89 Stat. 155 (15 U.S.C. 78w)).

* * * * *

By the Commission.

George A. Fitzsimmons,

Secretary.

May 4, 1979.

[FR Doc. 79-15901 Filed 5-21-79; 8:45]

BILLING CODE 8010-01-M

17 CFR Part 270

[Release No. IC-10690]

Unit Investment Trust Start-up Exemptions

AGENCY: Securities and Exchange Commission.

ACTION: Final rules.

SUMMARY: The Securities and Exchange Commission is adopting a rulemaking which provides certain unit investment trusts with "start-up" exemptions from requirements of the Investment Company Act of 1940 pertaining to minimum net worth, frequency of capital gains distributions, and forward pricing. This rulemaking will obviate the need for an individual investment company to seek exemptive applications under circumstances in which the Commission has granted a number of orders.

EFFECTIVE DATE: May 15, 1979.

FOR FURTHER INFORMATION CONTACT: Mark J. Mackey, Esq., Investment Company Act Study Group, Division of Investment Management, Securities and Exchange Commission, 500 N. Capitol Street, Washington, D.C. 20549, (202) 755-1547.

SUPPLEMENTARY INFORMATION: The Commission today adopted rule 14a-3 (17 CFR 270.14a-3), and amended rules 19b-1 (17 CFR 270.19b-1), and 22c-1 (17 CFR 270.22c-1) under the Investment Company Act of 1940 (15 U.S.C. 80a-1 et seq.) ("Act"). This rulemaking will provide certain unit investment trusts with "start-up" exemptions from the Act's requirements pertaining to minimum net worth,[1] frequency of capital gains distribution,[2] and forward pricing.[3]

In response to its request for comments regarding the rulemaking set forth in Investment Company Act Release No. 10545 (Jan. 8, 1979, 44 FR 3376, Jan. 16, 1979), the Commission received and considered 14 letters. All comments received appeared to favor the Commission's adopting the proposed rulemaking; but, with a single exception, each commentator suggested modifications to the proposals. As a result of considering these comments, the Commission has decided to adopt, with minor modifications, that part of the rulemaking which relates solely to unit investment trusts, and to republish today for public comment a revision of that part of the rulemaking which relates to the pricing of investment company shares generally.[4]

Trust Start-up Exemptions

After considering the comments received, the Commission has determined to include under the exemptions certain unit investment trusts which could not have relied on the rulemaking as proposed.

The proposed rulemaking would have provided exemptions only to those unit investment trusts which engaged exclusively in the business of investing in specified trust debt securities, generally including corporate and

[1] Section 14(a) of the Act (15 U.S.C. 80a-14(a)) generally requires an investment company to have an initial net worth of at least $100,000.

[2] Rule 19b-1 under the Act generally limits distributions of capital gains by an investment company to once in any taxable year.

[3] Rule 22c-1(a) under the Act requires that an investment company sell, redeem or repurchase its redeemable securities only at a price based on the current net asset value of such security which is next computed after receipt of a tender of such security for redemption or of an order to purchase or sell such security.

[4] Investment Company Act Release No. 10691, May 15, 1979.

municipal bonds, government securities, and certain units of a previously issued series of the trust. In response to a comment, the Commission has determined that the rulemaking should apply additionally to other unit investment trusts which invest in securities which are issued by a corporation, and which have their interest or dividend rate fixed at the time they are issued since such securities share many of the characteristics of income oriented investments in which such unmanaged trusts typically invest. Because these securities would include certain issues of preferred stock,[5] the term "trust debt securities" which was used in the proposed rulemaking is replaced by the term "eligible trust securities."

The Commission notes that, from time-to-time in the future, trusts may be organized to invest in new classes of portfolio securities that theretofore had not been considered "eligible trust securities" for purposes of satisfying this package of trust start-up exemptive rules. Consequently, the Commission has instructed the Division of Investment Management to monitor developments among unit investment trusts, especially those providing new types of portfolio investments. When it has had sufficient experience with trusts offering any new portfolio investments the Division will consider the propriety of recommending to the Commission that such trusts be included under the start-up exemptive rules.

Layering of Fees

In its release, the Commission specifically requested comments concerning the practice of depositing units of a previously issued series of a trust in the portfolio of a new series of the same trust, which may result in the "layering" of trustee's and evaluator's fees. It requested comment on any economic impact of such "layering" and any steps which would be necessary and appropriate to alleviate any unfairness resulting from that practice.

Only one commentator addressed this concern and asserted that any "layering" of fees properly reflects the services being provided. Based on this limited response, the Commission has determined for the time being not to prohibit such practice *per se*. However, it notes that important disclosure obligations may arise whenever "layering" of fees exists.

[5] Preferred stock with a convertible feature would not be considered to have its interest or dividend rate fixed at the time it is issued. Moreover, if the preferred security may be converted only upon the volition of the securityholder, the Commission believes that it would be inappropriate for a trust to pay a premium which represents the convertibility feature when a trust lacks any management which could exercise that convertibility option.

Final Rulemaking

Rule 14a-3

Rule 14a-3 provides that, subject to certain conditions, a registered trust engaged exclusively in the business of investing in "eligible trust securities" ("Trust") and any principal underwriter for the Trust, is exempt from section 14(a) of the Act with respect to a public offering of Trust units. The conditions which must be met in order for the exemption offered by the rule to apply are as follows:

(1) At the commencement of the public offering, the Trust holds at least $100,000 principal amount of "eligible trust securities;"

(2) If, within ninety days from the time that the Trust's registration statement has become effective under the Securities Act of 1933 the net worth of the Trust declines to less than $100,000 or the Trust is terminated, the sponsor for the Trust must (i) refund, on demand and without deduction, all sales charges to any unitholders who purchased Trust units from the sponsor (or from any underwriter or dealer participating in the distribution), and (ii) liquidate the "eligible trust securities" held by the Trust and distribute the proceeds thereof to the unitholders of the Trust;

(3) The sponsor must instruct the trustee when the "eligible trust securities" are deposited in the Trust that, in the event that redemptions by the sponsor or underwriter (if any) of units constituting a part of the unsold units results in the Trust's having a net worth of less than 40 percent of the principal amount of the "eligible trust securities" initially deposited in the Trust, (i) the trustee shall terminate the Trust and distribute the assets to the unitholders of the Trust, and (ii) the sponsor for the Trust must refund, on demand and without deduction, all sales charges to any unitholder who purchased Trust units from the sponsor or from any underwriter or dealer participating in the distribution.

The rule defines the term "eligible trust securities" to mean:[6]

(1) Securities (other than convertible securities) which are issued by a corporation and which have their interest or dividend rate fixed at the time they are issued;

(2) Interest bearing obligations issued by a state, or by any agency, instrumentality, authority or political subdivision thereof;

(3) Government securities;[7] and

(4) Units of a previously issued series of the Trust, provided that: (i) The aggregate principal amount of units of existing series so deposited will not exceed 10% of the aggregate principal amount of the portfolio of the new series; (ii) the aggregate principal amount of units of any particular existing series so deposited will not exceed 5% of the aggregate principal amount of the portfolio of the new series; (iii) no units will be so deposited which do not substantially meet investment quality criteria at least as high as those applicable to the new series in which such units are deposited; (iv) the value of the "eligible trust securities" underlying units of an existing series deposited in a new series will not, by reason of maturity of such securities according to their terms within ten years following the date of deposit, be reduced sufficiently for such existing series to be voluntarily terminated;[8] (v) units of existing series so deposited will constitute units purchased by the sponsor as market maker and not remaining unsold units from the original distribution of such units; and (vi) the sponsor will deposit units of existing series in the new series without a sales charge.

Amended Rule 19b-1

Paragraphs (c) and (d) of amended rule 19b-1[9] allows a Trust engaged exclusively in the business of investing in "eligible trust securities" (as defined in proposed rule 14a-3(b)) to make more than one capital gains distribution in any one taxable year, provided that:

(1) The capital gain distribution is a result of (i) an issuer's calling or redeeming the "eligible trust security" held by the Trust, (ii) the sale of an "eligible trust security" to provide funds for redemption of Trust units when the amount received by the Trust for such sale exceeds the amount required to satisfy the redemption distribution, (iii) sale of an "eligible trust security" to maintain qualification of the Trust as a

[6] To avoid ambiguity, the word "mean" has been substituted for the word "include," which was used in the proposed rulemaking. This substitution, however, is not intended to prevent the Division, in appropriate cases, from specifying by no-action letter whether particular securities are within the scope of the term "eligible trust securities."

[7] The term "government security" is defined in section 2(a)(16) of the Act (15 U.S.C. 80a-2(a)(16)).

[8] The term "voluntarily terminated" refers to termination of an existing trust (whose units are deposited in a subsequent series) resulting when a specified percentage of that trust's remaining securities matures. See, e.g., Cardinal Tax Exempt Bond Fund (Mar. 14, 1977) and Municipal Investment Trust Fund (Oct. 25, 1975).

[9] The amendments to rule 19b-1 do not change paragraphs (a) and (b) of existing rule 19b-1. Paragraph (c) of the existing rule is relettered paragraph (e), but otherwise remains unchanged.

($5.00 on a unit representing $1,000

(3) The sponsor instructs the trustee

of the close of trading on such

"regulated investment company" under Section 851 of the Internal Revenue Code, (iv) regular distributions of principal and prepayment of principal on "eligible trust securities," or (v) sale of an "eligible trust security" to maintain the investment stability of the Trust; and

(2) Capital gains distributions are clearly described as such in a report to the unitholders which accompanies each such distribution.

A sale made in order to maintain the "investment stability" of the Trust is defined by rule 19b–1(d) to mean a sale made to prevent deterioration in the value of the "eligible trust securities" held by the Trust when one or more of the following factors exists: (1) A default in the payment of principal or interest on an "eligible trust security," (2) an action involving the issuer of an "eligible trust security," which adversely affects the ability of such issuer to continue payment of principal or interest on an "eligible trust security," or (3) an adverse change in the market, revenue, or credit factors which adversely affects the ability of such issuer to continue payent of principal or interest on its "eligible trust securities."

Amended Rule 22c–1

Amended Rule 22c–1 provides, in pertinent part, that a sponsor of a Trust engaged in the business of investing in "eligible trust securities" may sell and repurchase Trust units in the secondary market at a price based on the offering side evaluation of the "eligible trust securities" in the Trust portfolio, determined on the last business day of each week, effective for all sales made during the following week, if on the days that such sales or repurchases are made the sponsor receives a letter from a qualified Evaluator [10] stating, in its opinion, that:

(1) In the case of repurchases, the current bid price is not higher than the offering side evaluation, computed on the last business day of the previous week, and

(2) In the case of resales, the offering side evaluation, computed as of the last business day of the previous week, is not more than one-half of one percent ($5.00 on a unit representing $1,000 principal amount of "eligible trust securities") greater than the current offering price.

Authority, Certain Findings, Effective Date

The Commission adopts new rule 14a–3 pursuant to the provisions of sections 6(c) (15 U.S.C. 80a–6(c)) and 38(a) (15 U.S.C. 80a–37(a)) of the Act. The Commission adopts amended rule 19(b) pursuant to the provisions of section 6(c), 19(b) (15 U.S.C. 80a–19(b)) and 38(a) of the Act. The Commission adopts amended rule 22c–1 pursuant to the provisions of sections 6(c), 22(c) (15 U.S.C. 80a–22(c)) and 38(a) of the Act.

Because the rulemaking is exemptive in nature, the foregoing adoptions become effective immediately.

Text of Adopted and Amended Rules

I. Part 270 of Chapter II of Title 17 of the Code of Federal Regulations is amended by adding § 270.14a–3 as follows:

§ 270.14a–3 Exemption from section 14(a) of the Act for certain registered unit investment trusts and their principal underwriters.

(a) A registered unit investment trust (hereinafter referred to as the "Trust") engaged exclusively in the business of investing in eligible trust securities, and any principal underwriter for the Trust, shall be exempt from section 14(a) of the Act with respect to a public offering of Trust units: *Provided,* That:

(1) At the commencement of such offering the Trust holds at least $100,000 principal amount of eligible trust securities (or delivery statements relating to contracts for the purchase of any such securities which, together with cash or an irrevocable letter of credit issued by a bank in the amount required for their purchase, are held by the Trust for purchase of the securities);

(2) If, within ninety days from the time that the Trust's registration statement has become effective under the Securities Act of 1933 (15 U.S.C. 77a et seq.) the net worth of the Trust declines to less than $100,000 or the Trust is terminated, the sponsor for the Trust shall—

(i) Refund, on demand and without deduction, all sales charges to any unitholders who purchased Trust units from the sponsor (or from any underwriter or dealer participating in the distribution), and

(ii) Liquidate the trust securities held by the Trust and distribute the proceeds thereof to the unitholders of the Trust;

(3) The sponsor instructs the trustee when the eligible trust securities are deposited in the Trust that, in the event that redemptions by the sponsor or any underwriter of units constituting a part of the unsold units results in the Trust having a net worth of less than 40 percent of the principal amount of the eligible trust securities (or delivery statements relating to contracts for the purchase of any such securities which, together with cash or an irrevocable letter of credit issued by a bank in the amount required for their purchase, are held by the Trust for purchase of the securities) initially deposited in the Trust—

(i) The trustee shall terminate the Trust and distribute the assets thereof to the unitholders of the Trust, and

(ii) The sponsor for the Trust shall refund, on demand and without deduction, all sales charges to any unitholder who purchased Trust units from the sponsor or from any underwriter or dealer participating in the distribution.

(b) For the purposes of determining the availability of the exemption provided by the foregoing subsection, the term "eligible trust securities" shall mean:

(1) Securities (other than convertible securities) which are issued by a corporation and which have their interest or dividend rate fixed at the time they are issued;

(2) Interest bearing obligations issued by a state, or by any agency, instrumentality, authority or political subdivision thereof;

(3) Government securities; and

(4) Units of a previously issued series of the Trust: *Provided,* That:

(i) The aggregate principal amount of units of existing series so deposited shall not exceed 10% of the aggregate principal amount of the portfolio of the new series;

(ii) The aggregate principal amount of units of any particular existing series so deposited shall not exceed 5% of the aggregate principal amount of the portfolio of the new series;

(iii) No units shall be so deposited which do not substantially meet investment quality criteria at least as high as those applicable to the new series in which such units are deposited;

(iv) The value of the eligible trust securities underlying units of an existing series deposited in a new series shall not, by reason of maturity of such securities according to their terms within ten years following the date of deposit, be reduced sufficiently for such existing series to be voluntarily terminated;

[10] The rule defines a "qualified Evaluator" to mean any Evaluator which represents it is in a position to determine, on the basis of an informal evaluation of the "eligible trust securities" held in the Trust's portfolio, whether (i) the current bid price is higher than the offering side evaluation, computed on the last business day of the previous week, and (ii) the offering side evaluation, computed as of the last business day of the previous week, is more than one-half of one percent ($5.00 on a unit representing $1,000 principal amount of "eligible trust securities") greater than the current offering price.

(v) Units of existing series so deposited shall constitute units purchased by the sponsor as market maker and not remaining unsold units from the original distribution of such units; and

(vi) the sponsor shall deposit units of existing series in the new series without a sales charge.

II. Part 270 of Chapter II of Title 17 of the Code of Federal Regulations is amended by redesignating existing paragraph (c) of § 270.19b–1 as (e) and adding new paragraphs (c) and (d) as follows:

§ 270.19b–1 Frequency of distribution of capital gains.

* * * * *

(c) The provisions of this rule shall not apply to a unit investment trust (hereinafter referred to as the "Trust") engaged exclusively in the business of investing in eligible trust securities (as defined in Rule 14a–3(b) (17 CFR 270.14a–3(b)) under this Act); *Provided,* That:

(1) The capital gain distribution is a result of—

(i) An issuer's calling or redeeming an eligible trust debt security held by the Trust,

(ii) The sale of an eligible trust security by the Trust to provide funds for redemption of Trust units when the amount received by the Trust for such sale exceeds the amount required to satisfy the redemption distribution,

(iii) The sale of an eligible trust security to maintain qualification of the Trust as a "regulated investment company" under Section 851 of the Internal Revenue Code of 1954, as amended,

(iv) Regular distibutions of principal and prepayment of principal on eligible trust securities, or

(v) The sale of an eligible trust security in order to maintain the investment stability of the Trust; and

(2) Capital gains distributions are clearly described as such in a report to the unitholder which accompanies each such distribution.

(d) For purposes of paragraph (c) of this section, sales made to maintain the investment stability of the Trust means sales made to prevent deterioration of the value of the eligible trust securities held in the Trust portfolio when one or more of the following factors exist:

(1) A default in the payment of principal or interest on an eligible trust security;

(2) An action involving the issuer of an eligible trust security which adversely affects the ability of such issuer to continue payment of principal or interest on its eligible trust securities; or

(3) A change in market, revenue or credit factors which adversely affects the ability of such issuer to continue payment of principal or interest on its eligible trust securities.

[Existing paragraph (c) is redesignated paragraph (e).]

III. Part 270 of Chapter II of Title 17 of the Code of Federal Regulations is amended by amending paragraphs (a) and (b) of § 270.22c–1 as follows:

§ 270.22c–1 Pricing of redeemable securities for distribution, redemption and repurchase.

(a) No registered investment company issuing any redeemable security, no person designated in such issuer's prospectus as authorized to consummate transactions in any such security, and no principal underwriter of, or dealer in, any such security shall sell, redeem, or repurchase any such security except at a price based on the current net asset value of such security which is next computed after receipt of a tender of such security for redemption or of an order to purchase or sell such security: *Provided,* That:

(1) This paragraph shall not prevent a sponsor of a unit investment trust (hereinafter referred to as the "Trust") engaged exclusively in the business of investing in eligible trust securities (as defined in Rule 14a–3(b) (17 CFR 270.14a–3(b))) from selling or repurchasing Trust units in a secondary market at a price based on the offering side evaluation of the eligible trust securities in the Trust's portfolio, determined at any time on the last business day of each week, effective for all sales made during the following week, if on the days that such sales or repurchases are made the sponsor receives a letter from a qualified evaluator stating, in its opinion, that:

(i) In the case of repurchases, the current bid price is not higher than the offering side evaluation, computed on the last business day of the previous week; and

(ii) In the case of resales, the offering side evaluation, computed as of the last business day of the previous week, is not more than one-half of one percent ($5.00 on a unit representing $1,000 principal amount of eligible trust securities) greater than the current offering price.

(b) For the purposes of this section, (1) the current net asset value of any such security shall be that computed on each day during which the New York Stock Exchange is open for trading, not less frequently than once daily as of the time of the close of trading on such Exchange, and (2) a "qualified evaluator" shall mean any evaluator which represents it is in a position to determine, on the basis of an informal evaluation of the eligible trust securities held in the Trust's portfolio, whether—

(i) The current bid price is higher than the offering side evaluation, computed on the last business day of the previous week, and

(ii) The offering side evaluation, computed as of the last business day of the previous week, is more than one-half of one percent ($5.00 on a unit representing $1,000 principal amount of eligible trust securities) greater than the current offering price.

By the Commission.

George A. Fitzsimmons,
Secretary.

May 15, 1979.

[FR Doc. 79–15871 Filed 5–21–79; 8:45 am]

BILLING CODE 8010–01–M

TENNESSEE VALLEY AUTHORITY

18 CFR Part 308

Adoption of New Part To Implement the Contract Disputes Act of 1978

AGENCY: Tennessee Valley Authority (TVA).

ACTION: Final rule.

SUMMARY: This rule adds a new part 308 to Chapter II to implement the Contract Disputes Act of 1978, 92 Stat. 2382 ("the Act"), as it relates to TVA. This part prescribes procedures for use in the determination of contract disputes, including Contracting Officers' decisions, decisions by the TVA Board of Contract Appeals, hearing and prehearing procedures, and issuance and enforcement of TVA administrative subpoenas.

DATES: The part applies to any covered TVA contract having an effective date on or after March 1, 1979, or, at the Contractor's election, to disputes pending on that date or subsequently initiated under contracts effective prior to March 1, 1979.

FOR FURTHER INFORMATION CONTACT: Herbert S. Sanger, Jr., General Counsel, Tennessee Valley Authority, 400 Commerce Avenue, Knoxville, Tennessee 37902.

SUPPLEMENTARY INFORMATION: On March 23, 1979, TVA published a proposed rule in the **Federal Register** (44 FR 17715) to implement the Act. The proposal prescribed procedures for use

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in the determination of disputes relating to certain TVA contracts containing disputes clauses, including Contracting Officer's decisions, decisions by the TVA Board of Contract Appeals, hearing and prehearing procedures, and issuance and enforcement of administrative subpoenas. Althugh the proposal was exempt from public rulemaking proceedings, the TVA Board wished to receive comments on it from the public. Four comment letters were received during the notice period, and were given due consideration. There was no other response. A correction document respecting certain typographical errors was published on April 4, 1979 (44 FR 20175).

A. As a result of comments received, the following changes have been made in the rule, in addition to typographical corrections:

1. The definition of "contract" in § 308.2(d) has been revised by adding to it the exclusionary term "any TVA contract for the sale of fertilizer or electric power, or any TVA contract related to the conduct or operation of the electric power system," previously found in § 308.3(a). The purpose of this change is to make clear that the exclusionary term means the same as the identical language in the second sentence of section 3(b) of the Act. The contracts covered by this exclusionary term are not administered by TVA's Division of Purchasing; an example would be an interconnection agreement under 16 U.S.C. 831n–4(a) (1976). On the other hand, a contract to procure construction of a power-related facility, such as a power service center, would be covered by § 308.2(d)(3), and subject to this part if it contained a disputes clause, by virtue of the first sentence of section 3(b) of the Act.

2. The language of § 308.6(c) has been amended to provide more flexibility in seeking to secure voluntary payment of fraudulent claims prior to suit, and to provide Contractors with copies of opinions of decisionmakers concerning fraudulent claims. In view of the Act's provisions taking decisions on such claims out of the disputes process, such opinions are not part of the decision in the dispute.

3. The specific reference to the Renegotiation Board in § 308.5(b) has been removed. Congress did not amend the Act when it abolished that Board effective March 31, 1979, and § 308.5(b) has been revised to state that interest is payable pursuant to section 12 of the Act, to avoid the need for change in the regulations when the Act is changed.

4. Section 308.13(a) has been revised for clarity, and is intended to track the time limits contained in section 6(c)(1) of the Act.

5. A new paragraph (d) has been added to § 308.21 to make explicit the Chairman's intended but inadvertently unstated power to act to effectuate the procedures and the parties' rights, if an assigned Hearing Officer becomes unavailable, or incapacitated, or action is necessary for other reasons.

6. The legal phraseology "sua sponte" in § 308.25 and "noticing a deposition" § 308.32(d) has been put into less technical language.

7. A sentence has been added to § 308.25 to ensure that the need for prompt and expeditious action on appeals is taken into account, along with other factors, in the issuance of stay orders.

B. Certain other recommendations, after careful consideration, were not accepted for the following reasons:

1. The comment was made that the definition of "Contracting Officer" could lead to possible confusion. Under TVA's standard contract clause and practice, the Contractor is at all times aware of the identity of the Contracting Officer. The definition in § 308.2(e) follows the definition in the standard clause, and the Contractor is notified of any change.

2. It was suggested either that interest run from the "earlier" rather than the "later" of the two dates specified in § 308.5(a), or that reference to the contractual payment date be deleted. This provision serves to ensure timely submission by Contractors of necessary information. The suggested changes would tend to deter this result, leading to unnecessary costs, and are accordingly rejected.

3. The comment was made that the fraudulent claim standards applied to Contractors in § 308.6 be applied to claims by Contracting Officers under § 308.14. The provisions of § 308.6, together with §§ 308.16 and 308.37(b), implement section 5 of the Act, and deal with "baseless claims" which are "submitted merely as a negotiating tactic" with no "legitimate argument for recovery" and which, if paid, "would constitute a windfall to the contractor" (S. Rep. No. 95–1118, 95th Cong., 2d Sess. 20 (1978)). Claims by the Contracting Officer would not have this result, and the requested change is not consistent with the Act.

4. The finality provisions of §§ 308.15 and 308.23 were criticized. These correctly track the language of sections 6(b), 8(g)(2), and 10(b) of the Act and accordingly were not changed.

5. It was suggested that the words "TVA may reply" in §§ 308.24(c) could be read to permit delay. The word "may" is used to show that a reply by TVA is permissive, not mandatory. Use of the word "shall," which would have the opposite result, is rejected.

6. It was suggested that the definition of "amount in dispute" in §§ 308.35 and 308.36 is not consistent with the Act's purpose of giving the Contractor the sole right to elect the small claims or accelerated hearing procedures. We believe this misreads the Act. In our view, the Act intended that all related claims be heard together regardless of their source and that, if the "amount in dispute" was as specified in the Act, the Contractor, but not TVA, could waive the full hearing otherwise provided. TVA has no right, under the cited provisions, to force the Contractor to elect these special procedures, or to deny that right.

7. In the absence of a short and plain English equivalent of the technical term "letters rogatory" in § 308.52, the suggestion that the term not be used is rejected. The term is well understood in legal practice, and means a formal written communication by a tribunal of one country, before which an action is pending, sent to a court or judge of a foreign country, requesting that the testimony of a witness who resides within the jurisdiction of the foreign tribunal be formally taken in the foreign country under the direction of the foreign court, and be transmitted to the first tribunal for use in the pending action.

Accordingly, 18 CFR Part 308 is adopted as set forth below.

By order of the Board of Directors of the Tennessee Valley Authority.

Dated: May 10, 1979.

Leon E. Ring,

General Manager.

PART 308—CONTRACT DISPUTES

Subpart A—General Matters

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Authority: Tennessee Valley Authority Act of 1933, as amended, 16 U.S.C. § 831–831dd; Contract Disputes Act of 1978, 92 Stat. 2383–2391.

Subpart A—General Matters

§ 308.1 Purpose and organization.

The regulations in this part implement the Contract Disputes Act of 1978 as it relates to TVA. This part consists of 5 subparts. Subpart A deals with matters applicable throughout the part, incuding definitions. Subpart B deals with Contracting Officers' decisions. Subpart C deals with general matters concerning the TVA Board of Contract Appeals. Subpart D deals with hearing and prehearing procedures, including discovery. Subpart E deals with subpoenas.

§ 308.2 Definitions.

For the purposes of this part, unless otherwise provided:

(a) The term "Act" means the Contract Disputes Act of 1978, 92 Stat. 2383–91.

(b) The term "Board" means the TVA Board of Contract Appeals.

(c) The term "claim" means a written demand by a Contractor, in compliance with this paragraph, for a decision by a Contracting Officer under a disputes clause. A claim must:

(1) State the amount of monetary relief, or the kind of nonmonetary relief, sought, and identify the contract provision relied upon;

(2) Include sufficient supporting data to permit the Contracting Officer to decide the claim, or provide appropriate reference to previously submitted data;

(3) If monetary relief totalling more than $50,000 is involved, include a signed certification by the Contractor that the claim is made in good faith, that the supporting data are accurate and complete to the best of the Contractor's knowledge and belief, and that the amount requested accurately reflects the contract adjustment for which the Contractor believes TVA is liable;

(4) Be signed by the Contractor, or on its behalf if the Contractor is other than an individual. If signed on a Contractor's behalf, the claim must include evidence of the authority of the individual so signing it, and of the individual signing any certification required by this paragraph, unless such authority appears in the contract or contract file.

The Contracting Officer has no authority to waive any of the requirements of this paragraph.

(d) The term "contract" means an agreement in writing entered into by TVA for:

(1) The procurement of property, other than real property in being;

(2) The procurement of nonpersonal services;

(3) The procurement of construction, alteration, repair or maintenance of real property; or

(4) The disposal of personal property. The term "contract" does not include any TVA contract for the sale of fertilizer or electric power, or any TVA contract related to the conduct or operation of the electric power system.

(e) The term "Contracting Officer" means TVA's Director of Purchasing, or duly authorized representative acting within the limits of the representative's authority. The TVA Purchasing Agent who administers a contract for TVA is designated as the duly authorized representative of the Director of Purchasing to act as Contracting Officer for all purposes in the administration of the contract (including, without limitation, decision of claims under the disputes clause). Such a designation continues until it is revoked or modified by written notice to the Contractor and the Purchasing Agent from TVA's Director of Purchasing.

(f) The term "Contractor" means a party to a TVA contract which contains a disputes clause. The term "Contractor" does not include TVA.

(g) The term "disputes clause" means a clause in a TVA contract requiring that a contract dispute be resolved through a TVA-conducted administrative process. It does not include, for example, arbitration provisions, or provisions specifying an independent third party to decide certain kinds of matters or special mechanisms to establish prices or price adjustments in contracts.

(h) The term "Hearing Officer" means a member of the Board who has been designated to hear and determine a particular matter pending before the Board.

(i) The term "TVA" means the Tennessee Valley Authority.

(j) A term defined in a contract subject to this part shall have the meaning given it in the contract.

§ 308.3 Exclusions.

(a) This part does not apply to any TVA contract which does not contain a disputes clause.

(b) Except as otherwise specifically provided, this part does not apply to any TVA contract entered into prior to March 1, 1979, or to any dispute relating to such a contract.

§ 308.4 Coverage of certain excluded Contractors.

(a) A Contractor whose contract is excluded from this part under § 308.3(b) may elect to proceed under this part and the Act with respect to any dispute pending before a Contracting Officer on March 1, 1979, or initiated thereafter. If the disputes clause in the contract is not an "all disputes" clause (*see Patton Wrecking & Dem. Co.* v. *Tennessee Valley Authority*, 465 F.2d 1073 (5th Cir. 1972)), a Contractor's election under this section shall cause the provisions of the first two sentences of section 6(a) of the Act to apply to the contract, and such an election shall be irrevocable.

(b) A Contractor makes an election under paragraph (a) of this section by giving written notice to the Contracting Officer stating that the Contractor elects to proceed with the dispute under the Act. For disputes pending on March 1, 1979, the notice shall be actually received by the Contracting Officer within 30 days after the Contractor receives the Contracting Officer's decision. For disputes initiated thereafter, the notice shall be included in the document first requesting a decision by the Contracting Officer.

§ 308.5 Interest.

TVA shall pay a Contractor interest on the amount found to be due on a claim:

(a) From the date payment is due under the contract or the Contracting Officer receives the claim, whichever is later, until TVA makes payment;

(b) At the rate payable pursuant to section 12 of the Act on the date from

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which interest runs pursuant to paragraph (a) of this section.

§ 308.6 Fraudulent claims.

(a) If a Contractor is unable to support any part of a claim and it is determined that such inability is attributable to the Contractor's misrepresentation of fact or fraud, the Contractor shall be liable to TVA, as set out in section 5 of the Act, for:

(1) An amount equal to the unsupported part of the claim; plus

(2) All TVA's costs attributable to reviewing that part of the claim.

(b) The term "misrepresentation of fact" has the meaning given it in section 2(7) of the Act.

(c) Prior to TVA's filing suit for amounts due under this section, TVA shall provide the Contractor with a copy of any opinion under § 308.16 or § 308.37(b), and shall request the Contractor to pay voluntarily the amount TVA asserts is due to it.

(d) A determination by TVA that fraud or misrepresentation of the fact has been committed is not subject to decision under a disputes clause.

(e) The provisions of this section are in addition to whatever penalties or remedies may otherwise be provided by law.

§ 308.7 Effective date.

Subject to § 308.3(a), this part applies to any TVA contract having an effective date on or after March 1, 1979.

Subpart B—Contracting Officers

§ 308.11 Contractor's request for relief.

Any request for relief which a Contractor believes is due under a contract shall be submitted to the Contracting Officer in writing, in accordance with the terms of the contract, including applicable time limits.

§ 308.12 Submission and decision of Contractor's claim.

(a) If Contractor and TVA are unable to resolve Contractor's request for relief by agreement within a reasonable time, Contractor may submit a claim to the Contracting Officer.

(b) The Contracting Officer shall issue a decision to the Contractor on a submitted claim in conformity with the contract's disputes clause. Specific findings of fact are not required, but may be made. Such findings are not binding in any subsequent proceeding except as provided in § 308.15. The decision shall:

(1) Be in writing;

(2) State the reasons for the decision reached;

(3) Include information about the Contractor's rights of appeal under sections 7 and 10 of the Act (including time limits); and

(4) Notify the Contractor, as appropriate, of the special procedures available under §§ 308.35 and 308.36 at the Contractor's election. A copy of the provisions of this part shall be furnished with the decision.

§ 308.13 Time limits for decisions.

(a) If a submitted claim involves $50,000 or less, the Contracting Officer shall issue the decision within 60 days from actual receipt of the claim. If a submitted claim involves more than $50,000, the Contracting Officer within 60 days from actual receipt shall either issue a decision or notify the Contractor of the date by which a decision shall be rendered, which shall be within a reasonable time. The Contracting Officer shall not be deemed to be in "actual receipt" of a claim until the claim meets all requirements of § 308.2(c).

(b) The Contracting Officer shall issue a decision within any time limits set by an order under § 308.24. If a Hearing Officer grants a stay of an appeal pursuant to § 308.25, the Contracting Officer shall issue a decision within any time limits specified by the stay order, or within a reasonable time after receipt of the stay, if it sets no time limits.

(c) As used in this subpart, the reasonableness of a time period depends on the amount or kind of relief involved and complexity of the issues raised, the adequacy of the Contractor's supporting data, contractual requirements for auditing of Contractor's cost or other data, and other relevant factors.

§ 308.14 Request for relief by TVA.

When TVA believes it is due relief under a contract, the Contracting Officer shall make a request for relief against the Contractor, and shall attempt to resolve the request by agreement. If agreement cannot be reached within a reasonable time, the Contracting Officer shall issue a decision which complies with the requirements of § 308.12(b).

§ 308.15 Finality of decisions.

A decision by a Contracting Officer under the disputes clause of a contract subject to this part is final and conclusive and not subject to review by any forum, tribunal, or Government agency unless an appeal or suit is timely commenced under this part or section 10(a) (2) and (3) of the Act.

§ 308.16 Decisions involving fraudulent claims.

If a Contracting Officer denies any part of a Contractor's claim for lack of support, and the Contracting Officer is of the opinion that the Contractor's inability to support that part of the claim is within § 308.6 and section 5 of the Act, the Contracting Officer's decision shall not state that opinion, but, contemporaneously with the decision, the Contracting Officer shall separately notify TVA's General Counsel of that opinion and the reasons therefor.

§ 308.17 Failure to render timely decision.

Any failure by Contracting Officer to issue a decision on a submitted claim within the period required or permitted by § 308.13, will be deemed to be a decision by the Contracting Officer denying the claim and will authorize the commencement of an appeal on the claim under this part, or a suit on the claim as provided in section 10(a)(2) of the Act. If no appeal or suit pursuant to this section has been commenced at the time the Contracting Officer issues a decision, the right to sue or appeal and the time limits therefor shall be determined as otherwise provided in this part and the Act, and this section shall not authorize an appeal or suit from the decision.

Subpart C—Board of Contract Appeals

§ 308.21 Jurisdiction and organization.

(a) The Board shall consider and determine timely appeals filed by Contractors from decisions of TVA Contracting Officers pursuant to a disputes clause.

(b) The Board shall consist of an indeterminate number of members, who shall serve on a part-time basis. The members of the Board shall all be attorneys at law duly licensed by any state, commonwealth, territory, or the District of Columbia. One of the members of the Board shall be designated as "Chairman" pursuant to section 8(b)(2) of the Act.

(c) Each appeal or other matter before the Board shall normally be assigned to a single Hearing Officer, to be designated by the Chairman. The Chairman may act as a Hearing Officer, and shall notify the Contractor and TVA of the name and mailing address of the person designated as Hearing Officer.

(d) If a member to whom an appeal has been assigned cannot perform in a timely manner the duties of Hearing Officer, because of unavailability or incapacity which would in the Chairman's judgment affect the expeditious and timely resolution of the

appeal, or for any other reason deemed sufficient by the Chairman, the Chairman may take any action deemed appropriate to effectuate the disposition of the appeal and the rights of the parties under this part. The kind of action taken, and the manner thereof, shall be within the discretion of the Chairman, and may include, but is not limited to, action on pending motions, discovery, issuance of or ruling on objections to subpoenas, and reassignment of an appeal in whole or in part.

§ 308.22 Representation.

(a) In any appeal to the Board, a Contractor may be represented by an attorney at law duly licensed by any state, commonwealth, territory, or the District of Columbia. A Contractor not an individual and not wishing to appear by an attorney may be represented by any member, partner, or officer duly authorized to act on Contractor's behalf, or if an individual, may appear personally.

(b) TVA shall be represented by attorneys from its Office of General Counsel.

§ 308.23 Finality of decisions.

A decision by a Hearing Officer on an appeal shall be the decision of the Board and shall be final, subject only to amendment under § 308.37(c), reconsideration under § 308.38 or appeal pursuant to sections 8(g)(2) and 10(b) of the Act.

§ 308.24 Undue delay in Contracting Officer's decision.

(a) If there is an undue delay by a Contracting Officer in issuing a decision on a claim, the Contractor may request the Chairman to direct the Contracting Officer to issue a decision within a specified period of time.

(b) A request under this section shall:

(1) Be in writing;

(2) State the date on which the claim was submitted to the Contracting Officer.

(3) State the date suggested for issuance of a decision by the Contracting Officer.

(c) TVA may reply to a motion under this section within 5 days after its receipt.

(d) The Chairman shall issue a written decision on the request. If granted, the decision shall specify the date by which the Contracting Officer's decision is to be rendered, and a copy shall be served on the Contracting Officer.

§ 308.25 Stay of appeal for Contracting Officer's decision.

If an appeal has been taken because of a Contracting Officer's failure to render a timely decision, as provided by § 308.17, the Hearing Officer, with or without a motion by a party, may stay proceedings on the appeal in order to obtain a decision on the matter appealed. Oral argument will not be heard on such a motion unless otherwise directed. The stay order will normally set a date certain by which the decision of the Contracting Officer will be rendered. Such date shall take into account the factors mentioned in § 308.13(c), the length of time the matter has already been pending before the Contracting Officer, and the need for prompt and expeditious action on appeals.

§ 308.26 Appeals.

(a) An appeal to the Board from a Contracting Officer's decision under § 308.12 shall be initiated within 90 days from the Contractor's receipt of the Contracting Officer's decision and in the manner set forth in the disputes clause.

(b) An appeal from the Contracting Officer's failure to render a timely decison shall be taken within the time period provided by § 308.17. The notice of appeal shall be in the form and filed in the manner specified in the disputes clause, but shall state that it is an appeal under § 308.17, and shall include a copy of the claim which was submitted for decision.

§ 308.27 Appeal files.

(a) Notices of appeal shall be filed as provided in the disputes clause, and shall be promptly transmitted by TVA to the Chairman.

(b) Following transmittal of the notice of appeal, TVA shall assemble and transmit to the Hearing Officer and the Contractor an appeal file consisting of:

(1) The Contracting Officer's decision, if any, from which the appeal is taken;

(2) The contract and pertinent amendments, specifications, plans, and drawings (a list of the documents submitted may be provided Contractor in lieu of copies);

(3) The claim;

(4) Any other matter pertinent to the appeal submitted to or considered by the Contracting Officer for reaching a decision.

(c) The appeal file shall be submitted within 30 days. Within 30 days after receipt of a copy, the Contractor may submit to the Hearing Officer and TVA's General Counsel any documents within the scope of paragraph (b) of this section which are not included in the appeal file but which the Contractor believes are pertinent to the appeal. Such documents are considered a part of the appeal file.

Subpart D—Prehearing and Hearing Procedures

§ 308.31 Filing and service.

(a) All documents required to be served shall be served on TVA and Contractor and filed with the Board, except subpoenas.

(b) A request under § 308.15 shall be directed to the General Manager, Tennessee Valley Authority, 400 Commerce Avenue, Knoxville, Tennessee 37902, and shall be transmitted to the Chairman.

(c) All other documents required to be filed shall be directed to the Hearing Officer assigned to the matter.

(d) Service on the opposing party may be made personally or by mail. The copy presented for filing shall bear an appropriate certificate or acknowledgment of service.

§ 308.32 Prehearing procedures.

(a) Unless otherwise provided in this part, prehearing procedures, including discovery, shall be conducted in accordance with Rules 6, 7(b), 16, 26, 28–37, 41, and 56 of the Federal Rules of Civil Procedure, except that the Hearing Officer may modify those Rules to meet the needs of the parties in a particular case.

(b) The term "court" as used in those Rules shall be deemed to mean "Hearing Officer"; the term "plaintiff" shall be deemed to mean "Contractor"; the term "defendant" shall be deemed to mean "TVA"; and the term "action" shall be deemed to mean the pending appeal.

(c) Discovery subpoenas are subject to Subpart E.

(d) The party giving notice of a deposition is responsible for securing a reporter.

§ 308.33 Hearings

(a) TVA shall arrange for the verbatim reporting of evidentiary hearings before the Hearing Officer, and shall provide the Hearing Officer with the original transcript. The parties shall make their own arrangements with the reporter for copies.

(b) Admissibility of evidence shall generally be governed by the Federal Rules of Evidence, subject, however, to the Hearing Officer's discretion. As used in those Rules, the term "court" shall be deemed to mean "Hearing Officer."

(c) Conduct of hearings shall generally be governed by Rules 41–44, 44.1, and 46 of the Federal Rules of Civil Procedure, except that the Hearing Officer may

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modify those Rules to meet the needs of the parties in a particular case. The terms "court," "plaintiff," "defendant," and "action" as used in those Rules shall be deemed to have the meaning given them in § 308.32.

(d) Hearings shall be as informal as may be reasonable and appropriate under the circumstances, and shall be held at a time and place to be specified by the Hearing Officer.

(e) Evidentiary subpoenas are subject to Subpart E of this part.

§ 308.34 Record on appeal.

Except as otherwise provided in this part, the appeal shall be decided on the basis of the record on appeal, which consists of the notice of appeal, the claim, any notice of election under § 308.35 or 308.36, orders entered during the proceeding, admissions, transcripts of hearings, hearing exhibits and stipulations on file, all other documents admitted in evidence, and all briefs submitted by the parties.

§ 308.35 Small claims procedure.

(a) The Contractor may elect to have the appeal processed under this section, if the amount in dispute is $10,000 or less. This amount shall be determined by totalling the amounts claimed by TVA and Contractor.

(b) Appeals under this section shall be decided, whenever possible, within 120 days after the Hearing Officer receives written notice that the Contractor has elected to proceed under this section. Such election may be made a part of the notice of appeal.

(c) An appeal under this section shall be determined on the basis of the record on appeal and those documents in the appeal file identified in § 308.27(b)(1), (2), and (3). Other documents may be considered in the determination of the appeal as may be stipulated to by the parties, or as the Hearing Officer may order on motion by a party. No evidentiary hearing shall be held unless the Hearing Officer directs testimony on a particular issue. Discovery and other prehearing procedures may be conducted under such time periods as the Hearing Officer may set to meet the 120-day period, and the Hearing Officer may reserve up to 30 days to prepare a decision. Upon request by either party, the Hearing Officer shall hear oral argument after the record is closed, and may direct oral argument on specified issues if the parties do not request it.

(d) The Hearing Officer's decision under this section will be short and contain only summary findings of fact and conclusions of law. The decision may, at the Hearing Officer's discretion, be rendered orally at the conclusion of any oral argument held. In such case, the Hearing Officer will promptly furnish the parties a typed copy of the decision, which shall constitute the final decision.

(e) Decisions under this section shall be final and conclusive except for fraud, and shall have no value as precedent for future appeals.

§ 308.36 Accelerated appeal procedure.

(a) The Contractor may elect to have the appeal processed under this section if the amount in dispute is $50,000 or less. The amount shall be determined by totalling the amounts claimed by TVA and Contractor.

(b) Appeals under this section shall be decided, whenever possible, within 180 days after the Hearing Officer receives written notice that the Contractor has elected to proceed under this section. Such election may be made a part of the notice of appeal.

(c) In cases under this section, the parties are encouraged to limit discovery and briefing, consistent with adequate presentation of their positions. The Hearing Officer may shorten applicable time periods in order to meet the 180-day period, and may reserve 30 days to prepare a decision.

(d) The Hearing Officer's decision under this section will be short and may contain only summary findings of fact and conclusions of law. The decision may, at the Hearing Officer's election, be rendered orally at the conclusion of the evidentiary hearing, following such oral argument as may be permitted. In such case, the Hearing Officer will promptly furnish the parties a typed copy of the decision, which shall constitute the final decision.

§ 308.37 Decisions.

(a) The Hearing Officer's decision shall be in writing. Except as provided by § 308.35 or 308.36, the decision shall contain complete findings of fact and conclusions of law. The parties may be directed to submit proposed findings and conclusions. A decision against a Contractor on a claim shall include notice of the Contractor's rights under paragraphs (2) and (3) of section 10(a) of the Act.

(b) If the decision denies any part of a Contractor's claim for lack of support and the Hearing Officer is of the opinion that the Contractor's inability to support that part is within § 308.8 and section 5 of the Act, the decision shall not state that opinion, but contemporaneously with the decision the Hearing Officer shall separately notify TVA's General Counsel of that opinion and the reasons therefor.

(c) Not later than 10 days after receipt of the decision, a party may move to alter or amend the findings or make additional findings and amend the conclusions and decision accordingly. Such a motion may be combined with a motion under § 308.38. This time period cannot be extended.

§ 308.38 Reconsideration.

Motions for reconsideration shall be served not later than 10 days after issuance of the Hearing Officer's decision. This time period cannot be extended. Such a motion shall be heard and decided in the manner provided by Rule 59 of the Federal Rules of Civil Procedure for motions for new trial in actions tried without a jury.

§ 308.39 Briefs and motions.

(a) All motions shall be accompanied by a brief or memorandum setting forth supporting authorities. Briefs in opposition to a motion shall be served within 10 days after receipt of the motion, unless otherwise specified in this part, or by order of the Hearing Officer.

(b) The Hearing Officer shall set the schedule for service of prehearing and posthearing briefs on the merits.

(c) A motion to dismiss an appeal for lack of jurisdiction should be served seasonably, but may be served at any time. The issue of lack of jurisdiction may be raised by the Hearing Officer sua sponte, in which case the Hearing Officer shall set a briefing schedule on the issue in the document raising it to the parties.

(d) A motion for summary judgment may be made at any time after the appeal file has been transmitted under § 308.26.

Subpart E—Subpoenas

§ 308.51 Form.

(a) A subpoena shall state the name of the Board and the title of the appeal; shall command the person to whom it is directed to attend and give testimony at a deposition or hearing, as appropriate, and, if appropriate, to produce specified books, papers, documents, or tangible things at a time and place therein specified; and shall notify the person of the right to request that the subpoena be quashed or modified and of the penalties for contumacy or failure to obey.

§ 308.52 Issuance.

(a) A deposition subpoena shall not issue except upon the filing of a notice of deposition of the person to be subpoenaed, which notice should normally be filed at least 15 days in advance of the scheduled deposition.

(b) A subpoena for the attendance of a witness at an evidentiary hearing shall not issue except upon the filing of a request for appearance at the hearing of the person to be subpoenaed, which request should normally be filed at least 30 days in advance of the scheduled hearing. The request should state:

(1) The name and address of the witness;

(2) The general scope of the witness' testimony;

(3) The books, records, papers, and other tangible things sought to be produced; and

(4) The general relevance of the matters sought to the case.

(c) Upon receipt of a notice of deposition or request for appearance at a hearing, the Hearing Officer shall fill in the name of the witness and sign and issue a subpoena otherwise in blank to the party seeking it, together with a duplicate for proof of service. The party requesting the subpoena shall fill in both copies before service.

(d) Letters rogatory may be issued by the Hearing Officer as provided in 28 U.S.C. 1781–1784.

§ 308.53 Service.

A subpoena may be served at any place, and may be served by any individual not a party who is at least 18 years of age, or as otherwise provided by law. Service may be made by an attorney or employee of a party. Service shall be made by personal delivery of the subpoena to the individual named therein, together with tender of the amounts required by 5 U.S.C. 503 or other applicable law. The individual making service shall file with the Board the duplicate subpoena, filled out as served, with the return of service filled in, signed and notarized.

§ 308.54 Requests to quash or modify.

The person served with a subpoena (or a party, if the person served is a party's employee) may request the Hearing Officer to quash or modify a subpoena. Such requests shall be made and determined in accordance with the time limits and principles of Rule 45(a), (b) and (d) of the Federal Rules of Civil Procedure.

§ 308.55 Penalties.

In case of contumacy or refusal to obey a subpoena by a person who resides, is found, or transacts business within the jurisdiction of a United States District Court, the Board will apply to the court through the General Counsel of TVA for an order requiring the person to appear before the Hearing Officer, to produce evidence or give testimony, or both. Any failure of any such person to obey the order of the court may be punished by the court as a contempt thereof.

[FR Doc. 79-15887 Filed 5-21-79; 8:45 am]

BILLING CODE 8120-01-M

DEPARTMENT OF HEALTH, EDUCATION, AND WELFARE

Food and Drug Administration

21 CFR Part 1020

[Docket No. 75N-0071]

Diagnostic X-ray Systems and Their Major Components; Amendments to Performance Standard

AGENCY: Food and Drug Administration.

ACTION: Final rule.

SUMMARY: The Food and Drug Administration (FDA) amends the performance standard for diagnostic X-ray systems and their major components (1) to revise the statement of applicability with respect to cassette holders and add a definition for "cassette holder"; (2) to revise the definition for "leakage technique factors" and the conditions for measuring the leakage radiation from the diagnostic source assembly; (3) to clarify the requirements for spot-film X-ray field limitation; and (4) to require that certain types of fluoroscopic X-ray systems be provided with the means for stepless adjustment of the X-ray field size.

EFFECTIVE DATE: June 21, 1979.

FOR FURTHER INFORMATION CONTACT: Raymond F. Coakley, Jr., Bureau of Radiological Health (HFX-460), Food and Drug Administration, Department of Health, Education, and Welfare, 5600 Fishers Lane, Rockville, MD 20857, 301-443-3426.

SUPPLEMENTARY INFORMATION: In the Federal Register of June 11, 1975 (40 FR 24909), FDA issued several proposed amendments to the diagnostic X-ray systems performance standard. As a result of comments received, proposed amendments concerning spot-film X-ray field limitation and stepless adjustment of the X-ray field size on image-intensified fluoroscopic systems were withdrawn from the final rule published in the Federal Register of February 25, 1977 (42 FR 10983) so that further evaluation of these proposals would not delay promulgation of the remaining amendments. In addition, one comment recommended that definitions be included in § 1020.30(b) [21 CFR 1020.30(b)] for "cassette holder" and "cassette tray" because these terms have been used frequently in implementing the standard without the terms being defined. Also, two comments expressed concern over the definition of the term "leakage technique factors" as it relates to beam-limiting devices used in mammography.

Based on these comments and further evaluations by the Bureau of Radiological Health (BRH), FDA proposed in the Federal Register of July 14, 1978 (43 FR 30303), further amendments to the diagnostic X-ray standard to deal with the provisions withdrawn from the February 25, 1977 final rule. Interested persons were given until September 12, 1978, to submit comments on the proposal.

One comment from an individual suggested that one requirement in addition to those proposed was needed. The comment urged that § 1020.31(g)(1) [21 CFR 1020.31(g)(1)] require that the X-ray field size be increased to the larger format only when the radiographic exposure swtich for the spot-film has been energized. This operation is in contrast to an increase to larger format occurring whenever the fluoroscopic switch is released. In other words, an expansion of the radiation field should be permitted only when the larger field is needed, rather than whenever the smaller fluoroscopic field is not needed. The comment argued that, in addition to reducing the radiation given the patient during the contraction of the field, this feature would presumably decrease wear on the automatic collimator. The comment stated that some units automatically adjust the collimation to the larger spot-film size every time the fluoroscopic switch is released and readjust to the smaller fluoroscopic size only when the fluoroscopic switch is energized.

The agency advises that the automatic operation suggested by the comment is required by the existing standard. Section 1020.31(g)(1) of the standard requires that the X-ray field size match the portion of the film selected by the spot-film device when the film is to be exposed. If the field before selection is larger than necessary, the field must be automatically reduced to a matching size. If, however, the field before selection is smaller than necessary, it can be increased to matching size only by operator intervention. The standard permits a system that allows the beam-limiting device to adjust automatically to the spot-film size selected by the

90-448) 42 U.S.C. 4001-4128, and 24 CFR

operator's intervention. An alternative system could require additional operator intervention to adjust the field size to a larger spot-film size. In such a system, only the fluoroscopic image would be produced on film, unless the operator manually increased the image area.

Although the comment does not require a change in the standard, it does identify a potential area of noncompliance with the current standard. The agency intends to investigate at the manufacturer's level to determine whether the products described should be declared noncompliant.

FDA, thus, is publishing the amendments unchanged as final regulations.

Therefore, under the Public Health Service Act as amended by the Radiation Control for Health and Safety Act of 1968 (sec. 358, 82 Stat. 1177–1179 (42 U.S.C. 263f)) and under authority delegated to the Commissioner of Food and Drugs (21 CFR 5.1), Part 1020 is amended as follows:

1. In § 1020.30 by revising paragraph (a)(1)(i); by amending paragraph (b)(21) by deleting "tube housing" and inserting in its place "diagnostic source" in the four places it appears within the paragraph; by adding new paragraph (b)(55); and by revising paragraphs (h)(2)(i), (h)(4) introductory text, (h)(4)(i), and (k) to read as follows:

§ 1020.30 Diagnostic x-ray systems and their major components.

(a) * * *

(1) * * *

(i) Tube housing assemblies, x-ray controls, x-ray high-voltage generators, tables, cradles, film changers, vertical cassette holders mounted in a fixed location and cassette holders with front panels, and beam-limiting devices manufactured after August 1, 1974.

* * * * *

(b) * * *

(55) "Cassette holder" means a device, other than a spot-film device, that supports and/or fixes the position of an x-ray film cassette during an x-ray exposure.

* * * * *

(h) * * *

(2) * * *

(i) Statements of the leakage technique factors for all combinations of tube housing assemblies and beam-limiting devices for which the tube housing assembly manufacturer states compatibility, the minimum filtration permanently in the useful beam expressed as millimeters of aluminum equivalent, and the peak tube potential at which the aluminum equivalent was obtained;

* * * * *

(4) *Beam-limiting device.* For each variable-aperture beam-limiting device, there shall be provided:

(i) Leakage technique factors for all combinations of tube housing assemblies and beam-limiting devices for which the beam-limiting device manufacturer states compatibility; and

* * * * *

(k) *Leakage radiation from the diagnostic source assembly.* The leakage radiation from the diagnostic source assembly measured at a distance of 1 meter in any direction from the source shall not exceed 100 milliroentgens in 1 hour when the x-ray tube is operated at the leakage technique factors. If the maximum rated peak tube potential of the tube housing assembly is greater than the maximum rated peak tube potential for the diagnostic source assembly, positive means shall be provided to limit the maximum x-ray tube potential to that of the diagnostic source assembly. Compliance shall be determined by measurements averaged over an area of 100 square centimeters with no linear dimension greater than 20 centimeters.

* * * * *

2. In § 1020.31 by revising paragraph (g)(1) to read as follows:

§ 1020.31 Radiographic equipment.

* * * * *

(g) * * *

(1) Means shall be provided between the source and the patient for adjustment of the x-ray field size in the plane of the film to the size of that portion of the film which has been selected on the spot-film selector. Such adjustment shall be accomplished automatically when the x-ray field size in the plane of the film is greater than the selected portion of the film. If the x-ray field size is less than the size of the selected portion of the film, the means for adjustment of the field size shall be only at the operator's option.

* * * * *

3. In § 1020.32 by revising paragraph (b)(2)(iv) to read as follows:

§ 1020.32 Fluoroscopic equipment.

* * * * *

(b) * * *

(2) * * *

(iv) Means shall be provided to permit further limitation of the field. Beam-limiting devices manufactured after May 22, 1979, and incorporated in equipment with a variable SID and/or a visible area of greater than 300 square centimeters shall be provided with means for stepless adjustment of the x-ray field. Equipment with a fixed SID and a visible area of 300 square centimeters or less shall be provided with either stepless adjustment of the x-ray field or with means to further limit the x-ray field size at the plane of the image receptor to 125 square centimeters or less. Stepless adjustment shall, at the greatest SID, provide continuous field sizes from the maximum obtainable to a field size of 5-by-5 centimeters or less.

* * * * *

Effective date. This regulation is effective June 21, 1979.

(Sec. 358, 82 Stat. 1177–1179 (42 U.S.C. 263f).)

Dated: May 14, 1979.

William F. Randolph,

Acting Associate Commissioner, Regulatory Affairs.

[FR Doc. 79-15720 Filed 5-21-79; 8:45 am]

BILLING CODE 4110-03-M

FEDERAL EMERGENCY MANAGEMENT AGENCY

24 CFR Part 1917

[Docket No. FI-4972]

Final Flood Elevation Determination for the City of Winfield, Marion County, Ala., Under the National Flood Insurance Program

AGENCY: Office of Federal Insurance and Hazard Mitigation, FEMA.[1]

ACTION: Final rule.

SUMMARY: Final base (100-year) flood elevations are listed below for selected locations in the City of Winfield, Marion County, Alabama.

These base (100-year) flood elevations are the basis for the flood plain management measures that the community is required to either adopt or show evidence of being already in effect in order to qualify or remain qualified for participation in the National Flood Insurance Program (NFIP).

EFFECTIVE DATE: The date of issuance of the Flood Insurance Rate Map (FIRM), showing base (100-year) flood elevations, for the City of Winfield, Marion County, Alabama.

ADDRESSES: Maps and other information showing the detailed outlines of the flood-prone areas and the final elevations for the City of Winfield, Marion County are available for review at the Mayor's Office, City Hall, Winfield, Alabama.

FOR FURTHER INFORMATION CONTACT:
Mr. Richard Krimm, National Flood Insurance Program, (202) 755–5581 or Toll Free Line (800) 424–8872, Room 5270, 451 Seventh Street SW., Washington, D.C. 20410.

SUPPLEMENTARY INFORMATION: The Federal Insurance Administrator gives notice of the final determinations of flood elevations for the City of Winfield, Marion County, Alabama.

This final rule is issued in accordance with section 110 of the Flood Disaster Protection Act of 1973 (Pub. L. 93–234), 87 Stat. 980, which added section 1363 to the National Flood Insurance Act of 1968 (Title XIII of the Housing and Urban Development Act of 1968 (Pub. L. 90–448), 42 U.S.C. 4001–4128, and 24 CFR 1917.4(a)). An opportunity for the community or individuals to appeal this determination to or through the community for a period of ninety (90) days has been provided. No appeals of the proposed base flood elevations were received from the community or from individuals within the community.

The Administrator has developed criteria for flood plain management in flood-prone areas in accordance with 24 CFR Part 1910.

The final base (100-year) flood elevations for selected locations are:

Source of flooding	Location	Elevation in feet, national geodetic vertical datum
East Branch	Southern corporate limits	444
	Confluence of Tributary 1	450
	First Street West	451
	U.S. Highway 43	452
	Trull Drive	457
	Confluence of Tributary 2	463
	Confluence of Tributary 8	463
	Northern corporate limits	463
Tributary 1	Confluence with East Branch	450
	First Avenue South	462
	Just upstream of Third Avenue North	485
	Just downstream of Fourth Avenue North	491
	Confluence with East Branch	463
Tributary 2	Northern corporate limits	467
Tributary 8	Confluence with East Branch	463
	Just upstream of St. Louis San Francisco Railway	471

(National Flood Insurance Act of 1968 (Title XIII of Housing and Urban Development Act of 1968), effective January 28, 1969 (33 FR 17804, November 28, 1968), as amended (42 U.S.C. 4001–4128); Executive Order 12127, 44 FR 19367; and delegation of authority to Federal Insurance Administrator, 44 FR 20963.

Issued: April 24, 1979.

Gloria M. Jimenez,

Federal Insurance Administrator.

[FR Doc. 79-15724 Filed 5-21-79; 8:45 am]

BILLING CODE 4210-23-M

24 CFR Part 1917

[Docket No. FI-4651]

Final Flood Elevation Determination for the County of Maricopa, Ariz., Under the National Flood Insurance Program

AGENCY: Office of Federal Insurance and Hazard Mitigation, FEMA.[1]

ACTION: Final rule.

SUMMARY: Final base (100-year) flood elevations are listed below for selected locations in the County of Maricopa, Arizona.

These base (100-year) flood elevations are the basis for the flood plain management measures that the community is required to either adopt or show evidence of being already in effect in order to qualify or remain qualified for participation in the National Flood Insurance Program (NFIP).

EFFECTIVE DATE: The date of issuance of the Flood Insurance Rate Map (FIRM), showing base (100-year) flood elevations, for the County of Maricopa, Arizona.

ADDRESSES: Maps and other information showing the detailed outlines of the flood-prone areas and the final elevations for the County of Maricopa, Arizona, are available for review at the Maricopa County Administrative Building, Phoenix, Arizona.

FOR FURTHER INFORMATION CONTACT:
Mr. Richard Krimm, National Flood Insurance Program, (202) 755–5581 or Toll Free Line (800) 424–8872, Room 5270, 451 Seventh Street SW., Washington, D.C. 20410.

SUPPLEMENTARY INFORMATION: The Federal Insurance Administrator gives notice of the final determinations of flood elevations for the County of Maricopa, Arizona.

This final rule is issued in accordance with section 110 of the Flood Disaster Protection Act of 1973 (Pub. L. 93–234), 87 Stat. 980, which added section 1363 to the National Flood Insurance Act of 1968 (Title XIII of the Housing and Urban Development Act of 1968 (Pub. L. 90–448), 42 U.S.C. 4001–4128, and 24 CFR 1917.4(a)). An opportunity for the community or individuals to appeal this determination to or through the community for a period of ninety (90) days has been provided, and the Administrator has resolved the appeals presented by the community.

The Administrator has developed criteria for flood plain management in flood-prone areas in accordance with 24 CFR Part 1910.

The final base (100-year) flood elevations for selected locations are:

Source of flooding	Location	Elevation in feet, national geodetic vertical datum
Gila River	323rd Avenue (Extended)	777
	Brunner Road (Extended)	807
	Wilson Road (Extended)	816
	U.S. Route 80	826
	Miller Road	838
	Watson Road (Extended)	854
	Deen Road (Extended)	862
	Airport Road	869
	Jackrabbit Road	878
	Citrus Road (Extended)	890
	Cotton Lane (Extended)	895
	Sarival Avenue (Extended)	904
	Reems Road (Extended)	911
	Bullard Avenue	918
	Litchfield Road (Extended)	926
	Dysart Road (Extended)	931
	El Mirage Road	939
	115th Avenue	947
Salt River	115th Avenue	949
	107th Avenue (Extended)	952
	99th Avenue (Extended)	959
	83rd Avenue (Extended)	976
	79th Avenue	981
	75th Avenue	989
	67th Avenue	994
	59th Avenue (Extended)	1,007
	51st Avenue Bridge	1,015
	35th Avenue Bridge	1,035
	Scottsdale Road	1,164
	Hayden Road	1,173
	Price Road	1,182
	Alma School Road	1,206
	McKellaps Road	1,209
	North Country Club Road	1,218
Hassayampa River	Atchison, Topeka and Santa Fe Railroad (Downstream Side).	1,845
	Atchison, Topeka and Santa Fe Railroad (Upstream Side).	1,854
	0.5 miles above AT & SF Railroad.	1,862
	1.0 miles above AT & SF Railroad.	1,868
	1.5 miles above AT & SF Railroad.	1,879
	2.0 miles above AT & SF Railroad.	1,893
	2.5 miles above AT & SF Railroad.	1,906
	3.0 miles above AT & SF Railroad.	1,924
	3.5 miles above AT & SF Railroad.	1,932
	4.0 miles above AT & SF Railroad.	1,947
	4.5 miles above AT & SF Railroad.	1,961
	5.0 miles above AT & SF Railroad.	1,975
	5.5 miles above AT & SF Railroad.	1,986
	6.0 miles above AT & SF Railroad.	2,000
	6.5 miles above AT & SF Railroad.	2,016
	7.0 miles above AT & SF Railroad.	2,026

[1] The functions of the Federal Insurance Administration, Department of Housing and Urban Development, were transferred to the newly established Federal Emergency Management Agency by Reorganization Plan No. 3 of 1978 (43 FR 41943, September 19, 1978) and Executive Order 12127 (44 FR 19367, April 3, 1979).

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Source of flooding	Location	Elevation in feet, national geodetic vertical datum
	7.5 miles above AT & SF Railroad.	2,041
	8.0 miles above AT & SF Railroad.	2,054
	8.5 miles above AT & SF Railroad.	2,067
	9.0 miles above AT & SF Railroad.	2,078
	9.5 miles above AT & SF Railroad.	2,092
	County Boundary	2,104
Agua Fria River	Southern Avenue (Extended).	924
	Broadway Road Extension	934
	Lower Buckeye Road	948
	U.S. Route 80 (Buckeye Road).	963
	Van Buren Street	974
	McDowell Road	986
	Thomas Road	999
	Indian School Road	1,010
	Camel Back Road	1,026
	Luke Air Force Base—Glendale Road.	1,049
	Northern Avenue	1,067
	Olive Avenue	1,081
	Peoria Avenue	1,094
	Cactus Road Extension	1,111
	Atchison, Topeka and Santa Fe Railroad.	1,127
	Greenway Road	1,139
	Bell Road	1,162
	Pinnacle Peak Road Extension.	1,220
New River	Bethany Home Road Extension.	1,042
	Glendale Avenue	1,065
	Northern Avenue	1,080
	Olive Avenue	1,093
	Peoria Avenue	1,112
	Grand Avenue	1,136
	Thunderbird Avenue	1,154
	Confluence of Skunk Creek	1,167
	Bell Road	1,204
	Union Hills Road	1,230
	Beardsley Road	1,253
	Deer Valley Road	1,282
	Pinnacle Peak Road	1,311
Skunk Creek	83rd Avenue	1,179
	Greenway Road	1,184
	Bell Road	1,221
	67th Avenue	1,235
	59th Avenue	1,270
	51st Avenue (Extended)	1,298
	Beardsley Road	1,329
	Deer Valley Road (Extended)	1,362
	Pinnacle Peak Road	1,394
	Happy Valley Road	1,432
	Black Canyon Highway	1,471
	2.0 miles above Black Canyon Highway.	1,545
	Carefree Highway	1,678
Indian Bend Wash	Arizona Canal	1,284
	Indian Bend Road	1,285

(National Flood Insurance Act of 1968 (Title XIII of Housing and Urban Development Act of 1968), effective January 28, 1969 (33 FR 17804, November 28, 1968), as amended; 42 U.S.C. 4001–4128; Executive Order 12127, 44 FR 19367; and delegation of authority to Federal Insurance Administrator, 44 FR 20963.)

Issued: April 24, 1979.

Gloria M. Jimenez,

Federal Insurance Administrator.

[FR Doc. 79-15725 Filed 5-21-79; 8:45 am]

BILLING CODE 4210-23-M

24 CFR Part 1917

[Docket No. FI-4973]

Final Flood Elevation Determination for the Borough of Stonington, New London County, Conn., Under the National Flood Insurance Program

AGENCY: Office of Federal Insurance and Hazard Mitigation, FEMA.[1]

ACTION: Final rule.

SUMMARY: Final base (100-year) flood elevation are listed below for selected locations in the Borough of Stonington, New London County, Connecticut.

These base (100-year) flood elevations are the basis for the flood plain management measures that the community is required to either adopt or show evidence of being already in effect in order to qualify or remain qualified for participation in the National Flood Insurance Program (NFIP).

EFFECTIVE DATE: The date of issuance of the Flood Insurance Rate Map (FIRM), showing base (100-year) flood elevations, for the Borough of Stonington, New London County, Connecticut.

ADDRESSES: Maps and other information showing the detailed outlines of the flood-prone areas and the final elevations for the Borough of Stonington, New London County, Connecticut, are available for review at the Borough Hall, Stonington, Connecticut.

FOR FURTHER INFORMATION CONTACT: Mr. Richard Krimm, National Flood Insurance Program, (202) 755–5581 or Toll Free Line (800) 424–8872, Room 5270, 451 Seventh Street, SW, Washington, D.C. 20410.

SUPPLEMENTARY INFORMATION: The Federal Insurance Administrator gives notice of the final determinations of flood elevations for the Borough of Stonington, New London County, Connecticut.

This final rule is issued in accordance with section 110 of the Flood Disaster Protection Act of 1973 (Pub. L. 93–234), 87 Stat. 980, which added section 1363 to the National Flood Insurance Act of 1968 (Title XIII of the Housing and Urban Development Act of 1968 (Pub. L. 90–448), 42 U.S.C. 4001–4128, and 24 CFR 1917.4(a)). An opportunity for the community or individuals to appeal this determination to or through the community for a period of ninety (90) days has been provided. No appeals of the proposed base flood elevations were received from the community or from individuals within the community.

The Administrator has developed criteria for flood plain management in flood-prone areas in accordance with 24 CFR Part 1910.

The final base (100-year) flood elevations for selected locations are:

Source of flooding	Location	Elevation in feet, national geodetic vertical datum
Fishers Island Sound	Church Street and Water Street.	12
	Hancock Street and Trumbull Street.	12

(National Flood Insurance Act of 1968 (Title XIII of Housing and Urban Development Act of 1968), effective January 28, 1969 (33 FR 17804, November 28, 1968), as amended; 42 U.S.C. 4001–4128; Executive Order 12127, 44 FR 19367; and delegation of authority to Federal Insurance Administrator, 44 FR 20963).

Issued: April 24, 1979.

Gloria M. Jimenez,

Federal Insurance Administrator.

[FR Doc. 79-15726 Filed 5-21-79; 8:45 am]

BILLING CODE 4210-23-M

24 CFR Part 1917

[Docket No. FI-4940]

Final Flood Elevation Determination for the City of Waterbury, New Haven County, Conn., Under the National Flood Insurance Program

AGENCY: Office of Federal; Insurance and Hazard Mitigation, FEMA.[1]

ACTION: Final rule.

SUMMARY: Final base (100-year) flood elevations are listed below for selected locations in the City of Waterbury, New Haven County, Connecticut.

These base (100-year) flood elevations are the basis for the flood plain management measures that the community is required to either adopt or show evidence of being already in effect in order to qualify or remain qualified for participation in the National Flood Insurance Program (NFIP).

EFFECTIVE DATE: The date of issuance of the Flood Insurance Rate Map (FIRM), showing base (100-year) flood

[1] The functions of the Federal Insurance Administration, Department of Housing and Urban Development, were transferred to the newly established Federal Emergency Management Agency by Reorganization Plan No. 3 of 1978 (43 FR 41943, September 19, 1978) and Executive Order 12127 (44 FR 19367, April 3, 1979).

[1] The functions of the Federal Insurance Administration, Department of Housing and Urban Development, were transferred to the newly established Federal Emergency Management Agency by Reorganization Plan No. 3 of 1978 (43 FR 41943, September 19, 1978) and Executive Order 12127 (44 FR 19367, April 3, 1979).

elevations, for the City of Waterbury, New Haven County, Connecticut.

ADDRESSES: Maps and other information showing the detailed outlines of the flood-prone areas and the final elevations for the City of Waterbury, New Haven County, Connecticut, are available for review at the Office of the Building Official, Waterbury, Connecticut.

FOR FURTHER INFORMATION CONTACT: Mr. Richard Krimm, National Flood Insurance Program, (202) 755–5581 or Toll Free Line (800) 424–8872, Room 5270, 451 Seventh Street SW., Washington, D.C. 20410.

SUPPLEMENTARY INFORMATION: The Federal Insurance Administrator gives notice of the final determinations of flood elevations for the City of Waterbury, New Haven County, Connecticut,

This final rule is issued in accordance with section 110 of the Flood Disaster Protection Act of 1973 (Pub. L. 93–234), 87 Stat. 980, which added section 1363 to the National Flood Insurance Act of 1968 (Title XIII of the Housing and Urban Development Act of 1968 (Pub. L. 90–448), 42 U.S.C. 4001–4128, and 24 CFR 1917.4(a)). An opportunity for the community or individuals to appeal this determination to or through the community for a period of ninety (90) days has been provided. No appeals of the proposed base flood elevations were received from the community or from individuals within the community.

The Administrator has developed criteria for flood plain management in flood-prone areas in accordance with 24 CFR Part 1910.

The final base (100-year) flood elevations for selected locations are:

Source of flooding	Location	Elevation in feet, national geodetic vertical datum
Naugatuck River	Upstream Bristol Street	219
	Upstream Platt Brothers Dam	229
	South Leonard Street	242
	Eagle Street	247
	Washington Avenue	254
	Freight Street	261
	West Main Street	264
	Huntingdon Avenue	279
	Chase Brass Drive	283
Hopeville Pond Brook	South Main Street	236
	Upstream Baldwin Street	283
	Upstream Jersey Street	338
	Spring Lake Road	378
Mad River	Washington Avenue	261
	Upstream East Liberty Street	278
	Upstream Hamilton Avenue	303
	Upstream Silver Street	327
	Interstate Route 84	352
	Downstream Century Dam	360
	Upstream Century Dam	377
	East Main Street	391
	Downstream Homestead Dam.	429
	Upstream Homestead Dam	451
	Frost Road	459
	Sharon Road	462
Beaver Pond Brook	Harpes Ferry Road	378
	(700 feet upstream Harpes Ferry Road) Upstream Interstate Route 84.	382
	Interstate Route 84 (2,960 feet upstream Harpes Ferry Road).	421
	Upstream Scott Road	448
	Upstream Mulloy Road	463
	Austin Road	484
Steel Brook	East Aurora Street	273
	Upstream Huntingdon Avenue.	286
	Falls Avenue	332
Hancock Brook	230 feet upstream of confluence with Naugatuck River.	276
	Huntingdon Avenue	285
	Thomaston Avenue	296
	Sheffield Street	312
Wooster Brook	545 feet upstream Corporate Limits.	436
	Upstream State Route 64	468
	Mason Avenue	497
	Wooster Avenue	530
	1,000 feet upstream Wooster Avenue.	555
	2,000 feet upstream Wooster Avenue.	591
	Park Road	598

(National Flood Insurance Act of 1968 (Title XIII of Housing and Urban Development Act of 1968), effective January 28, 1969 (33 FR 17804, November 28, 1968), as amended; 42 U.S.C. 4001–4128; Executive Order 12127, 44 FR 19367; and delegation of authority to Federal Insurance Administrator, 44 FR 20963.)

Issued: April 24, 1979.

Gloria M. Jimenez,

Federal Insurance Administrator.

[FR Doc. 79-15727 Filed 5-21-79; 8:45 am]

BILLING CODE 4210-23-M

24 CFR Part 1917

[Docket No. FI-4309]

Final Flood Elevation Determination for the City of Carbondale, Jackson County, Ill., Under the National Flood Insurance Program

AGENCY: Office of Federal Insurance and Hazard Mitigation, FEMA.[1]

ACTION: Final rule.

SUMMARY: Final base (100-year) flood elevations are listed below for selected locations in the City of Carbondale, Jackson County, Illinois.

These base (100-year) flood elevations are the basis for the flood plain management measures that the community is required to either adopt or show evidence of being already in effect in order to qualify or remain qualified for participation in the National Flood Insurance Program (NFIP).

EFFECTIVE DATE: The date of issuance of the Flood Insurance Rate Map (FIRM), showing base (100-year) flood elevations, for the City of Carbondale, Jackson County, Illinois.

ADDRESSES: Maps and other information showing the detailed outlines of the flood-prone areas and the final elevations for the City of Carbondale, Jackson County, Illinois, are available for review at the City Hall, 609 East College Street, Carbondale, Illinois.

FOR FURTHER INFORMATION CONTACT: Mr. Richard Krimm, National Flood Insurance Program, (202) 755–5581 or Toll Free Line (800) 424–8872, Room 5270, 451 Seventh Street SW., Washington, D.C. 20410.

SUPPLEMENTARY INFORMATION: The Federal Insurance Administrator gives notice of the final determinations of flood elevations for the City of Carbondale, Jackson County, Illinois.

This final rule is issued in accordance with section 110 of the Flood Disaster Protection Act of 1973 (Pub. L. 93–234), 87 Stat. 980, which added section 1363 to the National Flood Insurance Act of 1968 (Title XIII of the Housing and Urban Development Act of 1968 (Pub. L. 90–448), 42 U.S.C. 4001–4128, and 24 CFR 1917.4(a)). An opportunity for the community or individuals to appeal this determination to or through the community for a period of ninety (90) days has been provided, and the Administrator has resolved the appeals presented by the community.

The Administrator has developed criteria for flood plain management in flood-prone areas in accordance with 24 CFR Part 1910.

The final base (100-year) flood elevations for selected locations are:

Source of flooding	Location	Elevation in feet, national geodetic vertical datum
Crab Orchard Creek	Confluence of Little Crab Orchard Creek.	360
	Illinois Central Gulf Railroad (Upstream).	361
	Confluence of Pliles Fork Creek.	364
	State Highway 13 (Upstream)	364
	Old Route 13 East (Upstream).	365
	Confluence of Drury Creek	365
	Crab Orchard Lake Spillway (1,875 Feet downstream of dam).	366
	Crab Orchard Lake Spillway (Upstream).	406
	Extraterritorial Limits	406
Drury Creek	Confluence of Sycamore Creek.	366

[1] The functions of the Federal Insurance Administration, Department of Housing and Urban Development, were transferred to the newly established Federal Emergency Management Agency by Reorganization Plan No. 3 of 1978 (43 FR 41943, September 19, 1978) and Executive Order 12127 (44 FR 19367, April 3, 1979).

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Source of flooding	Location	Elevation in feet, national geodetic vertical datum
	Dogwood Road (250 Feet upstream).	389
	Giant City Road (Upstream)	393
	Confluence of Indian Creek	396
	Springer Ridge Road (Upstream).	406
	Boskydell Road (Upstream)	409
	Extraterritorial Limits	411
Piles Fork Creek	Confluence of Glades Creek	364
	State Highway 13 (Upstream)	388
	Walnut Street (Upstream)	390
	Dorthelia Street (Upstream)	391
	College Street (Upstream)	393
	Grand Avenue (Upstream)	402
	Wall Street (Upstream)	404
	South Footbridge (Upstream)	406
	Logan Drive (Upstream)	409
	Illinois Central Gulf Railroad (Upstream).	413
	State Highway 51 (Upstream)	416
	Reservoir Road (Upstream)	417
	Carbondale Reservoir Spillway (150 feet downstream).	420
	Carbondale Reservoir Spillway (Upstream).	436
Little Crab Orchard Creek.	U.S. Highway 51 (Upstream)	383
	Charles Road (Upstream)	388
	Illinois Central Gulf Railroad (Upstream).	391
	Highway 13 (Upstream)	396
	Sunset Drive (Upstream)	403
	Chautauqua Street (Upstream).	410
	Reservoir Road (Upstream)	421
	Extraterritorial Limits	444
Indian Creek	Confluence with Drury Creek	396
	Extraterritorial Limits	400
Sycamore Creek	Confluence with Drury Creek	388
	Extraterritorial Limits	400
Glades Creek	Illinois Central Gulf Railroad (Upstream).	364
	Second crossing of Illinois Central Gulf Railroad (Upstream).	387
	Marion Street (Upstream)	388

(National Flood Insurance Act of 1968 (Title XIII of Housing and Urban Development Act of 1968), effective January 28, 1969 (33 FR 17804, November 28, 1968), as amended; 42 U.S.C. 4001–4128; Executive Order 12127, 44 FR 19367; and delegation of authority to Federal Insurance Administrator 44 FR 20963.)

Issued: April 24, 1979.

Gloria M. Jimenez,

Federal Insurance Administrator.

[FR Doc. 79–15728 Filed 5–21–79; 8:45 am]

BILLING CODE 4210–23–M

24 CFR Part 1917

[Docket No. FI–4902]

Final Flood Elevation Determination for the City of East St. Louis, St. Clair County, Ill., Under the National Flood Insurance Program

AGENCY: Office of Federal Insurance and Hazard Mitigation, FEMA.[1]

ACTION: Final rule.

SUMMARY: Final base (100-year) flood elevations are listed below for selected locations in the City of East St. Louis, St. Clair County, Illinois.

These base (100-year) flood elevations are the basis for the flood plain management measures that the community is required to either adopt or show evidence of being already in effect in order to qualify or remain qualified for participation in the National Flood Insurance Program (NFIP).

EFFECTIVE DATE: The date of issuance of the Flood Insurance Rate Map (FIRM), showing base (100-year) flood elevations, for the City of East St. Louis, St. Clair County, Illinois.

ADDRESSES: Maps and other information showing the detailed outlines of the flood-prone areas and the final elevations for the City of East St. Louis, are available for review at the City Hall, 7 Collinsville Avenue, East St. Louis, Illinois.

FOR FURTHER INFORMATION CONTACT: Mr. Richard Krimm, National Flood Insurance Program, (202) 755–5581 or Toll Free Line (800) 424–8872, Room 5270, 451 Seventh Street SW., Washington, D.C. 20410.

SUPPLEMENTARY INFORMATION: The Federal Insurance Administrator gives notice of the final determinations of flood elevations for the City of East St. Louis, St. Clair County, Illinois.

This final rule is issued in accordance with section 110 of the Flood Disaster Protection Act of 1973 (Pub. L. 93–234), 87 Stat. 980, which added section 1363 to the National Flood Insurance Act of 1968 (Title XIII of the Housing and Urban Development Act of 1968 (Pub. L. 90–448), 42 U.S.C. 4001–4128, and 24 CFR 1917.4(a)). An opportunity for the community or individuals to appeal this determination to or through the community for a period of ninety (90) days has been provided. No appeals of the proposed base flood elevations were received from the community or from individuals within the community.

The Administrator has developed criteria for flood plain management in flood-prone areas in accordance with 24 CFR Part 1910.

The final base (100-year) flood elevations for selected locations are:

Source of flooding	Location	Elevation in feet, national geodetic vertical datum
Mississippi River	At southern corporate limits	426
	800 feet north of Interstate 70.	427
Interior drainage within community due to rainfall (ponding AH zones).	At northern corporate limits	426
	500 feet south of St. Clair Avenue along Lansdowne Street.	409
	800 feet north of St. Clair Avenue along 2nd Street.	419
	Intersection of Exchange Avenue and 13th Street.	416
	Intersection of College Avenue and 18th Street.	416
	Intersection of St. Louis Avenue and 7th Street.	416
	Intersection of Bond Avenue and 4th Street.	409
	Intersection of Missouri Avenue and 24th Street.	413
	500 feet south of State Street along 31st Street.	416
	500 feet north of Belmont Avenue along 39th Street.	414
	Intersection of Audubon Avenue and 25th Street.	415
	Intersection of Bushmore Avenue and 35th Street.	414
	Intersection of Dickman Place and 61st Street.	413
	500 feet east of Harding Ditch along Marybell Avenue.	417

(National Flood Insurance Act of 1968 (Title XIII of Housing and Urban Development Act of 1968), effective January 28, 1969 (33 FR 17804, November 28, 1968), as amended (42 U.S.C. 4001–4128); Executive Order 12127, 44 FR 19367; and delegation of authority to Federal Insurance Administrator, 44 FR 20963.)

Issued: April 24, 1979.

Gloria M. Jimenez,

Federal Insurance Administrator.

[FR Doc. 79–15729 Filed 5–21–79; 8:45 am]

BILLING CODE 4210–23–M

24 CFR Part 1917

[Docket No. FI–4861]

Final Flood Elevation Determinations for the Village of Shorewood, Will County, Illinois; Under the National Flood Insurance Program

AGENCY: Federal Insurance and Hazard Mitigation, FEMA.[1]

ACTION: Final rule.

SUMMARY: Final base (100-year) flood elevations are listed below for selected locations in the Village of Shorewood, Will County, Illinois.

These base (100-year)-flood elevations are the basis for the flood plain management measures that the community is required to either adopt or show evidence of being already in effect in order to qualify or remain qualified

[1] The functions of the Federal Insurance Administration, Department of Housing and Urban Development, were transferred to the newly established Federal Emergency Management Agency by Reorganization Plan No. 3 of 1978 (43 FR 41943, September 19, 1978) and Executive Order 12127 (44 FR 19367, April 3, 1979).

for participation in the National Flood Insurance Program (NFIP).

EFFECTIVE DATE: The date of issuance of the Flood Insurance Rate Map (FIRM), showing base (100-year) flood elevations, for the Village of Shorewood, Will County, Illinois.

ADDRESSES: Maps and other information showing the detailed outlines of the flood prone areas and the final elevations for the Village of Shorewood are available for review at the Village Administrator's Office, Route 52 and Raven Road, Joliet, Illinois.

FOR FURTHER INFORMATION CONTACT: Mr. Richard Krimm, National Flood Insurance Program, Room 5270, 451 Seventh Street, SW., Washington, D.C. 20410 (202) 755–5581 or Toll Free Line (800) 424–8872.

SUPPLEMENTARY INFORMATION: The Federal Insurance Administrator gives notice of the final determinations of flood elevations for the Village of Shorewood, Will County, Illinois.

This final rule is issued in accordance with section 110 of the Flood Disaster Protection Act of 1973 (Pub. L. 93–234), 87 Stat. 980, which added section 1363 to the National Flood Insurance Act of 1968 (Title XIII of the Housing and Urban Development Act of 1968 (Pub. L. 90–448), 42 U.S.C. 4001–4128, and 24 CFR 1917.4(a)). An opportunity for the community or individuals to appeal this determination to or through the community for a period of ninety (90) days has been provided. No appeals of the proposed base flood elevations were received from the community or from individuals within the community.

The Administrator has developed criteria for flood plain management in flood prone areas in accordance with 24 CFR Part 1910.

The final base (100-year) flood elevations for selected locations are:

Source of flooding	Location	Elevation in feet, national geodetic vertical datum
Du Page River	1,600 feet downstream of Seal Road.	564
	Just downstream of Seal Road.	565
	Just upstream of Seal Road	567
	Southern corporate limit	569
	Just downstream of Cottage Street.	574
	Just upstream of U.S. Route 52.	577
	7,200 feet upstream of U.S. Route 52.	582
Hammel Creek	Confluence with Du Page River.	577
	Just downstream of Hammel Woods service road.	577
	Just upstream of Hammel Woods service road.	578
	100 feet downstream of Cottage Street.	583
	Just upstream of Cottage Street.	585
	Just downstream of Brookshore Drive.	591
	Just upstream of Brookshore Drive.	595
	150 feet downstream of Raven Road.	601
	Just upstream of Raven Road.	606
	Just downstream of private drive, 2,600 feet upstream of Raven Road.	614
	500 feet upstream of private drive, 2,600 feet upstream of Raven Road.	616

(National Flood Insurance Act of 1968 (Title XIII of Housing and Urban Development Act of 1968), effective January 28, 1969 (33 FR 17804, November 28, 1968), as amended; 42 U.S.C. 4001–4128; Executive Order 12127, 44 FR 19367; and delegation of authority to Federal Insurance Administrator, 44 FR 20963.)

Issued: April 18, 1979.

Gloria M. Jimenez,

Federal Insurance Administrator.

[FR Doc. 79–15730 Filed 5–21–79; 8:45 am]

BILLING CODE 4210–23–M

24 CFR Part 1917

[Docket No. FI–4945]

Final Flood Elevation Determination for the Unincorporated Areas of Elkhart County, Ind., Under the National Flood Insurance Program

AGENCY: Office of Federal Insurance and Hazard Mitigation, FEMA.[1]

ACTION: Final rule.

SUMMARY: Final base (100-year) flood elevations are listed below for selected locations in the unincorporated areas of Elkhart County, Indiana.

These base (100-year) flood elevations are the basis for the flood plain management measures that the community is required to either adopt or show evidence of being already in effect in order to qualify or remain qualified for participation in the National Flood Insurance Program (NFIP).

EFFECTIVE DATE: The date of issuance of the Flood Insurance Rate Map (FIRM), showing base (100-year) flood elevations, for the unincorporated areas of Elkhart County, Indiana.

ADDRESSES: Maps and other information showing the detailed outlines of the flood-prone areas and the final elevations for the unincorporated areas of Elkhart County, Indiana are available for review at the Elkhart County Planning Commissioner's Office, Elkhart County Courthouse, Elkhart, Indiana.

FOR FURTHER INFORMATION CONTACT: Mr. Richard Krimm, National Flood Insurance Program, (202) 755–5581 or Toll Free Line (800) 424–8872, Room 5270, 451 Seventh Street, SW., Washington, D.C. 20410.

SUPPLEMENTARY INFORMATION: The Federal Insurance Administrator gives notice of the final determinations of flood elevations for the unincorporated areas of Elkhart County, Indiana.

This final rule is issued in accordance with section 110 of the Flood Disaster Protection Act of 1973 (Pub. L. 93–234), 87 Stat. 980, which added section 1363 to the National Flood Insurance Act of 1968 (Title XIII of the Housing and Urban Development Act of 1968 (Pub. L. 90–448), 42 U.S.C. 4001–4128, and 24 CFR 1917.4(a)). An opportunity for the community or individuals to appeal this determination to or through the community for a period of ninety (90) days has been provided. No appeals of the proposed base flood elevations were received from the community or from individuals within the community.

The Administrator has developed criteria for flood plain management in flood-prone areas in accordance with 24 CFR Part 1910.

The final base (100-year) flood elevations for selected locations are:

Source of flooding	Location	Elevation in feet, national geodetic vertical datum
St. Joseph River	Confluence of Cobus Creek	719
	Confluence of Trout Creek	760
Elkhart River	Just upstream of Hively Avenue.	750
	Just upstream of County Road 17.	767
	Just upstream of County Road 142.	801
	Just upstream of U.S. 33	828
Little Elkhart River	Approximately 200 feet upstream TU–CO Campground Bridge.	764
	Just downstream of County Road 16.	820
Baugo Creek	Just upstream of County Road 1.	747
	Just upstream of County Road 28.	772
Bertin Court Ditch	Just upstream of County Road 11.	833
	Just upstream of State Road 19.	857
Christiana Creek	Just upstream of County Road 6.	763
Cobus Creek	Just downstream of U.S. 20	733
	Approximately 100 feet upstream of County Road 8.	756
Pine Creek	Just upstream of County Road 17.	762
	Just upstream of County Road 18.	778

[1] The functions of the Federal Insurance Administration, Department of Housing and Urban Development, were transferred to the newly established Federal Emergency Management Agency by Reorganization Plan No. 3 of 1978 (43 FR 41943, September 19, 1978) and Executive Order 12127 (44 FR 19367, April 3, 1979).

Source of flooding	Location	Elevation in feet, national geodetic vertical datum
	Just downstream of State Road 19.	807
Puterbaugh Creek	Just upstream of Indiana East-West Bound Toll Bridges.	785
Rock Run Creek	Just downstream of County Road 34.	809
	Just upstream of County Road 34.	812
Turkey Creek	Just upstream of County Road 142.	800
Yellow Creek	Approximately 300 feet upstream of Hammond Street.	757
	Just downstream of County Road 28.	782

(National Flood Insurance Act of 1968 (Title XIII of Housing and Urban Development Act of 1968), effective January 28, 1969 (33 FR 17804, November 28, 1968), as amended; 42 U.S.C. 4001–4128; Executive Order 12127, 44 FR 19367; and delegation of authority to Federal Insurance Administrator, 44 FR 20963.)

Issued: April 24, 1979.

Gloria M. Jimenez,

Federal Insurance Administrator.

[FR Doc. 79–15731 Filed 5–21–79; 8:45 am]

BILLING CODE 4210–23–M

24 CFR Part 1917

[Docket No. FI 4688]

Appeals From Proposed Flood Elevation Determinations; Final Flood Elevation Determination for the City of Clive, Polk County, Iowa

AGENCY: Office of Federal Insurance and Hazard Mitigation, FEMA.[1]

ACTION: Final rule.

SUMMARY: Final base (100-year) flood elevations are listed below for selected locations in the City of Clive, Polk County, Iowa.

These base (100-year) flood elevations are the basis for the flood plain management measures that the community is required to either adopt or show evidence of being already in effect in order to qualify or remain qualified for participation in the National Flood Insurance Program (NFIP).

EFFECTIVE DATE: The date of issuance of the Flood Insurance Rate Map (FIRM), showing base (100-year) flood elevations, for the City of Clive, Polk County, Iowa.

ADDRESSES: Maps and other information showing the detailed outlines of the flood prone areas and the final elevations for the City of Clive are available for review at the City Hall, Clive, Iowa.

FOR FURTHER INFORMATION CONTACT: Mr. Richard Krimm, National Flood Insurance Program, (202) 755–5581 or Toll Free Line (800) 424–8872, Room 5270, 451 Seventh Street, SW., Washington, D.C. 20410.

SUPPLEMENTARY INFORMATION: The Federal Insurance Administrator gives notice of the final determinations of flood elevations for the City of Clive, Polk County, Iowa.

This final rule is issued in accordance with section 110 of the Flood Disaster Protection Act of 1973 (Pub. L. 93–234), 87 Stat. 980, which added section 1363 to the National Flood Insurance Act of 1968 (Title XIII of the Housing and Urban Development Act of 1968 (Pub. L. 90–448), 42 U.S.C. 4001–4128, and 24 CFR 1917.4(a)). An opportunity for the community or individuals to appeal this determination to or through the community for a period of ninety (90) days has been provided. No appeals of the proposed base flood elevations were received from the community or from individuals within the community.

The Administrator has developed criteria for flood plain management in flood prone areas in accordance with 24 CFR Part 1910.

The final base (100-year) flood elevations for selected locations are:

Source of flooding	Location	Elevation in feet, national geodetic vertical datum
Walnut Creek	Just upstream of 73rd Street.	832
	Just downstream of Chicago, Milwaukee, St. Paul and Pacific Railroad.	833
	Just upstream of Chicago, Milwaukee, St. Paul and Pacific Railroad.	835
	Just downstream of 86th Street.	837
	Just upstream of 86th Street.	839
	4400 feet upstream of 86th Street.	841
	1600 feet upstream of 100th Street.	854
	Just downstream of 114th Street.	861
	West corporate limits	864
	North Walnut Creek	
	450 feet downstream of University Avenue.	833
	Just downstream of University Avenue.	834
	At north corporate limits	837

(National Flood Insurance Act of 1968 (Title XIII of Housing and Urban Development Act of 1968), effective January 28, 1969 (33 FR 17804, November 28, 1968), as amended; 42 U.S.C. 4001–4128; Executive Order 12127, 44 FR 19367; and delegation of authority to Federal Insurance Administrator, 44 FR 20963).)

Issued: April 24, 1979.

Gloria M. Jimenez,

Federal Insurance Administrator.

[FR Doc. 79–15732 Filed 5–21–79; 8:45 am]

BILLING CODE 4210–23–M

24 CFR Part 1917

[Docket No. FI 4803]

Final Flood Elevation Determination for the City of Princeton, Scott County, Iowa, Under the National Flood Insurance Program

AGENCY: Office of Federal Insurance and Hazard Mitigation, FEMA.[1]

ACTION: Final rule.

SUMMARY: Final base (100-year) flood elevations are listed below for selected locations in the City of Princeton, Scott County, Iowa.

These base (100-year) flood elevations are the basis for the flood plain management measures that the community is required to either adopt or show evidence of being already in effect in order to qualify or remain qualified for participation in the National Flood Insurance Program (NFIP).

EFFECTIVE DATE: The date of issuance of the Flood Insurance Rate Map (FIRM), showing base (100-year) flood elevations for the City of Princeton, Scott County, Iowa.

ADDRESSES: Maps and other information showing the detailed outlines of the flood prone areas and the final elevations for the City of Princeton are available for review at the City Hall, Princeton, Iowa.

FOR FURTHER INFORMATION CONTACT: Mr. Richard Krimm, National Flood Insurance Program, (202) 755–5581 or Toll Free Line (800) 424–8872, Room 5270, 451 Seventh Street, SW., Washington, D.C. 20410.

SUPPLEMENTARY INFORMATION: The Federal Insurance Administrator gives notice of the final determinations of flood elevations for the City of Princeton, Scott County, Iowa.

This final rule is issued in accordance with section 110 of the Flood Disaster Protection Act of 1973 (Pub. L. 93–234), 87 Stat. 980, which added section 1363 to the National Flood Insurance Act of 1968 (Title XIII of the Housing and Urban Development Act of 1968) Pub. L. 90–448), 42 U.S.C. 4001–4128, and 24 CFR

[1] The functions of the Federal Insurance Administration, Department of Housing and Urban Development, were transferred to the newly established Federal Emergency Management Agency by Reorganization Plan No. 3 of 1978 (43 FR 41943, September 19, 1978) and Executive Order 12127 (44 FR 19367, April 3, 1979).

1917.4(a)). An opportunity for the community or individuals to appeal this determination to or through the community for a period of ninety (90) days has been provided. No appeals of the proposed base flood elevations were received from the community or from individuals within the community.

The Administrator has developed criteria for flood plain management in flood prone areas in accordance with 24 CFR Part 1910.

The final base (100-year) flood elevations for selected locations are:

Source of flooding	Location	Elevation in feet, national geodetic vertical datum
Mississippi River	Downstream corporate limit	582
	Upstream corporate limit	583

(National Flood Insurance Act of 1968 (Title XIII of Housing and Urban Development Act of 1968), effective January 28, 1969 (33 FR 17804, November 28, 1968), as amended; 42 U.S.C. 4001–4128; Executive Order 12127, 44 FR 19367; and delegation of authority to Federal Insurance Administrator, 44 FR 20963.)

Issued: April 24, 1979.

Gloria M. Jimenez,

Federal Insurance Administrator.

[FR Doc. 79–15733 Filed 5–21–79; 8:45 am]

BILLING CODE 4210–23–M

24 CFR Part 1917

[Docket No. FI–4946]

Final Flood Elevation Determination for the City of West Des Moines, Polk County, Iowa, Under the National Flood Insurance Program

AGENCY: Office of Federal Insurance and Hazard Mitigation, FEMA. [1]

ACTION: Final rule.

SUMMARY: Final base (100-year) flood elevations are listed below for selected locations in the City of West Des Moines, Polk County, Iowa.

These base (100-year) flood elevations are the basis for the flood plain management measures that the community is required to either adopt or show evidence of being already in effect in order to qualify or remain qualified for participation in the National Flood Insurance Program (NFIP).

EFFECTIVE DATE: The date of issuance of the Flood Insurance Rate Map (FIRM), showing base (100-year) flood elevations, for the City of West Des Moines, Polk County, Iowa.

ADDRESSES: Maps and other information showing the detailed outlines of the flood prone areas and the final elevations for the City of West Des Moines are available for review at the City Hall, 318 5th Street, West Des Moines, Iowa.

FOR FURTHER INFORMATION CONTACT: Mr. Richard Krimm, National Flood Insurance Program, (202) 755–5581 or Toll Free Line (800) 424–8872, Room 5270, 451 Seventh Street, SW., Washington, D. C. 20410.

SUPPLEMENTARY INFORMATION: The Federal Insurance Administrator gives notice of the final determinations of flood elevations for the City of West Des Moines, Polk County, Iowa.

This final rule is issued in accordance with section 110 of the Flood Disaster Protection Act of 1973 (Pub. L. 93–234), 87 Stat. 980, which added section 1363 to the National Flood Insurance Act of 1968 (Title XIII of the Housing and Urban Development Act of 1968 (Pub. L. 90–448), 42 U.S.C. 4001–4128, and 24 CFR 1917.4(a)). An opportunity for the community or individuals to appeal this determination to or through the community for a period of ninety (90) days has been provided. No appeals of the proposed base flood elevations were received from the community or from individuals within the community.

The Administrator has developed criteria for flood plain management in flood prone areas in accordance with 24 CFR Part 1910.

The final base (100-year) flood elevations for selected locations are

Source of flooding	Location	Elevation in feet, national geodetic vertical datum
Raccoon River	At First Street	814
	Just upstream of Interstate 35.	827
	Approximately 6,800 feet upstream from Interstate 35, at county boundary.	831
Walnut Creek	Approximately 1,600 feet downstream from Grand Avenue.	814
	Just upstream from Chicago, Milwaukee, and St. Paul Railroad.	819
	Just upstream from 63rd Street.	821
	Approximately 500 feet upstream from Center Street.	825
	Just upstream from 73rd Street.	833
	Approximately 1,800 feet upstream from Chicago, Milwaukee and St. Paul Railroad.	836
	Just upstream from 22nd Street.	840

(National Flood Insurance Act of 1968 (Title XIII of Housing and Urban Development Act of 1968), effective January 28, 1969 (33 FR 17804, November 28, 1968), as amended; 42 U.S.C. 4001–4128; Executive Order 12127, 44 FR 19367; and delegation of authority to Federal Insurance Administrator, 44 FR 20963)).

Issued: April 24, 1979.

Gloria M. Jimenez,

Federal Insurance Administrator.

[FR Doc. 79–15734 Filed 5–21–79; 8:45 am]

BILLING CODE 4210–23–M

24 CFR Part 1917

[Docket No. FI–4948]

Final Flood Elevation Determination for the City of Hesston, Harvey County, Kans. Under the National Flood Insurance Program

AGENCY: Office of Federal Insurance and Hazard Mitigation, FEMA.[1]

ACTION: Final rule.

SUMMARY: Final base (100-year) flood elevations are listed below for selected locations in the City of Hesston, Harvey County, Kansas.

These base (100-year) flood elevations are the basis for the flood plain management measures that the community is required to either adopt or show evidence of being already in effect in order to qualify or remain qualified for participation in the National Flood Insurance Program (NFIP).

EFFECTIVE DATE: The date of issuance of the Flood Insurance Rate Map (FIRM), showing base (100-year) flood elevations, for the City of Hesston, Harvey County, Kansas.

ADDRESSES: Maps and other information showing the detailed outlines of the flood prone areas and the final elevations for the City of Hesston are available for review at the Hesston City Hall, P.O. Box 100, Hesston, Kansas.

FOR FURTHER INFORMATION CONTACT: Mr. Richard Krimm, National Flood Insurance Program, (202) 755–5581 or Toll Free Line (800) 424–8872, Room 5270, 451 Seventh Street, SW., Washington, D.C. 20410.

SUPPLEMENTARY INFORMATION: The Federal Insurance Administrator gives notice of the final determinations of

[1] The functions of the Federal Insurance Administration, Department of Housing and Urban Development, were transferred to the newly established Federal Emergency Management Agency by Reorganization Plan No. 3 of 1978 (43 FR 41943, September 19, 1978) and Executive Order 12127 (44 FR 19367, April 3, 1979).

flood elevations for the City of Hesston, Harvey County, Kansas.

This final rule is issued in accordance with section 110 of the Flood Disaster Protection Act of 1973 (Pub. L. 93–234), 87 Stat. 980, which added section 1363 to the National Flood Insurance Act of 1968 (Title XIII of the Housing and Urban Development Act of 1968 (Pub. L. 90–448), 42 U.S.C. 4001–4128, and 24 CFR 1917.4(a)). An opportunity for the community or individuals to appeal this determination to or through the community for a period of ninety (90) days has been provided. No appeals of the proposed base flood elevations were received from the community or from individuals wihin the community.

The Administrator has developed criteria for flood plain management in flood prone areas in accordance with 24 CFR Part 1910.

The final base (100-year) flood elevations for selected locations are:

Source of flooding	Location	Elevation in feet, national geodetic vertical datum
Middle Emma Creek	Just upstream of Hickory Street.	1,451
	Approximately 525 feet upstream of Hickory Street.	1,453
	Approximately 2,430 feet downstream of Interstate 135.	1,454
	Just upstream of Interstate 135.	1,456
	Approximately 1,270 feet upstream of Interstate 135.	1,458
	Just downstream of Lincoln Boulevard.	1,459
Dry Creek	Just upstream of Hickory Street.	1,460
	Approximately 260 feet downstream of Weaver Street.	1,463
	Approximately 150 feet upstream of Pine Street.	1,465
	Just upstream of Academy Street.	1,467
	Approximately 80 feet downstream of U.S. 81.	1,469
	Just upstream of U.S. 81	1,474
	Just upstream of Missouri Pacific Railroad.	1,476

(National Flood Insurance Act of 1968 (Title XIII of Housing and Urban Development Act of 1968), effective January 28, 1969 (33 FR 17804, November 28, 1968), as amended; 42 U.S.C. 4001–4128; Executive Order 12127; 44 FR 19367; and delegation of authority to Federal Insurance Administrator, 44 FR 20963.)

Issued: April 24, 1979.

Gloria M. Jimenez,

Federal Insurance Administrator.

[FR Doc. 79-15735 Filed 5-21-79; 8:45 am]

BILLING CODE 4210-23-M

24 CFR Part 1917

[Docket No. FI-4804]

Final Flood Elevation Determination for the City of Tonganoxie, Leavenworth County, Kans. Under the National Flood Insurance Program

AGENCY: Office of Federal Insurance and Hazard Mitigation, FEMA.[1]

ACTION: Final rule.

SUMMARY: Final base (100-year) flood elevations are listed below for selected locations in the City of Tonganoxie, Leavenworth County, Kansas.

These base (100-year) flood elevations are the basis for the flood plain management measures that the community is required to either adopt or show evidence of being already in effect in order to qualify or remain qualified for participation in the National Flood Insurance Program (NFIP).

EFFECTIVE DATE: The date of issuance of the Flood Insurance Rate Map (FIRM), showing base (100-year) flood elevations, for the City of Tonganoxie, Leavenworth County, Kansas.

ADDRESSES: Maps and other information showing the detailed outlines of the flood prone areas and the final elevations for the City of Tonganoxie are available for review at the City Clerk's home, Tonganoxie, Kansas.

FOR FURTHER INFORMATION CONTACT: Mr. Richard Krimm, National Flood Insurance Program, (202) 755–5581 or Toll Free Line (800) 424–8872, Room 5270, 451 Seventh Street, SW., Washington, D.C. 20410.

SUPPLEMENTARY INFORMATION: The Federal Insurance Administrator gives notice of the final determinations of flood elevations for the City of Tonganoxie, Leavenworth County, Kansas.

This final rule is issued in accordance with section 110 of the Flood Disaster Protection Act of 1973 (Pub. L. 93–234), 87 Stat. 980, which added section 1363 to the National Flood Insurance Act of 1968 (Title XIII of the Housing and Urban Development Act of 1968 (Pub. L. 90–448), 42 U.S.C. 4001–4128, and 24 CFR 1917.4(a). An opportunity for the community or individuals to appeal this determination to or through the community for a period of ninety (90) days has been provided. No appeals of the proposed base flood elevations were received from the community or from individuals within the community.

The Administrator has developed criteria for flood plain management in flood prone areas in accordance with 24 CFR Part 1910.

The final base (100-year) flood elevations for selected locations are:

Source of flooding	Location	Elevation in feet, national geodetic vertical datum
Tonganoxie Creek	Southeast corporate limit	843
	Confluence of Tributary 1, south of 4th Street.	849
	Just upstream of 4th Street	851
	Just upstream of 1st Street	855
	Northern corporate limit	859

(National Flood Insurance Act of 1968 (Title XIII of Housing and Urban Development Act of 1968), effective January 28, 1969 (33 FR 17804, November 28, 1968), as amended; 42 U.S.C. 4001–4128; Executive Order 12127, 44 FR 19367; and delegation of authority to Federal Insurance Administrator, 44 FR 20963.)

Issued: April 24, 1979.

Gloria M. Jimenez,

Federal Insurance Administrator.

[FR Doc. 79-15736 Filed 5-21-79; 8:45 am]

BILLING CODE 4210-23-M

24 CFR Part 1917

[Docket No. FI-4949]

Final Flood Elevation Determination for the City of Riley, Riley County, Kans.; Under the National Flood Insurance Program

AGENCY: Office of Federal Insurance and Hazard Mitigation, FEMA.[1]

ACTION: Final rule.

SUMMARY: Final base (100-year) flood elevations are listed below for selected locations in the City of Riley, Riley County, Kansas.

These base (100-year) flood elevations are the basis for the flood plain management measures that the community is required to either adopt or show evidence of being already in effect in order to qualify or remain qualified for participation in the National Flood Insurance Program (NFIP).

EFFECTIVE DATE: The date of issuance of the Flood Insurance Rate Map (FIRM), showing base (100-year) flood elevations, for the City of Riley, Riley County, Kansas.

[1] The functions of the Federal Insurance Administration, Department of Housing and Urban Development, were transferred to the newly established Federal Emergency Management Agency by Reorganization Plan No. 3 of 1978 (43 FR 41943, September 19, 1978) and Executive Order 12127 (44 FR 19367, April 3, 1979).

ADDRESSES: Maps and other information showing the detailed outlines of the flood prone areas and the final elevations for the City of Riley are available for review at the home of Phil Pheifley, City Clerk, Riley, Kansas.

FOR FURTHER INFORMATION CONTACT: Mr. Richard Krimm, National Flood Insurance Program, (202) 755–5581 or Toll Free Line (800) 424–8872, Room 5270, 451 Seventh Street, SW., Washington, D.C. 20410.

SUPPLEMENTARY INFORMATION: The Federal Insurance Administrator gives notice of the final determinations of flood elevations for the City of Riley, Riley County, Kansas.

This final rule is issued in accordance with section 110 of the Flood Disaster Protection Act of 1973 (Pub. L. 93–234), 87 Stat. 980, which added section 1363 to the National Flood Insurance Act of 1968 (Title XIII of the Housing and Urban Development Act of 1968 (Pub. L. 90–448), 42 U.S.C. 4001–4128, and 24 CFR Part 1917.4(a)). An opportunity for the community or individuals to appeal this determination to or through the community for a period of ninety (90) days has been provided. No appeals of the proposed base flood elevations were received from the community or from individuals within the community.

The Administrator has developed criteria for flood plain management in flood prone areas in accordance with 24 CFR Part 1910.

The final base (100-year) flood elevations for selected locations are:

Source of flooding	Location	Elevation in feet, national geodetic vertical datum
Wildcat Creek Tributary.	Downstream corporate limits approximately 1,850 feet above mouth.	1,268
	Upstream side of Chestnut Street.	1,270
	Upstream side of Cedar St	1,274
	Upstream side of Kansas Avenue.	1,276
	Approximately 1,200 feet above Kansas Avenue.	1,278
	Upstream corporate limits	1,283

(National Flood Insurance Act of 1968 (Title XIII of Housing and Urban Development Act of 1968), effective January 28, 1969 (33 FR 17804, November 28, 1968), as amended; 42 U.S.C. 4001–4128; Executive Order 12127, 44 FR 19367; and delegation of authority to Federal Insurance Administrator, 44 FR 20963.)

Issued: April 18, 1979.

Gloria M. Jimenez,

Federal Insurance Administrator.

[FR Doc. 79-15679 Filed 5-21-79; 8:45 am]

BILLING CODE 4210-23-M

24 CFR Part 1917

[Docket No. FI-4953]

Final Flood Elevation Determination for the Township of Mundy, Genesee County, Mich., Under the National Flood Insurance Program

AGENCY: Office of Federal Insurance and Hazard Mitigation, FEMA.[1]

ACTION: Final rule.

SUMMARY: Final base (100-year) flood elevations are listed below for selected locations in the Township of Mundy, Genesee County, Michigan.

These base (100-year) flood elevations are the basis for the flood plain management measures that the community is required to either adopt or show evidence of being already in effect in order to qualify or remain qualified for participation in the National Flood Insurance Program (NFIP).

EFFECTIVE DATE: The date of issuance of the Flood Insurance Rate Map (FIRM), showing base (100-year) flood elevations, for the Township of Mundy, Genesee County, Michigan.

ADDRESSES: Maps and other information showing the detailed outlines of the flood prone areas and the final elevations for the Township of Mundy are available for review at the Township Hall, 3478 Mundy Avenue, Swartz Creek, Michigan.

FOR FURTHER INFORMATION CONTACT: Mr. Richard Krimm, National Flood Insurance Program, (202) 755–5581 or Toll Free Line (800) 424–8872, Room 5270, 451 Seventh Street, SW., Washington, D.C. 20410.

SUPPLEMENTARY INFORMATION: The Federal Insurance Administrator gives notice of the final determinations of flood elevations for the Township of Mundy, Genesee County, Michigan.

This final rule is issued in accordance with section 110 of the Flood Disaster Protection Act of 1973 (Pub. L. 93–234), 87 Stat. 980, which added section 1363 to the National Flood Insurance Act of 1968 (Title XIII of the Housing and Urban Development Act of 1968 (Pub. L. 90–448), 42 U.S.C. 4001–4128, and 24 CFR 1917.4(a)). An opportunity for the community or individuals to appeal this determination to or through the community for a period of ninety (90) days has been provided. No appeals of the proposed base flood elevations were received from the community or from individuals within the community.

The Administrator has developed criteria for flood plain management in flood prone areas in accordance with 24 CFR Part 1910.

The final base (100-year) flood elevations for selected locations are:

Source of flooding	Location	Elevation in feet, national geodetic vertical datum
Swartz Creek	Downstream corporate limits	762
	Just upstream of Jennings Road.	768
	Just upstream of Hill Road	775
	At confluence of Johnson Branch.	782
	Just upstream of Torrey Road.	790
	Just upstream of confluence of Brewer Drain.	797
	Just upstream of Grand Blanc Road.	803
	Approximately 1,000 feet downstream of confluence of Indian Creek.	808
	Just upstream of Cook Road	823
	Just upstream of Baldwin Road.	834
	Upstream corporate limits	846
Seaver Drain	Mouth at Swartz Creek	822
	Upstream corporate limits	824

(National Flood Insurance Act of 1968 (Title XIII of Housing and Urban Development Act of 1968), effective January 28, 1969 (33 FR 17804, November 28, 1968), as amended; 42 U.S.C. 4001–4128; Executive Order 12127, 44 FR 19367; and delegation of authority to Federal Insurance Administrator, 44 FR 20963.)

Issued: April 24, 1979.

Gloria M. Jimenez,

Federal Insurance Administrator.

[FR Doc. 79-15737 Filed 5-21-79; 8:45 am]

BILLING CODE 4210-23-M

24 CFR Part 1917

[Docket No. FI-4870]

Final Flood Elevation Determination for the City of Isle, Mille Lacs County, Minn., Under the National Flood Insurance Program

AGENCY: Office of Federal Insurance and Hazard Mitigation, FEMA.[1]

ACTION: File rule.

SUMMARY: Final base (100-year) flood elevations are listed below for selected locations in the City of Isle, Mille Lacs County, Minnesota.

These base (100-year) flood elevations are the basis for the flood plain

[1] The functions of the Federal Insurance Administration, Department of Housing and Urban Development, were transfered to the newly established Federal Emergency Management Agency by Reorganization Plan No. 3 of 1978 (43 FR 41943, September 19, 1978) and Executive Order 12127 (44 FR 19367, April 3, 1979).

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Federal Insurance Administrator, 44 FR

Urban Development Act of 1968 (Pub. L.

the National Flood Insurance Act of

management measures that the community is required to either adopt or show evidence of being already in effect in order to qualify or remain qualified for participation in the National Flood Insurance Program (NFIP).

EFFECTIVE DATE: The date of issuance of the Flood Insurance Rate Map (FIRM), showing base (100-year) flood elevations, for the City of Isle, Mille Lacs County, Minnesota.

ADDRESSES: Maps and other information showing the detailed outlines of the flood prone areas and the final elevations for the City of Isle are available for review at the City Hall, Isle, Minnesota.

FOR FURTHER INFORMATION CONTACT: Mr. Richard Krimm, National Flood Insurance Program, (202) 755–5581 or Toll Free Line (800) 424–8872, Room 5270, 451 Seventh Street, S.W., Washington, D.C. 20410.

SUPPLEMENTARY INFORMATION: The Federal Insurance Administrator gives notice of the final determinations of flood elevations for the City of Isle, Mille Lacs County, Minnesota.

This final rule is issued in accordance with section 110 of the Flood Disaster Protection Act of 1973 (Pub. L. 93–234), 87 Stat. 980, which added section 1363 to the National Flood Insurance Act of 1968 (Title XIII of the Housing and Urban Development Act of 1968 (Pub. L. 90–448), 42 U.S.C. 4001–4128, and 24 CFR 1917.4(a)). An opportunity for the community or individuals to appeal this determination to or through the community for a period of ninety (90) days has been provided. No appeals of the proposed base flood elevations were received from the community or from individuals within the community.

The Administrator has developed criteria for flood plain management in flood prone areas in accordance with 24 CFR Part 1910.

The final base (100-year) flood elevations for selected locations are:

Source of flooding	Location	Elevation in feet, national geodetic vertical datum
Mille Lacs Lake	Shoreline of Isle	1,254
Malone Creek	Just downstream of U.S. Highway 47.	1,254
	Just upstream of U.S. Highway 47.	1,256
	East corporate limits	1,256

(National Flood Insurance Act of 1968 (Title XIII of Housing and Urban Development Act of 1968), effective January 28, 1969 (33 FR 17804, November 28, 1968), as amended; 42 U.S.C. 4001–4128; and Executive Order 12127, 44 FR 19367; and delegation of authority to Federal Insurance Administrator, 44 FR 20963.)

Issued: April 24, 1979.

Gloria M. Jimenez,

Federal Insurance Administrator.

[FR Doc. 79-15738 Filed 5-21-79; 8:45 am]

BILLING CODE 4210-23-M

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24 CFR Part 1917

[Docket No. FI-4869]

Final Flood Elevation Determinations for the City of Henderson, Sibley County, Minnesota, Under the National Flood Insurance Program

AGENCY: Office of Federal Insurance and Hazard Mitigation, FEMA.[1]

ACTION: Final rule.

SUMMARY: Final base (100-year) flood elevations are listed below for selected locations in the City of Henderson, Sibley County, Minnesota.

These base (100-year) flood elevations are the basis for the flood plain management measures that the community is required to either adopt or show evidence of being already in effect in order to qualify or remain qualified for participation in the National Flood Insurance Program (NFIP).

EFFECTIVE DATE: The date of issuance of the Flood Insurance Rate Map (FIRM), showing base (100-year) flood elevations, for the City of Henderson, Sibley County, Minnesota.

ADDRESSES: Maps and other information showing the detailed outlines of the flood-prone areas and the final elevations for the City of Henderson are available for review at the City Hall, Henderson, Minnesota.

FOR FURTHER INFORMATION CONTACT: Mr. Richard Krimm, National Flood Insurance Program, (202) 755–5581 or Toll Free Line (800) 424–8872, Room 5270, 451 Seventh Street SW., Washington, D.C. 20410.

SUPPLEMENTARY INFORMATION: The Federal Insurance Administrator gives notice of the final determinations of flood elevations for the City of Henderson, Sibley County, Minnesota.

This final rule is issued in accordance with section 110 of the Flood Disaster Protection Act of 1973 (Pub. L. 93–234), 87 Stat. 980, which added section 1363 to the National Flood Insurance Act of 1968 (Title XIII of the Housing and Urban Development Act of 1968 (Pub. L. 90–448), 42 U.S.C. 4001–4128, and 24 CFR 1917.4(a)). An opportunity for the community or individuals to appeal this determination to or through the community for a period of ninety (90) days has been provided. No appeals of the proposed base flood elevations were received from the community or from individuals within the community.

The Administrator has developed criteria for flood plain management in flood-prone areas in accordance with 24 CFR Part 1910.

The final base (100-year) flood elevations for selected locations are:

Source of flooding	Location	Elevation in feet, national geodetic vertical datum
Minnesota River	At downstream corporate limit.	740
	Just downstream of Minnesota Highway 19.	740
	Just upstream of Minnesota Highway 19.	741
	At upstream corporate limit	741

(National Flood Insurance Act of 1968 (Title XIII of Housing and Urban Development Act of 1968), effective January 28, 1969 (33 FR 17804, November 28, 1968), as amended; 42 U.S.C. 4001–4128; Executive Order 12127, 44 FR 19367; and delegation of authority to Federal Insurance Administrator, 44 FR 20963.)

Issued: April 18, 1979.

Gloria M. Jimenez,

Federal Insurance Administrator.

[FR Doc. 79-15739 Filed 5-21-79; 8:45 am]

BILLING CODE 4210-23-M

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24 CFR Part 1917

[Docket No. FI-4958]

Final Flood Elevation Determination for the City of St. Michael, Wright County, Minn., Under the National Flood Insurance Program

AGENCY: Office of Federal Insurance and Hazard Mitigation, FEMA.[1]

ACTION: Final rule.

SUMMARY: Final base (100-year) flood elevations are listed below for selected locations in the City of St. Michael, Wright County, Minnesota.

These base (100-year) flood elevations are the basis for the flood plain management measures that the community is required to either adopt or show evidence of being already in effect in order to qualify or remain qualified for participation in the National Flood Insurance Program (NFIP).

EFFECTIVE DATE: The date of issuance of the Flood Insurance Rate Map (FIRM), showing base (100-year) flood elevations, for the City of St. Michael, Wright County, Minnesota.

ADDRESSES: Maps and other information showing the detailed outlines of the flood prone areas and the final elevations for the City of St. Michael are available for review at the City Hall, St. Michael, Minnesota.

FOR FURTHER INFORMATION CONTACT: Mr. Richard Krimm, National Flood Insurance Program, (202) 755–5581 or Toll Free Line (800) 424–8872, Room 5270, 451 Seventh Street, SW., Washington, D.C. 20410.

SUPPLEMENTARY INFORMATION: The Federal Insurance Administration gives notice of the final determinations of flood elevations for the City of St. Michael, Wright County, Minnesota.

This final rule is issued in accordance with section 110 of the Flood Disaster Protection Act of 1973 (Pub. L. 93–234), 87 Stat. 980, which added section 1363 to the National Flood Insurance Act of 1968 (Title XIII of the Housing and Urban Development Act of 1968 (Pub. L. 90–448), 42 U.S.C. 4001–4128, and 24 CFR 1917.4(a)). An opportunity for the community or individuals to appeal this determination to or through the community for a period of ninety (90) days has been provided. No appeals of the proposed base flood elevations were received from the community or from individuals within the community.

The Administrator has developed criteria for flood plain management in flood-prone areas in accordance with 24 CFR Part 1910.

The final base (100-year) flood elevations for selected locations are:

Source of flooding	Location	Elevation in feet, national geodetic vertical datum
School Lake Creek	Eastern corporate limits	883
	550 feet upstream of eastern corporate limits.	883
	2,600 feet upstream of eastern corporate limits.	898
	70 feet downstream of Main Street.	916
	Just upstream of Main Street.	926
	3,500 feet upstream of Main Street.	927

(National Flood Insurance Act of 1968 (Title XIII of Housing and Urban Development Act of 1968), effective January 28, 1969 (33 FR 17804, November 28, 1968), as amended; 42 U.S.C. 4001–4128; Executive Order 12127, 44 FR 19367; and delegation of authority to Federal Insurance Administrator, 44 FR 20963.)

Issued: April 24, 1979.

Gloria M. Jimenez,

Federal Insurance Administrator.

[FR Doc. 79-15740 Filed 5-21-79; 8:45 am]

BILLING CODE 4210-23-M

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24 CFR Part 1917

[Docket No. FI-4954]

Final Flood Elevation Determination for the City of Monticello, Wright County, Minn., Under the National Flood Insurance Program

AGENCY: Office of Federal Insurance and Hazard Mitigation, FEMA.[1]

ACTION: Final rule.

SUMMARY: Final base (100-year) flood elevations are listed below for selected locations in the City of Monticello, Wright County, Minnesota.

These base (100-year) flood elevations are the basis for the flood plain management measures that the community is required to either adopt or show evidence of being already in effect in order to qualify or remain qualified for participation in the National Flood Insurance Program (NFIP).

EFFECTIVE DATE: The date of issuance of the Flood Insurance Rate Map (FIRM), showing base (100-year) flood elevations, for the City of Monticello, Wright County, Minnesota.

ADDRESSES: Maps and other information showing the detailed outlines of the flood-prone areas and the final elevations for the City of Monticello are available for review at the City Hall, Monticello, Minnesota.

FOR FURTHER INFORMATION CONTACT: Mr. Richard Krimm, National Flood Insurance Program, (202) 755–5581 or Toll Free Line (800) 424–8872, Room 5270, 451 Seventh Street SW., Washington, D.C. 20410.

SUPPLEMENTARY INFORMATION: The Federal Insurance Administrator gives notice of the final determinations of flood elevations for the City of Monticello, Wright County, Minnesota.

This final rule is issued in accordance with section 110 of the Flood Disaster Protection Act of 1973 (Pub. L. 93–234), 87 Stat. 980, which added section 1363 to the National Flood Insurance Act of 1968 (Title XIII of the Housing and Urban Development Act of 1968 (Pub. L. 90–448), 42 U.S.C. 4001–4128, and 24 CFR 1917.4(a)). An opportunity for the community or individuals to appeal this determination to or through the community for a period of ninety (90) days has been provided. No appeals of the proposed base flood elevations were received from the community or from individuals within the community.

The Administrator has developed criteria for flood plain management in flood-prone areas in accordance with 24 CFR Part 1910.

The final base (100-year) flood elevations for selected locations are:

Source of flooding	Location	Elevation in feet, national geodetic vertical datum
Mississippi River	Downstream corporate limits	897
	Just downstream of Pine Street bridge.	907
	At confluence with Otter Creek.	910
	Upstream corporate limits	918
Otter Creek	Just downstream of West River Street bridge.	912
	Just upstream of West River Street bridge.	913
	1200 feet upstream of West River Street bridge.	914
	Just downstream of Broadway Street bridge.	919
	400 feet upstream of Burlington Northern railroad bridge.	921
	Upstream corporate limits	923

(National Flood Insurance Act of 1968 (Title XIII of Housing and Urban Development Act of 1968), effective January 28, 1969 (33 FR 17804, November 28, 1968), as amended (42 U.S.C. 4001–4128); Executive Order 12127, 44 FR 19367; and delegation of authority to Federal Insurance Administrator, 44 FR 20963.)

Issued: April 24, 1979.

Gloria M. Jimenez,

Federal Insurance Administrator.

[FR Doc. 79-15741 Filed 5-21-79; 8:45 am]

BILLING CODE 4210-23-M

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24 CFR Part 1917

[Docket No. FI-4875]

Final Flood Elevation Determinations for the City of Vermillion, Dakota County, Minnesota, Under the National Flood Insurance Program

AGENCY: Office of Federal Insurance and Hazard Mitigation, FEMA.[1]

[1] The functions of the Federal Insurance Administration, Department of Housing and Urban Development, were transferred to the newly established Federal Emergency Management Agency by Reorganization Plan No. 3 of 1978 (43 FR 41943, September 19, 1978) and Executive Order 12127 (44 FR 19367, April 3, 1979).

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ACTION: Final rule.

SUMMARY: Final base (100-year) flood elevations are listed below for selected locations in the City of Vermillion, Dakota County, Minnesota.

These base (100-year) flood elevations are the basis for the flood plain management measures that the community is required to either adopt or show evidence of being already in effect in order to qualify or remain qualified for participation in the National Flood Insurance Program (NFIP).

EFFECTIVE DATE: The date of issuance of the Flood Insurance Rate Map (FIRM), showing base (100-year) flood elevations for the City of Vermillion, Dakota County, Minnesota.

ADDRESSES: Maps and other information showing the detailed outlines of the flood prone areas and the final elevations for the City of Vermillion, are available for review at the City Hall, Vermillion, Minnesota.

FOR FURTHER INFORMATION CONTACT: Mr. Richard Krimm, National Flood Insurance Program, (202) 755–5581 or Toll Free Line (800) 424–8872, Room 5270, 451 Seventh Street, SW., Washington, D.C. 20410.

SUPPLEMENTARY INFORMATION: The Federal Insurance Administrator gives notice of the final determinations of flood elevations for the City of Vermillion, Dakota County, Minnesota.

This final rule is issued in accordance with section 110 of the Flood Disaster Protection Act of 1973 (Pub. L. 93–234), 87 Stat. 980, which added section 1363 to the National Flood Insurance Act of 1968 (Title XIII of the Housing and Urban Development Act of 1968 (Pub. L. 90–448), 42 U.S.C. 4001–4128, and 24 CFR 1917.4(a)). An opportunity for the community or individuals to appeal this determination to or through the community for a period of ninety (90) days has been provided. No appeals of the proposed base flood elevations were received from the community or from individuals within the community.

The Administrator has developed criteria for flood plain management in flood prone areas in accordance with 24 CFR Part 1910.

The final base (100-year) flood elevations for selected locations are:

Source of flooding	Location	Elevation in feet, national geodetic vertical datum
Vermillion River	At northern corporate limits	830
	300 feet downstream from 190th Street East	834
	At western corporate limits	837

(National Flood Insurance Act of 1968 (Title XIII of Housing and Urban Development Act of 1968), effective January 28, 1979 (33 FR 17804, November 28, 1968), as amended; 42 U.S.C. 4001–4128; Executive Order 12127, 44 FR 19367; and delegation of authority to Federal Insurance Administrator, 44 FR 20963).)

Issued: April 17, 1979.

Gloria M. Jimenez,

Federal Insurance Administrator.

[FR Doc. 79–15742 Filed 5–21–79; 8:45 am]

BILLING CODE 4210–23–M

DEPARTMENT OF LABOR

Federal Mine Safety and Health Review Commission

29 CFR Part 2702

Freedom of Information Act Regulations; Interim Implementation Procedures

AGENCY: Federal Mine Safety and Health Review Commission.

ACTION: Adoption of interim procedures for implementing the Freedom of Information Act (5 U.S.C. 552).

SUMMARY: The Federal Mine Safety and Health Review Commission hereby adopts interim procedures for persons wishing to obtain information from the Commission under the Freedom of Information Act. The rule will be superseded by subsequent promulgation of formal rules under 5 U.S.C. 552(a)(1) and 5 U.S.C. 552(a)(4)(A). Publication of the formal rules will appear in a future edition of the **Federal Register**.

FOR FURTHER INFORMATION CONTACT: Dan R. DeLacy, Federal Mine Safety and Health Review Commission, Suite 602, 1730 K Street, N.W., Washington, D.C. 20006. Phone, (202) 653–5656.

SUPPLEMENTARY INFORMATION: The Federal Mine Safety and Health Review Commission is a newly-created independent agency with authority to adjudicate contests arising under the Federal Mine Safety and Health Act of 1977 (30 U.S.C. 801–960). It is the intent of the Commission members promptly to comply with the Freedom of Information Act (5 U.S.C. 552) and to make all designated information readily available to the public. Formal rules for the guidance of those seeking information from the Commission are being drafted and will subsequently be published in the **Federal Register**. In the interim, informal procedures have been developed which are hereby announced for the benefit of those who might seek to obtain information under the Freedom of Information Act prior to promulgation of the formal rules.

All requests for information should be in writing and should be mailed or delivered to Donald F. Terry, Executive Director, Federal Mine Safety and Health Review Commission, 6th Floor, 1730 K Street, N.W., Washington, D.C. 20006. The words "Freedom of Information Act Request" should be printed on the face of the envelope. Except in unusual circumstances a determination whether to comply with the request will be made by the Executive Director, with the consent of a majority of the Commissioners, within 10 working days of receipt. Appeals of adverse decisions may be made to the Chairman of the Commission, at the same address, within 10 working days. Determination of appeals will be made by the Chairman within 20 working days of receipt. Under these interim procedures, the usual cost for duplication of materials will be 10 cents per copied page.

Additional information about these procedures may be obtained by telephoning the Executive Director at (202) 653–5625.

Jerome R. Waldie,

Chairman, Federal Mine Safety and Health Review Commission.

[FR Doc. 79–15775 Filed 5–21–79; 8:45 am]

BILLING CODE 6820–12–M

DEPARTMENT OF THE TREASURY

Secret Service

31 CFR Part 408

Designation of Building and Grounds Constituting Temporary Residence of the President

AGENCY: Secret Service, Department of the Treasury.

ACTION: Final Rule.

SUMMARY: This document contains a revision of Part 408 to designate the building and grounds which constitute the temporary residence of the President.

EFFECTIVE DATE: May 22, 1979.

FOR FURTHER INFORMATION CONTACT: Robert O. Goff, Legal Counsel, United States Secret Service, Room 842, 1800 G Street, NW., Washington, D.C. 20223, 202–634–5771.

SUPPLEMENTARY INFORMATION: This document contains a revision of regulations located in 31 CFR Part 408. Part 408 is amended to designate the buildings and grounds which constitute the temporary residence of the President. The designation of the buildings and grounds and the regulations governing ingress or egress contained in this amendment are promulgated pursuant to the authority vested in the Secretary of the Treasury by the Act of January 2, 1971, 84 Stat. 1891 (18 U.S.C 1752). Title V of the Act of January 2, 1971, 84 Stat. 1891 (18 U.S.C. 1752) provides for the exercise of Federal criminal jurisdiction over certain conduct relating to the buildings and grounds designated in this amendment. It was enacted to enhance the physical security of the President and to provide for the orderly conduct of executive business when the President is absent from the Executive Mansion in Washington, D.C.

Drafting information. The principal author of this document was Robert O. Goff, Legal Counsel, United States Secret Service. However, personnel from the Office of the General Counsel, Department of the Treasury, exercised review authority.

Notice: Because this amendment merely designates the buildings and grounds of the temporary residence of the President, as required by 18 U.S.C. 1752, notice and public procedure thereon is found to be unnecessary and good cause exists for disposing with a delayed effective date under 5 U.S.C. 553.

Amendments to Regulations

Accordingly, Part 408 of Chapter IV of Subtitle B, Title 31, Code of Federal Regulations is hereby revised to read as follows:

CHAPTER IV—SECRET SERVICE, DEPARTMENT OF THE TREASURY

PART 408—DESIGNATION OF TEMPORARY RESIDENCE OF THE PRESIDENT AND TEMPORARY OFFICES OF THE PRESIDENT AND HIS STAFF—RULES GOVERNING ACCESS

Sec.

408.1 Authority.
408.2 Designation.
408.3 Rules Governing Access.

Authority.—18 U.S.C. 1752 (84 Stat. 1891).

§ 408.1 Authority.

The designation of the buildings and grounds in this part which constitute the temporary residence of the President and the temporary offices of the President and his staff and the regulations governing access to such buildings and grounds and to posted, cordoned off, or otherwise restricted areas where the President is or will be temporarily visiting are promulgated pursuant to the authority vested in the Secretary of the Treasury by 18 U.S.C. 1752 (84 Stat. 1891).

§ 408.2 Designation.

(a) For the purpose of 18 U.S.C. 1752, the buildings and grounds which constitute temporary residence of the President are as follows:

Plains, Georgia Home. All buildings and property bordered by and within the perimeter as defined in the following real property description.

Commence at the West line of Woodland Drive and the North line of Church Street (U.S. Highway 280), Woodland Drive having a 45-foot right-of-way and Church Street having a 60-foot right-of-way, City of Plains, Sumter County, Georgia, said point being an iron pin and the point of beginning;
Thence North 88°06'38" West along the North right-of-way of Church Street 288.35 feet to a point, being an iron pin;
Thence North 01°34'05" East along the East property line of Thad Jones 303.78 feet to a point, being an iron pin;
Thence North 88°38'58" West along the North property line of Thad Jones 86.00 feet to a point, being an iron pin;
Thence North 01°25'11" East along the East property line of Thad Jones and Billy Carter 264.00 feet to a point being a concrete monument;
Thence South 88°38'58" East along the South property line of Homer Harris 397.07 feet to a point lying in the West right-of-way line of Woodland Drive;
Thence South 01°30'48" West along the West right-of-way line of Woodland Drive 277.25 feet to a point being an iron pin and more particularly the point of curvature (P.C.) of a circular curve to the right;
Thence along an arc for a distance of 258.59 feet to a point being the point of tangency, being an iron pin, the arc having a radius of 1887.36 feet with central angle being located North 88°29'12" West a perpendicular distance of 1887.36 feet from the point of curvature and with chord bearing and measurement of South 05°26'18" West a distance of 258.38 feet;
Thence South 09°21'48" West along the West right-of-way of Woodland Drive for a distance of 35.86 feet to an iron pin and the point of beginning.
Property lying in land lot 49, 26th Land District, city of Plains, Sumter County, Georgia, and containing 4.51 acres.
Bearings are referenced to magnetic North.
Streets referred to herein are shown on plat of survey titled "State Highway Department of Georgia, Right-of-Way Map," Project "OR2068 Sumter," dated 12/30/71, recorded in Deed Book 122, page 436, Clerk of Court, Sumter County, Georgia.

§ 408.3 Rules governing access.

(a) For the purposes of 18 U.S.C. 1752 (84 Stat. 891), ingress or egress to or from the buildings or grounds designated in § 408.2 and any posted, cordoned off, or otherwise restricted areas of a building or grounds where the President is or will be temporarily visiting is authorized only for the following persons:

(1) Invitees: Persons invited by or having appointments with the President, the President's family, or members of the President's staff,

(2) Members of the President's family and staff,

(3) Military and Communications Personnel assigned to the Office of the President,

(4) Federal, State and local law enforcement personnel engaged in the performance of their official duties and other persons, whose presence is necessary to provide services or protection for the premises or persons therein.

(b) Authorized persons must possess and display identification documents issued by or satisfactory to the United States Secret Service.

(c) Unauthorized entry is prohibited.

H. S. Knight,

Director.

Approved: May 8, 1979.

Richard J. Davis.

Assistant Secretary (Enforcement & Operations)

[FR Doc. 79–15925 Filed 5–21–79; 8:45 am]

BILLING CODE 4810–42–M

ENVIRONMENTAL PROTECTION AGENCY

40 CFR Part 65

[FRL 1217–4]

Delayed Compliance Order; Approval of a Delayed Compliance Order Issued by the Connecticut Department of Environmental Quality to New Haven Trap Rock—Tomasso

AGENCY: Environmental Protection Agency.

ACTION: Final rule.

SUMMARY: The Administrator of EPA hereby approves a Delayed Compliance Order issued by the Connecticut Department of Environmental Protection to New Haven Trap Rock—Tomasso. The Order requires the company to bring air emissions from its asphalt batching plant at Portland, Connecticut into compliance with certain regulations contained in the federally-approved Connecticut State Implementation Plan (SIP). Because of the Administrator's approval, New Haven Trap Rock—Tomasso compliance with the Order will preclude suits under the federal enforcement and citizen suit provisions of the Clean Air Act for violation(s) of

§ 5–1.000 Scope of part.

§ 5–1.105 Exclusions.

(c) When GSPR 5 supplements the

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the SIP regulations covered by the Order during the period the Order is in effect.

DATES: This rule takes effect on May 22, 1979.

FOR FURTHER INFORMATION CONTACT: Michael Gurchin at (617) 223–5061 or engineer Steven Fradkoff at (617) 223–5610, both at the following address: U.S. Environmental Protection Agency, J.F.K. Federal Building, Room 2103, Boston, MA 02203.

ADDRESS: A copy of the Delayed Compliance Order, any supporting material, and any comments received in response to prior **Federal Register** notice proposing approval of the Order are available for public inspection and copying during normal business hours at the address indicated above.

SUPPLEMENTARY INFORMATION: On January 19, 1979, the Regional Administrator of EPA's Region I Office published in the **Federal Register**, 44 FR 3996, a notice proposing approval of a delayed compliance order issued by the Connecticut Department of Environmental Protection to New Haven Trap Rock—Tomasso. The notice asked for public comments by February 20, 1979 on EPA's proposed approval of the Order. No public comments were received in response to the proposal notice.

Therefore, the delayed compliance order issued to New Haven Trap Rock—Tomasso is approved by the Administrator of EPA pursuant to the authority of Section 113(d)(2) of the Clean Air Act, 42 U.S.C. 7414(d)(2). The Order places New Haven Trap Rock—Tomasso on a schedule to bring its asphalt batching plant at Portland, Connecticut into compliance as expeditiously as practicable with Section 19–508–5(e) of the Connecticut Regulations for the Abatement of Air Pollution, a part of the federally-approved Connecticut State Implementation Plan. The Order also imposes interim requirements which meet Sections 113(d)(1)(C) and 113(d)(7) of the Act, and emission monitoring and reporting requirements. If the conditions of the Order are met, it will permit New Haven Trap Rock—Tomasso to delay compliance with the SIP regulations covered by the Order until May 15, 1979. The company is unable to immediately comply with these regulations.

Because the Order has been approved by EPA, compliance with its terms will preclude federal enforcement action under Section 113 of the Act for violations of the SIP regulations covered by the Order during the period the Order is in effect. Citizen suits under Section 304 of the Act are similarly precluded. If the Administrator determines that New Haven Trap Rock—Tomasso is in violation of a requirement contained in the Order, one or more of the actions required by Section 113(d)(9) of the Act will be initiated. Publication of this notice of final rulemaking constitutes final Agency action for the purposes of judicial review under Section 307(b) of the Act.

EPA has determined that its approval of the Order shall be effective upon publication of this notice because of the need to immediately place New Haven Trap Rock—Tomasso on a schedule which is effective under the Clean Air Act for compliance with the applicable requirement(s) of the Connecticut State Implementation Plan.

(42 U.S.C. 7413(d), 7601)

Dated: May 14, 1979.

Douglas M. Costle,

Administrator.

In consideration of the foregoing, Chapter 1 of Title 40 of the Code of Federal Regulations is amended as follows:

PART 65—DELAYED COMPLIANCE ORDERS

By adding the following entry to the table in § 65.111:

§ 65.111 EPA Approval of State delayed compliance orders issued to major stationary sources.

* * * * *

Source	Location	Order No.	SIP regulation(s) involved	Date of FR proposal	Final compliance date
*	*	*	*	*	*
New Haven Trap Rock—Tomasso.	Portland, Conn.	698	19–508–5(e)	Jan. 19, 1979	May 15, 1979
*	*	*	*	*	*

[FR Doc. 79–15995 Filed 5–21–79; 8:45 am]

BILLING CODE 6560–01–M

GENERAL SERVICES ADMINISTRATION

41 CFR Parts 5–1, 5A–1, 5B–1

Reestablishment of Chapter 5 and Change in Issuing Authority for Chapters 5A and 5B; Establishment of the Office of Acquisition Policy and GSA-Wide Responsibilities for Acquisition Policy

AGENCY: General Services Administration.

ACTION: Final rule.

SUMMARY: Chapter 5, General Services Administration Procurement Regulations (GSPR), is reestablished, and the issuing authorities for Chapters 5A and 5B are changed. These actions reflect the establishment of the Office of Acquisition Policy and its GSA-wide responsibilities for acquisition policy. These changes will permit the Assistant Administrator for Acquisition Policy to carry out the responsibilities of the Office of Acquisition Policy.

EFFECTIVE DATE: May 9, 1979.

FOR FURTHER INFORMATION CONTACT: Philip G. Read, Director, Federal Procurement Regulations Directorate, Office of Acquisition Policy, 703–557–8947.

A new Chapter 5, General Services Administration, is established and a new Part 5–1, General, is added to Title 41 of the Code of Federal Regulations which reads as follows:

CHAPTER 5—GENERAL SERVICES ADMINISTRATION

[APD 2800.2]

Table of Parts

Part

5–1 General.

PART 5–1—GENERAL

Sec.

5–1.000 Scope of part.

Subpart 5–1.1—Introduction

5–1.101 Scope of subpart.
5–1.102 Purpose.
5–1.103 Authority.
5–1.104 Applicability.
5–1.105 Exclusions.
5–1.106 Issuance.
5–1.107 Arrangement.
5–1.107–1 General plan.
5–1.107–2 Numbering.
5–1.107–3 Citation.
5–1.107–4 Cross-references.
5–1.108 [Reserved]
5–1.109 Deviation.

Authority: Sec. 205(c), 63 Stat. 390; (40 U.S.C. 486(c)).

§ 5–1.000 Scope of part.

This part describes the method by which the General Services Administration implements and supplements the Federal Procurement Regulations (FPR). It contains procedures which implement and supplement Part 1–1 of the FPR.

Subpart 5–1.1—Introduction

§ 5–1.101 Scope of subpart.

This subpart sets forth introductory information pertaining to the General Services Administration Procurement Regulations (GSPR 5).

§ 5–1.102 Purpose.

This subpart establishes the General Services Administration Procurement Regulations (GSPR 5) which, together with the Federal Procurement Regulations, govern the procurement by GSA of personal property and nonpersonal services (including construction).

§ 5–1.103 Authority.

The General Services Administration Procurement Regulations (GSPR 5) are prescribed by the Assistant Administrator for Acquisition Policy in Chapter 5, Title 41, Code of Federal Regulations, under the authority of the Federal Property and Administrative Services Act of 1949, as amended.

§ 5–1.104 Applicability.

(a) GSPR 5 applies to all purchases and contracts made by the General Services Administration for the procurement of personal property and nonpersonal services (including construction). Unless otherwise specified, GSPR 5 applies to purchases and contracts within and outside the United States.

(b) GSPR 5 implements and supplements the FPR and is part of the Federal Procurement Regulations System. Amendments published in the FPR (which has Government-wide applicability) become effective throughout GSA upon the effective date of the particular FPR amendment. The FPR generally will not be repeated, paraphrased, or otherwise restated in GSPR 5.

(c) Implementing regulations are those which expand upon related FPR policies and procedures. Supplementing regulations are those for which there are no counterparts in the FPR.

(d) Regulations in GSPR 5 may deviate from the FPR when a deviation (see § 5–1.109) is explicitly authorized. When GSPR 5 contains no regulation which implements the FPR, the FPR alone will govern.

§ 5–1.105 Exclusions.

(a) Certain GSA procurement policies and procedures which come within the scope of this GSPR 5 nevertheless may be excluded when justified. These exclusions may include the following categories:

(1) Subject matter which bears a security classification.

(2) Policies or procedures which are expected to be effective for a period of less than 6 months.

(3) Policies or procedures which are effective on an experimental basis for a reasonable period.

(4) Policies and procedures pertaining to other functions of GSA as well as to procurement functions and for which there is need to make the directive available simultaneously to all GSA employees concerned.

(5) When speed of issuance is essential, numerous changes are required in GSPR 5, and all necessary changes cannot be made promptly.

(b) Procurement policies and procedures issued in other than the FPR system format under paragraphs (a) (4) and (5) of this section will be codified in GSPR 5 at the earliest practicable date.

§ 5–1.106 Issuance.

(a) GSPR 5 regulations are published in the **Federal Register.** Related policies and procedures also may be published in the **Federal Register.**

(b) GSPR 5 regulations which are published in the **Federal Register** will appear in cumulative form in Chapter 5, Title 41, Code of Federal Regulations, and may be purchased from the Superintendent of Documents, U.S. Government Printing Office, Washington, DC 20402.

(c) GSPR 5 is issued in loose-leaf form on buff paper stock.

§ 5–1.107 Arrangement.

§ 5–1.107–1 General plan.

GSPR 5 is divided into parts, subparts, sections, subsections, and further subdivisions as necessary.

§ 5–1.107–2 Numbering

(a) The numbering system used in GSPR 5 conforms to the FPR System (see § 1–1.007–2). A particular policy or procedure is identified by the same number in both the FPR and GSPR 5, except that the first digit of the number is either 1 (FPR) or 5 (GSPR).

(b) When GSPR 5 implements a part, subpart, section or subsection of the FPR, the implementing part, subpart, section, or subsection of GSPR 5 is numbered (and captioned) to correspond to the FPR part, subpart, section, or subsection.

(c) When GSPR 5 supplements the FPR and thus deals with subject matter not contained in the FPR, numbers in the group 50 through 69 are assigned to the supplementing part, subpart, section, or subsection.

(d) When the subject matter contained in an FPR part, subpart, section, or subsection requires no implementation, GSPR 5 will not contain a corresponding part, subpart, section, or subsection. This will result in some gaps in the GSPR 5 series of part, subpart, section, or subsection numbers. In such cases, reference must be made to the FPR for applicable policies and procedures.

§ 5–1.107–3 Citation.

(a) In formal documents, such as legal briefs, citations of GSPR 5 material shall include an appropriate reference to Title 41 of the Code of Federal Regulations; e.g., "41 CFR ——."

(b) Any section of GSPR 5, for purpose of brevity, may be informally identified as "GSPR 5" followed by the section number. For example, this paragraph would be identified as "GSPR 5–1.107–3(b)."

§ 5–1.107–4 Cross-references.

(a) In GSPR 5, cross-references to the FPR are made in the same manner as in the FPR. Illustrations of cross-references to the FPR are:

(1) Part 1–3.

(2) Subpart 1–3.1.

(3) § 1–3.413.

(b) In GSPR 5, cross-references to parts, subparts, and sections of GSPR 5 are made in the same manner as in the FPR. For example, this paragraph would be referenced as "§ 5–1.107–4(b)."

§ 5–1.108 [Reserved]

§ 5–1.109 Deviation.

(a) The term "deviation" as used in this GSPR 5 has the same meaning as in § 1–1.009–1.

(b) In order to maintain maximum uniformity, deviations from GSPR 5 or the FPR will be kept to a minimum and controlled as follows:

(1) Deviations by GSA activities from GSPR 5 or the FPR in individual cases may be approved at a level no lower than the Head of the responsible Central Office Service or Staff Office. The file shall disclose the nature of the deviation and the reasons for the action. A copy of the deviation approval and disclosure shall be furnished to the Office of Acquisition Policy (APR).

(2) Deviations by GSA activities from the FPR in classes of cases may be approved only by the Administrator of General Services.

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disclose the nature of the deviation and

implement and supplement Part 1–1 of

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(3) Deviations by GSA activities from GSPR 5 in classes of cases may be approved only by the Assistant Administrator for Acquisition Policy (AP). These deviations will expire in 12 months if not extended. They may be rescinded earlier without prejudice to any action previously taken.

(c) Class deviation requests shall be supported by statements which fully disclose the need for and the nature of the deviation.

(d) When a deviation from a GSPR 5 or an FPR contract form provision is authorized, physical changes may not be made in the printed form (except as otherwise authorized). Changes shall be made by appropriate provisions in the schedule, specifications, or on a continuation sheet, as appropriate.

CHAPTER 5A—OFFICE OF ACQUISITION POLICY, GENERAL SERVICES ADMINISTRATION

[APD 2800.3]

1. The table of contents for Part 5A–1 is amended by revising the following entries:

Sec.
5A–1.102 Purpose.
5A–1.103 Authority.
5A–1.105 Exclusions.
5A–1.106 Issuance.
5A–1.107–3 Citation.
5A–1.107–4 Cross-references.
5A–1.108 [Reserved]
* * * * *

PART 5A–1—GENERAL

2. Section 5A–1.000 is revised as follows:

§ 5A–1.000 Scope of part.

This part describes the method by which the General Services Administration implements and supplements the Federal Procurement Regulations (FPR) and the General Services Administration Procurement Regulations (GSPR 5) for the procurement of personal property and nonpersonal services. It contains policies and procedures which implement and supplement Part 1–1 of the FPR and Part 5–1 of the GSPR.

3. Subpart 5A–1.1 is revised as follows:

Subpart 5A–1.1—Introduction

§ 5A–1.101 Scope of subpart.

This subpart sets forth introductory information pertaining to the General Services Administration Procurement Regulations (GSPR 5A).

§ 5A–1.102 Purpose.

This subpart establishes the General Services Administration Procurement Regulations (GSPR 5A) which, together with the FPR and GSPR 5 govern the procurement by GSA of personal property and nonpersonal services (other than covered by GSPR 5B).

§ 5A–1.103 Authority.

The General Services Administration Procurement Regulations (GSPR 5A) are prescribed by the Assistant Administrator for Acquisition Policy in Chapter 5A, Title 41, Code of Federal Regulations, under the authority of the Federal Property and Administrative Services Act of 1949, as amended, with the assistance of the Commissioner, Federal Supply Service (FSS), and the Commissioner, Automated Data and Telecommunications Service (ADTS).

§ 5A–1.104 Applicability.

(a) GSPR 5A applies to all purchases and contracts for the procurement of personal property and nonpersonal services (other than covered by GSPR 5B). GSPR 5B pertains to contracts for leases of space (to the extent specifically provided) and nonpersonal services (involving construction, architects and engineers, and building services).

(b) GSPR 5A implements and supplements GSPR 5 and the FPR and is part of the Federal Procurement Regulations System. Amendments published in GSPR 5 or the FPR become effective throughout GSA on the effective date of the particular amendment. The GSPR 5 or the FPR generally will not be repeated, paraphrased, or otherwise restated in GSPR 5A.

(c) Implementing regulations are those which expand upon related GSPR 5 and FPR policies and procedures. Supplementing regulations are those for which there are no counterparts in GSPR 5 and the FPR.

(d) Regulations in GSPR 5A may deviate from a GSPR 5 or FPR provision when a deviation (see § 5A–1.109) is explicitly authorized. When GSPR 5A contains no regulations which implement GSPR 5 or the FPR, the GSPR 5 and/or the FPR will govern.

§ 5A–1.105 Exclusions.

(a) Certain procurement policies and procedures which come within the scope of this GSPR 5A nevertheless may be excluded when justified. These exclusions include the following categories:

(1) Subject matter which bears a security classification.

(2) Policies or procedures which are expected to be effective for a period of less than 6 months.

(3) Policies and procedures which ar effective on an experimental basis for a reasonable period.

(4) Policies or procedures pertaining to other functions of GSA as well as to procurement functions and there is need to make the directive available simultaneously to all employees concerned.

(5) When speed of issuance is essential, numerous changes are required, and all necessary changes cannot be made promptly.

Policies and procedures under (1), (2), (3), and (5) will be handled on an informal basis by the Assistant Administrator for Acquisition Policy.

(b) Procurement policies and procedures issued in other than the FPR System format under paragraphs (a) (4) and (5) of this section will be codified in GSPR 5A at the earliest practicable date.

(c) One copy of each locally issued procurement policy and/or procedure shall be furnished to the General Services Administration (APR), Washington, DC 20405.

§ 5A–1.106 Issuance.

(a) GSPR 5A regulations deemed necessary for business concerns and others to do business with GSA are published in the **Federal Register.** Related policies and procedures also may be published in the **Federal Register.**

(b) GSPR 5A regulations which are published in the **Federal Register** will appear in cumulative form in Chapter 5A, Title 41, Code of Federal Regulations, and may be purchased from the Superintendent of Documents, U.S. Government Printing Office, Washington, DC 20402.

(c) GSPR 5A is issued in loose-leaf form on blue paper stock.

§ 5A–1.107 Arrangement.

§ 5A–1.107–1 General plan.

GSPR 5A is divided into parts, subparts, sections, subsections, and further subdivisions as necessary.

§ 5A–1.107–2 Numbering.

(a) The numbering system used in GSPR 5A conforms to the FPR System (see § 1–1.007–2). A particular policy or procedure is identified by the same number in GSPR 5 or the FPR, except that the first digit-letter which appears is 5A.

(b) When 5A implements a part, subpart, section or subsection of GSPR 5 or the FPR, the implementing part, subpart, section, or subsection of GSPR 5A is numbered (and captioned) to correspond to the FPR or GSPR 5 part, subpart, section, or subsection.

(c) When GSPR 5A supplements GSPR 5 or the FPR and thus deals with subject matter not contained in GSPR 5 or the FPR, numbers in the group 50 through 89 will be assigned to the supplementing part, subpart, section, or subsection.

(d) When the subject matter contained in a part, subpart, section, or subsection of GSPR 5 or the FPR requires no implementation, GSPR 5A will contain no corresponding part, subpart, section, or subsection. Thus, there may be gaps in GSPR 5A series of part, subpart, section, or subsection numbers. In such cases, reference must be made to the GSPR 5 or the FPR for applicable policies and procedures.

§ 5A–1.107–3 Citation.

(a) In formal documents, such as legal briefs, citations of GSPR 5A material shall include an appropriate reference to Title 41 of the Code of Federal Regulations; e.g., "41 CFR ——" when the material has been published in the **Federal Register.**

(b) Any section of GSPR 5A, for purpose of brevity, may be informally identified as "GSPR 5A" followed by the section number. For example, this paragraph would be identified as "GSPR 5A–1.107–3(b)."

§ 5A–1.107–4 Cross-references.

(a) In GSPR 5A, cross-references to GSPR 5 or the FPR are made in the same manner as in the FPR. Illustrations of cross-references to GSPR 5 or the FPR are:

(1) Part 5–3 or 1–3.
(2) Subpart 5–3.1 or 1–3.1.
(3) Section 5–3.413 or § 1–3.413.

(b) In GSPR 5A, cross-references to parts, subparts, and sections of GSPR 5A are made in the same manner as in GSPR 5 or the FPR. For example, this paragraph would be referenced as "§ 5A–1.107–4(b)."

§ 5A–1.108 [Reserved]

§ 5A–1.109 Deviation.

(a) The term "deviation" as used in this GSPR 5A, has the same meaning as in § 1–1.009–1.

(b) In order to maintain maximum uniformity, deviations from GSPR 5 or the FPR will be kept to a minimum and controlled as follows:

(1) Deviations by GSA activities from GSPR 5A in individual cases may be approved at a level no lower than the Head of the responsible Central Office Service or Staff Office. The file shall disclose the nature of the deviation and the reasons for the action. A copy of the deviation approval and disclosure shall be furnished to the Office of Acquisition Policy (APR).

(2) Deviations by GSA activities from GSPR 5A in classes of cases may be approved only by the Assistant Administrator for Acquisition Policy (AP). These deviations may be extended, but will expire in 12 months if not extended. They may be rescinded earlier without prejudice to any action previously taken.

(c) Class deviation requests shall be supported by statements which fully disclose the need for and the nature of the deviation.

(d) When a deviation from a GSPR 5A contract form provision is authorized, physical changes may not be made on the printed form (except as otherwise authorized). Changes shall be made by appropriate provisions in the schedule, specifications, or on a continuation sheet, as appropriate.

CHAPTER 5B—OFFICE OF ACQUISITION POLICY, GENERAL SERVICES ADMINISTRATION

[APD 2800.4]

1. The table of contents for Part 5B–1 is amended by revising the following entries:

Subpart 5B–1.1—Introduction

Sec.
5B–1.101 Scope of subpart.
5B–1.102 Purpose.
5B–1.103 Authority.
5B–1.104 Applicability.
5B–1.105 Exclusions.
5B–1.106 Issuance.
5B–1.107 Arrangement.
5B–1.107–1 General plan.
5B–1.107–2 Numbering.
5B–1.107–3 Citation.
5B–1.107–4 Cross-references.
5B–1.108 [Reserved]
5B–1.109 Deviation.
* * * * *

PART 5B–1—GENERAL

2. Section 5B–1.000 is revised as follows:

§ 5B–1.000 Scope of part.

This part describes the method by which the General Services Administration implements and supplements the Federal Procurement Regulations (FPR) and the General Services Administration Procurement Regulations (GSPR 5) for the procurement of leases of space and nonpersonal services. It contains policies and procedures which implement and supplement Part 1–1 of the FPR and Part 5–1 of GSPR.

3. Subpart 5B–1.0 is redesignated as Subpart 5B–1.1 and revised to read as follows:

Subpart 5B–1.1—Introduction

§ 5B–1.101 Scope of subpart.

This subpart sets forth introductory information pertaining to the General Services Administration Procurement Regulations (GSPR 5B).

§ 5B–1.102 Purpose.

This subpart establishes the General Services Administration Procurement Regulations (GSPR 5B) which, together with the FPR and GSPR 5 govern the procurement by GSA of leases of space (to the extent specifically provided) and nonpersonal services (involving construction, architects and engineers, and building services).

§ 5B–1.103 Authority.

(a) The General Services Administration Procurement Regulations (GSPR 5B) are prescribed by the Assistant Administrator for Acquisition Policy in Chapter 5B, Title 41, Code of Federal Regulations, under the authority of the Federal Property and Administrative Services Act of 1949, as amended, with the assistance of the Commissioner, Public Buildings Service (PBS).

§ 5B–1.104 Applicability.

(a) GSPR 5B applies to all purchases and contracts for the procurement of leases of space (to the extent specifically provided) and nonpersonal services (involving construction, architects and engineers, and building services).

(b) GSPR 5B implements and supplements GSPR 5 and the FPR and is part of the Federal Procurement Regulations System. Amendments published in GSPR 5 or the FPR become effective throughout GSA on the effective date of the particular amendment. The GSPR 5 or the FPR generally will not be repeated, paraphrased, or otherwise stated in GSPR 5B.

(c) Implementing regulations are those which expand upon related GSPR 5 and FPR policies and procedures. Supplementing regulations are those for which there are no counterparts in GSPR 5 and the FPR.

(d) Material in GSPR 5B may deviate from a GSPR 5 or FPR provision when a deviation (see § 5B–1.109) is explicitly authorized. When GSPR 5B contains no regulation which implements GSPR 5 or

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the FPR, the GSPR 5 and/or the FPR will govern.

§ 5B–1.105 Exclusions.

(a) Certain procurement policies and procedures which come within the scope of this GSPR 5B nevertheless may be excluded when justified. These exclusions include the following categories:

(1) Subject matter which bears a security classification.

(2) Policies or procedures which are expected to be effective for a period of less than 6 months.

(3) Policies or procedures which are effective on an experimental basis for a reasonable period.

(4) Policies or procedures pertaining to other functions of GSA as well as to procurement functions and there is need to make the directive available simultaneously to all employees concerned.

(5) When speed of issuance is essential, numerous changes are required, and all necessary changes cannot be made promptly.

Policies and procedures under (1), (2), (3) and (5) will be handled on an informal basis by the Assistant Administrator for Acquisition Policy.

(b) Procurement policies and procedures issued in other than the FPR System format under paragraphs (a) (4) and (5) of this section will be codified in GSPR 5B at the earliest practicable date.

(c) One copy of each locally issued procurement policy and/or procedure shall be furnished to the General Services Administration (APR), Washington, DC 20405.

§ 5B–1.106 Issuance.

(a) GSPR 5B regulations deemed necessary for business concerns and others to do business with GSA are published in the Federal Register. Related policies and procedures also may be published in the Federal Register.

(b) GSPR 5B regulations which are published in the Federal Register will appear in cumulative form in Chapter 5B, Title 41, Code of Federal Regulations, and may be purchased from the Superintendent of Documents, Government Printing Office, Washington, DC 20402.

(c) GSPR 5B is issued in looseleaf form on green paper stock.

§ 5B–1.107 Arrangement.

§ 5B–1.107–1 General plan.

Chapter 5B is divided into parts, subparts, sections, subsections, and further subdivisions as necessary.

§ 5B–1.107–2 Numbering.

(a) The numbering system used in GSPR 5B conforms to the FPR System (see §–1–1.007–2). A particular policy or procedure is identified by the same number as in GSPR 5 or the FPR, except that the first digit-letter which appears is 5B.

(b) When GSPR 5B implements a part, subpart, section or subsection of GSPR 5 or the FPR, the implementing part, subpart, section or subsection to GSPR 5B is numbered (and captioned) to correspond to the FPR or GSPR 5 part, subpart, section, or subsection.

(c) When GSPR 5 supplements GSPR 5 or the FPR and thus deals with subject matter not contained in the GSPR 5 or the FPR, numbers in the group 50 through 89 will be assigned to the supplementing part, subpart, section, or subsection.

(d) When the subject matter contained in a part, subpart, section, or subsection of GSPR 5 or the FPR requires no implementation, GSPR 5B will contain no corresponding part, subpart, section, or subsection. Thus, there may be gaps in the GSPR 5B series of part, subpart, section or subsection numbers. In such cases, reference must be made to GSPR 5 or the FPR for applicable policies and procedures.

§ 5B–1.107–3 Citation.

(a) In formal documents, such as legal briefs, citations of GSPR 5B material shall include an appropriate reference to Title 41 of the Code of Federal Regulations; e.g., "41 CFR ——" when the material has been published in the Federal Register.

(b) Any section of GSPR 5B, for purpose of brevity, may be informally identified as "GSPR 5B" followed by the section number. For example, this paragraph would be identified as "GSPR 5B–1.107–3(b)."

§ 5B–1.107–4 Cross-references.

(a) In GSPR 5B, cross-references to GSPR 5 or the FPR are made in the same manner as in the FPR. Illustrations of cross-references to GSPR 5 or the FPR are:

(1) Part 5–3 or 1–3.

(2) Subpart 5–3.1 or 1–3.1.

(3) Section 5–3.413 or § 1–3.413.

(b) In GSPR 5B, cross-references to parts, subparts, and sections of GSPR 5B are made in the same manner as in GSPR 5 or the FPR. For example, this paragraph would be referenced as "§ 5B–1.107–4(b)."

§ 5B–1.108 [Reserved]

§ 5B–1.109 Deviation.

(a) The term "deviation", as used in this GSPR 5B has the same meaning as in § 1–1.009–1.

(b) In order to maintain maximum uniformity, deviations from GSPR 5B will be kept to a minimum and controlled as follows:

(1) Deviations by GSA activities from GSPR 5B in individual cases may be approved at a level no lower than the Head of the responsible Central Office Service or Staff Office. The file shall disclose the nature of the deviation and the reasons for the action. A copy of the deviation approval and disclosure shall be furnished to the Office of Acquisition Policy (APR).

(2) Deviations by GSA activities from GSPR 5B in classes of cases may be approved only by the Assistant Administrator for Acquisition Policy (AP). These deviations will expire in 12 months if not extended. They may be rescinded earlier without prejudice to any action previously taken.

(c) Class deviation requests shall be supported by statements which fully disclose the need for and the nature of the deviation.

(d) When a deviation from a GSPR 5B contract form provision is authorized, physical changes may not be made in the printed form (except as otherwise authorized). Changes shall be made by appropriate provisions in the schedule, specifications, or on a continuation sheet, as appropriate.

(Sec. 205(c), 63 Stat. 390; (40 U.S.C. 486(c))

Dated: May 9, 1979.

Dale R. Babione,

Assistant Administrator for Acquisition Policy.

[FR Doc. 79–15872 Filed 5–21–79; 8:45 am]

BILLING CODE 6820–61–M

Proposed Rules

Federal Register
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Tuesday, May 22, 1979

This section of the FEDERAL REGISTER contains notices to the public of the proposed issuance of rules and regulations. The purpose of these notices is to give interested persons an opportunity to participate in the rule making prior to the adoption of the final rules.

OFFICE OF PERSONNEL MANAGEMENT

[5 CFR Part 620]

Alternative Work Schedules Experiments By Federal Agencies

AGENCY: Office of Personnel Management.

ACTION: Proposed rulemaking.

SUMMARY: Under the authority granted by Pub. L. 95–390, the Federal Employees Flexible and Compressed Work Schedules Act of 1978, the Office of Personnel Management is proposing regulations for its implementation. These regulations are intended to establish a basic framework for a program of temporary experimentation with alternative work schedules by Federal agencies.

DATE: Comments must be received on or before July 23, 1979.

ADDRESSES: Send written comments to Mr. Raymond C. Weissenborn, Director, Compensation Division, Office of Personnel Management, Washington, D.C. 20415.

FOR FURTHER INFORMATION CONTACT:

James J. Hesling (202) 632–5604.

SUPPLEMENTARY INFORMATION:

Section 6101 of title 5, United States Code requires Federal agencies to establish an 8-hour day and 40-hour workweek for most employees. However, Pub. L. 95–390 authorizes a 3-year experimental program which permits agencies to establish flexible and compressed employee work schedules without regard to this normal scheduling requirement. Pub. L. 95–390 modifies only the overtime provisions of the Fair Labor Standards Act and overtime and night differential provisions of title 5, United States Code, for the purpose of allowing experiments with variations to traditional work schedules. These regulations implement Pub. L. 95–390. Except to the extent provided in Pub. L. 95–390 and these regulations, employees covered under the experimental program otherwise retain existing statutory entitlements to premium pay, leave and holidays.

Accordingly, the Office of Personnel Management is proposing to add to Title 5 of the Code of Federal Regulations a new Part 620, as set forth below:

PART 620—ALTERNATIVE WORK SCHEDULES EXPERIMENTS

Subpart A—General Statutory Basis

Sec.
620.101 General.
620.102 Statute.

Subpart B—Master Plan [Reserved]

Subpart C—Regulatory Requirements of the Office of Personnel Management

Sec.
620.301 General.
620.302 Coverage.
620.303 Requirement for time-accounting method.
620.304 Limitation on compensatory time off.
620.305 Holiday for part-time employees on flexible schedules.
620.306 Required participation.

Authority: Pub. L. 95–390; 925 Stat. 755, 5 U.S.C. 6101 note; Reorganization Plan No. 2 of 1978.

Subpart A—General Statutory Basis

§ 620.101 General.

Pub. L. 95–390, the Federal Employees Flexible and Compressed Work Schedules Act of 1978, approved September 29, 1978, provides for a program of temporary experimentation with alternative work schedules by Federal agencies. This part contains the statutory and regulatory requirements for this program.

§ 620.102 Statute.

The text of the relevant portions of Pub. L. 95–390 is provided in this subpart. Pursuant to Reorganization Plan No. 2 of 1978, the references in Pub. L. 95–390 to the United States Civil Service Commission are followed by the name of the appropriate organization, i.e., the Office of Personnel Management ("Office") or the Merit Systems Protection Board ("Board").

Definitions

Sec. 3. For purposes of this Act (other than title IV)—

(1) the term "agency" means an Executive agency and a military department (as such terms are defined in sections 105 and 102, respectively, of title 5, United States Code);

(2) the term "employ" has the meaning given it by section 2105 of title 5, United States Code;

(3) the term "Commission" ["Office" or "Board"] means the Untied States Civil Service Commission (the Office of Personnel Management or the Merit System Protection Board, as appropriate) and

(4) the term "basic work requirement" means the number of hours, excluding overtime hours, which an employee is required to work or is required to account for by leave or otherwise.

Experimental Programs

Sec. 4. (a)(1) Within 180 days after the effective date of this section, and subject to the requirements of section 302 and the terms of any written agreement referred to in section 302(a), the Commission (Office) shall establish a program which provides for the conducting of experiments by the Commission (Office) under titles I and II of this Act. Such experimental program shall cover a sufficient number of positions throughout the executive branch, and a sufficient range of worktime alternatives, as to provide an adequate basis on which to evaluate the effectiveness and desirability of permanently maintaining flexible or compressed work schedules within the executive branch.

(2) Each agency may conduct one or more experiments under titles I and II of this Act. Such experiments shall be subject to such regulations as the Commission (Office) may prescribe under section 305 of this Act.

(b) The Commission (Office) shall, not later than 90 days after the effective date of this section, establish a master plan which shall contain guidelines and criteria by which the Commission (Office) will study and evaluate experiments conducted under titles I and II of this Act. Such master plan shall provide for the study and evaluation of experiments within a sample of organizations of different size, geographic location, and functions and activities, sufficient to insure adequate evaluation of the impact of varied work schedules on—

(1) the efficiency of Government operations;

(2) mass transit facilities and traffic;

(3)levels of energy consumption;

(4) service to the public;

(5) increased opportunities for full-time and part-time employment; and

(6) individuals and families generally.

(c) The Commission (Office) shall provide educational material, and technical aids and assistance, for use by an agency before and during the period such agency is conducting experiments under this Act.

(d) If the head of an agency determines that the implementation of an experimental program referred to subsection (a) would

Compressed Schedule Experiments

on a Sunday, such employee is entitled to

appointment, promotion, or compensation), or

substantially disrupt the agency in carrying out its functions, such agency head shall request the Commission (Office) to exempt such agency from the requirements of any experiment conducted by the Commission (Office) under subsection (a). Such request shall be accompanied by a report detailing the reasons for such determination. The Commission (Office) shall exempt an agency from such requriements only if it finds that including the agency within the experiment would not be in the best interest of the public, the Government, or the employees. The filing of such a request with the Commission (Office) shall exclude the agency from the experiment until the Commission (Office) has made its determination or until 180 days after the date the request is filed, whichever first occurs.

Title I—Flexible Scheduling of Work Hours

Definitions

Sec. 101. For purposes of this title—

(1) the term "credit hours" means any hours, within a flexible schedule established under this title, which are in excess of an employee's basic work requirement and which the employee elects to work so as to vary the length of a workweek or a workday; and

(2) the term "overtime hours" means all hours in excess of 8 hours in a day or 40 hours in a week which are officially ordered in advance, but does not include credit hours.

Flexible Scheduling Experiments

Sec. 102. (a) Notwithstanding section 6101 of title 5, United States Code, experiments may be conducted in agencies to test flexible schedules which include—

(1) designated hours and days during which an employee on such a schedule must be present for work; and

(2) designed hours during which an employee on such a schedule may elect the time of such employee's arrival at and departure from work, solely for such purpose or, if and to the extent permitted, for the purpose of accumulating credit hours to reduce the length of the workweek or another workday.

An election by an employee referred to in paragraph (2) shall be subject to limitations generally prescribed to ensure that the duties and requirements of the employee's position are fulfilled.

(b) Notwithstanding any other provision of this Act, but subject to the terms of any written agreement under section 302(a)—

(1) any experiment under subsection (a) of this section may be terminated by the Commission (Office) if it determines that the experiment is not in the best interest of the public, the Government, or the employees; or

(2) if the head of an agency determines that any organization within the agency which is participating in an experiment under subsection (a) is being substantially disrupted in carrying out its functions or is incurring additional costs because of such participation, such agency head may—

(A) restrict the employees choice of arrival and departure time,

(B) restrict the use of credit hours, or

(C) exclude from such experiment any employee or group of employees.

(c) Experiments under subsection (a) shall terminate not later than the end of the 3-year period which begins on the effective date of this title.

Computation of Premium Pay

Sec. 103. (a) For purposes of determining compensation for overtime hours in the case of an employee participating in an experiment under section 102—

(1) the head of an agency may, on request of the employee, grant the employee compensatory time off in lieu of payment for such overtime hours, whether or not irregular or occasional in nature and notwithstanding the provisions of sections 5542(a), 5543(a)(1), 5544(a), and 5550 of title 5, United States Code, section 4107(e)(5) of title 38, United States Code, section 7 of the Fair Labor Standards Act, as amended, or any other provision of law; or

(2) the employee shall be compensated for such overtime hours in accordance with such provisions, as applicable.

(b) Notwithstanding the provisions of law referred to in paragraph (1) of subsection (a), an employee shall not be entitled to be compensated for credit hours worked except to the extent authorized under section 106 or to the extent such employee is allowed to have such hours taken into account with respect to the employee's basic work requirement.

(c)(1) Notwithstanding section 5545(a) of title 5, United States Code, premium pay for nightwork will not be paid to an employee otherwise subject to such section solely because the employee elects to work credit hours, or elects a time of arrival or departure, at a time of day from which such premium pay is otherwise authorized; except that—

(A) if an employee is on a flexible schedule under which—

(i) the number of hours during which such employee must be present for work, plus

(ii) the number of hours during which such employee may elect to work credit hours or elect the time of arrival at and departure from work, which occur outside of the night work hours designated in or under such section 5545(a) total less than 8 hours, such premium pay shall be paid for those hours which, when combined with such total, do not exceed 8 hours, and

(B) if an employee is on a flexible schedule under which the hours that such employee must be present for work include any hours designated in or under such section 5545(a), such premium pay shall be paid for such hours so designated.

(2) Notwithstanding section 5343(f) of title 5, United States Code, and 4107(e)(2) of title 38, United States Code, night differential will not be paid to any employee otherwise subject to either of such sections solely becasue such employee elects to work credit hours, or elects a time of arrival or departure, at a time of day for which night differential is otherwise authorized; except that such differential shall be paid to an employee on a flexible schedule under this title—

(A) in the case of an employee to such section 5343(f), for which all or a majority of the hours of such schedule for any day fall between the hours specified in such section, or

(B) in the case of an employee to such section 4107(e)(2), for which 4 hours of such schedule fall between the hours specified in such section.

Holidays

Sec. 104. Notwithstanding sections 6103 and 6104 of title 5, United States Code, if any employee on a flexible schedule under this title is relieved or prevented from working on a day designated as a holiday by Federal statute or Executive order, such employee is entitled to pay with respect to that day for 8 hours (or, in the case of a part-time employee, an appropriate portion of the employee's biweekly basic work requirement as determined under regulations prescribed by the Commission office).

Time-Recording Devices

Sec. 105. Notwithstanding section 6106 of title 5, United States Code, the Commission office or an agency may use recording clocks as part of its experiments under this title.

Credit Hours; Accumulation and Compensation

Sec. 106. (a) Subject to any limitation prescribed by the Commission office or the agency, a full-time employee on a flexible schedule can accumulate not more than 10 credit hours, and a part-time employee can accumulate not more than one-eighth of the hours in such employee's biweekly basic work requirement, for carryover from a biweekly pay period to a succeeding biweekly pay period for credit to the basic work requirement for such period.

(b) Any employee who is on a flexible schedule experiment under this title and who is no longer subject to such an experiment shall be paid at such employee's then current rate of basic pay for—

(1) in the case of a full-time employee, not more than 10 credit hours accumulated by such employee, or

(2) in the case of a part-time employee, the number of credit hours (not in excess of one-eighth of the hours in such employee's biweekly basic work requirement) accumulated by such employee.

Title II—4-Day Week and Other Compressed Work Schedules

Definitions

Sec. 201. For purposes of this title—

(1) the term "compressed schedule" means—

(A) in the case of a full-time employee, an 80-hour biweekly basic work requirement which is scheduled for less than 10 workdays, and

(B) in the case of a part-time employee, a bi-weekly basic work requirement of less than 80 hours which is scheduled for less than 10 workdays; and

(2) the term "overtime hours" means any hours in excess of those specified hours which constitute the compressed schedule.

Compressed Schedule Experiments

Sec. 202.(a) notwithstanding section 6101 of title 5, United States Code, experiments may be conducted in agencies to test a 4-day work-week or other compressed schedule.

(b)(1) An employee in a unit with respect to which an organization of Government employees has not been accorded exclusive recognition shall not be required to participate in any experiment under subsection (a) unless a majority of the employees in such unit who, but for this paragraph, would be included in such experiment have voted to be so included.

(2) Upon written request to any agency by an employee, the agency, if it determines that participation in an experiment under subsection (a) would impose a personal hardship on such employee, shall—

(A) except such employee from such experiment; or

(B) reassign such employee to the first position within the agency—

(i) which becomes vacant after such determination,

(ii) which is not included within such experiment,

(iii) for which such employee is qualified, and

(iv) which is acceptable to the employee.

A determination by an agency under this paragraph shall be made not later than 10 days after the day a written request for such determination is received by the agency.

(c) Notwithstanding any other provision of this Act, but subject to the terms of any written agreement under section 302(a), any experiment under subsection (a) may be terminated by the Commission (Office), or the agency, if it determines that the experiment is not in the best interest of the public, the Government, or the employees.

(d) Experiments under subsection (a) shall terminate not later than the end of the 3-year period which begins on the effective date of this title.

Computation of Premium Pay

Sec. 203. (a) The provision of sections 5542(a), 5544(a), and 5550(2) of title 5, United States Code, Section 4107(e)(5) of title 38, United States Code, section 7 of the Fair Labor Standards Act, as amended, or any other law, which relate to premium pay for overtime work, shall not apply to the hours which constitute a compressed schedule.

(b) In the case of any full-time employee, hours worked in excess of the compressed schedule shall be overtime hours and shall be paid for as provided by whichever statutory provisions referred to in subsection (a) are applicable to the employee. In the case of any part-time employee on a compressed schedule, overtime pay shall begin to be paid after the same number of hours of work after which a full-time employee on a similar schedule would begin to receive overtime pay.

(c) Notwithstanding section 5544(a), 5546(a), or 5550(1) of title 5, United States Code, or any other applicable provision of law, in the case of any full-time employee on a compressed schedule who performs work (other then overtime work) on a tour of duty for any workday a part of which is performed on a Sunday, such employee is entitlied to pay for work performed during the entire tour of duty at the rate of such employee's basic pay, plus premium pay at a rate equal to 25 percent of such basic pay rate.

(d) Notwithstanding section 5546(b) of title 5, United States Code, an employee on a compressed schedule who performs work on a holiday designated by Federal statute or Executive order is entitled to pay at the rate of such employee's basic pay, plus premium pay at a rate equal to such basic pay rate, for such work which is not in excess of the basic work requirement of such employee for such day. For hours worked on such a holiday in excess of the basic work requirement for such day, the employee is entitled to premium pay in accordance with the provisions of section 5542(a) or 5544(a) of title 5, United States Code, as applicable, or the provisions of section 7 of the Fair Labor Standards Act, as amended, whichever provisions are more beneficial to the employee.

Title III—Administrative Provisions

Administration of Leave and Retirement Provisions

Sec. 301. For purposes of administering sections 6303(a), 6304, 6307 (a) and (c), 6323, 6326, and 8339(m) of title 5, United States Code, in the case of an employee who is in any experiment under title I or II, references to a day or workday (or to multiples or parts thereof) contained in such sections shall be considered to be references to 8 hours (or to the respective multiples or parts thereof).

Application of Experiments in the Case of Negotiated Contracts

Sec. 302. (a) Employees within a unit with respect to which an organization of Government employees has been accorded exclusive recognition shall not be included within any experiment under title I or II of this Act except to the extent expressly provided under a written agreement between the agency and such organization.

(b) The Commission (office), or an agency may not participate in a flexible or compressed schedule experiment under a negotiated contract which contains premium pay provisions which are inconsistent with the provisions of section 103 or 203 of this Act, as applicable.

Prohibition of Coercion

Sec. 303. (a) An employee may not directly or indirectly intimidate, threaten, or coerce, or attempt to intimidate, threaten, or coerce any other employee for the purpose of interfering with—

(1) such employee's rights unde title I to elect a time of arrival or departure, to work or not to work credit hours, or to request or not to request compensatory time off in lieu of payment for overtime hours; or

(2) such employee's right under section 202(b)(1) to vote whether or not to be included within a compressed schedule experiment or such employee's right to request an agency determination under section 202(b)(2).

For the purpose of the preceding sentence the term "intimidate, threaten, or coerce" includes, but is not limited to, promising to confer or conferring any benefit (such as appointment, promotion, or compensation), or effecting or threatening to effect any reprisal (such as deprivation of appointment, promotion, or compensation).

(b) Any employee who violates the provisions of subsection (a) shall, upon a final order of the Commission (Board) be—

(1) removed from such employee's position, in which event that employee may not thereafter hold any position as an employee for such period as the Commission (Board) may prescribe;

(2) suspended without pay from such employee's position for such period as the Commission (Board) may prescribe; or

(3) disciplined in such other manner as the Commission (Board) shall deem appropriate. The Commission (Board) shall prescribe procedures to carry out this subsection under which an employee subject to removal, suspension, or other disciplinary action shall have rights comparable to the rights afforded an employee subject to removal or suspension under subchapter III of chapter 73 of title 5, United States Code, relating to certain prohibited political activities.

Regulations

Sec. 305. The Commission (Office) shall prescribe regulations necessary for the administration of the foregoing provisions of this Act.

Effective date

Sec. 306. The provisions of section 4 and titles I and II of this Act shall take effect on the 180th day after—

(1) the date of the enactment of this Act, or

(2) October 1, 1978,

whichever date is later.

Subpart B—Master Plan [Reserved]

Subpart C—Regulatory Requirements of the Office of Personnel Management

§ 620.301 General.

This subpart contains regulatory requirements prescribed by the Office of Personnel Management to implement certain provisions of Pub. L. 95–390 and the Office of Personnel Management's Master Plan for the conduct of alternative work schedules experiments.

§ 620.302 Coverage.

The provisions of Pub. L. 95–390 and the regulations contained in this subpart apply only to the alternative work schedule experiments established under the authority of Pub. L. 95–390. Agencies continue to have the authority under section 6101 of title 5, United States Code, to adopt certain variations from normal work schedules without regard to the provisions of Pub. L. 95–390. However, any such variations not established in full accordance with the provisions of Pub. L. 95–390 and this part may not utilize any of the provisions of Pub. L. 95–390, including the provisions

any suggested retail price and that such

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relating to computation of premium pay and holidays.

§ 620.303 Requirement for time-accounting method.

An agency conducting an alternative work schedule experiment under Pub. L. 95–390 must include in that experiment a time-accounting method that will provide affirmative evidence that each employee subject to the experiment has worked the proper number of hours.

§ 620.304 Limitation on compensatory time off.

In carrying out section 103(a) of Pub. L. 95–390, an agency may not allow an employee to accrue, at any time, more than 10 hours of compensatory time in lieu of regularly or irregularly scheduled overtime hours.

§ 620.305 Holiday for part-time employees on flexible schedules.

For purposes of section 104 of Pub. L. 95–390, if a holiday occurs on a day within a part-time employee's scheduled tour of duty (including those days on which flexible hours are scheduled) the employee is entitled to basic pay with respect to that holiday for a number of hours equal to the number of hours which the employee is scheduled to work in order to fulfill his or her basic work requirement during the biweekly pay period, divided by the number of days which compirse the employee's tour or tours of duty (including those days on which only flexible hours are scheduled) for the biweekly pay period.

§ 620.306 Required participation.

If determined necessary in order to carry out the mandate of Congress to conduct a comprehensive alternative work schedules experimental program, the Office of Personnel Management may require an agency or department to undertake an experiment that will be developed in conjunction with the Office of Personnel Management.

Office of Personnel Management.

Beverly M. Jones,

Issuance System Manager.

[FR Doc. 79–15928 Filed 5–21–79; 8:45 am]

BILLING CODE 6325–01–M

FEDERAL TRADE COMMISSION

[16 CFR Part 13]

[File No. 791 0066]

Pendleton Woolen Mills, Inc.; Consent Agreement with Analysis To Aid Public Comment

AGENCY: Federal Trade Commission.

ACTION: Consent agreement.

SUMMARY: In settlement of alleged violation of federal law prohibiting unfair acts and practices and unfair methods of competition, this consent order, subject to final Commission approval, among other things, would require a Portland, Ore. manufacturer of wool products to cease fixing, maintaining, or enforcing resale prices for its products; soliciting the identity of dealers who fail to conform to such prices; and taking adverse action against recalcitrants. The firm would also be prohibited from restricting the use of product trademarks or other identification in the sale or advertising of such products; and barred from suggesting retail prices for any product until April 20, 1982.

DATE: Comments should be directed to: Office of the Secretary, Federal Trade Commission, 6th St. and Pennsylvania Ave., N.W., Washinton, D.C. 20580.

FOR FURTHER INFORMATION CONTACT: William A. Arbitman, Director, 9R, San Francisco Regional Office, Federal Trade Commission, 450 Golden Gate Ave., San Francisco, Calif. 94102. (415) 556–1270.

SUPPLEMENTARY INFORMATION: Pursuant to Section 6(f) of the Federal Trade Commission Act, 38 Stat. 721, 15 U.S.C. 46 and § 2.34 of the Commission's Rules of Practice (16 CFR 2.34), notice is hereby given that the following consent agreement containing a consent order to cease and desist and an explanation thereof, having been filed with and accepted, subject to final approval, by the Commission, has been placed on the public record for a period of sixty (60) days. Public comment is invited. Such comments or views will be considered by the Commission and will be available for inspection and copying at its principal office in accordance with § 4.9(b)(14) of the Commission's Rules of Practice (16 CFR 4.9(b)(14)).

United States of America—Before Federal Trade Commission

In the matter of Pendleton Woolen Mills, Inc., a corporation, File No.—; Agreement containing consent order to cease and desist.

The Federal Trade Commission having initiated an investigation of certain acts and practices of Pendleton Woolen Mills, Inc., a corporation, and it now appearing that Pendleton Woolen Mills, Inc., a corporation, hereinafter sometimes referred to as proposed respondent, is willing to enter into an agreement containing an order to cease and desist from the use of the acts and practices being investigated.

It is hereby agreed by and between Pendleton Woolen Mills, Inc., by its duly authorized officer and its attorney, and counsel for the Federal Trade Commission that:

1. Proposed respondent Pendleton Woolen Mills, Inc. is a corporation organized, existing and doing business under and by virtue of the laws of the State of Oregon, with its office and principal place of business located at 218 S.W. Jefferson Street, in the City of Portland, State of Oregon.

2. Proposed respondent admits all the jurisdictional facts set forth in the draft of complaint here attached.

3. Proposed respondent waives:

(a) Any further procedural steps;

(b) The requirement that the Commission's decision contain a statement of findings of fact and conclusions of law; and

(c) All rights to seek judicial review or otherwise to challenge or contest the validity of the order entered pursuant to this agreement.

4. This agreement shall not become a part of the public record of the proceeding unless and until it is accepted by the Commission. If this agreement is accepted by the Commission it, together with the draft of complaint contemplated thereby, will be placed on the public record for a period of sixty (60) days and information in respect thereto publicly released. The Commission thereafter may either withdraw its acceptance of this agreement and so notify the proposed respondent, in which event it will take such action as it may consider appropriate, or issue and serve its complaint (in such form as the circumstances may require) and decision, in disposition of the proceeding.

5. This agreement is for settlement purposes only and does not constitute an admission by proposed respondent that the law has been violated as alleged in the draft of complaint here attached.

6. This agreement contemplates that, if it is accepted by the Commission, and if such acceptance is not subsequently withdrawn by the Commission pursuant to the provisions of § 2.34 of the Commission's Rules, the Commission may, without further notice to proposed respondent, (1) issue its complaint corresponding in form and substance with the draft of complaint here attached and its decision containing the following order to cease and desist in disposition of the proceeding and (2), make information public in respect thereto. When so entered, the order to cease and desist shall have the same force and effect and may be altered, modified or set aside in the same manner and within the same time provided by statute for other orders. The order shall become final upon service. Delivery by the U.S. Postal Service of the complaint and decision containing the agreed-to order to proposed respondent's address as stated in this agreement shall constitute service. Proposed respondent waives any right it may have to any other manner of service. The complaint may be used in construing the terms of the order, and no agreement, understanding, representation, or interpretation not contained in the order or the agreement may be used to vary or contradict the terms of the order.

7. Proposed respondent has read the proposed complaint and order contemplated hereby. It understands that once the order has been issued, it will be required to file one or more compliance reports showing that it has fully complied with the order, and that it may be liable for civil penalties in the amount provided by law for each violation of the order after it becomes final.

Order

For the purposes of this Order, the following definitions shall apply:

"Product" is defined as any item which is manufactured, offered for sale or sold by respondent. Product shall not include any item which Jacques deLoux, Inc. manufactures or purchases from any third party, and which it sells to any person, partnership, corporation or firm other than to respondent.

"Dealer" is defined as any person, partnership, corporation or firm which sells any product in the course of its business.

IT IS ORDERED that respondent Pendleton Woolen Mills, Inc., a corporation, its successors and assigns, and respondent's officers, agents, representatives and employees, directly or indirectly, or through any corporation, subsidiary, division or other device, in connection with the manufacture, advertising, offering for sale, sale or distribution of any product in or affecting commerce, as "commerce" is defined in the Federal Trade Commission Act, do forthwith cease and desist from:

I

1. Fixing, establishing, controlling or maintaining, directly or indirectly, the resale price at which any dealer may advertise, promote, offer for sale or sell any product.

2. Establishing, exacting any assurance to comply with, continuing, enforcing, or announcing the terms of any contract, agreement, understanding, or arrangement with any dealer which affixes, establishes, maintains or enforces, directly or indirectly, the resale price at which any product is to be sold or advertised.

3. Securing or attempting to secure any promise or assurance from any dealer regarding the resale price at which such dealer will or may advertise or sell any product, or requesting any dealer to obtain approval from respondent for any resale price at which such dealer may or will advertise or sell any product.

4. Requiring, requesting, or soliciting any dealer to report the identity of any other dealer, because of the price at which such dealer is advertising, offering to sell or selling any product; or acting on any reports or information so obtained by threatening, intimidating, coercing or terminating any dealer.

5. Conducting any surveillance program to determine whether any dealer is advertising, offering for sale or selling any product at a resale price other than that which respondent has established or suggested, where such surveillance program is conducted to fix, maintain, control or enforce the retail price at which any product is sold or advertised.

6. Terminating or taking any other action to restrict, prevent, or limit the sale of any product by any dealer because of the resale price at which said dealer has sold or advertised, is selling or advertising, or is suspected of selling or advertising any product.

7. Restricting any dealer who has purchased any product which bears any of respondent's trademarks or identifications affixed thereto from using any trademark or other identification so affixed in the sale or advertising of such product.

II

Publishing, disseminating, circulating, providing or communicating, orally or in writing or by any other means, any suggested retail price from the date of service of this Order until April 20, 1982: *Provided, however,* That if, after April 20, 1982, respondent suggests any retail price, respondent shall:

a. Clearly and conspicuously state on any material on which such suggested price is stated that such price is suggested only.

b. Mail to all dealers a letter stating that no dealer is obligated to adhere to any suggested retail price and that such suggested retail price is advisory only.

III

It is further ordered that respondent shall:

1. Within thirty (30) days after service of this Order, mail under separate cover a copy of the enclosure set forth in the attached Exhibit A to each of its present accounts. An affidavit shall be sworn to by an official of respondent verifying that the attached Exhibit A was so mailed.

2. Mail under separate cover a copy of the enclosure set forth in the attached Exhibit A to any person, partnership, corporation or firm that becomes a new account within three (3) years after service of this order.

IV

It is further ordered that the respondent shall forthwith distribute a copy of this order to all operating divisions of said corporation, and to present or future personnel, agents or representatives having sales, advertising or policy responsibilities with respect to the subject matter of this order, and that respondent secure from each such person a signed statement acknowledging receipt of said order.

V

It is further ordered that respondent notify the Commission at least thirty (30) days prior to any proposed change in the corporate respondent, such as dissolution, assignment or sale resulting in the emergence of a successor corporation, the creation or dissolution of subsidiaries or any other change in the corporation which may affect compliance obligations arising out of the order.

VI

It is further ordered that respondent shall within sixty (60) days after service upon it of this order, file with the Commission a report, in writing, setting forth in detail the manner and form in which it has complied with this order.

EXHIBIT A

Dear Retailer:

Pendleton Woolen Mills, without admitting any violation of the law, has agreed to the entry of an Order by the Federal Trade Commission regulating certain distribution practices. In connection therewith, the Company has agreed to send you this letter describing the Order.

The Order provides, among other things, as follows:

An investment company is, of course, portfolio securities that the current net

1. You can advertise and sell Pendleton products at any price you choose.

2. Pendleton will not take any action against you, including termination, because of the price at which you advertise or sell its products.

3. Pendleton will not suggest retail prices for any product until April 20, 1982.

4. The price at which you sell or advertise our products will not affect your right to use Pendleton trademarks or other identification in your sale or advertising of products bearing Pendleton trademarks or identification.

If you have any questions regarding the Order or this letter, please call Mr. Pedley at Pendleton.

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for Pendleton Woolen Mills, Inc.

Analysis of Proposed Consent Order To Aid Public Comment

The Federal Trade Commission has accepted an agreement to a proposed consent order from Pendleton Woolen Mills, Inc., a large manufacturer of wearing apparel, blankets and wool fabric.

The proposed consent order has been placed on the public record for sixty (60) days for reception of comments by interested persons. Comments received during this period will become part of the public record. After sixty (60) days, the Commission will again review the agreement and the comments received and will decide whether it should withdraw from the agreement or make final the agreement's proposed order.

The complaint in this matter alleges that Pendleton has restrained trade by fixing the resale prices at which its dealers advertise, offer for sale and sell Pendleton products.

The consent agreement provides as follows:

1. Pendleton cannot fix or otherwise control the resale prices at which its products are sold or advertised.

2. Pendleton cannot take any action against any dealer, including termination, because of the resale prices at which the dealer sells or advertises any Pendleton product.

3. As to products which bear any of its trademarks or other identifications, Pendleton cannot restrict any dealer from using any such trademark or other identification in the sale or advertising of such products.

4. Pendleton cannot suggest retail prices for any product from the date the order becomes final until April 20, 1982.

The purpose of this analysis is to facilitate public comment on the proposed order, and it is not intended to constitute an official interpretation of the agreement and proposed order or to modify in any way their terms.

Carol M. Thomas

Secretary.

[FR Doc. 79-16005 Filed 5-21-79; 8:45 am]

BILLING CODE 6750-01-M

SECURITIES AND EXCHANGE COMMISSION

[17 CFR Part 270]

[Release No. IC-10691, File No. S7-782]

Pricing of Investment Company Shares Generally

AGENCY: Securities and Exchange Commission.

ACTION: Proposed rulemaking.

SUMMARY: On January 8, 1979, the Commission proposed for public comment a rulemaking which, among other things, proposed an amendment of the rule under the Investment Company Act of 1940 which ties to the New York Stock Exchange the days and time for pricing an investment company's redeemable securities even though its portfolio securities may not be listed for trading on that exchange. The Commission has considered the comments received and has decided to republish for public comment a revision of part of the rulemaking, which would (1) unlink that rule from the business days of the New York Stock Exchange and (2) allow directors of an investment company to determine the time for it to compute the current net asset value of its redeemable securities.

DATE: Comments must be received by June 29, 1979.

ADDRESSES: Send comments in triplicate to George A. Fitzsimmons, Secretary, Securities and Exchange Commission, 500 N. Capitol Street, Washington, D.C. 20549. (Refer to File No. S7-782.) All comments received will be available for public inspection and copying in the Commission's Public Reference Room, 1100 L Street, NW., Washington, D.C.

FOR FURTHER INFORMATION CONTACT: Mark J. Mackey, Esq., Investment Company Act Study Group, Division of Investment Management, Securities and Exchange Commission, 500 North Capitol Street, Washington, D.C. 20549 (202) 755-1547.

SUPPLEMENTARY INFORMATION: The Commission proposes for public comment an amendment to rule 22c-1 of the Investment Company Act of 1940 ("Act"), regarding the pricing of investment company shares generally. This rulemaking, if adopted, would (1) unlink the rule from the business days of the New York Stock Exchange, and (2) allow directors of an investment company to determine the time for the investment company to compute the current net asset value of its redeemable securities.

In response to its request for comments regarding Investment Company Act Release No. 10545 (Jan. 8, 1979, 44 FR 3376, Jan. 16, 1979), proposing rules to provide start-up exemptions for certain unit investment trusts and to regulate the pricing of all investment companies' redeemable securities, the Commission received and considered 14 letters. All comments received appeared to favor the Commission's rulemaking; but, with a single exception, each commentator suggested modifications to the proposals. As a result of considering these comments, the Commission has decided to republish for public comment a revision of that part of the rulemaking which relates to the pricing of investment company shares generally, and to adopt, in a separate release, that part of the rulemaking which relates solely to unit investment trusts.[1]

Pricing of Investment Company Shares Generally

After considering the comments received, the Commission has determined to republish in modified form a proposed amendment to paragraph (b) of rule 22c-1 under the Act. That paragraph presently ties to the New York Stock Exchange the days and time for the pricing of an investment company's redeemable securities even though the investment company's portfolio securities may not be listed for trading on that exchange. The Commission had proposed to amend that paragraph to require forward pricing for all investment company redeemable securities as of the close of the relevant primary trading market in which each portfolio security is traded.[2]

Commentators favored divorcing the pricing of securities from the New York Stock Exchange's trading hours, but generally expressed a variety of reservations regarding the manner for determining any particular portfolio security's relevant primary trading market. Concern was also expressed as to the procedures to be followed when an investment company's portfolio consists of securities with differing relevant primary markets.

Accordingly, the Commission proposes to give each investment company's board of directors enhanced responsibility in establishing the time for which the investment company will *forward* price its redeemable securities.[3] Their determination would allow each investment company to compute its current net asset value at a time most appropriate to its particular investment portfolio. However, the directors would have to review at least annually the continuing appropriateness of their determination as to the time the company should compute the net asset value of its redeemable shares.[4]

Moreover, commentators noted that the trading days of the New York Stock Exchange may not coincide with the trading days of other securities marketplaces. To address the concerns expressed by such commentators while ensuring that redemptions, repurchases and sales of the securities issued by an investment company are transacted by it with the investing public at an accurate price, the Commission proposes to amend rule 22c-1(b) to provide for the pricing of redeemable securities on all days when there is a sufficient degree of trading in the investment company's portfolio securities that the current net asset value of the investment company's redeemable securities might be materially affected by changes in the value of these portfolio securities.[5]

An investment company is, of course, always obligated to provide a price for its shareholders which is not materially misleading in the context for which it is used.[6]

Text of Rulemaking

It is proposed to amend Part 270 of Chapter II of Title 17 of the Code of Federal Regulations by amending paragraph (b) of § 270.22c-1 as follows:

§ § 270.22c-1 Pricing of redeemable securities for distribution, redemption and repurchase.

* * * * *

(b) For the purposes of this section, (1) the current net asset value of any such security shall be computed (i) on each day in which there is a sufficient degree of trading in the investment company's portfolio securities that the current net asset value of the investment company's redeemable securities might be materially affected by changes in the value of the portfolio securities, and (ii) at such specific time during the day as determined by the board of directors, including a majority of the directors who are not interested persons of the investment company, no less frequently than annually; and (2) a "qualified evaluator" shall mean any evaluator which represents it is in a position to determine, on the basis of an informal evaluation of the eligible trust securities held in the Trust's portfolio, whether—

(i) The current bid price is higher than the offering side evaluation, computed on the last business day of the previous week, and

(ii) The offering side evaluation, computed as of the last business day of the previous week, is more than one-half of one percent ($5.00 on a unit representing $1,000 principal amount of eligible trust securities) greater than the current offering price.

Statutory basis

Amended rule 22c-1 is proposed pursuant to the provisions of section 22(c) (15 U.S.C. 80a-22(c)) and section 38(a) (15 U.S.C. 37(a)) of the Act.

By the Commission.

May 15, 1979.

George A. Fitzsimmons,

Secretary.

[FR Doc. 79-15870 Filed 5-21-79; 8:45 am]

BILLING CODE 8010-01-M

DEPARTMENT OF THE TREASURY

Internal Revenue Service

[26 CFR Part 1]

Proposed Minimum Participation Standards

Correction

FR Doc. 79-12363, appearing at page 23541, on Friday, April 20, 1979, was corrected on page 28004, on Monday, May 14, 1979. The correction on page 28004, Monday, May 14, 1979, is withdrawn in its entirety.

On page 23542 (issue of Friday, April 20, 1979), in the first column, in the first paragraph, the last sentence reading "A showing that a specified percentage of employees covered by a plan are not officers, shareholders, or highly compensated, is not in itself sufficient to establish that the plan does not discriminate in favor of employees who are officers, shareholders, or highly compensated is not in itself sufficient to

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[1] See Investment Company Act Release No. 10690, May 15, 1979.

[2] The proposed rulemaking represented a codification of existing orders in the area. See, e.g., G.T. Pacific Fund, Inc., Investment Company Act Release No. 9746 (May 3, 1977).

[3] Investment Company Act Release No. 5519, in which Rule 22c-1 was adopted, cites two purposes for Rule 22c-1: (1) To eliminate any dilution in the value of investment company shares; and (2) to eliminate certain speculative trading purchase:

Dilution through the sale of redeemable securities at a price below their net asset value may occur, for example, through the practice of selling securities for a certain period of time at a price based upon a previously established net asset value. This practice permits a potential investor to take advantage of an upswing in the market and an accompanying increase in the net asset value of investment company shares by purchasing such shares at a price which does not reflect the increase.

This rulemaking would not, of course, affect the requirment in paragraph (a) of rule 22c-1 that such price be based on the current net asset value of such security which is *next computed* after receipt of a tender of such security for redemption or of an order to purchase or sell such security, except regarding certain unit investment trusts; nor would the rulemaking affect any of the special considerations applicable to the valuation of securities discussed in Accounting Series Release No. 118 (Dec. 23, 1970).

[4] Of course, the directors could not, in accordance with their fiduciary obligations, contemporaneously determine to accelerate or defer pricing the securities in response to highly beneficial or adverse market conditions.

[5] If, for example, an investment company had a substantial portion of its portfolio securities listed on a securities exchange, it would be expected to price its redeemable securities on days when that exchange is open for trading since on those days the value of the investment company's redeemable securities might be materially affected. In the event that sufficient portfolio securities are traded on a foreign securities exchange, this obligation may require the investment company to price its shares on each day when that exchange is open for trading, whether or not the principal national securities exchanges in the United States are open for business. The Commission does not expect this element of directoral consideration, in establishing the time and dates for determining the price of its redeemable securities, generally to cause an investment company to incur significant increased operational costs. Rather, the Commission believes that a management investment company, in fulfilling its overriding investment management responsibilities, typically would be open for business to monitor such market's activity where the amount of exchange trading was significant. In other instances—for example, a company whose portfolio management is entirely overseas—the investment company would be expected to provide alternative procedures to segregate orders received for purchase, sale, or redemption of its securities during non-business days according to the time received in order to provide investors with the benefits of accurate pricing of the investment company's redeemable shares.

But, the Division of Investment Management has provided "no-action" assurances with respect to rule 22c-1 where an investment company has proposed not to compute the current net asset value of its redeemable securities on days when no such security was tendered for redemption and no order to purchase or sell such security was received. See letters to Investment Company Insitute, Professional Investment Co., Inc., and Prudential Fund of Boston, Inc., dated Oct. 26, 1978, June 3, 1975, and July 1, 1971, respectively. The letter to Investment Company Institute additionally addressed a number of other issues concerning the pricing of investment company securities.

[6] For example, in the case of an investment company which invests exclusively in New York Stock Exchange listed securities, a price computed during the mid-morning should not be represented as a price determined at that exchange's close. However, the Commission recognizes that, in order to publicly disseminate information regarding the net asset value of its shares through communications media, an investment company may be required to compute the price of its redeemable securities prior to the cessation of all significant market activity in its portfolio securities. The Commission would not object to such a practice, provided that such price is not represented to be the current net asset value computed at the close of all such markets.

establish that the plan does not discriminate in favor of employees who are officers, shareholders, or highly compensated.", should be corrected to read "A showing that a specified percentage of employees covered by a plan are not officers, shareholders, or highly compensated, is not in itself sufficient to establish that the plan does not discriminate in favor of employees who are officers, shareholders, or highly compensated.".

BILLING CODE 1505-01

[26 CFR Part 53]

[EE-162-78]

Taxes on Excess Business Holdings

AGENCY: Internal Revenue Service, Treasury.

ACTION: Notice of proposed rulemaking.

SUMMARY: This document contains proposed regulations dealing with matters reserved in the final regulations relating to taxes on the excess business holdings of private foundations. Changes in the applicable tax law were made by the Tax Reform Act of 1969. These regulations would provide necessary guidance to the public for compliance with the law and affect private foundations.

DATES: Written comments and requests for a public hearing must be delivered or mailed by July 23, 1979. Generally, the amendments are proposed to be effective for taxable years beginning after December 31, 1969. However, special effective dates and transitional rules are provided for certain transactions occurring before these new rules are proposed.

ADDRESS: Send comments and requests for a public hearing to: Commissioner of Internal Revenue, Attention: CC:LR:T (EE-162-78), Washington, D.C. 20224.

FOR FURTHER INFORMATION CONTACT: Ms. Ellen A. Hennessy of the Employee Plans and Exempt Organizations Division, Office of the Chief Counsel, Internal Revenue Service, 1111 Constitution Avenue, N.W., Washington, D.C. 20224 (Attention: CC:LR:T) (202-566-3430) (not a toll-free number).

SUPPLEMENTARY INFORMATION:

Background

This document contains proposed regulations under section 4943 (c)(4), (6) and (d)(1) of the Internal Revenue Code of 1954. Section 4943 was added by section 101(b) of the Tax Reform Act of 1969 (83 Stat. 507). The amendments are to be issued under the authority contained in sections 4943(c)(4)(A)(iv) and 7805 of the Internal Revenue Code of 1954 (83 Stat. 507, 68A Stat. 917; 26 U.S.C. 4943 (c)(4)(A)(iv) and 7805).

Issues Reserved in Prior Treasury Decision

On July 6, 1977, T.D. 7496 was published in the **Federal Register** (42 FR 34499). That Treasury decision adopted final regulations under section 4943. The full text of the final regulations was published in the **Federal Register** on September 15, 1977 (42 FR 46285). However, several matters were reserved. These matters relate to: the application of the transitional rules in section 4943(c)(4) to hodings in business enterprises that are involved in certain reorganizations; the definition of a purchase for purposes of the five-year period provided in section 4943(c)(6) to dispose of excess business holdings; and the application of the constructive ownership rules in section 4943(d)(1) to corporations engaged in the active conduct of a trade or business and partnerships. This notice contains proposed regulations dealing with these matters.

Excess Business Holdings Generally

Section 4943 generally limits to 20 percent the combined ownership of a corporation's voting stock which may be held by a foundation and all disqualified persons together. If it can be demonstrated that some party unrelated to the foundation has effective control over the business, the 20-percent limit is raised to 35 percent. If the applicable percentage limit for stock holdings is exceeded, the foundation or disqualified persons must generally reduce their holdings to the extent necessary to bring the combined holdings down to this limit. These limitations on ownership are also applicable to non-corporate businesses such as partnerships, estates and trusts.

Grandfathered Present Holdings

Section 4943(c)(4) provides special transitional rules that allow the 20 or 35-percent ownership limits to be increased, subject to certain conditions including ultimate dispositions, to take into account the fact that some foundation groups, prior to the enactment of section 4943, owned interests that exceeded these limits. The critical day for determinating grandfathered ownership interests is May 26, 1969. Depending upon the magnitude of ownership in a business at that time, a first step transitional period, the "first phase period," expires in 10, 15 or 20 years (or, respectively, on May 25 of 1979, 1984 or 1989). A second step transitional period, the "second phase period," expires in 15 years from the end of the first phase period (or, on May 25 of 1994, 1999 or 2004). By the end of each of these two periods, or on the occurrence of other events, certain enumerated dispositions of the grandfathered ownership interests by the foundation group must be made to avoid the imposition of the excise tax.

Certain Reogranizations and Other Readjustments

In the case of reorganizations involving holdings in business enterprises that are owned on May 26, 1969, section 4943(c)(4)(A)(iv) provides that the grandfather rules applicable to resulting holdings are to be determined by regulations. Proposed § 53.4943-7 provides these rules.

Proposed § 53.4943.-7(a)(1) provides the general rule that stock received in a reorganization is treated as stock held since May 26, 1969, to the extent that stock surrendered in the reorganization was so treated. "Reorganization" is defined broadly in proposed § 53.4943-7(a)(1)(ii) to include any merger, recapitalization, acquisition, transfer of assets or stock or other readjustment involving one or more corporations or unincorporated entities. Proposed § 53.4943-7(a)(2) and (3) limit the general rule to prevent foundations from using reorganizations to acquire new businesses or to expand their holdings in businesses in which they already have holdings. Proposed § 53.4943.7(b) relaxes these limitations for reorganizations under a plan to dispose to excess business holdings and for minor acquisitions. Proposed § 53.4943-7(c) provides special rules for unincorporated entities and for holdings acquired under a will or irrevocable trust in effect on May 26, 1969.

Because the proposed § 53.4943-7 rules governing reorganizations differ from the regulations formerly proposed in 1973, § 53.4943-11(d) provides that certain holdings acqired in a reorganization which occurs prior to June 21, 1979 shall be treated as stock held since May 26, 1969.

Purchases

Excess holdings acquired by gift or bequest made after May 26, 1969, generally must be disposed of within 5 years in order to avoid sanctions. However, the sanctions begin to operate immediately in the case of an excess holding resulting from a purchase by the foundation or within 90 days in the case of purchases by a disqualified person. This document contains rules defining

the term "purchase" for both these purposes. See proposed §§ 53.5943-6 (a)(2) and (3) and 53.4943-10(d)(2).

The new proposed rules relating to holdings acquired constructively, holding acquired in a reorganization (which are not treated as held since May 26, 1969) and holdings converted from a nonbusiness enterprise to a business enterprise differ from those contained in the regulations formerly proposed in 1973. Therefore, under proposed § 53.4943-11 (c) and (f), such holdings shall be treated as acquired other than by purchase if they were acquired or converted prior to June 21, 1979.

Constructive Ownership

In computing the amount of stock considered as held by the foundation and related parties, stock held by or for corporations, partnerships, estates and trusts is generally deemed to be held by or for the shareholders, partners and beneficiaries of those entities. Final regulations governing constructive ownership through interests in a trust or estate were adopted in T.D. 7496, 42 FR 34499 (July 6, 1977). Proposed § 53.4943-6 (c) provides constructive ownership rules for corporations and partnerships. In general, any interest owned by a corporation or partnership is treated as owned by the shareholders or partners in proportion to their voting stock of profits interest, respectively. Special rules are provided for attributing nonvoting stock, for determining the percentage of value owned by shareholders or partners, and for avoiding double counting of any ownership interest.

The regulations formerly proposed in 1973 exempted from the constructive ownership rules holdings of certain corporations engaged in an active trade or business. Since these new proposed regulations eliminate that exception, proposed § 53.4943-11 (e) provides that any interest held by a corporation prior to June 21, 1979, to which the exception in the 1973 proposed regulations would have applied will be treated as if held since May 26, 1969.

Transitional rules

Proposed § 53.4943-11 (c) through (f) contains transitional rules for various occurrences prior to June 21, 1979. As discussed above, these rules generally cover situations in which proposed §§ 53.4943-6, 53.4943-7, 53.4943-8, and 53.4943-10 are different from the regulations formerly proposed in 1973. During the comment period described above, interested parties who note additional situations in which the proposed regulations below differ from the regulations formerly proposed are requested to indicate and additional transitional rules necessary to ensure that foundations are not unfairly subject to excess business tax liability for transactions which occurred before publication of this notice. Any person suggesting an additional transitional rule should give examples of situations in which the suggested rule would apply and should also indicate why the proposed regulations would be unfair to the foundation involved without such a transitional rule.

Comments and Requests for a Public Hearing

Before adopting these proposed regulations, consideration will be given to any written comments that are submitted (preferably six copies) to the Commissioner of Internal Revenue. All comments will be available for public inspection and copying. A public hearing will be held upon written request to the Commissioner by any person who has submitted written comments. If a public hearing is held, notice of the time and place will be published in the **Federal Register.**

Drafting Information

The principal author of these proposed regulations is Ms. Ellen A. Hennessy of the Employee Plans and Exempt Organizations Division of the Office of Chief Counsel, Internal Revenue Service. However, personnel from other offices of the Internal Revenue Service and Treasury Department participated in developing the regulations, both on matters of substance and styly.

Proposed amendments to the regulations

The proposed amendments to 26 CFR Part 53 are as follows:

Par. 1. Section 53.4943-6 is amended by redesignating paragraph (a) (3) as paragraph (a)(4) and adding a new Example (4) to that redesignated paragraph, by deleting paragraph (c)(3), and by adding new paragraphs (a)2), (a)(3), and (d). These added and revised provisions read as follows:

§ 53.4943-6 Five-year period to dispose of gifts, bequests, etc.

(a) *In general.* * * *

(2) *Certain transactions treated as purchases.* (i) Section 4943 (c)(6) does not apply if the change in the holdings in a business enterprise is the result of a purchase by the private foundation or a disqualified person. If a private foundation, its disqualified persons or both have effective control over a change in their holdings at the time of the change in such holdings, the change is treated as a purchase. A change in holdings resulting from any acquisition by gift, devise, bequest or legacy shall not be treated as a purchase.

(ii) The purchase of holdings by an entity whose holdings are treated as constructively owned by a foundation or a disqualified person under section 4943 (d)(1) is treated as a purchase by a disqualified person if the entity is effectively controlled at the time of the purchase by the foundation, its disqualified persons or both. If any portion of the stock or other holdings actually or constructively acquired in a reorganization described in § 53.4943-7 (a)(1)(ii) is not treated as the stock surrendered for purposes of section 4943(c)(4), the acquisition of that portion is treated as a purchase by a disqualified person if any of the entities involved in the reorganization is effectively controlled at the time of the reorganization by the foundation, its disqualified persons or both.

(iii) Because either type of purchase determined under subdivision (ii) of this subparagraph is treated as a purchase by a disqualified person, the foundation will have 90 days under § 53.4943-2 (a)(1)(ii) in which to dispose of any excess holdings.

(iv) The purchase of holdings by an entity, in exchange for assets that are treated as constructively owned in full immediately prior to such purchase by a foundation, a disqualified person or both under section 4943 (d) (1), shall be treated as a purchase by such foundation, disqualified person or both. Thus, for example, if a foundation receives a specific bequest of 40 percent of the voting stock of a corporation and $20,000 in cash, and the estate uses the cash to purchase additional voting stock of the same corporation, the 5-year period in which to dispose of excess holdings under section 4943 (c) (6) and this section shall only apply to the 40 percent originally held by the estate, and the additional stock shall be treated as if purchased by the foundation.

(v) For purposes of this paragraph (a) (2), the term "effective control" shall have the same meaning as in § 53.4943-3 (b) (3) (ii). If a foundation, its disqualified persons, or both own more than 50% of the voting stock of a corporation or the profits interest in a partnership, the foundation, its disqualified persons or both will be deemed to have effective control of that corporation or that partnership.

(vi) Section 53.4943-11 (c) provides a special transitional rule for certain

transactions described in paragraph (a)(2)(ii) of this section.

(3) *Certain exchanges not treated as purchases.* Notwithstanding paragraph (a)(2) of this section, if a change in holdings occurs as the result of an exchange of holdings between a foundation and a disqualified person that is exempt from section 4941 (relating to taxes on self-dealing) by reason of section 101 (*l*)(2)(B) of the Tax Reform Act of 1969 (83 Stat. 533) and § 53.4941(d)–4(b), the property received in the exchange is treated as having been acquired other than by purchase for purposes of section 4943(c)(6). For example, if a substantial donor to a foundation leaves a number of business holdings jointly to his widow and his foundation and, in an exchange to which section 101 (*l*)(2)(B) applies, the widow and the foundation exchange their half-interests so that each owns 100 percent of half the businesses, the business holdings are not treated as having been acquired by the foundation by purchase. Similarly, if a redemption from a private foundation under section 101 (*l*)(2)(B) causes a second private foundation to have excess business holdings in the redeeming entity, the change in holdings of the second foundation is not treated as having resulted by purchase even if the redeeming entity was under the control of the private foundations or their disqualified persons.

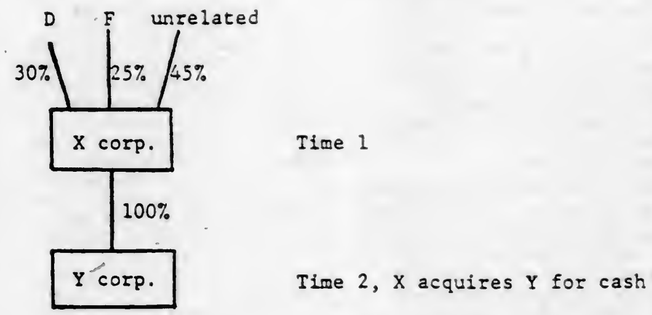
(4) *Examples.* * * *

Example (4). (i) F, a private foundation, owns 25% of the one outstanding class of stock of X corporation, a holding company described in section 4943(d)(4)(B). D, a disqualified person with respect to F, owns 30% of the X stock. On January 1, 1980, X corporation purchases for cash 100% of the one outstanding class of stock of Y corporation, a business enterprise.

(ii) After the purchase by X, F is treated as owning constructively 25% of the outstanding Y stock and D is treated as owning 30% under § 53.4943–8(c). Under section 4943(c)(2), F has no permitted holdings in Y because disqualified persons hold more than 20% of the voting stock of Y.

(iii) F and disqualified persons with respect to F effectively control X corporation because F and D together own more than 50% of the voting stock of X. Because F and its disqualified person effectively control X, F's 25% of the Y stock is treated as purchased by a disqualified person. Therefore, under § 53.4943–2(a)(1)(ii) and paragraph (a)(2)(ii) and (iii) of this section, F will have excess business holdings immediately but will have 90 days from the date of the purchase by X corporation in which to dispose of its excess holdings of 25% without incurring the tax under section 4943(a).

(iv) The transaction described in this example is illustrated below:



* * * * *

(d) *Certain transactions treated as purchases; cross references.* For the application of section 4943(c)(6) after certain holdings that were not an interest in a business enterprise when acquired are subsequently converted into holdings in a business enterprise, see § 53.4943–10(d).

Par. 2. A new § 53.4943–7 is added to read as follows:

§ 53.4943–7 Special rules for reorganizations.

(a) *General rule for holdings of stock*—(1) *In general.* (i) Except as otherwise provided, the rules of section 4943(c)(4) which allow a private foundation to hold a greater percentage of voting stock or other interest in a business enterprise than is generally allowed under section 4943(c)(2) continue to apply to the holdings of the private foundation in the business enterprise after the form in which the business enterprise is held has been modified in a reorganization. Thus, if stock which represents holdings in a business enterprise with respect to which section 4943(c)(4) applies is exchanged for other stock in a reorganization, the stock actually or constructively acquired in the reorganization generally is treated as the stock surrendered for purposes of section 4943(c)(4). In such cases, the stock acquired is treated in accordance with the rules of section 4943(c)(4) for the shortest first and second phases which would have applied to any of the stock exchanged prior to the reorganization.

(ii) For purposes of this section, the term "reorganization" shall include, but is not limited to, a merger, recapitalization, acquisition of stock or assets, transfer of assets, redemption, distribution, or change of form involving one or more corporations, partnerships, sole proprietorships, estates, trusts, or other unincorporated entities.

(iii) The rules of this section apply even if no stock is physically exchanged or surrendered. In such cases, "stock held before the reorganization" is substituted for "stock surrendered" or "stock exchanged" and "stock held after the reorganization" is substituted for "stock actually or constructively acquired in the reorganization."

(2) *Limitation on acquisition of new business enterprises.* Notwithstanding subparagraph (1) of this paragraph, a reorganization may not be used to acquire an interest in a new business enterprise in excess of the holdings permitted under section 4943(c)(2). Thus if the foundation and disqualified persons have holdings in a corporation determined under section 4943(c)(4) and that corporation merges with another corporation in which the foundation has no holdings or only holdings permitted under section 4943(c)(2), the permitted holdings in the new corporation resulting from the merger will be determined under section 4943(c)(2).

(3) *Limitation as to increases.* The limitations on increases in voting stock and value contained in § 53.4943–4 apply in the case of a reorganization. Except as provided in paragraph (b), only that portion of the stock actually or constructively acquired in the reorganization that does not exceed

these limitations is treated as the stock surrendered for purposes of section 4943(c)(4). If the private foundation holds stock to which section 4943(c)(4) applies in more than one of the business enterprises whose stock or assets are involved in the reorganization, the lowest percentages of voting stock and value that apply with respect to any one of the business enterprises are used to determine if these limitations have been exceeded.

(b) *Exceptions*—(1) *Plan to dispose of excess business holdings.* (i) Not withstanding paragraphs (a)(2) and (a)(3) of this section and § 53.4943–4(d)(4)(i)(D) (relating to restrictions on increases in levels), if a reorganization occurs under a plan to dispose of stock to which section 4943(c)(4) applies, in order to meet the requirements of section 4943(c)(4) (e.g., to meet the reduced limits during the applicable second or third phase) or in order to meet the requirements of section 4943(c)(2), all of the stock actually or constructively acquired in the reorganization is treated as the stock surrendered for purposes of section 4943(c)(4).

(ii) For purposes of this subparagraph (1), a plan must be approved by the Commissioner and may be subject to such conditions as to Commissioner determines. Except in rare and unusual circumstances, a plan must be adopted and approved prior to any exchange pursuant to the plan.

(iii) For example, if in a reorganization occurring during the applicable first phase, a foundation with a present interest in a business enterprise receives a greater interest in the business enterprise than the foundation is permitted to hold under section 4943(c)(4) prior to the reorganization, under a plan to facilitate disposition of a portion of such holdings so that the foundation's permitted holdings at the beginning of the applicable second phase would not exceed the holdings permitted under section 4943(c)(4) for the second phase (determined without regard to this subparagraph (1)), the Commissioner may determine that the plan is within this subparagraph (1). With respect to a reorganization which occurs during the applicable second phase, in order to meet the requirements of section 4943(c)(4) by the beginning of the applicable third phase a similar determination may be made.

(iv) If in any reorganization to which this subparagraph (1) applies, the foundation acquires an interest in a business enterprise to which section 4943(c)(4) does not apply prior to the reorganization, the foundation must reduce its holdings in that enterprise to the levels permitted under section 4943(c)(2), determined without regard to section 4943(c)(4), within a reasonable time after the reorganization as determined by the Commissioner.

(2) *Minor acquisitions.* (i) The limitations of paragraph (a)(2) and (a)(3) of this section do not apply in the case of an acquisition of stock in, or the assets of, a business enterprise by another business enterprise if the fair market value of the assets of the acquired business enterprise immediately before the acquisition is two percent or less of the fair market value of the assets of the acquiring business enterprise used in its trade or business.

(ii) Subdivision (i) shall not apply to any acquisition which the commissioner determines is one of a series of acquisitions in the same business enterprise which, taken together, constitute more than a minor acquisition or which the Commissioner determines is part of a plan to expand a foundation's holdings through repeated minor acquisitions of different business enterprises. This subdivision (ii) shall not apply if the foundation makes only one acquisition described in subdivision (i) within any five-year period.

(c) *Application to unincorporated business enterprises and certain holdings acquired by will or trust*—(1) *Unincorporated business enterprises.* In applying this section to unincorporated business enterprises, the same rules and substitutions shall be applied as are provided for in § 53.4943–3(c)(2), (3), and (4). "Stock" includes both voting and nonvoting stock.

(2) *Certain holdings acquired by trust or will.* Under section 4943(c)(5) and § 53.4943–5, the present holding rules of section 4943(c)(4) may apply to certain interests in business enterprises acquired by trust or will as if the interests were held on May 26, 1969. To the extent that an interest is so treated, this section applies to such an interest acquired by trust or will.

(d) *Transitonal rule.* Section 53.4943–11(d) provides a transitional rule for certain reorganizations.

(e) *Examples.* The provisions of this section are illustrated by the following examples in which it is assumed that except as otherwise stated the exceptions in paragraph (b) do not apply and that there is no change in the value of the holdings.

Example (1). (i) F, a private foundation, owns 80% of the one class of outstanding stock in X corporation, an active business corporation. F had held this stock continuously since 1960, and no disqualified person with respect to F owns any stock in X. Since 1960 X has had two operating divisions, one which manufactures shoes and the other which manufactures refrigerators. On January 1, 1980, in a section 351(a) exchange, X transfers all the assets of its shoe manufacturing division to Y, a corporation which X has formed for this purpose, and receives 100% of the stock of Y so that Y is a wholly owned subsidiary of X.

(ii) F owns 80% of X including the shoe manufacturing division of X prior to the reorganization. After the reorganization, F constructively owns, through its 80% actual ownership in X, 80% of Y (80% of X's 100% of Y) under § 53.4943–8(c). Under paragraph (a) of this section, F's interest in Y does not cease to be an interest to which section 4943(c)(4) applies merely because that interest is converted from one that is directly held to one that is constructively held. The 80% of Y stock is treated under § 53.4943–4(c) as held by disqualified persons through May 25, 1964, which consititutes the 15-year first phase applicable to 80% holdings. After that date, this 80% holding must be reduced to the holding levels permitted during the second and third phases as provided by section 4943(c)(4)(D). The reduction in Y corporation can be accomplished, for example, by reducing F's holdings in X corporation to the levels permitted during the second and third phases for X corporation.

Example (2). (i) Assume the same facts as in Example (1) except that on January 1, 1980, immediately after the transfer described in Example (1), X transfers 100% of the stock of Y to F in exchange for all F's holdings of X stock in a section 368(a)(1)(D) reorganization.

(ii) Under paragraph (a) of this section, 80% of the Y stock is treated as the X stock surrendered in the exchange for purposes of section 4943(c)(4) and the remaining 20% of the Y stock consititutes excess business holdings. The 80% is treated under § 53.4943–4(c) as held by disqualified persons through May 25, 1984, which constitutes the 15-year first phase holding period applicable to the 80% holding in X (rather than the 20-year holding period applicable to 100% holdings). After that date the 80% of the Y stock must be reduced to the permitted holdings allowed during the second and third phases as provided by section 4943(c)(4)(D) in the same manner as F's holdings of X stock would have had to have been reduced.

(iii) Because F effectively controlled X, the remaining 20% of Y is treated as having been acquired by purchase for purposes of the special five-year transition period allowed under section 4943(c)(6). However, under § 53.4943–6(a)(2)(ii) and (iii), the remaining 20% of Y is treated as having been acquired as a result of a purchase by a disqualified person for purposes of the ninety-day period for disposition of excess business holdings allowed under § 53.4943–2(a)(1)(ii). Consequently, F will have 90 days from the date of the exchange in which to dispose of 20% of the Y stock without incurring the tax on excess business holdings.

Example (3). (i) F, a private foundation, owns 80% of the one class of outstanding stock in X corporation, an active business corporation. F has held this stock

owns 25% of the one outstanding class of Z

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continuously since 1960, and no disqualified person with respect to F has ever owned any stock in X. On January 1, 1980, X merges with Y corporation, forming a new corporation Z. At no time did F or any disqualified person hold any of the one class of Y stock. In the merger F acquired 70% of the one class of outstanding Z stock in exchange for F's 80% stock interest in X. Unrelated parties hold the remaining 30% of Z.

(ii) Under paragraph (a) (2) of this section none of the Z stock acquired by F in the merger is treated as the X stock surrendered for purposes of section 4943 (c) (4) because no Y stock was held by F or any disqualified person on May 26, 1969. Under paragraph (a) (2) of this section, the limitations of section 4943 (c) (2) apply to F's interest in Z. F's permitted holdings under section 4943 (c) (2) are 20% of the stock of Z. Thus F's 50% of the Z stock (70% minus the permitted 20%) constitutes excess business holdings. Under § 53.4943–6 (a) (2) (ii) and (iii) these excess business holdings are treated as having been acquired as a result of a purchase by a disqualified person for purposes of the 90-day period for disposing of excess business holdings allowed under § 53.4943–2 (1) (ii). Thus, F will have 90 days from the date of the merger in which to dispose of 50% of the Z stock without incurring the tax on excess business holdings.

Example (4). (i) F, a private foundation, owns 80% of the one outstanding class of stock in X corporation and 30% of the one outstanding class of stock in Y corporation. F has held this stock continuously since 1960, and no disqualified person has ever owned any stock in X or Y. Under section 4943 (c) (4), F's holdings in X are treated as held by disqualified persons until the end of the first phase on May 25, 1984, and F's holdings in Y are permitted holdings during the second phase, which began on May 26, 1979. On January 1, 1980, X and Y merge, forming a new corporation Z. In the merger, F acquired 50% of the Z stock in exchange for F's 80% interest in X and 30% interest in Y. Unrelated parties hold the remaining 50% of Z.

(ii) Under paragraph (a) (3) of this section, 30% of the Z stock held by F the lesser of the surrendered 80% of X or the surrendered 30% of Y) is treated as the stock surrendered in the exchange for purposes of section 4943 (c) (4). Under paragraph (a) (1) of this section, the 30% of Z is subject to the same second phase period as the surrendered Y stock.

(iii) The remaining 20% of Z stock held by F (the difference between the 50% Z stock received and the 30% Z stock permitted) constitutes excess business holdings immediately because it exceeds F's permitted holdings in Y stock for the second phase. Under §§ 53.4943–2 (a) (1) (ii) and 53.4943–6 (a) (2) (ii) and (iii) F will have 90 days from the date of the merger in which to dispose of 20% of the Z stock without incurring the tax on excess business holdings.

Example (5). (i) F, a private foundation, owns 800 shares of X corporation stock that represents 80% of the 1000 shares of the one outstanding class of X stock. F has held this percentage of X stock continuously since 1960. Since 1960, X has been engaged in the manufacture of plumbing supplies. On January 1, 1980, X acquires in a reorganization described in section 368 (a) (1) (B), 100% of the one outstanding class of stock of Y corporation in exchange for 200 shares of X's Treasury stock. Since 1960, Y has been engaged in real estate development. After the reorganization, Y is a wholly owned subsidiary of X. F has never owned any of the stock of Y. No disqualified person with respect to F has ever owned any of the stock of X or Y.

(ii) After the reorganization, the outstanding stock of X consists of 1200 shares (1000 plus the 200 shares issued to the former shareholders of Y). The 800 shares of X stock owned by F represent 66⅔% of the outstanding stock of X (800/1200). Under section 4943 (d) (1) and § 53.4943–8 (c), F owns constructively the same percentage interest in Y as it owns directly in X (66⅔%).

(iii) Under paragraph (a) (2) of this section, none of the acquired Y stock constructively held by F is treated as the X stock surrendered for purposes of section 4943 (c) (4) because none of the Y stock was held by F or any disqualified person prior to the reorganization. Further, because F controlled one of the parties to the exchange, X, F's constructive interest in Y of 66⅔% is treated as having been acquired by purchase for purposes of the special five-year transition period allowed under section 4943 (c) (6). Under §§ 53.4943–2 (a) (1) (ii) and 53.4943–6 (a) (2) (ii) and (iii), F will have 90 days from the date of the acquisition in which to dispose of 46⅔% of the Y stock (the 66⅔% constructively owned by F minus the 20% allowed for direct acquisitions under section 4943 (c) (2) (A)).

(iv) Section 4943 (c) (4) continues to apply to F's holdings of X stock. If X reduces its holding in Y to 30% or less within 90 days, F will incur no tax under section 4943. As an alternative to X's reducing its holding in Y, F could dispose of a sufficient amount of its X stock within the 90-day period to reduce F's constructive ownership of Y stock to the 20% allowed under section 4943 (c) (2) and thus avoid imposition of the tax imposed under section 4943.

Example (6). (i) Assume the same facts as in *Example (5)* except that, instead of acquiring the stock of Y, X acquires all of the assets of Y in a reorganization described in section 368(A)(1)(C).

(ii) Under paragraph (a)(2) of this section, F has excess business holdings in X of 46⅔% of the value of the former assets of Y (the 66⅔% constructively owned by F minus the 20% allowed for direct acquisitions under section 4943(c)(2)(A)). Under §§ 53.4943–2(a)(1)(ii) and 53.4943–6(A)(2)(ii) and (iii), F will have 90 days from the date of the acquisition in which to dispose of 46⅔% of its X stock.

Example (7). (i) F, a private foundation, owns 100% of the one outstanding class of stock of X which it has held continuously since 1960. F also owns 10% of the one outstanding class of stock of Y which it has also held continuously since 1960. D, a disqualified person with respect to F, has held continuously 40% of the stock of Y. Since 1960, X has been engaged in the manufacture of plumbing supplies and Y has been engaged in real estate development. On January 1, 1980, X and Y are consolidated into a new corporation, Z, in a reorganization described in section 368(a)(1)(A). In exchange for their holdings in X and Y, F received 64% and D 20% of the one outstanding class of stock of Z.

(ii) In determining the amount of stock to which paragraph (a) of this section applies, F uses the percentages of voting stock established with respect to Y, because these are lower than those for X. Thus, 10% of the Z stock acquired by F in the merger is treated as the Y stock surrendered for purposes of section 4943(c)(4).

(iii) The difference between the 64% of Z stock acquired by F and the 10% of Y stock that constituted the percentage of holdings in Y that was deemed held by disqualified persons under § 53.4943–4(c) (54%) constitutes excess business holdings. Because F controlled one of the parties to the exchange, this 54% is treated as having been acquired by purchase for purposes of the special five-year transition period allowed under section 4943(c)(6). Under §§ 53.4943–2(a)(1)(ii) and 53.4943–6(a)(2)(ii) and (iii) F will have 90 days from the date of the merger in which to dispose of 54% of the Z stock without incurring the tax on excess business holdings.

Example (8). (i) Private foundations F1, F2, and F3 each hold 33⅓% of the one class of outstanding stock in X corporation, an active business corporation. F1 also holds 10% of the one class of outstanding stock in Y corporation, an active business corporation. The remaining 90% of the Y stock is held by parties who are disqualified persons with respect to all three foundations. All of the X and Y stock has been held as described above since 1960. On January 1, 1980, X is merged into Y to achieve a consolidation of the two businesses. After the merger, F2 and F3 each holds 20% of the Y stock, F1 holds 24% of the Y stock, and disqualified persons hold the remaining 36% of Y stock.

(ii) Under paragraph (a)(2) of this section, none of the Y stock held by F2 or F3 is treated as the stock surrendered in the exchange for purposes of section 4943(c)(4), because neither foundation had any holdings in Y on May 26, 1969. Therefore, under §§ 53.4943–2(a)(1)(ii) and 53.4943–6(a)(2)(ii) and (iii) all of the Y stock held by F2 and F3 constitutes excess business holdings immediately but F2 and F3 will have 90 days from the date of the merger in which to dispose of their Y stock without incurring the tax under section 4943(a).

(iii) Under paragraph (a)(3) of this section, 10% of the Y stock held by F1 (the lesser of 33⅓% owned in X or 10% owned in Y) is treated as the stock surrendered in the exchange for purposes of section 4943(c)(4). The remaining 14% of Y stock held by F1 constitutes excess business holdings subject to tax if not disposed of within 90 days.

Example (9). (i) F, a private foundation, own 40% of the one outstanding class of stock of X corporation. On January 1, 1980, X merges with X corporation to form Z corporation. X, Y and Z are active business corporations. F owns no Y stock. No disqualified person with respect to F owns any stock in X, Y or Z. After the merger, F owns 25% of the one outstanding class of Z stock.

(ii) Prior to the merger, the Commissioner approved a plan under which, after the merger described above, F would dispose of 5% of the Z stock within one year after the merger. Under paragraph (b) (1) of this section, F's 25% of Z stock will be permitted holdings until one year from the date of the merger. Thus on and after January 1, 1981, F's permitted holdings in Z will be governed by section 4943 (c) (2).

Example (10). (i) X corporation, an active business corporation, has issued 1,000 shares of one class of outstanding stock. Since 1960, 600 of these shares have been held by F1, a private foundation; 100 shares have been held by F2, another private foundation; and 100 shares have been held by D, a disqualified person with respect to both F1 and F2. Unrelated parties hold the remaining 200 shares of X stock. F1 and F2 are disqualified persons with respect to each other under section 4946 (a) (1) (H). Thus, F1 holds 60% of the X stock (600/1000); F2 and D each hold 10% (100/1000); and the foundation group (F1, F2 and D) holds 80% of X (800/1000).

(ii) On January 1, 1980, pursuant to a plan to dispose of excess business holdings described in paragraph (b) (1) of this section, X redeems for cash the 600 shares held by F1. After the redemption, D and F2 each hold 25% of X (100/400). F1 no longer holds any X stock, the foundation group's holdings (F1, F2 and D) have decreased from 80% to 50% of X, and the holdings of unrelated parties have increased from 20% to 50% of X. At the same time, F2's holdings have increased from 10% to 25% of X.

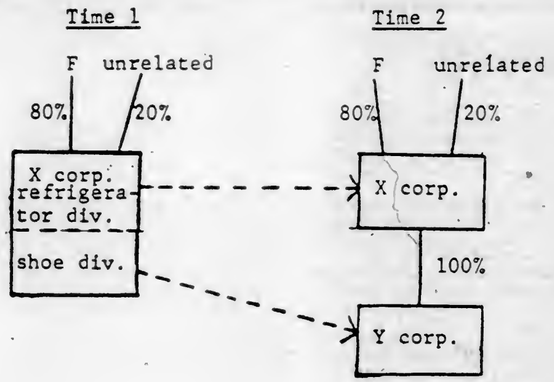
(iii) Notwithstanding the increase in F2's and D's holdings, under section 53.4943-7 (b) (1) all of the X stock held by F2 will be treated as permitted holdings under section 4943 (c) (4) for the period approved by the Commissioner under the plan described in paragraph (b) (1) of this section.

(f) The transactions described in the examples in paragraph (e) of this section are illustrated below:

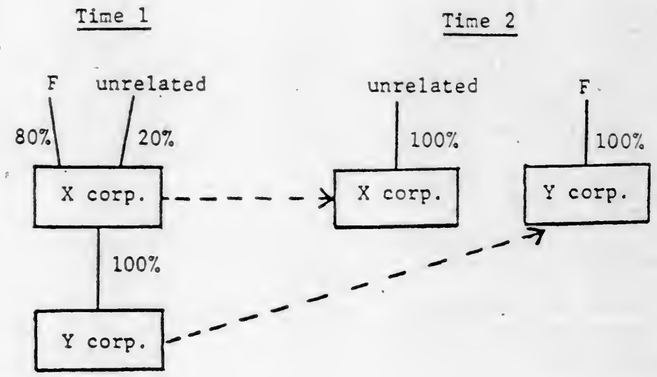
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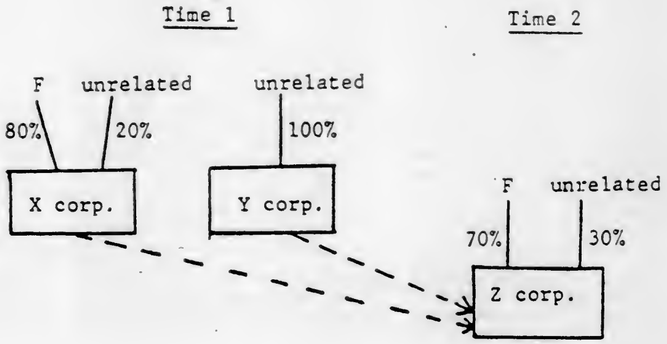
Example (1)



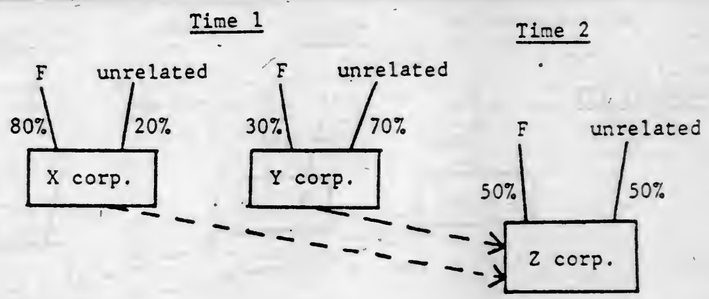
Example (2)



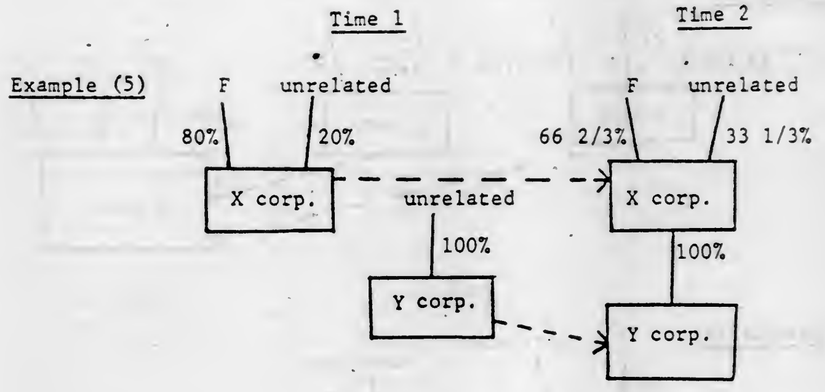
Example (3)



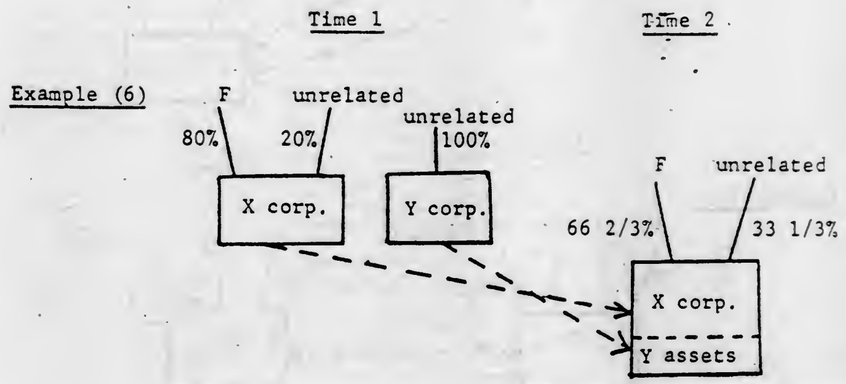
Example (4)



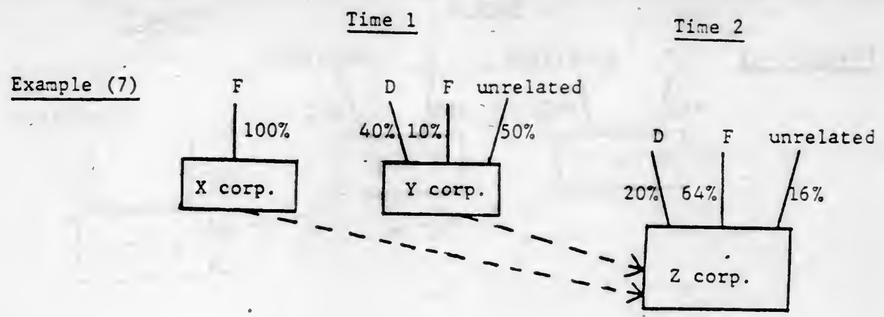
Example (5)

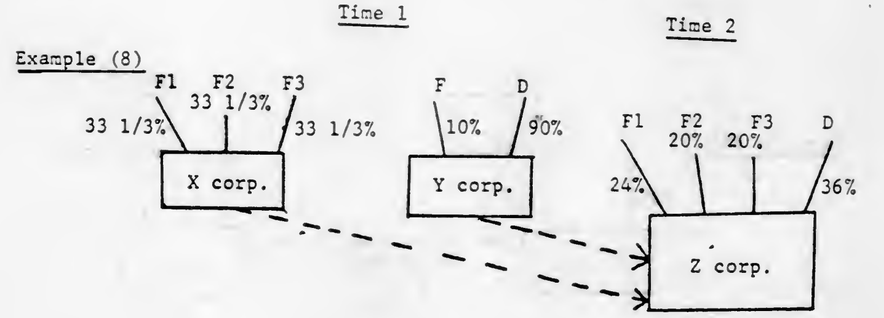


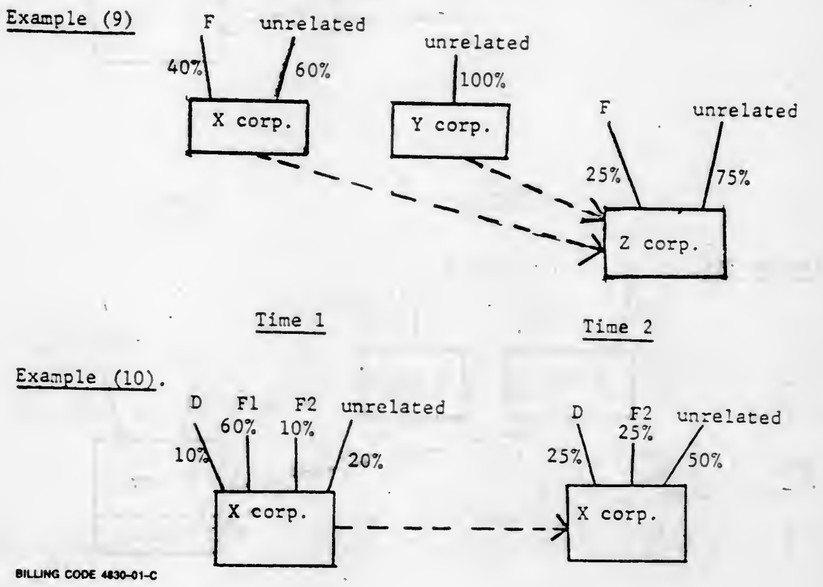
Example (6)



80% direct interest in Y less F's 8%







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Par. 3. Section 53.4943–8 is amended by striking out "paragraphs (b), (c) and (d) of" in the first sentence of paragraph (a)(1) and inserting in lieu thereof "in", and by adding new paragraphs (c), (d), (e), (f) and (g). The added provsions read as follows:

§ 53.4943–8 Business holdings; constructive ownership.

* * * * * *

(c) *Corporations and partnerships*—(1) *In general.* Any interest in any business enterprise owned by a corporation, whether or not the corporation is actively engaged in a trade or business, is constructively owned by its shareholders.

(2) *Determination of extent of constructive ownership.* If an interest in a business enterprise owned by a corporation is constructively owned by a shareholder, each shareholder's proportion of ownership is generally computed on the basis of the voting stock each shareholder has in the corporation. However, in determining holdings permitted under section 4943(c)(4) and (5), each shareholder's proportion of ownership in the business enterprise shall also be computed on the basis of value.

(3) *Nonvoting stock in a holding company.* If a foundation or its disqualified persons actually or constructively own any voting stock or a corporation and the corporation does not constitute a business enterprise by reason of section 4943(d)(4)(B) and § 53.4943–10(c), nonvoting stock, if any, of that parent corporation (a passive holding company) is treated as nonvoting stock of any corporation in which the parent corporation holds interests for purposes of the limitation on the holding of nonvoting stock under section 4943(c)(2)(A) and § 53.4943–3(b)(2).

(4) *Partnership interests.* The rules of paragraph (c) (1), (2), and (3) of this section apply equally to partnerships. In applying these rules, substitute "partner" for "shareholder", "profits interest" for "voting stock", and "capital interest" for "nonvoting stock".

(d) *Special constructive ownership rule*—(1) *General rule.* Under section 4943(d)(1), a foundation, its disqualified persons, or both may constructively own an interest in a business enterprise that is in addition to any interest in that business enterprise that is owned directly. This paragraph sets forth a rule so that there is no double counting resulting from these two kinds of ownerships. In applying section 4943(d)(1) and this section to determine what interest a foundation, its disqualified persons, or both own in a business enterprise, any amount of stock or other interest owned by a disqualified person that may be included in the computation more than one time shall be included only once in a manner which will impute to disqualified persons the largest total holdings, less any amount treated as constructively owned by the foundation.

(2) *Disqualified person.* Section 4946 specifies who are disqualified persons with respect to a foundation for purposes of section 4943 and this section (see § 53.4946–1).

(e) *Transitional rules.* Section 53.4943–11(e) contains transitional rules applicable to certain interests owned constructively prior to June 21, 1979.

(f) *Examples.* The provisions of this section are illustrated by the following examples.

Example (1). F, a private foundation, directly owns voting stock of X corporation. That stock represents 40% of the voting power in X and 20% of the value of all outstanding shares of all classes of stock in X. F also owns nonvoting stock in X that represents 10% of the value of all outstanding shares of all classes of stock in X. X corporation directly owns voting stock of Y corporation. That stock represents 50% of the voting power in Y and 25% of the value of all outstanding shares of all classes of stock in Y. X also owns nonvoting stock in Y that represents 25% of the value of all outstanding shares of all classes of stock in Y. Both X and Y are active business corporations. Under paragraph (c) of this section, F constructively owns 20% of the voting power in Y through F's interest in X (40% of X's 50% of Y). F also constructively owns 15% of the value of all outstanding shares of all classes of stock in Y through F's interest in X (30% of X's 50% of Y). All interests in X and Y have been held since 1960.

Example (2). F, a private foundation, directly owns 10% of the one class of outstanding stock of X corporation. X is a disqualified person with respect to F foundation because X corporation is a substantial contributor to F, within the meaning of section 4946(a)(1)(A). X corporation directly owns 80% of the profits and capital interests of Y partnership. F constructively owns 8% of the interest in Y partnership through F's interest in X (10% of X's 80% of Y). Under paragraph (d) of this section, X corporation is treated as owning 72% of the interest in Y partnership. X's 72% interest is the difference between X's 80% direct interest in Y and F's 8% constructive ownership in Y. F and X together own 80% of Y (X's 72% plus F's 8%).

Example (3). Assume the same facts as in Example (2), except that D, an additional disqualified person with respect to F, owns 50% of X corporation. Thus, X is directly owned 10% by F, 50% by D and 40% by unrelated parties. Under paragraph (d) of this section, disqualified persons X and D are treated as holding 72% of Y partnership (X's 80% direct interest in Y less F's 8% constructive interest in Y). F and disqualified persons X and D together own 80% of Y.

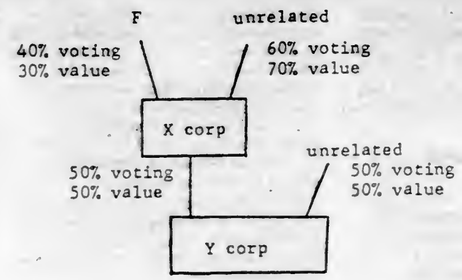
Example (4). (i), F, a private foundation, owns 50% of the one class of nonvoting stock of X corporation, a holding company described in section 4943(d)(4)(B). D, a disqualified person with respect to F as described in section 4946(a)(1)(A), owns 40% of the one class of voting stock of X. X corporation is a disqualified person with respect to F because D owns more than 35% of the voting stock of X. (See section 4946(a)(1)(E).) On January 1, 1980, X purchases for cash 40% of the only class of stock of Y corporation, a retail clothing store, from unrelated third parties.

(ii) Under paragraph (c)(3) of this section, F is treated as owning nonvoting stock of Y. This "deemed" nonvoting stock in Y is not a permitted holding because X, a disqualified person with respect to F, owns more voting stock than the 20% permitted under section 4943(c)(2)(A) or the 35% permitted under section 4943(c)(2)(B) if unrelated parties control Y.

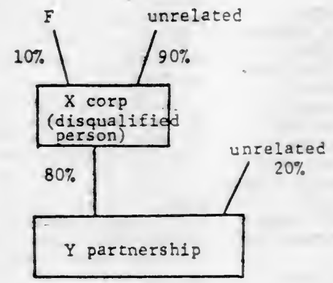
(g) The examples described in paragraph (f) of this section are illustrated below:

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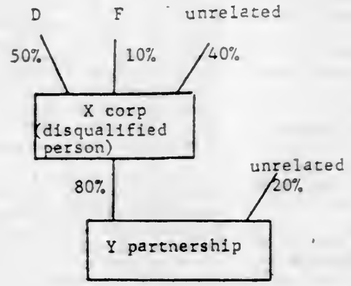
Example (1)



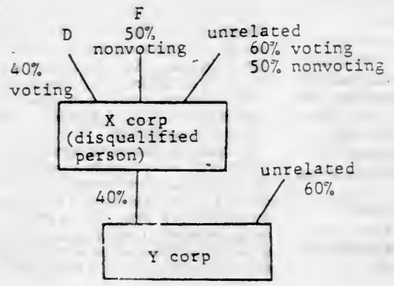
Example (2)



Example (3)



Example (4)



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Par. 4. Section 53.4943–10 is amended by adding a new paragraph (d)(2) to read as follows:

§ 53.4943–10 Business enterprise; definition.

* * * * *

(d) *Application of § 4943(c)(6).* * * *

(2) *Passive holdings, etc.* (i) Except as provided in paragraph (d)(1) of this section, if a private foundation holds an interest that is not an interest in a business enterprise and the interest later becomes an interest in a business enterprise, the interest will then be subject to sections 4943(c)(6) (regardless of when it was originally acquired) and will be treated as having been acquired other than by purchase for purposes of section 4943(c)(6) if the private foundation establishes that the business enterprise is not effectively controlled within the meaning of § 53.4943–3(b)(3)(ii) by the foundation, its disqualified persons or both at the time of the change to a business enterprise.

(ii) The rule in subdivision (i) of this subparagraph is illustrated by the following example. F, a private foundation, owns an investment asset, land, which it converts on January 1, 1980, into a business enterprise by becoming a dealer and subdividing the land and selling building lots. The change in holdings is treated as one which has resulted from a purchase on January 1, 1980.

(iii) Section 53.4943–11(f) contains a transitional rule for changes described in this subparagraph.

Par. 5. Section 53.4943–11 is amended by adding new paragraphs (c), (d), (e), and (f) to read as follows:

§ 53.4943–11 Effective date.

* * * * *

(c) *Special transitional rule for purchases.* Any interest acquired in a transaction described in § 53.4943–6(a)(2)(ii) that occurs prior to June 21, 1979, shall be treated as having been acquired other than by purchase for purposes of section 4943(c)(6).

(d) *Special transitional rule for reorganizations.* Any stock or other interest acquired in a reorganization described in § 53.4943–7(a)(1)(ii) prior to June 21, 1979, shall be treated as holdings to which section 4943(c)(4) applies, but only to the extent that such stock or interest is acquired in exchange for holdings to which section 4943(c)(4) applied.

(e) *Special transitional rules for certain corporate holdings*—(1) *Special transitional rule.* If any interest in any business enterprise owned by a corporation that is actively engaged in a trade or business is constructively owned under § 53.4943–8 (c) by a foundation or disqualified persons with respect to the foundation prior to June 21, 1979, that interest shall be treated as a holding to which section 4943 (c)(4) applies.

(2) *Exceptions.* The special transitional rule in paragraph (e)(1) of this section does not apply to—

(i) Interests owned by a corporation that has passive holdings and that also is actively engaged in a trade or business, if the assets used in the trade or business are insubstantial when compared to the passive holdings;

(ii) Any interest owned by a corporation that is actively engaged in a trade or business in a second business enterprise if the assets used in the first corporation's trade or business are insubstantial when compared to the assets used in the second business enterprise's trade or business.

(iii) Any interest acquired by a corporation that is actively engaged in a trade or business if the assets used in the corporation's trade or business prior to the acquisition are insubstantial when compared to the assets used in the corporation's trade or business after the acquisition; or

(iv) Any interest owned by a corporation that is used as a device to acquire or retain excess business holdings, whether or not the corporation is actively engaged in a trade or business.

(f) *Special transitional rule for changes to a business enterprise.* Any interest that is not an interest in a business enterprise which becomes an interest in a business enterprise under § 53.4943–10 (d)(2) prior to June 21, 1979, will be treated as having been acquired other than by purchase for purposes of section 4943(c)(6).

Jerome Kurtz,

Commissioner of Internal Revenue.

[FR Doc. 79-15774 Filed 5-16-79; 2:55 pm]

BILLING CODE 4830-01-M

Bureau of Alcohol, Tobacco and Firearms

[27 CFR Parts 170, 231 and 240]

[Notice No. 320]

Recodification of Wine Regulations

AGENCY: Bureau of Alcohol, Tobacco and Firearms (ATF).

ACTION: Advance notice of proposed rulemaking.

SUMMARY: The Bureau of Alcohol, Tobacco and Firearms (ATF) is issuing this advance notice to obtain comments from consumers and industry members on: (1) The recodification of 27 CFR Part 170, Subpart Z (Regulations Respecting Wine and Wine Products Rendered Unfit for Beverage Use); Part 231 (Taxpaid Wine Bottling Houses); Part 240 (Wine) into a new Part 24; (2) the elimination of unnecessary sections and the complete revision of all sections into language that is simple and understandable; and (3) as necessary, the incorporation of prior ATF rulings and industry circulars into the new Part 24. The comments from consumers and industry members will aid the Bureau in attaining these goals.

DATE: Comments must be received on or before August 20, 1979.

ADDRESS: Send comments in duplicate to: Director, Bureau of Alcohol, Tobacco and Firearms, P.O. Box 385, Washington, DC 20044, Attn: Chief, Regulations and Procedures Division.

FOR FURTHER INFORMATION CONTACT: Thomas L. Minton, Research and Regulations Branch, 202–566–7626.

SUPPLEMENTARY INFORMATION: By means of this advance notice, the Bureau plans to obtain early participation, needed advice, and data from consumers and the wine industry. Regulations should be as simple and clear as possible. An internal review found that 27 CFR Parts 170, 231 and 240 did not effectively and efficiently achieve regulatory goals. By its size alone, 27 CFR Part 240 defeats the spirit of the President's Executive Order on "Improving Government Regulations."

Areas of Review

To assist ATF in identifying and implementing the best course of action, written comments, suggestions, and any supporting data are requested. The Bureau would like comments and suggestions on the following and any other areas of possible change relating to 27 CFR Part 170, Subpart Z (Regulations Respecting Wine and Wine Products Rendered Unfit for Beverage Use); Part 231 (Taxpaid Wine Bottling Houses Regulations); and Part 240 (Wine Regulations):

(1) The recodification of 27 CFR Part 170, Subpart Z, Part 231, and Part 240 into one new Part designated as Part 24. This recodification would centralize all wine regulations under Title 27.

(2) This recodification would combine similar subparts (such as Subpart P and Q dealing with the Production and Treatment of Natural Grape Wine and Production and Treatment of Natural Fruit Wine respectively).

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(3) Deregulation and liberalization of Subpart UU, Records and Reports, which lists the requirements for the maintenance, filing, and retention of records, reports and returns (for example, to provide an amendment authorizing an alternative to the semimonthly filing of ATF Form 5120.27, Wine Tax Return. This would not only administratively benefit the Government, but also the wineries who have minimal tax determinations).

(4) To liberalize and deregulate the provisions of Subpart OO, Return of Unmerchantable Taxpaid Wine to Bonded Wine Cellar.

(5) To update Subpart PP, Withdrawal of Wine Spirits for Wine Production, in order to deregulate and reduce the present Government supervision for this activity.

(6) To eliminate Subpart VV, Miscellaneous Provisions, and recodify any necessary sections into other appropriate subparts.

(7) To completely eliminate Subpart XX, Calculations for Wine Production. The calculation tables, equipment descriptions, and other miscellaneous sections of this subpart are not suitable for regulations. The information contained in these sections would be more appropriately incorporated into an ATF publication dealing with gauging procedures and equipment usage.

(8) To rewrite the "amelioration and sweetening" regulatory sections contained in Part 240 (i.e., §§ 240.365, 240.366, 240.367, and 240.368) in order to clarify the definitions, the use, and the limitations of sweetening, and to streamline the language contained in these sections.

(9) To rewrite Subpart G through Subpart M with deregulation in mind. These subparts deal with the requirements for submission of qualifying documents and their use subsequent to initial qualification. The sections and language contained in these subparts will also be streamlined.

(10) Changes to and clarifications of wine definitions contained in Part 240 (i.e. defining the term "Must" in Part 240).

(11) To combine duplicating sections under Part 240 (i.e., to combine §§ 240.374–.382, Addition of Wine Spirits, with Subpart PP, Withdrawal of Wine Spirits for Wine Production).

Disclosure of Comments

Any person may inspect the written comments or suggestions during normal business hours at the ATF Reading Room, Office of Public Affairs, Room 4408, Federal Building, 12th and Pennsylvania Avenue, NW., Washington, DC.

After consideration of all comments and suggestions, ATF may issue a notice of proposed rulemaking. The proposals discussed in this advance notice may be modified due to the comments and suggestions received.

Drafting Information

The principal author of this document is Thomas B. Busey of the Bureau of Alcohol, Tobacco and Firearms. However, other personnel of the Bureau and the Treasury Department have participated in the preparation of this document, both in matters of substance and style.

Authority

This advance notice of proposed rulemaking is issued under the authority contained in 26 U.S.C. 7805 (68A Stat. 917).

Signed: April 17, 1979.

John G. Krogman,

Acting Director.

Approved: May 11, 1979.

Richard J. Davis,

Assistant Secretary (Enforcement and Operations).

[FR Doc. 79-15996 Filed 5-21-79; 8:45 am]

BILLING CODE 4810-31-M

DEPARTMENT OF LABOR

Mine Safety and Health Administration

[30 CFR Part 49]

Mine Rescue Teams; Public Hearing

AGENCY: Mine Safety and Health Administration, Department of Labor.

ACTION: Notice of public hearing.

SUMMARY: Public hearings on proposed regulations that would require the availability of mine rescue teams at underground mines will be held in six locations under the provisions of the Federal Mine Safety and Health Act of 1977. The hearings are being conducted in response to requests for public hearings filed with comments and objections to the proposed rule. The public hearings will cover the issues raised by the comments submitted concerning the proposed mine rescue team regulations (44 FR 1536–1541 Jan. 5, 1979).

DATES: Requests to make oral presentations for the record at the hearings scheduled for the weeks of June 19–28, 1979, should be submitted by June 15, 1979. For the hearings scheduled during the week of July 10, 1979, requests should be submitted by July 6, 1979. The schedule for the public hearing is as follows:

June 19, 1979—Charleston, West Virginia
June 21, 1979—Salt Lake City, Utah
June 26, 1979—Pittsburgh, Pennsylvania
June 28, 1979—Birmingham, Alabama
July 10, 1979—Pikeville, Kentucky
July 12, 1979—St. Louis, Missouri

ADDRESSES: Send requests to make oral presentations for the record at the hearings to: Mine Safety and Health Administration, Office of Standards, Regulations, and Variances, Room 631, 4015 Wilson Boulevard, Arlington, Virginia 22203. The six public hearings scheduled will be held at the following locations on the dates indicated, beginning at 9:00 a.m.:

1. June 19, 1979; Charleston Civic Center, Civic Theatre, Reynolds Street, Charleston, West Virginia 25301;
2. June 21, 1979; Salt Place, Room 220, 100 South West Temple, Salt Lake City, Utah 84101;
3. June 26, 1979; Bureau of Mine Auditorium, 4800 Forbes Avenue, Pittsburgh, Pennsylvania 15213;
4. June 28, 1979; Birmingham—Jefferson Civic Center, North Meeting Room C, Number One Civic Center Plaza, Birmingham, Alabama 35203;
5. July 10, 1979; Pikeville College, Armington Science Learning Center, Chrisman Auditorium, Pikeville, Kentucky 41501;
6. July 12, 1979; Hilton Bel Air Hotel, Salons Room, 333 Washington Avenue, St. Louis, Missouri 63102.

FOR FURTHER INFORMATION CONTACT: Frank A. White, Office of Standards, Regulations and Variances, 4015 Wilson Boulevard, Arlington, Virginia 22203, (703) 235–1910.

SUPPLEMENTARY INFORMATION: On January 5, 1979, the Mine Safety and Health Administration (MSHA), Department of Labor, proposed a new Part 49 in Title 30 CFR (44 FR 1536–1541), which sets forth requirements for mine rescue teams at all underground mines. Interested persons were afforded 60 days to submit written comments and objections to the proposed rule and to request a public hearing on the issues raised. Several requests for public hearings were included in the comments and objections. The public hearings scheduled by this notice will be held under Section 101(a)(3) of the Federal Mine Safety and Health Act of 1977 (Act). The purpose of the public hearings is to receive relevant evidence on all the issues raised by comments on the proposed rule. Some of the comments were more in the nature of requests for clarification and, where appropriate, clarification is provided in this notice. However, additional comments are welcomed without respect to all matters discussed. So that all interested persons will have equal opportunity to participate in the public hearings, speakers will each be given 20 minutes to make their oral presentations. It is therefore suggested that participants concentrate their oral presentations upon the issues which most interest and affect them and submit written responses to other issues.

The hearing will be conducted in an informal manner by a panel comprised of MSHA officials. There will be no cross-examination of persons making statements, although at the discretion of the chairman, supplemental statements by those presenting evidence may be permitted. Although formal rules of evidence will not apply, the chairman may, in his discretion, exclude irrelevant or unduly repetitious material. A verbatim transcript of the proceedings will be taken. All written comments and data shall be included in the record. The transcript of the proceedings shall be available for public inspection. The record shall remain open until July 27, 1979, for the submission of supplementary statements or data. Within 90 days after certification of the record, the Secretary of Labor shall promulgate, modify or withdraw the proposed amendments and shall publish his reasons therefor.

The following major issues, by section, have been raised by written comments and objections:

Effect on existing regulations

The final rule which emerges from this proposal will be applicable to all underground mining. Presently, mine rescue regulations exist for metal and nonmetallic underground mines, as found in 30 CFR 57.4–67 through 57.4–72. To the extent that the existing regulations become inconsistent with the final rules in Part 49, such regulations are intended to be withdrawn by the agency. This question was raised by commenters and further comment on MSHA's intention to delete duplicative requirements are solicited.

§ 49.1 Scope and purpose

This section deals with the scope and purpose of Part 49—Mine Rescue Teams. Commenters felt that the last sentence of that section was unnecessarily cumbersome. The Mine Safety and Health Administration (MSHA) agrees with this comment. Accordingly, at this time MSHA intends to revise the last sentence of this section to read: "This Part 49 applies to each operator of an underground mine."

One commenter questioned whether the proposed regulation went beyond the intention of Section 115(e) of the Federal Mine Safety and Health Act of 1977 (Act). MSHA notes that the authority for the proposed rule is section 101 (mandatory safety and health standards) as well as section 115(e) of the Act. MSHA invites further comments with respect to this issue.

In another issue raised by commenters, it was suggested that the proposed rule use a "plan standard", which places the responsibility for development of individual mine rescue team plans upon operators. Comments on this issue are solicited.

§ 49.2 Availability of mine rescue teams

This section proposes that two mine rescue teams shall be available at each underground mine for rescue and recovery work. This requirement could be met through the use of cooperative or other agreements. In addition, where the mine is small and in a remote location, alternative plans for achieving compliance may be submitted.

Commenters suggested that, to insure consistent compliance with and enforcement of these regulations, the term "available" should be defined. MSHA agrees that such a definition is necessary. Commenters suggested that a definition of available include the following considerations:

(1) That the teams are "on call" or "subject to call",

(2) That a team member is "available" even if he or she is performing normal work duties underground or is off-duty,

(3) That a properly trained and equipment mine rescue team will present itself at a mine site within a reasonable time after notification of an occurrence which may require the use of mine rescue teams.

Another commenter stated that the rescue teams should be required to be stationed at the mine at all times when miners are working underground. MSHA invites testimony on the definition of "available".

An issue was raised concerning the inability of operators to purchase necessary equipment, train team members and make necessary cooperative or other agreements within the six month time period allowed in the proposed rule. MSHA solicits testimony with regard to this issue. Several commenters stated that, with respect to the rescue team requirement for new underground mines, MSHA should clarify the phrase "prior to the opening of a new mine", and questioned whether the rescue team capability would have to be provided during the construction phase of the mine. MSHA agrees that a clarification of "prior to the opening of a new mine" would be useful and solicits further testimony on this matter. MSHA fully realizes that during the construction and early production phases of the mining operation, many of the employees at the underground mine would be those of independent contractors. However, a greater measure of safety may be achieved by having one operator responsible for providing mine rescue team availability without shifting the responsibility between operators. MSHA solicits further comment with respect to this issue.

Another issue was raised concerning both the necessity for the proposed requirements of two rescue teams and two alternate members for each team. Some commenters suggested that the number of teams required should be based upon the number of miners employed at the underground mine. Others stated that one team would provide an adequate rescue capability, while another commenter considered three teams to be appropriate. In addition, commenters stated that one alternate member for each team would be sufficient. Experience has shown that two teams have been effective and have offered reliable rescue capability. However, with respect to the issue of the number of alternates for each team, MSHA is interested in additional testimony.

The proposed rule included a provision which would allow operators of small and remote mines to submit alternate plans for insuring a mine rescue capability. Commenters stated that "small and remote" should be defined. MSHA agrees that if "small and remote" is retained as the criterion for submitting alternate plans, the term should be defined. The size of the workforce within each mine might affect the operator's ability to meet the proposed requirements with respect to the number of miners for each team. In considering a definition for "remote", a critical element may be an operator's ability to affiliate with other companies and organizations to insure a rescue capability.

Commenters also stated that to increase flexibility in providing mine rescue capability, the term "small and remote" should be changed to "small and/or remote." It is MSHA's opinion that remoteness alone will not be a sufficient criterion for submitting alternate plans since there may be mines which although remote, are otherwise capable of providing mine rescue services. Further, smallness alone will not be sufficient if there is an ability

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to affiliate with other teams. Therefore, MSHA believes that in order to assure that the alternate plan provision does not defeat the purpose of the rule, remoteness or smallness alone should not be a criterion. However, MSHA understands that this is a critical issue, and encourages testimony with respect to a definition of "small and remote".

Commenters also suggested that the criteria should be expanded to include other conditions or situations which might justify an alternative to the mine rescue team requirements contained in the proposed rule. For example, one commenter suggested that alternative methods of providing mine rescue capability, such as local fire departments or rescue squads, might be appropriate if the following conditions are present:

(1) Large multiple entrances, with at least one entrance capable of handling emergency vehicular traffic;

(2) The mine has a non-explosive atmosphere;

(3) Rooms having minimum dimensions of twenty-four (24) feet in width and ten (10) feet in height; and

(4) Materials being mined are non-combustible. MSHA would like to explore further the possibility of providing criteria for permitting alternative mine rescue capability and solicits testimony from other segments of the mining industry. In addition, MSHA solicits testimony with respect to the alternate methods which will be used by operators to insure the availability of mine rescue services.

An issue was raised concerning the use of government teams to help provide the mine rescue capability. With respect to State rescue teams, MSHA's proposed rule would not prohibit their use. However, it should be understood that MSHA expects such teams to be adequately trained and equipped and will inspect them for compliance with the MSHA rescue team regulations. MSHA invites further testimony on this issue.

Several commenters stated that the use of contractual and cooperative agreements could result in legal difficulties which might hinder the effectiveness of a mine rescue organization. In so doing, these commenters noted the tradition of voluntary mine rescue work and stated that, even in the event of a contractual or cooperative agreement, team members could not be required to respond to an emergency. MSHA fully agrees that mine rescue work should continue to be a voluntary endeavor. MSHA wishes to re-emphasize that under these rules, operators who choose to use cooperative or other relationships would be free to negotiate the provisions of the agreement. Written evidence that an agreement to provide services has been reached would satisfy the requirements of the regulations. All operators who choose cooperative or other agreements as a method of ensuring rescue capability should fully understand the voluntary nature of mine rescue work. Mine rescue team members will not be forced by such agreements to enter the mine. The history of mining disasters reveals that if the lives of miners or other persons were threatened, any mine rescue team available would respond without hesitation.

Some commenters expressed concern that the requirements in the proposed rule might preclude team participation in mine rescue contests. MSHA believes that participation in mine rescue contests is an extension of team training and considers that teams are "on-call" even when they are participating in such contests. Therefore, the proposed rule would have no effect upon existing mine rescue competition.

§ 49.3 Equipment for mine rescue teams and stations

This section pertains to equipment requirements for mine rescue teams and stations. It is divided into two subsections: the apparatus, equipment, and accessories required for mine rescue stations, and that required for mine rescue teams.

Comments which were general in nature questioned whether the expense resulting from the equipment requirements would impose severe economic burdens on small mine operators. However, most of the comments for this section were specific in addressing the requirements of each equipment provision.

Commenters asked for clarification of certain requirements contained in this section:

In § 49.3(a)(2), it was intended that the extra oxygen bottles be fully charged. The term "fully charged" means that the oxygen bottle is charged to the capacity for which the breathing apparatus is approved.

In § 49.3(b)(5), the term "chemicals" was intended to mean oxygen-generated or CO_2 absorbant chemicals. In § 49.3(b)(6), the term "spare parts" was intended to mean those spare parts that are recommended by the equipment manufacturer to be available at all times.

It was intended that the mine rescue station need not be used as headquarters during a mine emergency, as the primary purpose of the mine rescue station is to store and maintain the mine rescue equipment.

It was intended that the vehicle for ground transportation need not be kept at the rescue station at all times.

It was intended that members of the rescue team may go directly to the emergency scene if this is more practical, as long as arrangements for the transportation of the mine rescue equipment to the emergency scene are established.

§ 49.4 Maintenance of mine rescue apparatus and equipment

This section sets forth proposed requirements for maintaining mine rescue apparatus and equipment, including inspection, testing and record-keeping requirements.

Several commenters stated that the inspection, testing and record-keeping requirements were excessive.

§ 49.5 Physical requirements for team members and alternates

This section sets out the physical requirements for team members and alternates. In general the commenters raised issues as to whether the physical requirements for team membership and the time period in which initial physical examinations must be completed were too restrictive. The need for an annual physical examination of team members was also questioned.

§ 49.6 Requirements for team members and alternates

This section sets forth experience requirements for membership on a mine rescue team. It would require that all members of the rescue team and alternates shall have been employees in an underground mine for a total of one or more years within the three preceding years prior to becoming a team member. In addition, surface miners who worked regularly underground would be considered employed in an underground mine.

Commenters stated that the requirements of this section were too restrictive, particularly for small mines and new mines. Specifically, operators of small mines stated that they would be unable to find sufficient personnel to meet the one year experience requirement and noted that the limitation on experience to either underground work only or surface miners regularly working underground would preclude many qualified, special-skilled employees from becoming team members. However, other commenters felt that one year's underground experience was not enough for mine rescue work. MSHA invites further testimony on this issue.

Another issue was raised concerning a "grandfather clause" which would permit persons who are currently certified by MSHA or State agencies in mine rescue training to be exempt from the one year requirement. Based on information received to date, MSHA believes that, for maximum flexibility, such persons should be permitted to serve on mine rescue teams. In addition, MSHA wishes to clarify that surface employees who meet the requirements of this section would be considered underground employees for the purposes of this section only.

§ 49.7 Requirements for training of mine rescue teams; instructors, records of training

This section proposes minimum training requirements for team members and alternates, the methods for approving instructors, and record-keeping requirements.

The most frequently raised criticism of this section was that the training requirements were excessive, too costly, too inflexible, duplicative of MSHA's Part 48 training regulations, and would result in unnecessary recordkeeping and paperwork. In addition, commenters stated that the regulation should include a provision waiving the requirement for initial training for those individuals who currently hold MSHA certification in rescue training.

There were many comments related to the particular types of training required. Several Commenters criticized the requirement for cardiopulmonary resuscitation (CPR) training. Other issues were raised concerning the need for first aid training, the duration and frequency of the annual refresher training, and a waiver of the requirement that the training session be held underground once every four months where the coal seam heights are less than 40 inches. With respect to instructor training, commenters stated that instructors should not only have underground mining experience, but should also have experience in mine rescue work.

MSHA invites comments on these issues.

§ 49.8 Mine rescue stations

This section would require a mine rescue station, which is to be located no more than 60 minutes travel time by conventional ground transportation from the mine.

Commenters objected to the need for mine rescue stations and stated that, in including this section, MSHA had exceeded the statutory mandate. However, one commenter suggested that there should be a rescue station at every operating coal mine. Several commenters stated that MSHA should not specify the precise equipment and facilities for rescue stations and that to do so would impose unnecessary and expensive requirements. In addition, commenters stated that mobile rescue stations should be allowed. An issue was raised concerning necessity for rescue stations to be offset from the mine portal in all cases. MSHA solicits further comment on these issues.

§ 49.9 Mine emergency notification plan and mine map

This section would require each mine to establish a mine emergency notification plan for the fundamental purpose of assuring, in advance, the means for notifying team members of an emergency. Commenters questioned whether other regulations presently require this information; whether another form would unduly add to present reporting requirements; and whether the posting of mine maps at rescue stations was necessary. Further comment on these subjects is sought by MSHA.

§ 49.10 Representatives of miners

This section would require operators to provide representatives of miners with a copy of: the plan for ensuring mine rescue team availability; any cooperative or other agreement for mine rescue team service; and the current mine rescue notification plan.

Commenters raised issues as to the scope of information that operators should be required to supply to representatives of miners; whether the mine rescue notification plan need be supplied as it is already required to be posted under § 49.9(b); and the method for disclosing this information where there is no miner representative.

Dated: May 17, 1979.

Eckehard Muessig,

Deputy Assistant Secretary for Mine Safety and Health.

[FR Doc. 79-16004 Filed 5-21-79; 8:45 am]

BILLING CODE 4510-43-M

PENNSYLVANIA AVENUE DEVELOPMENT CORPORATION

[36 CFR Ch. IX]

Improving Government Regulations; Semiannual Agenda of Regulations

AGENCY: Pennsylvania Avenue Development Corporation.

ACTION: Semiannual agenda of significant regulations under development or review.

SUMMARY: Pursuant to Section 2 of Executive Order 12044, the Pennsylvania Avenue Development Corporation is not planning to issue or review any significant regulations prior to September 30, 1979.

FOR FURTHER INFORMATION CONTACT:

Ms. Mary M. Schneider, Attorney, Office of General Counsel, Pennsylvania Avenue Development Corporation, 425 13th Street NW., Suite 1148, Washington, D.C. 20004, (202) 566-1078.

Dated: May 15, 1979.

W. Anderson Barnes,

Executive Director.

[FR Doc. 79-15868 Filed 5-21-79; 8:45 am]

BILLING CODE 7630-01-M

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Notices

Federal Register
Vol. 44, No. 100
Tuesday, May 22, 1979

This section of the FEDERAL REGISTER contains documents other than rules or proposed rules that are applicable to the public. Notices of hearings and investigations, committee meetings, agency decisions and rulings, delegations of authority, filing of petitions and applications and agency statements of organization and functions are examples of documents appearing in this section.

DEPARTMENT OF AGRICULTURE

Forest Service

AuSable Wild and Scenic River; Huron-Manistee National Forest Alcona, Crawford, Oscoda Counties, Mich.; Intent To Prepare an Environmental Impact Statement/Study Report

Pursuant to Section 102(2)(C) of the National Environmental Policy Act of 1969, the Forest Service, Department of Agriculture will prepare an environmental impact statement/study report for potential addition to certain segments of the AuSable River to the National Wild and Scenic Rivers System.

The Forest Supervisor of the Huron-Manistee National Forest, in accordance with Pub. L. 90–542, is conducting the study jointly with the State of Michigan and is being assisted by the Michigan Department of Natural Resources; Soil Conservation Service; Fish and Wildlife Service; Heritage, Recreation and Conservation Service; Great Lakes Basin Commission and Northwest Michigan Regional Planning Commission.

Meetings have been held with local people and governing units to better determine whether additions to the AuSable River segments to the National Wild and Scenic Rivers System could result in significant changes in social, economic, biological and physical conditions. Preliminary findings are that inclusion of segments of the river to the National Wild and Scenic Rivers System could cause both beneficial and detrimental effects on the regional environment. Because of the probable significant effects, an environmental impact statement was determined to be appropriate.

John R. McGuire, Chief of the Forest Service, is the responsible official, and Carl F. Gebhardt, River Planner, is the team leader for the environmental impact statement/study report.

The AuSable Wild and Scenic River Environmental Impact Statement/Study Report was started prior to adoption of the regulation requiring a Notice of Intent. The draft environmental impact statement/study report will be filed with the Environmental Protection Agency and distributed to the public in June 1979, followed by a 2 month review and comment period. The final environmental impact statement/study report shall be submitted to the President and Congress thereafter and filed with the Environmental Protection Agency.

Comments on the Notice of Intent or on the project should be sent to Forest Supervisor, Huron-Manistee National Forest, 421 South Mitchell Street, Cadillac, Michigan 49601.

Douglas R. Leisz,
Acting Chief.
May 15, 1979.
[FR Doc. 79-15980 Filed 5-21-79; 8:45 am]
BILLING CODE 3410-11-M

Manistee Wild and Scenic River; Huron-Manistee National Forest, Crawford, Kalkaska, Missaukee, Wexford, Manistee, Lake, Osceola Counties, Mich.; Intent to Prepare an Environmental Impact Statement/Study Report

Pursuant to Section 102(2)(C) of the National Environmental Policy Act of 1969, the Forest Service, Department of Agriculture will prepare an environmental impact statement/study report for potential addition of certain segments of the Manistee River to the National Wild and Scenic Rivers System.

The Forest Supervisor of the Huron-Manistee National Forest, in accordance with Pub. L. 90–542, is conducting the study jointly with the State of Michigan and is being assisted by the Michigan Department of Natural Resources; Soil Conservation Service; Fish and Wildlife Service; Heritage, Recreation and Conservation Service; Great Lakes Basin Commission and Northwest Michigan Regional Planning Commission.

Meetings have been held with local people and governing units to better determine whether additions of the Manistee River segments to the National Wild and Scenic Rivers System could result in significant changes in social, economic, biological and physical conditions. Preliminary findings are that inclusion of segments of the river to the National Wild and Scenic Rivers System could cause both beneficial and detrimental effects on the regional environment. Because of the probable significant effects, an environmental impact statement was determined to be appropriate.

John R. McGuire, Chief of the Forest Service, is the responsible official, and Carl F. Gebhardt, River Planner, is the team leader for the environmental impact statement/study report.

The Manistee Wild and Scenic River Environmental Impact Statement/Study Report was started prior to adoption of the regulation requiring a Notice of Intent. The draft environmental impact statement/study report will be filed with the Environmental Protection Agency and distributed to the public in July 1979, followed by a 2 month review and comment period. The final environmental impact statement/study report shall be submitted to the President and Congress thereafter.

Comments on the Notice of Intent or on the project should be sent to Forest Supervisor, Huron-Manistee National Forest, 421 South Mitchell Street, Cadillac, Michigan 49601.

D. R. Leisz,
Acting Chief.
May 15, 1979.
[FR Doc. 79-15981 Filed 5-21-79; 8:45 am]
BILLING CODE 3410-11-M

DEPARTMENT OF COMMERCE

National Technical Information Service

Government-Owned Inventions; Availability for Licensing

The inventions listed below are owned by the U.S. Government and are available for domestic and possibly foreign licensing in accordance with the licensing policies of the agency-sponsors.

Copies of the patents cited are available from the Commissioner of Patents & Trademarks, Washington, DC 20231, for $.50 each. Requests for copies of patents must include the patent number.

Copies of the patent applications can be purchased from the National Technical Information Service (NTIS), Springfield, Virginia 22161 for $4.00 ($8.00 outside North American Continent). Requests for copies of patent applications must include the PAT-APPL number. Claims are deleted from patent application copies sold to the public to avoid premature disclosure in the event of an interference before the Patent and Trademark Office. Claims and other technical data will usually be made available to serious prospective licensees by the agency which filed the case.

Requests for licensing information on a particular invention should be directed to the address cited for the agency-sponsor.

Douglas J. Campion,
Patent Program Coordinator, National Technical Information Service.

U.S. Department of the Air Force, AF/JACP, 1900 Half Street, S.W., Washington, DC 20234.

Patent Application 949,367: Full Duplexer Apparatus Using Frequency Selective Limiters; filed Oct. 6, 1978.

Patent 4, 104,087: Method for Fabricating MNOS Memory Circuits; filed Apr. 7, 1977, patented Aug. 1, 1978; not available NTIS.

Patent 4, 105,339: Azimuth Monitoring System; filed Jan. 24, 1977, patented Aug. 8, 1978; not available NTIS.

Patent 4, 107,980: Assessment of Flaw Growth Potential in Structural Components; filed June 7, 1977, patented Aug. 22, 1978; not available NTIS.

Patent 4, 108,073: Armor Piercing Projectile; filed Feb. 27, 1975, patented Aug. 22, 1978; not available NTIS.

Patent 4, 109,172: High Piezoelectric Coupling-Temperature Compensated Berlirite Substrate Member for Surface Acoustic Wave Devices; filed Aug. 19, 1977, patented Aug. 22, 1978; not available NTIS.

Patent 4, 109,173: High Piezoelectric Coupling, Low Diffraction Loss, Temperature Compensated Berlinite Substrate Members for Surface Acoustic Wave Devices; filed Aug. 19, 1977, patented Aug. 22, 1978; not available NTIS.

Patent 4, 110,713: Low Offset Field Effect Transistor Correlator Circuit; filed Nov. 19, 1976, patented Aug. 29, 1978; not available NTIS.

Patent 4, 110,778: Narrow-Band Inverted Homo-Heterojunction Avalanche Photodiode; filed June 21, 1977, patented Aug. 29, 1978; not available NTIS.

Patent 4, 111,463: Separable Coupling for Plural Pressure Lines; filed June 7, 1977, patented Sept. 5, 1978; not available NTIS.

Patent 4, 114,352: Protective Jacket of Chronically Instrumented Dogs; filed July 19, 1976, patented Sept. 19, 1978; not available NTIS.

Patent 4, 114,420: Environmental Test Chamber System; filed Sept. 12, 1977, patented Sept. 19, 1978; not available NTIS.

Patent 4, 114,510: Muzzle Clamp Assembly; filed Apr. 28, 1977, patented Sept. 19, 1978; not available NTIS.

Patent 4, 114,840: Parachute Canopy Deployment Control Apparatus; filed Oct. 21, 1977; patented Sept. 19, 1978; not available NTIS.

Patent 4, 114,978: Buried Grating Shared Aperture Device; filed July 1, 1977; patented Sept. 19, 1978; not available NTIS.

Patent 4, 115,616: Self-Sealing Fuel Line Assembly; filed Feb. 9, 1978; patented Sept. 19, 1978; not available NTIS.

Patent 4, 115,738: Probe Station; filed Mar. 9, 1977; patented Sept. 19, 1978; not available NTIS.

Patent 4, 115,749: Microwave Hybrid Phase Matching Spacer; filed Apr. 25, 1977; patented Sept. 19, 1978; not available NTIS.

Patent 4, 115,775: Deep Penetrating Forebody with Tethered Radar Reflector; filed Sept. 29, 1976; patented Sept. 19, 1978; not available NTIS.

Patent 4, 115,784: Deployable Ground Plane Antenna; filed Feb. 4, 1977; patented Sept. 19, 1978; not available NTIS.

Patent 4, 116,717: Ion Implanted Eutectic Gallium Arsenide Solar Cell; filed Dec. 8, 1976; patented Sept. 26, 1978; not available NTIS.

Patent 4, 117,318: Optical Position Pick-Off in Zero-Drag Satellite; filed May 16, 1977; patented Sept. 26, 1978; not available NTIS.

Patent 4, 117,480: Real Time Signal Correlator for High Resolution Radar; filed Jan. 12, 1965, patented Sept. 26, 1978; not available NTIS.

Patent 4, 117,485: Radar Target Cross Section Control Method and Means; filed Jan. 5, 1971; patented Sept. 26, 1978; not available NTIS.

Patent 4, 126,047: Surface Acoustic Wave Rate Sensor and Position Indicator; filed Apr. 25, 1977; patented Nov. 21, 1978; not available NTIS.

Patent 4, 126,381: Converging Wave Unstable Resonator; filed Jun 24, 1977; patented Nov. 21, 1978; not available NTIS.

Patent 4, 126,735: Porous Electrode Primary Battery Having State of Charge Sensing Electrode; filed Oct. 21, 1977, patented Nov. 21, 1978; not available NTIS.

Patent 4, 126,832: Diffraction Grating Coupled Optically Pumped Laser; filed May 26, 1977; patented Nov. 21, 1978; not available NTIS.

Patent 4, 127,808: Engine Chip Detector; filed Oct. 7, 1977; patented Nov. 28, 1978; not available NTIS.

Patent 4, 127,827: Optimized Mode-Locked, Frequency Doubled Laser; filed Apr. 7, 1977; patented Nov. 28, 1978; not available NTIS.

U.S. Department of Agriculture, Research Agreements and Patent Branch, General Service Division/Federal Building, Agricultural Research Service, Hyattsville, Md. 20782.

Patent Application 910,153: Process for Producing a Low-Gossypol Protein Product from Glanded Cottonseed; filed May 26, 1978.

Patent Application: 938,893: Dust Precutter and Method; filed Aug. 31, 1978.

Patent Application: 943,899: Extraction of Cottonseed and Concetrates to Improve the Color of Protein Isolate; filed Sept. 19, 1978.

Patent Application: 946,853: Quaternary Phosphonium Salts Bearing Carbamate Groups; filed Nov. 29, 1978.

U.S. Department of Energy, Assistant General Counsel for Patents, Washington, D.C. 20545.

Patent Application 831,191: Diffusion Hydrogen Meter; filed Sept. 7, 1977.

Patent 4,078,226: Input Apparatus for Dynamic Signature Verification Systems; filed Mar. 16, 1977; patented Mar. 7, 1978; not available NTIS.

U.S. Department of the Navy, Assistant Chief for Patents, Office of Naval Research, Code 302, Arlington, Va. 22217.

Patent Application 901,955: Optical Oscillator; filed May 1, 1978.

Patent Application 958,231: Derotation Plate; filed Nov. 6, 1978.

Patent Application 958,459: Method of Anodically Leveling Semiconductor Layers; filed Nov. 6, 1978.

Patent Application 959,383: Millimeter Wave Microstrip Triplexer; filed Nov. 9, 1978.

Patent Application 960,992: Coherent Frequency Shift Key Demodulator; filed Nov. 15, 1978.

Patent 3,503,814: Pyrotechnic Composition Containing Nickel and Aluminum; filed May 3, 1968, patented Mar. 31,1970, not available NTIS.

Patent 3,973,216: Laser with a High Frequency Rate of Modulation; filed Apr. 28, 1975, patented Aug. 3, 1976; not available NTIS.

Patent 4,054,364: Apparatus for Transmitting Light through Cassegrain Optics; filed Feb. 2, 1976; patented Oct. 18, 1977; not available NTIS.

Patent 4,063,509: Device for Stimulation of Geothermal Wells; filed May 17, 1976; patented Dec. 20, 1977; not available NTIS.

Patent 4,068,192: Gas Laser Starting; filed Apr. 15, 1976, patented Jan. 10, 1978; not available NTIS.

Patent 4,068,240: Fuel Tank Leakage Fiber Flow Sealant; filed Sept. 13, 1976; patented May 9, 1978; not available NTIS.

Patent 4,093,384: Narrow Angle, Narrow Bandwidth Optical Receiver System; filed Oct. 4, 1976; patented June 6, 1978; not available NTIS.

Patent 4,096,447: Unstable Resonator Laser System; filed Nov. 24, 1976; patented June 20, 1978; not available NTIS.

Patent 4,100,320: Custom Fitted, Light Weight, Air Conditioned Protective Helmet; filed Mar. 1, 1976, patented July 11, 1978; not available NTIS.

Patent 4,100,541: High Speed Manchester Encoder; filed July 26, 1976; patented July 11, 1978; not available NTIS.

Patent 4,109,358: Method of Making Ferroelectric Crystals Having Tailored Domain Patterns; filed June 7, 1976; patented Aug. 29, 1978; not available NTIS.

Patent 4,110,111: Metal Alloy and Method of Preparation Therof; filed July 28, 1976; patented Aug. 29, 1978; not available NTIS.

Patent 4,112,455: Field-Effect Transistor with Extended Linear Logarithmic Transconductance; filed Jan. 27, 1977; patented Sept. 5, 1978; not available NTIS.

Patent 4,115,704: Parametric Energy Coupled Uninterruptible Power Supply; filed Apr.

all interested parties their evaluations of

27, 1977; patented Sept. 19, 1978; not available NTIS.

Patent 4,119,941: Acoustic Coupler; filed Aug. 8, 1977; patented Oct. 10, 1978; not available NTIS.

Patent 4,121,209: Two-Axis Motion Compensation for AMTI; filed Oct. 20, 1977; patented Oct. 17, 1978; not available NTIS.

Patent 4,121,290: Analog Sound Velocity Calculator; filed Apr. 18, 1977; patented Oct. 17, 1978; not available NTIS.

National Aeronautics & Space Administration, Assistant General Counsel for Patent Matters, NASA CODE GP-2, Washington, D.C. 20546.

Patent 4,124,330: Cam-Operated Pitch-Change Apparatus; filed Oct. 9, 1974; patented Nov. 7, 1978; not available NTIS.

Patent 4,132,069: Integrated Gas Turbine Engine-Nacelle; filed Dec. 22, 1976; patented Jan. 2, 1979; not available NTIS.

[FR Doc. 79-15905 Filed 5-21-79; 8:45 am]

BILLING CODE 3510-04-M

Government-Owned Inventions; Availability for Licensing

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Douglas J. Campion,

Patent Program Coordinator, National Technical Information Service.

U.S. Department of the Air Force, AF/JACP, 1900 Half Street, S.W., Washington, DC 20324

Patent 4,110,833: Balanced AC Correlator System. Filed Nov. 19, 1976, patented Aug. 29, 1978; not available NTIS.

U.S. Department of Energy, Assistant General Counsel for Patents, Washington, DC 20545

Patent 4,082,531: Holcer for Rotating Glass Body; filed Jan. 24, 1977; patented Apr. 4, 1978; not available NTIS.

Patent 4,083,243: Method of Measuring the Mass Flow Rate of a Substance Entering a Cocurrent Fluid Stream; filed Apr. 22, 1977; patented Apr. 11, 1978; not available NTIS.

Patent 4,083,272: Omega-X Micromachining System; filed Dec. 14, 1976; patented Apr. 11, 1978; not available NTIS.

Patent 4,084,109: High-Current Power Supply for Accelerator Magnets; filed June 8, 1976; patented Apr. 11, 1978; not available NTIS.

Patent 4,084,209: Rotating Superconductor Magnet for Producing Rotating Lobed Magnetic Field Lines; filed May 21, 1976; patented Apr. 11, 1978; not available NTIS.

Patent 4,091,336: Direct Nuclear Pumped Laser; filed May 27, 1976; patented May 23, 1978; not available NTIS.

U.S. Department of the Navy, Assistant Chief for Patents, Office of Naval Research, Code 302, Arlington, Va. 22217

Patent application 874,005: Praseodymium Blue-Green Laser System; filed Jan. 31, 1978.

Patent application 914,311: Coupling for Misaligned Shafts; filed Jun. 15, 1978.

Patent application 922,610: Zinc Oxide on Silicon Device for Parallel in, Serial Out, Discrete Fourier Transform; filed Jul. 7, 1978.

Patent application 951,105: Variable Power Attenuator for Light Beams, filed Oct. 13, 1978.

Patent application 954,263: Dual Speed Fluid Control Apparatus; filed Oct. 24, 1978.

Patent application 954,707: Fiber Optic Laser Beam Detector; filed Oct. 25, 1978.

Patent application 962,854: End-Butt Optical Fiber Coupler; filed Oct. 13, 1978.

Patent application 962,855: Laser Spraying; filed Nov. 22, 1978.

Patent 4, 104,608: Heave Meter; filed Mar.30, 1977, patented Aug. 1, 1978, not available NTIS.

National Aeronautics & Space Administration, Assistant General Counsel for Patent Matters, NASA Code GP-2, Washington, D.C. 20546

Patent application 950,877: Prosthetic Urinary Sphincter; filed Oct. 12, 1978.

Patent application 953,389: Chromatically Corrected Virtual Image Display; filed Oct. 23, 1978.

Patent application 956,160: Radio Frequency Arraying Method for Receivers; filed Oct. 31, 1978.

Patent application 964,754: Catalyst Surfaces for the Chromous/Chromic Redox Couple; filed Nov. 29, 1978.

Patent application 965,367: A System for Displaying at a Remote Station Data Generated at a Central Station and for Powering the Remote Station from the Central Station; filed Nov. 30, 1978.

Patent application 969,759: Fluidized Bed Coal Combustion Reactor; filed Dec. 15, 1978.

Patent application 969,760: Photochemical Transducer; filed Dec. 15, 1978.

Patent application 969,761: Real-Time Multiple-Look Synthetic Aperture Radar Processor for Spacecraft Applications; filed Dec. 15, 1978.

Patent application 969,762: Discriminator Aided Phase Look Acquisition for Suppressed Carrier Signals; filed Dec. 15, 1978.

Patent application 971,473: Cross-Linked Polyvinyl Alcohol and Method of Making Same; filed Dec. 20, 1978.

Patent application 971,475: In-situ Cross-Linking of Polyvinyl Alcohol; filed Dec. 20, 1978.

Patent application 971,596: Method of Cross-Linking Polyvinyl Alcohol and Other Water Soluble Resins; filed Dec. 20, 1978.

Patent application 974,471: Frequency Translating Phase Conjugation Circuit for Active Retrodirective Antenna Array; filed Dec. 29, 1978.

Patent application 974,473: High-Speed Multiplexing of Keyboard Data Inputs; filed Dec. 29, 1978.

Patent application 974,474: Process for Preparation of Large-Particle Size Monodisperse Latexes; filed Dec. 29, 1978.

Patent application 974,476: Indomethacir-Artihistamine Combination for Gastric Ulceration Control; filed Dec. 29, 1978.

Patent 4,106,587: Sound-Suppressing Structure with Thermal Relief; filed Jul. 2, 1976, patented Aug. 15, 1978; not available NTIS.

Patent 4,111,058: Electronically Scanned Pressure Sensor Module with in situ Calibration Capability; filed Sep. 22, 1977, patented Sep. 5, 1978; not available NTIS.

Patent 4,111,068: Locking Redundant Link; filed Mar. 7, 1977, patented Sep. 5, 1978; not available NTIS.

Patent 4,111,184: Sun Tracking Solar Energy Collector; filed Apr. 6, 1977, patented Sep. 5, 1978; not available NTIS.

Patent 4,111,718: Thermocouples of Molybdenum and Iridium Alloys for MOre Stable Vacuum-High Temperature Performance; filed Nov. 21, 1977, patented Sep. 5, 1978; not available NTIS.

Patent 4,111,729: Inhibited Solid Propellant Composition Containing Beryllium Hydride; filed Aug. 5, 1969, patented Sep. 5, 1978; not available NTIS.

Patent 4,111,775: Multilevel Metallization Method for Fabricating a Metal Oxide Semiconductor Device; filed Jul. 8, 1977, patented Sep. 5, 1978; not available NTIS.

Patent 4,111,851: Electrically Conductive Thermal Control Coatings; filed Oct. 21, 1977, patented Sep. 5, 1978; not available NTIS.

Patent 4,112,357: Lightning Current Detector; filed Sep. 22, 1977, patented Sep. 5, 1978; not available NTIS.

Patent 4,112,497: Digital Demodulator-Correlator; filed Mar. 29, 1977, patented Sep. 5, 1978; not available NTIS.

Patent 4,122,725: Length Mode Piezoelectric Ultrasonic Transducer for Inspection of Solid Objects; filed Jun. 16, 1976, patented Oct. 31, 1978; not available NTIS.

Patent 4,128,814: External Bulb Variable Volume Maser; filed Nov. 30, 1977, patented Dec. 5, 1978; not available NTIS.

Patent 4,129,357: Partial Polarizer Filter; filed Aug. 11, 1977, patented Dec. 12, 1978; not available NTIS.

Patent 4,130,032: High-Torque Open-End Wrench; filed Aug. 29, 1977, patented Dec. 19, 1978; not available NTIS.

Patent 4,130,112: Coupling Apparatus for Ultrasonic Medical Diagnostic System; filed Nov. 15, 1976, patented Dec. 19, 1978; not available NTIS.

Patent 4,130,471: Microelectrophoretic Apparatus and Process; filed Nov. 10, 1977, patented Dec. 19, 1978; not available NTIS.

Patent 4,130,795: Versatile LDV Burst Simulator; filed Dec. 16, 1977, patented Dec. 19, 1978; not available NTIS.

Patent 4,131,336: Primary Reflector for Solar Energy Collection Systems; filed May 15, 1978, patented Dec. 26, 1978; not available NTIS.

Patent 4,131,459: High Temperature Resistant Cermet and Ceramic Compositions, Dec. 26, 1978; not available NTIS.

Patent 4,131,486: Back Wall Solar Cell; filed Apr. 24, 1978, patented Dec. 26, 1978; not available NTIS.

Patent 4,132,069: Integrated Gas Turbine Engine-Nacelle; filed Dec. 22, 1976, patented Jan. 2, 1979; not available NTIS.

Patent 4,132, 130: Safety Flywheel; filed Jan. 17, 1977, patented Jan. 2, 1979; not available NTIS.

Patent 4,132,594: Gas Diffusion Liquid Storage Bag and Method of Use for Storing Blood; filed June 26, 1976, patented Jan. 2, 1979; not available NTIS.

Patent 4,132,599: Determination of Antimicrobial Susceptibilities on Infected Urines Without Isolation; filed Apr. 23, 1976, patented Jan. 2, 1979; not available NTIS.

Patent 4,132,829: Preparation of Dielectric Coating of Variable Dielectric Constant by Plasma Polymerization; filed Feb. 11, 1977, patented Jan. 2, 1979; not available NTIS.

Patent 4,132,940: Apparatus for Providing a Servo Drive Signal in a High-Speed Stepping Interferometer; filed June 6, 1977, patented Jan. 2, 1979; not available NTIS.

Patent 4,132,989: Azimuth Correlator for Real-Time Synthetic Aperture Radar Image Processing; filed Oct. 18, 1977, patented Jan. 2, 1979; not available NTIS.

[FR Doc. 79-15906 Filed 5-21-79; 8:45 am]

BILLING CODE 3510-04-M

COST ACCOUNTING STANDARDS BOARD

Evaluation Conference on Promulgated Standards and Regulations

AGENCY: Cost Accounting Standards Board.

ACTION: Notice.

SUMMARY: Notice is hereby given of the Cost Accounting Standards Board's Third Evaluation Conference to be held in Reston, Virginia on November 1, 1979, and of the procedures to be followed at the Conference. The purpose of the Conference is to provide the Board with an opportunity to receive directly from all interested parties their evaluations of the effectiveness of the Board's promulgations.

DATE OF CONFERENCE: November 1, 1979

CONFERENCE ADDRESS: Sheraton Inn and International Conference Center, 11810 Sunrise Valley Drive, Reston, Virginia 22091

FOR FURTHER INFORMATION CONTACT: Arthur Schoenhaut, Executive Secretary, Cost Accounting Standards Board, 441 G Street, N.W., Washington, D.C. 20548 (202) 275-6111.

SUPPLEMENTARY INFORMATION: *Time and duration.* The Conference will commence at 8:30 a.m. on November 1, 1979. The Board anticipates that only one day will be required for the Conference. However, if more time is needed to permit all interested persons to participate, the Conference will be extended through November 2.

Place and accommodations. The Conference will be held at the Sheraton Inn and International Conference Center, 11810 Sunrise Valley Drive, Reston, Virginia, 22091 (703) 620-9000. Reston is approximately 25 miles from Washington, D.C., and 5 miles from Dulles International Airport. Anyone desiring overnight accommodations must make reservations directly. No reservations for overnight accommodations may be made through the Cost Accounting Standards Board.

General scope of the Conference. The Conference is being undertaken to receive suggestions and recommendations to improve the effectiveness of Cost Accounting Standards and to enhance their utility. To the extent possible each suggestion or recommendation should be substantiated by examples and data derived from experience.

The Conference will encompass a review of promulgated Standards and interpretations which have been in effect for a year prior to the Conference. This excludes Standard No. 416, Accounting for Insurance Costs, but will include the following:

Standard No. 401—Consistency in estimating, accumulating and reporting costs.

Interpretation No. 1 to Standard No. 401.

Standard No. 402—Consistency in allocating costs incurred for the same purpose.

Interpretation No. 1 to Standard No. 402.

Standard No. 403—Allocation of home office expenses to segments.

Standard No. 404—Capitalization of tangible assets.

Standard No. 405—Accounting for unallowable costs.

Standard No. 406—Cost accounting period.

Standard No. 407—Use of standard costs for direct material and direct labor.

Standard No. 408—Accounting for costs of compensated personal absence.

Standard No. 409—Depreciation of tangible capital assets.

Standard No. 410—Allocation of business unit general and administrative expenses to final cost objectives.

Standard No. 411—Accounting for acquisition costs of material.

Standard No. 412—Composition and measurement of pension cost.

Standard No. 413—Adjustment and allocation of pension cost.

Standard No. 414—Cost of money as an element of the cost of facilities capital.

Standard No. 415—Accounting for the cost of deferred compensation.

With respect to the above Standards the Board invites comments concerning any questions or problems that have arisen including those which may be sufficiently widespread and serious to warrant formal interpretations by the Board.

The Board does not plan to include in the scope of the Conference its contract regulations, 4 CFR Parts 331 and 332, and its Disclosure regulations. 4 CFR Part 351. Proposed revisions to these three Parts of its regulations will shortly be published for comment. The comments on the proposed revisions will have been received and will be under evaluation by the Board at the time that the Conference is held. Under these circumstances it is considered that a discussion of prior experience is likely to duplicate material presented to the Board as part of the comments on the proposal. Consequently, it is planned that the scope of the Conference will be focused on Standards and interpretations and on suggestions and recommendations to improve their effectiveness.

Those invited to participate. Persons may appear on their own behalf or as representatives of Federal Government agencies, firms, companies, colleges or universities, professional associations, or other interested groups. The Board, however, is particularly interested in hearing from representatives of individual companies and contracting agencies about specific experiences involving the application of the Board's Standards, rules and regulations.

Attendance and proceedings of the conference. The conference shall be open to the public, and all interested

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persons are invited to attend. In order to allow the Board to make appropriate arrangements for the Conference meeting room, anyone who will attend the Conference, either as a participant or as an observer, is asked to notify in writing the Administrative Officer of the Board of that fact prior to October 19, 1979. A record of the Proceedings will be kept and may be inspected at the Offices of the Board, 441 G Street, NW, Washington, D.C. 20548. It is also anticipated that there will be an opportunity at the Conference to place an order for a record of the proceedings.

Oral presentations. Oral presentations by participants summarizing previously submitted written statements shall be no more than 10 minutes in duration. In addition, time will be allowed for participants to respond to questions which may be asked by Board Members and the Executive Secretary of the Board. Persons who wish to make oral presentations at the Conference must notify the Executive Secretary in writing at least 45 days before the date of the Conference. The Executive Secretary will advise those making oral presentations of the day and probable time for his presentation. Anyone making an oral presentation must provide two copies of his written statement to the Board at least 30 days before the Conference.

Written presentations. Persons who wish only to submit written statements to the Evaluation Conference may do so. Such statements must arrive at the office of the Board before the end of the Conference in order to be included in the record.

Arthur Schoenhaut,
Executive Secretary.

[FR Doc. 79-15822 Filed 5-21-79; 8:45 am]
BILLING CODE 1620-01-M

DEPARTMENT OF DEFENSE

Department of the Army

Privacy Act of 1974; Deletion and Amendment to Systems of Records

AGENCY: Department of the Army.
ACTION: Notice of delegtion and amendment to Systems of Records.

SUMMARY: The Army proposes to delete 2 and reidentify and amend 1 systems of records subject to the Privacy Act of 1974. Specific changes to the system being amended are set forth below followed by the system published in its entirety as amended.

DATE: The system shall be amended as proposed without further notice within 30 days unless comments are received on or before June 21, 1979 which would result in a contrary determination and require republication for further comments.

ADDRESS: Any comments, including written data, views or arguments concerning the amendment should be addressed to the System Manager identified in the system notice.

FOR FURTHER INFORMATION CONTACT: Mr. Cyrus H. Fraker, The Adjutant General Center (DAAG-AMR-R), Department of the Army, 1000 Independence Avenue SW., Washington, DC 20314; telephone 202/693-0973.

SUPPLEMENTARY INFORMATION: The Department of the Army systems of records notices, as prescribed by the Privacy Act, have been published in the Federal Register as follows:

FR Doc. 77-28225 (42 FR 50396) September 28, 1977.
FR Doc. 78-23953 (43 FR 38070) August 25, 1978.
FR Doc. 78-22562 (43 FR 40272) September 11, 1978.
FR Doc. 78-26732 (43 FR 42026) September 19, 1978.
FR Doc. 78-25819 (43 FR 42374) September 20, 1978.
FR Doc. 78-26689 (43 FR 43059) September 22, 1978.
FR Doc. 78-26998 (42 FR 43539) September 26, 1978.
FR Doc. 78-29130 (43 FR 47604) October 16, 1978.
FR Doc. 78-29211 (43 FR 48894) October 19, 1978.
FR Doc. 78-29982 (43 FR 49557) October 24, 1978.
FR Doc. 78-31795 (43 FR 52512) November 13, 1978.
FR Doc. 78-34586 (43 FR 58111) December 12, 1978.
FR Doc. 78-35523 (43 FR 59869) December 22, 1978.
FR Doc. 79-5788 (44 FR 11105) February 27, 1979.
FR Doc. 79-6621 (44 FR 12231) March 6, 1979.
FR Doc. 79-8787 (44 FR 17767) March 23, 1979.
FR Doc. 79-11350 (44 FR 22140) April 13, 1979.
FR Doc. 79-13252 (44 FR 24904) April 27, 1979.

The proposed system of records incorporates 2 previously published system notices, A0707.04aDAAG Identification Card Application Files and A0809.02DAPC Identification Card Accountability Files, the contents of which are now included in the expanded system notice published below. This change in the identification and the proposed amendments are not within the purview of the provisions of 5 U.S.C. 552a(o) of the act which require the submission of a new or altered system report.

May 15, 1979.

H. E. Lofdahl,
Director, Correspondence and Directives, Washington Headquarters Services, Department of Defense.

Deletions

A0707.04aDAAG

SYSTEM NAME:

Identification Card Application Files (42 FR 50525) September 28, 1977.

REASON:

This system is covered by the amended system notice published below.

A0809.02DAPC

SYSTEM NAME:

Identification Card Accountability Files (42 FR 50571) September 28, 1977.

REASON:

This system is covered by the amended system notice published below.

Amendment

A0509.02aDAPE (Change to "A0509.02aDAAG")

SYSTEM NAME:

509.02 Security Identification Badges/Cards (42 FR 50499) September 28, 1977. Change name to "Security Badge/Identification Card Files".

SYSTEM LOCATION:

Offices which issue security badges and identification cards authorized by Army Regulation (AR) 606-5 and AR 190-21, located at Headquarters, Department of the Army; staff and field operating agencies; states' adjutant general; and installations/activities. Official mailing addresses are in the organizational Directory of Department of the Army Offices, Commands, Agencies, and Installations/Activities.

CATEGORIES OF INDIVIDUALS COVERED BY THE SYSTEM:

Active duty, reserve, and retired military personnel and authorized dependents; Department of the Army (DA) civilians and authorized dependents; Medal of Honor recipients; visitors authorized for official purposes, e.g., vendors, deliverymen, utility and special equipment servicemen; accident investigators; contractor personnel and their authorized dependents; Red Cross personnel; and persons authorized by the Geneva Convention to accompany the Armed Forces.

CATEGORIES OF RECORDS IN THE SYSTEM:

Individual's application on appropriate DA and Department of Defense forms specified by AR 606-5 (the original of which may be filed in the individual's personnel file) for identification and/or building security pass/badge issuance; individual's photograph, fingerprint record, special credentials and allied papers; registers/logs reflecting sequential numbering of badges/cards.

AUTHORITY FOR MAINTENANCE OF THE SYSTEM:

* * * Title 5 U.S.C., Section 301.

ROUTINE USES OF RECORDS MAINTAINED IN THE SYSTEM, INCLUDING CATEGORIES OF USERS AND THE PURPOSES OF SUCH USES:

To provide a record of security badges and identification cards issued; to restrict entry into installations/activities; and to insure positive identification of personnel authorized access to restricted areas. Registers/logs maintain accountability for issuance and disposition of badges and identification cards.

POLICIES AND PRACTICES FOR STORING, RETRIEVING, ACCESSING, RETAINING, AND DISPOSING OF RECORDS IN THE SYSTEM:

STORAGE:

Paper records on cards and in file folders; magnetic tapes, disks, and cassettes; computer printouts and microfiche.

RETRIEVABILITY:

By individual's name, social security number, card/badge number.

SAFEGUARDS:

Data are maintained in secure buildings and are accessed only by authorized personnel who are trained and cleared for access. Information in computer facilities is further protected by alarms and established procedures for the control of computer access.

RETENTION AND DISPOSAL:

Applications for military identification cards are maintained by the issuing office for 1 year. Applications for civilian identification cards are retained 4 years after which they are destroyed. Registers/logs are destroyed 3 years after last badge has been accounted for.

* * *

SYSTEM MANAGER(S) AND ADDRESS:

The Adjutant General, Headquarters, Department of the Army (DAAG-PSI), Washington, DC 20314.

NOTIFICATION PROCEDURE:

Information may be obtained from the issuing office where the individual obtained the identification card.

RECORD ACCESS PROCEDURES:

Requests from individuals should be addressed to: Major Command or installation headquarters issuing the security badge or identification card.

Written requests for information should contain the full name of the individual and number of the identification card, if known.

For personal visits, the individual should be able to provide acceptable identification, e.g., driver's license and verbal information that can be verified.

* * * * *

RECORD SOURCE CATEGORIES:

Application, on appropriate DA form, from the individual.

A0509.02aDAAG

SYSTEM NAME:

509.02 Security Badge/Identification Card Files

SYSTEM LOCATION:

Offices which issue security badges and identification cards authorized by Army Regulation (AR) 606-5 and AR 190-21, located at Headquarters, Department of the Army; staff and field operating agencies; states' adjutant general; and installations/activities. Official mailing addresses are in the organizational Directory of Department of the Army Offices, Commands, Agencies, and Installations/Activities.

CATEGORIES OF INDIVIDUALS COVERED BY THE SYSTEM:

Active duty, reserve, and retired military personnel and authorized dependents; Department of the Army (DA) civilians and authorized dependents; Medal of Honor recipients; visitors authorized for official purposes, e.g., vendors, deliverymen, utility and special equipment servicemen; accident investigators; contractor personnel and their authorized dependents; Red Cross personnel; and persons authorized by the Geneva Convention to accompany the Armed Forces.

CATEGORIES OF RECORDS IN THE SYSTEM:

Individual's application on appropriate DA and Department of Defense (DD) forms specified by AR 606-5 (the original of which may be filed in the individual's personnel file) for identification and/or building security pass/badge issuance; individual's photograph, fingerprint record, special credentials, and allied papers; registers/logs reflecting sequential numbering of badges/cards.

AUTHORITY FOR MAINTENANCE OF THE SYSTEM:

Title 5 U.S.C., Section 301; Title 10 U.S.C., Section 3012(g).

ROUTINE USES OF RECORDS MAINTAINED IN THE SYSTEM, INCLUDING CATEGORIES OF USERS AND THE PURPOSES OF SUCH USES:

To provide a record of security badges and identification cards issued; to restrict entry into installations/activities; and to insure positive identification of personnel authorized access to restricted areas. Registers/logs maintain accountability for issuance and disposition of badges and identification cards.

POLICIES AND PRACTICES FOR STORING, RETRIEVING, ACCESSING, RETAINING, AND DISPOSING OF RECORDS IN THE SYSTEM:

STORAGE:

Paper records on cards and in file folders; magnetic tapes, disks, and cassettes; computer printouts and microfiche.

RETRIEVABILITY:

By individual's name, social security number, card/badge number.

SAFEGUARDS:

Data are maintained in secure buildings and are accessed only by authorized personnel who are trained and cleared for access. Information in computer facilities is further protected by alarms and established procedures for the control of computer access.

RETENTION AND DISPOSAL:

Applications for military identification cards are maintained by the issuing office for 1 year. Applications for civilian identification cards are retained 4 years after which they are destroyed. Registers/logs are destroyed 3 years after last badge has been accounted for.

Limited area credentials will be replaced at the expiration of 3 years or whenever a total of 5 percent of the total have been lost or unaccounted for, whichever occurs earlier; exclusion area credentials will be replaced at least once every 3 years; controlled area credentials will be replaced at the discretion of the major command.

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SYSTEM MANAGER(S) AND ADDRESS:

The adjutant General, Headquarters, Department of the Army (DAAG–PSI), Washington, DC 20314.

NOTIFICATION PROCEDURE:

Information may be obtained from the issuing office where the individual obtained the identification card.

RECORD ACCESS PROCEDURES:

Requests from individuals should be addressed to: Major command or installation headquarters issuing the security badge or identification card.

Written requests for information should contain the full name of the individual and the number of the identification card, if known.

For personal visits, the individual should be able to provide acceptable identification, e.g., driver's license and verbal information that can be verified.

CONTESTING RECORD PROCEDURES:

The Army's rules for access to records and for contesting contents and appealing initial determinations are contained in AR 340–21 (32 CFR Part 505).

RECORD SOURCE CATEGORIES:

Application, on appropriate DA form, from individual.

SYSTEMS EXEMPTED FROM CERTAIN PROVISIONS OF THE ACT:

None.

[FR Doc. 79–15809 Filed 5–21–79; 8:45 am]

BILLING CODE 3710–08–M

Corps of Engineers

Intent To prepare Draft Environmental Impact Statement (DEIS) on permit application for proposed fishing trawler at Coos Bay North Spit, Coos Bay, Oregon.

AGENCY: U.S. Army Corps of Engineers, DoD.

ACTION: Notice of Intent to prepare a Draft Environmental Impact Statement (DEIS).

SUMMARY: 1. The proposed action is the issuance of a Federal Permit under Section 404 of the Clean Water Act and Section 10 of the Rivers and Harbors Act to the Port of Coos Bay for the construction of a trawler basin on Port of Coos Bay lands located on the Coos Bay North Spit. The proposed trawler basin would require dredging an area 500 feet wide by 1,000 feet long to a depth of −20 feet msl. A wharf would be constructed for the entire length of the basin along the shoreline with a bulkhead constructed along the channel side for wave protection.

2. Alternatives would include alternative sites, reduced scale of development, and no action.

3. The EIS scoping process has been completed for this proposed action. A scoping meeting was held in Coos Bay on 24 October 1978. Opportunity was provided for affected Federal, state, and local agencies to comment on the Draft EIS outline. A scoping conference which was widely advertised through mailers and the media was held in the local area at which further comments on the outline and scope of the EIS were received.

Significant issues identified were: the relationship of the proposed action to local comprehensive planning; the economic benefits of developing fish harvest capability; the impact of the proposed action on rare, threatened, and endangered species; the impact of the proposed action on aquatic ecosystems; the potential impacts on adjacent lands and resources.

Further environmental review and consultation will be required for mitigation requirements and cultural resource clearance.

4. The DEIS has been scheduled for review in August 1979.

ADDRESS: Questions about the proposed action and DEIS can be answered by: District Engineer, U.S. Army Corps of Engineers, Portland District, ATTN: NPPEN–PL–3, P.O. Box 2946, Portland, Oregon 97208.

Dated: May 14, 1979.

J. C. HUETTER,

Acting Chief, Engineering Division.

[FR Doc. 79–15807 Filed 5–21–79; 8:45 am]

BILLING CODE 3710–AR–M

DEPARTMENT OF ENERGY

Bonneville Power Administration

Order Confirming and Approving Extension of Interim Transmission Rates

AGENCY: Department of Energy, Bonneville Power Administration (BPA).

ACTION: Extension of Interim Approval of Transmission Rates.

SUMMARY: The accompanying Rate Order No. BPA–1 confirms and approves the extension of transmission rates for the Bonneville Power Administration on an interim basis.

DATES: Extension of Interim Approval effective July 1, 1979.

FOR FURTHER INFORMATION CONTACT:

Michael C. Dotten, Office of General Counsel, Bonneville Power Administration, Department of Energy, P.O. Box 3621, Portland, Oregon 97208, (503) 234–3361 extension 4207.

Marlene A. Moody, Office of Power Marketing Coordination, Department of Energy, 12th Street and Pennsylvania Avenue, NW., Washington, D.C. 20461, (202) 633–8338.

SUPPLEMENTARY INFORMATION: The Federal Power Commission by order issued June 10, 1977, conditionally confirmed and approved through June 30, 1978, BPA's proposed transmission rates which had been filed with the Commission on July 30, 1976 (Docket No. E–9563): Schedules FPT–1, UFT–1, and ET–1. Pursuant to Section 301(b) of the Department of Energy Organization Act, 42 U.S.C. Section 7101 *et seq.*, the function to confirm and approve transmission rates charged by BPA was transferred to the Secretary of Energy. By Delegation Order No. 0204–4, effective October 1, 1977, the Secretary of Energy delegated confirmation and approval authority to the Administrator of the Economic Regulatory Administration (ERA or the Administrator). The ERA Administrator further delegated this authority to the Assistant Administrator for Utility Systems, ERA, who by order dated June 30, 1978, extended conditional confirmation and approval of BPA's proposed transmission rates until June 30, 1979.

By Delegation Order No. 0204–33, effective January 1, 1979, the Secretary of Energy delegated the authority to confirm, approve, and place rates in effect on an interim basis to the Assistant Secretary for Resource Applications, and authority to confirm and approve such rates on a final basis to the Federal Energy Regulatory Commission. The accompanying rate order extends interim confirmation and approval of BPA's proposed transmission rates until replaced or confirmed and approved on a final basis or until substitute rates are confirmed and approved. BPA's proposed transmission rates are subject to approval on a final basis by the Federal Energy Regulatory Commission.

Issued in Washington, D.C. May 12, 1979.

George S. McIsaac,

Assistant Secretary, Resource Applications.

[Rate Order No. BPA–1]

Bonneville Power Administration—Transmission Rates

Order Confirming and Approving Extension of Interim Transmission Rates

May 12, 1979

Pursuant to Sections 301(b) and 302(a) of the Department of Energy Organization Act, Pub. L. 95–91, the functions of the Secretary of the Interior and the Federal Power Commission under the Bonneville Project Act of 1937 and the Federal Columbia River Transmission System Act relating to the Bonneville Power Administration (BPA) were transferred to and vested in the Secretary of Energy. By Delegation Order No. 0204–33, effective January 1, 1979, 43 FR 60636 (December 28, 1978), the Secretary of Energy delegated to the Assistant Secretary for Resource Applications the authority to develop power and transmission rates, acting by and through the Administrator, and to confirm, approve, and place in effect such rates on an interim basis and delegated to the Federal Energy Regulatory Commission (FERC) the authority to confirm and approve on a final basis or to disapprove rates developed under the delegation. This rate order is issued pursuant to the delegation to the Assistant Secretary.

Background

On July 30, 1976, pursuant to the Federal Columbia River Transmission System Act (93 Stat. 454), the Secretary of the Interior (Interior), on behalf of BPA, filed with the Federal Power Commission (FPC) (Docket E–9563) a request for the confirmation and approval of the following rate schedules which apply to the transmission of other entities' electric power and energy over BPA's transmission facilities:

Schedule FPT–1 Available for the firm transmission of electric power and energy for another entity over Federal electric transmission system facilities. The rate is designed for transmitting power from non-Federal hydro and thermal plants to load centers over Federal facilities where specific facilities used may not be readily determined.

Schedule UFT–1 Available for the transmission of electric power and energy for another entity over specified Federal transmission system facilities. The basic monthly charge shall be one-twelfth of the sum of the products of the annual cost of each element of the specific facilities per kilowatt of capacity rating and the transmission demand.

Schedule ET–1 Available for the incidental transmission of electric energy for another entity using excess capacity of the Federal transmission system.

By letter of January 17, 1977, Interior submitted an amendment to the filing requesting confirmation and approval of the proposed rates on an "intermediate basis." After receiving public comments, FPC, by order issued June 10, 1977, conditionally confirmed and approved BPA's proposed transmission rates until June 30, 1978, and ordered that a hearing be convened "to determine if BPA's proposed transmission rates are consistent with the Federal Columbia River Transmission Act."

Before a hearing was held, the Department of Energy Organization Act (Pub. L. 95–91) was enacted. The Act provides at Section 301(b): "except as provided in title IV, there are hereby transferred to, and vested in, the Secretary the function of the Federal Power Commission, or its members, officers, or components thereof. * * * " (42 U.S.C. Section 7151)

By Delegation Order No. 0204–4, the Secretary of Energy delegated the authority to confirm and approve Federal power marketing administration rates to the Administrator of the Economic Regulatory Administration (ERA). The Administrator of ERA delegated such authority to the Assistant Administrator for Utility Systems, ERA.

Since it appeared that final transmission rates would not be confirmed and approved by ERA by June 30, 1978, the Deputy Assistant Secretary for Power Applications, Resource Applications, on May 2, 1978, requested the Administrator to extend BPA's conditionally approved transmission rates until such time as final transmission rates are confirmed and approved. Notice of ERA's intention to extend the conditionally approved rates for an interim period not to exceed 1 year was published in the Federal Register (43 FR 21716) on May 19, 1978. The notice invited interested persons to file written comments on the proposed extension and also offered an opportunity for an oral presentation. Joint written comments were filed by the Intercompany Pool companies; no requests for an oral presentation were received.

After considering the comments of the Intercompany Pool, the Acting Assistant Administrator for Utility Systems, ERA, issued an order, dated June 30, 1978, extending the conditionally approved rates through June 30, 1979, or until such earlier date as final rates are confirmed and approved.

On December 28, 1978, the Secretary of Energy issued Delegation Order No. 0204–33, 43 FR 60636, effective January 1, 1979, transferring authority to confirm, approve, and place in effect on an interim basis, power and transmission rates for Federal power marketing administrations to the Assistant Secretary for Resource Applications. That same order delegated final confirmation and approval authority to FERC.

On February 15 and 16, 1979, FERC's staff held an intervenor conference with parties to the FPC Docket E–9563 to determine procedures for processing BPA's transmission rate filing. As of May 1, 1979, FERC has not issued an order indicating what procedures will be followed in processing BPA's transmission rate filing.

Records filed with the FPC and ERA indicate that, if interim approval of BPA's transmission filing were to expire, losses of approximately $15,000 per day in revenue to the United States would result.

Since it appears that FERC will not be able to finally confirm and approve BPA's transmission rate filing by June 30, 1979, it is appropriate to extend interim confirmation and approval of such rates until FERC confirms and approves these or substitute transmission rates on a final basis or until such time as I confirm, approve, and place new transmission rates in effect on an interim basis.

Order

In view of the foregoing and pursuant to the authority delegated to me by the Secretary of Energy, I hereby confirm and approve on an interim basis, effective July 1, 1979, an extension of interim approval of BPA's transmission rates as filed with the FPC on July 30, 1976. These rates shall remain in effect on an interim basis until these rates or substitute rates are confirmed and approved by FERC on a final basis or until new transmission rates are confirmed, approved, and placed in effect on an interim basis, whichever occurs first.

Issued in Washington, DC, May 12, 1979.

George S. McIsaac,

Assistant Secretary, Resource Applications.

[FR Doc. 79–15847 Filed 5–21–79; 8:45 am]

BILLING CODE 6450–01–M

Economic Regulatory Administration

Vickers Energy Corp.; Action Taken on Proposed Consent Order

AGENCY: Economic Regulatory Administration, Department of Energy.

ACTION: Notice of Proposed Consent Order and Opportunity for comment.

SUMMARY: The Economic Regulatory Administration (ERA) of the Department of Energy (DOE) announces a proposed Consent Order and provides an opportunity for public comment on the proposed Consent Order and on potential claims against the refunds deposited in an escrow account established pursuant to the Consent Order.

DATE: May 16, 1979.

COMMENTS BY:

ADDRESS: Send comments to Alan L. Wehmeyer, Chief, Crude Products Management Branch, Central Enforcement District, 324 East 11th Street, Kansas City, Missouri 64106.

FOR FURTHER INFORMATION CONTACT: Alan L. Wehmeyer, Chief, Crude Products Management Branch, Central Enforcement District, 324 East 11th Street, Kansas City, Missiour 64106 (phone (816) 374–5932).

SUPPLEMENTARY INFORMATION: On May 16, 1979, the Office of Enforcement of the ERA executed a proposed Consent

In the late winter and early spring of

Background

agreements among utilities for such

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Order with Vickers Energy Corporation of Wichita, Kansas. Under 10 CFR 205.199J(b), a proposed Consent Order which involves a sum of $500,000 or more in the aggregate, excluding penalties and interest, become effective only after the DOE has received comments with respect to the proposed Consent Order. Although the ERA has signed and tentatively accepted the proposed Consent Order, the ERA may, after consideration of the comments it receives, withdraw its acceptance and, if appropriate, attempt to negotiate an alternative Consent Order.

I. The Consent Order

Vickers Energy Corporation, with its home office located in Wichita, Kansas, is a firm engaged in, among other things, the production, refining and marketing of crude oil, residual fuel oil, natural gas liquids, natural gas liquid products, motor gasoline and other refined petroleum products, and is subject to the Mandatory Petroleum Allocation and Price Regulations at 10 CFR, Parts 210, 211, 212. To resolve certain civil actions which could be brought by the Office of Enforcement of the Economic Regulatory Administration as a result of its audit of Vickers, the ERA Office of Enforcement, and Vickers entered into a Consent Order, the significant terms of which are as follows:

1. The Office of Enforcement has examined Vickers' books and records and reviewed all pertinent matters relating to vickers' compliance with the DOE petroleum price regulations in effect during the period from August 19, 1973 through March 1979. All matters pertaining to compliance with the DOE petroleum price regulations and prices charged by Vickers in sales of covered products other than crude oil during the period August 19, 1973 through March 1979, are resolved by this Consent Order.

2. Vickers will make available to purchasers of its motor gasoline a refund in the total amount of $9,150,000. In addition, Vickers will reduce by $14,000,000 the amount of unrecouped increased product costs otherwise available as of March 1979, to it for recovery pursuant to DOE petroleum price regulations in sales of motor gasoline.

3. Execution of the Consent Order constitutes neither an admission by Vickers nor a finding by DOE that Vickers has violated any statutes or applicable regulations of the Cost of Living Council, the Federal Energy Office, the Federal Energy Administration or the Department of Energy.

4. The provisions of 10 CFR 205.199J, including the publication of this Notice, are applicable to the Consent Order.

II. Disposition of Refunded Overcharges

In this Consent Order, Vickers agrees to refund, in full settlement of any civil liability with respect to actions which might be brought by the ERA Office of Enforcement, arising out of the transactions specified in I.1 above, the sum of $9,150,000 within 24 months from when the Consent Order becomes effective. Refunded overcharges will be distributed as follows:

(a) With respect to its retail sales of motor gasoline through its company-operated stations, Vickers will beginning on the first day of the first month after the effective date of this Consent Order, implement price reductions of not more than three cents per gallon but not less than one cent per gallon in its retail sales of motor gasoline through the company-operated stations in order to accomplish a refund in the aggregate of $6,300,000, including interest.

(b) With respect to its nonretail sales of motor gasoline other than through company-operated stations, Vickers will pay a total amount of $2,850.000 into an interest-bearing escrow account. Beginning with the first month after the effective date of this Consent Order, Vickers shall on the first day of each month for 24 consecutive months pay into such escrow account the amount of $118,750.

After the Consent Order becomes effective, the Office of Enforcement will submit to the DOE Office of hearings and Appeals a petition for the implementation of special refund procedures, pursuant to Subpart V of 10 CFR Part 205, with respect to the distribution of the escrow account. When a distribution procedure has been adopted, notice to that effect shall be published in the Federal Register and applications from claimants will be accepted. To the extent practicable and consistent with DOE policy, refunds will be distributed on the basis of such claims.

The DOE intends to distribute the refund amounts in a just and equitable manner in accordance with applicable laws and regulations. Accordingly, distribution of such refunded overcharges requires that only those "persons" (as defined at 10 CFR 205.2) who actually suffered a loss as a result of the transactions described in the Consent Order receive appropriate refunds. Because of the petroleum industry's complex marketing system, overcharges may have been passed through as higher prices to subsequent purchasers. In fact, the adverse effects of the overcharges may have become so diffused and it is a practical impossibility to identify specific, adversely affected persons, in which case disposition of the refunds will be made in the general public interest by an appropriate means such as payment to the Treasury of the United States pursuant to 10 CFR 205.199.

III. Submission of Written Comments

The ERA invites interested persons to comment on the terms, conditions, or procedural aspects of this Consent Order. You should submit your comments or written notification of a claim on or before June 21, 1979 to Alan L. Wehmeyer, Chief, Crude Products Management Branch, ERA Central Enforcement District, U.S. Department of Energy, 324 East 11th Street, Kansas City, Missouri 64106. You may obtain a free copy of this Consent Order by writing to the same address.

You should identify your comments on the outside of your envelope and on any documents you submit with the designation, "Comments on Vickers Consent Order." You should identify any information or data which, in your opinion, is confidential and submit it in accordance with the procedures in 10 CFR 205.9(f).

Issued in Washington, D.C., on the 16th day of May, 1979.

Robert D. Gerring,

Manager, Central Enforcement District, Economic Regulatory Administration.

[FR Doc. 79-15846 Filed 5-21-79; 8:45 am]

BILLING CODE 6450-01-M

Federal Energy Regulatory Commission

[Docket Nos. ER78-229, ER78-292, et al.]

Indiana and Michigan Electric Co., et al.; Order Consolidating Proceedings and Providing for Prehearing Conference

Issued May 14, 1979.

In the matter of Indiana and Michigan Electric Company, *et. al.*, Docket Nos. ER78-229, ER78-292, ER78-313, ER79-242, ER79-245, ER79-247, ER79-250, ER79-254 and ER79-269; Pennsylvania-New Jersey-Maryland Interconnection, *et. al.*, Docket Nos. ER78-107, ER78-108, ER78-109 and ER78-219; Appalachian Power Company, *et. al.*, Docket No. ER78-249; Ohio Power Company, *et. al.*, Docket No. ER78-252; New England Power Pool, *et. al.*, Docket No. ER78-335; and Dayton Power and Light Company, *et. al.*, Docket No. ER79-218.

In the late winter and early spring of 1977–1978, a number of electric utility systems filed with this Commission amendments to existing interconnection agreements. These filings were docketed and accepted subject to one-day suspension and subsequent possible refund under the Federal Power Act. Each filing provided generally for fuel conservation energy rates to be used in interchange transactions at times when the parties to the amended interchange agreements had to conserve energy resources. At the time that the suspension orders were issued, certain of the filings were consolidated. The Commission ordered consolidation because it found that common issues of law and fact existed in the several filings. See Attachment A for a listing of these filings and for designations of all rate schedule filings involved in this proceeding.

In March of this year American Electric Power Service Corporation (AEP) filed a number of amendments to existing interconnection agreements between affiliates of AEP and a number of other electric utility systems. These filings also provide for purchases and sales of conservation energy pursuant to the interconnection agreements at times when the parties find it necessary to conserve energy resources. By order of May 7, 1979, the Commission accepted these tenders for filing, suspended them for one day, allowed them to go into effect subject to refund, and consolidated them with ER78-229, ER78-292, and ER78-313 (which were among those dockets instituted in 1978 by the filings described in the previous paragraph). These filings by AEP are also listed on Attachment A.

On February 28, 1979, Dayton Power and Light Company filed an interconnection agreement between itself and Cincinnati Gas and Electric Company, dated January 1, 1979. This rate schedule, replacing an agreement that dated from 1959, contains a provision for the sale or exchange of conservation energy.

With one exception, the provisions for the sale of conservation energy in all these dockets define the situation in which conservation energy is to be sold as one of energy shortage resulting from "fuel unavailability, governmental actions or widespread disasters." Most of the filings employ a similar rate structure and many set the same rate for fuel conservation energy. Thus, all of these filings contain common issues of fact and law, and the Commission deems it appropriate to consolidate all of these dockets.

Background

The filings consolidated herein have their origin in the situation arising out of the coal strike of 1977–1978. In that period electric utility systems for which coal was in relatively short supply obtained large amounts of electricity from systems less dependent upon coal.

Because this Commission, a number of state commissions, and the general public were concerned about the rates charged for coal strike-related sales of electricity, the Commission designated an officer to conduct an investigation into transactions related to the coal strike. The designated officer was directed to determine, among other things, whether the selling and transmitting utilities used appropriate rate schedules in rendering service. Generally, his answer was in the negative. The designated officer found that neither the fuel conservation rates filed previously in response to the oil embargo nor those filed in response to the coal strike were employed for the pricing of strike-related transactions. Moreover, the designated officer reported that the rate schedules which were employed yielded revenues that often did not bear any reasonable relationship to the costs of providing a particular service, especially when a number of intervening systems were involved in a transaction.

The Commission recognizes, as did the designated officer in the report on the coal strike, that in past crises the cooperation among the voluntary actions by utilities has resulted in the maintenance of electric service to affected regions without a declaration of an emergency and the ordering of transactions by the Federal Government under Section 202(c) of the Federal Power Act. Nevertheless, in each instance the application of a number of bilateral interchange agreements to a chain transaction under which power was eventually delivered to far-remote consumers led to public confusion and the suspicion that inappropriate rates were being charged. In both instances, it was necessary to conduct formal review—the coal-by-wire proceeding and the coal strike investigation, respectively—that included consideration of whether re-pricing of enormously complicated transactions seemed appropriate.

Against this background, it is highly desirable to have in place before a crisis occurs a framework of comprehensible and comprehensive interchange arrangements under which crisis-related transactions should take place. In the absence of regional and inter-regional agreements among utilities for such transactions,[1] we believe that this consolidated proceeding is the best avenue for establishing such a comprehensive set of arrangements.

This task takes on considerable urgency since the potential for situations similar to the oil embargo and the coal strike is still with us as is the potential for extraordinary sustained outages of generating capacity. Thus, the objective of this proceeding is to prepare for widespread fuel conservation energy transactions. In particular, we would hope to achieve as much uniformity as possible in rate levels, rate designs and conditions of service in the fuel conservation rate schedules that have been filed and that are listed on Attachment A, consistent with the requirements that the rate schedules be just and reasonable.

We recognize that this is by no means an easy task, and that it will become immeasurably harder to achieve without the same degree of cooperation from the utilities involved that they exhibited in making deliveries of power during the oil embargo and the coal strike. We therefore think it appropriate to initiate activities in this proceeding by scheduling a prehearing conference with senior Commission staff. In light of our belief that it is important to have a comprehensive framework for long-distance interchange transactions in place quickly, we will, in the event that satisfactory progress cannot be reported to the Commission, proceed to establish the appropriate rates and terms and conditions of service for fuel conservation energy through notice-and-comment rulemaking under section 403(c) of the Department of Energy Organization Act.

The Commission finds: It appropriate to consolidate all the proceedings listed in Appendix A to this order. A prehearing conference will be held on June 5, 1979, among the Commission staff, all filing utilities, and intervenors. It is the objective of the consolidated proceeding to accomplish the following:

(1) establish appropriate rates for fuel conservation energy and determine when it is appropriate to apply such rates;

(2) establish a rate for transmission (whether by wheeling or purchase and resale) of fuel conservation energy;

(3) establish a priority for such sales and transmission among the various possible interchange transactions that might take place contemporaneously;

[1] Under which, for example, the basic terms of the transaction are worked out between the generating system and the consuming system, with the intervening systems rates charging a just and reasonable amount for transmission services.

(5) *Pennsylvania Power & Light Co.*, Supp. (28) *Philadelphia Electric Company*, (a) Supp.

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(4) if necessary modify and restrict the availability or applicability clauses of various other rate schedules, such as those for short-term firm and emergency power, which might be applied to certain transactions in the absense of a fuel conservation rate schedule;

(5) consider whether an amendment of the Commission's regulations on fuel adjustment clauses (18 CFR 35.14(a)(2)(iii)) is warranted so as to permit a public utility having a fuel conservation energy rate on file to recover some or all of the cost of any purchases of fuel conservation energy (in addition to the cost of fuel) through its fuel adjustment clause, where appropriate.

The Commission orders: (A) Docket Nos. ER78–107, ER78–108, ER78–109, ER78–219, ER78–229, ER78–249, ER78–252, ER78–292, ER78–313, ER78–335, ER79–242, ER79–245, ER79–247, ER79–250, ER79–254, ER79–269, and ER79–218 are hereby consolidated.

(B) A prehearing conference is to be held on June 5, 1979 at a time and place to be announced subsequently.

(C) This prehearing conference is to be presided over by a Commission staff member. This staff member is authorized to schedule and conduct the proceedings but is not empowered to rule on such matters as admissibility of evidence. Any settlement is to be sent directly to the Commission. The presiding staff member shall by June 15, 1979 make a status report to the Commission, to be served on all participants in the proceeding, on the progress of the parties toward a settlement.

(D) The Secretary shall cause prompt publication of this order to be made in the **Federal Register**.

By the Commission.

Kenneth F. Plumb,

Secretary.

Attachment A—Docket No. ER78–229, *et al.,*
Fuel Conservation Energy—Designations

Docket Nos. ER78–107, 108 and 109

Filed: December 13, 1977
Effective: January 1, 1978, subject to refund

Docket No. ER78–107

(1) *Pennsylvania Electric Co.*, Supp. No. 9 to R. S. FERC No. 72 (Supersedes Supp. No. 8)
(2) *Metropolitan Edison Co.*, Supp. No. 9 to R. S. FERC No. 45 (Supersedes Supp. No. 8)
(3) *Baltimore Gas & Electric Co.*, Supp. No. 9 to R. S. FERC No. 28 (Supersedes Supp. No. 8)
(4) *Jersey Central Power & Light Co.*, Supp. No. 9 to R. S. FERC No. 42 (Supersedes Supp. No. 8)
(5) *Pennsylvania Power & Light Co.*, Supp. No. 9 to R. S. FERC No. 66 (Supersedes Supp. No. 8)
(6) *Public Service Electric & Gas Co.*, Supp. No. 9 to R. S. FERC No. 51 (Supersedes Supp. No. 8)
(7) *Potomac Electric Power Co.*, Supp. No. 9 to R. S. FERC No. 31 (Supersedes Supp. No. 8)
(8) *Philadelphia Electric Co.*, Supp. No. 9 to R. S. FERC No. 42 (Supersedes Supp. No. 8)
(9) *Central Hudson Gas & Electric Co.*, Supp. No. 9 to R. S. FERC No. 50 (Supersedes Supp. No. 8)
(10) *Consolidated Edison Co. of N.Y.*, Supp. No. 9 to R. S. FERC No. 33 (Supersedes Supp. No. 8)
(11) *Long Island Lighting Company*, Supp. No. 9 to R. S. FERC No. 20 (Supersedes Supp. No. 8)
(12) *New York State Electric & Gas Corp.*, Supp. No. 9 to R. S. FERC No. 65 (Supersedes Supp. No. 8)
(13) *Niagara Mohawk Power Corp.*, Supp. No. 9 to R. S. FERC No. 86 (Supersedes Supp. No. 8)
(14) *Orange & Rockland Utilities Corp.*, Supp. No. 9 to R. S. FERC No. 31 (Supersedes Supp. No. 8)
(15) *Rochester Gas & Electric Corp.*, Supp. No. 9 to R. S. FERC No. 17 (Supersedes Supp. No. 8)

Docket No. ER78–108

(16) *Public Service Electric & Gas Co.*, Supp. No. 15 to R. S. FERC No. 36 (Supersedes Supp. No. 6)
(17) *Philadelphia Electric Co.*, Supp. No. 15 to R. S. FERC No. 22 (Supersedes Supp. No. 6)
(18) *Pennsylvania Power & Light Co.*, Supp. No. 15 to R. S. FERC No. 41 (Supersedes Supp. No. 6)
(19) *Baltimore Gas & Electric Co.*, Supp. No. 15 to R. S. FERC No. 17 (Supersedes Supp. No. 6)
(20) *Jersey Central Power & Light Co.*, Supp. No. 15 to R. S. FERC No. 21 (Supersedes Supp. No. 6)
(21) *Metropolitan Edison Co.*, Supp. No. 15 to R. S. FERC No. 25 (Supersedes Supp. No. 6)
(22) *Pennsylvania Electric Co.*, Supp. No. 15 to R. S. FERC No. 45 (Supersedes Supp. No. 6)
(23) *Potomac Electric Power Co.*, Supp. No. 15 to R. S. FERC No. 21 (Supersedes Supp. No. 6)
(24) *West Penn Power Company*, Supp. No. 15 to R. S. FERC No. 18 (Supersedes Supp. No. 6)
(25) *The Potomac Edison Company*, Supp. No. 15 to R. S. FERC No. 26 (Supersedes Supp. No. 6)
(26) *Monongahela Power Company*, Supp. No. 15 to R. S. FERC No. 22 (Supersedes Supp. No. 6)

Docket No. ER78–109

(27) *Public Service Electric & Gas Co.*, (a) Supp. No. 15 to Supp. No. 51 to R. S. FERC No. 23 (Supersedes Supp. No. 12 to Supp. No. 51)
(b) Supp. No. 56 to R. S. FERC No. 23
(28) *Philadelphia Electric Company*, (a) Supp. No. 15 to Supp. No. 52 to R. S. FERC No. 21 (Supersedes Supp. No. 12 to Supp. No. 52)
(b) Supp. No. 56 to R. S. FERC No. 21
(29) *Pennsylvania Power & Light Co.*, (a) Supp. No. 15 to Supp. No. 51 to R. S. FERC No. 21 (Supersedes Supp. No. 12 to Supp. No. 51)
(b) Supp. No. 56 to R. S. FERC No. 21
(30) *Baltimore Gas & Electric Co.*, (a) Supp. No. 15 to Supp. No. 52 to R. S. FERC No. 9 (Supersedes Supp. No. 12 to Supp. No. 52)
(b) Supp. No. 56 to R. S. FERC No. 9
(31) *Jersey Central Power & Light Co.*, (a) Supp. No. 15 to Supp. No. 51 to R. S. FERC No. 7 (Supersedes Supp. No. 12 to Supp. No. 51)
(b) Supp. No. 56 to R. S. FERC No. 7
(32) *Metropolitan Edison Company*, (a) Supp. No. 15 to Supp. No. 51 to R. S. FERC No. 7 (Supersedes Supp. No. 12 to Supp. No. 51)
(b) Supp. No. 56 to R. S. FERC No. 7
(33) *Pennsylvania Electric Company*, (a) Supp. No. 15 to Supp. No. 51 to R. S. FERC No. 24 (Supersedes Supp. No. 12 to Supp. No. 51)
(b) Supp. No. 56 to R. S. FERC No. 24
(34) *Potomac Electric Power Co.* (a) Supp. No. 15 to Supp. No. 30 to R. S. FERC No. 19 (Supersedes Supp. No. 12 to Supp. No. 30)
(b) Supp. No. 34 to R. S. FERC No. 19

Docket No. ER78–219

Filed: February 16, 1978
Effective: February 17, 1978, subject to refund
(1) *Public Service Electric & Gas Co.*, Supp. No. 10 to R. S. FERC No. 36 (Supersedes Supp. No. 3)
(2) *Philadelphia Electric Company*, Supp. No. 10 to R. S. FERC No. 29 (Supersedes Supp. No. 3)
(3) *Pennsylvania Power & Light Co.*, Supp. No. 10 to R. S. FERC No. 44 (Supersedes Supp. No. 3)
(4) *Baltimore Gas & Electric Co.*, Supp. No. 10 to R. S. FERC No. 19 (Supersedes Supp. No. 3)
(5) *Jersey Central Power & Light Co.*, Supp. No. 10 to R. S. FERC No. 24 (Supersedes Supp. No. 3)
(6) *Metropolitan Edison Company*, Supp. No. 10 to R. S. FERC No. 29 (Supersedes Supp. No. 3)
(7) *Pennsylvania Electric Company*, Supp. No. 10 to R. S. FERC No. 49 (Supersedes Supp. No. 3)
(8) *Potomac Electric Power Company*, Supp. No. 10 to R. S. FERC No. 24 (Supersedes Supp. No. 3)
(9) *Cleveland Electric Illuminating Co.*, Supp. No. 10 to R. S. FERC No. 4 (Supersedes Supp. No. 3) (Concurs in (1)–(8))

Docket No. ER78–229

Filed: February 28, 1978
Effective: February 23, 1978, subject to refund
(1) *Indiana & Michigan Electric Co.*, Supp. No. 11 to R. S. FERC No. 23 (Supersedes Supp. No. 6)
(2) *Illinois Power Company*, Supp. No. 10 to R. S. FERC No. 9 (Supersedes Supp. No. 5) (Concurs in (1) above)

Docket No. ER78–249

Filed: March 13, 1978
Effective: March 14, 1978, subject to refund
(1) *Ohio Power Company*, Supp. No. 11 to R. S. FERC No. 73 (Supersedes Supp. No. 6, as supplemented)
(2) *Wheeling Electric Co.*, Supp. No. 11 to R. S. FERC No. 5 (Supersedes Supp. No. 6, as supplemented)
(3) *Appalachian Power Company*, Supp. No. 11 to R. S. FERC No. 55 (Supersedes Supp. No. 6, as supplemented)
(4) *West Penn Power Company*, Supp. No. 6 to R. S. FERC No. 28 (Supersedes Supp. No. 1) (Concurs in (1)–(3) above)
(5) *Monongahela Power Company*, Supp. No. 6 to R. S. FERC No. 31 (Supersedes Supp. No. 1) (Concurs in (1)–(3) above)

Docket No. ER78–252

Filed: March 13, 1978
Effective: March 14, 1978, subject to refund
(1) *Ohio Power Company*, Supp. No. 4 to R. S. FERC No. 25
(2) *Ohio Edison Company*, Supp. No. 3 to R. S. FERC No. 9 (Concurs in (1) above)

Docket No. ER78–292

Filed: April 7, 1978
Effective: April 8, 1978, subject to refund
(1) *Indiana & Michigan Electric Co.*, Supp. No. 9 (R. S. FERC No. 16
(2) *Ohio Power Company*, Supp. No. 9 to R. S. FERC No. 21
(3) *Cincinnati Gas & Electric Co.*, Supp. No. 6 to R. S. FERC No. 13 (Concurs in (1) & (2) above)

Docket No. ER78–313

Filed: April 17, 1978
Effective: April 18, 1978, subject to refund
(1) *Ohio Power Company*, Supp. No. 9 to R. S. FERC No. 33
(2) *Duquense Light Company*, Supp. No. 9 to R. S. FERC No. 8 (Concurs in (1) above)

Docket No. ER78–335

Filed: May 1, 1978
Effective: May 2, 1978, subject to refund
(1) *Nepool*, (a) Supp. No. 3 to R. S. FERC No. 3 (b) Supp. No. 4 to R. S. FERC No. 3 (Schedule C)
(c) Supp. No. 5 to R. S. FERC No. 3 (Schedule D)
(2) *Central Hudson Gas & Electric Co.*, Supp. No. 1 to R. S. FERC No. 55.
(3) *Consolidated Edison Co. of N.Y.*, Supp. No. 1 to R. S. FERC No. 44
(4) *Long Island Lighting Company*, Supp. No. 1 to R. S. FERC No. 27.
(5) *New York State Electric & Gas Corp.*, Supp. No. 1 to R. S. FERC No. 69
(6) *Niagara Mohawk Power Corp.*, Supp. No. 1 to R. S. FERC No. 102
(7) *Orange & Rockland Utilities, Inc.*, Supp. No. 1 to R. S. FERC No. 39
(8) *Rochester Gas & Electric Corp.*, Supp. No. 1 to R. S. FERC No. 24 (2)–(8) Concur in (1) above

Docket No. ER79–218

Filed: February 28, 1979
Effective: March 2, 1979, subject to refund
(1) *Dayton Power & Light Company*, Supp. No. 6 to R. S. FERC No. 38
(2) *Cincinnati Gas & Electric Company*, R. S. FERC No. 39 (Concurs in (1) above)

Docket No. ER79–242

Filed: March 8, 1979
Effective: Marcy 9, 1979, subject to refund
(1) *Ohio Power Company*, Supp. No. 8 to R. S. FERC No. 31
(2) *Cleveland Electric Illuminating Co.*, Supp. No. 8 to R. S. FERC No. 1 (Concurs in (1) above)

Docket No. ER79–245

Filed: March 12, 1979
Effective: March 13, 1979, subject to refund
(1) *Ohio Power Company*, Supp. No. 10 to R. S. FERC No. 32 (Supersedes Supp. No. 6 to R. S. FERC No. 32)
(2) *Columbus & Southern Ohio Electric Co.*, Supp. No. 10 to R. S. FERC No. 7 (Supersedes Supp. No. 6 to R. S. FERC No. 7)(Concurs in (1) above)

Docket No. ER79–247

Filed: March 14, 1979
Effective: March 15, 1979, subject to refund
(1) *Indiana & Michigan Electric Co.*, Supp. No. 6 to R. S. FERC No. 70

Docket No. ER79–250

Filed: March 15, 1979
Effective: March 16, 1979, subject to refund
(1) *Indiana & Michigan Electric Co.*, Supp. No. 13 to R. S. FERC No. 68 (Supersedes Supp. No. 4 to R. S. FERC No. 68)
(2) *Consumers Power Company*, Supp. No. 16 to R. S. FERC No. 23 (Supersedes Supp. No. 8 to R. S. FERC No. 23) (concurs in (1) above)
(3) *The Detroit Edison Co.*, Supp. No. 16 to R. S. FERC No. 12 (Supersedes Supp. No. 8 to R. S. FERC No. 12) (Concurs in (1) above)

Docket No. ER79–254

Filed: March 16, 1979
Effective: March 17, 1979, subject to refund
(1) *Indiana & Michigan Electric Co.*, Supp. No. 14 to R. S. FERC No. 21
(2) *Indianapolis Power & Light Co.*, Supp. No. 12 to R. S. FERC No. 1 (Concurs in (1) above)

Docket No. ER79–269

Filed: March 27, 1979
Effective: March 28, 1979, subject to refund
(1) *Appalachian Power Company* Supp. No. 5 to R. S. FERC No. 52

[FR Doc. 79–15834 Filed 5–21–79; 8:45 am]

BILLING CODE 6450–01–M

Interior Department, Geological Survey; Determination by a Jurisdictional Agency Under the Natural Gas Policy Act of 1978

May 14, 1979

On May 3, 1979, the Federal Energy Regulatory Commission received notices from the jurisdictional agencies listed below of determinations pursuant to 18 CFR 274.104 and applicable to the indicated wells pursuant to the Natural Gas Policy Act of 1978.

U.S. Department of the Interior, Geological Survey

FERC Control Number: JD79–4345.
API Well Number: 4900921241.
Section of NGPA: 103.
Operator: Champlin Petroleum Company.
Well Name: Federal No. 1 22–10.
Field: Manning.
County: Converse.
Purchaser: McCulloch Int. Gas Corp.
Volume: 95 MMcf.

FERC Control Number: JD79–4346.
API Well Number: 4900921223.
Section of NGPA: 103.
Operator: Champlin Petroleum Company.
Well Name: Federal No. 1 22–22.
Field: Manning.
County: Converse.
Purchaser: McCulloch Int. Gas Corp.
Volume: 34 MMcf.

FERC Control Number: JD79–4347.
API Well Number: 49–005–2472700.
Section of NGPA: 102.
Operator: Getty Oil Company.
Well Name: Hartzog "A" No. 1.
Field: Campbell.
Purchaser: Phillips Petroleum Co.
Volume: 25 MMcf.

FERC Control Number: JD79–4348.
API Well Number: 49–007–2035500.
Section of NGPA: 102.
Operator: Getty Oil Company.
Well Name: Southwest Robbers Gulch No. 1.
Field: Southwest Robbers Gulch.
County: Carbon.
Purchaser: Colorado Interstate Gas Co.
Volume: 180 MMcf.

FERC Control Number: JD79–4349.
API Well Number: 49–007–2038200.
Section of NGPA: 103.
Operator: Getty Oil Company.
Well Name: Southwest Robbers Gulch "A" No. 1.
Field: Southwest Robbers Gulch.
County: Carbon.
Purchaser: Colorado Interstate Gas Co.
Volume: 73 MMcf.

FERC Control Number: JD79–4350.
API Well Number: 4900720366.
Section of NGPA: 102.
Operator: Marathon Oil Company.
Well Name: Standard Draw Federal 1–2.
Field: Standard Draw.
County: Carbon.
Purchaser: Colorado Interstate Gas Co.
Volume: 821 MMcf.

FERC Control Number: JD79–4351.
API Well Number: 49–005–24492.
Section of NGPA: 103.
Operator: Mesa Petroleum Co.
Well Name: 2–19 Powell Federal.
Field: Hartzog Draw Shannon Sand.
County: Campbell.
Purchaser: Panhandle Eastern Pipeline Company.
Volume: 47 MMcf.

FERC Control Number: JD79–4352.
API Well Number: 49–005–24528.
Section of NGPA: 103.
Operator: Mesa Petroleum Company.
Well Name: 1–30 Powell Federal.

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Field: Hartzog Draw Shannon Sand.
County: Campbell.
Purchaser: Panhandle Eastern Pipeline Company.
Volume: 31 MMcf.

FERC Control Number: JD79–4353.
API Well Number: 49–005–24529.
Section of NGPA: 103.
Operator: Mesa Petroleum Company.
Well Name: 2–3 Powell Federal.
Field: Hartzog Draw Shannon Sand.
County: Campbell.
Purchaser: Panhandle Eastern Pipeline Company.
Volume: 18 MMcf.

FERC Control Number: JD79–4354.
API Well Number: 49–005–24530.
Section of NGPA: 103.
Operator: Mesa Petroleum Company.
Well Name: 3–30 Powell Federal.
Field: Hartzog Draw Shannon Sand.
County: Campbell.
Purchaser: Panhandle Eastern Pipeline Company.
Volume: 17 MMcf.

FERC Control Number: JD79–4355.
API Well Number: 05–045–6137.
Section of NGPA: 103.
Operator: Palmer Oil and Gas Company.
Well Name: Federal 22–8.
Field: South Canyon.
County: Garfield.
Purchaser: Western Slope Gas Company.
Volume: 91 MMcf.

FERC Control Number: JD79–4356.
API Well Number: 05–045–6103.
Section of NGPA: 103.
Operator: Palmer Oil and Gas Company.
Well Name: Federal 23–12.
Field: South Canyon.
County: Garfield.
Purchaser: Western Slope Pipeline Corporation.
Volume: 274 MMcf.

FERC Control Number: JD79–4357.
API Well Number: 05–045–6106.
Section of NGPA: 103.
Operator: Palmer Oil and Gas Company.
Well Name: Federal 27–18.
Field: South Canyon.
County: Garfield.
Purchaser: Western Slope Gas Company.
Volume: 256 MMcf.

FERC Control Number: JD79–4358.
API Well Number: 05–045–06162.
Section of NGPA: 102.
Operator: Palmer Oil and Gas Company.
Well Name: Federal 6–8.
Field: Unnamed Wildcat.
County: Garfield.
Purchaser: Southwest Gas Corporation.
Volume: 260 MMcf.

FERC Control Number: JD79–4359.
API Well Number: 43–019–30416.
Section of NGPA: 103.
Operator: Palmer Oil and Gas Company.
Well Name: Federal 33–13.
Field: San Arroyo.
County: Grand.
Purchaser: Southwest Gas Corporation.
Volume: 175 MMcf.

FERC Control Number: JD79–4360.
API Well Number: 05–045–6146.
Section of NGPA: 102.
Operator: Palmer Oil and Gas Company.
Well Name: Federal 16–4.
Field: South Canyon.
County: Garfield.
Purchaser: Western Slope Gas Company.
Volume: 237 MMcf.

FERC Control Number: JD79–4361.
API Well Number: 05–045–6148.
Section of NGPA: 102.
Operator: Palmer Oil and Gas Company.
Well Name: Federal 16–2.
Field: South Canyon.
County: Garfield.
Purchaser: Western Slope Gas Company.
Volume: 120 MMcf.

FERC Control Number: JD79–4362.
API Well Number: 30–045–22526.
Section of NGPA: 103.
Operator: El Paso Natural Gas Company.
Well Name: Turner 2–A.
Field: Blanco.
County: San Juan.
Purchaser: El Paso Natural Gas Company.
Volume: 290 MMcf.

FERC Control Number: JD79–4363
API Well Number: 30–045–22527
Section of NGPA: 103
Operator: EL Paso Natural Gas Company
Well Name: Sunray A 1–A
Field: Blanco
County: San Juan
Purchaser: El Paso Natural Gas Company
Volume: 281 MMcf.

FERC Control Number: JD79–4364
API Well Number: 30–045–22431
Section of NGPA: 103
Operator: EL Paso Natural Gas Company
Well Name: Gartner 8A
Field: Blanco
County: San Juan
Purchaser: El Paso Natural Gas Company
Volume: 700 MMcf.

FERC Control Number: JD79–4365
API Well Number: 30–045–22752
Section of NGPA: 103
Operator: EL Paso Natural Gas Company
Well Name: San Juan 20–A
Field: Blanco
County: San Juan
Purchaser: El Paso Natural Gas Company
Volume: 162 MMcf.

FERC Control Number: JD79–4366
API Well Number: 30–045–22776
Section of NGPA: 103
Operator: EL Paso Natural Gas Company
Well Name: Riddle G 1–A
Field: Blanco
County: San Juan
Purchaser: El Paso Natural Gas Company
Volume: 356 MMcf.

FERC Control Number: JD79–4367
API Well Number: 30–045–22724
Section of NGPA: 103
Operator: EL Paso Natural Gas Company
Well Name: Lucerne A No. 6
Field: Blanco
County: San Juan
Purchaser: El Paso Natural Gas Company
Volume: 170 MMcf.

FERC Control Number: JD79–4368
API Well Number: 30–045–22728
Section of NGPA: 103
Operator: EL Paso Natural Gas Company
Well Name: Lucerne A No. 9
Field: Blanco
County: San Juan
Purchaser: El Paso Natural Gas Company
Volume: 260 MMcf.

FERC Control Number: JD79–4369
API Well Number: 30–045–22799
Section of NGPA: 103
Operator: EL Paso Natural Gas Company
Well Name: Atlantic No. 9
Field: Blanco
County: San Juan
Purchaser: El Paso Natural Gas Company
Volume: 200 MMcf.

FERC Control Number: JD79–4370
API Well Number: 30–045–22360
Section of NGPA: 103
Operator: EL Paso Natural Gas Company
Well Name: Roelofs A No. 3A
Field: Blanco
County: San Juan
Purchaser: El Paso Natural Gas Company
Volume: 78 MMcf.

FERC Control Number: JD79–4371
API Well Number: 30–045–21909
Section of NGPA: 108
Operator: Jerome P. McHugh
Well Name: Chaco Plant No. 8
Field: Gallegos Fruitland South
County: San Juan
Purchaser: El Paso Natural Gas Company
Volume: 22 MMcf.

FERC Control Number: JD79–4372
API Well Number: 30–039–20191
Section of NGPA: 108
Operator: Jerome P. McHugh
Well Name: Nordhaus No. 2
Field: Ballard Pictured Cliffs
County: Rio Arriba
Purchaser: El Paso Natural Gas Company
Volume: 22 MMcf.

FERC Control Number: JD79–4373
API Well Number: 30–039–20243
Section of NGPA: 108
Operator: Jerome P. McHugh
Well Name: Apache No. 4
Field: Basin Dakota and Gallup
County: Rio Arriba
Purchaser: Northwest Pipeline Corporation
Volume: 1 MMcf.

FERC Control Number: JD79–4374
API Well Number: 30–039–20507
Section of NGPA: 103
Operator: Jerome P. McHugh
Well Name: JER No. 1
Field: Wildcat Pictured Cliffs
County: Rio Arriba
Purchaser: El Paso Natural Gas Company
Volume: 110 MMcf.

FERC Control Number: JD79–4375
API Well Number: 30–039–21645
Section of NGPA: 103
Operator: Jerome P. McHugh
Well Name: Velencia Canyon Unit No. 39
Field: Choza Mesa Pictured Cliffs
County: Rio Arriba
Purchaser: El Paso Natural Gas Company
Volume: 29 MMcf.

The applications for determination in these proceedings together with a copy of description of other materials in the record on which such determinations

were made are available for inspection, except to the extent such material is treated as confidential under 18 CFR 275.206, at the Commission's Office of Public Information, Room 1000, 825 North Capitol Street, N.E., Washington, D.C. 20426.

Persons objecting to any of those final determinations may, in accordance with 18 CFR 275.203 and 18 CFR 275.204, file a protest with the Commission on or before June 6, 1979. Please reference the FERC Control Number in any correspondence concerning a determination.

Kenneth F. Plumb,
Secretary.

[FR Doc. 79–15844 Filed 5–21–79; 8:45 am]
BILLING CODE 6450–01–M

Louisiana, Department of Natural Resources; Determination by a Jurisdictional Agency Under the Natural Gas Policy Act of 1978

May 14, 1979.

On May 2, 1979, the Federal Energy Regulatory Commission received notices from the jurisdictional agencies listed below of determinations pursuant to 18 CFR 274.104 and applicable to the indicated wells pursuant to the Natural Gas Policy Act of 1978.

State of Lousiana, Department of Natural Resources, Office of Conservation

FERC Control Number: JD79–4267
API Well Number: 170310056 00000
Section of NGPA: 108
Operator: Jones-O'Brien, Incorporated
Well Name: Cran SU 23; Murrell #1–Serial #59606
Field: Bethany-Longstreet Field
County: De Soto
Purchaser: Texas Eastern Transmission Corp.
Volume: 1276 MMcf.

FERC Control Number: JD79–4268
API Well Number: 170170260000
Section of NGPA: 108
Operator: Jones-O'Brien, Incorporated
Well Name: Cran SU 27; Silas F. Talbert #1–Seruak #59553
Field: Bethany-Longstreet
County: Caddo
Purchaser: Texas Eastern Transmission Corp.
Volume: 1276 MMcf.

FERC Control Number: JD79–4269
API Well Number: 1710922073
Section of NGPA: 103
Operator: Texaco Inc.
Well Name: VUR: DGL U–18 #20
Field: Dog Lake
County: Terrebonne Parish
Purchaser: Texas Gas Transmission Corp.
Volume: 32 MMcf.

FERC Control Number: JD79–4270
API Well Number: 1708920364
Section of NGPA: 103
Operator: Texaco Inc.
Well Name: L 11000 Rab 1B Sua; LL&E #92
Field: Paradis
County: St. Charles Parish
Purchaser: Columbia Gas Transmission Corp.
Volume: 504 MMcf.

FERC Control Number: JD79–4271
API Well Number: 170521435
Section of NGPA: 103
Operator: Union Oil Company of California
Well Name: State Lease 2826 Well No. 39
Field: Caillou Island
County: Terrebonne Parish
Purchaser: Tennessee Gas Pipe Line Co.
Volume: 50 MMcf.

FERC Control Number: JD79–04272
API Well Number: 1703120802
Section of NGPA: 103
Operator: W.D.L. Enterprises, Inc.
Well Name: Jordan B–1 Serial #159390
Field: Grogan
County: De Soto Parish
Purchaser: Tennessee Gas Pipeline Co.
Volume: 182 MMcf.

FERC Control Number: JD79–4273
API Well Number: 1710922005
Section of NGPA: 103
Operator: Union Oil Company of California
Well Name: State Lease 2826 Well No. 40
Field: Cillou Island
County: Terrebonne Parish
Purchaser: Tennessee Gas Pipeline Co.
Volume: 1,000 MMcf.

FERC Control Number: JD79–4274
API Well Number: 1704520523
Section of NGPA: 103
Operator: Union Oil Company of California
Well Name: Williams Inc. K Well No. 5
Field: Big Bayou Pigeon
County: Iberia Parish
Purchaser: Texas Gas Transmission Corp.
Volume: 10 MMcf.

FERC Control Number: JD79–4275
API Well Number: 1711100254
Section of NGPA: 108
Operator: IMC Exploration Company
Well Name: Grayling Lbr. #N–15
Field: Monroe Gas Field
County: Union
Purchaser: Mid Louisiana Gas Company
Volume: 6.2 MMcf.

FERC Control Number: JD79–4276
API Well Number: 1711100244
Section of NGPA: 108
Operator: IMC Exploration Company
Well Name: Grayling Lbr. #N–17
Field: Monroe Gas Field
County: Union
Purchaser: Mid Louisiana Gas Company
Volume: 6.2 MMcf.

FERC Control Number: JD79–4277
API Well Number: 1711100235
Section of NGPA: 108
Operator: IMC Exploration Company
Well Name: Grayling Lbr. #N–18
Field: Monroe Gas Field
County: Union
Purchaser: Mid Louisiana Gas Company
Volume: 7.7 MMcf.

FERC Control Number: JD79–4278
API Well Number: 1711100234
Section of NGPA: 108
Operator: IMC Exploration Company
Well Name: Grayling Lbr. #N–19
Field: Monroe Gas Field
County: Union
Purchaser: Mid Louisiana Gas Company
Volume: 6.9 MMcf.

FERC Control Number: JD79–4279
API Well Number: 1711100233
Section of NGPA: 108
Operator: IMC Exploration Company
Well Name: Grayling Lbr. #N–20
Field: Monroe Gas Field
County: Union
Purchaser: Mid Louisiana Gas Company
Volume: 17.5 MMcf.

FERC Control Number: JD79–4280
API Well Number: 1711100237
Section of NGPA: 108
Operator: IMC Exploration Company
Well Name: Grayling Lbr. #N–21
Field: Monroe Gas Field
County: Union
Purchaser: Mid Louisiana Gas Company
Volume: 6.9 MMcf.

FERC Control Number: JD79–4281
API Well Number: 1711100224
Section of NGPA: 108
Operator: IMC Exploration Company
Well Name: Grayling Lbr. #N–64
Field: Monroe Gas Field
County: Union
Purchaser: Mid Louisiana Gas Company
Volume: 9.9 MMcf.

FERC Control Number: JD79–4282
API Well Number: 1711100220
Section of NGPA: 108
Operator: IMC Exploration Company
Well Name: Grayling Lbr. #N–65
Field: Monroe Gas Field
County: Union
Purchaser: Mid Louisiana Gas Company
Volume: 6.9 MMcf.

FERC Control Number: JD79–4283
API Well Number: 1711100132
Section of NGPA: 108
Operator: IMC Exploration Company
Well Name: Grayling Lbr. #N–67
Field: Monroe Gas Field
County: Union
Purchaser: Mid Louisiana Gas Company
Volume: 11.0 MMcf.

FERC Control Number: JD79–4284
API Well Number: 1710921885
Section of NGPA: 103
Operator: Union Oil Company of California
Well Name: La Terre Co., Inc., Well No. 4
Field: Lake Pagie
County: Terrebonne Parish
Purchaser: Texas Gas Transmission Corp.
Volume: 600 MMcf.

FERC Control Number: JD79–4285
API Well Number: 1710921862
Section of NGPA: 103
Operator: Union Oil Company of California
Well Name: LL&E 'B' Well No. 47
Field: Lake Hatch
County: Terrebonne Parish
Purchaser: Columbia Gas Transmission Corp.
Volume: 40 MMcf.

FERC Control Number: JD79–4286
API Well Number: 1711120018
Section of NGPA: 108
Operator: IMC Exploration Company
Well Name: Grayling Lbr. #N–69
Field: Monroe Gas Field
County: Union

FERC Control Number: JD79–4306
API Well Number: 1711100231
Section of NGPA: 108
Operator: IMC Exploration Company
Well Name: Grayling Lbr. #N–70
Field: Monroe Gas Field
County: Union
Purchaser: Mid Louisiana Gas Company
Volume: 6.9 MMcf.

FERC Control Number: JD79–4307
API Well Number: 1711100230
Section of NGPA: 108
Operator: IMC Exploration Company
Well Name: Grayling Lbr. #N–71
Field: Monroe Gas Field
County: Union
Purchaser: Mid Louisiana Gas Company
Volume: 6.9 MMcf.

FERC Control Number: JD79–4308
API Well Number: 1711100229
Section of NGPA: 108
Operator: IMC Exploration Company
Well Name: Grayling Lbr. #N–72
Field: Monroe Gas Field
County: Union
Purchaser: Mid Louisiana Gas Company
Volume: 6.9 MMcf.

FERC Control Number: JD79–4309
API Well Number: 1711100228
Section of NGPA: 108
Operator: IMC Exploration Company
Well Name: Grayling Lbr. #N–73
Field: Monroe Gas Field
County: Union
Purchaser: Mid Louisiana Gas Company
Volume: 6.9 MMcf.

FERC Control Number: JD79–4310
API Well Number: 1711100227
Section of NGPA: 108
Operator: IMC Exploration Company
Well Name: Grayling Lbr. #N–74
Field: Monroe Gas Field
County: Union
Purchaser: Mid Louisiana Gas Company
Volume: 6.9 MMcf.

FERC Control Number: JD79–4311
API Well Number: 1711100226
Section of NGPA: 108
Operator: IMC Exploration Company
Well Name: Grayling Lbr. #N–75
Field: Monroe Gas Field
County: Union
Purchaser: Mid Louisiana Gas Company
Volume: 6.9 MMcf.

FERC Control Number: JD79–4312
API Well Number: 1711100225
Section of NGPA: 108
Operator: IMC Exploration Company
Well Name: Grayling Lbr. #N–76
Field: Monroe Gas Field
County: Union
Purchaser: Mid Louisiana Gas Company
Volume: 6.9 MMcf.

FERC Control Number: JD79–4313
API Well Number: 1711100223
Section of NGPA: 108
Operator: IMC Exploration Company
Well Name: Grayling Lbr. #N–77
Field: Monroe Gas Field
County: Union
Purchaser: Mid Louisiana Gas Company
Volume: 6.9 MMcf.

FERC Control Number: JD79–4314
API Well Number: 1711100222
Section of NGPA: 108
Operator: IMC Exploration Company
Well Name: Grayling Lbr. #N–78
Field: Monroe Gas Field
County: Union
Purchaser: Mid Louisiana Gas Company
Volume: 6.9 MMcf.

FERC Control Number: JD79–4315
API Well Number: 1711100221
Section of NGPA: 108
Operator: IMC Exploration Company
Well Name: Grayling Lbr. #N–79
Field: Monroe Gas Field
County: Union
Purchaser: Mid Louisiana Gas Company
Volume: 6.9 MMcf.

FERC Control Number: JD79–4316
API Well Number: 1711100219
Section of NGPA: 108
Operator: IMC Exploration Company
Well Name: Grayling Lbr. #N–80
Field: Monroe Gas Field
County: Union
Purchaser: Mid Louisiana Gas Company
Volume: 6.9 MMcf.

FERC Control Number: JD79–4317
API Well Number: 1711100218
Section of NGPA: 108
Operator: IMC Exploration Company
Well Name: Grayling Lbr. #N–81
Field: Monroe Gas Field
County: Union
Purchaser: Mid Louisiana Gas Company
Volume: 6.9 MMcf.

FERC Control Number: JD79–4318
API Well Number: 1711100217
Section of NGPA: 108
Operator: IMC Exploration Company
Well Name: Grayling Lbr. #N–82
Field: Monroe Gas Field
County: Union
Purchaser: Mid Louisiana Gas Company
Volume: 6.9 MMcf.

FERC Control Number: JD79–4319
API Well Number: 1711100216
Section of NGPA: 108
Operator: IMC Exploration Company
Well Name: Grayling Lbr. #N–83
Field: Monroe Gas Field
County: Union
Purchaser: Mid Louisiana Gas Company
Volume: 6.9 MMcf.

FERC Control Number: JD79–4320
API Well Number: 1711100215
Section of NGPA: 108
Operator: IMC Exploration Company
Well Name: Grayling Lbr. #N–84
Field: Monroe Gas Field
County: Union
Purchaser: Mid Louisiana Gas Company
Volume: 6.9 MMcf.

FERC Control Number: JD79–4321
API Well Number: 1711100214
Section of NGPA: 108
Operator: IMC Exploration Company
Well Name: Grayling Lbr. #N–85
Field: Monroe Gas Field
County: Union
Purchaser: Mid Louisiana Gas Company
Volume: 6.9 MMcf.

FERC Control Number: JD79–4322
API Well Number: 1711100213
Section of NGPA: 108
Operator: IMC Exploration Company
Well Name: Grayling Lbr. #N–86
Field: Monroe Gas Field
County: Union
Purchaser: Mid Louisiana Gas Company
Volume: 6.9 MMcf.

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Purchaser: Mid Louisiana Gas Company
Volume: 8.8 MMcf.

FERC Control Number: JD79–4287
API Well Number: 1711120036
Section of NGPA: 108
Operator: IMC Exploration Company
Well Name: Grayling Lbr. #N–70
Field: Monroe Gas Field
County: Union
Purchaser: Mid Louisiana Gas Company
Volume: 12.4 MMcf.

FERC Control Number: JD79–4288
API Well Number: 1711120035
Section of NGPA: 108
Operator: IMC Exploration Company
Well Name: Grayling Lbr. #N–75
Field: Monroe Gas Field
County: Union
Purchaser: Mid Louisiana Gas Company
Volume: 8.9 MMcf.

FERC Control Number: JD79–4289
API Well Number: 1711120067
Section of NGPA: 108
Operator: IMC Exploration Company
Well Name: Grayling Lbr. #N–79
Field: Monroe Gas Field
County: Union
Purchaser: Mid Louisiana Gas Company
Volume: 11.0 MMcf.

FERC Control Number: JD79–4290
API Well Number: 1711120068
Section of NGPA: 108
Operator: IMC Exploration Company
Well Name: Grayling Lbr. #N–80
Field: Monroe Gas Field
County: Union
Purchaser: Mid Louisiana Gas Company
Volume: 18.0 MMcf.

FERC Control Number: JD79–4291
API Well Number: 1711120080
Section of NGPA: 108
Operator: IMC Exploration Company
Well Name: Grayling Lbr. #N–81
Field: Monroe Gas Field
County: Union
Purchaser: Mid Louisiana Gas Company
Volume: 15.3 MMcf.

FERC Control Number: JD79–4292
API Well Number: 1711120083
Section of NGPA: 108
Operator: IMC Exploration Company
Well Name: Grayling Lbr. #N–82
Field: Monroe Gas Field
County: Union
Purchaser: Mid Louisiana Gas Company
Volume: 9.1 MMcf.

FERC Control Number: JD79–4293
API Well Number: 1711120081
Section of NGPA: 108
Operator: IMC Exploration Company
Well Name: Grayling Lbr. #N–83
Field: Monroe Gas Field
County: Union
Purchaser: Mid Louisiana Gas Company
Volume: 17.2 MMcf.

FERC Control Number: JD79–4294
API Well Number: 1711120088
Section of NGPA: 108
Operator: IMC Exploration Company
Well Name: Grayling Lbr. #N–84
Field: Monroe Gas Field
County: Union
Purchaser: Mid Louisiana Gas Company
Volume: 17.6 MMcf.

FERC Control Number: JD79–4295
API Well Number: 17111
Section of NGPA: 108
Operator: IMC Exploration Company
Well Name: Grayling Lbr. #N–2008985
Field: Monroe Gas Field
County: Union
Purchaser: Mid Louisiana Gas Company
Volume: 12.0 MMcf.

FERC Control Number: JD79–4296
API Well Number: 171112014
Section of NGPA: 108
Operator: IMC Exploration Company
Well Name: Grayling Lbr. #N–86
Field: Monroe Gas Field
County: Union
Purchaser: Mid Louisiana Gas Company
Volume: 18.0 MMcf.

FERC Control Number: JD79–4297
API Well Number: 1711120108
Section of NGPA: 108
Operator: IMC Exploration Company
Well Name: Grayling Lbr. #N–87
Field: Monroe Gas Field
County: Union
Purchaser: Mid Louisiana Gas Company
Volume: 5.8 MMcf.

FERC Control Number: JD79–4298
API Well Number: 1711120107
Section of NGPA: 108
Operator: IMC Exploration Company
Well Name: Grayling Lbr. #N–90
Field: Monroe Gas Field
County: Union
Purchaser: Mid Louisiana Gas Company
Volume: 13.5 MMcf.

FERC Control Number: JD79–4299
API Well Number: 1711120116
Section of NGPA: 108
Operator: IMC Exploration Company
Well Name: Grayling Lbr. #N–92
Field: Monroe Gas Field
County: Union
Purchaser: Mid Louisiana Gas Company
Volume: 2.9 MMcf.

The applications for determination in these proceedings together with a copy or description of other materials in the record on which such determinations were made are available for inspection, except to the extent such material is treated as confidential under 18 CFR 275.206, at the Commission's Office of Public Information, Room 1000, 825 North Capitol Street, N.E., Washington, D.C. 20426.

Persons objecting to any of those final determinations may, in accordance with 18 CFR 275.203 and 18 CFR 275.204, file a protest with the Commission on or before June 8, 1979. Please reference the FERC Control Number in any correspondence concerning a determination.

Kenneth F. Plumb,

Secretary.

[FR Doc. 79–15841 Filed 5–21–79; 8:45 am]

BILLING CODE 6450–01–M

Louisiana, Department of Natural Resources; Determination by a Jurisdictional Agency Under the Natural Gas Policy Act of 1978

May 14, 1979.

On May 2, 1979, the Federal Energy Regulatory Commission received notices from the jurisdictional agencies listed below of determinations pursuant to 18 CFR 274.104 and applicable to the indicated wells pursuant to the Natural Gas Policy Act of 1978.

State of Louisiana, Department of Natural Resources, Office of Conservation

FERC Control Number: JD79–4300
API Well Number: 1711120117
Section of NGPA: 108
Operator: IMC Exploration Company
Well Name: Grayling LBR. #N–93
Field: Monroe Gas Field
County: Union
Purchaser: Mid Louisiana Gas Company
Volume: 12.4 MMcf.

FERC Control Number: JD79–4301
API Well Number: 1711120118
Section of NGPA: 108
Operator: IMC Exploration Company
Well Name: Grayling LBR. #N–94
Field: Monroe Gas Field
County: Union
Purchaser: Mid Louisiana Gas Company
Volume: 16.1 MMcf.

FERC Control Number: JD79–4302
API Well Number: 1711121018
Section of NGPA: 108
Operator: IMC Exploration Company
Well Name: Grayling LBR. #N–143
Field: Monroe Gas Field
County: Union
Purchaser: Mid Louisiana Gas Company
Volume: 15.3 MMcf.

FERC Control Number: JD79–4303
API Well Number: 1711121173
Section of NGPA: 103
Operator: Goldsberry Operating Co., Inc.
Well Name: CV Davis RA SU I; Wade A–1
Field: North Unionville
County: Union
Purchaser: Louisiana Gas Intrastate Inc. of Shreveport
Volume: 255 MMcf.

FERC Control Number: JD79–4304
API Well Number: 17 01722330
Section of NGPA: 103
Operator: North American Royalties, Inc.
Well Name: CV RA Sue: B. R. Barlish #1 (#156766)
Field: Johnson Branch
County: Caddo PH.
Purchaser: Energy Development Corporation
Volume: 15 MMcf.

FERC Control Number: JD79–4305
API Well Number: 17 033 20031
Section of NGPA: 107
Operator: Amoco Production Company
Well Name: 16400 TUSC RA SUA: Georgia Pacific Corp. #1
Field: Port Hudson
County: East Baton Rouge Parish
Purchaser: Louisiana Intrastate Gas Corp.
Volume: 1752 MMcf.

FERC Control Number: JD79–4306
API Well Number: 1709920698
Section of NGPA: 103
Operator: Shell Oil Co.
Well Name: N RB SUA; St. Martin PH. SCH BD NO. 34
Field: West Lake Verret
County: St. Martin Parish
Purchaser: United Gas Pipe Line Co.
Volume: 25 MMcf.

FERC Control Number: JD79–4307
API Well Number: 171 132 0814
Section of NGPA: 103
Operator: Phillips Petroleum Company
Well Name: CID JEFF RA SUA; BLANCHARD B. NO. 1
Field: North Parcperdue
County: Vermilion
Purchaser: Dow Chemical Co.
Volume: 2,2000 MMcf.

FERC Control Number: JD79–4308
API Well Number: 17 11320770
Section of NGPA: 107
Operator: Energy Development Corporation
Well Name: Herbert B #1 (#157958)
Field: North Parc Perdue
County: Vermilion PH.
Purchaser: Public Service Electric & Gas Co.
Volume: 1,500 MMcf.

FERC Control Number: JD79–4309
API Well Number: 1711100165
Section of NGPA: 108
Operator: IMC Exploration Company
Well Name: Grayling LBR. #63
Field: Monroe Gas Field
County: Union
Purchaser: Mid Louisiana Gas Company
Volume: 3.3 MMcf.

FERC Control Number: JD79–4310
API Well Number: 1711100287
Section of NGPA: 108
Operator: IMC Exploration Company
Well Name: Grayling LBR. #64
Field: Monroe Gas Field
County: Union
Purchaser: Mid Louisiana Gas Company
Volume: 4.4 MMcf.

FERC Control Number: JD79–4311
API Well Number: 1711101741
Section of NGPA: 108
Operator: IMC Exploration Company
Well Name: Grayling LBR. #B–1
Field: Monroe Gas Field
County: Union
Purchaser: Mid Louisiana Gas Company
Volume: 5.5 MMcf.

FERC Control Number: JD79–4312
API Well Number: 1711100176
Section of NGPA: 108
Operator: IMC Exploration Company
Well Name: Grayling LBR. #B–3
Field: Monroe Gas Field
County: Union
Purchaser: Mid Louisiana Gas Company
Volume: 2.6 MMcf.

FERC Control Number: JD79–4313
API Well Number: 1711100283
Section of NGPA: 108
Operator: IMC Exploration Company
Well Name: Grayling LBR. #B–6
Field: Monroe Gas Field
County: Union
Purchaser: Mid Louisiana Gas Company
Volume: 5.1 MMcf.

FERC Control Number: JD79–4314
API Well Number: 1711100164
Section of NGPA: 108
Operator: IMC Exploration Company
Well Name: Grayling LBR. #B–1
Field: Monroe Gas Field
County: Union
Purchaser: Mid Louisiana Gas Company
Volume: 5.2 MMcf.

FERC Control Number: JD79–4315
API Well Number: 1711100169
Section of NGPA: 108
Operator: IMC Exploration Company
Well Name: Grayling LBR. #B–12
Field: Monroe Gas Field
County: Union
Purchaser: Mid Louisiana Gas Company
Volume: 3.7 MMcf.

FERC Control Number: JD79–4316
API Well Number: 1711100194
Section of NGPA: 108
Operator: IMC Exploration Company
Well Name: Grayling LBR. #B–15
Field: Monroe Gas Field
County: Union
Purchaser: Mid Louisiana Gas Company
Volume: 9.9 MMcf.

FERC Control Number: JD79–4317
API Well Number: 1711100269
Section of NGPA: 108
Operator: IMC Exploration Company
Well Name: Grayling LBR. #N–9
Field: Monroe Gas Field
County: Union
Purchaser: Mid Louisiana Gas Company
Volume: 2.9 MMcf.

FERC Control Number: JD79–4318
API Well Number: 1711100275
Section of NGPA: 108
Operator: IMC Exploration Company
Well Name: Grayling LBR. #N–11
Field: Monroe Gas Field
County: Union
Purchaser: Mid Louisiana Gas Company
Volume: 5.8 MMcf.

FERC Control Number: JD79–4319
API Well Number: 1711100268
Section of NGPA: 108
Operator: IMC Exploration Company
Well Name: Grayling LBR. #N–10
Field: Monroe Gas Field
County: Union
Purchaser: Mid Louisiana Gas Company
Volume: 15.7 MMcf.

FERC Control Number: JD79–4320
API Well Number: 1711100270
Section of NGPA: 108
Operator: IMC Exploration Company
Well Name: Grayling LBR. #N–12
Field: Monroe Gas Field
County: Union
Purchaser: Mid Louisiana Gas Company
Volume: 12.4 MMcf.

FERC Control Number: JD79–4321
API Well Number: 1711100256
Section of NGPA: 108
Operator: IMC Exploration Company
Well Name: Grayling LBR. #N–13
Field: Monroe Gas Field
County: Union
Purchaser: Mid Louisiana Gas Company
Volume: 8.8 MMcf.

FERC Control Number: JD79–4322
API Well Number: 1711100261
Section of NGPA: 108
Operator: IMC Exploration Company
Well Name: Grayling LBR. #60
Field: Monroe Gas Field
County: Union
Purchaser: Mid Louisiana Gas Company
Volume: 7.3 MMcf.

FERC Control Number: JD79–4323
API Well Number: 1711100288
Section of NGPA: 108
Operator: IMC Exploration Company
Well Name: Grayling LBR. CO. #62
Field: Monroe Gas Field
County: Union
Purchaser: Mid Louisiana Gas Company
Volume: 5.5 MMcf.

FERC Control Number: JD79–4324
API Well Number: 17015015930000
Section of NGPA: 108
Operator: Pennzoil Producing Company
Well Name: ROOS No. 1
Field: Sligo
County: Bossier
Purchaser: United Gas Pipe Line Company
Volume: 12 MMcf.

The applications for determination in these proceedings together with a copy or description of other materials in the record on which such determinations were made are available for inspection, except to the extent such material is treated as confidential under 18 CFR 275.206, at the Commission's Office of Public Information, Room 1000, 825 North Capitol Street, N.E., Washington, D.C. 20426.

Persons objecting to any of these final determinations, may, in accordance with 18 CFR 275.203 and 18 CFR 275.204, file a protest with the Commission on or before June 6, 1979. Please reference the FERC Control Number in any correspondence concerning a determination.

Kenneth F. Plumb,

Secretary.

[FR Doc. 79–15842 Filed 5–21–79; 8:45 am]

BILLING CODE 6450–01–M

Michigan, Department of Natural Resources; Notice of Determination by a Jurisdictional Agency Under the Natural Gas Policy Act of 1978

May 14, 1979.

On May 3, 1979, the Federal Energy Regulatory Commission received notices from the jurisdictional agencies listed below of determinations pursuant to 18 CFR 274.104 and applicable to the indicated wells pursuant to the Natural Gas Policy Act of 1978.

State of Michigan Department of Natural Resources

FERC Control Number: JD79–4337
API Well Number:
Section of NGPA: 102

Operator: Post Oil and Gas Corporation

were made are available for inspection,

County: Lea

Operator: Dart Oil and Gas Corporation
Well Name: Gilde 5–25 (32,584)
Field: Aetna
County: Missaukee
Purchaser: Consumers Power Company
Volume: MMcf.

FERC Control Number: JD79–4338
API Well Number:
Section of NGPA: 102
Operator: Dart Oil and Gas Corporation
Well Name: Gilde 6–25
Field: Aetna
County: Missaukee
Purchaser: Consumers Power Company
Volume: MMcf.

FERC Control Number: JD79–4339
API Well Number:
Section of NGPA: 102
Operator: Dart Oil and Gas Corporation
Well Name: Jenema 2–25
Field: Aetna
County: Missaukee
Purchaser: Consumers Power Company
Volume: MMcf.

FERC Control Number: JD79–4340
API Well Number:
Section of NGPA: 102
Operator: Dart Oil and Gas Corporation
Well Name: Jenema 11–25
Field: Aetna
County: Missaukee
Purchaser: Consumers Power Company
Volume: MMcf.

FERC Control Number: JD79–4341
API Well Number:
Section of NGPA: 102
Operator: Dart Oil and Gas Corporation
Well Name: Jenema 12–25
Field: Aetna
County: Missaukee
Purchaser: Consumers Power Company
Volume: MMcf.

FERC Control Number: JD79–4342
API Well Number:
Section of NGPA: 102
Operator: Dart Oil and Gas Corporation
Well Name: Powers 4–36
Field: Aetna
County: Missaukee
Purchaser: Consumers Power Company
Volume: MMcf.

FERC Control Number: JD79–4343
API Well Number:
Section of NGPA: 102
Operator: Dart Oil and Gas Corporation
Well Name: Vandermuellen 5–36
Field: Aetna
County: Missaukee
Purchaser: Consumers Power Company
Volume: MMcf.

FERC Control Number: JD79–4344
API Well Number:
Section of NGPA: 102
Operator: Dart Oil and Gas Corporation
Well Name: Zuiderveen 6–31
Field: Aetna
County: Missaukee
Purchaser: Consumers Power Company
Volume: MMcf.

The applications for determination in these proceedings together with a copy or description of other materials in the record on which such determinations were made are available for inspection, except to the extent such material is created as confidential under 18 CFR 275.206, at the Commission's Office of Public Information, Room 1000, 825 North Capitol Street, N.E., Washington, D.C. 20426.

Persons objecting to any of those final determinations may, in accordance with 18 CFR 275.203 and 18 CFR 275.204 file a protest with the Commission on or before June 6, 1979. Please reference the FERC Control number in any correspondence concerning a determination.

Kenneth F. Plum,

Secretary.

[FR Doc. 79–15843 Filed 5–21–79; 8:45 am]

BILLING CODE 6450–01–M 9

New Mexico Oil Conservation Division; Notice of Determination by a Jurisdictional Agency Under the Natural Gas Policy Act of 1978

May 14, 1979.

On May 3, 1979 the Federal Energy Regulatory Commission received notices from the jurisdictional agencies listed below of determinations pursuant to 18 CFR 274.104 and applicable to the indicated wells pursuant to the Natural Gas Policy Act of 1978.

New Mexico Oil Conservation Division

FERC Control Number: JD79–4325
API Well Number:
Section of NGPA: 103
Operator: Getty Oil Company
Well Name: Getty "35" State No. 1
Field: Grama Ridge
County: Lea
Purchaser: Utco Inc.
Volume: MMcf.

FERC Control Number: JD79–4326
API Well Number: 30–025–26070
Section of NGPA: 103
Operator: Getty Oil Company
Well Name: Skelly "M" State No. 4
Field: Jalmat (Yates)
County: Lea
Purchaser: El Paso Natural Gas Company
Volume: 65 MMcf.

FERC Control Number: JD79–4327
API Well Number:
Section of NGPA: 108
Operator: Trans Delta Oil and Gas Co., Inc.
Well Name: Doughit Browning No. 2 L 23N 1W
Field: So. Blanco
County: Rio Arriba
Purchaser: El Paso Natural Gas Company
Volume: 1010 MMcf.

FERC Control Number: JD79–4328
API Well Number: 30–025–08909
Section of NGPA: 108
Operator: Marathon Oil Company
Well Name: McDonald State A/c 2 Well No. 26
Field: Eumont Yates Seven Rivers Queen
County: Lea
Purchaser: Northern Natural Gas Company
Volume: MMcf.

FERC Control Number: JD79–4329
API Well Number: 30–025–07665
Section of NGPA: 108
Operator: Marathon Oil Company
Well Name: State Land Section 9, Well No. 1
Field: Bowers Seven Rivers, South
County: Lea
Purchaser: Phillips Petroleum Company
Volume: 7.0 MMcf.

FERC Control Number: JD79–4330
API Well Number: 30–025–06897
Section of NGPA: 108
Operator: Marathon Oil Company
Well Name: McDonald State A/c 2, Well No. 11
Field: Eumont Yates Seven Rivers Queen
County: Lea
Purchaser: Northern Natural Gas Company
Volume: 5.0 MMcf.

FERC Control Number: JD79–4331
API Well Number:
Section of NGPA: 108
Operator: Bradley H. Keyes
Well Name: Florance No. 1
Field: Aztec Pictures Cliffs
County: San Juan
Purchaser: El Paso Natural Gas Company
Volume: 98 MMcf.

FERC Control Number: JD79–4332
API Well Number:
Section of NGPA: 108
Operator: Continental Oil Company
Well Name: Wantz No. 9
Field: Nolan Wantz State 10
County: Lea
Purchaser: El Paso Natural Gas Company
Volume: 7.9 MMcf.

FERC Control Number: JD79–4333
API Well Number:
Section of NGPA: 108
Operator: Caulkins Oil Company
Well Name: State A 293
Field: South Blanco Pictures Cliffs
County: Rio Arriba
Purchaser: Gas Company of New Mexico
Volume: 16,031 MMcf.

FERC Control Number: JD79–4334
API Well Number:
Section of NGPA: 108
Operator: Caulkins Oil Company
Well Name: State A 295
Field: South Blanco Pictured Cliffs
County: Rio Arriba
Purchaser: Gas Company of New Mexico
Volume: 16,700 MMcf.

FERC Control Number: JD79–4335
API Well Number:
Section of NGPA: 108
Operator: Caulkins Oil Company
Well Name: Kaime 1
Field: South Blanco Pictured Cliffs
County: Rio Arriba
Purchaser: Gas Company of New Mexico
Volume: 4,443 MMcf.

FERC Control Number: JD79–4336
API Well Number:
Section of NGPA: 108
Operator: Caulins Oil Company
Well Name: State A 93
Field: South Blanco Pictured Cliffs
County: Rio Arriba
Purchaser: Gas Company of New Mexico
Volume: 17,056 MMcf.

The applications for determination in these proceedings together with a copy or description of other materials in the record on which such determinations were made are available for inspection, except to the extent such material is treated as confidential under 18 CFR 275.206, at the Commission's Office of Public Information, Room 1000, 825 North Capitol Street, N.E., Washington, D.C. 20426.

Persons objecting to any of those final determinations may, in accordance with 18 CFR 275.203 and 18 CFR 275.204, file a protest with the Commission on or before June 6, 1979. Please reference the FERC Control Number in any correspondence concerning a determination.

Kenneth F. Plumb,

Secretary.

[FR Doc. 79–15836 Filed 5–21–79; 8:45 am]

BILLING CODE 6450–01–M

New Mexico Oil Conservation Division; Notice of Determination by a Jurisdictional Agency Under the Natural Gas Policy Act of 1978

May 14, 1979.

On May 8, 1979, the Federal Energy Regulatory Commission received notices from the jurisdictional agencies listed below of determinations pursuant to 18 CFR 274.104 and applicable to the indicated wells pursuant to the Natural Gas Policy Act of 1978.

New Mexico Oil Conservation Division

FERC Control Number: JD79–5654
API Well Number: 30039211690000
Section of NGPA: 108
Operator: El Paso Natural Gas Company
Well Name: Lindrith Unit Com 68
Field: Blanco, South-Pictured Cliffs Gas
County: Rio Arriba
Purchaser: El Paso Natural Gas Company
Volume: 17.0 MMcf.

FERC Control Number: JD79–5655
API Well Number: 30039213340000
Section of NGPA: 108
Operator: El Paso Natural Gas Company
Well Name: Lindrith Unit Com 91
Field: Blanco, South-Pictured Cliffs Gas
County: Rio Arriba
Purchaser: El Paso Natural Gas Company
Volume: 16.0 MMcf.

FERC Control Number: JD79–5656
API Well Number: 30039213330000
Section of NGPA: 108
Operator: El Paso Natural Gas Company
Well Name: Lindrith Unit Com 92
Field: Blanco, South-Pictured Cliffs Gas
County: Rio Arriba
Purchaser: El Paso Natural Gas Company
Volume: 9.0 MMcf.

The applications for determination in these proceedings together with a copy or description of other materials in the record on which such determinations were made are available for inspection, except to the extent such material is treated as confidential under 18 CFR 275.206, at the Commission's Office of Public Information, Room 1000, 825 North Capitol Street, N.E., Washington, D.C. 20426.

Persons objecting to any of those final determinations may, in accordance with 18 CFR 275.203 and 18 CFR 275.204, file a protest with the Commission on or before June 6, 1979. Please reference the FERC Control Number in any correspondence concerning a determination.

Kenneth F. Plumb,

Secretary.

[FR Doc. 79–15837 Filed 5–21–79; 8:45 am]

BILLING CODE 6450–01–M

North Dakota Geological Survey; Notice of Determination by a Jurisdictional Agency Under the Natural Gas Policy Act of 1978

May 14, 1979.

On April 24, 1979, the Federal Energy Regulatory Commission received notices from the jurisdictional agencies listed below of determinations pursuant to 18 CFR 274.104 and applicable to the indicated wells pursuant to the Natural Gas Policy Act of 1978.

North Dakota Geological Survey

FERC Control Number: JD79–5658
API Well Number: 33–053–00744
Section of NGPA: 103
Operator: Home Petroleum Corporation
Well Name: Marie Sherven FLB #1
Field: Charlson
County: McKenzie
Purchaser: Aminoil U.S.A.
Volume: 126 MMcf.

FERC Control Number: JD79–5659
API Well Number: 33–105–00764
Section of NGPA: 102
Operator: Tenneco Oil Company
Well Name: Jensen No. 1–4
Field: Missouri Ridge
County: Williams
Purchaser: Montana-Dakota Utilities Company
Volume: 70 MMcf.

The applications for determination in these proceedings together with a copy or description of other materials in the record on which such determinations were made are available for inspection, except to the extent such material is treated as confidential under 18 CFR 275.206, at the Commission's Office of Public Information, Room 1000, 825 North Capitol Street, NE., Washington, D.C. 20426.

Persons objecting to any of those final determinations may, in accordance with 18 CFR 275.203 and 18 CFR 275.204, file a protest with the Commission on or before June 8, 1979. Please reference the FERC Control Number in any correspondence concerning a determination.

Kenneth F. Plumb,

Secretary.

[FR Doc. 79–15838 Filed 5–21–79; 8:45 am]

BILLING CODE 6450–01–M

[Docket No. ER78–509]

Northern Indiana Public Service Co.; Notice of Extension of Time To File Briefs on Exceptions

May 8, 1979.

On May 4, 1979, Commission Staff Counsel filed a motion requesting that the date for filing briefs on exceptions to the Presiding Administrative Law Judge's Initial Decision issued April 11, 1979, be extended to July 11, 1979. The reason stated in the motion is that the parties are concentrating their efforts on agreeing to an overall settlement. The motion states that all parties concur in the requested extension of time.

Upon consideration, notice is hereby given that the time within which briefs on exceptions may be filed in the above-designated matter is extended to and including July 11, 1979. Briefs opposing exceptions will be due on or before July 31, 1979.

Kenneth F. Plumb,

Secretary.

[FR Doc. 79–15835 Filed 5–21–79; 8:45 am]

BILLING CODE 6450–01–M

Railroad Commission of Texas Oil and Gas Division; Notice of Determination by a Jurisdictional Agency Under The Natural Gas Policy Act of 1978

May 14, 1979.

On May 2, 1979, the Federal Energy Regulatory Commission received notices from the jurisdictional agencies listed below of determinations pursuant to 18 CFR 274.104 and applicable to the indicated wells pursuant to the Natural Gas Policy Act of 1978.

Railroad Commission of Texas Oil and Gas Division

FERC Control Number: JD79–3620
API Well Number: 42–483–30504
Section of NGPA: 102
Operator: Pennzoil Company
Well Name: Pennzoil Walser No. 1
Field: Mills Ranch (Granite Wash)
County: Wheller
Purchaser: Natural Gas Pipeline Co. of America
Volume: 80MMcf.

Well Name: J. B. Walton No. 88.

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FERC Control Number: JD79–3621
API Well Number: 42–483–20176
Section of NGPA: 102
Operator: Pennzoil Company
Well Name: Pennzoil Whitehurst No. 1
Field: Mills Ranch (Granite Wash)
County: Wheller
Purchaser: Natural Gas Pipeline Co. of America
Volume: 120 MMcf.

FERC Control Number: JD79–3622
API Well Number: 42–365–30577
Section of NGPA: 103
Operator: Pennzoil Producing Company
Well Name: Chadwick Unit No. 3
Field: Carthage Cotton Valley
County: Panola
Purchaser: United Gas Pipe Line Company
Volume: 840 MMcf.

FERC Control Number: JD79–3623
API Well Number: 42–365–30689
Section of NGPA: 103
Operator: Pennzoil Producing Company
Well Name: Fite No. 4
Field: Carthage Cotton Valley
County: Panola
Purchaser: United Gas Pipe Line Company
Volume: 985 MMcf.

FERC Control Number: JD79–3624
API Well Number: 42–365–30698
Section of NGPA: 103
Operator: Pennzoil Producing Company
Well Name: HULL A–17
Field: Carthage Cotton Valley
County: Panola
Purchaser: United Gas Pipe Line Company
Volume: 500 MMcf.

FERC Control Number: JD79–3625
API Well Number: 42–105–30215
Section of NGPA: 108
Operator: Shenandoah Oil Corporation
Well Name: Dollye Coates 1–69 No. 1
Field: Ozona (Canyon Sand)
County: Crockett
Purchaser: Northern Natural Gas Company
Volume: 16 MMcf.

FERC Control Number: JD79–3626
API Well Number: 42–105–30223
Section of NGPA: 108
Operator: Shenandoah Oil Corporation
Well Name: Clegg 2–84
Field: Ozona (Canyon Sand)
County: Crockett
Purchaser: Northern Natural Gas Company
Volume: 6.4 MMcf.

FERC Control Number: JD79–3627
API Well Number: 42–105–30198
Section of NGPA: 108
Operator: Shenandoah Oil Corporation
Well Name: Clegg 2–54 No. 1
Field: Ozona (Canyon Sand)
County: Crockett
Purchaser: Northern Natural Gas Company
Volume: 8.7 MMcf.

FERC Control Number: JD79–3628
API Well Number: 42–105–30203
Section of NGPA: 108
Operator: Shenandoah Oil Corporation
Well Name: Clegg 1–84 No. 1
Field: Ozona (Canyon Sand)
County: Crockett
Purchaser: Northern Natural Gas Company
Volume: 10 MMcf.

FERC Control Number: JD79–3629
API Well Number: 42–105–30227
Section of NGPA: 108
Operator: Shenandoah Oil Corporation
Well Name: Clegg 2–83
Field: Ozona (Canyon Sand)
County: Crockett
Purchaser: Northern Natural Gas Company
Volume: 2 MMcf.

FERC Control Number: JD79–3630
API Well Number: 42–105–30177
Section of NGPA: 108
Operator: Shenandoah Oil Corporation
Well Name: Clegg 1–62
Field: Ozona (Canyon Sand)
County: Crockett
Purchaser: Northern Natural Gas Company
Volume: 8.4 MMcf.

FERC Control Number: JD79–3631
API Well Number: 42–365–30576
Section of NGPA: 103
Operator: Pennzoil Producing Company
Well Name: Hudson Johnson Unit No. 2
Field: Carthage Cotton Valley
County: Panola
Purchaser: United Gas Pipe Line Company
Volume: 670 MMcf.

FERC Control Number: JD79–3632
API Well Number: 42–365–3–589
Section of NGPA: 103
Operator: Pennzoil Producing Company
Well Name: Trosper No. 1 C
Field: Bethany (Trav Is Peak)
County: Panola
Purchaser: United Gas Pipe Line Company
Volume: 700 MMcf.

FERC Control Number: JD79–3633
API Well Number: 42–219–31940
Section of NGPA: 103
Operator: Bass Enterprises Production Company
Well Name: Slaughter Unit No. 2 Well No. 25
Field: Slaughter
County: Hodkley
Purchaser: Amoco Production Company
Volume: 3 MMcf.

FERC Control Number: JD79–3634
API Well Number: 42–219–31941
Section of NGPA: 103
Operator: Bass Enterprises Production Company
Well Name: Slaughter Unit No. 2 Well No. 33
Field: Slaughter
County: Hockley
Purchaser: Amoco Production Company
Volume: 2 MMcf.

FERC Control Number: JD79–3635
API Well Number: 42–219–32380
Section of NGPA: 103
Operator: Bass Enterprises Production Company
Well Name: Town Lot Unit No. 11
Field: Slaughter
County: Hockley
Purchaser: Amoco Production Company
Volume: 12 MMcf.

FERC Control Number: JD79–3636
API Well Number: 42–219–32404
Section of NGPA: 103
Operator: Bass Enterprises Production Company
Well Name: S. A. Slaughter "B" No. 44
Field: Slaughter
County: Hockley
Purchaser: Amoco Production Company
Volume: 7 MMcf.

FERC Control Number: JD79–3637
API Well Number: 42–219–32382
Section of NGPA: 103
Operator: Bass Enterprises Production Company
Well Name: Slaughter Unit No. 1 Well No. 11
Field: Slaughter
County: Hockley
Purchaser: Amoco Production Company
Volume: 15 MMcf.

FERC Control Number: JD79–3638
API Well Number:
Section of NGPA: 108
Operator: Shenandoah Oil Corporation
Well Name: J. W. Ward 1–118
Field: Sonora Canyon
County: Sutton
Purchaser: El Paso Natural Gas Company
Volume: 15 MMcf.

FERC Control Number: JD79–3639
API Well Number:
Section of NGPA: 108
Operator: Shenandoah Oil Corporation
Well Name: Shurley B–1
Field: Shurley Ranch
County: Sutton
Purchaser: El Paso Natural Gas Company
Volume: 16 MMcf.

FERC Control Number: JD79–3640
API Well Number: 42–435–30133
Section of NGPA: 108
Operator: Shenandoah Oil Corporation
Well Name: Shurley No. 1
Field: Shurley Ranch
County: Sutton
Purchaser: El Paso Natural Gas Company
Volume: 7.5 MMcf.

FERC Control Number: JD79–3641
API Well Number: 42–105–30280
Section of NGPA: 108
Operator: Shenandoah Oil Corporation
Well Name: V. I. Pierce 1–31
Field: Ozona (Canyon Sand)
County: Crockett
Purchaser: Northern Natural Gas Company
Volume: 3.5 MMcf.

FERC Control Number: JD79–3642
API Well Number: 42–105–30214
Section of NGPA: 108
Operator: Shenandoah Oil Corporation
Well Name: V. I. Pierce 1–46
Field: Ozona (Canyon Sand)
County: Crockett
Purchaser: Northern Natural Gas Company
Volume: 1.7 MMcf.

FERC Control Number: JD79–3643
API Well Number: 42–105–30201
Section of NGPA: 108
Operator: Shenandoah Oil Corporation
Well Name: J. S. Pierce 1–6
Field: Ozona (Canyon Sand)
County: Crockett
Purchaser: Northern Natural Gas Company
Volume: 4.9 MMcf.

FERC Control Number: JD79–3644
API Well Number: 42–105–30202
Section of NGPA: 108
Operator: Shenandoah Oil Corporation
Well Name: J. S. Pierce 2–6

Field: Ozona (Canyon Sand)
County: Crockett
Purchaser: Northern Natural Gas Company
Volume: 11.5 MMcf.

FERC Control Number: JD79–3645
API Well Number: 42–475–31722
Section of NGPA: 107
Operator: Exxon Corporation
Well Name: Leede Gas Unit 1, Well 2
Field: Soda Lake (Fusselman)
County: Ward
Purchaser: Delhi Gas Pipeline Corporation
Volume: 1,000 MMcf.

FERC Control Number: JD79–3646
API Well Number: 42–365–30742
Section of NGPA: 103
Operator: Pennzoil Producing Company
Well Name: Hancock Unit No. 1
Field: Carthage Cotton Valley
County: Panola
Purchaser: United Gas Pipe Line Company
Volume: 700 MMcf.

FERC Control Number: JD–79–3647
API Well Number: 42–365–30719
Section of NGPA: 103
Operator: Pennzoil Producing Company
Well Name: Dennard Unit No. 2
Field: Carthage Cotton Valley
County: Panola
Purchaser: United Gas Pipe Line Company
Volume: 240 MMcf.

FERC Control Number: JD79–3648
API Well Number: 42–365–30724
Section of NGPA: 103
Operator: Pennzoil Producing Company
Well Name: Hull Unit A–18
Field: Carthage Cotton Valley
County: Panola
Purchaser: United Gas Pipe Line Company
Volume: 500 MMcf.

FERC Control Number: JD79–3649
API Well Number: 42–365–30282
Section of NGPA: 103
Operator: Pennzoil Producing Company
Well Name: Hull No. A–13 U
Field: Carthage (Travis Peak)
County: Panola
Purchaser: United Gas Pipe Line Company
Volume: 250 MMcf.

FERC Control Number: JD79–3650
API Well Number: 42–365–30641
Section of NGPA: 103
Operator: Pennzoil Producing Company
Well Name: Hull A–15
Field: Carthage Cotton Valley
County: Panola
Purchaser: United Gas Pipe Line Company
Volume: 450 MMcf.

FERC Control Number: JD79–3651
API Well Number: 42–365–30635
Section of NGPA: 103
Operator: Pennzoil Producing Company
Well Name: Hull A–14
Field: Carthage Cotton Valley
County: Panola
Purchaser: United Gas Pipe Line Company
Volume: 1,060 MMcf.

FERC Control Number: JD79–3652
API Well Number: 42–497–31053
Section of NGPA: 103
Operator: Mitchell Energy Corporation
Well Name: H. J. Deavers No. 7–L
Field: Alvord
County: Wise
Purchaser: Natural Gas Pipeline Company
Volume: 26.8 MMcf.

FERC Control Number: JD79–3653.
API Well Number: 42–497–31147.
Section of NGPA: 103.
Operator: Mitchell Energy Corporation.
Well Name: W. A. Bobo No 1.
Field: Bonnesville.
County: Wise.
Purchaser: Natural Gas Pipeline Co. of America.
Volume: 132 MMcf.

FERC Control Number: JD79–3654.
API Well Number: 42–497–30531.
Section of NGPA: 103.
Operator: Mitchell Energy Corporation.
Well Name: H. J. Deavers No. 6–L.
Field: Alvord.
County: Wise.
Purchaser: Natural Gas Pipeline Co. of America.
Volume: 5.5 MMcf.

FERC Control Number: JD79–3655.
API Well Number: 42–497–30581.
Section of NGPA: 103.
Operator: Mitchell Energy Corporation.
Well Name: N. R. Roberts "B" 1–L.
Field: Greenwood.
County: Wise.
Purchaser: Natural Gas Pipeline Company.
Volume: 35.5 MMcf.

FERC Control Number: JD79–3656.
API Well Number; 42–497–31053.
Section of NGPA: 103.
Operator: Mitchell Energy Corporation.
Well Name: H. J. Deavers 7–U.
Field: Alvord.
County: Wise.
Purchaser: Natural Gas Pipeline Company.
Volume: 15.8 MMcf.

FERC Control Number: JD79–3657.
API Well Number: 42–497–3–531.
Section of NGPA: 103.
Operator: Mitchell Energy Corporation.
Well Name: H. J. Deavers 6–U.
Field: Alvord.
County: Wise.
Purchaser: Natural Gas Pipeline Company.
Volume: 70.5 MMcf.

FERC Control Number: JD79–3658.
API Well Number: 42–195–30306.
Section of NGPA: 103.
Operator: H. C. Federer.
Well Name: Clark No. 2 Well.
Field: Hannas Draw (Douglas) Field.
County: Hansford.
Purchaser: Northern Natural Gas Company.
Volume: 300 MMcf.

FERC Control Number: JD79–3659.
API Well Number: 42–083–00000.
Section of NGPA: 102.
Operator: M. J. Brannon.
Well Name: J. T. Porter No. 1.
Field: Burkett S. W. (Duffer).
County:
Purchaser:
Volume: 120 MMcf.

FERC Control Number: JD79–3660.
API Well Number: 42–495–30987.
Section of NGPA: 103.
Operator: Bass Enterprises Production Company.
Well Name: J. B. Walton No. 88.
Field: Keystone.
County: Winkler.
Purchaser: Transwestern Pipeline Company.
Volume: 132 MMcf.

FERC Control Number: JD79–3661.
API Well Number: 42–495–30988.
Section of NGPA: 103.
Operator: Bass Enterprises Production Company.
Well Name: J. B. Walton No. 87.
Field: Keystone.
County: Winkler.
Purchaser: Transwestern Pipeline Company.
Volume: 144 MMcf.

FERC Control Number: JD79–3662.
API Well Number: 42–495–30984.
Section of NGPA: 103.
Operator: Bass Enterprises Production Company.
Well Name: J. B. Walton No. 86.
Field: Keystone.
County: Winkler.
Purchaser: Transwestern Pipeline Company.
Volume: 114 MMcf.

FERC Control Number: JD79–3663.
API Well Number: 42–495–30941.
Section of NGPA: 103.
Operator: Bass Enterprises Production Company.
Well Name: J. B. Walton No. 81.
Field: Keystone.
County: Winkler.
Purchaser: Transwestern Pipeline Company.
Volume: 131 MMcf.

FERC Control Number: JD79–3664.
API Well Number: 42–495–30974.
Section of NGPA: 103.
Operator: Bass Enterprises Production Company.
Well Name: J. B. Walton No. 79–A.
Field: Keystone.
County: Winkler.
Purchaser: Transwestern Pipeline Company.
Volume: 127 MMcf.

FERC Control Number: JD79–3665.
API Well Number: 42–495–30961.
Section of NGPA: 103.
Operator: Bass Enterprises Production Company.
Well Name: M. J. Bashara No. 62.
Field: Keystone.
County: Winkler.
Purchaser: Transwestern Pipeline Company.
Volume: 99 MMcf.

FERC Control Number: JD79–3666.
API Well Number: 42–495–30909.
Section of NGPA: 103.
Operator: Bass Enterprises Production Company.
Well Name: J. B. Walton No. 75.
Field: Keystone.
County: Winkler.
Purchaser: Transwestern Pipeline Company.
Volume: 51 MMcf.

FERC Control Number: JD79–3667.
API Well Number: 42–495–30960.
Section of NGPA: 103.
Operator: Bass Enterprises Production Company.
Well Name: M. J. Bashara No. 61.
Field: Keystone.
County: Winkler.
Purchaser: Transwestern Pipeline Company.
Volume: 89 MMcf.

FERC Control Number: JD79–3668.
API Well Number: 42–495–30996.
Section of NGPA: 103.
Operator: Bass Enterprises Production Company.
Well Name: J. B. Walton No 91.
Field: Keystone.
County: Winkler.
Purchaser: Transwestern Pipeline Company.
Volume: 118 MMcf.

FERC Control Number: JD79–3669.
API Well Number:
Section of NGPA: 103.
Operator: Mitchell Energy Corporation.
Well Name: A. S. Thomas No. 1.
Field: Boonesville.
County: Wise.
Purchaser: Natural Gas Pipeline Co. of America.
Volume: 213–8 MMcf.

FERC Control Number: JD79–3670.
API Well Number: 42–495–30997.
Section of NGPA: 103.
Operator: Mitchell Energy Corporation.
Well Name: W. H. Hobbs No. 2.
Field: Boonesville.
County: Wise.
Purchaser: Natural Gas Pipeline Company.
Volume: 27.7 MMcf.

FERC Control Number: JD79–3671.
API Well Number: 42–165–30660.
Section of NGPA: 103.
Operator: Mobil Oil Corporation.
Well Name: Tom May No. 16.
Field: Gmk So. (San Andres).
County: Gaines.
Purchaser: Phillips Petroleum Company.
Volume: 5.8 MMcf.

The applications for determination in these proceedings together with a copy or description of other materials in the record on which such determinations were made are available for inspection, except to the extent such material is treated as confidential under 18 CFR 275.206, at the Commission's Office of Public Information, Room 1000, 825 North Capitol Street, NE., Washington, D.C. 20426.

Persons objecting to any of those final determinations may, in accordance with 18 CFR 275.203 and 18 CFR 275.204, file a protest with the Commission on or before June 6, 1979. Please reference the FERC Control Number in any correspondence concerning a determination.

Kenneth F. Plum,

Secretary.

[FR Doc. 79–15839 Filed 5–21–79; 8:45 am]

BILLING CODE 6450–01–M

Railroad Commission of Texas Oil and Gas Division; Notice of Determination by a Jurisdictional Agency Under the Natural Gas Policy Act of 1978

May 14, 1979.

On May 2, 1979, the Federal Energy Regulatory Commission received notices from the jurisdictional agencies listed below of determinations pursuant to 18 CFR 274.104 and applicable to the indicated wells pursuant to the Natural Gas Policy Act of 1978.

Railroad Commission of Texas Oil and Gas Division

FERC Control Number: JD79–4255
API Well Number: 42–335–31347
Section of NGPA: 103
Operator: Sun Oil Company
Well Name: J. F. McCabe "A" No. 7
Field: Jameson North (Strawn)
County: Mitchell
Purchaser: Lone Star Gas Company
Volume: 36 MMcf.

FERC Control Number: JD79–4256
API Well Number: 42–335–31345
Section of NGPA: 103
Operator: Sun Oil Company
Well Name: J. F. McCabe "A" No. 6
Field: Jameson North (Ellenburger)
County: Mitchell
Purchaser: Lone Star Gas Company
Volume: 2 MMcf.

FERC Control Number: JD79–4257
API Well Number: 42–335–31310
Section of NGPA: 103
Operator: Sun Oil Company
Well Name: J. F. McCabe "A" No. 5
Field: Jameson North (Ellenburger)
County: Mitchell
Purchaser: Lone Star Gas Company
Volume: 4 MMcf.

FERC Control Number: JD79–4258
API Well Number: 42–335–31273
Section of NGPA: 103
Operator: Sun Oil Company
Well Name: J. F. McCabe "A" No. 4
Field: Jameson North (Strawn)
County: Mitchell
Purchaser: Lone Star Gas Company
Volume: 42 MMcf.

FERC Control Number: JD79–4259
API Well Number: 42–335–31219
Section of NGPA: 103
Operator: Sun Oil Company
Well Name: J. F. McCabe "A" No. 3
Field: Jameson North (Strawn)
County: Mitchell
Purchaser: Lone Star Gas Company
Volume: 93 MMcf.

FERC Control Number: JD79–4260
API Well Number: 42–335–31198
Section of NGPA: 103
Operator: Sun Oil Company
Well Name: J. F. McCabe "A" No. 2
Field: Jameson North (Strawn)
County: Mitchell
Purchaser: Lone Star Gas Company
Volume: 49 MMcf.

FERC Control Number: JD79–4261
API Well Number: 42–335–31167
Section of NGPA: 103
Operator: Sun Oil Company
Well Name: J. F. McCabe "A" No. 1
Field: Jameson North (Strawn)
County: Mitchell
Purchaser: Lone Star Gas Company
Volume: 53 MMcf.

FERC Control Number: JD79–4262
API Well Number: 42–003–31568
Section of NGPA: 103
Operator: Mobil Oil Corporation
Well Name: Leta Jones No. 4
Field: Furhman Mascho
County: Andrews
Purchaser: Phillips Petroleum Company
Volume: 21.5 MMcf.

FERC Control Number: JD79–4263
API Well Number: 42–165–31404
Section of NGPA: 103
Operator: Mobil Oil Corporation
Well Name: Patrick J. Donahue No. 2
Field: Homann (San Andres)
County: Gaines
Purchaser: Phillips Petroleum Company
Volume: 5.8 MMcf.

FERC Control Number: JD79–4264
API Well Number: 42–103–31531
Section of NGPA: 103
Operator: Mobil Oil Corporation
Well Name: W. P. Edwards No. 47
Field: Edwards (Grayburg)
County: Crane
Purchaser: Phillips Petroleum Company
Volume: 186.5 MMcf.

FERC Control Number: JD79–4265
API Well Number:
Section of NGPA: 102
Operator: Arledge Petroleum Corporation
Well Name: Gindorf Well No. 1
Field: Mauritz, Se. (Greta)
County: Jackson
Purchaser: Texas Eastern Transmission Corporation
Volume: 146 MMcf.

FERC Control Number: JD79–4266
API Well Number: 42–165–30700
Section of NGPA: 103
Operator: Mobil Oil Corporation
Well Name: J and J Sec. 127–B No. 1
Field: Gmk So. (San Andres)
County: Gaines
Purchaser: Phillips Petroleum Company
Volume: 4.0 MMcf.

The applications for determination in these proceedings together with a copy or description of other materials in the record on which such determinations were made are available for inspection, except to the extent such material is treated as confidential under 18 CFR 275.206, at the Commission's Office of Public Information, Room 1000, 825 North Capitol Street, N.E., Washington, D.C. 20426.

Persons objecting to any of those final determinations may, in accordance with 18 CFR 275.203 and 18 CFR 275.204, file a protest with the Commission on or before June 6, 1979. Please reference the FERC Control Number in any correspondence concerning a determination.

Kenneth F. Plumb,

Secretary.

[FR Doc. 79–15840 Filed 5–21–79; 8:45 am]

BILLING CODE 6450–01–M

West Virginia Department of Mines Oil and Gas Division; Notice of Determination by a Jurisdictional Agency Under the Natural Gas Policy Act of 1978

May 14, 1979.

On May 3, 1979, the Federal Energy Regulatory Commission received notices from the jurisdictional agencies listed below of determinations pursuant to 18 CFR 274.104 and applicable to the indicated wells pursuant to the Natural Gas Policy Act of 1978.

West Virginia Department of Mines, Oil and Gas Division

FERC Control Number: JD79–4376
API Well Number: 47–017–1307
Section of NGPA: 108
Operator: Pennzoil Company
Well Name: Thurman Spurgeon No. 5
Field: Cove
County: Doddridge
Purchaser: Consolidated Gas Supply Corp.
Volume: .5 MMcf.

FERC Control Number: JD79–4377
API Well Number: 47–017–7284
Section of NGPA: 108
Operator: Pennzoil Company
Well Name: Thurman Spurgeon No. 4
Field: Cove
County: Doddridge
Purchaser: Consolidated Gas Supply Corp.
Volume: .5 MMcf.

FERC Control Number: JD79–4378
API Well Number: 47–017–1291
Section of NGPA: 108
Operator: Pennzoil Company
Well Name: Thurman Spurgeon No. 2
Field: Cove
County: Doddridge
Purchaser: Consolidated Gas Supply Corp.
Volume: .5 MMcf.

FERC Control Number: JD79–4379
API Well Number: 47–013–2818
Section of NGPA: 108
Operator: Pennzoil Company
Well Name: Nettie Poling No. 1
Field: Sherman District
County: Calhoun
Purchaser: Consolidated Gas Supply Corp.
Volume: 0.8 MMcf.

FERC Control Number: JD79–4380
API Well Number: 43–047030394
Section of NGPA: 102
Operator: Coseka Resources (U.S.A.) Limited
Well Name: Main Canyon Unit No. 14–16–15s–23E
Field:
County: Ointah
Purchaser: Mesa Pipeline Company
Volume: 730.0 MMcf.

FERC Control Number: JD79–4381
API Well Number: 25–083–21194
Section of NGPA: 103
Operator: Texaco Inc.
Well Name: C. S. Lien [NCT–1 Well No. L]
Field: Mondak West
County: Richland
Purchaser: Montana Dakota Utilities Company
Volume: 10 MMcf.

FERC Control Number: JD79–4382
API Well Number: 25–025–21131
Section of NGPA: 103
Operator: Shell Oil Company
Well Name: Cabin Creek 22X–20
Field: Cabin Creek
County: Fallon
Purchaser: Montana Dakota Utilities Company
Volume: 35.8 MMcf.

FERC Control Number: JD79–4383
API Well Number: 25–025–21122
Section of NGPA: 103
Operator: Shell Oil Company
Well Name: South Pine Unit 12–30E
Field: Pine
County: Fallon
Purchaser: Montana Dakota Utilities Company
Volume: 31.4 MMcf.

FERC Control Number: JD79–4384
API Well Number: 25–083–21188
Section of NGPA: 103
Operator: Texaco Inc.
Well Name: Federal Land Bank of Spokane No. 1
Field: Mondak West
County: Richland
Purchaser: Montana Dakota Utilities Company
Volume: 13 MMcf.

The applications for determination in these proceedings together with a copy or description of other materials in the record on which such determinations were made are available for inspection, except to the extent such material is treated as confidential under 18 CFR 275.206, at the Commission's Office of Public Information, Room 1000, 825 North Capitol Street NE., Washington, D.C. 20426.

Persons objecting to any of these final determinations may, in accordance with 18 CFR 275.203 and 18 CFR 275.204, file a protest with the Commission on or before June 6, 1979. Please reference the FERC Control Number in any correspondence concerning a determination.

Kenneth F. Plumb,

Secretary.

[FR Doc. 79–15845 Filed 5–21–79; 8:45 am]

BILLING CODE 6450–01–M

FEDERAL COMMUNICATIONS COMMISSION

FM and TV Translator Applications Ready and Available for Processing

Adopted: May 8, 1979.

Released: May 14, 1979.

Notice is hereby given pursuant to §§ 1.572(c) and 1.573(d) of the Commission's rules, that on June 22, 1979, the TV and FM translator applications listed in the attached Appendix will be considered ready and available for processing. Pursuant to §§ 1.227(b)(1) and 1.591(b) of the rules, an application, in order to be considered with any application appearing on the attached list or with any other application on file by the close of business on June 21, 1979, which involves a conflict necessitating a hearing with any application on this list, must be substantially complete and submitted for filing at the offices of the Commission in Washington, D.C., by the close of business on June 21, 1979.

Any party in interest desiring to file pleadings concerning any pending TV or FM translator application, pursuant to Section 309(d)(1) of the Communications Act of 1934, as amended, is directed to § 1.580(i) of the rules, which specifies the time for filing and other requirements relating to such pleadings.

Federal Communications Commission.

William J. Tricarico,

Secretary.

FM Translator Applications

BPFT–781226IH (new), Tahoe City, California, Lake Tahoe FM, Inc., Req: Channel 265, 100.9 MHz, 1 watt. Primary: KEZC–FM, Truckee, California.

BPFT–781226II (new), Incline Village, Nevada, Lake Tahoe FM, Inc., Req: Channel 265, 100.9 MHz, 10 watts. Primary: KEZC–FM, Truckee, California.

BPFT–781226IJ (new), Round Hill, Nevada, Lake Tahoe FM, Inc., Req: Channel 265, 100.9 MHz, 10 watts. Primary: KEZC–FM, Truckee, California.

BPFT–790110IB (K288AM), Manti, Utah, Manti City Corporation. Req: Change frequency to Channel 276, 103.1 MHz.

BPFT–790110IC (new), Yreka, California, Sierra Cascade Communications, Inc., Req: Channel 265, 100.9 MHz, 10 watts. Primary: KTMT–FM, Medford, Oregon.

BPFT–790112ID (new), Marysville and 3 Mile Creek Area, Montana, University of Montana KUFM–FM. Req: Channel 296, 107.1 MHz, 10 watts. Primary: KUFM–FM, Missoula, Montana.

BPFT–790118IB (new), Ashland & Jacksonville, Oregon, Sierra Cascade Communications, Inc. Req: Channel 276, 103.1 MHz, 10 watts. Primary: KTMT–FM, Medford, Oregon.

BPFT–790125IB (new), Ripon, Simms & Salida, California, Western Translators, Inc., Req: Channel 216, 91.1 MHz, 1 watt. Primary: KEBR–FM, Sacramento, California.

BPFT–790130IB (new), Modesto, Riverbank & Ceres, California, Western Translators, Inc. Req: Channel 211, 90.1 MHz, 1 watt. Primary: KEBR–FM, Sacramento, California.

BPFT–790207IB (new), Turlock, Denair, & Delhi, California, Western Translators, Inc. Req: Channel 216, 91.1 MHz, 1 watt.

FOR FURTHER INFORMATION CONTACT:

(12 CFR 225.4(b)(1)), for permission to

Primary: KEBR–FM, Sacramento, California.
BPFT–790207IC (new), Atwater Arena & Castle Air Force Base, California, Western Translators, Inc. Req: Channel 211, 90.1 MHz, 1 watt. Primary: KEBR–FM, Sacramento, California.
BPFT–790215IA (new), Grants Pass, Wolf Creek, Selma, Oregon, Western Translators, Inc. Req: Channel 269, 101.7 MHz, 10 watts. Primary: KEAR–FM, San Francisco, California.
BPFT–790215IB (new), Desert Hot Springs, Palm Springs & Palm Desert, California, Western Translators, Inc. Req: Channel 296, 107.1 MHz, 1 watt. Primary: KECR–FM, El Cajon, California.
BPFT–790215IC (new), Santa Cruz & Boulder Creek, California, Western Translators, Inc. Req: Channel 224, 92.7 MHz, 1 watt. Primary: KEAR–FM, San Francisco, California.
BPFT–790215ID (new), Stockton, California, Western Translators, Inc. Req: Channel 228, 93.5 MHz, 1 watt. Primary: KEBR–FM, Sacramento, California.
BPFT–790215IE (new), South Lake Tahoe & Meyers, California, Western Translators, Inc. Req: Channel 257, 99.3 MHz, 1 watt. Primary: KEBR–FM, Sacramento, California.
BPFT–790215IF (new), San Ardo & Bradley, California, Western Translators, Inc. Req: Channel 249, 97.7 MHz, 1 watt. Primary: KEAR–FM, San Francisco, California.
BPFT–790215IG (new), Greenfield & Soledad, California, Western Translators, Inc. Req: Channel 240, 95.9 MHz, 1 watt. Primary: KEAR–FM, San Francisco, California.
BPFT–790215IH (new), Salinas, Gonzales & Carmel Valley, California, Western Translators, Inc. Req: Channel 249, 97.7 MHz, 1 watt. Primary: KEAR–FM, San Francisco, California.
BPFT–790215II (new), Paso Robles, Astascadero & Estrella, California, Western Translators, Inc. Req: Channel 288, 105.5 MHz, 1 watt. Primary: KEAR–FM, San Francisco, California.
BPFT–790215IJ (new), San Luis Obispo, Morro Bay & Santa Margarita, California, Western Translators, Inc. Req: Channel 288, 105.5 MHz, 1 watt. Primary: KEAR–FM, San Francisco, California.
BPFT–790215IK (new), Livermore, Danville & Tracy, California, Western Translators, Inc. Req: Channel 228, 93.5 MHz, 1 watt. Primary: KEAR–FM, San Francisco, California.
BPFT–790215IL (new), Santa Maria & Los Alamos, California, Western Translators, Inc. Req: Channel 232, 94.3 MHz, 1 watt. Primary: KEAR–FM, San Francisco, California.
BPFT–790215IM (new), Lompoc, Orcutt & Vandenberg Village, California, Western Translators, Inc. Req: Channel 240, 95.9 MHz, 1 watt. Primary: KEAR–FM, San Francisco, California.
BPFT–790215IN (new), Medford, Eagle Point & Gold Hill, California, Western Translators, Inc. Req: Channel 276, 103.1 MHz, 10 watts. Primary: KEAR–FM, San Francisco, California.
BPFT–790215IO (new), Crescent City, Smith River & Gasquet, California, Western Translators, Inc. Req: Channel 272, 102.3 MHz, 10 watts. Primary: KEAR–FM, San Francisco, California.
BPFT–790215IP (new), Cave Junction, Oregon & Happy Camp & Patrick Creek, California, Western Translators, Inc. Req: Channel 280, 103.9 MHz, 10 watts. Primary: KEAR–FM, San Francisco, California.
BPFT–790215IQ (new), Arroyo Grande, Grover City & Edna, California, Western Translators, Inc. Req: Channel 296, 107.1 MHz, 1 watt. Primary: KEAR–FM, San Francisco, California.
BPFT–790328IB (new), Mariposa, Bagby & Planada, California, Western Translators, Inc. Req: Channel 216, 91.1 MHz, 1 watt. Primary: KEBR–FM, Sacramento, California.
BPFT–790328IC (new), Chowchilla, Minturn & Farmead, California, Western Translators, Inc. Req: Channel 211, 90.1 MHz, 1 watt. Primary: KEBR–FM, Sacramento, California.

UHF TV Translator Applications

BPTT–3089 (new), Franklin, New York, Board of Cooperative Educational Services, Sole Supervisory District—Delaware, Chenango, Madison and Otsego Counties. Req: Channel 56, 722–728 MHz, 1 watt. Primary: WSKG–TV, Binghamton, New York.
BPTT–3478 (new), Smyrna, Sherbourne & Earlsville, New York, Board of Cooperative Educational Services, Sole Supervisory District—Delaware, Chenango, Madison And Otsego Counties. Req: Channel 56, 722–728 MHz, 100 watts. Primary: WSKG–TV, Binghamton, New York.
BPTT–790103IC (new), Bear Valley Springs (East), California, Bear Valley Springs Property Owners' Association. Req: Channel 20, 506–512 MHz, 20 watts. Primary: KAIL–TV, Fresno, California.
BPTT–790103ID (new), Bear Valley Springs (East), California, Bear Valley Springs Property Owners' Association. Req: Channel 33, 584–590 MHz, 20 watts. Primary: KBAK–TV, Bakersfield, California.
BPTT–790103IE (new), Bear Valley Springs (East), California, Bear Valley Springs Property Owners' Association. Req: Channel 35, 596–602 MHz, 20 watts. Primary: KMTF–TV, Fresno, California.
BPTT–790103IF (new), Bear Valley Springs (East), California, Bear Valley Springs Property Owners' Association. Req: Channel 39, 620–626 MHz, 20 watts. Primary: KERO–TV, Bakersfield, California.
BPTT–790103IG (new), Bear Valley Springs (East), California, Bear Valley Springs Property Owners' Association. Req: Channel 41, 632–638 MHz, 20 watts. Primary: KNXT–TV, Los Angeles, California.
BPTT–790103IH (new), Bear Valley Springs, California, Bear Valley Springs Property Owners' Association. Req: Channel 45, 656–662 MHz, 20 watts. Primary: KMTF–TV, Fresno, California.
BPTT–790103II (new), Bear Valley Springs (North), California, Bear Valley Springs Property Owners' Association. Req: Channel 48, 674–680 MHz, 20 watts. Primary: KEYT–TV, Santa Barbara, California.
BPTT–790103IJ (new), Bear Valley Springs (North), California, Bear Valley Springs Property Owners' Association. Req: Channel 51, 692–698 MHz, 20 watts. Primary: KSBY–TV, San Luis Obispo, California.
BPTT–790103IK (new), Bear Valley Springs, California, Bear Valley Springs Property Owners' Association. Req: Channel 54, 710–716 MHz, 20 watts. Primary: KCOY–TV, Santa Maria, California.
BPTT–790103IL (new), Bear Valley Springs (West), California, Bear Valley Springs Property Owners' Association. Req: Channel 56, 722–728 MHz, 20 watts. Primary: KMTF–TV, Fresno, California.
BPTT–790103IM (new), Bear Valley Springs (West), California, Bear Valley Springs Property Owners' Association. Req: Channel 60, 746–752 MHz, 20 watts. Primary: KMJ–TV, Fresno, California.
BPTT–790103IN (new), Bear Valley Springs (West), California, Bear Valley Springs Property Owners' Association. Req: Channel 62, 758–764 MHz, 20 watts. Primary: KMPH–TV, Tulare, California.
BPTT–790103IO (new), Bear Valley Springs (West), California, Bear Valley Springs Property Owners' Association. Req: Channel 66, 782–788 MHz, 20 watts. Primary: KFSN–TV, Fresno, California.
BPTT–790103IP (new), Bear Valley Springs (West), California, Bear Valley Springs Property Owners' Association. Req: Channel 68, 794–800 MHz, 20 watts. Primary: KJEO–TV, Fresno, California.
BPTT–790327IA (new), Kaumakani, Kauai, Hawaii, Channel 13, Club of Kauai, Inc. Req: Channel 53, 704–710 MHz, 20 watts. Primary: KIKU–TV, Honolulu, Hawaii.

VHF TV Translator Applications

BPTTV–790426IA (new), Gibbonsville, Idaho, Lost Trail Television Association, Inc. Req: Channel 3, 60–66 MHz, 1 watt. Primary: KPAX–TV, Missoula, Montana.

[FR Doc. 79–15772 Filed 5–18–79; 8:45 am]
BILLING CODE 6712–01–M

FEDERAL EMERGENCY MANAGEMENT AGENCY

[Docket No. N–79–928]

Federal Crime Insurance and Riot Reinsurance Programs

Effective April 1, 1979, the Federal Crime Insurance and Riot Reinsurance Programs were transferred, pursuant to Presidential Reorganization Plan No. 3 of 1978, from the Department of Housing and Urban Development to the Federal Emergency Management Agency. Accordingly, Federal Crime Insurance Policies issued with an inception date of April 1, 1979 or thereafter and bearing the name of the Federal Insurance Adminstration, Department of Housing and Urban Development, as Insurer, are deemed to be issued by the Federal Emergency Management Agency, as Insurer, and Riot Reinsurance Agreements entered into by the Federal Insurance Administration, Department of Housing and Urban Development, prior to April 1, 1979 are assumed as of April 1, 1979 by the Federal Emergency Management Agency, as Reinsurer.

Matters concerning the Federal Crime Insurance and Riot Reinsurance Programs may be addressed to:

Federal Insurance Administrator, 451 Seventh Street SW., Washington, D.C. 20410.

FOR FURTHER INFORMATION CONTACT:
Mr. Donald L. Collins, Federal Insurance and Hazard Mitigation, FEMA, Room 5146, 451 Seventh Street SW., Washington, D.C. 20410 (202 755–7355, or toll free line (800) 424–8872.

Authority: Urban Property Protection and Reinsurance Act of 1968 (Title XI of the Housing and Urban Development Act of 1968, as amended (12 U.S.C. 1749 bbb *et seq.*) and Section 520(b) of the National Housing Act, as amended (12 U.S.C. 1735d(b)); Executive order 12127, 44 FR 19367; and delegation of authority to Federal Insurance Administrator 44 FR 20963.

Issued in Washington, D.C., May 10, 1979.

Gloria M. Jimenez,
Federal Insurance Administrator.

[FR Doc. 79–15968 Filed 5–21–79; 8:45 am]
BILLING CODE 4210–23–M

[Docket No. N–79–929]

National Flood Insurance Program

Effective April 1, 1979, the National Flood Insurance Program was transferred, pursuant to Presidential Reorganization Plan No. 3 of 1978, from the Department of Housing and Urban Development to the Federal Emergency Management Agency. Accordingly, Standard Flood Insurance Policies issued with an inception date of April 1, 1979 or thereafter and bearing the name Patricia Roberts Harris, Secretary, as Insurer, are deemed to be issued by the Director, Federal Emergency Management Agency, as Insurer.

In addition, the Hold Harmless Agreement between the Department of Housing and Urban Development and agents selling or undertaking to sell flood insurance is assumed and reissued by the Federal Emergency Management Agency effective April 1, 1979.

Matters concerning the National Flood Insurance Program may be addressed to:

National Flood Insurance Program, P.O. Box 34294, Bethesda, Maryland 20034.
or
Federal Insurance Administrator, 451 Seventh Street, S.W., Washington, D.C. 20410.

FOR FURTHER INFORMATION CONTACT:
Mr. Donald L. Collins, Federal Insurance and Hazard Mitigation, FEMA, Room 5146, 451 Seventh Street, S.W., Washington, D.C. 20410, (202) 755–7355 or Toll free line (800) 424–8872.

Authority: National Flood Insurance Act of 1968 (Title XIII of Housing and Urban Development Act of 1968), effective January 28, 1969 (33 FR 17804, November 28, 1968), as amended; 42 U.S.C. 40001–4128; Executive Order 12127, 44 FR 19367; and delegation of authority to Federal Insurance Administrator 44 FR 20963.

Issued in Washington, D.C., May 10, 1979.

Gloria M. Jimenez,
Federal Insurance Administrator.

[FR Doc. 79–15969 Filed 5–21–79; 8:45 am]
BILLING CODE 4210–23–M

FEDERAL RESERVE SYSTEM

American Ligonier Bancorp, Inc.; Formation of Bank Holding Company

American Ligonier Bancorp, Inc., Ligonier, Indiana, has applied for the Board's approval under section 3(a)(1) of the Bank Holding Company Act (12 U.S.C. 1842(a)(1)) to become a bank holding company by acquiring 80.4 per cent or more of the voting shares of American State Bank, Ligonier, Indiana. The factors that are considered in acting on the application are set forth in section 3(c) of the Act (12 U.S.C. 1842(c)).

The application may be inspected at the offices of the Board of Governors or at the Federal Reserve Bank of Chicago. Any person wishing to comment on the application should submit views in writing to the Reserve Bank, to be received not later than June 8, 1979. Any comment on an application that requests a hearing must include a statement of why a written presentation would not suffice in lieu of a hearing, identifying specifically any questions of fact that are in dispute and summarizing the evidence that would be presented at a hearing.

Board of Governors of the Federal Reserve System, May 11, 1979.

Edward T. Mulrenin,
Assistant Secretary of the Board.

[FR Doc. 79–15930 Filed 5–21–79; 8:45 am]
BILLING CODE 6210–01–M

Bank Holding Companies; Proposed De Novo Nonbank Activities

The bank holding companies listed in this notice have applied, pursuant to section 4(c)(8) of the Bank Holding Company Act (12 U.S.C. 1843(c)(8)) and § 225.4(b)(1) of the Board's Regulation Y (12 CFR 225.4(b)(1)), for permission to engage *de novo* (or continue to engage in an activity earlier commenced *de novo*), directly or indirectly, solely in the activities indicated, which have been determined by the Board of Governors to be closely related to banking.

With respect to each application, interested persons may express their views on the question whether consummation of the proposal can "reasonably be expected to produce benefits to the public, such as greater convenience, increased competition, or gains in efficiency, that outweigh possible adverse effects, such as undue concentration of resources, decreased or unfair competition, conflicts of interest, or unsound banking practices." Any comment on an application that requests a hearing must include a statement of the reasons a written presentation would not suffice in lieu of a hearing, identifying specifically any questions of fact that are in dispute, summarizing the evidence that would be presented at a hearing, and indicating how the party commenting would be aggrieved by approval of that proposal.

Each application may be inspected at the offices of the Board of Governors or at the Federal Reserve Bank indicated for that application. Comments and requests for hearings should identify clearly the specific application to which they relate, and should be submitted in writing and received by the appropriate Federal Reserve Bank not later than June 13, 1979.

A. *Federal Reserve Bank of San Francisco*, 400 Sansome Street, San Francisco, California 94120:

PATAGONIA CORPORATION, Tuscon, Arizona (mortgage activities; Arizona): to engage, through its subsidiary, Western American Mortgage Company, in originating residential mortgages for sale to permanent investors. These activities would be conducted from an office in Phoenix, Arizona, serving an area within approximately a five-mile radius of that office.

B. *Other Federal Reserve Banks:* None.

Board of Governors of the Federal Reserve System, May 14, 1979.

Edward T. Mulrenin,
Assistant Secretary of the Board.

[FR Doc. 79–15931 Filed 5–21–79; 8:45 am]
BILLING CODE 6210–01–M

Bank Holding Companies; Proposed De Novo Nonbank Activities

The bank holding companies listed in this notice have applied, pursuant to

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section 4(c)(8) of the Bank Holding Company Act (12 U.S.C. 1843(c)(8)) and § 225.4(b)(1) of the Board's Regulation Y (12 CFR 225.4(b)(1)), for permission to engage *de novo* (or continue to engage in an activity earlier commenced *de novo*), directly or indirectly, solely in the activites indicated, which have been determined by the Board of Governors to be closely related to banking.

With respect to each application, interested persons may express their views on the question whether consummation of the proposal can "reasonably be expected to produce benefits to the public, such as greater convenience, increased competition, or gains in efficiency, that outweigh possible adverse effects, such as undue concentration of resources, decreased or unfair competition, conflicts of interest, or unsound banking practices." Any comment on an application that requests a hearing must include a statement of the reasons a written presentation would not suffice in lieu of a hearing, identifying specifically any questions of fact that are in dispute, summarizing the evidence that would be presented at a hearing, and indicating how the party commenting would be aggrieved by approval of that proposal.

Each application may be inspected at the offices of the Board of Governors or at the Federal Reserve Bank indicated for that application. Comments and requests for hearings should identify clearly the specific application to which they relate, and should be submitted in writing and, unless otherwise noted, received by the appropriate Federal Reserve Bank not later than June 11, 1979.

A. *Federal Reserve Bank of New York*, 33 Liberty Street, New York, New York 10045:

CHEMICAL NEW YORK CORPORATION, New York, New York (finance and insurance activities, Ohio): To engage, through its subsidiary, Sunamerica Corporation, in making direct loans and purchasing installment sales finance contracts; and acting as agent or broker for the sale of credit related insurance. These activities would be conducted from an office in Warren, Ohio, serving Warren and Niles, Ohio. This application is for the relocation of an established office within the same city and does not involve the commencement of a new activity.

B. *Federal Reserve Bank of Cleveland*, 1455 East Sixth Street, Cleveland, Ohio 44101:

CENTRAN CORPORATION, Cleveland, Ohio (finance and insurance activities; Ohio): To engage, through its subsidiary, Peoples Financial Corporation of Cleveland, in making and acquiring consumer and commercial finance loans (including loans secured by mortgages or deeds of trust on real property), and purchasing installment sales contracts; and the sale as agent of life and health and accident insurance directly related to its extensions of credit. These activities would be conducted from an office in Parma, Ohio, serving the southeast and southwest suburbs of Cleveland, Ohio, and surrounding communities.

C. *Federal Reserve Bank of Chicago*, 230 South LaSalle Street, Chicago, Illinois 60690:

1. CONTINENTAL ILLINOIS CORPORATION, Chicago, Illinois (trust company and investment advisory activities; Florida): To engage, through its subsidiary, Continental Illinois Trust Company of Sarasota, N.A., in activities that may be carried on by a trust company, including activities of a fiduciary, investment advisory, agency, or custodian nature. The institution would not make loans or investments or accept deposits except as permitted by 12 CFR 225.4(a)(4). These activities would be conducted from an office in Sarasota, Florida, principally serving Sarasota County, Florida.

2. CONTINENTAL ILLINOIS CORPORATION, Chicago, Illinois (trust company and investment advisory activities; Florida): To engage, through its subsidiary, Continental Illinois Trust Company of Florida, N.A., in the activities described in the preceding paragraph from an office in Boca Raton, Florida, principally serving Palm Beach County, Florida.

D. *Federal Reserve Bank of St. Louis*, 411 Locust Street, St. Louis, Missouri 63166:

MERCANTILE BANCORPORATION, INC., St. Louis, Missouri (leasing activities; Oregon): Through its subsidiary, Franklin Equity Leasing Company, to operate as agent or advisor in leasing property in accordance with the Board's Regulation Y. These activities would be conducted from an office in Portland, Oregon, serving the greater Portland area. Comments on this application must be received by the Federal Reserve Bank of St. Louis by June 7, 1979.

E. *Federal Reserve Bank of San Francisco*, 400 Sansome Street, San Francisco, California 94120:

BANKAMERICA CORPORATION, San Francisco, California (finance, leasing, and investment advisory activities; Arizona, New Mexico, Nevada, Texas): To engage, through its subsidary, BA Mortgage and International Realty Corporation, in making or acquiring loans and other extensions of credit such as would be made or acquired by a mortgage company; leasing real property or acting as agent, broker, or advisor in the leasing of real property in accordance with the Board's Regulation Y; acting as investment or financial advisor to the extent of providing portfolio investment advice to others, with emphasis on real property investments and real property interests; and servicing loans and other extensions of credit for itself and others. These activities would be conducted from an office in Phoenix, Arizona, serving Arizona, New Mexico, Nevada, and Brewster, Culberson, El Paso, Hudspeth, Jeff Davis, Loving, Presidio, Reeves, and Winkler Counties, Texas.

F. *Other Federal Reserve Banks:* None.

Board of Governors of the Federal Reserve System, May 11, 1979.

Edward T. Mulrenin,

Assistant Secretary of the Board.

[FR Doc. 79-15932 Filed 5-21-79; 8:45 am]

BILLING CODE 6210-01-M

Citicorp; Proposed Retention of Travelers Check Activities

Citicorp, New York, New York, has applied, pursuant to section 4(c)(8) of the Bank Holding Company Act (12 U.S.C. 1843(c)(8)) and § 225.4(b)(2) of the Board's Regulation Y (12 CFR 225.4(b)(2)), for permission to retain certain travelers check activities.

Applicant states that it would engage in the activities of issuing and selling travelers checks. These activities would be performed worldwide through a network of affiliated and non-affiliated sellers. These activities have not been specified by the Board in § 225.4(a) of Regulation Y as permissible for bank holding companies. Applicant believes, however, that the activity is closely related to banking and proper incident thereto, and this option is based in part on a Board Order of June 14, 1973, approving the *de novo* entry into these activities by BankAmerica Corporation, San Francisco, California, through a subsidiary known as BA Cheque Corporation, San Francisco, California, 38 Fed. Reg. 16,280 (1973).

Interested persons may express their views on the question whether consummation of the proposal can "reasonably be expected to produce benefits to the public, such as greater convenience, increased competition, or gains in efficiency, that outweigh possible adverse effects, such as undue concentration of resources, decreased or unfair competition, conflicts of interests, or unsound banking practices." Any request for a hearing on this question must be accompanied by a statement of the reasons a written presentation would not suffice in lieu of a hearing, identifying specifically any questions of fact that are in dispute, summarizing the evidence that would be presented at a hearing, and indicating how the party commenting would be aggrieved by approval of the proposal.

The application may be inspected at the offices of the Board of Governors or at the Federal Reserve Bank of New York.

Any views or requests for hearing should be submitted in writing and received by the Secretary, Board of Governors of the Federal Reserve System, Washington, D.C. 20551, not later than June 11, 1979.

Board of Governors of the Federal Reserve System, May 11, 1979.

Edward T. Mulrenin,

Assistant Secretary of the Board.

[FR Doc. 79-15933 Filed 5-21-79; 8:45 am]

BILLING CODE 6210-01-M

Consumer Advisory Council; Meeting

Notice is hereby given that the Consumer Advisory Council will meet on Wednesday, June 6, and Thursday, June 7. The meeting, which will be open to public observation, will take place in Terrace Room E of the Martin Building. The June 6 session will begin at 1:00 p.m. until 5:00 p.m. The June 7 session will begin at 9:00 a.m. and conclude at 3:30 p.m. The Martin Building is located on C Street, Northwest, between 20th and 21st Streets in Washington, D.C.

The Council's function is to advise the Board on the exercise of the Board's responsibilities with regard to consumer credit legislation and regulation. It is anticipated that the June 6–7 meeting of the Council will include consideration of the following topics:

1. *Regulation Q.* A number of issues concerning the regulation, including greater rate equity for small savers.

2. *EFT Regulation.* Proposed regulation to implement the remaining sections of the Electronic Fund Transfer Act. These sections, which take effect in May 1980, concern disclosure of the terms and conditions of transfers involving a consumer's account, documentation of transfers, preauthorized transfers, error resolution and liability of financial institutions.

3. *Equal Credit Opportunity and Credit Scoring.* Discussion of the April 19 proposal concerning application of the specific anti-discriminatory rules of Regulation B to four credit-scoring system practices.

4. *Costs and Benefits of Consumer Credit Regulations.* Cost-benefit analyses of the consumer credit regulations-feasibility, methodology, and results.

Other matters previously considered by the Council or initiated by Council members.

Persons wishing to submit to the Council their views regarding any of the above topics may do so by sending written statements to Ms. Kay Oliver, Secretary, Consumer Advisory Council, Board of Governors of the Federal Reserve System, Washington, D.C. 20551.

Information with regard to this meeting may be obtained from Mr. Joseph R. Coyne, Assistant to the Board, at (202) 452–3204.

Board of Governors, May 15, 1979.

Theodore E. Allison,

Secretary of the Board.

[FR Doc. 79-15827 Filed 5-21-79; 8:45 am]

BILLING CODE 6210-01-M

First Harrah Corp.; Formation of Bank Holding Company

First Harrah Corp., Harrah, Oklahoma, has applied for the Board's approval under section 3(a)(1) of the Bank Holding Company Act (12 U.S.C. 1842(a)(1)) to become a bank holding company by acquiring 80 per cent or more of the voting shares of First State Bank, Harrah, Oklahoma. The factors that are considered in acting on the application are set forth in section 3(c) of the Act (12 U.S.C. 1842(c)).

The application may be inspected at the offices of the Board of Governors or at the Federal Reserve Bank of Kansas City. Any person wishing to comment on the application should submit views in writing to the Reserve Bank, to be received not later than June 15, 1979. Any comment on an application that requests a hearing must include a statement of why a written presentation would not suffice in lieu of a hearing, identifying specifically any questions of fact that are in dispute and summarizing the evidence that would be presented at a hearing.

Board of Governors of the Federal Reserve System, May 15, 1979.

Edward T. Mulrenin,

Assistant Secretary of the Board.

[FR Doc. 79-15834 Filed 5-21-79; 8:45 am]

BILLING CODE 6210-01-M

First National Stanton Corp.; Formation of Bank Holding Company

First National Stanton Corp., Stanton, Nebraska, has applied for the Board's approval under section 3(a)(1) of the Bank Holding Company Act (12 U.S.C. 1842(a)(1)) to become a bank holding company by acquiring 91.5 per cent or more of the voting shares of The First National Bank of Stanton, Stanton, Nebraska. The factors that are considered in acting on the application are set forth in section 3(c) of the Act (12 U.S.C. 1842(c)).

The application may be inspected at the offices of the Board of Governors or at the Federal Reserve Bank of Kansas. Any person wishing to comment on the application should submit views in writing to the Secretary, Board of Governors of the Federal Reserve System, Washington, D.C. 20551 to be received no later than June 11, 1979. Any comment on an application that requests a hearing must include a statement of why a written presentation would not suffice in lieu of a hearing, identifying specifically any questions of fact that are in dispute and summarizing the evidence that would be presented at a hearing.

Board of Governors of the Federal Reserve System, May 11, 1979.

Edward T. Mulrenin,

Assistant Secretary of the Board.

[FR Doc. 79-15985 Filed 5-21-79; 8:45 am]

BILLING CODE 6210-01-M

First United Bancorporation, Inc.; Acquisition of Bank

First United Bancorporation, Inc., Fort Worth, Texas, has applied for the Board's approval under section 3(a)(3) of the Bank Holding Company Act (12 U.S.C. 1842(a)(3)) to acquire 100 per cent of the voting shares (less directors' qualifying shares) of First United Bank-Arlington, N.A., Arlington, Texas. The factors that are considered in acting on the application are set forth in section 3(c) of the Act (12 U.S.C. 1842(c)).

The application may be inspected at the offices of the Board of Governors or at the Federal Reserve Bank of Dallas. Any person wishing to comment on the application should submit views in writing to the Reserve Bank to be received not later than June 11, 1979. Any comment on an application that requests a hearing must include a statement of why a written presentation would not suffice in lieu of a hearing, identifying specifically any questions of fact that are in dispute and summarizing

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the evidence that would be presented at a hearing.

Board of Governors of the Federal Reserve System, May 11, 1979.
Edward T. Mulrenin,
Assistant Secretary of the Board.
[FR Doc. 79-15936 Filed 5-21-79; 8:45 am]
BILLING CODE 6210-01-M

Hawkeye Bancorporation; Acquisition of Bank

Hawkeye Bancorporation, Des Moines, Iowa, has applied for the Board's approval under section 3(a)(3) of the Bank Holding Company Act (12 U.S.C. 1842(a)(3)) to acquire 100 per cent of the voting shares of Lake City State Bank, Lake City, Iowa. The factors that are considered in acting on the application are set forth in section 3(c) of the Act (12 U.S.C. 1842(c)).

The application may be inspected at the offices of the Board of Governors or at the Federal Reserve Bank of Chicago. Any person wishing to comment on the application should submit views in writing to the Reserve Bank to be received not later than June 6, 1979. Any comment on an application that requests a hearing must include a statement of why a written presentation would not suffice in lieu of a hearing, identifying specifically any questions of fact that are in dispute and summarizing the evidence that would be presented at a hearing.

Board of Governors of the Federal Reserve System, May 10, 1979.
Edward T. Mulrenin,
Assistant Secretary of the Board.
[FR Doc. 79-15937 Filed 5-21-79; 8:45 am]
BILLING CODE 6210-01-M

Lone Star Bancshares, Inc.; Formation of Bank Holding Company

Lone Star Bancshares, Inc., Lone Star, Texas, has applied for the Board's approval under section 3(a)(1) of the Bank Holding Company Act (12 U.S.C. 1842(a)(1)) to become a bank holding company by acquiring 80 percent or more of the voting shares (less directors' qualifying shares) of The Lone Star State Bank, Lone Star, Texas. The factors that are considered in acting on the application are set forth in section 3(c) of the Act (12 U.S.C. 1842(c)).

The application may be inspected at the offices of the Board of Governors or at the Federal Reserve Bank of Dallas. Any person wishing to comment on the application should submit views in writing to the Reserve Bank, to be received not later than June 8, 1979. Any comment on an application that requests a hearing must include a statement of why a written presentation would not suffice in lieu of a hearing, identifying specifically any questions of fact that are in dispute and summarizing the evidence that would be presented at a hearing.

Board of Governors of the Federal Reserve System, May 10, 1979.
Edward T. Mulrenin,
Assistant Secretary of the Board.
[FR Doc. 79-15938 Filed 5-21-79; 8:45 am]
BILLING CODE 6210-01-M

Minonk Bancshares, Inc.; Formation of Bank Holding Company

Minonk Bancshares, Inc., Minonk, Illinois, has applied for the Board's approval under section 3(a)(1) of the Bank Holding Company Act (12 U.S.C. 1842(a)(1)) to become a bank holding company by acquiring 80 percent or more of the voting shares of Minonk State Bank, Minonk, Illinois. The factors that are considered in acting on the application are set forth in section 3(c) of the Act (12 U.S.C. 1842(c)).

Minonk Bancshares, Inc., Minonk, Illinois, has also applied, pursuant to section 4(c)(8) of the Bank Holding Company Act (12 U.S.C. 1843(c)(8)) and section 225.4(b)(2) of the Board's Regulation Y (12 CFR 225.4(b)(2)), for permission to acquire the Minonk State Insurance Agency, Minonk, Illinois.

Applicant states that Applicant would then engage in the activities of acting as agent for the sale of credit life and credit accident and health insurance directly related to extensions of credit by the Minonk State Bank. These activities would be performed from offices of Applicant in Minonk, Illinois, and the geographic area to be served is the Minonk, Illinois area, located in Woodford County, Illinois. Such activities have been specified by the Board in § 225.4(a) of Regulation Y as permissible for bank holding companies, subject to Board approval of individual proposals in accordance with the procedures of § 225.4(b).

Interested persons may express their views on the question whether consummation of the proposal can "reasonably be expected to produce benefits to the public, such as greater convenience, increased competition, or gains in efficiency, that outweigh possible adverse effects, such as undue concentration of resources, decreased or unfair competition, conflicts of interests, or unsound banking practices." Any request for a hearing on this question must be accompanied by a statement of the reasons a written presentation would not suffice in lieu of a hearing, identifying specifically any questions of fact that are in dispute, summarizing the evidence that would be presented at a hearing, and indicating how the party commenting would be aggrieved by approval of the proposal.

The application may be inspected at the offices of the Board of Governors or at the Federal Reserve Bank of Chicago.

Any views or requests for hearing should be submitted in writing and received by the Secretary, Board of Governors of the Federal Reserve System, Washington, D.C. 20551, not later than June 4, 1979.

Board of Governors of the Federal Reserve System, May 10, 1979.
Edward T. Mulrenin,
Assistant Secretary of the Board.
[FR Doc. 79-15939 Filed 5-21-79; 8:45 am]
BILLING CODE 6210-01-M

Nortonville Bancshares, Inc.; Formation of Bank Holding Company

Nortonville Bancshares, Inc., Nortonville, Kansas, has applied for the Board's approval under section 3(a)(1) of the Bank Holding Company Act (12 U.S.C. 1842(a)(1)) to become a bank holding company by acquiring 80 per cent or more of the voting shares (less directors' qualifying shares) of Bank of Nortonville, Nortonville, Kansas. The factors that are considered in acting on the application are set forth in section 3(c) of the Act (12 U.S.C. 1842(c)).

The application may be inspected at the offices of the Board of Governors or at the Federal Reserve Bank of Kansas City. Any person wishing to comment on the application should submit views in writing to the Reserve Bank, to be received not later than June 8, 1979. Any comment on an application that requests a hearing must include a statement of why a written presentation would not suffice in lieu of a hearing, identifying specifically any questions of fact that are in dispute and summarizing the evidence that would be presented at a hearing.

Board of Governors of the Federal Reserve System, May 11, 1979.
Edward T. Mulrenin,
Assistant Secretary of the Board.
[FR Doc. 79-15940 Filed 5-21-79; 8:45 am]
BILLING CODE 6210-01-M

PanNational Group Inc.; Acquisition of Bank

PanNational Group Inc., El Paso, Texas, has applied for the Board's approval under section 3(a)(3) of the Bank Holding Company Act (12 U.S.C. 1842(a)(3)) to acquire 100 per cent of the voting shares (less directors' qualifying shares) of Vista Hills Bank, El Paso, Texas, a proposed *de novo* bank. The factors that are considered in acting on the application are set forth in section 3(c) of the Act (12 U.S.C. 1842(c)).

The application may be inspected at the offices of the Board of Governors or at the Federal Reserve Bank of Dallas. Any person wishing to comment on the application should submit views in writing to the Secretary, Board of Governors of the Federal Reserve System, Washington, D.C. 20551, to be received not later than June 11, 1979. Any comment on an application that requests a hearing must include a statement of why a written presentation would not suffice in lieu of a hearing, identifying specifically any questions of fact that are in dispute and summarizing the evidence that would be presented at a hearing.

Board of Governors of the Federal Reserve System, May 10, 1979.
Edward T. Mulrenin,
Assistant Secretary of the Board.
[FR Doc. 79-15941 Filed 5-21-79; 8:45 am]
BILLING CODE 6210-01-M

Republic of Texas Corp.; Acquisition of Bank

Republic of Texas Corporation, Dallas, Texas, has applied for the Board's approval under section 3(a)(3) of the Bank Holding Company Act (12 U.S.C. 1842(a)(3)) to acquire 100 per cent of the voting shares (less directors' qualifying shares) of the successor by merger to Bank of A&M, College Station, Texas. The factors that are considered in acting on the application are set forth in section 3(c) of the Act (12 U.S.C. 1842(c)).

The application may be inspected at the offices of the Board of Governors or at the Federal Reserve Bank of Dallas. Any person wishing to comment on the application should submit views in writing to the Secretary, Board of Governors of the Federal Reserve System, Washington, D.C. 20551, to be received not later than June 11, 1979. Any comment on an application that requests a hearing must include a statement of why a written presentation would not suffice in lieu of a hearing, identifying specifically any questions of fact that are in dispute and summarizing the evidence that would be presented at a hearing.

Board of Governors of the Federal Reserve System, May 10, 1979.
Edward T. Mulrenin,
Assistant Secretary of the Board.
[FR Doc. 79-15942 Filed 5-21-79; 8:45 am]
BILLING CODE 6210-01-M

Security Bancorp Inc.; Formation of Bank Holding Company

Security Bancorp Inc., San Antonio, Texas, has applied for the Board's approval under section 3(a)(1) of the Bank Holding Company Act (12 U.S.C. 1842(a)(1)) to become a bank holding company by acquiring 90 per cent or more of the voting shares (less directors' qualifying shares) of Security National Bank, San Antonio, Texas. The factors that are considered in acting on the application are set forth in section 3(c) of the Act (12 U.S.C. 1842(c)).

The application may be inspected at the offices of the Board of Governors or at the Federal Reserve Bank of Dallas. Any person wishing to comment on the application should submit views in writing to the Reserve Bank, to be received not later than June 12, 1979. Any comment on an application that requests a hearing must include a statement of why a written presentation would not suffice in lieu of a hearing, identifying specifically any questions of fact that are in dispute and summarizing the evidence that would be presented at a hearing.

Board of Governors of the Federal Reserve Systenm, May 11, 1979.
Edward T. Mulrenin,
Assistant Secretary of the Board.
[FR Doc. 79-15943 Filed 5-21-79; 8:45 am]
BILLING CODE 6210-01-M

Wells Fargo & Co.; Proposed Acquisition of Miller & Veile

Wells Fargo & Company, San Francisco, California, has applied, pursuant to section 4(c)(8) of the Bank Holding Company Act (12 U.S.C. 1843(c)(8)) and § 225.4(b)(2) of the Board's Regulation Y (12 CFR 225.4(b)(2)), for permission to acquire voting shares of Miller & Veile, Murray, Utah.

Applicant states that the proposed subsidiary would engage in the activities of mortgage banking, including the origination of residential real estate loans and the servicing of such loans for institutional investors. These activities would be performed from offices of Applicant's subsidiary in Murray, Utah; Layton, Utah; Ogden, Utah; Orem, Utah; Casper, Wyoming and Cheyenne, Wyoming; and the geographic areas to be served are Utah, Wyoming, Colorado and Idaho. Such activities have been specified by the Board in § 225.4(a) of Regulation Y as permissible for bank holding companies, subject to Board approval of individual proposals in accordance with the procedures of section 225.4(b).

Interested persons may express their views on the question whether consummation of the proposal can "reasonably be expected to produce benefits to the public, such as greater convenience, increased competition, or gains in efficiency, that outweigh possible adverse effects, such as undue concentration of resources, decreased or unfair competition, conflicts of interests, or unsound banking practices." Any request for a hearing on this question must be accompanied by a statement of the reasons a written presentation would not suffice in lieu of hearing, indentifying specifically any questions of fact that are in dispute, summarizing the evidence that would be present at a hearing, and indicating how the party commenting would be aggrieved by approval of the proposal.

The application may be inspected at the offices of the Board of Governors or at the Federal Reserve Bank of San Francisco.

Any views or requests for hearing should be submitted in writing and received by the Secretary, Board of Governors of the Federal Reserve System, Washington, D.C. 20551, not later than June 11, 1979.

Board of Governors of the Federal Reserve System, May 11, 1979.
Edward T. Mulrenin,
Assistant Secretary of the Board.
[FR Doc. 79-15944 Filed 5-21-79; 8:45 am]
BILLING CODE 6210-01-M

GENERAL SERVICES ADMINISTRATION

GSA Bulletin FPR 25, Federal Procurement Supplement 4

Cost Accounting Standards Administration—Interim Guidance

1. *Purpose.* This supplement adds additional interim guidance concerning the administration of Subpart 1-3.12, Cost Accounting Standards, of the Federal Procurement Regulations (FPR). In addition, and index to guidance items, attachment B to the bulletin, is amended to include the additional entries.

2. *Expiration date.* This bulletin contains items of a continuing nature and will remain in effect until canceled.

3. *Filing instructions.* Remove pages 2.1, 2.2, 71 and 72 of attachment A, and insert new pages 2.1 and 2.2, 71 and 72 through 75, which add new item numbers 30 and 31. Remove pages 1 through 3 of attachment B, and insert new pages 1 through 4.

Dated: May 14, 1979.

Dale R. Babione,

Assistant Administrator for Acquisition Policy.

GSA Bulletin FPR 25, Supp. 4, Attachment A

Item No.	Page No.	Title and source
20	42	Interim guidance on early implementation of new cost accounting standards issued by the CAS Board: W.G. 77-14, March 29, 1977.
21	44	Interim guidance on the influence of CAS regulations on contract terminations: W.G. 77-15, March 29, 1977.
22	46	Interim guidance on applicability of cost accounting standards to letter contracts: W.G. 77-16, June 14, 1977.
23	47	Interim guidance—Identification of CAS contract universe at a contractor's plant: W.G. 77-17, June 14, 1977.
24	48	Interim guidance for implementation of Cost Accounting Standard 414—Cost of Money as an Element of the Cost of Facilities Capital; and Defense Procurement Circular (DPC) 76-3: W.G. 77-18, June 14, 1977.
25	56	Interim guidance—Policy for withdrawing determination of adequacy of disclosure statement: W.G. 77-20, June 14, 1977.
26	58	Interim guidance—Administration of leased facilities under Cost Accounting Standard 414, Cost of Money as an Element of the Cost of Facilities Capital: W.G. 77-19, August 16, 1977.
27	61	Interpretation No. 1 to CAS 402, Consistency in allocating costs incurred for the same purpose: DPC 76-9, August 30, 1977.
28	61	Interim guidance—Implementation of CAS 410, Allocation of Business Unit General and Administrative Expenses to Final Cost Objectives: W.G. 78-21, January 18, 1978.
29	70	Interim guidance—CAS 409 and the development of asset service lives: W.G. 78-22, February 8, 1978.
30	72	Interim Guidance—Administration of Equitable Adjustments of Accounting Changes not Required by New Cost Accounting Standards: W.G. 79-23, January 2, 1979.
31	73	Interim Guidance—Allocation of Business Unit General and Administrative (G&A) Expense to Facilities Contracts: W.G. 79-24, January 26, 1979.

April 28, 1978.

* * * maintained which reflected the withdrawal from active use."

In addition, CAS 409.50(e)(2) provides in part: "Supporting records shall be maintained which are adequate to show the age at retirement or, if the contractor so chooses, at withdrawal from active use (and retention for standby or incidental use) for a sample of assets for each significant category."

Discussion

1. Equitable adjustments of CAS-covered contracts for accounting changes required by CAS are generally applicable only to those contracts in existence on the effective date of the standard (see W.G. 76-7 [Item 12 of this GSA bulletin 25]). An exception to that general rule is seen in the provisions of CAS 409, which allow a grace period to develop records of asset service lives. During this period, many contractors have used some method other than their historical records to estimate asset service lives. Under these circumstances, asset service lives for those assets acquired during the grace period are not required to be adjusted to the historical lives. Therefore, the first applicability of the requirements to base asset service lives on historical records of experience takes place after the grace period. Consequently, all CAS-covered contracts and subcontracts awarded before the conclusion of the grace period are subject to equitable price adjustment for changes related to adopting the new method of arriving at asset service lives for assets acquired after the grace period.

2. There is another issue raising questions about asset service lives. The CAS 409 provision for adjusting service lives to reflect standby or incidental usage provides the contractor an opportunity to prevent having longer lives applied in the depreciation process merely because an asset is not disposed of when withdrawn from active use. To take advantage of this opportunity, the contractor must maintain a record supporting the status of assets.

"Standby" status exists when the asset is withdrawn from regular usage with no definite plans for continuing its use. The asset is retained merely for possible temporary replacement during repair of a productive asset, emergency, or other unusual usage. Diminishing the usage to a part-time basis does not constitute standby status.

Guidance

1. Equitable adjustment procedures are available to the initial compliance with the historical records requirement of CAS 409.509(e)(3) for all CAS-covered contracts existing prior to the end of the grace period.

2. Contractors should be required to provide sufficient detail in records of asset lives or other documentation to support that assets retained for standby or incidental use were withdrawn from service. As indicated in CAS 409.50(e)(2), the records may be for a sample of assets for each significant category. These records are required only when asset lives are adjusted for standby or incidental use.

Item 30 Interim Guidance—Administration of Equitable Adjustments of Accounting Changes not Required by New Cost Accounting Standards: W.G. 79-23, January 2, 1979.

Background. The original Cost Accounting Standards (CAS) clause required the contracting parties to negotiate an equitable adjustment to contract prices whenever the application of a new standard resulted in a change in an accounting practice and an associated change in contract cost. Changes in accounting practices other than those required by new standards could only be made as long as there was no increased cost to the Government.

Effective March 10, 1978, the CAS Board added a new subparagraph to the CAS clause (331.50(a)(4)(C)). This new subparagraph permits the use of equitable adjustment procedures in connection with the cost impact of any accounting change which the contracting officer determines to be desirable and not detrimental to the interest of the Government.

A number of questions have arisen concerning the proper use of this new contract provision. This paper addresses those questions.

Questions and guidance. 1. What criteria should be used in determining whether an accounting change is desirable and not detrimental to the interest of the Government?

The term "desirable" encompasses the tests of being appropriate, warranted, equitable, fair or reasonable. The contracting officer's finding shall not be made solely because of the financial impact of the proposed change on the contractor's current CAS-covered contracts. A change may be desirable and not detrimental to the interest of the Government even through costs increase.

2. May existing contracts which do not contain the new subparagraph be modified to include the provision?

Yes. Circumstances could arise where the contracting officer, for administrative convenience or other legitimate reason, would want to insert the new subparagraph into contracts which do not contain the provision. In such cases, it is permissible to modify existing CAS-covered contracts if both contracting parties agree to the change and if adequate consideration is given.

3. Who has the authority to execute such a modification?

The PCO has the authority to negotiate the modification. Therefore, whenever an ACO believes a modification is necessary, the PCO should be requested to initiate the change.

4. Must the price or cost of each contract affected by the costs impact of an accounting change be adjusted when the provision of the new subparagraph is used?

No. The current regulations, which permit the ACO to net increases under some contracts against decreases under other contracts thus reducing the number of individual contract price adjustments, are applicable to the new provision.

Item 31 Interim guidance—Allocation of Business Unit General and Administrative (G&A) Expense to Facilities Contracts: W.G. 79-24, January 26, 1979.

Background. Questions have been raised regarding the propriety of including cost of facilities acquisitions in contractors' G&A expense allocation bases.

Cost Accounting Standard (CAS) 410 provides that the cost input base used to allocate the G&A expense pool shall include all significant elements of that cost input which represents the total activity of the business unit. Specific criteria are provided for three bases for allocating G&A expense: (1) total cost input, (2) value-added cost input, and (3) single element cost input. The standard also permits a special allocation of G&A expense to a particular final cost objective, if that objective receives significantly more or less benefit from G&A expense that would be reflected by the allocation of such expense using the contractor's normal allocation base. The special allocation provides a means for accounting for aberrations of normal business activity that could involve more than one final cost objective.

Discussion. Contractors' normal operations consist of the production of goods and services, such as aircraft or weapons systems. Contractors may, however, also receive Government facilities contracts which require the acquisition of significant amounts of facilities. These purchases are made at the direction of the Government, and no profit is granted to the contractor for making the acquisitions.

Facilities acquisition contracts normally do not require the same level of contractor risk and associated management attention as contracts which provide for the delivery of regular goods and services. As a result, a full allocation of a contractor's management or G&A expense to such contracts would generally not be equitable. An exception to this would be the rare circumstance when the preponderance of the contractor's activity is acquiring facilities as a service for the Government.

Government-funded facilities, when needed by a contractor to meet production contract requirements, are usually provided under a single facilities contract. However, in some instances contractors are awarded two or more concurrent contracts for the acquisition of facilities. The dollar magnitude of facilities acquisition under these contracts may be substantial when compared with contractors' normal business activities. However, because these acquisitions are generally not part of the normal business activity, this dollar magnitude is probably not a valid indicator of the proportion of G&A expense related to the facilities contracts.

In the case of consolidated facilities contracts (i.e., those contracts which provide for both facilities acquisition and facilities maintenance), a special allocation of G&A expense would be applied to the acquisition portion of the contracts. The maintenance portion would remain in the base and would received the normal allocation of G&A expense.

Guidance. When a contractor has one or more facilities contracts, such contracts should be reviewed to ascertain whether they received significantly less benefit from G&A expense than other contracts. This is usually the case.

When it is determined that facilities acquisition contracts will not receive an appropriate allocation of G&A expense by participating in the contractor's selected G&A expense allocation base, a special G&A expense allocation under the provisions of CAS 410.50(j) shall be required.

Attachment B.—An Index to Uncodified Cost Accounting Standards Guidance

Key

CAS—Cost accounting standard
DPC—Defense Procurement Circular
WG—CAS Steering Committee Working Group paper
Bul—Federal Procurement Regulations (FPR) bulletin
TR—FPR temporary regulation
[. . .]—Republication

Adjustments, equitable for changes not required by new standards	WG79—23[Bul25,item30]
Adjustments, individual contract	DPC76—1,X[Bul25,item4]
Adjustments to price, offset principle	WG76—8[Bul25,item4]
Applicability date, effective date	WG76—7[Bul25,item12]
Applicability to letter contracts	WG77—16[Bul25,item22]
Asset depreciation	DPC74—4,XVI[Bul25,item1]
Asset service lives	WG76—22[Bul25,item29]
Basic agreements, orders placed	WG76—2[Bul25,item7]
Bid & proposal costs, interpretation	DPC76—9,VI[Bul25,item27]
CAS 402, Interpretation 1	DPC76—9,VI[Bul25,item27]
CAS 405, directly associated costs	DPC76—6,XXXV[Bul25,item13]
CAS 405, unallowable on basis of allocability	WG77—13[Bul25,item19]
CAS 409, asset service lives	WG78—22[Bul25,item29]
CAS 410	WG77—11[Bul25,item17]; WG78—21[Bul25,item28]
CAS 412	WG78—1[Bul25,item6]
CAS 414	WG77—18[Bul25,item24]; DPC76—3;DPC76—7,III; DPC76—9,IV;DPC76—12,III
CAS 414, FPR interim policies	TR 40
CAS 414, leased facilities	WG77—19[Bul25,item26]
CAS 415, FPR interim policies	TR 43
CAS—covered vs uncovered contracts	DPC76—1,X[Bul25,item2]
Changes, implementation costs	WG76—5[Bul25,item10]
Changes in established practices	WG76—6[Bul25,item11]
Changes not required in new Standards	WG79—23[Bul23,item30]
Contract modifications	WG76—2[Bul25,item7]
Contract universe identification	WG77—17[Bul25,item23]
Cost input base	WG76—21[Bul25,item28]
DPC 76—3	WG77—18[Bul25,item24]
Depreciation, tangible capital assets	DPC75—4,XVI[Bul25,item1]
Directly associated costs	DPC76—6,XXXV[Bul25,item13]
Disclosure statement, withdrawal of adequacy	WG77—20[Bul25,item25]
Effective date, applicability date	WG76—7[Bul25,item12]
Established practice changes	WG76—6[Bul25,item11]
FFP contracts, increased costs	WG76—4[Bul25,item9].
FFP contracts, measurement of cost impact	WG76—9[Bul25,item15]
Facilities contracts, allocation of business unit G&A to	WG79—24[Bul25,item31]
G&A pool, functional or selling costs in	WG76—21[Bul25,item28]
Identifcation of contract CAS universe	WG77—17[Bul25,item23]
Implementation, early, of new standards	WG77—14[Bul25,item20]
Implementation, retroactive	WG77—10[Bul25,item16]
Implementation of changes, costs of	WG76—5[Bul25,item10]
Increased costs, FFP contracts	WG76—4[Bul25,item9]
Increased costs paid	DPC76—1,X[Bul25,item3]
Individual contract adjustments	DPC76—1,X[Bul25,item4]
Leased facilities under CAS 414	WG77—19[Bul25,item26]
Letter contracts, applicability	WG77—16[Bul25,item22]

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Measurement of cost impact	WG76—9[Bul25,item15]
Noncompliance, contract proposals	DPC76—1.X[Bul25,item5]
Noncompliance, deliberate and inadvertent	WG77—12[Bul25,item18]
Offset principle, price adjustments	WG76—8[Bul25,item16]
Proposal noncompliance	DPC76—1.X[Bul25,item5]
Retroactive implementation, when timely compliance not feasible	WG77—10[Bul25,item16]
Subcontract application	WG76—3[Bul25,item8]
Terminations, influence of CAS regulations	WG77—15.[Bul25,item21]
Unallowable costs, directly associated	DPC76—8.XXXV[Bul25,item13]
Unallowable costs, on basis of allocability	WG77—13[Bul25,item19]
Uncovered contracts vs CAS covered	DPC76—1.X[Bul25,item2]

[FR Doc. 79-15911 Filed 5-21-79; 8:45 am]

BILLING CODE 6820-61-M

DEPARTMENT OF HEALTH, EDUCATION, AND WELFARE

Food and Drug Administration

[Docket No. 76P-0418]

Radiologic Sciences, Inc.; Extension of Variance for Diagnostic X-Ray Systems and Their Major Components

AGENCY: Food and Drug Administration.

ACTION: Notice of Extension of Variance.

SUMMARY: This notice announces the extension of Variance No. 76001 for certain mobile x-ray systems designed for magnification. Radiologic Sciences, Inc., which markets the systems, applied for the extension of Variance No. 76001, using as a basis, documentation similar to that accompanying the original variance petition, supplemented by additional material developed during the last 2 years. The Director of the Bureau of Radiological Health, Food and Drug Administration, has determined that the arguments and data submitted are still valid and therefore has granted the extension of variance for 5 years.

DATES: Variance No. 76001 expires March 27, 1984 unless written objections and supporting information are filed on or before June 21, 1979 requesting that the extension not be granted.

ADDRESS: Written objections to the Hearing Clerk (HFA-305), Food and Drug Administration, Rm. 4-65, 5600 Fishers Lane, Rockville, MD 20857.

FOR FURTHER INFORMATION CONTACT: Robert Phillips, Bureau of Radiological Health (HFX-460), Food and Drug Administration, Department of Health, Education, and Welfare, 5600 Fishers Lane, Rockville, MD 20857, 301-443-3426.

SUPPLEMENTARY INFORMATION: In the Federal Register of February 25, 1977 (42 FR 11050), notice was given that a variance from the minimum source-to-skin distance requirement of § 1020.31(h)(2) (21 CFR 1020.31(h)(2)) of the performance standard for diagnostic x-ray systems and their major components was granted to Radiologic Sciences, Inc., 2020 Coronado Dr., Santa Clara, CA, for mobile x-ray systems designed for magnification. The variance was granted under § 1010.4 (21 CFR 1010.4), which concerns the granting of variances for electronic products for which there are performance standards promulgated under section 358 of the Public Health Service Act, as amended by the Radiation Control for Health and Safety Act of 1968 (the act) (42 U.S.C. 263f). This variance applies to mobile x-ray systems designed for magnification radiography employing the MFX x-Ray Tube. Both the X-ray system and the MFX X-Ray Tube are marketed by Radiologic Sciences, Inc. The MFX X-Ray Tube has a small focal spot designed for direct magnification radiography. Section 1020.31(h)(2) requires that mobile or portable x-ray systems other than dental shall be provided with means to limit the source-to-skin distance (i.e., the distance between the x-ray tube focal spot and the point where the x-ray beam axis enters the patient) to not less than 30 centimeters (cm). The mobile x-ray systems manufactured under this variance deviate from the requirement of § 1020.31(h)(2) in that they are provided with means to limit the source-to-skin distance to not less than 15 cm.

Radiologic Sciences, Inc., has petitioned the Food and Drug Administration (FDA) for an indefinite extension of the March 27, 1979 expiration date of Variance No. 76001.

The request and supplementary information submitted in support of this extension request are similar to the data and information used in support of the original variance request. The Director of the Bureau of Radiological Health has determined that the arguments that led to the original granting of Variance 76001 are still valid. Furthermore, the Director has concluded that the mobile x-ray systems being marketed under the variance provide suitable radiation protection and are intended for the special purpose of direct radiographic magnification, which cannot be accomplished with equipment meeting all requirements of the standard. The Director, therefore, has granted an extension of the variance for 5 years, to March 27, 1984, with the same conditions as specified for the original variance unless written objections and supporting information are filed with the Hearing Clerk, FDA, on or before June 21, 1979 requesting that the extension be modified or not granted. Upon receipt of such objections and supporting documentation, the agency will stay the effective date for the variance until the Director rules on them. Under provisions of § 1010.4(c)(3), the applicant will be notified by certified mail, and a notice of the stay will be published in the Federal Register. The ruling on the objections will be made within 60 days, will be published in the Federal Register, and shall constitute final agency action subject to judicial review under section 358(d) of the act.

This variance is being extended for 5 years instead of the requested indefinite period. This will allow the Bureau the opportunity in 5 years to reevaluate the need and basis for the variance. Such a reevaluation will consider the possible amendment of the performance standard, the then current state of the art, clinical usefulness, radiation protection criteria, and other relevant factors.

The application for this variance extension and all related correspondence including the data and information in support of the original request, except information covered by the confidentiality provisions of section 360A(e) of the act (42 U.S.C. 263i(e)), have been placed on public display in the office of the Hearing Clerk (address below) and may be seen between 9 a.m. and 4 p.m., Monday through Friday.

Any person who will be adversely affected by this variance may, on or before June 21, 1979 submit written objections and supporting information to the Hearing Clerk (HFA-305), Food and Drug Administration, Rm. 4-65, 5600 Fishers Lane, Rockville, MD 20857. Four copies of all documents must be submitted, identified with the Hearing Clerk docket number found in brackets in the heading of this document. Received objections may be seen in the Hearing Clerk's office during the hours noted above.

Dated: May 14, 1979.

William F. Randolph,

Acting Associate Commissioner of Regulatory Affairs.

[FR Doc. 79-15676 Filed 5-22-79; 8:45 am]

BILLING CODE 4110-03-M

Miscellaneous External Drug Products Panel Meeting

AGENCY: Food and Drug Administration.

ACTION: Notice.

SUMMARY: This notice announces a forthcoming meeting of a public advisory committee of the Food and Drug Administration (FDA). This notice also sets forth a summary of the procedures governing committee meetings and methods by which interested persons may participate in open public hearings conducted by the committees and is issued under section 10(a) (1) and (2) of the Federal Advisory Committee Act (Pub. L. 92-463, 86 Stat. 770-776 (5 U.S.C. App. I)), and FDA regulations (21 CFR Part 14) relating to advisory committees. The following advisory committee meeting is announced:

Committee name	Date, time, and place	Type of meeting and contact person
Miscellaneous External Drug Products Panel.	June 10 and 11, 9 a.m., Holiday Inn, Bethesda, MD, (June 10); Conference Rm. M, Parklawn Bldg., 5600 Fishers Lane, Rockville, MD, (June 11).	Open committee discussion June 10, 9 a.m. to 4:30 p.m.; open public hearing June 11, 9 a.m. to 10 a.m.; open committee discussion June 11, 10 a.m. to 4:30 p.m.; John T. McElroy (HFD-510), 5600 Fishers Lane, Rockville, MD 20857, 301-443-1430.

General function of the Committee. The Committee reviews and evaluates available data concerning the safety and effectiveness of nonprescription drug products.

Agenda—Open public hearing. Any interested persons may present data, information, or views, orally or in writing, on issues pending before the Committee. Those who desire to make such a presentation should notify the contact person before June 5, 1979, and submit a brief statement of the general nature of the data, information, or views they wish to present, the names and addresses of proposed participants, and an indication of the approximate time desired for their presentation.

Open committee discussion. The Panel will review data submitted in response to the over-the-counter (OTC) review's call for data for this Panel (see also 21 CFR 330.10(a)(2)). The Panel will be reviewing, voting upon, and modifying the content of summary minutes and categorization of ingredients and claims.

FDA public advisory committee meetings may have as many as four separable portions: (1) An open public hearing, (2) an open committee discussion, (3) a closed presentation of data, and (4) a closed committee deliberation. Every advisory committee meeting shall have an open public hearing protion. Whether or not it also includes any of the other three portions will depend upon the specific meeting involved. There are no closed portions for the meetings announced in this notice. The dates and times reserved for the open portions of each committee meeting are listed above.

The open public hearing portion of each meeting shall be at least 1 hour long unless public participation does not last that long. It is emphasized, however, that the 1 hour time limit for an open public hearing represents a minimum rather than a maximum time for public participation, and an open public hearing may last for whatever longer period the committee chairman determines will facilitate the committee's work.

Meetings of advisory committees shall be conducted, insofar as is practical, in accordance with the agenda published in this Federal Register notice. Changes in the agenda will be announced at the beginning of the open portion of a meeting.

Any interested person who wishes to be assured of the right to make an oral presentation at the open public hearing portion of a meeting shall inform the contact person listed above, either orally or in writing, prior to the meeting. Any person attending the hearing who does not in advance of the meeting request an opportunity to speak will be allowed to make an oral presentation at the hearing's conclusion, if time permits, at the chairman's discretion.

Persons interested in specific agenda items to be discussed in open session may ascertain from the contact person the approximate time of discussion.

A list of committee members and summary minutes of meetings may be obtained from the Public Records and Documents Center (HFC-18), 5600 Fishers Lane, Rockville, MD 20857, between the hours of 9 a.m. and 4 p.m., Monday through Friday. The FDA regulations relating to public advisory committees may be found in 21 CFR Part 14.

Dated: May 15, 1979.

William F. Randolph,

Acting Associate Commissioner of Regulatory Affairs.

[FR Doc. 79-15675 Filed 5-22-79; 8:45 am]

BILLING CODE 4110-03-M

National Institutes of Health

Advisory Committee to the Director, NIH; Meeting

Pursuant to Pub. L. 92-463, notice is hereby given of the meeting of the Advisory Committee to the Director, NIH, on May 29-30, 1979, at the National Institutes of Health, Bethesda, Maryland. The meeting will take place from 9:00 a.m. to 6:00 p.m. on May 29 in Building 31, Conference Room 6, C Wing, and from 9:30 a.m. to noon on May 30, also in Conference Room 6. The entire meeting will be open to the public.

The purpose of the meeting will be to consider possible approaches for carrying out Secretary Califano's health research planning effort for the Department. One agenda item will be the Institute of Medicine's critique of the proposed HEW health research planning principles that grew out of the National Conference held last October. Also, Dr. Donald S. Fredrickson, the Director, NIH, and members of NIH staff will lay out the present NIH budget according to the "SATT" model (Science Base, Applications, Technology Transfer, and Training) to illustrate the advantages of that model for planning/budgeting health research. Finally, several possible interagency reserarch initiatives will be identified and discussed—toxicology testing, influenza vaccines, and population research.

The Executive Secretary, Joseph G. Perpich, M.D., J.D., National Institutes of Health, Building 1, Room 137, Bethesda, Maryland 20205, 301-496-3152, will furnish summaries of the meeting, rosters of Committee members and guests, and substantive program information.

Dated: May 18, 1979.

Leon Schwartz,

Acting Director, National Institutes of Health.

[FR Doc. 79-16145 Filed 5-22-79; 8:45 am]

BILLING CODE 4110-08-M

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Office of Education

Advisory Committee on Accreditation and Institutional Eligibility; Meeting

AGENCY: Department of Health, Education, and Welfare Office of Education.

ACTION: Notice of public meeting of the Advisory Committee on Accreditation and Institutional Eligibility.

DATE: May 24, 1979, 1 p.m. to 4 p.m., local time.

ADDRESS: Room 4005, FOB 6, 400 Maryland Avenue, SW., Washington, D.C.

FOR FURTHER INFORMATION CONTACT: Elmima Johnson, Special Assistant to the Commissioner, Office of Education, Room 4177, 400 Maryland Avenue, SW., Washington, D.C. 20202 (202/472–7113).

Notice is hereby given, pursuant to section 10(a)(2) of the Federal Advisory Committee Act (Public Law 92–463), that the next meeting of the Advisory Committee on Accreditation and Institutional Eligibility will be held on May 24, 1979 from 1:00 to 4:00 p.m. local time, in Room 4005, FOB 6, 400 Maryland Avenue, SW., Washington, D.C.

The Advisory Committee on Accreditation and Institutional Eligibility is established pursuant to section 253 of the Veterans' Readjustment Assistance Act (Chapter 33, Title 38, U.S. Code). The Committee advises the Commissioner of Education regarding his responsibilities to publish lists of nationally recognized accrediting agencies and associations; State agencies recognized for the approval of public postsecondary vocational education; and accrediting and State agencies recognized for the approval of nurse education. The Committee also advises the Commissioner regarding requests by Federal agencies and institutions seeking Congressional authority to grant degrees, and regarding policy affecting accreditation and institutional eligibility for participation in Federal funding programs.

The meeting on May 24 will be open to the public. The Committee will review with the Commissioner various concepts regarding proposed revisions to the Criteria for Recognition of Accrediting Bodies.

Seating is limited and will be accommodated on a first-come basis. Requests for oral presentations before the Committee cannot be honored because of time constraints. However, all written material that a party wishes to file regarding the subject of the agenda will be considered by the Advisory Committee. It was not possible to provide fifteen days advance Federal Register notice of this meeting. Because of the Commissioner of Education's heavily committed schedule, no other date was available for this meeting. The meeting is being held in order that the Commissioner and the Advisory Committee can review the proposed Criteria revisions in time to meet a crucial deadline for publication of regulations. Records shall be kept of all Committee proceedings and shall be available for public inspection at the Division of Eligibility and Agency Evaluation.

Signed at Washington, D.C. on May 17, 1979.

Ernest L. Boyer,

U.S. Commissioner of Education.

[FR Doc. 79-15078 Filed 5-21-79; 8:45 am]

Office of the Assistant Secretary for Health

Conference on the Accuracy of Abstracted Patient Discharge Diagnostic Data

The Assistant Secretary for Health announces the dates and other information for the following conference scheduled to assemble during the month of June 1979:

Name: Conference on the Accuracy of Abstracted Patient Discharge Diagnostic Data.

Date and Time: June 4–6, 1979, 9:00 a.m.

Place: Hyatt Regency Hotel, 155 West Washington Street, Indianapolis, Indiana 46207.

Open to the Public (Registration required).

Purpose: To encourage private and public discussion of the problem of data quality abstracted from the patient medical record as demonstrated by 1977 Institute of Medicine studies. Through interaction of the invitees, final recommendations will be developed for improving the data quality (both long- and short-range) and to determine as far as possible who is responsible and who should or can effect change. The two-and-a-half day conference will center on three basic topics: (1) The source document—the hospital patient medical record. (2) The process-abstracting and coding. (3) The data use. How these activities affect the quality of data will be aired with final recommendations being produced the final day. The invited participants are requested to stay for the entire conference so they may contribute fully to the final recommendations.

Anyone wishing to obtain an agenda, registration information or other relevant information concerning the conference should contact: Conference Management Branch, National Center for Health Statistics, Room 2–12, Center Building, 3700 East-West Highway, Hyattsville, Maryland 20782, telephone (301) 436–7122.

Dated: May 14, 1979.

Wayne C. Richey, Jr.,

Acting Associate Director for Program Support, Office of Health Research, Statistics, and Technology.

[FR Doc. 79-15650 Filed 5-21-79; 8:45 am]

BILLING CODE 4110-85-M

Public Health Service
Health Resources Administration

Health Professions Educational Assistance Act of 1976; Direct and Affiliated Medical Residency Program Data

Section 771(b)(2) of the Public Health Service Act, as amended by the Health Professions Educational Assistance Act of 1976 (Pub. L. 94–484), requires that schools of medicine, to establish eligibility, in part, for participation in Health Professions Capitation Grant Program, have a specified minimum percentage of all filled first-year residencies in direct and affiliated medical residency training programs in primary care. Primary care is defined in section 771(b) as family practice, general internal medicine, and general pediatrics. The authorizing legislation requires the following percentages of the filled first-year residencies in primary care: 35 percent on July 15, 1977, 40 percent on July 15, 1978, and 50 percent on July 15, 1979. These percentages are to be computed nationally. If the percentages are not met at a national level, a school-by-school determination will be necessary.

Determination by the Department of Health, Education, and Welfare

Based on the information provided by medical schools in August 1978, the Department of Health, Education, and Welfare determined that 52.6 percent of all filled first-year positions in direct and affiliated medical residency training programs were in primary care as of July 15, 1978, and that required 40 percent was met and exceeded for the fiscal year 1979 capitation grants to schools of medicine.

Methodology and Definitions for Establishing the Percentages

Program guidelines, instructions, and response forms on the capitation program were designed by the Health Resources Administration, Department of Health, Education, and Welfare and forwarded to all medical schools.

For the purpose of section 771(b)(2), only medical residency training programs approved by the Liaison Committee on Graduate Medical Education (LCGME) were recognized in the count. The specialties included are:

1. Allergy and Immunology
2. Anesthesiology
3. Colon and Rectal Surgery
4. Dermatology
5. Family Practice
6. General Surgery
7. Internal Medicine
8. Neurological Surgery
9. Neurology
10. Nuclear Medicine
11. Obstetrics and Gynecology
12. Opthalmology
13. Orthopedic Surgery
14. Otolaryngology
15. Pathology
16. Pediatrics
17. Physical Medicine and Rehabilitation
18. Plastic Surgery
19. Preventive Medicine
20. Psychiatry
21. Radiology
22. Thoracic Surgery
23. Urology

Each school of medicine was asked to provide the following information:

1. The number of direct and affiliated medical residency training programs of the school.

2. The number, on July 15, 1978, of full-time and full-time equivalent residents in first-year positions in the primary care specialties of family practice, internal medicine, and pediatrics. Shared-schedule or less than full-time equivalent residency positions were counted as fractional positions rounded to the nearest one-tenth of a full-time equivalent position, based on the proportion of total benefits received by the incumbent of the position.

3. The number of full-time and full-time equivalent residents in first-year positions in the primary care specialties of family practice, internal medicine, and pediatrics on July 15, 1977, who were not in any direct or affiliated primary care medical residency training program of any school on July 15, 1978.

4. The number of filled first-year residency positions in all direct and affiliated medical residency training programs on July 15, 1978.

5. The number of first-year positions in the following types of medical residency training programs:

a. Categorical first-year program. (A first-year program which is planned, sponsored, and conducted by a single accredited medical residency training program as part of that residency. The content of the first year is limited to the specialty field of the sponsoring residency program.)

b. "Categorical*"[1] first-year program. (A first-year medical residency training program which is planned, sponsored, and supervised by a single, accredited residency program as part of that residency. The content of the first year is not limited to a single specialty.)

c. Flexible first-year program. (A first-year medical residency training program which is sponsored by two or more accredited residency programs and jointly planned and supervised by the residency programs that sponsor them.)

The formula for computing the percentages is as follows:

$$\frac{\text{Filled First-Year Primary Care Residency Positions}}{\text{Total Number of First-Year Residents}} \times 100 = \text{Percentage in Primary Care}$$

The numerator of the fraction—Filled First-Year Primary Care Residency Positions—was determined by first summing all full-time and full-time equivalent, categorical, and "categorical*" first-year positions in family practice, internal medicine, and pediatrics and all filled flexible positions sponsored exclusively by family practice, internal medicine, and/or pediatrics on July 15, 1978; from this sum was subtracted the number of residents who, on July 15, 1977, had been in first-year primary care positions and no longer were in any such program on July 15, 1978.

The denominator of the fraction—Total Number of (full-time and full-time equivalent) First-Year Residents includes:

1. All positions in categorical and "categorical*" first-year programs in family practice, internal medicine, pediatrics, obstetrics-gynecology, pathology, and general surgery;

2. All positions in flexible first-year programs, regardless of the specialty of sponsoring residency programs; and

3. All positions filled by residents in medical residency training programs sponsored by specialties other than those identified in (1) above, and who were in their first year of graduate medical education.

Dated: May 10, 1979.

Henry A. Foley,

Administrator, Health, Resources Administration.

[FR Doc. 79-15649 Filed 5-21-79; 8:45 am]

BILLING CODE 4110-83-M

[1] The term, "Categorical*" was adopted by the LCGME and is in general use.

DEPARTMENT OF HOUSING AND URBAN DEVELOPMENT

Federal Disaster Assistance Administration

[Docket No. NFD. 701; (FDAA–578–DR)]

Alabama; Amendment to Notice of Major Disaster Declaration

AGENCY: Federal Disaster Assistance Administration.

ACTION: Notice.

SUMMARY: This Notice amends the Notice of a major disaster for the State of Alabama (FDAA–578–DR), dated April 18, 1979.

DATED: May 2, 1979.

FOR FURTHER INFORMATION CONTACT: John L. Perry, Program Support Staff, Federal Disaster Assistance Administration, Department of Housing and Urban Development, Washington, D.C. 20410 (202/634–7825).

NOTICE: This Notice of major disaster for the State of Alabama dated April 18, 1979, is hereby amended to include the following areas among those areas determined to have been affected adversely by the catastrophe declared a major disaster by the President in his declaration of April 18, 1979.

For Public Assistance, in addition to Individual Assistance as designated previously on April 18, 1979, the Counties of:

Chilton	Tallapoosa
Clay	Tuscaloosa
Fayette	

For Federal assistance to disaster-damaged public schools under Public Law 81–815 and Public Law 81–874, as appropriate, in addition to Individual Assistance under Public Law 93–288 as designated previously on April 18, 1979, the County of:

Lamar

(Catalog of Federal Domestic Assistance No. 14.701, Disaster Assistance; No. 13.477.

School Construction, and No. 13.478, School Maintenance and Operation Assistance.)

William H. Wilcox,

Administrator, Federal Disaster Assistance Administration.

[FR Doc. 15873 Filed 5-21-79; 8:45 am]

BILLING CODE 4210-22-M

[Docket No. NFD-704; (FDAA-583-DR)]

Illinois; Amendment to Notice of Major Disaster Declaration

AGENCY: Federal Disaster Assistance Administration.

ACTION: Notice.

SUMMARY: This Notice amends the Notice of a major disaster for the State of Illinois (FDAA-583-DR), dated April 30, 1979.

DATED: May 4, 1979.

FOR FURTHER INFORMATION CONTACT: John L. Perry, Program Support Staff, Federal Disaster Assistance Administration, Department of Housing and Urban Development, Washington, D.C. 20410 (202/634-7825).

NOTICE: This Notice of major disaster for the State of Illinois dated April 30, 1979, is hereby amended to include the following areas among those areas determined to have been adversely affected by the catastrophe declared a major disaster by the President in his declaration of April 30, 1979.

The Counties of:

Alexander	Pulaski
DeWitt	Randolph,
Jackson	Rock Island
Madison	St. Clair
Monroe	Union

(Catalog of Federal Domestic Assistance No. 14.701, Disaster Assistance.)

William H. Wilcox,

Administrator, Federal Disaster Assistance Administration.

[FR Doc. 79-15874 Filed 5-21-79; 8:45 am]

BILLING CODE 4210-22-M

[Docket No. NFD-702; (FDAA-579-DR)]

Missouri; Amendment to Notice of Major Disaster Declaration

AGENCY: Federal Disaster Assistance Administration.

ACTION: Notice.

SUMMARY: This Notice amends the Notice of a major disaster for the State of Missouri (FDAA-579-DR), dated April 21, 1979.

DATED: May 4, 1979.

FOR FURTHER INFORMATION CONTACT John L. Perry, Program Support Staff, Federal Disaster Assistance Administration, Department of Housing and Urban Development, Washington, D.C. 20410 (202/634-7825).

NOTICE: This Notice of a major disaster for the State of Missouri, dated April 21, 1979, is hereby amended to include the following areas among those areas determined to have been adversely affected by the catastrophe declared a major disaster by the President in his declaration of April 21, 1979.

For public assistance, in addition to individual assistance, St. Louis city and the counties of: Cape Girardeau, Dunklin, Jefferson, Lincoln, Mississippi, New Madrid, Pemiscot, St. Charles, Ste. Genevieve, Scott, Stoddard, Texas, St. Louis.

For public assistance only: Maries County.

For public assistance only: Pike County.

(Catalog of Federal Domestic Assistance No. 14.701, Disaster Assistance)

William H. Wilcox,

Administrator, Federal Disaster Assistance Administration.

[FR Doc. 79-15875 Filed 5-19-79; 8:45 am]

BILLING CODE 4210-22-M

[Docket No. NFD-703; (FDAA-585-DR)]

Tennessee; Notice of Major Disaster and Related Determinations

AGENCY: Federal Disaster Assistance Administration.

ACTION: Notice.

SUMMARY: This is a Notice of the Presidential declaration of a major disaster for the State of Tennessee (FDAA-585-DR), dated May 7, 1979, and related determinations.

DATED: May 7, 1979.

FOR FURTHER INFORMATION CONTACT: Sewall H. B. Johnson, Program Support Staff, Federal Disaster Assistance Administration, Department of Housing and Urban Development, Washington, D.C. (202/634-7825).

NOTICE: Pursuant to the authority vested in the Secretary of Housing and Urban Development by the President under Executive Order 11795 of July 11, 1974, and delegated to me by the Secretary under Department of Housing and Urban Development Delegation of Authority, Docket No. D-74-285; and by virtue of the Act of May 22, 1974, entitled "Disaster Relief Act of 1974" (88 Stat. 143); notice is hereby given that, in a letter of May 7, 1979 to the Secretary, the President declared a major disaster as follows:

I have determined that the damage in certain areas of the State of Tennessee resulting from severe storms, tornadoes and flooding beginning on or about May 3, 1979, is of sufficient severity and magnitude to warrant a major disaster declaration under Public Law 93-288. I therefore declare that such a major disaster exists in the State of Tennessee.

Notice is hereby given that pursuant to the authority vested in the Secretary of Housing and Urban Development under Executive Order 11795, and delegated to me by the Secretary under Department of Housing and Urban Development Delegation of Authority, Docket No. D-74-285, I hereby appoint Mr. Robert J. Adamcik of the Federal Disaster Assistance Administration to act as the Federal Coordinating Officer for this declared major disaster.

I do hereby determine the following areas of the State of Tennessee to have been affected adversely by this declared major disaster.

The following counties for individual assistance only: Crockett, Davidson, Hickman, Rutherford, Williamson, Wilson.

(Catalog of Federal Domestic Assistance No. 14.701, Disaster Assistance)

William H. Wilcox,

Federal Disaster Assistance Administration.

[FR Doc. 79-15876 Filed 5-21-79; 8:45 am]

BILLING CODE 4210-22-M

DEPARTMENT OF THE INTERIOR

Bureau of Land Management

North Atlantic OCS Oil and Gas—Availability of Draft Supplement to Final Environmental Statement for OCS Sale No. 42 and Intent to Hold Public Hearing

In accordance with Section 102(2)(C) of the National Environmental Policy Act of 1969, the Department of the Interior has prepared a draft supplement to the final environmental statement (FES) for Outer Continental Shelf (OCS) lease sale No. 42. The FES, released on August 29, 1977 (42 FR 43672), assessed the possible effects of leasing 178 tracts (410,122 hectares) for oil and gas development on Georges Bank.

Subsequent to release of the FES, Secretary Andrus withdrew fifty tracts from leasing consideration. Of these, twenty-three were withdrawn in October and December 1977 for potential conflict with commercial fishing activities and general environmental risk to nearshore resources. An additional twenty-seven tracts were withdrawn in January 1978 from an area involved in international boundary negotiations with the Canadian government. With these tract deletions, the Sale No. 42 proposal now entails the offering of 128 tracts (294,912 hectares) for oil and gas exploration, development and production on Georges Bank.

A further development that occurred since release of the Sale No. 42 FES involved enactment in September 1978 of Amendments to the OCS Lands Act (Pub. L. 95-372; 92 Stat. 629). These Amendments extend and make more explicit the Secretary's regulatory authority over OCS mineral activities. Beyond providing a broader mandate for environmental protection and coordination with affected coastal States, the Amendments establish two separate liability funds to offset future economic loss or damage due to OCS oil and gas activities. These funds are the Offshore Oil Pollution Compensation Fund, administered by the Secretary of Transportation, to provide compensation for oil spill damage, and the Fisherman's Contingency Fund, administered by the Secretary of Commerce, to compensate fishermen for damage to fishing gear, vessels or economic loss from mineral development activities.

Single copies of the draft supplement may be obtained from the Manager, New York Outer Continental Shelf Office, Bureau of Land Management, 26 Federal Plaza, Suite 32-120, New York, New York 10007 (212-264-5580), or from the Office of Public Affairs, Bureau of Land Management (130), Washington, D.C. 20240 (202-343-5717).

A public hearing will be held to provide the Secretary with public views and suggestions regarding the draft supplement. The time and location of this hearing will be announced by separate Federal Register notice and press release.

The Department will accept written comments on the draft supplement, and accessory written material as part of the hearing record until July 6, 1979. Once all testimony and review comments have been received and evaluated, a final supplement will be prepared.

Approved: May 17, 1979.

Arnold E. Petty,

Acting Associate Director, Bureau of Land Management.

Larry E. Meierotto,

Assistant Secretary of the Interior.

[FR Doc. 79-15241 Filed 5-21-79; 8:45 am]

BILLING CODE 4310-84-M

[U-42531]

Utah; Application

Notice is hereby given that pursuant to Section 28 of the Mineral Leasing Act of 1920, as amended (30 U.S.C. 185), Natural Gas Pipeline Company of America has applied for a natural gas pipeline right-of-way across the following lands:

Salt Lake Meridian, Utah

T. 9 S., R. 23 E.,
Secs. 21, 28, 33, all.
T. 10 S., R. 23 E.,
Secs. 4, 5, 6, 7, 8, 9, 10, 11, 14, 15, 17, 18, all.

The needed right-of-way is a gas gathering system located in Uintah County, Utah.

The purpose of this notice is to inform the public that the Bureau will be proceeding with the preparation of environmental and other analyses necessary for determining whether the application should be approved, and if so, under what terms and conditions.

Interested persons should express their interest and views to the Vernal District Manager, Bureau of Land Management, P.O. Box F, Vernal, UT 84078.

Dell T. Waddoups,

Chief, Branch of Lands and Minerals Operations.

[FR Doc. 79-15912 Filed 5-21-79; 8:45 am]

BILLING CODE 4310-84-M

[W-67939]

Wyoming; Application

May 15, 1979.

Notice is hereby given that pursuant to Sec. 28 of the Mineral Leasing Act of 1920, as amended (30 U.S.C. 185), the Marathon Pipe Line Company of Casper, Wyoming filed an application for a right-of-way to construct six 4 inch pipline and related facilities for the pupose of transporting oil and other synthetic liquid fuels across the following described public lands:

Sixth Principal Meridian, Wyoming

T. 47 N., R. 91 W.,
Sec. 19, NE¼SW¼ and SE¼;
Sec. 20, SW¼NW¼ and W½SW¼;
Sec. 30, SE¼NW¼.
T. 47 N., R. 92 W.,
Sec. 2, lot 1;
Sec. 24, NE¼NE¼.
T. 48 N., R. 92 W.,
Sec. 35, SE¼SE¼.

The proposed pipeline will transport oil and other synthetic liquid fuels from Tenneco 7 South, Tenneco 8 South, Tenneco 2A Faure, Tenneco 1-20, Tenneco 2-20, and Tenneco 1-30 Smith Well Extensions to points of connection with existing pipelines, all located within T. 47 N., Rs. 91 and 92 W., and T. 48 N., R. 92 W., Washakie County, Wyoming.

The purpose of this notice is to inform the public that the Bureau will be proceeding with consideration of whether the application should be approved, and if so, under what terms and conditions.

Interested persons desiring to express their views should do so promptly. Persons submitting comments should include their name and address and send them to the District Manager, Bureau of Land Management, P.O. Box 119, 1700 Robertson Avenue, Worland, Wyoming 82401.

Harold G. Stinchcomb,

Chief, Branch of Lands and Minerals Operations.

[FR Doc. 79-15913 Filed 5-21-79; 8:45 am]

BILLING CODE 4310-84-M

Office of the Secretary

Crude Oil Transportation Systems; Opportunity for Public Comments on Final Environmental Impact Statement and Federal Agency Recommendations and State and Local Government Comments

AGENCY: Department of the Interior.

ACTION: Notice of opportunity for public comments on the Department of the Interior's scheduled final environmental impact statement *Crude Oil Transportation Systems* and Federal agency recommendations and State and local government comments under Title V of the Public Utility Regulatory Policies Act of 1978 (PURPA).

SUMMARY: The Department of the Interior's final environmental impact statement (EIS) *Crude Oil Transportation Systems*, which contains descriptions and assessments of the four applications submitted under Title V of the PURPA to construct and operate a west-to-east crude oil transportation system to supply Alaskan and other crude oil to northern tier and inland States, is scheduled for publication in August 1979, to be followed by publication of a separate report containing Federal agency recommendations and State and local government comments on the applications and the Federal recommendations. Public comments on

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the EIS and the report will be accepted by the Department of the Interior between publication date of each document until the end of September 1979.

COMMENTS: By the end of September 1979.

ADDRESS: For copies of the Final Environmental Impact Statement, Crude Oil Transportation Systems: Bureau of Land Management Northern Tier Project Office, Room 1250, Lloyd Building, 700 N.E. Multnomah Ave., Portland, Oregon 97232. For copies of the report containing Federal agency recommendations and State and local government comments required under Title V, PURPA: Bureau of Land Management, Office of Public Affairs (130), Main Interior Building, 18th and C Streets, NW., Washington, D.C. 20240.

FOR FURTHER INFORMATION, CONTACT:
Portland: Richard Miller, (503) 231–2001, at above address. *Washington*: Jim Robinson, (202) 343–5717, at above address.

SUPPLEMENTAL INFORMATION: On April 18, 1977, the Northern Tier Pipeline Company filed an application under Section 28 of the Mineral Leasing Act of 1920, as amended, (30 U.S.C. S 185) for a right-of-way across Federal lands for a crude oil transportation system from Port Angeles, Washington, to Clearbrook, Minnesota. Prior to the completion of the draft EIS for the Northern Tier application, the Public Utility Regulatory Policies Act of 1978 (PURPA) was enacted, on November 9, 1978. Title V of the Act (Crude Oil Transportation Systems) provides for submission of applications for west-to-east systems to supply crude oil to northern tier and inland States and specific procedures for the expeditious processing of all application and for a Presidential decision approving construction of any such system. Following the passage of PURPA, the Department of the Interior received applications under Title V from the Northern Tier Pipeline Company, Northwest Energy Company, Kitimat Pipeline, Ltd., and Trans Mountain Pipeline Company.

The Department of the Interior is responsible for preparing the EIS on the four proposals and for gathering other information and for scheduling and coordinating reviews and recommendations on the proposals by other Federal agencies. Upon receipt of Federal recommendations, the Department must obtain comments on them from State and local officials and then obtain public comments on both the Federal recommendations and the State and local comments, and submit all of this information to the President.

A draft EIS entitled, *Crude Oil Transportation System: Port Angeles, Washington, to Clearbrook, Minnesota (as proposed by Northern Tier Pipeline Company)*, was issued on January 11, 1979. The draft addressed principally the application of Northern Tier Pipeline Company. The routes of the other three Title V applicants were covered as alternatives. After issuance of the draft, the Northern Tier Pipeline Company announced, on March 23, 1979, its decision to route its pipeline underneath Puget Sound rather than around the south end of the Sound. The latter route is the one mainly addressed in the draft while the trans sound route is addressed as an alternative.

Numerous comments have been received by the Department, both in writing and at public meetings, suggesting either an extended comment period on this draft EIS or the publication of a new or supplemental draft with a comment period. These suggestions result from: (1) the three additional applications which were not addressed as applications in the draft; and, (2) the route change made by Northern Tier.

The Department will treat all applications equally in the final EIS. The route change of the Northern tier Pipeline Company proposal will be analyzed to a more complete degree than was originally addressed in the draft.

The Department of the Interior recognizes the concerns expressed in the comments received on the draft EIS and the importance of public involvement and input. Issuance of a final EIS normally completes the NEPA 102(2)(C) process. In this case, however, due to the unusual circumstances resulting from additional Title V applications and in order to meet the public concerns, the Department of the Interior will provide a formal opportunity for public comments on the final EIS. Comments received on the final statement will be considered by the Department prior to the submission of its recommendation to the President.

Title V also requires that the Secretary of the Interior provide an opportunity for State and local officials and the public to submit written comments on Federal agency recommendations. Thus, following issuance of the final EIS, the public will have two additional opportunities to comment on any aspect of the west-to-east crude oil transportation system proposals.

The final EIS on the four applications filed under Title V is scheduled for completion in August 1979. Public comments on that statement, and on the report of Federal agency recommendations and State and local government comments, will be received by the Department from the publication date of each document until the end of September 1979.

Gary J. Wicks,
Deputy Assistant Secretary for Land and Water Resources.

May 17, 1979.

[FR Doc. 79–15902 Filed 5–21–79; 8:45 am]

BILLING CODE 4310–84–M

Heritage Conservation and Recreation Service

National Register of Historic Places; Notification of Pending Nominations

Nominations for the following properties being considered for listing in the National Register were received by the Heritage Conservation and Recreation Service before May 11, 1979. Pursuant to § 60.13(a) of 36 CFR Part 60, published in final form on January 9, 1976, written comments concerning the significance of these properties under the National Register criteria for evaluation may be forwarded to the Keeper of the National Register, Office of Archeology and Historic Preservation, U.S. Department of the Interior, Washington, DC 20240. Written comments or a request for additional time to prepare comments should be submitted by May 28, 1979.

William J. Murtagh,
Keeper of the National Register.

ALASKA

Anchorage Division

Anchorage, *Campis Center*, Wesley Dr.

Upper Yukon Division

Chicken vicinity, *Lost Chicken Mine*, SE of Chicken on AK 5.

ARIZONA

Graham County

Safford, *Graham County Courthouse*, 800 Main St.

Greenlee County

Clifton, *Clifton Casa Grande Building*, 8 Park Ave.

DELAWARE

New Castle County

Wilmington, *Baynard Boulevard Historic District*, Baynard Blvd. between 18th St. and Concord Ave.

ILLINOIS

Adams County

Quincy, *Gardner, Robert W., House*, 613 Broadway St.

Cook County

La Grange, *La Grange Village Historic District*, U.S. 12/20/45.

Piatt County

Bement vicinity, *Voorhies Castle (Nels Larson House)*, S of Bement.

INDIANA

Harrison County

Corydon vicinity, *Corydon Battle Site*, S of Corydon on IN 135.

Monroe County

Bloomington, *Helton-Lindley House*, 504 N. Rogers St.

IOWA

Butler County

Greene, *Coldwater Church of the Brethren*, N. High St.

Clayton County

Garnavillo, *I.O.O.F. Hall*, Centre St.

Floyd County

Charles City vicinity, *Cook Farm*, S of Charles on U.S. 218.

Jackson County

St. Donatus, *Gehlen House and Barn*, U.S. 52.

Madison County

Winterset, *Guiberson House*, 302 S. 4th Ave.

Pottawattamie County

Council Bluffs, *Wickhom, O. P., House*, 616 S. 7th St.

Ringgold County

Mount Ayr, *Ringgold County Jail*, 201 E. Monroe St.

Washington County

Riverside, *St. Mary's Parish Church Buildings*, St. Mary's and Washburn Sts.

Winneshiek County

Ossian, *Ossian Opera House*, Main St.

MISSOURI

Jackson County

Kansas City, *Hotel Phillips*, 106 W. 12th St.

NEBRASKA

Arthur County

Arthur, *Pilgrim Holiness Church*, off NE 61.

NEW MEXICO

Bernalillo County

Albuquerque, *Lewis, Charles W., Building*, 1405–1407 2nd St., SW.

McKinley County

Gallup, *Cotton, C. N., House*, 406 W. Aztec Ave.

NEW YORK

Dutchess County

Rhinebeck, *Rhinebeck Village Historic District*, U.S. 9 and NY 308.

New York County

New York, *Norwood, Andrew S., House*, 241 W. 14th St.

NORTH CAROLINA

Franklin County

Franklinton, *Person-McGhee Farm*, U.S. 1

OHIO

Clinton County

Wilmington, *Doan House*, 622 Fife Ave.
Wilmington, *Rombach Place*, 149 E. Locust St.

Columbiana County

Lisbon vicinity, *Columbiana County Infirmary*, W of Lisbon on County Home Rd.

Cuyahoga County

Olmsted Falls, *Lay, Samuel, House*, 7622 Columbia Rd.

Erie County

Vermilion, *Vermilion-Harbour Town Multiple Resource Area*, OH 2 and U.S. 6.

Franklin County

Grove City, *Gantz Homestead*, 2233 Gantz Rd.

Hamilton County

Cincinnati, *Baker, John S., House*, 1887 Madison Rd.

Licking County

Johnstown vicinity, *Lynnwood Farm*, S of Johnstown at 4986 Caswell Rd.
Newark, *Upham-Wright House*, 342 Granville St.

Lorain County

Elyria, *Elyria Multiple Resource Area*.

Lucas County

Toledo, *Secor, Joseph K., House*, 311 Bush St.

Mahoning County

Boardman, *St. James Episcopal Church*, 375 Boardman-Poland Rd.

Noble County

Lashley, *Williams, Abner, Log House*, NE of Lashley.

Putnam County

Leipsic, *Leipsic City Hall*, Belmore St.

Richland County

Mansfield, *Mansfield Blockhouse*, South Park.

Ross County

Chillicothe, *Tanglewood*, 177 Belleview Ave.

Seneca County

Fostoria, *Cory, Ambrose, House*, 957 N. Union St.

Summit County

Bath and vicinity, *Bath Township Multiple Resource Area*.

OKLAHOMA

Comanche County

Cache vicinity, *Arrastra Site*, Wichita Mountains Wildlife Refuge.
Cache vicinity, *Boulder Cabin*, NW of Cache in Wichita Mountains Wildlife Refuge.
Cache vicinity, *Buffalo Lodge*, Wichita Mountains Wildlife Refuge.
Cache vicinity, *Ferguson House*, Wichita Mountains Wildlife Refuge.
Cache vicinity, *Ingram House*, Wichita Mountains Wildlife Refuge.

TENNESSEE

Carter County

Siam vicinity, *Carriger-Cowan House*, E of Siam.

Hamilton County

Chattanooga, *Chattanooga Car Barns*, 301 Market St.

Maury County

Columbia, *St. Peter's Episcopal Church*, 311 W. 7th St.

Shelby County

Memphis, *Greenwood*, 1560 Central Ave.

WASHINGTON

Adams County

Lind vicinity, *Seivers Brothers Ranchhouse and Barn*, SE of Lind on Providence Rd.

Clallam County

Port Angeles vicinity, *Rosemary Inn*, SW of Port Angeles on Barnes Point.

Grays Harbor County

Hoquiam, *Polson, F. Arnold, House and Polson, Alex, Grounds*, 1611 Riverside Ave.

Jefferson County

Hadlock, *Hadlock Bay Multiple Resource Area*.

King County

Seattle, *Ballard Carnegie Library*, 2026 NW. Market St.
Seattle, *Olympic Hotel*, 1200–1220 4th Ave.
Seattle, *Raymond-Ogden Mansion*, 702 35th Ave.

Thurston County

Olympia, *Washington State Capitol Historic District*, State Capitol and environs.
Olympia, *Woman's Club*, 1002 S. Washington St.

Spokane County

Spokane, *Frequency Changing Station*, E. 1420 Celesta Ave.

WISCONSIN

Brown County

Green Bay vicinity, *Fort Howard Buildings*, Heritage Hill State Park (moved).

[FR Doc. 79-15472 Filed 5-37-79; 8:45 am]

BILLING CODE 4310-03-M

INTERNATIONAL TRADE COMMISSION

[AA1921-197]

Carbon Steel Plate From Taiwan

Determination

On the basis of the information obtained in the investigation, the Commission determines (Vice Chairman Alberger and Commissioner Stern dissenting, Chairman Parker not participating) that an industry in the United States is being or is likely to be injured by reason of the importation of carbon steel plate from Taiwan, which the Department of the Treasury has determined is being, or is likely to be, sold at less than fair value within the meaning of the Antidumping Act, 1921, as amended (19 U.S.C. 160(a)).[1]

Background

On February 12, 1979, the United States International Trade Commission received advice from the Department of the Treasury that carbon steel plate from Taiwan is being, or is likely to be, sold in the United States at less than fair value within the meaning of the Antidumping Act. Accordingly, on February 26, 1979, the Commission instituted investigation No. AA1921–197 under section 201(a) of said act to determine whether an industry in the United States is being or is likely to be injured, or is prevented from being established, by reason of the importation of such merchandise into the United States.

Notice of the institution of the investigation and of the public hearing held in connection therewith was published in the **Federal Register** of March 2, 1979 (44 FR 11854). The public hearing was held in Washington, D.C., on April 3, 1979, and all persons who requested the opportunity were permitted to appear in person or by counsel.

In arriving at its determination, the Commission gave due consideration to all written submissions from interested persons and information adduced at the hearing as well as information provided by the Department of the Treasury and data obtained by the Commission's staff from questionnaires, personal interviews, and other sources.

Statement of Reasons for the Affirmative Determination of Commissioners George M. Moore and Catherine Bedell

On February 12, 1979, the U.S. International Trade Commission received advice from the Department of the Treasury that carbon steel plate from Taiwan produced by China Steel Corp. is being, or is likely to be, sold in the United States at less than fair value (LTFV). Accordingly, on February 26, 1979, the Commission instituted investigation No. AA19210197 under section 201(a) of the Antidumping Act, 1921, as amended (19 U.S.C. 160(a)), to determine whether an industry in the United States is being or is likely to be injured, or is prevented from being established,[2] by reason of the importation of such merchandise into the United States.

Determination

On the basis of information obtained in this investigation, we have determined that an industry in the United States is being or is likely to be injured by reason of the importation of carbon steel plate from Taiwan, which the Treasury has determined in being, or is likely to be, sold at LTFV.

The Imported Article and the Domestic Industry

Carbon steel plate is a finished steel mill product which is used principally in the manufacture of boilers, storage tanks, railway cars, ships, and nonelectric machinery. It also is used extensively in various construction projects including pipelines, bridges, and nonresidential buildings.

There are currently few differences between imported and U.S.-produced plate, although of some plate produced by China Steel during the startup phase of its operations was reported to have been of lower quality than that produced after mid-1978.

In this determination we have found that the U.S. industry that is being or is likely to be injured consists of the facilities of domestic carbon steel plate producers located in the west coast States of California, Washington, and Oregon, and that these three States constitute a regional market.[3] This regional market is well defined since nearly all carbon steel plate that is imported into or produced in these states is used there, and very little is shipped into the region by producers located in other States because high overland freight rates make long-distance shipping of plate costly. In addition, 53 percent of all imports of carbon steel plate from Taiwan in 1978 entered the United States through ports on the west coast. There are two principal U.S. producers in the region: Kaiser Steel Corp. in California and Gilmore Steel Corp. in Oregon. Bethlehem Steel Corp. also has a small plate mill in Washington.

LTFV Sales

Treasury's investigation on U.S. imports of carbon steel plate from Taiwan coverd the 2-month period extending from August 1, 1978, through September 30, 1978. The investigation involved only one Taiwanese concern—China Steel—which accounted for 100 percent of the carbon steel plate imported from Taiwan. On February 14, 1979, Treasury announced that it had found LTFV margins on all sales examined and that the weighted average LTFV margin was 34 percent.

Injury to West Coast Producers by Reason of LTFV Sales

Imports and market share.—Imports of carbon steel plate from China Steel first entered the west coast market in December 1977. Following the first shipment of about 1,000 tons, imports continued during each month of 1978, totaling 47,667 tons for the year. As a share of apparent consumption in this region, imports from Taiwan inceased reapidly from less than 0.1 percent in 1977 to about 6.6 percent in 1978. The adverse impact that this degree of market penetration had on U.S. producers of carbon steel plate is reflected in price suppression and lost sales experienced by those firms.

Prices and price suppression.—Carbon steel plate from Taiwan generally entered the west coast market at prices below U.S. producers' prices, but the margin of underselling (which was as much as 20 percent) was never as large as the average LTFV margin of 34 percent. Had imports from Taiwan not been sold at LTFV, it is unlikely that there would have been underselling and thus domestic sales by China Steel would have been substantially less. It is doubtful that carbon steel plate from China Steel's new mill in Taiwan would have been competitive in the U.S. market if it had been sold at fair value in the western region. When questioned at the Commission's public hearing on whether China Steel intended to price its steel plate at or above fair value in the future, the company's vice president (Mr. King) and counsel (Mr. Solter and Mr. Simon) were evasive or noncommittal (see hearing transcript, pp. 235–37). China Steel's failure to give assurances that future prices will be at fair value indicates that without an affirmative determination by the Commission, such prices are likely to continue at less than fair value.

In testimony before the Commission, U.S. producers stated that competition with low-priced imports from Taiwan suppressed their prices. Information obtained in the investigation shows that west coast producers are offering "discounts" and "specials" in an attempt to compete with LTFV imports. Such practices accentuated the suppression of domestic prices and lowered the profitability of the west coast firms attempting to remain competitive.

Lost sales.—Most of the 20 firms that were alleged to have purchased carbon steel plate from Taiwan instead of U.S.-produced plate (12 of which are located in the west coast region) indicated that price was a major factor in their decisions to buy plate from Taiwan. At least one such purchase was made specifically in lieu of an order placed with a west coast producer.

China Steel's export potential.—China Steel's plate mill in Taiwan presently has an annual capacity of at least 440,000 short tons; however, a new light plate mill that will add another 55,000 short tons to its annual capacity is planned. This means that capacity exceeds current demand in Taiwan by more than 50 percent. The United States has been Taiwan's principal export market since China Steel began exporting carbon steel plate. Therefore the adverse impact on west coast producers in the future is likely to be substantial if the LTFV imports are permitted to continue.

Conclusion

On the basis of the foregoing considerations, we have determined that an industry in the United States is being or is likely to be injured by reason of the importation of carbon steel plate from Taiwan, which the Secretary of the Treasury has determined is being, or is likely to be, sold at less than fair value within the meaning of the Antidumping Act, 1921, as amended.

Statement of Reasons of Vice Chairman Bill Alberger

On the basis of information obtained in this investigation, I determine that an industry in the United States is not being and is not likely to be injured and is not prevented from being established[4] by reason of the importation of carbon steel plate from Taiwan, which the Department of the Treasury (Treasury) has determined is being, or is likely to be, sold at less than fair value (LTFV).

The imported article and the domestic industry

Carbon steel plate, the subject of this investigation, is a finished steel mill porduct which is used in the manufacture of boilers, storage tanks, railway cars, ships, nonelectric machinery and nonresidential construction. A like class of merchandise is produced in the United Staes, principally by 12 U.S. firms. I consider the relevant industry to consist of those facilities in the United States devoted to the production of carbon steel plate.

I join with Commissioner Stern in finding that the segmentation of this industry into geographic regions for the purpose of assessing injury would be inappropriate in this case. We have explained in our additional views why the various regional arguments put forth are unacceptable.

LTFV sales

The Treasury investigation covered sales made between August 1, 1978 and September 30, 1978. The investigation covered only one Taiwanese manufacturer—China Steel Corporation—which accounted for 100 percent of all sales of carbon steel plate from Taiwan to the United States. Treasury announced that the weighted average LTFV margin for the sales of carbon speel plate by China Steel Corp. amounted to 34 percent.

The question of cumulation with other LTFV sales

Counsel for Armco Steel Corp. and Bethlehem Steel Corp. asserts that LTFV sales of carbon steel plate from Poland should be cumulated with the LTFV imports for Taiwan and that we should consider these imports from Poland in our determination. We have only recently received notice from Treasury that imports of carbon steel plate from Poland are being sold at LTFV prices, however, and we are advised that there is some question as to the specific products involved. Moreover, the Commission has not yet conducted its hearing on the question of injury by reason of LTFV sales from Poland. In view of these facts, it is inappropriate to consider cumulation at this time.

No injury by reason of LTFV imports

Imports and market share.—Imports from Taiwan occurred essentially over a one-year period (1978) during which slightly less than 91 thousand short tons of carbon steel plate were imported into the United States for Taiwan. This represents only about 1 percent of apparent consumption and 4 percent of total U.S. imports. In fact, four countires had substantially larger import tonnages, including: Belgium (386,000), Spain (244,000), Canada (243,000), and West Germany (183,000).

Given the fact that Taiwan accounts for such a small percentage of total consumption or total imports, it is difficult to see how it could cause injury in a market which consumed 8.6 million short tons in 1978. In fact, total imports increased by 571,000 short tons last year, and the volume from Taiwan accounted for only 16 percent of that amount.

Capacity utilization.—It appears that capacity utilization dropped off

[1] The Commissioners voting were evenly divided in their votes, with Commissioners George M. Moore and Catherine Bedell voting in the affirmative and Vice Chairman Bill Alberger and Commissioner Paula Stern voting in the negative. Sec. 201(a) of the Antidumping Act provides that the Commission shall be deemed to have made an affirmative determination if the Commissioners voting are evenly divided as to whether its determination should be in the affirmative or in the negative. Therefore, the Commission, being evenly divided, is considered to have made an affirmative determination.

[2] No party alleged that imports of such merchandise prevented an industry from being established, and we are unaware of any information relating to this issue. Therefore, this issue will not be discussed further in this statement.

[3] In amending certain provisons of the Antidumping Act in 1974, Congress reviewed, among other things, the concept of regional markets. While Congress did not change the law with respect to this concept, the Committee on Finance of the Senate, in its report on the bill which became the Trade Act of 1974 and which amended other provisons of the Antidumping Act, summarized prior Commission practice in this regard and expressed agreement with it as follows:

A hybrid question relating to injury and industry arises when domestic producers of an article are lcoated regionally and serve regional markets predominately or exclusively and the less-than-fair-value imports are concentrated in a regional market with resultant injury to the regional domestic producers. A number of cases have involved this consideration, and where the evidence showed injury to the regional producers, the Commission has held the injury to a part of the domestic industry to be injury to the whole domestic industry. The Committee agrees with the geographic segmentation principle in antidumping cases. (*Trade Reform Act of 1974: Report of the Committee on Finance . . .*, S. Rept. No. 93–1298 (93d Cong., 2d sess.), 1974, pp. 180–181.)

The report further stated (p. 181) that the concept is not one which readily lends itself to hard and fast rules. However, the Committee believes that each case may be unique and does not wish to impose inflexible rules as to whether injury to regional producers always constitutes injury to an industry.

The question of regional markets in this case and the law with respect thereto are discussed at considerable length in a memorandum from the Commission's General Counsel to Commissioner Moore entitled "Question of regional marketing areas in investigation No. AA1921–197, Carbon Steel Plate From Taiwan," dated May 7, 1979, GC–C–204. A copy of the memorandum is set forth as app. G to this report.

[4] Prevention of the establishment of an industry is not an issue in this investigation and will not be discussed further.

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substantially after the boom year of 1974. The low was reached in 1975, and since that time the picture has steadily improved. Utilization rose from 46 percent in 1976 to 52 percent in 1977 and to 56 percent in 1978. Furthermore, new capacity was brought on stream by Bethlehem Steel Corp. in 1973, and additional capacity will soon be added by Lukens Steel Company, which is reopening a previously closed mill. Thus, both total capacity and utilization of that capacity are increasing.

U.S. producers' shipments.—Shipments reached a high of 9 million short tons in 1974, then declined with the overall U.S. economy in 1975 and 1976 to a low of 5.6 million short tons. Thereafter, shipments rose annually to 6.6 million short tons in 1978, a recovery of 17.5 percent in only 2 years. In 1978, the year when the vast majority of imports from Taiwan occurred, U.S. producers' shipments rose by 12 percent. The fact that domestic shipments for 1978 still do not equal the figures for the boom year of 1974 is immaterial. The important thing is that recent figures demonstrate a steady improvement in the industry, even during the period of LTFV sales.

Consumption.—Figures developed for apparent U.S. consumption of carbon steel plate show continued improvement since the 1976 low of 6.8 million short tons. In fact, consumption of 8.6 million short tons in 1978 was very close to the 1973 level and not far below the record 10.0 million short tons consumed in 1974. Of course, it is true that imports nearly doubled during that period. Nevertheless, this improvement in consumption is one indication that domestic producers will continue to increase their sales.

Employment.—Employment of production and related workers producing carbon steel plate declined by 30 percent from 1974 to 1976. This decline resulted largely from plant closings, especially the closure of Alan Wood Steel Corporation's plate mill. However, many of these jobs will soon be refilled when that mill reopens later this year. Since 1976, employment in the carbon steel plate mills has leveled off at 14,600. This reflects the installation of more efficient equipment and increased output per worker.

Profit and loss experience.—The period from 1975 to 1977 was one of very low profitability for the domestic industry. Of course, this was prior to the entry of Taiwan into the U.S. market. In 1976, the year when the LTFV sales occurred, the industry operated profitably for the first time in 4 years. The improved profitability resulted from higher prices and increased shipments which occurred despite the dumping. While this overall profitability is still not high, most firms report that the picture is steadily improving. A few firms continue to operate at a loss, and do not appear to be reducing those losses. However, I cannot attribute their losses to the LTFV imports from Taiwan. There is little indication that the low volume of such imports significantly undercut these few producers during the period of LTFV sales. In fact, our information indicates that in at least one instance prices were comparable.

Prices.—Prices charged by U.S. producers for carbon steel plate increased considerably since 1974, a fact substantiated not only by confidential data supplied to the Commission in questionnaires, but also by the producer price index compiled and published by the Bureau of Labor Statistics. Domestic prices have historically tended to stay above the price of the imported product, and in 1978, the institution of the Trigger Price Mechanism acted to firm up prices in the market place at or slightly above the announded trigger price. In West Coast markets, the amount of underselling by imports from Taiwan generally declined during 1978 to the point that, in the fourth quarter, importers' prices were very nearly equal to U.S. producers' prices.

Lost sales.—Some producers provided lists of companies which they knew had purchased carbon steel plate from Taiwan. The staff had difficulty confirming that firms would have purchased these goods from domestic suppliers absent LTFV sales. Given the causation requirement of the antidumpting Act I cannot characterize these as vertified lost sales attributable to LTFV competition.

No likelihood of injury

The positive trends in shipments, consumption and profits, and the announced intention of China Steel Corp. to decrease its shipments of carbon steel plate to the United States after 1980, strongly argue against a finding of likelihood of injury. Also, the staff indicates that most plate from Taiwan is one-half to two inches in thickness, and does not compete directly with the substantial amount of over two-inch plate produced in the United States.

Summary

From the above considerations, I am of the opinion that the domestic industry is not being injured and is not likely to be injured by reason of LTFV sales from Taiwan. Clearly the industry is recovering from the injury which I found to exist in a prior Commission determination.[5] 1978 was a year of marked improvement, and all indications are that conditions will continue to improve. While profits and capabity utilization remain somwehat lower than for other sectors of the economy, I cannot attribute this to the LTFV sales from Tiawan. Moreover, the overall profit picture is up, and only a few firms have been unable to make it into the black. With respect to these firms, competition from Taiwan could not have been a causative factor. In any event, figures for capacity utilization, shipments, employment, and consumption all point toward a negative determination.

Statement of Reasons of Commissioner Stern

Having considered all the information obtained in this investigation, I have determined pursuant to Section 201 of the Antidumping Act of 1921, as amended, that an industry in the United States is not being or likely to be injured by reason of the importation into the United States of carbon steel plate from Taiwan. My determination is based primarily on my finding that the relevant industry in this investigation is national, as opposed to regional, in scope. Having reached this conclusion, I evaluated the germane economic factors in terms of the national industry and found that the industry is healthy.

The Domestic Industry

The subject of this investigation is carbon steel plate, a finished steel-mill product which is used principally in the manufacture of boilers, storage tanks, railway cars, ships, nuclear reactors and nonelectric machinery. Carbon steel plate is also used extensively in the construction of pipelines, bridges and nonresidential buildings.

Carbon steel plate is manufactured by twelve domestic producers. These producers are located in various areas of the United States. As fully explained in my additional views with Commissioner Alberger, which appear at pages 19 to 25, I believe that in this investigation the carbon steel plate industry is national rather than regional in scope.

Imports

Imports of carbon steel plate from Taiwan occurred essentially only in

[5] *Carbon Steel Plate from Japan.* Investigation No. AA1921-179, USITC Publication No. 882, April 1978.

1978.[6] During this period approximately 91 thousand short tons of carbon steel plate were imported into the United States from Taiwan. These imports accounted for only 1.1 percent of apparent domestic consumption.

Price comparisons made by the Treasury Department during the period from August 1, 1978, through September 30, 1978, revealed that 100 percent of the carbon steel plate exported to the United States from Taiwan was sold at a less than fair value margin averaging 34 percent.

Injury

Section 201 of the Antidumping Act does not set forth standards for determining whether an industry is being or is likely to be injured by reason of less than fair value imports. As a result, the Commission can and does exercise considerable discretion in making its determination based upon the particular facts in each case. I believe that Section 201 of the Act requires the Commission to find that two conditions have been satisifed before an affirmative determination can be made. First, the Commission must determine that an industry is being or is likely to be injured. This determination is based upon an analysis of certain economic indicators—consumption, production, capacity changes and utilization, shipments, inventory levels, employment and profits. Second, the Commission must determine that the injury is "by reason of" the less than fair value imports. This determination is based upon an analysis of market share, price depression or suppression and lost sales. As for likelihood of injury, foreign capacity to produce for export is also considered. Of course, these indicators are merely illustrative, since a definitive set of factors for all cases is not possible. If the Commission finds that either condition has not been met, its determination must be negative, and it need not consider factors relevant to determining the other condition.

Over the last two years, the national carbon steel plate industry has continued to expand at a steady rate. In view of such growth, particularly in 1978, the year in which the LTFV imports from Taiwan occurred, I believe the national industry is not being injured.

Shipments of carbon steel plate by domestic producers have increased steadily since the low level reached in 1976. In 1978, shipments increased to almost 6.6 million short tons from a low of 5.6 million short tons in 1976. Total shipments for 1978 exceeded the 1976 levels by 17.5 percent. Moreover, in 1976, the year in which the LTFV imports from Taiwan occurred, shipments by the domestic producers increased by 12 percent from the previous year.

Capacity utilization has also increased steadily since 1976. The significance of these constant increases is enhanced by the fact that capacity utilization increases occurred even as new capacity was brought on stream by Bethlehem Steel Corporation in 1978. Equally significant is the fact that additional capacity will soon be added when the Alan Wood plate rolling mill is returned to production by its new owner, Luken Steel Company. The national industry's capacity utilization rose from a low of 48 percent in 1976 to 52 percent in 1977 and to 56 percent in 1978. These capacity utilization levels appear to be low, but the Commission Report indicates that the figures are believed to be understated, due primarily to decisions concerning product mix. On the other hand, the upward trend in capacity utilization is, as pointed out in the Report, valid.

In 1978, the ratio of inventories to shipments was 3.3 percent, a decrease of .9 percent from the industry's high level of 4.2 percent in 1977. In 1976, the ratio of inventories to shipments was 3.5 percent.

Current levels of employment and worker-hours also clearly demonstrate the health of the domestic industry. Employment of production and related workers producing carbon steel plate declined from 19,800 to 13,800 between 1974 and 1976. However, employment increased to 14,600 in 1977 and held steady at that level in 1978. In evaluating the industry's employment data, it is important to take into consideration two factors. First, a large number of jobs were lost as a result of the closing of the Alan Wood Steel Corporation's plate mill in 1976. A significant number of these jobs will be refilled when that mill reopens later this year. Second, worker-hours have increased steadily since 1976. In view of the increase in employment since 1976, and the anticipated rehiring of workers for the Alan Wood facility, I believe it is only possible to characterize the industry's employment picture as healthy.

The national industry experienced considerable financial difficulty in their carbon steel plate operations from 1975 to 1977. However, in 1978, the industry operated profitably for the first time in four years. The improved profitability resulted from higher prices and increased shipments that occurred despite the LTFV imports from Taiwan.

Most important, apparent domestic consumption is strong. After a decline to a low of approximately 6.8 million short tons in 1976, consumption increased for the past two years. In 1978, consumption amounted to 8.6 million short tons, which was very close to consumption in 1973, the industry's second best year in history, and only 1.3 million short tons below the industry's historic high in 1974.

Likelihood of Injury

There is no likelihood of injury to the national industry for several reasons. First, the plate-making facilities of the China Steel Corporation brought on line late in 1977 were fully operational in 1978. Second, the Commission received information that China Steel does not intend to increase either its capacity or production of carbon steel plate in the foreseeable future. Finally, demand for carbon steel plate in Taiwan appears to be increasing, which will divert a growing share of China Steel's production from exports to home market consumption. In view of these factors, the likelihood of injury is not "real and imminent."

Additional Views of Commissioners Bill Alberger and Paula Stern with Respect to Regional Injury

In a prior investigation involving carbon steel plate, the Commission found that the domestic industry was comprised of 11 geographically dispersed firms.[7] In this case, however, counsel for several domestic producers have urged the Commission to base its decision on regional as opposed to national considerations. In addressing their contentions, we will attempt to set forth what we consider to be the relevant factors for defining regional industries in proceedings under the Antidumping Act.

The Commission has considerable discretion to analyze the commercial context of a particular case and apply a "geographic segmentation principle".[8] However, there is no definitive explanation of the appropriate considerations which are to guide the Commission's judgment in such cases. The task of developing basic guidelines has always been left to the Commission.

It is incumbent upon the Commission to adopt logical rules of interpretation in exercising this discretion. While the

[6] One thousand short tons of carbon steel plate produced in Taiwan were imported into the United States in late-1977.

[7] Carbon Steel Plate from Japan, Inv. AA1921-179, USITC Pub. 882 (April 1978).

[8] U.S. Senate, Report of the Committee on Finance on the Trade Act of 1974 (Sen. Finance Rept.), S. Rept. No. 93-1298 (93rd Cong., 2nd Sess.) pp. 180-81.

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facts of each case may be unique, and while Congress did not want to impose inflexible rules,[9] we believe a consistent line of logic should underlie our decisions on "geographic segmentation". This logic should be expressed initially by an explanation of relevant factors drawn from Commission precedent, legislative commentary, and our understanding of the purposes underlying the Antidumping Act itself. Once these factors are articulated, participants in Antidumping investigations will be able to focus attention on how the factors apply to the case in question.

It is our view that three major factors enter into any decision to subdivide the industry regionally. They are: (1) Whether the region under consideration is separate and identifiable, (2) whether LTFV imports are concentrated in that region, and (3) whether that region constitutes a significant part of the domestic industry. In the following sections we will discuss the meaning and purposes of these factors, and will then consider their application to the present case.

A. *Relevant factors.* (1) *Whether the region under consideration is separate and identifiable.* The regional segment of the industry must be sufficiently isolated from the rest of the industry to justify a deviation from the Antidumping Act's normal requirement of national injury. Commission decisions have discussed this problem.[10] The Senate Finance Committee has noted that it is relevant to consider whether "* * * domestic producers * * * are located regionally and serve regional markets predominately or exclusively * * *".[11] This suggests that it would be inappropriate to apply geographic segmentation principles if producers ship substantial portions of their production outside the region, since such a practice indicates an ability to market goods on a multiregional or national basis. In other words, the region itself would not be separate and identifiable from other regions.

Several Commission opinions have expanded this concept. In *Hot-Rolled Carbon Steel Wires from Belgium*,[12] the Commission considered the extent to which domestic producers penetrated one another's natural markets. Commissioners have also asked whether, because of the lack of shipments into and out of a region, that region constituted an "isolated" industry.[13]

We believe the degree of isolation is an important factor to assess in deciding whether to apply a regional industry definition. It is very difficult to rely on regional data if it does not reflect conditions within a discrete and self-contained portion of the industry. Moreover, if a region is fully integrated with the national industry or other regions, we would have to examine conditions outside the region to determine the true impact of LTFV sales.

In order to determine whether a region is separate and identifiable, it is useful to weigh certain considerations. As pointed out in the Senate Report, it must be shown that the producers in question are located in and serve the region predominatly or exclusively. In addition, the region must not be served to any substantial degree by domestic producers outside the region. [14] Finally, it may be relevant to ask what factors led to geographic segmentation. For example, we would want to know if constraints on transhipment exist by virtue of transportation costs or product characteristics, or if regional distribution is based solely on historical marketing practices.

(2) *The extent to which LTFV sales are concentrated in a particular region.* On numerous occasions the Commission has emphasized the importance of concentration to a determination of injury based on regional considerations.[15] It has also been discussed in legislative reports.[16]

Concentration is important because without it the region in question does not experience any disproportionate impact from LTFV sales. The concept of concentration implies that those engaged in unfair practices are focusing their marketing efforts on a particular region. In order to demonstrate the degree of concentration, producers should indicate the trends in a particular region which reveal a focusing of marketing efforts. For example, if the percentage of LTFV sales in a particular region was initially high, but had steadily decreased, it would indicate a lessening of "concentration".

In this case, we have been presented with the contention that LTFV sales can be concentrated in more than one regional market. Clearly, past decisions have been based on a finding of concentration in more than one region.[17] However, to our knowledge, the Commission has never found concentration in more than two areas simultaneously. This is because the very term "concentration" implies that high percentages of overall imports exist in one area. It is axiomatic that at some point imports become so dispersed into many areas that no single region has a sufficiently high percentage of the total to constitute concentration. Because cases before the Commission are likely to involve different factual circumstances, a precise mathematical formula will not always be reliable in determining the minumum percentage which constitutes sufficient concentrations. Thus, we would examine the percentage of LTFV sales in a region, the duration of such imports at that percentage, and the trends in percentages over a representative period. By weighing these elements, we will be able to reach balanced determinations on the question on concentration.

(3) *Whether the region under consideration is significant enough to constitute an industry under the Antidumping Act.* The Senate Finance Committee touched on this concept when it noted that the Commission must decide on a case-by-case basis "* * * whether injury to regional producers * * * constitutes injury to an industry."[18] While the Commission has not explicitly discussed this factor in prior decisions, it is obvious that a national injury determination should not be based on injury to a region which is artificially small. The region itself must be reasonably defined, and should not be so small in scope as to cause inequitable results. For example, if one producer which constitutes an immeasurable small fraction of the national industry is the only portion impacted by LTFV sales, it may be inequitable to draw the region so small that it leads to an injury determination.

B. *Application of regional factors to the facts of the case.* Due to transportation costs, steel plate is traditionally sold within regional competitive markets. Thus, at first glance it would appear that the regions identified by counsel for the domestic industry in this investigation are eligible for treatment under the "geographic segmentation principle." However, after evaluating the relevant information in the context of the regional factors set forth above, we believe that while these regions may (1) comprise regional competive markets in terms of business practices and (2) constitute a significant part of the national carbon steel plate industry, we cannot segregate the impact of LTFV imports in such regions for the purpose of determining whether injury to the region constitutes injury to an industry under the Antidumping Act.

The "geographic segmentation principle" does not apply in this case, since the facts do not support a finding that the LTFV imports of carbon steel plate from Taiwan were concentrated in any of the regional competitive markets identified by counsel for the domestic producers. In the East, the share of Taiwanese LTFV imports amounted to only 5.4 percent. In the North Central region of the United States, imports were only 15.5 percent. In the Northwest region, the imports rose to only 19.6 percent.[19] In the South Central Region of the United States, which was the second largest market area, the LTFV imports increased to 26.5 percent. However, the Commission received estimates that 30 to 70 percent of these imports were shipped out of that region to the Mid-West industrial region. Finally, California, which was the largest market for carbon steel plate from Taiwan, received 33 percent of such imports. In view of the dispersion of the imports among all other regions and no indication of a steady upward trend in imports into California on a monthly basis during 1978, we are not able to find any reasonable indication that Taiwan focused its efforts in California. Therefore, we believe there is no concentration of LTFV imports of carbon steel plate from Taiwan in that market.

Counsel for Kaiser Steel Corporation and Gilmore Steel Corporation argued that the Northwest, which is served by Gilmore, and California, which is served by Kaiser, could constitute one regional competitive market. Kaiser basically serves California and Gilmore basically serves the Northwest, but neither is more than a minor participant in the other's market. They are distinct regional markets. Hence we find no basis for consolidating those two areas into one "regional competitive market."

[9] Id at p. 181.

[10] Hot-Rolled Carbon Steel Wire Rods From Belgium, TC Publication 93, (1963); Hot-Rolled Carbon Steel Wire Rods From Luxembourg, TC Publication 94, (1963); Hot-Rolled Carbon Steel Wire Rods From West Germany, TC Publication 95, (1963); and Hot-Rolled Carbon Steel Wire Rods from France, TC Publication 99, (1963).

[11] Sen. Finance Rept. at pp. 180–81.

[12] Inv. AA1921–27, TC Pub. 93 (June 1963).

[13] See for example, Steel Reinforcing Bars from Canada, Inv. AA1921–33, TC Pub. 122 (March 1964), Views of Commissioners Dorfman and Talbot, at p. 12.

[14] This consideration was discussed by the Commission majority in Carbon Steel Bars and Shapes from Canada, Inv. AA1921–39, TC Pub. 135 (September 1974) at p. 4.

[15] See, e.g. Cast Iron Soil Pipe from Poland, Inv. AA1921–50, TC Pub. 214 (September 1967); Elemental Sulfur from Canada, Inv. AA1921–127, TC Pub. 617 (October 1973).

[16] Sen. Finance Rept. at p. 181.

[17] See, e.g. Northern Bleached Hardwood Kraft Pulp from Canada, Inv. AA1921–105, TC Pub. 530 (December 1972); Cast Iron Soil Pipes from Poland, Inv. AA1921–50, TC Pub. 214 (September 1967).

[18] Sen. Finance Rept. at p. 181.

[19] The Commission also received information that approximately 24 percent of the Northwest's demand for carbon steel plate was satisfied by domestic producers located outside that regional competitive market.

Issued: May 16, 1979.

By order of the Commission.

Kenneth R. Mason,

Secretary.

[FR Doc. 79-16002 Filed 5-21-79; 8:45 am]

BILLING CODE 7020-02-M

[Investigation No. 337-TA-55]

Certain Novelty Glasses; Commission Hearing on the Presiding Officer's Recommendation, Relief, Bonding, and the Public Interest, and of the Schedule for Filing Written Submissions

Recommendation of "violation" issued

In connection with the U.S. International Trade Commission's investigation under section 337 of the Tariff Act of 1930, as amended (19 U.S.C. 1337), of alleged unfair methods of competition and unfair acts in the importation and sale of certain novelty glasses in the United States, the presiding officer recommended on January 3, 1979, that the Commission determine that there is a violation of section 337. The presiding officer certified the evidentiary record to the Commission for its consideration. Interested persons may obtain copies of the presiding officer's recommendation (and all other public documents) by contacting the office of the Secretary to the Commission, 701 E Street NW., Washington, D.C. 20436, telephone (202) 523–0161.

Commission hearing scheduled

The Commission will hold a hearing beginning at 10:00 a.m., e.d.t., on June 14, 1979, in the Commission's Hearing Room (Room 331), 701 E Street NW., Washington, D.C. 20436, for two purposes. First, the Commission will hear oral arguments on the presiding officer's recommendation that there is a violation of section 337 of the Tariff Act of 1930, as amended. Second, the Commission will hear oral presentations concerning appropriate relief, bonding, and the public-interest factors, for consideration in the event that the Commission determines that there is a violation of section 337. These matters are being heard on the same day in order to facilitate the completion of this investigation within time limits established under law and to minimize the burden of this hearing upon the parties to the investigation. The procedure for each portion of the hearing follows:

Oral argument concerning the presiding officer's recommendation

A party to the Commission's investigation or an interested agency wishing to present to the Commission an oral argument concerning the presiding officer's recommendation will be limited to no more than 30 minutes. A party or interested agency may reserve 10 minutes of its time for rebuttal. The oral arguments will be held in this order: complainants, respondents, interested agencies, and Commission investigative staff. Any rebuttals will be held in this order: Respondents, complainants, interested agencies, and Commission investigative staff.

Oral presentations on relief, bonding, and the public interest

Following the oral arguments on the presiding officer's recommendation, a party to the investigation, an interested agency, a public-interest group, or any interested member of the public may make an oral presentation on relief, bonding, and the public interest.

1. *Relief.* If the Commission finds a violation of section 337, it may issue (1) an order which could result in the exclusion from entry of certain novelty glasses into the United States or (2) an order which could result in requiring respondents to cease and desist from alleged unfair methods of competition or unfair acts in the importation and sale of these novelty glasses. Accordingly, the Commission is interested in what relief should be ordered, if any.

2. *Bonding.* If the Commission finds a violation of section 337 and orders some form of relief, such relief would not become final for a 60-day period, during which the President would consider the Commission's report. During this period the novelty glasses would be entitled to enter the United States under a bond determined by the Commission and prescribed by the Secretary of the Treasury. Accordingly, the Commission is interested in what bond should be determined, if any.

3. *The public interest.* If the Commission finds a violation of section 337 and orders some form of relief, it must consider the effect of that relief upon the public. Accordingly, the Commission is interested in the effect of any exclusion order or cease and desist order upon (1) the public health and welfare, (2) competitive conditions in the U.S. economy, (3) the production of like or directly competitive articles in the United States, and (4) U.S. consumers.

Those making an oral presentation will be limited to 15 minutes.

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Participants will be permitted an additional 5 minutes each for summation after all presentations have been made. Participants with similar interests may be required to share time. The order of oral presentations will be as follows: complainants, respondents, interested agencies, public-interest groups, other interested members of the public, and Commission investigative staff. Summations will follow the same order.

How to participate in the hearing. Any person desiring to appear at the Commission's hearing must file a written request to appear with the Secretary to the U.S. International Trade Commission, 701 E Street NW., Washington, D.C. 20436, no later than the close of business (5:15 p.m., e.d.t.) on June 7, 1979. The written request must indicate whether such person wishes to present an oral argument concerning the presiding officer's recommendation or an oral presentation concerning relief, bonding, and the public interest, or both. While only parties to the Commission's investigation, interested agencies, and the Commission investigative staff may present an oral argument concerning the presiding officer' recommendation, public-interest groups and other interested members of the public are encouraged to make an oral presentation concerning the public interest.

Written submissions to the Commission

The Commission requests that written submissions of three types be filed no later than the close of business on June 7, 1979:

1. *Briefs on the presiding officer's recommendation.* Parties to the Commission's investigation, interested agencies, and the Commission investigative staff are encouraged to file briefs concerning exceptions to the presiding officer's recommendation. Briefs must be served on all parties of record to the Commission's investigation on or before the date they are filed with the Secretary. Statements made in briefs should be supported by references to the record. Persons with the same positions are encouraged to consolidate their briefs, if possible.

2. *Written comments and information concerning relief, bonding, and the public interest.* Parties to the Commission's investigation, interested agencies, public-interest groups, and any other interested members of the public are encouraged to file written comments and information concerning relief, bonding, and the public interest. These submissions should include a proposed remedy, a proposed determination of bonding, and a discussion of the effect of the proposals on the public health and welfare, competitive conditions in the U.S. economy, the production of like or directly competitive articles in the United States, and U.S. consumers. These written submissions will be very useful to the Commission if it determines that there is a violation of section 337 and that relief should be granted.

3. *Requests to participate in the hearing.* Written requests to appear at the Commission hearing must be filed by June 7, 1979, as described above.

Additional information

The original and 19 true copies of all briefs and written comments and any written request to participate must be filed with the Secretary to the Commission.

Any person desiring to submit a document (or a portion thereof) to the Commission in confidence must request *in camera* treatment. Such request should be directed to the Chairman of the Commission and must include a full statement of the reasons why the Commission should grant such treatment. The Commission will either accept such submission in confidence or return it. All nonconfidential written submissions will be open to public inspection at the Secretary's Office.

Notice of this investigation and the Commission hearing is being given in addition to the parties to this investigation, to persons named as defendants in related litigation in the Federal District Court of Illinois. Any motion to intervene on the part of such persons must be received by the Commission no later than the close of business on June 7, 1979.

Notice of the Commission's investigation was published in the Federal Register of July 11, 1978 (43 FR 29840).

Issued: May 17, 1979.

By order of the Commission.

Kenneth R. Mason,

Secretary.

[FR Doc. 79-16001 Filed 5-21-79; 8:45 am]

BILLING CODE 7020-02-M

[TA-201-39]

Porcelain-on-Steel Cooking Ware; Investigation and Hearing

Investigation instituted. Following receipt of a petition on May 4, 1979, filed on behalf of the General Housewares Corp., Terre Haute, Ind., the United States International Trade Commission on May 15, 1979, instituted an investigation under section 201(b) of the Trade Act of 1974 to determine whether cooking ware of steel, enameled or glazed with vitreous glasses, provided for in item 653.97 of the Tariff Schedules of the United States (TSUS), in being imported into the United States in such increased quantities as to be a substantial cause of serious injury, or the threat thereof, to the domestic industry producing an article like or directly competitive with the imported article.

Public hearing ordered. A public hearing in connection with this investigation will be held in Washington, D.C., at 10:00 a.m., e.d.t., on Thursday, July 12, 1979, in the Hearing Room, U.S. International Trade Commission Building, 701 E. Street, NW. Requests for appearances at the hearing should be received in writing by the Secretary of the Commission at his office in Washington not later than noon, Friday, July 6, 1979.

Inspection of petition. The petition filed in this case is available for public inspection at the Office of the Secretary, U.S. International Trade Commission and at the New York City office of the U.S. International Trade Commission located at 6 World Trade Center.

Issued: May 16, 1979.

By order of the Commission.

Kenneth R. Mason,

Secretary.

[FR Doc. 79-16000 Filed 5-21-79; 8:45 am]

BILLING CODE 7020-02-M

[332-73]

Release for Public Comment of United States Administration Draft Comments on Draft Chapters of the Harmonized Commodity Description and Coding System

AGENCY: United States International Trade Commission.

ACTION: Release for public comment, pursuant to Commission investigation No. 332-73, under the authority of section 332(g) of the Tariff Act of 1930, as amended, of drafts of, and draft U.S. comments on, the following chapters of the Harmonized Commodity Description and Coding System.

Chapter 27: Mineral fuels, mineral oils and products of their distillation; bituminous substances; mineral waxes.

Chapter 86: Railway and tramway locomotives, rolling-stock and parts thereof; railway and tramway track fixtures and fittings; traffic signalling equipment of all kinds (not electrically powered).

Chapter 87: Vehicles, other than railway or tramway rolling-stock, and parts thereof.

Chapter 88: Aircraft and parts thereof; parachutes; catapults and similiar aircraft launching gear; ground flying trainers.

Chapter 89: Ships, boats and floating structures.

Chapter 90: Optical, photographic, cinematographic, measuring, checking, precision, medical and surgical instruments and apparatus, parts thereof.

Chapter 91: Clocks and watches and parts thereof.

WRITTEN SUBMISSIONS: Parties wishing to submit written comments should do so by June 15, 1979.

HEARING: Parties desiring the Commission to hold a hearing on these draft chapters of the Harmonized Code should contact the Secretary of the Commission by June 1, 1979, and show good cause for holding a hearing.

COPIES OF DOCUMENTS: Copies of the draft chapters and draft U.S. comments thereon which are the subject to this notice are available for public inspection at the offices of the Commission, 701 E Street, NW., Washington, D.C. 20436, or at 6 World Trade Center, New York, N.Y. 10048. The Commission will also send copies to interested parties upon request.

FOR FURTHER INFORMATION CONTACT: Eugene A. Rosengarden, Director, Office of Nomenclature, Valuation and Related Activities, U.S. International Trade Commission, 701 E Street, NW., Washington, D.C. 20436, Telephone: 202/523-0370.

SUPPLEMENTARY INFORMATION: The purpose of this notice is to obtain the comments and views of interested partied with respect to the above mentioned draft chapters of the Harmonized Commodity Description and Coding System, and of the draft U.S. comments thereon.

This notice is being issued pursuant to Commission investigation No. 332-73, instituted on January 31, 1975 (40 FR 6329), under section 332(g) of the Tariff Act of 1930. The investigation was initiated in accordance with section 608(c) of the Trade Act of 1974, which provides, in part, that the Commission shall institute an investigation which would provide the basis for—

(2) full and immediate participation by the United States International Trade Commission in the United States contribution to technical work of the Harmonized Systems [sic] Committee under the Customs Cooperation Council to assure the recognition of the needs of the United States business community in the development of a Harmonized Code reflecting sound principles of commodity identification and specification and modern producing methods and trading practices * * *.

The Harmonized Commodity Description and Coding System (Harmonized Code) is being developed by the Customs Cooperation Council (CCC), an 80-member international organization with headquarters in Brussels, as an international commodity classification system which will be adaptable for modernized customs tariff nomenclature purposes and for recording, handling, and reporting of transactions in international trade. The Harmonized Code will be based on, and in many respects will be an extension of, the Customs Cooperation Council Nomenclature (CCCN), formerly known as the Brussels Tariff Nomenclature (BTN).

Currently, the Technical Team working under auspices of the CCC prepares drafts of the various chapters of the Harmonized Code for consideration by the Harmonized System Committee, which was established in order to develop the code. These drafts are forwarded to the members and observers of the Committee for their review and submission of written comments. The Committee meets three times a year to consider these drafts and the written comments and presentations of the various delegations. The review of a particular chapter or group of chapters may extend to more than one meeting.

In 1971, the Department of the Treasury established an Interagency Advisory Committee on Customs Cooperation Council Matters in order to provide a basis for interested Federal agencies to participate with respect to CCC matters. In order to establish a develop U.S. programs and policies with respect to the Harmonized Code, the interagency committee has instituted procedures which take into account the provisions of section 608(c) of the Trade Act of 1974, which call for the Commission to contribute to the U.S. technical input to the Harmonized System Committee. Under these procedures the Commission is preparing technical comments and proposals on the various chapters of the Harmonized Code for consideration by the interagency committee in the determination of U.S. positions with respect to the Harmonized Code. In making proposals, the Commission is seeking and taking into consideration the views of trade and industry and other interested parties and of interested Government agencies.

The draft U.S. comments on the chapters of the Harmonized Code released for public comment today relate specifically to the Technical Team drafts of these chapters and should be read in conjunction therewith.

In its public notices of May 4, 1976 (41 FR 18716 of May 6, 1976), August 9, 1976 (41 FR 34370 of August 13, 1976), December 20, 1976 (41 FR 55948 of December 23, 1976, September 1, 1977 (42 FR 44852 of September 7, 1977), February 7, 1978 (43 FR 5902 of February 10, 1978), October 16, 1978 (43 FR 48723 of October 19, 1976), and February 14, 1979 (44 FR 10435 of February 20, 1979), the Commission identified those chapters which have been considered thus far by the Harmonized System Committee, and the chapters for which a Technical Team draft has been released.

Copies of these chapters are also available for inspection as specified above; the Commission will send copies of these chapters to interested parties upon request.

Issued: May 16, 1979.

By order of the Commission.

Kenneth R. Mason,

Secretary.

[FR Doc. 79-15999 Filed 5-21-79; 8:45 am]

BILLING CODE 7020-02-M

DEPARTMENT OF JUSTICE

[AAG/A Order No. 25-79]

Privacy Act of 1974; Modified System of Records

Pursuant to the Privacy Act of 1974, 5 U.S.C. 552a(e)(4), the Department of Justice, Federal Bureau of Investigation (FBI) is republishing the following system of records which was most recently published on September 28, 1978, in the Federal Register's annual publication of Privacy Act issuances: National Crime Information Center (JUSTICE/FBI-001).

The notice for the above-mentioned record system has been revised and reprinted below to reflect an increase in the number of routine users. The Geographical area within which NCIC data will be exchanged with authorized officials will be extended to include the U.S. Possessions and U.S. Territories. The change has been italicized for the convenience of the public.

Because extending the geographical area for the exchange of information is an action which is compatible with the purpose for maintaining the system, the reporting criteria of Office of Management and Budget Circular A-108 does not require the filing of a report with the Office of Management and Budget and the Congress.

Comments should be addressed to the Administrative Counsel, Office of

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Management and Finance, Department of Justice, 10th and Constitution Avenue, N.W., Washington, D.C. 20530, within 30 days after publication of this notice.

Pursuant to the authority vested in the Attorney General by 5 U.S.C. 552a, and delegated to me by Attorney General Order 793–78, the changes italicized below will be adopted on————

Dated: May 11, 1979.

Kevin D. Rooney,

Assistant Attorney General for Administration.

JUSTICE/FBI–001

SYSTEM NAME:

National Crime Information Center (NCIC).

SYSTEM LOCATIONS:

Federal Bureau of Investigation: J Edgar Hoover Bldg., 10th and Pennsylvania Avenue NW., Washington, D.C. 20535.

CATEGORIES OF INDIVIDUALS COVERED BY THE SYSTEM:

A: Wanted Persons: 1. Individuals for whom Federal warrants are outstanding. 2. Individuals who have committed or have been identified with an offense which is classified as a felony or serious misdemeanor under the existing penal statutes of the jurisdiction originating the entry and felony or misdemeanor warrant has been issued for the individual with respect to the offense which was the basis of the entry. Probation and parole violators meeting the foregoing criteria. 3. A "Temporary Felony Want" may be entered when a law enforcement agency has need to take prompt action to establish a "want" entry for the apprehension of a person who has committed, or the officer has reasonable grounds to believe has committed, a felony and who may seek refuge by fleeing across jurisdictional boundaries and circumstances preclude the immediate procurement of a felony warrant. A "Temporary Felony Want" shall be specifically identified as such and subject to verification and support by a proper warrant within 48 hours following the initial entry of a temporary want. The agency originating the "Temporary Felony Want" shall be responsible for subsequent verification or re-entry of a permanent want.

B. Individuals who have been charged with serious and/or significant offenses.

C. Missing Persons: 1. A person of any age who is missing and who is under proven physical/mental disability or is senile, thereby subjecting himself or others to personal and immediate danger. 2. A person of any age who is missing under circumstances indicating that his disappearance was not voluntary. 3. A person of any age who is missing and in the company of another person under circumstances indicating that his physical safety is in danger. 4. A person who is missing and declared unemancipated as defined by the laws of his state of residence and does not meet any of the entry criteria set forth in 1, 2, or 3 above.

CATEGORIES OF RECORDS IN THE SYSTEM:

A. Stolen Vehicle File: 1. Stolen vehicles. 2. Vehicles wanted in conjunction with felonies or serious misdemeanors. 3. Stolen vehicle parts, including certificates of origin or title.

B. Stolen License Plate File: 1. Stolen or missing license plate.

C. Stolen/Missing gun File: 1. Stolen or missing guns. 2. Recovered gun, ownership of which has not been established.

D. Stolen Article File.

E. Wanted Person File: Described in "Categories of individuals covered by the system: A. Wanted Persons".

F. Securities File: 1. Serially numbered stolen, embezzled, counterfeited, missing securities. 2. "Securities" for present purposes of this file are currency (e.g. bills, bank notes) and those documents or certificates which generally are considered to be evidence of debt (e.g. bonds, debentures, notes) or ownership of property (e.g. common stock, perferred stock), and documents which represent subscription rights, warrants) and which are of those types traded in the securities exchanges in the United States, except for commodities futures. Also included are warehouse receipts, travelers checks and money orders.

G. Boat File.

H. Computerized Criminal History File: A cooperative Federal-State program for the interstate exchange of criminal history record information for the purpose of facilitating the interstate exchange of such information among criminal justice agencies.

I. Missing Person File: Described in "Categories of individuals covered by the system: C. Missing Person".

AUTHORITY FOR MAINTENANCE OF THE SYSTEM:

The system is established and maintained in accordance with Title 28, United States Code, Section 534 and Title 28—Judicial Administration, Chapter I—Department of Justice (Order No. 601–75) Part 20—Criminal Justice Information Systems.

ROUTINE USES OF RECORDS MAINTAINED IN THE SYSTEM:

Including categories of uses and the purposes of such uses: Data in NCIC files is exchanged with and for the official use of authorized officials of the Federal Government, the States, cities, and penal and other institutions in accordance with title 28, U.S. code, section 534. The data is exchanged through NCIC lines to Federal criminal justice agencies, criminal justice agencies in the 50 States, the District of Columbia, Puerto Rico, U.S. Possessions and U.S. Territories. Additionally, data contained in the various "want files," i.e., the stolen vehicle file, stolen license plate file, stolen/missing gun file, stolen article file, wanted person file, securities file, and boat file may be accessed by the Royal Canadian Mounted Police. Dissemination of criminal history record information is set forth in Title 28 of the Code of Federal Regulations—Judicial Administration, Chapter I—Department of Justice (Order No. 601–75) Part 20—criminal Justice Information Systems. Subpart C, Section 20.33.

RELEASE OF INFORMATION TO THE NEWS MEDIA:

Information permitted to be released to the news media and the public pursuant to 28 C.F.R. 50.2 may be made available from systems of records maintained by the Department of Justice unless it is determined that release of the specific information in the context of a particular case would constitute an unwarranted invasion of personal privacy.

RELEASE OF INFORMATION TO MEMBERS OF CONGRESS:

Information contained in systems of records maintained by the Department of Justice, not otherwise required to be relased pursuant to 5 U.S.C. 552, may be made available to a Member of Congress or staff acting upon the Member's behalf when the Member or staff requests the information on behalf of and at the request of the individual who is the subject of the record.

RELEASE OF INFORMATION TO THE NATIONAL ARCHIVES AND RECORDS SERVICE:

A record from a system of records may be disclosed as a routine use to the National Archives and Records Service (NARS) in records management inspections conducted under the authority of 44 U.S.C. 2904 and 2906.

POLICIES AND PRACTICES FOR STORING, RETRIEVING, ACCESSING, RETAINING, AND DISPOSING OF RECORDS IN THE SYSTEM:

STORAGE:

Information maintained in the NCIC system is stored electronically for use in a computer environment.

RETRIEVABILITY:

On-line access to data in NCIC is achieved by using the following search desciptors. 1. Vehicle file: (a) Vehicle identification number; (b) License plate number; (c) NCIC number (unique number assigned by the NCIC computer to each NCIC record). 2. License Plate file: (a) License plate number; (b) NCIC number. 3. Gun File: (a) Serial number of gun; (b) NCIC number. 4. Article File: (a) Serial number of article; (b) NCIC number. 5. Wanted Person File: (a) Name and one of the following numerical identifiers, date of birth, FBI number (number assigned by the Federal Bureau of Investigation to an arrest fingerprint record). Social Security number (It is noted the requirements of the Privacy Act with regard to the solicitation of Social Security numbers have been brought to the attention of the members of the NCIC system). Operator's license number (driver's license number). Miscellaneous identifying number (military number or number assigned by Federal, state, or local authorities to an individual's record. Originating agency case number; (b) Vehicle or license plate known to be in the possession of the wanted person; (c) NCIC number (unique number assigned to each NCIC record). 6. Securities File: (a) Type, serial number, denomination of security; (b) Type of security and name of owner of security; (c) Social Security number of owner of Security; (d) NCIC number. 7. Boat file: (a) Registration document number; (b) Hull serial number; (c) NCIC number. 8. Computerized Criminal History File: (a) Name, sex, race, and date of birth; (b) FBI number, (c) State identification number; (d) Social Security number; (e) Miscellaneous number. 9. Missing Person File—Same as "Wanted Person" File.

SAFEGUARDS:

Data stored in the NCIC is documented criminal justice agency information and access to that data is restricted to duly authorized criminal justice agencies. The following security measures are the minimum to be adopted by all criminal justice agencies having access to the NCIC Computerized Criminal History File. These measures are designed to prevent unauthorized access to the system data and/or unauthorized use of data obtained from the computerized file.

1. Computer Centers: a. The criminal justice agency computer site must have adequate physical security to protect against any unauthorized personnel gaining access to the computer equipment or to any of the stored data. b. Since personnel at these computer centers can access data stored in the system, they must be screened thoroughly under the authority and supervison of an NCIC control terminal agency. (This authority and supervison may be delegated to responsible criminal justice agency personnel in the case of a satellite computer center being serviced through a state control terminal agency.) This screening will also apply to non-criminal justice maintenance or technical personnel. c. All visitors to these computer centers must be accompanied by staff personnel at all times. d. Computers having access to the NCIC must have the proper computer instructions written and other built-in controls to prevent criminal history data from being accessible to any terminals other than authorized terminals. e. Computers having access to the NCIC must maintain a record of all transactions against the criminal history file in the same manner the NCIC computer logs all transactions. The NCIC identifies each specific agency entering or receiving information and maintains a record of those transactions. This transaction record must be monitored and reviewed on a regular basis to detect any possible misuse of criminal history data. f. Each State control terminal shall build its data system around a central computer, through which each inquiry must pass for screening and verification. The configuration and operation of the center shall provide for the integrity of the data base.

2. Communications: a. Lines/channels being used to transmit criminal history information must be dedicated solely to criminal justice use, i.e., there must be no terminals belonging to agencies outside the criminal justice system sharing these lines/channels. b. Physical security of the lines/channels must be protected to guard against clandestine devices being utilized to intercept or inject system traffic.

3. Terminal Devices Having Access to NCIC: a. All agencies having terminals on the system must be required to physically place these terminals in secure locations within the authorized agency. b. The agencies having terminals with access to criminals history must have terminal operators screened and restrict access to the terminal to a minimum number of authorized employees. c. Copies of criminal history data obtained from terminal devices must be afforded security to prevent any unauthorized access to or use of that data. d. All remote terminals on NCIC Computerized Criminal History will maintain a hard copy of computerized criminal history inquiries with notations of individual making request for record (90 days).

RETENTION AND DISPOSAL:

Unless otherwise removed, records will be retained in file as follows:

1. Vehicle File: a. Unrecovered stolen vehicle records (including snowmobile records) which do not contain vehicle identification numbers (VIN) therein, will be purged from file 90 days after the end of the license plate's expiration year as shown in the records). Unrecovered stolen vehicle records (including snomobile records) which contain VIC's will remain in file for the year of entry plus 4. b. Unrecovered vehicles wanted in conjunction with a felony will remain in file for 90 days after entry. In the event a longer retention period is desired, the vehicle must be reentered. c. Unrecovered stolen VIN plates, certificates of origin or title, and serially numbered stolen vehicle engines or transmissions will remain in file for the year of entry plus. 4.

2. License Plate File: Unrecovered stolen license plates not associated with a vehicle will remain in file for one year after the end of the plate's expiration year as shown in the record.

3. Gun File: a. Unrecovered weapons will be retained in file for an indefinite period until action is taken by the originating agency to clear the record. b. Weapons entered in file as "recovered" weapons will remain in file for the balance of the year entered plus 2.

4. Article File: Unrecovered stolen articles will be retained for the balance of the year entered plus on year.

5. Wanted Person File: Persons not located will remain in file indefinitely until action is taken by the originating agency to clear the record (except "Temporary Felony Wants", which will be automatically removed from file after 48 hours).

6. Securities File: Unrecovered, stolen, embezzled, counterfieted or missing securities will be retained for the balance of the year entered plus 4, except for travelers checks and money orders, which will be retained for the balance of the year entered plus 2.

7. Boat File: Unrecovered stolen boats will be retained in file for the balance of the year entered plus 4.

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8. Missing Person File: Will remain in the file until the individual is located or, in the case of unemancipated persons, the individual reaches the age of emancipation as defined by laws of his state.

9. Computerized Criminal History File: When an indivdiual reaches age of 80.

SYSTEM MANAGER(S) AND ADDRESS:

Director, Federal Bureau of Investigation; J. Edgar Hoover F.B.I. Building, 9th and Pennsylvania Avenue N.W., Washington, D.C. 20535.

NOTIFICATION PROCEDURE:

Same as the above.

RECORD ACCESS PROCEDURES:

It is noted the Attorney General is exempting this system from the access and contest procedures of the Privacy Act. However, the following alternative procedures are available to a requester. The procedures by which an individual may obtain a copy of his Computerized Criminal History are as folows:

If an individual has a criminal record supported by fingerprints and that record has been entered in the NCIC CCH File, it is available to that individual for review, upon presentation of appropriate identification, and in accordance with applicable State and Federal administrative and statutory regulations.

Appropriate identification includes being fingerprinted for the purpose of insuring that he is the individual that he purports to be. The record on file will then be vertified as his through comparison of fingerprints

Procedure 1. All requests for review must be made by the subject of his record through a law enforcement agency which has access to the NCIC CCH file. That agency within statutory or regulatory limits can require additional identification to assist is securing a positive identification.

2. If the cooperating law enforecement agency can make an identification with fingerprints previously taken which are in file locally and if the FBI identification number of the individual's record is available to that agency, it can make an on-line enquiry of NCIC to obtain his record on-line or, if it does not have suitable equipment to obtain an on-line response, obtain the record form Washington, D.C., by mail The individual will then be afforded the opportunity to see that record.

3. Should the cooperating law enforecement agency not have the individual's fingerprints on file locally, it is necessary for that agency to relate his prints to an existing record by having his identification prints compared with those already on file in the FBI or possibly, in the State's central identification agency.

CONTESTING RECORD PROCEDURES:

The subject of the requested record shall request the appropriate arresting agency, court, or correctional agency to initiate action necessary to correct any stated inaccuracy in his record or provide the information needed to make the record complete.

RECORD SOURCE CATEGORIES:

Information contained in the NCIC system is obtained from local, State, Federal and international criminal justice agencies.

SYSTEMS EXEMPTED FROM CERTAIN PROVISIONS OF THE ACT:

The Attorney General has exempted this system form subsections (c) (3) and (4), (d), (e), (1), (2) and (3), (e)(4) (G), (H), (c)(8) (f), and (m) of the Privacy Act pursuant to 5 U.S.C. 552a(j). Rules have been promulgated in accordance with the requirements of 5 U.S.C. 553 (b)(, (c) and (e) and have been published in the Federal Register.

[FR Doc. 79-15908 Filed 5-21-79; 8:45 am]

BILLING CODE 4410-02-M

Law Enforcement Assistance Administration

National Victim/Witness Strategy, Proposed Change to: Guide for Discretionary Grant Programs for Fiscal Year 1979

AGENCY: Law Enforcement Assistance Administration, Department of Justice.

ACTION: Publication of draft proposed guideline for the National Victim/Witness Strategy.

SUMMARY: This proposed change is a draft addition to M4500.1G, *Guide for Discretionary Grant Programs*, and as such will be subject to the same regulations which govern that manual. It will not in any way impact upon the programs or regulations presently set out in M4500.1G, nor will it affect the eligibility of those individuals applying for previously announced programs.

FOR FURTHER INFORMATION CONTACT: Jan Kirby, Program Manager, National Victim/Witness Strategy, Special Programs Division, Office of Criminal Justice Programs, Law Enforcement Assistance Administration, 633 Indiana Avenue, NW., Washington, DC 20531.

SUPPLEMENTARY INFORMATION: The Law Enforcement Assistance Administration (LEAA) is proposing a new program as an addition to the **Fiscal Year 1979** *Guide for Discretionary Grant Programs*, M4500.1G, as announced in the **Federal Register** on November 3, 1978, (43 FR 51467–51468). The programs will promote coordination and cooperation in the victim/witness field by funding several initiatives on the governmental (federal/state/local) and non-governmental levels that create or support centralized structures or networks. Eligible applicants include: For Statewide Networks—any state of local unit of government, nor-for-profit organizations, or a coalition of these groups that can effectively coordinate victim/witness efforts in that state; for Non-Governmental Organizations—not-for-profit organizations (criminal justice or other) already active in fields germane to victim/witness services; and for Intergovernmental Agencies—federal agencies that have initiated or are considering initiating programs relating to victim/witness services at the state or local level. LEAA is publishing the text of this guideline at this time in order to obtain public comments. All comments will be considerd in the publication of the final program announcement. Comments are due 30 days from the date of publication of this notice. Please forward your comments to: Jan Kirby, Program Manager, National Victim/Witness Strategy, Special Programs Division, Office of Criminal Justice Programs, Law Enforcement Assistance Administration, 633 Indiana Avenue NW., Washington, DC 20531. There is a 30-day public comment period with provision for an extension to 60 days should the comments warrant. The reason for the 30 day comment period is due to the necessity of having this program announced as early as possible so that potential applicants have the maximum time to develop proposals and so that awards can be made prior to the end of this fiscal year. The text of the proposed program follows:

59. Programs To Support a National Victim/Witness Strategy. a. *Program Objective.* The objective of this program is to promote coordination and cooperation in the victim/witness field by funding several initiatives on the governmental (federal/state/local) and non-governmental levels that create or support centralized structures or networks.

b. *Program Description.* (1) The National Victim/Witness Strategy is an effort to create a solid network of support for victim/witness services by:

(a) Establishing statewide coordinating network programs;

(b) Assisting national organizations to address victim/witness problems in their local communities; and,

(c) Developing joint intergovernmental programs.

(2) *Problem Addressed.* LEAA has funded a variety of victim/witness projects and initiatives over the past several years. While a wealth of expertise, resource materials, and programmatic models have been developed, these efforts have to a degree been isolated and not shared with other efforts in the field. The establishment of new projects has often been accomplished without utilizing information gained by well-established programs.

In addition to criminal justice agencies, a wide range of organizations, i.e., social service, national groups, and voluntary organizations, can and should become involved in aiding the victim/witness and the criminal justice system through supportive and ancilliary services. Presently, these groups have not been involved in this area because of a lack of networks and structures to promote the sharing of expertise and knowledge.

This program will focus on creating and supporting centralized structures for planning, coordinating, and assisting victim/witness services and the criminal justice system on a federal, state, and local level.

(3) *Results Sought.* (a) Improved capability at the federal, state, local, and private level to provide victim/witness services and support to the criminal justice system in this area;

(b) Increased cooperation among agencies involved in victim/witness services, programs, and initiatives;

(c) Increased coordination of efforts within the victim/witness area to be served by the various projects;

(d) Improved collection and analysis of data;

(e) Increased cooperation on the part of the victim/witness with the criminal justice system leading to successful investigation and prosecution of cases; and,

(f) Improved utilization of existing knowledge and expertise in the area of victim/witness services, thereby reducing duplication and fragmentation.

(4) *Assumptions.* There is an extensive body of knowledge in the victim/witness field that is not being fully utilized by the variety of agencies and organizations which are or can be involved in victim/witness services. These agencies often operate independently of one another. More coordination and cooperation will enhance the efficiency of these agencies' efforts and initiatives while reducing wasteful duplication and fragmentation. Creating and supporting centralized structures will provide the needed capability to plan, coordinate, and implement new initiatives in victim/witness services. This will in turn enhance the quality and strengthen the effectiveness of those services and increase the likelihood of their institutionalization.

c. *Program Strategy.* Grants will be made to support LEAA's National Victim/Witness Strategy aimed at enhancing coordination and cooperation among criminal justice and non-criminal justice agencies which should become involved in assisting victim/witness programs. In particular, funds will be made available to establish statewide networks, stimulate national organizations to develop victim/witness programs, and support the coordination of efforts and initiatives undertaken by other federal agencies. Based on research and experience, it has been determined that such coordination and cooperation are required to successfully provide victim/witness services that will be beneficial to the victim/witness and improve the successful operations of the criminal justice system.

Details of initiatives to be sponsored for each major component of this program strategy are as follows:

(1) *For Statewide Coordinating Networks.* This program will support statewide coordinating networks in up to six states to successfully link all victim/witness programs within that state. This coordinated effort should promote new victim/witness services and ultimately improve the service delivery system to all victims and witnesses of crime in that state.

Program elements for statewide networks include:

(a) The establishment of a statewide organization to facilitate and encourage the development of effective victim/witness services throughout the state;

(b) The development of a comprehensive plan for victim/witness services through the conduct of a statewide needs assessment;

(c) The survey of existing needs and resources, the analysis of gaps in service, and recommendations for needed programs and intervention strategies;

(d) The development of a training and technical assistance delivery system directed toward victim/witness service providers and potential providers statewide;

(e) The The collection, preparation, and dissemination of training and informational materials (i.e., manuals, audiovisual materials, training packages, criminal justice and human service curricula) tailored to the needs of the individual recipient;

(f) The promotion of a statewide effort to collect and synthesize victim/witness-related data;

(g) The interface, existing or potential, with any automated case management system (e.g., PROMIS) in which data on victim/witnesses is maintained for adjudication purposes;

(h) The development of protocols and the establishment of linkages and cooperative agreements between statewide and local criminal justice agencies and victim/witness programs; and,

(i) The establishment of a public information mechanism aimed at increasing the awareness of the community to the needs and problems of victim/witnesses and the availability of programs and services operating to meet those needs.

(2) *For Non-Governmental Applicants.* This program will support up to four projects undertaken by national not-for-profit organizations, agencies, or associations. Applicants may represent either criminal justice or non-criminal justice constituencies.

The strategy proposed must address victim/witness problems from the perspective of their respective organizations but with the aim of improving and facilitating the continued involvement of the victim/witness in the criminal justice system.

Elements that may be included in the project are:

(a) A public awareness campaign directed towards raising constitutency and/or the general public's awareness of victim/witness problems as well as proposing strategies to alleviate these problems;

(b) Mobilization of their membership to assist the criminal justice system in the provision of victim/witness services;

(c) Utilization of the media and channels of communication to feature information on the victim/witness field; and,

(d) Development of materials, national directories, training programs, and procedures to assist in their efforts.

(3) *For Joint Intergovernmental Projects. LEAA will enter into Interagency Agreements with other federal agencies to provide services for states and/or localities. The exact focus of this effort will be determined through consultation with those federal agencies involved in victim/witness activities.*

d. *Dollar Range and Number of Grants or Interagency Agreements.*—(1) *Statewide Networks.* This program will

Dated: May 14, 1979.

[Docket No. 98-79-61-C]

Dated: May 11, 1979.

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fund up to six projects from $25,000 to $75,000.

(2) *Non-Governmental Organizations.* This program will fund up to four projects to national organizations up to $50,000.

(3) *Intergovernmental Agencies.* Three joint victim/witness projects not to exceed $50,000 each.

(4) All projects will be awarded on a 12-month basis with consideration for one additional year based on review and LEAA program monitoring. First year funding will require a 10 percent cash match and second year funding will require a 20 percent cash match.

e. *Eligibility for Projects.*— (1) *Statewide Networks.* Any state or local unit of government, not-for-profit organization, or a coalition of these groups that can effectively coordinate victim/witness efforts in that state.

(2) *Non-Governmental Organizations.* Not-for-profit organizations (criminal justice or other) already active in fields germane to victim/witness services.

(3) *Intergovernmental Agencies.* Federal agencies that have initiated or are considering initiating programs relating to victim/witness services at the state or local level.

f. *Application Deadline and Submission Procedures.* (1) All applications must be submitted by July 15, 1979. No applications will be considered if received after that date.

(2) In addition to the application copies sent to the state and local A–95 clearinghouses, the regional planning unit, and the state planning agency, the original plus two copies of the entire application package should be sent to: Control Desk, Grants and Contracts Management Division, Office of the Comptroller, Law Enforcement Assistance Administration, 633 Indiana Avenue, NW., Washington, D.C. 20531.

g. *Criteria for Selection.* (1) All applicants must provide evidence of an administrative stucture that can effectively achieve the project directives.

(2) All applicants must demonstrate the extent to which program requirements (Subparagraph c. above) are met.

(a) *For Statewide Networks.*

1 Applicants must demonstrate the extent and evidence of involvement and participation of relevant governmental and non-governmental agencies.

2 Applicants must show evidence that the proposed project will support LEAA's National Strategy on Victim/Witness Programs.

(b) *For Non-Governmental Applicants.*

1 Applicants must describe how this proposed activity will complement the organization's on-going program or mission.

2 Applicants must show evidence that the proposed project will support LEAA's National Stratetgy on Victim/Witness Programs.

(c) *Intergovernmental Agencies.* Must show evidence that a joint project will enhance victim/witness services.

h. *Evaluation Requirements.* In addition to the self-assessment and monitoring requirements set forth in LEAA's *Guide for Discretionary Grant Programs,* M4500.1G, applicants must propose a self-evaluation plan for their project. This self-evaluation plan should describe how the achievement of program objectives will be measured and how the impact of program activities will be determined.

Henry S. Dogin,

Administrator.

[FR Doc. 79-15866 Filed 5-21-79 8:45 am]

BILLING CODE 4410-18-M

DEPARTMENT OF LABOR

Mine Safety and Health Administration

[Docket No. M-78-51-M]

Boonesboro Quarry, Inc.; Petition for Modification of Application of Mandatory Safety Standard

Boonesboro Quarry, Inc., Post Office Box 537, Winchester, Kentucky 40391 has filed a petition to modify the application of 30 CFR 57.15–30 (self-rescue devices), to its Boonesboro Quarry, located in Madison County, Kentucky. This petition is filed under section 101(c) of the Federal Mine Safety and Health Act of 1977. Pub. L. 95–164.

The substance of the petition follows:

The petition concerns the requirement that one-hour self-rescue devices must be provided for all underground personnel.

2. The petitioner believes that such devices are unnecessary at its mine because of nine large openings to the outside of the mine, facing east and north.

3. These openings range in size from 31×50 feet to 10×14 feet.

4. In addition, the mine has cross ventilation.

5. The petitioner believes that these openings provide an alterative which will achieve no less protection for its miner than that given by the standard.

Request for Comments

Persons interested in this petition may furnish written comments or before June 21, 1979. Comments must be filed with the Office of Standards, Regulations and Variances, Mine Safety and Health Administration, 4015 Wilson Boulevard, Arlington, Virginia 22203. Copies of the petition are available for inspection at that address.

Dated: May 14, 1979.

Eckehard Muessig,

Deputy Assistant Secretary for Mine Safety and Health.

[FR Doc. 79-15872 Filed 5-21-79; 8:45 am]

BILLING CODE 4510-43-M

[Docket No. M-79-63-C]

Cannelton Industries, Inc.; Petition for Modification of Application of Mandatory Safety Standard

Cannelton Industries, Inc., Post Office Box 1226, 1250 One Valley Square, Charleston, West Virginia 25324, has filed a petition to modify the application of 30 CFR 75.305 (weekly examinations for hazardous conditions), to its #4 Mine, located in McDowell County, West Virginia. This petition is filed under section 101(c) of the Federal Mine Safety and Health Act of 1977, Pub. L. 95–164.

The substance of the petition follows:

1. The petitioner has in operation the 4B and Roadside sections of its mine.

2. On each section, one travelable return air course is traveled on a weekly basis as required by the standard.

3. The left split from each section is coursed into the gob and is not safe for travel.

4. As an alternative, the petitioner proposes to establish check stations at the last open cross cut and at the number one overcast on each section in order to determine the direction of air flows, in compliance with the standard.

5. The petitioner states that this alternative will achieve no less protection for its miners than that provided by the standard.

Request for Comments

Persons interested in this petition may furnish written comments on or before June 21, 1979. Comments must be filed with the Office of Standards, Regulations and Variances, Mine Safety and Health Administration, 4015 Wilson Boulevard, Arlington, Virginia 22203. Copies of the petition are available for inspection at that address.

Dated: May 14, 1979.

Eckehard Muessig,

Deputy Assistant Secretary for Mine Safety and Health.

[FR Doc. 79-15871 Filed 5-21-79; 8:45 am]

BILLING CODE 4510-43-M

[Docket No. M-79-64-C]

Consolidation Coal Co.; Petition for Modification of Application of Mandatory Safety Standard

Consolidation Coal Company, Consol Plaza, Pittsburgh, Pa. 15241, has filed a petition to modify the application of 30 CFR 75.1710 (canopies), to its Rowland No. 11 Mine, located in Raleigh County, West Virginia. The petition is filed under section 101(c) of the Federal Mine Safety and Health Act of 1977, Pub. L. 95–164.

The substance of the petition follows:

1. The petition concerns the use of cabs or canopies on electric face equipment in the petitioner's mine.

2. The petitioner is mining in heights ranging from 36 to 54 inches.

3. The petitioner believes cabs or canopies in such heights would result in a diminution of safety for the following reasons:

a. Cabs or canopies would not allow the equipment operator proper visibility for safe operation of the equipment while remaining under the cab or canopy.

b. Cabs or canopies would not clear the roof in areas with an uneven bottom or uneven top.

c. A cab or canopy would not allow the equipment operator to escape rapidly from its confines in the event of an emergency.

Request for Comments

Persons interested in this petition may furnish written comments on or before June 21, 1979. Comments must be filed with the Office of Standards, Regulations and Variances, Mine Safety and Health Administration, 4015 Wilson Boulevard, Arlington, Virginia 22203. Copies of the petition are available for inspection at that address.

Dated: May 14, 1979.

Eckehard Muessig,

Deputy Assistant Secretary for Mine Safety and Health.

[FR Doc. 79-15873 Filed 5-21-79; 8:45 am]

BILLING CODE 4510-43-M

[Docket No. M-79-61-C]

Consolidation Coal Co.; Petition for Modification of Application of Mandatory Safety Standard

Consolidation Coal Company, 1800 Washington Road, Pittsburgh, Pennsylvania 15241, has filed a petition to modify the application of 30 CFR 75.305 (weekly examinations for hazardous conditions) to its McElroy Mine, located in Marshall County, West Virginia. The petition is filed under section 101(c) of the Federal Mine Safety and Health Act of 1977, Pub. L. 95–164.

The substance of the petition follows:

1. The Number 1 entry of the petitioner's mine has deteriorated due to adverse conditions such as moisture and roof pressure, leaving much of the roof unsupported. Numerous roof falls have left this return air course virtually impassable and extremely hazardous to travel and examine.

2. The existing falls, however, have had a minimal effect on the velocity or quantity of air passing through the entry.

3. The entry is not designated as a return escapeway.

4. Rehabilitation of the entry is neither practical nor feasible.

5. As an alternative, the petitioner proposes to establish air monitoring stations or check points (designated on a map supplied with the petition), where air measurements for the entry will be made according to procedures outlined in the petition.

6. Additionally, the petitioner proposes to clean and support the Number 2 entry, adjacent to the Number 1 entry, allowing firebosses to inspect the return stopping line along designated areas.

7. The petitioner states that its alternative method will achieve no less protection for its miners than that provided by the standard.

Request for Comments

Persons interested in this petition may furnish written comments on or before June 21, 1979. Comments must be filed with the Office of Standards, Regulations and Variances, Mine Safety and Health Administration, 4015 Wilson Boulevard, Arlington, Virginia 22203. Copies of the petition are available for inspection at that address.

Dated: May 11, 1979.

Eckehard Muessig,

Deputy Assistant Secretary for Mine Safety and Health.

[FR Doc. 79-15875 Filed 5-21-79; 8:45 am]

BILLING CODE 4510-43-M

[Docket No. M-79-55-C]

T & T Coal Co., Petition for Modification of Application of Mandatory Safety Standard

T & T Coal Company, Box 22A, Honaker, Virginia 24620, has filed a petition to modify the application of 30 CFR 75.305 (weekly examination for hazardous conditions), to its No. 1 Mine, located in Buchanan County, Virginia. The petition is filed under section 101(c) of the Federal Mine Safety and Health Act of 1977, Pub. L. 95–164.

The substance of the petition follows:

1. The return airway in the petitioner's mine was driven before roof bolting was required.

2. The roof has since deteriorated, making the return airway too dangerous to crawl and inspect each week.

3. For these reasons, the petitioner requests permission to use its belt entry for an escapeway and to spot check the return airway through man holes every 500 feet.

Request for Comments

Persons interested in this petition may furnish written comments on or before June 21, 1979. Comments must be filed with the Office of Standards, Regulations and Variances, Mine Safety and Health Administration, 4015 Wilson Boulevard, Arlington, Virginia 22203. Copies of the petition are available for inspection at that address.

Dated: May 14, 1979.

Eckehard Muessig,

Deputy Assistant Secretary for Mine Safety and Health.

[FR Doc. 79-15874 Filed 5-21-79; 8:45 am]

BILLING CODE 4510-43-M

Occupational Safety and Health Administration

Washington State Standards; Approval

1. *Background.* Part 1953 of Title 29, Code of Federal Regulations prescribes procedures under section 18 of the Occupational Safety and Health Act of 1970 (hereinafter called the Act) by which the Regional Administrator for Occupational Safety and Health (hereinafter called Regional Administrator) under a delegation of authority from the Assistant Secretary

Signed at Washington, D.C. this 14th day of

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of Labor for Occupational Safety and Health (hereinafter called the Assistant Secretary) (29 CFR 1953.4) will review and approve standards promulgated pursuant to a State plan which has been approved in accordance with section 18(c) of the Act and 29 CFR Part 1902. On January 26, 1973, notice was published in the **Federal Register** (38 FR 2421) of the approval of the Washington plan and the adoption of Subpart F to Part 1952 containing the decision.

The Washington plan provides for adoption of State standards which are at least as effective as comparable Federal standards promulgated under section 6 of the Act.

Section 1952.120–124 of Subpart F sets forth the State's schedule for the adoption of at least as effective State standards. By letter dated May 19, 1978 from James P. Sullivan, Assistant Director, Department of Labor and Industries, to James W. Lake, Regional Administrator, and incorporated as part of the plan, the State submitted State standards comparable to 29 CFR 1910.1001(i)(1), Asbestos Recordkeeping, as published in the **Federal Register** (36 FR 23207) dated December 7, 1971 and amended in 41 FR 11504 dated March 19, 1976. These State standards, which are contained in Chapter 296–62 WAC General Occupational Health Standard, were promulgated initially by emergency adoption of Asbestos Recordkeeping standards, as published in the **Federal Register** (42 FR 3099) dated February 1, 1977, and promulgated by permanent adoption after due notice and a public hearing held at Olympia, Washington on June 23, 1977, pursuant to RCW 34.04 and of the Open Public Meetings Act of 1971, Chapter 42.30 RCW.

2. *Decision.* Having reviewed the State submission in comparison with the Federal standards, it has been determined that the State standards are identical to the Federal standards and accordingly are hereby approved.

3. *Location of supplement for inspection and copying.* A copy of the standards supplement, along with the approved plan, may be inspected and copied during normal business hours at the following locations: Office of the Regional Administrator, Occupational Safety and Health Administration, Room 6003, Federal Office Building, 909 First Avenue, Seattle, Washington 98174; Department of Labor and Industries, General Administration Building, Olympia, Washington 98504; and the Technical Data Center, Room N2349R, 3rd and Constitution Avenue, NW., Washington, D.C. 20210.

4. *Public participation.* Under 29 CFR 1953.2(c) the Assistant Secretary may prescribe alternative procedures to expedite the review process or for other good cause which may be consistent with applicable laws. The Assistant Secretary finds that good cause exists for not publishing the supplement to the Washington plan as a proposed change and making the Regional Administrator's approval effective upon publication for the following reason:

The standards were adopted in accordance with the procedural requirements of State law which included public comment and further public participation would be unnecessary.

This decision is effective May 22, 1979.

(Sec. 18, Pub. L. 91–596, 84 Stat. 1608 (29 U.S.C. 667)).

Signed at Seattle, Wash., this 10th day of July, 1978.

James W. Lake,

Regional Administrator, Occupational Safety and Health Administration.

[FR Doc. 79–15870 Filed 5–21–79; 8:45 am]

BILLING CODE 4510–26–M

Office of the Secretary

[TA–W–3250, TA–W–1930]

American Motors Corp., Kenosha, Wisc.; Revised Certification Regarding Eligibility To Apply for Worker Adjustment Assistance

In accordance with Section 222 of the Trade Act of 1974 and in accordance with Section 223(a) of such Act, the Department of Labor issued on July 12, 1978, a Certification Regarding Eligibility to Apply for Adjustment Assistance that applied to workers and former workers producing Pacer cars in Final Assembly and Body Assembly and stampings and forgings at the Kenosha, Wisconsin plant of the American Motors Corporation.

Pursuant to that notice, workers at the Kenosha, Wisconsin, plant were certified eligible to apply for trade adjustment assistance. The Notice of Certification was published in the **Federal Register** on July 21, 1978 (43 FR 31462).

In other determinations relating to the Kenosha plant, the following groups of workers were certified as eligible to apply for adjustment assistance: workers in final and body assembly, except for Pacer cars (TA–W–999, expired on October 28, 1978 for final assembly and expired on November 17, 1978 for body assembly) and workers producing engines and axles and gears (TA–W–1930, revised to expire on June 27, 1980).

On May 4, 1979, the Department made a Revised Determination Regarding Eligibility to Apply for Worker Adjustment Assistance (TA–W–3250) which brought under the one certification all production and support workers engaged in employment related to the production of all automobiles in both Final Assembly and Body Assembly, and all production and support workers engaged in employment related to the production of stampings and forgings (44 FR 27760; May 11, 1979).

Subsequent to the publication of the Notice of Revised Certification Regarding Eligibility to Apply for Worker Adjustment Assistance, the Office of Trade Adjustment Assistance, on its own motion and in the light of additional information, reopened for a second time the investigation into the following petition of the American Motors Corporation: the Kenosha, Wisconsin plant (TA–W–3250) for the purpose of determining whether or not all workers producing engines and axles and gear, who were presently covered under TA–W–1930, should also be covered by TA–W–3250.

Corporate officials of AMC stated that AMC reduced sharply its car production capacity during 1978 and this reduction prompted most workers in each department at the Kenosha plant to exercise their union contract bumping clause so as to maintain their employment either within a particular job classification or in another capacity at the plant. The consequence of this production reduction and bumping activity was a mixing of most workers among the different production phases of all car models so that all workers are substantially employed in production importantly impacted by increased imports.

From the data in the investigation, compact cars represent 65 percent of the output from both Final and Body Assemblies. a substantial proportion of output of both engines and axles and gears is used in the production of compact cars. As a car category, U.S. imports of compact cars increased both absolutely and relative to domestic production during MY 1977 compared to MY 1976 and further increased in MY 1978. Since workers are not separately identifiable and a significant proportion of the output from these departments involves compact cars, all workers in Final and Body Assemblies at the Kenosha plant are affected by increased imports of compact cars. The original certification of workers producing stampings and forgings remains unchanged.

The additional information makes it possible to expand the original and revised certifications of TA–W–3250 to include not only all production and support workers who are engaged in employment related to the production of all cars in both Final and Body Assemblies at the Kenosha plant and all workers producing stampings and forgings, but also all workers engaged in employment related to the production of engines and axles and gears (presently covered by TA–W–1930).

Conclusion

Based on additional evidence, a review of the entire record and in accordance with the provisions of the Act, I make the following revised determinations:

All production and support workers at the Kenosha, Wisconsin plant of the American Motors Corporation engaged in employment related to the production of the Pacer car in Final Assembly and Body Assembly and in stamping and forging who became totally or partially separated from employment on or after February 9, 1977, but before June 27, 1980; and all production and support workers engaged in employment related to the production of all automobiles (except the Pacer) in Final Assembly who became totally or partially separated from employment on or after October 28, 1978, but before June 27, 1980, and in Body Assembly on or after November 17, 1978, but before June 27, 1980; and all workers engaged in employment related to the production of engines and axles and gears who became totally or partially separated from employment on or after October 1, 1978, but before June 27, 1980, are eligible to apply for adjustment assistance under Title II, Chapter 2 of the Trade Act of 1974.

Signed at Washington, D.C. this 14th day of May 1979.

Herbert N. Blackman,

Deputy Under Secretary, International Affairs.

[FR Doc. 15966 Filed 5–21–79; 8:45 am]

BILLING CODE 4510–28–M

[TA–W–5069]

Bardstown Manufactors, Bardstown, Ky.; Certification Regarding Eligibility To Apply for Worker Adjustment Assistance

In accordance with Section 223 of the Trade Act of 1974 (19 U.S.C. 2273) the Department of Labor herein presents the results of an investigation regarding certification of eligibility to apply for worker adjustment assistance.

In order to make an affirmative determination and issue a certification of eligibility to apply for adjustment assistance, each of the group eligibility requirements of Section 222 of the Act must be met.

The investigation was initiated on March 29, 1979 in response to a worker petition received on March 22, 1979 which was filed by the International Ladies' Garment Workers' Union on behalf of workers and former workers producing ladies' suits, dresses, blouses, skirts and slacks at Bardstown Manufactors, Bardstown, Kentucky, a plant of the Butte Knitting Mills Division of Jonathan Logan, Incorporated. It is concluded that all of the requirements have been met.

U.S. imports of women's, misses' and children's suits (including pant suits and jumpsuits) increased absolutely in 1978 compared to 1977.

U.S. imports of women's and misses' dresses increased absolutely and relative to domestic production from 1975 to 1976. Imports decreased absolutely and relative to domestic production from 1976 and 1977 and then increased absolutely in 1978.

U.S. imports of women's, misses' and children's blouses and shirts increased absolutely in each year from 1975 through 1978.

A Departmental survey of customers of Butte Knitting Mills revealed that several customers increased their purchases of imported ladies' suits and dresses and decreased purchases from Butte Knitting Mills in 1977 as compared to 1976 and in 1978 as compared to 1977.

Conclusion

After careful review of the facts obtained in the investigation, I conclude that increases of imports of articles like or directly competitive with ladies' suits and dresses produced at the Bardstown Manufactors, Bardstown, Kentucky plant of Butte Knitting Mills contributed importantly to the decline in sales or production and to the total or partial separation of workers of that firm. In accordance with the provisions of the Act, I make the following certification:

All workers of the Bardstown Manufactors, Bardstown, Kentucky plant of the Butte Knitting Mills Division of Jonathan Logan, Incorporated who became totally or partially separated from employment on or after March 16, 1978 are eligible to apply for adjustment assistance under Title II, Chapter 2 of the Trade Act of 1974.

Signed at Washington, D.C. this 14th day of May 1979.

James F. Taylor,

Director, Office of Management, Administration and Planning.

[FR Doc. 79–15947 Filed 5–21–79; 8:45 am]

BILLING CODE 4510–28–M

[TA–W–5,390, et al.]

Casey Manufacturing Co., et al.; Investigations Regarding Certifications of Eligibility To Apply for Worker Adjustment Assistance

Petitions have been filed with the Secretary of Labor under Section 221(a) of the Trade Act of 1974 ("the Act") and are identified in the Appendix to this notice. Upon receipt of these petitions, the Director of the Office of Trade Adjustment Assistance, Bureau of International Labor Affairs, has instituted investigations pursuant to Section 221(a) of the Act and 29 CFR 90.12.

The purpose of each of the investigations is to determine whether absolute or relative increases of imports of articles like or directly competitive with articles produced by the workers' firm or an appropriate subdivision thereof have contributed importantly to an absolute decline in sales or production, or both, of such firm or subdivision and to the actual or threatened total or partial separation of a significant number or proportion of the workers of such firm or subdivision.

Petitioners meeting these eligibility requirements will be certified as eligible to apply for adjustment assistance under Title II, Chapter 2, of the Act in accordance with the provisions of Subpart B of 29 CFR Part 90. The investigations will further relate, as appropriate, to the determination of the date on which total or partial separations began or threatened to begin and the subdivision of the firm involved.

Pursuant to 29 CFR 90.13, the petitioners or any other persons showing a substantial interest in the subject matter of the investigations may request a public hearing, provided such request is filed in writing with the Director, Office of Trade Adjustment Assistance, at the address shown below, not later than June 1, 1979.

Interested persons are invited to submit written comments regarding the subject matter of the investigations to the Director, Office of Trade Adjustment Assistance, at the address shown below, not later than June 1, 1979.

The petitions filed in this case are available for inspection at the Office of

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the Director, Office of Trade Adjustment
200 Constitution Avenue, NW.

Incorporated, McAdoo, Pennsylvania

Manufacturing Company, Incorporated,

the Director, Office of Trade Adjustment Assistance, Bureau of International Labor Affairs, U.S. Department of Labor, 200 Constitution Avenue, NW., Washington, D.C. 20210.

Signed at Washington, D.C. this 15th day of May 1979.

Marvin M. Fooks,
Director, Office of Trade Adjustment Assistance.

Appendix

Petitioner: Union/workers or former workers of—	Location	Date received	Date of petition	Petition No.	Articles produced
Casey Manufacturing Company (workers)	Casey, Ill	5/14/79	5/9/79	TA-W-5,390	Boy's and young men shoes.
Detroit Steel Products (company)	Detroit, Mich	5/14/79	4/30/79	TA-W-5,391	Multi-leaf springs.
Graceland Optical (United Optical Workers)	Belleville, N.J	4/18/79	4/12/79	TA-W-5,392	Optical frames and optical cases.
Hy-Grade Sportswear Company, Inc. (workers).	New York, N.Y	5/14/79	5/7/79	TA-W-5,393	Men's sportcoats, suits and leisure wear.
Kellwood Company, Little Rock Div., Shirt Plant (ILGWU).	Little Rock, Ark	5/14/79	5/8/79	TA-W-5,394	Ladies' shirts.
Heppenstall Co. (U.S.W.A.)	Pittsburgh, Pa	5/14/79	5/7/79	TA-W-5,395	Forging and metal cutting knife.
Kristie Minerals, Inc. (U.M.W.A.)	Richwood, W. Va	4/9/79	4/4/79	TA-W-5,396	Mining of coal.
Quaker Shoe Corp. (company)	Allentown, Pa	5/14/79	5/10/79	TA-W-5,397	Men, women, children and boy's shoes.
Smith & Boien Coal Company, Fire Creek Mine (U.M.W.A.).	Wyoming County, W. Va	5/10/79	5/14/79	TA-W-5,398	Mining of coal.
The Warner & Swasy Co., Turning Machine Division (International Assoc. of Machinists & Aerospace Workers).	Cleveland, Ohio	5/10/79	4/30/79	TA-W-5,3999	Numerical and manually turning control machines.
Webster County Coal Company (U.M.W.A.)	Buckannon, W. Va	4/9/79	4/4/79	TA-W-5,400	Contract mining of coal.
Whitesville A & S Coal Company (workers)	Beckley, W. Va	5/10/79	5/3/79	TA-W-5,401	Mining of coal.

[FR Doc. 79-15961 Filed 5-21-79; 8:45 am]
BILLING CODE 4510-28-M

[TA-W-4926, 4927]

Jane Colby Division, U.S. Industries, Inc., New York, N.Y., Clifton Forge, Va., Fairfield, Va.; Certification Regarding Eligibility To Apply for Worker Adjustment Assistance

In accordance with Section 223 of the Trade Act of 1974 (19 U.S.C. 2273) the Department of Labor herein presents the results of an investigation regarding certification of eligibility to apply for worker adjustment assistance.

In order to make an affirmative determination and issue a certification of eligibility to apply for adjustment assistance, each of the group eligibility requirements of Section 222 of the Act must be met.

The investigation was initiated on March 13, 1979 in response to a worker petition received on March 1, 1979 which was filed by the International Ladies Garment Workers Union on behalf of workers and former workers producing ladies' apparel at the Clifton Forge, Virginia (TA-W-4926) and Fairfield, Virginia (TA-W-4927) plants of the Jane Colby Division of U.S. Industries, Inc. The investigation was expanded to include Jane Colby Division headquarters, New York, New York. It is concluded that all of the requirements have been met.

U.S. imports of women's, misses' and children's slacks and shorts increased both absolutely and relative to domestic production during 1977 compared to 1976 and increased absolutely during 1978 compared to 1977.

U.S. imports of women's, misses, and children's skirts, dresses, and suits (including vests), increased absolutely in 1978 compared to 1977.

U.S. imports of women's, misses' and children's blouses and shirts increased absolutely in 1977 compared to 1976 and in 1978 compared to 1977.

The Department surveyed a sample of Jane Colby's customers. The results revealed that several customers reduced purchases from Jane Colby while increasing purchases of imported women's sportswear.

Conclusion

After careful review of the facts obtained in the investigation, I conclude that increases of imports of articles like or directly competitive with women's coordinated sportswear produced at the Clifton Forge, Virginia and Fairfield, Virginia plants of the Jane Colby Division of U.S. Industries, Inc. contributed importantly to the decline in sales or production and to the total or partial separation of workers of that firm. In accordance with the provisions of the Act, I make the following certification:

All workers of the New York, New York; Clifton Forge, Virginia; and Fairfield, Virginia facilities of the Jane Colby Division of U.S. Industries, Incorporated who became totally or partially separated from employment on or after February 22, 1978 are eligible to apply for adjustment assistance under Title II, Chapter 2 of the Trade Act of 1974.

Signed at Washington, D.C. this 11th day of May 1979.

Harry J. Gilman,
Supervisory International Economist, Office of Foreign Economic Research.

[FR Doc. 79-15953 Filed 5-21-79; 8:45 am]
BILLING CODE 4510-28-M

[TA-W-4991]

Contessa of California, Los Angeles, Calif.; Certification Regarding Eligibility To Apply for Worker Adjustment Assistance

In accordance with Section 223 of the Trade Act of 1974 (19 USC 2273) the Department of Labor herein presents the results of an investigation regarding certification of eligibility to apply for worker adjustment assistance.

In order to make an affirmative determination and issue a certification of eligibility to apply for adjustment assistance, each of the group eligibility requirements of Section 222 of the Act must be met.

The investigation was initiated on March 20, 1979 in response to a worker petition received on March 15, 1979 which was filed by the International Ladies' Garment Workers Union on behalf of workers and former workers producing ladies' blouses at Contessa of California, Los Angeles, California. It is concluded that all of the requirements have been met.

U.S. imports of women's, misses' and children's blouses and shirts increased from 1976 to 1977 and from 1977 to 1978.

Nearly all of Contessa of California's sales and production declines in recent years are the result of decreases in orders from one major customer. A Department survey revealed that this customer decreased purchases of ladies' blouses from Contessa of California and increased purchases from foreign sources from 1977 to 1978 and during the first quarter of 1979 compared to the first quarter of 1978.

Conclusion

After careful review of the facts obtained in the investigation, I conclude that increases of imports of articles like or directly competitive with ladies' blouses produced at Contessa of California, Los Angeles, California contributed importantly to the decline in sales or production and to the total or partial separation of workers of that firm. In accordance with the provisions of the Act, I make the following certification:

All workers of Contessa of California, Los Angeles, California who became totally or partially separated from employment on or after March 5, 1978 are eligible to apply for adjustment assistance under Title II, Chapter 2 of the Trade Act of 1974.

Signed at Washington, D.C. this 14th day of May 1979.

James F. Taylor,
Director, Office of Management, Administration and Planning.

[FR Doc. 79-15940 Filed 5-21-79; 8:45 am]
BILLING CODE 4510-28-M

[TA-W-4932, et al.]

Franglo, Inc., Hazleton, Pa., et al.; Certification Regarding Eligibility To Apply for Worker Adjustment Assistance

In accordance with Section 223 of the Trade Act of 1974 (19 USC 2273) the Department of Labor herein presents the results of an investigation regarding certification of eligibility to apply for worker adjustment assistance.

In order to make an affirmative determination and issue a certification of eligibility to apply for adjustment assistance, each of the group eligibility requirements of Section 222 of the Act must be met.

The investigation was initiated on March 13, 1979 in response to a worker petition received on March 5, 1979 which was filed by the Amalgamated Clothing and Textile Workers' Union on behalf of workers and former workers producing children's knitwear at Franglo, Incorporated, Hazleton, Pennsylvania (TA-W-4932), Joeville Manufacturing Company, Incorporated, Danville, Pennsylvania (TA-W-4933), and McAdoo Manufacturing Company, Incorporated, McAdoo, Pennsylvania (TA-W-4935). The investigation revealed that the three companies produce knit shirts and knit functional playwear in infants', toddlers', children's, and boys' prep sizes. It is concluded that all of the requirements have been met.

U.S. imports of men's and boys' knit sport and dress shirts, excluding T-shirts, increased absolutely in each year from 1976 through 1978.

U.S. imports of women's, misses', and children's blouses and shirts increased absolutely in each year from 1976 through 1978.

U.S. imports of men's and boys' dress and sport trousers and shorts increased absolutely from 1976 to 1977, and increased absolutely and relative to domestic production from 1977 to 1978. U.S. imports of men's and boys' outer coats and jackets increased absolutely and relative to domestic production from 1976 to 1977, but decreased absolutely from 1977 to 1978.

U.S. imports of women's, misses' and children's slacks and shorts increased absolutely and relative to domestic production from 1976 to 1977, and increased absolutely from 1977 to 1978. U.S. imports of women's, misses', and children's coats and jackets increased absolutely and relative to domestic production from 1976 to 1977, and increased absolutely from 1977 to 1978.

A Departmental survey was conducted of major customers of Pilgrim Sportswear, Incorporated. The survey revealed that several of these customers increased imports of knit shirts and knit functional playwear—in infants', toddlers', children's, and boys' prep sizes—and decreased their purchases of the same from Pilgrim from 1977 to 1978, and in January–February 1979 versus January–February 1978.

Conclusion

After careful review of the facts obtained in the investigation, I conclude that increases of imports of articles like or directly competitive with knit shirts and knit functional playwear in infants', toddlers', children's and boys' prep sizes produced at Franglo, Incorporated in Hazleton, Pennsylvania; Joeville Manufacturing Company, Incorporated in Danville, Pennsylvania; and McAdoo Manufacturing Company, Incorporated in McAdoo, Pennsylvania contributed importantly to the decline in sales or production and to the total or partial separation of workers of those firms. In accordance with the provisions of the Act, I make the following certification:

All workers of Franglo, Incorporated, Hazleton, Pennsylvania; Joeville Manufacturing Company, Incorporated, Danville, Pennsylvania; and McAdoo Manufacturing Company, Incorporated, McAdoo, Pennsylvania who became totally or partially separated from employment on or after March 1, 1978 are eligible to apply for adjustment assistance under Title II, Chapter 2 of the Trade Act of 1974.

Signed at Washington, D.C. this 11th day of May 1979.

James F. Taylor,
Director, Office of Management, Administration and Planning.

[FR Doc. 79-15949 Filed 5-21-79; 8:45 am]
BILLING CODE 4510-28-M

[TA-W-4952 and 4953]

Gary Lee Co. Inc.; Negative Determination Regarding Eligibility To Apply for Worker Adjustment Assistance

In accordance with Section 223 of the Trade Act of 1974 (19 USC 2273) the Department of Labor herein presents the results of an investigation regarding certification of eligibility to apply for worker adjustment assistance.

In order to make an affirmative determination and issue a certification of eligibility to apply for adjustment assistance each of the group eligibility requirements of Section 222 of the Act must be met. In the following determination, at least one of the criteria has not been met.

The investigation was initiated on March 15, 1979 in response to a worker petition received on March 12, 1979 which was filed on behalf of workers and former workers producing ladies' blouses at both the Phillipsburg and Alpha, New Jersey plants of Gary Lee Company, Incorporated. Without regard to whether any of the other criteria have been met, the following criterion has not been met:

That sales or production, or both, of the firm or subdivision have decreased absolutely.

Sales of ladies' blouses, produced at the Phillipsburg and Alpha plants of Gary Lee Company, Incorporated, increased in both quantity and value in the year of 1978 compared to 1977 and also increased in each of the last three quarters of 1978 when compared to the same quarters of 1977. Sales continued to increase in the first quarter of 1979 compared to the same period in 1978. Since Gary Lee Company, Incorporated

is a contractor, sales and production are

that increases of imports of articles like

threat thereof, and to the absolute decline in

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is a contractor, sales and production are equal.

Conclusion

After careful review , I determine that all workers at the Phillipsburg and Alpha, New Jersey plants of Gary Lee Company, Incorporated are denied eligibility to apply for adjustment assistance under Title II, Chapter 2 of the Trade Act of 1974.

Signed at Washington, D.C. this 11th day of May 1979.

Harry J. Gilman,

Supervisory International Economist, Office Foreign Economic Research.

[FR Doc. 79-15964 Filed 5-21-79; 8:45 am]

BILLING CODE 4510-28-M

[TA-W-5251]

Gay Coat Co., Inc., Union City, N.J.; Certification Regarding Eligibility To Apply for Worker Adjustment Assistance

In accordance with Section 223 of the Trade Act of 1974 (19 U.S.C. 2273) the Department of Labor herein presents the results of an investigation regarding certification of eligibility to apply for worker adjustment assistance.

In order to make an affirmative determination and issue a certification of eligibility to apply for adjustment assistance, each of the group eligibility requirements of Section 222 of the Act must be met.

The investigation was initiated on April 18, 1979, in response to a worker petition received on April 16, 1979, which was filed on behalf of workers and former workers producing ladies' coats, jackets and vests at Gay Coat Company, Incorporated, Union City, New Jersey. The investigation revealed that the plant primarily produces ladies' coats and raincoats. It is concluded that all of the requirements have been met.

U.S. imports of women's, misses' and children's coats and jackets increased absolutely from 1976 to 1977 to 1978. The ratio of imports to domestic production increased in 1977 compared to 1976.

U.S. imports of women's, girls' and infants' raincoats increased absolutely from 1977 to 1978.

Manufacturers for whom Gay Coat Company, Incorporated worked indicated in a Department survey that they increased purchases of imported coats in 1978 compared to 1977 while decreasing the number of coats they purchased from Gay Coat.

Conclusion

After careful review of the facts obtained in the investigation, I conclude that increases of imports of articles like or directly competitive with the ladies' coats and raincoats produced at Gay Coat Company, Incorporated, Union City, New Jersey contributed importantly to the decline in sales or production and to the total or partial separation of workers of that firm. In accordance with the provisions of the Act, I make the following certification:

All workers of Gay Coat Company, Incorporated, Union City, New Jersey, who became totally or partially separated from employment on or after April 13, 1978, are eligible to apply for adjustment assistance under Title II, Chapter 2 of the Trade Act of 1974.

Signed at Washington, D.C. this 14th day of May 1979.

James F. Taylor,

Director, Office of Management Administration and Planning.

[FR Doc. 79-15963 Filed 5-21-79; 8:45 am]

BILLING CODE 4510-28-M

[TA-W-4954]

Gillette Industries, Inc., T/A La Crosse Garment Manufacturing Co., La Crosse, Wis.; Determination Regarding Eligibility To Apply for Worker Adjustment Assistance

In accordance with Section 223 of the Trade Act of 1974 (19 USC 2273) the Department of Labor herein presents the results of investigations regarding certifications of eligibility to apply for worker adjustment assistance.

In order to make an affirmative determination and issue a certification of eligibility to apply for adjustment assistance each of the group eligibility requirements of Section 222 of the Act must be met.

The investigation was initiated on March 15, 1979 in response to a worker petition received on March 12, 1979 which was filed by the International Ladies' Garment Workers Union on behalf of workers and former workers producing jackets, vests, and sleeping bags at Gillette Industries, Incorporated (doing business as La Crosse Garment Manufacturing Company), La Crosse, Wisconsin.

In the following determinations, at least one of the criteria has not been met with respect to workers engaged in the production of sleeping bags. For all other products enumerated below, all of the criteria have been met.

Sleeping Bags

That increases of imports of articles like or directly competitive with articles produced by the firm or appropriate subdivision have contributed importantly to the separations, or threat thereof, and to the absolute decline in sales or production.

Workers engaged in the production of sleeping bags operate under contracts awarded by defense procurement agencies. These contracts are governed by restrictions of the Buy American Act and are not subject to foreign competition.

Jackets and Vests

U.S. imports of feather products, including down filled jackets and vests, increased annually from 1976 through 1978.

A customer survey conducted by the U.S. Department of Commerce revealed a major customer who reduced purchases from the subject firm while increasing purchases of imported jackets and vests.

Conclusion

After careful review of the facts obtained in the investigation, I conclude that increases of imports of articles like or directly competitive with the jackets and vests (commercial line) produced at Gillette Industries, Incorporated, La Crosse, Wisconsin contributed importantly to the decline in sales or production and to the total or partial separation of workers of that firm. In accordance with with the provisions of the Act, I make the following certification:

All workers of Gillette Industries, Incorporated, La Crosse, Wisconsin engaged in employment related to the production of jackets and vests (commercial line) who became totally or partially separated from employment on or after March 5, 1978 are eligible to apply for adjustment assistance under Title II, Chapter 2 of the Trade act of 1974.

Signed at Washington, D.C. this 11th day of May 1979.

Harry J. Gilman,

Supervisory International Economist, Office of Foreign Economic Research.

[FR Doc. 79-15948 Filed 5-21-79; 8:46 a.m.]

BILLING CODE 4510-28-M

[TA-W-5252, 5253, 5254, 5255]

Gould Mines, Inc., Greenbrier County, W. Va.; Gram No. 1 Surface Mine, Surface Mine No. 6, Gould No. 1 Surface Mine, Viking No. 5 Surface Mine; Negative Determination Regarding Eligibility To Apply for Worker Adjustment Assistance

In accordance with Section 223 of the Trade Act of 1974 (19 USC 2273) the Department of Labor herein presents the results of an investigation regarding

certification of eligibility to apply for worker adjustment assistance.

In order to make an affirmative determination and issue a certification of eligibility to apply for adjustment assistance each of the group eligibility requirements of Section 222 of the Act must be met.

The investigation was initiated on April 18, 1979 in response to a worker petition received on April 16, 1979 which was filed by the United Mine Workers of America on behalf of workers and former workers producing metallurgical coal at the Gram #1 Surface Mine (TA-W-5252), Surface Mine #6 (TA-W-5253), Gould #1 Surface Mine (TA-W-5254), and Viking #5 Surface Mine (TA-W-5255) of Gould Mines, Incorporated, Greenbrier Country, West Virginia. Without regard to whether any of the other criteria have been met, the following criterion has not been met:

That increases of imports of articles like or directly competitive with articles produced by the firm or appropriate subdivision have contributed importantly to the separations, or threat thereof, and to the absolute decline in sales or production.

All four mines of Gould Mines, Incorporated produce metallurgical-grade coal, a small proportion of which is sold as steam coal. U.S. imports of steam coal are negligible. Virtually all metallurgical coal mined by Gould Mines, Incorporated since 1977 was sold on the export market. Consequently, increased imports of metallurgical coal or coke could not have affected sales and production levels at Gould Mines, Incorporated.

Conclusion

After careful review, I determine that all workers of Gram #1 Surface Mine, Surface Mine #6, Gould Mine #1 Surface Mine, and Viking #5 Surface Mine of Gould Mines, Incorporated, Greenbrier County, West Virginia are denied eligibility to apply for adjustment assistance under Title II, Chapter 2 of the Trade Act of 1974.

Signed at Washington, D.C. this 14th day of May 1979.

James F. Taylor,

Director, Office of Manogement Administration and Planning.

[FR Doc. 79-15964 Filed 5-21-79; 8:45 am]

BILLING CODE 4510-28-M

[TA-W-5257 and 5257A]

Hallowell Shoe Co., Augusta, Maine, Lewiston, Maine; Certification Regarding Eligibility To Apply for Worker Adjustment Assistance

In accordance with Section 223 of the Trade Act of 1974 (19 U.S.C. 2273) the Department of Labor herein presents the results of an investigation regarding certification of eligibility to apply for worker adjustment assistance.

In order to make an affirmative determination and issue a certification of elibility to apply for adjustment assistance, each of the group eligibility requirements of Section 222 of the Act must be met.

The investigation was initiated on April 18, 1979 in response to a worker petition received on April 10, 1979 which was filed on behalf of workers and former workers producing women's boots and shoes at Hallowell Shoe Company, Augusta, Maine. The investigation revealed that Hallowell Shoe Company also operates a stitching plant in Lewiston, Maine. It is concluded that all of the requirements have been met.

U.S. imports of women's and misses' nonrubber footwear increased from 204.4 million pairs in 1977 to 225.9 million pairs in 1978. The ratio of imports to domestic production increased from 134.6 percent in 1977 to 145.0 percent in 1978.

A Departmental survey of a sample of customers purchasing shoes and boots produced by Hallowell revealed that most are increasing purchases of imported ladies' footwear while decreasing purchases of shoes and boots produced by Hallowell Shoe.

Conclusion

After careful review of the facts obtained in the investigation, I conclude that increases of imports of articles like or directly competitive with women's boots and shoes produced at the Augusta, Maine and Lewiston, Maine plants of Hallowell Shoe Company contributed importantly to the decline in sales or production and to the total or partial separation of workers of that firm. In accordance with the provisions of the Act, I make the following certification:

All workers of the Augusta, Maine and Lewiston, Maine plants of Hallowell Shoe Company who became totally or partially separated from employment on or after October 7, 1978 are eligible to apply for adjustment assistance under Title II, Chapter 2 of the Trade Act of 1974.

Signed at Washington, D.C. this 14th day of May 1979.

James F. Taylor,

Director, Office of Management Administration and Planning.

[FR Doc. 79-15962 Filed 5-21-79; 8:45 am]

BILLING CODE 4510-28-M

[TA-W-5200]

Mr. Henry, Inc., New York, N.Y.; Certification Regarding Eligibility to Apply for Worker Adjustment Assistance

In accordance with Section 223 of the Trade Act of 1974 (19 USC 2273) the Department of Labor herein presents the results of an investigation regarding certification of eligibility to apply for worker adjustment assistance.

In order to make an affirmative determination and issue a certification of eligibility to apply for adjustment assistance, each of the group eligibility requirements of Section 222 of the Act must be met.

The investigation was initiated on April 10, 1979 in response to a worker petition received on April 3, 1979 which was filed by the Amalgamated Clothing and Textile Workers Union on behalf of workers and former workers producing men's sport shirts at Mr. Henry, Incorporated in New York, New York. It is concluded that all of the requirements have been met.

U.S. imports of men's and boys' woven sport shirts increased absolutely and relative to domestic production from 1975 to 1976. Imports increased relative to domestic production from 1976 to 1977 and increased absolutely from 1977 to 1978.

U.S. imports of men's and boys' knit sport shirts increased absolutely in each year from 1975 through 1978.

Mr. Henry, Incorporated was an apparel manufacturer that purchased materials for the production of men's sport shirts by contractors and inspected the contract work. Mr. Henry, Incorporated substantially increased its company imports of men's sport shirts on an absolute basis and as a proportion of total sales in 1977 as compared to 1976 and in the first nine months of 1978 as compared to the same period of 1977.

Mr. Henry, Incorporated went out of business in December, 1978.

Conclusion

After careful review of the facts obtained in the investigation, I conclude that increases of imports of articles like or directly competitive with men's sport shirts produced at Mr. Henry,

Los Angeles, California (TA-W-5229A).

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Incorporated, New York, New York contributed importantly to the decline in sales or production and to the total or partial separation of workers of that firm. In accordance with the provisions of the Act, I make the following certification:

All workers of Mr. Henry, Incorporated, New York, New York who became totally or partially separated from employment on or after March 14, 1978 and before December 22, 1978 are eligible to apply for adjustment assistance under Title II, Chapter 2 of the Trade Act of 1974.

Signed at Washington, D.C. this 14th day of May 1979.

James F. Taylor,

Director, Office of Management, Administration and Planning.

[FR Doc. 79-15956 Filed 5-21-79; 8:45 am]

BILLING CODE 4510-28-M

[TA-W-4816]

Jones & Laughlin Steel Corp.; Negative Determination Regarding Eligibility To Apply for Worker Adjustment Assistance

In accordance with Section 223 of the Trade Act of 1974 (19 USC 2273) the Department of Labor herein presents the results of an investigation regarding certification of eligibility to apply for worker adjustment assistance.

In order to make an affirmative determination and issue a certification of eligibility to apply for adjustment assistance each of the group eligibility requirements of Section 222 of the Act must be met. In the following determination, at least one of the criteria has not been met.

The investigation was initiated on February 15, 1979 in response to a worker petition received on February 9, 1979 which was filed by the United Steelworkers of America on behalf of workers and former workers producing tin mill products, hot and cold rolled sheet, electrolytic tin plate, carbon steel wire and rods at Jones & Laughlin Steel Corporation, Aliquippa, Pennsylvania. Without regard to whether any of the other criteria have been met, the following criterion has not been met:

That increases of imports of articles like or directly competitive with articles produced by the firm or appropriate subdivision have contributed importantly to the separations, or threat thereof, and to the absolute decline in sales or production.

Evidenced developed in the course of the investigation revealed that the aggregate workforce at the Aliquippa Works increased from 1977 to 1978 and continued to increase during the first quarter of 1979 compared to the first quarter of 1978.

Layoffs which occurred during 1978 and were not the result of seasonal vacation shutdowns or the coal strike, occurred in the tin mill department. Aggregate imports of tin mill products, however, decreased both absolutely and relative to domestic production and consumption from 1977 to 1978.

Conclusion

After careful review, I determine that all workers of the Aliquippa Works of Jones & Laughlin Steel Corporation, Aliquippa, Pennsylvania enagaged in employment related to the production of hot rolled carbon steel bars and shapes, hot and cold rolled carbon steel sheet, carbon steel wire, carbon steel rods and tin mill products are denied eligibility to apply for adjustment assistance under Title II, Chapter 2 of the Trade Act of 1974.

Signed at Washington, D.C. this 11th day of May 1979.

James F. Taylor,

Director, Office of Monogement Administration and Planning.

[FR Doc. 79-15955 Filed 5-21-79; 8:45 am]

BILLING CODE 4510-28-M

[TA-W-5177]

Kitchekan Fuel Corp., Pocahontas Auger Mine #4, Matoaka, W. Va.; Termination of Investigation

Pursuant to Section 221 of the Trade Act of 1974 (19 U.S.C. 2273), an investigation was initiated on April 6, 1979 in response to a worker petition received on April 2, 1979 which was filed by the United Mine Workers of America on behalf of workers mining coal at the Pocahontas Auger Mine #4, Kitchekan Fuel Corporation, Matoaka, West Virginia.

During the course of the investigation, it was established that all workers of the Pocahontas Auger Mine #4, Kitchekan Fuel Corporation, Matoaka, West Virginia were separated from employment by February 9, 1977. Section 223(b) of the Trade Act of 1974 states that no certification under this section may apply to any worker whose last total or partial separation from the firm or appropriate subdivision of the firm occurred more than one year prior to the date of the petition.

The date of the petition in this case is March 27, 1979 and, thus, workers terminated prior to March 27, 1978 are not eligible for program benefits under Title II, Chapter 2, Subchapter D of the Trade Act of 1974. The investigation is therefore terminated.

Signed at Washington, D.C., this 15th day of May 1979.

Marvin M. Fooks,

Director, Office of Trade Adjustment Assistance.

[FR Doc. 79-15957 Filed 5-21-79; 8:45 am]

BILLING CODE 4510-28-M

[TA-W-4918]

Lebow Brothers, Inc.; Negative Determination Regarding Eligibility To Apply for Worker Adjustment Assistance

In accordance with Section 223 of the Trade Act of 1974 (19 USC 2273) the Department of Labor herein presents the results of an investigation regarding certification of eligibility to apply for worker adjustment assistance.

In order to make an affirmative determination and issue a certification of eligibility to apply for adjustment assistance each of the group eligibility requirements of Section 222 of the Act must be met. In the following determination, at least one of the criteria has not been met.

The investigation was initiated on March 12, 1979 in response to a worker petition received on March 5, 1979 which was filed by the Amalgamated Clothing and Textile Workers' Union on behalf of workers and former workers producing men's suits and sportcoats at Lebow Brothers, Inc., Baltimore, Maryland. The investigation revealed that the subject firm also produces men's tailored slacks. In the following determination at least one of the criteria has not been met:

That increases of imports of articles like or directly competitive with articles produced by the firm or appropriate subdivision have contributed importantly to the separations, or threat thereof, and to the absolute decline in sales or production.

The Department conducted a survey of some customers of Lebow Brothers. The survey indicated that customers which decreased purchases from Lebow Brothers and increased purchases of imported suits, sportcoats and slacks represented an insignificant proportion of the firm's decline in sales.

Conclusion

After careful review, I determine that all workers of Lebow Brothers, Inc., Baltimore, Maryland are denied eligibility to apply for adjustment assistance under Title II, Chapter 2 of the Trade Act of 1974.

Signed at Washington, D.C. this 11th day of May 1979.

Michael Aho,

Director, Office of Foreign Economic Research.

[FR Doc. 79-15956 Filed 5-21-79; 8:45 am]

BILLING CODE 4510-28-M

[TA-W-4738]

Melmar Fashions, Inc. Asbury Park, N.J.; Negative Determination Regarding Application for Reconsideration

By letter of April 3, 1979, the petitioning union requested administrative reconsideration of the Department of Labor's Negative Determination Regarding Eligibiliy to Apply for Worker Adjustment Assistance in the case of workers and former workers of the Melmar Fashions, Inc., Asbury Park, New Jersey. The determination was published in the Federal Register on March 27, 1979, (44 FR 18303).

Pursuant to 29 CFR 90.8(c), reconsideration may be granted under following circumstances:

(1) If it appears on the basis of facts not previously considered that the determination complained of was erroneous;

(2) If it appears that the determination complained of was based on a mistake in the determination of facts previously considered; or

(3) If, in the opinion of the Certifying Officer, a misinterpretation of facts or of the law justifies reconsideration of the decision.

The petitioning union claims that the shutdown which occurred in October 1978 and continued to April 1979 is the result of imports which hurt their spring season production of women's coats which usually begins in December of the previous year.

The Department's review revealed that production of women's coats at Melmar, a contractor, increased in 1978 compared to 1977 thereby preventing the worker group from meeting the decreased production and sales criterion in the Trade Act of 1974 necessary for a worker group certification.

Available evidence does not support the petitioning union's claim that imports contributed importantly to the October 1978 shutdown but rather to the contrary that the shutdown reflected the normal seasonal pattern in the women's coat industry. In 1978, production in the women's coat industry reached its lowest monthly level in February and its highest monthly level in August. Workers at Melmar in 1977 were laid off in the latter half of November and did not report back to work in 1978 until mid-March and employment did not reach its full complement in 1978 until mid-April. Melmar set up business in January 1977. There was no production of women's coats at Melmar in the months of January or February 1977, 1978, or 1979. Women's coat production and average employment were significantly higher in 1978 than in 1977. The one manufacturer which provides nearly all of the orders for Melmar's production began to provide new orders for Melmar to fill in April 1979.

Conclusion

After review of the application and the investigative file, I conclude that there has been no error or misinterpretation of facts misinterpretation of the law which would justify reconsideration of the Department of Labor's prior decision. The application is, therefore, denied.

Signed at Washington, D.C. this 14th day of May 1979.

James F. Taylor,

Director, Office of Management, Administration and Planning.

[FR Doc. 79-15985 Filed 5-21-79; 8:45 am]

BILLING CODE 4510-28-M

[TA-W-5229, TA-W-5229A]

Middletown Leather Co., Hackettstown, N.J.; Welmann Leather Co., Los Angeles, Calif.; Certification Regarding Eligibility to Apply for Worker Adjustment Assistance

In accordance with Section 223 of the Trade Act of 1974 (19 USC 2273) the Department of Labor herein presents the results of an investigation regarding certification of eligibility to apply for worker adjustment assistance.

In order to make an affirmative determination and issue a certification of eligibility to apply for adjustment assistance, each of the group eligibility requirements of Section 222 of the Act must be met.

The investigation was initiated on April 12, 1979 in response to a worker petition received on April 10, 1979 which was filed on behalf of workers and former workers producing finished leather at Middletown Leather Company, Hackettstown, New Jersey (TA-W-5229). The investigation was expanded to include a wholly-owned affiliate—Weimann Leather Company, Los Angeles, California (TA-W-5229A). It is concluded that all of the requirements have been met.

Imports of tanned and finished cattlehides increased absolutely and relative to domestic production in 1978 compared to 1977.

Several customers of Middletown Leather who were surveyed by the U.S. Department of Commerce increased purchases of imports and decreased purchases from Middletown Leather in 1978 compared to 1977.

Conclusion

After careful review of the facts obtained in the investigation, I conclude that increases of imports of articles like or directly competitive with finished leather produced at Middletown Leather Company, Hackettstown, New Jersey and Weimann Leather Company, Los Angeles, California contributed importantly to the decline in sales or production and to the total or partial separation of workers of those firms. In accordance with the provisions of the Act, I make the following certification:

All workers of Middletown Leather Company, Hackettstown, New Jersey and Weimann Leather Company, Los Angeles, California who became totally or partially separated from employment on or after April 2, 1978 are eligible to apply for adjustment assistance under Title II, Chapter 2 of the Trade Act of 1974.

Signed at Washington, D.C. this 11th day of May 1979.

Harry J. Gilman,

Supervisory International Economist, Office of Foreign Economic Research.

[FR Doc. 79-15957 Filed 5-21-79; 8:45 am]

BILLING CODE 4510-28-M

[TA-W-5276]

National Footwear Corp., Epping, N.H.; Termination of Investigation

Pursuant to Section 221 of the Trade Act of 1974, an investigation was initiated on April 23, 1979 in response to a worker petition received on April 16, 1979 on behalf of workers and former workers engaged in the production of women's and children's shoes at National Footwear Corporation, Epping, New Hampshire.

The petitioning group of workers in this case was included in determination (TA-W-1978) issued on July 14, 1977 which certified as eligible to apply for adjustment assistance all workers engaged in the production of women's and children's shoes. Since all workers separated, totally or partially, from National Footwear Corporation, Epping, New Hampshire on or after January 1,

1977 (impact date) and before July 14, 1979 (expiration date of certification) are covered by an existing determination, a new investigation would serve no purpose. Consequently the investigation has been terminated.

Signed at Washington, D.C. this 10th day of May 1979.

Marvin M. Fooks,

Director, Office of Trade Adjustment Assistance.

[FR Doc. 79-15951 Filed 5-21-79; 8:45 am]

BILLING CODE 4510-28-M

[TA-W-4957]

New-Tronics Corp., Brook Park, Ohio; Negative Determination Regarding Eligibility To Apply for Worker Adjustment Assistance

In accordance with Section 223 of the Trade Act of 1974 (19 USC 2273) the Department of Labor herein presents the results of an investigation regarding certification of eligibility to apply for worker adjustment assistance.

In order to make an affirmative determination and issue a certification of eligibility to apply for adjustment assistance each of the group eligibility requirements of Section 222 of the Act must be met.

The investigation was initiated on March 15, 1979 in response to a worker petition received on March 12, 1979 which was filed by the United Automobile, Aerospace, and Agricultural Implement Workers of America on behalf of workers and former workers producing communication antennas at the New-Tronics Corporation, Brook Park, Ohio. In the following determination, at least one of the criteria has not been met:

That increases of imports of articles like or directly competitive with articles produced by the firm or appropriate subdivision have contributed importantly to the separations, or threat thereof, and to the absolute decline in sales or production.

Evidence developed in the course of the investigation indicated that most customers of the subject firm who were surveyed reduced purchases from New-Tronics because of a general decline in the market for CB equipment. U.S. imports of CB antennas declined significantly in 1978 compared to 1977.

Conclusion

After careful review, I determine that all workers of the New-Tronics Corporation, Brook Park, Ohio are denied eligibility to apply for adjustment assistance under Title II, Chapter 2 of the Trade Act of 1974.

Signed at Washington, D.C. this 14th day of May 1979.

James F. Taylor,

Director, Office of Management Administration and Planning.

[FR Doc. 79-15959 Filed 5-21-79; 8:45 am]

BILLING CODE 4510-28-M

[TA-W-5032 and 5033]

Rockwell International Corp.; Certifications Regarding Eligibility To Apply for Worker Adjustment Assistance

In accordance with Section 223 of the Trade Act of 1974 (19 U.S.C. 2273) the Department of Labor herein presents the results of an investigation regarding certification of eligibility to apply for worker adjustment assistance.

In order to make an affirmative determination and issue a certification of eligibility to apply for adjustment assistance, each of the group eligibility requirements of Section 222 of the Act must be met.

The investigations were initiated on March 23, 1979, in response to worker petitions received on March 21, 1979, which were filed on behalf of workers and former workers producing monochrome and color televisions at the Harvard, Illinois plant and the Chicago, Illinois Engineering Department of the Admiral Group, Rockwell International Corporation. It is concluded that all of the requirements have been met. In each of the following cases, it is concluded that all of the requirements have been met.

U.S. imports of color and monochrome televisions increased in 1978 compared with 1977.

Major customers of both the color and monochrome televisions produced domestically by Rockwell's Admiral Group indicated that they increased purchases of imported televisions and decreased purchases from Admiral during the period from 1975 through 1978.

Conclusion

After careful review of the facts obtained in the investigation, I conclude that increases of imports of articles like or directly competitive with the color and monochrome televisions produced at the Harvard, Illinois plant and the Chicago, Illinois engineering Department of the Admiral Group, Rockwell International Corporation contributed importantly to the decline in sales or production and to the total or partial separation of workers of those facilities. In accordance with the provisions of the Act, I make the following certification:

All workers of the Harvard, Illinois plant and the Chicago, Illinois Engineering Department of the Admiral Group, Rockwell International Corporation, who became totally or partially separated from employment on or after May 16, 1979, are eligible to apply for adjustment assistance under Title II, Chapter 2 of the Trade Act of 1974.

Signed at Washington, D.C. this 11th day of May 1979.

Harry J. Gilman,

Supervisory International Economist, Office of Foreign Economic Research.

[FR Doc. 79-15960 Filed 5-21-79; 8:45 am]

BILLING CODE 4510-28-M

[TA-W-5188]

Standard Pocahontas Coal Corp., Raleigh County, W. Va.; Termination of Investigation

Pursuant to Section 221 of the Trade Act of 1974, an investigation was initiated on April 6, 1979, in response to a worker petition received on April 2, 1979, which was filed by the United Mine Workers of America on behalf of workers and former workers mining coal at the Standard Pocahontas Coal Corporation, Raleigh County, West Virginia.

Due to the short term of operation of Standard Pocahontas Coal Corporation, there is not sufficient information in this case upon which to base a determination. In addition, worker qualifying requirements in Section 231 of the Act may not be met by any employee of Standard Pocahontas Coal Corporation. Consequently, the investigation has been terminated.

Signed at Washington, D.C. this 11th day of May 1979.

Marvin M. Fooks,

Director, Office of Trade Adjustment Assistance.

[FR Doc. 79-15950 Filed 5-21-79; 8:45 am]

BILLING CODE 4510-28-M

[TA-W-4988]

Venus of California, Los Angeles, Calif., Negative Determination Regarding Eligibility To Apply for Worker Adjustment Assistance

In accordance with Section 223 of the Trade Act of 1974 (19 U.S.C. 2273) the Department of Labor herein presents the results of an investigation regarding

certification of eligibility to apply for worker adjustment assistance.

In order to make an affirmative determination and issue a certification of eligibility to apply for adjustment assistance, each of the group eligibility requirements of Section 222 of the Act must be met.

The investigation was initiated on March 19, 1979, in response to a worker petition received on March 15, 1979, which was filed by the International Ladies' Garment Workers Union on behalf of workers and former workers producing ladies' sportswear at Venus of California, Los Angeles, California. The investigation revealed that the plant produces ladies' dresses. In the following determination, at least one of the criteria has not been met:

That increases of imports of articles like or directly competitive with articles produced by the firm or appropriate subdivision have contributed importantly to the separations, or threat thereof, and to the absolute decline in sales or production.

The sole manufacturer with whom Venus of California contracts, reported increased sales of ladies' dresses in 1978 compared to 1977 and in the first quarter of 1979 compared to the same period of 1978. This manufacturer does not import ladies' dresses nor does it contract overseas for the manufacture of ladies' dresses.

Sales of Venus of California increased in 1978 compared to 1977.

Conclusion

After careful review, I determine that all workers of Venus of California, Los Angeles, California are denied eligibility to apply for adjustment assistance under Title II, Chapter 2 of the Trade Act of 1974.

Signed at Washington, D.C. this 14th day of May 1979.

James F. Taylor,

Director, Office of Management Administration and Planning.

[FR Doc. 79-15945 Filed 5-21-79; 8:45 am]

BILLING CODE 4510-28-M

[TA-W-5189 and 5190]

War Eagle Coals, Inc., Raleigh County, W. Va., Wyoming County, W. Va., Termination of Investigations

Pursuant to Section 223 of the Trade Act of 1974, investigations were initiated on April 6, 1979, in response to a worker petition received on April 2, 1979, which was filed by the United Mine Workers of America on behalf of workers and former workers mining coal at the Cove Mine (TA-W-5189) and the F Mine (TA-W-5190) of War Eagle Coals, Incorporated, Wyoming County, West Virginia. The investigation revealed that the Cove Mine is actually called the Cove Creek Mine. The investigation also revealed that the Cove Creek Mine is in Raleigh County, West Virginia and the F Mine is in Wyoming County, West Virginia.

War Eagle Coals, Incorporated had been in operation for less than six months at the time of the investigation. Due to the short term of operation of War Eagle Coals, Incorporated, it is not possible to determine trends of sales and production and to statistically measure the impact of imports. In addition, worker qualifying requirements in Section 231 of the Act may not be met by any employees of War Eagle Coals, Incorporated. Consequently the investigation has been terminated.

Signed at Washington, D.C. this 10th day of May 1979.

Marvin M. Fooks,

Director, Office of Trade Adjustment Assistance.

[FR Doc. 79-15952 Filed 5-21-79; 8:45 am]

BILLING CODE 4510-28-M

Pension and Welfare Benefit Programs

[Prohibited Transaction Exemption No. 79-15]

Class Exemption for Certain Transactions Authorized or Required by Judicial Order or Judicially Approved Settlement Decree

Correction

In FR Doc. 79-14288 appearing on page 26979 in the issue of Tuesday, May 8, 1979, insert "Prohibited Transaction Exemption No. 79-15" below the signature.

BILLING CODE 1505-01-M

Office of Pension and Welfare Benefit Programs

[Prohibited Transaction Exemption 79-22]

Employee Benefit Plans; Exemption From the Prohibitions for Certain Transactions Involving The Times News Printing Co., Inc. Profit Sharing Plan (Application No. D-895)

AGENCY: Department of Labor.

ACTION: Grant of individual exemption.

SUMMARY: This exemption allows the sale by The Times News Printing Co., Inc. Profit Sharing Plan (the Plan) of its interest in the Atlantic Heights Syndicate to The Times News Printing Co., Inc. (the Company) and a loan of $8,560 by the Company to the Plan.

FOR FURTHER INFORMATION CONTACT: Ivan Strasfeld of the Office of Fiduciary Standards, Pension and Welfare Benefit Programs, Room C-4526, U.S. Department of Labor, 200 Constitution Avenue NW., Washington, D.C. 20216, (202) 523-7352. (This is not a toll-free number.)

SUPPLEMENTARY INFORMATION: On march 23, 1979 notice was published in the **Federal Register** (44 FR 17812) of the pendency before the Department of Labor (the Department) of a proposal to grant an exemption from the restrictions of section 406(a)(1) and 406(b)(1) and (b)(2) of the Employee Retirement Income Security Act of 1974 (the Act) and from the taxes imposed by section 4975 (a) and (b) of the Internal Revenue Code of 1954 (the Code) by reason of section 4975(c)(1)(A) through (E) of the Code, for transactions described in an application filed by the Company and the Plan. The notice set forth a summary of facts and representations contained in the application for exemption and referred interested persons to the application for a complete statement of the facts and representations. The application has been available for public inspection at the Department in Washington, D.C. The notice also invited interested persons to submit comments on the requested exemption to the Department. In addition, the notice stated that any interested person might submit a written request that a public hearing be held relating to this exemption. No public comments and no requests for a hearing were received by the Department.

This application was filed with both the Department and the Internal Revenue Service. However, the notice of pendency was issued and the exemption is being granted, solely by the Department because, effective December 31, 1978, section 102 of Reorganization Plan No. 4 of 1978 (43 FR 47713, October 17, 1978) transferred the authority of the Secretary of the Treasury to issue exemptions of the type proposed to the Secretary of Labor.

General Information

The attention of interested persons is directed to the following:

(1) The fact that a transaction is the subject of an exemption granted under section 408(a) of the Act and section 4975(c)(2) of the Code does not relieve a fiduciary or other party in interest or disqualified person with respect to a plan to which the exemption is applicable from certain other provisions

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of the Act and the Code. These provisions include any prohibited transactions provisions to which the exemption does not apply and the general fiduciary responsibility provisions of section 404 of the Act, which among other things require a fiduciary to discharge his or her duties respecting the plan solely in the interest of the participants and beneficiaries of the plan and in a prudent fashion in accordance with section 404(a)(1)(B) of the Act; nor does the fact that the transaction is the subject of an exemption affect the requirement of section 401(a) of the Code that a plan must operate for the exclusive benefit of the employees of the employer maintaining the plan and their beneficiaries.

(2) This exemption does not intend to transactions prohibited under section 406(b)(3) of the Act and section 4975(c)(1)(F) of the Code.

(3) This exemption is supplemental to, and not in derogation of, any other provisions of the Act and the Code, including statutory or administrative exemptions and transitional rules. Furthermore, the fact that a transaction is subject to an administrative or statutory exemption or transitional rule is not dispositive of whether the transaction is, in fact, a prohibited transaction.

Exemption

In accordance with section 408(a) of the Act and section 4975(c)(2) of the Code and the procedures set forth in ERISA Procedure 75–1 (40 FR 18471, April 28, 1975), and based upon the entire record, the Department makes the following determinations:

(a) The exemption is administratively feasible;

(b) It is in the interest of the plan and of its participants and beneficiaries; and

(c) It is protective of the rights of the participants and beneficiaries of the plan.

Accordingly, the following exemption is hereby granted under the authority of section 408(a) of the Act and section 4975(c)(2) of the Code and in accordance with the procedures set forth in ERISA Proc. 75–1.

The restrictions of section 406(a) and 406(b)(1) and (b)(2) of the Act and the taxes imposed by section 4975(a) and (b) of the Code, by reason of section 4975(c)(1)(A) through (E) of the Code shall not apply to the sale of the Plan's interest in the Atlantic Heights Syndicate to the Company for $29,900 cash plus six percent interest on that amount from the date the Company was acquired by the Hendersonville Newspaper Corporation provided, however, that the sales price is not less than the fair market value of the Plan's interest, and to the past loan of $8,560 to the Plan by the Company and to the repayment of that loan out of the sales proceeds.

The availability of this exemption is subject to the express condition that the material facts and representations contained in the application are true and complete, and that the application accurately describes all material terms of the transaction to be consummated pursuant to this exemption.

Signed at Washington, D.C., this 16th day of May 1979.

Ian D. Lanoff,

Administrator for Pension and Welfare Benefit Programs, Labor-Management Services Administration, Department of Labor.

[FR Doc. 79-15915 Filed 5-21-79; 8:45 am]

BILLING CODE 4510-29-M

[Prohibited Transaction Exemption 79-21]

Employee Benefit Plans; Exemption From the Prohibitions for a Transaction Involving the Alaska Electrical Pension Trust

AGENCY: Department of Labor.

ACTION: Grant of individual exemption.

SUMMARY: This exemption permits the leasing of certain property and an extension of credit between the Alaska Electrical Pension Trust (the Trust) and Dewhirst, Egan, Porter and Company (the Partnership), a partnership which provides services to the Trust.

FOR FURTHER INFORMATION CONTACT: Kathleen A. Bauer of the Office of Fiduciary Standards, Pension and Welfare Benefit Programs, Room C–4526, U.S. Department of Labor, 200 Constitution Avenue, N.W., Washington, D.C. 20216, 202–523–7461. (This is not a toll-free number.)

SUPPLEMENTARY INFORMATION: On February 9, 1979 notice was published in the Fedeal Register (44 FR 8359) of the pendency before the Department of Labor (the Department) of a proposal to grant an exemption from the restrictions of section 406(a)(1) (A), (B) and (D) of the Employee Retirement Income Security Act of 1974 (the Act) and from the taxes imposed by section 4975 (a) and (b) of the Internal Revenue Code of 1954 (the Code) by reason of section 4975(c)(1) (A), (B) and (D) of the Code for a transaction described in an application filed by the Trust. The notice set forth a summary of facts and representations contained in the application for exemption and referred interested persons to the application for a complete statement of the facts and representations. The application has been available for public inspection at the Department in Washington, D.C. The notice also invited interested persons to submit comments on the requested exemption to the Department. In addition the notice stated that any interested person might submit a written rquest that a public hearing be held regarding this exemption. No public comments and no request for a hearing were received by the Department.

This application was filed with both the Department and the Internal Revenue Service. However, the notice of pendency was issued and the exemption is being granted, solely by the Department because, effective December 31, 1978 section 102 of Reorganization Plan No. 4 of 1978 (43 FR 47713, October 17, 1978) transferred the authority of the Secretary of the Treasury to issue exemptions of the type proposed to the Secretary of Labor.

General Information

The attention of interested persons is directed to the following:

(1) The fact that a transaction is the subject of an exemption granted under section 408(a) of the Act and section 4975(c)(2) of the Code does not relieve a fiduciary or other party in interest or disqualified person with respect to a plan to which the exemption is applicable from certain other provisions of the Act and the Code. These provisions include any prohibited transaction provisions to which the exemption does not apply and the general fiduciary responsibility provision of section 404 of the Act, which, among other things, require a fiduciary to discharge his or her duties respecting the plan solely in the intreest of the participants and beneficiaries of the plan and in a prudent fashion in accordance with section 404(a)(1)(B) of the Act; nor does the fact the transaction is the subject of an exemption affect the requirement of section 401(a) of the Code that a plan must operate for the exclusive benefit of the employees of the employer maintaining the plan and their beneficiaries.

(2) This exemption does not extend to transactions prohibited under section 406(a)(1)(C) and (E) and 406(b) of the Act and section 4975(c)(1)(C), (E) and (F) of the Code.

(3) This exemption is supplemental to, and not in derogation of, any other provisions of the Act and the Code, including statutory or administrative exemptions and trasitional rules.

Furthermore, the fact that a transaction is subject to an administrative or statutory exemption or transitional rule is not dispositive of whether the transaction is, in fact, a prohibited transaction.

Exemption

In accordance with section 408(a) of the Act and section 4975(c)(2) of the Code and the procedures set forth in ERISA Procedure 75–1 (40 FR 18471, April 28, 1975), and based upon the entire record, the Department makes the following determinations:

(1) The exemption is administratively feasible;

(2) It is the interest of the plan and of its participants and beneficiaries; and

(3) It is protective of the rights of the participants and beneficiaries of the plan.

The restrictions of section 406(a)(1)(A), (B) and (D) of the Act and the taxes imposed by section 4975 (a) and (b) of the Code by reason of section 4975(c)(1)(A), (B) and (D) of the Code shall not apply:

(1) From October 15, 1976, to the lease of 3,000 square feet of office space on the third floor of the Pension Fund Building located at 2600 Denali Street, Anchorage, Alaska, for the term of the lease signed on October 15, 1976, and renewals thereunder, provided that the rent paid is not less than fair market rent for that office space, and

(2) From April 1, 1978, to the amortization by the Partnership of the cost of the special leasehold improvements in said office space, provided that the interest rate paid to the Trust in connection with such amortization is not less than the fair market interest rate for such an extension of credit.

The availability of this exemption is subject to the express conditions that the material facts and representations contained in the application are true and complete and that the application accurately describes all material terms of the transactions conummated pursuant to this exemption.

Signed at Washington, D.C. this 16th day of May 1979.

Ian D. Lanoff,

Administrator for Pension and Welfare Benefit Programs, Labor-Management Sevices Administration, Department of Labor.

[FR Doc. 79-15916 Filed 5-21-79; 8:45 am]

BILLING CODE 4510-29-M

[Prohibited Transaction Exemption 79-19]

Employee Benefit Plans; Exemption From the Prohibitions Respecting a Transaction Involving Better Homes Realty, Inc. Savings Plan and Trust (D-1014).

AGENCY: Department of Labor.

ACTION: Grant of Individual Exemption.

SUMMARY: This exemption permits the sale of a 2.47 acre parcel of real property by Better Homes Realty, Inc. Savings Plan and Trust (the Plan) and Joseph Napier, as joint owners of the property, to George E. White, Jr., President and majority shareholder of Better Homes Realty, Inc. (Better Homes).

FOR FURTHER INFORMATION CONTACT: Robert N. Sandler, Office of Fiduciary Standards, Pension and Welfare Benefit Programs, Room C–4526, U.S. Department of Labor, 200 Constitution Avenue NW., Washington, D.C. 20216, telephone (202) 523–8882. (This is not a toll-free number.)

Supplementary Information

On March 23, 1979, notice was published in the **Federal Register** (44 FR 17817) of the pendency before the Department of Labor (the Department) of an exemption from the provisions of sections 406(a), 406(b)(1), and 406(b)(2) of the Employee Retirement Income Security Act of 1974 (the Act) and from the taxes imposed by sections 4975 (a) and (b) of the Internal Revenue Code of 1954 (the Code) by reason of sections 4975(c)(1) (A) through (E) of the Code, for a transaction described in an application filed on behalf of Better Homes.

The notice set forth a summary of the facts and representations contained in the application for exemption and referred interested persons to the application for a complete statement of the facts and representations. The application has been available for public inspection at the Department in Washington, D.C. The notice also invited interested persons to submit comments on the requested exemption to the Department. In addition, the notice stated that any interested persons might submit a written request that a hearing be held relating to the requested exemption.

No public comments or requests for a hearing were received by the Department.

The application was filed with both the Department and the Internal Revenue Service, however, effective December 31, 1978, section 102 of Reorganization Plan No. 4 of 1978 (43 FR 47713, October 17, 1978) transferred the authority of the Secretary of the Treasury to issue exemptions of the type requested to the Secretary of Labor. Therefore, this exemption is issued solely by the Department.

General Information

The attention of interested persons is directed to the following:

(1) The fact that a transaction is the subject of an exemption under section 408(a) of the Act and section 4975(c)(2) of the Code does not relieve a fiduciary or other party in interest or disqualified person from certain other provisions to which the exemption does not apply and the general fiduciary responsibility provisions of section 404 of the Act which require among other things, a fiduciary to discharge his duties respecting the plan solely in the interests of participants and beneficiaries of the plan and in a prudent fashion in accordance with section 404(a)(1)(B) of the Act; nor does it affect the requirement of section 401(a) of the Code that the plan must operate for the exclusive benefit of the employees of the employer maintaining the plan and their beneficiaries;

(2) This exemption does not extend to transactions prohibited under section 406(b)(3) of the Act and section 4975(c)(1)(F) of the Code;

(3) This exemption is supplemental to, and not in derogation of, any other provisions of the Act and the Code, including statutory or administrative exemptions and transitional rules. Furthermore, the fact that a transaction is subject to an administrative or statutory exemption is not dispositive of whether the transaction is in fact a prohibited transaction.

Exemption

In accordance with section 408(a) of the Act and section 4975(c)(2) of the Code, the procedure set forth in ERISA Proc. 75–1 (40 FR 18471, April 28, 1975) and based upon the entire record, the Department makes the following determinations:

(a) The exemption is administratively feasible;

(b) The exemption is in the interests of the Plan and of its participants and beneficiaries; and

(c) The exemption is protective of the rights of participants and beneficiaries of the Plan.

Accordingly, the following exemption is hereby granted under the authority of section 408(a) of the Act and section 4975(c)(2) of the Code and in accordance with the procedures set forth in ERISA Proc. 75–1.

The restrictions of sections 406(a), 406(b)(1), and 406(b)(2) of the Act and the taxes imposed by sections 4975(c)(1)(A) through (E) of the Code shall not apply to the sale of 2.47 acres of real property located in the Southeast quarter of section 6, Township 1 South, Range 30 West, Escambia County, Florida by Joseph Napier and the Plan, who each own undivided one-half interests in the parcel, to George E. White, Jr., for a total cash purchase price of $30,000, to be equally divided between Joseph Napier and the Plan, provided that this amount is not less than the fair market value of the property.

The availability of this exemption is subject to the expressed conditions that the material facts and representations contained in the application are true and complete and that the application accurately describes all material terms of the transaction consummated pursuant to the exemption.

Signed at Washington, D.C., this 16th day of May 1979.

Ian D. Lanoff,

Administrator of Pension and Welfare Benefit Programs, Labor-Management Services Administration, Department of Labor.

[FR Doc. 79-15917 Filed 5-21-79; 8:45 am]

BILLING CODE 4510-29-M

[Prohibited Transaction Exemption 79-20]

Employee Benefit Plans; Exemption From the Prohibitions for Certain Transactions Involving the ABC Freight Corporation

AGENCY: Department of Labor.

ACTION: Grant of individual exemption.

SUMMARY: This exemption permits the sale by the ABC Freight Forwarding Corporation Employees Profit Sharing Plan and Trust (the Plan) of the stock of Paramount Freight Handling, Inc. (Paramount) and Paramount Freight Handling of North Carolina Inc. to the ABC Freight Forwarding Corporation (the Employer).

FOR FURTHER INFORMATION CONTACT: Frederic Burke of the Office of Fiduciary Standards, Pension and Welfare Benefit Programs, Room C–4526, U.S. Department of Labor, 200 Constitution Avenue, NW., Washington, D.C. 20216, (202) 523–8195. (This is not a toll-free number.)

SUPPLEMENTARY INFORMATION: On March 6, 1979, notice was published in the **Federal Register** (44 FR 12300) of the pendency before the Department of Labor (the Department) of a proposal to grant an exemption from the restrictions of section 406(a) and 406(b)(1) and 406(b)(2) of the Employee Retirement Income Security Act of 1974 (the Act) and from the taxes imposed by section 4975 (a) and (b) of the Internal Revenue Code of 1954 (the Code) by reason of section 4975(c)(1) (A) through (E) of the Code for transactions described in an application filed by the trustees of the Plan. The notice set forth a summary of facts and representations contained in the application for exemption and referred interested persons to the application for a complete statement of the facts and representations. The application has been available for public inspection at the Department in Washington, D.C. The notice also invited interested persons to submit comments on the requested exemption to the Department. In addition, the notice stated that any interested person migt submit a written request that a public hearing be held relating to this exemption. No public comments and no request for a hearing were received by the Department.

This application was filed with both the Department and the Internal Revenue Service. However, the notice of pendency was issued and the exemption is being granted solely by the Department because effective December 31, 1978, section 102 of Reorganization Plan No. 4 of 1978 (43 FR 47713, October 17, 1978) transferred the authority of the Secretary of the Treasury to issue exemptions of the type proposed to the Secretary of Labor.

General Information

The attention of interested persons is directed to the following:

(1) The fact that a transaction is the subject of an exemption granted under section 408(a) of the Act and section 4975(c)(2) of the Code does not relieve a fiduciary or other party in interest or disqualified person with respect to a plan to which the exemption is applicable from certain other provisions of the Act and the Code. These provisions include any prohibited transaction provisions to which the exemption does not apply and the general fiduciary responsibility provisions of section 404 of the Act, which, among other things, require a fiduciary to discharge his or her duties respecting the plan solely in the interest of the participants and beneficiaries of the plan and in a prudent fashion in accordance with section 404(a)(1)(B) of the Act; nor does the fact the transaction is the subject of an exemption affect the requirement of section 401(a) of the Code that a plan must operate for the exclusive benefit of the employees of the employer maintaining the plan and their beneficiaries.

(2) This exemption does not extend to transactions prohbited under section 406(b)(3) of the Act and section 4975(c)(1)(F) of the Code.

(3) This exemption is supplemental to, and not in derogation of, any other provisions of the Act and the Code, including statutory or administrative exemptions and transitional rules. Furthermore, the fact that a transaction is subject to an administrative or statutory exemption or transitional rule is not dispositive of whether the transaction is, in fact, a prohibited transaction.

Exemption

In accordance with section 408(a) of the Act and section 4975(c)(2) of the Code and the procedures set forth in ERISA Procedure 75–1 (40 FR 18471, April 28, 1975), and based upon the entire record, the Department makes the following determinations:

(a) The exemption is administratively feasible;

(b) It is in the interest of the plan and of its participants and beneficiaries; and

(c) It is protective of the rights of the participants and beneficiaries of the plan.

The restrictions of sections 406(a) and 406(b)(1) and 406(b)(2) of the Act and the taxes imposed by section 4975 (a) and (b) of the Code by reason of section 4975(c)(1) (A) through (E) of the Code shall not apply to the sale of Paramount and Paramount Freight Handling of North Carolina Inc. stock by the Plan to the Employer for an amount not less than the greater of either $516,255 or the fair market value at the time of sale. The availability of this exemption is subject to the express conditions that the material facts and representations contained in the application are true and complete, and that the application accurately describes all material terms of the transaction to be consummated pursuant to this exemption.

Signed at Washington, D.C. this 16th day of May, 1979.

Ian D. Lanoff,

Administrator, Pension and Welfare Benefit Program, Labor-Management Services Administration, Department of Labor.

[FR Doc. 79-15918 Filed 5-21-79; 8:45 am]

BILLING CODE 4510-29-M

Proposed Exemption for a Transaction Involving the Arkansas Best Pension Trust (Application No. D–1223)

AGENCY: Department of Labor.

ACTION: Notice of Proposed Exemption.

SUMMARY: This document contains a notice of pendency before the Department of Labor (the Department) of a proposed exemption from the prohibited transaction restrictions of the Employee Retirement Income Security Act of 1974 (the Act) and from certain taxes imposed by the Internal Revenue Code of 1954 (the Code). The proposed exemption would exempt the purchase by the Arkansas Bandag Corporation (Bandag) of eleven real estate lots located in Fort Smith, Arkansas and the improvements thereon from the Arkansas Best Pension Trust (the Trust). The proposed exemption, if granted, would affect participants and beneficiaries of the Trust, Bandag, and other persons participating in the proposed transaction.

DATES: Written comments and requests for a public hearing must be received by the Department of Labor on or before June 19, 1979.

ADDRESS: All written comments and requests for a hearing (at least three copies) should be sent to: Office of Fiduciary Standards, Pension and Welfare Benefit Programs, Room C–4526, U.S. Department of Labor, 200 Constitution Avenue, NW., Washington, D.C. 20216. Attention: Application No. D–1223. The application for exemption and the comments received will be available for public inspection in the Public Documents Room of Pension and Welfare Benefit Programs, U.S. Department of Labor, Room N–4677, 200 Constitution Avenue, NW., Washington, D.C. 20216.

FOR FURTHER INFORMATION CONTACT: Richard Small of the Department of Labor, (202) 523–7222. (This is not a toll-free number.)

SUPPLEMENTARY INFORMATION: Notice is hereby given of the pendency before the Department of a proposed exemption from the restrictions of sections 406(a), 406(b)(1), and 406(b)(2) of the Act and from the taxes imposed by sections 4975 (a) and (b) of the Code, by reason of sections 4975(c)(1) (A) through (E) of the Code. The proposed exemption was requested in an application filed by the trustee of the Trust, pursuant to section 408(a) of the Act and section 4975(c)(2) of the Code, and in accordance with the procedures set forth in ERISA Procedure 75–1 (40 FR 18471, April 28, 1975). This application was filed with both the Department and the Internal Revenue Service. However, effective December 31, 1978 section 102 Reorganization Plan No. 4 of 1978 (43 FR 47713, October 17, 1978) transferred the authority of the Secretary of the Treasury to issue exemptions of the type requested to the Secretary of Labor. Therefore, this notice of pendency is issued solely by the Department.

Summary of Facts and Representations

The application contains representations with regard to the proposed exemption which are summarized below. Interested persons are referred to the application on file with the Department for the complete representations of the applicants.

(1) The Trust was established to implement the provisions of the Arkansas Best Retirement Plan, the Arkansas-Best Freight Retirement Plan, the Data-Tronics Retirement Plan, the Riverside Furniture Corporation Salaried Retirement Plan, the Riverside Furniture Corporation, Hourly Retirement Plan and the Arkansas Bandag Retirement Plan. The Trust has approximately 1,387 participants and as of December 31, 1977, reported total assets of $7,412,103.

(2) The assets of the Trust are held by the First National Bank of Fort Smith, Arkansas (the Trustee). The purchase or sale of any asset, however, must be approved by a retirement committee which is made up of five individuals all of whom are officers in corporations whose employees participate in the Trust.

(3) The Arkansas Best Corporation conducts its business operations through six wholly owned subsidiary corporations. Bandag is one of the six wholly owned corporations and is a party in interest with respect to the Trust.

(4) During 1971 and 1972 the Trust purchased eleven real estate lots in Fort Smith, Arkansas at a cost of $158,712.89. At the present time, three of the eleven lots are vacant and the improvements on the remaining eight lots consist of old single-family residences.

(5) The area surrounding the eleven lots is in a transition stage from single-family residences to multi-family structures and office buildings. Because of the transitional character of the area, the revenue from rentals of the eight lots containing single-family residences is quite low in relation to the fair market value of the investment. The remaining three vacant lots produce no current rental income. The average net income from the eleven lots over the last five years is $5,292 per year.

(6) In order to derive additional income from this investment, office facilities or multi-family dwellings must be erected on the eleven lots. The Trust is unwilling to expend the necessary funds for the erection of these improvements. Furthermore, the age of the improvements necessitates disproportionate expense and attention when compared to other Trust assets due to maintenance requirements and leasing efforts.

(7) The Trust proposes to sell the eleven lots to Bandag for a cash price of $210,000. An independent appraisal prepared by Mr. Larry J. Dowell, R.M. and Mr. William A. Payne, MAI represents the fair market value of the property as of August 3, 1978, to be $190,000.

(8) In summary, the applicant represents that the proposed sale will satisfy the criteria of section 408(a) of the Act because it would be a one time transaction for cash, and it will allow the Trust to (a) sell the property at a price in excess of the appraised value, (b) liquidate a low yield investment and (c) eliminate an administrative burden.

Notice to Interested Persons

Notice of this request for an exemption shall be given to all active and inactive participants in the Trust by placing in the United States mail, postage paid, within ten days of its publication the Notice of Pendency published in the **Federal Register**, along with a statement advising the recipient of his rights to comment and request a hearing within the period set forth in the notice of proposed exemption.

General Information

The attention of interested persons is directed to the following:

(1) The fact that a transaction is the subject of an exemption under section 408(a) of the Act and section 4975(c)(2) of the Code does not relieve a fiduciary or other party in interest or disqualified person from certain other provisions of the Act and the Code, including any prohibited transaction provisions to which the exemption does not apply and the general fiduciary responsibility provisions of section 404 of the Act which require, among other things, that a fiduciary discharge his duties

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respecting the plan solely in the interests of the participants and beneficiaries of the plan and in a prudent fashion in accordance with section 404(a)(1)(B) of the Act; nor does it affect the requirements of section 401(a) of the Code that the plan must operate for the exclusive benefit of the employees of the employer maintaining the plan and their beneficiaries;

(2) The proposed exemption, if granted, will not extend to transactions prohibited under section 406(b)(3) of the Act, and section 4975(c)(1)(F) of the Code;

(3) Before an exemption may be granted under section 408(a) of the Act and section 4975(c)(2) of the Code, the Department must find that the exemption is administratively feasible, in the interests of the plan and of its participants and beneficiaries and protective of the rights of the participants and beneficiaries of the plan; and

(4) The proposed exemption, if granted, will be supplemental to, and not in derogation of, any other provision of the Code and the Act, including statutory or administrative exemptions and transitional rules. Furthermore, the fact that a transaction is subject to an administrative or statutory exemption is not dispositive of whether the transaction is in fact a prohibited transaction.

Written Comments and Hearing Request

All interested persons are invited to submit written comments or requests for a hearing on the pending exemption to the address above, within the time period set forth. All comments will be made a part of the record. Comments and requests for a hearing should state the reason for the writer's interests in the pending exemption. Comments received will be available with the application for exemption at the address set forth above.

Proposed Exemption

Based on the facts and representations set forth in the application, the Department is considering granting the requested exemption under the authority of section 408(a) of the Act and section 4975(c)(2) of the Code and in accordance with the procedures set forth in ERISA Procedure 75–1. If the exemption is granted, the restrictions of section 406(a), 406(b)(1) and 406(b)(2) of the Act and the taxes imposed by section 4975 (a) and (b) of the Code, by reason of section 4975(c)(1)(A) through (E) of the Code, shall not apply to the sale for cash of eleven lots of real property located in Fort Smith, Arkansas to the Arkansas Bandag Corporation for $210,000, by the Arkansas Best Pension Trust provided that this amount is not less than the fair market value of the real property. The proposed exemption, if granted, will be subject to the express conditions that the material facts and representations are true and complete, and that the application accurately describes all material terms of the transaction to be consummated pursuant to the exemption.

Signed at Washington, D.C. this 16th day of May 1979.

Ian D. Lanoff,

Administrator of Pension and Welfare Benefit Programs, Labor-Management Services Administration, Department of Labor.

[FR Doc. 79-15919 Filed 5-21-79; 8:45 am]

BILLING CODE 4510-29-M

Proposed Exemption for Certain Transactions Involving Sheboygan Memorial Hospital Retirement Plan and Trust (Application No. D–1216)

AGENCY: Department of Labor.

ACTION: Notice of proposed exemption.

SUMMARY: This document contains a notice of pendency before the Department of Labor (the Department) of a proposed exemption from certain prohibited transaction restrictions of the Employee Retirement Income Security Act of 1974 (the Act) and from taxes imposed by the Internal Revenue Code of 1954 (the Code). The proposed exemption would exempt the sale of a mortgage and certain securites by the Sheboygan Memorial Hospital Retirement Plan and Trust (the Plan) to Sheboygan Memorial Hospital (the Employer). The proposed exemption, if granted, would affect participants and beneficiaries of the Plan, the Employer, and other persons participating in the proposed transaction.

DATES: Written comments and requests for a public hearing must be received by the Department of Labor on or before June 19, 1979.

ADDRESS: All written comments and requests for a hearing (at least three copies) should be sent to: Office of Fiduciary Standards, Pension and Welfare Benefit Programs, Room C–4526, U.S. Department of Labor, 200 Constitution Avenue, N.W., Washington, D.C. 20216, Attention: Application No. D–1216. The application for exemption and the comments received will be available for public inspection at the Public Documents Room of Pension and Welfare Benefit Programs, U.S. Department of Labor, Room N–4677, 200 Constitution Avenue, N.W., Washington, D.C. 20216.

FOR FURTHER INFORMATION CONTACT: Frederic G. Burke, of the Office of Fiduciary Standards, Pension and Welfare Benefit Programs, U.S. Department of Labor, (202) 523–8195. (This is not a toll-free number.)

SUPPLEMENTARY INFORMATION: Notice is hereby given of the pendency before the Department of a proposed exemption from the restrictions of section 406(a) and 406 (b)(1) and (b)(2) of the Act and from the taxes imposed by section 4975 (a) and (b) of the Code, by reason of section 4975(c)(1) (A) through (E) of the Code. The proposed exemption was requested in an application filed by the Employer, pursuant to section 408(a) of the Act and section 4975(c)(2) of the Code, and in accordance with the procedures set forth in ERISA Procedure 75–1 (40 FR 18471, April 28, 1975). The application was filed with both the Department and the Internal Revenue Service. However, effective December 31, 1978, Section 102 of Reorganization Plan No. 4 of 1978 (43 FR 47713, October 17, 1978) transferred the authority of the Secretary of the Treasury to issue exemptions of the type requested to the Secretary of Labor. Therefore, this notice of pendency is issued solely by the Department.

Summary of Facts and Representations

The application contains facts and representations with regard to the proposed exemption which are summarized below. Interested persons are referred to the application on file with the Department for the complete representations of the applicant.

1. The Board of Directors of the Employer (the Board) determined that, effective January 1, 1978, it was in the Plan's best interest to invest the plan assets in an Immediate Participation Guarantee Contract (Contract) offered by Bankers Life Company (Bankers). To implement the investment decision, the Board instructed the Security First National Bank of Sheboygan (Trustee) to transfer all Plan assets to Bankers. However, Bankers advised the Trustee that it would accept only cash under the Contract.

2. To meet the requirements set by Bankers, the Board instructed the Trustee to convert all Plan securities to cash. With two exceptions the Trustee liquidated the Plan assets and transferred approximately $995,022 in cash to Bankers on January 3, 1978.

3. The Trustee was unable to convert certain securities valued at approximately $109,000. In addition, the Trustee did not attempt to liquidate a six percent mortgage, due on October 26, 1981, which had a current face value of $3,182. The Trustee determined that the discount due to the low interest rate plus a sales commission would cause an unwarranted depletion of Plan assets.

4. The Trustee was unable to find an independent third party who would be interested in purchasing the securities which are subordinated debentures of H. C. Prange Company (Prange). The securities bear an interest rate between 5 and 7 percent and mature between 1979 and 1991. There has never been a public or private market for the securities. Further, Prange has refused to redeem the securities prior to their due date.

5. When the Board was advised that the Trustee could not liquidate the securities, the Board proposed to purchase the securities for cash at either face or fair market value, whichever is greater. The fair market value will be determined by the Trustee by comparing the interest rates and maturity dates of the securities to securities of similar quality and maturity that are tradeable on a national securities exchange. The determination will be reviewed by S.E.I., an actuarial accounting service firm.

6. The Employer proposed to purchase the mortgage for cash at a price not less than the greater of either the fair market value at the time of sale or face value.

7. No sales commission will be involved in the proposed transaction.

8. The applicant represents that the statutory criteria of section 408(a) of the Act are met in that:

(a) The proposed sale will result in a significant increase in the rate of return for the Plan and eliminate duplicative and unnecessary administrative fees;

(b) The transaction is structured in a manner that makes it self-executing by its own terms—i.e., the purchase and sale will take place in a single transaction in which the Employer will pay for the debentures and the mortgage in one payment rather than installments; and

(c) The fair market value of the securities and the mortgage will be determined by an independent trustee.

Notice to Interested Parties

All Plan participants and beneficiaries will be notified by letter containing a copy of the notice of pendency of the proposed exemption as published in the **Federal Register**, and advising these persons of their rights to comment and/or to request a hearing within the period of time specified above. Such notification will be given no later than 5 days after the notice of pendency is published in the **Federal Register**. In addition, copies of this notification will be posted for a period of thirty days in a conspicuous location in all buildings where Plan participants and beneficiaries are currently employed by the Employer.

General Information

The attention of interested persons is directed to the following:

(1) The fact that a transaction is the subject of an exemption under section 408(a) of the Act and section 4975(c)(2) of the Code does not relieve a fiduciary or other party in interest or disqualified person from certain other provisions of the Act and the Code, including the general fiduciary responsibility provisions of section 404 of the Act which require, among other things, that a fiduciary discharge his duties respecting the Plan solely in the interests of the participants and beneficiaries of the Plan and in a prudent fashion in accordance with section 404(a)(1)(B) of the Act; nor does it affect the requirement of section 401(a) of the Code that the Plan must operate for the exclusive benefit of the employees of the employer maintaining the Plan and their beneficiaries;

(2) The proposed exemption, if granted, will not extend to transactions prohibited under section 406(b)(3) of the Act, and section 4975(c)(1)(F) of the Code;

(3) Before any exemption may be granted under section 408(a) of the Act and section 4975(c)(2) of the Code, the Department must find that the exemption is administratively feasible, in the interests of the Plan and of its participants and beneficiaries, and protective of the rights of participants and beneficiaries of the Plan; and

(4) The proposed exemption, if granted, will be supplemental to, and not in derogation of, any other provisions of the Act and the Code, including statutory or administrative exemptions and transitional rules. Furthermore, the fact that a transaction is subject to an administrative or statutory exemption is not dispositive of whether the transaction is in fact a prohibited transaction.

Written Comments and Hearing Requests

All interested persons are invited to submit written comments or requests for a hearing on the proposed exemption to the address and within the time period set forth above. All comments will be made a part of the record. Comments and requests for a hearing should state the reasons for the writer's interest in the proposed exemption. Comments received will be available for public inspection with the application for exemption at the address set forth above.

Proposed Exemption

Based on the facts and representations set forth in the application, the Department is considering granting the requested exemption under the authority of section 408(a) of the Act and section 4975(c)(2) of the Code and in accordance with the procedures set forth in ERISA Procedure 75–1. If the exemption is granted, the restrictions of section 406(a) and 406 (b)(1) and (b)(2) of the Act, and the taxes imposed by section 4975 (a) and (b) of the Code by reason of section 4975(b)(1) (A) through (E) of the Code shall not apply to the sale by the Plan to the Employer for cash of the Prange securities and the mortgage at a price not less than the greater of either the fair market value at the time of sale, or face value. The proposed exemption, if granted, will be subject to the express conditions that the material facts and representations contained in the application are true and complete, and that the application accurately describes all material terms of the transactions to be consummated pursuant to the exemption.

Signed at Washington, D.C., this 16th day of May 1979.

Ian D. Lanoff,

Administrator for Pension and Welfare Benefit Programs, Labor-Management Services Administration, Department of Labor.

[FR Doc. 79-15920 Filed 5-21-79; 8:45 am]

BILLING CODE 4510-29-M

LEGAL SERVICES CORPORATION

Grants and Contracts

May 16, 1979.

The Legal Services Corporation was established pursuant to the Legal Services Corporation Act of 1974, Pub. L. 93–355 88 Stat. 378, 42 U.S.C. 2996–2996*l*, as amended, Pub. L. 95–222 (December 28, 1977). Section 1007(f) provides: "At least 30 days prior to the approval of any grant application or prior to entering into a contract or prior to the initiation of any other project, the Corporation shall announce publicly * * * such grant, contract or project."

The Legal Services Corporation hereby announces publicly that it is considering the grant application submitted by: Southeast Missouri Legal Services in Caruthersville, Missouri to

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serve Ripley, Carter, Perry and Bollinger Counties.

Interested persons are hereby invited to submit written comments or recommendations concerning the above application to the Regional Office of the Legal Services Corporation at: Legal Services Corporation, Chicago Regional Office, 310 South Michigan Avenue, 24th Floor, Chicago, Illinois 60604.

Alice Daniel,

Acting President.

[FR Doc. 79-15976 Filed 5-21-79; 8:45 am]

BILLING CODE 6820-35-M

NATIONAL AERONAUTICS AND SPACE ADMINISTRATION

[Notice (79-52)]

NASA Advisory Council (NAC), Meeting

The NASA Advisory Council's Informal *Ad Hoc* Advisory Subcommittee for the Innovation Study will meet on June 11 thru 16, 1979, at the Summer Studies Center of the National Academy of Sciences, Woods Hole, Massachusetts 02543. All sessions will be open to the public up to the seating capacity of the rooms employed. The main meeting room to be used seats about 45 persons, including subcommittee members and invited meeting participants. Other smaller rooms will be used by ad hoc working groups. Visitors will be requested to sign a visitor's register.

The Informal *Ad Hoc* Advisory Subcommittee for the Innovation Study was established under the NASA Advisory Council to formulate or identify new ideas or concepts for exploring or using space, to examine such new ideas for incorporation into planning for future space programs, and to advise the Council and NASA on their further study. The chairperson of the subcommittee is Dr. John E. Naugle and the subcommittee is composed of four other members of the Council, who will meet with about 20 other invited participants and certain NASA personnel in a symposium on this subject. The agenda for this meeting is given below. For further information, contact the Administrative Assitant, Mrs. Rose Lovelace, Area Code 202 755-3080, NASA Headquarters, Washington, DC 20546.

Agenda—June 11-16, 1979

Working sessions are scheduled for each day of the meeting nominally from 8:30 a.m. to 5:00 p.m. Prior to the first session, the study participants will be divided into several working groups of approximately 3-4 people each. The working groups will meet separately each morning and afternoon and will provide status reports to the full group each day at 10:30 a.m. and 4:00 p.m.

Arnold W. Frutkin,

Associate Administrator for External Relations.

May 15, 1979.

[FR Doc. 79-15657 Filed 5-21-79; 8:45 am]

BILLING CODE 7510-01-M

[Notice 79-53]

NASA Advisory Council (NAC), Aeronautics Advisory Committee (AAC); Meeting

The Informal Ad Hoc Advisory Subcommittee on Advanced Materials, Structures, and Structural Dynamics Technology of the NAC AAC will meet June 20-21, 1979, in Room 647, NASA Headquarters, 600 Independence Ave., S.W., Washington, DC. The meeting will be open to the public up to the seating capacity of the room (approximately 40 persons including the Subcommittee members and participants).

The Subcommittee was established to assess program balance between the materials, structures, and structural dynamics program elements and the adequacy of current and planned R&T activities in terms of future forecast aircraft requirements. The Subcommittee is to recommend program modifications, deletions, or changes in scope or emphasis to support overall NASA future aeronautical vehicle technology objectives. The Chairperson is Dr. Martin Goland. There are currently nine members on the Subcommittee. Following is the approved agenda for the meeting:

Agenda

June 20, 1979

8:30 a.m.—Introductory Remarks.
9:30 a.m.—Materials and Structures Program Elements, Organization.
11:00 a.m.—Review of Langley Research Center Materials and Structures Program.
2:30 p.m.—Review of Lewis Research Center Materials and Structures Program.

June 21, 1979

8:30 a.m.—Review of Ames Research Center Materials and Structures Program.
9:30 a.m.—Discussion of Materials and Structures Program and Member Views.
1:00 p.m.—Discussion of Subjects for Ad Hoc Reviews.

For further information please contact Dr. Leonard A. Harris, Executive Secretary of the Subcommittee, Code RTM-6, NASA Headquarters, Washington, DC 20546. Telephone 202/755-2364.

Arnold W. Frutkin,

Associate Administrator for External Relations.

May 15, 1979.

[FR Doc. 79-15858 Filed 5-21-79; 8:45 am]

BILLING CODE 7510-01-M

NATIONAL SCIENCE FOUNDATION

Advisory Council Meeting, Task Group No. 7

In accordance with the Federal Advisory Committee Act, Pub. L. 92-463, the National Science Foundation announces the following meeting:

Name: Task Group No. 7 of the NSF Advisory Council.
Place: Room 523, National Science Foundation, 1800 G Street, NW., Washington, D.C. 20550.
Date: Wednesday, June 6, 1979.
Time: 8:30 a.m. until 5:00 p.m.
Type of meeting: Open.
Contact person: Mr. Bruce B. Darling, NSF Liaison, Task Group No. 7 of the NSF Advisory Council, National Science Foundation, Room 518, 1800 G Street, NW., Washington, D.C. 20550 Telephone: (202) 632-4368.
Purpose of task group: The purpose of the Task Group, composed of members of the NSF Advisory Council, is to provide the full Advisory Council with a mechanism to consider numerous issues of interest to the Council that have been assigned by the National Science Foundation.
Summary minutes: May be obtained from the Committee Management Coordinator, Division of Financial and Administrative Management, National Science Foundation, Room 248, 1800 G Street, NW., Washington, D.C. 20550.
Agenda: The Task Group is asked to study the effects on basic research of existing mechanisms for assuring technical, financial, and social accountability, and to recommend ways in which the balance between accountability and effectiveness in research can be optimized.
Reason for late notice: It is necessary to meet during the early part of the summer because (1) most of the Task Group members work in the university system and this is the only time everyone will be available to attend; and (2) it is important to have an immediate follow-up to the full Advisory Council meeting which took place May 8 and 9.

Dated: May 17, 1979.

M. Rebecca Winkler,

Committee Management Coordinator.

[FR Doc. 79-15926 Filed 5-21-79; 8:45 am]

BILLING CODE 7555-01-M

Subcommittee on Electrical Sciences and Analysis of the Advisory Committee for Engineering Meeting

Please Note.—This Meeting was originally scheduled for February 20-21, 1979, and appeared in the **Federal Register** on February 2, Page 6816. Due to inclement weather, the meeting was postponed to May 29-30, 1979. We are republishing the meeting notice in its entirety.

In accordance with the Federal Advisory Committee Act, Pub. L. 92-463, as amended, the National Science Foundation announces the following meeting:

Name: Subcommittee on Electrical Sciences and Analysis of the Advisory Committee for Engineering.
Date and time: May 29 and 30, 1979—9 a.m. to 5 p.m. each day.
Place: Room 1242, National Science Foundation, 1800 G Street, NW., Washington, D.C. 20550.
Type of meeting: Part-Open—Open—5/29-9 a.m. to 12:30 p.m.; 5/30-9 a.m. to 5 p.m. Closed—5/29-1:30 p.m. to 5 p.m.
Contact person: Dr. Yoh-Han Pao, Section Head, Electrical Sciences and Analysis Section Room 416, National Science Foundation, Washington, D.C. 20550. Telephone: (202) 632-5881.
Summary minutes: May be obtained from the Committee Management Coordinator, Division of Financial and Administrative Management, Room 248, National Science Foundation, Washington, D.C. 20550.
Purpose of subcommittee: To provide advice and recommendations concerning support for research in the area of Electrical Sciences and Analysis.
Agenda:

Tuesday, May 29, 1979—9 a.m. to 12 Noon—Open

9:00 a.m.—Overview of Schedule; Yoh-Han Pao.
9:30 a.m.—Briefing by Division Director, Engineering; H. C. Bourne, Jr.
10:00 a.m.—Briefing by Program Directors; J. Harris, W. L. Brogan, E. Schutzman, and N. Caplan.

Tuesday, May 29, 1979—1 p.m. to 5 p.m.—Closed

1:00 p.m.—Subpanel reviews of individual programs, including examination of proposal jackets, reviewer comments and other privileged material.
5:00 p.m.—Adjourn.

Wednesday, May 30, 1979—9 a.m. to 5 p.m.—Open

9:00 a.m.—Briefing by Section Heads and Program Directors of Related Research Areas (Computer Sciences, Materials, Research Applications).
10:00 a.m.—Presentation of Electrical Sciences and Analysis Long Range Plans—Yoh-Han Pao.
11:30 a.m.—Subpanel Reports.
12:30 p.m.—Lunch.
1:30 p.m.—Discussion of Long Range Plans.
5:00 p.m.—Adjourn.

Reason for closing: The Subcommittee will be reviewing grants and declinations jackets which contain the names of applicant institutions and principal investigators and privileged information contained in declined proposals. This session will also include a review of the peer review documentation pertaining to applicants. These matters are within exemption (4) and (6) of 5 U.S.C. 552b(c), Government in the Sunshine Act.
Authority to close meeting: This determination was made by the Director, NSF, pursuant to provisions of Section 10(d) of Pub. L. 92-463.

M. Rebecca Winkler,

Committee Management Coordinator.

May 17, 1979.

[FR Doc. 79-15993 Filed 5-21-79; 8:45 am]

BILLING CODE 7555-01-M

NUCLEAR REGULATORY COMMISSION

Advisory Committee on Reactor Safeguards; Three Mile Island Nuclear Station, Unit 2 Subcommittee; Meeting

The ACRS Subcommittee on the Three Mile Island Nuclear Station, Unit 2 will hold a meeting on June 6-7, 1979 in the Pennsylvania State University Capitol campus Auditorium, Middletown, PA 17057 to discuss technical details of the March 28, 1979 incident at this Station.

In accordance with the procedures outlined in the **Federal Register** on October 4, 1978 (43 FR 45926), oral or written statements may be presented by members of the public, recordings will be permitted only during those portions of the meeting when a transcript is being kept, and questions may be asked only by members of the Subcommittee, its consultants, and Staff. Persons desiring to make oral statements should notify the Designated Federal Employee as far in advance as practicable so that appropriate arrangements can be made to allow the necessary time during the meeting for such statements.

The agenda for subject meeting shall be as follows:

Wednesday, June 6, 1979: 1:00 p.m. until conclusion of business that day.
Thursday, June 7, 1979: 8:30 a.m. until conclusion of business that day.

The Subcommittee may meet in Executive Session, with any of its consultants who may be present, to explore and exchange their preliminary opinions regarding matters which should be considered during the meeting and to formulate a report and recommendation to the full Committee.

At the conclusion of the Executive Session, the Subcommittee will discuss with representatives of the NRC Staff and representatives of the Metropolitan Edison Company, et al., matters identified in the initial session.

In addition, it may be necessary for the Subcommittee to hold one or more closed sessions for the purpose of exploring matters involving proprietary information. I have determined, in accordance with Subsection 10(d) of Public Law 92-463, that, should such sessions be required, it is necessary to close these sessions to protect proprietary information (5 U.S.C. 552b(c)(4)).

Further information regarding topics to be discussed whether the meeting has been cancelled or rescheduled, the Chairman's ruling on requests for the opportunity to present oral statements and the time allotted therefor can be obtained by a prepaid telephone call to the Designated Federal Employee for this meeting, Mr. Ragnwald Muller, (telephone 202/634-1413) between 8:15 a.m. and 5:00 p.m., EDT.

Background information concerning this nuclear station can be found in documents on file and available for public inspection at the NRC Public Document Room, 1717 H Street, N.W., Washington, D.C. 20555 and at the Government Publications Section, State Library of Pennsylvania, Education Building, Commonwealth and Walnut Street, Harrisburg, PA 17126.

Dated: May 17, 1979.

John C. Hoyle,

Advisory Committee Management Officer.

[FR Doc. 79-15900 Filed 5-21-79; 8:45 am]

BILLING CODE 7590-01-M

[Docket No. 50-302]

Florida Power Corp., et al., Crystal River Unit No. 3, Nuclear Generating Plant

Order

I. Florida Power Corporation (FPC or the licensee) and eleven other co-owners are the holders of Facility Operating License No. DPR-72 which authorizes the operation of the nuclear power reactor known as Crystal River Unit No. 3 Nuclear Generating Plant (the facility or Crystal River Unit 3), at steady state power levels not in excess of 2452 megawatts thermal (rated power). The facility is a Babcock & Wilcox (B&W) designed pressurized wate reactor (PWR) located at the licensees' site in Citrus County, Florida.

II. In the course of its evaluation to date of the accident at the Three Mile Island Unit No. 2 facility, which utilizes a B&W designed PWR, the Nuclear Regulatory Commission staff has

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ascertained that B&W designed reactors appear to be unusually sensitive to certain off-normal transient conditions originating in the secondary system. The features of the B&W design that contribute to this sensitivity are: (1) Design of the steam generators to operate with relatively small liquid volumes in the secondary side; (2) the lack of direct initiation of reactor trip upon the occurrence of off-normal conditions in the feedwater system; (3) reliance on an integrated control system (ICS) to automatically regulate feedwater flow; (4) actuation before reactor trip of a pilot-operated relief valve on the primary system pressurizer (which, if the valve sticks open, can aggravate the event); and (5) a low steam generator elevation (relative to the reactor vessel) which provides a smaller driving head for natural circulation.

Because of these features, B&W designed reactors place more reliance on the reliability and performance characteristics of the auxiliary feedwater system, the integrated control system and the emergency core cooling system (ECCS) performance to recover from frequent anticipated transients, such as loss of offsite power and loss of normal feedwater, than do other PWR designs. This, in turn places a large burden on the plant operators in the event of off-normal system behavior during such anticipated transients.

As a result of a preliminary review of the Three Mile Island Unit No. 2 accident chronolgy, the NRC staff initially identified several human errors that occurred during the accident and contributed significantly to its severity. All holders of operating licenses were subsequently instructed to take a number of immediate actions to avoid repetition of these errors, in accordance with bulletins issued by the Commission's Office of Inspection and Enforcement (IE). In addition, the NRC staff began an immediate reevaluation of the design features of B&W reactors to determine whether additional safety corrections or improvements were necessary with respect to these reactors. This evaluation involved numerous meetings with B&W and certain of the affected licensees.

The evaluation identified design features as discussed above which indicated that B&W designed reactors are unusually sensitive to certain off-normal transient conditions originating in the secondary system. As a result, an additional bulletin was issued by IE which instructed holders of operating licenses for B&W designed reactors to take further actions, including immediate changes to decrease the reactor high pressure trip point and increase the pressurizer pilot-operated relief valve setting. Also, as a result of this evalutation the NRC staff identified certain other safety concerns that warranted additional short-term design and procedural changes at operating facilities having B&W designed reactors. These were identified as items (a) through (e) on page 1–7 of the Office of Nuclear Reactor Regulation Status Report to the Commission of April 25, 1979.

After a series of discussions between the NRC staff and the licensee concerning possible design modifications and changes in operating procedures, the licensee agreed in a letter dated May 1, 1979, to perform promptly the following actions:

(a) Upgrade the timeliness and reliability of delivery from the Emergency Feedwater System by carrying out actions as identified in Enclosure 1 of the licensee's letter of May 1, 1979.

(b) Develop and implement operating procedures for initiating and controlling emergency feedwater independent of Integrated Control System control.

(c) Implement a hard-wired control-grade reactor trip that would be actuated on loss of main feedwater and/or turbine trip.

(d) Complete analyses for potential small breaks and develop and implement operating instructions to define operator action.

(e) All licensed reactor operators and senior reactor operators will have completed the Three Mile Island Unit No. 2 (TMI–2) simulator training at B&W.

In its letter the licensee also stated that the facility is shut down and would remain shut down until (a) through (e) above are completed.

In addition to these modifications to be implemented promptly, the licensee has also proposed to carry out certain additional long-term modifications to further enhance the capability and reliability of the reactor to resond to various transient events. These are:

—The licensee will make modifications to provide verification in the control room of emergency feedwater flow to each steam generator.

—The licensee will submit a failure mode and effects analysis of the Integrated Control System to the NRC staff as soon as practicable. The licensee stated that this analysis is now underway with high priority by B&W.

—The reactor trip following loss of main feedwater and/or trip of the turbine to be installed promptly pursuant to this Order will thereafter be upgraded so that the components are safety grade. The licensee will submit this design to the NRC staff for review.

—The licensee will continue reactor operator training and drilling of response procedures to assure a high state of preparedness.

The Commission has concluded that the prompt actions set forth as (a) through (e) above are necessary to provide added reliability to the reactor system to respond safely to feedwater transients and should be confirmed by a Commission order.

The Commission finds that operation of the facility should not be resumed until the actions described in paragraphs (a) though (e) above have been satisfactorily completed.

For the foregoing reasons, the Commission has found that the public health, safety and interest require that this Order be effective immediately.

III. Copies of the following documents are available for inspection at the Commission's Public Document Room at 1717 H Street, N.W., Washington, D.C. 20555, and are being placed in the Commission's local public document room in the Crystal River Public Library, Crystal River, Florida 32629:

(1) Office of Nucular Reactor Regulation Status Report on Feedwater Transients in B&W Plants, April 25, 1979.

(2) Letter from B. L. Griffin (FPC) to Harold Denton (NRR) dated May 1, 1979.

IV. Accordingly, pursuant to the Atomic Energy Act of 1954, as amended, and the Commission's rules and regulations in 10 CFR Parts 2 and 50: *It is hereby ordered*, That:

(1) The licensee shall take the following actions with respect to Crystal River Unit 3:

(a) Upgrade the timeliness and reliability of delivery from the Emergency Feedwater System by carrying out actions as identified in Enclosure 1 of the licensee's letter of May 1, 1979.

(b) Develop and implement operating procedures for initiating and controlling emergency feedwater independent of Integrated Control System control.

(c) Implement a hard-wired control-grade reactor trip that would be actuated on loss of main feedwater and/or turbine trip.

(d) Complete analyses for potential small breaks and develop and implement operating instructions to define operator action.

(e) All licensed reactor operators and senior reactor operators will have completed the TMI–2 simulator training at B&W.

(2) The licensee shall maintain Crystal River Unit 3 in a shutdown condition (the facility was shut down on April 23, 1979) until items (a) through (e) in paragraph (1) above are satisfactorily completed. Satisfactory completion will require confirmation by the Director, Office of Nuclear Reactor Regulation, that the actions specified have been taken, the specified analyses are acceptable, and the specified implementing procedures are appropriate.

(3) The licensee shall as promptly as practicable also accomplish the long-term modifications set forth in Section II of this Order.

V. Within twenty (20) days of the date of this Order, the licensee or any person whose interest may be affected by this Order may request a hearing with respect to this Order. Any such request shall not stay the immediate effectiveness of this Order.

Dated at Washington, D.C., this 16th day of May 1979.

For the Nuclear Regulatory Commission.

Samuel J. Chilk,

Secretary of the Commission.

[FR Doc. 79–15856 Filed 5–21–79; 8:45 am]

BILLING CODE 7590–01–M

[Docket No. 50–346]

Toledo Edison Co. and Cleveland Electric Illuminating Co., Davis–Besse Nuclear Power Station, Unit No. 1

Order

I. The Toledo Edison Company (TECO) and The Cleveland Electric Illuminating Company (the licensees), are holders of Facility Operating License No. NPF–3 which authorizes the operation of the nuclear power reactor known as Davis-Besse Nuclear Power Station, Unit No. 1 (the facility or Davis-Besse 1), at steady state power levels not in excess of 2772 megawatts thermal (rated power). The facility is a Bobcock & Wilcox (B&W) designed pressurized water reactor (PWR) located at the licensees' site in Ottawa County, Ohio.

II. In the course of its evaluation to date of the accident at the Three Mile Island Unit No. 2 facility, which utilizes a B&W designed PWR, the Nuclear Regulatory Commission staff has ascertained that B&W designed reactors appear to be unusually sensitive to certain off-normal transient conditions originating in the secondary system. The features of the B&W design that contribute to this sensitivity are: (1) Design of the steam generators to operate with relatively small liquid volumes in the secondary side; (2) the lack of direct initiation of reactor trip upon the occurrence of off-normal conditions in the feedwater system; (3) reliance on an integrated control system (ICS) to automatically regulate feedwater flow; (4) actuation before reactor trip of a pilot-operated relief valve on the primary system pressurizer (which, if the valve sticks open, can aggravate the event); and (5) a low steam generator elevation (relative to the reactor vessel) which provides a smaller driving head for natural circulation.*

Because of these features, B&W designed reactors place more reliance on the reliability and performance characteristics of the auxiliary feedwater system, the ICS, and the emergency core cooling system (ECCS) performance to recover from frequent anticipated transients, such as loss of offsite power and loss of normal feedwater, than do other PWR designs. This, in turn, places a large burden on the plant operators in the event of off-normal system behavior during such anticipated transients.

As a result of a preliminary review of the Three Mile Island Unit No. 2 accident chronology, the NRC staff initially identified several human errors that occurred during the accident and contributed significantly to its severity. All holders of operating licneses were subsequently intructed to take a number of immediate actions to avoid repetition of these errors, in accordance with bulletins issued by the Commission's Office of Inspection and Enforcement (IE). In addition, the NRC staff began an immediate reevaluation of the design features of B&W reactors to determine whether additional safety corrections or improvement were necessary with respect to these reactors. This evaluation involved numerous meeting with B&W and certain of the affected licensees.

The evaluation identified design features as discussed above which indicated that B&W designed reactors are unusually sensitive to certain off-normal transient conditions originating in the secondary system. As a result, an additional bulletin was issued by IE which instructed holders of operating licenses for B&W designed reactors to take further actions, including immediate changes to decrease the reactor high pressure trip point and increase the pressurizer pilot-operated relief valve setting. Also, as a result of this evaluation, the NRC staff identified certain other safety concerns that warranted additional short-term design and procedural changes at operating facilities having B&W designed reactors.

These were identified as items (a) through (e) on page 1–7 of the Office of Nuclear Reactor Regulation Status Report to the Commission of April 25, 1979.

After a series of discussions between the NRC staff and the licensees concerning possible design modifications and changes in operating procedures, the licensees agreed in letters dated April 27 and May 4, 1979, to implement promptly the following actions:

(a) Review all aspects of the safety grade auxiliary feedwater system to further upgrade components for added reliability and performance. Present modifications will include the addition of dynamic braking on the auxiliary feedpump turbine speed changer and provision of means for control room verification of the auxiliary feedwater flow to the steam generators. This means of verification will be provided for one steam generator prior to startup from the present maintenance outage and for the other steam generator as soon as vendor-supplied equipment is available (estimated date is June 1, 1979). In addition, the licensees will review and verify the adequacy of the auxiliary feedwater system capacity.

(b) Revise operating procedures as necessary to eliminate the option of using the Integrated Control System as a backup means for controlling auxiliary feedwater flow.

(c) Implement a hard-wired control-grade reactor trip that would be actuated on loss of main feedwater and/or turbine trip.

(d) Complete analyses for potential small breaks and develop and implement operating instructions to define operator action.

(e) All licensed reactor operators and senior reactor operators will have completed the Three Mile Island Unit No. 2 simulator training at B&W.

(f) Submit a reevaluation of the TECO analysis of the need for automatic or administrative control of steam generator level setpoints during auxiliary feedwater system operation, previously submitted by TECO letter of December 22, 1978, in light of the Three Mile Island Unit No. 2 incident.

(g) Submit a review of the previous TECO evaluation of the September 24, 1977 event involving equipment problems and depressurization of the primary system at Davis-Besse 1 in light of the Three Mile Island Unit No. 2 incident.

*It is noted that although features numbers 3 and 5 do not apply to Davis-Besse 1 to the same extent as they apply to other currently licensed B&W designed reactors, the other features are fully appplicable.

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In its letters the licensees also stated that the actions listed in (a) through (g) above would, except as noted in item (a), be completed prior to startup from the current maintenance outage.

In addition to these modifications to be implemented promptly, the licensees have also proposed to carry out certain additional long-term modifications to further enhance the capability and reliability of the reactor to respond to various transient events. These are:

The licensees will continue to review performance of the auxiliary feedwater system for assurance of reliability and performance.

The licensees will submit a failure mode and effects analysis of the ICS to the NRC staff as soon as practicable. The licensees stated that this analysis is now underway with high priority by B&W.

The reactor trip following loss of main feedwater and/or trip of the turbine to be installed promptly pursuant to this Order will thereafter be upgraded so that the components are safety grade. The licensees will submit this design to the NRC staff for review.

Continued attention will be given to transient analysis and procedures for management of small breaks.

The licensees will continue reactor operator training and drilling of response procedures to assure a high state of preparedness.

The Commission has concluded that the prompt actions set forth as (a) through (g) above are necessary to provide added reliability to the reactor system to respond safely to feedwater transients and should be confirmed by a Commission order.

The Commission finds that operation of Davis-Besse 1 should not be resumed until the actions described in paragraphs (a) through (g) above, with the exception as noted in item (a), have been satisfactorily completed.

For the foregoing reasons, the Commission has found that the public health, safety and interest require that this Order be effective immediately.

III. Copies of the following documents are available for inspection at the Commission's Public Document Room at 1717 H Street, N.W., Washington, D.C. 20555, and are being placed in the Commission's local public document room in the Ida Rupp Public Library, 310 Madison Street, Port Clinton, Ohio 43452:

(1) Office of Nuclear Reactor Regulation Status Report on Feedwater Transients in B&W Plants, April 25, 1979.

(2) Letters from Lowell E. Roe (TECO) to Harold Denton (NRR) dated April 27 and May 4, 1979.

IV. Accordingly, pursuant to the Atomic Energy Act of 1954, as amended, and the Commission's rules and regulations in 10 CFR Parts 2 and 50: *It is hereby ordered,* That:

(1) The licensees shall take the following actions with respect to Davis-Besse 1:

(a) Review all aspects of the safety grade auxiliary feedwater system to further upgrade components for added reliability and performance. Present modifications will include the addition of dynamic braking on the auxiliary feedpump turbine speed changer and provision of means for control room verification of the auxiliary feedwater flow to the steam generators. This means of verification will be provided for one steam generator prior to startup from the present maintenance outage and for the other steam generator as soon as vendor-supplied equipment is available (estimated date is June 1, 1979). In addition, the licensees will review and verify the adequacy of the auxiliary feedwater system capacity.

(b) Revise operating procedures as necessary to eliminate the option of using the Integrated Control System as a backup means for controlling the auxiliary feedwater system.

(c) Implement a hard-wired control-grade reactor trip that would be acutated on loss of main feedwater and/or turbine trip.

(d) Complete analyses for potential small breaks and develop and implement operating instructions to define operator action.

(e) All licensed reactor operators and senior reactor operators will have completed the Three Mile Island Unit No. 2 simulator training at B&W.

(f) Submit a reevaluation of the TECO analysis of the need for automatic or administrative control of steam generator level setpoints during auxiliary feedwater system operation previously submitted by TECO letter dated December 22, 1978, in light of the Three Mile Island No. 2 incident.

(g) Submit a review of the previous TECO evaluation of the September 24, 1977 event involving equipment problems and depressurization of the primary system at Davis-Besse 1 in light of the Three Mile Island Unit No. 2 incident.

(2) The licensees shall maintain Davis-Besse 1 in a shutdown condition until items (a) through (g) in paragraph (1), except as noted in item (a), above are satisfactorily completed. Satisfactory completion will require confirmation by the Director, Office of Nuclear Reactor Regulation, that the actions specified have been taken, the specified analyses are acceptable, and the specified implementing procedures are appropriate.

(3) The licensees shall as promptly as practicable also accomplish the long-term modifications set forth in Section II of this Order.

V. Within twenty (20) days of the date of this Order, the licensees or any person whose interest may be affected by this Order may request a hearing with respect to this Order. Any such request shall not stay the immediate effectiveness of this Order.

Dated at Washington, D.C., this 16th day of May 1979.

For the Nuclear Regulatory Commission.

Samuel J. Chilk,

Secretary of the Commission.

[FR Doc. 79-15855 Filed 5-21-79; 8:45 am]

BILLING CODE 7590-01-M

OFFICE OF PERSONNEL MANAGEMENT

Privacy Act of 1974; Notice of Amendment to an Existing Routine Use

AGENCY: Office of Personnel Management

ACTION: Notice.

SUMMARY: The purpose of this document is to provide notice, pursuant to 5 U.S.C. 552a(e)(11) of the Privacy Act of 1974, of intent to change an existing routine use covering the disclosure to requesting agencies of information from the Official Personnel Folders of former and current Federal civilian employees.

COMMENT DATE: Any interested party may submit written comments regarding this proposal. To be considered, comments must be received by June 25, 1979.

ADDRESS: Address comments to the Deputy Assistant Director for Workforce Information, Agency Compliance and Evaluation, Office of Personnel Management (Room 6410), 1900 E Street, N.W., Washington, D.C. 20415. Comments received will be available for public inspection at the above address between the hours of 9 a.m. and 4 p.m., Monday through Friday.

FOR FURTHER INFORMATION, CONTACT: Mr. John Sanet, Office of Advisory Services, Agency Compliance and Evaluation, (202) 254-9790.

SUPPLEMENTAL INFORMATION: The published description of the affected system, General Personnel Records (CSC/GOVT-3), appears in the Federal Register of September 8, 1978 (43 FR 40106), and the original routine use "x" was first published in the Federal Register of October 17, 1978 (43 FR 47767).

Background

At the request of the U.S. House of Representatives' Subcommittee on Health and the Environment of the Committee on Interstate and Foreign Commerce, the National Institute for Occupational Safety and Health (NIOSH) of the Department of Health, Education, and Welfare has initiated an epidemiologic study. The purpose of this study is to review personnel records in order to determine whether former employees at the Portsmouth Naval Shipyard experienced adverse effects from low level exposure to ionizing radiation while in the shipyard.

As part of this effort, NIOSH must be able to locate these individuals and determine their vital status in order to ascertain whether the individuals have in fact, experienced any adverse effects from the exposure to ionizing radiation. The NIOSH will maintain the information provided in accordance with the Privacy Act of 1974, the Freedom of Information Act, and its Departmental regulations dealing with personal confidential information.

This request by NIOSH is, in the Office of Personnel Management's judgement, similar to routine use "x" presently published for the CSC/GOVT-3, General Personnel Records system, that allowed the disclosure to the Defense Nuclear Agency of the home address and medical information of those individuals who participated in atmospheric nuclear testing between 1945 and 1962. The similarity exists in that both requests derived from the need to locate individuals, who, while employed in the Federal work force, might have contracted or become afflicted with a work-related disease, illness, or impairment.

The Office of Personnel Management (OPM) believes that this type of request is a harbinger of similar types of requests for information that will become more and more prevalent as agencies need to locate former employees in order to ascertain the possibility that these individuals contracted work-related illnesses while employed by the Federal government.

The most direct and efficient approach in locating these individuals and making a preliminary review of the type of work they were involved with, would be to obtain the information from Official Personnel Records under the control of the OPM and which are located at the National Personnel Records Center (NPRC) in St. Louis, Missouri. For any individual currently employed in the Federal work force, the present duty station will be released. This does not represent an invasion of privacy since the duty station of an employee is one of the listed data elements permitted to be disclosed to a requester under OPM's regulations implementing the Freedom of Information Act (5 U.S.C. 552). These regulations are found at § 294.702 of Title 5 of the Code of Federal Regulations.

Under the proposed amendment to the existing routine use, an agency would provide the name and any other identifying information they possess on individuals who either currently work at a Federal agency or who worked at an agency or who participated in an agency's project (e.g., atmospheric testing). The agency or the NPRC would then search its records and attempt to locate the appropriate Official Personnel Folder which might contain a forwarding address and other relevant information concerning the individuals. This information would then be provided to the requesting agency.

Though the home address of an individual is not considered to be public information, the benefit to the public and the data subjects in these instances is such as to outweigh the privacy factors involved. In a similar vein, additional relevant material such as, but not limited to, medical records, may be provided to the involved agency if the OPM feels that the request is valid. It is strongly emphasized that the decision to provide the information, resides with the OPM which will closely scrutinize each request before making any information available.

AMENDMENT TO AN EXISTING ROUTINE USE: The language that follows will be substituted for the present routine use "x" (which will be amended by the adoption of this notice) in the Office of Personnel Management's Government-wide system of General Personnel Records (CSC/GOVT-3). The current notice of this system is published as 43 FR 40106 et. seq. (September 8, 1978), and routine use "x" is published at 43 FR 47767-68 (October 17, 1978). The amended routine use "x" reads as follows:

CSC/GOVT-3

SYSTEM NAME: GENERAL PERSONNEL RECORDS—CSC

* * * * *

ROUTINE USES OF RECORDS MAINTAINED IN THE SYSTEM, INCLUDING CATEGORIES OF USERS AND THE PURPOSES OF SUCH USES:

* * *

* * * * * *

x. To disclose to a requesting agency the home address and other relevant information concerning those individuals who, it is reasonably believed, might have contracted an illness, been exposed to, or suffered from a health hazard while employed in the Federal workforce.

* * * * * *

The comment period on this change to an existing routine use ends at the close of business 30 days after the date of this notice (June 25, 1979). Unless a notice to the contrary is published, this amendment to routine use "x" will become effective 30 days after the end of the comment period (July 26, 1979). When this change to an existing routine use becomes effective, the present routine use "x" for this system of records will cease to be operative.

Beverly M. Jones,

Issuance System Manager.

[FR Doc. 79-15910 Filed 5-21-79; 8:45 am]

BILLING CODE 6325-01-M

SECURITIES AND EXCHANGE COMMISSION

[Release No. 34-15824; File No. SR-BSE-79-2]

Boston Stock Exchange, Inc.; Self-Regulatory Organization; Proposed Rule Change

Pursuant to Section 19(b)(1) of the Securities Exchange Act of 1934 (the "Act"), 15 U.S.C. 78s(b)(1), as amended by Pub. L. No. 94-29, 16 (June 4, 1975), notice is hereby given that on May 2, 1979, the Boston Stock Exchange, Inc. (the "BSE") filed with the Securities and Exchange Commission a proposed rule change as follows:

BSE's Statement of the Terms of Substance of the Proposed Change

Chapter II, Section 2, of the BSE Rules is amended by the addition of the following:

Members on the trading floor are required to time-stamp the time of entry of all orders received and to time-stamp the time of execution of all orders executed on the Exchange and to insure that there is no delay in reporting the execution of a trade. Failure to observe this requirement may be deemed by the Board to be an act detrimental to the interest or welfare of the Exchange.

Purpose of the Proposed Change

The BSE states that the purpose of the proposed rule change is to incorporate an existing policy of time-stamping orders on the floor of the Exchange into the Rules of the Exchange.

Basis of the Proposed Change

The BSE represents that the basis under the Act for the proposed change is Section 6(b)(1) in that the proposal facilitates Exchange enforcement of compliance by its floor members with an existing policy of time-stamping orders on the floor.

Comments Received from Members, Participants or Others on Proposed Change

No comments were solicited or received on the proposed rule change.

Burden on Competition

The BSE states that adoption of the proposed rule change imposes no burden on competition.

The foregoing rule change has become effective pursuant to Section 19(b)(3) of the Act. At any time within 60 days of the filing of such proposed change, the Commission may summarily abrogate such rule change if it appears to the Commission that such action is necessary or appropriate in the public interest, for the protection of investors, or otherwise in furtherance of the purposes of the Act.

Interested persons are invited to submit written data, views and arguments concerning the foregoing. Persons desiring to make written submissions should file 6 copies thereof with the Secretary of the Commission, Securities and Exchange Commission, Washington, D.C. 20549. Copies of the filing with respect to the foregoing and of all written submissions will be available for inspection and copying in the Public Reference Room, 1100 L Street, NW., Washington, D.C. Copies of such filing will also be available for inspection and copying at the principal office of the above-mentioned self-regulatory organization. All submissions should refer to the file number referenced in the caption above and should be submitted on or before June 12, 1979.

For the Commission by the division of Market Regulation, pursuant to delegated authority.

George A. Fitzsimmons,

Secretary.

May 15, 1979.

[FR Doc. 79-15816 Filed 5-21-79; 8:45 am]

BILLING CODE 8010-01-M

[Release No. 34-15825; File No. SR-SCCP 79-6]

Stock Clearing Corp. of Philadelphia; Self Regulatory Organization; Proposed Rule Change

Pursuant to Section 19(b)(1) of the Securities Exchange Act of 1934, 15 U.S.C. 78s(b)(1), as amended by Pub. L. No. 94-29, 16 (June 4, 1975), notice is hereby given that on April 30, 1979 the above-mentioned self-regulatory organization filed with the Securities and Exchange Commission a proposed Rule change as follows:

Statement of Terms of Substance of the Proposed Rule Change

Stock Clearing Corporation of Philadelphia (SCCP) proposes an amendment to its Rule 23, Compensation, which deals with charges for services rendered. The proposed Rule change establishes a fee of $150.00 per month for an all-inclusive transaction tape available to members at their option. The text of the Rule is as follows:

Rule 23. For the services rendered to clearing members as herein provided, such clearing member shall pay compensation to Stock Clearing Corporation and PHILADEP as follows:

Sections 1 through 7 remain unchanged, with the following new line to Section 7—Miscellaneous Charges:

Computer Transaction Tape—$150.00

Basis and Purpose of Proposed Rule Change

The purpose of the proposed Rule change is to establish a cost-related charge for a new service available to members.

The proposed Rule change provides equitable allocation of reasonable dues, fees and other charges among participating members in accordance with the standards set forth in section 17A(b)(3)(D) of the Act.

No formal comments have been solicited or received regarding the proposed Rule change.

No burden on competition will be imposed by the proposed Rule change. The proposed rate schedule does not discriminate between marketplaces nor does it inhibit clearing interfaces.

The foregoing Rule change has become effective pursuant to Section 19(b)(3) of the Securities Exchange Act of 1934. At any time within sixty days of the filing of such proposed Rule change, the Commission may summarily abrogate such Rule change if it appears to the Commission that such action is necessary or appropriate in the public interest, for the protection of investors, or otherwise in furtherance of the purposes of the Securities Exchange Act of 1934.

Interested persons are invited to submit written data, views and arguments concerning the foregoing. Persons desiring to make written submissions should file 6 copies thereof, with the Secretary of the Commission, Washington, D.C. 20549. Copies of the filing with respect to the foregoing and of all written submissions will be available for inspection and copying in the Public Reference Room, 1100 "L" Street, N.W., Washington, D.C. Copies of such filing will also be available for inspection and copying at the principal office of the above-mentioned self-regulatory organization. All submission should refer to the file number referenced in the caption above and should be submitted on or before June 12, 1979.

For the Commission by the Division of Market Regulation, pursuant to delegated authority.

George A. Fitzsimmons,

Secretary.

May 15, 1979.

[FR Doc. 79-15817 Filed 5-21-79; 8:45 am]

BILLING CODE 8010-01-M

[Release No. 10692; 812-4411]

Bunker Hill Income Securities, Inc. and Security Pacific National Bank; Filing of Application for Order Permitting Joint Transactions

May 14, 1979.

Notice is hereby given that Bunker Hill Income Securities, Inc. ("Bunker Hill"), registered under the Investment Company Act of 1940 ("Act") as a closed-end, diversified, management investment company, and Security Pacific National Bank, 1000 East Walnut Street, Pasadena, California 91106 ("Adviser") (Bunker Hill and the Adviser are collectively referred to herein as "Applicants"), investment adviser to Bunker Hill, filed an application on December 28, 1978, pursuant to Section 17(d) of the Act and Rule 17d-1 thereunder, for an order permitting Bunker Hill and the Adviser to enter into a joint arrangement for the

payment of premiums for errors and omissions insurance covering Applicants and their officers, directors and employees for the policy years 1978 and 1979, and permitting them (and any other investment company or companies of which the Adviser is the investment adviser that may hereafter be registered under the Act, and any subsidiary of the Adviser or of its parent corporation, Security Pacific Corporation, which may become the investment adviser to Bunker Hill) to enter into similar joint arrangements for subsequent years. All interested persons are referred to the application on file with the Commission for a statement of the representations contained therein, which are summarized below.

Applicants propose to enter into a joint arrangement for the payment of the premiums for errors and omissions insurance covering Applicants and their officers, directors and employees for the policy years 1978 and 1979, and to allocate such premiums between Bunker Hill and the Adviser in the same ratio as the premiums that would be charged on separate policies bear to each other. Applicants also propose to enter into similar arrangements for subsequent years, if they so desire, and provided that (a) the participation of Bunker Hill (and any other participating investment company) in such joint arrangement for any subsequent year is approved by its board of directors (and the directors of any other participating investment company) by an affirmative vote of the directors, including an affirmative vote of those directors who are not interested persons of the Adviser, and (b) such directors determine, by a similar vote, after due consideration of such relevant information as may be available, including advice from one or more insurance underwriters issuing competitive policies, (i) that the participation of such investment company in such joint arrangement with the Adviser (or any subsidiary of the Adviser or of its parent corporation which may become the investment adviser to Bunker Hill), and with any other investment company, would enable such investment company to acquire such insurance on a basis no less advantageous than the basis on which such insurance would be acquired by other participants in such joint arrangement, (ii) that the allocation of the premium for such insurance among the participants in such joint arrangement is fair and equitable, and (iii) that the portion of the total premium payable by such investment company is relatively small in relation to its total net assets.

Applicants state that since October 1974, they have purchased errors and omissions insurance issued by First State Insurance Company ("First State") covering Applicants and their respective officers, directors and employees for losses incurred from any claim of any shareholder of Bunker Hill by reason of negligent acts, errors or omissions. Applicants further state that direct costs of defense are covered by the policy, as are costs paid by Bunker Hill to any officer or director as indemnification for attorney's fees and expenses. According to the application, the cost of such insurance had been borne equally by Bunker Hill and the Adviser pursuant to an arrangement approved by the board of directors of Bunker Hill. The application states that at the October 1977 meeting of the board of directors of Bunker Hill, the Adviser informed the board that it had recently learned that the allocation of premiums for such insurance, under some circumstances, might be deemed to be a "joint transaction" requiring an order of the Commission. Applicants state that the board of directors of Bunker Hill thereupon authorized Bunker Hill to pay up to 50% of the annual premium for the policy period ended October 1978 (but not in excess of $15,250), and that a similar resolution was adopted at the October 1978 board meeting with respect to the premiums due for the policy period ending October 1979. Applicants further state that the Adviser paid the entire premium cost for the 1978 and 1979 policy periods, and that, to enable Bunker Hill to reimburse the Adviser for its fair share of such premiums, Bunker Hill sought additional information from First State with respect to a fair premium allocation. Applicants state that the limit of liability under the current policy is $5,000,000 for each claim in excess of a deductible of $20,000, and that the total premium for such coverage is currently $30,500.

Section 17(d) of the Act and Rule 17d-1 thereunder, taken together, provide, in part, that it is unlawful for an affiliated person of a registered investment company, acting as principal, to effect any transaction in which such investment company is a joint participant, without the permission of the Commission. Rule 17d-1 provides, in part, that in passing upon applications for orders granting such permission, the Commission will consider (1) whether the participation of the investment company in such transaction on the basis proposed is consistent with the provisions, policies and purposes of the Act, and (2) the extent to which such participation is on a basis different from or less advantageous than that of other participants. Section 2(a)(3)(E) of the Act defines the term "affiliated person" of an investment company to include any investment adviser thereof.

Applicants submit that the arrangement they propose is consistent with the provisions, policies and purposes of the Act, that the participation in the joint errors and omissions policy on the basis proposed is fair and equitable, and that the participation of each Applicant will be on a basis no less advantageous than that of any other participant. In support of these assertions, Applicants state that First State advised the board of directors of Bunker Hill that if the Adviser and Bunker Hill each purchased separate policies the maximum amount of insurance coverage available to each would be $1,000,000, and that the estimated annual premiums on such policies would be $12,900, and $10,800, respectively. Applicants state that by obtaining a joint policy, the Adviser and Bunker Hill are obtaining $5,000,000 of coverage for an aggregate premium of $30,500. According to the application, based upon the rationale that the premium for a single policy should be allocated between Bunker Hill and the Adviser in the same ratio as the premiums that would be charged on separate policies bear to each other, First State recommended that the aggregate premium of $30,500 for 1979 be allocated $16,601 (54.43%) to the Adviser and $13,899 (45.57%) to Bunker Hill. The application further states that by using the same allocation formula, the 1978 premium cost would be $12,738 to the Adviser and $10,662 to Bunker Hill.

According to the application, at a meeting held on October 16, 1978, the board of directors of Bunker Hill determined to participate in the proposed joint arrangement with the Adviser, and to participate in the payment of the insurance premiums for the years 1978 and 1979, on the basis recommended by First State, subject to receipt of an order from the Commission. Applicants state that these decisions were approved by the affirmative vote of all of the directors of Bunker Hill, including all of the directors who are not interested persons of the Adviser, and that Bunker Hill has not, and will not, make any payments for any portion of the premium cost on the 1978 or 1979 policies unless and until the order requested by the application has been issued. Applicants submit that, in addition to enhancing Bunker Hill's ability to attract and to hold qualified, noninterested directors, the joint errors and omissions policy benefits Bunker

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Hill because it provides coverage for liabilities and expenses that it could incur in the event a shareholder sued Bunker Hill and Bunker Hill, for whatever reason, was unable to recover against the Adviser or the Adviser's officers and directors. Applicants further submit that Bunker Hill's coverage under the errors and omissions policy may have the incidental benefit of not requiring Bunker Hill to establish a contingency reserve based upon a shareholder's claim and, therefore, would facilitate the determination of net asset value.

Notice is further given that any interested person may, not later than June 8, 1979, at 5:30 p.m., submit to the Commission in writing a request for a hearing on the matter accompanied by a statement as to the nature of his interest, the reason for such request, and the issues, if any, of fact or law proposed to be controverted, or he may request that he be notified if the Commission shall order a hearing thereon. Any such communication, Washington, D.C. 20549. A copy of such request shall be served personally or by mail upon Applicants at the address stated above. Proof of such service (by affidavit or, in the case of an attorney-at-law, by certificate) shall be filed contemporaneously with the request. As provided by Rule 0–5 of the Rules and Regulations promulgated under the Act, an order disposing of the application will be issued as of course following said date unless the Commission's own motion. Persons who request a hearing, or advice as to whether a hearing is ordered, will receive any notices and orders issued in this matter, including the date of the hearing (if ordered) and any postponements thereof.

For the Commission, by the Division of Investment Management, pursuant to delegated authority.

George A. Fitzsimmons,

Secretary.

[FR Doc. 79–15818 Filed 5–21–79; 8:45 am]

BILLING CODE 8010–01–M

[Rel. No. 21046; 70–6235]

Central and Southwest Fuels, Inc., et al. Proposed Increase in Fuel Exploration and Development Budget; Order Authorizing Partial Increase

May 11, 1979.

In the matter of Central and Southwest Fuels, Inc., P.O. Box 10773, Golden, Colorado 80401; Central Power and Light Company, P.O. Box 2121, Corpus Christi, Texas 78403; Public Service Company of Oklahoma, Ash Creek Mining Company, P.O. Box 201, Tulsa, Oklahoma 74102; Southwestern Electric Power Company, P.O. Box 21106, Shreveport, Louisiana 71156; and West Texas Utilities Company, P.O. Box 841, Abilene, Texas 79604.

Notice is hereby given that Central Power and Light Company ("CPL"), Public Service Company of Oklahoma ("PSO"), Southwestern Electric Power Company ("SWEPCO") and West Texas Utilities Company ("WTU"), each an electric utility subsidiary company of Central and South West Corporation, a registered holding company, together with Central and South West Fuels, Inc. ("CSWF"), a fuel subsidiary of CPL, PSO, SWEPCO and WTU, and Ash Creek Mining Company ("Ash Creek"), a mining subsidiary of PSO, have filed with this Commission a post-effective amendment to their application-declaration previously filed and amended in this matter pursuant to the Public Utility Holding Company Act of 1935 ("Act"), designating Sections 9(a), 10, 12 and 13 of the Act and Rules 90–95 promulgated thereunder as applicable to the proposed transaction. All interested persons are referred to the application-declaration, as amended by said post-effective amendment, which is summarized below, for a complete statement of the proposed transaction.

By orders dated December 29, 1978, and March 30, 1979 (HCAR Nos. 20864 and 20983), applicants-declarants were authorized fuel exploration development budgets for the three month period ending March 31, 1979, and the two month period ending May 31, 1979, respectively. CPL's authorization were $1,350,000 for the first period and $900,000 for the second period, said amounts being a part of a total request by CPL of $6,750,000 for oil and gas exploration and development activities for the 15-month period ending March 31, 1980. Such amount was to be expended in connection with the Haas-McNeil-Wilson venture described in File No. 70–5769.

By post-effective amendment it is now requested that CPL's budget authorization for the 15-month period ending March 31, 1980, be increased to $11,172,600 for oil and gas exploration and development in connection with the Haas-McNeil-Wilson venture. Of such increased amount, $3,010,000 is required for expenditures, primarily for equipment which has now become available, during the current temporary authorization period expiring May 31, 1979, an amount exceeding by $2,110,000 the present authorization for said period. It is stated that the reason for the proposed increase is the substantially greater than anticipated success in the venture, which success has caused management to increase its proposed outlays for the period April 1 through December 31, 1979, as follows (the figures reflect CPL's share of joint venture expenditures):

Drilling on two prospects, $5,310,000;
Gathering system expenditures, $675,000;
Geological and geophysical testing on six other prospects, $237,600;
Lease acquisitions, $540,000;
Other drilling and testing and construction of pipelines and related facilities, $1,710,000;
Total, $8,472,600.

The $8,472,600 now budgeted for the period April 1 through December 31, 1979, together with the $1,350,000 previously authorized for the period January 1 through March 31, 1979, and a budget of $1,350,000 for the period January 1 through March 31, 1980, equals the $11,172,600 budget authorization sought for the 15-month period ending March 31, 1980.

The additional fees and expenses to be incurred in connection with the proposed transaction will be supplied by amendment. It is stated that no state commission and no federal commission, other than this Commission, has jurisdiction over the proposed transaction.

Notice is further given that any interested person may, not later than June 7, 1979, request in writing that a hearing be held on such matter, stating the nature of his interest, the reasons for such request, and the issues of fact or law raised by said application-declaration, as amended by said post-effective amendment, which he desires to controvert; or he may request that he be notified if the Commission should order a hearing thereon.

Any such request should be addressed: Secretary, Securities and Exchange Commission, Washington, D.C. 20549. A copy of such request should be served personally or by mail upon the applicants-declarants at the above-stated addresses, and proof of service (by affidavit or, in case of an attorney at law, by certificate) should be filed with the request. At any time after said date, the application-declaration, as amended by said post-effective amendment or as it may be further amended, may be granted and permitted to become effective as provided in Rule 23 of the General Rules and Regulations promulgated under the Act, or the Commission may grant exemption from such rules as provided in Rules 20(a) and 100 thereof or take such other action as it may deem appropriate. Persons who request a hearing or advice as to whether a hearing is ordered will receive any notices and orders issued in this matter, including the date of the hearing (if ordered) and any postponements thereof.

It appearing that the application-declaration, as amended by said post-effective amendment, insofar as it proposes an increase in CPL's fuel exploration and development budget to $3,010,000 for the period from the date hereof through May 31, 1979, should be granted and permitted to become effective forthwith:

It is ordered, that the application-declaration, as amended by said post-effective amendment, regarding the proposed increase in CPL's fuel exploration and development budget to $3,010,000 from the date hereof through May 31, 1979, be, and it hereby is, granted and permitted to become effective forthwith, subject to the terms and conditions prescribed in Rule 24 under the Act, except that certificates thereunder shall be filed quarterly.

For the Commission, by the Division of Corporate Regulation, pursuant to delegated authority.

George A. Fitzsimmons,

Secretary.

[FR Doc. 79–15819 Filed 5–21–79; 8:45 am]

BILLING CODE 8010–01–M

[File No. 22–9614]

Dart Industries Inc.; Application and Opportunity for Hearing

May 15, 1979.

Notice is hereby given that Dart Industries Inc. ("Dart") has filed an application under clause (ii) of Section 310(b)(1) of the Trust Indenture Act of 1939, as amended (the "1939 Act"), for a finding by the Securities and Exchange Commission ("Commission") that the trusteeship of The Chase Manhattan Bank (National Association) ("Chase") under (i) and indenture dated as of April 1, 1971 between Dart and Chase, as trustee, heretofore qualified under the 1939 Act ("Dart Indenture") and (ii) indentures dated as of September 15, 1976 and June 15, 1978 between P. R. Mallory & Co. Inc. (an indirect, wholly-owned subsidiary of Dart hereinafter referred to as "Mallory") and Chase, as trustee, heretofore qualified under the 1939 Act (respectively, the "Mallory 1976 Indenture" and the "Mallory 1978 Indenture"), as supplemented by first supplemental indentures dated as of March 1, 1979 (effective as of April 2, 1979) among Mallory, Dart and Chase, as trustee ("Supplemental Indentures"), providing for the guarantee by Dart of the payment of principal of and premium, if any, and interest on the Mallory debentures issued pursuant to the Mallory 1976 Indenture and the Mallory 1978 Indenture, is not so likely to involve a material conflict of interest as to make it necessary in the public interest or for the protection of investors to disqualify Chase from acting as trustee under either the Dart Indenture or the aforementioned Mallory Indentures, as so supplemented ("Mallory Indentures").

Section 310(b) of the 1939 Act provides in part that if a trustee under an indenture qualified under the 1939 Act has or shall acquire any conflicting interest (as defined in such Section), it shall within ninety days after ascertaining that it has such conflicting interest either eliminate such conflicting interest or resign. Subsection (1) of such Section provides, *inter alia*, that with certain exceptions a trustee under a qualified indenture shall be deemed to have a conflicting interest if such trustee is trustee under another indenture under which any other securities of the same issuer are outstanding. However, under clause (ii) of subsection (1), there may be excluded from the operation of this provision another indenture under which other securities of the issuer are outstanding, if the issuer shall have sustained the burden of proving, on application to the Commission and after opportunity for hearing thereon, that trusteeship under such qualified indenture and such other indenture is not so likely to involve a material conflict of interest as to make it necessary in the public interest or for the protection of investors to disqualify such trustee from acting as trustee under either of such indentures.

Dart alleges that: (1) As of April 10, 1979 there were outstanding (A) $60,000,000 principal amount of Dart's 7½% Sinking Fund Debentures Due April 1, 1996 ("Dart Debentures") issued under the Dart Indenture and (B) $30,000,000 principal amount of Mallory's 8⅞% Sinking Fund Debentures Due 1996 ("Mallory 8⅞% Debentures") issued under the Mallory 1976 Indenture and $20,000,000 principal amount of Mallory's 9⅛% Sinking Fund Depentures Due 2003 ("Mallory 9⅛% Debentures") issued under the Mallory 1978 Indenture (the Mallory 8⅞% Debentures and the Mallory 9⅛% Debentures being hereinafter referred to as the "Mallory Debentures").

(2) The terms of the Supplemental Indentures, except for the references therein to the appropriate Mallory Indenture and Mallory Debentures, are substantially the same and in each case provide for the guarantee by Dart of the payment of the principal of and premium, if any, and interest on the respective Mallory Debentures referred to therein (such guarantees being hereinafter referred to as the "Guarantees") and the filing by Dart with the Trustee of copies of certain reports and other documents which Dart may be required to file with the Commission pursuant to the Securities Exchange Act of 1934, as amended. Dart has not guaranteed the performance by Mallory of any other of Mallory's convenants, agreements or obligations under the Mallory Debentures or the Mallory Indentures.

(3) The Dart Indenture and the Mallory Indentures are wholly unsecured and Dart is not in default thereunder, nor is Mallory in default under the Mallory Indentures. Dart's obligation to make payments pursuant to the Guarantees ranks equally with its obligation to make payments under the Dart Indenture. Except for variations as to amounts and interest rates, maturity dates, dates of payment of principal and interest, redemption procedures, redemption dates and redemption prices, there are no material variations between the Dart Indenture and the Mallory Indentures with respect to Dart's obligations to make payments thereunder, except that Dart is the primary and sole obligor under the Dart Indenture and the secondary obligor under the Mallory Indentures.

(4) Dart believes that such differences as exist between the Dart Indenture and the Mallory Indentures are not so likely to involve a material conflict of interest as to make it necessary in the public interest or for the protection of investors to disqualify Chase from acting as trustee under either the Dart Indenture or the Mallory Indentures.

Dart has waived any hearing, as well as notice of any such hearing and any and all rights to specify procedures under the Rules of Practice of the Commission with respect to Dart's application.

Notice is hereby further given that an order granting the application may be issued by the Commission at any time on or after June 5, 1979, unless prior thereto a hearing upon the application is ordered by the Commission, as provided in clause (ii) of Section 310(b)(1) of the 1939 Act. Any interested person may, not later than June 4, 1979, at 5:30 p.m. Eastern Standard Time, in writing, submit to the Commission the views of such person or any additional facts bearing upon the application or the desirability of a hearing thereon. Any such communication or request should be addressed: Secretary, Securities and

For the Commission, by the Division of

common stock ($1.00 par value per

For the Commission, by the Division of

Exchange Commission, 500 North Capitol Street, N.W., Washington, D.C. 20549, and should state such information or, if requesting a hearing, the reasons for such request, and the issues of fact and law raised by the application which such person desires to controvert.

For the Commission, pursuant to delegated authority by the Division of Corporation Finance.

George A. Fitzsimmons,

Secretary.

[FR Doc. 79-15820 Filed 5-21-79; 8:45 am]

BILLING CODE 8010-01-M

[File No. 1-0271]

Fibreboard Corp.; Application To Withdraw From Listing and Registration 4¾% Convertible Subordinated Debentures Due October 15, 1993 and 6¾% Convertible Subordinated Debentures Due October 15, 1998

May 15, 1979.

The above named issuer has filed an application with the Securities and Exchange Commission, pursuant to Section 12(d) of the Securities Exchange Act of 1934 and Rule 12d2-2(d) promulgated thereunder, to withdraw the specified securities from listing and registration on THE NEW YORK STOCK EXCHANGE, INC. ("NYSE").

The reasons alleged in the application for withdrawing these securities from listing and registration include the following:

The 4¾% and 6¾% Debentures of Fibreboard Corporation (the "Company") are being withdrawn from listing and registration because the Company has reported that there are less than 300 recordholders for each of the above listed issues. The NYSE has posed no objection in this matter.

Any interested person may, on or before June 15, 1979, submit by letter to the Secretary of the Securities and Exchange Commission, Washington, D.C. 20549, facts bearing upon whether the application has been made in accordance with the rules of the Exchange and what terms, if any, should be imposed by the Commission for the Protection of investors. The Commission will, on the basis of the application and any other information submitted to it, issue an order granting the application after the date mentioned above, unless the Commission determines to order a hearing on the matter.

For the Commission, by the Division of Market Regulation, pursuant to delegated authority.

George A. Fitzsimmons,

Secretary.

[FR Doc. 79-15821 Filed 5-21-79; 8:45 am]

BILLING CODE 8010-01-M

[Release No. 10695; 811-1909]

Keystone Apollo Fund, Inc.; Application for an Order Declaring That Company Has Ceased To Be an Investment Company

May 15, 1979.

Notice is hereby given that Polaris Fund Inc. ("Polaris"), on behalf of Keystone Apollo Fund, Inc. ("Applicant"), 99 High Street, Boston, Massachusetts 02110, filed an application pursuant to Section 8(f) of the Investment Company Act of 1940 ("Act") on March 5, 1979, for an order of the Commission declaring that Applicant, a diversified open-end management investment company registered under the Act, has ceased to be an investment company as defined in the Act. All interested persons are referred to the application on file with the Commission for a statement of the repesentations set forth therein, which are summarized below.

Applicant represents that on December 15, 1977, at a special meeting of Applicant's shareholders, holders of a majority of the outstanding shares of Applicant approved an agreement and plan of merger under which Applicant, Keystone OTC Fund, Inc. ("OTC"), and Polaris would be merged into Polaris. The application also states that holders of a majority of the outstanding shares of OTC and Polaris approved the agreement and plan of merger at special meetings of shareholders held on December 15, 1977. The Applicant states that on December 19, 1977, a statutory merger occured by and between Applicant, OTC and Polaris that complied with the provisions of Massachusetts law.

The application states that in connection with the merger, two types of distributions were made to Applicant's shareholders. On December 5, 1977, Applicant paid to its shareholders of record on November 30, 1977, a dividend from its taxable income equal to substantially all such income undistributed as of the record date. On December 19, 1977, the outstanding shares of Applicant's common stock were converted into shares of Polaris common stock ($1.00 par value per share), for distribution to Applicant's former shareholders by Polaris, except that Applicant's treasury shares were deemed cancelled as of the effective date of the merger. The application states that all of Applicant's portfolio securites and other assets not distributed to shareholders prior to December 19, 1977, were transferred to Polaris on that date. Applicant represents that on December 19, 1977, its legal existence terminated, that there are no pending litigation or administrative proceedings to which the Applicant is currently a party, and that the Applicant is not engaged in any business acitivities whatsoever.

Section 8(f) of the Act provides, in pertinent part, that when the Commission, upon application, finds that a registered investment company has ceased to be an investment company, it shall so declare by order and upon the effectiveness of such order, the registration of such company shall cease to be in effect.

Notice is further given that any interested person may, not later than June 5, 1979, at 5:30 P.M., submit to the Commission in writing a request for a hearing on the matter accompanied by a statement as to the nature of his interest, the reason for such request, and the issues, if any of fact or law proposed to be controverted, or he may request that he be notified if the Commmission shall order a hearing thereon. Any such communication should be addressed: Secretary, Securities and Exchange Commission, Washington, D.C. 20549. A copy of such request shall be served personally or by mail upon Applicant(s) at the address(es) stated above. Proof of such service (by affidavit, or in case of an attorney-at-law, by certificate) shall be filed contemporaneously with the request. As provided by Rule 0-5 of the Rules and Regulations promulgated under the Act, an order disposing of the application will be issued as of course following said date unless the Commission thereafter orders a hearing upon request or upon the Commission's own motion. Persons who request a hearing, or advice as to whether a hearing is ordered, will receive any notices and orders issued in this matter, including the date of the hearing (if ordered) and any postponements thereof.

For the Commission, by the Division of Investment Management, pursuant to delegated authority.

George A. Fitzsimmons,

Secretary.

[FR Doc. 79-15823 Filed 5-21-79; 8:45 am]

BILLING CODE 8010-01-M

[Release No. 10694; 811-2285]

Keystone OTC Fund, Inc.; Application for an Order Declaring That Company Has Ceased To Be an Investment Company

May 15, 1979.

Notice is hereby given that Polaris Fund Inc. ("Polaris"), on behalf of Keystone OTC Fund, Inc., 99 High Street, Boston, Massachusetts 02110 ("Applicant") filed an application pursuant of Section 8(f) of the Investment Company Act of 1940 ("Act") on March 5, 1979, for an order of the Commission declaring that Applicant, a closed-end diversified management investment company registered under the Act, has ceased to be an investment company as defined in the Act. All interested persons are referred to the application on file with the Commission for a statement of the representations set forth therein, which are summarized below.

The application states that Applicant was incorporated under the laws of the Commonwealth of Massachusetts on March 29, 1972. Applicant represents that on December 15, 1977, at e special meeting of Applicant's shareholders, holders of a majority of the outstanding shares of Applicant approved an agreement and plan of merger under which Applicant, Keystone Apollo Fund, Inc. ("Apollo"), and Polaris would be merged into Polaris. The application also states that holders of a majority of the outstanding shares of Apollo and Polaris approved the agreement and plan of merger at special meetings of shareholders held on December 15, 1977. The Applicant states that on December 19, 1977, a statutory merger occurred by and between Applicant, Apollo and Polaris that complied with Massachusetts law.

The application states that in connection with the merger, two types on distributions were made to Applicant's shareholders. On December 19, 1977, Applicant paid to its shareholders of record on November 30, 1977, a dividend from its taxable income equal to substantially all such income undistributed as of the record date. On December 19, 1977 the outstanding shares of Applicant's common stock were converted into shares of Polaris common stock ($1.00 par value per share) for distribution to Applicant's former shareholders by Polaris, except that Applicant's treasury shares were deemed cancelled as of the effective date of the merger. The application states that all of the Applicant's portfolio securities and other assets not distributed to shareholders prior to December 19, 1977, were transferred to Polaris on that date. Applicant represents that on December 19, 1977, its legal existence terminated, that there are no pending litigation or administrative proceedings to which the Applicant is currently a party, and that the Applicant is not engaged in any business activities whatsoever.

Section 8(f) of the Act provides, in pertinent part, that when the Commission, upon application, finds that a registered investment company has ceased to be an investment company, it shall so declare by order and upon the effectiveness of such order, the registration of such company shall cease to be in effect.

Notice is further given that any interested person may, not later than June 5, 1979, at 5:30 p.m., submit to the Commission in writing a request for a hearing on the matter accompanied by a statement as to the nature of his interest, the reason for such request, and the issues, if any, of fact or law proposed to be controverted, or he may request that he be notified if the Commission shall order a hearing thereon. Any such communication should be addressed: Secretary, Securities and Exchange Commission, Washington, D.C. 20549. A copy of such request shall be served personally or by mail upon Applicant(s) at the address(es) stated above. Proof of such service (by affidavit, or in case of an attorney-at-law, by certificate) shall be filed contemporaneously with the request. As provided by Rule 0-5 of the Rules and Regulations promulgated under the Act, an order disposing of the application will be issued as of course following said date unless the Commission thereafter orders and hearing upon request or upon the Commission's own motion. Persons who request a hearing, or advice as to whether a hearing is ordered, will receive any notices and orders issued in this matter, including the date of the hearing (if ordered) and any postponements thereof.

For the Commission, by the Division of Investment Management, pursuant to delegated authority.

George A. Fitzsimmons,

Secretary.

[FR Doc. 79-15822 Filed 5-21-79 8:45 am]

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[Rel. No. 10689; 812-4434]

Investors Mutual, Inc., et al.; Filing of Application for Order

May 11, 1979.

In the matter of Investors Mutual, Inc., 1000 Roanoke Building, Minneapolis, Minnesota 55402; Investors Selective Fund, Inc., 1000 Roanoke Building, Minneapolis, Minnesota 55402; Investors Syndicate of America, Inc., IDS Tower, Minneapolis, Minnesota 55402; and IDS Life Insurance Company, IDS Tower, Minneapolis, Minnesota 55402.

Notice is hereby given that Investors Mutual, Inc. ("Mutural"), Investors Selective Fund, Inc. ("Selective"), both Nevada corporations registered under the Investment Company Act of 1940 ("the Act") as open-end, diversified, management investment companies, Investors Syndicate of America, Inc. ("ISA"), a Delaware corporation registered under the Act as a face amount certificate company and IDS Life Insurance Company ("ISL"), a Minnesota corporation engaged in the sale of life insurance, disability income insurance and annuities (hereinafter referred to as "Applicant"), filed an application on February 14, 1979, and an amendment thereto on April 30, 1979, pursuant to Section 17(d) of the Act and Rule 17d-1 thereunder, requesting an order of the Commission authorizing (1) Mutual and Selective to execute a Consent of Holder of First Mortgage Bonds of Coastal States Gas Producing Company ("Producing"), and (2) ISA and ISL to execute a note agreement which contains modifications of the terms and provisions of the 8⅛% Notes of Producing due 1987 ("the 8⅛% Notes"), and to perform those actions contemplated by the note agreement. All interested persons are referred to the application on file with the Commission for a statement of the representations contained therein, which are summarized below.

Producing, Coastal States Gas Corporation. ("Coastal"), the parent of Producing, Lo-Vaca Gathering Company ("Lo-Vaca"), a wholly-owned subsidiary of Producing, and certain natural gas sales customers of Lo-Vaca have entered into an agreement, dated December 28, 1977 ("the Agreement"), pursuant to which those parties have

to the submission of such plan or agreement concerning the 8⅛% Notes.

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agreed to the implementation of a settlement plan ("the Plan"). Applicants state that the Agreement and the Plan, signed in March, 1978, are designed to resolve substantial disputes and litigation involving the sale and delivery of natural gas, with alleged damages against Producing and/or its affiliates of more than $1.6 billion as of December 31, 1977. Producing's stockholders' equity on that date was approximately $272 million.

The Plan, which has been substantially approved by the Railroad Commission of Texas, is the result of several years of extensive negotiations among Producing, Coastal, Lo-Vaca, and its customers. None of the Applicants participated in such negotiations. The Plan will result in, *inter alia,* the reorganization of Producing into a publicly held corporation, Valero Energy Corporation, which will be spun-off from Coastal, and which will consist primarily of Producing's present gas utility pipeline and extraction plant operations, including Lo-Vaca, and a retail gas distribution division now owned by Coastal. The Plan also provides that Coastal States Petroleum Company ("Petroleum"), a wholly-owned subsidiary of Producing, will become a subsidiary of Coastal. Petroleum will assume, and obtain the release of Producing from, certain indebtedness, including the 8⅛% Notes. After such assumptions, the 8⅛% Notes will be guaranteed by Coastal and by two of Petroleum's three present subsidiaries. As additional security for the 8⅛% Notes, one of Petroleum's subsidiaries will grant a mortgage on its gathering and refined products lines and terminals to secure the performance of its guarantee, and Petroleum will grant a mortgage on a refinery now owned by a subsidiary of Petroleum which will be merged into Petroleum. In connection with the implementation of the Plan, Producing has requested various waivers, consents, modifications and agreements from all holders of certain of its classes of debt securities, including the Applicants, concerning the terms and conditions of the debt securities owned by them.

Applicants state that Mutual owns Series B, Series C and Series E Mortgage Bonds issued by Producing, and Selective owns the Series E Mortgage Bonds. Applicants further state that Mutual owns 3.6% and Selective owns 0.3% of the aggregate Mortgage Bonds outstanding. These Mortgage Bonds are secured by a Mortgage and Deed of Trust dated June 15, 1963 ("the Indenture"). The amendments to the Indenture required a favorable vote or consent of the holders of 66⅔% in principal amount of (1) the aggregate of the Mortgage Bonds, and (2) the Series A Mortgage Bonds. Producing sent a notice, dated March 12, 1979, informing the holders of the Mortgage Bonds that the proposed amendments to the Indenture have become effective following approval by holders of more than the required two-thirds of the Mortgage Bonds. Applicants state that ISA owns 2.9% and ISL owns 0.9% of the 8⅛% Notes. Petroleum's assumption of the 8⅛% Notes with Coastal's guarantee and the other modifications of the terms of the note agreement requires 100% approval of the holders of the 8⅛% Notes. Therefore, the approval of ISA and ISL of the modifications of the terms of the note agreement is necessary.

Applicants state that the following is a brief summary of the more substantive amendments to the Indenture: (1) the elimination of the concept of Contract Differentials and the addition of the Gas Systems to Bondable Additions as a basis for issuing additional bonds; (2) the easing of financial requirements for the issuance of additional bonds; (3) the elimination of the Contract Differential concept and the substitution of new standards as a basis for additional mandatory sinking fund payments; (4) the amending of the definitions of, *inter alia,* Consolidated Net Earnings and Net Earnings for Bonding Purposes; (5) the alteration in the Excepted Property Clause concerning the requirements for pledging the stock of a subsidiary; (6) the inclusion of liquified natural gas and synthetic gas within the Indenture provisions; (7) the permitting of gas storage facilities, not owned by Producing or a Co-Mortgagor, to remain free of the Indenture lien; (8) the clarification that a transfer of stock of a subsidiary to another wholly-owned subsidiary is permitted; (9) the removal of a thirty-day clean-up period on current debt; (10) the restricting of the ability to incur consolidated funded debt; (11) the increasing of the dollar amount of gas systems held by subsidiaries which are not required to be pledged; (12) the expanding of the scope of permissible business activities; (13) the extending of the time that a gas system under construction can be held free of the Indenture lien; (14) the permitting of financing through sales and leasebacks; (15) the extending of the time to appeal final judgments; and (16) the modification or alteration of rights to claim possible defaults or deficiencies under the Indenture with respect to certain matters involving, *inter alia,* Gas Purchase Contracts, Gas Sales Contracts, and delivery of Certificates required by the Indenture.

Applicants further state that the following is a brief summary of the major proposed modifications to the 8⅛% Note agreement: (1) the assumption of the 8⅛% Notes by Petroleum, the unconditional guarantee given by Coastal and two subsidiaries of Petroleum and the granting of a mortgage by one of such subsidiaries to secure the performance of its guarantee; (2) the granting of a mortgage on a refinery by Petroleum as additional security; (3) the ability of Petroleum to substitute an irrevocable letter of credit for the foregoing guarantees and mortgages; (4) the addition of more stringent prepayment requirements on the disposition of capital assets; (5) the reduction in allowable consolidated funded debt; (6) the addition of a new positive working capital maintenance requirement; (7) the revised limitation on restricted payments; (8) the subordination of loans and advances from the parent or affiliated companies; (9) the revised limitation on the ability to create liens; (10) the revised limitation on the scope of permissible business activities; (11) the new limitations on permissible leases; (12) the revised limitations relating to subsidiaries; (13) the new limitations regarding consolidation, merger, disposition of property, and the holding of foreign assets; (14) the new requirements concerning ownership of principal subsidiaries; (15) the new requirements of Coastal concerning maintenance of net worth, elimination of subordinated liens on the stock of first tier subsidiaries and the new limitation on Coastal's incurrence of subordinated debt; and (16) the waiver of certain provisions under the note agreement to permit additional bank borrowing on an interim basis, pending consummation of the Plan.

Rule 17d–1, adopted by the Commission pursuant to Section 17(d) of the Act, provides, in part, that no affiliated person of or principal underwriter for any registered investment company and no affiliated person of such a person or principal underwriter, acting as principal, shall participate in, or effect any transaction in connection with any joint enterprise or other joint arrangement or profit-sharing plan in which any such registered company, or a company controlled by such registered company, is a participant, unless an application regarding such joint enterprise, arrangement or profit-sharing plan has been filed with the Commission and has been granted by an order entered prior to the submission of such plan or modification to securityholders for approval, or prior to such adoption or modification if not so submitted. A "joint enterprise or other joint arrangement or profit-sharing plan", as defined in Subparagraph (c) of Rule 17d–1, includes any written or oral plan, contract, authorization or arrangement, or any practice or understanding concerning an enterprise or undertaking whereby a registered investment company or a controlled company thereof and any affiliated person of or a principal underwriter for such registered investment company, or any affiliated person of such a person or principal underwriter, have a joint or a joint and several participation, or share in the profits of such enterprise or undertaking. Pursuant to Subparagraph (b) of Rule 17d–1, in passing upon such application, the Commission will consider whether the participation of such registered or controlled company in such joint enterprise, joint arrangement or profit-sharing plan on the basis proposed is consistent with the provisions, policies and purposes of the Act and the extent to which such participation is on a basis different from or less advantageous than that of other participants.

An "affiliated person" of another person, defined in Section 2(a)(3) of the Act, includes, *inter alia,* (1) any person 5 per centum or more of whose outstanding voting securities are directly or indirectly owned, controlled, or held with power to vote by such other person; (2) any person directly or indirectly controlling, controlled by, or under common control with, such other person, and (3) if such other person is an investment company, any investment adviser thereof or any member of an advisory board thereof. ISA and ISL are both wholly-owned subsidiaries of Investors Diversified Services, Inc. ("Investors Diversified"), a Delaware corporation engaged in providing a broad range of financial services. Investors Diversified acts as distributor of the face amount certificates issued by ISA and of the shares issued by Mutual and Selective. Investors Diversified also acts as investment adviser to each of Mutual, Selective, ISA and ISL. Because of these relationships, Investors Diversified is an "affiliated person" of each of the Applicants, and each of the Applicants may be deemed to be an "affiliated person" of each of the other Applicants or of the principal underwriter for the other Applicants. Therefore, the execution by Mutual and Selective of the Consent of Holder of First Mortgage Bonds, and the execution by ISA and ISL of the new note agreement concerning the 8⅛% Notes, and the transactions contemplated thereby, may be deemed to constitute a "joint enterprise or other joint arrangement or profit-sharing plan" for purposes of Rule 17d–1.

Applicants state that (1) participation in the proposed transactions by each of the Applicants would be in their respective best interests; (2) the proposed transactions are fair and reasonable to each of the Applicants, (3) the participation by Mutual, Selective, and ISA in the proposed transactions is and will be consistent with the provisions, policies and purposes of the Act, and (4) the participation in the proposed transactions by Mutual, Selective, and ISA, respectively, is not on a basis different from or less advantageous than that of the other participants. Applicants note that all other holders of these debt securities have been requested to take the same actions requested of the Applicants in connection with implementation of the Plan. Applicants specifically note that, if the requisite consents, modifications and waivers are obtained and the Plan is implemented, all holders of the same issue of debt securities, including the Applicants, will participate on the same terms, and after implementation of the Plan, each Applicant anticipates that its investment in the above debt securities will be superior as to creditworthiness than its respective investment is at this time.

Applicants further state that, in reaching the above conclusions, Applicants considered, *inter alia,* (1) the resolution of liability claims and thereby the elimination of the bankruptcy risks existing without the Plan, and (2) the impact implementation of the Plan would have on various financial ratios. Further, as owners of the Mortgage Bonds, Mutual and Selective considered that the Indenture, as amended, would be more compatible with the present and future operations of Producing. And, ISA and ISL, as owners of the 8⅛% Notes, considered the strengthened protective covenants in the new note agreement, the additional Mortgages, and the guarantee of the 8⅛% Notes by Coastal.

Accordingly, Applicants request an order of the Commission, pursuant to Section 17(d) of the Act and Rule 17d–1 thereunder, permitting the participation by Mutual, Selective, ISA and ISL in the proposed transactions.

Notice if further given that any interested person may, no later than June 4, 1979, at 5:30 P.M., submit to the Commission in writing a request for a hearing on the application accompanied by a statement as to the nature of his interest, the reasons for such request and the issues, if any, of fact or law proposed to be controverted, or he may request that he be notified if the Commission shall order a hearing thereon. Any such communication should be addressed: Secretary, Securities and Exchange Commission, Washington, D.C. 20549. A copy of such request shall be served personally or by mail upon the Applicants at the addresses stated above. Proof of such service (by affidavit, or in the case of an attorney-at-law, by certificate) shall be filed contemporaneously with the request. As provided by Rule 0–5 of the Rules and Regulations promulgated under the Act, an order disposing of the application herein will be issued as of course following said date unless the Commission thereafter orders a hearing upon request or upon the Commission's own motion. Persons who request a hearing, or advice as to whether a hearing is ordered, will receive any notices and orders issued in this matter, including the date of the hearing (if ordered) and any postponements thereof.

For the Commission, by the Division of Investment Management, pursuant to delegated authority.

George A. Fitzsimmons,

Secretary.

[FR Doc. 79–15824 Filed 5–21–79; 8:45 am]

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[Release No. 21043; 70–6308]

Middle South Utilities, Inc. and Arkansas Power & Light Co.;

Proposed Issuance and Sale of Common Stock by Subsidiary to Holding Company and Proposed Issuance and Sale of Preferred Stock by Subsidiary at Competitive Bidding

Notice is hereby given that Middle South Utilities, Inc. ("Middle South"), 225 Baronne Street, New Orleans, Louisiana 70112, a registered holding company, and its electric utility subsidiary company, Arkansas Power & Light Company ("Arkansas"), First National Building, Little Rock, Arkansas 72203, have filed an application-declaration with this Commission pursuant to Sections 6(b), 9(a), 10 and 12(f) of the Public Utility Holding Company Act of 1935 ("Act") and Rules 23, 24, and 50 promulgated thereunder regarding the following proposed transactions. All interested persons are referred to the application-declaration, which is summarized below, for a

which provides for implementation of

Paragraph .10 of NYSE Rule 103A

written response and may request a

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complete statement of the proposed transactions.

Arkansas proposes to issue and sell to Middle South, and Middle South proposes to acquire from Arkansas, from time to time until June 13, 1980, at the price of $12.50 per share, or $30,000,000 in the aggregate, up to 2,400,000 of presently authorized but unissued shares of the common stock of Arkansas, $12.50 par value ("Common Stock"). Arkansas presently has outstanding 31,836,773 shares of common stock, $12.50 par value, having an aggregate par value on its books of $397,959,662.50, all of which shares are owned by Middle South. As a source of funds to finance the acquisition of the Common Stock of Arkansas, Middle South will utilize borrowings under a credit agreement with various banks, approval for which agreement is currently being sought from this Commission (HCAR No. 21030, May 2, 1979).

Arkansas also proposes to issue and sell up to 1,600,000 shares of a new series of its preferred stock, cumulative, par value $25 per share ("Preferred Stock"), subject to the competitive bidding requirements of Rule 50 under the Act. The Preferred Stock will be created by appropriate corporate action and, except as to designation, dividend rate, the date from which dividends commence to accumulate, redemption premiums, the terms and conditions of redemption, and matters pertaining to par value and certain voting rights, will have the same characteristics as, and rank *pari passu* with, the presently outstanding preferred stock of Arkansas. The dividend rate of the Preferred Stock, which will be a multiple of 4/25ths of 1%, and the price to be paid to Arkansas for the Preferred Stock, which will be not less that $25 nor more than $25.70 per share, plus accumulated dividends, if any, will be determined by competitive bidding. The terms of the Preferred Stock will include a prohibition, until June 1, 1984, against refunding the Preferred Stock, directly or indirectly, with the proceeds of funds derived from the issuance of debt securities at a lower effective interest cost or from the issuance of other stock, which ranks prior to or on a parity with the Preferred Stock as to dividends or assets, at a lower effective dividend cost.

Arkansas proposes to use the net proceeds derived from the issuance and sale of the Common Stock and the Preferred Stock for the payment of short-term indebtedness incurred or estimated to be incurred and for financing Arkansas' construction program, estimated to cost approximately $285,400,000 during 1979.

The fees, commissions and expenses paid or to be incurred in connection with the proposed transactions are estimated to total $175,000, including printing costs of $45,000, counsel fees of $52,500, accountants' fees of $17,000, rating fees of $15,300, fees of Middle South Services, Inc., of $8,500 and miscellaneous expenses of $23,476. It is stated that the Arkansas Public Service Commission and the Tennessee Public Service Commission have jurisdiction over the issuance and sale of the Common Stock by Arkansas and that no other state commission and no federal commission, other than this Commission, has jurisdiction over the proposed transactions.

Notice if further given that any interested person may, not later than June 8, 1979, request in writing that a hearing be held on such matter, stating the nature of his interest, the reasons for such request, and the issues of fact or law raised by said application-declaration which he desires to controvert; or he may request that he be notified if the Commission should order a hearing thereon. Any such request should be addressed: Secretary, Securities and Exchange Commission, Washington, D.C. 20549. A copy of such request should be served personnally or by mail upon the applicants-declarants at the above-stated addresses, and proof of service (by affidavit or, in case of an attorney at law, by certificate) should be filed with the request. At any time after said date, the application-declaration, as filed or as it may be amended, may be granted and permitted to become effective as provided in Rule 23 of the General Rules and Regulations promulgated under the Act, or the Commission may grant exemption from such rules as provided in Rules 20(a) and 100 thereof or take such other action as it may deem appropriate. Persons who request a hearing or advice as to whether a hearing is ordered will receive any notices or orders issued in this matter, including the date of the hearing (if ordered) and any postponements thereof.

[For the Commission, by the Division of Corporate Regulation, pursuant to delegated authority.

George A. Fitzsimmons,

Secretary.

[FR Doc. 79-15635 Filed 5-21-79; 8:45 am]

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[FR Doc. 79- Filed 5-21-79; 8:45 am]

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[Release No. 15827; SR-NYSE-77-24]

New York Stock Exchange, Inc.; Order Approving Proposed Rule Change

May 15, 1979.

On August 26, 1977, the New York Stock Exchange, Inc., 11 Wall Street, New York, New York 10005 (the "NYSE") filed with the Commission, pursuant to Section 19(b)(1) of the Securities Exchange Act of 1934, 15 U.S.C. 78s(b)(1) (the "Act") and Rule 19b-4 thereunder, copies of proposed NYSE Rule 103A (File No. SR-NYSE-77-24) to establish minimum standards of acceptable performance for specialist units and to provide a non-disciplinary procedure for determining whether to cancel specialist registrations and reallocate certain stocks assigned to specialist units which fall below the minimum standards.

Notice of the proposed rule change, together with its terms of substance, was given by publication of a Commission release (Securities Exchange Act Release No. 13915 (September 1, 1977)) and by publication in the **Federal Register** (42 FR 45401, (September 9, 1977)). The NYSE submitted five separate amendments to SR-NYSE-77-24. Amendment Nos. 1 and 2 contained substantive modifications and, therefore, notices of those filings, together with their respective terms of substance, also were published in the **Federal Register**.[1] Amendment Nos. 3 and 4 did not contain material changes in the text of proposed Rule 103A or the supporting material. Instead, they merely elaborated upon the procedures which the NYSE would employ in gathering performance data and conducting proceedings under Rule 103A.

The Commission considered proposed Rule 103A at an open meeting on March 1, 1979 and determined to approve it if the NYSE would amend the filing to limit the effectiveness of Rule 103A to a two-year pilot program, and would agree to test, during that period, measures designed to improve techniques for identifying particular stocks in which specialist performance may be substandard and to enhance the rights afforded to a specialist in a Rule 103A proceeding. The foregoing terms were communicated to the NYSE by letter dated March 5, 1979.[2] The NYSE responded shortly thereafter by submission of the final amendment (Amendment No. 5) to SR-NYSE-77-24

[1] Securities Exchange Act Release Nos. 14436 (February 2, 1978), 43 FR 8187 (February 13, 1978) and 15057 (August 11, 1978), 43 FR 36024 (August 14, 1978).

which provides for implementation of proposed Rule 103A on the prescribed pilot basis;[3] the letter transmitting the amendment outlines steps which the NYSE would take during the pilot period to attempt to enhance the operation of Rule 103A in the areas cited by the Commission.[4] All written statements with respect to the proposed rule change between the Commission and any person were considered and were made available to the public at the Commission's Public Reference Room.

I. NYSE Rule 103A

As proposed, NYSE Rule 103A would establish minimum performance standards for specialist units [5] and authorize the NYSE's Market Performance Committee ("MPC"), after providing written notice and opportunity for hearing, to cancel specialist registrations in selected stocks assigned to a particular unit where the MPC (i) has found the unit's performance substandard and (ii) has determined that specialist performance in those stocks would likely improve with their reallocation to another specialist unit.[6] Once the MPC has made the requisite finding and determination, the NYSE's Allocation Committee (the "AC") actually reallocates the affected stocks in a separate proceeding.

Paragraph .10 of NYSE Rule 103A defines minimum standards of acceptable specialist performance, alternatively, in terms of (i) the composite weighted average scores derived from quarterly subjective evaluations using the NYSE's Specialist Performance Evaluation Questionnaire (the "SPEQ"), or (ii) the individual average scores achieved on particular questions on that form, each over a specified number of evaluation periods.[7] Failure to meet one or more of these minimum standards can result in the MPC's instituting a proceeding to determine whether the members of a particular unit should have their specialist registrations cancelled in one or more of the unit's assigned stocks. If the MPC determines to cancel, the AC would then proceed to reassign the affected stock (a "reassigned stock") to another specialist unit.

Commencement of a Rule 103A proceeding would require issuance of a written notice which, pursuant to paragraph .20 thereof, must (i) indicate the specific grounds under consideration for cancellation of specialist registration; (ii) identify the particular securities in which registration may be cancelled; and (iii) explain the basis for selecting such securities.[8] After receiving notice, Rule 103A provides that a specialist has ten days to submit a written response and may request a hearing beforer the MPC.[9]

Paragraph .10 of Rule 103A provides that a determination respecting the acceptability of specialist performance will be made subject to the MPC's consideration of "any written reply and record of a hearing." With regard to the content of such a reply or a defensive presentation at a hearing, paragraph .10 indicates that the MPC "will consider any information presented by the specialist which tends to demonstrate that there is a reasonable justification or excuse for the specialist's low SPEQ scores plus any other relevant information." [10] Moreover, in preparing a defensive presentation, the NYSE has represented in its amended statement of purpose for this proposed rule that "any material made available to the [MPC] during the course of any such proceeding will also be made available to the specialist in a timely fashion." [11] Accordingly, a member's presentation in a Rule 103A proceeding need not be confined to contesting the validity or accuracy of the SPEQ scores which prompted the MPC's institution of the proceeding.[12]

Adverse final action by the MPC may be appealed to the NYSE Board of Directors pursuant to Article III, Section 1 of the NYSE Constitution.[13] Regardless of whether such an appeal is taken, an affected specialist is free to register as a

[3] Letter dated March 5, 1979 from George A. Fitzsimmons, Secretary, Securities and Exchange Commission, to William M. Batten, Chairman of the Board, NYSE.

[4] Amendment No. 5 to SR-NYSE-77-24 was received on March 27, 1979 and did not involve substantive changes in the text of the proposed rule. The Commission therefore did not publish notice of filing of this amendment.

[5] Letter dated March 21, 1979 from James E. Buck, Secretary, NYSE, to George A. Fitzsimmons, Secretary to the Commission.

[6] On the NYSE, stocks are assigned (or allocated) to individual specialist "units" which generally consist of several members; such assignments determine the location at which stocks are traded on the NYSE floor. Each member of a unit customarily registers as a specialist in all stocks assigned to the unit even though market making responsibilities (including the handling of limit order books) may not be rotated among, or otherwise shared by, all members of a particular unit. Since exchange action pursuant to this proposed rule would affect all specialists in a given unit, the term "specialist," as used in this order, includes one or more persons registered as such composing a particular unit.

[7] NYSE Rule 103 (CCH NYSE Manual Para. 2103) already permits the exchange to suspend or cancel the registration of a specialist. That rule, however, contemplates disciplinary action grounded on a significant breech of NYSE Rules or policies governing specialist conduct or that of members generally. On the other hand, NYSE Rule 103A would permit cancellation of specialist registration in specific stocks based upon a finding that specialist performance was substandard. Action under Rule 103A would not, therefore, be "disciplinary," *i.e.*, action responding to an alleged violation of NYSE rules.

[8] A composite weighted SPEQ score is derived for a specialist unit in a particular quarter by calculating the simple average of scores recorded by approximately twenty-five, non-specialist floor members to eight questions rating different areas of specialist unit performance (as opposed, *e.g.*, to rating the performance of individual specialists in particular stocks) on a scale of 1.0 to 5.0 (with 5.0 being the highest score). The average numerical ratings on individual questions are then weighted, according to the importance which the NYSE attaches to the subject areas covered by the questions, and the composite calculated for the specialist unit.

Paragraph .10 of NYSE Rule 103A sets forth the following numerical tests for use by the MPC in determining whether specialist performance is substandard:

(1) composite weighted average below 3.0 for two or more quarters [at least two of which are consecutive];

(2) average below 3.0 on three or more individual questions for two or more quarters [at least two of which are consecutive]; or

(3) average below 3.0 on the same question for four or more consecutive quarters.

[9] The eight SPEQ questions solicit numeric evaluations of specialist unit performance during a three-month period (as opposed to the performance of individual specialists in particular stocks during shorter intervals). Accordingly, in paragraph .30 of Rule 103A and the amended statement of purpose, the NYSE has outlined four methods which the MPC could employ to select individual stocks in which specialist performance would likely improve upon allocation to another unit: (i) supplemental comments set forth in the questionnaires which identify particular stocks in which specialist performance needs improvement; (ii) Correlation of low scores on certain questions with the trading characteristics of particular assigned stocks; (iii) administration of a special survey to identify specialty stocks which are deemed most in need of improved performance; and (iv) MPC's judgment, on the basis of available data respecting particular stocks assigned to a unit. *See* Amendment No. 2 to SR-NYSE-77-24, at pp. 9-10.

[10] The hearing request may be included in the written response or made separately. Where a hearing is requested, Rule 103A stipulates that a record will be maintained.

[11] Amendment No. 2 to SR-NYSE-77-24 at 2.

[12] *Id.*, at 10.

[13] Neither the MPC nor an affected specialist (or such person's counsel) would be given access to individual questionnaires or have the right to ascertain the identity of and to examine those floor members whose responses precipitated a Rule 103A proceeding.

[14] Article III, Section 1 of the NYSE Constitution states, in pertinent part, that "a member, allied member, approved person, member firm or member corporation affected by a decision of any . . . committee acting under powers delegated by the Board may require a review by the Board of such decision, by filing with the Secretary of the Exchange a written demand therefor within 10 days after the decision has been rendered."

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competing specialist [14] in the reassigned stock. To engage in a competing specialist operation, however, it would be necessary for the competing unit to station personnel at a floor location which is proximate to the post of the specialist unit to which the reassigned stock is transferred by the AC.[15] That location may be distant from the competing unit's current post location and thus may require additional personnel to support the competing operation.[16]

Finally, in proposing that the reallocation program contemplated by Rule 103A initially be limited to a two-year pilot program, the NYSE indicated a number of measures which it would undertake during the pilot period with respect to its implementation. The proposed measures are:

(i) To administer a supplemental questionnaire designed specifically to identify particular stocks in which specialist performance may be substandard prior to institution of any Rule 103A proceeding;

(ii) To perform statistical analyses to determine whether any significant correlation exists between scores achieved on individual SPEQ questions and other data available on particular stocks, and, if such correlation is established, to disclose such data to the MPC and the specialist organization;[17]

(iii) To appoint a subcommittee composed of specialists and non-specialists to recommend testing of additional procedures (including those suggested by the Commission in its March 5, letter to the NYSE) for selecting individual stocks and enhancing the due process rights afforded to any specialist in a Rule 103A proceeding; and

(iv) To continue study of existing methods, and to consider new methods, of evaluating specialist performance.

II. Comments Received on SR-NYSE-77-24

By letters dated September 30, 1977, and November 21, 1978, respectively, Mr. William E. Boye, Jr. of the NYSE specialist unit of Kingsley, Boye & Southwood, Inc. ("KBS") and the NYSE submitted the only public comments received respecting proposed NYSE Rule 103A.[18] Mr. Boye contended that approval of the proposed rule change would be inappropriate because of the inherent subjectivity of SPEQ ratings. He also voiced concern about the possibility of anti-competitive conduct if non-specialist floor members are permitted to rate specialist units with whom such floor members compete for business (*e.g.*, retail brokerage).[19]

III. Commission Findings

NYSE Rule 103A, predicated upon an opinion survey system for evaluating performance of specialist units, establishes a non-disciplinary procedure for determining whether individual stocks should be reallocated in situations where specialist unit performance is rated substandard. The Commission finds that the NYSE pilot program, if responsibly conducted, is reasonably calculated to improve specialist performance in listed stocks, thereby fostering cooperation and coordination with persons engaged in facilitating transactions in securities and, in general, protecting investors and the public interest in a manner consistent with the purposes of the Act. Further, the Commission finds that the pilot program is consistent with statutory provisions which permit national securities exchanges to regulate the registration of members as specialists.

The Commission believes that approval of the proposal would permit the NYSE to pursue that objective through means which should assure that the cancellation of specialist registrations pursuant to the procedures of Rule 103A occurs in a manner that does not result in unfair discrimination amony NYSE floor members. The NYSE's proposal, as amended, appears to provide safeguards in the administration of the SPEQ program and Rule 103A proceedings sufficient to address concerns of the type expressed by the commentator.

In particular, the SPEQ is completed quarterly by about 130 non-specialist floor members and, from this number, groups of approximately twenty-five each are selected to rate the various specialist units. Since the same group does not evaluate a particular specialist unit in consecutive quarters, achievement of low overall SPEQ ratings for two consecutive quarters (the minimum necessary to trigger a Rule 103A proceeding) would require submission of low aggregate scores by a majority of approximately fifty non-specialist floor members. The existence of a collusive undertaking on such a scale would appear to be difficult to conceal. Further, should a relatively small number of individuals within consecutive rating groups register unreasonably low ratings of a particular specialist unit, the resulting abnormal distribution of that unit's ratings could serve to identify anti-competitive conduct sufficiently to cause the MPC to refrain from instituting a Rule 103A proceeding.[20]

Finally, the NYSE has implemented two additional safeguards to detect possible abuses linked to SPEQ ratings. First, the NYSE calculates average ratings for each specialist unit by category of respondent (*i.e.*, retail brokers, two-dollar brokers, institutional brokers, etc.). This breakdown of the data is furnished to each unit and may serve to identify situations where the average score of a particular group deviated significantly from that of other groups rating the specialist unit for the same quarter. Second, the NYSE staff tabulates and furnishes to each specialist unit and the MPC a frequency distribution of all the ratings received on each question according to the level of those ratings from 1.0 to 5.0. This exercise may help pinpoint instances where a low average score on a particular question is attributable to a small number of extremely low scores registered by certain members.

Under Section 6 of the Act, paragraphs (b)(5) and (b)(8) respectively require that the rules of a national securities exchange not be designed to permit unfair discrimination between dealers, and not impose any burden on competition not necessary or appropriate in furtherance of the purposes of the Act. Because the NYSE has established procedures which should enable it to detect and eliminate abuses of its system of specialist evaluation, the Commission finds that the NYSE's proposed pilot program, and the procedures for its administration, are not designed to permit unfair discrimination between member dealers, and do not appear to impose any undue burden on competition.

As indicated above, the NYSE has designated cancellation of a specialist's registration under Rule 103A as a non-disciplinary action. The NYSE deems such designation appropriate because the primary purpose of Rule 103A is to assure adequate specialist performance in a particular stock, rather than to sanction individual specialists for substandard performance. Further, the NYSE's stated purpose in proposing this rule includes the provision of greater flexibility in responding to situations where a specialist's conduct may not warrant disciplinary action grounded on an alleged violation of NYSE Rule 103. The Commission believes the NYSE's designation of Rule 103A as non-disciplinary is appropriate.[21]

In addition, the Commission does not view cancellation of a specialist's registration pursuant to Rule 103A, followed by stock reallocation, as a prohibition or limitation in respect of access to services offered by the NYSE. Specialist registration is not a service rendered by the NYSE to a member who qualifies and maintains such specialist registration. Finally, Rule 103A does not prevent the affected specialist from registering as a competing specialist in the stock in which registration has been cancelled.[22]

Therefore, the Commission finds that the proposed rule change is consistent with the requirements of the Act and the rules and regulations thereunder applicable to national securities exchanges and, in particular, the requirements of Sections 6 and 11(b), and the rules and regulations thereunder.

It is therefore ordered, pursuant to Section 19(b)(2) of the Act, that the proposed rule change, as amended, be, and it hereby is, approved.

By the Commission.

George A. Fitzsimmons,

Secretary.

[FR Doc. 79-15826 Filed 5-21-79; 8:45 am]

BILLING CODE 8010-01-M

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[14] The MPC considers adequacy of capital and personnel, not SPEQ scores, in judging a unit's suitability to commence a competing specialist operation.

[15] To assure proper handling of limit orders and reporting of quotation and last sale information where members maintain separate books in the same stock, the NYSE requires that competing specialists be located at contiguous or adjacent posts.

[16] Rule 103A permits the MPC to determine that a specialist's registration should be cancelled in more than one security. In that event, the AC may transfer those securities to specialist units at different locations on the NYSE floor.

[17] The NYSE staff has indicated that such data would include measures of dealer participation, quotation spread and price continuity.

[18] Mr. Boye's letter followed publication of notice of the NYSE's original submission of SR-NYSE-77-24; he did not comment further on any of the five amendments to SR-NYSE-77-24.

[19] The NYSE responded to Mr. Boye's comments (as well as certain concerns expressed by the Commission staff) in its first four amendments to SR-NYSE-77-24 and the November 21, 1978 comment letter. The NYSE asserted its belief in the validity of SPEQ ratings and clarified its internal administrative procedures by explaining: (i) methods for selecting and instructing non-specialist floor members who participate in the evaluation program; (ii) the bases for weighting scores on certain SPEQ questions more heavily than on others; (iii) the qualitative significance attributed to various numerical ratings; (iv) the procedures followed in tabulating and providing notice of SPEQ results (including supplemental comments submitted by participants) to specialists, and opportunities for consultation with the NYSE staff where ratings suggest substandard performance; and (v) the techniques for selecting individual stocks in which specialist performance is substandard and likely to improve with their reallocation to another specialist unit. Further, the NYSE disputed the usefulness of certain quantitative measures of specialist performance by recounting problems experienced with their usage in the early 1970's.

[20] As amended, paragraph .10 of Rule 103A states: "in connection with any written reply and hearing, the [MPC] will consider any information presented by the specialist which tends to demonstrate that there is reasonable justification or excuse for the specialist's scores on the evaluation questionnaire * * *."

[21] This designation renders inapplicable certain notice and Commission review provisions of the Act which pertain to exchange disciplinary proceedings, namely, Sections 6(d)(1), 19(d)(1) and 19(d)(2). Section 6(d)(1) of the Act establishes minimum safeguards applicable to exchange disciplinary proceedings which can result in the imposition of a disciplinary sanction upon a member or associated person. Section 19(d)(1) requires a national securities exchange to furnish notice to the Commission whenever such exchange imposes any "final disciplinary sanction" on any member or participant therein. Section 19(d)(2) provides for Commission review of such disciplinary sanctions on its own motion or upon application by a member, person associated with a member or other "aggrieved" party. The absence of a right of Commission appeal would not, however, preclude action by the Commission, pursuant to Sections 19(c), 19(h) or 21(d) of the Act, to remedy any abuses which might develop in the NYSE's use of Rule 103A. Moreover, Commission approval of the proposed rule change is limited to its two-year pilot program.

Liability under the federal antitrust laws may attach should the NYSE conduct a reallocation proceeding for reasons other than those which are in furtherance of its legitimate interests under the Act. Moreover, NYSE members who conspire to give a specialist unwarranted low performance ratings for the purpose of precipitating a reallocation proceeding may also face liability under the antitrust laws.

[22] Since we have determined that this matter does not involve a limitation on access to services offered by the NYSE within the meaning of Sections 6(b)(7) and 19(f) of the Act, it is not necessary to resolve whether these provisions would be applicable to members in another context.

[Release No. 10693; 811-2792]

Sigma Exchange Fund, Inc.; Application for an Order of the Commission Declaring That Company Has Ceased To Be an Investment Company

May 15, 1979.

Notice is hereby Given that Sigma Exchange Fund, Inc. ("Applicant"), Greenville Center, 3801 Kennett Pike, Wilmington, Delaware 19807, registered as an open-end diversified management investment company under the Investment Company Act of 1940 ("Act"), filed an application pursuant to Section 8(f) of the Act of April 24, 1979, for an order of the Commission declaring that Applicant has ceased to be an investment company as defined in the Act. All interested persons are referred to the application on file with the Commission for a statement of the representations set forth therein, which are summarized below.

Applicant was organized as a Delaware corporation and was registered under the Act of December 9, 1977. Applicant states that on March 29, 1979, Applicant's board of directors recommended to the sole security holder on that date, Delphi American Corporation, that Applicant be dissolved and the remaining assets, after provisions for expenses, be distributed to the sole security holder. Applicant also states that on March 30, 1979, if filed a Certificate of Dissolution with the Delaware Secretary of State, and that Applicant was dissolved under Delaware law accordingly.

Applicant represents that it declared and paid a dividend representing all undistributed income aggregating $5,588.00 to the sole security holder on March 29, 1979. The application states that on April 9, 1979, the assets remaining after payment of the above dividend and a reserve for expenses of $9,294.64 totaled $149,800.60 and were distrubted in cash to the sole security holder. Applicant states that if any balance of the reserve for expenses remains after payment of fees and costs of leagal counsel, auditors, transfer agent and custodian, it will be distrubted to the sole security holder of record at the time of dissolution. Applicant further represents that it has no outstanding indebtedness other than the expenses to be paid with the reserve for expenses, that it is not a party to any litigation or administrative proceeding, and that it is not now engaged in any business activities other than those necessary for winding-up of its affairs.

Section 8(f) of the Act provides, in pertinent part, that when the Commission, upon application, finds that a registered investment company has ceased to be an investment company, it shall so declare by order and upon the effectiveness of such order, the registration of such company shall cease to be in effect.

Notice is further given that any interested person may, not later than June 5, 1979, at 5:30 p.m., submit to the Commission in writing a request for a hearing on the matter accompanied by a statement as to the nature of his interest, the reason for such request, and the issues, if any, of fact or law proposed to be controverted, or he may request that he be notified if the Commission shall order a hearing thereon. Any such communication should be addressed: Secretary, Securities and Exchange Commission, Washington, D.C. 20549. A copy of such request shall be served personally or by mail upon Applicant(s) at the address(es) stated above. Proof of such service (by affidavit, or in case of an attorney-at-law, by certificate) shall be filed contemporaneously with the

request. As provided by Rule 0–5 of the Rules and Regulations promulgated under the Act, an order disposing of the application will be issued as of course following said date unless the Commission thereafter orders and hearing upon request or upon the Commission's own motion. Persons who request a hearing, or advice as to whether a hearing is ordered, will receive any notices and orders issued in this matter, including the date of the hearing (if ordered) and any postponements thereof.

For the Commission, by the Division of Investment Management, pursuant to delegated authority.

George A. Fitzsimmons,

Secretary.

[FR Doc. 79–15827 Filed 5–21–79 8:45 am]

BILLING CODE 8010–01–M

[Release No. 10697; 812–4458]

Sovereign Coal Group, Inc.; Application for an Order Declaring That Company Is Not an Investment Company or, for an Order Exempting Company From All Provisions of the Act

May 15, 1979.

Notice is hereby given that Sovereign Coal Group, Inc. ("Applicant"), 525 Federal Street, Bluefield, West Virginia 24701, has filed an application on March 30, 1979 pursuant to Section 3(b) (2) of the Investment Company act of 1940 ("Act"), for an order of the Commission declaring that Applicant is not an investment company, or, alternatively, for an order pursuant to Section 6(c) of the Act exempting the Applicant from all provisions of the Act. All interested persons are referred to the application filed with the Commission for a statement of the representations contained therein, which are summarized below.

Applicant is a West Virginia corporation, incorporated on February 13, 1979. It is not now nor has it ever been registered as an investment company.

The application states that Applicant is an newly-created holding company which was organized to facilitate the reorganization ("Reorganization") of a group of eight interrelated corporations ("Ashland Companies"). The application states that the Ashland Companies are principally engaged in the mining and marketing of bituminous coal. Furthermore, the application states that the purpose of the Reorganization is to simplify and consolidate the corporate structure of the Ashland Companies which is characterized by complex interlocking stockholder ownership and common management.

The application incorporates by reference the previous joint application ("Initial Application"—File No. 812–4395) of three of the Ashland Companies, Ashland Coal and Coke Company ("Ashland Coal"), Poplar Creek Development Company ("Poplar Creek"), and Sovereign Pocahontas Company ("Sovereign Pocahontas"), filed with the Commission on November 20, 1978, and amended on January 11, 1979. The Initial Application resulted in an order of the Commission, dated February 23, 1979 (Rel. IC–10601), exempting each of the three Ashland Companies applying pursuant to Section 6(c) of the Act from all provisions of the Act until the earlier of December 31, 1979, or consummation of the Reorganization of the Ashland Companies described therein.

The application states that, pursuant to the Reorganization, Applicant will acquire 100% ownership of four of the eight Ashland Companies by the statutory merger of those companies with four wholly-owned subsidiaries of Applicant. As a direct consequence thereof, Applicant will also acquire, upon the transfer to it of intercompany holdings of stock in other Ashland Companies, 100% ownership of two other companies in the group and 94% ownership of one other, but only an indirect, majority stockholder position in the remaining company, Harman Mining Corporation ("Harman Mining"), the largest of the eight Ashland companies. In the case of Ashland Coal, Poplar Creek, and Sovereign Pocahontas, each company's holdings will constitute less than a majority interest in Harman Mining, and, therefore, will constitute "investment securities" in the hands of each such wholly-owned subsidiary of Applicant. Investment securities are defined in Section 3(a) of the Act, for purposes of Section 3, as "all securities except (A) Government securities, (B) securities issued by employees' securities companies and (C) securities issued by majority-owned subsidiaries of the owner which are not investment companies."

The application further states that upon consummation of the Reorganization, as now proposed, Ashland Coal, Poplar Creek, and Sovereign Pocahontas, each of which will become direct, wholly-owned subsidiaries of Applicant, may each be deemed investment companies within the meaning of Section 3(a)(3) of the Act. With respect thereto, Applicant claims that each of the three companies may nevertheless be excepted from definition as an investment company pursuant to Section 3(b)(3) of the Act. That section excepts from the Act any issuer all the outstanding securities of which (other than short-term paper and directors' qualifying shares) are directly or indirectly owned by a company which is itself excepted from definition as an investment company by either Section 3(b)(1) or (2) of the Act. According to the application, Section 3(b)(3) literally applies only if Applicant itself is excepted from definition as an investment company under either Section 3(b)(1) or 3(b)(2). Consequently, Applicant further claims, based on the fact that the shares of Ashland Coal, Poplar Creek and Sovereign Pocahontas in its hands may also be deemed "investment securities" pursuant to Section 3(a)(3)(C) and amounted to approximately 49.5% of its total assets (less cash and government securities) on an unconsolidated basis as of December 31, 1978, that it may be deemed a Section 3(a)(3) investment company and that it is entitled to an exemption pursuant to Section 3(b)(3). Because Applicant believes it clearly qualifies under Section 3(b)(2), although it possibly qualifies under Section 3(b)(1), it seeks an order from the Commission under Section 3(b)(2).

The application contends that the statutory definitions of a "majority-owned subsidiary" and a "controlled company" are broad enough to encompass a wholly-owned subsidiary. The application states that the primary business of Ashland Coal will be the mining and marketing of bituminous coal through Harman Mining, a controlled company. Similarly, it is asserted that Sovereign Pocahontas is independently and primarily engaged in non-investment company business activities, with over 75% of its total income from the five years ended December 31, 1977 generated by its direct coal marketing and sales activities. Three of the Ashland Companies, Sovereign Coal Corporation ("Sovereign Coal"), Ashland Mining Corporation ("Ashland Mining") and Majestic Collieries ("Majestic"), are engaged in the business of mining and preparing coal. In financial statements submitted as exhibits, Applicant represents that some 50% of its assets will be represented by Sovereign Coal, Ashland Mining and Majestic and that a substantial amount of its income will be derived from the operations of these companies.

The application further contends that Harman Mining can be considered as a "majority-owned" compay under

Section 3(b)(2)(A) and that Applicant controls Harman Mining within the meaning of Section 3(b)(2)(B), because 54% of Harman Mining's stock is held by three 100% owned subsidiaries of the Applicant, because the management and operations of Harman Mining will be identical in all respects after the Reorganization to that which would result if Harman Mining were a direct, majority-owned subsidiary, and because, by virtue of Ashland Coal's 31% ownership, it is presumptively a controlled company of Ashland Coal under the statutory criteria of Section 2(a)(9). In addition, as stressed in the Initial Application, all the Ashland Companies, including Harman Mining, are managed by essentially the same officers and directors. Those same persons will comprise the management and Board of Applicant after the Reorganization. Applicant contends that Harman Mining is directly engaged in non-investment activities and that, but for the fact that Harman Mining is not a wholly-owned subsidary, Applicant would be certain of the availability to it of an exemption under Section 3(b)(1). In this regard, it is noted that nearly one-half of the annual coal production of all the Ashland Companies is accounted for by Harman Mining.

Finally, Applicant claims that consummation of the Reorganization will involve no changes in the fundamental business operations or policies of the Ashland Companies. It is asserted that the Reorganization entails only a variation in the form and structure of the Ashland Companies and not a change in their basic non-investment company line of business, the mining and marketing of bituminous coal.

Section 3(a)(3) of the Act defines an investment company as any issuer which is engaged, or proposes to engage, in the business of investing, reinvesting, owning, holding, or trading in securities, and owns or proposes to acquire investment securities having a value exceeding 40 per centum of the value of such issuer's total assets (exclusive of Government securities and cash items) on an unconsolidated basis. Section 3(b)(1) of the Act excepts from the definition of investment company any issuer primarily engaged, directly or through a wholly-owned subsidiary or subsidiaries, in a business or businesses other than that of investing, reinvesting, owning, holding or trading in securities. Section 3(b)(2) of the Act excepts from the definition of an investment company any issuer which the Commission finds and by order declares to be primarily engaged in a business or businesses other than that of investing, reinvesting, owning, holding, or trading in securities, either directly or (A) through majority-owned subsidiaries or (B) through controlled companies conducting similar types of businesses.

For the reasons set forth above, Applicant contends that it is entitled to an order of the Commission under Section 3(b)(2) of the Act, finding and declaring that Applicant is primarily engaged in business or businesses other than that of investing, reinvesting, owning, holding, or trading in securities through majority-owned subsidiaries or through controlled companies conducting similar types of business, and that Applicant is not an investment company.

Alternatively, Applicant contends that it as well as Ashland Coal, Poplar Creek, and Sovereign Pocahontas, meet the requirements of Section 6(c) of the Act and are entitled to an exemption from all the provisions of the Act pursuant to Section 6(c). Section 6(c) of the Act provides that the Commission may conditionally or unconditionally exempt any person or transaction from any provision or provisions of the Act if such exemption is necessary or appropriate in the public interest and consistent with the protection of investors and the purposes fairly intended by the policy and provisions of the Act.

Notice is further given that any interested person may, not later than June 8, 1979 at 5:30 p.m. submit to the Commission in writing a request for a hearing on the matter accompanied by statement as to the nature of his interest, the reason for such request, and the issues, if any, of fact or law proposed to be controverted, or he may request that he be notified if the Commission shall order a hearing thereon. Any such communication should be addressed: Secretary, Securities and Exchange Commission, Washington, D.C. 20549. A copy of such request shall be served personally or by mail upon Applicant at the address stated above. Proof of such service (by affidavit, or in the case of an attorney-at-law, by certificate) shall be filed contempraneously with the request. As provided by Rule 0–5 of the Rules and Regulations promulgated under the Act, an order disposing of the application herein will be issued as of course following said date unless the Commission thereafter orders a hearing upon request or upon the Commission's own motion. Persons who request a hearing, or advice as to whether a hearing is ordered, will receive any notices and orders issued in this matter, including the date of the hearing (if ordered) and any postponements thereof.

For the Commission, by the Division of Investment Management, pursuant to delegated authority.

George A. Fitzsimmons,

Secretary.

[FR Doc. 79–15828 Filed 5–21–79; 8:45 am]

BILLING CODE 8010–01–M

[Release No. 10701; 812–4437]

Travelers Insurance Co. and Travelers Fund A and Fund A–1 for Variable Annuities; Application for an Order Granting Exemptions From Sections 26(a)(2) and 27(c)(2)

Notice is hereby given that The Travelers Insurance Company ("The Travelers"), The Travelers Fund A for Variable Annuities ("Account A") and The Travelers Fund A–1 for Variable Annuities ("Account A–1"), One Tower Square, Hartford, CT 06115 (herein collectively called the "Applicants") have filed an application on February 16, 1979, and Amendments thereto on March 26 and May 7, 1979, pursuant to Section 6(c) of The Investment Company Act of 1940 ("Act") for an order exempting the Applicants from Sections 26(a)(2) and 27(c)(2) of the Act. All interested persons are referred to those documents on file with the Commission for a statement of the representations contained therein which are summarized below.

The Travelers is a stock insurance company chartered in 1864 by special act of the Connecticut General Assembly and continuously engaged in the insurance business since that time. The Travelers is a wholly-owned subsidiary of The Travelers Corporation, also a Connecticut insurance company and the publicly-held parent of The Travelers group of companies.

Accounts A and A–1 are diversified open-end management investment companies registered under the Act through which the Travelers sets aside and invest assets attributable to certain variable annuity contracts.

Applicants seek an exemption pursuant to Section 6(c) of the Act from Sections 26(a)(2) and 27(c)(2) of the Act to permit the implementation of an Annual Contract Charge not to exceed $383. Applicants state that because of competitive reasons, the Annual Contract Charge will currently not exceed $50. Applicants state that the Annual Contract Charge is designed to reimburse Applicants for expenses

Members of the general public may

associated with administering certain group variable annuity contracts.

Section 26(a)(2) and 27(c)(2)

Section 27(c)(2) prohibits a registered investment company on a depositor or underwriter for such company from selling periodic payment plan certificates unless the proceeds of all payments, other than the sales load, or deposited with a trustee or custodian and held under an indenture or agreement containing, in substance, the provisions required by Section 26(a)(2) for a unit investment trust. Section 26(a)(2) requires that the trustee or custodian segregate and hold in trust all securities and cash of the trust and places certain restrictions on charges which may be made against the trust income and corpus, and excludes from expenses which the trustee or custodian may charge against the trust any payments to the depositor or principal underwriter, other than a fee not exceeding such reasonable amounts as the Commission may prescribe for performing bookkeeping and other administrative services delegated to them by the trustee or custodian. Applicants submit that the proposed Annual Contract Charge is consistent with the limitations on payments by a custodian contained in Sections 26(a)(2)(C) and 27(c)(2). However, in order to avoid any possibility that questions might be raised as to the potential applicability of Sections 26(a)(2)(C) and 27(c)(2), Applicants request an exemption from the operation of the provisions of Sections 26(a)(2)(C) and 27(c)(2) to the extent necessary or appropriate to permit Applicants to effect their proposed Annual Contract Charge.

Applicants consent to the exemptions requested from Sections 26(a) and 27(c)(2) being made subject to the following conditions: (1) that the charges to variable annuity contract owners for administrative services shall not exceed such reasonable amounts as the Commission shall prescribe, jurisdiction being reserved for such purposes; and (2) that the payments of sums and charges out of the assets of the Accounts shall not be deemed to be exempted from regulation by the Commission by reason of the requested order, provided that the Applicants' consent to this condition shall not be deemed to be a concession to the Commission of authority to regulate the payments of sums and charges out of such assets other than charges for administrative services, and Applicants reserve the right in any proceeding before the Commission or in any suit or action in any court to assert that the Commission has no authority to regulate the payments of such other sums or charges.

Applicants submit that the proposed exemption is fully consistent with the policy and purposes of the Act; that the requested exemption will benefit contract purchasers; and that the details of this Annual Contract Charge will be fully set forth in the prospectus.

In view of the foregoing, Applicants assert that the exemption requested is appropriate and in the public interest, is consistent with the protection of investors, and is consistent with the purposes fairly intended by the policy and provisions of the Act.

Section 6(c)

Section 6(c) authorizes the Commission to exempt any person, security or transaction or any class or classes of persons, securities or transactions, from the provisions of the Act and Rules promulgated thereunder if and to the extent that such exemption is necessary or appropriate in the public interest and consistent with the protection of investors and the purposes fairly intended by the policy and provisions of the Act.

Notice is further given that any interested person may, not later than June 11, 1979, at 5:30 p.m. submit to the Commission in writing a request for a hearing on the matter accompanied by a statement as to the nature of his interest, the reason for such request, and the issues, if any, of fact or law proposed to be controverted, or he may request that he be notified if the Commission should order a hearing thereon. Any such communication should be addressed: Secretary, Securities and Exchange Commission, Washington, D.C. 20549. A copy of such request shall be served personally or by mail upon Applicants at the address stated above. Proof of such service (by affidavit, or in the case of an attorney at law, by certificate) shall be filed contemporaneously with the request. As provided by Rule 0-5 of the Rules and Regulations promulgated under the Act, an order disposing of the application will be issued as of course following June 11, 1979, unless the Commission thereafter orders a hearing upon request or upon the Commission's own motion. Persons who request a hearing, or advice as to whether a hearing is ordered, will receive any notices and orders issued in this matter, including the date of the hearing (if ordered) and any postponements thereof.

For the Commission, by the Division of Investment Management, pursuant to delegated authority.

George A. Fitzsimmons,

Secretary.

[FR Doc. 79-15629 Filed 5-21-79; 8:45 am]

BILLING CODE 8010-01-M

SMALL BUSINESS ADMINISTRATION

European Development Capital Corp.; Issuance of License To Operate as a Small Business Investment Company

On October 3, 1978, a Notice of Application for a License as a Small Business Investment Company was published in the Federal Register (43 FR 45660) stating that an Application has been filed with the Small Business Administration [SBA] pursuant to § 107.102 of the regulations governing small business investment companies (13 CFR 107.102 (1978)) for a license as a small business investment company by European Development Capital Corporation, 230 Park Avenue, Suite 1260, New York, New York 10017.

Interested parities were given until the close of business October 18, 1978, to submit their comments to SBA. No comments were received.

Notice is hereby given that, pursuant to Section 301[c] of the Small Business Investment Act of 1958, as amended, after having considered the Application and all other pertinent information and the facts with regards thereto. SBA on May 3, 1979, issued License No. 02/02-0355 to European Development Capital Corporation to operate as a small business investment company.

(Catalogue of Federal Domesic Assistance Program No. 59.011, Small Business Investment Companies)

Dated: May 15, 1979.

Peter F. McNeish,

Deputy Associate Administrator for Finance and Investment.

[FR Doc. 79-15685 Filed 5-21-79; 8:45 am]

BILLING CODE 8025-01-M

[Proposed License No. 04/04-0146]

Warranty Capital Corp.; Application for a License To Operate a Small Business Investment Company (SBIC)

Notice is hereby given of the filing of an application with the Small Business Administration (SBA), pursuant to § 107.102 of the regulations governing small business investment companies (13 CFR 107.102 (1978)), under the name of Warranty Capital Corporation, 3390 Peachtree Road, Suite 552, Atlanta, Georgia 30326, for a License to operate as a small business investment company (SBIC) under the provisions of the Small Business Investment Act of 1958 (Act), as amended (15 U.S.C. 661 et. seq.).

The proposed officers, directors, and major stockholders are as follows:

President and Director—Richard A. Beauchamp, 3901 Jonesboro Road, Forest Park, Georgia 30050, owns 80% of the beneficially owned common voting stock.

Secretary, Treasurer and Director, Stephen E. Raville, 2000 Atlanta Gas Light Tower, 235 Peachtree Street, Atlanta, Georgia 30303, owns 20% of the beneficially owned common voting stock. Assistant Treasurer, Office Manger and Director, Arlene R. Lott, 3390 Peachtree Road, Suite 522, Atlanta, Georgia 30326.

The Applicant will begin operations with a capitalization of $506,000 which will be a source of both equity and debt financing to qualified small business concerns in a wide range of industries for normal growth, expansion and working capital.

The Applicant does not intend to use the service of an investment adviser but will provide consulting services to its clients and other small business concerns.

Matters involved in SBA's consideration of the application include the general business reputation and character of the proposed management and owner, including adequate profitability and financial soundness in accordance with the Act and regulations.

Notice is further given that any person may not later than 15 days from the date of publication of this Notice, submit written comments on the proposed SBIC to the Deputy Associate Administrator for Finance and Investment, Small Business Administration, 1441 "L" Street, NW., Washington, D.C. 20416.

A copy of this Notice shall be published in a newspaper of general circulation in Atlanta, Georgia.

(Catalog of Federal Domestic Assistance Program No. 59011. Small Business Investment Companies)

Dated: May 16, 1979.

Peter F. McNeish,

Deputy Associate Administrator for Investment.

[FR Doc. 79-15684 Filed 5-21-79; 8:45 am]

BILLING CODE 8025-01-M

DEPARTMENT OF STATE

Office of the Secretary

[Public Notice CM-8/196]

Shipping Coordinating Committee, Subcommittee on Safety of Life at Sea; Meeting

The working group on subdivision, stability and load lines of the Subcommittee on Safety of Life at Sea (SOLAS), a subcommittee of the Shipping Coordinating Committee, will hold an open meeting at 10:30 a.m. on Wednesday, June 6, 1979, in Room 8236 of the Department of Transportation, 400 Seventh Street SW., Washington, D.C. 20590.

The purpose of the meeting will be a final review of the agenda items and delegation papers received by that time in preparation for the 23rd Session of the Subcommittee.

In particular, the Working Group will discuss protective location of segregated ballast, subdivision for dry cargo ships and possible amendments to ILLC, 1966.

Requests for further information should be directed to Mr. William Cleary, Jr., U.S. Coast Guard (G-MMT-5/82), Washington, D.C. 20590, telephone (202) 426-2188.

The Chairman will entertain comments from the public as time permits.

Richard K. Bank,

Chairman, Shipping Coordinating Committee.

May 10, 1979.

[FR Doc. 79-15651 Filed 5-21-79; 8:45 am]

BILLING CODE 4710-01-M

[Public Notice CM-8/197]

Study Group 6 of the U.S. Organization for the International Radio Consultative Committee (CCIR); Meeting

The Department of State announces that Study Group 6 of the U.S. Organization for the International Radio Consultative Committee (CCIR) will meet on June 22, 1979, at San Diego, California. The meeting will open at 9:00 a.m. in the Cloud Room of Building 33 of the Naval Ocean Systems Center, 271 Catalina Boulevard, San Diego, California.

Study Group 6 deals with matters relating to the propagation of radio waves by and through the ionosphere. The purpose of the meeting will be to review the work undertaken in preparation for the next international meeting of Study Group 6, scheduled for June 1980, in Geneva.

Members of the general public may attend the meeting and join in the discussions subject to the instructions of the Chairman.

Requests for further information should be directed to Mr. Gordon Huffcutt, State Department, Washington, D.C. 20520, telephone (202) 632-2592.

Dated: May 11, 1979.

Gordon L. Huffcutt,

Chairman, U.S. CCIR National Committee.

[FR Doc. 79-15652 Filed 5-21-79; 8:45 am]

BILLING CODE 4710-07-M

Agency for International Development

Housing Guaranty Program for Peru; Information for Lenders

The Agency for International Development (A.I.D.) has authorized a guaranty of a loan in an amount not to exceed $10 million to finance a Low Cost Housing Project in Peru. Eligible lenders as defined below are invited to make proposals to the Housing Bank of Peru (Banco de la Vivienda del Peru) (Borrower). The full repayment of the loan will be guaranteed by A.I.D. The A.I.D. guaranty will be backed by the full faith and credit of the United States of America and will be issued pursuant to authority in Section 222 of the Foreign Assistance Act of 1961, as amended (the Act) (22 U.S.C. 2182).

This project is referred to as Project No. 527-HG-009 (II).

Lenders (Investors) eligible to receive an A.I.D. guaranty are those specified in Section 238(C) of the Act. They are: (1) U.S. citizens; (2) domestic U.S. corporations, partnerships, or associations substantially beneficially owned by U.S. citizens; (3) foreign corporations whose share capital is at least 95 percent owned by U.S. citizens; and (4) foreign partnerships or associations wholly owned by U.S. citizens.

Selection of an eligible investor and the terms of the loan are subject to approval by A.I.D. The investor and A.I.D. shall enter into a Contract of Guaranty, covering the loan. Disbursements under the loan will be subject to certain conditions required of the Borrower by A.I.D. as set forth in an implementation agreement between A.I.D. and the Borrower.

To be eligible for guaranty, the loan must be repayable in full no later than the thirtieth anniversary of the first disbursement of the principal amount thereof and the interest rate may be no higher than the maximum rate established from time to time by A.I.D. The Borrower projects a schedule for

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disbursements beginning in September 1979 and extending through September 1981. At least $4 million will be disbursed by September 1980 and $6 million by September 1981. There will be a maximum of two disbursements each year. No disbursement shall be in an amount less than $1 million. In the alternative, the Borrower will consider proposals that contemplate a single disbursement of $10 million before October 1, 1979.

The Borrower desires to receive proposals from eligible investors as defined above. The proposals should be based on the indicated disbursement schedules shown above. Since investor selection will be made on the basis of the proposals, cost and other factors to be considered, the proposals should contain the best terms to be offered by investors. The proposals should state:

A. A firm offer to finance the loan at a fixed interest rate per annum for a period not to exceed thirty (30) years from the first disbursement.

B. The grace period for repayment of principal; such period not to exceed ten (10) years.

C. The minimum time during which prepayment of principal will not be accepted.

D. The investor's commitment or service fee, if any, and schedule of payment of such fee.

E. The period during which the proposal may be accepted which shall be at least seventy-two (72) hours after the closing date specified below.

The proposal may state other terms and conditions which the investor desires to specify. Investors may submit more than one proposal. After investor selection by the Borrower and approval by A.I.D., the Borrower and investor shall negotiate all other terms and conditions of the Loan Agreement.

Borrower's payments of principal and interest on the Loan will be remitted to the investor through an A.I.D. Fiscal Agent. In the event the investor will engage in the reselling of the loan to other persons, the investor must provide for the servicing of his loan, i.e., recordation and disposition of the borrower's loan payments received from the A.I.D. Fiscal Agent.

The closing date by which prospective investors are requested to submit proposals to the Borrower is 5 p.m., on Monday, June 18, 1979, in Lima, Peru. Negotiation of the Loan Agreement and Contract of Guaranty is expected to take place in Washington, D.C. unless otherwise agreed.

Eligible investors are invited to consult promptly with the Borrower's General Manager, Telephone 289665. Those investors interested in extending a loan to the Borrower should communicate their proposals to the Borrower by telex at the following address: Mr. Victor Castro, General Manager, Telex #20077 PE-BVP, Lima, Peru.

The telex should be followed by a letter to the following: Mr. Victor Castro, General Manager, Banco de la Vivienda del Peru, Casilla 5425, Lima 100, Peru.

Information as to the eligibility of investors and other aspects of the A.I.D. housing guaranty program can be obtained from: Director, Office of Housing, Agency for International Development, Room 625, SA/12, Washington, D.C. 20523, Telephone: (202) 632-9637.

To facilitate A.I.D. approval, copies of proposals made to the Borrower may, at the investor's option, be sent to A.I.D. at the above address on or after the closing date noted above.

This notice is not an offer by A.I.D. or by the Borrower. The Borrower and not A.I.D. will select an investor and negotiate the terms of the proposed loan. Borrower reserves the right to reject all proposals.

Dated: May 10, 1979.

David McVoy,

Assistant Director for Operations, Office of Housing.

[FR Doc. 79-15853 Filed 5-21-79; 8:45 am]

BILLING CODE 4710-02-M

Joint Committee for Agricultural Development of the Board for International Food and Agricultural Development

Pursuant to Executive Order 11769 and the provisions of Section 10(a), (2), Pub. L. 92-463, Federal Advisory Committee Act, notice is hereby given of the meetings of the Regional Work Groups (RWGs), Joint Committee for Agricultural Development (JCAD) of the Board for International Food and Agricultural Development (BIFAD). These meetings will be held on June 11 and 22, 1979.

The purpose of the meetings is to: discuss RWG members' trip reports on Country/Mission visits in West Africa, Asia, Latin America and Caribbean areas; discuss the recommendations for future assistance and needed actions on Title XII programs; and discuss planning for other proposed country visits.

The Near East RWG will meet on June 11, 1979, and will convene at 9:30 a.m. in Room 6484 New State Department Bldg. (Mr. Russell Olson, A.I.D. Federal Designee for this meeting, can be contacted at (202) 632-9256.)

The Asia RWG will meet on June 11, 1979, and will convene at 9:30 a.m. in Room 216, Rosslyn Plaza Bldg., 1601 North Kent Street, Rosslyn, Virginia. (Mr. Calvin Martin, A.I.D. Federal Designee for this meeting can be contacted at (703) 235-8870.)

The Latin America RWG will meet on June 22, 1979, and will convene at 10:00 a.m. in Room 2242 New State Department Bldg. (Mr. Blair Allen, A.I.D. Federal Designee for this meeting can be contacted at (202) 632-8279.)

The Africa RWG will not meet the month of June.

The meetings are open to the public. Any interested person may attend, may file written statements with the Committee before or after the meetings, or may present oral statements in accordance with procedures established by the Committee, and to the extent the time available for the meeting permits.

Dr. Frank H. Madden is designated A.I.D. Advisory Committee Representative for JCAD. It is suggested that those desiring further information write to him in care of the Agency for International Development, State Department, Washington, D.C. 20523, or telephone him at (703) 235-9065.

Dated: May 14, 1979.

Frank H. Madden,

A.I.D. Advisory Committee Representative, Joint Committee on Agricultural Development, Board for International Food and Agricultural Development.

[FR Doc. 79-15805 Filed 5-21-79; 8:45 am]

BILLING CODE 4710-02-M

Joint Research Committee of the Board for International Food and Agricultural Development Meeting

Pursuant to Executive Order 11769 and the provisions of Section 10(a), (2), Pub. L. 92-463, Federal Advisory Committee Act, notice is hereby given of the twenty-fourth meeting of the Joint Research Committee (JRC) of the Board for International Food and Agricultural Development on June 11, 12, and 13, 1979.

The purpose of the meeting is to: review established priorities for Collaborative Research Support Programs (CRSPs); discuss progress and problems of CRSPs being planned and implemented; discuss procedures for planning CRSPs; and study agricultural research and technical assistance programs and experience of Iowa State University relevant to Title XII goals in food, nutrition, and agricultural developent of LDC's (including the University's international programs in maize research, plant introduction, seed collection and preservation, exchange of scientific information, sector modeling, and cooperative activities in food and feed grains with private enterprise).

The meeting on June 11 will convene from 7:30 p.m. to 10:30 p.m. at the Hyatt House Regency Room, 6215 Fleur Drive, Des Moines, Iowa 50321. The meeting on June 12 will convene from 9:30 a.m. to 4 p.m. in the Gold Room of the Memorial Union Building, Iowa State University, Ames, Iowa 50011. The meeting on June 13 will convene from 11:30 a.m. to 1 p.m. at the Conference Room, Agronomy Research Farm, Ames, Iowa 50011, and at 8 p.m. to 10:30 p.m. at the Hyatt House Regency Room, 6215 Fleur Drive, Des Moines, Iowa 50321. The meeting is open to the public. Any interested person may attend, may file written statement with the Committee before or after the meeting, or may present oral statements in accordance with procedures established by the Committee, and to the extend the time available for the meeting permits.

Mr. William F. Johnson, Office of Title XII Coordination and University Relations, Development Support Bureau, is designated A.I.D. Advisory Committee Representative at the meeting.

It is suggested that those desiring further information write to him in care of the Agency for International Development, State Department, Washington, D.C. 20523, or telephone him at (703) 235-9085.

Dated: May 17, 1979.

William F. Johnson,

A.I.D. Advisory Committee Representative, Joint Research Committee, Board for International Food and Agricultural Development.

[FR Doc. 79-15804 Filed 5-21-79; 8:45 am]

BILLING CODE 4710-02-M

DEPARTMENT OF TRANSPORTATION

Federal Highway Administration

[FHWA Docket No. 79-19]

National Advisory Committee on Uniform Traffic Control Devices; Termination of Committee and Meeting Notice

AGENCY: Federal Highway Administration, DOT.

ACTION: Notice.

SUMMARY: The Federal Highway Administration (FHWA) will terminate its sponsorship of the National Advisory Committee on Uniform Traffic Control Devices (NACUTCD) upon the expiration of the committee's current charter on June 12, 1979. A public meeting will be held on June 20, 1979, at which time alternative methods for assuring the availability of a variety of interests, viewpoints, and technical skills essential to the standards development process will be discussed.

DATES: Comments and suggestions concerning alternative methods for assuring the availability of a variety of interests, views, and technical skills in the standards development process should be received on or before August 1, 1979.

ADDRESS: FHWA Docket No. 79-19, Federal Highway Administration, HCC-10, Room 4205, 400 7th Street SW., Washington, D.C. 20590. All responses to this notice will be available for examination at the above address between 7:45 a.m. and 4:15 p.m., eastern time, Monday through Friday.

FOR FURTHER INFORMATION CONTACT: Mr. Robert E. Conner, Chief, Traffic Control Systems Division, 202-426-0411, or Mr. Paul L. Brennan, Special Assistant to the Chief Counsel, 202-755-6545, Federal Highway Administration, 400 7th Street SW., Washington, D.C. 20590. Office hours are from 7:45 a.m. to 4:15 p.m., eastern time, Monday through Friday.

SUPPLEMENTARY INFORMATION: Since 1972 FHWA has sponsored the NACUTCD to assist in the continued development and refinement of the traffic control standards authorized in 23 U.S.C. 109(b), 109(d), and 402(a). The standards recommended by the NACUTCD and adopted by FHWA have been incorporated in the Manual on Uniform Traffic Control Devices for Streets and Highways (MUTCD) and approved for use on all Federal-aid highway projects at 23 CFR 625.3(c)(1).

Pursuant to Office of Management and Budget Circular A-63, Transmittal Memorandum No. 5 (Review of Federal Advisory Committees), the NACUTCD has been subjected to a comprehensive review aimed at determining whether its continuation is warranted. In light of the President's policy to limit the number of advisory committees and a recent decision to process recommended revisions to the MUTCD in accordance with informal rulemaking procedures (5 U.S.C. 553), a decision has been made to terminate sponsorship of the NACUTCD upon the expiration of its current charter on June 12, 1979.

The previously scheduled June 20-22 mid-year meeting of the NACUTCD will not be held. In its place, a half-day public meeting will be held on June 20, 1979, beginning at 1:00 p.m., mountain time, in Colorado Springs, Colorado. The tentative agenda for the meeting is as follows:

Welcome—Federal Highway Administrator.
Review of Advisory Committee Functions and History.
Review of Rulemaking Procedures Concerning MUTCD Standards.
Discussion of Alternative Methods for Assuring National Input to Standards.

Persons interested in obtaining further details on the meeting and those planning to attend should contact Mr. R. E. Conner at the address provided above. Comments and suggestions concerning alternative methods may be submitted to the docket on or before August 1, 1979.

(Pub. L. 92-463, 86 Stat. 770 (5 U.S.C. App. I; 23 U.S.C. 109(b), 109(d), 402(a), 315; 49 CFR 1.48(b)))

Issued on: May 16, 1979.

John S. Hassell, Jr.,

Deputy Administrator.

[FR Doc. 79-15815 Filed 5-21-79; 8:45 am]

BILLING CODE 4910-22-M

Federal Railroad Administration

Consolidated Rail Corp.; Hearing

The Consolidated Rail Corporation (CR) has petitioned the Federal Railroad Administration (FRA) seeking approval of a proposed modification of a portion of its signal system. The proposed modification involves discontinuance of the traffic control system currently installed on a line of railroad extending between Bethlehem, Pennsylvania and Lehighton, Pennsylvania.

The CR request is contained in a proceeding which is identified as FRA Block Signal Application Number 1439. This proceeding requests that FRA permit CR to remove the existing signal system on a portion of track, approximately twenty-six miles in length, that was previously owned by the Lehigh Valley Railroad.

The Railroad Safety Board has voted to hold a public hearing before entering a final decision in this proceeding. Accordingly, a public hearing is hereby set for 10 a.m. on June 22, 1979, in Room 10010 of the United States Post Office, 442-456 Hamilton Street located in Allentown, Pennsylvania.

The hearing will be an informal one and will be conducted in accordance with Section 25 of the FRA rules of practice (49 CFR 211.25) by a representative designated by the Board.

The hearing will be a nonadversary proceeding and, therefore, there will be no cross-examination of persons presenting statements. The representatives of the Board will make an opening statement outlining the

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scope of the hearing. After all initial statements have been completed, those persons who wish to make brief rebuttal statements will be given the opportunity to do so in the same order in which they made their initial statements. Additional procedures, if necessary, for the conduct of the hearing will be announced at the hearing.

Issued in Washington, D.C., on May 17, 1979.

J. W. Walsh,

Chairman, Railroad Safety Board.

[FR Doc. 79-15885 Filed 5-21-79; 8:45 am]

BILLING CODE 4910-06-M

DEPARTMENT OF THE TREASURY

Bureau of Alcohol, Tobacco, and Firearms

Authorities of the Director in 27 CFR Part 201, Distilled Spirits Plants; Delegation Order

Conection

In FR Doc. 79-15131 appearing on page 28447 in the issue of Tuesday, May 15, 1979, in the middle column of page 28449, under "5. *Redelegation*", the first line of paragraph "b." change ". . . 4g" to read "4q".

BILLING CODE 1505-01-M

Customs Service

Chains of Iron or Steel From Japan, Receipt of Countervailing Duty, Petition and Initiation of Investigation

AGENCY: Customs Service, U.S Treasury Department.

ACTION: Reopening of Countervailing Duty Investigation.

SUMMARY: This notice is to inform the public that the Treasury Department is reopening its countervailing duty investigations with respect to chains of iron or steel and parts thereof (T.D. 78-295) in order to determine whether additional benefits which are considered to be bounties or grants under the countervailing duty law are being bestowed by the Government of Japan on the manufacture, production or exportation of that merchandise. A preliminary determination will be made not later than October 9, 1979, and a final determination not later than April 9, 1980.

EFFECTIVE DATE: May 22, 1979.

FOR FURTHER INFORMATION CONTACT: Donald W. Eiss, Office of Tariff Affairs, U.S. Treasury Department, 15th Street and Pennsylvania Avenue NW., Washington, D.C. 20220, (202-566-8256).

SUPPLEMENTARY INFORMATION: On August 24, 1978, an affirmative "Final Countervailing Duty Determination" (T.D. 78-295) was published in the **Federal Register** (43 FR 37685). That notice stated that pursuant to an investigation conducted under section 303 of the Tariff Act of 1930, as amended (19 U.S.C. 1303) (hereinafter referred to as the "Act"), it had been determined that benefits considered to constitute bounties or grants were being paid or bestowed upon the manufacture, production or exportation of "chains of iron or steel and parts thereof" from Japan.

As a result of that determination, a countervailing duty of 2.0 percent was imposed on the subject merchandise upon entry for consumption or withdrawal from warehouse for consumption on or after August 24, 1978. That rate is still in effect.

The merchandise so described includes "chains of iron or steel, the links of which are of stock essentially round in cross section, and parts thereof," as provided for in item numbers 652.24, 652.27, 652.30, 652.33 and 652.35 of the Tariff Schedules of the United States Annotated (TSUSA).

Petitioner in that investigation, the National Association of Chain Manufacturers, has now alleged that additional bounties or grants are being paid or bestowed on the manufacture, production, or exportation of chains and parts thereof under the "Temporary Measures Act for Small and Midsize Businesses With Regard to the High Yen Exchange Market" which has been in operation since October 1977. This program established a number of methods by which the Government of Japan can provide assistance to small and midsize Japanese firms which export and whose competitiveness has been adversely affected by the rapid appreciation of the yen. Assistance is provided in the form of: (1) Low cost loans; (2) the right to carry back current loses related to yen appreciation up to 3 years to offset income, corporate and local taxes paid in prior years; and (3) special government credit guarantees for firms affected by yen appreciation over and above those otherwise offered to small and midsize businesses.

In light of the eligibility criteria, which limit utilization of the program to firms in sectors which export, this program would constitute the bestowal of a bounty or grant within the meaning of section 303 of the act to any firm actually benefitting from the program. However, there is no evidence yet available which would indicate that Japanese chain manufacturers are in fact eligible. The scope of the investigation reopened pursuant to this notice is to determine, pursuant to sections 303 (a)(3) and (a)(4) of the Act (19 U.S.C. 1303 (a)(3), (a)(4)), whether firms producing the merchandise covered by T.D. 78-295 are eligible for, and have in fact utilized, the high yen programs to the extent that they would be considered to have received bounties or grants within the meaning of section 303 of the Act. During the course of this investigation, Customs officers will continue to collect the 2.0 percent *ad valorem* countervailing duty as originally instructed in T.D. 78-295.

Pursuant to section 303(a)(4), Tariff Act of 1930, as amended (19 U.S.C. 1303(a)(4)), the Secretary of the Treasury is required to issue a preliminary determination as to whether or not any bounty or grant is being paid or bestowed within the meaning of that statute within six months of receipt of information regarding the possible payment or bestowal of a bounty or grant. A final determination must be issued within twelve months of the receipt of such information. Therefore, a preliminary determination will be made no later than October 9, 1979, and a final determination will be issued no later than April 9, 1980. However, in view of the commonality of the program to be investigated in this case and other pending cases involving additional products from Japan, the preliminary determination in this case will be made within sixty days from May 22, 1979.

Before any determination is made, consideration will be given to any relevant data, views or arguments submitted in writing with respect to this reopened investigation. Submissions should be addressed to the Commissioner of Customs, 1301 Constitution Avenue, NW., Washington, D.C. 20229, in time to be received by his office on or before 4 weeks from the date of publication of this notice.

This notice is published pursuant to section 303(a)(3) of the Tariff Act of 1930, as amended (19 U.S.C 1303(a)(3)), and § 159.47(c), Customs Regulations (19 CFR 159.47(c)).

Pursuant to Reorganization Plan No. 26 of 1950 and Treasury Department Order 190 (Revision 15), March 16, 1978, the provisions of Treasury Department Order 165, Revised, November 2, 1954, and § 159.47 of the Customs Regulations (19 CFR 159.47) insofar as they pertain to the initiation of a countervailing duty investigation by the Commissioner of Customs, are hereby waived.

Robert H. Mundheim,

General Counsel of the Treosury.

May 15, 1979.

[FR Doc. 79-15977 Filed 5-21-79; 8:45 am]

BILLING CODE 4810-22-M

DEPARTMENT OF THE TREASURY

Comptroller of the Currency

Industrial National Bank of East Chicago, Ind.; Application for Exemption From Section 12(g) of the 1934 Securities Exchange Act

Notice is hereby given that on March 30, 1979, the Industrial National Bank of East Chicago, 2409 East 141st Street, East Chicago, IN 46312 ("Bank") applied for a temporary exemption from Section 12(g) of the 1934 Securities Exchange Act, 15 U.S.C. 78(1)(h) ("Act"), based on the nature and extent of its activities.

The exemption, if granted, will postpone the time when, under the Act, the Bank must register its common stock pursuant to Section 12(g); file periodical and other reports pursuant to Section 13; solicit proxies in accordance with Section 14; and Directors, Officers and Principal Stockholders thereof must report changes in their ownership of Bank common stock pursuant to Section 16.

Interested persons may submit to the Securities Disclosure Division, Comptroller of the Currency, Washington, D.C. 20219 ("Comptroller"), on or before June 21, 1979, written comments concerning this matter and a written request for an opportunity to be heard.

After the period for the receipt of comments has ended, the Comptroller will notify persons requesting an opportunity to be heard, of the time and place for a hearing called to consider the Bank's application, where such persons may present relevant evidence.

In accordance with Section 12(h) of the Act, the Comptroller will issue an order temporarily exempting the Bank from Section 12(g) of the Act, if the Comptroller finds that such action is not inconsistent with the public interest or the protection of investors.

Dated: May 16, 1979.

John G. Heimann,

Comptroller of the Currency.

[FR Doc. 79-15814 Filed 5-21-79; 8:45 am]

BILLING CODE 4810-33-M

Office of the Secretary

Imported Steel Mill Products Trigger Price Mechanism: Third-Quarter 1979 Revision of Trigger Prices

The Treasury Department hereby announces steel mill product trigger prices for the third quarter of 1979. These trigger prices are used by the Treasury Department to monitor the prices of steel mill product imports for the possible initiation of dumping investigations under the Antidumping Act. Each quarter Treasury reviews the cost of Japanese steel production and revises trigger prices accordingly.

Third-quarter trigger base prices and extras for steel mill products of the integrated steel producers, which account for about 90 percent of U.S. steel mill product imports, are 1.4 percent lower than their second quarter levels.

The cost estimates for the third quarter, on which trigger prices are based, are calculated using a 212 yen/dollar exchange rate (whereas the second quarter cost estimates are based on a 197 yen/dollar exchange rate). The resulting decrease in Japanese steel production costs is partially offset by increases in the cost of raw materials and labor.

The TPM includes a "flexibility band" of 5 percent to moderate price fluctuations, particularly those due to exchange rate changes. This band was used in the first quarter of 1979 to establish trigger prices at 3 percent below Treasury's estimate of production cost, which had increased 10 percent. In the second quarter, the band was used to maintain trigger prices at their first-quarter levels, or 1.2 percent above the production costs estimated for the second quarter. For the third quarter, 1.8 percent of the flexibility band is used to reduce the 3.2 percent decrease in trigger prices dictated by the current cost estimates to a 1.4 percent decrease.

The trigger base prices and extras of the steel mill products of the electric furnace producers will increase by 2.5 percent for Group A products, 2.2 percent for Group B products, and 1.8 percent for Group C products.[1] These prices reflect cost increases of 0.1 percent and 0.4 percent for Group A and Group B products, a cost decrease of 0.1 percent for Group C products, and the use of 1.8 percent of the flexibility band for each of these three groups.

The trigger base prices and extras of stainless steel wire will decrease 8.2 percent reflecting production costs which are 8.0 percent below the second-quarter trigger price levels and the use of 1.8 percent of the flexibility band.

I. Integrated Producers

To determine third-quarter trigger price levels, Treasury estimated the dollar cost of producing steel in Japan using a 212 yen/dollar exchange rate. The 212 yen/dollar rate is the average rate for the period March 5 through May 4, 1979, the two-month period immediately preceding the calculation of third-quarter trigger prices. The 212 yen/dollar exhange rate compares to the 197 yen/dollar exchange rate used for second quarter estimates of production costs, and by itself would have caused approximately a $19, or 5 percent, decrease in the cost estimate.

However, the price Japanese steel producers must pay for raw materials and labor has substantially increased and offset by $11, or 2.8 percent, the effect of the yen's depreciation. Forty percent of the cost increase in raw materials results from increases in the prices of coal and fuel oil, and most of the other 60 percent reflects an increase in the price of iron ore. Labor costs increased 5 percent reflecting Japanese steel industry's 1979 wage settlement with the labor unions.

As shown in Table 1 below, the combined effect of the yen's depreciation and the increase in the price of raw materials and labor is an $8 decrease in the cost per metric ton of finished steel mill products ($7 per net ton).

The resulting base prices for products produced by integrated producers are shown in Table 3.

II. Electric Furnace Products

Treasury estimated the costs of producing electric furnace products for the third-quarter trigger prices based on a recent cost submission from Japan's Ministry of International Trade and Industry (MITI) and a 212 yen/dollar exchange rate. The MITI submission on electric furnace products completely updates the information MITI had previously provided on electric furnace production costs.

Table. 1.—*Japanese Production Cost Estimates—Integrated Steel Producers; Second and Third Quarters, 1979*

[U.S. dollars per ton of finished product]

	Second quarter (197¥/$)	Third quarter (212 ¥/$
Basic raw materials	$119.03	$124.66
Other raw materials	72.21	67.10
Labor	94.07	91.80
Other expenses	28.65	26.62
Depreciation	29.72	27.62
Interest	25.96	24.12
Profit	25.12	24.82
Yield credit	(10.82)	(10.79)
Total cost $/MT	363.94	375.97
Total cost $/NT	348.31	341.06

[1] See Table 2 for a listing of which products are included in each of Groups A, B and C.

[1] Profit = .06 (Raw materials plus labor plus other expenses).

Other than the exchange rate change, the only cost change having a major impact on the production costs of these products is a 15 percent increase in the cost of scrap.[2] Scrap currently accounts for about half of the cost of these products. Other cost changes with less impact include a negotiated increase in labor wages of 3.2 percent with offsetting decreases in labor usage rates, increased charges for electricity and fuel oil, and generally decreased interest cost due to lower debt levels. Table 2 below shows, for electric furnace products, second and third quarter estimated production costs per metric ton by cost element and total estimated cost per net ton.

The resulting base proces for products produced by electric furnace producers are shown in Table 3.

III. Stainless Steel Wire

Treasury adjusted its estimate of Japanese stainless production costs to a 212 yen/dollar exchange rate base. This results in a roughly 8 percent cost reduction. Japanese stainless steel production costs are 100 percent yen-denominated (the production costs of integrated producers are only about two-thirds yen-denominated); hence, changes in the dollar-value of Japanese stainless steel production costs approximately equal changes in the yen/dollar ratio.

Stainless steel wire trigger prices were first published only in January 16, 1979, after an extensive Treasury study; consequently, the input prices used to estimate stainless steel production costs are still current and no cost adjustments, other than the exchange rate adjustment, are necessary.

The resulting base prices for stainless steel wire are shown in Table 3.

IV. Freight

MITI also submitted an update of freight costs from Japan to the United States. Principally because of increases in fuel costs to Japanese shippers, TPM freight rates will increase. All TPM freight rates will increase $1 for steel mill products entering West Coast ports and $2 for each of the other port areas.

[2] In the United States, the price of steel scrap for export has risen more dramatically in recent months. However, U.S.-originated steel scrap accounts for less than 10 percent of the scrap needs of the Japanese electric furnace mills. The overall rise of scrap cost to the Japanese electric furnace producers has thus been more moderate.

Table 2.—*Japanese Production Cost Estimates: Electric Furnace Products, Second and Third Quarter 1979*

[U.S. dollars per metric ton of finished product]

	Group A [1]		Group B [2]		Group C [3]	
	Second quarter	Third quarter	Second quarter	Third quarter	Second quarter	Third quarter
Basic Raw Materials	$157.81	$168.08	$169.92	$182.82	$156.74	$168.52
Other Raw Materials	34.78	33.72	41.08	36.34	37.55	33.13
Labor	30.80	28.17	35.05	30.74	24.56	22.28
Other Expenses	12.25	11.20	14.96	17.23	15.45	13.55
Depreciation	8.67	7.00	8.48	9.65	8.82	8.34
Interest	7.47	6.33	10.69	7.25	8.88	6.35
Profit [4]	18.85	19.29	20.88	21.37	18.74	19.00
Scrap Credit	(2.83)	(2.93)	(3.19)	(2.51)	(2.79)	(2.68)
Total $/MT	265.76	270.86	297.87	302.89	263.93	266.49
Total $/NT	241.11	245.72	270.23	274.78	239.44	241.76

[1] Group A products are equal angles, unequal angles, channels, and I-beams.
[2] Group B products are hot rolled strip from bar mills, merchant quality flat bars, hot rolled round bars, squares, and round cornered squares; and bar size channels.
[3] Group C products are concrete reinforcing bars, plain and deformed.
[4] Profit = .08 (raw materials + labor = other expenses)

Table 3.—*Product Base Prices for Shipments Exported During Third Quarter 1979*

[All base prices decreased 1.4 percent unless otherwise noted]

Page [1]	Product	Second quarter 1979 base price ($/metric ton)	Third quarter 1979 base price ($/metric ton)
2-1	Wire Rods Commercial Quality AISI 1006 5.5 mm	315	311
2-2	Wire Rods Welding Quality AISI 1006	318	312
2-3	Wire Rods High Carbon AISI 1065 5.5 mm	366	361
2-5	Wire Rods Cold Heading Quality AISI 1038 12.7 mm	378	373
2-7	Wire Rods Cold Finished Bar Quality	378	373
2-9	Spheroidized Annealed Mo Alloy Steel Wire Rod AISI 4037 5.5 mm to 13 mm.	552	544
2-13	Spheroidized Annealed Si-Mn-Cr High Carbon Steel Wire Rod AISI 52100 5.5 mm to 13 mm	529	522
2-15	Spheroidized Annealed High Carbon Cr Steel Wire Rod AISI 52100 5.5 mm to 13 mm	607	599
3-1	Wide Flange Beams and Bearing Piling ASTM A-36 12" x 12"	306	302
3-4	Standard Carbon Steel Channels ASTM A-36 [3]	274	281
3-6	Unequal Leg Carbon Steel Angles ASTM A-36 [3]	288	295
3-8	Equal Leg Carbon Steel Angles ASTM A-36 [3]	259	265
3-10	Standard Carbon Steel "I" Beams ASTM A-36 [3]	315	323
4-1	Sheet Piling ASTM A-328 Arch Web PDA-27	346	341
5-1	Steel Plates ASTM A-36 ¼" x 80" x 240"	316	312
6-1	Heavy Carbon Steel Rails AREA 115, 132 or 136	352	347
6-3	Light Rails 60 lbs./yd	346	341
6-5	Tie Plates	353	348
8-1	Plain and Deformed Carbon Steel Concrete Reinforcing Bars ASTM A-615 [4]	255	259
9-1	Hot Rolled Carbon Steel Bar Size Channel ASTM A-36 [3]	381	389
10-1	Rolled Carbon Bars Special Quality AISI 1045 40 mm round x 4 meters.	402	396
10-3	Merchant Quality Hot Rolled Carbon Steel Squares and Round Cornered Squares ASTM-36 or AISI 1020 [3]	318	325
10-5	Merchant Quality Hot Rolled Carbon Steel Round Bar ASTM A-36 or AISI 1020 [3]	318	325
10-7	Merchant Quality Carbon Steel Flat Bars ASTM A-36 or AISI 1020 [3]	289	295
11-1	Hot Rolled Ni-Cr-Mo Alloy Steel Round Bar AISI 8620 40 mm	463	457
11-6	Spheroidize Annealed High Carbon Cr Steel Round Bar AISI 52100 40 mm to 100 mm	517	510
12-1	Cold Finished Carbon Steel Round Bar AISI 1008 Through 1029 10.05 mm (¾")	464	458
12-2	Cold Finished Round Steel Bar (Free Cutting Steel-Sulfur) AISI 1212 through 1215, 19.05 mm (¾")	524	517
12-3	Cold Finished Round Steel Bar (Free Cutting Steel-Lead) AISI 12L14 and 12L15 19.05 mm(¾")	550	542
12-5	Cold Finished, Ni-Cr-Mo Alloy Steel Round Bar AISI 8620,40 mm.	463	457
12-7	Cold Finished Spheroidized Annealed, High Carbon Cr Steel Round Bar, AISI 52100, 50100, 51100	517	510
14-1	Electric Resistance Welded Carbon Steel Pressure Tubing for use in Boilers, Heat Exchangers, Condensers, Etc	517	510
14-6	Continuous Butt Welded Standard Pipe	350	345
14-8	Electric Resistance Welded Pipe, Excluding Oil Well Casing, Without Coupling	368	363
14-13	Submerged Arc Welded Pipe	446	440
14-18	Electric Resistance Welded Structural Tubing to ASTM A-500 Grades A, B and C	385	380
14-22	Electric Resistance Welded Standard Pipe ASTM A-120 (A-53)	355	350
14-24	Electric Resistance Welded Standard Pipe ASTM A-120 (Larger Sizes)	355	350
14-26	Piling Pipe ASTM A-252	347	342
14-30	Electric Resistance Welded Hot Dipped Galvanized Fence Pipe and Tubing in Plain Ends	355	350

Table 3.—*Product Base Prices for Shipments Exported During Third Quarter 1979*—Continued

[All base prices decreased 1.4 percent unless otherwise noted]

Page [1]	Product	Second quarter 1979 base price ($/metric ton)	Third quarter 1979 base price ($/metric ton)
14-32	ERW Mechanical Tubing ASTM A-513	464	458
15-1	Seamless Carbon Steel Oil Well Casing, Not Threaded, up to 7" in Outside Diameter.	435	429
15-4	Seamless Carbon Steel Oil Well Casing, Not Threaded, 7 inches and over in Outside Diameter.	431	425
15-7	Seamless Carbon Steel Oil Well Casing, Threaded and Coupled, 7 inches and over in Outside Diameter.	489	482
15-10	Seamless Carbon Steel Oil Well Casing, Threaded and Coupled, up to 7 Inches in Outside Diameter.	494	487
15-13	Electric Resistance Welded Carbon Steel Oil Well Casing, Not Threaded.	388	383
15-15	Electric Resistance Welded Carbon Steel Oil Well Casing, Threaded.	458	452
15-17	Seamless Carbon Steel Pressure Tubing Suitable for use in Boilers, Superheaters, Heat Exchangers, Condensers, Refining Furnaces, Feed Water Heaters, Cold Finish.	831	819
15-43	Seamless Carbon Steel Oil Well Tubing EUE With Threading and Coupling.	651	642
15-45	Seamless Carbon Steel Line Pipe	443	437
15-48	Hot Rolled High Carbon Cr Steel Tube Suitable for Use in Manufacture of Ball or Roller Bearings AISI 52100 60 mm to 100 mm.	631	622
15-49	Cold Rolled High Carbon Cr Steel Tube Suitable for Use in Manufacture of Ball or Roller Bearings AISI 52100 60 mm to 100 mm.	938	925
15-50	Seamless Stainless Steel Round Ornamental Tube AISI TP 304, 1¼ x 0.049".	2,128	2,098
15-52	Seamless Stainless Steel Square Ornamental Tube AISI TP 304, 1½ x 1½ x 0.065".	2,319	2,287
16-1	Cold Heading Round Wire AISI 1018 Killed 0.192" Hard Drawn	474	467
16-1	Cold Heading Drawn from Annealed Rods	538	530
16-1	Cold Heading Drawn from Spheroidized Annealed Rods	550	542
16-1	Cold Heading Anneal in Process	554	546
16-1	Cold Heading Spheroidize Anneal in Process	564	558
16-1	Cold Heading Anneal in Process and Drawn from Annealed Rods.	597	589
16-1	Cold Heading Spheroidize Anneal in Process and Drawn from Annealed Rods.	607	599
16-1	Cold Heading Anneal at Finish Size	538	530
16-1	Cold Heading Spheroidize Anneal at Finish Size	550	542
16-1	Cold Heading Anneal at Finished Size and Drawn from Annealed Rods.	580	572
16-1	Cold Heading Spheroidize Anneal at Finished Size and Drawn from Annealed Rods.	593	585
16-4	Bright Basic Round Wire AISI 1006 #8 Gauge Rimmed	389	384
16-5	Galvanized Iron Round Wire AISI Type I Coating #8 Gauge	490	483
16-8	Round Baling Wire 14.50	544	536
16-9	Cold Finished Spheroidized Annealed, Si-Mn-Cr High Carbon Steel Wire AISI 9254.	529	522
16-11	Cold Finished Spheroidized Annealed Mo Alloy Steel Wire AISI 4037, 5.5 mm to 13 mm.	552	544
16-13	High Carbon Cr Steel Wire in Coil AISI 52100, 50100, 51100, Suitable for use in manufacture of ball or roller bearings.	826	814
16-15	Upholstery Spring Wire Automatic Coiling and Knotting Type	487	480
16-16	Mechanical Spring Wire ASTM A-227 and A-648	513	506
16-17	Oil Tempered Steel Spring Wire ASTM A-229	516	509
16-18	Carbon Steel Valve Spring Quality Wire ASTM A-230	659	847
16-19	Automobile Tire Bead Wire	602	594
16-20	Galvanized Core Wire for A.C.S.R. ASTM B 498 Class "A"	642	633
16-21	Stainless Steel Annealed Wire Grade 301 [5]	2,073	1,944
16-25	Stainless Steel Hard/Spring Wire Grade 301 [5]	2,073	1,944
16-26	Stainless Steel Soft/Intermediate Wire Grade 301 [5]	2,073	1,944
19-1	Field Fence	587	579
20-1	Wire Nails Bright Common 20d # 6 1/2 x 4"	454	448
21-1	Barbed Wire 2 Ply, 12.50	618	609
22-1	Black Plate ASTM A625-78 0.0083" x 34" x Coil	407	401
23-1	Electrolytic Tin Plate SR-25/25 75L x 34" x C	551	543
25-1	Hot Rolled Steel Sheets ASTM A-569 0.121" x 48" x Coil	280	276
25-2	Hot Rolled Steel Band ASTM 569 0.121" x 48" x Coil	266	264
26-1	Electrical Steel Sheets Grain Oriented M-4 0.012" x 33" x C	1,183	1,166
26-3	Electrical Steel Sheets Non Oriented M-45 0.018" x 36" x C	638	629
26-5	Cold Rolled Sheets ASTM A-366 1.0 m/m x 48" x C	351	346
27-1	Electro Galvanized Sheets EGC 10g/M² 1.0 m/m x 48" x C	415	409
27-4	Galvanized Sheet ASTM A525G90 0.8 m/m x 48" x C	417	411
29-1	Hot Rolled Carbon Steel Strip Produced on Bar Mills Cut Lengths [3].	323	330
29-3	Hot Rolled Carbon Steel Strip Produced on Sheet Mills Coils Only.	274	270
32-1	Tin Free Steel Sheets SR 75L x 34" x C	472	465

[1] Page references are to the First and Second Quarter Trigger Price Manual published by the Department of the Treasury, April 1979. The first figure of each page reference corresponds to the AISI product category of that product.
[2] Electric Furnace, Group A. The *increase* from Second to Third Quarter is 2.5%.
[3] Electric Furnace, Group B. The *increase* from Second to Third Quarter is 2.2%.
[4] Electric Furnace Group C. The *increase* from Second to Third Quarter is 1.6%.
[5] Stainless steel wire. The *decrease* from Second to Third Quarter is 6.2%.

Dated: May 15, 1979

provided that product is exported on or

Dated: May 15, 1979.

Robert H. Mundheim,

General Counsel.

[FR Doc. 79-15841 Filed 5-21-79; 8:45 am]

BILLING CODE 4810-25-M

New and Adjusted Trigger Base Prices and "Extras" for Imported Steel Mill Products

I am hereby announcing (1) new trigger base prices and "extras" for products not previously covered by the Trigger Price Mechanism and (2) adjustments to, and additional "extras" for products for which trigger prices have been previously announced. Attachment 1 lists the specific product involved and describes the action being taken. These trigger prices will be used by the Treasury Department in monitoring imports of these products under the trigger price mechanism. Accordingly, a number of pages in the *Steel Trigger Price Handbook* are being reissued to reflect these actions.

Description of the trigger price mechanism may be found in the "Background" to the proposed rulemaking (42 FR 65214) and the final rulemaking (43 FR 6065) which amended regulations to require the filing of a Special Summary Steel Invoice (SSSI) with all entries of imported steel mill products.

These base prices, and extras, and adjustments are based upon information made available to the Treasury Department by the Japanese Ministry of International Trade and Industry (MITI), as well as other information available to the Department.

The trigger prices published on the attached pages are expressed in terms of second quarter prices. For shipments exported in the third calendar quarter, these prices should be adjusted to reflect third quarter price changes published simultaneously today.

All the trigger prices being announced here will be used by the Customs Service to collect information at the time of entry summary on shipments of the products covered which are exported after the date of publication of this notice. However, the following rules will be applied to entries of these products covered by contracts with fixed price terms concluded before the publication date of this notice.

1. Contracts with fixed price terms between unrelated parties: If the importer documents at or before the time of entry summary that the shipment is being imported under such a contract with an unrelated party, the entry will not trigger an investigation even if the sales price is below the trigger price, provided that product is exported on or before June 30, 1979. However, failure to initiate an investigation will not diminish the right of affected interested persons to file a complaint with respect to such imports under the established procedures for antidumping cases.

2. Contracts between related parties: If the importer documents at the time of entry summary that the shipment is to be resold to an unrelated purchaser in the United States under a contract with fixed price terms concluded before the publication date of this notice, the entry will not trigger an investigation even if the sales price is below the trigger price, provided that product is exported on or before June 30, 1979.

While these sales will not as a rule trigger a self-initiated antidumping investigation, information concerning such sales will be kept as a part of the information in the monitoring system and will be available in the event that an antidumping petition is filed with respect to such products sold by that producer or the Treasury Department decided to self-initiate an antidumping investigation of such products based upon subsequent sales.

Dated: May 15, 1979.

Robert H. Mundheim,

General Counsel.

[FR Doc. 79-15777 Filed 5-21-79; 8:45 am]

BILLING CODE 4810-25-M

Attachment 1

TABLE OF PRODUCT ADDITIONS AND ADJUSTMENTS

AISI Category/T.P. Handbook Page Number and Product Description	Type of Action	Description of Action
2-6 Wire Rods, Cold Heading Quality	Extended Coverage	Added grade 1108
2-8 Wire Rod, Cold Finished Bar Quality	Extended Coverage	Added grade 1115, 1118
5-10 Plate	Correction	Corrected Pickled and Oiled Extra
14-9 ERW Pipe, Excluding Oil Well Casing Without Coupling	Correction	Corrected Grade and size extra
14-26, Piling Pipe 14-27, 14-28, 14-29	Extended Coverage	Added large pipe sizes, for ERW and SAW Piling Pipe
14-33 ERW Mechanical Tubing ASTM-A 513	Correction	Corrected size extras
15-44 Seamless Carbon Steel Oil Well Tubing Life with Threading and Coupling	Correction	Corrected size and grade extra
16-2 Cold Heading Round Wire	Extended Coverage	Added grade extras
19-1 Field Fence ASTM-A-116	Correction	Added note on insurance
21-1, Barbed Wire 21-2	Extended Coverage	Added coating and size extras
16-32 Stainless Steel Wire	Extended Coverage	Clarified packaging extras
25-4 Hot Rolled Sheet	Deletion	Deleted Theoretical Minimum weighing extra; Treasury will adjust the invoice price compared to the trigger price so that the invoice price reflects actual net weight, not the theoretical minimum weight. When sheet is sold based on THW, the actual and the THW weight should be shown for each line in column 16 of the SSSI.
26 6, Cold Rolled Sheet 26 7	Correction and Deletion	Corrected width, length and thickness dimensions; deleted theoretical minimum weighing extra. See above, hot rolled sheet.
27-3 Electro-Galvanized Sheet	Deletion	Deleted theoretical minimum weighing extra; see above hot rolled sheet.
27-5, Galvanized Sheet 27-7	Extended Coverage	Added Culvert Stock and Copper extra; deleted theoretical minimum weighing extra. See above, hot rolled sheet.

V 4 4 1 0 0 M Y 2 2 7 9 UMI

WIRE RODS - COLD HEADING QUALITY

Extra (Sizes/Grade) Per Metric Ton

GRADE (AISI NUMBER)	SIZES 7/32" thru 35/64"	over 35/64" to under 39/64"	39/64" to under 3/4"	3/4" and over
1005, 1006, 1008 1010, 1011, 1012 1013 (Rimmed Steel)	Minus $26	$35	$19	NIL
1015, 1016, 1017 1018, 1019, 1020 1021, 1022, 1023, 1025, 1026 (Rimmed Steel)	Minus $26	$47	$34	$ 9
1005, 1006, 1008 1010, 1011, 1012, 1013 (Killed Steel)	Minus $ 8	$48	$34	$10
1015, 1016, 1017 1018, 1019, 1020 1021, 1022, 1023 1025, 1026	Minus $ 7	$62	$47	$24
1029, 1030, 1035 1037, 1038, 1039 1040, 1042, 1043	NIL	$48	$35	$10
10B18 10B21	22	86	72	46
10B22 10B23	27	91	77	50
10B30	24	73	57	35
1108, 1110	Minus 6	48	34	10
1522	NIL	66	52	27
1524	13	77	62	37
1541	10	59	45	21
15B41	36	84	70	45

Tolerance Extra
If bar tolerances are specified or required for over 35/64" to under 3/4" ... Plus $12/M.T.

WIRE RODS-COLD FINISHED BAR QUALITY

Extras (Sizes / Grade) Per Metric Ton

GRADE (AISI NUMBER)	SIZES 7/32" Thru 35/64"	Over 35/64" to Under 39/64"	39/64" To Under 3/4"	3/4" and Over
1015, 1016, 1017 1018, 1019, 1020, 1021, 1022, 1023 1025, 1026	Minus $40	$25	$10	Minus $12
1029,1030,1035 1037, 1038, 1039 1040, 1042, 1043 1044, 1045, 1046, 1049 1050	Minus $21	$26	$10	Minus $10
1117, 1115, 1118	Minus $ 6	57	43	19
1141	2	43	28	18
1144	2	48	34	10
1151	4	50	36	13
1212, 1213, 1215	Minus $ 2	48	34	10
10L18	Minus $18	58	44	20
10L38, 10L45	NIL	48	34	10
11L17	$25	91	77	50
11L37	17	64	49	26
12L14, 12L15	17	67	53	28

Tolerance Extra

If Bar Tolerances are specified or required for over 35/64" to under 3/4" -- plus $12 per metric ton.

3 - OTHER EXTRAS

Description		$/MT
Killed		24
Fine Grain		7
Charpy		
+40°F & up		
L		18
T		24
L & T		29
under +40°F		
L		24
T		29
L & T		36
Normalize		83
Quench & Temper		142
Normalize & Temper		142
U.S.T.		
A578 L2, A435, A578 L1 (9" or higher grid)	(over 1/2")	47
	(over 3/4")	18
(under 9" grid or 100% scanning)	(over 3/4")	29
Checker		24
Pickled & Oiled		
Up to 0.172" Thickness		24
Over 0.172" Thickness		16
Others		To be specified on SSS1

BASE PRICES INCLUDING OD/WT AND GRADE EXTRAS ($/M.T.)

ELECTRIC RESISTANCE WELD PIPE, EXCLUDING OIL WELL CASING, WITHOUT COUPLING

O.D.	W.T.	A53 & API 5L GRADES A & B	API 5LX Grades X42	X46	X52	X56	X60
2-3/8	.154	412	424	435	449	460	473
	.218	423	434	448	460	472	486
2-7/8	.203	401	412	424	436	449	460
	.276	422	424	435	449	460	473
3½	.216	389	402	413	425	436	449
	.300	401	412	424	436	449	460
4	.226	389	402	413	425	436	449
	.318	401	412	424	436	449	460
4½	.125	394	412	425	436	449	460
	.141	389	402	413	425	436	449
	.156	389	402	413	425	436	449
	.172	389	402	413	425	436	449
	.188	389	402	413	425	436	449
	.203	389	402	413	425	436	449
	.219	389	402	413	425	436	449
	.237	389	402	413	425	436	449
	.337	401	412	424	414	449	460
5-9/16	.156	385	395	407	419	430	442
	.188	385	395	407	419	430	442
	.219	385	395	407	419	430	442
	.258	385	395	407	419	430	442
	.375	395	407	419	431	443	454
6-5/8	.125	396	407	419	431	443	454
	.141	395	407	419	431	443	454
	.156	385	395	407	419	430	442
	.172	385	395	407	419	430	442
	.188	385	395	407	419	430	442
	.203	385	395	407	419	430	442
	.219	385	395	407	419	430	442
	.250	385	395	407	419	430	442
	.280	385	395	407	419	430	442
	.375	385	395	407	419	430	442
	.432	395	407	419	431	443	454

UMI 97 22 YM 001/44V

Piling Pipe ASTM A-252, ERW and SAW

AISI Category 14

Tariff Schedule Number 610.32 0.3¢ per lb.

	1st and 2nd Quarter
Base Price Per Metric Ton	$347

Charges to CIF	Ocean Freight	Handling	Interest
West Coast	See Freight Table p. 14-1	$9	$6
Gulf Coast		5	8
Atlantic Coast		4	9
Great Lakes		4	11

Insurance: 1% of base price + extras + ocean freight.

Extras:

Outside diameter/wall thickness by grade.

Base Prices Including OD/WT and Grade Extras ($/M.T.)

Piling Pipe ASTM - A-252

OD	W.T.	Grades 1, 2	Grade 3
6-5/8	.125	373	395
	.141	373	395
	.156	362	384
	.172	362	384
	.188	362	384
	.203	362	384
	.219	362	384
	.250	362	384
	.280	362	384
	.375	362	384
	.432	373	395
8-5/8	.125	357	378
	.156	357	378
	.172	357	378
	.188	347	367
	.203	347	367
	.219	347	367
	.258	347	367
	.277	347	367
	.312	347	367
	.322	347	367
	.344	347	367
	.375	347	367
	.500	357	378
10-3/4	.156	357	378
	.172	357	378
	.188	357	378
	.203	347	378
	.219	347	367
	.250	347	367
	.279	347	367
	.307	347	367
	.344	347	367
	.365	347	367
	.500	357	378
12-3/4	.172	357	378
	.188	357	378
	.203	347	367
	.219	347	367
	.250	347	367
	.281	347	367
	.312	347	367
	.330	347	367
	.344	347	367
	.375	347	367
	.406	347	367
	.500	357	378

Base Prices Including OD/WT and Grade Extra ($/M.T.)

Piling Pipe ASTM A-252 - ERW

OD	W.T.	Grades 1, 2	Grade 3
14	.188	357	378
	.203	357	378
	.219	347	367
	.250	347	367
	.281	347	367
	.312	347	367
	.344	347	367
	.375	347	367
	.438	347	367
	.500	357	378
16	.188	357	378
	.203	357	378
	.219	347	367
	.250	347	367
	.281	347	367
	.312	347	367
	.344	347	367
	.375	347	367
	.438	347	367
	.500	357	378
18	.219	357	357
	.250	347	347
	.281	347	347
	.312	347	347
	.344	347	347
	.375	347	347
	.438	347	347
	.500	357	357
20	.219	357	357
	.250	347	347
	.281	347	347
	.312	347	347
	.344	347	347
	.375	347	347
	.438	347	347
	.500	357	357

Base Prices Including OD/WT and Grade Extra ($/M.T.)

Piling Pipe ASTM - A - 252 - SAW

	O.D. 16"	18" - 24"	26" - 48"
Grades 1, 2	461	448	435
Grade 3	487	474	461

ERW MECHANICAL TUBING ASTM-A-513 TYPE 1 AWHR
Base Price Including OD/WT Extras

	3/4	1	1-1/4	1-1/2	1-3/4	2	2-1/8	2-1/4	2-3/8	2-1/2	2-3/4	3	3-1/4	3-1/2	4	4-1/2
0.049	789	719	672	---	---	---	---	---	---	---	---	---	---	---	---	---
0.065	765	650	650	603	603	---	---	---	---	---	---	---	---	---	---	---
0.083	672	650	603	557	533	511	511	511	487	487	487	487	---	---	---	---
0.095	672	603	603	533	511	487	487	487	487	463	463	463	463	---	---	---
0.105	650	580	557	511	487	487	487	463	463	463	463	463	463	463	---	---
0.109	650	580	533	487	463	463	463	463	463	463	463	441	463	463	487	---
0.120	650	580	533	463	463	463	463	463	463	441	441	441	441	441	487	533
0.125	---	580	533	463	463	463	463	441	441	441	441	441	441	441	463	487
0.134	---	580	533	463	463	463	463	441	441	441	441	441	441	441	463	487
0.135	---	580	533	463	463	463	463	441	441	441	441	441	441	441	441	463
0.148	---	---	533	463	463	463	463	441	441	441	441	441	441	441	441	463
0.150	---	---	557	487	463	463	463	441	441	441	441	441	441	441	441	463
0.165	---	---	557	487	463	463	463	463	441	441	441	441	441	441	441	441
0.180	---	---	557	511	463	463	463	463	441	441	441	441	441	441	417	417
0.200	---	---	---	533	463	463	463	463	463	441	441	417	417	417	417	417
0.203	---	---	---	533	487	487	487	463	463	441	441	417	417	417	417	417
0.220	---	---	---	557	487	487	487	463	463	441	441	417	417	417	417	417
0.238	---	---	---	---	511	511	511	487	487	463	463	441	441	441	441	441
0.259	---	---	---	---	557	557	557	511	487	463	463	441	441	441	441	441
0.284	---	---	---	---	---	---	---	---	---	---	---	463	463	441	441	441
0.300	---	---	---	---	---	---	---	---	---	---	---	---	487	463	463	463

Intermediate wall thickness will be priced on the next heavier wall shown.

BASE PRICES INCLUDING OD, GRADE EXTRAS
($/MT)

SEAMLESS CARBON STEEL OIL WELL TUBING
EUE WITH THREADING AND COUPLING

AISI 15 TSUSA 610.49

Grade	H40 J55 K55	N80 C75 L80 L90 Others 80-85	P105 Others 90 and up
Outside Diameter (inches)			
2 3/8" and under	716	911	1101
2 7/8 - 4"	651	827	996

GRADE EXTRAS FOR COLD HEADING WIRE

Grade	$ Extra /M.T. 1st and 2nd Quarter
AISI 1006 Killed through 1022 Killed Steel	Base
AISI 1010 Rimmed Steel	-15
AISI 1038 Killed Steel	+19
AISI 10B18 10B21 Killed Steel	+24
AISI 10B22, 10B23 Killed Steel	+24
AISI 10B30, 10B35 Killed Steel	+30
AISI 15B36, 15B41 Killed Steel	+40

16-32
Rev. March, 1979

TOLERANCE EXTRAS

Standard: AISI or JIS Specification

Diameter Tolerance	$/MT
Standard	0
Not less than 1/2 standard	$116
Closer than 1/2 to 1/4 standard	25% of size extra
Closer than 1/4 standard	50% of size extra

Straightening and Cut to Length Extras

Size Range	Dollar per MT
.703" - .595"	104
.594" - .501"	104
.500"	104
.499" - .375"	131
.374" - .3125"	131
.3124" - .170"	236
.169" - .099"	590
.098" - .051"	1706
.050" - .032"	1968

Length	Dollar per MT
Under 12"	92
12" to under 18"	59
18" to under 24"	59
24" to under 30"	39
30" to under 36"	39
36" to under 48"	39
48" to under 60"	39
60" to under 72"	39
72" to under 120"	33
120" to under 168"	33
168" to under 192"	33
192" to under 216"	33
216" to under 240"	33
240" to under 264"	26
264" to under 288"	26
288" to 316"	26

Packaging Extras

Type	Dollar per MT
Bundle	29
Wooden Boxes	87
Fibre Drums	87
Coil Carriers	29
Spools	145
Both Spools and Wooden Boxes	
Sizes .020 and greater	87
Sizes under .020	232

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FIELD FENCE A.S.T.M. A-116

Category AISI 19

Tariff Schedule Number 642.3570 0.1¢ per lb.

1st and 2nd Quarter

Base Price per Metric Ton

#11 Gauge Galvanized Wire $587

Charges to C.I.F.

	Ocean Freight	Handling	Interest
West Coast	$43	$9	$11
Gulf Coast	51	5	14
Atlantic Coast	56	4	14
Great Lakes	61	4	17

Insurance: 1% of base price + extras + ocean freight

Extras

Size Extra

	$ Metric ton	
	Stay Wire Spacing	
Filler Wire Size	6"	12"
#11	Base	Minus $3
#12-1/2	16	$13

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BARBED WIRE 2 ply 12.50 GAUGE

Category AISI 21

Tariff Schedule Number 642.0200 Free

1st and 2nd Quarter

Base Price per Metric Ton $618

Charges to CIF	Ocean Freight	Handling	Interest
West Coast	$43	$9	$9
Gulf Coast	51	5	12
Atlantic Coast	56	4	12
Great Lakes	61	4	14

Insurance 1% of base price + extras + ocean freight

Extras

1. Coating
2. Size Extras

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BARBED WIRE

EXTRAS

1.	Coating Extra	$/M.T.
	Regular Coating	Minus $54
2.	Size Extra	$/M.T.
	12 1/2	Base
	13	$5
	13 1/2	$10
	14	$15

Other Extras	$/M.T.
1. Quality-Drawing Q-Rimmed	13
Killed	26
2. Structural-A570 D/E	18
3. Chemistry (Carbon Range)	
0.26% to 0.34%	28
0.35% & up	26+N
4. High Strength Carbon Steel	
YP 45,000 to 50,000 P.S.I.	13
YP 50,000 P.S.I. & up	13+N
5. High Strength Low Alloy Steel	
D-A607-G45	28
50	31
55	48
D-COR-TEN A	72

EXTRAS FOR COLD ROLLED STEEL SHEET

*WIDTH & THICKNESS

UNIT: US$/MT

Thickness, Inches	Width, Inches				
	24≤W<36	36≤W<45	45≤W≤60	60<W<68	68≤W≤72
0.097≤T<0.126	28	21	12	21	28
0.083≤T<0.097	28	21	9	19	28
0.064≤T<0.083	24	21	4	15	24
0.054≤T<0.064	24	17	0	9	24
0.028≤T<0.054	26	17	0	17	30
0.023≤T<0.028	43	34	19	24	38
0.019≤T<0.023	61	56	46	52	56
014≤T<0.019	82	77	67	70	

*CUT LENGTH

Thickness, Inches	Width, Inches	Length, Inches			
		24≤L≤42	42<L≤60	60<L≤144	144<L
0.064≤T	24≤W≤72	26	25	22	25
0.028≤T<0.064	24≤W≤72	24	22	20	22
T<0.028	24≤W≤72	27	26	24	26

*COIL WEIGHT

GROSS MAX 10,000 lbs & OVER.....NONE
GROSS MAX 10,000 lbs UNDER..... 2

*FINISH

DULL.....NONE
COMMERCIAL BRIGHT.....17
EMBOSSED NON GEOMETRIC.....42
GEOMETRIC.....53

*SURFACE TREATMENT

GREASED EDGES..... 1

SPECIAL CLEANLINESS REQUIREMENT

Thickness, Inches	Width, Inches	
	W≤36	36<W
0.021≤T	9	9
T<0.020	-	9

*QUALITY

COMMERCIAL.....NONE
DRAWING.....12
DEEP DRAWING 30
FULL HARD (ROCKWELL HARDNESS B-84 MIN).....NONE
1/4 HARD.....15
1/2 HARD.....15
STRUCTURAL (PHYSICAL) - CARBON STEEL.....18
TWO PRIME SIDES.....18
CLASS II .....MINUS..11

*CHEMISTRY

COPPER BEARING.....12
RESTRICTED CHEMISTRY.....N

*QUANTITY EXTRA

10 S/T≤Q<10 S/T..... 8

*RESTRICTED TOLERANCE.....N

*OTHERS.....N

(2) LENGTH

60"≤L≤168" 18
L<60" 20

(3) COATING

0.06 OZ/FT^2 on each side +5
0.03 " BASE
0.01 " -2

(4) CHEMICAL TREATMENT

Phosphated Base
Chromated -2
Oiled -2

(5) QUALITY

Commercial BASE
Drawing Subject to Negotiation
Drawing, Special Killed "
Physical (TS, YP, HRS, etc.) 14

(6) PACKING

Coil 4ST UNDER Subject to Negotiation
Sheet 3ST UNDER " "

(7) OTHERS Subject to Negotiation

(5) QUALITY

	BASE
COMMERCIAL	NONE
LOCK FORMING	13
DRAWING	31
DRAWING SPECIAL KILLED	
STRUCTURAL	
GRADE A	3
" B and C	6
" D and E	13

(6) QUANTITY

	BASE
20ST&W	1
15ST&W-20ST	3
10ST&W-15ST	

(7) OTHERS----------SUBJECT TO NEGOTIATION

(8) CORRUGATING $22

(9) COPPER EXTRA.....$8

BILLING CODE 4510-25-C

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EXTRAS FOR GALVANIZED STEEL SHEET

1. PRICE BASE

QUALITY: COMMERCIAL

SIZE : 65623 (UNDER .032" THROUGH .029") x OVER 42" THROUGH 48" xCOIL

COATING: G90

WEIGHING: ACTUAL

2. EXTRAS FOR OTHER THAN PRICE BASE PRODUCTS (UNIT: US$ PER M/T)

(1) THICKNESS/WIDTH/COATING

THICKNESS (INCHES)	WIDTH (INCHES) 24"&"30	30"&"36	36"&"42	42"&"48	48"&"60	COATING 0.6 oz/Ft² G60
.130 & thicker	-81	-81	-81	-81	-	-2
.129 - .116	-66	-66	-66	-66	-64	-2
.115 - .101	-63	-63	-63	-63	-61	-2
.100 - .086	-58	-58	-62	-62	-58	-2
.085 - .075	-45	-45	-47	-47	-45	-3
.074 - .067	-42	-42	-45	-45	-42	-3
.066 - .061	-40	-40	-42	-42	-40	-5
.060 - .055	-29	-29	-31	-31	-29	-5
.054 - .049	-26	-26	-28	-28	-26	-6
.048 - .043	-22	-22	-24	-24	-22	-13 -6
.042 - .038	-17	-17	-19	-19	-17	-15 -7
.037 - .035	-5	-5	-7	-7	-3	-18 -7
.034 - .032	-1	-1	-3	-3	0	-19 -8
UNDER .032 through .029	2	2	0	BASE	5	-19 -8
.028 - .026	5	5	3	3	11	-22 -11
.025 - .023	19	19	18	22	30	-22 -11
.022 - .021	26	26	26	30	40	-23 -15
.020 - .019	39	39	39	49	-	-23 -15
.018 - .017	47	47	47	64	-	-24 -17
.016	61	61	71	83	-	-24 -17
.015	72	72	87	97	-	-26 -19
.014	88	84	89	102	-	-26 -19
.013	101	95	95	107	-	-26 -19

WIDTH UNDER 24"----------SUBJECT TO NEGOTIATION

Culvert Stock

Thickness (Inches)	
0.159 and thicker	S14
0.158 - 0.129	15
0.128 - 0.101	19
0.100 - 0.072	25
0.071 - 0.057	30
0.056 - 0.046	38

VETERANS ADMINISTRATION

Station Committee on Educational Allowances; Meeting

Notice is hereby given pursuant to Section V, Review Procedure and Hearing Rules, Station Committee on Educational Allowances that on June 18, 1979, at 1:00 p.m., the Veterans Administration Regional Office Station Committee on Educational Allowances shall at Estes Kefauver Federal Building—U.S. Courthouse, Room A-220, 110 9th Avenue, South, Nashville, Tennessee, conduct a hearing to determine whether Veterans Administration benefits to all eligible persons enrolled in Lincoln Memorial University, Harrogate, Tennessee, should be discontinued, as provided in 38 CFR 21.4134, because a requirement of law is not being met or a provision of the law has been violated. All interested persons shall be permitted to attend, appear before, or file statements with the Committee at that time and place.

Dated: May 14, 1979.

R. S. Bielak,

Director, VA Regional Office, 110 9th Avenue, South, Nashville, Tennessee.

[FR Doc. 79-15854 Filed 5-21-79; 8:45 am]

BILLING CODE 8320-01-M

INTERSTATE COMMERCE COMMISSION

[Docket No. AB-77 (Sub-No. 2F)

Bangor and Aroostook Railroad Co., Abandonment Near Caribou and Stockholm in Aroostook County, Maine; Findings

Notice is hereby given pursuant to 49 U.S.C. § 10903 (formerly Section 1a of the Interstate Commerce Act) that by a Certificate and Decision decided May 9, 1979, a finding, which is administratively final, was made by the Commission, Review Board Number 5, stating that, subject to the conditions for the protection of railway employees prescribed by the Commission in AB-36 (Sub-No. 2), *Oregon Short Line R. Co.—Abandonment Goshen* —— I.C.C. —— decided February 9, 1979, and further that BAR shall keep intact all of the right-of-way underlying the track, including all of the bridges and culverts for a period of 120 days from the effective date of this certificate and decision to permit any state or local government agency or other interested party to negotiate the acquisition for public use of all or any portion of the right-of-way, the present and future public convenience and necessity permit the abandonment of a line of railroad known as Caribou to Stockholm branch line, extending from railroad milepost 227.93 near Caribou to railroad milepost 241.60 near Stockholm, a distance of 13.67 miles, in Aroostook County, ME. A certificate of public convenience and necessity permitting abandonment was issued to the Bangor and Aroostook Railroad Company. Since no investigation was instituted, the requirement of Section 1121.38(a) of the Regulations that publication of notice of abandonment decisions in the **Federal Register** be made only after such a decision becomes administratively final was waived.

Upon receipt by the carrier of actual offer of financial assistance, the carrier shall make available to the offeror the records, accounts, appraisals, working papers, and other documents used in preparing Exhibit I (§ 1121.45 of the Regulations). Such documents shall be made available during regular business hours at a time and place mutually agreeable to the parties.

The offer must be filed and served no later than June 6, 1979. The offer, as filed, shall contain information required pursuant to § 1121.38(b) (2) and (3) of the Regulations. If no such offer is received, the certificate of public convenience and necessity authorizing abandonment shall become effective July 6, 1979.

H. G. Homme, Jr.,

Secretary.

[FR Doc. 79-15857 Filed 5-21-79; 8:45 am]

BILLING CODE 7035-01-M

[Docket No. AB-10 (Sub-No. 16F)]

Fort Wayne Union Railway Co. Abandonment in Adams Township, Allen County, Ind.; Findings

Notice is hereby given pursuant to 49 U.S.C. § 10903 (formerly Section 1a of the Interstate Commerce Act) that by a Certificate and Decision decided May 10, 1979, a finding, which is administratively final, was made by the Commission, Review Board Number 5, stating that, subject to the conditions for the protection of railway employees prescribed by the Commission in AB-36 (Sub-No. 2), *Oregon Short Line R. Co.—Abandonment Goshen* —— I.C.C. —— decided February 9, 1979, and further that FWU shall keep intact all of the right-of-way underlying the track, including all of the bridges and culverts for a period of 120 days from the effective date of this certificate and decision to permit any state or local government agency or other interested party to negotiate the acquisition for public use of all or any portion of the right-of-way, the present and future public convenience and necessity permit the abandonment by the Fort Wayne Union Railway Company of a portion of its main line trackage beginning at the northern terminus of its line at Station 3+64 and extending in a southerly direction to Station 21+33.8, a distance of 1,770 feet in Adams Township, Allen County, IN. A certificate of public convenience and necessity permitting the abandonment was issued to the Fort Wayne Union Railway Company. Since no investigation was instituted, the requirement of § 1121.38(a) of the Regulations that publication of notice of abandonment decisions in the **Federal Register** be made only after such a decision becomes administratively final was waived.

Upon receipt by the carrier of actual offer of financial assistance, the carrier shall make available to the offeror the records, accounts, appraisals, working papers, and other documents used in preparing Exhibit I (§ 1121.45 of the Regulations). Such documents shall be made available during regular business hours at a time and place mutually agreeable to the parties.

The offer must be filed and served no later than June 6, 1979. The offer, as filed, shall contain information required pursuant to § 121.38(b) (2) and (3) of the Regulations. If no such offer is received, the certificate of public convenience and necessity authorizing abandonment shall become effective July 6, 1979.

H. G. Homme, Jr.,

Secretary.

[FR Doc. 79-15884 Filed 5-21-79; 8:45 am]

BILLING CODE 7035-01-M

[Docket No. AB-26 (Sub-No. 15F)]

Georgia Midland Railway Co., and Southern Railway Co., Discontinuance of Operations, Near McDonough and Griffin, in Henry and Spaulding Counties, Ga.; Findings

Notice is hereby given pursuant to 49 U.S.C. § 10903 (formerly Section 1a of the Interstate Commerce Act) that by a Certificate and Decision decided May 4, 1979, a finding, which is administratively final, was made by the Commission, Review Board Number 5, stating that, subject to the conditions for the protection of railway employees prescribed by the Commission in AB-36 (Sub-No. 2), *Oregon Short Line R. Co.-Abandonment Goshen* —— I.C.C. —— decided February 9, 1979, the present and future public convenience and necessity permit the discontinuance of operations by the Georgia Midland

Railway Company and Southern Railway Company over a segment of their line of railroad extending from railroad milepost 1.5–M near McDonough to railroad milepost 16.5–M near Griffin, a distance of 15.0 miles, in Henry and Spaulding Counties, GA. A certificate of public convenience and necessity permitting discontinuance of operations was issued to the Georgia Midland Railway Company and Southern Railway Company. Since no investigation was instituted, the requirement of § 1121.38(a) of the Regulations that publication of notice of abandonment decisions in the **Federal Register** be made only after such a decision becomes administratively final was waived.

Upon receipt by the carrier of actual offer of financial assistance, the carrier shall make available to the offeror the records, accounts, appraisals, working papers, and other documents used in preparing Exhibit I (§ 1121.45 of the Regulations). Such documents shall be made available during regular business hours at a time and place mutually agreeable to the parties.

The offer must be filed and served no later than June 6, 1979. The offer, as filed, shall contain information required pursuant to § 1121.38(b)(2) and (3) of the Regulations. If no such offer is received, the certificate of public convenience and necessity authorizing abandonment shall become effective July 6, 1979.

H. G. Homme, Jr.,

Secretary.

[FR Doc. 79–15986 filed 5–21–79; 8:45 am]

BILLING CODE 7035–01–M

[Docket No. AB–10 (Sub-No. 17F)]

Lake Erie and Fort Wayne Railroad Co. Abandonment in Fort Wayne, Ind.; Findings

Notice is hereby given pursuant to 49 U.S.C. § 10903 (formerly Section 1a of the Interstate Commerce Act) that by a Certificate and Decision dated May 10, 1979, a finding, which is administratively final, was made by the Commission, Review Board Number 5, stating that, subject to the conditions for the protection of railway employees prescribed by the Commission in AB–36 (Sub-No. 2), *Oregon Short Line R. Co.-Abandonment Goshen* —— I.C.C. —— decided February 9, 1979, and further LE&FW shall keep intact all of the right-of-way underlying the track, including all of the bridges and culverts for a period of 120 days from the effective date of this certificate and decision to permit any state or local government agency or other interested party to negotiate the acquisition for public use of all or any portion of the right-of-way, the present and future public convenience and necessity permit the abandonment by the Lake Erie and Fort Wayne Railroad Company of a portion of its main line trackage extending from the southern terminus of its line at Station 90+04 feet in a northerly direction to Station 47+00 feet, a distance of approximately 4,304 feet all within the city limits of Fort Wayne, IN. The line for which the abandonment application is filed includes no stations itself but is governed by the LE&FW station of Fort Wayne, IN, at railroad Station 17+37 feet. LE&FW is a wholly owned subsidiary of Norfolk and Western Railway Company (NW). A certificate of public convenience and necessity permitting abandonment was issued to the Lake Erie and Fort Wayne Railroad Company. Since no investigation was instituted, the requirement of § 1121.38(a) of the Regulations that publication of notice of abandonment decisions in the **Federal Register** be made only after such a decision becomes administratively final was waived.

Upon receipt by the carrier of an actual offer of financial assistance, the carrier shall make available to the offeror the records, accounts, appraisals, working papers, and other documents used in preparing Exhibit I (§ 1121.45 of the Regulations). Such documents shall be made available during regular business hours at a time and place mutually agreeable to the parties.

The offer must be filed and served no later than June 6, 1979. The offer, as filed, shall contain information required pursuant to § 1121.38(b) (2) and (3) of the Regulations. If no such offer is received, the certificate of public convenience and necessity authorizing abandonment shall become effective July 6, 1979.

H. G. Homme, Jr.,

Secretary.

[FR Doc. 79–15985 Filed 5–21–79; 8:45 am]

BILLING CODE 7035–01–M

[Volume No. 17]

Petitions, Applications, Finance Matters (Including Temporary Authorities), Alternate Route Deviations, and Intrastate Applications

Dated: May 11, 1979.

Petitions for Modification, Interpretation or Reinstatement of Operating Rights Authority

The following petitions seek modification or interpretation of existing operating rights authority, or reinstatement of terminated operating rights authority.

All pleadings and documents must clearly specify the suffix (e.g. M1 F, M2 F) numbers where the docket is so identified in this notice.

An original and one copy of protests the the granting of the requested authority must be filed with the Commission within 30 days after the date of this notice. Such protests shall comply with Special Rule 247(e) of the Commission's *General Rules of Practice* (49 CFR 1100.247) [1] and shall include a concise statement of protestant's interest in the proceeding and copies of its conflicting authorities. Verified statements in opposition should not be tendered at this time. A copy of the protest shall be served concurrently upon petitioner's representative, or petitioner if no respective is named.

MC 14252 (Sub-30) (M1F), filed January 16, 1979. Petitioner: COMMERICAL LOVELACE MOTOR FREIGHT, INC., 3400 Refugee Road, Columbus, OH 43227. Representative: William C. Buckham (same address as petitioner). Petitioner holds motor *common carrier* certificate in MC–14252 Sub 30, issued September 22, 1978, which authorizes transportation, over irregular routes, of *lawn and garden products and agricultural insecticides and fungicides, in contaniers*, from the facilities of O. M. Scott & Sons, Inc., at or near Marysville, OH, to Davenport, IA, and points in IN, IL, and MO, Erie, Crawford, Beaver, Washington, and Greene Counties, PA, Kentucky on and north of Interstate Hwy 64, and WV on and north of a line beginning at the PA–WV State line and extending south along Interstate Hwy 79 to Charleston, WV, and then west along Interstate Hwy 64 to the WV–KY State line. By the instant petition, petitioner seeks to modify the authority to read as follows: *lown and garden products and agricultural insecticides and fungicides, in containers*, between the facilities of O. M. Scott & Sons, Inc., at or near Columbus, Marysville, and Vermilion, OH, on the one hand, and, on the other, Davenport, IA, and points in IN, IL, and MO, points in Crawford, Beaver, Washington, and Green Counties, PA, those in KY on and north of Interstate Hwy 64, and those in WV on and north of a line beginning at the PA–WV State line and extending south along Interstate Hwy 79 to Charleston, WV, and then west along Intestate Hwy 64 to the WV–KY State line.

[1] Copies of Special Rule 247 (as amended) can be obtained by writing to the Secretary, Interstate Commerce Commission, Washington, D.C. 20423.

MC 16872 (Sub-16)(MIF), filed February 23, 1979. Petitioner: WILLIAM MIRRER, d/b/a MIRRER'S TRUCKING CO., 100 East 25th Street, Paterson, NJ 07524. Representative: George A. Olsen, 69 Teonnele Avenue, Jersey City, NJ 07306. Petitioner holds motor *common carrier* certificate in MC–16872 (Sub-No. 16), issued November 28, 1977, which authorizes transportation, over irregular routes, of *plastic granules* (except in bulk), (1) from the facilities of Rexene Polyolefins Company, a Division of Dart Industries, Inc., Chemical Group, located at Holyoke, Ludow, and Springfield, MA, to Chicago and Joliet, IL, New York and Syosset, NY, and Paterson, NJ, and (2) from the facilities of Rexene Polyolefins Company, a Division of Dart Industries, Inc., Chemical Group, located at Chicago and Joliet, IL, to Elizabeth, Paterson, and Plainfield, NJ, and New York, NY, restricted in (1) and (2) above to the transportation of shipments originating at the named origins and destined to the named destinations. By instant petition, petitioner seeks to modify the authority to read as follows: *plositc granules* (except in bulk), (1) from the facilities of Rexene Styrenics Company, a Division of Dart Industries, Inc., Chemical Group, located at Ludlow, Springfield, MA, and Mobil Chemical Company, at Holyoke, MA, to Chicago and Joliet, IL, New York and Syosset, NY, and Paterson, NJ, and (2) from the facilities of Rexene Styrenics Company, at Division of Dart Industries, Inc., Chemical Group, located at Chicago, IL, and Mobil Chemical Company, at Joliet, IL, to Elizabeth, Paterson, and Plainfield, NJ, and New York, NY, restricted in (1) and (2) above to the transportation of shipments originating at the named origins and destined to the named destinations.

MC 42212 (Sub-No. 3) (MIF), filed November 17, 1978. Petitioner: HARDER'S EXPRESS, INC., Route 9H, Claverack, NY 12513. Representatives: Martin Werner, P.O. Box 1409, 167 Fairfield Road, Fairfield, NJ 07006. Petitioner holds motor *common carrier* authority in MC 42212 (Sub-No. 3F) issued April 25, 1975, authorizing in part, transportation over irregular routes of: *General commodities*, (except those of unusual value, classes A and B explosives, household goods as defined by the Commission, commodities in bulk, and those requiring special equipment), Between points in the New York, NY Commercial Zone, as defined by the Commission in 1 M.C.C. 665, on the one hand, and, on the other, points in Middlesex, Union, Essex, Passaic, Hudson, and Bergen Counties, NJ. By the instant petition, petitioner seeks to modify the above territorial authority to read as follows: Between New York, NY, and points in Bergen, Essex, Hudson, Middlesex, Morris, Passaic, Somerset, and Union Counties, NJ, on the one hand, and, on the other, points in Bergen, Burlington, Essex, Hudson, Hunterdon, Mercer, Middlesex, Monmouth, Morris, Ocean, Passaic, Somerset, Sussex, Union, and Warren Counties, NJ; and Rockland and Westchester Counties, NY.

MC 55822 (Sub-8) (M3F), filed February 14, 1979. Petitioner: VICTORY EXPRESS, INC., Box 26189, Trotwood, OH 45426. Representative: Paul F. Berry, 275 E. State Street, Columbus, OH 43215. Petitioner holds motor *contract carrier* Permit in MC 55822 Sub-8, issued September 8, 1971, which authorizes transportation, over irregular routes, of *general commodities* (except classes A and B explosives, articles of unusual value, household goods as defined by the Commission, commodities in bulk, and commodities which, because of their size and weight, require the use of special equipment), between points in the United States (except AK and HI), restricted to the transportation of shipments originating at, or destined to, the plantsites, warehouses and branch facilities of the NCR Corporation, under a continuing contract with the NCR Corporation of Dayton, OH. By the instant petition, petitioner seeks to modify the authority by amending the restrictive portion of the pertinent authority as follows: restricted to the transportation of shipments originating at, or destined to, the plantsites, warehouses and branch facilities of the NCR Corporation, and Newsweek, Inc., under continuing contract with both the NCR Corporation and Newsweek, Inc., of Dayton, OH.

MC 59396 (Sub-19) (M1F) (Sub-24) (M1F) (notice of filing of petition to modify commodity description). Filed April 26, 1979. Petitioner: BUILDERS EXPRESS, INC., Limecrest Rd., Lafayette, NJ. Representative: Morton E. Kiel, Suite 6193, 5 World Trade Center, New York, NY. Petitioner holds motor common carrier certificates in MC 59396 Subs 19 and 24 issued April 21, 1970 and October 13, 1976, respectively. MC 59396 Sub 19 authorizes transportation over irregular routes, of *slag*, from the plant site of H. B. Reed Corporation, in Kearny, NJ, to points in NY, PA, CT, RI, MA, DE, MD, and DC. MC 59396 Sub 24 authorizes transportation of *slag*, (a) from Kearny, NJ, to points in ME, VT, and NH, and (b) from Bow, NH, to points in NY, NJ, PA, and CT. By the instant petition, petitioner seeks to modify the authority as follows: By adding to the commodity description "crushed stone" in both MC 59396 Subs 19 and 24.

MC 61016 (Sub-32F) (M2F) (notice of filing of petition to delete a restriction), filed May 1, 1979. Petitioner: PETER PAN BUS LINES, INC., 1776 Main Street, Springfield, MA 01103. Petitioner's representative: Philip J. Shine, 83 State Street, Springfield, MA 01103. Petitioner holds a motor *common carrier* certificate in MC 61016 (Sub-32F), issued April 9, 1979, for the transportation of *passengers and their baggage, in the same vehicle with passengers*, "in special operations, in one-way pleasure and sightseeing tours, (1) from Springfield, MA, to points in the United States, including AK, but excluding HI, and (2) from points in the United States, including AK, but excluding HI, to Springfield, MA, restricted, in (1) and (2) above, against the transportation of passengers and their baggage between Springfield, MA, on the one hand, and, on the other, points in Cheshire, Sullivan, and Grafton Counties, NH, and those points in VT." By the instant petition, petitioner seeks to modify the above authority by deleting the "pleasure and sightseeing tours" limitation so that the authority will read "in one-way special operations."

MC 61016 (Sub-38) (M1F) (notice of filing of petition to delete a restriction), filed May 1, 1979. Petitioner: PETER PAN BUS LINES, INC., 1776 Main Street, Springfield, MA 01103. Petitioner's representative: Philip J. Shine, 83 State Street, Springfield, MA 01103. Petitioner holds a motor *common carrier* certificate in MC 61016 (Sub-38), issued October 7, 1974, for the transportation of *passengers and their baggage*, over irregular routes, "in special operations, in round-trip sightseeing and pleasure tours," beginning and ending at points in Hampden and Hampshire Counties, MA and extending to points in the United States (except AK and HI). By the instant petition, petitioner seeks to modify the above authority by deleting "in round-trip sightseeing and pleasure tours."

MC 68203 (M1F), filed January 29, 1979. Petitioner: ANDREW MC DERMOTT, INC., 220 Murray Street, Newark, NJ 07114. Representative: A. David Millner, P.O. Box 1409, 167 Fairfield Road, Fairfield, NJ 07006. Petitioner holds motor *Common carrier* Certificate in MC–68203 issued October 26, 1970, which authorizes, as pertinent, transportation, over irregular routes, of (A) *general commodities*, (except those

of unusual value, commodities which, of Newark, and points on Long Island, 6), between points in NY and NJ, on the

MC 106587 (Sub-10) (M1F) (notice of Smyrna, GA, restricted to southbound Middlegate Road, Mississauga, Ontario,

of unusual value, commodities which, because of their size or weight, require the use of special equipment, classes A and B explosives, household goods as defined by the Commission, commodities in bulk, and those injurious or contaminating to other lading), (1) between points in Essex, Union, Hudson, Monmouth, and Passaic Counties, NJ, on the one hand, and, on the other, Camden, Trenton, and Newark, NJ, and points in that part of NJ within 25 miles of Newark, (2) from points in Essex, Union, Hudson, Monmouth, and Passaic Counties, NJ, to points in the New York, NY, commercial zone as defined by the Commission, and points on Long Island, NY, and points in that part of PA within 150 miles of Newark, NJ, with no transportation for compensation on return except as otherwise authorized, and (3) from Philadelphia and Norristown, PA and points in Sullivan, Bradford and Wyoming Counties, PA (to the extent that points therein lie within 150 miles of Newark, NJ, and except South Waverly and Wyalusing, PA, and points on U.S. Hwy 220 north of its junction with U.S. Hwy 6 near North Towanda in Bradford County, PA), points in the New York, NY, Commercial Zone as defined by the Commission, and those on Long Island, NY, and points in that part of NJ within 25 miles of Newark; Camden, NJ, and Trenton, NJ to points in Essex, Union, Hudson, Monmouth, and Passaic Counties, NJ, with no transportation for compensation on return except as otherwise authorized; and (B) *commodities* which, because of their size or weight, require the use of special equipment, between points in Essex, Union, Hudson, Monmouth and Passaic Counties, NJ, on the one hand, and, on the other, Newark, NJ, and points in that part of NJ, NY, PA, and CT within 150 miles of Newark, NJ, restricted in (A) and (B) against tacking or joinder to one another for the purpose of conducting through operations.

By the instant petition, petitioner seeks to modify the authority to read: (A) *general commodities* (usual exceptions) (1) between points in Essex, Union, Hudson, Monmouth, and Passaic Counties, NJ, on the one hand, and, on the other, points in the New York, NY, commercial zone as defined by the Commission, and points on Long Island, NY, points in PA within 150 miles of Newark, NJ, Camden, Trenton, and Newark, NJ, and points in NJ within 25 miles of Newark, and (2) between New York, NY, on the one hand, and, on the other, points in PA within 150 miles of Newark, NJ, Camden, Trenton, and Newark, NJ, and points within 25 miles of Newark, and points on Long Island, NY; and (B) *commodities* which, because of size or weight, require the use of special equipment, between points in Essex, Union, Hudson, Monmouth and Passaic Counties, NJ, on the one hand, and, on the other, points in that part of NJ, NY, PA, and CT within 150 miles of Newark, NJ.

MC 71593 (M1F) and MC–71593 (Sub-6) (M1F), filed February 14, 1979. Petitioner: FORWARDERS TRANSPORT, INC., 1608 E. Second Street, Scotch Plains, NJ 07076. Representative: Charles J. Williams, 1815 Front Street, Scotch Plains, NJ 07076. Petitioner holds motor *common carrier* certificate in MC–71593 issued November 21, 1978, and MC–71593 Sub-6 issued September 7, 1978. MC–71593 authorizes transportation, over irregular routes, as pertinent, of (a) *general commodities* (with exceptions), between points in that part of the New York, NY, Commerical Zone as defined in the fifth supplemental report in *Commerical Zones and Terminals Areas*, 53 M.C.C. 451, within which local operations may be conducted under the exemption provided by section 203(b)(8) of the Act (the "exempt" zone), and Newark, NJ, on the one hand, and, on the other, Chicago, IL, St. Louis, MO, and Milwaukee, WI, and (b) *general commodities* (with exceptions), Zone, as defined in the fifth supplemental report in *Commerical Zones and Terminal Areas*, 53 M.C.C. 451, within which local operations may be conducted pursuant to the partial exemption of section 203(b)(8) of the Interstate Commerce Act (the "exempt" zone) and Newark, NJ, on the one hand, and, on the other, Cleveland, Toledo, Columbus, and Cincinnati, OH, Louisville, KY, Detroit, MI, and Indianapolis, IN. MC–71593 (Sub-6) authorizes transportation, over irregular routes, of *general commodities* (except those of unusual value, classes A and B Explosives, household goods as defined by the Commission, commodities in bulk, and those requiring special equipment), which are at the time moving on bills of lading of freight forwarders under part IV of the Interstate Commerce Act, between New York, NY, on the one hand, and, on the other, Memphis, TN. By the instant petition, petitioner seeks to modify the authority to have the territorial description read as follows: In MC–71593 part (a) between points in NY and NJ, one the one hand, and, on the other, points in IL, MO, and WI, in part (b) between points in NJ and NY, on the one hand, and, on the other, points in OH, KY, MI, and IN, and in MC–71593 (Sub-6), between points in NY and NJ, on the one hand, and, on the other, points in TN.

MC 87103 (Sub-22) (M1F), filed March 14, 1979. Petitioner: MILLER TRANSFER AND RIGGING CO., A Corporation, P.O. Box 6077, Akron, OH 44312. Representative: A. Charles Tell, 100 E. Broad Street, Columbus, OH 43215. Petitioner holds motor *common carrier* Certificate in MC–87103 Sub-22 issued September 8, 1978, which authorizes transportation, over irregular routes, of *air compressors and earth drilling equipment*, between Claremont, NH, on the one hand, and, on the other, points in the United States (except AK and HI). By instant petition, petitioner seeks to modify the authority as follows: Add *castings, parts for air compressors, capstans, winches, windlasses, and parts thereof*, to the commodity description.

MC 105813 (Sub-211) (M–1F) (notice of filing of petition to modify certificate), filed March 19, 1979. Petitioner: BELFORD TRUCKING CO., INC., 1759 S.W. 12th Street, P.O. Box 2009, Ocala, Florida 32670. Representative: Arnold L. Burke, 180 North LaSalle Street, Chicago, Illinois 60601. Petitioner holds motor common carrier certificate in MC 105813 (Sub-211) issued April 7, 1977, authorizing transportation, over irregular routes, of *Such merchandise* as is dealt in by chain-grocery stores, and *advertising material, fixtures, and equipment* incidental to the sale thereof in mechanically refrigerated equipment. From Chicago, IL, and points in its commercial zone, as defined by the Commission, to Demopolis, AL, Cairo and Statesboro, GA, Greenville, KY, Warsaw, NC, Scranton, SC, Knoxville, TN, Bluefield and Waynesboro, VA, Huntington, WV, and the WV portion of its commercial zone only, and points in FL, with no transportation for compensation on return except as otherwise authorized. RESTRICTION: The operations authorized herein are restricted to the transportation of traffic destined to the above-named destinations or for subsequent movement by water. This certificate is issued pursuant to an application filed after November 23, 1973, and in accordance with 49 CFR 1065 may not be tacked or joined with the carrier's other irregular-route authority unless specifically authorized herein. By the instant Petition, petitioner seeks to modify the above certificate by deleting the requirement that the transportation authorized be performed "in mechanically refrigerated equipment."

MC 106587 (Sub-10) (M1F) (notice of filing of petition to modify territorial description), filed April 30, 1979. Petitioner: SCHUSTER EXPRESS, INC., 48 Norwich Avenue, Colchester, Connecticut 06415. Representative: Jeremy Kahn, 1511 K St. N.W., Suite 733, Investment Building, Washington, DC. Petitioner holds a certificate in No. MC 108587 (Sub-10), which authorizes the transportation of *general commodities*, with the usual exceptions, between New York, New York and Wilmington, Delaware, via regular routes, serving all intermediate points and certain off-route points such as Camden and Perth Amboy, New Jersey, those in Perth Amboy, Essex, Hudson, and Union Counties, New Jersey and those in a portion of Middlesex County, New Jersey. Petitioner also holds other certificates which authorize the transportation of general commodities to and/or from various points in New Jersey. By this Petition, petitioner seeks to amend its Sub-10 certificate to authorize service at all points in New Jersey as off-route points.

MC 112713 (Sub-107) (M1F), filed January 18, 1979. Petitioner: YELLOW FREIGHT SYSTEM, INC., P.O. Box 7270, Shawnee Mission, KS 66207. Representative: John M. Records (same address as applicant). Petitioner holds a motor *common carrier* certificate in No. MC 112713 (Sub-107) issued January 5, 1970, authorizing, as pertinent, transportation, over regular routes, of *General Commodities* (except those of unusual value, classes A and B explosives, livestock, household goods as defined by the Commission, commodities in bulk, and those requiring special equipment), (1) Between St. Louis, MO, and Kansas City, MO, serving points in the Kansas City, MO-Kansas City, KS, Commercial Zone, as defined by the Commission, as intermediate and off-route points: From St. Louis over U.S. Hwy 40 to Kansas City, MO, and return over the same route; (2) Between St. Louis, MO, and Atlanta, GA, serving the intermediate and off-route points of Alton, Belleville, and East St. Louis, IL, Clarksville, Nashville, Murfreesboro, Manchester, Hillsboro, Monteagle, Jasper, Tyner, and Chattanooga, TN, points in Tennessee within 5 miles of Chattanooga, points in that part of Davidson County, TN, bounded by Old Hickory Boulevard (except Old Hickory, Dupontonia, and Madison Sanitarium, TN), Rome, Lindale, and Rossville, GA, and points within 15 miles of Atlanta, GA, without restriction: Ringgold, Dalton, Calhoun, Cartersville, Acworth, Marietta, and Smyrna, GA, restricted to southbound traffic; and Ferguson, Robertson, and Affton, St. Louis County, MO, as off-route points, with service between Ferguson, Robertson, and Affton, on the one hand, and, on the other, Ringgold, Dalton, Calhoun, Cartersville, Acworth, Marietta, and Smyrna, GA, restricted to southbound traffic only: From St. Louis across the Mississippi River to East St. Louis, IL, then over IL Hwy 13 to Belleville, IL, then over IL Hwy 15 to Mt. Vernon, IL, then over 15 U.S. Hwy 460 to junction IL Hwy 142, then over IL Hwy 142 to junction IL Hwy 13, then over IL Hwy 13 to Shawneetown, IL, then across the Ohio River to Blackburn, KY, then over KY Hwy 56 to junction Alternate U.S. Hwy 41, then over Alternate U.S. Hwy 41 to junction U.S. Hwy 41, then over U.S. Hwy 41 to Hopkinsville, KY (also Mt. Vernon, IL, over U.S. Hwy 460 via McLeansboro, IL, to Carni, IL), then over IL Hwy 1 to Crossville, IL, then over U.S. Hwy 460 to Evansville, IN, then over U.S. Hwy 41 to Hopkinsville, KY, then over Alternate U.S. Hwy 41 to Nashville, TN, then over U.S. Hwy 41 via Chattanooga, TN, to Atlanta, and return over the same routes; and (3) From St. Louis to Chattanooga, TN, as specified above, then over U.S. Hwy 27 to Rome, GA, then over U.S. Hwy 411 to junction U.S. Hwy 41, then over U.S. Hwy 41 to Atlanta, and return over the same route. By the instant petition, petitioner seeks to modify its authority to permit northbound shipments from Dalton, Calhoun, Cartersville and Acworth, GA, in (2) above. (Hearing site: Altanta, GA.)

MC 118377 (Sub-2) (M1F) (notice of filing of petition to modify territorial description). Filed April 21, 1979. Petitioner: RICHARD R. JOHNCOX, Route 104, Williamson, NY. Representative: Morton E. Kiel, 5 World Trade Center, Suite 6193, New York, NJ. Petitioner holds motor *common carrier* certificate in MC 118377 Sub 2, issued January 26, 1976 authorizing transportation, over irregular routes, of *frozen foods*, from the facilities of Empire Freezers of Syracuse, Inc., in the town of Geddes, Onondaga County, NY, to points in ME, NH, VT, RI, MA, CT, NY, NJ, PA, DE, MD, VA, OH, WV, and DC. By the instant petition, petitioner seeks to modify the authority as follows: By adding "the facilities used by J. H. Verbridge and Sons, Inc. in Wayne County, NY", as an additional origin point.

MC 123282 (Sub-8) (M1F), (notice of filing of petition to modify certificate), filed December 11, 1978. Petitioner: MCKINLAY TRANSPORT LIMITED, 880 Middlegate Road, Mississauga, Ontario, Canada L4Y 1M3. Representative: Elmer J. Maue, 34200 Mound Road, Sterling Heights, MI 48077. Petition holds a motor common carrier certificate in MC-123282 (Sub-No. 8), issued August 28, 1972, authorizing transportation, over regular routes, of *general commodities* (except those of unusual value, classes A and B explosives, household goods as defined by the Commission, commodities in bulk, and those requiring special equipment), between the port of entry on the International "Boundary Line between the United States and Canada, at or near Port Huron, MI, and Detroit, MI, as an alternate route for operating convenience only, in connection with carrier's otherwise authorized regular-route operations, serving no intermediate points: from the port of entry on the International Boundary Line between United States and Canada, and extending over Interstate Hwy 94 to Detroit, and return over the same route. Restriction: The authority granted herein is restricted against the transportation of traffic interlined or originating at or destined to, Port Huron, MI, and Sarnia, Ontario, Canada. By the instant petition, petitioner seeks to modify the above authority by deleting the words "and Sarnia, Ontario, Canada" from the restriction.

MC 127812 (Sub-18) (M1F), filed March 1, 1979. Petitioner: TYSON TRUCK LINES, INC., P.O. Box 3019, New Brighton, MN 55165. Representative: Anthony C. Vance, Esq., 1307 Dolley Madison Blvd., McLean, VA 22101. Petitioner holds a motor *common carrier* certificate in MC-127812 (Sub-18), issued June 19, 1975, authorizing transportation, over irregular routes, of *meats, meat products, meat by-products, dairy products, and articles distributed by meat packinghouses*, as described in Sections A, B, and C of Appendix 1 to the report in *Descriptions in Motor Carrier Certificates*, 61 M.C.C. 209 and 766 (except hides and commodities in bulk) from Minneapolis, MN, to points in MN, ND and SD, with no transportation for compensation on return except as otherwise authorized. By the instant petition, petitioner seeks to have the commodity description modified by deleting *"meats, meat products, meat by-products, dairy products, and articles distributed by meat packinghouses*, as described in Sections A, B, and C of Appendix 1 to the preport in *Descriptions in Motor Carrier Certificates*, 61 M.C.C. 209 and 766 (except hides and commodities in bulk)," and inserting in place thereof

"foodstuffs" so that authority will be

must be filed with the Commission on or

Decision of the Commission, *Review*

MC–FC 78117. By application filed

"foodstuffs" so that authority will be sought to transport *"foodstuffs* (except hides and commodities in bulk), from Minneapolis, MN, to points in ND and SD, with no transportation for compensation on return except as otherwise authorized, *restricted* to the transportation of traffic destined to the indicated destination States." No "foodstuffs" authority is sought to MN. (Hearing Site: Minneapolis, MN.)

MC 130273 (Sub-1) (M1F) (notice of filing of petition for modification of territorial scope of broker's license), filed March 1, 1979. Petitioner: AUTOMOBILE CLUB OF SOUTHERN OHIO, INC., 710 Waller Street, Portsmouth, OH 45662. Representative: J. G. Dail, Jr., P.O. Box LL, McLean, VA 22101. Petitioner holds a license in MC 130273 (Sub-1), issued August 31, 1977, authorizing it to engage in operations as a *broker* of *passengers and their baggage,* in round-trip tours, in special and charter operations, beginning and ending at points in Highland, Morgan, Ross, and Washington Counties, OH, and Wood County, WV, and extending to points in the United States, including AK and HI. It also holds License No. MC 130273, issued June 26, 1975, authorizing similar operations beginning and ending at points in Adams, Athens, Gallia, Hocking, Jackson, Lawrence, Meigs, Pike, Scioto, and Vinton Counties, OH, and Boyd and Greenup Counties, KY, and extending to points in the United States, including AK and HI. Petitioner is authorized to engage in such opertions as a broker at Portsmouth, Athens, Ironton, Gallipolis, Logan, Jackson, and Chillicothe, OH. By the instant petition, petitioner seeks to modify the service description in the Sub-1 license to authorize it to *broker* the transportation of *passengers and their baggage,* in special and charter operations, and to modify the territorial description to authorize it to broker such operations between points in the United States (including AK and HI). The points at which petitioner engages in operations as a broker would remain the same. Upon modification of the Sub-1 license as requested, the license in MC 130273 will be cancelled.

Republications of Grants of Operating Rights Authority Prior to Certification

The following grants of operating rights authorities are republished by order of the Commission to indicate a broadened grant of authority over that previously noticed in the Federal Register.

An original and one copy of a petition for leave to intervene in the proceeding must be filed with the Commission on or before June 21, 1979. Such pleading shall comply with Special Rule 247(e) of the Commission's *General Rules of Practice* (49 CFR 1100.247) addressing specifically the issue(s) indicated as the purpose for republication, and including copies of intervenor's conflicting authorities and a concise statement of intervenor's interest in the proceeding setting forth in detail the precise manner in which it has been prejudiced by lack of notice of the authority granted. A copy of the pleading shall be served concurrently upon the carrier's representative, or carrier if no representative is named.

MC 72243 (Sub-58F) (Republication), filed June 21, 1978, published in the Federal Register issue of August 1, 1978, and republished this issue. Applicant: THE AETNA FREIGHT LINES, INC., P.O. Box 350, Warren, OH 44482. Representative: Edward G. Villalon, 1032 Pennsylvania Building, Pennsylvania Avenue and 13th Street, N.W., Washington, D.C. 20004. A Decision of the Commission, *Review Board No. 2,* decided February 28, 1979, and served March 28, 1979, finds that the present and future public convenience and necessity require operations by applicant in interstate or foreign commerce, as a *common carrier,* by motor vehicle, over irregular routes, in the transportation of *aluminum articles,* (1) from the facilities of Reynolds Metals Company at or near (a) Lister Hill and Sheffield, AL, and (b) Gum Springs and Jones Mills, AR, to points in Arkansas, Colorado, Connecticut, Delaware, Illinois, Indiana, Iowa, Kansas, Maryland, Michigan, Minnesota, Missouri, Nebraska, New Jersey, New York, North Carolina, Ohio, Pennsylvania, South Dakota, Virginia, West Virginia, Wisconsin and the District of Columbia, and (2) from the facilities of Martin Marietta Aluminum, Inc., in Hancock County, KY, to points in Connecticut, Maryland, Louisiana, Massachusetts, Michigan, New Jersey, New York, Pennsylvania, Tennessee, Virginia, West Virginia, and the District of Columbia. The purpose of this republication is to add "Inc." to part (2) after Martin Marietta Aluminum, and add Pennsylvania to the territorial description in Part (2).

MC 111302 (Sub-125)F (Republication), filed April 5, 1978, published in the Federal Register issue of June 29, 1978, and republished this issue. Applicant: HIGHWAY TRANSPORT, INC., P.O. Box 10470, Knoxville, TN 37919. Representative: David A. Petersen, P.O. Box 10470, Knoxville, TN 37919. A Decision of the Commission, *Review Board No. 2,* decided March 13, 1979, and served April 13, 1979, finds that the present and future public convenience and necessity require operations by applicant in interstate or foreign commerce, as a *common carrier,* by motor vehicle, over irregular routes, in the transportation of *liquid chemicals* (except cryogenic liquids), in bulk, in tank vehicles, from Chattanooga, TN, to points in Alabama, Florida, Georgia, Mississippi, North Carolina, and South Carolina, that applicant is fit, willing, and able properly to perform such service and to conform to the requirements of the Interstate Commerce Act and the Commission's rules and regulations. The purpose of this republication is to add the restriction "except cryogenic liquids" and delete "from the facilities of Bulk Distribution Center in Chattanooga, TN".

MC 112989 (Sub-60F) (2nd Republication), filed February 14, 1977, published in the Federal Register issues of April 20, 1978, and June 1, 1978, and republished this issue. Applicant: WEST COAST TRUCK LINES, INC., 85647 Hwy 99 South, Eugene, OR 97405. Representative: John W. White, Jr. (same address as applicant). A Decision of the Commission, Review Board Number 2, decided February 7, 1979, and served March 20, 1979, finds that the present and future public convenience and necessity require operations by applicant in interstate or foreign commerce as a *common carrier,* by motor vehicle, over irregular routes, in the transportation of *plastic pipe, fittings, and accessories* for plastic pipe, from Turner, OR, to points in AZ, CO, ID, MT, NV, NM, OR, UT, WA, and WY, that applicant is fit, willing, and able properly to perform such service and to conform to the requirements of the Interstate Commerce Act and the Commission's rules and regulations. The purpose of this republication is to indicate applicant's actual grant of authority.

MC 139439 (Sub-2F) (Republication), filed April 14, 1978, published in the Federal Register issue of August 17, 1978, and republished this issue. Applicant: WILLIAM EDWARDS, INC., County Road 1920, Verona, VA 24482. Representative: George A. Olsen, P.O. Box 357, Gladstone, NJ 07934. A Decision of the Commission, Review Board Number 3, decided February 16, 1979, and served March 21, 1979, finds that the present and future public convenience and necessity require operations by applicant in interstate or foreign commerce as a *contract carrier,* by motor vehicle, over irregular routes, in the transportation of *Yarn, fabrics, materials, equipment and supplies* used or useful in the manufacture, sale and distribution of yarns and fabrics (except commodities in bulk), between Staunton and Waynesboro, VA, and Wayne, NJ, on the one hand, and, on the other, points in NC, SC, VA, TN, GA, MD, DE, KY, WV, AL, FL, NJ, PA, MA, NY, and TX, under contracts with United Yarn Products Co., Spuntex, Inc., Amerfab, Inc., Fibrespun Incorporated and Amerspun Corporation, all of Wayne, NJ, will be consistent with the public interest and the national transportation policy; that applicant is fit, willing and able properly to perform such service and to conform to the requirements of the Interstate Commerce Act and the Commission's rules and regulations. The purpose of this republication is to indicate the addition of TX as a destination point in lieu of CT, RI, ME, NH, and VT.

Motor Carrier, Broker, Water Carrier and Freight Forwarder Operating Rights Applications

The following applications are governed by Special Rule 247 of the Commission's General Rules of Practice (49 CFR 1100.247). These rules provide, among other things, that a protest to the granting of an application must be filed with the Commission within 30 days after the date of notice of filing of the application is published in the Federal Register. Failure to seasonably file a protest will be construed as a waiver of opposition and participation in the proceeding. A protest under these rules should comply with Section 247(e)(3) of the rules of practice which requires that it set forth specifically the grounds upon which it is made, contain a detailed statement of protestant's interest in the proceeding (including a copy of the specific portions of its authority which protestant believes to be in conflict with that sought in the application, and describing in detail the method—whether by joinder, interline, or other means—by which protestant would use such authority to provide all or part of the service proposed), and shall specify with particularity the facts, matters, and things relied upon, but shall not include issues or allegations phrased generally. Protests not in reasonable compliance with the requirements of the rules may be rejected.

MC 134922 (Sub-286F), filed March 5, 1979. Applicant: B. J. McADAMS, INC., Route 6, Box 15, North Little Rock, AR 72118. Representative: Bob McAdams (same address as applicant). Authority sought to operate as a *common carrier,* by motor vehicle, in interstate or foreign commerce, over irregular routes, transporting *liquid paint* (except in bulk), from Union, NJ, to Houston, TX, and New Orleans LA. (Hearing site: Washington, DC, or Philadelphia, PA.)

Note.—Applicant states that the purpose of this application is to replace interline service it is presently providing in conjunction with other carriers.

Motor Carrier Transfer Proceedings

Application filed for temporary authority under Section 11349 in connection with transfer application under Section 10926 and Transfer Rules, 49 C.F.R. Part 1132.

No. MC–FC 78022. By application filed March 21, 1979. DOMAN MARPOLE TRANSPORT LIMITED, Duncan Financial Centre, Duncan, British Columbia, CD, seeks temporary authority to transfer the operating rights of DAVINDER FREIGHTWAYS LIMITED, Duncan Financial Centre, Duncan, British Columbia, CD, under section 210a(b). The transfer to Doman Marpole Transport Limited, of the operating rights of Davinder Freightways Limited, is presently pending.

No. MC–FC 78101. By application filed April 30, 1979. A.I.P. TRUCKING, INC., 827 Sumner, Addison, IL 60101, seeks temporary authority to transfer the operating rights of CONTAINER DISPATCH CO., INC., 1770 Sherwin Avenue, Des Plaines, IL 60018, under section 210a(b). The transfer to A.I.P. Trucking, of the operating rights of Container Dispatch Co., Inc., is presently pending.

No. MC–FC 78110. By application filed May 2, 1979, DEALE DELIVERY SERVICE, INC., 854–8th Street, Secaucus, NJ 07094, seeks temporary authority to transfer a portion of the operating rights of TOSE, INC., 424 West Fourth Street, Bridgeport, PA 19045, under section 210a(b). The transfer to Deale Delivery Service, Inc., of a portion of the operating rights of Tose, Inc., is presently pending.

No. MC–FC 78111. By application filed April 20, 1979, DENISE, INC. d.b.a. TRAVEL TIME, 277 Newbury Street, Peabody, MA 01960, seeks temporary authority to transfer a portion of the operating rights of A. B. C. INC., d.b.a. A. B. C. BUS LINES, 375 Promenade Street, Providence, RI 02490, under section 210a(b). The transfer to Denise, Inc., d.b.a. Travel Time, of a portion of the operating rights of A. B. C. Inc., d.b.a. A. B. C. Bus Lines, is presently pending.

MC–FC 78117. By application filed May 2, 1979, ARTHUR BRUNDAGE, INC., d.b.a. ONEONTA BUS LINES, 46 Orchard Street, Oneonta, NY 13820, seeks temporary authority to transfer the operating rights of CRISPELL CHARTER SERVICE, INC., 220 Owego Street, Montour Falls, NY 14865, under section 210a(b). The transfer to Arthur Burndage, Inc., d.b.a. Oneonta Bus Lines, of the operating rights of Crispell Charter Service, Inc., is presently pending.

MC–FC 78118. By application filed April 11, 1979, MOUNTAIN WEST TRANSPORTATION CO., d.b.a. GRAY LINE MOTOR TOURS, 346 West South Temple, Salt Lake City, UT 84101, seeks temporary authority to transfer the operating rights of SALT LAKE TRANSPORTATION CO., d.b.a. GRAY LINE MOTOR TOURS, 346 West South Temple, Salt Lake City, UT 84101, under section 210a(b). The transfer to Mountain West Transportation Co., d.b.a. Gray Line Motor Tours, of the operating rights of Salt Lake Transportation Co., d.b.a. Gray Line Motor Tours, is presently pending.

MC–FC 78120. By application filed April 11, 1979, JOHN ELVESTROM, an individual d.b.a. ARROWHEAD TRANSPORTATION, 103 Moore Lane, Billings, MT 59102, seeks temporary authority to transfer the operating rights of BILL G. CARR and PHYLLIS R. CARR, a partnership d.b.a. ARROWHEAD TRANSPORTATION, 103 Moore Lane, Billings, MT 59103, under section 210a(b). The transfer to John Elvestrom, an individual d.b.a Arrowhead Transportation, of the operating rights of Bill G. Carr and Phyllis R. Carr, a partnership d.b.a. Arrowhead Transportation, is presently pending.

MC–FC 78122. By application filed May 3, 1979, N & N CHARTER TOURS, INC., d.b.a. CAREFREE BUS SERVICE, P.O. Box 8152, Haledon, NJ 07508, seeks temporary authority to transfer a portion of the operating rights of DE CAMP BUS LINES, 101 Greenwood Ave., Montclair, NJ 07042, under section 210a(b). The transfer to N & N Charter Tours, Inc., d.b.a. Carefree Bus Service, of a portion of the operating rights of De Camp Bus Lines, is presently pending.

Finance Applications

The following applications seek approval to consolidate, purchase, merge, lease operating rights and properties, or acquire control through ownership of stock, of rail carrier or motor carriers pursuant to Sections 11343 (formerly Section 5(2)) or 11349

(formerly Section 210a(b)) of the

wine and beer from certain points in CA

MC–F 13991F. Authority sought for

by Wintz Motor Freight, Inc., 656 Pelham

terminal for purpose of joinder only;

petroleum products, in bulk, in tank

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(formerly Section 210a(b)) of the Interstate Commerce Act.

An original and one copy of protests against the granting of the requested authority must be filed with the Commission on or before June 21, 1979. Such protest shall comply with Special Rules 240(c) or 240(d) of the Commission's *General Rules of Practice* (49 CFR 1100.240) and shall include a concise statement of protestant's interest in the proceeding. A copy of the protest shall be served concurrently upon applicant's representative, or applicant, if no representative is named.

Each applicant states that approval of its application will not significantly affect the quality of the human environment nor involve a major regulatory action under the Energy Policy and Conservation Act of 1975.

MC–F 13984F. Authority sought for control and merger of all the properties and operating rights of WALTER A JUNGE, INC., 3918 S.W. 84th Street, Tacoma, WA 98491, into INTERSTATE DISTRIBUTOR CO., 8311 Durango St. S.W., Tacoma, WA 98499, and for acquisition by ROBERT S. McLEAN, 2218 E. 72nd St., Tacoma, WA 98444, TERRY McLEAN, 2218 E. 72nd St., Tacoma, WA 98444, GARY McLEAN, 2112 S. 90th St., Tacoma, WA 98444, RODNEY McLEAN, 2218 E. 72nd St., Tacoma, WA 98444, DOUGLAS McLEAN, 6218 S. Bell St., Tacoma, WA, of control of such rights through the merger acquisition. Attorneys: George R. LaBissoniere, 1100 Norton Building, Seattle, WA 98104. Operating rights to be transferred: Operating rights sought to be transferred and merged: *Paper, Paper Products, Fibreboard, Fibreboard Products, Pulpboard, Roofing Materials, Insulation, Insulation Materials, Wallboard, Printed Forms, Shipping Containers and Equipment, Materials and Supplies used by the printing industry, interplant correspondence,* as a *contract carrier,* over irregular routes, between points in AZ, CA, ID, NV, OR, UT, and WA under contract with American Can Company, Boise Cascade Corporation, Container Corporation of America, Crown Zellerbach Corporation, Fibreboard Corporation, Gazette Press, Inc., Globe Ticket Company, International Paper Company, Moore Business Forms, Pacific Paper Products, Pacific Paperboard Products, Portco Corporation, Powell River-Alberni Sales Corp., Publishers Paper Company, Sonoco Products Company, St. Regis Paper Company, Western Kraft, Division of Willamette Industries, and Weyerhaeuser Company; and as a *common carrier,* in the transportation of *wine and beer* from certain points in CA to three points in WA. Vendee holds authority as a contract carrier over irregular routes transporting such commodities as are dealt in by wholesale and retail grocery establishments, industrial chemicals, cabinets and wood panels and cake and cookies, in the states of OR, WA, CA, AZ, ID, NV, UT and CO, under contract with American Wholesale Grocery Co., State Distributing Co., American Strevill Co., Mother's Cake and Cookies, Van Waters and Rogers, Lindell Enterprises, Pasquier Panel Products. Transferee also holds common carrier authority under MC 117201 to transport shakes and shingles from specified points in WA to points in CA, therefore dual operations may be involved. Application has not been filed for temporary authority under Section 210a(b).

MC–F 13989F. Authority sought for purchase by KLM, INC., Old Highway 49 South (P.O. Box 6098), Jackson, MS of the Certificate of Public Convenience and Necessity of Edgar W. Long, Inc., Route 4, Zanesville, OH 43701. Representative: Donald B. Morrison, 1500 Deposit Guaranty Plaza, P.O. Box 22628, Jackson, MS 39208. Operating rights sought to be purchased: authority issued in MC–119547 (Sub 20) authorizing operations as a motor common carrier, over irregular routes, transporting the following: *Plastic houseware,* from the plant site and warehouse facilities of Lustro-Ware, Division of Borden Chemical, Borden, Inc. located at or near Columbus, OH, to points in the United States (except AK, HI and OH). (Hearing site: Jackson, MS or Columbus, OH) Vendee is authorized to operate as a *common carrier* of specified commodities to or from all points in the United States (except AK and HI as more fully described in MC–138308 and subs thereto. The holding by KLM, Inc. of common and contract carrier authority was approved in MC–FC 76273 and in MC 138308 and subs thereto. No temporary authority under Section 11349(a) (formerly Section 210a(b)) is being sought.

MC–F 13909F (correction) (GILCHRIST TRUCKING, INC.—PURCHASE—QUEENSWAY, INC.), published in the **Federal Register** of April 3, 1979, at page 19595. The publication is incorrect insofar as it states at the 8th and 9th line from the end "Gilchrist Trucking, Inc., holds no authority from this Commission." *Gilchrist Trucking, Inc., does hold operating authority from the Commission at MC 124821 and various subs.*

MC–F 13991F. Authority sought for control by PAUL D. KITCHENS and JAMES E. ROBERSON, P.O. Box 908, New Albany, MS., 38652 to acquire control of OZONE MOTOR LINE INC., 4552 N. Villere, New Orleans, LA., 70177, through stock purchase. Applicants' attorney: Donald B. Morrison, 1500 Deposit Guaranty Plaza (P.O. Box 22628), Jackson, MS, 39205. Operating rights to be controlled are issued under MC 77594, authorizing operations as motor common carrier of general commodities (with exceptions), solely within LA in an area as follows: Baton Rouge, LA on the west, New Orleans, LA on the east and the MS state line on the north, with authority to serve numerous intermediate points, subject to certain restrictions. Paul D. Kitchens and James E. Robertson holds no authority from this Commission. However, Paul, D. Kitchens and James E. Roberson are 36.2% and 10% respectively, stockholders of Merchants Truck Line, Inc., a motor common carrier, holding authority from this Commission to operate in the States of TN, AL, MS, and LA under MC 77972 and subs thereto. Application has been filed for temporary authority under Section 11349 (formerly Section 210a(b).

MC–F 13997F. Authority sought for acquisition by ATLAS VAN-LINES, INC., 1212 St. George Road, Evansville, Indiana 47703, of the operating rights of ALASKA VAN & STORAGE COMPANY, INC., 18800 Southcenter Parkway, Tukwila, Washington 98188. Representative: Herbert Durstein, Esq., One World Trade Center, Suite 2373, New York, New York 10048. Operating rights to be acquired are issued under MC–118490, authorizing operations as a motor common carrier of household goods over irregular routes between points in Alaska, except those east of an imaginary line constituting a southward extension of the United States (Alaska)-Canada (Yukon Territory) boundary line. Vendee is authorized to operate as a common carrier in all states in the United States including DC, and Hawaii (excluding Alaska). Application has been filed for temporary authority under Section 11349 (formerly 210a(b)).

MC–F 13998F. Applicant (Transferee): WINTZ MOTOR FREIGHT, INC., 656 Pelham Boulevard, St. Paul, MN 55114. Applicant (Transferor): G.M.W., INC., 965 Eustis Street, St. Paul, MN 55114. Transferee's Representative: Rodger D. Squires, 580 Northwestern National Bank Bldg., St. Paul, MN 55101. Transferor's Representative: William S. Rosen, 630 Osborn Building, St. Paul, MN 55102. Authority sought for purchase

by Wintz Motor Freight, Inc., 656 Pelham Boulevard, St. Paul, MN 55114, of a portion of the operating rights of G.M.W., Inc., 965 Eustis Street, St. Paul, MN 55114, and for acquisition by GEORGE L. WINTZ, JR., 656 Pelham Boulevard, St. Paul, MN 55114, of control of such rights through the transaction. Operating rights sought to be transferred: (1) *General commodities,* Except those of unusual value, and except dangerous explosives, household goods as defined in *Practices of Motor Common Carriers of Household Goods,* 17 M.C.C. 467, commodities in bulk, and those requiring special equipment, between St. Paul, MN, and Eau Claire, WI: From St. Paul over U.S. Hwy 12 to Eau Claire, and return over the same route. Service is authorized to and from all intermediate points and the off-route points of Rusk, Roberts, Baldwin and Woodville, WI. Between Duluth, MN and Eau Claire, WI: From Duluth over U.S. Hwy 53 to Eau Claire, and return over the same route. Service is authorized to and from the intermediate points of Solon Springs, Minong, Lampson, Trego, Spooner, Sarona, Haugen, Rice Lake, Chetek, New Auburn, Bloomer, Eagleton, Superior, and Chippewa Falls, WI. The authority described in (1) above is contained in MC 43475. (2) *General commodities,* except those of unusual value, Classes A and B explosives, household goods as defined by the Commission, commodities in bulk, commodities requiring special equipment, and those injurious or contaminating to other lading, from Duluth over U.S. Hwy 53 to Superior, WI, then over U.S. Hwy 2 to Ashland, and return over the same route. Between Ashland, WI, and Abbotsford, WI, serving all intermediate points, and the off-route points of North York, Morse, Rib Lake, Dorchester, Milan and Curtiss, WI: From Ashland over Wisconsin Hwy 13 to Abbotsford, and return over the same route. Between Chippewa Falls, and Plainfield, WI, serving no intermediate points, and serving Abbotsford and Plainfield for purpose of joinder only: From Chippewa Falls over WI Hwy 29 to Abbotsford, then over WI Hwy 13 to Wisconsin Rapids, WI, then over WI Hwy 73 to Plainfield, WI, and return over the same route. The authority described in (2) above is contained in MC 43475 (Sub-50). (3) *General commodities,* except those of unusual value, A and B explosives, household goods as defined by the Commission, commodities in bulk, and those requiring special equipment, between Plainfield, WI. on the one hand, and, on the other, Wautoma, WI, with service at the terminal for purpose of joinder only: From Plainfield over WI Hwy 73 to Wautoma, and return over the same route. The authority described in (3) above is contained in MC 43475 (Sub-50). (4) *General commodities,* except those of unusual value, Classes A and B explosives, household goods as defined by the Commission, commodities in bulk, commodities requiring special equipment, and those injurious or contaminating to other lading, between Wautoma, WI, and Milwaukee, WI, serving all intermediate points: From Wautoma over WI Hwy 21 to junction WI Hwy 49, then over WI Hwy 49 to junction WI Hwy 23, then over WI Hwy 23 to junction WI Hwy 175 (formerly U.S. Hwy 41), and then over WI Hwy 175 to Milwaukee, and return over the same route. Between Milwaukee, WI, and Chicago, IL, serving no intermediate points, and serving Milwaukee for purpose of joinder only: From Milwaukee over U.S. Hwy 41 to Chicago, and return over the same route. The authority described in (4) above is contained in MC 43475 (Sub-50). Transferee and Wintz Warehousing Company, its affiliate, is authorized to operate as a regular route and irregular route common carrier in the states of IA, MN, ND, SD and WI. Transferee intends to combine the authority sought to be purchased with its existing authority at all common points of service so as to provide a through service. Dual operations may be involved. Application has been filed for temporary authority under Section 210a(b). (Hearing site: St. Paul, MN.)

MC–F 14000F. Transferee: K LINES, INC., 17765 S.W. Boones Ferry Road, Portland, OR 97034. Transferor: TRANSPORT SERVICES, 8101 N.E. 11th, Portland, OR 97211. Applicant's representative: John G. McLaughlin, Attorney at Law, Suite 1440, 200 Market Bldg., Portland, OR 97201. Authority sought by K Lines, Inc., 17765 S.W. Boones Ferry Rd., Portland, OR 97034, to purchase the operating rights and certain motor carrier properties of Transport Service, 8101 N.E. 11th, Portland, OR 97211, and for acquisition of control of such rights by Stephen M. Berrey and James E. Berrey, 17765 S.W. Boones Ferry Rd., Portland, OR 97034, through purchase. The entire operating rights contained in MC 126715, including E-Letter notice authority, are to be transferred. Those rights are as follows: MC 126715: (Sub–1) *Asphalt and road oil,* from points in Jackson County, OR, to points in Modoc, Siskiyou, Del Notre, Humboldt, Trinity, and Shasta Counties, CA, and Curry County, OR: (Sub–4) *petroleum products,* in bulk, in tank vehicles, from points in Whitman, Garfield, Columbia, and Asotin Counties, WA, to points in OR, ID and MT; (Sub–5) *road oils,* from points in Coos County, OR, or points in Siskiyou and Del Norte Counties, CA; (Sub–6) *petroleum and petroleum products,* except fertilizers, from Attalia and Pasco, WA, to points in OR in and east of Hood River, Wasco, Jefferson, Deschutes, and Klamath Counties, OR; *liquid petroleum and petroleum products,* in bulk, from Umatilla, OR, to points in OR and WA in and east of Hood River, Wasco, Jefferson, Deschutes, and Klamath Counties, OR, and Okanogan, Chelan, Kittitas, Yakima, and Klickitat Counties, WA; *road oil and liquid asphalt,* in bulk, from Portland and Umatilla, OR, to points in WA; and *refused or rejected shipments* of the next above-specified commodities, from points in WA, to Portland and Umatilla, OR; *petroleum and petroleum products,* except fertilizer, in bulk, in tank vehicles, from Pasco and Attalia, WA, to points in OR; *petroleum and petroleum products,* in bulk, in tank vehicles, from Pasco and Attalia, WA, to points in Adams, Valley, Washington, Gem, Payette, Boise, Canyon, Ada, Elmore, Owyee, Blaine, Camas, Gooding, Linclon, Jerome, Twin Falls, Minidoka, Cassia, Power, Bannock, and Oneida Counties, ID; *petroleum products,* between Linnton, Portland, and Willbridge, OR, and Vancouver, WA, on the one hand, and, on the other, points in OR and WA; between Umatilla, OR, on the one hand, and, on the other, points in OR and those in Ada, Adams, Boise, Canyon, Elmore, Gem, Gooding, Jerome, Owyhee, Twin Falls, Valley, Washington, and Payette Counties, ID; *petroleum,* between Linnton, Willbridge, Portland, and Umatilla, OR, on the one hand, and, on the other, points in OR and those in Ada, Adams, Boise, Canyon, Elmore, Gem, Gooding, Jerome, Owyhee, Twin Falls, Valley, Washington, and Payette Counties, ID; *petroleum and petroleum products,* in tank vehicles, between Linnton, Willbridge, Portland, and Umatilla, OR, on the one hand, and, on the other, points in Camas, Blaine, Lincoln, Minidoka, Cassia, Power, Bannock, and Oneida Counties, ID; *petroleum products,* in bulk, in tank vehicles, except fertilizers, from points within five (5) miles of Pasco, WA, to points in OR in and east of Hood River, Wasco, Jefferson, Deschutes, and Klamath Counties, OR; *petroleum products,* in bulk, in tank vehicles, from points within five (5) miles of Pasco, WA, to points in Adams, Valley,

Washington, Gem, Payette, Boise, Camas, Blaine, Lincoln, Minidoka,

to Section 10931 (formerly Section

Cement; 8, Logs; 9, Commodities of

westerly, northerly and easterly along the

1979. Applicant: VICTORY EXPRESS,

Washington, Gem, Payette, Boise, Canyon, Ada, Elmore, Owyhee, Blaine, Camas, Cassia, Gooding, Lincoln, Jerome, Twin Falls, Minidoka, Power, Bannock, and Oneida Counties, ID; (Sub–7) *asphalt and road oils,* from the facilities of Tidewater Barge Lines, Inc., at East Pasco, WA, to points in ID in and north of Idaho County; (Sub–8) *petroleum and petroleum products,* in bulk, in tank vehicles, between Wilma, WA, on the one hand, and, on the other, points in WA; (Sub–10) *coal tar pitch, coal tar pitch emulsions, and coal tar pitch cut backs,* in bulk, in tank vehicles, from points in San Bernardino, Los Angeles, and Alameda Counties, CA, to points in OR and WA, and from points in Multnomah County, OR, King and Snohomish Counties, WA and Ada County, ID, to points in OR, WA and ID; (Sub–11) *industrial asphalt,* in bulk, in tank vehicles, from Richmond, CA to Portland, OR and Tacoma, WA; (Sub–13F) *industrial asphalt* (except road surfacing asphalt), and *coal tar products,* in bulk, from points in Snohomish, King, and Pierce Counties, WA, to Blaine, WA, and points in OR, ID and MT; (Sub–E1) *pertoleum products,* in bulk, in tank vehicles, from Portland, OR and Vancouver, WA, to points in Clearwater, Idaho, Latah, Lemhi, Lewis, Nez Perce, Custer, Butte, Benewah, Bonner, Boundary, Kootenai, and Shoshone Counties, ID, and points in MT; *petroleum products,* in bulk, in tank vehicles, from points in Clatsop, Columbia, Tillamook, Washington, Multnomah, Hood River, Yamhill, Clackamas, Polk, Marion, Lincoln, Benton, Linn, and Lane Counties, OR, to points in Clearwater, Idaho, Latah, Lemhi, Lewis, Nez Perce, Custer, Butte, Benewah, Bonner, Boundary, Kootenai, and Shoshoen Counties, ID, and points in MT; *asphalt and road oil,* in bulk, in tank vehicles, from Pasco, WA, to points in Del Norte, Humboldt, Shasta, Trinity, and Siskiyou Counties, CA; *road oil and liquid asphalt, in bulk, in tank vehicles, from Umatilla, OR to points in Benewah, Bonner, Boundary, Kotenai, Shoshone, Clearwater, Idaho, Latah, Lemhi, Lewis, Nez Perce, Custer and Butte Counties, ID, and points in MT; asphalt and road oil,* from points in Umatilla, OR to points in Del Norte, Humboldt, Trinity, and Siskiyou Counties, CA; (Sub–E2) *petroleum products,* between those points in WA west of the summit of the Cascade Mountain Range, and Clatsop, Columbia, Tillamook, Washington, Multnomah, Hood River, Yamhill, Clackamas, Polk, Marion, Lincoln, Benton and Linn Counties, OR, on the one hand, and, on the other, those in Camas, Blaine, Lincoln, Minidoka, Cassia, Power, Bannock, and Oneida Counties, ID. Vendee is authorized to operate as a common carrier in the states of OR, WA, CA, ID, UT, NV and MT under authority issued to it in MC 9325. Application has been filed for temporary authority under Section 11349 (formerly 210a(6)).

Motor Carrier Alternate Route Deviations

Notice

The following letter-notices to operate over deviation routes for operating convenience only have been filed with the Commission under the Deviation Rules—Motor Carrier of Passengers (49 CFR 1042.2(c)(9)).

Protests against the use of any proposed deviation route herein described may be filed with the Commission in the manner and form provided in such rules at any time, but will not operate to stay commencement of the proposed operations unless filed within 30 days from the date of this **Federal Register** notice.

Each applicant states that there will be no significant effect on either the quality of the human environment or energy policy and conservation.

Motor Carriers of Passengers

No. MC–1515 (Deviation No. 741), GREYHOUND LINES, INC., Greyhound Tower, Phoenix, AZ 85077, filed May 4, 1979. Carrier proposes to operate as a *common carrier,* by motor vehicle, of *passengers and their baggage, and express and newspapers* in the same vehicle with passengers, over deviation routes as follows: From Louisville, KY over Interstate Hwy 64 to junction US Hwy 41, with the following access route: From junction Interstate Hwy 64 and IN Hwy 57, over IN Hwy 57 to junction US Hwy 41 and return over the same routes for operating convenience only. The notice indicates that the carrier is presently authorized to transport passengers and the same property over a pertinent service route as follows: From Louisville, KY over US Hwy 31W to junction US Hwy 60 at Tip Top, KY, then over US Hwy 60 to Henderson, KY, then over US Hwy 41 to junction Interstate Hwy 64, and return over the same route.

Motor Carrier Intrastate Application(s)

The following application(s) for motor common carrier authority to operate in intrastate commerce seek concurrent motor carrier authorization in interstate or foreign commerce within the limits of the intrastate authority sought, pursuant to Section 10931 (formerly Section 206(a)(6)) of the Interstate Commerce Act. These applications are governed by Special Rule 245 of the Commission's *General Rules of Practice* (49 CFR 1100.245), which provides, among other things, that protests and requests for information concerning the time and place of State Commission hearings or other proceedings, any subsequent changes therein, and any other related matters shall be directed to the State Commission with which the application is filed and shall *not* be addressed to or filed with the Interstate Commerce Commission.

California Docket No. A58828, filed April 27, 1979. Applicant: TY–ROE ENTERPRISE, INC., 1004 Stockton Avenue, San Jose, CA 95110. Representative: Eldon M. Johnson, 650 California Street, Suite 2808, San Francisco, CA 94108. Certificate of Public Convenience and Necessity sought to operate a freight service, as follows: Transportation of: General commodities between all points and places in the San Francisco Territory (as described in Note I hereto) and points within twenty-five (25) miles thereof, except that—pursuant to the within-requested authority—no shipments of the following shall be transported: 1. Used household goods and personal effects not packed in salesmen's hand sample cases, suitcases, overnight or boston bags, brief cases, hat boxes, valises, travelling bags, trunks, lift vans, barrels, boxes, cartons, crates, cases, baskets, pails, kits, tubs, drums, bags (jute, cotton, burlap or gunny) or bundles (completely wrapped in jute, cotton, burlap, gunny, fibreboard or straw matting); 2. Automobiles, trucks and buses, viz.: new and used, finished or unfinished passenger automobiles (including jeeps), ambulances, hearses and taxis; freight automobiles, automobile chassis, trucks, truck chassis, truck trailers, trucks and trailers combined, buses and bus chassis; 3. Livestock, viz.: barrows, boars, bulls, butcher hogs, calves, cattle, cows, dairy cattle, ewes, feeder pigs, gilts, goats, heifers, hogs, kids, lambs, oxen, pigs, rams (bucks), sheep, sheep camp outfits, sows, steers, stags, swine or wethers; 4. Liquids, compressed gases, commodities in semiplastic form and commodities in suspension in liquids in bulk, in tank trucks, tank trailers, tank semitrailers or a combination of such highway vehicles; 5. Commodities when transported in bulk in dump trucks or in hopper-type trucks; 6. Commodities when transported in motor vehicles equipped for mechanical mixing in transit; 7. Cement; 8. Logs; 9. Commodities of unusual or extraordinary value; and 10. Fresh fruits and vegetables. In performing the within-requested service, use may be made of any and all streets, roads, highways and bridges necessary or convenient for the performance of said service. Intrastate, interstate and foreign commerce authority sought. Hearing: Date, time and place not yet fixed. Requests for procedural information should be addressed to California Public Utilities Commission, State Building, Civic Center, San Francisco, CA 94102, and should not be directed to the Interstate Commerce Commission.

NOTE I.—The San Francisco Territory includes all the City of San Jose and that area embraced by the following boundary: Beginning at the point the San Francisco-San Mateo County Line meets the Pacific Ocean; thence eastery along said county line to a point one mile west of State Highway 82; southerly along an imaginary line one mile west of and paralleling State Highway 82 to its intersection with Southern Pacific Company right-of-way at Arastradero Road; southeasterly along the Southern Pacific Company right-of-way to Pollard Road, including industries served by the Southern Pacific Company spur line extending approximately two miles southwest from Simla to Permanente; easterly along Pollard Road to W. Parr Avenue; easterly along W. Parr Avenue to Capri Drive; southerly along Capri Drive to Division Street; easterly along Division Street to the Southern Pacific Company right-of-way; southerly along the Southern Pacific Company right-of-way to the Campbell-Los Gatos City Limits; easterly along said limits and the prolongation thereof to South Bascom Avenue (formerly San Jose-Los Gatos Road); northeasterly along South Bascom Avenue to Foxworthy Avenue; easterly along Foxworthy Avenue to Almaden Road; southerly along Almaden Road to Hillsdale Avenue; easterly along Hillsdale Avenue to State Highway 82; northwesterly along State Highway 82 to Tully Road; northeasterly along Tully Road and the prolongation thereof to White Road; northwesterly along White Road to McKee Road; southwesterly along McKee Road to Capitol Avenue; northwesterly along Capitol Avenue to State Highway 238 (Oakland Road); northerly along State Highway 238 to Warm Springs; northerly along State Highway 238 (Mission Boulevard) via Mission San Jose and Niles to Hayward; northerly along Foothill Boulevard and MacArthur Boulevard to Seminary Avenue; easterly along Seminary Avenue to Mountain Boulevard; northerly along Mountain Boulevard to Warren Boulevard (State Highway 13); northerly along Warren Boulevard to Broadway Terrace; westerly along Broadway Terrace to College Avenue; northerly along College Avenue to Dwight Way; easterly along Dwight Way to the Berkeley-Oakland Boundary Line; northerly along said boundary line to the campus boundary of the University of California; westerly, northerly and easterly along the campus boundary to Euclid Avenue; northerly along Euclid Avenue to Marin Avenue; westerly along Marin Avenue to Arlington Avenue; northerly along Arlington Avenue to San Pablo Avenue (State Highway 123); northerly along San Pablo Avenue to and including the City of Richmond to Point Richmond; southerly along an imaginary line from Point Richmond to the San Francisco waterfront at the foot of Market Street; westerly along said waterfront and shoreline to the Pacific Ocean; southerly along the shoreline of the Pacific Ocean to point of beginning.

Transportation of "Waste" Products for Reuse or Recycling

Special Certificate Letter Notice(s)

The following letter notices request participation in a Special Certificate of Public Convenience and Necessity for the transportation of "waste" products for reuse or recycling in furtherance of a recognized pollution control program under the Commission's regulations (49 CFR 1062) promulgated in *"Waste" Products,* Ex Parte MC 85, 124 M.C.C. 583 (1976). Requests are processed as seeking authority between all points in the United States.

An original and one copy of protests (including protestant's complete argument and evidence) against applicant's participation may be filed with the Interstate Commerce Commission by June 13, 1979. A copy must also be served upon applicant or its representative. Protests against the applicant's participation will not operate to stay commencement of the proposed operation.

If the applicant is not otherwise informed by the Commission, operations may commence within 30 days of the date of its notice in the **Federal Register,** subject to its tariff publication effective date.

P–3–79 (special certificate—waste products), filed April 15, 1979. Applicant: CARL SCHAEFER, JR., TRUCK LINES, INC., P.O. Box 26040, Trotwood, OH 45426. Representative: Carl Schaefer, Jr., President (adress same as applicant). Sponsors: Arco Trading Corporation, of Pittsburgh, PA; Paper Stock, Inc., of Pittsburgh, PA; Fiori Mill Supply Company, Inc., of Moraine, OH; Diamond International Corporation, of Middletown, OH; Bergstrom Paper Company, of West Carrollton, OH; National Fiber Supply Co., of Chicago, IL; Monarch Metals Corp., of Toledo, OH; and Patterson Iron and Metal Company, of Dayton, OH. Commodities: Waste Products.

P–13–78 (special certificate—waste products) (amendment), filed April 13, 1979. Applicant: VICTORY EXPRESS, INC., P.O. Box 26189, Trotwood, OH 45426. Representative: Richard Schaefer, Vice-President (same address as applicant). Sponsors: Bergstrom Paper Company, of Neenah, WI; Patterson Iron and Metal Company, of Dayton, Ohio; Acme Waste Products, Inc., of Cleveland, OH; Arco Trading Corporation, of Pittsburgh, PA; Paper Stock, Inc. of Pittsburgh, PA; Fiori Mill Supply Company, Inc., of Moraine, OH; Monarch Metals Corp. of Toledo, OH; and Brown Company, of Kalamazoo, MI. Commodities: Waste Products.

Note.—The purpose of his amendment is to add the above-named sponsors.

Transportation of used Household Goods in Connection With a Pack-and-Crate Operation on Behalf of the Department of Defense

Special Certificate Letter Notice(s)

The following letter notices request participation in a Special Certificate of Public Convenience and Necessity for the transportation of used household goods, for the account of the United States Government, incident to the performance of a pack-and-crate service on behalf of the Department of Defense under the Direct Procurement Method or the Through Government Bill of Lading Method under the Commission's regulations (49 CFR 1056.40) promulgated in "Pack-and-Crate" operations in Ex Parte No. MC–115, 131 M.C.C. 20 (1978).

An original and one copy of verified statement in opposition (limited to argument and evidence concerning applicant's fitness) may be filed with the Interstate Commerce Commission by June 13, 1979. A copy must also be served upon applicant or its representative. Opposition to the applicant's participation will not operate to stay commencement of the proposed operation.

If applicant is not otherwise informed by the Commission, operations may comence *within 30 days* of the date of its notice in the Federal Register, subject to its tariff publication effective date.

HG–1–79 (Special Certificate—Used Household Goods), filed April 25, 1979. Applicant: STEARN'S MOVING & STORAGE OF KOKOMO, INC. 120 West Monroe Street, Kokomo, IN 84017. Representative: Keith Stearns, President (address same as applicant). Authority Sought: Between points in Newton, Jasper, Starke, Pulaski, Fulton, White, Cass, Miami, Wabash, Huntington, Benton, Carroll, Howard, Grant, and

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Blackford Counties, IN, serving Grissom Air Force Base, IN.

HG–2–79 (Special Certificate—Used Household Goods), filed April 25, 1979. Applicant: YARBROUGH MOVING & STORAGE, INCORPORATED, 1301 Laurant, Caruthersville, MO 63038. Representative: William C. Yarbrough, Jr., Secretary-Treasurer, Yarbrough Moving & Storage, Inc., P.O. Box 382, Blytheville, AR 72315. Authority Sought: Between points in Poinsett, Craighead, Greene, Clay, Jackson, Lawrence, Randolph, and Mississippi Counties, AR, Carter, Ripley, Butler, Mississippi, Dunklin, Pemiscott, and New Madrid Counties, MO, and Lauderdale, Dyer, Gibson, and Crockett Counties, TN, serving Blytheville Air Force Base, AR.

HG–3–79 (Special Certificate—Used Household Goods), filed April 30, 1979. Applicant: MONROE MOVING & STORAGE CO., INC., P.O. Box 990, Key West, FL 33040. Representative: Sol H. Proctor, 1101 Blackstone Bldg., Jacksonville, FL 32202. Authority Sought: Between points in Monroe and Dade Counties, FL serving Naval Air Station, Key West, FL.

HG–4–79 (Special Certificate—Used Household Goods), filed April 30, 1979. Applicant: AIRLINE MOVING & STORAGE, INC., 142 Stockton St., Jacksonville, FL 32204. Representative: Sol H. Proctor, 1101 Blackstone Bldg., Jacksonville, FL 32202. Authority Sought: Between points in Florida, and Camden and Charlton Counties, GA, serving Jacksonville Naval Air Station, and Mayport Naval Air Station at Jacksonville, FL, and King's Bay Submarine Support, at Kingsland, GA.

By the Commission.

H. G. Homme, Jr.,

Secretary.

[FR Doc. 79-15990 Filed 5-21-79; 8:45 a.m.]

BILLING CODE 7035-01-M

[Finance Docket No. 29022F]

Southwest Forest Industries, Inc., and SWF Gulf Coast, Inc., Control the Atlanta & Saint Andrews Bay Railway Co.

AGENCY: Interstate Commerce Commission.

ACTION: Notice of Proposed Exemption.

SUMMARY: Southwest Forest Industries, Inc. (SWF) and its wholly owned subsidiary SWF Gulf Coast, Inc. (Gulf) intend to control the Atlanta & Saint Andrews Bay Railway Company (Bay Railway). They filed a petition on April 17, 1979, seeking exemption from 49 U.S.C. 11343–11347, which requires prior consideration and approval of the transaction by the Interstate Commerce Commission. SWF, Gulf, and Bay Railway are seeking exemption from these sections under 49 U.S.C. 10505 on the basis that prior Commission review of the transaction is unnecessary.

DATES: Comments must be received on or before June 21, 1979.

ADDRESS: Send comments to: Interstate Commerce Commission, 12th St. and Constitution Ave., NW., Washington, D.C. 20423. All written statements will be available for public inspection during regular business hours at the same address.

FOR FURTHER INFORMATION CONTACT: Michael Erenberg, 202–275–7245

SUPPLEMENTARY INFORMATION: SWF, Gulf, and Bay Railway filed a petition for exemption under 49 U.S.C. 10505 on April 17, 1979, so that the control of Bay Railway by SWF and Gulf could be exempted from the requirement of obtaining prior Commission approval under 49 U.S.C. 11343–11347.

SWF, Gulf, and Bay Railway claim that the purpose of the transaction is to preserve Bay Railway's existing service and to keep it as a viable common carrier by rail. Control of the Bay Railway by SWF and Gulf is part of a larger transaction where Gulf is acquiring a paper mill facility from the International Paper Company (IP). These and all other assertions should be addressed in the comments.

The Parties

SWF, a non-carrier, is an integrated forest products company principally engaged in manufacturing and marketing paper, paper products, packaging, and building materials. Gulf was organized to acquire the IP paper mill and Bay Railway. It is controlled by SWF through SWF's ownership of 100 percent of Gulf's outstanding capital stock. SWF also controls the Apache Railway Company (Apache), a class III railroad. SWF owns 5,992 shares of the outstanding Apache stock. The remaining eight shares are held by Apache's directors under an Arizona law requiring stock ownership to qualify as a director. Apache operates 74.4 miles of main line between Holbrook and McNary, AZ. It also serves Snowflake and Bell, AZ, and connects with the Atchison, Topeka and Santa Fe Railway Company at Holbrook.

Bay Railway is a class III railroad. It owns and operates approximately 81 miles of main line, 7.16 miles of branch lines, and 50.38 miles of yard and passing track. It operates from Panama City, FL, to Dothan, AL, with a branch from Campbellton to Graceville, FL. Bay Railway connects with the Louisville and Nashville Railroad at Cottondale and Graceville, FL, and with the Seaboard Coast Line Railroad Company, Central of Georgia Railroad Company, and Hartford and Slocomb Railroad Company at Dothan, AL.

Bay Railway is a wholly owned subsidiary of IP. IP owns all 29,940 shares of the outstanding $100 par value common stock in Bay Railway. Bay is a historically profitable railroad, deriving 65–70 percent of its operating revenues from the IP paper mill operations at Panama City.

The Transaction

By agreement dated March 1, 1979, SWF agreed that it or Gulf would acquire from IP the paper mill, associated facilities, 425,000 acres of timberland in Alabama, Florida, and Georgia, and the Bay Railway. Gulf is making the purchase with $150,000,000 in cash plus 350,000 shares of SWF's 9% Cumulative Preferred Stock (valued at $70,000,000). Of this amount, Gulf is paying $13,000,000 cash plus interest at the rate of 10½ percent per annum accruing from March 1, 1979, until consummation for the outstanding stock of Bay Railway.

The agreement also provides that IP will indemnify Bay Railway up to an amount equalling the purchase price of its stock in the event that judgments not covered by insurance are entered against Bay Railway in litigation arising out of a derailment occurring near Youngstown, FL, on February 26, 1978. If judgments are entered and exceed the price of the Bay Railway stock, Gulf may elect to have IP repurchase Bay Railway, subject to Commission approval.

The purpose of the transaction is to preserve the paper mill operations in Panama City, FL, which are Bay Railway's sustaining source of freight revenue, and to preserve Bay Railway's existing services for the benefit of both the paper operations and of other shippers and receivers who rely on Bay Railway service. Through the transaction, the Bay Railway will gain access to the ability of SWF and Gulf to attract financing and talented management.

The Exemption

The acquisition of control of a carrier by a person that is not a carrier, but controls another carrier requires the approval and authority of the Commission under 49 U.S.C. 11343. To seek Commission approval an application must be filed in compliance with the ICC *Railroad Acquisition, Control, Merger, Consolidation, Coordination Project, Trackage Rights and Lease Procedures*, 49 C.F.R. Part 1111 (1978) (Consolidation Procedures). SWF, Gulf, and Bay Railway filed such an application concurrently with the petition for exemption. They have requested an exemption from 49 U.S.C. 11343 to avoid the procedural steps required by 49 U.S.C. 11345, in order to expedite consummation of the transaction.

SWF, Gulf, and Bay Railway state that the proposed transaction is the type Congress intended the Commission to exempt from detailed regulation when it adopted 49 U.S.C. 10505 in 1976.

We can exempt a matter related to a rail carrier under 49 U.S.C. 10505. This section provides:

> (a) In a matter related to a rail carrier providing transportation subject to the jurisdiction of the Interstate Commerce Commission under this subchapter, the Commission shall exempt a person, class of persons, or a transaction or service because of the limited scope of the transaction or service, when the Commission finds that the application of a provision of this subtitle—
>
> (1) Is not necessary to carry out the transportation policy of section 10101 of this title;
>
> (2) Would be an unreasonable burden on a person, class of persons, or interstate and foreign commerce; and
>
> (3) Would serve little or no useful public purpose.
>
> (b) The Commission may begin a proceeding under this section on its own initiative or on application by the Secretary of Transportation or an interested party. The Commission may specify the period of time during which the exemption is effective.
>
> (c) The Commission may revoke an exemption, to the extent it specifies, when it finds that application of a provision of this subtitle to the person, class, or transportation is necessary—
>
> (1) To carry out the transportation policy of section 10101 of this title;
>
> (2) To achieve effective regulation by the Commission; and
>
> (3) To serve a useful public purpose.
>
> (d) The Commission may act under this section only after an opportunity for a proceeding.

SWF and Gulf, which controls Apache, a Class III railroad operating in Arizona, believe that their acquisition of control of Bay Railway, a Class III railroad operating in Florida and Alabama does not require Commission review.

They point out that the legislative history of the Railroad Revitalization and Regulatory Reform Act of 1976, reflects the purpose of the provision to exempt from regulation those transactions in which regulation would serve little or no useful public purpose, and where expenditure of the Commission's scarce resources would not be necessary to promote the national transportation policy. H.R. Rep. No. 94–781, 94th Cong., 2d Sess., p. 135 (January 23, 1976). Petitioners believe no useful public purpose will be served by subjecting this proposed transaction to protracted proceedings.

They also state that no carrier other than Bay Railway is involved, no operational or service changes will occur, no carrier financial obligation will accrue, no carrier employees will be adversely affected, and no adverse impact on energy consumption or the environment will result from the transaction. SWF, Gulf, and Bay Railway argue that the proposed transaction fosters the national transportation policy in 49 U.S.C. 10101 by preserving the Bay Railway's ability to provide "safe, adequate, economical and efficient transportation" to those who rely on it, by encouraging "sound economic conditions" in the Bay Railway's management, by protecting the economy of the Florida Panhandle Region, by promoting "fair wages and working conditions" in the transportation industry, and by preserving the jobs of those who would be adversely affected by the Bay Railway's loss of 65–70 percent of its freight revenues.

An exemption, were it granted in this proceeding, would be limited solely to this proceeding; after consummation of control, the Commission would retain full jurisdiction over the carriers involved.

Before granting an exemption, we are required to provide the opportunity for a proceeding. This request for comments on the requested exemption of the proposed transaction is that opportunity. All comments filed in response to this notice, along with the petition of SWF, Gulf, and Bay Railway will be used to determine whether or not the exemption under 49 U.S.C. 10505 should be granted.

This proceeding is instituted under the authority of 49 U.S.C. 10505 and pursuant to 5 U.S.C. 553, 559.

Notice of the acceptance of the application filed pursuant to 49 U.S.C. 11343 on April 17, 1979, in this proceeding (Finance Docket No. 29022F, Southwest Forest Industries, Inc., and SWF Gulf Coast, Inc.—Control—The Atlanta & Saint Andrews Bay Railway Company) has been published separately in this edition of the **Federal Register.**

This proceeding is not a major Federal action significantly affecting energy consumption or the quality of the human environment.

Dated: May 10, 1979.

By the Commission, Chairman O'Neal, Vice Chairman Brown, Commissioners Stafford, Gresham, Clapp, and Christian.

H. G. Homme, Jr.,

Secretary.

[FR Doc. 79-15991 Filed 5-21-79; 8:45 am]

BILLING CODE 7035-01-M

[Finance Docket No. 29022F]

Southwest Forest Industries, Inc. and SWF Gulf Coast, Inc.—Control—Atlanta & Saint Andrews Bay Railway Co.

Southwest Forest Industries, Inc. (SWF) and SWF Gulf Coast, Inc. (Gulf), 3443 North Central Avenue, Post Office Box 7548, Phoenix, AZ 85011, represented by R. A. Miller, Secretary, SWF Gulf Coast, Inc., 3443 North Central Avenue, Phoenix, AZ 85012, and Eugene D. Gulland, Covington & Burling, 888 Sixteenth Street, N.W., Washington, DC 20006, give notice that on the 17th day of April 1979, they filed with the Interstate Commerce Commission at Washington, DC, an application pursuant to 49 U.S.C. § 11343 (formerly Section 5(2) of the Interstate Commerce Act) for a decision to acquire from the International Paper Company the entire outstanding capital stock of the Atlanta & Saint Andrews Bay Railway Company (Bay Line), 514 East Main Street, Post Office Box 729, Dothan, AL 36302, represented by Walter G. Moeling and Mark Eaton, Powell, Goldstein, Frazer & Murphy, One Farragut Square South, N.W., Washington, DC 20006.

The Bay Line is a common carrier by rail that operates freight service on an 81-mile main line between Panama City, FL, and Dothan, AL (passing through Campbellton, FL), and on a branch line that runs approximately 7 miles from the main line westerly to Graceville, FL. These lines pass through the Florida counties of Bay and Jackson and through Houston County, AL. The operations that would be performed under the proposed transaction are the same as those presently being performed.

Interested persons may participate formally in a proceeding by submitting written comments regarding the application. The submissions shall indicate the proceeding designation (Finance Docket No. 29022F) and the original and two copies shall be filed with the Secretary, Interstate Commerce Commission, Washington, DC 20423, not later than July 6, 1979. The written comments shall include the following:

Sunshine Act Meetings

Federal Register

the person's position, e.g., party protestant or party in support, regarding the proposed transaction; specific reasons why approval would or would not be in the public interest; and a request for oral hearing if one is desired. Additionally, interested persons who do not intend to participate formally in a proceeding but who desire to comment, may file statements and information as they may desire, subject to the filing and service requirements specified here. Persons submitting written comments to the Commission shall, at the same time, serve copies of these written comments upon the applicants, the Secretary of Transportation and the Attorney General.

Notice of the acceptance of the petition for exemption filed pursuant to 49 U.S.C. 10505 on April 17, 1979, in this proceeding (Finance Docket No. 29022F, Southwest Forest Industries, Inc., and SWF Gulf Coast, Inc.—Control—The Atlanta & Saint Andrews Bay Railway Company) has been published separately in this edition of the Federal Register.

H. G. Homme, Jr.,
Secretary.

[FR Doc. 79-15992 Filed 5-21-79; 8:45 am]
BILLING CODE 7035-01-M

[Docket No. AB-105 (Sub-No. 2F)]

Western Pacific Railroad Co.—Discontinuance of Service—Within Counties of Alameda and San Francisco, CA.; Findings

Notice is hereby given pursuant to 49 U.S.C. 10903 (formerly Section 1a of the Interstate Commerce Act) that by a Certificate and Decision decided May 7, 1979, a finding, which is administratively final, was made by the Commission, Review Board Number 5, stating that, subject to the conditions for the protection of railway employees prescribed by the Commission in AB-36 (Sub-No. 2), *Oregon Short Line R. Co.-Abandonment Goshen* ——— I.C.C. ——— decided February 9, 1979, *provided, however,* that applicant may not exercise the authority granted herein until approval of the pending directly related applications in Finance Docket Nos. 28975F and 28977F and institution of operation thereunder, the present and future public convenience and necessity permit the discontinuance of service of the Western Pacific Railroad Company of its line of railroad known as its trans-bay car ferry operation extending from railroad milepost 3.487, near Oakland, to milepost 0, at its 25th Street yard in San Francisco, and to its connection with the San Francisco Belt Railway at Pier 43½ in San Francisco, and to its connection with Alameda Belt Line at Alameda, a distance of approximately 4.2 miles (to milepost 0) and 5.1 miles (to Pier 43½) and 4.8 miles (to Alameda Belt Line), respectively, all of which lines are upon the waters of San Francisco Bay via applicant's car ferry the M.V. Las Plumas and within the Counties of Alameda and San Francisco, CA. Applicant also seeks, as part of said discontinuance of service, authority to physically abandon its car ferry the M.V. Las Plumas. A certificate of public convenience and necessity permitting discontinuance of service was issued to the Western Pacific Railroad Company. Since no investigation was instituted, the requirement § 1121.38(a) of the Regulations that publication of notice of abandonment decisions in the Federal Register be made only after such a decision becomes administratively final was waived.

Upon receipt by the carrier of an actual offer of financial assistance, the carrier shall make available to the offeror the records, accounts, appraisals, working papers, and other documents used in preparing Exhibit I [§ 1121.45 of the Regulations). Such documents shall be made available during regular business hours at a time and place mutually agreeable to the parties.

The offer must be filed and served no later than June 6, 1979. The offer, as filed, shall contain information required pursuant to § 1121.38(b)(2) and (3) of the Regulations. If no such offer is received, the certificate of public convenience and necessity authorizing abandonment shall become effective July 6, 1979.

H. G. HOMME, JR.,
Secretary.

[FR Doc. 79-15988 Filed 5-21-79; 8:45 am]
BILLING CODE 7035-01-M

Sunshine Act Meetings

Federal Register
Vol. 44, No. 100
Tuesday, May 22, 1979

This section of the FEDERAL REGISTER contains notices of meetings published under the "Government in the Sunshine Act" (Pub. L. 94-409) 5 U.S.C. 552b(e)(3).

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1

May 16, 1979.

FEDERAL ENERGY REGULATORY COMMISSION.

TIME AND DATE: 10 A.M., MAY 23, 1979.

PLACE: 825 North Capitol St., N.E., Washington, D.C. 20426, Hearing Room A.

STATUS: Open.

MATTERS TO BE CONSIDERED: Agenda.

Note.—Items listed on the agenda may be deleted without further notice.

CONTACT PERSON FOR MORE INFORMATION: Kenneth F. Plumb, Secretary, Telephone (202) 275-4166.

This is a list of matters to be considered by the Commission. It does not include a listing of all papers relevant to the items on the agenda. However, all public documents may be examined in the Office of Public Information.

Power Agenda—293rd Meeting, May 23, 1979, Regular Meeting (10 a.m.)

CAP-1. Docket Nos. ER79-282, ER79-301, ER79-302, ER79-303, ER79-304 and ER79-305, Southern California Edison Co.
CAP-2. Docket No. ER79-291, Illinois Power Co. and Central Illinois Light Co.
CAP-3. Docket No. ER79-306, Public Service Co. of Oklahoma.
CAP-4. Docket No. ER79-288, Indiana & Michigan Electric Co.
CAP-5. Docket No. ER79-264, Pennsylvania-New Jersey-Maryland Interconnection.
CAP-6. Docket No. ER79-285, Miami Power Corp.
CAP-7. Docket No. EL78-29, Village of Penn Yan, New York.

Gas Agenda—293rd Meeting, May 23, 1979, Regular Meeting

CAG-1. Docket Nos. RP72-155 and RP78-18 (PGA 79-1A and AP79-1A), El Paso Natural Gas Co.
CAG-2. Docket Nos. RP75-30, PP74-20 and RP74-83, United Gas Pipe Line Co.
CAG-3. Docket No. RP72-122 (PGA 78-3), Colorado Interstate Gas Co.
CAG-4. Docket No. RP74-100 (PGA Nos. 78-8 and 79-3), National Fuel Gas Corp.
CAG-5. Docket No. RP73-65 (PGA 78-2), Columbia Gas Transmission Corp.
CAG-6. Docket No. CI77-641, *Arkansas Louisiana Gas Company* v. *Dyco Petroleum Corporation, et al.*
CAG-7. Docket Nos. CS66-12, et al., Kewanee Oil Co., et al.
CAG-8. Docket Nos. CI71-595, et al., Tenneco Oil Co., et al.
CAG-9. Docket Nos. CI68-166, et al., Mobil Oil Corp., et al.
CAG-10. Docket Nos. CI78-180, CI78-181 and CI78-182, Texaco Inc.
CAG-11. Docket No. CI76-338, Ashland Exploration, Inc. Docket No. CI66-962, Pelican Petroleum Co., Inc., et al.
CAG-12. Docket No. CP77-421, et al., Transcontinental Gas Pipe Line Corp.
CAG-13. Docket No. CP70-86, Cities of Licking and Salem, Mo., Applicants Cities Service Gas Co., Respondent.
CAG-14. Docket No. CP78-437, Transcontinental Gas Pipe Line Corp.
CAG-15. Docket No. CP77-263, Northwest Pipeline Co.
CAG-16. Docket No. CP79-213, Northern Natural Gas Co.
CAG-17. Docket No. CP79-229, Transcontinental Gas Pipe Line Corp.
CAG-18. Docket No. CP79-132, Tennessee Gas Pipeline Co., a Division of Tenneco Inc., and Consolidated Gas Supply Corp.
CAG-19. Docket Nos. CP78-520 and CP79-233, El Paso Natural Gas Co. Docket No. CP79-230, Transcontinental Gas Pipe Line Corp.
CAG-20. Docket No. CP78-512, Colorado Interstate Gas Co.

Power Agenda—293rd Meeting, May 23, 1979, Regular Meeting

I. Electric Rate Matters

ER-1. Docket Nos. ER79-267 and ER79-268, Union Electric Co.
ER-2. Docket No. ER79-283, Kansas Power & Light Co.
ER-3. Docket No. E-9408, American Electric Power Service Corp.
ER-4. Docket No. E-7734, Mid-Continent Power Pool Agreement.

Miscellaneous Agenda, 293rd Meeting, May 23, 1979, Regular Meeting

M-1. Docket No. RM79-6, Procedures governing the Collection and Reporting of Information Associated with the Cost of Providing Electric Service.
M-2. Docket No. RM79- , Calculation of the Working Cash Component of Working Capital Allowance for Electric Utilities.
M-3. Reserved.
M-4. Reserved.
M-5. Docket No. R-424, Accounting for Premium, Discount and Expense of Issue, Gains and Losses on Refunding and Reacquisition of Long-Term Debt, and Interperiod Allocation of Income Taxes. Docket No. R-446, Amendments to the Uniform Systems of Accounts for Classes A, B, and C of Public Utilities and Licensees and Natural Gas Companies; Deferred Income Taxes.
M-6. Docket No. RM79-31, Amendments to the Commission's Regulations Relating to Independent Producer Filing Requirements.
M-7. Docket No. RM79- , Rulemaking Amending Section 274.104 of the Commission's Regulations.
M-8. Docket No. RM79- , Final Regulations for Subparts A, B and D of Part 284; Final Regulations for Emergency Natural Gas Transaction, to be Included as Subpart E of Part 284; and Amendments to Subpart C of Part 284.

Gas Agenda—293rd Meeting, May 23, 1979, Regular Meeting

I. Pipeline Rate Matters

RP-1. Docket No. RP79-70, Oklahoma Natural Gas Gathering Corp.
RP-2. Docket No. RP79-66, Western Gas Interstate Co.
RP-3. Docket No. RP73-64 (PGA No. 79-1a) (DCA No. 79-1a), Southern Natural Gas Co.
RP-4. Docket Nos. RP74-61 (PGA 78-2) and RP76-10 (PGA 78-2), Arkansas-Louisiana Gas Co.

II. Producer Matters

CI-1. Docket Nos. CI73-150, et al., Sun Oil Co., et al.

III. Pipeline Certificate Matters

CP-1. Docket No. RP-79-79, Cities Service Gas Co.
CP-2. Docket No. TC79-127, Columbia Gas Transmission Corp.
CP-3. Docket No. CP77-267, Mid-Continent Gas Co. and Transcontinental Gas Pipe Line Corp.
CP-4. Docket No. CP77-378 (Remand), Northwest Pipeline Corp.
CP-5. Docket No. CP79-133, ONG Western, Inc.

Kenneth F. Plumb,
Secretary.

[S-1015-79 Filed 5-18-79; 9:41 am]
BILLING CODE 6740-02-M

2

FEDERAL ENERGY REGULATORY COMMISSION.

"FEDERAL REGISTER" CITATION OF PREVIOUS ANNOUNCEMENT: 44 FR 28147, May 14, 1979.

PREVIOUSLY ANNOUNCED TIME AND DATE OF MEETING: 10 a.m., May 16, 1979.

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CHANGE IN MEETING: The following item has been added:

Item No., Docket No., and Company

M-10. RM79-43, Amendments to Subpart A of Part 157 of the Regulations Implementing the Natural Gas Act.

Kenneth F. Plumb,

Secretary.

[S-1017-79 Filed 5-18-79; 1:34 pm]

BILLING CODE: 6740-02-M

3

FEDERAL RESERVE SYSTEM.

TIME AND DATE: 11 a.m., Friday, May 25, 1979.

PLACE: 20th Street and Constitution Avenue, NW., Washington, D.C. 20551.

STATUS: Closed.

MATTERS TO BE CONSIDERED:

1. Personnel actions (appointments, promotions, assignments, reassignments, and salary actions) involving individual Federal Reserve System employees.
2. Any agenda items carried forward from a previously announced meeting.

CONTACT PERSON FOR MORE INFORMATION: Mr. Joseph R. Coyne, Assistant to the Board; (202) 452-3204.

Griffith L. Garwood, Deputy Secretary of the Board.

Date: May 17, 1979.

[S-1018-79 Filed 5-18-79; 9:41 am]

BILLING CODE 6210-01-M

4

NATIONAL RAILROAD PASSENGER CORPORATION.

In accordance with Rule 4a. of Appendix A of the Bylaws of the National Railroad Passenger Corporation, notice is given that the Board of Directors will meet on May 30, 1979.

A. The meeting will be held on Wednesday, May 30, 1979, in the National Guard Association Building, 3rd Floor, 1 Massachusetts Avenue, Northwest, Washington, D.C., beginning at 9:30 a.m.

B. The meeting will be open to the public at 10:30 a.m. beginning with agenda item No. 3, as described below.

C. The agenda items to be discussed at the meeting follow.

Agenda—National Railroad Passenger Corporation

Meeting of the Board of Directors—May 30, 1979

Closed session (9:30)

1. Internal Personnel Matters.
2. Litigation Matters.

Open session (10:30)

3. Approval of minutes of regular meeting of April 25, 1979.
4. Commitment approval requests:
79-72 Computer Equipment Upgrade and Sale.
79-76 Purchase of Communications and Signal Maintenance Vehicles.
77-193-S1 Supplemental Funding for B&P Tunnel Improvements.
79-78 Conversion and Modification of 36 Hi-level Transition Coaches.
78-45-S1 Supplemental Funding to Rebuild and Modify FL-9 Locomotives.
78-83-S1 Supplemental Funding for Efficiency Test Program for Turbine Engines.
77-265-S4 Supplemental Funding for 34-car Metroliner Overhaul and Upgrade Program.
5. Approval of Canadian Liquor License.
6. Approval of Consulting Contract for Work Measurement Program, Brighton Park.
7. Board Committee Reports: Adult, equipment, Northeast Corridor Improvement Project, Organization and Compensation, and Planning and Finance.
8. President's Report.
9. New Business.
10. Adjournment.

D. Inquiries regarding the information required to be made available pursuant to Appendix A of the Corporation's Bylaws should be directed to the Assistant Corporate Secretary at (202) 383-3971.

Dated: May 18, 1979.

T. Page Sharp,

Assistant Corporate Secretary.

[S-1018-79 Filed 5-18-79; 2:08 pm]

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federal register

Tuesday
May 22, 1979

Part II

Interagency Regulatory Liasion Group

Activities Report; Protection of Public Health and Environment

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INTERAGENCY REGULATORY LIASION GROUP

Protection of Public Health and Environment; Activities Report

May 1979.

Activities Report

I. Background

On September 26, 1977 the heads of the U.S. Consumer Product Safety Commission, the U.S. Environmental Protection Agency, the Food and Drug Administration, and the Occupational Safety and Health Administration signed an agreement to increase ongoing cooperation to improve protection of the public health and the environment. This cooperative effort was named the Interagency Regulatory Liaison Group (IRLG). Intention to form such a group was announced on August 2, 1977, and the agreement was published in the **Federal Register** on October 11, 1977 (42 FR 54856). In January 1979 the Food Safety and Quality Service of the U.S. Department of Agriculture joined the IRLG as a fifth member.

Emphasis was placed on sharing information, avoiding duplication of effort and developing consistent regulatory policies. Initially, eight specific areas were identified for concentrated cooperative activities. These were: (1) Compliance and enforcement, (2) education and communications, (3) epidemiology, (4) information exchange, (5) regulatory development, (6) research planning, (7) risk assessment and (8) testing standards and guidelines. Work groups made up of representatives from each of the agencies were establised to identify and address problems of mutual concern in each of the areas. Notice of specific work plans and public meetings held March 2–6, 1978, was published in the **Federal Register** on Feburary 17, 1978 (43 FR 7174). Work plans were also developed in each of ten regions across the country specifying cooperative arrangements among the four agencies and their field operations.

II. Progress

Since its inception, the IRLG has moved steadily toward its stated goals. A listing of some major activities follows:

A. *Regulatory Development.* A working compendium listing information and regulatory plans for 24 chemicals or substances has been produced. This compendium, entitled "Hazardous Substances," will be updated periodically and serve as a guide for coordinated development of regulations of chemicals of concern to two or more of the IRLG agencies. It also serves to inform the public of actions being taken on these substances.

B. *Compliance and Enforcement.* 1. Regional emergency response systems have been coordinated. In addition, a plan is being developed to integrate these systems into the National Contingency Plan which provides for a coordinated Federal response to protect the public and the environment from damaging effects or oil and hazardous substance discharges and fosters Federal, state and local cooperation.

2. A multi-agency compliance orientation training program has been piloted. This is designed to provide information about IRLG agency compliance authorities and to provide basic information for the widespread implementation of referral inspections. This will result in improved protection and more efficient use of resources on a national scale.

C. *Science*—1. *Guidelines.* Guidelines through agency review and ready for public comment have been developed for four acute toxicity tests and one teratogenicity test in the health effects area. Twelve additional health effects guidelines and eight guidelines for environmental effects are at various stages of development, bringing to 26 the number of testing guidelines under development by the IRLG. A set of criteria for documenting exidemiological studies has also been completed and is undergoing agency review. The goal is to have these guidelines and those still to be developed provide a basis for testing which will result in data that are acceptable to all IRLG agencies.

2. *Risk Assessment.* IRLG agency scientists in conjunction with staff members from the NCI and NIEHS have developed a document describing the scientific concepts and methods currently in use to identify and evaluate substances that may pose a risk of cancer to humans. It is entitled, "Scientific Bases for Identifying Potential Carcinogens and Estimating Their Risks" and was released to the public in February 1979.

3. *Research.* (a) Three inventories dealing with research supported by the IRLG agencies and NCI, NIEHS and NIOSH have been completed. The first was concerned with all toxics research, the second specifically with toxicology, and the third with metals. Drafts are being revised, but the data show that there is very little duplication. They also provide information for identifying research gaps which need to be filled.

(b) IRLG with assistance from staff members of DOD, NCI, NIOSH and NIEHS developed a rationale and long range general plan for dealing with problems of chronic degenerative diseases, environmental cancer, reproductive toxicity, neurotoxicity and behavior, mutagenic diseases, and immunologic diseases. The document, entitled "Preventive Health and the Environmental Sciences," sets out a proposal for a national effort in toxicology research related to human health.

(c) FDA and EPA established a joint neurotoxicology research program at EPA laboratories in North Carolina. This permits a better utilization of scarce resources for the conduct of research essential to the missions of IRLG agencies.

(d) FDA's "Good Laboratory Practices" regulations which set new, more stringent standards for testing of toxic substances have been adopted by IRLG agencies. Their widespread use will improve the quality of laboratory procedures and the quality of data.

(e) Through the Smithsonian Science Information Exchange, a computerized system for identification of epidemiology programs is in place.

D. *Information and Data.* 1. A. feasibility study has been completed and planning started on a regulated chemicals directory. The computerized directory will contain information on standards which have been proposed or promulgated, existing laws, regulations, court decisions and state regulations concerning chemical substances. It will be accessible to the private sector as well as various Federal, state and local government agencies.

2. A study is being supported to determine the feasibility of developing common codes for linking data files using Chemical Abstract System and product codes, production sites and other information generally available. A linking system will expand the data base by building on those already in existence and routinely in use.

3. Support is being provided for a JOURNALINK Union List of Serials which is a listing of relevant joint holdings of IRLG agencies' libraries and the libraries of the Department of Interior, National Oceanic and Atmospheric Administration, the National Bureau of Standards and the U.S. Patent Office.

E. *Education.* 1. A Generic Safety and Health Curriculum Guide for schools is under development and should be ready for piloting within a year. Its use will make information concerning hazardous substances available on a widespread basis to the school-age population.

2. A draft of a Joint Annotated Bibliography on Toxic Substances has been completed. It provides guidance to consumers on obtaining information from IRLG agencies about specific substances.

3. A pamphlet entitled "Working Together" was completed in March 1979. Its purpose is to introduce the IRLG to the general public.

F. *Regional Activities.* Among the most significant accomplishments are those occurring in the field. Field staffs are cooperating in the following ways: (a) Inspection referrals, whereby an inspector from one agency refers possible violations of another agency's regulations to that agency, (b) improved consumer information, (c) emergency response systems, (d) cross training of personnel, (e) sharing office facilities and equipment, (f) sharing laboratory facilities and expertise, (g) holding joint seminars, and (h) coordinating with state agencies. Regional public forums have been held in three regions. This cooperation is improving our sue of resources nationwide and enabling us to better meet our public health responsibilities.

In addition, at headquarters and in all regions cooperative actions dealing with specific problems are becoming the rule rather than the exception.

III. Continuing Activities

The original intention was to avoid establishing permanent, self-perpetuating work groups and to have the IRLG concept of coordination among the agencies be the rule rather than the exception. In keeping with this concept, four of the eight work groups are in the process of completing their tasks. They are Education and Communications, Research Planning, Compliance and Enforcement and Risk Assessment. They will cease to function as work groups, but future activities in these areas will be carried out by staff members whose regular responsibilities encompass those areas or by special task groups. Work group activities which will continue are:

A. *Epidemiology.* Work will continue on the goals stated in the initial plan. As noted above, a computerized system for identification of epidemiology programs has been put into effect through the Smithsonian Science Information Exchange. Several projects are nearing completion. The first, guidelines for epidemiological studies, should be available for public comment in May and in final form by November or December 1979. The second, a document on identification of existing (legal) authorities for requiring retention, collection, collation, and disclosure of data pertinent to human disease is complete and should be final by August 1979. Third, a subcommittee is identifying epidemiology data bases within and outside of the IRLG agencies and plans to have a catalogue of machine readable bases available in September 1979. They are working with other Federal agencies in an effort to link national data systems.

Plans to identify epidemiology resource personnel became a part of a more comprehensive IRLG effort to develop a "skills inventory" for the identification of all resource personnel. The work group is also coordinating its planned determination of needs for additional agreements and authorities for epidemiological studies with other Federal efforts dealing with the same issues.

A goal which as been delayed is their plan to conduct in depth evaluations of design, methods of analysis and conclusions of selected published studies and of research in the areas of demographic, confounding, and study variables. These tasks have not been undertaken yet because the work group felt additional resources are needed to provide a thorough and complete study.

B. *Information Exchange.* The work group will continue toward completion of the tasks identified in their initial plan. As noted above, several feasibility studies have been completed. The first was for preparation of a regulated chemicals industry directory, and work on producing the directory has been initiated. The second, an inventory of candidate systems in which common codes could be used to link data files, is finished; and a definition of user's needs has been started. Forms to provide a skills inventory to identify personnel resources within each agency have been developed and will be distributed among the agencies as soon as they are approved. Development of a policy for sharing and handling confidential information is also underway.

C. *Regulatory Development.* The work group will continue to coordinate the regulation of hazardous substances on which two or more of the IRLG agencies are working. It will also continue to implement an interagency alert system designed to inform the other IRLG agencies of upcoming regulatory action. So far the list of hazardous substances for regulatory development coordination includes acrylonitrile, arsenic, asbestos, benzene, beryllium, cadmium, chloroform and related solvents, chlorofluorocarbons, chromates, coke oven emissions, dibromochloropropane (DBCP), diethylstilbestrol (DES), ethylene dibromide (EDB), ethylene oxide (ETO) and its residues, lead, mercury and mercury compounds, nitrosamines, ozone, polychlorinated biphenyls (PCB's), radiation, sulfur dioxide, vinyl chloride, polyvinyl chloride, waste disposal on agricultural land, formaldehyde and benzidine-type dyes. An updated compendium of regulatory development work plans covering the most of these substances is scheduled for publication in late May.

D. *Task Group on Education.* Although most responsibilities of the Education and Communications Work Group have been turned over to Counterpart Group of Public Information Officers, several tasks relating to education remain to be completed. This will be done by a Task Group on Education. The projects are: (a) The Generic Health and Safety Education Curriculum Activities Guides for Teachers of Middle and Senior High Grades; (b) the Joint Annotated Bibliography on Toxic Substances; and (c) an in-house analysis of the original four IRLG agencies' statutes relating to labeling of toxic substances which will be used to recommend a unified, coordinated labeling strategy for the IRLG agencies.

E. *Testing Standards and Guidelines.* The Testing Standards and Guidelines Work Group will continue to standardize the tests listed in the original work plan. The following tests should be ready for publication for public comment within a month: Eye Irritation, Acute Dermal, Acute Inhalation, Acute Oral, Teratogenicity, and Vapor Pressure. Tests nearly ready for agency review which should be into the agencies within four to six weeks include: Subchronic Ingestion, Subchronic Dermal, Reproduction, Primary Skin Irritation, Octanol/Water Partitioning Coefficient, Water Solubility, Hydrolysis, Daphnia—acute life cycle toxicity tests, Biodegradation—four screening procedures, and Adsorption/Desorption. Guidelines that should be ready for agency review within four to five months are Subchronic Inhalation, Chronic Toxicity, Perinatal, Combined Chronic—Carcinogenicity, Carcinogenicity, Mutagenicity, Metabolism, and Multigeneration Reproduction.

F. *Regional Activities.* The regional offices of the IRLG agencies are in the process of evaluating their first year of progress and developing revised work plans. These revised work plans will include activities in the following areas: Information exchange, internal

Plan for emergencies related to oil and

Consumer Product Safety Commission,

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management and training, laboratories, compliance and enforcement, and external relations. Some of the IRLG activities receiving particular emphasis within the regional offices will include public information and education; referral inspection training and implementation; sharing of laboratory facilities, equipment, methods and techniques; and emergency response.

G. *Counterpart Groups.* Each counterpart group will usually include from each agency one senior official having the same responsibilities within the agency as those designated for the counterpart group. For most activities, each group will decide how leadership responsibilities will be shared. However, in some cases the Principals may assign lead responsibilities. An IRLG Surrogate who is designated as the Surrogate Liaison will work with each group.

Counterpart groups will have continuing responsibilities and will, as the need arises, be asked by the Principals to take on specific projects. In addition, they are expected to initiate cooperative efforts on their own. A counterpart group may also establish subgroups or task forces to carry out its responsibilities.

Designated counterpart groups and the Surrogate Liaisons are listed below. Their responsibilities for interagency coordination include, but are not limited to, the following:

General Counsels

1. Maintain close communications on proposed legislation of mutual interest.
2. Maintain close communications on judicial events of mutual interest.
3. Try to anticipate legal issues relating to other IRLG cooperative activities and ensure that they are resolved expeditiously.

Specific Projects:

a. Resolve specific issues referred to the General Counsels by the Regulatory Development Work Group and the Testing Standards & Guidelines Work Group.

b. Resolve issues regarding the coordination of compliance and enforcement which have been referred to the General Counsels by the Compliance and Enforcement Work Group.

c. Resolve issues regarding the exchange of information among the agencies which have been referred to General Counsels by the Information Exchange Work Group.

Surrogate Liaison: Richard A. Heller (CPSC)

Congressional Affairs

1. Coordinate transmittal of IRLG and related reports to Congress.
2. Coordinate, as appropriate, agency presentations and testimony before Congress.
3. Maintain close communications on Congressional issues of interest.

Specific Projects:

Prepare joint briefing for new members of Congress.

Surrogate Liaison: John Wessel (FDA)

Public Information Officers

1. Prepare press releases as IRLG projects are completed.
2. Develop and disseminate IRLG informational materials on issues of common interest to IRLG agencies.
3. Share in dissemination of information materials prepared by different agencies which are of mutual interest.
4. Support IRLG public information cooperation in regional offices.

Specific Projects:

Prepare a film or filmscript for use by the regional offices to orientate agency employees regarding the IRLG and its activities.

Surrogate Liaison: Edwin H. Clark, II (EPA)

Budget Officers

1. Promote expeditious allocation and handling of IRLG budget.
2. Coordinate preparation of agency budgets to ensure that they are generally consistent and mutually supportive.
3. Ensure that IRLG activities are included in each agency's ZBB budgeting process.

Surrogate Liaison: Thomas Grumbly (FSQS)

Research Planning Officers

1. Coordinate research planning and budgeting operations of the IRLG agencies.
2. Arrange for research budget submissions and subsequent testimony to be coordinated and mutually supportive.
3. Promote increased coordination between IRLG and other agencies involved in toxics research.
4. Ensure that research projects identified by the Regulatory Development Work Group are given full consideration in preparing the research budgets of the separate agencies.

Specific Projects:

a. Establish a task force to prepare specific recommendations concerning the implementation of the research coordination efforts recommended by the Research Planning Work Group in their Toxicology and Metals Reports.

b. Evaluate other possible initiatives recommended by the Research Planning Work Group and establish task forces to study and make recommendations on these initiatives as appropriate.

c. Develop recommendations to improve the usefulness of the FY 1981 Toxics Research ZBB exercise.

d. Consider appropirate follow-up on the "Preventive Health and the Environmental Sciences" report of November 1978.

Surrogate Liaison: Allen Heim (FDA)

Senior Economists

1. In coordination with the Regulatory Development Work Group, arrange for joint economic impact analyses whenever feasible.
2. Promote exchange of relevant economic information and economic analysis tools among agencies.
3. Arrange for development of common data bases and methods for carrying out economic analyses.

Specific Projects:

a. Establish a special task force to evaluate feasibility of and make recommendations on the establishment of common data bases relevant to economic analyses of toxic substances regulations.

b. Establish a special task force to evaluate feasibility of and make recommendations on the cooperative (or joint) development of analytical methodologies and tools for economic analyses.

c. In cooperation with the IRLG Surrogates, establish a special task force to develop a cooperative program for developing methodologies, analytical tools and carrying out analyses of the benefits of toxic substances regulations.

d. Coordinate activities with Regulatory Council.

Surrogate Liaison: Edwin H. Clark, II (EPA)

Compliance and Enforcement Officers

1. Ensure continued cooperation among the agencies in compliance and enforcement activities in the field and at headquarters.
2. Develop ways to increase the effectiveness and efficiency of agency compliance laboratory operations.
3. Assist the field offices in coordinating their compliance and enforcement activities.

Specific Projects:

a. Develop a plan for integrating agency regional emergency response systems with the National Contingency Plan for emergencies related to oil and hazardous substances discharges.

b. Implement a compliance orientation training program to prepare compliance personnel for referral inspections.

c. Develop and implement a referral inspection program.

d. Evaluate feasibility of cross-over inspections.

e. Develop and implement a joint inspection program.

f. Plan and implement industry seminars on compliance issues.

g. Develop a computerized inventory of facilities and equipment in agency laboratories.

h. Develop handling procedures to facilitate referral of samples to other agency laboratories.

i. Develop a MOU addressing procedures for instituting, where appropriate, cooperative civil or criminal enforcement actions.

Surrogate Liaison: James Pierce (OSHA) and Claire Mattasoni (EPA)

FOI Officers

Ensure, in cooperation with the IRLG surrogates, accurate responses from the IRLG agencies on FOI requests.

Surrogate Liaison: Ray Murtishaw (FSQS)

Personnel Officers

Specific Projects:

a. Resolve personnel and union problems involved in inspection referrals and exchange of personnel among IRLG agencies.

b. Develop ways to exchange, on a timely basis, job announcements for professional positions in the IRLG agencies.

c. Coordinate the referral of highly qualified professional job applicants to other IRLG agencies for consideration.

d. Follow-up on the establishment of position standards for toxicologists.

Surrogate Liaison: Ray Murtishaw, FSQS

Other Activities

The following staff groups are encouraged to develop closer working arrangements among the IRLG agencies and to recommend areas of opportunity for increased interagency cooperation in their areas of responsibility:

Administrative Officers
Planning and Evaluation Officers
Environmental Assessment Officers
Correspondence Referral
Contract Officers
Good Laboratory Practices

For further information on activities of the IRLG, contact Ms. Susan Guenette, Executive Assistant, IRLG, Room 509, Consumer Product Safety Commission, 1111 18th Street, N.W., Washington, D.C. 20207—Telephone: (202) 634–4350.

Allan H. Heim,

Chairman, Interagency Regulatory Liaison Group.

[FR Doc. 79-15832 Filed 5-21-79; 8:45 am]

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Tuesday
May 22, 1979

Part III

Environmental Protection Agency

Kraft Pulp Mills: Sulphur Emissions Final Guideline Document; Notice of Availability

ENVIRONMENTAL PROTECTION

of the background and the comments been made and clarifications added to

of TRS by EPA's Health Effects many of the same issues addressed in Clean Air Act, as amended [42 U.S.C.

ENVIRONMENTAL PROTECTION AGENCY

[FRL 1084-8]

Kraft Pulp Mills; Final Guideline Document; Availability

AGENCY: Environmental Protection Agency (EPA).

ACTION: Notice of Availability of Final Guideline Document.

SUMMARY: This action announces the availability of a final guideline document for the control of total reduced sulfur (TRS) emissions from existing kraft pulp mills. Standards of performance have been issued for TRS emissions, a designated pollutant, from new, modified, and reconstructed kraft pulp mills. The Clean Air Act requires States to control emissions of designated pollutants from existing sources, and this notice initiates the States' actions and provides them with guidelines for developing emission standards.

DATES: State plans providing for the control of TRS emissions from existing mills are due for submission to the Administrator on or before February 22, 1980. The Administrator has 4 months from the date required for submission of the plans, or until June 23, 1980, to take action to approve or disapprove the plan or portions of it.

ADDRESSES: The final guideline document (specify "Kraft Pulping—Control of TRS Emissions from Existing Mills," EPA-450/2-78-003b) may be obtained from the U.S. EPA Library (MD-35), Research Triangle Park, North Carolina 27711.

Copies of all comment letters received from interested persons participating in this rulemaking are available for public inspection and copying during normal business hours at EPA's Public Information Reference Unit (EPA Library), Room 2922, 401 M Street, S.W., Washington, D.C. A summary of the comments and EPA's responses may be obtained at the same address.

FOR FURTHER INFORMATION CONTACT: Don R. Goodwin, Emission Standards and Engineering Division, Environmental Protection Agency, Research Triangle Park, North Carolina 27711; telephone: 919-541-5271.

SUPPLEMENTARY INFORMATION: On February 23, 1978 (43 FR 7597), EPA announced the availability of a draft guideline document for the control of TRS emissions from existing kraft pulp mills, and invited public comment on the contents of the document. A discussion of the background and the comments received follows:

Section 111(d) of the Clean Air Act requires that "designated" pollutants controlled under standards of performance for new stationary sources [section 111(b)] also be controlled at existing facilities in the same source category. New source performance standards for sources of TRS emissions from kraft pulp mills were promulgated February 23, 1978 (43 FR 7568). TRS is considered a designated pollutant and therefore must also be controlled under section 111(d).

Background

On November 17, 1975 (40 FR 53340), EPA promulgated a new Subpart B to 40 CFR Part 60 establishing procudures and requirements for submittal of State plans for control of designated pollutants from designated facilities under section 111(d). A summary of Subpart B and a discussion of the basic concepts underlying it appear in the preamble published in connection with its promulgation. In brief, Subpart B provides that after a standard of performance applicable to emissions of a designated pollutant from new sources is promulgated, the Administrator will publish a draft guideline document containing information pertinent to the control of the same pollutant from designated (i.e., existing) facilities. He will also publish a notice of availability of the draft guideline document, and invite comments on its contents. After publication of a final guideline document for the pollutant in question, the States will have nine months to develop and submit plans for control of that pollutant from designated facilities. Within four months after the date for submission of plans, the Administrator will approve or disapprove each plan (or portion thereof). If a State does not submit an approvable plan or revision to a disapproved plan, the Administrator will promulgate a plan (or portion thereof) within six months after the date required for submission of the plan or plan revision. These and related provisions of Subpart B are basically patterned after section 110 of the Act and 40 CFR Part 51 (concerning adoption and submittal of State implementation plans under section 110).

Comments and Responses

Sixteen comment letters were received in response to the notice of availability of the draft guideline document: eleven from industry, three from State agencies, and two from other governmental agencies. As a result of these comments, certain changes have been made and clarifications added to the document. These revisions and the more significant issues raised by the commenters are discussed below:

1. Modifications to the guideline document. The only significant change made to the draft guideline document is the adoption of a twelve-hour averaging period instead of the four-hour averaging period previously used to establish the emission limits. EPA test runs performed when gathering information were four-hour runs and, initially, the proposed new source performance standards for kraft pulp mills were also set on a four-hour averaging basis. However, the performance test required under 40 CFR 60.8 to determine compliance by new facilities consists of an average of three consecutive runs (i.e., averaging emissions over twelve consecutive hours). Therefore it appeared reasonable to require a twelve-hour averaging period in the promulgated new source performance standards, and for the same reason the averaging period in the guideline document has been revised and the corresponding excess emission allowances have been recalculated.

The main clarifications concern the concept of excess emissions and the basis for the distinction between straight recovery furnace systems designed for low TRS emissions and other straight recovery furnace systems. A clear distinction is made between excess emissions due to start-ups, shutdowns, and malfunctions, and other excess emissions which are unavoidable or beyond the control of an owner or operator and cannot be attributed to improper operation and maintenance, and which could be taken into account by adding an excess emissions allowance to the TRS emission levels. It is also reaffirmed that the definition of "new-design recovery furnace" rests upon engineering design features and contractual guarantees and that no specific cut-off date should be used to distinguish between "old-design recovery furnaces" and "new-design recovery furances."

2. Significant issues.

(a) Welfare-Related Pollutant. In announcing the availability of the draft guideline document, the Administrator also announced his determination that atmospheric TRS emissions from kraft pulp mills are welfare-related. One commenter presented information (a NIOSH report on occupational exposure to hydrogen sulfide) which, he felt, might warrant reconsideration of that determination. This information was included in a reevaluation of the effects of TRS by EPA's Health Effects Research Laboratory (HERL). EPA, in this reevaluation, has concluded that TRS is welfare rather than health-related because even the highest concentrations predicted to occur in the vicinity of a kraft pulp mill are well below the minimum level at which the first health effect (eye irritation) appears.

(b) Emission Guidelines. Seven commenters stated that they consider the emission guidelines too stringent for the recovery furnace systems (three commenters), the lime kilns (six commenters) or the smelt dissolving tank (two commenters); their concern was either that it would not be feasible to control TRS emissions to the level recommended by the guidelines, or that the costs associated with retrofitting the necessary control equipment would outweigh the benefits derived from the reduction in TRS emissions.

The emission guidelines recommended in the document reflect the Administrator's judgment on the degree of control attainable with the best system of emission reduction (considering the cost of installing such systems in existing facilities) that has been adequately demonstrated for existing kraft pulp mills. EPA evaluated the costs for existing facilities to comply with the guidelines and determined that those costs were reasonable. The commenters did not provide any data or information which would support changing those determinations.

Two commenters suggested that EPA recommend a control technology instead of an emission level to limit TRS emissions from smelt-dissolving tanks. The recommendation of a specific control technology, however, would preclude use of alternative technologies. The present approach is more flexible since it provides a recommended emission level and describes the control systems which meet this level, but leaves open the choice of how the standard is met. Therefore, the present approach will be attained.

Four commenters disputed the time periods given in the document for retrofitting existing facilities. The document cited approximate times, based on actual retrofit experience. Since the commenters did not provide any information showing that these values were not representative, the time periods have not been revised.

(c) Implementation of the guidelines. Three commenters suggested that the guidelines allow States to develop TRS limitations for the total mill, or for a group of facilities, instead of limitations for each facility. This comment raises many of the same issues addressed in EPA's proposed policy statement on the use of alternative emission reduction options (bubble concept) under the State Implementation Plans (44 FR 3740, January 18, 1979). It would be premature to resolve these issues under section 111(d) before the final policy on the bubble concept is published. Therefore, the guideline document for kraft pulp mills is written in terms of standards of performance for each designated facility. EPA's final policy statement on the bubble concept will address the use of this concept under section 111(d).

EMISSION GUIDELINES: The emission guidelines and compliance times contained in the final guideline document reflect the Administrator's judgment on the degree of control attainable with application of the best system of continuous emission reduction (considering the cost, nonair quality health, evironmental impacts, and energy requirements of such reduction) that has been adequately demonstrated for existing facilities at kraft pulp mills, including the time within which these systems can be purchased and installed. The emission guidelines presented in the final document for control of TRS emissions from existing facilities at kraft pulp mills are 5 parts per million (ppm) of TRS from digester systems, 5 ppm of TRS from multiple-effect evaporator systems, 5 ppm of TRS from straight recovery furnace systems designed for low TRS emissions (the basis for this design is defined in the guideline document), 20 ppm of TRS from all other straight kraft recovery furnace systems, 25 ppm of TRS from cross-recovery furnace systems, 20 ppm of TRS from lime kiln systems, and 5 ppm of TRS from condensate stripper systems. These concentrations are all 12-hour averages. The recommended emission guideline for the smelt dissolving tank is 0.084 gram of TRS per kilogram of black liquor solids (dry weight).

The amount of time necessary to retrofit an existing kraft mill can vary widely depending upon such factors as space limitations, weather conditions, lack of available utilities, delays in equipment delivery, and time required to develop engineering data. Subject to these considerations, the approximate times necessary to retrofit existing facilities are 3-6 years for recovery furnaces; 2 years for digesters, multiple-effect evaporators, smelt-dissolving tanks and condensate strippers; and 2-4 years for lime kilns.

AUTHORITY: This notice of final guidelines is issued under the authority of sections 111, 114, and 301(a) of the Clean Air Act, as amended [42 U.S.C. 7411, 7414, 7601(a)].

Dated: May 11, 1979.

Barbara Blum,

Acting Administrator.

[FR Doc. 79-15994 Filed 5-21-79; 8:45 am]

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Tuesday
May 22, 1979

Part IV

Department of the Interior

Bureau of Indian Affairs

Indian Education

DEPARTMENT OF THE INTERIOR

established to develop new policies

(b) "Alaska Native" means an Indian,

and Alaska Native villages with the

making body for the school, consistent

reinforce, preserve and maintain Indian

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DEPARTMENT OF THE INTERIOR

Bureau of Indian Affairs

[25 CFR Part 31a]

Indian Education Policies

May 17, 1979.

AGENCY: Department of the Interior.

ACTION: Proposed Rule.

SUMMARY: The Bureau proposes to add a new Part 31a to Subchapter E, Chapter 1 of Title 25 of the Code of Federal Regulations. It will prescribe policies for the administration of all BIA education programs including the operation of the BIA school system. The need for these policies was created by enactment of Pub. L. 95–561 The Education Amendments of 1978, by our desire to meet the demands placed upon the Bureau by the Indian community, and to adjust and respond to changing needs. Existing policies are no longer adequate or appropriate and need to be updated.

DATES: Comments must be received on or before June 21, 1979.

ADDRESSES: Written comments may be submitted by mail or hand carried to Rick Lavis, Deputy Assistant Secretary—Indian Affairs, Department of the Interior, 18th and C Streets, Room 6352, Washington, D.C. 20240.

FOR FURTHER INFORMATION CONTACT: Rick Lavis, Deputy Assistant Secretary—Indian Affairs, Department of the Interior, Room 6352, Washington, D.C. 20240, or (202) 343–7163.

SUPPLEMENTARY INFORMATION: The established policies governing Indian education have not been revised in recent years to meet the changing needs of Indian students nor to reflect the national policy of Indian tribal self-determination. In fact, in many areas, no official policies exist.

Title XI of Pub. L. 95–561, The Education Amendments of 1978 and sections 2 and 3 of Pub. L. 93–638, The Indian Self-Determination and Education Assistance Act (25 U.S.C. 450a) reiterate the policies of Indian control of Indian education and sections 1130 and 1133 of Pub. L. 95–561 call for the development and publication of policies affecting the education programs administered by the Bureau of Indian Affairs. For these reasons, and to provide the flexibility coincident with tribal wishes, special policies to apply to all Bureau education programs are deemed desirable and necessary.

The primary authors of these regulations included the Task Force (#9) established to develop new policies headed by Ms. Elizabeth Holmgren, Office of Indian Education Programs, Washington, D.C. 202–343–513 and Patricia Locke, National Tribal Chairman's Association, Boulder, Colorado, 303–447–0701.

The Department of the Interior has determined that this document is not a significant rule and does not require a regulatory analysis under Executive Order 12044 and 43 CFR Part 14. It has been determined that these proposed regulations are not a major Federal action within the scope of the National Environmental Policy Act of 1969, 42 U.S.C. 4332(a)(c).

This notice is published in exercise of authority delegated by the Secretary of the Interior to the Assistant Secretary for Indian Affairs by 209 DM8.

It is proposed to add a new Part 31a to Subchapter E, Chapter 1 of Title 25 of the Code of Federal Regulations to read as follows:

PART 31a—INDIAN EDUCATION POLICIES

Sec.

31a.1 Purpose and scope.
31a.2 Definitions.
31a.3 Mission statement.
31a.4 Policies.
31a.5 Evaluation of implementation of Pub. L. 95–561.

Authority: Sec. 1130 and 1133 of Title XI of the Education Amendments of 1978 (92 Stat. 2143, 2321 and 2325, Pub. L. 95–561; 25 U.S.C. 2010 and 2013).

§ 31.1 Purpose and scope.

The purpose of this Part is to state the policies to be followed by all schools and education programs under the jurisdiction of the Bureau of Indian Affairs. Contract schools operated by Indian tribes or Alaska Native entities may develop their independent policies or may adhere to these, if they so choose. The adherence to the appropriate policies shall reflect the best interests of the student, the Federal government, the tribes and Alaska Native entities, and shall be based on educationally sound judgment.

§ 31a.2 Definitions.

As used in this Part, the term: (a) "Agency school board" means a body, the members of which are appointed by the school boards of the schools located within such agency, and the number of such members shall be determined by the Director in consultation with the affected tribes or Alaska Native entities except that, in agencies serving a single school, the school board of such school shall fulfill these duties.

(b) "Alaska Native" means an Indian, Eskimo, or Alieut who is a member of an Alaska Native entity.

(c) "Alaska Native entity" means any Alaska Native village or regional or village corporation as designed in or established pursuant to the Alaska Native Claims Settlement Act (85 Stat. 688; 43 U.S.C. 1601 et seq.).

(d) "Alaska Native village" means any Native village as defined in section 3 (c) of the Alaska Native Claims Settlement Act (85 Stat. 689; 43 U.S.C. 1602 (c)).

(e) "Boarding school" hereinafter referred to as residential school means a Bureau school offering residential care and support services as well as an academic program.

(f) "Bureau" means the Bureau of Indian Affairs of the Department of the Interior.

(g) "Contract school" means a school (other than a public school) which is aided by a financial assistance contract with the Bureau.

(h) "Day School" means a Bureau school offering an academic program and certain support services such as counseling, food, transportation, etc., but excluding residential care.

(i) "Director" means the Director, Office of Indian Education Programs, Bureau of Indian Affairs.

(j) "Indian" means a member of an Indian tribe.

(k) "Indian tribe" or "tribe" means any Indian tribe, band, nation, rancheria, pueblo, colony, or community which is recognized as eligible for the special programs and services provided by the Federal Government through the Bureau of Indians because of their status as Indians.

(l) "Local school board" when used with respect to a Bureau school, means a body chosen in accordance with the laws of the tribe or Alaska Native entity to be served or, in the absence of such laws, elected by the parents of the Indian children attending the school, except that in schools serving a substantial number of students from different tribes or Alaska Native entities the member shall be appointed by the governing bodies of the tribes and entities affected; and the number of such members shall be determined by the Director in consultation with the affected tribes and entities.

(m) "Post-secondary" education means any education program beyond the secondary level.

§ 31a.3 Mission statement.

Recognizing the special rights of Indian tribes and Alaska Native entities and the unique government-to-government relationship of Indian tribes and Alaska Native villages with the Federal Government as affirmed by the United States Constitution, United States Supreme Court decisions, treaties, Federal statute, and Executive Orders, and as set out in the congressional declaration in sections 2 and 3 of the Indian Self-Determination and Education Assistance Act (Pub. L. 93–638; 88 Stat. 2203; 25 U.S.C. 450 and 450A) it is the responsibility and goal of the Federal Government to provide comprehensive education programs and services for Indians and Alaska Natives. As acknowledged in section 5 of the Indian Child Welfare Act of 1978 (Pub. L. 95–608; 92 Stat. 3069; 25 U.S.C. 1901), in the Federal Government's protection and preservation of Indian tribes and Alaska Native villages and their resources, there is no resource more vital to such tribes and villages than their young people and the Federal Government has a direct interest, as trustee, in protecting Indian and Alaska Native children, including their education. The mission of the Bureau of Indian Affairs, Office of Indian Education Programs is to provide quality education opportunities from early childhood through life in accordance with the tribes' needs for cultural and economic well-being in keeping with the wide diversity of Indian tribes and Alaska Native villages as distinct cultural and governmental entities. The Bureau shall manifest consideration of the whole person, taking into account the spiritual, mental, physical and cultural aspects of the person within family and tribal or Alaska Native village contexts.

§ 31a.4 Policies.

In carrying out its Education mission, the Assistant Secretary for Indian Affairs through the Director shall:

(a) *Policy Making.* (1) Assure that no new policy shall be established nor any existing policy changes or modified without consultation with affected tribes and Alaska Native Government entities.

(2) Be guided in policy formulation and funding priorities, including the proposing and awarding of contracts and grants, by periodic and systematic consultation with governing bodies of tribes and Alaska Native entities.

(3) Ensure that Indian tribes and Alaska Native entities fully exercise self-determination and control in planning, priority-setting, development, management, operation, staffing and evaluation in all aspects of the education process.

(4) Ensure that each agency or local school board shall be authorized and empowered to function as the policy making body for the school, consistent with the authority granted by the tribes or Alaska Native entity(ies) served by the school(s).

(b) *Student Rights.* Ensure the constitutional, statutory, civil and human rights of all Indian and Alaska Native students, and respect the role of tribal judicial systems where appropriate including for example, ensuring that students have the right to be free from cruel and unusual punishment and that all disciplinary procedures shall be consistent with appropriate customs and practices of the appropriate Indian tribe or Alaska Native village.

(c) *Equity Funding.* Assure that resources for all education programs are equitably distributed for the benefit of all Indian and Alaska Native students, taking into account special educational needs where they exist, as further described in Part 31h of this Subchapter.

(d) *Direction of Programs.* Ensure that the education function be structured in such a manner that all matters relating to the operation of education programs be administered by or be under the direction of education personnel.

(e) *Respect for Family.* Promote, respect and defend the cohesiveness and integrity of the family, and tribal and Alaska Native community, as they relate to the educational and social prerogatives of the tribes and Alaska Native entities.

(f) *Religious Freedom.* Promote and respect the right to cultural practices and religious freedom for all students, consistent with the provisions of the American Indian Religious Freedom Act (92 Stat. 469; Pub. L. 95–341; 42 U.S.C. 1996).

(g) *Tribal Rights Regarding Governing Bodies and Planning.* (1) Develop with the consent and consultation of tribes and Alaska Native entities a plan to include their direct involvement in short and long-range planning of Bureau operated post-secondary schools through the formation of policy making governing boards.

(2) Encourage and defend the right of the tribes and Alaska Native entities to govern their own internal affairs in all matters relating to education, and their right to determine the equitable and appropriate composition of governing boards at Bureau off-reservation and post-secondary schools.

(h) *Multilingual Education.* Provide for a comprehensive multiculture and multilingual educational program including the production and use of instructional materials, culturally appropriate methodologies and teaching and learning strategies that will reinforce, preserve and maintain Indian and Alaska Native languages, cultures, and histories which tribes and Alaska Native entities may use at their discretion.

(i) *Choice of School.* Afford Indian and Alaska Native students the opportunity to attend local day schools and other schools of choice and the option to attend boarding schools when the students, parents, and tribe or Alaska Native village determine it is in the students' best interest except that, residential schools shall not be used as substitutes for providing adequate social services to Indian and Alaska Native families.

(j) *Tribal Education Plans.* Assist tribes and Alaska Native entities at their request in the development of departments of education, education codes, and comprehensive education plans.

(k) *Advocacy and Coordination.* (1) Serve as an advocate for Indian tribes and Alaska Native entities in education matters before the Federal, state and local governments.

(2) Assume an assertive role in coordinating comprehensive support for Indian and Alaska Native students internally and from other agencies in education, mental and physical health, juvenile justice, job training, including apprenticeship programs and other related Federal, state and local programs and services.

(3) Serve as an advocate and carry out responsibilities for Indian and Alaska Native students in public and other non-Bureau operated schools consistent with the wishes of the appropriate Indian tribes and Alaska Native entities.

(l) *Student Assessment.* Establish and maintain a program of research and development to provide accurate and culturally specific assessment instruments to measure student performance in cooperation with, and at the option of, tribes and Alaska Natives.

(m) *Recruitment of Indians.* Adopt procedures to insure that qualified Indian and Alaska Native educators are recruited for positions appropriate to their cultural background and qualifications.

(n) *Priorities in Contracts and Grants.* Provide financial support through contracts, grants or other funding mechanisms with first priority given to the tribes and Alaska Native entities, tribal organizations, tribally controlled community colleges, and Indian or Alaska Native professional or technical assistance organizations which have the sanction of the benefitting tribes and Alaska Native entities.

(o) *Community School Concept.* any such tribal health or safety

§ 31a.5 Evaluation of implementation of

This new legislation vests in the

operated at Indian Controlled

Education Programs, may be redelegated

(o) *Community School Concept.* Promote the community school concept by encouraging year around multi-use of educational facilities, equipment and services for tribal, Alaska Native village, and community development.

(p) *Education Close to Home.* Provide day and residential educational services as close to an Indian or Alaska Native student's home as possible, except when a student elects to attend a school elsewhere for specialized curricular offerings or services.

(q) *Tribal Notification and Involvement and Programs Flexibility.* (1) Notify Indian tribes and Alaska Native entities of proposed, pending or final Federal legislation, appropriations, Solicitor's and Attorney General's opinions, and court decisions affecting Indian and Alaska Native education for the purposes of information and consultation providing them ready access at the local level to all evaluations, data, records, reports, and other relevant information.

(2) implement rules, regulations, procedures, practices, and standards to insure flexibility in the exercise of local tribal or Alaska Native village options, and provide for input in periodic reviews, evaluations, and revisions to meet changing needs and circumstances.

(r) *Career and Higher Education.* (1) Ensure to the extent possible that all students who choose to pursue career and post-secondary education, including but not limited to, undergraduate and graduate programs, or preparation for skilled trades, receive adequate academic or other preparation, at the schools of their choice, assuring that students are provided adequate support services to enable them to meet their educational goals.

(2) Extend to tribes and Alaska Native entities the prerogative of determining those critical professions and fields of study in post-secondary education which are of the highest priority to meet their economic and cultural goals.

(s) *Planning, Maintenance and Use of Facilities.* (1) Ensure that the needs of the students and tribal or Alaska Native community will receive first priority in the planning, design, construction, operation and maintenance of Bureau schools and residential facilities, which assure a supportive environment for learning, living and recreation.

(2) Maintain all school and residential facilities to meet appropriate tribal, state or Federal safety, health and child care standards. If a conflict exists in these standards, the Federal standard shall be followed; in the absence of a Federal standards, the tribal standard shall be followed. In case of conflict, any such tribal health or safety standards shall be no greater than any otherwise applicable State standard.

(t) *Alternative, Innovative and Exemplary Programs.* Vigorously encourage alternative, innovative and exemplary programs reflecting tribal or Alaska Native village specific learning styles, including but not limited to, parent-based early childhood education programs, adult and vocational technical education, library and media services, special education including programs for handicapped, gifted, and talented students, summer programs, and career development.

(u) *Training.* Provide support and technical assistance at all levels for the training of duly sanctioned tribal and Alaska Native entity education representatives involved in educational decision making, including pre-service and in-service training for educators.

(v) *Tribally Controlled Community Colleges.* Assist tribes and Alaska Native entities in their planning, designing construction operation and maintenance of tribally controlled community colleges, consistent with all appropriate legislation. (See Part 33 of this Subchapter.)

(w) *Equal Opportunity.* Establish and enforce policies and practices to guarantee equal opportunity and open access to all Indian and Alaska Native students in all matters relating to their education programs.

(x) *Accountability, Evaluation and MIS.* (1) Enforce a strict standard of fiscal and programmatic accountability to the tribes and Alaska Native entities and assit them in the development of their own standards of accountability and carry out annual evaluations of all Bureau-operated or funded education programs.

(2) Provide and make available a computerized management information system which will provide statistical information such as, but not limited to, student enrollment, curriculum, staff, facilities, student assessments and related educational information.

(y) *Accreditation.* Encourage and assist all Bureau and contract schools to attain appropriate State, Regional, Tribal or National accreditation.

(z) *Eligibility for Services.* Serve Indian and Alaska Native students who are recognized by the Secretary of the Interior as eligible for Federal services, because of their status as Indians or Alaska Natives, whose Indian blood quantum is ¼ degree or more.

§ 31a.5 Evaluation of implementation of Pub. L. 95–561.

The Director, Office Indian Education Programs will develop guidelines for evaluating all functional and programmatic responsibilites associated with Title XI of the Education Amendments of 1978 (Pub. L. 95–561).

Forrest J. Gerard,

Assistant Secretary—Indian Affairs.

May 17, 1979.

[FR Doc. 79–16006 Filed 5–21–79; 8:45 am]

BILLING CODE 4310–02–M

[25 CFR Part 31b]

Transfer of Indian Education Functions

May 17, 1979.

AGENCY: Department of the Interior.

ACTION: Proposed Rule.

SUMMARY: This rule is being published to (1) inform the public of the proposed changes in line authority for the administration of the education program and functions of the Bureau of Indian Affairs, and (2) describe the procedures to be followed in transfering control over Agency and Area education functions from BIA Agency Superintendents and Area Directors to the Director, Office of Indian Education Programs and his/her subordinates. These changes are required by sections 1128 and 1127 of the Education Amendments of 1978 (Pub. L. 95–561; 25 U.S.C. 2006).

DATES: Comments must be received on or before June 21, 1979.

ADDRESSES: Written comments may be sent or handcarried to: Rick Lavis, Deputy Assistant Secretary—Indian Affairs, Department of the Interior, Room 6352, 18th and C Streets, N.W., Washington, D.C. 20240.

FOR FURTHER INFORMATION CONTACT: Rick Lavis, Deputy Assistant Secretary for Indian Affairs, Department of the Interior, 18th and C Streets, N.W., Washington, D.C. 20240, (202) 343–7163.

SUPPLEMENTARY INFORMATION: This notice is published in exercise of authority delegated by the Secretary of the Interior to the Assistant Secretary for Indian Affairs by 209 DM 8.

Prior to the new legislation (Pub. L. 95–561) previous control for the Office of Indian Education Programs, Bureau of Indian Affairs, was from the Commissioner of Indian Affairs to Area Office Directors with further redelegations to Agency Superintendents authorized.

This new legislation vests in the Assistant Secretary—Indian Affairs the responsibility for carrying out Indian education programs functions through the Director, Office of Indian Education Programs. These proposed rules provided for the delegation of authority and control from the Assistant Secretary for Indian Affairs to the Director, Office of Indian Education Programs. Further delegation may be made from the Director to the Agency Superintendent for Education, to an Area Education Programs Director, or President of a post-secondary institution.

It has been determined that these proposed regulations are not a major federal action within the scope of the National Environmental Policy Act of 1969, 42 U.S.C. 4332(2)(c).

The Department of Interior has determined that this document in not a significant rule and does not require a regulatory analysis under Executive Order 12044 and 43 CFR Part 14.

The primary authors of this notice are Richard Whitesell and Suzy Erlich, Co-Chairpersons, Pub. L. 95–561 Implementation Task Force No. 4 (406) 676–4700—Whitesell or (202) 638–2287—Erlich.

Subchapter E of Chapter 1 of Title 25 of the Code of Federal Regulations is amended by the addition of a new part read as follows:

PART 31b—TRANSFER OF INDIAN EDUCATION FUNCTIONS

Sec.

31b.1 Definitions.
31b.2 Policy.
31b.3 Delegation of authority.
31b.4 Redelegation of authority.
31b.5 Area education program functions.
31b.6 Agency education programs functions.
31b.7 Implementing procedures.
31b.8 Realignment of area and agency offices.
31b.9 Development of procedures.
31b.10 Issuance of procedures.

Authority: Sec. 1126 of Pub. L. 95–561, Education Amendments of 1978 (92 Stat. 2143, 2391; 25 U.S.C. 2006).

§ 31b.1 Definitions.

(a) "Early childhood" means education activities serving the 0 to 6 year old child, including pre-natal, childcare, homebase, homebound and special education programs.

(b) "Elementary and secondary education" means those programs serving the child from kindergarten through grade twelve.

(c) "Post-secondary" means those programs operated at the Southwestern Indian Polytechnic Institute, the Institute of American Indian Arts, and the Haskell Indian Junior College and those operated at Indian Controlled Community Colleges under Pub. L. 95–471.

(d) "Adult education" means those programs, (other than elementary and secondary education) serving the Indian population aged 16 above.

§ 31b.2 Policy.

It is the policy of the Department of the Interior that:

(a) Indian control of Indian Affairs in all matters relating to education shall be facilitated.

(b) Authority to perform education functions shall be delegated directly from the Assistant Secretary for Indian Affairs to the Director, Office of Indian Education Programs.

(c) Administrative authority shall be compatible with program authorities, and both shall be delegated to the operating level to assure efficient and effective delivery of services to Indian Tribes.

(d) The Director, Office of Indian Education Programs shall directly supervise the operation of Indian education program personnel at the Area, Agency, and post-secondary institution levels.

(e) Indian Education program functions to be performed at the Area office level shall be limited to those dealing with higher education, Johnson-O'Malley aid to non-Bureau schools, off-reservation boarding schools, those education program operations serving tribes from more than one agency except those at the three post-secondary institutions, on-reservations education functions located at an agency where no education personnel are assigned, contract operations, and adult education. The three post-secondary institutions under the Director, Office of Indian Education Progams shall be responsible for post-secondary education functions described in the Departmental Manual.

§ 31b.3 Delegation of authority.

The administrative and programmatic authorities of the Assistant Secretary for Indian Affairs pertaining to Indian education functions shall not be delegated to other than the Director, Office of Indian Education Programs. The Assistant Secretary shall publish his delegation of authorities to the Director in the Bureau of Indian Affairs Manual after the effective date of these Regulations.

§ 31b.4 Redelegation of authority.

The authorities of the Assistant Secretary for Indian Affairs as delegated to the Director, Office of Indian Education Programs, may be redelegated by the Director to a Bureau of Indian Affairs Agency Superintendent for Education, to a Bureau Area Education Programs Director, or to a President of a Bureau of Indian Affairs post-secondary education institution.

§ 31b.5 Area education program functions.

A Bureau Area Education Programs Director shall perform those Bureau of Indian Affairs education functions related to Johnson-O'Malley aid to non-Bureau schools, Higher Education, Bureau Peripheral Dormitories, Adult Education, off-reservation boarding schools, on-reservation functions located at an agency where no education personnel are assigned, contract operations, and those education program operations serving tribes from more than one agency, except those of the Bureau's post-secondary institutions.

§ 31b.6 Agency education programs functions.

A Bureau Agency Superintendent for Education shall perform those education functions related to elementary and secondary education, early childhood education, peripheral dormitory operations serving a single agency, and special education programs.

§ 31b.7 Implementing procedures.

(a) The Assistant Secretary for Indian Affairs shall:

(1) Implement the transfer for Indian education functions from the jurisdiction of Agency Superintendents and Area Office Directors to the Director, Office of Indian Education Programs.

(2) Modify existing descriptions of positions for Area Office Directors, Agency Superintendents, and all other personnel directly and substantially involved with the provision of education services by the Bureau.

(b) The Director, Office of Indian Education Programs shall:

(1) For Area and Agency Personnel:

(i) Properly list the duties of each employee required to perform functions redelegated by the Director;

(ii) Define the responsibilities for monitoring and evaluating education programs; and

(iii) Reflect supervision of these employees by the Director, Office of Indian Education Programs.

(2) For all other personnel:

(i) Define responsibilities for employees providing technical and coordinating assistance for support services to the Director, Office of Indian Education Programs and his/her subordinates, including procurement,

Schools to determine requirements for

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contracting, personnel, and other administrative support areas.

§ 31b.8 Realignment of area and agency offices.

The Assistant Secretary for Indian Affairs shall implement Bureau of Indian Affairs Area Office and Agency Office reorganizations required to structure these offices consistent with education program activities to be undertaken at those levels.

31b.9 Development of procedures.

The Director, Office of Indian Education Programs, shall draft procedures to govern the provision of support services by the Bureau of Indian Affairs for the education function. These procedures shall be consistent with existing laws, regulations, Executive Orders, and Departmental policies governing administrative support services. these provisions shall be drafted in consultation with those personnel within the Bureau of Indian Affairs who are responsible to the Commissioner of Indian Affairs for providing support services.

§ 31b.10 Issuance of procedures.

The Assistant Secretary for Indian Affairs, directly or through the Commissioner of Indian Affairs, shall issue procedures in the Bureau of Indian Affairs Manual governing the provision of support services to the Bureau's education function.

Forrest J. Gerard,

Assistant Secretary—Indian Affairs.

May 17, 1979.

[FR Doc. 79-16009 Filed 5-21-79; 8:45 am]

BILLING CODE 4310-02-M

[25 CFR Part 31g]

Education Personnel

May 17, 1979.

AGENCY: Department of the Interior.

ACTION: Proposed Rule.

SUMMARY: Notice is hereby given that it is proposed to add a new part to Subchapter E, Chapter 1, of Title 25 of the Code of Federal Regulations. This addition is proposed to implement sections 1131 and 1135 of the Education Amendments of 1978 (Pub. L. 95–561, 92 Stat. 2143, 2322 and 2327; 25 U.S.C. 2011 and 2015). It (1) defines education positions and the terms conditions of employment of educators in the Bureau of Indian Affairs; (2) establishes a system for recruitment, employment and payment of teachers and other personnel in Bureau of Indian Affairs operated schools and Agency Office education programs; and (3) involves the participation of Indian school boards.

DATES: Comments must be received on or before June 21, 1979.

ADDRESSES: Send comments regarding the proposed regulations to Rick C. Lavis, Deputy Assistant Secretary—Indian Affairs, Department of the Interior, Room 6352, 18th and C Streets, N.W., Washington, D.C. 20240.

FOR FURTHER INFORMATION CONTACT: Rick C. Lavis, Deputy Assistant Secretary—Indian Affairs, Department of the Interior, Washington, D.C. 20240 or (202) 343–7163.

SUPPLEMENTARY INFORMATION: This notice is published in exercise of authority delegated by the Secretary of Interior to the Assistant Secretary for Indian Affairs by 209 DM 8.

Section 1131 of Pub. L. 95–561 excepts most Bureau of Indian Affairs positions directly concerned with school operations from many of the Federal personnel provisions enacted in Title 5 of the United States Code. Section 1131 authorizes employment and payment procedures which are patterned after local public school district procedures and, therefore, are considered more responsive to the needs of Indian tribes and school administrators. These new procedures are primarily controlled at the local school level.

In addition, the hiring and discharge of school employees are subject to Indian school board approval.

The Department of the Interior has determined that this document is not a significant rule and does not require a regulatory analysis under Executive Order 12044 and 43 CFR Part 14.

I have determined that these proposed regulations are not a major Federal action within the scope of the National Environmental Policy Act of 1969, 42 U.S.C. 4332(2)(c).

The primary authors for this document are James D. Parmenter, Task Force Member, Field Administrative Officer, Albuquerque, N. Mex., telephone number (FTS) 474–3593, commercial (505) 766–3593, and Larry D. Holman, Task Force Member, Eastern Navajo Agency, Crownpoint, N. Mex., telephone number (505) 786–5360.

It is proposed to add the following new part 31g, Subchapter E, Title 25 of the Code of Federal Regulations, to read as follows:

PART 31g—EDUCATION PERSONNEL

Sec.

31g.1 Scope.
31g.2 Definitions.
31g.3 Education positions.
31g.4 Qualifications for educators.
31g.5 Basic compensation for educators and education positions.
31g.6 Appointment of educators.
31g.7 Discharge of educators.
31g.8 Entitlement of educators to compensation.
31g.9 Payment of compensation to educators.
31g.10 Conditions of employment of educators.
31g.11 Length of the school year.
31g.12 Leave system for educators.
31g.13 Status quo employees in education positions.
31g.14 Interim procedures.

Authority: Chapter 2285 of the Act of March 1, 1907 (34 Stat. 1018, 5 U.S.C. 59), Chapter 388, Section 1 of the Act of August 24, 1912, as amended (37 Stat. 519, 42 Stat. 829, 45 Stat. 493, 71 Stat. 282, 25 U.S.C. 275), and Sections 1131 and 1135 of the Act of November 1, 1978 (92 Stat. 2322 and 2327, 25 U.S.C. 2011 and 2015).

§ 31g.1 Scope.

(a) *Primary scope.* This part applies to all individuals appointed or converted to contract education positions after November 1, 1979. Sections 31g.3, 31g.11, and 31g.12(d) apply to all positions in the Office of Indian Education Programs.

(b) *Secondary scope.* Section 31g.13 applies to all employees with continuing tenure in both the competitive and excepted service who incumber education positions. Section 31g.14 applies to employees appointed with a time limitation before November 1, 1979, with a prospective conversion to the contract appointment on or near July 1, 1980.

§ 31g.2 Definition.

As used in this Part, the term:

(a) "Agency" means an organization unit of the Bureau which provides direct services to the governing body or bodies and members of one or more specified Indian Tribes. The term includes Bureau Area Offices only the respect to off-reservation boarding schools administered directly by such Offices.

(b) "Agency School Board" means a body, the members of which are appointed by the school boards of the school located within such agency, and the number of such members shall be determined by the Director in consultation with the affected Tribes, except that, in agencies serving a single school, the school board of such school shall fulfill these duties.

(c) "Agency School Superintendent" means the Bureau Official in charge of education functions at an Agency Office and to whom the school supervisor(s) and other educators in the Agency report.

(d) "Assistant Secretary" means the Assistant Secretary for Indian Affairs of the Department of the Interior.

(e) "Bureau" means the Bureau of Indian Affairs of the Department of the Interior.

(f) "Director" means the Director of the Office of Indian Education Programs in the Bureau.

(g) "Education Function" means the administration and implementation of the Bureau's education programs and activities (including school operations).

(h) "Education Position" means a position in the Bureau the duties and responsibilities of which:

(1) Are performed on a school-year basis principally in a Bureau school and involve:

(i) Classroom or other instruction or the supervision or direction of classroom or other instruction;

(ii) Any activity (other than teaching) which requires academic credits in educational theory and practice equal to the academic credits in educational theory and practice required for a bachelor's degree in education from an accredited institution of higher education; or

(iii) Any activity in or related to the field of education notwithstanding that academic credits in educational theory and practice are not a formal requirement for the conduct of such activity.

(2) Are performed at the Agency level of the Bureau and involve the implementation of education-related Bureau Program other than the position of Agency school superintendent.

(i) "Educator" means an individual whose services are required, or who is employed, in an education position.

(j) "Local School Board" means a body chosen in accordance with the laws of the Tribe to be served or, in the absence of such laws, elected by the parents of the Indian children attending a Bureau school, except that in schools serving a substantial number of students from different Tribes, the members shall be appointed by the governing bodies of the Tribes affected and the number of such members shall be determined by the Director in consultation with the affected Tribes.

(k) "School Board" means an Agency school board, a local school board, and any other organization established by one or more tribal governments for the purpose of oversight of a specific Bureau education program, activity, or function.

(l) "School Supervisor" means the Bureau official in charge of a Bureau school and who reports to an Agency school superintendent.

§ 31g.3 Education positions.

(a) The Director shall establish the number, kinds, and locations of positions required to carry out the Bureau's education function. No position will be established or continued for which (1) funds are not available or (2) there is not a clearly demonstrable need and intent for it to be filled to carry out an education function.

(b) Positions established for regularly recurring needs will be restricted to school year duration to the greatest extent practical. Vacation requirements such as summer school, facility rehabilitation, etc., should be met through temporary appointments. Particular care shall be taken to insure that:

(1) Calendar year positions are clearly required and involve essential assignments providing twelve (12) months of work.

(2) All mixed grade level Federal Wage System Calendar year positions are specifically examined and justified as having the highest skill requirement evenly distributed over the entire calendar year. When the highest skill requirement has a paramount association with either the school year or the vacation period, the position shall be divided into two positions. One shall be the school year position for continuing contract employment. The other shall be a temporary position for the duration of the vacation period.

§ 31g.4 Qualifications for educators.

(a) *Qualification related to positions.* The Director shall publish in the Bureau Manual (BIAM) the qualification requirements for each kind of position established. As a minimum, these qualification requirements shall be equivalent to those established by the appropriate licensing and certification authorities of the state in which the position is located.

(1) The Director shall consult with the respective State Education Agency certification authorities to determine which parts of such state's requirements for professional educator positions in early childhood, elementary, and secondary programs may not be relevant to or appropriate for the education operations of the Bureau in such state. For those parts which are not relevant or appropriate, the Director shall establish and publish in the Bureau Manual (BIAM) suitable requirements which are directly and materially applicable to such Bureau education operations.

(2) The Director shall:

(i) Consult with the North Central Association of Colleges and Secondary Schools to determine requirements for the Bureau which will meet accreditation standards; and

(ii) Require appropriate certification from applicants for instructor, assistant professor, associate professor, and professor positions in post-secondary programs.

(3) For all other positions, the Director shall require state licensing or certification as a minimum when applicable to the position. When no state requirements apply, the Director will establish requirements designed to assure satisfactory performance in the position.

(b) *Qualifications related to individuals.* An applicant for an education position must establish that he/she meets the requirements of the position by submitting a documentation of his/her background and being interviewed by a supervisory Bureau education program official with line authority. The appropriate school board may also request an interview with the applicant. The documentation of their background is subject to verification. Falsification may result in disciplinary action or removal from the position to which they were appointed and may subject them to criminal prosecution. Specific requirements and exceptions are as follows:

(1) The best qualified group in a pool of applicants for professional pupil contact personnel will include those who have a record of:

(i) Successful teaching,

(ii) Practice teaching, or

(iii) A practicum course which, by states standards, equates to practice teaching.

(2) All professional educators shall be informed, and required to certify that they have been informed before appointment, that they will be required to comply with and support duly adopted school board policies and that they are in no way to assert that their academic preparation makes them superior to the students' parents with respect to tribal culture or language.

(3) School boards may waive formal education and state certification requirements for tribal members who are hired to teach tribal culture and language. However, tribal members appointed to teaching positions with a waiver of formal education and state certification requirements may not have their basic pay rate set higher than the rate established for qualified educators at that locale.

(c) *Identification of qualified individuals.* The Director shall require each Agency school superintendent and other appropriate local officials in the

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education program organization to continuously maintain pools of qualified applicants for each of the kinds of established positions. Only applicants whose qualifications are established and who indicate an interest in working only in specific locations may be included in such applicant pools. The Director shall continuously maintain a national pool of qualified applicants for each of the kinds of positions established. Applicants whose qualifications are established and who either do not indicate an interest in a specific location or indicate an interest in working anywhere will be entered in the national pools. The national pools are a secondary source of applicants and may be used only when the local pools are exhausted. If a school supervisor or an Agency school superintendent is unable to find a qualified applicant from the local pool, the Director will supply a list of qualified applicants from the national pool.

(d) *Recruitment and training for Indian educators.* The Director shall implement a recruitment program to attract qualified Indians for education positions. The program shall describe opportunities for advancement and define steps required for promotion from within the Bureau. The promotion program for all supervisory positions and positions equivalent to GS–10 and above shall require a minimum of six months tutored work experience by the applicant during the school year at the advanced position (or a comparable position) under the tutorage of a competent educator already holding such position. Selected tutors will design a training plan for approval by the Director which shall provide opportunities for experiences in every phase of the position, including a minimum monthly evaluation, and final certification of successful or unsuccessful completion according to an established criteria. Unsuccessful trainees may reapply for training. Successful trainees shall be eligible for promotion.

§ 31g.5 Basic compensation for educators and education positions.

(a) *Schedule of basic compensation: rates.* The Director shall publish in the Bureau Manual (BIAM) a schedule of basic annual compensation rates for educators and education positions. This schedule shall be comparable to the rates in effect under the General Schedule for individuals with comparable qualifications, and holding comparable positions, to whom Chapter 51 of Title 5, U.S. Code is applicable. For educators and education positions to whom Chapter 51 of Title 5, U.S. Code would not otherwise be applicable, the schedules of basic compensation rates are those established under the Federal Wage System pursuant to Subchapter IV of Chapter 53 of Title 5, U.S. Code.

(b) *Special additions to basic compensation.* The Director is authorized to establish the following special additions to rates of basic compensation not established under the Federal Wage System.

(1) Each educator employed in an education position in Alaska shall be paid a cost-of-living allowance equal to 25 per centum of his/her rate of basic compensation before any other additions are computed.

(2) The Director may authorize payment of a post differential not exceeding 25 per centum of the rate of basic compensation based on a formally documented request by an Agency school superintendent. Such a post differential shall only be authorized where the Director determines that (i) it is warranted by the geographic isolation of the work site or other unusually difficult environmental working or living conditions, and (ii) is necessary as a recruitment or retention incentive. This post differential is to be computed on the basic schedule rate or special schedule rate before any other additions are computed.

(c) *Special rates of basic compensation.* The Director may establish a special schedule of rates for recruitment and retention applicable only to specific types of positions in specific locations based on a formally documented request by an Agency school superintendent. The request from the Agency school superintendent must show numbers of losses of personnel, and/or unusually difficult working and/or living conditions, which are specifically related to differences in total compensation, including benefits, offered by the Bureau and the education organizations with which the Bureau is competing for local recruitment and retention.

(d) *Federal Wage System Compensation.* The Director, through appropriate officials under his supervision, is responsible for correct application of the Federal Wage System Job Grading Standards to Education positions subject to prevailing rate wage setting as established under subchapter IV of Chapter 53 of Title 5, U.S. Code.

§ 31g.6 Appointment of educators.

(a) *Local school employees.* Local Bureau school employees may be appointed only by the school supervisor, subject to consultation with the school board. The school supervisor may finalize an individual's appointment only upon receipt of a formal, written approval certified by the school board under such uniform procedure as it may adopt. The school board should use the same procedure to disapprove an appointment. Within ten (10) calendar days of receipt, the school supervisor may appeal any determination by the school board concerning an individual's appointment to the Agency school superintendent. Within ten (10) calendar days following receipt of an appeal, the Agency school superintendent may reverse the determination for good cause set out in writing to the school board. The school supervisor's or the Agency school superintendent's failure to act within such ten (10) calendar day period shall have the effect of approval of the school board's determination.

(b) *School Supervisors.* School supervisors may be appointed only by the Agency school superintendent, subject to consultation with the school board. The Agency school superintendent may finalize an appointment only upon receipt of a formal, written approval certified by the school board under such uniform procedures as it may adopt. The school board should use the same procedure to disapprove an appointment. Within twenty (20) calendar days of receipt, the Agency school superintendent may appeal any determination by the school board concerning an individual's appointment to the Director. Within twenty (20) calendar days following receipt of an appeal, the Director may reverse the determination for good cause set out in writing to the school board. The Agency school superintendent's or Director's failure to act within such twenty (20) calendar day period shall have the effect of approval of the school board's determination.

(c) *Agency education program employees.* Appointments to Agency education positions may be made only by the Agency school superintendent, subject to consultation with the school board. The Agency school superintendent may finalize the appointment only upon receipt of a formal, written approval certified by the school board under such uniform procedures as it may adopt. The school board should use the same procedure to disapprove an appointment. Within ten (10) calendar days of receipt, the school supervisor may appeal any determination by the school board concerning an individual's appointment to the Agency school superintendent. Within ten (10) calendar days following receipt of an appeal, the Agency school superintendent may reverse the determination for good cause set out in writing to the school board. The school supervisor's or the Agency school superintendent's failure to act within such ten (10) calendar day period shall have the effect of approval of the school board's determination.

(d) *Contract Renewals.* The appropriate school board shall be notified not less than ninety (90) days before the end of the school year which educator contracts are recommended for renewal and which are not recommended. If the school board disagrees with the school supervisors' or Agency school superintendent's recommendations, the board should submit a formal, written certification of their determinations to the school supervisor or Agency school superintendent within thirty (30) days. If the board's determinations are not received within the thirty (30) days, the school supervisor or Agency school superintendent shall issue the required sixty (60) days notifications to the Educators under § 31g.10(c).

(e) *Other education program employees.* The Director may appoint individuals to all other positions in the Office of Indian Education Programs, including its field installations. Before finalizing any appointment to a position which has a significant impact on the operation of the Education Office or program, the Director shall consult with the appropriate school board which has tribal responsibility for the office or program.

(f) *Conditional appointment.* If an individual who has applied at the national level is appointed from a local pool of applicants, the appointment shall be conditional for ninety (90) days. During that period, the individual's application and background shall be examined to determine if there is reason for removal from the position. Removal during this period is not subject to discharge, hearing or grievance procedures.

(g) *Emergency appointments.* The school board may authorize the school supervisor to make appointments to pupil contact and other positions directly related to the health and safety of students. These appointments may be made without regard to qualifications if local and Agency pools of qualified applicants are exhausted. However, the pay level of the individual appointed may not exceed the level for which the individual is actually qualified.

Emergency appointments may not exceed the school year and may not be renewed or extended. The school supervisor must check the local and Agency pools every sixty (60) days to determine if a qualified individual has entered the pool. If a qualified individual is in a pool, the school supervisor must terminate the emergency appointment and fill the position with the qualified individual.

(h) *Education Couple Contracts.* The school supervisor and the Agency school superintendent may determine, based on the availability of living facilities, to recruit and fill positions by education couple contracts. Such contracts shall be one contract with two individuals. The contract shall provide that if one individual of the education couple resigns, the contract will terminate with respect to both individuals.

(i) *Waiver of Indian preference.* Local school boards, if delegated such authority in writing by the governing body of the tribe, or the tribal governing body itself, may waive the Indian Preference laws with respect to any individual personnel action related to an Education position. Such waivers may only be granted on a case-by-case basis.

(j) *Cause for reversing board determinations.* The Assistant Secretary shall publish in the Bureau Manual (BIAM) the limitations on the authority of Agency school superintendents or the Director to reverse school board determinations.

(k) *Prohibited reappointment.* An educator who voluntarily terminates employment before the end of the school year may not be appointed to another Bureau education position before the beginning of the following school year.

§ 31g.7 Discharge of educators.

(a) *Discharge for cause.* The Director shall publish in the Bureau manual (BIAM) the conditions which warrant the discharge of an educator for cause. There shall be included provisions requiring the discharge of supervisory personnel for willful or negligent failure to carry out their assigned supervisory responsibilities. Included in the conditions which warrant removal of educators based upon their individual performances shall be lack of satisfactory achievement by their students, taking into account any standards adopted by the school board and the Director.

(b) *Other discharge.* The Director shall publish in the Bureau Manual (BIAM) a description of the budgetary and program conditions that may result in the discharge of an educator for other than cause during the school year.

(c) *Procedures for discharge for cause.* The Director shall publish in the Bureau Manual (BIAM) the procedural steps to be followed by school supervisors and Agency school superintendents in discharge for cause cases. These procedures shall provide (among other things) that:

(1) The educator to be discharged shall receive a written notice of the proposal specifying the causes or complaints upon which the proposal is based, not less than thirty (30) calendar days before the discharge. However, this shall not prohibit the exclusion of the educator from the education facility in cases where exclusion is required for the safety of the students or the orderly operation of the facility.

(2) The appropriate school board will be notified as soon as possible, but in no case later than ten (10) calendar days from the date of issue of the notice of discharge.

(3) The appropriate school board, under such uniform procedure as it may adopt, may issue a formal, written certification to the school supervisor or the Agency school superintendent either approving or disapproving the discharge before the expiration of the notice period and before actual discharge.

(4) The school supervisor initiating a discharge action may appeal the board's determination within ten (10) calendar days of receipt to the Agency school superintendent for Education. The Agency superintendent for Education initiating a discharge may appeal the board's determination within ten (10) calendar days of receipt to the Director. Within twenty (20) calendar days following the receipt of an appeal, the reviewing official may, for good cause, reverse the school board's determination by a notice in writing to the board. Failure to act within such twenty (20) calendar days shall have the effect of approving the board's determination.

(5) The Assistant Secretary shall publish in the Bureau Manual (BIAM) the definitions of causes for which board determinations may be reversed.

(6) Educators receiving a notice of proposed discharge may, within ten (10) calendar days following receipt, request a hearing concerning the merits of the causes or complaints upon which the proposal is based. If a hearing is requested, the educator must specify in the written request:

(i) The procedure for selection of a disinterested person to conduct the hearing.

(ii) Whether the hearing is to be open or closed to the public. If a closed hearing is selected, the concerned school board may be present as silent observers.

(iii) Whether or not the educator

(3) Any cost of living allowance and

basis of a semi-monthly pay period with

§ 31g.10 Conditions of employment of

pay one-half the cost of arbitration. The

(2) Sick leave. Absence approved by

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(iii) Whether or not the educator elects to have a representative; and if so, the identity of the representative. The Agency school superintendent may disallow as a representative an individual whose activities as a representative would cause a conflict of interest or position; an employee who cannot be released from official duties because of priority needs of the Government; or an employee whose release would give rise to unreasonable costs to the Government.

(7) Hearings shall be conducted under rules established by the Assistant Secretary. The authority of the person conducting the hearing shall be limited to:

(i) Affirming the supervisory decision, or;

(ii) Returning to the supervisor and the school board the reasons and recommendations for reconsideration.

(8) The supervisory determination is final for the Department of the Interior after affirmation, reconsideration without change, or in the absence of a hearing.

(d) *School board recommendations for discharge.* School boards and tribal governing bodies themselves may recommend to school supervisors, Agency school superintendents and the Director that individuals in the Education program be discharged. These recommendations may follow any form internally established by the tribal government. However, in order to obtain a positive relief of the problem, the recommendation should contain specific causes or complaints which may be verified or established by investigation of factual situations. The official receiving a tribal recommendation for discharge of an individual shall acknowledge the recommendation in writing within ten (10) calendar days. The official who finally disposes of the recommendation shall notify the tribal unit of the disposition in writing within sixty (60) calendar days.

§ 31g.8 Entitlement of educators to compensation.

(a) *F.L.S.A. exempt employees with administratively established compensation rates.* Educators whose rate of basic compensation is administratively established and who are exempt from the overtime provisions of the Fair Labor Standards Act are entitled only to:

(1) The basic rate of compensation established for the position to which they are appointed.

(2) The per centum stipend for extra-curricular activities established under § 31g.8 (d) and authorized for their work.

(3) Any cost of living allowance and post differential which may be applicable to the position to which the individual is appointed.

(b) *F.L.S.A. non-exempt employees with administratively established compensation rates.* Educators whose rate of basic compensation is administratively established and who are not exempt from the overtime provisions of the Fair Labor Standards Act are entitled to:

(1) The basic rate of compensation established for the position to which they are appointed.

(2) The premium pay to which they may be entitled by the work schedules to which they are assigned by application of the Fair Labor Standards Act. This premium pay is to be computed on the basic schedule rate or special schedule rate before any other additions are computed.

(3) Any cost of living allowance and post differential which may be applicable to the position to which the individual is appointed.

(c) *Employees with compensation set by the Federal Wage System.* Educators whose rate of basic compensation is established under the Federal Wage System are entitled to basic pay according to the system maintained by the Office of Personnel Management. These employees are not eligible for cost of living allowances or post differentials. Their entitlement to premium pay is establishing according to the Fair Labor Statements Act without reference to Title 5 U.S.C.

(d) *Stipend additions to administratively established rates.* The Director is authorized to establish stipend additions to basic or special schedule rates for professional and vocational pupil contact educators in Education programs on a per centum basis for extra-curricular and other specialized academic acitivities. These per centum rates are to be uniform nation-wide and are to be computed on the basic rate of compensation before any other additions are computed. The beginning and ending dates of these stipends shall be at the beginning and ending, respectively, of a pay period and shall be subject to approval by the Agency school superintendent after submission by the school supervisor. These stipend per centums shall be published as an addendum to the basic compensation rates established under § 31g.5.

§ 31g.9 Payment of compensation to educators.

(a) *Pay periods and computation rules.* All employees shall be paid on the basis of a semi-monthly pay period with the annual rate, or constructed annual rate, of basic compensation spread over a twelve (12) month period. The following are the rules for division of time and computation of pay:

(1) A month's pay is one-twelfth of a year's pay.

(2) A semi-monthly pay period's pay is one-half of a month's pay.

(3) A day's pay is one-thirtieth of a month's pay.

(4) An hour's pay is one-eighth of a day's pay.

(5) The 31st day of a calendar month is ignored in computing pay, except that one day's pay is deducted for unauthorized absence or unpaid absence on the 31st day of a calendar month.

(6) One day's pay is deducted from the first pay of a individual for each day of the pay period elapsing before entering on duty.

(7) One day's pay is deducted from the last pay of an individual for each day of the pay period elapsing after separation.

(8) Pay periods begin on the first and fifteenth of each calendar month.

(b) *Calendar year for pay for school year employees.* Payment under the contract is to begin on the first or fifteenth of the month immediately preceding the first work day of the school year, and is to continue for the following twelve (12) months for school year employees who are appointed to a contract before the beginning of a school year. If the employee is appointed after the beginning of the school year, payment under the contract is to begin as of the date of appointment, and is to continue for the balance of a twelve (12) month period as if the employee had been appointed before the beginning of the school year. If an employee resigns or is discharged before the end of the school year, pay ceases as of the date of resignation or discharge. If an employee's contract is not renewed and he/she has completed the school year, he/she may request the compensation due from the end of the school year through the end of the twelve month period to be paid in a lump sum.

(c) *Constructed annual rate for prevailing rate employees.* The constructed annual rate for employees whose rate of pay is established under the Federal Wage System (including those who perform duties only during the regular school year) shall be the Federal Wage System hourly rate for their respective positions multiplied by 2,080.

§ 31g.10 Conditions of employment of educators.

(a) *Supervision not delegated to school boards.* School boards may not direct or control the day-to-day activities of the Bureau of Indian Affairs employees carrying out Bureau-operated Education programs.

(b) *Employee handbook.* The Director will develop employee handbooks and recruiting guides in consultation with school boards. These handbooks and guides will provide specific information on working and hiring conditions for the various tribal jurisdictions and other locations. These guides will indicate clearly that all peronnel, especially instructional personnel, must be flexible in adapting to local situations.

(c) *Contract renewal notification.* Educators will be notified sixty (60) days before the end of the school year whether or not their contract is to be renewed. If an individual's contract is to be renewed, they must agree in writing to serve for the next school year. This agreement must be made within fourteen (14) calendar days of the date of the notice in order to complete the contract renewal. If an individual agrees to serve for the next school year and fails to report for duty at the beginning of the next school year, the contract will be cancelled and the individual's future appointment subject to the restriction in § 31g.6(k) of this part. Non-renewal of a contract will not have the effect of discharge for cause.

(d) *Vacation appointment compensation.* If an educator is employed in a school year position at the close of a school year and has agreed in writing to serve in a school year position for the next school year, they may be appointed to another federal civilian position during the vacation period and receive additional compensation related to that position without violation of the usual prohibition of dual Federal compensation.

(e) *Grievance procedure.* The Director shall publish in the Bureau Manual (BIAM) procedures for the rapid and equitable resolution of grievances. These procedures shall include not more than the three following steps:

(1) Informal presentation to the immediate supervisor.

(2) Formal presentation to the second level supervisor, and

(3) Formal presentation to the third supervisor which shall invoke binding arbitration. The time allowed for steps between the informal presentation to the first level supervisor and the selection of the arbitrator may not exceed forty-five (45) calendar days. The employee shall pay one-half the cost of arbitration. The Director shall publish definitions in the Bureau Manual (BIAM) of what may be the subject of a grievance under the procedure.

(f) *Mid-term review with school boards.* The school supervisor and the Agency school superintendent shall schedule a mid-term meeting with their school boards for the specific purpose of obtaining the school board's comments and suggestions concerning individual educators. In order to facilitate the school board's knowledge of school and Agency Education Office operations, members may observe education operations. Members should be encouraged and assisted in frequent and unannounced observations of classroom, dormitory and food service operations. However, the members conduct during such observation must be in accord with § 31g.10(a).

(g) *Performance evalution.* The Director shall establish a performance evaluation system under which all employees will be evaluated for the improvement of instruction and the total Education program. The minimum number of times an employee shall be evaluated each year is three for the employee's first year in a school or Agency, two for the second year, and one for each year following.

§ 31g.11 Length of the school year.

(a) The Director shall establish the length of the school year for schools in each Agency. In no case will the length of the school year be less than one hundred eighty (180) student instructional days. It is also to include additional work days for school year personnel, but in no case may it exceed three hundred five (305) calendar days.

§ 31g.12 Leave system for educators.

(a) *Leave for school year employees.* Employees who are in regular status only during the school year are authorized the following types of leave.

(1) Emergency leave. Absence approved by the school supervisor or Agency school superintendent as a recognized personal emergency may be paid for up to five (5) days or forty (40) hours for instructional or other work days in a school year. This leave is precredited at the beginning of the school year and accrued at the rate of ½ day or eight (8) hours for each of the following ten (10) months. If an employee resigns during the school year, any emergency leave used but not accrued shall be deducted from the salary check. No liquidation or carry-over is authorized.

(2) Sick leave. Absence approved by the school supervisor or Agency school superintendent as a bona fide incapacity for duty due to injury or illness not related to or incurred on-the-job and covered by Federal Employee's Compensation Act Regulations may be paid as follows:

(i) Sick leave shall accrue at the rate of one (1) day or eight (8) hours for each of the ten (10) months following the beginning of the school year. No precredit, advance or liquidation for unused sick leave is authorized. There is no ceiling on the amount of sick leave which may be accrued.

(ii) Sick leave is available only for situations which incapacitate the employee for duty and the leave granting officials shall require satisfactory evidence that the employee was incapacitated and unable to return to duty.

(iii) Sick leave in any school year used on instructional or other work days is limited to twenty (20) days or one hundred sixty (160) hours for common, ordinary illness or injuries such as respiratory infections, food poisoning, lacerations, simple bone fractures, etc.

(iv) Accrued sick leave in excess of twenty (20) days or one hundred sixty (160) hours shall only be used to provide salary continuation for major medical emergencies. The Agency school superintendent, the employee (if physically able to do so), and the employee's physician shall mutually agree that the medical situation warrants granting of additional sick leave.

(b) *Leave for year long employees.* Employees who are in regular duty status for the entire calendar year are authorized the following types of leave:

(1) Vacation Leave. Absence approved in advance by the school supervisor or Agency school superintendent for rest and relaxation is authorized for ten (10) work days after each one (1) full year of service as a Bureau Education employee. At the end of the fourth year of service, the number of days is increased to twenty (20). Vacation leave is to be scheduled and used to the greatest extent possible during periods when school is not in session and the students are not in dormitories. Vacation leave is credited to an employee on the day following their anniversary date and may not be accumulated from year to year. However, if an employee's leave is scheduled during the three months preceding the anniversary date, and must be cancelled and not rescheduled before the anniverary date because Agency operations require the

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Amendments of 1978, (*supra*). This notice is published in exercise of

(b) Administrative provisions for implementing formula funding

entitlements, the disbursement and local management of formula earnings.

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employee's presence, it may be restored and used the following year.

(2) Sick leave. Sick leave is authorized on the same basis as for school year employees under 31g.12(a) of this part, except it is accrued at the rate of one (1) day or eight (8) hours for each of the twelve (12) months.

(c) *Accountable absences.* Each employee is accountable for the following types of absence which must be recorded:

(1) Unapproved absence. Any absence from the work site during any period when the employee's presence is required and which is not approved in advance or excused by the school supervisor or Agency school superintendent, and charged to another type of leave or accountable absence, must be recorded. An amount equal to the pay which would have been due for the period of the absence plus the cost of obtaining a replacement shall be deducted from the employee's pay.

(2) Unpaid absence. If prescheduled and approved by the school supervisor or Agency school superintendent, an employee may be absent and an amount equal to the pay which would have been due for the period of the absence deducted from the employee's pay.

(3) Court and military leave. Employees are entitled to paid absence for jury or witness service and military duty as a member of the National Guard or reserve as defined in sections 6322 and 6323 of Title 5, U.S.C. Code.

(4) Traumatic leave. Traumatic injury leave is the forty five (45) day pay continuation period for disabling on-the-job injuries which is administered under Federal Employee's Compensation Act Regulations.

(5) Administrative leave. An employee may be excused from the performance of regular duties to carry out other officially recognized tasks in pay status not otherwise covered by leave when approved by the school supervisor or the Agency school superintendent.

(d) *Education leave.* The educational leave authorized by the provision in section 275 of Title 25, U.S. Code may not be made available to any teachers who are not in duty status during the school vacation period. It may be made available to teachers who are in duty status year long only when approved by their Agency school superintendent for the purpose of attending college credit courses which directly relate to the respective teacher's work.

(e) *Leave transferred in.* Annual leave credited to an employee's balance immediately before coming under the educator leave system will not be available for use while so employed by the Bureau. It shall be held to the employee's account until such time as the employee leaves such Bureau employment. Sick leave credited to an employee's balance immediately before coming under the educator leave system shall be credited to the employee's sick leave account under the educator leave system.

§ 31g.13 Status quo employees in education positions.

(a) *Status Quo employees.* Any individual who was a Bureau employee on October 31, 1979 with an appointment in either the competitive or excepted service without time limitation, and who is serving in an Education position, shall be continued in their position under the terms and conditions of that appointment with no change in theie status or position; *except,* they may be promoted to the full performance level of the position as that level was defined before November 1, 1979, with no other change in the position. Such employees are entitled to receive any changes in compensation attached to the position. Even though such employees occupy "Education positions" as defined in this part, the terms and conditions of their appointment, status, and entitlements are determined by competitive service regulations and procedures. Before November 1, 1983, these employees may elect to have the terms and conditions of their appointment to the position which they hold converted to the terms and conditions of employment established under this part. This election may not be revoked and is not subject to supervisory of school board approval. Under applicable procedures, these employees are eligible for consideration for movement to other positions which are defined as Education positions. Such movement shall change the terms and conditions of their appointment to the terms and conditions of employment established under this part.

(b) *Program authority.* Nothing is this section shall affect the authority of supervisors and school boards as otherwise provided:

(1) To determine the mission, budget, organization, number of employees, and other educational practices;

(2) To hire, assign, direct, lay off, and retain employees; or suspend, remove, reduce in grade or pay, or take other disciplinary action against employees; and

(3) To assign work, and to determine the personnel by which operations shall be conducted.

§ 31g.14 Interim procedures.

(a) Individuals hired in Education positions in grades GS–3 through 12 prior to November 1, 1979 shall be hired under the excepted service appointment authority set out in 5 CFR 213.3112(b)(3) and approved for such use by the Office of Personnel Management for appointments after February 12, 1979. No appointment under this authority may exceed September 30, 1980. After November 1, 1979 or before expiration of such appointments, all personnel hired under this section will be terminated or offered employment without a break in service under the provisions of § 31g.6.

Forrest J. Gerard,

Assistant Secretary—Indian Affairs.

May 17, 1979.

[FR Doc. 79-16010 Filed 5-21-79; 8:45 am]

BILLING CODE 4310-02-M

[25 CFR Part 31h]

Indian School Equalization Program

May 17, 1979.

AGENCY: Bureau of Indian Affairs, Department of Interior.

ACTION: Proposed Rule.

SUMMARY: Notice is hereby given that it is proposed to add a new part 31h to Subchapter E, Chapter 1 of Title 25 of the Code of Federal Regulations. These proposed rules are to implement sections 1128 and 1129 of the Education Amendments of 1978 (92 Stat. 2143, 2320 and 2321, P.L. 95–561), by (a) establishing a uniform direct funding formula for allocating Bureau of Indian Affairs educational funds to schools for elementary and secondary education and (b) establishing separate categorical funds for (1) contingencies, (2) school board training, (3) student transportation, (4) administration and (5) maintenance and minor repair of school facilities.

DATES: Comments must be received on or before June 21, 1979.

ADDRESS: Mail written comments to: U.S. Department of the Interior, Office of the Assistant Secretary for Indian Affairs: Attention: Deputy Assistant Secretary Lavis, 18th and C Streets, N.W., Room 6352, Washington, D.C. 20240.

FOR FURTHER INFORMATION CONTACT: Edward Marich, Deputy Director, Office of Indian Education Programs, Bureau of Indian Affairs, 18th and C Streets, N.W., Washington, D.C. 20240, (202) 343–2175.

SUPPLEMENTARY INFORMATION: The authority for issuing these rules is sections 1128 and 1129 of the Education

Amendments of 1978, (*supra*). This notice is published in exercise of authority delegated by the Secretary of Interior to the Assistant Secretary for Indian Affairs by 209 DM 8.

The proposed rules will govern the allocation of funds for the education of Indian children to BIA operated and tribally operated contract schools (hereinafter referred to as contract schools) and in the case of administration to central, area and agency offices. These proposed rules include provisions which are designed (a) to equalize educational allocations in accordance with individual student needs, (b) to provide uniform direct funding to BIA and contract schools in relation to their students' needs and (c) to establish managerial and fiscal systems for receipt and expenditure of educational funds.

Because of the potential impact of Title XI of the Education Amendments of 1978 (P.L. 95–561) on the education of Indian children, the Bureau of Indian Affairs invited Task Forces which were broadly representative of Indian populations and programs to participate in the development of regulations pertaining to the various sections of the law.

The Task Force on the Allotment Formula is composed of sixteen members (11 members are Indian, 5 are non-Indian; 6 members are Bureau employees, 10 members are not, including 4 contract school representatives).

To meet the time constraints imposed by law requiring the formula allocation of FY'80 funds, the Task Force met during the winter and spring of 1979. The Task Force, as a working group, was organized into subgroups to address the numerous issues related to uniform direct funding. With the assistance of consultants, Task Force members have become familiar with formula funding, both conceptually and in terms of the finer points of how a formula is constructed and how it works. The Task Force developed the following components of the Indian School Equalization Program in order to serve the needs of Indian children and to comply with the Congressional mandates expressed in Title XI of the Education Amendments of 1978 (P.L. 95–561).

OVERVIEW OF THE INDIAN SCHOOL EQUALIZATION PROGRAM

The Indian School Equalization Program (ISEP) consists of a number of funding components:

(a) The Indian School Equalization Formula (ISEP),

(b) Administrative provisions for implementing formula funding,

(c) Contingency funds for school disaster and formula implementation,

(d) A school board training categorical fund,

(e) Student transportation supplements,

(f) An interim school maintenance and minor repair fund, and

(g) An interim administrative cost formula for agency, area and central services.

Each of these seven components is summarized below:

1. Indian School Equalization Formula (ISEF).—

The major portion of BIA educational funds will be distributed by the Indian School Equalization Formula. Funds for instruction and residential care of students are earned by each school based on the average daily membership each school is serving. Students in different special programs or in different grade levels are counted or weighted differently based on average cost differences necessary to provide for quality programs. Different weights are assigned for different instructional and residential programs to create weighted student units. These units are increased in the case of small schools and Alaskan schools to produce a number of supplemental students units for each school. The number of units is then multiplied by a base dollar figure to determine each school's entitlement under the ISEF.

It is the intent of the Bureau to provide an opportunity for most Bureau operated or funded schools to begin operations budgeting in fiscal year 1980 without any phase-in adjustments. However, a limited phase-in must occur to facilitate the implementation of formula funding. In some situations too rapid growth in school income, even if justified under the formula, can be better managed if the growth is extended in increments over several years. Even more difficult is the management of declining revenues however equitable they may be. Therefore, for a limited number of schools that will experience extreme fluctuations in their total budgets, strict application of the formula will be gradually phased-in over the next two year period. It is the intent that all Bureau funded schools will be operating entirely under the funding formula beginning with the 1982 fiscal year.

2. Administrative Provisions for Implementing Formula Funding.

A number of critical management procedures are covered by the rules which include provisions for direct funding, calculating student unit entitlements, the disbursement and local management of formula earnings, compliance requirements, and phase-in provisions.

3. Contingency Funds.

Two separate and distinct contingency funds have been established for the following purposes:

(a) To reimbure schools for the costs incurred due to unforeseen disasters; and

(b) To facilitate the implementation of the Indian School Equalization Formula in order to maximize stability in school entitlements.

4. School Board Training Categorical Fund.

A flat amount has been earmarked for each school board to use in meeting its own training needs with an initial priority focused on the development and management of local educational financial plans.

5. Student Transportation Supplements.

To offset the varying costs of transporting students to and from school, a transportation formula supplement is established.

6. Interim Maintenance and Minor Repair Fund.

It is the intent of the Bureau of Indian Affairs to place responsibility and authority for operation and maintenance of school facilities in the hands of local school administrators and local school boards. This first requires completion of an evaluation of all BIA and contract school facilities. This study is now in progress. As an interim measure, a small amount of funds for maintenance and minor repair will be placed under direct control of school administrators and school boards.

7. Interim Administrative Cost Formula.

Costs for administration and educational programs at the central office, area office, and agency office levels have been budgeted in the past in no direct relationship to the size or nature of the services administered, and have included a number of actual services of a non-administrative nature. In order to create a direct relationship between administrative resources and services administered, a formula for distribution of these resources based on size of special programs, number of students and number of schools and institutions, is established.

As a consequence of Pub. L. 95–561 educational administration functions are under reorganization, with many functions to be shifted from one level to another. Therefore, the funding formula set forth in these regulations is an interim measure until the reorganization

is completed and a more permanent

31h.38 Failure to comply with conditions for receipt of allotments.

Subpart J—Interim Administration Cost Formula

student classification given separate

cost account in an accounting system. The following accounting programs are

educational purposes and programs shall be allocated in accordance with

is completed and a more permanent formula can be developed.

It has been determined that these proposed regulations are not a major federal action within the scope of the National Environmental Policy Act of 1969, 42 U.S.C. 4332(2)(c).

The Department of Interior has determined that this document is not a significant rule and does not require a regulatory analysis under Executive Order 12044 and 43 CFR part 14.

The primary author of this document was the Bureau of Indian Affairs Task Force on the Allotment Formula. Donald Antone and David Mack, cochairmen of the Task Force may be contracted through the Director of the Office of Indian Education Programs, Bureau of Indian Affairs, Department of the Interior, Washington, D.C., (202) 343–2175.

It is proposed to add a new Part 31h to Subchapter E, Chapter 1 of Title 25 of the Code of Federal Regulations to read as follows:

PART 31H—THE INDIAN SCHOOL EQUALIZATION PROGRAM

Subpart A—General

Sec.
31h.1 Purpose and Scope.
31h.2 Definitions.
31h.3 General Provisions.

Subpart B—The Indian School Equalization Formula

31h.10 Establishment of the formula.
31h.11 Definitions.
31h.12 Entitlement for instructional purposes
31h.13 Entitlement for residential purposes.
31h.14 Entitlement for small schools.
31h.15 Alaskan school cost supplements.
31h.16 Computation of school entitlements.
31h.17 Recomputations of current year entitlements.
31h.18 Phase-in provisions.
31h.19 Development of uniform, objective and auditable student weighted area placement criteria and guidelines.
31h.20 Future consideration for weighted programs.
31h.21 Review of weighted factors.
31h.22 Review of contract schools' supplemental funds.

Subpart C—Formula Funding Administrative Procedures

31h.30 Definitions.
31h.31 Condition of eligibility for funding.
31h.32 Annual computation of average daily membership.
31h.33 Special education unduplicated count provision.
31h.34 Substitution of a count week.
31h.35 Computation of average daily membership for tentative allotment.
31h.36 Declining enrollment provision.
31h.37 Conditions for receipt of allotments.
31h.38 Failure to comply with conditions for receipt of allotments.
31h.39 Auditing of student counts.
31h.40 Failure to provide accurate student counts.

Subpart D—Direct Allotment of Formula Entitlements

31h.50 Definitions.
31h.51 Notice of tentative allotments.
31h.52 Initial allotments.
31h.53 Calculation of quarterly payments.
31h.54 Apportionment of entitlements to schools.
31h.55 Responsible local fiscal agent.
31h.56 Expenditure limitations for Bureau operated schools.

Subpart E—Local Educational Financial Plan

31h.60 Definitions.
31h.61 Development of local educational financial plans.
31h.62 Minimum requirements.
31h.63 Procedures for development of the plan.
31h.64 Procedures for financial plan appeals.
31h.65 Access to and retention of local educational financial records.

Subpart F—Contingency Funds

31h.70 Definitions.
31h.71 Establishment of the School Disaster Contingency Fund.
31h.72 Continuing and cumulative provisions.
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Authority: Sec. 1128 of Title XI of the Education Amendments of 1978, (92 Stat. 2320, 25 U.S.C. 2008).

Subpart A—General

§ 31h.1 Purpose and Scope.

The purpose of this rule is to provide for the uniform direct funding of BIA operated and tribally operated day schools, boarding schools, and dormitories. These rules apply to all schools and dormitories and administrative units which are funded through the Indian School Equalization Program of the Bureau of Indian Affairs.

§ 31h.2 Definitions.

Assistance under this rule is subject to the following definitions and requirements relating to fiscal and administrative matters. Definitions of terms that are used throughout this part are included in this subpart. As used in this part, the term:

(a) "Agency" means an organizational unit of the Bureau which is established for direct support of Tribal governments on reservations and in selected off reservation locations and in which the Director vests responsibility for second level supervision of education program operations.

(b) "Agency school board" means a body, the members of which are appointed by the school boards of the schools located within such agency, and the number of such members shall be determined by the Director in consultation with the affected tribes, except that, in agencies serving a single school, the school board of such school shall fulfill these duties.

(c) "Agency Superintendent of Education" or "Superintendent" means the Bureau official in charge of Bureau education programs and functions in an Agency and who reports to the Director.

(d) "Area Director for Education" means the Bureau official in charge of Bureau Education programs and functions in a Bureau Area Office and who reports to the Director.

(e) "Assistant Secretary" means the Assistant Secretary of Indian Affairs, Department of the Interior, or his/her designee.

(f) "Average daily membership" or "ADM" means the average of the actual membership in the school, for each student classification given separate weightings in the formula. Only those qualified Indian students shall be counted as members who are:

(1) Listed on the current roll of the school counting them during the count week;

(2) Not listed as enrolled in any other school during the same period; and

(3) In actual attendance at the school counting them at least one full day during the count week in which they are counted.

(g) "Bureau" means the Bureau of Indian Affairs of the Department of the Interior.

(h) "Decision of record" means a formal written confirmation of a voted action by a school board during a formally constituted school board meeting.

(i) "Director" means the Director of the Office of Indian Education Programs for the Bureau of Indian Affairs, or his/her designee.

(j) "Eligible student" means an Indian student properly enrolled in a Bureau school or dormitory, or a tribally operated school or dormitory funded by the Bureau, who meets the applicable age criteria for the grade in which he or she is enrolled.

(k) "Entitlement" means that amount of funds generated by the Indian School Equalization Formula for the operational support of each school.

(l) "Advice of allotment" means the formal written document advising a school or an administrative office of its entitlement under the formula. The advice of allotment conveys legal authority to obligate and expend funds in a given fiscal year.

(m) "Allotment" means the amount of the obligational authority conveyed to a given school or Bureau administrative office by its advice of allotment in a given fiscal year.

(n) "Indian" means a person who is a member of an Indian tribe.

(o) "Indian Tribe" means any Indian Tribe, Band, Nation, Rancheria, Pueblo, Colony or Community, including any Alaska Native village or regional or village corporation as defined in or established pursuant to the Alaska Native Claims Settlement Act (85 Stat. 688) which is recognized by the Assistant Secretary as eligible for the special programs and services provided through the Bureau to Indians because of their status as Indians.

(p) "Program" means each or any subset of the Indian School Equalization Program (ISEP), but not the ISEP itself, for which a separately computable dollar amount may be generated by a school. Each program classification is a cost account in an accounting system. The following accounting programs are those established by this part:

(1) Instructional costs;
(2) Boarding costs;
(3) Dormitory costs;
(4) K–3 bilingual instruction costs;
(5) Exceptional child education costs;
(6) Intense residential guidance costs;
(7) Student transportation fund costs;
(8) School maintenance and repair fund costs; and
(9) School board training fund costs.

(q) "School" means an educational or residential center offering services to Indian students under the authority of a local school board and the direction of a local school supervisor. A school may be located on more than one physical site. The term school, unless otherwise specified, is meant to encompass day schools, boarding schools, previously private schools, cooperative schools, contract schools and dormitories as those terms are commonly used.

(r) "School board" when used with respect to a Bureau school, means a body chosen in accordance with the laws of the tribe to be served or, in the absence of such laws, elected by the parents of the Indian children attending the school, except that in schools serving a substantial number of students from different tribes, the members shall be appointed by the governing bodies of the tribes affected; and the number of such members shall be determined by the Director in consultation with the affected tribes.

(s) "Supervisor" or "local school supervisor" means the individual in the position of ultimate authority at any Bureau administered or tribally operated Contract School.

(t) "Tribally operated contract school" or "contract school" means a school (other than a public school) which is financially assisted under a contract with the Bureau.

(u) "Weighted student unit (WSU)" means the measure of student membership adjusted by the weights or ratios used as factors in the Indian School Equalization Formula established in § 31h.10 below. The term weighted student unit also describes the measure by which supplements to the weighted student count at any school are augmented as the result of the application of small school supplements or Alaskan school supplements.

§ 31h.3 General provisions.

All funds appropriated by the Congress and made available for obligation for the support and administration of Bureau operated or contracted elementary and secondary educational purposes and programs shall be allocated in accordance with, and be distributed through the Indian School Equalization Program, unless another clearly separate means of allocation and distribution is specified in authorizing legislation, or unless specifically exempted by these regulations.

Subpart B—The Indian School Equalization Formula

§ 31h.10 Establishment of the formula.

There is hereby established the Indian School Equalization Formula (ISEF).

Funds for the instruction and residential care of Indian children shall be earned as an entitlement by each local school board according to a weighted student unit formula. The funds allocated through the formula shall be computed as follows:

(a) The basic instructional average daily membership (ADM) shall be counted at each school location as provided for in subpart C of this part. From the application of ratios or weights as provided in these rules a weighted student unit (WSU) value for each school location is derived by multiplying the student count for each program area by the weights.

(b) If the school is a boarding school or a dormitory, the residential students will produce program units which will, by the application of weights, produce additional WSU's.

(c) The ADM count of eligible small schools or dormitories may generate additional unit supplements.

(d) All Alaskan schools are eligible under the formula to generate supplemental units.

(e) The total weighted student unit count for each school location is then multiplied by a base unit value to derive the estimated dollar entitlement to each school board.

The total amount is made available to each school board, under the rules related to administrative provisions provided in subparts C and D of this part.

§ 31h.11 Definitions.

Assistance to approved school boards under this subpart is subject to the definitions established in § 31h.2 and to the following definitions for determining student counts in the various weighted areas. As used in the subpart, the term:

(a) "Base" or "base unit" means both the weight or ratio of 1.0 and the dollar value annually established for that weight or ratio which represents students in grades 4 through 8 in a typical instructional program.

(b) "Basic program" means the

(iv) History of truancy more than 50

disease (e.g. poliomyelitis, bone tuberculosis, etc.), and impairments

days and four nights per week during

(c) Dormitory residential programs

No school shall receive a percentage decrease in its total fund entitlement

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(b) "Basic program" means the instructional program provided all students at any grade level exclusive of any supplemental programs which are not provided to all students in day or boarding schools.

(c) "Grades 1–3" means a weighted program for a student who is present during the count week (see § 31h.30(b)) in grades 1 through 3 who is at least 6 years old by December 31 of the fall of the school year during which the count occurs and a member of an educational program approved by the board and which is conducted at least six hours daily during at least 175 days per school year.

(d) "Grades 4–8" and "grades 9–12" means a weighted program for a student, who is present during the count week (see § 31h.30b) in either of the programs encompassing grades 4 through 12 who is a member of an educational program approved by the school board at least six hours daily during at least 175 days per school year and shall not have achieved the age of 21 nor have received a high school diploma or its equivalent.

(e) "Kindergarten" means a weighted program for a student who is present during the count week (see § 31h.30(b)) who is at least 5 years old by December 31 of the fall of the school year during which the count occurs and a member of an educational program approved by the school board conducted at least five hours daily during at least 175 days per school year. Otherwise eligible students who are in a program conducted less than five hours daily, but more than two and one half hours daily are eligible as "half time kindergarten" students.

(f) "K–3 intense bilingual" means a weighted program for a student who is present during the count week (see § 31h.30(b)) in kindergarten through grade 3 whose primary language is not English, and who is receiving special supplementary services for bilingual education needs.

(g) "Intensive residential guidance" means the weighted program for a student that needs special residential services due to one or more of the problems identified below, and that appropriate documentation is in that student's file as follows:

(1) Presenting Problem:

(i) Court or juvenile authority request for placement resulting from a pattern of infractions of the law.

(ii) Expulsion from previous school under due process.

(iii) Referral by a licensed psychologist or psychiatrist as an emotionally disturbed student.

(iv) History of truancy more than 50 days in the last school year or a pattern of extreme disruptive behavior.

(2) Documentation Required:

(i) Written request signed by officer of court or juvenile authority.

(ii) Certification by expelling school.

(iii) Psychologist or psychiatrist report.

(iv) Attendance and behavior data from records of prior school, court records, or from social agency records and a written documentation summarizing such data. For all students placed in intensive residential guidance programs, there shall be further documentation of a diagnostic workup, a placement decision by a minimum of three staff members, and a record of an individualized treatment plan for each student that specifies service objectives.

(h) "Exceptional Child Programs" means weighted programs for students who are receiving supplemental and appropriate services and whose identification has met the Education of the Handicapped Act (Pub. L. 94–142; 20 U.S.C. 1401 et seq.) requirements (i.e., due process and development of Individualized Evaluation Programs) and who have the following diagnosed impairments:

(1) "Deaf" means a hearing impairment which is so severe that the child is impaired in processing linguistic information through hearing, with or without amplification, which adversely affects educational performance.

(2) "Hard of hearing" means a hearing impairment, whether permanent or fluctuating, which adversely affects a child's educational performance but which is not included under the definition of "deaf" in this section.

(3) "Mentally retarded" means significantly subaverage general intellectual functioning existing concurrently with deficits in adaptive behavior and manifested during the developmental period, which adversely affects a child's educational performance.

(4) "Severely multihandicapped and/or profoundly retarded" means concomitant impairments (such as mentally retarded-blind, mentally retarded-deaf, etc.) the combination of which causes such severe educational problems that they cannot be accommodated in regular educational programs.

(5) "Orthopedically impaired" means a severe orthopedic impairment which adversely affects a child's educational performance. The term includes impairments caused by congenital anomaly (e.g., clubfoot, absence of some member, etc.), impairments caused by disease (e.g. poliomyelitis, bone tuberculosis, etc.), and impairments from other causes (e.g., cerebral palsy, amputations, and fractures or burns which cause contractures).

(6) "Other health impaired" means limited strength, vitality or alertness, due to chronic or acute health problems such as a heart condition, tuberculosis, rheumatic fever, nephritis, asthma, sickle cell anemia, hemophilia, epilepsy, lead poisoning, leukemia, or diabetes, which adversely affects a child's educational performance.

(7) "Emotionally disturbed " means a condition exhibiting one or more of the following characteristics over a long period of time and to a marked degree, which adversely affects educational performance:

(i) An inability to learn which cannot be explained by intellectual, sensory, or health factors;

(ii) An inability to build or maintain satisfactory interpersonal relationships with peers and teachers;

(iii) Inappropriate types of behavior or feelings under normal circumstances;

(iv) A general pervasive mood of unhappiness or depression; or

(v) A tendency to develop physical symptoms or fears associated with personal or school problems.

(8) "Specific learning disability" means a disorder in one or more of the basic psychological processes involved in understanding or in using language, spoken or written, which may manifest itself in an inability to listen, think, speak, read, write, spell, or to do mathematical calculations. The term includes such conditions as perceptual handicaps, brain injury, minimal brain disfunction, dyslexia, and developmental aphasia. The term does not include children who have learning problems which are primarily the result of vision, hearing, or motor handicaps, or mental retardation, or of environmental, cultural, or economic disadvantage.

(9) "Speech impaired" means a communication disorder, such as stuttering, impaired articulation, or a voice impairment, which adversely affects a child's educational performance.

(10) "Visually handicapped" means a visual impairment which, even with correction, adversely affects a child's educational performance. The term includes both partially seeing and blind children.

(i) "Resident" means a student receiving supplemental services provided to all students who are provided room and board in a boarding school or a dormitory for at least four

days and four nights per week during those weeks when student membership counts are conducted. Such students must be members of the instructional program in the same boarding school in which they are counted as residents. To be counted as a dormitory resident, students must be enrolled in and be current members of a public school in the community in which they reside.

§ 31h.12 Entitlement for instructional purposes.

BIA educational funds for the instruction of elementary and secondary Indian children shall be computed according to the following weighted student unit factors:

Basic programs and base weights.
Kindergarten, 1.00; grades 1 to 3, 1.20; grades 4 to 8, 1.00; and grades 9 to 12, 1.30.
Supplemental Program and add-on weight.
Grades k to 3, intense bilingual, .20.
Exceptional child programs and add-on weight.
Full time: Deaf, 3.00; severe multi-hndcpd/prof retrd, 3.00; emotionally disturbed, 1.00; specific learning disability, 1.00; and mentally retarded, 1.00.
Part time: Speech impaired, 0.50; hard of hearing, 0.25; visually handicapped, 0.25; orthopedically impaired, 0.25; health impaired, 0.25; emotionally disturbed, 0.50; specific learning disability, 0.50; and mentally retarded, 0.50.

§ 31h.13 Entitlement for residential purposes.

Basic funds for student residential purposes shall be computed according to the following weighted student unit factors:

Basic Programs.
Kindergarten, 1.40; grades 1 to 3, 1.40; grades 4 to 8, 1.25; and grades 9 to 12, 1.25.
Intense Residential Guidance 0.50.

§ 31h.14 Entitlements for small schools.

To compensate for the additional costs of operating small schools, qualified schools shall receive the following adjustments:

(a) Instructional programs in day and boarding schools. For each separate small school having an instructional average daily instructional membership count (called x) of less than 100 students the formula [(100 — x) divided by 200] times x shall be used to generate add-on weighted pupil units for each such school.

(b) Boarding school residential programs. For each separate small boarding school having a resident average daily membership count (called y) of less than 100 the formula [(100 — y) divided by 200] times y shall be used to generate add-on weighted pupil units for each such boarding school.

(c) Dormitory residential programs serving public schools. For each small dormitory program having an average daily membership count (called z) of less than 100 students the formula [(100 — z) divided by 200] times z shall be used to generate add-on weighted pupil units for each such dormitory.

§ 331h.15 Alaskan school cost supplements.

To meet the statutory requirements for a salary supplement for Alaskan educational staff, an add-on weight of .25 will be used as a factor by which all pupil program generated weighted student units shall be multiplied. Such generated Alaskan units will be added to the weighted pupil units generated by each school in the same manner as small school units.

§ 31h.16 Computation of school entitlements.

The sum of all weighted student units, including any small school and any Alaskan school cost units shall be computed for each school under the management of the Director. The total number of units generated by each approved school shall be multiplied by a base dollar value which is equivalent to a base weight of 1.0 in the formula. This base value shall be computed annually by the Director by dividing the total of all weighted student units (WSU) generated by all approved schools into the total amount appropriated and made available for obligation and distribution through the Indian School Equalization Formula.

§ 31h.17 Recomputations of current year entitlements.

The Director shall continuously monitor the processes by which the final allocation of each schools' entitlement is made. When changes occur either in the total amount of funds available for the operations of schools, due to a change in the number of weighted student units reported or altered by auditing, the Director shall make the necessary adjustments in order that the full available appropriations are fairly allocated to the schools, and that all funds are fully allotted to schools.

§ 31h.18 Phase-in provisions.

(a) Limits on excess gains.

No school shall receive a percentage increase in its total fund entitlement, over the comparable budget amount per school in the fiscal year 1979 Bureau Education budget, which is greater than the following percentage ratios:

(1) In fiscal year 1980, 50 percent and
(2) In fiscal year 1981, 100 percent.

(b) Limits on excess losses.

No school shall receive a percentage decrease in its total fund entitlement below the comparable budget amount in the fiscal year 1979 Bureau Education budget, which is greater than the following percentage ratios:

(1) In fiscal year 1980, 20 percent and
(2) In fiscal year 1980, 50 percent.

(c) Effects of limits on losses and gains.

Local school gains in excess of the above percentage limits for each of the limited years shall be returned to the common base for all schools and distributed through the formula. Funds to limit losses in excess of the above limits shall be withdrawn from the common base for all schools and distributed to the schools subject to such excess losses.

§ 31h.19 Development of uniform, objective and auditable student weighted area placement criteria and guidelines.

The Director shall develop uniform objective and auditable placement criteria and guidelines for placement of students in special weighted program areas which expand upon the definitions in this part, and shall publish them in the Bureau Manual (BIAM) and widely disseminate such placement criteria and guidelines to each school prior to September 1, 1979 so that appropriate student placements can occur before the first October student count.

§ 31h.20 Future considerations for weighted programs.

The Director shall consider the feasibility of incorporating other factors into the weighted pupil formula including:

(a) A rural isolation adjustment;
(b) A native language maintenance factor;
(c) A cultural heritage factor;
(d) A staff cost adjustment;
(e) A cost-of-living adjustment;
(f) A gifted and talented student factor; and
(g) an early childhood development factor.

§ 31h.21 Review of weighted factors.

By the completion of the formula phase-in and the completion of the work of the Task Force on Standards, the Director shall review the appropriateness of all weighted factors in generating funds for services required by Bureau standards.

§ 31h.22 Review of contract schools supplemental funds.

Before the end of formula phase-in, the Director shall consider the impact on equalization of supplemental funds appropriated for aid to schools under

the Johnson O'Malley Act and under

determined during the first full school

§ 31h.37 Conditions for receipt of allotments.

for the quarterly obligation of funds for

approved by the Congress shall apply to

expended, amounts obligated and amounts currently remaining in funds

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the Johnson O'Malley Act and under Title IV of the Indian Education Act, which are available to contracts schools but not to Bureau schools, and determine appropriate adjustments, if any.

Subpart C—Formula Funding Administrative Procedures

§ 31h.30 Definitions.

As used in this subpart, the term:

(a) "Certifying the validity of student counts" means that counts of student ADM have been accurately recorded in compliance with specifications of these rules, and that the Agency Superintendent of Schools, the local school supervisor, and local school board chairperson testify to and confirm the correctness of this count.

(b) "Count weeks" mean the first full school week in October and the first full school week in November for recording student ADM for the purposes of calculating allotments, and the first full school week in February and the first full school week in March for recording student ADM for purposes of calculating tentative allotments.

(c) "Cumulative total" means the sum of all daily student ADM counts during count weeks.

(d) "Student classification" means any special need area of students which receives a separate weighting through the Indian School Equalization Formula.

(e) "Unduplicated count" means that a student with more than one handicapping condition may only be counted as ADM in one handicapped program, except that the child may also be counted for receiving speech therapy if applicable.

§ 31h.31 Condition of eligibility for funding.

To be eligible for direct formula funding as established in subpart B of this part a day school, boarding school, or dormintory must meet minimum standards to be prescribed pursuant to section 1121 of the Education Amendments of 1978 (P.L. 95–561; 25 U.S.C. 2001). Until such standards are so prescribed, the Director shall determine eligibility for funding.

To be eligible for direct formula funding a tribally operated day or boarding school or dormitory must meet the requirements of part 271 of this chapter (25 CFR 271) for receipt of Bureau Education funds under contracts for school operation.

§ 31h.32 Annual computation of average daily membership.

(a) Average daily membership (ADM) as defined in § 31h.1(f) shall be determined during the first full school week in October and the first full school week in November of the school year. Averages shall be computed for each pupil classification, to two decimal places, by computing the cumulative total of members in each classification for all school days in each of the two count weeks, and dividing that total by the number of school days in both count weeks.

(b) The Director shall direct the receipt and management of information necessary to obtain timely ADM reports from schools. Agency education offices, and in the case of off-reservation boarding schools—area education offices, together with each school's supervisor and school board chairman, shall be responsible for certifying the validity of each school's student counts. The October and November ADM will be used to determine final entitlements for the school year.

§ 31h.33 Special education unduplicated count provision.

In the counting of special education ADM with the exception of speech therapy, no child shall be counted or funded twice for participation in more than one special education program.

§ 31h.34 Substitution of a count week.

A school may petition the Director to substitute another week in the same month for the specified count week if it can be established that to use the specified count week would result in grossly inaccurate student counts. Where tribal ceremonial days are known in advance, such a petition shall be submitted in advance of the determined count week.

§ 31h.35 Computation of average daily membership (ADM) for tentative allotments.

Tentative allotments for each future year's funding shall be based on the average daily membership for the first full school week in February and the first full school week in March of the school year. Procedures for computation shall be the same as those for the annual computation in October and November.

§ 31h.36 Declining enrollment provision.

If the decline of a school's average daily membership exceeds ten percent in any given school year, the school may elect to request funding based on the combined ADM for February and March of the previous year and October and November of the current year.

§ 31h.37 Conditions for receipt of allotments.

Actual receipt of allotments under the formula will be based on compliance by local schools with the following criteria:

(a) Completion and submission to the Director of certified student ADM count within 2 weeks following each count week in October and November.

(b) Systematic maintenance of expediture records by prescribed uniform accounting methods, and

(c) Provision of a program of instruction for each weighted student classification based on a local education financial plan approved by the responsible school board and disseminated to the community or clients' parents.

§ 31h.38 Failure to comply with conditions for receipt of allotments.

Failure to comply with the conditions for the receipt of allotments shall result in the following alternative actions to be determined at the discretion of the Director:

(a) Withholding the allotment until such time as the conditions have been met; or

(b) Withholding of a percentage of the allotment as a penalty for non-compliance.

§ 31h.39 Auditing of student counts.

The Secretary shall provide for auditors as required to assure timeliness and validity in reporting student counts for formula funding.

§ 31h.40 Failure to provide accurate student counts.

Responsible school, agency, and central office administrators may be dismissed for cause, or otherwise penalized for submission of invalid or fraudulent annual student ADM counts or willfully inaccurate counts of student participation in weighted program areas. A person who knowingly submits or causes to be submitted to a Federal official or employee false information upon which the expenditure of Federal funds is based, may be subject to criminal prosecution under provisions such as sections 286, 287, 371, or 1001 of Title 18, U.S. Code.

Subpart D—Direct Allotment of Formula Entitlements

§ 31h.50 Definitions.

As used in this subpart, the term:

(a) "Apportionment" means that part of a school's allotment received each quarter as an authorization to obligate funds.

(b) "Approved apportionment schedules" means that approval given for the quarterly obligation of funds for a given appropriation of funds for the Bureau.

(c) "Authorization to obligate" means that authority given to a school to incur obligations of funds against a given appropriation.

(d) "Initial allotments" means that notice given to schools of their entitlement to funds based on October and November student counts through the Indian School Equalization Formula based on a final appropriation, prior to any adjustments due to fluctuating student counts.

(e) "Responsible fiscal agent" means the local school supervisor except where such authority is designated to the Agency Superintendent of Education by a school board decision of record or by contract.

(f) "Tenative allotments" means that notice given to schools of their entitlement to funds based on February and March student counts as computed through the Indian School Equalization Formula based on a proposed appropriation.

§ 31h.51 Notice of tentative allotments.

The Director shall notify school administrators and boards of tentative allotments of funds based on February and March ADM count established under subpart B of this part no later than May 1 preceding the year for which the allotment is to be made as authorized by P. L. 95–561, section 1129, Title XI.

§ 31h.52 Initial allotments.

The Assistant Secretary for Indian Affairs as requested by the Director shall make initial allotments to Bureau operated schools, agency education offices, and central and area offices. Approved apportionment schedules will govern the authorized rate of obligation. The Assistant Secretary for Indian Affairs shall make initial allotments for tribally operated schools to appropriate Agency Superintendents of Education, or as otherwise provided by the Director.

§ 31h.53 Calculation of quarterly authorizations to obligate.

(a) The first quarterly authorization to obligate to be apportioned during the first week of October, shall be calculated as thirty (30) percent of a school's tentative allotment based on its projected ADM as approved by the Director. In the absence of the enactment of an appropriations bill and funds made available for obligation at the beginning of the fiscal year, the language of the continuing resolutions approved by the Congress shall apply to the process in this section.

(b) The second quarterly authorization to obligate to be apportioned during the first week of January, shall be calculated as sixty (60) percent of a school's actual entitlement based on fall count ADM less the first quarterly apportionment.

(c) The third quarterly authorization to obligate to be apportioned during the first week of April, shall be calculated to be twenty (20) percent of a school's actual entitlement. This apportionment shall be adjusted as necessary as a result of student count fluctuations due to auditing of school's actual ADM as provided in section 31h.39 of this part.

(d) The fourth and final quarterly authorization to obligate to be apportioned during the first week of July, shall be calculated to be twenty (20) percent of a school's actual entitlement subject to any further recalculations due to auditing of corrected ADM count calculations.

(e) The Director shall continuously monitor the processes by which the allocations of each school's entitlement is made and make appropriate adjustments as necessary.

§ 31h.54 Apportionment of entitlements to schools.

(a) Bureau operated schools.

The Director shall make quarterly apportionments directly to the local school supervisor or to the school's responsible fiscal agent as specifically delegated in accordance with section 31h.55 of this part. Such quarterly apportionments will be made as determined in section 31h.53 of this part.

(b) Contract schools.

The Agency Superintendent of Education or another agent as designated by the Director shall be responsible for effecting and adjusting contracts with tribally operated schools.

§ 31h.55 Responsible local fiscal agent.

The responsible fiscal agent shall:

(a) Expend funds solely in accordance with the local educational financial plan, as ratified or amended by the local school board, unless this plan has been overturned under the appeal process prescribed in these rules, in which case expenditures shall be made in accordance with the local educational financial plan as determined by the Agency Superintendent of Education.

(b) Sign all documents required for the obligation and/or payment of funds and documentation of receipt of goods and services.

(c) Report at least quarterly to the local school board on the amounts expended, amounts obligated and amounts currently remaining in funds budgeted for each program of services in the local financial plan.

(d) Recommend changes in budget amounts as required, for effective management of resources to carry out the local financial plan and incorporate such changes in the budget as are ratified by the local school board, subject to provisions for appeal and overturn.

§ 31h.56 Expenditure limitations for Bureau-operated schools.

(a) Expenditure of allotments provided shall be made in accordance with applicable federal regulations, or locally developed plans of operation which have been approved by the Director or his designee.

(b) Where there is disagreement between the area or agency support service staff and the responsible fiscal agent regarding the propriety of the obligation or disbursement of funds, appeal shall be made to the Director.

Subpart E—Local Educational Financial Plan

§ 31h.60 Definitions.

As used in this subpart, the term:

(a) "Consultation" means soliciting and recording the opinions of school board members regarding each element in the local financial plan, as set forth below, and incorporating those opinions to the greatest degree feasible in the development of the local educational financial plan at each stage thereof.

(b) "Local educational financial plan" means that plan which programs dollars for educational services for a particular Bureau operated or funded school which has been ratified in an action of record by the local school board, or determined by the superintendent under the appeal process set forth in this subpart.

(c) "Budget" means that element in the local educational financial plan which shows all costs of the plan by discrete programs and sub-cost categories thereunder.

§ 31h.61 Development of local educational financial plans.

A local educational financial plan shall be developed by the local school supervisor, in active consultation with the local school board, based on the tentative allotment received on May 1 preceding the year for which the plan is to be executed.

§ 31h.62 Minimum requirements.

The local financial plan shall include, at a minimum, each of the following elements:

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(a) Separate programing of funds for each group of Indian students for whom a discrete program of services is to be provided. This must include at a minimum each program for which funds are alloted to the school through the Indian School Equalization Program.

(b) A brief description, or outline, of the program of student services to be provided for each group identified.

(c) A budget showing the costs projected for each program, as determined by the Director through the development of a uniform cost accounting system related to the Indian School Equalization Program.

(d) A statement of the percentage relationship between the total of the anticipated costs for each program and the amount the students served by that program will generate under the Indian School Equalization Formula.

(e) A provision for certification by the chairman of the school board that the plan as shown, or as amended, has been ratified in an action of record by the school board, or

(f) A provision for certification by the Agency Superintendent of Education that he or she has approved the plan as shown, or as amended, in an action overturning the rejection or amendment of the plan by the school board.

§ 31h.63 Procedures for development of the plan.

(a) Within thirty (30) days after the receipt of the tentative allotment for the next school year by each school, the local school supervisor shall present a draft plan to the school board with recommendations concerning each of the elements outlined in this subpart. The school supervisor may consult with the members of the school board, the school staff, and members of the community in drafting this plan.

(b) Detailed school board discussions of each element of the plan, and their interrelationships, shall be provided for, over the period of at least two separate school board meetings, using native speakers as interpreters as necessary to assure that each school board member has ample opportunity to understand each element proposed. Each element shall be subject to separate approval action, in any order desired by the school board, and each element shall be subject to separate amendment by action of record.

(c) The school board shall take final action on the financial plan on or before the final day of July preceding the year in which the plan shall be executed. Failure of the school board to act by this date shall have the effect of rejection of the plan and shall result in an automatic appeal to the Agency Superintendent of Education.

§ 31h.64 Procedure for financial plan appeals.

(a) In the event the supervisor of a school finds an action of the local school board, in rejecting or amending the local financial plan, to be unacceptable in his/her judgment as a professional educator, the supervisor may appeal to the Agency Superintendent of Education under the following procedures and conditions:

(1) The appeal must be presented in writing, within ten (10) consecutive days of the supervisor's receipt of the school board decision which is appealed.

(2) The written appeal shall contain, at a minimum, the following information and documentation:

(i) All descriptive information concerning the element(s) in the local financial plan being appealed, substantially as presented to the school board prior to its decision.

(ii) Official documentation of the school board's decision amending or rejecting the element(s) being appealed.

(iii) A statement of the school supervisor's reasons for appealing the board's actions.

(iv) Signed certification by the supervisor that his/her reason for appeal has been presented to the chairperson of the school board, and that the school board has been offered full opportunity to submit a counter statement to the Superintendent.

(3) In the event that the supervisor of the school is also the Superintendent, the appeal shall be made following the above procedures to the Director, who shall follow procedures set forth below, as acting Superintendent for the appeal.

(b) Within ten (10) consecutive days of receiving the appeal, the Agency Superintendent of Education shall review the appeal documents to determine if they are complete according to the criteria established in this subpart, and if so shall notify both the school supervisor and the school board of a date for a hearing within twenty-five (25) consecutive days of his/her receipt of the appeal, and any arguments regarding it on either side, will be heard.

(c) Within twenty-five (25) consecutive days of receiving the appeal, the Superintendent shall:

(1) Hear any arguments on either or both sides of the appeal issue(s) at the option of either the supervisor or board involved.

(2) Following the hearing, either sustain or reject the appeal, for good cause, set out in writing to both the supervisor and school board.

(d) Nothing in this subsection shall be constructed as enabling the supervisor of a tribally operated school to appeal decisions of a contract school board to the Agency Superintendent for Education, nor as empowering the Agency Superintendent for Education to overturn any action of a contract school board under this appeal process as established in P.L. 93-638.

§ 31h.65 Access to and retention of local educational financial records.

The Comptroller General, the Assistant Secretary and the Director, or any of their duly authorized representatives shall have access for audit and examination purposes to any of the local schools' accounts, documents, papers, and records which are related or pertinent to the school's operation. The provisions of 25 CFR 271.47 will be applicable in the case of tribally contracted schools.

Subpart F—Contingency Funds

§ 31h.70 Definitions

As used in this Subpart, the term:

(a) "Cumulative total" means the sum of all funds carried over from the previous fiscal year(s) as unobligated and the amount for the current fiscal year.

(b) "Temporary replacement" means the substitutions of a structure on a temporary basis in lieu of the original permanent structure that has been lost to use. The temporary use will expire at the time that arrangements are completed for the availability similar to the original.

§ 31h.71 Establishment of the School Disaster Contingency Fund.

The Bureau's annual budget justifications shall identify an amount for a separate budget account entitled the School Disaster Contingency Fund (SDCF). All schools and dormitories receiving support under the provisions of subparts B and C of this part are eligible for disaster aid from this contingency fund.

§ 31h.72 Continuing and cumulative provisions.

Unobligated funds from the School Disaster Contingency Fund shall be continued over at the end of a fiscal year in the same account for the next year, except when otherwise provided in appropriations acts. New funds shall be added when appropriated but the Fund should not exceed a $1.5 million cumulative total unless otherwise determined by the Assistant Secretary.

§ 31h.73 Purposes.

Disbursements from the School Disaster Contingency Fund shall be for the following purposes:

(a) Costs of replacement of items in the following categories including shipment and installation, in the event of their destruction by earthquake, fire, flood, storm, or other "acts of God," where such costs are not already covered in an insurance policy in force at the time of destruction and where such destruction could not have been prevented by prudent action by the officials responsible for the care of such items:

(1) Educational materials and supplies.

(2) Equipment and furnishings.

(3) Dormitory materials and supplies, for student use, and dormitory equipment and furnishings, including those necessary for staff living space if integral to the dormitory operation.

(4) Food services supplies, furnishings and equipment not a fixed part of structures.

(5) Office supplies and equipment for minimum essential administrative operations.

(6) Janitorial supplies and cleaning equipment.

(7) Student clothing and personal supplies if destroyed along with a school facility.

(8) Fuel supplies, tanks, lines, connections, meters, etc.

(9) Transportation equipment not otherwise provided for through the General Services Administration.

(10) Costs of repair of utility systems or components thereof, as necessary to restore utility services.

(b) Costs of temporary replacement of school facilities in the event of their destruction by earthquake, fire, flood, storm or other "acts of God," until they can be reconstructed. These costs may include purchase of or movement of portable structures, including costs of delivery, installation, and connection to utility systems. They may also include costs of any fixed equipment which is integral to such structures. Structure types for which such temporary replacement costs may be paid or reimbursed are as follows:

(1) Employee quarters, if required for employee housing due to the isolation of the duty station, and no other housing is available within a reasonable commuting distance.

(2) Dormitories, including employee apartment space if integral to the operation of the dormitory.

(3) Offices required for minimum essential administrative operations at the local school level.

(4) Academic facilities, including classrooms, kindergarten libraries and special instructional spaces such as vocational shops and home economics rooms.

(5) Kitchens and dining facilities, including laundry and multipurpose spaces.

(6) Infirmaries, clinics and health service spaces, in school locations in which such services are not otherwise available.

(7) Separate restroom facilities, if none otherwise available for operation of instructional and dormitory programs.

§ 31h.74 Application procedures.

Application for disbursement from the School Disaster Contingence Fund shall be made to the Director of the Office of Indian Education Programs, through the Agency Superintendent of Education for the school affected. Applications shall be subject to review and comment by such Superintendent, and the Area Director for Education of the area in which the school is located, but shall not require the approval of these officers. Such review and comment activities shall be carried out concurrently with the Director's processing of the application so that there be no delays in the transmission of the application to the Director. The Director shall develop such application forms and requests for information and documentation as are necessary to prove both loss and the fact that replacement costs are outside the normal budgetary capacity of the school operation at either the local school, Agency or Area levels.

§ 31h.75 Disbursement procedures.

Disbursements from the SDCF shall be made only on the direct authorization of the Director, on the merits of each such application received, on a first come-first served basis and in amounts at the Director's discretion in accordance with the purposes and expenditure prohibitions set forth in this subpart.

§ 31h.76 Prohibitions of expenditures.

(a) The following costs shall not be reimbursed or paid under the SDCF:

(1) Capital expenditures for construction of permanent facilities.

(2) Capital expenditures for reconstruction or refurbishment of facilities no longer in use except where such expenditure is the most cost effective way of temporarily replacing other destroyed facilities.

(3) Temporary replacement of facilities or replacement of equipment which has simply become outmoded and obsolete, or which has been "condemned" or declared unserviceable by administrative procedures, which is either still in existence or has been razed or destroyed as the result of an administrative decision.

(4) Costs of continued normal program operations which are not increased by a disaster.

(5) Personnel costs, except for temporary personnel hired to meet an emergency situation.

(6) Start-up costs for new or expanding school programs.

(7) Costs of repairs necessitated by neglect, or failure to provide routine scheduled maintenance and minor repair.

(8) Replacement costs of personal property of school employees, regardless of value or circumstances of destruction.

(9) General budgetary shortfalls due to improper fiscal management.

(10) Budgetary shortfalls from a past fiscal period, after funds have been carried forward in the SDCF to a new fiscal period.

(11) Costs of replacement of items stolen, or destroyed by deliberate vandalism, neglect, or abandonment.

(12) Costs of items, services or activities for which budgetary provisions are made in other budget categories of the Bureau not subject to distribution under the Indian School Equalization Program.

(b) Temporary replacement costs for the following structure types shall not be paid or reimbursed from the SDCF:

(1) Recreational structures, such as auditoriums, field houses, clubs, canteens, chapels, student centers, grandstands, gymnasiums, etc.

(2) Auxiliary buildings not used in student instructional or dormitory programs, such as warehouses, storage sheds, garages, firehouses, maintenance shops, law enforcement centers, instructional materials and audio-visual centers, and employees' clubs.

Temporary replacement costs shall be paid or reimbursed only to the extent necessary to permit expeditious continued operation of the school dormitory care programs affected by the destruction of facilities.

§ 31h.77 Transfer of funds from Facilities Engineering for other contingencies.

In order to reimburse schools for the costs of unforeseen and extraordinary procurement costs and for major repairs or reconstruction resulting from the disaster, the Director may request a transfer or reprogramming of funds from funds appropriated for Bureau Facilities Engineering to the School Disaster Contingency Fund for such purposes. At such time as a separate formula is

§ 31h.92 Training activities.

laws or regulations, such maximums

Transportable students shall be the

airport and the airport nearest the

§ 31h.114 Limitations.

established by regulation for school maintenance and operations, and appropriate separate contingency fund shall be established to cover such costs.

§ 31h.78 Establishment of a formula implementation set-aside fund.

Subject to the availability of appropriations there shall be set aside an amount not to exceed $2 million dollars to be used during fiscal year 1980 by the Director to facilitate the implementation of formula funding under this part. The fund is to provide the means of adjusting particular local school entitlements which are allocated in error due to underprojectsions, data error, misclassification of students, and similar reporting errors, or to provide for the initial funding of new schools under the formula, which have been started after the spring ADM counts, without reducing allotments made for other schools. Balances in this set-aside fund shall be apportioned through the formula during the first week in April by the Director or at such earlier time as he deems that significant ADM reporting fluctuations have ceased.

§ 31h.79 Prohibition.

The formula implementation set-aside fund shall not be used as a discretionary fund by the Director for any purpose, and it shall be allocated solely through the Indian School Equalization Formula.

Subpart G—School Board Training

§ 31h.90 Establishment of a school board training categorical.

An amount shall be set aside annually for the purpose of providing training for school board members as authorized by P.L. 95–561, section 1129(d). Each school board shall receive a flat sum, initially for fiscal year 1980 to be set at $5,000, with Alaska and off-reservation boarding school boards to receive an additional 25 percent of this flat sum amount per annum.

§ 31h.91 Other technical assistance and training.

The provision of funds under § 31h.90 above does not relieve the Director of the responsibility to assure that adequate technical assistance and training services are provided to school boards to the greatest extent possible. The provision of assistance under this subpart does not preclude a school board or its tribal governing body from receiving financial or other assistance from the Bureau under the Indian Self-Determination and Education Assistance Act (88 Stat. 2203; P.L. 93–638; 25 U.S.C. 450 et seq.).

§ 31h.92 Training activities.

Training funds provided under this part may be used for the training in the following subject areas:

(a) Educational philosophy;
(b) Community school programs;
(c) Legal aspects of being a school board member;
(d) School board operations and procedures;
(e) Fiscal management;
(f) Formula funding;
(g) Personnel matters;
(h) Union negotiations;
(i) Contracting procedures and obligations;
(j) Special curriculum areas;
(k) Students' rights and responsibilites;
(l) Education agency relations;
(m) Alternative sources of Federal grants;
(n) Juvenile justice;
(o) Teacher training and inservice options;
(p) Needs assessment, program development and proposal writing; and
(q) Other training activities school boards deem appropriate and applicable to their situation and which are approved by the Director.

§ 31h.93 Allowable expenditures.

Allowable expenditures under this subpart are limited to:

(a) Contracting with individuals and organizations for training services,
(b) Membership fees in school boards' associations and purchase of their materials and publications,
(c) Member reimbursement for subsistence and travel expenses incurred while participating in training activities; and
(d) Cooperative contracts with other school boards for joint training or technical assistance activities.

§ 31h.94 Limitations on expenditures.

(a) No expenditure may be authorized except in accordance with a decision of record by the school board and each payment shall be made under written authorization of the board chairperson.

(b) Expenditures under this subpart may not be made for school board members' stipends or honorariums associated with participation in training activities. Payments for such may, however, come from the school's operational budget, if so designated and approved in the school's local educational finance plan. The maximum amounts of such payments shall be determined in accordance with the laws or regulations of the tribe involved and shall be subject to approval by the Director. In the absence of such tribal laws or regulations, such maximums shall be determined by the Director in consultation with the school board. Payments under this subpart may not be made to any employee of a school served by the board school being trained or assisted.

§ 31h.95 Reporting of expenditures.

An accounting of all expenditures of school board training funds shall be maintained as a supplement to each school's public accounting records.

§ 31h.96 Provision for annual adjustment for inflation.

The allocation of $5000 per school may be annually adjusted by the Director to take into account inflation as indicated by increases in the Consumer Price Index.

§ 31h.97 Training for agency school board.

Provisions for training agency school board members, except as they may also be members of local school boards, are not included in these local school board training funds. If required, such provision shall be incorporated in agency or area office educational administration training plans and budgets.

Subpart H—Student Transportation

§ 31h.100 Definitions.

As used in this subpart, the term:

(a) "Loaded bus miles" means the daily average of the sum for all bus routes of the mileage logged between the school site and the residence of the farthest student on the bus route.

(b) "Farthest student" means the last student discharged on the bus route for trips from school to the student's residence and the first student picked up on the bus route for trips from the student's residence to school.

§ 31h.101 Purpose and scope.

The purpose of this subpart is to provide funds to each school for the round trip transportation of students between home and the school site.

§ 31h.102 Allocation of transportation funds.

Transportation funds made available for obligation shall be allocated to each school as follows:

(a) Day students.

Funds shall be allocated to each school which provides daily transportation of students between the student's residence and the school site by the following formula:

(1) 180 × ($1.30 per loaded bus mile + $.81 per transportable student).

Transportable students shall be the average number of students transported during the October and November count periods who reside at least 1 mile from the school site.

(2) The allocation shall be based on the daily average of transportable students and loaded bus miles computed during the October and November count periods.

(3) This formula shall not apply to any dormitory which provides daily transportation between the dormitory and the public school which the dormitory student attends.

(b) Boarding school and dormitory students.

Funds shall be allocated to each boarding school and dormitory for the transportation of students housed at the school according to the following criteria:

(1) For each student whose home is more than 25 and no more than 100 miles from the boarding school or dormitory, the school shall receive $3.20 per mile per student per year. The miles per student shall be the shortest driving distance one way from the student's home to the school site.

(2) For each student whose home is more than 100 and no more than 350 miles from the boarding school or dormitory, the school shall receive $1.60 per mile per student per year. The miles per student shall be the shortest driving distance one way from the student's home to the school site.

(3) For each student whose home is more than 350 miles from the boarding school or dormitory, the school shall receive $.32 per mile per student per year. The miles per student shall be the shortest driving distance one way from the student's home agency to the school site. This provision applies only to those students for whom ground transportation is provided.

(4) For each student whose home is more than 350 miles from the boarding school or dormitory and for whom it necessary to provide airplane transportation, the school shall receive $.40 per mile per student flown per year. The miles per student shall be the actual one way air miles between the airport closest to the school site and that closest to the student's home. Airplane transportation shall be provided only when ground transportation is unavailable or not cost-effective.

(5) For each student attending Mt. Edgecumbe Boarding School, Sitka, Alaska, who requires airplane transportation, the school shall receive $.70 per mile per student flown per year. The miles per student shall be the one way air miles between the Sitka, Alaska airport and the airport nearest the student's home.

Subpart I—Interim Maintenance and Minor Repair Fund

§ 31h.110 Establishment and funding of an interim maintenance and minor repair fund.

There is established in the Office of Indian Education Programs a separate temporary fund entitled the Interim Maintenance and Minor Repair Fund. Subject to the availability of apporpriations, the Assistant Secretary shall cause the transfer of an amount of $1 million, under the fiscal year 1980 Appropriation for the Bureau, from budget activity 3,500, to the use of schools, and shall create an appropriate account or subaccount for the Interim Maintenance and Minor Repair Fund and credit the transferred funds thereto.

§ 31h.111 Conditions for distribution.

Funds from the Interim Maintenance and Minor Repair Fund shall be distributed solely to Bureau operated and funded schools and shall be separately earmarked in local school financial plans for expenditure at the discretion of the school supervisor for costs of school facility maintenance and minor repair. These funds shall be used to meet immediate minor repair and maintenance needs.

§ 31h.112 Allocation.

(a) Interim Maintenance and Minor Repair Funds shall be allocated to all Bureau operated and contract schools based on the number of square feet of floor space used for that school's educational program, for student residence and for support facilities. Specifically excluded from the computation shall be staff quarters.

(b) Square footage figures used in determining school allocations shall be taken from the facilities inventory maintained by the Division of Facilities Engineering.

(c) In those cases, such as contract schools, where square footage figures are not now available, it shall be the responsibility of the Bureau's Division of Facilities Engineering to collect the information no later than October 1, 1979.

(d) Schools in Alaska shall receive a 25% cost adjustment increase in the computation of their allocation.

§ 31h.113 Use of funds.

Funds allocated under this provision for maintenance and minor repair shall be used for no other purpose.

§ 31h.114 Limitations.

Nothing in this provision shall be interpreted as relieving the Bureau Branch of Facilities Management or its field offices of any responsiblity for continuing to provide maintenance and repair service to schools through existing procedures.

Subpart J—Interim Administrative Cost Formula

§ 31h.120 Purpose and scope.

The purpose of this subpart is to provide funds at the Office of Indian Education Programs and the area and agency education offices for fiscal year 1980 for administration of all Bureau of Indian Affairs education functions, including school operations, continuing education, and Johnson O'Malley programs.

§ 31h.121 Accounting.

A separate education administrative cost account element will be established in the Bureau's education funds accounting system beginning in fiscal year 1980.

§ 31h.122 Determination of present cost levels.

In previous years element 10, Education and Training—General, funds have included special program contracts as well as direct administrative costs. To determine what portion of element 10 constituted actual direct administrative costs for each area in fiscal year 1979 the Director, in consultation with the Area Director of the area where the contract is now held, will review each of these element 10 contracts for fiscal year 1979 and determine the appropriate status of each according to the following criteria:

(a) All contracts for non-administrative services shall be deleted from the computation of current and future administrative cost figures.

(b) Contracts for services which will be funded elsewhere under the Indian School Equalization Program shall be terminated as of September 30, 1979. An amount equal to the funds expended for these contracts in fiscal year 1979 shall be transferred from the element 10 allocation in fiscal year 1980 to the funds for distribution to the schools under the Indian School Equalization Formula.

(c) All such contracts which provide unique educational services which are not funded elsewhere under the Indian School Equalization Program are to be reviewed on a contract by contract basis and a determination made by the Director whether each shall be

continued or terminated. Those

(2) The funds remaining in the total

[25 CFR Part 31i]

were established to develop

31i.14 Interrogation of students.

participation of Indians in all phases of

continued or terminated. Those contracts which are continued shall be placed under an appropriate non-administrative education cost account. Funds equal to the fiscal year 1979 contract amount shall be transferred to this account from the fiscal year 1980 element 10 appropriation made available for obligation. For those contracts to be terminated, funds equal in amount to the fiscal year 1979 contract amount shall be transferred from the fiscal year 1980 element 10 appropriation made available for obligation to the funds for distribution to the schools under the Indian Schools Equalization Formula.

§ 31h.123 Allotment of educational administrative funds.

The fiscal year 1980 total budget made available for obligation for educational administration shall be allotted to the Director and to officials in the area and agency education offices designated by the Director. Such total amount to be allotted shall be equal to the amount budgeted for element 10 in the fiscal year 1980 budget appropriations request, less the amounts which were spent in fiscal year 1979 for non-administrative contract programs and services (as determined in section 31h.122) and less any reduction due to appropriation of less than the requested amount or a reprogramming approved by the Congressional Appropriation Committees. This total shall be called the "total available for allotment" and shall be distributed to the various BIA educational administrative offices as follows:

(a) The Office of Indian Education Programs allotment shall be $3,574,800, which is equal to the fiscal year 1979 element 10 budget. This amount shall be used to fund salaries and personal services, general office overhead, and management improvement projects. None of these funds shall be used to fund special projects.

(b) Each area shall receive for both area and agency education office administration a share of the balance in the total available for allotment, after funds for the Office of Indian Education Programs have been allotted, which shall be computed as follows:

(1) The area's share for administration of Johnson-O'Malley (JO'M) and Higher Education and Adult Education programs shall be equal to 2% of the total of JO'M and Higher Education and Adult Education funds for programs administered in and by the area. This sum shall be computed and allotted to the area prior to computation of any additional amounts for the area.

(2) The funds remaining in the total available for allotment shall be allocated for the general administration of educational functions in all area and agency education offices to be apportioned as follows:

(i) Twenty percent of the remaining total available for allotment shall be apportioned on the basis of each area's percentage of Indian students in average daily membership in Bureau operated and funded schools in the area compared to the national total of such membership.

(ii) The remaining 80% shall be apportioned on the basis of number of Bureau operated or funded school and institutions located within the area. These funds shall be apportioned across areas based on a weighting factor of .6 times the number of schools tribally operated under contract or other conveyance and a weight of 1.0 times the number of schools which are Bureau operated.

§ 31h.124 Allotment exceptions.

Notwithstanding the provisions above, no area shall receive less than 85% of the amount allotted to that area for education administration in element 10 in fiscal year 1979, excluding the sum spent on non-administrative contracts in fiscal year 1979.

§ 31h.125 Distribution of administrative funds within areas.

Within each area, funds allotted to that area shall be distributed to the area and agency education offices as follows:

(a) No area education office shall receive an amount in excess of 90% of the element 10 allotment which that office received in fiscal year 1979 exclusive of non-administrative contracts, except with the consent of the Director.

(b) Remaining funds in the area after allotment to the area education office shall be allotted by the Director to agency education offices on the basis of financial plans approved by Agency School Boards.

(c) In cases where the Director must during the course of the fiscal year make administrative transfers of area or agency administrative positions for the purpose of implementing policy decisions on direct line authority, the budgeted amounts for salary and other direct costs associated with those positions shall be transferred with them.

May 17, 1979.

Forrest J. Gerard,

Assistant Secretary—Indian Affairs.

[FR Doc. 79-16011 Filed 5-21-79; 8:45 am]

BILLING CODE 4310-02-M

[25 CFR Part 31i]

Student Rights and Responsibilities and Due Process Procedures

AGENCY: Department of the Interior.

ACTION: Proposed Rule.

SUMMARY: The purpose of this proposed rule is to establish substantive and procedural requirements to protect the constitutional and civil rights of American Indian/Alaska Native students enrolled in schools and dormitories operated by the Bureau of Indian Affairs.

The protection of such constitutional and civil rights is mandated by the Education Amendment of 1978 (Pub. L. 95–561). Section 1137 of (25 U.S.C. 2017) that act requires that the Bureau "prescribe such rules and regulations as are necessary to insure the constitutional and civil rights of Indian students attending Bureau schools, including but not limited to their right to privacy under the laws of the United States, their right to freedom of religion and expression and their right to due process in connection with disciplinary actions, suspensions, and expulsions." This proposed rule is designed to achieve full implementation of the specific requirements of Section 1137 of Pub. L. 95–561.

DATE: Comments must be received on or before June 21, 1979.

ADDRESS: Written comments may be sent or handcarried to Rick C. Lavis, Deputy Assistant Secretary—Indian Affairs, Department of the Interior, Room 6352, Washington, D.C. 20240.

FOR FURTHER INFORMATION CONTACT: Rick C. Lavis, Deputy Assistant Secretary—Indian Affairs, Washington, D.C. 20240. Telephone (202) 343–7163.

SUPPLEMENTARY INFORMATION: Statutory authority for the Bureau's education programs for American Indians is the Act of November 2, 1921 (42 Stat. 208, 25 U.S.C. 13). Such Act, commonly referred to as the Snyder Act, provides for the expenditure of funds for education and other purposes for the benefit, care and assistance of Indians.

Enactment of Title XI of Pub. L. 95–561 provides unprecedented opportunity for the development of exemplary educational programs and services for American Indian Native students. The Assistant Secretary of the Interior for Indian Affairs recognizes the critical importance of Indian involvement in the overall implementation of this new law. In an effort to accomplish such involvement, special Task Forces comprised of Indian representatives

were established to develop comprehensive sets of regulations whereby the requirements of Title XI Pub. L. 95–561 would be implemented.

One such Task Force (#11) was charged with responsibility for Section 1137 of Pub. L. 95–561 entitled Rights of Indian Students. The Task Force, in performing their responsibilities, addressed the basic right of all students to an education. Their focus was upon "quality educational opportunities for Indian students." Citing the critical importance of quality education to Indian self-determination, and the fact that current Bureau regulations do not address the kind of education which students have a right to, the Task Force has recommended that the Bureau "define the right to a meaningful education, and establish minimum requirements for achievement levels with time frames for full implementation and monitoring."

Finally, the Task Force on Student Rights and Responsibilities drafted a comprehensive set of proposed regulations designed to implement the requirement of the aforementioned Section 1137. The proposed regulations hereinafter set forth are in large part of that draft.

It has been determined that these regulations are not a major Federal action within the scope of the National Environmental Policy Act of 1969, 42 U.S.C. 4332 (2)(c).

The Department of the Interior has determined that this document is not a significant rule and does not require a regulatory analysis under Executive order 12044 and 43 CFR Part 14.

The primary author of this document is Roger Buffalohead, Steering Committee Member and Chairman of Task Force #11, (303) 779–5421. This notice proposes to revoke Part 35 and adds a new Part 31i of Subchapter E, Title 25 of the Code of Federal Regulations, to read as follows:

PART 31i—STUDENT RIGHTS AND RESPONSIBILITIES AND DUE PROCESS PROCEDURES

Subpart A—General Provisions and Policy

Sec.
31i.1 Purpose and scope.
31i.2 Definitions.

Subpart B—Student Rights and Responsibilities and Due Process Procedures for Students in Bureau Operated Schools and Dormoltories

31i.11 Introduction.
31i.12 Rights of students.
31i.13 Search and seizure.
31i.14 Interrogation of students.
31i.15 Non-English speaking students.
31i.16 Due process
31i.17 Grievance procedures.
31i.18 Appeals.
31i.19 Model bill of rights.

Subpart A—General Provisions and Policy

§ 31i.1 Purpose and scope.

(a) The purpose of Subpart B of this Part is to set forth policy, requirements and procedures to insure and protect the constitutional and civil rights of American Indian Students enrolled in Bureau operated schools and dormitories.

(b) Recognizing that Indian students who receive services through funds appropriated to the Bureau and enrolled in other than Bureau operated schools, there is an obvious need to provide for the equal protection of individual rights of all such students, irrespective of the type of school in which they may be enrolled. A Subpart C of this Part will be proposed to apply to these situations.

§ 31i.2 Definitions.

For the purposes of this Part:

(a) "Area Director" means the official in charge of education programs and activities in Area Office.

(b) "Assistant Secretary" means the Assistant Secretary of Interior for Indian Affairs.

(c) "Bureau" means the Bureau of Indian Affairs, Department of the Interior.

(d) "Director" means the Director, Office of Indian Education Programs, Bureau of Indian Affairs.

(e) "Indian tribe" or a tribe means any Indian tribe, band, nation, rancheria, pueblo, colony, or community, including any Alaska Native village or regional or village corporation as defined in, or established pursuant to the Alaska Native Claims Settlement Act (85 Stat., 688) which is recognized by the Assistant Secretary as being eligible for the special programs and services provided through the Bureau to Indians because of their status as Indians.

(f) "Superintendent" means the official in charge of education programs and functions at Agency Office.

(g) "Tribal organization" means the recognized governing body of any Indian tribe; or any legally established organization of Indians or tribes which is controlled, sanctioned, or chartered by such governing body or bodies or which is democratically elected by the adult members of the Indian community to be served by such organization and which includes the maximum participation of Indians in all phases of its activities

Subpart B—Student Rights and Responsibilities and Due Process Procedures for Students in Bureau-Operated Schools and Dormitories

§ 31i.11 Introduction.

(a) The most basic right of all students is the right to an education. Inherently, education as a developmental process, must focus upon the total student—his/her intellectual, physical, social, emotional, cultural and spiritual needs—if it is to be effective. Adequate opportunity for the development of understandings, attitudes, ideals and skills which contribute to the students' overall growth, development, adjustment, and success, is likewise, inherent to the entire educational process.

(b) Correspondingly, an important basis for excellence in the educational process is an understanding and acceptance of each student, both for what he/she is and for what he/she can become. Appropriately, this concept is parallel to the ethic of worth, dignity and importance of each individual. It is the basis upon which each individual can grow and develop at his/her own pace and, as nearly as possible to a level commensurate with his/her potential. In this regard, therefore, the education program and those who are involved in the total process must recognize, accept and respect not only the educational needs of American Indian students, but also their cultural values, beliefs, and differences.

§ 31i.12 Rights of individual students.

(a) Individual students enrolled in Bureau schools have and shall be accorded the basic right to an education, including the inherent ingredients necessary for maximal growth and development of each student. This requires programs and activities which are premised on the needs of the total student; and a staff which recognizes, respects and accepts the students' cultural heritage, it's values, beliefs and differences.

In this regard, therefore, the Bureau's educational programs, including extra-curricular activities, shall accord students the following rights:

(1) The right to a meaningful education which shall be designed to insure that:

(i) Parents, students, school boards, and other tribal representatives are involved in all aspects of program development and implementation.

concerning all of the rights set forth in

of his or her grievance to the school

within ten (10) days from the date of

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(ii) The curriculum, library, media and other educational resources and materials are premised upon, and adequate to, the identified needs of all students.

(iii) Comprehensive testing of student ability and development are performed; and comprehensive educational plans developed for all students, individually and collectively.

(iv) Student support services including counseling, tutorial, testing, placement and referral, are provided as a part of the regular educational program.

(v) Tribal elders and members having a practicing knowledge of tribal customs, traditions, values and beliefs are utilized in the development and implementation of cultural programs.

(vi) Bilingual and bi-cultural education course offerings are a part of the curriculum and available as electives to all students.

(vii) Educational and recreational facilities and resources are provided and designed so as to be conducive to learning. Such facilities shall include but not be limited to:

(A) Library resources which meet accreditation standards and tribal standards, including tribal history and culture materials.

(B) Adequate classroom and living space as defined by local committees and school boards.

(C) Educational and recreational facilities which are designed, constructed, operated and maintained to meet the needs of students and tribal community including provisions to assure a supportive environment for student learning, living and recreation.

(2) The right to a reasonable degree of privacy and a safe and secure environment.

(3) The right to make his or her own decisions where applicable, including but not limited to:

(i) The right to formulate one's own political or moral beliefs and decisions.

(ii) The right to form political organizations in the school so long as they do not have discriminatory membership restrictions.

(iii) The right to plan and carry out voluntary forums, assemblies, seminars, and school programs of a political nature so long as they do not substantially disrupt school operations.

(4) The right to freedom of religion, and the right to be free from religious proselytization.

(5) The right to cultural self-determination based upon tribal thought and philosophy.

(6) The right to freedom of speech and expression, including symbolic expression, such as display of buttons, posters, choice of dress, and length of hair so long as the symbolic expression does not unreasonably and, in fact, disrupt the educational process or endanger the health and safety of students or others.

(7) The right to freedom of the press, except where material is libelous, slanderous, or obscene.

(8) The right to peaceably assemble and to petition the redress of grievances.

(9) The right to freedom from discrimination including but not limited to Title XI of the Education Amendments Act of 1972 as amended (20 U.S.C. 1232 and 1681).

(10) The right to remain silent when accused of a crime or violation of a school rule.

(11) The right to be free from cruel and unusual punishment, including corporal punishment.

(12) The right to be free from work assignments or details that are unrelated to the educational process.

(13) The right of individual students and student organizations to have timely access to information about participation in an educational services opportunities including but not limited to:

(i) Copies of student rights and due process regulations and amendments thereto.

(ii) Indian and non-Indian legal services information.

(iii) Scholarships, higher education opportunities, vocational-technical opportunities, etc.

(iv) Curriculum changes and reorganization plans.

(14) The right of all handicapped students to the benefits of all rights and privileges prescribed by existing law, including but not limited to the rights granted under the Education of All Handicapped Children Act (Pub. L. 94-142, 20 U.S.C. 1411 *et seq.*).

(15) The right of students to participate in curriculum development.

(16) The right of students to have legal counsel.

(17) The right of students to transportation costs to and from boarding schools in emergency situations.

(18) The right of students to have access and use of communication forms/facilities to discuss personal and academic concerns with parents or legal guardians and immediate family members as needed.

(19) The right to law-related curriculum including but not limited to property, torts, contracts, constitutional law, tribal law, and tribal government.

§ 31l.13 Search and seizure.

Students have an absolute right to be secure in their person and property against unreasonable search and seizure. The Director shall publish Guidelines on Searches and Seizures in the Bureau Manual (BIAM) consistent with these regulations.

§ 31l.14 Interrogation of students.

(a) Before permitting any minor student to be interviewed by law enforcement officials, the school official in charge must secure the consent of the parent(s) or legal guardian(s) of the student. The parents or student must be advised of the student's right to remain silent, and that silence cannot be held against the student, and of the right to be represented by counsel at their own expense during the interview. This advice shall be given both in English and in the native language of the parties, when applicable. Interviews of minor students without permission of the parent(s) or guardian(s) is not authorized.

(b) All interviews of students are to be conducted in private, with as little disruption from school programs as possible. In the absence of a parent or legal guardian of the student, the school official in charge and one other adult witness selected by the student should be present during any interview with law enforcement officers.

(c) No minor student may be removed from school premises by law enforcement personnel without the consent of a parent or legal guardian, except upon service of a valid warrant of arrest.

(d) Legal process such as warrants of arrest, search warrants, or subpoenas cannot be impeded, but must be presented for service through the school official in charge.

(e) Under no circumstances may any school personnel act as an "agent" for law enforcement officials.

(f) When a legal process is presented, and the student concerned is a minor, the student and his parents or legal guardian shall immediately be notified. All known facts giving rise to the issuance of the legal process shall be conveyed to the student, and, if the student is a minor, to his or her parent or guardian. Both the student and the parents or guardian should be advised that there is a right to obtain legal counsel at their own expense.

§ 31l.15 Non-English speaking students.

All schools subject to these regulations shall take necessary steps to insure that non-English speaking students are properly informed

concerning all of the rights set forth in this Part.

§ 31l.16 Due process.

(a) The right to due processes. All students are entitled to due process in every instance of disciplinary action for alleged violation of school regulations for which the student may be subjected to penalties of suspension, explusion, or transfer.

Due process shall include:

(1) Written notice of charges of alleged violation within a reasonable time after such violation. Notice of charges shall include reference to the regulation allegedly violated, the facts alleged to constitute the violation, and notice of access to all statements of persons relating to the charges and to those parts of the student's school record which will be considered in rendering a disciplinary decision.

(2) A fair and impartial hearing prior to the imposition of disciplinary action absent the actual existence of an emergency situation seriously and immediately endangered the health or safety of the student or others. In an emergency situation the official may impose disciplinary action not to exceed a temporary suspension, but shall immediately thereafter report in writing the facts (not conclusions) giving rise to the emergency and shall afford the student a hearing which fully comports with due process, as herein set forth, as soon thereafter as practicable.

(3) The right to have present at the hearing the student's parent(s) or guardian(s) (or their designee) and to be represented by lay or legal counsel of the student's choice. Private attorney's fees are to be borne by the student.

(4) The right to produce, and have produced, witnesses on the student's behalf and to confront and examine all witnesses.

(5) The right to a record of hearings of disciplinary actions, including written findings of fact and conclusions in all cases of disciplinary action.

(6) The right to administrative review and appeal.

(7) The student shall not be compelled to testify against himself.

(8) The right to have allegations of misconduct and information pertaining thereto expunged from the student's school record in the event the student is found not guilty of the charges.

§ 31l.17 Grievance procedures.

(a) All schools subject to these regulations must comply with the following procedures:

(1) Any student with a grievance has the right to submit a written statement of his or her grievance to the school official in charge. Within 10 days of receipt of the grievance, the school official in charge must respond in writing to the aggrieved student. The student and the school should make every attempt to resolve the grievance.

(2) Any student who has an unresolved grievance, and who has received a written response from the school to the statement of grievance, has the right to an informal hearing upon written request to the school official in charge. Within ten (10) days after receipt of a written request for a hearing from the student, the school official in charge shall hold an informal hearing for the purpose of allowing the student to voice his grievance before the school administration. The school official in charge may select the hearing official or officials, and may establish rules for the conduct of the hearing.

(3) Within ten (10) days following conclusion of the hearing, the school official in charge shall furnish to the aggrieved student a written decision of the school with respect to the grievance.

(4) The aggrieved student within ten (10) days after receipt of the decision pursuant to (3) above, may appeal the decision of the school by filing a written notice of appeal with the concerned school board or other appropriate group overseeing the school. The appeal must set forth a statement of reasons in support of the appeal. Within ten (10) days from receipt of the notice of appeal, the school board or other overseeing the school, must respond to the aggrieved student by furnishing its written decision on the appeal.

(5) The aggrieved student has the right of a final appeal by filing a written notice of appeal with statement of reasons to the Director, within ten (10) days from the date of receipt of the decision of the school board or other appropriate office overseeing the school. The Director shall respond by written decision to the aggrieved student within ten (10) days following receipt of the appeal, and such decision shall be final.

(6) Schools may adopt their own grievance procedures, which must be consistent with the procedures prescribed herein.

§ 31l.18 Appeals process.

(a) Initial decisions on penalties of suspension, expulsion, or transfer shall be made by the principal. Decisions adverse to a student may be appealed to the School Board or other appropriate group overseeing the school. Appeals must be made in writing with a statement of supporting reasons, and must be filed with the School Board within ten (10) days from the date of receipt of the principal's decision. Within ten (10) days from the date of receipt of the appeal, the School Board or other appropriate group overseeing the school, must furnish its written decision to the student.

(b) Students have the right of a final appeal to the Director, from decisions of School Boards or other appropriate groups. Appeals must be in writing with supporting reasons and filed with the Director within ten (10) days from the student's receipt of the school Board's or group's decision. The Director shall issue his decision within ten (10) days following receipt of the appeal and such decision shall be final for the Department.

§ 31l.19 Model bill of student rights and responsibilities.

(a) Upon final publication of these regulations, the Assistant Secretary through the Director shall develop a model Student Bill of Rights and Responsibilities for junior and senior high school students enrolled in schools subject to these regulations.

May 17, 1979.

Forrest J. Gerard,

Assistant Secretary—Indian Affairs.

[FR Doc. 79-16012 Filed 5-21-79; 8:45 am]

BILLING CODE 4310-02-M

[25 CFR Part 33]

Grants for Tribally Controlled Community Colleges and Navajo Community College

May 17, 1979.

AGENCY: Bureau of Indian Affairs, Department of the Interior.

ACTION: Proposed rule.

SUMMARY: The Department of Interior proposes to add a new Part to its regulations to establish rules to provide grants for Tribally Controlled Community Colleges and the Navajo Community College under Pub. L. 95-471. The Tribally Controlled Community College Assistance Act of 1978 which included Title II, Navajo Community College Assistance Act of 1978, provided for grants and technical assistance for the operation and improvement of Tribally Controlled Community Colleges for the education of Indian students.

DATES: Comments must be received on or before: July 6, 1979.

ADDRESSES: Written comments may be submitted by mail or by hand delivery addressed to Rick C. Lavis, Deputy Assistant Secretary of Indian Affairs,

(a) "Academic Term" means a

other organized group or community,

(j) "National Indian Organization"

§ 33.6 HEW participation.

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Department of the Interior, Room 6352, Washington, D.C. 20240

FOR FURTHER INFORMATION CONTACT:
Rick C. Lavis, Deputy Assistant Secretary of Indian Affairs, Department of the Interior, Room 6352, Washington, D.C. 20240. Telephone: (202) 343–7163.

SUPPLEMENTARY INFORMATION: The Bureau of Indian Affairs has offered or supported programs at the Post Secondary level for almost a century. Haskell Indian Junior College is one of three such programs and is typical of a Federally operated Bureau College. More recently, Pub. L. 93–638, the Indian Self-Determination Act, and other authorities, have provided new opportunities for the Bureau to support initiatives by tribes to operate educational programs beyond the secondary level.

While these efforts in Post Secondary education continue to serve Indian people well, major academic and social needs remain unment. Recent reports of the General Accounting Office highlight alarming Indian student dropout rates from conventional institutions located mainly away from home evironments. P.L. 95–471, the Tribally Controlled Community College Assistance Act of 1978, provides the means for locally controlled Indian community colleges to operate Post Secondary programs for Indian students at or near their home areas. While some emphasis will be given to cultural curriculum offerings, the colleges will be operating under standards established by their accredited associations.

I have determined that these proposed regulations are not a major Federal action within the scope of the National Environmental Policy Act of 1969, 42 U.S.C. 4332(2)(C).

The Department of Interior has determined that this document is not a significant rule and does not require a regulatory analysis under Executive Order 12044 and 43 CFR Part 14.

This notice is published in exercise of authority delegated by the Secretary of the Interior to the Assistant Secretary for Indian Affairs by 209 DM8.

The primary author of this document is Leroy Clifford, Steering Committee Member and Task Force No. 12 Chairman. Address: 1626 High Street, Denver, Colorado 80218. Telephone: (302) 321–5909. Subchapter E, Chapter I of Title 25 of the Code of Federal Regulations is amended by the addition of a proposed new Part 33 to read as follows:

PART 33—GRANTS TO TRIBALLY CONTROLLED COMMUNITY COLLEGES AND NAVAJO COMMUNITY COLLEGE

Subpart A—Tribally Controlled Community Colleges

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33.2 Scope.
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Subpart B—Navajo Community College

33.20 Purpose.
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33.27 General provisions.
33.28 Criminal penalties.

Authority: Sections 114 and 203 of Public Law 95–471, 25 U.S.C. 1815 and 25 U.S.C. 640c–1.

Subpart A—Tribally Controlled Community Colleges

§ 33.1 Purpose.

The policy of the Department of the Interior is to support and encourage the establishment, operation, and improvement of tribally controlled community colleges to ensure continued and expanded educational opportunities for Indian students, and to assist the Indian Tribes in implementing social and economic development efforts leading to the fulfillment of Tribal goals and objectives. The regulations in this Subpart prescribe procedures for providing financial and technical assistance to this end under the Tribally Controlled Community College Assistance Act of 1978 (92 Stat. 1325; Pub. L. 95–471; 25 U.S.C. 1801 et seq.).

§ 33.2 Scope.

The regulations in this Subpart are applicable to the provision of financial and technical assistance to Community Colleges under Title I of the Act. They do not apply to the provision of assistance to Navajo Community College. Subpart B of this Part applies to assistance to Navajo Community College under Title II of the Act.

§ 33.3 Definitions.

As used in this Subpart A:

(a) "Academic Term" means a semester, trimester, or other such period into which a community college normally subdivides its academic year.

(b) "The Act" means the Tribally Controlled Community College Assistance Act of 1978 (92 Stat. 1325; Pub. L. 95–471; 25 U.S.C. 1801 et seq.).

(c) "Assistant Secretary" means the Assistant Secretary for Indian Affairs of the Department of the Interior, or his/her duly authorized representative.

(d) "Community College" means an institution of higher education which (1) is formally controlled or operated and managed by the governing body of an Indian Tribe or by the governing bodies of two or more Indian Tribes, or (2) is established or is otherwise sanctioned or chartered, by resolution, ordinance, or other official action (which is still in full force and effect) of such governing body or bodies. However, for purposes of this definition, only one such institution shall be recognized with respect to any one Tribe. A Community College that meets the requirements of this definition with respect to more than one Tribe must meet such requirements with respect to at least one Tribe that has no other currently formally controlled, operated and managed, established, sanctioned, or chartered Community College.

(e) "Director of Education" means the Director of the Office of Indian Education Programs of the Bureau of Indian Affairs, or his/her duly authorized representative.

(f) "Full Time Equivalent" or "FTE" means the number of students (1) enrolled full-time for an entire academic year at a Community College, calculated on the basis of registrations as in effect at the conclusion of the sixth week of an academic term, plus (2) the full-time equivalent of the number of other students who are enrolled during any portion of the academic year (determined on the basis of the quotient of the sum of the credit hours per term for which all such part-time students are, or have been, registered during such academic year divided by twelve (12) times the number of terms in the Community College's academic year). Students who attend summer classes for which full academic credit is given shall be counted as if they were enrolled in the following academic term rather than in the summer term.

(g) "Indian" means a person who is a member of an Indian Tribe and is eligible to receive services from the Secretary of the Interior because of his/her status as an Indian.

(h) "Indian Tribe" means an Indian tribe, band, nation, pueblo, rancheria, or other organized group or community, including any Alaskan Native village or regional or village corporation as defined in or established under the Alaska Native Claims Settlement Act, which is recognized as eligible for the special programs and services provided by the United States to Indians because of their status as Indians.

(i) "Institution of Higher Education" means an educational institution in any State which (1) admits as regular students only persons having a certificate of graduation from a school providing secondary education, or the recognized equivalent of such a certificate, (2) provides an educational program for which it awards a bachelor's degree or provides not less than a two-year program which is acceptable for full credit toward such a degree, (3) is a public or other nonprofit institution, and (4) is accredited by a nationally recognized accrediting agency or association or, if not so accredited, (A) is an institution with respect to which the Commissioner of Education (HEW) has determined that there is satisfactory assurance, considering the resources available to the institution, the period of time, if any, during which it has operated, the effort it is making to meet accreditation standards, and the purpose for which this determination is being made, that the institution will meet the accreditation standards of such an agency or association within a reasonable time, or (B) is an institution whose credits are accepted, on transfer, by not less than three institutions which are so accredited, for credit on the same basis as if transferred from an institution so accredited. Such terms also includes any school which provides not less than a one-year program of training to prepare students for gainful employment in a recognized occupation and which meets the provisions of clauses (1), (3), and (4). Such term also includes a public or nonprofit private educational institution in any State which, in lieu of the requirement in clause (1), admits as regular students persons who are beyond the age of compulsory school attendance in the State in which the institution is located and who have the ability to benefit from the training offered by the institution. For purposes of section 1201(a) of the Higher Education Act of 1965 (20 U.S.C. 1141(a)), the Commissioner of Education (HEW) determines and publishes a list of nationally recognized accrediting agencies or associations which are reliable authority as to the quality of training offered and such list shall be utilized for purposes of this definition.

(j) "National Indian Organization" means any organization of Indian found by the Director of Education to be nationally based, representing a substantial Indian constituency, and expert in the field of Indian education. Notice of such findings shall be published in the Federal Register with an opportunity for comment from the public and no such finding shall be effective earlier than 30 days after publication.

(k) "Operating Expenses of Education Programs" means the obligations and expenditures of a Community College for post-secondary education activities including administration, instruction, attendance, health and other student services, operation, maintenance and repair of plant, fixed charges, and other related expenses, but not including obligations of expenditures for the acquisition or construction of academic facilities or other structures or utility facilities.

(l) "Unused Portion of Received Funds" means the amount of financial assistance provided under this Subpart to a Community College on or before July 1st for each academic year which has not been obligated or expended by the Community College by such date.

§ 33.4 Eligible recipients.

Financial assistance under this Subpart shall be available only to a Community College which:

(a) Is governed by a board of directors, regents, or trustees, a majority of whom are Indians;

(b) Has shown its adherence to stated goals, a philosophy, or a plan of operation directed to meet the needs of Indians with formal adoption, in writing, of such goals, philosophy, or plan of operation, which may be in the form of a constitution, by-laws, or policy statement of the Community College;

(c) If in operation for more than one year, has students a majority of whom are Indian; and

(d) Is not in violation of § 33.11(a) of this subpart.

§ 33.5 Eligible activities.

Financial assistance under this Subpart shall be available to defray only the operating expenses of education programs of Community Colleges. Financial assistance shall not be available under this Subpart for religious worship or sectarian instruction, but nothing in this Subpart shall be construed as barring instruction in comparative religions or cultures or in languages of Indian tribes.

§ 33.6 HEW participation.

For the purpose of conducting feasibility studies under § 33.7 of this Subpart, and for the purpose of developing plans, procedures, and criteria for conducting those studies, the Director of Education has or will enter into an agreement or agreements with the Assistant Secretary of Education, Department of Health, Education and Welfare. Such agreement or agreements are for the purpose of designation by the Assistant Secretary of Education (HEW) of a representative to participate in the development of plans, procedures, and criteria for feasibility studies and provide for the representative to participate in conducting feasibility studies under this Subpart, including determinations as to the reasonable number of students required to support a Community College.

§ 33.7 Feasibility studies.

(a) Grants under § 33.8 of this Subpart will be made to a Community College only after a positive determination of feasibility as provided in this section. Priority in scheduling and completing feasibility studies will be given to Community Colleges which were operating on October 17, 1978.

(b) Within thirty (30) days of receiving a resolution or other duly authorized request from the governing body of one or more Indian Tribes together with documentation showing that the institution is seeking a determination of feasibility, is duly sanctioned, chartered, or controlled by said governing body or bodies, the Director of Education shall initiate a feasibility study to determine whether there is justification to encourage and maintain a Community College for such tribe or tribes. Priority will be accorded to those Community Colleges in operation on October 17, 1978, and which have a history of service to Indian people. The feasibility study shall give consideration to the following factors:

(1) The number of students to be served compared to the reasonable number of students required to support the Community College (wherever possible, special consideration for feasibility shall be given for Tribes that have percentages of tribal members matriculating in and graduating from college at a rate of 50% or more below the U.S. national average);

(2) Tribal, linguistics, or cultural differences;

(3) Isolating;

(4) Presence of alternate education sources;

(5) Proposed curriculum;

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(6) The benefits of continued and expanded educational opportunities for Indian students.

(c) Feasibility studies under this section shall be conducted in consultation with the tribal governing body or bodies involved or their designated representatives. Each feasibility study shall be completed and filed by the Director of Education within ninety (90) days of receipt of the request for such study (or as soon thereafter as possible) with: (1) the Assistant Secretary, (2) the tribal governing body or bodies requesting the studies, and (3) with the board of directors, regents, or trustees of the Community College if already established.

(d) In the case of any feasibility study which results in a negative determination by the Director of Education a Tribe requesting the study may within thirty (30) days of receipt of the study or of notice of such determination file a notice of appeal with the Assistant Secretary. Following the timely filing of a Tribe's notice of appeal, the Tribe and Community College shall have a right to a formal review of the feasibility study, including a hearing upon reasonable notice within sixty (60) days before the Assistant Secretary (or his/her designee other than the Director of Education or any federal employee under the Director's supervision). At the hearing the appealing Tribe or the Community College (or both) may present additional evidence or arguments to justify feasibility. Within thirty (30) days of the hearing the Assistant Secretary shall issue a written ruling either confirming, modifying, or reversing the original determination. The ruling, which shall be final for the Department, shall be mailed or otherwise delivered to the appealing Tribe and the Community College within one week of its issuance.

In any case where the original negative determination is not reversed, the Assistant Secretary's ruling shall specify the grounds for the decision and state the manner in which the decision related to each of the factors specified.

(e) A negative determination shall not prevent a Tribe from requesting another feasibility study, but no more than one feasibility study shall be requested for any given Community College per year.

(f) In case where the Director of Education does not complete a feasibility study within 90 days of receipt of the request for such study, a Tribe requesting the study may consider a negative feasibility determination to have been made for purposes of an appeal under subsection (d) of this section.

§ 33.8 Grants.

(a) Each Community College which has received a positive feasibility study determination under § 33.7 of this Subpart shall be entitled to apply for annual financial assistance in an amount determined in accordance with subsection (c) of this section.

(b) Except for applications for grants for the 1979–1980 academic year, each Community College shall make an application to the Director of Education before the January 31, preceding the academic year for which financial assistance is requested. Each application should contain the following information:

(1) The name and address of the Community College and the names of the members of the governing board and the number of its members who are Indian;

(2) A statement that the Community College has received a positive feasibility determination and the date thereof;

(3) A written statement of the goals, philosophy, or proposed plan of operation sufficient to demonstrate that its education program or proposed program is designed to meet the needs of Indians;

(4) In the case of a Community College which has been in operation for more than one year, a statement of the total number of FTE Indian students and the total number of all FTE students.

(5) If the Community College has not yet begun operations, a statement of expected enrollment, including the total number of all FTE students and the number of FTE Indian students;

(6) The name and address of the Indian Tribe or Tribes which control or operate and manage, or have established, sanctioned, or chartered the Community College and a statement as to which of those Tribes have not done so with respect to any other Community College;

(7) A curriculum which may be in the form of a college catalog or like publication;

(8) A proposed budget, showing total expected operating expenses of education programs and expected revenues from all sources for the academic year to which the information applies;

(9) An assurance that the Community College will not deny admission to any Indian student because that student is not a member of a specific tribe or because such student is a member of a specific tribe and will comply with the requirements set forth in § 33.11 of this Subpart, together with any request and justification for a specific waiver of any requirement of 25 CFR Part 276 which the Community College believes to be inappropriate;

(10) Certification by the chief executive officer of the Community College that the information in the application is complete and correct and that the application has been filed with the governing body or bodies of the Tribe or Tribes which control or have sanctioned or chartered it.

(c)(1) Within thirty (30) days (or as soon thereafter as possible) of receiving an application required under subsection (a) of this section, the Director of Education shall review the application submitted by the Community College and any comments with respect thereto filed by the Tribe(s) or by any national Indian organization(s) whose assistance has been requested by the Community College, and make a grant award in an amount determined under subsection (d) of this section to the Community College if the application qualifies the Community College to receive a grant.

(2) In the case of any Community College whose application is not approved, the Director shall promptly send a notice of such action to the Community College. Such notice shall include a statement of the specific reasons for not approving the application and a statement advising the College of its right within thirty (30) days to amend or supplement the application on file to rectify the defect.

(3) A failure of the Director of Education to approve an application within thirty (30) days of receipt may be appealed by a Community College in the same manner as provided in subsections (d) and (f) of § 33.7

(4) A grant award under an approved application shall be evidenced by a grant agreement signed by the Director of Education incorporating the application and the provisions required by § 33.11.

(d)(1) Each Community College which qualifies for a grant shall receive a grant for the academic year commencing after the date of approval of its application, and for each succeeding year that it submits an application and remains eligible, in an amount equal to $4,000 for each FTE Indian student in attendance at such college during such academic year except that no such grant shall exceed the total annual cost of the education programs provided by the Community College.

(2) For the first Federal fiscal year for which funds are appropriated for grants under this Subpart not less than eight (8) nor more than fifteen (15) grants shall be approved; priority in awarding such grants shall be given to Community Colleges which were operating on October 17, 1978, and which have a history of service to the Indian people. (If more than fifteen (15) Community Colleges meeting these two (2) conditions submit applications for such first fiscal year, a further priority for awarding grants among them shall be given to those who appear to have the best operations or operating proposals and to those whose continued existence would be threatened if they did not receive such a grant.)

(3) All grants under this section shall be subject to the availability of appropriations and the amount thereof shall be ratably reduced for all Community Colleges if the sums appropriated for any fiscal year for financial assistance under this Subpart are not sufficient to pay the full amounts to which the eligible Community Colleges are otherwise entitled under this subsection (d).

(e) The Director of Education shall authorize payments to each such Community College in advance installments by letter of credit or Treasury check in an amount equal to fifty percent (50%) of the grant amount available for allotment to such Community College for such academic year under subsection (d) of this section on or before September 1st (or such other date that is the first day of the first month) of such College's academic year (except for 1979–1980) based on the number of FTE Indian students calculated on the basis of registrations in effect at the conclusion of the sixth week of the final academic term of the preceding academic year. On or before January 1st (or such other date that is the first day of the fifth month) of each of the College's academic year, payments shall be made in the form of advance installments to each Community College in an amount equal to seventy-five percent (75%) of the grant amount available for allotment to such Community College for such academic year under subsection (d) of this section calculated on the basis of registrations at the conclusion of the sixth week of the academic year, less the amount previously advanced for such academic year. On or before July 1st (or such other date that is the first day of the eleventh month) of each such academic year the balance of the grant amount to which each such College is entitled under subsection (d) of this section shall be paid to such Colleges. In the event that additional sums are appropriated to which such Community Colleges are entitled under § 110(a) of the Act and subsection (d) of this section such amounts shall be included in such final payments.

(f) If with respect to any academic year the amounts of financial assistance hereunder have been ratably reduced as provided in subsection (d)(3) of this section and additional funds have not been appropriated to pay the full amount of such reductions on or before June 1st of such year, the Director of Education shall notify each Community College of such fact in writing, and each Community College shall report in writing to the Director of Education on or before July 1st of such year the amount of unused portion of received funds. The total of such reported unsued portions of received funds shall be reallocated by the Director of Education in proportion to the amount of financial assistance to which each Community College is entitled under subsection (d) but which has not been provided due to the ratable reductions provided for therein, (except that no Community College shall receive more than the total annual cost of the education programs provided by such College) and payments shall be made reflecting such reallocations on or before August 1st of such academic year.

(g) Grants for succeeding academic years shall be made to each Community College which has been approved for financial assistance hereunder based upon the FTE reports required by § 33.9.

(h) Eligibility for grants under this Subpart shall not, by itself, bar a Community College from qualifying for or receiving financial assistance under any other Federal program for which it may qualify.

§ 33.9 Reports.

Each Community College receiving financial assistance under this Subpart shall provide to the Director of Education on or before November 1st of each year a report which shall include an accounting of the amounts and purposes for which such financial assistance was expended during the preceding academic year; the annual cost of the education programs of the Community College from all sources for such academic year; and a final report of the performance based upon the criteria set forth in the Community College's stated goals, philosophy or plan of operation. Upon reasonable cause, the Director of Education may extend the period of submitting the annual report. Each Community College shall in addition report to the Director of Education its FTE student enrollment calculated on the basis of registrations in effect at the conclusion of the sixth week of the first and final academic terms of each academic year within such respective dates.

§ 33.10 Technical assistance.

The Director of education shall furnish technical assistance either directly or through contract to any Community College requesting it. Such assistance shall be initiated within thirty (30) days (or as soon thereafter as possible) of a Community College's request in writing. In any case, where the type and source of technical assistance is specified in the request, the Director, to the extent possible or feasible, shall provide the type of technical assistance through the source so specified. Technical assistance may include, but is not limited to, consulting services for the development of programs, plans, and feasibility studies and grant submissions and legal, accounting, and other technical advice and representation. In awarding of contracts for technical assistance, preference shall be given to an organization designated by the Community College to be assisted. Denials of requests for technical assistance under this section shall be made in writing and sent to the applicant within thirty (30) days of the request, together with a statement of the reason for denial. An appeal under this section may be undertaken in the same manner as in the case of negative determinations of feasibility under § 33.7(d) of this Subpart.

§ 33.11 General provisions.

The general requirements for grant administration in this section are applicable to all grants provided under this Subpart to Community Colleges:

(a) Services or assistance provided to Indians by Community Colleges aided under this Subpart shall be provided in a fair and uniform manner, and admission to any such Community College shall not be denied to any Indian student because such individual is not a member of a specific Indian tribe or because such individual is a member of a specific Indian tribe.

(b) Except as may be otherwise provided in this Subpart, any Community College receiving financial assistance under this Subpart shall comply with Part 276 of this Title, subject to any express waiver of specific inappropriate provisions of Part 276 that may be granted, after request and justification by the Community College, by the Assistant Secretary.

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(c) A Community College shall have the right to appeal any adverse decision of the Director of Education under a grant agreement to the Assistant Secretary by filing written notice of appeal with the Assistant Secretary within thirty (30) days after the adverse decision. Within thirty (30) days after receiving notice of appeal, the Assistant Secretary shall conduct a formal hearing at which time the College may present evidence and argument to support its appeal. Within thirty (30) days of the hearing, the Assistant Secretary shall issue a written ruling on the appeal confirming, modifying, or reversing the decision of the Director of Education. In the case of a ruling not reversing the Director of Education's decision, the Assistant Secretary shall state in detail the basis for his ruling. The ruling of the Assistant Secretary on an appeal shall be final for the Department of the Interior.

§ 33.12 Annual budget.

Appropriations under Title I of the Tribally Controlled Community College Assistance Act of 1978 shall be separately identified in the Bureau of Indian Affairs Budget Justifications. Funds appropriated for grants under this Subpart shall not be commingled with other funds expended by the Bureau of Indian Affairs.

§ 33.13 Criminal penalties.

Persons submitting or causing to be submitted to the Bureau any application, report, or other document, upon which the provision of Federal financial assistance or any other payment of Federal funds is based, may be subject to criminal prosecution under provisions such as sections 287, 371, or 1001 of Title 18, U.S. Code.

Subpart B—Navajo Community College

It is the policy of this Department to support and encourage the establishment, operation, and improvement of tribally controlled community colleges in order to ensure continued and expanded educational opportunities for Indian students, and to assist the Indian Tribes in implementing social and economic development efforts leading to the fulfillment of Tribal goals and objectives. The regulations in this Subpart prescribe procedures for providing financial and technical assistance to this end for the Navajo Community College under the Navajo Community College Act, as amended (25 U.S.C. 640a-c).

§ 33.21 Scope.

The regulations in this Subpart are applicable to the provision of financial and technical assistance to Navajo Community College pursuant to the Navajo Community College Act of December 15, 1971 (85 Stat. 646; 25 U.S.C. 640a-c) as amended by the Navajo Community College Assistance Act of 1978 (Title II of the Tribally Controlled Community College Assistance Act of 1978 (92 Stat. 1325, 1329; Pub. L. 95-471; 25 U.S.C. § 649c). Regulations applicable to Tribally Controlled Community Colleges other than Navajo Community College are to be found in Subpart A of this Part 33.

§ 33.22 Definitions.

As used in this Subpart:

(a) "Academic Term" means a semester, trimester, or other such period into which the College normally subdivides its academic year.

(b) "The Act" means the Navajo Community College Act of December 15, 1971 (Stat. 646) as amended by the Navajo Community College Assistance Act of 1978, (92 Stat.1329; Pub. L. 95-471, Title II; 25 U.S.C. § 640a et seq.).

(c) "Assistant Secretary" means the Assistant Secretary for Indian Affairs of the Department of the Interior or his/her duly authorized representative.

(d) "College" means the institution known as Navajo Community College established by the Navajo Tribe.

(e) "Director of Education" means the Director of the Office of Indian Education Programs of the Bureau of Indian Affairs, or his/her duly authorized representative.

(f) "Full Time Equivalent" of "FTE" means the number of students (1) enrolled full-time for an entire academic year at Navajo Community College, calculated on the basis of registrations in effect at the conclusion of the sixth week of an academic term, plus (2) the full-time equivalent of the number of other students who are enrolled during any portion of the academic year (determined on the basis of the quotient of the sum of the credit hours per term for which all such part-time students are, or have been, registered during such academic year divided by twelve (12) times the number of terms in the College's academic year.) Students who attend summer classes for which full academic credit is given shall be counted as if they were enrolled in the following academic term rather than in the summer term.

(g) "Indian" means a person who is a member of an Indian tribe and is eligible to receive services from the Secretary of the Interior because or his/her status as an Indian.

(h) "Indian Tribe" means an Indian tribe, band, nation, pueblo, rancheria, or other organized group or community, including any Alaskan Native Village or Regional or Village Corporation as defined in or established under the Alaska Native Claims Settlement Act, which is recognized as eligible for the special programs and services provided by the United States to Indians because of their status as Indians.

(i) "Operating Expenses of Education Programs" means the obligations and expenditures by the Navajo Community College for post-secondary education activities including administration, instruction, attendance, health and other student services, operation, maintenance and repair of plant, and fixed charges, and other related expenses, but not including obligations or expenditures for the acquisition or construction of academic facilities or other structures or utility facilities.

§ 33.23 Eligible activities.

Financial assistance under this Subpart shall be available to defray only the operating and maintenance expenses of education programs of the Navajo Community College. Financial assistance shall not be available under this Subpart for religious worship or sectarian instruction, but nothing in this Subpart shall be construed as barring instruction in comparative religions or cultures or in languages of Indian tribes.

§ 33.24 Grants.

(a) Navajo Community College is entitled to annual grants for operation and maintenance of the College in amounts based upon the number of Full-Time Equivalent Indian students in attendance.

(b) Annually, in the manner and within the deadline established by the Director of Education, the Navajo Community College shall submit an application in the form of a statement of its expected FTE enrollment (total and Indian) for the next academic year. The statement shall include a description of the College's curriculum, which may be in the form of a College catalog or like publication, and a proposed budget showing total expected operating expenses of educational programs and expected revenue from all sources for the academic year for which the information applies. The statement shall be certified by the chief executive officer of the College and shall certify that a copy of that statement has been submitted to the Navajo Tribe.

(c) Annual budget requests for the College shall be separately identified in the Bureau of Indian Affairs Budget Justifications. Funds appropriated for grants under this Subpart shall not be commingled with other funds appropriations historically expended by the Bureau of Indian Affairs for programs and projects normally provided on the Navajo Reservation for Navajo beneficiaries.

(d) Within thirty (30) days of submission of the statement required under subsection (b) of this section, the Director of Education shall make a grant award to the College in an amount determined under subsection (e) of this section, except that such grant award shall not be in an amount that exceeds the total cost of the education programs provided by the College. The grant award shall be evidenced by a grant agreement signed by the Director of Education incorporating the grant application and including the provisions required by § 33.27 of this Subpart.

(e) The College shall be eligible to receive a grant for the fiscal year beginning October 1, 1979, and for each succeeding year, in an amount equal to $4,000 for each FTE Indian student in attendance at the College for the academic year except that no such grant shall exceed the total annual cost of the education programs provided by the College. The amount and payment of such grants shall be subject to the availability of annual appropriations.

(f) The Director of Education shall authorize payments to the College in advance installments by letter of credit or Treasury check in an amount equal to fifty percent (50%) of the grant amount available for allotment to the College for such academic year under subsection (e) of this section on or before September 1st of such academic year based on the number of FTE Indian students calculated on the basis of registrations in effect at the conclusion of the sixth week of the final academic term of the preceding year. On or before January 1st of each academic year, payment shall be made in the form of such advance installments to the College in an amount equal to seventy-five percent (75%) of the grant amount available for allotment to the College under subsection (e) of this section, less the amount previously advanced for such academic year. On or before July 1st of such academic year the balance of the grant amount to which the College is entitled under subsection (e) of this section (adjusted for any deviation in enrollment between the estimated figure upon which the appropriate is based and the actual figure calculated on the basis of the FTE Indian students enrolled at the conclusion of the sixth week of the academic year) shall be advanced to the College. In the event that additional sums are appropriated for the benefit of the College, such amount shall be included in such final payment.

(g) Payments to the Navajo Community College under this Subpart shall not disqualify the College from applying for or receiving grants or contracts under any other Federal program for which it may qualify.

§ 33.25 Reports.

The Navajo Community College shall provide to the Director of Education on or before September 1st of each year a report which shall include an accounting of the amounts and purposes for which financial assistance under this Subpart was expended during the preceding academic year, the annual cost of the education programs of the College from all sources for such academic year, and a final report of the performance based upon the criteria set forth in the College's stated goals, philosophy or plan of operation. Upon reasonable cause, the Director of Education may extend the period for submitting the annual report. The College shall in addition report to the Director of Education its FTE Indian Student enrollment calculated on the basis of registrations in effect at the conclusion of the sixth week of the first and final academic terms of each academic year.

§ 33.26 Technical assistance.

The Director of Education shall furnish technical assistance, either directly or through contract, to the College when requested in writing. Such assistance shall be initiated within thirty (30) days (or as soon thereafter as possible) of the College's request. In any case in which the form and source of technical assistance is specified in the request, the Director of Education shall, to the extent possible or feasible, provide technical assistance in the form requested and through the source so specified. Technical assistance may include but is not limited to consulting services in the development of annual statements and reports required under this Subpart and legal, accounting, and other technical advice and assistance.

§ 33.27 General provisions.

The general requirements for grant administration in this section are applicable to all grants provided under this Subpart to the Navajo Community College.

(a) Services or assistance provided to Indians by the Navajo Community College with the financial assistance provided under this Subpart shall be provided in a fair and uniform manner, and admission to the College shall not be denied any Indian student because such individual is not a member of a specific Indian Tribe or because such individual is a member of a specific Indian tribe.

(b) Except as may be otherwise provided in this Subpart, the Navajo Community College shall comply with Part 276, of this Title, subject to express waiver of specific inappropriate provisions of Part 276 that may be granted, after request and justification by the College, by the Assistant Secretary.

(c) In addition to any other right the college may have under this Subpart, the College shall have the right to appeal any adverse decision of the Director of Education under a grant agreement to the Assistant Secretary by filing written notice of appeal with the Assistant Secretary within thirty (30) days of the adverse decision. Within thirty (30) days after receiving notice of appeal, the Assistant Secretary shall conduct a formal hearing at which time the College may present evidence and argument to support its appeal. Within thirty (30) days of the hearing, the Assistant Secretary shall issue a written ruling on the appeal confirming, modifying or reversing the decision of the Director of Education. In the case of a ruling, not reversing the Director of Education's decision, the Assistant Secretary shall state in detail the basis for his ruling. The ruling of the Assistant Secretary on an appeal shall be final for the Department of the Interior.

§ 33.28 Criminal penalties.

Persons submitting or causing to be submitted to the Bureau any false information in connection with any application, report, or other document, upon which the provision of the Federal financial assistance or any other payment of Federal funds is based, may be subject to criminal prosecution under provisions such as sections 287, 371, or 1001 of Title 18, U.S. Code.

Forrest J. Gerard,

Assistant Secreary—Indian Affairs.

May 17, 1979.

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BILLING CODE 4310-02-M

DEPARTMENT OF THE INTERIOR

14. The evaluation team.

BIA School Construction Ranking—FY 1980—

(e) "Director" means the Director of the

(c) School facilities shall be constructed as

8. Contents of application.

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DEPARTMENT OF THE INTERIOR

Bureau of Indian Affairs

Construction of School Facilities for Indian Children; School Construction Applications and Procedures

May 17, 1979.

This notice is published in exercise of authority delegated by the Secretary of Interior to the Assistant Secretary—Indian Affairs by 209 DM8.

Since 1972 when the Bureau was first directed by the Secretary's office to develop a ranking system for school construction, there have been numerous changes to the system. Credibility of the system by the tribes and the Congress was non-existent. In Fiscal Year 1978, the House and Senate Subcommittees on Interior Appropriations denied the Bureau funds for school construction.

Oversight hearings on school construction were held in February 1978 by the Interior Subcommittee of the Appropriation Committee, U.S. House of Representatives. The Committee required the Bureau to develop a viable method of ranking school construction projects. A document titled "School Construction Application Procedures" was developed and was presented to and accepted by the Committee. The new system was implemented to establish the school construction priority ranking for FY 1980. The ranking system was developed at the direction of the Assistant Secretary to comply with his commitment to the Committee. It also meets the requirements of section 1125(c) of the Education Amendments of 1978 (Pub. L. 95–561).

The publication of "School Construction Application Procedures" in the **Federal Register** will provide notice of the method for establishing a school construction ranking system and is required by section 1125(c) of the Education Amendment of 1978.

School Construction Applications and Procedures

General Provisions.

1. Purpose and scope.
2. Definitions.
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13. Verification and ranking procedure.
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15. Priority system for ranking construction projects.
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General Provisions.

1. Purpose and scope.

(a) The purpose of this notice is to give the application procedure and approval process for the acquisition of sites, construction or renovation (including all necessary equipment) for schools for Indian children under funds authorized and appropriated under Federal statutes (i.e., the "Snyder Act" of November 2, 1921, 42 Stat. 208, 25 U.S.C. 13 and Title XI of the Education Amendments of 1978, Pub. L. 95–561, 92 Stat. 23130. For the purpose of this notice, "schools" refer to Bureau of Indian Affairs operated schools and to all schools operated by tribes under contract with the Bureau which were not previously covered under the regulations (25 CFR 274) pertaining to school construction contracts for previously private schools now controlled and operated by tribes (or tribally approved organizations) under Sections 204 and 208 of Title II of the Indian Self-Determination and Education Assistance Act (Pub. L. 93–638, 88 Stat. 2203, 2214 and 2216–2217; 25 U.S.C. 458 and 458d).

(b) The "Snyder Act" (supra) authorizes the appropriation of funds by the Congress for the maintenance, renovation and construction of schools for Indian children.

(c) Section 1125(c) of the Education Amendments of 1978 (Pub. L. 95–561; 92 Stat. 2319) requires, as follows: "Within six months of the date of enactment of this Act, the Secretary (of the Interior) shall submit to the appropriate committees of Congress, and publish in the Federal Register, the system used to establish priorities for school construction projects. At the time any budget request for school construction is presented, the Secretary shall publish in the Federal Register and submit with the budget request the current list of all school construction priorities."

(d) This notice reflects the ranking system used by the Bureau of Indian Affairs to determine priorities in school construction projects for both Bureau-operated schools and for tribally controlled schools operated by tribes under contract with the Bureau of Indian Affairs.

(3) In addition to the ranking system, a list of the current projects for both types of schools are included as submitted to the Congress by the Bureau of Indian Affairs for FY 1980 i.e., the fiscal year beginning October 1, 1979.

BIA School Construction Ranking—FY 1980

Ranking and school	State
1—Shaktoolik	Alaska
2—Ft. Totten	North Dakota
3—San Felipe	New Mexico
4—Turtle Mountain	North Dakota
5—Havasupai	Arizona
6—Navajo Mountain	Utah
7—American Horse	South Dakota
8—Red Rock	Arizona
9—Torreon	Arizona
10—Nenahnezad	New Mexico
11—San Simon	Arizona

BIA School Construction Ranking—FY 1980—Continued

Ranking and school	State
12—Wingate Elementary	New Mexico
13—Taos	New Mexico
14—Hopi Junior-Senior High	Arizona
15—Luguna	New Mexico
16—Stewart	Nevada
17—Low Mountain	Arizona
18—Pinon	Arizona
19—Alamo	New Mexico
20—San Juan	New Mexico
21—Santa Clara	New Mexico
22—Canoncito	New Mexico
23—Wahpeton	North Dakota
24—Cove	Arizona

Tribally Controlled School Construction Ranking—FY 1980

Ranking and school	State
1—St. Stephens Indian School	Wyoming
2—Fort Hall Indian School	Idaho
3—Coeur d'Alene Tribal School	Idaho
4—Paschal Sherman Indian School	Washington
5—Mary Indian School	South Dakota
6—Wyoming Indian High School	Wyoming
7—Ramah Navajo School	New Mexico
8—St. Francis Indian School	South Dakota

The current school construction project applies to FY 1980, with a revised listing to be prepared for each succeeding fiscal year based on applications received.

2. Definitions.

(a) As used in this notice, "Area education personnel" means officials in an Area Office of the Bureau of Indian Affairs serving under the direction of the Director of the Office of Indian Education Porgrams.

(b) "attendance area" means:

(1) The attendance area for day schools will be the area from which students may be transported to and from their homes to the school. Ordinarily this is considered to be within one hour's bus ride from home to school although it may be necessary in some cases to allow more time. The attendance area will be determined by the appropriate Bureau Area Director for Education.

(2) Attendance areas for on-reservation residential schools will be assigned by the appropriate Bureau Area Director and facilities will be designed to house the potential enrollment within that attendance area.

(3) Attendance areas for off-reservation residential schools will be congruent with the boundaries of the Bureau Area Office in which they are located. If more than one off-reservation residential school is located within the boundaries of a single BIA Area Office, each school will be assigned a function and an enrollment capacity within the Area by the Director, Office of Indian Education Programs in keeping with attendance policy. Copies of attendance areas will be available from all Area Offices.

(c) "Bureau" means the Bureau of Indian Affairs.

(d) "contract school" means any school operated by a tribal organization for the education of Indian children with financial assistance under a contract with the Bureau.

(e) "Director" means the Director of the Office of Indian Education Programs in the Bureau, or his/her designee.

(f) "housed" has reference to the availability of school facilities for students in an attendance area and "unhoused" means that such facilities are not available.

(g) "Indian" means a person who is a member of an Indian tribe.

(h) "Indian tribe" means any Indian tribe, Band, Nation, Rancheria, Pueblo, Colony or Community, including any Alaska Native village or regional or village corporation as defined in or established pursuant to the Alaska Native Claims Settlement Act (85 Stat. 688) which is recognized by the Secretary as eligible for the special programs and services provided by the Bureau to Indians because of their status as Indians.

(i) "Office" means the national headquarters for the Director of Indian Education Programs in the Bureau of Indian Affairs.

(j) "School board" means a tribal organization which exercises budgetary and personnel responsibility authorized by law and other policy directions for local schools in keeping with Bureau regulations.

(k) "Secretary" means the Secretary of the Interior, or his/her designee.

(l) "Superintendent" means the official in charge of education at a Bureau of Indian Affairs Agency Office.

(m) "Supervisor" means the Chief Education Officer at the local school level usually referred to as the principal of the school.

(n) "tribal organization" means the recognized governing body of any Indian tribe; or any legally established organization of Indians or tribes which is controlled, sanctioned, or chartered by such governing body or bodies or which is democratically elected by the adult members of the Indian community to be served by such organization and which includes the maximum participation of Indians in all phases of activities.

3. Effect on existing Indian rights.

Nothing in this notice shall be construed as intending to:

(a) Affect, modify, diminish or otherwise impair the sovereign immunity from suit enjoyed by an Indian tribe;

(b) Authorize or require termination of any trust responsibility of the United States with respect to the Indian people;

(c) Influence the tribal choice in the selection of schools for their children.

4. Statement of policy.

(a) The Federal Government has assumed a responsibility to construct, maintain and operate schools for eligible Indian children. The extent of the responsibility assumed for the construction and maintenance of schools is based primarily on the number of unhoused or inadequately housed Indian children in the schools available to reservation communities and/or the lack of education programs that address the needs of Indian children.

(b) School facilities shall be constructed to serve students on a day basis whenever possible.

(c) School facilities shall be constructed as close as possible to the homes of the students to be served who reside in well-defined enrollment areas.

(d) First consideration in construction of facilities must be given to the feasibility of major repair and renovation of existing facilities to achieve maximum effectiveness of funds to be spent and only if such is not feasible will there be justification for complete replacement of existing facilities.

(e) The ranking order (priority) for actual construction shall reflect the urgency of need determined by the number of unhoused Indian children and distance to schools (Federal, contract, or public) available to such children.

5. Application process—Preapplication planning and assistance.

(a) Upon the request of a tribe to the Director, Office of Indian Education Programs, the Bureau, through its Agency, Area and Central Office, shall provide technical assistance to the extent possible in pre-planning related to school construction. Such planning shall include but not be limited to:

(1) Assessing local needs.

(2) Appraising problems of safety and usable life of buildings.

(3) Determining emergencies to be served outside the priority systems.

(4) Planning interim alternatives.

(5) Such other ways as may be requested.

(6) Upon the request of a tribe, the Bureau will assist tribal organizations in obtaining alternative sources of construction assistance that may be available through other Federal agencies (HEW's Pub. L. 81–815 or Indian Education Programs and the Economic Development Administration).

6. Who may apply (eligible applicants).

(a) Any tribe(s) or tribal organization (school board, education committee, etc.) served by a Bureau operated school or any contract school may submit an application for school construction. An application may be initiated in cooperation with a Bureau school, agency or Area Office Education personnel.

(b) An applicant tribal organization must control and manage the contract school.

(c) Title to the land on which a contract school is located must be vested in the tribe or the United States; or, a lease for the useful life of the improvement must be entered into with the tribe or the United States for the ground on which it is located.

(d) A Bureau or contract school must have a minimum current enrollment or projected enrollment of 25 students in grades K through 8 and/or 50 students in grades 9 through 12.

7. Obtaining application forms.

Application forms, instructions and related materials are available from Bureau Agency Superintendents of Education and Area Office Education personnel (serving non-reservaion boarding schools). Use of standard application forms will facilitate processing of applications. However, they are not required if the information contained in paragraph 8 below is stated in the applicant's request for school construction.

8. Contents of application.

An application for construction of school facilities shall be in writing and shall contain the following information:

(a) Full name, address and telephone number of the applicant.

(b) Full name of tribe(s) to be served by the project school.

(c) Signature of authorized representative of tribe(s) to be served.

(d) Date of submission to the Bureau and the name of the office to which the application is being submitted.

(e) An outline of pertinent educational program data including:

(1) Grades offered.

(2) Average daily membership (ADM) as of the most recent October 31.

(3) Description of attendance area with school population 5–18 years of age.

(4) List of all other elementary and secondary schools in the attendance area and their distance to and from the project school in miles and bus travel time.

(5) Tribal support of Indian enrollment in other schools within the attendance area. If no, explain.

(6) Public school district in which the project school is located. Status and USOE (HEW) priority of Pub. L. 81–815 application for construction aid, if applicable.

(f) Public school plan, if any, for increasing its size to accommodate Indian children.

(7) Brief description of the education program of the project school.

(8) The design enrollment of the present school.

(9) The project school's place in the overall education program of the tribe, reservation and Bureau.

(10) Number of unhoused students to be served by project school.

9. Assistance in completing applications.

An applicant may obtain assistance in completing the application forms from the Bureau Agency Superintendent of Education or Area Office Education personnel (serving non-reservation-residential schools). The Superintendent of education, Area Office Education personnel, or the Director of the Office of Indian Education Programs shall make any information available to the applicant needed to prepare the application except as restricted from disclosure by the Freedom of Information Act (5 U.S.C. 5520), as amended by the Act of November 21, 1974 (Pub. L. 93–502; 88 Stat. 1561).

10. Where to submit application.

(a) An application completed by a tribe(s) or tribal organization(s) alone or in cooperation with local Bureau education personnel shall be submitted to the Director, Office of Indian Education Programs through the Agency Office Superintendent for Education serving the tribe(s) where the school is located.

(b) A completed application for construction (particularly for off-reservation residential schools) that will benefit more than one tribe within an Area Office(s) shall be submitted by the concurring school board which represents the various tribes served by the project school to the Director, Office of

Indian Education Programs through the Area

present facilities in compliance with all the

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Federal Register

Indian Education Programs through the Area Office Education personnel where the school is located.

11. When to submit application.

(a) a new application or an updated application may be submitted at any time.

(b) An application must be submitted by March 1 to be ranked and considered for funding in the next budget planning year. For example: for a project to be included in the FY 1981 budget, the application had to be received before March 1, 1979.

(c) All applications shall be ranked in priority order for construction) and the list published annually by October 31.

12. Application review and action.

(a) The Superintendent for Education of the Agency shall review the application for construction for completeness and request any needed information from the applicant. When the Superintendent has determined the application is complete, he/she will forward it with documentation to the Director, Office of Indian Education Programs.

(b) Area Education personnel shall review all applications submitted by the agencies and by school boards for schools serving more than one tribe within an Area as provided under paragraphs 13, 14 and 15.

(c) The School Facilities staff will update the Bureauwide priority listing of all approved projects in order of priority with the project with the highest priority listed first. As new applications are received, they will be added to the priority listing according to their ranking.

(d) The School Facilities staff will notify each applicant in writing of the project's priority ranking on the Bureauwide list. The applicant will be notified of any subsequent changes to that ranking if new applications were received with a higher ranking.

13. Verification and ranking procedure.

An Evaluation Team composed of education and engineering personnel shall verify the data on applications by an on-site visit. Verification will include:

(a) Confirming that existing conditions described in the applications exist and determining what must be done to correct them based on a cost effectiveness life cycle study.

(b) Checking the availability of other schools in the attendance area.

(c) Checking the percentage of unhoused students based on (a) and (b) above.

(d) Ranking the applications according to percentage of unhoused students.

If two or more projects receive the same score, the tie will be broken by giving priority to the project located the farthest distance from the nearest existing school to which the involved students could attend.

Bureau education personnel shall resolve any conflicts that arise in the final verification of data on which the application is based.

14. The Evaluation Team.

(a) The Evaluation Team is composed of engineers, educators and such other consultants as deemed needed and appropriate. The engineers will evaluate the present facilities in compliance with all the applicable Federal, State or tribal health and safety standards, whichever provides greater protection, and with section 504 of the Rehabilitation Act of 1973 (87 Stat. 394; 29 U.S.C. 794). The team will do a cost effectiveness study of the facility to determine whether it should be retained, repaired, renovated or replaced.

(b) The educators on the team will determine whether the existing facility or proposed new construction meets the space requirements for the children in the approved education program it will house. Space standards are based on nationally accepted space requirements and the accreditation requirements of the State where the project school is located.

15. Priority system for ranking construction projects.

(a) The number of points assigned for priority ranking of an application for construction is equal to the percentage of the school's enrollment that is "unhoused." Students are considered unhoused:

(1) When the condition of the school facility is such that it can no longer be used without major repairs, renovations or complete replacement.

(2) When the school can no longer meet the space requirements of an approved educational program.

(3) When the current enrollment of the school exceeds the design capacity of the facility.

(4) When seats are not available in any other school—Bureau operated, tribal contract or public—within a one hour's bus ride of home.

(b) When two or more project schools have the same number of points (i.e., the same percentage of unhoused children) preference for priority purposes shall be given to the schools located the greatest distance from other schools which could accommodate the unhoused children.

16. Emergencies outside the priority system.

(a) An application for construction to accommodate emergency situations may be submitted at any time. Emergency situations are deemed to exist:

(1) When a school or unit within a school is affected by fire or natural disaster.

(2) When a school or unit within a school is subject to immediate condemnation.

(b) Each application affected by (1) or (2) will be given immediate review by the Evaluation Team from the standpoint of the continued need for the school or the units affected in the mission of the school under the policies of the Bureau to educate Indian children.

Forrest J. Gerand,

Assistant Secretary—Indian Affairs.

May 17, 1979.

[FR Doc. 79-16014 Filed 5-21-79; 8:45 am]

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Federal Register

Vol. 44, No. 100

Tuesday, May 22, 1979

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Monday	Tuesday	Wednesday	Thursday	Friday
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CSA	MSPB*/OPM*		CSA	MSPB*/OPM*
	LABOR			LABOR
	HEW/FDA			HEW/FDA

Documents normally scheduled for publication on a day that will be a Federal holiday will be published the next work day following the holiday.

Comments on this program are still invited. Comments should be submitted to the Day-of-the-Week Program Coordinator, Office of the Federal Register, National Archives and Records Service, General Services Administration, Washington, D.C. 20408

***NOTE: As of January 1, 1979, the Merit Systems Protection Board (MSPB) and the Office of Personnel Management (OPM) will publish on the Tuesday/Friday schedule. (MSPB and OPM are successor agencies to the Civil Service Commission.)**

REMINDERS

The items in this list were editorially compiled as an aid to Federal Register users. Inclusion or exclusion from this list has no legal significance. Since this list is intended as a reminder, it does not include effective dates that occur within 14 days of publication.

Rules Going Into Effect Today

Note: There were no items eligible for inclusion in the list of **Rules Going Into Effect Today**.

List of Public Laws

This is a continuing list of public bills from the current session of Congress which have become Federal laws. The text of laws is not published in the Federal Register but may be ordered in individual pamphlet form (referred to as "slip laws") from the Superintendent of Documents, U.S. Government Printing Office, Washington, D.C. 20402 (telephone 202–375–3030).

Last Listing May 14, 1979

H.J. Res. 262 / Pub. L. 96–11. To declare May 18, 1979 to be "National Museum Day". (May 18, 1979; 93 Stat. 25) Price $.60.

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29975 **Child Abuse and Neglect Program—Demonstration Projects** HEW/Office of Human Development Services announces availability of grant funds for fiscal year 1979

29984 **Health Professions and Nursing Student Loans** HEW/PHS updates income levels used to define "low income family" for loan repayment

29923 **Residential Energy Credit** Treasury/IRS proposes regulations to provide public with guidance needed to determine if credit is available with respect to certain expenditures; comments by 7-23-79

29985 **Coal Miners Respiratory Impairments** HEW/HSA announces availability of grants for clinical facilities, 7-1-79

29983 **Adolescent Pregnancy Prevention and Services** HEW/PHS announces competitive grant applications

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Highlights

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29906 **Securities** SEC proposes amendments to allow relief for certain wholly-owned subsidiaries from portions of annual and quarterly reports required under the Securities Exchange Act of 1934, comments by 6–30–79

29913 **Securities** SEC proposes rule concerning exemption of certain joint purchases of liability insurance policies, comments by 7–2–79

29908 **Securities** SEC solicits comments by 7–2–79 concerning exemption of transactions by investment companies with certain affiliated persons

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The Code of Federal Regulations is sold by the Superintendent of Documents. Prices of new books are listed in the first FEDERAL REGISTER issue of each month.

DEPARTMENT OF AGRICULTURE

Office of the Secretary

7 CFR Part 2

Revision of Delegations of Authority; Correction

AGENCY: Department of Agriculture.

ACTION: Final rule; Correction.

SUMMARY: In FR Doc. 79–8256 appearing at page 16357 in the **Federal Register** of March 19, 1979, the title of "Assistant Secretary for Marketing Services" was not changed to "Assistant Secretary for Marketing and Transportation Services" in the introductory paragraph of § 2.17. The purpose of this document is to correct that error of omission.

EFFECTIVE DATE: May 23, 1979.

FOR FURTHER INFORMATION CONTACT:
Edwardene Rees, Management Staff, U.S. Department of Agriculture, Washington, D.C 20250, (202) 447–3032.

1. Section 2.17 is corrected to read as follows:

§ 2.17 Delegations of authority to the Assistant Secretary for Marketing and Transportation Services.

The following delegations of authority are made by the Secretary of Agriculture to the Assistant Secretary for Marketing and Transportation Services:

* * * * *

(5 U.S.C. 301 and Reorganization Plan No. 2 of 1953)

Dated: May 17, 1979.

Bob Bergland,
Secretary of Agriculture.

[FR Doc. 79-16136 Filed 5-22-79; 8:45 am]
BILLING CODE 3410-01-M

Agricultural Marketing Service

7 CFR Part 910

[Lemon Reg. 163, Amdt. 1]

Lemons Grown in California and Arizona; Amendment of Size Regulation

AGENCY: Agricultural Marketing Service, USDA.

ACTION: Amendment to final rule.

SUMMARY: This amendment reduces the minimum size requirement applicable to fresh domestic shipments of lemons grown in the production area from 1.82 inches in diameter (size 235) to 1.77 inches in diameter (size 285). This action is designed to promote orderly marketing in the interest or producers and consumers.

EFFECTIVE DATE: May 20, 1979.

FOR FURTHER INFORMATION CONTACT:
Malvin E. McGaha, 202–447–5975.

SUPPLEMENTARY INFORMATION: *Findings.* This amendment is issued under the marketing agreement, as amended, and Order. No. 910, as amended (7 CFR Part 910), regulating the handling of lemons grown in California and Arizona. The agreement and order are effective under the Agricultural Marketing Agreement Act of 1937, as amended (7 U.S.C. 601–674). The action is based upon the recommendations and information submitted by the Lemon Administrative Committee, and upon other information. It is hereby found that this action will end to effectuate the declared policy of the act. This amendment has not been determined significant under the USDA criteria for implementing Executive Order 12044.

The recommendation for a smaller minimum size recognizes that smaller supplies of lemons will be available for marketing during the summer months of June, July, and August, when fresh market demand is expected to be greatest seasonally. The freeze during December and January hit hardest that part of the lemon crop which normally matures during the summer months. Therefore, lemon supplies and storage holdings during the summer are expected to be extremely short. Consequently, the action would help growers and consumers by relaxing the minimum size to 285's so as to make additional lemons available for market. It is estimated that about two percent of the crop would average size 285's.

It is further found that it is impracticable and contrary to the public interest to give preliminary notice, engage in public rulemaking, and postpone the effective date until 30 days after publication in the **Federal Register** (5 U.S.C. 553), because of insufficient time between the date when information became available upon which this amendment is based and the effective date necessary to effectuate the declared policy of the act. This amendment relieves restrictions on the handling of lemons. It is necessary to effectuate the declared purposes of the act to make this regulatory provision effective as specified, and handlers have been apprised of such provision and the effective time.

Paragraph (a) of § 910.463 Lemon Regulation 163 (43 FR 41949) is amended to read as follows:

§ 910.463 Lemon Regulation 163.

Order. (a) From May 20, 1979, through September 22, 1979, no handler shall handle any lemons grown in District 1, District 2, or District 3 which are of a size smaller than 1.77 inches in diameter, which shall be the largest measurement at a right angle to a straight line running from the stem to the blossom end of the fruit: *Provided,* That not to exceed 5 percent, by count, of the lemons in any type of container may measure smaller than 1.77 inches in diameter.

* * * * *

(Secs. 1–19, 48 Stat. 31, as amended; (7 U.S.C. 601–674))

Dated, May 18, 1979, to become effective May 20, 1979.

D. S. Kuryloski,
Acting Deputy Director, Fruit and Vegetable Division, Agricultural Marketing Service.

[FR Doc. 79-16137 Filed 5-22-79; 8:45 am]
BILLING CODE 3410-02-M

FEDERAL HOME LOAN BANK BOARD

12 CFR Part 563

[No. 79-295]

Federal Savings and Loan Institutions; Forward Commitments

May 17, 1979.

AGENCY: Federal Home Loan Bank Board.

ACTION: Final rules.

A. General Comments

modified to make it more precise in two

stringent enough to prevent an unsafe

future date, the accounting issue is

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ACTION: Final rules.

SUMMARY: These rules are adopted to permit FSLIC-insured savings and loan institutions to engage in forward commitment activities within certain limits. The rules were proposed primarily to curb speculation in mortgage-backed securities which, in some cases, resulted in large losses for some institutions. As adopted, the rules will allow forward commitment activity, if reasonably conducted, up to a certain percentage of an institution's assets. Also, recordkeeping and accounting procedures are prescribed.

EFFECTIVE DATE: June 1, 1979.

FOR FURTHER INFORMATION, CONTACT: Patricia C. Trask, Attorney, Federal Home Loan Bank Board, 1700 G Street, NW., Washington, D.C. 20552 (202–377–6442)

SUPPLEMENTARY INFORMATION: By Board Resolution No. 78–642, dated November 22, 1978, the Federal Home Loan Bank Board proposed to add new § 563.17–3 to the rules and regulations for Insurance of Accounts (12 CFR 563.17–3) in order to regulate forward commitment activities of FSLIC-insured institutions. At the time of the proposal, there were no Bank Board regulations governing these activities, which had become of increasing concern due to substantial losses incurred by a number of insured institutions.

The proposal was published for public comment at 43 FR 55413–55414 on November 28, 1978. The public comment period, which closed January 15, 1979, generated 525 comment letters: 240 from Federally-chartered associations, 240 from State-chartered institutions, and 45 from a variety of organizations which included national and state trade groups, securities dealers, and accounting firms. Respondents generally acknowledged that some degree of regulation was necessary to prevent speculative abuses, but believed that the overall effect of the proposal was too restrictive.

In response to public comment, the Bank Board has made major changes to several provisions of the proposal. First, the proposed definition of "securities" no longer includes mortgage loans. Second, the investment limitation applicable to forwards has been changed to a percentage-of-assets limit. Finally, accounting provisions for forwards and commitment fees have been reconciled with generally accepted accounting principles. These changes, along with major public comments, are discussed below.

A. General Comments

General comments included suggestions that the comment period be extended, hearings be held, and/or studies conducted. The rationale was, basically, that the Bank Board should further consider the ramifications of the proposal. Although the proposal had resulted from extended analysis and investigation of this investment vehicle, the Bank Board anticipated that a variety of viewpoints would, together with continuing data analysis, help fashion regulatory limits which would curb abuses while permitting forwards activity. The volume of response negated the need for extension of the public comment period or other information-gathering. Although this is a complex area, the Bank Board believes that the regulations adopted form a balanced approach which may be modified as conditions warrant.

Other general comments addressed the scope of the proposal, with the view that regulations should be directed to specific securities and/or specific associations. In response to the concern that the proposal was overbroad, the Bank Board has reconsidered the inclusion of mortgage loans in the "securities" definition. Although that subject is discussed more fully below, it should be noted that the Bank Board continues to be concerned that forward commitments to purchase mortgages may be subject to speculative abuse, and will monitor this area.

In regard to the recommendation that some institutions be exempted, the Bank Board's position is that this solution is not feasible since institutions of all sizes have encountered financial difficulties in handling forwards activities, whether through inability to fund commitments when due, poor management, lack of knowledge or control of boards of directors, or overreaching securities brokers or dealers.

In response to concerns expressed about the impact of these regulations upon existing commitments, the Bank Board intends the regulations to be prospective. Therefore, commitments entered into before the effective date are unaffected.

B. Regulations as Adopted and Discussion of Public Comments

Paragraph (a)—definitions. This paragraph contains definitions of "forward commitments," "securities," and "commitment fees." Changes made in response to public comment are discussed by subparagraph.

Subparagraph (a)(1), which defines forward commitments, has been modified to make it more precise in two respects. First, the time period of a contract to buy securities, as proposed, read, "* * * a date more than 30 days after the date of the contract." As modified, the period is "* * * 30 or more days after the contract date." Second, the description of a standby commitment was changed to read, "* * * such a commitment is a standby commitment if *delivery* is optional with the seller * * *." The proposal had referred to the *sale* as optional.

Aside from drafting changes which shortened the definition, no other modifications were made. Approximately 20 percent of respondents argued that the definition should include sales as well as purchases of securities. The Bank Board has determined not to adopt this "netting" concept, but rather favors a purchase limitation to prevent extensive trading in forwards, which indicates speculative activities.

Other commentors argued that firm commitments should be dropped from the definition because they are not subject to the same abuses as standbys. The Bank Board disagrees with this conclusion principally because firm commitments may also result in losses upon delivery and are just a susceptible to extensions and other arrangements which indicate inability to properly manage this activity.

Suggestions were also made that the 30-day time period be changed to better reflect the realities of the marketplace. Periods ranging between 90 and 180 days were most often mentioned. However, the Bank Board believes that the 30-day period best distinguishes between contracts for immediate delivery and those generally made for forward commitments, and is most consistent with accounting treatment for commitment fees received. Therefore, the 30-day period has been retained.

Subparagraph (a)(2), defining securities, has been revised to omit mortgage loans and clarify remaining language. A great deal of comment opposed inclusion of mortgage loans in the definition. Most often cited as reasons for dropping mortgage loans were: (1) Adverse impact upon the secondary market for mortgage loans; (2) lack of speculation in mortgage loans; (3) interference with commitments in excess of 30 days for mortgages to individuals and builders. Upon reconsideration, the Bank Board has limited the definition to securities. While abuses in commitments to buy mortgages have not been uncovered to any great extent, the Bank Board will monitor this activity so that if some of

the problems encountered with forward commitments to buy securities are shifted to the mortgage sector, appropriate action may be taken by the Bank Board to curtail them.

Subparagraph (a)(3), which defines commitment fees, is unchanged from the proposal. Only one comment addressed this subparagraph. The suggestion that the definition include consideration *paid by* an institution for a forward commitment was not added because regulations are limited to purchases (for which fees generally are paid *to* institutions).

Paragraph (b)—Authorized personnel. Public reaction to the proposed requirements was overwhelmingly favorable. This paragraph has been revised by adding two new requirements: the institution's board of directors must (1) approve the brokerage firms through which forward commitments are handled, and (2) set a dollar limit on transactions with each firm. These additions were made on the basis of public suggestions as well as on a recent survey completed by the Bank Board which disclosed that institutions' boards of directors were, in a surprising number of cases, unaware of the extent of forwards activity of their institutions.

Paragraph (c)—Limitations. As proposed, this paragraph set the lower of two limits for investment in forward commitments: an institution's outstanding mortgage loans during the twelve-month period ending at the close of the preceding month, or its documented capacity to fund all commitments. It also prohibited a practice known as "overtrading."

Most respondents took issue with the alternative limits proposed. One serious problem mentioned by respondents was lack of definition of an institution's "documented capacity to fund." A variety of items for inclusion were recommended, including excess liquidity, total borrowing capacity, savings flow projections, and cash to be received from sales of mortgages and investments for future delivery. Of even greater concern to respondents was that the alternative limitations were so restrictive that either of them might seriously hamper secondary mortgage market activity, and thus national housing needs.

A variety of alternatives to the proposed limitations was offered by respondents, some of which proposed a percentage-of-assets limit. Based upon information from its own survey, as well as respondents' suggestions, the Bank Board determined that the percentage-of-assets limit would be less restrictive than either limit in the proposal, yet stringent enough to prevent an unsafe level of activity.

The final regulation has been subdivided into subparagraphs (c)(1) and (c)(2). The first of these explains that forward commitment activity is permitted only if conducted on a prudent basis, but may be prohibited if an institution demonstrates otherwise, such as would be evidenced by an inability to fund commitments when due. The second subparagraph sets out a percentage-of-assets limit for institutions which are engaged in forward commitment activity. Institutions with net worth under 5 percent of assets may invest up to 10 percent of assets, and those with net worth over 5 percent of assets are permitted to invest up to 15 percent of assets. The Bank Board intends that institutions which have exceeded those percentages at the time these regulations become final shall be precluded from further activity in this area until such time as they are within the limits set by subparagraph (c)(2).

The "overtrading" prohibition contained in the proposal has been retained. Most respondents agreed that this practice, widely known as a trading device designed to disguise losses, is properly prohibited.

In response to questions raised by some commentors, the Board notes that the overtrading provision does not address reverse repurchase agreements, which are viewed as involving borrowings, not purchases of securities.

Paragraph (d)—Disposal prior to settlement. No change has been made from the proposal, although some writers opposed this provision on the ground that it prescribes accounting treatment contrary to generally accepted accounting principles.

The Bank Board intended, by this provision, to proscribe the practice of avoiding recognition of losses by "extending" a previously established settlement date for commitments. In some situations, in lieu of settling a commitment, institutions have elected to sell the original commitment, paying in the process a sum of cash representing losses incurred as a result of unfavorable market fluctuations between the trade date and date on which the commitment was sold. It is the Board's view that the disposal of the terminated commitment represents a transaction independent of the new commitment and should be accounted for accordingly.

Further, it is to be noted that generally accepted accounting principles do not specifically address this issue, which is somewhat controversial. When, at some future date, the accounting issue is resolved, the Bank Board will reconsider its position in light of generally accepted accounting principles.

Paragraph (e)—Recordkeeping requirements. Subparagraphs (e)(1) and (e)(3) of the proposal have been combined into subparagraph (e)(1) to clarify that only one register of forward commitments is required. Few comments on these combined provisions were received, most of which favored the requirement that a current register be kept of all outstanding forward commitments since it is generally agreed that good management requires such records.

Subparagraph (e)(2), which required that an institution document its ability to fund commitments when due, and identify the actual or projected funding source, has been modified by deleting the latter requirement. The Bank Board was persuaded by comments which argued that earmarking funds would be restrictive and limit cash management flexibility.

Subparagraph (e)(4), which proposed that purchases under standby commitments be recorded at the lower of cost or market value on the settlement date, has been dropped. The purpose of this provision was to require institutions engaging in forward activity to do so prudently. In many cases, institutions had engaged in commitments to purchase securities which, upon delivery, were worth considerably less than the contract price because of climbing interest rates. Additionally, many institutions had been assured by brokers and dealers that delivery would not take place. When, however, securities were delivered, institutions found that the commitment fee received for the standby position did not compensate for the risk taken on interest rate changes.

Respondents overwhelmingly opposed this provision on the grounds that its stringency would effectively preclude institutions from engaging in standby commitments. They contended that the proposed accounting treatment inequitably singled out certain securities for current value accounting, while not recognizing the soundness of the securities acquired. Moreover, respondents argued that sales as well as purchases of standbys would be restrained to such an extent that the secondary market in mortgage-backed securities would be adversely affected.

The Bank Board finds these arguments to be persuasive, and has dropped the requirement. At the present time the cost method of accounting is the prevailing method followed by the

Seneca, and Williams to the list of

property insurance agent or broker

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savings and loan industry for recording securities transactions, and will, for conformity, be followed for forward commitments.

Paragraph (f) — Commitment fees received. The proposed requirement has been revised to conform to generally accepted accounting principles applicable to loan commitment fees, one portion of which has been clarified to require that commitment fees for a commitment period of 30 days or less be deferred over at least ten years. These changes were made to better align regulatory accounting with generally accepted accounting principles, as recommended by many respondents.

A principal purpose of this provision, as proposed, was to limit the practice of some institutions which predicated their investment decisions on the ability to "front-load" fees. Many respondents cited current regulatory provisions under § 563.23–1 as support for recording income currently, e.g., an association would issue a two-year standby commitment and take three points into income even though such income had not yet been earned. Such transactions were apparently undertaken without regard to the risks in issuing forward commitments beyond a reasonable period.

At the time the proposal was published, the accounting profession had not yet completed the "Audit and Accounting Guide for Savings and Loan Associations" ("Guide") which was prepared by the Committee on Savings and Loan Associations of the AICPA. On January 26, 1979, the Financial Accounting Standards Board approved release of the Guide, which indicated specific accounting guidelines for commitment fees to be followed by the savings and loan industry.

Insured institutions are referred to the Guide's section on fixed rate commitment fees. Under this section, the various reasons for receiving commitment fees are discussed. Such fees may compensate an institution for the cost of underwriting the commitment, may adjust the yield on the loan, or compensate for earmarking of funds. Given the impracticality of establishing different accounting rules for various components of a fixed-rate commitment fee, the AICPA has simply stated that such a fee, in excess of direct underwriting costs, should be deferred and amortized over the combined commitment and loan period. When the purchase transaction is settled, the current market interest rate is compared with the contract interest rate on the loan. If the current market interest rate is the same as or lower than the contract interest rate on the loan, the remaining unamortized fixed-rate commitment fee may be recognized as income. By contrast, if the current market interest rate were higher at the time the transaction settled, the remaining unamortized fixed rate commitment fee would be deferred and amortized over the loan period.

C. Conforming Amendment

Under present paragraph (a) of § 563c.13, service corporations of insured institutions must report their earnings under § 563.23–1, and institutions must calculate and report their investments in such service corporations in the same manner. Adoption of new § 563.17–3 creates an accounting inconsistency with these provisions. Therefore, the Bank Board has made a conforming amendment to cover forward commitments by adding reference to § 563.17–3.

Because these amendments relate to the safety and soundness of insured institutions and it is in the public interest that they become effective without delay, the Bank Board finds that publication of such amendments for the full 30 days specified in 12 CFR 508.14 and 12 U.S.C. § 553(d) prior to effective date is unnecessary, and the regulations shall become effective on June 1, 1979.

Accordingly, 12 CFR Part 563 of the rules and regulations for Insurance of Accounts is hereby amended by amending § 563.13(a) and adding § 563.17–3, to read as set forth below.

§ 563c.13 [Amended]

1. Paragraph (a) of § 563c.13 is amended by adding "and § 563.17–3" following each reference to § 563.23–1 in that paragraph.

2. Section 563.17–3 is added to read as follows:

§ 563.17–3 Forward commitments.

(a) *Definitions*—

(1) *Forward commitment.* An oral or written contract to buy securities 30 or more days after the contract date; such a commitment is a *standby commitment* if delivery is optional with the seller and a *firm commitment* if both buyer and seller are obligated to perform on the agreed date.

(2) *Securities.* Assets which are legal investments for a Federal asssociation under § 545.9 of this chapter (except mortgage futures under § 545.29), and any other similar assets of a State-chartered insured institution.

(3) *Commitment fee.* Any consideration received directly or indirectly by an insured institution for a forward commitment.

(b) *Authorized personnel.* The minutes of the board of directors of the insured institution shall set out the names, duties, responsibilities, and current limits of authority of the insured institution's personnel authorized to engage in forward commitment transactions for the institution; the brokerage firms through which authorized personnel may conduct forwards activity; and the dollar limit on transactions with each such firm.

(c) *Limitations*— (1) *General.* An insured institution may make forward commitments to purchase securities, subject to the limits in paragraph (c)(2) of this section, if that activity is conducted in a safe and sound manner. An example of an unsafe and unsound practice which may preclude further investment under this section is an inability to fund commitments when due. No insured institution may sell a forward commitment or security under agreement to purchase another forward commitment or security at a price other than actual market value.

(2) *Percent of assets.* An insured institution's outstanding forward commitments to purchase securities may not exceed an amount equal to 10 percent of its assets if net worth is less than 5 percent of assets, or 15 percent of assets if net worth is 5 percent or more of assets.

(d) *Disposal before settlement.* All profit or loss related to disposal or modification of a forward commitment before settlement shall be recognized on the institution's books at the time of disposal or modification.

(e) *Recordkeeping requirements.* An institution engaging in forward commitments shall establish and maintain the following:

(1) A current register of all outstanding forward commitments, including the type (firm or standby), commitment date, amount, rate, price to be paid at settlement, market price at date of commitment, settlement date, commitment fees received, date and manner of disposal, sales price and market value at disposal if disposition is made on or prior to settlement date other than through funding, and seller's identity and confirmation; and

(2) Documentation of the institution's ability to fund all outstanding forward commitments when due.

(f) *Commitment fees received.* A fee received for a forward commitment shall be recorded according to generally accepted accounting principles for loan commitment fees. If the commitment period is 30 days or less, a fee shall be deferred over at least ten years.

(Secs. 402, 403, 407, 48 Stat. 1256, 1257, 1260, as amended; (12 U.S.C. 1725, 1726, 1730). Reorg. Plan No. 3 of 1947, 12 FR 4981, 3 CFR, 1943–48 Comp. 1071.)

By the Federal Home Loan Bank Board.

J. J. Finn,

Secretary.

[FR Doc. 79–16196 Filed 5–22–79; 8:45 am]

BILLING CODE 6720–01–M

SMALL BUSINESS ADMINISTRATION

13 CFR Part 101

[Rev. 2, Amt. 4]

Listing of Field Offices

AGENCY: Small Business Administration.

ACTION: Final Rule.

SUMMARY: SBA has altered the boundaries of areas serviced by the Cleveland and Columbus District Offices. This realignment will make SBA's services more convenient for persons seeking assistance.

EFFECTIVE DATE: May 23, 1979.

FOR FURTHER INFORMATION CONTACT: Lee Waugh, Reports Management Division, Small Business Administration, 1441 L Street NW., Washington, D.C. 20416, (202) 653–6703.

SUPPLEMENTARY INFORMATION: Because Part 101 consists of rules relating to the Agency's organization and procedures, notices of proposed rulemaking and public participation thereon as prescribed in 5 U.S.C. 553 is not required and this amendment to Part 101 is adopted without resort to those procedures.

Accordingly, pursuant to authority contained in 5(b)(6), of the Small Business Act (72 Stat. 385, 15 U.S.C. 634), Part 101 of Title 13 of the Code of Federal Regulations is amended as follows:

§ 101.3–1 [Amended]

§ 101.3–1(e)(3) is amended by adding the counties of Defiance, Fulton, Henry, Seneca, and Williams to the list of counties served by the Cleveland District Office.

§ 101.3–1(e)(4) is amended by deleting the counties of Defiance, Fulton, Henry, Sencea, and Williams from the list of counties served by the Columbus District Office.

Dated: May 16, 1979.

A. Vernon Weaver,

Administrator.

[FR Doc. 79–16047 Filed 5–22–79; 8:45 am]

BILLING CODE 8025–01–M

FEDERAL EMERGENCY MANAGEMENT AGENCY

24 CFR Part 1914

[Docket No. FI–5484]

List of Communities Eligible for the Sale of Insurance Under the National Flood Insurance Program

AGENCY: Office of Federal Insurance and Hazard Mitigation, Federal Emergency Management Agency.[1]

ACTION: Final rule.

SUMMARY: This rule lists communities participating in the National Flood Insurance Program (NFIP). These communities have applied to the program and have agreed to enact certain flood plain management measures. The communities' participation in the program authorizes the sale of flood insurance to owners of property located in the communities listed.

EFFECTIVE DATES: The date listed in the fourth column of the table.

ADDRESSES: Flood insurance policies for property located in the communities listed can be obtained from any licensed property insurance agent or broker serving the eligible community, or from the National Flood Insurance Program (NFIP) at: P.O. Box 34294, Bethesda, Maryland 20034, Phone (800) 638–6620.

FOR FURTHER INFORMATION CONTACT: Mr. Richard Krimm, National Flood Insurance Program, (202) 755–5581 or Toll Free Line 800–424–8872, Room 5270, 451 Seventh Street, SW., Washington, DC 20410.

SUPPLEMENTARY INFORMATION: The National Flood Insurance Program (NFIP), enables property owners to purchase flood insurance at rates made reasonable through a Federal subsidy. In return, communities agree to adopt and administer local flood plain management measures aimed at protecting lives and new construction from future flooding. Since the communities on the attached list have recently entered the NFIP, subsidized flood insurance is now available for property in the community.

In addition, the Federal Insurance Administrator has identified the special flood hazard areas in some of these communities by publishing a Flood Hazard Boundary Map. The date of the flood map, if one has been published, is indicated in the sixth column on the table. In the communities listed where a flood map has been published, Section 102 of the Flood Disaster Protection Act of 1973, as amended, requires the purchase of flood insurance as a condition of Federal or federally related financial assistance for acquisition or construction of buildings in the special flood hazard area shown in the map.

The Federal Insurance Administrator finds that delayed effective dates would be contrary to the public interest. The Administrator also finds that notice and public procedure under 5 U.S.C. 553(b) are impracticable and unnecessary.

In each entry, a complete chronology of effective dates appears for each listed community. The entry reads as follows:

Section 1914.6 is amended by adding in alphabetical sequence new entries to the table.

[1] The functions of the Federal Insurance Administration, U.S. Department of Housing and Urban Development, were transferred to the newly established Federal Emergency Management Agency by Reorganization Plan No. 3 of 1978 (43 FR 41943, September 19, 1978) and Executive Order 12127 (44 FR 19367, April 3, 1979).

§ 1914.6 List of eligible communities.

State	County	Location	Community No.	Effective dates of authorization/ cancellation of sale of flood insurance in community	Special flood hazard area identified
Colorado	Routt	Unincorporated areas	080156	May 9, 1979, emergency	
North Dakota	Ramsey	Coulee, township of	380624—New	May 4, 1979, emergency	
Pennsylvania	Venango	Canal, township of	422108	May 9, 1979, emergency	Dec. 6, 1974.
Do	do	Mineral, township of	422536	do	Jan. 31, 1975.
Do	Jefferson	Rose, township of	421734–A	do	Sept. 20, 1974 and June 18, 1976.
Do	Berks	Upper Bern, township of	421118–A	do	Sept. 20, 1974 and Oct. 1, 1976.
Colorado	Grand	Grand Lrke, town of	080214–A	do	Aug. 15, 1975 and Sept. 17, 1976.
Georgia	Bartow	Unincorporated areas	130463	May 10, 1979, emergency.	May 26, 1978.

State	County	Location	Community No	Effective dates of authorization/ cancellation of sale of flood insurance in community	Special flood hazard area identified
Pennsylvania	Jefferson	Oliver, township of	421732	do	Dec. 13, 1974.
Texas	Hardin	Lumberton, city of	481111-A	May 8, 1979, emergency, May 8, 1979, regular.	Nov. 22, 1976.
Do	Hood	Unincorporated areas	480356-A	May 11, 1979, emergency.	May 11, 1979
Missouri	Audrain	Vandiver, village of	290879—New	May 16, 1979, emergency.	
Pennsylvania	Jefferson	Beaver, township of	422441	May 15, 1979, emergency.	Jan. 17, 1975.
Do	Indiana	Montgomery, township of	421719	May 16, 1979, emergency.	Jan. 3, 1975.
Do	Jefferson	Polk, township of	421733	do	Dec. 6, 1974.
Texas	Hood	Granbury, city of	480357	do	July 9, 1976.
Do	McLennan	Northcrest, town of	481115	do	Oct. 29, 1976.
Oregon	Marion	Silverton, city of	410169-A	May 13, 1975, emergency, Mar. 1, 1979, regular, Mar. 1, 1979, suspended, May 14, 1979, reinstated.	May 10, 1974.

(National Flood Insurance Act of 1968 (title XIII of the Housing and Urban Development Act of 1968); effective Jan. 28, 1969 (33 FR 17804, Nov. 28, 1968), as amended, 42 U.S.C. 4001–4128; Executive Order 12127, 44 FR 19367; and delegation of authority to Federal Insurance Administrator, 44 FR 20963.)

Issued: May 16, 1979.

Gloria M. Jimenez,

Federal Insurance Administrator.

[FR Doc. 79-15698 Filed 5-22-79; 8:45 am]

BILLING CODE 4210-23-M

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24 CFR Part 1914

[Docket No. FI-5483]

List of Communities Eligible for the Sale of Insurance Under the National Flood Insurance Program

AGENCY: Office of Federal Insurance and Hazard Mitigation, Federal Emergency Management Agency.[1]

ACTION: Final rule.

SUMMARY: This rule lists communities participating in the National Flood Insurance Program (NFIP). These communities have applied to the program and have agreed to enact certain flood plain management measures. The communities' participation in the program authorizes the sale of flood insurance to owners of property located in the communities listed.

EFFECTIVE DATES: The date listed in the fourth column of the table.

ADDRESSES: Flood insurance policies for property located in the communities listed can be obtained from any licensed property insurance agent or broker serving the eligible community, or from the National Flood Insurance Program (NFIP) at: P.O. Box 34294, Bethesda, Maryland 20034, Phone: (800) 638–6620.

FOR FURTHER INFORMATION CONTACT: Mr. Richard Krimm, National Flood Insurance Program, (202) 755–5581 or Toll Free Line (800) 424–8872, Room 5270, 451 Seventh Street, SW., Washington, DC 20410.

SUPPLEMENTARY INFORMATION: The National Flood Insurance Program (NFIP), enables property owners to purchase flood insurance at rates made reasonable through a Federal subsidy. In return, communities agree to adopt and administer local flood plan management measures aimed at protecting lives and new construction from future flooding. Since the communities on the attached list have recently entered the NFIP, subsidized flood insurance is now available for property in the community.

In addition, the Federal Insurance Administrator has identified the special flood hazard areas in some of these communities by publishing a Flood Hazard Boundary Map. The date of the flood map, if one has been published, is indicated in the sixth column of the table. In the communities listed where a flood map has been published, Section 102 of the Flood Disaster Protection Act of 1973, as amended, requires the purchase of flood insurance as a condition of Federal or federally related financial assistance for acquisition or construction of buildings in the special flood hazard area shown on the map.

The Federal Insurance Administrator finds that delayed effective dates would be contrary to the public interest. The Administrator also finds that notice and public procedure under 5 U.S.C. 553(b) are impracticable and unnecessary.

In each entry, a complete chronology of effective dates appears for each listed community. The entry reads as follows:

Section 1914.6 is amended by adding in alphabetical sequence new entries to the table.

[1] The functions of the Federal Insurance Administration, U.S. Department of Housing and Urban Development, were transferred to the newly established Federal Emergency Management Agency by Reorganization Plan No. 3 of 1978 (43 FR 41943, September 19, 1978) and Executive Order 12127 (44 FR 19367, April 3, 1979).

§ 1914.6 List of eligible communities.

State	County	Location	Community No	Effective dates of authorization/ cancellation of sale of flood insurance in community	Special flood hazard area identified
Mississippi	Clarke	Unincorporated areas	280220	Apr. 26, 1979, emergency.	Nov. 29, 1974 and Nov. 11, 1977.
Do	do	Enterprise, town of	280314	do	Jan. 19, 1979.
Do	Lawrence	Monticello, town of	280225	Apr. 27, 1979, emergency.	Dec. 27, 1974.
Do	Clarke	Quitman, town of	280319	Apr. 26, 1979, emergency.	
Florida	Broward	Hacienda, village of	120038-A	July 25, 1975, emergency, June 1, 1978, regular, July 3, 1978, suspended, Apr. 27, 1979, reinstated.	Sept. 6, 1974.

State	County	Location	Community No.	Effective dates of authorization/ cancellation of sale of flood insurance in community	Special flood hazard area identified
Minnesota	Carver	Waconia, city of	270055-B	July 2, 1974, emergency, Jan. 5, 1976, regular, Mar. 15, 1976, suspended, May 5, 1979, reinstated.	June 7, 1974 and Mar. 19, 1976.
Iowa	Delaware	Greeley, city of	190739	May 3, 1979, emergency	Oct. 29, 1976.
Louisiana	Union Parish	Unincorporated areas	220359	May 1, 1979, emergency	Sept. 13, 1977.
New Mexico	Valencia	Los Lunas, village of	350144—New	do	
Pennsylvania	Warren	Freehold, township of	422121	May 3, 1979, emergency	Jan. 24, 1975.
Mississippi	Copiah	Unincorporated areas	280221	May 2, 1979, emergency	Aug. 26, 1977.
Pennsylvania	Mercer	Lake, township of	422483	May 4, 1979, emergency	Jan. 31, 1975.
Do	Jefferson	Pinecreek, township of	422445	do	Jan. 24, 1975.
Do	Clarion	Richland, township of	422375	do	Jan. 17, 1975.
Do	Mercer	Sugar Grove, township of	422489	do	Jan. 31, 1975.
Florida	Broward	Pembroke Park, town of	120052-B	May 1, 1979, suspension withdrawn.	May 31, 1974 and Feb. 13, 1976.
Illinois	Marion	Salem, city of	170454-B	do	May 3, 1974 and June 18, 1976.
Do	Madison	Wood River, city of	170451-B	do	Feb. 15, 1974.
Iowa	Franklin	Hampton, city of	190131-B	do	June 21, 1974 and Mar. 5, 1976.
Kansas	Crawford	Pittsburg, city of	200072-B	do	Feb. 15, 1974 and Feb. 6, 1976.
Michigan	Macomb	Warren, city of	260129-B	do	May 17, 1974 and Sept. 3, 1976.
Minnesota	Washington	Lakeland, city of	275238-B	do	Feb. 9, 1972.
Do	do	Lakeland Shores, city of	275239-A	do	Apr. 28, 1972.
Do	do	Lake St. Croix Beach, city of	275240-A	do	Feb. 19, 1972.
Do	Dakota	Lakeville, city of	270107-B	do	June 7, 1974 and Aug. 20, 1976.
Do	Hennepin	Spring Park, city of	270186-B	do	June 7, 1974.
Do	do	Tonka Bay, city of	270187-B	do	June 7, 1974 and Mar. 19, 1976.
Mississippi	Humphreys	Louise, town of	280208-A	do	Nov. 29, 1974.
Missouri	St. Charles	St. Peters, city of	290319-B	do	Dec. 7, 1973 and Jan. 14, 1977.
New Hampshire	Belknap	Tilton, town of	330009-B	do	Mar. 22, 1974 and Oct. 29, 1976.
New Jersey	Ocean	Beachwood, borough of	340368-A	do	June 28, 1974.
New York	Erie	Holland, town of	360245-B	do	June 14, 1974 and July 2, 1976.
Ohio	Clermont	New Richmond, village of	390071-B	do	Mar. 1, 1974 and July 16, 1976.
Texas	Medina	Castroville, city of	480932-A	do	Aug. 13, 1976.

(National Flood Insurance Act of 1968 (title XIII of the Housing and Urban Development Act of 1968); effective Jan. 28, 1969 (33 FR 17804, Nov. 28, 1968), as amended, 42 U.S.C. 4001–4128; Executive Order 12127, 44 FR 19367; and delegation of authority to Federal Insurance Administrator, 44 FR 20963.)

Issued: May 8, 1979.

Gloria M. Jimenez,

Federal Insurance Administrator.

[FR Doc. 79-15687 Filed 5-22-79; 8:45 am]

BILLING CODE 4210-23-M

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24 CFR Part 1917

[Docket No. FI-4876]

Final Flood Elevation Determination for the City of Wayzata, Hennepin County, Minn., Under the National Flood Insurance Program

AGENCY: Office of Federal Insurance and Hazard Mitigation, FEMA.

ACTION: Final rule.

SUMMARY: Final base (100-year) flood elevations are listed below for selected locations in the City of Wayzata, Hennepin County, Minnesota. These base (100-year) flood elevations are the basis for the flood plain management measures that the community is required to either adopt or show evidence of being already in effect in order to qualify or remain qualified for participation in the National Flood Insurance Program (NFIP).

EFFECTIVE DATE: The date of issuance of the Flood Insurance Rate Map (FIRM), showing base (100-year) flood elevations, for the City of Wayzata, Hennepin County, Minnesota.

ADDRESSES: Maps and other information showing the detailed outlines of the flood prone areas and the final elevations for the City of Wayzata are available for review at the City Hall, 600 Rice Street, Wayzata, Minnesota.

FOR FURTHER INFORMATION CONTACT: Mr. Richard Krimm, National Flood Insurance Program, (202) 755–5581 or Toll Free Line (800) 424–8872, Room 5270, 451 Seventh Street, SW., Washington, D.C. 20410.

SUPPLEMENTARY INFORMATION: The Federal Insurance Administrator gives notice of the final determinations of flood elevations for the City of Wayzata, Hennepin County, Minnesota.

This final rule is issued in accordance with section 110 of the Flood Disaster Protection Act of 1973 (Pub. L. 93–234), 87 Stat. 980, which added section 1363 to the National Flood Insurance Act of 1968 (Title XIII of the Housing and Urban Development Act of 1968 (Pub. L. 90–448), 42 U.S.C. 4001–4128, and 24 CFR Part 1917.4(a)). An opportunity for the community or individuals to appeal this determination to or through the community for a period of ninety (90) days has been provided. No appeals of the proposed base flood elevations were received from the community or from individuals within the community.

The Administrator has developed criteria for flood plain management in flood prone areas in accordance with 24 CFR Part 1910.

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The final base (100-year) flood elevations for selected locations are:

Source of flooding	Location	Elevation in feet, national geodetic vertical datum
Lake Minnetonka	Entire lake	931
Gleason Creek	Just downstream of Burlington Northern Railroad.	931
	Just upstream of Rice Street	937
	Just downstream of Wayzata Boulevard.	937
	Just upstream of Wayzata Boulevard.	941
	Just downstream of Central Avenue.	942
	Just downstream of U.S. Highway 12.	943
	Just upstream of Hollybrook Road.	945
	Mouth of Gleason Lake	946

(National Flood Insurance Act of 1968 (Title XIII of Housing and Urban Development Act of 1968), effective January 28, 1969 (33 FR 17804, November 28, 1968), as amended (42 U.S.C. 4001–4128); Executive Order 12127, 44 FR 19367; and, delegation of authority to Federal Insurance Administrator, 44 FR 20963)

Issued: April 18, 1979.

Gloria M. Jimenez,

Federal Insurance Administrator.

[FR Doc. 79-15743 Filed 5-22-79; 8:45 am]

BILLING CODE 4210-23-M

24 CFR Part 1917

[Docket No. FI-4814]

Final Flood Elevation Determination for the Town of Satartia, Yazoo County, Miss., Under the National Flood Insurance Program

AGENCY: Office of Federal Insurance and Hazard Mitigation, FEMA.[1]

ACTION: Final rule.

SUMMARY: Final base (100-year) flood elevations are listed below for selected locations in the Town of Satartia, Yazoo County, Mississippi. These base (100-year) flood elevations are the basis for the flood plain management measures that the community is required to either adopt or show evidence of being already in effect in order to qualify or remain qualified for participation in the National Flood Insurance Program (NFIP).

EFFECTIVE DATE: The date of issuance of the Flood Insurance Rate Map (FIRM), showing base (100-year) flood elevations, for the Town of Satartia, Yazoo County, Mississippi.

ADDRESSES: Maps and other information showing the detailed outlines of the flood-prone areas and the final elevations for the Town of Satartia, Yazoo County, Mississippi are available for review at Town Hall, Satartia, Mississippi.

FOR FURTHER INFORMATION CONTACT: Mr. Richard Krimm, National Flood Insurance Program, (202) 755–5581 or Toll Free Line (800) 424–8872, Room 5270, 451 Seventh Street, SW., Washington, D.C. 20410.

SUPPLEMENTARY INFORMATION: The Federal Insurance Administrator gives notice of the final determinations of flood elevations for the Town of Satartia, Yazoo County, Mississippi.

This final rule is issued in accordance with section 110 of the Flood Disaster Protection Act of 1973 (Pub. L. 93–234), 87 Stat. 980, which added section 1363 to the National Flood Insurance Act of 1968 (Title XIII of the Housing and Urban Development Act of 1968 (Pub. L. 90–448), 42 U.S.C. 4001–4128, and 24 CFR Part 1917.4(a)). An opportunity for the community or individuals to appeal this determination to or through the community for a period of ninety (90) days has been provided. No appeals of the proposed base flood elevations were received from the community or from individuals within the community.

The Administrator has developed criteria for flood plain management in flood-prone areas in accordance with 24 CFR Part 1910.

The final base (100-year) flood elevations for selected locations are:

Source of flooding	Location	Elevation in feet, national geodetic vertical datum
Yazoo River	Just downstream of Mississippi Highway 433	106
	Confluence of Satartia Creek	105

(National Flood Insurance Act of 1968 (Title XIII of Housing and Urban Development Act of 1968), effective January 28, 1969 (33 FR 17804, November 28, 1968), as amended (42 U.S.C. 4001–4128); Executive Order 12127, 44 FR 19367; and delegation of authority to Federal Insurance Administrator, 44 FR 20963)

Issued: April 24, 1979.

Gloria M. Jimenez,

Federal Insurance Administrator.

[FR Doc. 79-15744 Filed 5-22-79; 8:45 am]

BILLING CODE 4210-23-M

24 CFR Part 1917

[Docket No. FI-4820]

Final Flood Elevation Determination for the Borough of Catasauqua, Lehigh County, Pa., Under the National Flood Insurance Program

AGENCY: Office of Federal Insurance and Hazard Mitigation, FEMA.[1]

ACTION: Final rule.

SUMMARY: Final base (100-year) flood elevations are listed below for selected locations in the Borough of Catasauqua, Lehigh County, Pennsylvania. These base (100-year) flood elevations are the basis for the flood plain management measures that the community is required to either adopt or show evidence of being already in effect in order to qualify or remain qualified for participation in the National Flood Insurance Program (NFIP).

EFFECTIVE DATE: The date of issuance of the Flood Insurance Rate Map (FIRM), showing base (100-year) flood elevations, for the Borough of Catasauqua, Lehigh County, Pennsylvania.

ADDRESSES: Maps and other information showing the detailed outlines of the flood-prone areas and the final elevations for the Borough of Catasauqua, Lehigh County, Pennsylvania, are available for review at the Borough Hall, Catasauqua, Pennsylvania.

FOR FURTHER INFORMATION CONTACT: Mr. Richard Krimm, National Flood Insurance Program, (202) 755–5581 or Toll Free Line (800) 424–8872, Room 5270, 451 Seventh Street, SW., Washington, DC 20410.

SUPPLEMENTARY INFORMATION: The Federal Insurance Administrator gives notice of the final determinations of flood elevations for the Borough of Catasauqua, Lehigh County, Pennsylvania.

This final rule is issued in accordance with section 110 of the Flood Disaster Protection Act of 1973 (Pub. L. 93–234), 87 Stat. 980, which added section 1363 to the National Flood Insurance Act of 1968 (Title XIII of the Housing and Urban Development Act of 1968 (Pub. L. 90–448), 42 U.S.C. 4001–4128, and 24 CFR Part 1917.4(a)). An opportunity for the community or individuals to appeal this determination to or through the

[1] The functions of the Federal Insurance Administration, Department of Housing and Urban Development, were transferred to the newly established Federal Emergency Management Agency by Reorganization Plan No. 3 of 1978 (43 FR 41943, September 19, 1978) and Executive Order 12127 (44 FR 19367, April 3, 1979).

community for a period of ninety (90) days has been provided. No appeals of the proposed base flood elevations were received from the community or from individuals within the community.

The Administrator has developed criteria for flood plain management in flood-prone areas in accordance with 24 CFR Part 1910.

The final base (100-year) flood elevations for selected locations are:

Source of flooding	Location	Elevation in feet, national geodetic vertical datum
Lehigh River	Confluence of Catasauqua Creek.	271
	Race Street	271
	Abandoned Railroad	275
	Pine Street	276
Catasauqua Creek	Confluence with Lehigh River	271
	Conrail Bridge	272
	Lehigh River Canal	276
	Confluence of Tributary No. 1 to Catasauqua Creek	288
	Wood Street	293
	Church Street	295
	Walnut Street	303

(National Flood Insurance Act of 1968 (Title XIII of Housing and Urban Development Act of 1968, effective January 28, 1969 (33 FR 17804, November 28, 1968), as amended; 42 U.S.C. 4001–4128; Executive Order 12127, 44 FR 19367; and delegation of authority to Federal Insurance Administrator 44 FR 20963)

Issued: April 24, 1979.

Gloria M. Jimenez,

Federal Insurance Administrator.

[FR Doc. 79-15753 Filed 5-22-79; 8:45 am]

BILLING CODE 4210-23-M]

24 CFR Part 1917

[Docket No. FI-4933]

Final Flood Elevation Determination for the City of Celina, Collin County, Tex., Under the National Flood Insurance Program

AGENCY: Office of Federal Insurance and Hazard Mitigation, FEMA.[1]

ACTION: Final rule.

SUMMARY: Final base (100-year) flood elevations are listed below for selected locations in the City of Celina, Collin County, Texas. These base (100-year) flood elevations are the basis for the flood plain management measures that the community is required to either adopt or show evidence of being already in effect in order to qualify or remain qualified for participation in the

[1] The functions of the Federal Insurance Administration, Department of Housing and Urban Development, were transferred to the newly established Federal Emergency Management Agency by Reorganization Plan No. 3 of the 1978 (43 FR 41943, September 19, 1978) and Executive Order 12127 (44 FR 19367, April 3, 1979).

National Flood Insurance Program (NFIP).

EFFECTIVE DATE: The date of issuance of the Flood Insurance Rate Map (FIRM), showing base (100-year) flood elevations, for the City of Celina, Collin County, Texas.

ADDRESSES: Maps and other information showing the detailed outlines of the flood-prone areas and the final elevations for the City of Celina, Collin County, Texas are available for review at City Hall, Celina, Texas.

FOR FURTHER INFORMATION CONTACT: Mr. Richard Krimm, National Flood Insurance Program, (202) 755–5581 or Toll Free Line (800) 424–8872, Room 5270, 451 Seventh Street, SW., Washington, D.C. 20410.

SUPPLEMENTARY INFORMATION: The Federal Insurance Administrator gives notice of the final determinations of flood elevations for the City of Celina, Collin County, Texas.

This final rule is issued in accordance with section 110 of the Flood Disaster Protection Act of 1973 (Pub. L. 93–234), 87 Stat. 980, which added section 1363 to the National Flood Insurance Act of 1968 (Title XIII of the Housing and Urban Development Act of 1968 (Pub L. 90–448), 42 U.S.C. 4001–4128, and 24 CFR Part 1917.4(a)). An opportunity for the community or individuals to appeal this determination to or through the community for a period of ninety (90) days has been provided. No appeals of the proposed base flood elevations were received from the community or from individuals within the community.

The Administrator has developed criteria for flood plain management in flood-prone areas in accordance with 24 CFR Part 1910.

The final base (100-year) flood elevations for selected locations are:

Source of flooding	Location	Elevation in feet, national geodetic vertical datum
Doe Branch	Just upstream of Ash Street	690
	Just downstream of 289 State Highway.	704

(National Flood Insurance Act of 1968 (Title XIII of Housing and Urban Development Act of 1968), effective January 28, 1969 (33 FR 17804, November 28, 1968), as amended; 42 U.S.C. 4001–4128; Executive Order 12127, 44 FR 19367; and delegation of authority to Federal Insurance Administrator, 44 FR 20963.)

Issued: April 24, 1979.

Gloria M. Jimenez,

Federal Insurance Administrator.

[FR Doc. 79-15761 Filed 5-22-79; 8:45 am]

BILLING CODE 4210-23-M

24 CFR Part 1917

[Docket No. FI-4971]

Final Flood Elevation Determination for the Town of Fairview, Collin County, Tex., Under the National Flood Insurance Program

AGENCY: Office of Federal Insurance and Hazard Mitigation, FEMA.[1]

ACTION: Final rule.

SUMMARY: Final base (100-year) flood elevations are listed below for selected locations in the Town of Fairview, Collin County, Texas. These base (100-year) flood elevations are the basis for the flood plain management measures that the community is required to either adopt or show evidence of being already in effect in order to qualify or remain qualified for participation in the National Flood Insurance Program (NFIP).

EFFECTIVE DATE: The date of issuance of the Flood Insurance Rate Map (FIRM), showing base (100-year) flood elevations, for the Town of Fairview, Collin County, Texas.

ADDRESSES: Maps and other information showing the detailed outlines of the flood-prone areas and the final elevations for the Town of Fairview, Collin County, Texas are available for review at City Hall, Fairview, Texas.

FOR FURTHER INFORMATION CONTACT: Mr. Richard Krimm, National Flood Insurance Program, (202) 755–5581 or Toll Free Line (800) 424–8872, Room 5270, 451 Seventh Street, SW., Washington, D.C. 20410.

SUPPLEMENTARY INFORMATION: The Federal Insurance Administrator gives notice of the final determinations of flood elevations for the Town of Fairview, Collin County, Texas.

This final rule is issued in accordance with section 110 of the Flood Disaster Protection Act of 1973 (Pub. L. 93–234), 87 Stat. 980, which added section 1363 to the National Flood Insurance Act of 1968 (Title XIII of the Housing and Urban Development Act of 1968 (Pub. L. 90–448), 42 U.S.C. 4001–4128, and 24 CFR

[1] The functions of the Federal Insurance Administration, Department of Housing and Urban Development, were transferred to the newly established Federal Emergency Management Agency by Reorganization Plan No. 3 of 1978 (43 FR 41943, September 19, 1978) and Executive Order 12127 (44 FR 19367, April 3, 1979).

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Part 1917.4(a)). An opportunity for the community or individuals to appeal this determination to or through the community for a period of ninety (90) days has been provided. No appeals of the proposed base flood elevations were received from the community or from individuals within the community.

The Administrator has developed criteria for flood plain management in flood-prone areas in accordance with 24 CFR Part 1910.

The final base (100-year) flood elevations for selected locations are:

Source of flooding	Location	Elevation in feet, national geodetic vertical datum
Sloan Creek	Just upstream of FM 1378	542
	Approximately 550 feet upstream of the eastern Corporate Limits.	523
Wilson Creek	Northern Corporate Limits	527
	Country Club Road extended.	525

(National Flood Insurance Act of 1968 (Title XIII of Housing and Urban Development Act of 1968), effective January 28, 1969 (33 FR 17804, November 28, 1968), as amended; 42 U.S.C. 4001–4128; Executive Order 12127, 44 FR 19367; and delegation of authority to Federal Insurance Administrator, 44 FR 20963.)

Issued: April 24, 1979.

Gloria M. Jimenez,

Federal Insurance Administrator.

[FR Doc. 79-15762 Filed 5-22-79; 8:45 am]

BILLING CODE 4210-23-M

24 CFR Part 1917

Final Flood Elevation Determination for the County of Fauquier, Va., Under the National Flood Insurance Program

AGENCY: Office of Federal Insurance and Hazard Mitigation, FEMA.[1]

ACTION: Final rule.

SUMMARY: Final base (100-year) flood elevations are listed below for selected locations in the County of Fauquier, Virginia. These base (100-year) flood elevations are the basis for the flood plain management measures that the community is required to either adopt or show evidence of being already in effect in order to qualify or remain qualified for participation in the National Flood Insurance Program (NFIP).

EFFECTIVE DATE: The date of issuance of the Flood Insurance Rate Map (FIRM), showing base (100-year) flood elevations, for the County of Fauquier, Virginia.

ADDRESSES: Maps and other information showing the detailed outlines of the flood prone areas and the final elevations for the County of Fauquier, Virginia are available for review at the County Planning Office, 14 Main Street, Warrenton, Virginia.

FOR FURTHER INFORMATION CONTACT:
Mr. Richard Krimm, National Flood Insurance Program, (202) 755–5581 or Toll Free Line (800) 424–8872, Room 5270, 451 Seventh Street, SW., Washington, D.C. 20410.

SUPPLEMENTARY INFORMATION: The Federal Insurance Administrator gives notice of the final determination of flood elevations for the County of Fauquier, Virginia.

This final rule is issued in accordance with section 110 of the Flood Disaster Protection Act of 1973 (Pub. L. 93–234), 87 Stat. 980, which added section 1363 to the National Flood Insurance Act of 1968 (Title XIII of the Housing and Urban Development Act of 1968 (Pub. L. 90–448), 42 U.S.C. 4001–4128, and 24 CFR Part 1917.4(a)). An opportunity for the community or individuals to appeal this determination to or through the community for a period of ninety (90) days has been provided. No appeals of the proposed base flood elevations were received from the community or from individuals within the community.

The Administrator has developed criteria for flood plain management in flood-prone areas in accordance with 24 CFR Part 1910.

The final base (100-year) flood elevations for selected locations are:

Source of flooding	Location	Elevation in feet, national geodetic vertical datum
Cedar Run	Southern Railroad Bridge	223
Owl Run	State Route 618	255
	Southern Railway	268
	State Route 28	268
	Access Road	268
Rappahannock River	Confluence of Tinpot Run	277
	Southern Railway	277
	U.S. Route 15/29	278
	U.S. Route 15/29 (By-Pass)	287
South Run	U.S. Route 29/211	476
	Va. Route 693	488
Tinpot Run	Confluence w/ Rappahannock River.	277
	Va. Route 651	277
	Va. Route 655	277
	U.S. Route 15/29	277
	U.S. Route 15/29 By-Pass	283
White Mills Branch	Upstream Corporate Limits	423

(National Flood Insurance Act of 1968 (Title XIII of Housing and Urban Development Act of 1968), effective January 28, 1969 (33 FR 17804, November 28, 1968), as amended (42 U.S.C. 4001–4128); Executive Order 12127, 44 FR 19367; and delegation of authority to Federal Insurance Administrator, 44 FR 20963)

Issued: April 24, 1979.

Gloria M. Jimenez,

Federal Insurance Administrator.

[FR Doc. 79-15763 Filed 5-22-79; 8:45 am]

BILLING CODE 4210-23-M

24 CFR Part 1917

[Docket No. FI-4970]

Final Flood Elevation Determination for the City of Garland, Dallas County, Tex., Under the National Flood Insurance Program

AGENCY: Office of Federal Insurance and Hazard Mitigation, FEMA.[1]

ACTION: Final rule.

SUMMARY: Final base (100-year) flood elevations are listed below for selected locations in the City of Garland, Dallas County, Texas. These base (100-year) flood elevations are the basis for the flood plain management measures that the community is required to either adopt or show evidence of being already in effect in order to qualify or remain qualified for participation in the National Flood Insurance Program (NFIP).

EFFECTIVE DATE: The date of issuance of the Flood Insurance Rate Map (FIRM), showing base (100-year) flood elevations, for the City of Garland, Dallas County, Texas.

ADDRESSES: Maps and other information showing the detailed outlines of the flood-prone areas and the final elevations for the City of Garland, Dallas County, Texas are available for review at the City Secretary's Office, City Hall, 200 North Fifth Street, Garland, Texas.

FOR FURTHER INFORMATION CONTACT:
Mr. Richard Krimm, National Flood Insurance Program, (202) 755–5581 or Toll Free Line (800) 424–8872, Room 5270, 451 Seventh Street, SW., Washington, D.C. 20410.

SUPPLEMENTARY INFORMATION: The Federal Insurance Administrator gives notice of the final determinations of flood elevations for the City of Garland, Dallas County, Texas.

This final rule is issued in accordance with section 110 of the Flood Disaster Protection Act of 1973 (Pub. L. 93–234), 87 Stat. 980, which added section 1363 to the National Flood Insurance Act of 1968 (Title XIII of the Housing and Urban Development Act of 1968 (Pub. L. 90–448), 42 U.S.C. 4001–4128, and 24 CFR Part 1917.4(a)). An opportunity for the community or individuals to appeal this determination to or through the community for a period of ninety (90) days has been provided. No appeals of the proposed base flood elevations were received from the community or from individuals within the community.

The Administrator has developed criteria for flood plain management in flood-prone areas in accordance with 24 CFR Part 1910.

The final base (100-year) flood elevations for selected locations are:

Source of flooding	Location	Elevation in feet, national geodetic vertical datum
Rowlett Creek	Just downstream of State Highway 78.	481
	Just upstream of Blackburn Road.	495
Spring Creek	Just upstream of Naaman School Road.	490
	Just upstream of North Star Road.	512
	Just downstream of Big Spring Road.	532
Stream 2I1	Approximately 130' downstream of Naaman School Road.	497
Stream 2I2	Approximately 50' downstream of Apollo Road.	522
Stream 2I3	Just upstream of Apollo Road.	517
Stream 2I4	Just upstream of Quarry Road.	530
Stream 2I5	Approximately 100' downstream of Big Spring Road.	538
Stream 2I6	At Big Spring Road	548
Stream 2I7	Just upstream of Campbell Road.	561
Stream 2D1	Approximately 100' downstream of Centerville Road.	470
Mills Branch	Just upstream of Centerville Road.	451
	Just upstream of New Garland Avenue (New State Highway 66.	480
	Approximately 40' upstream of Commercial Street.	496
	Just upstream of Lavon Drive	522
Stream 2D3	Just downstream of High Meadow Drive.	487
Bradfield Creek	At Centerville Road	458
	Just upstream of Country Club Road.	511
Stream 2D13	Confluence with Rowlett Creek.	467
Stream 2D14	Approximately 40' upstream Ben Davis Road.	496
Stream 2D4	Just upstream of Atcheson Topeka & Santa Fe Railroad.	487
Stream 2D5	Approximately 100' downstream Blackburn Road.	506
Stream 2D6	Just downstream of North Star Road.	507
Duck Creek	Just downstream of State Highway 67 & Interstate Highway 30.	460
	Approximately 100' upstream of Dates Road.	473
	Just upstream of Kingsley Road.	506
	At Forrestland	538

[1] The functions of the Federal Insurance Administration, Department of Housing and Urban Development, were transferred to the newly established Federal Emergency Management Agency by Reorganization Plan No. 3 of 1978 (43 FR 41943, September 19, 1978) and Executive Order 12127 (44 FR 19367, April 3, 1979).

the National Flood Insurance Act of 1968 (Title XIII of the Housing and Urban Development Act of 1968 (Pub. L. 90–448), 42 U.S.C. 4001–4128, and 24 CFR Part 1917.4(a)). An opportunity for the community or individuals to appeal this determination to or through the community for a period of ninety (90) days has been provided. No appeals of the proposed base flood elevations were received from the community or from individuals within the community.

The Administrator has developed criteria for flood plain management in flood-prone areas in accordance with 24 CFR Part 1910.

The final base (100-year) flood elevations for selected locations are:

Source of flooding	Location	Elevation in feet, national geodetic vertical datum
	Approximately 100' downstream of Buckingham Road.	569
Long Branch	Approximately 150' upstream of Highway 635.	504
	Just upstream Centerville Road.	533
	Approximately 100' upstream of North West Highway.	560
Stream 2C1	Just upstream of Northern Frontage Road to U.S. Highway 67.	464
	Just upstream of Tacoma Drive.	487
Stream 2C2	Approximately 100' upstream of Douglas Drive.	526
Stream 2C3	Approximately 100' downstream of Patricia Lane.	547
	Just downstream of Lennecker Drive.	578
Stream 2C4	South Garland Avenue	541
	Just upstream of Patricia Lane.	558
Stream 2C5	Just upstream of Shiloh Road.	572
	Approximately 80' downstream of Kirby Street.	599
Stream 2C8	Just upstream of Buckingham Road.	581

(National Flood Insurance Act of 1968 (Title XIII of Housing and Urban Development Act of 1968), effective January 28, 1969 (33 FR 17804, November 28, 1968), as amended; 42 U.S.C. 4001–4128; Executive Order 12127, 44 FR 19367; and delegation of authority to Federal Insurance Administrator 44 FR 20963.)

Issued: April 26, 1979.

Gloria M. Jimenez,

Federal Insurance Administrator.

[FR Doc. 79-15768 Filed 5-22-79; 8:45 am]

BILLING CODE 4210-23-M

24 CFR Part 1917

[Docket No. FI-4959]

Final Flood Elevation Determination for the City of Harrisonville, Cass County, Mo., Under the National Flood Insurance Program

AGENCY: Office of Federal Insurance and Hazard Mitigation, FEMA.[1]

ACTION: Final rule.

SUMMARY: Final base (100-year) flood elevations are listed below for selected locations in the City of Harrisonville, Cass County, Missouri. These base (100-year) flood elevations are the basis for the flood plain management measures that the community is required to either adopt or show evidence of being already in effect in order to qualify or remain qualified for participation in the National Flood Insurance Program (NFIP).

EFFECTIVE DATE: The date of issuance of the Flood Insurance Rate Map (FIRM), showing base (100-year) flood elevations, for the City of Harrisonville, Cass County, Missouri.

ADDRESSES: Maps and other information showing the detailed outlines of the flood prone areas and the final elevations for the City of Harrisonville are available for review at the City Hall, Harrisonville, Missouri.

FOR FURTHER INFORMATION CONTACT:
Mr. Richard Krimm, National Flood Insurance Program, (202) 755–5581 or Toll Free Line (800) 424–8872, Room 5270, 451 Seventh Street, SW., Washington, D.C. 20410.

SUPPLEMENTARY INFORMATION: The Federal Insurance Administrator gives notice of the final determinations of flood elevations for the City of Harrisonville, Cass County, Missouri.

This final rule is issued in accordance with section 110 of the Flood Disaster Protection Act of 1973 (Pub. L. 93–234), 87 Stat. 980, which added section 1363 to the National Flood Insurance Act of 1968 (Title XIII of the Housing and Urban Development Act of 1968 (Pub. L. 90–448), 42 U.S.C. 4001–4128, and 24 CFR Part 1917.4(a)). An opportunity for the community or individuals to appeal this determination to or through the community for a period of ninety (90) days has been provided. No appeals of the proposed base flood elevations were received from the community or from individuals within the community.

The Administrator has developed criteria for flood plain management in flood prone areas in accordance with 24 CFR Part 1910.

The final base (100-year) flood elevations for selected locations are:

Source of flooding	Location	Elevation in feet national geodetic vertical datum
Muddy Creek	Downstream corporate limits	853
	At confluence of Town Creek	860
	Just upstream of Missouri Pacific Railroad.	867
	Just upstream of northbound U.S. 71.	874
	Just upstream of Commercial Street.	877
	Upstream corporate limits	890
Town Creek	Mouth at Muddy Creek	860
	Just upstream of northbound U.S. 71.	865
	Just upstream of Missouri Pacific Railroad.	873
	Just downstream of Commercial Street.	890
	Just upstream of Oakland Street.	885
	Just upstream of St. Louis & San Francisco Railroad.	893

[1] The functions of the Federal Insurance Administration, Department of Housing and Urban Development, were transferred to the newly established Federal Emergency Management Agency by Reorganization Plan No. 3 of 1978 (43 FR 41943, September 19, 1978) and Executive Order 12127 (44 FR 19367, April 3, 1979).

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Source of flooding	Location	Elevation in feet national geodetic vertical datum
	Just downstream of Ash Street.	897
Tributary No. 1	Downstream corporate limits.	869
	Just upstream of northbound U.S. 71.	880
	Approximately 2,200 feet upstream of northbound U.S. 71.	888
Tributary No. 2	Mouth at Muddy Creek	874
	Just upstream of Orchard Road.	883
	Just upstream of East South Street.	894
	Approximately 3,000 feet upstream of East South Street.	903
	Just upstream of Bird Avenue.	921

(National Flood Insurance Act of 1968 (Title XIII of Housing and Urban Development Act of 1968), effective January 28, 1969 (33 FR 17804, November 28, 1968), as amended; 42 U.S.C. 4001–4128; Executive Order 12127, 44 FR 19367; and delegation of authority to Federal Insurance Administrator, 44 FR 20963).

Issued: April 18, 1979.

Gloria M. Jimenez,

Federal Insurance Administrator.

[FR Doc. 79-15745 Filed 5-22-79; 8:45 am]

BILLING CODE 4210-23-M

24 CFR Part 1917

[Docket No. FI-4877]

Final Flood Elevation Determination for the City of Lake Lotawana, Jackson County, Mo., Under the National Flood Insurance Program

AGENCY: Office of Federal Insurance and Hazard Mitigation, FEMA.[1]

ACTION: Final rule.

SUMMARY: Final base (100-year) flood elevations are listed below for selected locations in the City of Lake Lotawana, Jackson County, Missouri. These base (100-year) flood elevations are the basis for the flood plain management measures that the community is required to either adopt or show evidence of being already in effect in order to qualify or remain qualified for participation in the National Flood Insurance Program (NFIP).

EFFECTIVE DATE: The date of issuance of the Flood Insurance Rate Map (FIRM), showing base (100-year) flood elevations, for the City of Lake Lotowana, Jackson County, Missosuri.

ADDRESS: Maps and other information showing the detailed outlines of the flood prone areas and the final elevations for the City of Lake Lotawana are available for review at the City Hall, Route 4, Gate 1, Lake Lotawana, Missouri.

FOR FURTHER INFORMATION CONTACT: Mr. Richard Krimm, National Flood Insurance Program, (202) 755–5581 or Toll Free Line (800) 424–8872, Room 5270, 451 Seventh Street, SW., Washington, D.C. 20410.

SUPPLEMENTARY INFORMATION: The Federal Insurance Administrator gives notice of the final determinations of flood elevations for the City of Lake Lotawana, Jackson County, Missouri.

This final rule is issued in accordance with section 110 of the Flood Disaster Protection Act of 1973 (Pub. L. 93–234), 87 Stat. 980, which added section 1363 to the National Flood Insurance Act of 1968 (Title XIII of the Housing and Urban Development Act of 1968 (Pub. L. 90–448), 42 U.S.C. 4001–4128, and 24 CFR Part 1917.4(a)). An opportunity for the community or individuals to appeal this determination to or through the community for a period of ninety (90) days has been provided. No appeals of the proposed base flood elevations were received from the community or from individuals within the community.

The Administrator has developed criteria for flood plain management in flood prone areas in accordance with 24 CFR Part 1910.

The final base (100-year) flood elevations for selected locations are:

Source of flooding	Location	Elevation in feet, national geodetic vertical datum
Lake Lotawana	Within the corporate limits of the City of Lake Lotawana.	888
West Fork	Just upstream of Shore Drive at Dam.	886
	350 feet downstream of Shore Drive.	883
	780 feet downstream of Shore Drive.	842
	1,300 feet downstream of Shore Drive.	840
	2,200 feet downstream of Shore Drive.	840
	Eastern Corporate Boundary.	838

(National Flood Insurance Act of 1968 (Title XIII of Housing and Urban Development Act of 1968), effective January 28, 1969 (33 FR 17804, November 28, 1968), as amended; 42 U.S.C. 4001–4128; Executive Order 12127, 44 FR 19367; and delegation of authority to Federal Insurance Administrator, 43 FR 7719).

Issued: April 18, 1979.

Gloria M. Jimenez,

Federal Insurance Administrator.

[FR Doc. 79-15746 Filed 5-22-79; 8:45 am]

BILLING CODE 4210-23-M

24 CFR Part 1917

[Docket No. FI-4920]

Final Flood Elevation Determination for the City of Hayward, Sawyer County, Wis., Under the National Flood Insurance Program

AGENCY: Office of Federal Insurance and Hazard Mitigation, FEMA.[1]

ACTION: Final rule.

SUMMARY: Final base (100-year) flood elevations are listed below for selected locations in the City of Hayward, Sawyer County, Wisconsin. These base (100-year) flood elevations are the basis for the flood plain management measures that the community is required to either adopt or show evidence of being already in effect in order to qualify or remain qualified for participation in the National Flood Insurance Program (NFIP).

EFFECTIVE DATE: The date of issuance of the Flood Insurance Rate Map (FIRM), showing base (100-year) flood elevations, for the City of Hayward, Sawyer County, Wisconsin.

ADDRESSES: Maps and other information showing the detailed outlines of the flood prone areas and the final elevations for the City of Hayward are available for review at the City Clerk's Office, Hayward, Wisconsin.

FOR FURTHER INFORMATION CONTACT: Mr. Richard Krimm, National Flood Insurance Program, (202) 755–5581 or Toll Free Line (800) 424–8872, Room 5270, 451 Seventh Street, SW., Washington, DC 20410.

SUPPLEMENTARY INFORMATION: The Federal Insurance Administrator gives notice of the final determinations of flood elevations for the City of Hayward, Sawyer County, Wisconsin.

This final rule is issued in accordance with section 110 of the Flood Disaster Protection Act of 1973 (Pub. L. 93–234), 87 Stat. 980, which added section 1363 to the National Flood Insurance Act of 1968 (Title XIII of the Housing and Urban Development Act of 1968 (Pub. L. 90–448), 42 U.S.C. 4001–4128, and 24 CFR

[1] The functions of the Federal Insurance Administration, Department of Housing and Urban Development, were transferred to the newly established Federal Emergency Management Agency by Reorganization Plan No. 3 of 1978 (43 FR 41943, September 19, 1978) and Executive Order 12127 (44 FR 19367, April 3, 1979).

Part 1917.4(a)). An opportunity for the community or individuals to appeal this determination to or through the community for a period of ninety (90) days has been provided. No appeals of the proposed base flood elevations were received from the community or from individuals within the community.

The Administrator has developed criteria for flood plain management in flood prone areas in accordance with 24 CFR Part 1910.

The final base (100-year) flood elevations for selected locations are:

Source of flooding	Location	Elevation in feet, national geodetic vertical datum
Namekagon River	400 feet upstream from western corporate limits (western corporate limits is 4,120 feet downstream of the dam).	1,171
	Downstream of the dam	1,178
	Upstream of the dam	1,189
	At eastern corporate limits	1,189
Smith Lake Creek	Upstream of Chicago & Northwestern Railroad (top of culvert).	1,196
	Downstream of 3rd Street	1,198
	Upstream of 3rd Street	1,202
	At the dam	1,204
	At Highways 27 and 77	1,207
	At northern corporate limits	1,208

(National Flood Insurance Act of 1968 (Title XIII of housing and Urban Development act of 1968), effective January 28, 1969 (33 FR 17804, November 28, 1968), as amended; 42 U.S.C. 4001–4128; Executive Order 12127, 44 FR 19367; and delegation of authority to Federal Insurance Administrator, 44 FR 20963)]

Issued: April 24, 1979.

Gloria M. Jimenez,

Federal Insurance Administrator.

[FR Doc. 79-15766 Filed 5-22-79; 8:45 am]

BILLING CODE 4210-23-M

24 CFR Part 1917

[Docket No. FI-4982]

Final Flood Elevation Determination for the City of High Point, Guilford County, N.C., Under the National Flood Insurance Program

AGENCY: Office of Federal Insurance and Hazard Mitigation, FEMA.[1]

ACTION: Final rule.

SUMMARY: Final base (100-year) flood elevations are listed below for selected locations in the City of High Point, Guilford County, North Carolina. These base (100-year) flood elevations are the basis for the flood plain management measures that the community is required to either adopt or show evidence of being already in effect in order to quality or remain qualified for participation in the National Flood Insurance Program (NFIP).

EFFECTIVE DATE: The date of issuance of the Flood Insurance Rate Map (FIRM), showing base (100-year) flood elevations, for the City of High Point, Guilford County, North Carolina.

ADDRESSES: Maps and other information showing the detailed outlines of the flood-prone areas and the final elevations for the City of High Point, Guilford County, North Carolina are available for review at the City Clerks Office, 211 South Hamilton Street, High Point, North Carolina.

FOR FURTHER INFORMATION CONTACT: Mr. Richard Krimm, National Flood Insurance Program, (202) 755–5581 or Toll Free Line (800) 424–8872, Room 5270, 451 Seventh Street, SW., Washington, D.C. 20410

SUPPLEMENTARY INFORMATION: The Federal Insurance Administrator gives notice of the final determinations of flood elevations for the City of High Point, Guilford County, North Carolina.

This final rule is issued in accordance with section 110 of the Flood Disaster Protection Act of 1973 (Pub. L. 93–234), 87 Stat. 980, which added section 1363 to the National Flood Insurance Act of 1968 (Title XIII of the Housing and Urban Development Act of 1968 (Pub. L. 90–448), 42 U.S.C. 4001–4128, and 24 CFR Part 1917.4(a)). An opportunity for the community or individuals to appeal this determination to or through the community for a period of ninety (90) days has been provided. No appeals of the proposed base flood elevations were received from the community or from individuals within the community.

The Administrator has developed criteria for flood plain management in flood-prone areas in accordance with 24 CFR Part 1910.

The final base (100-year) flood elevations for selected locations are:

Source of flooding	Location	Elevation in feet, national geodetic vertical datum
Deep River	Just upstream of the confluence of Stream No. 26.	734
	Just downstream of Southern Railroad.	735
Stream No. 26	Approximately 100 feet downstream of North Scientific Street.	770
	Just upstream of confluence of Stream No. 27.	773
Stream No. 27	Just upstream of Southern Railroad.	787
	Just downstream of Rosecrest Drive.	810
West Fork Deep River	Just upstream of High Point Dam.	761
	Just downstream of Deep River Road.	777
Stream No. 18	Just downstream of Willard Road.	801
	Just upstream of Willard Road.	806
Boulding Branch	Approximately 200 feet upstream of Lexington Avenue.	816
	Approximately 100 feet downstream of Montlieu Avenue.	822
Stream No. 20	Just downstream of Terrell Drive.	819
	Just upstream of East College Drive.	829
	Just downstream of North Centennial Street.	842
Stream No. 13	Just upstream of confluence of Oak Hollow Lake.	807
Hiatt Branch	Just downstream of Hillside Drive.	810
Horney Branch	Just upstream of Aberdeen Road.	811
	Approximately 150 feet upstream of Fairlane Street.	817
	Just downstream of Old Mill Road.	834
	Just upstream of Old Mill Road.	840
Richland Creek	Approximately 200 feet upstream of Kersey Valley Road.	704
	Approximately 200 feet upstream of Jackson Lake Road.	710
	Just upstream of Baker Road	729
	Just upstream of Brentwood Street.	782
	Just upstream of West Linden Avenue.	831
	Just upstream of South Elm Street.	837
Mile Branch	Approximately 150 feet downstream of Jackson Lake Road.	740
Stream No. 34	Approximately 100 feet upstream of U.S. 29 and 70.	748
	Just upstream of East Green Drive.	784
	Approximately 100 feet downstream of Habersham Road.	817
Stream No. 33	Approximately 150 feet upstream of Nathan Hunt Drive.	789
	Just downstream of Wise Avenue.	808
Stream No. 31	Just upstream of Carolina and Northwestern Railroad.	841
	Approximately 100 feet downstream of West Ward Avenue.	850
	Just downstream of Vail Avenue.	855
Stream No. 99	Just downstream of Westchester Drive.	825
Stream No. 97	Approximately 100 feet downstream of Nottingham Road.	800
	Just upstream of Nottingham Road.	806
Stream No. 95	Approximately 150 feet upstream of Sweetbriar Road.	789
	Just Downstream of Westchester Drive.	799
	Just upstream of Westchester Drive.	809

[1] The functions of the Federal Insurance Administration, Department of Housing and Urban Development, were transferred to the newly established Federal Emergency Management Agency by Reorganization Plan No. 3 of 1978 (43 FR 41943, September 19, 1978) and Executive Order 12127 (44 FR 19367, April 3, 1979).

Source of flooding	Location	Elevation in feet, national geodetic vertical datum
	Approximately 200 feet upstream of Rockford Road.	616
Stream No. 92	Just upstream of the Western Guilford County Line.	781
	Approximately 200 feet downstream of the confluence of Stream No. 93.	790
Stream No. 29A	Just upstream of Bales Chapel Road.	725
Stream No. 93	Just upstream of Cherokee Avenue.	822
	Just downstream of Westchester Drive.	823
	Just upstream of Westchester Drive.	833

(National Flood Insurance Act of 1968 (Title XIII of Housing and Urban Development Act of 1968), effective January 28, 1969 (33 FR 17804, November 28, 1968), as amended; 42 U.S.C. 4001–4128; Executive Order 12127, 44 FR 19367; and delegation of authority to Federal Insurance Administrator 44 FR 20963.)

Issued: April 24, 1979.

Gloria M. Jimenez,

Federal Insurance Administrator.

[FR Doc. 79-15749 Filed 5-22-79; 8:45 am]

BILLING CODE 4210-23-M

24 CFR Part 1917

[Docket No. FI-4927]

Final Flood Elevation Determination for the Borough of Liberty, Allegheny County, Pa., Under the National Flood Insurance Program

AGENCY: Office of Federal Insurance and Hazard Mitigation, FEMA.[1]

ACTION: Final rule.

SUMMARY: Final base (100-year) flood elevations are listed below for selected locations in the Borough of Liberty, Allegheny County, Pennsylvania. These base (100-year) flood elevations are the basis for the flood plain management measures that the community is required to either adopt or show evidence of being already in effect in order to qualify or remain qualified for participation in the National Flood Insurance Program (NFIP).

EFFECTIVE DATE: The date of issuance of the Flood Insurance Rate Map (FIRM), showing base (100-year) flood elevations, for the Borough of Liberty, Allegheny County, Pennsylvania.

ADDRESSES: Maps and other information showing the detailed outlines of the flood-prone areas and the final elevations for the Borough of Liberty, Allegheny County, Pennsylvania, are available for review at the Borough Hall, Liberty, Pennsylvania.

FOR FURTHER INFORMATION CONTACT:
Mr. Richard Krimm, National Flood Insurance Program, (202) 755–5581 or Toll Free Line (800) 424–8872, Room 5270, 451 Seventh Street, SW., Washington, D.C. 20410.

SUPPLEMENTARY INFORMATION: The Federal Insurance Administrator gives notice of the final determinations of flood elevations for the Borough of Liberty, Allegheny County, Pennsylvania.

This final rule is issued in accordance with section 110 of the Flood Disaster Protection Act of 1973 (Pub. L. 93–234), 87 Stat. 980, which added section 1363 to the National Flood Insurance Act of 1968 (Title XIII of the Housing and Urban Development Act of 1968 (Pub. L. 90–448), 42 U.S.C. 4001–4128, and 24 CFR Part 1917.4(a)). An opportunity for the community or individuals to appeal this determination to or through the community for a period of ninety (90) days has been provided. No appeals of the proposed base flood elevations were received from the community or from individuals within the community.

The Administrator has developed criteria for flood plain management in flood-prone areas in accordance with 24 CFR Part 1910.

The final base (100-year) flood elevations for selected locations are:

Source of flooding	Location	Elevation in feet, national geodetic vertical datum
Youghiogheny River	At downstream corporate limits and confluence of Unnamed Tributary.	745
	At River Mile No. 2 Post	746
	At Chessie System Bridge	747
	At upstream corporate limits	747

(National Flood Insurance Act of 1968 (Title XIII of Housing and Urban Development Act of 1968), effective January 28, 1969 (33 FR 17804, November 28, 1968), as amended (42 U.S.C. 4001–4128); Executive Order 12127, 44 FR 19367; and delegation of authority to Federal Insurance Administrator 44 FR 20963.)

Issued: April 24, 1979.

Gloria M. Jimenez,

Federal Insurance Administrator.

[FR Doc. 79-15754 Filed 5-22-79; 8:45 am]

BILLING CODE 4210-23-M

[1] The functions of the Federal Insurance Administration, Department of Housing and Urban Development, were transferred to the newly established Federal Emergency Management Agency by Reorganization Plan No. 3 of 1978 (43 FR 41943, September 19, 1978) and Executive Order 12127 (44 FR 19367, April 3, 1979).

24 CFR Part 1917

[Docket No. FI-4983]

Final Flood Elevation Determination for the City of Lexington, Davidson County, N.C., Under the National Flood Insurance Program

AGENCY: Office of Federal Insurance and Hazard Mitigation, FEMA.[1]

ACTION: Final rule.

SUMMARY: Final base (100-year) flood elevations are listed below for selected locations in the City of Lexington, Davidson County, North Carolina. These base (100-year) flood elevations are the basis for the flood plain management measures that the community is required to either adopt or show evidence of being already in effect in order to qualify or remain qualified for participation in the National Flood Insurance Program (NFIP).

EFFECTIVE DATE: The date of issuance of the Flood Insurance Rate Map (FIRM), showing base (100-year) flood elevations, for the City of Lexington, Davidson County, North Carolina.

ADDRESSES: Maps and other information showing the detailed outlines of the flood-prone areas and the final elevations for the City of Lexington, Davidson County, North Carolina are available for review at the City Engineers Office, 907 Talbert Boulevard, Lexington, North Carolina.

FOR FURTHER INFORMATION CONTACT:
Mr. Richard Krimm, National Flood Insurance Program, (202) 755–5581 or Toll Free Line (800) 424–8872, Room 5270, 451 Seventh Street, SW., Washington, D.C. 20410.

SUPPLEMENTARY INFORMATION: The Federal Insurance Administrator gives notice of the final determinations of flood elevations for the City of Lexington, Davidson County, North Carolina.

This final rule is issued in accordance with section 110 of the Flood Disaster Protection Act of 1973 (Pub. L. 93–234), 87 Stat. 980, which added section 1363 to the National Flood Insurance Act of 1968 (Title XIII of the Housing and Urban Development Act of 1968 (Pub L. 90–448), 42 U.S.C. 4001–4128, and 24 CFR Part 1917.4(a)). An opportunity for the community or individuals to appeal this determination to or through the community for a period of ninety (90) days has been provided. No appeals of the proposed base flood elevations were received from the community or from individuals within the community.

The Administrator has developed criteria for flood plain management in flood-prone areas in accordance with 24 CFR Part 1910.

The final base (100-year) flood elevations for selected locations are:

Source of flooding	Location	Elevation in feet, national geodetic vertical datum
Rat Spring Branch	Just upstream of confluence of Walltown Branch.	705
	Upstream of intersection of Foyett Street and Pennington Avenue.	714
	Upstream of Menoonta Avenue.	731
Walltown Branch	Downstream of Linwood Road.	707
Yarborough Drain	Upstream of Cotton Grove Road.	723
	Hoover Drive Extended	739
Walltown Drain	Just east of Cotton Grove Road at corporate limits.	752
Michael Branch	Downstream of Fifth Avenue	704
	Approximately 100 feet downstream of confluence of Royal Park Branch.	710
Michael Branch	Upstream of West Center extt.	722
	Downstream of Biesecker Road.	752
	Upstream of Biesecker Road.	757
	Upstream of Price Road	768
Wennonah Mill Draw	Just downstream of Winston-Salem Southbound Railroad.	721
Royal Park Branch	Downstream of Spruce Street.	712
	Downstream of Burke Street	715
	Winston-Salem Southbound Railroad.	718
	Williams Street (extended)	735
Royal Park Drain	Upstream of Westside Drive	722
	Approximately 100 feet downstream of Payne Street.	734
	Just downstream of Williams Circle.	745
Erlanger Branch	Upstream of Swing Dairy Road.	724
	Upstream of Winston-Salem Southbound Railroad.	749
	Upstream of Hames Street	758
Shoaf Branch	Approximately 400 feet upstream of confluence with Michael Branch.	712
	Upstream of Royal Avenue	728
	Corporate Limits	734
Woodcrest Drain	Approximately 180 feet upstream of confluence with Michael Branch.	726
	Downstream of Woodhaven Drive.	743
Biesecker Creek	Just upstream of downstream corporate limits.	736
Swearing Creek	Upstream corporate limits	716
Northside Creek	Approximately 1000 feet upstream of confluence with Swearing Creek.	719
Northside Branch	Confluence with Northside Creek.	728
Jefferson Village Branch.	Corporate limits	672
	Upstream of Ninth Street extension	748
Jefferson Village Tributary.	Approximately 100 feet upstream of confluence with Jefferson Village Branch.	675
Northview Heights Branch.	Approximately 800 feet upstream of confluence with Jefferson Village Branch.	686
	Downstream of White Street	727
	Upstream of White Street	735

[1] The functions of the Federal Insurance Administration, Department of Housing and Urban Development, were transferred to the newly established Federal Emergency Management Agency by Reorganization Plan No. 3 of 1978 (43 FR 41943, September 19, 1978) and Executive Order 12127 (44 FR 19367, April 3, 1979).

days has been provided. No appeals of the proposed base flood elevations were received from the community or from individuals within the community.

The Administrator has developed criteria for flood plain management in flood-prone areas in accordance with 24 CFR Part 1910.

The final base (100-year) flood elevations for selected locations are:

Source of flooding	Location	Elevation in feet, national geodetic vertical datum
Swingsdairy Branch	Upstream of North Main St.	748
	Downstream of Greensboro St.	750
Darr Branch	Just Upstream of Converse Dr.	654
	Downstream of Center Street	684
	Upstream of Center Street	694
	Upstream of Third Avenue	701
	Upstream of Tanyard Street	724
Darr Draw	Approximately 180 feet upstream of Young Drive.	661
Nokomis Branch	Upstream of Talbert Boulevard.	678
	Approximately 100 feet downstream of Church Street.	698
	Approximately 100 feet upstream of Church Street.	715
	Pine Street	738
Lakewood Hills Branch.	Approximately 100 feet downstream of Dalewood Drive.	679
	Approximately 200 feet upstream of Dalewood Drive.	696
Lakewood Hills Drain	Corporate limits	672
Twin Creek Tributary	Upstream of Twin Acres Drive.	674
Gold Course Drain	Approximately 70 feet upstream of corporate limits.	750
Fern Valley Branch	Proposed Interstate 85	636
	Approximately 80 feet downstream of confluence of Number 9 Golf Course Drain.	666
Number 9 Golf Course Drain.	County Club Drive	678
	Corporate limits	732
Abbotts Creek	Twin Acres Drive (extended)	636

(National Flood Insurance Act of 1968 (Title XIII of Housing and Urban Development Act of 1968), effective January 28, 1969 (33 FR 17804, November 28, 1968), as amended; 42 U.S.C. 4001–4128; Executive Order 12127, 44 FR 19367; and delegation of authority to Federal Insurance Administrator, 44 FR 20963.)

Issued: April 24, 1979.

Gloria M. Jimenez,

Federal Insurance Administrator.

[FR Doc. 79-15750 Filed 5-22-79; 8:45 am]

BILLING CODE 4210-23-M

24 CFR Part 1917

[Docket No. FI-4968]

Final Flood Elevation Determination for the Town of Marion, Smyth County, Va., Under the National Flood Insurance Program

AGENCY: Office of Federal Insurance and Hazard Mitigation, FEMA.[1]

ACTION: Final rule.

SUMMARY: Final base (100-year) flood elevations are listed below for selected locations in the Town of Marion, Smyth County, Virginia. These base (100-year) flood elevations are the basis for the flood plain management measures that the community is required to either adopt or show evidence of being already in effect in order to qualify or remain qualified for participation in the National Flood Insurance Program (NFIP).

EFFECTIVE DATE: The date of issuance of the Flood Insurance Rate Map (FIRM), showing base (100-year) flood elevations, for the Town of Marion, Smyth County, Virginia.

ADDRESSES: Maps and other information showing the detailed outlines of the flood-prone areas and the final elevations for the Town of Marion, Smyth County, Virginia are available for review at the Office of the Mayor, Marion, Virginia.

FOR FURTHER INFORMATION CONTACT:
Mr. Richard Krimm, National Flood Insurance Program, (202) 755–5581 or Toll Free Line (800) 424–8872, Room 5270, 451 Seventh Street, SW., Washington, D.C. 20410.

SUPPLEMENTARY INFORMATION: The Federal Insurance Administrator gives notice of the final determinations of flood elevators for the Town of Marion, Smyth County, Virginia.

This final rule is issued in accordance with section 110 of the Flood Disaster Protection Act of 1973 (Pub. L. 93–234), 87 Stat. 980, which added section 1363 to the National Flood Insurance Act of 1968 (Title XIII of the Housing and Urban Development Act of 1968 (Pub. L. 90–448), 42 U.S.C. 4001–4128, and 24 CFR Part 1917.4(a)). An opportunity for the community or individuals to appeal this determination to or through the community for a period of ninety (90) days has been provided. No appeals of the proposed base flood elevations were received from the community or from individuals within the community.

The Administrator has developed criteria for flood plain management in flood-prone areas in accordance with 24 CFR Part 1910.

The final base (100-year) flood elevations for selected locations are:

Source of flooding	Location	Elevation in feet, national geodetic vertical datum
Middle Fork Holston River.	Upstream Country Club Road	2,087
	Upstream Marion Dam	2,110
	Upstream Amplex Street	2,127
	At Mile 43.8	2,146
	Upstream Norfolk and Western Railway.	2,175
Staley Creek	At East Lee Street	2,125
	At East High Street	2,142
	Upstream Matson Drive	2,170
	Upstream Interstate Route 61 (Exit North).	2,192

[1] The functions of the Federal Insurance Administration, Department of Housing and Urban Development, were transferred to the newly established Federal Emergency Management Agency by Reorganization Plan No. 3 of 1978 (43 FR 41943, September 19, 1978) and Executive Order 12127 (44 FR 19367, April 3, 1979).

Source of flooding	Location	Elevation in feet, national geodetic vertical datum
Town Branch	At Pearl Avenue	2,142
	At South Iron Street	2,146
	At Orange Street	2,180
	At Mile 0.46	2,191
	At Church Street (Mile 0.66)	2,210
Hooks Branch	At Matson Drive (Mile 0.05)	2,172
	At Interstate Route 81	2,184
	Upstream Matson Drive at Mile 0.27.	2,190
	At Mile 0.38	2,200
	Upstream Private Drive at Mile 0.57.	2,220
	Upstream Matson Drive at Mile 0.68.	2,233
	Upstream Matson Drive at Mile 0.85.	2,249
	At Mile 1.00	2,263
	At Mile 1.10	2,273

(National Flood Insurance Act of 1968 (Title XIII of Housing and Urban Development Act of 1968), effective January 28, 1969 (33 FR 17804, November 28, 1968), as amended (42 U.S.C. 4001–4128); Executive Order 12127, 44 FR 19367; and delegation of authority to Federal Insurance Administrator, 44 FR 20963).

Issued: April 24, 1979.

Gloria M. Jimenez,

Federal Insurance Administrator.

[FR Doc. 79-15764 Filed 5-22-79; 8:45 am]

BILLING CODE 4210-23-M

24 CFR Part 1917

[Docket No. FI-4916]

Final Flood Elevation Determination for the Borough of Moosic, Lackawanna County, Pa. Under the National Flood Insurance Program

AGENCY: Office of Federal Insurance and Hazard Mitigation, FEMA.[1]

ACTION: Final rule.

SUMMARY: Final base (100-year) flood elevations are listed below for selected locations in the Borough of Moosic, Lackawanna County, Pennsylvania. The base (100-year) flood elevations are the basis for the flood plain management measures that the community is required to either adopt or show evidence of being already in effect in order to qualify or remain qualified for participation in the National Flood Insurance Program (NFIP).

EFFECTIVE DATE: The date of issuance of the Flood Insurance Rate Map (FIRM), showing base (100-year) flood elevations, for the Borough of Moosic, Lackawanna County, Pennsylvania.

ADDRESS: Maps and other information showing the detailed outlines of the flood-prone areas and the final elevations for the Borough of Moosic, Lackawanna County, Pennsylvania, are available for review at the Borough Hall, Moosic, Pennsylvania.

FOR FURTHER INFORMATION CONTACT: Mr. Richard Krimm, National Flood Insurance Program, (202) 755–5581 or Toll Free Line (800) 424–8872, Room 5270, 451 Seventh Street, SW., Washington, D.C. 20410.

SUPPLEMENTARY INFORMATION: The Federal Insurance Administrator gives notice of the final determinations of flood elevations for the Borough of Moosic, Lackawanna County, Pennsylvania.

This final rule is issued in accordance with section 110 of the Flood Disaster Protection Act of 1973 (Pub. L. 93–234), 87 Stat. 980, which added section 1363 to the National Flood Insurance Act of 1968 (Title XIII of the Housing and Urban Development Act of 1968 (Pub. L. 90–448), 42 U.S.C. 4001–4128, and 24 CFR Part 1917.4(a)). An opportunity for the Community or individuals to appeal this determination to or through the community for a period of ninety (90) days has been provided. No appeals of the proposed base flood elevations were received from the community or from individuals within the community.

The Administrator has developed criteria for flood plain management in flood-prone areas in accordance with 24 CFR Part 1910.

The final base (100-year) flood elevations for selected locations are:

Source of flooding	Location	Elevation in feet, national geodetic vertical datum
Lackawanna River	Confluence of Mill Creek	618
	Confluence of Spring Brook	624
	Third Street	636
	Pennsylvania Turnpike Northeast Extension.	648
	Conrail Bridge (Downstream)	652
	Conrail Bridge (Upstream)	658
	Upstream Corporate Limit	660
Mill Creek	Confluence with the Lackawanna River.	618
	Dick Street	622
	Abandoned Railroad Bridge	629
	Downstream end of Culvert	636
	Upstream end of Culvert	636
	County Boundary	636
Spring Brook	Confluence with the Lackawanna River.	624
	Delaware and Hudson Railroad.	641
	Scranton Highway	646
	Interstate 81	669
	State Route 502 just upstream from Interstate 81.	680
	Second crossing of State Route 502.	717
	Conrail Bridge	734
	Pennsylvania Turnpike Northeast Extension.	751
	County Boundary	762

(National Flood Insurance Act of 1968 (Title XIII of Housing and Urban Development Act of 1968), effective January 28, 1969 (33 FR 17804, November 28, 1968), as amended; 42 U.S.C. 4001–4128; Executive Order 12127, 44 FR 19367; and delegation of authority to Federal Insurance Administrator 44 FR 20963)

Issued: April 24, 1979.

Gloria M. Jimenez,

Federal Insurance Administrator.

[FR Doc. 79-15755 Filed 5-22-79; 8:45 am]

BILLING CODE 4210-23-M

24 CFR Part 1917

[Docket No. FI-3743]

Final Flood Elevation Determination for the City of Norman, Cleveland County, Okla., Under the National Flood Insurance Program

AGENCY: Office of Federal Insurance and Hazard Mitigation, FEMA.[1]

ACTION: Final Rule.

SUMMARY: Final base (100-year) flood elevations are listed below for selected locations in the City of Norman, Cleveland County, Oklahoma. These base (100-year) flood elevations are the basis for the flood plain management measures that the community is required to either adopt or show evidence of being already in effect in order to qualify or remain qualified for participation in the National Flood Insurance Program (NFIP).

EFFECTIVE DATE: The date of issuance of the Flood Insurance Rate Map (FIRM), showing base flood elevations, for the City of Norman, Cleveland County, Oklahoma.

ADDRESS: Maps and other information showing the detail outlines of the flood-prone areas and the final elevations for the City of Norman, Cleveland County, Oklahoma are available for review at the Planning Department of the City of Norman, 111 North Peters, Norman, Oklahoma.

FOR FURTHER INFORMATION CONTACT: Mr. Richard Krimm, National Flood Insurance Program, (202) 755–5581 or Toll Free Line (800) 424–8872, Room 5270, 451 Seventh Street, SW., Washington, D.C. 20410.

SUPPLEMENTARY INFORMATION: The Federal Insurance Administrator gives notice of the final determinations of flood elevations for the City of Norman, Cleveland County, Oklahoma.

[1] The Functions of the Federal Insurance Administration, Department of Housing and Urban Development, were transferred to the newly established Federal Emergency Management Agency by Reorganization Plan No. 3 of 1978 (43 FR 41942, September 19, 1978) and Executive Order 12127 (44 FR 19367, April 3, 1979).

This final rule is issued in accordance with section 110 of the Flood Disaster Protection Act of 1973 (Pub. L. 93–234), 87 Stat. 980, which added section 1363 to the National Flood Insurance Act of 1968 (Title XIII of the Housing and Urban Development Act of 1968 (Pub. L. 90–448), 42 U.S.C. 4001–4128, and 24 CFR Part 1917.4(a)). An opportunity for the community or individuals to appeal this determination to or through the community for a period of ninety (90) days has been provided, and the Administrator has resolved the appeals presented by the community.

The Administrator has developed criteria for flood plain management in flood-prone areas in accordance with 24 CFR Part 1910.

The final base (100-year) flood elevations for selected locations are:

Source of flooding	Location	Elevation in feet, national geodetic vertical datum
Canadian River	Just upstream of Interstate Highway 35.	1,105
	Just upstream of Rock Creek Road.	1,132
	Just downstream of Franklin Road.	1,142
Bishop Creek	Clearview Drive (extended)	1,125
	Just upstream of Brooks Street.	1,134
	Just upstream of Oklahoma Avenue.	1,142
	Just upstream of Alameda Street.	1,154
	Just downstream of Cockrel Avenue.	1,171
Bishop Creek Tributary A	Approximately 500 feet upstream of U.S. Highway 77 (Classen Boulevard)	1,132
	Approximately 100 feet downstream of Lindsey Street.	1,143
	Just upstream of Sinclair Drive.	1,166
Bishop Creek Tributary B	Just upstream of Alameda Street.	1,157
	Apache Street (extended)	1,166
Bishop Creek Tributary C	Approximately 400 feet upstream of Brooks Street	1,145
Imhoff Creek	Just upstream of Imhoff Road.	1,112
	Westbrooke Terrace (extended).	1,131
	Just upstream of Lindsey Street.	1,141
	Just downstream of Boyd Street.	1,147
	Just upstream of Main Street	1,159
	Just upstream of Webster Avenue.	1,164
Merckle Creek	Just upstream of Lindsey Street.	1,131
	Just upstream of 24th Avenue, S.W.	1,145
	Just downstream of Crestment Street.	1,150
	Just downstream of Robinson Street.	1,159
Merckle Creek overflow	Just upstream of Stephanie Lane.	1,116
Brookhaven Creek	Just upstream of Main Street	1,126
	Just upstream of Robinson Street.	1,153
Rock Creek	Leaning Elm Drive (extended).	1,138
	Just upstream of Rock Creek Road.	1,158
Lake Thunderbird	Entire shoreline	1,049

(National Flood Insurance Act of 1968 (Title XIII of Housing and Urban Development Act of 1968), effective January 28, 1969 (33 FR 17804, November 28, 1968), as amended; 42 U.S.C. 4001–4128; Executive Order 12127, 44 FR 19367; and delegation of authority to Federal Insurance Administrator 44 FR 20963.)

Issued: April 26, 1979.

Gloria M. Jimenez,

Federal Insurance Administrator.

[FR Doc. 79-15752 Filed 5-22-79; 8:45 am]

BILLING CODE 4210-23-M

24 CFR Part 1917

[Docket No. FI-4878]

Final Flood Elevation Determination for the City of North Platte, Lincoln County, Nebr., Under The National Flood Insurance Program

AGENCY: Federal Insurance and Hazard Mitigation, FEMA.[1]

ACTION: Final rule.

SUMMARY: Final base (100-year) flood elevations are listed below for selected locations in the City of North Platte, Lincoln County, Nebraska. These base (100-year) flood elevations are the basis for the flood plain management measures that the community is required to either adopt or show evidence of being already in effect in order to qualify or remain qualified for participation in the National Flood Insurance Program (NFIP).

EFFECTIVE DATE: The date of issuance of the Flood Insurance Rate Map (FIRM), showing base (100-year) flood elevations, for the City of North Platte, Lincoln County, Nebraska.

ADDRESSES: Maps and other information showing the detailed outlines of the flood prone areas and the final elevations for the City of North Platte, are available for review of the City Hall, North Platte, Nebraska.

FOR FURTHER INFORMATION CONTACT: Mr. Richard Krimm, National Flood Insurance Program, (202) 755–5581 or Toll Free Line (800) 424–8872, Room 5270, 451 Seventh Street, SW., Washington, D.C. 20410.

SUPPLEMENTARY INFORMATION: The Federal Insurance Administrator gives notice of the final determinations of flood elevations for the City of North Platte.

[1] The functions of the Federal Insurance Administration, Department of Housing and Urban Development, were transferred to the newly established Federal Emergency Management Agency by Reorganization Plan No. 3 of 1978 (43 FR 41943, September 19, 1978) and Executive Order 12127 (44 FR 19367, April 3, 1979).

This final rule is issued in accordance with section 110 of the Flood Disaster Protection Act of 1973 (Pub. L. 93–234), 87 Stat. 980, which added section 1363 to the National Flood Insurance Act of 1968 (Title XIII of the Housing and Urban Development Act of 1968 (Pub. L. 90–448), 42 U.S.C. 4001–4128, and 24 CFR Part 1917.4(a)). An opportunity for the community or individuals to appeal this determination to or through the community for a period of ninety (90) days has been provided. No appeals of the proposed base flood elevations were received from the community or from individuals within the community.

The Administrator has developed criteria for flood plain management in flood prone areas in accordance with 24 CFR Part 1910.

The final base (100-year) flood elevations for selected locations are:

Source of flooding	Location	Elevation in feet, national geodetic vertical datum
Fremont Slough	At the downstream extraterritorial limits.	2,779
	5,100 feet upstream of extraterritorial limits.	2,783
	6,900 feet downstream of Sutherland Power Return Canal.	2,791
	Just upstream of Sutherland Power Return Canal.	2,800
	Just upstream of Echo Drive	2,807
	Just upstream of Walker Road.	2,818
	At upstream extraterritorial limits.	2,825
	3,200 feet upstream of extraterritorial limits.	2,831
South Platte River	At the downstream extraterritorial limits.	2,778
	5,500 feet downstream of Sutherland Power Return Canal.	2,789
	Just upstream of U.S. Route 83.	2,802
	Centerline of Buffalo Bill Avenue extended.	2,812
	At upstream extraterritorial limits.	2,835
North Platte River	At the downstream extraterritorial limits.	2,775
	Just downstream of U.S. Route 30.	2,783
	Just upstream of Union Pacific Railroad.	2,788
	Just upstream of U.S. Route 83.	2,801
	At the upstream extraterritorial limits.	2,821
	2,600 feet upstream of extraterritorial limits.	2,824

(National Flood Insurance Act of 1968 (Title XIII of Housing and Urban Development Act of 1968), effective January 28, 1969 (33 FR 17804, November 28, 1968), as amended; 42 U.S.C 4001–4128; and Executive Order 12127, 44 FR 19367; and delegation of authority to Federal Insurance Administrator, 44 FR 20963).

Issued: April 17, 1979.

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(National Flood Insurance Act of 1968 (Title

notice of the final determinations of

Source of flooding	Location	Elevation

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Issued: April 17, 1979.

Gloria M. Jimenez,

Federal Insurance Administrator.

[FR Doc. 79-15747 Filed 5-22-79; 8:45 am]

BILLING CODE 4210-23-M

24 CFR Part 1917

[Docket No. FI-4986]

Final Flood Elevation Determination for the Township of Peters, Washington County, Pa., Under the National Flood Insurance Program

AGENCY: Office of Federal Insurance and Hazard Mitigation, FEMA.[1]

ACTION: Final rule.

SUMMARY: Final base (100-year) flood elevations are listed below for selected locations in the Township of Peters, Washington County, Pennsylvania. These base (100-year) flood elevations are the basis for the flood plain management measures that the community is required to either adopt or show evidence of being already in effect in order to qualify or remain qualified for participation in the National Flood Insurance Program (NFIP).

EFFECTIVE DATE: The date of issuance of the Flood Insurance Rate Map (FIRM), showing base (100-year) flood elevations, for the Township of Peters, Washington County, Pennsylvania.

ADDRESSES: Maps and other information showing the detailed outlines of the flood-prone areas and the final elevations for the Township of Peters, Washington County, Pennsylvania, are available for review at the Municipal Building, 610 East McMurray Road, McMurray, Pennsylvania.

FOR FURTHER INFORMATION CONTACT: Mr. Richard Krimm, National Flood Insurance Program, (202) 755–5581 or Toll Free Line (800) 424–8872, Room 5270, 451 Seventh Street, SW., Washington, D.C. 20410.

SUPPLEMENTARY INFORMATION: The Federal Insurance Administrator gives notice of the final determinations of flood elevations for the Township of Peters, Washington County, Pennsylvania.

This final rule is issued in accordance with section 110 of the Flood Disaster Protection Act of 1973 (Pub. L. 93–234), 87 Stat. 980, which added section 1363 to the National Flood Insurance Act of 1968 (Title XIII of the Housing and Urban Development Act of 1968 (Pub. L. 90–448), 42 U.S.C. 4001–4128, and 24 CFR Part 1917.4(a)). An opportunity for the community or individuals to appeal this determination to or through the community for a period of ninety (90) days has been provided. No appeals of the proposed base flood elevations were received from the community or from individuals within the community.

The Administrator has developed criteria for flood plain management in flood-prone areas in accordance with 24 CFR Part 1910.

The final base (100-year) flood elevations for selected locations are:

Source of flooding	Location	Elevation in feet, national geodetic vertical datum
Brush Run	Thompsonville Road	909
	East McMurray Road	981
	Private Drive	996
	Bebout Road	1,013
Chartier Creek	Conrail	862
	Valley Brook	866
	Conrail	871
Peters Creek	Venetia Road	957
	Mingo Road	983
	Lutes Road	1,001
	Private Drive	1,020

(National Flood Insurance Act of 1968 (Title XIII of Housing and Urban Development Act of 1968), effective January 28, 1969 (33 FR 17804, November 28, 1968), as amended; 42 U.S.C. 4001–4128; Executive Order 12127, 44 FR 19367; and delegation of authority to Federal Insurance Administrator, 44 FR 20963.)

Issued: April 24, 1979.

Gloria M. Jimenez,

Federal Insurance Administrator.

[FR Doc. 79-15756 Filed 5-22-79; 8:45 am]

BILLING CODE 4210-23-M

24 CFR Part 1917

[Docket No. FI-4987]

Final Flood Elevation Determination for the Township of Reed, Dauphin County, Pa., Under the National Flood Insurance Program

AGENCY: Office of Federal Insurance and Hazard Mitigation, FEMA.[1]

ACTION: Final rule.

SUMMARY: Final base (100-year) flood elevations are listed below for selected locations in the Township of Reed, Dauphin County, Pennsylvania. These base (100-year) flood elevations are the basis for the flood plain management measures that the community is required to either adopt or show evidence of being already in effect in order to qualify or remain qualified for participation in the National Flood Insurance Program (NFIP).

EFFECTIVE DATE: The date of issuance of the Flood Insurance Rate Map (FIRM), showing base (100-year) flood elevations, for the Township of Reed, Dauphin County, Pennsylvania.

ADDRESSES: Maps and other information showing the detailed outlines of the flood-prone areas and the final elevations for the Township of Reed, Dauphin County, Pennsylvania, are available for review at the Township Municipal Building, Reed, Pennsylvania.

FOR FURTHER INFORMATION CONTACT: Mr. Richard Krimm, National Flood Insurance Program, (202) 755–5581 or Toll Free Line (800) 424–8872, Room 5270, 451 Seventh Street, SW., Washington, D.C. 20410.

SUPPLEMENTARY INFORMATION: The Federal Insurance Administrator gives notice of the final determinations of flood elevations for the Township of Reed, Dauphin County, Pennsylvania.

This final rule is issued in accordance with section 110 of the Flood Disaster Protection Act of 1973 (Pub. L. 93–234), 87 Stat. 980, which added section 1363 to the National Flood Insurance Act of 1968 (Title XIII of the Housing and Urban Development Act of 1968 (Pub. L. 90–448), 42 U.S.C. 4001–4128, and 24 CFR Part 1917.4(a)). An opportunity for the community or individuals to appeal this determination to or through the community for a period of ninety (90) days has been provided. No appeals of the proposed base flood elevations were received from the community or from individuals within the community.

The Administrator has developed criteria for flood plain management in flood-prone areas in accordance with 24 CFR Part 1910.

The final base (100-year) flood elevations for selected locations are:

Source of flooding	Location	Elevation in feet, national geodetic vertical datum
Susquehanna River	Confluence of Cove Creek	349
	Confluence of Sherman Creek.	353
	Clarksburg Road (Route 22/322).	360
	Powell Creek	363
Juniata River	State Route 274	359
	U.S. Route 11/15	362
Powell Creek	Confluence with Susquehanna.	363
	Conrail R.R.	363
	Tributary to Powell Creek 1,200 yards upstream of Conrail.	378
	Shoop Road (Township Route 547).	394

[1] The functions of the Federal Insurance Administration, Department of Housing and Urban Development, were transferred to the newly established Federal Emergency Management Agency by Reorganization Plan No. 3 of 1978 (43 FR 41943, September 19, 1978) and Executive Order 12127 (44 FR 19367, April 3, 1979).

(National Flood Insurance Act of 1968 (Title XIII of Housing and Urban Development Act of 1968), effective January 28, 1969 (33 FR 17804, November 28, 1968), as amended; 42 U.S.C. 4001–4128); Executive Order 12127, 44 FR 19367; and delegation of authority to Federal Insurance Administrator, 44 FR 20963.

Issued: April 24, 1979.

Gloria M. Jimenez,

Federal Insurance Administrator.

[FR Doc. 79-15757 Filed 5-22-79; 8:45 am]

BILLING CODE 4210-23-M

24 CFR Part 1917

[Docket No. FI-5006]

Final Flood Elevation Determination for the Unincorporated Areas of Rowan County, N.C., Under the National Flood Insurance Program

AGENCY: Office of Federal Insurance and Hazard Mitigation, FEMA.[1]

ACTION: Final rule

SUMMARY: Final base (100-year) flood elevations are listed below for selected locations in the unincorporated areas of Rowan County, North Carolina. These base (100-year) flood elevations are the basis for the flood plain management measures that the community is required to either adopt of show evidence of being already in effect in order to qualify or remain qualified for participation in the National Flood Insurance Program (NFIP).

EFFECTIVE DATE: The date of issuance of the Flood Insurance Rate Map (FIRM), showing base (100-year) flood elevations, for the unincorporated areas of Rowan County, North Carolina.

ADDRESSES: Maps and other information showing the detailed outlines of the flood-prone areas and the final elevations for the unincorporated areas of Rowan County, North Carolina are available for review at the County Manager's Office, Rowan County Courthouse, 202 North Main Street, Salisbury, North Carolina 28144.

FOR FURTHER INFORMATION CONTACT: Mr. Richard Krimm, National Flood Insurance Program, (202) 755–5581 or Toll Free Line (800) 424–8872, Room 5270, 451 Seventh Street, SW., Washington, D.C. 20410.

SUPPLEMENTARY INFORMATION: The Federal Insurance Administrator gives notice of the final determinations of flood elevations for the unincorporated areas of Rowan County, North Carolina.

This final rule is issued in accordance with section 110 of the Flood Disaster Protection Act of 1973 (Pub. L. 93–234), 87 Stat. 980, which added section 1363 to the National Flood Insurance Act of 1968 (Title XIII of the Housing and Urban Development Act of 1968 (Pub. L. 90–448), 42 U.S.C. 4001–4128, and 24 CFR Part 1917.4(a)). An opportunity for the community or individuals to appeal this determination to or through the community for a period of ninety (90) days has been provided. No appeals of the proposed base flood elevations were received from the community or from individuals within the community.

The Administrator has developed criteria for flood plain management in flood-prone areas in accordance with 24 CFR Part 1910.

The final base (100-year) flood elevations for selected locations are:

Source of flooding	Location	Elevation in feet, national geodetic vertical datum
Coldwater Creek	Just downstream of Old Beatty Ford Road.	656
	Just downstream of Daugherty Road.	671
	Just downstream of Pine Branch Road.	692
	Just downstream of Lentz Road.	712
Beaver Creek	Just downstream of confluence of Beaver Creek Tributary.	666
Beaver Creek	Just downstream of Ebenezer Street.	700
	Just upstream of Ebenezer Street.	709
	Just downstream of US 29-601.	764
Beaver Creek Tributary	Just downstream of confluence of Moose Branch.	715
	Just downstream of Ebenezer Street.	733
	Just downstream of 22nd St.	782
Moose Branch	Approximately 620 feet upstream of confluence with Beaver Creek Tributary.	720
Town Branch	Just downstream of China Grove Road.	686
	Just downstream of Old Beatty Ford Road.	723
	Just downstream of US 29-601.	754
	Just upstream of US 29-601	761
Coldwater Creek Tributary.	Approximately 350 feet upstream of Daugherty Road.	675
	Just downstream of China Grove Road.	702
	Just upstream of China Grove Road.	708
Walnut Street Branch	Approximately 300 feet upstream of confluence with Cold Water Creek.	688
	Just downstream of Pine Ridge Road.	713
Pine Ridge Branch	Just downstream of Arant Road.	740
	Just upstream or Arant Road.	748
East Centerview Branch	Approximately 1000 Feet upstream of confluence with Cold Water Creek.	700
Patterson Branch	Just downstream of Highway 29 Alternate.	744
	Just upstream of Grace Avenue.	750
	Just downstream of Jackson St.	752
	Just downstream of Marie Avenue.	755
	Just downstream of Ruth Avenue.	758
	Just downstream of 11th Street.	771
	Just downstream of 13th Street.	780
Dutch Buffalo Creek	Just downstream of confluence of Dutch Buffalo Creek Tributary.	689
	Just downstream of Old Beatty Ford Road.	695
	Just downstream of Rogers Rd.	727
	Just upstream of Rogers Road.	732
Dutch Buffalo Creek Tributary.	Just upstream of Roy Cline Road.	750
Bostian Heights Branch.	Just downstream of Old Concord Road.	720
	Just downstream of Sercy Rd	740
	Just downstream of Daughtery Road.	750
Irish Buffalo Creek	Just dowstream of C Street	687
	Just downsteam of Kannapolis Lake Dam.	692
	Just upstream of Kannapolis Lake Dam.	729
	Just downstream of Cannon Farm Road.	733
	Just downstream of Saw Road.	753
Baker Branch	Just downstream of Glenn Ave.	696
	Just downstream of A Street.	709
	Just downstream of 22nd St.	755
	Just upstream of 22nd Street	758
Dye Branch	Just downstream of 8th Street.	710
	Just upstream of 8th Street	719
Lumber Yard Branch	Just downstream of 8th Street.	727
	Just downstream of Church Ave.	757
	Just upstream of Church Ave...	770
Graeber Branch	Approximately 300 feet upstream of confluence with Baker Branch.	725
Graeber Tributary	Approximately 300 feet upstream of confluence with Baker Branch.	740
Rose Hill Branch	Just downstream of Blackwelder Street.	793
	Just upstream of Blackwelder Street.	800
	Just downstream of Rice St.	807
	Just downstream of Rosemont Avenue.	812
Draft Branch	Just downstream of Rowan Mill Road.	678
	Just downstream of Neil Road.	705
	Just downstream of Cauble Rd.	737
Wildlife Tributary	Just downstream of Harrison Road.	675
	Just downstream of Lentz Road.	706
Draft Branch Tributary	Approximately 1000 feet upstream of confluence with Draft Branch.	704
	Just downstream of Neil Road.	731
Grants Creek	Just downstream of 3rd Street.	634
	Just downstream of 7th Street.	640
	Just downstream of US 601	654

[1] The functions of the Federal Insurance Administration, Department of Housing and Urban Development, were transferred to the newly established Federal Emergency Management Agency by Reorganization Plan No. 3 of 1978 (43 FR 41943, September 19, 1978) and Executive Order 12127 (44 FR 19367, April 3, 1979).

EFFECTIVE DATE: The date of issuance of

Issued: April 24, 1979.

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Source of flooding	Location	Elevation in feet, national geodetic vertical datum
	Just upstream of Woodleaf Rd.	672
	Just downstream of Rowan Mill Road.	677
	Just downstream of Fisher Mill Road.	701
Rowan Avenue Park Stream.	Just downstream of Spencer corporate limits.	636
Lomax Creek	Approximately 600 feet upstream of confluence with Grants Creek.	636
Sixth Street Branch	Approximately 700 feet upstream of confluence with Grants Creek.	642
Henderson Branch	Approximately 1400 feet upstream of confluence with Grants Creek.	646
	Just downstream of the Golf Course Fairway.	657
Mahaley Branch	Just downstream of Park Road.	649
	Approximately 100 feet downstream of Hickory Drive.	655
Maple Avenue Branch	Just downstream of Woodleaf Road.	678
Woodleaf Branch	Just downstream of confluence of Maple Avenue Branch.	677
Woodleaf Branch	Just downstream of Lincolnton Road.	680
Petrea Branch	Approximately 2200 feet upstream of confluence with Grants Creek.	718
	Just downstream of China Grove Corporate Limits.	732
Swearington Branch	Just downstream of New Subdivision Road.	746
	Just downstream of New Subdivision Road.	752
Lake Wright Branch	Just downstream of Miller Rd.	720
	Just downstream of Stirewalt Road.	744
	Just downstream of Lake Wright Road.	793
Five Forks Tributary	Just downstream of Stirewalt Road.	740
	Just Upstream of Stirewalt Rd.	748
Wright Branch	Approximately 800 feet upstream of confluence with Lake Wright Branch.	773
North Fork Tributary	Approximately 400 feet upstream of confluence with Lake Wright Branch.	773
	Just upstream of Private Dr.	845
Little Creek	Just downstream of Shue Road.	697
	Just upstream of Shue Road.	700
	Just downstream of Miller Rd.	711
	Just upstream of Miller Road.	713
	Just downstream of Cooper Rd.	726
	Just upstream of Cooper Road.	731
Railroad Branch	Approximately 400 feet upstream of confluence with Town Creek.	652
Ice Plant Creek	Approximately 400 feet upstream of confluence with Town Creek.	664
Town Creek	Just downstream of I-85	635
	Just upstream of Correll St.	667
	Just downstream of Julian Rd.	718
	Just downstream of Peach Orchard Road.	741
	Just downstream of Webb Road.	761
	Just downstream of Mt. Hope Road.	782
Julian Tributary	Just downstream of Julian Road.	727
	Just downstream of I-85	746
Gravel Pit Branch	Approximately 300 feet upstream of confluence with Julian Tributary.	722
	Just downstream of I-85	730
Town Creek Tributary	Just downstream of Leach Road.	771
	Just upstream of Leach Road.	778
	Just downstream of Brookfield Circle Drive.	778
	Just downstream of Weaver Rd.	780
Crane Creek	Just downstream of Old Union Church Road.	637
	Just downstream of Bringle Ferry Road.	662
	Just upstream of Bringle Ferry Road.	668
	Just downstream of Barringer Road.	712
	Just downstream of St. Pauls Church Road.	732
Trexler Creek	Just upstream of Treatment Plant Road.	709
	Just upstream of Carolina and Northwestern Railroad.	722
Legion Park Branch	Just downstream of Old 80 Rd.	714
	Just upstream of Old 80 Rd.	720
Byrd Road Tributary	Just downstream of Faith Rd.	727
	Just downstream of Legion Club Road.	777
Quarry Creek	Just downstream of St. Pauls Church Road.	737
	Just downstream of Confluence of Cemetary Creek.	762
Cemetery Creek	Approximately 100 feet upstream of confluence with Quarry Creek.	763
Faith Road Branch	Just downstream of Old Covered Road.	750
	Just downstream of Webb Road.	778
Southside Tributary	Approximately 1000 feet upsteam of confluence with Faith Road Branch.	760
	Just downstream of Webb Road.	778
Peeler Branch	Just downstream of Rockwell corporate limits.	719

(National Flood Insurance Act of 1968 (Title XIII of Housing and Urban Development Act of 1968), effective January 28, 1969 (33 FR 17804, November 28, 1968), as amended; 42 U.S.C. 4001–4128; Executive Order 12127, 44 FR 19367; and delegation of authority to Federal Insurance Administrator 44 FR 20963.)

Issued: April 24, 1979.

Gloria M. Jimenez,

Federal Insurance Administrator.

[FR Doc. 79–15751 Filed 5–22–79; 8:45 am]

BILLING CODE 4210–23–M

24 CFR Part 1917

[Docket No. FI–3920]

Final Flood Elevation Determination for the Town of Salamanca, Cattaraugus County, N.Y., Under the National Flood Insurance Program

AGENCY: Office of Federal Insurance and Hazard Mitigation, FEMA [1]

ACTION: Final rule.

SUMMARY: Final base (100–year) flood elevations are listed below for selected locations in the Town of Salamanca, Cattaraugus County, New York. These base (100-year) flood elevations are the basis for the flood plain management measures that the community is required to either adopt or show evidence of being already in effect in order to qualify or remain qualified for participation in the National Flood Insurance Program (NFIP).

[1] The functions of the Federal Insurance Administration, Department of Housing and Urban Development, were transferred to the newly established Federal Emergency Management Agency by Reorganization Plan No. 3 of 1978 (43 FR 41943, September 19, 1978) and Executive Order 12127 (44 FR 19367, April 3, 1979).

EFFECTIVE DATE: The date of issuance of the Flood Insurance Rate Map (FIRM), showing base (100-year) flood elevations, for the Town of Salamanca, Cattaraugus County, New York.

ADDRESSES: Maps and other information showing the detailed outlines of the flood-prone areas and the final elevations for the Town of Salamanca, Cattaraugus County, New York, are available for review at the Town Office, Route 353, Salamanca, New York.

FOR FURTHER INFORMATION CONTACT: Mr. Richard Krimm, National Flood Insurance Program, (202) 755–5581 or Toll Free Line (800) 424–8872 Room 5270, 451 Seventh Street, SW, Washington, D.C. 20410 .

SUPPLEMENTARY INFORMATION: The Federal Insurance Administrator gives notice of the final determinations of flood elevations for the Town of Salamanca, Cattaraugus County, New York.

This final rule is issued in accordance with section 110 of the Flood Disaster Protection Act of 1973 (Pub. L. 93–234), 87 Stat. 980, which added section 1363 to the National Flood Insurance Act of 1968 (Title XIII of the Housing and Urban Development Act of 1968 (Pub. L. 90–448), 42 U.S.C. 4001–4128, and 24 CFR Part 1917.4(a)). An opportunity for the community or individuals to appeal this determination to or through the community for a period of ninety (90) days has been provided, and the Administrator has resolved the appeals presented by the community.

The Administrator has developed criteria for flood plain management in flood-prone areas in accordance with 24 CFR Part 1910.

The final base (100-year) flood elevations for selected locations are:

Source of flooding	location	Elevation in feet, national geodetic vertical datum
Little Valley Creek	Downstream Corporate Limits.	1,372
	Center line of Downstream Conrail Bridge.	1,385
	Center line of Center Street	1,388
	Center line of Upstream Conrail Bridge.	1,410
	Upstream Corporate Limits	1,416

(National Flood Insurance Act of 1968 (Title XIII of Housing and Urban Development Act of 1968), effective January 28, 1969 (33 FR 17804, November 28, 1968), as amended; 42 U.S.C. 4001–4128; Executive Order 12127, 44 FR 19367; and delegation of authority to Federal Insurance Administrator, 44 FR 20963).

Issued: April 24, 1979.

Gloria M. Jimenez,

Federal Insurance Administrator.

[FR Doc. 79–15767 Filed 5–22–79; 8:45 am]

BILLING CODE 4210–23–M

24 CFR Part 1917

[Docket No. FI–4967]

Final Flood Elevation Determination for the County of Scott, Va., Under the National Flood Insurance Program

AGENCY: Office of Federal Insurance and Hazard Mitigation, FEMA. [1]

ACTION: Final rule.

SUMMARY: Final base (100-year) flood elevations are listed below for selected locations in the County of Scott, Virginia. These base (100-year) flood elevations are the basis for the flood plain management measures that the community is required to either adopt or show evidence of being already in effect in order to qualify or remain qualified for participation in the National Flood Insurance Program (NFIP).

EFFECTIVE DATE: The date of issuance of the Flood Insurance Rate Map (FIRM), showing base (100-year) flood elevations, for the County of Scott, Virginia.

ADDRESSES: Maps and other information showing the detailed outlines of the flood-prone areas and the final elevations for the County of Scott, Virginia, are available for review at the County Administrator's Office, Gate City, Virginia.

FOR FURTHER INFORMATION CONTACT: Mr. Richard Krimm, National Flood Insurance Program, (202) 755–5581 or Toll Free Line (800) 424–8872, Room 5270, 451 Seventh Street, SW., Washington, D.C. 20410.

SUPPLEMENTARY INFORMATION: The Federal Insurance Administrator gives notice of the final determinations of flood elevations for the County of Scott, Virginia.

This final rule is issued in accordance with section 110 of the Flood Disaster Protection Act of 1973 (Pub. L. 93–234), 87 Stat. 980, which added section 1363 to the National Flood Insurance Act of 1968 (Title XIII of the Housing and Urban Development Act of 1968 (Pub. L. 90–448), 42 U.S.C. 4001–4128, and 24 CFR Part 1917.4(a)). An opportunity for the community or individuals to appeal this

[1] The functions of the Federal Insurance Administration, Department of Housing and Urban Development, were transferred to the newly established Federal Emergency Management Agency by Reorganization Plan No. 3 of 1978 (43 FR 41943, September 19, 1978) and Executive Order 12127 (44 FR 19367, April 3, 1979).

elevations, for the City of Tahlequah,

Issued: April 24, 1979.

90–448), 42 U.S.C. 4001–4128, and 24 CFR

determination to or through the community for a period of ninety (90) days has been provided. No appeals of the proposed base flood elevations were received from the community or from individuals within the community.

The Administrator has developed criteria for flood plain management in flood-prone areas in accordance with 24 CFR Part 1910.

The final base (100-year) flood elevations for selected locations are:

Source of flooding	Location	Elevation in feet, national geodetic vertical datum
North Fork Holston River.	Downstream State Boundary.	1,205
	U.S. Route 23	1,217
	U.S. Routes 58 and 421	1,283
Stony Creek	Clinchfield Railroad	1,272
	Mill Dam	1,278
	River Mile 1.00	1,301
	River Mile 1.50	1,326
Big Moccasin Creek	U.S. Routes 58 and 421 at River Mile 2.35.	1,256
	Mill Dam	1,291
Clinch River	U.S. Routes 23, 58, and 421 .	1,232
	Clinchfield Railroad	1,258
	State Route 65	1,301
North Fork Clinch River.	River Mile 13.0	1,239
	River Mile 15.0	1,259
	Kingdom Road	1,282
	State Route 638	1,291
	River Mile 21.0	1,319
Troublesome Creek	Private Road at River Mile 2.12.	1,426
	Private Road at River Mile 2.37.	1,447
	Private Bridge at River Mile 2.64.	1,470
Tributary No. 1 to Possum Creek at Mile 5.23.	Confluence of Cate Branch	1,261
	Private Bridge at River Mile 1.5.	1,286
Tributary No. 1 to North Fork Holston River at Mile 7.34.	State Route 714	1,212
	Private Bridge at River Mile 0.55.	1,227
Stock Creek	Upstream Town of Clinchport Corporate Limits.	1,239
	Southern Railway at River Mile 1.93.	1,259
	Footbridge at River Mile 2.85	1,296
	State Route 646	1,333
Little Moccasin Creek.	Private Road at River Mile 3.42.	1,354
	Private Road at River Mile 4.41.	1,385
	Private Road at River Mile 5.61.	1,438

(National Flood Insurance Act of 1968 (Title XIII of Housing and Urban Development Act of 1968), effective January 28, 1969 (33 FR 17804, November 28, 1968), as amended; 42 U.S.C. 4001–4128; Executive Order 12127, 44 FR 19367; and delegation of authority to Federal Insurance Administrator, 44 FR 20963.

Issued: April 24, 1979.

Gloria M. Jimenez,

Federal Insurance Administrator.

[FR Doc. 79-15765 Filed 5-22-79; 8:45 am]

BILLING CODE 4210-23-M

24 CFR Part 1917

[Docket No. FI-4909]

Final Flood Elevation Determination for the Village of Snyder, Dodge County, Nebr., Under the National Flood Insurance Program

AGENCY: Office of Federal Insurance and Hazard Mitigation, FEMA.[1]

ACTION: Final rule.

SUMMARY: Final base (100-year) flood elevations are listed below for selected locations in the Village of Snyder, Dodge County, Nebraska. These base (100-year) flood elevations are the basis for the flood plain management measures that the community is required to either adopt or show evidence of being already in effect in order to qualify or remain qualified for participation in the National Flood Insurance Program (NFIP).

EFFECTIVE DATE: The date of issuance of the Flood Insurance Rate Map (FIRM), showing base (100-year) flood elevations, for the Village of Snyder, Dodge County, Nebraska.

ADDRESSES: Maps and other information showing the detailed outlines of the flood prone areas and the final elevations for the Village of Snyder are available for review at the Village Office, Snyder, Nebraska.

FOR FURTHER INFORMATION CONTACT: Mr. Richard Krimm, National Flood Insurance Program, (202) 755–5581 or Toll Free Line (800) 424–8872, Room 5270, 451 Seventh Street, SW., Washington, D.C. 20410.

SUPPLEMENTARY INFORMATION: The Federal Insurance Administrator gives notice of the final determinations of flood elevations for the Village of Snyder, Dodge County, Nebraska.

This final rule is issued in accordance with section 110 of the Flood Disaster Protection Act of 1973 (Pub. L. 93–234), 87 Stat. 980, which added section 1363 to the National Flood Insurance Act of 1968 (Title XIII of the Housing and Urban Development Act of 1968 (Pub. L. 90–448), 42 U.S.C. 4001–4128, and 24 CFR Part 1917.4(a)). An opportunity for the community or individuals to appeal this determination to or through the community for a period of ninety (90) days has been provided. No appeals of the proposed base flood elevations were received from the community or from individuals within the community.

The Administrator has developed criteria for flood plain management in flood prone areas in accordance with 24 CFR Part 1910.

The final base (100-year) flood elevations for selected locations are:

Source of flooding	Location	Elevation in feet, national geodetic vertical datum
Middle Pebble Creek	Just upstream of County Road 16.	1,312
	500 feet downstream from Rangeline Street.	1,317
	700 feet upstream from Rangeline Street.	1,322
	1.36 miles upstream from Rangeline Street.	1,326

(National Flood Insurance Act of 1968 (Title XIII of Housing and Urban Development Act of 1968), effective January 28, 1969 (33 FR 17804, November 28, 1968), as amended; 42 U.S.C. 4001–4128; and Executive Order 12127, 44 FR 19367; and delegation of authority to Federal Insurance Administrator, 44 FR 20963.)

Issued: April 18, 1979.

Gloria M. Jimenez,

Federal Insurance Administrator.

[FR Doc. 79-15748 Filed 5-22-79; 8:45 am]

BILLING CODE 4210-23-M

24 CFR Part 1917

[Docket No. FI-4923]

Final Flood Elevation Determination for the City of Tahlequah, Cherokee County, Okla., Under the National Flood Insurance Program

AGENCY: Office of Federal Insurance and Hazard Mitigation, FEMA.[1]

ACTION: Final rule.

SUMMARY: Final base (100-year) flood elevations are listed below for selected locations in the City of Tahlequah, Cherokee County, Oklahoma. These base (100-year) flood elevations are the basis for the flood plain management measures that the community is required to either adopt or show evidence of being already in effect in order to qualify or remain qualified for participation in the National Flood Insurance Program (NFIP).

EFFECTIVE DATE: The date of issuance of the Flood Insurance Rate Map (FIRM), showing base (100-year) flood elevations, for the City of Tahlequah, Cherokee County, Oklahoma.

ADDRESSES: Maps and other information showing the detailed outlines of the flood-prone areas and the final elevations for the City of Tahlequah, Cherokee County, Oklahoma are available for review at City Hall, Tahlequah, Oklahoma.

FOR FURTHER INFORMATION CONTACT: Mr. Richard Krimm, National Flood Insurance Program, (202) 755–5581 or Toll Free Line (800) 424–8872, Room 5270, 451 Seventh Street, SW., Washington, D.C. 20410.

SUPPLEMENTARY INFORMATION: The Federal Insurance Administrator gives notice of the final determinations of flood elevations for the City of Tahlequah, Cherokee County, Oklahoma.

This final rule is issued in accordance with section 110 of the Flood Disaster Protection Act of 1973 (Pub. L. 93–234), 87 Stat. 980, which added section 1363 to the National Flood Insurance Act of 1968 (Title XIII of the Housing and Urban Development Act of 1968 (Pub. L. 90–448), 42 U.S.C. 4001–4128, and 24 CFR Part 1917.4(a)). An opportunity for the community or individuals to appeal this determination to or through the community for a period of ninety (90) days has been provided. No appeals of the proposed base flood elevations were received from the community or from individuals within the community.

The Administrator has developed criteria for flood plain management in flood-prone areas in accordance with 24 CFR Part 1910.

The final base (100-year) flood elevations for selected locations are:

Source of flooding	Location	Elevation in feet, national geodetic vertical datum
Town Branch	Approximately 120 feet upstream of southern corporate limits.	721
	Just upstream of first Street	745
	Just downstream of Downing Street.	782
	Just upstream of York Street.	822
	Approximately 80 feet downstream of Allen Road.	855
East Branch	Approximately 250 feet upstream of South Street.	765
	Just upstream of Maple Street.	777
	Approximately 400 feet upstream of Downing Street (Route 10, 62, 51).	836

(National Flood Insurance Act of 1968 (Title XIII of Housing and Urban Development Act of 1968), effective January 28, 1969 (33 FR 17804, November 28, 1968), as amended; 42 U.S.C. 4001–4128; Executive Order 12127, 44 FR 19367; and delegation of authority to Federal Insurance Administrator 44 FR 20963.)

Issued: April 24, 1979.

Gloria M. Jimenez,

Federal Insurance Administrator.

[FR Doc. 79-15788 Filed 5-22-79; 8:45 am]

BILLING CODE 4210-23-M

24 CFR Part 1917

[Docket No. FI-4930]

Final Flood Elevation Determination for the Township of Wayne, Clinton County, Pa., Under the National Flood Insurance Program

AGENCY: Office of Federal Insurance and Hazard Mitigation, FEMA.[1]

ACTION: Final rule.

SUMMARY: Final base (100-year) flood elevations are listed below for selected locations in Township of Wayne, Clinton County, Pennsylvania. These base (100-year) flood elevations are the basis for the flood plain management measures that the community is required to either adopt or show evidence of being already in effect in order to qualify or remain qualified for participation in the National Flood Insurance Program (NFIP).

EFFECTIVE DATE: The date of issuance of the Flood Insurance Rate Map (FIRM), showing base (100-year) flood elevations, for the Township of Wayne, Clinton County, Pennsylvania.

ADDRESSES: Maps and other information showing the detailed outlines of the flood-prone areas and the final elevations for the Township of Wayne, Clinton County, Pennsylvania, are available for review at the Township Building, Lockhaven, Pennsylvania.

FOR FURTHER INFORMATION CONTACT: Mr. Richard Krimm, National Flood Insurance Program, (202) 755–5581 or Toll Free Line (800) 424–8872, Room 5270, 451 Seventh Street, SW, Washington, D.C. 20410.

SUPPLEMENTARY INFORMATION: The Federal Insurance Administrator gives notice of the final determinations of flood elevations for the Township of Wayne, Clinton County, Pennsylvania.

This final rule is issued in accordance with section 110 of the Flood Disaster Protection Act of 1973 (Pub. L. 93–234), 87 Stat. 980, which added section 1363 to the National Flood Insurance Act of 1968 (Title XIII of the Housing and Urban Development Act of 1968 (Pub. L. 90–448), 42 U.S.C. 4001–4128, and 24 CFR Part 1917.4(a)). An opportunity for the community or individuals to appeal this determination to or through the community for a period of ninety (90) days has been provided. No appeals of the proposed base flood elevations were received from the community or from individuals within the community.

The Administrator has developed criteria for flood plain management in flood-prone areas in accordance with 24 CFR Part 1910.

The final base (100-year) flood elevations for selected locations are:

Source of flooding	Location	Elevation in feet, national geodetic vertical datum
West Branch Susquehanna River.	Downstream Corporate Limits.	554
	Conrail	556
	Appalachian Thruway	559
	Legislative Route 18033	561
	Upstream Corporate Limits	563

(National Flood Insurance Act of 1968 (Title XIII of Housing and Urban Development Act of 1968), effective January 28, 1969 (33 FR 17804, November 28, 1968), as amended; 42 U.S.C. 4001–4128; Executive Order 12127, 44 FR 19367; and delegation of authority to Federal Insurance Administrator 44 FR 20963).

Issued: April 24, 1979.

Gloria M. Jimenez,

Federal Insurance Administrator.

[FR Doc. 79-15759 Filed 5-22-79; 8:45 am]

BILLING CODE 4210-23-M

24 CFR Part 1917

[Docket No. FI-4931]

Final Flood Elevation Determination for the Township of West Pottsgrove, Montgomery County, Pa., Under the National Flood Insurance Program

AGENCY: Office of Federal Insurance and Hazard Mitigation, FEMA.[1]

ACTION: Final rule.

SUMMARY: Final base (100-year) flood elevations are listed below for selected locations in the Township of West Pottsgrove, Montgomery County, Pennsylvania. These base (100-year) flood elevations are the basis for the flood plain management measures that the community is required to either adopt or show evidence of being already in effect in order to qualify or remain qualified for participation in the

[1] The functions of the Federal Insurance Administration, Department of Housing and Urban Development, were transferred to the newly established Federal Emergency Management Agency by Reorganization Plan No. 3 of 1978 (43 FR 41943, September 19, 1978) and Executive Order 12127 (44 FR 19367, April 3, 1979).

[1] The functions of the Federal Insurance Administration, Department of Housing and Urban Development, were transferred to the newly established Federal Emergency Management Agency by Reorganization Plan No. 3 of 1978 (43 FR 41943, September 19, 1978) and Executive Order 12127 (44 FR 19367, April 3, 1979).

[1] The functions of the Federal Insurance Administration, Department of Housing and Urban Development, were transferred to the newly established Federal Emergency Management Agency by Reorganization Plan No. 3 of 1978 (43 FR 41943, September 19, 1978) and Executive Order 12127 (44 FR 19367, April 3, 1979).

[1] The functions of the Federal Insurance Administration, Department of Housing and Urban Development, were transferred to the newly established Federal Emergency Management Agency by Reorganization Plan No. 3 of 1978 (43 FR 41943, September 19, 1978) and Executive Order 12127 (44 FR 19367, April 3, 1979).

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National Flood Insurance Program (NFIP).

EFFECTIVE DATE: The date of issuance of the Flood Insurance Rate Map (FIRM), showing base (100-year) flood elevations, for the Township of West Pottsgrove, Montgomery County, Pennsylvania.

ADDRESSES: Maps and other information showing the detailed outlines of the flood-prone areas and the final elevations for the Township of West Pottsgrove, Montgomery County, Pennsylvania, are available for review at the Township Building, 101 Lemon Street, Stowe, Pennsylvania.

FOR FURTHER INFORMATION CONTACT: Mr. Richard Krimm, National Flood Insurance Program, (202) 755–5581 or Toll Free Line (800) 424–8872, Room 5270, 451 Seventh Street, SW., Washington, D.C. 20410.

SUPPLEMENTARY INFORMATION: The Federal Insurance Administrator gives notice of the final determination of flood elevations for the Township of West Pottsgrove, Montgomery County, Pennsylvania.

This final rule is issued in accordance with section 110 of the Flood Disaster Protection Act of 1973 (Pub. L. 93–234), 87 Stat. 980, which added section 1363 to the National Flood Insurance Act of 1968 (Title XIII of the Housing and Urban Development Act of 1968 (Pub. L. 90–448), 42 U.S.C. 4001–4128, and 24 CFR Part 1917.4(a)). An opportunity for the community or individuals to appeal this determination to or through the community for a period of ninety (90) days has been provided. No appeals of the proposed base flood elevations were received from the community or from individuals within the community.

The Administrator has developed criteria for flood plain management in flood-prone areas in accordance with 24 CFR Part 1910.

The final base (100-year) flood elevations for selected locations are:

Source of flooding	Location	Elevation in feet, national geodetic vertical datum
Schuylkill River	Upstream County Boundary	151
	Downstream Corporate Limit	148
Manatawny Creek	Upstream County Boundary	161
	Grosstown Road	161
	Confluence of Tributary No. 1 to Manatawny Creek.	157
	Downstream Corporate Limit	152

(National Flood Insurance Act of 1968 (Title XIII of Housing and Urban Development Act of 1968), effective January 28, 1969 (33 FR 17804, November 28, 1968), as amended; 42 U.S.C. 4001–4128; Executive Order 12127, 44 FR 19367; and, delegation of authority to Federal Insurance Administrator, 44 FR 20963.)

Issued: April 24, 1979.

Gloria M. Jimenez,
Federal Insurance Administrator.

[FR Doc. 79-15760 Filed 5-22-79; 8:45 am]

BILLING CODE 4210-23-M

24 CFR Part 1917

[Docket No. FI-5007]

Final Flood Elevation Determination for the Borough of Yeadon, Delaware County, Pa. Under the National Flood Insurance Program

AGENCY: Office of Federal Insurance and Hazard Mitigation, FEMA.[1]

ACTION: Final rule.

SUMMARY: Final base (100-year) flood elevations are listed below for selected locations in the Borough of Yeadon, Delaware County, Pennsylvania. These base (100-year) flood elevations are the basis for the flood plain management measures that the community is required to either adopt or show evidence of being already in effect in order to qualify or remain qualified for participation in the National Flood Insurance Program (NFIP).

EFFECTIVE DATE: The date of issuance of the Flood Insurance Rate Map (FIRM), showing base (100-year) flood elevations, for the Borough of Yeadon, Delaware County, Pennsylvania.

ADDRESSES: Maps and other information showing the detailed outlines of the flood-prone areas and the final elevations for the Borough of Yeadon, Delaware County, Pennsylvania, are available for review at the Borough Hall, Church Lane and Bailey Road, Yeadon, Pennsylvania.

FOR FURTHER INFORMATION CONTACT: Mr. Richard Krimm, National Flood Insurance Program, (202) 755–5581 or Toll Free Line (800) 424–8872, Room 5270, 451 Seventh Street, SW, Washington, D.C. 20410.

SUPPLEMENTARY INFORMATION: The Federal Insurance Administrator gives notice of the final determinations of flood elevations for the Borough of Yeadon, Delaware County, Pennsylvania.

This final rule is issued in accordance with section 110 of the Flood Disaster Protection Act of 1973 (Pub. L. 93–234), 87 Stat. 980, which added section 1363 to the National Flood Insurance Act of 1968 (Title XIII of the Housing and Urban Development Act of 1968 (Pub. L. 90–448), 42 U.S.C. 4001–4128, and 24 CFR Part 1917.4(a)). An opportunity for the community or individuals to appeal this determination to or through the community for a period of ninety (90) days has been provided. No appeals of the proposed base flood elevations were received from the community or from individuals within the community.

The Administrator has developed criteria for flood plain management in flood-prone areas in accordance with 24 CFR Part 1910.

The final base (100-year) flood elevations for selected locations are:

Source of flooding	Location	Elevation in feet, national geodetic vertical datum
Cobbs Creek	Downstream Corporate Limits.	29
	Chesaie System (Upstream)	31
	Church Lane (Upstream)	32
	65th Street (Upstream)	34
	Cobbs Creek Parkway (downstream crossing) (Upstream).	36
	Cemetery Access Road (Upstream).	38
	Cobbs Creek Parkway (Upstream crossing) (Upstream).	39
	Longacre Boulevard (Upstream).	47
	Conrail (Upstream)	48
	Baltimore Avenue (Upstream)	52
	Upstream Corporate Limits	52
Darby Creek	Downstream Corporate Limits.	31
	Providence Road (Downstream).	33
	Providence Road (Upstream).	38
	Upstream Corporate Limits	39

(National Flood Insurance Act of 1968 (Title XIII of Housing and Urban Development Act of 1968), effective January 28, 1969 (33 FR 17804, November 28, 1968), as amended; 42 U.S.C. 4001–4128; Executive Order 12127, 44 FR 19367; and delegation of authority to Federal Insurance Administrator 44 FR 20963).

Issued: April 24, 1979.

Gloria M. Jimenez,
Federal Insurance Administrator.

[FR Doc. 79-15758 Filed 5-22-79; 8:45 am]

BILLING CODE 4210-23-M

[1] The functions of the Federal Insurance Administration, Department of Housing and Urban Development, were transferred to the newly established Federal Emergency Management Agency by Reorganization Plan No. 3 of 1978 (43 FR 41943, September 19, 1978) and Executive Order 12127 (44 FR 19367, April 3, 1979).

DEPARTMENT OF JUSTICE

28 CFR Parts 0, 45

[Order No. 832-79]

Implementation of the Financial Disclosure Requirements of Title II of the Ethics in Government Act of 1978

AGENCY: Department of Justice.

ACTION: Final rule.

SUMMARY: Title II of the Ethics in Government Act of 1978, 92 Stat. 1836, provides that specified officers and employees of the Executive Branch must file financial disclosure reports. This order designates the Assistant Attorney General for Administration as the "designated agency official" for the purpose of administering the public disclosure provisions in Title II of the Act. It also identifies employees required to file reports and establishes a procedure for review of reports. The order further designates the Office of Legal Counsel to perform certain functions vested in the Attorney General by the Ethics in Government Act.

EFFECTIVE DATE: May 11, 1979.

FOR FURTHER INFORMATION CONTACT: John M. Harmon, Assistant Attorney General, Office of Legal Counsel (202–633–2041) or William J. Snider, Administrative Counsel (202–633–4165), Department of Justice, Washington, D.C. 20530.

By virtue of the authority vested in me by 28 U.S.C. 509 and 510; 5 U.S.C. 301, and the Ethics in Government Act of 1978, 92 Stat. 1824, it is hereby ordered as follows:

PART 0—ORGANIZATION OF THE DEPARTMENT OF JUSTICE

§ 0.25 [Amended]

1. Section 0.25 of Subpart E of Part 0 of Chapter I of Title 28, Code of Federal Regulations, is amended by redesignating paragraphs (m) as paragraph (o) and by adding the following new paragraph (m) and (n):

* * * * *

(m) Approving certain blind trusts, as required by section 202(f)(4)(B) of the Ethics in Government Act of 1978, 92 Stat. 1824.

(n) Consulting with the Director of the Office of Government Ethics regarding the development of policies, rules, regulations, procedures and forms relating to ethics and conflicts of interest, as required by section 402 of the Ethics in Government Act of 1978, 92 Stat. 1824.

* * * * *

2. Subpart 0 of Part 0 of Chapter I of Title 28, Code of Federal Regulations, is amended by redesignating § 0.78 as § 0.79 and adding the following new § 0.78:

§ 0.78 Implementation of financial disclosure requirements.

Subject to the general supervision of the Attorney General, and under the direction of the Associate Attorney General, the Assistant Attorney General for Administration shall serve as the designated agency official under Title II of the Ethics in Government Act of 1978, 92 Stat. 1836 for purposes of administering the public and confidential financial disclosure programs applicable to officers and employees of the Department of Justice. His duties shall include the following:

(a) Providing necessary report forms and other information to officers and employees of the Department;

(b) Developing and maintaining a list of positions covered by the public and confidential financial reporting requirements;

(c) Monitoring compliance by department officers and employees with applicable requirements for filing and review of financial disclosure reports;

(d) Providing for retention of reports and transmittal, where necessary, of copies of reports to the Director of the Office of Government Ethics;

(e) Establishing procedures for public access to reports filed under Title II of the Ethics in Government Act of 1978;

(f) Performing such other functions as may be necessary for the effective implementation of Title II of the Ethics in Government Act.

PART 45—STANDARDS OF CONDUCT

3. Part 45 of Chapter I of Title 28, Code of Federal Regulations, is amended by adding the following § 45.735–27:

§ 45.735–27 Public financial disclosure requirements.

(a) *Persons required to file.* (1) Except as provided in paragraph (a)(2) of this section, the following persons must file a public financial disclosure report as required by Title II of the Ethics in Government Act of 1978:

(i) Each employee in the Department of Justice whose salary is fixed under subchapter II of chapter 53 of title 5, United States Code (the Executive Schedule);

(ii) Each employee whose position is classified at GS–16 or above of the General Schedule prescribed by 5 U.S.C. 5332 or whose salary is required by law to be established at the minimum rate of basic pay for level GS–16 or above of the General Schedule;

(iii) Each United States Attorney;

(iv) Each Assistant United States Attorney occupying a supervisory position whose optimum pay level is established at the equivalent of the minimum rate of basic pay for GS–16 or above and who is actually compensated at a rate of pay equal to or greater than the minimum rate of basic pay for GS–16.

(v) Each employee appointed pursuant to section 3105 of title 5, United States Code (Administrative Law Judges);

(vi) Each employee who is in a position which is excepted from the competitive service because it is of a confidential or policy-making character (Schedule C), as set forth in 5 CFR 213.3310, and who has a role in advising or making policy determinations with respect to agency programs or policies. Schedule C employees having policy-making roles, such as Special Assistants to the head of a division, must file a report under this provision, but Schedule C employees who do not have a policy role, such as chauffeurs, private secretaries, and stenographers, need not;

(vii) Any other employee (other than an Assistant United States Attorney or an employee compensated under the General Schedule), including a special government employee, paid at a rate equal to or greater than the minimum rate of basic pay established for level GS–16 of the General Schedule; and

(viii) Any person nominated by the President to a position described in paragraphs (a)(1) (i)–(vii) of this section appointment to which requires the advice and consent of the Senate.

(2) An employee identified in paragraph (a)(1) of this section who is retained, designated, appointed or employed to perform services on all or part of 60 or fewer days in a calendar year is not required to file a public financial disclosure report. However, an employee who was initially expected to perform services on 60 or fewer days but who thereafter performs services on more than 60 days in a calendar year must immediately comply with the public disclosure requirements as if he had been covered by those requirements as of the date of his initial retention, designation, appointment, or employment.

(b) *Time of filing.* (1) Each employee described in paragraph (a) of this section must file a report: (i) Within 30 days of assuming his position, unless he has left another position in the Executive Branch covered by the public disclosure requirements; (ii) annually, on or before May 15, covering the preceding calendar year; and (iii) within 30 days of leaving his position, unless he accepts another position in the Executive Branch covered by the public disclosure requirements.

(2) The reviewing official designated in paragraph (d) of this section may, for good cause, extend the deadline for filing reports identified in paragraph, (a)(1) of this section for up to 20 days. The reviewing official may grant an

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extension of up to 15 additional days if the employee submits in writing reasons which establish good cause for an extension. Any further extension must be approved by the Director of the Office of Government Ethics.

(3) A person nominated to a position appointment to which requires the advice and consent of the Senate must file his report within 5 days of the transmittal of his nomination to the Senate by the President.

(4) The Assistant Attorney General for Administration and an employee in or nominee to a position appointment to which requires the advice and consent of the Senate shall furnish a copy of his report to the Director of the Office of Government Ethics at the time he files the original report with the appropriate reviewing official.

(c) *Approvals by Director of the Office of Government Ethics.* A publicly available waiver permitting the omission of information pertaining to certain gifts under section 202(a)(2) of the Act and the approval of blind trusts under section 202(f)(3)(D) of the Act may only be granted by the Director of the Office of Government Ethics.

(d) *Identification of reviewing officials.* (1) Reports filed by employees described in paragraph (a) of this section shall be filed with and reviewed by the following officials:

(i) The Associate Attorney General shall review reports filed by the Attorney General and any employee in the Office of the Attorney General;

(ii) The Attorney General shall review reports filed by the Deputy Attorney General, Associate Attorney General, Solicitor General, and Director of the Federal Bureau of Investigation;

(iii) Except as provided above, the Deputy Attorney General shall review reports filed by the head of each division under his supervision;

(iv) The Associate Attorney General shall review reports filed by the head of each division not included in paragraph (d)(1)(iii) of this section;

(v) The Director of the Executive Office for United States Attorneys shall review reports filed by United States Attorneys and Assistant United States Attorneys;

(vi) Except as provided above, the head of each division shall review reports filed by employees of that division.

(2) The function of reviewing reports under subdivisions (iii)–(vi) of paragraph (d)(1) of this section may be delegated to an Associate Deputy Attorney General, Deputy Associate Attorney General, or deputy, associate, or assistant head of a division, as the case may be.

(3) The report filed by a person nominated to a position appointment to which requires the advice and consent of the Senate shall be filed with and reviewed by the official designated in paragraph (d)(1) of this section as having responsibility for reviewing reports filed by the incumbent in the position.

(4) Each reviewing official is responsible for ensuring that reports required to be filed with him are filed in a complete and timely manner.

(e) *Review procedure.* (1) Each reviewing official shall endeavor to review each report filed with him within 15 days of receiving it (and shall review the report within 60 days of receipt) to determine whether, on the basis of information contained in the report, the reporting individual is in compliance with applicable laws and regulations governing conflicts of interest and apparent conflicts of interest.

(2) If the reviewing official believes additional information is required to be submitted, he shall notify the individual and inform him of the date on which the additional information must be submitted.

(3) If, on the basis of information contained in the report, the reviewing official is of the opinion that the reporting individual is in compliance with applicable laws and regulations, he shall sign the report and forward it to the Assistant Attorney for Administration. The reviewing official shall retain a copy of the report.

(4) If, on the basis of information contained in the report, the reviewing official believes that the reporting individual is not in compliance with applicable laws and regulations, he shall notify the individual, state what remedial action he believes is appropriate, and afford the reporting individual a reasonable opportunity to submit an oral or written response.

(5) If, after considering the reporting individual's response, the reviewing official concludes that the reporting individual is not in compliance with applicable laws and regulations and that the reporting individual has not taken adequate measures to come into compliance, the reviewing official shall refer the matter to the Associate Attorney General (or if referral to the Associate Attorney General is inappropriate, to the Deputy Attorney General) with his recommendation regarding remedial action to be taken.

(6) After such investigation as he deems appropriate, the Associate Attorney General shall direct remedial action or refer the matter to the Attorney General, Deputy Attorney General, or Solicitor General for appropriate action, including possible referral to the President if the situation involves an employee in a position appointment to which requires the advice and consent of the Senate.

(7) Remedial action under this subsection may include, but is not limited to:

(i) Divestiture;

(ii) Restitution;

(iii) Establishment of a blind trust;

(iv) Request for exemption under 18 U.S.C. 208(b); or

(v) Disqualification, transfer, reassignment, limitation of duties, or discharge.

(8) When satisfactory measures have been taken to resolve any problems identified in the review process, the reviewing official or the official ordering remedial action shall sign the report with such notations and comments as may be appropriate.

(f) *Public availability of report.* (1) The Assistant Attorney General for Administration shall provide for the inspection of a report by, or the furnishing of a copy of a report to, any person upon request within 15 days after the report is filed with the appropriate reviewing official.

(2) If the Assistant Attorney General for Administration has not yet received the report, signed by the reviewing official, which a member of the public has requested to inspect or copy, the Assistant Attorney General for Administration shall request the reviewing official to ensure that the report is immediately made available for inspection or copying.

Dated: May 11, 1979.

Griffin B. Bell,

Attorney General.

[FR Doc. 79-16128 Filed 5-22-79; 8:45 am]

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COPYRIGHT ROYALTY TRIBUNAL

37 CFR Part 302

Final Rule With Respect To Filing of Claims to Cable Royalty Fees

AGENCY: Copyright Royalty Tribunal.

ACTION: Final Rule.

SUMMARY: The Copyright Royalty Tribunal adopts a supplementary rule prescribing requirements whereby persons claiming to be entitled to compulsory license copyright fees for secondary transmissions by cable systems shall file claims with the Tribunal. The rule prescribes the content and time of filing of such claims. The rule is necessary to implement provisions of the Act for General Revision of the Copyright Law enacted in 1976.

EFFECTIVE DATE: The rule is effective May 23, 1979.

FOR FURTHER INFORMATION CONTACT: Douglas Coulter, Chairman, Copyright Royalty Tribunal, 202–653–5175.

SUPPLEMENTARY INFORMATION:

Background

In the Federal Register of April 4, 1979 (44 FR 20220) the Copyright Royalty Tribunal published a notice of proposed rulemaking concerning the filing and supplementary filing of claims to royalty fees for secondary transmissions by cable systems pursuant to 17 U.S.C. 111(d)(5)(A). The comments and reply comments received in response to the notice are summarized below.

The Proposed Rule

The proposed rule requires that all claimants to compulsory license copyright fees for secondary transmissions by cable systems who filed claims for the first half of 1978 in July 1978 supplement those filings by the end of July 1979 with a percentage or dollar figure of the royalties the claimant feels entitled to an a justification for such percentage or dollar figures. The proposed rule also requires that claims filed in July 1979 for the second half of 1978 consist of the minimal requirement in the July 1978 filings plus the supplemental information mentioned above: a percentage or dollar figure and a justification. In both cases, claimants may lump their claims together and file them jointly. Finally, the proposed rule defined the costs the Tribunal would deduct prior to the distribution or royalty fees as those which would not have been incurrred by the Tribunal but for the distribution proceeding.

Comments on the Proposal

The proposal of April 4, 1979, invited interested persons to submit written comments on or before April 25, 1979, and reply comments on or before May 9. A total of nine comments were received, and four reply comments.

Comments filed by representatives of the broadcast industry expressed concern that claimants might not have sufficient information to enable them to estimate a percentage or dollar figure with a justification. Therefore, they asked that the rule be modified so that, where appropriate, temporary waivers could be granted. CBS, Inc., in addition, noted that "the justifications furnished by the claimants would undoubtedly rest on almost as many theories as there are justifications," and rather than be subject to the proposed rule, "claimants should be asked to suggest distribution formulas for adoption by the Tribunal, and then to supply the information necessary to work the formulas."

The comments by the music performing rights societies supported the proposed rule, but asked that the justification be brief and not require detailed statistical support. In addition, BMI asked that the meaning of "percentage" be clarified. At present it might be construed to apply only to a sub-class of claimants.

Comments by the Commissioner of Baseball, the National Basketball Association, and the National Hockey League support the proposed rule but ask that it be modified to include a requirement for a listing of specific programs and television stations involved and the hours of programming. The National Basketball Association also asked that syndicated programs and feature films be identified as well as any deletions made according to the FCC syndicated exclusivity rules. This request was intended to resolve conflicts concerning program ownership. Both parties further asked that joint claims be accompanied by a "concise statement of authorization". The Commissioner of Baseball finally asked that the standard by which the costs of distribution proceedings would be deducted be further clarified.

Reply Comments

The comments filed in reply to the foregoing reiterated the original arguments. In addition, the Motion Picture Association of America and NAB stressed that negotiations are continuing between claimants and that a distribution agreement may possibly be arrived at without recourse to a proceeding before the Tribunal. They renewed their request for a waiver provision in the proposed rule so that the options open to the negotiators remain as flexible as possible.

PBS submitted a reply comment which, like the CBS, Inc. comment, proposed that instead of a figure and a justification, distribution formulas be submitted.

Tribunal's Response

The Tribunal has reviewed the arguments advanced in behalf of the proposed amendments, and accordingly §§ 302.5(b) and 302.6 of the proposed rule have been revised. The demands of the National Basketball Association and the Commissioner of Baseball to require more detailed information were judged to be inconsistent with the purpose of the proposed rule which is to "enable the Tribunal to establish simply and expeditiously if there is a controversy." Nor does the proposed rule preclude claimants from presenting other causes of a controversy, such as disputes over program ownership.

In response to the proposal advanced by CBS, Inc. and PBS, the Tribunal believes that a distribution formula a claimant wishes to propose could be used by the claimant to derive a percentage or dollar figure, and then serve as the justification.

To meet the concerns of the Motion Picture Associaton of America and the NAB, the Tribunal will keep abreast of developments and, if circumstances show it is in the public interest, may consider a waiver of the rule.

The percentage or dollar figure the Tribunal has in mind concerns the total compulsory copyright license fees deposited with the Copyright Office; not of any sub-category. This clarification is in response to comments by BMI.

Therefore, 37 CFR Chapter III Part 302 is amended by amending §§ 302.5(b) and 302.6 to read as follows, and by adding a new § 302.10.

§ 302.5 Supplemental filing.

(a) During the month of July 1979 those persons who filed claims pursuant to § 302.2 for secondary transmissions during the period January 1 through June 30, 1978, shall make a supplemental filing, which shall include:

(1) A percentage or dollar figure of the compulsory copyright license fees the claimant feels entitled to.

(2) A justification for such percentage or dollar figure.

(b) For the purposes of this supplemental filing claimants may lump their claims together and file them jointly through a designated common agent. Such joint filing need not contain a separate entitlement claim or justification for each individual claimant. A joint claim shall include a concise statement of the authorization for the filing of the joint claim.

§ 302.6 Filing of claims to cable royalty fees for secondary transmissions during the period July 1 through December 31, 1978.

During the month of July 1979, any person claiming to be entitled to compulsory license fees for secondary transmissions during the period July 1 through December 31, 1978, shall file in the offices of the Copyright Royalty Tribunal a claim to such fees. No royalty

By the Commission, Railroad Service

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fees shall be distributed to copyright owners for secondary transmissions during the above period unless such owner has filed a claim to such fees during July 1979. For purposes of this clause claimants may lump their claims together and file them jointly through a designated common agent. Such joint filing need not contain a separate entitlement claim or justification for each individual claimant. A joint claim shall include a concise statement of the authorization for the filing of the joint claim. Such filing shall include:

(a) The full legal name of the person or entity claiming compulsory license fees.

(b) The full address, including a specific number and street name or rural route, of the place of business of the person or entity.

(c) A general statement of the nature of the copyrighted works, whose secondary transmissions provides the basis of the claim.

(d) Identification of at least one secondary transmission establishing a basis for the claim.

(e) A percentage or dollar figure of the compulsory copyright license fees the claimant feels entitled to.

(f) A justification for such percentage or dollar figure.

§ 302.10 Deduction of costs of distribution proceedings.

In compliance with 17 U.S.C. 111(d)(5)(c) and 17 U.S.C. 807, before any distributions are made pursuant to 17 U.S.C. 111, the Copyright Royalty Tribunal will deduct all costs which would not have been incurred by the Tribunal but for the distribution proceeding.

Douglas Coulter,
Chairman, Copyright Royalty Tribunal.

[FR Doc. 79-16048 Filed 5-22-79; 8:45 am]
BILLING CODE 1410-1-M

DEPARTMENT OF THE INTERIOR

Bureau of Land Management

43 CFR Public Land Order

[CA-566]

California; Transfer of Jurisdiction, Addition to Six Rivers National Forest

AGENCY: Bureau of Land Management (Interior).

ACTION: Final rule.

SUMMARY: This order reserves as a part of, and adds to, the Six Rivers National Forest, 40.16 acres of public land.

EFFECTIVE DATE: May 23, 1979.

FOR FURTHER INFORMATION CONTACT: Louis Bellesi—202-343-8731.

By virtue of the authority contained in section 204 of the Federal Land Policy and Management Act of 1976, 90 Stat. 2751 (43 U.S.C. 1714), it is ordered as follows:

1. Subject to valid existing rights, the following described tract of land which, except for the minerals therein, was acquired in 1970 in an exchange made pursuant to section 8 of the Taylor Grazing Act of June 28, 1934, as amended (43 U.S.C. 315g, 1970 ed.), is hereby reserved as a part of, and added to, the Six Rivers National Forest:

Six Rivers National Forest

Humboldt Meridian

T. 3 S., R. 7 E.,
Sec. 16, Lot 2.
Containing 40.16 acres in Trinity County.

2. Subject to valid existing rights, the above described land, to the extent that the ownership thereof is vested in the United States, shall hereafter be administered by the Secretary of Agriculture subject to, and in accordance with, all laws and regulations applicable to the Six Rivers National Forest.

Guy R. Martin,
Assistant Secretary of the Interior.

May 16, 1979.

[FR Doc. 79-16127 Filed 5-22-79; 8:45 am]
BILLING CODE 4310-84-M

FEDERAL MARITIME COMMISSION

46 CFR Part 544

[General Order 41]

Financial Responsibility for Water Pollution Outer Continental Shelf; Approval of Reporting Requirements

AGENCY: Federal Maritime Commission.

ACTION: Final rule.

SUMMARY: General Order 41 requires persons who own and operate vessels carrying oil from offshore facilities above the Outer Continental Shelf to demonstrate that they are financially able to meet liabilities for damages and removal costs resulting from discharges of oil. The Commission is amending General Order 41 to reflect an extension of existing General Accounting Office clearance for the reporting requirements contained therein in accordance with GAO regulations.

EFFECTIVE DATE: May 23, 1979.

FOR FURTHER INFORMATION CONTACT: Francis C. Hurney, Secretary, Federal Maritime Commission, 1100 L Street, NW., Washington, D.C. 20573 (202) 523-5725.

SUPPLEMENTARY INFORMATION: 44 USC 3512 requires the General Accounting Office to review certain collections of information from 10 or more persons undertaken by independent Federal regulatory agencies.

On March 23, 1979, this Commission received clearance from the U.S. General Accounting Office for the reporting requirements contained in 46 CFR 544 (General Order 41). Title 4 CFR, section 10.12, Notification of General Accounting Office Action, requires that notice of such clearance appear in the agency's regulations. Accordingly, Part 544 of Title 46 CFR is amended by adding the following paragraph immediately after the AUTHORITY citation:

The reporting requirements contained in sections 544.6(c), 544.6(d), 544.7, 544.8(b)(3)(i), 544.8(b)(3)(ii), 544.8(b)(3)(iii), 544.8(b)(3)(iv), 544.8(b)(3)(vi), 544.8(b)(4), 544.9(d), 544.11(d), 544.12(f), and 544.14, have been approved by the U.S. General Accounting Office under number B-180233 [R0627].

Effective Date. Notice, public procedure and delayed effective date are not necessary for the promulgation of this amendment because of its nonsubstantive nature. Accordingly, this amendment shall be effective May 23, 1979.

By the Commission
Francis C. Hurney,
Secretary.

[FR Doc. 79-16043 Filed 5-22-79; 8:45 am]
BILLING CODE 6730-01-M

INTERSTATE COMMERCE COMMISSION

49 CFR Part 1033

[Service Order 1380]

Chesapeake & Ohio Railway Co. Authorized To Operate Over Tracks of Consolidated Rail Corp.

AGENCY: Interstate Commerce Commission

ACTION: Emergency Order, Service Order No. 1380.

SUMMARY: Service Order No. 1380 authorized The Chesapeake and Ohio Railways Company to operate over tracks of Consolidated Rail Corporation in and near Buffalo, New York, in order to gain access to The Baltimore and Ohio Railroad Company's yard in Buffalo.

DATES: Effective 11:59 p.m., May 18, 1979. Expires when modified or vacated by order of this Commission.

FOR FURTHER INFORMATION CONTACT: J. Kenneth Carter, Chief, Utilization and Distribution Branch, Interstate Commerce Commission, Washington, D.C. 20423, Telephone (202) 275-7840, Telex 89-2742.

SUPPLEMENTARY INFORMATION: The Order is printed in full below.

Decided: May 17, 1979.

The Chesapeake and Ohio Railway Company (C&O) operates its trains between Suspension Bridge, Niagara Falls, New York, and Bison Yard, East Buffalo, New York, and between International Bridge, Black Rock, New York, and Bison Yard over tracks of Consolidated Rail Corporation (CR). C&O and CR have entered into an agreement in which CR grants the C&O trackage rights over additional tracks in the Buffalo, New York, area. The additional trackage rights will give C&O the ability to operate its trains to and from the Baltimore and Ohio Railroad Company's (B&O) yard in Buffalo.

These new trackage rights will improve transit time on traffic to and from industries in Buffalo, and on traffic moving through Buffalo by avoiding delays in Bison Yard. Car utilization will be improved by faster movement of empty cars between the C&O and the B&O.

C&O will file an application with the Commission for trackage rights over these tracks of CR. C&O will be permitted to use these trackage rights for bridge rights only and will not perform any local freight service at any point on this trackage.

It is the opinion of the Commission that an emergency exists requiring operation of C&O trains over these tracks of CR in the interest of the public; that notice and puplic procedure are impracticable and contrary to the public interest; and that good cause exists for making this order effective upon less than thirty days' notice.

It is ordered,

§ 1033.1380 Service Order No. 1380.

(a) *The Chesapeake and Ohio Railway Company Authorized to operate over tracks of Consolidated Rail Corporation.* The Chesapeake and Ohio Railway Company (C&O) is authorized to operate over tracks of Consolidated Rail Corporation (CR) between the following locations:

(1) Between Suspension Bridge, New York (CP85) and Main Street, Buffalo, New York, a distance of 19.89 miles:

(2) Between International Bridge, Black Rock, New York, and Main Street, Buffalo, New York, a distance of 5.08 miles:

(3) Between Main Street, Buffalo, New York, and the Baltimore and Ohio Railroad Company's Buffalo Creek Yard, via Warwick Avenue, East Buffalo, and the City Branch, a distance of 8.27 miles:

(4) Between Suspension Bridge, New York, (CP85) and CP "I" near Black Rock, New York, a distance of 19.87 miles:

(5) Between Black Rock, New York (CP55) and "FW", via the Niagara Branch and CP "F", including the connection to International Bridge at CP "F", a distance of 7.33 miles:

(6) Between International Bridge, Black Rock, New York, and "CP49" via CP "I" and the Belt Line Branch, a distance of 8.25 miles:

(7) Between Warwick Avenue, Buffalo, New York, and "FW" via "IQ", a distance of 4.35 miles:

(8) Between East Buffalo, New York, and "FW" via a connection at East Buffalo, a distance of approximately 2.17 miles.

C&O is authorized to use these trackage rights only as bridge rights and is not authorized to perform any local freight service at any point on this trackage.

(b) *Application.* The provisions of this order shall apply to intrastate, interstate and foreign traffic.

(c) Nothing herein shall be considered as a prejudgement of the application of C&O seeking authority to operate over these tracks.

(d) *Effective date.* This order shall become effective at 11:59 p.m., May 18, 1979.

(e) *Expiration.* The provisions of this order shall remain in effect until modified or vacated by order of this Commission.

(49 U.S.C. (10304-10305 and 11121-11126).)

This order shall be served upon the Association of American Railroads, Car Service Division, as agent of the railroads subscribing to the car service and car hire agreement under the terms of that agreement and upon the American Short Line Railroad Association. Notice of this order shall be given to the general public by depositing a copy in the Office of the Secretary of the Commission at Washington, D.C., and by filing a copy with the Director, Office of the Federal Register.

By the Commission, Railroad Service Board, members Joel E. Burns, Robert S. Turkington and John R. Michael.

H. G. Homme, Jr.,
Secretary.

FR Doc. 79-16171 Filed 5-22-79; 8:45 am]
BILLING CODE 7035-01-M

DEPARTMENT OF THE INTERIOR

Fish and Wildlife Service

50 CFR Part 33

National Bison Range and Satellite Areas; Sport Fishing Regulations

AGENCY: Fish and Wildlife Service, Department of the Interior.

ACTION: Special Regulations.

SUMMARY: The Director has determined that the opening to sport fishing of National Bison Range and Satellite Areas, is compatible with the objectives for which the area was established, will utilize renewable natural resources, and will provide additional recreational opportunity to the public.

EFFECTIVE DATE: June 15, 1979.

FOR FURTHER INFORMATION CONTACT: Robert C. Brown, Refuge Manager, National Bison Range, Moiese, Montana, 59824, (404) 644-2345.

The following special regulations apply:

§ 33.5 Special regulations: Sport fishing for individual wildlife refuge areas.

Montana

National Bison Range

Sport fishing on the National Bison Range, Moiese, Montana, is only permitted along the portions of the Jacoko River as posted. These open areas are delineated on maps available at refuge headquarters, one-half mile east of Moiese, Montana. Sport fishing shall be in accordance with all applicable State regulations.

The provisions of this special regulation supplement the regulations which govern fishing on wildlife refuge areas generally which are set forth in Title 50, Code of Federal Regulations, Part 33, and are effective through December 31, 1979.

Ninepipe National Wildlife Refuge

(Headquarters National Bison Range, Moiese, Mont.)

Sport fishing is permitted in accordance with special regulations. Entire refuge is open from July 15, until beginning of waterfowl hunting season, and before July 15, on west and north

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shore lines from picnic area to Allentown bridge, except central portion of north shore (nine-tenths of a mile), as posted. Entire refuge is closed during migratory waterfowl hunting season. Ice fishing is permitted after the closure of waterfowl hunting season until March 1. Sport fishing shall be in accordance with all applicable State regulations.

The provisions of this special regulation supplement the regulations which govern fishing on wildlife refuge areas generally which are set forth in Title 50, Code of Federal Regulations, Part 33, and are effective through December 31, 1979.

Special Regulations: Ninepipe National Wildlife Refuge

1. Off shore islands are closed to fishing and trespass.

2. Use of boats is prohibited.

3. Vehicles must be parked at designated areas.

4. Motorized travel on the ice is prohibited.

5. No ice fishing shelters may be left overnight.

Pablo National Wildlife Refuge

(Headquarters National Bison Range, Moiese, Mont.)

Sport fishing is closed on Pablo Reservoir during the migratory waterfowl hunting season. It is open during the balance of the year, in accordance with special regulations, on the north and east shore lines from inlet canal to south end of dam as posted. Ice fishing is permitted after the closing of the waterfowl hunting season. Sport fishing shall be in accordance with all applicable State regulations.

The provisions of this special regulation supplement the regulations which govern fishing on wildlife refuge areas generally which are set forth in Title 50, Code of Federal Regulations, Part 33, and are effective through December 31, 1979.

Special Regulations: Pablo National Wildlife Refuge

1. Off shore islands are closed to fishing and trespass.

2. Use of boats is prohibited.

3. Vehicles must be parked at designated areas.

4. Motorized travel on the ice is prohibited.

5. No ice fishing shelters may be left overnight.

Northwest Montana Waterfowl Production Areas

(Headquarters National Bison Range, Moiese, Mont.)

Flathead Lake Waterfowl Production Area and Smith Lake Waterfowl Production Area are open to sport fishing in accordance with all applicable State regulations. Fishing from shore is prohibited from March 1, to July 15, on lands within the boundary of posted Waterfowl Production Areas. All islands at the mouth of the Flathead River are closed to trespass except during the waterfowl hunting season.

The provisions of this special regulation supplement the regulations which govern fishing on wildlife refuge areas generally which are set forth in Title 50, Code of Federal Regulations, Part 33, and are effective through December 31, 1979.

Special Regulations: Northwest Montana Waterfowl Production Areas

1. Vehicle travel is permitted only on designated roads and parking areas.

Swan River National Wildlife Refuge

(Headquarters National Bison Range, Moiese, Mont.)

Sport fishing is permitted on those parts of the Swan River and Swan Lake which lie within the boundaries of Swan River National Wildlife Refuge. Fishing from shore within the refuge is prohibited from March 1, to July 15. Fishing will be in accordance with all applicable State regulations.

Note.—The U.S. Fish and Wildlife Service has determined that this document does not contain a major proposal requiring preparation of an Economic Impact Statement under Executive Order 11949 and OMB Circular A–107.

Robert C. Brown,

Refuge Manager, National Bison Range, Moiese, Mont. 59824.

May 11, 1979.

[FR Doc. 79-16157 Filed 5-22-79; 8:45 am]

BILLING CODE 4310-55-M

DEPARTMENT OF ENERGY

10 CFR Part 205

Interpretations and Rulings; Indexes

AGENCY: Department of Energy.

ACTION: Notice of Indexes for Interpretations and Rulings.

SUMMARY: Attached are indexes to all interpretations and rulings issued by the General Counsel (or his delegate) of the Department of Energy or predecessor agencies through March 31, 1979.

FOR FURTHER INFORMATION CONTACT:

Diane Stubbs, Office of the General Counsel, Department of Energy, 12th & Pennsylvania Avenue, N.W., Room 1121, Washington, D.C. 20461, (202) 566–9070.

SUPPLEMENTARY INFORMATION:

Interpretations issued pursuant to 10 CFR Part 205, Subpart F are published from time to time in the Federal Register in accordance with editorial and classification criteria set forth in 42 FR 7923, February 8, 1977, as modified in 42 FR 46270, September 15, 1977. Interpretations have been published as indicated in the following table.

1974–1 through 1974–29: 42 FR 25648, May 18, 1977.
1975–1 through 1975–74: 42 FR 23722, May 10, 1977.
1976–1 through 1976–23: 42 FR 7923, February 8, 1977.
1976–24: 42 FR 10963, February 25, 1977.
1976–25: 42 FR 23722, May 10, 1977.
1977–1 through 1977–5: 42 FR 10963, February 25, 1977.
1977–6: 42 FR 17100, March 31, 1977.
1977–7 through 1977–16: 42 FR 31143, June 20, 1977.
1977–17 through 1977–21: 42 FR 39959, August 8, 1977.
1977–22 through 1977–27: 42 FR 41095, August 13, 1977.
1977–28 through 1977–33: 42 FR 46270, September 15, 1977.
1977–34 through 1977–38: 42 FR 54268, October 5, 1977.
1977–39 through 1977–44: 42 FR 61271, December 2, 1977.[1]
1977–45 through 1977–53: 42 FR 1479, January 10, 1978.
1978–1: 43 FR 5797, February 10, 1978.
1978–2 through 1978–5: 43 FR 12848, March 28, 1978.
1978–6 through 1978–10: 43 FR 15617, April 14, 1978.
1978–11 through 1978–21: 43 FR 19817, May 9, 1978.
1978–22 through 1978–28: 43 FR 25079, June 9, 1978.
1978–29 through 1978–42: 43 FR 29528, July 10, 1978.[2]
1978–43 through 1978–47: 43 FR 34433, August 4, 1978.
1978–48 through 1978–56: 43 FR 40200, September 11, 1978.
1978–57 through 1978–59: 43 FR 46517, October 10, 1978.[3]
1978–60: 43 FR 51755, November 7, 1978.
1978–61: 43 FR 57583, December 8, 1978.
1978–62 and 1978–63: 44 FR 3021, January 15, 1979.
1979–01 and 1979–02: 44 FR 12160, March 6, 1979.
1979–03 and 1979–04: 44 FR 16891, March 20, 1979.

[1] (Correction Notice) 1977–42: 43 FR 64104, December 22, 1977.
[2] (Correction Notice) 1978–35: 43 FR 57583, December 8, 1978.
[3] (Correction Notice) 1978–58: 43 FR 46517, November 7, 1978.

1979–05: 44 FR 24045, April 24, 1979.

The appendices to today's notice provide an updated comprehensive index system covering all of the published interpretations and rulings issued by FEO/FEA/DOE through March 31, 1979. Previously published indexes have appeared at 43 FR 1613, January 11, 1978, 43 FR 17337, April 24, 1978, and 43 FR 49775, October 25, 1978. A total of 309 interpretations and rulings are covered by the indexes published today.

Appendix A provides an alphabetical listing of the firms or persons to whom or on whose behalf interpretations have been issued, while Appendix B lists rulings in chronological order of issuance by number and title. Appendix C contains an index of interpretations and rulings according to informal subject entries, such as "Base Period Supplier," "Class of Purchaser," "Stripper Well Lease Exemption," etc. Interpretations and rulings are indexed in Appendix D according to the regulation sections which they interpret. Appendix E provides an index of rulings construed by interpretations, and Appendix F contains a list of statutes construed by interpretations and rulings.

Interpretations depend for their authority on the accuracy of the factual statement used as a basis for the interpretation (10 CFR 205.84(a)(2)), and may be rescinded or modified at any time (§ 205.85(d)). Only the persons to whom interpretations are addressed and other persons upon whom interpretations are served are entitled to rely on them (§ 205.85(c)). An interpretation is modified by a subsequent amendment to the regulation(s) or ruling(s) interpreted to the extent that the interpretation is inconsistent with the amended regulation(s) or ruling(s) (§ 205.85(e)). In addition, interpretations are subject to reconsideration by the General Counsel (§ 205.85(f)). The interpretations indexed herein have been published only for the general guidance in accordance with the reasons set forth in the FEA Notice first cited above.

Issued in Washington, D.C., May 15, 1979.

Everard A. Marseglia, Jr.,

Assistant General Counsel for Interpretations and Rulings.

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74–26—Application of the Refiner's Cost Formula of § 212.83(c) to Refiners Required to Sell Crude Oil Under the Allocation Program.
74–27—Allocation of Refiner's Increased Product Costs to Sales Volume.
74–28—Inapplicability of the "Stripper Well Lease" Exemption of 10 CFR 210.32 to Gas Wells.
74–29—Production Wells for Purposes of the "Stripper Well Lease" Exemption of 10 CFR 210.32.
74–30—Measurement of the Number of Barrels of Production from an Oil Well for the "Stripper Well Lease" Exemption of 10 CFR 210.32.
75–1—Transportation Costs.
75–2—Application of the Term "Class of Purchaser" under FEA Petroleum Price Regulations.
75–3—Prospective Increases in Rent for Real Property Used in the Retailing of Gasoline.
75–4—Storage Tank Rentals.
75–5—Treatment of Confidential Information Received by FEA Pursuant to Oil and Gas Reserves Survey (Form FEA P–301–S–0).
75–6—Pricing of Natural Gas Liquid Products Prior to January 1, 1975.
75–7—Export Sales.
75–8—Qualification of Certain Consignees as Wholesale Purchaser-Resellers.
75–9—Storage Costs.
75–10—Transportation Costs Where Transportation is Provided by the Firm Concerned.
75–11—Rentals of New, Higher Cost Storage Tanks.
75–12—Calculation of "Average Daily Production" for Purposes of the Stripper Well Lease Exemption of 10 CFR 210.32 Where Production Has Been Curtailed.
75–13—Early Payment Percentage Discounts.
75–14—Prices Charged to Reflect Non-Product Cost Increases Incured by Resellers, Reseller-Retailers and Retailers.
75–15—Definition of "Property" for Purposes of Computing Base Production Control Level Pursuant to 10 CFR 212.72.
75–16—Carry-Forward of the Amount by Which Prices Charged are Less than the Price Increase Permitted to Reflect Increased Non-Product Costs by Resellers, Reseller-Retailers, and Retailers.
75–17—Application of FEA's Mandatory Petroleum Price and Allocation Regulations During September 1975.
75–18—Computation of Increased Cost of Natural Gas Shrinkage.

76–1—Allocations with Respect to Newly Constructed or Purchased Refineries Under Crude Oil Buy/Sell Program.
76–2—Production of "New" Crude Oil Due to Extra Day in February, 1976; Effect on Cumulative Deficiency Requirement and BPCL Adjustments.
76–3—Interpretation of Naval Petroleum Reserves Production Act of 1976.
76–4—Inapplicability of Mandatory Petroleum Allocation and Price Regulations to Synthetic Fuels Processed from Oil Shale, Tar Sands, and Coal.
76–5—Retail Sales Outlet Operator's Entitlement to Motor Gasoline.
76–6—Record Keeping Requirements.
77–1—Clarifications to Mandatory Petroleum Price Regulations Applicable to Domestic Crude Oil.
77–2—Further Clarifications to Mandatory Petroleum Price Regulations Applicable to Domestic Crude Oil.
77–3—Cargo Sales.
77–4—Timing of Landed Cost for Inter-affiliate Transactions.
77–5—Application of the Definition of "Transaction" for Purposes of Computing Weighted Average May 15, 1973, Prices.
77–6—Applicability of the Stripper Well Property Exemption to Properties that Produce Both Crude Oil and Condensate Recovered in Non-Associated Production.
77–7—Post-September 1, 1976 Treatment of Separate Reservoirs as Stripper Well Properties.
77–8—Termination of Crude Oil Supplier/Purchaser Relationships by a Producer.
79–1—Application of "Transaction" Definition to Variable-Price Contracts.

Appendix C.—*Subject Index for Interpretations and Rulings Issued Through Mar. 31, 1979*

Subject	Interpretations	Rulings
Accounting Practices	1978–52	
Acquisition Rule	1975–9; 978–18	
Affiliated Entities, def	1976–6	
Allocation Entitlement	1974–17; 1975–37	
Allocation Entitlement, Method of	1974–19	
Allocation Entitlement, Transfer of	1974–29; 1975–35; 1977–47	1974–13.
Allocation Fraction		1974–16.
Allocation Levels	1974–1	
Assignment by FEA	1976–25	
Average Daily Production, def	1974–22; 1975: –41, –43	
Aviation Fuel, Allocation of	1974–8	
Base Period Supplier	1974: –6, –15; 1975: –31, –73	
Base Period Supplier, Designation of	1974–21	
Base Period Supply Obligations	1974–25; 1976–11; 1977: –19, –20	1974–25.
Base Period Use, Adjustments to	1977: –28, –32; 1978–24	1974–13.
Base Period Volume	1975–50	
Base Price	1975–5	1974: –2, –17, –18, –26; 1975–6; 1977–5.
BPCL	1975–27; 1976–16; 1977: –12, –37; 1978–6; 1979–1.	1975–15; 1976–2; 1977–2.
Base Rent Rule	1974: –24, –26	1974: –7, –9, –14, –20, –24; 1975–3.
Base Rent Rule, Lease Termination	1975–58	
Benzene and Toluene, Special Rules for	1976–10	
Blending Costs, Retailer	1975–74	
Bonded Fuel, def	1975: –8, –26, –48	
Bonded Fuel Exemption	1975: –8, –26, –46	
Borrow—Pay Back Rule	1975–30	
Burning of Petroleum Products by Power Generators.	1975–25	
California lower tier crude oil	1978–48	
Certification	1977: –33, –52; 1978: –12, –24	
Class of Purchaser	1974–7; 1975: –5, –6, –22, –31, –47, –63; 1976: –1, –8 –7, –20; 1977: –10, –11; 1978–44.	1974: –1, –2, –17, –18; 1975–2.
Commission Agents or Consignees	1974–10; 1975: –13, –17, –19, –31, –33, –48; 1977: –8, –27.	1975–8.
Competitive Bids	1975–56	1974–19.
Condensate, def	1978–35	
Confidential Information		1975–5.
Cost of Crude Oil, def	1976–4	
Covered Products, def	1976–24; 1977: –9, –50; 1978: –11, –28, –54.	
Crude Oil Buy/Sell Program	1977–34; 1978–39	1974–26; 1976–1.
Crude Oil, def	1975–29; 1977: –3, –22; –31; 1979: –3, –4	
Crude Oil Resales	1978–25	
Crude Oil Runs to Stills, def	1978–31	
Crude Oil Ceiling Price Rules, Long-Term Contracts (Premiums).	1977: –2, –14; 1978–21	
Current Cumulative Deficiency	1974–8; 1976–18	1976–2.
Customary Discounts	1975–66	1974: –18, –23; 1975–13.
Customary Price Differential	1978–44	
D, Subpart; Part 212	1974–20; 1975–29; 1977–3; 1978–21	
December 1 Rule	1974: –2, –3, –4; 1975–45; 1976: –15, –20; 1977: –7, –13, –14, –15, –42; 1978: –1, –45.	1974: –11, –21, –22; 1977–8.
E, Subpart; Part 212	1978: –16, –29, –61; 1979–3	
EPAA Supercession of Other Federal Laws	1974–27; 1975–15	
End-user, def		1974–19.
Energy Conservation Program, Room Air Conditioners.	1978–26	
Entitlements Program	1975–21; 1976–22; 1977: –5, –22, –31, –45; 1978: –31, –42, –48; 1979–4.	1976–3.
Equal Application Rule	1975–5; 1978–17; 1978: –36, –53	
Exchange Agreements		1974–21.
Export sales, def	1977–18	
Export Sales Deduction	1975–21; 1977: –18, –30, –36, –44; 1978: –10, –42, –54, –55.	
Export Sales Exemption	1977–16, –21, –44; 1978: –10, –42	1975–7.
F, Subpart; Part 212	1976–6; 1977–3; 1978: –4, –63	1077–3.
Federal Preemption of State Laws	1976–4	
Field	1977–43	
Firm, def	1975: –3, –32, –52, –55, –69; 1976: –3, –8; 1977: –6, –18, –29; 1978: –62, –63; 1979–3.	

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Appendix C.—*Subject Index for Interpretations and Rulings Issued Through Mar. 31, 1979*—Continued

Subject	Interpretations	Rulings
First Sale, def	1976–4; 1977–38 1078: –21, –63	
Five Percent Rule	1974–4; 1977–38 1978: –21, –63	
Five Percent Rule	1974–14; 1977: –8, –24	
G, Subpart; Part 212	1974: –24, –28; 1975–69	1974–24; 1975–3.
Guam	1975: –8, –26, –46	
Import Exemption	1975–24	
Inventories	1975–23	1977–3.
K, Subpart; Part 212	1976: –2, –5; 1977–3; 1978: –16, –29, –32, –81, –62, –63; 1979–3.	1975: –6, –18;.
Landed Costs		1977–4.
Lease Condensate, def	1970–4	
Motor Gasoline, def	1978–47	
Naphtha, def	1978–47	
Naphtha Allocation	1975–44	
Naval Petroleum Reserves, Crude Oil, Price Exemption.		1976–3.
Natural Gas Shrinkage	1978: –27, –34, –37, –41, –61, –62; 1979: –2 –3.	
Natural Gas Liquids, def	1978: –32, –35	
Natural Gas Liquids Products	1974–13; 1977–3; 1978: –3, –27	1975:–6, –18.
Natural Gasoline, def	1978–35	
Net-back Sale, def	1978–32	
New and Released Crude Oil	1975–2; 1977–42	1974–11.
New Item and New Market Rule	1974: –23, –24; 1975: –3, –9; 1976: –5, –7; 1978–3.	1974–20.
"New" Motor Gasoline Retail Sales Outlet	1975–61	1976–5.
"New" Wholesale Purchaser-Reseller	1975–57; 1977–28	
Non-product Cost Increases	1975: –48, –59, –74; 1978: –8, –13, –14, –52, –63.	1975: –1, –4, –10, –11, –14, –18.
Normal Business Practices	1974: –3, –18, –27; 1975: –49, –62; 1977: –8, –11, –19, –26, –35; 1978: –7, –21, –38, –58, –57; 1979–5.	1974: –6, –10, –11, –23; 1975: –4, –11, –13.
Oil Import Regulations		
Oil Import Regulations	1978–50	
Once-a-Month Rule	1975–64	
Over-recoupment	1975–12	
Passenger Transportation Services	1975–65	
Posted Price, def	1976–4; 1977: –26, –43; 1978: –17, –20, –30, –43.	1977–1.
Price, def		1974–10.
Price Increase	1977–53	
Price/Octane Number Information and Posting	1976–9	
Procedural Requirements	1975–40; 1976–12; 1977–28	
Processing Agreements	1974–6	
Producer, def	1974–20	
Producer of Crude Oil, Price Rule	1978–17	
Product Cost Increases	1974–5; 1978: –40, –51	1974: –5, –26, –27; 1975: 1–9, –10, –13, –18; 1977–3.
Product Cost Increases, Carryover of	1975–16	1974–12; 1975–16.
Propane Allocation	1975–14; 1976: –19, –21	
Propane Prices	1975–4	1974–5.
Property, def	1974–22; 1975: –2, –4, –27, –42; 1977: –1, –37, –42, –46, 1978: –5, –9, –15, –18, –58; 1979–1.	1975–15; 1977: –1, –2, –7.
Reclamation of Waste Crude Oil	78–18	
Record-Keeping Requirements		1976–6.
Refined Petroleum Products, def	1975–1; 1978–42	
Refiner, def	1974–13; 1976–2; 1977: –6, –29; 1978: –22, –33, –63; 1979–3.	
Refiner Gasoline Price Variation rules	1978: –36, –53	
Refiner Price Formula:		
"A" Factor	1978–40	
"B" Factor	1978–51	
"V" Factor	1975–7	1974–27; 1975–7
"H" Factor	1977–23	
"N" Factor	1978: –8, –13, –14, –52	
Refiner Price Rule	1977–53; 1978: –11, –13	1974–26.
Refinery Yield	1976–23	
Refunds	1975–12	
Rent, def	1975–51	
Rent Regulations (see also Base Rent Rule)	1975–69	1974: –7, –9, –14, –20, –24; 1975–3.
Reporting Requirements, Refiner	1975–11; 1977–24	
Reseller, def	1974–12; 1976–2; 1977: –3, –8, –29; 1978: –22, –63.	
Residual Fuel Oil, def	1975–29	
Retail Sales Outlets, Motor Gasoline	1974–13	
Retailer, def	1974–12; 1976–2; 1978–22	
Retaliatory Actions	1975–63	
Retroactive Price Increase	1977–14; 1978–2	
Sales by Federal, State and Local Government	1974–4; 1975–15	1974–22;1976–3.
Sanitation Services, def	1974–1; 1975–39	1974–15.
Seller, def	1976–8	
September 1975; Application of Price/Allocation Regulations during.		1975–17.
Single Firm Treatment		1974–13.
State Tax Increase Pass–through	1975–18	1974–4.
Storage Tank Rental		1975: –4, –11.
Stripper Well Lease Exemption	1974: –22, –26; 1975: –4, –10, –41, –43; 1977–48; 1978: –5, –9.	1974: –28, –29, –30; 1975–12; 1977: –1, –2, –6, –7.
Supplier, def	1976–23	

Appendix C.—*Subject Index for Interpretations and Rulings Issued Through Mar. 31, 1979*—Continued

Subject	Interpretations	Rulings
Supplier/Purchaser Relationship	1974: –17, –18, –19; 1975: –20, –54; 1976: –13, –14, –18; 1977: –20, –49; 1978: –23, –45, –46, –49, –56, –57, –59, –60.	1974: –3, –19; 1975–8.
Supplier Substitution	1976–25	
Surplus Product, Purchase of	1974–19; 1975–20; 1977–41	
Synthetic Fuels		1976–4.
S.N.G. Feedstock Allocation	1975–34	
Temporary Discount on May 15, 1973	1976–6	
Transaction, def	1978–19	1977–5; 1979–1.
Transfer Pricing	1974–20	
Transportation Costs, def	1978–25	
Transportation Costs to Reseller/Retailer Inventory.	1977: –4, –51	1975: –1, –9 –10.
Transportation Cost, Refiner	1977–25	
United States, def	1975: –6, –26, –46	
Unitization	1974–22; 1975: –2, –4, –10, –27; 1978: –6, –9.	1975–15; 1977–2.
Unleaded Gasoline	1976–3	
Waste Crude Oil, Reclamation of	1974: –11, –20; 1977–22	
Wholesale Purchaser-Consumer def	1975: –37, –52	1974–19.
Wholesale Purchaser-Reseller, def	1974: –10, –12; 1975: –13, –17, –19, –33, –37, –38, –53, –60, –67, –68, –70, –71, –72; 1977: –17, –27, –39, –40; 1978: –46, –59.	1975–8.

Appendix D.—*Regulation Index for Interpretations and Rulings Issued Through Mar. 31, 1979**

Regulation interpreted	Interpretations	Rulings
Part 202, Subpart A		1975–5.
205.2	1976–12; 1977–28	
205.26(d)	1975–40	
205.33(a)	1978–12; 1977–26	
205.194	1975–12	
210.21	1975: –8, –26, –46; 1977–5	
210.32	1974: –22, –26; 1975: –4, –10, –41, –43	1974: –28, –29, –30; 1975–12; 1977–1.
210.33	1975: –6, –26, –46	
210.61	1975–63	1974–3.
210.62	1974: –3, –27; 1975–49; 1977: –8, –19, –28; 1978: –7, –21, –38.	1974: –6, –10, –11; 1975: –4, –11, –13.
210.62(a)	1974–16; 1975: –62, –63; 1977–35; 1978: –56, –57; 1979–5.	
210.62(c)	1976–18; 1977–11	1974–23.
210.77	1975–51	
210.91	1977–24	
210.92		1976–6.
211.1(a)	1977–6	
211.9	1974: –15, –19; 1975: –58, –62; 1976–25; 1977: –19, –49; 1978: –46, –49, –59, –60.	1974: –3, –19.
211.9(a)	1974–18; 1975: –20, –54, –56, –73; 1977–8; 1978–23.	
211.9(c)	1977–20	
211.10	1975: –20, –56, –73	
211.10(a)	1975–35	
211.10(b)	1974–17	1974: –16, –25.
211.10(e)	1974–29	
211.10(g)	1974–19; 1976: –14, –21; 1977–41	
211.11	1974–17; 1975–61; 1976–19	
211.11(b)	1974–6	
211.11(d)	1975–35	
211.12	1975: –50, –57; 1976–11	
211.12(e)	1974–17; 1976–19; 1977: –28, –49; 1978–38.	1974–19.
211.12(f)		1974–19.
211.12(h)	1976–18	
211.12(g)	1976–21	
211.13	1975–50	
211.13(c)	1976–12; 1977: –28, –32; 1978: –24, –38	
211.13(f)	1977–28; 1978–24	
211.14(d)		1974: –3, –16.
211.22	1975–23	
211.24	1974–3	
211.24(a)	1974–25; 1976–11	
211.25	1975–31; 976–25; 1978–23	
211.25(a)	1977–20	
211.25(c)	1975–30	
211.29	1975–34; 1976–19	
Special Rule No. 1 to Subpart A of Part 211	5–34; 1976–19	
211.31	1977–8	
211.51 (Definitions)	See Corresponding Subject Entry, Appendix C.	See Corresponding Subject Entry, Appendix C.
211.62 Definitions)	See Corresponding Subject Entry, Appendix C.	See Corresponding Subject Entry, Appendix C.
211.63	1974: –2, –3, –4; 1975–45; 1976: –14, –20; 1977: –7, –13, –14, –15, –42; 1978: –1, –45.	1974: –21, –22; 1977–6.
211.64	1974: –2, –3	
211.64(a)		1974–11.

Appendix D.—*Regulation Index for Interpretations and Rulings Issued Through Mar. 31, 1979**—Continued

Regulation interpreted	Interpretations	Rulings
211.65	1974–6; 1977–34; 1978–39	1976–1.
211.67	1977: –5, –22, –31; 1978–31; 1979–4	1976–3.
211.67(a)(4)	1978–48	
211.67(d)(2)	1975–22; 1978–22; 1977: –16, –30, –36, –44; 1978: –10, –42, –54, –55.	
211.67(d)(5)	1977–45	
211.71(c)	1978–23	
211.Special Rule No. 7 to Subpart C of Part 211	1976–22	
211.82	1976–21; 1978–49	
211.83	1975–14	
211.83(c)	1978–19	
211.85	1978–49	
211.86	1978–49	
211.96(b)	1977–49	
211.102	1975: –20, –73	
211.103	1975–65	
211.103(a)	1974–1	
211.104	1974–6	
211.106	1975: –58, –61, –73; 1976–11; 1977:. –19, –47.	1974–13; 1976–13; 1976–5.
211.106(b)	1974: –12, –25	
211.106(c)	1974–29; 1975–53	
211.106(d)	1974–25	
211.106(e)	1975–57	
211.145	1971976–13	1974–8.
211.145(c)	1971974–21	
211.145(d)	1974–21	
211.162	1975–54	
211.166	1974–19	
211.182	1978–47	
211.183	1975–44	
211.201	1975–37	
211.202	1975–37	
211.203(c)(2)(iii)	1975–37	
212.1		1975–3.
212.2	1975–24	
212.31 (Definitions)	See Corresponding Subject Entry, Appendix C.	See Corresponding Subject Entry, Appendix C.
212.52	1974–4; 1975–15	
212.53	1975–24; 1976–22	1975–7.
212.53(a)	1977: –16, –21, –36, –44; 1978: –10, –55	
212.53(c)	1977–30	
212.54	1974: –22, –26, 1977: –2, –48; 1978: –5, –9, –58.	1977: –6, –7.
212.55	1977–2	1976–3.
212.71	1974–11	
212.72	1974: –8, –11; 1975: –2, –4, –27; 1976–16; 1977: –1, –3, –12, –33, –37, –38, –42, –48, –52; 1978: –5, –12, –15, –18, –58; 1979–1.	1977–7.
212.73	1974–11; 1975–42; 1977: –2, –3; 1978–20	
212.74	1974: –8, –11; 1975: –2, –4, –42; 1977: –2, –3; 1978: –2, –17, –20, –30, –43; 1979–1.	1974–11.
212.74(c)	1977–14	
212.75	1978–6	1977–2.
212.76		1976–2.
212.81	1977–29	
212.82	1975: –5, –47; 1976: –3, –4, –5; 1977: –6, –18.	1974: –17, –18.
212.82(a)	1976–1	
212.82(b)	1975: –22, –31	
212.83	1974–20; 1975: –3, –5, –7; 1976–10; 1977: –23, –53; 1978–16, 1979: –2, –3.	1974: –12, –26, –27; 1975: –6, –7, –13.
212.83(b)	1978–4	
212.83(c)	1978–40	
212.83(c)(1)(iii)		1974–5.
212.83(c)(2)(iii)(D)	1978–51	
212.83(c)(2)(iii)(E)	1978: –6, –11, –13, –14, –52	
212.83(e)	1975: –12, –18	
212.83(h)	1976–17; 1978: –36, –53	
212.84		1977–4.
212.85	1977–25	
212.88		1974–26.
212.91	1974–14; 1975: –3, –59; 1977: –3, –6, –24, –29; 1978–63.	
212.92	1975: –48, –74; 1976: –6, –8; 1977: –4, –51	1975: –1, –9, –10.
212.93	1974: –5, –6, –12; 1975: –6, –9, –18, –59, –74; 1976–6; 1977–4.	1974: –4, –17, –18, –26.
212.93(a)	1976–7; 1977–3	
212.93(b)	1975: –48, –54, –64	1975: –1, –10, –14, –18.
212.93(e)		1975–16
212.94	1978–39	1974–26.
212.101	1975–58	
212.102	1974–24; 1975: –51, –58	1974: –7, –9, –14. –20, –24; 1975–3.
212.103	1975–51	1974: –7, –9, –14, –20, –24; 1975–3.
212.111	1974: 23, –24, 1975: –3, –9; 1976: –5, –7; 1978–3.	1974–20.
212.111(c)(2)	1978–18	
212.112	1976–3	
212.126	1975–11	

Appendix D.—*Regulation Index for Interpretations and Rulings Issued Through Mar. 31, 1979**—Continued

Regulation interpreted	Interpretations	Rulings
212.129	1976–9	
212.131	1977: –33, –52	
212.131(a)(2)	1978–12	
212.161	1976–2; 1978: –61, –63; 1979–3	
212.161(b)(2)	1978–29	
212.162	1977–3; 1978: –3, –27, –33, –35, –37, –41, –61, –62, –63.	
212.163	1978: –32, –61, –63	
212.163(a)	1976–5; 1977–3	
212.164	1978: –29, –61, –653	
212.164(a)	1976–5	
212.165	1978–16	
212.166	1978–61	1975–18.
212.166(b)(3)	1978: –27, –37, –41, –62	
212.167(b)	1978: –16, –34; 1979–2	
212.168	1978–34; 1979–3	
212.169	1978–32	
212.170	1978–16	
212.182	1978–25	
212.188	1978–25	
212.95	1978–50	
212.3	1975–25	
212.5	1975–25	
10 CFR Part 430	1978–26	

* Regulations listed as cited in interpretations and rulings. No attempt has been made to change citations to reflect those relatively few cases in which regulations have been renumbered.

Appendix E.—*Rulings Construed by Interpretations Issued Through Mar. 31, 1979*

Rulings	Interpretations
1974–3	1975: 61, –62; 1976–25.
1974–4	1975–18.
1974–10	1974–16.
1974–11	1976–15.
1974–15	1975–39.
1974–17	1975–66.
1974–18	1975: –6, 66; 1978–20.
1974–19	1974–15; 1975: –52, –56.
1974–20	1974–24.
1974–22	1977–7.
1974–24	1974–28.
1974–29	1975: –41, –43.
1975–1	1975–74; 1977: –4, –51.
1975–2	1975: –22, –47, –63, –66; 1976: –1, –7, –20.
1975–4	1977–11; 1978–7.
1975–6	1979–2.
1975–8	1975: –33, –60, –67, –70, –71, –72; 1978–23; 1977: –17, –27, –39, –40.
1975–9	1975–74, 1977: –4, –51.
1975–1–	1977: –4, –51.
1975–11	1977–11; 1978–7.
1975–12	1975: –41, –43; 1977–48.
1975–14	1976–8.
1975–15	1975–42; 1978; –6, –9, –15; 1979–1.
1975–18	1978–62.
1977–1	1977: –1, –26, –37, –43; 1978–15; 1979–1.
1977–2	1978: –6, –15.
1977–5	1978–19.

Appendix F.—*Statutes Construed by Interpretations and Rulings Issued Through Mar. 31, 1979*

Statutes	Interpretations	Rulings
Economic Stabilization Act of 1970, as amended	17[975–12; 1976–24	
Energy Policy and Conservation Act of 1975, as amended.	1977: –7, –12, –22, –26, –38, –42; 1978–26	
Energy Supply and Environmental Coordination Act of 1974.		1975–5.
Emergency Petroleum Allocation Act of 1973, as amended.	1974: –6, –13, –22, –26, –27; 1975: –1, –5, –8, –12, –15, –56, –66; 1976: –4, –6, –12, –20, –21, –22, –23, –24; 1977: –3, –5, –7, –11, –28, –42; 1978: –1, –4, –51, –54.	1974: –3, –26; 1975–17; 1976–4; 1977–1.
Federal Energy Administration Act of 1974	1974–13	
Federal Energy Administration Act of 1974	1974–13	
Freedom of Information Act		1975–5.
Naval Petroleum Reserves Production Act of 1978.		1976–3.
Trans-Alaska Pipeline Authorization Act		1975–12; 1977–1.

[FR Doc 79–16160 Filed 4–18–79; 4:02 pm]

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Proposed Rules

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Proposed Rules

Federal Register
Vol. 44, No. 101
Wednesday, May 23, 1979

This section of the FEDERAL REGISTER contains notices to the public of the proposed issuance of rules and regulations. The purpose of these notices is to give interested persons an opportunity to participate in the rule making prior to the adoption of the final rules.

DEPARTMENT OF AGRICULTURE

Agricultural Marketing Service

[7 CFR Part 923]

Sweet Cherries Grown in Designated Counties in Washington; Proposed Grade, Size, and Container Requirements

AGENCY: Agricultural Marketing Service, USDA.

ACTION: Proposed rule.

SUMMARY: This notice proposes minimum grade, size, the container requirements applicable to sweet cherries, other than Rainier, Royal Anne and other light sweet cherries, grown in designated counties in the State of Washington. The requirements are designed to provide orderly marketing in the interest of producers and consumers.

DATES: Written comments must be received on or before June 13, 1979. Proposed effective dates: July 1, 1979, through June 30, 1980.

ADDRESSES: Send two copies of comments to the Hearing Clerk, United States Department of Agriculture, Room 1077, South Building, Washington, D.C. 20250, where they will be made available for public inspection during regular business hours (7 CFR 1.27(b)).

FOR FURTHER INFORMATION CONTACT: Malvin E. McGaha, 202–557–5975.

SUPPLEMENTARY INFORMATION: *Findings.* This notice of proposed regulation is issued under the marketing agreement and Order No. 923 (7 CFR Part 923), regulating the handling of sweet cherries grown in designated counties in Washington. The agreement and order are effective under the Agricultural Marketing Agreement Act of 1937, as amended (7 U.S.C. 601–674). The action is based upon the recommendations and information submitted by the Washington Cherry Marketing Committee, and upon other information. This proposed regulation has not been determined significant under the USDA criteria for implementing Executive Order 12044.

This proposed regulation is based upon an appraisal of the current and prospective market conditions for Washington sweet cherries. The committee estimates that 39,000 tons of sweet cherries will be available for fresh shipment during the 1979 season compared to actual shipment of 36,357 tons last season. The proposed regulation would become effective July 1, 1979, and the requirements are the same as currently in effect through June 30, 1979, under Cherry Regulation 17 (43 FR 21867, 28997).

Under the proposal, shipment of cherries, except those of the Rainier, Royal Anne and similar varieties commonly referred to as "light sweet cherries", would be required to grade Washington No. 1, except for a small increase in the tolerance for defects. The cherries would also be required to be $^{48}/_{64}$ inch in diameter or larger in all containers, except for those in face-packed containers, 20-pound containers or larger, or experimental containers, for which the minimum size would be $^{54}/_{64}$ inch. The proposed container requirements would specify the minimum amount of cherries, by weight, required in the various types of containers. Individual shipments of cherries up to 100 pounds sold for home use and not for resale would be exempted from the grade, size, and container requirements, if certain conditions are met to prevent their movement into commercial markets.

The proposed grade and size requirements are designed to ensure the shipment of ample supplies of cherries of the better grades and more desirable sizes in the interest of producers and consumers. Orderly marketing conditions would be maintained by preventing the demoralizing effect on the market caused by the shipment of lower quality and smaller-sized cherries when more than ample supplies of the more desirable grades and sizes are available to serve consumers' needs. The proposed container requirements are designed to prevent deceptive packaging practices and to promote buyer confidence.

Such proposal reads as follows:

§ 923.318 Cherry Regulation 18.

Order. (a) *Grade and sizes.* During the period July 1, 1979, throught June 30, 1980, no handler, except as otherwise provided in paragraphs (b) and (c) of this section, any lot of cherries, except cherries of the Rainier, Royal Anne and similar varieties commonly referred to as "light sweet cherries", unless such cherries meet each of the following applicable requirements:

(1) Washington No. 1 grade except that the following tolerances, by count, of the cherries in the lot shall apply in lieu of the tolerances for defects provided in the Washington State Standards for Grades of Sweet Cherries:

(i) A total of 10 percent for defects including in this amount not more than 5 percent, by count, of the cherries in the lot, for serious damage, and including in this latter amount not more than one percent, by count, of the cherries in the lot, for cherries affected by decay: *Provided,* That the contents of individual packages in the lot are not limited as to the percentage of defects by the total of the defects of the entire lot shall be within the tolerances specified.

(2) At least 95 percent, by count, of the cherries in the lot shall measure not less than $^{48}/_{64}$ inch in diameter, except as hereinafter provided in paragraph (b)(2)(ii) and subparagraph (3) of this paragraph.

(3) At least 90 percent, by count, of the cherries in any lot of face-packed containers or any containers of 20 pounds, net weight, or more shall measure not less than $^{54}/_{64}$ inch in diameter and not more than 5 percent, by count, of such cherries may be less than $^{48}/_{64}$ inch in diameter.

(b) *Containers.* During the period July 1, 1979, through June 30, 1980, no handler shall handle any lot of cherries, except cherries of the Rainer, Royal Anne, and similar varieties commonly referred to as "light sweet cherries", unless such cherries are in containers which meet each of the following applicable requirements:

(1) The net weight of the cherries in any container having a capacity greater than that of a container with inside dimensions of 15⅛ by 10½ by 4 inches shall not be less than 20 pounds; and all containers of cherries shall contain at least 12 pounds, net weight, of cherries.

(2) Subject to the provisions of subdivisions (i) and (ii) of this subparagraph shipments of cherries may be handled in such experimental

containers as have been approved by the Washington Cherry Marketing Committee:

(i) All shipments handled in such containers shall be under the supervision of the committee; and

(ii) At least 90 percent, by count, of the cherries in any lot of such containers shall measure not less than $^{54}/_{64}$ inch in diameter, and not more than 5 percent, by count, of such cherries may be less than $^{48}/_{64}$ inch in diameter.

(c) *Exceptions.* Nothwithstanding any other provisions of this section, any individual shipment of cherries which meets each of the following requirements may be handled without regard to the provisions of paragraphs (a) and (b) of this section, and of §§ 923.41 and 923.55:

(1) The shipment consists of cherries sold for home use and not for resale;

(2) The shipment does not, in the aggregate, exceed 100 pounds, net weight, of cherries; and

(3) Each container is stamped or marked with the words "not for resale" in letters at least one-half inch in height.

(d) *Definitions.* When used herein, "Washington No. 1" and "diameter" shall have the same meaning as when used in the Washington State Standards for Grades of Sweet Cherries (Order 1550 effective April 29, 1978, WAC 16–414–050); "face-packed" means that cherries in the top layer in any container are so placed that the stem ends are pointing downward toward the bottom of the container; and all other terms shall have the same meaning as when used in the amended marketing agreement and order.

Dated: May 18, 1979.

D. S. Kuryloski,

Acting Deputy Director, Fruit and Vegetable Division, Agricultural Marketing Service.

[FR Doc. 79-16197 Filed 5-22-79; 8:45 am]

BILLING CODE 3410-02-M

Commodity Credit Corporation

[7 CFR Part 1464]

Tobacco Loan Program; Proposed 1979 Corp Grade Loan Rates—Flue-Cured Tobacco

AGENCY: Commodity Credit Corporation, USDA.

ACTION: Proposed Rule.

SUMMARY: This proposal would establish the loan rates to be applied to the various grades of 1979-crop flue-cured tobacco so as to provide the level of price support required by the Agricultural Act of 1949, as amended. Eligible flue-cured tobacco could be delivered for price support at the specified rates.

DATES: Written comments must be received by June 22, 1979, in order to be sure of consideration.

ADDRESS: Send comments to Director, Price Support and Loan Division, ASCS, P.O. Box 2415, Washington, D.C. 20013.

FOR FURTHER INFORMATION CONTACT: R.L. Tarczy, (202) 446–7601.

SUPPLEMENTARY INFORMATION: Section 106 of the Agricultural Act of 1949 as amended ("the Act"), requires that the 1979 crop of flue-cured tobacco be supported at the level of 129.3 cents per pound. It is expected that price support will be provided through loans to a producers' cooperative marketing association which would receive eligible tobacco from producers and make price support advances to the producers, through auction warehouses, for the tobacco received as collateral. Price support advances would be based on the proposed loan rates for each grade, which would average the required level of support when weighted by the anticipated grade percentages, in accordance with section 403 of the Act. Price support advances to producers would be the amounts determined by multiplying the pounds of each grade received by the applicable loan rate for that grade less 1 cent per pound, which the producers' association is authorized to deduct and apply against its overhead costs.

The proposed rates, calculated to provide the level of support of 129.3 cents per pound as determined under Section 106 of the Act, are set below.

Proposed Rule

Accordingly, it is proposed that 7 CFR Part 1464 be amended by revising § 1464.16 to read as follows effective for the 1979 crop of flue-cured tobacco, types 11-14.

§ 1464.16 1979 crop Flue-cured tobacco, types 11–14, loan schedule.

[Dollars per hundred pound, farm sales weight]

Grade	Loan rate	Grade	Loan rate	Grade	Loan rate
A1F	167	B3KL	136	H1F	159
A1L	167	B4KL	132	H2F	155
		B5KL	126	H3F	152
B1L	157	B6KL	118	H4F	149
B2L	153			H5F	140
B3L	150	B3KF	136	H6F	138
B4L	146	B4KF	132		
B5L	140	B5KF	126	H4FR	146
B6L	134	B6KF	118	H5FR	140
B1F	157	B3KM	139		
B2F	153	B4KM	136	H4K	140
B3F	150	B5KM	131	H5K	135
B4F	146	B6KM	126	H6K	129
B5L	140				
B6L	134	B3KR	142	C1L	158
		B4KR	138	C2L	155
B1FR	155	B5KR	132	C3L	152
B2FR	151			C4L	148
B3FR	148	B4KV	127	C5L	143
B4FR	145	B5KV	121		
B5FR	139	B6KV	114	C1F	158
B6FR	133			C2F	155
		B4G	125	C3F	152
B4R	133	B5G	120	C4F	148
B5R	124	B6G	113	C5F	143
B3K	144	B5GR	105	C4V	137
B4K	140			C4S	135
B5K	133	B4GK	120		
B6K	126	B5GK	116	C4KL	134
		B6GK	110	C4KM	136
B3V	139			C4KR	140
B4V	134	B5GG	105		
B5V	129			C4G	127
		H3L	152	C4GK	124
B3S	136	H4L	149		
B4S	132	H5L	143		
B5S	125	H6L	138		
X1L	153	X3KM	130	M4KM	115
X2L	149	X4KM	124	M5KM	110
X3L	144				
X4L	134	X4G	116	M4GK	110
X5L	124	X5G	110	M5GK	103
		X4GK	113		
X1F	153			N1L	81
X2F	149	P2L	112	N1XL	94
X3F	144	P3L	105	N1K	101
X4F	134	P4L	96	N1R	91
X5F	124	P5L	88	N1GL	75
X3V	134	P2F	112	N1GF	92
X4V	128	P3F	105	N1GR	87
		P4F	96	N1KV	91
X3S	132	P5F	88	N1GG	84
X4KL	123	P4G	86	N1RO	84
X4KF	123	P5G	79	N1XO	82
				N1PO	70
X4KV	116	M4F	124		
X3KR	136	M5F	119		
X4KR	131	M4KR	117		

[1] The loan rates listed are applicable to bid and untied flue-cured tobacco which is (1) eligible tobacco as defined in the regulations and (2) identified by a marketing card which does not bear the notation "Discount Variety—Limited Support." Rates for eligible tobacco identified by a marketing card, which bears the notation "Discount Variety—Limited Support," are 50 percent of the loan rates listed plus fifty cents ($0.50) per hundred pounds. Any grade to which the special factor "sand" or "dirt" is added (denoting a moderate amount of sand or dirt in excess of normal) may be accepted at 90 percent, rounded to the nearest dollar, of the loan rate listed. Tobacco graded "W" (doubtful keeping order), "U" (unsound), "N2", "No-G", "No-G-F", "No G-F-sand", "No G-F-dirt", or "scrap" will not be accepted. Tobacco is eligible for advance only if consigned by the original producer. The cooperative association through which advances are made available is authorized to deduct 1 cent per pound to apply against overhead costs.

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Prior to making any determination, the Department will give consideration to comments, views and recommendations submitted in writing to the Director, Price Support and Loan Division.

All written submission will be made available for public inspection from 8:15 a.m. to 4:45 p.m. Monday through Friday in Room 3741-South Building, USDA, 14th and Independence Avenue, SW, Washington, D.C. 20013.

The Department's procedures for implementing Executive Order 12044 [43 FR 12661, Mar. 24, 1978] require at least a 60-day public comment period for all regulations except where an emergency exists which necessitaties a shorter comment period. Because the grade loan rates for the 1970–80 marketing year for flue-cured tobacco must be announced prior to the markets opening in early July, I have determined that compliance with the 60-day comment period is impossible. Accordingly, comments must be received by June 22, 1979, in order to be assured of consideration.

NOTE.—This proposal has been determined not significant under the USDA criteria implementing Executive Order 12044.

NOTE.—A draft Impact Analysis is available from Jerome Sitter, Director, Price Support and Loan Division, Room 3741-South Building, P.O. Box 2415, Washington, D.C. 20013.

Signed at Washington, D.C. on May 18, 1979.

Ray Fitzgerald,

Executive Vice President, Commodity Credit Corporation.

[FR Doc. 79-16178 Filed 5-22-79; 8:45 am]

BILLING CODE 3410-05-M

SECURITIES AND EXCHANGE COMMISSION

[17 CFR Part 249]

[Release Nos. 34-15829; File No. S7-780]

Relief for Certain Wholly Owned Subsidiaries From Portions of Annual and Quarterly Reports Required Under the Securities Exchange Act of 1934

AGENCY: Securities and Exchange Commission

ACTION: Proposed amendments to forms.

SUMMARY: The Commission proposes amendments to allow relief from portions of the reporting requirements of annual and quarterly reports filed with the Commission by an issuer whose equity securities are owned by a single person which is a reporting company under the Securities and Exchange Act of 1934 ("Exchange Act"). In connection with applications for exemption from reporting requirements under section 12(h) of the Exchange Act, the Commission has noted that a number of wholly-owned subsidiaries with debt securities outstanding seek relief from the full reporting requirements imposed under section 12(b) or 15(d) of the Exchange Act. Consequently, in an effort to more precisely tailor the reporting requirements to these particular companies and to the needs of their investors, the Commission is inviting comments on proposed amendments to Form 10–K and to Form 10–Q.

DATE: Comments must be received on or before June 30, 1979.

ADDRESS: Comments should refer to File No. S7–780 and should be submitted in triplicate to George A. Fitzsimmons, Secretary, Securities and Exchange Commission, 500 North Capitol Street, Washington, D.C. 20549.

FOR FURTHER INFORMATION CONTACT: Paul A. Belvin or Douglas S. Perry (202) 755–1750, Office of Disclosure Policy and Proceedings, Division of Corporation Finance, Securities and Exchange Commission, 500 North Capitol Street, Washington, D.C. 20549.

SUPPLEMENTARY INFORMATION: The Securities and Exchange Commission is publishing for comment proposed amendments to the General Instructions to Form 10–K and to the General Instructions to Form 10–Q under the Securities Exchange Act of 1934 (the "Exchange Act") (15 U.S.C. 78a et seq., as amended by Pub. L. No. 94–29 (June 4, 1975)), Form 10–K is used for annual reports to the Commission pursuant to section 13 or 15(d) of the Exchange Act where no other report is prescribed. Form 10–Q is used for quarterly reports to the Commission under section 13 or 15(d) of the Exchange Act, filed pursuant to Rule 13a–13 or Rule 15d–13.

If adopted, these proposals would allow omission of certain disclosure items in Form 10–Q reports and both omission of and revisions to various disclosure items in Form 10—K reports filed by an issuer whose equity securities are owned by a single parent which is a reporting company under the Exchange Act.

Background and Discussion

In connection with applications for exemption from reporting requirements under section 12(h) of the Exchange Act, the Commission has noted that a number of wholly-owned subsidiaries with debt securities outstanding seek relief from the full reporting requirments imposed under section 12(b) or 15(d) of the Exchange Act. Although the Commission is concerned with maintaining adequate public information regarding those wholly-owned subsidiaries who incur the reporting obligations of the Exchange Act, it appears that some of the item requirements of Form 10–K and Form 10–Q are not necessary in the public interest or the protection of investors.

In an effort to more precisely tailor the reporting requirements to these particular companies and to the needs of their investors, the Commission is inviting comments on proposed amendments to Form 10–K and Form 10–Q. In proposing the amendments to Form 10–Q and Form 10–K, the Commission has attempted to islolate that information about a wholly-owned subsidiary of a reporting company which is either inapplicable to a company with only debt securities outstanding or is immaterial to debtholders generally, or which would appear in the notes to the financial statements of the subsidiary. In an effort to insure that adequate anf complete information is available concerning debt issures, the Commission is interested in receiving comments not only regarding the substance of specific proposals, but also regarding possible criteria for conditioning the availablility of such relief to wholly-owned subsidiaries of reporting companies. Specifically, should the subject relief be conditioned on a requirement that both the wholly owned subsidiary and its reporting parent meet the following financial responsibility tests, as set forth in Form S–7:

(1) The registrant and its subsidiaries have not during the past thirty-six calendar months defaulted in the payment of any dividend or similar fund installment on preferred stock, or installment on any indebtedness for borrowed money, or in the payment or rentals uder long term leases; and
(2) The registrant and its consolidated subsidiaries [have] a net income, after taxes, but before extraordinary items and cumulative effect of a change in accounting principle net of tax effect, of at least $250,000 for three of the last four fiscal years, including the most recent fiscal years.

The Commission is also interested in suggestions for other tests regarding matters such as earnings or assets on which it would be appropriate to condition the subject relief for wholly-owned subsidiaries.

Form 10–Q

The proposed revisions to Form 10–Q would delete the following items of Part II or Form 10–Q as to a wholly-owned subsidiary whose parent is a reporting company: Item 5, Increase in Amount Outstanding of Securities or Indebtedness; Item 6, Decrease is Outstanding of Securities or Indebtedness; and Item 7, Submission of Matters to a Vote of Security Holders.

Form 10–K

The first of the proposed revisions to Form 10–K would provide that wholly-owned subsidiary of a reporting company may omit certain otherwise required information if certain specified information is provided. The information to be provided is as follows:

(1) An indication of the number of holders of record of each class of securities of the registrant subject to the reporting provisions of Section 13 or 15(d) of the Exchange Act; and

(2) A management's narrative analysis of the results of operations explaining the reasons for material changes in the amount of revenue and expense items between the most recent fiscal year presented and the fiscal year immediately preceding it. Explanations of material changes should include, but not be limited to, changes in the various elements which determine revenue and expense levels such as unit sales volume, prices charged and paid, production levels, production costs variances, labor costs and discretionary spending programs. In addition, the analysis should include an explanation of the effect of any changes in accounting principles and practices or in the method of their application that have a material effect on net income as reported.

The information called for by the following items otherwise required by the form may them be omitted: Item 2, Summary of Operations; [1] Item 4, Parents and Subsidiaries; Item 6, Increases and Decreases in Outstanding Indebtedness; Item 9, Approximate Number of Equity Security Holders; Item 10, Submission of Matters to a Vote of Security Holders; Item 11, Indemnification of Directors and Officers; Item 13, Security Ownership of Certain Beneficial Owners and Management; and Item 14, Directors and Executive Officers of the Registrant.

By waiving the Form 10–K Item 2 requirement to furnish a summary of operations, the management discussion and analysis required by Guide 22 also would be waived. Consequently, a management's discussion similar to that requested in Form 10–Q has been inserted in lieu thereof. The Commission specifically invites comments as to whether or not substitution of the proposed management discussion for the Guide 22 management discussion would be beneficial to such registrants and consistent with the public interest and protection of investors.

[1] It should be noted that omission of Item 2, Summary of Operations, does not affect the financial statements requirement of Item 12.

During the processing of certain applications under section 12(h), suggestions have been made to the Commission that a wholly-owned subsidiary of a reporting company should also be allowed flexibility with respect to the descriptions called for by Form 10–K Item 1, Business, and by Form 10–K Item 3, Properties. The Commission is aware that there are a number of reporting companies which are wholly-owned subsidiaries of another reporting company; furthermore, the Commission is aware that many of these companies may feel that the Description of Business and Description of Properties items require disclosure beyond what is reasonable for wholly-owned subsidiary. The Commission, therefore, is inviting comments on an additional revision to Form 10–K which would specify that for Item 1, Business, an issuer which is a wholly-owned subsidiary of a reporting company need only furnish a brief description of the business done by the issuer and its subsidiaries during the most recent fiscal year which will, in the opinion of management, indicate the general nature and scope of the business of the issuer and its subsidiaries, and, for Item 3, Properties, such issuer need only furnish a brief description of the material properties of the issuer and its subsidiaries to the extent, in the opinion of management, necessary to an understanding of the business done by the issuer and its subsidiaries. The Commission specifically invites comments on whether these revisions to Item 1, Business, and Item 3, Properties, apart from the other proposed revisions to Form 10–K, would relieve such registrants of reporting burdens consistent with the public interest and protection of investors.

The Commission notes that this revision to Form 10–K would not expressly require disclosure of any of the matters specifically enumerated in Form 10–K Items 1 and 3, such as the five year segment discussion required in Item 1 and the oil and gas reserve information required in Item 3 for those subsidiaries with significant oil and gas operations; consequently, the Commission specifically invites comments on the appropriateness of this approach as to wholly-owned subsidiaries.

The Commission also specifically invites comments as to the appropriateness and need for retaining Form 10–Q Item 4 and Form 10–K Item 8—both dealing with Defaults Upon Senior Securities—as narrative-disclosure requirements for the subject wholly-owned subsidiaries. Although such default information also is required in the Form 10–Q by Instruction 4(a)(3) therein and in the Form 10–K in the notes to the financial statements, the Commission is concerned that omitting the specific narrative-disclosure Items might cause confusion and be misleading as to the required response to financial statement instructions.

Proposed Amendments

It is proposed to amend 17 CFR Chapter II as follows:

1. Section 249.308a is proposed to be amended by amending the General Instructions as follows:

§ 249.308a Form 10–Q, for quarterly reports under section 13 or 15(d) of the Securities Exchange Act of 1934.

General Instructions

* * * * *

G. *Omission of Information by Certain Wholly-Owned Subsidiaries.* If, at the time of filing its report on Form 10–Q, all of the issuer's equity securities are owned by a single person which is a reporting company under the Act and has filed all the material required to be filed pursuant to section 13, 14 or 15(d) thereof, as applicable, then the information called for in the following Part II items may be omitted: Item 5, Increase in Amount Outstanding of Securities or Indebtedness; Item 6, Decrease in Amount Outstanding of Securities or Indebtedness; and Item 7, Submission of Matters to a Vote of Security Holders.

* * * * *

2. Section 249.310 is proposed to be amended by amending the General Instructions as follows:

§ 249.310 Form 10–K, annual report pursuant to section 13 or 15(d) of the Securities Exchange Act of 1934.

* * * * *

K. *Omission of Information by Certain Wholly-Owned Subsidiaries.* If, at the time of filing its report on Form 10–K, all of the issuer's equity securities are owned by a single person which is a reporting company under the Act and has filed all the material required to be filed pursuant to section 13, 14 or 15(d) thereof, as applicable, such issuer may omit certain otherwise required items hereunder if certain specified information is provided. The information to be provided is as follows:

(1) An indication of the number of holders of record of each class of securities of the registrant subject to the reporting provisions of section 13 or 15(d) of the Act; and

(2) A management's narrative analysis of the results of operations explaining the reasons for material changes in the amount of revenue and expense items between the most

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recent fiscal year presented and the fiscal year immediately preceding it. Explanations of material changes should include, but not be limited to, changes in the various elements which determine revenue and expense levels such as unit sales, volume, prices charged and paid, production levels, production cost variances, labor costs and discretionary spending programs. In addition, the analysis should include an explanation of the effect of any changes in accounting principles and practices or in the method of their application that have a material effect on net income as reported.

The information called for by the following otherwise required items may then be omitted: Item 2, Summary of Operations; Item 4, Parents and Subsidiaries; Item 6, Increases and Decreases in Outstanding Securities and Indebtedness; Item 9, Approximate Number of Equite Security Holders; Item 10, Submission of Matters to a Vote of Security Holders; Item 11, Indemnification of Directors and Officers; Item 13, Security Ownership of Certain Beneficial Owners and Management; and Item 14, Directors and Executive Officers of the Registrant. The issuer shall include the name of its parent in connection with the description of its business.

In response to Item 1, Business, such issuer need furnish only a brief description of the business done by the issuer and its subsidiaries during the most recent fiscal year which will, in the opinion of management, indicate the general nature and scope of the business of the issuer and its subsidiaries, and in response to Item 3, Properties, such issuer need furnish only a brief description of the material properties of the issuer and its subsidiaries to the extent, in the opinion of management, necessary to an understanding of the businesss done by the issuer and its subsidiaries.

* * * * *

(Secs. 13, 15(d), 23(a), 48 Stat. 894, 895, 901; sec. 203(a), 49 Stat. 704; secs. 3, 8, 49 Stat. 1377, 1379; Secs. 4, 6, 78 Stat. 569, 570–574; sec. 2, 82 Stat. 454; secs. 1, 2, 84 Stat. 1497; secs. 10, 18, 89 Stat. 119, 155; sec. 308(b), 90 Stat. 57; secs. 202, 203, 204, 91 Stat. 1494, 1498, 1499, 1500; 15 U.S.C. 78m, 78o(d), 78w(a))

Statutory authority:

The amendments to Form 10–K and to Form 10-Q are proposed pursuant to sections 13, 15(d) and 23 (a) of the Exchange Act.

In light of section 23(a)(2) of the Exchange Act, the Commission specifically invites comments as to any competitive impact of any changes in the disclosure requirement.

By the Commission.

Shirley E. Hollis,

Assistant Secretary.

May 16, 1979.

[FR Doc. 79-16196 Filed 5-22-79; 8:45 am]

BILLING CODE 8010-01-M

[17 CFR Part 270]

[Release No. IC-10698, File No. S7-781]

Exemption of Transactions by Investment Companies With Certain Affiliated Persons

AGENCY: Securities and Exchange Commission.

ACTION: Proposed rulemaking.

SUMMARY: The Commission is requesting public comment on an amendment to a rule under the Investment Company Act of 1940 to permit, provided that specified safeguards are satisfied, certain transactions between an investment company and a company 5% or more of whose outstanding voting securities is owned by that investment company, but which is not controlled by the investment company. Absent this amendment, such a transaction could be effected only upon an exemptive order granted by the Commission on a case-by-case basis.

DATE: Comments must be received by July 2, 1979.

ADDRESSES: Send comments in triplicate to George A. Fitzsimmons, Secretary, Securities and Exchange Commission, Washington, D.C. 20549. (Refer to File No. S7–781.) All comments received will be available for public inspection and copying in the Commission, Public Reference Room, 1100 L Street, N.W., Washington, D.C. 20549.

FOR FURTHER INFORMATION CONTACT: Cathy G. Douglas, Esq., Investment Company Act Study Group, Division of Investment Management, Securities and Exchange Commission, 500 N. Capitol Street, Washington, D.C. 20549, (202) 755–6972.

SUPPLEMENTARY INFORMATION: The Commission today proposed for public comment an amendment to rule 17a-6 [17 CFR 270.17a-6] under the Investment Company Act of 1940 [15 U.S.C. 80 a-1 et seq.]. The proposed amendment was development by the Division of Investment Management's Investment Company Act Study Group in the context of its re-examination of the regulation of investment companies.

A. Background

Section 17(a) of the Act [15 U.S.C. 80a-17(a)] makes it unlawful for an affiliated person of an investment company or any affiliated person of such person acting as a principal knowingly to sell to or to buy from that investment company (or any affiliated person thereof) any security or other property or to borrow money or other property from the investment company.[1] The term "affiliated person" is defined in section 2(a)(3)(C) of the Act [15 U.S.C. 80a-2(a)(3)(C)] to include any person directly of indirectly controlling such other person.[2] Therefore, a corporation which is controlled by an investment company is an affiliated person of that investment company—commonly called a controlled portfolio affiliate—for purposes of the prohibitions of section 17(a) of the Act. Moreover, the term "affiliated person" also is defined by section 2(a)(3)(B) of the Act [15 U.S.C. 80 a-2(a)(3)(B)] to mean any peson 5% or more of whose outstanding voting securities are directly of indirectly owned, controlled, or held with power to vote, by such other person. Therefore, a corporation 5% or more of whose outstanding voting securities is owned by an investment company, even though not controlled by the investment company, also is an affiliated person of that investment company—commonly called a non-controlled portfolio affiliate—for purpose of the prohibitions of section 17(a) of the Act.

Section 17(b) of the Act [15 U.S.C. 80a–17(b)] authorizes the Commission to exempt proposed transactions from the prohibitions of section 17(a) where it finds, in part, that the terms of the transaction are fair and reasonable and do not involve overreaching on the part of any person involved. This statutory requirement for exempting particular proposed transactions has been read to mean that the Commission—in addition to finding that the proposed transaction is fair and reasonable and involves no overreaching of the investment company—must find that there is no overreaching of the portfolio affiliate by the investment company or by any other person involved in the proposed transaction.[3] However, the legislative history of section 17(a) regarding the persons intended to be protected by that provision may not be free from doubt with respect to Congressional intent.[4] Additionally, Congress' fundamental findings and declaration of policy upon which the Act was legislated do not refer explicitly to any legislative concern regarding investors of portfolio affiliates.[5]

Moreover, control of industrial corporations generally has not been a corporate purpose of investment companies.[6] This is particularly true of open-end investment companies, which presently represent the majority of registered investment companies.[7]

The Commission, pursuant to its rulemaking authority, has exempted certain investment company transactions involving portfolio affiliates from section 17(a) of the Act. Rule 17a–6 [17 CFR 270.17a–6] was promulgated by the Commission in 1961 to provide small business investment companies licensed by the United States Small Business Administration with an exemption from section 17(a)(1) and section 17(a)(3) for certain transactions with portfolio affiliates.[8] Rule 17a–6 was amended by the Commission in 1964 to provide an exemption from section 17(a) to additional persons and transactions.[9] The basic purpose of the amendment, like the original rule, was "to eliminate filing and processing applications in circumstances in which there appears to be no likelihood that the statutory finding for a specific exemption under section 17(b) could not be made."[10] As presently constituted, rule 17a–6 provides exemptions from the provisions of section 17(a) of the Act to two classes of transactions.

Paragraph (a) of rule 17a–6 generally provides such an exemption to certain

[1] Among proposed transactions involving portfolio affiliates which have been the subject of applications for exemption from the prohibitions of section 17(a) are: the conversion of preferred stock into common, Axe-Houghton Fund A, Inc., Investment Company Act Release No. 5150 (Oct. 30, 1967); the exchange of new warrants for old, Value Line Special Situations Fund, Investment Company Act Release No. 6621 (July 15, 1971); the amendment of a loan agreement effecting the subordination of certain debentures, Greater Washington Industrial Investments, Inc., Investment Company Act Release No. 3759 (Aug. 29, 1963); and the sale of patents and licenses, E.I. duPont De Nemours & Co., Investment Company Act Release No. 6526 (May 17, 1971). In American Bakeries Company, Investment Company Act Release No. 9924 (Sept. 13, 1977), 13 SEC Docket 88, the Commission granted retroactive exemption from the prohibitions of section 17(a) for a transaction in which a portfolio affiliate reacquired certain of its shares from an investment company. Although the parties agreed that the terms were fair and reasonable and that there was no overreaching by either side, the investment company had sought to have the transaction rescinded after the shares experienced a substantial price increase.

[2] The term "control" is defined in section 2(a)(9) of the Act [15 U.S.C. 80 a-2(a)(9)] to mean the power to exercise a controlling influence over the management or policies of a company, unless such power is solely the result of an official position with such company. That section contains a rebuttable presumption that beneficial ownership of more than 25 percent of the voting securities of a company is contol. However, no person may rely on the presumption that less than 25 percent ownership is not control when, in fact, a control relationship exists under all the facts and circumstances. Fundamental Investors, Inc., 41 SEC 285, 292–5 (1962).

[3] In a number of its decisions the Commission has made such a finding in addition to finding that no person in overreaching the investment company. See, e.g., Talley Industries, Inc., 44 SEC 165 (1970); Fifth Avenue Coach Lines, Inc., 43 SEC 635 (1967); Century Investors, Inc., 40 SEC 319 (1960); Madison Fund, Inc., 40 SEC 143 (1960); and Equity Corp., 40 SEC 124 (1960).

[4] In the Commission's testimony preceding the enactment of that legislation, only one reference was made to transactions with portfolio affiliates. During the Senate hearings on S. 3580, the first bill introduced to regulate investment companies, David Schenker of the Commission's staff discussed this matter with Senator Taft. Both agreed that any publicity regarding an investment company's overreaching a portfolio affiliate would result in legal actions under state corporate law; but Mr. Schenker argued the need for an agency to publicize such transactions. See, Hearings on S. 3580 Before a Subcomm. of the Comm. on Banking and Currency, 76th Cong., 3d Sess. 257–59 (1940). Nonetheless, earlier in that testimony Mr. Schenker had described section 17 to be directed exclusively to regulating transactions involving persons acting as fiduciaries in respect to an investment trust—

The only thing this section says is that a person who is an officer, a director, a manager, or underwriter, shall not as principal sell any property to the investment trust. And that is obvious, because [that is] where he is attempting to sit on both sides of a transaction, where he has a personal pecuniary interest as a seller and is acting in a fiduciary capacity with respect to the investment trust." " " Id. at 256.

In his subsequent testimony regarding section 17(a), including during testimony on the compromise bills which were enacted as the Act, S. 4108 and the comparable H.R. 10065, Mr. Schenker did not express any additional concerns regarding the appropriateness of encompassing transactions involving portfolio affiliates in section 17.

At the time Mr. Schenker testified on S. 3580, section 17(a) of S. 3580 included as section 17(a)(4) prohibitions against certain joint transactions which were subsequently removed and enacted as section 17(d) of the Act [15 U.S.C. 80a–17(d)]. Significantly, the prohibitions which were enacted as section 17(d) are concerned only that an investment company and controlled companies thereof would be disadvantaged in participating in a proposed joint transaction with affiliated or certain other persons. Thus, assuming Mr. Schenker's initial testimony suggested that section 17(a) of the Act was intended to protect the broadest spectrum of persons, the removal of certain of its prohibitions respecting joint transactions to section 17(d) significantly diminished the investor protections actually provided by the Act for the shareholders of portfolio affiliates without legislative explanation. See, SEC v. Talley Industries, Inc. 399 F.2d 396, 405 (2d Cir. 1968), *cert. denied*, 393 U.S. 1015 (1969), *order of injunction aff'd. sub nom.* SEC v. General Time Corp., 407 F.2d 65 (2d Cir. 1968), *cert. denied*, 393 U.S. 1028 (1969). Because of this difference in the scope of persons intended to be protected by sections 17(a) and (d), rule 17d–1(d)(5) thereunder does not contain any investor protections specifically directed to investors of downstream affiliates.

Finally, it also should be noted that, in discussing the scope and protections afforded by the Act, neither the legislative reports accompanying the bills enacted as the Act nor the speeches by the Act's floor managers in Congress refer to any concern for protecting shareholders of companies which are portfolio affiliates of investment companies. See, S. Rep. No. 1775, 76th Cong., 3d Sess. 6–8, 14 (1940); H.R. Rep. No. 2639, 76th Cong., 3d Sess. 7–10, 17 (1940); 86 Cong. Rec. 9810 (1940); and 86 Cong. Rec. 2844, 2846 (1940).

[5] Although Congress found in section 1(a)(3) of the Act [15 U.S.C. 80a–1(a)(3)] that investment companies are affected with a national public interest in that they may dominate and control or otherwise affect the policies and management of companies engaged in business in interstate commerce, in contrast to other findings in that section it did not also declare in section 1(b) of the Act [15 U.S.C. 80a–1(b)] that such activities adversely affected the national public interest and the interest of investors.

Consequently, Judge Friendly has concluded that "[w]hile the danger of such influence was recognized at the time the Act was passed " " " it was not one of the principal evils the Act sought to remedy. " " " Rather, he characterized it as a "low priority policy." SEC v. Sterling Precision Corp., 393 F.2d 214, 218–19 (2d Cir. 1968). Nonetheless, the Commission has determined that, upon examining a transaction proposed to be consummated pursuant to a requested order of exemption under section 17(b) and finding the proposed transaction involved overreaching of any person, it would not stand mute. "We cannot believe the Congress intended, after requiring an agency of the Government to examine a transaction such as this, to put that agency in the position of effectively authorizing the transaction when there are circumstances raising questions as to possible overreaching of a person concerned which as public investors." Fifth Avenue Coach Lines, Inc., 43 SEC 635, 639 (1967). However, as discussed below, the Commission has exempted by rulemaking transactions involving licensed small business investment companies and venture capital companies from such individual examination, regardless of whether their portfolio affiliates had public shareholders.

[6] "Although the great majority of all investment companies in the United States do not appear to have attempted any control over the issuers of the securities in their portfolio, many investment companies, at one time or another, have held blocks of securities sufficient to control at least one enterprise. " " " Broadly speaking, over the last fifteen years there have been in existence approximately thirty investment-holding companies, with an equal or larger number of management investment companies which controlled some industrial companies but with whom contrc! of industrial enterprises was more incidental." Securities and Exchange Commission, Investment Trusts and Investment Companies, Part IV, H. Doc. No. 246, 77 Cong. 1st Sess. 2 (1942).

[7] "[O]nly closed-end management investment companies (including investment-holding companies) have been concerned with control of industry." Id. Subsequent studies show that "open-end investment companies have been relatively inactive stockholders." Wharton School of Finance and Commerce, A Study of Mutual Funds, H.R. Rep. No. 2274, 87th Cong. 2d Sess. 26 (1962). It concluded that "as of late 1958 neither the extent nor character of [mutual fund] influence [over portfolio companies] appeared to be such as to warrant serious concern." Id. The Wharton Study was updated by the Commission's report, Public Policy Implications of Investment Company Growth, H.R. Rep. No. 2337, 89th Cong., 2d Sess. (1966), which noted that "active participation in the affairs of portfolio companies by investment company management in the role of interested shareholders should not be confused with the managers' use of mutual fund assets to control portfolio companies."

On September 30, 1978, open-end investment companies had assets of approximately $64 billion, while closed-end companies had assets of approximately $8 billion.

[8] Investment Company Act Release No. 3361 [Nov. 17, 1961), 26 FR 11238, 11240 (1961). That rulemaking provided such an exemption, subject to certain conditions, regarding loans and other securities transactions which would be prohibited by such sections solely because of an affiliation created by the small business investment company's owning, holding or controlling with power to vote the voting securities of a small business concern. That exemption was not available if any person having an affiliate, promoter or principal underwriter relationship with the investment company also had a direct or indirect specified financial interest in the small business concern.

[9] Investment Company Act Release No. 3968 (April 29, 1964) 29 FR 6152 (1964) [order adopting rule].

[10] Investment Company Act Release No. 3776 (Sept. 27, 1963) 28 FR 10753 (1964) [order proposing adoption of rule].

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transactions between a licensed small business investment company or a venture capital company and a portfolio affiliate.[11]

Paragraph (b) of rule 17a–6 generally provides a similar exemption to certain transactions between any other investment company and a portfolio affiliate, provided that the portfolio affiliate is a "non-public" company.[12]

The applicability of paragraph (b) to transactions only with non-public portfolio affiliates "was intended to assure that, consistent with the purposes of Section 17 of the Act, no transactions exempted by the rule would involve a risk of overreaching of or unfairness to an affiliated or controlled company in which there is a substantial public investor interest." [13] Nonetheless, such a limitation was not applied to transactions of licensed small business investment companies or venture capital companies because, among other reasons, it would interfere with the opportunity to make the kind of prompt changes in their relationship with their portfolio companies which they believe is essential to their effective operation.[14] However, no exemption under rule 17a–6 is available in the event that certain affiliated and other persons of the investment company. e.g., a controlling person of the company, is a party or has a financial interest in a party to the transaction.[15]

In addition to those exemptions provided by rule 17a–6, the Commission, upon application, has granted a substantial number of individual exemptive orders upon finding that the standards posed by section 17(b) of the Act have been satisfied. Such exemptive orders have been granted regarding transactions involving both controlled [16] and non-controlled [17] portfolio affiliates.

Nonetheless, on one occasion the Commission, applying state corporate law, refused to issue an exemptive order upon finding that a proposed transaction by an affiliate of an affiliate of an investment company would represent the use of corporate funds solely or primarily to retain control.[18] The Commission also has declined to grant exemptive orders where (1) the record did not establish the full terms of the financing arrangements in a proposed transaction between two companies which each owned over 5% of the voting securities issued by a third corporation.[19] and (2) there was a proposed merger between two corporations and an investment company owned more than 5% of the voting securities issued by each of the corporations, until the terms of the proposed merger were modified.[20]

B. Discussion

1. Transactions With Noncontrolled Portfolio Affiliates

The Commission proposes to add new paragraph (c) of rule 17a–6 to exempt from the prohibitions of section 17(a) certain transactions between an investment company and a noncontrolled portfolio affiliate of that company. As in existing paragraphs (a) and (b) of rule 17a–6, the exemption would not be available in instances in which certain prescribed persons—who, by virtue of their relation to the investment company, would be in a position to influence the terms of a transaction—are parties to the transaction or have a financial interest therein. This limitation would make it unlikely that a transaction effected under the proposed exemption would involve overreaching against an investment company, because persons with the potential ability to overreach the company could not be included in the transaction. Moreover, because the amendment would apply only to portfolio affiliates which are not controlled by the investment company, it is unlikely that the investment company might overreach the portfolio affiliate to the disadvantage of the other public shareholders of the affiliate.[21] The Commission has granted a number of exemptive orders to investment companies for transactions involving investment companies and portfolio affiliates based on similar circumstances.[22] Accordingly, the Commission believes that it would be appropriate, based on approximately fifteen years of experience since the most recent amendment to rule 17a–6, to exempt those transactions pursuant to rulemaking.

2. Transactions With Controlled Portfolio Affiliates

The Commission further specifically requests comment regarding whether it would be appropriate also to amend rule 17a–6 to exempt from the prohibitions of section 17(a) transactions between an investment company and a controlled portfolio affiliate, provided that the persons who would be proscribed from participating in transactions involving non-controlled portfolio affiliates would be similarly proscribed from participating in such transactions. In this regard, it would be particularly helpful if comments would address circumstances under which investors of certain industrial corporations controlled by an investment company should be entitled to the special protections of section 17(a) of the Investment Company Act by virtue of the fact that their controlling persons are investment companies. Moreover, comments also should address whether investors in such controlled portfolio affiliates should continue to be afforded particular protections based upon (1) whether the affiliate is controlled by a licensed small business investment company or venture capital company, or by any other class of investment company, or (2) the number of beneficial shareholders of such affiliate's voting securities.[23]

[11] A venture capital company was defined as a company engaging in the business of underwriting, furnishing capital to industry, financing promotional enterprises, purchasing securities of issuers for which no ready market is in existence, and reorganizing companies or similar activities. Compare, section 12(e) of the Act [15 U.S.C. 80a–12(3)]. The Commission extended this exemption to transactions of venture capital companies because its "experience in the regulation of a number of venture capital investment companies registered under the Investment Company Act which are not licensed small business investment companies indicates that the similarity of their operations gives rise to the same kinds of problems as those encountered by small business investment companies." Investment Company Act Release No. 3968, supra, n.9.

[12] A non-public company for purposes of paragraph (b) generally means a company whose outstanding securities are beneficially owned by not more than 100 persons. Compare, section 3(c)(1) of the Act [15 U.S.C. 80a–3(c)(1)].

[13] Investment Compeny Act Release No. 3968, supra, n.9.

[14] Id. The release did not express any concern whether investors in a public corporation which is a portfolio affiliate of a licensed small business investment company or a venture capital company could be overreached in such transactions.

[15] Under the rule, such person may not have, or within six months prior to the transaction have had, or pursuant to an arrangement will acquire, a direct or indirect financial interest in a party (except the investment company) to the transactions. The term "financial interest" is defined in paragraph (c) of the rule.

[16] See, e.g., International Bank, 41 SEC 521 (1963); Iowa Interests Corp., 40 SEC 927 (1961); Delaware Realty & Investment Co., 40 SEC 469 (1961); Century Investors, Inc., 40 SEC 319 (1960); Equity Corp., 40 SEC 124 (1960); Atlas Corporation, 39 SEC 437 (1959).

[17] See, e.g., Aetna Life Insurance Co., 42 SEC 437 (1964); Vornado, Inc., 40 SEC 680 (1961); Madison Fund, Inc., 40 SEC 143 (1960); New York Dock Co., 38 SEC 754 (1958).

[18] Bowser, Inc., 43 SEC 277 (1967). In that proceeding an issuer proposed to make a tender offer for its own securities to an investment company, a controlled affiliate owning 20% of that issuer and several related persons. The Commission also found that the proposed price was too high.

[19] Fifth Avenue Coach Lines, Inc., 43 SEC 635 (1967). That transaction involved the proposed sale of securities between an investment company which owned more than 5% of that issuer's voting securities and another company which similarly owned more than 5% of those securities.

[20] Talley Industries, Inc., Investment Company Act Release Nos. 5953 (Jan. 9, 1970) and 5977 (Feb. 10, 1970).

[21] Although the legislative history regarding Congress' intent to regulate investment companies' transactions with portfolio affiliates is somewhat inconclusive, testimony in 1940 by David Schenker, chief counsel of the Commission's Investment Trust Study, suggests his belief that any potential for overreaching with respect to portfolio affiliates would exist only in control situations. Hearings on S. 3580 before the Subcomm. of the Senate Comm. on Banking and Currency, 76th Cong., 3d Sess. 257 (1940).

[22] Supra, n.17.

[23] In the event that the Commission should subsequently determine—based on comments received upon this proposed rulemaking and its own experience in administering the Act—to exempt all such transactions regardless of whether the portfolio affiliate is controlled, any distinction drawn in the rule's text between (1) licensed small business investment companies, venture capital companies, and other investment companies and (2) public and nonpublic portfolio companies would be mooted. The result of such a change in rule 17a–6 would be analogous to the situation which now exists under rule 17d–1(d)(5), which—regardless of whether an investment company of any class controls the portfolio affiliate—exempts certain transactions from the prohibitions of section 17(d) and rule 17d–1 thereunder. In such circumstances, paragraphs (a) and (b) and proposed new paragraph (c) of rule 17a–6 would be consolidated into a new paragraph (a).

Text of Proposed Amendment

It is proposed that Part 270 of Chapter II of Title 17 of the Code of Federal Regulations be amended by adding a new paragraph (c) to § 270.17a–6 and redesignating present paragraph (c) (d) as follows:

§270.17a–6 Exemption of transactions with certain affiliated persons.

* * * * *

(c) A transaction between a registered investment company, or a company controlled by such investment company, and a portfolio affiliate, or an affiliated person of a portfolio affiliate, shall be exempt from the provisions of section 17(a) of the Act if the conditions of paragraph (a) of this section are met. For purposes of this paragraph, a portfolio affiliate is a person who is an affiliated person of the registered investment company solely by virtue of the relationship described in section 2(a)(3)(B) of the Act [15 U.S.C. 80a–2(a)(3)(B)].

[Existing paragraph (c) is redesignated paragraph (d)].

Statutory basis: Amended rule 17a–6 is promulgated pursuant to the provisions of sections 6(c) [15 U.S.C. 80a–6(c)] and 38(a) [15 U.S.C. 80a–37(a)]of the Act.

By the Commission.

George A. Fitzsimmons,

Secretary.

May 16, 1979.

[FR Doc. 79–16044 Filed 5–22–79; 8:45 am]

BILLING CODE 8010–01–M

[17 CFR Part 270]

[Release No. IC–10699, File No. S7–783]

Exemption of Certain Joint Transactions With Affiliates Involving Portfolio Company Reorganizations

AGENCY: Securities and Exchange Commission.

ACTION: Proposed rulemaking.

SUMMARY: The Commission is requesting public comment on a proposed amendment to a rule under the Investment Company Act of 1940 to permit, provided that certain conditions are satisfied, investment companies and certain affiliated persons to engage in a joint transaction involving the receipt of securities and/or cash pursuant to a portfolio company's plan of reorganization. Absent this amendment, such a transaction would be permissible only pursuant to an exemptive order granted by the Commission upon application on a case-by-case basis.

DATE: Comments must be received by July 2, 1979.

ADDRESSES: Send comments in triplicate to George A. Fitzsimmons, Secretary, Securities and Exchange Commission, Washington, D.C., 20549. (Refer to File No. S7–783.) All comments received will be available for public inspection and copying in the Commission's Public Reference Room, 1100 L Street, N.W., Washington, D.C. 20549.

FOR FURTHER INFORMATION CONTACT: Cathy G. Douglas, Esq., Investment Company Act Study Group, Division of Investment Management, Securities and Exchange Commission, 500 N. Capitol Street, Washington, D.C. 20549 (202) 755–6972.

SUPPLEMENTARTY INFORMATION: The Commission today published for comment proposed paragraph (d)(6) of rule 17d–1 [17 CFR 270.17d–1] to permit under specified circumstances an investment company and certain affiliated persons thereof [1] to enter a joint arrangement to receive securities and/or cash pursuant to a plan of reorganization [2] without filing an exemptive application. This proposed amendment of rule 17d–1 was developed by the Division of Investment Management's Investment Company Act Study Group in the context of its re-examination of the regulation of investment companies.

A. Background

Section 17(d) of the Act [15 U.S.C. 80a–17(d)], in part, generally prohibits certain affiliated persons of an investment company acting as principal from effecting any transaction in which the investment company or any controlled company thereof is a joint or a joint and several participant with such person in contravention of such rules as the Commission may prescribe. Paragraph (a) of rule 17d–1, in part, generally prohibits any such joint enterprise or other joint arrangement or profit-sharing plan, unless a prior exemptive order has been issued by the Commission upon application.[3]

Nonetheless, paragraph (d) of rule 17d–1 provides that, notwithstanding the requirements of paragraph (a), no application need be filed pursuant to that rule with respect to certain specified transactions. [4] Subparagraph (d)(5) of that paragraph also exempts any joint enterprise or other joit arrangement or profit sharing plan ("joint enterprise" in which an investment company or a controlled company thereof is a participant, and in which a company which is an affiliated person of such investment company or an affiliated person of such a person is also a participant, provided that certain conditions are satisfied. Among those

[1] The term "affiliated person of another person" is defined in section 2(a)(3) of the Act [15 U.S.C. 80a–2(a)(3)].

[2] The term "reorganization" is defined in section 2(a)(33) of the Act [15 U.S.C. 80a–2(a)(33)] to mean—

(A) a reorganization under the supervision of a court of competent juisdiction; (B) a merger or consolidation; (C) a sale of 75 per centum or more in value of the assets of a company; (D) a restatement of the capital of a company, or an exchange of securities issued by a company for any of its own outstanding securities; (E) a voluntary dissolution or liquidation of a company; (F) a recapitalization or other procedure or transaction which has for its purpose the alteration, modification, or elimination of any of the rights, preferences, or privileges of any class of securities issued by a company, as provided in its charter or other instrument creating or defining such rights, preferences, and privileges; (G) an exchange of securities issued by a company for outstanding securities issued by another company or companies, preliminary to and for the purpose of effecting or consummating any of the foregoing; or (H) any exchange of securities by a company which is not an investment company for securities issued by a registered investment company.

[3] Paragraph (b) of rule 17d–1 provides that—

In passing upon such applications, the Commission will consider whether the participation of such registered or controlled company in such joint enterprise, joint arrangement or profit sharing plan on the basis proposed is consistent with the provisions, policies and purposes of the act and the extent to which such participation is on a basis different from or less adantageous than that of other participants.

[4] In proposing paragraph (d)(5) of rule 17d–1 the Commission stated—

when the persons designated do not participate or have a financial interest in a joint transaction, there is little likelihood that participation by registered investment companies, or controlled companies thereof, in joint transactions with other affiliated persons * * * will result in unfair or disadvantageous treatment to the investment companies or their controlled companies.

Investment Company Act Release No. 8273 (Mar. 14, 1974), 39 FR 11312, 11313 (1974).

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conditions is that no person described in subparagraph (d)(5)(i) of the rule [5] is a participant in the joint enterprise through a direct or indirect financial interest [6] in any person (except the investment company) who is a participant in the joint enterprise.[7] The person so described are persons who, by virtue of their relation to the investment company, potentially could influence the terms of the transaction to the investment company's disadvantage.

The receipt of securities and/or cash pursuant to a plan of reorganization of a portfolio company by an investment company and an affiliated person would be deemed to be a joint transaction under section 17(d) of the Act and rule 17d–1 thereunder.[8] In the event that a person described in paragraph (d)(5)(i) of rule 17d–1 has a financial interest in a company which is particpating in the transaction, the transaction would not be exempted by paragraph (d)(5) of the rule. Moreover, if such person is himself a participant in the transaction, the transaction would not be exempted by paragraph (d)(5). Nonetheless, the Commission, by order upon application, has exempted a number of such transactions on a case-by-case basis from the prohibitions of section 17(d) of the Act and rule 17d–1 thereunder upon finding that the appropriate exemptive standards have been satisified.[9]

[5] Subparagraph (d)(5)(i) of rule 17d–1 describes the following persons:

(a) An officer, director, employee, investment adviser, member of an advisory board, depositor, promoter of or principal underwriter for the registered investment company,

(b) A person directly or indirectly controlling the registered investment company,

(c) A person directly or indirectly owning, controlling, or holding with power to vote, 5 per centum or more of the outstanding voting securities of the registered investment company,

(d) A person directly or indirectly under common control with the registered investment company, except a person who, if it were not directly or indirectly controlled by the registered investment company, would not be directly or indirectly under the control of a person who controls the registered investment company, or

(e) An affiliated person of any of the foregoing [other than certain specified persons].

[6] The term "financial interest" is defined in subparagraph (d)(5)(iii) of rule 17d–1.

[7] Additionally, paragraph (d)(5)(ii) limits the amount of an investment company's assets which may be committed under the rule in the joint enterprise.

[8] It is conceivable, under unusual circumstances, that an investment company and any affiliated person thereof might receive a distribution of securities and/or cash from another company—which itself (or because of actions by persons other than the investment company or affiliated persons thereof) has initiated a corporate reorganization—without an opportunity to vote, consent, or otherwise formally or informally to express approval of the reorganization. In such circumstances, the receipt of securities and/or cash by the investment company and its affiliated person would not be within the purview of section 17(d) of the Act and rule 17d–1 thereunder.

[9] E.g., Narragansett Capital Corp., Investment Company Act Release No. 10348 (Aug. 1, 1978), 15 SEC Docket 531; Narragansett Capital Corp., Investment Company Act Release No. 10274 (June 8, 1978), 14 SEC Docket 1347; Madison Fund, Inc., Investment Company Act Release No. 10257 (May 25, 1978), 14 SEC Docket 1213; Value Line Income Fund, Inc., Investment Company Act Release No. 9489 (Oct 18, 1976), 10 SEC Docket 771; Narragansett Capital Corp., Investment Company Act Release No. 9008 (Oct. 30, 1975), 8 SEC Docket 312; Investors Syndicate of America, Inc., Investment Company Act Release No. 8540 (Oct. 9, 1974), 5 SEC Docket 263; Investors Variable Payment Fund, Inc., Investment Company Act Release No. 8083 (Nov. 13, 1973), 3 SEC Docket 58; Rico Argentine Mining Co., Investment Company Act Release No. 7759 (Apr. 9, 1973), 1 SEC Docket (No. 11) 25; Narragansett Capital Corp., Investment Company Act Release No. 7718 (Mar. 8, 1973), 1 SEC Docket (No. 8) 25.

[10] As Judge Friendly noted, in analogous circumstances regarding section 17(a) of the Act [15 U.S.C. 80–17(a)],—

Congress surely did not intend that an investment company's acquisition of more than 5% of the stock of a non-investment company should place the latter under the necessity of applying to the Commission for exemption of a transaction necessary to avoid a default. We are equally confident that Congress would not have meant to include total redemptions or *pro rata* ones, even though at the volition of [a portfolio] 'affiliate' not an investment company.

SEC v. Sterling Precision Corp., 393 F.2d 214, 218 (2d Cir. 1968).

Discussion

The Commission proposes to exempt by rulemaking, provided certain safeguards are met, the receipt of securities and/or cash pursuant to a reorganization of a portfolio company by an investment company and by certain affiliated persons who may not rely on existing rule 17d–1(d)(5). The Commission believes that such a rule would significantly benefit investment companies by (1) obviating the need to file exemptive applications when there is little likelihood that such orders would not be granted, and (2) allowing for more expeditious reorganizations of portfolio companies. It would also benefit companies whose securities may be held both by investment companies and by certain affiliated persons in that it would allow them, under appropriate circumstances, to reorganize in a more timely manner.[10]

Transactions effected in reliance on proposed rule 17d–1(d)(6) would be required to satisfy specified safeguards to ensure the likelihood that the investment company would not be overreached by persons described in paragraph (d)(5)(i) of rule 17d–1. First, the rule would apply solely to transactions in which such person's financial interest in the reorganization is limited exclusively to ownership of the same class or classes of securities of the reorganizing company which are owned by the investment company. This condition would assure a unity of interest between those persons and the investment company.

Second, the rule would require that, pursuant to the reorganization, the investment company and persons described in subparagraph (d)(5)(i) receive under identical terms securities of the same class or classes and/or cash. Moreover, the distribution must be *pro rata* according to their prior holdings of securities. These conditions would prevent the investment company's participation from being on a basis proportionately different from or less advantageous than that of any such participant.

The exemption would not apply when a person described in paragraph (d)(5)(i) of the rule is, or has a direct or indirect financial interest in any person who is, purchasing assets from the company under reorganization.[11] Moreover, it also would not apply where the person is, or has such an interest in, a person exchanging shares with the company under reorganization, unless that exchange would independently satisfy the exemptive standards in proposed paragraph (d)(6). These conditions would provide additional protections against the investment company's being overreached by persons in a position to influence the investment company's actions.

Text of Proposed Amendments

It is proposed to amend Part 270 of Chapter II of Title 17 of the Code of Federal Regulations by adding paragraph (d)(6) to § 270.17d–1 as follows:

§ 270.17d–1 Applications regarding joint enterprises or arrangements and certain profit-sharing plans.

* * * * *

(d) * * *

(6) The receipt of securities and/or cash by an investment company or a controlled company thereof and an affiliated person of such investment company or an affiliated person of such person pursuant to a plan of reorganization: *Provided*, That no person described in paragraph (d)(5)(i) of this section or any company in which such person has a direct or indirect financial interest (as defined in paragraph (d)(5)(iii) of this section):

(i) Has a direct or indirect financial interest in the corporation under

[11] An arrangement by such a person (other than a nonexecutive employee) for future employment (other than as a director receiving usual and ordinary fees for that service) would constitute a financial interest under paragraph (d)(5)(iii) of rule 17d–1.

reorganization, except owning securities of the class or classes owned by such investment company or controlled company;

(ii) Receives pursuant to such plan any securities or other property, except securities of the same class and subject to the same terms as the securities received by such investment company or controlled company, and/or cash in the same proportion as is received by the investment company or controlled company based on securities of the company under reorganization owned by such persons; and

(iii) Is, or has a direct or indirect financial interest in any person (other than such investment company or controlled company) who is, (A) purchasing assets from the company under reorganization or (B) exchanging shares with such person in a transaction not in compliance with the standards described in this paragraph (d)(6).

Statutory Basis: The proposed rule is promulgated pursuant to section 6(c) of the Act [15 U.S.C. 80a–6(c)], section 17(d) and section 38(a) of the Act [15 U.S.C. 80–37(a)].

By the Commission.

George A. Fitzsimmons,

Secretary.

May 16, 1979.

[FR Doc. 79–16045 Filed 5–22–79; 8:45 am]

BILLING CODE 8010–01–M

[17 CFR Part 270]

[Release IC–10700, File No. S7–784]

Exemption of Certain Joint Purchases of Liability Insurance Policies

AGENCY: Securities and Exchange Commission.

ACTION: Proposed rule.

SUMMARY: The Commission is proposing a rule to exempt from a prohibition in the Investment Company Act of 1940 the joint purchase of liability insurance policies by an investment company with certain affiliated persons of such company, provided that specified conditions are satisfied. The Commission upon application has granted exemptive orders and its staff has provided no-action assurances regarding numerous such arrangements. The proposed rule would obviate the need for such actions on a case-by-case basis.

DATE: Comments must be received by July 2, 1979.

ADDRESSES: Send comments in triplicate to George A. Fitzsimmons, Secretary, Securities and Exchange Commission, 500 N. Capitol Street, Washington, D.C. 20549. (Refer to File No. S7–784.) All comments received will be available for public inspection and copying in the Commission's Public Reference Room, 1100 L Street, N.W., Washington, D.C. 20549.

FOR FURTHER INFORMATION CONTACT:

Mark B. Goldfus, Special Counsel Investment Company Act Study Group, (202) 755–0230; or

Cathy G. Douglas, Esq., Investment Company Act Study Group, (202) 755–6972, Securities and Exchange Commission, 500 N. Capitol Street, Washington, D.C. 20549.

SUPPLEMENTARY INFORMATION: The Commission today published for public comment a proposed amendment to rule 17d–1 [17 CFR 270.17d–1] under section 17(d) of the Investment Company Act of 1940 ("Act") [15 U.S.C. 80a–17(d)] to allow registered investment companies to purchase liability insurance policies jointly with affiliated and certain other persons.[1] This proposed rulemaking was prepared by the Division of Investment Management's Investment Company Act Study Group in the context of its re-examination of the regulation of investment companies.

Background

In addition to the fidelity insurance bond required under the Act,[2] many investment companies have voluntarily elected to maintain an errors and omissions insurance policy. Such coverage is sought, at least in part, by an investment company to attract qualified persons to serve as its directors and officers. Frequently, an investment company will wish to jointly participate in the selection and purchase of an "errors and omissions" or liability insurance policy and share premiums for such insurance coverage with other persons, such as its investment adviser and other investment companies managed by the adviser. This arrangement may elicit a wider range of insurance companies willing to underwrite such policies, may induce individual insurance companies to underwrite more extensive insurance coverage, and may result in lower aggregate premiums.[3]

Selection and purchase of an errors and omissions or other liability insurance policy by an investment company jointly with an affiliated person of the investment company would, however, be prohibited by section 17(d) of the Act and rule 17d–1 thereunder.[4] Nonetheless, the Commission has upon application pursuant to rule 17d–1 granted orders exempting such joint transactions from the prohibition of rule 17d–1 upon finding that the participation of investment companies in such a proposed tranaction has satisfied the exemptive standards of section 17(d) of the Act and rule 17d–1 thereunder.[5] Moreover, the Commission's staff has, in responding to inquiries, concluded that based on specific circumstances it would not recommend that the Commission take any action under section 17(d) of the Act or rule 17d–1 thereunder regarding execution of certain such liability insurance arrangements.[6]

Discussion

The Commission believes that, provided certain safeguards apply, it would be appropriate to exempt by rulemaking joint purchase of "errors and omissions" and other liability insurance

[1] The term "affiliated person" is defined in section 2(a)(3) of the Act [15 U.S.C. 80a–2(a)(3)].

[2] Rule 17g–1 [17 CFR 270.17g–1] under section 17(g) of the Act [15 U.S.C. 80a–17(g)] generally requires that each registered management investment company provide and maintain a fidelity insurance bond against larceny and embezzlement covering each officer and employee of the company having access to its securities or funds. See generally, Investment Company Act Release No. 10393 (Sept. 8, 1978), 43 FR 41321 (1978). Under specified circumstances, a fidelity insurance bond jointly maintained by an investment company with certain affiliated persons thereof is exempted from section 17(d) of the Act and the rules thereunder by paragraph (j) of rule 17g–1.

[3] See, e.g., letter of December 30, 1977, to the Division of Investment Management from Sidley & Austin, regarding Mathers Fund, Inc.

[4] Section 17(d) and rule 17d–1 thereunder in part prohibit an affiliated person of an investment company or an affiliated person of such person, acting as principal, from participating in, or effecting any transaction in connection with, any joint enterprise or other joint arrangement or profit sharing plan in which any such investment company, or a company controlled by such company, is a participant, unless an exemptive order had been granted by the Commission.

[5] E.g., staff responses to inquiries regarding Mathers Fund, Inc. (Feb. 6, 1978), [1978] Fed. Sec. L. Rep. (CCH) ¶ 81,695. Capital Preservation Fund, Inc. (Oct. 28, 1976), [1976–1977] Fed. Sec. L. Rep. (CCH) ¶ 81,022 and Parthenon Fund, Inc. (Feb. 3, 1976), [1975–1976] Fed. Sec. L. Rep. (CCH) ¶ 80,451. In its response to an inquiry regarding T. Rowe Price Growth Stock Fund, Inc. and other investment companies with a common investment adviser, the staff declined to give such assurance (June 17, 1977), [1977–1978] Fed. Sec. L. Rep. (CCH) ¶ 81,422. However, upon subsequent application an exemptive order was granted by the Commission for that arrangement. T. Rowe Price Associates, Inc., Investment Company Act Release Nos. 10380 (Aug. 28, 1978) and 10336 (July 25, 1978), 15 SEC Docket 885 and 409.

[6] The Commission does not propose limiting the exemptive rulemaking to joint insurance arrangements regarding errors and omissions insurance only. Rather, it believes that, other than the bonding required by rule 17g–1, the question of whether any other type of joint insurance coverage is appropriate and necessary for any particular investment company's operation should be a matter within the discretion of that investment company's board of directors, provided that conditions prescribed in the proposed rule are satisfied.

DEPARTMENT OF ENERGY

Gas Project Office, Federal Energy

record by June 1, 1979.[2] In addition,

policies by an investment company with any of its affiliated persons from the prohibitions of section 17(d) and rule 17d–1 thereunder. Accordingly, the Commission proposes to adopt a new paragraph (7) of rule 17d–1 to permit, upon specified conditions, an investment company's participation in a joint insurance arrangement without filing an application seeking an exemptive order.[7] To a large extent, these conditions would codify the representations upon which the Commission has granted exemptive orders and its staff has given favorable no-action assurances.

The proposed amendment would require that an investment company's participation in the joint liability insurance policy be in the best interests of the investment company. The investment company's directors, in considering whether a purchase of a particular insurance policy would satisfy this standard, would have to consider whether such liability insurance policy has a valid business purpose,[8] whether such coverage appropriately should be purchased on an individual or joint basis,[9] and the identity of the insurer.[10]

Moreover, the allocation of premiums for the liability insurance policy must be fair and reasonable to the investment company. The investment company's directors, in considering whether purchase of a particular insurance policy would satisfy this standard, would have to compare the investment company's proportionate share of premiums under the proposed joint liability insurance policy with the aggregate amount which would have had to have been paid if the coverage were purchased separately by the insured parties.

Finally, the rule would require that at least annually the investment company's directors, including a majority of the directors who are not interested persons of the investment company,[11] find that the conditions described above have been satisfied.[12] The Commission believes that an investment company's directors are the appropriate persons to make such determinations in the first instance.[13]

Text of Proposed Rule

It is proposed to amend Part 270 of Chapter II of Title 17 of the Code of Federal Regulations by adding paragraph (d)(7) to § 270.17d–1 as follows:

§ 270.17d–1 Applications regarding joint enterprises or arrangements and certain profit-sharing plans.

* * * * *

(d) * * *

(7) Any arrangement regarding liability insurance policies (other than a bond required pursuant to rule 17g–1 (§ 270.17g–1) under the Act); *Provided*, That

(i) The investment company's participation in the joint liability insurance policy is in the best interests of the investment company;

(ii) The proposed premium for the joint liability insurance policy to be allocated to the investment company, based upon its proportionate share of the sum of the premiums that would have been paid if such insurance coverage were purchased separately by the insured parties, is fair and reasonable to the investment company; and

(iii) The board of directors of the investment company, including a majority of the directors who are not interested persons with respect thereto, determine no less frequently than annually that the standards described in paragraphs (i) and (ii) have been satisfied.

Statutory basis: Rule 17d–1 is proposed to be amended pursuant to section 6(c) [15 U.S.C. 80a–6(c)], section 17(d), and section 38(a) [15 U.S.C. 80a–37(a)] of the Act.

By the Commission.

George A. Fitzsimmons,

Secretary.

May 16, 1979.

[FR Doc. 79–16046 Filed 5–22–79; 8:45 am]

BILLING CODE 8010–01–M

[7] The Commission does not propose limiting the exemptive rulemaking to joint insurance arrangements regarding errors and omissions insurance only. Rather, it believes that, other than the bonding required by rule 17g–1, the question of whether any other type of joint insurance coverage is appropriate and necessary for any particular investment company's operation should be a matter within the discretion of that investment company's board of directors, provided that conditions prescribed in the proposed rule are satisfied.

[8] Of course, such insurance coverage would not have a valid business purpose if it would violate section 17(h) of the Act [15 U.S.C. 80a-17(h)], which provides that a director or officer may not be protected against any liability to an investment company or its security holders to which he would otherwise be subject by reason of his willful misfeasance, bad faith, gross negligence or reckless disregard of the duties involved in the conduct of his office.

See guidelines to Form N–8B–1, Investment Company Act Release No. 7221 p. 22, (June 9, 1972):

It is the staff's position that Section 17(h) does not prohibit the [investment company] from paying for insurance which protects the directors and officers against liabilities arising from action not involving willful misfeasance, bad faith, gross negligence, or reckless disregard of the duties involved in the conduct of their offices. The Staff would regard insurance paid for by the Registrant covering any of the enumerated categories as involving a violation of Section 17(h) unless it merely provided for payment to the registrant of any damages caused by a director or officer, and also provided that the insurance company would be subrogated to the rights of the registrant to recover from the director or officer. There would be no objection, however, to insurance policies which were paid for by the directors or officers themselves covering liabilities arising from the enumerated categories or activities.

[9] The question includes whether the investment company effectively would receive diminished coverage or more expensive coverage by virtue of being named on a joint insurance policy. See paragraph (g) of rule 17g–1, pertaining to agreements with other named insureds on sharing a fidelity bond recovery. Moreover, the identity of the other name insureds and their relationship to the investment company should be considered, although—because such insurance coverage is not required—the Commission would not limit the arrangement to persons having specific relationships to the investment company. Compare paragraph (b) of rule 17g–1.

[10] The insurer should not, under ordinary circumstances, be an affiliated person of the investment company or an affiliated person of such person. The Commission is concerned that an investment company's officers or directors should not be required to determine whether it is in the best interests of their investment company to pursue claims against an insurer with which they are associated. Additionally, the purchase of an insurance policy by an investment company from an insurer with which it is affiliated may raise serious questions under section 17(a) of the Act [15 U.S.C. 80a-17(a)]. See American General Exchange Fund, Investment Company Act Release No. 9991 (Nov. 4, 1977), 13 SEC Docket 696.

[11] The term "interested person" is defined in section 2(a)(19) of the Act [15 U.S.C. 80a-2(a)(19)].

[12] Assuming good faith and compliance with section 17(h) of the Act, supra, n. 8, the Commission does not believe that such directors necessarily should be disqualified from making these determinations solely by virtue of being a named insured party. Moreover, the Commission does not propose to require that the directors as a matter of course must secure the advice of independent experts in insurance matters in making these determinations, provided that the directors are supplied with the necessary information upon which to base their findings. Furthermore, because determining whether to purchase a joint liability insurance policy should be a single decision (rather than an unlimited number of discrete decisions), the Commission does not propose that this rule contain special recordkeeping requirements in connection with these determinations, although it expects that, consistent with the directors' fiduciary duties and requirements of general corporate law, minutes of board meetings at which such decisions are made would reflect fully the bases for these findings.

[13] In the event that a group or complex of investment companies share common directors, the shareholders of each investment company are entitled to have their directors determine whether the joint liability insurance policy is of benefit to each company as well as to the complex of investment companied as a whole. See, *The Vanguard Group, Inc.*, Initial Decision, Administrative Proceeding File No. 3–5281 (Nov. 29, 1978) at 36.

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

[18 CFR Ch. I]

[Docket Nos. RM78–12 and RM79–19]

Alaska Natural Gas Transportation System: Request for Further Submissions; Determination of Incentive Rate of Return, Tariff, and Related Issues; Treatment of Certain Production-Related Costs for Natural Gas To Be Sold and Transported

AGENCY: Federal Energy Regulatory Commission, DOE.

ACTION: Order Requesting Further Submission of Data, Views, and Comments.

SUMMARY: Comments received on a notice of proposed rulemaking issued April 6, 1979, in Docket No. RM78–12 (44 FR 22090; April 13, 1979) ("Determination of Incentive Rate of Return, Tariff, and Related Issues") have raised issues regarding the appropriate carbon dioxide content standard applicable to the Alaska Natural Gas Transportation System. The Commission has reason to believe that studies may have been undertaken which focus on these issues and therefore the Commission wishes to provide an opportunity for including these studies and any related material in the record of Docket No. RM78–12. In addition, because these studies may be relevant to consideration of Docket No. RM79–19 ("Treatment of Certain Production-Related Costs for Natural Gas to be Sold and Transported Through the Alaska Natural Gas Transportation System"), the Commission would have these studies submitted under that Docket as well for a determination of relevance and materiality.

DATES: Comments and studies to be submitted by June 1, 1979. Reply Comments to be submitted by June 15, 1979.

ADDRESSES: All filings should reference Docket No. RM78–12, and technical reports and studies submitted on or before June 1, 1979, should also reference Docket No. RM79–19. Responses should be addressed to: Office to the Secretary, Federal Energy Regulatory Commission, 825 North Capitol Street, NE., Washington, D.C. 20426. All comments and reply comments to be served pursuant to address supplied on the service list of Docket No. RM78–12.

FOR FURTHER INFORMATION CONTACT: John Adger, Director, Alaska Natural Gas Project Office, Federal Energy Regulatory Commission, 941 North Capitol Street, NE., Washington, D.C. 20426, (202) 275–3827.

SUPPLEMENTARY INFORMATION: On April 6, 1979 the Federal Energy Regulatory Commission (Commission) issued a Notice of Proposed Rulemaking under Docket No. RM78–12. Comments received on this Notice, particularly those of the State of Alaska and the Sohio Natural Resources Company, have raised issues regarding the appropriate cabon dioxide content standard for natural gas entering the Alaska Natural Gas Transportation System. Alaska's comments (at page 70 characterize the carbon dioxide content issues in terms of "the trade-offs between capital and transportation costs from particular levels of CO2 carriage as well as the potentially greater carriage of liquids with a higher CO2 standard." Sohio's comments (at page 2) characterize the issues *inter alio* in terms of "optimizing the overall conditioning plant/transportation system."

The Commission's Alaskan Delegate has recently prepared a report on his system design inquiry. The report (at pages 62, 65–67) contains a section that discusses the carbon dioxide content standard for the Alaska segment of the system. The Delegate's report will shortly be issued for comment, in Docket No. CP78–123 *et al.*

The resolution of these questions may have a substantial economic effect. The Commission should have the benefits of all extent information and expert opinion bearing on the carbon dioxide content standard.

The Commission has reason to believe that studies may have been undertaken which specifically focus on these issues. These studies should be made a part of the record in Docket No. RM 78–12 and as such freely available to all participants in that Docket.[1] These studies should be submitted for the record by June 1, 1979.[2] In addition, parties having knowledge of these studies, as well as parties who wish to comment on the carbon dioxide content standard, should submit such additional views, data and comments as would permit the Commission to evaluate the relevance of these studies to the issues presented in Docket No. RM78–12. Copies of all studies, reports, data, comments and views should be served on all parties to Docket No. RM78–12, so as to afford those parties an opportunity to file reply comments.

The Commission does not intend consideration of these submissions to delay resolution of unrelated issues in Docket No. 78–12. Consequently, the Commission may issue an Order in Docket No. RM78–12 with respect to all other pending issues, but excepting from the Order resolution of the carbon dioxide content issue. In such an event, that issue would be resolved as soon thereafter as practicable.

The resolution of the carbon dioxide content standard may be germane to consideration of Docket No. RM79–19, and the Commission will make studies submitted in response to this Order part of the record in RM79–19. We reserve determination of whether such studies are relevant and material to the issues to be resolved in Docket No. RM79–19.

The Commission orders: (1) The comment period for Docket No. RM78–12 will be extended until June 15, 1979, for the sole purpose of providing the Commission with such technical reports or studies (and comment thereon) as may be available respecting the carbon dioxide content pipeline standard for the Alaska Natural Gas Transportation System. Any party or other person possessing such technical reports or studies is requested to file copies of them, on or before June 1, 1979, in Docket No. RM78–12. Copies of such technical reports and studies shall be served on all parties of record in Docket No. RM78–12.

(2) All parties to Docket No. RM87–12 are invited to submit, on or before June 1, 1979, comments, data and views with respect to the carbon dioxide content standard for the Alaska Natural Gas Transportation System. Copies of such comments, data and views should be served on all parties of record in Docket No. RM78–12.

(3) Parties to Docket No. RM87–12 may file reply comments, on or before June 15, 1979, in response to any studies, reports, comments, data or views

[1] In particular, the Commission requests that the following two studies be submitted for the record:

The Ralph M. Parsons Co.: "Supplementary Report, CO2 Specification Study, Sales Gas Conditioning Facility, Prudhoe Bay Alaska"; sponsored by Amerada Hess, ARCO, Mobil, Natural Gas Corp. of California, Northern Natural, Northwest Pipeline Corp., Pacific Interstate Transmission Co., Panhandle Eastern, Phillips Oil, Sohio, Tennessee Gas Pipeline Co., Texas Eastern, Texas Gas, Louisiana Land and Exploration Co., Transco, and United Gas; February 1979.

Northwest Alaskan Pipeline Co.: "CO2 Transportation Study"; sponsored by Natural Gas Corporation of California, Northern Natural, Northwest Pipeline Corp., Pacific Interstate Transmission Co., Panhandle Eastern, Texas Gas, Transco, and United Gas; February 1979.

[2] To the extent that several persons or parties may have possession of an the identical studies or reports, those persons and parties are encouraged to coordinate their submissions so as to avoid duplication.

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submitted pursuant to this Order. Reply comments should be served on all parties in Docket RM78–12.

(4) All technical reports and studies, submitted (on or before June 1, 1979) in response to this Order shall be made a part of the record in Docket No. RM79–19, but the Commission reserves determination of whether such material is relevant and material to the issues pending for decision in that Docket.

(5) The above described limited extension of the comment period in Docket No. RM78–12 shall not preclude the Commission from issuing a final order in that Docket, with respect to any or all issues pending therein except for issues concerning the carbon dioxide content standard, at any time prior to the Commission's receipt or consideration of studies, reports, comments, views and data submitted in resonse to this Order.

By the Commission.

Kenneth F. Plumb,

Secretary.

[FR Doc. 79-16038 Filed 5-22-79; 8:45 am]

BILLING CODE 6450-01-M

WATER RESOURCES COUNCIL

[18 CFR Ch. VI]

List of Significant Regulations Currently Underway

AGENCY: U.S. Water Resources Council.

ACTION: Notice of Significant Regulations.

SUMMARY: In accordance with Executive Order 12044, a list of significant regulations and rules that are under development or under review by the Water Resources Council is published herein.

FOR FURTHER INFORMATION CONTACT: Phyllis A. Smith, Water Resources Council, 2120 L Street, NW., Washington, D.C. 20037, Phone: (202) 254–8290.

Accordingly the list of significant regulations or rules that are under development or under review are:

1. Water Projects Review Function, Proposed Rule and Procedures of Implementation.

2. State Water Management Program, Implementing Guidelines Currently Proposed as an Amendment to Title III of the Water Resources Planning Act of 1965.

3. Manual of procedures for Evaluating the Benefits and Costs of Federal Water Resources Projects.

Dated: April 5, 1979.

Leo M. Eisel,

Director.

[FR Doc. 79-16095 Filed 5-22-79; 8:45 am]

BILLING CODE 6410-01-M

DEPARTMENT OF THE TREASURY

Customs Service

[19 CFR Parts 141 and 142]

[T.D. 79-144]

Revised Customs Form to Facilitate Entry of Imported Merchandise

AGENCY: U.S. Customs Service, Department of the Treasury.

ACTION: Request for comments on proposed form.

SUMMARY: Pub. L. 95–410, the "Customs Procedural Reform and Simplification Act of 1978" made numerous changes in laws administered by the Customs Service relating to the entry of imported merchandise. A document proposing to amend the Customs Regulations to establish new procedures to reflect these changes was published in the Federal Register on November 29, 1978 (43 FR 55774). This document informs the public that to facilitate the entry of imported merchandise, Customs proposes to introduce by October 1, 1979, a revised Customs Form 7501, the "Entry/Entry Summary", to replace several existing forms. A copy of the form and a chart showing the data blocks and other explanatory material are appended to the document. Customs requests comments from the public relating to this form.

DATE: Comments must be received on or before June 22, 1979.

ADDRESS: Written comments may be addressed to the Commissioner of Customs, Attention: Regulations and Legal Publications Division, U.S. Customs Service, 1301 Constitution Avenue, NW., Room 2335, Washington, D.C. 20229.

FOR FURTHER INFORMATION CONTACT: William Wagner, Duty Assessment Division, U.S. Customs Service, 1301 Constitution Avenue, NW., Washington, D.C. 20229 (202–566–5307).

SUPPLEMENTARY INFORMATION:

Background

Public Law 95–410 (92 Stat. 888), the "Customs Porcedural Reform and Simplification Act of 1978", approved October 3, 1978 (the "Act"), made significant changes in the Customs laws relating to the entry of imported merchandise. A notice of proposed rulemaking to amend the Customs Regulations to establish new procedures to reflect these changes was published in the Federal Register on November 29, 1978 (43 FR 55774). Comments received in response to that notice are being evaluated, and appropriate amendments in final form are being prepared for publication.

The entry of imported merchandise is a two-part process consisting of (1) filing the documentation necessary to determine whether merchandise may be released from Customs custody, and (2) filing documentation which contains information for duty assessment and statistical purposes.

As explained in the notice of proposed rulemaking, "entry" means that documentation required to be filed with the appropriate Customs officer to secure the release of imported merchandise from Customs custody, or the act of filing that documentation. "Entry summary" means any other documentation necessary to enable Customs to assess duties, to collect statistics on imported merchandise, and to determine whether other requirements of law or regulation are met. The entry summary documentation is required to be filed at the time prescribed by regulation, either at the time of entry, or at any time within 10 days thereafter.

The rulemaking stated (proposed § 142.3(a)(1), Customs Regulations), that Customs Form 3461, used currently as an application for a special permit for immediate delivery, appropriately modified, or Customs Form 7533, appropriately modified, in place of Customs Form 3461 for merchandise imported from a contiguous country, would be utilized as an entry document. The rulemaking (proposed section 142.11(a)) also stated that (1) current Customs Form 7501, for merchandise formally entered for consumption or under a temporary importation bond, (2) Customs Form 3311, for merchandise which may be entered free of duty under Part 10 of the Customs Regulations, or (3) Customs Form 7502, for warehouse entries, would be used as the entry summary.

The rulemaking (proposed § 142.3(b)), also stated that when an entry summary is filed at time of entry, Customs Form 3461 or 7533 would not be required, and Customs Form 7501, 7502, or 3311, as appropriate, would serve as both the entry and entry summary.

Accordingly, under the regulations proposed in the November 29, 1978, notice, various Customs forms would be used to accomplish the entry of imported merchandise, depending on the circumstance. However, in light of the changes in entry procedures necessitated by the Act, it would be beneficial to the importing community if a new Customs form were developed to facilitate the two-part process of entering imported merchandise. At the same time, other Customs forms either would be replaced or limited in use.

The purpose of this document is to inform the public that Customs proposes to introduce a revised Customs Form 7501 for use on October 1, 1979, and to request public comments relating to this form and its use. A copy of the form and a chart showing the data blocks and other explanatory material are appended. After considering the comments received, Customs will publish a document in the Federal Register setting forth instructions and procedures to complete and file the form and make appropriate conforming amendments to the Customs Regulations.

The revised entry document, Customs Form 7501, would be entitled the "Entry/Entry Summary" to emphasize the two-part process for entering imported merchandise. It would be the same size as the current Customs Form 7501.

It is contemplated that the new Customs Form 7501 will replace the following:

1. Customs Form 7501, 7501A, 7501B, 7501C, the "Consumption Entry";

2. Customs Form 7502, 7502A, 7502B, 7502C, the "Warehouse or Rewarehouse Entry";

3. Customs Form 5101, the "Entry Record"; and

4. Customs Form 5119A, "Informal Entry".

It also is contemplated that the new Customs Form 7501 would limit the use of Customs Form 3461, "Immediate Delivery Application".

The following forms would continue to be used as at present:

1. Customs Form 3311, "Declaration For Free Entry of Returned American Products and/or Certificate of Exportation";

2. Customs Form 7505, "Warehouse Withdrawal For Consumption";

3. Customs Form 7506, "Warehouse Withdrawal, Conditionally Free of Duty";

4. Customs Form 7512, "Transportation Entry and Manifest of Goods Subject to Customs Inspection and Permit";

5. Customs Form 7519, "Combined Rewarehouse Entry and Withdrawal for Consumption, and Permit";

6. Customs Form 7521, "Entry for Bonded Manufacturing Warehouse, and Permit";

7. Customs Form 7523, "Entry and Manifest of Merchandise Free of Duty, Carrier's Certificate and Release"; and

8. Customs Form 7533, "Inward Cargo Manifest for Vessel Under Five Tons, Ferry, Train, Car, Vehicle, Etc.".

Information needed to complete the new Customs Form 7501 would be provided either at the time of filing the entry documentation or at the time of filing the entry summary. However, when the entry summary would serve as both the entry and entry summary, all of the required data would be filed at the time of entry.

The data would be required to be provided to Customs by one of the following:

1. Nominal consignee,

2. Consignee, or

3. Agent of the consignee.

Comments

Consideration will be given to any written comments, preferably in triplicate, submitted timely to the Commissioner of Customs. Comments submitted will be available for public inspection in accordance with section 103.8(b), Customs Regulations (19 CFR 103.8(b)), during regular business hours at the Regulations and Legal Publications Division, Headquarters, U.S. Customs Service, 1301 Constitution Avenue NW., Room 2335, Washington, D.C. 20229.

Action

Customs proposes to implement the revised Customs Form 7501, if approved by the Office of Management and Budget, on October 1, 1979. Prior to that time, Customs will review the comments received and publish a document in the Federal Register setting forth instructions and procedures to complete and file the form and proposing appropriate amendments to the Customs Regulations.

Authority

(R.S. 251, as amended (19 U.S.C. 66), section 484, 46 Stat. 722, as amended (19 U.S.C. 1484), Public Law 95–410, 92 Stat. 888 (October 3, 1978))

Drafting Information

The principal author of this document was Charles D. Ressin, Regulations and Legal Publications Division, Office of Regulations and Rulings, U.S. Customs Service. However, personnel from other Customs offices participated in its development.

Dated: May 14, 1979.

Leonard Lehman,

Acting Commissioner of Customs.

BILLING CODE 4810-22-M

V 4 4 / 1 0 1 M Y 2 3 7 9 UMI

DEPARTMENT OF THE TREASURY
UNITED STATES CUSTOMS SERVICE

ENTRY/ENTRY SUMMARY

8

CENSUS USE ONLY

BLOCK AND FILE NO. | VESSEL FLAG | CARRIER CODE | 1. ENTRY TYPE CODE | 2. PORT OF ENTRY CODE | 3. LOCATION OF GOODS | ENTRY NO. AND DATE | SPACE FOR BROKER'S USE (OPTIONAL)

FOREIGN PORT OF LADING | U.S. PORT OF UNLADING

4. BROKER FILE NO.

6. IMPORTER OF RECORD (A. Name and Address)

6. FOR ACCOUNT OF (A. Name and Address)

Form Approved. OMB No.

7a. Account No.) (B. Bond Number) (C. Bond Type) (8. Account No.) (C. Broker "Account" No.)

9. IMPORTER REFERENCE | 10. VOL. OR AWB No. | 5. PREVIOUS TRANSACTION NO./DATE/CARRIER/PORT | CUSTOMS USE ONLY

10. NO. OF INVOICE PAGES | 11. NO. OF PAGES | 12. VALUE

13. TRANSPORTATION CHARGES (Ocean & Rail) OR AIRBILL | 14. TRANS. MODE | 15. CONTAINER NUMBER(S)/CODE(S)

16. MANIFEST NO. | 17. CARTMAN / BONDED WAREHOUSE

18. FOREIGN PORT OF LADING | 19. DATE OF EXPORT | 20. [illegible]

21. U.S. PORT OF UNLADING | 22. [illegible] | 23. RELATIONSHIP

SUMMARY DATE

24. MARKS & NUMBERS OF PACKAGES; COUNTRY OF ORIGIN OF MERCHANDISE	25. (P) PEXT (C) CHSS (E) EPEX	26. ENTERED VALUE	27. DESCRIPTION OF MERCHANDISE: 27A NET QUANTITY IN T.S.U.S.A. UNITS	27B GROSS WEIGHT IN POUNDS	27C T.S.U.S.A. NUMBER	28. TARIFF OR I.T.C. RATE	29. DUTY & I.R. TAX: Dollars	Cents

32. REMARKS/OTHER GOVT. AGENCY DATA

TOTAL: A. B. C.

I declare that I am the
☐ nominal consignee and that the actual owner for customs purposes is as shown above, or ☐ consignee or agent of the consignee.
I further declare that the merchandise ☐ was or ☐ was not
obtained in pursuance of a purchase or agreement to purchase. I also include in my declaration all the statements in the declaration on the back of this entry.

34. AUTHENTICATION | 35. DATE

34a. TITLE

35. ADDRESS

Customs Form 7501 (12-18-78)

RECORD OF CARTAGE OR LIGHTERAGE

Delivered to Cartman or Lighterman in apparent good condition except as noted below.

CONVEYANCE	QUANTITY	DATE	INSPECTOR	RECEIVED (Cartman or Lighterman)	RECEIVED (Date)	RECEIVED (Warehouse Prop.)
TOTAL:		Warehouse Officer				

REPORT OF EXCEPTIONS, OR OF WEIGHT, GAUGE OR MEASURE; OR OTHER PERTINENT INFORMATION.
(All reports hereon must be dated and signed by the reporting officer)

Date | Signature and Title

DECLARATION OF NOMINAL CONSIGNEE, CONSIGNEE, OR AGENT OF CONSIGNEE

To the best of my knowledge and belief, all statements appearing in this entry and in the invoice or invoices and other documents presented herewith and in accordance with which the entry is made, are true and correct in every respect; the entry and invoices set forth the true prices, values, quantities, and all information as required by the laws and the regulations made in pursuance thereof; the invoices and other documents are in the same state as when received; I have not received and do not know of any other invoice, paper, letter, document, or information showing a different currency price, value, quantity, or description of the said merchandise, and if at any time hereafter I discover any information showing a different state of facts I will immediately make the same known to the District Director of Customs at the port of entry.

If the merchandise is entered by means of a seller's or shipper's invoice, no customs invoice for any of the merchandise covered by the said seller's or shipper's invoice can be produced due to causes beyond my control. If the merchandise is entered by means of a statement of the value or the price paid in the form of an invoice, it is because neither seller's, shipper's, nor customs invoice can be produced at this time.

CARRIER'S CERTIFICATE AND RELEASE ORDER

The undersigned carrier, to whom or upon whose order the articles described herein or in the attached document must be released, hereby certifies that the consignee named in this document is the owner or consignee of such articles within the purview of section 484(b), Tariff Act of 1930. In accordance with the provisions of section 484(j), Tariff Act of 1930, authority is hereby given to release the articles covered by the aforementioned statement to such consignee.

Date

(Name of carrier)

(Agent)

AUTHORITY TO MAKE ENTRY FOR PORTION OF CONSOLIDATED SHIPMENT

The merchandise covered by this entry or such portion thereof as may be specifically indicated was shipped by ..... consigned to ..... endorsed to ..... covered by * ..... dated ..... at ..... on file with the district director of customs at ..... I, We,) ..... the consignee in the above mentioned document covering merchandise for various ultimate consignees, hereby authorize ..... or order to make customs entry for the merchandise.

(Consignee)

(Transfer of the above authority may be made by endorsement here.)
* Insert "Bill of lading," "Certified duplicate bill of lading," "Carrier's certificate," or "Shipping receipt."

Notes:
For information relative to the preparation and filing of a customs entry see UNITED STATES CUSTOMS REGULATIONS and TARIFF SCHEDULES OF THE UNITED STATES ANNOTATED.

The rates of duty used in this entry are not binding for future imports. Section 177.1, Customs Regulations, tells how to obtain binding rates.

FOR INFORMAL ENTRY USE ONLY SHADED BLOCKS AND COLUMNS

WHEN THIS FORM IS USED AS AN INFORMAL ENTRY— Liquidation of amount of duties and taxes, if any, due on this entry is effective on date of payment of this amount. For importer's right to protest or Government's right to redetermine this amount, see sections 514 and 520, T.A. 1930, and sections 174.12 and 173.2, Customs Regulations. Protest must be accompanied by this receipt or a photostat copy thereof.

CUSTOMS FORM 7501 PAGE 2.

BILLING CODE 4810-22-C

Block and file no.	Description	Present use	When to be used	Mandatory or optional

Page 1 of Customs Form 7501 (Revised)

The unnumbered block at the top left of the form, "Census Use Only", would be reserved for the Bureau of Census to gather appropriate statistics for processing purposes. The unnumbered block at the top center of the form, "Entry No. and Date", would be used to designate the Customs assigned entry number and date for the particular entry of merchandise. The unnumbered block at the top right of the form, "This Space for Broker's Use (optional)", would be reserved for the use of the broker. The unnumbered block along the right side of the form, "Customs Use Only", is reserved for Customs use.

Block and title	Description	Present customs form	When to be filed	Mandatory or optional
1. Entry Type code	Two-digit number (code to be exclude informal entries).	3461, 5101, 5119A.	Entry	Mandatory.
2. Port of Entry Code	District and port code as indicated in Annex A of TSUSA. Example: 10-01 is the Port of New York Seaport.	7501, 7502, 5119A.	Entry	Mandatory.
3. Location of Goods	Pier, dock, warehouse, Foreign Trade Zone, etc.	3461, 7501, 7502.	Entry	Mandatory.
4. Broker File No	Broker's reference number for the importation.	3461	Entry	Optional.
5. Importer of Record: (A. Name & Address)	Name and address, including Zip Code	7501, 7502, 5119A.	Entry	Mandatory.
(B. Account No.)	IRS No., social security No., or Customs assigned No. of importer of record.	5101	Entry	Mandatory.
(C. Bond No.)	Same code as on CF 5101	5101	Entry	Mandatory.
(D. Surety)	Identifying surety No. For A.B.I.S	5101	Entry	Mandatory.
6. For Account of: (A. Name & Address)	Name and address, including Zip Code	7501, 7502	Entry	Mandatory if applicable.
(B. Account No.)	IRS No., social security No., or Customs assigned No. of party shown in 6A.	5101	Entry	Mandatory if applicable.
(C. Broker Account No.)	Customs assigned No. to indicate broker	New	Entry	Mandatory if applicable.
7. Importer Reference	Importer No. of individual or firm to who refunds, bills, or notices of liquidation are to be sent if other than importer or record.	5101	Entry	Optional.
6. B/L or AWB No	Obtain from import documentation	3461, 7501, 7502, 5119A.	Entry	Mandatory.
9. Previous Transaction No./Date/ Carrier/Port.	Previous Customs status of merchandise. Example: IT Entry #776824 filed August 20, 1978, by (carrier) at port of Baltimore, Md.	3461, 7501, 7502, 5119A.	Entry	Mandatory if applicable.
10. No. of Invoice Page	Total No. of invoice pages	3461	Entry	Mandatory.
11. No. of Pkgs	Total No. of packages in shipment	3461	Entry	Mandatory.
12. Value	Total invoice value	3461	Entry	Mandatory.
13. Importing Vessel (Name & Flag) or Carrier.	Name of vessel or airline and country in which vessel or airline is registered.	3461, 7501, 7502, 5119A.	Entry	Mandatory.
14. Trans. Mode	Method of transportation in terms of how imported article first entered the U.S. Example: vessel, air, truck, railroad, pipeline, ferry, mail (surface and air), etc.	New	Entry	Mandatory.
15. Container Number(s)/Code(s)	Each container number in columns	New	Entry	Mandatory if applicable.
16. Manifest No	Obtained from carrier	New	Entry	Mandatory.
17. Cartman*/Bonded Warehouse	*Name of cartman (new) and/or bonded warehouse.	New*, 7502	Entry	Mandatory if applicable.
18. Foreign Port of Lading	Name of foreign port at which the merchandise was *actually loaded* for exportation to the U.S.	3461, 7501, 7502.	Entry	Mandatory.
19. Date of Export	Month, day, year on which the carrier departed the last port of the country of exportation bound for the U.S..	7501, 7502	Entry	Mandatory.
20. Exporting Country	Name of country from which the merchandise imported.	7501, 7502, 5119A.	Entry	Mandatory.
21. U.S. Port of Unlading	U.S. port at which the merchandise was first unloaded.	7501, 7502	Entry	Mandatory.
22. Date of Import	Month, day, year on which the carrier arrived within port limits of U.S. with intent to unlade.	7501, 7502, 5119A.	Entry	Mandatory.
23. Relationship	Indicate "related" or "not related"	7501, 7502	Entry	Mandatory.
24. Marks & Numbers of Packages; Country of Origin of Merchandise.	Self-explanatory	7501, 7502, 5119A.	Entry summary.	Mandatory.
25. (P) PEXT (C) CHGS, (E) EPEX	FOB/CIF statistical data	7501, 7502	Entry summary.	Mandatory.
26. Entered Value	Entered value for TSUSA reporting number	7501, 7502, 5119A.	Entry summary.	Mandatory.
27. Description of Merchandise: 27A Net Quantity in TSUSA Units.	Unit of quantity as specified in TSUSA	7501, 7502, 5119A.	Entry summary.	Mandatory.
27B. Gross Weight in Pounds	Self-explanatory	7501, 7502	Entry summary.	Mandatory.
27C. TSUSA Number	Self-explanatory	7501, 7502, 5119A.	Entry summary.	Mandatory.
28. Tariff or I.R.C. Rate	Self-explanatory	7501, 7502, 5119A.	Entry summary.	Mandatory.
29. Duty & I.R. Tax	Self-explanatory	7501, 7502, 5119A.	Entry summary.	Mandatory.
30. Remarks/Other Govt. Agency Data*.	Importer/broker space to indicate missing documents, etc.; *also indication of any other U.S. Government agency requirements that must be met (new).	7501, 7502, New*.	Entry summary.	Mandatory.
31 Totals: A. Duty	Total amount of duties	7501, 7502, 5119A, 5101.	Entry summary.	Mandatory.
B. I.R. Tax	Total amount of I.R. tax	7501, 7502, 5119A, 5101.	Entry summary.	Mandatory.
C. Collection	Total amount of all duties and I.R. tax	7501, 7502, 5119A.	Entry summary.	Mandatory.
32. Authentication	Name and signature of declarant	3461, 7501, 7502, 5119A, 5101.	Entry, entry summary.	Mandatory.
33. Date	Date declaration is signed	3461, 7501, 7502.	Entry, entry summary.	Mandatory.
34. Title	Title of individual signing block 32	7501,7502	Entry, entry summary.	Mandatory.
35. Address	Address of individual signing block 32	7501, 7501	Entry, entry summary.	Mandatory.

The declaration on the bottom left corner of the form, presently appearing on Customs Forms 7501 and 7502, is required to be completed at the time of filing the entry summary.

Page 2 of Customs Form 7501 (Revise)

The "Record of Cartage or Lighterage", presently on Customs Form 7502A (Permit), would be completed when merchandise is to be transferred from the place of unlading to a bonded warehouse. When completed other than by a Customs officer, it would be done in the presence of, and certified by, the Customs officer.

The "Report of Exceptions, or of Weight, Gauge, or Measure: or Other Pertinent Information" is to be completed by a Customs officer as needed when there is an invoice discrepancy, or to provide proper weight, gauge, or measure for classification and control purposes.

The "Carrier's Certificate and Release Order", presently appearing on Customs Forms 7501 and 7502, is required to be completed, if applicable, at the time of filing entry documentation.

The "Authority to Make Entry for Portion of Consolidated Shipment", presently appearing on the Customs Forms 7501 and 7502, is required to be completed, if applicable, at the time of filing entry documentation.

[FR Doc. 79-15800 Filed 5-22-79; 8:45 am]

BILLING CODE 4810-22-M

DEPARTMENT OF TRANSPORTATION

Federal Highway Administration

[23 CFR Part 625]

[FHWA Docket No. 78-10, Notice 3]

Design Standards for Highways, Status and Proposed Action

AGENCY: Federal Highway Administration (FHWA), DOT.

ACTION: Notice regarding status of proposed rule.

SUMMARY: The Federal Highway Administration is issuing this Notice to provide information regarding the status of its rulemaking action on design criteria for the Resurfacing, Restoration, and Rehabilitation (RRR) of streets and highways other than freeways.

FOR FURTHER INFORMATION CONTACT: Rex Leathers, Office of Engineering, 202-426-0370; or Lee J. Burstyn, Office of the Chief Counsel, 202-426-0754, Federal Highway Administration, 400 Seventh Street, SE., Washington, D.C. 20590. Office hours are from 7:45 a.m. to 4:15 p.m. ET, Monday through Friday.

SUPPLEMENTARY INFORMATION:

Background

Section 108(a)(1) of the Federal-Aid Highway Act of 1976 amended 23 U.S.C. § 101(a) by redefining "construction" to include Resurfacing, Restoration, and Rehabilitation. To implement this provision, the FHWA published an advance notice of proposed rulemaking (ANPRM) on August 25, 1977, (42 FR

These elevations, together with the

U.S.C. 4001-4128; Executive Order 12127, 44

42876) soliciting input on three alternatives as well as other approaches which might be suggested. A notice of withdrawal of the ANPRM was published in the Federal Register on January 9, 1978, (43 FR 2734). Because of the diversity of the comments, all alternatives were rejected. A notice of proposed rulemaking (NPRM) expressing RRR design criteria was then published in the Federal Register on August 23, 1978, (43 FR 37556). The comment period on the NPRM suggested design criteria for RRR was extended once and closed on January 4, 1979.

Status and Proposed Action

Over 100 comments on the RRR notice of proposed rulemaking were received from interested parties. Practically all commentors had substantive but differing views concerning the rulemaking action. Because of the great interest and complexity of this matter, the FHWA management established internal working groups to assist in fully evaluating the proposed action and other feasible approaches. The groups will make recommendations as to what course of action should next be taken as part of this rulemaking activity. The working groups include representatives from the various FHWA offices and are addressing the following tasks: (1) Preparation of a summary of Docket No. 78–10 comments, (2) evaluation of Docket No. 78–10 comment, including those which suggest alternative procedures to separate RRR standards and an evaluation of these procedures, (3) preparation of a Regulatory Analysis required by Executive Order 12044 on Improving Government Regulations, and (4) based upon comments received and impact analysis, preparation of options for the Administrator's decision.

Before taking action upon the NPRM criteria, the FHWA will fully assess comments received, along with the safety, cost, and social impacts of the rulemaking suggestion. Although it is now premature to judge what action will next be taken regarding design standards for the RRR program, future Federal Register entries will address the comments received and the FHWA response. The Regulatory Analysis will be available for public review once the next action is taken on this subject by the agency.

(23 U.S.C. 109, 315; 49 CFR 1.48(b))

Issued on May 16, 1979.

John S. Hassell, Jr.,

Deputy Administrator.

[FR Doc. 79-16094 Filed 5-22-79; 8:45 am]

BILLING CODE 4910-22-M

FEDERAL EMERGENCY MANAGEMENT AGENCY

[24 CFR Part 1917]

[Docket No. FI-5485]

Proposed Flood Zone Designation for the City of Excelsior, Minn., Under the National Flood Insurance Program

AGENCY: Office of Federal and Hazard Mitigation, FEMA.[1]

ACTION: Proposed rule.

SUMMARY: Technical information or comments are solicited on the proposed zone designation described below. This proposed zone designation is the basis for the flood plain management measures that the community is required to either adopt or show evidence of being already in effect in order to qualify or remain qualified for participation in the National Flood Insurance Program (NFIP).

DATES: The period for comment will be ninety (90) days following the second publication of this proposed rule in the newspaper of local circulation in the above-named community.

ADDRESSES: Maps and other information showing the detailed outlines of the flood-prone areas and the proposed zone designation is available for review at the Mayor's Office, 339 3rd Street, Excelsior, Minnesota.

Send comments to: The Honorable Jerry Johnson, Mayor of Excelsior, 339 3rd Street, Excelsior, Minnesota 55331.

FOR FURTHER INFORMATION CONTACT: Mr. Richard Krimm, National Flood Insurance Program, (202) 755–5581 or Toll Free Line (800) 424–8872, Room 5270, 451 Seventh Street, SW, Washington, D.C. 20410.

SUPPLEMENTARY INFORMATION: The Federal Insurance Administrator gives notice of the proposed zone designation for the City of Excelsior, Minnesota, in accordance with Section 110 of the Flood Disaster Protection Act of 1973 (Pub. L. 93–234), 87 Stat. 980, which added Section 1363 to the National Flood Insurance Act of 1968 (Title XIII of the Housing and Urban Development Act of 1968 (Pub. L. 90–448)), 42 U.S.C. 4001–4128, and 24 CFR 1917.4(a).

Zone designations and base (100-year) flood elevations, together with the flood plain management measures required by Section 1910.3 of the program regulations, are the minimum that are required. They should not be construed to mean the community must change any existing ordinances that are more stringent in their flood plain management requirements. The community may at any time enact stricter requirements on its own or pursuant to policies established by other Federal, State or regional entities. The proposed zone designation will also be used to calculate the appropriate flood insurance premium rated for new buildings and their contents and for the second layer of insurance on existing buildings and their contents.

The proposed zone and elevation designations are:

Source of flooding	Location	Zones and elevations
Gideon Bay	Shoreline to corporate limits	A2 (EL 931) NGVD.
Lake Minnetonka	Shoreline to corporate limits	A2 (EL 931) NGVD.
Excelsior Bay	Shoreline to corporate limits	A2 (EL 931) NGVD.
St. Albans Bay	Shoreline to corporate limits	A2 (EL 931) NGVD.

(National Flood Insurance Act of 1968 (Title XIII of Housing and Urban Development Act of 1968), effective January 28, 1969 (33 FR 17804, November 28, 1968), as amended; 42 U.S.C. 4001–4128; Executive Order 12127, 44 FR 19367; and delegation of authority to Federal Insurance Administrator, 44 FR 20963.)

Issued: May 16, 1979.

Gloria M. Jimenez,

Federal Insurance Administrator.

[FR Doc. 79-15878 Filed 5-22-79; 8:45 am]

BILLING CODE 4210-01-M

[1] The functions of the Federal Insurance Administration, Department of Housing and Urban Development, were transferred to the newly established Federal Emergency Management Agency by Reorganization Plan No. 3 of 1978 (43 FR 41943, September 19, 1978) and Executive Order 12127 (44 FR, 19367, April 3, 1979).

[24 CFR Part 1917]

[Docket No. FI-5486]

Proposed Flood Elevation Determinations for the Commonwealth of Puerto Rico Under the National Flood Insurance Program

AGENCY: Office of Federal Insurance and Hazard Mitigation, FEMA.[1]

ACTION: Proposed rule.

SUMMARY: Technical information or comments are solicited on the proposed base (100-year) flood elevations listed below for selected locations in the Commonwealth of Puerto Rico. These base (100-year) flood elevations are the basis for the flood plain management measures that the community is required to either adopt or show evidence of being already in effect in order to qualify or remain qualified for participation in the National Flood Insurance Program (NFIP).

DATES: The period for comment will be ninety (90) days following the second publication of this proposed rule in a newspaper of local circulation in the above-named community.

ADDRESSES: Maps and other information showing the detailed outlines of the flood-prone areas and the proposed base (100-year) flood elevations are available for review at Puerto Rico Planning Board, Minillas Government Center, North Building, 14th Floor, Santurce, Puerto Rico. Send comments to: Mr. Boris Oxman, Coordinator for National Flood Insurance Program, Puerto Rico Planning Board, Minillas Government Center, 14th Floor, Box 41119, Santurce, Puerto Rico 00940.

FOR FURTHER INFORMATION CONTACT: Mr. Richard Krimm, National Flood Insurance Program, (202) 755–5581 or Toll Free Line (800) 424–8872, Room 5270, 451 Seventh Street, SW., Washington, D.C. 20410.

SUPPLEMENTARY INFORMATION: The Federal Insurance Administrator gives notice of the proposed determinations of base (100-year) flood elevations for the Commonwealth of Puerto Rico, in accordance with section 110 of the Flood Disaster Protection Act of 1973 (Pub. L. 93–234), 87 Stat. 980, which added section 1363 to the National Flood Insurance Act of 1968 (Title XIII of the Housing and Urban Development Act of 1968 (Pub. L. 90–448)), 42 U.S.C. 4001–4128, and 24 CFR 1917.4(a).

These elevations, together with the flood plain management measures required by Section 1910.3 of the program regulations, are the minimum that are required. They should not be construed to mean the community must change any existing ordinances that are more stringent in their flood plain management requirementrs. The community may at any time enact stricter requirements on its own, or pursuant to policies established by other Federal, State, or regional entities. These proposed elevations will also be used to calculate the appropriate flood insurance premium rates for new buildings and their contents and for the second layer of insurance on existing buildings and their contents.

The proposed base (100-year) flood elevations for selected locations are:

Source of Flooding	Location	Elevation in meters above mean sea level
Rio Guayanilla	At Mouth	1.8
	Highway 127 (Most downstream crossing) [1]	10.0
	Highway 127 (Second crossing) [1]	13.0
	Highway 2—35 meters [2]	24.0
Rio Macana	At Mouth	1.8
	Highway 127—40 meters [2]	3.5
	Highway 2—20 meters [2]	9.0
Rio Cibuco	Puerto Rico Highway 686—100 meters [2]	6.0
	Puerto Rico Highway 2—50 meters [2]	8.7
	Puerto Rico Highway 676—80 meters [2]	10.0
	Puerto Rico Highway 675—50 meters [2]	16.6
	2nd Unnamed Road—50 meters [2]	20.4
Rio Indio	Puerto Rico Highway 160—50 meters [2]	12.1
Quebrada Honda	Puerto Rico Highway 2—65 meters [2]	21.0
	Calle Calendra—50 meters [2]	29.5
	Puerto Rico Highway 2—50 meters [2]	42.5
	Puerto Rico Highway 2—50 meters [2]	47.2
Rio De Los Negros	Puerto Rico Highway 159—50 meters [2]	77.9
	Puerto Rico Highway 807—10 meters [2]	80.0
Rio Morovis	Weir—20 meters [2]	181.5
	Weir—40 meters [2]	186.0
	Puerto Rico Highway 617—15 meters [2]	189.6
Arecibo River	Puerto Rico Highway 2 (1st crossing)—.05 meters [3]	3.8
	Puerto Rico Highway 2 (2nd crossing)—.08 meters [3]	7.8
	Confluence with Tanama River [2]	11.6
Cano Tiburnones	Confluence with Atlantic Ocean [3]	1.3
Atlantic Ocean	Coastal Areas	1.6
Rio Orocovis	Puerto Rico Highway 155 (First Bridge) [1]	487.2
	Confluence with Quebrada Los Saltos	497.7
	Puerto Rico Highway 155 (Second Bridge) [2]	499.8

[1] At centerline.
[2] Upstream from centerline.
[3] Downstream from centerline.

(National Flood Insurance Act of 1968 (Title XIII of Housing and Urban Development Act of 1968), effective January 28, 1969 (33 FR 17804, November 28, 1968), as amended; 42 U.S.C. 4001–4128; Executive Order 12127, 44 FR 19367; and delegation of authority to Federal Insurance Administrator, 44 FR 20963).

Issued: May 16, 1979.

Gloria M. Jimenez,

Federal Insurance Administrator.

[FR Doc. 79-15877 Filed 5-22-79; 8:45 am]

BILLING CODE 4210-01-M

[1] The functions of the Federal Insurance Administration, Department of Housing and Urban Development, were transferred to the newly established Federal Emergency Management Agency by Reorganization Plan No. 3 of 1978 (43 FR 41943, September 19, 1978) and Executive Order 12127 (44 FR 19367, April 3, 1979).

DEPARTMENT OF HOUSING AND URBAN DEVELOPMENT

Federal Insurance Administration

[24 CFR Part 1917]

[Docket No. FI-5077]

National Flood Insurance Program; Proposed Flood Elevation Determination for the Village of Geneva-on-the-Lake, Ashtabula County, Ohio

Correction

In FR Doc. 79–3422, appearing in the issue of Monday, February 5, 1979, on page 6940 in the third column, in the table, correct the first four lines of the fourth entry to read as follows:

Source of flooding	Location	Elevation in feet, national geodetic vertical datum
* * * * *		
Unnamed Stream No. 2	Mouth at Lake Erie	576
	Just upstream from abandoned bridge 2200 feet upstream from Lake Erie.	580

BILLING CODE 1505-01-M

DEPARTMENT OF THE TREASURY

Internal Revenue Service

[26 CFR Parts 1 and 601]

[LR-206-78]

Proposed Residential Energy Credit Regulations

AGENCY: Internal Revenue Service, Treasury.

ACTION: Notice of proposed rulemaking.

SUMMARY: This document contains proposed regulations relating to the residential energy credit. Changes to the applicable tax law were made by the Energy Tax Act of 1978. These regulations provide the public with guidance needed for determining whether a residential energy credit is available with respect to certain expenditures.

comments. If a public hearing is held,

taxable year, but not in excess of $2,000

allowance of a credit to a prior owner of

V 4 4 / 1 0 1 MAY 23 79 UMI

DATES: Written comments and requests for a public hearing must be delivered or mailed by July 23, 1979. The amendments are proposed to be effective with respect to expenditures made after April 19, 1977, and before January 1, 1986.

ADDRESS: Send comments and requests for a public hearing to: Commissioner of Internal Revenue, Attention: CC:LR:T, Washington, D.C. 20224.

FOR FURTHER INFORMATION CONTACT: Walter H. Woo of the Legislation and Regulations Division, Office of the Chief Counsel, Internal Revenue Service, 1111 Constitution Avenue, NW., Washington, D.C. 20224 (Attention: CC:LR:T) (202–566–3734).

SUPPLEMENTARY INFORMATION:

Background

This document contains proposed amendments to the Income Tax Regulations (26 CFR Part 1) under sections 44C and 1016 of the Internal Revenue Code of 1954 and to the Statement of Procedural Rules (26 CFR Part 601). These amendments are proposed to conform the regulations to section 101 of the Energy Tax Act of 1978 (92 Stat. 3174) and are to be issued under the authority contained in section 7805 of the Internal Revenue Code of 1954 (68A Stat. 917; 26 U.S.C. 7805).

In General

The Energy Tax Act of 1978 provides a residential energy credit for insulation, certain other energy-conserving components, and certain renewable energy source property expenditures made in connection with the taxpayer's principal residence. In the case of insulation and other energy-conserving components, the credit is 15 percent of the first $2,000 of expenditures, or a maximum credit of $300. In the case of solar, wind, and geothermal energy property, the credit is 30 percent of the first $2,000 of expenditures and 20 percent of the next $8,000 of expenditures, for a maximum credit of $2,200.

The taxpayer must reduce the maximum amount of allowable expenditures with respect to the dwelling unit to be used in computing the credit by the prior expenditures which were made by the taxpayer, and which were taken into account in computing the credit for prior taxable years. If two or more individuals occupied and used a dwelling unit as their principal residence during any calendar year, the amount of the credit is to be determined by treating all of the joint occupants as one taxpayer.

The credit applies only to expenditures made on or after April 20, 1977, and before January 1, 1986. A credit with respect to expenditures made during 1977 (*i.e.*, on or after April 20) is to be claimed on the taxpayer's 1978 tax return. In the case of insulation and other energy-conserving component expenditures, the credit is available only with respect to principal residences the construction (including reconstruction) of which was substantially completed before April 20, 1977. To the extent that the credit exceeds the taxpayer's tax liability, the taxpayer is allowed to carry over the unused credit to subsequent taxable years beginning before January 1, 1988.

Energy-Conserving Components

The proposed regulations provide that in order for an item to come within the definition of insulation the item must be specifically and primarily designed to reduce, when installed in or on a dwelling or on a water heater, the heat loss or gain of the dwelling or water heater. Items whose primary purpose is not insulation such as carpeting, drapes, and siding are not considered to be insulation. Proposed paragraph (d) of § 1.44C–2 provides definitions of the items specified in section 44C(c)(4)(A) that may qualify as other energy-conserving components.

Renewable Energy Source Property

Proposed paragraph (e) of § 1.44C–2 defines "renewable energy source property" to include solar, wind, and geothermal energy property. Renewable energy source property does not include heating and cooling systems ("back-up" systems) that employ a form of energy other than solar, wind, or geothermal energy to supplement renewable energy source equipment. The proposed regulations define solar energy property as equipment and materials that transmit or use solar energy directly to heat or cool the dwelling or to provide hot water for use within the dwelling. It should be noted that only the materials and components whose sole purpose is to transmit or use solar radiation are considered as solar energy property. Accordingly, materials and components which also have a significant structural function in the dwelling do not qualify. Wind and geothermal energy property are also defined in the proposed regulations. The Secretary of the Treasury is authorized to add to the list of renewable energy sources. The proposed regulations provide that an energy source will be considered for addition to the list only if it is an inexhaustible energy source. Thus, for example any fuel or energy source that qualifies for depletion will not be considered for addition to the list.

Recordkeeping Requirements

Proposed paragraph (d) of § 1.44C–3 provides that a residential energy credit will not be allowable unless the taxpayer maintains records that clearly identify the items of energy conservation or renewable energy source property and substantiate the cost to the taxpayer of the property, any labor costs properly allocable to the property paid for by the taxpayer, and the method used for allocating the labor costs.

Certification Procedures and Procedures for Addition to the List of Energy-Conserving Components or Renewable Energy Sources

Proposed § 1.44C–5 outlines the procedure to be followed by a manufacturer of an item seeking: (1) Certification that an item meets the definition of an energy-conserving component or of renewable energy source property, or (2) approval for addition of an item to the list of approved energy-conserving components or renewable energy sources. Certification that an item meets a regulatory definition does not, however, insure that the item satisfies any applicable performance and quality standards. These standards are currently being developed, and will be the subject of a separate notice of proposed rulemaking.

In the case of applications for addition of an item to the list of approved energy-conserving components or renewable energy sources, manufacturers are to include in their applications data establishing that the item meets the applicable criteria set forth in paragraph (c) of proposed § 1.44C–5. If an application for addition of an item to a qualifying list is approved by the Secretary of the Treasury, the addition will become effective on the date a Treasury decision amending the regulations to effect the addition is published in the **Federal Register.**

Comments and Requests for a Public Hearing

Before adopting these proposed regulations, consideration will be given to any written comments that are submitted (preferably six copies) to the Commissioner of Internal Revenue. All comments will be available for public inspection and copying. A public hearing will be held upon written request to the Commissioner by any person who has submitted written comments. If a public hearing is held, notice of the time and place will be published in the **Federal Register.**

Drafting Information

The principal author of these proposed regulations is Walter H. Woo of the Legislation and Regulations Division of the Office of Chief Counsel, Internal Revenue Service. However, personnel from other offices of the Internal Revenue Service and Treasury Department participated in developing the regulation, both on matters of substance and style. In addition, personnel from the Department of Energy were consulted with respect to technical and policy issues arising under the Act.

Proposed Amendments to the Regulations

The proposed amendments to the Income Tax Regulations (26 CFR Part 1) and the Statement of Procedural Rules (26 CFR Part 601) are as follows:

PART I—INCOME TAX: TAXABLE YEARS BEGINNING AFTER DECEMBER 31, 1953

[26 CFR Part 1]

Paragraph 1. There are inserted immediately after § 1.44–5 the following new sections:

§ 1.44C–1 Residential energy credit.

(a) *General rule.* Section 44C provides a residential energy credit against the tax imposed by chapter 1 of the Internal Revenue Code. The credit is an amount equal to the individual's qualified energy conservation expenditures (set out in paragraph (b)) plus the individual's qualified renewable energy source expenditures (set out in paragraph (c)) for the taxable year. However, the credit is subject to the limitations described in paragraph (d) and the special rules contained in § 1.44–3. The credit is nonrefundable (that is, the credit may not exceed an individual's tax liability for the taxable year). However, any unused credit may be carried over to succeeding years to the extent permitted under paragraph (e). Renters as well as owners of a dwelling unit may qualify for the credit. See § 1.44C–3 (h) for the rules relating to the allocation of the credit in the case of joint occupants of a dwelling unit.

(b) *Qualified energy conservation expenditures.* In the case of any dwelling unit, the qualified energy conservation expenditures are 15 percent of the energy conservation expenditures made by the taxpayer with respect to the dwelling unit during the taxable year, but not in excess of $2,000 of such expenditures. See § 1.44C–2 (a) for the definition of energy conservation expenditures.

(c) *Qualified renewable energy source expenditures.* In the case of any dwelling unit, the qualified renewable energy source expenditures are the renewable energy source expenditures made by the taxpayer with respect to the dwelling unit during the taxable year, but not in excess of—

(1) 30 percent of the expenditures up to $2,000, plus

(2) 20 percent of the expenditures over $2,000, but not more than $10,000.

See § 1.44C–2 (b) for the definition of renewable energy source expenditures.

(d) *Limitations—(1) Minimum dollar amount.* No residential energy credit shall be allowed with respect to any return (whether joint or separate) for any taxable year if the amount of the credit otherwise allowable (determined without regard to the tax liability limitation imposed by paragraph (d)(3) of this section) is less than $10.

(2) *Prior expenditures taken into account—*(i) *In general.* For purposes of determining the credit for expenditures made during a taxable year, the taxpayer must reduce the maximum amount of allowable expenditures with respect to the dwelling unit in computing qualified energy conservation expenditures (under paragraph (b)) or qualified renewable energy conservation expenditures (under paragraph (c)) by prior expenditures which were made by the taxpayer or by joint occupants (see § 1.44C–3(h)) with respect to the same dwelling unit, and which were taken into account in computing the credit for prior taxable years. The reduction of the maximum amount under paragraph (c) must first be made with respect to the first $2,000 of expenditures (to which a 30 percent rate applies) and then with respect to the next $8,000 of expenditures (to which a 20 percent rate applies). This reduction must be made if all or any part of the credit was allowed in or was carried over from a prior taxable year.

(ii) *Change of principal residence.* A taxpayer is eligible for the maximum credit for qualifying expenditures made with respect to a new principal residence notwithstanding allowance of a credit for qualifying expenditures made with respect to the taxpayer's previous principal residence. Furthermore, except in certain cases involving joint occupancy (see § 1.44C–3(h)), a taxpayer is eligible for the maximum credit notwithstanding the allowance of a credit to a prior owner of the taxpayer's new principal residence.

(iii) *Example.* The rules with respect to the reduction for prior expenditures are illustrated by the following example:

Example. In 1978, A has $1,000 of energy conservation expenditures and $5,000 of renewable energy source expenditures in connection with A's principal residence. A's residential energy credit for 1978 is $1,350, made up of $150 of qualified energy conservation expenditures (15 percent of $1,000) plus $1,200 of qualified renewable energy source expenditures (30 percent of the first $2,000 plus 20 percent of the next $3,000). In 1979 A has an additional $2,000 of energy conservation expenditures and $3,000 of renewable energy source expenditures in connection with the same principal residence. A's residential energy credit for 1979 is $750, made up of $150 of qualified energy conservation expenditures (15 percent of the new maximum $1,000, which was reduced from $2,000 by $1,000 of energy conservation expenditures taken into account in 1978) plus $600 of qualified renewable energy source expenditures (20 percent of $3,000, which reflects the reduction of the maximum allowable expenditures by the $5,000 of renewable energy source expenditures taken into account in 1978). The maximum residential energy credit allowable to A with respect to the same principal residence in subsequent years in which the credit is allowable is $400 (20 percent of the new maximum of $2,000 for renewable energy source expenditures and none for energy conservation expenditures).

(3) *Tax liability limitation.* The credit allowed by this section shall not exceed the amount of the tax imposed by chapter 1 of the Internal Revenue Code of 1954 for the taxable year, reduced by the sum of the credits allowable under—

(i) Section 32 (relating to tax withheld at source on nonresident aliens and foreign corporations and on tax-free covenant bonds),

(ii) Section 33 (relating to the taxes of foreign countries and possessions of the United States),

(iii) Section 37 (relating to retirement income),

(iv) Section 38 (relating to investment in certain depreciable property),

(v) Section 40 (relating to expenses of work incentive programs),

(vi) Section 41 (relating to contributions to candidates for public office),

(vii) Section 42 (relating to the general tax credit),

(viii) Section 44 (relating to purchase of new personal residence),

(ix) Section 44A (relating to expenses for household and dependent care services), and

(x) Section 44B (relating to employment of certain new employees).

(B) Conserves energy by substantially

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(e) *Carryover of unused credit.* If the credit allowable by this section exceeds the tax liability limitation imposed by section 44C(b)(5) and paragraph (d)(3) of this section, the excess credit shall be carried over to the succeeding taxable year and added to the credit allowable under this section for the succeeding taxable year. A carryover that is not used in the succeeding year because it exceeds the tax liability limitation shall be carried over to later taxable years until used, except that no excess credit may be carried over to any taxable year beginning after December 31, 1987.

§ 1.44C-2 Definitions.

For purposes of section 44C and regulations thereunder—

(a) *Energy conservation expenditures*—(1) *In general.* The term "energy conservation expenditure" means an expenditure made on or after April 20, 1977, and before January 1, 1986, by a taxpayer for insulation or any other energy-conserving component, or for labor costs allocable to the original installation of such insulation or other component, if all of the following conditions are satisfied:

(i) The insulation (as defined in paragraph (c)) or other energy-conserving component (as defined in paragraph (d)) is installed in or on a dwelling unit that is used as the taxpayer's principal residence when the installation is completed. See § 1.44C-3(e) for the definition of principal residence.

(ii) The dwelling unit is located in the United States (as defined in section 7701(a)(9)).

(iii) The construction of the dwelling unit was substantially completed before April 20, 1977. See § 1.44C-3(f) for the definition of the terms "construction" and "substantially completed". In the case of expenditures made with respect to the enlargement of a dwelling unit, the construction of the enlargement must have been substantially completed before April 20, 1977.

(2) *Examples.* The application of this paragraph may be illustrated by the following examples:

Example (1). In 1978, A spent $500 for the purchase and installation of new storm windows to replace old storm windows, $100 to reinstall old storm windows, and $150 to transfer to A's house insulation which had been installed in A's garage. Only the $500 spent for new storm windows qualifies as an energy conservation expenditure. The $100 spent to reinstall storm windows and the $150 spent to transfer insulation to A's house do not qualify since the only installation costs that qualify are those for the original installation of energy conservation property the original use of which commences with the taxpayer.

Example (2). In June 1977, B purchased for B's principal residence a new house that was substantially completed before April 20, 1977. Pursuant to B's request the builder installed storm windows on May 1, 1977, the cost of this option being included in the purchase price of the house. The portion of the purchase price of the residence allocable to the storm windows constitutes an energy conservation expenditure. However, no other part of the purchase price may be allocated to energy conservation property (insulation and other energy conserving components) installed before April 20, 1977. To qualify as an energy conservation expenditure, and expenditure must be made (*i.e.*, installation of the energy conservation property must be completed) on or after April 20, 1977.

(b) *Renewable energy source expenditures.* The term "renewable energy source expenditures" means an expenditure made on or after April 20, 1977, and before January 1, 1986, by a taxpayer for renewable energy source property (as defined in paragraph (e)), or for labor costs properly allocable to the on-site preparation, assembly, or original installation of such property, if both of the following conditions are satisfied:

(1) The renewable energy source property is installed in connection with a dwelling unit that is used as the taxpayer's principal residence when the installation is completed. See § 1.44C-3(e).

The dwelling unit is located in the United States (as defined in section 7701(a)(9)).

Eligibility as a renewable energy source expenditure does not depend on the date of construction of the dwelling unit. Thus, such an expenditure may be made in connection with either a new or an existing dwelling unit. Renewable energy source expenditures need only be made in connection with a dwelling, rather than in or on a dwelling unit. For example, a solar collector that otherwise constitutes renewable energy source property is not ineligible merely because it is installed separately from the dwelling unit. The term "renewable energy source expenditure" does not include any expenditure allocable to a swimming pool even when used as an energy storage medium or to any other energy storage medium whose primary function is other than the storage of energy. It also does not include the cost of maintenance of an installed system or the cost of leasing renewable energy source property.

(c) *Insulation.* The term "insulation" means any item that satisfies all of the following conditions:

(1) The item is specifically and primarily designed to reduce, when installed in or on a dwelling or on a water heater, the heat loss or gain of such dwelling or water heater. Insulation includes materials made of fiberglass, rock wool, cellulose, styrofoam, ureabased foam, urethane, vermiculite, perlite, polystyrene, and extruded polystyrene foam.

(2) The original use of the item begins with the taxpayer.

(3) The item can reasonably be expected to remain in operation at least 3 years.

(4) The item meets the applicable performance and quality standards prescribed in § 1.44C-4 (if any) that are in effect at the time the taxpayer acquires the property.

The term "insulation" shall not include items whose primary purpose is not insulation (*e.g.*, whose function is primarily structural, decorative, or safety-related). For example, carpeting drapes (including linings), shades, wood paneling, fireplace screens (including those made of glass), awnings, new or replacement walls (except for qualifying insulation therein) and exterior siding do not qualify although they may have been designed in part to have an insulating effect.

(d) *Other energy-conserving components.* The term "other energy-conserving component" means any item (other than insulation) that satisfies all of the following conditions:

(1) The original use of the item begins with the taxpayer.

(2) The item can reasonably be expected to remain in operation for at least 3 years.

(3) The item meets the applicable performance and quality standards prescribed in § 1.44C-4 (if any) that are in effect at the time of the taxpayer's acquisition of the property.

(4) The item is one of the following items:

(i) *A furnace replacement burner.* The term "furnace replacement burner" means a device that is designed to achieve a reduction in the amount of fuel consumed as a result of increased combustion efficiency. The burner must replace an existing burner. It does not qualify if it is acquired as a component of, or for use in, a new furnace or boiler.

(ii) *A device for modifying flue openings.* The term "device for modifying flue openings" means an automatically operated damper that—

(A) Is designed for installation in the flue, between the barometric damper or draft hood and the chimney, of a furnace; and

(B) Conserves energy by substantially reducing the flow of conditioned air through the chimney when the furnace is not in operation. Conditioned air is air that has been heated or cooled by conventional or renewable energy source means.

(iii) *A furnace ignition system.* The term "furnace ignition system" means an electrical or mechanical device, installed in a gas-fired furnace or boiler that automatically ignites the gas burner and replaces a gas pilot light. The device does not qualify if it is acquired as a component of, or for use in, a new furnace or boiler.

(iv) *A storm or thermal window or door.* The terms "storm or thermal window" and "storm or thermal door" include the following:

(A)(*1*) A window placed outside or inside an ordinary or prime window, creating an insulating air space.

(*2*) A window with enhanced resistance to heat flow through the glazed area by multi-glazing.

(*3*) A window that consists of glass or other glazing materials that have exceptional heat-absorbing or heat-reflecting properties. For purposes of this subdivision (iv), the term "glazing material" does not include films and coatings applied on the surface of a window.

(B)(*1*) A second door, installed outisde or inside a prime exterior door, creating an insulating air space.

(*2*) A door with enhanced resistance to heat flow through the glazed area by multi-glazing.

(*3*) A prime exterior door that contains insulation (as defined in § 1.44C-2(c)), which insulation has a thickness of at least 1.5 inches.

For purposes of this subdivision, "multi-glazing" is an arrangement in which two or more sheets of glazing material are affixed in a window or door frame to create one or more insulating air spaces. Multi-glazing can be achieved by installing a preassembled, sealed insulating glass unit or by affixing one or more additional sheets of glazing onto an existing window (or sash) or door.

(v) *Automatic energy-saving setback thermostat.* The term "automatic energy-saving setback thermostat" means a device that is designed to reduce energy consumption by regulating the demand on the heating or cooling system in which it is installed, and uses—

(a) A temperature control device for interior spaces incorpoarating more than one temperature control level, and

(B) A clock or other automatic mechanism for switching from one control level to another.

(vi) *Caulking and weatherstripping.* The term "caulking" means pliable materials used to fill small gaps at fixed joints on buildings to reduce the passage of air and moisture. Caulking includes, but is not limited to, materials commonly known as "sealants", "putty", and "glazing compounds". The term "weatherstripping" means narrow strips of material placed over or in movable joints of windows and doors to reduce the passage of air and moisture.

(vii) *Energy usage display meter.* The term "energy usage display meter" means a device the sole purpose of which is to display the cost (in money) of energy usage in the dwelling. It may show cost imformation for electricity usage, gas usage, oil usage, or any combination thereof. The device may measure energy usage of the whole dwelling, or individual appliances or systems on an instantaneous or cumulative basis.

(viii) *Components specified by the Secretary.* The Secretary may, in his discretion, after consultation with the Secretary of Energy and the Secretary of Housing and Urban Development (or their delegates), and any other appropriate Federal officers, specify by regulation other energy conserving components for addition to the list of qualified items. See § 1.44C-5 for the procedures and critieria to be used in determining whether an item will be considered for addition to the list of qualified items by the Secretary.

The term "other energy-conserving component" is limited to items in a category specifically listed in section 44C(c)(4)(A) (i) through (vii) or added by the Secretary.

(e) *Renewable energy source property*—(1) *In general.* The term "renewable energy source property" includes any solar energy property, wind energy property, geothermal energy property, or property referred to in subparagraph (2), which meets the following conditions:

(i) The original use of the property begins with the taxpayer.

(ii) The property can reasonably be expected to remain in operation for at least 5 years.

(iii) The property meets the applicable performance and quality standards prescribed in § 1.44C-4 (if any) that are in effect at the time of the taxpayer's acquisition of the property.

Renewable energy source property does not include heating and cooling systems which serve to supplement renewable energy source equipment in heating or cooling a dwelling unit, and which employ form of energy (such as electricity oil or gas) other than solar, wind, or geothermal energy (or other forms of renewable energy provided in subparagraph (2)). Thus, heat pumps or oil or gas furnaces, used in connection with renewable energy source property, are not eligible for the credit. In order to be eligible for the credit for renewable energy source property, the property (as well as labor costs properly allocable to onsite preparation, assembly or installation of equipment) must be clearly identifiable. See § 1.44C-3(l) for recordkeeping rules.

(2) *Renewable energy source specified by the Secretary.* In addition to solar, wind, and geothermal energy property, renewable energy source property includes property that transmits or uses another renewable energy source that the Secretary specifies by regulations, after consultation with the Secretary of Energy and the Secretary of Housing and Urban Development (or their delegates), and any other appropriate Federal officers, to be of a kind that is appropriate for the purpose of heating or cooling the dwelling or providing hot water for use within the dwelling. For purposes of this section, references to the transmission or use of energy include its collection and storage. See § 1.44C-5 for the procedures and criteria to be used in determining when another energy source will be considererd for addition to the list of qualified renewable energy sources.

(f) *Solar energy property.* The term "solar energy property" includes equipment and materials (and parts solely related to the functioning of such equipment) which when installed in connection with a dwelling, transmit or use solar energy directly to heat or cool the dwelling or to provide hot water for use within the dwelling. Generally, this is accomplished through the use of equipment such as collectors (to absorb sunlight and create hot liquids or air), storage tanks (to store hot liquids), rockbeds (to store hot air), thermostats (to activate pumps or fans which circulate the hot liquids or air), and heat exchangers (to utilize hot liquids or air to create hot air or water). Property which uses, as an energy source, fuel or energy which is indirectly derived from solar energy, such as fossil fuel or wood, is not considered solar energy property. Solar energy property includes "passive solar systems" as well as "active solar systems", or a combination of both types of systems. An active solar system is based on the use of mechanically forced energy transfer, such as the use of fans or pumps to circulate solar generated energy. A passive solar

system is based on the use of conductive, convective, or radiant energy transfer. A passive or active solar system might utilize portions of the structure of a residence to enhance the collection and storage of solar energy for later use in heating or cooling the residence. Thus, for example, the cost of roof ponds, roof collectors, free-standing thermal containers, and non-window glazing, as well as systems for transferring solar heat to the residence from the ponds, containers, or glazing area, may qualify for the credit. However, to the extent that portions of the structure of a residence are so used, only the materials and components whose sole purpose is to transmit or use solar radiation (and labor costs associated with installing such materials and components) are included within the term "solar energy property". Accordingly materials and components that serve a dual purpose, *e.g.*, they have a significant structural function or are structural components of the dwelling (and labor costs associated with installing such materials and components) are not included within the term "solar energy property". For example, the costs of roofs and (including roofs forming part of roof collectors), windows (including clerestories and skylights), walls that are structural components of the residence, and greenhouses do not qualify as solar energy property.

(g) *Wind energy property.* The term "wind energy property" includes equipment (and parts solely related to the functioning of such equipment) which, when installed in connection with a dwelling, transmits or uses wind energy to produce energy in any form for personal residential purposes. Generally, wind energy equipment consists of a windmill, wind-driven generator, power conditioning and storage devices that use wind to generate electricity or mechanical forms of energy.

(h) *Geothermal energy property.* The term "geothermal energy property" includes equipment (and parts solely related to the functioning of such equipment) necessary to transmit or use energy from a geothermal deposit to heat or cool a dwelling or provide hot water for use within the dwelling. Equipment such as a pipe that serves both a geothermal function (by transmitting hot geothermal water within a dwelling) and a non-geothermal function (by transmitting hot water from a water heater within a dwelling) does not qualify as geothermal property. A geothermal deposit is a geothermal reservoir consisting of natural heat which is from an underground source and is stored in rocks or in an aqueous liquid or vapor (whether or not under pressure), having a temperature exceeding 60 degrees Celsius as measured at the well head or, in the case of a natural hot spring (where no well is drilled), at the intake to the distribution system.

§ 1.44C–3 Special rules.

(a) *When expenditures are treated as made*—(1) *Timeliness of an expenditure for the energy credit.* In general, for the purpose of determining whether an expenditure qualifies as being timely for the residential energy credit under section 44C (*i.e.*, is made after April 19, 1977, and before January 1, 1986), the expenditure is treated as made when original installation of the item is completed. Thus, solely for that purpose, the time of payment or accrual is irrelevant.

(2) *Special rule for renewable energy source expenditures in the case of construction or reconstruction of a dwelling.* In the case of renewable energy source expenditures in connection with the construction or reconstruction of a dwelling that becomes the taxpayer's new principal residence, the expenditures are to be treated as made (for the purpose of determining the timeliness of an expenditure for the residential energy credit) when the taxpayer commences use of the dwelling as his or her principal residence following its construction or reconstruction. The term "reconstruction" means the replacement of most of a dwelling's major strcutural components such as floors, walls, and ceiling. When a taxpayer reoccupies a reconstructed dwelling that was the taxpayers's principal residence prior to reconstruction, a renewable energy source expenditure is considered made when the original installation of the renewable energy source property is completed.

(3) *Taxable year in which credit is allowable.* For the purpose of determining the taxable year in which the credit for an expenditure is allowable (once it has qualified as timely under subparagraph (1) or (2)), and expenditure is treated as made on the later of (i) the date on which it qualifies as timely, or (ii) the date on which it is paid or incurred by the taxpayer.

(b) *Expenditures in 1977.* No credit under section 44C shall be allowed for any taxable year beginning before 1978. However, the amount of any credit under section 44C for the taxpayer's first taxable year beginning after December 31, 1977, shall take into account qualified energy conservation expenditures and qualified renewable energy source expenditures made during the period beginning April 20, 1977, and ending on the last day of such first taxable year.

(c) *Expenditures financed with Federal, etc., grants.* Qualified expenditures financed with Federal, State or other grants (whether or not taxable) shall be taken into account for purposes of computing the residential energy credit, but see section 61 (relating to the definition of gross income) and the regulations thereunder for the treatment of such grants.

(d) *Expenditures qualifying both as energy conservation expenditures and renewable source expenditures.* In the case of an expenditure which meets both the definition of an energy conservation expenditure (as defined in § 1.44C–2(a)) and a renewable energy source expenditure (as defined in § 1.44C–2(b)), the taxpayer may claim either a credit under § 1.44C–1(b) (relating to qualified energy conservation expenditures) or § 1.44C–1 (c) (relating to qualified renewable energy source expenditures) but may not claim both credits with respect to the same expenditure.

(e) *Principal residence.* For purposes of section 44C, the determination of whether a dwelling unit is the taxpayer's principal residence shall be made under principles similar to those applicable to section 1034 and the regulations thereunder (relating to sale or exchange of a principal residence) except that ownership of the dwelling unit is not required. In making this determination, the period for which a dwelling is treated as a taxpayer's principal residence includes the 30-day period ending on the first day on which the dwelling unit would (but for this sentence) be treated as being used as the taxpayer's principal residence under principles similar to those applicable to section 1034. Thus, installations that are completed within that 30-day period may be eligible for the credit although, in the absence of the 30-day rule, the date of habitation of the dwelling unit by the taxpayer would mark the beginning of the taxpayer's use of the unit as a principal residence.

(f) *Construction substantially completed.* Construction of a dwelling unit is substantially completed when construction has progressed to the point where the unit could be put to use as a personal residence, even though comparatively minor items remain to be finished or performed in order to conform to the plans or specifications of the completed building. For this purpose, construction includes reconstruction as defined in paragraph (a)(2). This rule may be illustrated by the following example:

Example. On January 1, 1979, A purchases a dwelling that is to become A's principal residence. The dwelling unit was originally constructed in 1950. A spends $50,000 to reconstruct the dwelling by replacing most of the dwelling's major structural components such as floors, walls and ceilings. Included in the cost is $3,000 attributable to energy-conserving components. Reconstruction is substantially completed on April 1, 1979, and A moves into the reconstructed residence on May 1, 1979. Since construction includes reconstruction, A's reconstructed residence is not considered substantially completed before April 20, 1977. Thus, amounts spent with respect to A's reconstructed residence for energy-conserving components do not qualify as energy conservation expenditures.

(g) *Residential use of property.* To be eligible for the residential energy credit, expenditures must be made for personal residential purposes. If at least 80 percent of the use of a component or item of property is for personal residential purposes, the entire amount of the energy conservation expenditure or the renewable energy source expenditure is taken into account in computing the credit under this section. If less than 80 percent of the use of a component or item of property is for personal residential purposes, the amount of an expenditure taken into account is the amount that bears the same ratio to the amount of the expenditure as the amount of personal residential use of the component or item bears to its total use. For purposes of this paragraph, use of a component or an item of property with respect to a swimming pool is not a use for a personal residential purpose. The rules with respect to residential use of property are illustrated by the following examples:

Example (1). In 1978 A makes an expenditure of $3,000 for the installation of storm windows of which 50 percent is on the portion of A's dwelling used as the principal family residence and 50 percent is on the portion of the dwelling used as an office. A has made no other energy conservation expenditures for the residence. The allowable energy conservation expenditure is $1,500 (50 percent of $3,000), the portion attributable to residential use. Therefore, the residential energy credit is $225 (the qualified conservation expenditure of 15 percent of $1,500).

Example (2). During 1979, B makes $10,000 of renewable energy source expenditures on solar energy property for B's principal residence. Approximately 60 percent of the use of the solar energy property will be for heating B's swimming pool; the other 40 percent will be for heating the dwelling unit. B had not previously made renewable energy source expenditures with respect to the residence. Since use for a swimming pool is not considered a residential use, less than 80 percent of the use of B's solar energy property is considered used for personal residential purposes. Therefore, only $4,000 (40 percent of $10,000), the proportionate part of B's expenditures representing personal residential use, is treated as a renewable energy source expenditure. B is allowed a $1,000 residential energy credit (30 percent of $2,000 plus 20 percent of $2,000) for 1979.

(h) *Joint occupancy*—(1) *In general.* If two or more individuals jointly occupied and used a dwelling unit as their principal residence during any portion of a calendar year—

(i) The amount of the credit allowable under section 44C by reason of energy conservation expenditures or by reason of renewable energy source expenditures shall be determined by treating all of the joint occupants as one taxpayer whose taxable year is such calendar year; and

(ii) The credit under section 44C allowable to each joint occupant for the taxable year with which or in which such calendar year ends shall be an amount which bears the same ratio to the amount determined under paragraph (h)(1)(i) of this section as the amount of energy conservation expenditures or renewable energy source expenditures made by that occupant bears to the total amount of each type of such expenditures made by all joint occupants during such calendar year.

The provisions of this subparagraph may be illustrated by the following example:

Example. A, a calendar year taxpayer, and B, a June 1 fiscal year taxpayer, make energy conservation expenditures of $2,000 (A making expenditures of $500 and B making expenditures of $1,500) on their principal and jointly occupied residence in 1978. A and B have not previously made energy conservation expenditures with respect to this residence. Of the $300 credit (15 percent of $2,000), $75 will be allocated to A ($500/$2,000×$300) and $225 to B ($1,500/$2,000×$300). A will claim the allocable share of the credit on A's 1978 tax return and B will claim the allocable share of the credit on B's tax return for the fiscal year ending May 31, 1979.

(2) *Minimum credit.* The fact that one joint occupant may be unable to claim all or part of the credit under section 44C because of insufficient tax liability or because that occupant's allowable credit does not exceed the $10 minimum credit (as set forth in paragraph (d)(1) of § 1.44C–1) shall have no effect upon the computation of the amount of the allowable credits for the other joint occupants.

(3) *Prior expenditures.* Because joint occupants are treated as one taxpayer for purposes of determining the residential energy credit, the maximum amount of energy conservation expenditures or renewable energy source expenditures must be reduced by the total amount of such expenditures made in connection with the dwelling unit during prior calendar years in which any one of the residents of the unit during the current calendar year was a resident (whether made by the current resident or by an individual previously occupying the dwelling with the current resident). However, the preceding sentence shall not apply to prior expenditures no part of which was taken into account in computing the credits under section 44C for such years. Prior years' expenditures are not to be allocated among joint occupants to take into account the specific expenditures of each of the occupants in prior years.

(4) The rules of this paragraph may be illustrated by the following examples:

Example (1). Assume A and B have together made prior years' energy conservation expenditures of $1,600 (A having made $1,200 of expenditures and B having made $400) on their principal and jointly occupied residence. In the current year, each makes energy conservation expenditures of $300 with respect to the same residence. The maximum qualified expenditure with respect to the residence is reduced by the $1,600 of prior expenditures made by A and B. Therefore, only $400 of the $600 current expenditures are eligible as energy conservation expenditures. The resulting residential energy credit is $60 (15 percent of $400) of which $30 apiece will be allocated to A and B ($300/$600 × $60). The fact that A had previously computed the credit in prior years with respect to $1,200 of the total $1,600 of expenditures is irrelevant to the apportionment of the credit in the current year.

Example (2). Spouses C and D make $10,000 of renewable energy source expenditures with respect to their principal residence, half of which is paid by each spouse. No prior renewable energy source expenditures have been taken into account with respect to that residence by either C or D. C and D file separate returns for the calendar year. Under the joint occupancy rule, the maximum allowable renewable energy source credit with respect to C and D's principal residence is $2,200 (30 percent of the first $2,000, and 20 percent of the next $8,000 of expenditures). Half of this amount, or $1,100, will be allowed to each spouse. If either spouse makes renewable energy source expenditures with respect to the same principal residence in future years, none of those expenditures would be qualifed renewable energy source expenditures for which a credit can be claimed. That is, not more than $2,200 may be taken in the

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aggregate by C and D as a renewable energy source credit with respect to their principal residence.

Example (3). In 1978, E and F make energy conservation expenditures of $1,500 on their principal and jointly occupied residence. In 1979, E moves away and G becomes the other joint occupant of the residence. F and G make energy conservation expenditures of $1,000 in 1979. In 1980 F moves away and H moves in with G. G and H make energy conservation expenditures of $500. The maximum qualified expenditure made by F and G with respect to the residence is reduced by the $1,500 of prior expenditures made in 1978 by E and F. The maximum qualified expenditures made by G and H with respect to the residence is reduced only by the expenditures in prior years in connection with the residence during which either G or H was a joint occupant. Accordingly, the maximum qualified expenditures made by G and H with respect to the residence is reduced only by the $1,000 of prior expenditures made in 1979 by F and G.

(i) *Condominiums and cooperative housing corporations.* An individual who is a tenant stockholder in a cooperative housing corporation (as defined in section 216) or who is a member of a condominium management association with respect to a condominium which he or she owns shall be treated as having made a proportionate share of the energy conservation expenditures or renewable energy source expenditures of such corporation or association. The cooperative stockholder's allocable share of the expenditures is to be the same as his or her proportionate share of the cooperative's total outstanding stock (including any stock held by the corporation). However, in the case where only certain cooperative stockholders are assessed for the expenditures made by the cooperative housing corporation, only those cooperative stockholders that are assessed shall be treated as having made a share of the expenditures of such corporation. In such case, the cooperative stockholder's share of the expenditures is the amount that the stockholder is assessed. The allocable share of a condominium management association member's energy conservation or renewable energy source expenditures is the amount that the member is assessed (or would be assessed in the case where expenditures are from general funds) by the association as a result of such expenditures. The residential energy credit for a qualified expenditure is allowable for the year in which the association or corporation has completed original installation of the item (or has paid or incurred the expenditure, if later). For purposes of this paragraph, the term "condominium management association" means an organization meeting the requirements of section 528 (c)(1) of the Code (other than subparagraph (E) of that section), with respect to a condominium project substantially all the units of which are used as residences.

(j) *Joint ownership of renewable energy source property*—(1) *In general.* Renewable energy source property includes property which is jointly owned by the taxpayer and another person (or persons). For example, the fact that a windmill, solar collector, or geothermal well and distribution system is owned by two or more individuals does not by itself preclude qualification as renewable energy property.

(2) *Example.* The application of this subparagraph may be illustrated by the following example:

Example. A, B, and C each has a separate principal residence. They agree to finance jointly the construction of a solar collector, each providing one-third of the costs and taking one-third of the output of the collector. Each will separately pay for the costs of connecting the solar collector with his or her principal residence. Provided the solar collector and connection equipment otherwise qualify as renewable energy source property, A, B, and C will each be considered to have made renewable energy source expenditures equal to one-third of the cost of the collector plus his or her separate connection costs. Such expenditures will be subject to the limitations and other rules separately applicable to A, B, and C with respect to each principal residence, such as those with respect to the $10 minimum (§ 1.44C–1 (d)(1)), prior expenditures (§ 1.44C–1 (d)(2)), residential use (paragraph (g) of this section), and joint occupancy (paragraph (h) of this section).

(k) *Basic adjustments.* If a credit is allowed under section 44C for any expenditure with respect to any property, the increase in the basis of that property which would (but for this paragraph) result from such expenditure shall be reduced by the amount of the credit allowed.

(l) *Recordkeeping*—(1) *In general.* No residential energy credit is allowable unless the taxpayer maintains the records described in paragraph (l)(2) of this section. The records shall be retained so long as the contents thereof may become material in the administration of any internal revenue law.

(2) *Records.* The taxpayer must maintain records that clearly identify the energy-conserving components and renewable energy source property with respect to which a residential energy credit is claimed, and substantiate their cost to the taxpayer, any labor costs properly allocable to them paid for by the taxpayer, and the method used for allocating such labor costs.

§ 1.44C–4 Performance and quality standards. [Reserved.]

§ 1.44C–5 Certification procedures and procedures for additions to the list of energy-conserving components or renewable energy sources.

(a) *Certification that an item meets the definition of an energy-conserving component or renewable energy source property.* Upon the request of a manufacturer of an item pursuant to paragraph (d)(2) of this section which is supported by proof that the item is entitled to be certified, the Assistant Commissioner (Technical) shall certify (or shall notify the manufacturer that the request is denied) that:

(1) The item meets the definition of insulation (see § 1.44C–2(c)(1)).

(2) The item meets the definition of another energy-conserving component specified in section 44C(c)(4) (see § 1.44C–2(d)(4)).

(3) The item meets the definition of solar energy property (see § 1.44C–2(f)), wind energy property (see § 1.44C–2(g)), or geothermal energy property (see § 1.44C–2(h)).

(4) The item meets the definition of a category of energy-conserving component that has been added to the list of approved items pursuant to paragraph (d)(4)(viii) of § 1.44C–2.

(5) The item meets the definition of renewable energy source property that transmits or uses a renewable energy source that has been added to the list of approved renewable energy sources pursuant to paragraph (e)(2) of § 1.44C–2.

(b) *Additions to the list of approved energy-conserving components or rewnewable energy sources*—(1) *Report to the Secretary.* Upon the request of a manufacturer pursuant to paragraph (d) of this section for addition of an item to the approved list of energy-conserving componenets or of an energy source to the approved list of renewable energy sources, the Office of the Assistant Commissioner (Technical) shall make a determination as to whether the item meets the criteria provided in paragraph (c) (1) or (2) of this section. In making this determination, the Office of the Assistant Commissioner (Technical) shall consult with the Secretary of Energy and the Secretary of Housing and Urban development (or their delegates), and any other appropriate Federal officers to obtain their views concerning the item in question. If it is determined that the item fails to meet the applicable criteria provided in paragraph (c), the manufacturer shall be informed of this determination. If a determination is made that the item meets the applicable criteria provided in paragraph (c), the Office of the Assistant Commissioner (Technical) shall report its findings to the Secretary.

(2) *Decision of the Secretary.* If the Secretary in his discretion decides that an energy-conserving component or renewable energy source should be added to the approved list, a notice of proposed rulemaking will be published in the **Federal Register** proposing to include the item as an energy-conserving component or as a renewable energy source. After an appropriate period for public comment, a Treasury decision may be promulgated.

(c) *Criteria for additions under paragraph (b)*—(1) *Additions to the approved list of energy-conserving components.* For an item to be considered for addition to the approved list of energy-conserving components under paragraph (b), it must increase the energy efficiency of a dwelling. For an item to be considered as increasing the energy efficiency of a dwelling, all of the following criteria must be met:

(i) Substantially all of the use of the item must be devoted toward improving the thermal efficiency of the dwelling structure, structural components, hot water heating, or heating or cooling systems or improving the fuel utilization efficiency of hot water heating equipment or equipment to heat or cool the dwelling unit.

(ii) The increase in thermal efficiency must be established by test data and in accordance with accepted testing standards.

(iii) The item must not present a significant safety, fire, or health hazard when properly installed.

(iv) The item must be cost effective so that the energy savings would be sufficient to recover the total cost of acquiring and installing the item in a reasonable period of time.

(2) *Additions to the approved list of renewable energy sources.* For an energy source to be considered for addition to the approved list of renewable energy sources under paragraph (b), the following criteria must be met:

(i) The energy source must be an inexhaustible energy supply. Accordingly, agricultural products and by-products will not be considered for addition. No exhaustible or depletable energy source (such as sources that are depletable under section 611) will be considered.

(ii) The energy source must be capable of being used for heating or cooling a residential dwelling or providing hot water for such a dwelling.

(iii) A practical working device, machine, equipment, or mechanism, etc., must exist and be commercially available to use such renewable energy source.

(iv) The use of the renewable energy source must not present a significant safety, fire, or health hazard.

(d) *Procedure*—(1) *In general.* A manufacturer of an item desiring to apply under paragraph (a) or (b) shall submit the application to the Commissioner of Internal Revenue, Attention: Assistant Commissioner (Technical), Washington, D.C. 20224. A manufacturer will be given 30 calendar days from the date of notification from the National Office denying the application in which to request a conference.

(2) *Contents of application.* The application shall include the following information:

(i) A description of the item including appropriate design drawings and specifications.

(ii) An explanation of the purpose and function of the item.

(iii) In the case of applications under paragraph (b), information, including test data, establishing that the item meets the applicable criteria set forth in paragraph (c).

(e) *Effect of certification under paragraph (a) and additions under paragraph (b).* Certifications granted under paragraph (a) (1), (2), or (3) will be applied retroactively to April 20, 1977. However, certifications granted under paragraph (a) (4) or (5) will be applied retroactively only to the date the applicable energy conserving component or renewable energy source was added by Treasury decision to the list of qualifying components or sources. Applications under paragraph (b) that are approved by the Secretary will be applied prospectively from the date a Treasury decision amending the regulations pursuant to the application is published in the **Federal Register.** Certification of an item under this section means that the applicable definitional requirement of § 1.44C–2 is considered satisfied in the case of any person claiming a residential energy credit with respect to such item. However, it does not relieve manufacturers of the need to establish that their items conform to performance and quality standards (if any) provided under § 1.44C–4 and that their items can reasonably be expected to remain in operation at least 3 years, in the case of insulation and other energy-conserving components, or at least 5 years, in the case of renewable energy source property.

§ 1.1016 [Deleted]

Par. 2. Section 1.1016 is deleted.

Par. 3. Section 1.1016–5 is amended by adding a new paragraph (t) to read as follows:

§ 1.1016–5 Miscellaneous adjustments to basis.

* * * * *

(t) *Section 44C credit.* In the case of property with respect to which a credit has been allowed under section 44C (relating to residential energy credit), basis shall be adjusted as provided in paragraph (k) of § 1.44C–3.

PART 601—STATEMENT OF PROCEDURAL RULES

(26 CFR Part 601)

Par. 4. Paragraph (c) of § 601.601 is amended by adding a new sentence at the end thereof to read as follows:

§ 601.601 Rules and regulations.

* * * * *

(c) *Petition to change rules.* * * * However, in the case of petitions to amend the regulations pursuant to section 44C(c) (4)(A)(viii) or (5)(A)(i), follow the procedure outlined in paragraph (d) of § 1.44C–5.

* * * * *

Jerome Kurtz,
Commissioner of Internal Revenue.

[FR Doc. 79–16018 Filed 5–22–79; 8:45 am]
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ENVIRONMENTAL PROTECTION AGENCY

[40 CFR Part 52]

[FRL 1232–5]

State Implementation Plans; Availability—Montana

AGENCY: Environmental Protection Agency.

ACTION: Notice of Availability of Montana SIP.

SUMMARY: The purpose of this notice is to announce the receipt of a State Implementation Plan (SIP) revision for Montana and to invite public comment. On April 24, 1979, pursuant to the requirements of Part D of the Clean Air Act as amended in 1977, the State of Montana submitted to EPA a revision to its SIP for certain areas designated as nonattainment for specific air pollutants. As required by the Act, the purpose of

Environmental Protection Agency (EPA) the CCPC project, for incorporation into accordance with the schedule set forth

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this revision is to implement new measures for controlling air pollution in the nonattainment areas and to demonstrate that these measures will provide for attainment of the national ambient air quality standards as expeditiously as practicable, but no later than December 31, 1982 (in limited instances December 31, 1987). Failure to have an approved SIP which demonstrates attainment could result in certain economic and growth limitations.

ADDRESSES: Copies of the SIP revision are available at the following addresses for inspection:

Environmental Protection Agency, Region VIII, Regional Library, 1860 Lincoln Street, Denver, Colorado 80295.
Environmental Protection Agency, Public Information Reference Unit, 401 M Street, SW., Washington, D.C. 20460.
Montana Department of Health and Environmental Sciences, Cogswell Building, Helena, Montana 59601.
Environmental Protection Agency, Montana Office, Federal Office Building, Room 292, 301 South Park, Helena, Montana 59601.

WRITTEN COMMENTS SHOULD BE SENT TO: Mr. Ivan Dodson, Director, Montana Office, Environmental Protection Agency, Federal Office Building, 301 South Park Street, Drawer 10096, Helena, Montana 59601, (406) 449–5432/FTS 585–5432.

FOR FURTHER INFORMATION CONTACT: Mr. Ivan Dodson, Director, Montana Office, Environmental Protection Agency, Federal Office Building, 301 South Park Street, Helena, Montana 59601, (406) 449–5432/FTS 585–5432.

SUPPLEMENTARY INFORMATION: On March 3, 1978 (43 FR 8962), and on September 11, 1978 (43 FR 40412), pursuant to the requirements of Section 107 of the Clean Air Act, as amended in 1977, EPA designated areas in each state as nonattainment with respect to the criteria air pollutants. In Montana, the areas designated as nonattainment are:

	TSP	CO	O_x	SO_x
Laurel				X
Colstrip	X			
Columbia Falls	X			
Missoula	X	X		
Billings	X	X	X	
Great Falls	X			
Butte	X			
East Helena				X
Anaconda				X

Additionally, Part D of the Amendments required each state to revise its SIP to meet specific requirements in the areas designated as nonattainment. These SIP revisions were due on January 1, 1979, and must demonstrate attainment of the national ambient air quality standards, as expeditiously as practicable, but no later than December 31, 1982, or in limited instances for carbon monoxide and photochemical oxidants, no later than December 31, 1987.

On April 24, 1979, EPA received the revised SIP for the State of Montana and is currently reviewing that SIP with respect to the requirements of the Clean Air Act. At the completion of that review, a notice will be published in the Federal Register proposing approval or disapproval of the revised SIP.

Interested persons are invited to review the revised SIP at one of the locations listed above and comment on its approvability. The proposed notice referred to above will announce the last date which comments can be received. This public comment period may end less than sixty days after EPA's proposal of approval or disapproval.

Dated: May 14, 1979.

Alan Merson,
Regional Administrator.

[FR Doc. 79–16185 Filed 5–22–79; 8:45 am]
BILLING CODE 6560–01–M

[40 CFR Part 52]

[FRL 1231–6]

Approval and Promulgation of Implementation Plans; Texas Emission Offsets.

AGENCY: Environmental Protection Agency (EPA).

ACTION: Proposed Rule.

SUMMARY: Corpus Christi Petrochemical Company's permit applications to construct an ethylene production plant and barge dock in Corpus Christi, Nueces County, Texas are subject to the Interpretative Ruling (i.e., emission offset policy), published December 21, 1976, in the Federal Register, and amended by the Clean Air Act Amendments of August 7, 1977, as it pertains to major new sources seeking to locate in areas not attaining the ozone standard.

Hydrocarbon emission offsets were offered and agreed to by Champlin Petroleum Company and the State of Texas submitted them in Texas Air Control Board (TACB) Order No. 78–6 for incorporation into the Texas State Implementation Plan (SIP). None of the offsetting hydrocarbon emission reductions are required control measures under the currently approved SIP. This notice proposes the approval of the State submitted revision to the Texas Implementation Plan in the form of Board Order No. 78–6, for hydrocarbon emission reductions from the Champlin Petroleum Company creditable for offsets for the Corpus Christi Petrochemical Company project.

DATES: Comments must be received on or before June 22, 1979.

ADDRESS: Submit comments to: Air Program Branch, Environmental Protection Agency, Region 6, 1201 Elm Street, Dallas, Texas 75270.

FOR FURTHER INFORMATION CONTACT: Jerry M. Stubberfield, Chief, Implementation Plan Section, Air and Hazardous Materials Division, Environmental Protection Agency, Region 6, Dallas, Texas 75270, (214) 767–2742.

Background

Under the Agency's Interpretative Ruling published December 21, 1976 at 41 FR 55524, and amended by the Clean Air Act Amendments of August 7, 1977, a major new source may locate in an area with air quality worse than a national standard only if the following conditions are met:

1. The new source's emission will be controlled to the lowest achievable emission rate.

2. More than equivalent offsetting emission reductions will be obtained from existing sources.

3. There will be progress towards achievement of the standards.

On October 13, 1976 and August 4, 1977, Corpus Christi Petrochemical Company (CCPC) applied to the TACB for permits to construct an ethylene production plant and barge dock in Corpus Christi, Texas.

The proposed sources would emit more than 100 tons per year of hydrocarbons and would be located in an area which is not attaining the National Ambient Air Quality Standard (NAAQS) for ozone. The proposed sources were, therefore, subject to the Interpretative Ruling on emission offsets.

The TACB has required that the CCPC sources be controlled to the lowest achievable emission rate as evidenced in Permits C–4682A and C–5633. Using this technology, the proposed CCPC project would emit an estimated 188.7 tons per year of hydrocarbons. Offsetting hydrocarbon emissions totalling an estimated 246.6 tons per year were offered and agreed to by Champlin Petroleum Company from its petroleum refinery located at Corpus Christi, Nueces County, Texas. These hydrocarbon emission reductions were adopted by the Board as Board Order No. 78–6 on June 28, 1978, and submitted by the Governor of Texas to the Environmental Protection Agency (EPA) on July 24, 1978 for incorporation into the Texas SIP. All requirements in 40 CFR 51.4 and 51.6 for notice and public hearings for plan revisions were met.

Hydrocarbon Offsets

The hydrocarbon emission offsets submitted by the State of Texas consist of the following control measures which were offered and agreed to by the Champlin Petroleum Company's refinery located at Corpus Christi, Nueces County, Texas, and adopted by the TACB as a Board Order No. 78–6.

1. Removal from service of a 12,000 barrel per day (BPD) vacuum distillation unit, with a final compliance date no later than October 1, 1979.

2. Dedication of gasoline storage tank 91–TK–3 to the exclusive storage of No. 2 Fuel Oil or any fluid with a vapor pressure equivalant to, or less than that of No. 2 Fuel Oil, with a final compliance date no later than October 1, 1979.

These control measures will result in estimated hydrocarbon emission reductions of 246.6 tons per year.

By incorporation of these emission control measures into the SIP, both the DPA and the State of Texas considers the offsets to be enforceable under Section 113 of the Clean Air Act. The offsets are also considered to be enforceable by citizens under Section 304 of the Clean Air Act as "emission standards or limitations".

Proposed Action

The EPA agrees with the State of Texas' determination that the proposed CCPC project will use technology resulting in lowest achievable emissions of hydrocarbons and that these emissions will total an estimated 188.7 tons per year. The hydrocarbon offsets from Champlin Petroleum Company, totalling an estimated 246.6 tons per year, are considered to be valid and enforceable by the State of Texas and the EPA.

As a result of the greater than one-for-one emission offset, the EPA considers that there will be progress towards attainment of the ozone standard. Thus, the EPA considers that all conditions stipulated under the Interpretative Ruling of December 21, 1976, published at FR 55524 and as amended by the Clean Air Act Amendments of August 7, 1977, have been met for the CCPC project to locate in Corpus Christi, Nueces County, Texas.

In this notice, EPA is proposing the approval of the hydrocarbon emission offsets as discussed above, creditable to the CCPC project, for incorporation into the Texas SIP.

The State of Texas has adopted the emission offsets in Board Order No. 78–6. The State procedures met all requirements of 40 CFR Part 51 including Section 51.4, the requirment for adequate public participation. Therefore, the Administrator does not plan to conduct further hearings regarding these emission offsets. Interested persons may still participate in this rulemaking, however, by submitting written comments to: Air Program Branch, Environmental Protection Agency, Region 6, 1201 Elm Street, Dallas, Texas 75270.

Relevant comments submitted within 30 days of this notice will be considered. The material submitted by the State of Texas is available for inspection during normal business hours at the above EPA regional office and also at the following offices:

Environmental Protection Agency, Public Information Reference Unit, Room 2932, EPA Library, 401 M Street S.W., Washington, D.C. 20460.
Texas Air Control Board, 8520 Shoal Creek Boulevard, Austin, Texas 78758.

This notice is issued under the authority of Section 110(a) of the Clean Air Act, as amended, 42 U.S.C. 7410–(a).

Dated: May 4, 1979.

Adlene Harrison,
Regional Administrator.

Part 52 of Chapter I, Title 40 of the Code of Federal Regulations is proposed to be amended as follows:

Subpart SS—Texas

1. In § 52.2270, paragraph (c) is amended by adding paragraph (16) as follows:

§ 52.2270 Identification of plan.

* * * * *

(c) * * *

(16) Board Order No. 78–6, creditable as emission offsets for the Corpus Christi Petrochemical Company project in Corpus Christi, was submitted by the Governor on July 24, 1978, as amendments to the Texas State Implementation Plan (see § 52.2275).

2. Section 52.2275 is amended by adding new paragraphs (d) and (e) to read as follows:

§ 52.2275 Control strategy: Photochemical oxidants (hydrocarbons).

* * * * *

(d) Notwithstanding any provisions to the contrary in the Texas Implementation Plan, the control measures listed in paragraph (e) of this section shall be implemented in accordance with the schedule set forth below.

(e)(1) Removal from service of a 12,000 BPD vacuum distillation unit at the Corpus Christi refinery of the Champlin Petroleum Company, Corpus Christi, Texas, with a final compliance date no later than October 1, 1979. This shall result in an estimated hydrocarbon emission reduction of at least 139 tons per year.

(2) Dedication of gasoline storage tank 91–TK–3 located at the Corpus Christi refinery of the Champlin Petroleum Company, Corpus Christi, Texas to the exclusive storage of No. 2 Fuel Oil or any fluid with a vapor pressure equivalent to, or less than that of No. 2 Fuel Oil, with a final compliance date no later than October 1, 1979. This shall result in an estimated hydrocarbon emission reduction of at least 107.6 tons per year.

[FR Doc. 79–16190 Filed 5–22–79; 8:45 am]
BILLING CODE 6560–01–M

[40 CFR Part 65]

[FRL 1231–2]

Proposed Approval of an Administrative Order Issued by the Connecticut Department of Environmental Protection to Housatonic Ever-Float Co.

AGENCY: Environmental Protection Agency.

ACTION: Proposed Rule.

SUMMARY: EPA proposes to approve an administrative order issued by the Connecticut Department of Environmental Protection to The Housatonic Ever-Float Company. The order requires the company to bring air emissions from its drying ovens in Shelton, Connecticut into compliance with certain regulations contained in the federally approved Connecticut State Implementation Plan (SIP) by June 15, 1979. Because the order has been issued to a major source and permits a delay in compliance with provisions of the SIP, it must be approved by EPA before it becomes effective as a delayed compliance order under the Clean Air Act (the Act.) If approved by EPA, the order will constitute an addition to the SIP. In addition, a source in compliance with an approved order may not be sued under the federal enforcement or citizen suit provisions of the Act for violations of the SIP regulations covered by the Order. The purpose of this notice is to invite public comment on EPA's proposed approval of the order as a delayed compliance order.

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DATE: Written comments must be received on or before June 22, 1979.

ADDRESSES: Comments should be submitted to Director, Enforcement Division, EPA, Region I, Room 2103, J.F.K. Federal Building, Boston, MA 02203. The State order, supporting material, and public comments received in response to this notice may be inspected and copied (for appropriate charges) at this address during normal business hours.

FOR FURTHER INFORMATION CONTACT: Michael Gurchin at (617) 223–5061 or engineer Steven Fradkoff at (617) 223–5610, both at the following address: U.S. Environmental Protection Agency, J.F.K. Federal Building, Room 2103, Boston, MA 02203.

SUPPLEMENTARY INFORMATION: Housatonic Ever-Float operates a Float Manufacturing Plant at Shelton, Connecticut. The order under consideration addresses emissions from the drying ovens at the facility, which are subject to Section 19–508–20(f)(2) of the Connecticut regulations for the abatement of air pollution. The regulation limits the emissions of organic solvents, and is part of the federally approved Connecticut State Implementation Plan. The order requires final compliance with the regulation by June 15, 1979 through reformulation to reduce the photochemically reactive solvent portion of compound mixtures.

Because this order has been issued to a major source of hydrocarbon emissions and permits a delay in compliance with the applicable regulation, it must be approved by EPA before it becomes effective as a delayed compliance order under Section 113(d) of the Clean Air Act (the Act). EPA may approve the order only if it satisfies the appropriate requirements of this subsection.

If the order is approved by EPA, source compliance with its terms would preclude federal enforcement action under Section 113 of the Act against the source for violations of the regulation covered by the order during the period the order is in effect. Enforcement against the source under the citizen suit provision of the Act (Section 304) would be similarly precluded. If approved, the order would also constitute an addition to the Connecticut SIP.

All interested persons are invited to submit written comments on the proposed order. Written comments received by the date specified above will be considered in determining whether EPA may approve the order. After the public comment period, the Administrator of EPA will publish in the Federal Register the Agency's final action on the order in 40 CFR Part 65.

Authority: 42 U.S.C. 7413, 7601.

Dated: May 11, 1979.

William R. Adams, Jr.,

Regional Administrator, Region I.

[FR Doc. 79-16187 Filed 5-22-79; 8:45 am]

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[40 CFR Part 65]

[Docket No. DCO–79–8; FRL 1231–7]

Proposed Approval of an Administrative Order Issued by the Commonwealth of Kentucky, Department for Natural Resources and Environmental Protection to National Southwire Aluminum

AGENCY: Environmental Protection Agency.

ACTION: Proposed rule.

SUMMARY: EPA proposes to approve an administrative order issued by the Commonwealth of Kentucky to National Southwire Aluminum. The Order requires National Southwire Aluminum to bring air emissions from its primary aluminum reduction smelter in Hawesville, Kentucky, into compliance with air pollution control regulations contained in the federally approved Kentucky State Implementation Plan (SIP) by July 1, 1979. Because the order has been issued to a major source of air pollution and permits a delay in compliance with provisions of the SIP, the Administrative Order must be approved by EPA before it becomes effective as a delayed compliance order under the Clean Air Act (the Act). If approved by EPA, the order will constitute an addition to the SIP. In addition, a source in compliance with an approved order may not be sued under the federal enforcement or citizen suit provisions of the Act for violations of the SIP regulations covered by the order. The purpose of this notice is to invite public comment on EPA's proposed approval of the order as a delayed compliance order.

DATE: Written comments must be received on or before June 22, 1979.

ADDRESSES: Comments should be submitted to Director, Enforcement Division, EPA, Region IV, 345 Courtland Street, N.E., Atlanta, Georgia 30308. The State order, supporting material, and public comments received in response to this notice may be inspected and copied (for appropriate charges) at this address during normal business hours.

FOR FURTHER INFORMATION CONTACT: Richard S. DuBose, Air Enforcement Branch, U.S. Environmental Protection Agency, Region IV, 345 Courtland Street, N.E., Atlanta, Georgia 30308, Telephone Number: (404) 881–4298.

SUPPLEMENTARY INFORMATION: National Southwire Aluminum operates a primary aluminum reduction smelter in Hawesville, Kentucky. The Order under consideration addresses particulate and fugitive emissions from the pot lines system air control stack and pot room enclosures, which are subject to Kentucky Air Pollution Control Regulations 401 KAR 3:060 Sections 4(3) and 14(2). These regulations limit the emissions of particulate matter and fugitive particulate matter, respectively, and are part of the federally approved Kentucky State Implementation Plan. The order requires final compliance with the regulations by July 1, 1979, through the implementation of the following schedules for the construction or installation of control equipment:

Appendix A

1. Modification for the pot lines system air control stack shall proceed as scheduled below:

(a) January 31, 1978: Complete installation of new shields on all pot lines.

(b) January 31, 1978: Complete recoating of overhead plenum.

(c) January 31, 1978: Complete transition from low water alumina to high water alumina on 3 of 4 pot lines.

(d) March 31, 1978: Complete installation of new mist eliminators for twelve scrubbers.

(e) June 16, 1978: Submit final control plan that describes at a minimum the steps which will be taken to achieve compliance with Kentucky Air Pollution Control Regulation 401 KAR 3:060, Section 4.

(f) June 30, 1978: Negotiate and sign all necessary contracts.

(g) June 30, 1978: Complete transition from low water alumina ore to high water alumina ore on the remaining pot lines.

(h) July 31, 1978: Initiate on-site construction.

(i) June 1, 1979: Complete on-site construction and installation of control equipment.

(j) June 15, 1979: Complete shakedown operations and commence use of control equipment to achieve compliance with Kentucky Air Pollution Control Regulation 401 KAR 3:060, Section 4.

(k) July 1, 1979: Complete performance tests on the above specified operation and certify compliance with Kentucky Air Pollution Control Regulation 401 KAR 3:060, Section 4, to the Director.

2. It shall not be construed that the Department sanctions the transitions from low water alumina ore to high water alumina ore other than as a Company proposed plan for control of emissions.

3. As an interim provision to the aforementioned compliance schedule the Company shall submit to the Director on a monthly basis, by the tenth of the following month, opacity measurements of emissions from the air control stack. These opacity measurements shall be of two (2) consecutive six minute readings using EPA approved Method 9 on a daily basis. On days when meteorological conditions do not permit opacity measurements to be made, the company shall include documentation of this fact in the monthly report.

Appendix B

The National Southwire Aluminum Company shall complete or shall have completed the following acts with respect to the control of process fugitive emissions from the pot room enclosures on or before the dates specified:

1. Immediately begin a comprehensive study to develop and where feasible, implement methods to capture fugitive emissions from unshielded pots including but not limited to the use of a portable capture system that could be moved to various locations in the pot rooms, increased capture velocity at each pot, process changes and improved operating and maintenance procedures.

2. January 31, 1978: Complete installation of new shields on all pot lines.

3. January 31, 1978: Complete transition from low water alumina ore to high water alumina ore on three (3) of four (4) pot lines.

4. June 30 1978: Complete transition of low water alumina ore to high water alumina ore on the fourth (4th) remaining pot line.

5. Until July 1, 1979, the opacity limit for roof monitor emissions shall be 40% or less except for:

(a) an unlimited opacity is allowed at no more than two (2) discernible points on the roof monitors until September 30, 1978, and

(b) an unlimited opacity is allowed at no more than one (1) discernible point on the roof monitors from September 30, 1978, until June 30, 1979.

6. On or before July 1, 1979, the maximum opacity of the roof monitor emissions shall not be greater than 15%. It is however provided that; should the company submit to the Director and the Chief on or before January 1, 1979, the results of the interim programs together with the results of the study provided under Paragraph 1 of this appendix, and in the event that said interim programs do not result in roof monitor emissions of 15% opacity or less, and upon showing evidence satisfactory to the Director that the Company has completed all reasonable programs for the reduction of roof monitor emissions, the Director shall set a visible emissions standard. The Director shall consider the development in control and process technology applicable to the aluminum reduction industry, as well as the experience and knowledge gained as a result of the Company's interim programs in setting the standard. Such standard shall be incorporated as part of any Operating Permit issued for the facility. Opportunity to discuss the proposed visible emssions standard shall be afforded the Company prior to issuance of the Operating Permit so conditioned.

7. As an interim provision to the above paragraphs the Company shall submit to the Director on a monthly basis, by the tenth of the following month, the following information:

(a) Number of sick pots during the month;

(b) Duration that shields were off of each sick pot;

(c) Opacity measurements of roof monitor emissions.

The opacity measurements shall be made at the point or points of heaviest emissions using EPA Method 9 for a period of not less than twelve (12) consecutive minutes each day the shields were off sick pots. On days when meterological conditions do not permit opacity measurements to be made, the company shall include documentation of this fact in the monthly report.

8. It shall not be construed that the Department sanctions the transitions from low water alumina ore to high water alumina ore other than as a Company proposed plan for control of emissions.

The source has consented to the terms of the order and has agreed to meet the Order's increments during the period of this informal rulemaking. The source is required to submit quarterly reports by the fifteenth day of the month following the end of each quarter which contains specific information indicating progress toward each milestone in the schedule of compliance. If any delay is anticipated in meeting said milestones, National Southwire Aluminum shall immediately notify the Kentucky Division of Air Pollution Control in writing of the anticipated delay and reasons therefor. Notification of the delay shall not excuse the delay. In addition, National Southwire Aluminum shall submit, no later than five days after the deadline for completing each milestone required by the above schedule, certification to the Director of the Kentucky Division of Air Pollution Control whether or not such milestone has been met.

As an interim control measure, particulate emissions from the air control stack shall not exceed 40 percent opacity. The interim visible emission limits for the pot room enclosures are outlined in the above-described Appendix B. The interim emission monitoring and reporting requirements are also contained in Appendices A and B which are shown above.

Because this Order has been issued to a major source of particulate matter emissions and permits a delay in compliance with the applicable state air pollution control regulations, it must be approved by EPA before it becomes effective as a delayed compliance order under Section 113(d) of the Clean Air Act (the Act). EPA may approve the order only if it satisfies the appropriate requirements of this subsection. EPA has tentatively determined that the above-referenced order satisfies these legal requirements.

If the submitted administrative Order is approved by EPA, source compliance with its terms would preclude federal enforcement action under Section 113 of the Act against the source for violations of the regulations covered by the order during the period the order is in effect. Enforcement against the source under the-citizen suit provision of the Act (Section 304) would be similarly precluded. If approved, the Order would also constitute an addition to the Kentucky SIP. Compliance with the proposed order will not exempt the company from the requirements contained in any subsequent revision to the SIP which are approved by EPA.

All interested persons are invited to submit written comments on the proposed Order. Written comments received by the date specified above will be considered in determining whether EPA may approve the Order. After the public comment period, the Administrator of EPA will publish in the Federal Register the Agency's final action on the Order in 40 CFR Part 65.

Authority: 42 U.S.C. 7413, 7601.

Dated: May 15, 1979.

John A. Little,

Acting Regional Administrator, Region IV.

[FR Doc. 79-16189 Filed 5-22-79; 8:45 am]

BILLING CODE 6560-01-M

V 4 4 / 1 0 1

[40 CFR Part 65]

[FRL 1232-2]

Proposed Approval of an Administrative Order Issued by the Connecticut Department of Environmental Protection to Deitsch Laminating Co., Inc.

AGENCY: Environmental Protection Agency.

ACTION: Proposed rule.

SUMMARY: EPA proposes to approve an administrative order issued by the Connecticut Department of Environmental Protection to The Deitsch Laminating Company, Inc. The order requires the company to bring air emissions from its fabric coating plant in West Haven, Connecticut into compliance with certain regulations contained in the federally-approved Connecticut State Implementation Plan (SIP) by June 25, 1979. Because the order has been issued to a major source and permits a delay in compliance with provisions of the SIP, it must be approved by EPA before it becomes effective as a delayed compliance order under the Clean Air Act (the Act). If approved by EPA, the order will constitute an addition to the SIP. In addition, a source in compliance with an approved order may not be sued under the federal enforcement or citizen suit provisions of the Act for violations of the SIP regulations covered by the Order. The purpose of this notice is to invite public comment on EPA's proposed approval of the order as a delayed compliance order.

DATE: Written comments must be received on or before June 22, 1979.

ADDRESSES: Comments should be submitted to Director, Enforcement Division, EPA, Region I, Room 2103, J.F.K. Federal Building, Boston, MA 02203. The State order, supporting material, and public comments received in response to this notice may be inspected and copied (for appropriate charges) at this address during normal business hours.

FOR FURTHER INFORMATION CONTACT: Michael Gurchin at (617) 223-5061 or engineer Steven Fradkoff at (617) 223-5610, or both at the following address: U.S. Environmental Protection Agency, J.F.K. Federal Building, Room 2103, Boston, MA 02203.

SUPPLEMENTARY INFORMATION: Deitsch Laminating Company operates a fabric coating plant at West Haven, Connecticut. The order under consideration addresses emissions from a coating machine at the facility, which are subject to Section 19-508-20(f)(2) of the Connecticut regulations for the abatement of air pollution. The regulations limits the emissions of organic solvents, and is part of the federally approved Connecticut State Implementation Plan. The order requires final compliance with the regulation by June 25, 1979 through installation of an after-burner.

Because this order has been issued to a major source of hydrocarbon emissions and permits a delay in compliance with the applicable regulation, it must be approved by EPA before it becomes effective as a delayed compliance order under Section 113(d) of the Clean Air Act (the Act). EPA may approve the order only if it satisfies the appropriate requirements of this subsection.

If the order is approved by EPA, source compliance with its terms would preclude federal enforcement action under Section 113 of the Act against the source for violations of the regulation covered by the order during the period the order is in effect. Enforcement against the source under the citizen suit provision of the Act (Section 304) would be similarly precluded. If approved, the order would also constitute an addition to the Connecticut SIP.

All interested persons are invited to submit written comments on the proposed order. Written comments received by the date specified above will be considered in determining whether EPA may approve the order. After the public comment period, the Administrator of EPA will publish in the **Federal Register** the Agency's final action on the order in 40 CFR Part 65.

Authority: 42 U.S.C. 7413, 7601.

Dated: May 10, 1979.

William R. Adams, Jr.,

Regional Administrator, Region I.

[FR Doc. 79-16186 Filed 5-22-79; 8:45 am]

BILLING CODE 6560-01-M

FEDERAL MARITIME COMMISSION

[46 CFR Part 502]

[Docket No. 79-S2]

Filing of Petitions for Reconsideration and for Stay

AGENCY: Federal Maritime Commission.

ACTION: Notice of Proposed Rulemaking.

SUMMARY: The Federal Maritime Commission proposes to amend its rule of practice and procedure, which governs the filing of petitions for reconsideration of final rules or orders of the Commission or of an Administrative Law Judge. The proposed amendment would limit the grounds upon which reconsideration may be sought, would deny the filing of petitions for reconsideration in informal proceedings, and would restrict the filing of petitions for a stay of Commission orders.

DATES: Comments must be submitted on or before July 23, 1979.

ADDRESSES: Comments (original and fifteen copies) to: Francis C. Hurney, Secretary, Federal Maritime Commission, 1100 L Street NW., Washington, D.C. 20573.

FOR FURTHER INFORMATION CONTACT: Francis C. Hurney, Secretary, Federal Maritime Commission, 1100 L Street NW., Washington, D.C. 20573, (202) 523-5725.

SUPPLEMENTAL INFORMATION: The Commission has been revising its rules of practice and procedure, Part 502 of Title 46 CFR (Rules), for the purpose of eliminating undue delays and bringing its proceedings to a final conclusion as promptly as possible.

Rule 261 (46 CFR 502.261) presently allows any party to file a petition for reconsideration within 30 days after the issuance of a final decision or order by the Commission. The rule at present does not limit the grounds for seeking reconsideration but merely directs that matters which arose since the issuance of the decision or order from which reconsideration is sought, or adverse consequences which would result from compliance with that decision or order, be specifically stated in the petition experience has shown that in most instances the petition sets forth as a basis for reconsideration no new matter or evidence but consists merely of arguments previously made and already considered by the Commission. Moreover, in proceedings conducted under Subpart S—Informal Procedure for the Adjudication of Small Claims, 46 CFR 502.301, *et seq.*, the rules do not provide for the right to appeal and, in consenting to the procedure, the parties have, in effect, waived such right. Consequently, the filing of such appeal in the form of a petition for reconsideration would frustrate the purposes of the informal procedure by unduly delaying the conclusion of the administrative process and causing a misuse of the Commission's time and resources.

Under the proposed amendment to Rule 261, petitions for reconsideration which are not based upon material changes in the law or facts occurring subsequent to the issuance of the final decision or order will be summarily rejected. Further, no petition for reconsideration may be filed in proceedings conducted under Subpart S, 46 CFR 301, *et seq.*

Present Rule 261 places no restrictions on the filing of petitions for stay of rules or orders of the Commission or of an Administrative Law Judge if the proceeding is before the judge. Experience has shown that such petitions are usually filed because a party intends to seek judicial review and, as with petitions for reconsideration, are based upon arguments already heard and considered by the Commission.

While there may be some merit to a petition for stay in rulemaking proceedings where there is no finding by the Commission of ongoing violations of law, the Commission believes that once such a finding has been made, the public interest requires that parties found to be engaging in practices violative of law not be permitted to continue such practices. Consequently, petitions for stay of Commission orders which involve continuing statutory violations will not be entertained.

Therefore, pursuant to section 4 of the Administrative Procedure Act (5 U.S.C. 553) and sections 22 and 43 of the Shipping Act, 1916 (46 U.S.C. 821 and 841(a)), it is proposed that § 502.261 of Part 502 be revised to read as follows:

§ 502.261 Petitions for reconsideration and stay.

(a) Within 30 days after issuance of a final decision or order by the Commission, any party may file a petition for reconsideration. Such petition shall be served in conformity with the requirements of Subpart H (§§ 502.111-502.118). A petition will be subject to summary rejection unless it specifies that there has been a change in material fact or in applicable law, which change has occurred after issuance of the decision or order. Petitions based upon evidence which was available prior to issuance of the decision or order or which merely elaborate upon or repeat arguments made prior to the decision or order will not be entertained. A petition shall be verified if verification of original pleading is required and shall not operate as a stay of any rule or order of the Commission or of an Administrative Law Judge if the proceeding is before the latter officer. No petition for Reconsideration may be filed in connection with any proceeding conducted under Subpart S (sections 502.301-304).

(b) A petition for stay of a Commission order in cases involving statutory violations will not be entertained.

By the Commission.

Francis C. Hurney,

Secretary.

[FR Doc. 79-16042 Filed 5-22-79; 8:45 am]

BILLING CODE 6730-01-M

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Notices

National Forest surrounding Diamond

Dated: May 9, 1979.

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Notices

Federal Register
Vol. 44, No. 101
Wednesday, May 23, 1979

This section of the FEDERAL REGISTER contains documents other than rules or proposed rules that are applicable to the public. Notices of hearings and investigations, committee meetings, agency decisions and rulings, delegations of authority, filing of petitions and applications and agency statements of organization and functions are examples of documents appearing in this section.

ADMINISTRATIVE CONFERENCE OF THE UNITED STATES

Committee on Judicial Review; Public Meeting

Pursuant to the Federal Advisory Committee Act (Pub. L. 92–463), notice is hereby given of a meeting of the Committee on Judicial Review of the Administrative Conference of the United States, to be held at 2:30 p.m., Wednesday, June 6, 1979, in the seventh floor main Conference Room of Covington and Burling, 888 16th Street, N.W., Washington, D.C.

The Committee will meet to discuss the scope and organization of the project concerning judicial review of rules in preenforcement and enforcement proceedings.

Attendance is open to the interested public but limited to the space available. Persons wishing to attend should notify this office at least two days in advance. The Committee Chairman, if he deems it appropriate, may permit members of the public to present oral statements at the meeting; any member of the public may file a written statement with the Committee before, during or after the meeting.

For further information, contact Linda A. Sedivec (202–254–7020). Minutes of the meeting will be available on request.

Richard K. Berg,
Executive Secretary.
May 17, 1979.
[FR Doc. 79-16072 Filed 5-22-79; 8:45 am]
BILLING CODE 6110-01-M

Public Meeting

Notice is hereby given, pursuant to the Federal Advisory Committee Act, Pub. L. 92–463, that the membership of the Administrative Conference of the United States, which makes recommendations to administrative agencies, to the President, Congress, and the Judicial Conference of the United States regarding the efficiency, adequacy, and fairness of the administrative procedures used by administrative agencies in carrying out their programs, will meet in Plenary Session on Thursday, June 7, 1979 at 9:45 a.m. and on Friday, June 8, 1979 at 9:45 a.m. in Hearing Room B of the Interstate Commerce Commission, 12th Street and Constitution Avenue, N.W., Washington, D.C.

The Conference will consider proposed recommendations on the following matters as well as any new business:

1. Federal Trade Commission trade regulation rulemaking under the Magnuson-Moss Act.
2. Disputes respecting Federal-State agreements for administration of the Supplemental Security Income Program.
3. Agency assessment and mitigation of civil money penalties.
4. Use of cost-benefit and similar analyses in regulation.

Plenary Sessions of the Conference are open to the public. Further information on the meeting, including copies of proposed recommendations, may be obtaianed from the Office of the Chairman, 2120 L Street, N.W., Suite 500, Washington, D.C. 20037, telephone 202–254–7020.

Dated: May 17, 1979.
Richard K. Berg,
Executive Secretary.
[FR Doc. 79-16073 Filed 5-22-79; 8:45 am]
BILLING CODE 6110-01-M

DEPARTMENT OF AGRICULTURE

Agricultural Marketing Service

Meat Pricing Task Force; Changes in Task Force Meeting

On March 28, 1979, the United States Department of Agriculture announced the meeting dates for the Meat Pricing Task Force (**Federal Register**, Vol. 44, No. 61). On Friday, April 27, 1979, an additional meeting for the Task Force was announced for June 11 in Dallas, Texas (**Federal Register**, Vol. 44, No. 83). That meeting is now expanded. At the request of the Task Force members the following changes are hereby announced.

This meeting of the Task Force will begin at 3:00 p.m., June 10, 1979, in the Skylab Room at the Airport Marina Hotel, Dallas-Fort Worth Regional Airport, Dallas, Texas (phone 214–453–8400). The meeting will reconvene at 8:30 a.m. in the same location on Monday, June 11. If necessary, the meeting will also reconvene at 8:30 a.m. in the same location on Tuesday, June 12. An announcement will be made during the Monday, June 11, meeting as to whether or not the Task Force will meet on Tuesday.

All sessions of this meeting will be open to the public. Public participation, announced in earlier **Federal Register** notices, has now closed.

Dated: May 18, 1979.
Chas B. Jennings,
Deputy Administrator.
[FR Doc. 79-16174 Filed 5-22-79; 8:45 am]
BILLING CODE 3410-02-M

Forest Service

Gospel-Hump Advisory Committee; Meeting

The Gospel-Hump Advisory Committee will meet at 8 a.m., June 25, 1979, at the Nezperce Forest Supervisor's Office, Grangeville, Idaho. The purpose of this meeting will be a three-day field trip via auto and horseback into the Gospel-Hump country to gain first-hand knowledge of the ground conditions.

Public participation is welcome, however, participants will be responsible for their won transportation, subsistence and lodging. Persons who wish to participate should notify Ed Laven, 319 East Main, Grangeville, Idaho, telephone 208/983–1950.

Don Biddison,
Forest Supervisor.
May 15, 1979.
[FR Doc. 79-16061 Filed 5-22-79; 8:45 am]
BILLING CODE 3410-11-M

Nantahala-Pisgah National Forests Land Management Plan, National Forests in North Carolina, Asheville, N.C.; Intent To Prepare an Environmental Statement

Pursuant to section 102(2)(c) of the National Environmental Policy Act of 1969, the Forest Service, Department of Agriculture will prepare an Environmental Statement for the Forest Land Management Plan for the Nantahala-Pisgah National Forests located in Cherokee, Clay, Macon, Graham, Jackson, Swain, Transylvania, Haywood, Buncombe, Madison, McDowell, Burke, Yancey, Mitchell, Avery, Caldwell, Henderson, and Watauga Counties, North Carolina.

Pub. L. 94–588 (National Forest Management Act of 1976) directs the Secretary of Agriculture to develop land management plans for units of the National Forest System in accordance with regulations promulgated under the Act.

Lawrence M. Whitfield, Regional Forester, is the responsible official. George A. Olson, Forest Supervisor, will be the leader for the Environmental Statement.

A range of alternatives for allocation and use of National Forest Lands will be considered. One of these will be to continue management as in the past. Other alternatives will consider a range of possible uses of included National Forest Lands including outputs derived from varying management activities which could be implemented on these lands.

A scoping session has not been held. However, a scoping process involving the State of North Carolina, concerned Federal Agencies, and interested publics will be conducted prior to issuance of a Draft Environmental Statement. This process will identify significant public and environmental issues to be addressed in the Environmental Statement. Appropriate public notice will be given prior to receiving input for the scoping process.

Written comments on the plan and Environmental Statement should be sent to George A. Olson, Forest Supervisor, National Forests in North Carolina, P.O. Box 2750, Asheville, N.C. 28802.

Dated; May 11, 1979.
Lawrence M. Whitfield,
Regional Forester.
[FR Doc. 79-16079 Filed 5-22-79; 8:45 am]
BILLING CODE 3410-11-M

Mountain Pine Beetle Outbreak Project, Diamond Lake Ranger District, USDA-Forest Service, Umpqua National Forest; Finding of No Significant Impact

An Environmental Assessment has been prepared which discusses proposed treatment of a mountain pine beetle outbreak in lodgepole pine stands covering approximately 2,500 acres of lands administered by the Umpqua National Forest surrounding Diamond Lake in Douglas County, Oregon. The Assessment is available for public review in the Forest Supervisor's Office, Roseburg, Oregon.

Although this project involves logging activities and slash treatment in an area surrounding a regionally renowned fishery and recreation area, the Environmental Assessment indicates that due to the timing and design of the proposed project this is not a major Federal action significantly affecting the quality of the human environment. There will be an impact due to the proposed actions, but the impact of taking no action over the entire area to mitigate the effects of the mountain pine beetle epidemic would be greater. Therefore, it has been determined that an environmental impact statement is not needed.

This determination is based upon consideration and evaluation of the following factors, which are discussed in detail in the Environmental Assessment: (a) The most important factor is to maintain a desirable setting for visitor use in the Diamond Lake complex; (b) long- and short-term effects associated with the beetle infestation in the overmature lodgepole stands in the Diamond Lake complex; (c) removal of timber on 150 acres of group selections and removal of only the green beetle infected timber over about 650 acres in a total land area of approximately 980 acres; (d) no treatment over 1,300 acres; (e) there will be no irreversible resource commitments and irretrievable loss of recreation or other resource values on treated acres; physical and biological effects are generally limited to the local Diamond Lake area; (g) the bald eagle, *Haliaeetus leucocephalus*, which is Federally classified as threatened, and the osprey, *Pandion hallaetus*, which is under Forest Service classification as unique are in the area; however, both are outside heavy treatment areas and will not be significantly affected.

There is considerable public interest in this area regardless of treatment or nontreatment. The proposed treatments, however, would be more acceptable than total nontreatment. Since the Diamond Lake Recreation Composite is dedicated to recreational use, the purpose of this project is to protect, as much as possible, the fishery, visual quality and other recreational values of the area.

No action will be taken prior to June 22, 1979.

The responsible official is R. D. Swartzlender, Forest Supervisor, Umpqua National Forest, P.O. Box 1008, Roseburg, Oregon 97470.

Dated: May 9, 1979.
R. D. Swartzlender,
Forest Supervisor.
[FR Doc. 79-16080 Filed 5-22-79; 8:45 am]
BILLING CODE 3410-11-M

Agricultural Marketing Service

Blackshear Pig Sale, Inc., et al.; Proposed Posting of Stockyards

The Chief, Registrations, Bonds, and Reports Branch, Packers and Stockyards, Agriculture Marketing Service, United States Department of Agriculture, has information that the livestock markets named below are stockyards as defined in Section 302 of the Packers and Stockyards Act, 1921, as amended (7 U.S.C. 202), and should be made subject to the provisions of the Act.

GA—187—Blackshear Pig Sale, Inc., Blackshear, Georgia.
MN—173—Rush City Livestock Auction, Rush City, Minnesota.
MS—158—Lucedale Livestock Auction Sales, Inc., Lucedale, Mississippi.
NY—158—Langless Bros. Auction Market, Inc., Cherry Creek, New York.

Notice is hereby given, therefore, that the said Chief, pursuant to authority delegated under the Packers and Stockyards Act, 1921, as amended (7 U.S.C. 181 *et seq.*), proposes to issue a rule designating the stockyards named above as posted stockyards subject to the provisions of the Act as provided in Section 302 thereof.

Any person who wishes to submit written data, views, or arguments concerning the proposed rule, may do so by filing them with the Chief, Registrations, Bonds, and Reports Branch, Packers and Stockyards, Agriculture Marketing Service, United Stated Department of Agriculture, Washington, D.C. 20250, by June 7, 1979.

All written submissions made pursuant to this notice shall be made available for public inspection at such times and places in a manner convenient to the public business (7 U.S.C. 1.27(b)).

Done at Washington, D.C., this 16th day of May 1979.
Edward L. Thompson,
Chief, Registrations, Bonds, and Reports Branch, Livestock Marketing Division.
[FR Doc. 79-16075 Filed 5-22-79; 8:45 am]
BILLING CODE 3410-02-M

CIVIL AERONAUTICS BOARD

[Docket No. 31620, etc.[1]]

American Airlines, Inc., Respondent; Enforcement Proceeding

This proceeding has been reassigned from Administrative Law Judge John J. Mathias to Administrative Law Judge Alexander N. Argerakis.

Dated at Washington, D.C., May 16, 1979.

Nahum Litt,

Chief Administrative Law Judge.

[FR Doc. 79-16138 Filed 5-22-79; 8:45 am]

BILLING CODE 6320-01-M

[Docket No. 34573]

Anchorage-London Service Case; Reassignment of Proceeding

This proceeding has been reassigned from Administrative Law Judge Katherine A. Kent to Administrative Law Judge Ronnie A. Yoder.

Dated at Washington, D.C., May 16, 1979.

Nahum Litt,

Chief Administrative Law Judge.

[FR Doc. 79-16139 Filed 5-22-79; 8:45 am]

BILLING CODE 6320-01-M

[Docket No. 33237 (Phase II)]

California-Arizona Low Fare Route Proceeding; Hearing

Notice is hereby given, pursuant to the provisions of the Federal Aviation Act of 1958, as amended, that a hearing in the above-entitled proceeding on the environmental impact of additional service to Orange County Airport (Santa Ana) will be held commencing June 27, 1979, at 10:00 a.m. (local time) in the Multi-purpose Room, Bayview Elementary School, 2531 Orchard Drive, Santa Ana, California, before the undersigned administrative law judge.

For information concerning the details of this proceeding, interested persons are referred to the transcript of the hearing in Phase I, held March 6–7, 1979, and other documents which are in the docket of this proceeding on file in the Docket Section of the Civil Aeronautics Board.

Dated at Washington, D.C., May 17, 1979.

Frank M. Whiting,

Administrative Law Judge.

[FR Doc. 79-16140 Filed 5-22-79; 8:45 am]

BILLING CODE 6320-01-M

[1] Dockets 31620, 31830, 32016, 32057, 32071, 32072, 30494, 30499, and 30696.

Denver-Fresno and Sacramento and Fresno-Sacramento

AGENCY: Civil Aeronautics Board.

ACTION: Notice of Order 79–5–113.

SUMMARY: The Board is proposing to grant Denver-Fresno and Sacramento and Fresno-Sacramento nonstop authority to Continental Air Lines, Western Air Lines, North Central Airlines and Hughes Airwest and any other fit, willing and able applicant whose fitness can be established by officially noticeable data. The complete text of this order is available as noted below.

DATE: Objection: All persons having objections to the board issuing the proposed authority shall file, and serve upon all persons listed below, no later than June 21, 1979, a statement of objection, together with a summary of the testimony, statistical data, and other material expected to be relied upon to support the stated objections.

ADDITIONAL DATA: All existing and would-be applicants who have not filed (a) illustrative service proposals, (b) environmental evaluations, and (c) an estimate of fuel to be consumed in the first year are directed to do no later than June 6, 1979.

ADDRESSES: Objections or Additional Data should be filed in Docket 35579, Docket Section, Civil Aeronautics Board, Washington, D.C. 20428.

FOR FURTHER INFORMATION CONTACT: Richard E. Clusman, Bureau of Pricing and Domestic Aviation, Civil Aeronautics Board, 1825 Connecticut Ave., Washington, D.C. 20428, (202) 673–5216.

SUPPLEMENTARY INFORMATION: Objections should be served upon the following persons: Continental Air Lines, Western Air Lines, North Central Airlines and Hughes Airwest.

The complete test or Order 79–5–133 is available from our Distribution Section, Room 516, 1825 Connecticut Avenue N.W., Washington, D.C. Persons outside the metropolitan area may send a postcard request for Order 79–5–133 to the Distribution Section, Civil Aeronautics Board, Washington, D.C. 20428.

By the Civil Aeronautics Board, May 17, 1979.

Phyllis T. Kaylor,

Secretary.

[FR Doc. 79-16142 Filed 5-22-79; 8:45 am]

BILLING CODE 6320-01-M

[Docket Nos. 26368, etc.[1]]

Eastern Air Lines, Inc., Respondent, Enforcement Proceeding; Reassignment of Proceeding

This proceeding has been reassigned from Administrative Law Judge John J. Mathias to Administrative Law Judge Alexander N. Argerakis.

Dated at Washington, D.C., May 16, 1979.

Nahum Litt,

Chief Administrative Law Judge.

[FR Doc. 79-16141 Filed 5-22-79; 8:45 am]

BILLING CODE 6320-01-M

COMMISSION ON CIVIL RIGHTS

Delaware Advisory Committee; Amendment

Notice is hereby given, pursuant to the provisions of the rules and regulations of the U.S. Commission on Civil Rights that a planning meeting of the Delaware Advisory Committee (SAC) of the Commission scheduled for June 15, 1979 (FR Doc. 79–15145) on page 28394, meeting place has changed.

The meeting now will be held at the Federal Building, 9th & King Streets, Conference Room 3207, Wilmington, Delaware 19801. The date and time will remain the same.

Dated at Washington, D.C., May 18, 1979.

John I. Binkley,

Advisory Committee Management Officer.

[FR Doc. 79-16172 Filed 5-22-79; 8:45 am]

BILLING CODE 6335-01-M

DEPARTMENT OF COMMERCE

Industry and Trade Administration

Duke University, et al.; Consolidated Decision on Applications for Duty-Free Entry of Election Microscopes

The following is a consolidated decision on applications for duty-free entry of electron microscopes pursuant to section 6(c) of the Educational, Scientific, and Cultural Materials Importation Act of 1966 (Pub. L. 89–651, 80 Stat. 897) and the regulations issued thereunder as amended (15 CFR Part 301). (See especially § 301.11(e).

A copy of the record pertaining to each of the applications in this consolidated decision is available for public review between 8:30 a.m. and 5:00

[1] Dockets 26368, 28369, 27415, 28292, 28294, 28830, 28597, 29213, 29216, 29247, 29228, 29229, 29856, and 29998.

p.m. at 666–11th Street, N.W. (Room 735), Washington, D.C.

Docket Number: 79–00143. Applicant: Duke University, Box 3014, Duke Univ. Medical Center, Durham, N.C. 27710. Article: Electron Microscope, Model 10A and Accessories. Manufacturer: Carl Zeiss, West Germany. Intended use of article: This article is intended to be used for morphologic aspects of several structural-functional investigations to be conducted in the mammalian kidney. In some instances kidney tubules will be examined after their transport characteristics have been studied. Detailed study of the cell membranes and junctional complexes of the tubules will be undertaken requiring point to point resolution of 3.0A to carefully elucidate the structural characteristics of the tubules that will then be correlated with the physiologic data that have been recorded. In other experiments the platinum replicas of freeze-fractured kidney tubules will be examined at both low magnification and selected areas at high magnification. Application received by Commissioner of Customs: February 1, 1979. Article ordered: December 28, 1978.

Docket Number: 79–00151. Applicant: University of California, Los Alamos Scientific Laboratory, P.O. Box 990, Los Alamos, NM 87545. Article: electron Microscope, Model EM 400 HTG and Accessories. Manufacturer: Philips Electronics Instruments NVD, The Netherlands. Intended use of article: The article is intended to be used for the following multifold purposes:

1. Research into reactor fuels and cladding in both pre and post irradiated condition in support of the Fast Reaction Program of DOE,

2. Research into plutonium and uranium and the alloys in support of the laboratory's weapons program,

3. Support of the Controlled Thermonuclear Research (CTR), particularly in the area of radiation effects and damage in container materials,

4. Support of materials research and development for the Space Flight Reactor Program (SFR), and

5. General support of laboratory programs as a TEM-STEM-EDX-ELLS instrument of "last resort" where existing laboratory.TEM's lack the capability of this "ultra" capability instrument.

Application received by Commissioner of Customs: February 9, 1979.

Docket Number: 79–00161. Applicant: The University of Michigan, Department of Pathology, 1335 East Catherine Street, Ann Arbor, Michigan 48109. Article: Electron Microscope, Model EM 109 and Accessories. Manufacturer: Carl Zeiss, West Germany. Intended use of article: The article is intended to be used to further the knowledge of the pathology of kidney, liver, skin, muscle, brain, lung, heart, spleen, bone, marrow, lymph node and gastrointestinal tract diseases and in classification of tumors by their ultrastructural characteristics.

The experimental work includes the ultrastructural analysis of the hepatocytes in a vairety of natural and experimental disease states, incuding viral and toxic hepatitis and Reyes syndrome. Blood disorders will be studied utilizing the incorporation of ferritin molecules into erythroblasts. The relationship between aging and PUVA treatment will be studied with respect to the ultrastructural features of the skin with specific reference to elastic tissue and dermal melanocytes. The effect of therapy on the electron-dense immune complexes in the glomeruli of patients with specific systemic lupus erythematosus will be studied in patients who have serial biopsies of their kidneys. Ultrastructural characteristics of neoplastic and non-neoplastic cells in cytologic specimens, particularly serous fluids, will also be studied. The ge article will also be used for the teaching of ultrastructural manifestations of disease to medical students, medical technology students, resident physicians and practicing physicians. Application received by Commissioner of Customs: February 23, 1979. Article Ordered: September 6, 1978.

Docket Number: 79–00164. Applicant: National Institutes on Aging, Gerontology Research Center, Baltimore City Hospitals, Baltimore, Maryland, 21224. Article: Electron Microscope, Model JEM 100CX and Accesories. Manufacturer: JEOL Ltd., Japan. Intended use of article: The article is intended to be used for examination of cells and tissues in order to discover the common and different changes occurring in a variety of aging cell types and to see if the process can be altered. Application received by Commissioner of Customs: February 23, 1979. Article ordered: September 13, 1978.

Docket Number: 79–00165. Applicant: West Virginia University School of Medicine, Medical Center Drive, Morgantown, W. VA. 26505. Article: Electron Microscope, Model JEM 100CX and Accessories. Manufacturer: JEOL Ltd., Japan. Intended use of article: The article is intended to be used in ultrastructural studies of adult and developing organ/tissue systems from a variety of mammalian species. The materials to be studied include both normal and experimental tissues from the reproductive systems, the respiratory tract, the central and peripheral nervous systems and hemopoietic organs. Experiments will be conducted to correlate microstructure with critical parameters of physiological and biochemical processes which effect the structure and function of biological tissues in both normal and pathological states. Specific aims are directed toward the determination of mechanisms involved in aging, cell secretion and metabolism, and cellular trauma produced by various environmental pollutants. In addition, the article will be used in the following courses to familiarize students with techniques of use and interpretation in electron microscopy and the range of applications for transmission, scanning and scanning transmission electron microscopy; ANAT 312—Introduction of Research. CJ(Conjoined Course) 320—Electron Microscopy, ANAT 497—Dissertation Research. Application received by Commissioner of Customs: February 23, 1979. Article ordered: November 9, 1978.

Docket Number: 79–00168. Applicant: University of Massachusetts, Amherst, Massachusetts 01003. Article: Electron Microscope, Model JEM 100CX and Accessories. Manufacturer: JEOL Ltd., Japan. Intended use of article: The article is intended to be used in high resolution studies of plant and animal cells specifically as follows: (i) To describe the patterns and structural connections between microtubules and endoplasmic reticulum in the spindle apparatus; (ii) to reveal the presence and structural disposition of presumptive action filaments in dividing cells; (iii) to decipher the condensation of macromolecular structural components in basal bodies as they emerge during blepharoplast formation; (iv) to observe the degree and type of fusion between leaflets of thylakoid membranes in developing chloroplasts; (v) to reveal the fine granular and lamellar composition of the cell wall in pollen grains following acetolysis. The article will also be used in the courses Botany 797B—Techniques in Electron Microscopy to teach students the techniques of high resolution electron microscopy. Application received by Commissioner of Customs: February 23, 1979. Article ordered: November 22, 1978.

Docket Number: 79–00169. Applicant: Surgical Neurology Branch NINCDS—National Institutes of Health, 9000

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Rockville Pike, Bethesda, Maryland 20014. Article: Electron Microscope, Model JEM–100CX and Accessories. Manufacturer: JEOL Ltd., Japan. Intended use of article: The article is intended to be used to study the structure of normal, injured and malignant biological cells and tissues of the nervous system. Scientific problems to be studied will include:

1. The ultrastructural characteristics of gliomas and other types of brain tumors.

2. Quantitative ultrastructural surface and cytoplasmic characteristics of chromatolytic and regenerating neurons and quiescent, hypertrophic and mitotic post-injury microglia, oligodendroglia and astroglia.

3. Quantitative ultrastructural surface and cytoplasmic characteristics of arachnoidal cells under quiescent and various experimental conditions.

4. Surface membrane characterization and differentiation of gliomas and other brain tumors.

5. Analysis of lectin and other receptor movement after alterations of membrane fluidity and cytoskeletal organization; surface and cytoplasmic events in transformation as well as nerve regeneration.

6. Quantitative analysis of fine structural changes in glioma cells after treatment with various chemotherapeutic agents such as CCNU, BCNU, phenytoin, procarbazine, methotrexate.

Application received by Commissioner of Customs: February 23, 1979. Article ordered: September 20, 1978.

Docket Number: 79–00171. Applicant: University of Virginia, Department of Anatomy, 1300 Jefferson Park Avenue, Box 439, Charlottesville, Va. 22908. Article: Electron Microscope, Model JEM–100S and Accessories. Manufacturer: JEOL Ltd., Japan. Intended use of article: The article is intended to be used to carry out the following research projects:

(1) Dual tagged antibody globulins studies,

(2) Branched myofilaments in cultured smooth muscle cells,

(3) Changes in the membrane systems in various pathological conditions (e.g., muscular dystrophy),

(4) Electron microscopy of cell surface-cytoskeletal associations in mouse preimplanation embryos,

(5) Study of the intercellular junctions between cardiac cells and smooth muscle cells, especially in culture.

In addition, the article will be used to train graduate students, post-doctoral fellows, residents, and medical students in the use of an electron microscope. Application received by Commissioner of Customs: February 20, 1979. Article ordered: October 9, 1978.

Docket Number: 79–00173. Applicant: Purdue University, FREH Bldg., West Lafayette, IN 47907. Article: JEM–200CX TEMSCAN Electron Microscope with Accessories. Manufacturer: JEOL Ltd., Japan. Intended use of article: The article is intended to be used for the following solid state materials research:

(1) Study of crystallographic aspects in solid electrolytes of beta alumina-type compounds.

(2) Study of mixed electronic and ionic conduction in doped beta alumina.

(3) Study related to the understanding and control of the polytypical behavior of silicon carbide and related materials.

(4) Studies involving multiply periodic structures of compounds of Magneli phases and materials such as TaS_2, $TaSe_2$, $NbSe_2$, $TiSe_2$, and $LaGe_2$.

(5) Other studies involving geological samples including research on sulfide minerals for which transmission microscopy would allow the identification of inversion mechanism, twinning faults, analysis of small grain inclusions and the ability to have sufficient resolutions to observe effects of ion omission in minerals.

Application received by Commissioner of Customs: February 27, 1979. Article ordered: September 28, 1978.

Docket Number: 79–00174. Applicant: Environmental Sciences Laboratory, Mount Sinai School of Medicine, 1 Gustave Levy Place, New York, New York 10029. Article: Electron Microscope, Model JEM–100CX/SEG (TEM) with ASID Scanning Attachment and Accessories. Manufacturer: JEOL Ltd., Japan. Intended use of article: The article is intended to be used for a wide variety of research, educational and diagnostic projects with focus on environmental and occupational health problems. The range of applications includes the following: an electron microscopy investigation of human and animal tissues for ultrastructural characterization of cellular components in terms of pathological response to arrange of agents, both inorganic and organic; the determination of organelle and suborganelle responses to environmental carcinogens; localization, characterization and enumeration of inorganic particles on the cellular level; relationship of inorganic particles to subcellular processes; characterization of environmental samples on the sublight microscopic level, including the characterization of materials. In addition, the article will be used for the training of medical residents in occupational medicine, of post-graduate physicians, and graduate students in the basic sciences, in the techniques and applications of electron microscopy. Training may also be directly translated into teaching as well, which includes the techniques and special application of transmission electron microscopy, scanning electron microsopy, selected area electron diffraction, and electron microprobe analysis. Application received by Commissioner of Customs: February 27, 1979. Article ordered: December 12, 1978.

Comments: No comments have been received with respect to any of the foregoing applications. Decision: Applications approved. No instrument or apparatus of equivalent scientific value to the foreign articles for such purposes as these articles are intended to be used, was being manufactured in the United States at the time the articles were ordered. Reasons: Each foreign article to which the foregoing applications relate is a conventional transmission electron microscope (CTEM). The description of the intended research and/or educational use of each article establishes the fact that a comparable CTEM is pertinent to the purposes for which each is intended to be used. We know of no CTEM which was being manufactured in the United States either at the time of order of each article described above or at the time of receipt of application by the U.S. Customs Service.

The Department of Commerce knows of no other instrument or apparatus of equivalent scientific value to any of the foreign articles to which the foregoing applications relate, for such purposes as these articles are intended to be used, which was being manufactured in the United States either at the time of order or at the time of receipt of application by the U.S. Customs Service.

(Catalog of Federal Domestic Assistance Program No. 11.105, Importation of Duty-Free Educational and Scientific Materials)

Richard M. Seppa,

Director, Statutory Import Programs Staff.

[FR Doc. 79–16122 Filed 5–22–79; 8:45 am]

BILLING CODE 3510–25–M

Frederick Cancer Research Center, et al.; Consolidated Decision on Applications for Duty-Free Entry of Ultramicrotomes

The following is a consolidated decision on applications for duty-free entry of ultramicrotomes pursuant to Section 6(c) of the Educational, Scientific, and Cultural Materials Importation Act of 1966 (Pub. L. 89–651, 80 Stat. 897) and the regulations issued thereunder as amended (15 CFR Part 301). (See especially § 301.11(e).)

A copy of the record pertaining to each of the applications in this consolidated decision is available for public review between 8:30 a.m. and 5:00 p.m. at 666–11th Street, NW., (Room 735), Washington, D.C.

Docket Number: 79–00087. Applicant: Frederick Cancer Research Center, P.O. Box B, Frederick, Maryland 21701. Article: LKB 2128–010/Ultrotome IV Ultramicrotome and Accessories. Manufacturer: LKB Produkter AB, Sweden. Intended use of article: The article is intended to be used for light microscopic and ultrastructural studies on normal and pathologic human and animal tissues as well as of normal and transformed cells and tissues in culture. Other investigations will include histochemical and ultrahistochemical studies to localize enzymes and subcellular organelles and morphometric examinations to study the changes in sizes and distribution of subcellular organelles as well as of autoradiography to localize the subcellar distribution of cancer inducing chemicals. Application received by Commissioner of Customs: December 14, 1978. Advice submitted by the Department of Health, Education, and Welfare: March 22, 1979.

Docket Number: 79–00090. Applicant: The Regents of the University of California, San Diego, University of California Medical Center, 225 Dickinson Street, San Diego, Calif. 92103. Article: LKB 2088 Ultrotome V Ultramicrotome and the LKB Histoknifemaker 2078 and Accessories. Manufacturer: LKB Produkter AB, Sweden, Intended use of article: The article is intended to be used to prepare specimens for long term studies of the pathology of alloxan diabetes in rats and, in particular, the glomerular basement thickening in rats with long-term alloxan diabetes. Application received by Commissioner of Customs: December 14, 1978. Advice submitted by the Department of Health, Education, and Welfare: March 22, 1979.

Docket Number: 79–00101. Applicant: Boston University School of Medicine, Dept of Dermatology, Houseman Research Building, Rm. 316, 80 East Concord Street, Boston, MA 02118. Article: LKB 2088 Ultrotome V Ultramicrotome and Accessories. Manufacturer: LKB Produkter AB, Sweden. Intended use of article: The article is intended to be used to prepare human and animal specimens for investigations which will include: ultrastructural studies on normal and pathologic tissues, developmental studies on skin, blood vessels and muscle systems, cyto and histochemical studies on enzyme and subcellular organelle localization in cells and tissues, membrane interactions and subcellular changes in cells induced by changes in their biochemical and physical environments. The article will also be used in the courses Ultrastructure and Cell Biology which will involve a study of general principles on techniques and the use of the electron microscope to study the fine structure of cells and various subcellular organelles and the employment of cytochemical staining methods to localize various enzymes. Application received by Commissioner of Customs: December 19, 1978. Advice submitted by the Department of Health, Education, and Welfare: March 22, 1979.

Docket Number: 79–00116. Applicant: University of Nebraska—Lincoln, Department of Veterinary Science, Institute of Agriculture and Natural Resources, Lincoln, Nebraska 68583. Article: LKB 2128–010 Ultrotome IV Ultramicrotome and Accessories. Manufacturer: LKB Produkter AB, Sweden. Intended use of article: The article is intended to be used for ultrathin sectioning of different types of animal and plant tissues and other biological materials such as bacteria, parasites, viruses cultured cells, and tissues which have been embedded in epoxy resins. These specimens will be studied to further basic knowledge of cell and tissue ultrastructure and to provide at the fine structural level the enzymes and hormone localizations and distribution in cells and tissues under normal, pathological and artifically induced disease conditions both *in vivo* and *in vitro*. The article will also be used in courses in Veterinary Histology and Fine Structures and Ultrastructural Pathology to train students and trainees in the proper use and application of electron microscopy techniques. Application received by Commissioner of Customs: January 9, 1979. Advice submitted by the Department of Health, Education, and Welfare: March 22, 1979.

Docket Number: 79–00134. Applicant: University of Alabama in Birmingham, 1808–7th Avenue South, Room 801, Birmingham, Alabama 35294. Article: LKB 2088 Ultrotome V Ultramicrotome and LKB 148001–3 CryoKit and CryoKit Tools. Manufacturer: LKB Produkter AB, Sweden. Intended use of article: The article is intended to be used to prepare ultrathin frozen sections of isolated rat pancreatic islets. These frozen thin sections will be analyzed by immunocytochemical labelling techniques in an effort to identify and characterize the molecular components of the insulin release machinery contained within these cells. Applications received by Commissioner of Customs: January 19, 1979. Advice submitted by the Department of Health, Education, and Welfare: April 12, 1979.

Docket Number: 79–00141. Applicant: Chemical Industry Institute of Toxicology, P.O. Box 12137, Research Triangle Park, NC 27709. Article: LKB 2128–010 Ultrotome IV Ultramicrotome and Accessories. Manufacturer: LKB Produkter AB, Sweden. Intended use of article: The article is intended to be used to prepare experimental animal tissues for electron microscopy. Liver will be the major tissue studied; although kidney, lung and nervous tissue will be frequently examined. Experiments on laboratory animals will be conducted to determine the mechanism of chemical induced tissue injury. Application received by Commissioner of Customs: February 1, 1979. Advice submitted by the Department of Health, Education, and Welfare on: April 12, 1979.

Docket Number: 79–00144. Applicant: Indiana University—Purdue University at Indianapolis (IUPUI) Biology Department, 1201 East 38th Street, Indianapolis, IN 46205. Article: LKB 8800A Ultrotome III Ultramicrotome and Accessories. Manufacturer: LKB Produkter AB, Sweden. Intended use of article: The article is intended to be used for investigation of the development and differentiation of the specialized cell type, the non-articulated branched laticifer, in whole plants and tissue cultures of the genus *Asclepias* (the milkweeds). Other uses will involve the study of a variety of biological phenomena occurring in multicellular and unicellular plants and animals, as well as subcellular preparations. The article will also be used in a course entitled Electron Microscopy which is designed to teach basic preparative techniques for electron microscopy (including histochemical techniques), the principles and use of the electron microscope, and the interpretation of ultrastructure. Application received by Commissioner of Customs: February 1, 1979. Advice submitted by the Department of Health, Education, and Welfare, April 12, 1979.

Comments: No comments have been received with respect to any of the foregoing applications. Decision: Applications approved. No instrument or apparatus of equivalent scientific value to the foreign articles for such purposes as these articles are intended

neurosurgical residents will be trained

(Sorvall). The Model MT–2B has a range

(Catalog of Federal Domestic Assistance

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to be used, is being manufactured in the United States. Reasons: Each of the foreign articles provides a range of cutting speeds 0.1 to more than 20 millimeters per second. The most closely comparable domestic instrument is the Model MT-2B ultramicrotome which is manufactured by Ivan Sorvall, Inc. (Sorvall). The Model MT-2B has a range of cutting speeds from 0.09 to 3.2 millimeters per second. The conditions for obtaining high-quality sections that are uniform in thickness, depend to a large extent on the hardness, consistency, toughness and other properties of the specimen materials, the properties of the embedding materials, and geometry of the block. In connection with a prior application (Docket Number 69-00665-33-46500), which relates to the duty-free entry of an article that is identical to those to which the foregoing applications relate, the Department of Health, Education, and Welfare (HEW) advised that "Smooth cuts are obtained when the speed of cutting, (among such [other] factors as knife edge condition and angle), is adjusted to the characteristics of the material being sectioned. The range of cutting speeds and a capability for the higher cutting speeds is, therefore, a pertinent characteristic of the ultramicrotome to be used for sectioning materials that experience has shown difficult to section." In connection with another prior application (Docket Number 70-00077-33-46500) which also relates to an article that is identical to those described above, HEW advised that "ultrathin sectioning of a variety of tissues having a wide range in density, hardness etc." requires a maximum range in cutting speed and, further, that the "production of ultrathin serial sections of specimens that have a great variation in physical properties is very difficult." Accordingly, HEW advises in its respectively cited memoranda, that cutting speeds in excess of 4 millimeters per second are pertinent to the satisfactory sectioning of the specimen materials and the relevant embedding materials that will be used by the applicants in their respective experiments.

For these reasons, we find that the Sorvall Model MT-2B ultramicrotome is not of equivalent scientific value to the foreign articles to which the foregoing applications relate, for such purposes as these articles are intended to be used.

The Department of Commerce knows of no other instrument or apparatus of equivalent scientific value to any of the foreign articles to which the foregoing applications relate, for such purposes as these articles are intended to be used, which is being manufactured in the United States.

(Catalog of Federal Domestic Assistance Program No. 11.105, Importation of Duty-Free Educational and Scientific Materials.)

Richard M. Seppa,

Director, Statutory Import Programs Staff.

[FR Doc. 79-16124 Filed 5-22-79; 8:45 am]

BILLING CODE 3510-25-M

National Institutes of Health et al.; Consolidated Decision of Applications for Duty-Free Entry of Ultramicrotomes

The following is a consolidated decision on applications for duty-free entry of ultramicrotomes pursuant to Section 6(c) of the Educational, Scientific, and Cultural Materials Importation Act of 1966 (Pub. L. 89-651, 80 Stat. 897) and the regulations issued thereunder as amended (15 CFR Part 301). (see especially § 301.11(e).

A copy of the record pertaining to each of the applications in this consolidated decision is available for public review between 8:30 a.m. and 5:00 p.m. at 666-11th Street, NW. (Room 735) Washington, D.C.

Docket Number: 79-00047. Applicant: National Institutes of Health, 9000 Rockville Pike, Building 36, Rm. 4B17, Bethesda, Maryland 20014. Article: LKB 2128-010/Ultrotome IV Ultramicrotome and Accessories. Manufacturer: LKB Produkter AB, Sweden. Intended use of article: The article is intended to be used for studies of myelinated tracts or nerves obtained surgically which may be chemically fixed and embedded or frozen before sectioning. This or semithin sections of nervous tissue will be studied by light and electron microscopy. The features characteristic of various types of myelin breakdown will be identified and described in research reports that will be published. Additional objectives include the localization of myelin constituents visualized electron microscopically in thin sections after using specific immunocytochemical staining procedures. Application received by commissioner of customs: November 8, 1978. Advice submitted by the National Bureau of Standards: March 1, 1979.

Docket Number: 79-00055. Applicant: National Institutes of health, Bethesda, MD 20014. Article: LKB 2128-010 Ultrotome IV Ultramicrotome and Accessories. Manufacturer: LKB Produker AB, Sweden. Intended use of article: The article is intended to be used to prepare sections or retinae from vertebrate eyes for observation to understand the intercellular connections and circuitry underlying the electrical activity of the retina. Application received by Commissioner of Customs: November 22, 1978. Advice Submitted by the National Bureau of Standards: March 14, 1979.

Docket Number: 79-00083. Applicant: Surgical Neurology Branch, N.I.N.C.D.S., NIH, 9000 Rockville Pike, Bethesda, Maryland 20014. Article: LKB 2128-010 Ultrotome IV Ultramicrotome and accessories. Manufacturer: LKB Produkter AB, Sweden. Intended use of Article: The article is intended to be used to prepare cells from the central and peripheral nervous system taken from tumor and other biopsies in patients or from various animal models for study directly or after growth *in vitro*. Scientific problems to be studied will include:

1. The ultrastructural characteristics of gliomas and other types of brain tumors.

2. Quantitative ultrastructural surface and cytoplasmic characteristics of chromatolytic and regenerating neurons and quiescent, hypertrophic and mitotic post-injury microglia, oligodendroglia and astroglia.

3. Quantitative ultrastructural surface and cytoplasmic characteristics of arachnoidal cells under quiescent and various experimental conditions (such as subarachnoid hemorrhage and ischemic and blunt trauma), i.e. arachnoiditis.

4. Surface membrane characterization and differentiation of gliomas and other brain tumors.

5. Analysis of lectin and other receptor movement after alterations and membrane fluidity and cytoskeletal organization; surface and cytoplasmic events in transformation as well as nerve regeneration.

6. Quantitative analysis of fine structural changes in glioma cells after treatment with various chemotherapeutic agents such as CCNU, BCNU, phentoin, procarbazine, methotrexate (TEM with quantitative image analysis).

7. Quantitation of elemental content of neuronal and glial cell surfaces and cytoplasmic regions as organelles for elements ranging from Be to U or Na to U by wave dispersive and/or energy dispersive X-ray spectroscopy.

8. Examination of freeze fracture and replica surface specimens.

9. The determination of molecular and supramolecular structure of intact and isolated proteins and/or protein complexes.

Post-doctoral fellows as well as medical students and neurological and neurosurgical residents will be trained to use the instrument as part of the research training in the laboratories. Application received by Commissioner of Customs: December 14, 1978. Advice submitted by the National Bureau of Standards: April 3, 1979.

Docket Number: 79-00102. Applicant: National Institutes of Health, Neuromuscular Diseases Section, IRP, Building 10/10D20, Clinical Center, 9000 Rockville Pike, Bethesda, Maryland 20014. Article: LKB 2088 Ultrotome V Ultramicrotome and Accessories. Manufacturer: LKB Produkter AB, Sweden. Intended use of article: The article is intended to be used for investigations which include ultrastructural studies of normal and pathological human and animal tissues. Developmental studies of cytochemical and histochemical staining for enzymes and subcellular organelle localization. Subcellular changes in cells induced by changes in their biochemcial and physical environs will be investigated. Application received by Commissioner of Customs: December 19, 1978. Advice submitted by the National Bureau of Standards: April 12, 1979.

Docket Number: 79-00145. Applicant: National Institutes of Health, 9000 Rockville Pike, Bethesda, MD. 20014. Article: LKB 2128-010 Ultrotome IV Ultramicrotome and Accessories. Manufacturer: LKB Produkter AB, Sweden. Intended use of article: The article is intended to be used for investigation of the mechansims of interaction between viruses and the nerve cells, how viruses spread in the nervous system, how nerve cells membranes are modified by viruses, and how viral antigens are expressed in those nerve cells. In addition, the article will be used to diagnose the nature of viral disease of the nervous system when human brain biopsy has been performed. Application received by Commissioner of Customs: February 6, 1979. Advice submitted by the National Bureau of Standards: April 6, 1979.

Comments: No comments have been received with respect to any of the foregoing applications. Decision: Application approved. No instrument or apparatus of equivalent scientific value to the foreign articles for such purposes as these articles are intended to be used, is being manufactured in the United States. Reasons: Each of the foreign articles provides a range of cutting speeds 0.1 to more than 20 millimeters per second. The most closely comparable domestic instrument is the Model MT-2B ultramicrotome which is manufactured by Ivan Sorvall, Inc. (Sorvall). The Model MT-2B has a range of cutting speeds from 0.09 to 3.2 millimeters per second. The conditions for obtaining high-quality sections that are uniform in thickness, depend to a large extent on the hardness, consistency, toughness and other properties of the specimen materials, the properties of the embedding materials, and geometry of the block. In connection with a prior application (Docket Number 69-00665-33-46500), which relates to the duty-free entry of an article that is identical to those to which the foregoing applications relate, the Department of Health, Education, and Welfare (HEW) advised that "Smooth cuts are obtained when the speed of cutting, (among such [other] factors as knife edge condition and angle), is adjusted to the characteristics of the material being sectioned. The range of cutting speeds and a capability for the higher cutting speeds, is therefore, a pertinent characteristic of the ultramicrotome to be used for sectioning materials that experience has shown difficult to section." In connection with another prior application (Docket Number 70-00077-33-46500) which also relates to an article that is identical to those described above, HEW advised that "ultrathin sectioning of a variety of tissues having a wide range in density, hardness etc." requires a maximum range in cutting speed and, further, that the "production of ultrathin serial sections of specimens that have a great variation in physical properties is very difficult." Accordingly, The National Bureau of Standards advises in its respectively cited memoranda, that cutting speeds in excess of 4 millimeters per second are pertinent to the satisfactory sectioning of the specimen materials and the relevant embedding materials that will be used by the applicants in their respective experiments.

For these reasons, we find that the Sorvall Model MT-2B ultramicrotome is not of equivalent scientific value to the foreign articles to which the foregoing applications relate, for such purposes as these articles are intended to be used.

The Department of Commerce knows of no other instrument or apparatus of equivalent scientific value to any of the foreign articles to which the foregoing applications relate, for such purposes as these articles are intended to be used, which is being manufactured in the United States.

(Catalog of Federal Domestic Assistance Program No. 11.105, Importation of Duty-Free Educational and Scientific Materials)

Richard M. Seppa,

Director, Statutory Import Programs Staff.

[FR Doc. 79-16123 Filed 5-22-79; 8:45 am]

BILLING CODE 3510-25-M

University of Florida; Decision on Application for Duty-Free Entry of Scientific Article

The following is a decision on an application for duty-free entry of a scientific article pursuant to section 6(c) of the Educational, Scientific, and Cultural Materials Importation Act of 1966 (Pub. L. 89-651, 80 Stat. 897) and the regulations issued thereunder as amended (15 CFR Part 301).

A copy of the record pertaining to this decision is available for public review between 8:30 a.m. and 5:00 p.m. at 666 11th Street, N.W. (Room 735), Washington, D.C.

Docket Number: 79-00077. Applicant: University of Florida, College of Pharmacy, Box J-4. J. Hillis Miller Health Center, Gainesville, Florida 32610. Article: LKB 2107-010 Batch Microcalorimeter and Accessories. Manufacturer: LKB Produkter AB, Sweden. Intended use of article: The article is intended to be used for the study of the binding of drugs to molecules (albumin, enzymes, nucleic acids, polysaccharides, etc.). The binding is investigated by having the macromolecule and drug separated in the mixing cell, then measure the heat changes following the mixing from the magnitude of this heat; important information on the strength of binding as well as the binding capacity of the macromolecule can be obtained. The article will also be used in research courses leading to masters and Ph. D degrees, for the teaching of research methods and understanding of drug macromolecule interactions.

Comments: No comments have been received with respect to this application. Decision: Application approved. No instrument or apparatus of equivalent scientific value to the foreign article, for such purposes as this article is intended to be used, is being manufactured in the United States. Reasons: The foreign article provides the capabilities for operation in a differential mode and a sensitivity of one microcalorie. The Department of Health, Education, and Welfare (HEW) advises in its memorandum dated March 22, 1979 that the capabilities of the article described above are pertinent to the applicant's intended purposes. HEW further advises

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that (1) domestic instruments do not provide equal sensitivity or operate in a differential mode and (2) it knows of no domestic instrument or apparatus of equivalent scientific value to the foreign article for such purposes as this article is intended to be used.

The Department of Commerce knows of no other instrument or apparatus of equivalent scientific value to the foreign article, for such purposes as this article is intended to be used, which is being manufactured in the United States.

(Catalog of Federal Domestic Assistance Program No. 11.105, Importation of Duty-Free Educational and Scientific Materials)

Richard M. Seppa,

Director, Statutory Import Programs Staff.

[FR Doc. 79-16116 Filed 5-22-79; 8:45 am]

BILLING CODE 3510-25-M

University of Mississippi; Decision on Application for Duty-Free Entry of Scientific Article

The following is a decision on an application for duty-free entry of a scientific article pursuant to section 6(c) of the Educational, Scientific, and Cultural Materials Importation Act of 1966 (Pub. L. 89-651, 80 Stat. 897) and the regulations issued thereunder as amended (15 CFR Part 301).

A copy of the record pertaining to this decision is available for public review between 8:30 a.m. and 5:00 p.m. at 666 11th Street, N.W. (Room 735) Washington, D.C.

Docket Number: 79-00075. Applicant: University of Mississippi, University, MS 38677. Article: LKB 2107-010 Batch Microcalorimeter and Accessories. Manufacturer: LKB Produkter AB, Sweden. Intended use of article: The article is intended to be used to study the thermodynamics of the binding of specific ligands to proteins. These studies will be conducted to relate the thermodynamics information to the nature of the protein-ligand binding forces. The article will also be used to monitor the kinetics of enzyme catalyzed reactions. In addition, the article will be used to study the heat of detergent micelle formation. The article will be used as an educational tool in the courses Biochemistry Laboratory (Chem 472) and Graduate Research (Chem 697-797).

Comments: No comments have been received with respect to this application. Decision: Application approved. No instrument or apparatus of equivalent scientific value to the foreign article, for such purposes as this article is intended to be used, is being manufactured in the United States. Reasons: The foreign article provides the capabilities for operation in a differential mode and a sensitivity of one microcalorie. The Department of Health, Education, and Welfare (HEW) advises in its memorandum dated March 22, 1979 that the capabilities of the article described above are pertinent to the applicant's intended purposes. HEW further advises that (1) domestic instruments do not provide equal sensitivity or operate in a differential mode and (2) it knows of no domestic instrument or apparatus of equivalent scientific value to the foreign article for such purposes as this article is intended to be used.

The Department of Commerce knows of no other instrument or apparatus of equivalent scientific value to the foreign article, for such purposes as this article is intended to be used, which is being manufactured in the United States.

(Catalog of Federal Domestic Assistance Program No. 11.105, Importation of Duty-Free Educational and Scientific Materials)

Richard M. Seppa,

Director, Statutory Import Programs Staff.

[FR Doc. 79-16119 Filed 5-22-79; 8:45 am]

BILLING CODE 3510-25-M

University of Texas System Cancer Center; Applications for Duty-Free Entry of Scientific Articles

The following are notices of the receipt of applications for duty-free entry of scientific articles pursuant to section 6(c) of the Educational, Scientific, and Cultural Materials Importation Act of 1966 (Pub. L. 89-651; 80 Stat. 897). Interested persons may present their views with respect to the question of whether an instrument or apparatus of equivalent scientific value for the purposes for which the article is intended to be used is being manufactured in the United States. Such comments must be filed in triplicate with the Director, Statutory Import Programs Staff, Bureau of Trade Regulation, U.S. Department of Commerce, Washington, D.C. 20230, on or before June 12, 1979.

Regulations (15 CFR 301.9) issued under the cited Act prescribe the requirements for comments.

A copy of each application is on file, and may be examined between 8:30 a.m. and 5:00 p.m., Monday through Friday, at 666 11th Street, NW. (Room 735), Washington, D.C.

Docket Number: 79-00240. Applicant: The University of Texas System Cancer Center, 6723 Bertner, Houston, Texas 77030. Article: Multi-Parameter Flow Cytophotometer ICP-22 and Accessories. Manufacturer: Phywe Company, West Germany. Intended use of article: The article is intended to be used for the study of cells from long term cultures or from biopsies specimens from patients with leukemias and solid tumors. The cells will be processed to yield single cell suspensions, and will be stained specifically for DNA, RNA, and protein so that two parameter analysis of cellular properties can be performed. The determined cellular properties will be utilized to identify cell subpopulations in heterogenous samples and to further characterize malignant versus normal cells. Application received by Commissioner of Customs: April 4, 1979.

Docket Number: 79-00241. Applicant: University of Minnesota, Dept. of Geology and Geophysics, 310 Pillsbury Drive, Minneapolis, MN 55455. Article: 12 KW RU-200H High Brillance Rotating Anode X-Ray Generator and Accessories. Manufacturer: Rigaku, Japan. Intended use of article: The article is intended to be used to produce high energy x-rays to excite diffraction spectra of minerals. Unit cell volumes and parameters will be measured in research to better understand the mineralogy of the earth's interior. The article will be used in mostly graduate courses Geo 8-099 (Research in Petrology) Geo 5-452 (Igneous and Metamorphic Petrology) and Geo 30401 (Introductory Mineralogy) by undergraduate and graduate students. Applications received by Commissioner of Customs: April 4, 1979.

Docket Number: 79-00243. Applicant: Oregon State University, Department of Biochemistry and Biophysics, Corvallis, Oregon 97331. Article: Electron Microscope, Model EM 10A and Accessories. Manufacturer: Carl Zeiss, West Germany. Intended use of article: The article is intended to be used for studies of the structure and replication of adenovirus, a DNA-containing tumor virus. The projects involving electron microscopy include the following categories: (1) Viral DNA replication, (2) DNA-terminal protein complexes, (3) cellular DNA-protein complexes, (4) chromatin-like structure of the adenovirus chromosome, and (5) defective viral genomes. Application received by Commissoner of Customs: April 4, 1979.

Docket Number: 79-00245. Applicant: Veterans Administration Medical Center, 3801 Miranda Avenue, Palo Alto, California 94304. Article: Electron Microscope, Model EM 10A and accessories. Manufacturer: Carl Zeiss, West Germany. Intended use of article:

The article is intended to be used for studies of normal and pathological biological material including tissue from spinal cord and brain, and from the peripheral nervous system, as well as from the bony labyrinth and the spinal vertebrae. Tissues from both mammals and inframammalian systems will be studied. These studies will include ultrastructural and cytochemical studies on normal and pathological nerve cells, developmental studies on the nervous system on muscle, and studies on membrane structure in both normal and pathological animals. Particular emphasis will be given to studies on the structural pathology of cell membranes in the demyelinating diseases, peripheral neuropathies, and spinal cord injury, and of the morphological changes which occur during recovery from demyelination and axonal transection. Studies will also involve detailed examination of the node of Ranvier, and of the paranodal specialization and of the ultrastructural architecture of myelin at high resolution. The article will also be used by graduate students and post-doctoral trainees, who are engaged in and are being trained for research on a one-to-one basis in this laboratory. Application received by Commissioner of Customs: April 11, 1979.

Docket Number: 79-00246. Applicant: DHEW/Food and Drug Administration, Bureau of Biologics Bldg. 29A, 2B23, 8800 Rockville Pike, Bethesda, Maryland 20014. Article: Electron Microscope, Model EM 10A, TI-Coolwell Recirculating Cooling System and Accessories. Manufacturer: Carl Zeiss, West Germany. Intended use of article: The article is intended to be used to study biological and related to human disease. The focus of the investigation will be on viruses whose exceedingly small size requires electron microscope range of magnification for visualization. The specific experiments to be conducted are: (a) Studies of the morphology replication and antigenic components of viruses, (b) alterations in cell surface following viral infection, (c) viral nucleic acid analyses, and (d) quantitation of viral content by virus particle count. Application received by Commissioner of Customs: April 6, 1979.

Docket Number: 79-00247. Applicant: VA Wadsworth Medical Center, Wilshire and Sawtelle Blvds., Los Angeles, CA 90073. Article: LKB Model 2127-001 Tachophor complete with Power Supply Unit and Accessories. Manufacturer: LKB Produkter AB, Sweden. Intended use of article: The article is intended to be used for studies of biological materials including proteins, peptides and metabolites from plant and animal tissues. Investigations will include studies on in vitro and/or in vivo reactions between molecules following increase, decrease, or absence of one or all of the reacting molecules. The objective pursued in the course of these investigations is to understand the interrelationship between biological molecules and to correlate these changes wth chemical alterations seen in human diseases. Application received by Commissioner of Customs: April 11, 1979.

Docket Number: 79-00248. Applicant: University of Missouri, Columbia, Missouri 65211. Article: Continuous Recording Oscilloscope Camera, Model PC-3A with Accessories. Manufacturer: Baytronix Ltd., Canada. Intended use of article: The article is intended to be used to record the electro-physiological responses from the auditory neurons or muscle fibers of an experimental animal. Application received by Commissioner of Customs: April 11, 1979.

Docket Number: 79-00250. Applicant: Texas Tech University School of Medicine, Anatomy Department, Lubbock, Texas 79403. Article: Diamond knives for ultramicrotome, type B and Accessories. Manufacturer: Fine Science Tools, Ltd., Canada. Intended use of article: The article is intended to be used for thin sectioning of cells and tissues from research animals. Experiments will be conducted to identify ultrastructural changes in developing palate, changes in tooth maintenance with Diabetes Mellitus, and other biomedical research. The article will also be used to prepare teaching material for all microanatomy and cell biology courses in the Department. Application received by Commissioner of Customs: April 11, 1979.

Docket Number: 79-00251. Applicant: NOAA/ERL/Space Environment Laboratory, MS 1-2109, 325 Broadway, Boulder, CO 80303. Article: Computer-controlled scope-display character generator. Manufacturer: SEN Electronique, Switzerland. Intended use of article: The article is intended to be used for investigations of ionosphere structure and its motions. Specifically, it will be used to display computer information on an x-ray telescope and its content will be various computational results and diagraphic display labeling; the display is required for experimenter control. Application received by Commissioner of Customs: April 11, 1979

(Catalog of Federal Domestic Assistance Program No. 11.105, Importation of Duty-Free Educational and Scientific Materials)

Richard M. Seppa,

Director, Statutory Import Programs Staff.

[FR Doc. 79-16120 Filed 5-22-79; 8:45 am]

BILLING CODE 3510-25-M

Watches and Watch Movements; Allocation of Duty-Free Quotas for Calendar Year 1979 Among Producers Located in Guam

AGENCY: Bureau of Trade Regulation, Industry and Trade Administration.

ACTION: Allocation fo duty-free quotas for calendar year 1979 among producers located in Guam.

SUMMARY: Pursuant to Pub. L. 89-805 the Departments of the Interior and Commerce (the Departments) share responsibility for the allocation of watch quotas among watch assembly firms in the insular possessions. Section 303.5(a)(2) of the Departments' Codified Watch Quota Rules (15 CFR Part 303) provides for the annual allocation of watch quotas. The criteria for the calculation of the 1979 watch quotas among producers in Guam are set forth in the Final Watch Quota Allocation Rules (the "Rules") published in the **Federal Register** dated December 27, 1978, (43 FR 60313 (1978)). The Departments published the calendar year 1979 quotas for producers located in the Virgin Islands in the **Federal Register** dated April 19 (44 FR 23272 (1979)).

The Departments have verified the data submitted on application form ITA-334P by producers in Guam in accordance with § 303.4(b) of the Codified Watch Quota Rules. The verification established that in calendar year 1978 the Guam watch assembly firms shipped 334,843 watches and watch movements into the customs territory of the United States under General Headnote 3(a) of the Tariff Schedules of the United States. The dollar amount of corporate income taxes paid by Guam producers during calendar year 1978 amounted to $30,109. The dollar amount of wages, up to a maximum of $14,000 per person, paid by Guam producers during calendar year 1978 to residents and attributable to the producers' headnote 3(a) watch and watch movement assembly operations totalled $181,183. The calendar year 1979 Guam annual allocations set forth below are based on the data verified by the Departments in Guam and are made in accordance with the allocation formula contained in the Rules for the allocation of watch quotas for calendar year 1979.

The duty-free watch quota allocations in Guam for calendar year 1979 are as follows:

Name of Firm and Annual Allocation

Jerlian Watch Company, Inc., 233,766.
Phoenix Industries, Inc., 12,265.

FOR ADDITIONAL INFORMATION CONTACT: Mr. Richard M. Seppa, who can be reached by telephone on 202/724–3526.

SUPPLEMENTARY INFORMATION: In the **Federal Register** of March 28, 1979 (44 FR 18568 (1979)), the International Trade Commission announced that the number of watches and watch movements which may be entered free of duty during calendar year 1979 from Guam is 627,000 units.

The above allocation of quota to Guam producers totals 246,031 units. This equals the amount of the Guam quota available for allocation pursuant to Section 2(b) of the Rules. One of the Guam firms elected the full calendar year 1978 as the base period for establishing its eligibility for additional allocations under Section 3 and for reallocations under Section 6 of the Rules. This firm, however, failed to satisfy the criteria specified in Section 3. The other Guam firm failed to elect either of the alternative base periods for Section 3 eligibility. It also failed to satisfy the criteria on the basis of its 1978 operations and has not sought to establish its eligibility on the basis of its operations during the first quarter of 1979.

Of the remaining 380,969 units of the 1979 Guam quota, 150,000 units have been set aside for allocation to new firms pursuant to Section 5(b) of the Rules.

The number of watches and watch movements authorized for shipment on or after January 1, 1979, under initial quotas previously allocated by the Departments are to be applied against the allocations above, which are for the full calendar year 1979.

Ruth G. Van Cleve,

Director, Office of Territorial Affairs, Department of the Interior.

Richard M. Seppa,

Director, Statutory Import Programs Staff, Bureau of Trade Regulation, Industry and Trade Administration, Department of Commerce.

May 18, 1979.

[FR Doc. 79–16180 Filed 5–22–79; 8:45 am]

BILLING CODE 4310–10–M
BILLING CODE 3510–25–M

Brigham Young University; Decision on Application for Duty Free Entry of Scientific Article

The following is a decision on an application for duty-free entry of a scientific article pursuant to Section 6(c) of the Educational, Scientific, and Cultural Materials Importation Act of 1966 (Pub. L. 89–651, 80 Stat. 897) and the regulations issued thereunder as amended (15 CFR, Part 301).

A copy of the record pertaining to this decision is available for public review between 8:30 A.M. and 5:00 P.M. at 666 11th Street, N.W. (Room 735) Washington, D.C.

Docket Number: 79–00072. Applicant: Brigham Young University, Provo, Utah 84602. Article: JNM/FX 90Q(II) Nuclear-Magnetic Resonance Spectrometer, and Accessories. Manufacturer: JEOL Ltd., Japan. Intended use of article: The article is intended to be used for chemical investigations of the following:

(a) Structure of molecules with constrained geometry derived from such compounds as 2,5-norbornadiene and 2,5 norbornadiene.

(b) Structure of synthetic and naturally occurring compounds of potential medicinal interest, particularly anticancer compounds: Non-pteridine heteroycles designed as inhibitors of folate dependent enzymes other than dihydrofolate reductase, e.g., 2-aryl-2,3-dihydro 1*H*-imidazo (1,5-a(quinolinium salts and related quinoxalines and triazanaphthalanes,

(c) Configuration and rates of inversion of novel heterotricyclic compounds.

(d) Search for organoboron compounds which could be used in laser separation of boron isotopes.

(e) Electrochemical oxidation of amines.

(f) Preparation of polymeric surface active agents using perfluorinated amines.

(g) Resins from coal.

(h) Radical-radical reactions of stable radicals.

(i) Macrocyclic polyethers and their derivatives.

(j) Factors which influence conformations and aggregation in biopolymers.

(k) Identify of compounds in air particulates.

(l) Catalysts for photochemical production of hydrogen.

(m) Role of Manganese in photosynthesis.

(n) Synthesis of heterocyclic antimetabolites: Pyrrolopyrimidines, pyrrolopyridazines, pyrrolodipyrimidines, pyrrolodipyridazines, and pyrimidopyrrolopyridazines.

(o) Synthesis of quinilino (1.2-c) quinazoline quarternary salts.

(p) Carcinogenic polycyclic thiophenes in flue dust.

(q) Folic acid antagonists: pyridazino(2.3-d) pyridazines.

(r) Extracts of common barks and berries.

The article will also be used for educational purposes in various chemistry courses.

Comments: No comments have been received with respect to this application. Decision: Application approved. No instrument or apparatus of equivalent scientific value to the foreign article, for such purposes as this article is intended to be used, is being manufactured in the United States. Reasons: The foreign article provides the capability for measuring T_{1rho}, the spin-lattice relaxation time in the rotating frame. The National Bureau of Standards advises in its memorandum dated March 21, 1979 that (1) the capability of the article described above is pertinent to the applicant's intended research and (2) it knows of no domestic instrument or apparatus of equivalent scientific value to the foreign article for the applicant's intended use.

The Department of Commerce knows of no other instrument or apparatus of equivalent scientific value to the foreign article, for such purposes as this article is intended to be used, which is being manufactured in the United States.

(Catalog of Federal Domestic Assistance Program No. 11.105, Importation of Duty-Free Educational and Scientific Materials)

Richard M. Seppa,

Director, Statutory Import Programs Staff.

[FR Doc. 79–16111 Filed 5–22–79; 8:45 am]

BILLING CODE 3510–25–M

Food and Drug Administration; Decision on Application for Duty-Free Entry of Scientific Article

The following is a decision on an application for duty-free entry of a scientific article pursuant to Section 6(c) of the Educational, Scientific, and Cultural Materials Importation Act of 1966 (Pub. L. 89–651, 80 Stat. 897) and the regulations issued thereunder as amended (15 CFR Part 301).

A copy of the record pertaining to this decision is available for public review between 8:30 a.m. and 5:00 p.m. at 666 11th Street, N.W. (Room 735) Washington, D.C.

Docket Number: 79–00060. Applicant: Food and Drug Administration, 5600 Fishers Lane, Rockville, MD 20857.

Article: LKB 2250–041 PMV Cryo-Microtome type 450 MP and accessories. Manufacturer: LKB Producter AB, Sweden. Intended use of article: The article will be used to prepare thin frozen sections of both small (mice, quail, rats) and large (monkeys) laboratory animals for histochemical and autoradiological procedures.

Comments: No comments have been received with respect to this application. Decision: Application approved. No instrument or apparatus of equivalent scientific value to the foreign article, for such purposes as this article is intended to be used, is being manufactured in the United States. Reasons: The foreign article provides capability for producing 15cm x 45 cm frozen sections. The Department of Health, Education, and Welfare advises in its memorandum dated March 1, 1979 that (1) the capability of the foreign article described above is pertinent to the applicant's intended purposes and (2) it knows of no domestic instrument or apparatus of equivalent scientific value to the foreign article for the applicant's intended use.

The Department of Commerce knows of no other instrument or apparatus of equivalent scientific value to the foreign article, for such purposes as this article is intended to be used, which is being manufactured in the United States.

(Catalog of Federal Domestic Aasistance Program No. 11.105, Importation of Duty-Free Educational and Scientific Materials)

Richard M Seppa,

Director, Statutory Import Programs Staff.

[FR Doc. 79–16112 Filed 5–22–79; 8:45 am]

BILLING CODE 3510–25–M

Louisiana State University; Decision on Application for Duty-Free Entry of Scientific Article

The following is a decision on an application for duty-free entry of a scientific article pursuant to Section 6(c) of the Educational, Scientific, and Cultural Materials Importation Act of 1966 (Pub. L. 89–651, 80 Stat. 897) and the regulations issued thereunder as amended (15 CFR Part 301).

A copy of the record pertaining to this decision is available for public review between 8:30 a.m. and 5:00 p.m. at 666–11th Street, NW. (Room 735), Washington, D.C.

Docket Number: 79–00041. Applicant: Louisiana State University, Civil Engineering Department, Baton Rouge, LA 70803. Article: Swelling Test Apparatus. Manufacturer: Geonor A.S., Norway. Intended use of article: The article is intended to be used for research in an attempt to satisfy the following general goals;

(1) Identify the swell mechanism of Louisiana soils,

(2) Estimate the magnitude of swell potential of various soil types in Louisiana,

(3) Focus on developing a field method to identify swelling soils.

Specific steps that will be followed in order to satisfy the objectives of the study are:

1. Comprehensive literature study to isolate completed research pertinent to Louisiana soils.

2. An investigation of the physico-chemical and mineralogical properties of typical swelling soils in Louisiana.

3. The development of a field test method compatible and correctable with the laboratory test methods for identifying swelling potential.

4. The field verification of test methods in known swelling soil deposits.

5. The development of a system of mapping the estimated potential/actual swell of the swell-susceptible soils in the State of Louisiana.

6. The experimental mapping of selected areas of Louisiana identifying swelling soils.

7. Estimate the potential damage risk associated with the swelling soils in the mapped areas.

8. Identify, develop and test methods for the improvement of swelling soils, such as lime and lime-fly-ash stabilization (which will be abundantly available in Louisiana in the near future).

Comments: No comments have been received with respect to this application. Decision: Application approved. No instrument or apparatus of equivalent scientific value to the foreign article, for such purposes as this article is intended to be used, is being manufactured in the United States. Reasons: The foreign article can determine the swell pressures of confined soils. The National Bureau of Standards advises in its memorandum dated March 16, 1979 that (1) the capability of the foreign article described above is pertinent to the applicant's intended purpose and (2) it knows of no domestic instrument or apparatus of equivalent scientific value to the foreign article for the applicant's intended use.

The Department of Commerce knows of no other instrument or apparatus of equivalent scientific value to the foreign article, for such purposes as this article is intended to be used, which is being manufactured in the United States.

(Catalog of Federal Domestic Assistance Program No. 11.105, Importation of Duty-Free Educational and Scientific Materials)

Richard M. Seppa,

Director, Statutory Import Programs Staff.

[FR Doc. 79–16113 Filed 5–22–79; 8:45 am]

BILLING CODE 3510–25–M

Mount Sinai School of Medicine; Decision on Application for Duty-Free Entry of Scientific Article

The following is a decision on an application for duty-free entry of a scientific article pursuant to Section 6(c) of the Educational, Scientific, and Cultural Materials Importation Act of 1966 (Pub. L. 89–651, 80 Stat. 897) and the regulations issued thereunder as amended (15 CFR Part 301).

A copy of the record pertaining to this decision is available for public review between 8:30 a.m. and 5:00 p.m. at 666–11th Street, NW. (Room 735), Washington, D.C.

Docket Number: 79–00022. Applicant: Mount Sinai School of Medicine of the City University of New York, One Gustave Levy Place, New York, N.Y. 10029. Article: Circular Dichroism Automatic Recording Spectro-polarimeter, Model J–500A and Accessories. Manufacturer: Japan Spectroscopic Co., Ltd., Japan. Intended use of article: The article is intended to be used for studies of synthetic polypetides and nucleic acids. Experiments will be conducted to obtain circular dichroism spectra of the molecules and molecular complexes at various temperatures and concentrations. The objectives of these experiments are: (i) To develop quantitative methods of assessing the structure of proteins in solution; (ii) To study subtle changes of the environment of aromatic residues; (iii) to study protein subunit complexes and protein complexes with polysacharides and nucleic acids; and (iv) To compare predicted and experimental structures.

Comments: No comments have been received with respect to this application. Decision: Application approved. No instrument or apparatus of equivalent scientific value to the foreign article, for such purposes as this article is intended to be used, is being manufactured in the United States. Reasons: The foreign article provides the capability of measurement of circular dichroism spectra as part of research studies on the structure of proteins and polypeptides. The Department of Health, Education, and Welfare advises in its memorandum dated March 1, 1979 that (1) the capability of the foreign article

described above is pertinent to the applicant's intended purpose and (2) it knows of no domestic instrument or apparatus of equivalent scientific value to the foreign article for the applicant's intended use.

The Department of Commerce knows of no other instrument or apparatus of equivalent scientific value to the foreign article, for such purposes as this article is intended to be used, which is being manufactured in the United States.

(Catalog of Federal Domestic Assistance Program No. 11.105, Importation of Duty-Free Educational and Scientific Materials)

Richard M. Seppa,

Director, Statutory Import Programs Staff.

[FR Doc. 79-16114 Filed 5-22-79; 8:45 am]

BILLING CODE 3510-25-M

National Radio Astronomy Observatory; Decision on Application for Duty-Free Entry of Scientific Article

The following is a decision on an application for duty-free entry of a scientific article pursuant to Section 6(c) of the Educational, Scientific, and Cultural Materials Importation Act of 1966 (Pub. L. 89-651, 80 Stat. 897) and the regulations issued thereunder as amended (15 CFR Part 301).

A copy of the record pertaining to this decision is available for public review between 8:30 a.m. and 5:00 p.m. at 666 11th Street, NW. (Room 735), Washington, D.C.

Docket Number: 79-00074. Applicant: National Radio Astronomy Observatory, Post Office Box 0, 1000 Bullock Blvd., NW., Socorro, New Mexico 87801. Article: 4,060 pieces TE01 Circular Waveguide and 3,900 Coupling Sleeves and Accessories. Manufacturer: Sumitomo Electric Industries, Japan. Intended use of article: The article is intended to be used as a part of the Very Large Array radio telescope to transmit radio wavelength radiation received from extraterrestrial objects to recording apparatus. The study of this radiation enables astronomers to study the sources of energy, origin, and evolution of the universe.

Comments: No comments have been received with respect to this application. Decision: Application approved. No instrument or apparatus of equivalent scientific value to the foreign article, for such purposes as this article is intended to be used, is being manufactured in the United States. Reasons: The foreign articles which are custom-made provide (1) No loss of signal strength over long transmission paths (21 kilometers), (2) transmission of wide signal bandwidths (40 GHz), and (3) very low signal distortion (VSWR). The National Bureau of Standards (NBS) advises in its memorandum dated March 22, 1979 that the capabilities of the articles described above are pertinent to the applicant's intended use. NBS also advises that it knows of no domestic instrument or apparatus of equivalent scientific value to the foreign articles for such purposes as the articles are intended to be used.

The Department of Commerce knows of no other instrument or apparatus of equivalent scientific value to the foreign article, for such purposes as this article is intended to be used, which is being manufactured in the United States.

(Catalog of Federal Domestic Assistance Program No. 11.105, Importation of Duty-Free Educational and Scientific Materials)

Richard M. Seppa,

Director, Statutory Import Programs Staff.

[FR Doc. 79-16115 Filed 5-22-79; 8:45 am]

BILLING CODE 3510-25-M

Purdue University; Decision on Application for Duty-Free Entry of Scientific Article

The following is a decision on an application for duty-free entry of a scientific article pursuant to Section 6(c) of the Educational, Scientific, and Cultural Materials Importation Act of 1966 (Pub. L. 89-651, 80 Stat. 897) and the regulations issued thereunder as amended (15 CFR Part 301).

A copy of the record pertaining to this decision is available for public review between 8:30 a.m. and 5:00 p.m. at 666 11th Street, NW. (Room 735), Washington, D.C.

Docket Number: 79-00076. Applicant: Purdue University, Purchasing Department, FREH Building, West Lafayette, Indiana 47907. Article: Model GX 20 Rotating Anode X-Ray Generator and Accessories. Manufacturer: Marconi Eliott Avionics, United Kingdom. Intended use of article: The article is intended to be used as high intensity fine focus X-ray source for the investigation of the crystal and molecular structure of small spherical RNA viruses.

Comments: No comments have been received with respect to this application. Decision: Application approved. No instrument or apparatus of equivalent scientific value to the foreign article, for such purposes as this article is intended to be used, is being manufactured in the United States. Reasons: The foreign article provides a focused spot of minimal size 200 microns and a rotating target for maximum x-ray beam intensity. The Department of Health, Education, and Welfare (HEW) advised in its memorandum dated March 22, 1979 that the capabilities described above are pertinent to the purposes for which the article is intended to be used. HEW also advises that it knows of no domestic instrument of equivalent scientific value to the foreign article for such purposes as the article is intended to be used.

The Department of Commerce knows of no other instrument or apparatus of equivalent scientific value to the foreign article, for such purposes as this article is intended to be used, which is being manufactured in the United States.

(Catalog of Federal Domestic Assistance Program No. 11.105, Importation of Duty-Free Educational and Scientific Materials)

Richard M. Seppa,

Director, Statutory Import Programs Staff.

[FR Doc. 79-16116 Filed 5-22-79; 8:45 am]

BILLING CODE 3510-25-M

Thomas Jefferson University; Decision on Application for Duty-Free Entry of Scientific Article

The following is a decision on an application for duty-free entry of a scientific article pursuant to Section 6(c) of the Educational, Scientific, and Cultural Materials Importation Act of 1966 (Pub. L. 89-651, 80 Stat. 897) and the regulations issued thereunder as amended (15 CFR Part 301).

A copy of the record pertaining to this decision is available for public review between 8:30 a.m. and 5 p.m. at 666-11th Street, N.W., (Room 735) Washington, D.C.

Docket Number: 79-00062. Applicant: Thomas Jefferson University, 1020 Walnut Street, Philadelphia, PA 19107. Article: Diaphanoscope. Manufacturer: Durillon and Lasseigne, France. Intended use of article: The article is intended to be used in the diagnosis and follow-up medical care of patients suspected of having breast tumors which at the present time is an area of investigation. In addition, the article will be used in the course Surgery-350, a third year course in surgical diagnosis and treatment.

Comments: No comments have been received with respect to this application. Decision: Application approved. No instrument or apparatus of equivalent scientific value to the foreign article, for such purposes as this article is intended to be used, is being manufactured in the United States. Reasons: The foreign article provides intensity to 300,000 lux. The Department of Health, Education, and Welfare advises in its memorandum dated March 22, 1979 that (1) the

capability of the foreign article described above is pertinent to the applicant's intended purpose and (2) it knows of no domestic instrument or apparatus of equivalent scientific value to the foreign article for the applicant's intended use.

The Department of Commerce knows of no other instrument or apparatus of equivalent scientific value to the foreign article, for such purposes as this article is intended to be used, which is being manufactured in in the United States.

(Catalog of Federal Domestic Assistance Program No. 11.105, Importation of Duty-Free Educational and Scientific Materials)

Richard M. Seppa,

Director, Statutory Import Programs Staff.

[FR Doc. 79-16117 Filed 5-22-79; 8:45 am]

BILLING CODE 3501-25-M

National Oceanic and Atmospheric Administration

Southwest Fisheries Center; Modification of permit

Notice is hereby given that pursuant to the provisions of § 216.33 (d) and (e) of the Regulations Governing the Taking and Importing of Marine Mammals (50 CFR Part 216), Permit No. 220 issued to the Southwest Fisheries Center, National Marine Fisheries Service, La Jolla, California 92038, on February 3, 1978 (43 FR 6827), is modified in the following manner:

Section B-14 is added

14. Of the animals authorized in Section A-2a, two may be taken, tagged, and released in the waters surrounding the Hawaiian Islands.

The Permits as modified, and documentation pertaining to the modification are available for review in the following office:

Assistant Administrator for Fisheries, National Marine Fisheries Service, 3300 Whitehaven Street, NW, Washington, D.C.; and

Regional Director, National Marine Fisheries Service, Southwest Region, 300 South Ferry Street, Terminal Island, California 90731.

Dated: May 16, 1979.

Winfred H. Meibohm,

Executive Director, National Marine Fisheries Service.

[FR Doc. 79-16121 Filed 5-22-79; 8:45 am]

BILLING CODE 3510-22-M

Western Pacific Fishery Management Council and Scientific and Statistical Committee; Public Meetings

AGENCY: National Marine Fisheries Service, NOAA.

SUMMARY: The Western Pacific Fishery Management Council, established by Section 302 of the Fishery Conservation and Management Act (FCMA) of 1976 (Pub. L. 94-265) and the Scientific and Statistical Committee (SSC) established under Section 302(g)(1) of the FCMA will hold separate meetings to discuss: (1) Fifth draft of the Billfish Fishery Management Plan (FMP); (2) draft of Environmental Impact Statement (EIS)/FMP for the Spiny Lobster Fisheries; (3) draft regulations and FMP for the Precious Coral Fishery; (4) status of Bottomfish and Seamount Groundfish FMP's; and (5) other business.

DATES: The SSC meeting will convene on June 6 & 7, 1979, at 8:30 a.m., adjourning at 4:30 p.m. on both days. The Council meeting will convene on June 25 & 26, 1979, at 8:30 a.m., adjourning at 4:30 p.m. on both days. The meetings are open to the public.

ADDRESS: The SSC meeting will take place at the Gardenia Room of the Ala Moana Americana Hotel, Honolulu, Hawaii. The Council meeting will take place at the Conference Center, Pago Pago, American Samoa.

FOR FURTHER INFORMATION CONTACT: Western Pacific Fishery Management Council, Room 1608, 1164 Bishop Street, Honolulu, Hawaii 96813, Telephone: (808) 523-1368.

Dated: May 17, 1979.

Winfred H. Meibohm,

Executive Director, National Marine Fisheries Service.

[FR Doc. 79-16205 Filed 5-22-79; 8:45 am]

BILLING CODE 3510-22-M

Office of the Secretary

[Transmittal 328; Admin. Order 216-11]

Flood Plain Management and Protection of Wetlands

This order is effective May 9, 1979.

Section 1. *Purpose.* .01 The purpose of this Order is to prescribe the Department of Commerce policies and procedures for implementing Executive Orders 11988 and 11990.

.02 This revision incorporates a number of suggestions and comments obtained from the Water Resources Council, the Federal Insurance Administration and the Council on Environmental Quality, pursuant to the consultation process required by section 2(d) of Executive Order 11988.

Sec. 2. *Scope.* On May 24, 1977, the President issued Executive Orders 11988 (Flood-plain Management) and 11990 (Protection of Wetlands). These Orders direct Federal agencies to avoid, to the extent possible, all actions associated with the modifications or destruction of floodplains and wetlands, or that may increase the risk of loss of life and property resulting from flood and storm damage.

Sec. 3. *Definitions.* The following definitions apply to DAO 216-11 and to all implementing orders issued by each organization unit of the Department.

.01 *Flood or Flooding* is a general and temporary condition of partial or complete inundation or normally dry land areas from the overflow of inland and/or tidal waters, and/or the unusual and rapid accumulation or runoff of surface waters from any source.

.02 *Floodplains.* Floodplains are lowland and relatively flat areas adjoining inland and coastal waters including flood prone areas of offshore islands, including at a minimum, that area subject to a one percent or greater chance of flooding in any given year. The term floodplain shall be taken to mean the *base floodplain* unless the action is a critical action, in which case the *critical action floodplain* is a minimum floodplain of concern.

a. *Base floodplain* (or 100-year floodplain)—the area subject to inundation from a flood of a magnitude that occurs once every 100 years on the average (the flood having a 1.0 percent chance of being equalled or exceeded in any given year).

b. *Critical action floodplain* (or 500-year floodplain)—the area subject to inundation from a flood of a magnitude that occurs once every 500 years on the average (the flood having a 0.2 percent chance of being equalled or exceeded in any given year).

.03 *Wetlands.* Wetlands are those areas that are inundated by surface or ground water with a frequency sufficient to support and under normal circumstances does or would support a prevalence of vegetation or aquatic life that requires saturated or seasonally saturated soil conditions for growth and reproduction. Examples of wetlands include swamps, fresh and salt water marshes, beaches, bogs, sloughs, potholes, wet meadows, mud flats, river overflows, natural ponds, as well as areas separated from their natural supply of water through man-made alterations such as dikes, berms, floodwalls, and levees.

.04 *Organization Unit.* As used in this Order, organization unit(s) means all Departmental offices and operating units of the Department of Commerce with program responsibilities subject to the floodplain and wetland Executive Orders.

.05 *Action.* An action is any Department activity including: a.

impacts of the proposed action on a

impacts, *and* that all practicable

published 15 to 20 days before the

after publication of final notice before

Acquiring, managing, disposing of Federal lands and facilities;

b. Providing financial assistance including, but not limited to, grants, loans, contracts, subsidies, and guarantees or amendments to such forms of assistance for the acquisition of land and the construction of facilities and improvements; and

c. Conducting Federal activities and programs affecting land use, including but not limited to water and related land resources planning, regulating and licensing activities.

.06 *Critical Action.* A critical action is an action which, if located in a floodplain, poses a greater than normal risk for flood-caused loss of life or property. The minimum floodplain of concern for critical actions is the 500-year floodplain. Critical actions include, but are not limited to, actions which create facilities or extend the useful life of facilities:

a. Which produce, use, or store highly volatile, flammable, explosive, toxic, or water-reactive materials;

b. Such as schools, hospitals, and nursing homes, which are likely to contain occupants who may not be sufficient mobile to avoid the loss of life or injury should flooding occur; and

c. Such as emergency operation centers, essential public utilities, and data storage centers, which contain records or services that may become lost or inoperative should flooding occur.

.07 *Related Activities.* Related activities are those undertakings that are interdependent parts of an action. They either make possible or support an action, or are themselves induced or supported by an action or related activities. Related activities may or may not be Federally permitted or assisted.

.08 *Impacts.* Impacts are changes in floodplain or wetland values and functions. Impacts may occur as either direct or indirect results of an action. Impacts are a direct result of an action whenever the action causes a change in floodplain or wetland values and functions. Impacts are an indirect result of an action whenever an action induces or makes possible related activities which affect the natural values and functions of floodplains or wetlands.

.09 *Alternatives.* Alternatives are those actions, in addition to the proposed action, with similar benefits and which eliminate or minimize impacts on a floodplain or wetland.

.10 *Minimize.* Minimize means to reduce to the smallest amount or degree practicable.

.11 *Mitigation Measures.* Mitigation measures are measures to minimize the impacts of the proposed action on a floodplain or wetland, including measures to preserve and, wherever practicable, restore natural values and functions. Examples of mitigation measures include, but are not limited to:

a. Floodplain or wetland habitat restoration;

b. Collecting and treating runoff resulting from an action prior to its discharge into a floodplain or a wetland;

c. Establishing a vegetative buffer zone between the site of a proposed action and adjacent floodplains or wetlands; or

d. Improving habitat values and functions through mangagement.

.12 *Practicable.* Practicable is defined as an action capable of being performed within existing constraints. This test depends upon the particular situation and the constraints imposed by environmental, economical, legal, and technological considerations. However, the test is *not* limited by the temporary unavailability of sufficient financial resources to implement either an alternative to a proposed action or a mitigation measure necessary to minimize impact. Thus, alternatives or mitigation measures shall not be rejected as "impracticable" solely on the basis of a reasonable increase in cost.

Sec. 4. *Policy.* .01 The head of each organization unit shall ensure that all of its activities related to this Order are conducted in accordance with Executive Orders 11988 and 11990, the Water Resources Council's "Flood-plain Management Guidelines" (43 FR 6030), and the Water Resources Council's Unified National Program for Floodplain Management. The heads of organization units with programs that may produce impacts on floodplains or wetlands shall issue specific procedures for complying with the Executive Orders. It shall be the responsibility of the heads of all organization units to devise mechanisms and to inform all prospective participants in their programs of the intent of Executive Orders 11988 and 11990 and the Department's policy as stated in this Order.

.02 No organization unit shall participate in any action that would impact a floodplain or wetland until that organization unit determines that no practicable alternative exists to the action. In this case, the no action alternative shall be considered. Where a determination is made that no practicable alternative exists to impacting a floodplain or wetland and the no action alternative is unacceptable, the organization unit shall ensure that action chosen is the alternative which minimizes those impacts, *and* that all practicable mitigation measures are incorporated into the action which:

a. Minimize the risks of loss of life and property due to flood and storm damage;

b. Minimize the adverse impacts on floodplain and wetland values and functions; and

c. Restore and preserve the natural and beneficial values served by floodplains and wetlands.

.03 Whenever an action requires locating in a floodplain or wetland area, each organization unit shall require locating the action, if practicable, within the floodplain and not within the wetland.

.04 The following proposed actions that impact wetlands not located within the floodplain are exempt from these procedures:

a. Federally assisted or permitted actions under construction prior to September 11, 1978, which was the effective date of the initial issuance of this Order; or

b. Federal actions for which a draft or final Environmental Impact Statement (EIS) was filed prior to October 1, 1977.

.05 Each organization unit, in carrying out this policy, shall ensure that its actions are consistent with State coastal zone managment programs as approved by the Secretary under the Coastal Zone Management Act of 1972 as amended (16 U.S.C. 1451 *et seq.*). Each organization unit shall also ensure that its actions are in compliance with Section 10 of the Rivers and Harbors Act of 1899 and with Section 404 of the Clean Water Act of 1977 which require Department of the Army permits for construction and disposal of dredged material in waters of the United States, including adjacent wetlands (3 CFR Parts 320–340) and with the flood insurance purchase requirements of the Flood Disaster Protection Act of 1973, as amended.

Sec. 5. *Procedures.* .01 Organization Unit Responsibilities.

a. The Deputy Assistant Secretary for Environmental Affairs shall serve ad the focal point in the Department of implementing the requirements of this Order.

b. Each organization unit in implementing DAO 216–6 shall in addition determine whether the action under consideration is located in or would otherwise impact a floodplain or wetland. The determination shall be made in accordance with the Water Resources Council's "Guidance for Determining a Floodplain Location," (Vol. 42 FR 52590–52599, September 30, 1977).

c. If a determination is made that a floodplain or wetland is impacted, each organization unit shall:

1. Determine if there is a practicable alternative which would avoid such impact. If no such alternative exists, determine if there is a practicable alternative which minimizes the impact on floodplains and wetlands; and

2. Identify and analyze resulting impacts including impacts on public health, safety and welfare; and floodplain and wetland natural values and functions.

d. Each organization unit, in any requests for new authorizations or appropriations intended for transmittal to the Office of Management and Budget, shall indicate, if an action to be proposed will be located in a floodplain or a wetland, whether the proposed action is in accord with Executive Order 11988 or 11990, respectively.

e. Organization units which guarantee, approve, regulate, or insure any financial transaction which is related to an area located in a floodplain shall, prior to completing action on such transaction, inform any private parties participating in the transaction of the hazards of locating structures in the floodplain.

.02 *Public Notification Requirements.* a. If it is determined that a proposed action would impact a floodplain or wetland, each organization unit shall ensure compliance with the public notification requirements of section 2(b) of E.O. 11514. Specifically, a notice of the proposed action must be published in the newspaper of greatest circulation in the vicinity of the proposed action. The notice shall appear for at least three consecutive days and shall include a physical description of the location and surrounding area and the nature and extent of the proposed action. Attempts should also be made to inform the community, by publication or other means, in the area where the impact of the proposed action will occur. The organization unit shall allow at least 30 days from the publication date of the last required notice for receipt of public comments.

b. The organization unit shall arrange for a public meeting to discuss the action where the organization unit determines that a public meeting will serve the public interest. The organization unit shall ensure that at least two notices of such public meeting are published in the newspaper having the greatest circulation in the vicinity of the proposed action. Wherever possible, the community in the action's area of impact shall also be informed. The first of the required notices shall be published 15 to 20 days before the meeting date, and the second notice 2 to 4 days before the meeting date. Such notice shall include the location, date, and time of the meeting, a description of the proposed action's location and the surrounding area, and a brief description of the proposed action. In addition, copies of the notices shall be mailed to appropriate local, State and Federal agencies, public interest groups, news media, and any other agencies, groups, or individuals who have an interest in the action. If a public meeting is held concerning a proposal which requires an EIS, the meeting shall not be held until at least 15 days have elapsed from the date of publication of the draft EIS. The organization unit shall ensure that a written transcript of the meeting is prepared.

c. Each organization unit shall coordinate publication activities under this Order with the Office of Public Affairs.

d. In coordinating organization unit procedures under this Order and DAO 216–6, each organization unit may establish additional public notification and consultative procedures, as appropriate, or as required by other authorities.

.03 *Final Notice and Findings.*

Upon determination of the practicable alternative and mitigation measures, the organization unit shall ensure the publication of a final notice of the proposed action. The notice shall be published in the newspaper of greatest circulation in the vicinity of the proposed action for at least three consecutive days, and shall include a physical description of the location and surrounding area, a detailed description of the proposed action, the measures used to mitigate impacts, and the projected date of the action's initiation and completion. Such notice shall also include: (i) The reasons why the action is proposed to be located in a floodplain or wetland; (ii) a statement indicating whether the action conforms to applicable State and local floodplain protection standards; and (iii) a list of the alternatives considered. For programs subject to the Office of Management and Budget Circular A–95, the organization unit shall send a notice, not to exceed three pages in length including a location map, to the State and areawide A–95 clearinghouses for the geographic areas affected. Attempts should also be made to inform the community, by publication or other means, in the area where the impact of the proposed action will occur. The organization unit shall wait 15 days after publication of final notice before initiating the action.

Sec. 6. *Department of Commerce Real Property.* .01 Construction of structures and facilities shall be in accordance with the standards and criteria promulgated under the National Flood Insurance Program, and shall deviate only to the extent that such standards and criteria are demonstrably inappropriate for a given type of structure or facility.

.02 If new construction of structures or facilities must be located in a floodplain, accepted floodproofing and other flood protection measures shall be applied to new construction or rehabilitation. To achieve flood protection, structures shall be elevated above base flood level rather than filling in land, wherever practicable. Where new construction must be located in a wetland, all practicable measures shall be taken to minimize harm to the wetland which may result from such use.

.03 If property used by the general public has suffered flood damage or is located in an identified flood hazard area, the responsible organization unit shall provide on structures, and other places where appropriate, conspicuous delineation of past and probable flood height in order to enhance public awareness of and knowledge about flood hazards.

.04 When property in floodplains or wetlands is proposed for lease, easement, right-of-way, or disposal to non-federal public or private parties, the responsible organization unit shall:

a. Reference in the conveyance those uses that are restricted under identified Federal, State, or local floodplain or wetlands regulations; and

b. Attach other appropriate restrictions to the uses of such properties by the grantee or purchaser and any successors, except where prohibited by law; or

c. Withhold such properties from conveyance.

Sec. 7. *Emergency Actions.* Nothing in this Order shall apply to assistance provided for emergency work essential to save lives and protect property and public health and safety performed pursuant to sections 305 and 306 of the Disaster Relief Act of 1974 (88 Stat. 148, 42 U.S.C. 5145 and 5146).

Guy W. Chamberlin, Jr.,

Acting Assistant Secretary for Administration.

[FR Doc. 79-16110 Filed 5-22-79; 8:45 am]

BILLING CODE 3510-17-M

COMMODITY FUTURES TRADING

Ms. Jane Stuckey, Secretariat,

V 4 4 / 1 0 1 M Y 2 3 7 9 UMI

National Climate Program Advisory Committee; Establishment

In accordance with the provisions of the Federal Advisory Committee Act (5 U.S.C. App.) and the Office of Management and Budget Circular A–63 of March 1974, notice is hereby given that the National Climate Program Advisory Committee has been established by the Secretary of Commerce under the authority of and as directed by Section 5(e)(1) of the National Climate Program Act of 1978, Pub. L. 95–367.

The Committee will advise and make recommendations to the Secretary and the Congress, through the Administrator of the National Oceanic and Atmospheric Administration, on the conduct and priorities of the National Climate Program, the scientific rigor of the research aspects, the effectiveness and appropriateness of the service aspects, and the role of the United States in international efforts to measure, understand and respond to climate and climate changes. The scope of the Committee's activities is outlined in the Program specific in the National Climate Program Act of 1978, enacted September 17, 1978, and covers assessments of the effects of climate; basic and applied research; climate forecasts; global data collection, monitoring, analysis and dissemination activities; and program planning.

The Committee will consist of about 15 minutes, with a balanced representation of scientific groups, academia, users, conservationists, environmentalists, consumers, lawyers, agriculturists, etc., appointed by the Secretary of Commerce.

The Committee will function solely as an advisory body, and in compliance with the provisions of the Federal Advisory Committee Act. Its charter has been filed under the Act.

Any inquiries regarding the establishment or the activities of the National Climate Program Advisory Committee may be addressed to the Director, National Climate Program Office, National Oceanic and Atmospheric Administration, Rockville, Maryland, 20852, phone: 301–443–8646.

Dated: May 16, 1979.

Guy W. Chamberlain , Jr.,

Assistant Secretary for Administration.

[FR Doc. 79–16109 Filed 5–22–79; 8:45 am]

BILLING CODE 3510–17–M

COMMODITY FUTURES TRADING COMMISSION

Merger of the New York Cocoa Exchange, Inc., Into the New York Coffee & Sugar Exchange, Inc.; Request for Public Comment

The Commodity Futures Trading Commission ("Commission") is requesting public comment on the recently proposed merger of the New York Cocoa Exchange, Inc. into the New York Coffee and Sugar Exchange, Inc. The Commission, to aid in its consideration of any anticompetitive implications of the merger under Section 15 of the Commodity Exchange Act, as amended ("Act"), 7 U.S.C. § 19 (1976), is seeking public comment on the effects of the merger plan.

Under Section 15 of the Act, the Commission is required, in approving any rule of a contract market, to:

> * * * take into consideration the public interest to be protected by the antitrust laws and endeavor to take the least anticompetitive means of achieving the objectives of [the] Act, as well as the policies and purposes of [the] Act * * *

The proposed plan of merger [1] calls for the New York Cocoa Exchange to be merged into the New York Coffee and Sugar Exchange, with the New York Coffee and Sugar Exchange being the surviving entity. Membership in the merged exchange will be composed of the members of each of the constituent exchanges.

At the time of the merger, amendments to the bylaws and rules of the New York Coffee and Sugar Exchange, the surviving entity, are to become effective. These amendments are intended to establish several new committees, and expand or reorganize existing exchange committees. The surviving exchange plans to seek Commission designation as a contract market for cocoa and rubber, and to adopt the existing floor and trade rules of the Cocoa Exchange, with the exception of its time stamping rule, to govern trading practices in these commodities. Should designation be granted, these commodities will be traded through the facilities of the surviving exchange, located in the Commodity Exchange Center in New York.

The written data, views, or arguments of any interested person concerning the possible anticompetitive impact of the proposed merger on the futures trading industry are invited, and should be submitted no later than July 9, 1979 to Ms. Jane Stuckey, Secretariat, Commodity Futures Trading Commission, 2033 K Street, N.W., Washington, D.C. 20581.

Issued in Washington, D.C. on May 17, 1979.

James M. Stone,

Chairman, Commodity Futures Trading Commission.

[FR Doc. 79–16076 Filed 5–22–79; 8:45 am]

BILLING CODE 6351–01–M

[1] The merger plan as set forth has been approved by the boards of both exchanges and by a vote of their memberships.

DEPARTMENT OF DEFENSE

Department of the Army

Change of Mission at Fort Polk, La.; Filing of Environmental Impact Statement

In compliance with the National Enviromental Policy Act of 1969, the Army, on May 16, 1979, provided the Environmental Protection Agency, as required by the Council on Environmental Quality, a Final Environmental Impact Statement (FEIS) concerning the permanent stationing of the 5th Infantry Division (Mechanized)(–) at Fort Polk, Louisiana.

Copies of the statement have been forwarded to concerned Federal, State and local agencies. Interested organizations or individuals may obtain copies from Commander, 5th Infantry Division (Mechanized) (–) and Fort Polk, Attention: AFZX–FEO, Fort Polk, Louisiana 71459, telephone (318) 537–7008.

In the Washington area, inspection copies may be seen during normal duty hours in the Environmental Office, Office of Assistant Chief of Engineers, Room 1E676, Pentagon, Washington, DC 20310, telephone: (202) 694–3434.

Bruce A. Hildebrand,

Deputy for Environment, Safety and Occupational Health, OASA(IL&FM).

[FR Doc. 79–15989 Filed 5–22–79; 8:45 am]

BILLING CODE 3710–08–M

Office of the Secretary

Defense Advisory Committee on Women in the Services (DACOWITS) Meeting

Pursuant to Pub. L. 92–463, notice is hereby given that a meeting of the Executive Committee of the Defense Advisory Committee on Women in the Services (DACOWITS) is scheduled to be held from 12 noon to 5 p.m., June 18, 1979 and from 9 a.m. to 1 p.m., June 19, 1979 in Room 3D318 or Room 1E801, The Pentagon. Meeting sessions will be open to the public.

This special meeting has been called by the Chairperson, in order to follow-up on priority projects and to ensure a smooth transition of Committee business between rotating staff personnel and the Executive Committee Members.

Persons desiring to make oral presentations or submit written statements for consideration at the Executive Committee Meeting must contact Lt. Col. Barbara J. Roy, Executive Secretary, DACOWITS, OASD (Manpower, Reserve Affairs and Logistics), Room 3D322, The Pentagon, Washington, D.C. 20301, telephone 202–697–5655 no later than June 11, 1979.

H. E. Lofdahl,

Director, Correspondence and Directives, Washington Headquarters Service, Department of Defense.

[FR Doc. 79–16074 Filed 5–22–79; 8:45 am]

BILLING CODE 3810–70–M

DEPARTMENT OF ENERGY

Refiners Crude Oil Allocation Program; Supplemental Notice for Allocation Period of April 1, 1979, Through September 30, 1979

The notice specified in 10 CFR 211.65(g) of the refiners' crude oil allocation (buy/sell) program for the allocation period of April 1, 1979, through September 30, 1979 was issued March 30, 1979 (44 FR 21062, April 9, 1979). Subsequent to the publication of this Notice, the Economic Regulatory Administration (ERA) of the Department of Energy (DOE) assigned emergency supplemental allocations for the month of April 1979 pursuant to 10 CFR 211.65(c)(2) to a number of refiner-buyers and issued a supplemental buy/sell list on April 11, 1979. (44 FR 21062, April 9, 1979). The ERA hereby issues a second supplemental buy/sell list for the allocation period of April 1, 1979, through September 30, 1979, which sets forth emergency supplemental allocations for the months of April, May and June 1979, assigned pursuant to 10 CFR 211.65(c)(2), as amended on April 27, 1979 (44 FR 26060, May 4, 1979).

The supplemental buy/sell list for the allocation period April 1, 1979, through September 30, 1979, is set forth as an appendix to this notice. Included as part of the list are the names of those refiners-buyers and other small refiners granted emergency supplemental allocations for the months of April, May and June 1979 and their eligible refineries; the quantity of crude oil each refiner is eligible to purchase; the fixed percentage share for each refiner-seller; the quantity of crude oil that each refiner-seller is obligated to offer for sale to refiner-buyer pursuant to the buy/sell notice for the April 1, 1979, through September 30, 1979, allocation period issued March 30, 1979; the quantity of crude oil that each refiner-seller is obligated to offer for sale to refiner-buyers for the emergency supplemental allocations listed herein; the total sales obligation of each refiner-seller; and the total sales obligation for all refiner-sellers.

The allocations for refiner-buyers on the supplemental buy/sell list were determined in accordance with 10 CFR 211.65(c)(2). Sales obligations for refiner-sellers were determined in accordance with 10 CFR 211.65 (e) and (f).

The buy/sell list covers PAD Districts I through V, and amounts shown are in barrels of 42 gallons each, for the specified period. Pursuant to 10 CFR 211.65(f), each refiner-seller shall offer for sale during an allocation period, directly or through exchanges to refiner-buyers, a quantity of crude oil equal to that refiner-seller's sales obligation plus any volume that the ERA directs the refiner-seller to sell pursuant to 10 CFR 211.65(j).

Pursuant to 10 CFR 211.65(h), each refiner-buyer and refiner-seller is required to report to ERA in writing or by telegram the details of each transaction under the buy/sell list within forty-eight hours of the completion of arrangements therefor. Each report must identify the refiner-seller, the refiner-buyer, the refineries to which the crude oil is to be delivered, the volumes of crude oil sold or purchased, and the period over which the delivery is expected to take place.

The procedures of 10 CFR 211.65(j) provide that if a sale is not agreed upon subsequent to the date of publication of this notice, a refiner-buyer that has not been able to negotiate a contract to purchase crude oil may request that the ERA direct one or more refiner-sellers to sell a suitable type of crude oil to such refiner-buyer. Such request must be received by the ERA no later than 20 days after the publication date of the buy/sell notice for the allocation period for which the assignment of a refiner-seller is requested. Upon such request, the ERA may direct one or more refiner-sellers that have not completed their required sales to sell crude oil to the refiner-buyer.

In directing refiner-sellers to make such sales, ERA will consider the percentage of each refiner-seller's sales obligation for the allocation period that has been sold as reported pursuant to § 211.65(h), as well as the refiner-seller or sellers that can best be expected to consummate a particular directed sale. If, in ERA's opinion, a valid directed sale request cannot reasonably be expected to be consummated by a refiner-seller that has not completed all or substantially all of its sales obligation for the allocation period, the ERA may issue one or more directed sales orders that would result in one or more refiner-sellers selling more than their published sales obligations for that allocation period. In such cases, the refiner-seller or sellers will receive a barrel-for-barrel reduction in their sales obligations for the next allocation period pursuant to 10 CFR 211.65(f)(3)(ii).

If the refiner-buyer declines to purchase the crude oil specified by ERA, the rights of that refiner-buyer to purchase that volume of crude oil are forfeited during this allocation period, provided that the refiner-seller or refiner-sellers have fully complied with the provision of 10 CFR 211.65.

Refiner-buyers making requests for directed sales must document their inability to purchase crude oil from refiner-sellers by supplying the following information to ERA:

(i) Name of the refiner-buyer and of the person authorized to act for the refiner-buyer in buy/sell program transactions.

(ii) Name and location of the refineries for which crude oil has been sought, the amount of crude oil sought for each refinery, and the technical specifications of crude oil that have historically been processed in each refinery.

(iii) Statement of any restrictions, limitations, or contrainsts on the refiner-buyer's purchases of crude oil, particularly concerning the manner or time of deliveries.

(iv) Names and locations of all refiner-sellers from which crude oil has been sought under the buy/sell notice, the refineries for which crude oil has been sought, and the volume and specifications of the crude oil sought from each refiner-seller.

(v) The response of each refiner-seller to which a request to purchase crude oil has been made, and the name and telephone number of the individual contacted at each such refiner-seller.

(vi) Such other pertinent information as ERA may request.

All reports and applications made under this notice should be addressed to: Chief, Crude Oil Allocation Branch, 20th Street Postal Station, P.O. Box 19028, Washington, D.C. 20036. Copies of the decisions and orders assigning the emergency supplemental allocations listed herein, as well as the applications,

may be obtained from: Economic Regulatory Administration, Public Information Office, 2000 M Street, NW., Rm B110, Washington, D.C. 20461, (202) 634–2170.

The ERA Public Information Office also has available copies of pending applications for emergency allocations under the buy/sell program.

This notice is issued pursuant to Subpart G of DOE's regulations governing its administration procedures and sanctions, 10 CFR Part 205. Any person aggrieved hereby may file an appeal with DOE's Office of Hearings and Appeals in accordance with Subpart H of 10 CFR Part 205. Any such appeal shall be filed on or before June 22, 1979.

Issued in Washington, D.C., May 16, 1979.

Doris J. Dewton,

Acting Assistant Administrator, Fuels Regulation, Economic Regulatory Administration.

Appendix

The Buy/Sell list for the period April 1, 1979, through September 30, 1979, is hereby amended to reflect emergency allocations for the months of April, May and June 1979, decisions of the Office of Hearings and Appeals, and the resulting changes in sales obligations of refiner-sellers. The amended list sets forth the name of each refiner-seller, the volumes of crude oil that each such refiner-seller is required to offer for sale to refiner-buyers, emergency allocations for the months of April, May and June 1979, and allocations resulting from decisions issued by the Office of Hearings and Appeals. The amended list does not reflect volumes sold by refiners-sellers for the April 1, 1979, through September 30, 1979, allocation period.

Office of Hearings and Appeals Decisions

By Decision and Order dated May 3, 1979, the Office of Hearings and Appeals, Department of Energy, rescinded ERA's January 31, 1979, order allocating Sigmor 357,200 barrels of crude oil (Case Number DEA–0335). This volume has been subtracted from the unsold obligations of all refiner-sellers that were carried over from the October 1978–March 1979 allocation period into the April–October 1979 allocation period.

By Interim Decision and Order dated May 10, 1979, the Office of Hearings and Appeals granted exception relief to Energy Cooperatives, Inc. (ECI), which operates a single refinery in East Chicago, Indiana, specifying that "Notwithstanding any contrary provisions of 10 CFR 211.65(a), ECI shall be regarded as a refiner-buyer for the allocation period April 1 through September 30, 1979, and its right to purchase crude oil pursuant to 10 CFR 211.65 is hereby established at 3,316,829 barrels." (Case Number DEN–2616).

Crude Oil Allocation Program Sales Obligations for the Period Apr. 1, 1979–Sept. 30, 1979

Refiner-Sellers	Share*	Sales obligation (barrels)
Amoco Oil Co	.105	2,210,962
Atlantic Richfield Co	.077	1,804,983
Chevron U.S.A., Inc	.101	2,387,185
Cities Service Co	.025	1,180,850
Continental Oil Co	.004	81,746
Exxon Co., U.S.A	.089	1,818,890
Getty Refining & Marketing Co	.021	549,016
Gulf Refining & Marketing Co	.081	2,155,201
Marathon Oil Co	.022	458,066
Mobil Oil Corp	.094	1,974,371
Phillips Petroleum Co	.041	870,730
Shell Oil Co	.113	2,501,528
Sun Co	.055	1,254,134
Texaco Inc	.114	2,295,425
Union Oil Co. of California	.046	1,068,450
Total Sales		22,431,359

*All Refiner-Sellers' percentage shares have been changed to reflect the Continental Oil Company and Exxon Company, U.S.A. Decision and Order dated March 20, 1979. Case numbers are FEX–0184 and FEX–0185.

Emergency Allocations for April 1979

Refiner	Refinery location	April 1979 allocation (barrels)
Delta	Memphis, Tenn	280,800
Texas City	Texas City, Tex	604,800
United	Warren, Pa	253,350
Total		1,136,950

Emergency Allocations for May and June 1979

Refiner	Refinery location	May 1979 allocation (barrels)	June 1979 allocation (barrels)
Allied Materials	Stroud, Okla	42,067	55,710
Bruin	St. James, La	200,477	211,260
Caribou Four Corners	Woods Cross, Utah	20,399	15,240
Crystal Refining Co	Carson City, Mich	70,680	68,400
Ergon	Vicksburg, Miss	185,473	179,190
Galdieux	Fort Wayne, Ind	176,886	171,180
Gulf States	Corpus Christi, Tex	40,548	95,820
Hudson	Cushing, Okla	184,760	478,800
Industrial Fuel & Asphalt	Hammond, Ind	0	33,030
Lakeside	Kalamazoo, Mich	11,043	21,030
Marion	Mobile, Ala	0	71,880
NCRA	McPherson, Kans	597,432	352,350
Placid	Port Allen, La	197,842	188,190
Rock Island	Rock Island, Ind	600,501	611,130
Sage Creek	Cowley, Wyo	1,798	1,560
Shepherd	Jennings, La	63,829	76,770
Southern Union	Lovington, N. Mex	209,002	114,330
Texas City	Texas City, Tex	1,147,992	746,670
Tipperary	Ingleside, Tex	60,643	55,440
United	Warren, Pa	182,719	455,160
Western	Woods Cross, Utah	44,175	30,180
Total		4,021,256	4,033,320

Additional April–September 1979 Allocation

Refiner	Refinery location	Allocation (barrels)
Energy Cooperatives, Inc	East Chicago, Ind	3,316,829

	Barrels
Total Previously Published Allocations	9,921,004
Emergency Allocations (April)	1,138,950
Emergency Allocations (May)	4,021,256
Emergency Allocations (June)	4,033,320
Plus: ECI Allocation	3,316,829
Total allocations	22,431,359

[FR Doc. 79–16025 Filed 5–22–79; 8:45 am]

BILLING CODE 6450–01–M

Economic Regulatory Administration

Action Taken on Consent Orders

AGENCY: Economic Regulatory Administration, DOE.

ACTION: Notice of settlements.

SUMMARY: The Economic Regulatory Administration (ERA) of the Department of Energy (DOE) hereby gives Notice that a Consent Order was entered into between the ERA and the firm listed below during the month of April 1979. The Consent Order represents a settlement between the DOE and the firm involving a sum of less than $500,000 in the aggregate, excluding any penalties and interest. For Consent Orders involving sums of $500,000 or more, Notice will be separately published in the **Federal Register**. This Consent Order is concerned exclusively with payment of the settlement amount to all injured parties for overcharges made by the company, during the time period indicated below, through direct refund or rollback of prices.

For further information regarding this Consent Order, please contact James C. Easterday, District Manager of Enforcement, Southeast District, Economic Regulatory Administration, 1655 Peachtree Street, NE, Atlanta, Georgia 30309, telephone number (404) 881–2661.

Firm name and address	Settlement amount	Product	Period covered	Recipients of settlement
Huffman Oil Co., Burlington, NC 27215	$64,390	No. 2 Fuel Oil, Kerosene.	11/1/73–4/30/74 11/1/73–6/30/76	(1) All Reseller and Residential Accounts. (2) All Commercial Accounts. (3) All Church Accounts. (4) McGill Taxi. (5) Elon College. (6) Elon Home for Children. (7) Wham and Hunt Construction. (8) Levin Brothers.

Issued in Atlanta, Ga., on the 24th day of April 1979.

James C. Easterday,

District Manager.

[FR Doc. 79–16026 Filed 5–22–79; 8:45 am]

BILLING CODE 6450–01–M

Gasoline Marketing Advisory Committee and Ad Hoc Subcommittees Meetings

Pursuant to the provisions of the Federal Advisory Committee Act (Pub. L. 92–463, 86 Stat. 770), notice is hereby given that the Gasoline Marketing Advisory Committee Ad Hoc Subcommittees and the Gasoline Marketing Advisory Committee will meet, Monday, June 11, 1979, at the time and place indicated below.

The purpose of the Committee is to provide the Department of Energy with expert and technical advice concerning the wholesale and retail selling of gasoline.

Concurrent meetings of Ad Hoc Subcommittees on Title III of the Petroleum Marketing Practices Act (Dealer Day in Court) and Vapor Recovery, 2000 M Street, Room 2105, Washington, D.C.—9:00 a.m. to 10:00 a.m.

Full Committee, 2000 M Street, Room 4223, Washington, D.C.—10:00 a.m. to 5:00 p.m.

The tentative agenda is as follows:

- Old business.
- Reports of the Subcommittees.
- Gasoline supply and allocation issues.
- Office of Hearings and Appeals exceptions and appeals process.
- New business.
- Public Comment (10 minute rule).

The meetings are open to the public. The Chairmen of the Committee and Subcommittees are empowered to conduct the meetings in a fashion that will, in their judgment, facilitate the orderly conduct of business. Any member of the public who wishes to file a written statement with the Committee or Subcommittees will be permitted to do so, either before or after the meetings. Members of the public who wish to make oral statements should inform the Advisory Committee Management Office, (202) 252–5187, at least 5 days prior to the meetings and reasonable provision will be made for their appearance on the agenda.

Transcripts of the meetings will be available for public review and copying at the Freedom of Information Public Reading Room, Room GA–152, Forrestal Building, 1000 Independence Avenue, SW., Washington, D.C., between the hours of 8:00 a.m. and 4:30 p.m., Monday through Friday, except Federal holidays. Any person may purchase copies of the transcripts from the reporter. An Executive Summary of the full committee meeting may be obtained by calling the Advisory Committee Management Office at the number above.

Issued at Washington, D.C., on May 16, 1979.

Georgia Hildreth,

Director, Advisory Committee Management.

[FR Doc. 79–16028 Filed 5–22–79; 8:45 am]

BILLING CODE 6450–01–M

[ERA Docket No. 79–CERT–003]

National Steel Corp. for its Weirton Steel Division, Application for Certification of the Use of Natural Gas To Displace Fuel Oil

Take notice that on April 10, 1979, National Steel Corporation (National) on behalf of its Weirton Steel Division, Three Springs Drive, Weirton, West Virginia 26062, filed an application pursuant to 10 CFR Part 595 (44 FR 20398, April 15, 1979) for a certification of an eligible use of natural gas to displace fuel oil, all as more fully set forth in the application on file with the Economic Regulatory Administration (ERA) and open to public inspection between 8:00 a.m. and 4:30 p.m., Monday through Friday, except Federal holidays, Room 6317, 2000 M Street NW., Washington, D.C. 20461.

In its application, National stated that the volume of natural gas subject to certification is 3,000 Mcf per day, and the eligible seller is David S. Towner Enterprises, P.O. Box 402, 5537 Beavercrest Drive, Lorain, Ohio. This natural gas will be used to displace approximately 600,000 gallons of #6 fuel oil (1.4 percent sulfur) per month and will be transported by Columbia Gas Transmission Corporation, P.O. Box 1273, Charleston, West Virginia 25325.

In order to provide the public with as much opportunity to participate in this proceeding as is practicable under the circumstances, we are inviting any person wishing to comment concerning this application to submit comments in writing to the Economic Regulatory Administration, Room 6318, 2000 M Street, NW., Washington, D.C. 20461, Attention: Mr. Finn K. Neilsen, within

ten (10) calendar days of the date of publication of this notice in the Federal Register.

An opportunity to make an oral presentation of data, views, and arguments either against or in support of this application may be requested by any interested person in writing within the ten (10) day comment period. The request should state the person's interest, and, if appropriate, why the person is a proper representative of a group or class of persons that has such an interest. The request should include a summary of the proposed oral presentation and a statement as to why an oral presentation is necessary. If ERA determines an oral presentation is required, further notice will be given to National Steel Corporation and any persons filing comments, and filed in the Federal Register.

Issued in Washington, D.C., May 16, 1979.

Doris J. Dewton,

Acting Assistant Administrator, Fuels Regulation, Economic Regulatory Administration.

[FR Doc. 79-16027 Filed 5-22-79; 8:45 am]

BILLING CODE 6450-01-M

Dalton J. Woods; Proposed Remedial Order

Pursuant to 10 C.F.R. 205.192(c), the Economic Regulatory Administration (ERA) of the Department of Energy hereby gives notice of a Proposed Remedial Order which was issued to Dalton J. Woods (Woods), 1412 Mid South Towers, Shreveport, Louisiana 71101. This proposed Remedial Order charges Dalton J. Woods (Woods) with pricing violations in the amount of $51,392.91 caused by Woods' having made sales of crude oil at prices in excess of those permitted under the Federal Energy Administration (now the DOE) price rule in 10 C.F.R. 212.73. ERA maintained that the overcharges were the result of Woods' characterization of certain crude oil as "new" and "released" crude oil based upon Woods' interpretation of the term "property."

A copy of the Proposed Remedial Order, with confidential information deleted, may be obtained from Wayne I. Tucker, District Manager, Southwestern District Enforcement, Department of Energy, Economic Regulatory Administration, P.O. Box 35228, Dallas, Texas 75235, or by calling (214) 749-7626. On or before June 7, 1979, any aggrieved person may file a Notice of Objection with the Office of Hearings and Appeals, 2000 M Street, NW., Washington, D.C. 20461, in accordance with 10 C.F.R. 205.193

Issued in Dallas, Texas, on the 14th day of May, 1979.

Wayne I. Tucker,

District Manager, Southwest District Enforcement.

[FR Doc. 79-16126 Filed 5-22-79; 8:45]

BILLING CODE 6450-01-M

Federal Energy Regulatory Commission

Determination by a Jurisdictional Agency Under the Natural Gas Policy Act of 1978

May 14, 1979.

On May 2, 1979, the Federal Energy Regulatory Commission received notices from the jurisdictional agencies listed below of determinations pursuant to 18 CFR 274.104 and applicable to the indicated wells pursuant to the Natural Gas Policy Act of 1978.

Railroad Commission of Texas, Oil and Gas Division

FERC Control Number: JD79-3717
API Well Number: 42-481-31483
Section of NGPA: 103
Operator: Texas Oil and Gas Corporation
Well Name: Reynolds Well No. 3
Field: Bonus
County: Wharton County
Purchaser: Columbia Gas Transmission Corp.
Volume: 150 MMcf.

FERC Control Number: JD79-3718
API Well Number: 42-499-00000
Section of NGPA: 103
Operator: Crystal Oil Company
Well Name: Gamblin G. H. No. 1
Field: Winnsboro
County: Wood
Purchaser: Lone Star Gas Company
Volume: 24,000 MMcf.

FERC Control Number: JD79-3719
API Well Number:
Section of NGPA: 103
Operator: Crystal Oil Company
Well Name: Vira Harrell No. 12
Field: Saxet
County: Nueces
Purchaser: Delhi Gas Pipeline Corp.
Volume: 42 MMcf.

FERC Control Number: JD79-3720
API Well Number: 42-355-31238
Section of NGPA: 103
Operator: Crystal Oil Company
Well Name: Isensee T. H. No. 12
Field: Saxet
County: Nueces
Purchaser: Delhi Gas Pipeline Corp.
Volume: 60 MMcf.

FERC Control Number: JD79-3721
API Well Number: 42-365-30784
Section of NGPA: 103
Operator: Crystal Oil Company
Well Name: Pippen Estate 3
Field: Panola
County: Panola
Purchaser: United Gas Pipeline Co.
Volume: .8 MMcf.

FERC Control Number: JD79-3722
API Well Number: 42-365-30783
Section of NGPA: 103
Operator: Crystal Oil Company
Well Name: Pippen Estate 2
Field: Panola
County: Panola
Purchaser: United Gas Pipeline Co.
Volume: .8 MMcf.

FERC Control Number: JD79-3723
API Well Number: 42-365-30780
Section of NGPA: 103
Operator: Crystal Oil Company
Well Name: Pippen Estate No. 1
Field: Panola
County: Panola
Purchaser: United Gas Pipeline Co.
Volume: 8,000 MMcf.

FERC Control Number: JD79-3724
API Well Number: 42-365-30788
Section of NGPA: 103
Operator: Crystal Oil Company
Well Name: Myers 3
Field: Panola
County: Panola
Purchaser: United Gas Pipeline Co.
Volume: 19,000 MMcf.

FERC Control Number: JD79-3725
API Well Number: 42-365-30790
Section of NGPA: 103
Operator: Crystal Oil Company
Well Name: Myers 2
Field: Panola
County: Panola
Purchaser: United Gas Pipeline Co.
Volume: 19,000 MMcf.

FERC Control Number: JD79-3726
API Well Number: 42-365-30791
Section of NGPA: 103
Operator: Crystal Oil Company
Well Name: Myers 1
Field: Panola
County: Panola
Purchaser: United Gas Pipeline Co.
Volume: 19,000 MMcf.

FERC Control Number: JD79-3727
API Well Number: 42-365-30761
Section of NGPA: 103
Operator: Crystal Oil Company
Well Name: Lizzie Griffin 5
Field: Panola
County: Panola
Purchaser: United Gas Pipeline Co.
Volume: 28,000 MMcf.

FERC Control Number: JD79-3728
API Well Number: 42-365-30776
Section of NGPA: 103
Operator: Crystal Oil Company
Well Name: Lizzie Griffin 3
Field: Panola
County: Panola
Purchaser: United Gas Pipeline Co.
Volume: 28 MMcf.

FERC Control Number: JD79-3729
API Well Number: 42-365-30717
Section of NGPA: 103
Operator: Crystal Oil Company
Well Name: Lizzie Griffin 2
Field: Panola
County: Panola
Purchaser: United Gas Pipeline Co.
Volume: 28,000 MMcf.

FERC Control Number: JD79-3730
API Well Number: 42-365-30862
Section of NGPA: 103
Operator: Crystal Oil Company
Well Name: Holt 2
Field: Panola
County: Panola
Purchaser: United Gas Pipeline Co.
Volume: 4,000 MMcf.

FERC Control Number: JD79-3731
API Well Number: 42-285-31281
Section of NGPA: 102
Operator: Texas Oil and Gas Corp.
Well Name: Stovall "O" Well No. 1
Field: Speaks, S.W.
County: Lavaca County
Purchaser: Texas Eastern Transmission Corp.
Volume: 145 MMcf.

FERC Control Number: JD79-3732
API Well Number: 42-261-30398
Section of NGPA: 102
Operator: Texas Oil and Gas Corporation
Well Name: Erck Well No. 5
Field: McGill
County: Kenedy County
Purchaser: Florida Gas Transmission Co.
Volume: 183 MMcf.

FERC Control Number: JD79-3733
API Well Number: 42-261-30413
Section of NGPA: 102
Operator: Texas Oil and Gas Corporation
Well Name: Erck Well No. 6
Field: McGill
County: Kenedy County
Purchaser: Florida Gas Transmission Co.
Volume: 365 MMcf.

FERC Control Number: JD79-3734
API Well Number: 42-261-30397
Section of NGPA: 102
Operator: Texas Oil and Gas Corporation
Well Name: Erck Well No. 4
Field: McGill
County: Kenedy County
Purchaser: Florida Gas Transmission Co.
Volume: 146 MMcf.

FERC Control Number: JD79-3735
API Well Number: 42-409-31215
Section of NGPA: 103
Operator: Texas Oil and Gas Corporation
Well Name: Griffith and Associates
Field: Papalote
County: Bee County
Purchaser: Transcontinental Gas Pipeline Corp.
Volume: 110 MMcf.

FERC Control Number: JD79-3736
API Well Number: 42-301-30072
Section of NGPA: 107
Operator: Exxon Corporation
Well Name: Linebery Gas Unit 1 Well 2
Field: Linebery
County: Loving County
Purchaser: Northern Natural Gas Company
Volume: 183 MMcf.

FERC Control Number: JD79-3737
API Well Number: 42-261-30239
Section of NGPA: 102
Operator: Exxon Corporation
Well Name: John G. Kenedy, Jr., "E" Well No. 22-D
Field: El Paistle
County: Kenedy
Purchaser: Natural Gas Pipeline Co.
Volume: 146 MMcf.

[FR. Doc. 79-16049 Filed 5-22-79; 8:45 am]

BILLING CODE 6450-01-M

Determination by a Jurisdictional Agency Under the Natural Gas Policy Act of 1978

May 14, 1979.

On May 2, 1979, the Federal Energy Regulatory Commission received notices from the jurisdictional agencies listed below of determinations pursuant to 18 CFR 274.104 and applicable to the indicated wells pursuant to the Natural Gas Policy Act of 1978.

State of New Mexico, Energy and Minerals Department, Oil Conservation Division

FERC Control Number: JD79-3566
API Well Number:
Section of NGPA: 108
Operator: Continental Oil Company
Well Name: State E #8
Field: Jalmat-Langlie Mattix
County: Lea
Purchaser: El Paso Natural Gas
Volume: 1.2 MMcf.

FERC Control Number: JD79-3567
API Well Number:
Section of NGPA: 108
Operator: Continental Oil Company
Well Name: State E #2
Field: Jalmat-Langlie Mattix
County: Lea
Purchaser: Phillips Petroleum Co.
Volume: 8.2 MMcf.

FERC Control Number: JD79-3568
API Well Number:
Section of NGPA: 108
Operator: Continental Oil Company
Well Name: State A 32 #4
Field: Jalmat-Langlie Mattix
County: Lea
Purchaser: El Paso Natural Gas
Volume: 20.0 MMcf.

FERC Control Number: JD79-3569
API Well Number:
Section of NGPA: 108
Operator: Continental Oil Company
Well Name: South Eunice Unit—Phase 2 #6
Field: New Mexico Federal Unit
County: Lea
Purchaser: Phillips Petroleum Co.
Volume: 4.4 MMcf.

FERC Control Number: JD79-3570
API Well Number:
Section of NGPA: 108
Operator: Continental Oil Company
Well Name: Shanan 33 #1
Field: Jalmat-Langlie Mattix
County: Lea
Purchaser: El Paso Natural Gas
Volume: 11.6 MMcf.

FERC Control Number: JD79-3571
API Well Number:
Section of NGPA: 108
Operator: Continental Oil Company
Well Name: State KT-24 #2
Field: Arrowhead E-M-E
County: Lea
Purchaser: Warren Petroleum Company
Volume: 7.0 MMcf.

FERC Control Number: JD79-3572
API Well Number:
Section of NGPA: 108
Operator: Continental Oil Company
Well Name: State A-32 #2
Field: Jalmat-Langlie Mattix
County: Lea
Purchaser: El Paso Natural Gas
Volume: 2.5 MMcf.

FERC Control Number: JD79-3573
API Well Number:
Section of NGPA: 108
Operator: Continental Oil Company
Well Name: State KR-11 #1
Field: Arkansas Junction
County: Lea
Purchaser: Warren Petroleum
Volume: 19.4 MMcf.

FERC Control Number: JD79-3574
API Well Number:
Section of NGPA: 108
Operator: Continental Oil Company
Well Name: State KT-24 #1
Field: Arrowhead E-M-E
County: Lea
Purchaser: Warren Petroleum
Volume: 12.8 MMcf.

FERC Control Number: JD79-3575
API Well Number:
Section of NGPA: 108
Operator: Continental Oil Company
Well Name: N. El Mar Unit #43
Field: El Mar
County: Lea
Purchaser: Phillips Petroleum Co.
Volume: 0.1 MMcf.

FERC Control Number: JD79-3576
API Well Number:
Section of NGPA: 108
Operator: Continental Oil Company
Well Name: Eumont-Hardy Unit #30
Field: Arrowhead E-M-E
County: Lea
Purchaser: Warren Petroleum
Volume: 0.8 MMcf.

FERC Control Number: JD79-3577
API Well Number:
Section of NGPA: 108
Operator: Continental Oil Company
Well Name: Eumont-Hardy Unit #43
Field: Arrowhead E-M-E
County: Lea
Purchaser: Warren Petroleum
Volume: 0.8 MMcf.

FERC Control Number: JD79-3578
API Well Number:
Section of NGPA: 108
Operator: Continental Oil Company
Well Name: F. C. Hill #1
Field: Terry Blinebry
County: Lea
Purchaser: Getty Oil Co.
Volume: 5.2 MMcf.

The applications for determination in these proceedings together with a copy or description of other materials in the record on which such determinations were made are available for inspection, except to the extent such material is treated as confidential under 18 CFR 275.206, at the Commission's Office of

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Public Information, Room 1000, 825 North Capitol Street, N.E., Washington, D.C. 20426.

Persons objecting to any of those final determinations may, in accordance with 18 CFR 275.203 and 18 CFR 275.204, file a protest with the Commission on or before June 17, 1979. Please reference the FERC Control Number in any correspondence concerning a determination.

Kenneth F. Plumb,

Secretary.

[FR Doc. 79-16050 Filed 5-22-79; 8:45 am]

BILLING CODE 6450-01-M

Determination by a Jurisdictional Agency Under the Natural Gas Policy Act of 1978

May 14, 1979.

On April 24, 1979, the Federal Energy Regulatory Commission received notices from the jurisdictional agencies listed below of determinations pursuant to 18 CFR 274.104 and applicable to the indicated wells pursuant to the Natural Gas Policy Act of 1978.

West Virginia Department of Mines, Oil and Gas Division

FERC Control Number: JD79-4156
API Well Number: 47-039-1005
Section of NGPA: 108
Operator: Pennzoil Company
Well Name: Black Band Fuel No. 12
Field: Washington
County: Kanawha
Purchaser: Consolidated Gas Supply Corporation
Volume: 3.6 MMcf.

FERC Control Number: JD79-4157
API Well Number: 47-039-1004
Section of NGPA: 108
Operator: Pennzoil Company
Well Name: Black Band Fuel No. 11
Field: Washington
County: Kanawha
Purchaser: Consolidated Gas Supply Corporation
Volume: 6.0 MMcf.

FERC Control Number: JD79-4158
API Well Number: 47-039-0955
Section of NGPA: 108
Operator: Pennzoil Company
Well Name: Black Band Fuel No. 5
Field: Washington
County: Kanawha
Purchaser: Consolidated Gas Supply Corporation
Volume: 6.0 MMcf.

FERC Control Number: JD79-4159
API Well Number: 47-039-0999
Section of NGPA: 108
Operator: Pennzoil Company
Well Name: Black Band Fuel No. 9
Field: Washington
County: Kanawha
Purchaser: Consolidated Gas Supply Corporation
Volume: 14.0 MMcf.

The applications for determination in these proceedings together with a copy or description of other materials in the record on which such determinations were made are available for inspection, except to the extent such material is treated as condifidential under 18 CFR 275.206, at the Commission's Office of Public Information, Room 1000, 825 North Capitol Street, N.E., Washington, D.C. 20426

Persons objecting to any of these final determinations may, in accordance with 18 CFR 275.203 and 18 CFR 275.204, file a protest with the Commission on or before June 7, 1979. Please reference the FERC Control Number in any correspondence concerning a determination.

Kenneth F. Plumb,

Secretary.

[FR Doc. 79-16051 Filed 5-22-79; 8:45 am]

BILLING CODE 6450-01-M

[Docket No. RP74-61 (PGA No. 79-1)]

Arkansas Louisiana Gas Co.; Compliance Filing

May 17, 1979.

Take notice that on April 30, 1979 Arkansas Louisiana Gas Company (Arkla) tendered for filing the following revised tariff sheets to be effective April 1, 1979, applicable to its FERC Rate Schedule No. G-2.

2nd Substitute 19th Revised Sheet No. 4.
2nd Revised Sheet No. 12C.
2nd Revised Sheet No. 12D.
1st Revised Sheet No. 12G.
1st Revised Sheet No. 12H.

Arkla states that it has modified the rates set forth on 2nd Substitute 19th Revised Sheet No. 4 to include in its purchased gas costs, the addition of intrastate purchases where such gas is a part of its integrated system supply and to eliminate all purchased gas costs which relate to off system retail sales.

Arkla states that Revised Tariff Sheet Nos. 12C and 12D applicable to Arkla's purchased gas adjustment clause and Revised Tariff Sheet Nos. 12G and 12H applicable to Arkla's Louisiana First Use Tax Adjustment Clause reflect revisions to effect the recovery of its deferred account (Account 191) under Rate Schedule No. G-2 over a 12-month collection period.

Arkla also states that in accordance with the Commission's settlement order of April 30, 1979, Arkla had made refunds in the amount of $80,000, prorated among its G-2 customers in accordance with their 1978 purchases.

Any person desiring to be heard or to protest said filing should file a petition to intervene or protest with the Federal Energy Regulatory Commission, 825 N. Capitol Street, N.E., Washington, D.C. 20426, in accordance with §§ 1.8 and 1.10 of the Commission's rules of practice and procedure (18 CFR 1.8, 1.10). All such petitions or protests should be filed on or before May 31, 1979. Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceeding. Any person wishing to become a party must file a petition to intervene.

Copies of this filing are on file with the Commission and are available for public inspection.

Kenneth F. Plumb,

Secretary.

[FR Doc. 79-16164 Filed 5-22-79; 8:45 am]

BILLING CODE 6450-01-M

[Docket No. RP7610 (PGA No. 79-1)]

Arkansas Louisiana Gas Co.; Compliance Filing

May 17, 1979.

Take notice that on May 15, 1979, Arkansas Louisiana Gas Company (Arkla) tendered for filing 2nd Substitute 17th Revised Sheet No. 185 to be effective April 1, 1979, applicable to its FERC Rate Schedule No. X-26.

Arkla states that it has modified the rates set forth on the above described tariff sheet to include in its purchased gas costs, the addition of intrastate purchases where such gas is a part of its integrated system supply and to eliminate all purchased gas costs which relate of off-system retail sales.

Any person desiring to be heard or to protest said filing should file a petition to intervene or protest with the Federal Energy Regulatory Commission, 825 N. Capitol Street, N.E., Washington, D.C. 20426, in accordance with §§ 1.8 and 1.10 of the Commission's rules of practice and procedure (18 CFR 1.8, 1.10). All such petitions or protests should be filed on or before May 31, 1979. Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceeding. Any person wishing to become a party must file a petition to intervene.

Copies of this filing are on file with the Commission and are available for public inspection.

Kenneth F. Plumb,

Secretary.

[FR Doc 79-16163 Filed 5-22-79; 8:45 am]

BILLING CODE 6450-01-M

[Docket No. ER79-362]

Boston Edison Co.; Filing

May 16, 1979.

The filing Company submits the following:

Take notice that on May 8, 1979 Boston Edison Company ("Edison") tendered for filing three unexecuted service agreements supplementing Boston Edison Company FERC Electric Tariff Original Volume No. 1 Non-Firm Transmission Service. The service agreements describe the amounts and periods of transmission service required by each of the three customers during the period March 1, 1979 to October 31, 1981.

Edison requests that two of the service agreements be made effective on March 1, 1979 and that the third be made effective on April 1, 1979. Edison requests waiver of the 60-day notice requirement for this purpose.

Edison states that it has served the filing on the affected customers and the Massachusetts Department of Public Utilities.

Any person desiring to be heard or to protest said application should file a petition to intervene or protest with the Federal Energy Regulatory Commission, 825 North Capitol Street, NE., Washington, D.C. 20426, in accordance with §§ 1.8 and 1.10 of the Commission's rules of practice and procedure (18 CFR 1.8, 1.10). All such petitions or protests should be filed on or before June 1, 1979. Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceeding. Any person wishing to become a party must file a petition to intervene. Copies of this application are on file with the Commission and are available for public inspection.

Kenneth F. Plumb,

Secretary.

[FR Doc 79-16052 Filed 5-22-79; 8:45 am]

BILLING CODE 6450-01-M

[Docket No. ER76-495]

Carolina Power & Light Co.; Compliance Filing

May 16, 1979

Take notice that on April 20, 1979, Carolina Power & Light Company (CP&L) tendered for filing Revised Tariff Sheets and a Cost-of-Service Study pursuant to the Commission's February 12, and April 24, 1979 orders. CP&L indicates that this filing is being made under protest in accordance with the Company's request to the U.S. Court of Appeals for the District of Columbia Circuit for a stay of the order pending final resolution of this docket.

Any person desiring to be heard or to protest said filing should file a protest with the Federal Energy Regulatory Commission, 825 North Capitol St., NE., Washington, D.C. 20426, in accordance with §§ 1.8 and 1.10 of the Commission's rules of practice and procedure (18 CFR 1.8, 1.10). All such petitions or protests should be filed on or before June 8, 1979. Protests will be considered by the Commission in determining the appropriate action to be taken. Copies of this filing are on file with the Commission and are available for public inspection.

Kenneth F. Plumb,

Secretary.

[FR Doc 79-16053 Filed 5-22-79; 8:45 am]

BILLING CODE 6450-01-M

[Docket No. ER79-367]

Central Louisiana Electric Co., Inc.; Filing

May 17, 1979.

The filing Company submits the following:

Taken notice that on May 14, 1979, Central Louisiana Electric Company, Inc. (CLECO) tendered for filing a supplement dated March 22, 1979 to its Agreement for Electric Service with Cajun Electric Power Cooperative, Inc. (CAJUN), Rate Schedule FPC No. 21. The Supplement provides for additional substation capacity at the existing Veazie (9-J) delivery point serving Southwest Louisiana Electric Membership Corporation (SLEMCO).

CLECO requests waiver of the Commission's notice requirements in order to permit the amendment to become effective June 1, 1979.

Copies of this filing were served upon CAJUN, SLEMCO and the Louisiana Public Service Commission, according to CLECO.

Any person desiring to be heard or to protest said application should file a petition to intervene or protest with the Federal Energy Regulatory Commission, 825 North Capitol Street, NE., Washington, D.C. 20426, in accordance with §§ 1.8 and 1.10 of the Commission's rules of practice and procedure (18 CFR 1.8, 1.10). All such petitions or protests should be filed on or before June 8, 1979. Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceeding. Any person wishing to become a party must file a petition to intervene. Copies of this filing are on file with the Commission and are available for public inspection.

Kenneth F. Plumb,

Secretary.

[FR Doc 79-16165 Filed 5-22-79; 8:45 am]

BILLING CODE 6450-01-M

[Docket Nos. RP78-19 and RP78-20]

Columbia Gulf Transmission Corp. and Columbia Gas Transmission Corp.; Informal Settlement Conference

May 16, 1979.

Take notice that an informal settlement conference will be convened in the above-entitled dockets on May 31, 1979. The times and places are as follows:

May 31, 1979—2:00 P.M.; Room 8402, 825 N. Capitol St.
June 1, 1979—9:30 A.M.; Room 3200, 941 N. Capitol St.

The purpose of the conference will be to discuss possible settlement of all issues, simplification of the issues to be briefed, or any other matter any party may wish to discuss.

Customers and other interested persons will be permitted to attend, but if such persons have not previously been permitted to intervene by order of the Presiding Judge or the Commission, attendance at the conference will not be deemed to authorize intervention as a party in the proceeding.

Kenneth F. Plumb,

Secretary.

[FR Doc. 79-16054 Filed 5-22-79; 8:45 am]

BILLING CODE 6450-01-M

[Docket No. ER77-546]

Dayton Power & Light Co.; Filing

May 16, 1979.

Take notice that on April 23, 1979, Dayton Power & Light Company

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tendered for filing pursuant to the Commission's letter order dated March 22, 1979, a Refund Report covering the refund made on April 9, 1979, to the City of Piqua, Ohio. The Refund Report consists of five schedules as follows:

Schedule A—Summary of refund made
Schedule B—Billing determinants and revenues for prior rates
Schedule C—Billing determinants and revenues for present rates
Schedule D—Billing determinants and revenues for settlement rates
Schedule E—Determination of refund and interest applicable

Any person desiring to be heard or to protest said filing should file comments or protests with the Federal Energy Regulatory Commission, 825 North Capitol St., NE., Washington, D.C. 20426, in accordance with §§ 1.8 and 1.10 of the Commission's rules of practice and procedure (18 CFR 1.8, 1.10). All such comments or protests should be filed on or before June 8, 1979. Protests will be considered by the Commission in determining the appropriate action to be taken but will not serve to make protestants parties to the proceeding. Copies of this filing are on file with the Commission and are available for public inspection.

Kenneth F. Plumb,

Secretary.

[FR Doc. 79-16055 Filed 5-22-79; 8:45 am]

BILLING CODE 6450-01-M

[Docket NO. CP78-443]

El Paso Natural Gas Co.; Petition To Amend

May 16, 1979.

Take notice that on May 2, 1979, El Paso Natural Gas Company (Petitioner), P.O. Box 1492, El Paso, Texas 79978, filed in Docket No. CP78-443 a petition to amend the order of January 12, 1979, in the instant docket pursuant to Section 7(c) of the Natural Gas Act so as to authorize the transportation of natural gas for Southwest Gas Corporation (Southwest) at additional existing points of delivery in the Tucson, Arizona area, all as more fully set forth in the petition to amend on file with the Commission and open to public inspection.

It is indicated that pursuant to the order of January 12, 1979, in the instant docket, Petitioner was authorized to transport up to 2,500 Mcf of natural gas per day for Southwest, and to deliver the gas, less shrinkage, to Southwest, on a best efforts basis, at various existing delivery points within the State of Arizona and at the Arizona-Nevada Boundary, pursuant to the terms of a gas transportation agreement dated June 30, 1978, between Petitioner and Southwest. It is stated that the agreement is on file with the Commission as special Rate Schedule T-15 to Petitioner's FERC Gas Tariff, Third Revised Volume No. 2.

The petition states that prior to the January 12, 1979, order, Petitioner and Tucson Gas & Electric Company (TG&E) entered into a letter agreement dated June 14, 1978, providing for the sale by TG&E and the purchase by Southwest of all of the gas utility assets owned by TG&E, which arrangement was implemented and made effective April 1, 1979. Pursuant to the Commission's order of February 23, 1979, in Docket No. CP79-90, Petitioner was granted authorization to deliver and sell natural gas to Southwest, in lieu of TG&E, for resale and general distribution in and about the City of Tucson, Arizona, and its environs, it is indicated.

Petitioner states that Southwest has advised it that certain quantities of natural gas produced from three wells in which Southwest has an interest (The Federal E #1, Exxon State B Com and McMillan Federal Com #1) in Eddy County, New Mexico, have been made available to Southwest for use in meeting requirements in its service areas, including Tucson. Petitioner indicates that in view of the acquisition by Southwest of TG&E's gas utility assets, Southwest now desires Petitioner to include as a part of the transportation agreement the existing points of delivery acquired by Southwest from TG&E in and about the City of Tucson, and its environs, so that such gas can be used to satisfy its customers' needs in the Tucson area.

Any person desiring to be heard or to make any protest with reference to said petition to amend should on or before June 16, 1979, file with the Federal Energy Regulatory Commission, Washington, D.C. 20426, a petition to intervene or a protest in accordance with the requirements of the Commission's rules of practice and procedure (18 CFR 1.8 or 1.10) and the regulations under the Natural Gas Act (18 CFR 157.10). All protests filed with the Commission will be considered by it in determining the appropriate action to be taken but will not serve to make the protestants parties to the proceeding. Any person wishing to become a party to a proceeding or to participate as a party in any hearing therein must file a petition to intervene in accordance with the Commission's rules.

Kenneth F. Plumb,

Secretary.

[FR Doc. 79-16056 Filed 5-22-79; 8:45 am]

BILLING CODE 6450-01-M

[Docket No. RP79-12]

El Paso Natural Gas Co.; Tariff Filing

May 16, 1979.

Take notice that on May 14, 1979, El Paso Natural Gas Company ("El Paso") filed, pursuant to Part 154 of the Commission's regulations under the Natural Gas Act, certain substitute and revised tariff sheets to its FERC Gas Tariff,[1] providing proposed adjustments to its rates contained on the tariff sheets submitted in the notice of change in rates filed at Docket No. RP79-12 on November 30, 1978, and currently under suspension until June 1, 1979.[2]

El Paso states that ordering paragraph (C) of the Commission's December 28, 1978, order required it to file substitute revised tariff sheets to become effective subject to refund as of June 1, 1979, containing revised rates which reflected the impact of the adjustments required by said ordering paragraph (C) associated with Construction Work in Progress ("CWIP") respecting facilities which were not in service as of May 31, 1979, advance payments, production tax and royalty costs and the effective Gas Research Institute ("GRI") Funding Unit Adjustment rate as of June 1, 1979.

El Paso states that since the CWIP amount of $19,149,498 claimed in rate base in this proceeding has been transferred to Plant in Service, as a part of the total amount of $29,219,614 in CWIP which has been closed to Plant in Service during the period August 31, 1978, through February 28, 1979, no adjustment is required to be made in the rates suspended at Docket No. RP79-12 for CWIP. In compliance with the conditions set forth in ordering paragraph (C) of the Commission's December 28, 1978, order, El Paso has revised its base tariff rates downward by 0.45¢ per Mcf to reflect (i) the balance of advance payments as of May 31, 1979, and (ii) the production tax and gas well royalty costs as of June 1, 1979. El Paso further states that it has revised the rates currently under suspension at Docket No. RP79-12 in order to reflect,

[1] The tendered tariff sheets are identified on the appendix attached hereto.

[2] By order issued December 28, 1978, and Errata Notice dated February 16, 1979, at Docket No. RP79-12, the Commission, *inter alia*, conditionally accepted for filing said revised tariff sheets and the rates and modifications set forth therein, and suspended the use thereof until June 1, 1979.

where applicable, an increase in the GRI Funding Unit Adjustment rate from 0.12¢ per Mcf to 0.35¢ per Mcf, commencing January 1, 1979, which was approved by the Commission's Opinion No. 30 and accompanying order issued September 21, 1978, at Docket No. RP78-76, as modified by Order Granting Rehearing issued November 22, 1978, at Docket No. RP78-76.

El Paso states that in its suspension order of December 28, 1978, the Commission permitted it to make offsetting adjustments to the suspended rates which were made "* * * pursuant to Commission approved tracking provisions, those adjustments required by this order, and those required by other Commission orders." [3] Accordingly, El Paso has adjusted the rates currently under suspension at Docket No. RP79-12 in order to:

(i) Reflect an increase in rates attributable to El Paso's notice of change in rates filed March 1, 1979, as supplemented by filing made April 24, 1979, pursuant to El Paso's PGAC and PGAC-CHPG, which notice of change was conditionally made effective April 1, 1979, by the Commission's letter order dated March 30, 1979, at Docket Nos. RP72-155 and RP78-18 (PGA 79-1 and AP 79-1);[4] and

(ii) Reflect, where applicable, an increase in rate attributable to El Paso's notice of change in rate filed February 28, 1979, as supplemented by filing made March 15, 1979, respecting El Paso's recovery of the Louisiana First-Use Tax ("LFUT"),[5] which notice of change was made effective April 1, 1979, by the Commission orders issued March 30, 1979, and May 9, 1979, at Docket No. RP79-53, *et al.*

El Paso states that it concurrently filed its motion to place increased rates into effect on June 1, 1979, the end of the suspension period in Docket No. RP79-12. A copy of said motion is attached to the filing.

In order to effectuate the purposes of the instant filing, El Paso has requested that the Commission grant such waiver of its Regulations under the Natural Gas Act as may be deemed necessary in order to permit effectiveness of the tendered tariff sheets, and the rates set forth therein, on June 1, 1979, in the manner described in the accompanying motion.

El Paso states that copies of the filing and attachments thereto, have been served upon all parties of record in Docket No. RP79-12 and, otherwise, upon all affected customers and interested state regulatory commissions.

Any person desiring to be heard or to make any protest with reference to said tariff filing should, on or before May 31, 1979, file with the Federal Energy Regulatory Commission, Washington, D.C. 20426, a petition to intervene or a protest in accordance with the requirements of the Commission's rules of practice and procedure (18 CFR 1.8 or 1.10) and the regulations under the Natural Gas Act (18 CFR 157.10). All protests filed with the Commission will be considered by it in determining the appropriate action to be taken but will not serve to make any protestants parties to the proceeding. Any person wishing to become a party to a proceeding or to participate as a party in any hearing therein must file a petition to intervene in accordance with the Commission's rules. Copies of this filing are on file with the Commission and are available for public inspection.

Kenneth F. Plumb,

Secretary.

[FR Doc. 79-16057 Filed 5-22-79; 8:45 am]

BILLING CODE 6450-01-M

[3] *See* page 2 and condition (1) of ordering paragraph (C) of the Commission's order issued December 28, 1978, at Docket No. RP79-12.

[4] On March 1, 1979, El Paso filed a notice of change in rates, pursuant to its PGAC, to become effective April 1, 1979, and, as a part thereof, provided for a 0.02¢ per Mcf reduction in jurisdictional rates attributable to the Advance Payment Adjustment Provisions of El Paso's settlement agreement approved at Docket No. RP78-18. The effect of such Advance Payment Adjustment is included in the Base Tariff Rate suspended at Docket No. RP79-12; therefore, the 0.02¢ per Mcf reduction included in the March 1, 1979, filing is not included as an adjustment in the tendered tariff sheets. By letter order of March 30, 1979, the Commission directed El Paso to file revised tariff sheets to its March 1, 1979, notice of change in rates, which reflected (i) the elimination of costs from suppliers which those suppliers are not authorized to charge on April 1, 1979, pursuant to the NGPA, the Natural Gas Act and the Regulations thereunder; and (ii) the proper producer-supplier rates from reversionary interest owners. In compliance with such directive, El Paso, on April 24, 1979, filed revised tariff sheets to become effective as of April 1, 1979.

[5] Said notice of change and related tariff tenders were filed pursuant to the Commission's Order Nos. 10, 10-A and 10-B issued August 28, 1978, December 20, 1978, and March 2, 1979, respectively, at Docket No. RM78-23, and were designed to (i) establish a temporary LFUT tracking provision in El Paso's FERC Gas Tariff, Original Volume No. 1 and (ii) give notice of a 0.04¢ per Mcf increase in rate pursuant to such provision effective as of April 1, 1979.

[Docket Nos. RP72-6 and RP76-38 (Storage); Docket Nos. CP76-87, CP76-285, et al., and CP78-182 (Just and Reasonable Issues)]

El Paso Natural Gas Co.; Technical Conference

May 17, 1979.

Take notice that a technical conference in the captioned proceedings will be convened at 10:00 a.m., June 7, 1979 at the offices of the Federal Energy Regulatory Commission, 825 North Capitol Street, NE., Washington, D.C. The purpose of the conference will be to clarify or to otherwise discuss data provided by El Paso Natural Gas Company ("El Paso") in response to data requests in this proceeding, including computer data. In order to adequately prepare for the conference, El Paso requested that any party having questions about El Paso-supplied data notify counsel for El Paso of the nature of the question or problem in writing not later than May 25, 1979.

Kenneth F. Plumb,

Secretary.

[FR Doc. 79-16166 Filed 5-22-79; 8:45 am]

BILLING CODE 6450-01-M

[Docket No. ER79-365]

Kansas Power & Light Co.; Proposed Changes In Rates

May 17, 1979.

The filing Company submits the following:

Take notice that on May 14, 1979, the Kansas Power and Light Co. (Kansas) tendered for filing an amendment dated March 21, 1979, to that Certain Contract dated September 21, 1973, with Flint Hills Rural Electric Cooperative Association, Inc., for wholesale service to that Cooperative. Kansas states that this is a supplement to a contract dated September 21, 1973, and designated KPL Rate Schedule FPC No. 155. This amendment will provide for a change in maximum capacity for two delivery points, and the addition of a new delivery point. The proposed effective date is April 10, 1979, and Kansas requests that the Commission waive the notice requirements as allowed in § 35.11 of its regulations. According to Kansas, the net billing for the twelve preceeding months the proposed change in agreements was $328,826.23. In addition, Kansas states that copies of the agreement have been mailed to Flint Hills Rural Electric Cooperative Association, Inc., and the State Corporation Commission of Kansas.

Any person desiring to be heard or to protest said application should file a petition to intervene or protest with the Federal Energy Regulatory Commission, Washington, D.C. 20426, in accordance with the Commission's rules of practice and procedure (18 CFR 1.8, 1.10). All such petitions or protests should be filed on or before June 8, 1979. Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make

protestants parties to the proceeding. Any person wishing to become a party must file a petition to intervene. Copies of this application are on file with the Commission and are available for public inspection.

Kenneth F. Plumb,

Secretary.

[FR Doc. 79-16167 Filed 5-22-79; 8:45 am]

BILLING CODE 6450-01-M

[Project No. 2895]

Kimberly-Clark Corp.; Application for Preliminary Permit

May 15, 1979.

Take notice that on December 21, 1978, the Kimberly-Clark Corporation filed an application for preliminary permit (pursuant to the Federal Power Act, 16 U.S.C., Section 791 (a)-825(r)) for a proposed waterpower project to be known as the Appleton Upper Dam Project, FERC No. 2895, located on the Fox River in Outagamie County, Wisconsin. The proposed project would utilize a U.S. Corps of Engineer's Dam. Correspondence with the Applicant should be directed to: Mr. W. G. Wilson, Staff Vice President, Environmental Protection and Energy Management, Kimberly-Clark Corporation, Neenah, Wisconsin 54956.

Purpose of Project—The Kimberly-Clark Corporation would use most of the power generated at the project for its own industrial operations, and dispose of any surplus power through sales to the Wisconsin Electric Power Company,.

Proposed Scope and Cost of Studies Under Permit—The Applicant seeks issuance of a preliminary permit for a period of 24 months, during which time a study would be made of the engineering, environmental, and economic feasibility of the project. This study would also consider the cost of removing the Applicant's abandoned powerhouse, in addition to constructing a new powerhouse in the same general area, and installing new generating equipment within the new powerhouse. The Applicant estimates the cost of the proposed studies would be $175,000.

Project Description—The Appleton Upper Dam Project would consist of: (1) the existing 400-foot-long and 50-foot-wide canal, extending from west to east; (2) a new powerhouse with new units capable of generating 2,200 kW; and (3) appurtenant facilities. The estimated average annual output of the proposed project would be 14,000,000 kWh.

Purpose of Preliminary Permit—A preliminary permit does not authorize construction. A permit, if issued, gives the Permittee, during the term of the permit, the right of priority of application for license while the Permittee undertakes the necessary studies and examinations to determine the engineering, economic, and environmental feasibility of the proposed project, the market for power, and all other necessary information for inclusion in an application for a license.

Agency Comments—Federal, State, and local agencies that receive this notice through direct mailing from the Commission are invited to submit comments on the described application for preliminary permit (a copy of the application may be obtained directly from the Applicant). Comments should be confirmed to substantive issues relevant to the issuance of a permit and consisent with the purpose of a permit as described in this notice. No other formal request for comments will be made. If any agency does not file comments within the time set below, it will be presumed to have no comments.

Protests and Petitions to Intervene—Anyone desiring to be heard or to make any protest about this application should file a petition to intervene or a protest with the Federal Energy Regulatory Commission, in accordance with the requirements of the Commissions rules of practice and procedure, 18 CFR, § 1.8 or § 1.10 (1978). In determining the appropriate action to take, the Commission will consider all protests filed, but a person who merely files a protest does not become a party to the proceeding. To become a party or to participate in any hearing, a person must file a petition to intervene in accordance with the Commission's rules.

Any protest, petition to intervene, or agency comments must be filed on or before July 16, 1979. The Commission's address is: 825 North Capitol Street, N.E., Washington, D.C. 20426.

The application is on file with the Commission and is available for public inspection.

Kenneth F. Plumb,

Secretary.

[FR Doc. 79-16056 Filed 5-22-79; 8:45am]

BILLING CODE 6450-01-M

[Docket Nos. RP73-43 (PGA77-2), etc.]

Mid-Louisiana Gas Co., et al.; Informal Settlement Conference

May 17, 1979.

In the matter of Mid-Louisiana Gas Company, Docket Nos. RP73-43 (PGA77-2); Gulf Oil Corporation, Docket No. CI77-273; Grand Bay Company, Docket No. CP77-352.

Take notice that an informal settlement conference in the above-mentioned dockets will be convened at 10 a.m. on May 24, 1979, in conference room 7300 of the Federal Energy Regulatory Commission, 825 N. Capitol Street, N.E., Washington, D.C. 20426.

Customers and other interested persons will be permitted to attend, but if such persons have not previously been permitted to intervene by order of the Commission, attendance at the conference will not be deemed to authorize intervention as a party in the proceeding.

Kenneth F. Plumb,

Secretary.

[FR Doc. 79-16168 Filed 5-22-79; 8:45 am]

BILLING CODE 6450-01-M

[Docket No. RP76-64; Revised PGA 79-1]

Mountain Fuel Supply Co.; Tariff Sheet Filing

May 16, 1979.

Take notice that on May 15, 1979, Mountain Fuel Supply Company, pursuant to Section 154.62 of the Commission's Regulations under the Natural Gas Act, filed Substitute Eighth Revised Sheet No. 3-A to its FPC Gas Tariff Original Volume No. 1. Mountain Fuel states that the filed tariff sheet relates to the Unrecovered Purchased Gas Cost Account of the Purchased Gas Adjustment provision authorized by the Commission's order issued February 27, 1976 in Docket No. RP76-64. More specifically the tariff sheet reflects a net rate increase over that currently being collected of $.41571/MCF (X-4), $.39890/MCF (X-5), and $.45140/MCF (X-20) and are to be effective May 1, 1979.

Mountain Fuel states that the filing was made in compliance with the Commission's April 30, 1979, Order in Docket No. RP76-64 (PGA79-1).

Any person desiring to be heard and to make any protest with reference to said filing should on or before June 1, 1979, file with the Federal Energy Regulatory Commission, Washington, D.C., 20426, petitions to intervene or protests in accordance with the requirements of the Commission's rules of practice and procedure (18 CFR 1.8 or 1.10). All protests filed with the Commission will be considered by it but will not serve to make the protestants parties to the proceeding. Persons wishing to become parties to a proceeding or to participate as a party in any hearing must file petitions to intervene in accordance with the Commission's rules. Mountain Fuel Supply Company's tariff filing is on file with the Commission and available for public inspection.

Kenneth F. Plumb,

Secretary.

[FR Doc. 79-16059 Filed 5-22-79; 8:45 am]

BILLING CODE 6450-01-M

[Docket No. CP79-277]

Northwest Pipeline Corp.; Application

May 16, 1979.

Take notice that on April 18, 1979, Northwest Pipeline Corporation (Applicant), P.O. Box 1526, Salt Lake City, Utah 84110, filed in Docket No. CP79-277 an application pursuant to Sections 7 (b) and (c) of the Natural Gas Act for a certificate of public convenience and necessity authorizing Applicant to sell and deliver natural gas to certain of its existing customers under a new form of service and for permission and approval to abandon such service upon the termination of the agreements between Applicant and those of its customers purchasing such new service, all as more fully set forth in the application which is on file with the Commission and open to public inspection.

Applicant proposes to provide a new form of winter service which would be implemented through the utilization of storage capacity available to applicant from the Clay Basin and Jackson Prairie Storage Projects in Dagget County, Utah and Lewis County, Washington, respectively. In order to implement the proposed service, Applicant requests the following authorizations and approvals:

1. Authorization to sell and deliver up to 75,000 Mcf per day and 7,500,000 Mcf seasonally from the Clay Basin Storage Field pursuant to a new winter service rate schedule to be designated Rate Schedule WS-1:

2. Authorization to increase the daily withdrawal rate from the Jackson Prairie Storage Project from 300,000 Mcf per day on a firm basis to 325,000 Mcf per day and to increase the working gas inventory in Jackson Prairie by 2,000,000 Mcf on a seasonal basis;

3. Permission and approval to terminate the sale and delivery of natural gas pursuant to the proposed WS-1 rate schedule effective as of April 30, 1982, or such earlier date as Applicant's imports of Canadian gas pursuant to Export License GL-4 terminate.

Applicant states that it has received requests from certain of its customers or their affiliates and parent corporations, for additional gas supplies of up to 75,000 Mcf per day for one hundred days of service during the winter season. Applicant states that in response to this request, due to improved Canadian gas supply and with the proposed alternate utilization of its storage capacity available in the Clay Basin Field and the Jackson Prairie Field, it is able to provide the requested volumes of winter season sales for a three year period beginning October 1, 1979, in addition to providing for existing sales requirements.

Applicant indicates that it must have 150,000 Mcf of peak day storage capacity available to meet its existing firm contractural requirements. It is stated that due to an improvement in the availability of Canadian gas supplies, applicant can more economically supply a portion of such peak day protection of contractual requirements through increased use of Jackson Prairie Storage and, therefore, can make a portion of the Clay Basin Storage capability available for the requested winter service. Applicant states that the present and proposed use of storage capacity is as follows:

	Capacity MCF	
	Peak	Seasonal
Present:		
Clay Basin Storage—Contract Demand Protection	150,000	20,000,000
Jackson Prairie Storage—SGS-1 Peaking Service:		
Northwest Owned Capacity	100,000	3,600,000
Distributor Owned Capacity	200,000	7,200,000
Total Jackson Prairie	300,000	10,800,000
Proposed:		
Clay Basin Storage—Contract Demand Protestion	75,000	12,500,000
WS-1 Winter Service	75,000	7,500,000
Total Clay Basin	150,000	20,000,000
Jackson Prairie Storage—SGS-1 Peaking Service:		
Northwest Owned Capacity	100,000	3,600,000
Distributor Owned Capacity	150,000	7,200,000
Total SGS-1Service	250,000	10,800,000
Contract Demand Protection—Distributor Owned Capacity Purchased	50,000	
Use of Available existing Jackson Prairie Capacity	25,000	2,000,000
	75,000	2,000,000
Total Jackson Prairie	325,000	12,800,000

Applicant proposes to provide a winter service of up to 75,000 Mcf per day and 7,500,000 Mcf seasonally during the period from November 1 through April 30. It is stated that the proposed service would be offered commencing with the 1979-80 heating season and would be considered firm service through December 31, 1981, the present termination date of the Kingsgate import license GL-4, and subsequent to December 31, 1981, through April 30, 1982. The service may be curtailed if the storage capacity is required to meet Applicant's contract demands, it is stated.

It is asserted that the proposed service has been offered to all of Applicant's qualifying jurisdictional customers which are currently receiving either ODL-1 or PL-1 service, and the following parties have requested winter service in the quantities shown:

Customer	Volume (therms)		Volume (Mcf at 14.73 psia)	
	Daily	Seasonal	Daily	Seasonal
1979-80 Season:				
Colorado Interstate Gas Company	420,000	42,040,000	40,000	4,000,000
Washington Natural Gas Company	157,650	15,765,000	15,000	1,500,000
Southwest Gas Corporation	210,200	21,020,000	20,000	2,000,000
Total	788,250	78,825,000	75,000	7,500,000

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Customer	Volume (therms)		Volume (Mcf at 14.73 psia)	
	Daily	Seasonal	Daily	Seasonal
1980–81 Season:				
Colorado Interstate Gas Company	472,950	47,295,000	45,000	4,500,000
Washington Natural Gas Company	157,650	15,765,000	15,000	1,500,000
Southwest Gas Corporation	157,650	13,765,000	15,000	1,500,000
Total	788,250	78,825,000	75,000	7,500,000
1981–82 Season:				
Colorado Interstate Gas Company	630,000	63,060,000	60,000	6,000,000
Washington natural Gas Company	157,650	15,765,000	15,000	1,500,000
Southwest Gas Corporation				
Total	788,250	78,825,000	75,000	7,500,000

It is said that Applicant is establishing a new rate schedule, designated Rate Schedule WS–1, to effectuate the service proposed herein. Pursuant to such rate schedule Applicant is proposing to charge a three-part rate for such service as follows:

(a) Demand Charge: Initially 75.65 cents per month per therm of Buyer's Winter Service demand for each of the six (6) months November through April,

(b) Capacity Charge: Initially .73 cent per month per therm of Buyer's Winter Season Contract Quantity for each of the six (6) months of November through April, and

(c) Commodity Charge: Initially 21.878 cents per month per therm of gas delivered by Seller to Buyer under this rate schedule during the month.

Applicant states that the proposed rate schedule also provides for a minimum bill which would consist of the demand and capacity charges as set forth above plus a minimum commodity charge based on a minimum seasonal volume equal to 60 percent of the Buyer's winter season contract demand.

It is stated that in order to provide the proposed winter service by utilizing Clay Basin supplies. Applicant must utilize Jackson Prairie to protect firm contract demands. To accomplish this purpose, Applicant proposes to:

(a) Increase the working gas inventory in Jackson Prairie by 2,000,000 Mcf, from 10,800,000 Mcf (available for SGS–1 Service) to 12,800,000 Mcf;

(b) Increase the peak day withdrawal capability from Jackson Prairie by 25,000 Mcf per day, from 300,000 Mcf (available for SGS–1 service) to 325,000 Mcf; and

(c) Acquire 50,000 Mcf of daily deliverability from The Washington Water Power Company (Water Power) pursuant to Article 5.4 of the Gas Storage Project Agreement dated June 25, 1970 between Applicant, Water Power and Washington to Natural Gas Company (Washington Natural).

It is stated that Water Power has agreed to release to Applicant, for a term co-incident with the term of the proposed winter service, up to 50,000 Mcf per day of Water Power's one-third share of the firm deliverability available from Jackson Prairie.

Applicant states that the volume released by Water Power together with the proposed 25,000 Mcf per day increase in the Jackson Priairie withdrawal rate would provide Applicant with 75,000 Mcf per day of deliverability in its major market area. The increase in the working gas inventory in Jackson Prairie of 2,000,000 Mcf is required to support the 75,000 Mcf of daily withdrawal capability, it is stated. Applicant states it intends to cycle the 2,000,000 Mcf of working gas during the withdrawal season on days of off-peak demand. Applicant further states that it would re-inject working gas for its account, but in no event would the working gas, stored for Applicant's account, exceed 2,000,000 Mcf at any point in time.

It is asserted that no new facilities are required to effectuate the proposal herein and that the volumes of winter service gas would be sold and delivered to the Buyers at the delivery points set forth in their presently effective service agreements under Rate Schedules Schedules ODL–1 or PL–1 or at the existing point of interconnection between Applicant and El Paso Natural Gas Company (El Paso) at Ignacio, Colorado.

Applicant states that Water Power would release 50,000 Mcf of its SGS–1 daily deliverability to Applicant pursuant to the Jackson Prairie Storage Project agreement. As a result of the release of contract demand, Water Power would receive a credit of $413,000 through the procedure provided in Applicant's SGS–1 Rate Schedule, it is stated.

It is stated that Applicant would, as a result of utilizing a portion of Clay Basin storage capacity to provide the proposed winter service, allocate a portion of the cost-of-service attributable to Clay Basin to its winter service customers thereby reducing Applicant's overall cost-of-service to its other customers by approximately $7,011,000 It is further stated that in addition to the $7,011,000 reduction, Applicant estimates it would, as a result of its utilizing Jackson Prairie Storage for protection of firm contract demand, reduce by approximately $209,000 the amount presently allocated to Applicant's SGS–1 Rate Schedule, thereby reducing the cost to those of its customers presently purchasing storage service under the aforementioned rate schedule. Applicant's increased cost, approximately $1,040,000, for the use of Jackson Prairie in the manner proposed would be assigned to Applicant's contract demand customers and has been reflected as a reduction in the savings of $7,011,000 that such customers would realize as a result of the proposed winter service, it is stated. It is further stated that the net reduction of such costs would be effectuated through an amendment to the rates proposed in Docket No. CP79–57, upon approval of the instant proposals.

Any person desiring to be heard or to make any protest with reference to said application should on or before June 7, 1979, file with the Federal Energy Regulatory Commission, Washington, D.C. 20426, a petition to intervene or a protest in accordance with the requirements of the Commission's rules of practice and procedure (18 CFR 1.8 or 1.10) and the regulations under the Natural Gas Act (18 CFR 157.70). All protests filed with the Commission will be considered by it in determining the appropriate action to be taken but will not serve to make the protestants parties to the proceeding. Any person wishing to become a party to a proceeding or to participate as a party in any hearing therein must file a petition to intervene in accordance with the Commission's Rules.

Take further notice that, pursuant to the authority contained in and subject to the jurisdiction conferred upon the Federal Energy Regulatory Commission by Sections 7 and 15 of the Natural Gas Act and the Commission's rules of practice and procedure, a hearing will be held without further notice before the Commission or its designee on this application if no petition to intervene is filed within the time required herein, if the Commission on its own review of the matter finds that a grant of the certificate and permission and approval for the proposed abandonment are required by the public convenience and necessity. If a petition for leave to intervene is timely filed, or if the Commission on its own motion believes that a formal hearing is required, further notice of such hearing will be duly given.

Under the procedure herein provided for, unless otherwise advised, it will be unnecessary for Applicant to appear or be represented at the hearing.

Kenneth F. Plumb,

Secretary.

[FR Doc. 79-16060 Filed 5-22-79; 8:45 am]

BILLING CODE 6450-01-M

[Docket No. CP79–293]

Northwest Pipeline Corp.; Application

May 16, 1979.

Take notice that on May 2, 1979, Northwest Pipeline Corporation (Northwest), P.O. Box 1526, Salt Lake City, Utah 84110, filed in Docket No. CP79–293 an application pursuant to Section 7(c) of the Natural Gas Act for a certificate of public convenience and necessity authorizing the transportation of up to 4,000 Mcf per day of natural gas for the account of Colorado Interstate Gas Company (CIG), all as more fully set forth in the application which is on file with the Commission and open for public inspection.

Northwest states that CIG has acquired or otherwise controls certain natural gas supplies in the Great Divide area of Moffat County, Colorado, which are distant from CIG's existing transmission system. Pursuant to an agreement dated February 27, 1979, which has an initial term of twenty years, Northwest proposes to transport up to 4,000 Mcf of natural gas per day for CIG's account, it is said.

Northwest states that it would purchase 25 percent of said volumes from CIG and would transport the remaining 75 percent of such volumes for CIG's account through Northwest's Great Divide Gathering System facilities to a point of interconnection with Rocky Mountain Natural Gas Company's (Rocky Mountain), Big Hole pipeline in Moffat County, Colorado.

Pursuant to a gas transportation and exchange agreement between Northwest, Rocky Mountain and RMNG Gathering Company (RMNG), dated January 27, 1978,[1] Rocky Mountain would receive from Northwest the subject volumes of natural gas and RMNG, a wholly-owned subsidiary of Rocky Mountain, would redeliver thermally equivalent volumes to Northwest at the existing RMNG exchange meter station located in Mesa County, Colorado, it is asserted.

Northwest would then further transport CIG's gas, on Northwest's mainline system, from the RMNG exchange meter station to the existing point of interconnection between Northwest and CIG in Sweetwater County, Wyoming where Northwest would deliver volumes of gas to CIG which are thermally equivalent to the volumes received from CIG for transportation, reduced by CIG's *pro rata* share of the compressor fuel utilized in transporting CIG's gas through the gathering facilities and further reduced by 2 percent of the volumes received for transportation, as compensation for compressor fuel utilized in transporting CIG's gas through Northwest's mainline facilities, it is asserted.

Northwest indicates that approximately 2,000 Mcf of natural gas per day would be initially tendered by CIG to Northwest.

The application states that, for the proposed transportation of natural gas for CIG, Northwest would charge CIG a three-part rate:

(1) A gathering rate, initially 36.81 cents per Mcf, based on Northwest's cost-of-service for gathering facilities in the Green River area for the volumes transported for CIG's account to the point of interconnection with Rocky Mountain's Big Hole pipeline.

(2) A transportation rate initially 14.3 cents per Mcf, based on Rocky Mountain's cost-of-service attributable to the transportation of CIG's gas through Rocky Mountain's Big Hole pipeline for Northwest's account.

(3) A mainline transportation rate, initially 20.69 cents per Mcf, equal to Northwest's average rolled-in system transmission cost for all volumes transported directly by Northwest for CIG's account from the point of interconnection between RMNG and Northwest to the point of redelivery to CIG; or one-half that rate for any volumes redelivered to CIG by displacement.

The proposed transportation service would enable CIG to make additional volumes of gas available to its market areas and would do so without any unnecessary duplication of facilities, it is said.

Any person desiring to be heard or to make any protest with reference to said application should on or before June 7, 1979, file with the Federal Energy Regulatory Commission, Washington, D.C. 20426, a petition to intervene or a protest in accordance with the requirements of the Commission's rules of practice and procedure (18 CFR 1.8 or 1.10) and the Regulations under the Natural Gas Act (18 CFR 157.10). All protests filed with the Commission will be considered by it in determining the appropriate action to be taken but will not serve to make the protestants parties to the proceeding. Any person wishing to become a party to a proceeding or to participate as a party in any hearing therein must file a petition to intervene in accordance with the Commission's rules.

Take further notice that, pursuant to the authority contained in and subject to jurisdiction conferred upon the Federal Energy Regulatory Commission by Sections 7 and 15 of the Natural Gas Act and the Commission's rules of practice and procedure, a hearing will be held without further notice before the Commission or its designee on this application if no petition to intervene is filed within the time required herein, if the Commission on its own review of the matter finds that a grant of the certificate is required by the public convenience and necessity. If a petition for leave to intervene is timely filed, or if the Commission on its own motion believes that a formal hearing is required, further notice of such hearing will be duly given.

Under the procedure herein provided for, unless otherwise advised, it will be unnecessary for Northwest to appear or be represented at the hearing.

Kenneth F. Plumb,

Secretary.

[FR Doc. 79-16061 Filed 5-22-79; 8:45 am]

BILLING CODE 6450-01-M

[Docket No. ER79–364]

Southern California Edison Co.; Tariff Change

May 16, 1979.

The filing Company submits the following: Take notice that Southern California Edison Company (Edison) on May 8, 1979 tendered for filing a change of transmission service charges under the provisions of Edison's agreement with San Diego Gas & Electric Company as embodied in Rate Schedule FERC No. 101.

The change of rate for transmission service charges is as follows:

	Current rate (8.98 percent rate of return)	New rate (9.6 percent rate of return)	Increase
(a) 1.51 mills/kWh		1.59 mills/kWh	0.08 mills/kWh.
(b) 1.64 mills/kWh		1.72 mills/kWh	0.08 mills/kWh.
(c) 1.36 mills/kWh		1.43 mills/kWh	0.07 mills/kWh.

(a) From Four Corners Generating Station or Moenkopi Substation.
(b) From Mead Substation.
(c) From Eldorado Substation.

[1] As amended June 6, 1978, November 20, 1978, and March 12, 1979.

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Said filing is in accordance with terms of the agreement stating that whenever the California Public Utilities Commission (CPUC) finds a new overall rate of return on retail operations to be reasonable for Edison the charges for transmission services shall be adjusted based on said new rate of return. Said new rate of return of 9.6 percent was authorized in CPUC Decision No. 89711, effective January 1, 1979.

Copies of this filing were served upon the San Diego Gas & Electric Company and the Public Utilities Commission of the State of California.

Any person desiring to be heard or to protest this application should file petition to intervene with the Federal Energy Regulatory Commission, 825 North Capitol Street NE., Washington, D.C. 20426, in accordance with §§ 1.8 and 1.10 of the Commission's rules of practice and procedure (18 CFR 1.8, 1.10). All such petitions or protests should be filed on or before June 11, 1979. Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceeding. Any person wishing to become a party must file a petition to intervene. Copies of this application are on file with the Commission and are available for public inspection.

Kenneth F. Plumb,

Secretary.

[FR Doc. 79-16062 Filed 5-22-79; 8:45 am]

BILLING CODE 6540-01-M

[Docket No. RP74-41]

Texas Eastern Transmission Corp.; Proposed Changes in FERC Gas Tariff

May 16, 1979.

Take notice that Texas Eastern Transmission Corporation (Texas Eastern) on April 27, 1979 tendered for filing as a part of its FERC Gas Tariff, Fourth Revised Volume No. 1, the following sheets:

Third Substitute Forty-seventh Revised Sheet No. 14
Third Substitute Forty-seventh Revised Sheet No. 14A
Third Substitute Forty-seventh Revised Sheet No. 14B
Third Substitute Forty-seventh Revised Sheet No. 14C
Third Substitute Forty-seventh Revised Sheet No. 14D

These tariff sheets, which were originally filed on April 4, 1979 and which were accepted by the Commission by letter order dated April 13, 1979 for filing with an effective date of March 1, 1979, are being refiled for the sole purpose of correcting an error in supersession.

The proposed effective date of these tariff sheets is March 1, 1979.

Any person desiring to be heard or to protest said filing should file a petition to intervene or protest with the Federal Energy Regulatory Commission, 825 North Capitol Street, N.E., Washington, DC 20426, in accordance with Sections 1.8 and 1.10 of the Commission's rules of practice and procedure (18 CFR 1.8, 1.10). All such petitions or protests should be filed on or before May 31, 1979. Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceeding. Any person wishing to become a party must file a petition to intervene. Copies of this filing are on file with the Commission and are available for public inspection.

Kenneth F. Plumb,

Secretary.

[FR Doc. 79-16063 Filed 5-22-79; 8:45 am]

BILLING CODE 6450-01-M

[Docket No. RP76-30 (PGA No. 79-2)]

Texas Gas Pipe Line Corp.; Tariff Sheet Filing

May 17, 1979.

Take notice that on May 1, 1979, Texas Gas Pipe Line Corporation, pursuant to Section 154.62 of the Commission Regulations under the Natural Gas Act, filed Eighth Revised Sheet No. 4a to its FERC Gas Tariff, First Revised Volume No. 1. Texas Gas states that the filed tariff sheet related to the Unrecovered Purchased Gas Cost Account of the Purchased Gas Adjustment Provision contained in Section 12 of the General Terms and Conditions of the tariff. More specifically, the tariff sheet reflects a net decrease over that currently being collected of 14.62¢ per Mcf (at 14.65 Psia) to be effective June 1, 1979.

Any person desiring to be heard and to make any protest with reference to said filing should on or before May 25, 1979, file with the Federal Energyy Regulatory Commission, Washington, D.C. 20426, petitions to intervene or protest in accordance with the requirements of the Commission's rules of practice and procedure (18 CFR 1.8, 1.10). All protests filed with the Commission will be considered by it but will not serve to make the protestants parties to the proceeding. Persons wishing to become parties to a proceeding or to participate as a party in any hearing must file petitions to intervene in accordance with the Commission's Rules. Texas Gas' tariff filing is on file with the Commission and are available for public inspection.

Kenneth F. Plumb,

Secretary.

[FR Doc 79-16169 Filed 5-22-79; 8:45 am]

BILLING CODE 6450-01-M

[Docket No. CP76-321]

Texas Gas Transmission Corp. and Tennessee Gas Pipeline Co., a Division of Tenneco, Inc.; Petition To Amend

May 16, 1979.

Take notice that on May 8, 1979, Texas Gas Transmission Corporation (Texas Gas), 3800 Frederica Street, Owensboro, Kentucky 42301, and Tennessee Gas Pipeline Company, a Division of Tenneco, Inc. (Tennessee), (Petitioners), P.O. Box 2511, Houston, Texas 77001, filed in Docket No. CP76-321 a petition to amend the order of October 6, 1976,[1] in the instant docket pursuant to Section 7(c) of the Natural Gas Act so as to authorize an additional exchange point, all as more fully set forth in the petition to amend on file with the Commission and open to the public inspection.

It is indicated that pursuant to the order of October 6, 1976, Texas Gas and Tennessee were authorized to exchange gas at various exchange points.

Petitioners propose to add an additional point of exchange so as to provide for the delivery of natural gas for the account of Tennessee to Texas Gas at a purchase meter station in St. Mary's Parish, Louisiana, pursuant to the terms of a letter agreement dated April 4, 1979, between Petitioners. It is stated that such additional point would provide the means of making available to Tennessee's customers an additional supply of natural gas without the necessity of incurring any additional costs to obtain said supplies.

Any person desiring to be heard or to make any protest with reference to said petition to amend should on or before June 7, 1979, file with the Federal Regulatory Commission, Washington,

[1] This proceeding was commenced before the FPC. By joint regulation of October 1, 1977 (10 CFR 1000.1), it was transferred to the Commission.

D.C. 20426, a petition to intervene or a protest in accordance with the requirements of the Commission's rules of practice and procedure (18 CFR 1.8 or 1.10) and the regulations under the Natural Gas act (18 CFR 157.10). All protests filed with the Commission will be considered by it in determining the appropriate action to be taken but will not serve to make the protestants parties to the proceeding. Any person wishing to become a party to a proceeding or to participate as a party in any hearing therein must file a petition to intervene in accordance with the Commission's Rules.

Kenneth F. Plumb,

Secretary.

[FR Doc. 79-16064 Filed 5-22-79; 8:45 am]

BILLING CODE 6450-01-M

[Docket No. CP79-279]

Transcontinental Gas Pipe Line Corp.; Application

May 16, 1979.

Take notice that on May 4, 1979, Transcontinental Gas Pipe Line Corporation (Applicant), P.O. Box 1396, Houston, Texas 77001, filed in Docket No. CP79-297 an application pursuant to Section 7(c) of the Natural Gas Act for a certificate of public convenience and necessity authorizing the transportation of up to 12,000 Mcf of natural gas per day for Northern Natural Gas Company (Northern), all as more fully set forth in the application on file with the Commission and open to public inspection.

Applicant requests authorization to transport on a firm basis for Northern, up to 12,000 Mcf of natural gas per day produced from Block 13, South Pelto Area, offshore Louisiana. It is indicated that the gas would enter pipeline facilities in Block 13 in which Northern has acquired an undivided interest (South Pelto Supply Lateral) and would be transported in such facilities to interconnections with Applicant's system in Ship Shoal Blocks 64 and 70. It is further indicated that pursuant to the terms of a transportation agreement dated December 20, 1978, between Applicant and Northern Applicant would transport the gas from Ship Shoal Blocks 65 and 70 and deliver a thermally equivalent quantity for the account of Northern onshore at the interconnection between the systems of Applicant and Columbia Gulf Transmission Company (Columbia Gulf) in Terreboone Parish, Louisiana (Terrebonne). Applicant states that when deliveries cannot be made at Terrebonne, they may be made at (1) the interconnection between Applicant and Tennessee Gas Pipeline Company, a Division of Tenneco Inc. (Tennessee), at mile post 489.73 on Applicant's mainline, Allen Parish, Louisiana (Kinder), (2) the interconnection between Applicant and Tennessee at mile post 26.53 on Applicant's Central Louisiana Gathering system, Acadia Parish, Louisiana (Crowly), (3) the terminus of the Western Leg of Blue Water Project of Columbia Gulf and Tennessee (Egan), (4) the outlet of Continental Oil Company's Acadia Plant, Acadia Parish, Louisiana (Acadia), and (5) any other existing authorized points of interconnection between Applicant and Tennessee hich may be mutually agreeable.

It is stated that for this firm transportation service, Northern would pay Applicant initially a monthly demand charge of $31,080 and a commodity charge of 1.75 cents per Mcf delivered at points other than Terrebonne. For gas delivered at points other than Terrebonne, Applicant would retain initially 1.2 percent of the transportation volumes for compressor fuel and line loss make-up, it is stated.

Any person desiring to be heard or to make any protest with reference to said application should on or before June 7, 1979, file with the Federal Energy Regulatory Commission, Washington, D.C. 20426, a petition to intervene or a protest in accordance with the requirements of the Commission's rules of practice and procedure (18 CFR 1.8 and 1.10) and the regulations under the Natural Gas Act (18 CFR 157.10). All protests filed with the Commission will be considered by it in determining the appropriate action to be taken but will not serve to make the protestants parties to the proceeding. Any person wishing to become a party to a proceeding or to participate as a party in any hearing therein must file a petition to intervene in accordance the Commission's Rules.

Take further notice that pursuant to the authority contained in and subject to jurisdiction conferred upon the federal Energy Regulatory Commission by Sections 7 and 15 of the Natural Gas Act and the Commission's rules of practice and procedure, a hearing will be held without further notice before the Commission or its designee of this application if no petition to intervene if filed within the time required herein, if the commission on its own review of the matter finds that a grant of the certificate is required by the public convenience and necessity. If a petition for leave to intervene is timely filed, or if the Commission on its own motion believes that a formal hearing is required, further notice of such hearing will be duly given.

Under the procedure herein provided for, unless otherwise advised, it will be unnecessary for Applicant to appear or be represented at the hearing.

Kenneth F. Plumb,

Secretary.

[FR Doc. 79-16065 Filed 5-22-79; 8:45 am]

BILLING CODE 6450-01-M

[Docket No. CP79-291]

Transcontinental Gas Pipe Line Corp.; Application

May 16, 1979

Take notice that on May 1, 1979, Transcontinental Gas Pipe Line Corporation (Transco), P.O. Box 1396, Houston, Texas 77001, filed in Docket No. CP79-291 an application pursuant to Section 7(c) of the Natural Gas Act for a certificate of public convenience and necessity authorizing the transportation, on a firm basis, of 7,000 Mcf of natural gas per day for Michigan Wisconsin Pipe Line Company (Michigan Wisconsin), all as more fully set forth in the application which is on file with the Commission and open for public inspection.

The application indicates that the natural gas would be produced from Blocks 8 and 13, South Pelto area, offshore Louisiana.

Transco states that the gas would enter pipeline facilities in Block 13 in which Michigan Wisconsin has acquired an undivided interest and be transported in such facilities to interconnections with Transco's system in Ship Shoal Blocks 65 and 70, off-shore Louisiana. Pursuant to a transportation agreement with Michigan Wisconsin, Transco would deliver a thermally equivalent quantity to Michigan Wisconsin onshore at the outlet of Mobil Oil Corporation's Cameron Plant, in Cameron Parish, Louisiana, it is said.

For this transportation service from Ship Shoal Blocks 65 and 70, Michigan Wisconsin would pay Transco, initially, a monthly demand charge of $21,800 and Transco would retain 1.2 percent of the transportation volumes for compressor fuel and line loss make-up, it is stated.

Any person desiring to be heard or to make any protest with reference to said application should on or before June 7, 1979, file with the Federal Energy Regulatory Commission, Washington, D.C. 20426, a petition to intervene or a protest in accordance with the requirements of the Commission's rules

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of practice and procedure (18 CFR 1.8 or 1.10) and the regulations under the Natural Gas Act (18 CFR 157.10). All protests filed with the Commission will be considered by it in determining the appropriate action to be taken but will not serve to make the protestants parties to the proceeding. Any person wishing to become a party to a proceeding or to participate as a party in any hearing therein must file a petition to intervene in accordance with the Commission's Rules.

Take further notice that, pursuant to the authority contained in and subject to jurisdiction conferred upon the Federal Energy Regulatory Commission by Sections 7 and 15 of the Natural Gas Act and the Commission's rules of practice and procedure, a hearing will be held without further notice before the Commission or its designee on this application if no petition to intervene is filed within the time required herein, if the Commission on its own review of the matter finds that a grant of the certificate is required by the public convenience and necessity. If a petition for leave to intervene is timely filed, or if the Commission on its own motion believes that a formal hearing is required, further notice of such hearing will be duly given.

Under the procedure herein provided for, unless otherwise advised, it will be unnecessary for Transco to appear or be represented at the hearing.

Kenneth F. Plumb,

Secretary.

[FR Doc. 79-16066 Filed 5-22-79; 8:45 am]

BILLING CODE 16450-01-M

[Project No. 2484]

Village of Gresham, Wis.; Application for Approval of Exhibits K and R

May 15, 1979.

Take notice that an application for approval of Exhibits K and R (Recreation Use Plan) for the Upper Gresham Dam Project No. 2484 was filed on May 18, 1978 (and supplemented on June 13, 1978) by the Village of Gresham, Wisconsin. The project is located on the Red River in the Village of Gresham, Shawano County, Wisconsin. Correspondence with the Village should be directed to: Gresham Municipal Water and Electric Plant, Village of Gresham, Gresham, Wisconsin 54128.

The Village has submitted Exhibits K and R for Commission approval pursuant to Article 13 of the license issued January 16, 1974, for this project. The exhibits were to be filed in order to show the project location and to describe and show public recreation facilities. Existing recreational development at the project site consists of two public boat landings, each with an access road, parking lot, and ramp into water. The sites are located on the south and east sides of Upper Red Lake. There are no other public recreational facilities available at either site or elsewhere at the project.

Anyone desiring to be heard or to make any protest about this application should file a petition to intervene or a protest with the Federal Energy Regulatory Commission, in accordance with the requirements of the Commission's rules of practice and procedure, 18 CFR 1.8 or 1.10 (1978). In determining the appropriate action to take, the Commission will consider all protests filed, but a person who merely files a protest does not become a party to the proceeding. To become a party, or to participate in any hearing, a person must file a petition to intervene in accordance with the Commission's Rules. Any protest or petition to intervene must be filed on or before June 22, 1979. The Commission's address is: 825 North Capitol Street, N.E., Washington, D.C. 20426.

The application is on file with the Commission and is available for public inspection.

Kenneth F. Plumb,

Secretary.

[FR Doc. 79-16067 Filed 5-22-79; 8:45 am]

BILLING CODE 6450-01-M

Energy Research Advisory Board; Meeting

Pursuant to the provisions of the Federal Advisory Committee Act (Pub. L. 92-463, 86 Stat. 770), notice is hereby given that the Gas Research Institute Program Review Study Group of the Energy Research Advisory Board will meet Monday, June 4, 1979, from 10:00 a.m. to 4:00 p.m., and Tuesday, June 5, 1979, from 9:00 a.m. to 3:00 p.m., at the Gas Research Institute, 2nd Floor Conference Room, 10 West 35th Street, Chicago, Illinois.

Less than the usual 15-day notice for this meeting is given because as part of the approval process for the 1980 Gas Research Institute Program and Plans, the Federal Energy Regulatory Commission has asked the Energy Research Advisory Board to assist it by carrying out an independent review of the program. The filing date is expected to be on June 4, 1979, and consequently, a meeting of the Energy Research Advisory Board Study Group charged with carrying out the review has been scheduled for that date. It was not possible to establish the ERAB Study Group in time to post notice of the meeting a full 15 days in advance.

The purpose of the Energy Research Advisory Board is to advise the Department of Energy on the overall research and development conducted in DOE and to provide long-range guidance in these areas to the Department.

The tentative agenda for the meeting is to conduct a review and discussion of the Gas Research Institute Program and Plan.

The meeting is open to the public. The Chairperson of the Study Group is empowered to conduct the meeting in a fashion that will, in his judgment, facilitate the orderly conduct of business. Any member of the public who wishes to file a written statement with the Study Group will be permitted to do so, either before or after the meeting. Members of the public who wish to make oral statements pertaining to agenda items should call the Advisory Committee Management Office, 202-252-5187, at least 5 days prior to the meeting and reasonable provision will be made to include their presentation on the agenda.

Transcripts of the meeting will be available for public review and copying at the Freedom of Information Public Reading Room, Room GA-152, Forrestal Building, 1000 Independence Avenue, SW., Washington, D.C., between the hours of 8:00 a.m. and 4:30 p.m., Monday through Friday, except Federal holidays.

Issued at Washington, D.C., on May 18, 1979.

Georgia Hildreth,

Director, Advisory Committee Management.

[FR Doc. 79-16249 Filed 5-22-79; 8:45 am]

BILLING CODE 6450-01-M

Assistant Secretary for International Affairs; Proposed Subsequent Arrangement

Pursuant to Section 131 of the Atomic Energy Act of 1954, as amended (42 U.S.C. 2160), notice is hereby given of a proposed "subsequent arrangement" under the Agreement for Cooperation Between the Government of the United States and the Government of Japan.

The subsequent arrangement to be carried out under the above mentioned agreements involves approval of the reassignment of 165,164 separative work units scheduled for delivery in fiscal year 1984 from DOE's enrichment contract UES/JA/147 with Japan's Electric Power Development Company to DOE's enrichment contract UES/JA/129 with Japan's Kyushu Electric Power Company.

In accordance with Section 131 of the Atomic Energy Act of 1954, as amended, it has been determined that these subsequent arrangements will not be inimical to the common defense and security.

Dated: May 17, 1979.

For the Department of Energy.

Harold D. Bengelsdorf,

Director for Nuclear Affairs, International Nuclear and Technical Programs.

[FR Doc. 79-16249 Filed 5-22-79; 8:45 am]

BILLING CODE 6450-01-M

ENVIRONMENTAL PROTECTION AGENCY

[FRL 1231-8]

Ambient Air Monitoring Reference and Equivalent Methods; Receipt of Application for Reference or Equivalent Method Determination

Notice is hereby given that on April 18, 1979, the Environmental Protection Agency received an application from Monitor Labs, Inc., San Diego, CA, to determine if its Model 8850 Fluorescent Sulfur Dioxide Analyzer should be designated by the Administrator of the EPA as an equivalent method under 40 CFR Part 53, promulgated February 18, 1975 (40 FR 7044) and amended December 1, 1976 (41 FR 52692). If, after appropriate technical study, the Administrator determines that this method should be so designated, notice thereof will be given in a subsequent issue of the **Federal Register.**

Dated: May 17, 1979.

Stephen J. Gage,

Assistant Administrator for Research and Development.

[FR Doc. 79-16188 Filed 5-22-79; 8:45 am]

BILLING CODE 6560-01-M

[FRL No. 1231-5]

Data Collection Activities

The purpose of this notice is to identify a data collection activity to be undertaken by the United States Environmental Protection Agency (EPA). The activity is a technical assessment survey of steam stripping used to remove toxic pollutants from process wastewater in the following industries: organic chemicals, plastics, pharmaceuticals, pesticides and rubber. Prior notification of this data collection activity will alert the affected industries that data collection instruments are forthcoming and thus enable them to participate fully in EPA's rulemaking activities.

The data are to be collected under authority to Section 308 of the Clean Water Act of 1977 and will be used in developing effluent limitations guidelines under Sections 301, 304, 306, and 307 of the Act. These activities are subject to Office of Management and Budget (OMB) approval in accordance with OMB Clearance No. 158-12-0160. Under the terms of this Clearance, EPA publishes notices identifying such data collection activities in the **Federal Register.** Usually, notices are published biannually summarizing EPA data collection activities to commence during the subsequent six month period. This is a supplementary notice which, under the terms of the Clearance, may also be used to announce EPA data collection activities. This data collection activity will not begin before the end of a 30 day period following the date of this notice. This notification is also required for OMB concurrence under the Federal Reports Act (144 U.S.C. 3501 et seq.).

This data collection activity will cover 60 plants that employ steam stripping to treat wastewater and the estimated reporting hour burden is 40 manhours per plant.

The individual most familiar with this data collection activity is Paul Fahrenthold, U.S. Environmental Protection Agency, Effluent Guideline Division (WH-552), 401 M Street, SW., Washington D.C. 20460 (202-426-2497).

Dated: May 7, 1979.

Thomas C. Jorling,

Assistant Administrator for Office of Water and Waste Management.

[FR Doc 79-16191 Filed 5-22-79; 8:45 am]

BILLING CODE 6460-01-M

[OPP-50426 §§ FRL 1232-8]

Issuance of Experimental Use Permits

The Environmental Protection Agency (EPA) has issued experimental use permits to the following applicants. Such permits are in accordance with, and subject to, the provisions of 40 CFR Part 172, which defines EPA procedures with respect to the use of pesticides for experimental purposes.

No. 21137-EUP-1. EM Laboratories, Elmsford, New York 10523. This experimental use permit allows the use of 662 pounds of the insecticide chlorthiophos on grapes and peaches to evaluate control of grape berry moth, grape leafhopper, omnivorous leafroller, thrips, oriental fruit moth, plum curculio, catfacing insects, green peach aphid, green fruit worm, and red banded leafroller. A total of 182.1 acres is involved. The experimental use permit is effective from April 12, 1979 to April 12, 1980.

No. 21137-EUP-2. EM Laboratories, Elmsford, New York 10523. This experimental use permit allows the use of 611.1 pounds of the insecticide chlorthiophos on grapes and peaches to evaluate control of grape berry moth, grape leafhopper, omnivorous leafroller, thrips, oriental fruit moth, plum curculio, catfacing insects, green peach aphid, green fruit worm, and red banded leafroller. A total of 162.5 acres is involved; this program and the one above are authorized only in the States of California, Georgia, New Jersey, New York, Pennsylvania, and South Carolina. This experimental use permit is also effective from April 12, 1979 to April 12, 1980. The permits will use the same active ingredient, but different formulations. Temporary tolerances for residues of the active ingredient in or on grapes and peaches have been established. (PM-12, Room: E-229, Telephone: 202/426-9425)

No. 201-EUP-64. Shell Chemical Company, Washington, D.C. 20036. This experimental use permit allows the use of the insecticide cyano(3-phenoxyphenyl)methyl-4-chloro-alpha-(1-methylethyl)benzeneacetate on beef cattle, dairy cattle, and calves to evaluate control of horn fly, ear tick, spinose tick, face fly, stable fly, house fly, mosquitoes, gnats, and Gulf Coast ear tick. A total of 1,000 head of cattle is involved; the program is authorized only in the States of Arizona, Arkansas, California, Colorado, Florida, Georgia, Idaho, Illinois, Indiana, Iowa, Kansas, Kentucky, Louisiana, Mississippi, Missouri, Nebraska, Nevada, New Mexico, New York, Ohio, Oklahoma, Oregon, Pennsylvania, South Carolina, Tennessee, Texas, Vermont, Virginia, Wisconsin, and Wyoming. The experimental use permit is effective from April 9, 1979 to April 9, 1981. A temporary tolerance for residues of the active ingredient in the milk fat or body fat of treated cattle has been established. (PM-17, Room: E-229, Telephone: 202/426-9425)

Interested parties wishing to review the experimental use permits are referred to the designated Product Manager (PM), Registration Division (TS-767), Office of Pesticide Programs, EPA, 401 M Street, S.W., Washington, D.C. 20460. The descriptive paragraph for each permit contains a telephone number and room number for information purposes. It is suggested that interested persons call before visiting the EPA Headquarters Office, so that the appropriate permit may be made conveniently available for review purposes. The files will be available for inspection from 8:30 a.m. to 4:00 p.m. Monday through Friday.

(Sec. 5 of the Federal Insecticide, Fungicide, and Rodenticide Act (FIFRA), as amended in 1972, 1975, and 1978 (92 Stat. 819; [7 U.S.C. 136])

Dated: May 10, 1979.

Douglas D. Campt,

Director, Registration Division.

[FR Doc. 79-16182 Filed 5-22-79; 8:45 am]

BILLING CODE 6560-01-M

[OPP-50368A; FRL 1232-7]

Mobay Chemical Corp.; Amendment to Experimental Use Permit

On Thursday, June 22, 1978 (43 FR 26796), information appeared pertaining to the issuance of an experimantal use permit, No. 3125-EUP-156, to Mobay Chemical Corporation. At the request of the company, that permit has been amended. The experimental use permit now allows the use of 3,000 pounds of the fungicide 1-(4-chlorophenoxy)-3,3-dimethlyl-1-(1*H*-1,2,4-triazol-1-yl)-2-butanone on grass grown for seed to evaluate control of rust diseases (succinia species) on a total of 1,000 acres in Oregon and Washington. The experimental use permit period was also extended and the permit is now effective until January 1, 1981. This permit is issued with the limitation that all treated grass will be used for seed purposes only. Treated fields will not be grazed nor will any part of the treated crop be used for feed purposes. (PM-21, Room: E-305, Telephone: 202/755-2562)

(Sec. 5, Federal Insecticide, Fungicide, and Rodenticide Act (FIFRA), as amended in 1972, 1975, and 1978 (92 Stat. 819; (7 U.S.C. 136)).)

Dated: May 10, 1979.

Douglas D. Campt,

Director, Registration Division.

[FR Doc. 79-16183 Filed 5-22-79; 8:45 am]

BILLING CODE 6560-01-M

[OPP-420340; FRL 1232-6]

State of North Dakota; Amendment to State Plan for Certification of Commercial and Private Applicators of Restricted Use Pesticides

Section 4(a)(2) of the Federal Insecticide, Fungicide and Rodenticide Act (FIFRA), as amended in 1972, 1975 and 1978 (92 Stat. 819, 7 U.S.C. 136 *et seq.*), and the implementing regulations of 40 CFR Part 171, require each State desiring to certify applicators of restricted use pesticides to submit a plan for that purpose, subject to approval by the Environmental Protection Agency (EPA), and maintain the plan as approved. Notice of approval of the North Dakota State Plan was published in the **Federal Register** on Dec. 23, 1976 (41 FR 55932). Subsequently, on December 28, 1978, North Dakota requested that EPA approve an amendment to the State Plan. Notice of this proposed amendment was published in the **Federal Register** on March 7, 1979 (44 FR 12493), with 30 days allowed for public comment. No comments were received. Therefore, the Regional Administrator, EPA Region VIII, gives notice that the North Dakota State Plan as amended is approved.

Dated: May 16, 1979.

David D. Emery,

Acting Regional Administrator, Region VIII.

[FR Doc. 79-16184 Filed 5-22-79; 8:45 am]

BILLING CODE 6560-01-M

FEDERAL COUNCIL ON THE AGING

Senior Services Committee; Meeting

The Federal Council on the Aging was established by the 1973 amendments to the Older Americans Act of 1965 (Pub. L. 93-29, 42 U.S.C. 3015) for the purposes of advising the President, the Secretary of Health, Education, and Welfare, the Commissioner on Aging, and the Congress on matters relating to the special needs of older Americans.

Notice is hereby given pursuant to the Federal Advisory Committee Act (Pub. L. 92-463, 5 U.S.C. app. 1, sec. 10, 1976) that the Senior Services Committee of the Council will hold a meeting on June 28, 1979 from 9:00 a.m., to 5:00 p.m., in Room 204, 522 North Central Avenue, Phoenix, Arizona.

The agenda will consist of a discussion among Council members and staff on the issues and problems involved in potential studies regarding the rural elderly and jobs for older workers.

Further information on the Council and the Committee may be obtained from Dr. Thomas F. Davis, Staff Economist, Federal Council on the Aging, Washington, D.C. 20201, telephone (202) 245-0441. FCA meetings are open for public observation.

Dated: May 18, 1979.

Nelson H. Cruikshank,

Chairman, Federal Council on the Aging.

[FR Doc. 79-16175 Filed 5-22-79; 8:45]

BILLING CODE 4110-92-M

FEDERAL MARITIME COMMISSION

Independent Ocean Freight Forwarder License; Applicants

Notice is hereby given that the following applicants have filed with the Federal Maritime Commission applications for licenses as independent ocean freight forwarders pursuant to section 44(a) of the Shipping Act, 1916, (Stat. 422 and 46 U.S.C. 841(b)).

Persons knowing of any reason why any of the following applicants should not receive a license are requested to communicate with the Director, Bureau of Certification and Licensing, Federal Maritime Commission, Washington, D.C. 20573.

Global Cargo Service Inc., P.O. Box 010283, Flagler Station, Miami FL 33101. Officers: Juan Carlos Pernas, President, Carlos Martin, Vice President.

George E. Toomey, 1023 Briarmead, Houston, TX 77057.

Bill White, Inc., 5959 W. Century Blvd., Suite 208, Los Angeles, CA 90045. Officers: William D. White, President, Mary K. Pindur, Vice President, Katherine L. White, Secretary.

Forwarding Systems International, Inc., 13601 East Whittier Blvd., Suite 1000, Whittier, CA 90605. Officers: C. Lewis Proctor, President, Marion Krocos, Vice President, Jere E. McDonald, Secretary, Mace R. McKinney, Jr., Director.

Marien, Inc., c/o Weathertrol Corp., 7330 N.W. 12th Street, Hispania Tower, 1st Floor, Miami, FL. Officers: Marta Palacios, President, Alejandro C. Trasobares, Secretary-Treasurer.

La Montana Moving & Storage Inc., 1976 Crotona Parkway, Bronx, NY. Officers: Jose E. Burgos, President, Eliseo Morales, Vice President.

By the Federal Maritime Commission.

Dated: May 18, 1979.

Francis C. Hurney,

Secretary

[FR Doc. 79-16179 Filed 5-22-79; 8:45 am]

BILLING CODE 6730-01-M

GENERAL ACCOUNTING OFFICE

Regulatory Reports Review; Receipt of Report Proposal

The following request for clearance of a report intended for use in collecting information from the public was accepted by the Regulatory Reports Review Staff, GAO, on May 17, 1979. See 44 U.S.C. 3512 (c) and (d). The purpose of publishing this notice in the **Federal Register** is to inform the public of such receipt.

The notice includes the title of the request received; the name of the agency sponsoring the proposed collection of information; the agency form number, if applicable; and the frequency with which the information is proposed to be collected.

Written comments on the proposed ICC request are invited from all interested persons, organizations, public interest groups, and affected businesses. Because of the limited amount of time GAO has to review the proposed request, comments (in triplicate) must be received on or before June 11, 1979, and should be addressed to Mr. John M. Lovelady, Assistant Director, Regulatory Reports Review, United States General Accounting Office, Room 5106, 441 G Street, NW., Washington, D.C. 20548.

Further information may be obtained from Patsy J. Stuart of the Regulatory Reports Review Staff, 202-275-3532.

Interstate Commerce Commission

The ICC requests clearance of rules governing the filing of applications for the issuance of Certificates of Public Convenience and Necessity authorizing the abandonment of a railroad line or the operation thereof. By decision served November 12, 1976, in Ex Parte No. 274 (Sub-No. 2) the ICC promulgated rules and regulations to implement changes made in the Interstate Commerce Act relating to the abandonment of railroad lines or operation thereof, as a result of enactment of the Rail Reorganization and Regulatory Reform Act of 1976. The applications were previously filed on three forms which ICC has now discontinued and the rules and format for filing applications are contained in the regulations. These rules and regulations are necessary for the Commission to learn, among other things, how much traffic moves over the lines of the railroads; the condition of the abandonment trackage; and what materials can be salvaged after the abandonment and whether they can be sold or used to public advantage in the operations of the applicant and in the public interest. The ICC estimates that 150 applications will be filed annually and that each application will lead to a formal proceeding before the Commission. The ICC also estimates that the time required to prepare each application will average 1,000 hours.

Norman F. Heyl,

Regulatory Reports Review Officer.

[FR Doc. 79-16019 Filed 5-22-79; 8:45 am]

BILLING CODE 1610-01-M

National Institutes of Health

Cancer Control Intervention Programs Review Committee; Cancellation

Notice is hereby given of the cancellation of the meeting of the Cancer Control Intervention Programs Review Committee, National Cancer Institute, June 14-15, 1979, National Institutes of Health, Bethesda, Maryland, which was published in the **Federal Register** on May 9, 1979 (44 FR 27265). For further information, please contact Dr. Louis M. Ouellette, Executive Secretary, Westwood Building, Room 806, National Institutes of Health, Bethesda, Maryland 20014 (301/496-7413).

Dated: May 17, 1979.

Suzanne L. Fremeau,

Committee Management Officer, National Institutes of Health.

[FR Doc. 79-16150 Filed 5-22-79; 8:45 am]

BILLING CODE 4110-08-M

Community Programs and Rehabilitation Work Group; Meeting

Pursuant to Pub. L. 92-463, notice is hereby given of a meeting of the Community Programs and Rehabilitation Work Group, National Arthritis Advisory Board, on June 21-22, 1979, Denver, Colorado, Room C-503, The Court House, to discuss the States and local health planning activities with reference to health initiatives. On June 21 the meeting will be held from 2:00 to 10:00 p.m., and on June 22 from 9:30 a.m. to 5:00 p.m., all of which will be open to the public. Attendance is limited to space available.

Further information about the meeting may be obtained by contacting Mr. William Plunkett, Executive Director, National Arthritis Advisory Board, P.O. Box 30286, Bethesda, Maryland 20014, (301) 496-1991. Ms. Betsy Singer, Office of Scientific and Technical Reports, NIAMDD, National Institutes of Health, Building 31, Room 9A04, Bethesda, Maryland 20205, (301) 496-3583, will provide a summary of the meeting.

(Catalog of Federal Domestic Assistance Program No. 13.846, National Institutes of Health)

Dated: May 14, 1979.

Suzanne L. Fremeau,

Administrative Officer, National Institutes of Health.

[FR Doc. 79-16153 Filed 5-22-79; 8:45 am]

BILLING CODE 4110-08-M

National Arthritis Advisory Board; Meeting

Pursuant to Pub. L. 92-463, notice is hereby given of a meeting of the National Arthritis Advisory Board on July 12, 1979, 9:00 a.m. to 5:00 p.m., at the Sheraton National Motor Hotel, Columbia Pike and Washington Boulevard, Arlington, Virginia, to discuss the Board's activities and to continue the evaluation of the implementation of the long-range plan to combat arthritis. Notice of the Meeting Room will be posted in the Hotel lobby. The meeting will be open to the public. Attendance is limited to space available.

In addition, the following Work Groups of the Board will meet the day before, July 11: Education and Training, Public Policy and Chronic Disease Care; Community Programs and Rehabilitation; Multipurpose Arthritis Centers; Private Sector; and Executive Work Group. The times and meeting locations may be obtained by contacting Mr. William Plunkett, Executive Director, National Arthritis Advisory Board, P.O. Box 30286, Bethesda, Maryland 20014, (301) 496-1991. Ms. Betsy Singer, Office of Scientific and Technical Reports, NIAMDD, National Institutes of Health, Building 31, Room 9A-04, Bethesda, Maryland 20205 (301) 496-3583, will provide summaries of the meeting.

(Catalog of Federal Domestic Assistance Program No. 13.846, National Institutes of Health)

Dated: May 17, 1979.

Suzanne L. Fremeau,

Committee Management Officer, National Institutes of Health.

[FR Doc. 79-16154 Filed 5-22-79; 8:45 am]

BILLING CODE 4110-08-M

National Diabetes Advisory Board; Meeting

Pursuant to Pub. L. 92-463, notice is hereby given of the meeting of the National Diabetes Advisory Board on June 19, 1979, 6:30 p.m. The meeting room location may be obtained by contacting Mr. Raymond M. Kuehne, Executive Director of the Board, P.O. Box 30174, Bethesda, Maryland 20014, (301) 496-6045.

The meeting, which will be open to the public, is being held to continue review of the status and implementation of the long-range plan to combat diabetes formulated by the National Commission on Diabetes. Attendance by the public will be limited to space available. Mr. Raymond M. Kuehne (address above) will provide summaries of the meeting and a roster of the committee members.

(Catalog of Federal Domestic Assistance Program No. 13.847, National Institutes of Health)

Dated: May 14, 1979.

Suzanne L. Fremeau,

Committee Management Officer, National Institutes of Health.

[FR Doc. 79-16151 Filed 5-22-79; 8:45 am]

BILLING CODE 4110-08-M

(2) Adult and community programs in

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National Cancer Advisory Board; Organ Site Subcommittee; Meeting

Pursuant to Pub. L. 92–463, notice is hereby given of the meeting of the Organ Site Subcommittee of the National Cancer Advisory Board, June 20, 1979, Chevy Chase Holiday Inn, 5520 Wisconsin Avenue, Chevy Chase, Maryland 20015. The meeting will be open to the public on June 20, from 8:30 a.m. to 9:00 a.m., to review administrative details. Attendance by the public will be limited to space available.

In accordance with provisions set forth in Section 552b(c)(6), Title 5, U.S. Code and Section 10(d) of Pub. L. 92–463, the meeting will be closed to the public on June 20, from 9:00 a.m. to adjournment, for the review, discussion and evaluation of a renewal application grant for the National Pancreatic Project. This application and the discussion could reveal personal information concerning individuals associated with the application, the disclosure of which would constitute a clearly unwarranted invasion of personal privacy.

Mrs. Marjorie F. Early, Committee Management Officer, National Cancer Institute, Building 31, Room 4B43, National Institutes of Health, Bethesda, Maryland 20205 (301/496–5708) will provide summaries of the meeting and rosters of committee members, upon request. Dr. Andrew Chiarodo, Executive Secretary, National Cancer Institute, Westwood Building, Room 853, National Institutes of Health, Bethesda, Maryland 20205 (301/496–7194) will furnish substantive program information.

(Catalog of Federal Domestic Assistant Program N. 13.393, 13.394, 13.395, National Institutes of Health)

Dated: May 14, 1979.

Suzanne L. Fremeau,

Committee Management Officer, National Institutes of Health.

[FR Doc. 79–16152 Filed 5–22–79; 8:45 am]

BILLING CODE 4110–08–M

DEPARTMENT OF HEALTH, EDUCATION, AND WELFARE

Office of Education

President's Commission on Foreign Language and International Studies; Meeting

AGENCY: President's Commission on Foreign Language and International Studies.

ACTION: Notice of Meeting.

SUMMARY: This notice sets forth the proposed agenda of a forthcoming meeting of the President's Commission on Foreign Language and International Studies. It also describes the functions of the Commission. Notice of this meeting is required under the Federal Advisory Committee Act, (5 U.S. Code, Appendix I, Section 10(a)(2)). This document is intended to notify the general public of its opportunity to attend.

DATES: June 7 and 8, 1979.

ADDRESS: U.S. Department of State, Acheson Room, 23rd Street, NW. (between C and D), Washington, D.C.

FOR FURTHER INFORMATION CONTACT: Nan Bell, Staff Director, 1832 M Street, NW., Suite 837, Washington, D.C. 20036 (202) 653–5817.

The President's Commission on Foreign Language and International Studies is established under Executive Order 12054 (April 21, 1978) and Section 9(a) of the Federal Advisory Committee Act (Pub. L. 92–463; 5 U.S.C. Appendix I). The Commission is directed to:

(A) Conduct such public hearings, inquiries and studies as may be necessary to make recommendations to the President and the Secretary of Health, Education, and Welfare.

(B) The objectives of the Commission shall be to:

(1) Recommend means for directing public attention to the importance of foreign language and international studies for the improvement of communications and understanding with other nations in an increasingly interdependent world;

(2) Assess the need in the United States for foreign language and area specialists, ways in which foreign language and international studies contribute to meeting these needs, and the job market for individuals with these skills;

(3) Recommend what foreign language area studies programs are appropriate at all academic levels and recommend desirable levels and kinds of support for each that should be provided by the public and private sectors;

(4) Review existing legislative authorities and make recommendations for changes needed to carry out most effectively the Commission's recommendations.

The meeting will take place in Washington, D.C. on June 7–8, 1979, from 9:00 a.m. to 4:30 p.m. and will include Commission discussion on the following issues:

(1) Advanced training and research in foreign languages and international studies;

(2) Adult and community programs in foreign language and international studies;

(3) Business and other private sector needs for foreign language and international expertise;

(4) The federal role in international training and research;

(5) Foreign language studies at all educational levels;

(6) International studies at the collegiate and pre-collegiate levels;

(7) International educational exchanges of students, faculty and adults.

The purpose of these discussions is to arrive at recommendations for the Commission's final report. The meeting will be open to the public. Records will be kept of the proceedings and will be available for public inspection at the office of the President's Commission on Foreign Language and International Studies, 1832 M Street, N.W., Suite 837, Washington, D.C. 20036

Signed at Washington, D.C., on May 15, 1979.

Nan P. Bell,

Staff Director.

[FR Doc. 79–16194 Filed 5–22–79; 8:45 am]

BILLING CODE 4110–02–M

Public Meeting of the Advisory Council on Developing Institutions.

Notice is hereby given, pursuant to section 10(a)(2) of the Federal Advisory Committee Act (Pub. L. 92–463), that the next meeting of the Advisory Council on Developing Institutions will be held June 7 and 8, 1979, from 9:00 a.m. to 4:00 p.m. in Room 425–A, Hubert H. Humphrey Building, 200 Independence Avenue, SW., Washington, D.C. 20201.

The Advisory Council on Developing Institutions was established by Title III of the Higher Education Act of 1965, as amended. The Council is governed by the provisions of Part D of the General Education Provisions Act and of the Federal Advisory Committee Act (Pub. L. 92–463). The Council shall assist the Commissioner in identifying the characteristics of developing institutions through which the purpose of Title III may be achieved, and in establishing the priorities and criteria to be used in making grants under section 304(a) of that Title.

The meeting of the Council shall be open to the public. The proposed agenda includes:

(1) A proposed exploratory evaluation study of Title III, HEA;

Title III, HEA, Grant Awards Procedures;

(3) Title III Program Update by the Director, Division of Institutional Development, USOE;

(4) Preparation of the Annual Report for 1979;

(5) General Administrative matters including time and dates of future meetings and site visits by Council Members.

Records shall be kept of all Council proceedings and shall be available for public inspection at the Office of the Director of College and University Unit, Bureau of Higher and Continuing Education, located in Room 3036, ROB–3, 7th and D Streets, SW. Washington, D.C. 20202.

Signed at Washington, D.C. on May 17, 1979.

Preston Valien,

Office of Education Delegate to the Council

[FR Doc. 79–16144 Filed 5–22–79; 8:45 am]

BILLING CODE 4110–89–M

Public Meeting of the National Advisory Council on Equality of Educational Opportunity

AGENCY: National Advisory Council on Equality of Educational Opportunity.

ACTION: Notice of Meeting.

SUMMARY: This notice sets forth the proposed agenda of the forthcoming meeting of the National Advisory Council on Equality of Educational Opportunity. It also describes the functions of the National Advisory Council. Notice of this meeting is required under the Federal Advisory Committee Act (5 U.S.C., Appendix 1, 10(a)(21)). This document is intended to notify the general public of their opportunity to attend.

DATE AND PLACE OF MEETING: June 21–22, 1979; Chicago, Illinois.

ADDRESS: The Drake Hotel, Lake Shore Drive and upper Michigan Avenue, Chicago, Illinois 60611.

FOR FURTHER INFORMATION, CONTACT: Rosemarie Maynez, Administrative Assistant, NACEEO, 1325 G Street, NW., Suite 710, Washington, D.C. 20005. Phone: (202) 724–0221.

The National Advisory Council on Equality of Educational Opportunity is established under Section 716 of the Emergency School Aid Act (Pub. L. 92–318, Title VII, as amended by Pub. L. 93–380 and Pub. L. 94–482). The Council is established to: (1) Advise the Assistant Secretary for Education with respect to the operation of the program authorized under the Emergency School Aid Act (ESAA), including the preparation of regulations and the development of criteria for the approval of applications; and (2) review the operation of the program with respect to its effectiveness in achieving its purpose as stated in the Act and with respect to the Assistant Secretary's conduct in the administration of the program.

The meeting, which is open to the public, will convene at 9:30 a.m. until 4:30 p.m. on Thursday, June 21, 1979, and reconvene at 9:30 a.m. until 12:00 noon on Friday, June 22, 1979. The meeting will be held to review and discuss the Council's final report.

Requests for oral presentations by the public before the Council must be submitted in writing to the Executive Director of NACEEO, Mr. Leo A. Lorenzo, and should include the names of all persons seeking an appearance, the party or parties which they represent, and the purpose for which the presentation is requested. Following the presentation, the statement in writing shall be submitted to the Executive Director.

In the event that the tentative agenda is completed prior to the projected time, the Chairman will adjourn the meeting.

Records of all meetings are kept at NACEEO headquarters, 1325 G Street, N.W., Suite 710, Washington, D.C. 20005, and are available for public inspection.

Signed at Washington, D.C., on May 18, 1979.

Leo A. Lorenzo,

Executive Director.

[FR Doc. 79–16126 Filed 5–22–79; 8:45 am]

BILLING CODE 4110–02–M

Office of Human Development Services

[Program Announcement No. 13628–793]

Demonstration Projects for Child Abuse and Neglect Program; Availability of Grant Funds

AGENCY: Office of Human Development Services, DHEW.

SUBJECT: Announcement of Availability of Grant Funds for Demonstration Projects for the Child Abuse and Neglect Program.

SUMMARY: The Administration for Children, Youth and Families (ACYF) announces that applications are being accepted for demonstration grants for Fiscal Year 1979 under The Child Abuse Prevention and Treatment Act of 1974, as amended. Regulations governing this program are published in the Code of Federal Regulations in 45 CFR Part 1340.

DATES: The closing date for receipt of applications is August 6, 1979.

Scope of This Announcement

This program announcement is one of two for the Child Abuse and Neglect Research, Demonstration and Service-Improvement Grants Program in Fiscal Year 1979 and 1980. This grants program was identified under the Child Abuse and Neglect Research, Demonstration and Service Improvement priority statement published in the **Federal Register**, March 9, 1979.

Program Purpose

The purpose of the Demonstration Projects for Child Abuse and Neglect Program is to support the operational design, testing and evaluation of new and refined service techniques and service delivery approaches in preventing and treating child abuse and neglect.

Program Objectives

Applications are solicited for demonstration projects which reflect the following program objectives:

1. For Community Action to Prevent Child Abuse and Neglect—

- To develop and implement methods of preventing child abuse and neglect through use of innovative approaches to one of the following preventive activities:

Parent education in child-rearing and coping skills

Community information and referral services to family-supportive services and self-help programs

Prenatal and perinatal parent support programs, including education and peer support groups

Home visit programs for families in need of support.

- To demonstrate ways of incorporating these methods of preventing child abuse and neglect into ongoing community services.
- To develop models of preventive service delivery which can be replicated by other communities and minority organizations.

2. For Child Protection Agency Management of Parental Self-Referrals—

- To encourage voluntary self-referrals of families with problems of child abuse and neglect to public child protection agencies.
- To establish procedures for insuring accountability for treatment services for self-identified cases of child abuse and neglect.
- To establish procedures for referral of at risk cases which are voluntarily reported to public child protection agencies to treatment services outside the formal child protection system.

• To develop comprehensive service networks from intake through follow-up and treatment which can provide compassionate, fair and effective services to families who voluntarily refer themselves to public child protection agencies.

3. For Child Sexual Abuse Treatment Training Institute Pilot Project—

• To design and test within a treatment program context a training program for transferring clinical skills and knowledge about the treatment of child sexual abuse.

• To define and test the most effective, replicable training techniques for dealing with the treatment of child sexual abuse.

• To determine the maximum number of professionals that can be trained and the length of time necessary for an effective training program on treatment of child sexual abuse.

• To define the maximum number of professionals that can be trained and the length of time necessary for an effective training program on treatment of child sexual abuse.

• To define what combination of staff/clients/trainees are most conducive to successful clinical training on child sexual abuse.

• To determine what types of replicable training/treatment models are most cost-effective in terms of numbers served and quality of training experience.

Eligible Applicants

The following organizations and agencies are eligible to apply for these grants:

1. For *Community Action To Prevent Child Abuse and Neglect*—Any public or nonprofit private agency or organization capable of carrying out the demonstration project in a metropolitan area of no less than 250,000 residents or in multicounty rural areas of no less than 100,000 residents may apply for grants under this category. Special consideration will be given to Indian tribes and nonprofit organizations controlled and operated for an by minorities (including Black, Native American, Hispanic and other cultural minority populations and migrant farmworkers). It is expected that nine grants will be awarded in this category: three for projects in metropolitan areas; three for projects in multicounty rural areas; and three for projects carried out by and for minority populations.

2. For *Child Protection Agency Management of Parental Self-Referrals*—Only public agencies with legally mandated responsibility for providing child protective services may apply for this category of grants. It is expected that five grants will be awarded, and consideration will be given to awarding grants so as to provide for geographic and demographic diversity.

3. For *Child Sexual Abuse Treatment Training Institute Pilot Program*—Only public or nonprofit private agencies or organizations with already existing, on-going child sexual abuse treatment programs may apply for a grant under this category. It is expected that one grant will be awarded in this category.

Available Funds

The Administration for Children, Youth and Families expects to award $1,000,000 in Fiscal Year 1979 (of the $18,928,000 appropriated by Congress) for new grants for this demonstration program. A new grant is the initial grant made in support of a project for this program.

Grants for Community Action To Prevent Child Abuse and Neglect demonstration projects will be made for amounts not to exceed $85,000 each. Projects will be supported for three and one-quarter years. The initial grant sustains the Federal share of the budget for the first 15 months of the project. Annual support for the additional time remaining in the project period depends on funds available and the grantee's satisfactory performance of the project for which the grant was awarded.

Grants for Child Protection Agency Management of Parent Self-Referrals demonstration projects will be made for amounts not to exceed $50,000 each. Projects will be supported for two and one-quarter years. The initial grant sustains the Federal share of the budget for the first 15 months of the project. Support for the additional time remaining in the project period depends upon funds available and the grantee's satisfactory performance of the project for which the grant was awarded.

A grant for the Child Sexual Abuse Treatment Training Institute Pilot Program will be made for an amount not to exceed $175,000. The project will be supported up to three and one-quarter years. The initial grant sustains the Federal share of the budget for the first 15 months of the project. Annual support for the additional time remaining in the project may be increased to an amount not to exceed $300,000, depending on funds available and the grantt's satisfactory performance of the project for which the grant was awarded.

Grantee Share of the Project

Grantees are not required to provide a share of the budget for this grants program.

The Application Process

Availability of Forms

Application for a grant under the Demonstration Projects for Child Abuse and Neglect Program must be submitted on standard forms provided for this purpose. Application kits which include the forms and Program Guidance materials which should be used in preparing the program narrative sections of the applications may be obtained by writing to:

National Center on Child Abuse and Neglect, Attention: Grants Administrative Assistant, Children's Bureau/ACYF, P.O. Box 1182, Washington, D.C. 20013, Telephone: (202) 755-0587.

Application Submission

One signed original and two copies of the grant application, including all attachments, must be submitted to the address provided below under "Closing Dates for Receipt of Applications."

A-95 Notification Process

The Demonstration Projects for Child Abuse and Neglect Program is covered under the provisions of OMB Circular A-95. Applicants for grants must, prior to submission of an application, notify *both* the State and Areawide A-95 Clearinghouse of their intent to apply for Federal Assistance for this program.

If the application is for a Statewide project which does not affect areawide or local planning and programs, only the State Clearinghouse need by notified. Applicants should contact the appropriate State Clearinghouse (listed in 42 FR 2210, January 10, 1977) for information on how they can meet the A-95 requirements.

Application Consideration

The Commissioner for Children, Youth and Families determines the final action to be taken with respect to each grant application for this program. Applications which are complete and conform to the requirements of this program announcement are subjected to a competitive review and evaluation by qualified persons independent of the Administration for Children, Youth and Families.

The results of the review assist the Commissioner in considering competing applications. The Commissioner's consideration also takes into account comments of HEW Regional and Headquarters program office staff.

Comments may also be requested from appropriate specialists and consultants inside and outside the Federal government. To the extent possible, the Commissioner's final decisions reflect the mandate of the Child Abuse Prevention and Treatment Act of 1974, as amended, "to achieve equitable distribution of assistance * * * among the States, among geographic areas of the Nation, and among rural and urban areas." (Section 4(d))

After the Commissioner has reached a decision either to disapprove or not to fund a competing grant application, unsuccessful applicants are notified in writing of this decision. Successful applicants are notified through the issuance of a Notice of Grant Awarded which sets forth the amount of funds granted, the terms and conditions of the grant, the budget period for which support is given, the total grantee share expected, and the total period for which project support is contemplated.

Criteria for Review and Evaluation of Applications

Competing grant applications will be reviewed and evaluated against the following criteria:

1. The applicant organization is capable of carrying out the proposed project, including provision of adequate resources and facilities (5 points)

2. The applicant's presentation of the project's objectives and the results or benefits expected demonstrate a clear understanding of the purpose of the research program (10 points)

3. The applicant's program narrative describes a work program which is comprehensive, clear, and feasible and has the potential for attaining the project's objectives. (This criterion relates to the applicant's detailed work plan, scheduling of activities, plans for collaboration, agreements to provide regular reports, and utilization and dissemination plans) (50 points)

4. The applicant's proposed staff are capable of carrying out the proposed work plan (20 points)

5. The applicant's budget contains estimated costs to the Government which are reasonable considering the anticipated benefits (15 points)

Clos'ng Dates for Receipt of Applications

The closing date for the receipt of applications under this Program Announcement is August 6, 1979.

Applications may be mailed or hand delivered. Hand delivered applications will be accepted during regular working hours of 9:00 a.m. to 5:00 p.m. Hand-delivered applications must be taken to Room 341F-1, Hubert H. Humphrey Building, 200 Independence Avenue, S.W., Washington, D.C.

Mailed applications will be considered to be received on time if the application is sent by registered or certified mail not later than the closing date, as evidenced by the U.S. Postal Service postmark on the wrapper or envelope or on the original receipt from the U.S. Postal Service; or the application if received on or before the closing date by the DHEW mail room in Washington, D.C. Mailed applications must be addressed to:

Department of Health, Education, and Welfare, Office of Human Development Services/Humphrey Building, Grants Management Branch—Room 341F-1, 200 Independence Avenue, S.W., Washington, D.C. 20201, 13628-793.

Applications may be submitted at any time previous to the closing dates, and applications received after the closing dates will be returned to the senders without being reviewed.

(Catalog of Federal Domestic Assistance Program Number: 13.628, Child Development-Child Abuse and Neglect Prevention and Treatment)

Dated: May 17, 1979.

Blandina C. Rameriz,

Commissioner for Children, Youth and Families.

Approved: May 18, 1979.

Arabella Martinez,

Assistant Secretary for Human Development Services.

[FR Doc. 79-16070 Filed 5-22-79; 8:45]

BILLING CODE 4110-92-M

[Program Announcement No. 13636-791]

Research and Development Projects in Aging

AGENCY: Office of Human Development Services, DHEW.

SUBJECT: Announcement of Availability of Grant Funds for the Research and Development Projects in Aging Program.

SUMMARY: The Administration on Aging (AoA) announces that applications are being accepted for grants under title IV, Part B of the Older Americans Act of 1965, as amended, for the Research and Development Projects in Aging Program.

DATES: The closing dates for receipt of applications are July 27, 1979 and November 1, 1979.

Scope of This Program Announcement

This program announcement identifies the general program objectives and the funding priorities of the Research and Development Projects in Aging Program for Fiscal Year 1979 and the first half of Fiscal Year 1980. Additional funding priorities will be announced later for the remainder of Fiscal Year 1980.

Program Purpose

The Research and Development Projects in Aging Program is the foundation of AoA knowledge building efforts. The purpose of this program is to award grants which will contribute to the well-being of the elderly by: (1) Identifying and studing current patterns and factors that affect the lives of older persons; and (2) developing, demonstrating, and evaluating approaches and methods for improving the life circumstances of older persons. This program gives particular attention to the needs of the very old and impaired whose problems are aggravated by social isolation, low income, rural residence, and minority status.

Program Objectives

The Research and Development Program authorized in title IV-B of the Older Americans Act is primarily intended to build knowledge in support of three (3) objectives. They are: (1) Understanding the needs and conditions of older persons; (2) developing or modifying public and private policies to improve the life circumstances of older persons; and (3) developing and implementing comprehensive and coordinated community based service systems. AoA has divided each of these three objectives into Strategy Areas. These Strategy Areas are topical categories for which more information is needed. They are designed to organize knowledge building efforts relevant to accomplishing the objective. AoA has identified three (3) Strategy Areas relevant to the objective of understanding needs and conditions, four (4) Strategy Areas relevant to the objective of developing or modifying public and private policies, and two (2) Strategy Areas relevant to the objective of developing community based service systems. AoA intends to award grants pursuant to this notice to projects addressing questions in these Strategy Areas as well as to specified special projects which are relevant to more than one of the problem objectives.

Funding Priorities and Strategy Areas

In each of the Strategy Areas, AoA has identified researchable questions delineating topics about which AoA believes that more knowledge should be generated. These researchable questions are the AoA funding priorities for each Strategy Area. In addition, AoA has

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identified certain special projects which are relevant to more than one Strategy Area. The researchable questions and specified special projects are described in a Guidelines document which is included in the application kit and can be obtained from AoA as described below. *The Guidelines document also states which closing date applies to each researchable question or special project.*

An applicant may submit an application addressing a researchable question not specified by AoA which the researcher considers as important or more important than the researchable questions specified. Such applications may include, among others, the further development or utilization of research currently or previously supported by AoA. As long as such applications fall within one or more of the nine (9) Strategy Areas, they made be submitted. In such cases, the applicant must demonstrate convincingly that the proposed research will be equally or more significant and policy relevant than research responsive to the researchable questions within the Strategy Area(s) to which the proposed research pertains.

AoA will consider funding not more than five projects which have an international component and which address researchable questions within the framework of the Strategy Areas. Such applications shall address researchable questions in terms of comparisons between the conditions of the elderly, policies, programs and service delivery systems in the United States and other countries.

In order to insure the maximum usefulness of research funded under this Program, AoA seeks applications of national scope. Applications addressing a question in terms of a particular community are unlikely to be funded. Applicants may present arguments for less-than-national scale research based on such consideration as:

That valid national generalizations could be drawn from research proposed on a smaller scale;

That the proposal calls for study of a prototype suitable for national dissemination;

That a unique but nationally significant situation is proposed for study; or

Where it is not feasible because of cost or other technical problems to conduct the proposed research on a national scale.

A brief description of the content of each Strategy Area and of the Special Projects is set forth below. Following each is listed the number of grants and the range of the amounts of the awards that AoA expects to fund in Fiscal Year 1979 and the first half of Fiscal Year. 1980. These figures include awards for applications which address researchable questions not specified in the Guidelines.

Objective I: Understanding the Needs and Conditions of Older Persons

Strategy Area A: Characteristics, Needs and Resources

This Strategy Area is concerned with research related to the characteristics, needs, and resources of older people. This includes not only the elderly as a group, but also specific subgroups, such as minority and rural elderly.

Expected number of awards in FY'79: 5 grants, ranging between $125,000 and $250,000 each; in FY'80: 4 grants, ranging between $85,000 and $175,000 each.

Strategy Area B: Family, Neighborhood and Community

This Strategy Area is concerned with research related to the informal support system of older persons. This includes knowledge about the experiences of families, religious, civic, neighborhood and community organizations providing services to the elderly.

Expected number of awards in FY'79: 4 grants, ranging between $150,000 and $225,000 each; in FY'80: 4 grants, ranging between $90,000 and $150,000 each.

Strategy Area C: Societal Conditions

This Strategy Area is concerned with research related to social conditions which impact on the elderly, such as migratory and age distribution trends, and social political attitudes toward old age.

Expected number of awards in FY'79: 2 grants, each of approximately $150,000; in FY'80: 2 grants, each of approximately $150,000.

Objective II.—Developing or Modifying Public and Private Policies To Improve the Life Circumstances of Older Persons.

Strategy Area D: Economics of Aging: Employment, Retirement and Income

This Strategy Area is concerned with research relevant to policy issues related to employment opportunities for older persons, retirement, and the income of elderly people, including those within and outside of the labor force.

Expected number of awards in FY'79: 5 grants, ranging between $100,000 and $175,000 each; in FY'80: 4 grants, ranging between $75,000 and $125,000 each.

Strategy Area E: Continuing Opportunities: Work, Education and Leisure

This Strategy Area is concerned with research relating to the development of new roles for older persons through participation in work, community and other activities which utilize their experience as a significant social resource and provide continuing opportunities for older persons to lead productive and meaningful lives.

Expected number of awards in FY'79: 2 grants, ranging between $90,000 and $150,000 each; in FY'80: 1 grant of approximately $150,000.

Strategy Area F: Living Arrangements: Housing and Environments

This Strategy Area is concerned with research relevant to policy issues related to housing of the elderly. This includes knowledge about the types of housing units best suited to the needs and preferences of older people, the services required in different housing environments, and the role of the private sector and government in meeting current and projected needs of the elderly renters and home owners.

Expected number of awards in FY'79: 6 grants, ranging between $150,000 and $200,000 each; in FY'80: 2 grants, ranging between $150,000 and $175,000 each.

Strategy Area G: Health Care and Social Services

This Strategy Area is concerned with research relevant to policy issues related to the health of and health care for the elderly, and the allocation of services to older persons. This includes knowledge about the need for and use of health care and social services by the elderly, the adequacy and effects of various methods of paying for services, the targeting of resources on elderly subgroups, and policies affecting the coordination of health and social services.

Expected number of awards in FY'79: 2 grants, ranging between $150,000 and $500,000 each; in FY'80: 3 grants, ranging between $125,000 and $150,000 each.

Objective III: Developing and Implementing Comprehensive and Coordinated Community Based Service Systems

Strategy Area H: Services With an Emphasis on the Vulnerable Elderly

This Strategy Area is concerned with research related to services with an emphasis on the needs of the vulnerable elderly. This includes knowledge about the development of continuum of care systems ranging from services in the home to institutional care, improving and implementing specific services, and identifying and delivering services to the vulnerable elderly.

Expected number of awards in FY'79: 7 grants, ranging between $125,000 and $190,000 each; in FY'80: 10 grants ranging between $90,000 and $125,000 each.

Strategy Area I: The Aging Network

This Strategy Area is concerned with research related to the activities of State and Area Agencies on Aging and their involvement with the services system. This includes knowledge about the organization, coordination, and delivery of various services to the elderly under the auspices of Area Agencies and other community organizations.

Expected number of awards in FY'79: 7 grants, ranging between $75,000 and $150,000; in FY'80: 5 grants, ranging between $100,000 and $200,000 each.

Special Projects

1. *Assessment of Demonstration Results.* This Special Project is concerned with the development of practical knowledge for policy-makers, researchers and program administrators by assessments of a group or groups of current and recently completed projects which address the same or similar issues, problems, services, service systems, or population groups.

Expected number of awards in FY'79: 2 grants of approximately $125,000 each; in FY'80: 2 grants of approximately $125,000 each.

2. *Codification of Research on the Minority Elderly.* This Special Project is concerned with the codification of research results on minority older people in order to suggest methods to improve the quality, effectiveness, and utilization of services, both formal and informal.

Expected number of awards in FY'79: None; in FY'80: one grant of approximately $150,000.

3. *Technology Transfer.* This Special Project is concerned with the identification and application of technological modifications to improve the quality of life for physically impaired and aged persons living in the community and in institutions.

Expected number of awards in FY'79: None; in FY'80: one grant of approximately $125,000.

4. *Small Grants Program.* The Small Grants Program will fund research projects falling within one or more of the Strategy Areas. However, no researchable questions are specified by AoA for this program. Applicants may propose projects such as state of the art papers, case studies, pilot projects, and data collection and/or analysis projects of limited scope.

Applications under the Small Grants Program must propose a principal investigator who currently holds a doctoral degree or equivalent research experience and has never been a principal investigator or project director on a funded research project (grant or contract) of more than $25,000 in direct costs. Small Grants Program funds may not be used to support doctoral dissertations, Masters theses, or other requirements of a degree program. Also these funds may not be used to supplement research projects currently being supported by AoA or other sources, or which are being proposed for support by AoA or other sources.

Minority participation in this program is strongly encouraged. AoA hopes to award at least one half of these small grants for projects where the principal investigator is a member of one of the following four minority groups: Black, Hispanic, Asian, and American Indian.

AoA also encourages the submission of applications by institutions which generally do not support large scale research activities. These include four year teaching-oriented colleges, community colleges, and junior colleges.

The Small Grants Program will fund projects of up to $24,000 each in direct costs plus indirect costs. Expected number of awards in FY'79: 25 grants for a total of $600,000; in FY'80 None.

5. *Gerontological Research Institute.* AoA expects to fund one project for a Gerontological Research Institute. This institute will carry out a research program which will cut across all the Strategy Areas. It is intended to be a resource for development of knowledge in aging. The Gerontological Research Institute will review the state of knowledge in these areas, promote utilization of proven knowledge, and carry out research to fill the gaps in existing knowledge.

Expected number of awards: in FY'79: one grant of approximately $250,000; in FY'80: none.

Eligible Applicants

Any public or private nonprofit agency or organization may apply for a grant under this announcement.

Available Funds

The Administration on Aging expects to award $5.0 million (of the $8.5 million appropriated by Congress for Fiscal Year 1979) for new and competing continuation grants for this research and development program. It is also anticipated that $3.2 million will be available for new and competing continuation grants during the first half of Fiscal Year 1980.

A new grant is the initial grant made in support of a project for this program. A competing continuation grant is the grant awarded to continue a project beyond the project period for which the initial grant was made. It is awarded on the basis of successful competition against all other applicants for new and competing continuation grants.

The initial grant sustains the Federal share of the budget for the first budget period of the project. Support for any additional time remaining in the project depends on the availability of funds and the grantee's satisfactory performance of the project for which the grant was awarded.

In response to the Fiscal Year 1978 announcement, 225 applications for grants in the Research and Development Projects in Aging Program were accepted for review and evaluation. About $3.8 million was awarded to 37 grantees.

Grantee Share of the Project

Grantees must provide at least five (5) percent of the total cost of a Research and Development Projects in Aging Program grant. The grantee share may be cash or in-kind and must be project related and allowable under the Department's applicable regulations under Subparts G and Q in 45 CFR Part 74 (see 43 FR 34076, August 2, 1978).

The Application Process

Availability of Forms and Guidelines

Additional information about this program including the priority researchable questions and the application forms are contained in a Guidelines document which may be obtained by contacting: Division of Research (Guidelines), Administration on Aging, OHDS, DHEW North Building, Room 4644, 330 Independence Avenue, SW., Washington, D.C. 20201, 202/245–0004.

Application Submission

A signed original and five copies of the completed application should be submitted to: Receiving Office/Division of Grants and Contracts Management, Office of Human Development Services/DHEW, 341–F.2 Hubert H. Humphrey Building, 200 Independence Avenue, SW., Washington, D.C. 20201, Attention: AoA IV–B 13636–791.

Two additional copies of the application are to be submitted concurrently to the State Agency on Aging and one additional copy is to be

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submitted to the appropriate Regional AoA Office. The Guidelines document contains the addresses of the State Agencies on Aging, the Regional AoA Offices, and a list of which states fall within each Federal Region.

A–95 Notification Process

The Research and Development Projects in Aging Program is exempt from the provision of OMB Circular A–95.

Application Consideration

The Commissioner on Aging will make the final decision on each grant application for this program. Applications which are complete and conform to the requirements of this program announcement will be considered. All conforming grant applications are subjected to a comprehensive review and evaluation by qualified reviewers who are not employees of the Administration on Aging. Conforming applications for projects addressing researchable questions or specified special projects compete against all applications within the same Strategy Area and researchable question (or special project). These applications are ranked by the reviewers within each researchable question or special project. They may also be ranked by Strategy Area. Applications addressing additional researchable questions not specified in the Guidelines will be ranked within each Strategy Area.

The Commissioner will take into account the recommendations of the outside reviewers, the comments of the State Agencies on Aging and the Regional AoA Offices, and the recommendations of AoA staff. Comments on the applications may also be requested from appropriate specialists and consultants inside and outside of government. The Commissioner will endeavor to balance awards amont the various Strategy Areas. The Commissioner will also take into account the AoA objective to increase paritication of minority groups in the AoA program and to build additional knowledge about minority older persons.

Unsuccessful applicants will be notified in writing. Successful applicants will be notified through the issuance of a Notice of Grant Awarded. This notice sets forth the amount of funds granted, the purpose of the grant, the terms and conditions of the grant award, the total grantee participation for the budget period, the effective date of the award, and the budget period for which support is given.

Special Consideration for Funding

AoA particularly encourages and the Commissioner on Aging will give special consideration to applications submitted by eligible applicants for projects to be conducted by minority researchers within the framework of the priorities for research identified herein. This preference applies with reference to the following four minority groups: Black, Hispanic, Asian-American, and American Indian.

Criteria for Review and Evaluation of Applications

(1) *Reasonable Questions and Special Projects* (Other than Small Grants and Gerontological Research Institute). The following criteria will be used to evaluate the applications for grants addressing researchable questions and specificied special projects competing under this announcement except for the Small Grants Program and the Gerontological Research Institute. Two (2) different minimal scores of acceptability have been established for this type of grant application. First, with respect to Part A of Criterion I, "Program and Policy Relevance," applications must receive a score of at least 13 points out of a possible 20 points. Second, applications must receive an overall score of 60 points out of a possible 100 points. Only those applications which meet both minimal levels will be considered acceptable and ranked by score as a basis for funding decisions by the Commissioner on Aging.

Criterion I Program and Policy Relevance (30 points)

That the proposed project will make a significant contribution to building knowlede immediately relevant to the formulation or implementation fo policy, specifically:

(A) That the proposed project adequately responds to a researchable question as set forth in the AoA FY 1979 Research Program Guidelines. Any application which does not address one of these reasonable questions must demonstrate convicingly that the proposed research will be equally or more significant, as well as equally or more policy relevant as research responsive to the specified researchable questions within the Strategy Area(s) (20 points); and

(B) That the proposed addresses, to the extent feasible, significant problems and issues of the following target groups:

1. Minority older persons (5 points),

2. rural elderly and/or other underserved older persons (5 points).

Criterion II Technical Approach (Research Design or Other Scope of Work) (35 points)

That the proposed technical approach, if well executed is capable of achieving the objectives of the project; specifically:

(A) That the application clearly defines the problems to be studied, adequately reviews the relevant literature on this subject, and formulates an appropriate conceptual framework (10 points);

(B) That the application clearly specifies appropriate hypotheses and variables (5 points); and

(C) That the application clearly describes a suitable, scientifically sound plan for sampling, measurement, data collection, and analysis (20 points).

(Applications which do not involve hypothesis testing and data collection and/or analysis—will be evaluated as to whether the proposed technical approach, if well executed, is capable of achieving the objectives of the project (35 points).)

Criterion III Project Implementation Plan (15 points)

(A) That the application specifies a sound plan for task accomplishment over the proposed project period and staff loadings by task (10 points); and

(B) That the application contains a suitable plan for dissemination and utilization of its projected findings which conretely specifies who will disseminate what, to whom, for what purpose, and how the informaiton so disseminated is expected to be used (5 points).

Criterion IV Staffing and Management (15 points)

(A) That the proposed project staff are well qualified to carry out the project (5 points);

(B) That the assignment of responsibilities is appropriate to carrying out project tasks, including sufficient time of senior staff to assure adequate management of the project (5 points); and

(C) That the applicant organization has adequate facilities, resources, and experience to carry out the tasks of the proposed project (5 points).

Criterion V Budget Appropriateness and Reasonableness (5 points)

That the proposed budget is commensurate with the level of effort needed to accomplish the project objectives, and that the cost of the project is reasonable in relation to the value of the anticipated results (5 points).

(2) *Small Grants Program.* The following criteria will be used to evaluate applications under the Small Grants Program. Applications must receive an overall score of 60 points out of the possible 100 points. Only those applications which meet this minimal score will be considered acceptable and ranked by score as a basis for funding decisions by the Commissioner on Aging.

Criterion I Program and Policy Relevance (25 points)

That the proposed project will make a significant contribution to knowledge relevant to programs and policies for the aging in one or more of the Strategy Areas identified in the 1979 AoA Research Program Guidelines.

Criterion II Definition of Problem/ Review of Literature (10 points)

That the proposed project clearly defines the problems to be studied and adequately reviews the relevant literature on the subject.

Criterion III Soundness of Methodology (35 points)

That the proposed methodology, including formulation of specific hypotheses, operational definition of variables, design of data collection and analysis procedures, is sound and appropriate for use in the project.

Criterion IV Feasibility (15 points)

That the proposed project is feasible and can be successfully completed on the basis of the plan of work submitted.

Criterion V Qualifications (10 points)

That the proposed principal investigator is well qualified by reason of academic training and experience to undertake the activities proposed in the application.

Criterion VI Budget (5 points)

That the proposed budget is reasonable in relation to the value of the anticipated results.

(3) *Gerontological Research Institute.* The following criteria will be used to evaluate the grant applications for the Gerontological Research Institute. Applications must receive an overall score of 75 points out of a possible 100 points. Only those applications which meet this score will be considered acceptable and ranked by score as a basis for funding decisions by the Commissioner on Aging.

Criterion I Program and Policy Relevance (15 points)

That the proposed institute will make a significant contribution to building and utilizing knowledge immediately relevant to the formulation or implementation of policy, specifically:

(A) That the proposed institute program adequately addresses policy and program issues in support of efforts to improve the life circumstances of older persons (5 points);

(B) That the proposed institute will address significant problems and issues of the following target groups:

1. Minority elderly (5 points),

2. Rural elderly and/or other underserved older persons (5 points).

Criterion II Technical Approach (40 points)

That the proposed technical and organizational approach, if well executed, is feasible and sufficiently flexible to achieve the long term objectives of the project; specifically:

(A) That the application clearly specifies an organizational structure which is sufficiently flexible to meet the requirements for the conduct, assessment and utilization of research on issues related to aging (25 points);

(B) That the application clearly describes a suitable technical approach for increasing the utilization of research findings and for the development of research agendas based upon the status of and need for research on issues related to aging (15 points).

Criterion III Project Implementation plan (15 points)

That the application specifies a sound plan for task accomplishment over the proposed project period and staff loadings by task.

Criterion IV Staffing and Management (25 Points)

(A) That the proposed principal investigator is well qualified to manage the institute (5 points);

(B) That the proposed staff are well qualified to carry out the functions of the institute (5 points);

(C) That the assignment of responsibilities is appropriate to carry out project tasks, including sufficient time of senior staff to assure adequate management of the project (10 points);

(D) That the applicant organization has adequate facilities, resources, and experience to carry out the tasks of the proposed project (5 points).

Criterion V Budget Appropriateness and Reasonableness (5 points)

That the proposed budget is commensurate with the level of effort needed to implement the institute program, and that the cost of the project is reasonable in relation to the value of the anticipated results.

Closing Dates for Receipt of Applications

The closing date for projects to be funded in Fiscal Year 1979 is July 27, 1979. The closing date for projects to be funded in Fiscal Year 1980 is November 1, 1979.

Applications may be mailed or hand delivered to the receiving office as described above under Application Submission. Hand delivered applications are accepted during normal working hours of 9:00 a.m. to 5:30 p.m.

An application will be considered to have arrived by the closing date if the application is at the OHDS Receiving Office on or before the closing date. An application will also be considered to have arrived by the closing date if it has been sent by registered mail and post marked on or before the closing date as evidenced by the U.S. Postal Service postmark on the wrapper or envelope or by an original receipt from the U.S. Postal Service.

Late applications are not accepted and applicants are notified accordingly.

(Catalog of Federal Domestic Assistance Program Number 13.636, Programs for the Aging: Research and Development Projects)

Dated: May 16, 1979.

Robert Benedict,

Commissioner on Aging.

Approved: May 18, 1979.

Arabella Martinez,

Assistant Secretary for Human Development Services.

[FR Doc. 79–16176 Filed 5–22–79; 8:45 am]

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[Program Announcement No. 13628–792]

Research Projects for Child Abuse and Neglect Program

AGENCY: Office of Human Development Services, DHEW.

SUBJECT: Announcement of Availability of Grant Funds for the Research Projects for the Child Abuse and Neglect Program.

SUMMARY: The Administration for Children, Youth and Families (ACYF) announces that applications are being accepted for research grants for Fiscal Years 1979 and/or 1980 under The Child Abuse Prevention and Treatment Act of

1974, as amended. Regulations governing this program are published in the Code of Federal Regulations in 45 CFR Part 1340.

DATES: Closing dates for receipt of applications are: For Collaborative Research on Community Action to Prevent Child Abuse and Neglect and Collaborative Research on Child Protection Agency Management of Parental Self-Referrals July 23, 1979. For Research on the Needs and Resources for Child Protection in Residential Institutions—October 15, 1979

Scope of This Announcement

This Program announcement is one of two for the Child Abuse and Neglect Research, Demonstration and Service-Improvement Grants Program in Fiscal Year 1979 and 1980. This grants program was identified under the Child Abuse and Neglect Research, Demonstration and Service Improvement priority statement published in the Federal Register, March 9, 1979.

Program Purpose

The purpose of the Research Projects for the Child Abuse and Neglect Program is to generate knowledge which will aid in efforts to prevent and treat child abuse and neglect.

Program Objectives

Applications are solicited for projects which reflect the following program objectives:

1. For Collaborative Research on Community Action to Prevent Child Abuse—

• To develop appropriate methodologies for assessing the implementation processes, costs and benefits of alternative approaches to the prevention of child abuse and neglect.

• To use the developed methodologies to assess the implementation processes, costs and benefits of the alternative prevention approaches of the Demonstration Community and Minority Group Action to Prevent Child Abuse and Neglect projects. (See Program Announcement 13628–793)

2. For Collaborative Research on Child Protection Agency Management of Parental Self-Referrals—

• To develop appropriate methodologies for assessing the implementation processes, costs and benefits of alternative approaches to the management of parental self-referrals by public child protection agencies.

• To use the developed methodologies to assess the implementation processes, costs and benefits of the alternative approaches of the Demonstration Child Protection Agency Management of Parental Self-Referrals projects. (See Program Announcement 13628–793)

3. For Research on the Needs and Resources for Child Protection in Residential Institutions—

• To generate additional knowledge about the nature, causes, effects and promising preventive, treatment and child protective approaches to the abuse and neglect of children in residential institutions.

• To generate knowledge about the scope and severity of child maltreatment in residential institutions.

• To identify and define appropriate alternative approaches for protecting children in residential institutions against abuse or neglect.

• To identify and develop definitions of institution-related protective service requirements.

• To identify and develop model approaches and recommended policies, protocols, procedures and materials that can be used by States in implementing ongoing systems to provide child protection in residential institutions.

Eligible Applicants

Any public or nonprofit private agency or organization (including institutions of higher learning) may apply for a grant under this announcement.

Available Funds

The Administration for Children, Youth and Families expects to award $200,000 in Fiscal Year 1979 and $225,000 in Fiscal Year 1980 (of the $18,928,000 appropriated by Congress in Fiscal Year 1979 and the $18,928,000 requested in the Budget for Fiscal Year 1980) for new grants for this research program. A new grant is the initial grant made in support of a project for this program.

It is expected that one grant will be awarded for the Collaborative Research on Community Action to Prevent Child Abuse and Neglect, one grant will be awarded for the Collaborative Research on Child Protection Agency Management of Parental Self-Referrals, and three grants will be awarded for Research on the Needs and Resources for Child Protection in Residential Institutions.

The grants for Collaborative Research on Community Action to Prevent Child Abuse and Neglect and Collaborative Research on Child Protection Agency Management of Parental Self-Referrals will be awarded for amounts not to exceed $100,000 each. Collaborative Research on Community Action to Prevent Child Abuse and Neglect will be supported for total project periods of three and one-quarter years. Collaborative Research on Child Protection Agency Management of Self-Referrals will be supported for total project periods of two and one-quarter years. The initial grant sustains the Federal share of the budget for the first 15 months of the project. Support for the additional time remaining in the project periods depends upon funds available and the grantee's satisfactory performance of the project for which the grant was awarded.

The grants for Research on the Needs and Resources for Child Protection in Residential Institutions will be awarded for amounts between $50,000 and $100,000, with the average award expected to be $75,000. Projects will be supported for periods of one to three years. The initial grant sustains the Federal share of the budget for the first year of the project. Support for any additional time remaining in the project period depends on funds available and the grantee's satisfactory performance of the project for which the grant was awarded.

Grantee Share of the Project

Grantees must provide at least five percent of the total cost of a Research Project for the Child Abuse and Neglect Program. The grantee share may be cash or in-kind. It must be project-related and allowable under the Department's applicable regulations under Subparts G and Q in 45 CFR Part 74 (See 43 CFR 34076, August 2, 1978).

The Application Process

Availability of Forms

Application for a grant under the research Projects for Child Abuse and Neglect Program must be submitted on standard forms provided for this purpose. Application kits which include the forms and Program Guidance materials which should be used in preparing the program narrative sections of the applications may be obtained by writing to: National Center on Child Abuse and Neglect, Attention: Grants Administrative Assistant, Children's Bureau/ACYF, P.O. Box 1182, Washington, D.C. 20013, Telephone (202) 755–0587.

Application Submission

One signed original and two copies of the grant application, including all attachments, must be submitted to the address provided below under "Closing Dates for Receipt of Applications."

Application Consideration

The Commissioner for Children, Youth and Families determines the final action to be taken with respect to each grant application which are complete and conform to the requirements of this program announcement are subjected to a competitive review and evaluation by qualified persons independent of the Administration for Children, Youth and Families.

The results of the review assist the Commissioner in considering competing applications. The Commissioner's consideration also takes into account comments of HEW Regional and Headquarters program office staff. Comments may also be requsted from appropriate specialists and consultants inside and outside the Federal government. To the extent possible, the Commissioner's final decisions reflect the mandate of the Child Abuse Prevention and Treatment Act of 1974, as amended, "to achieve equitable distribution of assistance * * * among the States, among geographic areas of the Nation, and among rural and urban areas." (Section 4(d))

After the Commissioner has reached a decision either to disapprove or not to fund a competing grant application, unsuccessful applicants are notified in writing of this decision. Successful applicants are notified through the issuance of a Notice of Grant Award which sets forth the amount of funds granted, the terms and conditions of the grant, the budget period for which support is given, the total grantee share expected, and the total period for which project support is contemplated.

Criteria for Review and Evaluation of Applications

Competing grant applications will be reviewed and evaluated against the following criteria:

1. The applicant organization is capable of carrying out the proposed project including provision of adequate resources and facilities (5 points)

2. The applicant's presentation of the project's objectives and the results or benefits expected demonstrate a clear understanding of the purpose of the research program (10 points)

3. The applicant's program narrative describes a work program which is comprehensive, clear, and feasible and has the potential for attaining the project's objectives (This criterion relates to the applicant's research design, scheduling of activities, plans for collaboration, agreements to provide regular reports, and utilization and dissemination plans) (50 points)

4. The applicant's proposed staff are capable of carrying out the proposed work plan (20 points)

5. The applicant's budget contains estimated costs to the Government which are reasonable considering the anticipated benefits (15 points)

Closing Dates for Receipt of Applications

The closing dates for receipt of applications under this Program Announcement are:

For the Collaborative Research on Community Action to Prevent Child Abuse and Neglect and the Collaborative Research on Child Protection Agency Management of Parental Self-Referrals—July 23, 1979.

For Research on the Needs and Resources for Child Protection in Residential Institutions—October 15, 1979.

Applications may be mailed or hand delivered. Hand delivered applications will be accepted during regular working hours of 9:00 a.m. to 5:30 p.m. Hand-delivered applications must be taken to Room 341F–4, Hubert H. Humphrey Building, 200 Independence Avenue, SW., Washington, D.C.

Mailed applications will be considered to be received on time if the application is sent by registered or certified mail not later than the closing date, as evidenced by the U.S. Postal Service postmark on the wrapper or envelope or on the original receipt from the U.S. Postal Service; or the application is received on or before the closing date by the DHEW mail room in Washington, D.C. Mailed applications must be addressed to Department of Health, Education, and Welfare, Office of Human Development Services/ Humphrey Building, Grants Management Branch, Room 341F–1, 200 Independence Avenue, S.W., Washington, D.C. 20201, 13628–792.

Applications may be submitted at any time previous to the closing dates, and applications received after the closing dates will be returned to the senders without being reviewed.

(Catalog of Federal Domestic Assistance Program Number: 13.628, Child Development—Child Abuse and Neglect Prevention and Treatment)

Dated: May 17, 1979.

Blandina C. Rameriz,

Commissioner for Children, Youth and Families.

Approved: May 18, 1979.

Arabella Martinez,

Assistant Secretary for Human Development Services.

[FR Doc. 79–16071 Filed 5–22–79; 8:45 am]

BILLING CODE 4110–92–M

Public Health Service

Adolescent Pregnancy Prevention and Services; Announcement of Competitive Grant Applications

The Office of Adolescent Pregnancy Programs announces that competitive applications for Adolescent Pregnancy Prevention and Services project grants will be accepted until July 9, 1979. This program was established by Title VI of Pub. L. 95–626 (42 U.S.C. 300a–21(a)).

Title VI authorizes project grants to public and nonprofit entities for support of projects that will provide comprehensive community services to assist in preventing unwanted pregnancies among adolescents and to assist pregnant adolescents and adolescent parents to obtain needed health, social, education, and other services.

Proposed regulations applicable to this program are set forth at Part 59 of Title 42, Code of Federal Regulations "Grants for Adolescent Pregnancy Prevention and Services Projects," published on March 12, 1979. It is anticipated that final regulations will be promulgated before grants are awarded in fiscal year 1979.

Scope of This Program Announcement

This program announcement identifies the general program objectives and funding priorities.

Program Purposes

To provide health, social, and educational services to pregnant adolescents and adolescent parents, and to provide specified core services to nonpregnant adolescents, as set forth in the program regulations (42 CFR Part 59).

Eligible Applicants

Any public or nonprofit private entity is eligible to apply for a grant under this announcement. Individuals are not eligible applicants. Applications with evidence of active support of the various community resources necessary to provide a comprehensive approach are encouraged.

Available Funds

A request for funds is currently pending before Congress for $7 million for fiscal year 1979. In the event an appropriation is not enacted for fiscal year 1979, formal applications will be either retained and reviewed competitively for possible funding in fiscal year 1980 or returned to the applicant organization if funds are not appropriated in fiscal year 1980. A grant award may not exceed 70 percent of the

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cost of a project for the first and second years. In each year succeeding the second year of the project, Federal support shall decrease by no less than 10 percent. Generally, grants will be approved for 5-year project periods but funded in annual increments (budget periods). Funding for all approved budget periods beyond the first year of the grant is contingent upon satisfactory performance and the availability of funds.

Program Objectives and Priorities for Funding

Regulations for the program mandate that priority will be given to applicants who:

1. Serve an area where there is a high incidence of adolescent pregnancy;
2. Serve an area where the incidence of low-income families is high and where the availability of pregnancy-related services is low;
3. Show evidence of having the ability to bring together a wide range of needed core and, as appropriate, supplemental services in comprehensive, single-site projects, or to establish a well-integrated network of such services (appropriate for the target population and geographic area to be served including the special needs of rural areas) for adolescents at risk of initial or repeat pregnancies;
4. Will utilize, to the maximum extent feasible, existing available programs and facilities such as neighborhood and primary health care centers, family planning clinics, children and youth centers, maternal and infant health centers, regional rural health facilities, school and other educational programs, mental health programs, nutrition programs, recreation programs, and other ongoing pregnancy prevention and pregnancy-related services;
5. Make use, to the maximum extent feasible, of other Federal, State, and local funds, programs, contributions, and other third-party reimbursements;
6. Can demonstrate a community commitment to the program by making available to the project non-Federal funds, personnel, and facilities; and
7. Have involved the community to be served, including public and private agencies, adolescents, and families, in the planning and implementation of the project.

The Application Process: A–95 Clearinghouse Notice

In compliance with the Department of Health, Education, and Welfare's implementation of Office of Management and Budget Circular A–95 Revised, applicants which request grant support must, prior to submission of an application, notify both the State and Areawide A–95 Clearinghouses of their intent to apply for Federal assistance. If the application is for a statewide project which does not affect areawide or local planning and programs, the notification need be sent only to the State Clearinghouse. The names and addresses of the pertinent clearinghouses may be obtained from the appropriate Regional office.

It is strongly recommended that the clearinghouse be notified at least sixty days before the submission deadline date for receipt of applications. The application should include the clearinghouse comments, or verification that no comments were made within the applicable period available to the clearinghouse for comment. Applications will not be formally review without clearinghouse comments.

Criteria for Review and Evaluation

Applications will be subject to a competitive review and evaluation in accordance with an objective review process against the criteria which are set forth in the program regulations (42 CFR Part 59). These regulations are included in the application kit. If, as a result of the review, a decision is made to disapprove a grant application, or if funds are not available to support all approved competing grant applications, the affected applicants will be notified.

Closing Date for Receipt of Applications

The closing date for receipt of applications under this program announcement is July 9, 1979. Applications may be mailed or hand delivered. Hand delivered applications are accepted during the usual working hours of 9:00 a.m. and 5:30 p.m.

An application will be considered to have arrived by the closing date if: (1) The application is in the Office of Adolescent Pregnancy Programs (see address below) on or before the announced closing date, or (2) the application is postmarked at least two (2) days prior to the announced closing date. Applications which are late, incomplete or otherwise do not conform to this announcement will not be accepted for review and applicants will be notified accordingly.

Availability of Application Forms

Application kits, including all necessary forms, instructions, and information may be obtained from, and completed applications should be returned to: Office of Adolescent Pregnancy Programs, Office of the Assistant Secretary for Health, HEW, Room 725H, 200 Independence Avenue, SW., Washington, D.C. 20201 (202–472–9093).

For additional information, write or telephone Dr. Lulu Mae Nix at the address and telephone number shown above.

Dated: May 14, 1979.

Charlie Miller,

Acting Assistant Secretary for Health.

[FR Doc. 79–16069 Filed 5–22–79; 8:45 am]

BILLING CODE 4110–85–M

Public Health Service, Health Resources Administration

Health Professions and Nursing Student Loans; "Low-Income Levels" for Loan Repayment, Start-Up Grants, Health Careers Opportunity Grants, Nursing Capitation Grants and Nursing Special Project Grants

This Notice updates the income levels that are used to define a "low income family" for purposes of repayment of educational loans and for the support of training for individuals from disadvantaged backgrounds as provided for under sections 787 and 798, Health Careers Opportunity Grants, section 788(a) Start-Up Assistance Grants, section 810 Nursing Capitation Grants and section 820 Nursing Special Project Grants of the Public Health Service Act.

Under sections 741(1) and 836(j) and the applicable program regulations, the Secretary of Health, Education, and Welfare may repay all or part of an individual's educational loan made after November 17, 1971, to meet the costs of attending a school of medicine, osteopathy, dentistry, veterinary medicine, optometry, pharmacy, podiatry, or nursing if the Secretary determines that the individual:

(1) Failed after November 17, 1971, to complete the health professions studies leading to the individual's first professional degree or to complete the specified nursing studies for which the loan(s) was made;

(2) Is in exceptionally needy circumstances;

(3) Is from a low-income or disadvantaged family; and

(4) Has not resumed or cannot reasonably be expected to resume the course of study within two years following the date the individual ended the studies.

Sections 57.214(c) and 57.317(c) of the applicable program regulations (42 CFR Part 57, Subparts C and D) require the Secretary to publish annually in the **Federal Register** the low-income levels which will be used in determining an applicant's eligibility for this repayment program. Aside from their use in determining whether an individual comes from a "low-income family," these income levels, together with other relevant factors such as value of assets, unusual expenses, income available to the individual, etc., are also considered in determining whether an individual is "in exceptionally needy circumstances" or is from a "disadvantaged family."

The income figures below were taken from low-income levels, published by the U.S. Bureau of Census, using an index adopted by a Federal Interagency Committee for use in a variety of Federal Programs, then multiplied by a factor of 1.3 for adaptation to the Health Professions and Nursing Student Loan Programs and other designated grant programs for which training for individuals from disadvantaged backgrounds is supported. The income figures have been updated to reflect increases in the Consumer Price Index through December 31, 1978.

Size of parents' family (includes only dependents listed on Federal income tax forms)	Income Level* (adjusted gross income for calendar year 1978)
1	$4,400
2	5,700
3	6,800
4	8,700
5	10,200
6 or more	11,500

* Rounded to $100

Dated: May 18, 1979.

Hery A. Foley, Ph.D.

Administrator, Health Resources Administration.

[FR Doc. 79–16068 Filed 5–22–79; 8:45 am]

BILLING CODE 4110–83–M

Health Resources Administration

Agenda Planning Subcommittee of the National Council on Health Planning and Development

In accordance with section 10(a)(2) of the Federal Advisory Committee Act (Pub. L. 92–463), announcement is made of the following National Advisory body scheduled to meet during the month of June 1979:

Agenda Planning Subcommittee of the National Council on Health Planning and Development

Date and Time: June 7, 1979, 10:30 a.m.—12:30 p.m.

Place: Conference Rooms 703A–705A, Hubert H. Humphrey Building, 200 Independence Avenue, SW., Washington, D.C. 20201, open for entire meeting.

Purpose: The objectives of the Agenda Planning Subcommittee are to (1) assist the Chairperson in planning the order and timing of agenda topics for full Council consideration and action to assure that the Secretary will receive advice and/or recommendations on each of its three areas of functional responsibilities under section 1503(a) in an appropriate time and manner; (2) coordinate information about and among subcommittee activities and plans; and (3) provide preliminary review of proposed changes in Council operations.

Agenda: The Subcommittee will plan the agenda for the July 13 meeting of the National Council on Health Planning and Development, including the time needed for Council to hear brief formal comments from the public on health planning matters of concern.

Any individuals or organizations wishing to make a presentation to the Council should submit a request in writing to Mrs. Sally Berger, Chairperson, National Council on Health Planning and Development, 180 N. LaSalle Street, Suite 1521, Chicago, Illinois 60601, by June 4, 1979.

Anyone requiring information regarding the subject Subcommittee should contact Mrs. S. Judy Silsbee, Executive Secretary, National Council on Health Planning and Development, Room 10–27, Center Building, 3700 East-West Highway, Hyattsville, Maryland, 20782. Telephone (301) 436–7175.

Agenda items are subject to change as priorities dictate.

Dated: May 17, 1979.

James A. Walsh,

Associate Administrator for Operations and Management.

[FR Doc. 79–16020 Filed 5–22–79; 8:45 am]

BILLING CODE 4110–83–M

Health Services Administration

Grants for Clinical Facilities for Coal Miners' Respiratory Impairments; Announcement of Availability of Grants

AGENCY: Health Services Administration, PHS, HEW

ACTION: Announcement of Availability of Grants.

SUMMARY: The Health Services Administration announces that applications are now being accepted for grants to support clinics for the examination and treatment of coal miners' breathing and lung impairments. The program is authorized by the Federal Mine Safety and Health Act of 1977.

DATES: Grant applications must be received at the appropriate Regional Office listed in this notice by July 1, 1979.

FOR FURTHER INFORMATION CONTACT: Director, Division of Health Services Delivery in the appropriate Regional Office at the number listed in this notice.

SUPPLEMENTARY INFORMATION: Under section 427(a) of the Federal Mine Safety and Health Act of 1977 (30 U.S.C. 937(a)), the Secretary is authorized to make grants to and enter into contracts with public and private entities to support clinical facilities for the analysis, examination and treatment of breathing and lung impairments in active and inactive coal miners. Approximately $7 million is available for funding these clinics.

This grant program was funded in 1974 under Section 427(a) of the Coal Mine Health and Safety Act of 1969 (now Section 427(a) of the Federal Mine Safety and Health Act of 1977). On July 2, 1974, the Department issued Part 55a of Title 42, Code of Federal Regulations, the regulations governing the award of these grants (39 FR 24363). The regulations provide, among other things, that grant awards may be made to any public or nonprofit agency which either (1) has received a grant from the Appalachian Regional Commission to carry out a miners' respiratory clinic program or (2) has been designated by the Governor is States with at least 3 percent of the Nation's population of active and inactive coal miners. The Department anticipates issuance soon of an amendment to the regulations to eliminate the 3 percent restriction.

The coal miners' respiratory treatment program was funded for fiscal year 1979 to assist in implementing the Black Lung Benefits Reform Act of 1977 (Pub. L. 95–239) which added a new section 435 to the Federal Mine Safety and Health Act of 1977. Section 435 requires that all claims for black lung benefits that have been denied be reviewed if review is requested by the claimant. The funds to provide grants for black lung clinics were authorized so that medical testing facilities would not be overloaded for fiscal year 1979 and subsequent years by medical examinations associated with the reconsideration of claims and so that there would be an available source of services for disabled miners. The Regional Offices will accept and consider grant applications filed by July 1, 1979, from applicants designated by the Governors in States in which there is evidence of (1) a significant number of active miners, (2) a significant number of black lung disability claims or beneficiaries, or (3) current State support of black lung clinics. Applications must also be submitted to

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Health Systems Agencies and to agencies established pursuant to OMB Circular a–95 for their review.

Although applications submitted by these applicants will be considered, no grant will be awarded to any agency in a State with less than 3 percent of active and inactive miners until the regulations are amended.

Information concerning the development of an application may be obtained from the Director, Division of Health Services Delivery at the appropriate Regional Office (listed below).

Dated: May 1, 1979.

John H. Kelso,

Acting Administrator, Health Services Administration.

Directors, Divisions of Health Services Delivery, DHEW/PHS Regional Offices

Director, Division of Health Services Delivery, DHEW Region I, John F. Kennedy Federal Building, Boston, Mass. 02203, 617–223–6898.

Director, Division of Health Services Delivery, DHEW Region II, 26 Federal Plaza, Room 3300, New York, New York 10007, 212–264–4622.

Director, Division of Health Services Delivery, DHEW Region III, P.O. Box 13716, Philadelhia, Pa. 19101, 215–596–6122.

Director, Division of Health Services Delivery, DHEW Region IV, 101 Marietta Towers, Suite 1202, Atlanta, Georgia 30323, 404–221–2571

Director, Division of Health Services Delivery, DHEW Region V, 300 South Wacker Drive, Chicago, Illinois 60606, 312–353–1720.

Director, Division of Health Services Delivery, DHEW Region VI, 1200 Main Tower Building, Dallas, Texas 75202, 214–767–3001.

Acting Director, Division of Health Services Delivery, DHEW Region VII, 601 East 12th Street, Kansas City, Mo. 64106, 816–374–3291.

Director, Division of Health Services Delivery, DHEW Region VIII, 1961 Stout Street, Denver, Colorado 80294, 303–837–2448.

Director, Division of Health Services Delivery, DHEW Region IX, 50 United Nations Plaza, Room 351, San Francisco, California 94102, 415–556–3610.

Director, Division of Health Services Delivery, DHEW Region X, 1321 Second Avenue, Seattle, Washington 98101, 206–442–0432.

April 1979.

[FR Doc. 79–16082 Filed 5–22–79; 8:45 am]

BILLING CODE 4110–84–M

Social Security Administration

Mental Health Projects for Indochinese Refugees; Availability of Funding

AGENCY: Office of Family Assistance, Social Security Administration, HEW.

ACTION: Notice of Availability of Funding; Correction.

SUMMARY: In FR Doc. 79–14712 appearing on page 27751 in the Federal Register of May 11, 1979, the deadline shown for applying for mental health project grants is being changed from June 25, 1979 to July 5, 1979.

FOR FURTHER INFORMATION CONTACT: Gerard R. Wynn, 202–472–2417.

DATE: Applications must be received by the Regional Commissioner, Social Security Administration, by 5:00 p.m. (local time) on July 5, 1979. No grant application will be accepted after that date.

(Catalog of Federal Domestic Assistance No. 13.814—Refuge Assistance—Indochinese Refugees, previously Catalog No. 13.769—Special Assistance to Refugees from Cambodia, Vietnam and Laos in the United States.)

Dated: May 18, 1979.

Stanford G. Ross,

Commissioner of Social Security.

[FR Doc. 79–16256 Filed 5–22–79; 8:45 am]

BILLING CODE 4110–07–M

DEPARTMENT OF THE INTERIOR

Bureau of Land Management

[M43529]

Montana; Application

May 14, 1979.

Notice is hereby given that pursuant to Section 28 of the Mineral Leasing Act of 1920, as amended (30 U.S.C. 185), the Juniper Petroleum Corporation filed an application for a right-of-way to construct two wellsite locations, a production battery site, and a 60-foot wide road-pipeline-power corridor for the purpose of production and transportation of oil and gas across the following described public lands:

Principal Meridian, Montana, Musselshell County

T. 8 N., R. 24 E.,
Sec. 1, Lots 3, 5, and 6.

The 4-inch pipeline will transport oil and gas from Well No. 12X–1, located in Lot 5 and Well No. 21X–1, located in Lot 6, within the road-pipeline-power corridor to Continental Pipeline Company's existing 6-inch oil and gas pipeline. The well production will require the construction of two wellsite locations, a production battery site, a buried powerline to supply electricity to the three sites, and a roadway for access to the facilities from an existing gravel road nearby.

The purpose of this notice is to inform the public that the Bureau will be proceeding with consideration of whether the application should be approved, and if so, under what terms and conditions.

Interested persons desiring to express their views on this matter should do so promptly. Persons submitting comments should include their name and address and send them to the District Manager, Bureau of Land Management, P. O. Drawer 1160, Lewiston, Montana 59457.

Roland F. Lee,

Chief, Branch of Lands and Minerals Operations.

[FR Doc. 79–16063 Filed 5–22–79; 8:45 am]

BILLING CODE 4310–84–M

[NM 36746 and 36747]

New Mexico; Applications

May 15, 1979.

Notice is hereby given that, pursuant to Section 28 of the Mineral Leasing Act of 1920 (30 U.S.C. 185), as amended by the Act of November 16, 1973 (87 Stat. 576), El Paso Natural Gas Company has applied for two 4½-inch natural gas pipeline rights-of-way across the following lands:

New Mexico Principal Meridian, New Mexico

T. 31 N., R. 9 W.,
Sec. 31, lots 15 and 18,
T. 30 N., R. 10 W.,
Sec. 3, lot 9.

These pipelines will convey natural gas across 0.482 of a mile of public lands in San Juan County, New Mexico.

The purpose of this notice is to inform the public that the Bureau will be proceeding with consideration of whether the applications should be approved, and if so, under what terms and conditions.

Interested persons desiring to express their views should promptly send their name and address to the District Manager, Bureau of Land Management, P.O. Box 6770, Albuquerque, New Mexico 87107.

Fred E. Padilla,

Chief, Branch of Lands and Minerals Operations.

[FR Doc. 79–16064 Filed 5–22–79; 8:45 am]

BILLING CODE 4310–84–M

[NM 36741]

New Mexico; Application

May 14, 1979.

Notice is hereby given that, pursuant to Section 28 of the Mineral Leasing Act of 1920 (30 U.S.C. 185), as amended by the Act of November 16, 1973 (87 Stat. 576), El Paso Natural Gas Company has applied for two 4½-inch natural gas pipelines right-of-way across the following land:

New Mexico Principal Meridian, New Mexico

T. 19 S., R. 34 E.,
Sec. 18, NW¼NE¼.

These pipelines will convey natural gas across 0.161 of a mile of public land in Lea County, New Mexico.

The purpose of this notice is to inform the public that the Bureau will be proceeding with consideration of whether the application should be approved, and if so, under what terms and conditions.

Interested persons desiring to express their views should promptly send their name and address to the District Manager, Bureau of Land Management, P.O. Box 1397, Roswell, New Mexico 88201.

Fred E. Padilla,

Chief, Branch of Lands and Minerals Operations.

[FR Doc. 79–16065 Filed 5–22–79; 8:45 am]

BILLING CODE 4310–84–M

[NM 36753 and 36757]

New Mexico; Applications

May 14, 1979.

Notice is hereby given that, pursuant to section 28 of the Mineral Leasing Act of 1920 (30 U.S.C. 185), as amended by the Act of November 16, 1973 (87 Stat. 576), El Paso Natural Gas Company has applied for two 4½-inch natural gas pipeline rights-of-way across the following lands:

New Mexico Principal Meridian, New Mexico

T. 27 N., R. 8 W.,
Sec. 9, SE¼NW¼.
T. 30 N., R. 11 W.,
Sec. 10, SW¼SE¼.

These pipelines will convey natural gas across 0.215 of a mile of public lands in San Juan County, New Mexico.

The purpose of this notice is to inform the public that the Bureau will be proceeding with consideration of whether the applications should be approved, and if so, under what terms and conditions.

Interested persons desiring to express their views should promptly send their name and address to the District Manager, Bureau of Land Management, P.O. Box 6770, Albuquerque, New Mexico 87107.

Fred E. Padilla,

Chief, Branch of Lands and Minerals Operations.

[FR Doc. 79–16066 Filed 5–22–79; 8:45 am]

BILLING CODE 4310–84–M

[NM 36752]

New Mexico; Application

May 14, 1979.

Notice is hereby given that, pursuant to Section 28 of the Mineral Leasing Act of 1920 (30 U.S.C. 185), as amended by the Act of November 16, 1973 (87 Stat. 576), Gas Company of New Mexico has applied for one 2-inch natural gas pipeline right-of-way across the following land:

New Mexico Principal Meridian, New Mexico

T. 24 N., R. 6 W.,
Sec. 18, NE¼SE¼.

This pipeline will convey natural gas across 0.03 of a mile of public land in San Juan County, New Mexico.

The purpose of this notice is to inform the public that the Bureau will be proceeding with consideration of whether the application should be approved, and if so, under what terms and conditions.

Interested persons desiring to express their views should promptly send their name and address to the District Manager, Bureau of Land Management, P. O. Box 6770, Albuquerque, New Mexico 87107.

Fred E. Padilla,

Chief, Branch of Lands and Minerals Operations.

[FR Doc. 79–16067 Filed 5–22–79; 8:45 am]

BILLING CODE 4310–84–M

[NM 36735]

New Mexico; Application

May 14, 1979

Notice is hereby given that, pursuant to Section 28 of the Mineral Leasing Act of 1920 (30 U.S.C 185), as amended by the Act of November 16, 1973 (87 Stat. 576), Natural Gas Pipeline Company of America has applied for one 4-inch natural gas pipeline right-of-way across the following land:

New Mexico Principal Meridian, New Mexico

T. 21 S., R. 28 E.,
Sec. 31, SW¼NE¼.

This pipeline will convey natural gas across 0.159 of a mile of public land in Eddy County, New Mexico.

The purpose of this notice is to inform the public that the Bureau will be proceeding with consideration of whether the application should be approved, and if so, under what terms and conditions.

Interested persons desiring to express their views should promptly send their name and address to the District Manager, Bureau of Land Management, P.O. Box 1397, Roswell, New Mexico 88201.

Fred E. Padilla,

Chief, Branch of Lands and Minerals Operations.

[FR Doc. 79–16068 Filed 5–22–79; 8:45 am]

BILLING CODE 4310–84–M

Bureau of Reclamation

Contract Negotiations With the San Benito County Water Conservation and Flood Control District; Intent To Initiate Negotiations for a Loan Repayment Contract

The Department of the Interior, through the Bureau of Reclamation, intends to negotiate a contract with the San Benito County Water Conservation and Flood Control District, Hollister, California, for the loan, and repayment, of approximately $20,000,000. The loan will be used for the construction of facilities to distribute water for agricultural and municipal and domestic use. The proposed contract will be drafted pursuant to the Distribution Systems Loan Act of July 4, 1955 (69 Stat. 244), as amended.

The district encompasses all of San Benito County which is located in west-central California. A supplemental water supply is to be furnished from the Bureau's San Felipe Unit of the Central Valley Project pursuant to a water service contract executed on April 15, 1978. The proposed loan repayment contract will allow the district to construct distribution facilities to serve approximately 19,000 acres of irrigable land.

The public is invited to submit written comments on the form of the proposed repayment contract not later than 30 days after the completed contract draft is declared to be available to the public. Execution of the proposed contract will be subsequent to, and dependent upon, the Commissioner of Reclamation's approval of the district's application for the loan and the Secretary of the Interior's approval of the proposed contract.

For further information about scheduled meetings and copies of the proposed contract form, please contact Mr. John Budd, Repayment Specialist, Repayment Branch, Division of Water

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and Power Resources Management, Bureau of Reclamation, 2800 Cottage Way, Sacramento, California 95825, telephone No. (916) 484–4380. All meetings scheduled by the Bureau of Reclamation with the district for the purpose of discussing terms and conditions of a proposed contract shall be open to the general public as observers. Advance notice of such meetings shall be furnished only to those parties having previously furnished a written request for such notice to the office identified above, at least one week prior to any meeting. All written correspondence concerning the proposed contract shall be made available to the general public pursuant to the terms and procedures of the Freedom of Information Act (80 Stat. 383), as amended.

Dated: May 9, 1979.

R. Keith Higginson,

Commissioner of Reclamation.

[FR Doc. 79-15125 Filed 5-22-79; 8:45 am]

BILLING CODE 4310-09-M

Geological Survey

Maximum Attainable Rate of Production (MAR); an Interim Notice to Lessees for Implementing Section 606(d)(1) of the Outer Continental Shelf (OCS) Lands Act Amendments of 1978

AGENCY: Geological Survey, U.S. Department of the Interior.

ACTION: Interim Notice.

SUMMARY: Section 606(d)(1), OCS Lands Act Amendments of 1978, provides that the continuing investigation of petroleum production under section 606(c) shall include a determination of the MAR of crude oil and natural gas from significant OCS fields, and an analysis as to whether or not the actual production is less than the MAR with appropriate reasons.

Section 606(e), in part, indicates that the initial MAR determinations shall be completed and submitted to the Congress by January 1, 1980, and that subsequent determinations shall be submitted every 2 years thereafter.

To provide an MAR determination for each signifcant field to the Congress by January 1, 1980, the respective Oil and Gas Supervisors, Conservation Division, Geological Survey, must have considerable input from the industry by October 1, 1979. Allowing for preparation of such materials, the industry should be made aware of the requirements no later than early June 1979.

The Interim Notice to Lessees, printed below, provides for the MAR requirements upon the industry and for the reporting guidelines to the Oil and Gas Supervisors.

DATES: The Interim Notice becomes effective May 23, 1979. Interested persons may submit written comments for a period of July 23, 1979.

ADDRESSES: The address for commenting is as follows: Chief, Conservation Division, Geological Survey, National Center, MS 620, 12201 Sunrise Valley Drive, Reston, VA 22092

FOR FURTHER INFORMATION CONTACT: Price McDonald, Conservation Division, Reston, VA, telephone (703) 860–7517.

SUPPLEMENTARY INFORMATION: The principal authors are Rogers Pearcy, Conservation Division, Metairie, LA, telephone (504) 837–4720, and Price McDonald.

The Interim Notice to Lessees is not a significant regulatory action and does not require preparation of a regulatory analysis under Executive Order 12044.

Interim Notice to Lessees

General Provisions

Section 606(c) and (d)(1), title VI of the OCS Lands Act Amendments of 1978 provides that the Secretary shall conduct a continuing investigation as to the availability of oil and natural gas and that such an investigation shall include a determination of the MAR for each of the significant fields in the OCS and an analysis of the differences between the MAR's and actual production. Further, the data used in the MAR determinations shall be adequately and independently audited and verified.

Also, section 204(g)(1) and (2), title II, provides that the lessee shall produce oil or gas at rates as ordered by the President in accordance with any provision of law or as authorized by the Secretary of Energy through regulations which assure the maximum rate of production without loss of ultimate recovery for the period of an approved plan.

With reference to section 606(c) and (d)(1) the MAR shall be determined biennially for significant fields commencing with October 1, 1979. The Oil and Gas Supervisor will determine the MAR based on production information and estimates from the industry, and will make the MAR determinations available to the industry and the public no later than January 1, 1980, and biennially thereafter.

Definitions

As prescribed by section 606(g)(1), the term—

"maximum attainable rate of production" or "MAR" means the maximum rate of production of crude oil and natural gas which may be produced under actual operating conditions without loss of ultimate recovery of crude oil and natural gas; and * * *

Other definitions are as follows:

—Actual operating conditions shall mean the prevailing conditions on the lease including lease production facility capacity, pipeline capacity, normal well downtime, and other production rate constraints or enhancements.

—A field shall mean a particualr area, named and described by the Oil and Gas Supervisor as being a producing field in the OCS. It shall include all leases or portions of leases within the particular area.

—A significant field shall mean any developed or developing field where production over the most recent 6-month period has averaged at least 5,000 barrels of oil per day or 100,000 MCF of gas per day, or which is capable of production in such amounts.

—"Adequately and independently audited and verified" shall mean that an act of industry is valid or has been validated and shall have reference generally to reserve estimates, production trends, production tests, pressure measurements, and field facility capacities.

The MAR Determination

For the determination of the field MAR, certain factors shall be commonly understood, as follows:

1. The MAR for a significant field shall be an estimated average daily rate of oil and gas production from oil and gas wells, respectively, which can be expected to be produced for a 2-year period of time.

2. The MAR for a field shall be a compilation of the MAR's for the individual leases within the field.

3. The MAR shall be based mainly on production and pressure trends, recent production and pressure tests, facility and/or pipeline limitations, average well downtime for the field, and any sensitivity of reservoirs to high rates of production.

Lessee and Operator Requirements

The operator of leases within an identified significant field shall supply the appropriate Oil and Gas Supervisor with the information prescribed below for each lease within the field. The information shall be submitted no later than October 1, 1979, and every 2 years thereafter. The information submitted shall include at least the following:

1. Field name

2. For each lease, or group of leases produced and operated from common production facilities within the field:

a. Estimated maximum rate of oil and gas production, absent any limitations.

b. Pipeline capacity.

c. Capacity of current production facilities at stated operating pressures and conditions.

d. Number of producing oil-well and gas-well completions on the lease.

(e) Expected increase or decrease in number of producing completions over the next 2 years.

f. Any limitations on production rates due to reservoir or well problems or safety considerations. By example: reservoir sensitivity, sand problems, water coning, down hold equipment, etc.

g. Any other information pertinent to the determination of the MAR for the lease.

h. Estimated MAR.

i. Any field restrictions to higher lease production rates.

Functions of the Oil and Gas Supervisor

The Oil and Gas Supervisor will prepare and publish (as a letter to lessees) a listing of the significant fields and the respective leases involved. The listing will be forwarded during June 1979 and every 2 years thereafter.

The Oil and Gas Supervisor will determine the MAR biennially by significant field, commencing with October 1, 1979, and will forward to the lessees a schedule of the MAR determinations by January 1, 1980, and every 2 years therefter.

For the Congress, the Oil and Gas Supervisor will prepare a report comparing the MAR and the actual production. The report will include graphs by field and by region and reasons for any substantial variations in the MAR and actual production. It will be forwarded by December 1, 1979, and every 2 years thereafter.

Dated: May 17, 1979.

J.A. Balsley,

Acting Director.

[FR Doc. 79-16029 Filed 5-22-79; 8:45 am]

BILLING CODE 4310-31-M

INTERNATIONAL TRADE COMMISSION

[AA1921-Inq.-26]

Certain Steel Wire Nails From Korea; Commission Determines "A Reasonable Indication of Injury"

On the basis of information developed during the course of inquiry No. AA1921–Inq.–26, undertaken by the United States International Trade Commission under section 201(c) of the Antidumping Act, 1921, as amended, the Commission unanimously determines (Chairman Parker not participating) that there is a reasonable indication that an industry in the United States is being or is likely to be injured by reason of the importation of certain steel wire nails from Korea,[1] entered under item numbers 646.25 and 646.26 of the Tariff Schedules of the United States, which according to the Department of Treasury possibly are being or are likely to be sold at less than fair value within the meaning of the Antidumping Act, 1921, as amended.

On April 17, 1979, the Commission received advice from the Treasury that, in accordance with section 201(c)(1) of the Antidumping Act, 1921, as amended, an antidumping investigation was being initiated with respect to certain steel wire nails from Korea and that, pursuant to section 201(c)(2) of the act, information developed during Treasury's preliminary investigation led to the conclusion that there is substantial doubt that an industry in the United States is being or is likely to be injured by reason of the importation of certain steel wire nails from Korea into the United States. Accordingly, the Commission on April 20, 1979, instituted inquiry No. AA1921–Inq.–26 under section 201(c)(2) of the act to determine whether there is no reasonable indication that an industry in the United States is being or is likely to be injured, or is prevented from being established, by reason of the importation of such merchandise into the United States.

Public notice of both the institution of the inquiry and of the hearing was duly given by posting copies of the notice at the Secretary's office in the Commission in Washington, D.C., and at the Commission's office in New York City, and by publishing the original notice in the Federal Register of April 26, 1979 (44 FR 24849). A public hearing was held on May 4, 1979, in Washington, D.C. and all persons requesting the opportunity to appear were permitted to appear by counsel or in person.

In arriving at its determination, the Commission gave due consideration to all written submissions from interested persons and information adduced at the hearing and obtained by the Commission's staff from questionnaires, personal interviews, and other sources.

Statement of Reasons for the Determination of Commissioners Bill Alberger, George M. Moore, Catherine Bedell, and Paula Stern

Statutory Criterio of Section 201(c)(2)

If the Secretary of the Treasury (Secretary) concludes during a preliminary investigation under the Antidumping Act, 1921, as amended, that there is substantial doubt regarding possible injury to an industry in the United States, he shall forward to the U.S. International Trade Commission (Commission) reasons for such doubt. Within 30 days of receipt of the Secretary's reasons, the Commission shall determine whether there is no reasonable indication that an industry in the United States is being or is likely to be injured, or is prevented from being established,[1] by reason of the importation of merchandise allegedly sold in the United States at less than fair value (LTFV). This inquiry concerns certain steel wire nails from Korea.

Determination

On the basis of information developed during this inquiry we determine that there is a reasonable indication that an industry in the United States is being or is likely to be injured by reason of the importation of certain steel wire nails from Korea possibly sold at LTFV as indicated by the Department of the Treasury (Treasury).

The Imported Article and the Domestic Industry

The steel wire nails subject to this investigation are those of one-piece construction which are: (1) 1 Inch or more in length, and 0.065 inch or more in diameter, or (2) less than 1 inch in length and less than .065 inch in diameter. Also included are brads, spikes, staples, and tacks meeting these descriptive requirements.

About 50 U.S. firms make steel wire nails in plants located primarily in the north central and northeastern states. Five of these firms are located in the

[1] Steel wire nails produced by the following companies have been excluded from this investigation: Blobcar Ltd., Dae Bong Industries, Daeger Trading Co., Daewo Industrial, Dong-A-Nails Company, Jesse Industries, Kang Wan Industries, Lee Chun Steel Co., Ltd., Pacific Chemical Co., Sunkyong, Ltd., Tong Myung Industries.

[1] Prevention of establishment of an industry in this inquiry is not in question and will not be discussed further in these views.

Western States. There are two general types of firms involved—large integrated companies that make steel rod, draw it into wire, and then make nails from the wire, and smaller non-integrated firms (also called converters or fabricators) that make nails from purchased steel rod or wire.

Information Regarding Alleged Margins of LTFV Sales

Treasury's investigation of U.S. imports of these steel wire nails from Korea covered the seven month period from May 1 through November 23, 1978. The investigation involved 33 Korean companies which shipped steel wire nails to the United States. Treasury has determined that 22 of the Korean companies have shipped such nails below the applicable trigger prices.[2] According to data submitted by Treasury for the period of investigation, 45 percent of these nails from Korea were imported at prices below the applicable trigger prices at an average margin of underselling of $74 per metric ton. The percentage of the product sold below trigger prices increased during October 1–November 23, 1978 to 81 percent at an average margin of underselling of $66 per metric ton.

A Reasonable Indication of Injury

Market penetration by alleged LTFV imports—Imports from Korea have increased from 3 million pounds or less than 0.5 percent of imports in 1973, to more than 200 million pounds or 25 percent of imports in 1978. Such imports entering the U.S. in the Western States [3] in 1978 account for 120 million pounds or 55 percent of all imports into these States. In fact, Korea has obtained a larger market share in the Western States than the domestic producers located in those States.

U.S. production and utilization of facilities—Production of steel wire nails increased each year during 1975–78. Capacity utilization also increased each year. Several new firms started production during this period, and many existing firms expanded their operations. In the Western States, the same patterns appear to be present.

Shipments—We have data on shipments through 1977, but not into 1978 for the nation. The trend is upward for the Western States and the nation during 1975–78, but a downturn occurs in 1978 in the Western States. We have information that in 1979 one of the integrated producers in the West, U.S. Steel, with facilities in Pittsburg, California, has experienced a sharp downturn in orders from 1978 levels. In April, May and June of 1979, orders are alleged to be down 20, 40, and 65 percent respectively from those same months in 1978. The Commission also has further information suggesting lengthening lead times on orders in the Midwest and East.

Inventories—Basically, national inventories have been steady from 1975 through September 1978, considering the seasonal factor that winter is the slowest construction period. In the West, inventories dropped sharply from 1975 to the end of 1977, but increased sharply again in 1978.

U.S. consumption—From 1973 to 1975, consumption dropped, but it then climbed through 1977 and although exact data is not available, probably surpassed 1973 levels in 1978. Consumption in the West followed the same pattern through 1977, but then fell in 1978.

Employment—Both national and regional employment in the industry appear to be increasing since 1975. However, U.S. Steel reported that its Pittsburg, California plant will have to lay off one-third of its skilled labor force in May 1979 due to declining orders.

Profitability—We have very limited data on profits, either nationally or in the Western States. It appears that profits are declining, but better information must be gathered if this case comes back to us.

Prices—Since 1975, nail prices have generally risen, particularly during 1978. Preliminary data indicate that imports of nails from Korea are probably underselling U.S. produced nails.

Industrial expansion—The Commission has information that several firms plan to begin production of nails over the next two years. In fact, two firms in the West have such plans for 1979, but both have informed us that they are re-evaluating their plans due to low-priced imports from Korea. With consumption of nails apparently increasing nationwide it is understandable that additional production facilities would be built. In the West, however, with consumption appearing to decline, it is curious that so much expansion is planned.

Conclusions

In making determinations under Section 201(c)(2), the Commission need only consider whether a "reasonable indication" of injury, or likelihood thereof, is either present or totally absent. Our analysis, therefore, concerns factors which present this "reasonable indication" of injury, even if later examination of the full record shows that the weight of the evidence mitigates against a final injury determination. Looking at the above criteria, it is clear to us that Treasury should proceed with its investigation. There are indications of price depression, increased market penetration, declining shipments and profits, particularly in the Western States. It is conceivable that the Commission could find injury within a regional market consisting of several or all of the Western States where import penetration is highest and indications of injury are more prevalent. It appears that factors which have led the Commission in previous instances to find injury to a regional industry may be present, and we should not dismiss such possibility. [4] With our present information, we must conclude that a reasonable indication of injury by reason of possible LTFV imports from Korea is present.

Issued: May 17, 1979.

By order of the Commission.

Kenneth R. Mason,

Secretary.

[FR Doc. 79-16204 Filed 5-22-79; 8:45 am]

BILLING CODE 7020-02-M

[2] Commissioners Alberger and Stern note that while Japanese steel costs have formed the basis of all trigger prices presently in effect on the assumption that the Japanese are the most efficient producers, it is curious that the Japanese have moved nail production facilities to the Korean Free Trade Zone in order to produce nails more efficiently.

[3] Arizona, California, Colorado, Idaho, Montana, Nevada, New Mexico, Oregon, Utah, Washington, and Wyoming.

[4] Sugar from Belgium, France, and West Germany, Inv. AA1921-198, 199, 200 (May 1979).

[AA1921-Inq.-25]

Steel Wire Coat and Garment Hangers From Canada; Commission Determination of "No Reasonable Indication of Injury"

On the basis of information developed during the course of inquire No. AA1921-Inq.-25, undertaken by the United States International Trade Commission under section 201(c) of the Antidumping Act, 1921, as amended, the Commission unanimously determines that there is no reasonable indication that an industry in the United States is being or is likely to be injured or is prevented from being established by reason of the importation of steel wire coat and garment hangers from Canada, allegedly sold at less than fair value as indicated by the Department of the Treasury.

On April 17, 1979, the Commission received advice from the Department of the Treasury that, in accordance with section 201(c) of the Antidumping Act, 1921, as amended, an antidumping investigation was being initiated with respect to steel wire coat and garment hangers from Canada and that information developed during Treasury's preliminary investigation led to the conclusion that there is substantial doubt that an industry in the United States is being or is likely to be injury by reason of the importation of such merchandise into the United States. Accordingly, the Commission on April 20, 1979, instituted inquiry No. AA1921-Inq.-25 under section 201(c)(2) of the act to determine whether there is no reasonable indication that an industry in the United States is being or is likely to be injured, or is prevented from being established, by reason of the importation of such merchandise into the United States.

A public hearing was held on May 2, 1979, in Washington, D.C. Public notice of both the institution of the inquiry and of the hearing was duly given by posting of the notice at the Secretary's office in the Commission in Washington, D.C., and at the Commission's office in New York City, and by publishing the original notice in the Federal Register of April 26, 1979 (44 FR 24640).

The Treasury Department instituted its investigation after receipt of a petition on March 21, 1979, filed by counsel for Laidlaw Corp., Mesa, Ariz. Treasury's notice of its antidumping proceeding was published in the Federal Register of April 20, 1979 (44 FR 23623).

Statement of Reasons of the Commission

If the Secretary of the Treasury concludes, during a preliminary investigation under the Antidumping Act, 1921, as amended, that there is substantial doubt regarding possible injury to an industry in the United States, he shall forward to the U.S. International Trade Commission (Commission) his reasons for such doubt. Within 30 days of receipt of the Secretary's reasons, the Commission shall determine whether the standards set forth in section 201(c)(2) of the Act for continuing the investigation have been met. Therefore, the Commission instituted, on April 20, 1979, inquiry AA1921-Inq.-25 regarding steel wire coat and garment hangers from Canada.

Determination

On the basis of the information developed during the course of this inquiry, we determine that there is no reasonable indication that an industry in the United States is being or is likely to be injured, or is prevented from being established,[1] by reason of the importation of steel wire coat and garment hangers into the United States from Canada which were allegedly sold at less than fair value (LTFV), as indicated by the Department of the Treasury.

The Imported and the Domestic Industry

The imported articles which are the subject of this inquiry are steel wire coat and garment hangers. They are used primarily in the drycleaning and uniform rental industries. Seven U.S. firms produce these hangers in 19 plants which are dispersed throughout the United States.

Information Concerning Alleged LTFV Sales

According to the complaint filed with the Department of the Treasury, the alleged dumping margins, based on comparisons between the home-market prices and prices for export to the United States, range from 2.3 to 4.9 percent. Treasury's Antidumping Proceeding Notice stated that "there is evidence that the volume of imports from Canada during 1978 amounted to only $17,000 and the imports accounted for only about 2.7 percent of petitioner's sales in the Northwest region of the United States, the market wherein injury was alleged.

No Reasonable Indication of Injury by Reason of LTFV Sales

The only claim of injury or likelihood of injury in this inquiry was that made by the petitioner, Laidlaw Corp., Mesa, Ariz. Laidlaw advised that it was being injured by reason of LTFV imports into the Pacific Northwest regional market, an area that it defined as the States of Washington and Oregon. According to information available to the Commission, however, Washington and Oregon are only part of a regional market made up of 10 Western States which are supplied by production facilities located primarily in California. Since March 1978, when Laidlaw closed its hanger manufacturing plant in Seattle, Wash., the firm has supplied Washington and Oregon, as well as the rest of the Western market, from its manufacturing facility in Stockton, Calif. Therefore, if there is a regional market for coat and garment hangers, it is composed of at least 10 Western States and is not limited to the two States alleged by the petitioner.

Imports of Canadian hangers into the Western market commenced in mid-1978 and were all from the Tree Island Steel Co., Ltd. The Canadian imports accounted for about 0.2 percent of apparent consumption in the Western market. Furthermore, it is apparent that this small market share was not obtained at the expense of the petitioner. The bulk of the imported hangers were sold to firms which advised the Commission that the petitioner refused to sell to them. Information submitted to the Commission by Laidlaw shows that production, capacity utilization, and shipments of Laidlaw's Stockton plant increased by about 20 percent in fiscal 1978 compared with the combined operations of the Seattle and Stockton plants in fiscal 1977. On an annualized basis, an additional large increase occurred in these same measures of economic activity during the first 6 months of fiscal 1979. Employment at the Stockton plant also increased during this period, and inventories were at a minimum level.

Laidlaw testified at the Commission's public hearing that the Canadian producer of LTFV imports had several important cost advantages over U.S. producers with respect to selling steel wire hangers in the Pacific Northwest market. The most important of these were the proximity of Tree Island's Richmond, British Colombia, production facility to this particular market and the fact that steel wire rods, the principal raw material used in the production of hangers, costs less in Canada than in the United States. The higher cost of wire rods in the United States was attributed to the implementation of the Trigger-price mechanism which, it was alleged, caused the price of imported steel rods to increase substantially in 1978 and in January-March 1979.

The petitioner further acknowledged that the Canadian producer could sell "well under our price without dumping." [1] Thus, even if the alleged LTFV sales ceased, the petitioner would still face the decision of either meeting the lower prices or losing sales. If the alleged dumping margins of 2.3 to 4.9 percent were eliminated, it was estimated that the Canadian firm would still undersell Laidlaw by 3.6 percent on one type of hanger, 9.4 percent on another, and 17.4 percent on a third type.

Conclusion

We have therefore determined that the Department of the Treasury investigation on steel wire coat and garment hangers from Canada allegedly sold at LTFV should be terminated on

[1] Prevention of establishment of an industry in this inquiry is not in question and will not be discussed further in these views.

[1] Transcript of the hearings, p. 29.

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the basis that there is no reasonable indication that an industry in the United States is being or is likely to be injured by reason of such imports.

Issued: May 17, 1979.

By order of the Commission.

Kenneth R. Mason,

Secretary.

[FR Doc. 79-16203 Filed 5-22-79; 8:45 am]

BILLING CODE 7020-02-M

[AA1921-198, AA1921-199, and AA1921-200]

Sugar From Belgium, France, and West Germany; Determinations of Injury

On the basis of information developed during the course of investigations Nos. AA1921-198, AA1921-199, and AA1921-200, the Commission unanimously determines that an industry in the United States is being injured by reason of the importation of sugar from Belgium, France, and West Germany, provided for in items 155.20 and 155.30 of the Tariff Schedules of the United States, which the Department of the Treasury has determined is being, or is likely to be, sold at less than fair value within the meaning of the Antidumping Act, 1921, as amended.

On February 16, 1979, the United States International Trade Commission received advice from the Department of the Treasury that sugar from Belgium, France, and West Germany is being, or is likely to be, sold in the United States at less than fair value (LTFV) within the meaning of the Antidumping Act, 1921, as amended (19 U.S.C. 160(a)). Accordingly, on March 1, 1979, the Commission instituted investigations Nos. AA1921-198 (sugar from Belgium), AA1921-199 (sugar from France), and AA1921-200 (sugar from West Germany) under section 201(a) of said act, to determine whether an industry in the United States is being or is likely to be injured, or is prevented from being established, by reason of the importation of such merchandise into the United States.

In connection with the investigations, a public hearing was held in Miami, Florida, on April 10, 1979. Notice of the institution of the investigations and the public hearing was given by posting copies of the notice at the Office of the Secretary, U.S. International Trade Commission, Washington, D.C., and at the Commission's office in New York City, and by publishing the notice in the **Federal Register** of March 8, 1979 (44 FR 12777). Notice of the time and place of the public hearing was made in the same manner and was published in the **Federal Register** of March 21, 1979 (44 FR 17235).

The Treasury Department instituted its investigation after receiving a complaint filed on July 10, 1978, by counsel for the Florida Sugar Marketing and Terminal Association, Inc. Treasury's notices of withholding of appraisement and its determinations of sales at LTFV were published in the **Federal Register** of February 12, 1979 (44 FR 8049).

In arriving at its determinations, the Commission gave due consideration to all written submissions from interested parties and information adduced at the hearing as well as information obtained by the Commission's staff from questionnaires, personal interviews and other sources.

Statement of Reasons of Chairman Joseph O. Parker, Vice Chairman Bill Alberger, and Commissioners George M. Moore and Catherine Bedell

By a letter dated February 6, 1979, the Department of the Treasury advised the Commission that sugar from France, Belgium, and West Germany is being, or is likely to be, sold at less than fair value (LTFV). For purposes of Treasury's investigation, the articles under consideration were defined as raw and refined sugar provided for in items 155.20 and 155.30 of the Tariff Schedules of the United States.

In this determination, we have found that the U.S. industry that is being injured by the sales of sugar at LTFV consists of the facilities for the production of sugar cane and raw cane sugar in the Southeastern region of the United States, that is, Florida sugar cane and raw cane sugar producers. This region also consists of the area served by Florida producers, namely the states of Florida and Georgia in which the major refining capacity is located.[1] [2] The Southeastern region received about 78 percent of the sugar imports from Belgium, France, and West Germany. Before the LTFV sales in the Southeastern regional market, the Florida sugar producers supplied nearly all the raw sugar used by the two refiners in this region, with sales to these refiners historically accounting for about 85 percent of the distribution of the sugar of the Florida producers.

Injury by Reason of LTFV Imports

The Department of the Treasury made price comparisons on raw sugar imported from Belgium, France, and West Germany during the 6-month period March 1, 1978–August 31, 1978, and determined that all such imports were being sold at LTFV. The LTFV margins on sales from Belgium ranged from 47 to 56 percent of the home-market price, with a weighted average margin of 51 percent. The margins on sales from France ranged from 38 to 57 percent of the home-market price, with a weighted average margin of 51 percent. The margin on sales from West Germany was 55 percent of the home-market price. All the sugar imported was raw sugar.

About 78 percent of these imports were entered at Savannah, Ga., to be further processed by Savannah Foods & Industries, Inc. at its refinery there. These imports represented about 9 percent of the sugar refined in the Southeastern region during 1978 and accounted for about one-third of total imports into the region in that year.

Excluding the raw sugar marketed under long-term contracts by two producers, there were about 500,000 tons of raw sugar produced in the Southeast during the 1977/78 crop year available for distribution during 1978. Of this amount, however, only 283,000 tons was marketed. The primary reason for the inability of Southeastern producers to market the remainder of this raw sugar was the presence of lower priced, imported sugar, about one-third of which was found by Treasury to have been sold at LTFV. Information available to the Commission indicates that these LTFV imports undersold Florida producers by an average of .42 cents per pound. Given the LTFV margins of 7.94–8.61 cents per pound found by Treasury, it is clear that no sugar from Belgium, France, or West Germany could have been sold in the United States had it been priced at fair value.

Since April 1978, the Florida Sugar Marketing & Terminal Association has sold no sugar to Savannah Foods & Industries even though it has a standing offer to sell at the price required to match returns under the price-support loan program. Information made available to the Commission by Savannah shows that its purchases from Belgium, France, and West Germany were all at prices below this standing offer price. Unable to market their sugar, the Southeastern producers have been forced to put more than 40 percent of the 1977/78 crop into the loan program of the Commodity Credit Corporation resulting in increased inventories in the Southeast.

Florida cane mills had yearend inventories for 1977 of 233,531 short tons, raw value. Yearend inventories for 1978 were 436,652 short tons, raw value, not counting an additional 120,648 short tons which had already been forfeited under price-support loan to the Commodity Credit Corporation. Thus, inventories increased substantially during the period of LTFV sales, and the high levels are continuing. The U.S. Department of Agriculture reports that 564,139 short tons, raw value, was held as collateral under price-support loans by the Florida sugar industry on April 30, 1979.

Information submitted to the Commission indicates that the market value of Florida sugar production has been below the cost of production for raw sugar in Florida since the 1976/77 crop. Data submitted to the Commission by firms representing about 72 percent of Florida raw-sugar milling showed significantly lower net returns in the 1978 accounting year compared with those in the 1976 accounting year. All the improvement in net returns that occurred in 1978 compared with 1977 was because of contributions to net returns by price-support operations of the U.S. Department of Agriculture.

Conclusion

On the basis of the foregoing considerations, we have determined that an industry in the United States is being injured by reason of the importation of sugar from Belgium, France, and West Germany, which the Department of the Treasury has determined is being, or is likely to be, sold at less than fair value within the meaning of the Antidumping Act, 1921, as amended.

Statement of Reasons of Commissioner Paula Stern

Having considered all the information before me in this investigation, I have determined, pursuant to Section 201 of the Antidumping Act of 1921, as amended, that an industry in the United States is being injured by reason of the importation of raw sugar from Belgium, France, and West Germany into the United States at less than fair value.

The Domestic Industry

The products under review in this case are sugar cane and raw sugar. Refined sugar is produced from sugar cane which has been first milled into raw sugar. It can also be produced directly from sugar beets by a different process. The relevant industry is therefore composed of growers and millers of sugar cane and does not include either sugar refiners or domestic sugar beet growers.

As fully explained in my joint views with Commissioner Aberger, which appear at pages 19 to 21, I believe that in this case the Southeast constitutes a region for the purpose of determining whether injury to the region constitutes injury to an industry under the Antidumping Act. The Southeast region consists of sugar cane growers and millers located in Florida; the regional customers are refiners found in Savannah, Georgia, and Florida.

Imports

The imported article in this investigation is raw sugar from Belgium, France, and West Germany. The Treasury Department examined all sales from these nations made between March 1, 1978, and August 31, 1978, and found all were at less than fair value. The weighted average less-than-fair-value margins, as found by Treasury, for raw sugar from the three nations were respectively: 103 percent (Belgium), 102 percent (France), and 121 percent (West Germany), when compared to the purchase price of the imports. These imports were of beet sugar, however, since beet sugar shipped by sea requires further refining, it competes directly with domestic raw cane sugar for refinery customers.

Relevant Indicators for the Raw Sugar Industry

Section 201 of the Antidumping Act, as amended, does not set forth standards for determining whether an industry is being or is likely to be injured by reason of less than fair value imports. As a result, the Commission can and does exercise considerable discretion in making its determinations based upon the particular fact in each case. However, as I stated in an earlier opinion on steel wire nails (Investigation No. AA-1921-189), Section 201 of the Act requires the Commission to find that two conditions have been satisfied before an affirmative determination can be made. First, the Commission must determine that an industry is being or is likely to be injured. This determination is based upon an analysis of certain economic indicators—consumption, production, capacity changes and utilization, shipments, inventory levels, employment and profits. Second, the Commission must determine that the injury is "by reason of" the less-than-fair-value imports. This second determination is based upon an analysis of such factors as market penetration by less-than-fair-value imports, documented lost sales of domestic manufacturers to less-than-fair-value imports, and a price depression or suppression of the impacted products. As for likelihood of injury, foreign capacity to produce for export is also considered.

However, this case is the first antidumping matter to come before the Commission in which the commodity in question is under an agricultural price support program actively intervening in its market. As explained more fully below, the intervention of the price-support program has had an unusual but significant impact on several of the traditional indicators utilized by the Commission in evaluating injury.

It is also important to note that the indicators most often relied on in evaluating whether injury is due to the less-than-fair-value imports in question may also be used to demonstrate injury. In cases where the Commission has adequate profit data at its disposal, the effects of lost sales and price depression, for example, are already reflected in profits, one measure of an industry's health. But where there are problems with obtaining data related to the traditional indicators of injury, it is appropriate to evaluate the industry's health by taking into consideration market penetration, lost sales, and price depression.

Complicating the analysis in this case is the lack of guidance the Antidumping Act provides on the special problems that emerge when assessing the economic conditions prevailing in an agricultural industry. For example, what is the meaning of capacity for an industry in which yields and even acreage harvested are as much the result of nature's whims as human will? What is the significance of year-to-year employment statistics for a perennial

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[1] In amending certain provisions of the Antidumping Act in 1974, Congress reviewed, among other things, the concept of regional markets. While Congress did not change the law with respect to this concept, the Committee on Finance of the Senate, in its report on the bill which became the Trade Act of 1974 and which amended the provisions of the Antidumping Act, summarized prior Commission practice in this regard and expressed agreement with it as follows:

A hybrid question relating to injury and industry arises when domestic producers of an article are located regionally and serve regional markets predominantly or exclusively and the less-than-fair-value imports are concentrated in a regional market with resultant injury to the regional domestic producers. A number of cases have involved this consideration, and where the evidence showed injury to the regional producers, the Commission has held the injury to a part of the domestic industry to be injury to the whole domestic industry. The Committee agrees with the segmentation principle in antidumping cases. (*Trade Reform Act of 1974: Report of the Committee on Finance* * * *, S. Rept. No. 93-1298 (93d Cong., 2d sess.), 1974, pp. 180-181.]

The report further stated (p. 181) that the concept is not one which readily lends itself to hard and fast rules:

However, the Committee believes that each case may be unique and does not wish to impose inflexible rules as to whether injury to regional producers always constitutes injury to an industry.

[2] Commissioner Alberger joins with Commissioner Stern in additional views on the question of regional injury. See p. 19 of the report.

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crop which must be planted at least two years before the first harvest becomes possible? How should the Commission judge the financial performance of an industry for which profit information is available only after long time lags; for which costs of production are based on stale data and may only be calculated by treating the costs of land in one of two widely-differing manners; and for which the data coverage is adequate for only one segment of an industy integrating two operations (growing and milling)?

These difficult questions are compounded by the intervention in the market of a price-support program. When an industry can sell to the government at a price-support level above the market price, massive inventories may be transferred to the goverment. How should the Commission view incomplete financial data when they are augmented by income from the price-support program? How should the Commission treat inventories converted into government stocks by means of the price-support program?

In view of the unique factors inherent in this case, I believe that a flexible approach is required in evaluating the condition of the industry's health. The traditional indices are still of major value in assessing the economic state of the domestic industry. But in many instances they must be qualified if the Commission is to avoid being misled.

In order to develop the flexible approach required by this case, it is essential first to understand the purposes and operation of the price-support program for raw sugar.

Title II of the Agricultural Adjustment Act of 1949, as amended by the Food and Agriculture Act of 1977, provides for the price-support loan program that began in November 1977. Price support levels were established for the 1977 and 1976 crops. Should the market price fall below these levels, sugar cane millers can receive loans at the price support level for unlimited quantities of their raw sugar from the Commodity Credit Corporation (CCC) at a low interest rate, with the sugar as collateral.

During the first year that their sugar is under loan, the millers pay the storage costs. To take sugar out of loan, the owner must repay the loan with interest plus often significant storage costs. After a year, they may default on as much of their sugar under loan as they wish by forfeiting the collateral to the CCC. After default, the loans are forgiven.

A major policy issue emerges as to how the Commission should treat the effects of the operation of the price-support program on the traditional indicators of the industry's economic condition. In general, the operation of this program tends to ameliorate the picture of the industry's health by raising the effective price at which the producers can dispose of their product, decreasing the inventories held by producers, and improving profits or lowering losses. Neither the Antidumping Act nor the Food and Agriculture Act of 1977 provides clear guidance as to whether the Commission should adjust for these influences.

On the one hand, it appears that the price-support program is not intended to be a continuous factor in the raw sugar market.*

Consequently, the Commission could analyze the condition of this industry, to whatever extent possible, independent of any mitigating effects caused by the operation of the program (*e.g.*, by comparing the free market price to costs of production, adding CCC stocks to inventories, and eliminating from profits that income supplied by the program).

On the other hand, the CCC is in fact making large expenditures and accumulating massive stocks of raw sugar. Under the circumstances, it may be appropriate to analyze the condition of the industry including the mitigating effects of the program's operation (*e.g.*, by comparing the price support level to costs of production, looking at inventories held only by producers, and including the program's contribution to profits).

Fortunately neither inclusion nor exclusion of the mitigating effects of the price-support program's operation alters the finding of injury in this case. In order to avoid possible future problems, it would be helpful for the Congress to give the Commission guidance in this matter.

Injury

Because I consider the Southeast a region, I shall focus on it in examining the relevant data. In the Southeast, there are three refineries. The two found in Florida are of minor importance; they are relatively small and are not subject to import penetration as a result of their inland location. The third refiner, Savannah Foods and Industries, Inc., is found in the Georgia port after which it is named and is subject to import penetration.

Production in Florida has responded to a number of stimuli. Following the expiration at the end of 1973 of production quotas under the Sugar Act of 1934, and the onset of record high prices for sugar in 1974/75, Florida sugar production expanded from 244 million acres harvested (1972/73) to 287 million acres (1975/76), a level which has remained rougly stable through the present. The vagaries of Mother Nature have produced a variation of yields between extremes of 8.5 and 10.1 million short tons of sugar cane in the period 1975–79. It is estimated that acreage harvested in Florida increased slightly in 1978/79 because of good weather conditions and an expansion of acreage by the U.S. Sugar Corporation. (This firm increased its acreage because in 1976/77 it reportedly failed to produce sufficient sugar to fulfill its long-term supply contracts with Savannah Foods and Industries, Inc.)

The Commission received no data on employment. However, for a perennial crop which takes two years to reach maturity, employment data would not have been helpful in determining injury because growers will not abandon their fields unless the outlook for the future worsens drastically.

Capacity utilization for the growers has no meaning. The principal limitation on the capacity to produce sugar crops is the availability of milling facilities. In Florida, these were expanding through the 1975/76 crop year. Since then, one small cane mill has closed. Current facilities can handle, however, up to 20 percent more crop than is currently being produced.

Unfortunately, the data on inventories in Florida made available by the industry are for calendar years, while data on total production which comes from the U.S. Department of Agriculture are for crop years ending October 31. These are not completely consistent; but given that the bulk of 1976/77 crop, for example, is marketed in 1976, it is informative to look at inventory/production ratios which these data allow to be calculated for the two most recent crops. At the close of 1977, following a 1976/77 crop which yielded 930,000 short tons of sugar, 233,531 tons were held by Florida millers as inventory. The ratio of inventories to production was 25 percent. One year later, following a 1977/78 crop of 894,000 short tons, 436,652 tons were held in inventory (most in price-support loan) and 120,648 tons had been forfeited. Adding forfeitures to inventories yields a ratio to production of 62 percent, more than double the high level of the previous year. The United States Department of Agriculture expects that as much as one million tons may be forfeited from all eligible crops during the coming year.

Discussion of the financial performance of Florida cane sugar growers is made difficult by a number of complicating factors. The Commission has available to it three estimates of Florida costs of production based on two different studies. The latest USDA review dates from the end of the last decade, while the University of Florida completed a study in 1975. Both have been ajdusted to the 1977/78 crop year by simply extrapolating from the earlier figures. For that crop year, with price support at 13.50 cents/pound, the three estimates were: 14.20 cents/pound (USDA, land at rental value), 15.79 (U. of Florida, land at rental value), and 16.54 (U. of Florida, land at market value). All indicate losses for growers on cane growing operations despite the salutory effects of having the CCC as a last resort purchaser when the regional price paid for raw sugar delivered to Savannah refineries had dropped to a weighted average of 13.76 cents/pound for the Belgian, French, and West German imports.*

The financial picture for Florida sugar cane millers, the other sector of the industry, is somewhat better, though hardly bright. The Commission received data on four millers which mill 72 percent of the Florida sugar cane crop. They show a consistent pattern of high returns in 1975/76, low returns or losses in 1976/77, and a recovery in 1977/78 based largely on the availability of the price-support program in that year. It is possible for the millers to earn profits on the storage of sugar under loan or forfeiture, but the outcome is uncertain since the millers must rent storage facilities for the sugar on one-year leases while the government may decide to move the sugar under its control at any time. In the absence of the price-support loan program, the millers' performance in 1977/78 probably would have been poorer than in the previous year.

Injury by Reason of Less-Than-Fair-Value Imports

The traditional indicators, because of the severe shortages of data explained above, suggest injury to the Southeastern raw sugar growers and millers. I have nevertheless concluded, based on my further analysis of market penetration, lost sales, and price depression, that the industry before the Commission is injured. Considering these same indices, I also conclude that an industry in the United States is being injured by reason of the importation of sugar from Belgium, France, and West Germany, which the Department of Treasury has determined is being, or is likely to be, sold at less than fair value within the meaning of the Antidumping Act, 1921, as amended.

Nationally, raw sugar imports from Belgium, France, and West Germany increased rapidly from one ton in 1975, to 16,000 tons in 1976, to nearly 49,000 tons in 1977. In 1978, these imports amounted to 85,000 tons. During 1978, more than 78 percent of these imports of raw sugar from Belgium, France, and West Germany were marketed in the Southeastern region. Over eight percent of the raw sugar refined in the region was imported from the three European nations found by the Treasury Department to be selling at less than fair value. Concurrently, the traditional 87 percent regional market share that Florida sugar had enjoyed dropped precipitously to 65 percent.

The significance of any particular level of market penetration depends on the price elasticity of the commodity. Because the quantity of sugar consumed is by its very nature not responsive to price changes, relatively small changes in supply can cause major price changes in the opposite direction.

Savannah, the major consumer of the less-than-fair-value sugar imports in question, has stated that its weighted average purchase price of the European Community sugar was 13.76 cents per pound. For Florida sellers not under long-term contract, prices received for shipments to Savannah from January to July 1978 (but contracted for before April 21, 1978) were 13.80 cents per pound, FOB Florida mills, which, after transportation costs were added, gave a price at Savannah of 14.18 cents per pound. Florida sugar producers needed a price of 13.88 cents per pound to match returns available by forfeiting sugar under price-support loans to the Commodity Credit Corporation.

The Florida Sugar Marketing & Terminal Association, Inc., a major milling cooperative, sold no sugar to the Savannah refinery after April 21, 1978, even though it had a standing offer to sell sugar at the price required to match returns under the price-support loan program. During 1978, the Florida sugar industry had 212,000 short tons, raw value of 1977/78 crop sugar under price-support loan. Imports at less than fair value from the three European Community nations in question purchased by Savannah were 66,000 short tons. Florida sugar producers convincingly maintained that these low-priced sugar imports from Belgium, France, and West Germany displaced sugar which they normally would have sold to the Savannah refinery.

Conclusion

Given the indications of injury to the Southeast raw sugar industry, I must conclude that the sugar cane and raw sugar industry in the United States is injured by reason of less-than-fair-value sales by Belgium, France, and West Germany.

Additional Views of Commissioners Alberger and Stern With Respect to Regional Injury

In the Commission's most recent decision under the Antidumping Act, *Carbon Steel Plate from Taiwan*,[1] we set forth what we consider to be the relevant factors for defining regional industries. We noted that, "the Commission has considerable discretion to analyze the commercial context of a particular case and apply a 'geographic segmentation principle' ". We also emphasized the importance of exercising that discretion in a consistent and logical manner.

In that case, we analyzed Commission precedent, legislative reports, and the purposes underlying the Antidumping Act itself. We concluded that three factors merit consideration before any geographic segmentation of the industry is made. These factors are: (1) whether the region under consideration is separate and identifiable, (2) whether LTFV imports are concentrated in that region, and (3) whether that region constitutes a significant part of the domestic industry. We have considered those factors in the context of the present case, and feel that the following points should be made about our finding as to the relevant industry.

The facts clearly demonstrate that the Southeastern raw sugar producing industry is separate and identifiable. Prior to 1978, nearly 85 percent of all raw cane production within the region was marketed to local refineries. The percentage of sales to local refineries dropped substantially in 1978, but this was due to low priced imports, including LTFV imports from the European

*The Conference Report on the Food and Agriculture Act of 1977, in discussing the prospective operation of the price-support program, states:

It is not expected, however, that any outlay of CCC funds will be required, or that there will be any acquisition of products of sugar cane or sugar beets. The Conferees expect that the Executive branch will utilize existing authority of law to implement immediately upon the bill becoming law an import fee, or duty, which—when added to the current import duty—will enable raw sugar to sell in the domestic market at not less than the effective support price.

*The price for imports is CIF duty paid, Savannah. To properly compare it with the price support, which is FOB cane mills, one must add 0.38 cent per pound freight to the latter.

[1] Inv. AA1921-197, USITC Pub. 970 (May 1979). See, Additional Views of Commissioners Alberger and Stern, at p. 20.

facility is a Babcock & Wilcox (B&W)

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Community. The displaced Florida raw sugar was then stored under the price-support program rather than marketed outside the region. As a general rule, growers within the Southeast serve the regional market predominantly or exclusively.[2] Moreover, the Southeastern refineries have not been served by domestic producers outside the region.[3] Thus, Florida cane sugar producers from an "isolated" industry, as that term has been used in prior Commission decisions.[4] Transportation costs apparently play an important role in this regional distribution, since sugar in its unrefined state is a bulky commodity, and has a relatively low value per ton. In addition, historical marketing conditions allowed Florida growers to sell locally until low world prices disrupted this practice. While some efforts have recently been made to sell outside the region,[5] it is probably not economically viable to sell large quantities to more distant buyers, particularly when surplus sugar exists throughout the country.

It is also clear that the LTFV sales found by Treasury were concentrated in the Southeastern United States. In fact, 78 percent of such imports entered through the port of Savannah and were sold to the refinery located there. It is true that all of the LTFV sales occurred within a span of two months, and hence it is difficult for us to guage the "focusing of marketing efforts" which we considered relevant in *Carbon Steel Plate from Taiwan.*[6] However, in this case we feel that severity is more relevant than brevity. Belgium, France and West Germany supplied more than 10 percent of the Savannah refineries' annual consumption. The brief duration of these imports is less relevant when one considers that sugar transactions occur on a seasonal basis. Accordingly, we are persuaded that concentration within the Southeastern region has occurred.

Finally, it is our view that the Southeastern raw sugar producing region represents a significant part of the national industry. For the 1977–78 crop year, Florida produced 879,000 short tons of raw sugar; more than 14 percent of the total U.S. production. In recent years, Florida has ranked second among all states in sugar production. Clearly, this region accounts for a significant share of U.S. production, and a determination based on injury to this region is not inequitable.

Issued: May 16, 1979.

By order of the Commission.

Kenneth R. Mason,

Secretary.

[FR Doc. 79-16202 Filed 5-22-79; 8:45 am]

BILLING CODE 7020-02-M

[AA 1921-203]

Carbon Steel Plate From Poland; Investigation and Hearing

Correction

In the issue of Thursday, May 3, 1979, on page 25949, the document appearing as FR Doc. 79–13839 was inadvertently published and is hereby withdrawn in its entirety.

For the convenience of the reader, the corrected FR Doc. 79–13839 is set forth below.

Stainless Steel and Alloy Tool Steel; Report to the President

U.S. International Trade Commission, April 24, 1979.

To the President: In accordance with sections 203(i)(2) and (i)(3) of the Trade Act of 1974 (88 Stat. 1978), the United States International Trade Commission [1] herein reports the results of an investigation (investigation No. TA–203–5) conducted under those sections with respect to certain stainless steel and alloy tool steel.

Vice Chairman Alberger and Commissioner Stern advise that the termination of the quantitative restrictions imposed by Proclamation 4445, as modified by Proclamations 4477, 4509, and 4559, on imports of stainless steel and alloy tool steel provided for in items 923.20 through 923.26, inclusive, of the Appendix to the Tariff Schedules of the United States (TSUS), whether considered individually by each TSUS item collectively with respect to all such items, would have little if any adverse impact on the domestic industry producing such articles. Accordingly, Vice Chairman Alberger and Commissioner Stern are of the view that there is no need to extend import relief.

Commissioners Moore and Bedell advise that the termination of the quantitative restrictions imposed by Proclamation 4445, as modified by Proclamations 4477, 4509, and 4559, on imports of stainless steel and alloy tool steel provided for in items 923.20 through 923.26, inclusive, of the TSUS, whether considered individually by each TSUS item or collectively with respect to all such items, would have a serious adverse economic effect on the domestic industry producing such articles. Commissioners Moore and Bedell are of the view that the import relief with respect to such articles should be extended in order that the domestic industry might more fully adjust to import competition.

The investigation to which this report relates was undertaken for the purpose of advising the President as to the probable economic effect on the domestic industry concerned of the termination of import relief provided for in items 923.20 through 923.26, inclusive, of the Appendix to the TSUS. Import relief presently in effect with respect to such articles is scheduled to terminate at the close of June 13, 1979, unless extended by the President. The relief is provided for in Presidential Proclamation 4445 of June 11, 1976 (41 FR 24101), as modified by Proclamation 4477 of November 16, 1976 (41 FR 50960), Proclamation 4509 of June 15, 1977 (42 FR 30829), and Proclamation 4559 of April 5, 1978 (43 FR 14433).

The investigation was instituted on December 11, 1978, following receipt on November 30, 1978, of a petition filed by the Tool and Stainless Steel Industry Committee and the United Steelworkers of America, AFL–CIO. Public notice of the investigation and hearing was given by posting copies of the notice in the Office of the Secretary, U.S. International Trade Commission, Washington, D.C., and in the Commission's New York Office, and by publishing the notice in the **Federal Register** of December 22, 1978 (43 FR 59914). The public hearing in connection with this investigation was held on March 6–7, 1979, in the Commission's hearing room in Washington, D.C.

The information contained in this report was obtained from field work, from questionnaires sent to domestic manufacturers and importers, from the Commission's files, from other Government agencies, from information received at the public hearing, and from briefs filed by interested parties.

Issued: April 30, 1979.

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[2] The majority's statement noted the significance of this fact to their finding of a regional industry. See, supra at pp. 3–4. In fact, the majority opinion quotes the Senate Finance Report on the Trade Act, which makes the same point.

[3] This fact is not mentioned in the majority's statement, but we believe that, for the reasons we expressed in Carbon Steel Plate from Taiwan, it relates to the separate and identifiable nature of the region. See, Carbon Steel Bars and Shapes from Canada, Inv. AA1921–39, TC Pub. 135 (Sept. 1974).

[4] See, e.g., Steel Reinforcing Bars from Canada, Inv. AA1921–33, TC Pub. 122 (March 1964), Views of Commissioners Dorfman and Talbot, at p. 12.

[5] Mr. George Wedgworth, President of the Sugar Cane Cooperative of Florida testified that a new operation involving shipments by barge to Northeastern refineries has begun. See Transcript of Commission Hearing at pp. 78–79.

[6] USITC Pub. 970, Additional Views at p. 22.

[1] Chairman Parker did not participate.

By order of the Commission.

Kenneth R. Mason,

Secretary.

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JOINT BOARD FOR THE ENROLLMENT OF ACTUARIES

Advisory Committee on Actuarial Examinations; Meeting

Notice is hereby given that the Advisory Committee on Actuarial Examinations will meet at the Dallas Hilton Hotel, Dallas, Texas, on Wednesday, June 20, 1979 beginning at 9:00 a.m.

The purpose of the meeting is to discuss topics and questions which may be recommended for inclusion on the Joint Board's examinations in actuarial mathematics and methodology referred to in Title 29 U.S. Code, Sections 1242(a)(1)(B) and (C) and to discuss possible topics for inclusion on the syllabus for the Joint Board's examinations.

A determination as required by Section 10(d) of the Federal Advisory Committee Act (Pub. L. 92–463) has been made that the portion of the meeting dealing with discussion of questions which may appear on the Joint Board's examinations will fall within the exceptions to the open meeting requirement set forth in Title 5 U.S. Code, Section 552b(c)(9)(B), and that the public interest requires that such portion be closed to public participation.

The portion of the meeting dealing with the Joint Board examination syllabus will commence at 9:00 a.m. and will last approximately one hour. This portion of the meeting will be open to the public as space is available. Time permitting, after discussion of the syllabus by Committee members, interested persons may make statements germane to this subject. Persons wishing to make oral statements should advise the Committee Management Officer in writing prior to the meeting to aid in scheduling the time available and should submit the written text, or at a minimum, an outline of comments they propose to make orally. Such comments will be limited to ten minutes in length. Any interested person also may file a written statement for consideration by the Committee by sending it to the Committee Management Officer. Statements should be mailed to Mr. Leslie S. Shapiro, Joint Board for the Enrollment of Actuaries, c/o U.S. Department of the Treasury, Washington, D.C. 20220.

Dated: May 18, 1979.

Leslie S. Shapiro,

Advisory Committee Management Officer, Joint Board for the Enrollment of Actuaries.

[FR Doc. 79-16158 Filed 5-22-79; 8:45 am]

BILLING CODE 4810-25-M

DEPARTMENT OF JUSTICE

Proposed Consent Decree in Action Affecting First Charter Land Corp. and Captain's Cove Development in Accomack County, Va.; Caption Corrected

AGENCY: Department of Justice.

ACTION: Notice of correction.

SUMMARY: This document corrects a notice which was published by the Land and Natural Resources Division of the Department of Justice in FR Doc. 79–14419 appearing at page 27271 in the **Federal Register** of May 9, 1979, as follows:

1. The caption reading "Proposed Consent Decree in Action to Enjoin Discharge of Air Pollutants by United States Steel Corporation (South Works)" should read "Proposed Consent Decree in Action Affecting First Charter Land Corporation and Captain's Cove Development in Accomack County, Virginia."

2. The comment period has been extended from June 8, 1979, to June 18, 1979.

FOR FURTHER INFORMATION CONTACT: James W. Moorman, Assistant Attorney General, Land and Natural Resources Division, Washington, D.C. 20530 (202–633–2701).

Dated: May 18, 1979.

James W. Moorman,

Assistant Attorney General, Land and Natural Resources Division.

[FR Doc. 79-16177 Filed 5-22-79; 8:45 am]

BILLING CODE 4410-01-M

NUCLEAR REGULATORY COMMISSION

[Docket No. 50-313]

Arkansas Power & Light Co., Arkansas Nuclear One, Unit 1; Order Regarding Facility Operating License

I. The Arkansas Power & Light Company (the licensee or AP&L) is the holder of Facility Operating License No. DPR–51 which authorizes the operation of the nuclear power reactor known as the Arkansas Nuclear One, Unit 1 (the facility or ANO–1), at steady state power levels not in excess of 2568 megawatts thermal (rated power). The facility is a Babcock & Wilcox (B&W) designed pressurized water reactor (PWR) located at the licensee's site in Pope County, Arkansas.

II. In the course of its evaluation to date of the accident at the Three Mile Island Unit No. 2 facility, which utilizes a B&W designed PWR, the Nuclear Regulatory Commission staff has ascertained that B&W designed reactors appear to be unusually sensitive to certain off-normal transient conditions originating in the secondary system. The features of the B&W design that contribute to this sensitivity are: (1) Design of the steam generators to operate with relatively small liquid volumes in the secondary side; (2) the lack of direct initiation of reactor trip upon the occurrence of off-normal conditions in the feedwater system; (3) reliance on an integrated control system (ICS) to automatically regulate feedwater flow; (4) actuation before reactor trip of a pilot-operated relief valve on the primary system pressurizer (which, if the valve sticks open, can aggravate the event); and (5) a low steam generator elevation (relative to the reactor vessel) which provides a smaller driving head for natural circulation.

Because of these features, B&W designed reactors place more reliance on the reliability and performance characteristics of the auxiliary feedwater system, the integrated control system, and the emergency core cooling system (ECCS) performance to recover from frequent anticipated transients, such as loss of offsite power and loss of normal feedwater, than do other PWR designs. This, in turn, places a large burden on the plant operators in the event of off-normal system behavior during such anticipated transients.

As a result of a preliminary review of the Three Mile Island Unit No. 2 accident chronology, the NRC staff initially identified several human errors that occurred during the accident and contributed significantly to its severity. All holders of operating licenses were subsequently instructed to take a number of immediate actions to avoid repetition of these errors, in accordance with bulletins issued by the Commission's Office of Inspection and Enforcement (IE). In addition, the NRC staff began an immediate reevaluation of the design features of B&W reactors to determine whether additional safety corrections or improvements were necessary with respect to these reactors. This evaluation involved numerous meetings with B&W and certain of the affected licensees.

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The evaluation identified design features as discussed above which indicated that B&W designed reactors are unusually sensitive to certain off-normal transient conditions originating in the secondary system. As a result, an additional bulletin was issued by IE which instructed holders of operating licenses for B&W designed reactors to take further actions, including immediate changes to decrease the reactor high pressure trip point and increase the pressurizer pilot-operated relief valve setting. Also, as a result of this evaluation, the NRC staff identified certain other safety concerns that warranted additional short-term design and procedural changes at operating facilities having B&W designed reactors. These were identified as items (a) through (e) on page 1–7 of the Office of Nuclear Reactor Regulation Status Report to the Commission of April 25, 1979.

After a series of discussions between the NRC staff and the licensee concerning possible design modifications and changes in operating procedures, the licensee agreed in a letter dated May 11, 1979, to perform promptly the following actions:

(a) Upgrade of the timeliness and reliability of the Emergency Feedwater (EFW) system by performing the items specified in Enclosure 1 of the licensee's May 11, 1979, letter. Changes in design will be submitted to the NRC staff for review.

(b) Develop and implement operating procedures for initiating and controlling EFW independent of Integrated Control System (ICS) control.

(c) Implement a hard-wired control-grade reactor trip that would be actuated on loss of main feedwater and/or on turbine trip.

(d) Complete analyses for potential small breaks and develop and implement operating instructions to define operator action.

(e) At least one Licensed Operator who has had Three Mile Island Unit No. 2 (TMI–2) training on the B&W simulator will be assigned to the control room (one each shift).

In its letter the licensee also stated that ANO–1 was currently shut down and would remain shut down until (a) through (e) above are completed.

In addition to these modifications to be implemented promptly, the licensee has also proposed to carry out certain additional long-term modifications to further enhance the capability and reliability of the reactor to respond to various transient events. These are:

(1) The items in Enclosure 2 of the licensee's letter of May 11, 1979, will be implemented during the next outage (following completion of the design change engineering) to cold shutdown conditions which is of sufficient length to accommodate the change, but no later than the next refueling outage. Further, the licensee will provide a schedule for implementing any other modifications identified as necessary as a result of the licensee's reviews shown on Enclosure 1 of the licensee's letter. The design changes will be submitted to the NRC staff for review.

(2) The failure modes and effects analysis (FMEA) of the ICS is underway with high priority by B&W and will be submitted as soon as practicable.

(3) The hard-wired trips addressed in Item (c) above will be upgraded to safety grade. This design change will be submitted to the NRC staff for review.

(4) The licensee will continue operator training and drilling of response procedures as a part of an ongoing program to assure the high state of readiness and safe operation at ANO–1.

The Commission has concluded that the prompt actions set forth as (a) through (e) above are necessary to provide added reliability to the reactor system to respond safely to feedwater transients and should be confirmed by a Commission order.

The Commission finds that operation of ANO–1 should not be resumed until the actions described in paragraphs (a) through (e) above have been satisfactorily completed.

For the foregoing reasons, the Commission has found that the public health, safety and interest require that this Order be effective immediately.

III. Copies of the following documents are available for inspection at the Commission's Public Document Room at 1717 H Street, NW., Washington, D.C. 20555, and are being placed in the Commission's local public document room at Arkansas Polytechnic College, Russellville, Arkansas:

(1) Office of Nuclear Reactor Regulation Status Report on Feedwater Transients in B&W Plants, April 25, 1979.

(2) Letter from William Cavanaugh III (AP&L) to Harold Denton (NRR) dated May 11, 1979.

IV. Accordingly, pursuant to the Atomic Energy Act of 1954, as amended, and the Commission's rules and regulations in 10 CFR Parts 2 and 50:

It is hereby ordered, That:

(1) The licensee shall take the following actions with respect to ANO–1:

(a) Upgrade of the timeliness and reliability of the EFW system by performing the items specified in Enclosure 1 of the licensee's letter of May 11, 1979. Provide changes in design for NRC review.

(b) Develop and implement operating procedures for initiating and controlling EFW independent of Integrated Control System control.

(c) Implement a hard-wired control-grade reactor trip that would be actuated on loss of main feedwater and/or on turbine trip.

(d) Complete analyses for potential small breaks and develop and implement operating instructions to define operator action.

(e) Assign at least one Licensed Operator who has had TMI–2 training on the B&W simulator to the control room (one each shift).

(2) The licensee shall maintain ANO–1 in a shutdown condition until items (a) through (e) in paragraph (1) above are satisfactorily completed. Satisfactory completion will require confirmation by the Director, Office of Nuclear Reactor Regulation, that the actions specified have been taken, the specified analyses are acceptable, and the specified implementing procedures are appropriate.

(3) The licensee shall as promptly as practicable also accomplish the long-term modifications set forth in Section II of this Order.

V. Within twenty (20) days of the date of this Order, the licensee or any person whose interest may be affected by this Order may request a hearing with respect to this Order. Any such request shall not stay the immediate effectiveness of this Order.

Dated at Washington, D.C., this 17th day of May 1979.

For the Nuclear Regulatory Commission.

Samuel J. Chilk,

Secretary of the Commission.

[FR Doc. 79-16021 Filed 5-22-79; 8:45 am]

BILLING CODE 7590-01-M

OFFICE OF SCIENCE AND TECHNOLOGY POLICY

Intergovernmental Science, Engineering, and Technology Advisory Panel Meeting

In accordance with the Federal Advisory Committee Act, Pub. L. 92–463, the Office of Science and Technology Policy announces the following meeting:

Name: Intergovernmental Science, Engineering, and Technology Advisory Panel; Energy Task Force.

Date: Friday, June 8, 1979, 10:00 a.m.–5:00 p.m.

Place: New Executive Office Building, Room 2008, 726 Jackson Pl. NW., Washington, D.C.

Type of meeting: Open.

Contact person: Mr. Peter Hickey, Energy Task Force, ISETAP, Office of Science and Technology Policy, Executive Office of the President (202/395–4596).

Minutes of the meeting: Executive minutes of the meeting will be available from Mr. Hickey's office.

Tentative Agenda

1. Review of waste resource recovery programs currently underway within Federal agencies. Presentations by officials of individual agencies having such programs;

2. Discussion of policies and actions that guide individual programs. Relationship of programs to national goals in waste resource recovery;

3. Discussion of impact of Federal programs on public and private actions at the state and local levels;

4. Discussion of subsequent meeting to solicit public comment on programs and national goals.

William J. Montgomery,

Executive Officer, Office of Science and Technology Policy.

May 17, 1979.

[FR Doc. 79-16022 Filed 5-22-79; 8:45 am]

BILLING CODE 3170-01-M

SECURITIES AND EXCHANGE COMMISSION

[Rel. No. 21050; 70-6312]

American Electric Power Co, Inc.; Proposal That Holding Company Act as Surety for Subsidiary in Connection With a Rate Proceeding

May 17, 1979.

Notice is hereby given that American Electric Power Company, Inc. ("AEP"), 2 Broadway, New York, N.Y. 10004, a registered holding company, has filed a declaration with this Commission pursuant to the Public Utility Holding Company Act of 1935 ("Act"), designating Sections 12(b) and 12(f) of the Act and Rule 45 promulgated thereunder as applicable to the proposed transaction. All interested persons are referred to the declaration, which is summarized below, for a complete statement of the proposed transaction.

AEP requests approval of a surety bond in the amount not to exceed $62,000,000 that will be posted with the Public Service Commission of West Virginia ("State Commission"), by AEP as surety for Appalachian Power Company ("Appalachian") as principal.

On April 27, 1979, Appalachian filed with State Commission for increased rates on electric service in West Virginia. Appalachian requested that such rates go into effect as of May 28, 1979, or in the event that the State Commission further suspends the rates, Appalachian requests such rates go into effect no later than July 1, 1979. In either case, in order for the rates to go into effect, Appalachian will be required to post a bond, which would assure the making of appropriate refunds to customers in the event the State Commission's final order should require refunds to be made. The State Commission has permitted AEP to act as surety for Appalachian in lieu of Appalachian's posting a commercial bond. It is expected that the amount of the bond for the new rates will not exceed $62,000,000 which is the estimated additional revenue that the new rates will provide.

The fees and expenses to be incurred in connection with the proposed transaction are estimated at $2,500. AEP will make no charge to Appalachian for acting as surety. The Public Service Commission of West Virginia has authorized the proposal. No other state commission, and no federal commission, other than this Commission, has jurisdiction over the proposal.

Notice is hereby given that any interested person may, not later than June 11, 1979, request in writing that a hearing be held on such matter stating the nature of his interest, the reasons for such request, and the issues of fact or law raised by said declaration which he desires to controvert; or he may request that he be notified if the Commission should order a hearing thereon. Any such request should be addressed: Secretary, Securities and Exchange Commission, Washington, D.C. 20549. A copy of such request should be served personally or by mail upon the declarant at the above-stated address, and proof of service (by affidavit or, in case of an attorney at law, by certificate) should be filed with the request. At any time after said date, the declaration, as filed or as it may be amended, may be permitted to become effective as provided in Rule 23 of the general rules and regulations promulgated under the Act, or the Commission may grant exemption from such rules as provided in Rules 20(a) and 100 thereof or take such other actions as it may deem appropriate. Persons who request a hearing or advice as to whether a hearing is ordered will receive any notices and others issued in this matter, including the date of the hearing (if ordered) and any postponements thereto.

For the Commission, by the Division of Corporate Regulation, pursuant to delegated authority.

George A. Fitzsimmons,

Secretary.

[FR Doc. 79-16023 Filed 5-22-79; 8:45 am]

BILLING CODE 8010-01-M

[Release No. 10702; 812-4441]

Edie Special Growth Fund, Inc., et al.; Filing an Application for an Order Exempting Proposed Reorganization for an Order Permitting Participation in Proposed Reorganization and Concurrent Transactions

May 16, 1979.

In the matter of Edie Special Growth Fund, Inc., Rowe Price New Horizons Fund, Inc., and, T. Rowe Price Associates, Inc., 100 East Pratt Street, Baltimore, Maryland 21202.

Notice is hereby given that Edie Special Growth Fund, Inc. ("Growth Fund") and Rowe Price New Horizons Fund, Inc.,) ("New Horizons") (hereinafter collectively referred to as "Funds"), both registered under the Investment Company Act of 1940 ("Act") as diversified, open-end management investment companies, and T. Rowe Price Associates, Inc. ("Price"), an investment adviser registered under the Investment Advisers act (Growth Fund, New Horizons and Price are hereinafter referred to collectively as "Applicants"), filed an application on February 26, 1979, and an amendment thereto on May 2, 1979, pursuant to Section 17(b) of the Act, for an order of the Commission exempting from the provisions of Section 17(a) of the Act the proposed reorganization of Growth Fund with and into New Horizons and, pursuant to Sectin 17(d) of the Act and Rule 17d-1 thereunder, for an order of the Commission permitting the joint participation of Price in the proposed reorganization and concurrent transactions. All interested persons are referred to the application on file with the Commission for a statement of the representations contained therein, which are summarized below.

Applicants state that Price acts as the investment adviser for New Horizons and since January 1, 1979, has served, without compensation, as the investment adviser to Growth Fund. New Horizons, a "no-load" investment company incorporated in Maryland, has as its investment objective long-term growth of capital through investment primarily in common stocks of small growth companies which the fund's management believes have the potential

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to become major companies in the future. As of December 31, 1978, New Horizons had net assest of approximately $441,919,715. Growth Fund, a "no-load" investment company incorporated in Delaware, has as its investment objective long-term capital appreciation through investments primarily in small companies which appear to offer potentially high rewards, but which may represent greater risks of various kinds. Applicants state that the sale of shares of Growth Fund were suspended as of December 31, 1978. At that date the net assets of Growth Fund were approximately $33,090,000.

Applicants state that Edie Management Services, Inc. ("EMS"), a wholly-owned subsidiary of Lionel D. Edie & Company, Incorporated ("Edie"), was the investment adviser to Growth Fund from that Fund's inception in 1969 through December 31, 1978.

On November 13, 1978, EMS and Edie informed the Board of Directors of Growth Fund ("Growth Fund Board") that Manufacturers Hanover Trust Company ("MHT") planned to acquire all of the issued and outstanding shares of Edie and that EMS would terminate its investment advisory contract with Growth Fund at or prior to the effective date of the MHT acquisition in order to avoid potential problems under the Glass-Steagall Act. EMS indicated to the Growth Fund Board at that time that it would seek a successor investment advisor for Growth Fund. After reviewing numerous proposals from prospective investment advisers, Edie and Price entered into a letter of agreement ("Agreement") on December 15, 1978, which called for Price to assume management responsibility of Growth Fund effective December 31, 1798, simultaneously with the closing of the MHT acquisition, and a reorganization pursuant to which New Horizons would acquire all of the assets of Growth Fund.

Applicants state that in the Agreement, EMS undertook: (1) To transfer to Price and grant Price access to all its files and information relating to the performance of its services pursuant to its advisory agreement with Growth Fund; (2) to make EMS personnel available to Price in order to facilitate Price's assumption of management of Growth Fund; and (3) to use its best efforts to bring about the prompt consummation of Growth Fund's reorganization into New Horizons, including assistance in obtaining requisite approval by shareholders, directors and regulatory agencies. In exchange for these undertakings, Price paid EMS $50,000. In addition, EMS and Edie agreed to provide advice and assistance to Price for a two year period beginning December 31, 1978, the date EMS terminated its investment advisory agreement with Growth Fund. EMS further agreed that during this two year period, it would not act as sponsor or investment adviser to any publicly offered, open-end investment company which has as its primary investment objective capital appreciation through investments in small capitalization and emerging growth stocks. In exchange for these undertakings, Price agreed to pay EMS $75,000 on both September 1, 1979, and September 1, 1980, unless the reorganization is not consummated on or before June 30, 1979, in which case the payments will be reduced to $25,000 each. The Agreement provides that Price will pay expenses of the reorganization and the transactions described in the Agreement to a maximum limit of $50,000 and that EMS and Edie will pay all expenses over that amount.

Applicants state that the proposed reorganization of Growth Fund with New Horizons has been approved by the board of directors of each Fund. Applicants further state that the Growth Fund Boards of Directors approved an investment advisory agreement with Price on December 28, 1978, which contains substantially the same terms and provisions as the investment advisory agreement between Price and New Horizons, except that Price will receive no compensation until approval of the advisory contract is obtained from Growth Fund shareholders. Applicants represent that Growth Fund's advisory contract with Price contains substantially the same provisions as the advisory contract with EMS, although the advisory fee paid Price will be less. EMS was paid an annual fee equal to 0.75% of the average daily net assets of Growth Fund not exceeding $100 million; 0.675% of average daily net assets in excess of $100 million but not exceeding $200 million; and 0.60% of average daily net assests in excess of $200 million. Under the investment advisory agreement currently in effect between Price and Growth Fund, as well as the agreement between Price and New Horizons, Price is to be paid (after stockholder approval) an annual fee equal to ½ of 1% of the first $500 million of average daily net assets of the fund and four-tenths of 1% of such assets in excess of $500 million.

Applicants represent that EMS and Edie have entered into an indemnity agreement with Price pursuant to which they have agreed to indemnify Price, New Horizons and associated persons in connection with the transactions set forth in the Agreement. EMS and Edie have also agreed to indemnify New Horizons if representations made to Growth Fund and New Horizons with respect to the condition of Edie Fund on December 31, 1978, are untrue and as a result either Fund is damaged. An Agreement and Plan of Reorganization dated February 1, 1979, between the Funds ("Reorganization Agreement") was approved by the New Horizons Board on January 23, 1979, and by the Growth Fund Board on January 31, 1979.

Applicants state that a special meeting of Growth Fund shareholders has been called for June 27, 1979, to secure their approval and adoption of the Reorganization Agreement, to authorize the liquidation and dissolution of Growth Fund, and to approve and adopt the investment advisory agreement with Price so that payment of advisory fees may be made to Price. Approval of the reorganization by shareholders of New Horizons is not required under Maryland law and will not be sought.

Applicants state that on the effective date of the reorganization New Horizons will issue shares of its capital stock to Growth Fund in exchange for all the assets of Growth Fund except for an amount of cash sufficient to pay certain of its liabilities. Applicants represent that although the amount of cash retained by Growth Fund cannot be computed until shortly before the closing, it is anticipated that Growth Fund will not be requird to retain more than $10,000 in cash. The number of shares of New Horizons to be issued in exchange for Growth Fund assets will be determined by dividing the aggregate value of the net assets of Growth Fund to be transferred by the net asset value per share of New Horizons. Growth Fund shareholders will receive shares (in full and fractional shares) of New Horizons equivalent to their pro-rata interest in Growth Fund. It is expected that the closing date will not be later than June 30, 1979, unless postponement is agreed to by both Funds. Applicants state that it is not anticipated that the consummation of the reorganization will result in major changes in Growth Fund's portfolio, although some changes will be made when the portfolios of the Funds are united. Any brokerage commission paid in connection with portfolio transactions occurring after the consummation of the reorganization will be borne by New Horizons.

Applicants state that Growth Fund has eight directors, two of whom are officers of Price and New Horizons, and one of those two is also a director of New Horizons. New Horizons has six directors, four of whom are officers of Price. Applicants state that at the time the reorganization of the Funds was approved by both boards at least half of their respective members were not "interested persons" of Price within the meaning of Section 2(a)(19) of the Act. The officers of each Fund are officers of the other Fund and also officers or employees of Price. Applicants assert that neither Fund is under the control of Price and that the Funds are not under common control. Applicants nevertheless state that because of the relationships described above, the Funds might be deemed to be under common control and, thus, "affiliated persons" of each other within the meaning of Section 2(a)(3) of the Act.

Section 17(a) of the Act, in pertinent part, prohibits an affiliated person of a registered investment company or any affiliated person of such an affiliated person, acting as principal, from knowingly selling any security or other property to such registered company or knowingly purchasing any security or other property from such registered company, subject to certain exceptions. Section 17(b) of the Act provides, however, that the Commission, upon application, may exempt a proposed transaction from the provisions of Section 17(a) of the Act if evidence establishes that the terms of the proposed transaction, including the consideration to be paid or received, are reasonable and fair and do not involve overreaching on the part of any person concerned, and that the proposed transaction is consistent with the policy of each registered investment company concerned, and with the general purposes of the Act.

Applicants assert that the terms of the proposed reorganization are fair and reasonable insofar as shareholders of Growth Fund will be receiving shares of New Horizons equal in aggregate net asset value to Growth Fund's net assets and no shareholder of either Fund will experience any change in the redemption value of his securities because of the reorganization. Applicants state that the Funds are not bearing any expenses of the reorganization. Applicants asserts that the proposed reorganization is consistent with the respective investment policies of Growth Fund and New Horizons insofar as Growth Fund shareholders will receive shares of a no-load, open-end management company with substantially identical investment policies and investment restrictions managed by the same investment adviser.

Applicants assert that the reorganization will result in a reduction in the advisory fee paid on Growth Fund's portfolio because the fees paid by New Horizons to Price are at a substantially lower rate than the advisory fees paid by Growth Fund to EMS. Applicants also point out that the ratio of operating expenses to average net assets of New Horizons is lower than that of Growth Fund due to economies of scale and that such economies should be enhanced after the reorganization to the benefit of the shareholders of both Funds. The application states that the reorganization will benefit both Funds because no brokerage commission will be paid on the transfer of Growth Fund's portfolio to New Horizons.

Section 17(d) of the Act and Rule 17d-1 thereunder provide, in pertinent part, that it shall be unlawful for any affiliated person of a registered investment company, or any affiliated person of such a person, acting as principal, to participate in or effect any transaction in connection with any joint enterprise or other joint arrangement in which such registered company, or company controlled by such registered company, is a participant unless an application regarding such joint enterprise or arrangement has been filed with the Commission and an order granting such application has been issued. In passing upon such application, the Commission will consider whether the participation of such registered or controlled company in such joint enterprise or joint arrangement on the basis proposed is consistent with the provisions, policies and purposes of the Act, and the extent to which such participation is on a basis different from, or less advantageous than that of other participants. A joint enterprise or other joint arrangement is defined in Rule 17d-1 as any written or oral plan, contract, authorization or arrangement, or any practice or understanding concerning an enterprise or undertaking whereby a registered investment company or a controlled company thereof, and any affiliated person of such person, have a jount or a joint and several participation, or share in the profits of such enterprise or undertaking.

Applicants state that if the reorganization is considered as part of an enterprise encompassing the transactions contemplated by the Agreement, including the payments to EMS by Price, indemnification of the Funds and reimbursement of the Funds' expenses, then by virtue of particpation by Price in those transactions, there would be a "joint enterprise" within the meaning of Rule 17d-1 and an order granting such application would be required in connection with the proposed reorganization.

Applicants represent the participation by Price in these transactions, including the assumption by Price of expenses incurred by the Funds as the result of the reorganization, is fair and reasonable and is consistent with the provisions, policies and purposes of the Act. In addition, it is asserted that no participant in the reorganization and related transactions participates on a basis different from or less advantageous than the other participants. In this regard, it is further asserted that no shareholder of any participant will be treated any differently than any other shareholder of that participant, and no officer or director of any participant will receive any special benefit by virtue of the reorganization.

Notice is further given that any interested person may, not later than June 11, 1979, at 5:30 p.m., submit to the Commission in writing a request for a hearing on the matter accompanied by a statement as to the nature of his interest, the reason for such request, and the issues, if any, of fact or law proposed to be controverted, or he may request that he be notified if the Commission shall order a hearing thereon. Any such communication should be addressed: Secretary, Securities and Exchange Commission, Washington, D.C. 20549. A copy of such request shall be served personally or by mail upon Applicant(s) at the address(es) stated above. Proof of such service (by affidavit, or in case of an attorney-at-law, by certificate) shall be filed contemporaneously with the request. As provided by Rule 0-5 of the rules and regulations promulgated under the Act, an order disposing of the application will be issued as of course following said date unless the Commission thereafter orders a hearing upon request or upon the Commission's own motion. Persons who request a hearing, or advice as to whether a hearing is ordered, will receive any notices and orders issued in this matter, including the date of the hearing (if ordered) and any postponements thereof.

For the Commission, by the Division of Investment Management, pursuant to delegated authority.

George A. Fitzsimmons,

Secretary.

[FR Doc. 79-16024 Filed 5-22-79; 8:45 am]

BILLING CODE 8010-01-M

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DEPARTMENT OF STATE

Agency for International Development

A.I.D. Research Advisory Committee; Meeting

Pursuant to Executive Order 11769 and the provisions of section 10(a)(2), Pub. L. 92–463, Federal Advisory Committee Act, notice is hereby given of the A.I.D. Research Advisory Committee meeting on July 12–13, 1979 at the Pan American Health Organization Building, 23rd Street and Virginia Avenue, N.W., Conference Room 'C' to review, appraise and make recommendation to the Administrator, Agency for International Development, concerning projects proposed for A.I.D. central research funding in the fields of food and nutrition, rural development, population and family planning, and selected development problems.

The meeting will begin at 9:00 a.m. and adjourn at 5:30 p.m. each day. The meeting is open to the public. Robert C. Simpson, Director, Office of Program, Bureau for Development Support, is designated as the A.I.D. representative at the meeting. It is suggested that those desiring more specific information, contact Mr. Simpson, 1601 N. Kent Street, Arlington, Virginia 22209 or call area code (202) 235–8898.

Dated: May 14, 1979.

Robert C. Simpson,

A.I.D. Representative, Research Advisory Committee.

[FR Doc. 79–16093 Filed 5–22–79; 8:45 am]

BILLING CODE 4710–02–M

Advisory Committee on Voluntary Foreign Aid; Meeting

Pursuant to Executive Order 11769 and the provisions of section 10(a)(2), Pub. L. 92–463, Federal Advisory Committee Act, notice is hereby given of the meeting of the Advisory Committee on Voluntary Foreign Aid which will be held on June 25 and 26, 1979, from 9:30 a.m. to 5:00 p.m., at the Marine Memorial Club, 609 Sutter Street, San Francisco, California.

On June 25th the Committee will continue examining the global food adequacy issue, with emphasis in the nutrition aspects of the subject. The role of voluntary agencies in nutrition, food production and food distribution programs will be given special attention. On June 26th the Committee will address itself to development education, the evaluation and self-assessment of voluntary agency programs, and food-aid programs. It will also consider such other matters related to voluntarism in the foreign assistance as may be appropriate.

The meeting will be open to the public. Any interested person may attend, appear before, or file statements with the Committee in accordance with procedures established by the Committee. Written statements may be filed before or after the meeting.

Mr. John A. Ulinski, Jr. will be the A.I.D. representative at the meeting. It is suggested that those desiring further information contact Mr. Ulinski at 202–632–8937 or by mail, c/o the Advisory Committee on Voluntary Foreign Aid, Agency for International Development, Washington, D.C. 20523.

Dated: May 16, 1979.

Calvin H. Raullerson,

Assistant Administrator, Bureau for Private and Development Cooperation.

[FR Doc. 79–16092 Filed 5–22–79; 8:45 am]

BILLING CODE 4710–02–M

Office of the Secretary

[Public Notice CM–8/199]

Shipping Coordinating Committee; Meeting

The Shipping Coordinating Committee (SHC) will conduct an open meeting at 10:30 a.m. on Wednesday, June 13, 1979, in Room 1207 of the Department of State, 2201 C Street, NW., Washington, D.C. 20520.

The purpose of the meeting will be to review shipping items covered at the United Nations Conference on Trade and Development (UNCTAD V) held in Manila in May. A discussion of other pertinent shipping matters will take place.

Requests for further information should be directed to Mr. Richard K. Bank, Office of Maritime Affairs, Department of State, Room 5826, Washington, D.C. 20520, telephone (202) 632–0704.

The Chairman will entertain comments from the public as time permits.

The public is kindly requested to use the C Street entrance to the State Department.

Richard K. Bank,

Chairman, Shipping Coordinating Committee.

May 11, 1979.

[FR Doc. 79–16090 Filed 5–22–79; 8:45 am]

BILLING CODE 4710–01–M

[Public Notice CM–8/200]

Study Group 1 of the U.S. Organization for the International Radio Consultative Committee (CCIR); Meeting

The Department of State announces that Study Group 1 of the U.S. Organization for the International Radio Consultative Committee (CCIR) will meet on June 26, 1979, in Conference Room D, Department of Commerce Building, 14th and Constitution Avenue, N.W., Washington, D.C., at 9:30 a.m.

Study Group 1 deals with matters relating to efficient use of the radio frequency spectrum, and in particular, with problems of frequency sharing, taking into account the attainable characteristics of radio equipment and systems; principles for classifying emissions; and the measurement of emission characteristics and spectrum occupancy. The purpose of the meeting will be to determine the work program looking to the international meeting of Study Group 1 in 1980.

Members of the general public may attend the meeting and join in the discussions subject to instructions of the Chairman.

Requests for further information should be directed to Mr. Gordon Huffcutt, State Department, Washington, D.C. 20520, telephone (202) 632–2592.

Dated: May 16, 1979.

Gordon L. Huffcutt,

Chairman, U.S. CCIR National Committee.

[FR Doc. 79–16091 Filed 5–22–79; 8:45 am]

BILLING CODE 4710–07–M

[Public Notice CM–8/198]

Study Group 4 of the U.S. Organization for the International Radio Consultative Committee (CCIR); Meeting

The Department of State announces that Study Group 4 of the U.S. Organization for the International Radio Consultative Committee (CCIR) will meet on June 6, at 10:00 a.m. in the Theater on the first floor of the ComSat Building, 950 L'Enfant Plaza, S.W., Washington, D.C.

Study Group 4 deals with matters relating to systems of radiocommunications for the fixed service using satellites. The purpose of the meeting is to review the results of the 1978 CCIR Plenary Assembly and the Special Preparatory Meeting for the 1979 World Administrative Radio Conference, and develop a program of work in preparation for the 1980 meeting of international of Study Group 4.

Members of the general public may attend the meeting and join in the discussions subject to instructions of the Chairman.

Requests for further information should be directed to Mr. Gordon Huffcutt, State Department, Washington, D.C. 20520, telephone (202) 632–2592.

Dated: May 14, 1979.

Gordon L. Huffcutt,

Chairman, U.S. CCIR National Committee.

[FR Doc. 79–16089 Filed 5–22–79; 8:45 am]

BILLING CODE 4710–01–M

INTERSTATE COMMERCE COMMISSION

Fourth Section Applications for Relief

May 18, 1979.

These applications for long-and-short-haul relief have been filed with the I.C.C.

Protests are due at the I.C.C. within 8 days from the date of publication of this notice.

FSA No. 43700, Louisville and Nashville Railroad Company No. 1, rates on round trip unit train movements of whole grain and soybeans, in carloads, from Delphi and Lafayette, Indiana to Mobile, Alabama, Savannah, Georgia and Pascagoula, Mississippi, to be published in its Tariff LN 4046, ICC LN 4046. Grounds for relief—rate relationship.

Protests are due at the I.C.C. on or before June 7, 1979.

FSA No. 43701, Seatrain International, S.A. No. WEE–30, intermodal rates on general commodities in containers, between ports in Europe and Africa, on the one hand, and on the other, rail carriers terminals on the United States West Coast, by way of Charleston, SC, in Pacific Coast European Conference Tariff No. 1, I.C.C. No. 1, North Europe—United States Pacific Freight Conference Tariff No. 5, I.C.C. No. 5 and Seatrain International, S.A. Tariff 314, I.C.C. STLU 314, effective June 7, 1979, and later. Grounds for relief—water competition. By the Commission.

H. G. Homme, Jr.,

Secretary.

[FR Doc. 79–16170 Filed 5–22–79; 8:45 am]

BILLING CODE 7035–01–M

Item No., Docket No., and Company

Confirmatory Order in Arkansas-1 was

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Sunshine Act Meetings

Federal Register
Vol. 44, No. 101
Wednesday, May 23, 1979

This section of the FEDERAL REGISTER contains notices of meetings published under the "Government in the Sunshine Act" (Pub. L. 94-409) 5 U.S.C. 552b(e)(3).

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1

CONSUMER PRODUCT SAFETY COMMISSION.

Revised Agenda*

TIME AND DATE: Wednesday, May 23, 1979, 9:30 a.m. and 1:30 p.m.

STATUS: Part Open, Part Closed.

LOCATION: Third Floor Hearing Room, 1111-18th St., NW., Washington, D.C.

A. Open to the Public, 9:30 a.m.

MATTERS TO BE DISCUSSED: 1. *Home Safety, Playground Safety Public Service Announcements.*

The staff and Commission will review recently-developed radio and television public service "spots" for the home safety and playground safety campaigns.

2. *Briefing on Hair Dryers/Asbestos: Status Report.*

The staff will present another in a series of regular reports to the Commission on the status of actions it is taking to deal with posssible hazards associated with asbestos in hand-held hair dryers. The last previous report was on May 17.

B. Partly Open, Partly Closed to the Public, 1:30 p.m.

3. *Briefing on Public Playground Equipment.*

The staff will present options for Commission action to address risks of injury associated with public playground equipment. In May, 1977, the Commission considered a recommended mandatory safety standard prepared by the National Recreation and Parks Association under the Commission's "offeror" process. (Portion closed under exemption 9: possible significant frustration of agency action.)

C. Open to the Public.

4. *Briefing on Chronic Hazards Programs.*

The staff will present a status report on various chronic hazards projects.

CONTACT PERSON: Sheldon D. Butts, Assistant Secretary, Suite 100, 1111-18th St. NW., Washington, DC 23207, (202) 634-7700.

[S-1019-79 Filed 5-21-79; 12:03 pm]

BILLING CODE 6355-01-M

*Agenda revised May 18, 1979 with deletion of two items: Small Parts, and the Briefing on Emerging Priorities (which have been rescheduled), and with the addition of current item 4, the Briefing on Chronic Hazards Programs.

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CONSUMER PRODUCT SAFETY COMMISSION.

TIME AND DATE: Thursday, May 24, 1979, 9:30 a.m.

LOCATION: Third Floor Hearing Room, 1111-18th St., NW., Washington, DC.

STATUS: Open to the Public.

MATTERS TO BE CONSIDERED: 1. *Election of Vice Chairman.*

The Commission will elect a Vice Chairman to serve a one-year term beginning June 1, 1979.

2. *Small Parts Regulation.*

The Commission will consider a draft final regulation classifying certain children's products as banned hazardous substances because they present unreasonable risks of injury due to the presence of accessible small parts. The staff briefed the Commission on this matter May 16. (This item was previously scheduled for May 23.)

3. *CPSA Rules for Inspection.*

The Commission will consider draft final rules for Investigations, Inspections and Inquiries under the Consumer Product Safety Act. The staff briefed the Commission on this matter May 17.

CONTACT PERSON FOR ADDITIONAL INFORMATION: Sheldon D. Butts, Assistance Secretary, Suite 300, 1111-18th St., N.W., Washington, DC 20207, (202) 634-7700.

Agenda approved May 18, 1979. In approving this agenda, the Commission determined that agency business requires consideration of these items without seven days advance notice.

[S-1020-79 Filed 5-21-79; 12:03 pm]

BILLING CODE 6355-01-M

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CONSUMER PRODUCT SAFETY COMMISSION.

TIME AND DATE: Wednesday, May 30, 1979, 10 a.m.

LOCATION: Room 456 Westwood Towers, 6401 Westbard Ave., Bethesda, Maryland.

STATUS: Open to the Public.

MATTERS TO BE DISCUSSED: 1. *Briefing on Emerging Priorities.*

Staff from the Emerging Priorities/Special Projects Team will present a six-month review of the team's activities.

2. *Briefing on Statutory Rule Review.*

Recent amendments to the Consumer Product Safety Act require CPSC to undertake a review of its regulations and report to the Congress with recommended changes. At this meeting, the staff will present a proposed plan for this review.

3. *Public Playground Equipment.*

The Commission will consider options for action to deal with risks of injury associated with public playground equipment. The staff briefed the Commission on this matter May 23.

4. *Coal- and Wood-Burning Stoves Petition, AP 77-2.*

The Commission will consider a petition in which Adam Paul Banner of Midland, Michigan, asks CPSC to issue a labeling rule for coal- and wood-burning appliances, stoves and free-standing fireplaces. The staff briefed the Commission on this petition on March 14.

CONTACT PERSON FOR ADDITIONAL INFORMATION: Sheldon D. Butts, Assistant Secretary, Suite 300, 1111 18th St. NW., Washington, DC 20207, (202) 634-7700.

[S-1021-79 Filed 5-21-79; 12:03]

BILLING CODE 6355-01-M

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FEDERAL ENERGY REGULATORY COMMISSION.

"FEDERAL REGISTER" CITATION OF PREVIOUS ANNOUNCEMENT: (To be published May 22, 1979).

PREVIOUSLY ANNOUNCED ITEM AND DATE OF MEETING: May 23, 1979, 10 a.m.

CHANGE IN MEETING: The following item has been added:

Item No., Docket No., and Company

CAG-21.—CP77-383, (Phase II), Panhandle Eastern Pipe Line Company.
CAG-21.—CP77-423, (Phase II), Colorado Interstate Gas Company.
CAG-21.—CP79-16, Mountain Fuel Supply Company.
M-9.—RM79-13, Interim Regulation for the Implementation of Section 401 of the Natural Gas Policy Act of 1978.

Kenneth F. Plumb,
Secretary.

[S-1022-79- Filed 5-2-79; 1:32 pm]

BILLING CODE 9450-01-M

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FEDERAL MARITIME COMMISSION.

"FEDERAL REGISTER" CITATION OF PREVIOUS ANNOUNCEMENT: May 18, 1979, 44 FR 29209.

PREVIOUSLY ANNOUNCED TIME AND DATE OF THE MEETING: May 23, 1979.

CHANGE IN THE MEETING: Addition of the following item to the open session:

11. Matson Navigation Company proposed bunker surcharge increase.

[S-1023-79 Filed 5-21-79; 2:55 pm]

BILLING CODE 6730-01-M

6

NUCLEAR REGULATORY COMMISSION.

TIME AND DATE: Weeks of May 7 and 14, 1979 (Changes).

PLACE: Commissioners' Conference Room 1717 H St., N.W., Washington, D.C.

STATUS: Open/Closed.

Friday, May 11, 3 p.m.

1. The Discussion of Upgrade Rule and Supporting Guidance (Approximately 1½ hours—Closed—Exemption 1 was Postponed).
2. Affirmation Session (approximately 5 minutes—public meeting).

Item b, Physical Protection of Material, was postponed.

Wednesday, May 16

The Staff Briefing on Oconee Order (approximately 1 hour, public meeting) scheduled for Approx 3:00 p.m. was rescheduled to 9:30 a.m., Friday, May 18. Affirmation of Confirmatory Orders in Crystal River and Davis-Besse (approx 5 minute—public meeting) took its place.

Thursday, May 17

1. The following items scheduled for the Affirmation Session (approximately 11 a.m.—approximately 5 minutes—public meeting were postponed):
   a. Revision of Part 2.802, Petition for Rulemaking
   c. Petition to Defer Implementation of Security Personnel Qualification and Equipment (rescheduled to May 24)
   d. Fialka FOIA Appeal

Confirmatory Order in Arkansas-1 was added

2. The Briefing on Reactor Licensing Schedules (Approximately 1 hour—public meeting) scheduled for 2 p.m. was cancelled. The Discussion of Uranium Mill Tailings Act was rescheduled in its place.

CONTACT PERSON FOR MORE INFORMATION: Roger Tweed, (202) 634-1410, May 18, 1979.

Roger M. Tweed,
Office of the Secretary.

[S-1024-79 Filed 5-21-79; 3:19 pm]

BILLING CODE 7590-01-M

7

NUCLEAR REGULATORY COMMISSION.

TIME AND DATE: Week of May 21, 1979.

PLACE: Commissioners' Conference Room, 1717 H St., NW., Washington, D.C.

STATUS: Open (Changes).

MATTERS TO BE CONSIDERED:

Monday, May 21, 2:30 p.m.

Discussion of Licensing Schedules and Related Matters (approximately 2 hours—public meeting) additional item.

Thursday, May 24, 9:30 a.m. (Revised)

1. The 9:30 briefing should be titled "Briefing by Oak Ridge on Another Perspective of the 1958 Soviet Nuclear Accident (approximately 1 hour—public meeting).
2. Affirmation session (approximately 10 minutes—public meeting).
   a. NRDC Petition for Rulemaking as scheduled
   b. Physical Protection of Category II and III Material, Cancelled
   c. Fialka FOIA Appeal Cancelled
   d. Seabrook Seismic Shutdown Petition Added
   e. Petition on Security Personnel Rescheduled from May 17.

CONTACT PERSON FOR MORE INFORMATION: Walter Magee, 202-634-1410.

Roger M. Tweed,
Office of the Secretary.

May 17, 1979.

[S-1025-79 Filed 5-21-79; 3:19 pm]

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federal register

Wednesday
May 23, 1979

Part II

Environmental Protection Agency

Grants for Water Quality Planning, Management, and Implementation

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ENVIRONMENTAL PROTECTION AGENCY

40 CFR Parts 35, 130, 131

[FRL 1096-6]

State and Local Assistance; Grants for Water Quality Planning, Management and Implementation; Final Regulations

AGENCY: Environmental Protection Agency.

ACTION: Rule.

SUMMARY: These regulations govern the water quality management (WQM) program. This program is administered by the Environmental Protection Agency (EPA) under the authority of sections 106, 208, and 303 of the Clean Water Act (the Act). The WQM program is a nationally directed and funded program, managed by EPA's regional offices. Through the WQM program, grants and other assistance are provided to States and interstate and areawide agencies for the development and implementation of programs to abate and control both point and nonpoint sources of water pollution. Specific program activities include the identification of water pollution problems; the assignment of responsibilities for problem-solving to Federal, State, interstate, areawide, and local government agencies; and the development and implementation of solutions to the problems.

Four earlier sets of regulations implementing sections 106, 208, and 303 of the Act are revised and replaced by these regulations. The four superseded regulations were found at 40 CFR Part 130; 131; §§ 35.200 through 35.236; and §§ 35.551 through 35.570. EPA combined these four sets of superseded regulations into one and eliminated, simplified, and consolidated numerous program requirements of those regulations in response to the President's directive to consolidate Federal planning requirements on State and local governments.

These regulations were proposed in the **Federal Register** on September 12, 1978 (43 FR 40742). Public comment was received on the proposal for 60 days. These regulations reflect comments received.

DATE: These rules are effective on May 23, 1979 (see § 35.1501).

ADDRESS: Comments submitted on these regulations may be inspected at the Public Information Reference Unit, EPA Headquarters, Room 2922, Waterside Mall, 401 M Street, S.W., Washington, D.C. 20460, between 8 a.m. and 4 p.m. on business days.

FOR FURTHER INFORMATION CONTACT: Peter L. Wise, Chief, Program Development Branch, Water Planning Division (WH-554), Environmental Protection Agency, 401 M Street, S.W., Washington, D.C. 20460, telephone 202-755-6965.

SUPPLEMENTARY INFORMATION: These regulations do not contain major changes or shifts in the goals and objectives of the WQM program. They do, however, make some adjustments in the management and structure of the program. They address program management needs identified in an EPA study prepared for the Office of Management and Budget entitled "Program Strategy for Water Quality Management, FY 1979-1983." They implement applicable provisions of the Clean Water Act of 1977 and several new executive orders and directives. The regulations were revised in order to set forth necessary requirements for the continuing planning and implementation phase of the program, because the initial planning period for grantees (usually three years) has ended or will soon end. Modifications to requirements in the earlier regulations were made to resolve problems that have arisen with those regulations over the past several years.

EPA is currently in the process of revising existing WQM policy guidance in order to conform to these regulations and to eliminate outdated policy. The current Program Guidance Memoranda (SAMs) will be revised and reissued as WQM Policy Memoranda and will have new numbers. This guidance may be obtained from EPA's Water Planning Division.

EPA has published proposed regulations to implement the "clean lakes" program under section 314 of the Act (44 FR 5685, January 29, 1979). The WQM regulations already cover several relationships to the clean lakes program. EPA is considering further integrating the two programs. We invite comment on how they should be integrated, including the possibility of incorporating the clean lakes regulations into the WQM regulations when the final clean lakes regulations are promulgated. EPA may also modify these WQM regulations at that time to accommodate necessary changes in the WQM program brought about by integration with the clean lakes program. In addition, we may make other changes to the WQM regulations that are appropriate in view of experience in the WQM program.

EPA intends to propose additional provisions for the WQM regulations that will govern statewide section 208 dredge and fill regulatory programs under sections 208(b)(4) (B) and (C) of the Act. These sections were added by the Clean Water Act of 1977.

During the continuing planning phase of WQM, pollution problems that were not covered by the initial plans will be addressed. Over time, as resources are available, WQM plans to cover all pollution problems will be completed.

We began to consider the need for revised WQM regulations in January 1978. A retreat involving EPA Headquarters and regional personnel, State officials, and areawide planning agency officials was held in April 1978. Discussions during this meeting led to the decision by the Agency to proceed with a revision of the WQM regulations. On May 4, 1978, a preliminary concept paper containing proposals for revising the regulations was distributed to EPA regions; State, areawide, and local governments; public interest groups; trade associations; and interested individuals. EPA believes it is very important to involve the public in the WQM process. In keeping with this policy, three public meetings were held in Washington, D.C. to discuss and receive comments on the concept paper. Numerous comments were received by mail, phone, and at the meetings. These comments were considered in developing the proposed regulations. The regulations were developed and reviewed by EPA with interest groups such as the Natural Resources Defense Council, Association of State and Interstate Water Pollution Control Administrators, National Association of Regional Councils, National Association of Conservation Districts, and the National Forest Products Association. The regulations were proposed in the **Federal Register** on September 12, 1978 (43 FR 40742). We held a public hearing to receive comments on October 24, 1978. The official 60 day comment period on the regulations closed on November 13, 1978, and as of that date, we had received approximately 180 comments.

The following discussion responds to the comments received on the proposed regulations. The discussion is arranged by subject area. Changes made in the final form of the regulations in response to public comment are discussed as are the Agency's response to significant comments that did not lead to changes. The citations in the discussion of comments are to sections of the final WQM regulations unless otherwise indicated. We invite further comments on the changes made in the WQM program through these regulations.

Applicability of Revised Regulations

A number of commenters questioned how these regulations would apply to WQM planning efforts that are already underway but are not yet completed or approved as of the date of publication of these regulations (§ 35.1501). The general rule set forth is that they will apply to future WQM planning activities funded after promulgation of the regulations and to all implementation activities. Previously funded planning efforts, including development of the initial WQM plans and fulfillment of conditions attached to EPA approval of initial plans, will generally be governed by the regulations under which they were funded and developed.

An exception to this general rule provides that the Regional Administrator may determine, after consultation with the planning agency, that it is appropriate to apply these regulations to previously funded planning efforts or satisfaction of approval conditions (§§ 35.1501(b) (3) and (4)). This will allow application of these regulations to earlier planning efforts in cases where this would not be inequitable or unduly disruptive of a planning agency's efforts.

A second exception provides that the new procedures for evaluation, certification and approval of plans established in the revised regulations will be used in reviewing all WQM plans and updates regardless of the date of the grant award. Commenters thought that this required that all WQM planning efforts be reviewed and evaluated against the new requirements for plan content found in the revised regulations (§§ 35.1521-3 and 35.1521-4). The regulations do not require this. They require that the evaluation procedures be used in all cases, *not* the new requirements for plan content. Previously funded planning efforts will normally be evaluated using requirements for plan content found in the regulations that were in effect at the time of the grant award (i.e., 40 CFR Part 131.11). As discussed, however, the Regional Administrator may use the new requirements for plan content when evaluating previously funded planning efforts in appropriate cases.

Relationships Between Water Quality Assessments, State Strategy, State/EPA Agreement, Annual Work Program, WQM Plans, and Continuing Planning Process

Several commenters felt that the relationships between the major components of the WQM program were not adequately explained or were confusing. We have clarified these relationships, revised the program summary and reorganized the regulations in response to these comments. Some of the principal relationships between the components are discussed here.

Many WQM planning agencies have already completed initial WQM plans. These plans were developed primarily with section 208 funds. They have been or are now being submitted to Governors for certification and to EPA Regional Administrators for approval. WQM plans play a key role in the ongoing State WQM process. Information and requirements in certified and approved WQM plans will be used in an annual process of assessing water quality problems, updating the State strategy to solve those problems, and developing State and areawide work programs for the production of various types of WQM problem-solving outputs.

WQM plan updates are one output to be addressed in work programs. Plan updates must be directed at solving problems, not merely producing a plan with better supporting data or current information. Plan updates must build on existing plans. Decisions concerning the scope, direction and funding levels for future WQM plan updates, refinements, and implementation are made during the development of the program components described below.

It is helpful to think of the WQM process as a series of steps beginning with the water quality assessment process. Water quality conditions and problems are indentified in the water quality assessment process. Activities that comprise this process have been and are being performed by State and areawide agencies under existing section 208, section 106, and section 314 programs, included during the development of WQM plans. Results of assessment activities are reflected in written documents including WQM plans and the section 305(b) report. State strategies, State/EPA Agreements, and annual work programs all make use of assessment data.

The State's five-year strategy establishes a general framework of priorities and approaches to resolving the water quality problems identified in the water quality assessment process. The State strategy is updated annually. It must set forth water quality problem-solving goals for the strategy period, activities to be conducted to achieve those goals, agencies responsible for those activities and the estimated costs of conducting the activities.

Major environmental problems, including water quality problems, to be addressed by a State in the coming year are selected by the EPA Regional Administrator and the Governor through the annual negotiation of the State/EPA Agreement. The Agreement integrates environmental problem-solving under programs of the Clean Water Act, the Resource Conservation and Recovery Act, and the Safe Drinking Water Act. The Agreement must be consistent with the State strategy.

The annual State WQM work program is a part of the State/EPA Agreement. It may be included as an attachment of the Agreement or incorporated by reference. Areawide work program development is coordinated with State activities. Annual State and areawide work programs are detailed plans of action for resolving water quality problems including those selected during the negotiation of the State/EPA Agreement. They set forth a schedule of activities for producing problem-solving outputs, generally over a one-year period, and identify responsible agencies and funding sources. Activities to update WQM plans, assessments, and the State strategy are also described in State and areawide work programs.

Section 303(e) of the Clean Water Act requires that States submit to EPA for approval a Continuing Planning Process (CPP) document. The CPP document describes the procedures for the State WQM process required under this subpart including procedures for developing the documents described above. All States now have approved CPP documents. EPA views that document as needing revisions only when there are fundamental changes in a State's WQM process.

Requirements for the Submission of Documents

A number of commenters remarked that the revised regulations appear to require the submission of reports and documents to EPA that were not required under the superseded WQM regulations, in particular water quality assessments, the State strategy and the State/EPA Agreement. These are not new requirements. The annual water quality assessment is a process and not a report as is explained in the section of the preamble on the assessment. The State strategy was required under 40 CFR § 130.20. A State/EPA Agreement was previously required under 40 CFR § 130.11. These regulations expand the scope and importance of State/EPA Agreements and consolidate requirements under the superseded regulations for separate State/EPA

opportunity to review and comment on

resolution mechanisms established by

Agreements, State section 208 work plans, State section 106 program plans, and the narrative portions of State grant agreements into the requirement for a State/EPA Agreement.

Public Participation Requirements

The Agency received many comments on public participation. Comments on the general provisions for public participation (§ 35.1507) are discussed here. Comments on public participation at specific steps in the WQM process are discussed elsewhere in the preamble.

The proposed regulations have been revised to conform with 40 CFR Part 25 (44 FR 10286, February 16, 1979) and to clarify the public's role in water quality management. All public participation in the WQM process is to be conducted in accordance with the Agency's requirements found in Part 25. Public meetings are mandatory for draft work programs and public hearings are mandatory for proposed WQM plans. Summaries of public comments received during meetings or hearings and the WQM agency's response to those comments are required by Part 25 and are called "Responsiveness Summaries". The summaries must be forwarded to EPA along with other required submittals.

A number of commenters requested that the public be involved in policy decisions as well as technical matters. We believe public participation is desirable in both instances. The regulations provide for public involvement at specific points throughout the WQM process (§ 35.1507). Further, WQM agencies may establish policy and technical subcommittees of the advisory committee specifically to consider policy and technical issues in further detail.

Several commenters wanted more detail on the particular stages of the WQM process where the public must be involved. We feel that the general provisions in Part 25 requiring public involvement throughout the WQM process and the more specific provisions in these regulations assure EPA grantees will adequately involve the public. Specific activities and schedules to meet these requirements will be set out in the work program. Inadequacies can be addressed during work program development and in the EPA work program approval process. Further EPA guidance on WQM public participation requirements is being prepared and will be issued in the near future.

Some reviewers believed the requirements for public participation would slow the WQM process so that deadlines specified in the regulations could not be met. EPA considered the time needed for effective public participation in establishing the deadlines. As discussed elsewhere in the preamble, additional time has been provided for consideration of public input in State certification actions and after planning agencies' public hearings. Adequate public participation and support are critical for the success of the WQM process. We believe that early and continuing involvement of the public as required by these regulations will avoid delays resulting from a lack of public support for plan recommendations and implementation decisions.

A number of comments were received on WQM advisory committee membership during the development of Part 25 and these regulations. These comments were considered in the development of both regulations. Each State must have an advisory committee which will be consulted during the development of the State WQM plan, State strategy, State/EPA Agreement (including work programs), evaluations, and other WQM activities funded under this subpart. Each areawide agency must have an advisory committee which will be consulted during the development of the areawide WQM plan and work program. Existing advisory committee membership may have to be changed to conform to new requirements of Part 25. Generally, this can be accomplished by expanding the membership to achieve the goal of substantially equal proportions of public officials, representatives of public interest groups, representatives of economic interests, and private citizens. A newly reconstituted advisory committee may renegotiate its budget. The WQM advisory committee can be consolidated with committees under other programs (e.g., water supply or solid waste programs). Future grants must provide funding for advisory committees.

Some reviewers felt that the remedies provided for failure to meet public participation requirements were not adequate. The same sanctions that apply in cases of failure to meet other output requirements apply to public participation requirements (e.g., disapproval of the CPP, disapproval of the work program or WQM plan, and withholding funds under this subpart). We believe that these remedies are adequate.

Some commenters recommended that we encourage public opinion surveys as part of the WQM process in order to determine how the general public views water quality issues. We believe that planning agencies should solicit the public's opinion about the WQM process and water quality issues through a variety of means such as public hearings and meetings, interviews, questionnaires and public opinion polls. The WQM process provides opportunities for doing so.

Water Quality Assessment

Several reviewers interpreted the regulations to require the annual submission of a document called the water quality assessment. The final regulations have been revised to make it clear that the assessment is not a document but is instead a process already taking place as part of the WQM process (§ 35.1511–1). Water quality assessment activities are funded under sections 106, 208, 314, and a variety of other Federal, State and local programs. Results of the assessment may be reflected in written documents that are already required (e.g., the section 305(b) report and WQM plans).

A number of commenters expressed concern that the regulations allowed only section 106 funds to be used in conducting water quality assessment activities. The regulations do not preclude the use of section 208 funds or money from other Clean Water Act funding sources. The Regional Administrator may make a specific determination that such other funds may be used. The regulations do, however, express a clear preference for the use of section 106 funds for WQM water quality assessment activities (§ 35.1511–1(b)(2)).

Several reviewers were concerned that the proposed regulations appeared to require that the section 305(b) report be prepared annually instead of biennially as specified in section 305(b) of the Act. The final regulations have been revised to make it clear that the section 305(b) report is only required biennially (see § 35.1511–1(f)). EPA guidance on the preparation of section 305(b) reports is available in EPA's regional offices.

Relationships Between the States and Areawide Planning Agencies

Many State and areawide planning agencies were concerned about the portions of the regulations that discussed the relationship between States and areawide planning agencies. Most of those portions are found in the sections of the regulations dealing with the State/EPA Agreement and work program. States sought greater control of areawide planning agencies. Areawide

agencies wanted independence from State control and a direct relationship with EPA.

We feel that the requirements in these regulations represent a reasonable balancing of these conflicting institutional interests. States are given a strong management role and a substantial role in developing areawide work programs and setting areawide priorities. New procedures have been added for cooperation and coordination between States and areawides during work program development. However, as intended in the Act, areawide agencies continue to have a direct relationship with EPA. EPA approves areawide work programs, considering State comments, and funds areawide agencies directly. The conflict resolution procedures required by these regulations establish a mechanism for resolving disputes at the State and local level (§ 35.1517). Specific comments concerning the State/areawide relationship and our responses are discussed below.

The regulations require that the Governor assure adequate WQM planning consistent with these regulations is conducted throughout the State including in designated planning areas (see § 35.1321–5(a)(1)). Several States felt that it was contradictory and inequitable for the States to be held responsible for the consistency of WQM planning throughout the State yet not be able to ensure that areawide work programs and, hence, subsequent WQM planning activities are consistent with the State WQM program. They felt that State approval of work programs was the only way to ensure Statewide consistency. We believe the regulations enable the States to ensure the consistency of WQM planning throughout the State by providing that the State work program sets a policy framework for areawide agencies (see §§ 35.1513–3(c) and 35.1515(b)). This policy framework is based on the State strategy and can include priorities for areawide actions and timing of major areawide outputs. Areawide work programs must be consistent with the framework.

Specific provisions added to the final regulations for increased cooperation and communication between State and areawide agencies during the development of work programs will help ensure consistency. These provisions include early State notification to areawide agencies of significant elements of the State's proposed policy framework applicable to areawide agencies. Areawide agencies must also provide the State with an early opportunity to review and comment on proposed work program elements (§ 35.1513–4(a)). States have the opportunity to review and comment on draft areawide work programs (§ 35.1513–4(c)). Their comments will be sent directly to EPA. EPA will consider the State's comments to be a crucial element in EPA's review of areawide work programs and will not approve areawide work programs that are inconsistent with the State's policy framework established in the State work program.

Two commenters believed State/EPA Agreements should be based on local priorities developed by areawide planning agencies. State/EPA Agreements must be consistent with approved areawide and State WQM plans and the State strategy, all of which may include local priorities. Areawide agencies may address local priorities in areawide work programs if they are consistent with the State policy framework and EPA concurs. The State must involve areawide agencies in developing the State/EPA Agreement and consider areawide priorities when developing the Agreement. The State shall forward to EPA a summary of areawide participation in developing the Agreement and areawide comments on the Agreement along with the draft Agreement (§ 35.1515(b)).

Several States felt that areawide funding should be passed through the State to the areawide agencies in order to allow the States to ensure that WQM planning throughout the State is consistent. Direct funding of areawide planning agencies by EPA is established policy. This policy was established because direct funding is necessary to preserve the integrity of the areawide approach to solving water quality problems established by the Clean Water Act. It is consistent with Congressional intent as expressed in § 208(f) of the Act and does not diminish the State's role during work program development. EPA, therefore, has concluded that areawide agencies have a right to receive grants directly from EPA (see § 35.1513–5(b)). However, EPA has revised the regulations to provide that nothing shall preclude a State and areawide agency from agreeing to pass grant funds through the State to the areawide agency.

A number of commenters were concerned that the requirement for conflict resolution procedures would lead to duplication of existing procedures of areawide planning agencies. In response, EPA has provided that the conflict resolution procedures should include existing conflict resolution mechanisms established by areawide agencies (§ 35.1517(a)).

Work Programs

Several commenters objected that the requirement for a public hearing on the work program would be too burdensome. In response and in order to conserve resources, we have changed the requirement for a public hearing to a requirement for a public meeting (§ 35.1507(b)). We feel that the level of interest in work program development will be high and that it is very important to involve the public in the WQM process at the stage when basic funding and program decisions are made. The best way to ensure that the public is involved is through requiring a public forum such as a meeting in all cases. The more informal procedures of a public meeting allow for adequate public input and are less costly than public hearings (see 40 CFR Part 25).

Several comments were received regarding the level of detail required in the description of outputs for each work program element (§ 35.1513–6). Roughly the same number of comments requested more detail as requested less detail. The regulations have been clarified to eliminate inferences that more detail was being required for outputs descriptions than in the past. We feel that the regulations provide for development of program elements and outputs descriptions that are sufficient to allow for effective evaluation of grantee performance without sacrificing needed flexibility.

A number of comments stated that the requirements in the proposed regulations for on-site, mid-year work program evaluation meetings, including public meetings, would be too burdensome. The requirement for a mid-year evaluation meeting is not new. The superseded regulations required a mid-year evaluation meeting for the section 106 State program and interim progress reports for section 208 programs. The WQM evaluation meeting now serves the evaluation function previously served by these requirements. In response to comments, we have decided not to require a public meeting. Public participation during the development and implementation of the work program will allow adequate public input into evaluation of ongoing efforts. However, EPA's evaluation report must be made available to the public for their information and comment. We have revised the final regulations to provide that evaluation meetings may cover more than one agency and do not have to be held on-site.

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State/EPA Agreements

The Agency has developed a guidance document requiring development of State/EPA Agreements covering certain Clean Water Act, Resource Conservation and Recovery Act (RCRA), and Safe Drinking Water Act programs for fiscal year 1980. This guidance was published in the Federal Register (44 FR 17294, March 26, 1979). The requirement for State/EPA Agreements is now cited in regulations for these three Acts (see 40 CFR § 35.738–6 of the RCRA grant regulations, 40 CFR § 35.660(d) of the Underground Injection Control grant regulations, 40 CFR § 35.1650–2(a)(2) of the proposed clean lakes program regulations, 40 CFR § 35.1016(c) of the § 205(g) regulations and § 35.1515 of these regulations).

State/EPA Agreements will provide a way for Regional Administrators and States to coordinate and, to the maximum extent feasible, integrate programs administered by EPA. The Agreements will maximize effective use of resources in solving environmental problems. The Agreement must identify problem-solving tasks that utilize the resources and authorities of these Acts in a joint effort to solve environmental problems and steps to be taken to eliminate management problems such as duplication of effort within and between programs. Since this subpart governs only WQM grants, other programs included in the State/EPA Agreement will be governed by other provisions of this chapter.

State programs funded under sections 106, 208, 314 and 205(g) of the Clean Water Act will be covered by the State/EPA Agreement. State/EPA Agreements generally must be completed before any grant award under this subpart. However, the Regional Administrator may permit grant award before completion of the Agreement if the Regional Administrator determines that delay would not be in the best interest of sound environmental management and the activities to be funded have been adequately coordinated with other environmental programs (§ 35.1515(a)). The State/EPA Agreement must be completed before execution of delegation agreements under § 205(g) of the Clean Water Act (see 40 CFR § 35.1016(c)).

Some of the detailed requirements for State/EPA Agreement development in the proposed WQM regulations have been deleted from these final regulations. The State/EPA Agreement guidance now sets forth these requirements. Portions of State/EPA Agreements covering activities funded under the Clean Water Act must be consistent with the requirements of these regulations and the guidance. We received several comments on the requirements for State/EPA Agreements which were considered in the development of the guidance. Comments applicable to provisions that remain in the regulations are discussed below or in the preamble discussion of the WQM work program.

Several areawide planning agencies were concerned that areawide funds might not be awarded if a State failed to develop a State/EPA Agreement. In response, language has been added to the regulations clarifying that approval of areawide work programs will not be delayed because approval of a State work program has been withheld unless an unapproved element of the State work program is critical to the effectiveness of areawide efforts (see § 35.1513–3(c)).

A number of commenters felt that the requirements that drafts of the State/EPA Agreements be prepared by June 1 and final Agreements be completed by September 1 were too restrictive (§ 35.1513–4). The regulations have been revised to allow the Regional Administrator to agree to different dates with each State. This flexibility will also allow time for State and areawide planning agencies to phase into the new annual funding cycle for section 208.

An integrated work program covering the WQM process and one or more other environmental programs included in the State/EPA Agreement may be accepted by the Regional Administrator in lieu of a separate WQM work program submission under these regulations if it otherwise meets the requirements of the regulations (§ 35.1513–3(b)).

Changes in Designation Status

One commenter thought that the Regional Administrator should consult with the State when requiring procedures in addition to those described in the regulations for designation of new areawide planning agencies. This provision has been revised to require the State and Regional Administrator to agree on such additional procedures (§ 35.1519–2(a)(6)).

A number of commenters believed that the requirement for the State to hold a public meeting for each change in designation status was too burdensome. In response to these comments, the regulations have been revised to provide that a public meeting is required only when the State or EPA determines that substantial public interest in the meeting exists (§ 35.1519–2(b)(2)).

In response to the concerns of commenters, a provision has been added on procedures for State assumption of nonpoint source planning responsibilities under section 208(b)(4)(A) of the Act (§ 35.1519–2(b)(6)).

More specific criteria have been added to the regulations for changing designation status (§ 35.1519–2(a)). The regulations specify that the Governor is not relieved of responsibility to take certification action on completed plan elements prepared by a replaced agency even if there is a change in designation (§ 35.1519–2(a)(3)). The replacement agency must make maximum feasible use of any work of the replaced agency and complete key elements of work in accordance with a work program negotiated with the Regional Administrator (§ 35.1519–2(a)(4)).

Delegation of Planning Activities

Several commenters felt the regulations did not make a distinction between designation of planning agencies and delegation of planning activities (§ 35.1519). Designation of planning agencies is a formal act under the Clean Water Act through which a Governor selects or approves planning agencies to be responsible for and conduct WQM planning. Designation is a precondition of eligibility for direct EPA funding under section 208. Delegation is a contractual arrangement under which some other agency or governmental entity agrees to perform specific planning tasks for the designated planning agency. Designated agencies are responsible for satisfactory completion of all work conducted under a work program, including that performed by other agencies under delegation agreements.

Water Quality Management Planning

One commenter requested clarification on the relationship between land use management and the WQM process. We have added language to the regulations stating that the WQM planning agency must consider the relationship of water quality to land use and water resources (§ 35.1521–3(a)(1)).

As recognized in initial WQM plans, water conservation can improve water quality and increase efficiency in municipal wastewater treatment. The proposed WQM regulations did not expressly discuss the role of water conservation in the WQM process. In response to comments and a Presidential directive to EPA implementing the President's water resources policy, we have added a new provision to the regulations drawing attention to water conservation (§ 35.1521–4(h)).

These regulations do not change EPA policy concerning the development of BMPs for the control of nonpoint sources of pollution. One commenter suggested that individual BMPs be developed for each site-specific pollution source by areawide and State planning agencies. The Agency encourages the development of BMPs in WQM plans that are sufficiently flexible to be applied under a control program to the varied circumstances of site-specific activities. Plans must identify BMPs that have been developed to control classes of activities generating nonpoint sources of pollution (e.g., BMPs for silvicultural activities relating to road building, slope erosion, and stream bed protection). It is unnecessary and would be too burdensome and costly for a WQM plan to develop an individual BMP for every site-specific activity causing pollution in a planning area. We have added a provision to the regulations stating that, to the extent practicable, BMPs should be described in a public information document which can be distributed widely in the planning area (§ 35.1521–4(c)(1)).

One commenter wanted BMPs to be included in the plan in a form which can be administered to control pollution. EPA requires that control programs for implementing BMPs be identified in the plan.

In revising these regulations, we have simplified confusing requirements and eliminated duplication and unnecessary requirements for WQM planning. This has led some reviewers to conclude that the requirements are not detailed enough to provide adequate guidance. We feel that these regulations are more specific concerning grantees' responsibilities than the old regulations and, therefore, provide better guidance (see, e.g., §§ 35.1521–3 and 4). They incorporate requirements of Agency policy developed since the promulgation of the superseded regulations (e.g., Program Guidance Memoranda (SAMs) 30 and 31). However, we have included more detail in the final regulations than in the proposed regulations where specific comments demonstrated that it was needed.

A number of comments recommended that the regulations include separate procedures for developing BMPs for each category of nonpoint source pollution. We have instead set a general requirement that BMPs be developed for the nonpoint source categories found in § 208(b)(2) (F) through (K) of the Act. A process for developing BMPs for nonpoint source control is described. In response to the comments received, we have added more specifics to the description of the process (§ 35.1521–4(c)(1)). We feel that any more detail would constrain the ability of EPA project officers and grantees to negotiate work programs that respond to the widely varied environmental, geographic, political, institutional, economic, and legal conditions of the different parts of the country. EPA has developed technical guidance documents on developing BMPs for different categories of nonpoint source activity which are available to the public.

One commenter recommended that a review mechanism be established that provides for State and Federal review of the adequacy of BMPs before they are implemented. Separate procedures for reviewing BMPs are not necessary. BMPs are reviewed by the State and EPA as part of the certification and approval process for WQM plans.

One commenter recommended that the regulations require the development of a comprehensive program for ensuring that BMPs are applied and maintained in all areas. We agree that monitoring of this type is an important function in any management agency's program. Evaluation of the effectiveness of implementation is an important area of emphasis in the continuing planning and implementation phase of the WQM process. We feel that adequate monitoring and evaluation is required by these provisions: 1) management agencies must have adequate authorities and capabilities to fulfill responsibilities under the plan before they can be designated (§ 35.1521–3(c)(1)) and 2) regulatory and nonregulatory programs administered by management agencies must have monitoring and evaluation capability (§ 35.1521–3(b)(2)). The provisions for evaluation of established control programs will also help ensure that BMPs are being applied (§§ 35.1521–3(h) and 35.1511–1(d)(3)).

One commenter asked what the basis was for the requirement that urban impacts of WQM plans be assessed and mitigated (§ 35.1521–3(f)). This provision was established in accordance with the President's urban policy announced on March 27, 1978, and EPA's Urban Initiative as implemented in portions of the Cost Effectiveness Guidelines found in subpart E, Appendix A of this Part.

The following steps have been taken in the Cost Effectiveness Guidelines as part of EPA's Urban Initiative: use of Bureau of Economic Analysis population projections (§ 8(a)), lower per-capita-per-day wastewater flow estimates (§ 8(b)(2)(b)), use of reduced flows as the measure for design capacity (§§ 8 (c) and (d)), reduction in the design period for interceptor sewers (§ 8(f)), reduction in the staging period for treatment plants (§ 8(e)), and new requirements for the location of facilities (§ 8(f)). These provisions will limit reserve capacity allowances for treatment works and, thus, reduce secondary environmental impacts resulting from growth and Federal subsidization of urban sprawl.

One commenter believed that the reference in § 35.1521–3(f) to Appendix A of subpart E of this Part required that the procedures for cost effectiveness analysis found in that Appendix had to be followed for all WQM plan elements. The regulations have been clarified to refer only to the provisions outlined above which are part of EPA's Urban Initiative.

One commenter believed that the regulations required that WQM plans contain regulatory programs to control the location, modification, and construction of facilities for urban stormwater management in all cases (§ 35.1521–4(e)). Regulatory programs are required in WQM plans only where they are considered to be the most practicable method of assuring that an effective urban stormwater control program is implemented (see § 35.1521–4(c)(2)). It should be noted that separate storm sewers (which convey urban stormwater runoff) may be considered a point source which must be regulated under the National Pollutant Discharge Elimination System (NPDES) permit program. If the storm sewer is located in a designated Bureau of Census urbanized area or is designated as a significant contributor of pollution, it is considered a point source (see 40 CFR Part 122).

Some comments questioned the requirement that no grant be awarded for any activity determined to be not in conformity with air quality State Implementation Plans (§ 35.1537–4(e)). This provision was included to ensure consistency between the WQM program and air quality planning programs for the benefit of overall environmental quality and to satisfy the requirements of section 176(c) of the Clean Air Act. The Agency is currently developing guidance in this area. It should be noted that it is already Agency policy that population projections used as the basis for State Implementation Plans shall coincide with projections developed in accordance with Cost Effective Guidelines.

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Regulatory and Nonregulatory Nonpoint Source Control Programs

Many reviewers were concerned that the proposed regulations modified EPA policy on regulatory and nonregulatory approaches to nonpoint source control. EPA policy in this area is contained in Program Guidance Memorandum (SAM) 31. In order to eliminate confusion caused by language in the proposed regulations, the final regulations have been revised to be consistent with SAM 31 (§ 35.1521–4(c)(2)).

Evaluation, Certification and Approval of WQM Plans

Several commenters remarked that the requirement for 45 days notice and comment before a planning agency's public hearing on a proposed WQM plan was too long (see § 35.1523–2(a) and § 35.1507(b)). It was noted that many State laws would require only 30 days notice. This issue has been addressed in developing Part 25. Part 25 provides that generally a 45-day period is required but in special circumstances it can be reduced to not less than 30 (see 40 CFR 25.5(b)).

Several planning agencies stated that the requirement in the proposed regulations to submit a WQM plan 30 days after the planning agency's public hearing did not allow sufficient time to revise the plan to reflect public input. In response to these comments, we have increased the time period to 60 days (§ 35.1523–2(a)).

A significant number of comments were received on EPA's new policy of concurrent WQM plan review by the State and EPA. This policy provides that the 120-day period for State review and the 150-day period for EPA review begins on the same date. The purposes of concurrent review are to avoid delays caused by an open-ended State review period preceding EPA's review and to foster communication between States and EPA during the review process. Several commenters interpreted the regulations to provide that EPA's 150-day review period would follow the State's 120-day review period so as to total 270 days for review. A note has been added to the regulations to clarify "concurrent review" (§ 35.1523–3(d)).

Several commenters believed that the 120-day and 150-day review periods were too lengthy while others felt that they were too short. The Agency feels that this is a reasonable amount of time for thorough evaluation of plans and adequate public input. Where less time is needed for review, the process should be expedited by both the State and EPA. A provision has been added to the final regulations which allows the Governor and Regional Administrator to agree to reduce the certification and approval time limitations and review requirements for plan corrections and revisions of a minor nature (§ 35.1523–6(d)). A provision was also added to the final regulations allowing the Governor to request a 30-day extension where 120 days is inadequate to respond to public input (§ 35.1523–3(a)). EPA may extend its review time for the same amount of time as the State's extension (§ 35.1523–4(a)).

Some reviewers were concerned that no time period was specified for public comment following the Governor's public notice of the State's intended certification action. The final regulations require a comment period before certification action consistent with Part 25 (§ 35.1523–3(a)).

A number of commenters suggested that EPA include a provision in the final regulations for delegation of the Governor's authority. EPA recognizes that this approach may be desirable because of the heavy demands placed on the time of Governors and has added a provision for delegation of authority (§ 35.1521–5(a)).

The proposed regulations gave the Regional Administrator the authority to withhold State section 208 funds and relevant portions of section 106 funds for failure of the State to take certification action on a WQM plan in a timely manner. This provision was intended to provide an incentive for States to act promptly. We solicited comments on the alternative approach of considering State inaction to constitute certification. Some reviewers favored the alternative approach; others favored the provision published in the proposed regulations. Because of the importance of an active State role in reviewing plans, we have retained this provision in the final regulations (§ 35.1523–3(c)).

The new regulations provide special procedures for modifications of plans and EPA approval actions in two instances: (1) where later, better information becomes available; and (2) where the State makes changes in elements which it exclusively controls (for example, water quality standards) (§§ 35.1523–4(d) and 35.1523–6).

In response to comments from interstate agencies, procedures for concurrent review and certification by States of plans or portions from interstate planning areas have been added (§ 35.1523–3(b)).

Management Agency Designation

The proposed regulations specified that management agencies could not be designated to carry out regulatory responsibilities if a majority of the membership of the agency was from the regulated class. Numerous comments were received from conservation districts and others objecting to this requirement as being too restrictive. It was argued that this provision would disqualify a number of capable nonpoint source management agencies from participation in the WQM process. Numerous other comments were received that supported this provision.

Commenters opposed to the provision argued that the participation of the regulated class through membership in the management agency is necessary for effective regulatory nonpoint source control programs. Such participation provides management agencies with the necessary expertise for implementing programs and helps ensure the cooperation of members of the regulated class. The latter is particularly important, it was argued, because of the large number of persons affected by nonpoint source control programs, i.e., land owners.

We recognize that the expertise and cooperation of the regulated class through membership in management agencies may benefit a program. One example is the vital role that farmers have played on the boards of soil conservation districts. However, we are also aware that the financial interests of management agency officials who are members of the class that they regulate may interfere with objective decisionmaking and compromise the autonomy of a management agency. In order to better balance the competing considerations of cooperation and autonomy, the specific requirements regarding management agency membership have been eliminated. The regulations now provide that the Governor must assure management agencies with regulatory responsibilities have sufficient autonomy to effectively carry out their responsibilities (§ 35.1521–3(c)(3)). This provision considers the effect of the regulated class on the management agency's autonomy instead of using the rigid, overbroad membership criteria from the proposed regulations.

We received some comments expressing a concern that the requirement for a written letter of commitment from management agencies would duplicate existing requirements for written indications of commitment under programs and authorities other than the WQM program. In response to those comments, we have added a provision to the regulations stating that these other indications may be accepted in lieu of letters of commitment (§ 35.1521–3(c)(2)).

Provisions for Withholding WQM Funding for Failure to Meet Program Requirements

The preamble of the proposed regulations announced an EPA sanctions policy for the WQM program under which all or part of funds under sections 106, 208, 314, and 205(g) of the Act can be withheld if a State or areawide planning agency fails to meet various program requirements. Some commenters objected to these provisions as being contrary to the spirit of cooperation that has been emphasized by the Agency in the past.

Through the WQM program, EPA encourages the development of programs to control water pollution through providing funding and technical assistance to States and interstate and areawide agencies. Grants and other federal assistance provided under the WQM program may best be described as incentives. The WQM program is a cooperative effort of all levels of government involved and the public. We have not changed this long-standing principle of the WQM program in these regulations.

The new provisions on withholding funds were included in the regulations to enable EPA to fulfill its role as steward of Federal funds. We must assure that funds are used to achieve the purposes for which they were awarded. If the funds are not being used to further these purposes, it may be necessary to withhold funds until satisfied that they will be appropriately used.

Several commenters were concerned that the regulations appeared to require the withholding of funds for one program (e.g., the clean lakes program) because of the failures of another "unrelated" program. In these regulations, we have consolidated a number of programs that used to function independently into a single, integrated WQM program. Most activities funded under the WQM program are interrelated and aimed at a common purpose—the achievement of the water quality goals of the Act. A failure of one activity may adversely affect the overall progress of other activities funded under an integrated WQM program toward the goals of the Act.

We realize that in many instances, it would not be appropriate for the Regional Administrator to withhold all funds for failure to meet a program requirement. We have, therefore, provided the Regional Administrator the authority to withhold all or part of the funds as appropriate in a particular case. This will allow the remedy to be tailored to fit the situation. There may be cases, however, where the Regional Administrator will decide to withhold all funds because a failure to meet a requirement adversely affects the progress of the overall WQM program conducted by the State or areawide planning agency. In all cases, the affected agency has an appeal right.

A number of reviewers requested that EPA include a separate provision authorizing the withholding of all EPA funding under the Clean Water Act from a State or area if an adequate WQM plan is not developed and implemented. We feel that such a provision is not necessary, because other provisions for withholding funds are adequate to ensure that the goals of the Act are achieved.

Sanction for Failure to Implement a Significant Portion of a WQM Plan

The regulations provide that after fiscal year 1979 a significant portion of an approved WQM plan must be implemented in order for the responsible WQM planning agency to be eligible for continuing section 208 grants (§ 35.1533–3(b)). Several commenters asked for a clarification of the meaning of "significant portion." In determining whether a significant portion is being implemented, the Regional Administrator should consider such factors as the degree of success in establishing new control programs according to plan requirements, whether adequate resources have been devoted to new and established control programs, and whether paragraphs (a) and (b) of § 35.1533–4 are being implemented. Further guidance will be issued on this requirement.

A number of other commenters stated that it was unfair to hold a planning agency responsible for the failure of management agencies to implement plans. The planning agency is responsible for involving potential management agencies in the development of plans in order to gain their support and cooperation. If WQM plans are not implemented, this frustrates the purpose of section 208 grants—the achievement of the water quality goals of the Act. When lack of implementation is frustrating this purpose, it is our responsibility as a steward of Federal funds to see that no further section 208 funds are awarded to the planning agency and see that they are instead given to agencies or used in areas that are capable of supporting and carrying out the WQM process.

Failure to Implement a Plan as a Basis for Determining that an Agency is not Entitled to the Public Trust and is Ineligible for EPA Funding.

The regulations provide that a planning or management agency that has failed to meet its implementation responsibilities and has lost its designation status as a result may be determined under § 30.340 of this Title to be not entitled to public trust and ineligible to receive funds under any EPA programs (§ 35.1533–3(a)). Several commenters objected to this provision because it was too broad in scope and too stringent. Because it is merely a cross-reference to EPA's general grant regulations, it has not been changed.

Relationship to the NPDES Program

Several commenters raised questions concerning the arrangements made for incorporating approved WQM plan provisions into National Pollutant Discharge Elimination System (NPDES) permits under section 208(e) of the Clean Water Act. This section of the Act prohibits the issuance of permits to dischargers which conflict with approved WQM plans.

One commenter had the following to say in regard to section 208(e): "Rather than creating a new class of permit conditions, section 208(e) authorizes only specific WQM plan indications of what permits would be 'in conflict' with it at the time it is certified and aproved." It is a long-standing policy of EPA to implement section 208(e) by requiring the incorporation of applicable WQM plan provisions, such as water quality-based effluent limitations, into NPDES permits (§§ 35.1533–4(a) and 35.1521–3(a)(2)(i)). It should also be noted that NPDES permit conditions developed in the WQM process must be incorporated into permits using the NPDES procedures found in Parts 122, 123 and 124 of this Title.

Another comment said that it was unacceptable for EPA to deny persons that want to protest NPDES permit conditions developed in WQM plans access to the appeal provisions for EPA-issued permits provided under 40 CFR Part 124 (§ 35.1521–8(a)(2)(ii)). Sections 301(b)(1)(C) and 510 of the Clean Water Act authorize states to include in NPDES permits requirements established under State law or regulations that are more stringent than those required by Federal law. In *U.S. Steel v. Train* 556 F2d 822, 10 ERC 1001

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(7th Cir., 1977), the United States Court of Appeals for the Seventh Circuit held that EPA had no authority to consider the validity of such State requirements in an EPA hearing on a permit issued by EPA. Water quality-based effluent limitations in certified WQM plans are examples of such requirements. Because EPA cannot consider the validity of these requirements in any NPDES hearings under 40 CFR Part 124, it is inappropriate for EPA to provide for an appeal. Any procedures for appeals of such WQM plan provisions that may be necessary should be provided by the State.

Since the publication of these regulations in proposed form, we have clarified the State's responsibilities for providing individual sources with the opportunity to contest water quality-based effluent limitations or other permit conditions developed in WQM plans. We expressly state that States should, where appropriate, provide notice to dischargers and the opportunity to be heard on such conditions in addition to the opportunity to appeal. EPA NPDES procedures for notice and hearings are not available (§ 35.1521–3(a)(2)).

Several reviewers interpreted the proposed regulations to require the State to establish separate review and appeal procedures for WQM plan provisions that would duplicate existing State NPDES procedures. The intent of the Agency was to make clear that the State and not EPA was responsible for such procedures. EPA encourages the use of State NPDES procedures where they meet the needs of the WQM program. The provision has been rewritten to make it clear that EPA is not requiring duplicative procedures (§ 35.1521–3(a)(2)(ii)).

The regulations provide that the plan shall specifically identify any conditions to be included in NPDES permits (§ 35.1521–3(a)(2)(i)). This provision is intended to assure that NPDES permitting agencies, affected dischargers and the general public know which specific plan provisions must be included in permits.

EPA has published a notice identifying pollutants suitable for the development of total maximum daily loads under section 304(a)(2)(D) of the Act (see 43 FR 60662, December 28, 1978). The notice identifies all pollutants as suitable for total maximum daily load development under the proper technical conditions. Total maximum daily loads should be developed in accordance with these regulations (§ 35.1521–4(a)) and with procedures in the **Federal Register** notice.

Relationship to the Construction Grants Program

The regulations provide that a construction grant made under section 201 of the Act shall not be approved by the Regional Administrator after October 1, 1979, where sewage treatment facility-related information (waste load allocations, service area delineations, and population projections) is not available in an approved WQM plan (§ 35.1533–4(b)(1)). This provision of the WQM regulations restates requirements already established in the final construction grants regulations (see § 35.917(e) of this Part). One exception in the provision states that the Regional Administrator may award a section 201 grant if it is necessary to achieve water quality goals. A number of commenters said that allowing the Regional Administrator to approve section 201 grants on that basis creates an exception that undermines the sanction. We feel that there are adequate procedural safeguards that will prevent abuse of this exception. The Regional Administrator must determine in writing based on information submitted by the State or applicant that award of a section 201 grant is necessary to achieve water quality goals. This responsibility cannot be delegated below the Deputy Regional Administrator.

Water Quality Standards

The preamble of the proposed regulations stated that the water quality standards policy in the then current 40 CFR § 130.17 would probably be incorporated in Part 120 of this chapter. Since publication of the proposed regulations, the Agency has decided instead that § 130.17 will remain a part of these WQM regulations. Section 130.17 has, therefore, been republished without change as § 35.1550 of these regulations.

On July 10, 1978, EPA published an advanced notice of proposed rulemaking that proposed changes in EPA water quality standards policy (43 FR 29588, July 10, 1978). The incorporation of the requirements of superseded § 130.17 into these WQM regulations as § 35.1550 is unrelated to that notice. EPA may in the future publish a proposed revision to § 35.1550 that has taken into account comments received on the advanced notice of proposed rulemaking.

Significant Comments on Other Issues

Several reviewers questioned the inclusion of the State's construction grants project priority list in the State strategy. We have decided to delete that requirement, because the priority list is subject to frequent revisions. This does not, however, preclude a State from including the list in the strategy. The list is now required to be submitted as an output under the State's WQM work program. The State must submit a draft list by May 1 and a final list by July 15 of each year (§ 35.1533–4(b)(4)).

Several reviewers apparently confused the State project priority system with the State project priority list. The project priority system (a part of the CPP) consists of the methodologies and procedures used to develop the State project priority list (see § 35.915 of this Part for further clarification).

A provision has been added to the regulations stating that an integrated strategy covering more than one EPA program that is submitted under or as part of the State/EPA Agreement may be accepted in lieu of a separate WQM strategy if the Regional Administrator determines that the integrated strategy meets the requirements of the regulations (§ 35.1511–2(d)).

A provision has been added to the regulations that authorizes Indian tribes to designate themselves as planning agencies under certain specified conditions (§§ 35.1521–6 (b) and (c)).

Several commenters felt that the grant budget period should be the grantee fiscal year rather than the Federal fiscal year. We have retained the provision for most grants in order to assure maximum integration and coordination of the WQM program with others and compatibility with EPA's annual guidance system (§ 35.1537–13). Several other EPA programs, including those under the Safe Drinking Water Act and the Resource Conservation and Recovery Act, have similar requirements. Further, the section 106 program included the provision in the previous regulations so the requirement is not a new one for States (see superseded § 35.557). However, we have incorporated language with respect to section 208 assistance providing discretion to the Regional Administrator to use another budget period if it is more appropriate to the objectives of that assistance. The provision does not require any grantee to change its fiscal year; it only requires accounting capability to accumulate costs from October 1 of each year to September 30 of the next. Under these regulations, the Agency will begin using an annual funding cycle based on the Federal fiscal year for section 208 planning grants for the first time. Grants under section 208 will be awarded annually but may fund planning efforts lasting more than one year. These regulations contain flexible deadlines that will allow a phased approach to funding activities under section 208 on an annual basis (§ 35.1513–4).

Several commenters noted the absence of a reference to procedures for complying with Office of Management and Budget Circular No. A–95. This oversight has been corrected by adding § 35.1537–4(h).

Comments were received by the Agency which objected to the provisions of the regulations stating that costs of detailed sewer system mapping and related surveys and costs related to sewage collection systems (at less than the trunk line level) are unallowable costs (§§ 35.1537–5 (b) and (c)). These provisions are existing policy and have been incorporated from § 35.216 of the superseded section 208 grant regulations to maintain a division of labor between the WQM program and section 201 facility planning.

One interstate agency interpreted the regulations to preclude the eligibility of interstate agencies to receive section 208 grant monies. The regulations define the term "WQM planning agency" in this subpart to include interstate agencies that are also designated (§ 35.1540(a)). The regulations also provide that interstate agencies funded under section 106 are subject to applicable requirements of this subpart on the same basis as a State agency (§ 35.1540(b)).

One commenter objected to the prohibition on the award of section 106 grants to States which do not have authority comparable to that in section 504 of the Act (Emergency Powers) and adequate contingency plans to implement that authority in accordance with EPA guidance (§ 35.1537–4(d)(2)). The commenter stated that it would take time for some States to obtain emergency authority and develop contingency plans and that EPA should not establish this linkage to section 106 funds via regulations. Guidance has been developed for implementing the provision which establishes a phased multi-year approach (see Program Guidance Memorandum (SAM) 35).

Editorial Changes

Throughout these regulations we have made editorial changes to simplify and clarify the language. We have also made some changes in the format of the regulations for the sake of clarity.

Agency "Sunset" and Evaluation Policy for Reporting Requirements

Under EPA's "sunset" policy for reporting requirements in regulations, the Administrator will review this subpart five years from the date of promulgation to determine if any reporting requirements should be terminated (§ 35.1542).

EPA is committed to evaluating this regulation five years from the date of publication. This evaluation will assess such factors as overlap of requirements, integration, alternative methods, enforceability, and reporting requirements.

Effective date: This subpart will be effective on May 23, 1979. Good cause exists for making these regulations effective immediately because of the need for these regulations to apply to fiscal year 1979 grant monies that are now being awarded to several planning agencies. Otherwise, the regulations will not take effect until the award of fiscal year 1980 grants for those planning agencies. In addition, these regulations should be made effective immediately, because State/EPA Agreements for fiscal year 1980 are now being negotiated and these regulations contain requirements for the WQM portion of State/EPA Agreements.

Dated: May 15, 1979.

Douglas M. Costle,

Administrator.

Part 35, Subpart G Added

Parts 130–131 [Deleted]

Title 40 of the Code of Federal Regulations is amended by deleting the existing Parts 130; 131; §§ 35.200 through 35.236; and §§ 35.551 through 35.570 and by adding a new subpart G to Part 35. Appendix A—Water Quality and Pollutant Source Monitoring—which followed the deleted 40 CFR § 35.570 is transferred to new subpart G of Part 35 without change. Subpart G reads as follows:

Subpart G—Grants for Water Quality Planning, Management and Implementation

35.1500 Purpose and scope.
35.1501 Applicability.
35.1502 Definitions.
35.1503 Program summary.
35.1505 Water quality goals.
35.1507 Public participation.
35.1509 Continuing planning process (CPP).
35.1509–1 General.
35.1509–2 State priority system.
35.1509–3 Failure.
35.1511 Assessments and state strategy.
35.1511–1 Water quality assessment.
35.1511–2 State strategy.
35.1513 WQM work program.
35.1513–1 General.
35.1513–2 Scope.
35.1513–3 Relationship to State/EPA Agreements.
35.1513–4 Development and submission.
35.1513–5 Major work elements.
35.1513–6 Content.
35.1513–7 EPA review and approval.
35.1513–8 Evaluation.
35.1515 State/EPA Agreement.
35.1517 Conflict resolution.
35.1519 Selection of 208 planning agencies.
35.1519–1 Status of existing planning agency designation.
35.1519–2 Changes in designation status.
35.1519–3 Delegation of planning activities.
35.1521 Water quality management planning.
35.1521–1 General.
35.1521–2 Relationship to work programs.
35.1521–3 Plan development requirements.
35.1521–4 Program areas.
35.1521–5 Planning responsibilities.
35.1521–6 Planning on Indian lands.
35.1523 Evaluation, certification, and approval of WQM plans and designation of management agencies.
35.1523–1 General.
35.1523–2 Plan evaluation.
35.1523–3 Plan certification; designation of management agencies.
35.1523–4 EPA approval.
35.1523–5 State adoption of WQM plans.
35.1523–6 Plan revisions.
35.1525 Reviewing plan applicability after approval.
35.1527 Evaluation of management agency performance.
35.1529 Change in management agency designation by States.
35.1531 Intergovernmental coordination and cooperation.
35.1531–1 General.
35.1531–2 Coordination and consolidation.
35.1531–3 Federal responsibility.
35.1533 Implementation.
35.1533–1 General.
35.1533–2 Funding.
35.1533–3 Remedies for failure to implement.
35.1533–4 Relationship to other programs.
35.1535 Allotments and reallotments.
35.1535–1 Allotments.
35.1535–2 Reallotments.
35.1537 Grant limitations and administration.
35.1537–1 Grant amount.
35.1537–2 Reduction of grant.
35.1537–3 Eligibility.
35.1537–4 Limitations on award.
35.1537–5 Allowable and unallowable costs.
35.1537–6 Audit.
35.1537–7 Adherence to budget estimates.
35.1537–8 Program changes.
35.1537–9 Payment.
37–10 Financial status report.
35.1537–11 Disputes under this subpart.
35.1537–12 Procurement and protests.
35.1537–13 Budget period.
35.1540 Interstate agencies.
35.1542 Termination of reporting requirements.
35.1550 Water quality standards.

Appendix A. Water quality and pollutant source monitoring.

Authority: Section 501(a) of the Clean Water Act, as amended, 33 U.S.C. 1251 *et seq.*

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Subpart G—Grants for Water Quality Planning, Management and Implementation

§ 35.1500 Purpose and scope.

This subpart establishes policies, program requirements, and procedures for water quality management planning and implementation under the Clean Water Act and for grants for such purposes under sections 106, 205(g), and 208 of the Act. This subpart supplements the general grant regulations set forth in Part 30 of this chapter. This subpart governs the continuing planning process under section 303(e) of the Act, and all State and areawide water quality management planning and implementation activities and related grants under sections 106, 205(g), and 208 of the Act.

§ 35.1501 Applicability.

(a) This subpart is applicable to all activities undertaken with grants awarded under this subpart after [date of publication of regulations].

(b) Planning under section 208 of the Act which is underway on [date of publication of regulations] shall continue to be governed by the earlier regulations superseded by this subpart, except that this subpart will apply in the following circumstances:

(1) This subpart applies to all plan evaluation, certification and approval procedures, and plan implementation.

(2) This subpart will apply to ongoing planning activities for which additional financial assistance is awarded under this subpart.

(3) This subpart may be applicable where the Regional Administrator determines, after consultation with the planning agency, that these regulations should apply to an activity in lieu of the earlier regulations.

(4) If the Regional Administrator determines it to be appropriate, after consultation with the planning agency, this subpart may be made applicable to activities undertaken to meet the requirements of conditional approvals of plans prior to [date of publication of regulations].

(c) This subpart is applicable to all changes in designation of planning agencies under section 208 of the Act which occur after May 23, 1979, or which had not yet been approved by that date.

§ 35.1502 Definitions.

(a) The term "the Act" means the Clean Water Act, as amended, 33 U.S.C. 1251 *et seq.*

(b) The term "grants under section 205(g) of the Act", and variations thereof, means grants under section 205(g)(2) of the Act for non-construction grants purposes such as administration of approved programs under sections 402 and 404 and grants for administering the statewide program under section 208(b)(4) of the Act. The term does not include construction management assistance grants under subpart F of this chapter.

(c) Other definitions shall be as set forth in the Act (see, e.g., sections 212 and 502) and in the provisions where the defined term is used.

§ 35.1503 Program summary.

(a) *General.* This subpart consolidates requirements for State and interstate water pollution programs funded under section 106 of the Act, State and areawide waste treatment management and planning under sections 205(g) and 208, and other State activities under section 303 of the Act into a single integrated process called the Water Quality Management (WQM) process. The State describes the process for fulfilling its WQM responsibilities in a continuing planning process document, in accordance with section 303(e) of the Act.

(b) *WQM planning.* (1) States, and areawide agencies in designated areas, conduct WQM planning to achieve the 1983 goal of the Act, which is, where attainable, water suitable for swimming, fishing, and the protection of wildlife. They are required to have a plan identifying sources of pollution, the severity of the pollution, and control programs.

(2) Certified and approved WQM plans of State and areawide agencies provide a basis for the WQM process. Using the information and direction contained in the WQM plans, and other available information about needs and priorities, each State annually assesses current problems; updates a problem-solving strategy; develops and executes a work program to implement plan solutions and to carry out other WQM activities (such as plan revision); and evaluates performance. Each areawide agency goes through a similar process. One of the outputs the annual work program may address is additional planning needed to update the approved WQM plan or to fill in gaps in the plan. Plan refinements, when they are certified and approved, become part of the WQM plan and help direct subsequent WQM activities.

(c) *Public participation.* Public participation is fundamental to the success of the WQM process. The public participation regulations in Part 25 of this chapter apply to the WQM process. These regulations emphasize the need for informing and consulting with the public and require use of an advisory group.

(d) *Participants.* The WQM process is a cooperative effort of EPA and other Federal agencies, States, interstate and regional agencies, local governments, and the public. In most cases, the Governor has designated areawide agencies to plan in those areas where particularly complex water quality problems exist. The State conducts planning in areas outside the designated areawide areas and coordinates activities of areawide agencies. The State also may conduct nonpoint source planning on a statewide basis under section 208(b)(4)(A) of the Act. States and interstate agencies carry out a wide variety of implementation activities under sections 106 and 205(g) of the Act.

(e) *Annual work programs.* Each State annually prepares a work program identifying the specific planning and implementation activities the agency will undertake during the subsequent year with funds from sections 106, 205(g), 208, and, as appropriate, 314. Annual work programs are also developed by areawide agencies for activities funded under section 208, and by interstate agencies for activities funded under section 106. The priority problems which an agency addresses will vary, depending on the needs identified for the area.

(f) *State/EPA agreement.* The WQM process is one of several EPA programs which are covered by State/EPA Agreements negotiated each year between the Regional Administrator and the State. The Agreement identifies problems, objectives and priorities, describes coordination and integration among the covered environmental programs, and includes the annual State work program for WQM.

(g) *Implementation.* Implementation is the most important part of the WQM process, because only with successful implementation will water quality goals be achieved. Implementation of solutions to water quality problems involves many programs and agencies at all levels of government. Implementation may include construction of treatment works, regulatory or non-regulatory point and nonpoint source control programs, legislative initiatives, enforcement, and other activities to meet water quality goals. Not all implementation relates to the 208 plan per se; the State uses funds under section 106 of the Act to manage a wide range of WQM activities, including permit activities under title IV of the Act. Various remedies are available to EPA to deal with failures in implementation.

(h) *Clean Lakes.* The clean lakes program under section 314 of the Act is part of the overall WQM process, and is subject to cooperative management by EPA and participating States under the State/EPA Agreement. Wherever feasible, the Regional Administrator shall require integration of clean lakes activities into the State's annual work program.

§ 35.1505 Water quality goals.

The water quality goals for navigable waters are:

(a) Those set forth in section 101 of the Act, including protection and propagation of fish, shellfish, and wildlife and provision for recreation in and on the water by 1983 wherever attainable; restoration and maintenance of the chemical, physical, and biological integrity of the Nation's waters; prohibition of toxic substances in toxic amounts; and elimination of discharge of pollutants by 1985;

(b) Achievement of water quality standards;

(c) Protection of public health and welfare; and

(d) Reduction of water pollutants from nonpoint sources to the maximum extent feasible.

§ 35.1507 Public participation.

(a) *Purpose.* The purpose of public participation in the WQM process is to inform the public about the process in a manner which will lead to their understanding and encourage their involvement. WQM activities should reflect public concerns and values, and strive for public support for program implementation.

(b) *Specific required actions.* All activities in this subpart shall be conducted in accordance with Part 25 of this chapter. Early in the process of developing the State strategy (see § 35.1511–2), the work program (§ 35.1513), the State/EPA Agreement (§ 35.1515), and WQM plans (§ 35.1521) under this subpart, each WQM agency shall notify the public about the proposed goals and scope of the proposed actions and shall schedule opportunities for consultation with the public and the advisory committee. Each agency shall establish a continuing program of providing information in accordance with Part 25. Where appropriate, fact sheets explaining in layman's terms proposed actions of the agency will be distributed in accordance with Part 25. Each WQM agency shall hold a public meeting on its draft annual work program. Each WQM planning agency shall hold a public hearing on its draft WQM plan. Other meetings may be required under this subpart in certain circumstances (see, for example, the requirement for a meeting in conjunction with a change in designation status under § 35.1519). Except as otherwise provided in Part 25, the public shall be notified at least 45 days in advance of any meeting or hearing. Agency responsiveness summaries shall be prepared after each meeting or hearing by the WQM agency of accordance with Part 25.

(c) *Combining actions.* Public participation activities under this subpart may be combined with other such activities undertaken by the assisted agency, to avoid duplication of effort. The State/EPA Agreement may identify opportunities for combined public participation activities affecting the WQM process and other EPA programs.

(d) *Advisory groups.* The State and each areawide agency shall establish an advisory committee to advise on goals and priorities; review and comment on grant applications and work programs; assist with public participation; consult with the agency throughout the WQM process; submit comments; raise issues; and monitor WQM activities. Advisory committees are to be set up in accordance with Part 25 of this chapter. Existing advisory committees shall be reviewed, and modified if necessary, in accordance with negotiations between the Regional Administrator and the WQM agency.

(e) *Work programs.* The work program of each agency receiving assistance under this subpart shall include a public participation work element in accordance with § 25.10. The work element shall identify staff and budget resources (including resources available to the advisory committee); set forth a schedule of public participation activities in relation to the required actions in paragraph (b) of this section; identify segments of the public targeted for involvement; describe the advisory committee membership in accordance with § 25.7; and identify how public participation will be coordinated with other related programs, in accordance with § 25.13.

§ 35.1509 Continuing planning process (CPP).

§ 35.1509–1 General.

Section 303(e) of the Act requires States to develop a continuing planning process document describing operating policies, procedures and practices that comprise the WQM process. The document shall be submitted for approval of the Regional Administrator. Any necessary revisions to the CPP description shall be developed as outputs of the State work program.

§ 35.1509–2 State priority system.

The CPP includes the State priority system (which produces the annual priority list) for construction grants, developed in accordance with § 35.915. The State priority system is the methodology used to rate and rank municipal wastewater treatment projects eligible for grant assistance under subpart E. Generally, such projects are those drawn from the needs survey under section 516(b) of the Act. The system also sets forth the administrative, management, and public participation procedures required to develop and revise the State project priority list under § 35.915(c).

§ 35.1509–3 Failure.

The CPP document describes the State WQM process. Therefore, a substantial failure of State WQM planning and implementation may indicate a deficiency in the CPP for which the Regional Administrator may withdraw approval of the CPP. Under section 303(e) of the Act, State failure to maintain an approved CPP constitutes grounds for withdrawal of National Pollutant Discharge Elimination System (NPDES) program approval. Further, if the Regional Administrator determines that the CPP, as implemented and revised, does not meet the requirements of the Act and this part, he or she may withhold grant funds available to the State under sections 106, 205(g), 208 and 314 of the Act. Disapproval of a portion of the CPP need not require disapproval of the whole CPP; for example, the priority system under § 35.1509–2 may be determined approvable by the Regional Administrator in spite of a failure of other portions of the CPP.

§ 35.1511 Assessments and State strategy.

§ 35.1511–1 Water quality assessment.

(a) *General.* WQM agencies shall conduct appropriate assessment activities in accordance with this section to produce information on (1) existing water quality conditions, and (2) the impact on water quality of future events, such as population changes, changes in land use, and changes in economic conditions. Both point and nonpoint pollution problems (including water conservation needs related to water quality) must be assessed. Intermittent and continuous violations of water quality standards must be

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considered. Future assessment activities shall take into account the information and requirements contained in approved WQM plans.

(b) *Limitations.* (1) The Regional Administrator will approve funding only for assessment activities which the Regional Administrator determines will be highly useful and cost-effective in achieving the water quality goals of the Act. No funds shall be used to duplicate information already available from other sources, unless the Regional Administrator determines it necessary in order to meet program objectives (e.g., in relation to advanced waste treatment needs). All assessment activities must build on existing information. Existing information includes data developed under sections 3011 and 4005 of the Resource Conservation and Recovery Act, the identification and classification of freshwater lakes required under section 314 of the Clean Water Act, the estuarine reports required by section 104(n) of the Clean Water Act, monitoring data, and surface impoundment assessments under the Safe Drinking Water Act.

(2) Except where otherwise determined by the Regional Administrator, State assessment activities shall be funded only under section 106 of the Act.

(3) With the approval of the Regional Administrator, designated areawide agencies may conduct problem assessment for their planning areas as necessary to meet areawide WQM responsibilities. State problem assessment activities under sections 106 and 208 may be delegated under interagency agreement to areawide agencies.

(c) *Monitoring.* Each State is required by section 106 of the Act to conduct certain monitoring activities for surface and groundwaters (see § 35.1537–4). The nature of such monitoring will vary according to the needs and annual priorities identified in each State, and shall be addressed in the State's annual work program in accordance with guidance from the Regional Administrator. Other monitoring activities of State and areawide agencies shall be as agreed upon in the annual work program, within the limitations of paragraph (b) of this section. All monitoring activities supported with funds under this subpart shall be conducted in accordance with Appendix A.

(d) *Assessing current water quality.* Each State and areawide agency shall carry out an ongoing assessment of the location and nature of its point and nonpoint water quality and source control problems, and shall include in its assessment process the following:

(1) Monitoring under paragraph (c) of this section, including monitoring to determine the impact of nonpoint source pollution under sections 208(b)(2) (F) through (K) of the Act;

(2) Classification of stream segments in accordance with section 303(d)(1)(A) of the Act and EPA guidance, consistent with the needs assessment prepared under section 516(b) of the Act;

(3) An evaluation of the effectiveness of existing point and nonpoint source control programs in achieving water quality goals;

(4) Determination of the relative pollutant loading attributable to point and nonpoint sources; and

(5) Determination of the impact of air and other non-water environmental pollution sources on water quality.

(e) *Determining future water quality problems.* Each State and areawide agency shall assess potential point and nonpoint water quality problems, generally for a 20-year period in five-year increments. Establishment of population projections shall be in accordance with the procedures and requirements of the Cost-Effectiveness Analysis Guidelines (Appendix A to subpart E of this part). Unless otherwise approved by the Regional Administrator in order to develop a solution to a specific pollution control problem, no grant funds shall be expended for land use or economic projections except as those factors are addressed in developing population projections under the Cost-Effectiveness Analysis Guidelines.

(f) *305(b) report.* Each State must prepare and biennially update a report which meets the requirements of section 305(b) of the Act. This report should be based on the information developed under paragraphs (c), (d) and (e).

(g) *Clean lakes.* Wherever feasible, phase 1 diagnostic-feasibility studies for lakes will be carried out as part of the WQM assessment process.

§ 35.1511–2 State strategy.

(a) *General.* The State shall prepare and annually update as an activity under its work program a strategy for controlling water pollution problems from point and nonpoint sources. The strategy delineates priority water quality problems (in relation to the seriousness of pollution) and activities to control these problems in a five-year time frame. The strategy shall address the problems, solutions and priorities in certified and approved WQM plans; other problems identified in the assessment process; and needs identified during management agency performance evaluation. The strategy may be used to recommend revisions in WQM plans, and may be used to establish priorities for plan revision activities of areawide agencies. The strategy shall include:

(1) Goals for a five-year period, and estmated costs of activities to control priority water quality problems;

(2) An identification of governmental entities expected to be responsible for conducting the activities; and

(3) A summary of anticipated Federal and other funds for the strategy period.

(b) *Role of areawide agencies.* Since the State strategy is used in the Regional Administrator's review and approval of the areawide agency's work program (see § 35.1513–7), the State shall involve each affected areawide agency in development of the strategy, and shall consider priorities suggested by the areawide agency. The State shall forward a summary of areawide participation and State response to comments received from areawide agencies to EPA with the strategy.

(c) *Submission.* Each year, the strategy should be submitted to the Regional Administrator for review and comment in time to provide guidance in work program development and assistance in negotiating the State/EPA Agreement.

(d) *Integrated strategy.* An integrated strategy covering more than one EPA program submitted under the State/EPA Agreement may be used, if the Regional Administrator determines the integrated strategy meets the requirements of this section.

§ 35.1513 WQM work program.

§ 35.1513–1 General.

(a) The annual work programs of States and areawide agencies provide the basis for tying available Federal and non-Federal funds under this subpart to the purposes and requirements of this subpart, to achieve the water quality goals of the Act. They translate the requirements of this subpart, priorities identified elsewhere in the State/EPA Agreement, and the EPA annual guidance into specific output commitments. Work programs also contain the commitments for implementing and updating appropriate elements of certified and approved plans.

(b) The State work program shall be developed in a manner consistent with the CPP under section 303(e) of the Act (see § 35.1509). It shall address problems identified in the assessment process (see § 35.1511–1) according to the priorities established in the strategy (see § 35.1511–2). Although the work program is an annual submission, the Regional Administrator may allow outputs to be addressed on a multi-year basis (not to exceed three years) as long as the Regional Administrator determines that EPA oversight and evaluation capability remain unaltered. While the areawide work program is a separate submission, it must be closely coordinated with State efforts in accordance with the procedures in this subpart. The Regional Administrator shall review work programs of States and areawide agencies to assure that redundant outputs are not included.

(c) Under § 35.1540, the provisions of this section are also applicable to interstate agencies.

§ 35.1513–2 Scope.

State and areawide work programs shall identify outputs and associated funding within the appropriate work elements of § 35.1513–5. To the extent practicable, the Regional Administrator will assure that WQM agencies use common data bases, simplify and coordinate reporting, and eliminate conflict and redundancy among programs. Work programs shall meet the requirements of § 35.1531 concerning intergovernmental cooperation.

§ 35.1513–3 Relationship to State/EPA Agreements.

(a) The State/EPA Agreements (described in § 35.1515) will incorporate the State's WQM work program. EPA funding for the State's WQM work program shall be withheld by the Regional Administrator pending execution of the State/EPA Agreement, except as otherwise determined by the Regional Administrator under § 35.1515(a).

(b) Where the State/EPA Agreement contains an integrated work program covering the WQM process and one or more other environmental programs, it may be accepted in lieu of a separate work program submission under this subpart, if the Regional Administrator determines that it otherwise meets the requirements of this subpart.

(c) Areawide agencies' work programs are separate submissions. However, the State work program sets a policy framework for areawide agencies based on the State strategy, and should include priorities for areawide action and timing of major outputs. Approval of areawide work programs will not be delayed based on delay in approval of a State work program, unless the Regional Administrator determines that an unapproved element of the State's work program is critical to the effectiveness of areawide efforts.

§ 35.1513–4 Development and submission.

(a) State and areawide WQM agencies shall cooperate and communicate with each other during development of their work programs. Each State shall, early in the process of draft work program development (and generally not later than April 1 of each year) notify each areawide agency of the significant elements of the State's proposed policy framework applicable to areawide agencies. Areawide agencies shall inform the State of the proposed elements of their work programs early in the process of their development, and give the State an opportunity to review and comment during development.

(b) Each State and areawide agency shall develop a draft work program as early as feasible each year. Unless otherwise agreed by the Regional Administrator, the draft shall be submitted to the Regional Administrator not later than June 1 of each year. The Regional Administrator shall review the draft for compliance with the requirements of this subpart and provide comments to the applicant within 45 days of receipt.

(c) In addition, each areawide agency shall also submit its draft work program to the State for review and comment not later than June 1 of each year, unless the State and the Regional Administrator agree to a different date. The State should review and comment on its adequacy and its compatibility with the State's strategy and work program (and the State/EPA Agreement), and the approved State WQM plan, within 30 days of receipt of the agency's draft work program. If the State has any comments, it shall submit them to both the areawide agency and to EPA.

(d) Unless otherwise agreed by the Regional Administrator, each State and areawide agency shall submit a final work program to the Regional Administrator by September 1 of each year. Each areawide agency shall provide a copy of its final work program to the State.

§ 35.1513–5 Major work elements.

(a) *General.* EPA will provide annual guidance (see § 35.404 of this chapter) identifying matters which States and areawide agencies should emphasize within the program elements listed below. Each work program shall be free from redundant or inconsistent outputs; common outputs (i.e., funded from more than one program) may be developed.

(b) *Areawide agencies.* Areawide agencies have the right to receive grants directly from EPA. However, nothing shall preclude a State and areawide agency from agreeing to pass grant funds through the State to the areawide agency. Grants to areawide agencies under this subpart are only for WQM planning under section 208 of the Act. In addition, however, such agencies may receive funds from the State, under interagency agreement, to perform specific activities on behalf of the State under sections 106, 205(g), 208, and 314 of the Act; such activities remain the responsibility of the State and are not outputs for which the areawide agency is directly accountable to EPA. Areawide agencies similarly may receive funds from other substate agencies; for example, section 201 funds to perform facilities planning activities.

(c) *State agencies.* With approval of the Regional Administrator after negotiation with the State, the State may receive funding under this subpart for the following elements (potential funding sources shown in brackets):

(1) Construction grants management (to the extent not funded under subpart F), development of the fundable and extended portions of the project priority list for construction grants under § 35.915 of subpart E, and management of pretreatment programs [106, 208 as appropriate].

(2) Administration of permits programs, including programs under sections 402 and 404 of the Act [106, 205(g)].

(3) WQM planning and certification [primarily 208; 106 where the Regional Administrator determines appropriate; 205(g) for development of the 208(b)(4) program].

(4) Water quality standards development, review, and revision [106].

(5) Wasteload allocation development, review and revision [106].

(6) Nonpoint source management activities [106].

(7) Monitoring and assessment [106, 208, 314].

(8) Enforcement (including compliance assurance and litigation support activities) [106].

(9) Training and facilities operation and maintenance [106].

(10) Emergency response programs [106].

(11) Program evaluation [106, 208].

(12) Administration of regulatory and other water quality control programs [106].

(13) Planning for and coordination with section 208(j) programs [106, 208].

(14) Program administration [106, 205(g), 208].

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(15) Public participation [106, 205(g), 208].

(16) Phase 1 and 2 activities for clean lakes [314].

§ 35.1513-6 Content.

The work program shall contain the following:

(a) A summary and evaluation of the current year's program, including outputs produced and those not completed.

(b) Identification of the outputs to be produced under each appropriate program element in § 35.1513-5, and, within each element, the person-years to be used; the costs; the funding source(s); milestones for completion of the output; a disbursement schedule; and the agency(ies) responsible.

§ 35.1513-7 EPA review and approval.

(a) Each agency's work program shall be forwarded to the Regional Administrator in accordance with the schedule in § 35.1513-4. Grants shall be awarded only upon approval of the work program (see § 35.1515(a) for relationship of grant awards and State/EPA Agreement execution). The Regional Administrator may award a grant under this subpart with special conditions if the work program requires minor changes. In such an event, the Regional Administrator shall advise the agency of deficiencies in the work program and revisions which must be made to obtain approval. The grant agreement shall include a statement of such deficiencies and a schedule for making the corrections.

(b) The Regional Administrator shall not approve an areawide agency's work program if, based on the Regional Administrator's review and advice from the State, the Regional Administrator determines that the work program is incompatible with the State strategy, State/EPA Agreement or EPA guidance.

(c) The Regional Administrator shall review the work program of each agency to determine if it meets the requirements of this subpart, and to determine the feasibility of achieving expected results in relation to the nature of the water quality problems, authority, organization, and past performance of the agency(ies) involved, and their available resources.

(d) The Regional Administrator may withhold approval of a work program or portion thereof for any agency which has had its WQM plan or portion approved with conditions if the agency is not moving as rapidly as possible to fulfill the conditions.

§ 35.1513-8 Evaluation.

It is EPA policy to limit EPA evaluation to that which is necessary for responsible management of the national effort to control pollution. EPA shall hold meetings to review and evaluate State and areawide programs as follows:

(a) *Mid-year evaluation.* At an appropriate mid-point in the program year, EPA shall conduct an evaluation meeting with each State and areawide agency to review and evaluate the program accomplishments of the current budget period under the work progam and to discuss the work projected for the coming year. Evaluation meetings may cover more than one agency.

(b) *Other reviews.* EPA may conduct an end-of-year evaluation meeting with appropriate State and other officials to review the accomplishments of the program year, and such other reviews as are deemed appropriate.

(c) *Reports.* EPA shall prepare a written report of each evaluation, forward a copy to the grantee (and the State, where the grantee is an interstate or areawide agency), and notify the public of the report's availability.

§ 35.1515 State/EPA Agreement.

(a) *General.* The State/EPA Agreement, which includes the State's WQM work program, integrates planning, management, and implementation of all EPA programs which the State and the Regional Administrator include under the requirements of this chapter. In addition, the Agreement reflects appropriate coordination with other Federal, State, regional, and local planning programs affecting or affected by the activities under this subpart. The State/EPA Agreement must be completed prior to any grant award under this subpart; however, the Regional Administrator may permit grant award in advance of completion of the State/EPA Agreement if the Regional Administrator determines that delay would not be in the best interests of sound environmental management and that the activities for which funding would be awarded have been adequately coordinated with the State's other environmental programs. The State/EPA Agreement shall be developed in accordance with EPA guidance.

(b) *Role of areawide agencies.* For areawide agencies, the State's work program sets a policy framework based on the State strategy, and should include priorities for areawide action and timing of major outputs. Because of the importance of their role, areawide agencies shall be involved in development of all relevant aspects of the Agreement. Comments of the areawide agencies (if any), the State's responses, and a brief summary of the participation of areawide agencies in development shall be forwarded to EPA with the draft Agreement. Nothing shall preclude the right of the areawide agency to submit comments directly to EPA.

(c) *Grant Agreements.* To avoid duplication, the portions of the State/EPA Agreement relevant to WQM should be included in the narrative portions of the applications for grant funds under this subpart.

§ 35.1517 Conflict resolution.

(a) The State shall assure that procedures exist at State and substate levels for resolving conflicts among the State, areawide agencies, local governments, potential and designated management agencies, and other agencies affected by the WQM process. Such procedures should include existing conflict resolution mechanisms established by State and areawide agencies.

(b) The State shall submit a brief written description of such procedures to the Regional Administrator as an output of the FY 1980 work program.

(c) Nothing shall preclude the right of any agency to request EPA comment or review, after exhausting available procedures at the State or other appropriate substate level of government. All agencies, and members of the public, have the right to submit comments to EPA. However, no action taken by the State or any other agency under the conflict resolution procedures established in accordance with this section shall be appealable within the terms of subpart J (Disputes) of Part 30 of this chapter. Disputes in procurement actions of assisted agencies are governed by Part 33 of this chapter.

§ 35.1519 Selection of 208 planning agencies.

§ 35.1519-1 Status of existing planning agency designation.

Designated State and areawide planning agencies shall retain designated status unless changed in accordance with this section. While 208 planning funds will be awarded only to designated agencies, designation does not automatically entitle any agency to funds. An agency must meet all requirements of this subpart to become or continue to be eligible for funding.

§ 35.1519-2 Changes in designation status.

(a) *General.* (1) As of [date of publication of the final regulations],

virtually all areas of the United States are covered by 208 planning by existing State or designated areawide agencies. Generally, therefore, it is not necessary for Governors to designate new areawide planning agencies, since a change in planning responsibility usually can be accomplished through a transfer of responsibility to an existing agency. With EPA approval, the Governor may:

(i) Designate a new State planning agency to replace the existing State planning agency;

(ii) Designate a new areawide planning agency under section 208(a) of the Act for an area previously administered by the State (note paragraph (a)(6) of this section);

(iii) Designate a replacement areawide planning agency under section 208(a) of the Act for an existing designated agency in a planning area;

(iv) Remove the designation from an existing area and agency, thereby replacing it with the State planning agency (note paragraph (b)(6) of this section);

(v) Alter the boundaries of existing planning areas.

(2) For approval by the Regional Administrator, a change in designation must meet the requirements of this section and:

(i) The Governor, with concurrence of the Regional Administrator, must determine that the objectives of section 208 of the Act can be met more efficiently and effectively by the change in designation;

(ii) The Regional Administrator must determine that the procedures in (b) below have been followed; and

(iii) The Regional Administrator must approve the replacement agency.

(3) Action by the Governor to change designation status will not relieve the Governor of responsibility to take action on completed plan elements of the replaced agency in accordance with § 35.1523.

(4) The Governor must assure that the replacement agency makes maximum feasible use of any work of the replaced agency, and the replacement agency must undertake completion of key elements of work in accordance with a work program negotiated with the Regional Administrator (see § 35.1521-5(b)(4)).

(5) The Regional Administrator may withhold part or all of funds available to the State under this subpart if he determines that a State is in violation of any requirement of this section.

(6) Designation of new areawide planning agencies for areas previously administered by the State shall be subject to the procedural requirements of this section and any additional procedures the Regional Administrator and the State agree are appropriate to meet the intent of section 208(a)(2) of the Act. Generally, designation changes should not be made where delegation of specific responsibilities through interagency agreement can accomplish the desired objective. Preference should be given to replacement agencies and delegees which have planning responsibilities in other Federal, State, regional, and local environmental and land use planning programs.

(b) *Procedures.* (1) The Governor shall propose any change in area or agency designation in a written statement, which shall contain the reasons for the proposed change, the impact on applicable time schedules and achievement of program requirements, and the identification of a proposed replacement agency or change in planning area boundaries. This statement shall be sent to the Regional Administrator, to the head of the affected agency and its advisory committee, and to the chief elected officials of general purpose governments in the affected area.

(2) The State shall hold a public meeting in the affected area if the State or EPA determines that substantial public interest exists. The meeting may be combined with other relevant meetings or hearings (e.g., the hearing on plan certification). Advance notice of the meeting shall be given in accordance with Part 25 of this chapter. The State shall submit an agency responsiveness summary to the Regional Administrator.

(3) The Regional Administrator shall approve the designation change if the Regional Administrator determines that the proposed change is consistent with (a) of this section and that the proposed replacement agency has the authority, capability (including resources) and willingness to undertake its responsibilities.

(4) If an agency change is due merely to an agency reorganization or name change, the Regional Administrator may modify or waive the procedures in this section as appropriate.

(5) In the case of a proposed change in a designated agency which is also an interstate agency, the Regional Administrator shall require the relevant procedures above for the appropriate States and any additional procedures which the Regional Administrator considers appropriate in the circumstances.

(6) State assumption of nonpoint source planning responsibilities under section 208(b)(4)(A) of the Act may be accomplished in lieu of the procedures in this section by specific statement in the State's work program as approved by EPA. In such an event, the State shall notify in advance the affected areawide agency of the proposed action, and shall consider the comments of such agency in developing the portion of the work program which sets forth the nonpoint source planning which the State will perform.

(c) *Grant funds.* Generally, as soon as the Regional Administrator determines that an agency may lose its designation, and if unexpended grant funds remain, the Regional Administrator should issue a stop-work order under § 30.915 of this chapter. A stop-work order is not needed where the agency to be replaced is allowed by the Regional Administrator to complete its assigned tasks. Upon designation change, the Regional Administrator shall either transfer the grant under § 30.900-3 of this chapter to the approved replacement agency, or terminate the grant under § 30.920 of this chapter and provide part or all the funds released to the approved replacement agency. The final decision of the Regional Administrator may be appealed in accordance with § 30.920-5.

§ 35.1519-3 Delegation of planning activities.

Designated State and areawide agencies may delegate (through interagency agreements) specific planning activities, but not ultimate responsibilities for planning, to other State, Federal, regional, local, and interstate agencies for the conduct of work under this subpart. Delegation shall take place through a written agreement executed by the two agencies, subject to the approval of the Regional Administrator, specifying outputs, time schedules, funding, and how the agencies will coordinate. If a State or areawide agency intends to delegate any major planning activities under this paragraph, locally elected officials of governments having jurisdiction in the affected area shall be consulted prior to execution of the agreement.

§ 35.1521 Water quality management planning

§ 35.1521-1 General.

WQM planning shall be conducted as an activity under the work program by States under sections 208 and 303(e) of the Act and by areawide agencies under section 208 of the Act. WQM plans will address problems identified in the assessment and strategy development process under § 35.1511. WQM plans

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must indicate recognition that ground waters and navigable waters intermix. Assessment activities funded under section 208 shall be reflected in the plan. The term "WQM plan" as used in this regulation refers to the plan (and portions) and subsequent revisions and additions prepared in accordance with section 208(b) of the Act. WQM plans, once certified and approved under § 35.1523, are a basis for future activities under this subpart. Initial plans must be completed and certified by the times specified in section 208(b)(1) of the Act. EPA will not support planning for planning's sake; therefore, WQM plans shall be updated only as the Regional Administrator determines necessary to resolve specific pollution control problems.

§ 35.1521-2 Relationship to work programs.

(a) All planning activities of State and areawide agencies under this subpart are defined in the work program under § 35.1513. While funding generally will be available on an annual basis, the approved work program may include planning products which will be developed on a multi-year basis. Multi-year outputs generally shall be evaluated on an interim basis under § 35.1513.

(b) To be eligible for grant funds for planning under section 208 of the Act, each State and areawide agency shall submit, as part of its work program, specific proposed outputs under §§ 35.1521–3 and 35.1521–4. WQM planning must eventualy address all program areas (see § 35.1521–4), except where the State certifies for a certain program area that water quality and source control problems do not exist and are not likely to develop. The Regional Administrator shall negotiate with each WQM agency to determine activities which will have priority for funding in each year, in accordance with annual EPA guidance. The Regional Administrator shall not approve funding for any output unless the Regional Administrator determines that it is consistent with section 208(b) of the Act and attainment of water quality goals.

§ 35.1521-3 Plan development requirements.

WQM plans shall be developed and revised as needed to address point and nonpoint program areas discussed in § 35.1521–4 in accordance with the following process:

(a) *Control needs.*—(1) *General.* The planning process shall identify pollution control approaches for the program areas discussed in § 35.1521–4, evaluate them, and select one or more which are determined to be effective to achieve water quality goals and the purposes of section 208(b)(2) of the Act. The plan shall describe the foregoing. The plan shall set forth for each control approach selected an implementation schedule and an identification of proposed management agencies. In carrying out these activities, the planning agency must consider the relationship of water quality to land use and water resources.

(2) *Permit conditions.* (i) The plan shall specifically identify any conditions to be included in NPDES permits pursuant to sections 208(e) and 301(b)(1)(C) of the Act (e.g., water quality based effluent limitations).

(ii) The State is responsible for providing each affected source with notice and the opportunity to be heard and appeal applicable plan provisions, where appropriate. No EPA hearing and appeal procedures are available for such conditions.

(b) *Regulatory and other programs.* (1) The plan must identify regulatory or other programs to implement the controls selected under § 35.1521–3(a). Existing regulatory programs should be used where effective. Where adoption of a new program or modification of an existing program is needed, the plan must describe the needed changes and include a schedule for their accomplishment. Any EPA approval of such programs will be conditional until the changes are completed.

(2) For each regulatory program, the plan shall identify the needed attributes, including legislative requirements; financing, staffing, and other administrative arrangements; and inspection, enforcement, and surveillance authority. Nonregulatory programs shall have adequate administrative arrangements, financing, appropriate public education programs, technical assistance and evaluation capability. For additional criteria, see § 35.1521–4.

(c) *Management agencies.* (1) The plan shall identify a specific management agency to implement each of the plan's programs. Each identified management agency shall have adequate authority under Section 208(c) of the Act and capability to fulfill the responsibilities which the plan assigns to it. If a proposed management agency is intended to receive Federal construction grant funding assistance, it shall meet the requirements of section 208(c)(2) of the Act and applicable requirements of subpart E. For each major suggested management agency (those which have primary responsibility for controlling a pollution source), the plan shall briefly set forth the agency's legal authority; a description of the administrative and financial capability which the agency must have; appropriate reporting procedures; methods for coordination with the planning agency; and a description of the specific implementation responsibilities of the agency.

(2) Each major management agency, in cooperation with the planning agency, shall forward to the Governor and the Regional Administrator with the plan a letter of commitment which will acknowledge the management agency's acceptance of responsibilities and time schedules assigned to the management agency by the plan. Other indications of commitment to fulfill assigned responibilities (e.g., State law, regulations or Executive Order) may be accepted in lieu of this letter.

(3) The Governor shall assure that each management agency which has regulatory responsibilities has sufficient autonomy and regulatory authority to carry out its responsibilities effectively and on time. In determining whether sufficient autonomy exists, the Governor and the Regional Administrator may use as guidance the provisions applicable to conflicts of interest in the NPDES program (see § 124.94 of this chapter). During evaluation of management agency performance under § 35.1527, the Regional Administrator may withdraw acceptance of a management agency designation and request the Governor to designate a new agency, or take other corrective action, if the regional Administrator determines that the effectiveness of the management agency is inhibited by lack of sufficient autonomy.

(d) *Environmental, social, and economic impacts.* (1) The plan shall assess environmental, social, and economic impacts of implementing plan provisions. The environmental impact statement provisions of section 102(2)(C) of the National Environmental Policy Act do not apply to the WQM planning process or plan certification and approval.

(2) Plan development shall be coordinated with promulgated or approved State Implementation Plans under the Clean Air Act and be consistent with Executive orders for floodplain management (E.O. 11988) and wetlands protection (E.O. 11990), published agency policy and procedures for protection of environmentally sensitive areas such as floodplains and agricultural lands, and other applicable environmental requirements cited in Part 30 of this chapter.

(e) *Open space and recreational opportunities.* The plan shall contain an analysis of open space and outdoor recreational public benefits expected to be achieved under the plan. The plan shall consider recreational use of lands associated with treatment works and increased access to water based recreation. The plan must identify measures which have been and will be taken to enhance open space and recreational opportunities through coordination with facilities planning and State and local recreational programs (e.g., State outdoor recreational programs under the National Wild and Scenic Rivers Act (Pub. L. 90–542) and the Land and Water Conservation Fund Act (Pub. L. 88–578).

(f) *Urban impacts.* To assure consistency with the President's urban policy and the EPA Urban Initiative, as implemented in appropriate portions of Appendix A, subpart E, the plan shall assess the impact of plan provisions on urban development and contain measures for mitigation of adverse impacts.

(g) *Coordination.* WQM planning activities shall be coordinated with other programs related to WQM in accordance with § 35.1531. The WQM planning agency shall involve potentially affected agencies including general purpose units of local governments, proposed and designated management agencies, and other affected State and Federal agencies (e.g., recreation, air, solid waste, drinking water, and fish and game offices).

(h) *Plan evaluation and revision.* The plan shall contain provisions for evaluating the effectiveness of plan implementation (e.g., application of nonpoint source controls) in achieving water quality goals and identifying program needs. Provisions shall be made for revising WQM plans as necessary to achieve those goals. The assessment process under § 35.1511–1 will be a principal means of conducting the evaluation.

§ 35.1521-4 Program areas.

Section 208(b) of the Act sets forth planning requirements. This section calls particular attention to aspects of certain program areas the planning must address. The following point and nonpoint program areas shall be addressed in the plan development and revision process described in § 35.1521–3 in accordance with priorities identified under § 35.1511–2.

(a) *Total maximum daily loads, wasteload allocations.* States shall develop total maximum daily loads and wasteload allocations in accordance with priorities established under section 303(d)(2) of the Act consistent with EPA guidance. Areawide agencies shall perform this activity only where delegated under interagency agreement between the State and areawide agency.

(b) *Dredged or fill programs.* The State may develop programs for the control of the discharge of dredged or fill material under section 208(b)(4)(B) of the Act.

(c) *Nonpoint source control.* (1) The plan shall describe the regulatory and non-regulatory activities and Best Management Practices (BMPs) which the agency has selected as the means to meet its nonpoint source control needs. BMPs to achieve water quality goals for surface and ground water quality and source control problems shall be identified for the nonpoint sources in section 208(b)(2)(F)–(K) of the Act and other nonpoint sources found to be a problem. BMPs are those methods, measures, or practices to prevent or reduce water pollution and include but are not limited to structural and nonstructural controls, and operation and maintenance procedures. BMPs can be applied before, during, and after pollution-producing activities to reduce or eliminate the introduction of pollutants into receiving waters. Ecomonic, institutional, and technical factors shall be considered in developing BMPs. BMPs shall be developed in a continuing process of identifying control needs and evaluating and modifying the BMPs as necessary to achieve water quality goals (see § 35.1521–3(h)). To the extent practicable, BMPs should be set forth in a document which can be distributed widely in the planning area.

(2) Regulatory programs shall be identified where they are determined to be the most practicable method (considering economic, technical, social and environmental factors) of assuring that an effective nonpoint source control program is implemented. Nonregulatory programs will be approved only where the plan provides a sound basis for determining that they will result in the achievement of water quality goals. If, after a period of implemention, a nonregulatory program is determined by EPA or the State not to be effective, the WQM agency shall develop a regulatory program.

(3) Under section 208(b)(4)(A) of the Act, States may assume responsibility for identifying nonpoint source control needs and developing control programs in designated areas (see § 35.1519–2(b)(6)).

(d) *Municipal and industrial needs.* (1) under § 35.915(b) of subpart E, section 208(b)(2)(A) and section 516(b) of the Act, the State is responsible for listing wastewater treatment facility needs, in accordance with EPA guidance distributed for use with the needs inventory. All wastewater treatment facility needs specified in certified and approved WQM plans shall be included in the State needs inventory. The State's development of its needs inventory may be conducted as part of its WQM planning or as an output funded under section 106 of the Act. WQM planning agencies shall assess treatment facility needs in accordance with guidance of EPA and the State.

(2) Establishing priority lists for construction grants is a State responsibility. Priority lists are developed annually by States, generally with funding under section 106 of the Act, and are not part of the WQM plan. However, the State may use its WQM plan and planning process during development of the priority list, as long as the requirements of § 35.915 are met. The roles of State, interstate and areawide planning agencies are discussed further in § 35.1533–4(b)(3).

(3) The plan shall set forth information appropriate to support subsequent facility planning (including information on location, modification, construction, operation and maintenance of municipal facilities, suggested regional approaches, and population data developed in accordance with § 35.1511–1(e)). The plan should also propose appropriate regulatory or other programs to support wastewater facilities operation and maintenance and municipal water conservation.

(4) The plan shall set forth approaches (including any appropriate regulatory programs) to improve operation and maintenance of industrial wastewater facilities, and develop pretreatment programs under Part 403 of this chapter.

(e) *Urban stormwater.* The plan shall identify BMPs for urban stormwater control to achieve water quality goals. Appropriate regulatory programs to control the location, modification, and construction of facilities for municipal stormwater management must be identified (see § 35.1521–4(c)(2)). Fiscal analysis of the necessary capital and operations and maintenance expenditures must be included.

(f) *Residual waste control, land disposal.* The plan shall identify waste disposal needs, including BMPs, to protect water quality standards and ground water quality. Relationships of residual waste disposal needs to wastewater treatment facility needs

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(e.g., toxic solid waste disposal and land treatment) shall be described. The plan shall describe coordination of activities under WQM planning and the Resource Conservation and Recovery Act. Appropriate regulatory programs to control the location, modification, and construction of facilities for residual waste disposal and other program needs shall be established to achieve water quality goals. States may assume nonpoint source responsibilities from areawide agencies under this paragraph in accordance with section 208(b)(4)(A) of the Act.

Note: Control needs for waste disposal to protect surface and ground water from land disposal of solid waste and from hazardous waste are identified in programs under Subtitles C and D of the Resource Conservation and Recovery Act (RCRA). To avoid redundancy and inconsistency, the Regional Administrator and the State shall establish (through the State/EPA Agreement) the planning and funding responsibilities attributable to the RCRA and WQM programs. The division of responsibilities shall be in accordance with EPA guidance.

(g) *Water quality standards.* WQM agencies shall review State water quality standards and make any appropriate recommendations in their plans on revising such standards to meet water quality goals. The State shall consider the recommendations in the review and revision of standards under § 35.1550.

(h) *Water Conservation.* Where appropriate, the plan should identify water conservation needs and practices to achieve and maintain water quality standards and to ensure efficiency in municipal wastewater treatment.

§ 35.1521–5 Planning responsibilities.

(a) *Governor.* The responsibilities of the Governor (or his designee) include:

(1) Assuring that adequate WQM planning consistent with this subpart is conducted throughout the State to control point and nonpoint pollution to meet water quality goals.

(2) Taking action necessary to correct a failure in planning of a State or areawide agency by promptly designating a replacement agency or otherwise assuring production of required planning products.

(3) Promptly taking any actions required under § 35.1523–3 and § 35.1529.

(b) *State.* The responsibilities of the State planning agency, and of any other appropriate State agency designated by the Governor, include:

(1) Reviewing and commenting on draft areawide work programs in accordance with § 35.1513–4.

(2) To the maximum extent feasible, acting as a resource for areawide planning agencies, providing them with technical assistance, and information on BMPs and pollution control technologies.

(3) Performing planning for nondesignated areas under section 208 of the Act and planning for which the State is responsible in designated areas.

(4) If designated by the Governor, promptly assuring completion of necessary additional planning following designation change. In such an event, the uncompleted work program of the replaced agency and related funding shall be examined and modified as determined by agreement between the successor agency and the Regional Administrator, consistent with the objectives of the Act.

(5) Management agency evaluation in accordance with § 35.1527.

(c) *Areawide agencies.* Each areawide agency shall prepare and submit an areawide WQM plan, shall revise the plan as necessary, and shall carry out all responsibilities assigned to it under any grant agreement, its approved work program, and any agreement with and guidance from the State, consistent with this subpart.

(d) *Local government involvement.* WQM planning agencies must assure that affected local governments are involved in WQM plan development. Therefore, no grant will be awarded under this subpart to a State or areawide planning agency unless the Regional Administrator is satisfied that adequate provisions have been made for such local government involvement (including the participation of appropriate local elected officials).

(e) *Failure.* Failure to meet any of the requirements of this section may result in withholding of all or part of grant funds available under sections 106, the nonconstruction related portion of 205(g), 208, or 314 of the Act and disapproval of the CPP under § 35.1509–3. 201 funds may be withheld in the circumstances described in § 35.1533–4(b).

§ 35.1521–6 Planning on Indian lands.

(a)(1) To the maximum extent feasible, States and areawide agencies shall coordinate with Indian tribal organizations within and adjacent to their planning areas in the development of WQM plans. Where appropriate, the Regional Administrator shall work with the State and Indian Tribe to ensure development of WQM planning on Indian lands. The WQM planning area should include all lands within the reservation regardless of ownership. Where the State finds it is unable to deal with an Indian tribal organization through designation or interagency agreement, the State and the Regional Administrator may agree to allow EPA to use a portion of 208 funds which the State would otherwise receive to support a cooperative agreement between EPA and the Indian Tribe to accomplish 208 tasks on Indian land.

(2) The State shall review the Indian Tribe's work program and work outputs for consistency with State and adjacent areawide agency work. Where the Governor determines that he or she has no authority to take action on Indian tribal plans under § 35.1523, the Governor shall, at a minimum, review and comment on the plan submission and provide his or her comments to EPA. All WQM plans for Indian lands shall be submitted to EPA for review and approval.

(b) If the State has no objection, an Indian Tribe may submit a self-designation application to EPA for approval under section 208(a)(4) of the Act.

(c) In addition, where the Regional Administrator after consultation with the State determines that a State lacks authority to carry out effective WQM planning and implementation on Indian lands, the Regional Administrator may approve a self-designation application by the Indian organization, if he or she is satisfied that:

(1) Other efforts for cooperative State/Indian effort have been unsuccessful; and

(2) The Indian tribal organization has the authority and capability to undertake effective WQM planning; and

(3) Planning by the Indian Tribe will result in implementation action to achieve water quality goals and be compatible with WQM planning outside the reservation.

(d) Except as otherwise approved by the Regional Administrator, modifications of existing areawide agency or area designations necessary to accommodate self-designation shall be in accordance with § 35.1519.

§ 35.1523 Evaluation, certification, and approval of WQM plans and designation of management agencies.

§ 35.1523–1 General.

The terms "certify" and "certification" mean the finding by the Governor that a State or areawide WQM plan or portion meets the criteria in § 35.1523–2(b). EPA approval constitutes the finding by the Regional Administrator that the plan meets those criteria. State certification is a prerequisite for EPA approval.

Failure of the State to take action within the time specified in § 35.1523–3(a) will result in EPA action as specified in § 35.1523–3(c).

§ 35.1523–2 Plan evaluation.

(a) *Review and submission of WQM plans.* In accordance with Part 25 of this chapter and § 35.1507, each planning agency shall hold a public hearing on its proposed plan and solicit comments from the public, the advisory committee, the State, EPA, and agencies affected by the WQM plan. Affected agencies include general purpose units of local government, proposed and designated management agencies, other State and Federal agencies whose lands or programs are impacted (e.g., air, solid waste, drinking water, fish and game offices, and affected downstream or contiguous States and municipalities). Within 60 days after the public hearing, the planning agency shall submit its WQM plan or portion, and its responsiveness summary, to the Governor and EPA for their concurrent evaluation.

(b) *Evaluation criteria.* To be certified by the Governor and approved by EPA, the WQM plan or portion shall:

(1) Be consistent with work program provisions, other relevant portions of the State/EPA Agreement, this subpart, and the Act;

(2) Be technically sound;

(3) Be economically feasible;

(4) To the maximum extent feasible, be consistent with other relevant certified and approved WQM plans (including plans of neighboring States); and

(5) Represent substantial progress toward achievement of water quality goals (see § 35.1505).

(c) *Management agencies.* Management agencies shall satisfy requirements of § 35.1521–3(c).

§ 35.1523–3 Plan certification; designation of management agencies.

(a) Within 120 days after receipt of the WQM plan for evaluation under § 35.1523–2, the Governor shall submit a letter to the Regional Administrator and the planning agency containing findings that the Governor certifies, or does not certify, each element of the plan. The Regional Administrator may allow the State to use up to 30 additional days. Prior to submission, the Governor shall give public notification of the intended action on the WQM plan in accordance with Part 25. If there is sufficient public interest, a public meeting may be held in accordance with Part 25 of this chapter. Plan provisions may be certified and management agencies designated with conditions. Unless otherwise specified in the conditions, the conditioned certification shall have the same status as full certification for purposes of sections 204(a), 208(d) and 208(e) of the Act. The certification letter shall be accompanied by a summary of public participation and comments received, and the Governor's response to those comments. The certification letter shall specify:

(1) Plan provisions the Governor certifies in accordance with § 35.1523–23(b), and any conditions. Where provisions are certified under this section with conditions, a schedule for completing revisions shall be included.

(2) For plan provisions the Governor does not certify, the plan revisions necessary for certification.

(3) Designated management agencies for implementing certified plan provisions, and any conditions. Where such agencies are not identified, the plan revisions necessary to obtain designation must be stated. Where the Governor designates a management agency which differs from the agency set forth in the plan, he or she shall forward with the certification letter the rationale for the selection, a summary of comments of the planning agency on the substitution, the Governor's response to those comments, and the commitment letter of the management agency (if it is a major agency under § 35.1521–3(c)(1)).

(b) In the case of a plan or portion from an interstate area, the Governors of each State in the interstate area shall concurrently undertake the responsibilities assigned to them under paragraph (a). The Governors are encouraged to consolidate meetings and to coordinate staff review effort.

(c) Where the Regional Administrator determines that the Governor has failed without good cause to meet in a timely manner the certification requirements of paragraph (a), the Regional Administrator shall withhold an appropriate portion of funds otherwise available to the State under this subpart pending compliance with the requirements, and may suspend or terminate current funding in accordance with §§ 30.915 and 30.920 of this chapter.

(d) Disputes concerning refusal to certify plans, and certification or designation conditions, shall be handled through the conflict resolution process developed under § 35.1517.

Note.—The 120-day period for State review and the 150-day period for EPA review run concurrently, not sequentially.

§ 35.1523–4 EPA approval.

(a) Except as otherwise provided under (b), within 150 days after receipt of a WQM plan or portion for evaluation under § 35.1523–2, the Regional Administrator shall take action under this section. This time may be extended by an amount of time equal to the extra time given a State for review under § 35.1523–3(a). Plan recommendations may be approved and designated management agencies accepted with conditions. Unless otherwise specified in the condition, the conditioned approval or acceptance shall have the same status as full approval or acceptance for purposes of sections 204(a), 208(d) and 208(e) of the Act. The Regional Administrator shall notify the Governor and the planning agency in writing of the following:

(1) Plan provisions approved and designated management agencies accepted, and any conditions. The Regional Administrator shall identify specific conditions approved for incorporation into NPDES permits under section 208(e), and a schedule for completion of revisions where plan conditions are approved with conditions.

(2) For plan provisions disapproved and designated management agencies not accepted, the plan revisions necessary to obtain approval and acceptance.

(b) Under section 208(c)(2) of the Act, the Regional Administrator has 120 days from date of management agency designation to refuse to accept such designation. Therefore, the Regional Administrator may require submission of information about such designations to be submitted to EPA in advance of other plan materials.

(c) Periodically, EPA shall publish notices in the Federal Register describing actions taken under this section. The notices shall specify an EPA contact for more information.

(d)(1) Approvals of WQM plans and plan elements are subject to withdrawal or modification in whole or in part when the Regional Administrator, after consultation with the Governor and with the concurrence of the Assistant Administrator for Water and Waste Management, determines such action to be necessary to meet water quality goals based on further studies or information which becomes available after approval. For example, the Regional Administrator may determine that his or her approval of a plan element containing alternatives for waste treatment should be modified in view of a later facility plan which, based on more detailed study than that contained in the WQM plan (such as a cost-effective analysis or an environmental assessment),

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recommends modification of the alternatives set forth in the plan.

(2) Before withdrawal or modification is effective, the Regional Administrator shall provide the affected State and areawide planning and management agencies and the public in the affected area with an explanation of the Regional Administrator's proposed action and opportunity to comment on it. If an affected agency requests within ten days of such notification, the Regional Administrator shall provide an opportunity for a meeting at which the agency may present its views. The record of the decision shall include the responses of the Regional Administrator to comments, if any, received during this process.

(e) Where an agency is dissatisfied with EPA disapproval or conditions on approval of its plan or management agency designation, the Regional Administrator may, in his or her sole discretion, allow the agency to use EPA's appeals process in subpart J (Disputes) of Part 30 of this chapter. Such access shall not be allowed where other more appropriate administrative decision making processes or remedies exist (e.g., for NPDES permit conditions). Access is not available for disputes concerning State certification or conditions (see § 35.1523–3(d)).

§ 35.1523–5 State adoption of WQM plans.

In the case of any element of a State or areawide WQM plan which the State determines will be implemented by the State through regulatory means, the State shall undertake the State rulemaking procedures necessary to implement the element as soon as practicable after its certification and approval.

§ 35.1523–6 Plan revisions.

(a) Except as otherwise provided below, plan revisions to accommodate changed circumstances, later studies and information, and new requirements of State law or regulations shall be developed, certified and approved as part of the normal annual process at WQM plan development and update. Under §§ 35.1511–2, 35.1513–3 and 35.1515, the State can establish requirements for State and areawide WQM plan revisions. Unresolved disputes between the State and an areawide agency concerning any such requirements shall be handled through the conflict resolution process developed under § 35.1517.

(b) Where the State by law or regulation changes water quality standards, wasteload allocations, its project priority system, or other such specific water quality-related elements under the legislative or regulatory control of the State, the State may determine (and must notify the affected WQM planning agencies, the public, and the Regional Administrator) that State and areawide WQM plans within the State shall be subject to such changes. Except as procedures elsewhere in this chapter may otherwise provide, such plan modifications shall be deemed approved by EPA unless the Regional Administrator notifies the State of disapproval within 30 days following receipt of notification from the State.

(c) The State, after consultation with affected areawide agencies and with the concurrence of the Regional Administrator, may establish procedures for expedited development, review and certification of plan revisions.

(d) The Regional Administrator and the State may agree to reduce the time limitations and review requirements of §§ 35.1523–3 and 35.1523–4 for plan corrections and revisions of a minor nature.

§ 35.1525 Reviewing plan applicability after approval.

(a) The agency with responsibility for ongoing WQM planning functions related to wastewater treatment facilities shall review facility plans and advise EPA (or the State if the construction program has been delegated) on their conformity with the approved WQM plan or portion. EPA will consider any comments provided by this agency in making determinations under sections 204(a) and 208(d) of the Act. The reviewing agency shall also be responsible for reviewing conformity of facility plans with nonpoint source and other elements of the approved plan or portion.

(b) The State shall identify, with EPA approval, a State or other agency to advise EPA (or the State, if the NPDES program has been delegated) concerning whether proposed NPDES permits are in conflict with the approved WQM plan or portion under section 208(e) of the Act. EPA will consider any comments provided by this agency in making determinations under section 208(e) of the Act.

§ 35.1527 Evaluation of management agency performance.

(a) The State is primarily responsible for evaluation of management agency performance, and it shall provide a description of its evaluation process in its work program. States may delegate portions of evaluation tasks to other appropriate agencies, but the State shall remain responsible for ensuring an adequate evaluation. The State shall consult with the areawide agency when evaluating a management agency responsible for implementing a portion of the areawide's plan. Results of the evaluation shall be reflected in the strategy and subsequent work programs.

(b) If the Regional Administrator determines it appropriate, EPA may also evaluate management agency performance. Where the Regional Administrator determines, after consultation with the appropriate planning agency, that the management agency is not meeting its responsibilities effectively and on time, he or she may withdraw acceptance of the management agency and request the Governor to take corrective action (including designation of a different agency) under § 35.1529.

(c) The State and EPA shall use the WQM plan requirements for the management agency and the letter of commitment (see § 35.1521–3(c)) when evaluating management agency performance.

§ 35.1529 Change in management agency designation by States.

Where evaluation of a management agency indicates a failure to implement assigned responsibilities, the Governor, in consultation with the appropriate WQM planning agency, shall take appropriate action to correct the failure. If appropriate, the Governor shall withdraw the existing designation and propose an alternate designation. A change in management agency designation shall require EPA acceptance. In proposing to change a management agency's designation, the Governor shall follow the procedures under § 35.153–2(b), except that such procedures may be modifed with concurrence of the Regional Administrator.

§ 35.1531 Intergovernmental coordination and cooperation.

§ 35.1531–1 General.

WQM agencies shall provide adequate opportunities for local, regional, State, interstate, and Federal agencies which affect or are affected by WQM to become involved in activities under this subpart, including work program development, planning, and implementation. The Regional Administrator shall not approve a work program unless satisfied that the applicant has provided adquate opportunities for involvement and that the proposed work is in compliance with applicable requirements of other Federal programs.

§ 35.1531–2 Coordination and consolidation.

WQM activities shall be coordinated and, to the extent feasible, integrated with activities of other agencies. WQM plans shall be developed in cooperation with agencies preparing water resource management plans under section 209 of the Act. Wherever appropriate, common data bases, common planning and management agencies, consolidated and simplified reporting requirements, advisory bodies, and public participation programs should be used. WQM agencies should use technical expertise of Federal and other agencies where possible. Federal and other agencies may be delegated resonsibility under interagency agreement and may be designated as management agencies. Specific activities to coordinate, consolidate, and integrate WQM activities with other programs shall be identified in the work program.

§ 35.1531–3 Federal responsibility.

(a) In accordance with section 313 of the Act and Executive Order 12088, Federal properties, facilities, and activities shall comply with all Federal, State, interstate, and local requirements, administrative authority, procedures and sanctions respecting the control and abatement of water pollution in the same manner and to the same extent as any non-governmental entity.

(b) Generally, EPA will facilitate resolution of conflicts among Federal agencies and State, interstate, or local agencies in matters affecting the application of or compliance with a requirement for abatement of pollution. Where EPA determines that its efforts are or likely will be unsuccessful, the matter shall be referred to the Office of Management and Budget under provisions of Executive Order 12088.

§ 35.1533 Implementation.

§ 35.1533–1 General.

The fundamental objective of all activities of State and other agencies under this subpart shall be to achieve the water quality goals of the Act. Therefore, all planning shall aim at specific implementation action. EPA shall not exercise any approval authority under this part, nor award any grant, unless the Regional Administrator is satisfied that the action for which approval or grant funds is sought accords with this policy. This policy shall also be a key element in evaluations conducted under this part.

§ 35.1533–2 Funding.

Except for subsection 208(j) of the Act, implementation activities are generally not eligible for funding under section 208 of the Act. In accordance with annual EPA guidance, funds under sections 106, 201, 205(g), and 314 of the Act may be used for implementation activities under approved water quality management plans, if such activities are eligible for funding under those sections. Funding may be available under section 201(e) from revenues from integrated facilities. Funding may also be available for implementing BMPs in rural areas under section 208(j) and for certain activities of other Federal agencies under section 304(k) of the Act. Under RCRA, assistance is available to plan and implement programs to control disposal of solid and hazardous waste. Other Federal agencies, such as the Departments of Agriculture and Housing and Urban Develoment, may have funding available for certain implementation activities.

§ 35.1533–3 Remedies for failure to implement.

The Regional Administrator may take any appropriate action for failure to implement, including the following:

(a) The Regional Administrator, after consulting State and areawide planning agencies, and after public notification in accordance with Part 25 of this chapter, may withdraw acceptance of a management agency designation or approval of a planning agency designation if the agency is not meeting its implementation responsibilities. The Governor shall then promptly designate a replacement agency under § 35.1519 or § 35.1529. Under § 30.340 of this subchapter, such a failure may provide a basis for EPA determination that the disapproved agency is not entitled to public trust and, therefore, is ineligible to receive funds under any EPA program.

(b) After fiscal year 1979, no funds under section 208 of the Act will be available to any planning agency which developed a certified and approved plan, unless a significant portion of the plan is being implemented.

(c) If the Regional Administrator determines that a State is not implementing any portion of an approved State WQM plan, or any portion of an approved areawide WQM plan for which the State has implementation responsibility, he may withhold all or part of funds which the State would otherwise receive under this subpart.

§ 35.1533–4 Relationship to other programs.

(a) *Relationship to the NPDES program.* In accordance with section 208(e) of the Act, no NPDES permit may be issued to any point source which is in conflict with an approved WQM plan. Under § 35.1521–3(a), conditions for incorporation in permits under 208(e) are established during WQM planning. Permit conditions identified under section 208(e) may be superseded by applicable, more stringent NPDES permit requirements.

(b) *Relationship to the construction grants program.* (1) Under sections 208(d) and 204(a)(1) of the Act, after relevant portions of a WQM plan are approved, section 201 construction grants may be awarded only to designated management agencies for construction of treatment works in conformity with the approved WQM plan. The agency which the State has selected under § 35.1525 shall review each facility plan in its area for consistency with the approved WQM plan. Except as otherwise provided under § 35.1523–4, facility planning shall be based on wasteload allocations, delineation of facility planning areas, and population projection totals and disaggregations in approved WQM plans. Under § 35.917(e) of subpart E, after October 1, 1979, the Regional Administrator shall not approve a grant for any municipal treatment works under section 201 of the Act where such facility-related information is not available in an approved WQM plan, unless the Regional Administrator determines in writing, based on information submitted by the State or grantee, that the facility related information was not within the scope of the WQM work program or that the award of the 201 grant is necessary to achieve water quality goals. This authority may not be delegated below the Deputy Regional Administrator.

(2) In accordance with section 516(b)(1)(B) of the Act, and § 35.915(b) of subpart E, each State shall maintain a listing, including costs by category, of all needed treatment works.

(3) Construction grant project priority lists shall be developed by each State in accordance with § 35.915 of subpart E. In establishing its project priority list, the State shall consider project priorities contained in certified and approved WQM plans and portions. If the State's final project priority list establishes a different relative order of priority for projects within an area, the State shall submit with the priority list an explanation of the basis for the difference. After [date of promulgation of final regulations], WQM planning agencies shall develop information on project priorities in accordance with requests and guidance from the State as

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part of the State's process of developing the project priority list. Based on consultation with the State, the Regional Administrator will determine the extent to which funds may be used by WQM planning agencies for activities related to State project priority list development.

(4) The draft project priority list shall be submitted by the State to EPA not later than May 1 of each year, and the final list not later than July 15 of each year.

(c) *Relationship to the rural clean water program.* Under section 208(j) of the Act and regulations promulgated by the U.S. Department of Agriculture (with concurrence of the Administrator), financial assistance is available for installation of BMPs to control agricultural nonpoint source pollution.

Note.—The Governor, or a designee, must submit proposed projects in order of priority to the Secretary of Agriculture. Proposed projects are eligible if they are identified in approved portions of WQM plans. The management agency designated to implement the program must assure there will be an adequate level of participation in BMP implementation in terms of the percentage of critical acreage or source of the problem that will be controlled. The management agency must certify that the BMPs to be cost-shared are consistent with the approved WQM plan.

§ 35.1535 Allotments and reallotments.

§ 35.1535-1 Allotments.

(a) *Section 106.* Sums which the Administrator determines will be available for outputs funded under section 106 of the Act for each fiscal year will be allotted by the Regional Administrator to State and interstate agencies on the basis of the extent of the pollution problem. Allotment information and the amounts available shall be announced in a notice in the **Federal Register** and included in each year's annual guidance. Allotments are not absolute entitlements; grant amounts for States and interstate agencies shall be negotiated with each agency in accordance with § 35.1513 and § 35.1537-1(a).

(b) *Section 208.* Sums which the Administrator determines will be available for outputs funded under section 208 shall be allocated to each Region on the basis of the Administrator's determination of need. The amounts available, and the distribution basis, shall be announced in a notice in the **Federal Register** and included in each year's annual guidance. Grant amounts shall be negotiated by the Regional Administrator and each State and areawide agency in accordance with § 35.1513 and § 35.1537-1(b).

(c) *Section 205(g).* Sums available to States under section 205(g) of the Act and subpart F for permit program elements under sections 402 and 404 of the Act and for statewide section 208(b)(4) planning will be determined on a case-by-case basis by the Regional Administrator.

§ 35.1535-2 Reallotments.

(a) The status of awards of funds under sections 106 and 208 of the Act will be monitored by EPA Headquarters. Unobligated funds within a region are subject to reallotment among other regions, based on Headquarters determination of needs.

(b) Unobligated funds under section 205(g) of the Act shall be managed in accordance with § 35.1020(e) of this Part.

§ 35.1537 Grant limitations and administration.

§ 35.1537-1 Grant amount.

(a) *For section 106 and 205(g) outputs.* Each State and interstate agency shall receive a grant from its final 106 allotment and 205(g) nonconstruction management assistance funds in an amount not to exceed the reasonable cost of carrying out its approved program, as determined by the Regional Administrator.

(b) *For section 208 outputs.* Each State and areawide planning agency shall receive a grant in an amount not to exceed 75% of the reasonable cost of carrying out its approved program as determined by the Regional Administrator.

§ 35.1537-2 Reduction of grant.

(a) Should the Regional Administrator's evaluation of the work program proposed by a State, interstate, or areawide agency indicate that the proposed output commitment is not consistent with the level of funding requested or national priorities, he or she shall negotiate with the agency to change the output commitment or to reduce the grant amount. However, should an agency propose a different set of outputs than suggested in the EPA annual guidance due to unanticipated regional or statewide pollution problems, the Regional Administrator may approve the program provided he or she determines the outputs can and should be produced and the proposed funding is appropriate.

(b) If a State, interstate or areawide agency fails to submit its work program by the dates specified in § 35.1513, the grant amount may be reduced by an appropriate amount reflecting the significance of the delay in relation to accomplishment of the proposed program.

(c) Funds not obligated under this section shall be available for award to other agencies.

§ 35.1537-3 Eligibility.

(a) *Section 106.* Grants may be awarded to a State or interstate water pollution control agency provided the agency has submitted a work program which satisfies the requirements of this subpart and is approved by the Regional Administrator.

(b) *Section 208.* (1) 208 funds for State agencies may be awarded to one or more agencies identified in the approved work program.

(2) An areawide planning agency shall be eligible for grant awards under these provisions only if it:

(i) Is designated under section 208(a) and approved by the Regional Administrator as the planning agency for the area;

(ii) Agrees to develop or revise a WQM plan in accordance with an approved work program; and

(iii) Is considered likely to be successful in its efforts by the Regional Administrator, based on the past efforts of the agency, evaluations, and comments of the State and the public.

§ 35.1537-4 Limitations on award.

(a) No funds under section 106 of the Act shall be awarded to any State or interstate agency for any fiscal year unless the agency has certified (and the Regional Administrator agrees) that its expenditures of non-Federal funds during that fiscal year for its recurrent 106 program expenditures will be not less than such expenditures during the fiscal year ending June 30, 1971, or the first subsequent year of Federal Support if such Federal Support was initiated subsequent to the fiscal year ending June 30, 1971.

(b) If a State has received a construction management assistance grant under section 205(b) of the Act, the provisions of § 35.1016(a) of this Part determine the maintenance of effort level, but in no case shall a State reduce its expenditures below the amount required in paragraph (a) of this section.

(c) No funds under section 208 of the Act shall be awarded to a designated planning agency where previous planning by that agency for the same water quality problem was not certified by the State or was disapproved by EPA unless the Regional Administrator is satisifed that the cause of the difficulty has been resolved and the provisions of § 35.1537-3(b)(2) are met.

(d) No funds under section 106 of the Act shall be awarded to any State which has not provided or is not carrying out as part of its program (1) the establishment and operation of appropriate devices, methods, systems, and procedures necessary to monitor, and to compile and analyze data on (including classification according to eutrophic condition) the quality of navigable waters and to the extent practicable, ground waters including biological monitoring; and provision for updating such data and including it in the report required under section 305(b) of the Act (Appendix A sets forth the minimum requirements for an acceptable monitoring strategy under the Act); (2) authority comparable to that in section 504 of the Act, "Emergency Powers", and adequate contingency plans to implement the authority, in accordance with EPA guidance.

(e) No grant shall be awarded for any activity which the Regional Administrator determines is not in conformity with an approved State Implementation Plan under the Clean Air Act.

(f) No funds under section 106 of the Act shall be awarded to a State unless the Regional Administrator determines that the level of funding for legal expenses related to enforcement activities is adequate (including funding for expenses of the State's attorney general or equivalent office, where the Regional Administrator determines such funding to be appropriate).

(g) No funds under section 106 of the Act shall be awarded to any State or interstate agency with respect to which there is in effect any federally assumed enforcement under section 309(a)(2) of the Act.

(h) No funds under this subpart shall be awarded until review of applications in accordance with the requirements of Office of Management and Budget Circular A-95, as implemented in § 30.305 *et seq.* of this chapter.

§ 35.1537-5 Allowable and unallowable costs.

Allowable and unallowable costs shall be determined by the Regional Administrator in accordance with § 30.705 of this chapter. Costs related to the following activities shall be unallowable:

(a) Costs incurred in sewer system evaluation surveys required under § 35.927-2 of this Part;

(b) Costs incurred in detailed sewer system mapping and related surveys;

(c) Costs related to sewage collection systems at less than trunk line level;

(d) Cost of special studies for the specific benefit of individual, industrial or commercial establishments; and

(e) Costs of activities which are primarily of a research nature.

§ 35.1537-6 Audit.

State or other agencies which receive funds under more than one EPA statutory authority shall develop outputs for the expenditure of those funds in such a manner as to assure the funds are used for permissible tasks and to permit accountability to each appropriation. However, commonly funded outputs serving more than one program shall be used where feasible. EPA may accept State audit results in lieu of EPA audit, and may use independent audits in accordance with EPA guidance.

§ 35.1537-7 Adherence to budget estimates.

Grant expenditures shall be consistent with the resource estimates contained in the approved work program. If rebudgeting of funds among program elements becomes necessary, the provisions of § 30.610 of this chapter apply.

§ 35.1537-8 Program changes.

The grantee shall conduct its activities in a manner consistent with the approved work program. If budget changes to the approved State program become necessary, the provisions of § 30.610 of this chapter apply.

§ 35.1537-9 Payment.

Grant payments shall be made in accordance with § 30.615 of this chapter. Notwithstanding the provisions of § 30.345 of this chapter, the first grant payment subsequent to grant award may include reimbursement of allowable costs incurred from the beginning of the approved budget period, provided (a) that monthly costs incurred from the beginning of the budget period to the date of grant award do not exceed the level of costs approved by the Regional Administrator as reasonable, and (b) that the Regional Administrator has approved such costs before they are incurred.

§ 35.1537-10 Financial status report.

Within 90 days after the end of each budget period, the grantee shall submit to the Regional Administrator an annual report of all expenditures (Federal and non-Federal) which accrued during the budget period. Beginning in the second quarter of any succeeding budget period, grant payments may be withheld under § 30.615-3 of this chapter until this report is received.

§ 35.1537-11 Disputes under this subpart.

Final determinations of the Regional Administrator concerning refusal to award grant funds and termination or suspension of grants, and final determinations of the Regional Administrator concerning disputes as to allowable costs or other matters arising under a grant (other than matters covered by § 35.1537-12 or matters otherwise excluded under this subpart from access to subpart J) shall be final and conclusive unless appealed by the applicant or grantee in writing within 30 days from the date of receipt of such final determination. Procedures and further requirements are set forth in the "Disputes" provisions of Part 30, subpart J of this subchapter.

§ 35.1537-12 Procurement and protests.

Procurement actions by agencies assisted under this subpart, and protests concerning such procurement actions, are governed by the applicable provisions of Part 33 of this chapter.

§ 35.1537-13 Budget period.

After fiscal year 1979, the budget period shall be for the Federal fiscal year, except where the Regional Administrator establishes a different budget period, based on Headquarters guidance, for specific studies or other outputs such as demonstration elements of 208 planning assistance. Funds may be awarded on a multiyear basis (see § 35.15131(b)).

§ 35.1540 Interstate agencies.

(a) The term "areawide agency" and variations thereof in this subpart includes each interstate agency which is also a designated areawide planning agency under section 208 of the Act. Each such interstate agency must meet all requirements otherwise applicable to an areawide planning agency. Additional review requirements for WQM plans of interstate agencies are described in § 35.1523-3(b).

(b) Interstate agencies funded under section 106 of the Act are subject to all applicable requirements of this subpart on the same basis as a State agency (see in particular the requirements for work program development, review and evaluation in § 35.1513). In addition, States and interstate agencies shall cooperate and communicate with each other in any aspect of the WQM process where their activities effect each other. Interstate agencies shall inform affected States early in the process of work program development about their

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proposed activities, and shall provide affected States with a copy of their draft work program for review and comment. States are encouraged to establish a "lead" State to deal with the interstate agency.

§ 35.1542 Termination of reporting requirements.

On or before [five years from date of publication], the Administrator will review this subpart to determine if any reporting requirements should be terminated.

§ 35.1550 Water quality standards.

(a) The State shall hold public hearings for the purpose of reviewing water quality standards and shall adopt revisions to water quality standards, as appropriate, at least once every three years and submit such revisions to the appropriate Regional Administrator pursuant to section 303(c) of the Act.

(b) The water quality standards of the State shall:

(1) Protect the public health or welfare, enhance the quality of water and serve the purposes of the Act;

(2) Specify appropriate water uses to be achieved and protected, taking into consideration the use and value of water for public water supplies, propagation of fish, shellfish, and wildlife, recreation purposes, and agricultural, industrial, and other purposes, and also taking into consideration their use and value for navigation; and

(3) Specify appropriate water quality criteria necessary to support those water uses designated pursuant to § 35.1550(b)(2).

(c) In reviewing and revising its water quality standards pursuant to § 35.1550(a), the State shall adhere to the following principles:

(1) The State shall establish water quality standards which will result in the achievement of the national water quality goal specified in section 101(a)(2) of the Act, wherever attainable. In determining whether such standards are attainable for any particular segment, the State should take into consideration environmental, technological, social, economic, and institutional factors.

(2) The State shall maintain those water uses which are currently being attained. Where existing water quality standards specify designated water uses less than those which are presently being achieved, the State shall upgrade its standards to reflect the uses actually being attained.

(3) At a minimum, the State shall maintain those water uses which are currently designated in water quality standards, effective as of the date of these regulations or as subsequently modified in accordance with § 35.1550(c)(1) and (2). The State may establish less restrictive uses than those contained in existing water quality standards, however, only where the State can demonstrate that:

(i) The existing designated use is not attainable because of natural background;

(ii) The existing designated use is not attainable because of irretrievable man-induced conditions; or

(iii) Application of effluent limitations for existing sources more stringent than those required pursuant to section 301(b)(2)(A) and (B) of the Act in order to attain the existing designated use would result in substantial and widespread adverse economic and social impact.

(4) The State shall take into consideration the water quality standards of downstream waters and shall assure that its water quality standards provide for the attainment of the water quality standards of downstream waters.

(d) The Regional Administrator shall approve or disapprove any proposed revisions of water quality standards in accordance with the provisions of section 303(c)(2) of the Act.

(e) The State shall develop and adopt a statewide antidegradation policy and identify the methods for implementing such policy pursuant to this subpart. The antidegradation policy and implementation methods shall, at a minimum, be consistent with the following:

(1) Existing instream water uses shall be maintained and protected. No further water quality degradation which would interfere with or become injurious to existing instream water uses is allowable.

(2) Existing high quality waters which exceed those levels necessary to support propagation of fish, shellfish, and wildlife and recreation in and on the water shall be maintained and protected unless the State chooses, after full satisfaction of the intergovernmental coordination and public participation provisions of the State's continuing planning process, to allow lower water quality as a result of necessary and justifiable economic or social development. In no event, however, may degradation of water quality interfere with or become injurious to existing instream water uses. Additionally, no degradation shall be allowed in high quality waters which constitute an outstanding National resource, such as waters of National and State parks and wildlife refuges and waters of exceptional recreational or ecological significance. Further, the State shall assure that there shall be achieved the highest statutory and regulatory requirements for all new and existing point sources and feasible management or regulatory programs pursuant to section 208 of the Act for nonpoint sources, both existing and proposed.

(3) In those cases where potential water quality impairment associated with a thermal discharge is involved, the antidegradation policy and implementing method shall be consistent with section 316 of the Act.

Appendix A—Water Quality and Pollutant Source Monitoring

A. Purpose

This Appendix sets forth the description of the minimum acceptable State monitoring strategy and program required by § 35.559(b)(1), pursuant to Section 106(e)(1) of the Act.

B. Objectives and General Requirements

The objectives of the State monitoring program required by the Act are provision of the data, information, or reports necessary to determine compliance with permit terms and conditions, to develop and maintain an understanding of the quality (and causes and effects of such quality) of the waters in the State for the purpose of supporting State water pollution control activities in relation to the achievement of National goals according to the Act, to report on such quality and its causes and effects, and to assess the effectiveness of the State's pollution control program. To this end each State shall establish and maintain the capacity and competence to carry out a broad range of monitoring activities both before and after implementing pollution controls, including measurement of pollutant sources, water quality (physical, chemical, and biological), the factors affecting water quality, and the specific effects of such quality upon beneficial uses of the State's waters. Conduct of such monitoring programs and activities shall be carried out according to normally accepted practices consistent with practices promulgated or otherwise issued by the Administrator in the form of regulations, guidelines, technical manuals and handbooks, or other guidance which from time to time may be published and revised or amended.

C. Definitions

As used in this Appendix, the following terms shall have the meaning set forth below:

(1) The definitions of the following terms contained in Section 502 of the Act shall be applicable to such terms as used herein unless the context requires otherwise: "State water pollution control agency," "State," "interstate agency," "pollutant," "biological monitoring," "discharge," and "pollution."

(2) The term "parameter" means a quantitative or characteristic element which describes physical, chemical, or biological conditions of water.

(3) The term "representative point" means:

(a) A location in surface waters or ground waters at which specific conditions or parameters may be measured in such a manner as to characterize or approximate the quality or condition of the water body; or

(b) A location in process or waste waters at which specific conditions or parameters are measured and will adequately reflect the actual condition of those waters or waste waters for which analysis was made.

(4) The term "NPDES" means the National Pollutant Discharge Elimination System which is the national permitting system authorized under Section 402 of the Act, including any State or interstate permit program approved by the Administrator pursuant to Section 402 of the Act.

(5) The term "compliance monitoring" means measuring and analyzing pollutant sources, review of reports and information obtained from dischargers, and all other activities conducted by the State to verify compliance with effluent limits and compliance schedules.

(6) The term "intensive survey" means the frequent sampling or measurement of parameters at representative points for a relatively short period of time to determine water quality conditions, causes, effects, or cause and effect relationships of such conditions.

(7) The term "fixed station monitoring" means the repeated, long-term sampling or measurement of parameters at representative points for the purpose of determining water quality trends and characteristics.

(8) The term "State continuing planning process or planning process" means the continuing planning process required by Section 303(e) of the Act, as developed and approved pursuant to 40 CFR Part 130.

(9) The term "monitoring activity" includes but is not limited to, the following: the collection of samples, including preservation and transport, and the collection of information concerning the quality or condition of ambient waters, including ground waters, or aquatic biota; the collection of samples, including preservation and transport, and the collection of information concerning the physical, chemical, or biological character of waste discharges to ambient waters, including ground waters; the operation and maintenance of field and laboratory support facilities including approved quality assurance practices; the processing, analysis, interpretation, and reporting of resulting data and information; and the management of such activities in terms of staffing, funding, scheduling, and coordination with other agents, including other State, interstate, Federal, local, and private entities or agencies.

(10) The term "monitoring program" includes, but is not limited to the monitoring activities described in (9) above applied in support of the State's water pollution control program.

D. Monitoring Strategy

The State shall develop, maintain, and implement a Statewide monitoring strategy as part of, and consistent with, the overall State strategy for preventing and controlling water pollution (described in § 130.28 of this chapter). The monitoring strategy, or revisions thereof, shall conform with the requirements of this Appendix and shall be included as a part of the State strategy required pursuant to § 35.562(a)(1), and shall:

(1) Describe the rationale by which the data needs of the State's water pollution control program are identified and prioritized;

(2) Describe the present and projected monitoring activities being carried out by the State as well as those being carried out by other entities insofar as the State relies or intends to rely upon them to satisfy the monitoring needs of the State's water pollution control program; and

(3) Describe the plan to progress systematically toward development of the capacity and competencies necessary to satisfy fully the monitoring needs of the State's water pollution control program; set the priorities for satisfaction of such monitoring needs, and describe generally what will be done in each of the monitoring activities for the next fiscal year.

E. Program Accomplishment Planning and Review

The States shall develop and include as a part of its State program submission required pursuant to § 35.562(a):

(1) Estimates of expenditures in terms of percentage of the total water monitoring budget for each of the monitoring program activities of field sampling, laboratory analysis including quality assurance, data handling, interpretation and reporting, and program management.

(2) Estimates of expenditures in terms of percentages of the total water monitoring budget for each monitoring program component described in Paragraph G herein.

F. Coordination With Other Entities

Insofar as monitoring activities by other agents, including other State, interstate, Federal, local, or private entities or agencies, meet the laboratory support and quality assurance requirements set forth in this Appendix, and where sampling frequency, parameter coverage, station locations, and data availability meet pollution control program requirements, such activities should be integrated into the State's water monitoring program and, when approved by the Regional Administrator, will aid in satisfying the monitoring needs of the State's water pollution control program.

G. Components of the State's Water Monitoring Program

The water monitoring program of the State shall include, but is not limited to, the following components:

(1) Compliance monitoring in accordance with 40 CFR Part 124 Subpart G and 40 CFR Part 125.27 of this Chapter.

(2) Intensive surveys of surface waters.

(3) Fixed station monitoring at representative points in surface waters.

H. Laboratory Support and Quality Assurance

The State water monitoring program shall produce valid data and information. The State shall ensure that the monitoring program is staffed, equipped, maintained, and operated in a manner to support the activities of the State or interstate pollution abatement program.

Quality assurance procedures shall be adopted as an integral part of the monitoring program and shall be described in the monitoring strategy required in Paragraph D of this Appendix.

Specific requirements for field and laboratory procedures are:

(1) For the NPDES program and where else appropriate, sample collection, preservation, transportation and laboratory analysis shall be in compliance with 40 CFR Part 136, promulgated pursuant to Section 304(g) of the Act.

(2) Unless otherwise specifically authorized by the Regional Administrator, physical, chemical, biological, and microbiological parameters not identified in 40 CFR Part 136 shall be analyzed in accordance with those generally accepted methods cited in the latest editions of the following references:

(a) *Standard Methods for the Examination of Water and Wastewater*, American Public Health Assn., American Water Well Assn., Water Pollution Control Federation, Published by APHA, 1940 Broadway, New York, New York, 1972.

(b) *Annual Book of Standards, Part 23, Water; Atmospheric Analysis*, Published by American Society for Testing and Materials, Philadelphia, Pa., 1973.

(c) *Methods for Chemcial Analysis of Water and Wastes*, U.S. Environmental Protection Agency, Methods Development and Quality Assurance Research Laboratory, and National Environmental Research Laboratory, Cincinnati, Ohio, July, 1973.

(d) *Biological Field and Laboratory Methods for Measuring the Quality of Surface Waters and Effluents*, U.S. Environmental Protection Agency, Methods Development and Quality Assurance Research Laboratory, Cincinnati, Ohio, July, 1973.

(e) *Recommended Methods for Water Data Acquisition*, Office of Water Data Coordination, U.S. Department of Interior, Washington, D.C., December, 1972.

(f) *Methods for Collection and Analysis of Water Samples for Dissolved Minerals and Gases*, U.S. Geological Survey, U.S. Department of the Interior, Eugene Brown, M. W. Skougstad, and M. J. Fishman, Washington, D.C. 1970, (U.S. Government Printing Office).

(g) *Methods for Collection and Analysis of Aquatic Biological and Microbiological Samples*, U.S. Geological Survey, U.S. Department of the Interior, K. V. Slack, R. C. Averett, P. E. Greeson, and R. J. Lipcombs, Washington, D.C., 1973.

(h) *Methods for Organic Pesticides in Water and Wastewater*, U.S. Environmental Protection Agency, James J. Lichtenberg, National Environmental Research Center, Cincinnati, Ohio, 1971.

(i) *Methods for Analysis of Organic Substances in Water*, U.S. Geological Survey, U.S. Department of the Interior, Washington, D.C.

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(3) If a State wishes to use an analytical method or procedure not cited in either 40 CFR Part 136 or the references listed in subparagraph (2) above, the State shall submit an application to the Regional Administrator for approval pursuant to § 136.5 of this Chapter. Such applications shall include a description of proposed alternative analytical method or procedure together with the reason(s) for seeking to use a method other than according to Subparagraph (1) or (2) above, and a description of the uses to which the data and information collected using such method will be put.

(4) All participating laboratories shall routinely utilize and document intralaboratory analytical quality control procedures, including a combination of techniques such as: spiked sample recovery, replicate sample analyses, and reference sample analyses in a manner required by the Regional Administrator. The operation of such intralaboratory analytical quality control activities shall be consistent with practices recommended in the latest edition of EPA's *Handbook for Analytical Quality Control in Water and Wastewater Laboratories*, or other practices as authorized by the Regional Administrator. The laboratories shall participate in and document interlaboratory testing programs, including sample splitting between State monitoring support laboratories and EPA laboratories as required by the Regional Administrator.

(5) The State shall make all field operations, monitoring support laboratories, laboratory data records, and records indicating laboratory techniques and quality control procedures used open to EPA review pursuant to the access provisions of 40 CFR Part 30.

I. Data Handling, Storage, and Reporting

Data and information resulting from the State's water monitoring program shall be made available to EPA in a form, volume, and manner agreed upon by the State and Regional Administrator.

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federal register

Wednesday
May 23, 1979

Part III

Department of the Interior

Fish and Wildlife Service

Captive Wildlife Regulation; Proposed Rulemaking

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DEPARTMENT OF THE INTERIOR

Fish and Wildlife Service

[50 CFR Part 17]

Captive Wildlife Regulation

AGENCY: Fish and Wildlife Service, Interior.

ACTION Proposed rulemaking.

SUMMARY: Regulation of activities concerning captive wildlife under the Endangered Species Act of 1973 appears to have hindered propagation efforts. In view of this, the service has determined that its primary concern under the Act should be to conserve wild populations of Endangered and Threatened species, and that regulations should interfere as little as possible with captive propagation of these species. This proposed rule incorporates public comments on an advance notice about the same topic. The Service proposes to grant general permission to the public to take, engage in interstate and foreign commerce, and conduct certain other prohibited activities with captive-bred wildlife. Such permission would be limited to activities conducted to enhance the propagation or survival of the affected species. It also would be limited to exotic species and those native species that are sufficiently protected in the wild. Persons operating under these rules would be required to register and report on activities to the Service so that a necessary minimum level of control can be maintained.

DATES: Comments must be received on or before July 23, 1979.

ADDRESSES: Send comments to the Director, U.S. Fish and Wildlife Service, Federal Wildlife Permit Office, Washington, D.C. 20240. Materials received in connection with this rulemaking are available for public inspection during business hours of 7:45 a.m. to 4:15 p.m., Monday through Friday, in room 616, 1000 N. Glebe Road, Arlington, Va.

FOR FURTHER INFORMATION CONTACT: Dr. Richard L. Jachowski, Federal Wildlife Permit Office, U.S. Fish and Wildlife Service, Washington, D.C. 20240, telephone (703) 235–2418.

SUPPLEMENTARY INFORMATION:

A. Is it necessary to revise the regulations for captive wildlife?

The Endangered Species Act of 1973, as amended, establishes prohibitions against certain activities involving species of wildlife that are determined to be Endangered. By regulation, the Secretary of the Interior has applied these same prohibitions to species determined to be Threatened. These activities include, among other things, taking (defined to mean harass, harm, pursue, hunt, shoot, wound, kill, trap, capture, or collect, or to attempt to engage in any such conduct), importation, exportation, and interstate or foreign commerce.

The Act and the regulations that implement it provide that permission may be granted for such activities if they are conducted for certain purposes. In the case of Endangered Species, the Act limits them to scientific purposes or to purposes of enhancing the propagation or survival of the affected species. In the case of Threatened species, regulations limit them to scientific purposes, purposes of enhancing the propagation or survival of the affected species, economic hardship, zoological exhibition, educational purposes, or special purposes consistent with the purposes of the Act.

When these provisions were first put into effect, it became evident to the Service and the affected public that many routine activities involved with captive propagation of Endangered and Threatened species were prohibited, and could be authorized only by permit. Numerous zoos and breeders of cats, pheasants, waterfowl and other animals, as well as circuses and animal dealers, wrote to the Service about their new legal problems. One prevalent argument was that the wildlife in question belonged to them, and that what they did with it had little or no relationship to conserving wild populations of the species. Another argument was that even when their activities were for purposes allowed by the Act or by the regulations, the red tape involved in obtaining permits was counterproductive. Effective propagation depends, in part, on prompt treatment of sickness or injury, and on the ability to transfer breeding stock without long dalays. Permit requirements led some animal breeders to reduce productivity by separating animals or by using contraceptives so that they did not have surpluses.

In reponse to this problem, the Service issued regulations for Captive Self-Sustaining Populations of Endangered Species (CSSP's). These regulations, published on June 1, 1977 (42 FR 28052–28057), determined that populations of eleven Endangered species in captivity in the United States were to be treated as Threatened species. Permit requirements for activities involving these CSSP's were simplified. Persons obtaining such permits were allowed to freely engaged in interstate commerce with other permit holders, provided they reported all transactions on forms supplied by the Service.

The CSSP regulations did not sufficiently alleviate problems for animal breeders, as summarized in the advance notice of proposed rulemaking on captive wildlife regulation, issued April 14, 1978 (43 FR 16144–16145). The problems, expressed in numerous letters to the Service, are mainly that:

(1) The CSSP approach does not promote the propagation of other species not yet qualified for CSSP treatment;

(2) The CSSP list does not include enough qualified species, and the procedure for adding them is cumbersome;

(3) The permit requirements place an excessive burden on the public, as in the case of a pheasant breeder who might have only a few birds as a hobby; and

(4) The classification of CSSP's as "species" distinct from wild populations of the same biological species is an artificial distinction.

The Service is convinced that a change is necessary, after reviewing all of the public comments and after almost two years of administering the CSSP system. Comments in response to the advance notice on this subject overwhelmingly favored a change to make the controls less restrictive. Advantages and disadvantages of such a move are discussed later in this proposal.

B. Why should activities with captive wildlife be regulated?

The Act requires that certain activities be regulated if a species is determined to be Endangered. The Service has consistently maintained that the Act applies to both wild and captive populations of a species. This view has been confirmed by recent action of Congress to specifically exempt from the prohibitions any raptor legally held in captivity or in a controlled environment on the effective date of the Endangered Species Act Amendments of 1978.

There are reasons other than this legal one why certain activities with captive Endangered and Threatened wildlife should be regulated. Captive propagation and other uses of captive wildlife can benefit wild populations, which are of primary concern to the Service, by:

(1) Increasing the likelihood that captive breeding populations will be established as a source of known genetic stock to bolster or reestablish populations in the wild;

(2) Reducing the need to take stock from the wild for scientific or other purposes; and

(3) Providing opportunities for research that can lead to improved management of wild populations.

On the other hand, uses of captive wildlife can be detrimental to wild populations if:

(1) Consumptive uses of captive wildlife stimulate a demand for products which might further be satisfied by wild populations;

(2) Persons illegally obtain specimens from wild populations and claim them to be captive-produced; and

(3) Captive propagation is sustainable only with a continuous supply of wild-caught animals.

The obligation of the Service to further the purposes of the Act requires that its implementing regulations be designed to encourage the beneficial effects listed above while discouraging detrimental effects.

C. How should activities with captive wildlife be regulated?

It is impossible to have regulations that will encourage all of the beneficial effects and at the same time effectively discourage all of the detrimental ones, because they are connected to each other. The Service's effort in this proposed rulemaking is to strike the most favorable balance for conservation of the wildlife.

Table I summarizes the major advantages and disadvantages of each general type of regulation that could be applied to captive wildlife under the Act. It includes alternative approaches discussed in the advance notice of April 14, 1978. The listed advantages and disadvantages are a compilation of public comments in response to the advance notice and the Service's views.

Table I.—*Advantages and disadvantages of regulatory options for wildlife in captivity*

Option	Advantages	Disadvantages
1 Expand the present CSSP system	Provides strict control to protect wild populations. Limits permission to conduct certain activities to qualified persons. Restricts liberal treatment to those captive populations that are self-sustaining (an incentive?). Simplifies transaction paperwork.	Does not promote propagation of other species not yet qualified for CSSP. Does not include enough species, and procedure for adding is cumbersome. Permit application procedure is burden on public. Classification of CSSP's as "species" separate from wild populations is a scientifically artificial distinction.
2 Reclassify all Endangered and Threatened wildlife in captivity as Threatened, with special rules.	Reduces paperwork for propagators. Provides the controls needed to protect wild populations of exotic species. Provides flexibility to regulate activities with captive wildlife as needed.	Classification of captive wildlife as separate "species" is a scientifically artificial distinction. If reclassification must be done species-by-species, process will be lengthy. Reclassification could be a risk to wild populations unless limited to exotic wildlife in the U.S. and certain well-protected native species.
3 Reclassify all Endangered and Threatened wildlife in captivity as E(S/A) or delist entirely	Reclassification would simplify but not eliminate permit requirements. Delisting of captive wildlife would eliminate paperwork for propagators.	Reclassification could be a risk to wild populations. Delisting of captive wildlife would allow use for purposes contrary to those of the Act. Delisting could make it difficult to insure that wildlife acquired or imported under permit is only used for authorized purposes.
4 Issue general permit to eligible persons for activities with captive wildlife.	Eliminates need to make artificial distinctions between wild and captive populations. Provides flexibility to regulate activities with captive wildlife as needed. Reduces paperwork for propagators. Provides the controls needed to protect wild populations. Limits permission for conducting certain activities to qualified persons.	Permit could be a risk to wild populations unless limited to exotic wildlife in the U.S. and certain well-protected native species.

The advance notice prompted 1,021 letters to the Service (Table II). The vast majority stated that the Service should not be involved in regulating interstate trade in captive-bred wildlife. Many specifically asked that recognized zoological institutions be exempt from such control on the grounds that current permit requirements interfere with captive propagation.

Very few commenters opposed a change in the rules concerning captive wildlife. The State governments of North Carolina, New Mexico, New York and Washington expressed concern for the law enforcement problems that would arise if the delisting of exotic or native wildlife, or the less restrictive treatment of native wildlife were to occur. The Committee for Humane Legislation, Inc., opposed any loosening of the rules or any allowance for commercial activities involving Endangered or Threatened species. Finally, the Environmental Defense Fund expressed concern that relaxation of the rules might harm wild populations, and that it should be limited to animals in captivity at the time of publication of the Service's advance notice and the progeny of such animals. All of these points are addressed below.

Table II.—*Sources of letters commenting on the advance notice of April 14, 1978, concerning captive wildlife regulations*

Source	Number of letters
Private individuals	737 form letters. 33 personal letters.
Zoos	136.
Bird breeders (both individuals and organizations).	50.
State and Federal Government agencies.	34.
Professional organizations	17.
Mammal breeders	7.
Circuses	3.
Conservation organizations	2.
Falconers	2.
Total	1,021.

The Service prefers the fourth alternative outlined in Table I. More than any other alternative, it provides sufficient control to protect wild populations of Endangered and Threatened species while interfering as little as possible with captive propagation activities. The following is a detailed discussion of how this alternative can best be implemented.

D. Discussion of the Proposal

In developing a proposed rulemaking that would grant general permission to conduct certain otherwise prohibited activities, the Service has addressed the following questions.

(1) *Should such permission be limited to wildlife bred in captivity? The advantage of limiting the treatment to wildlife bred in captivity is that it helps to insure that such treatment does not extend to specimens taken from the wild, which are to be more strictly protected. This limitation might also serve as an incentive for persons to make captive populations eligible, thus enhancing propagation. The Service has used in the proposed rule a definition of "bred in captivity" developed through a series of public meetings in preparation for the Second Meeting of the Conference of the Parties to the Convention on International Trade in Endangered Species of Wild Fauna and Flora. This definition has been adopted by the Party notions. It was drafted in a way that would protect wild populations, and its use in the present regulations would simplify permit requirements where a species is subject to both the Act and the Convention.*

(2) *Should the regulations be limited to exotic species?* The primary concern about captive wildlife regulation, as expressed in public comments on the advance notice, was that it could jeopardize Endangered and Threatened species native to the United States. If such an animal were taken from the wild, it would be difficult for law enforcement officials to show that it was not bred in captivity. This concern led the Service to limit the determination of CSSP's to exotic species, even though it had earlier proposed CSSP status for three native species: The nene goose (*Branta sandvicensis*), Hawaiian duck (*Anas wyvilliana*) and Laysan teal (*Anas laysanensis*). The Service intended to rely on strict import controls to protect wild populations from exploitation. The CSSP regulations, therefore, were applied only to certain exotic species for which interstate commerce, taking and exportation were allowed. Importation was not allowed under these regulations except for previously exported wildlife because the CSSP's were defined as populations in captivity in the United States.

Several persons commenting on the advance notice asked that a less-restrictive approach be taken toward importation of wildlife bred in captivity in foreign zoos. The difficulty with this, in the Service's view, is that the acquisition of specimens from the wild by such zoos is beyond our control, and the evidence demonstrating that the wildlife is bred in captivity might be difficult to verify. The only importation favored by the Service under captive

A consequence of this approach is

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wildlife rules is the return of individually identified specimens previously exported from the U.S.

Certain native Endangered and Threatened species are more secure from unauthorized taking than others. If protection of wild populations of native species is adequate, captive populations could be afforded less-restrictive treatment. Import controls serve to protect wild populations of exotic species generally, but special treatment of captive-bred native wildlife must be determined species-by-species. Factors to consider would include whether there is a low demand for taking specimens from the wild because of the success of captive breeding, whether the habitat of wild populations is sufficiently inaccessible to discourage taking, and whether protection of wild populations by law enforcement officials would be effective if captive-bred populations were not as strictly regulated. The Service proposes that the less-restrictive rules for captive wildlife be applied to any native Endangered or Threatened species meeting these conditions.

Three candidates for this treatment are the nene goose, Hawaiian duck and Laysan teal. Evidence gathered when proposing their CSSP status shows that they are successfully bred in captivity to the extent that there is a low demand for taking specimens from the wild. The remoteness of Laysan Island, sole natural habitat of the Laysan teal, combined with the low commercial value of this species when bred in captivity, effectively protect its wild population. The small wild populations of the nene goose and Hawaiian duck are vulnerable to taking, and it is not clear that law enforcement is sufficiently effective. Despite the possibility that survival of these species depends on captive propagation, the Service is not yet convinced that conservation of these two species would best be served by relaxing controls on captive populations.

(3) *Should the regulations treat only taking and interstate commerce, or should they also cover import and export?* The Act prohibits a number of activities involving Endangered Species that are routine practices for breeding animals in captivity. However, the Act provides that permits may be granted for these activities if they are to enhance the propagation or survival of the species.

The Service clarified the meaning of "enhance the survival" in a rule issued on June 1, 1977 (42 FR 28052–28057). It was defined to include, among other things, conservation exhibition, euthanasia and the holding of surplus animals. The Service recognizes the need for a more comprehensive definition of enhancing the propagation or survival of species. It proposes to expand the existing one to include the provision of health care, culling, contraception, grouping and handling of wildlife and similar normal practices of animal husbandry, in recognition of the fact that all of these practices are necessary to maintain healthy captive populations.

Although this is an expansion of the definition, all of the included activities are currently authorized by various permits. On occasion, these activities also are known to occur without authorization, as in the case of emergency euthanasia of an injured animal by a person who did not previously obtain a permit for this prupose. It is impractical for every person holding captive-bred Endangered or Threatened wildlife to have a permit that will insure full technical compliance with the law when routine practices of animal husbandry are involved.

The prohibitions of the Act most relevant to captive wildlife, other than "taking" are importation, exportation, and interstate or foreign commerce. Difficulties with importation have been discussed above. The only form of importation acceptable to the Service under less-restrictive rules would be the return of individuals of captive wildlife that were previously exported from the United States and that are identifiable as originating in this country.

Exportation does not pose the same risks to wild populations as does importaton. However, exportation could lead to misuse of captive wildlife if specimens are not used for purposes intended to enhance the propagation or survival of the species. Present rules for CSSP's allow exportation and reimportation, but only for a specified transaction or series of transactions to avoid an unrestricted drain of animals from the CSSP. If there is sufficient evidence that exporation is for the purpose of enhancing the propagation or survival of the species, and that the foreign recipient is qualified to conduct related activities, the Service believes it is appropriate to allow exportation of captive-bred wildlife under less-restrictive rules.

Interstate commerce in captive-bred wildlife has been difficult to regulate because transfers of wildlife are often characterized as breeding loans instead of commercial transactions. In addition, many persons do not see the use of prohibiting interstate commerce when commerce within a state is not controlled. Some other persons would like to see commercial activities with Endangered and Threatened wildlife banned altogether. The Service recognizes that interstate commerce is an important element of captive wildlife propagation, and that it is allowable under the Act when conducted to enhance the propagation or survival of the species. A total ban on interstate commerce would substantially reduce the funds available for captive propagation.

Accordingly, the Service proposes to reduce controls on interstate commerce in captive-bred wildlife provided this activity is to enhance propagation or survival?

(4) *Should the regulations be limited to living specimens?* The purpose of this proposal is to improve regulations with regard to conservation of Endangered and Threatened species by facilitating those activities involved with enhancing their propagation or survival. The Service is therefore concerned with activities involving living wildlife, not dead wildlife or its products. There might be situations where interstate or foreign commerce in products of captive-bred wildlife actually enhances the propagation or survival of the species. However, such situations might also present a risk to the survival of both wild and captive populations. It appears best to retain strict control of such activities under the normal permit provisions of 50 CFR Part 17.

Disposition of dead specimens of captive-bred wildlife would not require permits or the Service's prior approval unless it involved one of the activities prohibited by the Act. If such were the case, permits would be required in accordance with existing regulations. These requirements might entail delays, but urgency is not as important for dead specimens as for living ones. Public comments on the advance notice have not raised this issue. It does not appear to be a significant problem with the species under consideration.

(5) *To whom should the regulations apply?* Under the CSSP regulations, there are strict criteria for determining the species that may be included as well as the persons who are eligible for permits. The philosophy behind the CSSP system was that slightly relaxed controls would facilitate captive propagation of wildlife by qualified persons while preventing any abuses. The present proposal is based on a different proposition: That activities involving captive wildlife should be regulated only to the extent necessary to conserve the species, with emphasis on the conservation of wild populations.

A consequence of this approach is that the Service does not wish to place heavy burdens of paperwork on persons who seek to take, export, or engage in interstate or foreign commerce with captive-bred exotic wildlife. The Service proposes to require that any person who wants to conduct such activities must register with the Service. Registration requirements would be minimal. They would be based on standards set by the U.S. Department of Agriculture under the animal Welfare Act (9 CFR Parts 2 and 3). These standards, which apply to all warmblooded animals (mammals and birds), are generally adequate to insure proper care of wildlife. Similar standards, with appropriate modifications would be required of persons maintaining coldblooded animals.

A significant difference between this proposed requirement and the existing one for permits is that persons would no longer need to demonstrate to the Service their prior experience in caring for a particular type of wildlife or describe the containers and treatment for wildlife being transported or temporarily stored. Persons who are already registered or licensed by the Department of Agriculture would need only to show such registration or license in order to register with the Service. One benefit of this arrangement is that it would eliminate overlapping requirements of the two federal agencies. Another benefit is that persons who want to start breeding wildlife would be able to do so if they have suitable facilities, even if they do not have prior experience with the species in question. It should be kept in mind that intrastate sale and interstate noncommercial transfer of captive wildlife presently occur without need for permits, unless the particular specimens were originally acquired under a permit that requires prior approval of transfers as one of its conditions. Many persons are able to acquire captive-bred Endangered or Threatened wildlife without a permit under existing regulations.

To simplify registration, the Service intends to inform persons now holding valid CSSP permits or other Endangered or Threatened species permits for captive-bred exotic wildlife that they need only write the Service to request registration. Information on file in support of their permit application should suffice for registration under the proposed regulations.

(6) *How will the Service monitor activities involving captive-bred wildlife?* The Service needs to know what is happening to captive-bred populations of Endangered and Threatened species for several reasons:

(a) Such information will indicate whether or not the public complies with the regulations;

(b) The information will aid the Service in determining the effectiveness of its regulations in conserving wildlife; and

(c) The information may be used to facilitate the transfer of wildlife between persons who have surpluses to relocate or who need breeding stock.

Many zoos participate in the International Species Inventory System (ISIS), a computerized system that keeps track of wildlife in captivity. ISIS was developed with the support of the Service to improve management of captive wildlife. Each participating institution is supplied with information on the species, number, sex, age and location of wildlife in all member institutions. The Service does not now have the resources to duplicate this system or to provide a similar one for persons or institutions not participating in ISIS, despite its obvious value. When the Service's permit files are computerized, certain of this information may be accessible on a current basis to aid the public.

Specific types of information that the Service proposes to request from registrants are:

(a) Reports of each transaction involving an otherwise prohibited activity within ten days of its completion (these activities include export, import of previously exported wildlife, and interstate or foreign commerce);

(b) Written descriptions of the identifying marks on any captive-bred wildlife that is to be exported and later reimported, submitted to the Service prior to export;

(c) Semiannual written reports of any taking of captive-bred wildlife that results in its death or permanent loss of reproductive ability; and

(d) In the case of exportation to another person, documentary evidence that the recipient has adequate facilities and expertise, and that the recipient will use the wildlife to enhance the propagation or survival of the species.

In conclusion, the Service has found that the conservation of Endangered and Threatened species in captivity would be improved by reducing regulatory controls. Evidence supports a finding that normal practices of animal husbandry, the accumulation, holding and transfer of surplus wildlife, and the live exhibition of wildlife to educate the public about the ecological role and conservation needs of the species are activities that are beneficial for the purpose of enhancing propagation or survival. Accordingly, the Service proposes to permit such activities under conditions that will provide sufficient regulatory control without impeding the activities. Although the Service's primary concern is conservation of wild populations, there are valid reasons for extending this concern to captive populations of the same biological species: They can be used to bolster or restock wild populations, they provide an alternative to wild populations, as a source of animals for research or other uses, and they provide opportunities for research that can benefit wild populations. The Act explicitly provides that permits may be issued for persons to otherwise prohibited activities for the purpose of enhancing the propagation or survival of the affected species. If wild populations are sufficiently protected from unauthorized taking, the Service believes that a wide range of activities involved in propagation and maintenance of wildlife may be permitted for this purpose, when it can be shown that they would not be detrimental to the survival of wild or captive populations of the species.

Accordingly, it is proposed to amend Part 17, Title 50 of the Code of Federal Regulations as follows:

§ 17.3 [Amended]

1. In § 17.3, insert the following definitions between the definitions of "Authentic native articles of handicrafts and clothing" and "Endangered:"

* * * * *

"Bred in captivity" refers to progeny of wildlife, including eggs, born or otherwise produced in captivity from parents that mated or otherwise transferred gametes in captivity, if reproduction is sexual, or from parents that were in captivity when development of the progeny began, if reproduction is asexual. The parental breeding stock must be (1) established in a manner not detrimental to the survival of the species in the wild, (2) maintained without augmentation from the wild except for the occasional addition of animals, eggs or gametes from wild populations to prevent deleterious inbreeding, with the magnitude of such addition determined by the need for new genetic material and not by other factors, and (3) managed in a manner designed to maintain the breeding stock indefinitely. A parental breeding stock shall be considered to be managed in a manner designed to maintain it indefinitely only if it is managed in a manner that has been demonstrated to be capable of

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reliably producing second-generation offspring in captivity.

"Captivity" means that living wildlife is held in a controlled environment that is intensively manipulated by man for the purpose of producing the selected species, and that has boundaries designed to prevent animals, eggs or gametes of the selected species from entering or leaving the controlled environment. General characteristics of captivity may include but are not limited to artificial housing, waste removal, health care, protection from predators, and artificially supplied food.

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§ 17.3 [Amended]

2. § 17.3, replace the definition of "Enhance the survival," "Enhancing the survival," or "Enhancement of survival" with the following definition:

* * * * *

"Enhance the propagation or survival," when used in reference to wildlife that is in captivity, includes but is not limited to the following activities when it can be shown that such activities would not be detrimental to the survival of the wild or captive populations of the species in question:

(a) Provision of health care, management of populations by culling contraception, euthanasia, grouping or handling of wildlife to control survivorship and reproduction, and similar normal practices of animal husbandry needed to maintain captive populations that are self-sustaining and that possess as much genetic vitality as possible;

(b) Accumulation and holding of living wildlife that is not immediately needed or suitable for propagative or scientific purposes, and the transfer of such wildlife between persons in order to relieve crowding or other problems hindering the propagation or survival of the captive populations at the location from which the wildlife would be removed; and

(c) Live exhibition of wildlife in a manner designed to educate the public to the ecological role and conservation needs of the species.

§ 17.7 [Deleted]

3. Delete § 17.7 entirely.

§ 17.11 [Amended]

4. In § 17.11, delete the last sentence of paragraph (c) that reads as follows: "The addition of the letters "C/P" in parentheses indicates that the reason for designating the species as threatened is that it constitutes a captive, self-sustaining population."

§ 17.11 [Amended]

5. In § 17.11, delete the following species entries from the list of endangered or threatened wildlife.

Common name	Scientific name	Population	Known distribution	Portion of range where threatened or endangered	Status	When listed	Special rules
MAMMALS							
Jaguar	Panthera onca	In captivity in U.S.	N/A	Entire	T(C/P)	22	N/A
Lemur, black	Lemur macaco	do	N/A	Entire	T(C/P)	22	N/A
Lemur, ringtailed	Lemur catta	do	N/A	Entire	T(C/P)	22	N/A
Leopard	Panthera pardus	do	N/A	Entire	T(C/P)	22	N/A
Tiger	Panthera tigris	do	N/A	Entire	T(C/P)	22	N/A
BIRDS							
Pheasant, brownеared.	Crossoptilon mantchuricum.	In Captivity in U.S.	N/A	Entire	T(C/P)	22	N/A
Pheasant, Edward's	Lophura edwardsi	do	N/A	Entire	T(C/P)	22	N/A
Pheasant, bar-tailed	Syrmaticus humiae	do	N/A	Entire	T(C/P)	22	N/A
Pheasant, Mikado	Syrmaticus mikado	do	N/A	Entire	T(C/P)	22	N/A
Pheasant, Palawan peacock.	Polyplectron emphanum	do	N/A	Entire	T(C/P)	22	N/A
Pheasant, Swinhoe's	Lophura swinhoii	do	N/A	Entire	T(C/P)	22	N/A

§ 17.21 [Amended]

6. In § 17.21, add a new paragraph (c)(6) as follows:

* * * * *

(c) * * *

(6) Notwithstanding paragraph (c)(1) of this section, any person may take endangered wildlife that is bred in captivity in the United States provided: (i) The wildlife is of a species whose natural range of geographic distribution does not now include any part of the United States, or the wildlife is of a species for which the Service has determined the wild populations to be sufficiently secure from unauthorized taking in accordance with paragraph (h) of this section; (ii) the purpose of such taking is to enhance the propagation or survival of the affected species; and (iii) the person taking such wildlife maintains accurate written records of any taking that results in the death or permanent loss of reproductive potential of the wildlife, and submits a semiannual written report of any such taking to the Federal Wildlife Permit Office, U.S. Fish and Wildlife Service, Washington, D.C. 20240, by June 30 and December 31 of each year.

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§ 17.21 [Amended]

7. In § 17.21, add a new paragraph (g) as follows:

* * * * *

(g)(1) Notwithstanding paragraphs (b), (e) and (f) of this section, any person may (i) import or export, (ii) deliver, receive, carry, transport or ship in interstate or foreign commerce in the course of a commercial activity, or (iii) sell or offer for sale in interstate or foreign commerce any living wildlife that is bred in captivity in the United States provided: (i) The wildlife is of a species whose natural range of geographic distribution does not now include any part of the United States, or the wildlife is of a species for which the Service has determined the wild populations to be sufficiently secure from unauthorized taking in accordance with paragraph (h) of this section (ii) the purpose of such activity is to enhance the propagation or survival of the affected species; (iii) each specimen of the wildlife is uniquely and permanently identified by a band, tattoo, or other mark that is reported in writing to an official of the Service at the port of export prior to export, if such wildlife is to be subsequently imported; (iv) the Service has received evidence sufficient to indicate that any person receiving such wildlife is able to properly maintain the wildlife, as specified in paragraph (g)(2) or (g)(3) of this section; and (v) any person subject to the jurisdiction of the United States who transfers or receives such specimens maintains accurate written records of all such transactions and reports each such transaction to the Service within 10 days after completing the transaction, using reporting forms provided by the Federal Wildlife Permit Office, U.S. Fish and Wildlife Service Washington, D.C. 20240.

(2) Prior to engaging in any of the activities authorized in paragraph (g)(1) of this section any person subject to the jurisdiction of the United States seeking to receive wildlife must register with the Service. Requests for registration must be accompanied by documentary evidence that (i) the person is a licensee or registrant under the Animal Welfare Regulations of the U.S. Department of Agriculture (9 CFR Part 2); (ii) the person complies with the specifications of the U.S. Department of Agriculture for the humane handling, care, treatment, and transportation of warmblooded animals (9 CFR Part 3), or (iii) the person has adequate facilities and expertise for the humane handling, care, treatment and transportation of coldblooded animals, as appropriate. Registration will remain in effect only so long as subdivision (ii) or (iii) of this subparagraph continues to be applicable. Requests for registration must be sent to the Federal Wildlife Permit Office, U.S. Fish and Wildlife Service, Washington, D.C. 20240.

(3) Prior to engaging in any of the activities authorized in paragraph (g)(1) of this section, any person subject to the jurisdiction of the United States seeking to export wildlife to another person must provide the Service with documentary evidence demonstrating to the satisfaction of the Service that the proposed recipient of the wildlife has adequate facilities and expertise for the proper handling, care, and treatment of such wildlife, and that the recipient will use the wildlife for purposes of enhancing the propagation or survival of the affected species. Such evidence must be sent to the Federal Wildlife Permit Office, U.S. Fish and Wildlife Service, Washington, D.C. 20240.

* * * * *

§ 17.21 [Amended]

8. In § 17.21, add a new paragraph (h) as follows:

* * * * *

(h)(1) The Service shall use the following criteria in determining if wildlife bred in captivity of any species whose natural range of geographic distribution includes any part of the United States is eligible for the provisions of paragraphs (c)(6) and (g) of this section: (i) Whether there is a low demand for taking of the species from wild populations, either because of the success of captive breeding or because of other reasons; and (ii) whether the wild populations of the species are effectively protected from unauthorized taking as a result of the inaccessibility of their habitat to man or as a result of the effectiveness of law enforcement.

(2) In accordance with the criteria in paragraph (h)(1) of this section, the Service has determined the following species to be eligible for the provisions of paragraphs (c)(6) and (g) of this section:

Laysan teal *(Anas laysanensis).*

§ 17.31 [Amended]

9. In § 17.31, revise paragraph (a) to read as follows:

(a) Except as provided in Subpart A of this part, or in a permit issued under this subpart, all of the provisions in § 17.21 (a) through (c)(4), (c)(6), (g) and (h) shall apply to threatened wildlife.

* * * * *

§ 17.33 [Deleted]

10. Delete § 17.33 entirely.

This proposed rule is issued under the authority contained in the Endangered Species Act of 1973 (16 U.S.C. 1531–1543; 87 Stat. 884, as amended), and was prepared by Dr. Richard L. Jachowski, Federal Wildlife Permit Office.

Note.—The Department of the Interior has determined that this document is not a significant rule and does not require a regulatory analysis under Executive Order 12044.

Dated: May 17, 1979.

Lynn A. Greenwalt,

Director, Fish and Wildlife Service.

[FR Doc. 79-16077 Filed 5-22-79; 8:45 am]

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Part IV

Department of Energy

Semiannual Agenda of Regulations; National Energy Act Supplement

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DEPARTMENT OF ENERGY

[10 CFR Chs. II, III, and X]

Semiannual Agenda of Regulations; National Energy Act Supplement

AGENCY: Department of Energy.

ACTION: Notice of Regulations Under Development or Review.

SUMMARY: The Department of Energy (DOE) is publishing an agenda of regulations under development or review as of April 6, 1979.

FOR FURTHER INFORMATION CONTACT: Kristina Clark (Office of General Counsel), Department of Energy, Forrestal Building, 1000 Independence Avenue, S.W., Washington, D.C. 20585, (202) 252–6744.

SUPPLEMENTARY INFORMATION: Executive Order 12044, "Improving Government Regulations," promulgated by the President on March 23, 1978 requires every federal agency to publish semiannually an agenda of its significant regulations currently under development or review. One of the objectives of the Order is to encourage greater public involvement at an early stage in the regulatory process. DOE implemented Executive Order 12044 by a Departmental Order (DOE 2020.1) issued December 18, 1978 and published January 3, 1979 (44 FR 1032), which established April and October of each year as the months during which DOE would publish a semiannual agenda of regulations in the Federal Register.

The Departmental Order requires that the agenda include *all* regulations currently being developed or reviewed. For each regulation that is *significant* (as defined in the Departmental Order) the agenda will state the need and legal basis for the regulation, its status, whether a regulatory analysis will be required, and the name and telephone number of a knowledgeable agency official.

Appended to this Notice is DOE's April, 1979, regulatory agenda. In an attempt to be as comprehensive as possible, the agenda is intended to include those DOE regulations, both significant and non-significant, that are under development or review as of April 6, 1979.

DOE has issued two prior agendas of regulations. DOE's first semiannual agenda appeared in the Federal Register on October 31, 1978 (43 FR 50812). A supplemental agenda of regulations under development as a result of National Energy Act legislation was published on March 30, 1979 (44 FR 19178).

If you would like your name to be placed on a mailing list to receive copies of this and future semiannual agendas of regulations, please send your request to: Emmett Gavin, Department of Energy, Forrestal Building, Room 7B118, Washington, D.C. 20585.

The next semiannual agenda is scheduled to be published in October, 1979.

Issued in Washington, D.C. this 10th day of May, 1979.

James R. Schlesinger,

Secretary.

ENVIRONMENT

1. Implementation of Floodplain and Wetlands Executive Orders

DOE was required to issue regulations with respect to floodplain management. The Office of Environment proposed to combine the floodplain regulations with related wetlands requirements into one set of procedures to be coordinated with existing NEPA regulations.

No regulatory analysis was required.

Status: A final rule was published March 7, 1979 (44 FR 12594)

Authority: Executive Order 11988; Executive Order 11990.

Contact: Carol Borgstrom, (202) 633–9760.

2. DOE NEPA Implementing Procedures

DOE will propose guidelines implementing the Council on Environmental Quality regulations for compliance with the National Environmental Policy Act.

A regulatory analysis is not required.

Status: No notice has been issued.

Statutory authority: National Environmental Policy Act of 1969; E.O. 11514, as amended.

Contact: Robert Stern, (202) 376–5998.

CONSERVATION

1. Weatherization Assistance

DOE has proposed amendments to existing Weatherization Assistance Regulations for the purpose of improving efficiency of program administration.

A regulatory analysis is not required.

Status: A final rule was issued December 27, 1978 (44 FR 31, January 2, 1979).

Authority: Energy Conservation and Production Act, Title IV, Part A, Pub. L. 94–385.

Contact: Mary Bell, (202) 376–1801.

2. Weatherization Assistance Program Amendments

In this rule, DOE will revise existing program regulations to reflect all NEA changes, except for procedures to determine the optimum set of cost-effective measures for weatherizing each particular dwelling. Revisions include changes in maximum cost per dwelling unit, allowable expenditures, state waiver procedures, and income eligibility. (The rulemaking on the procedures for determining cost-effective measures appears elsewhere in this Agenda and is entitled "Revised Approach to Weatherization of Dwelling Units.")

A notice of proposed rulemaking (NOPR) was issued February 14, 1979. (44 FR 10348, February 16, 1979.)

A regulatory analysis is not required.

Statutory deadline: NOPR for amended regulations—60 days after enactment; Final rule—120 days after enactment.

Statutory authority: National Energy Conservation Policy Act, Pub. L. 95–619, Section 231.

Contact: Mary Bell, (202) 376–1801.

3. Revised Approach to Weatherization of Dwelling Units

The proposed changes would revise and simplify the approach to weatherization currently required by Project Retro-Tech, a four volume conservation paper issued by DOE. The proposed changes would require a State to develop as part of a State plan, a list of weatherization measures, by building type, ranked in order of cost-effectiveness. Upon approval of the DOE Regional Representative, a State would be required to include the list in copies of Project Retro-Tech to be used by program operators in the State.

A regulatory analysis is not required.

Status: A proposed rule was issued on April 6, 1979. (44 FR 22608, April 16, 1979.)

Statutory deadline: Proposal to be published in the Federal Register 60 days after enactment of National Energy Conservation Policy Act; Final rule 120 days after enactment.

Statutory authority: Sec. 231 National Energy Conservation Policy Act, Pub. L. 95–619.

Contact: Mary Bell, (202) 376–1801.

4. Electric and Hybrid Vehicle Loan Guarantees

DOE plans to amend the Electric and Hybrid Vehicle Loan Guarantee Program to clarify program coverage.

It has not been determined whether a regulatory analysis is required.

Status: A notice of proposed rulemaking was issued on January 15, 1979 (44 FR 4418, January 19, 1979).

Authority: Electric and Hybrid Vehicle Research, Development and Demonstration Act of 1976, as amended.

Contact: Anthony Ewing, (202) 376–4747.

5. Electric and Hybrid Vehicle Planning Grants

DOE will promulgate rules to establish the requirements for grants to small businesses under the Electric and Hybrid Vehicle Research, Development and Demonstration Act of 1976.

A regulatory analysis is not requred.

Status: A notice of proposed rulemaking has not yet been issued.

Authority: Electric and Hybrid Vehicle Research, Development and Demonstration Act of 1976, as amended.

Contact: Anthony Ewing, (202) 376–4747.

6. Electric and Hybrid Vehicle Performance Standards for Demonstrations

DOE plans to amend the regulations which prescribe minimum performance standards for electric or hybrid vehicles purchased or leased for use in deomonstration projects to be conducted by DOE.

It has not been determined whether a regulatory analysis is required.

Status: A notice of inquiry was issued on March 3, 1979 (44 FR 12685, March 8, 1979).

Statutory Authority: Electric and Hybrid Vehicle Research, Development and Demonstration Act of 1076, as amended.

Contact: Anthony Ewing, (202) 376–4747.

Hearings will be held.

7. Identify Consumer Product Types Which May Be Subject to Minimum Energy Efficiency Standards

DOE will publish a notice listing those types of covered products which may be subject to energy efficiency standards. Criteria for selecting these types of covered products includes considering the average annual per-household energy use of individual types of consumer products.

The notice has not yet been issued.

A regulatory analysis is not required.

Statutory deadline: Not later than November 1980.

Statutory authority: Energy Conservation and Production Act Section 325(a)(2) (Pub. L. 94–385), as amended by National Energy Conservation Policy Act, Section 422 (Pub. L. 95–619).

Contact: James A. Smith, (202) 376–4814.

8. Representative Average Unit Costs of Energy

DOE will issue a notice providing representative average unit costs of energy which are to be used in determining operating costs of certain consumer products.

A regulatory analysis is not required.

Status: A notice was previously issued July 15, 1977. A notice updating these figures is expected to be issued by May 1979.

Statutory authority: Sec. 323, Energy Policy and Conservation Act, Pub. L. 94–163.

Contact: James A. Smith, (202) 376–4814.

Hearings will not be held.

9. Sampling Requirements for Consumer Product Test Procedures

DOE intends to amend the sampling requirements for consumer product test procedures to include provisions applicable to testing for labeling under section 324 of EPCA and representatives under section 323(c) of EPCA.

A regulatory analysis was not required.

Status: A final rule was issued April 6, 1979 (44 FR 22410, April 13, 1979).

Statutory authority: Sec. 323, Energy Policy and Conservation Act, (Pub. L. 95–163).

Contact: James A. Smith, (202) 376–4814.

Hearings have been held.

10. Amendment to Central Air Conditioner Test Procedures

DOE plans to amend the existing central air conditioner test procedures to include heat pumps. Heat pumps were not included the original central air conditioner test procedures because proposed test procedures for heat pumps had not yet been developed.

No regulatory analysis will be required.

Status: A notice of proposed rulemaking was published April 19, 1979. (44 FR 23469.)

Authority: Energy Policy and Conservation Act, Section 323, Pub. L. 94–163, as amended by the National Energy Conservation Policy Act, Pub. L. 95–619.

Contact: James A. Smith, (202) 376–4814.

11. Amendment to Room Air Conditioner Test Procedures

DOE intends to amend its test procedures for room air conditioners, prescribed under the Energy Conservation Program for Consumer Products, to provide an alternative method for measuring the energy consumption of package terminal air conditioners.

It has not been determined whether a regulatory analysis is required.

Status: A notice of proposed rulemaking has not yet been issued.

Statutory authority: Sec. 323, Energy Policy and Conservation Act, (Pub. L. 94–163).

Contact: James A. Smith, (202) 376–4814.

Hearings will be held.

12. Amendment to Water Heater Test Procedures

DOE intends to amend the test procedures for water heaters, established as part of the energy efficiency program for consumer products, to add procedures for deriving another measure of energy consumption which is likely to assist consumers in making purchasing decisions.

A regulatory analysis was not required.

Status: A notice of proposed rulemaking has not yet been issued.

Statutory authority: Sec. 323, Energy Policy and Conservation Act, (Pub. L. 94–163).

Contact: James A. Smith, (202) 376–4814.

Hearings will be held.

13. Amendment to Furnace Test Procedures

DOE intends to amend its test procedures for furnaces, prescribed under the Energy Conservation Program for Consumer Products, to produce more accurate measures of the energy consumption of pulse combustion furnaces and condensing furnaces.

It has not been determined whether a regulatory analysis is required.

Status: A notice of proposed rulemaking has not yet been issued.

Statutory authority: Sec. 323, Energy Policy and Conservation Act, (Pub. L. 94–163).

Contact: James A. Smith, (202) 376–4814.

Hearings will be held.

14. Amendment to Test Procedures for Refrigerators, Refrigerator-Freezers, and Freezers

DOE is considering amending its test procedures for refrigerators, refrigerator-freezers, and freezers, prescribed under the Energy Conservation Program for Consumer Products; to simplify the test procedures.

It has not been determined whether a regulatory analysis is required.

Status: A notice of proposed rulemaking has not yet been issued.

Statutory authority: Sec. 323, Energy Policy and Conservation Act, (Pub. L. 95–163).

Contact: James A. Smith, (202) 376–4814.

Hearings will be held.

15. Energy Efficiency Standards for Nine Types of Consumer Products

DOE will establish minimum energy efficiency standards for nine product types: refrigerators and refrigerator-freezers, freezers, water heaters, room air conditioners, kitchen ranges and ovens, furnaces, central air conditioners, home heating equipment (not including furnaces), and clothes dryers.

An advance notice of proposed rulemaking was January 2, 1979. A notice of proposed rulemaking has not yet been issued. (44 FR 49.)

Statutory deadline: Final rule no later than January 1981.

Statutory authority: Energy Conservation and Production Act, Section 325 (Pub. L. 94–385), as amended by National Energy Conservation Policy Act, Section 422 (Pub. L. 95–619).

Contact: Jim Smith, (202) 376–4814.

16. Energy Efficiency Standards for Four Types of Consumer Products

DOE will establish minimum energy efficiency standards for four product types: humidifiers/dehumidifiers, clothes washers, television sets and dishwashers.

An advance notice of proposed rulemaking (NOPR) has not yet been issued.

Statutory deadline: Advance NOPR no later than November 1979. Final rule no later than November 1981.

A regulatory analysis will be completed.

Statutory authority: Energy Conservation and Production Act, section 325 (Pub. L. 94–385), as amended by National Energy Conservation Policy Act, Section 422 (Pub. L. 95–619).

Contact: James Smith, (202) 376–4814.

17. Federal Agency Energy Conservation Planning Guidelines and Energy Audits

DOE will promulgate guidelines containing requirements and procedures which individual federal agencies will use in preparing energy conservation plans for federal buildings.

A regulatory analysis is not required.

Status: No notice concerning the guidelines has yet been published. A notice of proposed rulemaking was issued April 20, 1979. (44 FR 24800.)

Authority: Title III of the Energy Policy and Conservation Act, as amended (Pub. L. 94–163); Title V, National Energy Conservation Policy Act. (Pub. L. 95–619).

Contact: William Rhodes, (202) 376–4017.

18. Reporting Guidelines for Municipal Waste Reprocessing Demonstration Program

Section 20 of the Federal Non-nuclear Energy Research and Development Act of 1974, as amended, provides for financial assistance to establish municipal waste reprocessing demonstration facilities. Guidelines are required to obtain pertinent information about projects funded by DOE under section 20.

It has not been determined whether a regulatory analysis is required. No notice has yet been published.

Statutory authority: Section 20 of the Federal Non-nuclear Energy Research and Development Act of 1974, as amended, (Pub. L. 95–238).

Contact: Donald Walter, (202) 376–1964.

Hearings will be held.

19. Price Support Rules for Municipal Waste Reprocessing Demonstration Program

DOE will promulgate rules setting forth the procedures and policies governing the award of price supports as financial assistance to facilitate establishment of municipal waste reprocessing demonstration facilities.

It has not been determined whether a regulatory analysis is required.

Status: An advance notice of proposed rulemaking is under preparation.

Statutory authority: Section 20 of the Federal Non-nuclear Energy Research and Development Act of 1974, as amended (Pub. L. 95–238).

Hearings will be held.

20. Municipal and Industrial Waste Reprocessing Loan Guarantees

DOE will promulgate rules enabling DOE to guarantee loans for municipal and industrial waste reprocessing.

It has not been decided whether a regulatory analysis is required.

Status: No notice concerning the regulation has yet been published.

Authority: Federal Nonnuclear Energy Research and Development Act of 1974, Section 19(y), Pub. L. 93–577, as amended.

Contact: Don Walter, (202) 376–1964.

Federal Photovoltaic Utilization Program

DOE will develop regulations for the monitoring and assessment of the performance and operation of photovoltaic systems installed under the Federal Photovoltaic Utilization Program.

A notice of proposed rulemaking has not yet been issued.

A regulatory analysis is not required.

Statutory authority: National Energy Conservation Policy Act, Section 566(2), (Pub. L. 95–619).

Contact: Elaine Smith, (202) 376–5931.

22. Guidelines for the Program for State Energy Conservation Plans

DOE has issued guidelines amending program guidelines issued under the Energy Policy and Conservation Act.

A final rule was issued March 29, 1979 (44 FR 20055, April 4, 1979).

No regulatory analysis was required.

Statutory authority: Energy Policy and Conservation Act, Title III, Part C (Pub. L. 94–163) as amended by Energy Conservation and Production Act (Pub. L. 94–385) and National Energy Conservation Policy Act (Pub. L. 95–619).

Contact: Sandra Delaney, (202) 376–1797.

Life Cycle Costing Procedures for Federal Buildings

DOE will develop and prescribe procedures for estimating and comparing life cycle costs for purchase and installation of energy conservation measures for Federal buildings.

A notice of proposed rulemaking has not yet been issued.

A regulatory analysis is not required.

Statutory authority: Section 546 of the National Energy Conservation Policy Act, (Pub L. 95–619), Section 381 (a)(2) of the Energy Policy and Conservation Act, as amended (Pub. L. 94–163); Executive Order 11912, as amended.

Contact: Jack Vitullo, (202) 376–4017.

24. Energy Audits—Schools, Hospitals, and Local Public Buildings

DOE has developing guidelines for state grants to conduct data-gathering and to administer operations/maintenance identification audits in institutional buildings.

A final rule was issued March 27, 1979 (44 FR 19340), April 2, 1979.

A regulatory analysis was not required.

Statutory deadline: Within 60 days of enactment.

Statutory authority: National Energy Conservation Policy Act, Section 302, (Pub. L. 95–617).

Contact: M. Willingham, (202) 376–9770.

25. Technical Assistance and Energy Conservation Measures—Schools, Hospitals, Local Public Buildings

DOE will promulgate regulations for grants to schools, hospitals, local governments and public care institutions for technical assistance and energy conservation measures.

A notice of proposed rulemaking was publishing January 5, 1979. Final rules were issued April 2, 1979 (44 FR 19340) and April 17, 1979. (44 FR 22940).

A regulatory analysis will be completed.

Statutory deadline: Within 90 days of enactment.

Statutory authority: National Energy Conservation Policy Act, (Pub. L. 95–619).

Contact: M. Willingham, (202) 376–9770.

26. Industrial Energy Conservation Program

DOE will establish requirements and issue report forms for major energy consuming corporations to report to DOE on their annual energy consumption and their progress in improving energy efficiency. DOE also will set targets for increased use of energy-saving recovered materials for specified industries, i.e., metals and metal products, paper and allied products, textile mill products and rubber, and establish requirements for reporting on progress made to increase use of recovered materials by major energy consuming corporations in these industries.

A notice of proposed rulemaking has not yet been issued.

It has not been determined whether a regulatory analysis is required.

Statutory deadline: Final targets by November 1979.

Statutory authority: Energy Policy and Conservation Act, Title III, Part D, Pub. L. 94–163, as amended by National Energy Conservation Policy Act, Pub. L. 95–619.

Contact: Douglas Harvey, (202) 376–4113.

27. Demonstration of Solar Heating and Cooling in Federal Buildings

DOE will develop criteria for evaluation of agency-submitted proposals for installing solar heating and cooling systems in Federal buildings and requirements for operating and maintenance reports.

A notice of proposed rulemaking was published in the Federal Register April 2, 1979. An environmental assessment will be completed. (44 FR 19328.)

Statutory authority: National Energy Conservation Policy Act, Sections 521–524 (Pub. L. 95–619).

Contact: W. Lemeshewsky, (202) 376–9622.

28. Building Energy Performance Standards

DOE intends to propose federal standards for new residential and commercial buildings.

A regulatory anaylsis will be completed.

Status: An advance notice of proposed rulemaking was issued November 10, 1978 (43 FR 54512, November 21, 1978).

Authority: Title III of the Energy Conservation and Production Act, Pub. L. 94–385.

Contact: Jim Binkley, (202) 376–4886.

29. Residential Conservation Service Program (Utility Program)

DOE will develop regulations to implement Part 1 of Title II of NECPA, which provides for programs to facilitate retrofitting of energy conservation measures in existing private residences.

A notice of proposed rulemaking was issued March 12, 1979, (44 FR 16546, March 19, 1979).

A draft regulatory analysis has been completed.

Statutory deadline: NOPR by March 2, 1979.

Statutory authority: NECPA, National Energy Conservation Policy Act, Part 1, Title 2, Pub. L. 95–619.

Contact: Jim Tanck, (202) 376–4708.

OFFICE OF EQUAL EMPLOYMENT OPPORTUNITY

1. Comprehensive EEO Regulations for all Federally Assisted DOE Programs and Activities

EEO will develop comprehensive regulations to implement the Equal Employment Opportunity Requirements for all Federally assisted DOE programs and activities.

A regulatory analysis is not required.

Status: A notice of proposed rulemaking was published November 16, 1978. (43 FR 53658.)

Statutory authority: Rehabilitation Act of 1973, Sec. 504; E.O. 11914; Title VI of 1964 Civil Rights Act.

Contact: Marion Bowden, (202) 376–4663.

GENERAL COUNSEL

1. Proposed Regulations on Standards of Conduct for Department of Energy Employees

DOE is preparing regulations prescribing standards of conduct for employees of DOE as mandated by DOE Organization Act, section 601–608.

No regulatory analysis is required.

Status: A final rule was issued April 13, 1979. (44 FR 24696, April 26, 1979.)

Authority: DOE Organization Act, section 601–608 (Pub. L. 95–91).

Contact: Ralph D. Goldenberg.

2. Privacy Act Regulations

DOE will promulgate regulations to implement DOE compliance with 5 U.S.C. 552(a), the Privacy Act of 1974. The rulemaking will provide Department-wide regulations to replace Privacy Act regulations implemented by FEA and ERDA which are presently in force.

A regulatory analysis is not required.

Status: No notice concerning the regulations has yet been published. DOE is proposing a consolidation and renumbering of Privacy Act systems of records transferred to it from its predecessor agencies.

Authority: Department of Energy Organization Act, Pub. L. 95–91 and authorities incorporated by reference therein; 5 U.S.C. 552(a).

Contact: Marilyn Ross, (202) 633–9296.

3. Administrative Claims Under Federal Tort Claims Act

DOE will issue regulations to implement the Federal Tort Claims Act, 28 U.S.C. 2672, *et seq.*, and supplementing the Attorney General's regulations, 28 CFR Part 14. The rulemaking will provide department-wide regulations and procedures for the administration of tort claims against the DOE. These matters are presently implemented and processed under ERDA and Department of Justice implementation as applicable.

A regulatory analysis is not required.

Status: No notice concerning these regulations has been published.

Authority: DOE Organization Act, (Pub. L. 95–91); the Federal Tort Claims Act, 28 U.S.C. 2672.

Contact: Richard E. Benesh, (202) 633–8653.

4. DOE Licensing Regulations

This regulation governs licensing of inventions owned or controlled by the Department of Energy. It is needed to provide guidance to the public on procedures for obtaining non-exclusive and exclusive licenses and on standards under which such licenses may be granted and the terms and conditions of the licenses.

No regulatory analysis is required.

Status: No notice concerning this regulation has yet been published.

Authority: Federal Nonnuclear Energy Research and Development Act of 1974, 42 U.S.C. 5908(g); the Atomic Energy Act of 1954 as amended, 42 USC 2186 and general authorities available to the Department due to transfer of functions from other agencies under the DOE Organization Act and other acts.

Contact: Robert Marchick, (301) 353–4970.

5. DOE Administrative Patent and Copyright Infringement Claims

The regulation will provide policy and procedures for filing and processing administrative claims alleging infringement of U.S. patents and copyright by or on behalf of the Department of Energy. The regulation is needed to provide guidance to the public as to requirements and procedures that will be followed in settling, denying, or otherwise disposing of administrative infringement claims.

No regulatory analysis is required.

Status: No notice concerning this regulation has yet been published.

Authority: Department of Energy Organization Act, 42 U.S.C. 7261, Energy Reorganization Act, 42 U.S.C. 5817; Atomic Energy Act of 1954, as amended, 42 U.S.C. 2201 (g), 2223.

Contact: Jack Lever, (301) 353–5093.

6. Regulations for Implementation of the Foreign Gifts and Decorations Act

DOE will propose regulations to establish procedures and policies relating to the acceptance, use and disposition of gifts and decorations from foreign governments.

A regulatory analysis is not required.

Status: No notice concerning this regulation has yet been published.

Authority: Foreign Gifts and Decorations Act, 5 U.S.C. 7342, as amended, Pub. L. 95–105 6977.

Contact Ralph Goldenberg, (301) 353–5285.

INTERGOVERNMENTAL RELATIONS

1. Intervenor Funding

DOE is in the process of preparing regulations to provide financial assistance to qualified persons who have or represent an interest which would not otherwise be adequately represented in certain DOE decision-making processes. The regulations are aimed at those matters where DOE determines that such representation is necessary for a fair determination of the matter taken as a whole, and such persons would be unable otherwise to take part because of the costs associated with preparing expert technical comments on proposed DOE actions.

A regulatory analysis is not required.

Status: No notice has yet been published.

Statutory authority: Department of Energy Organization Act, (Pub. L. 95–91, and authorities cited therein).

Contact: Polly Craighill, (202) 252–5871; Emmett Gavin, (202) 252–5454.

Hearings will be held.

OFFICE OF PROCUREMENT AND CONTRACTS MANAGEMENT

1. DOE Organizational Conflicts of Interest

The regulation will provide policies, procedures, and contract clauses concerning organizational conflicts of interest, such as bias and unfair competitive advantage. The regulation is needed to aid in identifying or mitigating potential organizational conflicts of interest before entering into contracts, agreements and other arrangements.

A regulatory analysis is not required.

Status: A final rule was issued January 8, 1979 (44 FR 2556) January 11, 1979.

Authority: Department of Energy Organization Act, P.L. 95–91, Federal Nonnuclear Energy Research and Development Act of 1974 (P.L. 93–577) as amended by Pub. L. 93–39; Federal Energy Administration Act of 1974 (Pub. L. 93–275), as amended by Pub. L. 95–70.

Contact: Martin Kestenbaum, 376–1759.

2. DOE Procurement Regulations

The regulation, along with the Federal Procurement Regulations, governs procurement by the Department of Energy. The regulation is needed to provide a wide range of implementation necessary to the Department's extensive procurement activities.

A regulatory analysis is not required.

Status: A notice of proposed rulemaking was published April 14, 1978; a final rule is expected to be issued in May 1979. (43 FR 15852).

Authority: Department of Energy Organization Act, and general authorities available to the Department due to the transfer of functions from agencies conducting substantial procurement (e.g., the Atomic Energy Act of 1954, the Energy Reorganization Act of 1974, and the Federal Nonnuclear Energy Research and Development Act of 1974).

Contact: Martin Kestenbaum, 376–1759.

3. DOE Assistance Regulation

The regulation provides general financial assistance policies and procedures. The regulation is needed to provide guidance to the public as to what requirements must be met and what standards will be followed in making grant awards.

A regulatory analysis is not required.

Status: A final rule was issued March 1, 1979 (44 FR 12920, March 8, 1979).

Authority: Department of Energy Organization Act, section 644, and general

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authorities available to the Department due to the transfer of functions from other agencies (e.g. the Federal Nonnuclear Energy Research and Development Act of 1974).
Contact: Carl Blakely, (202) 376–1768.

4. DOE Assistance Regulation (Subpart C—Cooperative Agreements)

The regulation will provide policies and procedures concerning the use of cooperative agreements to award financial assistance. The regulation is needed to provide guidance to the public as to what requirements must be met and what standards will be followed in entering into cooperative agreements.
A regulatory analysis is not required.
Status: A notice of proposed rulemaking was issued on March 29, 1979 (44 FR 20594, April 5, 1979).
Authority: Department of Energy Organization Act, § 644, and general authorities available to the Department due to the transfer of functions from other agencies (e.g. the Federal Nonnuclear Energy Research and Development Act of 1974).
Contact: Carl Blakely, (202) 376–1768.

5. DOE Assistance Regulation—Loans, Loan Guarantees, Price Supports, Other Incentives (Subparts D, E, F)

The regulation will provide policies and procedures concerning the use of loans, loan guarantees, price supports, and other methods to award financial assistance. The regulation is needed to provide guidance to the public as to what requirements must be met and what standards will be followed in entering into agreements.
A regulatory analysis is not required.
Status: No notice concerning this regulation has been published.
Authority: Department of Energy Act, section 644, and general authorities available to the Department due to the transfer of functions from other agencies (e.g. the Federal Nonnuclear Energy Research and Development Act of 1974).
Contact: Carl Blakely, (202) 376–1768.

6. DOE Property Management Regulation

The regulation, along with Federal Property Management Regulations (FPMR), will generally govern the management of property of the Department. The regulation is needed to provide implementation of the FPMR necessary to manage the property for which the Department is responsible.
A regulatory analysis is not required.
Status: A final rule was issued December 22, 1978 (44 FR 986 January 3, 1979).
Authority: Department of Energy Act, section 644, and general authorities available to the Department due to the transfer of functions from agencies which had substantial property for which they were responsible (e.g. the Atomic Energy Act of 1954, the Energy Reorganization Act of 1974, and the Federal Nonnuclear Energy Research and Development Act of 1974).
Contact: Francis Roche, (202) 376–1974.

7. DOE Procurement Regulation Handbook No. 1

DOE will publish a procurement regulation handbook to set forth internal policies and procedures for the Department of Energy in source evaluation and selection process.
Status: A proposed handbook was published in the Federal Register on January 30, 1979 (44 FR 6038).
Authority: Section 644 DOE Organization Act Pub. L. 95–91, 91 Stat. 565 42 U.S.C. 7254.
A regulatory analysis is not required.
Contact: Martin Kestenbaum, (202) 376–1759.
No hearings are contemplated.

RESOURCE APPLICATIONS

1. OCS Bidding Regulations

DOE is drafting proposed regulations to establish bidding systems to be used in the sale of oil and gas leases on the Outer Continental Shelf (OCS) and to provide coordination betweeen DOE and Department of the Interior in their implementation.
A regulatory analysis will be completed.
Status: No notice concerning the regulation has yet been published.
Authority: Department of Energy Organization Act, Section 302(b)(2) Pub. L. 95–91.
Contact: Robert Kalter, (202) 633–9421.

2. Initial Geothermal Bidding System Regulations

DOE is drafting proposed regulations establishing the bidding system to be used for the sale of geothermal leases on federal lands. The regulations will also establish the procedures to be followed by DOE and Department of the Interior in carrying out their responsibilities regarding geothermal lease sales.
A regulatory analysis will be completed.
Status: No notice concerning the regulation has yet been published.
Authority: Department of Energy Organization Act, Section 302(b)(2), Pub. L. 95–91.
Contact: Robert Kalter, (202) 633–9421.

3. Royalty Oil Regulations.

DOE is preparing proposed regulations regarding the disposal of government royalty oil taken in kind pursuant to section 302(b)(5) of the DOE Organization Act. These regulations would continue in a slightly modified form a program established and administered by the Department of the Interior for the disposal of government royalty oil.
A regulatory analysis will be completed.
Status: No notice concerning the regulation has yet been published.
Authority: Department of Energy Organization Act, Section 302(b)(5), Pub. L. 95–91.
Contact: Robert Kalter, (202) 633–9421.

4. Revision of Geothermal Loan Guaranty Regulations

DOE intends to analyze, simplify and amend the geothermal loan guarantee regulations, including environmental review procedures.
A regulatory analysis will be completed.
Status: A notice of proposed rulemaking was published January 5, 1979. (44 FR 1568.)
Authority: Department of Energy Organization Act, Pub. L. 95–91.
Contact: Larry Falick, (202) 566–6719.

5. Power Rate Adjustment Procedures

Procedures will be established for Federal power authorities to contact their customers and encourage participation in rate-setting procedures. Procedures for public hearings conducted in consumers' communities will be developed.
A regulatory analysis is not required.
Status: No notice concerning the regulation has yet been published.
Authority: Bonneville Project Act of 1927, as amended.
Contact: Daniel Ogden, (202) 633–8338.

6. Sequential Bidding Regulations

DOE is preparing proposed regulations to establish a new bidding process, known as sequential bidding, for use in certain Outer Continental Shelf (OCS) oil and gas lease sales. The purpose of these regulations is to increase competition by increasing both the number of participants in an OCS lease sale and the number of bids submitted.
A regulatory analysis will be completed.
Status: No notice concerning the regulation has yet been published.
Authority: Department of Energy Organization Act, Section 302(b)(1), Pub. L. 95–91.
Contact: Robert Kalter, (202) 633–9421.

7. Loan Guarantees for Alternative Fuel Demonstration Facilities

DOE will promulgate rules enabling DOE to guarantee loans for alternative fuel demonstration facilities.
It has not been decided whether a regulatory analysis is required.
Status: No notice concerning the regulation has yet been published.
Authority: Federal Nonnuclear Energy Research and Development Act of 1974, Section 19(b), Pub. L. 93–577, as amended.
Contact: Michael Perper, (202) 376–9052.

8. Post-Sale Competitive Review Regulations

DOE is preparing proposed regulations to establish a process by which the Secretary of the Interior would perform a competitive review of bids for Outer Continental Shelf Oil and gas leases prior to their award to the highest qualified responsible bidder. The purpose of the regulation is to foster competition for federal leases.
A regulatory Analysis will be completed.
Status: No notice concerning the regulation has yet been published.
Authority: Department of Energy Organization Act, Section 302(b)(1), Pub. L. 95–91.
Contact: Robert Kalter, (202) 633–9421.

Authority: Department of Energy Organization Act, Section 302(b)(1), Pub. L. 95–91.
Contact: Robert Kalter, (202) 633–9421.

9. Coal Regulations

DOE is in the initial stages of analysis prior to preparation of regulations concerning bidding systems, competition and diligence. The purpose of these regulations would be to foster competition and establish diligence requirements.
Status: No notice concerning the regulation has yet been published.
Authority: Department of Energy Organization Act, Section 302(b)(1), (2)(3), Pub. L. 95–91.
Contact: Robert Kalter, (202) 633–9421.

10. University Coal Research Laboratories Grants

DOE will promulgate rules which set forth criteria for selecting institutions to receive grants to establish university coal research laboratories.
A regulatory analysis is not required.
Status: A notice of proposed rulemaking was published on January 22, 1979. (44 FR 4632.)
Authority: Surface Mining Control and Reclamation Act of 1977, Title 8, Pub. L. 95–87.
Contact: Richard Stephens, (202) 376–9188.

11. Hydroelectric Feasibility Study and Project Costs Loan Program

DOE will develop regulations for loans for feasibility studies and for construction costs for small hydroelectric projects.
A notice of proposed rulemaking has not yet been issued.
It has not been determined whether a regulatory analysis is required.
Statutory authority: Public Utility Regulatory Policy Act, Section 403 (Pub. L. 95–617).
Contact: Dick McDonald, (202) 633–8910.

12. OCS Profit Share Bidding System Regulation

DOE is preparing a proposed regulation to establish a profit share bidding system, which would be used in the sale of oil and gas leases on the Outer Continental Shelf. Included is a proposed regulation to establish accounting procedures to govern the calculation of the profit share and the allocation of costs and revenue. A primary purpose of the regulation is to foster competition.
A regulatory analysis will be completed. No notice concerning the regulation has yet been published.
Statutory authority: Department of Energy Organization Act, section 302(b)(2) (Pub. L. 95–91).
Contact: Robert Kalter, (202) 633–9421.

13. Coal Bidding System Regulation

DOE is preparing a proposed regulation to establish bidding systems to be used in the sale of Federal coal leases. The purpose of the regulation is to establish a variety of bidding systems for use in lease sales and to foster competition.
A regulatory analysis will be completed.
Status: No notice concerning the regulation has yet been published.
Statutory authority: Department of Energy Organization Act, section 302(b)(2) (Pub. L. 95–91).
Contact: Robert Kalter, (202) 633–9421.

14. Coal Diligence Regulation

DOE is preparing a proposed regulation to establish a date certain for the submission of mining plans for existing and new leases and to establish certain milestones. The purpose of the regulation is to foster diligent development of Federal coal leases.
A regulatory analysis will be completed.
Status: No notice concerning the regulation has yet been published.
Statutory authority: Department of Energy Organization Act, section 302(b)(3) (Pub. L. 95–91).
Contact: Robert Kalter, (202) 633–9421.

15. Initial Large Wind Bidding System Regulations

The Department of Energy (DOE) will draft proposed regulations establishing the bidding system to be used for the sale of large wind energy conversion system leases on federal lands. The regulations will also establish the procedures to be followed by DOE and the Department of the Interior in carrying out their responsibilities regarding large wind energy conversion system lease sales.
Status: No notice concerning the regulation has yet been published.
A regulatory analysis will be completed.
Statutory authority: Department of Energy Organization Act, section 302(b)(2) (Pub. L. 95–91).
Contact: Robert Kalter, (202) 633–9421.

ECONOMIC REGULATORY ADMINISTRATION

Clarity of Regulations Issued by the Economic Regulatory Administration (ERA Docket ERA–R–79–11)

As part of DOE's regulatory reform effort, a Notice of Inquiry was issued requesting comments on the clarity of ERA's regulations.
A regulatory analysis is not required.
Status: A Notice of Inquiry was issued March 15, 1979. (44 FR 17526, March 22, 1979.)
Authority: Executive Order 12044, "Improving Government Regulations."
Contact: Stanley Vass, (202) 254–7477.

National Energy Act Regulations

1. NEA Fuel Use Act—New Facilities (ERA Docket ERA–R–78–19)

ERA will develop regulations to implement prohibitions against use of oil and gas by new facilities and exemptions provided by law from this statutory prohibition.
A notice of proposed rulemaking (NOPR) was issued November 9, 1978. (43 FR 53974, November 17, 1978.)
A draft regulatory analysis was published with the NOPR.
Statutory deadline: NOPR within 120 days of enactment.
Statutory authority: Powerplant and Industrial Fuel Use Act, Sections 201 and 202 (Pub. L. 95–620).
Contact: Steve Stern, (202) 254–9766.

NEA Fuel Use Act—Transitional Facilities (ERA Docket ERA–R–78–21)

ERA has promulgated revised interim regulations to classify facilities built between April 20, 1977 and the date of enactment of the Powerplant and Industry Fuel Use Act as either new facilities subject to statutory prohibitions on the use of oil and gas or as existing facilities.
A revised interim rule was issued March 15, 1979. (44 FR 17464, March 21, 1979)
A draft regulatory analysis has been completed.
Statutory authority: Powerplant and Industrial Fuel Use Act, Section 902 (Pub. L. 95–620).
Contact: Steve Stern, (202) 254–9766.

MFBI Election Procedures (ERA Docket ERA–R–78–28)

ERA promulgated regulations governing election procedures for coverage of major fuel burning installations (MFBIs).
A notice announcing election procedures was issued December 28, 1978. (44 FR 1443, January 5, 1979.)
A draft regulatory analysis has been completed.
Statutory deadline: Within 90 days of enactment.
Statutory authority: Powerplant and Industrial Fuel Use Act, Section 762 (Pub. L. 95–620).
Contact: Steve Stern, (202) 254–9766.

NEA Fuel Use Act—Existing Facility Findings and Exemptions (ERA Docket ERA–R–78–19)

ERA will develop regulations for establishing findings and exemptions for use by DOE to order existing facilities with coal burning capabilities to switch from oil and gas use.
A notice of proposed rulemaking was issued January 22, 1979. (44 FR 5808, January 29, 1979.)
A draft regulatory analysis has been completed.
Statutory deadline: NOPR within 120 days after enactment.
Statutory authority: Powerplant and Industrial Fuel Use Act, Sections 301 and 302 (Pub. L. 95–620).
Contact: Steve Stern, (202) 254–9766.

NEA Fuel Use Act—Special Rule for Temporary Public Interest Exemption for Use of Natural Gas by Existing Power Plants (ERA Docket ERA–R–79–1)

ERA has issued final regulations by which existing power plants may obtain temporary public interest exemptions from statutory prohibitions against natural gas use.
The final rule was issued April 4, 1979. (44 FR 21230, April 9, 1979.)

A draft regulatory analysis has been published.

Statutory authority: Powerplant and Industrial Fuel Use Act, Section 311 (Pub. L. 95–620).

Contact: Steve Stern, (202) 254–9766.

6. NEA Fuel Use Act—Emergency Use of Natural Gas or Petroleum

ERA will promulgate regulations governing the temporary use of oil or gas during emergency conditions.

A notice of proposed rulemaking has not yet been issued.

A draft regulatory analysis has been published.

Statutory authority: Powerplant and Industrial Fuel Use Act, Section 404 (Pub. L. 95–620).

Contact: Steve Stern, (202) 254–9766.

7. Prohibition on Use of Natural Gas for Decorative Outdoor Lighting

DOE will develop regulations prohibiting use of natural gas for decorative lighting in industrial, commercial and residential and municipal settings, including sale of natural gas for such purpose.

A notice of proposed rulemaking was issued February 7, 1979. (44 FR 9570, February 13, 1979.)

A regulatory analysis is not required.

Statutory deadline: Final rule within 180 days after enactment.

Statutory authority: Powerplant and Industrial Fuel Use Act, Section 402 (Pub. L. 95–620).

Contact: Howard Perry, (202) 254–3118.

8. PURPA—State Regulatory Reporting Requirments

ERA will develop proposed reporting requirements to be followed by states.

A notice of proposed rulemaking was issued April 6, 1979. (44 FR 22974, April 17, 1979.)

A regulatory analysis was completed.

Statutory authority: Public Utility Regulatory Policies Act, Section 116 and 309 (Pub. L. 95–617).

Contact: Howard Perry, (202) 254–3118.

9. Grants to State Offices of Consumer Services

ERA (Office of Utility Systems) will revise guidelines for grants to state offices of consumer services for representation of consumers in proceedings before electric utility regulatory commissions.

A notice of proposed rulemaking was issued March 21, 1979. (44 FR 18448, March 27, 1979.)

A regulatory analysis is not required.

Statutory authority: Energy Conservation and Production Act, Public Utility Regulatory Policies Act, ECPA, Section 205 (Pub. L. 94–385) as amended by Section 142 (Pub. L. 95–617).

Contact: Larry Kaseman, (202) 254–9755.

10. Grant Assistance to Public Utility Commissions and Innovative Utility Regulatory Projects

ERA (Office of Utility Systems) will promulgate regulations to provide grant assistance to public utility commissions in meeting the electric utility and natural gas provisions of the Public Utility Regulatory Policies Act and to fund innovative utility rate structure projects.

A notice of proposed rulemaking was issued on March 21, 1979. (44 FR 18856, March 29, 1979.)

A regulatory analysis is not required.

Statutory authority: Public Utility Regulatory Policies Act, Sections 141 and 142 (Pub. L. 95–617).

Contact: Larry Kaseman, (202) 254–9755.

11. Emergency Natural Gas Regulations

ERA will develop regulations regarding the purchase and the allocation of natural gas during a presidentially declared natural gas emergency.

A notice of proposed rulemaking has not yet been issued.

It has not been determined whether a regulatory analysis is required.

Statutory authority: Natural Gas Policy Act of 1978, Title III (Pub. L. 95–621).

Contact: Lynette Hucul, (202) 632–4721.

12. Natural Gas for Essential Agricultural Uses (ERA Docket ERA–R–78–22)

ERA has promulgated regulations to provide that interstate pipelines not curtail gas deliveries for essential agricultural uses (as determined by the Secretary of Agriculture) except to serve high priority uses.

A final rule was issued on March 9, 1979. (44 FR 15642, March 15, 1979.)

Statutory deadline: Within 120 days after enactment.

A regulatory analysis is not required.

Statutory authority: Natural Gas Policy Act of 1978, Section 401(a) (Pub. L. 95–621).

Contact: Paula Daigneault, (202) 632–4721.

13. Review of Natural Gas Curtailment Priorities Including Industrial Process Fuel Use Issues (ERA Docket ERA–R–79–10)

ERA will conduct an inquiry into whether existing natural gas curtailment priorities should be modified and, if so, in what manner. The inquiry will include consideration of curtailment of industrial process and feedstock use.

A notice of inquiry was issued on March 13, 1979. (44 FR 16954, March 20, 1979.)

A regulatory analysis will be completed.

Statutory authority: Natural Gas Policy Act of 1978, Section 402 and DOE Act Sections 301 and 402.

Contact: Paula Daigneault, (202) 632–4721.

Crude Oil

1. Entitlements Treatment for Alaska Refineries (ERA Docket ERA–R–78–2)

DOE has amended the domestic crude oil allocation program to clarify the proper calculation of entitlements to be issued to certain refineries located in the State of Alaska, in order to avoid the potential for duplicate entitlement issuances for the same volume of crude oil.

A regulatory analysis is not required.

Status: A final rule was issued November 17, 1978. (43 FR 55322, November 27, 1978.)

Authority: Emergency Petroleum Allocation Act of 1973, Pub. L. 93–159, as amended.

Contact: Mary Jones, 632–5133.

2. Incentives for Enhanced Crude Oil Recovery (ERA Docket ERA–R–77–1)

By this continued rulemaking and request for comments DOE will determine whether additional price incentives are needed for tertiary enhanced recovery projects in order to provide for adequate up front capital commitment to such projects.

A regulatory analysis has been completed.

Status: DOE issued a final rule containing incentives for undertaking tertiary recovery projects. That Notice of Final Rule contained a Notice of Continued Rulemaking and Request for Comments.

A further notice of proposed rulemaking was issued March 22, 1979. (44 FR 18677, March 29, 1979.)

Authority: Emergency Petroleum Allocation Act of 1973, Pub. L. 93–159, as amended.

Contact: Douglas Harnish, (202) 254–7477.

3. Further Rulemaking on Entitlements for Petroleum Substitutes

DOE will propose an amendment to the mandatory petroleum allocation regulations to expand the scope of the synthetic fuels which will qualify for designation as a petroleum substitute.

A regulatory analysis is not required.

Status: No notice concerning the regulation has yet been issued.

Authority: Emergency Petroleum Allocation Act, Pub. L. 93–159, as amended.

Contact: Norman Breckner, (202) 254–7477.

4. Revision of the Small Refiner Bias Program (ERA Docket ERA–R–78–3)

An independent report was commissioned by DOE to study the current small refiner bias level under the entitlements program. DOE will propose revisions to the small refiner bias program.

A regulatory analysis and an environmental assessment have been completed.

Status: A notice of proposed rulemaking was issued November 14, 1978. (43 FR 54652, November 22, 1978.)

Authority: Emergency Petroleum Allocation Act of 1973, Pub. L. 93–159, as amended.

Contact: Mary Jones, (202) 254–5133.

5. Non-refining Uses of Price Controlled Crude Oil (ERA Docket ERA–R–78–13)

DOE plans to amend the entitlements program to provide a mechanism to account for controlled domestic crude oil that is not covered by the program because the crude oil was not run in domestic refineries.

A regulatory analysis is not required.

Status: A notice of proposed rulemaking was issued November 1, 1978. (43 FR 52104, November 8, 1978.)

The final rule may be incorporated in ERA–R–78–12 if that rule is adopted.

Authority: Emergency Petroleum Allocation Act of 1973, Pub. L. 93–159, as amended.

Contact: Mary Jones, (202) 632–5133.

6. Simplified Crude Oil Price Control Program (ERA Docket ERA–R–78–12)

DOE has proposed the first step in a program to simplify the mechanism for controlling crude oil prices. The program will shift the entitlement burden to first purchasers, thereby eliminating the opportunity for resellers falsely to recertify the price tier.

A draft regulatory analysis was completed.

Status: A notice of proposed rulemaking was issued January 19, 1979. (44 FR 5296, January 25, 1979.)

A final rule, if adopted, may incorporate ERA–R–78–13.

Authority: Emergency Petroleum Allocation Act of 1973, Pub. L. 93–159, as amended.

Contact: Daniel Thomas, (202) 254–7477.

7. Revision of Crude Oil Supplier/Purchaser Rule

The 1973 freeze on supplier/purchaser relationships is being further examined to determine whether it unduly inhibits competition or unnecessarily burdens producers and purchasers of domestic crude oil.

A regulatory analysis will be completed.

Status: No notice concerning the regulation has yet been published.

Authority: Emergency Petroleum Allocation Act of 1973, Pub. L. 93–159, as amended.

Contact: Gerald Emmer, (202) 254–7200.

6. Canadian Allocation Program (CAP) Revisions (ERA Docket ERA–R–78–23)

Amendments were proposed to reflect the declining volumes of Canadian crude oil exports, the varying success refineries have had in finding non-Canadian supplies and the simplication of the administration and industry reporting requirements of CAP.

A regulatory analysis is not required.

Status: A notice of proposed rulemaking was issued November 17, 1978. (43 FR 55734, November 28, 1978.)

Legal authority: Emergency Petroleum Allocation Act of 1973, Pub. L. 93–159, as amended.

Contact: John Glynn, (202) 632–5133.

9. Crude Oil Resellers Price Rule

DOE will evaluate crude oil resale price rules to determine if modifications are needed.

It has not been determined whether a regulatory analysis is required.

Status: No notice concerning this regulation has yet been published.

Authority: Emergency Petroleum Allocation Act of 1973, Pub. L. 93–159, as amended.

Contact: Daniel Thomas, (202) 254–7477.

10. Processing Agreements

DOE is considering whether to provide further guidance to resellers and refiners concerning the treatment of crude oil processing agreements under the Mandatory Petroleum Price Regulations.

It has not been determined whether a regulatory analysis is required.

Status: No notice concerning the regulation has yet been issued.

Authority: Energy Policy and Conservation Act, Pub. L. 94–163, as amended.

Contact: Daniel Thomas, (202) 254–7477.

11. Marginal Well Incentive Pricing (ERA Docket ERA–R–78–18)

DOE has amended the petroleum price regulations to provide production incentives for certain lower tier crude oil from wells which produce at low rates under conditions of high operating costs and for all other lower tier producing properties.

A regulatory analysis has been completed.

Status: A final rule was issued April 5, 1979. (44 FR 22010, April 12, 1979.)

Authority: Emergency Petroleum Allocation Act of 1973, Pub. L. 93–159, as amended.

Contact: Douglas Harnish, (202) 254–7477.

12. Small Stripper Certification Procedure

DOE is considering the feasibility of adopting a procedure for small crude oil stripper producers to apply for a predetermination as to whether their wells qualify as stripper wells.

A regulatory analysis is not required.

Status: A notice of proposed rulemaking has been issued.

Authority: Emergency Petroleum Allocation Act of 1973, Pub. L. 95–159, as amended.

Contact: Thomas Miller, (202) 254–8580.

13. Transfer Pricing and Ocean Transportation

DOE is considering simplification or possible revision to standby regulatory and continuing information gathering status of rules concerning prices of future inter-affiliate transfers of imported crude oil.

It has not been determined whether a regulatory analysis is required.

Status: No notice concerning the regulation has yet been published.

Authority: Emergency Petroleum Allocation Act of 1973, Pub. L. 93–159, as amended.

Contact: Daniel Thomas, (202) 254–7477.

14. Amendments to Entitlements Program Regarding Residual Fuel Oil (ERA Dockets ERA–R–76–1 and ERA–R–78–17)

DOE has amended the domestic crude oil allocation ("entitlements") program with respect to entitlement adjustments for residual fuel oil, pursuant to a congressional mandate. The amendments adopted are effective through June 30, 1979. At the time the final rule was issued (ERA–R–78–17), DOE had another proposed rulemaking pending (ERA–R–76–1) which is superseded until July 1, 1979. However, DOE is reviewing the current program and may adopt such changes to the regulations, effective on or after July 1, 1979, as deemed appropriate. One possible action is the reactivation of ERA Docket ERA–R–76–1.

A regulatory analysis for these amendments was completed and it has not been determined if a regulatory analysis for any further action will be necessary.

Status: A final rule was issued October 17, 1978, and a notice closing docket No. ERA–R–78–17 was issued February 14, 1979. (44 FR 10702, February 23, 1979.) Docket No. ERA–R–76–1 is still pending.

Authority: Department of Energy Appropriations Act of 1979, (Pub. L. 95–465). Emergency Petroleum Allocation Act of 1973, (Pub. L. 93–159, as amended).

Contact: F. Scott Bush, (202) 632–8494.

15. Incentive Prices for Newly Discovered Crude Oil (ERA Docket ERA–R–78–26)

DOE has proposed a rule which would permit "newly discovered crude oil" to receive market price levels.

A draft regulatory analysis has been prepared.

Status: A notice of proposed rulemaking was issued December 29, 1978. (44 FR 1888, January 8, 1979.)

Authority: Emergency Petroleum Allocation Act of 1973, (Pub. L. 93–159, as amended).

Contact: William Carson, (202) 254–7200.

16. Amendment to Allocated Crude Oil Pricing Rule (ERA Docket ERA–R–79–5)

DOE has amended, on an emergency basis, the petroleum price regulations in Subpart F of Part 212 by the addition of Special Rule 2 to the Appendix to that Subpart. Special Rule 2 provides for a change in the method of pricing allocated crude oil for deliveries beginning February 1, 1979 pursuant to the "buy/sell program," to take into account the five percent price increase announced by OPEC effective January 1, 1979. The notice also continued the rulemaking and requested comments on a proposal to adopt permanently this special rule or a variation thereof.

A regulatory analysis is not required.

Status: An emergency final rule was issued February 7, 1979, and the rulemaking was continued. A final rule will be issued regarding the permanent adoption of this special rule. (44 FR 9372, February 13, 1979.)

Authority: Emergency Petroleum Allocation Act of 1973, (Pub. L. 93–159, as amended).

Contact: John Glynn, (202) 632–5133.

17. Phased Deregulation of Upper Tier Domestic Crude Oil Prices

DOE will propose the phased deregulation of upper tier domestic crude oil prices by October 1, 1981 at which time authority to control domestic crude oil prices expires.

A regulatory analysis will be completed.

Status: No notice concerning this regulation has been issued.

Authority: Emergency Petroleum Allocation

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Authority: Emergency Petroleum Allocation Act of 1973, Pub. L. 93–159, as amended.
Contact: Ed Mampe, (202) 254–7200.

Refined Products

1. Price Rules for Product Exchanges (ERA Docket ERA–R–77–17)

DOE will revise procedures by which refiners, resellers and retailers will determine the increased costs applicable to products received in exchanges.
A regulatory analysis is not required.
Status: Interim regulation and notice of public hearing were issued December 15, 1978.
Authority: Emergency Petroleum Allocation Act of 1973, Pub. L. 93–159, as amended.
Contact: Daniel Thomas, (202) 254–7477.

2. Middle Distillate Set-aside (ERA Docket EPA–R–78–20)

On January 12, 1979 DOE issued a special rule to provide a procedure during the period January 12 through March 31, 1979 whereby suppliers of home heating oil could be required to set aside a portion of their supplies for distribution by State energy offices in the event of emergency conditions which interrupted normal distribution systems.
On March 21, 1979, DOE issued an order, effective April 1, 1979, extending this set-aside rule through June 30, 1979.
Authority: Emergency Petroleum Allocation Act of 1973, Pub. L. 93–159, as amended.
Contact: William Caldwell, (202) 254–8034.

3. NGL Allocation Revision (ERA Docket ERA–R–77–9)

DOE is amending the mandatory petroleum allocation regulations to correct various problems that appear to have arisen in the allocation of propane, butane and natural gasoline.
A regulatory analysis is not required.
Status: A notice of proposed rulemaking was published August 15, 1977; the Federal Energy Regulatory Commission has held hearings. FERC held hearings September 22, 1978 pursuant to Section 404 of the DOE Act.
Authority: Emergency Petroleum Allocation Act of 1973, Pub. L. 93–159, as amended.
Contact: Robert Reinstein, (202) 632–5042.

4. NGL Price Amendments—Further Rule (ERA Docket ERA–R–77–5)

DOE has issued a rule to provide gas processors with passthroughs of actual nonproduct cost increases. DOE has issued an order suspending from the rule certain terminology regarding transfer pricing under Subpart K that became effective November 1, 1978. DOE may propose a further notice or notices on a number of additional matters raised in prior proceedings to determine if additional rulemakings are needed.
A regulatory analysis for the order is not required, and it has not been determined whether a regulatory analysis will be necessary if other notices are issued.
Status: The suspension order was issued October 30, 1978. No further notice concerning the regulation has yet been published.
Authority: Emergency Petroleum Allocation Act of 1973, Pub. L. 93–159, as amended.
Contact: Ed Mampe, (202) 254–7200.

5. Resubmissions and Refiling of FEO–96, P110, and EIA–14 Forms (ERA Docket ERA–R–78–16)

DOE has amended its petroleum price regulations concerning reporting requirements of refiners. Generally, it has been proposed that refiners would not be permitted to refile FEO–96 forms, FEA/DOE P110 forms, or DOE EIA–14 forms after one year from the date of original filing, except 1) during a grace period for refiling old forms ending June 1, 1979; 2) where expressly authorized by DOE regulation or order or 3) where written permission is granted by DOE for good cause shown.
A regulatory analysis is not required.
Status: A final rule was issued March 6, 1979 which will be effective May 1, 1979.
Authority: Emergency Petroleum Allocation Act of 1973 (Pub. L. 93–159, as amended).
Contact: Lloyd Costley, (202) 254–8034.

6. Annual Revision of Fee Free Allocations Under the Mandatory Oil Import Program (ERA Docket ERA–R–78–27)

DOE has revised the Mandatory Oil Import Program to reflect the fee-free allocation levels established by Presidential Proclamation 3279 for the next allocation year which begins on May 1, 1979. This rule has been temporarily superseded by Presidential Proclamation #4655.
No regulatory analysis is required.
Status: A final rule was adopted March 19, 1979.
Authority: Presidential Proclamation 3279, as amended.
Contact: John Glynn, (202) 632–5133.

7. Entitlements Export Sales Deduction Exemption for Bunker Use of Middle Distillates

ERA has been petitioned to establish a rule that would not require an entitlements deduction under the export sales provision of § 211.67(d)(2) for middle distillates used as bunker fuels. No determination has been made at this time as to whether a notice concerning this matter will be issued.
A regulatory analysis is not required.
Status: No notice concerning this regulation has yet been published.
Authority: Emergency Petroleum Allocation Act of 1973, Pub. L. 93–159, as amended.
Contact: Merle Easterling, (202) 632–6500.

8. Passthrough of Service Station Rent Increases (ERA Docket ERA–R–77–15)

DOE has amended the petroleum price regulations to permit retailers to pass through in the price of motor gasoline the costs of installing vapor recovery systems and increased service station rents without these continuing to be subject to the current three-cent per gallon limitation on the recovery of non-product costs.
A regulatory analysis was completed.
Status: A final rule was issued December 22, 1978.
Authority: Emergency Petroleum Allocation Act of 1973, (Pub. L. 93–159, as amended).
Contact: Chuck Boehl, (202) 254–7200.

9. Deletion of DOE Octane Posting Requirements (ERA Docket ERA–R–79–8)

DOE has proposed to amend its petroleum price regulations concerning the posting of octane numbers by retail gasoline dealers.
A regulatory analysis is not required.
Status: A notice of proposed rulemaking was issued February 16, 1979.
Authority: Emergency Petroleum Allocation Act of 1973, (Pub. L. 93–159, as amended).
Contact: Lloyd Costley, (202) 254–8034.

10. Amendments To Allow the Allocation of Additional Increased Costs to Gasoline (ERA Docket ERA–R–77–3)

DOE has amended the petroleum price regulations to permit refiners to recover an additional amount of their total increased costs through gasoline sales and to include within their banks the additional increased costs that would have been allocable to gasoline if the rule had become effective January 1, 1979.
A regulatory analysis and an environmental impact statement have been completed.
Status: A final rule was issued March 1, 1979.
Authority: Emergency Petroleum Allocation Act of 1973. (Pub. L. 93–159, as amended).
Contact: Chuck Boehl, (202) 254–7200.

11. National Ceiling Price for Motor Gasoline

DOE will request public comments through a Notice of Inquiry on the advisability of establishing a national ceiling price or prices for motor gasoline. Depending on public comments and the stability of the motor gasoline market, DOE may issue a Notice of Proposed Rulemaking.
A regulatory analysis for the NOI will not be required.
Status: No notice concerning this regulation has been issued.
Authority: Emergency Petroleum Allocation Act of 1973, Pub. L. 93–159, as amended.
Contact: Ed Mampe, (202) 254–7200.

12. Procedures for Certification of the Use of Natural Gas for Fuel Oil Displacement (ERA Docket ERA–R–79–16)

In conjunction with the above captioned rule (FERC Docket No. RM79–34), DOE has issued an interim final rule establishing the procedures for the ERA Administrator's certification to the FERC that the natural gas in question purchased directly by end-users would be used to displace fuel oil and not coal.
A regulatory analysis will be completed upon issuance of a final rule.
Status: An interim final rule was issued April 2, 1979.
Authority: Department of Energy Act (Pub. L. 95–91).
Contact: Lawrence A. DiRicco, (202) 632–4721.

13. Transportation Certificates for Fuel Oil Displacement Gas (No ERA Docket Number) (FERC Docket No. RM79–34)

DOE/ERA has proposed a rule for adoption by the Federal Energy Regulatory Commission (FERC) under which the FERC would accept and consider applications from interstate pipeline companies for certificates to transport natural gas purchased by end-users to displace fuel oil.
No regulatory analysis required since FERC is exempt from E.O. 12044.
Status: ERA proposed rule to FERC on March 16, 1979. FERC commenced rulemaking process on March 28, 1979.
Authority: Natural Gas Act, of June 21, 1938 (52 Stat. 821) as amended; Department of Energy Organization Act of 1977, Pub. L. 95–91, Section 403.
Contact: FERC—Kenneth Plumb, (202) 275–4166; ERA—Lawrence DiRicco, (202) 632–4721.

14. Unleaded Gasoline Price Rules (ERA Docket ERA–R–79–17)

DOE has proposed to amend its petroleum price regulations to (1) allow resellers to recover the costs of vapor recover systems; (2) require service station operators to inform the public of outages of a particular grade of gasoline; (3) require retailers to inform the public of the price of unleaded gasoline with the same visability and prominence as the leaded grade; and (4) impose a maximum mandatory price differential between leaded and unleaded gasoline.
It has not been determined whether a regulatory analysis will be required.
Status: A notice of proposed rulemaking was issued April 5, 1979.
Authority: Emergency Petroleum Allocation Act of 1973, (Pub. L. 93–159, as amended).
Contact: Maurice G. Boehl, (202) 254–7200.

Deregulation

1. Motor Gasoline Exemption

The DOE will decide whether to proceed with deregulation of motor gasoline.
A regulatory analysis or equivalent will be completed, and an Environmental Impact Statement has been published.
Status: A notice of proposed rulemaking has been issued and the exemption has been considered by the Federal Energy Regulatory Commission.
Authority: Emergency Petroleum Allocation Act of 1973, Pub. L 93–159, as amended.
Contact: William Caldwell, 202–254–8034.

2. Aviation Fuel Deregulation (ERA Dockets ERA–R–78–5 and ERA–R–78–6)

DOE has exempted kerojet and aviation gasoline from the Mandatory Petroleum Allocation and Price regulations.
Findings issued concurrently with the notice of proposed rulemaking were determined by ERA to satisfy the requirement for the preparation of a regulatory analysis for significant regulations which have a major economic impact.
Status: A final rule was submitted to Congress January 31, 1979. The exemption became effective February 26, 1979.
Authority: Emergency Petroleum Allocation Act of 1973, Pub. L. 93–159, as amended.
Contact: William Caldwell, 202–254–8034.

3. Deregulation of Butane and Natural Gasoline (ERA Docket ERA–R–79–14)

DOE has proposed a rule to exempt butane and natural gasoline from allocation and price controls.
A draft regulatory analysis has been completed.
Status: A notice of proposed rulemaking was issued on March 28, 1979.
Authority: Emergency Petroleum Allocation Act of 1973, Pub. L. 93–159, as amended.
Contact: Bob Reinstein, 202–632–5042.

4. SNG Feedstocks

DOE will consider whether to issue a proposal to exempt SNG feedstocks from allocation controls.
No decision has been made as to the need for a regulatory analysis.
Status: No notice concerning this regulation has yet been published.
Authority: Emergency Petroleum Allocation Act of 1973, Pub. L. 93–159, as amended.
Contact: Bob Reinstein, 202–632–5042.

5. Deregulation of propane (ERA Docket ERA–R–79–3)

DOE is considering whether to exempt propane from allocation and price controls.
A regulatory analysis will be completed.
Status: A notice of inquiry was issued January 31, 1979.
Authority: Emergency Petroleum Allocation Act of 1973; Pub. L. 93–159, as amended.
Contact: Bob Reinstein, 202–632–5042.

Emergency Preparedness

1. International Oil Allocation (ERA Docket ERA–R–78–7)

DOE has proposed regulations to implement the oil sharing provisions of the International Energy Program. Comments have been reviewed to determine the nature and scope of final standby rules on this subject.
A regulatory analysis is not required.
Status: A notice of proposed rulemaking has been issued.
Authority: Emergency Petroleum Allocation Act of 1973, Pub. L. 93–159, as amended by Section 251 of the Energy Policy and Conservation Act, (Pub. L. 94–163).
Contact: Josette Maxwell (202) 632–5133.

2. Contingency Gasoline Rationing Plan (ERA Docket ERA–R–78–14)

On March 1, 1979, the President transmitted a standby gasoline rationing plan to Congress for approval. This plan is to be implemented only in the event of a severe energy supply interruption. Congress has sixty days to review the proposal. If it is approved, the plan will be placed in standby status.
Status: The plan was submitted to Congress on March 1, 1979.
Legal authority: Energy Policy and Conservation Act of 1975 (Pub. L. 94–163).
Contact: Benton Massell (202) 632–6500.

3. Standby Crude Oil Pricing and Allocation Regulations (ERA Docket ERA–R–78–4)

DOE adopted changes to the crude oil pricing and allocation regulations on a standby basis, to be activated in the event of a significant supply interruption.
A regulatory analysis is not required.
Status: A final rule was issued January 9, 1979; the comment period was continued. Additional comments are being reviewed to determine if further changes are necessary.
Authority: Emergency Petroleum Allocation Act of 1973, Pub. L. 93–159, as amended.
Contact: Merle Easterling (202) 632–6500.

4. Standby Product Pricing and Allocation Regulations (ERA Docket ERA–R–78–15)

DOE adopted short-term changes to the product pricing and allocation regulations on a standby basis, to be activated in the event of a significant supply interruption.
A regulatory analysis is not required.
Status: A final rule was issued January 12, 1979; the comment period was continued. Additional comments are being reviewed to determine if further changes are necessary.
Authority: Emergency Petroleum Allocation Act of 1973, Pub. L. 93–159, as amended.
Contact: Gerald Emmer (202) 254–7200.

5. Standby Energy Conservation Plans (ERA Docket ERA–R–76–2)

On March 1, 1979 the President transmitted to Congress for approval three standby energy conservation plans entitled "Emergency Weekend Gasoline Sales Restrictions" (Plan No. 1; "Emergency Building Temperature Restrictions" (Plan No. 2) and "Emergency Advertising Lighting Restrictions" (Plan No. 3). Congress has sixty days to approve the plans. Those plans which are approved will be placed in standby status to be implemented only in the event of a severe energy supply interruption or to fulfill U.S. obligations under the international energy program.
Status: The plans were submitted to Congress on March 1, 1979.
Authority: Energy Policy and Conservation Act of 1975, Pub. L. 94–163.
Contact: Benton Massell (202) 632–6500.

6. Activation Order No. 1—Standby Petroleum Product Allocation Regulations

Lead Office: Economic Regulatory Administration (ERA).
DOE activated a limited portion of its Standby Petroleum Product Allocation Regulations to update the base period for motor gasoline. This action will be effective initially for three months (March, April and May 1979), and may be extended after the review of public comments. We also issued Guidelines to the Activation Order.
A regulatory analysis was not required.

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Status: The activation order was issued February 22, 1979, and the Guidelines March 19, 1979.

Authority: Emergency Petroleum Allocation Act of 1973, Pub. L. 93–159, as amended.

Contact: William Caldwell, (202) 254–8034.

7. Amendments to the Entitlements Program To Permit Purchase of SPR Crude Oil at Lower Tier Prices

DOE is considering amending the domestic crude oil allocation ("entitlements") program to permit purchase of crude oil for SPR at lower tier prices rather than at approximately the national average crude oil acquisition cost post-entitlements.

A regulatory analysis will be issued should such amendments be proposed for public comment.

Status: No notice concerning this regulation has been issued.

Authority: Emergency Petroleum Allocation Act of 1973, Pub. L. 93–159, as amended.

Energy Policy and Conservation Act of 1975, Pub. L. 94–163.

Contact: Josette L. Maxwell, (202) 632–5133.

8. Amendment to the Standby and Current Crude Oil Allocation and Refinery Yield Programs To Provide for Distribution of SPR Crude Oil

Lead Office: Economic Regulatory Administration (ERA)

DOE is considering possible amendments to both the Standby and current crude oil allocation programs to permit distribution of SPR crude oil should the Secretary determine use of SPR crude oil is required due to a supply interruption and that such SPR crude oil will not be sold competitively. DOE will present for congressional review a SPR distribution plan. Subsequently, ERA will issue any regulations necessary to implement the SPR Distribution Plan approved by Congress.

It has been tentatively concluded that no regulatory analysis is required.

Status: No notice concerning this regulation has been issued.

Authority: Emergency Petroleum Allocation Act of 1973, Pub. L. 93–159, as amended.

Energy Policy and Conservation Act of 1975, Pub. L. 94–163.

Contact: Josette L. Maxwell, (202) 632–5133.

9. Inclusion of Gasoline Retailers Within the State Set-Aside Program (ERA Docket ERA–R–79–15)

DOE has proposed to amend the petroleum allocation regulations (Special Rule No. 8 under Subpart A of Part 211) to permit a state to include gasoline retailers that are experiencing gasoline supply emergencies among the eligible recipients of gasoline from the State set-aside program during April and May, 1979. Comments regarding the possible extension of Special Rule No. 8 have also been requested.

A regulatory analysis is not required.

Status: A notice of proposed rulemaking was issued March 30, 1979.

Authority: Emergency Petroleum Allocation Act of 1973, (Pub. L. 93–159, as amended).

Contact: Stanley Vass, (202) 254–7477.

Enforcement

1. Revision of Remedial Order Regulations

DOE has revised previous Federal Energy Administration remedial order regulations to provide review of proposed orders by the DOE Office of Hearings and Appeals. The revision provides formal procedures for review of issues raised in each remedial order proceeding prior to the issuance of orders in final form.

A regulatory analysis is not required.

Status: A final rule was issued February 2, 1979 (44 FR 7922, February 7, 1979).

Authority: Department of Energy Organization Act, Pub. L. 95–91.

Contact: George Breznay, (202) 254–9661.

2. Procedural Regulations for Investigations

DOE has revised Part 205 of the DOE regulations to clarify the procedures for issuance of subpoenas during enforcement investigations and the requirements for conducting investigative interviews pursuant to subpoenas.

A regulatory analysis was not required.

Status: A final rule was issued April 13, 1979.

Authority: Emergency Petroleum Allocation Act of 1973, Pub. L. 93–159, as amended.

Contact: Jerry Weiner, (202) 632–5072.

[FR Doc. 79–16161 Filed 5–22–79; 8:45 am]

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federal register

Wednesday
May 23, 1979

Part V

Department of Health, Education, and Welfare

Office of Human Development Services

Youth Employment and Demonstration Projects Discretionary Grant Program; Availability of Funds

DEPARTMENT OF HEALTH, EDUCATION, AND WELFARE

Office of Human Development Services

[Program Announcement No. 17240-791]

Youth Employment and Demonstration Projects Discretionary Grant Program; Availability of Funds

AGENCY: Office of Human Development Services; DHEW.

SUBJECT: Announcement of Availability of Funds for Youth Participation and Community Services Job Development Demonstration Grants.

SUMMARY: The Youth Development Bureau within the Administration for Children, Youth and Families announces the availability of FY 1979 funds for the development and implementation of the Youth Participation and Community Services Job Development Demonstration Grants as authorized by the Youth Employment and Demonstration Projects Act of 1977, the Juvenile Justice and Delinquency Prevention Act of 1974 (as amended, 1977), and interagency agreements developed by the Department of Health, Education, and Welfare, Office of Human Development Services with the Department of Labor, Employment and Training Administration and the Department of Justice, Law Enforcement Assistance Administration. Applicant eligibility is limited to projects funded under the Runaway Youth Act (Title III of the Juvenile Justice Amendments of 1977) during FY 1978.

DATE: The closing date for receipt of preapplication materials is June 8, 1979. The closing date for receipt of final formal applications is July 30, 1979.

Scope of Program Announcement

This program announcement covers the youth employment demonstration grants to be funded jointly during 1979 by the Department of Labor, Employment Assistance Administration, and the Department of Justice, Law Enforcement Assistance Administration, and administered through interagency agreements authorizing transfer of funds and authority to the Youth Development Bureau within the Administration for Children, Youth and Families, Office of Human Development Services, Department of Health, Education, and Welfare.

A. Program Purpose

The purpose of the demonstration grants supported by the Youth Employment and Demonstration Projects Act of 1977 is to provide for innovative and experimental programs to test new approaches for dealing with the unemployment problems of youth and to enable eligible participants to prepare for, enhance their prospects for, or secure employment in occupations through which they may reasonably be expected to advance to productive working lives.

B. Program Goals and Objectives

The goal of the youth employment demonstration projects is to provide for the development and testing of new approaches for improving employment, training, and career development services for selected youth, with special emphasis on serving minority youth. The purpose of the Youth Participation and Community Services Job Development Demonstration Grants is to demonstrate the effects of the provision of direct employment and supportive services to youth; to improve the quality of youth work experience; to involve youth in planning and decision making in acitivities which foster personal growth and development; to promote program linkages between education and work activities; to expand the service capacity of community-based Runaway Youth Centers by utilizing youth as human service providers; and to develop specified programs of employment for youth at the local community level.

The primary objective of the two youth employment program models is to demonstrate innovative approaches for affecting youth employment at the local level. The program model focusing on youth participation will address the employment needs of young people residing in the community in which the program is located. The purpose of the Youth Participation Program Model is to demonstrate innovative methods for employing and training youth for participatory work roles and responsibilities in community-based projects or programs, and to provide supportive educational and career development services for youth.

The purpose of the Community Services Job Development Program Model is to provide an integrated, stabilized working and living environment for youth-at-risk; to demonstrate job development planning and programming techniques designed to establish linkages for youth with specified employment and training opportunities; and to provide supplementary coordinated educational and supportive services designed to increase employability, career development, and self-sufficiency of youth participants.

The Community Services Job Development Program Model will be targeted specifically for homeless youth and other low income disadvantaged youth-at-risk. For the purpose of these demonstration grants, youth-at-risk are defined as persons between the ages of fourteen and the age of majority who have been identified as alienated; low achievers; potential drop-outs or push-outs; youth with dependent children; youth with histories of incarceration, delinquency, or status offenses such as truancy, promiscuity, drug, alcohol, or substance abuse; familial or social adjustment problems; minority youth, and youth served by runaway youth centers with limited prospects for sustaining full time career employment.

The two program models outlined above can be operationalized as separate and distinct program components, or they may be operationalized and implemented as complementary program components within a single runaway youth project. All applicants must indicate the specific program model which their proposal intends to address.

C. Eligible Applicants

Applicants for these grants are limited to those runaway youth projects which received funding from the Youth Development Bureau under the Runaway Youth Act during fiscal year 1978, and which provide direct services to runaway or otherwise homeless youth. Umbrella agencies or service components within umbrella agencies which do not provide direct services to youth are not eligible for funding.

D. Available Funding

Of the total appropriation of $3,000,000 available in fiscal year 1979 for Youth Participation Community Services Job Development Grants, the Youth Development Bureau expects to award up to $2,000,000 for new demonstration projects. It is expected that a maximum of twenty grants will be awarded pursuant to this program announcement in amounts ranging from $100,000 to $200,000 with the average grant award expected to be $125,000. The specific level of funding to be awarded to each project will be dependent upon the range and types of services to be provided under the proposed project, the number of youth served by the proposed project, and the availability of existing services to address the youth needs identified. A new grant is the award made in support of an approved application for Federal financial assistance as described in this program announcement. This grant will sustain the Federal share of the budget for a grant period of one year. All grants will be awarded on a competitive basis.

E. Grantee Share of the Project

Grantees will be required to contribute a ten (10) percent cash match for the demonstration grants. However, approval to substitute the cash requirement for an in-kind match may be obtained by submitting a written request, and shall be awarded based upon (1) demonstrated financial need, and (2) geographic distribution of projects. In-kind matches must be project related and allowable under the Department's applicable cost principles published in 45 CFR Part 74 (See 45 FR 26274, September 19, 1973).

F. The Application Process

(1) *Availability of Application Forms.* Projects funded under the Runaway Youth Act during fiscal year 1978 wishing to apply under this grants program must submit a preapplication for Federal Assistance on standard forms provided for this purpose. Application kits containing these forms and supplemental descriptive project information are available from:

Youth Development Bureau, Administration for Children, Youth and Families, Room 3270, DHEW North Building, 330 Independence Avenue, SW, Washington, D.C. 20201; Attention: 17240-791; Telephone: (202) 245-2870.

(2) *Application Submission.* One signed original and two copies of the grant application, including all cover letters and attachments, must be submitted to the Grants Management Branch, Office of Human Development Services in the appropriate HEW Regional Office. Additionally, one copy of the grant application must be submitted concurrently to the Youth Development Bureau, ACYF/DHEW in Washington, D.C. Addresses will be indicated in the application instructions.

As part of the project title (Application Form 424-101 Item 7) the application must clearly indicate whether the application is submitted as (a) a Youth Participation Progam Model; (b) a Community Services Job Development Program Model; or (c) a Dual Component Program Model, comprised both of a youth participation component and a community services job development component. Applications lacking such a designation will be categorized by the Youth Development Bureau and will compete accordingly.

(3) *A-95 Clearinghouse Notice.* In compliance with the Department of Health, Education, and Welfare's implementation of Office of Management and Budget Circular No. A-95 Revised (interim procedures at 41 FR 3160, July 29, 1976), applicants who request grant support must, prior to submission of an application, notify both the State and Area-wide A-95 Clearinghouse of the intent to apply for Federal assistance. If the application is for a statewide project which does not affect areawide or local planning and programs, the notification need be sent only to the State Clearinghouse. Some State and Area Clearinghouses provide their own forms on which such information is to be submitted. Applicants should contact the appropriate State Clearinghouse (listed at 42 FR 2210, January 10, 1977) for information on how they can meet the A-95 requirements.

(4) *Application Consideration.* (a) *Preapplication Process.* Preapplications for proposed Youth Participation and Community Services Job Development Demonstration Projects are solicited for preliminary review.

The program narrative statement (Part IV of the Preapplication for Federal Assistance (FMC 74-7) must describe the basic principles for youth participation and job development upon which the project will be based. It should outline the overall project design and the specific employment and educational components which shall be included. It should describe the need, objectives, and methods of accomplishment intended for the proposed project; it should explain how educational and employment linkages will be developed, utilized, and maintained; and it should describe the outcomes these arrangements will provide for young people and for the sponsoring program or institution. This narrative statement shall be viewed as a preliminary concept paper on the proposed project, and shall be no longer than five single spaced pages.

Preapplication materials, including the program narrative, will be reviewed according to criteria designed to assess the capability of the program to achieve specified project objectives. Weightings for the criteria vary and are described in the supplementary program information included in the preapplication kit. The preliminary review used to determine eligibility of program participants shall focus on the following criteria:

(1) Project has identified specific work roles with career development potential, either within the project or within the community, and has developed supportive developmental, educational, and/or training components related to these work roles and career development opportunities;

(2) Project has established cooperative inter-relationships with agencies or organizations to provide developmental employment or educational opportunities for youth, and has initiated agreements with local educational institutions or programs to provide academic credit for learning experiences occurring through participation in the project;

(3) Project has identified specific community services projects designed to expand or improve the delivery of human services within the community;

(4) Project has established procedures to involve youth in planning and decision-making activities relative to initial program design and to ongoing program procedures;

(5) Project has documented the need for employment related services for the specific subpopulations of youth-at-risk it intends to serve;

(6) Project has documented evidence of community support for the employment and training initiatives outlined in the concept paper.

(7) Project has documented evidence of services provided over the previous grant period.

Upon review of preapplication materials, applicants determined eligible shall be invited to develop expanded project proposals and to submit formal applications. Notification of eligibility shall enable applicants to compete in the final review and selection process. No more than thirty eligible applicants shall be identified to compete in the final review, and invited to participate in pre-award program development activities.

(b) *Pre-Award Program Development.* The pre-award program development process will provide applicants with the opportunity to develop and structure formal project proposals in accordance with guidelines and technical assistance provided by the Youth Development Bureau. Upon completion of the initial review of preapplication materials, all applicants determined eligible will be required to attend a pre-award program development conference convened in Washington, D.C. The conference shall consist of a series of briefing sessions on the purpose of the demonstrations, the evaluation criteria, and requirements for competing for grant awards. The conference shall include work sessions on program design and development focusing on program objectives, the principles of youth participation and community services job development,

and needs assessment for program

conditions of the grant award, the

closing date at 5:30 p.m. will be

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and needs assessment for program planning. All eligible applicants will be required to participate in these technical assistance workshops. Work sessions will concentrate on the development of project-specific work plans for the design and implementation of specialized program components, and on the identification of specific training and technical assistance activities required to improve the capacity of project staff to plan and deliver employment related services to youth.

(c) *Competitive Review and Selection.* In order to be considered for a Youth Participation Community Services Job Development Grant, all applications must be submitted on the forms and in the manner required by ACYF as described in this program announcement. The application shall be executed by an individual authorized to act for the applicant agency and to assume the obligations imposed by the terms and conditions of the grant award. The Commissioner, ACYF, determines the final action to be taken with respect to each grant application for this program. Applications which do not conform to this announcement or are not complete will not be accepted and applicants will be notified accordingly. All accepted grant applications shall be subjected to a competitive review and evaluation conducted by a panel of qualified persons independent of the Youth Development Bureau. The results of this competitive review supplement and assist the Commissioner's consideration of competing applications. The Commissioner's consideration also takes into account comments from program and grants management staff of the HEW Regional Offices, and the Central Office ACYF staff. Comments on the applications may also be requested from appropriate specialists and consultants outside of Government. After the Commissioner has reached a decision either to fund a competing grant application or to disapprove it, the applicant will be notified in writing of that decision.

(d) *Grant Awards.* The Commissioner, ACYF, shall make grant awards consistant with the purposes of the Youth Employment and Demonstration Projects Act, the Juvenile Justice and Delinquency Prevention Act, and the Program Announcement, within the limits of Federal funds available. The official grant award document is the Notice of Grant Awarded. Successful applicants shall be notified through the issuance of a Notice of Grant Awarded which sets forth in writing to the grantee the amount of funds granted, the purpose of the grant, the terms and conditions of the grant award, the effective date of the award, the budget period for which support is given, the total grantee share expected, if any, and the total project period for which support is contemplated.

G. Criteria for Review and Evaluation of Grant Applications

Competing grant applications will be reviewed and evaluated against the following criteria:

(1) The quality of the application, especially the description of the need for a demonstration project to achieve one or more of the objectives of this grant program, and the unavailability of other services to adequately address this need; (35 Points)

(2) The description of the project as a whole, especially the articulation of the capacity of the project design and procedures to achieve the anticipated results; (25 Points)

(3) The potential replicability of the project in terms of suitability for use as a model for other communities with similar youth populations, and similar needs and goals for youth employment; (10 Points)

(4) The capability and qualifications of proposed staff, including youth involved in planning and program development, and the adequacy of facilities and resources of the applicant organization; (10 Points)

(5) A reasonable proposed budget and a justification of project costs, and the ability of the applicant to complete the project within the proposed timeframes; (5 Points)

(6) The ability of the applicant to provide assurances for cooperation with the Youth Development Bureau with respect to full participation in pre- and post-award technical assistance activities related to program planning, design, and implementation, as well as in workshops and ongoing data collection activities related to evaluation and analysis of the impact of the youth employment components; (5 Points)

(7) Documentation of community commitment for the proposed demonstration and of all necessary formal agreements with cooperating agencies. (10 Points)

H. Closing Date for Receipt of Applications

The closing date for receipt of preapplication materials is June 8, 1979. The pre-award Program Development Conference is scheduled for July 9, 1979. The closing date for receipt of final formal applications is July 30, 1979. Application materials received after the closing date at 5:30 p.m. will be considered ineligible, and will not be reviewed and evaluated. An application sent by mail will be considered to be received on time by the HEW Regional Office if: (1) The application was sent by registered or certified mail not later than July 30, 1979, as evidenced by the U.S. Postal Service postmark on the original receipt from the U.S. Postal Service; (2) an application delivered by hand must be delivered to the appropriate HEW Regional Office before close of business on July 30, 1979. As the Regional Offices have different hours of operation, applicants may wish to contact the Regional Office for the time of day that the office closes. The competitive review process is scheduled to be completed and grant awards made in August, 1979.

(Catalog of Federal Domestic Assistance Program Number 17.240, Youth Employment and Training.)

Dated: May 17, 1979.

Henlay A. Foster,

Acting Commissioner for Children, Youth and Families.

Approved: May 18, 1979.

Arabella Martinez,

Assistant Secretary for Humon Development Services.

[FR Doc. 79-16173 Filed 5-22-79; 8:45 am]

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AGENCY PUBLICATION ON ASSIGNED DAYS OF THE WEEK

The following agencies have agreed to publish all documents on two assigned days of the week (Monday/Thursday or Tuesday/Friday). This is a voluntary program. (See OFR NOTICE FR 32914, August 6, 1976.)

Monday	Tuesday	Wednesday	Thursday	Friday
DOT/COAST GUARD	USDA/ASCS		DOT/COAST GUARD	USDA/ASCS
DOT/NHTSA	USDA/APHIS		DOT/NHTSA	USDA/APHIS
DOT/FAA	USDA/FNS		DOT/FAA	USDA/FNS
DOT/OHMO	USDA/FSQS		DOT/OHMO	USDA/FSQS
DOT/OPSO	USDA/REA		DOT/OPSO	USDA/REA
CSA	MSPB*/OPM*		CSA	MSPB*/OPM*
	LABOR			LABOR
	HEW/FDA			HEW/FDA

Documents normally scheduled for publication on a day that will be a Federal holiday will be published the next work day following the holiday.

Comments on this program are still invited. Comments should be submitted to the Day-of-the-Week Program Coordinator, Office of the Federal Register, National Archives and Records Service, General Services Administration, Washington, D.C. 20408

*NOTE: As of January 1, 1979, the Merit Systems Protection Board (MSPB) and the Office of Personnel Management (OPM) will publish on the Tuesday/Friday schedule. (MSPB and OPM are successor agencies to the Civil Service Commission.)

REMINDERS

The items in this list were editorially compiled as an aid to Federal Register users. Inclusion or exclusion from this list has no legal significance. Since this list is intended as a reminder, it does not include effective dates that occur within 14 days of publication.

Rules Going Into Effect Today

INTERIOR DEPARTMENT

Fish and Wildlife Service—

24248 4–24–79 / Determination that Rhododendron chamaniі is an endangered species

INTERNATIONAL TRADE COMMISSION

23823 4–23–79 / conflict of interest provisions

Next Week's Deadlines for Comments On Proposed Rules

AGRICULTURE DEPARTMENT

Agricultural Marketing Service—

25614 5–1–79 / Livestock; grades and standards for feeder cattle; comments by 6–1–79

27426 5–10–79 / Milk in Indiana Marketing Area; comments by 5–30–79

Agricultural Stabilization and Conservation Service—

18978 3–30–79 / Dairy indemnity payment program (1978–81); comments by 5–29–79

Animal and Plant Health Inspection Service—

18980 3–30–79 / Smuggled birds; quarantine and release; comments by 5–29–79

Commodity Credit Corporation—

24854 4–27–79 / 1979 and subsequent crops peanut warehouse storage loans and handler operations; comments by 5–29–79

Federal Crop Insurance Corporation—

27107 5–9–79 / Raisin crop insurance; comments by 5–30–79

Food Safety and Quality Service—

56245 12–1–78 / Grapefruit juice, standards for grades; comment period extended to 6–1–79

[Originally published at 43 FR 28511, 6–3–78]

Rural Electrification Administration—

18979 3–30–79 / Specification for rural distribution transformers (overhead type); comments by 5–29–79

CIVIL AERONAUTICS BOARD

19699 3–29–79 / Hawaii; tariffs of air carriers; comments by 5–29–79

28626 5–17–79 / Mainland-Hawaii markets; comments 5–29–79

COMMERCE DEPARTMENT

Maritime Administration—

18996 3–30–79 / ODS rules for bulk cargo vessels engaged in worldwide service; comments by 5–29–79

National Oceanic and Atmospheric Administration—

21681 4–11–79 / Gulf of Mexico Fishery Management Council; comments by 5–27–79

16026 3–16–79 / Standardization of fishing products; comments by 6–1–79

CONSUMER PRODUCT SAFETY COMMISSION

28828 5–17–79 / Hair Dryers containing asbestos; comments by 6–1–79

ENERGY DEPARTMENT

24800 4–26–79 / Federal energy management and planning programs; comments by 5–29–79

Economic Regulatory Administration—

26113 5–4–79 / Crude oil buy/sell program, emergency allocation; comments by 5–31–79

18856 3–29–79 / Financial assistance programs for State utility regulatory commissions and eligible nonregulated electric utilities; comments by 5–29–79

18677 3–29–79 / Higher prices for tertiary incentive crude oil; comments by 5–30–79

Federal Energy Regulatory Commission—

24580 4–26–79 / Exemption of small conduit hydroelectric facilities from Part I of Federal Power Act; comments by 6–1–79

28683 5–16–79 / Interchange energy transmission rates for certain emergencies; limitations on percentage adders in electric rates; reply comments extended to 6–1–79

[Originally published at 44 FR 21683, 21686, Apr. 4, 1979]

10995 2–26–79 / Federal motor vehicle safety standards; fields of

17207 3–21–79 / Department of Defense Wage Committee,

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ENVIRONMENTAL PROTECTION AGENCY

25473 5–1–79 / Air emissions by General Housewares Corp., Wagner Manufacturing Division; proposed approval of administrative order issued by Ohio Environmental Protection Agency; comments by 5–31–79

19212 4–2–79 / Air quality control regions, criteria, and control techniques; attainment status designations; comments by 6–1–79

25883 5–3–79 / Control of Nitrous Oxides from Motor Vehicles; Receipt of Application for Extension of Emmission Standard; Guidelines for application; comments by 6–1–79

22960 4–17–79 / Noise emission standards for transportation equipment, interstate rail carriers; comments by 6–1–79

25471 5–1–79 / Virginia State Implementation Plan regarding Hampton Roads Energy Co.; comments by 5–31–79

FEDERAL COMMUNICATIONS COMMISSION

18537 3–28–79 / Exemptions from provisions of the Shipping Act, 1916, and the Intercoastal Shipping Act, 1933; comments by 5–28–79

21831 4–12–79 / Exemption from watch requirements for Class III–B public coast stations; reply comments 5–29–79

21044 4–9–79 / FM broadcast station in Ava, Ill.; proposed changes in Table of Assignment; comments by 6–1–79

21045 4–9–79 / FM broadcast station in Beloit, Kans.; proposed changes in table of assignments; comments by 6–1–79

21046 4–9–76 / FM broadcast station in California, Missouri; proposed changes in table of assignments; comments by 6–1–79

21047 4–9–79 / FM broadcast station in Palmyra, Mo.; proposed changes in table of assignments; comments by 6–1–79

3999 1–19–79 / Industrial, scientific, and medical equipment; reply comments period extended to 6–1–79

[Originally published at 43 FR 46326, Oct. 6, 1978]

3661 1–17–79 / Inquiry into television receiver performance standards; comments by 6–1–79

12221 3–6–79 / Public utility distribution automation systems; use of radio; reply comments by 5–30–79 (See also 44 FR 17761, Mar. 23, 1979)

20465 4–5–79 / Rebroadcast of CB and Amateur transmissions of Emergency Information; comments by 5–30–79

21048 4–9–79 / Television broadcast station in Dillingham, Alaska; proposed changes in table of assignments; comments by 6–1–79

28028–
28032 5–14–79 / Television broadcast stations in Georgia, Virginia, and Wisconsin changes in table of assignments (3 documents); comments by 6–2–79

21050 4–9–49 / Television broadcast station in San Jose, Calif.; proposed changes in table of assignments; comments by 6–1–79

25886 5–3–79 / Use of radio in Public Utility Distribution Automation Systems; comments by 5–30–79

GENERAL SERVICES ADMINISTRATION

National Archives and Records Service—

18495 3–28–79 / Public use of Archives and FRC records and public use of donated historical materials; comments by 5–29–79

18492 3–28–79 / Records management, declassification of and public access to national security information; comments by 5–29–79

Public Buildings Service—

18705 3–29–79 / Federal space management; comments by 5–29–79

HEALTH, EDUCATION, AND WELFARE DEPARTMENT

Food and Drug Administration—

24866 4–27–79 / Chlortetracycline soluble powder to animal use; comments by 5–29–79

18246 3–27–79 / Dextrin; GRAS status as direct and indirect human food ingredient; comments by 5–29–79

22110 4–13–79 / Drug producers registration and listening in commercial distribution; clarification; notice of availability comments by 5–29–79

18242 3–27–79 / Formic acid, sodium formate, and ethyl formate; GRAS status as direct and indirect human food ingredient; comments by 5–29–79

Social Security Administration—

18238 3–27–79 / Pass along of Federal Supplemental Security Income Benefit cost-of-living increases to recipients of State supplementary payments; limitations on State costs for hold-harmless States; comments by 5–29–79

INTERIOR DEPARTMENT

Indian Affairs Bureau—

24584 4–26–79 / Leasing of tribal lands for mining; comments by 5–29–79

INTERSTATE COMMERCE COMMISSION

18711 3–29–79 / Rail carriers: commodities, miscellaneous; general exemption authority; comments by 5–29–79

25457 5–1–79 / Revisions to preliminary report of number of employees of Class I railroads and monthly report of employees, service and compensation, Forms A and B; comments by 5–31–79

25653 5–2–79 / Summary grant procedures (finance); comments by 6–1–79

JUSTICE DEPARTMENT

Drug Enforcement Administration—

24584 4–26–79 / Narcotic substance calculations; comments by 5–29–79

Immigration and Naturalization Service—

18979 3–30–79 / Nonresident alien border crossing cards; comments by 5–29–79

MANAGEMENT AND BUDGET OFFICE

Federal Procurement Policy Office—

19214 4–2–79 / Availability of draft of Federal Acquisition Regulation; comments by 5–30–79

PERSONNEL MANAGEMENT OFFICE

18927 3–30–79 / Appointment, reassignment, transfer and development in the Senior Executive Service; comments by 5–29–79

SECURITIES AND EXCHANGE COMMISSION

25470 5–1–79 / Suspension of duty to file reports upon termination of registration; comments by 5–30–79

STATE DEPARTMENT

18699 3–29–79 / Passports; denial to minors and in case of criminal court order; comments by 5–29–79

TRANSPORTATION DEPARTMENT

Coast Guard—

24586 4–26–79 / Buffalo Harbor, N.Y., anchorage grounds; comments by 5–29–79

22686 4–16–79 / Navigation safety provisions; comments by 6–1–79

22476 4–16–79 / Notification of marine casualties; comments by 6–1–79

Federal Aviation Administration—

12685 3–8–79 / Rotorcraft regulatory review program; comments by 5–31–79

Materials Transportation Bureau—

7988 2–8–79 / Transportation of hazardous waste materials; comments by 6–1–79

National Highway Traffic Safety Administration—

10995 2–28–79 / Federal motor vehicle safety standards; fields of direct view, rearview mirror systems; comments by 5–28–79

58843 12–18–78 / Modification of design specifications for anthropomsophic test dummies; comments by 6–1–79

TREASURY DEPARTMENT

Internal Revenue Service—

18700 3–29–79 / Excise taxes on excess contributions to plans covering self-employed individuals; comments by 5–29–79

18992 3–30–79 / Income tax; income of mutual or cooperative telephone companies; comments by 5–29–79

WAGE AND PRICE STABILITY COUNCIL

23776 4–20–79 / Modification of price standard and adoption of procedural rules; comments by 5–31–79

Next Week's Meetings

AGING, FEDERAL COUNCIL

28110 5–14–79 / Washington, D.C. (open), 5–31 and 6–1–79

AGRICULTURE DEPARTMENT

Forest Service—

26958 5–8–79 / Fremont National Forest Grazing Advisory Board, Lakeview, Ore. (open), 5–31–79

24895 4–27–79 / National Forest System Advisory Committee, Missoula, Mont. (open), 5–29 through 5–31–79

ARTS AND HUMANITIES NATIONAL FOUNDATION

26815 5–7–79 / Humanities Panel, Washington, D.C. (closed), 5–31–79

28736 5–16–79 / Theatre Advisory Panel, Washington, D.C., (partially open), 6–2–79

CIVIL RIGHTS COMMISSION

28394 5–15–79 / California Advisory Committee, San Francisco, Calif. (open), 6–1–79

26960 5–8–79 / Connecticut Advisory Commission, Meriden, Conn. (open), 5–31–79

26138 5–4–79 / Minnesota Advisory Committee, St. Paul, Minn. (open), 5–29–79

27469 5–10–79 / Ohio Advisory Committee, Cincinnati, Ohio (open), 6–2–79

28034 5–14–79 / Virginia Advisory Commission, Richmond, Va. (open), 5–29–79

COMMERCE DEPARTMENT

National Oceanic and Atmospheric Administration—

27232 5–9–79 / Gulf of Mexico and South Atlantic Fishery Management Council's Coral Advisory Subpanels, Tampa, Fla. (open), 5–31–79

25895 5–3–79 / Sea Grant Review Panel, Rockville, Md. (open, 5–30 and 5–31–79

Office of the Secretary—

26780 5–7–79 / Commerce Technical Advisory Board, Minneapolis, Minn. (open), 5–31 and 6–1–79

DEFENSE DEPARTMENT

Air Force Department—

25659 5–2–79 / USAF Scientific Advisory Board, Ad Hoc Committee on Scientific and Engineering Manpower, Washington, D.C. (closed), 5–30 and 5–31–79

Army Department—

26961 5–8–79 / Armed Forces Epidemiological Board, Washington, D.C. (open), 5–31 thru 6–1–79

25264 4–30–79 / Defense Intelligence Agency Advisory Committee, CINCPAC, Hawaii (closed), 5–30 and 5–31–79

28036 5–14–79 / Military Personnel Property Symposium, Alexandria, Va. (open), 5–31–79

Office of the Secretary—

17207 3–21–79 / Department of Defense Wage Committee, Alexandria, Va. (closed), 5–29–79

29137 5–18–79 / Task Force on Evaluation of Audit Inspection and Investigative Components of the Department of Defense, Washington, D.C. (open), 5–31–79

EMPLOYMENT AND UNEMPLOYMENT STATISTICS, NATIONAL COMMISSION

24963 4–27–79 / Washington, D.C. (open), 5–31 and 6–1–79

ENERGY DEPARTMENT

Office of the Secretary—

27233 5–9–79 / Committee on U.S. Petroleum Inventories and Storage Capacities Coordinating Subcommittee, Houston, Tex. (open), 5–30–79

26707 5–16–79 / Committee on Materials and Manpower Requirements, Houston, Tex. (open), 5–31 and 6–1–79

ENVIRONMENTAL PROTECTION AGENCY

24888 4–27–79 / Air pollution; delayed compliance orders; Alabama; comments by 5–29–79

24888 4–27–79 / Air pollution; delayed compliance orders; Virginia; comments by 5–29–79

27263 5–9–79 / Environmental Measurements Committee, Washington, D.C. (open), 5–29–79

FEDERAL PREVAILING RATE ADVISORY COMMITTEE

22812 4–17–79 / Wash., D.C. (open), 5–31–79

HEALTH, EDUCATION, AND WELFARE DEPARTMENT

Alcohol, Drug Abuse, and Mental Health Administration—

23123 4–18–79 / Board of Scientific Counselors (closed) 5–31 and 6–1–79

Education Office—

28728 5–16–79 / Indian Education National Advisory Council, Reno, Nev. (open), 6–1 and 6–2–79

Food and Drug Administration—

22815 4–17–79 / Anti-Infective Drugs Subcommittee of the Anti-Infective and Topical Drugs Advisory Committee, Rockville, Md. (open), 5–31 and 6–1–79

22816 4–17–79 / Fertility and Maternal Health Drugs Advisory Committee, Rockville, Md. (open), 5–31 and 6–1–79

26416 5–15–79 / Gastroenterology. Urology Devices Section of the General Medical Devices Panel, Washington, D.C. (open), 6–1–79

22815 4–17–79 / Gastrointestinal Drugs Advisory Committee; Rockville, Md (open), 5–31 and 6–1–79

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28588 5–15–79 / Labor/MSHA—Procedures and requirements for applying for, receiving, and administering State grants; effective 6–14–79

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[Correction to document appearing at 44 FR 28012, May 14, 1979]

28758 5–16–79 / HEW/OE—Financial assistance for consumers' education projects; comments by 7–2–79

28012 5–14–79 / HEW/OE—Provisions for consolidated grant applications for insular areas; comments by 7–13–79

28238 5–14–79 / HEW/OE—Revision of provisions for grants to state educational agencies for educational improvement, resources, and support; comments by 7–13–79

28184 5–14–79 / HEW-OE—Revision of regulations for program for migratory children comments by 7–13–79

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28600 5–15–79 / HUD-CP&D—Targeted Jobs Demonstration Program; availability of funds; letters of intent by 6–25–79; apply by 10–10–79

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28726 5–16–79 / HEW/ADAMHA—Alcohol Psychosocial Research Review Committee, Bethesda, Md. (partially open), 6–13 through 6–15–79

28726 5–16–79 / HEW/ADAMHA—Alcohol Training Review Committee, Rockville, Md. (partially open), 6–14 6–15–79

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28726 5–16–79 / HEW/ADAMHA—Psychopathology and Clinical Biology Research Review Committee, Washington, D.C. (partially open), 6–11 through 6–13–79

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28010 5–14–79 / HEW/PHS—NCI grants for research and demonstration centers; withdrawal of notice of proposed rulemaking

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Highlights

30067 **National Hispanic Heritage Week** Presidential proclamation

30069 **Refugee Assistance** Presidential determination

30247 **Water and Related Land Resources** WRC proposes to publish manual of procedures for evaluation of National Economic Development benefits and costs in water resources planning; comments by 7-27-79, meetings July 1979 (Part II of this issue) 030194

30194 **Water and Related Land Resources** WRC proposes to revise and modify Principles and Standards for Planning Water and Related Land Resources; comments by 7-29-79 (Part II of this issue)

30288 **Water Resources Plans** DOD/ Engineers proposes to establish evaluation procedures for projected employment; comments by 6-22-79 (Part V of this issue)

30306 **Radioactive Contamination From Specified Foreign Nuclear Detonations** · EPA publishes a memorandum of understanding among AF, DOE, EPA, FAA, FDA, NOAA, and NRC (Part VII of this issue)

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Highlights

30260 **Housing and Community Development** HUD/Secy amends rules governing environmental review procedures undertaken by applicants for funds under Community Development Block Grant Program; effective 6–25–79 (Part III of this issue)

30278 **Small Hydroelectric Power Projects** DOE proposes implementation of loans for feasibility studies and related licensing; comments by 6–22–79, hearings 6–25, 6–28, and 7–2–79, requests to speak by 6–11–79 (Part IV of this issue)

30150 **Mandatory Oil Import Program** DOE/ERA issues April 1979 oil import allocations and licenses

30095 **Minority Business Enterprises** Interior/Secy publishes temporary rules implementing program to increase contracting participation

30292 **Fishermen's Contingency Fund** Commerce/NOAA proposes to establish fund which pays for property or economic loss suffered by commercial fishermen resulting from oil and gas exploration, development, and production on the Outer Continental Shelf; comments by 6–27–79 (Part VI of this issue)

30080 **Air Taxi Operators** CAB increases size of aircraft permitted for use by air taxi operators; adopted and effective 5–17–79

30104 **Air Carrier Certificates** CAB proposes program for gradual elimination of operating market restrictions for domestic flights; comments by 6–22–79, reply comments by 7–9–79

30080 **Commuter Airlines** CAB issues rules regarding smoking on certain commuter airlines; effective 6–22–79

30108 **Domestic Passenger Fare** CAB proposes to modify policies regarding pricing and fare structure; comments by 6–25–79

30190 **Sunshine Act Meetings**

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30194 **Part II, WRC**
30260 **Part III, HUD/Secy**
30278 **Part IV, DOE**
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Federal Register
Vol. 44, No. 102
Thursday, May 24, 1979

Presidential Documents

Title 3—

The President

Proclamation 4662 of May 22, 1979

National Hispanic Heritage Week, 1979

By the President of the United States of America

A Proclamation

From the earliest days of our Nation's history, Hispanics have played a central role in our country's development. First as explorers, then as settlers, and today as leaders in all segments of society, men and women of Hispanic ancestry have contributed greatly to our national heritage.

As a nation, we have not always properly appreciated these contributions. Too often, Hispanics have been the victim of stereotypes and prejudice. Even today, Hispanics endure a disproportionately high unemployment rate. As a nation, we must reaffirm our commitment to eliminate these residues of prejudice and bigotry.

Our Hispanic American communities continue to grow with our Nation. They share with our Nation a deep pride in their language and culture, and a sense of justice and compassion which nurtures our democratic system and keeps it progressing. It is important that we recognize these singular benefits and encourage their perpetuation.

This country must continue to provide its many ethnic groups with the opportunity to contribute their ideas, their experience, and their energies to the betterment of our society. We must be receptive to the richness of diverse cultures, but we also must work to assure that all Americans benefit in turn from the resulting improvements. With the assistance of our Hispanic citizens and through our own continued commitment, these goals will be achieved.

In 1968, our government formally acknowledged the value of our Hispanic heritage when Congress by joint resolution (82 Stat. 848) asked that the President issue an annual proclamation designating the week including September 15 and 16 as National Hispanic Heritage Week.

NOW, THEREFORE, I, JIMMY CARTER, President of the United States of America, do hereby proclaim the week beginning Monday, September 10, 1979, as National Hispanic Heritage Week. I ask that all Americans reflect on the Hispanic heritage of our Nation and on the need to assure that all citizens share in the prosperity and abundance of our great country.

IN WITNESS WHEREOF, I have hereunto set my hand this twenty-second day of May, in the year of our Lord nineteen hundred seventy-nine, and of the Independence of the United States of America the two hundred and third.

Jimmy Carter

[FR Doc. 79-16449
Filed 5-22-79; 4:00 pm]
Billing code 3195-01-M

V 4 4 / 1 0 2

Presidential Documents

Presidential Determination No. 79–9 of May 3, 1979

Determination Pursuant to Section 2(c)(a) of the Migration and Refugee Assistance Act of 1962, as Amended, (the "Act") Authorizing the Use of $1,875,000 of Funds Made Available From the United States Emergency Refugee and Migration Assistance Fund

Memorandum for the Secretary of State

In order to meet emergency financial requirements related to the continued processing and movement of refugees from Indochina and Eastern Europe, including the Soviet Union, to the United States, carried out by the Intergovernmental Committee for European Migration and certain private voluntary resettlement agencies, I hereby determine, pursuant to Section 2(c)(1) of the Act, that it is important to the national interest that up to $1,875,000 from the United States Emergency Refugee and Migration Assistance Fund be made available for a grant to the Intergovernmental Committee for European Migration and such private voluntary resettlement agencies through the Department of State toward these processing and transportation expenses.

The Secretary of State is requested to inform the appropriate committees of the Congress of this Determination and the obligation of funds under this authority.

The Determination shall be published in the **Federal Register.**

Jimmy Carter

THE WHITE HOUSE,
Washington, May 3, 1979.

[FR Doc. 79–16489
Filed 5–22–79; 4:11 pm]
Billing code 3195–01–M

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Rules and Regulations

Federal Register
Vol. 44, No. 102
Thursday, May 24, 1979

This section of the FEDERAL REGISTER contains regulatory documents having general applicability and legal effect, most of which are keyed to and codified in the Code of Federal Regulations, which is published under 50 titles pursuant to 44 U.S.C. 1510.
The Code of Federal Regulations is sold by the Superintendent of Documents. Prices of new books are listed in the first FEDERAL REGISTER issue of each month.

DEPARTMENT OF AGRICULTURE

Agricultural Marketing Service

7 CFR Part 908

[Valencia Orange Regulation 613]

Valencia Oranges Grown in Arizona and Designated Part of California; Limitation of Handling

AGENCY: Agricultural Marketing Service, USDA.

ACTION: Final rule.

SUMMARY: This regulation establishes the quantity of fresh California-Arizona Valencia oranges that may be shipped to market during the period May 25–31, 1979. Such action is needed to provide for orderly marketing of fresh Valencia oranges for this period due to the marketing situation confronting the orange industry.

EFFECTIVE DATE: May 25, 1979.

FOR FURTHER INFORMATION CONTACT: Malvin E. McGaha, 202–447–5975.

SUPPLEMENTARY INFORMATION: *Findings.* This regulation is issued under the marketing agreement, as amended, and Order No. 908, as amended (7 CFR Part 908), regulating the handling of Valencia oranges grown in Arizona and designated part of California. The agreement and order are effective under the Agricultural Marketing Agreement Act of 1937, as amended (7 U.S.C. 601–674). The action is based upon the recommendations and information submitted by the Valencia Orange Administrative Committee and upon other available information. It is hereby found that the action will tend to effectuate the declared policy of the act.

This regulation has not been determined significant under the USDA criteria for implementing Executive Order 12044.

The committee met on May 22, 1979, to consider supply and market conditions and other factors affecting the need for regulation and recommended a quantity of Valencia oranges deemed advisable to be handled during the specified week. The committee reports the demand for Valencia oranges is good.

It is further found that it is impracticable and contrary to the public interest to give preliminary notice, engage in public rulemaking, and postpone the effective date until 30 days after publication in the **Federal Register** (5 U.S.C. 553), because of insufficient time between the date when information became available upon which this regulation is based and the effective date necessary to effectuate the declared policy of the act. Interested persons were given an opportunity to submit information and views on the regulation at an open meeting. It is necessary to effectuate the declared purposes of the act to make these regulatory provisions effective as specified, and handlers have been apprised of such provisions and the effective time.

§ 908.913 Valencia Orange Regulation 613.

Order. (a) The quantities of Valencia oranges grown in Arizona and California which may be handled during the period May 25, 1979, through May 31, 1979, are established as follows:

(1) District 1: 442,000 cartons;

(2) District 2: 308,000 cartons;

(3) District 3: Unlimited.

(b) As used in this section, "handled", "District 1", "District 2", "District 3", and "carton" mean the same as defined in the marketing order.

(Secs. 1–19, 48 Stat. 31, as amended; 7 U.S.C. 601–674)

Dated: May 23, 1979.

D. S. Kuryloski,

Acting Deputy Director, Fruit and Vegetable Division, Agricultural Marketing Service.

[FR Doc. 79-16573 Filed 5-23-79 11:11 am]

BILLING CODE 3410-02-M

7 CFR Parts 915 and 944

[Avocado Reg. 21; Avocado Reg. 27]

Avocados Grown in South Florida and Imported Avocados; Grade and Maturity Requirements

AGENCY: Agricultural Marketing Service, USDA.

ACTION: Final rule.

SUMMARY: These regulations specify minimum grade and maturity requirements for avocados grown in South Florida, and for avocados imported into the United States, for the 1979–80 marketing season. These requirements are designed to assure the shipment of ample supplies of mature avocados of acceptable quality in the interest of producers and consumers.

DATES: Effective May 28, 1979, through April 30, 1980.

FOR FURTHER INFORMATION CONTACT: Malvin E. McGaha, (202) 447–5975.

SUPPLEMENTARY INFORMATION: *Findings.* The Florida avocado regulation is issued under the marketing agreement, as amended, and Order No. 915, as amended (7 CFR Part 915; 43 FR 39321), regulating the handling of avocados grown in South Florida. The agreement and order are effective under the Agricultural Marketing Agreement Act of 1937, as amended (7 U.S.C. 601–674). The avocado import regulation is issued under section 8e (7 U.S.C. 608e–1) of this act. The grade and maturity requirements applicable to Florida avocado shipments were recommended by the Avocado Administrative Committee, which locally administers this marketing order program. Notice of these proposed regulations was published in the May 1, 1979, issue of the **Federal Register** (44 F.R. 25460). No comments were received during the 16 days provided in the notice. It is hereby found that these regulations will tend to effectuate the declared policy of the act. These regulations have not been determined significant under the USDA criteria for implementing Executive Order 12044.

These grade and maturity requirements reflect the Department's appraisal of the need for regulating avocados during the period May 29, 1979, through April 30, 1980, based on the available supply and market demand conditions. Production of

Florida avocados for the 1979–80 season is expected to amount to a record 1,250,000 bushels compared with nearly 900,000 produced during the 1978–79 season. Shipment of this crop is expected to begin in late May. California is currently producing what is expected to be a record large crop of avocados. These regulations would establish U.S. No. 3 as the minimum grade, and prescribe minimum weights or diameters by specified dates as the maturity requirements for the various varieties of avocados. Minimum weights or diameters and picking dates are used as indicators during harvest to determine which avocados are sufficiently mature to complete the ripening process. Skin color would also be authorized as an alternative method of determining maturity, for those varieties which turn red or purple when mature. These requirements are designed to assure that the various varieties of avocados will be of suitable quality and maturity to provide consumer satisfaction, essential for the successful marketing of the crop, in the interest of producers and consumers pursuant to the declared policy of the act. The requirements for imported avocados are consistent with section 8e of the act. This section requires that when specified commodities, including avocados, are regulated under a federal marketing order, imports of that commodity must meet the same or comparable grade, size, quality, or maturity requirements as those in effect for the domestically produced commodity.

After consideration of all relevant matter presented, including the proposals in the notice and other available information it is found that the regulations, as hereinafter set forth, are necessary to establish and maintain orderly marketing conditions, and that they are in accordance with this marketing agreement and order, and will tend to effectuate the declared policy of the act.

It is hereby further found that it is impracticable and contrary to the public interest to postpone the effective date of this regulation until 30 days after publication in the **Federal Register** (5 U.S.C. 553), and good cause exists for making the provisions hereof effective as herein after set forth in that (1) shipments of the current crop of avocados grown in South Florida are expected to begin on or about the effective date hereof, and the regulation for Florida avocados should be applicable, insofar as practicable, to all such shipments in order to effectuate the declared policy of the act; (2) the recommendations upon which the regulation for Florida avocados is based were developed by the committee at an open meeting on April 4, 1979, after due notice thereof, and all interested persons present were given an opportunity to express their views; (3) notice of these proposed regulations for avocados grown in South Florida and for avocados imported into the United States was published in the May 1, 1979, issue of the **Federal Register** (44 FR 25460), and no comments were received during the 16 days provided; (4) the regulatory requirements herein specified for Florida avocados and imported avocados are the same as those in the proposed regulations; (5) the requirements of the import regulation are imposed pursuant to section 8e of the Agricultural Marketing Agreement Act of 1937, as amended (7 U.S.C. 601–674), which makes such requirements mandatory; (6) such import regulation imposes the same grade and comparable maturity requirements on imports of avocados as are being made applicable to the shipment of avocados grown in Florida under Avocado Regulation 21, which becomes effective May 28, 1979; (7) such domestic and import regulations should become effective at as near the same time as is reasonably practicable; and (8) three days notice thereof, the minimum prescribed by said § 8e, is given with respect to this import regulation.

Accordingly, it is found that requirements for Florida avocados and for imported avocados should be and are established as follows:

§ 915.321 Avocado Regulation 21.

(a) During the period May 28, 1979, through April 30, 1980, no handler shall handle:

(1) Any avocados unless they grade at least U.S. No. 3: *Provided*, That avocados not meeting this grade requirement may be handled within the production area, if they meet the other requirements of this section and are handled in containers other than those authorized in § 915.305 for handling avocados between the production area and any point outside thereof.

(2) Any avocados of the varieties listed in column 1 of Table I of this section, prior to the date listed for each variety in column 2 of the table.

(3) Any avocados unless the individual fruit weighs at least the ounces specified, or it is of at least the diameter specified for each variety listed: (i) In column 3 of Table I, from the date listed in column 2 of the table to the date listed in column 4 of the table for each variety; (ii) in column 5 of Table I, from the date listed in column 4 of the table to the date listed in column 6 of the table for each variety; and (iii) in column 7 of Table I, from the date listed in column 6 of the table to the date listed in column 8 of the table for each variety.

(4) Avocados of the West Indian Seedling type not listed in Table I, except as provided in paragraphs (b) and (c), unless the following conditions are met:

(i) Avocados of this type shall not be handled prior to July 2, 1979.

(ii) From July 2, 1979, through July 29, 1979, the individual fruit weighs at least 18 ounces.

(iii) From July 30, 1979, through September 2, 1979, the individual fruit weighs at least 16 ounces.

(iv) From September 3, 1979, through October 1, 1979, the individual fruit weighs at least 14 ounces.

(5) Any avocados of those varieties not listed in Table I, or in subparagraph (4) of this section, including those of the Guatemalan type, hybrid seedlings, and unidentified Guatemalan and hybrid varieties, except as provided in paragraphs (b) and (c), unless the following conditions are met:

(i) Such avocados shall not be handled prior to September 17, 1979.

(ii) From September 17, 1979, through October 14, 1979, the individual fruit weighs at least 15 ounces.

(iii) From October 15, 1979, through December 16, 1979, the individual fruit weighs at least 13 ounces.

(b) With respect to the provisions of this section regarding the minimum weight or diameter for individual avocados, up to 10 percent, by count, of the individual fruit in each lot may weigh less than the minimum specified and be less than the specified diameter: *Provided*, That such avocados weigh not more than two ounces less than the weight specified for the particular variety: *Provided further*, That up to double such tolerances shall be permitted for fruit in an individual container in a lot.

(c) Any avocados, except for the Linda variety, may be handled without regard to the handling date or weight requirements specified in this section if the variety of avocados normally changes color to any shade of red or purple when mature, and any portion of the skin of the individual fruit has changed to the color normal for that fruit when mature.

(d) Terms used in this section shall mean the same as in the marketing order. The term "diameter" shall mean the greatest dimension measured at a right angle to a line from the stem to the blossom end of the fruit, and the term "U.S. No. 3" shall mean the same as in the U.S. Standards for Florida Avocados (7 CFR 2851.3050–3069).

Table I

Variety	Date	Minimum weight or diameter	Date	Minimum weight or diameter	Date	Minimum weight or diameter	Date
(1)	(2)	(3)	(4)	(5)	(6)	(7)	(8)
Kosel	5–28–79	18 oz.	6–11–79	13 oz.	6–25–79		
Arue	5–28–79	16 oz.	6–11–79	14 oz. 3 1/16 in.	7–16–79		
Roland 2–2	8–11–79	22 oz.	8–25–79	20 oz.	7–16–79		
J. M. Poropat	8–18–79	20 oz.	8–25–79	18 oz.	7–16–79	16 oz.	7–30–79
Fuchs	8–18–79	14 oz. 3 5/16 in.	7–2–79	12 oz. 3 9/16 in.	7–16–79		
Dr. DuPuis No. 2	6–18–79	16 oz. 3 5/16 in.	7–2–79	14 oz. 3 7/16 in.	7–16–79	12 oz. 3 5/16 in.	7–30–79
K–5	6–25–79	18 oz. 3 5/16 in.	7–9–79	14 oz. 3 3/16 in.	7–23–79		
Hardee	7–2–79	16 oz. 3 5/16 in.	7–9–79	14 oz. 2 13/16 in.	7–30–79		
Pollock	7–2–79	18 oz. 3 1 1/16 in.	7–16–79	16 oz. 3 7/16 in.	7–30–79	14 oz. 3 5/16 in.	8–13–79
Simmonds	7–2–79	16 oz. 3 5/16 in.	7–16–79	14 oz. 3 5/16 in.	7–30–79	12 oz. 3 5/16 in.	8–13–79
Nadir	7–2–79	14 oz. 3 3/16 in.	7–9–79	12 oz. 3 1/16 in.	7–16–79	10 oz. 2 13/16 in.	7–30–79
Katherine	7–2–79	16 oz.	7–16–79	14 oz.	7–30–79		
Haile	7–2–79	20 oz.	7–16–79	16 oz.	7–23–79	14 oz.	8–13–79
Donnie	7–9–79	16 oz. 3 5/16 in.	7–23–79	14 oz. 3 5/16 in.	8–20–79		
Ruehle	7–16–79	18 oz. 3 1 1/16 in.	7–23–79	16 oz. 3 5/16 in.	7–30–79	14 oz. 3 5/16 in.	
					8–13–79	12 oz. 3 5/16 in.	8–27–79
Dawn	7–16–79	12 oz. 3 5/16 in.	7–30–79	10 oz. 3 5/16 in.	8–13–79		
Webb–2	7–16–79	18 oz.	7–30–79	16 oz.	8–13–79		
Cash	7–16–79	18 oz.	10–1–79				
Alpha	7–23–79	16 oz. 3 5/16 in.	8–13–79				
Biondo	7–23–79	13 oz.	8–27–79				
Peterson	7–23–79	14 oz. 3 5/16 in.	8–6–79	10 oz. 3 5/16 in.	8–20–79		
232	7–30–79	14 oz.	8–13–79	12 oz.	8–27–79		
Gretchen	7–30–79	14 oz.	8–13–79	12 oz.	8–27–79		
Trapp	7–30–79	14 oz. 3 19/16 in.	8–13–79	12 oz. 3 7/16 in.	8–27–79		
B. & B.	7–30–79	16 oz. 3 5/16 in.	9–3–79				
Waldin	8–13–79	16 oz. 3 5/16 in.	8–27–79	14 oz. 3 5/16 in.	9–10–79	12 oz. 3 5/16 in.	9–24–79
Pinelli	7–30–79	16 oz. 3 1 3/16 in.	8–13–79	16 oz. 3 1 9/16 in.	8–27–79		
Miguel	7–30–79	22 oz. 3 1 3/16 in.	8–13–79	20 oz. 3 1 3/16 in.	8–27–79	18 oz. 3 19/16 in.	9–10–79
Nesbitt	7–30–79	22 oz. 3 1 3/16 in.	8–13–79	18 oz. 3 5/16 in.	8–20–79	16 oz. 3 5/16 in.	9–3–79
Chapple	7–30–79	18 oz.	8–27–79				
Millie–O	8–13–79	18 oz.	9–10–79				
Shula	8–13–79	22 oz.	9–3–79				
Tonnage	8–13–79	18 oz. 3 5/16 in.	8–27–79	14 oz. 3 5/16 in.	9–3–79	12 oz. 3 9/16 in.	9–10–79
Beta	8–13–79	18 oz. 3 5/16 in.	8–20–79	16 oz. 3 5/16 in.	9–10–79		
K–9	8–13–79	16 oz.	9–3–79				
Gorham	8–13–79	29 oz. 4 5/16 in.	8–27–79	27 oz. 4 5/16 in.	9–10–79		
Tower–2	8–13–79	14 oz. 3 5/16 in.	8–27–79	12 oz. 3 1/16 in.	9–17–79		
The Franvee	8–20–79	23 oz.	9–17–79				
Lisa	8–20–79	12 oz. 3 5/16 in.	8–27–79	11 oz. 3 9/16 in.	9–3–79		
Fairchild	8–27–79	18 oz. 3 19/16 in.	9–10–79	14 oz. 3 1/16 in.	9–24–79	12 oz. 3 1 5/16 in.	10–1–79
Nirody	8–27–79	18 oz. 3 1 5/16 in.	9–10–79	16 oz. 3 1 3/16 in.	9–24–79		
Loretta	8–27–79	28 oz. 4 1/16 in.	10–8–79				
Booth 8	9–10–79	18 oz. 3 5/16 in.	10–1–79	14 oz. 3 5/16 in.	10–15–79	10 oz. 3 1/16 in.	10–29–79

Table I—Continued

Variety	Date	Minimum weight or diameter	Date	Minimum weight or diameter	Date	Minimum weight or diameter	Date
(1)	(2)	(3)	(4)	(5)	(6)	(7)	(8)
Black Prince	9–10–79	23 oz. 3 1 1/16 in.	9–24–79	16 oz. 3 3/16 in.	10–5–79		
Catalina	8–27–79	24 oz.	9–10–79	22 oz.	10–1–79		
Csonka	9–17–79	22 oz.	10–15–79				
Blair	9–10–79	16 oz. 3 5/16 in.	9–24–79	14 oz. 3 9/16 in.	10–15–79		
Collinson	9–24–79	16 oz. 3 1 5/16 in.	10–22–79				
Chica	9–24–79	12 oz. 3 5/16 in.	10–8–79	10 oz. 3 3/16 in.	10–22–79		
Rue	9–24–79	30 oz. 4 3/16 in.	10–1–79	24 oz. 3 1 5/16 in.	10–15–79	18 oz. 3 3/16 in.	10–29–79
Brooks 1978	10–8–79	10 oz.	10–15–79	8 oz.	11–12–79		
Booth 5	9–17–79	14 oz. 3 5/16 in.	10–1–79	12 oz. 3 3/16 in.	10–15–79		
Hickson	9–24–79	12 oz. 3 3/16 in.	10–8–79	10 oz. 3 9/16 in.	10–22–79		
Simpson	10–1–79	16 oz. 3 5/16 in.	10–22–79				
Vaca	10–1–79	18 oz. 3 5/16 in.	10–22–79				
Sherman	10–1–79	16 oz.	10–15–79	14 oz.	10–29–79	10 oz.	11–19–79
Marcus	9–17–79	32 oz. 4 1 3/16 in.	10–1–79	24 oz. 4 3/16 in.	11–12–79		
Booth 10	10–8–79	16 oz. 3 1 9/16 in.	11–5–79				
Booth 7	9–10–79	18 oz. 3 1 3/16 in.	9–24–79	16 oz. 3 1 9/16 in.	10–8–79	14 oz. 3 5/16 in.	10–22–79
Avon	10–8–79	15 oz. 3 1 1/16 in.	10–29–79				
Booth 11	10–8–79	16 oz. 3 1 3/16 in.	10–29–79				
Leona	10–8–79	18 oz. 3 1 9/16 in.	10–22–79				
Winslowson	10–8–79	18 oz. 3 1 9/16 in.	10–29–79				
Nelson	10–8–79	14 oz. 3 5/16 in.	10–22–79	12 oz. 3 1/16 in.	11–5–79	10 oz. 3 1/16 in.	11–26–79
Hall	10–8–79	26 oz. 3 1 5/16 in.	10–22–79	20 oz. 3 5/16 in.	11–5–79	16 oz. 3 5/16 in.	11–19–79
Lula	10–15–79	18 oz. 3 1 5/16 in.	10–29–79	14 oz. 3 5/16 in.	11–12–79	12 oz. 3 3/16 in.	11–26–79
Choquette	10–1–79	24 oz. 4 1/16 in.	10–15–79	20 oz. 3 1 5/16 in.	10–29–79	16 oz. 3 5/16 in.	11–12–79
Monroe	11–12–79	24 oz. 4 1/16 in.	11–26–79	20 oz. 3 1 5/16 in.	12–10–79	18 oz. 3 5/16 in.	12–24–79
Herman	10–15–79	16 oz. 3 5/16 in.	10–29–79	14 oz. 3 5/16 in.	11–12–79		
Murphy	10–15–79	16 oz. 3 5/16 in.	10–29–79	14 oz.	11–12–79	11 oz.	12–3–79
Ajax (B–7)	10–22–79	18 oz. 3 1 5/16 in.	11–12–79				
Booth 1	11–19–79	16 oz. 3 1 5/16 in.	12–3–79	12 oz. 3 5/16 in.	12–17–79		
Booth 3	10–22–79	16 oz. 3 5/16 in.	10–29–79	14 oz. 3 5/16 in.	11–12–79		
Taylor	10–22–79	14 oz. 3 5/16 in.	11–5–79	12 oz. 3 5/16 in.	11–19–79		
Dunedin	11–5–79	18 oz. 3 1 9/16 in.	11–19–79	14 oz. 3 5/16 in.	12–3–79	10 oz. 3 1/16 in.	12–24–79
Byars	11–12–79	16 oz. 3 1 5/16 in.	12–3–79				
Linda	11–12–79	18 oz. 3 1 3/16 in.	12–3–79				
Nabal	11–12–79	14 oz. 3 5/16 in.	12–3–79				
Zio	11–26–79	12 oz. 3 1/16 in.	12–10–79	10 oz. 2 13/16 in.	12–24–79		
Wagner	12–3–79	12 oz. 3 1/16 in.	12–17–79	10 oz. 3 5/16 in.	12–31–79		
Meya	12–24–79	13 oz. 3 1/16 in.	1–7–80	11 oz. 3 9/16 in.	1–21–80		
Brookslate	12–31–79	14 oz. 3 1/16 in.	1–21–80	12 oz. 3 9/16 in.	2–4–80	10 oz.	2–18–80
Schmidt	12–3–79	16 oz.	12–31–79				
Itzamna	2–11–80	12 oz.	2–18–80				

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§ 944.19 Avocado Regulation 27.

(a) *Applicability to imports.* Pursuant to § 8e of the act and Part 944—Fruits; Import Regulations, the importation into the United States of any avocados is prohibited during the period May 28, 1979, through April 30, 1980, unless such avocados meet the minimum grade and maturity requirements specified in § 915.321 Avocado regulation 21: *Provided,* That avocados of the Pollock, Catalina, and Trapp varieties shall meet the applicable maturity requirements specified in subparagraphs (2) and (3) and related Table 1; all other varieties of avocados of the West Indian type shall meet the maturity requirements specified in subparagraph (4); and all other varieties of avocados of the Guatemalan type, including hybrid seedlings, and unidentified Guatemalan and hybrid varieties shall meet the requirements specified in subparagraph (5), consistent with the weight and diameter tolerances specified in paragraph (b), and the alternative method of determining maturity specified in paragraph (c).

(b) It is hereby found that it is not practicable to impose the same requirements for imported avocados as those for domestically grown avocados, except as provided in paragraph (a) of this section; and that the requirements specified in paragraph (a) of this section for imported avocados are comparable to those in Avocado Regulation 21, for Florida avocados.

(c) The Federal or Federal-State Inspection Service, Fruit and Vegetable Quality Division, Food Safety and Quality Service, United States Department of Agriculture, is designated as the governmental inspection service for certifying the grade, size, quality, and maturity of avocados that are imported into the United States. Inspection by the Federal or Federal-State Inspection Service with evidence thereof in the form of an official inspection certificate, issued by the respective service, applicable to the particular shipment of avocados, is required on all imports. The inspection and certification services will be available upon application in accordance with the rules and regulations governing inspection and certification of fresh fruits, vegetables, and other products (7 CFR Part 2851) and in accordance with the Procedure for Requesting Inspection and Certification (7 CFR Part 944; 43 FR 19340).

(d) The term "importation" means release from custody of the United States Customs Service.

(e) Any person may recondition any shipment of avocados prior to importation, to make it eligible for importation.

(f) *Minimum quantity exemption:* Any person may import up to 55 pounds of avocados exempt from the requirements specified in this section.

(Secs. 1–19, 48 Stat. 31, as amended; (7 U.S.C. 601–674))

Dated: May 22, 1979, to become effective May 28, 1979.

D. S. Kuryloski,

Acting Deputy Director, Fruit and Vegetable Division, Agricultural Marketing Service.

[FR Doc. 79-16364 Filed 5-23-79; 8:45 am]

BILLING CODE 3410-02-M

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7 CFR Part 981

Administrative Rules and Regulations; Almonds Grown in California

AGENCY: Agricultural Marketing Service, USDA.

ACTION: Final rule.

SUMMARY: This rule makes several changes in the administrative rules and regulations pertaining to reporting and quality control to standardize reporting and relieve unnecessary burdens on almond packers.

DATES: Effective July 1, 1979.

FOR FURTHER INFORMATION CONTACT: William J. Higgins (202) 447–5053.

SUPPLEMENTARY INFORMATION: Notice was published in the April 23, 1979, **Federal Register** (44 FR 23857) to amend Subpart-Administrative rules and Regulations (7 CFR 981.441–981.474; 43 FR 47969, 56012) by revising §§ 981.442, 981.455 and 981.472. The Almond Board of California submitted the one comment received.

The subpart is issued under the marketing agreement, as amended, and Order No. 981, as amended (7 CFR Part 981), regulating the handling of almonds grown in California.

The marketing agreement and order are collectively referred to as the "order". The order is effective under the Agricultural Marketing Agreement Act of 1937, as amended (7 U.S.C. 601–674). The proposals were based on a recommendation of the almond Board of California.

Section 981.42 of the order provides for each handler to cause to be determined, through the inspection agency, and at the handler's expense, the percent of inedible kernels in each variety of almonds received by him, and report this determination to the Board. The quantity of inedible kernels in each variety in excess of two percent [1] of the kernel weight received, constitutes a weight obligation to be accumulated in the course of processing and shall be delivered to the Board, or Board accepted crushers, feed manufacturers, or feeders. Section 981.42 also authorizes the Board, with the approval of the Secretary, to establish rules and regulations necessary and incidental to the administration of this provision. Section 981.442 of the administrative rules and regulations implements § 981.42.

Section 981.442 provides, among other things, for each handler to report to the Board the quantity of almonds received from growers. However, that section does not provide adjustment for excess moisture in those receipts. Moreover, the order and the administrative rules and regulations do not define "excess moisture". Based on several years' operation under this section, the Board has found that, while some handlers are making adjustments for excess moisture in reporting their receipts of almonds to the Board and to growers, these adjustments are not always uniform and to that extent, the information reported by handlers is not uniform.

Therefore, a new § 981.401, is added which defines "adjusted kernel weight" in paragraph (a) of that section. For clarity, paragraph (b) of that section contains an example demonstrating how the "adjusted kernel weight" would be computed. Except for Peerless bleaching stock, "adjusted kernel weight" means the actual gross weight of any lot of almonds: Less weight of containers; less moisture of kernels in excess of five percent; less shells, if applicable; and less trash or other foreign material. The adjusted kernel weight will be determined by sampling certified by the inspection agency. Peerless bleaching stock is shipped as unshelled almonds and the adjusted kernel weight of these almonds would be 35 percent of the clean bleachable weight. This is the shelling ratio prescribed in the order for determining the kernel weight of unshelled Peerless almonds.

[1] This percentage has been changed to one and one-half percent (42 FR 56487), except for the 1978–79 crop year (ending June 30, 1979), the percentage is three percent (43 FR 56012).

To achieve uniformity in reporting receipts of almonds, §§ 981.442(a)(3) and (4) and 981.472(a) and (b) are revised so that handler receipts are reported by them on an adjusted kernel weight basis. In addition, since § 981.401(b) sets forth the manner in which the adjusted kernel weight will be computed, the provision in § 981.442(a)(3) allowing for shellout loss in unnecessary and is to be deleted.

Section 981.455 provides for transfers of almonds and reserve credits from one handler to another. However, it does not provide for transfers of a handler's disposition obligation pursuant to § 981.42(a). A handler may resell an unsorted lot of almonds to another handler. In that case, it is inequitable to require the transferring handler to meet the disposition obligation, especially since, in transferring the lot, the handler divested itself of that portion of the lot which created the obligation and would be removed in the course of processing. Therefore, § 981.455 is revised by the addition of a new paragraph (c) which prescribes procedures for such transfers. Paragraph (c) will permit transfer of inedible obligation, with the approval of the Board, only when the inedible kernels are physically transferred with the entire lot of almonds.

In the notice, it was proposed that the transfer would be reported by the transferring handler to the Board. However, this reporting requirement has been changed in the rule to the receiving handler. As the Board noted in its comment, the last sentence of the section should read ". . . and submitted by the receiving handler to the Board for approval." The transferring handler initiates the ABC Form 9 and sends it to the receiving handler who acknowledges receipt of the lot and the obligation. Both the transferring and receiving handlers must signify that the transaction has been accomplished to the satisfaction of each, before the Board can make a determination that it meets the requirements of the Order and thus gives its approval. Further, the Form 9 is in the hands of the receiving handler last; it is in a better position to submit completed Form 9 to the Board than is the transferring handler.

Section 981.442(a)(5) provides that each handler meet its disposition obligation by delivering packer pickouts and other kernel material to nonhuman consumption outlets, if the inspection agency of the Board has sampled the deliveries. However, for handlers who only deliver very small quantities for disposition credit, the cost is a disproportionate burden, often requiring considerable time and effort by the inspection agency and the handler. Therefore, § 981.442(a)(5) is amended by providing that in the case of a handler having an annual total obligation of less than 1,000 pounds, delivery may be to the Board in lieu of an accepted user, in which case the Board would certify the disposition and report the results to the USDA.

After consideration of all relevant matter presented, including that in the notice, the comment received, the recommendation submitted by the Board, and other available information, it is found that to amend the administrative rules and regulations as herein set forth will tend to effectuate the declared policy of the act.

PART 981—ALMONDS GROWN IN CALIFORNIA

Therefore, Subpart—Administrative Rules and Regulations (7 CFR 981.441–981.474; 43 FR 47969; 56012) is amended as follows:

1. Section 981.401 is added to read as follows:

§ 981.401 Adjusted kernel weight.

(a) *Definition.* Except for Peerless bleaching stock, "adjusted kernel weight" shall mean the actual gross weight of any lot of almonds: Less weight of containers; less moisture of kernels in excess of five percent; less shells, if applicable; and less trash or other foreign material. The adjusted kernel weight shall be determined by sampling certified by the inspection agency. The kernel weight of Peerless bleaching stock shall be 35 percent of the clean bleachable weight.

(b) *Computation.* Except for Peerless bleaching stock, the computation of adjusted kernel weight shall be in the manner shown in the following example. The example is based on the analysis of a 1,000 gram sample taken from a lot of almonds weighing 10,000 pounds. The sample contains the following: Edible kernels, 530 grams; inedible kernels, 120 grams; foreign material, 350 grams; and moisture content of kernels, seven percent. Excess moisture is two percent. The sample computation is as follows:

	Percent of sample	Weight (pounds)
1. Actual gross weight of delivery		10,000
2. Percent of edible kernels	53.00	
3. Less excess moisture of edible kernels (excess moisture × line 2)	1.06	
4. Net percent shell out (line 2 – line 3)	51.94	
5. Net edible kernels (line 4 × line 1)		5,194
6. Total percent of inedible kernels (from sample)	12.00	
7. Less excess moisture of inedible kernels (excess moisture from sample × line 6)	.24	
8. Net percent inedible kernels (line 6 – line 7)	11.76	
9. Total inedible kernels (line 8 × line 1)		1,176
10. Adjusted kernel weight (line 5 + line 9)		6,370

2. Section 981.442 is amended to read as follows:

§ 981.442 Quality control.

(a) * * *

(3) *Analysis of sample.* Each sample shall be analyzed by or under the surveillance of the inspection agency to determine the kernel content and the proportion of inedible kernels in the sample. The inspection agency shall prepare a report for each handler showing, by variety, the total adjusted kernel weight received by handler, the inedible kernel weight and any other information as the Board may prescribe. The report shall cover the handler's daily receipt or the handler's total receipts during a period not exceeding one month, and shall be submitted by the inspection agency to the Board and the handler.

(4) *Disposition obligation.* The weight of inedible kernels in excess of one and one-half percent of the adjusted kernel weight reported to the Board of any variety received by a handler shall constitute his disposition obligations, except for the 1978–79 crop year ending June 30, 1979, this percentage shall be three percent. If a variety other than Peerless is used as bleaching stock, the

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weight so used may be reported to the Board and the disposition obligation for that variety reduced proportionately.

(5) *Meeting the disposition obligation.* Each handler shall meet its disposition obligation by delivering packer pickouts, kernels rejected in blanching, pieces of kernels, meal accumulated in manufacturing, or other material, to crushers, feed manufacturers, feeders, or dealers in nut wastes, on record with the Board as Accepted Users. In the case of a handler having an annual total obligation of less than 1,000 pounds, delivery may be to the Board in lieu of an accepted user, in which the case the Board would certify the disposition lot and report the results to the USDA. For dispositions by handlers with the mechanical sampling equipment, samples may be drawn by the handler in a manner acceptable to the Board and the inspection agency. For all other dispositions samples shall be drawn by or under the supervision of the inspection agency. Upon approval by the Board and the inspection agency, sampling may be accomplished at the accepted user's destination. The almond meat content of each delivery shall be reported to the Board and the handler and credited to the handler's disposition obligation on ABC Form 8. Deliveries containing less than 10 percent almond meat content shall not be credited against the disposition obligation. Each handler's disposition obligation shall be satisfied when the almond meat content of the material delivered to accepted users equals the disposition obligation, but no later than July 31 succeeding the crop year in which the obligation was incurred.

* * * * *

3. Section 981.455(c) is added to read as follows:

§ 981.455 Interhandler transfers

* * * * *

(c) Transfer of inedible obligation may be made, with the approval of the Board, only when the inedible kernels are physically transferred with the entire lot of almonds. The transfer of the lot shall be reported on ABC Form 9, showing date of transfer and, for the transferring handler, the (1) original inspection certificate number, (2) total weight shown on the certificate, and (3) weight of inedible kernels shown on the certificate. For the receiving handler, ABC Form 9 shall show the (1) new inspection certificate number, (2) total weight shown on the certificate, and (3) weight of inedible kernels shown on the certificate. ABC Form 9 shall be signed by both, the transferring handler and the receiving handler, and submitted by the receiving handler to the Board for approval.

4. Section 981.472 is revised to read as follows:

§ 981.472 Report of almonds received.

(a) Each handler shall report to the Board on ABC Form 1 the total adjusted kernel weight of almonds, by varieties, received by it for its own account within any of the hereinafter prescribed reporting periods. Each such report shall be filed with the Board within five (5) business days after the close of the applicable one of the following reporting periods: July 1 to August 31; September 1 to September 15; September 16 to September 30; October 1 to October 15; October 16 to October 31; November 1 to November 15; November 16 to November 30; December 1 to December 31; January 1 to March 31;.April 1 to June 30.

(b) For the reporting periods July 1 through December 31, and January 1 through March 31, each handler shall submit a summary report to the Board, within 30 days after the end of the reporting period, which shall show the adjusted kernel weight of almonds received for the handler's own account by county of production and such varieties as may be requested by the Board.

(Secs. 1–19, 48 Stat. 31, as amended; 7 U.S.C. 601–674)

Note.—This regulation has not been determined significant under the USDA criteria implementing Executive Order 12044.

Dated: May 18, 1979; to become effective July 1, 1979.

D. S. Kuryloski,

Acting Deputy Director, Fruit and Vegetable Division.

FR Doc. 79–16240 Filed 5–23–79; 8:45 am]

BILLING CODE 3410–02–M

NUCLEAR REGULATORY COMMISSION

10 CFR Parts 30, 40, and 70

Domestic Licensing; Timely Notification of Discontinued Licensed Activities

AGENCY: U.S. Nuclear Regulatory Commission (NRC).

ACTION: Approval of reporting requirement by Comptroller General.

SUMMARY: On March 22, 1979, the Nuclear Regulatory Commission published in the **Federal Register** a notice of rule making, effective June 5, 1979 amending its regulations to require licensees to notify the Commission when they decide to permanently discontinue all activities involving materials authorized under a license.

The notice included the following note:

Note.—The Nuclear Regulatory Commission has submitted this rule to the Comptroller General for review under the Federal Reports Act, as amended, 44 U.S.C. 3512. The date on which the rule becomes effective, unless advised to the contrary, accordingly reflects inclusion of the 45 day period which that statute allows for this review (44 U.S.C. 3512(c)(2)).

EFFECTIVE DATE: June 5, 1979. The reporting requirements set out in the notice of rule making amending 10 CFR Parts 30, 40, and 70 which was published in the **Federal Register** on March 22, 1979 (44 FR 17479) have been approved or cleared by the U.S. General Accounting Office.

FOR FURTHER INFORMATION CONTACT: Gerald L. Hutton, Division of Rules and Records, Office of Administration, U.S. Nuclear Regulatory Commission, Washington, D.C. 20555, telephone 301–492–7086.

Dated at Bethesda, Md. this 18th day of May 1979.

For the Nuclear Regulatory Commission.

Lee V. Gossick,

Executive Director for Operations.

[FR Doc. 79–16315 Filed 5–23–79; 8:45 am]

BILLING CODE 7590–01–M

FEDERAL DEPOSIT INSURANCE CORPORATION

12 CFR Part 303

Applications, Request and Submittals; Notice of Correction

AGENCY: Federal Deposit Insurance Corporation.

ACTION: Final rule; correction.

SUMMARY: This document makes a technical correction to a final rule relating to delegation of authority to act on certain applications for the acquisition and holding of stock in foreign banks. (44 FR 25193, April 30, 1979).

EFFECTIVE DATE: May 30, 1979.

FOR FURTHER INFORMATION CONTACT: Jerry L. Langley, Senior Attorney, Legal Division, (202) 389–4237.

SUPPLEMENTARY INFORMATION:

In FR Doc. 79–13336 appearing at page 25193 in the **Federal Register** of Monday, April 30, 1979, the following change should be made:

1. On page 25194, the paragraph concerning § 303.11 is corrected by substituting the number "(13)" for the number "(11)" in the second line of the introductory sentence and the fourth line of the published text of the regulation.

Dated: May 21, 1979.

Federal Deposit Insurance Corporation.

Hoyle Robinson,

Executive Secretary.

[FR Doc. 79–16336 Filed 5–23–79; 8:45 am]

BILLING CODE 6714–01–M

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

14 CFR Part 39

[Docket No. 18068, Amdt. 39–3476]

Airworthiness Directives; Short Bros., Ltd., Model SD3–30 Airplanes

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Final rule.

SUMMARY: This amendment adopts a new airworthiness directive (AD) that would require replacement of life-limited bolts attaching the engine support tube brackets to the engine ring on Short Brothers Limited Model SD3–30 airplanes. The manufacturer's fatigue testing program has established that failure of the bolts could occur if they are left in service beyond 6000 landings. Failure of the bolts could result in separation of the engine.

DATES: Effective June 25, 1979. Compliance schedule—as prescribed in body of AD.

ADDRESSES: The applicable service bulletin may be obtained from: Manager—Spares and Support, Product Support Department, Short Brothers Limited, P.O. Box 241—Airport Road, Northern Ireland.

A copy of service bulletin is contained in the Rules Docket in Room 916, 800 Independence Avenue, S.W., Washington, D.C. 20591.

FOR FURTHER INFORMATION CONTACT: D. C. Jacobsen, Chief, Aircraft Certification Staff, AEU–100, Europe, Africa, and Middle East Region, Federal Aviation Administration, c/o American Embassy, Brussels, Belgium, Telephone: 513.38.30, or C. Christie, Chief, Technical Standards Branch, AFS–110, Federal Aviation Administration, 800 Independence Avenue, S.W., Washington, D.C. 20591, telephone: 202–426–8374.

SUPPLEMENTARY INFORMATION: A proposal to amend Part 39 of the Federal Aviation Regulations to include an airworthiness directive requiring replacement of life-limited bolts attaching the engine support tube brackets to the engine ring on Short Brothers Limited Model SD3–30 airplanes was published in the **Federal Register** at 43 FR 27558.

The proposal was prompted by an FAA determination that failure of the engine support tube bracket attachment bolts could occur on early production Short Brothers Limited Model SD3–30 airplanes if they are left in service beyond 6000 landings. The life limit has been established by the manfacturer as a part of its continuing fatigue testing program. Since this condition is likely to exist or develop on other airplanes of the same type design, the proposed AD would require replacement of the original bolts with an improved standard bolt prior to accumulating 6000 landings.

Interested persons have been afforded an opportunity to participate in the making of the amendment. No comments were received. Accordingly, the proposal is adopted without change.

Adoption of the Amendment

Accordingly, pursuant to the authority delegated to me by the Administrator, § 39.13 of Part 39 of the Federal Aviation Regulations (14 CFR 39.13) is amended by adding the following new airworthiness directive:

Short Bros., Ltd. Applies to Model SD3–30 airplanes, S/N's 3003 through 3017, certificated in all categories.

Compliance is required prior to the accumulation of 6000 total landings or prior to the accumulation of 25 landings after the effective date of this AD, whichever occurs later, unless already accomplished.

To prevent fatigue failure of the bolts, P/N A111–5–G (10 places) and A111–5–J (2 places), attaching the engine support tube brackets to the engine ring, replace the bolts and associated hardware with new bolts, P/N MS. 21250–05008 (10 places) and MS. 21250–06008 (2 places), and associated hardware in accordance with Section 2, "ACCOMPLISHMENT INSTRUCTIONS," of Short Brothers Limited Service Bulletin No. SD3–71–04, dated February 14, 1978, or an FAA-approved equivalent.

(Sec. 313(a), 601, and 603 of the Federal Aviation Act of 1958, as amended (49 U.S.C. 1354(a), 1421, and 1423); Section 6(c), Department of Transportation Act (49 U.S.C. 1655(c)); 14 CFR 11.89)

Note.—The FAA has determined that this document involves a regulation which is not significant under Executive Order 12044, as implemented by Department of Transportation Regulatory Policies and Procedures (44 FR 11034; February 26, 1979).

A copy of the final evaluation prepared for this action is contained in the regulatory docket. A copy may be obtained by writing to C. Christie, Chief, Technical Standards Branch, AFS–110, Federal Aviation Administration, 800 Independence Avenue, SW., Washington, D.C. 20591.

Issued in Washington, D.C., on May 15, 1979.

James M. Vines,

Acting Director, Flight Standards Service.

[FR Doc. 79–15824 Filed 5–23–79; 8:45 am]

BILLING CODE 4910–13–M

14 CFR Part 71

[Airspace Docket No. 78–EA–96]

Designation of Federal Airways, Area Low Routes, Controlled Airspace, and Reporting Points; Designation of Airway Segment

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Final rule.

SUMMARY: This amendment designates an east alternate airway to V–433 from New Castle, Del., to Yardley, Pa., via the MUFLA INT northeast of the Philadelphia International Airport. This airway bypasses airspace used for certain terminal procedures at Philadelphia, thereby reducing congestion caused by en route flights to the Newark terminal.

EFFECTIVE DATE: August 9, 1979.

FOR FURTHER INFORMATION CONTACT: Mr. Everett L. McKisson, Airspace Regulations Branch (AAT–230), Airspace and Air Traffic Rules Division, Air Traffic Service, Federal Aviation Administration, 800 Independence Avenue, SW., Washington, D.C. 20591; telephone: (202) 426–3715.

SUPPLEMENTARY INFORMATION:

History

On March 19, 1979, the FAA proposed to amend Part 71 of the Federal Aviation Regulations (14 CFR Part 71) to designate an east alternate airway to V–433 between New Castle and Yardley (44 FR 16438). Interested persons were invited to participate in the rulemaking proceeding by submitting written comments on the proposal to the FAA. Comments received expressed no objection to the proposal. Section 71.123 of Part 71 was republished in the **Federal Register** on January 2, 1979 (44 FR 307).

The Rule

This amendment to Part 71 of the

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Federal Aviation Regulations designates an east alternate to V–433 from New Castle to Yardley via the INT of the New Castle 058°T (067°M) and the Yardley 196°T (206°M) radials. By designating this route as an airway, coordination and communication time required for its use is reduced. Use of the proposed airway segment helps to reduce the congestion of traffic in the Philadelphia and Newark terminal areas.

Discussion of Comments

One commenter expressed concern that use of the alternate airway may become standardized in lieu of the direct airway. This is not expected to happen because V–433E will be used in tower en route service at and below 9,000 feet MSL. Air traffic en route to Newark will normally be routed via V–433 at and above 10,000 feet MSL.

Adoption of the Amendment

Accordingly, pursuant to the authority delegated to me by the Administrator, § 71.123 of Part 71 of the Federal Aviation Regulations (14 CFR Part 71) as republished (44 FR 307) is amended, effective 0901 GMT, August 9, 1979, as follows:

§ 71.123 [Amended]

Under V–433 "Yardley, Pa.;" is deleted and "Yardley, Pa., including an E alternate via INT New Castle 058° and Yardley 196° radials;" is substituted therefor.

(Secs. 307(a) and 313(a), Federal Aviation Act of 1958 (49 U.S.C. 1348(a) and 1354(a)); Sec. 6(c), Department of Transportation Act (49 U.S.C. 1655(c)); and 14 CFR 11.69).

The FAA has determined that this document involves a regulation which is not significant under Executive Order 12044, as implemented by DOT Regulatory Policies and Procedures (44 FR 11034; February 26, 1979). Since this regulatory action involves an established body of technical requirements for which frequent and routine amendments are necessary to keep them operationally current and promote safe flight operations, the anticipated impact is so minimal that this action does not warrant preparation of a regulatory evaluation.

Issued in Washington, D.C. on May 16, 1979.

William E. Broadwater,

Chief, Airspoce and Air Traffic Rules Division.

[FR Doc. 79–16133 Filed 5–23–79; 8:45 am]

BILLING CODE 4910–13–M

14 CFR Part 71

[Airspace Docket No. 79–WE–3]

Designation of Federal Airways, Area Low Routes, Controlled Airspace, and Reporting Points; Designation of Control Zone, San Luis Obispo, Calif.

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Final Rule.

SUMMARY: This rule establishes a control zone for the San Luis Obispo County Airport, San Luis Obispo, California. This action will provide controlled airspace for aircraft making instrument approaches to the San Luis Obispo County Airport.

EFFECTIVE DATE: June 14, 1979.

FOR FURTHER INFORMATION CONTACT: Thomas W. Binczak, Airspace and Procedures Branch, Air Traffic Division, Federal Aviation Administration, 15000 Aviation Boulevard, Lawndale, California, 90261. Telephone (213) 536–6182.

SUPPLEMENTARY INFORMATION:

History

On February 20, 1979, the FAA proposed to amend Part 71 of the Federal Aviation Regulations (14 CFR Part 71) to designate a control zone for the San Luis Obispo County Airport, San Luis Obispo, California. This action will provide controlled airspace for aircraft making instrument approaches to the San Obispo County Airport. Interested persons were invited to participate in the rulemaking proceeding by submitting comments on the proposal to the FAA. No objections were received. This amendment is the same as that proposed in the notice. Section 71.171 was republished in the **Federal Register** on January 2, 1979, (44 FR 353).

Adoption of the Amendment

Accordingly, pursuant to the authority delegated to me by the Administrator, Subpart F of Part 71 of the Federal Aviation Regulations (14 CFR Part 71) is amended, effective 0901 GMT June 14, 1979, as follows:

§ 71.171 [Amended]

1. Amend § 71.171 of Part 71, Federal Aviation Regulations to read:

San Luis Obispo, Calif.

"Within a five mile radius of the San Luis Obispo County Airport (latitude 35°14'11" N., longitude 120°38'26" W.) and with 2 miles each side of the San Luis Obispo County localizer course extending from the 5-mile radius zone to the outer marker. This control zone is effective from 0500 to 2330 hours, local time, daily or during the specific dates and times established in advance by a Notice to Airmen which thereafter will be continuously published in the Airport/Facility Directory."

(Secs. 307(a) and 313(a), Federal Aviation Act of 1958 (49 U.S.C. 1348(a) and 1354(a)); Sec. 6(c), Department of Transportation Act (49 U.S.C. 1655(c)); and 14 CFR 11.69.)

The FAA has determined that this document involves a regulation which is not significant under Executive Order 12044, as implemented by DOT Regulatory Policies and Procedures (44 FR 11034; February 26, 1979). Since this regulatory action involves an established body of technical requirements for which frequent and routine amendments are necessary to keep them operationally current and promote safe flight operations, the anticipated impact is so minimal that this action does not warrant preparation of a regulatory evaluation.

Issued in Los Angeles, California, on May 10, 1979.

Leon C. Daugherty,

Director, Western Region.

[FR Doc. 79–15923 Filed 5–23–79; 8:45 am]

BILLING CODE 4910–23–M

14 CFR Part 71

[Airspace Docket No. 79–GL–6]

Designation of Federal Airways Area Low Routes, Controlled Airspace, and Reporting Points; Alteration of Control Zone and Transition Area

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Final Rule.

SUMMARY: The nature of this federal action is to designate additional controlled airspace near Rhinelander, Wisconsin to accommodate a new Very High Frequency Omnidirectional Range (VOR) Runway 9 instrument approach procedure into Rhinelander Oneida County Airport. In addition, amendments to existing procedures [VOR Runway 15, VOR Runway 5 and Very High Frequency Omnidirectional Range/Distance Measuring Equipment (VOR/DME) Runway 23] are being accomplished.

EFFECTIVE DATE: August 9, 1979.

FOR FURTHER INFORMATION CONTACT: Doyle W. Hegland, Airspace and Procedures Branch, Air Traffic Division, AGL–530, FAA, Great Lakes Region, 2300 East Devon Avenue, Des Plaines, Illinois 60018, Telephone (312) 694–4500, Extension 456.

SUPPLEMENTARY INFORMATION: The intended effect of this action is to insure segregation of the aircraft using these approach procedures in instrument weather conditions and other aircraft operating under visual weather conditions. The floor of the controlled airspace will be lowered from 1200' above ground to 700' above ground for a distance of approximately two miles beyond the present 700' transition area. The control zone description will be expanded on the west to accommodate a new East/West Runway recently completed. The development of the proposed instrument approach procedures necessitates the FAA to alter the designated airspace to insure that the procedures will be contained within controlled airspace. The minimum descent altitude for these procedures may be established below the floor of the 700' controlled airspace at times when the control zone is not effective. In addition, aeronautical maps and charts will reflect the area of the instrument procedure which will enable the aircraft to circumnavigate the area in order to comply with applicable visual flight rule requirements.

Discussion of Comments

On page 12688 of the **Federal Register** dated March 8, 1979, the Federal Aviation Administration Published a Notice of Proposed Rule Making which would amend §§ 71.171 and 71.181 of Part 71 of the Federal Aviation Regulations so as to alter the control zone and transition area at Rhinelander, Wisconsin. Interested persons were invited to participate in this rulemaking proceeding by submitting written comments on the proposal to the FAA. No objections were received as a result of the Notice of Proposed Rule Making.

Adoption of the Amendment

Accordingly, pursuant to the authority delegated to me by the Administrator, Part 71 of the Federal Aviation Regulations (14 CFR Part 71) is amended, effective August 9, 1979, as follows:

In § 71.181 (44 FR 442), the following transition area is amended to read:

Rhinelander, Wisc.

That airspace extending upward from 700 feet above the surface within a 9½ statute mile radius of the Rhinelander-Oneida County Airport.

In § 71.171 (44 FR 353), the following control zone is amended to read:

Rhinelander, Wisc.

Within a 5 statute mile radius of the Rhinelander-Oneida County Airport (latitude 45°37'54" N, longitude 89°27'35" W estimated) and within 2½ statute miles each side of the Rhinelander VORTAC 322° radial (T) extending from the 5 statute mile radius zone to 6 statute miles northwest of the VORTAC; and within 2 statute miles each side of the Rhinelander VORTAC 058° radial (T) extending from the 5 mile radius zone to 7 statute miles northeast of the VORTAC; and within 2½ statute miles each side of the Rhinelander VORTAC 229° radial (T) extending from the 5 statute mile radius zone to 7 statute miles southwest of the VORTAC; and three statute miles each side of the Rhinelander VORTAC 262° radial (T) extending from the 7 statute mile extension on the south and from the 6 statute mile extension on the north to 8½ statute miles west of the VORTAC. This control zone is effective during the specific dates and times established in advance by a notice to airmen. The effective dates and times will thereafter be continuously published in the Airman's Information Manual or equivalent.

This amendment is made under the authority of Section 307(a), Federal Aviation Act of 1958 (49 U.S.C. 1348(a)); Sec. 6(c), Department of Transportation Act (49 U.S.C. 1655(c)); Sec. 11.61 of the Federal Aviation Regulations (14 C.F.R. 11.61).

Note.—The Federal Aviation Administration has determined that this document involves a regulation which is not significant under Executive Order 12044, as implemented by Department of Transportation Regulatory Policies and Procedures (44 FR 11034; February 26, 1979). A copy of the final evaluation prepared for this document is contained in the docket. A copy of it may be obtained by writing to the Federal Aviation Administration, Attention: Rules Docket Clerk (AGL–7), Docket No. 79–GL–6, 2300 East Devon Avenue, Des Plaines, Illinois.

Issued in Des Plaines, Illinois, on May 14, 1979.

Wayne J. Barlow,

Acting Director, Great Lakes Region.

[FR Doc. 79–16252 Filed 5–23–79; 8:45 am]

BILLING CODE 4910–13–M

14 CFR Part 73

[Airspace Docket No. 79–WE–6]

Special Use Airspace, Controlling Agency Name Change

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Final rule.

SUMMARY: This amendment changes the name of the Controlling Agency for Restricted Area R–2503, Camp Pendleton, Calif., Federal Aviation Administration, El Toro Approach Control fo Federal Aviation Administration, Los Angeles Air Route Traffic Control Center. This action is necessary to reflect the correct Controlling Agency for this restricted area.

EFFECTIVE DATE: May 24, 1979.

FOR FURTHER INFORMATION CONTACT: Mr. Lewis W. Still, Airspace Regulations Branch (AAT–230), Airspace and Air Traffic Rules Division, Air Traffic Service, Federal Aviation Administration, 800 Independence Avenue, SW., Washington, D.C. 20591; telephone: (202) 426–3128.

SUPPLEMENTARY INFORMATION: The purpose of this amendment to Subpart B of Part 73 of the Federal Aviation Regualtions (14 CFR Part 73) is to amend the name of the Controlling Agency of Restricted Area R–2503, Camp Pendleton, Calif. This action is taken to reflect the correct Controlling Agency for the restricted area. Subpart B of Part 73 of the Federal Aviation Regulations was republished in the **Federal Register** on January 2, 1979 (44 FR 675). Since this amendment is a minor matter on which the public would have no particular desire to comment, notice and public procedure thereon are unnecessary.

Adoption of the Amendment

Accordingly, pursuant to the authority delegated to me by the Administrator, Subpart B of the Federal Aviation Regulations (14 CFR Part 73) as republished (44 FR 675) is amended, effective upon publication in the **Federal Register** as follows:

§ 73.25 [Amended].

Under § 73.25, R–2503 Camp Pendleton, Calif. Controlling agency. "Federal Aviation Administration, El Toro Approach Control." is deleted and "Federal Aviation Administration, Los Angeles ARTCC." is substituted therefor.

(Secs. 307(a) and 313(a), Federal Aviation Act of 1958 (49 U.S.C. 1348(a) and 1354(a)); Sec. 6(c), Department of Transportation Act (49 U.S.C. 1655(c)); and 14 CFR 11.69).

The FAA has determined that this document involves a regulation which is not significant under Executive Order 12044, as implemented by DOT Regulatory Policies and Procedures (44 FR 11034; February 26, 1979). Since this regulatory action involves an established body of technical requirements for which frequent and routine amendments are necessary to keep them operationally current and promote safe flight operations, the anticipated impact is so minimal that this action does not warrant preparation of a regulatory evaluation.

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Issued in Washington, D.C., on May 16, 1979.

William E. Broadwater,

Chief, Airspace and Air Traffic Rules Division.

[FR Doc. 79-16134 Filed 5-23-79; 8:45 am]

BILLING CODE 4910-13-M

CIVIL AERONAUTICS BOARD

14 CFR Part 252

[Regulation ER-1124, Amdt. 3; Docket No. 33314]

Provision of Designated "No-Smoking" Areas Aboard Aircraft Operated by Certificated Air Carriers; Application of No-Smoking Areas to Commuter Airlines

AGENCY: Civil Aeronautics Board.

ACTION: Final rule.

SUMMARY: For the reasons stated in ER-1123, issued simultaneously, this rule extends the application of the CAB's regulation about smoking on aircraft to commuter air carriers operating aircraft with a passenger capacity of more than 30 seats.

DATES: Effective: June 22, 1979. Adopted: May 17, 1979.

FOR FURTHER INFORMATION CONTACT: Richard B. Dyson, Associate General Counsel, Civil Aeronautics Board, 1825 Connecticut Avenue, NW., Washington, D.C. 20428, 202-673-5442.

The Board amends Part 252 of its Economic Regulations (14 CFR Part 252 to read as follows:

1. The title of this part is changed to read:

PART 252—PROVISION OF DESIGNATED "NO-SMOKING" AREAS ABOARD AIR CARRIERS

2. § 252.1 is amended to read:

§ 252.1 Applicability.

This part establishes rules for the smoking of tobacco aboard aircraft. It applies to each direct air carrier that holds a certificate of public convenience and necessity authorizing the transportation of persons, issued under Section 401 of the Act and to commuter air carriers registered under Part 298 of this chapter in that part of their operations using aircraft designated to have a passenger capacity of more than 30 seats (hereinafter called "carriers"). Nothing in this regulation shall be deemed to require such carrier to permit the smoking of tobacco aboard aircraft.

(Secs. 204(a), 404(a), and 407, Federal Aviation Act of 1958, as amended, 72 Stat. 743, 760, 766; 49 U.S.C. 1324, 1374 and 1377.)

By the Civil Aeronautics Board.

Phyllis T. Kaylor,

Secretary.

[FR Doc. 79-16134 Filed 5-23-79; 8:45 am]

BILLING CODE 4910-13-M

14 CFR Part 298

[Regulation ER-1123, Amdt. 10; Docket 33314]

Classification and Exemption of Air Taxi Operators Increase in Passenger Aircraft Size for Air Taxis

AGENCY: Civil Aeronautics Board.

ACTION: Final rule.

SUMMARY: The CAB has adopted a final rule (ER-1123), published today, increasing the capacity of aircraft permitted for use by air taxi operators to 60 seats. The CAB is inviting comments on the final rule, which is effective immediately, with a view to issuing a revised rule later if necessary.

DATES: Comments by: July 23, 1979.

Comments and other relevant information received after this date will be considered by the Board only to the extent practicable.

ADDRESSES: Comments should be sent to Docket 33314. Docket Section, Civil Aeronautics Board, Washington, D.C. 20428. Docket comments may be examined at the Docket Section, Civil Aeronautics Board, Room 711, Universal Building, 1825 Connecticut Avenue, N.W., Washington, D.C. as soon as they are received.

FOR FURTHER INFORMATION CONTACT: Richard B. Dyson, Associate General Counsel, Civil Aeronautics Board, 1825 Connecticut Avenue, N.W., Washington, D.C. 20428, 202-673-5442.

(Secs. 204 and 416 of the Federal Aviation Act of 1958, as amended, 72 Stat. 743; 92 Stat. 1732; 49 U.S.C. 1324, 1386).

By the Civil Aeronautics Board.

Phyllis T. Kaylor,

Secretary.

[FR Doc. 79-16200 Filed 5-23-79; 8:45 am]

BILLING CODE 6320-01-M

14 CFR Part 298

[Regulation ER-1123, Amdt. 10; Docket 33314]

Classification and Exemption of Air Taxi Operators Increase in Passenger Aircraft Size for Air Taxis

AGENCY: Civil Aeronautics Board.

ACTION: Final rule.

SUMMARY: This rule increases the size of aircraft permitted for use by air taxi operators from 30 to 60 seats, to stimulate competition and to enable these small air carriers to serve better many small- and medium-sized communities. The Airline Deregulation Act of 1978 increases the size to 55 seats. The additional increase to 60 seats is being adopted at the CAB's own initiative. In a separate notice, issued simultaneously, the CAB is requesting comments on the increase from 55 to 60 seats, in view of the Airline Deregulation Act.

DATES: Effective: May 17, 1979. Adopted: May 17, 1979.

FOR FURTHER INFORMATION CONTACT: Richard B. Dyson, Associate General Counsel, Civil Aeronautics Board, 1825 Connecticut Avenue NW., Washington, D.C. 20520; (202) 673-5442.

SUPPLEMENTARY INFORMATION: Air taxi operators are now allowed by Board regulations to use aircraft in passenger service with a seating capacity of not more than 30 seats, and in all-cargo service with a maximum payload capacity of not more than 18,000 pounds. This type of air carrier is exempt from most provisions of the Act as long as it registers with the Board and presents evidence of having certain required insurance coverage.

By a notice of proposed rulemaking (EDR-381, 43 FR 39587, September 6, 1978), the Board proposed to increase the limit on seating capacity to 60 seats. The Board also asked for comment as to the extent, if any, to which consumer protections now afforded passengers of certificated carriers, such as smoking and overbooking regulations and restrictions on baggage liability limits, should be applied to air taxis, since they would now be using much larger aircraft. In response to this notice, the Board has received a wide variety of comments from air taxis, certificated carriers, Federal and State government agencies, and other interested persons.[1]

[1] Comments and reply comments have been received from: Action on Smoking and Health, Aviation Consumer Action Project, Air BVI Limited, Airline Passengers Association, Bexley Travel Services, Britt Airlines, Bridgeport Area Chamber of Commerce, Cosmopolitan Aviation Corporation, Commuter Airline Association of America, Executive Air Fleet Corporation, Martin Air Transport, North Central Airlines and Piedmont Airlines (jointly), Pacific Island Airways, Pennsylvania Commuter Airlines, Polynesian Airlines, State of Nebraska Department of Aeronautics, State of New Mexico Department of Transportation, State of New York Department of Transportation, U.S. Department of Defense, U.S. Office of Consumer Affairs (HEW), and Wright Airlines. Peter N. Georgiades also sent 448 comments from individual members of the public on the general issue of smoking on aircraft.

Since issuance of that notice by the Board, Congress passed the Airline Deregulation Act of 1978, which among other things amends section 416 of the Act to provide a statutory exemption from certification for air carriers operating aircraft of capacity less than 56 seats or 18,000 pounds payload. The amendment also permits the Board to exempt these carriers from other provisions of the Act, and to increase the size limits if the public interest so requires. The statutory exemption and the Board's discretionary authority are conditioned on the carrier conforming to such liability insurance requirements and other regulations as the Board may adopt in the public interest.

The Board previously raised the limit for air taxi aircraft used in all-cargo service to 18,000 pounds (ER-1052, 43 FR 25087, June 9, 1978), although the limits for aircraft in passenger service remained at 30 seats and 7,500 pounds. Since there is no longer a need for this bifurcation, by this amendment we are returning to one standard for aircraft used by air taxis no matter what the type of service. The Board is adopting a final rule that raises the seat limit to 60 seats, as proposed in EDR-361, but with a request for comments on the change in light of the Airline Deregulation Act. Further, in consideration of the comments received, the Board will continue to exempt all air taxis from consumer protection rules concerning denied boarding and baggage liability. It will, however, extend the smoking rules to aircraft in the 31- to 60-seat bracket.

Corresponding changes are being made to Part 252 in ER-1124, and are being issued simultaneously.

Increase in Aircraft Size

The Board is including the statutory exemption from the certification requirement for these small aircraft operators in its regulations for air taxis (14 CFR Part 298). The statutory exemption only relieves air carriers operating 55-seat or 18,000-pound aircraft from meeting the requirements of section 401 of the Act. The present regulation exempts operators of aircraft of this size from certain other sections of the Act as well, such as tariff filing, as long as they register as an air taxi. That is the intent of Congress (H.R. Rept. No. 1211, 95th Cong., 2d Sess., 10 (1978)), and enables these carriers to operate in an unregulated environment subject only to registration, insurance, and reporting requirements. Wright Airlines, a certificated carrier that operates similar-sized aircraft, has asked for the same authority as that given to air taxis, to operate without any restriction on fares or routes. It claims that otherwise there will be unfair competition. Without judging the merits of that request, we find that it raises issues outside the scope of this rulemaking proceeding. We have already granted an interim exemption to Wright, and other similarly-situated carriers, to operate on that basis. (Orders 78-8-63, 79-1-136, 79-3-65.) The matter will be dealt with in a separate proceeding, which we will institute in the near future.

The reasons given by Congress, and those stated in EDR-351, for increasing the size limit to 55 seats apply equally to the additional increase to 60. Air taxis have been playing an increasingly important role in the air transport system, developing new markets, exploiting and expanding existing markets, and filling air service gaps in the certificated carrier system as they appear. The aircraft permitted by this rule may be the most efficient aircraft for such service, and air taxis should be given the option to use these larger aircraft if the service situation can support their use.

The Board also affirms its tentative reasoning in EDR-361 in support of the increase. The foremost consideration in this rulemaking is that the quality of service available to the small- and medium-sized communities primarily served by the air taxis, and the ability of air taxis to fulfill their position as a supplement to the larger scheduled route system, be continued and improved. This rule is intended to further those ends by (a) making available larger aircraft to accommodate demand more effectively, (b) encouraging technological development in the form of new aircraft specifically designed for commuter service, (c) making available more of the passenger amenities commonly expected by air travelers, (d) providing greater speed and range in air taxi service, and (e) improving competition and service by making more aircraft available.

Two State government agencies and two commuter operators opposed the increase, arguing that it could lead to a recurrence of the reduced service to small communities that occurred when the local service carriers upgraded their aircraft, that the older aircraft of this size would have greater maintenance problems, and that there is no indication that any manufacturer would develop such aircraft. The Airline Deregulation Act has, however, substantially reduced the force of these arguments. A program of essential air service has been established to protect many of these communities. The new Act is designed to stimulate competitive market forces as the primary manner by which all air carriers, including air taxis, will decide which aircraft to use and how best to use them. Because air taxis operate in an unregulated environment and without subsidy support (except as they may provide essential air service), it is to be expected that they will exercise reasonable business judgment and select aircraft that are economically suited to the markets being served. To the extent that an air taxi decides to serve larger markets and acquires larger aircraft for this purpose, smaller markets may be abandoned. However, if this occurs it is clear from the history of the industry that new air taxis will enter the market as long as the opportunity for profitable operations exists, with appropriate small aircraft. Also, the increased competition and freer entry encouraged by the Act should result in more carriers willing to provide service to more places. There may well be a sufficiently large increase in demand to justify the introduction of new aircraft types in the 50-60 seat range. New operators may wish to start in smaller communities, thereby developing a market for aircraft of this size and the incentive for manufacturers to develop them.

An immediate result of increasing the statutory exemption from 55 seats to 60 seats is to include the Nihon YS-11 aircraft. For the reasons stated above, this plane should not be excluded from use by air taxi operators. There is a natural gap between its size and that of the jet aircraft operated by most certificated carriers. The 60-seat maximum gives the air tax operator sufficient flexibility to design its services to best meet the demands of each market, and gives the manufacturer the flexibility and incentive to develop newer aircraft to meet this need. The Board thus finds that the public interest calls for the increase in the size of permitted air taxi aircraft to 60 seats. By a notice in this issue of the **Federal Register**, however, the Board is asking for public comment on the increase, and will consider possible changes in the interim rule in light of any comments received.

The Board is changing the definition of "large aircraft" in Part 298 to make clear that the maximum seat limit and maximum payload capacity apply to the number of seats and amount of payload for which the aircraft is designed. This change eliminates the need for setting a maximum zero fuel weight in addition to the other limits, and will protect the limits from abuse.

Executive Air Fleet requested that the rule establish no maximum zero fuel

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weight, but that an air taxi be permitted to operate any type or size of aircraft as long as its configuration meets the capacity limits of the rule. It envisions regulations that would generally allow the labeling of a large aircraft as an air taxi where it is equipped with a small number of seats. This type of definition, however, would undermine the intergrity of the definition and the statutory exemption. Such an operation as proposed by Executive Air Fleet is better handled by exemption, on the basis of the facts of each case, than by general rulemaking.

The Airline Deregulation Act (§ 416(b), 49 U.S.C. 1386 (b)) also places several limitations on the operation of air taxis within Alaska. It makes the statutory exemption from certification for these small aircraft operators contingent upon their obtaining authority to provide such air transportation from the State of Alaska. Further, the Board is prohibited from limiting the number or location of points to be served by carriers exempt from certifications, or from limiting the frequency of service to such points by these carriers, unless it finds that the operation of a carrier would substantially impair the ability of a certificated carrier to provide a certain minimum service. The Board is therefore changing § 298.34 to conform to these limitations by deleting paragraph (b) and revising paragraph (a).

Consumer Protection

Air taxis with a seating capacity of up to 30 passengers have always been exempt from application of several of the Board's consumer protection regulations: baggage liability rules (Order 77–2–9, dated February 2, 1977, and Order 77–4–94, dated April 20, 1977), smoking and non-smoking areas (14 CFR Part 252), and overbooking (14 CFR Part 250). The Board, in EDR–361, requested comments on the issue of the extent, if any, to which consumer protection now afforded passengers of certificated carriers in the three areas should be extended to passengers of commuter air carriers.

As explained in implementing each of those rules, these protections have not been applied to air taxi because it has appeared that they would have created an unreasonable burden on operators of small aircraft. In addition, the nature of their operations has been thought to make these restrictions less necessary. Baggage liability has been less of a problem because their passengers rarely has more than carry-on luggage; the size of the aircraft rendered the allocation of a separate smoking section impractical; and the shuttle-type nature of their service tended to minimize problems with overbooking.

The Board's baggage liability rules now apply only to certificated carriers in chartered and scheduled service. The rules permit a limited liability for baggage of approximately $9.07 per pound for checked baggage, and $400 per passenger for unchecked baggage, for most international travel. The rules also restrict the limits on baggage liability to $750 per passenger for travel wholly within the United States.

Effective September 13, 1978 (ER—1050, 43 FR 24277, June 5, 1978), new Board rules were adopted to regulate the involuntary bumping of airline passengers holding confirmed reservations (Part 250). These rules require the airlines to ask for volunteers before bumping anyone from an oversold flight, establish substantially greater compensation for those bumped (based on the value of the remaining flight coupons), encourage carriers to experiment with other reservation and boarding practices to reduce involuntary bumping, and expand the public disclosure of boarding priorities and passenger rights. Commuter air carriers argued that these rules should not apply to commuter service, because under part 250 the commuter airline may be liable to the passenger for an amount far greater than the cost of the air taxi flight. This situation would occur if a passenger were bumped from a typically short and inexpensive air taxi flight that connected to a much longer, more expensive flight, with the commuter then liable to the passenger for the value of the remaining flight coupons. To impose this regulation on a commuter air carrier would be to impose an under hardship, They claimed.

With the passage of the Deregulation Act and the authorization for air taxis to use larger planes in the 31- to 60-seat capacity range, air taxis are assuming a more central place in the air transportation picture. Certificated airlines have been given greater route flexibility, and to the extent that these carriers cut back on small community service, the air taxis are moving to fill the gap. In order to foster this change, the Act makes Federal subsidies available to the air taxis, along with increasing the size of the aircraft that they can use. The issue is thus whether these recent changes now justify extension of the consumer protection rules to the larger air taxi aircraft.

After considering the comments, and other available information, the Board has decided not to extend the denied boarding and baggage liability rules to air taxis at this time. It is true that consumers may expect these protections to a greater extent on the larger planes operated by air taxis. The Board is not certain, however, that these rules, in their present form, are appropriate for application to small carriers with planes smaller than those generally used by the trunk carriers. The impact of these two rules is essentially economic, and we wish to assess their potential effect on smaller enterprises before deciding in what form, if any, they should be imposed. We are also concerned about the effect of these rules on smaller-plane operations even where conducted by a large certificated carrier. For example, the statistical premises of overbooking may be significantly different in the case of a 45-seat plane from that of a 200-seat plane. We will therefore invesitgate the questions of the costs and benefits of the rules, their best form, and possible alternatives, as applies to operations with aircraft ranging from the smallest up to those with 60-seat capacity, by air taxis and all other carriers. Pending the outcome of the investigation, air taxis will remain exempt from the denied boarding and baggage liability rules, and certificated carriers will remain subject to them in all their operations.

Since consumers should be aware of the risks they assume in buying an airline ticket, particularly where that ticket has unusual conditions, all air taxis will be required to disclose to passengers, at the time of purchase, their policies on baggage liability and denied board compensation. In addition, because the focus of the rule is on the adaptability of carriers to these consumer problems, its success depends in part on the ability of consumers to evaluate the offerings of competing carriers.

The issue of smoking on large and small aircraft is the subject of another rulemaking (Docket 29044), in which the issues and arguments have been discussed at length. On January 11, 1979 (ER–1091, 44 FR 5071, January 25, 1979) The Board approved a final rule amending Part 252 to require certificated air carriers to provide for special segregation of cigar and pipe smokers, and for such other procedures as may be necessary to avoid exposing non-smokers to cigar and pipe smoke. It provides for a total prohibition of smoking when ventilation systems are not fully functioning, and requires carriers to seat in no-smoking areas all passengers who wish to be there, to ensure that smoking is not permitted in no-smoking areas, and to enforce their rules with respect to the segregation of passengers in smoking and no-smoking areas. Commenters in both that docket and this one have suggested that smoking be banned altogether, particularly on small aircraft. In the alternative, they argued that smoking regulations should be applied to commuters if air taxi aircraft size is increased. As stated in ER–1091, the Board is preparing a notice of proposed rulemaking to consider such issues as a total ban on smoking on small aircraft, or on short flights.

The Board has, however, decided to extend the present rules on smoking to operations with aircraft flights of more than 30 seats. Certificated carriers operating aircraft of this size have long been subject to smoking regulations. The greater space in the cabin increases the distance between smokers and non-smokers. Separate sections take on greater importance as the larger aircraft travel greater distances, with a longer period of time in the air and more possible discomfort to the non-smoker. Most importantly, the economic impact of the smoking rule is minor, and we have no reason to believe that it will present special problems for small carriers. The Board is therefore changing Part 252 at this time so that the regulations for the separation of smokers and non-smokers apply to commuter operations with aircraft of more than 30 seats. This action, of course, does not prevent the airlines from banning smoking altogether, as several have already done. Nor does it affect operations with aircraft of 30 seats or less.

Environmental and Energy Considerations

The Board affirms its tentiative decision in EDR–361 that the changes being made in the final rule will not constitute a major federal action that will significantly affect the quality of the human environment within the meaning of the National Environmental Policy Act, 42 U.S.C. 4321 *et. seq.*, nor a major regulatory action within the meaning of the Energy Policy and Conservation Act, 42 U.S.C. 6201 *et. seq.* To the extent that this rule raises the seat limit to 55, Congress has already made the change, and the Board has no power to introduce the consideration of environmental and energy consequences into the increase in aircraft size. To the extent that the rule raises the seat limit an additional five seats, as we explained in EDR–351 in evaluating energy and environmental consequences of the proposed rule, the small portion of the air carrier industry represented by the air taxis, their type of service, and areas of operation will minimize any environmental or energy impact. It is the Board's opinion, therefore, that neither environmental nor energy assessment statements are required for this rule.

Effectiveness

Since the seating capacity aspect of this amendment is being made to bring the CAB's rules into conformity with the Airline Deregulation Act of 1978, which was signed into law on October 24, 1978, and relieves a restriction on the air taxis, the Board finds good cause to make the size increase effective immediately. This will enable air taxis immediately to use existing aircraft to meet the increased service demand resulting from the Deregulation Act, and make it easier to replace certificated carriers that have already terminated service, with sufficient capacity to meet community demand. Also, air taxis now operating aircraft of this size under exemptions that are expiring, and those who wish to operate such aircraft, should not be required to go through the costly and burdensome exemption procedure when the statutory intent has been made clear.

The extension of the smoking rule to operations with aircraft with more than 30 seats will be effective 30 days after publication.

The Board amends Part 298 of its Economic Regulations (14 CFR Part 298) as follows:

1. The Table of Contents is amended by adding a new § 298.30 to Subpart D to read:

PART 298—CLASSIFICATION AND EXEMPTION OF AIR TAXI OPERATORS

* * * * *

Subpart D—Limitations and Conditions on Exemption and Operations

* * * * *

Sec.
298.30 Public disclosure of policy on consumer protection
* * * * *

2. A new § 298.30 is added, to read:

§ 298.30 Public disclosure of policy on consumer protection.

Every air taxi shall cause to be displayed continuously in a conspicuous public place at each desk, station, and position in the United States which is in charge of a person employed exclusively by it, or by it jointly with another person, or by any agent employed by it, to sell tickets to passengers, a sign located so as to be clearly visible and readable to the traveling public, containing a statement setting forth the air taxi's policy on baggage liability and denied boarding compensation.

3. Paragraph (i) of § 298.2 is amended to read:

§ 298.2 Definitions.

* * * * *

(i) "Large aircraft" means any aircraft designed to have a maximum passenger capacity of more than 60 seats or a maximum payload capacity of more than 18,000 pounds.

* * * * *

§ 298.2(l) [Amended]

4. The second proviso of paragraph (l), "Maximum payload capacity," of § 298.2, is deleted.

5. § 298.31 is amended to read:

§ 298.31 Scope of service and equipment authorized.

Nothing in this part shall be construed as authorizing the operation of large aircraft in air transportation, and the exemption provided by this part to air taxi operators that register and re-register with the Board extends only to the direct operation in air transportation in accordance with the limitations and conditions of this part of aircraft designed to have a maximum passenger capacity of 60 seats or less or a maximum payload capacity of 18,000 pounds or less.

6. § 298.34 is amended to read:

§ 298.34 Limitations on air taxi service in Alaska.

An air taxi operator shall not provide or offer to provide air transportation between points both of which are in the State of Alaska, or one of which is in Alaska and the other in Canada, unless the air taxi operator also holds authority from the State of Alaska.

(Sections 204 and 416 of the Federal Aviation Act of 1958, as amended, 72 Stat. 743, 92 Stat. 1732; 49 U.S.C. 1324, 1386)

By the Civil Aeronautics Board.

Phyllis T. Kaylor,

Secretary.

[FR Doc. 79-16189 Filed 5-23-79; 8:45 am]

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FEDERAL TRADE COMMISSION

16 CFR Part 13

[Docket No. C-2961]

Intermatic, Inc.; Prohibited Trade Practices and Affirmative Corrective Actions

AGENCY: Federal Trade Commission.

ACTION: Final order.

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SUMMARY: In settlement of alleged violations of federal law prohibiting unfair acts and practices and unfair methods of competition, this consent agreement, among other things, requires a Spring Grove, Ill., manufacturer and distributor of electrical devices to cease misrepresenting energy or cost savings that may be realized through the use of its water heater timer without disclosing that use of the timer would decrease the quantity and temperature of hot water used, and adversely affect dishwasher operations. The firm is required to make relevant disclosure statements in product advertising, labeling and instructions; and recall all previously disseminated material which fails to conform with the terms of the order. Additionally, the firm is required to continue its existing refund policy; and maintain specified records for designated time periods.

DATES: Complaint and order issued April 25, 1979.[1]

FOR FURTHER INFORMATION CONTACT: Thomas Armitage, Director, 10R, Seattle Regional Office, Federal Trade Commission, 28th Floor, Federal Bldg., 915 Second Ave., Seattle, Wash. 98174. (202) 442–4655.

SUPPLEMENTARY INFORMATION: On Tuesday, February 13, 1979, there was published in the Federal Register, 44 FR 9398, a proposed consent agreement with analysis In the Matter of Intermatic, Incorporated, a corporation, for the purpose of soliciting public comment. Interested parties were given sixty (60) days in which to submit comments, suggestions or objections regarding the proposed form of order.

No comments having been received, the Commission has ordered the issuance of the complaint in the form contemplated by the agreement, made its jurisdictional findings and entered its order to cease and desist, as set forth in the proposed consent agreement, in disposition of this proceeding.

The prohibited trade practices and/or corrective actions, as codified under 16 CFR Part 13, are as follows: Subpart-Advertising Falsely or Misleadingly: § 13.142 Operation; § 13.160 Promotional sales plans; § 13.170 Qualities or properties of product or service; 13.170–34 Economizing or saving; 13.170–43 Heating; § 13.190 Results; § 13.205 Scientific or other relevant facts. Subpart-Corrective Actions and/or Requirements: § 13.533 Corrective actions and/or requirements; 13.533–20 Disclosures; 13.533–25 Displays, in-house; 13.533–45 Maintain records; 13.533–53 Recall of merchandise, advertising material, etc. Subpart-Misrepresenting Oneself and Goods—Goods: § 1710 Qualities or properties: § 13.1730 Results; § 13.1740 Scientific or other relevant facts.—Promotional Sales Plans: § 13.1830 Promotional sales plans. Subpart-Neglecting, Unfairly or Deceptively, To Make Material Disclosure: § 13.1863 Limitations of product; § 13.1885 Qualities or properties; § 13.1895 Scientific or other relevant facts. Subpart-Offering Unfair, Improper and Deceptive Inducements To Purchase or Deal: § 13.2063 Scientific or other relevant facts.

(Sec. 6, 38 Stat. 721; (15 U.S.C. 46). Interprets or applies sec. 5, 38 Stat. 719, as amended; (15 U.S.C. 45).)

Carol M. Thomas,

Secretary.

[FR Doc. 79-16272 Filed 5-23-79; 8:45 am]

BILLING CODE 6750-01-M

[1] Copies of the Complaint and Decision and Order filed with the original document.

DEPARTMENT OF HOUSING AND URBAN DEVELOPMENT

Government National Mortgage Association

24 CFR Part 300

[Docket No. R-79-557]

List of Attorneys-in-Fact

AGENCY: Department of Housing and Urban Development.

ACTION: Final Rule.

SUMMARY: This amendment updates the current list of attorneys-in-fact by amending Paragraph (c) of 24 CFR 300.11. These attorneys-in-fact are authorized to act for the Association by executing documents in its name in conjunction with servicing GNMA's mortgage purchase programs, all as more fully described in Paragraph (a) of 24 CFR 300.11.

EFFECTIVE DATE: June 22, 1979.

ADDRESSES: Rules Docket Clerk, Office of General Counsel, Room 5218, Department of Housing and Urban Development, 451 7th Street, S.W., Washington, D.C. 20410. Telephone: (202) 755–7603.

FOR FURTHER INFORMATION CONTACT: Mr. William J. Linane, Office of General Counsel, on (202) 755–7186.

SUPPLEMENTARY INFORMATION: Notice and public procedure on this amendment are unnecessary and impracticable because of the large volume of legal documents that must be executed on behalf of the Association.

§ 300.11 [Amended]

1. Paragraph (c) of § 300.11 is amended by deleting the following names from the current list of attorneys-in-fact:

Name and Region

M. V. Appenzeller, Atlanta, Georgia.
B. B. Fincher, Dallas, Texas.
Linda Heintz, Philadelphia, Pennsylvania.

2. Paragraph (c) of § 300.11 is amended by adding the following names to the current list of attorneys-in-fact:

* * * * *

(c) * * *

Nome and Region

Pan Andrus, Los Angeles, California.
Kenneth D. Baker, Los Angeles, California.
Evelyn C. Ball, Atlanta, Georgia.
Robert W. Endy, Los Angeles California.
Mark S. Haney, Los Angeles, California.
Joy A. Kinsey, Atlanta, Georgia.
Barbara Luetzow, Philadelphia, Pennsylvania.
James W. Noack, Los Angeles, California.
M. Kay Pollak, Los Angeles, California.
Maureen A. Shaughnessy, Philadelphia, Pennsylvania.
Geri C. Thomas, Los Angeles, California.

(Sec. 309 (d), National Housing Act, 12 U.S.C. 1723a(d), and sec. 7(d), Department of Housing and Urban Development Act, (42 U.S.C. 3535(d)).)

Issued at Washington, D.C., May 16, 1979.

R. Frederick Taylor,

Acting Executive Vice President, Government National Mortgage Association.

[FR Doc. 79-16235 Filed 5-23-79; 8:45 am]

BILLING CODE 4210-01-M

FEDERAL EMERGENCY MANAGEMENT AGENCY

24 CFR Part 1917

[Docket No. FI 4834]

Final Flood Elevation Determination for the Town of Bridgewater, Litchfield County, Conn., under the National Flood Insurance Program

AGENCY: Office of Federal Insurance and Hazard Mitigation, FEMA.[1]

ACTION: Final rule.

SUMMARY: Final base (100-year) flood elevations are listed below for selected locations in the Town of Bridgewater, Litchfield County, Connecticut.

These base (100-year) flood elevations are the basis for the flood plain management measures that the community is required to either adopt or show evidence of being already in effect in order to qualify or remain qualified for participation in the National Flood Insurance Program (NFIP).

EFFECTIVE DATE: The date of issuance of the Flood Insurance Rate Map (FIRM), showing base (100-year) flood elevations, for the Town of Bridgewater, Litchfield County, Connecticut.

ADDRESS: Maps and other information showing the detailed outlines of the flood prone areas and the final elevations for the Town of Bridgewater are available for review at the Town Hall, Bridgewater, Connecticut.

FOR FURTHER INFORMATION CONTACT: Mr. Richard Krimm, National Flood Insurance Program, (202) 755–5581 or Toll Free Line (800) 424–8872, Room 5270, 451 Seventh Street, SW., Washington, D.C. 20410.

SUPPLEMENTARY INFORMATION: The Federal Insurance Administrator gives notice of the final determinations of flood elevations for the Town of Bridgewater, Litchfield County, Connecticut.

This final rule is issued in accordance with section 110 of the Flood Disaster Protection Act of 1973 (Pub. L. 93–234), 87 Stat. 980, which added section 1363 to the National Flood Insurance Act of 1968 (Title XIII of the Housing and Urban Development Act of 1968 (Pub. L. 90–448), 42 U.S.C. 4001–4128, and 24 CFR Part 1917.4(a)). An opportunity for the community or individuals to appeal this determination to or through the community for a period of ninety (90) days has been provided. No appeals of the proposed base flood elevations were received from the community or from individuals within the community.

The Administrator has developed criteria for flood plain management in flood prone areas in accordance with 24 CFR Part 1910.

The final base (100-year) flood elevations for selected locations are:

Source of flooding	Location	Elevation in feet, national geodetic vertical datum
Wewaka Brook	Confluence with Lake Lillinonah.	195
	1,000 feet upstream of confluence with Lake Lillinonah.	195
	1,770 feet upstream of confluence with Lake Lillinonah.	203
	50 feet downstream of Wooden Bridge.	299
	65 feet downstream of Dam upstream of Wooden Bridge.	316
	Upstream side of Dam Wooden Bridge.	337

[1] The functions of the Federal Insurance Administration, Department of Housing and Urban Development, were transferred to the newly established Federal Emergency Management Agency by Reorganization Plan No. 3 of 1978 (43 FR 41943, September 19, 1978) and Executive Order 12127 (44 FR 19367, April 3, 1979).

Source of flooding	Location	Elevation in feet, national geodetic vertical datum
	At confluence with Wewaka Brook Tributary.	342
	Upstream side of Wewaka Brook Road.	358
	Upstream side of first driveway above Wewaka Brook Road.	364
	60 feet downstream of second driveway above Wewaka Brook Road.	366
	Downstream side of second pass under Wewaka Brook Road.	376
	870 feet upstream of second pass under Wewaka Brook Road.	406
	800 feet downstream of third pass under Wewaka Brook Road.	450
	Downstream side of third pass under Wewaka Brook Road.	472
	Downstream side of first driveway above third pass under Wewaka Brook Road.	484
	Downstream side of fourth pass under Wewaka Brook Road.	510
	Downstream side of Treat Road.	529
	95 feet upstream of Treat Road.	533
	920 feet upstream of Treat Road.	544
Wewaka Brook Tributary.	At confluence with Wewaka Brook.	342
	20 feet upstream of Wewaka Brook Road.	342
	25 feet downstream of Route 133.	365
	1,700 feet upstream of Route 133.	410
	1,700 feet downstream of second pass under Route 133.	465
	Upstream of second pass under Route 133.	510
	70 feet downstream of Stuart Road.	559
	60 feet upstream of Stuart Road.	567
	20 feet upstream of first driveway above Stuart Road.	579
	200 feet upstream of first driveway above Stuart Road.	583
	620 feet upstream of Stuart Road.	587
	1,920 feet upstream of Stuart Road.	630
	1,745 feet downstream of Sara Sanford Road.	652
	85 feet downstream of Sara Sanford Road.	679
	65 feet upstream of Sara Sanford Road.	687
	370 feet upstream of Sara Sanford Road.	688
	400 feet upstream of Sara Sanford Road.	690
	1,300 feet upstream of Sara Sanford Road.	700
Clapboard Oak Brook	At confluence with Lake Lillinonah.	195
	300 feet upstream of confluence with Lake Lillinonah.	199
	910 feet upstream of confluence with Lake Lillinonah.	215
	Upstream of Hemlock Road No. 1.	389
	Downstream of Hemlock Road No. 2.	461
	Upstream of Hemlock Road No. 2.	467
	Upstream of Curtis Road	519
	1,120 feet upstream of Curtis Road.	565
	2,120 feet upstream of Curtis Road.	596
	3,300 feet upstream of Curtis Road.	613
	4,300 feet upstream of Curtis Road.	653

(National Flood Insurance Act of 1968 (Title XIII of Housing and Urban Development Act of 1968), effective January 28, 1969 (33 FR 17804, November 28, 1968), as amended; 42 U.S.C. 4001–4128; Executive Order 12127, 44 FR 19367; and delegation of authority to Federal Insurance Administrator, 44 FR 20963.)

Issued: April 24, 1979.

Gloria M. Jimenez,

Federal Insurance Administrator.

[FR Doc. 79-15879 Filed 5-23-79; 8:45 am]

BILLING CODE 4210-23-M

24 CFR Part 1917

[Docket No. FI-4788]

Final Flood Elevation Determination for the Town of East Haddam, Middlesex County, Conn., Under the National Flood Insurance Program

AGENCY: Office of Federal Insurance and Hazard Mitigation, FEMA.

ACTION: Final rule.

SUMMARY: Final base (100-year) flood elevations are listed below for selected locations in the Town of East Haddam, Middlesex County, Connecticut.

These base (100-year) flood elevations are the basis for the flood plain management measures that the community is required to either adopt or show evidence of being already in effect in order to qualify or remain qualified for participation in the National Flood Insurance Program (NFIP).

EFFECTIVE DATE: The date of issuance of the Flood Insurance Rate Map (FIRM), showing base (100-year) flood elevations, for the Town of East Haddam, Middlesex County, Connecticut.

ADDRESSES: Maps and other information showing the detailed outlines of the flood prone areas and the final elevations for the Town of East Haddam are available for review at the Town Hall, East Haddam, Connecticut.

FOR FURTHER INFORMATION CONTACT: Mr. Richard Krimm, National Flood Insurance Program, (202) 755–5581 or Toll Free Line (800) 424–8872, Room 5270, 451 Seventh Street, SW., Washington, D.C. 20410.

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SUPPLEMENTARY INFORMATION: The Federal Insurance Administrator gives notice of the final determinations of flood elevations for the Town of East Haddam, Middlesex County, Connecticut.

This final rule is issued in accordance with section 110 of the Flood Disaster Protection Act of 1973 (Pub. L. 93–234), 87 Stat. 980, which added section 1363 to the National Flood Insurance Act of 1968 (Title XIII of the Housing and Urban Development Act of 1968 (Pub. L. 90–448), 42 U.S.C. 4001–4128, and 24 CFR Part 1917.4(a)). An opportunity for the community or individuals to appeal this determination to or through the community for a period of ninety (90) days has been provided. No appeals of the proposed base flood elevations were received from the community or from individuals within the community.

The Administrator has developed criteria for flood plain management in flood prone areas in accordance with 24 CFR Part 1910.

The final base (100-year) flood elevations for selected locations are:

Source of flooding	Location	Elevation in feet, national geodetic vertical datum
Salmon River	Confluence with Connecticut River.	12
	Confluence of Moodus River.	12
	Just upstream of Leesville Road.	12
	Just downstream of dam located upstream of Leesville Road.	12
	Just upstream of dam located upstream of Leesville Road.	29
	5,000 feet upstream of dam located upstream of Leesville Road.	31
Moodus River	Confluence with Salmon River.	12
	Just downstream of Johnsville Road.	12
	60 feet upstream of Johnsville Road.	18
	Just downstream of Johnson Mill Dam.	19
	Just upstream of Johnson Mill Dam.	33
	Just downstream of first dam located upstream of Leesville Road.	79
	Just upstream of first dam located upstream of Leesville Road.	92
	Just downstream of second dam located upstream of Leesville Road.	97
	Just upstream of second dam located upstream of Leesville Road.	107
	Just downstream of Moodus-Leesville Road.	112
	Just upstream of Moodus-Leesville Road.	115
	Just downstream of first dam located upstream of Moodus-Leesville Road.	119
	Just upstream of first dam located upstream of Moodus-Leesville Road.	126
	Just downstream of second dam located upstream of Moodus-Leesville Road.	144
	Just upstream of second dam located upstream of Moodus-Leesville Road.	152
	Just upstream of abandoned North Moodus Road bridge.	157
	Just downstream of North Moodus Road culvert.	166
	Just upstream of North Moodus Road culvert.	170
	Just downstream of dam located upstream of North Moodus Road.	177
	Just upstream of dam located upstream of North Moodus Road.	188
	Just upstream of Sawmill Road.	194
	Just downstream of dam located upstream of Sawmill Road.	199
	Just upstream of dam located upstream of Sawmill Road.	203
	Just downstream of Falls Road.	244
	Just downstream of dam located upstream of Falls Road.	267
	Just upstream of dam located upstream of Falls Road.	270
	Just downstream of Natural Falls.	277
	Just upstream of Natural Falls.	338
	Just downstream of Falls Bashan Road.	350
	Just upstream of Falls Bashan Road.	354
Connecticut River	Southern corporate limits	11
	Just upstream of State Route 82.	11
	Confluence of Salmon River.	12
Succor Brook	Confluence with Connecticut River.	11
	Just upstream of Lumber Yard Road.	11
	Just downstream of Creamery Road.	16
Eightmile River	Southern corporate limits	58
	Just upstream of Farm Bridge.	59
	Just downstream of State Route 82.	66
	Just upstream of Three Bridges Road.	73
	265 feet upstream of confluence with Hedge Brook.	83

(National Flood Insurance Act of 1968 (Title XIII of Housing and Urban Development Act of 1968), effective January 28, 1969 (33 FR 17804, November 28, 1968), as amended; 42 U.S.C. 4001–4128; and Executive Order 12127, 44 FR 19367; and delegation of authority to Federal Insurance Administrator, 44 FR 20963.)

Issued: April 18, 1979.

Gloria M. Jimenez,

Federal Insurance Administrator.

[FR Doc. 79–15880 Filed 5–23–79; 8:45 am]

BILLING CODE 4210–23–M

24 CFR Part 1917

[Docket No. FI–4838]

Final Flood Elevation Determination for the City of Palmetto, Fulton and Coweta Counties, Ga., Under the National Flood Insurance Program

AGENCY: Office of Federal Insurance and Hazard Mitigation, FEMA.

ACTION: Final rule.

SUMMARY: Final base (100-year) flood elevations are listed below for selected locations in the City of Palmetto, Fulton and Coweta Counties, Georgia.

These base (100-year) flood elevations are the basis for the flood plain management measures that the community is required to either adopt or show evidence of being already in effect in order to qualify or remain qualified for participation in the National Flood Insurance Program (NFIP).

EFFECTIVE DATE: The date of issuance of the Flood Insurance Rate Map (FIRM), showing base (100-year) flood elevations, for the City of Palmetto, Fulton and Coweta Counties, Georgia.

ADDRESSES: Maps and other information showing the detailed oulines of the flood-prone areas and the final elevations for the City of Palmetto, Fulton and Coweta Counties, Georgia are available for review at the Superintendent of Utilities Office, City Hall, 512 Locke Street, Palmetto, Georgia.

FOR FURTHER INFORMATION CONTACT: Mr. Richard Krimm, National Flood Insurance Program, (202) 755–5581 or Toll Free Line (800) 424–8872, Room 5270, 451 Seventh Street, SW, Washington, D.C. 20410.

SUPPLEMENTARY INFORMATION: The Federal Insurance Administrator gives notice of the final determinations of flood elevations for the City of Palmeto, Fulton and Coweta Counties, Georgia.

This final rule is issued in accordance with section 110 of the Flood Disaster Protection Act of 1973 (Pub. L. 93–234), 87 Stat. 980, which added section 1363 to the National Flood Insurance Act of 1968 (Title XIII of the Housing and Urban Development Act of 1968 (Pub. L. 90–448), 42 U.S.C. 4001–4128, and 24 CFR Part 1917.4(a)). An opportunity for the community or individuals to appeal this determination to or through the community for a period of ninety (90) days has been provided. No appeals of the proposed base flood elevations were received from the community or from individuals within the community.

The Administrator has developed criteria for flood plain management in flood-prone areas in accordance with 24 CFR Part 1910.

The final base (100-year) flood elevations for selected locations are:

Source of flooding	Location	Elevation in feet, national geodetic vertical datum
Little Bear Creek	Just downstream of Carlton Road.	930
	Just downstream of Toombs Road.	963

(National Flood Insurance Act of 1968 (Title XIII of Housing and Urban Development Act of 1968), effective January 28, 1969 (33 FR 17804, November 28, 1968), as amended; 42 U.S.C. 4001–4128; Executive Order 12127, 44 FR 19367; and delegation of authority to Federal Insurance Administrator 44 FR 20963.)

Issued: April 24, 1979.

Gloria M. Jimenez,

Federal Insurance Administrator.

[FR Doc. 79–15881 Filed 5–23–79; 8:45 am]

BILLING CODE 4210–23–M

24 CFR Part 1917

[Docket No. FI 4844]

Final Flood Elevation Determination for the Village of Frankfort, Will County, Illinois, Under the National Flood Insurance Program

AGENCY: Office of Federal Insurance and Hazard Mitigation, FEMA.

ACTION: Final rule.

SUMMARY: Final base (100-year) flood elevations are listed below for selected locations in the Village of Frankfort, Will County, Illinois.

These base (100-year) flood elevations are the basis for the flood plain management measures that the community is required to either adopt or show evidence of being already in effect in order to qualify or remain qualified for participation in the National Flood Insurance Program (NFIP).

EFFECTIVE DATE: The date of issuance of the Flood Insurance Rate Map (FIRM), showing base (100-year) flood elevations, for the Village of Frankfort, Will County, Illinois.

ADDRESSES: Maps and other information showing the detailed outlines of the flood prone areas and the final elevations for the Village of Frankfort are available for review at the Village Administrator's Office, Frankfort, Illinois.

FOR FURTHER INFORMATION CONTACT: Mr. Richard Krimm, National Flood Insurance Program (202) 755–5581 or Toll Free Line (800) 424–8872, Room 5270, 451 Seventh Street, SW., Washington, D.C. 20410.

SUPPLEMENTARY INFORMATION: The Federal Insurance Administrator gives notice of the final determinations of flood elevations for the Village of Frankfort, Will County, Illinois.

This final rule is issued in accordance with section 110 of the Flood Disaster Protection Act of 1973 (Pub. L. 93–234), 87 Stat. 980, which added section 1363 to the National Flood Insurance Act of 1968 (Title XIII of the Housing and Urban Development Act of 1968 (Pub. L. 90–448), 42 U.S.C. 4001–4128, and 24 CFR Part 1917.4(a)). An opportunity for the community or individuals to appeal this determination to or through the community for a period of ninety (90) days has been provided. No appeals of the proposed base flood elevations were received from the community or from individuals within the community.

The Administrator has developed criteria for flood plain management in flood prone areas in accordance with 24 CFR Part 1910. The final base (100-year) flood elevations for selected locations are:

Source of Flooding	Location	Elevation in feet, national geodetic vertical datum
Tributary 1 of Hickory Creek.	1,250 feet downstream from Indiana Court at western corporate limit.	690
	Just downstream of Indiana Court.	695
	Just upstream of Indiana Court.	701
	At Birchwood Road	701
	100 feet upstream from Box Elder.	702
	100 feet downstream from Locust Street.	704
	Just downstream from Chelsea School Road.	708
	400 feet downstream from confluence of Tributary A of History Creek.	711
	100 feet upstream from confluence of Tributary A of Hickory Creek.	712
	500 feet downstream from Frankfort Street.	714
	At Frankfort Street	715
	300 feet upstream from Frankfort Street.	716
	1,300 feet upstream from Frankfort Street at eastern corporate limit.	719

(National Flood Insurance Act of 1968 (Title XIII of Housing and Urban Development Act of 1968), effective January 28, 1969 (33 FR 17804, November 28, 1968), as amended; 42 U.S.C. 4001–4128; Executive Order 12127, 44 FR 19367; and delegation of authority to Federal Insurance Administrator, 44 FR 20963.)

Issued: April 24, 1979.

Gloria M. Jimenez,

Federal Insurance Administrator.

[FR Doc. 79–15882 Filed 5–23–79; 8:45 am]

BILLING CODE 4210–23–M

24 CFR Part 1917

[Docket No. FI 4860]

Final Flood Elevation Determination for the Village of Lyons, Cook County, Illinois, Under the National Flood Insurance Program

AGENCY: Office of Federal Insurance and Hazard Mitigation, FEMA.

ACTION: Final rule.

SUMMARY: Final base (100-year) flood elevations are listed below for selected locations in the Village of Lyons, Cook County, Illinois. These base (100-year) flood elevations are the basis for the flood plain management measures that the community is required to either adopt or show evidence of being already in effect in order to qualify or remain qualified for participation in the National Flood Insurance Program (NFIP).

EFFECTIVE DATE: The date of issuance of the Flood Insurance Rate Map (FIRM), showing base (100-year) flood elevations, for the Village of Lyons, Cook County, Illinois.

ADDRESSES: Maps and other information showing the detailed outlines of the flood prone areas and the final elevations for the Village of Lyons are available for review at the Village Clerks Office, Lyons, Illinois.

FOR FURTHER INFORMATION CONTACT: Mr. Richard Krimm, National Flood Insurance Program, (202) 755–5581 or Toll Free Line (800) 424–8872, Room 5270, 451 Seventh Street, SW., Washington, D.C. 20410.

SUPPLEMENTARY INFORMATION: The Federal Insurance Administrator gives notice of the final determinations of flood elevations for the Village of Lyons, Cook County, Illinois.

This final rule is issued in accordance with section 110 of the Flood Disaster Protection Act of 1973 (Pub. L. 93–234), 87 Stat. 980, which added section 1363 to the National Flood Insurance Act of 1968 (Title XIII of the Housing and Urban Development Act of 1968 (Pub. L. 90–448), 42 U.S.C. 4001–4128, and 24 CFR Part 1917.4(a)). An opportunity for the community or individuals to appeal this determination to or through the community for a period of ninety (90) days has been provided. No appeals of the proposed base flood elevations were

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received from the community or from individuals within the community.

The Administrator has developed criteria for flood plain management in flood-prone areas in accordance with 24 CFR Part 1910.

The final base (100-year) flood elevations for selected locations are:

Source of flooding	Location	Elevation in feet, national geodetic vertical datum
Des Plaines River	At Southern corporate limit	598
	100 feet Downstream of Ogden Avenue.	600
	Downstream of Hoefman Dam.	604
	700 feet Upstream of Hoefman Dam.	610
	3,000 feet Upstream of Hoefman Dam.	612
	1,000 feet Upstream of Salt Creek confluence at north corporate limit.	613
Salt Creek	At confluence with Des Plaines River.	612
	1,200 feet Upstream of confluence with Des Plaines River.	613
	2,030 feet Upstream of confluence with Des Plaines River.	614
	North corporate limits	615

(National Flood Insurance Act of 1968 (Title XIII of Housing and Urban Development Act of 1968), effective January 28, 1969 (33 FR 17804, November 28, 1968), as amended; 42 U.S.C. 4001–4128; Executive Order 12127, 44 FR 19367; and delegation of authority to Federal Insurance Administrator, 44 FR 20963.)

Issued: April 24, 1979.

Gloria M. Jimenez,

Federal Insurance Administrator.

[FR Doc. 79-15883 Filed 5-23-79; 8:45 am]

BILLING CODE 4210-23-M

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24 CFR Part 1917

[Docket No. FI 4964]

Final Flood Elevation Determination for the Village of Peoria Heights, Peoria County, Illinois, Under the National Flood Insurance Program

AGENCY: Office of Federal Insurance and Hazard Mitigation, FEMA.

ACTION: Final rule.

SUMMARY: Final base (100-year) flood elevations are listed below for selected locations in the Village of Peoria Heights, Peoria County, Illinois.

These base (100-year) flood elevations are the basis for the flood plain management measures that the community is required to either adopt or show evidence of being already in effect in order to qualify or remain qualified for participation in the National Flood Insurance Program (NFIP).

EFFECTIVE DATE: The date of issuance of the Flood Insurance Rate Map (FIRM), showing base (100-year) flood elevations, for the Village of Peoria Heights, Peoria County, Illinois.

ADDRESSES: Maps and other information showing the detailed outlines of the flood prone areas and the final elevations for the Village of Peoria Heights are available for review at the Village Hall, 4901 North Prospect Road, Peoria Heights, Illinois.

FOR FURTHER INFORMATION CONTACT: Mr. Richard Krimm, National Flood Insurance Program, (202) 755–5581 or Toll Free Line (800) 424–8872, Room 5270, 451 Seventh Street, SW., Washington, D.C. 20410.

SUPPLEMENTARY INFORMATION: The Federal Insurance Administrator gives notice of the final determinations of flood elevations for the Village of Peoria Heights, Peoria County, Illinois.

This final rule is issued in accordance with section 110 of the Flood Disaster Protection Act of 1973 (Pub. L. 93–234), 87 Stat. 980, which added section 1363 to the National Flood Insurance Act of 1968 (Title XIII of the Housing and Urban Develpment Act of 1968 (Pub. L. 90–448), 42 U.S.C. 4001–4128, and 24 CFR Part 1917.4(a)). An opportunity for the community or individuals to appeal this determination to or through the community for a period of ninety (90) days has been provided. No appeals of the proposed base flood elevations were received from the community or from individuals within the community.

The Administrator has developed criteria for flood plain management in flood prone areas in accordance with 24 CFR Part 1910. The final base (100-year) flood elevations for selected locations are:

Source of flooding	Location	Elevation in feet, national geodetic vertical datum
Illinois River	Southern corporate limit	460
	Northern corporate limit	460
East Branch Dry Run Creek.	West corporate limit, about 100 feet north of Glen Avenue.	704

(National Flood Insurance Act of 1968 (Title XIII of Housing and Urban Development Act of 1968), effective January 28, 1969 (33 FR 17804, November 28, 1968), as amended; 42 U.S.C. 4001–4128; Executive Order 12127, 44 FR 19367; and delegation of authority to Federal Insurance Administrator, 44 FR 20963].

Issued: April 24, 1979.

Gloria M. Jimenez,

Federal Insurance Administrator.

[FR Doc. 79-15884 Filed 5-23-79; 8:45 am]

BILLING CODE 4210-23-M

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24 CFR Part 1917

[Docket No. FI-4863]

Final Flood Elevation Determination for the Town of Porter, Porter County, Ind., Under the National Flood Insurance Program

AGENCY: Office of Federal Insurance and Hazard Mitigation, FEMA.

ACTION: Final rule.

SUMMARY: Final base (100-year) flood elevations are listed below for selected locations in the Town of Porter, Porter County, Indiana. These base (100-year) flood elevations are the basis for the flood plain management measures that the community is required to either adopt or show evidence of being already in effect in order to qualify or remain qualified for participation in the National Flood Insurance Program (NFIP).

EFFECTIVE DATE: The date of issuance of the Flood Insurance Rate Map (FIRM), showing base (100-year) flood elevations, for the Town of Porter, Porter County, Indiana.

ADDRESSES: Maps and other information showing the detailed outlines of the flood prone areas and the final elevations for the Town of Porter are available for review at the City Hall, Porter, Indiana.

FOR FURTHER INFORMATION CONTACT: Mr. Richard Krimm, National Flood Insurance Program, (202) 755–5581 or Toll Free Line (800) 424–8872, Room 5270, 451 Seventh Street, SW., Washington, D.C. 20410.

SUPPLEMENTARY INFORMATION: The Federal Insurance Administrator gives notice of the final determinations of flood elevations for the Town of Porter, Porter County, Indiana.

This final rule is issued in accordance with section 110 of the Flood Disaster Protection Act of 1973 (Pub. L. 93–234), 87 Stat. 980, which added section 1363 to the National Flood Insurance Act of 1968 (Title XIII of the Housing and Urban Development Act of 1968 (Pub. L. 90–448), 42 U.S.C. 4001–4128, and 24 CFR Part 1917.4(a)). An opportunity for the community or individuals to appeal this determination to or through the community for a period of ninety (90) days has been provided. No appeals of the proposed base flood elevations were

received from the community or from individuals within the community.

The Administrator has developed criteria for flood plain management in flood prone areas in accordance with 24 CFR Part 1910.

The final base (100-year) flood elevations for selected locations are:

Source of flooding	Location	Elevation in feet, national geodetic vertical datum
Little Calumet River	At downstream corporate limits.	613
	At Howe Road	614
	Just upstream of U.S. Highway 20.	616
	Just upstream of I-94	618
	At Waverly Road	620
	Upstream of Conrail	622
	Upstream corporate limits	622
Peterson Ditch	At confluence with Little Calumet River.	614
	30 feet upstream from Howe Road.	615
	800 feet upstream from Howe Road.	616
	Downstream side of Beam Street.	621
	Upstream side of Beam Street.	627
	185 feet upstream of Conrail	627
	200 feet downstream from U.S. Highway 20.	632
	Upstream of U.S. Highway 20	636
	Upstream of I-94	637
	Upstream side of Conrail	638
	Upstream side of Elgin Joliet and Eastern Railroad.	638
	At 23rd Street (Corporate limits).	638

(National Flood Insurance Act of 1968 (Title XIII of Housing and Urban Development Act of 1968), effective January 28, 1969 (33 FR 17804, November 28, 1968), as amended; 42 U.S.C. 4001–4128; Executive Order 12127, 44 FR 19367; and delegation of authority to Federal Insurance Administrator, 44 FR 20963.)

Issued: April 24, 1979.

Gloria M. Jimenez,

Federal Insurance Administrator.

[FR Doc. 79-15885 Filed 5-23-79; 8:45 am]

BILLING CODE 4210-23-M

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24 CFR Part 1917

[Docket No. FI-4903]

Final Flood Elevation Determination for the Town of St. John, Lake County, Ind., Under the National Flood Insurance Program

AGENCY: Office of Federal Insurance and Hazard Mitigation, FEMA.

ACTION: Final rule.

SUMMARY: Final base (100-year) flood elevations are listed below for selected locations in the Town of St. John, Lake County, Indiana. These base (100-year) flood elevations are the basis for the flood plain management measures that the community is required to either adopt or show evidence of being already in effect in order to qualify or remain qualified for participation in the National Flood Insurance Program (NFIP).

EFFECTIVE DATE: The date of issuance of the Flood Insurance Rate Map (FIRM), showing base (100-year) flood elevations, for the Town of St. John, Lake County, Indiana.

ADDRESSES: Maps and other information showing the detailed outlines of the flood prone areas and the final elevations for the Town of St. John are available for review at the Town Hall, Clerk's Office, West 93rd Street, St. John, Indiana.

FOR FURTHER INFORMATION CONTACT: Mr. Richard Krimm, National Flood Insurance Program, (202) 755–5581 or Toll Free Line (800) 424–8872, Room 5270, 451 Seventh Street, SW., Washington, D.C. 20410.

SUPPLEMENTARY INFORMATION: The Federal Insurance Administrator gives notice of the final determinations of flood elevations for the Town of St. John, Lake County, Indiana.

This final rule is issued in accordance with section 110 of the Flood Disaster Protection Act of 1973 (Pub. L. 93–234), 87 Stat. 980, which added section 1363 to the National Flood Insurance Act of 1968 (Title XIII of the Housing and Urban Development Act of 1968 (Pub. L. 90–448), 42 U.S.C. 4001–4128, and 24 CFR Part 1917.4(a)). An opportunity for the community or individuals to appeal this determination to or through the community for a period of ninety (90) days has been provided. No appeals of the proposed base flood elevations were received from the community or from individuals within the community.

The Administrator has developed criteria for flood plain management in flood prone areas in accordance with 24 CFR Part 1910.

The final base (100-year) flood elevations for selected locations are:

Source of flooding	Location	Elevation in feet, national geodetic vertical datum
Bull Run	At the confluence with West Creek.	675
	Just downstream of Dirt Road.	676
	Just downstream of White Oak Avenue (corporate limits).	679
St. John Ditch	At the confluence with West Creek.	675
	At Farm Lane	676
	Just downstream of U.S. 41	683
	Just upstream of U.S. 41	686
	Just downstream of Conrail	687
	Just upstream of Conrail	691
	Just upstream of Louisville & Nashville Railroad.	694
	3,750 feet upstream of Hart Street (at upstream corporate limits).	694
West Creek	Downstream corporate limit	674
	Confluence with St. John Ditch & Bull Run.	675

(National Flood Insurance Act of 1968 (Title XIII of Housing and Urban Development Act of 1968), effective January 28, 1969 (33 FR 17804, November 28, 1968), as amended; 42 U.S.C. 4001–4128; Executive Order 12127, 44 FR 19367; and delegation of authority to Federal Insurance Administrator, 44 FR 20963.)

Issued: April 24, 1979.

Gloria M. Jimenez,

Federal Insurance Administrator.

[FR Doc. 79-15886 Filed 5-23-79; 8:45 am]

BILLING CODE 4210-23-M

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24 CFR Part 1917

[Docket No. FI-4946]

Final Flood Elevation Determination for the City of Easton, Leavenworth County, Kans., Under the National Flood Insurance Program

AGENCY: Office of Federal Insurance and Hazard Mitigation, FEMA.

ACTION: Final rule.

SUMMARY: Final base (100-year) flood elevations are listed below for selected locations in the City of Easton, Leavenworth County, Kansas. These base (100-year) flood elevations are the basis for the flood plain management measures that the community is required to either adopt or show evidence of being already in effect in order to qualify or remain qualified for participation in the National Flood Insurance Program (NFIP).

EFFECTIVE DATE: The date of issuance of the Flood Insurance Rate Map (FIRM), showing base (100-year) flood elevations, for the City of Easton, Leavenworth County, Kansas.

ADDRESSES: Maps and other information showing the detailed outlines of the flood prone areas and the final elevations for the City of Easton are available for review at the City Hall, Easton, Kansas.

FOR FURTHER INFORMATION CONTACT: Mr. Richard Krimm, National Flood Insurance Program, (202) 755–5581 or Toll Free Line (800) 424–8872, Room 5270, 451 Seventh Street, SW., Washington, D.C. 20410.

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SUPPLEMENTARY INFORMATION: The Federal Insurance Administrator gives notice of the final determinations of flood elevations for the City of Easton, Leavenworth County, Kansas.

This final rule is issued in accordance with section 110 of the Flood Disaster Protection Act of 1973 (Pub. L. 93–234), 87 Stat. 980, which added section 1363 to the National Flood Insurance Act of 1968 (Title XIII of the Housing and Urban Development Act of 1968 (Pub. L. 90–448), 42 U.S.C. 4001–4128, and 24 CFR Part 1917.4(a)). An opportunity for the community or individuals to appeal this determination to or through the community for a period of ninety (90) days has been provided. No appeals of the proposed base flood elevations were received from the community or from individuals within the community.

The Administrator has developed criteria for flood plain management in flood prone areas in accordance with 24 CFR Part 1910.

The final base (100-year) flood elevations for selected locations are:

Source of flooding	Location	Elevation in feet, national geodetic vertical datum
Dawson Creek	450 feet Downstream of 3rd Street.	903
	Just Upstream of Kickakpoo Street.	904
	900 feet Upstream of Kickapoo Street.	906
Stranger Creek	1,500 feet Downstream of State Highway 192.	903
	650 feet Upstream of State Highway 192.	905

(National Flood Insurance Act of 1968 (Title XIII of Housing and Urban Development Act of 1968), effective January 28, 1969 (33 FR 17804, November 28, 1968), as amended; 42 U.S.C. 4001–4128; Executive Order 12127, 44 FR 19367; and delegation of authority to Federal Insurance Administrator, 44 FR 20963.)

Issued: April 18, 1979.

Gloria M. Jimenez,

Federal Insurance Administrator.

[FR Doc. 79–15587 Filed 5–23–79; 8:45 am]

BILLING CODE 4210–23–M

24 CFR Part 1917

[Docket No. FI–4978]

Final Flood Elevation Determination for the Town of Greensboro, Caroline County, Md.

AGENCY: Office of Federal Insurance and Hazard Mitigation, FEMA.

ACTION: Final rule.

SUMMARY: Final base (100-year) flood elevations are listed below for selected locations in the Town of Greensboro, Caroline County, Maryland. These base (100-year) flood elevations are the basis for the flood plain management measures that the community is required to either adopt or show evidence of being already in effect in order to qualify or remain qualified for participation in the National Flood Insurance Program (NFIP).

EFFECTIVE DATE: The date of issuance of the Flood Insurance Rate Map (FIRM), showing base (100-year) flood elevations, for the Town of Greensboro, Caroline County, Maryland.

ADDRESSES: Maps and other information showing the detailed oulines of the flood-prone areas and the final elevations for the Town of Greensboro, Caroline County, Maryland, are available for review at the Town Hall, North Main Street, Greensboro, Maryland.

FOR FURTHER INFORMATION CONTACT: Mr. Richard Krimm, National Flood Insurance Program, (202) 755–5581 or Toll Free Line (800) 424–8872, Room 5270, 451 Seventh Street, SW., Washington, D.C. 20410.

SUPPLEMENTARY INFORMATION: The Federal Insurance Administrator gives notice of the final determinations of flood elevations for the Town of Greensboro, Caroline County, Maryland.

This final rule is issued in accordance with section 110 of the Flood Disaster Protection Act of 1973 (Pub. L. 93–234), 87 Stat. 980, which added section 1363 to the National Flood Insurance Act of 1968 (Title XIII of the Housing and Urban Development Act of 1968 (Pub. L. 90–448), 42 U.S.C. 4001–4128, and 24 CFR Part 1917.4(a)). An opportunity for the community or individuals to appeal this determination to or through the community for a period of ninety (90) days has been provided. No appeals of the proposed base flood elevations were received from the community or from individuals within the community.

The Administrator has developed criteria for flood plain management in flood-prone areas in accordance with 24 CFR Part 1910.

The final base (100-year) flood elevations for selected locations are:

Source of flooding	Location	Elevation in feet, national geodetic vertical datum
Choptank River	Downstream Corporate Limits.	12
	State Route 314 Bridge	12
	Upstream Corporate Limits	13

(National Flood Insurance Act of 1968 (Title XIII of Housing and Urban Development Act of 1968), effective January 28, 1969 (33 FR 17804, November 28, 1968), as amended; 42 U.S.C. 4001–4128; Executive Order 12127, 44 FR 19367; and delegation of authority to Federal Insurance Administrator 44 FR 20963.)

Issued: April 24, 1979.

Gloria M. Jimenez,

Federal Insurance Administrator.

[FR Doc. 79–15888 Filed 5–23–79; 8:45 am]

BILLING CODE 4210–23–M

24 CFR Part 1917

[Docket No. FI–4907]

Final Flood Elevation Determination for the Township of Lake, Berrien County, Mich., Under The National Flood Insurance Program

AGENCY: Office of Federal Insurance and Hazard Mitigation, FEMA.

ACTION: Final rule.

SUMMARY: Final base (100-year) flood elevations are listed below for selected locations in the Township of Lake, Berrien County, Michigan. These base (100-year) flood elevations are the basis for the flood plain management measures that the community is required to either adopt or show evidence of being already in effect in order to qualify or remain qualified for participation in the National Flood Insurance Program (NFIP).

EFFECTIVE DATE: The date of issuance of the Flood Insurance Rate Map (FIRM), showing base (100-year) flood elevations, for the Township of Lake, Berrien County, Michigan.

ADDRESSES: Maps and other information showing the detailed outlines of the flood prone areas and final elevations for the Township of Lake are available for review at the Township Hall, Lake, Michigan.

FOR FURTHER INFORMATION CONTACT: Mr. Richard Krimm, National Flood Insurance Program, (202) 755–5581 or Toll Free Line (800) 424–8872, Room 5270, 451 Seventh Street, SW., Washington, D.C. 20410.

SUPPLEMENTARY INFORMATION: The Federal Insurance Administrator gives notice of the final determinations of flood elevations for the Township of Lake, Berrien County, Michigan.

This final rule is issued in accordance with section 110 of the Flood Disaster Protection Act of 1973 (Pub. L. 93–234), 87 Stat. 980, which added section 1363 to the National Flood Insurance Act of 1968 (Title XIII of the Housing and Urban Development Act of 1968 (Pub. L. 90–448), 42 U.S.C. 4001–4128, and 24 CFR

Part 1917.4(a)). An opportunity for the community or individuals to appeal this determination to or through the community for a period of ninety (90) days has been provided. No appeals of the proposed base flood elevations were received from the community or from individuals within the community.

The Administrator has developed criteria for flood plain management in flood prone areas in accordance with 24 CFR Part 1910.

The final base (100-year) flood elevations for selected locations are:

Source of flooding	Location	Elevation in feet, national geodetic vertical datum
Lake Michigan	Lake Michigan (entire length of shoreline).	584

(National Flood Insurance Act of 1968 (Title XIII of Housing and Urban Development Act of 1968), effective January 28, 1969 (33 FR 17804, November 28, 1968), as amended; 42 U.S.C. 4001–4128; Executive Order 12127, 44 FR 19367; and delegation of authority to Federal Insurance Administrator, 44 FR 20963.)

Issued: April 24, 1979.

Gloria M. Jimenez,

Federal Insurance Administrator.

[FR Doc. 79–15689 Filed 5–23–79; 8:45 am]

BILLING CODE 4210–23–M

24 CFR Part 1917

[Docket No. FI 4809]

Final Flood Elevation Determination for the City of Swartz Creek, Genesee County, Mich., Under the National Flood Insurance Program

AGENCY: Office of Federal Insurance and Hazard Mitigation, FEMA.

ACTION: Final rule.

SUMMARY: Final base (100-year) flood elevations are listed below for selected locations in the City of Swartz Creek, Genesee County, Michigan.

These base (100-year) flood elevations are the basis for the flood plain management measures that the community is required to either adopt or show evidence of being already in effect in order to qualify or remain qualified for participation in the National Flood Insurance Program (NFIP).

EFFECTIVE DATE: The date of issuance of the Flood Insurance Rate Map (FIRM), showing base (100-year) flood elevations, for the City of Swartz Creek, Genesee County, Michigan.

ADDRESSES: Maps and other information showing the detailed outlines of the flood prone areas and the final elevations for the City of Swartz Creek are available for review at the City Hall, Swartz Creek, Michigan.

FOR FURTHER INFORMATION CONTACT: Mr. Richard Krimm, National Flood Insurance Program, (202) 755–5581 or Toll Free Line (800) 424–8872, Room 5720, 451 Seventh Street, SW., Washington, D.C. 20410.

SUPPLEMENTARY INFORMATION: The Federal Insurance Administrator gives notice of the final determinations of flood elevations for the City of Swartz Creek, Genesee County, Michigan.

This final rule is issued in accordance with section 110 of the Flood Disaster Protection Act of 1973 (Pub. L. 93–234), 87 Stat. 980, which added section 1363 to the National Flood Insurance Act of 1968 (Title XIII of the Housing and Urban Development Act of 1968 (Pub. L. 90–448), 42 U.S.C. 4001–4128, and 24 CFR Part 1917.4(a)). An opportunity for the community or individuals to appeal this determination to or through the community for a period of ninety (90) days has been provided. No appeals of the proposed base flood elevations were received from the community or from individuals within the community.

The Administrator has developed criteria for flood plain management in flood prone areas in accordance with 24 CFR Part 1910.

The final base (100-year) flood elevations for selected locations are:

Source of flooding	Location	Elevation in feet, national geodetic vertical datum
West Branch Swartz Creek.	Eastern corporate limits	756
	Just downstream from Grand Trunk Western Railroad.	759
	Just downstream from Elms Road.	764
	Just upstream from Morrish Road.	769
	Western corporate limits	772
Alger Creek	Just upstream of mouth at West Branch Swartz Creek.	771
	Southern corporate limits	771

(National Flood Insurance Act of 1968 (Title XIII of Housing and Urban Development Act of 1968), effective January 28, 1969 (33 FR 17804, November 28, 1968), as amended; 42 U.S.C. 4001–4128; Executive Order 12127, 44 FR 19367; and delegation of authority to Federal Insurance Administrator, 44 FR 20963))

Issued: April 24, 1979.

Gloria M. Jimenez,

Federal Insurance Administrator.

[FR Doc. 79–15890 Filed 5–23–79; 8:45 am]

BILLING CODE 4210–23–M

24 CFR Part 1917

[Docket No. FI 4774]

Final Flood Elevation Determination for the Unincorporated Areas of LeFlore County, Miss., Under the National Flood Insurance Program

AGENCY: Office of Federal Insurance and Hazard Mitigation, FEMA.

ACTION: Final rule.

SUMMARY: Final base (100-year) flood elevations are listed below for selected locations in the unincorporated areas of LeFlore County, Mississippi.

These base (100-year) flood elevations are the basis for the flood plain management measures that the community is required to either adopt or show evidence of being already in effect in order to qualify or remain qualified for participation in the National Flood Insurance Program (NFIP).

EFFECTIVE DATE: The date of issuance of the Flood Insurance Rate Map (FIRM), showing base (100-year) flood elevations, for the unincorporated areas of LeFlore County, Mississippi.

ADDRESSES: Maps and other information showing the detailed outlines of the flood-prone areas and the final elevations for the unincorporated areas of LeFlore County, Mississippi are available for review at the LeFlore County Courthouse, Greenwood, Mississippi.

FOR FURTHER INFORMATION CONTACT: Mr. Richard Krimm, National Flood Insurance Program (202) 755–5581 or Toll Free Line (800) 424–8872, Room 5270, 451 Seventh Street, SW., Washington, D.C. 20410.

SUPPLEMENTARY INFORMATION: The Federal Insurance Administrator gives notice of the final determinations of flood elevations for the unincorporated areas of LeFlore County, Mississippi.

This final rule is issued in accordance with section 110 of the Flood Disaster Protection Act of 1973 (Pub. L. 93–234), 87 Stat. 980, which added section 1363 to the National Flood Insurance Act of 1968 (Title XIII of the Housing and Urban Development Act of 1968 (Pub. L. 90–448), 42 U.S.C. 4001–4128, and 24 CFR Part 1917.4(a)). An opportunity for the community or individuals to appeal this determination to or through the community for a period of ninety (90) days has been provided. No appeals of the proposed base flood elevations were received from the community or from individuals within the community.

The Administrator has developed criteria for flood plain management in

flood-prone areas in accordance with 24 CFR Part 1910.

The final base (100-year) flood elevations for selected locations are:

Source of flooding	Location	Elevation in feet, national geodetic vertical datum
Yazoo River-Tallahatchie River.	Just upstream of U.S. Highway 82 & 49E.	131
	Just upstream of Money St....	136
Yalobusha River	Just upstream of Whaley Road.	134
	Just upstream of Avalon Road.	135
Pelucia Creek	Just upstream of Highway 49E.	127
	Just upstream of Mississippi Highway 430..	133
Muddy-Gin Baypu	Just upstream of bridge Southwest of New Jerusalem Church.	118
	Just downstream of U.S. Highway 82 Bridge.	123
Old Pelucia Creek-Blue Lake.	Just upstream of Mississippi Highway 430.	129
	Just upstream of U.S. Highway 82.	131
Walker Lake Canal	At Walker Lake pumping plant.	123
Craig Canal	Just upstream of U.S. Highway 49E.	126

(National Flood Insurance Act of 1968 (Title XIII of Housing and Urban Development Act of 1968), effective January 28, 1969 (33 FR 17804, November 28, 1968), as amended; 42 U.S.C. 4001–4128; Executive Order 12127, 44 FR 19367; and delegation of authority to Federal Insurance Administrator 44 FR 20963)

Issued: April 24, 1979.

Gloria M. Jimenez,

Federal Insurance Administrator.

[FR Doc. 79-15891 Filed 5-23-79; 8:45 am]

BILLING CODE 4210-23-M

24 CFR Part 1917

[Docket No. FI-4957]

Final Flood Elevation Determination for the City of Clearwater, Wright County, Minn., Under the National Flood Insurance Program

AGENCY: Office of Federal Insurance and Hazard Mitigation, FEMA.

ACTION: Final rule.

SUMMARY: Final base (100-year) flood elevations are listed below for selected locations in the City of Clearwater, Wright County, Minnesota.

These base (100-year) flood elevations are the basis for the flood plain management measures that the community is required to either adopt or show evidence of being already in effect in order to qualify or remain qualified for participation in the National Flood Insurance Program (NFIP).

EFFECTIVE DATE: The date of issuance of the Flood Insurance Rate Map (FIRM), showing base (100-year) flood elevations, for the City of Clearwater, Wright County, Minnesota.

ADDRESSES: Maps and other information showing the detailed outlines of the flood prone areas and the final elevations for the City of Clearwater are available for review at the City Hall, Clearwater, Minnesota.

FOR FURTHER INFORMATION CONTACT: Mr. Richard Krimm, National Flood Insurance Program, (202) 755–5581 or Toll Free Line (800) 424–8872, Room 5270, 451 Seventh Street SW., Washington, D.C. 20410.

SUPPLEMENTARY INFORMATION: The Federal Insurance Administrator gives notice of the final determinations of flood elevations for the City of Clearwater, Wright County, Minnesota.

This final rule is issued in accordance with section 110 of the Flood Disaster Protection Act of 1973 (Pub. L. 93–234), 87 Stat. 980, which added section 1363 to the National Flood Insurance Act of 1968 (Title XIII of the Housing and Urban Development Act of 1968 (Pub. L. 90–448), 42 U.S.C. 4001–4128, and 24 CFR Part 1917.4(a)). An opportunity for the community or individuals to appeal this determination to or through the community for a period of ninety (90) days had been provided. No appeals of the proposed base flood elevations were received from the community or from individuals within the community.

The Administrator has developed criteria for flood plain management in flood prone areas in accordance with 24 CFR Part 1910.

The final base (100-year) flood elevations for selected locations are:

Source of flooding	Location	Elevation in feet, national geodetic vertical datum
Mississippi River	Downstream corporate limits	947
	Upstream corporate limits	948
Clearwater River	Just upstream of Burlington Northern Railroad.	948
	Just upstream of County Highway 75 dam.	957
	Upstream corporate limits	959

(National Flood Insurance Act of 1968 (Title XIII of Housing and Urban Development Act of 1968), effective January 28, 1969 (33 FR 17804, November 28, 1968), as amended; 42 U.S.C. 4001–4128; Executive Order 12127, 44 FR 19367; and delegation of authority to Federal Insurance Administrator, 44 FR 20963.)

Issued: April 24, 1979.

Gloria M. Jimenez,

Federal Insurance Administrator.

[FR Doc. 79-15892 Filed 5-23-79; 8:45 am]

BILLING CODE 4210-23-M

24 CFR Part 1917

[Docket No. FI 4871]

Final Flood Elevation Determination for the City of Kasota, Le Sueur County, Minn., Under the National Flood Insurance Program

AGENCY: Office of Federal Insurance and Hazard Mitigation, FEMA.

ACTION: Final rule.

SUMMARY: Final base (100-year) flood elevations are listed below for selected locations in the City of Kasota, Le Sueur County, Minnesota.

These base (100-year) flood elevations are the basis for the flood plain management measures that the community is required to either adopt or show evidence of being already in effect in order to qualify or remain qualified for participation in the National Flood Insurance Program (NFIP).

EFFECTIVE DATE: The date of issuance of the Flood Insurance Rate Map (FIRM), showing base (100-year) flood elevations, for the City of Kasota, Le Sueur County, Minnesota.

ADDRESSES: Maps and other information showing the detailed outlines of the flood prone areas and the final elevations for the City of Kasota are available for review at the City Hall, P.O. Box 218, Kasota, Minnesota.

FOR FURTHER INFORMATION CONTACT: Mr. Richard Krimm, National Flood Insurance Program, (202) 755–5581 or Toll Free Line (800) 424–8872, Room 5270, 451 Seventh Street, SW., Washington, D.C. 20410.

SUPPLEMENTARY INFORMATION: The Federal Insurance Administrator gives notice of the final determinations of flood elevations for the City of Kasota, Le Sueur County, Minnesota.

This final rule is issued in accordance with section 110 of the Flood Disaster Protection Act of 1973 (Pub. L. 93–234), 87 Stat. 980, which added section 1363 to the National Flood Insurance Act of 1968 (Title XIII of the Housing and Urban Development Act of 1968 (Pub. L. 90–448), 42 U.S.C. 4001–4128, and 24 CFR Part 1917.4(a)). An opportunity for the community or individuals to appeal this determination to or through the community for a period of ninety (90) days has been provided. No appeals of the proposed base flood elevations were received from the community or from individuals within the community.

The Administrator has developed criteria for flood plain management in flood prone areas in accordance with 24 CFR Part 1910.

The final base (100-year) flood elevations for selected locations are:

Source of Flooding	Location	Elevation in feet, national geodetic vertical datum
Minnesota River	Downstream corporate limits	762
	1,300 feet upstream of northwest corporate limit.	763
Shanaska Creek	Just upstream of Pearl Street	827
	750 feet upstream of Pearl Street.	832
	1,150 feet upstream of Pearl Street.	840
	At State Route 22	845

(National Flood Insurance Act of 1968 (Title XIII of Housing and Urban Development Act of 1968), effective January 28, 1969 (33 FR 17804, November 28, 1968), as amended; 42 U.S.C. 4001–4128; Executive Order 12127, 44 FR 19367; and delegation of authority to Federal Insurance Administrator, 44 FR 20963).

Issued: April 24, 1979.

Gloria M. Jimenez,

Federal Insurance Administrator.

[FR Doc. 79-15893 Filed 5-23-79; 8:45 am]

BILLING CODE 4210-23-M

24 CFR Part 1917

[Docket No. FI 4872]

Final Flood Elevation Determination for the City of Ramsey, Anoka County, Minn., Under the National Flood Insurance Program

AGENCY: Office of Federal Insurance and Hazard Mitigation, FEMA.

ACTION: Final rule.

SUMMARY: Final base (100-year) flood elevations are listed below for selected locations in the City of Ramsey, Anoka County, Minnesota. These base (100-year) flood elevations are the basis for the flood plain management measures that the community is required to either adopt or show evidence of being already in effect in order to qualify or remain qualified for participation in the National Flood Insurance Program (NFIP).

EFFECTIVE DATE: The date of issuance of the Flood Insurance Rate Map (FIRM), showing base (100-year) flood elevations, for the City of Ramsey, Anoka County, Minnesota.

ADDRESSES: Maps and other information showing the detailed outlines of the flood prone areas and the final elevations for the City of Ramsey are available for review at the Ramsey City Hall, 15153 Nowthen Boulevard, Anoka, Minnesota.

FOR FURTHER INFORMATION CONTACT: Mr. Richard Krimm, National Flood Insurance Program, (202) 755–5581 or Toll Free Line (800) 424–8872, Room 5270, 451 Seventh Street SW., Washington, D.C. 20410.

SUPPLEMENTARY INFORMATION: The Federal Insurance Administrator gives notice of the final determinations of flood elevations for the City of Ramsey, Anoka County, Minnesota.

This final rule is issued in accordance with section 110 of the Flood Disaster Protection Act of 1973 (Pub. L. 93–234), 87 Stat. 980, which added section 1363 to the National Flood Insurance Act of 1968 (Title XIII of the Housing and Urban Development Act of 1968 (Pub. L. 90–448), 42 U.S.C. 4001–4128, and 24 Part CFR 1917.4(a)). An opportunity for the community or individuals to appeal this determination to or through the community for a period of ninety (90) days has been provided. No appeals of the proposed base flood elevations were received from the community or from individuals within the community.

The Administrator has developed criteria for flood plain management in flood prone areas in accordance with 24 CFR Part 1910.

The final base (100-year) flood elevations for selected locations are:

Source of flooding	Location	Elevation in feet, national geodetic vertical datum
Mississippi River	At eastern corporate limits	847
	At western corporate limits	856
Rum River	At southern corporate limits	852
	At Roanoak Street	863
	At northern corporate limits	865
Trott Brook	At mouth	862
	3,400 feet upstream of St. Francis Boulevard.	862
	Just downstream of Nowthen Boulevard.	865
	Just upstream of Nowthen Boulevard.	871
	Just downstream of Armstrong Boulevard.	872
	Just upstream of Armstrong Boulevard.	873
	1 mile upstream of Armstrong Boulevard.	874
	Just downstream of trail near western corporate limit.	877
	3,700 feet downstream of Ermine Boulevard.	883
	Just downstream of Ermine Boulevard (near Eaton Street).	889
	Just upstream of Ermine Boulevard (near Eaton Street).	891
	Just downstream of Ermine Boulevard (near 180th Avenue).	891
	At western corporate limits	896
East Channel Trott Brook.	At confluence with Trott Brook.	877
	At point of divergence with Trott Brook.	882
Ford Brook	At mouth	863
	Just downstream of Green Valley Road.	863
	Just upstream of Green Valley Road.	876
	Just downstream of St. Francis Boulevard.	877
	Just upstream of St. Francis Boulevard.	879
	4,000 feet upstream of St. Francis Boulevard.	880

(National Flood Insurance Act of 1968 (Title XIII of Housing and Urban Development Act of 1968), effective January 28, 1969 (33 FR 17804, November 28, 1968), as amended; 42 U.S.C. 4001–4128; Executive Order 12127, 44 FR 19367; and delegation of authority to Federal Insurance Administrator, 44 FR 20963.)

Issued: April 24, 1979.

Gloria M. Jimenez,

Federal Insurance Administrator.

[FR Doc. 79-15894 Filed 5-23-79; 8:45 am]

BILLING CODE 4210-23-M

24 CFR Part 1917

[Docket No. FI 4873]

Final Flood Elevation Determination for the City of Rockford, Hennepin County, Minn., Under the National Flood Insurance Program

AGENCY: Office of Federal Insurance and Hazard Mitigation, FEMA.

ACTION: Final rule.

SUMMARY: Final base (100-year) flood elevations are listed below for selected locations in the City of Rockford, Hennepin County, Minnesota.

These base (100-year) flood elevations are the basis for the flood plain management measures that the community is required to either adopt or show evidence of being already in effect in order to qualify or remain qualified for participation in the National Flood Insurance Program (NFIP).

EFFECTIVE DATE: The date of issuance of the Flood Insurance Rate Map (FIRM), showing base (100-year) flood elevations, for the City of Rockford, Hennepin County, Minnesota.

ADDRESSES: Maps and other information showing the detailed outlines of the flood prone areas and the final elevations for the City of Rockford are available for review at the City Hall, 6031 Main Street, Rockford, Minnesota.

FOR FURTHER INFORMATION CONTACT: Mr. Richard Krimm, National Flood Insurance Program (202) 755–5581 or Toll Free Line (800) 424–8872, Room 5270, 451 Seventh Street SW., Washington, D.C. 20410.

SUPPLEMENTARY INFORMATION: The Federal Insurance Administrator gives

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notice of the final determinations of flood elevations for the City of Rockford, Hennepin County, Minnesota.

This final rule is issued in accordance with section 110 of the Flood Disaster Protection Act of 1973 (Pub. L. 93–234), 87 Stat. 980, which added section 1363 to the National Flood Insurance Act of 1968 (Title XIII of the Housing and Urban Development Act of 1968 (Pub. L. 90–448), 42 U.S.C. 4001–4128, and 24 CFR Part 1917.4(a)). An opportunity for the community or individuals to appeal this determination to or through the community for a period of ninety (90) days has been provided. No appeals of the proposed base flood elevations were received from the community or from individuals within the community.

The Administrator has developed criteria for flood plain management in flood prone areas in accordance with 24 CFR Part 1910.The final base (100-year) flood elevations for selected locations are:

Source of flooding	Location	Elevation, in feet national geodebc vertical datum
Crow River	Northern corporate limits	913
	Just upstream from State Highway 55.	915
	Southwest corporate limits	917

(National Flood Insurance Act of 1968 (Title XIII of Housing and Urban Development Act of 1968), effective January 28, 1969 (33 FR 17804, November 28, 1968), as amended; 42 U.S.C. 4001–4128; Executive Order 12127, 44 FR 19367; and delegation of authority to Federal Insurance Administrator, 44 FR 20963.)

Issued: April 24, 1979.

Gloria M. Jimenez,

Federol Insurance Administrator.

[FR Doc. 79–15895 Filed 5–23–79; 8:45 am]

BILLING CODE 4210–23–M

24 CFR Part 1917

[Docket No. FI 4981]

Final Flood Elevation Determination for the City of Belmont, Gaston County, N.C., Under the National Flood Insurance Program

AGENCY: Office of Federal Insurance and Hazard Mitigation, FEMA.

ACTION: Final rule.

SUMMARY: Final base (100-year) flood elevations are listed below for selected locations in the City of Belmont, Gaston County, North Carolina.

These base (100-year) flood elevations are the basis for the flood plain management measures that the community is required to either adopt or show evidence of being already in effect in order to qualify or remain qualified for participation in the National Flood Insurance Program (NFIP).

EFFECTIVE DATE: The date of issuance of the Flood Insurance Rate Map (FIRM), showing base (100-year) flood elevations, for the City of Belmont, Gaston County, North Carolina.

ADDRESSES: Maps and other information showing the detailed outlines of the flood-prone areas and the final elevations for the City of Belmont, Gaston County, North Carolina are available for review at City Hall, 115 North Main Street, Belmont, North Carolina.

FOR FURTHER INFORMATION CONTACT: Mr. Richard Krimm, National Flood Insurance Program (202) 755–5581 or Toll Free Line (800) 424–8872, Room 5270, 451 Seventh Street SW, Washington, D.C. 20410.

SUPPLEMENTARY INFORMATION: The Federal Insurance Administrator gives notice of the final determinations of flood elevations for the City of Belmont, Gaston County, North Carolina.

This final rule is issued in accordance with section 110 of the Flood Disaster Protection Act of 1973 (Pub. L. 93–234), 87 Stat. 980, which added section 1363 to the National Flood Insurance Act of 1968 (Title XIII of the Housing and Urban Development Act of 1968 (Pub. L. 90–448), 42 U.S.C. 4001–4128, and 24 CFR Part 1917.4(a)). An opportunity for the community or individuals to appeal this determination to or through the community for a period of ninety (90) days has been provided. No appeals of the proposed base flood elevations were received from the community or from individuals within the community.

The Administrator has developed criteria for flood plain management in flood-prone areas in accordance with 24 CFR Part 1910.

The final base (100-year) flood elevations for selected locations are:

Source of flooding	Location	Elevation in feet, national geodetic vertical datum
Abbey Creek	Just downstream of Neely Chevrolet Drive.	627
	Just downstream of Hawley Avenue.	637
	Just upstream of Hawley Avenue.	647
Stowe Branch	Just upstream of confluence with Catawba River.	573
	Just downstream of Vine Street.	611
	Just upstream of Vine Street.	619
	Just downstream of Hawthorne Street.	641

(National Flood Insurance Act of 1968 (Title XIII of Housing and Urban Development Act of 1968), effective January 28, 1969 (33 FR 17804, November 28, 1968), as amended; 42 U.S.C. 4001–4128; Executive Order 12127, 44 FR 19367; and delegation of authority to Federal Insurance Administrator 44 FR 20963.)

Issued: April 24, 1979.

Gloria M. Jimenez,

Federal Insurance Administrator.

[FR Doc. 79–15896 Filed 5–23–79; 8:45 am]

BILLING CODE 4210–23–M

DEPARTMENT OF TRANSPORTATION

Coast Guard

33 CFR Parts 33 and 40

[CGD 79–029]

Military Personnel; Deletion of Rules

AGENCY: Coast Guard, DOT.

ACTION: Deletion of rules.

SUMMARY: This action deletes from the Code of Federal Regulations provisions governing the appointment of professors and admission of cadets to the Coast Guard Academy, and the granting of Coast Guard commissions to Merchant Marine officers. Retention of these provisions in the Code has been found unwarranted owing to their limited impact on the public. The fact that some of the provisions have been frequently revised, and that others essentially duplicate statutory language, has provided additional justification for this action.

EFFECTIVE DATE: June 25, 1979.

FOR FURTHER INFORMATION CONTACT: Coleman Sachs, Office of the Chief Counsel (G–LRA/81), Room 8105, Department of Transportation, Nassif Building, 400 Seventh Street, SW., Washington, D.C. 20590 (202–426–1534).

SUPPLEMENTARY INFORMATION: As part of its commitment to regulatory reform, the Coast Guard has reviewed its regulations pertaining to military personnel that are found in Subchapter B of Title 33, Code of Federal Regulations. Two parts in this subchapter have been found to contain material that has no appreciable impact on members of the public and is subject to frequent revision. Owing to these factors, the Coast Guard has questioned the wisdom of maintaining them as Code provisions.

The affected regulations are those found in Part 33, governing the appointment of professors to the Coast Guard Academy and the granting of Coast Guard commissions to Merchant Marine Officers, and those found in Part 40, governing the appointment of Coast Guard cadets. Brochures, phamphlets, and other printed matter containing the substance of these provisions, and incorporating periodic changes in application procedures and eligibility requirements, are broadly distributed to inform potentially interested parties. Code provisions are generally revised on an annual basis, creating a disparity between the information the Coast Guard independently disseminates, and that contained in parallel sections of the Code. In order to eliminate confusion that may stem from this situation, the removal of these provisions from the Code has been found to be warranted.

Additional justification for the deletion of subpart 33.01, pertaining to the appointment of Coast Guard Academy professors, stems from the fact that this language essentially duplicates that which appears in section 188 of Title 14, United States Code. The elimination from the Code of Federal Regulations of material found in statutory sources has long been identified as a desirable goal. A discrepancy between the regulations and statute concerning probation requirements for the appointment of regular professors will be rectified through deletion of the regulation.

This action does not revoke regulations in the Coast Guard personnel manual embodying the same subject matter as the Code provisions which are being deleted.

The regulations being deleted are the following:

PART 33 [Deleted]

1. 33 CFR Part 33—Appointment of Civilians as Commissioned Officers, Chief Warrant Officers, and Warrant Officers.

PART 40 [Deleted]

2. 33 CFR Part 40—Cadets of the Coast Guard.

The Coast Guard proposed certain amendments to 33 CFR Part 40 in CGD 76–087 published in 41 FR 47944 on November 1, 1976. Since Part 40 is being deleted, docket 76–087 is closed without further action on the proposal.

This rulemaking has been reviewed under the Department of Transportation Regulatory Policies and Procedures published on February 26, 1979 (44 FR 11034). As this action concerns agency personnel, it is excepted for the provisions of 5 U.S.C. 533. Since the material being deleted has limited public impact and those members of the public that are interested are more effectively advised of current requirements by other means, the Coast Guard has determined that public participation is not likely to result in the receipt of useful information and had decided against issuing a notice of proposed rulemaking.

Revisions which are contemplated in the Coast Guard personnel manual conflict with the affected CFR parts, preventing publication of the revisions and their use in the recruitment of needed personnel. So that this situation may be quickly remedied, this action is effective on May 24, 1979.

Accordingly, Subchapter B of Title 33, Code of Federal Regulations is amended by deleting Parts 33 and 40

(14 U.S.C. 92, 182, 633; 49 CFR 1.46(b))

Dated: May 16, 1979.

R. H. Scarborough

Vice Admiral, U.S. Coast Guard, Acting Commandant.

[FR Doc. 79–16314 Filed 5–23–79; 8:45 am]

BILLING CODE 4910–14–M

DEPARTMENT OF THE INTERIOR

Office of the Secretary

41 CFR Part 14–1

Implementation of Program To Increase Contracting Participation of Minority Business Enterprises; Revision of Regulations

AGENCY: Office of the Secretary, Department of the Interior.

ACTION: Temporary rule.

SUMMARY: On September 15, 1978, a temporary rule was published in the **Federal Register** (FR Doc. 78–26024) prescribing the Department of the Interior's policies, procedures, and contract clauses which established the Department's program to increase the contracting and subcontracting participation of minority business enterprises in its procurement activities. All comments received with respect to the prescribed rule were given due consideration. As a result of the comments received and the subsequent impact of Pub. L. 95–507 which was signed into law on October 24, 1978, the following changes are issued as a temporary rule.

EFFECTIVE DATE: The changes set forth herein are effective immediately.

FOR FURTHER INFORMATION CONTACT: Charlotte B. Spann, Chief, Branch of Minority Procurement, Division of Procurement and Grants, Office of Administrative and Management Policy, Office of the Assistant Secretary—Policy, Budget and Administration, Room 5525, Department of the Interior, 18th & C Streets NW., Washington, D.C. 20240 (202/343–4907).

SUPPLEMENTARY INFORMATION: The primary author of this rule is Kenneth T. Kelly, Branch of Minority Procurement, Division of Procurement and Grants, Office of Administrative and Management Policy, Department of the Interior, 202–343–4907.

Note.—The Department of the Interior has determined that this document is not a significant rule and does not require a regulatory analysis under Executive Order 12044 and 43 CFR Part 14.

PART 14–1—GENERAL

Subpart 14–1.13—Minority Business Enterprise

1. Section 14–1.1302–5 (b) is revised by amending paragraph (b)(5)(i), deleting paragraph (b)(5)(xvi) and adding a new paragraph (b)(5)(xvi) as follows:

§ 14–1.1302 Agency programs.

§ 14–1.1302–5 Heads of procuring activities.

* * * * *

(b) * * *

(5) * * *

(i) A review of each procurement requirement in excess of $10,000 to determine the opportunity for award to the Small Business Administration pursuant to Section 8(a) of the Small Business Act (15 U.S.C. 637(a)) (see § 1–1.713 of this title). * * *

* * * * *

(xvi) Ensure that each contract for the procurement of goods and services which has an anticipated value of less than $10,000 and which is subject to small purchase procedures be reserved exclusively for small business concerns unless the Contracting Officer is unable to obtain offers or quotations from two or more small business concerns that are competitive with market prices and in terms of quantity and delivery of the goods and services being purchased.

2. Section 14–1.1302–6 is revised by amending paragraph (b) as follows:

§ 14–1.1302–6 Minority business enterprise coordinators.

* * * * *

(b) Review of each procurement package in excess of $10,000 received in the procurement office to determine the potential for award to the Small Business Administration in accordance

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with Section 8(a) of the Small Business Act (15 U.S.C. 637(a)).

* * * * *

§ 14-1.1310-2 Required clauses [Reserved].

3. The policy changes as prescribed by the Office of Federal Procurement Policy and published in the **Federal Register** on April 20, 1979, (FR Doc. 79-12296) are hereby incorporated into the Department of the Interior procurement policy on subcontracting and are effective immediately. Section 1.1310-2 is therefore revised by deleting paragraphs (a), (b), (c), and (d) and reserved for future policy issuances on required subcontracting clauses.

Dated: May 17, 1979.

William L. Kendig,

Acting Deputy Assistant Secretary of the Interior.

[FR Doc. 79-16274 Filed 5-23-79; 8:45 am]

BILLING CODE 4310-10-M

GENERAL SERVICES ADMINISTRATION

41 CFR Part 101-1

[FPMR Amendment A-30]

Delegations of Authority

AGENCY: General Services Administration.

ACTION: Final rule.

SUMMARY: This rule changes the way the General Services Administration (GSA) delegates authorities to other agencies. GSA no longer delegates authorities through its temporary regulations system. GSA has determined that issuing delegations of authority in a separate series from temporary regulations will eliminate papework, avoid confusion, and save time and money.

EFFECTIVE DATE: July 1, 1979.

FOR FURTHER INFORMATION CONTACT: Stanley W. Bowers, Chief, Directives Management Branch (202-566-0666).

SUPPLEMENTARY INFORMATION: On April 25, 1978, GSA published a proposal (43 FR 17508) to discontinue delegating authorities in FPMR temporary regulations. GSA requested interested persons to submit comments on the proposal by June 26, 1978. GSA received one comment, and the commenter agreed with the proposal. Therefore, GSA is adopting the proposal without change.

The General Services Administration has determined that this regulation will not impose unnecessary burdens on the economy or on individuals and, therefore, is not significant for the purposes of Executive Order 12044.

Section 101-1.103(b) is revised to read as follows:

§ 101-1.103 FPMR temporary regulations.

* * * * *

(b) FPMR temporary regulations may have an effective period of up to 2 years when codification is not anticipated or is not considered practical.

(Sec. 205(c), 63 Stat. 390; (40 U.S.C. 486(c)))

Dated: May 14, 1979.

Paul E. Goulding,

Acting Administrator of General Services.

[FR Doc. 79-16273 Filed 5-23-79; 8:45 am]

BILLING CODE 6820-34-M

FEDERAL COMMUNICATIONS COMMISSION

47 CFR Part 73

[BC Docket No. 78-274; RM-3037]

Television Broadcast Station in Beattyville, Ky.; Changes made in Table of Assignments

AGENCY: Federal Communications Commission.

ACTION: Report and Order.

SUMMARY: Action taken herein, as a result of a petition filed by Hour of Harvest, Inc., assigns television UHF Channel 65 to Beattyville, Kentucky, as that community's first television assignment. The assigned channel could render a first local television service to Beattyville.

EFFECTIVE DATE: June 28, 1979.

ADDRESSES: Federal Communications Commission, Washington, D.C. 20554.

FOR FURTHER INFORMATION CONTACT: Mildred B. Nesterak, Broadcast Bureau, (202) 632-7792.

SUPPLEMENTARY INFORMATION:

Report and Order

Adopted: May 15, 1979.

Released: May 22, 1979

In the matter of amendment of § 73.606(b), *Table of Assignments*, Television Broadcast Stations. (Beattyville, Kentucky), BC Docket No. 78-274, RM-3037.

1. The Commission has before it the *Notice of Proposed Rule Making*, adopted August 24, 1978, 43 FR 39594, in response to an amended petition filed by Hour of Harvest, Inc. ("petitioner"), requesting the assignment of UHF television Channel 65 to Beattyville, Kentucky. Petitioner originally requested that Channel 51 be assigned to that community. However, when a question about assignment of this channel arose,[1] petitioner indicated it was prepared to file an application for Channel 65, if assigned. If the impediment to the Channel 51 assignment is removed, it asks that Channel 51 be assigned to Beattyville,[2] as originally proposed.

2. Beattyville (pop. 923), seat of Lee County (pop. 6,587),[3] is located in east central Kentucky, approximately 85 kilometers (53 miles) southeast of Lexington, Kentucky. Beattyville presently has no local television broadcast service.

3. The *Notice* indicated that the proposed Channel 65 assignment meets the distance separation requirements and other technical criteria and could be made without affecting any existing assignments in the Television Table. In support of its proposal, petitioner has submitted persuasive information with respect to Beattyville and its need for a first television channel assignment.

4. We have given careful consideration to the proposal and believe that it would be in the public interest to assign Channel 65 to Beattyville, Kentucky, to provide a first local television broadcast service to that community.

5. Accordingly, it is ordered, That effective June 28 1979, the Television Table of Assignments, § 73.606(b) of the Commission's rules, is amended, with regard to the city listed below, as follows:

City	Channel No.
Beattyville, Kentucky	65

6. Authority for the action taken herein is found in Sections 4(i), 5(d)(1), 303(g) and (r) and 307(b) of the Communications Act of 1934, as amended, § 0.281 of the Commission's rules.

7. For further information concerning this proceeding, contact Mildred B. Nesterak, Broadcast Bureau, (202) 632-7792.

8. It is further ordered, That this proceeding is terminated.

[1] Petitioner, in requesting Channel 51 to Beattyville, failed to consider a pending proposal (Docket 21392) requesting the addition of Channel 36 to Lexington, Kentucky. If Channel 36 were assigned to Lexington, Channel 51 in Beattyville would be short-spaced to the Lexington reference point.

[2] This is not possible, as on April 18, 1979, the Commission adopted a *Report and Order* in Docket No. 21392, assigning Channel 36 to Lexington, Kentucky.

[3] Population figures are taken from the 1970 U.S. Census.

(Secs. 2, 3, 4, 5, 301, 303, 307, 308, 309, 315, 317, 48 Stat., as amended, 1064, 1065, 1066, 1068, 1081, 1082, 1083, 1084, 1085, 1088, 1089; (47 U.S.C. 152, 153, 154, 155, 301, 303, 307, 308, 309, 315, 317.))

Federal Communications Commission.

Philip L. Verveer,

Chief, Broadcast Bureau.

[FR Doc. 79-16263 Filed 5-23-79; 8:45 am]

BILLING CODE 6712-01-M

47 CFR Part 73

[BC Docket No. 78-306; RM-3114]

Television Broadcast Station in Fort Walton Beach, Fla.; Changes made in Table of Assignments

AGENCY: Federal Communications Commission.

ACTION: Report and Order.

SUMMARY: Action taken herein assigns UHF television Channel 35 to Fort Walton Beach, Florida, in response to a petition filed by Joint Communications Company. The proposed television station could provide for a first local television service to the community.

EFFECTIVE DATE: June 28, 1979.

ADDRESSES: Federal Communications Commission, Washington, D.C. 20554.

FOR FURTHER INFORMATION CONTACT: Mildred B. Nesterak, Broadcast Bureau.

SUPPLEMENTARY INFORMATION:

Report and Order

Adopted: May 15, 1979.

Released: May 22, 1979.

In the matter of amendment of § 73.606(b), *Table of Assignments*, Television Broadcast Stations. (Fort Walton Beach, Florida), BC Docket No. 78-306, RM-3114.

1. The Commission has before it the *Notice of Proposed Rule Making*, 43 FR 45620, in response to a petition filed by Joint Communications Company ("petitioner"). The *Notice* proposed the assignment of UHF television Channel 35 to Fort Walton Beach, Florida. Supporting comments were filed by Florida West Amusements, Inc.,[1] and the Offshore Telephone Company ("Offshore"). Comments were also filed by the Association of Maximum Service Telecasters, Inc. ("MST").

2. Fort Walton Beach (pop. 19,994), in Okaloosa County (pop. 88,187),[2] is located in northwest Florida, on the Gulf of Mexico, approximately 60 kilometers (37 miles) east of Pensacola, Florida. It has no local television broadcast service.

3. Petitioner, in its original filing, stated that Fort Walton Beach is the largest city in Okaloosa County and a rapidly growing community. Petitioner claimed that although Fort Walton Beach receives commercial television service from other stations, none of these stations put a Grade A signal over the community. Petitioner also submitted detailed socio-economic and geographic profiles of Fort Walton Beach in an effort to demonstrate the need for a local television channel assignment.

4. In support, Offshore claims that the rapidly growing community of Fort Walton Beach is so poorly served by adjacent off-the-air television stations that over 70 percent of the television households in Okaloosa County find it necessary to use cable television. It points out that the assignment of a television channel to this community would provide a much needed local service.

5. MST notes that the reference point for Channel 35 at Fort Walton Beach would be short-spaced to the reference point for unoccupied Channel 28, Panama City, Florida. However, it adds, there appears to be areas in the vicinity of Fort Walton Beach where an antenna could be located in full compliance with the mileage separation requirements. MST asserts that it takes no position on the merits of the proposal except to urge that the Commission make clear that the channel must be used at a site which will meet all distance separation requirements.

6. We have carefully considered the record in this proceeding and conclude that it would be in the public interest to assign Channel 35 to Fort Walton Beach, Florida. A demand has been shown for its use and it would provide the community with a first local television service. Any television broadcast station that would operate on Channel 35 at Fort Walton Beach, Florida, would need to comply with the provisions of § 73.610 of the rules.

7. Accordingly, pursuant to authority contained in Sections 4(i), 5(d)(1), 303(g) and (r) and 307(b) of the Communications Act of 1934, as amended, and § 0.281 of the Commission's rules, it is ordered, That effective June 28, 1979, the Television Table of Assignments, § 73.606(b) of the Commission's rules is amended for the city listed below to read as follows:

City	Channel No.
Fort Walton Beach, Florida	35

8. For further information on this proceeding, contact Mildred B. Nesterak, Broadcast Bureau, (202) 632-7792.

9. It is further ordered that this proceeding is terminated.

(Secs. 4, 5, 303, 48 Stat., as amended, 1066, 1068, 1082; (47 U.S.C. 154, 155, 303.))

Federal Communications Commission.

Philip L. Verveer,

Chief, Broadcast Bureau.

[FR Doc. 79-16265 Filed 5-23-79; 8:45 am]

BILLING CODE 6712-01-M

[1] The original petitioner has not filed any supporting comments. However, since comments have been filed by Florida West Amusements, Inc., expressing an interest in the channel, petitioner's failure to file comments is of no significance.

[2] Population figures are taken from the 1970 U.S. Census.

DEPARTMENT OF COMMERCE

National Oceanic and Atmosphere Administration

50 CFR Parts 611 and 672

Groundfish of the Gulf of Alaska; Apportionment of Reserve Amounts

AGENCY: National Oceanic and Atmospheric Administration, Department of Commerce.

ACTION: Apportionment of Reserve Amounts, Final Regulations.

SUMMARY: These regulations make additional amounts of fish available to foreign fishing in accordance with the provisions of the Groundfish of the Gulf of Alaska Fishery Management Plan (FMP) and the regulations implementing this FMP (See 43 FR 56238, 50 CFR 627.20(c), and 50 CFR 611.92(b)(1)(ii)). These regulations apply to vessels of foreign nations fishing for groundfish in the Gulf of Alaska.

EFFECTIVE DATE: May 17, 1979.

FOR FURTHER INFORMATION CONTACT: Harry L. Rietze, Director, Alaska Region, National Marine Fisheries Service, P.O. Box 1668, Juneau, Alaska 99802, Telephone: (907) 586-7221.

SUPPLEMENTARY INFORMATION:

I. Background

Because of uncertainties about specifications of U.S. capacity, particularly the extent to which U.S. vessels delivering to foreign processors at sea would harvest groundfish, the FMP established a reserve of fish which could be released and added to the total allowable level of foreign fishing

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(TALFF) if U.S. vessels did not harvest at anticipated levels.

On August 23, 1978, the Council adopted an amendment to the FMP for groundfish which increased the reserve of pollock to 133,800 metric tons and increased reserves of species taken incidental to pollock. The purpose of these reserves was to assure that an adequate supply of fish was available to U.S. vessels wishing to sell U.S.-caught fish to foreign processing vessels at sea. The amendment was approved by the Assistant Administrator for Fisheries on September 22, 1978 (43 FR 46349).

Final regulations published on December 1, 1978 (43 FR 56238), established criteria and timing of any reserve release. The final regulations also established a procedure for public comment on the extent to which vessels of the United States would harvest reserve amounts during the remainder of the fishing year.

These regulations provide that up to 25 percent of the initial reserve amounts will be released and added to TALFF as soon as practicable after January 2, March 2, May 2, and July 2 if it is determined that U.S. fishermen will not catch these amounts during the remainder of the fishing year.

In January, 25 percent of the reserves of each species except sablefish was released. In March, 25 percent of the reserves of sablefish (except for the southeast area), but no other species, were released. Accordingly, 50 percent of the reserves of all species (except for sablefish) are now eligible for release.

II. Determination of Amount of Reserve Release

In accordance with the requirements of 50 CFR 672.20(c) and 50 CFR 611.92(b)(1)(ii), the Regional Director has determined that:

1. Twenty-five percent of the reserves of all species except sablefish in each fishing area in the Gulf of Alaska should be released and added to the TALFF.

2. The remaining reserves of all species in the Gulf of Alaska that are eligible for release in May 1979 should be retained as reserves.

In making this determination, the Regional Director considered to what extent U.S. vessels would harvest the remaining reserves. The Regional Director has concluded that U.S. vessels would not take more than half of the reserves of all species, except sablefish, now eligible for transfer to the TALFF. Hence, it is appropriate that 25 percent of the original reserves be transferred to the TALFF.

During the public comment period, no testimony was received that substantiated future expansion of the U.S. fishing fleet or U.S. processing intent beyond that stated in the FMP. Therefore, except for sablefish, current domestic annual harvests (DAH) are sufficient to provide for U.S. catches that appear likely to be delivered to U.S. processors and need not be supplemented by amounts in excess of those retained in the reserves.

The Regional Director has reviewed U.S. harvesting capacity, and U.S. processing capacity and intent and has determined that all sablefish reserves will be utilized by U.S. industry. Accordingly, no sablefish reserves will be released to TALFF.

The reserves remaining after this release are sufficient to provide for U.S. catches expected to be delivered to foreign processing vessels (joint ventures). Two joint venture permits have been issued to foreign processing vessels for joint ventures, and two permit applications were approved on May 10, 1979, however, only one U.S. fishing vessel is delivering fish to a foreign processing vessel, and two other U.S. vessels are expected to commence fishing and delivery operations in the near future.

III. Response to Public Comments.

Only one comment was received during the comment period. It is summarized and responded to below:

Comment: All of the available reserves of sablefish, Pacific cod, and "other species" should be released to TALFFs to support longline fishing operations for sablefish and Pacific cod.

Response: No sablefish reserves will be released to TALFF as they are intended to be utilized by U.S. fishermen and processors. It has been deemed appropriate to release only 25 percent of the total reserves of all other species. The remaining reserves eligible for release will be retained to support joint ventures. As previously discussed, one U.S. vessel is delivering fish to a foreign processor and other U.S. fishermen are expected to participate in joint ventures if present participation proves successful. The reserves remaining after this release will be sufficient for increased U.S. participation in joint ventures.

IV. Other Matters.

An environmental impact statement was prepared for the FMP for the groundfish of the Gulf of Alaska and is on file with the Environmental Protection Agency (EPA). A negative assessment of environmental impact prepared for the reserve release provisions of the groundfish FMP is also on file with the EPA.

The Regional Director has determined that these regulations should be effective immediately for the following reasons:

A. The regulations implementing the FMP provide adequate advance notice and invite public comment on this action;

B. No regulatory restrictions are imposed on any person as a result of this action;

C. This action relates to the extension of a benefit; and

D. Immediate implementation is required to achieve full utilization of the fishery resources concerned (determination to waive, and appropriate reasons, must be stated for each release). This action is not significant in relation to criteria prescribed by EO 12044, and a regulatory analysis is not required.

Signed at Washington, D.C., this 16th day of May, 1979.

Winfred H. Meibohm,

Executive Director, National Marine Fisheries Service.

Authority: 16 U.S.C. Section 1801 *et seq.*

§ 672.20 [Amended]

(A) 50 CFR 672.20 is amended by revising Table I—Optimum Yield and Reserves of paragraph (a) as follows:

Table I-A.—*(As Amended by May 1979 Reserve Release)*

Optimum Yield and Reserves, Metric Tons

Fishing Areas

Species		Shumagin	Chirikof	Kodiak	Yakutat	Southeast	Total
Pollock	OY	57,000	54,400	40,800	12,500	4,100	168,000
	Reserve	22,600	21,550	16,200	4,950	1,600	66,900
Pacific Cod	OY	9,600	4,100	15,300	4,300	1,500	34,800
	Reserve	1,364	574	2,210	634	214	4,996
Flounder	OY	10,400	2,700	12,000	6,400	2,000	33,500
	Reserve	1,500	400	1,750	900	300	4,850
Pacific Ocean Perch (POP)	OY	2,700	2,700	5,200	7,900	6,500	25,000
	Reserve	450	450	800	1,250	1,000	3,950
Other Rockfishes	OY	300	200	600	3,400	3,100	7,600
	Reserve	50	50	150	800	700	1,750
Sablefish	OY	2,100	1,400	2,400	3,400	3,700	13,000
	Reserve	525	450	675	900	700	3,250
Atka Mackerel	OY	4,400	3,600	15,800	1,000	0	24,800
	Reserve	500	400	1,750	100	0	2,750
Squid	OY	400	400	400	400	400	2,000
	Reserve	100	100	100	100	100	500
Other Species*	OY	4,400	3,600	5,000	2,100	1,100	16,200
	Reserve	650	500	750	300	150	2,350

*The category "other species" includes all species of fish except (A) the other fish listed in the table; and (B) shrimp, scallops, salmon, steelhead trout, Pacific halibut, herring, and Continental Shelf fishery resources.

§ 611.20 [Amended]

(B) 50 CFR 611.20 is amended by revising Table I of paragraph (c) as follows:

Table I-B.—*(As Amended by May 1979 Reserve Release)*

(1) Change lines beginning "702," "129," "207," "780," "701," "849," "703," "509," "499" to read as follows:

Fishery	Species	Species code	TALFF (metric tons)
Gulf of Alaska Groundfish	Cod, Pacific	702	[1] 14,304
Do	Flounders, including yellowfin Sole	129	[1] 21,450
Do	Mackerel, Atka	207	[1] 22,050
Do	Perch, Pacific Ocean (POP)	780	[1] 19,950
Do	Pollock	701	[1] 87,700
Do	Rockfishes, other than POP	849	[1] 3,850
Do	Sablefish	703	[1] 5,750
Do	Squid	509	[1] 1,500
Do	Other species	499	[1] 13,350

§ 611.92 [Amended]

(C) 50 CFR 611.92 is amended by revising Table I—Gulf of Alaska Groundfish Fishery—For 1978–79 of paragraph (b) as follows:

Table I-C.—*(As Amended by May 1979 Reserve Release)*

Gulf of Alaska Groundfish Fishery: TALFF and Reserve [1] by Species and Fishing Area for 1978–79, Metric Tons

Fishing Areas [2]

Species		Shumagin	Chirikof	Kodiak	Yakutat	Southeast	Total
Pollock	TALFF	29,600	28,250	21,200	6,450	2,200	87,700
	Reserve	22,600	21,550	16,200	4,950	1,600	66,900
Pacific Cod [3]	TALFF	3,936	1,726	6,290	1,766	586	14,304
	Reserve	1,364	574	2,210	634	214	4,996
Flounders	TALFF	6,700	1,700	7,650	4,100	1,300	21,450
	Reserve	1,500	400	1,750	900	300	4,850
Pacific Ocean Perch (POP)	TALFF	2,150	2,150	4,200	6,250	5,200	19,950
	Reserve	450	450	800	1,250	1,000	3,950
Other Rockfishes [4]	TALFF	150	150	250	1,700	1,600	3,850
	Reserve	50	50	150	800	700	1,750
Sablefish	TALFF	1,475	950	1,625	1,700	0	5,750
	Reserve	525	450	675	900	700	3,250
Atka Mackerel	TALFF	3,900	3,200	14,050	900	0	22,050
	Reserve	500	400	1,750	100	0	2,750
Squid	TALFF	300	300	300	300	300	1,500
	Reserve	100	100	100	100	100	500
Other Species [5]	TALFF	3,650	3,000	4,050	1,700	950	13,350
	Reserve	650	500	750	300	150	2,350

[1] The TALFF's specified in this table may be modified during the year if reserves are apportioned to TALFF.
[2] See Figure 3 of Appendix II to Section 611.9 for description of fishing areas.
[3] Of the total Pacific cod TALFF, only 4,891 metric tons may be caught west of 157° W. longitude.
[4] The category "other rockfishes" includes all rockfishes other than Pacific Ocean perch.
[5] The category "other species" includes all species of fish except (A) the other fish listed in the table; and (B) shrimp, scallops, salmon, steelhead trout, Pacific halibut, herring, and Continental Shelf fishery resources.

[FR Doc. 79-15813 Filed 5-17-79; 1:29 pm]
BILLING CODE 3510-22-M

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Proposed Rules

Federal Register
Vol. 44, No. 102
Thursday, May 24, 1979

This section of the FEDERAL REGISTER contains notices to the public of the proposed issuance of rules and regulations. The purpose of these notices is to give interested persons an opportunity to participate in the rule making prior to the adoption of the final rules.

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

[14 CFR Part 39]

[Docket No. 79-WE-8-AD]

Airworthiness Directives; McDonnell Douglas DC-10 Series Airplanes

AGENCY: Federal Aviation Administration (FAA) DOT.

ACTION: Notice of proposes rule making.

SUMMARY: This notice proposed to adopt an Airworthiness Directive (AD) that would require upper wing/VHF antenna anti-ice system testing and an eventual modification of the system on DC-10 series airplanes. The proposed AD is needed to detect possible passive failures in the right upper wing/VHF antenna anti-ice valve position monitor. The passive failure followed by a valve failure could result in asymmetric ice accretion on RH wing surfaces and/or ice ingestion in the No. 2 engine.

DATES: Comments must be received on or before August 6, 1979.

ADDRESSES: Send comments on the proposal to: Department of Transportation, Federal Aviation Administration, Western Region, Attn: Regional Counsel, Airworthiness Rule Docket, P.O. Box 92007, Worldway Postal Center, Los Angeles, Calif. 90009.

The applicable service information may be obtained from: McDonnell Douglas Corp., 3855 Lakewood Blvd., Long Beach, Calif. 90846, Attn: Director, Publications and Training, C1-750, (54-60).

Also a copy of the Service Bulletin may be reviewed at, or a copy obtained from: Rules Docket in Room 916, FAA, 800 Independence Avenue, SW., Washington, D.C. 20591 or Rules Docket in Room 6W14, FAA Western Region, 15000 Aviation Boulevard, Hawthorne, Calif. 90261.

FOR FURTHER INFORMATION CONTACT: Jerry Presba, Executive Secretary, Airworthiness Directive Review Board, Federal Aviation Administration, Western Region, P.O. Box 92007, World Way Postal Center, Los Angeles, Calif. 90009.

SUPPLEMENTARY INFORMATION:

Interested persons are invited to participate in the making of the proposed rule by submitting such written data, views, or arguments as they may desire. Interested persons are also invited to comment on the economic, environmental and energy impact that might result because of adoption of the proposed rule. Communications should identify the regulatory docket number and be submitted in duplicate to the address specified above. All communications received on or before the closing date for comments will be considered by the Administrator before taking action on the proposed rule. The proposal contained in this notice may be changed in light of comments received. All comments submitted will be available, both before and after the closing date for comments, in the Rules Docket for examination by interested persons. A report summarizing each FAA-public contact, concerned with the substance of the proposed AD, will be filed in the Rules Docket.

Analysis has shown that a right upper wing or VHF antenna anti-ice valve monitor could fail without knowledge of the flight crew. Under certain conditions this could result in asymmetric ice accretion on RH wing surfaces or could produce ice ingestion in No. 2 engine.

The monitor, without maintenance testing, could remain passively failed. The monitored valves have demonstrated a relatively high failure rate. A subsequent valve failure under these conditions could leave the aircraft without anti-ice protection without knowledge of the crew.

Since this condition is likely to exist or develop on other airplanes of the same type design, the proposed AD would require testing of the valve monitors and modification of the monitor circuitry on certain DC-10 airplanes.

Proposed Amendment

Accordingly, the Federal Aviation Administration proposes to amend § 39.13 of Part 39 of the Federal Aviation Regulations (14 CFR 39.13) by adding the following new Airworthiness Directive:

McDonnell Douglas.—Applies to DC-10-10, -10F, -30, -30F and -40 airplanes. Serial Numbers corresponding to manufacturer's fuselage Numbers 1 through 257, certificated in all categories.

Compliance is required as indicated.

To reduce the probability of an unannounced anti-ice system failure, accomplish the following:

a. Within the next 300 hours' time in service from the effective date of this AD, unless previously accomplished within the last 3,000 hours' time in service; accomplish the tests specified below.

Test Procedure for Wing/Antenna Anti-Ice System Passive Failures:

1. Remove power from all AC and DC buses.
2. Open "Batt Direct and Left Emer DC Feed" circuit breaker on overhead CB panel.
3. Disconnect P1-837 at center accessory compartment right hand (CAC-R) disconnect panel.
4. Restore power to DC buses 1 and 3. (Other buses may be energized if desired).
5. Pressurize No. 3 pneumatic system to at least 15 psig per instructions in the Maintenance Manual Chapter 36-00-00.
6. Place Wing and Ant Anti-Ice switch to Test position and verify that Wing and Ant Anti-Ice Disagree light comes on and goes off.

Caution.—Wing ice protection must not be operated in test position on the ground with engines or APU operating or with pneumatic ground supply connected for more than 30 seconds. Failure to observe this precaution can result in overheating wing leading edges, causing damage.

Note.—The above caution is not applicable if an external ground pneumatic source with air temperature controlled at 190° F (88° C) or less is used.

7. Release Wing and Ant Anti-Ice switch and verify Wing and Ant Disagree light comes on and goes off.
8. Depressurize No. 3 pneumatic system, remove power from all AC and DC buses, and verify "Batt Direct and Left Emer DC Feed" circuit breaker is open.
9. Reconnect P1-837 at CAC-R panel and restore power to aircraft as required.
10. Open "Wing and Ant Anti-Ice Disagree Lts" circuit breaker on upper main CB panel.
11. In lower galley or forward cargo area as applicable, gain access to antenna valve.
12. Disconnect P1-2472 from antenna valve position switches.
13. Close circuit breaker listed in Step 10.
14. Pressurize No. 3 pneumatic system to at least 15 psig per instructions in Maintenance Manual Chapter 36-00-00.
15. Place Wing and Ant Anti-Ice switch to Test position and verify that Wing and Ant Anti-Ice Disagree light comes on and goes off.

Caution.—Wing ice protection must not be operated in test position on the ground with engines or APU operating or with pneumatic ground supply connected for more than 30 seconds. Failure to observe this precaution can result in overheating wing leading edges, causing damage.

Note.—The above caution is not applicable if an external ground pneumatic source with air temperature controlled at 190° F (88° C) or less is used.

16. Release Wing and Ant Anti-Ice switch and verify Wing and Ant Disagree light comes on and goes off.
17. Open circuit breaker listed in Step 10.
18. Reinstall P1-2472 connector on antenna valve.
19. Restore aircraft to normal operating condition.

Note.—Steps 1 through 7 check the integrity of the VHF antenna anti-ice valve and monitoring circuit. Steps 10 through 16 check the integrity of the right wing anti-ice valve and monitoring circuit.

b. If Steps a.6 and 7 or a.15 and 16 are not satisfactorily accomplished, repair the unsatisfactory condition, or restrict the aircraft from flight in icing conditions.

c. Within one year from the effective date of this AD provide for performance monitoring of the wing and antenna anti-ice systems by separate lights in a manner approved by the Chief, Aircraft Engineering Division, FAA Western Region.

Note.—McDonnell Douglas Service Bulletin 30-47 dated December 5, 1978 provides a satisfactory method of accomplishment.

d. Alternative inspections, modifications or other actions which provide an equivalent level of safety may be used when approved by the Chief, Aircraft Engineering Division, FAA Western Region.

(Secs. 313(a), 601, and 603, Federal Aviation Act of 1958, as amended (49 U.S.C. 1354(a), 1421, and 1423); Sec. 6(c) Department of Transportation Act (49 U.S.C. 1655(c)); and 14 CFR 11.85)

Note.—The Federal Aviation Administration has determined that this document is not significant in accordance with the criteria required by Executive Order 12044 and set forth in interim Department of Transportation Guidelines.

Issued in Los Angeles, California on May 14, 1979.

Leon C. Daugherty,
Director, FAA Western Region.

[FR Doc. 79-16253 Filed 5-23-79; 8:45 am]
BILLING CODE 4910-13-M

[14 CFR Parts 71 and 75]

[Airspace Docket No. 79-SW-9]

Extension of Airway and Jet Route

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Notice of proposed rulemaking.

SUMMARY: This notice proposes to extend V-81 airway from Midland, Tex., via Fort Stockton, Tex., and Marfa, Tex., to the United States/Mexican Border and extend J-42 from Dallas-Fort Worth, Tex., via Abilene, Tex., and Fort Stockton, Tex., to the United States/Mexican Border. This action would comply with the request by the Government of Mexico to join their airway from Chihuahua and jet route from Delicias in Mexico. Flight planning and communication time would be reduced by designating the routes as an airway and a jet route.

DATES: Comments must be received on or before June 25, 1979.

ADDRESSES: Send comments on the proposal in triplicate to: Director, FAA Southwest Region, Attention: Chief, Air Traffic Division, Docket No. 79-SW-9, Federal Aviation Administration, P.O. Box 1689, Fort Worth, Tex. 76101.

The official docket may be examined at the following location: FAA Office of the Chief Counsel, Rules Docket (AGC-24), Room 916, 800 Independence Avenue, SW., Washington, D.C. 20591.

An informal docket may be examined at the office of the Regional Air Traffic Division.

FOR FURTHER INFORMATION CONTACT: Mr. Everett L. McKisson, Airspace Regulations Branch (AAT-230), Airspace and Air Traffic Rules Division, Air Traffic Service, Federal Aviation Administration, 800 Independence Avenue, SW., Washington, D.C. 20591; telephone: (202) 426-3715.

SUPPLEMENTARY INFORMATION:

Comments Invited

Interested persons may participate in the proposed rulemaking by submitting such written data, views or arguments as they may desire. Communications should identify the airspace docket number and be submitted in triplicate to the Director, Southwest Region, Attention: Chief, Air Traffic Division, Federal Aviation Administration, P.O. Box 1689, Fort Worth, Tex. 76101. All communications received on or before June 25, 1979, will be considered before action is taken on the proposed amendments. The proposals contained in this notice may be changed in the light of comments received. All comments submitted will be available, both before and after the closing date for comments, in the Rules Docket for examination by interested persons.

Availability of NPRM

Any person may obtain a copy of this notice of proposed rulemaking (NPRM) by submitting a request to the Federal Aviation Administration, Office of Public Affairs, Attention: Public Information Center, APA-430, 800 Independence Avenue, SW., Washington, D.C. 20591, or by calling (202) 426-8058.

Communications must identify the docket number of this NPRM. Persons interested in being placed on a mailing list for future NPRMs should also request a copy of Advisory Circular No. 11-2 which describes the application procedures.

The Proposal

The FAA is considering amendments to Parts 71 and 75 of the Federal Aviation Regulations (14 CFR Parts 71 and 75) that would extend the United States portion of V-81 from its present terminal at Midland to begin at Chihuahua, Mexico, and continue via Marfa and Fort Stockton. Also, to extend the United States portion of J-42 from its present terminal at Dallas-Fort Worth to begin at Delicias, Mexico, and continue via Fort Stockton and Abilene. These routes would improve trans-border flight operations by providing charted bearings, distances, altitudes and abbreviated identifiers which help to reduce flight planning and communication time.

The Proposed Amendment

Accordingly, pursuant to the authority delegated to me, the Federal Aviation Administration proposes to amend Parts 71 and 75 of the Federal Aviation Regulations (14 CFR Parts 71 and 75) as republished (44 FR 307, 722) as follows:

§ 71.123 [Amended]

In § 71.123, under V-81 "From Midland, Tex., via" is deleted and "From the Chihuahua, Mexico, NDB, via Marfa, Tex.; Fort Stockton, Tex.; Midland, Tex.;" is substituted therefor. Also, "the airspace outside the United States is excluded." is added.

§ 75.100 [Amended]

In § 75.100, under Jet Route No. 42 "From Dallas-Fort Worth, Tex., via" is deleted and "From Delicias, Mexico, via Fort Stockton, Tex.; Abilene, Tex.; Dallas-Fort Worth, Tex.;" is substituted therefor. Also, "The portion of this route outside of the United States is excluded." is added.

(Secs. 307(a) and 313(a), Federal Aviation Act of 1958 (49 U.S.C. 1348(a) and 1354(a)); Sec. 6(c), Department of Transportation Act (49 U.S.C. 1655(c)); and 14 CFR 11.65)

The FAA has determined that this document involves a proposed regulation which is not significant under Executive Order 12044, as implemented by DOT Regulatory Policies and Procedures (44 FR 11034; February 26.

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1979). Since this regulatory action involves an established body of technical requirements for which frequent and routine amendments are necessary to keep them operationally current and promote safe flight operations, the anticipated impact is so minimal that this action does not warrant preparation of a regulatory evaluation and a comment period of less than 45 days is appropriate.

Issued in Washington, D.C., on May 16, 1979.

William E. Broadwater,

Chief, Airspace and Air Traffic Rules Division.

[FR Doc. 79-16130 Filed 5-23-79; 8:45 am]

BILLING CODE 4910-13-M

[14 CFR Part 71]

[Airspace Docket No. 79-RM-15]

Extension of Federal Airway

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Notice of proposed rulemaking.

SUMMARY: This notice proposes to extend Victor Airway V-55 from Grand Forks, N. Dak., to Bismarck, N. Dak. This action would improve air traffic control efficiency by providing a reduced mileage route between those two points to accommodate an increased instrument traffic requirement in that area.

DATES: Comments must be received on or before June 25, 1979.

ADDRESSES: Send comments on the proposal in triplicate to: Director, FAA Rocky Mountain Region, Attention: Chief, Air Traffic Division, Docket No. 79-RM-15 Federal Aviation Administration, 10455 East 25th Avenue, Aurora, Colo. 80010.

The official docket may be examined at the following location: FAA Office of the Chief Counsel, Rules Docket (AGC-24), Room 916, 800 Independence Avenue, SW., Washington, D.C. 20591.

An informal docket may be examined at the office of the Regional Air Traffic Division.

FOR FURTHER INFORMATION CONTACT:
Mr. John Watterson, Airspace Regulations Branch (AAT-230), Airspace and Air Traffic Rules Division, Air Traffic Service, Federal Aviation Administration, 800 Independence Avenue, SW., Washington, D.C. 20591; telephone: (202) 426-8525.

SUPPLEMENTARY INFORMATION:

Comments Invited

Interested persons may participate in the proposed rulemaking by submitting such written data, views or arguments as they may desire. Communications should identify the airspace docket number and be submitted in triplicate to the Director, Rocky Mountain Region, Attention: Chief, Air Traffic Division, Federal Aviation Administration, 10455 East 25th Avenue, Aurora, Colo. 80010. All communications received on or before June 25, 1979 will be considered before action is taken on the proposed amendment. The proposal contained in this notice may be changed in the light of comments received. All comments submitted will be available, both before and after the closing date for comments, in the Rules Docket for examination by interested persons.

Availability of NPRM

Any person may obtain a copy of this notice of proposed rulemaking (NPRM) by submitting a request to the Federal Aviation Administration, Office of Public Affairs, Attention: Public Information Center, APA-430, 800 Independence Avenue, SW., Washington, D.C. 20591, or by calling (202) 426-8058. Communications must identify the docket number of this NPRM. Persons interested in being placed on a mailing list for future NPRMs should also request a copy of Advisory Circular No. 11-2 which describes the application procedures.

The Proposal

The FAA is considering an amendment to Section 71.123 of Part 71 of the Federal Aviation Regulations (14 CFR Part 71) to extend V-55 from Grand Forks, N. Dak., to Bismarck, N. Dak. This action would provide a shorter route between those points and would benefit an increased amount of IFR aircraft operations within that area.

The proposal would extend V-55 from Grand Forks, N. Dak., via the intersection of Grand Forks, N. Dak., 239°T (230°M) and Bismarck, N. Dak., 066°T (055°M) radials to Bismarck. The airspace from 3,500 feet MSL to 10,000 feet MSL between points 42 miles and 76 miles southwest of Grand Forks would be excluded during the time that the Devils Lake East Military Operations Area (MOA) is active.

The Proposed Amendment

Accordingly, pursuant to the authority delegated to me, the Federal Aviation Administration proposes to amend Section 71.123 of Part 71 of the Federal Aviation Regulations (14 CFR Part 71) as republished (44 FR 307) as follows:

§ 71.123 [Amended]

Under V-55—"Grand Forks, N. Dak." is deleted and "Grand Forks, N. Dak.; INT Grand Forks 239° and Bismarck, N. Dak., 066° radials; Bismarck. The airspace from 3,500 feet MSL to 10,000 feet MSL between 42 miles and 76 miles southwest of Grand Forks is excluded during the time that the Devils Lake East Military Operations Area is activated by NOTAM" is substituted therefor.

(Secs. 307(a) and 313(a), Federal Aviation Act of 1958 (49 U.S.C. 1348(a) and 1354(a)); Sec. 6(c), Department of Transportation Act (49 U.S.C. 1655(c)); and 14 CFR 11.65)

The FAA has determined that this document involves a proposed regulation which is not significant under Executive Order 12044, as implemented by DOT Regulatory Policies and Procedures (44 FR 11034; February 26, 1979). Since this regulatory action involves an established body of technical requirements for which frequent and routine amendments are necessary to keep them operationally current and promote safe flight operations, the anticipated impact is so minimal that this action does not warrant preparation of a regulatory evaluation and a comment period of less than 45 days is appropriate.

Issued in Washington, D.C., on May 16, 1979.

William E. Broadwater,

Chief, Airspace and Air Traffic Rules Division.

[FR Doc. 79-16131 Filed 5-23-79; 8:45 am]

BILLING CODE 4910-13-M

[14 CFR Part 71]

[Airspace Docket No. 79-EA-9]

Alteration of Federal Airway

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Notice of proposed rulemaking.

SUMMARY: This notice proposes to realign Victor Airway V-297 from Johnstown, Pa., to the Talls Intersection via the 326 magnetic radial of Johnstown. This action would improve air traffic control efficiency by establishing the airway with a radial coincidental to an instrument approach procedure to the Johnstown Cambria County Airport and providing additional lateral separation from the Westmoreland County Airport terminal area.

DATES: Comments must be received on or before June 25, 1979.

ADDRESSES: Send comments on the proposal in triplicate to: Director, FAA Eastern Region, Attention: Chief, Air Traffic Division, Docket No. 79-EA-9, Federal Aviation Administration, Federal Building, John F. Kennedy International Airport, Jamaica, N.Y. 11430.

The official docket may be examined at the following location: FAA Office of the Chief Counsel, Rules Docket (AGC-24), Room 916, 800 Independence Avenue, SW., Washington, D.C. 20591.

An informal docket may be examined at the office of the Regional Air Traffic Division.

FOR FURTHER INFORMATION CONTACT:
Mr. John Watterson, Airspace Regulations Branch (AAT-230), Airspace and Air Traffic Rules Division, Air Traffic Service, Federal Aviation Administration, 800 Independence Avenue, SW., Washington, D.C. 20591; telephone: (202) 426-8525.

SUPPLEMENTARY INFORMATION:

Comments Invited

Interested persons may participate in the proposed rulemaking by submitting such written data, views or arguments as they may desire. Communications should identify the airspace docket number and be submitted in triplicate to the Director, Eastern Region, Attention: Chief, Air Traffic Division, Federal Aviation Administration, Federal Building, John F. Kennedy International Airport, Jamaica, N.Y. 11430. All communications received on or before June 25, 1979 will be considered before action is taken on the proposed amendment. The proposal contained in this notice may be changed in the light of comments received. All comments submitted will be available, both before and after the closing date for comments, in the Rules Docket for examination by interested persons.

Availability of NPRM

Any person may obtain a copy of this notice of proposed rulemaking (NPRM) by submitting a request to the Federal Aviation Administration, Office of Public Affairs, Attention: Public Information Center, APA-430, 800 Independence Avenue, SW., Washington, D.C. 20591, or by calling (202) 426-8058. Communications must identify the docket number of this NPRM. Persons interested in being placed on a mailing list for future NPRMs should also request a copy of Advisory Circular No. 11-2 which describes the application procedures.

The Proposal

The FAA is considering an amendment to § 71.123 of Part 71 of the Federal Aviation Regulations (14 CFR Part 71) to realign V-297 from Johnstown, Pa., to the Talls (Pa.) Intersection via the Johnstown 320° T (326°M) radial. The realignment of V-297 via Tall Intersection would improve air traffic handling in the Johnstown-Latrobe area by establishing V-297 with a common radial coincidental to that used for the VOR Runway 15 instrument approach procedure to the Johnstown-Cambria County Airport. It would also provide additional lateral separation from the Westmoreland County Airport terminal area.

The Proposed Amendment

Accordingly, pursuant to the authority delegated to me, the Federal Aviation Administration proposes to amend § 71.123 of Part 71 of the Federal Aviation Regulations (14 CFR Part 71) as republished (44 FR 307) as follows:

§ 71.123 [Amended]

Under V-297—"INT Johnstown 315° and Clarion, Pa., 222° radials;" is deleted and "INT Johnstown 320° and Clarion, Pa., 176° radials; INT Johnstown 315° and Clarion, Pa., 222° radials;" is substituted therefore.

(Secs. 307(a) and 313(a), Federal Aviation Act of 1958 (49 U.S.C. 1348(a) and 1354(a)); Sec. 6(c), Department of Transportation Act (49 U.S.C. 1655(c)); and 14 CFR 11.65.)

The FAA has determined that this document involves a regulation which is not significant under Executive Order 12044, as implemented by DOT Regulatory Policies and Procedures (44 FR 11034; February 26, 1979). Since this regulatory action involves an established body of technical requirements for which frequent and routine amendments are necessary to keep them operationally current and promote safe flight operations, the anticipated impact is so minimal that this action does not warrant preparation of a regulatory evaluation and a comment period of less than 45 days is appropriate.

Issued in Washington, D.C., on May 16, 1979.

William E. Broadwater,

Chief, Airspace and Air Traffic Rules Division.

[FR Doc. 79-16132 Filed 5-23-79; 8:45 am]

BILLING CODE 4910-13-M

[14 CFR Part 71]

[Airspace Docket No. 79-SO-32]

Designation of Federal Airways, Area Low Routes, Controlled Airspace, and Reporting Points; Proposed Alteration of Transition Area, Macon, Ga.

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Notice of proposed rulemaking.

SUMMARY: This proposed rule will alter the Macon, Georgia, Transition Area and lower the base of controlled airspace south of the Perry-Fort Valley Airport, Perry, Georgia, from 1,200 to 700 feet AGL. A new public use instrument approach procedure has been developed for the Perry-Fort Valley Airport and the additional controlled airspace is required to protect aircraft executing the approach procedure.

DATES: Comments must be received on or before: June 29, 1979.

ADDRESS: Send comments on the proposal to: Federal Aviation Administration, Chief, Air Traffic Division, P.O. Box 20636, Atlanta, Georgia 30320.

FOR FURTHER INFORMATION CONTACT:
Harlen D. Phillips, Airspace and Procedures Branch, Federal Aviation Administration, P.O. Box 20636, Atlanta, Georgia 30320; Telephone: 404-763-7646.

SUPPLEMENTARY INFORMATION:

Comments Invited

Interested persons may participate in the proposed rulemaking by submitting such written data, views or arguments as they may desire. Communications should identify the airspace docket number and be submitted in triplicate to the Director, Southern Region, Federal Aviation Administration, Attention: Chief, Air Traffic Division, P.O. Box 20636, Atlanta, Georgia 30320. All communications received on or before June 29, 1979, will be considered before action is taken on the proposed amendment. The proposal contained in this notice may be changed in the light of comments received. All comments submitted will be available, both before and after the closing date for comments, in the Rules Docket for examination by interested persons. A report summarizing each public contact with FAA personnel concerned with this rulemaking will be filed in the public, regulatory docket.

Availability of NPRM

Any person may obtain a copy of this notice of proposed rulemaking (NPRM) by submitting a request to the Federal

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Aviation Administration, Office of Public Affairs, Attention: Public Information Center, APA–430, 800 Independence Avenue, S.W., Washington, D.C. 20591, or by calling (202) 426–8058. Communications must identify the notice number of this NPRM. Persons interested in being placed on a mailing list for future NPRMs should also request a copy of Advisory Circular No. 11–2 which describes the application procedures.

The Proposal

The FAA is considering an amendment to Subpart G of Part 71 of the Federal Aviation Regulations (14 CFR 71) to alter the Macon, Georgia, Transition Area. This action will provide controlled airspace protection for aircraft executing the NDB RWY 36 standard instrument approach procedure at the Perry-Fort Valley Airport. The Bay Creek (nonfederal) nondirectional radio beacon, which will support the approach procedure, is proposed for establishment in conjunction with the alteration of this transition area.

It is also necessary to change the transition area description to reflect the correct airport geographic position and correct the Vienna VORTAC radial upon which an extension is designated.

The Proposed Amendment

Accordingly, the Federal Aviation Administration proposes to amend Subpart G, § 71.181 (44 FR 442), of Part 71 of the Federal Aviation Regulations (14 CFR 71) as follows:

§ 71.181 [Amended]

Macon, Georgia.

All after Perry-Fort Valley Airport is deleted and ". . . (latitude 32°30'36" N. longitude 83°45'51" W.); within 5 miles each side of Vienna VORTAC 321 radial, extending from the 5.5-mile radius area to 16 miles northwest of the VORTAC; within 3 miles each side of the 189° bearing from the Bay Creek RBN (latitude 32°27'48" N., longitude 83°45'57" W.), extending from the 5.5-mile radius area to 8.5 miles south of the RBN . . ." is sustituted therefor.

(Sec. 307(a) of the Federal Aviation Act of 1958, as amended (49 U.S.C. 1348(a)) and Sec. 6(c) of the Department of Transportation Act (49 U.S.C. 1655(c)))

Note.—The Federal Aviation Administration has determined that this document involves a proposed regulation which is not significant under Executive Order 12044, as implemented by DOT Regulatory Policies and Procedures (44 FR 11034, February 26, 1979). Since this regulatory action involves an established body of technical requirements for which frequent and routine amendments are necessary to keep them operationally current and promote safe flight operations, the anticipated impact is so minimal that this action does not warrant preparation of a regulatory evaluation.

Issued in East Point, Georgia, on May 11, 1979.

Phillip M. Swatek,

Director, Southern Region.

[FR Doc. 79-16195 Filed 5-23-79; 8:45 am]

BILLING CODE 4910-13-M

[14 CFR Part 203]

CIVIL AERONAUTICS BOARD

[EDR 379; Docket 34291; Dated: May 17, 1979]

Removal of Certificate Restrictions

AGENCY: Civil Aeronautics Board.

ACTION: Notice of Proposed Rulemaking.

SUMMARY: This notice proposes a program for gradual elimination of virtually all operating market restrictions attached to air carrier certificates for domestic flights, except for those within Alaska or Hawaii. The notice also responds to the petition for rulemaking from several local service carriers.

DATES: Comments by: June 22, 1979. Reply comments by: July 9, 1979.

Comments and other relevant information received after these dates will be considered by the Board only to the extent practicable.

Requests to be put on the Service List: June 4, 1979. The Docket Section prepares the Service List and sends it to each person listed, who then serves his comments on others on the list.

ADDRESSES: Twenty copies of comments should be sent to Docket 34291, Civil Aeronautics Board, 1825 Connecticut Avenue, N.W., Washington, D.C. 20428. Individuals may submit their views as consumers without filing multiple copies. Comments may be examined in Room 711, Civil Aeronautics Board, 1825 Connecticut Avenue, N.W., Washington, D.C., as soon as they are received.

FOR FURTHER INFORMATION CONTACT: Roy Pulsifer, Associate Director, Licensing Programs and Policy Development, Bureau of Pricing and Domestic Aviation, Civil Aeronautics Board, 1825 Connecticut Avenue, NW., Washington, D.C. 20428; 202–673–5448.

SUPPLEMENTARY INFORMATION: As the domestic route system is now structured, each carrier is authorized by its certificate of public convenience and necessity to serve points named on one or more separate routes, which in turn are divided into segments, with each segment consisting of one or more city-pair markets. Ordinarily, service over a given route or segment is subject to conditions, such as intermediate stop requirements and single-plane restrictions, that are designed to hinder or prevent operations in specific city-pair markets.

Those types of restrictions were imposed, over the course of the Board's regulation of the industry, for several reasons: to protect incumbent carriers from excessive competition, to limit the issues in a route authority proceeding, and in some cases to assure service to a community. Moreover, cities named on separate segments or routes could be served only through a stop at the segment junction point. The resulting combination of separate routes and segments, and the existence of these conditions, has prevented carriers from using their authority effectively to provide usable service and to experiment in providing new service, in many city-pair markets. While our realignment program has largely eliminated stop and long-haul restrictions in smaller markets, service in larger markets remains highly restricted, except for a few carriers expressly authorized to provide unrestricted service.

The route realignment program, which was begun in 1970, was primarily directed at removing restrictions and some conditions in smaller markets. In general, restrictions were retained or modified in order to minimize the competitive impact on incumbent carriers in the larger, more profitable markets. The procedures for realignment have also been slow-moving and costly for all involved, since certificates are realigned one at a time and only upon application by each carrier.

The rule proposed in this notice would rewrite certificates in a new format and establish a phased transition program for elimination of all route restrictions, which would be uniformly applicable to all carriers with authority for scheduled service on domestic flights, except for those within Alaska or Hawaii, and result in elimination of all certificate operating restrictions by June 30, 1981, at 6-month intervals. The restrictions in those two States are minimal, and are better handled on a case-by-case basis. It would not limit the right of carriers to file applications for the removal of a particular restriction in a particular market, under section 401(e)(7) of the Act. The policy statement of the Airline Deregulation Act gives the Board broad discretion to establish programs, consistent with the objectives of the Act, to encourage competition, as long as

they are not incompatible with the specific programs Congress has established, and are consistent with the public interest. The new Part 203 proposed here would fit this policy.

In the first phase of the transition program:

1. All long-haul restrictions would be removed;

2. One-stop restrictions would be substituted for all multi-stop and single-plane restrictions; and

3. All operating restrictions would be entirely eliminated in monopoly and minor markets, which would thus become nonstop.

As to (3) above, a traffic level of 7,300 origin/destination (O&D) and connecting passengers is used in the realignment cases and is proposed to be used again in defining minor markets in the first phase of this restriction removal program. This would put carriers that have already been realigned and those that have not been realigned on an equal basis. In successive phases the size of markets will govern the removal of one-stop restrictions with markets ranked by O&D passengers only. Simultaneously with adoption of this rule, a list of all markets with one-stop restrictions would be published indicating the markets which would be unrestricted in each of the succeeding phases. This list would be based on the latest traffic data available and would not be changed to reflect the continual changes in traffic. To do so would be administratively burdensome and would not give the carriers and the public the needed certainty of knowing when a market would be unrestricted.

In subsequent phases, a specific percentage of the markets still restricted after the first phase would have the remaining one-stop restrictions removed. One December 31, 1979, 10 percent of the smallest markets, with estimated O&D traffic of no more than 9300 passengers, would be affected. The next smallest 25 percent of the markets, with estimated O&D of no more than 16,000 passengers, would have restrictions removed on June 30, 1980. In phase 4, the next smallest 30 percent of the markets, with an estimated O&D traffic of no more than 40,000 passengers, would have restrictions removed on December 31, 1980. Finally, on June 30, 1981, restrictions would be removed from the remaining markets. These traffic estimates are only approximations, and will not necessarily correspond with the percentage cut-off in each phase. Any new market authority generated by the addition of a new point to a carrier's system would be subject to removal of its restrictions in the phase that includes that market or a market of similar size, but for notice reasons, any such restriction will not be removed before the phase following the award of new authority.

The transition program would be gradual. It would begin first with the smaller markets in the system, and then increase the size of the markets affected at 6-month intervals. By using 6-month increments, and starting with the smaller markets, disruption of the industry and the traveling public would be minimized. Also, by using this approach, the impact on the smaller carriers would be lessened. New markets would be opened over a period of time equally to all carriers, with the smaller carriers being better equipped to exploit opportunities in the smaller markets affected in the earlier phases.

At each phase of the program, the Board would issue a revised certificate to each carrier, reflecting the new authority that has resulted from the removal of restrictions in that phase. Because of the routine nature of these certificate revisions, the Board is proposing to delegate authority to the Director, Bureau of Pricing and Domestic Aviation, to issue the revised certificates. To ease the administrative handling of the program, and to simplify the form of the license, a new certificate format would be used that would individually list the authorized points and any remaining restricted markets in alphabetical order. This format would be readily adaptable to change by adding new points and those no longer restricted. Hyphenation of points would also be eliminated where separate airports exist, with each point served by a separate airport listed separately. If a carrier does not use its authority at each point, another carrier may obtain that authority under section 401(d)(5) of the Act. We find this approach more consistent with the Act's declaration of policy, which calls on us to encourage air service at major urban areas through secondary or satellite airports. Hyphenated points served through the same airport would be unchanged. Restrictions in each market will be lifted at the same time for all carriers with authority to provide service in the market. However, revised certificates will be issued initially only for the trunklines and local service carriers, since theirs are the most complicated and cover almost all restricted domestic markets. New certificates for other carriers would be issued at a later date.

Under this format, satellite airports would be treated differently from the way they were in the realignment cases. For example, in the realignment cases, new authority to satellite airports was governed by the authority at the primary airport, and at best it was equal to that given the primary airport. The following have been considered satellites of the primary point in the realignment program: Baltimore of Washington, D.C.; Ft. Lauderdale of Miami; Oakland and San Jose of San Francisco; Ontario, Long Beach, Burbank, and Orange County Santa Ana of Los Angeles. Each would now be treated as an individual airport and separate point. Since this is a major change from past practice, the Board specifically asks for comment on this issue. Also, since there would be the potential for increased air service at that point, the Board would, if there were objection from the local or State authorities controlling a particular airport, consider any specific problem raised by them on a case-by-case basis. The new format would continue to list several cities or greater metropolitan areas served through two or more airports as single points (except in the case of carrier authority that names a specific airport). Although this treatment is not consistent with the rationale for conferring named airport authority, above, it appears to be necessary because of the absence of O&D passenger data for each airport. The following are considered as single points; the greater New York area airports of JFK, LaGuardia and Newark; Chicago airports of O'Hare and Midway; Dallas airports of Dallas/Ft. Worth and Love Field; and Washington airports of Dulles and National. We ask for comments on this certificate format and on a means for measuring traffic at these airports if it is proposed to list them as separate points. The encouragement of air service to secondary or satellite airports, where consistent with local and State plans, follows the Congressional directive in section 102(a)(6) of the Act.

The reduction of domestic regulatory barriers to market entry has been a continuing process over the past 2 years, and will culminate on December 31, 1981, when the Airline Deregulation Act removes Board authority in this area. It is our policy, and that of Congress, that freer entry, leading to more competition and greater reliance on market forces, can generally better meet the transportation needs of the traveling public. The phased program proposed here would create substantial competitive opportunities for all classes of carriers, yet would be carried out in a gradual manner over a relatively short period to allow for evaluation before the Congressionally-mandated deregulation. This type of program would allow

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economic efficiency and market demand to replace the Board's influence over management decisions on price and service options.

Also, the new Act contains several provisions to make sure that the removal of regulatory restraints, such as these restrictions, does not result in a downgrading of service to small communities. The unused authority and automatic entry provisions permit those carriers willing to do so to enter certain markets automatically. Further, section 419 of the Act is designed to assure essential air transportation to small communities for at least 10 years. Certificate restrictions are thus no longer needed for this purpose.

The end of domestic regulatory entry controls by 1982 creates a need for the Board to determine the proper manner and pace for phasing out restrictions on service in general. The industry should not be forced all at once from tight regulation to a totally free competitive marketplace. If this transition is to be smooth, it must move rapidly, but apply as uniformly as possible to all markets and carriers. Reliance on individual applications for restriction removal could lead to a haphazard, patchwork result, and be unfair to many carriers and markets, as the local service carriers allege. The program proposed here places maximum reliance on competitive market forces to provide needed transportation, as is Congress' policy, and would be the fairest method to the carriers and communities alike. A definite schedule of times and markets would be set forth, so that the public and the industry can plan with some certainty. The individual application procedures would be used to solve specific problems in a single market.

In addition to the phased transition program for a broad removal of restrictions for all carriers, the Board would continue to consider individual applications under section 401(e)(7) for removal of a restriction in a specific market. The rule would not limit the right of any air carrier to file such an application for a single market or a single restriction. Procedures for these applications are in Subpart Q of Part 302 (14 CFR Part 302), recently adopted by the Board (PR–201, 44 FR 24286, April 25, 1979). Alternatively, applications accompanied by a show-cause petition and applications accompanied by a motion to consolidate with such an application may be submitted. Applicants would be required to meet the service requirements of Subpart Q by sending copies of the application to other air carriers serving the market, State and local aviation authorities, and the local government.

Sections 203.6 and 203.7 of the proposed rule are interpretive rules concerning the effectiveness of the authority granted and the ineligibility for subsidy of any new operating authority obtained because of the removal of a restriction. Since the removal of restrictions would create new authority for each carrier, this authority could become subject to a dormant authority application under section 401(d)(5) of the Act. To prevent confusion about the time for which the dormant authority period would begin to run, any new authority received under this program would be effective on the date the restriction was removed under proposed § 203.3 or by order of the Board under proposed § 203.5. Also, any market generating more than 20 passengers enplaned each day would continue to be considered Category II subsidy-ineligible under section 406 of the Act.

On December 20, 1978, six local service carriers (Piedmont Aviation, Allegheny Airlines, Frontier Airlines, North Central Airlines, Ozark Air Lines, and Southern Airways) jointly filed a petition for rulemaking, asking the Board to establish standard procedures for dealing with restriction removals. These local service carriers argued that in order for the Board to consider the full competitive impact of any removal of operating restrictions, individually or collectively, standard procedures should be used that would have two principal elements: 1) a requirement for complete disclosure of the authority requested and its potential impact, and 2) a requirement for contemporaneous consideraiton of restriction removal applications. Also, they proposed that common deadlines be established for each year through 1981 for removal applications, with three rounds each year: first, non-trunkline carriers; second, small trunks; and third, large trunklines. Their proposal also included procedural protections for objecting carriers.

The local service carriers premised their proposal on the argument that a sudden grant of pending restriction removal applications could significantly affect the competitive structure of the industry by causing an overwhelming increase in route authority for the trunks, enhancing the ability of these large carriers to compete with local service carriers in their traditional markets. They further argued that grant of applications without information on the competitive impact would be inconsistent with the intent of Congress in section 401(e)(7) of the Act. They contended that it is Congress' intent that restriction removal should be gradual, and approval of applications should not be automatic or be granted on general "public interest" grounds. They also stated that under the Act's Declaration of Policy (49 U.S.C. 1302), the Board is to avoid unreasonable industry concentration and to continue the strengthening of small air carriers to assure a more effective, competitive airline industry. The local carriers argued that these statements of Congressional intent and policy justify procedures that would favor removal of restrictions affecting them prior to those affecting the trunklines.

Answers have been filed by four trunkline carriers (Trans World Airlines, Delta Air Lines, American Airlines, and Eastern Air Lines), each opposing the petition. They argued that the petition's proposals discriminate against the trunkline carriers, and attempt to protect the local service carriers from competition—results that are inconsistent with the Airline Deregulation Act. Eastern asserted that the proposals of these carriers for information to be included in the restriction removal requests are also contrary to the intent of Congress, stating that while requests should show that removal of certain restrictions would be in the public interest, the burden of showing the potential impact on other carriers should be on the opponents.

While we certainly agree that the Congressional statements cited by the local carriers should be applied to removal of operating restrictions, this does not justify such a discriminatory policy. Congress explained its intent further by stating that these policy statements should not be interpreted to preclude large air carriers from new routes, but instead are intended to direct the Board to offer small carriers more route opportunities (H.R. Rep. No. 1779, 95th Congress, 2nd Sess. 56 (1978). Small carriers are thus to be strengthened by increased competitive opportunities, not by expansion of protective regulations.

The Board recognizes that all carriers are not currently in the same competitive position as deregulation progresses. The local service carriers have less equipment, and the aircraft they do have are generally for use on short-stage-length medium-density routes. The large trunks, however, generally have aircraft suited primarily for longer-haul, higher density routes. The organizational and operational inefficiencies of some of the trunklines, which may have been supportable in the pre-deregulation era, have now become a heavier burden in a time of discount fares and low yields. Both groups of carriers are thus at some disadvantage with respect to entering markets the other has traditionally served. For these reasons, while the Board is sympathetic to the concerns of the local carriers, there does not appear to be justification for procedures that favor one group of carriers over another. Also, as the Board stated in the *Improved Authority to Wichito Case*, Order 78–12–106, December 14, 1978, the fact that in 3 years the entire system will be open, with the resulting spillover effect in the interim, will ensure that there will be sufficient competition opportunities available to all classes of carriers. Air carrier managements can also then plan ahead with the knowledge of the type of environment in which they must operate. The phased program proposed here, by setting definite dates for automatic removal of certain restrictions in specific markets, furthers this planning.

The local service carriers also argued that the large route systems of the trunklines and access to feed traffic could lead to greater concentration in the industry. This same argument was made in the *Wichita Case* in opposing our policy of multiple permissive entry. As we stated in that case, the size of a carrier cannot necessarily be equated with financial strength. Also, the advantage of a large integrated system can be offset by the specialization and regionally-tailored service of many small carriers. While it may be true that in some cases a larger trunkline may win a competitive battle with a smaller regional, specialized carrier, the marketplace itself should be allowed to make the decision about which service pattern or combination should prevail. In the past small carriers without extensive feeder systems have successfully competed against larger carriers, and are likely to continue to do so.

The Board has tentatively decided to grant the petition in part and deny it in part. Any request in the petition not specifically granted is denied.

The local service carriers raised several other points in their petition. They asked for more lengthy filing requirements, and for institution of once-a-year deadlines for all restriction removal requests. The procedure in Subpart Q, however, for processing individual applications with consideration of an extension of the period for responses in complex cases, gives both the Board and the parties adequate opportunity for investigation and review. The procedures suggested by petitioners would create delays that would slow the processing of all applications. In our judgment the Act and the Board's procedures allow for in-depth investigation of those cases where there might be serious harm, and there is insufficient reason to impose procedural delays where not needed in the public interest.

To consider simultaneously the effects of all requests for route realignment is not feasible. The strategies of participants in a free market are constantly changing as they react to demand fluctuations and to the actions and reactions of other firms. Accordingly, the effects of the rule would not be foreseeable. Any possible benefits from trying to predict these complex effects would be outweighed by the costs it would impose on consumers by restricting competition while the process went on.

In a footnote to the petition, the local service carriers stated that, because of the scope of the authority involved in broad restriction removal, the Board would have to prepare an environmental impact statement before taking final action. We do not agree that a separate impact statement will be necessary here. Although a natural outgrowth of our route realignment program, this rulemaking is also closely related to our evolving policy of freer entry. As we indicated in the *Improved Authority of Wichita Case*, Order 78–12–106, December 14, 1978, p. 13, we are already working on a draft environmental impact statement that will consider the consequences of a general regulatory policy of essentially open entry. That draft statement will be issued, and perhaps finalized, by December 31, 1979. The breadth of the issues that will be covered in that impact statement will clearly be broad enough to encompass those contained in this rulemaking. In the meantime, we need only consider the environmental consequences of the first phase of our proposed restriction removal rule which will take effect August 1, 1979. (If a final impact statement has not been issued before the subsequent phases of the proposed rule take effect, or if it appears that a general policy of freer entry will have a significant adverse environmental impact, we will consider the specific environmental impact, if any, of the next phase of the proposed rule before it is implemented.)

The first phase of the proposed rule most closely resembles our route realignment program. Both are designed to maximize opportunities for scheduling flexibility and equipment utilization, to conform route authority to traffic flows, and to eliminate or modify certificate restrictions that serve no useful purpose, are inconsistent with current statutory and policy guidelines, impair meaningful market development, and inhibit significant improvement in carrier performance. By enabling carriers to operate more efficiently and increasing opportunities for improved scheduling, operating flexibility and equipment use, phase one of the proposed rule will produce greater opportunities for reduction in fuel consumption, air pollution and ambient noise levels. While it is possible that some net increase in service may be provided as a result of phase one, it will likely be relatively minor and cannot be projected with any degree of specificity. In short, the overall environmental impact should be favorable. We therefore tentatively conclude that the first phase of the proposed rule will not constitute a major federal action significantly affecting the quality of the environment within the meaning of section 102(2)(C) of the National Environmental Policy Act of 1969, (42 U.S.C. 4321, *et seq.*). Moreover, as phase one of the proposed rule will probably lead to a more efficient use of fuel through the greater opportunity to provide nonstop and single-plane service in place of multi-stop and online connecting service, we tentatively conclude that it will not constitute a major regulatory action requiring an energy statement under the Energy Policy and Conservation Act (24 U.S.C. 6201, *et seq.*).

Proposed Rule

1. The Board proposes to amend 14 CFR Chapter II by adding a new Part 203 to read as follows:

PART 203—REMOVAL OF CERTIFICATE RESTRICTIONS

Sec.

203.1 Scope.
203.2 Applicability.
203.3 Timetable for automatic removal of restrictions.
203.4 Issuance of revised certificate.
203.5 Individual air carrier applications.
203.6 Effective date for new authority.
203.7 Subsidy ineligibility.
203.8 Sunset provision.

§ 203.1 Scope.

This part establishes a procedure for the gradual elimination of operating restrictions in the certificates of air carriers for domestic scheduled service flights, except for those within Alaska and Hawaii, by June 30, 1981.

§ 203.2 Applicability.

The procedures in this part apply to all air carriers certificated under section

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401 of the Act, and to any operating restrictions attached to a certificate authorizing flights between points within the United States, except for those within Alaska or Hawaii.

§ 203.3 Timetable for automatic removal of restrictions.

Effective on the dates indicated in this section, the Board hereby removes the restrictions contained in certificates of public convenience and necessity granted to air carriers under section 401 of the Act.

(a) On August 1, 1979:

(1) All operating restrictions attached to air carrier certificates imposing a long-haul requirement shall cease to be in effect.

(2) All operating restrictions precluding single-plane service or specifying an intermediate point or requiring service to more than one intermediate point on a route shall be changed to specify only one stop.

(3) All operating restrictions specifying one stop in minor markets that enplane not more than 7,300 origin/destination and connecting passengers each year, and in monopoly markets, shall cease to be in effect.

(b) On December 31, 1979, all one-stop operating restrictions attached to certificates for the following markets shall cease to be in effect:

[List of smallest 10 percent of markets to be published with final rule.]

(c) On June 30, 1980 all one-stop operating restrictions attached to certificates for the following markets shall cease to be in effect.

[List of next smallest 25 percent of markets to be published in final rule.]

(d) On December 31, 1980, all one-stop operating restrictions attached to certificates for the following markets shall cease to be in effect:

[List of next smallest 30 percent of markets to be published in final rule.]

(e) On June 30, 1981, all remaining one-stop operating restrictions attached to certificates shall cease to be in effect.

(f) Restrictions contained in any new market authority shall be removed in the phase that includes that market or a market of equivalent size, except that where the date for removing restrictions in that market is already past, any such restrictions will be removed in the phase following the award of new authority.

§ 203.4 Issuance of revised certificate.

At each stage specified in § 203.3, the Board will issue a revised certificate reflecting any changes in an air carrier's authority, and listing authorized points and any remaining restricted markets in alphabetical order. Revised certificates shall be issued first to trunkline and local service carriers, and then to other air carriers. Delay in issuance of a revised certificate, however, shall not affect the removal of restrictions effectuated by § 203.3

§ 203.5 Individual air carrier applications.

Nothing in this part limits the right of an air carrier at any time to file an application for removal of any term, condition, or limitation in an individual market or of any single restriction. procedures for the filing of applications and answers under this section shall be governed by Subpart Q of Part 302 of this chapter, unless the application is accompanied by a petition for show-cause procedures or a motion to consolidate with an application accompanied by such a petition.

§ 203.6 Effective date of new authority.

For purposes of determining unused authority under section 401(d)(5) of the Act, any new authority received by an air carrier under this part shall be effective on the date the restriction is removed under § 203.3 or by order of the Board under § 203.5.

§ 203.7 Subsidy ineligibity.

Any nonstop authority given an air carrier under this part for markets with more than 20 origin/destination and connecting passengers enplaned each day shall be considered Category II subsidy-ineligible under section 406 of the Act.

§ 203.8 Sunset provision.

This part shall cease to be in effect on January 1, 1982, unless the Board takes further action.

2. The Board proposes to amend 14 CFR 385.13 by adding a new paragraph (rr) to read:

§ 385.13 Delegation to the Director, Bureau of Pricing and Domestic Aviation.

* * * * *

(rr) To issue revised certificates of authority to air carriers showing new authority granted by removal of operating restrictions under Part 203 of this chapter.

(Secs. 102, 204, 401 of the Federal Aviation Act of 1958, as amended, 72 Stat. 740, 743, 754, 92 Stat. 1706, 1710, 49 U.S.C. 1302, 1324, 1371. Reorganization Plan No. 3 of 1961, 75 Stat. 837, 26 FR 5989; 49 U.S.C. 1324 (note).)

By the Civil Aeronautics Board.

Phyllis T. Kaylor,

Secretary.

[FR Doc. 79-16206 Filed 5-23-79; 8:45 am]

BILLING CODE 6320-01-M

[14 CFR Part 399]

[PSD R-61; Dockets 31290, 27417; Dated: May 17, 1979]

Statements of General Policy

AGENCY: Civil Aeronautics Board.

ACTION: Proposed Rule.

SUMMARY: The Board is proposing to modify its Domestic Passenger Fare policies to reflect the Airline Deregulation Act of 1978. We also propose eliminating the 30 percent upward fare zone allowed local service carriers.

DATES: Comments due by: June 25, 1979. Comments and other relevant information received after these dates will be considered by the Board only to the extent practicable. All filed comments must include a full presentation of all evidence and arguments upon which the commenter wishes to rely in support of his position, or in rebuttal of facts relied upon by the Board. We have decided that all relevant issues can be determined on the basis of written comments, and that oral evidentiary procedures will not be required.

ADDRESSES: Twenty copies of comments should be sent to Docket 31290, Docket Section, Civil Aeronautics Board, 1825 Connecticut Avenue, N.W., Washington, D.C. 20428. Individuals may submit their views as consumers without filing multiple copies. Comments may be examined in Room 711, Universal Building 1825 Connecticut Avenue, N.W., Washington, D.C., as soon as they are received.

FOR FURTHER INFORMATION CONTACT: Michael B. Fingerhut, Trial Attorney, Bureau of Pricing and Domestic Aviation, Civil Aeronautics Board, 1825 Connecticut Avenue, N.W., Washington, D.C. 20428; 202-673-6064.

SUPPLEMENTAL INFORMATION:

A. *Introduction.* With this Notice, we begin the second phase of our reexamination of the pricing and fare structures policies developed in the *Domestic Passenger Fare Investigation (DPFI).* In the first,[1] we vacated several of these policies, relaxing the Board's pervasive control over the pricing behavior of the air transportation industry. We vacated the Phase 9 [2] requirement that carriers charge

[1] PS-80 (August 25, 1978); PR-177 (August 25, 1978); ER-1072 (August 25, 1978); and Order 78-8-152 (August 25, 1978). 43 FR 39522 (September 5, 1978). (Referred to as PS-80). *See also* Notice of Proposed Rulemaking EDR-353/PDR-52/PSDR-51 (April 13, 1978).

[2] Phase 9 [Fare Structure), Order 74-3-82 (March 18, 1974) and Order 74-12-109 (December 27, 1974). Also printed in CAB *DPFI* volume at p. 759.

identical fares for all markets of equal distance on a formula basis; we eliminated the Phase 9 finding prescribing first class fares at a fixed percentage over formula coach fares; and we rescinded our Phase 5 [3] policies requiring carriers to demonstrate that proposed discount fares would have a favorable profit impact and to mark these fares for cancellation no later than 18 months ahead.

In their place, we adopted new policies designed to create a regulatory climate in which carriers are able to engage in normal fare price competition on a market-by-market basis relatively free from government intervention. We established a broad range over which carriers are able to set their fares with a limited risk of suspension. The ceiling of this range is the *DPFI* coach fare formula adjusted by the Board's fare level standards.[4] Carriers have the flexibility, however, to price their services up to 10 percent above the ceiling in certain presumptively competitive markets; [5] in other markets, the carriers are able to price their services up to five percent above the ceiling on a certain number of peak days throughout the year.[6] The floor of the range is 50 percent of the ceiling fare level although carriers have the flexibility to reduce their fares to 70 percent below the ceiling on 40 percent of their available seat miles per week. Within this entire zone, carriers are free to either lower or raise their fares without submitting an economic justification, and we will not suspend these fares on grounds of the reasonableness of the level unless an opponent can show that the fare imminently threatens a substantial and irreparable harm to competition.[7]

Finally, we modified the joint fare prescriptions set forth in Phase 4 [8] so that the maximum joint fares are now based on ceiling fares (less terminal charges) or the sum of the actual local fares, whichever, is less.[9] Although we announced that we would examine the entire issue of mandatory joint fares in this phase, we found that this amendment was necessary, at least on an interim basis, to achieve our goal of a more price competitive air trasportation industry. As explained in EDR-353, the Phase 4 maxima are based upon a specific relationship to the actual local fares, involving a substantial reduction from their sum. Absent this change, a carrier wishing to lower its normal fare in a particular market would have risked substantial yield dilution from the joint fares affected, thereby inhibiting its incentive to exercise its new pricing freedom. Our amendment, therefore, removes this potential constraint. At the same time, passengers who depend on interline service for their travel are protected by joint fare maxima no greater than the ones they would otherwise pay; and because of our decision requiring that joint fares be no higher than the sum of the actual local fares, they are able to benefit from the normal fare competition permitted by PS-80.

In addition to the question of joint fares, the Board had planned on dealing with the more technical aspects of the *DPFI* policies in this phase, including the issues of the fare formula and fare basing mileage.[10] It is no longer necessary to do so. In October 1978, Congress passed and the President signed the Airline Deregulation Act of 1978 (Act),[11] which alters substantially the Board's power to regulate air transportation. We will discuss how the changes in the Board's ratemaking authority affect our policies established in PS-80 below; but, generally, the Act supports our decision to allow the carriers considerable freedom to set their prices on a market-by-market basis as demand conditions and their individual costs warrant.

Indeed, the Act limits the Board's discretion to prescribe fare levels in domestic and overseas markets. We must compute a "standard industry fare level" (SIFL) for each interstate and overseas pair of points and for each class of service, using the fare level in effect on July 1, 1977, updated by the percentage change in operating costs per available seat mile (ASM) for interestate and overseas air transportation combined [1002d(6)(A)]. And in determining this change, we cannot make any adjustment to costs actually incurred [1002d(6)(B)]. Once computed, the SIFL becomes the benchmark for measuring a statutory zone of reasonableness.[12] Generally, the Board cannot find fares proposed within it unjust or unreasonable, except on predatory grounds; [13] nor can we suspend them unless we believe that they may be predatory.[14]

Congress has, in general, decided, therefore, that the Phase 9 fare formula, adjusted for changes in actual operating costs, produces a reasonable fare level in each interstate market.[15] It has decided, also, to give carriers considerable freedom to price services in each market either below or above this level enabling them to develop fare structures suitable to the consumer demand and competitive conditions in the market, rather than being tied to the

[3] Phase 5 (Discount Fares), Order 72-12-18 (December 5, 1972) and Order 73-5-2 (May 1, 1973). Also printed in CAB *DPFI* volume at p. 226.

[4] We also decided to adjust the ceiling on the basis of changes in cost, alone, adjusted by the *DPFI* fare level standards.

[5] We have defined these markets as those in which four or more interstate and intrastate carriers are authorized to provide nonstop service either on an unrestricted or restricted basis.

[6] In markets where two or three interstate or intrastate carriers are authorized to provide nonstop service either an unrestricted or restricted basis, carriers are allowed this upward flexibility on 110 days per year; in monopoly markets, carriers can use this flexibility on 58 days per year.

[7] To evaluate whether a suspension might be justified, the Board adopted a four-part test similar to the one used by the courts in determining whether to grant a stay or preliminary injunction. *See* section 399.31(f) of the Board's Policy Statement [49 CFR 399.31(f)] for the four elements of test.

[8] Phase 4 (Joint Fares) Order 74-3-80 (March 18, 1974) and Order 74-12-106 (December 27, 1974) as amended by Order 75-8-128 (August 28, 1975). Also printed in CAB *DPFI* volume at p. 75.

[9] We also adopted policies leading toward the elimination of the "point-beyond" and "hidden-city" rules required to be used to construct joint fares (PS-80 p. 48-49).

[10] EDR-353, p. 5.

[11] P.L. 95-504 (October 24, 1978).

[12] The lower limit of the zone is 50 percent below the SIFL [1002(d)(4)(B)], although the Board may widen the downward zone by rulemaking [1002(d)(7)]. The upper limit is five percent above the SIFL [1002(d)(4)(A)]. The latter does not become effective until July 1, 1979, however. Also, any fare increase proposed by a carrier in a market where such carrier provides air transportation to 70 percent or more of the passengers in the market is still subject to the traditional test of reasonableness and may be suspended.

[13] Predatory is defined in section 101(35) of the Act as "any practice which would constitute a violation of the antitrust laws as set forth in the first section of the Clayton Act [15 U.S.C. 12]." The Board's jurisdiction over fares generally ends December 31, 1982.

[14] See Section 1002(g) which provides that the Board shall not suspend any proposed tariff unless the Board is empowered to find the proposed fare unjust and unreasonable and is empowered to determine and prescribe the lawful, or maximum, or minimum fare. The Board retains its jurisdiction to investigate, but not suspend, fares within the zone that may be unjustly discriminatory, unduly preferential or unduly prejudicial; and we can, after notice and hearing, determine its lawfulness. *See* section 1002(d)(1) and 1002(d)(2); *see also* Report of the Senate Committee on Commerce, Science and Transportation on 2493 at p. 109. In any proceeding under section 1002(d)(1) the party opposing any fare in interstate or overseas air transportation on the basis that it is too low has the burden of proof. [1002(d)(5)]

[15] On an industry basis, the formula produces fares below average cost (as defined in the *DPFI*) in short-haul markets and fares above these costs in longer-haul markets. The Phase 9 fare formula applies to fares within the 48 contiguous states and the District of Columbia; it does not apply to mainland-Hawaii and intra-Hawaii fares; to mainland-Puerto Rico fares; or to mainland-Alaska and intra-Alaska fares. Fare policies for the mainland-Hawaii and intra-Hawaii markets have been proposed in EDR-373/PDR-64/PSDR-57; fare policies for the mainland-Puerto Rico have been proposed in EDR-366/PDR-58/PSDR-52. *See also* our policy statement on intrastate fares levels within California, Texas and Florida, PS-82 adopted February 7, 1979.

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one developed by the Board for the industry as a whole.[16]

In other words, Congress has endorsed the basic feature of PS–80 that the responsibility for pricing decisions properly belongs in the hands of carrier managements under the discipline of a competitive marketplace. It has taken us out of the business of determining the reasonableness of fares, at least within the statutory zone, and instead has directed us to guard against any anticompetitive pricing behavior during the transition from a highly regulated industry to a freely competitive air transportation system.

This new statutory mandate makes it unwise and unncessary to examine the Phase 9 fare formula and related questions (other than how to adjust it for cost increases); in fact, to begin tinkering with the formula would be inconsistant with the statute.[17] Thus, the only *DPFI* policy remaining to be reexamined is the question of mandatory joint fares and how to divide them.[18]

Originally, we had planned on dealing with this question together with the modifications in our PS–80 policies which we believe are necessary in light of the new Act. We have now decided to consider them separately. Our fare policies must be in place by July 1, 1979, and because the issue of joint fares is complex and is likely to be controversial, its consideration here might delay the entire proceeding. Thus, the changes in our PS–80 policies will be discussed below and we will issue a separate Notice on joint fares in the near future.

B. *Proposed Changes to the Board's PS–80 Policies.* Before Congress passed the Airline Deregulation Act of 1978, substantially reducing our regulatory grip over the airlines, the Board, on its own, had begun eliminating many of the restrictive pricing policies of the past, replacing them with new ones designed to allow the carriers the flexibility to determine their own fares in each of their markets. As a result, we already have in place ratemaking policies which reflect our new pro-competitive charter. Indeed, Congress, fully aware of our actions giving the airlines more pricing freedom, enacted the fare provisions in order to prevent future Boards from returning to the restrictive policies of the past and to minimize the risk of legal challenges to them in the Courts.[19] We will, of course, modify our PS–80 policies to conform to the Act. But, we do not believe that many changes are necessary.

1. *Fare Flexibility Above the Ceiling.*[20] Our domestic fare policy allows the carriers some flexibility to raise their fares above the ceiling with limited risks of suspension, depending upon the number of competitors (actual or potential) in the market. Carriers now have the authority to price their services up to 10 percent above the ceiling in markets with at least four carriers authorized to provide nonstop service. In two and three carrier markets, carriers are able to raise their fares up to 5 percent above the ceiling on 110 days of the year, and in monopoly markets, carriers have the flexibility to raise their fares up to 5 percent above the ceiling on 58 days of the year.

Congress also has recognized the need for allowing carriers limited pricing flexibility above fare levels based on industry averages. It has eliminated our power to suspend any fare increases up to 5 percent above the standard industry fare level (SIFL) on or after July 1, 1979, between any interstate or overseas pair of points where the carrier proposing the increase does not provide air transportation to 70 percent or more of the persons travelling in air transportation between such points [1002(d)(4)(A)]. Although this provision, obviously, limits our power to prevent fare increases within the statutory zone beginning July 1, 1979, it does not affect our authority to regulate fare increases before that date or diminish our ability to control fare increases above the statutory upper limit after June 30, 1979.[21] Congress has left intact our power to determine the reasonableness of fares outside of the statutory zones including our power to establish "no-suspend" zones of upward fare flexibility above the statutory zone which we believe would be in the public interest. We, therefore, are not required by the Act to narrow any of the upward "no-suspend" zones established by PS–80. In fact, because of the impending five percent upward fare flexibility permitted by the Act on or after July 1, 1979, we have tentatively decided to expand the scope of the upward zone governing two and three carrier markets by eliminating the 110 day per year limitation on the 5 percent upward flexibility allowed to carriers in those markets. We have decided also that it would be reasonable and consistent with the purposes of the Act to allow a carrier the legal discretion to price its services above the SIFL within the zones established by PS–80 (as modified here) even though it may provide air transportation to 70 percent or more of the passengers travelling in the market.[22] This would avoid unnecessary confusion for the carriers and would enable the Board to monitor the behavior of prices in the upward zones more easily.

2. *Fare Flexibility Below the Ceiling.* We do not believe any changes in the downward "no-suspend" zone

[16] Of course, fare structures that are unjustly discriminatory, unduly preferential, or unduly prejudicial continue to be proscribed by the Act. The Board has recently issued an Policy Statement concerning price discrimination. *See* PSDR–58 dated April 6, 1979.

[17] Obviously, the issue of changing the various fare level standards developed in the *DPFI* is moot, and we are terminating the investigation instituted in Docket 27417 to reexamine the domestic load factor standard (Part 399—Statements of General Policy, Domestic Load-Factor Standards, PSDR–43 dated August 19, 1975).

[18] The issue of joint fare divisions is being considered in Docket 34138—Phase II.

[19] See Remarks of Senator Cannon during floor discussion on S2493, Congressional Record-Senate S5850 (April 19, 1978); Remarks of Representative Anderson (Calif.) in Committee of the Whole on H.R. 12611 Congressional Record House H9842 (September 14, 1978) ("The bill . . . will prevent the CAB from returning to the policies of the past"); Remarks of Representative Johnson (Calif.) in Committee of the Whole on HR. 12611, Congressional Record House H9844 (September 14, 1978) ("The bill will also insure that the competitive policies which the CAB developed will not be set aside by the Courts."); and remarks of Representatives Ertel in Committee of the Whole on HR. 12611 Congressional Record-House H9846 (September 14, 1978) ("It is time for the Congress to catch up with the CAB").

[20] IN PS–80, we decided to use the Phase 9 fare formula adjusted by the Board's fare level standards as the fare ceiling. We also decided to update this ceiling semi-annually, on the basis of changes in costs incurred in the 48-contiguous states adjusted for the Board's ratemaking standards. The current fare ceiling has been computed on this basis and was in effect until May 15, 1979. The Act, however, speaks in terms of "standard industry fare level" defining it as the fare level in effect as of July 1, 1977, for each interstate and overseas pair of points for each class of service, [1002(d)(6)(A)], adjusted, no less than semi-annually, by the percentage changed from the last previous period in the actual operating costs per ASM, for interstate and overseas air transportation combined [1002(d)(6)(B)]. Our proposed adjustment method is discussed below.

[21] We recognize that section 1002(d)(7) expressly authorizes us to widen the downward zone but does not mention increases. We do not interpret this provision as taking away our power to consider and approve fare increases above the statutory zones. The legislative history of the Act does not reveal any intent on the part of Congress to limit our traditional ratemaking authority over fares outside the statutory zone the Congress prescribed. *See*, e.g., Comments of Senators Magnuson and Stevenson respectively, during floor discussion on S 2493, Congressional Record-Senate S5859 and 5898, April 19, 1978.

[22] For example, if a carrier serving a market in which 4 or more carriers are authorized to provide service provided air transportation to 70 percent or more passengers in the market, it would still have the 10 percent upward fare flexibility allowed by PS–80. We emphasize, however, that our upward zones apply only to the exercise of suspension powers. Until july 1, 1979, we still have the power to find any proposed fare increase to be unreasonable. After that date, we would no longer have the power to either suspend proposed fare increases up to five percent above the SIFL or find them unreasonable in non-monopoly markets as defined in section 1002(d)(4)(A).

established in PS–80 are necessary to conform it to the Act.[23] The 50 percent floor coincides with the one established by Congress [1002(d)(4)(B)]. The only difference is that it is based upon the Phase 9 formula fare while the statutory floor is based on the SIFL which in some markets may be higher than the formula fare as a result of the leeway given local service carriers to charge 30 percent above the trunks' coach fare. We will, however, continue to use the Phase 9 formula fare (as adjusted) to compute the floor in all markets including local service carrier markets. In other words, the downward zone in these markets will be wider.[24] Our four part suspension test [25] is designed to determine whether a proposed fare decrease may be predatory and is therefore consistent without suspension powers under the Act and our statutory mandate to prevent such anticompetitive pricing behavior.[26]

3. *First Class Fares.* In PS–80, we removed all constraints on the carrier's ability to set first class fares in the 48-contiguous states. As a result, these fares are significantly below the SIFL for this class of service and in all likelihood will remain there.[27] To establish an SIFL for this class of service as a benchmark for a zone of reasonableness for first-class fares would simply be a needless exercise; we therefore have decided not to do so. Carriers will remain free to set the level of first class fares in their interstate markets.

4. *Adjustment of the Fare Ceiling.* Under section 1002(d)(6) of the Act, we must establish the SIFL by using the fare level in effect on July 1, 1977, updated by the percentage change in operating costs per available seat mile for interstate and overseas air transportation combined. In determining this change, we cannot make any adjustment to costs actually incurred.

This section clearly requires that we change the method adopted in PS–80 for updating the fare level. Under that method, we adjusted actual operating costs per passenger mile by the *DPFI* ratemaking standards of load factor, seating, utilization and depreciation. We interpret section 1002(d)(6) as eliminating these adjustments from the updating process. We also read that section as excluding from consideration an allowance for taxes and return on investment.

Details of the method we propose to use is shown in Appendix A. It should be noted that, in determining the actual cost per available seat-mile, we did not include costs attributable to traffic other than passengers in scheduled service. For example, we did not include costs related to non-scheduled operations and all-cargo service, and we have offset the revenues from belly-cargo transported on passenger-cargo combination aircraft in order to estimate seat-mile costs. We have also projected costs through September 1979, a midpoint for the next semi-annual update in the fare level.[28] Under section 1002(d)(4), we may take into consideration anticipated costs in judging the lawfulness of fare increases.[29] We encourage comments on this methodology.

C. *Local Service Carrier Fares.* In Phase 9 of the *DPFI*, the Board adopted a policy of allowing local service carriers the flexibility to raise their fares in a zone ranging up to 30 percent above the coach fare established for the trunks without submitting an economic justification.[30] This policy continued our longstanding practice of encouraging the locals to experiment with fare changes designed to maximize their revenues thereby reducing their subsidy requirements.[31] Although the Board had developed a route-strengthening program permitting them to compete with the trunks in certain markets, the locals, at that time, were serving predominantly short-haul low-density markets. Thus, we found that failure to allow the locals this flexibility would have only increased their dependence on subsidy.[32]

Today, of course, all of this is rapidly changing. Two of the locals, Allegheny and Texas International no longer receive subsidy.[33] And all of them are taking advantage of the new regulatory environment engendered by the Airline Deregulation Act, leaving the shorter-haul, lower-density markets to the commuters and expanding into the longer-haul, higher-density markets traditionally served by the trunks. Indeed, the historic distinction between the trunks and local service carriers is fast disappearing.

For these reasons, we no longer see any need to continue the 30 percent upward zone for local service carriers. Because they are rapidly entering trunk-type routes, they should be subject to the same fare policies prescribed for the trunks, including the same limitations on their upward pricing flexibility.

Nor do we believe it necessary to maintain this policy for commuter carriers who are now receiving certificate authority to serve the short-haul low-density markets traditionally served by the locals. Rather, we propose allowing them the same unrestricted freedom to set their own fares that they have enjoyed under our Part 298 policies. Although some of them have chosen to become certificated carriers, the commuters still operate in the segment of the industry that is freely competitive. Under these circumstances, it makes little sense to subject these carriers to fare regulation, especially during the relatively short transition period. Consistent with our Part 298 policies, this fare freedom will apply in those markets where these carriers operate aircraft having 60 seats or less. Also, we propose allowing any trunk or local service carrier unrestrained fare freedom on flights operated with aircraft having 60 seats or less.

Although we have tentatively decided to eliminate the 30 percent upward zone, we will not require a local service carrier who has exercised this flexibility to price its services in a market above the trunkline's coach fare level to reduce

[23] We believe that these zones are broad enough to encompass and encourage new types of innovative fares and service, and thus we do not think it is necessary to establish separate zones for each class of service.

[24] Section 1002(d)(7) expressly allows us to widen the statutory downward zone. In this regard, we need not change our 70 percent floor for off-peak periods and carriers will continue to be allowed to reduce fares to this level without first seeking our approval on 40 percent of their weekly ASM's.

[25] See section 399.31(f) of the Board's Policy Statements [49 C.F.R. 399.31(f)].

[26] In PS–80, we stated that fares that may be unjustly discriminatory unduly preferential or prejudical would still be subject to suspension on those grounds (PS–80 p. 34 fn. 90). We, of course, can no longer suspend fare decreases within the statutory zone on these grounds and our suspension powers over fare increases is limited after June 30, 1979 (*see* fn. 22 above). But, our powers to investigate fares on these grounds and determine after hearing, their lawfulness, remain intact.

[27] Currently, first class fares are only 120 percent above coach fares. The SIFL for these fares would range from 150 percent to 163 percent above coach, since on July 1, 1977, first class fares were set at these levels.

[28] In projecting these costs, we have used costs for the year ending September 1978. We expect to use more recent cost date when we compute the next semi-annual adjustment.

[29] Because we have decided to continue our policy on anticipating costs three months beyond the time we make the semi-annual adjustment to the SIFL, carriers would only have to increase their fares twice a year to offset cost increases.

[30] This policy is set forth in section 399.32 of the Board's Statements of General Policy, 14 CFR Part 399.32.

[31] *See* PS–1, 20 FR 4117, (June 11, 1955). Before the upward zone was established, the only restriction on the fare flexibility allowed the locals was a requirement that the fares be reasonable.

[32] Generally, the locals have exercised this upward flexibility in markets where they do not compete with the trunks; in markets where they do face such competition they have usually priced their service at the coach fare level of the trunks. The record in Phase 9 revealed that the fares in these noncompetitive markets generally averaged around 115 to 118 percent of the formula based coach fare. CAB *DPFI* volume at 826.

[33] *See* Order 74–6–42 (June 7, 1974) and Order 74–7–61 (July 15, 1974), taking Allegheny off subsidy; and Order 78–7–135 (July 25, 1978) and Order 78–10–97 (October 20, 1978), taking Texas International off subsidy.

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its fare. Under the Act, the SIFL will be based on the predominant fare in effect for each interstate or overseas pair of points on July 1, 1977.[34] Thus, in those markets where a local carried a majority of the passengers at a fare higher than the coach fare, we will use its fare to establish the SIFL. And, of course, the SIFL based on this fare becomes the benchmark fare for all carriers, including the trunks, serving that market, providing them with an increased incentive to continue to serve it and other carriers to enter it.

In those markets where a local service carrier's fare is higher than the predominant one in effect on July 1, 1977, (as adjusted to July 1979),[35] we simply will allow it to maintain that fare but not increase it until such time as it equals the SIFL based on the lower fare. Should its higher fare, however, fall within the upward zones established in PS–80 the local will have the flexibility to raise its fare in accordance with those policies. And of course, all carriers are free to justify fares above the SIFL or the upward zones of PS–80. In this regard, we will give serious consideration to the views, either pro or con, submitted by communities affected on the merits of any such proposed increase.

In summary, our policy for computing the SIFL in various markets will work as follows: (1) in those markets where a carrier provided monopoly service with aircraft with more than 60 seats on July 1, 1977, its fare will be used to compute the SIFL; (2) in non-monopoly markets, where the carriers were providing service on July 1, 1977 with aircraft having 60 seats or more, the fare at that time of the then-predominant carrier will be used to compute the SIFL; (3) in monopoly markets where service with more than 60 seat aircraft was initiated after July 1, 1977, the initial fare for the new service of that carrier will be used to compute the SIFL; and (4) in non-monopoly markets where service with more than 60-seat aircraft was initiated after July 1, 1977, the fare offered by the predominant carrier for such service at the time the service was begun will be used to compute the SIFL.

D. *Environment.* We find and conclude that our proposal is not a major federal action significantly affecting the environment. This is based upon the evaluation prepared by our staff of the possible environmental consequences emanating from the adoption of our PS–80 policies. We incorporate by reference that evaluation into this proposal.

Accordingly the Board: terminates the investigation in Docket 27417 (Part 399—Statements of General Policy, Domestic Load Factor Standards, PSDR–43 dated August 19, 1975); and tentatively finds and concludes to: (1) rescind ordering paragraph 5 of Order 74–12–108; and (2) amend Part 399 of the Policy Statements as set forth below.

Proposed Rule

[Material underlined is new]

1. Section 311.31 would be amended to read as follows:

§ 399.31 Domestic passenger fare-level policies.

The Board's policy on the level of passenger fares for scheduled service by trunk and local service carriers in markets within the 48 contiguous states and the District of Columbia is as follows:

(a) Each carrier should have the opportunity to set fares in each market within a zone ranging to 50 percent below the *standard industry fare level.* Also, on 40 percent of their weekly available seat miles, carriers should have the opportunity to set fares in each market down to a 70 percent level below the *standard industry fare level.*[1] Fares within these zones will not be suspended by the Board on account of the reasonableness of the level of the fare absent the following extraordinary circumstances:

(1) The high probability that the fare would be found to be unlawful after investigation;

(2) The substantial likelihood that the fare is predatory so that there would be an immediate and irreparable harm to competition if it were allowed to go into effect;

(3) The harm to competition would be greater than the injury to the travelling public if the proposed fare were unavailable; and

(4) The suspension is in the public interest;

(b) Carriers should be free to set market fares below these minima on the basis of such factors as their individual costs or specialized marketing needs, unless the level the proposed fare reductions will result in an inability of the carriers in in the market to provide adequate service to the public or the fares are otherwise unlawful; and

(c) Each carrier should be the opportunity to set fares above the *standard industry fare level* as follows:

(1) In markets where four or more interstate and intrastate carriers are authorized to provide nonstop service either on an unrestricted or restricted basis,[2] each carrier should have the opportunity to set fares in a zone up to 10 percent above the *standard industry fare level;*

(2) In markets where two or three interstate or intrastate carriers are authorized to provide nonstop service either on an unrestricted or restricted basis,[3] each carrier should have the opportunity to establish fares in a zone ranging up to 5 percent above the *standard industry fare level;* and

(3) In monopoly markets, the carriers should have the opportunity to establish fares in a zone ranging up to 5 percent above the *standard industry fare level* on 58 days throughout the year;

Fares within these zones will not be suspended by the Board on account of the reasonableness of the level of the fare absent a showing of unusual or extraordinary circumstances.[4]

§ 399.32 [Deleted]

2. Section 399.32 would be deleted in its entirety.

§ 399.33 [Amended]

3. Section 399.33 would be amended to read as follows:

§ 399.33 Domestic passenger fare-structure policies.[5]

The Board's policy on the structure of passenger fares for scheduled services by trunk and local service carriers in markets within the 48-contigious states and the District of Columbia is os follows:

(a) The standard industry fare level for coach/standard service *should be based upon the predominant fare in effect on July 1, 1977 updated by the percentage change from the last previous period in the actual operating cost per available seat mile for interstate and overseas transportation combined.* Coach fare proposals priced above this level or the upper limits specified under sectin 399.31(c) should be suspended unless otherwise justified; [6] carriers may propose fares lower than the ceiling in individual markets; and

(b) Carries should be free to set the level of first class fares.

(c) There should be joint fares in all markets over all routings at a level not to exceed the sum of the maximum local fares permitted by this policy statement minus one tax-rounded coach ceiling terminal charge for each interline connection. All required joint fares should be divided according to the relative costs of the mileage flown by each carrier participating in the interline movement, provided, however, that where joint fares are based on the actual sum of the local fares, each carrier should get the local fares as its share of these joint fares.

4. The Table of Contents would be amended accordingly.

(Sections 204, 403, 404, and 1002 of the Federal Aviation Act of 1958, as amended: 72 Stat. 743, 758, 760 and 788, as amended; 49 U.S.C. 1324, 1373, 1374, and 1482; and 5 U.S.C. 553).

By the Civil Aeronautics Board.

Phyllis T. Kaylor.

Secretary.

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[34] As defined in PS–82, the lowest unrestricted fare in effect on July 1, 1977 in a market is the predominant fare unless it can be shown that more passengers used a higher fare.

[35] For example, a local service carrier competing with a predominant trunk may nevertheless choose to price its services above the trunk's fare.

[1] *Where the standard industry fore level is based on a fare higher than the coach formula fare established in Phase 9 of the DPFI, the formula fore (as adjusted) should be used to compute these floors.*

[2] Carriers in a market having only fill-up authority or who cannot carry local traffic will not be counted.

[3] Carriers in a market having only fill-up authority or who cannot carry local traffic will not be counted.

[4] Proposed fare increases of no more than 5 percent above the standard industry fare level in any market where the carrier proposing the increase provides air transportation to less than 70 percent of the passengers in that market will not be suspended.

[5] These policies do not apply to those certificated carriers serving markets with aircraft having 60 seats or less. These carriers will enjoy unrestricted fare freedoms.

[6] For peak fares above any of these levels, the justification should include a showing that off-peak fares are available in the market.

Appendix A.—*Methodology for Determining Change in Operating Expenses Per Available Seat-Mile*

	Trunks	Locals	Trunks plus locals	Total passengers/ Cargo
Year ended September, 1978:				
Total operating expense[1]	$14,081	$2,033	$16,114	$16,448
Less:				
All-cargo Expense[2]	282		282	282
Belly offset[3]	870	152	1,022	1,065
Nonscheduled[4]	193	53	246	256
Transport related[5]	419	30	449	454
Plus: Capitalized lease Adjustment[10]	78	2	80	N.A.
Passenger Operating Expense	12,395	1,800	14,195	14,471
Passenger Fuel Cost[11]	2,779	349	3,128	N.A.
Scheduled Service ASM's (thousands)	262,068	27,067	289,135	292,270
Nonfuel operating expense per ASM($)	.03669	.05361	.03828	N.A.
Fuel expense per ASM($)	.01060	.01289	.01082	N.A.
Total expense per ASM($)	.04729	.06650	.04910	.04951
Year ended September, 1977:				
Total operating expense[1]	$12,508	$1,711	$14,219	$14,521
Less:				
All-cargo Expense[2]	255		255	255
Belly offset[3]	746	103	849	888
Nonscheduled[4]	223	41	264	282
Transport related[5]	314	25	339	343
Plus: Capitalized lease Adjustment[10]				
Passenger Operating Expense	10,970	1,542	12,512	12,753
Passenger Fuel Cost[11]	2,404	289	2,693	N.A.
Scheduled Service ASM's (thousands)	247,596	24,563	272,159	274,965
Nonfuel operating expense per ASM ($)	.03460	.05101	.03606	N.A.
Fuel expense per ASM ($)	.00971	.01177	.00990	N.A.
Total expense per ASM ($)	.04431	.06278	.04596	N.A.
Percent change in nonfuel Operating expense per ASM ($)			6.10	N.A.
Projected change in nonfuel expense from April 1, 1978 to July 1, 1979[9]			7.68%	N.A.
Estimated change in fuel cost to July 1, 1979[14]			11.27%	N.A.
Nonfuel operating expense per ASM ($) at July 1, 1979[7]			.04122	N.A.
Fuel expense per ASM at July 1, 1979[7]			.01204	N.A.
Total expense per ASM at July 1, 1979			.05326	.05370
Year ended March, 1977:				
Total operating expense[1]	$11,726	$1,520	$13,318	$13,601
Less:				
All-cargo expenses[2]	238		13,316	238
Belly offset[3]	729	96	825	865
Nonscheduled[4]	220	35	255	266
Transport related[5]	427	111	538	554
Passenger operating expense	$10,112	$1,348	$11,460	$11,878
Scheduled service ASM's (thousands)	239,593	23,428	263,021	265,837
Operating expense per ASM ($)	.04221	.05754	.04357	.04399
Projected expense per ASM ($) as at July 1, 1977[15]				.04593
Projected operating expense per ASM as at August 15, 1979 (Page 1)				.05370
Ceiling adjustment factor[8]				.16.92
D.P.F.I. formula effective July 15, 1977:[13]				
Terminal charge—$18.16				
plus .*0884/mile (0–500 miles)				
plus .*0674/mile (501–1,500 miles)				
plus .*0648/mile (over 1,500 miles)				
Ceiling formula through November 14, 1979:[9]				
Terminal charge—$18.90				
plus .*1033/mile (0–500 miles)				
plus .*0788/mile (5012–1,500 miles)				
plus .*0758/mile (over 1,500 miles)				

[1] Total operating expense for all operations and service (in thousands).

[2] Scheduled all-cargo operations expense.

[3] Total scheduled-service cargo revenue, less scheduled all-cargo operations revenue, carried as a by-product in aircraft belly compartments. Includes freight, express, priority and non-priority U.S. mail, and excess baggage.

[4] Total non-scheduled revenue times .95, assuming charter operations would only be conducted at a profit.

[5] Total transport-related expense, less any excess of expense over total transport-related revenues.

[9] We here project costs from April 1, 1978 (the midpoint of the data year ended September 1978) to July 1, 1979, the resultant increase factor effective through August 15, 1979. The projection factor is 106.10 to the 1.250 power = 1.250 log 106.10 = 107.66.

[7] Operating expense per ASM for year-ended September, 1978, times projected change to July 1, 1979.

[8] Projected operating expense per ASM on July 1, 1979, divided by the operating expense for the year ended March, 1977.

[9] Base formula cumulative adjustment factor at July 15, 1977, was 1.30895, times ceiling adjustment factor above, cumulative factor is 1.53042. Division by current 1978 factor of 1.45188 results in a 5.42 percent increase in level.

[10] Additional rental expense that would have been incurred had leases not been capitalized under FASB–13, less actual amortization of capitalized lease expense.

[11] Total fuel cost, scheduled service, times reciprocal of rates of All-Cargo expense to total Operating Expense.

[13] Order 77–7–26.

[15] Year ended March, 1979, cost per ASM, times cost escalation factor of 1.04543 (to July 5, 1977). See *DPFI* workpapers, Y. E. March, 1977.

[14] Estimated average cost per gallon for the trunk plus local service carriers at July 1, 1979, divided by average for the year ended September, 1978.

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FEDERAL EMERGENCY MANAGEMENT AGENCY

[24 CFR Part 1917]

Proposed Flood Elevation Determinations for the Borough of Hallam, York County, Pa., Under the National Flood Insurance Program

Correction

In FR Doc. 79-13909 appearing at page 26913 in the issue for Tuesday, May 8, 1979, everywhere in the document where reference is made to Hellam, PA, it should be corrected to read Hallam, PA.

DEPARTMENT OF TRANSPORTATION

Coast Guard

[33 CFR Part 117]

[CGD 79-037]

Drawbridge Operation Regulations; Bayou Teche, LA

AGENCY: Coast Guard, DOT.

ACTION: Proposed rule.

SUMMARY: At the request of the Office of Highways, State of Louisiana Department of Transportation and Development, the Coast Guard is considering establishing operation regulations for a drawbridge across Bayou Teche, mile 73.3, to require at least 24 hours notice at all times. The bridge is scheduled for completion on or about 1 November 1979. These regulations would be identical to those for the drawbridge across Bayou Teche at mile 75.2, which were established 17 January 1978. This action will relieve the bridge owner of the responsibility of having a draw tender constantly on duty.

DATE: Comments must be received on or before June 25, 1979.

ADDRESS: Comments should be submitted to and are available for examination at the office of the Commander (obr), Eight Coast Guard District, Hale Boggs Federal Building, 500 Camp Street, New Orleans, Louisiana 70130.

FOR FURTHER INFORMATION CONTACT: Frank L. Teuton, Jr., Chief, Drawbridge Regulations Branch (G-WBR/73), Room 7300, Nassif Building, 400 Seventh Street, S.W., Washington, D.C. 20590 (202-426-0942).

SUPPLEMENTARY INFORMATION: Interested persons are invited to participate in this proposed rule making by submitting written views, comments, data or arguments. Persons submitting comments should include their name and address, identify the bridge, and give reasons for concurrence with or any recommended change in the proposal.

The Commander, Eight Coast Guard District, will forward any comments received with his recommendations to the Chief, Office of Marine Environment and Systems, U.S. Coast Guard Headquarters, Washington, D.C., who will evaluate all communications received and recommend a course of final action to the Commandant on this proposal. The proposed regulations may be changed in the light of comments received.

Drafting Information

The principal persons involved in drafting this proposal are: Frank L. Teuton, Jr., Project Manager, Office of Marine Environment and Systems, and Coleman Sachs, Project Attorney, Office of Chief Counsel.

Discussion of the Proposed Regulations

It is proposed that these regulations be established upon completion of the S-92 drawbridge, mile 73.3, Bayou Teche, to allow this bridge to open as the ones at mile 75.2 and mile 82.0 now do (at least 24 hours notice) (§ 117.245(j)(10)(i)). Vessel traffic above this bridge presently is limited to tugs with barges transporting marine shell on a monthly basis of 2.3 passages per month. No known additional navigation is contemplated at this time.

In consideration of the foregoing, it is proposed that Part 117 of Title 33 of the Code of Federal Regulations be amended by revising § 117.245(j)(10)(i) to read as follows:

PART 117—DRAWBRIDGE OPERATION REGULATIONS

§ 117.245 Navigable waters discharging into the Atlantic Ocean south of and including Chesapeake Bay and into the Gulf of Mexico, except the Mississippi River and its tributaries and outlets; bridges where constant attendance of draw tenders is not required.

* * * * *

(j) * * *

(10) Bayou Teche, La.

(i) S-92 highway drawbridge, mile 73.3, near St. Martinville, S-96 highway drawbridge, mile 75.2, at St. Martinville, and S-350 highway drawbridge, mile 82.0, at Parks. The draws shall open on signal if at least 24 hours notice is given.

* * * * *

(Sec. 5, 28 Stat. 362, as amended, sec. 6(g)(2), 80 Stat. 937; 33 U.S.C. 499, 49 U.S.C. 1655(g)(2); 49 CFR 1.46(c)(5))

Dated: May 15, 1979.

J. B. Hayes,

Admiral, U.S. Coast Guard Commandant.

[FR Doc. 79-16312 Filed 5-23-79; 8:45 am]

BILLING CODE 4910-14-M

[33 CFR Part 117]

[CGD 79-014]

Drawbridge Operation Regulations; Great Channel, Stone Harbor, N.J.

AGENCY: Coast Guard, DOT.

ACTION: Proposed Rule.

SUMMARY: At the request of the County of Cape May, the Coast Guard is considering revising the operation regulations for the bridge across Great Channel at Stone Harbor, N.J., to permit restricted opening periods during weekends and holidays from Memorial Day through Labor Day. The revision is being considered in an effort to relieve vehicular traffic congestion during these periods while still providing for the reasonable needs of navigation.

DATE: Comments must be received on or before June 25, 1979.

ADDRESS: Comments should be submitted to and are available for examination at the office of the Commander (oan), Third Coast Guard District, Governors Island, New York, New York 10004.

FOR FURTHER INFORMATION CONTACT: Frank L. Teuton, Jr. Chief, Drawbridge Regulations Branch (G-WBR/73), Room 7300, Nassif Building, 400 Seventh Street, S.W., Washington, D.C. 20590 (202-426-0942).

SUPPLEMENTARY INFORMATION: Interested persons are invited to participate in this proposed rule making by submitting written views, comments, data or arguments. Persons submitting comments should include their name and address, identify the bridge, and give reasons for concurrence with or any recommended change in the proposal.

The Commander, Third Coast Guard District, will forward any comments received with his recommendations to the Chief, Office of Marine Environment and Systems, U.S. Coast Guard Headquarters, Washington, D.C., who will evaluate all communications received and recommend a course of final action to the Commandant on this proposal. The proposed regulations may be changed in the light of comments received.

Drafting Information

The principal persons involved in drafting this proposal are: Frank L. Teuton, Jr., Project Manger, Office of Marine Environment and Systems, and Coleman Sachs, Project Attorney, Office of Chief Counsel.

Discussion of the Proposed Regulations

Vehicular traffic congestion on roads leading to the beaches in and around the Stone Harbor area increases significantly during the periods from Memorial Day through Labor Day. In a effort to ease this congestion, the County of Cape May has requested that the opening of the drawbridge across Great Channel be restricted during peak vehicular periods. Last year, the Commander (oan), Third Coast Guard District issued trial regulations from July 1, 1978 through September 4, 1978 that required the draw open only on the hour and half hour from 8 a.m. to 6 p.m. on Saturdays, Sundays, and holidays. As a result of these trail regulations, the Coast Guard is now proposing 20-minute openings from 8 a.m. to 6 p.m. on Saturdays, Sundays, and holidays from Memorial Day through Labor Day. The Coast Guard is requesting comments from interested and affected parties regarding this proposal.

In consideration of the foregoing, it is proposed that Part 117 of Title 33 of the Code of Federal Regulations be amended by adding a new subparagraph (r) immediately after § 117.220(q) to read as follows:

PART 117—DRAWBRIDGE OPERATION REGULATIONS

§ 117.220 New Jersey Intracoastal Waterway and tributaries; bridges.

* * * * *

(r) The draw of the Stone Harbor (96th Street) bridge across Great Channel at Stone Harbor shall open on signal, except that from Memorial Day through Labor Day on Saturdays, Sundays, and holidays, the draw need open only every 20 minutes on the hour, 20 minutes after the hour, and 40 minutes after the hour from 8 a.m. to 6 p.m. However, the draw shall open on signal at all times for public vessels of the United States, vessels in distress, or for vessels with a tow.

(Sec. 5, 28 Stat. 362, as amended, sec. 6(g)(2), 80 Stat. 937; 33 U.S.C., 499, 49 U.S.C. 1655(g)(2); 49 CFR 1.46(c)(5))

Dated: May 15, 1979.

J. B. Hayes,

Admiral, U.S. Coast Guard Commandant.

[FR Doc. 79-16313 Filed 5-23-79; 8:45 am]

BILLING CODE 4910-14-M

[33 CFR Part 161]

Tank Vessel Operations—Puget Sound

Correction

In FR Doc. 79-11352, published at page 21974, on Thursday, April 12, 1979, the following corrections should be made:

1. ON page 21979, in the third column, in the fifteenth line, "maintining" should be corrected to read "maintaining";

2. On page 21980, in the first column, in the last paragraph, in the eighth line from the bottom, the word "matter" should be corrected to read "master";

3. On page 21982, in the middle column, in the eighth line of § 161.107(a), "department" should be corrected to read "depart";

4. On page 21983, in the first column, under § 161.145, in the paragraph beginning "When F. . .", the formula "V=F KD" should be corrected to read

$$\text{"}V=\sqrt{\frac{F}{KD}}\text{"}.$$

BILLING CODE 1505-01-M

ENVIRONMENTAL PROTECTION AGENCY

[40 CFR Part 52]

[FRL 1234-8]

Approval and Promulgation of Implementation Plans; California Plan Revision; Monterey Bay Unified Air Pollution Control District

AGENCY: Environmental Protection Agency.

ACTION: Notice of Proposed Rulemaking.

SUMMARY: The Monterey Bay Unified Air Pollution Control District (MBUAPCD) has adopted changes to rules concerning air pollution emergency episodes. The intended effect of these rules is to prevent air pollution concentrations from reaching levels which could endanger or cause significant harm to the public's health. These rules have been submitted to the Environmental Protection Agency (EPA) by the California Air Resources Board (ARB) for the purpose of revising the California State Implementation Plan (SIP). EPA proposes to approve all of the SIP revision and to promulgate regulations where deficiencies are found.

EPA invites public comments on these rules, especially as to their consistency with the Clean Air Act. Those wishing to request a public hearing may do so by writing to the address listed below. A public hearing will be scheduled if significant interest is demonstrated.

DATES: Comments or requests for a public hearing may be submitted on or before July 23, 1979.

ADDRESSES: Comments or requests for a public hearing may be sent to: Regional Administrator, Attn: Air and Hazardous Materials Divison, Air Technical Branch, Technical Analysis Section (A-4-3), Environmental Protection Agency, Region IX, 215 Fremont Street, San Francisco, CA 94105.

The EPA Region IX office has established a rulemaking Docket, "Air Pollution Emergency Episode Plans" 9A-79-3, containing all information on which the proposed rulemaking relies, which is available for public inspection during normal business hours at the EPA Region IX office at the above address and at the following location: EPA Central Docket Section, Room 2903 B, Waterside Mall, 401 M Street, SW., Washington, D.C. 20460.

Copies of Regulation VII, "Emergencies", of the MBUAPCD and EPA's "Evaluation Report and Technical Support Document" are available for public inspection during normal business hours at the EPA Region IX office at the above address and at the following locations:

Monterey Bay Unified Air Pollution Control District, 1270 Natividad Road, Salinas, CA 93901.

California Air Resources Board, 1102 "Q" Street, P.O. 2815, Sacramento, CA 95814.

Public Information Reference Unit, Room 2922 (EPA Library), 401 "M" Street, SW., Washington, D.C. 20460.

FOR FURTHER INFORMATION CONTACT: Charlotte Hopper, Acting Chief, Technical Analysis Section, Air Technical Branch, Air and Hazardous Materials Division, Environmental Protection Agency, Region IX, 215 Fremont Street, San Francisco, CA 94105, (415) 556-2002.

SUPPLEMENTARY INFORMATION:

Background

Section 110(a) of the Clean Air Act requires that a SIP contain an air pollution emergency episode plan. 40 CFR 51.16, "Prevention of air pollution emergency episodes", specifies the minimum requirements for the content of a plan which must include provisions for taking any emission control actions necessary to prevent ambient pollution concentrations from reaching levels which could cause significant harm to the health of persons. The Significant Harm Level (SHL) is defined for six pollutants: photochemical oxidants,

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sulfur dioxide, particulate matter, sulfur dioxide combined with particulate matter, carbon monoxide and nitrogen dioxide.

The original SIP submitted by the California ARB on February 21, 1972, failed to meet the requirements specified in 40 CFR 51.16. Therefore, on May 31, 1972 (37 FR 10851), EPA disapproved the emergency episode plan portion of the California SIP. In November 1973, the California ARB adopted a revised episode plan, which was submitted to EPA on February 6, 1974. The EPA proposed conditional approval of this SIP revision on June 26, 1974 (30 FR 23069), but this proposal was never finalized.

In March 1975, the California Lung Association and others commenced a citizen suit against EPA and the California ARB requesting the U.S. District Court for the Central District of California to order EPA to promulgate and enforce an emergency episode plan for the South Coast Air Basin (SCAB) of California (*California Lung Association et al.* v. *Train*, Civil No. 75–1044–WPG). According to an agreed upon schedule, EPA and the ARB worked together toward Federal approval of an emergency episode plan for the SCAB.

On April 12, 1976 (41 FR 15237), EPA approved, as a revision to the SIP, California's October 21, 1975 Air Pollution Emergency Plan (State Guideline) for three pollutants: oxidants, sulfur dioxide, and carbon monoxide. Missing from this revised plan were provisions for episodes involving nitrogen dioxide, particulate matter, and sulfur dioxide and particulate matter combined, although these provisions are required by 40 CFR 51.16. On June 27, 1977, pursuant to plaintiff California Lung Association's motion, the Court ordered EPA to certify that the emergency episode plan approved on April 12, 1976, was fully adequate under the law in all respects (i.e., contained episode plans for all six pollutants), or to withdraw such approval (*California Lung Association et al.* v. *Costle*, Civil No. 75–1044–WPG). The EPA Administrator responded to this order with an affidavit, dated July 6, 1977, which stated that since the Agency's April 12, 1976 approval of the plan applied only to the three pollutants specifically set forth therein, EPA concluded, in accordance with the Court's order, that the plan was not complete. Consequently, on August 11, 1977 (42 FR 40695), EPA rescinded the prior approval and reinstated the disapproval of the emergency episode plan portion of the California SIP.

On March 24, 1977, the ARB adopted a revised State Guideline which was submitted to EPA as a revision to the SIP on June 1, 1977. On August 8, 1977, the EPA Administrator submitted a second affidavit as required by the Court, concerning this recent submittal, stating that EPA intended to approve most of this State Guideline for use by the Air Pollution Control Districts (APCDs) in developing episode plans. Subsequently, the EPA developed a supplement to the State Guideline to correct deficiencies noted in that document (43 FR 60929). The August 8, 1977 affidavit was then followed by a Joint Stipulation of Settlement, signed on December 5, 1977 by counsels for the Administrator and for the California Lung Association. Among other things, this Stipulation contained an agreement that by June 8, 1980, EPA would review the emergency episode regulations of 42 APCD's in the State of California, approving or promulgating regulations as necessary. This Notice of Proposed Rulemaking and its associated documents carry out part of the actions called for in the December 5, 1977 Joint Stipulation of Settlement, relating to the MBUAPCD.

Summary of MBUAPCD's Regulation VII—Emergencies

On May 25, 1977, the MBUAPCD adopted a revised Regulation VII, "Emergencies" (hereon referred to as "Regulation VII"), which was submitted to EPA as a revision to the SIP by the California ARB on November 4, 1977. Regulation VII consists of Rules 700–713 which set forth actions to be taken by industry, business, commercial and governmental activities, the public and the MBUAPCD to prevent the oxidant (O_x) air pollution concentrations from reaching levels which could cause significant harm to the public's health. These actions include: air sampling and reporting; development and processing of emission reduction contingency plans prepared by certain large industrial, business, commercial and governmental establishments; episode prediction, declaration and public notification; preparation of source inspection plans for compliance purposes; provisions for enforcement; and implementation of emission abatement actions. The abatement actions specified in Regulation VII are initiated at three separate stages, depending on the severity of the existing or pedicted O_x air pollution concentration levels. Curtailment of stationary source and vehicular emissions are required with more stringent abatement actions specified as the air pollution concentration levels increase or is predicted to increase.

EPA's Proposed Approval of Regulation VII and Replacement Regulations

Regulation VII was evaluated by comparison to 40 CFR 51.16, which sets forth the minimum Federal requirements for an approvable emergency episode plan. This evaluation is detailed in an "Evaluation Report and Technical Support Document." EPA proposes to approve those rules of Regulation VII which fulfill in part, the requirements of 40 CFR 51.16. These rules are as follows:

Rule 700, General
Rule 701, Sampling Stations
Rule 702, Air Sampling
Rule 703, Reports
Rule 704, Continuing Program of Voluntary Cooperation
Rule 705, Plans
Rule 706, Application of Rules and Regulations
Rule 707, Episode Notification
Rule 708, Episode Criteria
Rule 709, First-Stage Episode Actions
Rule 710, Second-Stage Episode Actions
Rule 711, Third-Stage Episode Actions
Rule 712, Termination of Episodes
Rule 713, Enforcement

Because not all of the Federal requirements of 51.16 are satisfied by Regulation VII, EPA will propose regulations to augment Regulation VII to correct the deficiencies. The plan deficiencies and the EPA proposed replacement regulations are as follows:

Rule 705, Plans

1. Rule 705(b) specifies the information that shall be contained in the individual curtailment plans prepared and submitted by major emission sources. However, the requirements specified are not sufficiently specific to insure that adequate emission control actions will be implemented by these major sources. EPA is therefore proposing to require that additional information be contained in both the traffic and stationary source curtailment plans following the criteria of the State Guideline as supplemented by EPA (Section VI.F, Division of Responsibility—Establishment of Criteria). This proposed regulation will provide the Administrator with the necessary information by which to implement a major national holiday abatement strategy, in the event that such action becomes necessary to abate a Third-Stage O_x episode in the MBUAPCD. The major national holiday strategy is discussed more completely under Rule 711, Third-Stage Episode Actions, below.

2. In Rule 705(a), curtailment plans required from individual emission sources are required to be submitted only after the owner or operator of that source has been notified in writing by the Air Pollution Control Officer (APCO). However, no time frame is specified within which the APCO must notify the source's owner or operators to submit the curtailment plans. In Rule 705(g), no time limit is specified within which the APCO will review and approve or disapprove the curtailment plans once they have been submitted. Since time deadlines for both initiating the call for curtailment plans and review of the plans are needed in order to have a complete and fully implementable plan, EPA is proposing to require the submittal of curtailment plans within 60 days after final promulgation of this regulation and allows 120 days for the review and approval or disapproval of such plans after submittal.

Rule 711, Third-Stage Episode Actions

Rule 711 includes provisions for emission control measures to be taken whenever a Third-Stage O_x episode is predicted or declared. However, the measures specified do not provide for adequate mandatory abatement actions which will effectively prevent the O_x SHL from being reached. (An evaluation of the District's abatement actions is presented in an "Evaluation Report and Technical Support Document" available in Docket 9A–79–3 for this rulemaking). The mandatory Third-Stage abatement actions specified in Rule 711(e) should provide for more stringent and explicit emission control measures to be implemented by the major emission sources through their individual traffic and stationary source curtailment plans.

Rule 711(a)(2) and 710(b) lists additional emission control measures which may be implemented by the District's APCO if a Third-Stage episode is predicted or attained. However, since implementation of these actions is non-mandatory, there is no assurance that adequate emission reductions will be achieved. In addition, the choice of emission control measures to be implemented is contingent upon the District's Air Pollution Control Board and District Counsel being called into session to recommend control measures to the APCO. Therefore, even if any of these emission control measures are implemented, the District's decision-making process may result in untimely delays in implementing necessary emission control measures which must be taken immediately in order to prevent the O_x SHL from being reached.

Therefore, EPA is proposing a mandatory emission control measure to abate a Third-Stage O_x episode: the major national holiday strategy which will require the general public, schools, industrial, business, commercial and governmental activities in source and receptor areas throughout the MBUAPCD to operate as though the day were a major national holiday.

The last deficiency is that Regulation VII contains no provisions for the prompt acquisition of forecasts of atmospheric stagnation conditions and updates of such forecasts as required by 51.16(e)(1). Since these forcasts are essential for predicting episode occurrences and for allowing enough lead time to notify individual sources to initiate control actions to abate the episode, EPA's proposed regulation ensures the acquisition and updating of such forecasts.

Amendments to 40 CFR 51.16 were published on March 20, 1979 in the Federal Register (44 FR 16911). Under these amendments, the Administrator may exempt attainment or unclassifiable areas from the requirements for future emergency episode plan development.

The MBUAPCD has jurisdiction over the North Central Coast Intrastate Air Quality Control Region (NCCIAQCR) which is designated as Priority I for O_x and Priority II for TSP (40 CFR 52.221). On March 19, 1979, EPA designated the North Central Coast Air Basin, which has the same geographic boundaries as the NCCIAQCR, as nonattainment for O_x and attainement for TSP (44 FR 16392). As such, the Administrator has exempted the area under the jurisdiction of the MBUAPCD from episode plan requirements for TSP.

In summary, the EPA proposals are based on air quality and emissions data, Regulation VII of the MBUAPCD and an analysis of emission control measures. These analyses are presented in an "Evaluation Report and Technical Support Document". Incorporated into that document is a recently completed report by Pacific Environmental Services, Inc., which includes an evaluation of the existing emergency episode plan and recommendations for abatement strategies for oxidant episodes.

In proposing additional requirements or provisions, EPA has used Regulation VII as a procedural guide for ease of understanding the regulatory section of this Federal Register notice. Therefore, the terminology and general procedural details are consistent with Regulation VII.

Under Section 110 of the Clean Air Act as amended and 40 CFR Part 51, the Administrator is required to approve or disapprove the regulations submitted as revisions to the SIP. The Regional Administrator hereby issues this notice setting forth these revisions, including rule deletions caused thereby, as proposed rulemaking and advises the public that interested persons may participate by submitting written comments to the Region IX Office. Comments received on or before July 23, 1979, will be considered. Comments received will be available for public inspection at the EPA Region IX office and the EPA Public Information Reference Unit.

The Administrator's decision to approve or disapprove the proposed revisions will be based on the comments received and on a determination whether the amendments meet the requirements of Section 110(a)(2) of the Clean Air Act and 40 CFR Part 51, Requirements for Preparation, Adoption, and Submittal of State Implementation Plans.

Authority: Sections 110 and 301(a) of the Clean Air Act as amended (42 U.S.C. §§ 7410 and 7601(a)).

Dated: May 9, 1979.

Sheila M. Prindiville

Acting Regional Administrator.

Subpart F of Part 52 of Chapter I, Title 40, of the Code of Federal Regulations is proposed to be amended as follows:

Subpart F—California

1. Section 52.220 is amended by adding paragraph (c)(42)(xxiii) as follows:

§ 52.220 Identification of plan.

* * * * *

(c) * * *

(42) * * *

(xxiii) Monterey Bay Unified APCD.

(A) Regulation VII, Rules 700–713.

* * * * *

2. Section 52.274 is amended by adding paragraphs (a)(3), (h) and (i) as follows:

§ 52.274 California air pollution emergency plan.

* * * * *

(a) * * *

(3) Monterey Bay Unified APCD (MBUAPCD).

* * * * *

(h) The requirements of § 51.16 of this chapter are met in the MBUAPCD with the following exceptions: there is no time schedule to assure that stationary source and traffic curtailment plans are submitted and reviewed in a timely manner; there are no provisions for the acquisition of forecasts of atmospheric stagnation conditions; and adequate mandatory emission control actions are

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not specified for Third-Stage Ox episodes.

(i) *Regulation for prevention of Ox air pollution emergency episodes within the MBUAPCD.*

(1) The requirements of this paragraph are applicable in the MBUAPCD.

(2) For the purposes of this regulation the following definitions apply:

(i) "Administrator" means the Administrator of the Environmental Protection Agency or his authorized representative.

(ii) "major national holiday" means a holiday such as Christmas, New Year's Day or Independence Day.

(iii) "Regulation VII" in this paragraph means Regulation VII, "Emergencies", of the MBUAPCD, adopted May 25, 1977, and submitted to the Environmental Protection Agency as a revision to the California State Implementation Plan by the California Air Resources Board on November 4, 1977.

(3) The plans required by Rule 705(a) of Regulation VII shall include the following information in addition to that required in Rule 705(b) of Regulation VII:

(i) Stationary sources.

(A) The total number of employees at the facility during each shift:

(*1*) On a normal weekday.

(*2*) On a major national holiday.

(B) The amount and type of fuel used:

(*1*) On a normal weekday.

(*2*) On a major national holiday.

(C) For Third-Stage episodes:

(*1*) A list of equipment and the permit numbers of such equipment not operated on a major national holiday.

(*2*) A statement as to whether or not the facility operates on a major national holiday.

(ii) Indirect sources.

(A) The total number of employees at the facility during each shift:

(*1*) On a normal weekday.

(*2*) On a major national holiday.

(B) The number of motor vehicles and vehicle miles traveled for motor vehicles operated:

(*1*) By the company, on company business, on a normal weekday and on a major national holiday.

(*2*) By employees commuting between home and the place of business on a normal weekday and on a major national holiday.

(C) The number of parking spaces:

(*1*) Available.

(*2*) Normally used on a weekday.

(*3*) Normally used on a major national holiday.

(D) The minimum number of motor vehicles to be operated that are necessary to protect the public health or safety.

(E) For Third-Stage episodes, a statement as to whether or not the facility operates on a major national holiday.

(iii) Each owner or operator required to submit a plan as specified under Rule 705.a. of Regulation VII shall submit such plans within sixty days after promulgation of the final rulemaking.

(iv) The plans submitted in accordance with the provisions of this paragraph shall be approved or disapproved by the Administrator within 120 days after receipt.

[FR Doc. 79-16331 Filed 5-23-79; 8:45 am]

BILLING CODE 6560-01-M

[40 CFR Part 52]

[FRL 1235-1]

Approval and Promulgation of Implementation Plans; California Plan Revision: Sacramento County Air Pollution Control District

AGENCY: Environmental Protection Agency.

ACTION: Notice of Proposed Rulemaking.

SUMMARY: The Sacramento County Air Pollution Control District (APCD) submitted Regulation IX, Emergency Episode Control, Rules 120–126, to the Environmental Protection Agency (EPA). The purpose of this regulation is to provide an emergency episode contingency plan in accordance with 40 CFR 51.16 that will prevent ambient air pollutant concentrations from reaching levels which could cause significant harm to public health and to abate such concentrations should they occur. These rules have been submitted to EPA by the California Air Resources Board (ARB) as a revision to the California State Implementation Plan (SIP). The purpose of this rulemaking is to approve part of the SIP revision, to propose regulations to correct deficiencies in the plan, and to take no action on part of the revision.

EPA invites written public comment concerning this proposed rulemaking and those wishing to request a public hearing may do so by writing EPA at the address listed below.

DATES: Comments or requests for a public hearing may be submitted on or before July 23, 1979.

ADDRESSES: Comments or requests for a public hearing may be sent to: Regional Administrator, Attn: Air and Hazardous Materials Division, Air Technical Branch, Technical Analysis Section (A–4–3), Environmental Protection Agency, Region IX, 215 Fremont Street, San Francisco CA 94105.

The EPA has established a rulemaking Docket, 9A–79–1 containing all the information on which the proposed rulemaking relies, which is available for public inspection during normal business hours at the EPA Region IX Office at the above address and at the EPA Central Docket Section at the following address: EPA Central Docket Section, Waterside Mall, Room 2903 B, 401 "M" Street, S.W., Washington DC 20460.

Additionally, copies of Regulation IX and EPA's "Evaluation Report and Technical Support Document" are available for public inspection during normal business hours at the following locations:

Sacramento County Air Pollution Control District, 3701 Branch Center Road, Sacramento CA 95827.

California Air Resources Board, 1102 "Q" Street, P.O. Box 2815, Sacramento CA 95814.

Public Information Reference Unit, Room 2922 (EPA Library), 401 "M" Street, S.W., Washington D.C. 20460.

FOR FURTHER INFORMATION CONTACT: Charlotte Hopper, Acting Chief, Technical Analysis Section, Air Technical Branch, Air and Hazardous Materials Division, Environmental Protection Agency, Region IX (415) 556–2002.

SUPPLEMENTARY INFORMATION:

Background

Section 110(a) of the Clean Air Act requires that a SIP contain air pollution emergency episode plans, and 40 CFR 51.16 "Prevention of Air Pollution Emergency Episodes," specifies the minimum requirements for the content of these plans, including provisions for taking any emission control actions necessary to prevent ambient pollutant concentrations from reaching levels which could cause significant harm to the health of persons. The original SIP submitted by the State of California (for all APCDs in California) on February 21, 1972 failed to meet the requirements specified in 40 CFR 51.16. Therefore, on May 31, 1972 (37 FR 10851) EPA disapproved the emergency plan portion of the California SIP. In November 1973, the State of California adopted a revised episode plan, which was submitted to EPA on Februrary 6, 1974. EPA proposed conditional approval of this SIP revision on June 26, 1974 (39 FR 23069), but this proposal was never finalized.

In March 1975, the California Lung Association and others commenced a citizen suit against EPA and the ARB requesting the U.S.District Court for the Central District of California to order

EPA to promulgate and enforce an emergency episode plan for the South Coast Air Basin (SCAB) of California (*California Lung Association et al. v. Train*, Civil No. 75–1044–WPG). According to an agreed upon schedule, EPA and the ARB worked together towards Federal approval of an emergency episode plan for the SCAB.

On April 12, 1976 (41 FR 15237) EPA approved, as a revision to the SIP, California's October 21, 1975 Air Pollution Emergency Plan for three pollutants: photochemical oxidants, sulfur dioxide, and carbon monoxide. Missing from this revised plan were provisions for nitrogen dioxide, particulate matter, and sulfur dioxide and particulate matter combined, although required by 40 CFR 51.16. On June 27, 1977, pursuant to plantiff California Lung Association's motion, the Court ordered EPA to certify that the emergency episode plan approved on April 12, 1976 was fully adequate under the law in all respects (i.e., contained episode plans for all six pollutants), or to withdraw such approval (*California Lung Association et al. v. Costle* Civil No. 75–1044–WPG). The EPA Administrator responded to this order with an affidavit dated July 6, 1977, which stated that since the Agency's April 12, 1976 approval of the plan applied only to the three pollutants specifically set forth therein, EPA concluded in accordance with the Court's order, that the plan was not complete. Consequently, on August 11, 1977 (42 FR 40695), EPA rescinded the prior approval, reinstating the disapproval of the emergency episode plan portion of the California SIP.

On March 24, 1977, the ARB adopted a revised Air Pollution Emergency Plan (State guideline) which was submitted to EPA as a revision to the SIP on June 1, 1977. On August 8, 1977, the EPA Administrator submitted a second affidavit as required by the Court, concerning the recent submittal, stating that EPA intended to approve most of the State guideline for use by the Air Pollution Control Districts in developing episode plans. Subsequently, EPA developed a supplement to the State guideline to correct deficiencies noted in that document (43 FR 60929). The August 8, 1977 affidavit was then followed by a Joint Stipulation of Settlement, signed on December 5, 1977 by counsels for the Administrator and for the California Lung Association. Among other things this Stipulation contained an agreement that by June 8, 1980, EPA would review the emergency episode regulations of 42 Air Pollution Control Districts in the State of California, approving or promulgating regulations as necessary. This proposed rulemaking and its associated documents carry out part of the actions called for in the December 5, 1977 Joint Stipulation of Settlement, relating to the Sacramento County APCD's emergency episode plan.

The California Air Resources Board submitted the following rules and regulations to the EPA for the Sacramento County Air Pollution Control District on the following dates:

Rules 120–122 and 125–126, November 4, 1977 and Rules 123–124, July 19, 1974.

Summary of Regulation IX Emergency Episode Control

In general, Regulation IX establishes the procedures which are to be taken by industry, commerce, business, government, and the public to prevent ambient pollutant concentrations from reaching levels which could cause significant harm to public health. For example, whenever it is determined that any episode level specified in Rule 120 is predicted to be attained, is being attained, or has been attained, and is predicted to remain at such levels for 12 or more hours the appropriate emergency episode stage is declared, the appropriate persons are notified, and the abatement actions for that particular stage are implemented. Further, the abatement actions are designed to reduce the pollutant level into the next lower stage or level and to prevent pollutant concentrations from reaching levels which could cause significant harm to public health. To accomplish this, the abatement actions become more stringent as an episode is predicted to progress or progresses from one stage to the next.

EPA's Proposed Approval and No Action on Regulation IX and Proposed Replacement Regulations

EPA evaluated Regulation IX by comparing the regulation to 40 CFR 51.16 which sets forth the minimum requirements for an emergency episode contingency plan. This comparison is presented in an "Evaluation Report and Technical Support Document." Based upon the comparison of Regulation IX to 40 CFR 51.16, EPA proposed to approve those portions of the regulation which meet in part the requirements of 40 CFR 51.16, take no action on part of the revisions, and to propose regulations to fulfill in part the requirements of 40 CFR 51.16. The proposed approval, no action, and replacement regulations are as follows:

Rule 120—Emergency Episode Levels, is proposed to be approved, except for the following:

1. EPA has specified significant harm levels for 1-, 4-, and 8-hour averaging periods for carbon monoxide. Rule 120, however, specifies CO criteria levels for 1- and 12-hours. EPA is therefore proposing 4- and 8-hour carbon monoxide criteria levels to supplement the existing 1-hour level specified in Rule 120 and is taking no action on the 12-hour level. EPA is also proposing that the episode actions that apply to the 1-hour carbon monoxide criteria level in Rule 120 also apply to the 4- and 8-hour criteria levels.

Rule 121—Notification of an Episode Stage, is proposed to be approved, and EPA is proposing the following additional requirements:

1. Regulation IX does not provide for communication procedures for transmitting status reports and orders for emission control actions to be taken during each episode stage. EPA is therefore proposing to ensure that status reports and control actions to be taken during each episode stage are transmitted to public officials; major emission sources; public health, safety, and emergency agencies; and news media, in accordance with 40 CFR 51.16(e)(3).

Rule 122—Episode Control Actions, is proposed to be approved, and EPA is proposing the following additional requirements:

1. Regulation IX does not contain provisions for the inspection of those sources covered under Rule 122 to ascertain compliance with applicable emission control action requirements, as specified in 40 CFR 51.16(e)(2). The emission control actions contained within Rule 122 account for more than 90% of the possible emission reductions of Regulation IX. The reductions of Rule 125, for which there are provisions for source inspections, account for the remaining emission reductions. Regulation IX, therefore, should contain provisions for the inspection of those sources covered under Rule 122 in addition to those sources in Rule 125. EPA is proposing regulations which require such inspections.

Rule 123—Termination of an Episode Stage and Rule 124—Notification of Termination of Episode Stage meet in part the requirements of 40 CFR 51.16 and are therefore proposed to be approved.

Rule 125—Stationary Control Plans, is proposed to be approved, and EPA is proposing the following additional requirements:

1. Rule 125 lacks a time schedule for the Sacramento County Air Pollution Control Officer to initiate the call for the submittal of individual abatement plans.

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EPA is proposing regulations which call for the submittal of abatement plans and their review within a specified time limit.

2. Rule 125 does not adequately address one of the largest sources which attract motor vehicle activity and the related emissions. That is, establishments that employ large numbers of people or that operate a large fleet of motor vehicles. EPA is therefore proposing regulations which require the submission of traffic abatement plans from facilities which employ more than 100 persons per shift at one business address or which operate a fleet of 50 or more motor vehicles.

3. The requirements specified in Rule 125 for the content of the abatement plans are not sufficiently specific to ensure that adequate plans will be submitted. EPA is therefore proposing criteria for the content of such plans, in addition to the requirements specified in Rule 125 and in accordance with EPA's Supplement to the State guideline.

Rule 126—Interdistrict Coordination, satisfies in part the requirements of 40 CFR 51.16 and is therefore proposed to be approved.

In addition to the above deficiencies the Sacramento County APCD omitted certain requirements specified by 40 CFR 51.16. The omissions, EPA's rationale, and EPA's proposed regulations to correct those omissions are as follows:

1. Regulation IX contains no provisions for the acquisition of forecasts of atmospheric stagnation conditions and for updates of such forecasts, as required by 40 CFR 51.16(e)(1). EPA is proposing regulations which require the acquisition of such forecasts and updating of such forecasts as often as conditions warrant.

2. A Priority II particulate matter contingency plan is not included in Regulation IX as required by 40 CFR 51.16, with priority classifications set forth in 40 CFR 52.221. EPA intends to correct this deficiency with the Priority II particulate matter contingency plan proposed in this notice.

EPA's proposed substitute regulations are based on the requirements of 40 CFR 51.16, air quality data, emissions data, Regulation IX of Sacramento County, and the evaluation of control strategies contained in Regulation IX. The evaluation of the control strategies is presented in an "Evaluation Report and Technical Support Document." Incorporated into the document is a recently completed report by Pacific Environmental Services, Inc., presenting the results of a study to develop emergency episode abatement strategies for Sacramento County for photochemical oxidants and carbon monoxide episodes.

In proposing substitute regulations, EPA used Regulation IX as a procedural guide to translate the "Evaluation Report and Technical Support Document" into regulations. Thus, the general detail and terminology proposed in this notice are consistent with Regulation IX.

Additional Information

Under Section 110 of the clean Air Act as amended, and 40 CFR Part 51, the Administrator is required to approve or disapprove the regulations submitted as revisions to the SIP. The Regional Administrator hereby issues this notice setting forth these revisions as proposed rulemaking and advises the public that interested persons may participate by submitting written comments or a request for a public hearing to the Region IX Office. Comments received on or before July 23, 1979, will be considered. Also, comments received will be available for public inspection at the EPA Region IX Office and the EPA Public Information Reference Unit.

Authority: Sections 110 and 301(a) of the Clean Air Act as amended (42 U.S.C. §§ 7410 and 7601(a)).

Dated May 8, 1979

Sheila M. Prindivilla

Acting Regional Administrator.

It is proposed to amend Part 52 of Chapter I, Title 40, of the Code of Federal Regulations as follows:

Subpart F—California

1. Section 52.220 is amended by adding paragraphs (c)(24)(viii)(B) and (c)(42)(ii)(B) as follows:

§ 52.220 Identification of plan.

* * * * *

(c) * * *

(24) * * *

(viii) * * *

(B) Rules 123 and 124.

(1) The Sacramento County APCD's Regulation IX, Emergency Episode Control, as submitted on July 19, 1974, except those portions of Rules 123 and 124 that pertain to the 12-hour CO criteria level in regulation IX.

* * * * *

(42) * * *

(ii) * * *

(B) Rules 120, 121, 122, 125, and 126.

(1) The Sacramento County APCD's Regulation IX, Emergency Episode Control, as submitted on November 4, 1977, except those portions of Rules 120, 121, 122, 125, and 126 that pertain to the 12-hour CO criteria level in Regulation IX.

* * * * *

2. Section 52.274 is amended by revising paragraph (a) and adding paragraphs (e), (f), and (g):

§ 52.274 California air pollution emergency plan.

(a) Since the California Air Pollution Emergency Plan does not provide complete, implementable provisions for taking emission control actions necessary to prevent ambient pollutant concentrations from reaching significant harm levels, the requirements of § 51.16 of this Chapter are not met, except in the following areas:

(1) * * *

(2) Sacramento County Air Pollution Control District.

* * * * *

(e) The requirements of § 51.16 of this Chapter are met in the Sacramento County Air Pollution Control District with the following exceptions: there are no episode criteria levels, declaration procedures, notification procedures, source inspections, emission control actions or episode termination procedures for carbon monoxide episodes based on 4- and 8-hour averaging times; communication procedures for transmitting status reports and orders as to emission control actions to be taken during an episode stage are not provided for; there are no provisions for the inspection of those sources covered under Rule 122 there is no time schedule for the Air Pollution Control Officer to initiate the call for the submittal of individual abatement plans; the abatement plan regulation does not adequately address one of the largest sources of emissions, i.e. motor vehicles; the requirements for the content of the abatement plans are not sufficiently specific to ensure that adequate plans are submitted; no provisions exist for the daily acquisition of atmospheric stagnation conditions; a Priority II particulate matter episode contigency plan is not provided for in the regulation.

(f) *Regulation for prevention of air pollution emergency episodes—4- and 8-hour carbon monoxide criteria levels, public announcement, source inspections, preplanned abatement strategies, acquisition of atmospheric stagnation forecasts.*

(1) the requirements of this paragraph are applicable in the Sacramento County Air Pollution Control District.

(2) For the purposes of this regulation the following definitions apply:

(i) "Administrator" means the Administrator of the Environmental Protection Agency or his authorized representative.

(ii) "ppm" means parts per million by volume.

(iii) "ug-^{3}" means micrograms per cubic meter.

(3) For the purposes of this paragraph, the following episode criteria shall apply:

Pollutant	Averaging time (hours)	Stage 1	Stage 2	Stage 3
Carbon monoxide.	4	25 ppm	45 ppm	60 ppm
	8	15 ppm	30 ppm	40 ppm

(4) The provisions of the Sacramento County Air Pollution Control District's Regulation IX, as submitted on November 4, 1977, relating to carbon monoxide episodes averaged over 1 hour shall apply to carbon monoxide episodes averaged over 4 and 8 hours except that the Administrator shall insure that declaration, notification, source inspections, and termination of such episodes occur.

(5) Stationary source curtailment plans and traffic abatement plans shall be prepared by business, commercial, industrial, and governmental establishments as follows:

(i) The owner or operator of any business, commercial, industrial, or governmental facility or activity listed below shall submit to the Administrator plans to curtail or cease operations causing stationary source air contaniments in such activity:

(A) Stationary sources which can be expected to emit 100 tons per year or more of hydrocarbons or carbon monoxide.

(ii) The plans required by subparagraph (5)(i)(A) of this paragraph shall include the following information:

(A) The information requested by Regulation IX, Rule 125, Section d as submitted to EPA on November 4, 1977.

(B) The total number of employees at the facility during each shift on a normal weekday.

(C) The amount of energy (gas, fuel oil and electricity) used on a normal weekday.

(D) For first-stage episodes, the measures to voluntarily curtail equipment emitting air pollutants.

(E) For second-stage episodes:

(1) The measures to curtail as much as possible, equipment operations that emit air pollutants specific to the type of episode and in the case of oxidant episodes, the equipment operations that emit hydro-carbons.

(2) The measures to postpone operations which can be postponed until after the episode.

(F) For third-stage episodes:

(1) A list of equipment, with permit numbers if applicable, which can be shut down without jeopardizing the public health or safety, and an estimate of the resultant reductions in air contaminant emissions.

(2) A list of all equipment, with permit numbers if applicable, which must be operated to protect the public health or safety, and an estimate of the air contaminant emissions from such equipment.

(iii) The owner or operator of any industrial, business, commercial, or governmental facility or activity listed below shall submit to the Administrator plans to curtail or cease operations causing air contaminants from vehicle use:

(A) Operators of 50 or more fleet vehicles.

(B) Business, commercial, industrial, or governmental establishments employing more than 100 persons per shift at any one business address.

(iv) The plans required by subparagraph (5)(iii) (A and B) of this paragraph shall include the following information:

(A) The information requested in Regulation IX, Rule 125, Section d as submitted to EPA on November 4, 1977.

(B) The total number of employees at the facility during each shift.

(C) The total number of motor vehicles and vehicle miles traveled for motor vehicles operated:

(1) By the company on company business on a normal weekday.

(2) By employees commuting between home to the place of business on a normal weekday.

(3) The minimum number of motor vehicles to be operated that are necessary to protect public health or safety.

(v) A copy of the stationary source curtailment and/or traffic abatement plans approved in accordance with the provisions of this paragraph shall be on file and readily available on the premises to any person authorized to enforce the provisions of this paragraph.

(6) The owner or operator of any governmental, business, commercial, or industrial activity or facility listed subparagraph (5) of this paragraph shall submit a stationary source curtailment plan and/or traffic abatement plan to the Administrator within 60 days after promulgation of final rulemaking.

(7) The plans submitted pursuant to the requirements of this paragraph shall be reviewed by the Administrator for approval or disapproval according to the following schedule:

(i) For sources with emissions of hydrocarbons and carbon monoxide greater than or equal to 454 metric tons (500 tons) per year, or for establishments employing 400 or more employees per shift, within 45 days after receipt.

(ii) For sources with emissions of hydrocarbons and carbon monoxide greater than or equal to 91 metric tons (100 tons) per year and less than 454 metric tons (500 tons) per year, or for establishments employing more than 200 and less than 400 employees per shift, within 90 days after receipt.

(iii) For sources with emissions of hydrocarbons and carbon monoxide less than 91 metric tons (100 tons) per year, or for establishments employing 100 or 200 employees per shift, within 180 days after receipt.

(8) The owner or operator of any industrial, business, governmental, or commercial establishment required to submit a plan by this paragraph shall be notified by the Administrator within 30 days after the plan has been evaluated, if the plan is disapproved. Any plan disapproved by the Administrator shall be modified to overcome the disapproval and resubmitted to the Administrator within 30 days of receipt of the notice of disapproval.

(9) A source inspection plan shall be implemented by the Administrator upon the declaration of any episode stage, and the following facilities shall be inspected to ensure compliance:

(i) Those sources covered under rule 122, as submitted to EPA on November 4, 1977, as appropriate.

(10) The Administrator shall insure that forecasts of atmospheric stagnation conditions during any episode stage and updating of such forecasts are acquired.

(11) Any source that violates any requirement of this regulation shall be subject to enforcement action under Section 113 of the Act.

(12) All submittals or notifications required to be submitted to the Administrator by this regulation shall be sent to:

Regional Administrator, Attn: Air and Hazardous Materials Division, Air Technical Branch, Technical Analysis Section (A-4-3), Environmental Protection Agency, 215 Fremont Street, San Francisco, CA. 94105.

(g) *Regulation for the prevention of air pollution emergency episodes—Priority II particulate matter emergency episode contingency plan.*

(1) The requirements of this paragraph are applicable in the Sacramento County Air Pollution Control District.

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(2) For the purposes of this paragraph the following episode criteria shall apply:

PPollutant	Averaging time (hours)	Stage 1	Stage 2	Stage 3
Particulate matter	24	375 ug/m^3	625 ug/m^3	875 ug/m^3

(3) Whenever it is determined that any episode level specified in subparagraph (2) of this paragraph is predicted to be attained, is being attained, or has been attained and is expected to remain at such levels for 12 or more hours the appropriate episode level shall be declared.

(4) Whenever the available scientific and meteorological data indicate that any episode level declared by subparagraph (2) of this paragraph is no longer being attained and is not predicted to increase again to episode levels, such episode shall be declared terminated.

(5) The following shall be notified whenever an episode is predicted, attained, or terminated:

(i) Public officials.

(ii) Public health, safety, and emergency agencies.

(iii) News media.

* * * * *

[FR Doc. 79-16332 Filed 5-23-79; 8:45 am].

BILLING CODE 6560-01-M

[40 CFR Part 52)

[FRL 1233-5]

Approval and Promulgation of Implementation Plans—Connecticut

AGENCY: Environmental Protection Agency (EPA).

ACTION: Proposed Rule.

SUMMARY: EPA is proposing approval of a State Implementation Plan (SIP) revision submitted by the State of Connecticut which allows a two year variance to Northeast Utilities Company on behalf of United Technologies Corporation from Regulation 19-508-19(a)(2)(i) concerning fuel sulfur content. This variance would allow up to 5000 hours testing in a Hartford power plant of a jet engine on an Arabian crude oil which would not exceed 2.9% sulfur content by weight.

DATES: Comments must be received on or before June 25, 1979.

ADDRESSES: Copies of the Connecticut submittal and EPA's evaluation are available for public inspection during normal business hours at the Environmental Protection Agency, Region I, JFK Federal Building, Room 1903, Boston, Massachusetts 02203; Public Information Reference Unit, Environmental Protection Agency, 401 M Street, SW., Washington, D.C. 20460; and the Connecticut Department of Environmental Protection, Air Compliance Unit, State Office Building, Hartford, Connecticut 06115.

Comments should be submitted to the Regional Administrator, Region I, Environmental Protection Agency, Room 2203, JFK Federal Building, Boston, Massachusetts 02203.

FOR FURTHER INFORMATION CONTACT: Sarah Simon, Air Branch, EPA, Region I, JFK Federal Building, Room 1903, Boston, Massachusetts 02203; 617/223-4448.

SUPPLEMENTARY INFORMATION: On April 16, 1979 the Connecticut Department of Environmental Protection (The Department) submitted a revision to their State Implementation Plan (SIP) for a two year variance to State Regulation 19-508-19(a)(2)(i) for Northeast Utilities on behalf of United Technologies (UT) for the purchase, storage, and burning of nonconforming fuel. The revision was proposed so that United Technologies Corporation could test an engine on an Arabian crude oil, which is a nonconforming fuel. Although built by UT, the engine is currently owned and operated by Northeast Utilities at their South Meadow Station, Hartford, Connecticut. In accordance with the State variance approval and compliance order, only Unit 11 will be used by UT for testing purposes.

United Technologies has contracted with an Arabian company to supply similar engines for pumping crude oil through a pipeline. When in use, these engines will burn crude drawn from the pipeline, and the testing will help to prove the reliability of the engines while burning this higher sulfur crude oil. The crude to be tested may contain up to 2.9% sulfur. This crude is a cleaner fuel than normal residual oil because the lighter, more volatile and more combustible fractions (i.e. gasoline) are still in the fuel. As a result, the only emission to be increased will be sulfur dioxide.

In August, 1978, United Technologies submitted an application to the Connecticut Department of Environmental Protection for a variance. The final Connecticut variance decision was issued on March 27, 1979 and the State Order, Number 716, was issued on April 3, 1979 requiring compliance with State sulfur regulations by April 1, 1981.

Technical support submitted by the State showed that emissions from this testing program would not result in violation of the SO_2 NAAQS or the SO_2 PSD (Prevention of Significant Deterioration) increment. The company analyzed the maximum air quality impact of the testing by the EPA dispersion model CRSTER.

The results in micrograms per cubic meter were as follows:

	3 hour	24 hour	Annual
Max. Incremental SO_2 Concentration	32.9	8.75	0.54
Class II PSD Increments	512	91	20
Second Highest SO_2 Concentration 1977	296	163	37
Total Air Quality Impact	328.9	171.75	37.54
NAAQS for SO_2	1300	365	80

The State's own maximum impact analysis for the 24 hour period was based on their modification of the EPA dispersion model PTMTP and yielded the following:

	Impact	Background (Hartford)	Total
24 hour SO_2 concentration (ug/m^3)	54	160	214

This modeling indicates that impacts from the engine testing will be well under the standards and allowable increments even though the worst case values are about eight times more conservative than the CRSTER model. Since this is a two year revision, the PSD increment consumption will be restored at the expiration of the revision.

The State order terminates on April 1, 1981, limits sulfur content to 2.9%, and also requires the following: reports on fuel analyses and quantities, a daily log of operation and fuel consumption, testing limits of 2500 hours in a twelve month period and 5000 hours in two years, a maximum firing rate of 1900 gallons/hour, suspension of testing during air pollution advisories, a limit of 20% opacity for emissions, and an emission test for SO_2, NO_x, and particulate.

Based on this information, EPA is proposing to approve the SIP revision as submitted by the State. Interested parties may participate in the Federal rulemaking procedure by submitting written comments to the address above.

The Administrator's decision to approve or disapprove the plan revision will be based on whether it meets the requirements of Sections 110(a)(2)(A-H) and 110(a)(3) of the Clean Air Act, as amended, and EPA regulations in 40 CFR Part 51. This revision is being proposed pursuant to Sections 110(a) and 301 of the Clean Air Act, as amended (42 U.S.C. 7401 and 7601).

Dated: May 18, 1979.

Rebecca W. Hammer,

Acting Regional Administrator, Region I.

[FR Doc. 79-16329 Filed 5-23-79; 8:45 am]

BILLING CODE 6560-01-M

[40 CFR Part 52]

[FRL 1234-6]

Approval and Promulgation of Implementation Plans; Implementation Plan Revisions for Certain Nonattainment Areas Tennessee

AGENCY: Environmental Protection Agency, Region IV.

ACTION: Notice of Availability.

SUMMARY: EPA announces today that a portion of the Tennessee implementation plan revisions due for submittal by January 1, 1979, under the Clean Air Act Amendments of 1977 have been received and are available for public inspection. The pulic is invited to submit written comments. A notice of proposed rulemaking describing the revisions will be published in the Federal Register later; the period for the submittal of written comments will extend for 30 days after the publication of the Notice of Proposed Rulemaking.

ADDRESSES: The Tennessee submittal may be examined during normal business hours at the following EPA offices:

Public Information Reference Unit, Library Systems Branch, Environmental Protection Agency, 401 M Street SW., Washington, D.C.

Library, Environmental Protection Agency, Region IV, 345 Courtland Street NE., Atlanta, Georgia 30308.

In addition, the Tennessee revisions may be examined at the office of the Tennesseee Air Pollution Control Division, 256 Capitol Hill Building, Nashville, Tennessee 37219.

Comments should be addressed to the EPA Region IV Air Programs Branch, 345 Courtland Street NE., Atlanta, Georgia 30308.

FOR FURTHER INFORMATION CONTACT: Archie Lee of EPA's Region IV Air Programs Branch. Mr. Lee may be reached by telephone at 404/881-2864 (FTS-257-2864).

SUPPLEMENTARY INFORMATION: Section 172 of the Clean Air Act, as amended 1977, requires that States submit revisions in their implementation plans by January 1, 1979, to provide for the attainment of the national ambient air quality standards in areas designated nonattainment. On March 3, 1978, the Administrator designated a number of areas in Tennessee as nonattainment (43 FR 8962). Tennessee has responded by preparing implementation plan revisions as required by the Clean Air Act. The purpose of this notice is to call the public's attention to the fact that plan revisions have been formally submitted for the following areas and are available for public inspection:

Sulfur Dioxide—Copperhill.
Carbon Monoxide—Knox County, Shelby County.
Particulates—Jacksboro, Bristol, Lafollette, Odoms Bend, Bull Run.

Also, the public is encouraged to submit written comments on them. A description of the revisions will be published in the Federal Register at a later date as part of a notice of proposed rulemaking.

(Sections 110 and 172 of the Clean Air Act [42 U.S.C. 7410 and 7502])

Dated: May 15, 1979

John A., Little,

Acting Regional Administrator, Region IV.

[FR Doc. 79-16328 Filed 5-23-79; 8:45 am]

BILLING CODE 6560-01-M

[40 CFR Part 52]

[FRL 1233-3]

Availability of Implementation Plan Revision for State of Washington

AGENCY: Environmental Protection Agency (EPA).

ACTION: Notice of Availability and Advance Notice of Proposed Rulemaking.

SUMMARY: EPA announces today that the State of Washington Implementation Plan revision due for submittal by January 1, 1979 under the Clean Air Act Amendments of 1977 has been received and is available for public inspection. The public is invited to submit written comments to the record which will be held open for the receipt of public comments for a minimum period of thirty (30) days. A notice of proposed rulemaking describing the Plan and the action that EPA intends to take regarding the proposed revisions will be published in the Federal Register after the initial thirty (30) day public comment period has closed. A second period for the submittal of written comments will extend for thirty (30) days after the publication of the Notice of Proposed Rulemaking.

DATE: Comments are due on or before June 25, 1979.

ADDRESSES: The Washington submittal may be examined during normal business hours at the following locations:

Public Information Reference Unit, Library Systems Branch, Environmental Protection Agency, 401 M Street SW., Washington, D.C. 20460.

Library, Environmental Protection Agency, Region X, 1200 Sixth Avenue, Seattle, Washington 98101.

State of Washington, Department of Ecology, Central Regional Office, 2802 Main Street, Union Gap, WA 98903.

State of Washington, Department of Ecology, St. Martin College, Lacey, Washington 98504.

State of Washington, Department of Ecology, Eastern Regional Office, East 103 Indiana Avenue, Spokane, WA 99201.

State of Washington, Department of Ecology, Redmond Regional Office, 4350-150 Avenue NE., Redmond, Washington 98502.

COMMENTS SHOULD BE ADDRESSED TO: Clark L. Gaulding, Chief, Air Programs Branch, M/S 629, Environmental Protection Agency, 1200 Sixth Avenue, Seattle, Washington 98101.

FOR FURTHER INFORMATION CONTACT: Richard F. White, Air Programs Branch, M/S 625, Environmental Protection Agency, telephone No. (206) 442-1226, (FTS 399-1226).

SUPPLEMENTAL INFORMATION: Section 172 of the Clean Air Act, as amended in August 1977, requires that States submit revisions to their implementation plans by January 1, 1979 to provide for the attainment of the national ambient air quality standards (NAAQS) in areas designated non-attainment. On March 3, 1978 (43 FR 8962) and September 11, 1978 (43 FR 40412) EPA designated certain areas in Washington as non-attainment. Subsequently, on April 4, 1979 EPA published in the Federal Register the General Preamble for Proposed Rulemaking on Approval of Plan Revisions for Non-attainment Areas (44 FR 20372). The General Preamble is hereby incorporated into this Advance Notice of Proposed Rulemaking.

The State has responded by preparing implementation plan revisions as required by the Act for the non-attainment designation referred to above. The purpose of this notice is to call the public's attention to the fact that this revision has been formally submitted to EPA and is available for public inspection at the locations noted above. The public is encouraged to submit written comments regarding the

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proposed revisions and thus participate in this rulemaking activity.

Those interested may wish to first read the General Preamble for proposed rulemaking published by the EPA on April 4, 1979 (44 FR 20372) which identifies the major considerations that will guide EPA's evaluation of SIP revisions. A more detailed description of the Washington revision will be published in the **Federal Register** at a later date as part of a notice of proposed rulemaking.

(Authority: Sections 110 and 172 of the Clean Air Act (42 U.S.C. 7410 and 7502)).

L. Edwin Coate,

Acting Regional Administrator.

[FR Doc. 79-16327 Filed 5-23-79; 8:45 am]

BILLING CODE 6560-01-M

[40 CFR Part 52]

[FRL 1234-7]

Approval and Promulgation of Implementation Plans; Revisions to the Rules and Regulations of the Bay Area Air Quality Management District in the State of California

AGENCY: Environmental Protection Agency.

ACTION: Notice of Proposed Rulemaking.

SUMMARY: The Bay Area Air Quality Management District (Bay Area AQMD) has adopted changes to rules concerning air pollution emergency episodes. The intended effect of these rules is to provide an emergency episode plan in accordance with 40 CFR 51.16 that will prevent air pollution concentrations from reaching levels which could cause significant harm to the public health. These rules have been submitted to the Environmental Protection Agency (EPA) by the California Air Resources Board (ARB) as revisions to the California State Implementation Plan (SIP). The EPA proposes to approve part of the SIP revision, to take no action on part of the revision, and to propose regulations to correct deficiencies in the plan. EPA invites written public comment concerning this proposed rulemaking. Those persons wishing to request a public hearing may do so by writing EPA at the address listed below.

DATES: Comments or requests for a public hearing may be submitted on or before July 23, 1979.

ADDRESSES: Comments or requests for a public hearing may be sent to: Regional Administrator, Attn: Air & Hazardous Materials Division Air Technical Branch, Technical Analysis Section (A-4-3), Environmental Protection Agency, Region IX, 215 Fremont Street, San Francisco, CA 94105.

The EPA has established a rulemaking Docket, 9A-79-2 containing all information on which the proposed rulemaking relies, which is available for public inspection during normal business hours at the EPA Region IX office at the above address and at the EPA Central Docket Section at the following address: EPA Central Docket Section, Waterside Mall, Room 2903B, 401 M Street, SW., Washington, D.C. 20460.

Additionally, copies of Regulation 5 and EPA's Evaluation Report and Technical Support Document are available for public inspection during normal business hours at the following locations:

Bay Area Air Quality Management District, 939 Ellis Street, San Francisco, CA 94109.

California Air Resources Board, 1102 "Q" Street, P.O. Box 2815, Sacramento, CA 95814.

Public Information Reference Unit, Room 2922 (EPA Library), 401 "M" Street, SW., Washington, D.C. 20460.

FOR FURTHER INFORMATION CONTACT:

Allyn M. Davis, Director, Air and Hazardous Materials Division, Environmental Protection Agency, Attn: Charlotte Hopper (A-4-3), 215 Fremont Street, San Francisco, CA 94105, (415) 556-2002.

SUPPLEMENTARY INFORMATION:

Background

Section 110(a) of the Clean Air Act requires that a SIP contain air pollution emergency episode plans, and 40 CFR 51.16 "Prevention of Air Pollution Emergency Episodes," specifies the minimum requirements for the content of these plans, including provisions for taking any emission control actions necessary to prevent ambient pollution concentrations from reaching levels which could cause significant harm to the health of persons. The original SIP submitted by the State of California (for all APCDs in California) on February 21, 1972 failed to meet the requirements specified in 40 CFR 51.16. Therefore, on May 31, 1972 (37 FR 10851) EPA disapproved the emergency plan portion of the California SIP. In November 1973, the State of California adopted a revised episode plan, which was submitted to EPA on February 6, 1974. EPA proposed conditional approval of this SIP revision on June 26, 1974 (39 FR 23069), but this proposal was never finalized.

In March 1975, the California Lung Association and others commenced a citizen suit against EPA and the ARB requesting the U.S. District Court for the Central District of California to order EPA to promulgate and enforce an emergency episode plan for the South Coast Air Basin (SCAB) of California (*California Lung Association et al.* v. *Train*, Civil No. 75-1044-WPG). According to an agreed upon schedule, EPA and the ARB worked together towards Federal approval of an emergency episode plan for the SCAB.

On April 12, 1976 (41 FR 15237) EPA approved, as a revision to the SIP, California's October 21, 1975 Air Pollution Emergency Plan for three pollutants: photochemical oxidants, sulfur dioxide, and carbon monoxide. Missing from this revised plan were provisions for nitrogen dioxide, particulate matter, and sulfur dioxide and particulate matter combined, although required by 40 CFR 51.16. On June 27, 1977, pursuant to plaintiff California Lung Association's motion, the Court ordered EPA to certify that the emergency episode plan approved on April 12, 1976 was fully adequate under the law in all respects (i.e., contained episode plans for all six pollutants), or to withdraw such approval (*California Lung Association et al.* v. *Costle*, Civil No. 75-1044-WPG). The EPA Administrator responded to this order with an affidavit dated July 6, 1977, which stated that since the Agency's April 12, 1976 approval of the plan applied only to the three pollutants specifically set forth therein, EPA concluded, in accordance with the Court's order, that the plan was not fully complete. Consequently, on August 11, 1977 (42 FR 40695), EPA rescinded the prior approval, reinstating the disapproval of the emergency episode plan portion of the California SIP.

On March 24, 1977, the ARB adopted a revised Air Pollution Emergency Plan (State guideline) which was submitted to EPA as a revision to the SIP on June 1, 1977. On August 8, 1977, the EPA Administrator submitted a second affidavit as required by the Court, concerning the recent submittal, stating that EPA intended to approve most of the State guideline for use by the Air Pollution Control Districts in developing episode plans. Subsequently, EPA developed a supplement to the State guideline to correct deficiencies noted in that document (43 FR 60929). The August 8, 1977 affidavit was then followed by a Joint Stipulation of Settlement, signed on December 5, 1977 by counsels for the Administrator and for the California Lung Association. Among other things this Stipulation contained an agreement that by June 8, 1980, EPA would review the emergency episode regulations of 42

Air Pollution Control Districts in the State of California, approving or promulgating regulations as necessary. This Notice of Proposed Rulemaking and its associated documents carry out part of the actions called for in the December 5, 1977 Joint Stipulation of Settlement, relating to the Bay Area AQMD emergency episode plan.

Regulation 5, Air Pollution Episode Plan, was adopted on March 21, 1974 by the Bay Area AQMD, and submitted to EPA on July 19, 1974. Subsequent revisions to Regulation 5 have been adopted and submitted to EPA on November 3, 1975 and November 4, 1977.

Summary of Regulation 5, Air Pollution Episode Plan

In general, Regulation 5 sets forth actions to be taken by industry, business, commerce, government, and the public to prevent air pollution concentrations from reaching levels which could cause significant harm to the public health.

These actions include monitoring of air quality; development and processing of emission reduction plans prepared by certain large industrial, business, commercial, and governmental establishments; certain public notifications of episode conditions; and implementation of emission reduction strategies.

Actions required by Regulation 5 are divided into three stages, depending on the severity of the existing air quality. At each stage curtailment of stationary source and vehicular emissions are included to some degree. At the most severe stage, Air Pollution Emergency, Regulation 5 requires that all recreational and non-emergency commercial and industrial facilities be closed.

EPA'S Proposed Approval and No Action on Regulation 5 and Proposed Replacement Regulations

EPA evaluated Regulation 5 by comparing the regulation to 40 CFR 51.16 which sets forth the minimum requirements for an emergency episode contingency plan. This comparison is presented in an "Evaluation Report and Technical Support Document." Based upon the comparison of Regulation 5 to 40 CFR 51.16, EPA proposes to approve those portions of the revision which meet in part the requirements of 40 CFR 51.16, take no action on part of the revision, and to propose regulations to fulfill in part the requirements of 40 CFR 51.16. The proposed approval, no action, and replacement regulations are as follows:

Section 5.1 Purpose, is proposed to be approved, except for the following:

1. Section 5.1, Table 2 of Regulation 5 specifies 1- and 12-hour average carbon monoxide (CO) episode criteria. EPA has specified significant harm levels for 1-, 4-, and 8-hour averaging periods for CO. The 1-hour CO criteria in Regulation 5 is consistent with the EPA requirements, but the regulation does not include 4- and 8-hour criteria. EPA is proposing to take no action on the 12-hour CO criteria level and is proposing to augment Regulation 5 with 4- and 8-hour CO episode criteria consistent with those suggested in 40 CFR Part 51, Appendix L. EPA is also proposing that the episode actions which apply to the 1-hour criteria level in Table 2 also apply to the 4- and 8-hour criteria levels.

Section 5.21 Smog Advisory, Section 5.22 Air Pollution Alert, Section 5.23 Air Pollution Warning, and Section 5.24 Air Pollution Emergency, are proposed to be approved and EPA is proposing the following additional requirements:

1. Regulation 5 requires that a "smog advisory" be issued to persons with respiratory or cardiac problems when the concentrations of pollutants reach, or are predicted to reach, episode criteria levels for any part of the Bay Area. Notifications are to be made to appropriate officials in the specified area so that those persons affected may take suitable action. This does not meet the EPA requirements for public announcement whenever an episode stage has been determined to exist. The Bay Area AQMD regulation requires only notification of persons with respiratory or cardiac problems, not the general public. EPA proposes to correct this by providing for general public notification.

Section 5.3 Preplanned Abatement Strategies is proposed to be approved and EPA is proposing the following additonal requirements:

1. Section 5.3 of Regulation 5 requires the submission of traffic abatement plans and stationary source curtailment plans from any source emitting 100 tons per year of any contaminant from any facility. Mobile sources account for 46.0% of non-methane Hydrocarbon emissions, 57.0% of nitrogen oxides emissions, both of which are precursors to the formation of photochemical oxidant, and 86.7% of carbon monoxide emissions. Control of the automobile is therefore necessary to ensure abatement of an episode declared for oxidant or carbon monoxide. Regulation 5 does not adequately address one of the largest sources which attract motor vehicle activity and the related emissions, i.e., those establishments which have large numbers of employees or which operate large numbers of fleet vehicles. EPA is thus proposing regulations which require the submission of traffic abatement plans from facilities which operate 50 or more fleet vehicles, or which employ more than 100 persons per shift at one business address.

2. The requirements specified in Section 5.3 for the content of the abatement plans are not sufficiently specific to ensure that adequate plans are submitted. EPA is therefore proposing criteria for the content of both traffic abatement plans and stationary source curtailment plans, following the guidelines of the California Air Pollution Emergency Plan "Criteria for Approval of Abatement Plans" (State guideline, March 24, 1977) and EPA's Supplement to the State guideline (43 FR 60929).

3. Section 5.3 does not include a requirement for the submittal of individual source abatement plans by a specific date, nor does it include a time limit for the approval or disapproval of plans. EPA proposes that plans be submitted within 60 days of the effective date of the regulation and allows 180 days for the reveiw and approval or disapproval of such plans.

Section 5.4 Termination of Episode Stages satisfies in part the requirements of 40 CFR 51.16 and is therefore proposed to be approved.

In addition to the above deficiencies, the Bay Area AQMD omitted certain requirements specified by 40 CFR 51.16. The omissions, EPA's rationale, and EPA's proposed regulations to correct those omissions are as follows:

1. Regulation 5 contains no provisions for the acquisition of forecasts of atmospheric stagnation conditions and for updates of such forecasts, as required by 40 CFR 51.16(e)(1). The EPA proposed regulations provide for the acquisition of such forecasts and updating of such forecasts as often as conditions warrant.

2. Regulation 5 contains no provisions for inspection of sources to ascertain compliance with applicable emission control action requirements, as specified in 40 CFR 51.16(e)(2). The proposed EPA regulations provide for such inspections.

3. Regulation 5 does not provide for communication procedures for transmitting status reports and orders as to emissions control actions to be taken during an episode stage, including procedures for contact with public officials, major emission sources, public health, safety, and emergency agencies and news media. EPA is ensuring that public notification is made whenever an episode stage has been determined to exist. EPA is also ensuring that status

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reports and control actions to be taken during an episode stage are transmitted to public officials, major emission sources, public health, safety, and emergency agencies, and the news media, in accordance with 40 CFR 51.16(e)(3).

5. Particulate matter is not included in Regulation 5. The San Francisco Bay Area Air Basin has been classified as a Priority II area for particulate matter (40 CFR 52.221). As such, the emergency episode plan for the Bay Area AQMD must set forth two or more stages of episode criteria and provide for public announcement whenever any episode stage has been determined to exist, in accordance with 40 CFR 51.16(b)(1), (b)(2), and (g). EPA intends to correct these deficiencies with this proposal.

Additionally, those parts of Regulation 5 pertaining to episode criteria and abatement actions for oxidant in combination with sulfur dioxide, and sulfate in combination with oxidant, have not been reviewed and are not proposed for inclusion in the SIP, since EPA has not defined significant harm levels for these combinations of pollutants.

Amendments to 40 CFR 51.16 were published on March 20, 1979 in the **Federal Register** (44 FR 16911). Under these amendments, the Administrator may exempt attainment or unclassifiable areas from the requirements for future emergency episode plan development.

The Bay Area AQMD has jurisdiction over sources in the San Francisco Bay Area Air Basin, which was designated by EPA as attainment for sulfur dioxide (SO_2) on March 3, 1978 (43 FR 8962). As such, the Administrator has exempted the Bay Area AQMD for SO_2 from episode plan requirements.

EPA's proposed substitute regulations are based on the requirements of 40 CFR 51.16, air quality data, emissions data, Regulation 5, and the evaluation of control strategies contained in Regulation 5. The evaluation of these control strategies is presented in an "Evaluation Report and Technical Support Document." Incorporated into the document is a recently completed report by Pacific Environmental Services, Inc., presenting the results of a study to develop emergency episode abatement strategies for the Bay Area AQMD.

In proposing substitute regulations, EPA used Regulation 5 as a procedural guide to translate the "Evaluation Report and Technical Support Document" into regulations. Thus, the general detail and terminology proposed in this notice is consistent with Regulation 5.

Additional Information

Under Section 110 of the Clean Air Act as amended, and 40 CFR Part 51, EPA is required to approve or disapprove the regulations submitted as revisions to the SIP. The Regional Administrator hereby issues this notice setting forth these revisions as proposed rulemaking and advises the public that interested persons may participate by submitting written comments to the Region IX Office. Those persons wishing to request a public hearing may do so by writing the EPA Region IX Office. Comments received on or before July 23, 1979, will be considered. Comments received will be available for public inspection at the EPA Region IX office and the EPA Central Docket Section.

Authority: Sections 110 and 301(a) of the Clean Air Act as amended (42 U.S.C. §§ 7410 and 7601(a)).

Dated: May 9, 1979.

Sheila M. Prindiville,

Acting Regional Administrator.

Proposed Regulations

It is proposed to amend Part 52 of Chapter I, Title 40, of the Code of Federal Regulations as follows:

Subpart F—California

1. Section 52.220 is amended by adding paragraphs (c)(24)(ii)(B), (c)(29)(iv)(B), and (c)(42)(xxii) as follows:

§ 52.220 Identification of plan.

* * * * *

(c) * * *

(24) * * *

(ii) * * *

(B) Sections 5.1 and 5.4, except those portions that pertain to sulfur dioxide, oxidant in combination with sulfur dioxide, sulfate in combination with oxidant, and the 12-hour CO criteria level.

* * * * *

(29) * * *

(iv) * * *

(B) Section 5.21, except those portions that pertain to sulfur dioxide, oxidant in combination with sulfur dioxide, sulfate in combination with oxidant, and the 12-hour CO criteria level.

* * * * *

(42) * * *

(xxii) Bay Area APCD.

(A) Regulation 5.

(1) Sections 5.22, 5.23, 5.24, and 5.3, except those portions that pertain to sulfur dioxide, oxidant in combination with sulfur dioxide, sulfate in combination with oxidant, and the 12-hour CO criteria level.

* * * * *

2. Section 52.274 is amended by revising paragraph (a) and adding paragraphs (j), (k), and (l):

§ 52.274 California air pollution emergency plan.

(a) Since the California Air Pollution Emergency Plan does not provide complete, implementable provisons for taking emission control actions necessary to prevent ambient pollutant concentrations from reaching significant harm levels, the requirements of § 51.16 of this chapter are not met, except in the following areas:

(1) * * *

(2) * * *

(3) * * *

(4) Bay Area Air Quality Management District.

* * * * *

(j) The requirements of § 51.16 of this chapter are met in the Bay Area Air Quality Management District with the following exceptions: there are no episode criteria levels, declaration procedures, notification procedures, source inspections, emission control actions, or episode termination procedures for carbon monoxide episodes based on 4-hour and 8-hour averaging times; adequate provisions do not exist for public notification of episodes; adequate guidelines are not provided to ensure that adequate abatement plans are submitted; one of the largest sources of emissions is not adequately addressed, i.e., motor vehicles; there is no time schedule for the submittal of individual source abatement plans; no provisions exist for the daily acquisition of atomospheric stagnation conditions; no provisions exist for the inspection of sources during episodes to ascertain compliance with emission control action requirements; and not communication procedures exist for transmitting status reports and orders as to emissions control actions to be taken during an episode stage.

(k) *Regulation for prevention of air pollution emergency episodes—episode criteria levels, public announcement, preplanned abatement strategies, forecasts of atmospheric stagnation conditions, and source inspection.*

(1) The requirements of this paragraph are applicable in the Bay Area Air Quality Management District.

(2) For the purposes of this regulation, the following episode criteria shall apply to carbon monoxide episodes:

Contaminant	Averaging time (hours)	Alert	Warning	Emergency
Carbon monoxide.	4	25 ppm	45 ppm	60 ppm
	8	15 ppm	30 ppm	40 ppm

(3) The provisions of the Bay Area Air Quality Management Districts Regulation 5, as submitted on November 3, 1975, relating to carbon monoxide episodes averaged over 1 hour shall apply to carbon monoxide episodes averaged over 4 and 8 hours except that the Administrator shall insure that declaration procedures, notification procedures, source inspections, and termination of the episodes occur.

(4) The following shall be notified whenever an episode is predicted, attained, or terminated:

(i) Public officials.

(ii) Persons operating any facility or activity named in subparagraph (i)(6) of this paragraph.

(iii) Public health, safety, and emergency agencies.

(iv) News media.

(5) The Administrator shall provide for daily acquisition of forecasts of atmospheric stagnation conditions during any episode stage and updating of such forecasts as frequently as they are issued by the National Weather Service.

(6) Stationary source curtailment plans and traffic abatement plans shall be prepared by industrial, business, commercial, and governmental establishments as follows:

(i) The owner or operator of any facility or plant emitting 91 metric tons (100 tons) or more per year of carbon monoxide or hydrocarbons shall submit to the Administrator a plan to curtail or cease operations causing such stationary source air contaminants.

(ii) The plans required by subparagraph (i)(6)(i) of this paragraph shall include the following:

(A) All information required in the California Air Resources Board Executive Order G–63, "Criteria for Approval of Air Pollution Emergency Abatement Plans" (January 23, 1976).

(B) The total number of employees at the facility during each shift on a normal weekday and on a Sunday.

(C) For Air Pollution Alerts, the measures to voluntarily curtail equipment emitting air pollutants.

(D) For Air Pollution Warnings:

(*1*) A list of equipment and the permit numbers of such equipment, not operated on a Sunday and an estimate of the resultant reduction in air contaminant emissions.

(*2*) A statement as to whether or not the facility operates on a Sunday.

(E) For Air Pollution Emergencies:

(*1*) A list of all equipment, with permit numbers, which can be shut down without jeopardizing the public health or safety, and an estimate of the resultant reductions in air contaminant emissions.

(*2*) A list of all equipment, with permit numbers, which must be operated to protect the public health or safety, and an estimate of the air contaminant emissions from such equipment.

(iii) The owner or operator of any industrial, business, commercial, or governmental activity listed below shall submit to the Administrator plans to curtail or cease operations causing air contaminants from vehicle use:

(A) Operators of 50 or more fleet vehicles.

(B) Industrial, business, commercial, or governmental establishments employing more than 100 persons per shift at one business address.

(iv) The plans required by subparagraph (6)(iii) of this paragraph shall contain the following:

(A) All information required in California Air Resources Board Executive Order G–63, "Criteria for Approval of Air Pollution Emergency Abatement Plans" (January 23, 1976).

(B) The total number of employees at the facility during each shift on a normal weekday and on a Sunday.

(C) The number of motor vehicles and vehicle miles traveled for motor vehicles operated:

(*1*) By the company, on company business, on a normal weekday and on a Sunday.

(*2*) By employees commuting between home and the place of business on a normal weekday and on a Sunday.

(D) The number of parking spaces:

(*1*) Available.

(*2*) Normally used on a weekday.

(*3*) Normally used on a Sunday.

(E) The minimum number of motor vehicles to be operated that are necessary to protect the public health or safety.

(v) Each owner or operator required to submit a plan by this paragraph shall submit such plan within sixty days after promulgation of final rulemaking.

(vi) A copy of the stationary source curtailment and/or traffic abatement plans approved in accordance with the provisions of this subparagraph shall be on file and readily available on the premises to any person authorized to enforce the provisions of this paragraph.

(vii) The plans submitted in accordance with the provisions of this paragraph shall be approved or disapproved by the Administrator according to the following schedule:

(A) For sources with emissions of air contaminants greater than 454 metric tons (500 tons) per year, or for establishments employing more than 400 employees per shift, within 45 days after receipt.

(B) For sources with emissions of air contaminants greater than 91 metric tons (100 tons) per year and less than 454 metric tons (500 tons) per year, or for establishments employing more than 200 and less than 400 employees per shift, within 90 days after receipt.

(C) For sources with emissions of air contaminants less than 91 metric tons (100 tons) for year, or for establishments employing 100 to 200 employees per shift, within 180 days after receipt.

(viii) The owner or operator required to submit a plan by this paragraph shall be notified within thirty days after the Administrator's decision if the plan is disapproved.

(ix) Any plan disapproved by the Administrator shall be modified to overcome this disapproval and resubmitted to the Administrator within thirty days of the notice of disapproval.

(7) The Administrator shall insure that a source inspection plan is implemented upon the declaration of any episode stage.

(8) Any source that violates any requirements of this regulation shall be subject to enforcement action under Section 113 of the Act.

(9) All submittals or notifications required to be submitted to the Administrator shall be sent to: Regional Administrator, Attn: Air & Hazardous Materials Division, Air Technical Branch, Technical Analysis Section (A–4–3), Environmental Protection Agency, Region IX, 215 Fremont Street, San Francisco, CA 94105.

(l) *Regulation for prevention of air pollution emergency episodes—Priority II particulate matter contingency plan.*

(1) The requirements of this paragraph are applicable in the Bay Area Air Quality Management District.

(2) For the purposes of this regulation, the following episode criteria shall apply:

Contaminant	Averaging time (hours)	Alert	Warning	Emergency
Particulate matter	24	375 mg/m³	625 mg/m³	875 mg/m³

(3) Whenever it is determined that any episode level specified in subparagraph (2) of this paragraph is predicted to be attained, is being attained or has been attained, and is predicted to remain at such level for 12

or more hours, or increase, unless control actions are taken, the existence of the appropriate episode level and the location of the source-receptor areas shall be declared by the Administrator.

(4) Whenever the available scientific and meteorological data indicate that any episode level declared by subparagraph (2) of this paragraph is no longer occurring and is not predicted to immediately increase again to episode levels, such episode shall be declared terminated.

(5) The following shall be notified by the Administrator whenever an episode is predicted, attained or terminated:

(i) Public officials.

(ii) Public health, safety, and emergency agencies.

(iii) News media.

* * * * *

[FR Doc. 79-16330 Filed 5-23-79; 8:45 am]

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FEDERAL COMMUNICATIONS COMMISSION

[47 CFR Part 73]

[Docket No. 21310; RM-1847, RM-1984, and RM-2742]

FM Quadraphonic Broadcasting; Order Extending Time for Filing Comments and Reply Comments

AGENCY: Federal Communications Commission.

ACTION: Order.

SUMMARY: Action taken herein extends the time for filing comments and reply comments in a proceeding involving FM quadraphonic broadcasting at the request of National Research Development Corporation. Petitioner states the additional time is needed so that it can complete the preparation of comments for submission to the Commission.

DATES: Comments must be filed on or before June 11, 1979, and reply comments must be filed on or before July 11, 1979.

ADDRESSES: Federal Communications Commission, Washington, D.C. 20554.

FOR FURTHER INFORMATION CONTACT: Wilson LaFollette, Broadcast Bureau, (202) 632-9660.

SUPPLEMENTARY INFORMATION: In the Matter of FM Quadraphonic Broadcasting.

Adopted: May 16, 1979.

Released: May 17, 1979.

By the Chief, Broadcast Bureau: 1. In a *Further Notice of Inquiry* in the above-captioned proceeding, 44 Fed. Reg. 3732, April 16 and May 16, 1979, were set as the dates for filing comments and reply comments, respectively. On April 10, 1979, an extension was granted for the filing of comments and reply comments to May 16 and June 18, 1979, respectively.

2. The Commission now has before it a request filed by counsel for National Research Development Corporation ("NRDC") seeking an extension for filing comments to and including June 25, 1979. Counsel states that NRDC has been in the process of developing detailed comments. Most of the engineering support material must come from its headquarters in London. Because of British postal labor problems, however, transmission of this necessary material has been seriously delayed. Counsel further asserts that NRDC will demonstrate the effect of multiplex decoder phase error on the quardrature signal, and believes it unlikely that any other parties will provide this information to the Commission. Counsel states that if the Commission cannot extend the time through June 25, 1979, then an extension through June 11, 1979, could make possible a full presentation by NRDC.

3. In the *Notice* the Commission expressed its anxiety to resolve this proceeding in an expeditious manner. Nevertheless, it is important that the Commission have the benefit of any information which might be helpful in reaching a decision in this matter. Here, NRDC, for reasons clearly beyond its control, has been unable to acquire information critical to an informed decision in this proceeding. Under these circumstances, an extension of time for filing comments will be granted to and including June 11, 1979. The reply comment date will be extended to July 11, 1979. It should be emphasized, however, that this action is not taken lightly and we do not contemplate granting any further requests for additional time for filing of comments or reply comments.

4. Accordingly, it is ordered, that the above motion for extension of time filed by National Research Development Corporation IS GRANTED to the extent that the dates for filing comments and reply comments ARE EXTENDED to and including June 11, and July 11, 1979, respectively, and IS DENIED in all other respects.

5. This action is taken pursuant to sections 4(i), 5(d)(1) and 303(r) of the Communications Act of 1934, as amended, and Section 0.281 of the Commission's Rules.

Federal Communications Commission.

Philip L. Verveer,

Chief, Broadcast Bureau.

[FR Doc. 79-16209 Filed 5-23-79; 8:45 am]

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[47 CFR Part 73]

[BC Docket No. 79-120; RM-3197]

FM Broadcast Station in Haskell, Tex.; Proposed Changes in Table of Assignments

AGENCY: Federal Communications Commission.

ACTION: Notice of Proposed Rule Making.

SUMMARY: Action taken herein proposes the assignment of a Class C channel to Haskell, Texas. Petitioner, Kenneth Lane, states the proposed channel assignment could be used to bring a first local aural broadcast service to Haskell and surrounding sparsely populated areas.

DATES: Comments must be filed on or before July 16, 1979, and reply comments on or before August 6, 1979.

ADDRESSES: Federal Communications Commission, Washington, D.C. 20554.

FOR FURTHER INFORMATION CONTACT: Mildred B. Nesterak, Broadcast Bureau, (202) 632-7792.

SUPPLEMENTARY INFORMATION:

Adopted: May 15, 1979.

Released: May 22, 1979.

In the matter of Amendment of § 73.202(b), *Table of Assignments*, FM Broadcast Stations. (Haskell, Texas), BC Docket No. 79-120, RM-3197.

1. *Petitioner, Proposal, Comments.* (a) A petition for rule making [1] was filed by Kenneth Lane ("petitioner") proposing the assignment of Class C FM Channel 238 to Haskell, Texas.

(b) Channel 238 can be assigned to Haskell in conformity with the minimum distance separation requirements.

(c) Petitioner states that he will promptly apply for the channel, if assigned.

2. *Community Data.*—(a) *Location.* Haskell, seat of Haskell County, is located approximately 80 kilometers (50 miles) north of Abilene, Texas.

(b) *Population.* Haskell—3,655; Haskell County—6,512.[2]

(c) *Local Aural Broadcast Service.* There is no local aural broadcast service in Haskell.

3. *Economic Considerations.* Petitioner states that Haskell is located in the center of Haskell County and serves as the trade center for the Rolling Plains area of the state. He adds that Haskell has one of the largest livestock auctions in the area which regularly brings hundreds of people together in extensive commercial exchange. According to the 1977 Community Audit compiled by West Texas Utilities, Haskell's population is estimated at 4,050. Sufficient demographic data has been submitted by petitioner to demonstrate the need for a first FM assignment to that community.

4. *Additional Considerations:* Petitioner states that due to the size of Haskell County, a Class C FM station is required to put out a signal strong enough to cover the county area. He notes that because the population of the area is so decentralized only a Class C station could provide effective service.

5. *Preclusion Study:* Preclusion would occur on Channels 237, 238, 239 and 240A as a result of the proposed assignment. Nine [3] communities of greater than 3,000 population, which have no FM assignments or AM stations, are located in the precluded area. A staff study shows that at least one or more channels are available for the precluded areas.

6. In this case, where a community has a population of 3,655, it would be the usual practice to assign a Class A channel. However, the petitioner requested a Class C channel. Such an exception has been made where the Class C proposal could bring a significant amount of first or second FM service or when a Class C channel represents the best means of serving a sparsely populated area. In his *Roanoke Rapids* study, petitioner shows that a first FM service could be provided to 16,908 persons in a 6,364 square kilometer (2,457 square miles) area and a second FM service to 4,700 people in a 1,303 square kilometer (503 square miles) area. No first or second nighttime aural service would be provided.

7. Comments are invited on the following proposal to amend the FM Table of Assignments with regard to the community of Haskell, Texas:

City	Channel No.	
	Present	Proposed
Haskell, Texas		238

8. The Commission's authority to institute rulemaking proceedings, showings required, cut-off procedures, and filing requirements are contained in the attached Appendix and are incorporated by reference herein.

Note.—A showing of continuing interest is required by paragraph 2 of the Appendix before a channel will be assigned.

9. Interested parties may file comments on or before July 16, 1979, and reply comments on or before August 6, 1979.

10. For further information concerning the proceeding, contact Mildred B. Nesterak, Broadcast Bureau, (202) 632-7792. However, members of the public should note that from the time a notice of proposed rule making is issued until the matter is no longer subject to Commission consideration or court review, all *ex parte* contacts are prohibited in Commission proceedings, such as this one, which involve channel assignments. An *ex parte* contact is a message (spoken or written) concerning the merits of a pending rulemaking other than comments officially filed at the Commission or oral presentation required by the Commission.

Federal Communications Commission.

Philip L. Verveer,

Chief, Broadcast Bureau.

Appendix

1. Pursuant to authority found in Sections 4(i), 5(d)(1), 303(g) and (r), and 307(b) of the Communications Act of 1934, as amended, and § 0.281(b)(6) of the Commission's rules, it is proposed to amend the FM Table of Assignments, § 73.202(b) of the Commission's rules and regulations, as set forth in the *Notice of Proposed Rule Making* to which this Appendix is attached.

2. *Showings required.* Comments are invited on the proposal(s) discussed in the Notice of Proposed Rule Making to which this Appendix is attached. Proponent(s) will be expected to answer whatever questions are presented in initial comments. The proponent of a proposed assignment is also expected to file comments even if it only resubmits or incorporates by reference its former pleadings. It should also restate its present intention to apply for the channel if it is assigned, and, if authorized, to build the station promptly. Failure to file may lead to denial of the request.

3. *Cut-off procedures.* The following procedures will govern the consideration of filings in this proceeding.

(a) Counterproposals advanced in this proceeding itself will be considered, if advanced in initial comments, so that parties may comment on them in reply comments. They will not be considered if advanced in reply comments. (See § 1.420(d) of Commission rules.)

(b) With respect to petitions for rule making which conflict with the proposal(s) in this Notice, they will be considered as comments in the proceeding, and Public Notice to this effect will be given as long as they are filed before the date for filing initial comments herein. If they are filed later than that, they will not be considered in connection with the decision in this docket.

4. *Comments and reply comments; service.* Pursuant to applicable procedures set out in §§ 1.415 and 1.420 of the Commission's Rules and Regulations, interested parties may file comments and reply comments on or before the dates set forth in the *Notice of Proposed Rule Making* to which this Appendix is attached. All submissions by parties to this proceeding or persons acting on behalf of such parties must be made in written comments, reply comments, or other appropriate pleadings. Comments shall be served on the petitioner by the person filing the comments. Reply comments shall be served on the person(s) who filed comments to which the reply is directed. Such comments and reply comments shall be accompanied by a certificate of service. (See § 1.420(a), (b) and (c) of the Commission rules.)

5. *Number of copies.* In accordance with the provisions of § 1.420 of the Commission's rules and regulations, an original and four copies of all comments, reply comments, pleadings, briefs, or other documents shall be furnished the Commission.

6. *Public inspecton of filings.* All filings made in this proceeding will be available for examination by interested parties during regular business hours in the Commission's Public Reference Room at its headquarters, 1919 M Street, NW., Washington, D.C.

[FR Doc. 79-16264 Filed 5-23-79; 8:45 am]

BILLING CODE 6712-01-M

[47 CFR Part 73]

[BC Docket No.79-121; RM-3284]

TV Broadcast Stations in McAlien and Brownsville, Tex.; Proposed Changes in Table of Assignments

AGENCY: Federal Communications Commission.

ACTION: Notice of Proposed Rule Making.

SUMMARY: This action proposes to exchange TV Channels 23 and 48, assigned to Brownsville and McAllen,

[1] Public Notice of the petition was given on September 5, 1978. Report No. 1138.

[2] Population figures are taken from the 1970 U.S. Census.

[3] *Oklohomo:* Hollis (pop. 3,150); *Texas:* Electra (3,895), Burkburnett (9,230), Iowa Park (5,798), Olney (5,624), Anson (3,779), Hamlin (3,325), Ranger (3,094) and Cisco (4,160).

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Texas, respectively. Petitioner, Tesoro Broadcasting Company, which has a construction permit to build a new station on Channel 48, McAllen, believes that it can give better service through using Channel 23.

DATES: Comments must be filed on or before July 16, 1979, and reply comments on or before August 6, 1979.

ADDRESSES: Federal Communications Commission, Washington, D.C. 20554.

FOR FURTHER INFORMATION CONTACT: Carol P. Foelak, Broadcast Bureau (202) 632-7792.

SUPPLEMENTARY INFORMATION:

Adopted: May 16, 1979.

Released: May 23, 1979.

In the matter of amendment of § 73.606(b), Table of Assignments, TV Broadcast Stations. (McAllen and Brownsville, Texas), BC Docket No. 79-121, RM-3284.

1. We have before us a petition [1] for rule making and modification of construction permit filed by Tesoro Broadcasting Company. It proposes exchanging UHF television Channels 23 and 48, assigned to Brownsville and McAllen, Texas, respectively, and requests that its construction permit for Channel 48 at McAllen be modified to specify Channel 23. The only comments were in the form of a letter filed April 26, 1979, by petitioner asking for expedited processing because it is a minority applicant.

2. McAllen (pop. 37,636; Hidalgo County, pop. 181,535) is located in southern Texas, approximately 85 kilometers (53 miles) west of Brownsville. Channel 48 (CP for Station KVEO-TV held by petitioner) is the only television channel currently assigned to McAllen. Brownsville (pop. 52,522), seat of Cameron County (pop. 140,368), is located at the extreme southern tip of Texas. Channel 23 is the only television channel currently assigned to Brownsville and it is unoccupied and unapplied for.

3. Petitioner's reason for requesting the change is its desire for the lowest possible channel. It notes that Channel 23, Brownsville, is currently unoccupied and not applied for and says that a Channel 23 transmitter could be located at its presently specified site without requiring waiver of mileage separations. In fact, it notes that the Commission had issued a construction permit for Channel 23, Brownsville, at this site in 1974 (although the station was never built). It says that from this site it will deliver a city grade signal to Brownsville as well as McAllen.[2] It views this as being important to the station's ability to serve this hyphenated market.

4. Ordinarily, assignments are not changed on the basis of the preference of the permittee for a lower channel. In this case, however, there are public interest benefits to be gained from this proposal. As matters now stand, the station has been granted a waiver for use of a short spaced site. The change in channels would end the need for a site at less than required spacing.

5. Another important consideration is the restriction that was placed on the noncommercial educational Channel *44, Harlingen, Texas, assignment by the granting of petitioner's construction permit on Channel 48. Under this restriction, Channel *44 cannot be situated near the center of the Brownsville-McAllen-Harlingen-Weslaco area. This apparently led the Texas Consumer Education and Communications Development Committee, Inc. to file an application for the noncommercial educational use of Channel 60 to serve Harlingen from petitioner's Channel 48 site even though Channel *44 is assigned to Harlingen, and reserved for noncommercial educational use. Construction of the Channel 60 station has been authorized by the Commission. The substitution would permit the educational station to seek the use of Channel 44, if it prefers, at a site now precluded by the Channel 48 authorization.

6. Petitioner has also requested that its construction permit be modified to specify Channel 23 at the same time that we assign Channel 23 to McAllen. We would take both actions at the same time, unless during this proceeding another party unequivocally states that it will file an application for a construction permit for Channel 23. *San Francisco and San Mateo, California*, FCC 77-837, released December 19, 1977. In that event, we would not be able to modify petitioner's construction permit, and it would have to compete with that other party for Channel 23.

7. Although there is not a significant technical difference between Channel 23 and Channel 48, in light of the possibility of eliminating a short-spacing which had required a waiver of our rules, and in the absence of a current expression of interest in the use of Channel 23 to serve Brownsville, we will propose to amend the TV Table of Assignments (§ 73.606(b) of the Rules) as follows:

City	Channel No.	
	Present	Proposed
Brownsville, Texas	23	48
McAllen, Texas	48	23

8. Mexican concurrence with the proposal will have to be obtained, since the communities are located within 320 kilometers (199 miles) of the Mexican border.

9. The Commission's authority to institute rule making proceedings, showings required, cut-off procedures, and filing requirements are contained in the attached Appendix and are incorporated by reference herein.

Note.—A showing of continuing interest is required by paragraph 2 of the Appendix before a channel will be assigned.

10. Interested parties may file comments on or before July 16, 1979, and reply comments must be filed on or before August 6, 1979.

11. For further information concerning this proceeding, contact Carol P. Foelak, Broadcast Bureau, (202) 632-7792. However, members of the public should note that from the time a Notice of Proposed Rule Making is issued until the matter is no longer subject to Commission or court review, all *ex parte* contacts are prohibited in Commission proceedings, such as this one, which involve channel assignments. An *ex parte* contact is a message (spoken or written) concerning the merits of a pending rule making other than comments officially filed at the Commission or oral presentation required by the Commission.

Federal Communications Commission.

Philip L. Verveer,

Chief, Broadcast Bureau.

Appendix

1. Pursuant to authority found in Sections 4(i), 5(d)(1), 303(g) and (r), and 307(b) of the Communications Act of 1934, as amended, and § 0.281(b)(6) of the Commission's Rules, it is proposed to amend the TV Table of Assignments, § 73.606 (b) of the Commission's rules and regulations, as set forth in the *Notice of Proposed Rule Making* to which this Appendix is attached.

2. *Showings required.* Comments are invited on the proposal(s) discussed in the Notice of Proposed Rule Making to which this Appendix is attached. Proponent(s) will be expected to answer whatever questions are presented in initial comments. The proponent of a proposed assignment is also expected to file comments even if it only resubmits or incorporates by reference its former pleadings. It should also restate its present intention to apply for the channel if it is assigned, and, if authorized, to build the station promptly. Failure to file may lead to denial of the request.

3. *Cut-off procedures.* The following procedures will govern the consideration of filings in this proceeding.

(a) Counterproposals advanced in this proceeding itself will be considered if advanced in initial comments, so that parties may comment on them in reply comments. They will not be considered if advanced in reply comments. (See § 1.420(d) of Commission rules.)

(b) With respect to petitions for rule making which conflict with the proposal(s) in ths Notice, they will be considered as comments in the proceeding, and Public Notice to this effect will be given as long as they are filed before the date for filing initial comments herein. If they are filed later than that, they will not be considered in connection with the decision in this docket.

4. *Comments and repy comments; service.* Pursuant to applicable procedures set out in § 1.415 and 1.420 of the Commission's rules and regulations, interested parties may file comments and reply comments on or before the dates set forth in the *Notice of Proposed Rule Making* to which this Appendix is attached. All submissions by parties to this proceeding or persons acting on behalf of such parties must be made in written comments, reply comments, or other appropriate pleadings. Comments shall be served on the petitioner by the person filing the comments. Reply comments shall be served on the person(s) who filed comments to which the reply is directed. Such comments and reply comments shall be accompanied by a certificate of service. (See § 1.420(a), (b) and (c) of the Commission rules.)

5. *Number of copies.* In accordance with the provisions of § 1.420 of the Commission's rules and regulations, an original and four copies of all comments, reply comments, pleadings, briefs, or other documents shall be furnished the Commission.

6. *Public inspection of filings.* All filings made in this proceeding will be available for examination by interested parties during regular business hours in the Commission's Public Reference Room at its headquarters, 1919 M Street, N.W., Washngton, D.C.

[FR Doc. 79-16206 Filed 5-23-79; 8:45 am]

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[1] Public Notice of the petition was given on January 3, 1979, Report No. 1157.

[2] This site meets the applicable spacing requirements which necessitate use of a site at least 27 km (17 miles) east of McAllen.

[47 CFR Part 76]

[CT Docket No. 79-116; FCC 79-293]

Adoption of a Short Form Renewal Application for Authorizations in the Cable Television Relay Service

AGENCY: Federal Communications Commission.

ACTION: Notice of Proposed Rulemaking.

SUMMARY: NPRM to adopt a short form renewal application for authorizations in the Cable Television Relay Service. This action is part of an effort to streamline Commission procedures and to eliminate unnecessary paper work for applicants.

DATES: (Comments must be received on or before June 25, 1979, and Reply Comments must be received on or before July 5, 1979.

ADDRESSES: Federal Communications Commission, Washington, D.C. 20554.

FOR FURTHER INFORMATION CONTACT: Stephen T. Yelverton, Chief, Microwave Branch, Cable Television Bureau, (202) 254-3420.

Adopted: May 10, 1979.

Released: May 17, 1979.

In the matter of adoption of a short form renewal application for authorizations in the Cable Television Relay Service, CT Docket No. 79-116.

1. Notice is hereby given of proposed rulemaking in the above-captioned matter.

2. Applicants seeking renewal of license authorizations in the Cable Television Relay Service are now required to file FCC Form 327 giving complete information on the microwave facility even if no engineering or legal changes have been made in the station operation since the last license filing. As a result of experience gained in processing CARS renewal applications in past years and in response to informal suggestions from various interested parties that the filing of a long form renewal application is an unnecessary burden where no changes have been made in the facilities since the last license application, we are initiating this rulemaking to consider adoption of a short form renewal application. Since we anticipate the filing of some 800 license renewal applications starting in 1980, of which many will indicate no engineering or legal changes, we believe that adoption of a short form renewal will save the Commission staff a significant amount of processing time and will ease the regulatory burden on the cable television industry and its subscribers. However, we note that where any engineering or legal changes have been made in a station operation, the long form renewal would still be required, but only to the extent necessary to indicate such changes.

3. A proposed short form renewal application encompassing the necessary information to be filed is appended to this Notice. We seek comment on the proposal for a short form and on the desirability of the form we have proposed, particularly in terms of clarity of the questions, instructions, format, and answering space. The forms requirement included herein is subject to General Accounting Office clearance.

4. Authority for the proposed rulemaking instituted herein is contained in Sections 4(i) and (j), 303(r) and 403 of the Communications Act of 1934, as amended.

5. All interested parties are invited to file written comments on the proposed short form renewal on or before June 25, 1979, and reply comments on or before July 5, 1979. In view of the time constraints within which the Commission is working, and because the information the proposed short form seeks is less than that now received, extensions of time are not contemplated. In reaching its decision, the Commission may take into consideration information and ideas not contained in the comments, provided that such information or a writing indicating the nature and source of such information is placed in the public file, and provided that the fact of the Commission's reliance on such information is noted in the Report and Order.

6. In accordance with the provisions of Section 1.419 of the Commission's Rules and Regulations, an original and five copies of all comments, replies, pleadings, briefs, or other documents filed in this proceeding shall be furnished to the Commission. Responses will be available for public inspection during regular business hours in the Commission's Docket Reference Room at its Headquarters in Washington, D.C.

Federal Communications Commission.

William J. Tricarico,

Secretary.

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"Proposed Form - Sample"

INSTRUCTIONS

TYPE OR NEATLY PRINT

1. This form may be used in applying for renewal of Cable Television Relay Station licensee ONLY when there have been NO engineering or legal changes in the information shown on the previously filed license application.

   CAUTION: FAILURE TO REPORT ENGINEERING OR LEGAL CHANGES IN THE STATION OPERATION, AS REQUIRED BY COMMISSION RULES, MAY RESULT IN THE IMPOSITION OF A MONETARY FORFEITURE OR ADMINISTRATIVE SANCTIONS.

2. In Item 2, insert the licensee's current mailing address.

3. This application shall be personally signed by the applicant if the applicant is an individual; by one of the partners, if the applicant is a partnership; by an officer, if the applicant is a corporation; by a member who is an officer, if the applicant is an unincorporated association; by such duly elected or appointed officials as may be competent to do so under the laws of the applicable juriedidction, if the applicant is an eligible government entity; or by the applicant's attorney in case of the applicant's physical disability or of his absence from the United States. The attorney shall, in the event he signs for the applicant separately set forth the reason why the application is not signed by the applicant. In addition, if any matter is stated on the basis of the attorney's belief only (rather than his knowledge), he shall separately set forth his reasons for believing that such statements are true.

4. Complete all applicable items in the three sections of this form (on the other side).

5. Mail to Federal Communications Commission, Washington, D. C. 20554.

6. A separate FCC Form must be filed for EACH station authorization being renewed.

7. If the application is received by the Commission before expiration of the license, the licensee may continue operations until notified by the Commission of action on his application. Upon expiration, he must post with the license a statement certifying that he has mailed or filed a renewal application, before expiration, specifying the date of mailing or filing.

8. Do not attach or enclose current license with this form.

9. COMPLETE MAILING ADDRESS ON CARD BELOW.

FEDERAL COMMUNICATIONS COMMISSION
WASHINGTON, D. C. 20554

OFFICIAL BUSINESS

POSTAGE AND FEES PAID
FEDERAL COMMUNICATIONS COMMISSION

[redacted]

[redacted] Date _____ ZIP Code ____

"Proposed Form - Sample"

United States of America
Federal Communications Commission
APPLICATION FOR RENEWAL OF CABLE TELEVISION RELAY SERVICE LICENSE (SHORT FORM)

(USE ONLY IN ACCORDANCE WITH INSTRUCTIONS ON REVERSE SIDE)

1. Name of licensee

2. Mailing address (number, street, city, state and ZIP Code)

3. Station location and coordinates:

N Lat. ° ' " W. Long. ° ' "

4. (a) Call Sign:

   (b) Microwave Group & Channels:

   (c) Transmitter Mfr(s) and Type Number(s):

   (d) Antenna Input Power(s): dbw

   (e) Number of Receive Sites:

5. This form may be used ONLY when there have been NO engineering or legal changes in the license application previously filed. If changes are to be made, or unreported changes have been made, FCC Form 327 MUST be used.

6. Applicant waives any claim to the use of any particular frequency or of the ether as against the regulatory power of the United States because of the previous use of the same, whether by license or otherwise, and requests renewal of station license in accordance with this application.

The statements in this application are true, complete, and correct to the best of my knowledge and belief and are made in good faith.

Signature _____
(See Instruction 3)

Title _____

Date _____

WILLFUL FALSE STATEMENTS MADE ON THIS FORM ARE PUNISHABLE BY FINE AND IMPRISONMENT. U.S. CODE, TITLE 18, SECTION 1001.

FCC Form

NOTICE OF RENEWAL OF CABLE TELEVISION RELAY SERVICE LICENSE
FCC RECORD COPY - FIELD

1. Name of licensee

2. Mailing address (Number, Street, City, State, and ZIP Code)

3. Station location and coordinates:

4. Call Sign:

THIS SPACE FOR COMMISSION USE ONLY

The license for the reference radio station has been renewed on the same conditions and in accordance with the same provisions for the term ending:

Date Granted _____

FCC Form

United States of America
Federal Communications Commission
CERTIFICATE OF RENEWAL OF CABLE TELEVISION RELAY SERVICE LICENSE

NOT VALID UNLESS POSTED WITH LICENSE

1. Name of licensee

2. Mailing address (Number, Street, City, State, and ZIP Code)

3. Station location and coordinates:

4. Call Sign:

THIS SPACE FOR COMMISSION USE ONLY

This authorization shall not vest in the licensee any right to operate the station nor any right in the use of the frequencies designated in the license beyond the term hereof, nor in any other manner than authorized therein. Neither the license nor the right granted hereto shall be assigned or otherwise transferred in violation of the Communications Act of 1934, as amended. This authorization is subject to the right of use or control by the Government of the United States conferred by Section 606 of the Communications Act of 1934, as amended.

This certificate, when properly authenticated, serves as a renewal of the reference radio station license on the same conditions and in accordance with the same provisions for the term ending:

Federal Communications Commission

Date: _____ Secretary

[FR Doc. 79-16260 Filed 5-23-79; 8:45 am]
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[47 CFR Part 83]

[PR Docket No. 79-101; FCC 79-260]

Availability of Certain Compulsory Radio Equipment to the Operator of the Vessel's Steering Station In Use, and Operator be a Qualified Radio Operator; Requirement

AGENCY: Federal Communications Commission.

ACTION: Proposed Rule Making.

SUMMARY: Amendment of Part 83 of the Commission's rules to require the availability of compulsory radiotelephone equipment to a qualified radio operator at the vessel's steering station in use. This action is being taken at the request of the National Transportation Safety Board following upon several marine disasters. It is hoped this action will reduce the likelihood of a repetition of these kinds of disasters.

DATES: Comments must be received on or before June 18, 1979 and Reply Comments must be received on or before June 28, 1979.

ADDRESSES: Federal Communications Commission, Washington, D.C. 20554

FOR FURTHER INFORMATION CONTACT: Irvin Hurwitz, Private Radio Bureau, (202) 632-7175.

SUPPLEMENTARY INFORMATION:

In the matter of amendment of Part 83 of the rules to require the availability of certain compulsory radio equipment to the operator of the vessel's steering station in use, PR Docket No. 79-101.
Adopted: May 2, 1979.
Released: May 18, 1979.

1. This action proposes to amend the Commission's rules so as to ensure at all times the availability—to a radio operator at the vessel's steering station actually in use,—of the radiotelephone installation presently required on boats subject to Title III Part III of the Communications Act of 1934, as amended.

Background

2. Following in the wake of each of two marine disasters each resulting in many fatalities (those involving the charter fishing boats PEARL–C and DIXIE LEE II), the National Transportation Safety Board (NTSB) called on the FCC to amend its rules in certain particulars. Commission rules presently require most boats of this nature, carrying more than six pasengers for hire, to have installed aboard a type-approved radiotelephone capability. The NTSB is in the present case concerned about vessels where the radiotelephone installation is located at the lower control station but the vessel is in fact operated from the flying bridge. They write (page 16 of the Marine Accident Report on the Dixie Lee II):

> The Safety Board believes that the DIXIE LEE II and PEARL–C accidents show that this type of installation is not sufficient for its intended distress and safety purpose * * *

3. Accordingly, the NTSB recommends (Page 21 of the Report).

> Because of this accident has again shown the importance to vessel safety of having a radiotelephone near the operator when he is navigating the vessel, the Safety Board reiterates this recommendation made to the Federal Communications Commission on October 26, 1977:
>
> "Require the installation of each operator steering station on charter boats of a radiotelephone or an extension speaker and microphone with adequate control of the transceiver to insure reliable communications. (Class II, Priority Followup (M–77–31))"

4. The Commission appreciates the force of this recommendation and is consequently proposing in the present action that Part 83 of the regulations be changed to accomplish this purpose.

5. Furthermore, the NTSB is critical of the Commission's rule that permits the radio watch to be maintained by any crew member appointed by the captain. They write (page 16 of the report):

> * * * the designation of a deckhand to monitor the radiotelephone on a charter fishing boat is not adequate assurance that an efficient listening watch will be maintained.

Implicit in the above-quoted recommendation (that we "require the installation at each operator steering station on charter boats of a radiotelephone or an extension speaker and microphone with adequate control of the transceiver to insure reliable communications"), is the precondition that the FCC require the operator, i.e. the person at the "operator steering station," to stand the required radio watch; the Commission is therefore proposing that there be deleted from § 83.202(c) of the rules the present authority of the master to designate any crew member to stand the watch. In view of the NTSB assertion that such designation would not be "adequate assurance that an efficient listening watch will be maintained," it is here being proposed that the radio operator as required by § 83.155(e) of the Commission's rules maintain the watch at the steering station in use by the vessel. In lieu of the watch being maintained by the radio operator another designated member of the crew may maintain the watch provided that the radio operator has instructed this other crew member in the proper radio operation and voice procedure. Section 83.155(e) spells out that the radio operator in this situation must be in possession of a radiotelephone 3rd class or higher class of license for vessels installed with radiotelephone transmitters of 250 watts or less carrier power (1500 watts peak envelope power), and radiotelephone 2nd class or higher for vessels with higher powered stations.

6. The proposed amendments to the rules as set forth in the Appendix are issued pursuant to the authority contained in Sections 4(i), 303(b), (1) and (r) and 384 of the Communications Act of 1934, as amended.

7. Pursuant to applicable procedures set forth in § 1.415 of the Commission's rules, interested persons may file comments on or before June 18, 1979, and reply comments on or before June 28, 1979. All relevant and timely comments and reply comments will be considered by the Commission before final action is taken in this proceeding. In reaching its decision, the Commission may take into consideration information and ideas not contained in the comments, provided that such information or a writing indicating the nature and source of such information is placed in the public file, and provided that the fact of the Commission's reliance on such information is noted in the Report and Order.

8. In accordance with the provisions of Section 1.419 of the Commission's rules, an original and 5 copies of all statements, briefs or comments filed shall be furnished to the Commission. Responses will be available for public inspection during regular business hours in the Commission's Public Reference Room at its headquarters in Washington, D.C.

9. Regarding questions on matters covered in this document contact Irvin Hurwitz, Telephone (202) 632-7175.

Federal Communications Commission.
William J. Tricarico,
Secretary.

Appendix

Part 83 of Chapter I of Title 47 of the Code of Federal Regulations is amended to read as follows:

1. In § 83.202, paragraph (c) is amended to read as follows:

§ 83.202 Watch required on vessels subject to the Communications Act.

* * * * * *

(c) Each vessel of the United States transporting more than six passengers for hire, which is equipped with a radiotelephone installation for compliance with part III of title III of the Communications Act shall, while being navigated in the open sea or any tidewater within the jurisdiction of the United States adjacent or continguous to the open sea, keep a continuous and efficient watch on 2182 kHz in the case of an installation operating in the 1605–3500 kHz band, or on 156.8 MHz in the case of an installation operating in the 156–174 MHz band, whenever such installation is not being used for authorized traffic. Such watch shall be maintained at the vessel's steering station actually in use by the qualified operator as defined by § 83.115(e), or by a designated member of the crew who has been instructed in radio operation and voice procedure by the radio operator. The crew member so designated may simultaneously perform other duties relating to the operation or navigation of the vessel, provided such other duties do no interfere with the effectiveness of the watch.

2. In § 83.514, paragraph (d) is amended to read as follows:

§ 83.514 Radiotelephone installation.

* * * * *

(d) The radiotelephone installation or a remote unit with all controls necessary to ensure reliable communications shall be located at each operator steering station aboard the vessel. Additionally, for vessels of more that 100 gross tons, the radiotelephone installation and all necessary controls shall be located at the level of the main wheelhouse or at least one deck above the vessel's main deck.

[FR Doc. 79-16261 Filed 5-23-79; 8:45 am]
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[47 CFR Part 90]

[PR Docket No. 79-107; FCC 79-283]

Multiple Licensing of Land Mobile Radio Systems ("Community Repeaters") in the Bands 806–812 and 851–866 MHz; Inquiry

AGENCY: Federal Communications Commission.

ACTION: Notice of Inquiry.

SUMMARY: The FCC initiates a Notice of Inquiry exploring the implications of community repeater licensing in the 800 MHz frequency band. The major aspects of the proceeding and how this form of licensing affects the cost to the public; how spectrum efficient is the form of licensing; are consumers satisfied with community repeaters—and would they like alternatives; can the Commission efficiently and fairly administer licensing community repeaters at 800 MHz and effectively enforce its rules.

DATES: Comments must be received on or before August 21, 1979, and Reply Comments must be received on or before October 5, 1979.

ADDRESSES: Federal Communications Commission, Washington, D.C. 20554.

FOR FURTHER INFORMATION CONTACT: Lewis H. Goldman, Rules Division, Private Radio Bureau, (202) 632-6497.

Adopted: May 3, 1979.

Released: May 16, 1979.

In the matter of an inquiry concerning the multiple licensing of land mobile radio systems ("community repeaters") in the bands 806–812 and 851–866 MHz, PR Docket No. 79–107.

1. The Commission is exploring the policy implications of community repeater licensing in the 800 MHz frequency band. This Notice of Inquiry discusses the major policy implications of community repeaters and is a request to the public for comments on these and any other aspects of this issue. Notice of Inquiry into the above-captioned matter is therefore given.

2. The principal motivation for initiating an inquiry into community repeaters at 800 MHz is our desire to gain a better understanding of the relationship of multiple licensing practices and the major objectives of the Commission's regulatory plan for the private services at 800 MHz. It has been suggested that multiple licensing is not consistent with that regulatory plan. It is still very early in the development of the 800 MHz band, and the time now is right to investigate this claim and clarify the community repeater issue. If the public interest requires specific action to eliminate or curtail the practice, that would be the subject of the next phase of this proceeding.

3. Any member of the public may file written comments in this proceeding. The Commission needs to know what the public thinks and will consider all such comments before taking any further action.

Background and Definitions

4. A "community repeater" is a multiple-licensed base station in the Private Land Mobile Radio Services which functions as a mobile relay. It permits low power mobile units to communicate with one another over a wide area by picking up a signal from one and retransmitting ("repeating") it to another. Because a mobile relay must be located on a high site to be effective in extending communications range, and because such sites are rare, mobile relays are expensive. A practice of sharing facilities among several users has grown up; a community repeater is nothing more than one of these shared mobile relay facilities.

5. Generally, the users who share a mobile relay facility have been brought together by a third party who operates the community repeater on a profit making basis. Often the third party is the vendor of land mobile equipment (such as Motorola) or a manufacturer's representative who is licensed by one or more vendors (such as GE or RCA) to sell their land mobile equipment. The FCC does not regulate any aspect of this third party's activity, including its charges for sharing equipment. The third party (community repeater operator) is not licensed by the FCC.

6. Community repeaters are licensed individually to the users who share them, thus the same piece of equipment generally will be licensed to a number of different entities. This is called "multiple licensing" and has been a widespread practice in the land mobile services since the 1960's. There are many thousands of community repeaters licensed on frequency pairs in the 450 MHz and 470–512 MHz frequency bands. This Notice does not directly involve any aspect of community repeaters in those bands, however, and is limited to community repeaters at 800 MHz.[1]

7. Docket No. 18262 was an extensive allocation proceeding that consumed close to ten years from the mid-1960's to the mid-1970's, in which the Commission gave substantial new spectrum to land mobile. Among other things, the Commission provided 30 MHz (the equivalent of 600 voice-grade channel pairs) for private dispatch, the predominant mode of operation in the private services. The spectrum was divided in half: 300 channels temporarily reserved and the other 300 channels split into two groups. Of the latter group, 100 channels were made available immediately for conventional land mobile systems, and the remaining 200 channels are for trunked land mobile systems.[2] Trunked systems are required to use from 5 to 20 channels, with a central computer to switch automatically from one channel to the next in search of a free channel. Our attention in this Notice is focused on the

[1] The Commission explored a number of issues related to community repeaters in Docket No. 18921 (24 FCC 2nd 510). Some issues in that proceeding remain to be resolved. We plan to take them up in the near future.

[2] Subsequently, an additional 50 channels were made available from the temporary reserve for conventional use.

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channels presently allocated at 800 MHz for conventional land mobile use.

Summary of Major Issues

8. The format of this notice will be to present a concise statement of each major issue, followed by a series of questions. Although our principal need is for answers to those specific questions, the format is not intended to discourage public discussion of any other relevant factors. We welcome comments on all aspects of this issue.

9. There are four topical headings under which we explore the dimensions of the community repeater issue. Those four are:

(a) *Economic.* How does the community repeater affect the cost of radio communications equipment to the public?

(b) *Spectrum Efficiency.* Does the community repeater make efficient use of the spectrum?

(c) *User Satisfaction.* Are the consumers of land mobile (broadly, the licensees, the vendors, the users) satisfied with community repeaters, and what would their satisfaction be with alternative arrangements?

(d) *Administrative/Enforcement.* Can the FCC efficiently and fairly administer community repeater licensing at 800 MHz and can it effectively enforce its rules?

Economic/Industry Structure

10. The principal objective of this inquiry is to collect information on whether the availability of community repeater licensing at 800 MHz serves to limit competition in the land mobile market, resulting in unnecessarily high prices for equipment. It is a fact that community repeaters permit the vendor or supplier of radio equipment to exercise substantial control over the delivery of communications service. One vendor, Motorola, sells equipment and operates community repeaters directly. They therefore establish the price for mobile and control equipment, for access to the repeater and its antenna, and generally, for the maintenance of equipment. Normally, the other vendors sell equipment through manufacturer's representatives and dealers, who, in turn, operate community repeaters and, generally, provide for maintenance of equipment.

11. The existence of the community repeater licensing option fosters this degree of control. If the option were not available, it is likely that the vendors would have to give up a degree of control to a third party. The Commission has no direct evidence that the involvement of the vendors in community repeaters has actually resulted in unnecessarily high prices to the public. In view of the possibility that this could occur, we are interested in comments on any aspect of the matter. It may also be that vertical integration results in the lowest cost to the public because it permits an efficient distribution of equipment.

12. (a) What impact, if any, does the current practice of multiple licensing at 800 MHz have on barriers to entry into the manufacture of mobile radio equipment? Into the retailing and servicing of mobile radio systems?

(b) Do any of the Commission's rules or procedures raise barriers to entry into the manufacture of mobile radio equipment? Into the retailing and servicing of mobile radio systems? For instance, do any of our rules or practices require excessive specialization in radio system design or hinder unnecessarily the standardization of radio systems at 800 MHz?

(c) What effect(s), if any, does the current practice of multiple licensing at 800 MHz have upon the price and quality of conventional mobile radio systems at 800 MHz? On the costs of providing conventional mobile radio systems at 800 MHz?

(d) Given the Commission's restrictions on the number of 800 MHz SMR channels that can be licensed in any given market to any one entity, would replacing multiple licensing with third-party SMR licensing affect the costs of providing conventional mobile radio systems at 800 MHz?

(e) What effect(s), if any, does the Commission policy restricting radio equipment manufacturers to operating at most one trunked system at 800 MHz have on the price and quality of trunked mobile radio systems at 800 MHz? On the costs of providing these systems?

(f) What would be the impact of eliminating community repeaters on other communications services (i.e., the service provided by the RCC's cellular radio systems, the personal radio services, others)?

(g) Do equipment vendors limit competition by restricting access to desirable antenna sites through exclusive rental agreements?

(h) Can the mobile equipment of each major vendor be used interchangeably on any community repeater? If not, should there be a rule requiring it?

(i) How does the cost of non-shared repeater systems for individual use compare with the typical community (shared) repeater systems.

Spectrum Efficiency

13. Substantial controversy revolves around the question whether community repeaters are efficient users of the spectrum. The main reason for arguing that they are inefficient is that the users who are attracted to a community repeater generally do not need the extensive service area that they given. The users come from different different part of the city, in a typical case, and may have businesses that differ substantially in the area they serve. Because of the central location of a typical repeater, however, each user will get exactly the same coverage area. The entrepreneur who constructs the facility must attract as many potential users as he/she can, so there is a strong incentive to cover as large an area as possible. The result is that the typical repeater has a relatively high antenna with something close to the highest power levels that the rules permit.

14. Ever since the Commission first began licensing conventional systems at 800 MHz three years ago, it has been apparent that community repeaters are at least as popular at 800 MHz as they were in the 450 MHz and 470–512 MHz bands. In the major urban areas, 55% of the applications we have received have been for these shared facilities. One aspect of the spectrum efficiency argument is that these uers are operating at greater heights, and with considerably more power, than their individual requirements would warrant. The Commission is interested in comments on whether the availability of this kind of licensing is caused users to waste spectrum by buying more coverage area than they need.

15. The spectrum efficiency issue is complicated by the effects of the Commission's mobile loading and co-channel re-use rules. The mobile loading rule limits the number of mobile units that will be assigned on each frequency within each area. Unlike the practice in most other land mobile bands, sharing of frequencies is quite limited because of this rule. In conjunction with the mobile loading limit, there is a channel re-use rule which prevents the assignment of a channel within interference range (about 70 miles) of existing systems. The effect of these two rules is to limit the number of times a frequency can be assigned within each urban area. In light of that, it may not make the difference, in terms of spectrum efficiency, whether all of the users share the frequency at one site (i.e., community repeater) or they each use the frequency at a specific location for a particular service area. The same total number of mobile units normally will be served by each frequency under either configuration.

16. A recent study by the Commission's staff seems to point in the same direction, even in the bands where mobile loading and channel re-use rules are either non-existent or significantly different. A search of our data files established that a frequency serves roughly the same number of mobile units whether it is assigned to a centrally located, shared facility, or is used by several different, independent systems. It may also be that channel discipline on a community repeater is better because everyone is using the same transmitter, rather than having multiple transmitteers all operating on the same frequency within one area.

17. The following inquiries are suggested by these factors:

(a) Does the typical user of a mobile relay facility at 800 MHz have more communications range than he realistically needs?

(b) If community repeaters or similar arrangements were not permitted at 800 MHz, would the typical user construct a station with a significantly lower antenna and with significantly less transmitter power?

(c) If there were no mobile loading and channel re-use rules, and if community repeaters at 800 MHz were not permitted, would the same amount of spectrum permit more intensive, more beneficial channel sharing?

(d) If there were no upper limit on the number of mobiles that could be assigned, would greater spectrum efficiency be achieved without community repeaters?

(e) Do our rules and assignment practices act as barriers to efficient spectrum use?

(f) Are there advantages in spectrum efficiency to the community repeater at 800 MHz? Are there disadvantages in spectrum efficiency to the community repeater at 800 MHz?

(g) If the users of spectrum were required to pay a fee for the amount of spectrum used, would this eliminate the potential of spectrum inefficiency in community repeaters?

(h) Is there any difference in the spectrum efficiency of community repeaters compared to that of a conventional SMR?

User Satisfaction

18. The ultimate user of land mobile, of course,is the licensee who operates the radios. The difficulty in evaluating this user's satisfaction with the community repeater is that the typical user knows very little about the FCC's licensing practices. The users' concern normally is with the operation of the system, and they rely principally on the equipment vendor to handle licensing details. We therefore have to be cautious in inferring user satisfaction from the popularity or lack of popularity of a given licensing scheme. More often than not, it is like vendor which chooses the licensing technique to follow, not the user. So when we talk about user satisfaction, we have to keep in mind the interests of both the license and the vendor.

19. Nevertheless, we do know that the market place currently is free to choose between three licensing techniques at 800 MHz for conventional private systems. These are individual systems, community repeaters, and the specialized mobile radio (the SMR). The SMR is a licensing category which permits an entrepreneur to license a mobile relay facility in its own name, and to offer repeater facilities for a fee to entities eleigible in the private land mobile radio services. Over the past three years at 800 MHz, 20% of users have met their requirements with private systems, 20% with SMR systems, and 60% with community repeaters. We are not certain why the community repeater is much more widely selected than the SMR, but several possible explanations have been developed.

20. The rules limit the number of conventional frequencies that an SMR may operate in any one market. That limit is five; if a system must expand beyond five, there is a requirement to trunk. Therefore, it has been argued that the vendors prefer the community repeater approach, since there is no limit on the number of such systems that the vendor can sponsor in each market. It is also possible that the vendors prefer to operate without being a licensee of the Commission (the SMR concept requires vendor licensing), or prefer to continue doing business at 800 MHz in ways that have been very successful at 450 MHz and 470 MHz.

21. A key issue is whether the SMR offers the potential of providing user satisfaction which is greater than or equal to the satisfaction with community repeaters. The freedom of choosing between the two has resulted, to date, in a clear preference for community repeaters. The Commission needs to have as much information as possible on whether this preference is for the reasons given and, if so, what the effects would be of eliminating the community repeater option.

22. The Commission's stated intention in Docket No. 18262 was to provide for the most efficient use of spectrum by the land mobile services. It also wanted to reduce the possibility of lengthy legal controversies between rival claimants for spectrum, and it emphasized the advantage of making spectrum available quickly and easily. The apparent success of this philosophy has been revealed by the heavy demand for 800 MHz, particularly in Chicago, New York, and Los Angeles. We need as much information as possible about the role of the community repeater in providing the user satisfaction which has been responsible for this growth. We need to know whether user acceptance would be curtailed if the SMR were the primary option for the small user with a need to share equipment in order to reduce costs.

23. These factors prompt the Commission to pose the following questions:

(a) Does the ultimate user of land mobile frequencies at 800 MHz, the licensee, receive the same satisfaction with the SMR as with the community repeater?

(b) If not, which is greater?

(c) If there is a difference, are there specific rule changes that would change the situation? Should these changes be made? Why or why not?

(d) Does the land mobile equipment vendor achieve benefits with community repeater licensing that are not available with the SMR? If so, are there changes in the rules which would permit the SMR to produce equivalent benefits? Should these changes be made? Why or why not?

(e) If the number of licensed mobile units is the same, does a community repeater channel offer the user more or less satisfaction than if the channel were shared by individual systems?

(f) Are the Commission's present rules regarding the SMR and the community repeater adequate to provide an unbiased market place choice between the two? If not, what rule changes would eliminate the difference? Should these changes be made, or do the differences result in measurable benefits?

Administrative/Enforcement

24. The Commission's rules at 800 MHz are designed to ensure that frequencies are used and not stock piled. Two rules are of particular interest. The first is sequential assignment, which provides, in effect, that frequencies are assigned in sequence in each area, and in the order in which applications are received. The first applicant gets frequency number one, the second gets frequency number two, and so on. The second rule provides for vertical loading, which

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means that licensees are stacked on a frequency until it is loaded with a prescribed number of mobile units. If frequency number one is not fully loaded, as an example, then the next applicant in the processing line is assigned the same frequency, if it can accommodate the requested number of mobiles. These rules operate to insure that frequencies are assigned in an orderly way and that full utilization of a channel is accomplished before the next vacant channel is assigned.

25. Section 90.369(c) of the Rules states that the Commission will consider whatever factors it deems appropriate when making frequency assignments, to ensure that the channels are being used ifficiently and effectively. This principle applies to the selection of frequencies for users proposing a community repeater mode of operation. Obviously, the same frequency must be assigned to each proposed user, or the system will not work. Applications for each user are not filed simultaneously; and, therefore, they are not reached for processing simultaneously. We do not ignore this fundamental aspect of the marketplace when we make assignments. We read § 90.369(c) to provide ample discretionary power to group users on a common frequency, if a request to do so is made and if doing so would result in no hardship to any other applicant. It is true, however, that the relatively large number of applications we recieve for community repeaters imposes a significant burden on our processing staff to identify the applications which all relate to a single site.

26. There are circumstances in which proposed shared facilities do not fully materialize. In these instances, the staff is required to assign the same frequency to other users. This has been our practice from the outset. It has also been our practice in those cities where conventional frequencies have begun to run out, to give consideration to applications strictly on the basis of first-in, first-served. This has resulted sometimes in a hardship on proposed community repeaters, but we feel that the more important interest in that case is the right of applicants to be given consideration in turn.

27. These factors prompt us to solicit comments on the administrative effect of community repeater licensing and, in general, on the operation of our sequential assignment and vertical loading rules.

28. The Commission's efforts to insure that the 800 MHz frequencies would be fully occupied resulted in a rule which requires each applicant to certify that it has reached its required mobile loading level within eight months from the time the license was granted. To date, this rule has presented our most difficult enforcement problem. There is a natural incentive on the part of each community repeater entrepreneur to load a channel quickly, so that the frequency is not made available to anyone else. This, in turn, may cause the entrepreneur to encourage each user to request in his application the highest possible number of units. Since there is no disincentive to this practice, we license a significant number of systems (approximately 35%) with more mobile units than they will realistically acquire. At the end of eight months, we then have to take action to reduce the number to what is actually on hand.

29. Although this phenomenon of overstating mobiles is not limited to community repeaters, it does highlight a disadvantage in this licensing technique. Since the entrepreneur has no legal status with the Commission, and is not a licensee, we have a difficult time enforcing this rule against it. In general, the community repeater form of licensing removes us from the entrepreneur who is the real decision maker behind a system. We are hampered in our efforts to optimize the use of each frequency by the fact that we do not have any licensing power over the principal actor.

DEPARTMENT OF TRANSPORTATION

National Highway Traffic Safety Administration

[49 CFR Part 571]

[Docket No. 7119; Notice 8]

Federal Motor Vehicle Safety Standards; Rims for Motor Vehicles Other Than Passenger Cars

AGENCY: National Highway Traffic Safety Administration (NHTSA), Department of Transportation.

ACTION: Correction.

SUMMARY: In the **Federal Register** of March 5, 1979 (44 FR 12072), this agency published an advance notice of proposed rulemaking, which announced that this agency was considering requiring certain performance levels to be met by multipiece rims for motor vehicles other than passenger cars. A statement in the notice stated the agency's belief that two particular types of multipiece truck rims, the RH5° and the K-type, continue to be produced. Subsequent information indicates that the agency's belief was incorrect. Accordingly, this notice corrects the agency's apparently incorrect statement about continued production of those rims.

FOR FURTHER INFORMATION CONTACT: Frederick Koch, Office of Vehicle Safety Standards, National Highway Traffic Safety Administration, 400 Seventh Street, S.W., Washington, D.C. 20590 (202–426–2800).

SUPPLEMENTARY INFORMATION: The NHTSA issued an advance notice of proposed rulemaking (44 FR 12072, March 5, 1979) in which it announced that it was contemplating establishing certain performance requirements for multipiece rims used on trucks and other vehicles other than passenger cars. That notice referred to two previous defect investigations of particular types of multipiece rims, and indicated that those investigations had been closed after some recommended actions were taken. The notice then stated:

> Since those cases were closed, information has come to the attention of the agency which indicates that the steps taken by NHTSA before closing the cases have not had the desired effectiveness in reducing the risks of serious injury and death from the explosive separations of multipiece rims. There are indications that RH5° and K-type rims continue to be produced, although in smaller numbers.

When this statement about continued production of certain rims was published, NHTSA believed that these two particular types of rims were being made available in the United States by importing them from foreign producers, and by reworking and recovering used rim parts and then reselling the rims. Goodyear contacted NHTSA and stated that it was the sole producer of K-type rims, and that it has not produced these rims since 1968 and that its inventory supplies of these rims were sold out in 1972. According to Goodyear, distribution and sales of these rims was ended completely by May 1973.

This agency has no information which indicates that Goodyear's claims regarding the K-type rims are inaccurate.

(Secs. 103 and 119, Pub. L. 89–563, 80 Stat. 718 (15 U.S.C. 1392 and 1407); delegations of authority at 49 CFR 1.50 and 49 CFR 501.8.)

Issued on May 17, 1979.

Michael M. Finkelstein,

Associate Administrator for Rulemaking.

[FR Doc. 79–16129 Filed 5–23–79; 8:45 am]

BILLING CODE 4910–59–M

[49 CFR Part 575]

[Docket No. 25; Notice 32]

Consumer Information Regulations; Uniform Tire Quality Grading

AGENCY: National Highway Traffic Safety Administration (NHTSA).

ACTION: Notice of proposed rulemaking.

SUMMARY: This notice proposes amendment of the Uniform Tire Quality Grading (UTQG) Standards to permit flexibility in the design of tread labels used to convey tire grading information to consumers. This modification is proposed in response to a petition for rulemaking submitted by Armstrong Rubber Company and is intended to aid consumers and tire manufacturers by assuring that tires are labeled with the correct UTQG grades.

DATES: Comments must be received on or before June 20, 1979. Proposed effective date: April 1, 1980.

ADDRESSES: Comments should refer to the docket number and be submitted to: Room 5108, Nassif Building, 400 Seventh Street, SW., Washington, D.C. 20590.

FOR FURTHER INFORMATION CONTACT: Dr. F. Cecil Brenner, Office of Automotive Ratings, National Highway Traffic Safety Administration, 400 Seventh Street, SW., Washington, D.C. 20590, 202–426–1740.

SUPPLEMENTARY INFORMATION: The UTQG Standards (49 CFR 575.104) assist consumers in making an informed choice in the purchase of passenger car tires by making available comparative information on three tire performance characteristics—treadwear, traction and temperature resistance. This information is conveyed to consumers through a variety of means including the use of a label attached to the tire tread surface indicating grades in each of the three performance areas and containing an explanation of the grades (49 CFR 575.104(d)(1)(i)(B)). The required text and format of the label are illustrated in Figure 2 of the regulation.

Paragraph (d)(1)(i)(B) of section 575.104 provides that the treadwear grade applicable to a particular tire must be imprinted or indelibly stamped on the tread label adjacent to the description of the treadwear grade. The applicable traction and temperature grades must be indelibly circled in a display of all possible grades that appear in the label's text.

In October 1978, the Armstrong Rubber Company requested that NHTSA interpret or amend the UTQG regulation to permit use of an alternative labeling format in which treadwear, traction, and temperature grades applicable to a particular tire would be printed on a label containing tire identification information, such as brand name, type, and size. The explanation of the grading system, as stated in Figure 2 of the rule, would be provided on a separate tread label. Atlas Supply Company also sought agency approval of a two-part UTQG label.

NHTSA treated Armstrong's request as a petition for rulemaking and published a notice seeking comment on the Armstrong and Atlas proposals (44 FR 1814; January 8, 1979). Based on comments received in response to that notice, NHTSA grants in part the Armstrong petition and proposes modification of the UTQG regulation to permit use of a two-part tread label. To the extent Armstrong's petition is not granted by this notice, the petition is denied.

Commenters on the Armstrong petition agreed that the possibility of mislabeling UTQG grades is reduced by printing grades on the same label with tire identification information. As stated in NHTSA's January 8, 1979 notice (44 FR 1814), the UTQG regulation now permits inclusion of tire grades and explanatory material on the same label with tire identification information. However, the tire grades must appear on the same label as the explanatory material.

Some commenters indicated difficulty in placing tire identification information, UTQG grades and explanatory material on a single label, citing problems with label application and retention to the tire tread. All commenters agreed that permitting use of two-part tread labels would assist manufacturers in supplying accurate grading information to consumers.

Commenters also agreed that flexibility in tread labeling is advantageous, since it would allow manufacturers with differing production, labeling and warehousing systems to choose the type of label which best fits their operations. The Goodyear Tire & Rubber Company expressed the opinion that increased flexibility in format would improve retention to the tire tread and minimize costs to manufacturers and consumers. The Rubber Manufacturers Association and Cooper Tire & Rubber Company noted that existing differences in tire identification labels have not caused problems in communicating tire information.

To assist in assuring that tires are labeled with their correct UTQG grades, NHTSA proposes to amend Part 575.104(d)(1)(i)(B) by the adoption of a revised format for tire tread labels. The proposed new format would provide for listing applicable UTQG grades as the first part of a two-part label (Figure 2, Part 1) followed by the general explanation of the grading system (Figure 2, Part 2). Under this proposal, if a manufacturer wishes to include the applicable UTQG grades (Part 1) on a tire identification label which does not include the general explanatory information (Part 2), he may do so, provided the text of the explanation appears within a specified distance from the specific grades.

The proposals originally submitted by Armstrong and Atlas recommended that no more than one-quarter or one-half inch separation be allowed between the components of a two-part label. However, in later comments Armstrong and Atlas, joined by other industry sources, argued that such a limitation would be too restrictive in view of the imprecise nature of high volume, hand application of labels. Most commenters favored a requirement that the two labels be in "close proximity" to one another. Atlas suggested that requiring both labels to be simultaneously visible would be sufficient. Armstrong stated that if a maximum distance were specified, one or two inches would be appropriate.

NHTSA has tentatively concluded that use of a subjective phrase such as "close proximity" would be ambiguous and would not provide sufficient guidance to manufacturers. Therefore, the agency proposes that the UTQG explanatory information appear not more than one inch away from the specific grades.

Atlas recommended that two-part labels contain a statement on the label containing the tire grades, referring the reader to the general explanatory label. NHTSA believes that such a statement would not only call attention to the important explanatory information, but would inform the reader of its existence in the event the explanatory label became detached from the tire. Therefore, NHTSA proposes inclusion of such a statement when a two-part label is employed.

Cooper stressed the importance of presenting UTQG grading information in a legible manner. Sample UTQG tread labels submitted to NHTSA reveal that certain manufacturers have printed their tread labels in type too small to effectively convey the tire grading information. To assure that the required UTQG information is legibly presented, NHTSA proposes that all lower case letters in the text of Figure 2 be printed in a type size having a height of no less

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than three printer's points, as measured by the lower case letter "x". All capital letters in Figure 2, including the UTQG grades applicable to the particular tire, would be printed in the same or a larger type size.

NHTSA wishes to emphasize that this proposal specifies a minimum acceptable type size. Manufacturers and brand name owners who find it feasible to use a larger type size are encouraged to do so.

Armstrong's October 19 petition proposed orientation of the explanatory text along the tread circumference instead of perpendicular to it. In a subsequent comment, Armstrong modified its suggested label to orient the text perpendiular to the tread circumference. Comments from several manufacurers suggested that tires are typically displayed in both horizontal and vertical positions, making the orientation of the label text of little consequence in facilitating consumer access to the UTQG information. However, based on its own observations of several tire retail outlets, NHTSA has concluded that upright positioning is clearly the most common method used in the display of tires. Further, the general practice of attaching manufacturer's tire identification labels with their text oriented perpendicular to the tire tread suggests that this orientation is recognized as providing easiest access to the information presented.

NHTSA wishes to call the attention of all interested parties to the agency's letter to Armstrong, dated November 20, 1978, in which NHTSA interpreted Figure 2 of the UTQG regulation as requiring the text of that figure to be oriented with lines of type running perpendicular to the tread circumference. For the reasons stated above, NHTSA now proposes that the regulation be amended to explicitly state this requirement. To encourage the display of the UTQG information in a readily accessible manner, NHTSA further proposes that when a tire identification label bearing a tire size designation is attached to the tire tread with the size designation oriented perpendicular to the tread circumference, the Figure 2 text will be displayed on the tread reading in the same direction as the tire size designation.

The Armstrong petition also suggested printing on the tread label only the UTQG grades applicable to the particular tire, rather than circling traction and temperature grades in a display of all possible grades, as is now required by the regulation. Although Armstrong subsequently withdrew this suggestion, Atlas commented that the display of all possible grades may be counterproductive to consumer understanding of the grading system since, after observing the relative quality of the tire, purchasers may be less inclined to read the explanatory text.

Conversely, Dunlop contended that the display of all traction and temperature grades would be meaningful only if the consumer also reads the detailed explanation. For this reason, NHTSA believes that displaying all possible grades will not discourage reference to the explanatory material. Since NHTSA considers the display of all possible grades to be a helpful graphic reminder of the grades' significance, NHTSA proposes to retain this requirement in its present form.

The commenters agreed that transition to a modified tread label following the effective date of the UTQG regulation would not lead to consumer confusion. Because, as noted by Dunlop Tire & Rubber Corporation, some manufacturers may already have obtained tread labels in reliance on the existing labeling requirements, an effective date of April 1, 1980 is proposed for these amendments. NHTSA further proposes that the amended labeling format be permitted at the manufacturers option prior to that date. The agency requests comment on whether the simultaneous use of alternative labeling formats would lead to consumer confusion.

Since this notice proposes only a minor modification of the UTQG labeling requirements and is intended to aid the tire industry in supplying accurate information to consumers without an increase in costs, the proposal is not considered significant and a full evaluation of the economic consequences of the proposal is not warranted under Department of Transportation policy on internal review of proposals, NHTSA has determined that the proposed amendments will have no measurable adverse effect on the environment.

In an unrelated matter, there is apparently some uncertainty as to whether tires designed for use throughout the year and in place of snow tires, the so-called "all-weather tires", fall within the category of "deep tread, winter-type snow tires" as used in paragraph (c) of the tire grading regulation (49 CFR 575.104(c)). The UTQG Standards do not apply to deep tread, winter-type snow tires.

While all-weather tires may share some characteristics of snow tires under industry categorization systems, they are not limited in acceptable use to winter periods by virtue of their construction. The qualifying language "deep tread, winter-type" indicates NHTSA's intention to except only a strictly limited class of tires, the deep tread rubber and tread design of which makes year round use on passenger automobiles inadvisable. Since all-weather tires are designed with a tread depth which permits and is in fact intended for safe operation throughout the year, they do not qualify as "deep tread, winter-type snow tires" for purposes of the applicability of the UTQG Standards.

In consideration of the foregoing, it is proposed that 49 CFR Part 575.104, Uniform Tire Quality Grading, be amended as follows:

1. Section 575.104(d)(1)(i)(B) would be amended to read:

§ 575.104 Uniform tire quality grading standards.

* * * * *

(d) Requirements. (1) Information. (i)

* * *

(B)(1) Each tire manufactured before April 1, 1980, other than a tire sold as original equipment on a new vehicle, shall have affixed to its tread surface in a manner such that it is not easily removable a label containing its grades and other information in the form illustrated in Figure 2, Part 2, bearing the heading "DOT QUALITY GRADES." The treadwear grade attributed to the tire shall be either imprinted or indelibly stamped on the label adjacent to the description of the treadwear grade. The label shall also depict all possible grades for traction and temperature resistance. The traction and temperature resistance performance grades attributed to the tire shall be indelibly circled. However, each tire labeled in conformity with the requirements of paragraph (d)(1)(i)(B)(2) of this section need not comply with the provisions of this paragraph.

(2) Each tire manufactured on or after April 1, 1980, other than a tire sold as original equipment on a new vehicle, shall have affixed to its tread surface so as not to be easily removable a label or labels containing its grades and other information in the form illustrated in Figure 2, Part 1 and 2. The treadwear grade attributed to the tire shall be either imprinted or indelibly stamped on the label containing the material in Part 1 of Figure 2, directly below the word "TREADWEAR". The traction and temperature resistance performance grades attributed to the tire shall be indelibly circled in the array of letters

directly below the words "TRACTION" and "TEMPERATURE" in Part 1 of the Figure 2 material. The text of Part 1 and the text of Part 2 in Figure 2 need not appear on the same label, but the edges of the two texts must be positioned on the tire tread so as to be separated by a distance of no more than one inch. If the text of Part 1 and the text of Part 2 are placed on separate labels, the notation "See EXPLANATION OF DOT QUALITY GRADES" shall be added to the bottom of the Part 1 text, and the words "EXPLANATION OF DOT QUALITY GRADES" shall appear at the top of the Part 2 text. The text of Figure 2 shall be oriented on the tire tread surface with lines of type running perpendicular to the tread circumference. If a label bearing a tire size designation is attached to the tire tread surface and the tire size designation is oriented with lines of type running perpendicular to the tread circumference, the text of Figure 2 shall read in the same direction as the tire size designation. Each lower case letter in Figure 2 shall be represented in a type size having a height of three printer's points or more, as measured by the lower case letter "x". All capital letters in Figure 2 shall be represented in capital letters of the same or a larger type size than that used for lower case letters.

§ 575.104 [Amended]

2. Section 575.104, Figure 2 would be amended to read:

Figure 2.—Part 1—DOT Quality Grades

Treadwear

Traction ABC

Temperature ABC

Part 2—All Passenger Car Tires Must Conform to Federal Safety Requirements in Addition to These Grades

Treadwear

The treadwear grade is a comparative rating based on the wear rate of tire when tested under controlled conditions on a specified government test course. For example, a tire graded 150 would wear one and a half (1½) times as well on the government course as a tire graded 100. The relative performance of tires depends upon the actual conditions of their use, however, and may depart significantly from the norm due to variations in driving habits, service practices and differences in road characteristics and climate.

Traction ABC

The traction grades, from highest to lowest, are A, B, and C, and they represent the tire's ability to stop on wet pavement as measured under controlled conditions on specified government test surfaces of asphalt and concrete. A tire marked C may have poor traction performance. Warning: The traction grade assigned to this tire is based on braking (straightahead) traction tests and does not include cornering (turning) traction.

Temperature ABC

The temperature grades are A (the highest), B, and C, representing the tire's resistance to the generation of heat and its ability to dissipate heat when tested under controlled conditions on a specified indoor laboratory test wheel. Sustained high temperature can cause the material of the tire to degenerate and reduce tire life, and excessive temperature can lead to sudden tire failure. The grade C corresponds to a level of performance which all passenger car tires must meet under the Federal Motor Vehicle Safety Standard No. 109. Grades B and A represent higher levels of performance in the laboratory test wheel than the minimum required by law. Warning: The temperature grade for this tire is established for a tire that is properly inflated and not overloaded. Excessive speed, under-inflation, or excessive loading, either separately or in combination, can cause heat buildup and possible tire failure.

Interested persons are invited to submit comments on the proposal. It is requested but not required that 10 copies be submitted.

All comments must be limited not to exceed 15 pages in length. Necessary attachments may be appended to these submissions without regard to the 15 page limit. This limitation is intended to encourage commenters to detail their primary arguments in a succinct and concise fashion.

In the case of comments that contain materials for which confidential treatment is requested, those materials should be deleted from the copies submitted to the docket. A copy of the complete comments should be submitted to the Office of Chief Counsel at the above address, with an indication of which portions of the comments are the subject of the request for confidentiality.

All comments received before the close of business on the comment closing date indicated above will be considered, and will be available for examination in the docket at the above address both before and after that date. To the extent possible, comments filed after the closing date will also be considered. However, the rulemaking action may proceed at any time after that date, and comments received after the closing date and too late for consideration in regard to the action will be treated as suggestions for future rulemaking. The NHTSA will continue to file relevant material as it becomes available to the docket after the closing date, and it is recommended that interested persons continue to examine the docket for new material.

The principal authors of this proposal are Dr. F. Cecil Brenner of the Office of Automotive Ratings and Richard J. Hipolit of the Office of Chief Counsel.

(Sec. 102, 112, 119, 201, 203; Pub. L. 89-563, 80 Stat. 718 (15 U.S.C. 1392, 1401, 1407, 1421, 1423); delegations of authority at 49 CFR 1.50 and 501.8)

Issued on: May 15, 1979.

Michael M. Finkelstein,

Associate Administrator for Rulemaking.

[FR Doc. 79-15678 Filed 5-23-79; 8:45 am]

BILLING CODE 4910-59-M

[49 CFR Part 571]

Grant of Petition for Rulemaking

AGENCY: National Highway Traffic Safety Administration, (DOT).

ACTION: Grant of Petition for Rulemaking.

SUMMARY: This notice grants petitions to commence a proceeding to amend Standard No. 212, *Windshield Mounting*, and Standard No. 219, *Windshield Zone Intrusion*. Petitions were received from the Truck Body and Equipment Association (October 23, 1978) and The National Truck Equipment Association (April 20, 1979) seeking an amendment of these two standards as well as Standard No. 301, *Fuel System Integrity*. The amendments requested by these two organizations would reduce or eliminate the impact of these regulations upon final-stage vehicle manufacturers who, they contend, are unfairly burdened by the crash test requirements of the safety standards.

FOR FURTHER INFORMATION CONTACT: Mr. William Smith (NRM-12), Office of Vehicle Safety Standards, National Highway Traffic Safety Administration, 400 7th Street, SW., Washington, D.C. 20590 (202) 426-2242.

SUPPLEMENTARY INFORMATION: When the agency extended the applicability of Standards Nos. 212 and 219 to light trucks, it was not aware that some vehicle chassis manufacturers would respond by imposing severe weight and center of gravity restrictions on chassis used by final-stage vehicle manufacturers in the construction of their vehicles. For a number of reasons, chassis manufacturers have imposed these restrictions resulting in the inability of some final-stage vehicle manufacturers to complete vehicles (typically by adding some type of body) without violating at least one of the restrictions. If the restrictions are not exceeded, the final stage manufacturer may rely on the certification by the earlier manufacturers of the vehicle.

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However, if they are exceeded, the final-stage manufacturer must certify the vehicle's compliance with the Federal safety standards based upon its own information.

To resolve the problem mentioned above, the representative groups of the final-stage manufacturers submitted petitions to the agency seeking relief. These petitions have been further supported by numerous letters from final-stage manufacturers that have been adversely impacted by the combined effects of the regulation and the decision of the major chassis manufacturers to impose severe weight and center of gravity restrictions.

The agency has reviewed the petitions and concludes that rulemaking should commence exploring possible avenues of relief for final-stage manufacturers. The agency concludes that it is appropriate to re-examine the existing standards to see whether they provide an appropriate level of safety for light trucks.

To accomplish the above objective, the agency grants the petitions for rulemaking to the extent that they request a re-examination of the application of Standards Nos. 212 and 219 to light trucks. However, the agency denies the petitioners' requests for a modification of Standard No. 301. That standard has been in effect longer than the other two standards and final-stage manufacturers have learned to build vehicles in compliance with the standard. Further, the restrictions imposed by the chassis manufacturers frequently are not so severe for this standard as they are for Standards Nos. 212 and 219. Finally, even if the chassis manufacturer's restrictions with respect to Standard No. 301 are exceeded, final-stage manufacturers are frequently able, with the use of increased shielding of the fuel system, to certify compliance with the standards without crash testing their vehicles.

The agency notes also that conformance to Standard No. 301 is especially important for all vehicles on the road. Noncompliance with this standard by a vehicle can jeopardize the safety of occupants of other vehicles that might be impacted by the noncomplying vehicle. Accordingly, the agency concludes that an amendment of the standard is not in the interest of safety.

The NHTSA intends to propose several options for amending Standards Nos. 212 and 219 that will achieve the necessary safety levels while providing reasonable tests that all manufacturers can perform. The agency believes that all manufacturers must be responsible for their manufacturing operations and for compliance with the standards that are affected by their manufacturing operations. A notice of proposed rulemaking is planned for June.

(Sec. 103, 119, Pub. L. 89-563, 80 Stat. 718 (15 U.S.C. 1392, 1407); delegations of authority at 49 CFR 1.50 and 49 CFR 501.8.)

Issued on May 22, 1979.

Michael M. Finkelstein,

Associate Administrator for Rulemaking.

[FR Doc. 79-16463 Filed 5-22-79; 5:02 pm]

BILLING CODE 4910-59-M

Notices

Federal Register

Vol. 44, No. 102

Thursday, May 24, 1979

This section of the FEDERAL REGISTER contains documents other than rules or proposed rules that are applicable to the public. Notices of hearings and investigations, committee meetings, agency decisions and rulings, delegations of authority, filing of petitions and applications and agency statements of organization and functions are examples of documents appearing in this section.

DEPARTMENT OF AGRICULTURE

Agricultural Marketing Service

Flue-Cured Tobacco Advisory Committee; Meeting

In accordance with section 10(a)(2) of the Federal Advisory Committee Act (Pub. L. 92-463) announcement is made of the following committee meeting:

Name: Flue-Cured Tobacco Advisory Committee.

Date: June 21, 1979.

Place: Tobacco Division, Agricultural Marketing Service, U.S. Department of Agriculture, laboratory, Room 223 Flue-Cured Tobacco Cooperative Stabilization Corporation, 1306 Annapolis Drive, Raleigh, North Carolina 27505.

Time: 1:00 p.m.

Purpose: To discuss marketing area opening dates and selling schedules for flue-cured tobacco to be sold in each marketing area for the 1979 season. Also, other matters as specified in 7 CFR, Part 29, Subpart G, § 9404.

The meeting is open to the public. Persons, other than members, who wish to address the Committee at the meeting should contact Mr. Leonard J. Ford, Director, Tobacco Division, Agricultural Marketing Service, U.S. Department of Agriculture, 300—12th Street, S.W., Washington, D.C. 20250 (202) 447-2567. Written statements should be submitted prior to or at the meeting.

Dated: May 21, 1979.

William T. Manley,

Deputy Administrator, Marketing Program Operations.

[FR Doc. 79-16234 Filed 5-23-79; 8:45 am]

BILLING CODE 3410-02-M

Forest Service

Land and Resource Management Plan; Six Rivers National Forest, Del Norte, Humboldt, Siskiyou, and Trinity Counties, Calif.; Intent To Prepare an Environmental Impact Statement

The Department of Agriculture-Forest Service will prepare an Environmental Impact Statement for the Forest Plan for the Six Rivers National Forest.

This plan will provide policy and program direction for all National Forest system lands under the administration of the Forest Supervisor, except the Yurok Experimental Forest.

The Forest Plan will:

(a) Briefly describe major public issues and management concerns,

(b) Briefly describe the lands and resources of the Six Rivers National Forest,

(c) Identify the goals and objectives of management,

(d) Describe the expected types and amounts of goods, services, or uses by decades,

(e) Identify the proposed vicinity, timing, standards, and guidelines for proposed and probable activities.

(f) Identify monitoring and evaluation requirements,

(g) Refer to information used in the plan development,

(h) Identify the persons who participated in the plan development with a summary of their qualifications.

The Forest Plan will be selected from a range of alternatives which will include at least:

(a) A "no-change" alternative which represents continuation of present levels of activity,

(b) One or more alternatives which represent levels of activity that will result in elimination of all backlogs of needed treatment for restoration of renewable resources and insure that a major portion of planned intensive multiple-use and sustained yield management procedures are operating on an environmentally sound basis, and

(c) One or more alternatives formulated to resolve the identified major public issues and management concerns.

As an early step in the planning, Federal, State and local agencies, organizations, and individuals who may be interested in, or be affected by the decision will be invited to participate in:

(a) Identification of the issues to be addressed,

(b) Identification of the issues to be analyzed in depth, and

(c) Elimination from detailed study those issues which are not significant or which have been covered by prior environmental review.

To accomplish this, the Six Rivers will conduct "scoping" sessions on June 21 in Eureka, Cresent City, Orleans, Willow Creek, and Dinsmore. All sessions will run form 7:30-9:30 p.m.

Sessions will be at these locations:

Eureka—Red Lion
Crescent City—Cultural Center
Orleans—Community Center
Willow Creek—Lower Trinity Ranger Station
Dinsmore—Southern Trinity High School

For further information about the planning or the Environmental Impact Statement, contact: Owen Peck, Forest Planner, Six Rivers National Forest, 507 F Street, Eureka, California 95501, telephone No. (707) 442-1721.

The estimated date for filing the draft Environmental Impact Statement is February 1981; for filing the final Environmental Impact Statement, October 1981.

Zane G. Smith, Jr.,

Regional Forester, Pacific Southwest Region.

[FR Doc. 79-16277 Filed 5-23-79; 8:45 am]

BILLING CODE 3410-11-M

CIVIL AERONAUTICS BOARD

[Dockets 33112 and 33283]

TXI-National Acquisition Case and Pan Am-National Acquisition Case; Revised Notice of Oral Argument

On May 11, 1979 a Notice of Oral Argument was sent to all parties wishing to participate in the TXI-National Acquisition Case, Docket 33112 and the Pan Am-National Acquisition Case, Docket 33283. Since it is possible the Oral Argument in this proceeding may require more than one day, it is now being scheduled to be heard on June 21 and June 22, 1979, in Room 1027, Universal Building, 1825 Connecticut Avenue, N.W., Washington, D.C.

Each party which wishes to participate in the oral argument shall so advise The Secretary, in writing, on or before June 1, 1979, together with the name of the person who will represent it at the argument.

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Dated at Washington, D.C., May 18, 1979.

Phyllis T. Kaylor,

Secretary.

[FR Doc. 79-16270 Filed 5-23-79; 8:45 am]

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COMMISSION ON CIVIL RIGHTS

New Jersey Advisory Committee; Agenda and Notice of Open Meeting

Notice is hereby given, pursuant to the provisions of the Rules and Regulations of the U.S. Commission on Civil Rights, that a planning meeting of the New Jersey Advisory Committee (SAC) of the Commission will convene at 2:00 pm and will end at 5:00 pm, on June 13, 1979, at the Ramada Inn, Route 18, Schoolhouse Lane, New Brunswick, New Jersey 08816.

Persons wishing to attend this open meeting should contact the Committee Chairperson, or the Northeastern Regional Office, 26 Federal Plaza, Room 1639, New York, NY 10007.

The purpose of this meeting is to discuss program planning.

This meeting will be conducted pursuant to the provisions of the Rules and Regulations of the Commission.

Dated at Washington, D.C., May 20, 1979.

John I. Binkley,

Advisory Committee Management Officer.

[FR Doc. 79-16318 Filed 5-23-79; 8:45 am]

BILLING CODE 6335-01-M

DEPARTMENT OF COMMERCE

Industry and Trade Administration

Importation of Fabricated Steel Products; Availability of New Information Series

The Department of Commerce announces the issuance of a new statistical information series relating to the importation of selected fabricated steel products. The information is being gathered and released to the public in order to facilitate the assessment of changes that may occur in steel trade, particularly shifts in imports from basic steel products to steel products advanced in value by further processing, such as fabricated steel.

The scope of product coverage in the monitoring system is quite diverse and extensive. It covers structurals, platework, structures (bridges, hangars and oil drilling rigs), and numerous other products (valves, wire, industrial fasteners, etc.)

The monitoring system provides information on imports of fabricated steel products by country of origin and shows monthly data, cumulative year-to-date data, as well as year-to-year comparisons. The report also shows certain imports by five principal U.S. Customs regions.

The report consists of the following: (1) "Monitoring List A" provides information on imports for which data by both quantity and value are available; (2) "Monitoring List B" provides information on certain products now reported only in terms of value; and (3) a "Watch List" of products for which less detailed information will be made available at the outset.

Major product groupings in the monitoring system are: (A10) fabricated structural steel, (A20) structures (such as hangars, bridges, etc.), (A30) fabricated steel platework, (A40) pipe and tube fittings, (A50) valves, (A60) selected industrial fasteners. (A70) miscellaneous fabricated wire products; (B10) fabricated steel platework (such as floating structures, metal containers, and boilers), (B20) other selected industrial fasteners, (B30) miscellaneous fabricated wire products (including wire cloth); (C10) certain other industrial fasteners and (C20) ball and roller bearings and their parts.

Countries of origin individually shown are: Japan, Canada, West Germany, Belgium-Luxembourg, France, Italy, The Netherlands, United Kingdom, Austria, Sweden, Spain, Korea, and South Africa. Totals are provided also for "all others" as a group and for the world as a whole.

The first report to be issued in the series will cover data for January 1979 with comparison to the same month in 1978. Monthly data for subsequent periods will be released regularly thereafter. To permit reference to earlier years, full-year data for 1975–78 have been compiled manually and are available upon request.

Summary tabulations of monthly data will be sent to interested trade associations, labor groups, and trade publications for dissemination. Copies will be available also for reference at selected Commerce Department field offices. Copies of detailed tabulations will be available for reference at the Commerce Department, Room 2314, Main Building, Washington, D.C. For further information, interested parties should write to the Import Programs Division, U.S. Department of Commerce, Main Building, Room 6895, Washington, D.C. 20230, or telephone 202/377–5318 or 377–2104.

Bernard Ascher,

Director, Import Programs Division, Office of Business Programs, Bureau of Domestic Business Development, Industry and Trade Administration.

[FR Doc. 79-16316 Filed 5-23-79; 8:45 am]

BILLING CODE 3510-25-M

National Oceanic and Atmospheric Administration

Federal Response to Radioactive Contamination from Specified Foreign Nuclear Detonations; Multiagency Memorandum of Understanding

Cross Reference: For a multiagency memorandum of understanding regarding Federal responses to radioactive contamination from specified foreign nuclear detonations, issued jointly by the Department of the Air Force, the Department of Energy, the Environmental Protection Agency, the Federal Aviation Administration, the Food and Drug Administration, the National Oceanic and Atmospheric Administration, and the Nuclear Regulatory Commission, see FR Doc. 79–16192 appearing in Part VIII of this issue.

BILLING CODE 3510-12-M

Office of the Secretary

Presentation Before Interagency Committee on Standards Policy Regarding ANSI's New "Service Fee System"; Open Meeting

The Department of Commerce functions as the Federal Government focal point in the development, coordination, and strengthening of U.S. national and international standards policy in the public interest. In this capacity the Department has become cognizant of the new "service fee system" of the American National Standards Institute (ANSI) which, when fully implemented next year, is expected to provide a means for obtaining financial support for ANSI in direct proportion to the workload imposed on it by users of its services.

The Interagency Committee on Standards Policy (ICSP) is chartered and chaired by the U.S. Department of Commerce. The purpose of the ICSP is to facilitate the effective participation by the Federal Government in domestic and international standards activities and to promote the development of uniform policies among agencies participating in these activities. In this connection, the ICSP has invited Mr. Sava Sherr, Managing Director of the American National Standards Institute (ANSI), to describe ANSI's new "service fee system," including its potential impact on Federal agencies.

Interested members of the public are invited to attend Mr. Sherr's presentation on the ANSI "service fee system." This presentation will take place at 9:30 A.M., July 11, 1979, room 6802, U.S. Department of Commerce, 14th Street, NW, (between E Street and Constitution Avenue), Washington, D.C.

The first 30 minutes following Mr. Sherr's presentation will be devoted entirely to comments, questions, and answers which members of the ICSP or other Federal Government personnel in attendance as observers may wish to present to Mr. Sherr and to the ICSP. It is recognized that other interested persons may wish to express their views on the "service-fee system" to the ICSP representatives at the July 11 meeting. Accordingly, the ICSP chairman has determined in the public interest that a maximum of one hour will be set aside for such views to be expressed. That hour will begin immediately upon the end of the half hour set aside for discussion by Federal Government personnel with Mr. Sherr, as described above.

Any interested person wishing to be called upon to express his or her views on the ANSI service-fee system and its impact on Federal agencies at the July 11, 1979 meeting should contact Dr. Howard I. Forman, ICSP chairman and Deputy Assistant Secretary for Product Standards, no later than July 3, 1979, either by telephone or by letter. Dr. Forman is located at the main Commerce building, room 3876, on 14th Street, NW, (between E Street and Constitution Avenue), Washington, D.C., telephone (202) 377–3221. Time for expression of such views will be allocated as equitably as possible, depending on the number of such requests, and consistent with the plan to conclude the meeting by 12:30 P.M.

Following the expression of views by interested parties, as described above, the ICSP will go into closed session to discuss other business matters pursuant to its normal procedures.

Dated: May 18, 1979.

Francis W. Wolek,

Acting Assistant Secretary for Science and Technology.

[FR Doc. 79-16257 Filed 5-23-79; 8:45 am]

BILLING CODE 3510-16-M

Privacy Act of 1974: Adoption of Additional System of Records

On April 17, 1979 the Department of Commerce gave notice (44 FR 22797–98) that it proposed to adopt a new Privacy Act System of Records entitled: Work Schedule Study Interview Records, Commerce/Dept-23.

The new system of records will be maintained as part of a George Washington University study entitled, "The Effects of Work Schedules on Families." The Commerce Department has awarded a contract to the University's Family Impact Seminar, under which a small group of Martime Administration and Economic Development Administration employees and their families will be interviewed on a voluntary basis. The interviews are designed to allow in-depth exploration of the manner in which work affects family life.

The purpose of this Privacy Act system is to safeguard the collection and maintenance of personal data during and after these interviews. The George Washington University will publish a report of the findings of this study with commentaries on the process of doing family impact analysis. The report will not contain any individually identifiable data.

A new system report, dated April 6, 1979, was submitted to the Office of Management and Budget and the Congress as required by the Privacy Act. The Department requested the Office of Management and Budget to waive the 60-day advance notice requirement for this system. The waiver was granted by OMB in a letter dated April 23, 1979. Interested persons were invited to submit written data views, or arguments on or before May 17, 1979. No comments were received in response to the notice.

Therefore, the Department adopts the additional system effective May 17, 1979. Because the complete text of the new system was published in the **Federal Register** on April 17, 1979, and the system is adopted without change, there is no need to republish at this time.

(5 U.S.C. 552a. Sec. 3, Privacy Act of 1974 (Pub. Law 93–579, 88 Stat. 1896).)

Dated: May 18, 1979.

Guy W. Chamberlain, Jr.,

Acting Assistant Secretary for Administration.

[FR Doc. 79-16269 Filed 5-23-79; 8:45 am]

BILLING CODE 3410-17-M

DEPARTMENT OF DEFENSE

Department of the Air Force

Federal Responses to Radioactive Contamination From Specified Foreign Nuclear Detonations; Multiagency Memorandum of Understanding

Cross Reference: For a multiagency memorandum of understanding regarding Federal responses to radioactive contamination from specified foreign nuclear detonations, issued jointly by the Department of the Air Force, the Department of Energy, the Environmental Protection Agency, the Federal Aviation Administration, the Food and Drug Administration, the National Oceanic and Atmospheric Administration, and the Nuclear Regulatory Commission, see FR Doc. 79–16192 appearing in Part VII of this issue.

BILLING CODE 3910-01-M

Department of the Army

Request for Public Comment on Hampton Roads Energy Co. Permit Application

AGENCY: Department of the Army.

ACTION: Notice.

SUMMARY: The Department of the Army announces that the public comment period on the Hampton Roads Energy Company permit application will close on June 22, 1979.

ADDRESS: Additional public comments should be addressed in writing to the Honorable Michael Blumenfeld, Assistant Secretary of the Army (Civil Works), Washington, D.C. 20310.

FOR FURTHER INFORMATION CONTACT: LTC Robert M. Faxon, Military Assistant, Office of the Assistant Secretary of the Army (Civil Works), Washington, D.C. 20310.

SUPPLEMENTAL INFORMATION: On March 19, 1979, the Chief of Engineers elevated the Hampton Roads Energy Company permit application for the construction of a petroleum refinery marine terminal complex on the Elizabeth River in Portsmouth, Virginia, to the Secretary of the Army for final decision. The Chief of Engineers, who recommended issuing the permit, was unable to resolve Department of the Interior objections to permit issuance. A July 13, 1967 Memorandum of Understanding between the Secretary of the Army and the Secretary of the Interior provides that, where the Chief of Engineers is unable to resolve remaining issues with the Department of the Interior, the permit application is to be referred to

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the Secretary of the Army for decision in consultation with the Secretary of the Interior. This announcement serves notice that the public comment period on the permit application will close on June 22, 1979. Written comments furnishing information or viewpoints received prior to June 23, 1979 will be considered during the decision-making process. All materials submitted since March 3, 1975, the date of the permit application, now comprise the official permit case record and are available for review in the Office of the Assistant Secretary of the Army (Civil Works). Federal agencies have been asked to provide their final comments, if any, by May 23, 1979. In that public hearings already have been held and in that the public comment period remains open, no additional public hearings will be held. The Army hopes to complete its evaluation of the permit file by the end of July 1979.

Dated: May 18, 1979.

Michael Blumenfeld,

Assistant Secretary of the Army (Civil Works).

[FR Doc. 79-16217 Filed 5-23-79; 8:45 am]

BILLING CODE 3710-08-M

Corps of Engineers

Intent To Prepare a Draft Environmental Impact Statement (DEIS) for Possible Channel Modifications to Mobile Harbor, Ala.

AGENCY: U.S. Army Corps of Engineers, DOD.

ACTION: Notice of Intent to Prepare a Draft Environmental Impact Statement (DEIS).

SUMMARY: 1. *Proposed Action:* The proposed action is to determine if there is a need and justification for modification, in any way, of the existing Federal navigation project for deep-draft shipping at Mobile Harbor, Alabama.

2. *Alternatives:* Along with a no action plan, alternatives include consideration of changes in the widths and depths of the existing channels and various methods of excavation and disposal of dredged material. Dredged material disposal options include: construct island and fill areas in upper and lower Mobile Bay; open water disposal in the bay and/or Gulf of Mexico; upland disposal; recycle material off existing disposal sites; and shoreline nourishment to abate erosion. Environmental improvement measures to be considered further in connection with navigation improvements include: restore tidal action in Chacaloochee and Polcat Bays; establish oyster beds in Bon Secour Bay; improve water circulation in Mobile Bay by creating openings in ridges paralleling the ship channel from Dog River to Mobile River; fill depressions which exist in Mobile Bay; establish a recycle plan to remove material from Blakely and Pinto Island disposal areas; and evaluate the feasibility of establishing wetland areas.

3. *Scoping Process;* a. An initial public meeting for the study was held on 25 April 1967 for the purpose of informing the public about the study and to obtain their views as to desired modifications to the existing project for Mobile Harbor. Due to a request by local interests, study efforts were directed for the next several years to an interim study that addressed the authorization and advanced engineering and design studies for the Theodore Ship Channel part of the Mobile Harbor project. A Final Environmental Impact Statement for the Theodore Ship Channel project was filed with the Council on Environmental Quality on 10 March 1977. Early in 1975 a special committee, which became known as the Mobile Harbor advisory Committee, was formed for the purpose of providing access to the planning process for a wide cross-section of the various public in the Mobile Region. A second public meeting was held at Mobile, Alabama, on 22 November 1976, with over 140 persons in attendance. In addition to the public meetings and workshops, informal working level meetings were conducted with various environmental agencies and an environmental quality committee to identify problems and needs of the area and to develop measures to enhance environmental quality.

b. Significant issues analyzed in the DEIS are associated with contruction of a wider and deeper main bay channel and the various techniques of disposal of new work material and maintenance material for the 50 year economic life of the project.

c. The Fish and Wildlife Service will submit a Fish and Wildlife Coordination Report to the Corps of Engineers prepared in accordance with the Fish and Wildlife Coordination Act of 1958 (Pub. L. 85-624), as amended. The report should discuss the impacts of the selected plan and the alternative plans on Fish and Wildlife resources including endangered and threatened species.

d. The DEIS will be circulated with a Survey Report for review and comment to Federal, State, and local agencies, citizens groups, and interested parties. A late stage public meeting will be held shortly after distribution of the documents.

4. *Scoping Meeting:* No additional scoping meetings are scheduled due to the advanced state of the DEIS and the coordination that has taken place to date.

5. *DEIS Preparation:* It is estimated that the DEIS will be available to the public in June 1979.

ADDRESS: Questions about the proposed action and DEIS can be answered by: Mr. James B. Hildreth, PD-EE, U.S. Army Engineer District, Mobile, P.O. Box 2288, Mobile, Alabama 36628.

Dated: May 10, 1979.

Charlie L. Blalock,

Colonel, CE, District Engineer.

[FR Doc. 79-16278 Filed 5-23-79; 8:45 am]

BILLING CODE 3710-CR-M

Intent To Prepare a Draft Supplement to the Final Environmental Impact Statement on Harbor Modification (Kings Island Turning Basin), Savannah Harbor, Ga.

AGENCY: U.S. Army Corps of Engineers, Savannah District.

ACTION: Notice of Intent to Prepare a Draft Supplement to a Final Environmental Impact Statement (FEIS).

SUMMARY: 1. *Proposed Action:* The proposed action is the enlargement of the Kings Island Turning Basin in Savannah Harbor, Chatham County, Georgia. Approximately 5,000,000 cubic yards of material will be removed by hydraulic pipeline dredge.

2. *Alternatives:* Alternatives for the project include: no action, construct a new turning basin at an alternate site, backing ships downstream out of the harbor, and alternative disposal sites for dredged material.

3. *Description:* A Final EIS for the enlargement of the Kings Island Turning Basin was filed with the Council on Environmental Quality on 17 June 1976. The purpose of the Draft Supplement is to discuss changes in disposal sites for dredged material and new or altered environmental effects caused by the use of the disposal areas. The Supplement will include an evaluation of the proposed discharge of dredged material in waters of the United States pursuant to 40 CFR 230.1.

Coordination with appropriate Federal, State and local agencies and organizations has been achieved through three formal public meetings (the latest having occurred on 23 October 1974), several workshops and informal meetings. Coordination pursuant to Section 404 of the Clean Water Act of 1977 will be undertaken, including issuance of a 404 public notice.

A scoping meeting is not planned. The Draft Supplement is scheduled to be available to the public about 1 June 1979.

ADDRESS: Questions about the proposed action and the Draft Supplement can be answered by: Grady L. McNure, Biologist, Savannah District, Corps of Engineers, P.O. Box 889, Savannah, GA 31402, telephone (912) 233-8822, Ext. 371.

Dated: May 16, 1979.

Tilford C. Creel,

Colonel, Corps of Engineers, District Engineer.

[FR Doc. 79-16279 Filed 5-23-79; 8:45 am]

BILLING CODE 3710-HP-M

Intent To Prepare a Draft Environmental Impact Statement (DEIS) for a Proposed Fiscal Year 1980 and 1981 Construction Program at the Military Ocean Terminal, Sunny Point, Beaufort County, N.C.

AGENCY: U.S. Army Corps of Engineers, DOD.

ACTION: Notice of Intent to Prepare a Draft Environmental Impact Statement (DEIS).

SUMMARY: 1. *Proposed Action:* The proposed action is twelve construction projects which will enhance the operation of the facility which has as a main function the loading of ammunition from trucks and rail cars onto ships. The construction activities consist of:

a. A paved explosive truck access road;

b. An ammunition container restuffing and consolidation facility including loading platform, metal building, and railroad track;

c. A containerized ammunition (CADS) holding area;

d. An expansion of the large transfer area and provision of a bridge crane;

e. An expansion of the railroad interchange yard;

f. Renovation and alteration of 1000 feet of wharf;

g. A suspect container area including railroad and paved road;

h. An expansion of a rail holding yard;

i. Construction of a new cargo transfer area and upgrading another transfer area;

j. An expansion of the rail car and vehicle cleaning area;

k. Construction of a paved empty-truck parking area;

l. Construction of five permanent administrative areas.

Ancillary to some of these activities is provision of utilities, storm drainage, latrines, communications, and site improvements.

2. These projects were all a part of the facility Master Plan made in 1977. That same year, an environmental impact assessment was done on all operations, and in 1972 an EIS was completed covering the dredging and disposal. The alternatives which have been considered consist of the use of other facilities or locations for some of the projects.

3. The scope of the planned EIS is only the FY 80 and 81 construction projects. Coordination with the Fish and Wildlife Service and other federal and state agencies has been initiated. Information regarding the environmental aspects of the area is invited. The significant issues to be analyzed in depth appear to be the projects' impacts on endangered species, cultural resources, and unique natural freshwater ponds.

4. The Draft EIS is scheduled to be available to the public about 30 July 1979.

5. Questions about the Draft EIS can be answered by: John Anderson, Ecologist, U.S Army Engineer District, P.O. Box 889, Savannah, GA 31402. Telephone (912) 233-8822, Ext. 371.

Dated: May 16, 1979.

Tilford C. Creel,

Colonel, Corps of Engineers, District Engineer.

[FR Doc. 79-16280 Filed 5-23-79; 8:45 am]

BILLING CODE 3710-HP-M

Intent To Prepare a Draft Environmental Impact Statement (DEIS) for the Little Lotts Creek, Flood Control Study, City of Statesboro, Bulloch County, Ga.

AGENCY: U.S. Army Corps of Engineers, DOD.

ACTION: Notice of Intent to Prepare a Draft Environmental Impact Statement (DEIS).

SUMMARY: 1. *Proposed Action:* The primary purpose of the Little Lotts Creek Flood Control Study is to reduce flooding and associated damage in the Little Lotts Creek watershed within the City of Statesboro, Georgia. The selected plan provides for channel modification of Little Lotts Creek from Jones Avenue to a point 0.6 mile downstream of Gentilly Road. This reach has been channelized in the past, and the new work would be primarily upgrading. The excavated material will be hauled to an upland site. From that point an overflow channel would be provided around the perimeter of the Old Rushing Pond wetland which would rejoin Little Lotts Creek downstream of Old Rushing Dam. A concrete drop spillway structure would be constructed at the upstream end of the overflow channel. The purpose of the overflow channel is to allow for normal flooding of the wetland while providing for removal of excess flood waters from upstream areas. The excavated material from the overflow channel will be placed between it and the adjacent wetland in order to prevent surface water from draining into the overflow channel from the wetland. Three road crossings at South College Street, the Central of Georgia Railroad and Jones Avenue would be replaced to provide for increased flow.

2. *Alternatives:* Other alternatives which are being considered include no action, levee construction, flood retention dams, clearing and snagging, modification of bridges and culverts, floodproofing, flood plain evacuation, and floodproofing/evacuation.

3. *Scoping Process:* Public involvement to date on the Little Lotts Creek Flood Control has included coordinating the planning studies and investigation with various Federal, State, and local agencies. A public notice was issued on 12 May 1978, and a Plan Formulation Public Meeting was held on 14 June 1978 in Statesboro, Georgia. Since this DEIS is in an advanced stage of preparation, a formal scoping meeting, as defined by the Council on Environmental Quality in the 29 November 1978 Federal Register, will not be held prior to completion of the DEIS.

4. *DEIS Preparation:* It is anticipated that the DEIS will be available to the public in June 1979.

ADDRESS: Questions about the proposed action and the DEIS can be answered by: Tom Skordal, Biologist, U.S. Army Corps of Engineers. P.O. Box 889, Savannah, GA 31402, Telephone (912) 233-8822, Ext. 371.

Dated: May 16, 1979.

Tilford C. Creel,

Colonel, Corps of Engineers, District Engineer.

[FR Doc. 79-16281 Filed 5-23-79; 8:45 am]

BILLING CODE 3710-HP-M

Intent To prepare a Supplement Draft Environmental Impact Statement (SDEIS) to the Richard B. Russell Dam and Lake, Georgia and South Carolina; Final Environmental Impact Statement

AGENCY: U.S. Army Corps of Engineers, DOD.

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ACTION: Notice of Intent to prepare a Supplement Draft Environmental Impact Statement (SDEIS).

SUMMARY: 1. *Proposed Action:* The purpose of this document is to supplement the Final EIS on the Russell project with discussion of the impacts to fish and wildlife and the mitigation needed to offset these losses.

2. *Alternatives:* Several alternatives will be considered, including purchasing all the proposed mitigation sites, combination of one or more sites and/or parts of sites, construction of a hatchery and purchasing all the proposed mitigation sites, construction of a hatchery and purchasing a combination of one or more sites and/or parts of sites, and no action.

3. *Scoping Process:* The U.S. Army Corps of Engineers has done a habitat evaluation procedure of the Richard B. Russell project area and proposed mitigation sites in cooperation with the U.S. Fish and Wildlife Service, Georgia Department of Natural Resources, and the South Carolina Wildlife and Marine Resources Department for developing a Fish and Wildlife Mitigation Plan for the Richard B. Russell project. The scoping process, as outlined by the Council on Environmental Quality in the 29 November 1978, Federal Register National Environmental Policy Act Regulations, will be utilized to involve other Federal, State and local agencies and other interested persons. Identification of significant issues to be addressed in the DEIS will be determined through the scoping process.

4. *Scoping Meeting:* The time, date and location of the scoping meeting has not yet been finalized.

5. *DEIS Preparation:* The SDEIS will be available to the public in October 1979, followed by a public meeting in October 1979. Federal, State and local agencies, and other interested private organizations and parties are invited to participate and submit recommendations.

ADDRESS: Questions about the proposed action and SDEIS can be answered by: Mickey Fountain, Biologist, U.S. Army Corps of Engineers, P.O. Box 889, Savannah, GA 31402, Telephone (912) 233–8822, Ext. 371.

Dated: May 16, 1979.

Tilford C. Creel

Colonel, Corps of Engineers, District Engineer.

[FR Doc. 79–16282 Filed 5–23–79; 8:45 am]

BILLING CODE 3710–HP–M

Intent To Prepare a Draft Environmental Impact Statement (DEIS) for a Proposed Reservoir on Grand Bayou at a Point About 4.1 Miles Above the Mouth of the Waterway, near Coushatta, Red River Parish, La.

AGENCY: US Army Corps of Engineers, New Orleans District, DOD.

ACTION: Notice of Intent to Prepare a Draft Environmental Impact Statement (DEIS)

SUMMARY: 1. *Proposed Action.* The proposed action is the consideration of issuance of a US Army Corps of Engineers permit for installation and maintenance of a dam, spillway, and appurtenances to form a reservoir for recreation and municipal and industrial water supply. The proposed dam will be about 5,000 feet in length and will form a 2,500–acre lake with a pool level of 138.5 feet above mean sea level. The permit applicant is Black Lake Bayou Recreation and Water Conservation District of Red River Parish, Louisiana.

2. *Consideration of Reasonable Alternatives to the Proposed Plan.* Alternatives include construction of pipelines from existing regional lakes for transport of water to the Coushatta area, construction of pumping system to retrieve water from nearby Red River, establishment of new well locations, and no action. Three of the alternatives considered may provide only partial solutions to the project objectives.

3. *Scoping Process and Public Involvement:*

a. *Publication of Public Notice.* The Corps of Engineers, New Orleans District, issued a public notice on 27 December 1977, concerning the application for a permit to construct the proposed project. Interested parties were asked to respond to the notice by 26 January 1978 and to submit comments and/or to request that a public hearing be held to consider this application. No requests for a public meeting were received.

b. *Scoping Meeting.* A scoping meeting was held on 28 September 1978. Major issues to be addressed in the DEIS were discussed during the meeting held at the Baton Rouge office of the Louisiana Department of Wildlife and Fisheries. Representatives in attendance included Louisiana Department of Transportation and Development, Office of Public Works, Grand Bayou Reservoir Commission, US Fish and Wildlife Service, Louisiana Department of Wildlife and Fisheries, Louisiana Forestry Commission, US Army Corps of Engineers, and the project consultant.

c. *Identification of Significant Issues.* Important issues which evolved from the scoping activities included project impacts to bottomland hardwoods due to construction and inundation, fish and wildlife resources losses, construction economics, socio-economic impacts, alternatives to the proposed plan (especially alternate water sources and alternatives designed to mitigate fish and wildlife losses), and mitigation and/or compensation plans.

d. *Cooperating Agency Involvement.* The US Fish and Wildlife Service will conduct a habitat evaluation procedure (HEP) in conjunction with representatives from the Corps, Louisiana Department of Wildlife and Fisheries, and the applicant. The study will assess the quantity and value of the habitats which would be affected by the proposed project, consequently affecting dependent fauna.

e. *Environmental Review and Consultation.* Periodic environmental review and consultation will be maintained with affected Federal, state, and local agencies, especially in the areas of evaluation of alternatives and mitigation proposals.

4. *Estimated Availability Date of DEIS.* The DEIS is expected to be available to the public in October 1979.

ADDRESS: Questions concerning the proposed project and the DEIS can be directed to Dr. Lloyd F. Baehr, Jr., US Army Corps of Engineers, Regulatory Assessment Section, P.O. Box 60267, New Orleans, Louisiana 70160, (504) 865–1121, extension 503.

Dated: May 18, 1979.

Thomas A. Sands,

Colonel, CE, District Engineer.

[FR Doc. 79–16283 Filed 5–23–79; 8:45 am]

BILLING CODE 3710–GX–M

Office of the Secretary

Defense Science Board Summer Study Panel on Comprehensive Test Ban; Advisory Committee Meeting

The Defense Science Board Summer Study Panel on Comprehensive Test Ban (CTB) will meet in closed session on 19–20 June 1979 in the Pentagon, Arlington, Virginia.

The mission of the Defense Science Board is to advise the Secretary of Defense and the Under Secretary of Defense for Research and Engineering on scientific and technical matters as they affect the perceived needs of the Department of Defense.

A meeting has been scheduled for 19–20 June 1979 to organize the Defense Science Board Panel on the Comprehensive Test Ban, to determine the status of the negotiations, and to determine the various agencies' viewpoint on the technical issues. This Panel will also discuss plans for future consideration of scientific and technical aspects of the CTB in preparation for the Summer Study.

In accordance with 5 U.S.C. App. I 10(d) (1976), it has been determined that this Defense Science Board Summer Study Panel meeting concerns matters listed in 5 U.S.C. 552b(c)(1) (1976), and that accordingly this meeting will be closed to the public.

Dated: May 21, 1979.

H. E. Lofdahl,

Director, Correspondence and Directives, Washington Headquarters Service, Department of Defense.

[FR Doc. 79–16243 Filed 5–23–79; 8:45 am]

BILLING CODE 3810–70–M

Defense Science Board Task Force on V/STOL Aircraft, Phase II; Change in Meeting Date

The meeting date for the Defense Science Board Task Force on V/STOL Aircraft, Phase II scheduled for a closed session on May 25, 1979 in Washington, D.C., as published in the Federal Register (44 FR 23910, dated April 23, 1979, FR Doc. 79–12488) has been changed to June 13, 1979. In all other respects, the original notice cited above remains the same.

Dated: May 21, 1979.

H. E. Lofdahl,

Deputy Director, Correspondence and Directives, Washington Headquarters Service, Department of Defense.

[FR Doc. 79–16244 Filed 5–23–79; 8:45 am]

BILLING CODE 3810–70–M

Joint Strategic Target Planning Staff Scientific Advisory Group; Closed Meeting

Pursuant to the provisions of Section 10 of Public Law 92–463, effective 5 January 1973 as amended by Public Law 94–409, notice is hereby given that a closed meeting of the Joint Strategic Target Planning Staff Scientific Advisory Group will be held at Offutt Air Force Base, Nebraska, during the period: Tuesday, July 17, 1979 through Thursday, July 19, 1979.

The entire meeting is devoted to the discussion of classified information within the meaning of Section 552b(c)(1), Title 5 of the United States Code, and therefore will be closed to the public.

Dated: May 21, 1979.

H. E. Lofdahl,

Director, Correspondence and Directives, Washington Headquarters Services, Department of Defense.

[FR Doc. 79–16241 Filed 5–23–79; 8:45 am]

BILLING CODE 3810–70–M

Department of Defense Wage Committee; Closed Meetings

Pursuant to the provisions of section 10 of Public Law 92–436, the Federal Advisory Committee Act, effective January 5, 1973, notice is hereby given that a meeting of the Department of Defense Wage Committee will be held on Tuesday, July 3, 1979; Tuesday, July 10, 1979; Tuesday, July 17, 1979; Tuesday, July 24, 1979 and Tuesday, July 31, 1979 at 10:00 a.m. in Room 3D–325, The Pentagon, Washington, D.C.

The Committee's primary responsibility is to consider and submit recommendations to the Assistant Secretary of Defense (Manpower, Reserve Affairs, and Logistics) concerning all matters involved in the development and authorization of wage schedules for Federal prevailing rate employees pursuant to Public Law 92–392. At this meeting, the Committee will consider wage survey specifications, wage survey data, local wage survey committee reports and recommendations, and wage schedules derived therefrom.

Under the provisions of section 10(d) of Public Law 92–463, the Federal Advisory Committee Act, meetings may be closed to the public when they are "concerned with matters listed in section 552b. of Title 5, United States Code." Two of the matters so listed are those "related solely to the internal personnel rules and practices of an agency," (5 U.S.C. 552b. (c)(2)), and those involving "trade secrets and commercial or financial information obtained from a person and privileged or confidential" (5 U.S.C. 552b. (c)(4)).

Accordingly, the Deputy Assistant Secretary of Defense (Civilian Personnel Policy) hereby determines that all portions of the meeting will be closed to the public because the matters considered are related to the internal rules and practices of the Department of Defense (5 U.S.C. 552b. (c)(2)), and the detailed wage data considered by the Committee during its meetings have been obtained from officials of private establishments with a guarantee that the data will be held in confidence (5 U.S.C. 552b (4)).

However, members of the public who may wish to do so are invited to submit material in writing to the Chairman concerning matters believed to be deserving of the Committee's attention. Additional information concerning this meeting may be obtained by writing the Chairman, Department of Defense Wage Committee, Room 3D–281, The Pentagon, Washington, D.C.

Dated: May 21, 1979.

H. E. Lofdahl,

Director, Correspondence and Directives, Washington Headquarters Services, Department of Defense.

[FR Doc. 79–16242 Filed 5–23–79; 8:45 am]

BILLING CODE 3810–70–M

DEPARTMENT OF ENERGY

Federal Responses to Radioactive Contamination from Specified Foreign Nuclear Detonations; Multiagency Memorandum of Understanding

Cross Reference: For a multiagency memorandum of understanding regarding Federal responses to radioactive contamination from specified foreign nuclear detonations, issued jointly by the Department of the Air Force, the Department of Energy, the Environmental Protection Agency, the Federal Aviation Administration, the Food and Drug Administration, the National Oceanic and Atmospheric Administration, and the Nuclear Regulatory Commission, see FR Doc. 79–16192 appearing in Part VII of this issue.

BILLING CODE: 6450–01–M

Fossil Energy Advisory Committee; Renewal

Notice is hereby given that the Fossil Energy Advisory Committee, which was established in accordance with Public Law 86–599, the Coal Research Act, has been renewed for a two-year period ending May 16, 1981.

The renewal of the Committee has been determined necessary and in the public interest. The Committee will operate in accordance with the provisions of the Federal Advisory Committee Act (P.L. 92–463), the Department of Energy Organization Act (P.L. 95–91), OMB Circular A–63 (Revised), and P.L. 86–599.

Further information regarding this Committee may be obtained from the Department of Energy Advisory Committee Management Office (202/252–5187).

Issued at Washington, D.C. on May 17, 1979.

Phillip S. Hughes,

Assistant Secretary, Intergovernmental and Institutional Relations.

[FR Doc. 79-16250 Filed 5-21-79; 8:45 am]

BILLING CODE 6450-01-M

Economic Regulatory Administration

[Release No. 11]

Mandatory Oil Import Program; Oil Import Allocations and Licensing

The fee-exempt allocations and licenses issued in accordance with Presidential Proclamation 3279, as amended, during the period April 1–30, 1979, are given in the following tables. The allocations are listed for the appropriate sections of 10 CFR Part 213 under which the allocations are made.

On April 6, 1979, the President signed Proclamation No. 4655 (44 FR 21243 (April 10, 1979)) which further amended proclamation 3279, which provides for the long term control of petroleum imports through a system of licenses subject to fees. Proclamation 4655 provided, among other changes, for the temporary suspension of both license fees and tariffs for the period April 1, 1979 through June 30, 1979. Fees and tariffs will automatically be reimposed on July 1, 1979, unless the Secretary of Energy exercises the authority delegated to him to defer re-imposition of the fees and tariffs for a maximum of two six month periods. A number of licenses were issued after the signing of and pursuant to Proclamation 4655 but prior to the issuance of the amendments to 10 CFR Part 213 implementing the changes provided for in the proclamation. The licenses issued after the implementing regulations to 10 CFR Part 213 were published (44 FR 24048 (April 24, 1979)) were issued pursuant to amended § 213.35. Licenses issued prior to the implementing regulations being published were issued without regard to amount. However, after the regulations were amended, all licenses were issued pursuant to § 213.35 with a limit of a maximum volume per license of 50 million barrels. Licenses issued prior to the promulgation of the regulation for an amount in excess of this maximum amount will be reissued in the near future for an amount not to exceed the ceiling imposed.

Also published is a tabulation of the fee-paid crude oil and product licenses and a listing of the sale and reassignment of fee-exempt crude oil licenses issued during the month of April 1979.

Previous releases covered the issuance of allocations and licenses for the period May 1, 1978, through March 31, 1979. The releases will continue to be issued on a monthly basis.

Dated: May 15, 1979.

Doris J. Dewton,

Acting Assistant Administrator, Fuels Regulation, Economic Regulatory Administration.

Index

Table and Title

1—Allocations of Residual Fuel Oil—District I—10 CFR 213.15.
2—Fee-exempt allocation for Canadian oil imports—10 CFR 213.28(c).
3—Sales of fee-exempt licenses—10 CFR 213.22.
4—Licenses pursuant to Presidential Proclamation 4655.
5—Fee-paid licenses issued—10 CFR 213.35.

U.S. Department of Energy, Office of Oil Imports, Allocation Apr. 1-30, 1979

Table 1.—*Residual Fuel Oil Imports Section 213.15*

Company	Address	Allocation barrels
DISTRICT I		
Apex Oil Company	St. Louis, Mo	218,141
Ashland Oil, Inc	Ashland, Ky	150,000
Ashland Oil, Inc	Ashland, Ky	285,000
Apex Oil Company	St. Louis, Mo	400,000
Ashland Oil, Inc	Ashland, Ky	250,000
Ashland Oil, Inc	Ashland, Ky	245,000
Ashland Oil, Inc	Ashland, Ky	210,000
Charter International Oil Co	Houston, Tex	500,000
Central Petroleum Co	Bronx, N.Y	500,000
Steuart Petroleum Company	Washington, D.C	842,103
Ashland Oil, Inc	Ashland, Ky	268,000
Belcher Oil Company	Houston, Tex	1,709,192
Coastal States and/or Belcher	Houston, Tex	1,128,668
Apex Oil Company	St. Louis, Mo	215,000
Charter International Oil Co	Houston, Tex	350,000
Ashland Oil, Inc	Ashland, Ky	240,000

Table 2.—*Canadian Crude Oil Imports Section 213.28(b)*

Company	Address	Total barrels
DISTRICTS I–IV		
Mobil Oil Corporation	New York N.Y	2,920,000
Phillips Petroleum Co	Bartlesville, Okla	912,500
Sun Petroleum Products Co	Philadelphia, Pa	7,300,000
Murphy Oil Corporation	El Dorado, Ark	1,095,000
Continental Oil Company	Houston, Tex	350,000
Ashland Oil, Inc	Ashland, Ky	800,000
Ashland Oil, Inc	Ashland, Ky	200,000
Ashland Oil, Inc	Ashland, Ky	800,000
DISTRICT V		
Gulf Oil Company—U.S	Houston, Tex	600,000
Gulf Oil Company—U.S	Houston, Tex	518
Shell Oil Company	Houston, Tex	500,000

Table 3.—*Oil Import Licenses Sold Pursuant to Paragraph 213.22(d)*

Seller	Buyer	Date	Commodity	Barrels sold
DISTRICTS I–IV				
Champlin Petroleum Co	Texaco Inc	4/3/79	Crude	2,500,000
Warrier Asphalt Co	Mobile Bay	4/3/79	Crude	40,685
Warrior Asphalt Co	Mobile Bay	4/3/79	Crude	94,000

Table 3—*Oil Import Licenses Sold Pursuant to Paragraph 213.22(d)*—Continued

Seller	Buyer	Date	Commodity	barrels sold
DISTRICTS I–IV—Continued				
Tenneco Oil Company	Texaco Inc	4/3/79	Crude	1,800,000
Amerada Hess Corp	Marathon Oil Co	4/3/79	Crude	345,836
Amerada Hess Corp	Marathon Oil Co	4/3/79	Crude	788,128
Amerada Hess Corp	Marathon Oil Co	4/3/79	Crude	81,029
Amerada Hess Corp	Marathon Oil Co	4/3/79	Crude	133,082
Delta Refining Co	Gulf Oil Co	4/4/79	Crude	26,718
Delta Refining Co	Gulf Oil Co	4/4/79	Crude	587,415
Amoco Oil Company	Mobil Oil Corp	4/4/79	Crude	767,994
Amoco Oil Company	Mobil Oil Corp	4/4/79	Crude	210,000
Amoco Oil Company	Mobil Oil Corp	4/4/79	Crude	75,280
Amoco Oil Company	Mobil Oil Corp	4/4/79	Crude	86,084
Amoco Oil Company	Mobil Oil Corp	4/4/79	Crude	102,805
Amoco Oil Company	Mobil Oil Corp	4/4/79	Crude	170,000
Amoco Oil Company	Mobil Oil Corp	4/4/79	Crude	374,125
Oxirane Chemical Co	Arco	4/9/79	Crude	116,664
So. Union Refining	Texaco Inc	4/9/79	Crude	610,000
Southland Oil Co	Mobil Oil Corp	4/9/79	Crude	287,620
Energy Cooperatives	Coastal States	4/9/79	Crude	851,585
Energy Cooperatives	Coastal States	4/9/79	Crude	443,269
Delta Refining Co	Ind. Farm Bureau	4/8/79	Crude	85,000
Rock Island Refining	Mobile Bay	4/10/79	Crude	240,000
Rock Island Refining	Mobile Bay	4/10/79	Crude	523,766
DISTRICT V				
Atlantic Richfield	Texaco Inc	4/9/79	Crude	452,235
Atlantic Richfield	Texaco Inc	4/9/79	Crude	147,765

Table 4.—*Allocations Pursuant to Presidential Proclamation 4655 and Section 213.15, Section 213.15 With $0.00 Fee*

Company	Date	Quantity total barrels
CRUDE OIL		
Ralph Snyder Associates	4/12/79	242,242,000
Sigmor Refining Co	4/12/79	350,000
Crown Central Petroleum	4/12/79	7,000,000
Vulcan Asphalt Refining	4/12/79	350,000
Amoco Oil Company	4/12/79	20,000,000
Amoco Oil Company	4/12/79	5,000,000
Amoco Oil Company	4/12/79	4,000,000
Amoco Oil Company	4/12/79	3,000,000
Amoco Oil Company	4/12/79	1,000,000
Amoco Oil Company	4/12/79	1,000,000
Texaco Inc	4/17/79	7,000,000
Texaco Inc	4/17/79	35,000,000
Texaco Inc	4/17/79	650,000
ATC Petroleum, Inc	4/17/79	2,500,000
ATC Petroleum, Inc	4/17/79	2,500,000
Exxon Corporation	4/17/79	45,000,000
Cirillo Brothers	4/17/79	1,000,000
Petraco Valley Oil	4/17/79	1,080,000
Mobil Oil Corporation	4/18/79	40,000,000
Champlin Petroleum Co	4/18/79	8,000,000
Chevron U.S.A. Inc	4/18/79	10,000,000
Chevron U.S.A. Inc	4/18/79	10,000,000
Seaview Petroleum	4/18/79	2,500,000
Chevron U.S.A. Inc	4/19/79	10,000,000
Chevron U.S.A. Inc	4/19/79	10,000,000
Independent Refining Corp	4/19/79	2,000,000
Marathon Oil Co	4/19/79	15,000,000
Coastal States Gas Corp	4/19/79	15,000,000
Mega Hydrocarbons	4/19/79	3,000,000
Mega Hydrocarbons	4/19/79	3,000,000
Mega Hydrocarbons	4/19/79	3,000,000
Uni Oil Inc	4/19/79	2,500,000
Energy Cooperatives Inc	4/19/79	10,878,000
Puerto Rico Sun Oil Co	4/19/79	5,185,000
Rock Island Refining Corp	4/19/79	1,600,000
Sohic Natural Resources	4/19/79	25,000,000
United Refining Co	4/19/79	559,067
Mobile Bay Refining Co	4/19/79	1,700,000
Tenneco Oil Company	4/19/79	2,000,000
Total Petroleum (NA) Ltd	4/20/79	3,000,000
Hunt Oil Company	4/20/79	1,355,900
Golden Eagle	4/20/79	5,000,000
Joseph Greenwald	4/20/79	12,000,000
Gulf Oil Company	4/20/79	5,000,000
Pheasant Ridge Petroleum Co	4/23/79	5,000,000
Powerine Oil Company	4/23/79	700,000
Indiana Farm Bureau	4/23/79	490,000

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Table 4.—*Allocations Pursuant to Presidential Proclamation 4655 and Section 213.15, Section 213.15 With $0.00 Fee* —Continued

Company	Date	Quantity total barrels
CRUDE OIL—Continued		
Tesoro Petroleum Corp	4/23/79	2,000,000
Tesoro Petroleum Corp	4/23/79	500,000
Phillips Petroleum Co	4/23/79	10,000,000
Int'l Petroleum Ref. & Sup	4/23/79	2,275,000
Shell Oil Company	4/23/79	2,000,000
Shell Oil Company	4/23/79	6,000,000
Shell Oil Company	4/23/79	5,000,000
Texas City Refining	4/24/79	7,800,000
Southland Oil company	4/24/79	360,000,000
Farmland Industries (CRA)	4/24/79	3,000,000
Consumers Power Company	4/24/79	80,000
Seminole Asphalt Refining	4/24/79	1,014,000
Farmers Union Central	4/24/79	1,000,000
U.S. Oil & Refining Co	4/26/79	2,000,000
Concho Petroleum Co	4/26/79	60,000
Anshuctz Petroleum Market	4/26/79	5,000,000
Commonwealth Oil Co	4/26/79	11,583,000
Atlantic Richfield Co	4/26/79	2,000,000
Atlantic Richfield Co	4/26/79	2,000,000
Atlantic Richfield Co	4/26/79	2,000,000
Atlantic Richfield Co	4/26/79	2,000,000
Atlantic Richfield Co	4/26/79	1,000,000
Atlantic Richfield Co	4/26/79	1,000,000
Harold E. Weston	4/30/79	1,000,000
Vulcan Asphalt refining	4/30/79	1,500,000
Gulf Energy Refining	4/30/79	4,000,000
Asamera Oil Company	4/30/79	475,000
Sentry Refining Co	4/30/79	3,000,000
Alan H. Levine	4/30/79	1,000,000
La Gloria Oil & Gas Co	4/30/79	1,480,000
Southern Union Refining Co	4/30/79	2,500,000
Nat'l Coop. Refining Assoc	4/30/79	2,000,000
Peerless Petrochemicals	4/30/79	2,591,862
FINISHED PRODUCTS		
Breiner Oil Corporation	4/11/79	$00,000
Breiner Oil Corporation	4/11/79	300,000
Ralph Snyder Associates	4/12/79	270,800,000
Amoco Oil Company	4/12/79	700,000
Amoco Oil Company	4/12/79	1,000,000
Amoco Oil Company	4/12/79	500,000
Amoco Oil Company	4/12/79	500,000
Amoco Oil Company	4/12/79	500,000
Amoco Oil Company	4/12/79	500,000
Union Petrochem	4/16/79	1,000,000
Texas Olefins Company	4/17/79	15,000
The Hertz Corporation	4/17/79	210,000
Texaco inc	4/17/79	3,100,000
ATC Petroleum Inc	4/17/79	1,000,000
C. H. Sprague & Son	4/17/79	4,000,000
Bjornson Oil Company	4/17/79	30,000
Lido Co. of New England	4/17/79	30,000,000
Exxon Corporation	4/17/79	3,500,000
Cardon Corporation	4/17/79	385,714
Olin Corporation	4/17/79	80,000
Petraco Valley Oil	4/17/79	300,000
Phillips Puerto Rico Core	4/18/79	3,050,000
Chevron U.S.A. Inc	4/18/79	1,000,000
Chevron U.S.A. Inc	4/18/79	500,000
Chevron U.S.A. Inc	4/18/79	500,000
Pacific Resources	4/18/79	40,000,000
Ethyl Corporation	4/18/79	2,400
Northeast Petroleum Co	4/18/79	500,000
Chevron U.S.A. Inc	4/19/79	1,000,000
Industrial Solvents	4/19/79	100,000
Raymond Calhoun	4/19/79	1,000
Keyser International Inc	4/19/79	3,575
Union Carbide Caribe	4/19/79	3,310,000
Mega Hydrocarbons	4/19/79	200,000
Mega Hydrocarbons	4/19/79	200,000
Mega Hydrocarbons	4/19/79	200,000
Mega Hydrocarbons	4/19/79	200,000
Mega Hydrocarbons	4/19/79	100,000
Pacific Northwest Dist	4/19/79	2,500
Walker Petroleum Company	4/19/79	5,000,000
Ashland Oil, Inc	4/20/79	200,000
Golden Eagle Refining	4/20/79	1,000,000
Puerto Rico Sun Oil Co	4/20/79	250,000
Bridon Caribbean Inc	4/20/79	50
Pheasant Ridge Petroleum	4/23/79	5,000,000
Asiatic Petroleum Company	4/23/79	32
Int'l Petr Refg. & Supply	4/23/79	1,500,000
Shell Oil Company	4/23/79	200,000
Shell Oil Company	4/23/79	1,000,000

Table 4.—*Allocations Pursuant to Presidential Proclamation 4655 and Section 213.15, Section 213.15 With $0.00 Fee* —Continued

Company	Date	Quantity total barrels
FINISHED PRODUCTS—Continued		
Antar Marine London	4/24/79	200
Steve's Oilfield Service	4/24/79	500
Spirit Foods	4/24/79	600
Hudson Lubricants	4/24/79	400
Whatcom City Garage Supply	4/24/79	873
Moore & Munger	4/24/79	30,000
Sunchem	4/24/79	20,000
Tesoro Petroleum Co	4/24/79	750,000
New England Power Co	4/25/79	4,241,600
Petro, Inc	4/25/79	100,000
BP North America	4/25/79	250,000
Wilton Howell	4/25/79	10,000
Consumers Power Company	4/25/79	1,830,000
Metropolitan Petroleum Co	4/25/79	3,500,000
Concho Petroleum Inc	4/26/79	92,000
Rico Petroleum Company	4/26/79	5,000,000
Anschuctz Petroleum Market	4/26/79	5,000,000
Commonwealth Oil Refining	4/26/79	6,006,000
Ashland Chemical Co	4/26/79	2,000
Harold E. Weston	4/30/79	1,000,000
Michael P. Lewis	4/30/79	2,000,000
Scallop Petroleum Co	4/30/79	7,500,000
C.O.D. Concrete Inc	4/30/79	24,000
Grasso Marine Service	4/30/79	300,000
Northville Industries Corp	4/30/79	2,000,000
Alan H. Levine	4/30/79	1,000,000
Time Oil Company	4/30/79	910,000

Table 5.—*Fee-Paid Licenses Issued Pursuant to Section 213.35*

Company	Date	Quantity total barrels
CRUDE OIL—BOND POSTED		
Ashland Oil, Inc	4/5/79	5,000,000
Ingram Corporation	4/6/79	400,000
Murphy Oil Corporation	4/6/79	2,000,000
Gulf Oil Company	4/10/79	10,000,000
FINISHED PRODUCTS—PREPAID		
Schofield Oil Ltd	4/3/79	1,500
Bucher Petrochemical	4/3/79	5,000
Mattiace Industries	4/3/79	2,000
S.C. Johnson & Son	4/4/79	2,000
Novamont Corporation	4/6/79	22,000
Sunchem (Div. of Sunoco)	4/11/79	24,000
Petrodyne, Inc	4/12/79	1,200
L. F. Hall Distributing	4/17/79	1,000
Apco Industries Co. Ltd	4/16/79	3,000
William G. Gray	4/19/79	50
NFO International Ltd	4/20/79	126
Pierce & Stevens Chemical	4/24/79	2,300
Americhem Corporation	4/25/79	20,000

[FR Doc. 79-15848 Filed 5-23-79; 8:45 am]

BILLING CODE 6450-01-M

Panhandle Eastern Pipe Line Co.; Action Taken on Consent Order

AGENCY: Economic Regulatory Administration, Department of Energy.

ACTION: Notice of action taken and opportunity for comment on Consent Order.

SUMMARY: The Economic Regulatory Administration (ERA) of the Department of Energy (DOE) announces action taken to execute a Consent Order and provides an opportunity for public comment on the Consent Order and on potential claims against the refunds deposited in an escrow account established pursuant to the Consent Order.

DATES: Effective date: May 15, 1979; comments by: June 25, 1979

ADDRESS: Send comments to: Alan L. Wehmeyer, Chief, Crude Products Program Management Branch, 324 East 11th Street, Kansas City, Missouri 64106.

FOR FURTHER INFORMATION CONTACT: Same as above.

SUPPLEMENTARY INFORMATION: On May 15, 1979, the Office of Enforcement of the ERA executed a Consent Order with Panhandle Eastern Pipe Line Company of Kansas City, Missouri. Under 10 CFR § 205.199J(b), a Consent Order which involves a sum of less than $500,000 in the aggregate, excluding penalties and interest, becomes effective upon its execution.

I. The Consent Order

Panhandle Eastern Pipe Line Company (Panhandle), with its home office located in Kansas City, Missouri, is a firm engaged in various aspects of

the petroleum industry, and is subject to the Mandatory Petroleum Price and Allocation Regulations at 10 CFR, Parts 210, 211, 212. To resolve certain civil actions which could be brought by the Office of Enforcement of the Economic Regulatory Administration as a result of its audit of Panhandle, the ERA Office of Enforcement and Panhandle entered into a Consent Order, the significant terms of which are as follows:

1. This Consent Order covers all claims and disputes between the Office of Enforcement and Panhandle resulting from an investigation and audit of Century Refining Company (Century), a wholly owned subsidiary of Panhandle, by the Office of Enforcement which focused on the purchases and sales of motor gasoline during the period November 1, 1973 through December 31, 1975 by Century. Such sales were covered by the Price Rule at 6 CFR 150.359 and 10 CFR 212.93.

2. Panhandle including Century does not by entering this Consent Order admit that it has violated any regulations of the DOE.

3. The provisions of 10 CFR 205.199J, including the publication of this Notice, are applicable to the Consent Order.

II. Disposition of Refunded Overcharges

In this Consent Order, Panhandle agrees to refund, in full settlement of any civil liability with respect to actions which might be brought by the Office of Enforcement, ERA, arising out of the transactions specified in I.1. above, the sum of $280,127.98 on or before May 25, 1979. Refunded overcharges will be in the form of a certified check made payable to the United States Department of Energy and will be delivered to the Assistant Administrator for Enforcement, ERA. These funds will remain in a suitable account pending the determination of their proper disposition.

The DOE intends to distribute the refund amounts in a just and equitable manner in accordance with applicable laws and regulations. Accordingly, distribution of such refunded overcharges requires that only those "persons" (as defined at 10 CFR 205.2) who actually suffered a loss as a result of the transactions described in the Consent Order receive appropriate refunds. Because of the petroleum industry's complex marketing system, it is likely that overcharges have been passed through as higher prices to subsequent purchasers. In fact, the adverse effects of the overcharges may have become so diffused that it is a practical impossibility to identify specific adversely affected persons, in which case disposition of the refunds will be made in the general public interest by an appropriate means such as payment to the Treasury of the United States pursuant to 10 CFR 205.199I(a).

III. Submission of Written Comments

A. *Potential Claimants:* Interested persons who believe that they have a claim to all or a portion of the refund amount should provide written notification of the claim to the ERA at this time. Proof of claims is not now being required. Written notification to the ERA at this time is requested primarily for the purpose of identifying valid potential claims to the refund amount. After potential claims are identified, procedures for the making of proof of claims may be established. Failure of a person to provide written notification of a potential claim within the comment period for this Notice may result in the DOE irrevocably disbursing the funds to other claimants or to the general public interest.

B. *Other Comments:* The ERA invites interested persons to comment on the terms, conditions, or procedural aspects of this Consent Order.

You should send your comments or written notification of a claim to Alan L. Wehmeyer, Chief, Crude Products Program Management Branch, 324 East 11th Street, Kansas City, Missouri 64106. You may obtain a free copy of this Consent Order by writing to the same address.

You should identify your comments or written notification of a claim on the outside of your envelope and on the documents you submit with the designation, "Comments on Panhandle Eastern Pipe Line Company Consent Order." We will consider all comments we receive by 4:30 P.M., local time, on June 25, 1979. You should identify any information or data which, in your opinion, is confidential and submit it in accordance with the procedures in 10 CFR 205.9(f).

Issued in Washington, D.C. on the 17 day of May 1979.

Robert D. Gerring,

District Manager of Enforcement.

[FR Doc. 79-18193 Filed 5-23-79; 8:45 am]

BILLING CODE 6450-01-M

Federal Energy Regulatory Commission

[Docket No. ER77-521]

Arizona Public Service Co.; Further Extension of Time

May 16, 1979.

On April 30, 1979, Arizona Public Service Company filed a motion for postponement of the filing date for briefs opposing exceptions to the initial decision issued December 19, 1978 in this proceeding. The motion states that a settlement agreement has been reached and will be filed shortly.

In order to allow time for filing of the agreement, an extension of time for filing briefs opposing exceptions is granted to and including June 29, 1979. The briefing schedule will be automatically suspended upon the filing of that agreement. Should the Commission disapprove the settlement, briefs will be due 30 days from the date of such Commission action.

Kenneth F. Plumb,

Secretary.

[FR Doc. 79-18219 Filed 5-23-79; 8:45 am]

BILLING CODE 6450-01-M

[Project No 2903]

Calaveras County Water District; Application for Preliminary Permit

May 15, 1979.

Take notice that on January 15, 1979, the Calaveras County Water District filed an application for preliminary permit, pursuant to the Federal Power Act, [16 U.S.C. § 791(a)–825(r)], for a proposed water project, to be known as the New Hogan Project, FERC No. 2903, located on the Calaveras River in Calaveras County, California. The project would affect lands owned by the U.S. Army Corps of Engineers (Corps) as well as an existing Corps dam. Correspondence with the applicant should be directed to: Mr. Steve Felte, Manager, Calaveras County Water District, P.O. Box 846, San Andreas, California, 95249 and Mr. Christopher D. Williams, McCarty & Noone, Counsellors at Law, 490 L'Enfant Plaza East, Suite 3306, Washington, D.C., 20024.

Purpose of Project—The Applicant would use a portion of the power for its proposed Western Calaveras Irrigation District Project and wholesale the remainder of the power to an electric utility in Northern California for distribution within the Northern California supply area. The utility has not yet been selected.

Proposed Scope And Cost Of Studies Under Permit—The Applicant seeks issuance of a preliminary permit for a period of 36-months for preparation of a definitive project report, including preliminary designs, geological explorations, and the collection of environmental data, to study the feasibility of installing a powerplant at the base of the Corps of Engineers existing New Hogan Dam. The Applicant estimates the cost of the proposed studies would be about $60,000.

Project Description—The Applicant's proposed New Hogan Powerplant would contain a single turbine/generator unit with an installed capacity of 2,000 kilowatts. An intake structure, lined tunnel, and steel penstock would be constructed to convey water to the powerplant. The tunnel would pass under the right abutment of the dam. The New Hogan Powerplant would generate an estimated eight million kilowatt-hours of electric energy per year.

Purpose Of Preliminary Permit—A preliminary permit does not authorize construction. A permit, if issued, gives the permittee, during the term of the permit, the right of priority of application for license while the permittee undertakes the necessary studies and examinations to determine the engineering, economic, and environmental feasibility of the proposed project, the market for power, and all other necessary information for inclusion in an application for a license. In this instance, the applicant seeks a 36-month permit.

Agency Comments—Federal, state, and local agencies that receive this notice through direct mailing from the Commission are invited to submit comments on the described application for preliminary permit. A copy of the application may be obtained directly from the applicant. Comments should be confined to substantive issues relevant to the issuance of a permit and consistent with the purpose of a permit as described in this notice. No other formal request for comments will be made. If an agency does not file comments within the time set below, it will be presumed to have no comments.

Protests, Petitions To Intervene, And Agency Comments—Anyone desiring to be heard or to make any protest about this application should file a petition to intervene or a protest with the Federal Energy Regulatory Commission, in accordance with the requirements of the Commission's Rules of Practice and Procedure, 18 C.F.R. § 1.8 or § 1.10 (1977). In determing the appropriate action to take, the Commission will consider all protests filed, but a person who merely files a protest does not become a party to the proceeding. To become a party or to participate in any hearing, a person must file a petition to intervene in accordance with the Commission's Rules.

Any protest petition to intervene, or agency comments must be filed on or before July 16, 1979. The Commission's address is: 825 N. Capitol Street, NE., Washington, D.C., 20426. The application is on file with the Commission and is available for public inspection.

Kenneth F. Plumb,

Secretary.

[FR Doc. 79-18220 Filed 5-23-79; 8:45 am]

BILLING CODE 6450-01-M

[Docket No. CP79-284]

Colorado Interstate Gas Co.; Application

May 9, 1979.

Take notice that on April 24, 1979, Colorado Interstate Gas Company (Applicant), P. O. Box 1087, Colorado Springs, Colorado 80944, filed in Docket No. CP79-284, an application pursuant to Section 7 (c) of the Natural Gas Act for a certificate of public convenience and necessity authorizing the operation in interstate commerce of certain existing facilities that are located in northeast Colorado, all as more fully set forth in the application which is on file with the Commission and open to public inspection.

Applicant states that in recent years the natural gas supplies available on its Southern System have been declining while greater relative success has been experienced in adding new supplies along Applicant's Wyoming Line. Accordingly, states Applicant, gas supplies delivered to Denver, Colorado from sources along the Wyoming Line exceed the Denver area requirements. It is stated that on the other hand, Applicant can no longer meet all delivery requirements on its Southern System with Southern System supplies. It is further stated that this situation necessitates that gas obtained by Applicant in Wyoming and Colorado be transported to the Southern System and into Kansas, Oklahoma, and Texas. Applicant states that certain facilities have been installed at Watkins Junction near Denver to rectify this situation. Applicant states also that other facilities have been constructed or purchased by it to connect new gas supply sources in northeast Colorado. These other facilities are (1) Singletree Check Meter Station and Lateral, (2) Spindle Compressor Station and Lateral Loop, (3) Phillips-Roggen Meter Station and Lateral and (4) the Third Creek-Doherty Lateral, it is stated. Applicant states that these facilities were, and currently are, involved in the transportation of gas in intrastate commerce but that Applicant intends to place these facilities into interstate usage in the near future.

It is stated that Applicant has contracts for the purchase of gas from several producers in Colorado, which contain provisions prohibiting the transportation of the purchased gas in interstate commerce. However, states Applicant, it believes that Section 314 of the Natural Gas Policy Act of 1978 renders such provisions unenforceable.

Any person desiring to be heard or to make any protest with reference to said application should on or before May 30, 1979, file with the Federal Energy Regulatory Commission, Washington, D.C. 20426, a petition to intervene or a protest in accordance with the requirements of the Commission's rules of practice and procedure (18 CFR 1.8 or 1.10) and the regulations under the Natural Gas Act (18 CFR 157.10). All protests filed with the Commission will be considered by it in determining the appropriate action to be taken but will not serve to make the protestants parties to the proceeding. Any person wishing to become a party to a proceeding or to participate as a party in any hearing therein must file a petition to intervene in accordance witht the Commission's rules.

Take further notice that, pursuant to the authority contained in and subject to jurisdiction conferred upon the Federal Energy Regulatory Commission by Sections 7 and 15 of the Natural Gas Act and the Commission's Rules of Practice and Procedure, a hearing will be held without further notice before the Commission or its designee on this application if no petition to intervene is filed within the time required herein, if the Commission on its own review of the matter finds that a grant of the certificate is required by the public convenience and necessity. If a petition for leave to intervene is timely filed, or if the Commission on its own motion believes that a formal hearing is required, further notice of such hearing will be duly given.

Under the procedure herein provided for, unless otherwise advised, it will be

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unnecessary for Applicant to appear or be represented at the hearing.

Kenneth F. Plumb,

Secretary.

[FR Doc. 79-16221 Filed 5-23-79; 8:45 am]

BILLING CODE 6450-01-M

[Docket No. ES79-42]

El Paso Electric Co.; Application

May 18, 1979.

Take notice that on May 9, 1979, El Paso Electric Company (Applicant) filed an application with the Commission, pursuant to Section 204 of the Federal Power Act for authority to issue up to 73,595 shares of Common Stock under its Employee Stock Purchase Plan for the period June 30, 1979, to June 30, 1984. The Applicant is a Texas Corporation, with its principal office at El Paso, Texas, and is engaged in the electric utility business in Texas and New Mexico.

The net proceeds from the sale of the Common Stock will be added to the general corporate funds.

Any person desiring to be heard or to make any protest with reference to the application should on or before June 8, 1979, file with the Federal Energy Regulatory Commission, 825 North Capitol Street, N.E., Washington, D.C. 20426, petitions or protests in accordance with the Commission's rules of practice and procedure (18 CFR 1.8 or 1.10). The application is on file with the Commission and is available for public inspection.

Kenneth F. Plumb,

Secretary.

[FR Doc. 79-16222 Filed 5-23-79; 8:45 am]

BILLING CODE 6450-01-M

[Docket No. CP78-346]

El Paso Natural Gas Co.; Petition To Amend

May 17, 1979.

Take notice that on May 9, 1979, El Paso Natural Gas Company (El Paso), P.O. Box 1492, El Paso, Tex. 79978, filed in Docket No. CP78-346 a petition to amend the order of August 29, 1978, issued in said docket pursuant to Section 7(c) of the Natural Gas Act so as to permit El Paso to gather, process, transport, and deliver additional supplies of natural gas for the account of Natural Gas Pipeline Company of America (Natural), all as more fully set forth in the petition which is on file with the Commission and open to public inspection.

El Paso states that it was authorized by the Commission in Docket No. CP78-346 to transport and deliver, on a best efforts basis, up to 10,000 Mcf of natural gas per day for the account of Natural. Under the authorized arrangement El Paso receives at one or more receipt points, natural gas acquired by Natural in the San Juan Basin area of New Mexico, it is asserted. It is stated that such gas supplies are located in proximity to El Paso's existing field gathering system and other related facilities and that Natural desires El Paso to receive the aforementioned gas supplies. It is further stated that El Paso delivers an aggregate quantity of gas equivalent to ninety percent of the total volumes of natural gas received into Natural's gathering system at a point located in the Lockridge Field, Ward County, Tex., or at such additional points to which the parties may agree.

El Paso states that since the issuance of the aforementioned order, Natural has undertaken to acquire additional gas supplies from certain acreage in the San Juan Basin area. It is stated that given the availability of such additional gas supplies and inasmuch as Natural does not have an existing gathering or transmission system in the area, Natural is desirous of having El Paso gather, process, transport, and deliver such additional supplies of gas as shall be tendered or caused to be tendered by Natural at various new receipt points pursuant to the terms and conditions of the transportation agreement between the parties. El Paso states that this agreement has been amended to provide for the addition of future receipt points which the parties may mutually agree to add to the agreement from time to time, within a specified area of interest.

El Paso specifically requests authorization, as part of the authorized best efforts transportation and delivery agreement, for the account of Natural, to transport and deliver natural gas received or caused to be received from Natural at such future receipt points as may become available to Natural in the area of interest. El Paso also requests permission to add future delivery points as may be required between the parties to keep the volumes of transportation gas in balance during the term of the transportation agreement. Additionally, El Paso requests authorization for the deletion of receipt or delivery points from the transportation agreement as may be mutually agreed to, from time to time, by El Paso and Natural.

Any person desiring to be heard or to make any protest with reference to said petition should on or before June 8, 1979, file with the Federal Energy Regulatory Commission, Washington, D.C. 20426, a petition to intervene or a protest in accordance with the requirements of the Commission's rules of practice and procedure (10 CFR 1.8 or 1.10) and the Regulations under the Natural Gas Act (18 CFR 157.10). All protests filed with the Commission will be considered by it in determining the appropriate action to be taken but will not serve to make the protestants parties to the proceeding. Any person wishing to become a party to a proceeding or to participate as a party in any hearing therein must file a petition to intervene in accordance with the Commission's rules.

Kenneth F. Plumb,

Secretary.

[FR Doc. 79-16223 Filed 5-23-79; 8:45 am]

BILLING CODE 6450-01-M

El Paso Natural Gas Co.; Determination by a Jurisdictional Agency Under the Natural Gas Policy Act of 1978

May 17, 1979.

On May 10, 1979, the Federal Energy Regulatory Commission received notices from the jurisdictional agencies listed below of determinations pursuant to 18 CFR 274.104 and applicable to the indicated wells pursuant to the Natural Gas Policy Act of 1978.

New Mexico State Determination

FERC Control Number: JD79-4656
API Well Number: 30039054310000
Section of NGPA: 108
Operator: El Paso Natural Gas Company
Well Name: Lindrith Unit #2
Field: Blanco, South-Pictured Cliffs Gas
County: Rio Arriba
Purchaser: El Paso Natural Gas Company
Volume: 7.0 MMcf.

FERC Control Number: JD79-4657
API Well Number: 30039052170000
Section of NGPA: 108
Operator: El Paso Natural Gas Company
Well Name: Lindrith Unit #54
Field: Blanco, South-Pictured Cliffs Gas
County: Rio Arriba
Purchaser: El Paso Natural Gas Company
Volume: 4.7 MMcf.

FERC Control Number: JD79-4658
API Well Number: 3003905370000
Section of NGPA: 108
Operator: El Paso Natural Gas Company
Well Name: Lindrith Unit #1
Field: Blanco, South-Pictured Cliffs Gas
County: Rio Arriba
Purchaser: El Paso Natural Gas Company
Volume: 2.0 MMcf.

FERC Control Number: JD79-4659
API Well Number: 30039055000000
Section of NGPA: 108
Operator: El Paso Natural Gas Company
Well Name: Lindrith Unit #3
Field: Blanco, South-Pictured Cliffs Gas
County: Rio Arriba
Purchaser: El Paso Natural Gas Company
Volume: 16.1 MMcf.

FERC Control Number: JD79-4660
API Well Number: 30039600190000
Section of NGPA: 108
Operator: El Paso Natural Gas Company
Well Name: Lindrith Unit #5
Field: Blanco, South-Pictured Cliffs Gas
County: Rio Arriba
Purchaser: El Paso Natural Gas Company
Volume: 12.0 MMcf.

FERC Control Number: JD79-4661
API Well Number: 30045214020000
Section of NGPA: 108
Operator: El Paso Natural Gas Company
Well Name: Huerfano Unit 252
Field: Angels Peak-Gallup Gas
County: San Juan
Purchaser: El Paso Natural Gas Company
Volume: 4.0 MMcf.

FERC Control Number: JD79-4662
API Well Number: 30039067750000
Section of NGPA: 108
Operator: El Paso Natural Gas Company
Well Name: SJ 27-4 Unit #8
Field: Tapacito Pictured Cliffs Gas
County: Rio Arriba
Purchaser: El Paso Natural Gas Company
Volume: 6.6 MMcf.

FERC Control Number: JD79-4663
API Well Number: 30039071670000
Section of NGPA: 108
Operator: El Paso Natural Gas Company
Well Name: SJ 28-6 Unit #26
Field: Blanco- Mesaverde Gas
County: Rio Arriba
Purchaser: El Paso Natural Gas Company
Volume: 13.0 MMcf.

FERC Control Number: JD79-4664
API Well Number: 30039078250000
Section of NGPA: 108
Operator: El Paso Natural Gas Company
Well Name: SJ 30-4 #13
Field: Blanco, East-Pictured Cliffs Gas
County: Rio Arriba
Purchaser: El Paso Natural Gas Company
Volume: 2.2 MMcf.

FERC Control Number: JD79-4665
API Well Number: 30039053670000
Section of NGPA: 108
Operator: El Paso Natural Gas Company
Well Name: Lindrith Unit #7
Field: Blanco, South-Pictured Cliffs Gas
County: Rio Arriba
Purchaser: El Paso Natural Gas Company
Volume: 8.0 MMcf.

FERC Control Number: JD79-4666
API Well Number: 05067050110000
Section of NGPA: 108
Operator: El Paso Natural Gas Company
Well Name: Carter Ute #7
Field: Ignacio Blanco (Mesaverde)
County: La Plata
Purchaser: El Paso Natural Gas Company
Volume: 12.0 MMcf.

FERC Control Number: JD79-4667
API Well Number: 30039207420000
Section of NGPA: 108
Operator: El Paso Natural Gas Company
Well Name: Canyon Largo Unit #196
Field: Ballard-Pictured Cliffs Gas
County: Rio Arriba
Purchaser: El Paso Natural Gas Company
Volume: 4.0 MMcf.

FERC Control Number: JD79-4668
API Well Number: 30039069930000
Section of NGPA: 108
Operator: El Paso Natural Gas Company
Well Name: SJ 2705 Unit #9
Field: Blanco-Mesaverde Gas
County: Rio Arriba
Purchaser: El Paso Natural Gas Company
Volume: 4.0 MMcf.

FERC Control Number: JD79-4669
API Well Number: 30045060210000
Section of NGPA: 108
Operator: El Paso Natural Gas Company
Well Name: Huerfano Unit #12
Field: Kutz, West Pictured Cliffs Gas
County: San Juan
Purchaser: El Paso Natural Gas Company
Volume: 2.2 MMcf.

FERC Control Number: JD79-4670
API Well Number: 05067051770000
Section of NGPA: 108
Operator: El Paso Natural Gas Company
Well Name: UTE #3
Field: Barker Dome (Paradox)
County: La Plata
Purchaser: El Paso Natural Gas Company
Volume: 1.0 MMcf.

FERC Control Number: JD79-4671
API Well Number: 05067050470000
Section of NGPA: 108
Operator: El Paso Natural Gas Company
Well Name: Carter Ute #3
Field: Ignacio Blanco (Mesaverde)
County: La Plata
Purchaser: El Paso Natural Gas Company
Volume: 5.0 MMcf.

FERC Control Number: JD79-4672
API Well Number: 05067050120000
Section of NGPA: 108
Operator: El Paso Natural Gas Company
Well Name: Carter Ute #1
Field: Ignacio Blanco (Mesaverde)
County: La Plata
Purchaser: El Paso Natural Gas Company
Volume: 7.0 MMcf.

FERC Control Number: JD79-4673
API Well Number: 05067051220000
Section of NGPA: 108
Operator: El Paso Natural Gas Company
Well Name: Carter Ute #5
Field: Ignacio Blanco (Mesaverde)
County: La Plata
Purchaser: El Paso Natural Gas Company
Volume: 7.0 MMcf.

FERC Control Number: JD79-4674
API Well Number: 30045062110000
Section of NGPA: 108
Operator: El Paso Natural Gas Company
Well Name: Huerfano Unit #24
Field: Kutz, West-Pictured Cliffs Gas
County: San Juan
Purchaser: El Paso Natural Gas Company
Volume: 3.0 MMcf.

FERC Control Number: JD79-4675
API Well Number: 30039079020000
Section of NGPA: 108
Operator: El Paso Natural Gas Company
Well Name: SJ 30-4 Unit #23
Field: Blanco, East-Pictured Cliffs Gas
County: Rio Arriba
Purchaser: El Paso Natural Gas Company
Volume: 14.6 MMcf.

FERC Control Number: JD79-4676
API Well Number: 30039056020000
Section of NGPA: 108
Operator: El Paso Natural Gas Company
Well Name: Canyon Largo Unit #115
Field: Ballard-Pictured Cliffs Gas
County: Rio Arriba
Purchaser: El Paso Natural Gas Company
Volume: 5.0 MMcf.

FERC Control Number: JD79-4677
API Well Number: 30039059080000
Section of NGPA: 108
Operator: El Paso Natural Gas Company
Well Name: Canyon Largo Unit #41
Field: Blanco, South-Pictured Cliffs Gas
County: Rio Arriba
Purchaser: El Paso Natural Gas Company
Volume: 3.0 MMcf.

FERC Control Number: JD79-4678
API Well Number: 30045059220000
Section of NGPA: 108
Operator: El Paso Natural Gas Company
Well Name: Huerfano Unit #48
Field: Ballard-Pictured Cliffs Gas
County: San Juan
Purchaser: El Paso Natural Gas Company
Volume: 1.0 MMcf.

FERC Control Number: JD79-4679
API Well Number: 30039205340000
Section of NGPA: 108
Operator: El Paso Natural Gas Company
Well Name: Canyon Largo Unit 170
Field: Otero Chacra Gas
County: Rio Arriba
Purchaser: El Paso Natural Gas Company
Volume: 10.2 MMcf.

FERC Control Number: JD79-4680
API Well Number: 30039209200000
Section of NGPA: 108
Operator: El Paso Natural Gas Company
Well Name: Lindrith Unit #58
Field: Blanco, South-Pictured Cliffs Gas
County: Rio Arriba
Purchaser: El Paso Natural Gas Company
Volume: 15.0 MMcf.

FERC Control Number: JD79-4681
API Well Number: 30039212660000
Section of NGPA: 108
Operator: El Paso Natural Gas Company
Well Name: Lindrith Unit 90
Field: Blanco, South-Pictured Cliffs Gas
County: Rio Arriba
Purchaser: El Paso Natural Gas Company
Volume: 16.4 MMcf.

FERC Control Number: JD79-4682
API Well Number: 30039078130000
Section of NGPA: 1-8
Operator: El Paso Natural Gas Company
Well Name: SJ 30-4 Unit #21
Field: Blanco, East-Pictured Cliffs Gas
County: Rio Arriba
Purchaser: El Paso Natural Gas Company
Volume: 11.7 MMcf.

FERC Control Number: JD79-4683
API Well Number: 30039079920000
Section of NGPA: 108
Operator: El Paso Natural Gas Company
Well Name: SJ 32-5 Unit Unit #7
Field: Blanco-Mesaverde Gas
County: Rio Arriba
Purchaser: El Paso Natural Gas Company

FERC Control Number: JD79-4684
API Well Number: 30039209580000
Section of NGPA: 108
Operator: El Paso Natural Gas Company

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Well Name: SJ28-6 Unit 198
Field: Blanco, South-Pictured Cliffs Gas
County: Rio Arriba
Purchaser: El Paso Natural Gas Company
Volume: 9.9 MMcf.

FERC Control Number: JD79-4685
API Well Number: 30045212180000
Section of NGPA: 108
Operator: El Paso Natural Gas Company
Well Name: Huerfano Unit 237
Field: Angels Peak-Gallup Gas
County: San Juan
Purchaser: El Paso Natural Gas Company
Volume: 7.0 MMcf.

FERC Control Number: JD79-4686
API Well Number: 30039073980000
Section of NGPA: 108
Operator: El Paso Natural Gas Company
Well Name: SJ28-7 Unit 6
Field: Blanco-Mesaverde Gas
County: Rio Arriba
Purchaser: El Paso Natural Gas Company
Volume: 12.0 MMcf.

FERC Control Number: JD79-4687
API Well Number: 30045063990000
Section of NGPA: 108
Operator: El Paso Natural Gas Company
Well Name: Huerfanito Unit 95
Field: Blanco, South-Pictured Cliffs Gas
County: San Juan
Purchaser: El Paso Natural Gas Company
Volume: 5.5 MMcf.

FERC Control Number: JD79-4688
API Well Number: 30039069630000
Section of NGPA: 108
Operator: El Paso Natural Gas Company
Well Name: SJ28-7 Unit 5
Field: Blanco South-Pictured Cliffs Gas
County: Rio Arriba
Purchaser: El Paso Natural Gas Company
Volume: 5.1 MMcf.

FERC Control Number: JD79-4689
API Well Number: 30039209880000
Section of NGPA: 108
Operator: El Paso Natural Gas Company
Well Name: SJ28-6 Unit 199
Field: Blanco, South-Pictured Cliffs Gas
County: Rio Arriba
Purchaser: El Paso Natural Gas Company
Volume: 10.6 MMcf.

FERC Control Number: JD79-4690
API Well Number: 30045211240000
Section of NGPA: 108
Operator: El Paso Natural Gas Company
Well Name: Stewart 1
Field: Aztec-Pictured Cliffs Gas
County: San Juan
Purchaser: El Paso Natural Gas Company
Volume: 6.6 MMcf.

FERC Control Number: JD79-4691
API Well Number: 30045216830000
Section of NGPA: 108
Operator: El Paso Natural Gas Company
Well Name: Duff 5
Field: Fulcher Kutz-Pictured Cliffs Gas
County: San Juan
Purchaser: El Paso Natural Gas Company
Volume: 4.0 MMcf.

FERC Control Number: JD79-4692
API Well Number: 30045206780000
Section of NGPA: 108
Operator: El Paso Natural Gas Company
Well Name: Hartman 2
Field: Aztec-Pictured Cliffs Gas
County: San Juan
Purchaser: El Paso Natural Gas Company
Volume: 21.5 MMcf.

FERC Control Number: JD79-4693
API Well Number: 30039059390000
Section of NGPA: 108
Operator: El Paso Natural Gas Company
Well Name: Hill 4
Field: Tapacito-Pictured Cliffs Gas
County: Rio Arriba
Purchaser: El Paso Natural Gas Company
Volume: 4.0 MMcf.

FERC Control Number: JD79-4694
API Well Number: 30045055370000
Section of NGPA: 108
Operator: El Paso Natural Gas Company
Well Name: MCMANUS 5
Field: Ballard-Pictured Cliffs Gas
County: San Juan
Purchaser: El Paso Natural Gas Company
Volume: 4.0 MMcf.

FERC Control Number: JD79-4695
API Well Number: 30045096470000
Section of NGPA: 108
Operator: El Paso Natural Gas Company
Well Name: Storey B2
Field: Aztec-Pictured Cliffs Gas
County: San Juan
Purchaser: El Paso Natural Gas Company
Volume: 6.0 MMcf.

FERC Control Number: JD79-4696
API Well Number: 30045211330000
Section of NGPA: 108
Operator: El Paso Natural Gas Company
Well Name: Sunray H2
Field: Blanco-Pictured Cliffs Gas
County: San Juan
Purchaser: El Paso Natural Gas Company
Volume: 13.0 MMcf.

FERC Control Number: JD79-4697
API Well Number: 30045087880000
Section of NGPA: 108
Operator: El Paso Natural Gas Company
Well Name: Martin 3R
Field: Aztec-Pictured Cliffs Gas
County: San Juan
Purchaser: El Paso Natural Gas Company
Volume: 11.0 MMcf.

FERC Control Number: JD79-4698
API Well Number: 30045208920000
Section of NGPA: 108
Operator: El Paso Natural Gas Company
Well Name: Mansfield 10
Field: Blanco-Pictured Cliffs Gas
County: San Juan
Purchaser: El Paso Natural Gas Company
Volume: 8.4 MMcf.

FERC Control Number: JD79-4699
API Well Number: 30039208940000
Section of NGPA: 108
Operator: El Paso Natural Gas Company
Well Name: Canyon Largo Unit #246
Field: Ballard-Pictured Cliffs Gas
County: Rio Arriba
Purchaser: El Paso Natural Gas Company
Volume: 12.0 MMcf.

FERC Control Number: JD79-4700
API Well Number: 30039207550000
Section of NGPA: 108
Operator: El Paso Natural Gas Company
Well Name: Canyon Largo Unit #202
Field: Blanco, South-Pictured Cliffs Gas
County: Rio Arriba
Purchaser: El Paso Natural Gas Company
Volume: 3.0 MMcf.

FERC Control Number: JD79-4701
API Well Number: 30039207470000
Section of NGPA: 108
Operator: El Paso Natural Gas Company
Well Name: Canyon Largo Unit #204
Field: Blanco, South-Pictured Cliffs Gas
County: Rio Arriba
Purchaser: El Paso Natural Gas Company
Volume: 13.1 MMcf.

FERC Control Number: JD79-4702
API Well Number: 30039209650000
Section of NGPA: 108
Operator: El Paso Natural Gas Company
Well Name: Lindrith Unit #82
Field: Blanco, South-Pictured Cliffs Gas
County: Rio Arriba
Purchaser: El Paso Natural Gas Company
Volume: 17.9 MMcf.

FERC Control Number: JD79-4703
API Well Number: 30045209860000
Section of NGPA: 108
Operator: El Paso Natural Gas Company
Well Name: Case 13
Field: Aztec-Pictured Cliffs Gas
County: San Juan
Purchaser: El Paso Natural Gas Company
Volume: 8.0 MMcf.

FERC Control Number: JD79-4704
API Well Number: 3003905444000
Section of NGPA: 108
Operator: El Paso Natural Gas Company
Well Name: Gilcrease 1
Field: Blanco, South Pictured Cliffs Gas
County: Rio Arriba
Purchaser: El Paso Natural Gas Company
Volume: 5.0 MMcf.

FERC Control Number: JD79-4705
API Well Number: 30039073990000
Section of NGPA: 108
Operator: El Paso Natural Gas Company
Well Name: SJ 28-7 Unit 9
Field: Blanco, Mesaverde Gas
County: Rio Arriba
Purchaser: El Paso Natural Gas Company
Volume: 6.0 MMcf.

FERC Control Number: JD79-4706
API Well Number: 30039071430000
Section of NGPA: 108
Operator: El Paso Natural Gas Company
Well Name: SJ 28-7 Unit 4
Field: Blanco, South Pictured Cliffs Gas
County: Rio Arriba
Purchaser: El Paso Natural Gas Company
Volume: 9.5 MMcf.

FERC Control Number: JD79-4707
API Well Number: 30039072070000
Section of NGPA: 108
Operator: El Paso Natural Gas Company
Well Name: SJ 27-5 Unit #21
Field: Blanco, Mesaverde Gas
County: Rio Arriba
Purchaser: El Paso Natural Gas Company
Volume: 18.0 MMcf.

FERC Control Number: JD79-4708
API Well Number: 30045132360000
Section of NGPA: 108
Operator: El Paso Natural Gas Company
Well Name: Huerfano Unit #6
Field: Kutz, West Pictured Cliffs Gas
County: San Juan
Purchaser: El Paso Natural Gas Company
Volume: 7.0 MMcf.

FERC Control Number: JD79-4709
API Well Number: 30039054980000
Section of NGPA: 108
Operator: El Paso Natural Gas Company
Well Name: LIndrijh Unit #6
Field: Blanco, South Pictured Cliffs Gas
County: Rio Arriba
Purchaser: El Paso Natural Gas Company
Volume: 15.0 MMcf.

FERC Control Number: JD79-4710
API Well Number: 30045059540000
Section of NGPA: 108
Operator: El Paso Natural Gas Company
Well Name: Huerfano Unit #13
Field: Kutz, West-Pictured Cliffs Gas
County: San Juan
Purchaser: El Paso Natural Gas Company
Volume: 1.0 MMcf.

FERC Control Number: JD79-4711
API Well Number: 30039053860000
Section of NGPA: 108
Operator: El Paso Natural Gas Company
Well Name: Lindrith Unit #51
Field: Blanco, South Pictured Cliffs Gas
County: Rio Arriba
Purchaser: El Paso Natural Gas Company
Volume: 11.3 MMcf.

FERC Control Number: JD79-4712
API Well Number: 30039054110000
Section of NGPA: 108
Operator: El Paso Natural Gas Company
Well Name: LIndrith Unit #50
Field: Blanco, South Pictured Cliffs Gas
County: Rio Arriba
Purchaser: El Paso Natural Gas Company
Volume: 11.0 MMcf.

FERC Control Number: JD79-4713
API Well Number: 3004522434
Section of NGPA: 103
Operator: El Paso Natural Gas Company
Well Name: Gartner 1-A
Field: Blanco
County: San Juan
Purchaser: El Paso Natural Gas Company
Volume: 466 MMcf.

FERC Control Number: JD79-4714
API Well Number: 3004522433
Section of NGPA: 103
Operator: El Paso Natural Gas Company
Well Name: Gartner 2-A
Field: Blanco
County: San Juan
Purchaser: El Paso Natural Gas Company
Volume: 380 MMcf.

FERC Control Number: JD79-4715
API Well Number: 3004522385
Section of NGPA: 103
Operator: El Paso Natural Gas Company
Well Name: Thompson 2-A
Field: Blanco
County: San Juan
Purchaser: El Paso Natural Gas Company
Volume: 330 MMcf.

FERC Control Number: JD79-4716
API Well Number: 30045061270000
Section of NGPA: 108
Operator: El Paso Natural Gas Company
Well Name: Bolack C 15
Field: Blanco Mesaverde Gas
County: San Juan
Purchaser: El Paso Natural Gas Company
Volume: 16.0 MMcf.

FERC Control Number: JD79-4717
API Well Number: 30045092420000
Section of NGPA: 108
Operator: El Paso Natural Gas Company
Well Name: Morris A 3
Field: Aztex Pictured Cliffs Gas
County: San Juan
Purchaser: El Paso Natural Gas Company
Volume: 3.0 MMcf.

FERC Control Number: JD79-4718
API Well Number: 30045110780000
Section of NGPA: 108
Operator: El Paso Natural Gas Company
Well Name: Mudge 23
Field: Basin Dakota Gas
County: San Juan
Purchaser: El Paso Natural Gas Company
Volume: 12.0 MMcf.

FERC Control Number: JD79-4719
API Well Number: 30045086050000
Section of NGPA: 108
Operator: El Paso Natural Gas Company
Well Name: White-Cornell 7
Field: Fulcher Kutz Pictured Cliffs Gas
County: San Juan
Purchaser: El Paso Natural Gas Company
Volume: 11.0 MMcf.

FERC Control Number: JD79-4720
API Well Number: 30045132100000
Section of NGPA: 108
Operator: El Paso Natural Gas Company
Well Name: Stewart 5
Field: Blanco Mesaverde Gas
County: San Juan
Purchaser: El Paso Natural Gas Company
Volume: 18.0 MMcf.

FERC Control Number: JD79-4721
API Well Number: 05067050130000
Section of NGPA: 108
Operator: El Paso Natural Gas Company
Well Name: Carter Ute #2
Field: Ignacio Blanco (Mesaverde)
County: La Plata
Purchaser: El Paso Natural Gas Company
Volume: 6.0 MMcf.

FERC Control Number: JD79-4722
API Well Number: 30039207460000
Section of NGPA: 108
Operator: El Paso Natural Gas Company
Well Name: Canyon Largo Unit #201
Field: Blanco, South Pictured Cliffs Gas
County: Rio Arriba
Purchaser: El Paso Natural Gas Company
Volume: 12.0 MMcf.

FERC Control Number: JD79-4743
API Well Number: 30039055190000
Section of NGPA: 108
Operator: El Paso Natural Gas Company
Well Name: Lindrith Unit #48
Field: Blanco, South-Pictured Cliffs Gas
County: Rio Arriba
Purchaser: El Paso Natural Gas Company
Volume: 15.7 MMcf.

The applications for determination in these proceedings together with a copy or description of other materials in the record on which such determinations were made are available for inspection, except to the extent such material is treated as confidential under 18 CFR 275.206, at the Commission's Office of Public Information, Room 1000, 825 North Capitol Street, N.E., Washington, D.C. 20426.

Persons objecting to any of those final determinations may, in accordance with 18 CFR 275.203 and 18 CFR 275.204, file a protest with the Commission on or before June 8, 1979. Please reference the FERC Control Number in any correspondence concering a determination.

Kenneth F. Plumb,

Secretary.

[FR Doc. 79-16230 Filed 5-23-79; 8:45 am]

BILLING CODE 6450-01-M

El Paso Natural Gas Co.; Determination by a Jurisdiction Agency Under the Natural Gas Policy Act of 1978

May 16, 1979.

On May 9, 1979, the Federal Energy Regulatory Commission received notices from the jurisdictional agencies listed below of determinations pursuant to 18 CFR 274.104 and applicable to the indicated wells pursuant to the Natural Gas Policy Act of 1978.

State of New Mexico, U.S. Geological Survey, CD Conservation Division

FERC Control Number: JD79-4498
API Well Number: 30045055630000
Section of NGPA: 108
Operator: El Paso Natural Gas Company
Well Name: Mc Manus 2
Field: Ballard-Pictured Cliffs Gas
County: San Juan
Purchaser: El Paso Natural Gas Company
Volume: 8.0 MMcf.

FERC Control Number: JD79-4499
API Well Number: 30039069140000
Section of NGPA: 108
Operator: El Paso Natural Gas Company
Well Name: SJ 27-5 Unit #11
Field: Blanco-Mesaverde Gas
County: Rio Arriba
Purchaser: El Paso Natural Gas Company
Volume: 16.8 MMcf.

FERC Control Number: JD79-4500
API Well Number: 30045092990000
Section of NGPA: 108
Operator: El Paso Natural Gas Company
Well Name: Ludwick 2
Field: Aztec-Pictured Cliffs Gas
County: San Juan
Purchaser: El Paso Natural Gas Company
Volume: 9.0 MMcf.

FERC Control Number: JD79-4501
API Well Number: 30045211130000
Section of NGPA: 108
Operator: El Paso Natural Gas Company
Well Name: Heaton 29 PC
Field: Aztec Pictured Cliffs Gas
County: San Juan
Purchaser: El Paso Natural Gas Company
Volume: 5.1 MMcf.

FERC Control Number: JD79-4502
API Well Number: 30039204100000
Section of NGPA: 108
Operator: El Paso Natural Gas Company

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Well Name: Vaughn 17 CH
Field: Otero-Chacra Gas
County: Rio Arriba
Purchaser: El Paso Natural Gas Company
Volume: 12.0 MMcf.

FERC Control Number: JD79–4503
API Well Number: 30039068480000
Section of NGPA: 108
Operator: El Paso Natural Gas Company
Well Name: Harrington 3
Field: Blanco, South-Pictured Cliffs Gas
County: Rio Arriba
Purchaser: El Paso Natural Gas Company
Volume: 12.4 MMcf.

FERC Control Number: JD79–4504
API Well Number: 30045211640000
Section of NGPA: 108
Operator: El Paso Natural Gas Company
Well Name: Tapp 9
Field: Blanco, South-Pictured Cliffs Gas
County: San Juan
Purchaser: El Paso Natural Gas Company
Volume: 11.0 MMcf.

FERC Control Number: JD79–4505
API Well Number: 30045073670000
Section of NGPA: 108
Operator: El Paso Natural Gas Company
Well Name: Lackey B 1
Field: Aztec-Pictured Cliffs Gas
County: San Juan
Purchaser: El Paso Natural Gas Company
Volume: 5.0 MMcf.

FERC Control Number: JD79–4506
API Well Number: 30045086540000
Section of NGPA: 108
Operator: El Paso Natural Gas Company
Well Name: Lloud E 1
Field: Aztec-Pictured Cliffs Gas
County: San Juan
Purchaser: El Paso Natural Gas Company
Volume: 3.0 MMcf.

FERC Control Number: JD79–4507
API Well Number: 30045074780000
Section of NGPA: 108
Operator: El Paso Natural Gas Company
Well Name: McCulley-Johnston 1
Field: Blanco-Mesaverde Gas
County: San Juan
Purchaser:
Volume: 6.2 MMcf.

FERC Control Number: JD79–4508
API Well Number: 30045068240000
Section of NGPA: 108
Operator: El Paso Natural Gas Company
Well Name: Thompson C 7
Field: Kutz West-Pictured Cliffs Gas
County: San Juan
Purchaser: El Paso Natural Gas Company
Volume: 10.0 MMcf.

FERC Control Number: JD79–4509
API Well Number: 30039068450000
Section of NGPA: 108
Operator: El Paso Natural Gas Company
Well Name: SJ 27–4 Unit #4
Field: Blanco Mesaverde Gas
County: Rio Arriba
Purchaser: El Paso Natural Gas Company
Volume: 2.2 MMcf.

FERC Control Number: JD79–4510
API Well Number: 30039078670000
Section of NGPA: 108
Operator: El Paso Natural Gas Company
Well Name: SJ 30–4 Unit #5
Field: Blanco, East Pictured Cliffs Gas
County: Rio Arriba
Purchaser: El Paso Natural Gas Company
Volume: 11.0 MMcf.

FERC Control Number: JD79–5411
API Well Number: 30039078750000
Section of NGPA: 108
Operator: El Paso Natural Gas Company
Well Name: SJ 30–4 Unit #11
Field: Blanco, East Pictured Cliffs Gas
County: Rio Arriba
Purchaser: El Paso Natural Gas Company
Volume: 12.8 MMcf.

FERC Control Number: JD79–4512
API Well Number: 30039070620000
Section of NGPA: 108
Operator: El Paso Natural Gas Company
Well Name: SJ 27–5 Unit #6
Field: Blanco Mesaverde Gas
County: Rio Arriba
Purchaser: El Paso Natural Gas Company
Volume: 18.0 MMcf.

FERC Control Number: JD79–4513
API Well Number: 30039078390000
Section of NGPA: 108
Operator: El Paso Natural Gas Company
Well Name: SJ 30–4 Unit #26
Field: Blanco, East Pictured Cliffs Gas
County: Rio Arriba
Purchaser: El Paso Natural Gas Company
Volume: 4.0 MMcf.

FERC Control Number: JD79–4514
API Well Number: 30–045–22428
Section of NGPA: 103
Operator: El Paso Natural Gas Company
Well Name: Atlantic 5A (Mesaverde)
Field: Blanco
County: San Juan
Purchaser: El Paso Natural Gas Company
Volume: 252 MMcf.

FERC Control Number: JD79–4515
API Well Number: 30–045–22734
Section of NGPA: 103
Operator: El Paso Natural Gas Company
Well Name: Neil 3A (Mesaverde)
Field: Blanco
County: San Juan
Purchaser: El Paso Natural Gas Company
Volume: 320 MMcf.

FERC Control Number: JD79–4516
API Well Number: 30–045–22734
Section of NGPA: 103
Operator: El Paso Natural Gas Company
Well Name: Neil 3A (Pictured Cliffs)
Field: Blanco
County: San Juan
Purchaser: El Paso Natural Gas Company
Volume: 87 MMcf.

FERC Control Number: JD79–4517
API Well Number: 30045067010000
Section of NGPA: 108
Operator: El Paso Natural Gas Company
Well Name: Day B 1
Field: Blanco, South Pictured Cliffs Gas
County: San Juan
Purchaser:
Volume: 9.0 MMcf.

FERC Control Number: JD79–4518
API Well Number: 30045064700000
Section of NGPA: 108
Operator: El Paso Natural Gas Company
Well Name: Morris 1
Field: Fulcher Kutz Pictured Cliffs Gas
County: San Juan
Purchaser: El Paso Natural Gas Company
Volume: 1.0 MMcf.

FERC Control Number: JD79–4519
API Well Number: 30045062250000
Section of NGPA: 108
Operator: El Paso Natural Gas Company
Well Name: H. L. Gentle 1
Field: Blanco, South Pictured Cliffs Gas
County: San Juan
Purchaser: El Paso Natural Gas Company
Volume: 4.0 MMcf.

FERC Control Number: JD79–4520
API Well Number: 30045111870000
Section of NGPA: 108
Operator: El Paso Natural Gas Company
Well Name: Mudge 24
Field: Basin Dakota Gas
County: San Juan
Purchaser: El Paso Natural Gas Company
Volume: 4.0 MMcf.

FERC Control Number: JD79–4521
API Well Number: 30045055000000
Section of NGPA: 108
Operator: El Paso Natural Gas Company
Well Name: Quitzau 2
Field: Ballard Pictured Cliffs Gas
County: San Juan
Purchaser: El Paso Natural Gas Company
Volume: 12.4 MMcf.

FERC Control Number: JD79–4522
API Well Number: 30039063230000
Section of NGPA: 108
Operator: El Paso Natural Gas Company
Well Name: Vaughn #1
Field: Blanco, South Pictured Cliffs Gas
County: Rio Arriba
Purchaser: El Paso Natural Gas Company
Volume: 2.0 MMcf.

FERC Control Number: JD79–4523
API Well Number: 30039205070000
Section of NGPA: 108
Operator: El Paso Natural Gas Company
Well Name: Vaughn 21
Field: Otero Chacra Gas
County: Rio Arriba
Purchaser: El Paso Natural Gas Company
Volume: 14.6 MMcf.

FERC Control Number: JD79–4524
API Well Number: 30045071950000
Section of NGPA: 108
Operator: El Paso Natural Gas Company
Well Name: Omler 7
Field: Fulcher Kutz Pictured Cliffs Gas
County: San Juan
Purchaser: El Paso Natural Gas Company
Volume: 16.1 MMcf.

FERC Control Number: JD79–4525
API Well Number: 30–045–22545
Section of NGPA: 103
Operator: El Paso Natural Gas Company
Well Name: Mudge 4–A (Mesaverde)
Field: Blanco
County: San Juan
Purchaser: El Paso Natural Gas Company
Volume: 379 MMcf.

FERC Control Number: JD79–4526
API Well Number: 30–045–22545
Section of NGPA: 103
Operator: El Paso Natural Gas Company
Well Name: Mudge 4A (Pictured Cliffs)
Field: Blanco
County: San Juan
Purchaser: El Paso Natural Gas Company
Volume: 166 MMcf.

FERC Control Number: JD79–4527
API Well Number: 30–045–22833
Section of NGPA: 103
Operator: El Paso Natural Gas Company
Well Name: Jones 1–A (Mesaverde)
Field: Blanco
County: San Juan
Purchaser: El Paso Natural Gas Company
Volume: 160 MMcf.

FERC Control Number: JD79–4528
API Well Number: 30–045–22417
Section of NGPA: 103
Operator: El Paso Natural Gas Company
Well Name: Gartner 3A (Mesaverde)
Field: Blanco
County: San Juan
Purchaser: El Paso Natural Gas Company
Volume: 553 MMcf.

FERC Control Number: JD79–4529
API Well Number: 30–045–22833
Section of NGPA: 103
Operator: El Paso Natural Gas Company
Well Name: Jones 1–A (Pictured Cliffs)
Field: Blanco
County: San Juan
Purchaser: El Paso Natural Gas Company
Volume: 160 MMcf.

The applications for determination in these proceedings together with a copy or description of other materials in the record on which such determinations were made are available for inspection, except to the extent such material is treated as confidential under 18 CFR 275.206, at the Commission's Office of Public Information, Room 1000, 825 North Capitol Street, N.E., Washington, D.C. 20426.

Persons objecting to any of those final determinations may, in accordance with 18 CFR 275.203 and 18 CFR 275.204, file a protest with the Commission on or before June 8, 1979. Please reference the FERC Control Number in any correspondence concerning a determination.

Kenneth F. Plumb,

Secretary.

[FR Doc. 79–16232 Filed 5–23–79; 8:45 am]

BILLING CODE 6450–01–M

Exeter Exploration Co. et al.; Determination by a Jurisdictional Agency Under the Natural Gas Policy Act of 1978

May 16, 1979.

On May 9, 1979, the Federal Energy Regulatory Commission received notices from the jurisdictional agencies listed below of determinations pursuant to 18 CFR 274.104 and applicable to the indicated wells pursuant to the Natural Gas Policy Act of 1978.

U.S. Geological Survey

FERC Control Number: JD79–4530
API Well Number: 49–009–21364
Section of NGPA: 103
Operator: Exeter Exploration Company
Well Name: Brent Shogrin Federal 1
Field: Mike's Draw
County: Converse
Purchaser: Phillips Petroleum Company
Volume: 36 MMcf.

FERC Control Number: JD79–4531
API Well Number: 05–103–8082
Section of NGPA: 102
Operator: David M. Munson
Well Name: David M. Munson 30–1–99
Field:
County: Rio Blanco
Purchaser: Northern Natural Gas Co.
Volume: 500 MMcf.

FERC Control Number: JD79–4532
API Well Number: 49–037–30942–00
Section of NGPA: 103
Operator: Smokey Oil Company, Inc.
Well Name: Diamond Shamrock Federal #32–26
Field: Wamsutter
County: Sweetwater
Purchaser: Colorado Interstate Gas Company
Volume: 72.0 MMcf.

FERC Control Number: JD79–4533
API Well Number: 49–041–20139
Section of NGPA: 103
Operator: Phillips Petroleum Company
Well Name: Bruff A No. 1
Field: Bruff Area
County: Uinta
Purchaser: Mountain Fuel Supply Co.
Volume: 250 MMcf.

FERC Control Number: JD79–4534
API Well Number: 43–047–30235
Section of NGPA: 103
Operator: Belco Petroleum Corporation
Well Name: Chapita Wells Unit 34–28 30235
Field: Chapita Wells
County: Uintah
Purchaser: Mountain Fuel Supply Company
Volume:

FERC Control Number: JD79–4535
API Well Number: 49–103–20649
Section of NGPA: 102
Operator: Prenalta Corporation
Well Name: Prenalta Federal 32–34
Field: Kirby Draw
County: Fremont
Purchaser: Northern Gas Company
Volume: 107 MMcf.

FERC Control Number: JD79–4536
API Well Number: 49–103–20687
Section of NGPA: 102
Operator: Prenalta Corporation
Well Name: Prenalta Federal 31–34
Field: Kirby Draw
County: Fremont
Purchaser: Northern Gas Company
Volume: 16 MMcf.

FERC Control Number: JD79–4537
API Well Number: 49–009–21374
Section of NGPA: 103
Operator: Exeter Exploration Company
Well Name: Brent Shogrin Federal #2
Field: Mike's Draw
County: Converse
Purchaser: Phillips Petroleum company
Volume: 36 MMcf.

FERC Control Number: JD79–4538
API Well Number: 05–103–7994
Section of NGPA: 103
Operator: Mobil Oil Corporation
Well Name: Piceance Creek Unit No. T27–17G
Field: Piceance Creek
County: Rio Blanco
Purchaser: Northwest Pipeline Corporation
Volume: 335 MMcf.

FERC Control Number: JD79–4539
API Well Number: 49–035–20467
Section of NGPA: 103
Operator: Belco Petroleum Corporation
Well Name: Johnson Ridge S–26–33 20467
Field: Johnson Ridge
County: Sublette
Purchaser: Northwest Pipeline Corporation
Volume:

FERC Control Number: JD79–4540
API Well Number: 43–047–30236
Section of NGPA: 103
Operator: Belco Petroleum Corporation
Well Name: Chapita Wells Unit 35–15 30236
Field: Chapita Wells
County: Unitah
Purchaser: Mountain Fuel Supply Company
Volume:

FERC Control Number: JD79–4541
API Well Number: 43–047–30263
Section of NGPA: 103
Operator: Belco Petroleum Corporation
Well Name: Chapita Wells Unit 36–26 30263
Field: Chapita Wells
County: Uintah
Purchaser: Mountain Fuel Supply Company
Volume:

FERC Control Number: JD79–4542
API Well Number: 43–047–30233
Section of NGPA: 103
Operator: Belco Petroleum Corporation
Well Name: Chapita Wells Unit 32–21
Field: Chapita Wells
County: Uintah
Purchaser: Mountain Fuel Supply Company
Volume:

FERC Control Number: JD79–4543
API Well Number: 43–047–30291
Section of NGPA: 103
Operator: Belco Petroleum Corporation
Well Name: Chapita Wells Unit 44–10 30291
Field: Chapita Wells
County: Uintah
Purchaser: Mountain Fuel Supply Company
Volume:

FERC Control Number: JD79–4544
API Well Number: 43–047–30288
Section of NGPA: 103
Operator: Belco Petroleum Corporation
Well Name: Chapita Wells Unit 41–18 30288
Field: Chapita Wells
County: Uintah
Purchaser: Mountain Fuel Supply Company
Volume:

FERC Control Number: JD79–4546
API Well Number: 49–035–20477
Section of NGPA: 103
Operator: Belco Petroleum Corporation
Well Name: Johnson Ridge S–27–33 20477
Field: Johnson Ridge
County: Sublette
Purchaser: Northwest Pipeline Corporation
Volume:

FERC Control Number: JD79–4546
API Well Number: 05–045–6120

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Section of NGPA: 103
Operator: Palmer Oil & Gas Company
Well Name: Federal #13–6
Field: Twin Buttes
County: Garfield
Purchaser: Northwest Pipeline Corporation
Volume: 110 MMcf.

FERC Control Number: JD79–4547
API Well Number: 05–045–6163
Section of NGPA: 103
Operator: Walter S. Fees, Jr.
Well Name: Ferguson-Gov't #3–9
Field: Bridle
County: Garfield
Purchaser: Northwest Pipeline Corporation
Volume: 40 MMcf.

FERC Control Number: JD79–4548
API Well Number: 49–009–21279
Section of NGPA: 103
Operator: Haynie & Mayer
Well Name: #2–24 Lansdale Federal
Field: Mikes Draw
County: Converse
Purchaser: Inexco
Volume: 64 MMcf.

FERC Control Number: JD79–4549
API Well Number: 49–009–21269
Section of NGPA: 103
Operator: H & M Oil Producers, Inc.
Well Name: Federal Lansdale #3–24
Field: Mikes Draw
County: Converse
Purchaser: Inexco
Volume: 78 MMcf.

FERC Control Number: JD79–4550
API Well Number: 49–009–21290
Section of NGPA: 103
Operator: Haynie & Mayer
Well Name: #4–13 Lansdale Federal
Field: Mikes Draw
County: Converse
Purchaser: Inexco
Volume: 111 MMcf.

FERC Control Number: JD79–4551
API Well Number: 49–005–2472800
Section of NGPA: 102
Operator: Getty Oil Company
Well Name: Hartzog "B" No. 1
Field: Hartzog Draw
County: Campbell
Purchaser: Phillips Petroleum Co.
Volume: 20 MMcf.

FERC Control Number: JD79–4552
API Well Number: 05–103–06012
Section of NGPA: 103
Operator: Lawrence Barker, Jr.
Well Name: Government #16
Field: South Douglas Creek
County: Rio Blanco
Purchaser: Northwest Pipeline Corporation
Volume: 68 MMcf.

FERC Control Number: JD79–4553
API Well Number: 49–009–21287
Section of NGPA: 103
Operator: Haynie & Mayer
Well Name: #1–24 Lansdale Federal
Field: Mikes Draw
County: Converse
Purchaser: Inexco
Volume: 115 MMcf.

FERC Control Number: JD79–4554
API Well Number:
Section of NGPA: 108
Operator: Merrion Oil & Gas & Robert L. Bayless, Agent
Well Name: Book Cliffs #3
Field: Book Cliffs
County: Grand
Purchaser: Northwest Pipeline Corporation
Volume: 8.0 MMcf.

FERC Control Number: JD79–4555
API Well Number: 05–103–7996
Section of NGPA: 103
Operator: Mobile Oil Corporation
Well Name: Piceance Creek Unit No. T63–12G
Field: Piceance Creek
County: Rio Blanco
Purchaser: Northwest Pipeline Corporation
Volume: 335 MMcf.

FERC Control Number: JD79–4556
API Well Number: 43–047–30264
Section of NGPA: 103
Operator: Belco Petroleum Corporation
Well Name: Chapita Wells Unit 37–11 30264
Field: Chapita Wells
County: Uintah
Purchaser: Mountain Fuel Supply Company
Volume:

FERC Control Number: JD79–4557
API Well Number: 43–047–30265
Section of NGPA: 103
Operator: Belco Petroleum Corporation
Well Name: Chapita Wells Unit 38–9 30265
Field: Chapita Wells
County: Uintah
Purchaser: Mountain Fuel Supply Company
Volume:

FERC Control Number: JD79–4558
API Well Number: 43–047–30287
Section of NGPA: 103
Operator: Belco Petroleum Corporation
Well Name: Chapita Wells Unit 40–27 30287
Field: Chapita Wells
County: Uintah
Purchaser: Mountain Fuel Supply Company
Volume:

FERC Control Number: JD79–4559
API Well Number: 49–035–20424
Section of NGPA: 103
Operator: Belco Petroleum Corporation
Well Name: RU 20 20424
Field: Ruben
County: Sublette
Purchaser: Northwest Pipeline Corporation
Volume:

FERC Control Number: JD79–4560
API Well Number: 05–045–6165
Section of NGPA: 103
Operator: Walter S. Fees, Jr.
Well Name: Gov't. #2–3–8–104
Field: Bridle
County: Garfield
Purchaser: Northwest Pipeline Corporation
Volume: 1.0 MMcf.

FERC Control Number: JD79–4561
API Well Number: 49–023–20186
Section of NGPA: 103
Operator: Belco Petroleum Corporation
Well Name: SCU 3–13 20186
Field: Steed Canyon
County: Lincoln
Purchaser: Northwest Pipeline Corporation
Volume:

FERC Control Number: JD79–4562
API Well Number: 49–023–20258
Section of NGPA: 103
Operator: Belco Petroleum Corporation
Well Name: SCU 5–14 20258
Field: Steed Canyon
County: Lincoln
Purchaser: Northwest Pipeline Corporation
Volume:

FERC Control Number: JD79–4563
API Well Number: 49–035–20414
Section of NGPA: 103
Operator: Belco Petroleum Corporation
Well Name: FCU 8–20 20414
Field: Fogarty Creek
County: Sublette
Purchaser: Northwest Pipeline Corporation
Volume:

FERC Control Number: JD79–4564
API Well Number: 05–045–6121
Section of NGPA: 103
Operator: Palmer Oil & Gas Company
Well Name: Federal #21–11
Field: South Canyon
County: Garfield
Purchaser: Western Slope Gas Company
Volume: 110 MMcf.

FERC Control Number: JD79–4565
API Well Number: 05–045–6154
Section of NGPA: 103
Operator: Palmer Oil & Gas Company
Well Name: Federal #21–3
Field: South Canyon
County: Garfield
Purchaser: Western Slope Gas Company
Volume: 119 MMcf.

FERC Control Number: JD79–4566
API Well Number: 05–045–6147
Section of NGPA: 103
Operator: Palmer Oil & Gas Company
Well Name: Federal #20–7
Field: South Canyon
County: Garfield
Purchaser: Western Slope Gas Company
Volume: 82 MMcf.

FERC Control Number: JD79–4567
API Well Number: 05–045–6142
Section of NGPA: 103
Operator: Palmer Oil & Gas Company
Well Name: Federal #20–6
Field: South Canyon
County: Garfield
Purchaser: Western Slope Gas Company
Volume: 219 MMcf.

FERC Control Number: JD79–4568
API Well Number: 05–045–6161
Section of NGPA: 103
Operator: Palmer Oil & Gas Company
Well Name: Federal #31–3
Field: South Canyon
County: Garfield
Purchaser: Western Slope Gas Company
Volume: 355 MMcf.

FERC Control Number: JD79–4569
API Well Number: 05–045–6139
Section of NGPA: 103
Operator: Palmer Oil & Gas Company
Well Name: Federal #30–11
Field: South Canyon
County: Garfield
Purchaser: Western Slope Gas Company
Volume: 197 MMcf.

FERC Control Number: JD79–4570
API Well Number: 05–045–6140
Section of NGPA: 103
Operator: Palmer Oil & Gas Company

Well Name: Federal #30–3
Field: South Canyon
County: Garfield
Purchaser: Southwest Gas Corporation
Volume: 130 MMcf.

FERC Control Number: JD79–4571
API Well Number: 05–045–6144
Section of NGPA: 103
Operator: Palmer Oil & Gas Company
Well Name: Federal #29–16
Field: South Canyon
County: Garfield
Purchaser: Southwest Gas Corporation
Volume: 219 MMcf.

FERC Control Number: JD79–4572
API Well Number: 05–045–6110
Section of NGPA: 103
Operator: Palmer Oil & Gas Company
Well Name: Federal #28–7
Field: South Canyon
County: Garfield
Purchaser: Western Slope Gas Company
Volume: 185 MMcf.

FERC Control Number: JD79–4573.
API Well Number: 05–045–6107.
Section of NGPA: 103.
Operator: Palmer Oil & Gas Company.
Well Name: Federal #27–11.
Field: South Canyon.
County: Garfield.
Purchaser: Western Slope Gas Company.
Volume: 650 MMcf.

FERC Control Number: JD79–4574.
API Well Number: 05–045–6145.
Section of NGPA: 103.
Operator: Palmer Oil & Gas Company.
Well Name: Federal #13–7.
Field:
County: Garfield.
Purchaser: Colorado Interstate Gas Company.
Volume: 110 MMcf.

FERC Control Number: JD79–4575.
API Well Number: 05–045–6123.
Section of NGPA: 103.
Operator: Palmer Oil & Gas Company.
Well Name: Federal #12–16.
Field:
County: Garfield.
Purchaser: Colorado Interstate Gas Company.
Volume: 64 MMcf.

FERC Control Number: JD79–4576.
API Well Number: 49–035–30422.
Section of NGPA: 103.
Operator: Belco Petroleum Corporation.
Well Name: Johnson Ridge S–24–28 20422.
Field: Johnson Ridge.
County: Sublette.
Purchaser: Northwest Pipeline Corporation.
Volume:

FERC Control Number: JD79–4577.
API Well Number: 49–035–30422.
Section of NGPA: 103.
Operator: Belco Petroleum Corporation.
Well Name: Johnson Ridge S–25–34 20417.
Field: Johnson Ridge.
County: Sublette.
Purchaser: Northwest Pipeline Corporation.
Volume:

FERC Control Number: JD79–4578.
API Well Number: 05–103–07983.
Section of NGPA: 103.
Operator: Lawrence Barker, Jr.
Well Name: Government #7/3.
Field: South Douglas Creek.
County: Rio Blanco.
Purchaser: Northwest Pipeline Corporation.
Volume: 52 MMcf.

FERC Control Number: JD79–4579.
API Well Number: 49–035–30420.
Section of NGPA: 103.
Operator: Belco Petroleum Corporation.
Well Name: RU 19–24 20420.
Field: Ruben.
County: Sublette.
Purchaser: Northwest Pipeline Corporation.
Volume:

FERC Control Number: JD79–4580.
API Well Number: 05–077–8122.
Section of NGPA: 103.
Operator: Palmer Oil & Gas Company.
Well Name: Federal #32–3.
Field: Bar X.
County: Mesa.
Purchaser: Northwest Pipeline Corporation.
Volume: 91 MMcf.

FERC Control Number: JD79–4581.
API Well Number: 49–035–30497.
Section of NGPA: 103.
Operator: Belco Petroleum Corporation.
Well Name: Johnson Ridge S 28–28.
Field: Johnson Ridge.
County: Sublette.
Purchaser: Northwest Pipeline Corporation.
Volume:

FERC Control Number: JD79–4582.
API Well Number: 49–035–20475.
Section of NGPA: 103.
Operator: Belco Petroleum Corporation.
Well Name: NLBU 25–5 20475.
Field: North Labarge Unit.
County: Sublette.
Purchaser: Northwest Pipeline Corporation.
Volume:

FERC Control Number: JD79–4583.
API Well Number: 49–023–20228.
Section of NGPA: 108.
Operator: Belco Petroleum Corporation.
Well Name: SCU 1–15 20228.
Field: Steed Canyon Unit.
County: Lincoln.
Purchaser: Northwest Pipeline Corporation.
Volume:

FERC Control Number: JD79–4584.
API Well Number: 05–045–6143.
Section of NGPA: 103.
Operator: Palmer Oil & Gas Company.
Well Name: Federal #15–15.
Field: South Canyon.
County: Garfield.
Purchaser: Western Slope Gas Company.
Volume: 105 MMcf.

FERC Control Number: JD79–4585.
API Well Number: 05–045–6158.
Section of NGPA: 103.
Operator: Palmer Oil & Gas Company.
Well Name: Federal #18–2.
Field:
County: Garfield.
Purchaser: Colorado Interstate Gas Company.
Volume: 46 MMcf.

FERC Control Number: JD79–4586.
API Well Number: 05–045–6160.
Section of NGPA: 103.
Operator: Palmer Oil & Gas Company.
Well Name: Federal #8–3.
Field: South Canyon.
County: Garfield.
Purchaser: Colorado Interstate Gas Company.
Volume: 46 MMcf.

FERC Control Number: JD79–4587.
API Well Number: 05–045–6155.
Section of NGPA: 103.
Operator: Palmer Oil & Gas Company.
Well Name: Federal #33–15.
Field: South Canyon.
County: Garfield.
Purchaser: Western Slope Gas Company.
Volume: 128 MMcf.

FERC Control Number: JD79–4588.
API Well Number: 05–045–6112.
Section of NGPA: 103.
Operator: Palmer Oil & Gas Company.
Well Name: Federal #26–13.
Field: South Canyon.
County: Garfield.
Purchaser: Colorado Interstate Gas Company.
Volume: 720 MMcf.

FERC Control Number: JD79–4589.
API Well Number: 49–035–20425.
Section of NGPA: 103.
Operator: Belco Petroleum Corporation.
Well Name: RU 21–13 20425.
Field: Ruben.
County: Sublette.
Purchaser: Northwest Pipeline Corporation.
Volume:

The applications for determination in these proceedings together with a copy or description of other materials in the record on which such determinations were made are available for inspection, except to the extent such material is treated as confidential under 18 CFR 275.206, at the Commission's Office of Public Information, Room 1000, 825 North Capitol Street, NE., Washington, D.C. 20426.

Persons objecting to any of these final determinations, may, in accordance with 18 CFR 275.203 and 18 CFR 275.204, file a protest with the Commission on or before June 8, 1979. Please reference the FERC Control Number in any correspondence concerning a determination.

Kenneth F. Plumb,
Secretary.

[FR Doc. 79–16233 Filed 5–23–79; 8:45 am]
BILLING CODE 6450–01–M

[Docket No. CP74–142]

Mountain Fuel Resources, Inc.; Petition To Amend

May 17, 1979.

Take notice that on April 27, 1979, Mountain Fuel Resources, Inc. (Applicant), Suite 1540, 36 South State Street, Salt Lake City, Utah 84111, filed in Docket No. CP74–142 a petition to amend the order of April 4, 1974, as amended on July 30, 1975, issued in said docket pursuant to Section 7(c) of the Natural Gas Act so as to provide for a

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change in the maximum daily quantity of gas transported for Rocky Mountain Natural Gas Company (Rocky Mountain) from 9,000 Mcf per day at 15.025 psia to 6,500 Mcf per day at 14.73 psia, all as more fully set forth in the petition which is on file with the Commission and open to public inspection.[1]

Applicant states that it filed a tariff change in Docket No. RP78–61 designed to increase the jurisdictional revenues derived from sales under Rate Schedule No. 1 by a total dollar amount of $640,667. Applicant further states that the rate filing was accepted for filing by Commission order on June 15, 1978 and suspended for five months until November 16, 1978. The rate change, after reinstatement, did not include any change in the level of the rate charged under Applicant's Rate Schedule T–1 pursuant to which Applicant transports gas for Rocky Mountain, it is stated.

Applicant indicates that settlement conferences between Applicant, Rocky Mountain, and Commission Staff have resulted in a negotiated level of total transmission costs to be allocated to the transportation service. The settlement agreement requires a reduction in the maximum daily quantity as indicated in the service agreement, states Applicant. As a result of these negotiations, Applicant and Rocky Mountain have executed a transportation service agreement dated April 19, 1979 that provides for a reduction in the maximum daily quantity tendered for transportation from the current 9,000 Mcf per day at 15.025 psia to 6,500 Mcf per day at 14.73 psia.

Any person desiring to be heard or to make any protest with reference to said petition should on or before June 8, 1979, file with the Federal Energy Regulatory Commission, Washington, D.C. 20426, a petition to intervene or a protest in accordance with the requirements of the Commission's rules of practice and procedure (18 CFR 1.8 or 1.10) and the Regulations under the Natural Gas Act (18 CFR 157.10). All protests filed with the Commission will be considered by it in determining the appropriate action to be taken but will not serve to make the protestants parties to the proceeding. Any person wishing to become a party to a proceeding or to participate as a party in any hearing therein must file a petition to intervene in accordance with the Commission's rules.

Kenneth F. Plumb,

Secretary.

[FR Doc. 79–16224 Filed 5–23–79; 8:45 am]

BILLING CODE 6450–01–M

[1] This proceeding was commenced before the FPC. By joint regulation of October 1, 1977 (10 CFR 1000.1), it was transferred to the Commission.

[Docket Nos. ER78–828 and EL78–18]

Nantahala Power & Light Co., et al.; Intent To Act

May 18, 1979.

On April 13, 1979, the Commission staff filed a motion requesting the Commission to reject a brief on exceptions filed on April 3, 1979, in the above-captioned proceeding by Tapoco, Inc. A response to the staff's motion was filed by the town of Highlands, North Carolina on April 26, 1979, and by Tapoco on April 30, 1979. The Commission intends to issue an order on the staff's motion in the near future. Therefore the motion shall not be deemed denied under section 1.12(e) of the Commission rules.

By direction of the Commission.

Kenneth F. Plumb,

Secretary.

[FR Doc. 79–16225 Filed 5–23–79; 8:45 am]

BILLING CODE 6450–01–M

[Docket Nos. CP79–56 through CP79–60]

Negative Threshold Determination of Environmental Impact of Northwest Alaskan Pipeline Co. et al.; Natural Gas Pipeline Project Proposed

May 21, 1979.

Notice is hereby given that the Federal Energy Regulatory Commission (FERC) environmental staff, consistent with the requirement of the National Environmental Policy Act of 1969 that all agencies of the Federal Government evaluate the environmental impact of all Federal actions significantly affecting the quality of the human environment, has analyzed the impact of a natural gas pipeline proposed by Northwest Alaskan Pipeline Company (Northwest Alaskan), Pacific Interstate Transmission Company (Pac Interstate), Pacific Gas Transmission Company (PGT), Northwest Pipeline Corporation (Northwest), and El Paso Natural Gas Company (El Paso) in Docket Nos. CP79–56 through CP79–60 to determine if an environmental impact statement should be prepared.

On November 7, 1978, the five pipeline companies filed with the FERC applications for a certificate of public convenience and necessity to transport 240,000 Mcfd of natural gas to be imported from Alberta, Canada, for sale in southern California. The importation was approved by Commission order of June 7, 1978, conditioned upon future certification, under Section 7 of the Natural Gas Act, of (1) the facilities needed to effect the importation and (2) the jurisdictional sales, exchange, and transportation agreements necessary to deliver the gas to southern California.

Under the present proposal, the gas would be purchased from Pan Alberta Gas, Ltd. and imported from Alberta by Northwest Alaskan. It would be sold at the Kingsgate, British Columbia-Eastport, Idaho, border to Pac Interstate. The gas would be transported through PGT facilities from Kingsgate to Stanfield, Oregon. From there, the gas would be transported through a Northwest pipeline system to Ignacio, Colorado. At that point, the gas would be transported and/or displaced through El Paso facilities to a tie-in with Southern California Gas Company facilities at Topock, California. Modifications to all these existing systems would be necessary.

The applicants contend that this proposal constitutes a prebuilding of the Western Leg of the Alaska Natural Gas Transportation System (ANGTS), which was selected by the President, ratified by Congress, and conditionally certificated by the FERC (December 16, 1977, Docket No. CP75–96 *et al.*) to transport Alaskan natural gas to the lower 48 states. However, of the facilities proposed in these applications, only 160 miles of 36-inch diameter pipeline looping along the existing PGT right-of-way between Kingsgate and Stanfield are part of the Western Leg approved by the President and the Congress. Neither the remaining 350 miles of 30- and 24-inch diameter proposed pipeline looping Northwest's existing system, nor the other proposed modifications to existing systems, would be part of the system conditionally certificated by the FERC to transport Alaskan natural gas.

The environmental staff of the FERC has made a systematic, interdisciplinary review of the proposal and has made a threshold determination that the proposal would not significantly affect the human environment, principally because it would involve pipeline looping and compressor additions to existing facilities. Since the environmental impact would be a continuation of existing impact rather than a major new impact, the environmental staff concludes that an environmental impact statement is not required. Furthermore, the environmental staff believes this proposal to transport gas to southern California would not be in the public interest if the same volumes could better be transported by prebuilding the Western Leg, which has already been approved as the environmentally superior route for delivering gas to the California market.

The conclusions of the environmental staff are only one element in determining the Commission staff's position on whether this proposal should be approved. The staff must also compare the economic feasibility of the proposal to the alternatives and resolve legal questions on the Western Leg the President selected. The staff will examine all these issues and evaluate the proposal on its merits before making its final recommendation to the Commission.

The full statement of reasons on which this negative threshold determination is based can be obtained from the FERC Office of Public Information, 825 North Capitol St., NE, Washington, D.C. 20426.

Kenneth F. Plumb,

Secretary.

[FR Doc. 79–16218 Filed 5–23–79; 8:45 am]

BILLING CODE 6450–01–M

[Docket Nos. G–20273 and RP66–7, et al.]

Ohio Fuel Gas Co., et al.; Amendment to Petition

May 15, 1979.

In the matter of The Ohio Fuel Gas Company (Docket Nos. G–20273 & RP66–7), Texas Gas Transmission Corporation (Docket Nos. G–18886, RP61–15 & RP67–10), Panhandle Eastern Pipe Line Company (Docket Nos. RP68–15 & RP69–3), and Tennessee Gas Pipeline Company, a Division of Tenneco, Inc. (Docket Nos. G–11980, G–17166 & G–19983).

Take notice that on April 16, 1979, Columbia Gas Transmission Corporation (Columbia) filed an amendment to its July 16, 1976 petition for an order releasing refunds held in escrow.

Any person desiring to be heard or to protest said filing should file a petition to intervene or protest with the Federal Energy Regulatory Commission, 825 North Capitol Street, N.E., Washington, D.C. 20426, in accordance with sections 1.8 and 1.10 of the Commission's rules of practice and procedure (18 CFR 1. 8, 1.10). All such petitions or protests should be filed on or before May 30, 1979. Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceeding. Any person wishing to become a party must file a petition to intervene. Copies of this filing are on file with the Commission and are available for public inspection.

Kenneth F. Plumb,

Secretary.

[FR Doc. 79–16226 Filed 5–23–79; 8:45 am]

BILLING CODE 6450–01–M

Phillips Petroleum Co.; Determination by a Jurisdictional Agency Under the Natural Gas Policy Act of 1978.

May 14, 1979.

On April 24, 1979, the Federal Energy Regulatory Commission received notice of a determination pursuant to 18 CFR 274.104 of the Natural Gas Policy Act of 1978 applicable to:

New Mexico Oil Conservation division

FERC Control Number: JD79–5657
API Well Number: 30–025–03996
Section: 108
Operator: Phillips Petroleum Company
Well Name: Monument No. 1
Field: Eumont Queen Yates—7 Rivers
County: Lea
Purchaser: El Paso Natural Gas Co.
Volume: 1.1 MMcf.

The application for determination in this matter together with a copy or description of other materials in the record on which such determination was made is available for inspection, except to the extent such material is treated as confidential uncer 18 CFR 275.206, at the Commission's Office of Public Information, Room 1000, 825 North Capitol Street, N.E. Washington D.C. 20426.

Persons objecting to this final determination may, in accordance with 18 CFR 275.203 and 18 CFR 275.204, file a protest with the Commission on or before June 8, 1979. Please reference the FERC Control Number in any correspondence concerning a determination.

Kenneth F. Plumb,

Secretary.

[FR Doc. 79–16231 Filed 5–23–79; 8:45 am]

BILLING CODE 6450–01–M

[Project No. 2889]

San Bernardino Valley Municipal Water District; Application for Preliminary Permit

May 15, 1979.

Take notice that on November 20, 1978, the San Bernardino Valley Municipal Water District filed an application for preliminary permit [pursuant to the Federal Power Act, 16 U.S.C. Section 791(a) 825(r)] for a proposed water power project to be known as the Lytle Creek and Foothill Pipelines Hydroelectric Project, FERC Project No. 2889, located in San Bernardino County of the Lytle Creek and Foothill Pipelines which convey water from the afterbay of the Devil Canyon Power Plant, a part of the California Aquaduct Project, FERC Project No. 2426. The proposed project would affect the interest of interstate commerce. Correspondence with the Applicant should be directed to: Mr. Jack A. Beaver, General Manager, San Bernardino Valley Municipal Water District, P.O. Box 4906, San Bernardino, California 92412; and Mr. James W. Dilworth, General Counsel, San Bernardino Valley Municipal Water District, P.O. Box 4906, San Bernardino, California 92412.

Description of Project—The project that would be studied under the permit would consist of four developments as follows: (a) the Lytle Creek Power Plant would have an installed capacity of 1,300 kW and would utilize water diverted from the Lytle Creek Pipeline through a 1,000-foot-long penstock to the site of a proposed water treatment plant; (b) the Sweetwater Power Plant would have an installed capacity of 875 kW and would be located adjacent to an existing percolation basin on a trunout from the Foothill Pipeline; (c) the Waterman Canyon Power Plant would be located adjacent to an existing percolation basin, would have an installed capacity of 4,000 kW and would utilize water diverted from the Foothill Pipeline through a 150-foot-long penstock; and (d) the Santa Ana Low Power Plant would have an installed capacity of 1,400 kW and would replace one of three fixed cone valves and dissipation basins on a turnout from the Foothill Pipeline.

The estimated average annual output from the proposed project would be 20.8 million kWh.

Proposed Scope and Cost of Studies Under Permit—Applicant has requested a 3-year permit to prepare a definitive project report, including preliminary designs, geological explorations, and collection of environmental assessment. The cost of the foregoing activities, together with preparation of an environmental impact report, obtaining agreements with various federal, state, and local agencies, preparing a license application and final geologic exploration and field surveys, is estimated by Applicant to be about $933,000.

Proposed Use of Project Power—Project energy would be sold wholesale

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to either a municipality or a private utility for distribution in Southern California.

Purpose of Preliminary Permit—A preliminary permit does not authorize construction. A permit, if issued, gives the Permittee, during the term of the permit, the right of priority of application for license while the Permittee undertakes the necessary studies and examinations to determine the engineering, economic, and environmental feasibility of the proposed project, the market for power, and all other necessary information for inclusion in an application for a license.

Agency Comments—Federal, state, and local agencies that receive this notice through direct mailing from the Commission are invited to submit comments on the described application for preliminary permit. A copy of the application may be obtained directly form the Applicant. Comments should be confined to substantive issues relevant to the issuance of a permit as described in this notice. No other formal request for comments will be made. If an agency does not file comments within the time set below it will be presumed to have no comments.

Protests, Petitions to Intervene, and Agency Comments—Anyone desiring to be heard or to make any protest about this application should file a petition to intervene or a protest with the Federal Energy Regulatory Commission in accordance with the requirements of the Commission's rules of practice and procedure 18 C.F.R. § 1.8 or § 1.10 (1977). In determining the appropriate action to take, the Commission will consider all protests filed, but a person who merely files a protest does not become a party to the proceeding. To become a party or to participate in any hearing a person must file a petition to intervene in accordance with the Commission's Rules.

Any protest, petition to intervene, or agency comments must be filed on or before July 16, 1979. The Commission's addess is: 825 N. Capitol Street, N.E., Washington, D.C. 20426. The application is on file with the Commission and is available for public inspection.

Kenneth F. Plumb,

Secretary.

[FR Doc. 79-16227 Filed 5-23-79; 8:45 am]

BILLING CODE 6450-01-M

[Docket No. CP79-305]

Transcontinental Gas Pipe Line Corp.; Application

May 17, 1979.

Take notice that on May 10, 1979, Transcontinental Gas Pipe Line Corporation (Applicant), P.O. Box 1396, Houston, Texas 77001, filed in Docket No. CP79-305 and application pursuant to section 7(c) of the Natural Gas Act for a certificate of public convenience and necessity authorizing the transportation for two years of up to 185,600 dekatherms (dt) equivalent of natural gas per day for Public Service Electric and Gas Company, South Jersey Gas Company, Delmarva Power & Light Company, Long Island Lighting Company, Philadelphia Gas Works, Eastern Shore Natural Gas Company, Elizabethtown Gas Company, Consolidated Edison Company of New York, Inc., and the City of Greer, South Carolina (Distribution Customers), all as more fully set forth in the application which is on file with the Commission and open to public inspection

Applicant states that it, as agent for the Distribution Customers, has executed two gas purchase agreements, dated April 24, 1979, with Delhi Gas Pipeline Corporation (Delhi) to purchase the gas proposed to be transported. The first agreement pursuant to Subpart C of Part 157 of the Commission's Regulations provides for an initial period of 60 days and for a filing with the Commission for an additional 60-day period, it is said. It is indicated that the Delhi gas would be delivered from the following five sources: Caddo (East Texas), Laredo-Lopeno (South Texas), Saxet (South Texas), Live Oak (South Texas), and Cheyenne (Oklahoma). It is further indicated that other pipelines would transport the gas from certain of the sources to Applicant's system.

It is asserted that Delhi's obligation to deliver and sell and Applicant's obligation to receive and purchase gas is on a best efforts, interruptible basis. Further, it is stated that under the first agreement, for the gas to be delivered, Delhi would charge Applicant a commodity price per million Btu's equal to the maximum lawful price specified in Section 271.202 of Subpart B of the interim regulations under the Natural Gas Policy Act of 1978 (NGPA), and in addition, to the commodity price, Applicant would pay Delhi a gathering and transportation fee for all gas delivered at each delivery point as follows: Caddo—20.0 cents per million Btu's; Laredo-Popeno—26.76 cents per million Btu's; Saxet—20.0 cents per million Btu's; Live Oak—20.0 cents per million Btu's; and Cheyenne—no fee.

It is stated that the second agreement between Applicant, as agent, and Delhi, provides for a purchase pursuant to Section 311(b) of the NGPA for a term of 20 months beginning on the date of commencement of deliveries thereunder with deliveries to commence upon termination of the purchases under the first agreement. It is indicated that the gas would be delivered from one source. Delhi's Cheyenne system in Oklahoma and that it is estimated that Delhi would have surplus gas of approximately 75,000 Mcf per day for sale to Applicant. The gas would be delivered by Delhi for the account of Applicant at the existing point of interconnection of the facilities of Delhi and Kansas-Nebraska Natural Gas Company, Inc. (Kansas-Nebraska) in Roger Mills County, Oklahoma, and Kansas-Nebraska would then transport the gas to Panhandle Eastern Pipe Line Company's (Panhandle) system, with Panhandle transporting it to Trunkline Gas Company's (Trunkline) system and Trunkline transporting it to Applicant's system, it is stated. Delhi's obligation to sell and deliver gas to or for the account of Applicant is on a best efforts, interruptible basis.

It is further stated that under the second agreement, for the gas to be sold Delhi would charge Applicant a price per million Btu's equal to Delhi's weighted average acquisition cost of gas purchased by Delhi on its Cheyenne system and in addition to such price, Applicant would pay Delhi a fee of 13.77 cents per million Btu's as compensation for gathering, treating, and transporting the gas.

Applicant states that it would receive the gas from Delhi and the intermediate pipelines and would deliver equivalent quantities (less quantities retained by Applicant for compressor fuel and line loss make-up) to the Distribution Customers at existing delivery points. Further, Applicant states that for all quantities transported, the Rate Zone 3 Distribution Customers would pay Applicant initially a rate of 24.34 cents per dt and the City of Greer, which is the only Rate Zone 2 Distribution Customer in this arrangement, would pay Applicant initially a rate of 23.84 cents per dt.

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Applicant states that the Distribution Customers have advised it that the gas to be transported hereunder would be used for boiler fuel in order to displace fuel oil.

Any person desiring to be heard or to make any protest with reference to said application should on or before June 8, 1979, file with the Federal Energy Regulatory Commission, Washington, D.C. 20426, a petition to intervene or a protest in accordance with the requirements of the Commission's rules of practice and procedure (18 CFR 1.8 or 1.10) and the regulations under the Natural Gas Act (18 CFR 157.10). All protests filed with the Commission will be considered by it in determining the appropriate action to be taken but will not serve to make the protestants parties to the proceeding. Any person wishing to become a party to a proceeding or to participate as a party in any hearing therein must file a petition to intervene in accordance with the Commission's Rules.

Take further notice that, pursuant to the authority contained in and subject to jurisdiction conferred upon the Federal Energy Regulatory Commission by Sections 7 and 15 of the Natural Gas Act and the Commission's Rules of Practice and Procedure, a hearing will be held without further notice before the Commission or its designee on this application if no petition to intervene is filed within the time required herein, if the Commission on its own review of the matter finds that a grant of the certificate is required by the public convenience and necessity. If a petition for leave to intervene is timely filed, or if the Commission on its own motion believes that a formal hearing is required, further notice of such hearing will be duly given.

Under the procedure herein provided for, unless otherwise advised, it will be unnecessary for Applicant to appear or be represented at the hearing.

Kenneth F. Plumb,

Secretary.

[FR Doc. 79-16228 Filed 5-23-79; 8:45 am]

BILLING CODE 6450-01-M

[Docket Nos. RP75-30, RP74-20 and RP74-83]

United Gas Pipe Line Co.; Extension of Time

May 16, 1979.

On May 2, 1979, United Gas Pipe Line Company filed a petition for reconsideration and motion for stay of the Order Denying Rehearing issued on April 5, 1979, in this proceeding.

In order to allow the Commission time to act on the petition and motion, an extension of time is granted until June 4, 1979 for complying with Ordering Paragraphs (B) and (C) of Opinion No. 16.

Kenneth F. Plumb,

Secretary.

[FR Doc. 79-16229 Filed 5-23-79; 8:45 am]

BILLING CODE 6450-01-M

Office of Assistant Secretary for International Affairs

Proposed Subsequent Arrangements

Pursuant to Section 131 of the Atomic Energy Act of 1954, as amended (42 U.S.C. 2160), notice is hereby given of proposed "subsequent arrangements" under the Agreement for Cooperation Between the Governments of the United States and Switzerland and the Agreement for Cooperation Between the Government of the United States and the European Atomic Energy Community.

The subsequent arrangements to be carried out under the above mentioned agreements involve approval of the following transfers from Switzerland to the United Kingdom (Windscale) and France (La Hague) for the purpose of reprocessing.

Names of reactor and owner	Number of elements	Kgs of U	U-235%	Kgs of Pu
Muehleberg, Bernische Kraftwerke AG(BKW).	63 to La Hague	11,244	.85	90
Beznau 1, Nordostschweizerische Kraftwerke AG(NOK).	40 to Windscale	12,706	.89	112

The Department of Energy has received letters of assurance from the Swiss Government that the recovered uranium and plutonium will not be transferred from the Windscale and La Hague sites without prior consent of the United States Government.

In accordance with Section 131 of the Atomic Energy Act of 1954, as amended, it has been determined that these subsequent arrangements will not be inimical to the common defense and security.

These subsequent arrangements will take effect fifteen days after the date of publication of this notice and after fifteen days of continuous session of the Congress, beginning the day after the date on which the reports required by Section 131 of the Atomic Energy Act of 1954, as amended, (42 U.S.C. 2160) are submitted to the Committee on Foreign Affairs of the House of Representatives and the Committee on Foreign Relations of the Senate. The two time periods referred to above shall run concurrently.

For the Department of Energy.

Dated: May 18, 1979.

Harold D. Bengelsdorf

Director for Nuclear Affairs, International Nuclear and Technical Programs.

[FR Doc. 79-16359 Filed 5-22-79; 12:38 pm]

BILLING CODE 6450-01-M

ENVIRONMENTAL PROTECTION AGENCY

[FR 1233-6]

Science Advisory Board; Environmental Health Committee; Open Meeting

Under Public Law 92-463, notice is hereby given that a meeting of the Environmental Health Committee of the Science Advisory Board will be held at 9:00 a.m. on June 13, 1979, in Conference Room 529A, Hubert H. Humphrey Building, 220 Independence Avenue, S.W., Washington, D.C.

The principal purpose of the meeting will be (1) to discuss and take appropriate action on the report of the Committee's Study Group on Pesticide Tolerances; (2) to be briefed on and discuss Agency plans to intensify environmental health research efforts in fiscal year 1980 ("public health initiative"); and (3) to be briefed on and discuss Agency plans to utilize the findings and recommendations of the Science Advisory Board's Health Effects Research Review Group which, in compliance with provisions of the Environmental Research, Development, and Demonstration Authorization Act of 1978 (Pub. L. 95-155), evaluated and prepared a report on the Agency's health effects research efforts. The Agenda will also include briefings and discussions on other Agency or Science Advisory Board Activities and topics of current or future interest to the Committee.

The meeting will be open to the public. Any member of the public wishing to attend or submit a paper should contact the Secretariat, Science Advisory Board (A-101), U.S.

Environmental Protection Agency, Washington, D.C. 20460, by c.o.b. June 8, 1979. Please ask for Mr. Kenneth B. Goggin or Mrs. Ilene Stein. The telephone number is (703) 557–7720. For further information please call this number or (202) 755–0263.

Richard M. Dowd,

Staff Director, Science Advisory Board.

May 21, 1979.

[FR Doc. 79–16328 Filed 5–23–79; 8:45 am]

BILLING CODE 6560–01–M

FEDERAL COMMUNICATIONS COMMISSION

[FCC 79–312]

FCC Action on Annual Employment Report (Form 395)

May 18, 1979.

The FCC denied two petitions for reconsideration of its recent amendment of Form 395, the Annual Employment Report. Form 395 asks for a breakdown of employees by several job categories and by specified race and ethnic groups and sex. The Commission recently amended the form in several respects, including the instructions to be followed by broadcasters in listing their employees in the various job categories. For each job category there is a general description and general examples (which were not changed) followed by a list of illustrative job titles specific to broadcasting. These examples had been changed somewhat, and the two petitions questioned the listing of certain specific job titles.

In noting that the petitions did not raise any substantive problems, the Commission stated that the lists of job titles following the definition of each job category are not all inclusive and that proper categorization of an employee depends on the kind and level of his responsibility. It added that individual licensees with specific questions about filling out their forms could address them to the Renewal and Transfer Division, Equal Employment Opportunity Unit, telephone (202) 632–7069, for speedy answers.

Action by the Commission May 18, 1979. Commissioners Ferris (Chairman), Lee, Quello, Washburn, Fogarty and Brown, with Commissioner Jones not participating.

Federal Communications Commission.

William J. Tricarico,

Secretary.

[FR Doc. 79–16266 Filed 5–23–79; 8:45 am]

BILLING CODE 6712–01–M

Hazle-Tone Communications, Inc., and Schuylkill Mobile Fone Inc.; Designating Applications for Consolidated Hearing on Stated Issues; Memorandum Opinion and Order

Adopted: April 27, 1979.

Released: May 9, 1979.

In re Applications of Hazle-Tone Communications, Inc. (CC Docket No. 79–95 File No. 20400–CD–P–78) for a Construction Permit to establish a new two-way station to operate on frequency 454.150 MHz in the Domestic Public Land Mobile Radio Service at Hazleton, Pennsylvania, and Schuylkill Mobile Fone, Inc., (CC Docket No. 79–96; File No. 20500–CD–P–(2)–78) for a Construction Permit to establish additional facilities for two-way station KGA589 to operate on frequency 454.150 MHz in the Domestic Public Land Mobile Radio Service at Pottsville, Pennsylvania.

1. Presently before the Chief, Common Carrier Bureau, pursuant to delegated authority is the application of Hazleton Communications, Inc., File No. 20400–CD–P–78, for a Construction Permit to establish a new two-way station to operate on frequency 454.150 MHz in the Domestic Public Land Mobile Radio Service (DPLMRS) at Hazleton, Pennsylvania, and the application of Schuylkill Mobile Fone, Inc., (Schuylkill), File No. 20500–CD–P–(2)–78, to establish additional facilities for two-way DPLMRS station KGA589 to operate on frequency 450.150 MHz at Pottsville, Pennsylvania. These applications are electrically mutually exclusive.

2. Because these applications are electrically mutually exclusive, a comparative hearing must be held to determine which applicant would better serve the public interest. *Ashbacker Radio Corp.* v. *FCC*, 326 U.S. 327 (1945). We find the applicants to be legally, technically, financially and otherwise qualified to construct and operate their proposed facilities, except as otherwise noted below.

3. In a request for Special Temporary Authority (STA) dated March 21, 1979 to operate DPLMRS stations KGA589 and KWU268 at Pottsville, Pennsylvania, Mr. Robert C. Green, President of Schuylkill, advised the Bureau that on July 14, 1975, he purchased the 50% stock interest in the company, previously held by Mr. Robert J. Porter. This transaction, which gave Mr. Green 100% interest in Schuylkill Mobile Fone, was completed without filing an application for or receiving prior Commission approval of this transfer of control, as required pursuant to section 310(d) of the Communications Act of 1934, as amended,[1] and section 21.39 of the Commission's Rules.[2] Schuylkill's request for STA states that Mr. Green was not aware that the Commission's consent to this transaction was required and that failure to file such an application was due solely to ignorance. The request further states that the first Licensee Qualifications Report (FCC Form 430) filed by Schuylkill on February 17, 1976, listed Robert C. Green as "sole stockholder" and that there has never been any intention to deceive or mislead the Commission as to the company's ownership.

4. Despite Mr. Green's statements in Schuylkill's request for STA, the Bureau is of the opinion that substantial questions are raised by the facts presented to us in that request and that these questions must be resolved in a hearing in which evidence may be adduced as to the facts and circumstances surrounding the unauthorized transfer of control. Also to be considered is what effect, if any, the unauthorized transfer of control has on Schuylkill's character or other qualifications to be a Commission licensee. Therefore, we will designate these issues for the hearing which we have already determined is required under the *Ashbacker* doctrine.

5. Accordingly, it is ordered, That the above-referenced application of Hazletone Communications, Inc., File No. 20400–CD–P–78, and the application of Schuylkill Mobile Fone, Inc., File No. 20500–CD–P–(2)–78, are designated for hearing in a consolidated proceeding upon the following issues:

(a) to determine the facts and circumstances surrounding the unauthorized transfer of control of Schuylkill from Mr. Robert J. Porter to Mr. Robert C. Green;

(b) to determine, in light of the evidence adduced on issue (a) above, what effect the transfer should have on Schuylkill's basic or comparative qualifications to be a Commission licensee;

(c) to determine and compare the nature and extent of service proposed by each applicant, including the rates, charges, maintenance, personnel, practices, classifications, regulations, and facilities pertaining thereto;

(d) to determine and compare, the areas and populations that each applicant will serve within the prospective 39 dbu contours, based upon the standards set forth in Section 21.504(a) of the Commission's Rules,[3] and to determine and compare the need for the proposed services in said area; and

(e) to determine, in light of the evidence adduced pursuant to the foregoing issues, what disposition of the above-referenced applications would best serve the public interest, convenience and necessity.

6. It is further ordered, That, with respect to issues (a) and (b) the burden of proof and the burden of proceeding with the introduction of evidence are placed on Schuylkill Mobile Fone, Inc.

7. It is further ordered, That, with respect to issues (c) and (d) the burden of proof and the burden of proceeding with the introduction of evidence are placed jointly on the applicants, and, that with respect to issue (e) the burden of proof is placed jointly on the applicants.

8. It is further ordered, That the hearing shall be held at the Commission offices in Washington, D.C., at a time and place and before an Administrative Law Judge to be specified in a subsequent Order.

9. It is further ordered, That the Chief, Common Carrier Bureau, is made a party to the proceeding.

10. It is further ordered, That the applicants may avail themselves of an opportunity to be heard by filing with the Commission pursuant to Section 1.221(c) of the Rules within 20 days of the release date hereof, a written notice stating an intention to appear on the date for the hearing and present evidence on the issues specified in this Memorandum Opinion and Order.

Larry F. Darby,

Chief, Common Carrier Bureau.

[FR Doc. 16267 Filed 5–23–79; 8:45 am]

BILLING CODE 6712–01–M

[1] 47 U.S.C. 310(d).

[2] 47 C.F.R. 21.39.

[3] Section 21.504(a) of the Commission's Rules and Regulations describes a field strength contour of 39 decibels above one microvolt per meter as the limits of the reliable service area for base stations engaged in two-way communications service on frequencies in the 450 MHz band. Propagation data set forth in Section 21.504(b) are the proper bases for establishing the location of service contours (F50, 50) for the facilities involved in this proceeding.

[FCC 79–301; BC Docket No. 79–115; File No. BR–1130]

Sonderling Broadcasting Corp., Radio Station WOL; Renewal of License; Memorandum Opinion and Order Designating Application for Hearing on Stated Issues

Adopted: May 10, 1979.

Released: May 17, 1979.

By the Commission:

1. The Commission has before it for consideration the above-captioned application and its inquiry into the operation by Sonderling Broadcasting Corporation (SBC) of Radio Station WOL, Washington, D.C.

2. Information before the Commission raises serious questions as to whether the captioned applicant possesses the qualifications to be or to remain a licensee of the captioned station. In view of these questions, the Commission is unable to find that a grant of the renewal application would serve the public interest, convenience and necessity, and must, therefore, designate the application for hearing.

3. Accordingly, It is Ordered, That the captioned application Is Designated for a Hearing pursuant to Section 309(e) of the Communications Act of 1934, as amended, at a time and place specified in a subsequent order, upon the following issues:

(a) To determine whether, and if so the extent to which, the licensee allowed its employees to subordinate the public interest to their own interests in the selection of programming content.

(b) To determine whether and if so the extent to which, the licensee, or its employees, violated Sections 317 or 508 of the Communications Act of 1934, as amended.

(c) To determine all the facts and circumstances concerning the licensee's submission of false documents to the Commission's staff.

(d) To determine whether the licensee exercised adequate supervision and control over WOL, Washington, D.C.

(e) To determine, in light of the evidence adduced under the preceding issues, whether the licensee possesses the requisite qualifications to be or remain a licensee of the Commission, and whether a grant of the captioned application would serve the public interest, convenience and necessity.

4. It is Further Ordered, That the Chief, Broadcast Bureau, is directed to serve upon the captioned applicant within thirty (30) days of the release of this Order, a bill of particulars with respect to issues (a) through (d).

5. It is Further Ordered, That the Broadcast Bureau proceed with the initial presentation of evidence with respect to issues (a) through (d) and that the applicant then proceed with its evidence and have the burden of establishing that it possesses the requisite qualifications to be a licensee of the Commission and that a grant of its application would serve the public interest, convenience and necessity.

6. It is Further Ordered, That to avail itself of the opportunity to be heard, the applicant herein, pursuant to Section 1.221 of the Commission's Rules, in person or by its attorney, shall file with the Commission, within twenty (20) days of the mailing of this order, a written appearance in triplicate, stating an intention to appear on the date fixed for the hearing and present evidence on the issues specified in this Order.

7. It is Further Ordered, That the applicant herein pursuant to Section 311(a)(2) of the Communications Act of 1934, as amended, and Section 1.594 of the Commission's Rules, shall give notice of the hearing within the time and in the manner prescribed in such rule and shall advise the Commission thereof as required by Section 1.594(g) of the Rules.

8. It is Further Ordered, That the Secretary of the Commission send copies of this Order by Certified Mail—Return Receipt Requested to Sonderling Broadcasting Corporation, licensee of Radio Station WOL, Washington, D.C.

William J. Tricarico

Secretary, Federal Communications Commission.

[FR Doc. 79–16215 Filed 5–23–79; 8:45 am]

BILLING CODE 6712–01–M

FEDERAL RESERVE SYSTEM

DEPARTMENT OF THE TREASURY

Comptroller of the Currency

FEDERAL DEPOSIT INSURANCE CORPORATION

Joint Notice of Proposed Policy Statement

Correction

In FR Doc. 79–11799 appearing at page 23121 in the issue for Wednesday, April 18, 1979 make the following corrections:

(1) The heading should be corrected as stated above.

(2) On page 23121, column two, the following paragraph should be inserted before the last paragraph:

All outstanding consumer loans delinquent in excess of 60 days but less than 120 days shall be classified substandard.

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GENERAL ACCOUNTING OFFICE

Regulatory Reports Review; Receipt of Report Proposal

The following request for clearance of a report intended for use in collecting information from the public was received by the Regulatory Reports Review Staff, GAO, on May 16, 1979. See 44 U.S.C. 3512(c) and (d). The purpose of publishing this notice in the Federal Register is to inform the public of such receipt.

The notice includes the title of the request received; the name of the agency sponsoring the proposed collection of information; the agency form number, if applicable, and the frequency with which the information is proposed to be collected.

Written comments on the proposed FCC request are invited from all interested persons, organizations, public interest groups, and affected businesses. Because of the limited amount of time GAO has to review the proposed request, comments (in triplicate) must be received on or before June 11, 1979, and should be addressed to Mr. John M. Lovelady, Assistant Director, Regulatory Reports Review, United States General Accounting Office, Room 5106, 441 G Street, NW, Washington, DC 20548.

Further information may be obtained from Patsy J. Stuart of the Regulatory Reports Review Staff, 202–275–3532.

Federal Communications Commission

The FCC requests clearance of a new Form 753–T, Temporary Restricted Radiotelephone Operator Permit. On December 7, 1978, the Commission adopted Docket 78–846 which implemented a system of temporary authorizations for ship stations in Maritime Services. That order, however, did not extend temporary authority to Aviation and Broadcast Services where these permits are also used. Section 13.11 of the Commission's Rules and Regulations have been amended to implement a system of temporary permits for Restricted Radiotelephone Operators. Form 753–T will be required to be completed by respondents and will serve as a 60-day temporary permit while Form 753, Application for Restricted Radiotelephone Operator Permit by Declaration, which must be completed and mailed at the same time, is being processed by the Commission and a license issued. FCC estimates respondent burden will average two minutes per temporary permit and that approximately 180,000 temporary permits will be completed by respondents annually.

Norman F. Heyl,

Regulatory Reports Review Officer.

[FR Doc. 79-16251 Filed 5-23-79; 8:45 am]

BILLING CODE 1610-01-M

DEPARTMENT OF HEALTH, EDUCATION, AND WELFARE

Food and Drug Administration

Federal Responses to Radioactive Contamination From Specified Foreign Nuclear Detonations; Multiagency Memorandum of Understanding

Cross Reference: For a multiagency memorandum of understanding regarding Federal responses to radioactive contamination from specified foreign nuclear detonations, issued jointly by the Department of the Air Force, the Department of Energy, the Environmental Protection Agency, the Federal Aviation Administration, the Food Drug Administration, the National Oceanic and Atomospheric Administration, and the Nuclear Regulatory Commission, see FR Doc. 79–16192 appearing in Part VII of this issue.

BILLING CODE 4110-03-M

Office of the Secretary

Ethics Advisory Board; Meeting

Notice is hereby given that the Ethics Advisory Board will hold a meeting on June 15–16, 1979, at the Center for Disease Control, Building 1, Room 207, 1600 Clifton Road, Atlanta, Georgia 30333. The meeting will convene at 9:00 a.m. on June 15 and at 9:00 a.m. on June 16, and will be open to the public subject to limitations of available space.

The agenda for Friday, June 15, will include issues related to disclosure of: (1) preliminary data from clinical trials and related biomedical research and (2) data collected by the Center for Disease Control concerning epidemiological investigations. The agenda for Saturday, June 16, will include discussion of problems associated with: (1) the conduct of certain clinical trials; and (2) research involving the collection of human ova fertilized *in vivo*.

Requests for information should be directed to Ms. Roberta Garfinkle, Westwood Building, Room 125, 5333 Westbard Avenue, Bethesda, Maryland 20016, telephone, 301–496–7776.

Dated May 3, 1979.

Charles R. McCarthy,

Staff Director, Ethics Advisory Board.

[FR Doc. 79-16317 Filed 5-23-79; 8:45 am]

BILLING CODE 4110-88-M

DEPARTMENT OF HOUSING AND URBAN DEVELOPMENT

Federal Disaster Assistance Administration

[Docket No. NFD–705; FDAA–584–DR]

Louisiana; Amendment to Notice of Major Disaster Declaration

AGENCY: Federal Disaster Assistance Administration.

ACTION: Notice.

SUMMARY: This Notice amends the Notice of a major disaster for the State of Louisiana (FDAA–584–DR), dated May 2, 1979.

DATED: May 9, 1979.

FOR FURTHER INFORMATION CONTACT: Sewall H. E. Johnson, Program Support Staff, Federal Disaster Assistance Administration, Department of Housing and Urban Development, Washington, D.C. 20410 (202/634–7825).

NOTICE: This Notice of major disaster for the State of Louisiana dated May 2, 1979, is hereby amended to include the following areas among those areas determined to have been adversely affected by the catastrophe declared a major disaster by the President in his declaration of May 2, 1979.

For Individual Assistance only, the Parishes of: La Salle, Pointe Coupea, and St. Martin.

(Catalog of Federal Domestic Assistance No. 14.701, Disaster Assistance.)

William H. Wilcox,

Administrator, Federal Disaster Assistance Administration.

[FR Doc. 79-16238 Filed 5-23-79; 8:45 am]

BILLING CODE 4210-22-M

[Docket No. NFD–707; FDAA–584–DR]

Louisiana; Major Disaster and Related Determinations

AGENCY: Federal Disaster Assistance Administration.

ACTION: Notice.

SUMMARY: This is a Notice of the Presidential declaration of a major disaster for the State of Louisiana (FDAA–584–DR), dated May 2, 1979, and related determinations.

DATED: MAY 2, 1979.

FOR FURTHER INFORMATION CONTACT: John L. Perry, Program Support Staff, Federal Disaster Assistance Administration, Department of Housing and Urban Development, Washington, D.C. 20410 (202/634–7825).

NOTICE: Pursuant to the authority vested in the Secretary of Housing and Urban development by the President under Executive Order 11795 of July 11, 1974, and delegated to me by the Secretary under Department of Housing and Urban Development Delegation of Authority, Docket No. D–74–285; and by virtue of the act of May 22, 1974, entitled "Disaster Relief Act of 1974" (98 Stat. 143); notice is hereby given that, in a letter on May 2, 1979 to the Secretary, the President declared a major disaster as follows: I have determined that the damage in certain areas of the State of Louisiana resulting from severe storms and flooding beginning on or about April 20, 1979, is of sufficient severity and magnitude to warrant a major-disaster declaration under Public Law 93–288. I therefore declare that such a major disaster exists in the State of Louisiana.

Public Assistance will be limited to the costs of emergency protective measures for the specific areas of the State designated as eligible for such assistance.

Notice is hereby given that pursuant to the authority vested in the Secretary of Housing and Urban Development under Executive Order 11795, and delegated to me by the Secretary under Department of Housing and Urban Development Delegation of Authority, Docket No. D–74–285, I hereby appoint Mr. William H. Mayer of the Federal Disaster Assistance Administration to act as the Federal Coordinating Officer for this declared major disaster.

I do hereby determine the following areas of the State of Louisiana to have been affected adversely by this declared major disaster.

The Parishes of: Ascension, Assumption, Catahoula, East Baton Rouge, Iberville, Livingston, and St. Tammany.

(Catalog of Federal Domestic Assistance No. 14.701, Disaster Assistance.)

William H. Wilcox,

Federal Disaster Assistance Administration.

[FR Doc. 79-16236 Filed 5-23-79; 8:45 am]

BILLING CODE 4210-22-M

[Docket No. NFD–706; FDAA–577–DR]

Mississippi; Amendment to Notice of Major Disaster Declaration

AGENCY: Federal Disaster Assistance Administration.

ACTION: Notice.

SUMMARY: This Notice amends the Notice of a major disaster for the State of Mississippi (FDAA–577–DR), dated April 16, 1979.

DATED: May 8, 1979.

FOR FURTHER INFORMATION CONTACT: Sewall H. E. Johnson, Program Support Staff, Federal Disaster Assistance Administration, Department of Housing and Urban Development, Washington, D.C. 20410 (202/634–7825).

NOTICE: This Notice of major disaster for the State of Mississippi dated April 16, 1979, is hereby amended to include the following areas among those areas determined to have been adversely affected by the catastrophe declared a major disaster by the President in his declaration of April 16, 1979.

For Individual Assistance and Public Assistance: Adams County.

For Individual Assistance and also for Federal assistance to disaster-damaged public schools under Public Law 81–815 and Public Law 81–874, as appropriate: Panola County.

(Catalog of Federal Domestic Assistance No. 14.701, Disaster Assistance; No. 13.477, School Construction, and No. 13.478, School Maintenance and Operation Assistance.)

William H. Wilcox,

Administrator, Federal Disaster Assistance Administration.

[FR Doc. 79-16237 Filed 5-23-79; 8:45 am]

BILLING CODE 4210-22-M

[Docket No. D–79–565]

New York Regional Office; Designation and Delegation of Authority

Section A. Designation of Acting Regional Administrator

Each of the officials appointed to the following positions is designated to serve as Acting Regional Administrator during the absence of, or vacancy in the position of, the Regional Administrator, with all the powers, functions and duties redelegated or assigned to the Regional Administrator; Provided, that no official is authorized to serve as Acting Regional Administrator, unless all officials listed before him/her in this designation are unavailable to act by reason of absence or vacancy in the position:

1. Deputy Regional Administrator
2. The Regional Counsel
3. The Director, Office of Community Planning and Development
4. The Director, Office of Fair Housing and Equal Opportunity
5. The Director, Office of Regional Housing
6. The Director, Office of Regional Administration
7. Regional Director of Program Coordination

Effective Date: This designation and delegation shall be effective as of May 1, 1979.

Thomas Appleby,

Regional Administrator, New York Regional Office.

[FR Doc. 79-16275 Filed 5-23-79; 8:45 am]

BILLING CODE 4210-01M

DEPARTMENT OF THE INTERIOR

Bureau of Land Management

New Mexico; McGregor Range Grazing Management Program; Notice of Intent To Prepare an Environmental Impact Statement

May 17, 1979.

The Department of the Interior, Bureau of Land Management, Las Cruces District, New Mexico will prepare an Environmental Impact Statement on a proposed grazing program. The statement will analyze livestock grazing on 515,000 acres of the McGregor Range. The McGregor Range was withdrawn by the Department of the Army for use as an artillery and missile firing range. BLM administers the grazing and wildlife habitat management programs on the Range in cooperation with the U.S. Army, Fish and Wildlife Service, and the New Mexico Department of Game and Fish. The statement will also analyze several alternatives to the proposal.

A public meeting on the scope of the McGregor Range Grazing Management Program will be held at Alamogordo, New Mexico, June 28, 1979, and will begin at 7:00 p.m. The purpose of the public meeting is threefold: (1) to inform the public of those aspects BLM proposes to analyze in the statement (the proposed action and tentative alternatives based on existing data and knowledge of the area); (2) gather resource information from the public; (3) consider concerns, problems and/or issues important to the public for possible inclusion into the statement. Comments received at the public meeting will be used to clarify the proposed action and alternatives.

The contact for McGregor Range Grazing Management Program Environmental Impact Statement is: Ed Webb, Bureau of Land Management, Las Cruces District Office, 1705 N. Valley Drive, P.O. Box 1420, Las Cruces, New

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Mexico 88001, telephone: Commercial Number (505) 523–5571: FTS 572–0209.

Arthur W. Zimmerman,

State Director.

[FR Doc. 79–16218 Filed 5–23–79; 8:45 am]

BILLING CODE 4310–84–M

Salt Lake District Grazing Advisory Board

Notice is hereby given in accordance with Pl–92–463 that a meeting of the Salt Lake District Grazing Advisory Board will be held on June 19, 20, and 21, 1979.

The meeting will begin at 10:00 A.M. at the BLM compound, Randolph, Utah.

The agenda for the meeting will be:

June 19

10 a.m. to 5 p.m.—Tour area covered by the Randolph Environmental Statement.

6:30 p.m. to 9:00 p.m.—Summary presentation of the contents of the Environmental Statement.

June 20

8 a.m. to 5 p.m.—Continue tour of Environmental Statement area.

6:30 p.m. to 7:30 p.m.—Public comments.

7:30 p.m. to 10 p.m.—Finalize summary presentation of contents of Environmental Statement. Advisory board develop recommendations.

June 21

8 a.m. to 12 noon—Advisory board finalize recommendations.

The meeting is open to the public. Interested persons may make oral statements between 8:30 and 7:30 P.M. on June 20th or file written statements for the Board's consideration. Anyone wishing to make oral statements must notify the District Manager, 2370 South 2300 West, Salt Lake City, Utah 84119, by June 13, 1979. Depending on the number of persons wishing to make statements, a per person time limit may be established by the District Manager.

Summary minutes of the board will be maintained at the District Office and be available for public inspection and reproduction (during business hours) within 30 days following the meeting.

Dated: May 18, 1979.

Frank W. Snell,

District Manager.

[FR Doc. 79–16289 Filed 5–23–79; 8:45 am]

BILLING CODE 4310–84–M

Approval of Outer Continental Shelf Official Protraction Diagrams

1. Notice is hereby given that, effective with this publication, the following OCS Official Protraction Diagrams, approved on the dates indicated, are available for information in the Outer Continental Shelf Office, Bureau of Land Management, Anchorage, Alaska. In accordance with Title 43, Code of Federal Regulations, these protraction diagrams are the basic record for the description of mineral and oil and gas lease offers in the geographic area represented.

Outer Continental Shelf Protraction Diagrams

Description	Approval date
NN 1–2	Feb. 18, 1977.
NN 1–4 Bowers Seamount	Do.
NO 1–4	Do.
NO 1–8	Do.
NO 7–7 Pratt Seamount	Do.
NO 7–8	Do.

2. Copies of these diagrams are available for two dollars ($2.00) per sheet from the Manager, Alaska Outer Continental Shelf Office, Bureau of Land Management, P.O. Box 1159, Anchorage, Alaska 99510. The street address is 800 A Street, Anchorage, Alaska. Checks or Money Orders should be made payable to the Bureau of Land Management.

Robert J. Brock,

Acting Manager, Alaska Outer Continental Shelf Office.

[FR Doc. 79–16284 Filed 5–23–79; 8:45 am]

BILLING CODE 4310–84–M

Lewistown District Grazing Advisory Board; Meeting

In accordance with Section 403 of Pub. L. 94–579, the Federal Land Policy and Management Act, notice is given of the following Board meeting.

Name: Lewistown District Grazing Advisory Board.
Date: June 28 and 29, 1979.
Place: Lewistown District Office; Airport Road, Lewistown, Montana.
Time: 1 to 5 p.m.; 8 a.m. to 12 noon.
Proposed Agenda:
June 28, 1979:
1:30 to 2:00 pm—Election of Officers.
2:00 to 5:00 pm—Use of Range Betterment Funds for the Missouri Breaks Environmental Statement Area.
June 29, 1979:
8:00 to 9:00 am—Wilderness update and its impact on AMP development.
9:00 to 9:30 am—AMP development in the Prairie Pothole area.
9:30 to 10:30 am—AMP development and management of scattered public land.
10:30 to 11:00 am—Grazing regulations and AMP development.
11:00 to 11:30 am—Public comment period.
11:30 to 12:00 noon—Agenda, time, and place of next meeting.

This is the second meeting of the Board which shall serve to offer advice and make recommendations regarding commercial livestock grazing in the development of allotment management plans (AMP's) and the utilization of range-betterment funds with respect to commercial livestock grazing within the Lewistown District.

Carl V. Lind,

Acting District Manager.

May 18, 1979.

[FR Doc. 79–16286 Filed 5–23–79; 8:45 am]

BILLING CODE 4310–84–M

[M 43334]

Montana; Order Providing for Opening of Public Land

May 17, 1979.

In an exchange of lands under the provisions of Section 206 of the Act of October 21, 1976, 90 Stat. 2756, 43 U.S.C. 1716, the following lands have been reconveyed to the United States:

Principal Meridian, Montana

T. 4 N., R. 27 E.,
Sec. 24, NE¼ and S½;
Sec. 25, All; and
Sec. 36, Lots 1 and 2, NW¼ and N½SW¼.

The area described contains 1,440.11 acres.

The lands lie within Yellowstone County and are located 7 miles north of Shepherd and 20 miles northeast of Billings. These are prairie lands situated between the Bull Mountains and the Yellowstone River. Soils are dry sandy loams arising from sandstone formations. Principal land uses are livestock grazing and limited recreation.

Subject to valid existing rights, the lands described herein will be open to operation of the public land laws, but not the mining and mineral leasing laws, at 10 a.m. on July 3, 1979. The minerals were not reconveyed to the United States.

Inquiries concerning the lands should be addressed to the Chief, Branch of Lands and Minerals Operations, Bureau of Land Management, P.O. Box 30157, Billings, Montana 59107.

Roland F. Lee,

Chief, Branch of Lands and Minerals Operations.

[FR Doc. 79–16285 Filed 5–23–79; 8:45 am]

BILLING CODE 4310–84–M

[NM 36738]

New Mexico; Notice of Application

May 15, 1979.

Notice is hereby given that, pursuant to Section 28 of the Mineral Leasing Act of 1920 (30 U.S.C. 185), as amended by the Act of November 16, 1973 (87 Stat. 576), Stevens Oil Company has applied for one 3-inch natural gas pipeline right-of-way across the following land:

New Mexico Principal Meridian, New Mexico

T. 8 S., R. 30 E.,
Sec. 31, SE1¼SW¼, N½SE¼ and SW¼SE¼;
Sec. 32, SE¼NW¼ and NW¼SW¼.

This pipeline will convey natural gas across 1.08 miles of public land in Chaves County, New Mexico.

The purpose of this notice is to inform the public that the Bureau will be proceeding with consideration of whether the application should be approved, and if so, under what terms and conditions.

Interested persons desiring to express their views should promptly send their name and address to the District Manager, Bureau of Land Management, P.O. Box 1397, Roswell, New Mexico 88201

Fred E. Padilla,

Chief, Branch of Lands and Minerals Operations.

[FR Doc. 79–16288 Filed 5–23–79; 8:45 am]

BILLING CODE 4310–84–M

[NM 36743]

New Mexico: Notice of Application

May 15, 1979.

Notice is hereby given that, pursuant to Section 28 of the Mineral Leasing Act of 1920 (30 U.S.C. 185), as amended by the Act of November 16, 1973 (87 Stat. 576), El Paso Natural Gas Company has applied for one 4½-inch natural gas pipeline right-of-way across the following land:

New Mexico Principal Merdian, New Mexico

T. 20 S., R. 29 E.,
Sec. 7, NE¼SW¼

This pipeline will convey natural gas across 0.159 of a mile of public land in Eddy County, New Mexico.

The purpose of this notice is to inform the public that the Bureau will be proceeding with consideration of wheather the application should be approved, and if so, under what terms and conditions.

Interested persons desiring to express their views should promptly send their name and address to the District Manager, Bureau of Land Management, P.O. Box 1397, Roswell, New Mexico 88201.

Fred E. Padilla,

Chief, Branch of Lands and Minerals Operations.

[FR Doc. 79–16287 Filed 5–23–79; 8:45 am]

BILLING CODE 4310–84–M

[Wyoming 67916]

Wyoming: Notice of Application

May 15, 1979.

Notice is hereby given that pursuant to Section 28 of the Mineral Leasing Act of 1920, as amended (30 U.S.C. 185), the Northwest Pipeline Corporation of Salt Lake City, Utah filed an application for a right-of-way to construct a 4½ inch O.D. pipeline for the purpose of transporting natural gas across the following described public lands:

Sixth Principal Meridian, Wyoming

T. 23 N., R. 112 W.,
Sec. 30, S½SE¼;
Sec. 31, NE¼NE¼;
Sec. 32, W½NW¼, SE¼NW¼, E½SW¼, NW¼SW¼ and SW¼SE¼.

The proposed pipeline will transport natural gas from their Shute Creek #1 well located in the SW¼SE¼ section 32 in a generally northwesterly direction to a point of connection with Northwest Pipeline Corporation's Trunk Line "A" located in the SW¼SE¼ section 30, T. 23 N., R. 112 W., Lincoln County, Wyoming.

The purpose of this notice is to inform the public that the Bureau will be proceeding with consideration of whether the application should be approved, and if so, under what terms and conditions.

Interested persons desiring to express their views should do so promptly. Persons submitting comments should include their name and address and send them to the District Manager, Bureau of Land Management, Highway 187, N., P.O. Box 1869, Rock Springs, Wyoming 82901.

Harold G. Stinchcomb,

Chief, Branch of Lands and Minerals Operations.

[FR Doc. 79–16290 Filed 5–23–79; 8:45 am]

BILLING CODE 4310–84–M

Bureau of Reclamation

Contract With the Eastern Municipal Water District; Availability of Contract

The Department of the Interior, through the Bureau of Reclamation, intends to enter into a contract with Eastern Municipal Waster District, Hemet, California, pursuant to the Small Reclamation Projects Act of 1956, as amended.

Eastern Municipal Water District has proposed the construction of water supply facilities which, when integrated with its existing water supply and distribution systems, will supplement the district's present water supply with northern California water from the State Water Project. In order to utilize the water, which will be made available to the district through the State Aqueduct and facilities of Metropolitan Water District, approximately 93 miles of pipeline, 11 booster pumps, and 8 connections will be constructed. The water will be used to meet agricultural, municipal, and industrial water needs within the district.

The project is estimated to cost approximately $24,058,000. The district will contribute $6,358,000 and the United States will loan the district $17,700,000. The loan will be repaid by the district over a period of 38 years.

The public is invited to submit written comments on the form of the proposed contract not later than 30 days after the date of this notice.

For further information and to obtain a copy of the proposed contract, please contact Mr. George Blake, Contract and Repayment Branch, Bureau of Reclamation, P.O. Box 427, Boulder City, Nevada 89005, telephone (702) 293–8536.

Dated: May 15, 1979.

R. Keith Higginson,

Commissioner of Reclamation.

[FR Doc. 79–15982 Filed 5–23–79; 8:45 am]

BILLING CODE 4310–09–M

Contract With the Rainbow Municipal Water District, Fallbrook, Calif.; Availability of Contract

The Department of the Interior, through the Bureau of Reclamation, intends to enter into a contract with Rainbow Municipal Water District, Fallbrook, California, for Rainbow Annexation No. 3, pursuant to the Small Reclamation Projects Act of 1956, as amended.

Rainbow Municipal Water District has proposed the construction of water supply facilities which would connect to the San Diego Aqueduct and provide a water supply for agricultural and domestic purposes in Annexation No. 3. The district's proposal includes the construction of a pumping plant, two steel tanks, three pressure stations and approximately 20 miles of pipeline.

The project is estimated to cost approximately $4,791,000. The district will contribute $1,791,000, and the United States will loan the district not to

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exceed $3,000,000. The loan will be repaid by the district in 40 annual installments with interest on the interest bearing portions of the loan.

The public is invited to submit written comments on the form of the proposed contract not later than 30 days after the date of this notice.

For further information and to obtain a copy of the proposed contract, please contact Mr. George Blake, Contract and Repayment Branch, Bureau of Reclamation, P.O. Box 427, Boulder City, Nevada 89005, telephone (702) 293–8536.

Dated: May 15, 1979.

R. Keith Higginson,

Commissioner of Reclamation.

[FR Doc. 79–15983 Filed 5–23–79; 8:45 am]

BILLING CODE 4310–09–M

LEGAL SERVICES CORPORATION

Grants and Contracts

May 23, 1979.

The Legal Services Corporation was established pursuant to the Legal Services Corporation Act of 1974, Pub. L. 93–355, 88 Stat. 378, 42 U.S.C. 2996–2996*l*, as amended, Pub. L. 95–222 (December 28, 1977). Section 1007(f) provides: "At least 30 days prior to the approval of any grant application or prior to entering into a contract or prior to the initiation of any other project, the Corporation shall announces publicly * * * such grant, contract or project."

The Legal Services Corporation hereby announce publicly that it is considering the grant applications submitted by:

1. Legal Services Corporation of Iowa in Des Moines, Iowa to serve Lyon, Osceola, Dickinson, Emmett, Kossuth, Palo Alto, Marshall, Poweshiek, Louisa, Van Buren, and Buena Vista Counties.

2. Kansas Legal Services in Topeka, Kansas to serve Franklin, Miami, Jewell, Republic, Mitchell, Cloud, Lincoln, Clay and Morris Counties.

3. Land of Lincoln Legal Assistance Foundation in Alton, Illinois to serve Hamilton and White Counties.

4. Western Nebraska Legal Services in Scottsbluff, Nebraska to serve Merrick, Howard, Sherman, Gosper, Clay, Webster and Harlan Counties.

Interested persons are hereby invited to submit written comments or recommendations concerning the above applications to the Regional Office of the Legal Services Corporation at: Legal Services Corporation, Chicago Regional Office, 310 South Michigan Avenue, 24th Floor, Chicago, Illinois 50504.

Alice Daniel,

Acting President.

[FR Doc. 79–16276 Filed 5–23–79; 8:45 am]

BILLING CODE 6820–35–M

Advisory Presidential Search Committee Meeting

TIME AND DATE: 10:30 a.m., Thursday, May 31, 1979.

PLACE: Law Offices of Kutak, Rock & Huie, 1101 Connecticut Avenue, Suite 1100, Washington, D.C.

STATUS: Closed Meeting—(The meeting will be closed as authorized by 5 U.S.C. 552b(c)(2) and will be devoted to interviews with and discussion of the qualifications of candidates for appointment as president.)

MATTERS TO BE CONSIDERED:

1. Interviews with candidates for appointment as president.

2. Discussion of qualifications of candidates for appointment as president.

CONTACT PERSON FOR MORE INFORMATION: Dellanor Young, Office of the President, telephone (202) 376–5100.

Issued: May 21, 1979.

Alice Daniel,

Acting President.

[FR Doc. 79–16396 Filed 5–23–79; 8:45 am]

BILLING CODE 6280–35–M

NATIONAL COMMISSION ON AIR QUALITY

Meeting

The National Commission on Air Quality hereby gives notice of a meeting scheduled for June 22. The meeting will be in Room 4200 of the Dirksen Senate Office Building, located at First Street, N.W., and Constitution Avenue, N.W., Washington, D.C., and will begin at 9:00 a.m.

The agenda will include the following items:

1. Approval of the minutes of the May 7, 1979, Commission meeting.

2. Review and discussion of public comments pertaining to the draft Plan of Study.

3. Adoption of a Plan of Study for the National Commission on Air Quality.

The Commission invites additional public comments on the draft Plan of Study to be submitted in writing by June 8, 1979. Twenty-five (25) copies of the comments should be sent to Mr. Richard A. Penna, Acting Assistant Director for Research, The National Commission on Air Quality, 499 South Capitol Street, S.W., Second Floor, Washington, D.C. 20003.

Questions about the meeting should be directed to Mr. Morris A. Ward at (202) 634–7138.

William H. Lewis, Jr.,

Director, National Commission on Air Quality.

May 21, 1979.

[FR Doc. 79–16340 Filed 5–23–79; 8:45 am]

BILLING CODE 6820–99–M

NATIONAL SCIENCE FOUNDATION

Improving NSF Regulations: Report in Response to Executive Order No. 12044, "Improving Government Regulations"

AGENCY: National Science Foundation.

ACTION: Final Report.

SUMMARY: The National Science Foundation is publishing this final report as required by Executive Order 12044. It discusses the scope of NSF regulations, the procedure for formulating rules, and procedural changes in response to E.O. 12044.

AGENCY CONTACT: Mr. Arthur J. Kusinski, Office of the General Counsel, National Science Foundation, Washington, D.C. 20550. (202) 632–4396.

FURTHER INFORMATION: The draft report was published for public comment in the **Federal Register** on Friday, June 2, 1978 (43 FR 24216). Following public comment and review by the Office of Management and Budget, this final report is being published. The only public comment received was from the Department of Justice. No significant changes have been made to the report as published in draft form.

Report Required by Section 5 of Executive Order 12044

Introduction

Section 5 of Executive Order 12044 requires each agency to review its existing process for developing regulations and to prepare a report describing that process and any changes planned in order to comply with the criteria set forth in the Executive Order. This report provides this information for the National Science Foundation.

Scope of NSF Regulations and the Process by Which They Are Made

NSF is not a regulatory agency. Hence, its regulations and rules, other than those dealing with internal agency management or personnel matters, are generally concerned with the processing and administration of grants and other awards for the support of scientific research, science education programs, science policy analysis and similar activities, primarily at universities and other nonprofit organizations. Some of these are published in the Code of Federal Regulations (CFR). Most, however, are contained in the NSF Grants Policy Manual which, while published in the **Federal Register**, is not in CFR format. NSF also has a system of internal issuances as set forth in NSF Circular No. 1. Most of these deal with internal matters, but some establish policies that may impact on recipients of NSF awards. Most such policies, however, are normally reflected in the Grants Policy Manual.

The Grants Policy Manual was published in the **Federal Register** in draft form for public comment. Drafts were also widely circulated to interested university groups. Revisions will also be made available for public comment by **Federal Register** publication and by other means.

Any regulations intended for publication in the Code of Federal Regulations are also published for comment in the **Federal Register** before they are made final.

NSF regulations and rules are normally cleared throughout the Foundation and reviewed or signed by the Director.

The National Science Foundation's policies and activities, unlike those of other Federal agencies, are subject to the review of a 25-member National Science Board appointed by the President. The Board includes persons who come from most of the groups affected by NSF programs and policies. The Board thus acts as a further check to ensure that NSF rules and regulations are reasonable.

Changes in the NSF Rulemaking Process as a Result of Executive Order 12044

The Foundation believes that its rule-making procedures substantially comply with the requirements of Executive Order 12044, and that no significant procedural changes are required. However, more formal documentation will be required. As part of the normal review process, the Office of General Counsel and the Assistant Director for Administration will both review for compliance with specific E.O. 12044 requirements.

NSF is about to issue a new internal circular, as set forth in Appendix A to this report, to implement the Executive Order.

Proposed New Criteria for Defining Significant Agency Regulations

The Foundation believes that section 2(d) of E.O. 12044 basically formalizes what the Foundation has generally sought to accomplish. Accordingly, rather than attempt to draw arbitrary distinctions, the new circular includes broad definitions of "significant" and "nonsignificant" regulations and a requirement that the NSF Management Counsel review each proposed regulation within the scope of E.O. 12044 to determine whether it is significant or non-significant.

Proposed Criteria for Identifying Regulations Requiring Regulatory Analysis

Given the nature of our programs and the recipients of NSF awards, we do not believe any of our regulations will have sufficient economic impact to require the formal regulatory analysis described in section 3 of E.O. 12044. For example, NSF was exempted from the requirements of OMB Circular 107. Hence, we have no plans to develop formal criteria.

Review of Existing Regulations

Because NSF regulations are few, specific criteria for review of existing regulations seem superfluous. NSF will review all of its regulations periodically on a cycle of two to three years.

The Foundation's first agenda was published in the **Federal Register** on December 15, 1978 (43 FR 58658). The agenda described the regulations presently under review and the legal basis for their issuance.

Richard C. Atkinson,

Director.

May 17, 1979.

NSF Circular No.

Administration and Management

Subject: Procedures for the Development and Approval of NSF Regulations

1. *Purpose.* This Circular establishes procedures for initiating new NSF regulations or changing existing ones that have an impact on awardees, principal investigators, and others outside the Government. It also implements the requirements of Executive Order 12044, "Improving Government Regulations", dated March 23, 1978.

2. *Cancellation.* None.

3. *Scope.* This Circular applies to all Foundation-wide regulations except those dealing with NSF management or personnel or NSF procurements and those determined to fall within section 6(b)(1) or (2) of Executive Order 12044, i.e., regulations concerned with formal rule-making provisions of the Administrative Procedure Act or military or foreign affairs functions of the United States. This Circular does not apply to the following:

a. Publication of program brochures, announcements, program solicitations, RFP's.;

b. Individual directorate internal issuances;

c. Descriptive or informational literature that merely reflects regulations authoritatively published elsewhere, e.g., *Grants for Scientific Research or some revisions to the Grant Policy Manual;*

d. Revisions of the procedures for submission of proposals or applications, e.g., page limit on proposals, proposal cover page, and budget format changes;

e. Policies or procedures that implement rules issued by other Government agencies (provided the NSF changes do not depart significantly from those rules), e.g., NSF policies and procedures that implement OMB Circulars; GSA Property Regulations; or the like.

f. NSF policies and procedures that implement statutory requirements which leave the Agency no significant discretion.

4. *Policy.* The procedures described in paragraph 6 must be followed before issuance of any NSF regulation to which this Circular applies that may affect the manner in which recipients or potential recipients of NSF awards conduct the administration of such awards.

5. *Definitions:* a. *Significant Regulations* are those that the NSF determines are likely to have major impact on NSF awardees, principal investigators, and others outside the Government. (In many instances such regulations would be reviewed by the National Science Board.)

b. *Non-significant Regulations* are those which are determined by NSF to be merely technical amendments of an existing regulation or a regulation of minor consequence to the NSF awardees, principal investigators, and others outside the Government.

6. *Procedures.* a. *Initiating a New NSF Regulation or Amending an Existing One.* When it becomes necessary to initiate a new regulation or amend an existing one to which this Circular applies, the initiating office should prepare a proposed draft or outline of the regulation or amendment. It should also prepare a memorandum explaining why the regulation or amendment is needed, the direct or indirect effects of the regulation and alternative approaches (if any) under consideration. The draft regulation or amendment and the memorandum should be forwarded for action to the Chairman of the Management Council through the appropriate Assistant Director or other official reporting to the Director.

b. *Management Council Action.* The Management Council will review the proposed regulation and accompanying documentation and will decide whether the regulation or amendment is significant or nonsignificant.

(1) *Significant Regulation or Amendment.* If the Management Council determines that the proposed regulation or amendment is significant, the initiating office will prepare a memorandum to the Director and the Executive Council through the appropriate Assistant Director or other official reporting

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to the Director and the Chairperson of the Management Council. The memorandum should outline tentative plans for obtaining public comment on the regulation and target dates for completing steps in the development of the regulation. Depending on the importance and potential impact of the regulation, consideration will also be given to holding open conferences or public hearings, sending notices or proposed regulations to publications likely to be read by those affected, and notifying interested parties or associations of interested parties directly. In addition, this memorandum should include a tentative plan for evaluating the regulation after its issuance. In most cases this evaluation need not be elaborate or formal. It may consist of nothing more than a plan for staying informed of awardee reactions and experience under the regulation. The initial memorandum to the Management Council discussed in paragraph 6.a., along with any Management Council comments or suggestions, should be included in the material forwarded to the Director and the Executive Council.

(2) *Non-Significant Regulations or Amendments.* If the Management Council determines that the proposed regulation or amendment is non-significant, it may recommend the implementation of the new or amended regulation and the appropriate approval routing should be followed.

c. *Director's Initial Approval and Public Participation.* If the Director, after reviewing the proposal and with the advice of the Executive Council, agrees with the Management Council's determination that the regulation or amendment is both necessary and significant, arrangements will be made for giving the public meaningful opportunity to comment on such regulations or amendments. The proposed regulation will be published by the initiating office in the **Federal Register** for public comment. In the case of an unusually lengthy item, however, notice on where the complete document can be obtained may be published in the **Federal Register**. At least 60 days should normally be allowed for public comment.

Also, at this stage (or earlier) the Director may seek the advice and comments of the National Science Board on the proposed regulation or amendment.

d. *Director's Final approval and Issuance of Significant Regulations.* After receiving, considering, and preparing a response to comments received from the public on the proposed new regulation or amendment, a final draft will be prepared for the Director's approval. If the Director approves the final draft of the regulation or amendment, the Director will determine whether NSB approval or concurrence is required. Following any Board approval or concurrence and his own approval of the final draft, the Director will make a formal determination in the following format:

Determination on Need for Regulation

1, ———————— Director of the National Science foundation, have determined as required by Executive Order 12044 that the regulation *(title of regulation)* (1) is needed; (2) that its direct and indirect effects have been adequately considered; (3) that alternative approaches have been considered and the least burdensome of the acceptable alternatives has been chosen; (4) that public comments have been considered and an adequate response has been prepared; (5) that the regulation is written in plain English and is understandable to those who must comply with it; (6) that an estimate has been made of the new reporting burdens or recordkeeping requirements (if any) necessary for compliance with the regulation; (7) that the name, address and telephone number of a knowledgeable agency official is included in the publication; and (8) that a plan for evaluating the regulation after issuance has been developed.

(Signature)

(Date)

Once the Director has given final approval for the issuance of significant regulations or amendments, they will be published in the appropriate publication, i.e., **Federal Register** *Code of Federal Regulations, Grant Policy Manual,* etc. Once this is accomplished, the new regulation or amendment may be published elsewhere without repeating these procedures.

7. *Emergency Waiver.* Procedures outlined in paragraph 6 for initiating a new regulation or changing an existing one may be waived by the Director in whole or whole or in part if he determines that a regulation must be issued in response to an emergency or under a short-term (30–60 days) statutory or judicial dealine. Where the Director makes such a waiver, a statement of the reasons for it shall be published in the **Federal Register**.

8. *Periodic Review of Published Regulations.* a. The Assistant Director for Administration, in coordination with the Office of the General Counsel, shall be responsible for the periodic review of the need for existing published regulations of the Foundation. The AD/A shall also be responsible for preparation of the schedule and agenda of significant regulations under development or review, required by sec. 2(a) or Executive Order 12044.

b. The agenda will be reviewed by the Management Council and recommended for final approval and signature by the Director for publication in the **Federal Register**.

c. The agenda will be published semi-annually. The agenda will describe the regulations being considered by the Foundation, the need for and legal basis for the action being taken, and the status of regulations previously listed on the agenda.

[FR Doc. 79-16311 Filed 5-23-79; 8:45 am]

BILLING CODE 7555-01-M

NUCLEAR REGULATORY COMMISSION

Advisory Committee on Reactor Safeguards; Proposed Meetings

In order to provide advance information regarding proposed meetings of the ACRS Subcommittees and Working Groups, and of the full Committee, the following preliminary schedule reflects the current situation, taking into account additional meetings which have been scheduled and meetings which have been postponed or cancelled since the last list of proposed meetings published April 20, 1979 (44 FR 23609). Those meetings which are definitely scheduled have had, or will have, an individual notice published in the **Federal Register** approximately 15 days (or more) prior to the meeting. Those Subcommittee and Working Group meetings for which it is anticipated that there will be a portion or all of the meeting open to the public are indicated by an asterisk (*). It is expected that the sessions of the full Committee meeting designated by an asterisk (*) will be open in whole or in part to the public. ACRS full Committee meetings begin at 8:30 a.m. and Subcommittee and Working Group meetings usually begin at 8:30 a.m. The exact time when items listed on the agenda will be discussed during full Committee meetings and when Subcommittee and Working Group meetings will start will be published prior to each meeting. Information as to whether a meeting has been firmly scheduled, cancelled, or rescheduled, or whether changes have been made in the agenda for the June 1979 ACRS full Committee meeting can be obtained by a prepaid telephone call to the Office of the Executive Director of the Committee (telephone 202/634–3267, ATTN: Mary E. Vanderholt) between 8:15 a.m. and 5:00 p.m., EDT.

Subcommittee and Working Group Meetings

**Safeguards and Security,* May 23, 1979, Washington, DC. The Subcommittee will discuss recent safeguards events, advice from its consultants and the 1979 Review and Evaluation of the NRC Safety Research Program. Notice of this meeting was published May 11.

**Evaluation of Licensee Event Reports,* May 24–25, 1979, Washington, DC. The Subcommittee will continue its study of Licensee Event Reports. Notice of this meeting was published May 11.

**Combination of Dynamic Loads,* May 30, 1979, Washington, DC. Postponed idenfinitely.

**Reliability and Probabilistic Assessment,* May 31-June 1, 1979, Los Angeles, CA. RESCHEDULED TO JUNE 2, 1979, WASHINGTON, DC.

**Implications of the Three Mile Island, Unit 2 Accident,* May 31-June 1, 1979, Washington, DC. The Ad Hoc Subcommittee will continue its review of the accident which occurred at this Station on March 28, 1979 and will consider long-term implications of the accident on nuclear power plant design. Notice of this meeting was published May 16.

**Reliability and Probabilistic Assessment,* June 2, 1979, Washington, DC. The Subcommittee will discuss detailed procedures to ensure the proper and effective use of risk assessment theory, methods, data development and statistical analyses by the Staff; also, the 1979 Review and Evaluation of the NRC Safety Research Program. As time permits, the Subcommittee will discuss the reliability of BWR (boiling water reactor) piping with regard to the frequency of appearance of stress corrosion cracking.

**Three Mile Island Nuclear Station, Unit 2,* June 6–7, 1979, Middleton, PA. The Subcommittee will meet with representatives of the NRC Staff and the Metropolitan Edison Company, et al, to discuss details of the March 28, 1979 accident at this Station.

**Reactor Fuel,* June 11–12, 1979, Washington, DC. The Subcommittee will discuss the current and proposed NRC research programs in the area of fuel behavior for consideration of a report to Congress on NRC research.

**Operating Reactors,* June 13, 1979, Washington, DC. The Submittee will review a request for a power level increase at the Millstone Nuclear Power Station, Unit 2, and will discuss the 1979 Review and Evaluation of the NRC Safety Research Program.

**Regulatory Activities,* June 13, 1979, Washington, DC. The Subcommittee will review proposed regulatory guides and revisions to existing regulatory guides; also, it may discuss pertinent activities which affect the current licensing process and/or reactor operation.

**Emergency Core Cooling Systems (ECCS),* June 19–20, 1979, Washington, DC. The Subcommittee will review ECCS models for small breaks in Babcock and Wilcox reactor systems. The Subcommittee will also review the proposed FY–81 NRC budget figures for ECCS-realted research activies.

**Improved Safety Systems,* June 26, 1979, Washington, DC. The Subcommittee will discuss with representatives of the NRC Staff and the Department of Energy (DOE) their plans for research on improved safety systems and expected changes in these programs due to the March 28, 1979 Three Mile Island, Unit 2 Accident.

**Floating Nuclear Plant,* June 27, 1979, Washington, DC. The Subcommittee will continue its review of the Offshore Power Systems' application for a manufacturing license for the Floating Nuclear Plant. The specific topic of this meeting will be the review of the core catcher concept using magnesium oxide bricks.

**Radiological Effects and Site Evaluation,* June 27, 1979, Washington, DC. The Subcommittee will meet with representatives of the NRC Staff and invited speakers from outside NRC to discuss changes in the NRC research program budget in the areas of radiological effects and site evaluation. Other topics related to radiological effects and site evaluation may also be discussed.

**Evaluation of Licensee Event Reports,* June 28–29 and July 19, 1979, Washington, DC. The Subcommittee will continue its study of Licensee Event Reports.

**La Crosse Nuclear Power Plant,* June 30 , 1979, Washington, DC. The Subcommittee will discuss with representatives of the NRC Staff and the licensee the overall condition of the reactor, and the status of the NRC systematic evaluation of this plant.

**Reactor Safety Research,* July 10, 1979, Washington, DC. The Subcommittee will discuss reactor safety research and will prepare a draft report to the full committee on the proposed FY–80 research budget.

Metal Components, July 10–11, 1979, Washington, DC. The Subcommittee will discuss recent events concering safety/relief valve reliability and the Review and Evaluation of the NRC Safety Research Program.

**Regulatory Activities,* July 11, 1979, Washington, DC. The Subcommittee will review proposed regulatory guides and revisions to existing regulatory guides; also, it may discuss pertinent activities which affect the current licensing process and/or reactor operation.

**Evaluation of Licensee Event Reports,* July 19, 1979, Washington, DC. The Subcommittee will continue its study of Licensee Event Reports.

Interim Report: Additional meetings of ACRS subcommittees may be scheduled during this period to begin review of topics identified as a result of the March 28, 1979 Three Mile Island, Unit 2 Accident.

ACRS Full Committee Meetings

June 14–15, 1979

A. *Three Mile Island Nuclear Station, Unit 2: Evaluation of the March 28, 1979 Accident.

B. *Millstone Nuclear Power Station, Unit 2: Proposed power level increase review.

C. *Sequoyah Nuclear Plant: Operating License review.

D. *Palo Verde Nuclear Generating Station, Units 4 and 5: Construction Permit review.

E. *Review of recent nuclear power plant operating experience and licensing actions.

F. *Review stress corrosion cracking in nuclear power plant systems.

G. *Review proposed design criteria for spent fuel storage facilities.

H. *Review proposed procedures for emergency planning associated with nuclear facilities.

I. *Review reactor fuel element cladding materials.

July 12–14, 1979—Agenda to be announced.

August 9–11, 1979—Agenda to be announced.

Dated: May 21, 1979.

John C. Hoyle,

Advisory Committee Management Officer.

[FR Doc. 79-16295 Filed 5-23-79; 8:45 am]

BILLING CODE 7590-01-M

[Docket No. 50-471]

Boston Edison Co.: Availability of Final Supplement to the Final Environmental Statement for the Pilgrim Nuclear Power Station, Unit No. 2

Pursuant to the National Environmental Policy Act of 1969 and the United States Nuclear Regulatory Commission's regulation in 10 CFR Part 51, notice is hereby given that the Final Supplement to the Final Environmental Statement prepared by the Commission's Office of Nuclear Reactor Regulation, related to alternative sites to the proposed construction of the Pilgrim Nuclear Power Station, Unit No. 2, to be located in Plymouth County, Massachusetts, is available for inspection by the public in the Commission's Public Document Room at 1717 H Street, NW, Washington, DC, and in the Plymouth Public Library, North Street, Plymouth, Massachusetts. The Final Supplement is also being made available at the Office of State Planning, John McCormack Building, 1 Ashburton Place, Boston, Massachusetts, and at the Old colony Planning Council, 232 Main Street, Brockton, Massaschusetts.

The notice of availability of the Draft Supplement to the Final Environmental Statement for the Pilgrim Nuclear Power Station, Unit No. 2, and requests for comments from interested persons was published in the **Federal Register** on February 28, 1979 (44 FR 11281). The comments received from Federal, State, and local officials and interested members of the public have been

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included as appendices to the Final Supplement.

Copies of the Final Supplement to the Final Environmental Statement (Document No. NUREG–0549) may be purchased, at $7.25 for printed copies and $3.00 for microfiche, from the National Technial Information Service, Springfield, Virginia 22161.

Dated at Bethesda, Maryland, this 16th day of May 1979.

For the Nuclear Regulatory Commission.

Wm. H. Regan, Jr., *Chief,*

Environmental Projects Branch 2, Division of Site Safety and Environmental Analysis.

[FR Doc. 79-16298 Filed 5-23-79; 8:45 am]

BILLING CODE 7590-01-M

Federal Responses to Radioactive Contamination From Specified Foreign Nuclear Detonations; Multiagency Memorandum of Understanding

Cross Reference: For a multiagency memorandum of understanding regarding Federal responses to radioactive contamination from specified foreign nuclear detonations, issued jointly by the Department of the Air Force, the Department of Energy, the Environmental Protection Agency, the Federal Aviation Administration, the Food and Drug Administration, the National Oceanic and Atmospheric Administration, and the Nuclear Regulatory Commission, see FR Doc. 79–16192 appearing in Part VII of this issue.

BILLING CODE 7590-01-M

[Docket No. 50-263]

Northern States Power Co.; Issuance of Amendment to Provisional Operating License

The U.S. Nuclear Regulatory Commission (the Commission) has issued Amendment No. 39 to Provisional Operating License No. DPR–22, issued to Northern States Power Company, which revised Technical Specifications for operation of the Monticello Nuclear Generating Plant (the facility) located in Wright County, Minnesota. The amendment is effective as of its date of issuance.

The amendment permits a modification to the Low Pressure Coolant Injection subsystem pump performance requirements.

The application for the amendment complies with the standards and requirements of the Atomic Energy Act of 1954, as amended (the Act), and the Commission's rules and regulations. The Commission has made appropriate findings as required by the Act and the Commission's rules and regulations in 10 CFR Chapter I, which are set forth in the license amendment. Prior public notice of this amendment was not required since the amendment does not involve a significant hazards consideration.

The Commission has determined that the issuance of this amendment will not result in any significant environmental impact and that pursuant to 10 CFR 51.5(d)(4) an environmental impact statement, or negative declaration and environmental impact appraisal need not be prepared in connection with issuance of this amendment.

For further details with respect to this action, see (1) the application for amendment dated December 1, 1978, revised December 7, 1978, (2) Amendment No. 39 to License No. DPR–22, and (3) the Commission's related Safety Evaluation. All of these items are available for public inspection at the Commission's Public Document Room, 1717 H Street NW., Washington, D.C. and a the Environmental Conservation Library, Minneapolis Public Library, 300 Nicollet Mall, Minneapolis, Minnesota. A copy of items (2) and (3) may be obtained upon request addressed to the U.S. Nuclear Regulatory Commission, Washington, D.C. 20555, Attention: Director, Division of Operating Reactors.

Dated at Bethesda, Maryland, this 15th day of May 1979.

For the Nuclear Regulatory Commission.

Thomas A. Ippolito,

Chief, Operating Reactors Branch #3, Division of Operating Reactors.

[FR Doc. 79-16299 Filed 5-23-79; 8:45 am]

BILLING CODE 7590-1-M

[Docket No. P-564A]

Pacific Gas & Electric Co. (Stanislaus Nuclear Project Unit No. 1); Reconstitution of Atomic Safety and Licensing Appeal Board

Notice is hereby given that, in accordance with the authority in 10 CFR 2.787(a), the Chairman of the Atomic Safety and Licensing Appeal Panel has reconstituted the Atomic Safety and Licensing Appeal Board for this antitrust proceeding to consist of the following members: Alan S. Rosenthal, chairman; Michael C. Farrar, Richard S. Salzman.

Dated: May 17, 1979.

Romayne M. Skrutski,

Secretary to the Appeal Board.

[FR Doc. 79-16300 Filed 5-23-79; 8:45 am]

BILLING CODE 7590-01-M

NATIONAL TRANSPORTATION SAFETY BOARD

[N-AR 79-12]

Accident Report, Safety Recommendations and Responses; Availability

Aircraft Accident Report

Pacific Southwest Airlines, Inc., Boeing 727–214, N533PS, and Gibbs Flite Center, Inc., Cessna 172, N7711G, San Diego, Calif., September 25, 1978 (NTSB–AAR–79–5).—The National Transportation Safety Board on May 14 released its formal report on the investigation into this, the worst accident in American aviation history. The aircraft collided in midair about 3 nautical miles northeast of San Diego's Lindbergh Field. Both aircraft crashed in a residential area. All 137 persons in both aircraft were killed, as were seven persons on the ground. Nine persons on the ground were injured. Twenty-two dwellings were damaged or destroyed. The weather was clear, and the visibility was 10 miles.

Investigation showed that the Cessna was climbing on a northeast heading and was in radio contact with the San Diego approach control. The Boeing 727 was on a visual approach to runway 27. Its flightcrew had reported sighting the Cessna and was cleared by the approach controller to maintain visual separation and to contact the Lindberghtower. Upon contacting the tower, the Boeing 727 was again advised of the Cessna's position. The flightcrew did not have the Cessna in sight. They thought they had passed it and continued their approach. The aircraft collided near 2,600 ft m.s.l.

On a 3-to-1 vote the Safety Board determined that the probable cause of the accident was the failure of the flightcrew of the Boeing 727 to comply with the provisions of a maintain-visual-separation clearance, including the requirement to inform the controller when they no longer had the other aircraft in sight. Contributing to the accident were the air traffic control procedures in effect which authorized the controllers to use visual separation procedures to separate two aircraft on potentially conflicting tracks when the capability was available to provide either lateral or vertical radar separation to either aircraft.

The majority approving the probable cause was composed of Chairman James B. King, Vice Chairman Elwood T. Driver, and Member Philip A. Hogue. Member Francis H. McAdams dissented.

Mr. McAdams stated that, contrary to the majority, he would assign equal responsibility for the cause of the accident to the crew of the Boeing 727 (PSA Flight 182) and the air traffic control system. Accordingly, he stated that the probable cause of the accident was "the failure of the flightcrew of Flight 182 to maintain visual separation and to advise the controller when visual contact was lost; and the air traffic control procedures in effect which authorized the controllers to use visual separation procedures in a terminal area environment when the capability was available to provide either lateral or vertical radar separation to either aircraft." Further, Mr. McAdams stated that he would add the following factors as contributory in addition to those listed by the majority:

1. The failure of the air traffic control system to establish procedures for the most effective use of the conflict alert system at the San Diego approach control facility.
2. The failure of the controller to restrict PSA 182 to a 4,000-foot altitude until clear of the Montgomery Field airport traffic area.
3. The improper resolution by the controller of the conflict alert.
4. The procedure whereby two separate air traffic control facilities were controlling traffic in the same airspace.
5. The failure of the controller to advise PSA 182 of the direction of movement of the Cessna.
6. The failure of the Cessna to maintain the assigned heading.
7. The possible misidentification of the Cessna by PSA 182 due to the presence of a third unknown aircraft in the area.

As a result of its investigation of this accident, the Safety Board last October recommended that the Federal Aviation Administration: Implement a Terminal Radar Service Area at Lindbergh Airport (A–78–77); review procedures at all airports which are used regularly by air carrier and general aviation aircraft to determine which other areas require either a terminal control area or a terminal control radar service area and establish the appropriate one (A–78–78); use visual separation in terminal control areas and terminal radar service areas only when a pilot requests it, except for sequencing on the final approach with radar monitoring (A–78–82); and re-evaluate its policy on use of visual separation in other terminal areas (A–78–83). (See also 43 FR 51150, November 2, 1978.)

Safety Recommendation Letters

Highway

H–79–31.— The Safety Board on May 15 issued identical letters to the Governors of the 50 States recommending that each State:

Enact legislation to require that the driver of any motor vehicle with a seating capacity of more than 16 passengers, whether so employed or acting voluntarily, shall possess, in addition to a properly classified State driver's license, a certificate authenticating such driver's successful completion of a busdriver training course which conforms to Highway Safety Program Standard No. 17, Pupil Transportation Safety. (Class II, Priority Action) (H–79–31)

This recommendation was issued following investigation of the crash of a "schoolbus" type bus near Tifton, Ga., April 11, 1978. The bus, owned and operated by the Ypsilanti Boys Club, was en route to Disney World, Fla., from Ypsilanti, Mich., when it went off the road while negotiating a right curve on the exit lane at a safety rest area. The bus overturned and struck a tree. Of the 56 boys and two adults aboard, three were killed; the driver and 25 passengers were injured.

Investigation of this accident indicated that the 24-year-old busdriver was employed by the Ypsilanti Boys Club in 1975 as a Unit Director; her duties included driving a "schoolbus" type bus. She held a valid Michigan State chauffeur's license that authorized her to drive this type of vehicle; there were no restrictions. The driver had received no formal busdriver training. She was taught to drive the bus by another Boys Club employee.

The Safety Board determined that the probable cause of this accident was the driver's loss of directional control of the bus on a curve because of excessive speed due to failure of the accelerator return spring, which resulted from improper maintenance. Contributory causes of the accident were severely underinflated tires, deteriorated suspension, excessive luggage on the roof, and driver fatigue. Four earlier recommendations were issued by the Safety Board on March 22 (44 FR 18746, March 29, 1979). The Board's formal investigation report, No. NTSB–HAR–79–2, was made public in early April (44 FR 21907, April 12, 1979.)

H–79–27 and 28, H–79–29, and H–79–30.—About 3:30 p.m. last August 22, an ambulance responding to an emergency call and traveling at a calculated speed of 90 to 95 mph failed to negotiate a curve on New Hampshire State Route 116 east of Littleton, N.H., and rolled over. Two persons in the ambulance were killed and the driver was injured.

Investigation showed that the ambulance was a modified 1974 Chevrolet Suburban Custom 10, owned and operated by the Ross Ambulance Service of Littleton. It was originally manufactured as a multipurpose passenger vehicle with a gross vehicle weight rating of 5,400 pounds. The vehicle was later modified for use as an ambulance. At the time of the accident, the vehicle, including the driver and three passengers, weighed 6,930 pounds or 28 percent over the original gross vehicle weight rating.

The Safety Board's review of the Federal Motor Vehicle Safety Standards (FMVSS) revealed that there are no standards or specifications which assure that the total design and construction of ambulances as modified by the after-market installers are of sufficient structural strength and stability to withstand impact forces similar to requirements imposed on the original vehicle manufacturer. The Board believes that the FMVSS should include standards on general body construction and ambulance body structure to insure that patients and medical technicians riding in the ambulance body have the same protection as the driver. Also, the completed ambulance should be capable of withstanding reasonable impact forces. Accordingly, on May 17 the Safety Board recommended that the National Highway Traffic Safety Administration:

Extend the application of FMVSS 220, Schoolbus Rollover Protection; FMVSS 221, Schoolbus Body Joint Strength; and FMVSS 301, Fuel System Integrity to include ambulances and other emergency vehicles. (Class II, Priority Action) (H–79–27)

Study the feasibility of extending the FMVSS relating to vehicle interior padding, occupant protection, and the anchorages of seats, flooring, and equipment to include ambulances and other emergency vehicles. (Class III, Longer Term Action) (H–79–28)

Also on May 17, the Safety Board forwarded two additional recommendation letters as a result of its investigation of this accident. The Board recommended that the General Services Administration:

Add to the Federal Specification KKK–A–1822 of January 2, 1974, Ambulances Approved by Federal Supply Services, performance-type requirements in the following areas: (1) Maintenance of the manufacturer's vehicle handling characteristics during modification procedures, (2) loading instructions to guide users so as not to change vehicle handling characteristics, (3) body structural integrity, (4) anchorages for all equipment installed, and (5) occupant protection. (Class II, Priority Action) (H–79–29)

The Safety Board recommended that the National Committee on Uniform Traffic Laws and Ordinances, in cooperation with the American Bar Association:

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Consider the modification of Section 11-106(b)3 of the Uniform Vehicle Code to include the following criteria to justify an exemption from posted speed limits: (1) The determination by a medical authority that the gravity of the patient's situation requires emergency operation, (2) the condition of the vehicle, traffic, and roadway will permit such operation, (3) the environmental conditions are conducive to such operation, (4) the vehicle is being operated by a certified ambulance driver, and (5) the ambulance speed limit will be restricted to no more than 10 mph over the posted speed limit with normal road, weather, and traffic conditions. (Class II, Priority Action) (H-79-30)

Pipeline

P-79-2 through 5, P-79-6, P-79-7, and P-79-8.—As a result of its investigation of the liquefied petroleum gas (LPG) pipeline rupture and fire which occurred last August 4 near Donnellson, Iowa, the Safety Board on May 15 and 18 issued four recommendation letters.

Investigation shows that propane, which had vaporized and spread widely from the ruptured 8-inch LPG pipeline owned by Mid-American Pipeline System (MAPCO), had been ignited by an unknown source in a rural area. The intense fire killed two persons and critically burned three others; one of the critically burned persons later dies. A farmhouse and six outbuildings were destroyed, and two adjacent homes were damaged. Three months prior to the accident a highway construction project required MAPCO to lower the pipeline more than 11 feet from its previous depth. In order to obtain enough slack in the pipeline to lower it this much, MAPCO's practice required that for every foot the steel pipe was to be lowered, a 35-foot section had to be exposed.

In view of its findings, the Safety Board on May 15 recommended that MAPCO:

Determine by analytical means the stresses produced on the pipe steel when projects require the lowering of a section of pipeline, and design a safety factor to insure that these stresses will not affect the integrity of the line. (P-79-2)

Establish written procedures that require its personnel to ascertain that precautions are taken in the field to eliminate excessive or sudden changes in elevation when lowering a section of pipeline. (P-79-3)

Emphasize to its pipeline construction inspection personnel the importance of careful, thorough inspection to minimize the occurrence of dents and gouges which could result in similar accidents. (P-79-4)

Check all other segments of its pipeline for conditions similar to the open valve condition in the line section involved in this accident and make changes or additions as required. (P-79-5)

Also on May 15, the Safety Board directed a separate recommendation letter to the Materials Transportation Bureau (MTB), U.S. Department of Transportation. The letter said that statistics show that LPG is more hazardous than other petroleum products. Since 1972 the Safety Board's investigations of LPG accidents have resulted in 11 recommendations regarding rulemaking to make regulations for LPG pipelines more stringent. The Board further noted that on August 8, 1978, DOT's former Office of Pipeline Safety Operations issued its first of three notices of proposed rulemaking about LPG pipelines. The first concerned maintenance, operating, and emergency procedures; the second, issued last August 28, concerned valve types and valve spacing; and the third, issued November 7, concerned testing LPG pipelines. To date no regulations have been issued as a result of the Safety Board's recommendations or of the rulemaking process. Accordingly, the Safety Board recommended that MTB:

Reevaluate all recommendations made by the Safety Board concerning LPG, and expedite those that require rulemaking. (P-79-6)

Further in connection with this pipeline accident, the Safety Board on May 18 recommended that the American Petroleum Institute:

Advise its member companies who operate similar LPG pipelines of the importance of careful, thorough inspection during pipeline construction to minimize the incidence of dents and gouges which could result in similar accidents, and bring to their attention the need to use proper engineering techniques when it is necessary to relocate or lower a section of pipeline. (P-79-7)

In the belief that pipe can be manufactured to transport LPG more safely, the Safety Board also on May 18 recommended that the American Iron and Steel Institute and the American Petroleum Institute:

Undertake research for more stringent specifications for line pipe manufactured for LPG pipeline service to minimize or mitigate the effects of dents and gouges. Consideration should be given to the research currently being conducted by the American Gas Association on this problem. (P-79-8)

Each of the above pipeline safety recommendations has been designated "Class II, Priority Action." The Safety Board's formal investigation report on this accident is now being prepared for distribution and copies will be available in the near future.

Responses to Safety Recommendations

Aviation

A-75-74 and 75.—The Federal Aviation Administration on May 9 updated action taken to implement recommendations issued following investigation of the crash of Trans World Airlines Flight 514, a B-727-231, at Berryville, Va., December 1, 1974.

Recommendation A-75-74 asked FAA, in concert with the two other IACC (Interagency Air Cartographic Committee) members (Department of Commerce and Department of Defense) and the Jeppesen Company, to conduct a study of the cartographic techniques and specifications used throughout the aviation industry for approach charts to identify those techniques and specifications that best lend themselves to uniformity and standardization. Based on this study, A-75-75 recommended that FAA initiate steps to revise the IACC manual to include those techniques and specifications that best lend themselves to uniformity and standardization.

In response FAA says that subsequent to the TWA-514 accident, FAA initiated a study of numerous proposals concerning possible alternative methods of improving a variety of aeronautical charts. Many of the proposals resulted in various prototype charts, some receiving extensive operational tests and evaluation. Simultaneously, the Jeppesen Company undertook a detailed review of their products and implemented a number of significant changes. FAA believes that the Board's recommendation primarily addressed the method of depiction for Minimum Safe Altitude (MSA) and other symbology variations between the U.S. Government and Jeppesen charts. The revision to all Jeppesen charts to depict MSA in polar form similar to the Government chart has been completed. Also, the technique used for depiction of the Missed Approach Holding Pattern has been revised to be in consonance with Government charts. FAA has also arranged with Jeppesen to coordinate any new symbology developed for charting purposes prior to implementing such symbols. For example, the symbol for Visual Descent Point (VDP), which has been introduced by Flight Standards Service, employs the same symbology on both Government and Jeppesen charts.

Highway

H-78-71.—The Federal Highway Administration on May 8 responded to a recommendation resulting from investigation of the October 2, 1977,

passenger train/pickup truck grade crossing collision at Plant City, Fla. The recommendation called on FHWA, the Federal Railroad Administration, Amtrak, Seaboard Coastline Railroad, and the Florida Department of Transportation to cooperate in reducing the high frequently of railroad highway grade crossing accidents along the 240 miles of track between Jacksonville and Tampa, Fla. (See 44 FR 3795, January 18, 1979.)

FHWA's May 8 response includes a general description of FHWA's activities on a national scale with respect to grade crossing safety. Specifically, FHWA recently authorized a project in Florida using Federal funds for installing or upgrading crossbuck warning signs on the Amtrak crossings in the Jacksonville-Tampa corridor. Florida DOT continues to use safety funds to upgrade pavement markings and warnings signs in the corridor. FHWA notes that Florida DOT, Amtrak, and Seaboard are involved in a 5-year program to upgrade or close many of the grade crossings in the Jacksonville-Tampa corridor; almost $8 million will be used in this work, including $2 million in Federal funds. FHWA's office in Tallahassee, Fla., is working with the State in developing the program.

Intermodal

I-78-9.—Letter of May 11 from the Research and Special Programs Administration's Material Transportation Bureau is a futher response to one of the six recommendations issued to the U.S. Department of Transportation last June 29 following the Safety Board's en banc hearing on the hazardous materials derailment problem. Initial response to this recommendation was forwarded on January 19 (44 FR 6538, February 1, 1979). The Safety Board on February 26 acknowledged MTB's response and noted that MTB is actively pursuing the development of a safety-analysis type work plan for its regulatory and exemption processing activities. The Board believes that such a plan will engender a high degree of compliance with hazardous materials regulations and that a published uniform plan for evaluation of exemption applications should reduce the workload as well as increase the quality of the applications.

MTB has now provided for the Safety Board's consideration and comment a safety analysis plan employed in the exemptions program. MTB says that a similar plan stating the analytical process used in rulemaking is being prepared and MTB will seek additional staff contact in furtherance of that project. As indicated in the introduction to the plan, the purpose is to provide a safety analysis framework to be used in evaluating applications for exemptions to the hazardous materials regulations. The evaluation process is described through the use of fault tree analysis. It will give applicants for exemptions a clear understanding of the decisionmaking process involved in evaluating an exemption application and will aid the applicant in understanding what types of technical data are required in order to evaluate an exemption. The fault tree analysis will be used in conjunction with the incident reporting system to determine problem areas in the decisionmaking process. Necessary changes in evaluation criteria will be made.

Pipeline

P-72-34.—Letter of October 30, 1978, from the Materials Transportation Bureau, a copy of which was recently provided to the Safety Board, is in reference to a recommendation issued following investigation of the Lone Star Gas Company accident at North Richland Hills, Texas, October 4, 1971.

The recommendation asked the former Office of Pipeline Safety Operations to amend 49 CFR Part 192 to include a section based on a review of the suitability of threaded galvanized pipe or pipe coated with other dissimilar metals, for the transportation of natural and other gas.

In response, MTB has reviewed a report, "Environmental Induced Cracking of Natural Gas and Liquid Pipelines," and other information and has concluded that galvanized pipe or pipe coated with dissimilar metals are no more susceptible to hydrogen embrittlement than other types of metallic piping material. MTB believes that galvanized pipe and pipe coated with dissimilar materials are suitable for use in gas systems provided they meet requirements of 49 CFR Part 192. MTB does not anticipate rule changes in this area.

Based on MTB's response, the Safety Board on April 26 advised that recommendation P-72-34 has now been classified "closed—acceptable alternate action."

P-73-38.—Letter dated September 14, 1978, from MTB is in response to a recommendation issued to OPSO following investigation of the Atlanta Gas Light Company explosion in Atlanta, Ga., August 31, 1972. The recommendation asked OPSO to cooperate with State regulatory agencies to determine the degree of nationwide compliance with 49 CFR 192.615, Written Emergency Procedures, and take enforcement action accordingly.

MTB reports that since the recommendation was issued § 615 has been amended to clarify and expand emergency plan requirements. During operator inspections by MTB, particular attention is paid to § 615 compliance; a record of inspection since April 1976 shows that 70 cases are being processed against operators found not to be in compliance. MTB has issued written guidelines for § 615 and meets with State enforcement personnel to emphasize compliance. There is no quantitative record of the results of MTB emphasis on written emergency procedures, but MTB assures that close compliance surveillance will be maintained.

In advising MTB on April 26 that recommendation P-73-38 has been classified "closed—acceptable action," the Safety Board expressed interest in an annual breakdown of MTB's § 615 enforcement actions since April 1976 in order to observe the trend. Also, the Safety Board asked for a report on the outcome of the enforcement actions underway.

Railroad

R-78-14 through 16.—Letter of April 6 from Illinois Central Gulf (ICG) is in response to the Safety Board's inquiries and comments forwarded February 6 following a review of ICG's November 20, 1978, response. (43 FR 57360, December 7, 1978.) The recommendations resulted from investigation of the rear end collision of two ICG commuter trains in Chicago, Ill., January 28, 1978, and sought to correct design deficiencies of the brake system on Highliner cars to ensure that prolonged operation with the "snow brake" activated will not prevent the brakeshoe wear compensating feature of the hydropneumatic booster assembly from maintaining the hydraulic fluid volume needed to assure proper brake performance in all weather conditions.

Commenting on recommendation R-78-14, the Safety Board noted that the investigation of this accident disclosed that continuous brakeshoe wear resulted from operating in the snow brake mode, and that the excessive wear created a gradual reduction in brake effectiveness. The Board asked ICG:

1. Are there data available which support the use of cast-iron shoes versus composition shoes as positive means to correct the braking problem?

2. Have there been any design changes, such as reduced hydropneumatic booster pressure, which correct the problem of shoe wear?

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3. In the absence of design changes, have there been revisions in maintenance and inspection schedules which insure that braking effectiveness will not be suddenly lost?

ICC reports that tests with iron brake shoes revealed that the wheel tread was sufficiently roughened to remove ice buildup during brake applications or would prevent ice buildup if the snow brake were properly applied. Tests were conducted on two separate cars, one with iron brakeshoes and one with composition brakeshoes. ICG has revised its maintenance schedules and improved its method of inspection and feels confident that the braking effectiveness will not be suddenly lost.

With respect to recommendation R-78-15, the Board expressed concern about the instructions contained in the fourth paragraph of ICG Bulletin Notice No. 97, issued February 23, 1978. As stated, the engineer is to make the required reductions in brake pipe pressure, then "Proceed to next scheduled stop. If this does not correct condition, call Power Supervisor's Office for instructions." The Board said this suggests that the engineer's actions may *or may not* correct the braking problem, which implies operating a passenger commuter train having a questionable retarding capacity. The Board asked if these instructions have been superseded with positive corrective instructions issued to engineers. ICG notes that Bulletin Order No. 94 issued March 6, 1979, gives positive, corrective instructions to engineers.

The Safety Board on February 6 noted, with reference to recommendation R-78-16, that the operating procedures associated with adverse weather should insure that all trains operate in the snow brake mode. To further assure safe operations, the Board asked are other disciplines such as reduced maximum authorized speeds or increasing the spacing of trains also placed in effect. In response, ICG informs that its Commuter Division instituted snow plan procedures to be applied as conditions warrant: (a) Maximum permissible speed of 30 mph; (b) upon sighting an approach signal, the engineer will make a full service brake application to assure proper braking, and (c) hydraulic brake pipe pressure of 50 psi is to be carried to keep the brakeshoes against the wheels.

In view of ICG's April 6 response, the Safety Board on May 7 informed that all three of these recommendations have now been classified "closed—acceptable action."

Note.—Single copies of the Safety Board's accident reports are available without charge, as long as limited supplies last. Copies of the recommendation letters issued by the Board, response letters and related correspondence are also available free of charge. All requests for copies must be in writing, identified by report or recommendation number. Address inquiries to: Public Inquiries Section, National Transportation Safety Board, Washington, D.C. 20594.

Multiple copies of accident reports may be purchased by mail from the National Technical Information Service, U.S. Department of Commerce, Springfield, VA. 22151.

(Secs. 304(a)(2) and 307 of the Independent Safety Board Act of 1974 (Pub. L. 93-633, 88 Stat. 2169, 2172 (49 U.S.C. 1903, 1906)).)

Margaret L. Fisher,

Federal Register Liaison Officer.

May 21, 1979.

[FR Doc. 79-16301 Filed 5-23-79; 8:45 am]

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OFFICE OF MANAGEMENT AND BUDGET

Agency Forms Under Review

Background

When executive departments and agencies propose public use forms, reporting, or recordkeeping requirements, the Office of Management and Budget (OMB) reviews and acts on those requirements under the Federal Reports Act (44 U.S.C., Chapter 35). Departments and agencies use a number of techniques including public hearings to consult with the public on significant reporting requirements before seeking OMB approval. OMB in carrying out its responsibility under the Act also considers comments on the forms and recordkeeping requirements that will affect the public.

List of Forms Under Review

Every Monday and Thursday OMB publishes a list of the agency forms received for review since the last list was published. The list has all the entries for one agency together and grouped into new forms, revisions, or extensions. Each entry contains the following information:

The name and telephone number of the agency clearance officer;

The office of the agency issuing this form;

The title of the form;

The agency form number, if applicable;

How often the form must be filled out;

Who will be required or asked to report;

An estimate of the number of forms that will be filled out;

An estimate of the total number of hours needed to fill out the form; and

The name and telephone number of the person or office responsible for OMB review.

Reporting or recordkeeping requirements that appear to raise no significant issues are approved promptly. In addition, most repetitive reporting requirements or forms that require one half hour or less to complete and a total of 20,000 hours or less annually will be approved ten business days after this notice is published unless specific issues are raised; such forms are identified in the list by an asterisk(*).

Comments and Questions

Copies of the proposed forms and supporting documents may be obtained from the agency clearance officer whose name and telephone number appear under the agency name. Comments and questions about the items on this list should be directed to the OMB reviewer or office listed at the end of each entry.

If you anticipate commenting on a form but find that time to prepare will prevent you from submitting comments promptly, you should advise the reviewer of your intent as early as possible.

The timing and format of this notice have been changed to make the publication of the notice predictable and to give a clearer explanation of this process to the public. If you have comments and suggestions for further improvements to this notice, please send them to Stanley E. Morris, Deputy Associate Director for Regulatory Policy and Reports Management, Office of Management and Budget, 726 Jackson Place, Northwest, Washington, D.C. 20503.

DEPARTMENT OF AGRICULTURE

(Agency Clearance Officer—Donald W. Barrowman—447-6202)

Revisions

Farmer's Home Administration
*Guaranteed Loan Closing Report
FMHA, 1980-19
Semi-Annually
Lender's in towns less than 50,000, 1,500 responses; 750 hours
Charles A. Ellett, 395-5080

Extensions

Economics, Statistics, and Cooperatives Service
*Ginning Charges and Related Data (Assessment of Charges)
Annually
Cotton gins, 400 responses; 200 hours
Charles A. Ellett, 395-5080

DEPARTMENT OF COMMERCE

(Agency Clearance Officer—Edward Michaels—377-4217)

New Forms

Bureau of the Census
Water use in manufacturing—water use in mineral industries
MC-D-13A and 13B
Single time
Estates, w/water intake of 20 million gallons or more, 15,500 responses; 15,500 hours
Off. of Federal Statistical Policy and Standard, 673-7974
Bureau of the Census
Nonhousehold Sources Form—1980 Decennial Census
D-434
Single time
A sample of persons within certain racial and ethnic groups, 3,600,000 responses; 360,000 hours
Off. of Federal Statistical Policy and Standard, 673-7974
Departmental and Other
Category 88 Questionnaire
Single time
Reference materials, 50 responses; 4 hours
Richard Sheppard, 395-3211
Industry and Trade Administration
*Supplemental commodity information
ITA-6056P
On occasion
Commercial exporters, 7,000 responses; 3,500 hours
Richard Sheppard, 395-3211

Revisions

Bureau of the Census
1979 Report of Organization
NC-X1A and NC-X1C
Annually
Multiestablishments in all economic areas, 50,000 responses; 49,667 hours
Off. of Federal Statistical Policy and Standard, 673-7974
Bureau of the Census
Knit Fabric Production
MA-22K, MA-22K
Quarterly
Knit Fabric Producers, 2,260 responses; 1,695 hours
Off. of Federal Statistical Policy and Standard, 673-7974

DEPARTMENT OF ENERGY

(Agency Clearance Officer—Albert H. Linden—633-8477)

New Forms

Low Income Weatherization Application
EIA-29B
On occasion
States and the District of Columbia Indian Tribes, 76 responses; 6,080 hours
Jefferson B. Hill, 395-5867
*Subcontractor survey
ET-158
Annually
Et prime contractors, 440 responses; 220 hours
Jefferson B. Hill, 395-5867

DEPARTMENT OF HEALTH, EDUCATION, AND WELFARE

(Agency Clearance Officer—Peter Gness—245-7488)

New Forms

Center for Disease Control
Attitudes and Practices of Private Physicians Related to Influenza
Single time
Private physicians, 1,000 responses; 500 hours
Richard Eisinger, 395-3214
Food and Drug Administration
Nuclear Medicine Quality Assurance Survey
Single time
Hospitals
Richard Eisinger 395-3214

Extensions

Center for Disease Control
*Application for Training-CDC
CDC 0.759A, B, C
On Occasion
Training Course Applicants 6,000 responses; 1,000 hours
Richard Eisinger, 395-3214
Food and Drug Administration
*Transmittal of Periodic Reports for Drugs for Human Use
FD-2252
Annually Pharmaceutical Firms 3,500 responses; 1,750 hours
Richard Eisinger, 395-3214

DEPARTMENT OF HOUSING AND URBAN DEVELOPMENT

(Agency Clearance Officer—John T. Murphy—755-5190)

Extensions

Housing Management
Progress Report
HUD-52995
Quarterly
Public Housing Agencies 2,400 responses; 9,000 hours
Arnold Strasser, 395-5080
Housing Management
Modernization Work Program
HUD-52994
On occasion
Public Housing Agencies 600 responses; 1,200 hours
Arnold Strasser, 395-5080
Housing Management
Modernization Program Budget
HUD-52990
On occasion
Public Housing Agencies 600 responses; 1,800 hours
Arnold Strasser, 395-5080
Housing Management
*Recertification of Family Income and Composition
Section 235 (J)
FHA-3161
Other (see SF-83)
Homeowners Receiving Financial Assistance 2,750 responses; 1,375 hours
Arnold Strasser, 395-5080
Housing Management
Application for Tenant Eligibility Under the Section 236 Program
FHA 3131 Low & Moderate Income Households
On occasion
100,000 responses; 50,000 hours
Arnold Strasser, 395-5080
Housing Management
Report of Family Characteristics for the Section 8 Housing Assistance Payments
HUD 52675
Semi-annually
PHA's Operating Section 8 Existing Projects 2,800 responses; 4,200 hours
Arnold Strasser, 395-5080

DEPARTMENT OF THE INTERIOR

(Agency Clearance Officer—William L. Carpenter—343-6716)

Extensions

Bureau of Land Management
*Private Maintenance of Excess Wild Horse(s) or Burro(s)
Application
4710-10
Any Indiv. Desiring To Obtain Horses or Burros 200 responses; 50 hours
Charles A. Ellett, 395-5080

DEPARTMENT OF JUSTICE

(Agency Clearance Officer—Donald E. Larue—633-3526)

Extensions

Immigration and Naturalization Service
*Application To Preserve Residence . . . Naturalization Purposes
N-470
On occasion Permanent Residence 3,000 responses; 750 hours
Richard Sheppard, 395-3211
Immigration and Naturalization Service
*Canadian Border Boat Landing Card
I-68
On occasion Canadian Nationals 50,000 responses; 8,333 hours
Richard Sheppard, 395-3211

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Immigration and Naturalization Service
*Certification of Military or Naval Service
N–426
On occasion Filed by Applicants for Naturalization 6,000 responses; 1,000 hours
Richard Sheppard, 395–3211

DEPARTMENT OF LABOR

(Agency Clearance Officer—Philip M. Oliver—523–6341)

New Forms

Employment Standards Administration
Survey of Employers and Insurers
ESA–78(T)
Single time
Employers With Over 100 Employees, Insurance Carriers 570 responses; 188 hours
Arnold Strasser, 395–5080

DEPARTMENT OF TRANSPORTATION

(Agency Clearance Officer—Bruce H. Allen—426–1887)

Extensions

Coast Guard
Account of Wages and Effects of Deceased or Deserting Seaman
CG 1517
On occasion Shipping Companies Represented by Ship's Masters 400 responses; 600 hours
Susan E. Geiger, 395–5867

ENVIRONMENTAL PROTECTION AGENCY

(Agency Clearance Officer—John J. Stanton—245–3064)

New Forms

Health Effects in Individuals Exposed to Vinyl Chloride
During Childhood
Single time
Former Students of Saugus Elementary School 5,000 responses; 2,800 hours
Edward H. Clarke, 395–5867

Revisions

Study of Organic Compounds in Human Tissues and Body
Fluids
Single time
Individuals in Five Geographical Areas 190 responses; 190 hours
Edward H. Clarke, 395–5867

FEDERAL RESERVE SYSTEM

(Agency Clearance Officer—Carolyn B. Doying—452–3512)

Extensions

Daily Report of Dealer Transaction
FR 2004
Other (see SF–83) Primary Dealers in U.S. Gov't Securities 7,500 responses; 9,375 hours
Susan E. Geiger, 395–5867

NATIONAL CAPITAL PLANNING COMMISSION

(Agency Clearance Officer—Malcolm L. Trevor—724–0170)

New Forms

Survey of Tourist Travel
Single time
Visitors to Museums, Parks and Other Fed. Tourist Sites in NCR 5,000 responses; 250 hours)
Arnold Strasser, 395–5080

NATIONAL SCIENCE FOUNDATION

(Agency Clearance Officer—Herman Fleming—634–4070)

New Forms

Antarctic Conservation Act Application and Permit on Occasion
Research Scientists in Educational Institutions 20 responses; 20 hours
Richard Sheppard, 395–3211

Extensions

*Undergraduate Research Participation Program Status Report 541
Annually Principal Investigators 173 responses, 87 hours
Richard Sheppard, 395–3211
Special Foreign Currency Expenditure and Financial Status Report
NSF672
Annually
Educational Inst. & Non-Profit Inst. 40 responses; 100 hours
Richard Sheppard, 395–3211

VETERANS ADMINISTRATION

(Agency Clearance Officer—R. C. Whitt—389–2282)

New Forms

Survey of Former VA Physicians and Dentists 10–2199
Single time
Physicians, Dentists Separated from VA 1,100 responses; 275 hours
David P. Caywood, 395–6140
*VA Consumer Feedback Card (Pretest)
07–9968A(NR) 07–9968B(NR)
On occasion
Veteran Patients 3,240 responses; 269 hours
David P. Caywood, 395–6140

Stanley E. Morris,

Deputy Associate Director for Regulatory Policy and Reports Management.

[FR Doc. 79–16294 Filed 5–23–79; 8:45 am]

BILLING CODE 3110–01–M

SMALL BUSINESS ADMINISTRATION

[Proposal No. 08/08–0047]

The Davis Whittle Co.; Application for a License as a Small Business Investment Company

Notice is hereby given of the filing of an application with the Small Business Administration pursuant to Section 107.102 of the SBA Regulations (13 CFR 107.102(1978)), by the Davis Whittle Company, 1301 Spruce Street, Suite 101, Boulder, Colorado 80302 for a license to operate as a small business investment company (SBIC) under the provisions of the Small Business Investment Act of 1958 (the Act), as amended (15 U.S.C *et seq.*).

The proposed officers, directors and stockholders will be:

Name and Address, Title and relationship, and Percent of Ownership

Nicholas H. C. Davis, 1228 East Third Avenue, Denver, Colorado 80218, director and chairman, 5.7.
Paul D. Whittle, 3515 23rd Street, Boulder, Colorado 80302, director and president, 5.7.
Judith B. Foster, 750 Franklin Street, Denver, Colorado 80218, director, secretary and treasurer, 2.4.
Clayton G. Dorn, 380 High Street, Denver, Colorado 80218, shareholder, 18.8.
West Branch Associates, John C. Dorn, Managing Partner, P.O. Box 1916, Midland, Texas 79702, shareholder, 14.2.

West Branch Associates is a partnership consisting of: John C. Dorn, as managing partner; Rebecca L. Dorn, Leslie S. Dorn, and Steven H. Dorn, all children of John C. Dorn; and Jack D. Riggs, as successor trustee under the John C. Dorn 1963 Trust for Timothy L. Dorn, a son of John C. Dorn. There are no other holders of as much as 10 percent of the stock of the Applicant.

The Applicant proposes to begin operations with a capitalization of $1,030,000 and will be a source of equity capital and long term loans for qualified small business concerns. The Applicant intends to render management consulting services to small business concerns.

Matters involved in SBA's consideration of the application include the general business reputation and character of the proposed owners and management, and the probability of successful operations of the new company under their managment, including adequate profitability and financial soundness, in accordance with the Act and Regulations.

Notice is further given that any person may, not later than 15 days from the date of publication of this Notice, submit written comments on the proposed SBIC to the Deputy Associate Administrator for Finance and Investment, Small Business Administration, 1441 "L" Street, N.W., Washington, D.C. 20416.

A copy of this Notice will be published in a newspaper of general circulation in Boulder, Colorado.

(Catalog of Federal Domestic Assistance Program No. 59.011, Small Business Investment Companies).

Dated: May 18, 1979.

Peter F. McNeish,

Deputy Associate Administrator, for Finance and Investment.

[FR Doc. 79–16321 Filed 5–23–79; 8:45 am]

BILLING CODE 8025–01–M

[Declaration of Disaster Loan Area #1636]

Massachusetts; Declaration of Disaster Loan Area

The area 19–33 North Street in the City of Pittsfield, Berkshire County, Massachusetts, constitutes a disaster area because of damage resulting from a fire which occurred on May 7, 1979. Eligible persons, firms and organizations may file applications for loans for physical damage until the close of business on July 16, 1979, and for economic injury until the close of business on February 15, 1980, at: Small Business Administration, District Office, 150 Causeway Street, 10th Floor, Boston, Massachusetts 02114, or other locally announced locations.

(Catalog of Federal Domestic Assistance Program Nos. 59002 and 59008).

Dated: May 15, 1979.

A. Vernon Weaver,

Administrator.

[FR Doc. 79–16322 Filed 5–23–79; 8:45 am]

BILLING CODE: 8025–01–M

DEPARTMENT OF STATE

[Public Notice 667]

Draft Environmental Impact Statement on Proposed Migratory Species Convention; Meeting

The Department of State will hold a public meeting on Friday, June 1, 1979, at 10 a.m. to obtain oral comments on a draft environmental impact statement (EIS) prepared by the Department of State on negotiation of a convention on conservation of migratory species. The meeting will be held in Room 1107 at the Department of State, 2201 C Street, N.W., Washington, D.C. Detailed written comments also may be submitted and may be summarized orally at the June 1 meeting.

A previous public meeting was held in the Department of State on April 10, 1979, to obtain public comment on the proposed convention and to assist in the preparation of the draft EIS. A transcript of the April 10 meeting testimony and copies of written comments received are included in the draft EIS.

The convention, which has been proposed by the Federal Republic of Germany, will be the subject of a negotiating conference in Bonn on June 11–23, 1979.

Copies of the draft EIS may be obtained from Mr. William Mansfield, Office of Environmental Affairs, Department of State, Room 7820, Washington, D.C. 20520 (tel. 202/632–2418).

For the Secretary of State.

Dated: May 21, 1979.

William Alston Hayne,

Deputy Assistant Secretary for Environmental Affairs.

[FR Doc. 79–16335 Filed 5–23–79; 8:45 am]

BILLING CODE 4710–09–M

[CM–8/201]

Shipping Coordinating Committee, Subcommittee on Safety of Life at Sea; Meeting

The working group on the carriage of dangerous goods of the Subcommittee on Safety of Life at Sea (SOLAS), a subcommittee of the Shipping Coordinating Committee, will hold an open meeting at 9:30 a.m. on Wednesday, June 13, 1979 in Room 8236 of the Nassif Building, 400 Seventh Street, S.W., Washington, D.C. 20590.

The purpose of the meeting will be to:

—Discuss United States positions on matters to be considered at the XXX Session of the IMCO Subcommittee on the Carriage of Dangerous Goods;

—Discuss the progress of IMCO activities of a continuing nature such as implementation of the IMDG Code.

Requests for further information should be directed to Captain William N. Spence, U.S. Coast Guard (G–MHM/83), Washington, D.C. 20590, telephone (202) 426–2296.

The Chairman will entertain comments from the public as time permits.

May 15, 1979.

Richard K. Bank,

Chairman, Shipping Coordinating Committee.

[FR Doc. 79–16233 Filed 5–23–79; 8:45 am]

BILLING CODE 4710–01–M

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

Cancellation of Informal Airspace Meeting

On April 26, 1979, the Federal Aviation Administration published a notice in the **Federal Register** (44 FR 24676) that an informal airspace meeting would be held in Houston, Texas, to discuss the proposed expansion of the Houston Terminal Control Area (TCA). This meeting is hereby canceled and will be rescheduled at a later date.

Ralph L. Frick,

Chief, Airspace and Procedures Branch, ASW–530, Southwest Region, Federal Aviation Administration, P.O. Box 1689, Fort Worth, Texas.

[FR Doc. 79–16245 Filed 5–23–79; 8:45 am]

BILLING CODE 4910–13–M

[Summary Notice No. PR–79–2A]

Petitions for Rulemaking; Summary of Petitions Received and Dispositions of Petitions Denied; Correction

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Notice of correction.

SUMMARY: On April 26, 1979, the FAA published a notice summarizing a petition for rule making filed by the Aircraft Owners and Pilot's Association (44 FR 24677). That notice incorrectly stated that the period for submitting comments on the petition closed on May 16, 1979. This notice corrects that error.

DATES: Comments on the petition must be received on or before June 25, 1979.

ADDRESS: Send Comments on the petition in triplicate to: Federal Aviation Administration, Office of the Chief Counsel, Attn: Rules Docket (AGC–24), Petition Docket No. 18882, 800 Independence Avenue, SW., Washington, D.C. 20591.

FOR FURTHER INFORMATION: The petition, any comments, and a copy of any final disposition of petitions if filed in the assigned regulatory docket and are available for examination in the Rules Docket (AGC–24), Room 916, FAA Headquarters Building (FOB 10A), Federal Aviation Administration, 800 Independence Avenue, SW., Washington, D.C. 20591; telephone (202) 426–3644.

SUPPLEMENTARY INFORMATION: Summary Notice No. PR–79–2 (44 FR 24677; April 26, 1979) inadvertently and incorrectly stated that the comment period closed May 16, 1979. Under 14 CFR 11.27(b), comments on petitions for

rule making may be filed within 60 days after the summary is published in the Federal Register. Thus, the comment period should close on June 25, 1979.

By letter dated May 16, 1979, the Association of Federal Communications Consulting Engineers requested until July 16, 1979, to submit comments but did not note that the Summary Notice failed to provide the period contemplated under the procedural regulations governing petitions for rule making in Part 11.

The FAA agrees that additional time to submit comments is appropriate. However, in the absence of a demonstrated public interest basis for extending the period beyond 60 days, the FAA concludes that, in accordance with § 11.27(a) of Part 11 comments should be received on or before June 25, 1979.

The Correction

Accordingly, the comment period prescribed in Summary Notice No. PR–79–2 is hereby corrected to allow submission of comments on the petition on and before June 25, 1979.

This notice is published pursuant to paragraphs (b) and (f) of § 11.27 of Part 11 of the Federal Aviation Regulations (14 CFR Part 11).

Issued in Washington, D.C. on May 18, 1979.

Carl B. Schellenberg,

Assistant Chief Counsel, Regulations and Enforcement Division.

[FR Doc. 79–16254 Filed 5–23–79; 8:45 am]

BILLING CODE 4910–13–M

Federal Responses to Radioactive Contamination From Specified Foreign Nuclear Detonations; Multiagency Memorandum of Understanding

Cross reference: For a multiagency memorandum of understanding regarding Federal responses to radioactive contamination from specified foreign nuclear detonations, issued jointly by the Department of the Air Force, the Department of Energy, the Environmental Protection Agency, the Federal Aviation Administration, the Food and Drug Administration, the National Oceanic and Atmospheric Administration, and the Nuclear Regulatory Commission, see FR Doc. 79–16192 appearing in Part VII of this issue.

BILLING CODE 4910–13–M

[Summary Notice No. PE–79–6]

Petitions for Exemption; Summary of Petitions Received and Dispositions of Petitions Issued

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Notice of petitions for exemptions received and of dispositions of petitions issued.

SUMMARY: Pursuant to FAA's rulemaking provisions governing the application, processing, and disposition of petitions for exemption (14 CFR Part 11), this notice contains a summary of certain petitions seeking relief from specified requirements of the Federal Aviation Regulations (14 CFR Chapter I) and of dispositions of certain petitions previously received. The purpose of this notice is to improve the public's awareness of, and participation in, this aspect of FAA's regulatory activities. Publication of this notice and any information it contains or omits is not intended to affect the legal status of any petition or its final disposition.

DATES: Comments on petitions received must identify the petition docket number involved and must be received on or before: June 13, 1979.

ADDRESSES: Send comments on any petition in triplicate to: Federal Aviation Administration, Office of the Chief Counsel, Atten: Rules Docket (AGC–24), Petition Docket No. ——, 800 Independence Avenue, SW., Washington, D.C. 20591.

FOR FURTHER INFORMATION: The petition, any comments received and a copy of any final disposition are filed in the assigned regulatory docket and are available for examination in the Rules Docket (AGC–24), Room 916, FAA Headquarters Building (FOB 10A), 800 Independence Avenue, SW, Washington, D.C. 20591; telephone (202) 426–3644.

This notice is published pursuant to paragraphs (c), (e), and (g) of § 11.27 of Part 11 of the Federal Aviation Regulations (14 CFR Part 11).

Issued in Washington, D.C., on May 18, 1979.

Carl B. Schellenberg,

Assistant Chief Counsel, Regulations and Enforcement Division.

Petitions for Exemptions

Docket No.	Petitioner	Regulations affected	Description of relief sought
19157	Capt. Stillman A. Bell	14 CFR § 121.383(c)	To permit petitioner to continue to serve as a pilot in air carrier operations after age 60.
19159	Duncan Aviation, Inc	14 CFR §§ 65.81(a) and 145.39(d)	To allow Mr. Joseph Hollier to work on Hartzell propellers without the 18 months experience required for a repairman certificate.
19160	Capt. T. H. Fowler	14 CFR § 121.383(c)	To permit petitioner to continue to serve as a pilot in air carrier operations after age 60.
19161	John Thornton Mills	14 CFR § 121.383(c)	To permit petitioner to continue to serve as a pilot in air carrier operations after age 60.
19163	Shawano Flying Service, Inc	14 CFR § 135.243(a)	To provide relief from the requirement that Pilots-in-Command possess an Airline Transport Pilot Certificate in "Commuter Air Carrier" operations.
19164	Soloy Conversions Ltd	CAR 6.247(c)(3)	To permit a reduction in the ground loads for a skid type landing gear comparable to that permitted for other than skid gears of helicopters.

Dispositions of Petitions for Exemptions

Docket No.	Petitioner	Regulated affected	Description of relief sought—disposition
16576	Japan Air Lines Co., Ltd	14 CFR 21, 61, and 63	To renew Exemption No. 2369 and to substitute a new list of captains, co-pilots, and flight engineers. *Granted 5/14/79.*
16607	Trans Mediterranean Airways	14 CFR Parts 21, 61, and 91	To amend Exemption No. 2405E, as amended to include additional airmen in the appendix so that they may serve as flight crewmembers on leased, U.S.-registered B–707 aircraft. *Granted 5/14/79.*
	Blue Grass Airport	14 CFR 139.49(b)(3)	To permit air carrier user operations with one of the airport fire fighting vehicles out of service until June 1, 1979 *Granted 5/14/79.*

[FR Doc. 79–16246 Filed 5–23–79; 8:45 am]

BILLING CODE 4910–13–M

National Highway Traffic Safety Administration

National Highway Safety Advisory Committee; Public Meeting

Pursuant to section 10(a)(2) of the Federal Advisory Committee Act (Pub. L. 92–463, 5 U.S.C. App. I), notice is hereby given of a meeting of the National Highway Safety Advisory Committee to be held on June 19, 20 and 21, 1979.

On June 19 starting at 8:30 a.m., the full Committee will meet in room 2232 of the DOT Headquarters building. The members will review for vote, the Commercial Vehicle Task Force's report on safety inspection and maintenance programs for commercial vehicles and consider the Highway Safety Data Task Force's report on data.

Also on June 19 starting at 10:00 a.m. in room 2232, the Commercial Vehicle Task Force will meet to hear presentations on the Trailways Bus Company's petition to require all new commercial vehicles for use in interstate commerce be equipped with governors which would limit speed capability to approximately 57 mph. A notice with additional information on this meeting was published in the Federal Register on April 19, 1979, Vol. 44, No. 77, page 23403.

On June 20 from 9:00 a.m. to 12:30 p.m., the Highway Environment Task Force will meet in room 2232. The agenda items to be discussed are: 1) FHWA briefing on status of 3R standards; 2) briefing on management review of FHWA division safety program engineer functions; and 3) new and old business.

At 2:00 p.m. on June 20 the Emergency Medical Services Task Force will hear presentations from the Department of Transportation and the Department of Health, Education and Welfare on the total emergency medical services program jointly sponsored by both Departments. There will also be consideration of future agenda items for the EMS Task Force.

On June 21 from 8:30 a.m. to 1:00 p.m., the full Committee will meet in room 2232. The agenda will include a presentation by Mr. Howard Anderson, FHWA Associate Administrator for Safety, on the need to modernize design standards for safety. The members will also hear reports on the Commercial Vehicle, Highway Environment, and Emergency Medical Services Task Force meetings. Individual members will report on several meetings they have attended since January, and a summary of the Motorcycle-Moped Task Force's work will be heard.

Attendance is open to the interested public, but limited to the space available. With the approval of the Chairperson, members of the public may present a written statement to the Committee at any time.

This meeting is subject to the approval of the appropriate DOT officials. Additional information may be obtained from the NHTSA Executive Secretary, Room 5221, 400 Seventh Street, S. W. (DOT Headquarters Building), Washington, D. C. 20590, telephone 202–426–2872.

Issued in Washington, D.C. on May 21, 1979.

Wm. H. Marsh,

Executive Secretary.

[FR Doc. 79–16302 Filed 5–23–79; 8:45 am]

BILLING CODE 4910–59–M

INTERSTATE COMMERCE COMMISSION

[Notice No. 88]

Assignment of Hearings

May 21, 1979.

Cases assigned for hearing, postponement, cancellation or oral argument appear below and will be published only once. This list contains prospective assignments only and does not include cases previously assigned hearing dates. The hearings will be on the issues as presently reflected in the Official Docket of the Commission. An attempt will be made to publish notices of cancellation of hearings as promptly as possible, but interested parties should take appropriate steps to ensure that they are notified of cancellation or postponements of hearings in which they are interested.

MC–F–13622, Paris Motor Freight, Inc.—Purchase (Portion)—The Rock Island Motor Transit Company, now assigned for hearing on June 12, 1979, at Oklahoma City, OK is postponed to June 25, 1979 (4 days), at the Hilton Inn West, Interstate Highway & Meridian.

MC 136511 (Sub-26F), Virginia Appalachian Timber Corporation, now assigned for hearing on June 11, 1979, at Greensboro, NC is postponed to September 11, 1979 (4 days) at Greensboro, NC in a hearing room to be later designated.

MC–C–8879, Bowman Transportation, Inc., Et AL. V. Central Motor Express, Inc., now assigned for hearing on June 19, 1979, at Louisville, KY is canceled and reassigned for Prehearing Conference on June 19, 1979, at the Office of the Interstate Commerce Commission, Washington, D.C.

MC 61231 (Sub-129F), Easter Enterprises, Inc., d.b.a. Ace Lines Inc., now assigned June 11, 1979 (2 days) at Chicago, Illinois is canceled and transferred to modified procedure.

MC 114457 (Sub-445f), Dart Transit Company, now assigned May 21, 1979, in St. Paul, Minnesota, is canceled and transferred to modified procedure.

MC 111545 (Sub-255F), Home Transportation Co., Inc., now being assigned July 17, 1979 (4 days) for continued hearing in Reno, Nevada in a hearing room to be later designated.

MC–C 10303, *Transport of New Jersey v Greyhound Lines, Inc.*, now being assigned June 29, 1979 for prehearing conference at the Offices of the Interstate Commerce Commission in Washington, D.C.

MC 135797 (Sub-166F), J. B. Hunt Transport, Inc., now being assigned July 31, 1979 for prehearing conference at the Offices of the Interstate Commerce Commission in Washington, D.C.

MC 73165 (Sub-457F), Eagle Motor Lines, Inc., now being assigned June 29, 1979 for prehearing conference at the Offices of the Interstate Commerce Commission in Washington, D.C.

MC 8958 (Sub-32F), The Youngstown Cartage Co., now being assigned June 29, 1979 for prehearing conference at the Offices of the Interstate Commerce Commission in Washington, D.C.

MC 145491F, Piggyback Transportation Service, Inc., now assigned May 16, 1979 at Chicago, Illinois is canceled and transferred to Modified Procedure.

MC 123407 (Sub-494F), Sawyer Transport, Inc., now assigned for Prehearing Conference on June 19, 1979, at Washington, D.C. has been reassigned for hearing on June 19, 1979, at the Offices of the Interstate Commerce Commission, Washington, D.C.

FD 29021, Consolidated Rail Corporation (ConRail)—Discontinuance of Passenger Trains Nos. 453–456 Between Valparaiso, Ind., and Chicago, Illinois, now being

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assigned June 25, 1979 (3 days) at Chicago, Illinois, June 27, 1979 (1 day) at Whiting, Indiana, June 28, 1979, (1 day) at Gary, Indiana, June 29 1979 (1 day) at Nobart, Indiana and June 30, 1979 (1 day) at Valparaiso, Indiana in hearing rooms to be later designated.

FD 28692, Petition of the Pittsburgh and Lake Erie Railroad Company to Discontinue Trains Nos. 260 and 261 between Pittsburgh, Pennsylvania and College, Pennsylvania now assigned June 11, 1979 at Pittsburgh, Pennsylvania and June 13, 1979 at Beaver, Pennsylvania is postponed until August 13, 1979 (2 days) at Pittsburgh, Pennsylvania and August 15, 1979 (1 day) at Beaver, Pennsylvania in hearing rooms to be later designated.

MC 145339 Sub-3F, Nebraska Beef Express, Inc., now being continued to June 18, 1979 (2 days) at Omaha, Nebraska and will be held in Room 616, Union Pacific Plaza, 110 North 14th Street, 14th & Dodge.

MC 143059 (Sub-51F), Mercer Transportation Co., now being assigned July 31, 1979 (4 days) at Louisville, Kentucky in a hearing room to be later designated.

MC 145845, Raymond W. Payne, d.b.a. Payne Bus Service, now being assigned for hearing on July 9, 1979 (1 week), at Fredericksburg, Va., in a hearing room to be later designated.

MC 107678 (Sub-69F), Hill & Hill Truck Line, Inc., now being assigned for hearing on July 17, 1979 (9 days), at Denver, CO, in a hearing room to be later designated.

MC 120098 (Sub-31F), Uintah Freightways, now being assigned for hearing on July 17, 1979 (9 days), at Salt Lake City, Utah, in a hearing room to be later designated.

MC 112713 (Sub-216F), Yellow Freight System, Inc., now being assigned for hearing on July 10, 1979 (1 day), at Dallas, TX, in a hearing room to be later designated.

MC 2900 (Sub-347F), Ryder Truck Lines, Inc., now being assigned for hearing on July 9, 1979 (1 week), at Cincinnati, OH, in a hearing room to be later designated.

MC 59367 (Sub-133F), Decker Truck Line, Inc., now being assigned for hearing on July 17, 1979 (1 day), at Omaha, Nebraska, in a hearing room to be later designated.

MC 127042 (Sub-232F), Hagen, Inc., now being assigned for hearing on July 18, 1979 (3 days), at Omaha, NE, in a hearing room to be later designated.

MC 144729 (Sub-1F), RFK Charter Coaches, Inc., now being assigned for hearing on July 23, 1979 (1 week), at Omaha, NE, in a hearing room to be later designated.

MC 144247 (Sub-3F), Downey Enterprises, Inc., now being assigned for hearing on July 10, 1979, at Denver, CO, in a hearing room to be later designated (1 day).

MC 145498 (Sub-2F), Skyline Construction Company Inc., now being assigned for hearing on July 11, 1979 (3 days), at Denver, CO, in a hearing room to be later designated.

MC 129480 (Sub-37F), Tri-Line Expressways, LTD, now being assigned for hearing on July 16, 1979 (3 days), at Denver, CO, in a hearing room to be later designated.

MC 108380 (Sub-95F), Johnston's Fuel Lines, Inc., now being assigned for hearing on July 19, 1979 (2 days), at Denver, CO, in a hearing room to be later designated.

MC 139023 (Sub-7F), 2-G Transportation, Inc., now being assigned for hearing on July 18, 1979 (2 days), at Chicago, IL, in a hearing room to be later designated.

MC 8472 (Sub-7F), South End Cartage, now being assigned for hearing on July 24, 1979 (2 days), at Chicago, IL, in a hearing room to be later designated.

MC 133655 (Sub-128F), Trans-National Truck, Inc., now being assigned for hearing on July 26, 1979 (2 days), at Chicago, IL, in a hearing room to be later designated.

MC 119789 (Sub-527F), Caravan Refrigerated Cargo, Inc., now being assigned for hearing on July 20, 1979 (1 day), at Chicago, IL, in a hearing room to be later designated.

MC 109533 (Sub-106F), Overnite Transportation Co., now being assigned September 11, 1979 (9 days), at St. Louis, Missouri in a hearing room to be later designated.

MC 109533 (Sub-105F), Overnite Transportation Co., now being assigned October 23, 1979 (9 days), at Atlanta, Georgia in a hearing room to be later designated.

MC 140247 (Sub-2F), Allsrate Charter Lines, Inc., now being assigned July 23, 1979 (2 days), at San Francisco, California in a hearing room to be later designated.

FF 514F, Southern Pacific Marine Transport, Inc., now being assigned July 25, 1979 (3 days), at San Francisco, California in a hearing room to be later designated.

MC 115931 (Sub-68F), Bee Line Transportation, Inc., now being assigned July 18, 1979 (3 days), at Billings, Montana in a hearing room to be later designated.

MC 107295 (Sub-896F), Pre-Fab Transit Company, now being assigned July 16, 1979 (2 days), at Billings, Montana in a hearing room to be later designated.

MC 129631 (Sub-63F), Pack Transport, Inc., now being assigned July 11, 1979 (3 days), at Billings, Montana in a hearing room to be later designated.

MC 51146 (Sub-640F), Schneider Transport, Inc., now being assigned for hearing on July 23, 1979 (1 day), at Chicago, IL, in a hearing room to be later designated.

MC 29643 (Sub-13F), Walsh Trucking Service, Inc., now assigned for hearing on June 11, 1979 (1 week), at Syracuse, NY, is postponed indefinitely.

MC 107913 (Sub-18), F & W Express, Inc., now assigned for hearing on May 24, 1979 (1 day), at Little Rock, AR, and will be held at the Holiday Inn, 6th & Broadway.

MC 145067 (Sub-2F), Lawrence E. Spaide, Inc., now assigned for hearing on May 18, 1979 (1 day), at Philadelphia, Pa., is canceled and application.

MC 119619 (Sub-128F), Distributors Service Co., now assigned for hearing on June 6, 1979 (3 days), at Buffalo, N.Y. and will be held in Room No. 1320, Federal Building, 111 Huron Street.

MC 109324 (Sub-38F), Garrison Motor Freight, Inc., now assigned for hearing on June 12, 1979, at Little Rock, AR, is canceled and reassigned to June 12, 1979 (4 days), at Dallas, TX, and continued to June 18, 1979 (5 days), at Little Rock, AR, in a hearing room to be later designated.

MC 19311 (Sub-48F), Central Transport, Inc., now assigned for hearing on June 5, 1979 (4 days), at Lansing, MI, in a hearing room to be later designated.

MC 116077 (Sub-396F), DSI Transport, Inc., now assigned for hearing on June 6, 1979 (8 days), at the Whitehall Hotel, 1700 Smith Street, Cullen Center, Houston, TX.

MC 116077 (Sub-396F), DSI Transport, Inc., now assigned for continued hearing on July 31, 1979 (4 days), at Houston, TX, in a hearing room to be later designated.

MC 120427 (Sub-23F), Williams Transfer, Inc., now assigned for hearing on August 6, 1979 (1 day), at Dallas, TX, in a hearing room to be later designated.

MC 119988 (Sub-173F), Great Western Trucking Co., Inc., now assigned for hearing on August 7, 1979 (2 days), at Dallas, TX, in a hearing room to be later designated.

MC 44735 (Sub-40F), Kissick Truck Lines, Inc., now assigned for hearing on August 9, 1979 (2 days), at Dallas, TX, in a hearing room to be later designated.

H. G. Homme, Jr.,

Secretary.

[FR Doc. 79-16319 Filed 5-23-79; 8:45 am]

BILLING CODE 7035-01-M

[Finance Docket No. 29028 (Sub-No. 1)]

Missouri Pacific Railroad Co.—Purchase (Portion)—William M. Gibbons, Trustee of the Property of Chicago, Rock Island & Pacific Railroad Co., Debtor; Missouri Pacific Railroad Co., Securities

Missouri Pacific Railroad Company (MP), 210 North 13th Street, St. Louis, MO 63103, represented by Mark M. Hennelly, of the same address, and Leon Leighton, 25 Hadden Road, Scarsdale, NY 10583, gives notice that on April 26, 1979, it filed with the Interstate Commerce Commission, at Washington, D.C. an application under 49 U.S.C. 11343 in Finance Docket No. 29028 for a decision approving the purchase by MP of (1) the line of railroad of Chicago, Rock Island and Pacific Railroad Company (Rock Island) between Leeds Junction, MO, (near Kansas City) and St. Louis, MO, and (2) all of Rock Island's stock in the Terminal Railroad Association of St. Louis (TRRA). MP has filed a directly related application in Finance Docket No. 29028 (Sub-No. 1) to assume the obligation of Rock Island for certain securities of TRRA.

These have been filed as inconsistent applications to the applications in Finance Docket No. 28799 (Sub-No. 1), *et al.*, St. Louis Southwestern Railway Company—Purchase (Portion)—William M. Gibbons, Trustee of the Property of Chicago, Rock Island and Pacific Railroad Company, Debtor. In Finance Docket No. 28799 (Sub-No. 1), St. Louis Southwestern Railway Company (Cotton Belt) seeks authority to purchase Rock Island's line of railroad between Santa Rosa, NM, and St. Louis, MO, via Kansas City, MO. Notice of this application, as well as the directly related applications was published in the **Federal Register** on January 26, 1979 at 44 FR 5563 (1979). The line sought to be acquired by MP in Finance Docket No. 29028 is a portion of the Rock Island line which Cotton Belt seeks to purchase.

These two applications will be consolidated for disposition with the applications in Finance Docket No. 28799 (Sub-Nos. 1 through 6). The latter matters are the subject of an oral hearing presently being conducted by Administrative Law Judge Peter A. Fitzpatrick. Future procedural matters in Finance Docket Nos. 29028 and 29028 (Sub-No. 1) should be directed to Judge Fitzpatrick. Interested parties will be advised as to when a pre-hearing conference on the applications in Finance Docket Nos. 29029 and 29028 (Sub-No. 1) will be held.

The Commission is accepting these applications for consideration, although they are deficient in several ways. The Commission's regulations provide that in the case of an inconsistent application, the Commission may afford an applicant additional time to file materials to complete the application. 49 CFR 1111.4(b)(4). MP, by decision served May 25, 1979, has been advised of the specific deficiencies and given 30 days to complete the application.

The Commission will exercise its authority under 49 U.S.C. 11345 and waive the initial decision in these proceedings. The determination of the merits of the applications will be made in the first instance by the entire Commission.

MP and its subsidiaries operate a railroad system serving the following states: AR, CO, IL, KS, LA, MS, MO, NE, NM, OK, TN, and TX. MP has an existing line between Kansas City and St. Louis which parallels the line proposed to be acquired from the Rock Island, MP is controlled through stock-ownership by Missouri Pacific Corporation, 9900 Clayton Road, St. Louis, MO 63124.

Persons may participate formally in the proceedings by submitting written comments regarding the application. Submissions shall indicate both the designation for this proceeding (F.D. No. 29028) and F.D. No. 28799 (sub-No. 1), and the original and 15 copies shall be filed with the Secretary, Interstate Commerce Commission, Washington, D.C. 20423, not later than July 10, 1979 (45 days after the date notice of the filing of the application is published in the **Federal Register**). Comments shall include the following: the person's position, e.g. party protestant or party in support regarding the proposed transaction; specific reasons why approval would or would not be in the public interest. Additionally, persons who do not intend to participate formally, but who desire to comment, may file a statement and information, subject to the same filing and service requirements. Persons submitting written comments to the Commission shall, at the same time, serve copies of the written comments upon the applicants, the Secretary of Transportation, the Attorney General, and all the parties in Finance Docket No. 28799 (Sub-No. 1).

Dated: May 17, 1979.

By the Commission. Chairman O'Neal, Vice Chairman Brown, Commissioners Stafford, Gresham, Clapp and Christian. Commissioner Christian not participating.

H. G. Homme, Jr.,

Secretary.

[FR Doc. 79-16320 Filed 5-23-79; 8:45 am]

BILLING CODE 7035-01-M

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Sunshine Act Meetings

Federal Register
Vol. 44, No. 102
Thursday, May 24, 1979

This section of the FEDERAL REGISTER contains notices of meetings published under the "Government in the Sunshine Act" (Pub. L. 94–409) 5 U.S.C. 552b(e)(3).

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1

[M–222, May 17, 1979]

CIVIL AERONAUTICS BOARD.

TIME AND DATE: 9:30 a.m., May 24, 1979.

PLACE: Room 1027, 1825 Connecticut Avenue NW., Washington, D.C. 20428.

SUBJECT:

1. Ratification of items adopted by notation.
2. Docket 33465, *Continental-Western Merger Case.* Continental-Western motion to terminate consulting agreement. (OGC)
3. Docket 34783, KLM application for an amended foreign air carrier permit. (Memo No. 8817, BIA, OGC, BLJ)
4. Docket 34459, Application of Jetsave LTD. (United Kingdom) to renew and amend its indirect foreign air carrier permit. (Memo No. 8811, BIA, OGC, BLJ)
5. Dockets 32794, 32752, and 30435; Show-cause order 78–8–128) proposing to make TXI's authority at Jackson, Mississippi, permissive; Show-cause order 78–9–135) proposing to make Pan America's Fairbanks-New York/Seattle/Portland authority permissive, and order [77–5–22) suspending Pan American in the New York-Fairbanks market. (Memo No. 8804, BDA, OGC)
6. Docket 31298, Sky West's application for subsidy-eligible authority at Cedar City, Utah and subsidy-ineligible authority at St. George, Utah. (Memo No. 8033–C, BDA, OGC)
7. Dockets 35058, 33607, 33914, 33996, 35172, 35191, 35206, 35207, 35202, 35215, 35211, 35219, and 35187; Continental, American, Ozark, TXI, Hughes Airwest, Delta, Allegheny, Braniff, Eastern, North Central, Western, and Northwest, requesting authority between Albuquerque and Los Angeles, Ontario, Burbank and Las Vegas. (BDA)
8. Dockets 34354, 34341, 34464, 34463, 34631, 34605, and 34597; Applications of Continental and Ozark for Denver-Little Rock-Memphis-Nashville authority; applications of Continental, Trans World, and Ozark for Kansas City-Memphis-Nashville authority; Application of Braniff for Nashville/Memphis-Little Rock-Ft. Smith/Tulsa/Oklahoma City/Amarillo/Colorado Springs/Denver authority. (Memo No. 8813, BDA)
9. Docket 34674, Allegheny's Petition for Show-Cause Procedures on its Application for Phoenix-Tucson Authority. (Memo No. 8805, BDA)
10. Docket 35100, Allegheny's application for Boston/Philadelphia/Pittsburgh-Tampa authority. (Memo No. 8814, BDA)
11. Docket 35469, Application of Altair Airlines for an exemption under section 416(b) of the Act authorizing Norfolk, Va.-Washington, D.C. service. (Memo No. 8816, BDA)
12. Docket 34800, Allegheny Airlines' Application and Petition for an Order to Show Cause for Nonstop Norfolk-Washington Authority. (Memo No. 8812, BDA, OCCR)
13. Docket 35073, Allegheny Airlines' application and petition for an order to show cause for nonstop Norfolk-New York authority. (Memo No. 8815, BDA, OGC)
14. Docket 32774, Norfolk's Petition for Reconsideration of Order 79–1–99 dismissing its Adequacy of Service Petition. (Memo No. 8290–E, BDA, OGC)
15. Dockets 34770, 33490, 33535, 33738, 33585, 33730, 33505, 35038, 35027, 35024, and 35020; Allegheny, Braniff, Continental, Northwest, Ozark, Trans World, Delta, North Central, Southern, and Western, requesting authority between Reno and Chicago. (Memo No. 8179–B, BDA)
16. Dockets 33580, 33629, 33672, 33821, 33863, 33878, 33997, 34845, 34866, and 34932; Applications for nonstop Denver-Detroit authority. (Memo No. 8423–B, BDA, OGC, BLJ)
17. Dockets 34336 and 35210; Finalization of Show-Cause Order 79–3–97, tentatively adding Providence as an intermediate point on Air New England's Route 172 (Docket 34336) and proposing to grant the Providence authority at issue to applicants whose fitness can be established by officially noticeable material. (Memo No. 8579–A, BDA)
18. Dockets 34791 and 34792; United's notices, under 401(j)(1) and (2), of its intent to terminate all air service at New Orleans, LA. (Memo No. 8819, BDA, OCCR)
19. Dockets 33553, 33557, 33566, and 34532; Applications of Braniff, Hawaiian, United and Aeroamerica for Seattle-Portland-Hawaii Certificate authority. (BDA)
20. Dockets 34771 and 35204; National's application to amend its certificate for Route 39 to include Birmingham-Dallas/Ft. Worth/Houston authority and motion to consolidate into the Service to Birmingham Show-Cause Proceeding. (Memo No. 8821, BDA)
21. Dockets 35104, 35291, 35299, 34518, and 35276; Continental, North Central, Ozark, and Western, requesting authority between Dallas/Ft. Worth and Oklahoma City. (BDA)
22. Docket 31400, *Colorado Ski Points Investigation*—Petitions for Discretionary Review. (Memo No. 4680–H, OGC)
23. Docket 34892, Texas International's notice of intent to suspend service at Harlingen/San Benito, Texas. (BDA, OCCR)
34. Dockets 34707 and 34852; City of Waterloo's motion for reconsideration of Order 79–3–186. (BDA)
25. Dockets 34864, 35131, 35087, and 30686; Piedmont Aviation and Allegheny Airlines notices to suspend service at Newport News, Va. agreement between Allegheny and Henson Aviation. (BDA, OGC, OCCR)
26. Docket 35280, Hughes Airwest's notice to terminate its certificate obligation at Cedar City, Utah, under section 401(j)(1). (BDA, OCCR)
27. Docket 33418, Application of the Airline Tariff Publishing Company (ATPCO) to conduct multicarrier discussions on joint fares. (Memo No. 8820, BDA, OGC)
28. Petition of British Caledonian Airways, Limited for review of staff action denying its request for special tariff permission to file a one-way cargo charter charge from Houston to Singapore. (BDA, BIA, OGC)
29. Docket 35192, Complaint of China Airlines, Ltd., against North/Central Pacific fares proposed by Continental Airlines, Inc. China contends that the fares are predatory. (BDA, BIA).
30. Dockets 30332, 32660; Pan American and TWA tariff filings proposing fuel-related increases in transatlantic fares and rates; IATA agreements proposing worldwide fuel-related fare and fare increases. (BDA, BIA)
31. Docket 33340, Tariff limits for filing overcharge freight claims of certain carriers in foreign transportation. (Memo No. 8392–A, BDA, BIA, BCP)
32. Request for public comments on Board's final report to Congress on direct marketing of charter tours. (OGC, BDA)
33. Notice of proposed rulemaking to reduce minimum charter contract size for Overseas Military Personnel Charters. (OGC, BDA)
34. Dockets 30176 and 27617; rulemaking on off-route charters within Alaska by Alaskan air carriers generally; off-route charters within Alaska by Alaska Airlines. (OGC, BDA)
35. Docket 35319, Continental's, Northwest's and Western's motion to withhold from public disclosure current service segment data in LAX/SFO–HNL markets required to be filed by Order 79–4–67. (BCP)
36. Dockets 28298, 28593, 30497, 31628, 32569, 29039, 30041, 30743, 31629, 29219, 30042, 31621, 31630, 29288, 30044, 31624, 32100, and 29386; Petition of Action on Smoking and Health for review of staff action. (OM, BCP)

STATUS: Open.

PERSON TO CONTACT: Phyllis T. Kaylor, The Secretary, (202) 673–5068.

[S–1033–79 Filed 5–22–79; 2:57 pm]

BILLING CODE 6320–01–M

2

[M–222, Amdt 1; May 21, 1979]

CIVIL AERONAUTICS BOARD.

Notice of deletion of item from the May 24, 1979, meeting.

TIME AND DATE: 9:30 a.m., May 24, 1979.

PLACE: Room 1027, 1825 Connecticut Avenue NW., Washington, D.C. 20428.

SUBJECT: 11. Docket 35469, Application of Altair Airlines for an exemption under section 416(b) of the Act authorizing Norfolk, Virginia-Washington, D.C. service (Memo 8816).

STATUS: Open.

PERSON TO CONTACT: Phyllis T. Kaylor, the Secretary, (202) 673–5068.

SUPPLEMENTARY INFORMATION: Item 11 is being deleted from the May 24, 1979 agenda because it requests expeditious treatment of its exemption application so that the necessary arrangements can be made prior to the commencement date, including compliance with the OAG filing deadline of May 22, 1979. Accordingly, the following Members have voted that agency business requires Item 11 deleted from the May 24, 1979 agenda and that no earlier announcement of this deletion was possible:

Chairman, Marvin S. Cohen
Member, Richard J. O'Melia
Member, Elizabeth E. Bailey
Member, Gloria Schaffer

[S–1034–79 Filed 5–22–79; 2:57 pm]

BILLING CODE 6320–01–M

3

[M–222, Amdt. 2; May 21, 1979]

CIVIL AERONAUTICS BOARD.

Notice of Addition of Items to the May 24, 1979, Meeting.

TIME AND DATE: 9:30 a.m., May 24, 1979.

PLACE: Room 1027, 1825 Connecticut Avenue, NW., Washington, D.C. 20428.

SUBJECT: 26a. Dockets 34759 and 26471—Evergreen International Airlines (BDA); 27a. Docket 32384—Request for instructions regarding class-rate policy during transitional period (BDA).

STATUS: Open.

PERSON TO CONTACT: Phyllis T. Kaylor, the Secretary, (202) 673–5068.

SUPPLEMENTARY INFORMATION: Item 26a is being added to the May 24 agenda because this is necessitated by the immediate need to obtain bank financing. It is imperative that the sensitive policy issues involved in Item 27a be resolved so that a final rate can be developed as quickly as possible. The class rate has been open since July 1, 1978. Accordingly, the following Members have voted that agency business requires the addition of Items 26a and 27a to the May 24, 1979 agenda and that no earlier announcement was possible:

Chairman, Marvin S. Cohen
Member, Richard J. O'Melia
Member, Elizabeth E. Bailey
Member, Gloria Schaffer

[S–1035–79 Filed 5–22–79; 2:57 pm]

BILLING CODE 6320–01–M

4

COMMODITY FUTURES TRADING COMMISSION.

TIME AND DATE: 10 a.m., May 29, 1979.

PLACE: 2033 K Street NW., Washington, D.C., 8th floor conference room.

STATUS: Closed.

MATTERS TO BE CONSIDERED: Commission consideration of judicial matters/cases.

CONTACT PERSON FOR MORE INFORMATION: Jane Stuckey, 254–6314.

[S–1030–79 Filed 5–22–79; 2:42 pm]

BILLING CODE 6351–01–M

5

COMMODITY FUTURES TRADING COMMISSION.

TIME AND DATE: 11 a.m., June 1, 1979.

PLACE: 2033 K Street NW., Washington, D.C., 8th Floor Conference Room.

STATUS: Closed.

MATTERS TO BE CONSIDERED: Market Surveillance.

CONTACT PERSON FOR MORE INFORMATION: Jane Stuckey, 254–6314.

[S–1031–79 Filed 5–22–79; 2:42 pm]

BILLING CODE 6351–01–M

6

FEDERAL DEPOSIT INSURANCE CORPORATION.

Notice of Agency Meeting

Pursuant to the provisions of subsection (e)(2) of the "Government in the Sunshine Act" (5 U.S.C. 552b(e)(2)), notice is hereby given that at 11:35 a.m. on Friday, May 18, 1979, the Board of Directors of the Federal Deposit Insurance Corporation met in closed session, by telephone conference call, to consider a memorandum regarding the liquidation of assets acquired by the Corporation from Franklin National Bank, New York, New York.

In calling the meeting, the Board determined, on motion of Director William M. Isaac (Appointive), seconded by Director John G. Heimann (Comptroller of the Currency), and concurred in by Chairman Irvine H. Sprague, that Corporation business required its consideration of the matter on less than seven days' notice to the public; that no earlier notice of the meeting was practicable; that the public interest did not require consideration of the matter in a meeting open to public observation; and that the matter was eligible for consideration in a closed meeting pursuant to subsection (c)(10) of the "Government in the Sunshine Act" (5 U.S.C. 552b(c)(10)).

Dated: May 18, 1979.

Federal Deposit Insurance Corporation.

Hoyle L. Robinson,
Executive Secretary.

[S–1028–79 Filed 5–22–79; 9:50 am]

BILLING CODE 6714–01–M

7

FEDERAL ELECTION COMMISSION.

Federal Register No. FR–S–79–1009.

PREVIOUSLY ANNOUNCED DATE AND TIME: Thursday, May 24, 1979 at 10 a.m.

CHANGE IN MEETING: The following items have been added to the portion of the meeting open to the public:

1. Final audit report of the AFL–CIO COPE POC.
2. Final audit report for the Sasser for Senate Committee.
3. Revised response to Senate Rules Committee, Appendix B.
4. Presidential Monthly Status Report.
5. Proposed review to determine nature and extent of loan contributions and debt and obligation discrepancies.
6. March Management Report, Second Quarterly Report, Fiscal Year 1979. (continued from meeting of May 17, 1979.)

PERSON TO CONTACT FOR INFORMATION: Mr. Fred S. Eiland, Public Information Officer, Telephone: 202–523–4065.

Marjorie W. Emmons,
Secretary to the Commission.

[S–1026–79 Filed 5–22–79; 9:50 am]

BILLING CODE 1026–79–M

8

FEDERAL MARITIME COMMISSION.

TIME AND DATE: May 30, 1979, 10 a.m.

PLACE: Room 12126, 1100 L Street, NW., Washington, D.C. 20573.

STATUS: Parts of the meeting will be open to the public. The rest of the meeting will be closed to the public.

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MATTERS TO BE CONSIDERED:

Portions Open to the Public

1. Monthly Report of actions taken pursuant to authority delegated to the Managing Director.

2. Waiver of the Filing Requirements of section 18(b) of the Shipping Act, 1916, with respect to Foss Launch & Tug Co., in the U.S. North Pacific-Canada Trade.

3. Agreement No. 8900-8: Modification of the "8900" Lines Rate Agreement to provide for intermodal authority.

Portion Closed to the Public

1. Docket No. 77-50: *North Carolina State Ports Authority, et al.* v. *Dart Containerline Company, Ltd.*—Consideration of the record.

CONTACT PERSON FOR MORE INFORMATION: Francis C. Hurney, Secretary, (202) 523-5725.

[S-1029-79 Filed 5-22-79; 11:50 am]

BILLING CODE 6730-01-M

9

NATIONAL LABOR RELATIONS BOARD.

TIME AND DATE: 10 a.m., Monday, June 4, 1979.

PLACE: Board Conference Room, Sixth Floor, 1717 Pennsylvania Avenue N.W., Washington, D.C. 20570.

STATUS: Closed to public observation.

MATTER TO BE CONSIDERED: SES evaluations.

CONTACT PERSON FOR MORE INFORMATION: William A. Lubbers, Executive Secretary, Washington, D.C. 20570, Telephone: (202) 254-9430.

Dated, Washington, D.C., May 22, 1979.

By direction of the Board.

George A. Leet,

Associate Executive Secretary, National Labor Relations Board.

[S-1036-79 Filed 5-22-79; 3:15 pm]

BILLING CODE 7545-01-M

10

NATIONAL TRANSPORTATION SAFETY BOARD.

TIME AND DATE: 9 a.m., Thursday, May 31, 1979 [NM-79-16].

PLACE: NTSB Board Room, National Transportation Safety Board, 800 Independence Avenue SW., Washington, D.C. 20594.

STATUS: The first seven items on the agenda will be open to the public; the eighth item will be closed under Exemption 10 of the Government in the Sunshine Act.

MATTERS TO BE CONSIDERED:

1. *Special Study*—Single-Engine, Fixed Wing General Aviation Accidents, 1972-1976.

2. *Aircraft Accident Report*—United Airlines, Inc., McDonnell-Douglas DC-8-61, N8082U, Portland, Oreg., December 28, 1978.

3. *Marine Accident Report*—Collision of M/V WORLD NOBILITY (Liberian) and SS PENNSYLVANIA GETTY at the mouth of the Chesapeake Bay near Norfolk, Va., December 29, 1978.

4. *Briefing* on the operation and activities of the Federal Highway Administration's Bureau of Motor Carrier Safety.

5. *Recommendation* to the Federal Aviation Administration re runway incursion accidents/incidents in the past 10 months.

6. *Regulations*—Revision of 49 CFR Parts 831 and 845, investigations, hearings, and reports of transportation accidents/incidents.

7. *Letter* to Materials Transportation Bureau re closeout of seven recommendations relating to hazardous materials.

8. *Opinion and Order*— Administrator v. Hale, Dkt. SE-3980; disposition of the appeals of both parties.

CONTACT PERSON FOR MORE INFORMATION: Sharon Flemming, 202-472-6022.

May 21, 1979.

[S-1027-79 Filed 5-22-79; 9:50 am]

BILLING CODE 4910-58-M

11

SECURITIES AND EXCHANGE COMMISSION.

"FEDERAL REGISTER" CITATION OF PREVIOUS ANNOUNCEMENT: [44 FR 29210 May 18, 1979]

STATUS: Closed meeting.

PLACE: Room 825, 500 North Capitol Street, Washington, D.C.

DATE PREVIOUSLY ANNOUNCED: Tuesday, May 15, 1979.

CHANGES IN MEETING: Additional items.

The following additional items will be considered at a closed meeting scheduled for Thursday, May 24, 1979, at 10 a.m.:

Regulatory matter bearing enforcement implication.

Personnel matter.

Personnel matter bearing enforcement implication.

Litigation matter.

Formal Order and standby authority for subpoena enforcement action.

Chairman Williams and Commissioners Loomis, Evans, and Karmel determined that Commission business required the above change and that no earlier notice thereof was possible.

May 22, 1979.

[S-1032-79 Filed 5-22-79; 2:42 pm]

BILLING CODE 8010-01-M

12

UNIFORMED SERVICES UNIVERSITY OF THE HEALTH SCIENCES.

TIME AND DATE: June 4, 1979, 8 a.m.

PLACE: Uniformed Services University of the Health Sciences, 4301 Jones Bridge Road, Bethesda, Maryland 20014.

STATUS: Open.

MATTERS TO BE CONSIDERED:

8 a.m.—Meeting—Educational Affairs Committee

(1) Faculty Appointments; (2) Report—Service policies which require Service members with obligated service to complete their obligations before applying to USUHS School of Medicine; (3) Report—Graduate Program Update; (4) Report—Continuing Medical Education Program; (5) Report—Admissions.

8 a.m.—Meeting—Administrative Affairs Committee

(1) Report—Assistant Dean for Administration—Construction Update; (2) Report—Director, Resource Management—Presentation of the Program Objective Memorandum (POM).

8:45 a.m.—Meeting—Board of Regents

(1) Report—Educational Affairs Committee; (2) Report—Administrative Affairs Committee; (3) Report—Acting President; (4) Report—Dean, School of Medicine; (5) Report—Appointments for Assistant Dean for Student Affairs and Acting Chairmen; (6) Report—Change in Class Size; (7) Report—Legislative Changes; (8) Report—Director, Resource Management—Faculty Compensation; (9) Report—Associate Dean, School of Medicine—Status Report: Institutional Self-Study; (10) Departmental Program Review—Malcolm B. Carpenter, M.D., Chairman, Department of Anatomy.

New Business

SCHEDULED MEETINGS: September 10, 1979.

CONTACT PERSON FOR MORE INFORMATION: Frank M. Reynolds, Executive Secretary of the Board, 202/295-2111.

H. E. Lofdahl,

Deputy Director, Correspondence and Directives, Washington Headquarters Services, Department of Defense.

May 22, 1979.

[S-1037-79 Filed 5-22-79; 3:42 pm]

BILLING CODE 3810-70-M

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federal register

Thursday
May 24, 1979

Part II

Water Resources Council

Procedures for Evaluation of National Economic Development (NED) Benefits and Costs in Water Resources Planning (Level C) and Proposed Revisions to the Standards for Planning Water and Related Land Resources

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WATER RESOURCES COUNCIL

[18 CFR Part 704]

Procedures for Evaluation of National Economic Development (NED) Benefits and Costs in Water Resources Planning (Level C); Proposed Rules and Procedures of Implementation

AGENCY: U.S. Water Resources Council.

ACTION: Proposed Rule.

SUMMARY: The Water Resources Council proposes to publish as rules and regulations a manual of procedures for evaluation of National Economic Development (NED) benefits and costs in water resources planning (Level C) pursuant to section 103 of the Water Resources Planning Act of 1965 (Pub. L. 89–80). These procedures were promulgated at the direction of the President. The intent of the manual is to ensure consistency and accuracy among agencies in the calculation of benefits and costs of Federal water resources projects.

DATES: Comments are due on or before July 27, 1979.

Public meeting: July 10, 1979—Los Angeles, California; July 17, 1979—Washington, D.C.; July 24, 1979—St. Louis, Missouri.

ADDRESS: Interested persons are invited to submit written comments to the Director, U.S. Water Resources Council, 2120 L Street, N.W., Washington, D.C. 20037. All written comments made pursuant to this notice will be available for public inspection at the address given above.

Public meetings will be held at the following locations:

July 10—9 a.m. to 5 p.m., Marriott Hotel-Airport, 5855 W. Century Blvd., Los Angeles, California.

July 17—9 a.m. to 5 p.m., Auditorium, Office of Personnel Management, (Formerly Civil Service Commission), 1900 E Street, N.W., Washington, D.C.

July 24—9 a.m. to 5 p.m., 1st Floor Conference Room, Mudd Law Building, Washington University, St. Louis, Missouri.

FOR FURTHER INFORMATION CONTACT: Lewis D. Walker, U.S. Water Resources Council, 2120 L Street, N.W., Washington, D.C. 20037 (202/254–6453).

SUPPLEMENTARY INFORMATION: On July 12, 1978 the President published a directive subject: "Improvements in the Planning and Evaluation of Federal Water Resources Programs and Projects." In this directive the President noted several deficiencies in the current process:

A. The requirement that project benefits exceed project costs has not been rigorously or uniformly applied. There are wide variations in the techniques of calculating benefits and costs, including double counting of benefits, and many projects now ready for construction funding were originally formulated and evaluated under economic data and criteria that are now outdated. In addition, consideration of nonstructural alternatives is seriously inadequate, even though these alternatives are often cost effective.

B. In the planning and review of water resources projects in the past, too little attention has been paid to environmental values such as protecting fish and wildlife habitat and free-flowing rivers for recreational enjoyment. Water conservation, which makes sense both environmentally and economically, has not been emphasized in Federal water projects and in some cases the Federal government has created disincentives to conservation.

Additional direction was given by the President in Executive Order 12113 published January 5, 1979. The EO directs the Water Resources Council to do the following:

A. The Council shall ensure that it has established a current set of principles, standards, and procedures for Federal participants in the preparation of comprehensive regional or river basin plans and for the formulation and evaluation of Federal water and related land resources projects (42 U.S.C. 1962a–2).

B. The Council shall develop a planning manual for use by each agency (a) in calculating benefits and costs by using the best available techniques and (b) in applying the principles and standards in a consistent manner.

These proposed rules have been determined to be significant under Executive Order 12044. A copy of the draft regulatory analysis and an environmental assessment may be obtained from the Director, U.S. Water Resources Council, 2120 L Street, N.W., Washington, D.C. 20037.

The content and organization of the Manual of Procedures will be developed in final form after full consultation with the Member agencies and after public review and comment has been obtained. Each procedure presented will be the "best current technique(s)" for evaluating the benefits and costs of Federal water resources projects. This publication represents the beginning of a 60-day review to receive input from all interested persons. To facilitate early comment from the public and interested parties these draft procedures are being published in a form which would permit the addition of new sections, changes to improve technical quality, or detailed provisions to enhance its utility to agency planners. Major changes and additions will be subject to the same preparation and review requirements as these initial draft procedures. A partial listing of prospective changes now under consideration include:

a. Including definitions, especially as related to criteria distinguishing purposes for cost sharing: conservation, drainage, flood, flood control, nonstructural, separable feature, water supply.

b. Addition of deepwater navigation project benefit-cost procedures

c. Addition of beach erosion control project benefit-cost procedures

d. Various changes emphasizing final project benefits over intermediate project outputs

e. Adding additional detail in various sections

f. Expanding the treatment of costs in the manual

g. Providing for display of significant economic relationships between the planned project and other facilities.

During July 1979, public meetings will be held on the Principles and Standards revisions and the Manual of Procedures for Evaluating Benefits and Costs in Water Resources Planning (Level C) to solicit comments. These meetings are scheduled for Los Angeles, CA, St. Louis, MO, and Washington, DC, according to the following schedule:

July 10–9 a.m. to 5 p.m., Marriott Hotel-Airport, 5855 W. Century Blvd., Los Angeles, California.

July 17—9 a.m. to 5 p.m., Auditorium, Office of Personnel Management (Formerly Civil Service Commission), 1900 E Street, N.W., Washington, D.C.

July 24—9 a.m. to 5 p.m., 1st Floor Conference Room, Mudd Law Building, Washington University, St. Louis, Missouri.

The amount of time for oral statements during the meetings will be limited. Anyone planning to make a statement should write or telephone and indicate which meeting will be attended and the time of day preferred:

Wanda Phelan, Public Information Officer, Water Resources Council, 2120 L Street, N.W., Washington, D.C. 20037, 202/254–8290.

The Council will schedule the time as closely as possible to that requested and will notify speakers as to the time allotted.

It is proposed that Part 704 of 18 CFR be amended by adding a new Subpart G to read as follows:

Subpart G—Procedures for Evaluation of National Economic Development (NED) Benefits and Costs in Water Resources Planning (Level C)

Purpose

Sec.
704.100 Authority and Relationship to the Principles and Standards.
704.101 Agency Activities Covered by the Manual.
704.102 Responsibility for Application of the Manual; Development of Agency Procedure.
704.103 Schedule for Application of the Manual.
704.104 Modification of the Manual.
704.105–704.110 [Reserved]

General

704.111 Calculation of Net Benefits.
704.112 Risk and Uncertainty—Sensitivity Analysis.
704.113 Dam Failure.
704.114 Project Scaling Using Net Benefits Analysis.
704.115 Project Design Flood.
704.116–704.120 [Reserved]

NED Benefit Evaluation Procedures

704.121 Municipal and Industrial (M&I) Water Supply.
704.122 Agricultural Water Supply (Irrigation).
704.123 Agricultural Flood Damage.
704.124 Agricultural Drainage.
704.125 Urban Flood Damage.
704.126 Power, Hydropower.
704.127 Transportation, Inland Navigation.
704.128 Transportation (Deep Water Ports) [Reserved].
704.129 Recreation.
704.130 Commercial Fishing and Trapping [Reserved].
704.131 Increases in Output Resulting from External Economies.
704.132 Unemployed or Underemployed Labor Resources.
704.133–704.140 [Reserved]

NED Cost Evaluation Procedures

704.141 Determination of National Economic Development (NED) Costs of Water Resources Plans.
704.142–704.145 [Reserved]

Authority: Sec. 103, Pub. L. 89–80; 79 Stat. 245; 42 U.S.C 1962a–2.

Subpart G—Procedures for Evaluation of National Economic Development (NED) Benefits and Costs in Water Resource Planning (Level C)

Purpose

§ 704.100 Authority and relationship to the principles and standards.

On July 12, 1978, President Carter directed the Water Resources Council and its member agencies to "carry out a thorough evaluation of current agency practices for making benefit and cost calculations" and "publish a planning manual that will ensure that benefits and costs are calculated accurately, consistently and in compliance with the Principles and Standards and other applicable economic evaluation requirements." This manual of procedures supplements and implements the Principles and Standards established by the Water Resources Council (WRC) pursuant to Section 103 of the Water Resources Planning Act (Pub. L. 89–80).

§ 704.101 Agency activities covered by the manual.

(a) These proceudures are to be used for the evaluation of beneficial and adverse effects of Federal and Federally assisted water resources projects covered in the Standards, Section I.B.2. of the Principles and Standards and Agency for International Development Projects covered by Section 101 of Pub. L. 95–148. The procedures apply to Level C (project) planning if such projects are subject to the Principles and Standards. They are applicable to: (1) projects which may be approved by agency administrators, (2) projects requiring congressional authorization, (3) authorized projects or separable project features of such projects not yet under construction for which agencies currently prepare postauthorization planning documents. For the purpose of implementing this manual, a project shall be considered under construction when funds have been appropriated by the Congress or budgeted by the President for land acquisition or physical construction activity. Projects for which postauthorization planning documents are not required shall be considered under construction when authorized for construction.

(b) The Secretary of each Department shall retain the discretion to review those projects not under construction and, where deemed reasonable, may exempt a project from complying with this Manual of Procedures or may partially exempt a project and direct expedited additional planning to more fully meet specific procedures. This discretionary authority applies to those projects not yet authorized for which preauthorization planning is now complete or will be complete by the end of FY 1980 and those authorized projects requiring postauthorization planning if such planning is now complete or will be complete by the end of FY 1980. Preauthorization or postauthorization planning shall be considered complete when the appropriate planning documents have been approved by the responsible agency's field office. Such Secretarial review is provided to ensure that adequate and reasonable discretion exists to prevent undue loss of time or expenditure of public funds in those cases where additional planning is not considered necessary. This discretionary authority may not be exercised after July 31, 1981.

(c) Authorized projects exempted from complying with the Principles and Standards are also exempted from complying with these procedures.

§ 704.102 Responsibility for application of the manual; development of agency procedures.

The administrator of each Federal program or Federally assisted program covered is responsible for applying the procedures coverd in the manual. Each Federal administrator shall adopt these procedures and follow them in establishing agency procedures necessary to supplement and implement these procedures. Agency procedures shall comply with these procedures except where compliance would be inconsistent with statutory requirements. The development of agency procedures shall incorporate WRC review to insure consistency.

§ 704.103 Schedule for application of the manual.

Those procedures contained herein which are dependent upon Water Resources Council supplied data bases shall be adopted by the responsible agency administrators immediately upon publication of the necessary data bases. All other procedures are to be applied by the responsible agency administrators immediately upon their adoption by the Water Resources Council.

§ 704.104 Modification of the manual.

These procedures will be subject to periodic revisions as experience, research and planning conditions require such revision. Such revisions as are necessary to insure the use of the best current techniques, and accurate and consistent calculations shall be made by the Water Resources Council as needed.

§§ 704.105–704–110 [Reserved]

General

§ 704.111 Calculation of net benefits.

(a) *Introduction.* Water resource management plans often take several years to install. During the installation period, costs are often incurred with no immediate realization of benefits. Once installation is complete, however, a time stream of future benefits and costs results. This section provides guidance for the calculation of net benefits in

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recognition of the variation in timing of project costs and benefits.

(b) *Conceptual basis.* Proper NED analysis requires that project NED benefits and costs be compared at a common point in time. In order to do this the following information is required:

(1) *Installation period.* The number of years required for installation of the plan. Where staged installation is proposed over an extended period of time, the installation period will be limited to that needed to install the first phase.

(2) *Installation Expenditures.* The dollar expenses expected to be incurred during each year of the installation period.

(3) *Period of Analysis.* The time horizon for project benefits, deferred installation costs, and OM&R (operation, maintenance, and replacement) costs, commencing at the end of the installation period and extending up to 100 years into the future. The period of analysis will be further restricted for purposes of NED analysis to be the lesser of (i) the period of time over which the plan will serve a useful purpose, considering probable technological trends that affect various alternatives, or (ii) the period of time when further discounting of beneficial and adverse effects will have no appreciable impact on project scaling.

(4) *Benefit stream.* The pattern of expected benefits over the period of analysis.

(5) *OM&R costs.* The expected costs over the period of analysis for operation, maintenance, and replacement necessary to maintain the benefit stream and agreed upon levels of mitigation.

(6) *Discount rate. That rate published annually by the Water Resources Council for use in evaluating Federal water projects.*

(c) Net NED benefits of the plan are calculated in present value terms. To perform this calculation, the benefit stream, deferred installation costs, and OM&R costs should be discounted to the beginning of the period of analysis using the applicable project discount rate. Installation expenditures should be brought forward to the beginning of the period of analysis by charging compound interest at the project discount rate from the date the costs are incurred.

§ 704.112 Risk and uncertainty—sensitivity analysis.

(a) *Introduction. This section provides guidance for the evaluation of risk and uncertainty in the formulation of water resources management and development plans. The purpose of the guidance is to provide the basis for more fully informed decisions on water resources management and investment by taking explicit account of risk and uncertainty.*

(b) *Conceptual basis.* (1) *Risk.* Situations of risk are conventionally defined as those where the potential outcomes can be described in terms of reasonably well known probability distributions. For example, if it is known that a river will flood to a particular level on the average of once in 20 years, this is a situation of risk rather than of uncertainty.

(2) *Uncertainty.* In situations of uncertainty, potential outcomes cannot be well described in terms of objectively known probability distributions. Uncertainty is characteristic of many, aspects of water resources planning. Because of the absence of known probability distributions to describe uncertain outcomes, the presence of uncertainty poses a substantially more difficult analytical problem than does risk.

(3) *Sources of risk and uncertainty.* (i) Risk and uncertainty arise from measurement errors, as well as from the underlying variability of the complex natural, social, and economic situations in which water management and development plans are formulated. If the analyst is uncertain because the data are imperfect or the analytical tools crude, then this is measurement error. Variations due to measurement error can be addressed by attempts to improve data and analytic techniques.

(ii) Natural randomness or stochasticity as a source of variance calls for different treatment. The future is essentially unknowable as regards demographic and economic events of the occurrence of particular hydorlogic or meteorological events at particular times because these events are subject to random influences. The question is whether the randomness can be described by some probability distribution. If there is an historical data base that is applicable for the future, then distributions can be described or approximated by objective techniques.

(iii) If there is no such historical base, then the probability distribution of future outcomes of demographic, economic or technological processes must be described subjectively. The success of any such effort depends upon the planner's insight and judgment.

(4) *Dimensions of risk and uncertainty, project evaluations.* The degree of risk and uncertainty will generally differ among various aspects of a project. In addition, the degree of risk and uncertainty about aspects of a project will differ over time, that is, benefits from a particular purpose or a particular category of costs might be relatively certain during one time period and quite uncertain during another. Finally, the level of uncertainty will differ at different stages of the analysis—for example, between rough screening and final detailed design where more precise analytic methods are applied.

(5) *Attitudes.* The attitudes of decisionmakers to risk and uncertainty govern the final selection of projects and of design adjustments to risk and uncertainty. In principle, the government can be neutral toward risk and uncertainty, can take positions on either side of neutrality, or can adopt different positions with respect to various programs and/or aspects of programs. Whereas, the government might be neutral toward risk and uncertainty, the private sector might not share this neutrality. Such differences in attitudes should be taken into account in estimating the potential success of projects.

(6) *The role of the planner.* The planner's role in dealing with risk and uncertainty is primarily to characterize to the extent possible the different levels of risk and uncertainty relating to a project and to describe these in a clear way to decisionmakers in order to facilitate more fully informed decisions on projects and programs. In addition, the planner should suggest various adjustments in project design that might reflect different attitudes on the part of decisionmakers to risk and uncertainty. Finally, the planner should incorporate adjustments in project designs that reduce downside risk without cost in terms of expected values.

(c) *Planning setting.* (1) As a general rule, it should be assumed that the setting in which water resources projects are developed implies some risk and uncertainty as to nearly every aspect of a project. Some types of risk and uncertainty will be dealt with in terms of national planning parameters—for example, ranges of population projections and other principal economic and demographic variables. Other types of risk and uncertainty will be dealt with in terms of project or regional estimates and forecasts. Where projects are related to other projects and programs in their risk and uncertainty aspects (i.e., interrelated hydrologic systems) reasonable attempts should be made to see that the same analyses and presumed probability distributions are used for the different related projects and programs.

(2) The risk and uncertainty aspects of projects are likely to be seen and analyzed differently as planning proceeds from rough screening to detailed project proposals. An effort should be made, therefore, to relate the techniques used in characterizing and dealing with risk and uncertainty to the stage of the planning process.

(3) The resources available for analyzing risk and uncertainty, should be allocated to such assessments that appear to be the most important with respect to their effects on project and program design. It should not be assumed beforehand that one or another variable is a more important source of risk and uncertainty. Rather, it is better to investigate and react accordingly by allocating study efforts where they will be most useful in dealing with measurement errors and natural sources of risk and uncertainty.

(d) *Evaluation procedures.* (1) Those aspects of project evaluation that can be characterized by a probability distribution based on reasonably firm data, such as hydrologic risk, should be treated by standard methods of risk evaluation that have been developed by Federal agencies and others. Most aspects of projects that are surrounded by risk and uncertainty, however, cannot be characterized by probability distributions that have a reasonable empirical basis.

(2) A first step in dealing with this problem is to describe why the project or aspects of it are uncertain, as well as the time periods in which different degrees of uncertainty are thought to be present. A range of reasonably likely outcomes can then be described by using sensitivity analysis—the technique of varying assumptions as to alternative economic, demographic, environmental, and other factors, and examining the effects of these varying assumptions on outcomes of benefits and costs. In some cases and some stages of planning, this approach, when accompanied by a careful description of the dimensions of uncertainty, will be sufficient. It can be accompanied by design adaptations of the project that would represent different types of preferences as to uncertainty.

(3) An additional step is to characterize the range of outcomes with a set of subjective probability estimates. Where it is appropriate to do this, methods for manipulating the subjective probability estimates can then be used. However, if numerical estimates of subjective probability are given, it should be made clear in the project report that these are subjective and thus do not have the same objective basis that characterizes a long hydrologic record. Moreover, subjective probability distributions should be chosen and justified carefully in each case; and some description of the impacts on design of using other subjective distributions in the particular case should be given. As with the previous approach, various design alternatives that would reflect different preferences toward uncertainty can be suggested, along with a description of the type of preferences that would make each adaptation appropriate.

(4) As a further step, utility functions can be used in conjunction with assessments of uncertainty to explore the design adaptations that would be relevant to different types of utility or preference functions. If public preferences are well known, these could be used to illustrate to decisionmakers what the best design would be given the uncertainties and preferences in the particular case. If preferences are not well known, justification for selection of various utility functions should be given. These should be used only to illustrate the effects on design of various preferences.

(5) At any level of analysis, the planner should take into account the differences in risk and uncertainty among project purposes and costs, among time periods, and among different stages of planning.

(6) One guide to the use of the techniques presented here is contained in Table 1. The guiding concept is that more complex techniques will generally be employed as planning proceeds from initial development and screening of alternatives to the analysis and presentation of the final set of alternative plans. For example, sensitivity analysis may be most useful and applicable in the earlier stages of planning where the concern is to understand single factors or relatively general multiple-factor relationships. Multiple-factor sensitivity analysis in which the joint effects or correlations among underlying parameters are studied in greater depth, may be much more important in the detailed analytic stage than in the screening stage.

(7) Similarly, analysis of risk and uncertainty employing subjective or objective probability distributions is more appropriate in the detailed analytic stage. Although hydrologic and economic probabilities may be used in the screening stage, the full use of independent and joint probability distributions, possibly employing computer simulation methods to describe expected values and variances, should be primarily reserved for the detailed stage.

Table 1.—*Planning Task and Approaches to Risk and Uncertainty*

Approach	Planning Tasks		
	Screening alternatives	Detailed analysis of projects	Final presentation of alternatives
Sensitivity analysis	X	X	———
The use of objective and subjective probability distributions	———	X	———
Illustrative application of preferences and decision rules	———	X	X

(8) Although preferences and decision rules can be used to give perspective on alternative designs throughout the planning process, the formal importance of using these will be greater at the stage of displaying alternative designs responsive to alternative preferences about risk and uncertainty. Here, the planner must be familiar with the role of risk and uncertainty in decisions in order to develop the appropriate displays of information.

(e) *Problems in application.* (1) *Distinguishing among assessments of risk and uncertainty, design adaptations, and attitudes.* The differences among the underlying risk and uncertainty, the design adaptations to these, and the preferences of decisionmakers should be kept clear throughout the analysis. The first two depend primarily on technical expertise and the last is the set of preferences that determines the final design in terms of attitudes toward risk and uncertainty.

(2) *General and specific adjustments.* Adjustments in project evaluation to risk and uncertainty can be characterized as general and specific. General adjustments have been used to reflect conservative attitudes toward risk and uncertainty.

They include the addition of a premium rate, overestimations of costs, underestimation of benefits, and limitation on the period of analysis. Such general adjustments are not usually appropriate for public investment decisions because they tend to obscure the differences in uncertainty that characterize different aspects of projects and programs. It is preferable instead to make explicit assessments of the different degrees of uncertainty that are thought to characterize different aspects of project or program, and to suggest adjustments specific to each aspect. These specific adjustments should be designed to illustrate the

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consequences of alternative preferences with respect to risk and uncertainty.

(f) *Report and display procedures.* The basic principle of reporting and displaying the assessment of risk and uncertainty in project evaluation is that these assessments should be fully reported in a manner that makes clear to the decisionmaker the types of risks and uncertainty that are believed to affect the project, the adjustments in project design that might be made to adapt to the effects of risk and uncertainty, and the gains and losses in various dimensions that might accrue from these various adjustments. The report and display sections should, where feasible, describe the types of risk and uncertainty that are thought to affect each aspect of the project, where these differ from aspect to aspect and as to time period.

§ 704.113. Dam failure.

(a) A study was made to determine whether or not a practical procedure for quantifying the project economic costs of dam failure could be developed. This study resulted in the development of a procedure based on a consistent estimate of probability of failure. However, it has been concluded that the available historical record is not a sufficient basis for estimating the future probability of failure of all dams constructed by Federal agencies, particularly in view of the recent emphasis on dam safety. Since the probability of failure cannot be adequately quantified, a practical procedure cannot be offered at this time.

(b) Although probability of failure cannot be adequately quantified, the construction of dams and other structures obviously intoduces some risk of losses associated with failure. Since these losses cannot be quantified in terms of project enconomic costs, an effort will be made to develop procedures for quantfifying such losses in terms of increases in hazards to life, health, safety, and catastrophic economic and environmental losses when this manual is completed.

§ 704.114 Project scaling using net benefits anaiysis.

(a) The maximization of net benefits approach will continue to be used for scaling the level of development for the NED alternative within a given project as prescribed in the P&S. An alternative other than the NED may be recommended for implementation, however, to (1) achieve a greater level of service to the EQ objective or (2) satisfy other project scaling criteria (i.e., design flood).

(b) When such departures are made, the relevant impacts (economic, environmental and social) of the recommended alternative will be displayed against those of the NED in such a manner so as to permit a comparison of the tradeoffs. Other alternatives which are important to selection of the recommended alternative will continue to be displayed for comparison purposes.

§ 704.115 Project design flood.

(a) Structural and nonstructural flood hazard reduction components may be sized to protect against inundation by floods of various magnitude. Design sizes to protect against larger floods achieve greater economic benefits and provide greater safety for the lives and property of the people protected. However, they do so at a greater cost and sometimes greater environmental and social disruption. Project sizing is the process of determining the design level of protection that achieves the best balance between a project too small to achieve acceptable benefits and safety, and a project so large as to be an unnecessary burden to the taxpayer and to the natural and social environments.

(b) The criterion of economic efficiency is one approach to resolving the design flood issue. This approach provides a basis for identification of the design flood that maximizes project net benefits. The theoretical soundness of departures from this approach to design flood selection depends on whether or not the specific criteria being used are legitimate, and if optimality with respect to them varies from optimality with respect to economic efficiency. A common example of criteria used in flood control project scaling is the personal safety and peace of mind of residents in flood-prone areas. Determining the soundness of specific departures from economic optimality requires empirical information on how economic benefits, hazards to life, and other objectives are handled in project scaling.

(c) There are alternative criteria to economic optimality which have relevance to scaling decisions for flood control projects. Wherever a project design flood level differs from the level of protection at which net economic benefits are maximized, there shall be a display and comparison of the plan which maximizes net economic benefits and the plan which departs from net economic benefit maximization. The economic, environmental, and social effects of each plan shall be displayed in such a manner as to permit a comparison of the tradeoffs involved in choosing either alternative.

§§ 704.116–704.120 [Reserved]

NED Benefit Evaluation Procedures

§ 704.121 Municipal and industrial (M&I) water supply.

(a) *Introduction.* (1) This section provides procedural guidance for the evaluation of NED benefits to municipal and industrial (M&I) water supply features of Federal water resource management plans. External economies and employment benefits are covered in sections 704.131 and 704.132, and have therefore been omitted from this discussion. The procedures apply equally to both structural and nonstructural plan elements.

(2) Municipal water incudes that water which is withdrawn from a community water supply by residential, commercial, institutional, governmental, and other nonindustrial users. Industrial water use is meant to include any water use by manufacturing firms which may be self-supplied by those firms, which is separately supplied to those firms, or which is withdrawn from the community system but separate from municipal water use for analytical purposes. In some cases, the use of water from a community system by manufacturing firms is considered separately; in others all or some of it is included as municipal water use.

(3) The benefit value to be estimated using this procedure represents the M&I benefits of Federal projects at the raw water or wholesale value.

(b) *Conceptual basis.* (1) The NED benefit is the increase in the value of goods and services attributable to M&I water plan elements under anticipated future conditions with the plan versus without. Such benefits are expressed through society's willingness-to-pay for water, adjusted as is appropriate for consideraiton of quality and probability of delivery. To estimate water supply benefits on the basis of a willingness-to-pay measure requires that the actual demand curve(s) be known throughout the required range.

(2) If a single price were employed, however, and that price would be reasonably predicted for the forecast period, the forecasting procedure would yield a single point on the demand curve: the forecast price and forecast quantity. The remainder of the demand curve would be determined in accordance with the assumed response of quantity demanded to variations in price. (The measure of price response usually employed is the price elasticity of demand, obtained empirically at a single point, the mean of a set of data having a relatively small range.)

(3) In most market situations, water users are not obliged to reveal the extent of their true willingness-to-pay for the water used. Comparison of historical records of water use in relation to price indicates only the marginal willingness-to-pay. In the absence of the direct measures of willingness-to-pay, therefore, indirect measures will be used.

(4) The alternative cost approach will serve this purpose. This approach utilizes a community's willingness-to-pay for alternative levels of supply or reductions in demand as the basis for benefits. The alternative cost measure of benefits is conceptually correct if two conditions hold: first, the gross benefits of the alternative must be the same as those of the project under consideration; and, second, the alternative must be one that would be installed if the project under consideration is not undertaken. This second condition requires that the alternative be the most likely alternative.

(5) The NED benefits of nonstructural M&I water supply plans are measured in principle by society's willingness-to-pay for them. The alternative cost measure can be employed directly if it can be assumed that the willingness-to-pay of water supply users for reducing demand is the same as their willingness-to-pay for meeting demands. Where this is not entirely the case, suitable adjustment must be made to account for the differences between water users' willingness-to-pay for reducing demand and their willingness-to-pay for meeting demands.

(6) All alternatives are to be evaluated on the same NED cost concepts.

(c) *Planning Setting.* (1) *Without Project Condition.* The without project condition is defined as the most likely conditon expected to exist in the future in the absence of a water resource management plan and any changes in laws and public policy. Several specific assumptions are to be considered in the without condition.

(i) *Existing water supplies.* Existing water supplies are assumed to be part of the without project condition. Adjustments should be made to account for anticipated changes in water supply availability due to age or increasing environmental restrictions.

(ii) *Additional water supplies.* The without project condition will also generally include those water supplies which are under construction unless there is reasonable doubt that construction will be completed.

(iii) *Conservation measures.* The without project condition must include the effects of implementing all reasonably expected nonstructural and conservation measures required by or encouraged by Federal, State, and local policies, and by private actions. Care should be taken to verify and support the responsibleness of the expected implementation of each measure, and the probable time of implementation.

(iv) *Defining Existing Demand.* (A) Water supplied for municipal and industrial purposes within a community is the aggregation of many uses within may use sectors, each such use being potentially responsive to different sets of explanatory variables. Water use increases with the number of water using activities, and with the intensity of use within each activity. Water uses are typically aggregated to some degree, and associated with some scale variable which represents the number and relative magnitude of uses within the aggregation. Intensity of use is represented by additional descriptive and economic variables.

(B) Water use at the present time can be explained, when suitably disaggregated, in terms of variables which represent the principal determinants of water use. Present water use will generally include, but not be limited to, the following sectors and include an analysis of the appropriate determinants.

(1) Residential Sector. This generally includes:

(i) Number of households subdivided into single-family detached dwellings and multifamily dwellings

(ii) Number of persons per household

(iii) Delineation of seasonal water use for lawns and garden use, maximum summer temperatures, summer precipitation, etc.

(iv) Intensity of water use by: number of water-using fixtures in use by each household, family income levels, and pricing policies.

(2) Commercial sector. This includes water use for retail and wholesale trade, offices, hospitals, schools, medical laboratories, restaurants, service industries, etc.

(i) Number of employees by sector;

(ii) Service area population (customers served); and

(iii) Delineation of seasonal water use for lawn irrigation, air conditioner operation, or recreational uses such as swimming pools, golf courses, etc.

(3) Industrial sector. This generally includes all manufacturing industries, where inputs are converted by means of some technological process into manufactured goods. Water is used for sanitary purposes and as inputs to production.

(i) Sanitary uses are determined by: number of employees and pricing policies.

(ii) Input to production water uses are determined by: amount of water needed to produce product output, pricing policies for water, and price of other related inputs to production process.

(4) Additional uses. This sector includes all water uses not included in the sectors above and can be grouped as public and unaccounted for water use.

(i) Unmetered water service to public buildings,

(ii) Water for fire protection, street cleaning, or mains flushing, and

(iii) Water loss to leakage and distribution, main breakage, etc.

(C) The service area population can be used to determine total water use for this sector, or stated public and unaccounted for use can be determined as a fixed fraction of the sum of use in other sectors.

(D) The purpose of considering as many explanatory variables as possible is the need to explain the variance which can be found among observations of water use in difference communities, and trends in water use which occur in any given community. While some differences will doubtless remain unexplained, for reasons noted, any determinant of water use which reduces the unexplained fraction of variance by some significant amount should not be ignored. Determining the true effectiveness of a water conservation measure or a water conservation plan requires the ability to separate forecast water use in each use category, and to take into consideration the relationship between such variables as price and water use.

(v) *Forecasting future demand.* (A) Once current levels of water use for a given community are estimated, the next step is to estimate future levels of water use. To do so requires two sets of assumptions: (*1*) those pertaining to changes expected in the levels of explanatory variables; and (*2*) those pertaining to changes expected in the relationships between specific explanatory variables and related water use.

(B) In the first case, the future levels of such determinants of water use as number of housing units, population per household, water price, etc., must be predicted prior to obtaining a forecast of water use. While these predictions can be viewed simply as the assumptions upon which the water use forecast depends, and may be augmented by providing several sets of alternative

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future levels that result in several alternative water use forecasts, care must be taken that they comprise a consistent set of assumptions, amounting to a plausible future state of affairs.

(C) The second set of required assumptions refer to the coefficients, or the functional form, of the water use estimating model. One assumption of this type would hold that water use will continue to respond to its determinants in the future as it has in the past: i.e., coefficients and functional forms would be unchanged. Alternative assumptions which contemplate changed relationships must specify the nature and the amount of expected change.

(D)An exception to this procedure may be indicated in cases where water conservation measures have been implemented in the past, or are expected to be implemented in the future. Such measures may consist of changes in the technology of water use (water-saving plumbing fixtures) or of changes in habits of water use (voluntary conservation efforts, or water use regulations). Such changes will appear to alter the relationship between traditional determinants of residential water use (number of households, population per household, income, price, etc.) and resulting water use.

(2) *With project condition.* (i) The with project condition is defined as the most likely condition expected to exist in the future with a given water resource management alternative. The laws and policies used for the without project condition shoudl be used for the with project condition. The following discussion relates to the alternatives to be considered under the with project condition.

(A) The primary functin of alternative plans will be to alleviate unsatisfactory conditions or satisfy a need that exists or will exist in the future without the management programs or projects under consideration.

(B) Each Alternative plan considered should achieve equivalency with respect to providing the same ecomonic utility (value) to consumers of water. The goal of each alternative plan is to close the gap between demand and supply. Each plan should include measures to balance supply and demand over time.

(C) Alternative plans considered should consider all technically feasible means of meeting future water needs, whether by augmentation of present supplies; increasing the efficiency of use of present supplies; and/or reducing future demands.

(D) Alternative plans can differ in their timing as well as in their physical characteristics. The optimal timing of projects and of individual project features should be considered in development of alternative plans. Staged development would provide methods of meeting increasing demands over time. The cost of such staging should be discounted to current values.

(E) At least one alternative will be developed which makes maximum possible use of nonstructural measures. In the case of municipal and industrial water supply, nonstructural means may include water conservation practices. These practices include, but are not limited to: measures to increase the yield of watersheds or to alter precipitation patterns; schemes for interconnecting existing water supply systems for greater utilization of available supplies; changes in water use practices (resulting from regulations, restrictions, or appeals for voluntary changes); installation and use of watersaving plumbing fixtures; pricing policies designed to alter water use practices; programs intended to reduce losses from reservoirs, transmission facilities, and distribution systems; and contingent measures for reducing water use during critical periods, such as droughts. In every case the action has the effect of reducing the quantity of water that must be supplied at a given time, compared to what would be required had the conservation measure not been implemented.

(ii) Care shall be taken in generating each alternative to insure that the proposed structural and nonstructural measures are not already in the process of implementation, and thus a part of the "without project" condition.

(d) *Evaluation Procedure.* (1) *General.* The following steps are necessary to estimate NED benefits that would accrue to one or more alternative plans for providing M&I water supply management programs. The level of effort expended on each step depends upon the nature of the proposed development, the state-of-the-art for accurately refining the estimate, and the sensitivity of project formulation and justification to the estimate.

(i) *Identify the study area.* The study area is defined as the area within which significant project impacts will be incurred from the use of M&I water supplies. Included in the delineation of the study area should be a subdivision of those receiving direct benefits from the use of M&I water supply and those indirect areas where the provision of M&I water supply will generate external economies and/or diseconomies. Output: Delineation of the geographic area for defining current supplies, future demand, and potential alternative sources of supply.

(ii) *Delineate available municipal and industrial water supplies.* The planner will identify all current sources of supply available to the M&I water user. Included in this analysis will be all existing supply sources, all new supplies currently under construction and the continuance of all nonstructural (i.e. water conservation) measures already being implemented. Output: Delineation of existing supplies and management programs.

(iii) *Estimate future demand for M&I water supply.* (A) The planner will assemble all data necessary to project the future demand for M&I water supplies under the without project condition.

The projections should be based on disaggregated projections by sector as described under the without project planning setting. Thes data may be obtained from local or State sources and/or be generated by the Federal agency. The planner will determine the validity of all data obtained from local, State, and private organizations.

(B) Water demand forecasts will be developed by relevant time period for each use sector. Included in these projections should be the impact of relevant water conservation measures which could reasonably be expected to be installed without the project. Water conservation measures may include, but are not limited to, long-term measures, loss reduction programs, and contingent, or drought managment measures. A measure-by-measure analysis of the reasonableness of the proposed inclusions in the without project condition should be provided.

Consideration of disaggregated determinants of water use will produce forecasts of future water use which should reflect changes in the character or economic development of the area served, reflect the effect of changes in price on the use of water, reflect the impact of conservation measures, and provide useful estimates of water use during specified peak periods. OUTPUT: Future estimates of municipal and industrial water supply demand for appropriate forecast dates.

(iv) *Compare available water supply with projected future demand.* The planner will compare the projected demand defined in Step (iii) with the available supplies delineated in Step (ii) to determine if any unmet needs exist in the study area. Comparison of future water requirements with available supplies indicates the size of the gap that may exist between supply and demand. If a gap exists between future demand for water and existing supplies, then alternative plans will be developed to reduce and/or close the gap. (In some cases, management, efficiency, and conservation measures might be worthwhile as in NED basis even in the absence of supply and demand differences.) OUTPUT: Identification of future M&I water supply demands which could be met through the development of alternative supply plans.

(v) *Develop alternative plans to balance supply and demand.* (A) Alternative plans will be developed to balance supply and demand and close the gap discovered during the comparison of existing supply and future demand in Step (iv). Guidance provided under "Planning Setting" for with project analysis will be employed in developing alternative plans.

(B) The range of technically feasible supply augmentation schemes available to the affected study area, either individually or collectively, should be considered. These schemes should be identified through analysis of the total water resource of the region, allowing for present and expected competing uses.

(C) Consideration will be given to balancing supply and demand through water conservation measures, not already included in the demand forecasts, which would be taken to limit water use. These actions may include various water conservation measures, or they may include constraints on the growth and economic development of the community. Consideration should also be given to balancing the losses of occasional shortfalls against the savings that would accrue from the lower investments which permit occasional shortfalls. (In calculating the costs of shortfalls, the costs of public health and safety measures that might be required should be included.)

(D) In developing alternative plans, the following general guidance is given. Alternative plans may be formulated to:

(*1*) Include drought contingency measures,

(*2*) Reduce demand through the use of conservation measures (i.e., pricing policies),

(*3*) Improve management of existing supplies to reduce losses and wasteful uses, and

(*4*) Consider development of new supplies based on economic efficiency.

Output: The range of reasonably feasible Federal M&I water supply plans that will include the NED maximizing plan and other plans that might be displayed according to multiple-objective principles.

(vi) *Alternatives for calculating benefits.* (A) A suitable range of reasonably likely alternative plans should be investigated, using the guidance given with respect to the Federal plans in the level of detail that is appropriate. The various likely plans that are alternatives to the Federal plans must be viable in terms of engineering, environmental quality, and other national policy considerations. Each alternative need not in itself deliver M&I water supplies similar in kind to the proposed Federal M&I water project, but the total plan with the alternative must close the gap between supply and demand similar in kind to the supply and demand relationship with the Federal M&I water supply project (i.e., the consideration of staged projects as alternative costs for a nonstaged Federal project).

(B) "Likely" plans shall also be those plans which would reasonably be attempted by the communities and/or industries affected in the absence of any other alternative. Where political or institutional obstacles to implementation are noted, the plan may or may not be considered likely. If the barriers are substantially within the power of the affected water users to correct, the plan could be considered likely. Output: Indentification of those alternative plans likely to take place in the absence of the Federal project.

(vii) *Determine the current cost of the likely alternatives.* (A) Those alternative plans which pass the screening process and become "likely" plans will be costed. Costs will be developed in a consistent manner for each alternative. The period of analysis for determining average annual alternative costs will be based upon the lesser of the service (depreciable) life of the facility or 50 years.

(B) The calculation of alternative costs to be used as a measure of NED benefits shall be on the following basis: (*1*) All interest and amortization costs charged to the alternative shall be calculated on the basis of the Federal discount rate; (*2*) no costs for taxes or insurance shall be charged to the alternative; and (*3*) all other assumptions and procedures used in calculating the costs of the alternatives including external diseconomies shall be parallel to those employed in calculating the costs for the proposed Federal project.

(viii) *Rank and display the "likely" alternative plans based or leastcost analysis.* The planner will rank the "likely" alternatives determined in Step (vi) according to the highest alternative first, the second highest next, and so on until all likely alternatives are listed. The purpose of this step is to assure that the selection of the most likely alternative is based on an incremental analysis of the various likely alternatives.

(ix) *Identify the most likely alternative.* (A) The planner will select from the listing in Step (viii) the one alternative most likely to be implemented in the absence of the Federal project. In considering which plan is most likely, the planner should consider the likely alternatives based on the cheapest first, then the next, until the most likely alternative is arrived at. The alternative selected must be a realistic alternative that could and would likely be undertaken in the absence of the Federal project. As the planner moves from the cheapest alternative to more expensive alternatives justification for not selecting the cheaper plan will be presented. Output: The selection of the most likely alternative to represent M&I water supply benefits.

(B) Smaller sponsoring communities may not be able to afford development of the alternative water supply system. In those cases, the updated cost of water supply systems in municipalities of similar size in the region may be analyzed and the estimate of alternative cost or willingness to pay would be based on the average of such costs.

(x) *Compute M&I water supply annual benefits.* Average annual benefits are computed based on the costs of the most likely alternative.

(2) *Problems in application.* (i) Two major problems will exist in applying this procedure. The first problem is the identification of the value of conservation and nonstructural measures. The WRC will provide guidance when available for estimating nonstructural and conservation measures and management strategies. These guidelines will give the planner examples of conservation strategies and the methods for pricing.

(ii) The other major problem will arise over the disaggregation of water use by sectors. Not all areas of the United States have data available for all determinants in all sectors. Agency planners may have to develop surrogate values for some determinants in some areas. In addition, the methodology used to forecast future demand by sectors will have to be reviewed for reasonableness.

(3) *Data sources.* (i) Information regarding possible supply sources, including those which may have been considered in the past, can be obtained from water utilities, State and local

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planning agencies, and State water resources agencies. Cost and capability data for various schemes can be obtained from these sources, or obtained prior to the initiation of the benefit calculation. Each version, or configuration, of the Federal project must be fully costed.

(ii) Data on demand projections can be based on primary data or secondary data available from local, State, and Federal agencies. It is critical that as much disaggregated data as possible be obtained for the individual sectors. National coefficients of water use may be employed where needed to generate sectoral use by industry, except for particularly large industrial users.

(4) *Risk and uncertainty.* (i) The major source of uncertainty in the estimation of NED benefits lies in the water use forecasts upon which all calculations are based. Within limits, the benefit will tend to be larger or smaller as the forecast water use is "too high" or "too low." Sensitivity to forecast accuracy can be investigated by employing different sets of assumptions regarding the determinants of water use, and developing corresponding benefit estimates.

(ii) Beyond this fundamental source of uncertainty, many other data and assumptions employed in the analysis can contribute to error in the final estimate. Incorrect or inappropriate assumptions regarding the availability, capability, and cost of locally available alternative supply schemes can produce errors in either direction. Failure to identify feasible alternatives which are lower in cost than those considered, for example, can bias the benefit estimate upwards. Overestimates of the cost of alternatives that are considered would have the same effect. These relationships suggest that substantial effort should be devoted to the development of the least costly, most likely alternative plan, as its cost is the single most important component of the final benefit estimate.

(e) *Report and display procedures.* (1) It is important that sufficient information be provided in the project report to enable an effective and thorough review of the benefit estimate. Where standard procedures have been used throughout, the major reporting task is the preparation of various displays which show the data, information, and assumptions used, as well as present various intermediate and final results. Deviations from standard procedures, or substitute procedures applied under special circumstances, require: (i) A clear statement as to the nature of the circumstances (availability of different types of data, special characteristics of local water uses, etc.) that require the alternate procedure, and (ii) an adequate description of the procedures that were employed in place of the standard procedures, including, where necessary, justification of their appropriateness.

(2) Displays required by standard procedures include the following:

(i) *Summary of alternative local supply systems.* A list of all local supply systems considered showing location, capability, and other important physical characteristics for each. Any systems eliminated on feasibility grounds should be so indicated. Preliminary cost and useful life estimates should be shown for all systems not eliminated. The plan chosen as the least costly, most likely alternative should be indicated and the reasons for selection documented in the text.

(ii) *Basis of with-without analysis.* The principal data and assumptions that form the basis of the with-without identification of the benefit should be displayed. Information provided here includes the comparison of the alternative plans to the without project demand forecasts.

(iii) *Calculation of NED benefits.* The cost data used to value the least costly, most likely alternative shall be displayed to include construction costs, interest during construction, and all operation, maintenance, and replacement (OM&R) costs. The NED benefits should be displayed in the NED account as a line item entry labeled M&I water supply.

§ 704.122 Agricultural water supply (irrigation).

(a) *Introduction.* This section provides procedural guidance for the evaluation of NED benefits to irrigation features of Federal water project plans. External economies and employment benefits are covered in sections 704.131 and 709.132 and have therefore been omitted from this discussion. The procedures presented apply equally to both structural and nonstructural plan elements.

(b) *Conceptual basis.* (1) The NED benefit is the increase in the value of output of agricultural goods and services to the Nation under future conditions with the project versus without. Such benefits are measured as increased net returns and accrue through the employment of additional resources in the production process and more efficient resource use.

(2) Care must be exercised in the evaluation so as to identify only those benefits which are pertinent at a national level. This requires careful handling of each of the key evaluation components—cropping patterns, crop yields, crop prices, and production costs. A discussion of each follows:

(i) *Cropping patterns.* (A) Where project measures are expected to change the composite land use in a project area, the increased NED value due to project measures will be measured in terms of the net returns of crops that potentially can be increased to satisfy national and international markets. Such crops shall presently be limited to the following: cotton, wheat, corn, soybeans, milo, hay, pasture, barley, and oats. Net returns for other crops are not to be included in the NED account since these crops usually involve relatively small acreages, produce high net returns and could be expanded on existing croplands within the region without the project.

(B) An additional NED benefit occurs where it can be shown that project lands both new and previously irrigated, drained, or protected from floods offer an efficiency advantage (i.e., production and transportation costs per unit of output are lower) over any other area in the production region for the production of crops other than those used for NED benefits. In such cases, the net efficiency gain may be included as an NED benefit for the additional output of these crops. Net efficiency gain may be measured as the difference in the costs per unit of output in the project area compared to the costs per unit of output of the marginal producers in the farm production region. This benefit may be claimed only when the project lands have an efficiency advantage over any other lands in the production region, including lands in production of the above named crops.

(ii) *Crop yield and prices.* (A) The sensitivity of crop prices to changes in market output is well documented. Where projected supply is expected to grow more slowly than projected demand, prices rise. This increases net returns and encourages additional investment in agricultural production (i.e., more irrigation). Where projected supply rises more rapidly than projected demand, however, prices drop. Investment in additional agricultural production is discouraged, and less irrigation development takes place.

(B) Proper NED evaluation requires that the future relationship of supply and demand for agricultural crops be structured into the analysis. A series of projected prices by time periods will therefore be used in evaluating NED irrigation benefits. These prices will be developed by States or regions and will

reflect market clearing conditions in the absence of those Federal programs which have pricing impacts. Such prices allow for a level of returns to each of the factors of production equal to their average costs in the future.

(iii) *Production costs.* Historically, the costs of operator and family labor, as well as management, have ofter been excluded from crop budgets. This assumes no long-run opportunity costs for these resources. The history of American agriculture clearly shows that this is not the case. Millions of workers have left the farm for employment elsewhere. Net outmigration is now near a standstill. To assume a zero opportunity cost for these resources is unrealistic. Appropriate charges should therefore be included in NED benefit calculations.

(c) *Planning setting.* (1) The evaluation of NED irrigation benefits is made through a comparison of net income anticipated in the future with the project versus without. For analysis, the producer is considered to be the Nation as a whole. Relevant benefits therefore become the increased value of future agricultural output from the total of all lands.

(2) The without project condition is defined as the condition expected to exist in the future in the absence of a project or any change in law or public policy; whereas the with project is defined as the condition expected to exist in the future with a given project alternative. Since a number of alternatives are generally formulated in planning a particular project, there are a corresponding number of with project conditions.

(3) Relevant considerations for structuring the evaluation of each future condition are discussed below:

(i) *Costs (current).* (A) Only the costs which are expected to vary between the without and with project conditions need be analyzed. They may include the cost of equipment ownership, equipment operating, production materials, capital improvements to land, labor and management, system OM&R, and interest.

(B) Of these costs, purchased inputs should be valued at current market price, family and operator labor at prevailing farm labor rates, management at 10 percent of variable production costs (excludes the cost of land and added capital improvements), and interest at the project discount rate.

(ii) *Costs (future—with and without).* Project current costs by relevant time periods using the ratio of the current production cost index to the respective future indices. (WRC will supply indices.)

(iii) *Crop yields (current).* Use yields currently being realized on comparable areas within the region under average management.

(iv) *Crop yields (future—with and without).* Project current yields using historically derived rates. (WRC will supply rates for individual crops by States and/or regions.)

(v) *Crop prices (future—with and without).* Use projections of prices received for all crop outputs anticipated to be marketed direct. Use projections of prices paid plus an allowance for delivery costs to the farm for crop outputs anticipated to be marketed through livestock. (WRC will provide a series of price projections for target years.)

(vi) *Land use (present).* Use current land use and cropping patterns within the project area to be irrigated.

(vii) *Land use (future—with and without).* Project present land use and cropping patterns based on an evaluation of the land capability, expected demands for agricultural commodities, availability of markets, recent land use trends, and expectations of farmers and others.

(d) *Evaluation procedure.* (1) *General.* National economic development benefits from irrigation elements of Federal water project plans are computed in two phases. The first involves the computation of increased net returns which would result on project lands if no increase in the acreage of high net return crops occurred with versus without the project. And the second involves the computation of efficiency advantages which the project offers for those high net return crops projected to increase in acreage with the project. The total NED benefit is the sum of the benefits identified in each phase.

(i) *Phase 1.* The discussion below identifies key steps pertinent to the Phase 1 evaluation. The level of detail required for this, as well as the Phase 2 evaluation, will depend upon the economic significance of the problem, the availability and reliability of data, and the degree of refinement needed for project formulation and evaluation.

(A) *Identify current land use, cropping patterns, and crop yields.* The number of acres by major land use (i.e., pastureland, hayland, and woodland) are to be identified for current conditions. Cropland use should be further defined to show the number of acres of each crop grown. This information should generally be developed by groupings of similar soils within the area to be irrigated. Yields are then determined for crops within each soil grouping. A careful reconnaissance of the problem area, together with interviews with farmers and consultation with physical scientists, is critical to establish the needed data.

(B) *Establish net income increases by time periods. (1)* Net income increases attributable to the project are determined by subtracting the change in variable costs with versus without the project from the change in gross income (change in agricultural output multiplied by price per unit of output). Such values are determined on a per acre basis for appropriate crops for each time period relevant to the evaluation. The acre values are then expanded to the project as a whole utilizing projected acreages with and without project.

(2) Projected maintenance of existing on-farm drainage and irrigation systems and installation of new systems without and with the project should be incorporated into the calculations, as should any substantiated physical constraints to yields other than the lack of irrigation water. Where increased acreages of high net return crops are anticipated with project, the planner will perform the analysis using low net return crop surrogates. Selection of these surrogates will be based on the planner's best estimate of which low net return crop would most likely be grown.

(C) *Compute benefits.* Annual increases in net returns are determined by discounting the flow of increased net returns identified under (b) above to a present value and then amortizing the same over the project life at the project discount rate.

(ii) *Phase 2.* NED benefits from increased acreages of high net return crops with project are measured by the difference in net income from such crops on project lands in comparison to the next best available site. A true analysis of this benefit would require a model of interregional competition between producing areas. This is not deemed feasible. The following shorcut procedure should therefore be used.

(A) *Determine project net returns for the high net return crop.* Calculate the net returns to land and water for a representative acre of the high net return crop for each time period relevant to the evaluation. Annualize the resulting income flow by discounting to a present value and amortizing over the project life at the project discount rate.

(B) *Locate alternative production site.* Identify the nearest major market for the high net return crop in question, as well as the area served by that market. The

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market selected should be large enough to have production cost and yeild data readily available.

(C) *Determine the net returns for the high net return crop on the alternative site.* Use the same approach as specified under (a) above. Average production costs and crop yields realized in the service area of the market will provide the frameowrk for the analysis.

(D) *Compute benefits.* Subtract the per acre net for the region from the project net. If the difference is a positive number, multiply the per acre efficiency gain by the projected increase in acreage with versus without the project.

(2) *Problems in application.* (i) One potential pitfall is the imputation of returns to factors of production other than irrigation water into irrigation NED benefits. This could occur, for example, if a project increases the amount of family labor used in crop production activities on the farm and the value of such labor is disregarded in the budget preparation process. Net income without and with the project becomes correspondingly higher as do benefits to irrigation.

(ii) The reverse can also happen in that legitimate NED benefits to irrigation may be imputed as economic rents to other factors in the production process. This problem is most apt to appear in the case of projects involving the provision of supplemental irrigation water supplies. Cases in point might involve (1) the use of two distinctly different production functions for identifying the level of fertilizer usage under the without and with project conditions for a given crop or (2) the use of two separate schedules for determining machine and power costs for the two conditions, even though the types of crops grown and acreages do not change significantly. Problems of this type can be avoided by using a single production function for fertilizer and a single equipment schedule for production cost determinations.

(3) *Data sources.* Interviews with farmers are good sources of information for production costs, yield responses to varying levels of irrigation, and expected cropping patterns without and with the project. (Only OMB approved forms should be used.) Specialists, such as agronomists and soil scientists, can be used as information sources on soil productivity and yield responses to irrigation. Many universities and a number of Federal agencies have developed typical enterprise budgets that can be modified to reflect conditions in the project area.

(e) *Report and display procedures.* Benefits should be displayed in the NED account as a line item entry labeled irrigation.

§ 704.123 Agricultural flood damage (flood control).

(a) *Introduction.* This section provides procedural guidance for the evaluation of agricultural NED benefits to flood plain management elements of Federal water project plans. External economies and employment benefits are covered in sections 704.131 and 704.132 and have therefore been omitted from this discussion. The procedures presented apply equally to both structural and nonstructural plan elements.

(b) *Conceptual basis.* (1) *General.* Benefits from flood plain management plans accrue primarily through the reduction of actual or potential damages associated with various agricultural land uses. The standard for evaluating benefits is the willingness of users to pay for the plan or increments thereof. In evaluating NED benefits from such plans, the term user must be broadly construed. This is because a key part of the evaluation deals with existing flood plain uses.

(2) *Benefit categories.* While there is only one benefit standard, there are three benefit categories. They are as follows:

(i) *Flood damage reduction benefit.* Where flood plain land use and cropping patterns are expected to remain the same with or without project, the benefit is the increase in net income resulting from the reduction of flood damages. Where such land use and cropping patterns are expected to undergo a switch to lower net income producing uses in the future without project, the benefit is the net income maintained by avoiding or delaying the switch. Where implementation of a nonstructural plan removes a given land use from the flood plain, the benefit is the cost saving to other economic sectors.

(ii) *Intensification benefit.* Where a flood hazard reduction plan induces an intensification of production within a particular land use or crop group, the benefit is the increased net income to the particular land use or crop group with versus without the project.

(iii) *Changed land use (location benefit).* Where a project induces a change from one land use or crop group to a higher net income producing use or crop group, the benefit is the increase in net income with versus without the project. Such benefits are limited by the increased net returns which would be realized on low net return crops (i.e., pasture, hay, feed grains), plus any efficiency advantage which project lands offer over other areas for the production of those high net return crops projected to be grown with project.

(3) *Evaluation framework.* Care must be exercised in the evaluation of agricultural NED benefits from flood hazard reduction plans so as to identify only those benefits which are pertinent at a national level. This requires judicious handling of the key evaluation components (i.e., cropping patterns, crop yields, crop prices and production costs). A discussion of each follows:

(i) *Cropping patterns.* (A) Where project measures are expected to change the composite land use in a project area, the increased NED value due to project measures will be measured in terms of the net returns of crops that potentially can be increased to satisfy national and international markets. Such crops shall presently be limited to the following: cotton, wheat, corn, soybeans, milo, hay, pasture, barley, and oats. Net returns for other crops are not to be included in the NED account since these crops usually involve relatively small acreages, produce high net returns and could be expanded on existing croplands within the region without the project.

(B) An additional NED benefit occurs where it can be shown that project lands both new and previously irrigated, drained, or protected from floods offer an efficiency advantage (i.e., production and transportation costs per unit of output are lower) over any other area in the production region for the production of crops other than those used for NED benefits. In such cases, the net efficiency gain may be included as an NED benefit for the additional output of these crops. Net efficiency gain may be measured as the difference in the costs per unit of output in the project area compared to the costs per unit of output of the marginal producers in the farm production region. This benefit may be claimed only when the project lands have an efficiency advantage over any other lands in the production region, including lands in production of the above named crops.

(ii) *Crop yields and prices.* (A) The sensitivity of crop prices to changes in market output is well documented. Where projected supply is expected to grow more slowly than projected demand, prices rise. This increases net returns and encourages additional investment in agricultural production (i.e., more flood control). Where projected supply rises more rapidly than projected demand, however, prices drop. Investment in additional agricultural production is discouraged, and less flood hazard reduction work would be expected to take place.

(B) Proper NED evaluation requires that the future relationship of supply and demand for agricultural crops be structured into the analysis. A series of projected prices by time periods will therefore be used in evaluating agricultural flood benefits. These prices will be developed by States or regions and will reflect market clearing conditions in the absence of those Federal programs which have pricing impacts. Such prices allow for a level of returns to each of the factors of production equal to their average costs in the future.

(iii) *Production costs.* Historically, the costs of operator and family labor, as well as management, have often been excluded from crop budgets. This assumes no long-run opportunity costs for these resources. The history of American agriculture clearly shows that this so not the case. Millions of workers have left the farm for employment elsewhere. Net outmigration is now near a standstill. To assume a zero opportunity cost for these resources is unrealistic. Appropriate charges should therefore be included in NED benefit calculations.

(c) *Planning setting.* (1) The evaluation of NED agricultural flood benefits is made through a comparison of net income anticipated in the future with the project versus without. For analysis, the producer is considered to be the Nation as a whole. Relevant benefits therefore become the increased value of future agricultural output from the total of all lands.

(2) The without project condition is defined as the condition expected to exist in the future in the absence of a project or any change in law or public policy; whereas the with project is defined as the condition expected to exist in the future with a given project alternative. Since a number of alternatives are generally formulated in planning a particular project, there are a corresponding number of with project conditions.

(3) Relevant considerations for structuring the evaluation of each future condition are discussed below:

(i) *Costs (current).* (A) Only the costs which are expected to vary between the without and with project conditions need be analyzed. They may include the cost of equipment ownership, equipment operation, production materials, capital improvements to land, labor and management, system OM&R, and interest.

(B) Of these costs, purchased inputs should be valued at current market price, family and operator labor at prevailing farm labor rates, management at 10 percent of variable production costs (excludes the cost of land and added capital improvements), and interest at the project discount rate.

(ii) *Costs (future—with and without).* Project current costs by relevant time periods using the ratio of the current production cost index to the respective future indices. (WRC will supply indices.)

(iii) *Crop yields (current).* Use yields currently being realized on comparable areas within the region under average management.

(iv) *Crop yields (future—with and without).* Project current yields using historically derived rates. (WRC will supply rates for individual crops by States and/or regions.)

(v) *Crop prices (future—with and without).* Use projections of prices received for all crop outputs anticipated to be marketed direct. Use projections of prices paid plus an allowance for delivery costs to the farm for crop outputs anticipated to be marketed through livestock. (WRC will provide a series of price projections for target years.)

(vi) *Land use (present).* Use current land use and cropping patterns within the flood plain area.

(vii) *Land use (future—with and without).* Project present land use and cropping patterns based on an evaluation of the land capability, expected demands for agricultural commodities, availability of markets, recent land use trends, and expectations of farmers and others.

(d) *Evaluation procedures.* (1) *General.* (i) This section sets forth the procedures for the evaluation of six categories of NED benefits. These include: (A) inundation reduction benefits (agricultural crops), (B) inundation reduction benefits (other agricultural properties), (C) itensification benefits, (D) changed land use benefits, (E) erosion reduction benefits, and (F) sediment reduction benefits.

(ii) The level of detail required for each benefit evaluation will depend on the economic significance of the problem, the availability and reliability of data, and the degree of refinement needed for project formulation and evaluation.

(A) *Inundation reduction benefits (agricultural crops). (1)* Benefits from reducidng inundation damages to agricultural crops may arise through the alteration of flood flows and/or the shift in use of flood plain lands to uses less susceptible to flood damages. Those benefits associated with flood flow alteration are measured by increases in net income, whereas those benefits from shifts to uses less susceptible to flood damages arise through savings in costs to other economic sectors for example, reduced disaster payments. The procedure for measuring the net income changes relates economic losses for each crop to season of flood occurrence, frequency of flooding, and flood characteristics (i.e., depth, velocity, area, and/or duration).

(2) The discussion which follows identifies key steps required for the evaluation. The first five steps deal with the development of flood damage factors by land use or crop. Remaining steps illustrate how such factors are integrated with future land use and cropping pattern data, projected crop yields, and hydrologic flood data to determine NED benefits.

(i) Identify current land use and cropping patterns. The acres of each land use (i.e., pastureland, hayland, woodland, cropland, etc.) in the flood plain are to be identified. Cropland use should be further defined to indicate the acres of each crop currently grown. This information is generally developed for flood plain reaches. Such reaches represent segments of the flood plain possessing significantly different land use or cropping patterns and/or hydrologic characteristics.

(ii) Establish current flood-free yields. Yields that could be expected if floods did not occur are to be developed for the current condition. Interview with flood plain farmers, farmers with flood-free yields, agronomists, soil scientists, and others will provide needed information. Such yields should reflect other factors that limit production in the area such as hail, drought, soil fertility, and production practices.

(iii) Calculate damageable value. Multiply the current price for each crop by the flood-free yield for that crop. The resulting damageable values reflect the maximum loss which would be incurred in the event of complete destruction by a single flood.

(iv) Develop monthly flood damage factors. Gather historical flood damage information through interviews of flood plain farmers. Data needs include acres flooded, flood depth or duration, yield reductions, added expenses due to the flood, production costs saved on the flooded crop, type of substitute crops, and yelds of such crops. Monthly crop damage can then be computed for a given flood depth or duration based on the following: (Yield Reduction of Flooded Crop x Price)+(Added Expenses on Flooded Crop)—(Production Costs Saved on Flooded Crop)—(Substitute Crop Yield x Price).

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Dividing the monthly crop damage by the damageable value for that crop results in a damage factor value for a given depth or duration. Such factors are expressed as percentages.

Generally, insufficient data are available for a given project with which to develop damage factors for all months, crops, depths, or durations. In such cases, data from other projects in the region or proxy values generated by using crop budgeting techniques can be used. Because of the recurring problem of obtaining complete damage data for a given project, information from similar projects in an area should be aggregated. This will enable greater confidence to be placed in the damage factors used for project evaluation. Standardized interview techniques and questions would be needed, however, to minimize sampling error.

(v) Develop weighted, average annual flood damage factors. Multiply each monthly flood damage factor for a given crop and a given depth or duration by the historical probability of floods occurring during that particular month. The sum of products from these calculations represents a weighted, average annual flood damage factor.

(vi) Project future land use, cropping patterns, and crop yields. Projections of future land use, cropping patterns, and crop yields are to be developed for each flood plain reach identified under step (i) above. Guidance with respect to making these projections was previously discussed under "Planning Setting."

(vii) Develop composite acre, flood damages. A composite acre is a reflection of the relative mix (expressed as percentages) of various land uses and crops within a given flood plain reach. Several different composite acres should be developed for a given reach, if a significantly different mix of crops would be flooded within that reach by floods of various sizes. Composite acre flood damages are computed for a given flood depth or duration by summing for each land use or crop within the composite acre the products resulting from the following calculation: (Yield × Price × Land Use Percentage × Damage Factor Percentage).

(viii) Determine average annual damages. Damage factors can now be intergrated with hydrologic data (i.e., flood frequency, acres flooded, depth, or duration) to determine average annual damages. This process involves first a summing of the products from the following calculation for the various flood plain reaches and flood frequencies and then a division by the number of years in the evaluation period. (Acres × Composite Acre Flood Damage For a Given Depth or Duration × Probability of Flood Occurrence × Number of Flood of That Frequency Expected to Occur During the Evaluation Period) + (Same For Other Relevant Flood Depths or Durations).

The procedure described above is to be used for determining average annual flood damages for current and future conditions without and with the project. Average annual damages obtained are to be adjusted to avoid double counting in the event of recurrent flooding in a given year. The empirical formula which follows will provide the basis for this adjustment: $Y=1/(1.0005+0.1193\ X)$. Here (X) is the ratio of average annual acres flooded to total flood plain acres, and (Y) is the adjustment factor which will be multiplied by average annual damage estimates.

Estimates of current average annual damages are to be based on present condition hydrology, current land use and cropping patterns, current costs and commodity prices, and current yields being realized on project flood plain areas under average management. The damage estimate obtained is useful for display purposes in project impact documents and also for making a test of reasonableness with respect to the damage estimate.

The test of reasonableness involves a comparison of net returns to a composite flood plain acre based on the current situation, and a theoretical situation where the flood plain is assumed to be idle. If this test indicates that economic losses would be greater in the current situation then the assumed alternative, one has reason to suspect a significant error in the evaluation. Damage factor calculations and hydrologic data should consequently be carefully reviewed.

Estimates of future average annual damages are to be based on projections by relevant time periods of current land use and cropping patterns, yields, production costs, commodity prices, and hydrologic conditions in the future without and with the project.

(xi) Determine average annual benefits. Subtract average annual damages with the project from those without to determine average annual benefits.

(B) *Inundation reduction benefits (other agricultural properties).* The term "other agricultural properties" includes physical flood plain improvements associated with various farm enterprises. Benefits to such properties are measured through reductions in inundation damages in the future with versus without the project. Relevant damages to be considered include damages to the improvements, as well as those to associated agricultural enterprises within the project (i.e., crop damage due to interruption of irrigation water deliveries). The discussion which follows identifies key steps needed for evaluation. Benefits accrue through the alteration of damaging flood flows or by altering the susceptibility of the property to damage (i.e., relocation, flood proofing, etc.).

(1) Inventory damageable flood plain improvements. Identify the location, type, number, and value of other agricultural properties within the flood plain that are subject to flood damage. This information is most easily obtained through interview of flood plain farmers and field reconnaissance. Data should be gathered by flood plain reaches.

(2) Determine damages to flood plain improvements. Gather interview data on historical damages to other agricultural properties by flood plain reach and flood depth. Historical damages, so obtained are to be calculated in present dollars and projected by relevant time frames throughout the evaluation period using the ratio of the current production cost index to future index values (WRC will supply indices). Depth-damage information resulting can then be expanded to the reach as a whole using the ratio of current damageable value of "other agricultural" property covered by interview to that of all such property subject to damage.

(3) Determine average annual damages to flood plain improvements. The depth-damage relationships for each reach can then be integrated with hydrologic data to develop average annual damages without and with the project. This process is the same as that previously discussed for agricultural crops with the exception that seasonal occurrence of flooding is generally not an important consideration, nor is the adjustment of damages for recurrent flooding in a given year.

(4) Determine average annual damage to associated agricultural enterprises. *(i)* Damages of this type are evaluated as reduced net income under without and with project conditions. Interruption of irrigation deliveries is the most common example and is described as follows.

(ii) The evaluation is initiated by developing estimates of the daily damage that would result from irrigation interruptions at different times (i.e., months) during the growing season. Such information should be developed on a composite acre basis for future conditions without and with the project. This can be done through the use of farm enterprise budgets. Farmer interviews are a primary source of yield impact data for use in budget construction.

(iii) Weighted average damage values are then computed by multiplying daily damages for each composite acre in each time period by the respective probability of storm occurrence for each period. The resulting values reflect average damages that would occur per day of interrupted delivery, regardless of when the interruption occurs.

(iv) Damage values per storm event are then determined for the without and with project condition. This is done by multiplying the following: acres served by the delivery system below the damage point; typical period (days) of interruption per damage occurrence based on historical reports; and weighted average damage values for the without and with condition.

(v) Storm damage data are then integrated with hydrologic flood frequency data to determine average annual damages without and with the project.

(5) Calculate average annual benefits. Subtract average annual damages with the project determined under *(3)* and *(4)* above from those without the project to determine average annual benefits.

(C) *Intensification benefits.* Intensification benefits are computed by subtracting net income without the project on affected lands from net income with the project. An example of the more intensive use type is where reduced flooding allows farmers to perform operations in a more timely manner or to profitably invest additional labor and capital in a particular crop enterprise. The following discussion identifies key steps necessary for the evaluation. *(1) Identify flood plain areas on which intensification will occur.* Determine those areas on which more intensive land use benefits are anticipated for each flood plain reach. Factors to consider in making this determination include *(i)* the productivity of the soil; *(ii)* the relationship of flood plain lands to other lands in affected farming units; *(iii)* the ease with which farmers in affected units can intensify production; *(iv)* the degree of flood protection provided by the project; *(v)* the profitability of intensification to affected farm units; *(vi)* general land use trends in the area; and *(vii)* expressed intentions of flood plain farmers.

(2) Develop crop budgets. Budgets for future without and with project conditions are to be developed by time frames for flood plain areas on which intensification is anticipated. Guidance for structuring the budgets has been previously discussed under "Planning Setting."

(3) Apply test of reasonableness. A test of reasonableness is to be applied, to insure that the net income increases due to projected intensification are creditable to the project. The test is made by developing a budget for the without project condition in which the projected intensification with project is applied. If a budget reflecting this situation shows a higher net income than the without project budget above, it may be assumed that other constraints exist which limit the intensity of flood plain farming operations. Under these conditions, the basis for the projections should be carefully reexamined. If no adjustments appear warranted, the projections may be retained. Intensification benefits would be limited, however, to the net income increase between the without condition on which intensification was projected and the with project condition.

(4) Determine average annual benefits. Subtract the net income without project from that with project on affected lands to determine the annual net income increase. Discount these annual increases in income for any anticipated lags in accrual over the life of the project using the project discount rate.

(D) *Changed land use benefits.* National economic development benefits from changed land use are computed in two phases. The first involves the computation of increased net returns which would result on project lands if no increase in the acreage of high net return crops occurred with versus without the project. And the second involves the computation of efficiency advantages which the project offers for those high net return crops projected to increase in acreage with the project. The total NED benefit is the sum of the benefits identified in each phase.

(1) Phase 1. The discussion below identifies key steps pertinent to the Phase 1 evaluation.

(i) Identify current land use, cropping patterns, and crop yields. The number of acres by major land use (i.e., pastureland, hayland, and woodland) are to be identified for current conditions. Cropland use should be further defined to show the number of acres of each crop grown. This information should generally be developed by groupings of similar soils within the area to be irrigated. Yields are then determined for crops within each soil grouping. A careful reconnaissance of the problem area, together with interviews with farmers and consultation with physical scientists, is critical to establish the needed data.

(ii) Establish net income increases by time periods. Net income increases attributable to the project are determined by subtracting the change in variable costs with versus without the project from the change in gross income (change in agricultural output multiplied by price per unit of output). Such values are determined on a per acre basis for appropriate crops for each time period relevant to the evaluation. The acre values are then expanded to the project as a whole utilizing projected acreages with and without project.

Projected maintenance of existing on-farm drainage and irrigation systems and installation of new systems without and with the project should be incorporated into the calculations, as should any substantiated physical constraints to yields other than flooding. Where increased acreages of high net return crops are anticipated with project, the planner will perform the analysis using low net return crop surrogates. Selection of these surrogates will be based on the planner's best estimate of which low net return crop would most likely be grown.

(iii) Compute benefits. Annual increases in net returns are determined by discounting the flow of increased net returns identified under (ii) above to a present value and then amortizing the same over the project life at the project discount rate.

(2) Phase 2. NED benefits from increased acreages of high net return crops with project are measured by the difference in net income from such crops on project lands in comparison to the next best available site. A true analysis of this benefit would require a model of interregional competition between producing areas. This is not deemed feasible. The following shortcut procedure should therefore be used.

(i) Determine project net returns for the high net return crop. Calculate the net returns to land and water for a representative acre of the high net return crop for each time period relevant to the evaluation. Annualize the resulting income flow by discounting to a present value and amortizing over the project life at the project discount rate.

(ii) Locate alternative production site. Identify the nearest major market for the high net return crop in question, as well as the area served by that market. The market selected should be large enough to have production cost and yield data readily available.

(iii) Determine the net returns for the high net return crop on the alternative

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site. Use the same approach as specified under (i) above. Average production costs and crop yields realized in the service area of the market will provide the framework for the analysis.

(iv) Compute benefits. Subtract the per acre net for the region from the project net. If the difference is a positive number, multiply the per acre efficiency gain by the projected increase in acreage with versus without the project.

(E) *Erosion reduction benefits. (1)* Erosion may be classified as gully, streambank, flood plain scour, and sheet erosion. Benefits are measured as net income maintenance or recovery on agricultural lands and damage reduction to other affected property.

(2) The following discussion identifies key steps in the evaluation of each type of benefit. The level of detail required for the evaluation will depend on the economic significance of the problem, the availability and reliability of data, and the degree of refinement needed for project formulation and evaluation.

(i) Identify areas with erosion problems. Erosion problems will be identified and classified with respect to type of problem; areal extent; projected rate of change of area affected; impacts on soil productivity—present and future; potential for recovery; and projected rate of recovery. Such information will be developed for relevant time periods as needed to reflect the dynamic nature of the problems.

(ii) Develop net income data for affected agricultural lands. Determine net income on agricultural lands without and with the project by relevant time periods. Such information will be developed through crop budgets on a composite acre basis. Budget preparation and development of composite acre values have been discussed in previous procedures in this section and will not be readdressed here.

(iii) Compute benefits to agricultural land from reduced gully and streambank erosion. Agricultural land may realize benefits from reduced gully and streambank erosion through reduced land voiding; reduced production losses on adjacent areas; and efficiency gains on interdependent areas. Voiding refers to the complete and total destruction of the productivity of the land for agricultural use. Production losses on adjacent areas may be caused by a lowering of water tables; increased costs of production due to irregular field patterns, etc.; and less intensive land use. Efficiency gains on interdependent areas occur where elimination of a gully erosion problem provides a stable outlet for land treatment measures upstream, thereby allowing for a more intensive farming operation.

Benefits in each of these cases are determined by annualizing projected net income flows over the evaluation period at the project discount rate without and with the project. Associated land treatment costs are deducted from with project net income when computing an efficiency gain on an interdependent area. Average annual benefits are computed as the difference in net income with versus without the project.

(iv) Compute benefits to agricultural land from reduced flood plain scour. The potential for scour erosion is related to the depth and velocity of flood water and the resistance of the soil material to erosion. Benefits are determined in the same manner as for gully and streambank erosion, with one exception—namely, an allowance is made in projecting the net income flow with project to account for recoverable productivity.

(v) Compute benefits to agricultural land from reduced sheet erosion. Benefits are calculated in a similar fashion as for gully and streambank erosion reduction benefits on an interdependent area.

(vi) Compute erosion benefits to other affected properties. Erosion in its various forms often damages roads, bridges, fences, buildings, etc. Damages without the project can be determined by adding the annual cost of relocating the property to the annual value of any loss in the production of goods and services, or assuming total loss of the property at some future time. In the latter case, damages would be based on a depreciated current replacement cost, discounted to a present worth, and amortized. Annual damages with projects are then computed, based on total avoidance of the loss or a delay in such loss creditable to the project. Benefits are determined by subtracting with project damages from those without the project.

(F) *Sediment reduction benefits. (1)* Sediment damages occur from overbank deposition of infertile soils, impairment of drainage systems resulting in raised water tables (swamping), channel filling, and increased maintenance costs of other properties (i.e., roads, bridges, reservoirs, buildings, etc.). Benefits are measured as increased net income for agricultural crops and reduced damages to other properties.*(2)* The discussion which follows identifies key steps in the evaluation of each tape of benefit. The level of detail required for evaluation depends on the economic significance of the problem, the availability and reliability of data, and the degree of refinement needed for project formulation and evaluation.

(i) Identify areas with sedimentation problems. Same as erosion procedure step *(i)*.

(ii) Develop net income data for affected agricultural lands. Same as erosion procedure step *(ii)*.

(iii) Compute benefits to agricultural land from reduced overbank deposition and swamping. Benefits in each of these cases are determined by annualizing projected net income flows over the evaluation period at the project discount rate for the without and with project condition. Average annual benefits are computed as the difference in net income with versus without the project. Benefits from reduced swamping damages will be based on the prevention of future damages only.

(iv) Compute sediment benefits to other agricultural properties. Damages without the project can be determined be adding the cost of expenditures for removing sediment from roads, culverts, channels, etc., over a representative period of time and then dividing by the years of record. Increased cost of providing goods and services (i.e., additional treatment costs for removing sediment from municipal water) can also be used to evaluate damages. Reductions of sediment removal or water treatment costs with project provide the basis for assessing benefits. Extending the useful life of an existing reservoir is another type of sediment benefit.

(2) *Problems in application.* The procedure for evaluating inundation benefits (agricultural crops) assumes that damage factors developed would be used for current and future without project conditions and for all with project alternatives considered. In theory, these factors might change for future time periods depending upon the relationship of commodity prices to costs as projected. This adjustment would be preferred; however, the use of damage factors for all time periods is acceptable unless there is a significant difference in the relationship of the projections.

(3) *Data sources.* (i) *Interviews.* Interviews with farmers and other watershed residents are important for most categories evaluated. Interviews should not be confined to flood plain farmers. Data collected outside the flood plain serve as a basis to establish flood-free yields and production inputs where flooding is not a problem, as compared with inputs on the flood plain. Only OMB approval forms should be used, and each individual survey should be a part of supporting data.

(ii) *Physical specialists.* The agronomists and soil scientists can provide data to establish flood-free yields by soils and the effects that soil depletion will have on production. Data recorded on soil survey sheets by SCS soil scientists provide yields of crops for various erosion phases.

(iii) *Universities and federal agencies.* Most universities as well as ESCS and SCS have developed typical enterprise budgets that can be modified to reflect conditions in the area being studied.

(e) *Reports and display procedures.* Displays for the NED account will be shown by line items as follows: (1) Inundation Reduction Benefits. (i) Agricultural crops.

(ii) Other agricultural properties.

(2) Intensification Benefits.

(3) Changed Land Use Benefits.

(4) Land Stabilization Benefits. (i) Erosion Reduction. (A) Agricultural crops.

(B) Transportation.

(C) Other properties.

(ii) Sediment Reduction. (A) Overbank disposition.

(B) Swamping.

(C) Transportation.

(D) Other properties.

§ 704.124 Agricultural drainage.

(a) *Introduction.* This section provides procedural guidance for the evaluation of NED benefits to agricultural drainage features of Federal water project plans. External economies and employment benefits are covered in sections 704.131 and 704.132 and have therefore been omitted from this discussion. The procedures presented apply equally to both structural and nonstructural plan elements.

(b) *Conceptual basis.* (1) The NED benefit is the increase in the value of output of agricultural goods and services to the Nation under future conditions with the project versus without. Such benefits are measured as increased net returns and accrue through the employment of additional resources in the production process and more efficient resource use.

(2) Care must be exercised in the evaluation so as to identify only those benefits which are pertinent at a national level. This requires careful handling of each of the key evaluation components—cropping patterns, crop yields, crop prices, and production costs). A discussion of each follows:

(i) *Cropping patterns.* (A) Where project measures are expected to change the composite land use in a project area, the increased NED value due to project measures will be measured in terms of the net returns of crops that potentially can be increased to satisify national and international markets. Such crops shall presently be limited to the following: cotton, wheat, corn, soybeans, milo, hay, pasture, barley, and oats. Net returns for other crops are not to be included in the NED account since these crops usually involve relatively small acreage, produce high net returns and could be expanded on existing croplands within the region without the project.

(B) An additional NED benefit occurs where it can be shown that project lands both new and previously irrigated, drained, or protected from floods offer an efficiency advantage (i.e., production and transportation costs per unit of output are lower) over any other area in the production region for the production of crops other than those used for NED benefits. In such cases, the net efficiency gain may be included as a NED benefit for the additional output of these crops. Net efficiency gain may be measured as the difference in the costs per unit of output in the project area compared to the costs per unit of output of the marginal producers in the farm production region. This benefit may be claimed only when the project lands have an efficiency advantage over any other lands in the production region, including lands in production of the above named crops.

(ii) *Crop yield and prices.* (A) The sensitivity of crop prices to changes in market output is well documented. Where projected supply is expected to grow more slowly than projected demand, prices rise. This would increase net returns and encourages additional investment in agricultural production (i.e., more drainage). Where projected supply rises more rapidly than projected demand, however, prices drop. Investment in additional agricultural production is discouraged and less drainage development takes place.

(B) Proper NED evaluation requires that the future relationship of supply and demand for agricultural crops be structured into the analysis. A series of projected prices by time periods will therefore be used in evaluating NED drainage benefits. These prices will be developed by States or regions and will reflect market clearing conditions in the absence of those Federal programs which have pricing impacts. Such prices allow for a level of returns to each of the factors of production equal to their average costs in the future.

(iii) *Production costs.* Historically, the costs of operator and family labor, as well as management, have often been excluded from crop budgets. This assumes no long-run opportunity costs for these resources. The history of American agriculture clearly shows that this is not the case. Millions of workers have left the farm for employment elsewhere. Net outmigration is now near a standstill. To assume a zero opportunity cost for these resources is unrealistic. Appropriate charges should therefore be included in NED benefit calculations.

(c) *Planning setting.* (1) The evaluation of NED agricultural drainage benefits is made through a comparison of net income anticipated in the future with the project versus without. For analysis, the producer is considered to be the Nation as a whole. Relevant benefits therefore become the increased value of future agricultural output from the total of all lands.

(2) The without project condition is defined as the condition expected to exist in the future in the absence of a project or any change in law or public policy; whereas the with project is defined as the condition expected to exist in the future with a given project alternative. Since a number of alternatives are generally formulated in planning a particular project, there are a corresponding number of with project conditions.

(3) Relevant considerations for structuring the evaluation of each future condition are discussed below:

(i) *Costs (current).* (A) Only the costs which are expected to vary between the without and with project conditions need be analyzed. They may include the cost of equipment ownership, equipment operating, production materials, capital improvements to land, labor and management system OM&R and interest.

(B) Of these costs, purchased inputs should be valued at current market price, family and operator labor at prevailing farm labor rates, management at 10 percent of variable production costs (excludes the cost of land and added capital improvements), and interest at the project discount rate.

(ii) *Costs (future—with and without).* Project current costs by relevant time periods using the ratio of the current production cost index to the respective future indices. (WRC will supply indices.)

(iii) *Crop yields (current).* Use yields currently being realized on comparable areas within the region under average management.

(iv) *Crop yields (future—with and without).* Project current yields using historically derived rates. (WRC will supply rates for individual crops by States and/or regions.)

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(v) *Crop prices (future—with and without).* Use projections of prices received for all crop outputs anticipated to be marketed direct. Use projections of prices paid plus an allowance for delivery costs to the farm for crop outputs anticipated to be marketed through livestock. (WRC will provide a series of price projections for target years.)

(vi) *Land use (present).* Use current land use and cropping patterns within the project area to be irrigated.

(vii) *Land use (future—with and without).* Project present land use and cropping patterns based on an evaluation of the land capability, expected demands for agricultural commodities, availability of markets, recent land use trends, and expectations of farmers and others.

(d) *Evaluation procedure.* (1) *General.* (i) Drainage problems on flatland areas are generally interrelated with inundation damages. Benefits in these cases are evaluated jointly and assigned to project purposes after the evaluation is completed.

(ii) National economic development benefits from agricultural drainage are computed in two phases. The first involves the computation of increased net returns which would result on project lands if no increase in the acreage of high net return crops occurred with versus without the project. And the second involves the computation of efficiency advantages which the project offers for those high net return crops projected to increase in acreage with the project. The total NED benefit is the sum of the benefits identified in each phase. (A) *Phase 1.*The discussion below identifies key steps pertinent to the Phase 1 evaluation. The level of detail required for this, as well as the Phase 2 evaluation, will depend upon the economic significance of the problem, the availability and reliability of data, and the degree of refinement needed for project formulation and evaluation.

(1) Identify current land use, cropping patterns, and crop yields. The number of acres by major land use (i.e., pastureland, hayland, and woodland), are to be identified for current conditions. Cropland use should be further defined to show the number of acres of each crop grown. This information should generally be developed by groupings of similar soils within the area to be drained. Yields are then determined for crops within each soil grouping. A careful reconnaissance of the problem area, together with interviews with farmers and consultation with physical scientists, is critical to establish the needed data.

(2) Establish net income increases by time periods. (i) Net income increases attributable to the project are determined by subtracting the change in variable costs with versus without the project from the change in gross income (change in agricultural output multiplied by price per unit of output). Such values are determined on a per acre basis for appropriate crops for each time period relevant to the evaluation. The acre values are then expended to the project as a whole utilizing projected acreages with and without project.

(ii) Projected maintenance of existing on-farm drainage systems and installations of new systems without and with the project should be incorporated into the calculations, as should any substantial physical constraints to yields other than drainage impairment. Where increased acreages of high net return crops are anticipated with project, the planner will perform the analysis using low net return crop surrogates. Selection of these surrogates will be based on the planner's best estimate of which low net return crop would most likely be grown.

(3) Compute benefits. Annual increases in net returns are determined by discounting the flow of increased net returns identified under (ii) above to a present value and then amortizing the same over the project life at the project discount rate.

(B) *Phase 2.* NED benefits from increased acreages of high net return crops with project are measured by the difference in net income from such crops on project lands in comparison to the next best available site. A true analysis of this benefit would require a model of interregional competition between producing areas. This is not deemed feasible. The following shortcut procedure should therefore be used.

(1) Determine project net returns for the high net return crop. Calculate the net returns to land for a representative acre of the high net return crop for each time period relevant to the evaluation. Annualize the resulting income flow by discounting to a present value and amortizing over the project life at the project discount rate.

(2) Locate alternative production site. Identify the nearest major market for the high net return crop in question, as well as the area served by that market. The market selected should be large enough to have production cost and yield data readily available.

(3) Determine the net returns for the high net return crop on the alternative site. Use the same approach as specified under (a) above. Average production costs and crop yields realized in the service area of the market will provide the framework for the analysis.

(4) Compute benefits. Subtract the per acre net for the region from the project net. If the difference is a positive number, multiply the per acre efficiency gain by the projected increase in acreage with versus without the project.

(2) *Problems in application.* (i) One potential pitfall is the imputation of returns to factors of production other than drainage water into drainage NED benefits. This could occur, for example, if a project increases the amount of family labor used in crop production activities on the farm and the value of such labor is disregarded in the budget preparation process. Net income without and with the project becomes correspondingly higher as do benefits to drainage.

(ii) The reverse can also happen in that legitimate NED benefits to drainage may be imputed as economic rents to other factors in the production process. Cases in point might involve (A) the use of two distinctly different production functions for identifying the level of fertilizer usage under the without and with project conditions for a given crop or (B) the use of two separate schedules for determining machine and power costs for the two conditions, even though the types of crops grown and acreages do not change significantly. Problems of this type can be avoided by using a single production function for fertilizer and a single equipment schedule for production cost determinations.

(3) *Data sources.* Interviews with farmers are good sources of information for production costs, yield responses to varying levels of drainage, and expected cropping patterns without and with the project. (Only OMB approved forms should be used.) Specialists, such as agronomists and soil scientists, can be used as information sources on soil productivity and yield responses to drainage. Many universities and a number of Federal agencies have developed typical enterprise budgets that can be modified to reflect conditions in the project area.

(e) *Report and display procedures.* Benefits should be displayed in the NED account as follows: (1) *Benefits from drainage.* (i) Change land use.

(ii) More intensive land use.

(2) *Benefits from inundation reduction (where applicable).* (i) Change in land use.

(ii) More intensive land use.

§ 704.125 Urban flood damage.

(a) *Introduction.* This chapter provides guidance in the application of economic principles for evaluating national economic benefits from reducing urban flood hazards. This procedure provides for equal consideration of structural and nonstructural alternative plans or combinations thereof. It also provides a basis for evaluating the economic significance of water damages resulting from stream overflow, high lake stages, or high tides.

(b) *Conceptual basis.* (1) *General.* Benefits from plans for reducing flood hazards accrue primarily through the reduction in actual or potential damages associated with different land use. The standard for evaluating benefits is the willingness of users to pay for the plan or increments thereof. In evaluating flood hazard reduction plans, the term "user" must be broadly construed because a key part of the evaluation of plans is the evaluation of the economic externalities associated with existing uses of the flood plains.

(2) *Benefit categories.* While there is only one benefit standard, there are three benefit categories thereunder, reflecting different activity decisions made in response to a flood hazard reduction plan—namely:

(i) *Inundation reduction benefit.* When flood plain use is the same with and without the plan, the benefit is the increase in net income generated by the flood plain activity. When an activity is removed from the flood plain, this benefit will result only to the extent that its removal increases the net income of other activities in the economy—for example, through the reduction of emergency costs or through the reduction of subsidized reimbursements for flood damages.

(ii) *Intensification benefit.* When a commercial or industrial activity located on the flood plain without the plan modifies its operation because the reduction in the flood hazard makes it profitable to do so, the benefit is the increased net income generated by the activity compared with and without project conditions.

(iii) *Location benefit.* When an activity uses the flood plain with a plan but not without the plan, the benefit is the difference between aggregate net incomes (including economic rent) in the economically affected area with and without the plan. The difference between estimated market value of the flood plain land with and without the plan can be taken as an estimate of the present value of the difference between aggregate net incomes with and without the plan.

(3) *Types of flood damage.* Flood damages can be classified as physical damages or losses, income losses, and emergency costs. Each activity affected by a flood experiences losses in one or more of these classes. Such classification assists in identifying and evaluating the losses and in relating variations in their magnitude to the range of flood conditions expeced with and without the project.

(i) *Physical damages.* These include the damages to or loss of buildings or parts thereof; loss of contents, including furnishings, equipment, decorations, stock of raw materials, materials in process, and completed products; cost of cleanup; loss of roads, sewers, bridges, power lines, and so forth.

(ii) *Income losses.* Losses of wages or of net profits to business over and above physical flood loss usually result from a disruption of normal activities caused by flooding. They bear no consistent relation to physical damages and must be derived from specific independent economic data for the interests and properties affected. Prevention of income losses results in a contribution to national economic development only to the extent that such losses cannot be compensated by postponement of an activity or through transfer of the activity to other establishments.

(iii) *Emergency costs.* These will include those additional expenses resulting from a flood that would not otherwise be incurred, such as evacuation and reoccupation; flood fighting; disaster relief; increased expense of normal operations during the flood; and increased costs of police, fire, or military patrol. Emergency costs should be determined by specific survey or research and may not be estimated by applying arbitrary percentages to the physical damage estimates.

(c) *Planning setting.* (1) *General.* The benefit of flood hazard reduction plans must be based on a careful analysis of the with and without project conditions. In each instance, the analyst must carefully project the most likely land uses for the without project condition and the with project condition for each of the various alternatives considered. Different project alternatives may result in different land uses over time. For example, a levee alternative may maintain existing land use, while an evacuation alternative would completely alter land use. Benefit categories (section 2b) that result from a particular alternative are totally dependent upon the comparison of land use with and without that particular alternative.

(2) *Without project condition.* The without project condition is defined as the land use and related conditions likely to occur under existing improvements, laws, and policies. There are three significant assumptions inherent in this definition: (i) *Existing and authorized plans.* Existing and authorized flood hazard reduction plans normally will be considered in-place. Careful consideration will be given to the actual remaining economic life of existing structures.

(ii) *Flood disaster protection act.* The adoption and enforcement of land use regulations pursuant to the Flood Disaster Protection Act of 1973 (PL 93–234) will be assumed. (A) *Regulation certified or near certification.* The Agency will assure that the land use regulation has been or will be certified by the Flood Insurance Administration (FIA) as adequate under 24 CFR 1910.3(c) and/or (d) and 24 CFR 1910.5. In such cases, the without conditions are developed pursuant to the regulation. Further structural, nonstructural, and mixed alternatives will be considered in plan formulation.

(B) *Regulation not yet certified.* It will be assumed that the local jurisdiction will adopt land use regulations certifiable to FIA in the near future under the without condition as a datum and under the with condition when a residual hazard will remain. This applies to flood plains regulated pursuant to 24 CFR 1910.3(a) and (b); to flood plains presently regulated by local ordinances independent of FIA; and to flood plains with no flood regulation presently in effect. The regulation assumed will include the following three crucial features: no further development of the flood plain unless the lowest floor (including basement) of the building is elevated to the 100-year flood level for residences or flood proofed to that level for nonresidences; no occupancy of the floodway fringe which when taken with other developments raises the height of the 100-year flood level by greater than one foot anywhere in the flood plain; and no occupancy of the floodway.

(C) *Application.* As a practical matter this assumption means that flood proofing costs will be incurred if an activity decides to locate in the flood plain. Such costs may be reduced under some which project conditions.

(iii) *Flood plain management guidelines.* The adoption and enforcement of Water Resources Council (WRC) Floodplain Management Guidelines for Implementing Executive Order E.O. 11988, as well as E.O.

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11990—Protection of Wetlands, will be assumed.

(iv) *Individual actions.* Over and above the prior three assumptions, the analyst should consider that individuals will undertake certain flood hazard reduction measures such as floodproofing when the disparity between their potential flood damages and the cost of measures to reduce these damages suggests that it is rational to do so.

(3) *With project condition.* The with project condition is defined as the most likely condition expected to exist in the future if the alternative project is undertaken. Because there are many alternative projects, there are many with project conditions. In projecting these with project conditions, the analyst must be sensitive to the relationship between land use and the characteristics of the flood hazard for the alternative being analyzed. The same assumptions underlie the with project conditions as underlie the without project condition. In addition: (i) A range of nonstructural alternatives will be considered fully and equally with structural alternatives. (ii) Full and equal consideration also will be given to mixed plans involving interdependent structural and nonstructural measures. (iii) Project alternatives can differ in their timing, as well as in their physical characteristics. The optimal timing of projects and of individual project features should be considered in project formulation.

(d) *Evaluation procedure.* (1) *General.* There are 10 day steps which must be completed, in order to compute benefits. The steps are primarily designed to determine land use and relate it to the flood hazard from an NED perspective. The level of effort expended on each step depends on the nature of the proposed improvement and on the sensitivity of project formulation and justification to further refinement.

(i) *Step 1: Delineate affected area.* (A) The area affected by a proposed plan consists of the flood plain plus all other nearby areas likely to serve as alternative sites for any major activity-type which might use the flood plain if it were protected; one example of a major activity-type is commercial. Where the potential use of the flood plain includes industrial use within an SMSA, the entire SMSA is the affected area; for residential use, even within an SMSA, a much smaller area may be envisioned.

(B) Output: A specification of the geographic area to be studied.

(ii) *Step 2: Project activities in affected area.* (A) Economic and demographic projections should consider at least the following: population, personal income, recreation demand and manufacturing, employment, and output. For any given area, additional projections may be necessary depending upon the potential uses of the flood plain and the sensitivity of the plan to these projections. Projections should be based on assessment of larger area trends and appropriate data (e.g., OBERS); the relationship of historical data for the affected area relative to trends projected for larger areas; and consultation with knowledgeable local officials, planners, and others. The basis for affected area projection will be clearly specified in the report.

(B) Output: A list of the number of activities which might use the flood plain.

(iii) *Step 3: Estimate potential land use.* (A) Potential land use demand within the affected area is obtained by converting demographic projections (e.g., population) to acres. Such conversion factors will normally be derived from published secondary sources, from agency studies of similar areas, or from empirical data available in the affected area. The categories of potential land use need be only as detailed as is necessary to reflect the incidence of the flood hazard and to establish the benefits derived from a plan.

(B) Output: Number of acres associated with activities in Step 2.

(iv) *Step 4: Determine flood plain characteristics.* (A) The existing characteristics of the flood plain must be delineated before it is possible to determine its potential uses. Therefore, an inventory of the flood plain will be undertaken in order to determine those characteristics which make it attractive or unattractive for the land use demands established in Step 3. Emphasis will be placed upon those characteristics which distinguish the flood plain from other portions of the affected area. The following categorization should be used as a guide.

(1) Inherent characteristics of o flood plain. Most flood plains have the following characteristics: flooding; floodway and natural storage; natural and beneficial values, including open space, recreation, wildlife, and wetlands; transportation; and other.

(i) Flooding. A description of the flood situation will be presented, including a designation of high hazard areas. This description will include the characteristics of the flooding, such as depths, velocity, duration, debris content, area flooded by flood of selected frequencies (including 100-year frequency), historical floods, and, where applicable, Standard Project Flood (SPF).

(ii) Floodway, natural storage. A description and delineation will be presented of those areas which, if urbanized or structurally protected, would affect natural storage, velocity, or stage or would in any way affect flood flows elsewhere.

(iii) Natural and beneficial values, including open space, recreation, wildlife, and wetlands. Many flood plains, particularly those near urban areas, are potential recreation, open space, wetland, or wildlife preserves. The potential of the flood plain for these purposes must be recognized and presented.

(iv) Transportation. Flood plains near navigable streams have inherent attractiveness for industries which demand water-oriented transportation. Flood plains also serve as sites for railroads, highways, pipelines, and related facilities which are not susceptible to serious flood damage yet tend to attract industry to the area.

(v) Other attributes. Other inherent attributes may include soil fertility, reliability of water supply, waste disposal, and sand, mineral, and gravel deposits.

(2) Physical characteristics. Pertinent physical characteristics should be described, including slope, soil types, and water table.

(3) Available services. Most activities require some or all of the following: transportation facilities (highways and rail), power, sewerage, water, labor, and access to markets. The availability of such services in or near the flood plain will be indicated, including comparisons with other portions of the affected area.

(4) Existing activities. The inventory of the flood plain will include a list of existing activity-types, the number of acres, and the density, age, and value of structure for each activity type of flood hazard zone.

(B) Output: The available flood plain acres for use by the activities in Step 3 above, including the characteristics thereof.

(v) *Step 5: Existing flood damages.* (A) Existing flood damages are potential average annual damages to activities affected by flooding at the time of the study. Existing damages are those either expressed for a given magnitude of flooding or as computed in the damage frequency process. No projection is involved. The basis for the determination of existing damages shall be losses actually sustained in historical floods. Therefore, the analyst should specify the year and month for all

significant discharges above zero point of damage and indicate damages actually sustained by reach or zone and type of property and activity. Data on historical flood losses must be supplemented by appraisals and an inventory of the capital investment (including structures and contents) within the flood plain. Estimates of damages under existing conditions for floods of magnitude which have not historically occurred must be computed. Average annual losses will be estimated by using standard damage-frequency integration techniques. The incidence of such flood damages will be assessed by activity-type and by whether the damages are or could be passed on (externalized) to the public via subsidized flood insurance or other means.

(B) Output: Unit and total flood damages for existing land use for the activity-types in Step 4 above.

(vi) *Step 6: Future flood damages.* (A) These are damages to economic activities in step 3 which might use the flood plain in the future in the absence of a plan. This step will be used iteratively with Step 8 (land use) to determine land use and associated damages for each future with and without condition. Future includes any time period after the year in which the study is to be completed. In order to ultimately relate costs to benefits, however, future damages must be discounted to the base year.

(B) Future flood damages should be determined on the basis of losses borne by the flood plain occupant (internalized losses) and those borne by others, through insurance subsidies, tax deductions for casualty losses, disaster relief, etc. (externalized losses); see Step 5.

(1) Hydrologic changes. Changes in basin land use may result in major alteration of the drainage characteristics, particularly surface runoff; such hydrologic changes must be projected for the planning period. Average future hydrologic conditions shall not be used; such techniques obscure situations where a project level of protection may be significantly different by the end of the planning period compared to average conditions.

(2) Economic changes. Economic changes can be expected to result in a change in the level of flood losses in the future. The following three paragraphs discuss the projection of future flood damages. The level of detail in projecting future flood losses should be based on the effect of the analysis of plan formulation and evaluation. A benefit-cost ratio for existing condition will always be shown. If it is greater than unity, the projection of future benefits may be accomplished in abbreviated form, unless it would distort the comparison of alternatives or the cost allocation and cost sharing in multiple purpose projects. In the latter situation the detail and accuracy of the estimates of flood control benefits should be comparable to benefit estimates for other water resources purposes.

(3) Measurement and projection of physical damages. Measurement and projection of flood damages must be based upon the establishment of actual, observed relationships between damages, flood characteristics, and those indicators used for measurement and projection. These relationships will be modified as appropriate by consideration of constraints which change the historically derived relationship between flood damages and a given indicator. Basically, damages are a function of the number and value of each physical unit of property in the flood plain adjusted for the damage susceptibility at each stage of flooding. All of these interrelationships must be made explicit in the analysis and their accuracy and representativeness must be supported by empirical evidence. Three steps are to be used in measuring flood damages for a future year: estimate the number and size of physical units; estimate the future value of units; and determine the damage susceptibility of units.

(i) Physical units. The first step in measuring flood damages for a future year is to determine from Step 3 the number and size of physical units with potential to use the flood plain by hazard zones for each activity-type. Care must be taken to determine whether existing structures will continue to occupy the flood plain over the period of analysis and, if not, the future land use and damage potential.

(ii) Value per physical unit. This involves estimating future unit value and, eventually, damages. The following rules are derived from an empirical study of flood-prone property; no deviation is permitted.

Existing development. The OBERS regional growth rate for per capita income will be used as the basis to increase the real value of residential contents in the future to account for the effects of the affluence factor.

Future development. The values of contents within new residential structures will be projected from the year each unit is added.

Translation to future flood damages. The projected rate of increase in the value of flood-susceptible household contents will be used as the basis to increase the future unit flood damage to household contents.

Limit. The value of contents may not exceed 75 percent of the residence structural value, unless an empirical study proves that a special case exists (e.g., trailer parks).

Commercial and industrial property. The unit values of commercial and industrial property categories will not be increased over time using the procedure described above. Increase in the values of commercial and industrial property in the flood plain may result from expansion of existing facilities as well as from construction of new units; such increases will be evaluated as new development units.

(iii) Damage susceptibility. Once the number of physical units and the value associated with each unit are known, damage susceptibility relationships must be established as a function of total value of each physical unit and the flood characteristics of the stream, such as velocity, depth, duration, volume, debris control, and salinity. Some of the determinants of damage susceptibility are type of activity, vertical development, location within flood plain, nature of floodproofing, construction material used, and individual response.

(4) Projection of income losses. Income losses can be projected to increase in the future on the basis of projected land use. In no event will increases in physical losses be used to project income losses.

(5) Projection of emergency costs. Emergency costs encompass a wide variety of programs. Some, such as emergency shelter and food, are primarily a function of the occupancy of the flood plain, but not of the value of development in the flood plain itself. In no event will emergency costs be projected to increase as a direct function of physical losses.

(C) Output: Potential future flood damages by the activity-types in Step 3 above for different flood plain zones.

(vii) *Step 7: Other costs of using flood plain.* (A) The impact of flooding on existing and potential future occupants is not limited to flood losses. In some cases, the impacts are intangible; but in some cases they can be translated into NED losses. These include the following.

(1) Flood proofing costs. High flood hazards lead to high flood costs. Therefore, floodproofing costs for different activity-types (Step 3) and

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different flood hazard zones should be computed. Internalized and externalized costs should be clearly differentiated as in Step 5.

(2) National flood insurance costs. A national cost of the flood insurance program is its administration. For flood insurance policies actually in effect at the time of the study, the cost for servicing the policies should be determined based upon the average cost per policy including agent commission and the costs of servicing and claims adjusting. FIA should be contacted to obtain such costs. These are externalized costs in the case of subsidized policies.

(3) Modified use. In some cases, the flood hazard has caused structures to be used less efficiently than they would be in the absence of a project. For example, the first floor of garden apartments may not be rented because of a flood hazard. Or property may be configured in a different way with versus without a plan.

(B) Output: Flood proofing and other costs associated with the activities in Step (6).

(viii) *Step 8: Project land use.* (A) Given the existing characteristics of the flood plain and the remainder of the affected area previously designated, land use demand must be allocated to flood plain and non-flood plain lands, for the without project condition and with each alternative flood plain management plan.

(1) Basic factors. The allocation shall be based upon a comparison of the flood plain characteristics, the characteristics sought by potential occupants, and the availability of sought-after characteristics in the non-flood plain portions of the affected area.

(2) Criteria. The flood plain will not be used unless it possesses characteristics which give it a significant economic advantage over all other available sites within the affected area from the perspective of the potential user. If such advantages exist, the analyst must determine whether they overcome potential flood losses, potential floodproofing costs, and other related hazard costs. Flood losses and costs will be specific to the zone of the flood plain being considered.

(B) Output: Flood plain land use with and without project for activity-types in Step 3 above for present and future years.

(ix) Step 9: Collect land market value and related data. (A) Where land use is different with and without the project, the difference in income must be computed for the land with and without the project. This is generally accomplished using land market value data. Supporting data will be required in the following situations: *(1)* Where land use is different with compared to without the project, the following data will be collected as appropriate to complete Step 10.

(i) Comparable value. If the plan does not result in a major addition to the supply of land in the area, the value with protection is the market value of comparable flood-free land. If the plan results in a major addition to the supply, the effect on the price of land should be taken into account in estimating the value of flood plain lands with protection. The flood-free land must be comparable in terms of physical and infrastructural characteristics (e.g., water availability, transportation, soil stability, utilities, and amenities).

(ii) Existing value. The value of nearby flood plain sites should be used or, where reasonable, the current value of the flood plain. In either case, the current and, where available, past market values of the flood plain will be reported. Actual market values will be used, not capitalized income values. Hence, it must not be assumed that the value of land being used for agriculture in an urban or urbanizing situation is the capitalized value of agricultural returns or that any value higher than that is due to (1) speculation on a Federal project or (2) lack of knowledge. On the contrary, without values in excess of agricultural values are to be expected, reflecting the probability of future use as well as existing and anticipated infrastructural investments (e.g., highways and water supply).

(iii) Net income data. The net income (earned) with the project may be estimated directly based on an analysis of a specific land use with the project. For example, this approach would be used for lands to be developed for recreation. The projected recreation benefits would constitute the gross income (earned on the flood plain) and would be shown as a project benefit.

(iv) Encumbered market value. The market value of the land with an encumbered title will be estimated for inclusion as a benefit in Step 10 in situations where the flood plain is to be evacuated, where no specific public use is planned, and where the land could be resold with an encumbered title (which would assure that future uses would be consistent with Executive Order 11988 on Flood Plain Management).

(2) Where land use is the same but more intense, as when an activity's use of the flood plain is modified as a result of the project determination of the increase in income may be based on increased land values or direct computation of costs and revenues.

(3) In the case of an evacuation plan, an open space use of the flood plain with project may give rise to a positive externality on adjacent lands. This positive externality reflects the amenity of living near park land or open space, and it may be measured as the projected increase in market value of property adjacent to the encumbered flood plain. Such benefits must meet the test of any NED benefit and thus must be documented by empirical evidence. Care must also be taken to avoid double counting of benefits; e.g., changes in market value of properties adjacent to a restored flood plain may reflect recreation or open-space benefits to occupants of those properties.

(4) In situations where the market value of existing structures and land is lower because of the flood hazard, restoration of the market value may represent a quantification of otherwise intangible benefits. In such cases, the benefit is taken as the difference between increased market value and that portion of increased market value attributable to flood damages reduced. Careful attention should be given to assuring that factors not related to the flood hazard are not included as project benefits.

(5) Projected increases in the market value of land with and without a plan over the project life may not be used to measure flood hazard reduction benefits. This is because the current market value of land theoretically captures the expected stream of income over time.

(B) Output: Land market value and related data for situations from Step 8, where with and without plan uses are different and/or where significant externalities are involved.

(x) *Step 10: Compute benefits.* (A) At this point in the analysis, sufficient information is available to compute benefits for structural and nonstructural measures. Table I displays the types of benefits claimable for three of the major flood hazard reduction measures and the steps in the procedure that provide the necessary data. The table applies generally; specific cases may vary. All benefits should be discounted and annualized at the appropriate discount rate. Benefits are categorized in the following way:

(1) Inundation reduction benefits. (i) To the extent that Step 8 indicates that land use is the same with and without the project, the benefit is the difference in flood damages with and without the project (Step 6), plus the reduction in floodproofing costs (Step 7), plus the reduction in insurance overhead (Step 7), plus the restoration of land values in certain circumstances (Step 9). To the extent that Step 8 indicates a difference in land use for an evacuation plan, the benefit is the reduction in externalized costs of flood plain occupancy which are typically borne by taxpayers or firms providing services to flood plain activities.

Examples so such costs are subsidized flood insurance; casualty income tax deductions; flood emergency costs; and flood damages to utility, transportation, and communication systems. Reduction of externalized costs of flood plain occupancy, that is, reduction of costs not borne by the flood plain activities, can be a major benefit of projects to evacuate or relocate flood plain activities. Reduction of flood damages borne by flood plain activities because they are already accounted for in the fair market value of flood plain properties cannot be claimed as a benefit of evacuation or relocation.

(*ii*). One category of external costs associated with flood plain occupancy that can be avoided by a removal plan is public compensation for private flood damages through the subsidized Federal Flood Insurance Program. Expressing savings in these externalized costs as project benefits is appropriate for properties in communities which participate in the Federal Flood Insurance Program or are expected to participate under the without project condition. This benefit is based on reduction of insurable flood damages. Insurable flood damages are to be projected over the life of the project with careful attention to the projected without condition.

(*iii*) The projection of insurable flood damages is to be based upon traditional depth-damage-frequency relationships used in projecting total flood damages. However, projected total damages are to be reduced by subtracting losses which are noninsurable becasue either they are not insurable loss categories or they exceed the coverage limits of the subsidized program; the deductible portion of each expected flood damage event; and the annual cost of the insurance premium paid by the policyholders. For this benefit calculation, it is to be assumed that all eligible parties purchase subsidized insurance. This assumption is appropriate bacause the market value of properties, which determines project costs, reflects the availability of the program, not the extent of its utilization by current flood plain occupants.

(2) Intensification benefits. Where Step 8 indicates that land uses are the same with and without the project, but activity is more intense with the project, the benefit is measured as the increase in market value of land from Step 9(b) *or* direct income changes from Step 7(c). Care must be taken to avoid double counting by using both methods.

(3) Location benefits. Where Step 8 indicates that land use is different with and without the project, the benefit is measured by the change in the net income or market value of the flood plain land and certain adjacent land where, for example, the plan creates open space (Step 9).

(b) Output: Average annual benefits.

(2) *Problems in application.* There are four major problem areas in computing flood hazard reduction benefits: (i) *Income losses.* The loss of income by commercial, industrial, and other business firms is difficult to measure because of the complexity involved in determining whether the loss is recovered by the firm at another location or at a later time. Direct interview and empirical post-flood studies are the most appropriate data sources for analyzing whether a real resource loss, such as idle capital or decaying inventories, is involved. The loss of income because of idle labor may be measured from the point of view of the firm or the household, but care must be taken to avoid double-counting. Loss of income because of idle labor must be net of income to labor employed in cleanup and repair of damages.

(ii) *Intensification benefits.* This category of benefits is primarily applicable to agriculture flooding. Its applicability to urban situations is theoretically valid, but there are few convincing case studies to date. Normally, this benefit cannot exceed the increased flood damage potential comparing the existing activity to the intensified activity (without the proposed plan).

(iii) *Risk.* The analysis of response to a flood hazard is based upon a probability weighting of floods of various magnitude. This implies that flood plain occupants are risk-neutral. However, many occupants, individually or as a group, either avert or accept risk. Hence, responses to acutal and potential flood damages should be viewed broadly in determining land use, mode of conducting business, and even benefits. The analyst must explain any significant deviations from expected behavior based on actual or potential flood damages computed on a risk-neutral basis.

(iv) *Sensitivity analysis.* Uncertainty must be addressed in the analysis of NED benefits and costs. To a degree this uncertainty will be addressed during the study by gathering more information on critical, uncertain items and by using standard, reviewable data sources (e.g., OBERS).

(3) *Data sources.* The basic data sources have been mentioned in the preceeding section, "General Discussion." The following summarizes problems associated with two key sources: (i) *Interviews:* The basic use of interviews is for collecting flood damage data; however, personal interviews may be used to collect any necessary data not available from secondary sources. Only forms approved by the Office of Management and Budget should be used. Statistically sound techniques will be used for selecting the interview sample and for devising the questions. The questionnaire and a summary of responses will be compiled and displayed in the final report in such a way as to prevent individual disclosures.

(ii) *Local land use plans.* Local land use plans and zoning ordinances are valuable guides to future land use in the flood plain. However, such plans and ordinances should be followed with caution. The demographic implications of the local plans and ordinances must be consistent with, or convincingly distinguished from, a larger area trend; e.g., OBERS. The status, date, and likelihood of change are factors in assessing the utility of the local plan. Finally, the plan would not be an acceptable projection for the without condition, to the extent that it ignores the flood hazard.

(e) *Report and display procedures.* The report must include sufficient data to enable the reviewer to follow the key steps above and, most important, the underlying rationale for the project. (1) Report procedures for risk and uncertainty. To assist reviewers in assessing their own responses to risk (and as basic data for later use in the social wellbeing account), the following will be separately summarized and displayed in tabular form:

(i) *Remaining flood damage situations: categorizations.* The remaining damages are those expected to occur even with a flood plain management plan in operation. Remaining damages include: (A) Damages to activities which would occupy the flood plain with as well as without the plan;

(B) Damages to activities which would occupy the flood plain only with the plan; and

(C) Increased damages to activities outside the protected area under the

with—as compared to the without—condition.

(ii) *Flood with two-tenths of one percent chance of occurrence.* The flood with two-tenths of one percent chance of occurrence (500-year frequency) will be fully described with and without the plan. The report will contain, for exampe, "two-tenths of one percent flood" damages; number of people and towns affected; the number of structures and acres by land use type; disruption of essential services (water, power, fire protection, and sanitary serivces) and distance to unaffected essential services; anticipated warning time; flood depths, velocity, duration, debris content, and the like; and other indicators pertinent to catastrophic flooding. A catastrophe occurs when an urban area is crippled for a sustained period, where a substantial infusion of Federal, State, or regional rehabilitation funds (disaster relief) is necessary, or where it could be expected to be deemed a Federal or State disaster area. Likewise, a catastrophe occurs were a serious danger to life exists or extesive property damage results. The results of the "two-tenths of one percent flood" analysis must be presented in appropriate tabular form in the report.

(2) Sensitivity analyses. The report will contain sensitivity analyses which present a range of benefit levels representing data and assumptions about which reasonable persons might differ. The reported benefit level will be that level which is most probable; other levels are presented for public information. The following specific analysis must be conducted and presented in the report, for the final array of alternatives:

(i) *Break-even years.* There are two significant break-even years: the project year in which undiscounted annual benefits first exceed annual changes and the project year in which discounted benefits exceed annual charges assuming no further increases in benefits. As used herein, annual charges for multiple-purpose projects are based on allocated costs.

(ii) *Internal rate of return.* The internal rate of return is the rate of intrest at which benefits equal costs over the period of analysis (i.e., benefit cost ratio equals 1.0).

(iii) *Discount rate.* For authorized projects, the effect of using the current Federal discount rate should be presented.

(iv) *Value per structure.* As previously discussed, increases in future damages relate to increases in the number of structures and to increases in the value of structures and contents. Wherever increases in damages are based upon increases in value, a sensitivity analysis should be accomplished under the alternate assumption, that there is no increase in the average value of structure or contents and that increases in damages are due solely to increases in the number of structures and/or shifts from one type of structure to another.

(3) Summary Tables. Summary tables 2–6 are suggested presentations for all reports that include flood hazard reduction as a purpose. Other summary tables may be necessary and pertinent, such as the specific display requirements presented in Section 4. The summary tables should include pertinent land use for computing not only national economic development benefits, but also environmental, social, and regional impacts.

Table 2.—*Guide to Types of Benefits*

	Types of project		
Type of benefit (and step)	Structural	Flood proofing	Evacuation.
Inundation:			
Externalized flood damages (step 5)	Claimable.	Claimable.	Claimable.
Internalized flood damages (step 6)	Claimable.	Claimable.	Not claimable.
Flood proofing costs reduced (step 7)	Claimable.	Not claimable.	Not claimable.
Reduction in insurance overhead (step 7)	Claimable.	Claimable.	Claimable.
Restoration of land value (step 9d)	Claimable.	Claimable.	Not claimable.
Intensification (steps, 7(c) 9(b))	Claimable.	Claimable.	Not claimable.
Location:			
Difference in use (step 9a(1) and (2))	Claimable.	Claimable.	Not claimable.
New use (step 9a(3))	Not claimable.	Not claimable.	Claimable.
Encumbered title (step 9a(4))	Not claimable.	Not claimable.	Claimable.
Open space externality (step 9(c))	Not claimable.	Not claimable.	Claimable.

Table 3.—*Summary of Average Annual NED Benefits and Costs for Alternative Projects*

[Thousands of October 1979 dollars]
Applicable Discount Rate:——

	Alternatives			
	1	2	3	N
Flood hazard reduction benefits:				
Inundation:				
Physical				
Income				
Emergency				
Total, inundation				
Intensification				
Location:				
Flood plain				
Off flood plain				
Total location				
Flood hazard reduction.				
Total benefits				
Other purposed benefits				
Total project benefits.				
Project costs				
Total net benefits				

Table 4.—*Flood Damages by Decade Alternative Projects*

[Thousands of October 1979 dollars]
Applicable Discount Rate: ——

	Time period [3]			AAE
	P0	P10	P20, etc.	
Project: [1]				
No. 1				
No. 2				
No. 3				
N				

[1] Project in System of Accounts.
[2] The designations P10 and P20 identify the 10th and 20th years, respectively, of project life.
[3] Average annual equivalent.

Table 5.—*Flood Damages by Decade Without Projects*

[Thousands of October 1979 dollars]
Applicable Discount Rate: ——

	Time period [1]					AAE [2]
Property Type	P–50	P–40, etc.	Existing P10	Existing P0	Existing PN	
Residential:						
a [3]						
b						
c						
Commercial						
Industrial						
Other						
Total						

[1] The designations P10 and P20 identify the 10th and 20th years, respectively, of project life. P–50 is 1929, P–40 is 1939, etc.
[2] Average annual equivalent.
[3] Subclassification of residential.

Table 6.—*Number of Acres (or Structures)*

[Flood Plain Without Project [1]]

	Acres							
	Existing	Time period [2]						
		P0	P10	P20	P30	P40	P50	P100
Property type:								
Residential	×	×	×	×	×	×	×	×
a [3]	×	×	×	×	×	×	×	×
b	×	×	×	×	×	×	×	×
c	×	×	×	×	×	×	×	×
Commercial	×	×	×	×	×	×	×	×
Industrial	×	×	×	×	×	×	×	×
Semipublic	×	×	×	×	×	×	×	×
Transportation	×	×	×	×	×	×	×	×

[1] Comparable table for all alternatives, where pertinent.
[2] The designations P10 and P20, identify the 10th and 20th years, respectively, of project life.
[3] Subclassification of residential units.

§ 704.126 Power (hydropower).

(a) *Introduction.* This chapter describes procedures for the economic evaluation of hydropower projects. These projects include single-purpose hydropower projects, inclusion of hydropower as a function in new multipurpose projects, addition of power-generating facilities to existing water resource projects, and expansion of existing hydropower plants.

(b) *Conceptual basis.* (1) The conceptual basis for the evaluation of the energy produced by hydroelectric powerplants is society's willingness to pay for these outputs. This willingness to pay is to be compared to the costs required to provide the energy, in order to decide whether a project is justified on the NED account.

(2) Willingness to pay, in application, is measured in ways that are appropriate to the technical and institutional characteristics of a project purpose. In the case of hydropower, the willingness to pay criterion for outputs has been applied in the form of the alternative cost measure of benefits. The alternative cost measure of benefits is strictly correct as a measure of the NED benefits of a project if two conditions hold: First, that the gross benefits of the alternative are the same as those of the project under consideration; second, that the alternative will be implemented if the project under consideration is not implemented. This second condition is often referred to as the condition that the alternative is the "most likely" alternative.

(3) This approach has been used in the case of hydropower evaluation because it has been reasonable to assume that a hydropower plant is within the public sphere of action, that the alternatives are within the private sphere, and that the alternatives will be built to meet projected NED demands for power if the public power project if not built. In this situation, the only choice facing the public is whether to build a public hydropower plant and thus avoid incurring the cost of constructing the alternative in the private sector.

(4) The calculation of alternative costs to be used as a measure of NED benefits shall be on the following basis: (A) all interest and amortization costs charged to the alternative shall be calculated on the basis of the Federal discount rate; (B) no costs for taxes or insurance shall be charged to the alternative; and (C) all other assumptions and procedures used in calculating the costs of the alternatives including external diseconomies shall parallel those employed in calculating the costs for the proposed Federal project.

(5) The NED benefits of nonstructural programs are also measured in principle by society's willingness to pay for them. The alternative cost measure can be employed directly if it can be assumed that the willingness to pay of energy users for reducing demand is the same as their willingness to pay for meeting demand. Where this is not entirely the case, suitable adjustment must be made to account for the difference between energy user's willingness to pay for reducing demand and their willingness to pay for meeting demand.

(c) *Planning setting.* (1) *Without project condition.* The without project condition is defined as the most likely condition expected to exist in the future in the absence of a project and any changes in law or public policy. The following specific assumptions are to be built into the projected without condition:

(i) *Existing resources.* Existing generating resources are assumed to be part of the without project conditions. Adjustments should be made to account for anticipated plant retirements and changes in plant output due to age or environmental restrictions associated with existing policy and regulations.

(ii) *Existing institutional arrangements.* Existing and reasonably expected future power system and water management contracts, treaties, and nonpower river operating criteria are assumed to be part of the without project condition unless revision of these arrangements is one of the alternative plans being studied. If the latter is the case, that particular arrangement would be one of the alternatives considered in the with project condition.

(iii) *Alternative actions anticipated or underway.* In most power systems, additional generating resources will likely be constructed in the period of study whether or not action is taken on a proposed public project. The without project condition should include these generating resources.

(iv) *Nonstructural measures and conservation.* The without project condition must include the effects of implementing all reasonably expected nonstructural and conservation measures required by or encouraged by Federal, State, and local policies, and by private actions. These effects would generally be reflected in the load projections used to identify the need for additional electric power.

(2) *With project condition.* (i) The with project condition is defined as the most likely condition expected to exist in the future if the best public hydropower project under consideration (among the range of hydropower alternatives available for public implementation) is undertaken. Examples of such alternatives are (A) alternative combinations of projects in a basin study, (B) alternative sites in a reach study, (C) alternative plant sizes at a specific site, (D) alternative reservoir sizes at a reservoir site, (E) use of reregulation and/or pumpback to increase firm capacity, and (F) reallocation of storage to increase firm energy output at existing projects, or nonstructural alternatives.

(ii) At least one primary nonstructural plan shall be included as an alternative wherever structural plans are considered. A wide variety of

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nonstructural alternatives to hydropower are possible, including conservation measures to reduce total power demand and load management to reduce peak demand. The nonstructural alternative(s) selected must be appropriate for the type of hydropower project being studied (i.e., with respect to capacity and other factors). Care shall be taken to insure that the proposed structural measures are not already in the process of implementation, and thus a part of the without project condition. Average annual costs for viable nonstructural programs are to be computed, in general, as for hydropower projects. These costs will vary widely from measure to measure and could include factors such as amortized investment costs, annual operations and maintenance (O&M) costs, annual costs of implementing conservation or load management programs (including regulation costs), and identifiable economic costs of adverse effects of the nonstructural measure.

(d) *Evaluation procedure.* (1) *General.* Given one or more alternative plans for public hydropower projects, the following steps are necessary to estimate NED benefits that would accrue to these projects. The level of effort expended on each step depends upon the nature of the proposed development, the state of the art for accurately refining the estimate, and the likely effect of further refinement on project formulation and justification.

(i) *Identify system for anaylsis.* Because of the trend toward interconnection and coordination among utilities and power systems, it is most appropriate to evaluate NED benefits for hydropower on a system basis, rather than on the needs of an individual utility or local area. The size of the system would depend on the situation but could consist of a power pool, a National Electric Reliability Council (NERC) regional area, or the marketing area of the Federal marketing agency. In some cases physical or institutional constraints may limit analysis to a smaller area, but care should be taken to insure that benefits are not misstated by such analysis. OUTPUT: Definition of geographical area for making load-resource analysis.

(ii) *Estimate future demand for electric power.* The estimated demand for electric power will be projected for the system in terms of energy demand, peak demand, and daily load shape. Forecasts of energy demand, including peak demand and daily load shape, should be made taking into account the nonstructural measures for energy conservation that, on the basis of present and future public and private programs, can reasonably be expected to be implemented during the forecast period. Load estimates should be made at increments of no more than ten years from the present to a point at which the proposed hydropower plant will be operating in its mature state; i.e., a state representative of its expected operation over the majority of its project life. In the case of staged hydropower development or systems with markedly changing resource mix, demand projections may be required as much as 20 years beyond the initial operation date. To permit accurate operational studies, typical monthly distributions of power demand must be developed. The load estimates should account for system imports and exports, and should account for reserve requirements, either as a function of demand or as a function of combined system resource reliability. Output: Future estimates of electric power demand for appropriate forecast dates.

(iii) *Define base system generating resources.* Identify the generating resources that would exist in the system without the proposed hydropower project or its alternative. Resource estimates must be made for the same forecast dates specified in Step (ii). Information should be provided on both the average annual energy production and on the peaking capability of these resources. Data are readily available on projected system resources for about ten years into the future. Resource additions beyond that date will have to be based on system studies or judgment. Retirement of older plants should be accounted for, as well as the reduction of output of some plants due to age or environmental constraints. Output: Composition, electric power generating capability, and operating costs of base system at various points in time.

(iv) *Evaluate need for additional generation.* The loads from Step (ii) are compared with the resources from Step (iii) to determine (A) when generating resource deficits will occur, (B) the magnitude of these deficits, and (C) what portion of these deficits could be met by the proposed hydropower project. Some hydropower sites can be developed to provide either a base load, mid-range, or peaking service. The system need for each class of hydropower generation must be evaluated. Simple tabulation of annual peak and energy loads and resources is generally adequate for preliminary studies. However, system load-resource models which account for load characteristics and generating plant operating capabilities are necessary to evaluate accurately the usability of specific projects. Output: Identification of blocks of future power demand which could be carried by hydropower.

(v) *Screen alternatives.* The alternatives to a given hydropower project must be viable in terms of engineering, environmental quality, and other national policy considerations. Engineering viability limits thermal alternatives to commercially available electric powerplants. Environmental viability implies that plant costs must include all equipment required to meet environmental quality criteria. National policy considerations would include factors such as any legal limitations on the use of oil, natural gas, and other "scarce" fuels for electric power generation. Each alternative need not in itself deliver power similar in kind to the hydropower project, but the total power system with the alternative must deliver power similar in kind to the system with the hydropower project. An alternative can be a service of increments to the system from different types of generating plants. In addition, the "similar in kind" requirement is not intended to bias consideration of nonstructural alternatives which may serve to reshape the demand for power.

(vi) *Identify most likely alternative.* Each potentially viable alternative will be examined in system analysis to determine if the system with that alternative can deliver output similar in kind to the system with the hydropower plant, within expected institutional and evironmental constraints. The system with hydropower or other alternatives must be capable of meeting system loads within established system reliability criteria. Alternatives passing this test should be compared on the basis of cost and other factors to determine the mostly likely altenative. Output: Identification of the most likely alternative.

(vii) *Thermal alternative.* Thermal plant annual costs are normally divided into two components: the fixed or "capacity" costs, and the variable or "energy" costs. The capacity costs include amortized investment costs, transmission costs, interim replacement costs, and fixed O&M costs. Energy costs consist primarily of variable O&M costs and fuel costs. Where the most likely alternative is a thermal plant, the thermal plant's capacity costs are used as a measure of the value of the hydropower project's generating capacity, and the thermal plant energy costs are used as the measure of the value of the hydropower project's energy production.

(A) *System energy costs.* Effect on system energy costs must be taken into account when computing the value of hydroelectric energy. This is because the addition of a hydropower plant to a system in lieu of an alternative power source will frequently either increase or decrease the amount of power produced by other generating facilities in the system. This effect can be accounted for by performing a system analysis. The net system energy benefit of a hydropower plant compared to that of a given thermal alternative would be the average annual system energy costs using the thermal alternative minus the average annual system energy cost using the proposed hydropower project. In some cases the resulting hydropower energy benefit could be negative. System energy costs should be considered in determining the most likely thermal alternative.

(B) *System capacity considerations.* *(1)* Because of the difference in physical operating characteristics between hydropower projects and thermal plants, each makes a somewhat different contribution to system operating flexibility and reliability. In developing a benefit value for the dependable capacity of a potential hydropower project, based on the cost of power from an alternative thermal powerplant, these differences must be taken into consideration. Factors to be considered include system reserve requirement, service availability, operating flexibility (quick start capability and fast response to change loads), and other factors.

(2) Consideration of these factors may indicate that a credit to the hydropower project is warranted. In effect, this means that the value of a kilowatt of dependable hydropower capacity is greater than the alternative cost of a kilowatt of thermal capactiy. This credit can be applied as appropriate by increasing the thermal alternative capacity cost by that amount. All prices should reflect the exchange values expected to prevail over the period of analysis.

(3) For this purpose, relative price relationships and the general level of prices prevailing during the planning study will be assumed to hold generally for the future, except where specific studies and considerations indicate otherwise. Examples of the latter could include real fuel cost escalation due to increasing scarcity or increasing capital costs to accommodate expected increased environmental or safety criteria. Fuel costs used in the analysis should reflect real economic prices, rather than regulated prices of existing contracts. Output: Estimation of NED costs of the most likely thermal alternative.

(viii) *Compute hydropower plant annual benefits.* For each alternative hydropower development and installation, average annual benefits are computed based on the costs of the most likely alternative. The benefits thus computed shall be comparable to the hydropower plant costs in terms of interest rate, taxes, insurance, and other NED criteria, as set forth in the Conceptual Basis for Evaluation. In many cases, benefits may vary over the life of a project. This may be due to factors such as staged development of the hydropower project, changes in operation of the hydropower project resulting from changes in the total system generating resource mix, and real escalation in thermal plant fuel costs. Project benefits should be computed at appropriate time intervals and discounted to derive average annual power benefits. Occasionally, a hydropower project is large compared with annual system load growth, and two or more years may be required to fully absorb its output into the load. In these cases credit should be allowed only for the generating capacity and energy actually usable in the load in the early years of project life. Output: Hydropower project average annual benefits.

(ix) *Compute nonstructural plan benefits.* Average annual benefits of the nonstructural alternatives are computed using most likely alternative costs following procedures similar to those used in computing hydropower plant benefits, where it is determined that the alternative cost method directly applies. Where this method does not apply, direct measurement of the NED effects of reduced peak or total power demands is required. Output: Benefits associated with viable nonstructural alternatives.

(x) *Financial feasibility.* Although not a part of the NED benefit analysis *per se*, the Federal power marketing agency must certify that the power from a proposed hydropower project is marketable and that project cost allocated to power can be repaid from revenues in 50 years with interest.

(2) *Problems in application.* Some hydropower projects have little or no apparent dependable capacity, yet they may provide significant amounts of firm and secondary energy. Many potential small hydropower projects and opportunities for adding power to existing nonpower projects fall into this category. Because of the way in which alternative thermal plant costs are divided into energy and capacity values, the benefits credited to these hydropower projects are often greatly underestimated when standard evaluation techniques are used. For these projects, alternative procedures should be used, which (i) account for the project's contribution to system dependable capacity, or (ii) give an appropriate value to the energy if no value is assigned to the project's capacity.

(3) *Analysis of added units.* (i) In evaluating the benefits of added units at an existing hydropower project, two approaches have been used. The units can be isolated and evaluated as an increment, or the benefits can be computed by deducting the total benefits of the existing hydropower plant from the total benefits of the expanded plant. The isolated increment approach usually identifies the least costly means of adding capacity to the system (usually combustion turbine).

(ii) There are, however, questions (A) whether a thermal alternative thus selected can carry the required loads as effectively as the hydropower added units and (B) whether the simplified studies used in identifying the combustion turbine as the least-cost alternative truly reflect average system operating costs. The total without and with project method more accurately credits the added units with the benefits (positive or negative) that accrue to the initial units transfer to a new position in the load.

(iii) The recommended solution is to use (A) the isolated increment approach, where the proposed additional units would be used primarily in the reserve role, and (B) the total project approach, where the added units would be used regularly in the load and, as a result of the expansion, the role of the initial units would change.

(4) *Data sources.* (i) *Load forecasts.* Ten-year regional load forecasts are prepared annually by each of the regional councils in the National Electrical Reliability Council, and these are considered to be standard reference forecasts. Forecasts may also be available from the Federal marketing agencies, State energy agencies, utilities, and regional planning groups, and the hydropower planning agency itself.

(ii) *Existing and planned resources.* Data on existing and planned generating resources are available from annual reports prepared by NERC regional councils. Additional data may be available from Federal Energy Regulatory Commission (FERC) regional offices, State energy agencies, and the utilities. Where specific operating characteristics are not available on individual plants, generalized data can

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be obtained rom the Electric Power Research Institute.[1]

(iii) *Load-resources analyses.* Limited 10-year load-resource analyses are prepared annually by the NERC regional councils, and additional load-resource analyses may be available from Federal marketing agencies, State energy agencies, and regional planning groups. However, it may be necessary to utilize load-resource models based on simulated system operation. Such models are available from FERC, Tennessee Valley Authority, and a number of consulting services. In some cases Federal marketing agencies may also have models of this type.

(iv) *Marketability criterio.* Criteria that must be met to insure that power from a proposed hydropower project is marketable and usable in the system load are normally obtained from the Federal marketing agency. Where a marketing agency is not available, the data can be obtained from FERC regional offices or the utilities that would obtain the power from the proposed hydropower project. Criteria for determining dependent capacity can sometimes be obtained from the same sources.

(v) *Structural alternative costs.* FERC regional offices provide annual costs for structural alternatives ("power values") on request. The basic procedures followed by FERC in computing power values are outlined in this publication, "Hydroelectric Power Evaluation."[2] FERC power values have generally only included direct costs on a private financial basis, rather than on an NED basis. To be consistent with Principles and Standards costs, all costs should be recalculated so as to be consistent with Federal project costs as enumerated under the Compute Hydropower Plant Annual Benefits section. Some of these costs are difficult to estimate. One information source is "Energy Alternatives: A Comparative Analysis."[3]

(vi) *Nonstructural costs.* Very little consistent quantitative data are readily available on the costs of nonstructural programs, even though considerable work is underway in this area. These costs would include an accounting for the difference between the energy user's willingness to pay for a reduction in demand and the user's willingness to pay for meeting the demand. Agencies should develop this information in cooperation with the Department of Energy.

(vii) *Pumping costs.* FERC regional offices can provide estimates of pumping costs associated with pumped-storage or pumpback, these data can also be obtained from the system operation study models described previously.

(viii) *Load characteristics.* Data on daily, weekly, and seasonal load patterns can be obtained from the Federal power marketing agencies, the FERC regional offices, and the utilities. Additional generalized regional data can be obtained from the previously cited EPRI report EM–285.

(5) *Risk and uncertainty.* (i) *loads.* With the current uncertainty concerning many facets of the future energy situation, it is difficult to forecast future electric power loads with high confidence. One means of accounting for this uncertainty is to prepare a range of forecasts which would cover various load growth scenarios. The basic feasibility analysis would be based on the most likely forecast, and sensitivity tests would then be made to test the effect of higher or lower loads on economic feasibility. It should be recognized that some flexibility exists to delay or even cancel an authorized hydropower project if load growth subsequent to authorization is lower then projected. The construction and marketing agencies must maintain postauthorization surveillance of the load-resource situation prior to initiation of construction, periodically verifying whether or not the project continues to be needed and is economically feasible.

(ii) *Hydropower plant performance.* (A) A number of factors can reduce the actual output of a hydropower project below that which is expected. Inadequate hydrologic data may indicate that projected average energy output is either higher or lower than the actual long-term average. Synthetic hydrology or correlation analysis may be required to establish a reliable basis for estimating energy output. Irrigation depletions or other diversions may reduce energy output. The possibility of such diversions should be considered in the analysis, and sensitivity tests should be made, if necessary, to evaluate alternative diversion levels. Sedimentation may reduce the usable storage space in reservoirs, thus reducing firm energy output, both at-site and at downstream projects. Sedimentation studies should be made to account for possible storage losses.

(B) More stringent operating limits for environmental or nonpower river uses may be established once a project is in operation, thus limiting dependable capacity, energy output, or both. Every effort should be made to avoid this problem by carefully coordinating proposed power operating procedures with agencies and interest groups responsible for nonpower river uses and environmental concerns. Simulated hourly and seasonal project operating studies are useful in identifying and displaying possible operating conflicts. However, continuously changing priorities and changing demands on water resources make it impossible to foresee all possible operating conflicts.

(iii) *Thermal plant performance.* More stringent environmental and/or safety criteria may result in increased unit costs of alternative thermal plant output, thus increasing hydropower project economic benefits.

(iv) *Technological breakthroughs.* Technological breakthroughs may result in the development of more economic thermal alternatives, thus reducing the value of a hydropower project. The likelihood of any significantly new generation type being developed and made available for full-scale commercial operation is remote within the normal planning period, but this possibility should be considered throughout the planning process. The possibility that more cost-effective, nonstructural measures can be developed and implemented in the planning period also should be considered.

(v) *Changing load shapes.* Special care should be taken in the process of evaluating low plant factor hydropower alternatives to determine whether peak pricing or other load management measures are likely to reduce or eliminate the need for the project. While conservation measures might only defer the need for additional energy-generating facilities in the planning period, load management could greatly reduce the need for low plant factor peaking generation.

§ 704.127 Transportation (inland navigation).

(a) *Introduction.* This chapter presents the procedure to be followed in measuring the beneficial contributions to national economic development (NED) associated with the inland navigation features of water resources development projects. Thus, this procedure is the way in which the navigation subcomponent of the NED account of the Principles and Standards (P&S) is to be quantified.

[1] Electric Power Research Institute. "Synthetic Electric Utility Systems for Evaluating Advanced Technologies." EPRI report EM–285, February 1977.

[2] Federal Energy Regulatory Commission. 'Hydroelectric Power Evaluation." FERC report P–35, revised 1978.

[3] University of Oklahoma, Science and Public Policy Program. "Energy Alternatives: A Comparative Analysis." Prepared for the Federal Council on Environmental Quality, *et al.*

(b) *Conceptual basis.* The basic economic benefit of a navigation project is the reduction in the value of resources required to transport commodities. Navigation benefits can be categorized as follows:

(1) *Cost reduction benefit (same origin-destination; same mode).* For traffic which uses a waterway both with and without a project, the benefit is the reduction in the cost of using the waterway. This reduction represents an economic efficiency (NED) gain because resources will be released for productive use elsewhere in the economy, for example:

(i) Reductions in costs incurred from trip delays; (e.g., reduced congestion by expanding lock sizes at congested facilities or by congestion fees).

(ii) Reduction in costs because larger or longer tows can use the waterway (e.g., by channel straightening or widening).

(iii) Reduction in costs by permitting barges to be more fully loaded (e.g., by channel deepening).

(2) *Shift of mode benefit (same origin-destination; different mode).* For traffic which would use a waterway with the project, but without the project uses a different mode, the benefit is the difference between the costs of using the alternative mode without the project and the costs of using the waterway with the project. The economic benefit of the waterway to the national economy is the savings in resources from not having to use the next most costly mode. Specifically, the national economic benefit for the Federal waterway investment is the cost for using the alternative mode less all associated costs for the barge and related operations, except for the cost of the Federal investment itself. The word "mode" as used herein must be construed broadly; e.g., including where a different waterway is used with and without the project.

(3) *Shift of origin-destination benefit (different mode; different origin-destination).* When there is a shift in either the origin or destination of a commodity flow the difference in transportation costs with and without the project is not the appropriate measure of benefits. If implementation of a project would result in a shift in the origin of a commodity the benefit is taken as the difference in total cost of obtaining a commodity at its place of use with and without the project. If implementation of a project would result in a shift in the destination of a commodity the benefit is taken as the difference in net revenue to the producer with and without the project. The shift of origin-destination benefit cannot normally exceed the difference in transportation charges assuming the without project origin-destination would be the same as the with project origin-destination.

(4) *New movement benefit.* In this case a commodity or additional quantities of a commodity would be transported only because of the lowered transportation charge with the project. The quantities are limited to increases in production and consumption resulting from lower transportation costs. An increase in waterways shipments resulting from a shift in origin or destination is not included. The new movement benefit is defined as the increase in producer and consumer surplus. Practically, it can be measured as the delivered price of the commodity less all associated economic costs, including all of the costs of barge transportation other than those of the proposed Federal improvement. This benefit, like the preceding one, cannot exceed the reduction in transportation costs achieved by the project.

(c) *Planning setting.* (1) *Without project condition.* The without project condition is defined as the most likely condition expected to exist in the future in the absence of a project and any change in law or public policy. The following specific assumptions are to be built into the projected without condition:

(i) All nonstructural practices within the discretion of the operating agency will be assumed to be implemented at the appropriate time in the without project condition. Such practices include helper boats and lock operating policies. Substantial analysis is required to establish the best combination of nonstructural measures to most effectively utilize the existing waterway system over time. This analysis will be documented in project reports so as to assure the reviewer that the best use of existing facilities will be made in the without project condition and that the benefits of alternative with project conditions are correctly stated. The criteria for the best utilization of the system is the overall public interest, including but not limited to: safety, environmental impact, economic efficiency, and acceptability.

(ii) User charges and/or taxes provided for by law are part of the without condition. Proposed, or possible, fees, charges, or taxes are not part of the without condition.

(iii) The without project condition will assume that normal operation and maintenance will be performed on the waterway system over the period of analysis.

(iv) In projecting traffic movements on alternative modes, the without project condition will normally assume that the alternative modes have infinite capacity to move traffic at current costs.

(v) The without project conditions normally will assume that only waterway investments which are currently in place or under construction are in place over the period of analysis.

(2) *With project condition.* The with project condition is defined as the most likely condition expected to exist in the future if the project is undertaken. Since there are many alternatives, there are many "with project" conditions. The same assumptions underlie the with project condition that underlie the without project condition; however, the fifth assumption may be modified, as discussed below (item 6). The following discussion relates to the alternatives to be considered under the with project condition.

(i) Demand management by the use of congestion or lockage fees is a nonstructural alternative, which singly or in combination with structural devices may serve to produce an economic optimum in a congested waterway. A congestion fee can be used to incorporate into the shippers' cost and rate structure the costs of increased waiting time that each individual shipper imposes on other shippers when the waterway is congested. Waterway users consider their private costs but not costs they impose on other users. In congested situations an inefficiency may thus develop from a social cost perspective. By eliminating marginal waterway users through a congestion fee, the net benefits of a waterway can be increased. The demand reduction (nonstructural) alternatives should be evaluated in light of the full range of P&S evaluation criteria, on an equal basis with supply increasing (structural) alternatives.

(ii) Additional nonstructural measures not within the current purview of the operating agency will be considered as "supply management" measures. One example is traffic management. These supply increasing (nonstructural) alternatives, like demand reducing (nonstructural) alternatives, should be evaluated.

(iii) Another important class of alternatives is a combination of the nonstructural and structural measures.

(iv) Project alternatives can differ in their timing as well as in their physical characteristics. The optimal timing of projects and of individual project

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features should be considered in project formulation.

(v) Improvements in railroad, highway, pipeline, or other modes will not be analyzed as alternatives to improvement of the waterway. Of course, a comparison of the costs of moving traffic by alternative modes under current cost conditions is inherent in the NED benefit analysis required by this manual.

(vi) The inclusion of a currently authorized change in the waterway system not yet under construction is proper so long as an appropriate share of such associated costs is included in the costs of the alternative under study.

(d) *Evaluation prodecure.* (1) *General.* The following 10 steps are necessary to estimate navigation benefits. The level of effort expended on each step depends upon the nature of the proposed improvement, the state of the art for accurately refining the estimate, and the sensitivity of project formulation and justification to further refinement.

(i) *Identify the commodity types.* The commodity types susceptible to movement on the waterway will be identified. The level of detail for each commodity will not be prespecified in this manual; e.g., in some cases, "grains" is detailed enough, while in others "corn," "wheat" and "soybeans" are needed. Output: List of commodity types which may use the waterway segment under consideration for improvement.

(A) *New waterways.* Commodity types are identified primarily by shipper interviews and by resource studies. The former identify primarily shift of mode benefit potentials; the latter identify primarily shift in origin-destination and new movement potentials.

(B) *Existing waterways.* Commodity types are identified primarily by analysis of data on existing use of the waterway segment under study; e.g., data from the Performance Monitoring System (PMS) and the Waterborne Commerce Statistical Center (WCSC).

(ii) *Identify the study area.* The study area is the area within which significant project impacts are incurred. The origins and destinations of products likely to use the waterway are normally included in the study area. Output: Delineation of waterway study area by river segments.

(A) *New waterways.* The origins and destinations are determined primarily by shipper interviews and resource studies.

(B) *Existing waterways.* The origins and destinations are determined by analysis of data on existing use of the waterway segment under study; e.g., PMS and WCSC traffic traced to its ultimate origin and destination.

(iii) *Determine current commodity flow.* Data will be gathered for commodities in the study area susceptible to waterway movement as well as for those currently transported by waterway. The word current means at the time of the study. The word "flow" means tonnage. Output: An array of current tonnage by commodity type (step 1) and origin and destination (step 2) which either move by the existing waterway or are susceptible to waterway movement.

(A) *New waterways.* This step seeks to identify the total tonnage that could benefit from using the waterway. This information will be obtained primarily by shipper interviews. For shift in origin and destination and new movement benefits, care must be taken to identify whether such movements would likely occur if waterway transportation were available, based primarily upon interviews. Particular attention should be given to delivered price from substitute sources in the case of benefits, and to resource and market analyses in the case of new movement benefits. Current transportation costs in the area should be carefully assessed in all cases.

(B) *Existing waterways.* This step seeks to identify more than the existing "use" of the waterway. It seeks to identify any potential commodities that might utilize the waterway in response to a reduced transportation charge.

(iv) *Determine current cost of alternative movement.* This determination will be made for all the tonnages identified in the prior step. The alternative cost must include the full origin to destination costs, including handling, transfer, demurrage, and prior and subsequent hauls. The effect of seasonality on costs will be considered in this step. In calculating the cost of prior and subsequent hauls, care must be taken to avoid inappropriate aggregations and averaging of the costs of the movements where there is a wise geographic dispersion in ultimate origins and/or destinations, as in the case of grain traffic. This procedure requires use of price data wherever available as a proxy for long-run costs of movement by alternative modes. This step, combined with step 3, generates a first approximation of a demand schedule for waterway transportation given the cost of transportation by alternative modes, current levels of production, and the distribution of economic activity. Output: An array of the alternate cost of transportation for the output of step 3 above, and in combination with step 3, a first approximation of a demand schedule for waterway transportation.

(A) *New waterways.* In the case of rail, use the prevailing (existing) rate actually charged for moving the traffic to be diverted. For traffic induced by the waterway, the rail rate must be constructed as in step 4b.

(B) *Existing waterways.* Use rate and other price data wherever possible in estimating the cost of movement by alternative modes. In the case of rail movements, use prevailing rates which *(1)* are "competitive," and *(2)* are for movements that are "similar" to the individual move that would occur without the project if the rate for that move is not now used. The use of paper rates, i.e., rates at which no significant amount of traffic is actually moved, will be avoided. A rate is "competitive" to the extent that it is for traffic for which there is intramodal or intermodal competition within the relevant markets. In identifying a "similar" movement, the factors considered may include its geographic location, its degree of use, the characteristics of terrain, backhaul, contract division, seasonality, ownership of rolling stock, and physical rail connection to the shipper. It is the responsibility of the analyst to select rates which, in his view, best represent the long-run marginal costs of the movement. The use of cost estimates for particular moves may be useful in selecting the rate or rates which best meet the criteria of competitiveness and similarity. Where more than one similar and competitive rate is identified, an average may be used.

(v) *Forecast potential waterway traffic by commodity.* (A) This is a projection of the potential use of the waterway under study. Projections will be developed for selected years from the time of the study until the end of the project life, over time intervals not to exceed 10 years. Commodity projections will be set forth and documented for all commodity groups identified in step i and for the commodity flows identified in step iii.

(B) The level of effort expended will depend upon the nature of the proposed improvement, the state of the art for accurately refining the estimate, and the sensitivity of project formulation and justification for further refinement. Output: A list of potential waterway movements over the life of the project.

(1) Traffic base. This will consist of the waterway traffic share of commodity flows identified in the study area as delineated in step iii.

(2) Commodity forecasts. (*i*) The normal procedure for constructing commodity projections is to relate the traffic base to some type of index over time. These indices can be constructed by many different methods, depending on the scope and complexity of the issue under consideration and the availability of data and previous studies. Generally, OBERS projections are considered to be the demographic framework under which commodity projections will be made, but direct utilization as an index is not always appropriate. For some types of commodity groups, particularly those forming a small portion of the traffic base, indices constructed on the basis of OBERS projections are considered adequate, because these projections are of relatively minor importance within the framework of the total traffic projection. Refinements in such estimates add little to project formulation or justification.

(*ii*) There are many instances, however, where a direct application of OBERS derived indices is clearly inappropriate. Frequently, circumstances are present which distort the relationship between waterway flows and the economy described by OBERS. Even where total commodity flows can be adequately described through the use of indices derived from OBERS, factors such as increasing environmental concerns (e.g., those regarding use and source of coal), changes in international relations and trade (e.g., export grain) and resource depletion (e.g., minerals), as well as other factors, may seriously transform the relationship between waterway commodity flows and the economy described in OBERS. Where problems of these types can be identified, the analyst will undertake independent studies to ascertain the most appropriate method of projecting commodity flows.

(*iii*) The assessment of available secondary data will form the basis of these independent studies. These data will assist in delineating the bounds on the rate of increase for waterway traffic, as well as facilitate a better understanding of the problem. They will be supplemented with interviews of relevant shippers, carriers, and port officials, the opinions of commodity consultants and experts; and historical flow patterns. Commodity projections can then be constructed on the basis of the results of the independent studies.

(*iv*) Generally, specific commodity studies are of limited value for projections beyond (approximately) 20 years in the future. Given this limitation, it is preferable to extend the traffic projections to the end of project life through the use of some types of general indices on a regional and industry basis. Such indices can be constructed from the OBERS projections.

(*v*) In summary, where commodity groups are sufficiently important to project formulation and evaluation, specific studies on these commodity groups should be undertaken. Since reliable information for specific commodity groups is rarely available for the period beyond (approximately) 20 years from the time of the study, commodity projections will be extended through the end of project life by use of commodity indices constructed from OBERS or other generally accepted multi-industry and regional models. Less critical commodity groups should be projected over the life of the project using OBERS derived indices or other accepted models. Where the model does not contain projections through the end of project life, the projections will be extended using professionally accepted methods.

(vi) *Determine future cost of alternative modes.* (A) Projected cost per unit of each commodity will normally be the same as current cost. As stated in *part 3.a.(4),* the without condition will normally assume that the alternative modes have infinite capacity to move traffic at current costs. This step combined with step v provides a time series of demand schedules specific to a particular commodity O–D pattern. The projection of any change in future prices is subject to the caveats in the "General Discussion," and must be addressed as indicated below.

(B) A future rate must be a prevailing rate as defined in step (iv). It should reflect exclusively a shift in rates because of projected changes in the volume of shipments on a given mode or a shift from one mode to another (e.g., rail to pipeline). To support such a shift the analyst should show that the increase in volume will likely lead to a change in rate; for example, a change in volume of a commodity from one area to another does not insure sufficient point to point volume for a volume rate. Output: One or more arrays of cost per unit for movement by alternative modes over time for the commodities in step v.

(vii) *Determine current costs of waterway use.* The waterway transportation cost must include the full origin-to-destination costs including handling, transfer, demurrage, and prior and subsequent hauls for the tonnages identified in step 3. The effect of seasonality on costs will be considered in this step. In calculating the cost of prior and subsequent hauls, care must be taken to avoid inappropriate aggregations and averaging of the costs of the movements where there is a wide geographic dispersion in ultimate origins and/or destinations as in the case of grain traffic. The barge cost is the rate charged for moving the commodity by barge. Output: An array of current waterway costs associated with the commodities in step iii.

(A) *New waterways.* The current cost of waterway use represents the with project condition; there are no without project costs for waterway transportation.

(B) *Existing waterways.* Two arrays, one representing the without and one the with project condition, must be constructed. The difference between the two arrays reflects the reduction in current delays and any gains in efficiencies resulting from the alternative under consideration.

(viii) *Determine future costs of waterway use.* Two separate analyses are required for this step. First, the possibility of changes in the costs of the waterway mode for future years for individual origin-destination commodity combinations will be considered. The comments for step 6 apply generally. Second, the relationship between waterway traffic volume and system delay will be analyzed. This analysis must be in the context of the total volume of traffic on the waterway segments being studied for with and without project conditions. This analysis will generate data on the relationship between total traffic volume and delay patterns for different origin-destination patterns. Because delay patterns are functions of the mix of traffic on the waterway, this analysis may be undertaken iteratively in conjunction with step 9 to produce a "best estimate." Output: Arrays of waterway costs for movements overtime for the commodities in step (V) are subdivided into two categories: (A) individual costs (excluding increases in delay over current delays) and (B) system delay functions.

(ix) *Determine waterway use, with and without project.* At this point the analyst will have a list of commodities which potentially might use the waterway; the tonnages associated with each; the costs of using alternate modes and the waterway, including system delay functions with and without the project over time. This information will be used to project waterway use over time both with and without the project. Output: Waterway use over time, with and without the project. This is based upon:

(A) A comparison of costs for movements by the waterway and by the alternative mode, as modified by (B) below.

(B) Any changes in the cost junctions and demand schedules comparing *(1)*

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the current and future without condition and (2) the current and future with condition. Conceptually, this step should include all factors which might influence a demand schedule; e.g., impact of uncertainty in the use of the waterway; ownership of barges and special equipment; level of service; inventory and projection processes; and the like. As a practical matter, the actual use of a waterway without a cost savings or nonuse of a waterway with a cost savings depends upon knowledgeable judgment of navigation economists and industry experts.

(C) The "phasing in" or "out" of shifts from one mode to another should be accounted for in the analysis. Diversion of traffic from other modes to the waterway, as well as from the waterway to other modes as it becomes congested, will be based upon expected rate savings, as adjusted by any other factors affecting the willingness of users to pay or affecting the speed of the response mechanism to changes in the relative attractiveness of alternative modes. Specifically, in analyzing diversions from congested waterways, traffic diversions will be in order of the willingness of users to pay for waterway transportation. Those users with the lowest willingness to pay will be diverted first.

(x) *Compute annual benefits and discount.* Once the tonnage moving with and without a plan is known and the alternative costs and waterway costs are known, benefits can be computed using the applicable discount rate under section 80 of the Water Resources Development Act of 1974. Output: Total NED navigation benefits:

(A) For cost reduction benefits, the benefit is the reduction in cost of using or operating the waterway; the cost of the alternative mode was a factor in determining whether the tonnage would move both with and without the project, but is not a factor in computing benefits.

(B) For shift of mode benefits, the benefit is the reduction in costs comparing the alternative mode with the waterway.

(C) For shift of origin-destination benefits and new movement benefit, the benefit is the value of the delivered product less the transportation and production costs with the project. The transportation cost without the project (assuming the with project movement would have occurred) is a factor in categorizing these benefits and is normally an upper limit on the benefit, but it is not a factor in computing these benefits.

(2) *Problems in application.* (i) *Rate savings.* The ability to accurately compute the long-run marginal costs of particular rail movements on the basis of cost estimation studies is presently less than the ability to determine rates at which railroad traffic actually moves. In competitive markets, rates (prices) correspond to marginal costs, and, given market stability, prices will settle at long-run marginal costs. Moreover, it is the rates actually charged that determine the distribution of traffic among modes. Because of this, rates will be used to measure shift of mode benefits. Section 7a of the DOT Act of 1966 requires the use of prevailing rates, as defined in step 4 under "General Discussion." In the case of new waterways, this rate may or may not represent the best estimate of long-run marginal costs. In the case of existing waterways, prevailing competitive rates are the best available approximation of long-run marginal costs.

(ii) *Changes in system delays.* Differences in system delays resulting from project alternatives are difficult to compute. An assessment of system delays within the state of the analytic art is necessary for a comprehensive benefit analysis. It is necessary to rigorously analyze delays at all points in the system only to the extent that project formulation and justification are sensitive to such refinements, and to the extent that the state of the art permits accurate refinement of the estimate. Appropriate proxy measures may be used in lieu of individual assessments at each element in the system when evaluating system delays.

(iii) *Interaction of supply and demand schedules.* The entire procedure in the "General Discussion" is premised on an assumption that the supply and demand schedules are independent. In fact they are not. This problem is most acute when the variance in delays at high levels of lock utilization is considered. Essentially, shippers will not face an expected delay value but rather a highly uncertain delay value. Shippers' response to uncertainty (as reflected in the demand schedule) may be quite different than their response to an expected shipping cost (as reflected by the intersect of the supply and demand schedules). No further guidance on this problem is provided at this time beyond that in step 9b of the "General Discussion".

(iv) *Sensitivity analysis.* Project benefits are calculated on the basis of "the most probable" with and without project conditions. However, risk and uncertainty need to be addressed in the analysis of NED benefits and costs. For instance, major uncertainty exists in the proper measure of savings to shippers, namely difference in long-run marginal costs. In dealing with uncertainty, three techniques may be used; namely, establishing consistent sources of data, expanding the data gathering effort, and bracketing the range of benefits. The following two specific approaches will be used to implement the third technique, and the results in terms of their effects on project benefits will be displayed in tabular form in the project report.

(A) *Prespecified sensitivity analysis.* The following must be computed and included in the report:

(1) Current tonnage, new waterway.—For new waterways, benefits for the recommended alternative will be computed based upon current phased-in tonnage (steps 3 and 9c), current rates, and current fleet characteristics.

(2) Current rates, fleet.—For both new and existing waterways, benefits for the recommended alternative will be computed based upon tonnage over time, current rates (step iii), and current fleet characteristics.

(3) Growth beyond 20-year period.—The benefits for all alternatives carried to the system of accounts will be computed assuming no growth in tonnage, or changes in fleet characteristics or costs beyond 20 years in the future.

(4) Interest rate.—For projects whose interest rate is grandfathered under Section 80 of the 1974 Water Resources Development Act, average annual benefits will be computed using the current discount rate as defined by Section 80.

(5) User charges.—The effect of two alternative levels of user charges on project benefits will be investigated. Average annual benefits will be computed assuming that user charges which recover (1) 50 percent of and (2) 100 percent of the average annual costs of the waterway under study are in effect.

(B) *Other.* In addition the report will contain such other sensitivity analyses as are necessary to meet the objective of a clear, concise report that presents a range of benefit levels that represent data and assumptions about which reasonable persons might differ.

(3) *Data sources.* The data sources were discussed previously. This section provides instruction on the use of one key source, the interview questionnaire.

(i) *Interview.* Interview data can be used in each of the steps 1 through 9 of the "General Discussion". (Only OMB approved forms should be used.) Data should be collected by personal interviews if not available from secondary sources. Statistically sound techniques for selecting the interview sample and for devising the questions will be used. The questionnaire and a summary of responses will be compiled and displayed in the final report in such a way as to prevent individual disclosures.

(ii) *Other.* The basic organizational source for systematically collected waterway data is the Systems Analysis Branch, Planning Division, Office of the Chief of Engineers. This Branch can direct analysts to data available from other sources.

(e) *Report and display procedures.* Clear presentation of study results, as well as documentation of key input data assumptions and steps in the analysis, facilitates review of the report. Tables 7–10 are suggested presentations for all reports that include navigation objectives. (See also paragraphs (c)(1)(A), (d)(2)(iv), and (d)(3)(i) for additional reporting and display requirements.) The summary tables show that data can be presented which not only detail the national economic development benefits of a project, but also provide useful information on other aspects of the project such as its impact on physical commodity flows, on other modes of transportation, and on the location of economic activity.

Table 7.—*Summary of Average Annual NED Benefits and Costs for Alternative Projects*

[Thousands of October 1979 Dollars]

Applicable Discount Rate: ——

	Alternatives			
	1	2	3	N
Navigation benefits:				
Cost reduction benefits.				
Shift of mode benefits.				
Shift in O–D benefits.				
New movement benefits.				
Total navigation benefits.				
Other purpose benefits (list).				
Total project benefits.				
Project costs				
Net benefits				

Table 8.—*Time Phasing of NED Benefits for Recommended Project* [3]

[Thousands of October 1979 Dollars]

Applicable Discount Rate: ——

	Time period						
	Base years (specify)	Decade [1]					
		1	2	3	4	5	AAE [2]
Navigation benefits							
A. Cost reduction benefit							
1. Traffic volume (10^3 tons/year)							
2. Benefits							
B. Shift of mode benefit							
1. Traffic volume (10^3 tons/year)							
2. Benefits							
C. Shift in O–D benefit							
1. Traffic volume (10^3 tons/year)							
2. Benefits							
D. 1. Traffic volume (10^3 tons/year)							
2. Benefits							
E. Total navigation benefits							
Other purpose benefits							
Total project benefits							

[1] Value for last year of decade.
[2] Average annual equivalent.
[3] Comparable table for all detailed alternatives in the System of Accounts.

Table 9.—*Waterway Traffic and Delays, Without Project Condition*

	Current	Base Year	Decade [1]					
			1	2	3	4	5	AAE [2]
A. Waterway traffic (10^3 tons/year)								
(By major commodity group)								
B. Delays (minutes/tow):								
Study site								
Critical constraints								
Total system								
C. Delays ($/ton)								
Study site								
Critical constraints								
Total system								

[1] Value for last year of decade.
[2] Average annual equivalent.

Table 10.—*Waterway Traffic and Delays with Recommended Project* [3]

	Time period						
	Base year	Decade [1]					
		1	2	3	4	5	AAE [2]
A. Waterway traffic (10^3 tons/year)							
(By major commodity group)							
B. Delays (minutes/tow):							
Study site							
Critical constraints							
Total system							
C. Delays ($/ton)							
Study site							
Critical constraints							
Total system							

[1] Value for last year of decade.
[2] Average annual equivalent.
[3] Comparable table for all detailed alternatives in the system of Accounts.

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§ 704.128 Transportation (deep water ports) [Reseved].

§ 704.129 Recreation.

(a) *Purpose and Scope.* (1) This chapter outlines the concepts, methods, and procedures for valuation of the beneficial and adverse effects of water project recreation on national economic development. Its purpose is to provide Federal agencies engaged in water and related land use planning with acceptable recreation benefit valuation methods and criteria, together with procedures for implementation of these methods on a consistent basis.

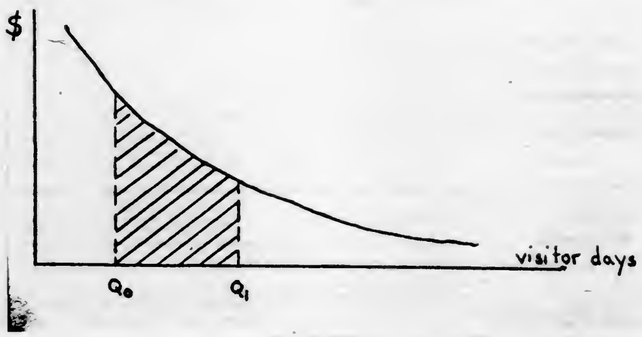
(2) Outdoor recreational activities include water-dependent activities such as swimming, boating, water-skiing, and fishing, and water-enhanced activities such as camping, hiking, picnicking, hunting, birdwatching, photography, sightseeing, and other activities. A portion of these public recreational demands are satisfied by the existence and development of Federal lands and waters through multiple-purpose water development projects that include specific provisions for enhancing recreation activities consistent with the requirements of the Federal Water Project Recreation Act of 1965 (Public Law 89–72). This act provides that full consideration shall be given to the opportunities which multiple-purpose and other Federal water projects afford for outdoor recreation and for associated fish and wildlife enhancement.

(3) The various valuation methods are presented in the form of a conceptual framwork that requires the Federal agencies to develop their own detailed procedures for implementation. Because the size, location, market, and design of each project will vary, the agencies are expected to select from the methods approved herein the appropriate detailed procedures for their operating situations.

(b) *Objective.* This chapter is designed to insure that recreation benefits of proposed projects are estimated accurately, consistently, and in compliance with the Principles and Standards. The objective is the ultimate adoption by Federal agencies of newer and more acceptable methods.

(c) *Conceptual Basis.* (1) Benefits arising from recreation opportunities created by a project are measured in terms of willingness to pay for each increment of output provided. Willingness to pay includes entry and use fees actually paid for site use plus any unpaid value (surplus) enjoyed by consumers. It is not appropriate to include payment for equipment, food, transportation, or lodging that may be involved with recreation activity, since these payments are not specifically for site use.

(2) Willingness to pay over a range of consumption levels is represented by a demand curve. Factors affecting the location and steepness of the demand curve include availability and cost of alternative opportunities, characteristics of project recreation facilities, and user population location, income, and other socioeconomic characteristics. In the diagram, curve DD represents the incremental willingness to pay for recreation in a given region, Q_o is the without project supply of recreation opportunities, and Q_1 is the with project supply. By summing the willingness to pay for each additional unit provided, the total willingness to pay can be represented as the area under the demand curve between the old and new supply. Because most recreation is publicly provided, it is usually not possible to estimate demand directly from observed price-consumption data. This manual describes accepted methods for approximating demand by means of surveys, travel behavior, and other quantifiable measures.



(3) Many proposed projects subject to NED benefit/cost analysis involve both recreation gains and recreation losses. For example, reservoir-related recreation may be provided while stream and associated terrestrial recreation may be lost. Net recreation benefits are defined as the value of the gains minus the value of the losses, and they may be positive or negative. If gains are valued as the aggregate amount that users are willing to pay (WTP) to enjoy the recreational gain, then losses should be valued as the aggregate of the minimum amount users would be willing to accept (WTA) to voluntarily accept the loss. Although logically correct, adequate methods of empirically estimating WTA values are not available. Therefore, WTP measures should be used to value both gains and losses of recreation associated with proposed projects.

(d) *Planning Setting.* (1) Changes in recreational use and value brought about by plan alternatives must be determined through the analysis of without project and with project conditions in planning areas over the prescribed period of economic analysis.

(2) The without project condition is defined as the pattern of recreational activity that would prevail in the absence of a Federal water project. Determining the economic value of the without project condition requires analysis of existing and probable recreational usage within potential project sites over the prescribed period of economic analysis. Recreation in the without project condition includes that which would be provided both formally and casually through both public and private means, including the de facto utilization of privately owned or controlled resources. The with project condition is defined as the pattern of recreation activity that is expected to prevail over the prescribed period of analysis with a Federal project in place. Analysis of the with project condition requires consideration of additional recreation opportunities, which constitute both separable and nonseparable aspects of project development, and existing recreation activity in the project site, which is diminished in quality or quantity due to project development and operation.

(3) The identification and evaluation of with and without project conditions is part of the broader planning context and presumes the proper consideration of other substantive planning aspects in response to the *Principles and Standards*, specific statutory requirements, or agency policies. Many of these considerations have an important bearing on the formulation of water resource plans, and thus have a direct influence on the valuation of recreation benefits and costs. Among these planning steps are (i) identification of recreation demands, (ii) establishment of planning objectives, (iii) inventory and appraisal of recreation resource capabilities and potentials, (iv) development and assessment of alternative plans, (v) evaluation of plan alternatives against stated planning objectives, and (vi) choice of the evaluation methodology.

(e) *Valuation Methods and Procedures.* (1) *Introduction.* (i) An overriding criterion governing the acceptability of valuation methods is that they be capable of measuring or reflecting the beneficial and adverse effects of recreation from water resource projects on national economic development. They must be based on sound economic rationale and possess an empirical basis which permits an objective and reproducible analysis of benefits and costs.

(ii) An acceptable valuation method has the following characteristics:

(A) Valuation is based on an empirical estimate of demand applied to the particular project.

(B) Demand estimates must reflect socioeconomic characteristics of market area populations, qualitative characteristics of recreation resources under study, and characteristics of alternative existing recreation opportunities.

(C) Valuation accounts for value of losses or gains to existing sites in area of influence (without project condition).

(D) Willingness to pay over time is based on projected changes in underlying determinants of demand.

(iii) Numerous valuation methods have been examined and assessed by the Water Resources Council in the preparation of this manual. While many of them generally adhere to the above criteria, they vary widely in basic approach, procedures, and results. The three methods discussed below are the travel cost method (TCM), the contingent valuation (or survey) method (CVM), and the unit-day value (UDV) method. The TCM utilizes the observed travel behavior of users together with the variable costs of travel to determine user willingness to pay, i.e., to derive a demand curve. CVM's obtain direct estimates of willingness to pay from samples of users. Experience indicates that the TCM and CVM methods can yield estimates of value with an accuracy equal to that of other project outputs.

(2) *Travel Cost Method (TCM).* The basic premise of the travel cost method is that per capita use of a recreation site will decrease as the out-of-pocket and time costs of traveling from place of origin to the site increase, other things remaining equal. The method consists of deriving a demand curve for a recreation site by using the variable costs of travel and the value of time as proxies for price. Using data collected from users of existing sites, the travel cost method premits development of (i) estimated use of the proposed site, (ii) a per capita demand function for recreation at the site, and (iii) an estimate of the NED recreation benefits of the site. The travel cost procedure consists of two steps: (A) estimating use, and (B) deriving a demand curve.

(i) *Estimating Use in the Travel Cost Method.* (A) *Use Estimating Models.* (1) The preferred method of estimating use is with a use estimating model (UEM) that relates use at a proposed site to distance traveled, socioeconomic factors, and charateristics of the site and alternative recreation opportunities. Use estimating models are based on data gathered at an existing site or cross section of existing sites with the resultant statistical coefficients used to estimate use at a proposed site. Factors that influence demand for recreation, such as characteristics of user populations and availability of alternative opportunities, are explicitly taken into account by variable in the model. A simpfilied UEM is shown below:

$$Y_{ij} = B_0 + B_1 D_{ij} + B_2 E_i + B_3 S_{ij} + B_4 Q_j$$

where

Y_{ij} is per capita visits to site j from origin i.
D_{ij} is distance from i to j.
E_i is a vector of demographic and socioeconomic variables for origin area i.
S_{ij} is a measure of recreation opportunities available to the population of i as alternatives to site j.
Q_j is a vector of variables measuring recreation quality at site j.
B_o, B_n, etc., the estimated coefficients, are used to predict use at a proposed site by calculating use from each area of origin and aggregating to get total estimated annual use.

(2) Application of an existing UEM to a proposed site involves the following: (i) delimit the areas of origin for the proposed project (use of counties or parts of counties as origin areas facilities gathering of data in subsequent steps); (ii) compute measures of the explanatory variables in the use equation for each origin area and for each year an estimate is required; (iii) calculate use from each area for each year; and (iv) aggregate use from each area to get estimated annual use.

(B) *Similar Project Use Estimation.* (1) The similar project procedure is based on the concept that recreation demand for a proposed project can be estimated from observations of visitation patterns at one or more existing projects that has similar resource, operation, and anticipated recreation-use characteristics. The procedure involves the graphic or statistical matching of recreation site planning alternatives under study with water resource projects and recreation resource areas for which use statistics and other information are known. The objective of the similar project procedure is to obtain as close a match as possible with respect to type, size, and quality of project; market area demographic and socioeconomic characteristics; the existence and location of competing recreation opportunities; and other demand influencing variables.

(2) The most efficient and technically sound similar project procedure is based on per capita use curves (i.e., regression curves relating per capita rate of use to travel distance) from which use estimates are derived. Per capita use curves have been estimated for 52 existing reservoirs.[1] An overview of the methodology adapted from Brown et al. is provided below.

(3) Briefly stated, use of the similar project prediction method is comprised of the following steps:

(i) Evaluate the characteristics of a proposed project or other area under study.

(ii) Select a similar project or area by comparing characteristics of the proposed project with available information for existing sites. This includes evaluation and comparison of the respective recreation market areas.

(iii) Modify the per capita use curve to reflect the dissimilarities between the similar project and the proposed project.

(iv) Determine the county populations within the market area for the year in question, and derive per capita use rates for each county population by measuring road-mile distance from the project to the center of the most populated city within the county (proxy for centroid of county population).

(v) Sum the contribution from each county per capita rate times county population.

(vi) Determine the percentage of total use that the foregoing estimate represents—if 100 percent, use as is; if less, adjust accordingly.

[1] Brown, R. et al., *Plan Formulation and Evaluation Studies: Recreation*, Vol. II, U.S. Army Engineer Institute for Water Research, 1974.

(4) A critical shortcoming of this similar project method is the subjectivity inherent in the manual adjustment of the per capita use curve which is required in order to account for demand factors other than travel distance.

The reliability of the method can, of course, be enhanced through experience. However, it cannot be expected to approach the reliability of the more sophisticated statistical models.

(ii) *Deriving Demand in the Travel Cost Method.* (A) The travel cost method is based on the correspondence between increasing the distance from areas of origin to the site and increasing the cost or price of recreation at the site. The second step of the procedure consists of calculating total use at different incremental distances (prices). It is based directly on use estimator models or per capita use curves. The result is a demand curve for the site being evaluated that relates "prices" to total visits. Distances are converted to dollar values using per mile conversion factors reflecting both time and out-of-pocket travel costs. The area under the demand curve plus any user charges or entrance fees measures the recreation benefits attributable to the site. The procedure is described in detail below.

(B) The estimate of recreation use for a project derived from application of a per capita use curve or UEM model yields an initial point on a resource's demand curve. This point is the quantity of use that would be demanded at a zero price. For example, assume that the appropriate per capita use rates have been estimated as follows:

Origin	Population	Distance	Visits per Capita	Estimated visitation
A	10,000	10	3	30,000
B	1,000	20	2	2,000
C	3,000	30	1	3,000
Total				35,000

(C) This estimate of 35,000 yields an initial point on the resource's demand curve. To find sufficient points to determine the entire demand curve, it is necessary to make small incremental increases in the price of participation and to measure the quantity of use that would be demanded given these changes. This is equivalent to moving the project farther and farther from the potential users, requiring them to pay more and more in travel costs to reach the project. As the simulated distance increases, use decreases, and for each increment in distance a new use estimate is computed using either the use estimating model or the per capita use curve.

The new use estimates are the various quantities of recreation that would be demanded at increasing prices.

(D) For example, assume that an increment of 10 miles in travel distance is used to simulate an increase in cost for the proposed project described above. The new estimate of use would then be:

Origin	Population	Simulated Distance	Visits per capita	Estimated visitation
	(Actual + 10)			
A	10,000	20	2	20,000
B	1,000	30	1	1,000
C	3,000	40	0	0
Total				21,000

(E) This would be a second point on the resource's demand curve; the quantity demanded (21,000 visits) at a price equivalent to the travel cost associated with an increment in distance of 10 miles. (A discussion of the proxy for price used to assign a dollar value to this increment is described below.)

(F) Remaining points on the resource demand curve are then estimated by making continued increments in the price (stimulated increases in distance) until the anticipated visitation from all areas of origin is zero. In the example above using 10-mile increments, the visitation expected with simulated increases in distance would be:

Origin	Estimated Visitation			
	Simulated increase in mileage			
	0	10 Miles	20 Miles	30 Miles
A	30,000	20,000	10,000	0
B	2,000	1,000	0	0
C	3,000	0	0	0
Total	35,000	21,000	10,000	0

(1) Proxy for Price.

(I) To determine the price at which the various quantities of use are demanded, it is only necessary to convert the incremental increases in distance to the costs that would be incurred by the recreation users if they were required to travel the additional mileage. The variable, or out-of-pocket, travel costs are used as the proxy for price since these are the costs that potential users would be most cognizant of when making a decision whether or not to visit a particular resource area.

(ii) The conversion of mileage to price is readily accomplished by the use of published results from studies conducted periodically by the U.S. Department of Transportation concerning the average cost of operating an automobile. The average variable costs from the most recent study 1976 data) are summarized below (U.S. Department of Transportation, 1977).

Average Variable Costs, in Cents Per Mile, To Operate an Automobile

Variable cost category	Automobile type			
	Standard	Compact	Subcompact	Average
Maintenance, Accessories, Parts, and Tires	4.2	3.4	3.1	3.6
Gasoline and Oil	3.3	2.5	1.8	2.5
Taxes on Gasoline, Oil, and Tires	0.9	0.6	0.5	0.7
Total	8.4	6.5	5.4	6.8

(iii) The variable cost reflects the average out-of-pocket cost per mile to operate various types of automobiles. It does not include such fixed costs as depreciation, insurance, and registration, since those costs would generally not affect the potential user's decision whether or not to travel the additional mileage for recreation purposes.

(iv) Two adjustments are required, however, before this cost can be used as the proxy for price. The first is an adjustment for round-trip mileage. Since the distance measure used in the per capita use curve or regional estimator is the one-way mileage, while the recreation use must incur the variable costs while traveling to and from the project, the cost per mile is doubled. Since more than one user may arrive in each vehicle, a second adjustment must be made to distribute the travel costs of the trip between the number of users within each vehicle. This can be readily accomplished by the use of the average number of users per vehicle determined from the data from the survey of existing sites that was used to develop the per capita use curve or regional estimator.

(v) The variable travel costs are the proxy for price associated with the simulated increase in distance utilized to derive the resource demand curve. Using the average variable cost for all three types of automobiles (6.8 cents per mile) and using a hypothetical average of 2.7 persons per vehicle, the proxy for price for a simulated increase in distance of 10 miles in the above example would be equal to $0.50 (6.8 cents per mile times 2 for round-trip mileage, divided by 2.7 persons per vehicle, times 10-mile increment).

(2) An adjustment for the Opportunity Cost of Time. (i) The use of just variable travel costs in the development of the demand schedules ignores the effects of time on recreationists' travel decisions. When time is ignored, the demand schedules are constructed under the hypothesis that increasing distance decreases use only because there is then a higher money cost. However, the additional time required to travel the increased distance would seem to be an equal or greater deterrent to the recreationist than the out-of-pocket money costs. The exclusion of the time factor introduces a consistent bias into the derived demand schedule, shifting it to the left of the true demand schedule and resulting in an underestimation of the recreation benefits.

(ii) Unfortunately, there is normally a high correlation between travel cost and travel time. People from more distant areas of origin generally must spend more time as well as more money getting to a site than people who live closer. It is therefore usually not possible to estimate the separate effects of the two variables in use estimation models. Ignoring the effect of time during benefit evaluation, however, will result in a consistent bias, an underestimation of the benefits.

(iii) One procedure which is often used to accommodate consideration for the disutility of time is to assume a known tradeoff between time and money. No universally accepted formulation of this tradeoff has yet been established and empirically tested. However, for the purposes of this manual, time will be valued as one-third the average wage rate in the county of origin for adults and one-fourth of the adult value (one-twelfth of the wage rate) for children in county of origin. Other values of time are permitted if supported by documenting evidence.

(3) Benefit Computation. (i) The final computational step in the travel cost approach is to measure the area under the demand curve. This area is equal to the amount users would be willing to pay but do not have to pay for the opportunity to participate in recreation at the resource being evaluated. Any user charges or entrance fees that would be incurred by the use of the site should be added to this value to determine the gross value of the resource associated with the specified management option.

(ii) As previously noted, the travel cost approach can be used for evaluating either the with or the without project conditions, so long as a use estimating model or per capita use curve is available for estimating use under the specified condition. When evaluating the without project condition, the estimate is of the value of the recreation that would be lost at a site if a water resource development project is undertaken. If evaluating a with project alternative, the estimate is of the value of the new recreation opportunities that would be created. If a use estimator is not available for evaluating either the without or one of the with project conditions, than one of the techniques described in other portions of this manual should be utilized.

(iii) The procedure described above is applicable for any type of activity or groups of activities for which use can be described by a use estimating equation or per capita use curve. The separation of day use from overnight use or sightseeing from other day use activities, for example, is dependent upon the specificity of the survey data and the model formulation.

(iii) *Data Requirements.* (A) Development of use estimator models as described above requires that data from existing areas be systematically collected. The major requirement is that the data on the use and the users of a range of types and locations of facilities span the types and locations of those proposed areas for which estimates are to be made. A series of surveys at existing sites can provide such basic data, which would normally include total use, timing and patterns of use, characteristics of users, and their areas of origin.

(B) Methods of data collection that have proven fairly satisfactory involve a short handout questionnaire or interviews of a small sample of randomly selected users of the different recreation areas. It is important that reliable total visit statistics be obtained for each existing area investigated. This can ususally be done satisfactorily with judicious use of traffic counters at most water-based recreation areas. If totals are collected throughout the season, samples for questionnaires or interviews need be drawn only on a few days—on both weekends and weekdays, as patterns are likely to vary greatly between them.

(C) The questions asked may be similarly limited. The major concerns are the origin and purpose of the trip and limited information about the party. A representative range of areas, facilities, and locational proximities should be covered in such surveys. Fully adequate methods are available that are relatively inexpensive, entail a minimum of difficulty at the site and to the user, and yield meaningful results.

(3) *Contingent Valuation (Survey) Methods.* (i) *Overview.* (A) Contingent valuation methods (CVM's) obtain estimates of changes in NED benefits as a result of changes in the quantity of recreation consumed by directly asking individual recreationists. V_{jk} is an individual household's willingness to pay (WTP) for changes in quantity, Q, of recreation at site j. Individual values may be aggregated across the population of the market area for facility j by summing V_{jk} for all n households in the market area:

$$V_j = \sum_{k=1}^{n} V_{jk}$$

(B) Contingent valuation methods consist of designing and using simulated markets to identify the value of recreational amenities just as actual markets would, if they existed. Three basic steps are involved: (1) the analyst establishes a market to the respondent; (2) he permits the respondent to "use" the market to make "trades" and establish prices or values which reflect the respondent's individual valuation of the recreation opportunities "bought" or "sold"; and (3) the analyst treats the values reported by the respondent as individual values for the recreation. contingent upon the existence of the market. The respondent's bids are used with the data contained in the market description (step 1) to estimate the aggregate value of the recreation being studied.

(C) Contingent valuation methods are particularly appropriate (1) for evaluating projects likely to be one of several destinations visited on a single trip, and (2) where a project results in a relatively small change in quality of recreation at a site. Contingent value results may be adversely affected unless questions are carefully designed and

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pretested to avoid several possible kinds of response bias. Several techniques are available for obtaining the individual bids, which are the basic data for CVM.

(ii) *Iterative Bidding Formats.* (A) Iterative surveys are distinguished from other contingent valuation methods in that, following establishment of the market and a complete description of the recreational good, service, or amenity to be valued, the respondent reacts to a series of values posed by the enumerator. The respondent answers "yes" or "no" to questions asking if he is willing to pay the stated amount of money to obtain the stated increment in the recreational good. The enumerator iteratively varies the value posed, until the highest amount which the respondent is willing to pay is identified. This amount is treated as the respondent's bid for the specified increment in the recreational good.

(B) Iterative bidding techniques are most effectively applied in personal interview surveys. Mail survey formats have also been used in research studies. These typically ask the respondent to react ("yes" or "no") to a small number of different but specified values stated in iterative questions and, finally, asked an open-ended question: "Now, write down the maximum amount you will be willing to pay. $———." At the present time, mail survey applications of the iterative bidding technique have not been adequately tested and cannot be recommended.

(C) The recreation facilities to be evaluated will be described in quantity, quality, time, and location dimensions. These should be hypothetical in the sense that they do not precisely describe features of actual sites or proposed projects, but should be described with sufficient precision that the respondent has adequate information on which to base a valuation. To permit estimation of regional models, quantity, quality, and location dimensions should be varied and the iterative bidding exercise repeated. Verbal descriptions should be precise, and in addition, wherever practicable, the pertinent aspects of the facilities should be displayed or depicted using nonverbal stimuli (e.g., photographs, artist's drawings, motion pictures, scale models, etc.).

(D) The good to be valued is "the right to use * * * (the recreation facility). * * * for one year." When the good is defined in this way, the V_{jk} obtained are *annual* measures of the individual's willingness to pay for the existence of a given increment or decrement in recreation opportunities which would be provided at site j. Where there are compelling practical reasons to use a bidding format which defines the good in some other terms (e.g., day of use, trip, etc.), sampling and aggregation procedures must be designed so that the annual values are calculated.

(E) The institutional rules pertaining to the hypothetical market will be described in sufficient detail that the respondent knows his rights and the rights of all others in the market. These rules should be realistic and credible. They should place the respondent in a role, and encourage market behavior with which he is familiar. They should be of a kind generally viewed as just, fair, and ethically sound. They should be nonthreatening: in particular, formats which threaten the respondent with a welfare shock that he may view as unfair should be avoided.

(F) Vehicles should be carefully pretested. At the pretest stage, always include a neutral vehicle, e.g. "the money collected will be placed in a trust fund and devoted entirely to providing * * * [the good]."

(G) The respondent should be provided price or value information and asked "would you buy?," with the clear understanding that "if no, then you would go without." The question "would you be willing to pay . . ?" should be avoided since this may be interpreted by some respondents as an appeal for voluntary contributions. Instead the question must be worded so as to suggest the pragmatic, if harsh, "take it, or leave it" atmosphere of the marketplace.

(H) Depending on the answer, "yes" or "no," the price or value is varied iteratively and the question is repeated until the respondent's point of indifference between the money and the good is identified. Early iterations may change the price widely until the enumerator senses that he is approaching the respondent's indifference point. Then, iterative price variations will become finer.

(I) The starting price quote (called "starting point") will vary across respondents. The particular starting point assigned to a given respondent will be chosen randomly.

(J) The method of payment (called the payment vehicle) should be specified. Payment vehicles which may, in and of themselves, generate an emotional reaction should be avoided; emotional reactions to a specific payment vehicle introduce a confusing element into the bid data. Vehicles based on tax increments, utility bill increments, and hunting or fishing license fee increments may introduce such problems.

(K) General formats for iterative bidding questions are presented below. (Specific examples follow.) The question form must be specific to the particular measure of value to be elicited from the respondent. WTP formats should always be used. However, WTP formats may be incremental (willingness to pay for an increment in a desired recreational opportunity) or decremental (willingness to pay to avoid a threatened decrement in a desired recreational opportunity). The incremental version has two major advantages: it is the theoretically correct measure and, since it confronts the respondent with the (hypothetical) chance to pay for a desired good, it is not likely to provoke an offended reaction on the part of the respondent. The decremental version, which asks the respondent to pay to avoid a change he does not want, may seem unfair or morally offensive to at least some, and thus may elicit biased or otherwise unreliable value estimates. The incremental version is preferred, wherever it is credible.

(L) The incremental version may not be credible where the real world experience is typically one of decrements rather than increments. To determine the value of remaining "unspoiled natural environments" in a world where these are fast disappearing, questions asking "if a new unspoiled natural recreation environment could be created and the right to use it would cost. * * *, would you buy?" may be rejected as fantasy by some respondents. In these circumstances, it may be necessary to resort to decremental formats. Since reasonable doubts can be raised, *a priori*, about the efficiency of WTP formats in this circumstance, the following precautions are essential: take great care to design the best (i.e., most consistent and plausible, and least offensive) formats; and pretest at least two differenct formats, in order to permit statistical testing for differences in the performance of alternative formats.

(M) General examples of the WTP formats are:

WTP incremental: "If you had the opportunity to obtain * * * [describe an increment in recreation facilities]. * * * [describe hypothetical market rules and payment vehicle] * * * would you pay * * * [starting price] * * *? Yes (pay)———. Or would you refuse to pay, and make do without * * * [the increment]? No(pay)———." Reiterate with new prices until the highest price eliciting a "yes" response is identified.

WTP decremental (example 1): "* * * [describe a decrement in recreation facilities] * * * will occur unless * * * [describe market rules and payment vehicle]. Would you pay * * * [starting price] * * * to avoid * * * [the decrement]? Yes(pay)———. Or would you refuse to pay, and thus permit * * * [the decrement]?———."

WTP decremental (example 2): " * * * [describe a recreation facility which is currently available to respondent] * * * is currently available * * * [describe existing market rules, existing payment vehicle, and existing price]. Unless * * * [the existing price] * * * is increased, * * * [describe a decrement in recreation facilities] * * * will occur. Would you pay * * * [starting price, which is some increment over the existing price] * * *, in order to prevent * * * [the decrement]? Yes(pay)———. Or would you refuse to pay, and thus permit [the decrement]? No(pay)———." Reiterate * * *

(N) Since some respondents may bid only zero amounts to WTP questions, it is important to identify which zero bids represent true zero valuations and which, if any, represent a protest against the rules or payment vehicles used in the iterative bidding format. Check questions should always be used to probe "zero" responses to WTP formats, e.g., "Did you bid zero because: (Check one).

(1) You believe * * * [the stated increment] * * * would be worth nothing to you?

(2) You believe * * * [the vehicle] * * * is already too high?

(3) You believe * * * [the statement increment] * * * would be of value, but you do not think it is fair to expect * * * [the respondent's class of citizen e.g. hunting license holders, utility customers] * * * to pay for it."

(O) Given this kind of question, answers (2) and (3) are "protest" responses, addressed not to the value of the good but to some element of the question format. Protest bids should be recorded but eliminated from calculations to estimate values. In pretests, formats that elicit more than 15 percent protest responses should be discarded, since a high incidence of protest bids may be an indication that some nonzero bids are also distorted.

(iii) *Noniterative Bidding Formats.* (A) Noniterative bidding formats are adaptable to implementation with mail surveys. There are two kinds of noniterative formats: *(1)* close-ended formats, which ask respondents to react ("yes" or "no") to a single stated value, and *(2)* open-ended formats, which ask the respondent to write down the maximum amount he would be willing to pay. A variant of the second kind of format asks the respondent to either select his maximum WTP from a list of stated discrete values or write down his maximum WTP. Noniterative bidding formats are not likely to be as reliable as iterative formats.

(B) The use of noniterative mail survey formats is generally discouraged. It is permissible only for recreation benefit analysis of small projects. Mail survey formats will, insofar as is practicable, retain the basic attributes of the personal interview formats described above. Survey instruments should be printed using a process that permits reproduction of color photographs and, if appropriate, other nonverbal stimuli.

(C) The sample should be divided, using open-ended bidding formats with one half and close-ended formats with the other half. The bids obtain using these two kinds of formats should be analyzed to determine if the format influences the results obtained, to a significant degree. Examples of these formats are presented below.

(D) *Open-ended:* Due to pressures of population growth and economic development, 10 miles of trout stream such as that shown in photograph ——— are likely to be converted to other uses (e.g., a reservoir) and thus lost for trout fishing. Assume the only way to preserve this 10-mile stretch for trout fishing is for trout fishermen to agree to buy an annual pass to fish in that stream segment. The money collected would pay for preservation of the stream section. If the stream segment was ——— miles from your home, and you could expect to catch ——— trout in a typical day's fishing there, what is the *maximum amount* you would pay for the annual fishing pass?

——————— Dollars per year ———————

(E) *Closed-ended:* (information presented does not change; the final question reads:) * * * and an annual fishing pass costs $——— (assign dollar amounts randomly to respondents). Would you buy one? Yes ——— No ———

(iv) *Use Estimation with CVM's.* (A) All of the contingent valuation procedures described thus far generate annual value estimates directly, instead of generating, first, values per user day and, then, estimates of expected user days. The "annual value estimation" procedure is superior, in that it is more reliable, it automatically corrects for the economic influence of existing recreation opportunities, and it is better adapted to estimating activity and existence values, where both are important.

(B) However, if for some reason values per user day are desired by analysts, contingent valuation formats can be designed to estimate such values. Questions are worded in terms of a day's activity rather than an annual valuation. Great care must be taken in the case of proposed increments to determine the respondent's valuation of a day at the proposed site, given the continued availability of existing sites. Estimates of use may be made *either* by collecting such information as part of the survey or by other approved methods.

(C) To collect use information in the survey, proceed as follows:

(1) For *decrements* in recreation opportunities, ask: how many trips the household made *(i)* last year and *(ii)* in a typical year, if last year was unusual for any reason; how many days did the trip last; and how many household members participated in each trip.

(2) For *increments*, ask: *(i)* the same information as for decrements, but pertaining to existing recreation sites similar to the proposed increment. Then, if the proposed increment (described with verbal and nonverbal stimuli) were made available: *(ii)* "how many trips, how long, and how many family members" for the proposed increment; and *(iii)* "how many trips, how long, and how many family members" *in total for both the existing and proposed sites.*

(v) *Using Contingent Valuation Methods.* Contingent valuation methods can be used to develop value estimator models or to estimate recreation benefits for a specific proposed project. These two uses are discussed below.

(A) *Value Estimator Models:* (*1*) Value estimator models (VEM's) are statistical models of the relationships between the bid and selected characteristics of the site(s) and user populations. A typical model has the form:

$$V_{jk} = B_0 + B_1E_k + B_2D_{jk} + B_3C_k + B_4S_{jk} + B_5 A_k + B_6Q_j + B_7,$$

where

V_{jk} is the value to household k of the specified change in recreation opportunity at site j.

E_k is a vector of social and demographic variables pertaining to household k, typically including income, ethnicity, and education.

D_{jk} is distance from home of k to site j.

C_k is a measure of the capacity utilization of the existing stock of recreation facilities similar to site j in the market area centered at k's home.

A_k is distance from the home of k to the nearest existing alternative facility

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offering recreational opportunities similar to site j.

S_{jk} is an index of the availability of substitute recreation facilities (e.g., ocean beach vs. reservoir beach) in the market area centered at k's home.

Q_j is a vector of variables describing the quality of recreation at site j.

$_i$ is the increment or decrement in recreation at site j specified in the contingent valuation mechanism.

(2) This method has several desirable characteristics: *(i)* the V_{jk} are current WTP estimates of value for increments and decrements in recreation opportunity; *(ii)* the V_j are annual values of the existence of the recreation facilities at site j, and thus replace user days and unit day values; *(iii)* the V_{jk} are not arbitrarily set at the same daily value for all users, as are unit day values; *(iv)* the variables in vector Q_j provide a systematic statistical basis for estimating how V_j varies with site quality; *(v)* the variables C_k, S_{jk}, and A_k provide a systematic statistical basis for adjusting V_j to account for competing and and substitute facilities.

(3) Estimating a value estimator model requires the following steps:

(i) The final bids, after any calculations necessary to convert them to annual household values, serve as the observations of the dependent variable.

(ii) The observations of demographic variables serve as observations for the first set of independent variables.

(iii) Existing recreation resource inventories and planning data provide the basis for specifying the second set of independent variables, i.e., those describing the existing stock of recreation opportunities. The location of each respondent's home is recorded on the completed survey instrument, and it, together with the above-mentioned inventory and planning data, permits calculation of individual observations of those variables which relate the existing stock of recreation opportunities to the location of the respondent's home. To complete the task of specifying these variables, some indices of availability and quality of the existing recreation stock must be developed. These include indices of facilities and conveniences and indices of site quality, especially esthetic quality.

(iv) Site-specific descriptors serve as the third and final set of independent observations. These are the data provided to the respondent and upon which he based each of his bids. The estimated esthetic score of each photograph used in the bidding process serves as one of these site-specific descriptors. Others include the size, distance, etc., information provided in the bidding format.

(v) Using the best available econometric techniques, the equation is then estimated. The dependent variable is expressed in terms of annual value per household and thus eliminates the need to separately estimate user-days and the mean value of a user-day.

(4) Using an existing VEM to estimate recreation benefits of a proposed project involves the following steps:

(i) Determine the market area for the recreation services affected by the project. If the market area is expected to exceed 120 miles, documentation of the reasons for this is required.

(ii) Determine, from census data, the demographic characteristics of the market area population.

(iii) Divide the market area into groups, on the basis of demographic variables and distance from the proposed site (one such group might be "households headed by a male of ——— ethnic group with 10–12 years of education, and household income between $12,001 and $15,000 annually, living 51–75 miles from the site).

(iv) The values of the variables describing existing recreation facilities obtained from inventory and planning data are calculated separately for each market subarea.

(v) The values of the variables describing project-specific attributes are obtained from project planning data.

(vi) Estimate, by using the above-mentioned data and the fitted model, the household value for the proposed increment or decrement in recreation opportunities for a typical household in each group.

(vii) Multiply this value by the number of households in the group, and sum the group values to get the aggregate benefit estimate.

(B) *Applying CVM to a Specific Proposed Project.* In some circumstances, CVM's may be used to estimate the recreation benefits of a specific proposed project. Special care must be taken in design of the survey instruments and editing of the data, however, as some respondents may try to influence the outcome of the analysis by their bidding responses. The survey design and sampling requirements of such a study are discussed in the following section.

(C) *Data Requirements. (1) Survey Design.* For contingent valuation exercises the survey instrument must contain two major sections: bidding formats and a section for collecting appropriate demographic data. In addition, a brief final section should elicit respondent feedback. Since there is no reason to prohibit the use of additional sections, other data useful for recreation planning may be gathered during the interview. Additional sections may include recreational activities, attitudes, recreational preferences, and projected use of proposed new recreational facilities. In order to minimize the inconvenience to respondents and avoid respondent fatigue and lapses of concentration, the complete interview should typically not require more than 30 minutes.

(2) Pretesting. (i) The basic survey instrument, including bidding formats and questions to collect additional data (e.g., demographic data, respondent's history of use of recreational facilities, etc.), must be pretested, using a sample of at least 30 respondents in order to generate a data set permitting appropriate statistical tests. The pretest sample should not be drawn from the same population as the actual study sample. Sampling procedures for the pretest are not especially crucial, but an attempt should be made to obtain a demographic cross section of recreationists. The pretest instrument should test a variety of bidding formats. A variety of hypothetical maket designs and payment vehicles should be pretested.

(ii) Nonresponses and protest responses should be tabulated for all bidding formats. Those formats eliciting large proportions (i.e., more than 15 percent) of such responses should be eliminated, or redesigned and retested. Statistical tests for information bias, vehicle bias, and starting point bias should be performed, and formats which generate any of these biases should be eliminated, or redesigned and retested.

(3) Sampling. (i) Following instrument pretesting and redesign, to the extent necessary, a sampling frame for the main survey should be drawn. The household is the basic sampling unit. For estimation of activity values, where reliable lists of participants are available (e.g., fishing license holder lists), samples may be drawn from such lists. For activity values where no such lists exist and for existence values, the sample must be drawn from the regional population of households.

(ii) Sampling procedures should have the performance characteristics of random sampling. To save travel time in a personal interview survey, randomized, cluster sampling is permissible, provided that no cluster has a size greater than one-thirtieth the sample size. Sample size should be no less than 200 households. The respondent selected to answer on behalf of the household should preferably be the head-of-household or spouse-of-the-head. Other members of the household are acceptable, in the absence of the head and spouse, provided they are adults who have assumed a responsible life-role (e.g. parent, or financially self-supporting).

(iii) Random sampling methods are also used for mail surveys. It is necessary to use at least two followup mailings to reduce nonresponse. In addition, a random telephone survey of 10 percent of the nonresponses remaining after the second followup mailing is necessary. The results of the telephone survey must be analyzed separately in order to permit testing for nonresponse bias.

(4) Specific Proposed Project Requirements. (i) Procedures for valuing recreation benefits using project-specific iterative bidding formats do not differ, in some respects, from the procedures outlined above. In the following, those aspects which are different will be highlighted.

(ii) The population to be sampled is that of the market area(s) for the various categories of recreation opportunities which would be beneficially or adversely affected. Survey instruments follow the basic format described above. The major exception is that the bidding formats provide site-specific information pertaining to the proposed project, itself. Photographs and other stimuli should be focused on the "without project" condition, for information pertaining to the proposed project, itself. Photographs and other stimuli should be focused on the "without project" condition, for adverse effects, and the "with project" condition, for beneficial effects. In the latter case, it may be essential to use photographs taken at the site of a completed, but similar, project.

(iii) Individual bid data must be used as observations to test carefully for biases, including vehicle bias, information bias, starting point bias, and strategic bias, using established statistical testing procedures. Evidence of bias should lead to elimination of formats producing bias at the pretest stage, and lead to reporting of any bias remaining after all instrument redesign possibilities have been exhausted. Final bids are aggregated across the sample and then projected to the market area population. These "population aggregate bids" are then used as estimates of the total value, positive or negative, of the effects, beneficial or adverse, of the proposed increments or decrements in recreation opportunities. Net project recreation effects are calculated as above.

(4) Unit Day Value. The unit day value (UDV) method is an approach for estimating recreation benefits that relies on expert or informed opinion and judgment to approximate the average willingness to pay by users of Federal or federally assisted recreational developments. By applying a carefully thought-out and adjusted unit day value to estimated use, an approximation is obtained that may be used as an estimate of project recreation benefits if the agency can demonstrate that more reliable TCM or CVM estimates are either not feasible or not justified for the particular project under study, as discussed under applicability criteria. (Section 7).

(i) *How to Implement.* (A) Where the UDV method is used for economic evaluations, planners will select a specific value from the range of values provided in the most current published schedule. Application of the selected value to estimated annual use over the project life, in the context of the with and without framework of analysis, provides the estimate of recreation benefits.

(B) Two classes of outdoor recreation days, general and specialized, may be differentiated for evaluation purposes. "General" refers to a recreation day involving primarily those activities which are attractive to the majority of outdoor recreationists and which generally require the development and maintenance of convenient access and adequate facilities; "specialized" refers to a recreation day involving those activities for which opportunities in general are limited, intensity of use is low, and a high degree of skill, knowledge, and appreciation of the activity by the user may often be involved.

The following national schedules of recreation day values are provided for current use:

Type of Recreation Day	Range of Unit-Day Values
General	$1.07–$3.22
Specialized	$4.29–$12.87

(C) Estimates of total recreation days of use for both categories, where applicable, will be developed. The general class constitutes the great majority of all recreation activities associated with water projects, embracing the more usual activities such as swimming, picknicking, boating, and most warm water fishing. Activities less often associated with water projects, such as big game hunting and salmon fishing, are included in the specialized class. A separate range of values is provided for each class and for fishing and hunting in a conversion table (Table 13) to facilitate adoption of a point system in determining the applicable unit values for each individual project under consideration.

(D) When employing this method to determine recreation benefits, departure from the range of values provided is not permissible. Where evidence indicates a value which should be outside the published range, the TCM or CVM will be required to evaluate recreation benefits.

(E) In every case, planners are expected to explain the selection of any particular value. To assist in explaining a specific value, a point rating method may be used. The method illustrated here contains five specific criteria and associated measurement standards designed to reflect quality, relative scarcity, ease of access, and esthetic features. The list of criteria and weights assigned may vary with the situation. Therefore, public involvement should occur in the value determination process. Planners in the various agencies are also expected to make appropriate use of studies of preferences, user satisfaction, and willingness to pay for different characteristics. In doing so, particular efforts should be made toward using estimates derived elsewhere from applications of the TCM and CVM techniques, in supporting the UDV.

(1) General Recreation (Table 11). Activities in this group are those associated with relatively intensive development of access and facilities as compared to the specialized recreation class. Generally, progressively higher physical standards for each unit of carrying capacity would be involved in selecting higher unit values, and these may be accompanied by larger related non-project costs.

(2) Specialized Recreation (Table 12). *(i)* This group includes those activities whose values are generally lowered, if not actually excluded in some cases, by the type of development that enhances activities in the general recreation class. Thus, extensive or low density use and development constitutes the higher end of this range of values; for example, big game hunting and wilderness pack trips. Also included in the upper end of the range are relatively unique experiences such as inland and marine fishing for salmon and steelhead, white water boating and canoeing, and long-range boat cruises in areas of outstanding scenic value. Examples of activities to which values at the lower end of the range would be assigned include upland

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bird hunting and specialized nature photography.

(ii) The unit day values to be used for both the general and specialized recreation classes should be further adjusted to reflect additional quality considerations expected to prevail at various project sites in various regions of the Nation, and weighted according to importance to the users. For example, a reservoir that is expected to carry a relatively heavy load of suspended silt or is expected to be used beyond optimum capacity would be less desirable, and therefore of lower unit value, than one that will have clear water and be less crowded.

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TABLE 11: Guidelines for Assigning Points for General Recreation

Criteria	Judgment Factors				
a) Recreation Experience Total Points: 30 Point Value:	Two general activities 3/ 0-4	Several general activities 5-10	Several general activities; one high quality value activity 4/ 11-16	Several general activites; more than one high quality value activity 17-23	Numerous high quality value activities; some general activities 24-30
b) Availability of Opportunity 7/ Total Points: 18 Point Value:	Several within 1 hr. travel time; a few within 30 min. travel time 0-3	Several within 1 hr. travel time; none within 30 min. travel time 4-6	One or two within 1 hr. travel time; none within 45 min. travel time 7-10	None within 1 hr. travel time 11-14	None within 2 hr. travel time 15-18
c) Carrying Capacity 1/ Total Points: 14 Point Value:	Minimum facility development for public health and safety 0-2	Basic facilities to conduct activity(ies) 3-5	Adequate facilities to conduct without deterioration of the resource or activity experience 6-8	Optimum facilities to conduct activity at site potential 9-11	Ultimate facilities to achieve intent of selected alternative 12-14
d) Accessibility Total Points: 18 Point Value:	Limited access by any means to site or within site 0-3	Fair access, poor quality roads to site; limited access within site 4-6	Fair access, fair road to site, fair access, good roads within site 7-10	Good access, good raods to site; fair access, good roads within site 11-14	Good access, high standard road to site; good access within site 15-18
e) Environmental Quality Total Points: 20 Point Value:	Low aesthetic factors 5/ exist that significantly lower quality 6/ 0-2	Average aesthetic quality; factors exist that lower quality to minor degree 3-6	Above average aesthetic quality; any limiting factors can be rectified reasonably 7-10	High aesthetic quality; no factors exist that lower quality 11-15	Outstanding aesthetic quality; no factors exist that lower quality 16-20

FOOTNOTES

1/ Value should be adjusted for overuse.

2/ Value for water-oriented activities should be adjusted if significent seasonal water level changes occur.

3/ General activities include those which are common to the region and which are usually of normal quality. This includes picnicking, camping, hikhiking, riding, cycling, fishing and hunting which which would be of normal quality.

4/ High quality value activites include those which are not common to the region and/or nation and which are usually of high quality.

5/ Major aesthetic qualities to be considered include geolo and topography, water, and vegetation.

6/ Factors to be considered in lowering quality include air and water pollution, pests, poor climate, and unsightly adjacent areas.

7/ Likelihood of success at fishing and hunting.

8/ Intensity of use for activity.

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TABLE 12: Guidelines for Assigning Points for Specialized Recreation

Criteria	Judgment Factors				
a) Recreation Experience 8/ Total Points: 20 Point Value:	Heavy use or frequent crowding or other interference with use 0-2	Moderate use, other users evident and likely to interwith use 3-6	Moderate use, some evidence of other users and occasional interference with use due to crowding 7-10	Usually little evidence of other users, rarely if ever crowded 11-15	Very low evidence of other users, never crowded 16-20
b) Availability of Opportunity 7/ Total Points: 18 Point Value:	Several within 1 hr. travel time; a few within 30 min. travel time 0-3	Several within 1 hr. travel time; none within 30 min. travel time 4-6	One or two within 1 hr. travel time; none within 45 min. travel time 7-10	None within 1 hr. travel time 11-14	None within 2 hr. travel time 15-18
c) Carrying Capacity 1/ Total Points: 14 Point Value:	Minimum facility development for public health and safety 0-2	Basic facilities to conduct activity(ies) 3-5	Adequate facilities to conduct without deterioration of the resource or activity experience 6-8	Optimum facilities to conduct activity at site potential 9-11	Ultimate facilities to achieve intent of selected alternative 12-14
d) Accessibility Total Points: 18 Point Value:	Limited access by any means to site or within site 0-3	Fair access, poor quality roads to site; limited access within site 4-6	Fair access, fair road to site, fair access, good roads within site 7-10	Good access, good raods to site; fair access, good roads within aite 11-14	Good access, high standard road to site; good access within site 15-18
e) Environmental Quality Total Points: 20 Point Value:	Low aesthetic factors 5/ exist that significantly lower quality 6/ . 0-2	Average aesthetic quality; factors exist that lower quality to minor degree 3-6	Above average aesthetic quality; any limiting factors can be rectified reasonably 7-10	High aesthetic quality; no factors exist that lower quality 11-15	Outstanding aesthetic quality; no factor exist that lower quality 16-20

FOOTNOTES

1/ Value should be adjusted for overuse.

2/ Value for water-oriented activities should be adjusted if significant seasonal water level changes occur.

3/ General activities include those which are common to the region and which are usually of normal quality. This includes picnicking, camping, hikhiking, riding, cycling, fishing and hunting which which would be of normal quality.

4/ High quality value activites include those which are not common to the region and/or nation and which are usually of high quality.

5/ Major aesthetic qualities to be considered include geolo and topography, water, and vegetation.

6/ Factors to be considered in lowering quality include air and water pollution, pests, poor climate, and unsightly adjacent areas.

7/ Likelihood of success at fishing and hunting.

8/ Intensity of use for activity.

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Table 13.—*Conversion of Points to Dollar Values*

Activity categories	Point values										
	0	10	20	30	40	50	60	70	80	90	100
General Recreation (Points from Table E-1)	1.07	1.25	1.44	1.68	1.93	2.30	2.46	2.67	2.85	3.04	3.22
General Fishing and Hunting (Points from Table E-1	1.57	1.74	1.90	2.07	2.26	2.51	2.73	2.94	3.06	3.17	3.20
Specialized Fishing and Hunting (Points from Table E-2)	7.50	7.69	7.88	8.08	8.27	9.08	9.80	10.57	11.34	12.10	12.87
Specialized Recreation Other than Fishing and Hunting (Points from Table E-2	4.29	4.65	5.00	5.36	5.72	6.44	7.15	8.58	10.01	11.44	12.87

NOTE.—Unit-Day recreation values may not exceed the values provided by this table.

(iii) Hunting and fishing may be treated either as general recreation (Table 11) or specialized recreation (Table 12) depending upon whether it is associated with developed areas or back country areas, respectively. In either case, the recreation experience (criterion "a" in the tables) will be given points according to the additional consideration of the chances of success with the midpoint of the value range associated with the region's average catch or bag. Other criteria may be modified, if appropriately based on available evidence about the preferences and willingness to pay of hunters and fishermen for different recreation quality factors.

(iv) The degree to which alternative nonproject opportunities are available to recreationists would also be considered in the assignment of values. Higher values should be assigned if the population to be served does not have existing water-oriented recreation opportunities. If water-oriented recreation opportunities are relatively abundant, as compared to other outdoor recreation opportunities, lower unit values should be assigned, even if a large number of visitations are expected at the proposed development.

(3) Establishing Specific Values Within Each Range. Unit values selected are to be considered net of all associated costs of both the users and others in utilizing or providing these resources and related services. The agencies will be encouraged through review procedures, demonstration projects, and educational workshops to adopt the TCM and CVM techniques for project evaluations that would otherwise have used UDV's. As agencies gradually adopt the CVM and TCM, and develop a more comprehensive set of regional models, reliance on the UDV can be expected to diminish.

(ii) *Estimating Use in the UDV Method.* (A) Using the ranges of values requires first estimates of annual use foregone and expected at recreation sites being studied. Use can be estimated by means of a use estimating equation or per capita use curve as discussed above, but if such are available the second step of the travel cost method should generally be used instead of UDV's to derive benefit estimates.

(B) The capacity method is an alternative method of estimating use, but one with severe limitations. The capacity procedure involves the estimation of annual recreation use under without project and with project conditions through the determination of resource or facility capacities (taking into consideration instantaneous rates of use, turnover rates, and weekly and seasonal patterns of use). Seasonal use patterns are climate and culture dependent and probably account for the greatest variation in use estimates derived through this method. In general, annual use of outdoor recreation areas, particularly in rural locations and in areas with pronounced seasonal variation, is usually in the neighborhood of 50 times the design load. Design load is the number of visitors to a recreation area or site on an average summer Sunday. In very inaccessible areas and in those known for more restricted seasonal use, the multiplier would be less, and in urban settings or in areas with less pronounced seasonal use patterns, the multiplier would be greater. In any case, the actual estimation of use involves an analytical procedure using instantaneous capacities, daily turnover rates, and weekly and seasonal use patterns as specific data inputs.

(C) Because the capacity method does not involve the estimation of site specific demand, its use is valid only when it has been otherwise determined that sufficient demand exists in the market area of project alternatives to accommodate the calculated capacity. On this basis its greatest potential would be in urban settings where it is obvious on the surface that sufficient demand exists. Additionally, its use should be limited to small projects possessing (*1*) a facility orientation (as opposed to a resource attraction) and (*2*) restricted market areas that would tend to make the use of alternative use estimating procedures less useful or efficient.

(1) Calculating Values. The estimates of annual use are combined with the selected unit day values to get an estimate of annual recreation benefits. The value assigned to each activity or category of activities will be multiplied by the number of recreation days estimated for that activity. The products are then summed to obtain the estimate of total value of an alternative. Recreation days to be gained and to be lost or foregone as a result of a particular alternative shall be listed and valuated separately, not merely shown as net recreation days. Transfers of recreational users to or from existing sites in the region must be calculated, and the net regional gain or loss used in the final benefit estimated. Adequate information must appear in the discussion of the use estimation and valuation procedure or elsewhere in the report concerning the alternative being considered, so that a reader of the report could derive a similar value for each activity.

(2) Updating. The Water Resources Council will update the schedule of monetary unit values annually in October and publish them in the **Federal Register**. This updating will be based on the Consumer Price Index for all items and all consumers for September of that year or on improved market data. These revised values will be using during the fiscal year for all new project studies, reevaluation of studies, or reformulation of studies meeting the criteria for use of this technique.

(f) *Regional Recreation Benefit Models.* (1) Regional recreation benefit models (RRBM's) are statistical models based on data from existing recreation sites in a region that can be used to estimate recreation benefits of proposed water resource projects. Use estimator models (EUM's), based on travel cost studies, and value estimator models (VEM's), based on contingent value surveys, are regional models if eatimated with appropriate regionwide data. The principal difference between UEM's and VEM's is that the former predict use as a first step of the travel cost method discussed in section 5–b above, while the latter predict

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recreation value directly. Both methods result in statistical equations which relate recreation benefits to the characteristics of the recreation area and user populations. By using data on the demographic and socioeconomic characteristics of potential user populations and known attributes of a proposed recreation site, analysts can use an existing RRBM to derive recreation benefit estimates for proposed projects.

(2) Development of RRBM's requires systematic collection of data from existing recreation areas. Data are needed on the use and users of a range of exsisting types and locations of facilities similar to the proposed projects to be evaluated.

(3) Currently available regional estimators are limited in terms of the recreational activities and areas of the country that are covered, far short of the needed series of regional estimators applicable to the 21 major water resources regions. The models would provide estimates of NED beneifts from major categories of recreation activities at proposed project sites. Such models emphasize water-based recreation activities, but will also allow evaluation of non-water-based recreation that would be foregone if proposed projects are undertaken. The recreation activities to be emphasized in the regional models will differ from region to region. Over time, as additional regional studies are completed, the "library" of regional estimators will grow, and the usefulness of the method will increase as compared to project specific studies.

(4) A cooperative effort among Federal agencies under the auspices of the Water Resources Council to develop models for the 21 water resource regions is desirable. Collaboration among agencies in the development of models will:

(i) Make efficient use of data collection efforts and scarce analytical talents needed to apply the TCM and CVM techniques.

(ii) Minimize respondent burden from public surveys.

(iii) Provide a uniform data set and methodology for all agencies engaged in recreation planning in a particular region.

(iv) Facilitate prompt application of up-to-date methods throughout the Federal agencies.

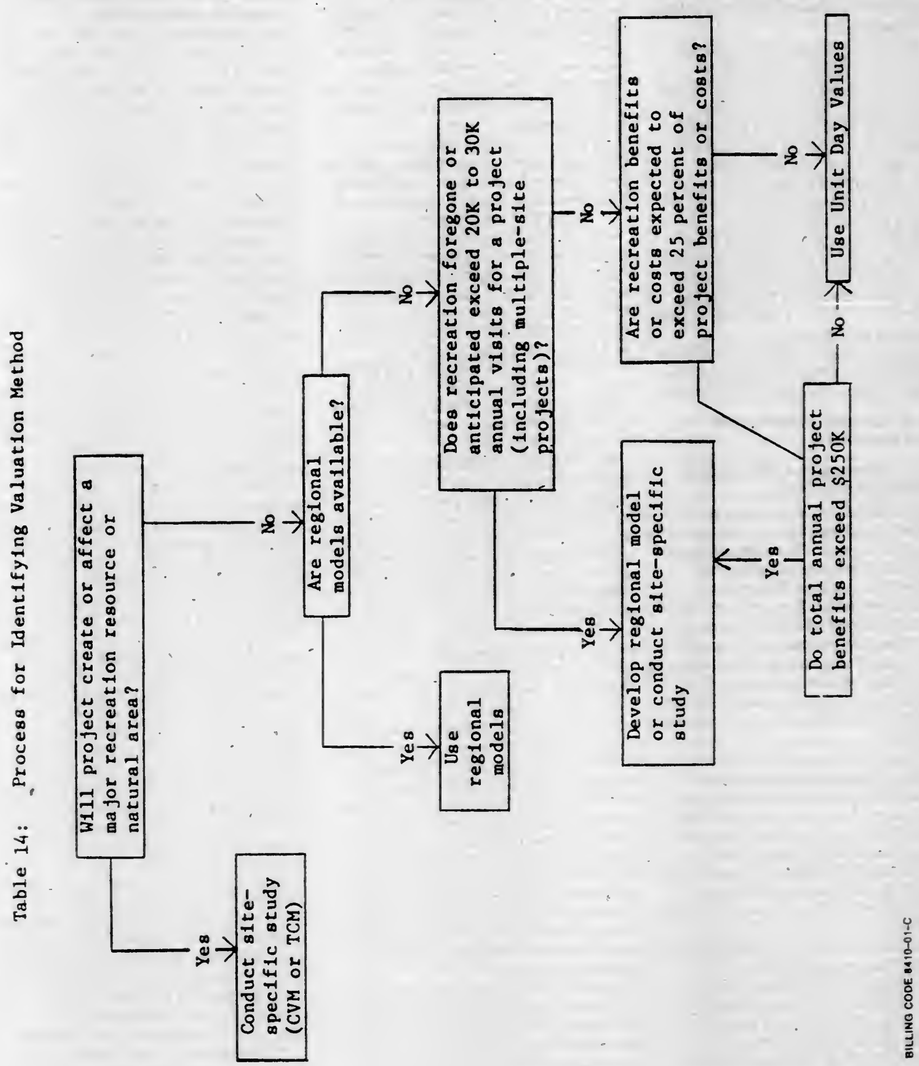
(5) The Water Resources Council will periodically publish a list of regional recreation benefit estimation models that can be used to evaluate proposed projects. The WRC will specify for what types of project, kinds of recreation activity, and region(s) of the country each of the models is appropriate.

(g) *Application of Alternative Valuation Methods.* (1) The valuation methods discussed above vary widely in their conceptual correctness, statistical reliability, and ease of application in terms of both cost and time. The framework for application outlined below is an attempt to balance the costs of developing recreation benefit estimates with the need for accurate, reliable estimates in a range of water and related land resource planning situations.

(2) The framework considers three basic dimensions of water and related land resource planning situations, two measures of the size of the recreation benefit created or displaced by the proposed project, and the nature of the recreation resource involved. A project which would result in or displace fewer than 20,000 to 30,000 recreation days annually will be considered "small." The framework also takes into account the relative size of recreation compared to other project outputs and costs by requiring a more accurate valuation method of recreation benefits or costs. The nature of the recreation resource involved provides the third criterion. Projects involving major recreation resources or natural areas require a specific CVM or TCM study. If such a resource is not involved, the valuation method to be used depends on other factors, as depicted in Table 14.

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Table 14: Process for Identifying Valuation Method



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(h) *Risk and Uncertainty.* In general, the application of risk and uncertainty analysis to the recreational components of project benefits and costs will follow the methodology described in Section II-B of this manual.

(i) *Report and Display Procedures.* The report and display procedures outlined in this section are not intended to substitute for, but are viewed as supplements to, the normal reporting procedures followed by the Federal water agencies to facilitate project review. In terms of content, the report and display procedures used in official planning reports should follow essentially the same functional steps and format used in this manual part. As far as level of detail is concerned, the general rule to follow is that planning reports should permit a technical review of planning and evaluation results. However, agencies should be capable of providing necessary backup for a more detailed review of all pertinent aspects.

§ 704.130 Commercial fishing and trapping [Reserved].

§ 704.131 Increases in output resulting from external economies.

(a) *Introduction.* This chapter provides procedural guidance for the evaluation of national economic benefits associated with external economies of Federal water resources plans. External economies represent the net increases in national economic efficiency that result from a plan if an increase in the output of final consumer goods or intermediate goods takes place beyond that which would be obtained in the absence of the plan, and over and above direct outputs of the plan.

(b) *Conceptual basis.* (1) External economies considered here are the beneficial effects to individuals, groups, or industries which occur as an indirect result of the project or plan. They are measured as the NED value of the increased output of intermediate or final consumer goods or services beyond those which will occur as a direct result of the plan.

(2) Externalities may be classified as technological or pecuniary. *Technological external economies* involve changes in efficiency due to project induced shifts in the production functions of a firm or relaxation of constraints to allow the firm to move to the minimum point on the average cost curve. Such external economies exist only where output of firms and/or individuals becomes more efficient through the use of new or improved technology made profitable by the direct output of the project. *Pecuniary external economies* relate to the financial effects of one project or plan on others, as encompassed in price changes for outputs or inputs. These effects represent a shift in prices and do not normally represent changes in resource use efficiency, but are rather transfers between economic sectors that have distributional but not output increasing impacts and therefore are not relevant to NED analysis.

(c) *Planning setting.* Standard planning procedures consistent with the Principles and Standards will be used. This procedure requires comparison of the "with-plan" condition to the "without-plan" condition. In the area of external economies it is important that the agency directing the plan define the project or plan's boundary of influence on direct users of the project's output. Economic efficiencies gained by firms and individuals in production and consumption, but not delineated as the primary beneficiaries of direct project output, will be valued and measured as beneficial effects from external economies to the plan.

(1) *Without project conditions.* The future expected to exist without implementation of the plan is to be forecasted. Future projections for direct users, as well as a separate forecast of external economics without the plan, must be made. This forecast predicts without project levels of output and production levels based on available levels of inputs excluding a new water resource project. The "without" forecast must account for the real output level expected in the absence of the plan.

(2) *With project conditions.* The future with the plan will be forecasted and its areas of influence delineated to include direct beneficiaries only. The agency planners will then look at firms and individuals and determine whether the output of the direct users is used as input and leads to economic efficiency for the related firms. Those external economies identified without the plan and with the plan are compared. Only the new or additional changes that can be anticipated as a result of a proposed plan should be attributed as beneficial effects of the plan.

(d) *Evaluation procedure.* (1) *General.* (i) External economies can exist only if the related resources 1) are immobile, 2) are unemployed or underemployed, and 3) will utilize or benefit from project output to increase their productivity or output. If such impacts can be priced, their total values can be computed and added to the benefits. Whether or not their values should be added in, if they affect production possibilities in a potential enterprise, depends upon whether or not (and when) the enterprise is really expected to materialize. Technological external economies will only accrue to firms and individuals existing today.

(ii) Technological external economies can be computed as a reduced average cost per unit of output or as an increase in value added. In those cases where these effects are obviously less than the planning cost required to evaluate them, no evaluation should be made. In most cases, if the technological external economy can be identified as a result of project action, the effects should be measured. The measurement techniques for evaluating are the same as those used for direct benefits and must be developed for each change function. These techniques are directed toward measuring the marginal benefits less the marginal costs of the affected firm.

(iii) The following are two examples of technological external economies:

(A) *Municipal and Industrial Water Supply.* The provision of water supply for community and residential use will not generally stimulate external economies to enhance national economic development. It is usually assumed that the necessary quantities of these outputs will be provided by some alternative means in the absence of the plan. In dealing with a conservation plan for M + I water supply, an externality may exist under certain conditions. In a proposed plan, the direct users' sewage treatment plant is capable of treating a given amount of waste water. Under the "without" condition plan, the plant would need to be enlarged in order to treat the increased amount of waste water predicted for the city. Under the "with" plan condition, the city implements a conservation plan, and the plant ends up treating less waste water. Any reduction of waste water treatment costs is a benefit to the city and an external economy to the plan.

(B) *Flood Control, Land Stabilization, Drainage, and Related Activities.* A flood control plan is being considered to protect a strip of land through an urban area. The direct benefits will accrue to those protected by the project from flood waters and the protection of bridges and other structures built through the flood plain. The "without" plan indicates that the property in the floodway would be subject to heavy flood damages, possibly every 25 years. The "with" plan condition would convert the flood zone to a city green way with golf courses, playgrounds, and various low level recreation uses. Overlooking the floodway are ten homes. "Without" the plan the values of the homes would be the same as today. "With" the plan the values of the homes would be enhanced by the proposed green belt with parks. The increase in value would be counted as an external economy to the owners and the plan.

(2) *Problems in application.* The major problems to be encountered by application of this procedure are the identification of external economies and their delineation into technological and pecuniary external economies. Technological external economies are benefits to the plan; however, pecuniary external economies normally represent income transfers and not benefits. Pecuniary externalities result if implementation of the plan leads to decreases in the price of a product itself; increases in the price of a complement; decreases in the price of a substitute; decreases in the price of a joint product; or increases in the price of a resource used in production. All these effects are occasioned by shifts in prices and do not normally represent changes in resource use efficiency, but are rather transfers between economic sectors having distributional but not output-increasing impacts.

(3) *Data sources.* Where available, the data should be gathered from primary data sources in order to determine if the external economy exists. In all cases it is important that every effort be made to avoid double counting of benefits and delineation of benefits that do not exist. To collect data it is appropriate to measure the current situation and the economic efficiency of potentially affected firms and individuals. A projection should then be made of the future without and the future with the project.

(4) *Risk and uncertainty.* Benefits from external economies are unique to each project design and its location. Such unique conditions have no historical basis of data and are therefore highly limited to subjective estimates. Such estimates are high on risk and relative uncertainty as to being realized. They must be based on the total mix of project outputs and the effect these mixes would have on inducing added productivity in the project area.

(e) *Report and display procedures.* External economies should be identified by component and added onto the benefits of the cost-benefit analysis. The external economies must be clearly identified, and the methodology used to value the benefits must be presented in the report. The report should provide a tabular breakdown of all external economies claimed for the project, according to the following format:

Component	Direct benefits	External economies	Total benefits
M+I			
Recreation			
F & WL			
Irrigation			
Totals			

The total number of external economies for each plan should be displayed in the NED account as a line entry labeled external economies for benefits.

NED Account	
Benefits:	
M+I water supply	
F & WL	
Recreation	
External Economies	
Total NED Benefits	

§ 704.132 Unemployed or underemployed labor resources.

(a) *Introduction.* The Principles and Standards permits the economic effects from the direct utilization of otherwise unemployed or underemployed labor resources during project construction to be included as an NED benefit. This chapter provides procedural guidance in the evaluation of NED benefits resulting from increased employment of such labor resources.

(b) *Conceptual Basis.* (1) The social cost of a project is less than the market (contract) cost in situations where otherwise unemployed or underemployed labor resources are used in project construction. The opportunity cost of employing otherwise unemployed labor resources is zero because society does not give up any alternative production of goods and services by virtue of their employment in project construction. Similarly, the opportunity cost of employing otherwise underemployed labor resources equals their without project earnings, which, by virtue of their underemployment, are less than their market cost. The most straightforward way to reflect the effects of employing unemployed and underemployed labor resources would be to reduce appropriately the project construction costs in the NED account. However, since this would cause accounting difficulties in appropriations, cost allocation, and cost sharing, this adjustment is treated as a project benefit in the NED account.

(2) Conceptually, any employment of otherwise unemployed or underemployed resources, anywhere in the Nation, that results from a project represents a valid NED benefit. However, these benefits are limited under the Principles and Standards, primarily because of identification and measurement problems, to only those labor resources directly employed onsite in the physical construction of a project or portion of a project in specified regions. The Principles and Standards states that the WRC will designate planning regions that contain unemployed or underemployed labor resources. These areas are *designated* (not merely qualified) by the Economic Development Administration (EDA), U.S. Department of Commerce,[1] as eligible under Title IV of the Public Works and Economic Development Act of 1965, as amended. Only the portion of project construction activity located in a *designated* area is eligible for employment benefits as calculated in accord with the procedures specified below.

(c) *Planning Setting.* (1) *Without Project Condition.* The without project condition is defined as the most likely condition expected to exist in the future in the absence of a project or any change in law and public policy. The evaluation of NED benefits associated with the use of unemployed and underemployed labor resources is tied to the extent to which the pool of these resources would be reduced over time without a project.

(2) *With Project Condition.* The with project condition is defined as the most likely condition expected to exist in the future with a given project alternative. There is a different with project condition and thus a different employment benefit for each alternative plan. The employment benefit currently cannot be estimated directly on the basis of a comparison of the size of the pools of unemployed and underemployed labor with and without a project. Instead, as explained below, the benefit procedure implicitly projects the with and without project conditions on the basis of the percentage of the project labor hires that are estimated to come from the unemployed labor pool.

(d) *Evaluation Procedure.* (1) The evaluation procedure specified below results in a very crude estimate of this NED benefit. Adoption of more precise estimating techniques must await further development in the three following areas:

(i) Statistically significant regional data for a uniformly defined concept of unemployment;

(ii) Models that project regional unemployment over time; and

[1] Economic Development Administration, U.S. Department of Commerce. "Qualified Area Under the Public Works and Economic Development Act of 1965, As Amended." Periodic publication.

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(iii) Empirically based response functions relating the probability of hiring unemployed or underemployed labor to the rate of regional unemployment.

(2) The specified procedure is conservative in two regards. First, it limits the benefit to labor directly employed in project construction. Second, it limits the benefits to those associated with labor from the WRC designated area.

(3) Since calculation of employment benefits is permitted only for that portion of project construction activity in designated areas as defined in Section 2 above, the first step is to determine whether a project is wholly or partially located in a designated area by checking the current issue of "Qualified Areas Under the Public Works and Economic Development Act of 1965, As Amended." [2] Next, the number of unemployed (skilled and unskilled) construction workers in the labor area must be estimated. Construction labor pool data are usually available from local offices of State employment security agencies.

(4) The third step is to determine the labor requirements for plan implementation as follows:

(i) *Labor Cost.* Manpower requirements of water resource projects differ widely. Construction cost estimate data will provide the percentage of labor cost to total construction contract cost. Design and administration costs, land cost, and other non-construction-related costs are to be deducted from total plan cost to arrive at construction costs.

(ii) *Manpower Requirements.* The plan's construction work force and schedule are to be analyzed to determine manpower requirements for skilled and unskilled categories of workers, over time. These data should be converted to total construction wages by skilled and unskilled categories by year of construction. In addition, the yearly wage bill associated with "white collar" workers needed on the project will be estimated. The occupational tables in Appendix A are to be used in categorizing different types of workers.

(5) Next, the annual manpower requirements of the project must be compared to the size of the unemployed labor pool in eligible areas. Where labor availability is significantly in excess of requirements, proceed to the next step. Where this is not the case, a reduction in the percentages in the next step will be made. The reduction will be based upon one or more of the following: expert interviews, a careful matchup of requirements and availability for specific job types (e.g., carpenters). consideration of male-female components of the labor force, and the extent to which the unemployment rate exceeds 4 percent.

(6) *NED Employment Benefits; Standard Method.* The following percentages were derived from "An Evaluation of the Public Works Impact Program (PWIP)." [3] While the projects studied in this report are not fully comparable to many typical water projects, the report does provide an empirical basis for relating public works expenditures to employment of unemployed workers in EDA designated areas. Case 1, below, covers situations where there is no "local hire" rule. It is taken directly from the cited reference, as the EDA Public Works program has no local hire rule. Case 2 covers situations where there is a "local hire" rule; the reference data were modified to account for an 80-percent local hire by scaling up the actual local hires (for skilled and unskilled workers to 80 percent, but retaining the distribution of local hires previously employed to local hires previously unemployed in the cited reference.

(i) *Case 1, NED Benefits.* The total wages determined by categories or workers (skilled, unskilled, and other) will be multiplied by the following percentages to obtain NED benefits by year of construction;

Skilled	30
Unskilled	47
Other	35

(ii) *Case 2, NED Benefits.* The following percentages will be applied in Case 2 situations:

Skilled	43
Unskilled	58
Other	35

Because the 80-percent local hire rule is only a goal, not a stringent requirement, use of these percentages must be supported by appropriate correspondence with experts or by other data which indicate that the local hire goal is likely to be met. Where this is unlikely, the Case 2 percentages must be reduced to numbers in between the standard Case 1 and Case 2 percentages.

(iii) *Annual NED Benefits.* The NED benefits by the year of construction will be converted to an average annual basis utilizing the appropriate rate of interest.

(7) *NED Employment Benefits; Alternative Methods.* The percentages of unemployment hires may be changed from those used in the standard method if such change can be supported by a study which empirically shows different percentages of unemployed and underemployed workers on a similar project or on a segment of the same project, for labor market conditions similar to those of the proposed project. In utilizing this method, it may be necessary to vary the categorization of construction workers used in the standard method. It is emphasized that the opinions of experts such as local State employment security agencies, local construction firms, Associations of Contractors, and labor unions cannot be substituted for empirical data. Studies used to document alternative percentages for specific types or locations of projects should be cited if not included in the project report.

(8) The percentages used in the standard method measure wages paid directly to previously unemployed and underemployed workers. Previously employed workers may vacate jobs which are then made available to unemployed workers. There are no empirical data to support a quantification of such indirect effects, and no estimates of such effects may by included in the NED account.

(9) This procedure to estimate employment benefits results in highly uncertain estimates. For this reason, these benefits shall not be used in plan formulation. Thus, employment benefits will not affect the scale and scope of projects.

(e) *Report and Display Procedures.* Employment benefits of each alternative plan will be included as a line item in the display of NED benefits in the system of accounts whenever a project or portion of a project is in an EDA designated area.

Appendix A.—Occupational Tables

Blue Collar Unskilled Occupations

Bricklayer Apprentice
Carpenter Apprentice
  Apprentice Carpenter
  Carpenter Helper
Chainman
Deck Hand
Electrician Apprentice
  Apprentice Electrician
  Apprentice Wireman
  Electrician Trainer
Iron Worker Apprentice
Laborer
  Asphalt Distributor
  Assistant Carpenter
  Bottom Laborer
  Brick Tender
  Carpenter Aid
  Carpenter Helper
  Chainsawman

[2] Ibid.

[3] Economic Development Administration, U.S. Department of Commerce. "An Evaluation of the Public works Impact Program (PWIP)." January 1975 (PB 263098).

Common Laborer
Concrete Braker
Concrete Laborer
Concrete Saw
Construction Laborer
Ditch Laborer
Drill Helper
Flag Person
Hod Carrier
Kettleman
Laborer
Laborer Apprentice 3rd
Laborer Group I
Laborer Group V
Labor Shop Man
Laborer Topman
Laborer Utilityman
Landscape Laborer
Mason Helper
Mason Laborer
Mason Tender
Mortarman
Mortarmier
Pipe Layer
Pipe Helper
Pipe Fitter
Plasterer Tender
Powderman
Pusher
Rakeman
Reboundman
Road Laborer
Roof Helper
Sand Blaster
Set-up-man
Sprinkler Apprentice
Stake Setter
Tender
Termite Operator
Tile Setter Operator
Vibrator Operator
Water Truckman
Lumberman and Nurseryman
  Tree Thinner
  Treeman
  Treeplanter
Operating Engineer Apprentice
  B. M. Apprentice
  EO Group 3
  EO Group 222
Plumber Apprentice
  Plumber Apprentice
  Plumber Helper
Painter's Helper
Sheet Metal Apprentice
Vibrator Operator
Watchman
  Night Watchman
Blaster
Boilmaker
Boilmaker Foreman
Bricklayer
  Block Layer
  Truckpointer
  Brick Mechanic
Bricklayer Foreman
Carpenter
  Form Setter
  Journeyman Carpenter
  Soft Floor Layer
Carpenter Foreman
Carpenter Superintendent
Cement Mason
  Finisher
  Journeyman Finisher
Cement Mason Foreman
Diver
Driller
  Drill Rig Operator
Electrician
  Journeyman Electrician
  Mechanical Electrician
  Wireman
  Journeyman Wireman
Electrical Foreman
General Foreman
  General Labor Foreman
  Project Foreman
Glazier
Iron Worker
  Reinforcing Ironworker
  Structural Ironworker
  Steel Worker
  Steel Erector
  Steel Setter
  Reinforcing Steel Worker
Iron Worker Foreman
Labor Foreman
  Construction Foreman
  Foreman
  Job Foreman
  Lead Foreman
Lather
Lather Foreman
Master Mechanic
Mechanic
  Mechanic Welder
  Repairman
  Repairman Leadman
Oiler
  Oiler Equipment Operator
  Oiler Operator Group II
  Oiler Track Type
Operating Engineer
  Asphalt Heaterman
  Backhoe Operator
  Blade Operator
  Bobcat Operator
  Bulldozer Operator
  Case Operator
  Class A Operator
  Class C Operator
  Crane Operator
  Digger Operator
  Distributor Operator
  Dragline Operator
  Equipment Operator
  Equipment Operator Group III
  Front End Lift Fork Operator
  Heavy Equipment Operator
  Hi-Lift Operator
  Lift Fork Operator
  Light Equipment Operator
  Loader Operator
  Maintenance Loadman
  Motor Grader Operator
  Operator Group III
  Pan Operator
  Park Equipment Operator
  Power Drive Moister Operator
  Power Equipment Operator
  Pneumatic Tire Roller Operator
  Pneumatic Tractor Operator
  Roller Operator
  Scraper Operator
  Shovel Operator
  Tractor Operator
  Traxeavator Operator
  Trenching Machine Operator
  Truck Loader Operator
Operating Engineer Foreman
  Leader Operator
Painter
  Brush Painter
  Roller Painter
  Spray Painter
Painter Foreman
Pile Driver
Pipe Fitter
  Sp. box Man
Pipe Fitter Foreman
  Sprinkler foreman
Plasterer
Plasterer Foreman
Plumber
  Pipe layer
Plumber Foreman
  Plumber General Foreman
  Plumber Superintendent
Rigger Foreman
Roofer
Sheet Metal Worker
  Journeyman Sheet Metal
  Sheet Metal Mechanic
  Sheet Metal Operator
Sheet Metal Foreman
Steam Fitter
Tile Setter
Truck Driver
  Worker
  Axle Truck Driver
  4 Axle Truck Driver
  Dump Truck Driver
  Road Truck Driver
  Tandem Truck Driver
  Truck Driver II
  Truck Driver Highway
Waterproof Foreman

Construction Occupations, Except Blue Collar

Assistant Project Coordinator
Assistant Superintendent
Bookkeeper
Civil Engineer
  Civil Engineer
  Grand Setter
  Party Chief
  Project Engineer
  Project Engineer and Coordinator
  Rodman
  Surveyor
  Transit Man
Clerk

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Clerk
Accountant Clerk
Clerk Typist
Typist
Construction Superintendent
Construction Superintendent
Job Superintendent
Project Supervisor
Superintendent
Draftsman
Draftsman
Draftsman Estimator
General Superintendent
Inspector
Project Coordinator
Project Coordinator
Project Foreman
Timekeeper

§ 704.133-704.140 [Reserved]

NED Cost Evaluation Procedures

§ 704.141 Determination of national economic development (NED) costs of water esources plans.

Introduction

This section provides procedural guidance for the evaluation of NED costs for structural and nonstructural elements of Federal water resource management plans.

Conceptual Basis

(a) Resources have value through use. Achievement of project benefits requires shifts in resource use. Such shifts result in the loss of economic values associated with the uses foregone (opportunity costs). Project NED costs are estimated through an identification of the relevant opportunity costs, and an evaluation of such costs within the time frame in which they occur utilizing the project discount rate.

(b) In evaluating NED costs, resource use must be broadly defined so as to fully recognize scarcity as a component of value. This requires consideration of the direct and indirect, private and public uses which producers and consumers are currently or might be expected to make of available resources in the future.

(c) Two approaches are emphasized in this section for identifying relevant NED opportunity costs—market price and surrogate value. Market price is used to reflect the private sector value of resources required for or displaced by a project, and surrogate value—the public sector value. Total NED cost is represented by the sum of the resource's private sector and public sector values.

(1) The market price approach relies on the interaction of supply and demand. Price is determined through transactions on the margin between willing buyers and sellers, neither of whom are able to influence price by their individual decisions. Distortions in market price may occur, however, if one or more of the conditions of perfect competition are violated. Price under these circumstances reflects value within certain constraints—namely, a resource's marginal utility or value of marginal product to potential purchasers and its residual value or value in alternative uses to potential sellers.

(2) The surrogate value approach, as the term suggests, involves the approximation of market price based on an equivalent use or condition. Surrogate values are frequently used in limited markets and nonmarket situations. Generally, those methods which result from near markets or approximate monopoly pricing methods are most accurate.

Planning Setting

(d) Whereas the identification of NED costs is only relevant to project conditions, the basis for the evaluation rests in a thorough analysis of expected conditions in the future without a project. This requires an identification of those resources which potentially might be affected by a project, the current and anticipated uses of such resources, and the measurable economic worth to the Nation of those services associated with the identified uses.

Evaluation Procedure

(e) *General.* (1) Resources required for or displaced by project installation and/or OM&R activities will be subjected to an NED cost evaluation. Such evaluation will focus on an identification of the reduced economic value of the without project condition. Costs identified may be in the form of project outlays or uncompensated economic losses. Included in the category of project outlays are those expenditures needed for the realization of project benefits and the avoidance of damages (mitigation and/or compensation). Examples of uncompensated economic losses include external diseconomies of the technological type and losses of environmental services, such as recreational hunting.

(2) Implicit throughout the discussion which follows is the understanding that standard adjustments will be made in cost data to reflect the time preference value of money. Procedural aspects of such adjustments have been previously described, and therefore will not be addressed here. (See Section II-A.)

(i) *Project Outlays.* Market price will be used as the basis for the evaluation of private sector NED costs for these resources for which compensation is paid. Applicable cost items are listed below.

(A) *Construction and/or Installation Goods and Services.* (1) Cost of purchased materials.

(2) Equipment rental or ownership costs.

(3) Wages or salaries paid to construction and/or installation personnel (to be based on prevailing market wage rates).

(4) Cost of management and supervision.

(5) Other overhead costs and profit.

(B) *Construction Contingencies.* The cost differential added to construction and/or installation goods and services cost to cover unforeseen construction problems.

(C) *Engineering Services.* Costs incurred in the development of final design specifications and construction drawings.

(D) *Land, Water, and Mineral Rights.* (1) Cost of surveys incident to a sale.

(2) Legal fees and transfer costs.

(3) Purchase price or easement costs minus salvage value of improvements.

(4) Real estate taxes foregone.

(5) Severance payments.

(E) *Relocation Payments.* (1) Moving expenses for project dislocated people and businesses (excludes rent subsidies or grants to dislocated households for purposes of upgrading the quality of the dwelling).

(2) Termination payments for dislocated businesses whose owners chose to close out.

(F) *Administrative Services.* (1) Cost of inspection for construction, installation, and/or maintenance activities.

(2) Cost of administering contracts.

(3) Cost of relocation assistance advisory services.

(4) Educational costs.

(5) Overhead costs for the Federal program.

(6) Costs to local and State governments (e.g., cost to develop, implement, and administer flood plain regulations).

(ii) *Uncompensated Economic Losses:* Many uncompensated economic losses resulting from project activities are not currently evaluated from an NED standpoint. For the most part, this is due to lack of data and/or accepted evaluation methodologies. The Principles and Standards address this situation through a system of accounts in which measurable economic gains and losses are displayed against those of a noneconomic nature.

The discussion which follows is by necessity general. For ease of reference, it has been divided into two broad categories: (A) public sector costs, and (B) private sector costs—for example, external diseconomies. Where specific procedures are not referenced, the planner is given latitude with respect to the evaluative approach. Considerable judgment should be exercised, however, in balancing the pros and cons of using relatively unproven evaluation procedures against the alternative of displaying noneconomic tradeoffs in the P&S accounts.

(A) *Public Sector Costs.* (1) This category of uncompensated economic losses relates to public, nonmarketed services—for example, those associated with environmental amenities. Economic values for these services are based on surrogate values. Such values are determined using procedures which are generally more complex than those required for other types of project economic evaluations. Insofar as the resources providing the service are limited in long-term supply (relatively few available substitutes), consideration of option and existence values above direct use value may be warranted.

(2) The basis for determination of direct use values is the willingness of resource users to pay. Opportunity costs in such cases are identified as negative benefits. Option and existence values, however, are generally determined based on the public's willingness to sell or accept compensation.

(3) Where applicable, NED benefit evaluation procedures contained in this manual are to be used in the evaluation of direct nonmarket service losses (i.e., recreation). Evaluation of other losses should be systematically approached based on the following three general steps:

(*i*) *Determine the Production Function of Service Attributes.* This step involves the identification of linkages between environmental parameters (i.e., type of cover and ratio of open water to cover) with those attributes which affect consumption (i.e., species composition, population, etc.).

(*ii*) *Determine the Transformation Function of Service Attributes into Goods and Services.* This step involves the identification of the relationships by which service attributes such as those described above can be transformed into consumptive goods or services to the resource user (i.e., number of skills, number of sightings of game, etc.).

(*iii*) *Evaluate the Economic Loss.* This step involves the determination of values to be assigned to the consumptive goods and services produced.

(B) *Private Sector Costs.* (1) This category of uncompensated economic losses consists of external diseconomies of the technological type. Such diseconomies are based on market prices and can be computed as an increase in the average cost per unit of output or as a decreased gross output multiplied by a profit coefficient representative of each firm. In those cases where these effects are obviously less than the planning cost required to evaluate then, no evaluation should be made.

(2) External diseconomies of the pecuniary type are reflected in negative cost and/or price adjustments induced by the project (i.e., increased cost for inputs, depressed price for outputs). Such adjustments reflect transfers from other sectors of the economy and are, therefore, not relevant for purposes of NED analysis.

(3) Two examples of external diseconomies of the technological type are presented below:

(*i*) *M&I Water Supply.* An M&I water supply project is being considered for development on a flowing stream. Under the plan, releases from the reservoir would provide M&I water to a pickup point approximately 5 miles downstream. Downstream flows are currently 500 cfs, but with the plan they would be reduced to 200 cfs. A small town is located downstream from the M&I intake structure. The town currently meets EPA standards for waste water treatment, but with the plan increased treatment costs would be required. Such increased costs would be considered an external diseconomy to the plan.

(*ii*) *Irrigation Water Supply.* An irrigation water supply system is recommended for construction adjacent to a river. The plan recommends that 100,000 acres of land be placed under irrigation. The plan includes the placement of a reservoir on the main river channel and the construction of channels and laterals to transport the water to the irrigated area. After the water is applied to the land, the runoff is returned to the river approximately 10 miles downstream from the reservoir. The return flow from the irrigation project creates a salinity condition for downstream water users, forcing them to adopt higher cost water treatment practices. Such adverse effects are not normally compensated for and therefore are external diseconomies.

(*b*) *Mitigation.* (1) Mitigation is any act taken for the purpose of off-setting (wholly or in part) those losses in public sector values resulting from a project. To the extent that such losses can be evaluated in economic terms, mitigation is the substitution of one opportunity cost for another. Proper analysis of NED costs in these cases requires that the economic worth of any uncompensated losses remaining after the mitigation be added to the financial cost of the mitigation itself.

(2) To demonstrate the point, consider a situation where installation of a project will result in the destruction of five units of stream fishery without design changes or special features to mitigate the losses. Benefits provided by the fishery to society will subsequently be lost. Panel (a) in the table below presents a set of hypothetical data reflecting the opportunity costs based on sport fishing losses, and panel (b) presents the costs required for mitigation of such losses. Costs of mitigation include NED benefits foregone as a result of project redesign, as well as the cost of project features that mitigate the fishery losses attributable to the project.

(a) Fishery losses	(b) Mitigation of fishery losses		(c) Data for economic analysis of project mitigation			
Units of unmitigated losses	Total Opportunity costs	Units mitigated	Total costs of mitigation	Marginal opportunity costs	Marginal mitigation costs	Total opp. and mit. costs
5	40	0	0	—	—	40
4	30	1	4	10	4	34
3	21	2	10	9	6	31
2	13	3	18	8	8	31
1	6	4	28	7	10	34
0	0	5	40	6	12	40

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(a) Fishery losses	(b) Mitigation of fishery losses		(c) Data for economic analysis of project mitigation			
Units of unmitigated losses	Total opportunity costs	Units mitigated	Total costs of mitigation	Marginal opportunity costs	Marginal mitigation costs	Total opp. and mit. costs
5	40	0	0	—	—	40
4	30	1	4	10	4	34
3	21	2	10	9	6	31
2	13	3	18	8	8	31
1	6	4	28	7	10	34
0	0	5	40	6	12	40

(3) Examination of panel (c) in the table reveals that the NED objective would be best served by mitigating three units of fishery loss. This is because the marginal mitigation cost for each is less than or equal to its marginal opportunity cost. The NED alternative would therefore provide three units of mitigation at a total cost of 31 (18 for the mitigation and 13 for the remaining uncompensated losses). Additional mitigation could be undertaken for EQ purposes but at a corresponding loss in net NED benefits due to increasing NED costs.

(g) *Problems in Application.* Application of the procedures in this section presents few operational problems. Market prices are relatively easy to obtain. Difficulties to be expected in using NED benefit evaluation procedures for cost analysis are covered in the respective NED benefit chapters.

(h) *Data Sources.* Market price information is available through data on comparable sales, Government publications (e.g., U.S. Departments of Commerce, Agriculture, and Labor bulletins), and business reports. Data sources for those NED benefit evaluation procedures having application to cost analysis are covered in their respective chapters.

(i) *Report and Display Procedures.* NED costs identified through the above procedures will be displayed as line item entries in the adverse effects section of the NED account. The following categories will be used—(1) installation costs of structural measures, (2) installation costs of nonstructural measures, (3) OM&R and mitigation costs for each of the above categories, (4) external diseconomies, and (5) other uncompensated economic losses by type.

§§ 704.142–704.145 [Reserved]

Dated: May 15, 1979.

Leo M. Eisel,

Director.

[FR Doc. 79–15830 Filed 5–23–79; 8:45 am]

BILLING CODE 8410–01–M

WATER RESOURCES COUNCIL

Proposed Revisions to the Principles and Standards for Planning Water and Related Land Resources; Review

1. Notice is hereby given the Water Resources Council proposes to revise and modify the Principles and Standards for Planning Water and Related Land Resources, 38 FR 29778, dated September 10, 1973, established pursuant to sec. 103 of the Water Resources Planning Act of 1965 (Pub. L. 89–80) primarily to accomplish the full integration of water conservation into project and program planning and review, and to require the preparation and inclusion of a primarily nonstructural plan as one alternative whenever structural project or program alternatives are considered. Additional changes are proposed to the Standards to assure consistency with the proposed procedures for benefit and cost evaluation.

2. The President directed the Water Resources Council to modify the Principles and Standards in the following respects:

(A) The Principles and Standards shall be modified to accomplish the full integration of water conservation into project and program planning and review, as a component of both the economic development and environmental quality objectives, and

(B) The Principles and Standards shall be modified to require the preparation and inclusion of a primarily nonstructural plan as one alternative whenever structural project or program alternatives are considered. This alternative plan should incorporate a combination of non-structural or demand reducing measures which could feasibly be employed or adopted to achieve the overall project purpose. Such measures should not be limited to those which the agency of the Federal Government could implement directly under present authority but should include floodplain management techniques (such as zoning), pricing, policies, groundwater recharge, and other measures.

3. Only those sections of the Principles and Standards being proposed for revison or modification are published as part of this notice. For purposes of review, the revised sections are italicized in this publication and referenced to the original Principles and Standards. Where no changes are recommended, the words (No change) appear in parentheses after the title of the section. If an entire section of the original Principles and Standards is recommended to be replaced by this draft, the words (The following section completely replaces the current section) appear in parentheses following the title of the section.

4. Following public review and comment, and necessary action by the Water Resources Council, the adopted revisions will be used for the planning of water resources projects covered in the Standards, Section I.B.2. of the Principles and Standards and of Agency for International Development, i.e., projects covered by Section 101 of Pub. L. 95–148. The revisions will apply to all levels of planning if such projects are subject to the Principles and Standards. They will be applicable to: (A) projects which may be approved by agency administrators, (B) projects requiring congressional authorization, and (C) authorized projects or separable project features of such projects not yet under construction for which agencies currently prepare post-authorization planning documents. For the purpose of implementing these revisions, a project shall be considered under construction when funds have been appropriated by the Congress or budgeted by the President for land acquisition or physical construction activity. Projects for which post-authorization planning documents are not required shall be considered under construction when authorized for construction.

5. The Secretary of each Department would retain the discretion to review those projects not under construction and, where deemed reasonable, could exempt a project from complying with these revisions or may partially exempt a project and direct expedited additional planning to more fully meet specific procedures. This discretionary authority would apply to those projects not yet authorized for which preauthorization planning is now complete or will be completed by the end of FY 1980 and those authorized projects requiring post-authorization planning if such planning is now complete or will be complete by the end of FY 1980. Preauthorizaton or post-authorization planning shall be considered complete when the appropriate planning documents have been approved by the responsible agency's field office. Such Secretarial review is proposed to ensure that adequate and reasonable discretion exists to prevent undue loss of time or expenditure of public funds in those cases where additional planning is not considered necessary. This proposed discretionary authority could not be exercised after July 31, 1981.

Authorized projects exempted from complying with the Principles and Standards would also be exempted from complying with the adopted revisions.

6. The revisions proposed in this notice will be considered for adoption by the Water Resources Council at the close of the public comment period. After modification to incorporate the results of this review, the Council will publish the revised Principles and Standards as a notice in the **Federal Register.**

Additionally, it is the Council's intent to undertake further review and revisions of the Principles and Standards with the objective of publishing the Principles and Standards as proposed rules and regulations. This effort will include: (A) revisions for clarity and conciseness, (B) revisions to incorporate the requirements of Urban and Community Impact Analysis and (C) revisions to integrate the requirements of the National Environmental Policy Act. A schedule for this effort will be presented to the Water Resources Council at its meeting of June 6, 1979.

7. The Water Resources Council has prepared an environmental assessment of the proposed revisions to the Principles and Standards. Copies of this assessment may be obtained from the Director, U.S. Water Resources Council, 2120 L Street, NW., Washington, DC 20037.

8. This notice establishes the beginning of a 60-day public review period to provide all interested parties an opportunity to comment on the proposed revisions and modifications to the Principles and Standards. During July 1979, public meetings will be held on the Principles and Standards revisions and the Manual of Procedures for Evaluating Benefits and Costs in Water Resources Planning (Level C) to solicit comments. These meetings are scheduled for Los Angeles, California; St. Louis, Missouri; and Washington, D.C, according to the following schedule:

July 10—9 a.m. to 5 p.m.

Marriot Hotel-Airport, 5855 West Century Boulevard, Los Angeles, California.

July 17—9 a.m. to 5 p.m.

Office of Personnel Management Auditorium (formerly Civil Service Commission Auditorium), 1900 E Street, NW., Washington, D.C.

July 24—9 a.m. to 5 p.m.

Mudd Law Building—First Floor Conference Room, Washington University, St. Louis, Missouri.

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The amount of time for oral statements during the meetings will be limited. Anyone planning to make a statement should write or telephone and indicate which meeting will be attended and the time of day preferred:

Wanda Phelan, Public Information Officer, U.S. Water resources Council, 2120 L Street, NW., Washington, D.C. 20037, 202/254–8290.

The Council will schedule the time as closely as possible to that requested and will notify speakers as to the time alloted.

9. Comments must be received on or before July 27, 1979.

10. Comments should be addressed to the Director, U.S. Water Resources Council 2120 L Street, NW., Washington, D.C. 20037. All written comments made pursuant to this notice will be available for public inspection at the address given above.

FOR FURTHER INFORMATION CONTACT:
Lewis D. Walker, U.S. Water Resources Council, 2120 L Street, NW., Washington, D.C. 20037 (202/254–6453).

Proposed Revisions to the Principles for Planning Water and Related Land Resources

I. Purpose and Scope: (No change).

II. Objectives: Introduction (No change).

A. Beneficial Effects on National Economic Development. Beneficial effects to be displayed in the national economic development account are increases in the value of the output of goods and services and improvements in national economic efficiency resulting from a plan. These include:

a. The value to users of increased *or reallocated* outputs of goods and services; * * *

b. The value of output resulting from external economies.

B. Adverse Effects on National Economic Development (No change).

C. Beneficial and Adverse Effects on Environmental Quality (No change).

III. Other Beneficial and Adverse Effects: (No change).

IV. General Evaluation Principles:

A. General Setting (No change).

B. Measurement of Beneficial and Adverse Effects (No change).

C. Price Relationships (No change).

D. The Discount or Interest Rate (No change).

E. Consideration and Comparison of Alternatives. (The following completely replaces the current section.)

A range of possible alternatives capable of application by various levels of government and nongovernmental interests should be systematically evaluated in terms of their contributions to the national economic development and environmental quality objectives.

Water conservation shall be fully integrated into project and program planning and review as a means of achieving both the national economic development and environmental quality objectives. Water conservation consists of actions that will (a) reduce the demand for water; (b) improve efficiency in use and reduce losses and waste; and (c) improve land management practices to conserve water. A clear contrast is drawn between the above conservation elements and storage facilities.

In addition, a primarily nonstructural plan will be prepared and included as one alternative whenever structural project or program alternatives are considered. This alternative plan should incorporate a combination of nonstructural or demand-reducing measures which could feasibly (in light of the national economic development and environmental quality objectives) be employed or adopted to achieve the overall project purpose.

Alternatives should not be limited to those the Federal Government could implement directly under present authorities. Therefore the cooperative role of local, State, regional, and Federal organizations in implementing alternatives will be stressed. Plans, or increments thereto, will not be recommended for Federal development that, although they have beneficial effects on the objectives, would physically or economically preclude alternative non-Federal plans which would likely be undertaken in the absence of the Federal plan and which would more effectively contribute to the objectives when comparably evaluated according to these principles.

F. Period of Analysis (No change).

G. Scheduling (No change).

H. Risk and Uncertainty (No change).

I. Sensitivity Analysis (No change).

J. Updating Plans (No change).

V. Plan Formulation.

Plans will be directed to the improvement in the quality of life *contributing to meeting of* current and projected needs and problems as identified by the desires of people in such a manner that improved contributions are made to society's preferences for national economic development and environmental quality. These plans should be formulated to reflect national, regional, State, and local needs or problems consistent with the above two objectives.

Planning of water and land resources is a part of broader public and private planning to meet regional and local needs and to alleviate problems. Therefore, planning for water and land resources should be carefully related to other regional or local planning activities and should include active participation of all interests.

Plans for water and land resources will focus upon the specified components of the objective desired for the designated region, river basin, State, or local planning setting. There are expressed in terms of projected needs and problems identified in each planning setting.

The planning process includes the following major steps:

(1) Specify components of the objectives relevant to the planning setting;

(2) Evaluate resource capabilities and expected conditions without any plan;

(3) Formulate alternative plans to achieve varying levels of contributions to the specified components of the objectives, *including preparation of one primarily nonstructural alternative;*

(4) Analyze the differences among alternative plans which reflect different emphasis among the specified components of the objectives;

(5) Review and reconsider, if necessary, the specified components for the planning setting and formulate additional alternative plans as appropriate; and

(6) Select a recommended plan from among the alternative plans based upon an evaluation of the trade offs between the objectives of national economic development and environmental quality and considering, where appropriate, the effects of the plans on regional development and social well-being.

A. Specification of Components of the Objectives.

At the outset and throughout the planning process, the responsible planning organization will consult appropriate Federal, regional, State, and local groups to ascertain the components of the objectives that are significantly related to the use and management of the resources in the planning setting. These will be expressed in terms of needs and problems.

The components selected for use in formulating alternative plans should be of concern to the Nation, and the components should be those that can reasonably be expected to be substantially influenced through *the management and development alternatives (available to the planner) which may be implemented by Federal, State, or local entities.*

The components of objectives for which plans are formulated can be expected to change over time and between areas of the Nation as preferences and possibilities change and differ. These changes will be reflected in the Water Resources Council's Standards.

The objectives for which plans are formulated can also be expected to change over time as preferences and possibilities change. Changes in objectives will be accommodated only through revision of these principles.

The specified components will be defined so that meaningful alternative levels of achievement are identified. This will facilitate the formulation of alternative plans in cases where there may be technical, legislative, or administrative constraints to full achievement of objectives.

B. Evaluation of Conditions Without a Plan (No change).

C. Formulation of Alternative Plans.

The planning process involves an evaluation of alternative means, including both structural and nonstructural measures, to achieve desired effects.

Based upon identified needs and problems, alternative plans will be prepared and evaluated in the context of their contributions to the objectives. This involves comparisons between objectives, and it will be necessary to formulate alternative plans that reflect different relative emphasis between the objectives for the planning setting.

The number of alternative plans to be developed for each planning effort will depend upon complementarities or conflicts among specified components of the objectives, resource capabilities, technical possibilities, and the extent to which the design of additional alternative plans can be expected to contribute significantly to the choice of a recommended plan. Because planning staffs are limited, emphasis should be placed on examination of those alternative waters and land-use plans which may have appreciable effects on objectives.

With respect to the number of alternative plans there will be a continuing dialog among the Water Resources Council, river basin commissions, and other planning groups, emphasizing on the one hand the need for national guidelines and overview of objectives for which alternative plans are formulated, and on the other the special insights into local planning situations that field level teams may develop.

Appropriate methods and techniques for estimating beneficial and adverse effects will be used to provide reliable estimates of the consequences and feasibility of each alternative plan.

One alternative plan will be formulated in which optimum contributions are made to the national economic development objective. Additionally, during the planning process at least one alternative plan will be formulated which emphasizes the contributions to the environmental quality objective. *In addition, a primarily nonstructural plan shall be prepared and included whenever structural project or program alternatives are considered.*

Other alternative plans reflecting significant physical, technological, legal or public policy constraints or reflecting significant trade-offs between the national economic development and environmental quality objectives may be formulated so as not to overlook a best overall plan.

(The rest of this section remains unchanged.)

D. Analysis of Alternative Plans (No change).

E. Reconsideration of Specified Components of the Objectives (No change).

F. Plan Selection.

From its analysis of alternative plans, the planning organization will select a recommended plan. The plan selected will reflect the relative importance attached to different objectives and the extent to which the two objectives can be achieved by carrying out the plan.

The recommended plan should be formulated so that beneficial and adverse effects toward objectives reflect, to the best of current understanding and knowledge, the priorities and preferences expressed by the public at all levels to be affected by the plan. A recommended plan must have net national economic development benefits unless the deficiency in net benefits for the national economic development objective is the result of benefits foregone or additional costs incurred to serve the environmental quality objective. In such cases, a plan with a less than unity benefit-cost balance may be recommended as long as the net deficit does not exceed the benefits foregone and the additional costs incurred for the environmental quality objective. A Departmental Secretary or head of an independent agency may make an exception to the net benefits rule if he determines that circumstances unique to the plan formulation process warrant such exception.

In addition to the recommended plan with supporting analysis, other significant alternative plans embodying different priorities between the objectives *and in consideration of water conservation and nonstructural planning requirements,* will be presented in the planning report. Included with the presentation of alternative plans will be an analysis of trade offs among them. The trade offs will be set forth in explicit terms, including the basis for choosing the recommended plan from among the alternative plans.

VI. System of Accounts (No change).

VII. Cost Allocation, Reimbursement, and Cost Sharing (No change).

VIII. National Program for Federal and Federally Assisted Activities (No change).

IX. Implementation of Principles (No change).

X. Application and Effect (No change).

Proposed Revisions to the Standards for Planning Water and Related Land Resources

I. Purpose and Scope (No change).

II. Objectives:

A. Introduction. The Principles for Planning Water and Land Resources define the objectives of national economic development and environmental quality. These objectives provide the basis for the formulation of State, region, and river basin plans for the use of water and land resources to *contribute to meeting* forseeable short- and long-term needs and have been explicitly stated or implied in numerous congressional enactments and Executive actions. The most notable of these actions in water and related areas are summarized below.

In the Flood Control Act of 1936, the Congress declared that benefits to whomsoever they may accrue of Federal projects should exceed costs. Interpretation of this statute has resulted in development of various analytical procedures to evaluate the benefits and costs of proposed projects. These procedures have centered around a national economic efficiency analysis and were first published as "Proposed Practices for Economic Analysis of River Basin Projects" in May 1950 and revised in May 1958. Budget Bureau Circular No. A–47 was issued on December 31, 1952, informing the agencies of considerations which would guide the Bureau of the Budget in its evaluations of projects and requiring uniform data that would permit comparisons among projects.

On October 6, 1961, the President requested the Secretaries of Interior, Agriculture, Army, and Health, Education, and Welfare to review existing evaluation standards and to

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recommend improvements. Their report, "Policies, Standards, and Procedures in the Formulation, Evaluation, and Review of Plans for Use and Development of Water and Related Land Resources," was approved by the President on May 15, 1962, and published as Senate Document No. 97, 87th Congress, 2d Session. This document replaced Budget Bureau Circular No. A-47 and in turn has been superseded by the "Principles for Planning Water and Land Resources," upon their approval by the President, and by these "Standards for Planning Water and Land Resources."

(The following paragraph would be added to the original Standards.)

On July 12, 1978, the President directed that the Principles and Standards for Planning Water and Related Land Resources, (P&S) 38 Fed. Reg. 24778, September 10, 1973, be scrupulously adhered to in the planning, review and implementation of Federal water resources projects. Moreover, the President directed that the September 10, 1973 P&S be modified to accomplish the full integration of water conservation into project and program planning and review as a component of both the economic development and environmental quality objectives and to require the preparation and inclusion of a primarily nonstructural plan as one alternative whenever structural projects or program alternatives are considered. The "Principles for Planning Water and Land Resources" and these "Standards for Planning Water and Land Resources" supersede the September 10, 1973 P&S.

By enacting laws and taking actions enumerated below and others, the Congress and the President have broadened the objectives to be considered in water and land resources planning.

The two objectives as defined in the principles and set forth in more detail in these standards provide a flexible planning framework that is responsive to and can accommodate changing national needs and priorities.

The statement of the objectives and specification of their components in these standards is without implication concerning priorities to be given to them in the process of plan formulation and evaluation. These standards, nonetheless, do recognize and make provision for a systematic approach by which the general public and decisionmakers can assess the relative merits of achieving alternative levels of satisfaction to the two objectives where there may be conflict, competition, or complementarity between them. This will provide the type of information needed to improve the public decisionmaking process.

B. Major Congressional Directives (No change).

C. Relationships of Program Measures to Objectives (No change).

D. Objectives.

1. National economic development. The national economic development objective is enhanced by increasing the value of the nation's output of goods and services and improving national economic efficiency.

National economic development reflects increases in the Nation's productive output, an output which is partly reflected in a national product and income accounting framework designed to measure the continuing flows of goods and services into direct consumption or investment.

In addition, national economic development is affected by beneficial and adverse externalities stemming from normal economic production and consumption, imperfect market conditions, and changes in productivity of resource inputs due to investment. National economic development is also affected by the availability of public goods which are not accounted for in the national product and income accounting framework. Thus, the concept of national economic development is broader than that of national income and is used to measure the impact of governmental investment on the total national output. The gross national product and national income accounts do not give a complete accounting of the value of the output of final goods and services resulting from governmental investments because only government expenditures are included. This is especially true in those situations where governmental investment is required to overcome imperfections in the private market. Therefore, national economic development as defined in these standards is only partially reflected in the gross national product and national income accounting framework.

A similar situation prevails where a private investment results in the production of final public goods or externalities that are not exchanged in the market.

Components of the national economic development objective include:

a. The value of increased *or reallocated* outputs of goods and services resulting from a plan.

Development and management of water and land resources result in increased *or more efficient* production of goods and services which can be measured in terms of their value to the user. Increases in crop yields, expanding recreational use, and peaking capacity for power systems are examples of direct increases in the Nation's output which result from water and related land resources *developments and management.*

Moreover, such management often results in a change in the productivity of natural resources and the productivity of labor and capital used with these resources. Increased earnings from changes in land use, reduced disruption of economic activity due to droughts, floods and fluctuating water supplies, and removal of constraints on production through increased water supplies *or improved water management* are examples of direct increases in productivity from water and land development that contribute to national output.

Development and management of water and land resources may result in increased production from the employment of otherwise unemployed or underemployed resources, as well as contributions to increased output due to cost savings resulting in the release of resources for employment elsewhere.

b. The value of output resulting from external economies. In addition to the value of goods and services derived by users of outputs of a plan, there may be external gains to other individuals or groups.

2. Environmental Quality (No change).

E. Effects on Objectives (No change).

F. Beneficial Effects on National Economic Development. Beneficial effects in the national economic development account are the increases of the value of the output of goods and services and improvements in national economic efficiency.

1. General measurement concepts. There are two basic sources of increased output of goods and services that contribute toward enhancing national economic development. First, additional resources may be employed using normal production techniques, e.g., for example, in the application of irrigation water and other associated resources to land for the production of agricultural commodities or in the use of electric power and other associated resources for the production of aluminum. Second, resource productivity changes may be induced by the plan, resulting in more efficient production techniques to be used to achieve a higher level of output from the same resources or the same level of a specific output with fewer resources or the employment of otherwise unemployed or underemployed resources than would be achieved without the plan. In the latter case, the release of productive resources which can be employed elsewhere in the economy for the production of other goods and services ultimately results in an increase in national output as a consequence of a plan.

For example, reduced use of water in irrigation through improved water management may make that saved water available to irrigate additional acreage, provide for municipal use, or satisfy in-stream flow needs for fish and wildlife without construction of additional supplies.

These two sources of increased output may apply to situations in which the plan results in the reproduction of final consumer goods or intermediate producer goods utilized by direct users; and they may also apply in situations in which firms are indirectly affected through economic interdependence with firms which utilize the intermediate producer goods from the plan.

For convenience of measurement and analysis, beneficial effects on national economic development are classified as follows:

a. The value of increased outputs of goods and services from a plan;

b. The value of output resulting from external economies caused by a plan.

In each case, with and without analysis must be applied to ascertain that with a plan there is a net increase in the production of goods and services, regardless of source, over those that would be obtained in the absence of the plan.

The general measurement standard for increases in the national output of goods and services will be the total value of the increase, where total value is defined as the willingness of users to pay for each increment of output from a plan. Such a value would be obtained if the "seller" of the output was able to apply a flexible unit price and charge each user (consumer) an individual price to capture the full value of the output to the user. This concept is illustrated in figure 1.

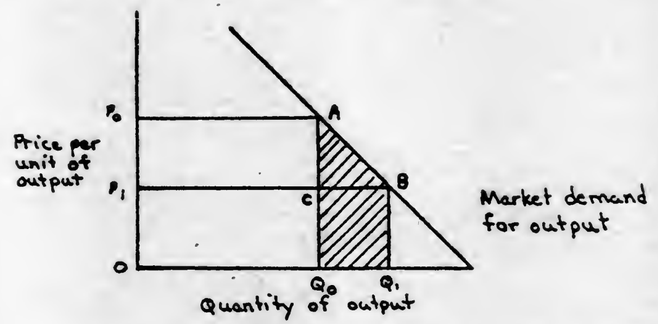


FIGURE 1.- Total value or willingness to pay for increased output.

Assuming the normal demand-output relationship, additional plan output will be taken by users as the unit price of output falls. If, as a result of the plan, output is increased by an amount Q1–Qo, the total value of this additional output to the users is measured by the entire shaded area on the chart. This is a larger amount than would be reflected by the market value. It is the sum of market price times increased quantity (represented by the rectangle CBQ^1Q^0) plus the consumer surplus for that increase (represented by the triangle ABC).

Since, in most instances, it is not possible for the planner to measure the actual demand situation, three alternative techniques can be used to obtain an estimate of the total value of the output of the plan—willingness to pay *based upon market price or simulated market price,* change in net income, and the most likely alternative.

If the additional output from a plan is not expected to have a significant effect on price, actual or simulated market prices will closely approximate the total value of the output. This is true because there would be no consumer's surplus. If the additional output is expected to significantly influence market price (as in figure 1), a price midway between that expected with and without the plan may be used to estimate the total value. This would approximate the willingness to pay, including consumer surpluses, in most cases.

When outputs of a plan are intermediate goods or services, the net income of the (producer) user may be increased. Where changes in net income of each individual user can be estimated, a close approximation of the total value of the output of the plan (including consumer surpluses) will be obtained.

The cost of the most likely alternative means of obtaining the desired output can be used to approximate total value when the willingness to pay or change in net income methods cannot be used. The cost of the most likely alternative means will generally misstate the total value of the output of a plan. This is because it merely indicates what society must pay by the next most likely alternative to accrue the output, rather than estimating the real value of the output of a plan to the users. This assumes, of course, that society would in fact undertake the alternative means. Because the planner may not be able to determine whether alternative means would be undertaken in the absence of the project, this procedure for benefit estimation must be used cautiously. *In determining the most likely alternative, the planner must give adequate consideration to nonstructural alternatives and conservation measures as well as structural alternatives.*

Application of these general measurement standards will necessarily vary, depending upon the source by which output is increased (that is, via direct increases in production or through subsequent employment of released resources), upon the type of good or service produced (whether the output is an intermediate or final good), and upon the type and nature of available

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alternatives. General measurement methods for each type of situation as well as an indication of the water and land resource plan outputs to which these standards are applicable are presented below.

a. Direct output increases. Direct outputs of water and land resource plans may be in the form of either final consumer goods or intermediate goods. An effective direct or derived demand must exist for the final and intermediate goods, respectively, to include the *value of* increased output as a contribution to national economic development.

Certain consumer goods and services may result directly from water projects and be used with no additional production resulting therefrom. Recreation, municipal water, and electric power for residential use are examples of this type of goods or services. Most goods and services produced by *alternative plans* are not directly consumed, however, but are intermediate products that serve as inputs for producers of final goods or producers of other intermediate goods. The development of irrigation water for use in producing food and fiber, of supplying electric power and water for industry are examples.

The values of increased output resulting directly from plans that produce final consumer goods or services is properly measured as the willingness to pay by final users for such output. When a competitive market price is not directly available, and the increased output will not be large enough to affect prices, total value of output may be estimated by simulated market prices or the use of the cost of the most likely alternative means of producing such final output. Examples of types of outputs to which *these* methods may be applied include:

a. Community and residential water supply;

b. Electric power provided for community and residential use; and

c. Recreation enhancement.

(The rest of this section remains unchanged.)

2. Measurement of the Value to Users of Increased Outputs

a. Water supply. Plans for water supply are generally designed to satisfy requirements for water as a final good to domestic and municipal users and as an intermediate good to agricultural and industrial users. *Plan elements which* satisfy requirements in these uses generally require, either separately or in combination, an increase in water quantity, an improvement in water quality, and improvement in the reliability of both quantity and quality, *or an increase in demand.*

Where it is necessary to use alternative costs for approximation of total value for water supply, as provided herein, the alternative selected must be a likely and realistic alternative directly responsive to achievement of this particular category, namely the additional output or *more efficient use* of water as an input to industrial, agricultural, and municipal uses or as a final good for community and individual uses. Moreover, the alternative must be a viable one in terms of engineering and financing and must be institutionally acceptable. It must be more than a hypothetical project. It must be a real alternative that could and would likely be undertaken in the absence of the proposed program, for instance, the reuse or recycling of existing water supplies or the use of available groundwater, including the improvement of its quality, if necessary.

(The rest of this section remains unchanged.)

b. Flood control, land stabilazation, drainage, and related activities. A number of activities, such as flood control and prevention, flood-plain management, drainage, prevention of sedimentation, land stabilization, and erosion control, contribute to the objectives through improving the productivity, use, and attractiveness of the Nation's land resources. From the viewpoint of their contribution to national economic development, the effect of these activities on the output of goods and services is manifested by increasing the productivity of land or by reducing the costs of using the land resources, thereby releasing resources for production of goods and services elsewhere. These activities affect land resources in the following manner:

(1) Prevention or reduction of inundation arising from stream overflow, overland waterflow, high lake stages, and high tides;

(2) *Improvement of drainage;*

(3) Prevention or reduction of soil erosion, including sheet erosion, fullying, flood-plain scouring, streambank cutting, shore or beach erosion, and prevention of sedimentation; and

(4) *Reduction of use limitations on land resources.*

There are essentially three types of effects on use that may occur as a benefit from including these activities in a plan. The first is an increase in the productivity of land without a change in land use. The second is a shift of land resources to a more intensive use than would occur in the absence of a plan. The third is a shift of land resources to less intensive use that would occur in the absence of a plan. In each case, the general method of calculating benefits is applicable. The distinction is made only to facilitate the application of the general method in different settings and as a means of providing criteria for the use of alternative techniques for estimating net income changes for the three classes of land utilization under the with and without analysis.

The general method to be applied in measuring effects for these and any other activities that result in a change in net productivity or a reduction in the cost of using land resources involves the measurement of the difference in net income accruing to users of land resources benefiting from such activities compared with what these users would earn in the absence of such a plan. This generally defined and establishes the limit of the willingness of users to pay for a plan that results in a change in productivity or reduction in the cost of using land resources.

Willingness to pay of the users, which is the basis for approximating the value of output from these activities, whether it be in the form of increased production of intermediate or final goods or release of resources, may be obtained by the following approaches.

(a) Productivity increase. In this situation, analysis with and without the plan indicates that the current and future enterprises employing given land resources are essentially the same with the plan as they would be without the plan. Further, it is more profitable for the given enterprise to continue to use the given land resource even without the beneficial effect of the plan than to locate at the next most efficient location. Net income change can then be measured as the difference in net income accruing to the enterprise on the specified land resource without the plan compared with what that enterprise would receive as net income with the plan on the same land resource.

(b) Changes in land use. Two situations are covered by changes in land use. These are:

(i) The situation in which the land owner benefiting from the change in land use would only utilize the land resource affected by such activity once the plan has become operative. In other words, it would not be as profitable for the benefiting landowner to utilize the affected land resource unless improved through one of the activities in this category as compared with the next most efficient location. Without such a plan the improved enterprise would occur at an alternative location. Net income change to the landowner will be measured as the difference in net income from the enterprise at an alternative location that be utilized without the plan compared with the net income received from the enterprises at a new location which is improved or enhanced as a result of the plan.

(ii) The situation in which enterprises that would otherwise employ a given land resource would be precluded from using the given land resources with implementation of the plan. Other enterprises less prone to incur flood damages or other adverse consequences would be allowed to use the given land resources.

Beneficial effects to the enterprises from activities in this category would be evaluated by measuring the net income change for the enterprise precluded from using the given land resources with the plan as compared with the without situation, plus the net income change for the enterprise that would be allowed to use the given land resource with the plan as compared with the without situation.

(c) Estimates of damage prevention and other measures. In the above cases, where it is not possible to directly employ net income changes to derive benefits, the estimate of actual or prospective damages to the physical properties of the enterprises involved can be employed as an approximation of net income change.

(Deleted the last two paragraphs of this section from the original P&S.)

c. Power. With respect to the computation of beneficial and adverse effects of increases in output *or more efficient use* of electric power it is emphasized that where appropriate, these should be viewed and evaluated as increments to planned or existing systems. Power supplied for general community and residential use can be considered as a final consumer good. Its value as a final good is generally reflected by the satisfaction of individual residents or in terms of improved community services and facilities. Electric power provided to industrial, commercial, and agricultural uses is viewed as an energy input to the production of goods and services from these activities resulting in an increase in the output, reduction in the cost of production, or a combination thereof. The total value of electric power to the producers using such power is reflected in their willingness to pay. Where the identification and measurement of willingness to pay and satisfactions accruing to activities using electric power for industrial, municipal, and residential purposes are not possible, total value to the users will be approximated by taking account of the cost of power from the most likely alternative source and using this as the measure of the value of the power creditable to the plan. The alternative selected must be a viable one in terms of engineering. The costs should include any required provisions for protection of the environment. However, since the addition of a hydroelectric project to an electric system in lieu of an alternative power source usually will either increase or decrease the unit cost of producing power by existing generating facilities of the system, this cost differential must be taken into account in determining the power value of the hydroelectric project.

Normally, electric power is evaluated in terms of two components—capacity and energy. The capacity value is derived from a determination of the fixed costs of the selected alternative source of supply. The energy value is determined from those costs of the alternative which relate to and vary with the energy output of the alternative plan. These capacity and energy components of power value are usually expressed in terms of dollars per kilowatt per year of dependable capacity and mills per kilowatt-hour of average annual energy.

d. Transportation (Navigation) (No change).

e. Recreation. As national living standards continue to rise, the average person, with basic needs provided for, uses an increasing percentage of rising real income to satisfy a demand for leisure time and outdoor recreational activities such as swimming, picnicking, boating, hunting, and fishing. With general ownership of automobiles and improvement in highways, travel to distant public recreational areas has become commonplace. Consequently, a large and increasing portion of recreational demand, especially that portion which is water-oriented, is accommodated by development of Federal lands and multi-purpose reservoirs which include specific provision for enhancing recreation activities. This is consistent with the requirements of the Federal Water Projects Recreation Act of 1965 (Public Law 89–72), providing for recreation and fish and wildlife as full and equal partners with all other purposes in Federal water projects.

For the most part, outdoor recreation is produced publicly and distributed in the absence of a viable market mechanism. While the private provision of recreation opportunities has been increasing in recent years, analysis of recreation needs is conducted in the absence of any substantial amount of feedback from effectively functioning markets to guide the evaluation of publicly produced recreation goods and services. Under these conditions—and based on a with and without analysis—the increase in recreation provided by a plan, since it represents a direct consumption good, may be measured or valued on the basis of simulated willingness to pay. In computing the projected recreation demand, however, the analysis should take explicit account of competition from recreation opportunities within the area of influence of the proposed plan.

There are in existence a number of methods, or approaches, to approximating demand and what people are willing to pay for outdoor recreation. A generalized methodology encompassing the travel-distance approach is set forth below.

(1) An analytical approach relating travel cost to distance. Using marginal travel costs (i.e., variable costs of automobile operation directly related to the number of miles driven) taken as a measure of what people are willing to pay for water-oriented recreation and how price affects use, the relationship between price and per capita attendance can be established for recreation sites and market areas. This relationship, the conventional demand curve having a negative slope, sums up the response of users' demand to alternative prices of the recreational product (or experience).

(Delete the rest of this section.)

(2) Other approaches (No change).

(3) Simulated prices per recreation day (No change).

f. Commercial fishing and trapping (No change).

g. Other program outputs (No change).

3. Measurement of increases in output resulting from external economies. Technological external economies are the beneficial effects on individuals, groups, or industries that may or may not benefit from the direct output of the project. They result from a plan if an increase in the output of final consumer goods or intermediate goods takes place beyond that which would be obtained in the absence of the plan and over and above direct outputs of the plan. This increased output may result from firms which are economically related to the plan taking advantage of more efficient production techniques and thereby releasing resources for use in producing other goods and services.

The change in net income of the economically related firms will be used as an indicator of the value of this type

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of national economic development effect. Changes in the total value of consumer goods due to externalities because of a plan can be accounted for by using measurement techniques like those described above.

If society would obtain the project output of final consumer goods or the output of firms that utilize the intermediate goods of the project from some other source in the absence of the project, then the net income position of the related firms would be unaffected by the plan.

(Delete the rest of this section.)

4. Special beneficial effects from use of unemployed or underemployed labor resources (No change).

G. Adverse Effects on National Economic Development. Achievement of beneficial effects on national economic development, and or environmental quality, requires resources to be diverted from alternative uses. The adverse effects on national economic development are the economic value that these resources would have in their alternative uses. Generally, market prices provide a valid measure of the values of goods and services foregone in alternative uses. *Where market prices are not available, surrogate values may be used as set forth in the Manual of Procedures for Evaluating Benefits and Costs of Federal Water Resources Projects published by the Water Resources Council.*

Both public and private costs associated with the plan will be measured to indicate the total adverse effect on national economic development incurred to realize the desired objectives.

1. *Sources of adverse effects.* Water and land resource plans result in adverse effects to national economic development in two ways.

a. Resources required or displaced to produce final or intermediate goods and services. In situations where a physical structure is necessary to obtain the desired objective, the adverse effects on national economic development include all explicit cash expenditures for goods and services necessary to construct and operate a project throughout a given period of analysis *plus any uncompensated economic losses to the public sector based on applicable surrogate values. The cash expenditures* consist of actual expenditures for construction; transfers from other projects, such as costs for reservior storage; development costs; and interest during construction. If the output of the plan is an intermediate good or service, the associated costs incurred by the intermediate product user in converting it into a marketable form will be measured.

These associated costs are borne by the user of the plan output but nevertheless, represent resource requirements necessary to convert the project output into a product demand by society. Examples are production costs incurred by users of plan outputs, and costs to other producers or to processors that arise in conjunction with the physical flow of the output of the plan. Associated costs should be deducted from the value of gross outputs to obtain net beneficial effects to be compared with the national economic development adverse effects of a plan. These adverse effects occur as a result of certain resources being released and subsequently unemployed as a result of the implementation of the plan.

In situations where nonstructural measures are used to obtain the desired objective, the adverse effects on national economic development include *the uncompensated economic losses to the public sector plus* payments *for such things as the purchase of easements* or rights-of-way and cost incurred for management arrangements or to implement and enforce necessary zoning. In some cases, actual cash expenditures will not be involved as when local communities are required to furnish lands, easements, and rights-of-way.

b. Decreases in output resulting from external diseconomies (No change).

c. Cost adjustments (No change).

2. Measurement of adverse effects.

a. Resources required for or displayed by the plan. Resource requirements of the plan are the sum of (*1*) the market values of *private sector* goods and services used for installations; interest during construction; operation, maintenance, and replacement; and induced costs as *well as (2) the surrogate value of uncompensated economic losses to the public sector.*

Installation costs are the market values of goods and services necessary to implement a plan and place it in operation, including management and organizational arrangements, technical services, land, easements, rights-of-way, and water rights; initial and deferred construction; capital outlays to relocate facilities or to prevent or mitigate damages; transfers of installation costs from other projects; and all other expenditures for investigating, surveying, planning, designing, and installing a plan after its authorization.

Operation, maintenance, and replacement costs are the market values of goods and services needed to operate an installed plan and to make repairs and replacements necessary to maintain the physical features in sound operating condition during their economic life.

b. Decreases in output resulting from external diseconomies (No change).

H. Beneficial and Adverse Effects on Environmental Quality (No change).

III. Other Beneficial and Adverse Effects (No change).

IV. General Evaluation Standards: Introduction (No change).

A. General Setting (No change).

B. Measurement of Beneficial and Adverse Effects (No change).

C. Price Relationships (No change).

D. The Discount Rate (No change).

E. Consideration and Comparison of Alternatives. (The following completely replaces the current section.)

A range of possible alternatives capable of application by various levels of government and nongovernmental interests should be systematically evaluated in terms of their contributions to national economic development and environmental quality objectives. A comprehensive range of alternatives should be evaluated toward balancing water availability over time against competing purposes.

Water conservation shall be fully integrated into project and program planning and review as a means of achieving both the national economic development and environmental quality objectives. Water conservation consists of actions that will (a) reduce the demand for water; (b) improve efficiency in use and reduce losses and waste; and (c) improve land management practices to conserve water. A clear contrast is drawn between the above conservation elements and storage facilities.

In addition, a primarily nonstructural plan will be prepared and included as one alternative whenever structural project or program alternatives are considered. This alternative plan should incorporate a combination of nonstructural or demand-reducing measures which could feasibly (in light of the national economic development and environmental quality objectives) be employed or adopted to achieve the overall project purpose.

Nonstructural measures are complete or partial alternatives to the traditional structural measures in addressing water resources problems and needs. The ideal nonstructural alternative is the least cost, implementable modification in public policy, management practice alteration, regulatory change or pricing policy modification which would bring marginal social benefits and marginal social costs for each project output into equality. The two objectives of national economic development and environmental quality are to serve as the basis for the measurement of social costs and benefits.

The assessment of nonstructural measures as alternatives to traditional structural measures should be considered for all water resources planning purposes including water supply, flood control, power, transportation, recreation, fish and wildlife, and other purposes. Nonstructural measures may require less capital investment and may produce less adverse impacts than traditional structural measures.

A nonstructural measure (or measures) may in some cases offer a complete alternative to a traditional structural measure (or measures). In other cases, a nonstructural measure (or measures) may be combined with fewer and/or smaller traditional structural measures to produce a complete alternative. It may at times be necessary to combine structural and nonstructural measures to formulate alternative plans for attainment of the planning objectives.

A "primarily nonstructural plan" is an alternative plan which makes maximum feasible use of nonstructural measures as a means of addressing water resources problems and needs. The determination of maximum feasible use will be based upon the maximum possible use of nonstructural measures which contribute to the national Economic Development objective and/or the Environmental Quality objective and which meet the tests of acceptability, effectiveness, efficiency and completeness.

Alternatives should not be limited to theose the Federal Government could implement directly under present authorities. Therefore the cooperative role of local, State, regional, and Federal organizations in implementing alternatives will be stressed. Plans, or increments thereto, will not be recommended for Federal development that, although they have beneficial effects on the objectives, would physically or economically preclude alternative non-Federal plans which would likely be undertaken in the absence of the Federal plan and which would more effectively contribute to the objectives when comparably evaluated according to these principles.

The alternative non-Federal plan that would likely be physically displaced or economically precluded with development of the Federal plan, or increments thereto, will be evaluated for purposes of this determination on a comparable basis with the proposed Federal plan with respect to their beneficial and adverse effects on the objectives, including the treatment of national economic development effects and the discount rate used in the evaluation. Taxes foregone on the proposed Federal plan and taxes paid on the non-Federal alternative will be excluded in such comparisons for the evaluation of the national economic development objective.

F. Period of Analysis (No change).

G. Scheduling. Plans should be scheduled for implementation in relation to needs so that desired beneficial effects are achieved effectively. Beneficial and adverse effects occurring according to different patterns in time are affected differently by the discount process when plans are scheduled for implementation at alternative future times. Therefore, plan formulation should analyze the alternative schedules of implementation to identify the schedule that would result in the most desirable mix of contributions to the objectives when the beneficial and adverse effects of a plan are appropriately discounted.

While beneficial and adverse effects toward the objectives will accrue over different time frames for the alternative implementation schedules, the *discounted* equivalent of such beneficial and adverse effects to be considered in the comparison of the alternative implementation schedules should represent the present value of the beneficial and adverse effects toward the objectives for each alternative implementation schedule at a common point in time.

H. Risk and Uncertainty (No change).

I. Sensitivity Analysis (No change).

J. Updating Plans (No change).

V. Plan Formulation. As set forth in principles, the formulation of plans will *contribute to* meeting current and projected needs and problems as identified by the desires of people in such a manner that improved contributions are made to society's preferences for national economic development and environmental quality.

1. Major steps in plan formulation. Plan formulation is a series of steps starting with the identification of needs and problems and culminating in a recommended plan of action. The process involves an orderly and systematic approach to making determinations and decisions at each step so that the interested public and decisionmakers in the planning organization can be fully aware of the basic assumptions employed, the data and information analyzed, the reasons and relationales used, and the full range of implications of each alternative plan of action. This process should be described in enough detail in the report of the study so that it may be replicated by others.

The plan formulation process consists of the following major steps:

1. Specify components of the objectives relevant to the planning setting;

2. Evaluate resource capabilities and expected conditions without any plan;

3. Formulate alternative plans to achieve varying levels of contributions to the specified components of the objectives, *including preparation of one primarily nonstructural alternative;*

4. Analyze the differences among alternative plans to show tradeoffs among the specified components of the objectives;

5. Review and reconsider, if necessary, the specified components for the planning setting and formulate additional alternative plans as appropriate; and

6. Select a recommended plan from among the alternatives based upon an evaluation of the tradeoffs between the objectives of national economic development and environmental quality. (The rest of this section remains unchanged.)

2. Levels of Planning (No change).

B. Specification of Components: Introduction (No change).

1. National economic development. For the national economic development objective, the components will usually be expressed at two levels.

a. The first level directly relates to the objective in the sense of the specification of the actual outputs of goods and services desired. Hence, the first level of specified components of this objective will generally be depicted in terms of increased *or reallocated* outputs of goods and services or their more efficient production such as the following:

(1) Increased or more efficient output of food and fiber;

(2) Increased or more efficient output of recreational services, *and efficient use of facilities;*

(3) Increased or more efficient production *and use* of energy;

(4) Increased or more efficient production *and use* of transportation services;

(5) Increased productivity of land for residential, agricultural, commercial, and industrial activities;

(6) Increased or more efficient *production and use* of necessary public services such as municipal and domestic water supply; and

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(7) Increased or more efficient industrial output.

b. The second level of specification of the components of the national economic development objective follows from the translation of the first level specification of needs for goods and services into specific needs for water and land resources. In the context of the above, the second level specification of components would be established in terms such as the following:

(1) Water and land *used in* irrigation;

(2) *Expanded opportunities for diversified* water and land related *recreational activities;*

(3) *Balancing energy use with production capacity;*

(4) Inland navigation or deep draft harbor *facilities in the context of total transportation needs;*

(5) *Reduction of flood hazard;*

(6) *Balancing water use with supply for domestic, industrial and municipal purposes; and*

(7) *Instream flow needs.* (The rest of the section remains unchanged.)

2. Environmental quality (No change).

3. Participation (No change).

4. Projected conditions (No change).

5. Sensitivity tests (No change).

6. Preferences. The specification of the components of the objectives must reflect the specific effects that are desired by groups and individuals of the planning area as well as the specific components declared to be in the national interest by the Congress or by the executive branch through the Water Resources Council. In this way the components of objectives will reflect local, State, and national preferences and priorities as well as the extent of complementarity and conflict among components.

In this regard, the identification and detailing of the components of the objectives should be viewed as the process of making explicit the range of preferences and desires of those affected by resource development in terms of reference that can form the basis for the formulation of plans. Rather than a single level of achievement being set forth for any specified component, a range of possible levels should set forth so that the relevant preferences can be seen for a given component. It should be anticipated that the initial specification of components will be modified (expanded or reduced) during subsequent steps in plan formulation to reflect the capability of alternative plans to *contribute to satisfaction of* component needs and to reflect technical, legislative, or administrative constraints.

C. Evaluation of Resource Capabilities. In very broad terms, the first step of specification of the components of objectives can be viewed as establishing the boundaries of demand (needs or problems) in the context of each objective. In the next step, evaluation of resource capabilities, the initial evaluation is made of the supply (availability) of the resources that can be employed to satisfy the current and future levels of demand. *Also considered are conservation measures that can alter future demand.*

Resources of the planning area shall be evaluated in terms of their ability to meet the current and projected demands identified for each component under two sets of conditions:

(1) Capability of resources without any planned action; and

(2) Capability of water and land productivity enhanced through management plans. An analysis of the capability of resources to meet the projected demands without any planned action will reveal the extent and magnitude of unsatisfied component needs and indicate the requirement for some specific plan of action to assure their satisfaction. To the extent that the water and land resources without any planned action are unable to meet current and projected needs or to the extent that resource management enables the needs to be met more efficiently, there is an evident justification for formulating alternative plans *to balance water available and water demanded for alternative uses.*

In this formulation step, the first task is to undertake a selective inventory of the quantity and characteristics of water and land resources of the planning area and an appraisal of opportunities for further use of these resources. Problems limiting the use of resources should also be identified.

The resources inventory should include data on all physical factors appropriate to the investigation. Examples of the type of information needed include:

1. Hydrologic data such as rainfall and runoff characteristics, frequencies of high and low flows, *the conjunctive relationship* of groundwater *with surface water including,* natural lakes, marshes, and estuaries;

2. Water quality data, including dissolved oxygen temperature, turbidity, and mineralization;

3. Geology and topography of the planning area; (The rest of this section remains unchanged.)

D. Formulation of Alternative Plans. In the first two steps in the plan formulation process, the components of the objectives were specified in terms of needs and problems, the resource capability within the planning areas were evaluated, and the broad outlines of management, development, and other actions were identified. The next step is to undertake the actual design and scaling of alternative plans.

Ideally, in the presence of a situation where there are few or no constraints on planning and where the components of the objectives are essentially complementary (the satisfaction of one component need does not preclude the satisfaction of the other component needs), the formulation of a single plan would be sufficient. The only test required would be that the plan was the most efficient plan to satisfy the specified level of component needs. Although in only a few instances will this situation occur, the case does help to establish the guidelines and criteria to judge the range of alternative plans that should be formulated and the tests to be applied in formulating any given plan.

The requirement for the formulation of alternative plans derives from the basic characteristics of the approach when more than one objective is involved. First, instead of the component needs of the two objectives being complementary, it is more likely they will be in conflict—the satisfaction of one will reduce the satisfaction of others. Second, given uncertainty with respect to future economic and demographic changes and the general uncertainty with respect to future preferences for the environmental quality objective, a single specified level of achievement or need satisfaction for any given component is not likely to be acceptable through time. Other factors contributing to the necessity for formulation of alternative plans include limited resources, technical planning constraints, and legal and administrative constraints.

(The following paragraph should be added to the original P&S.)

In formulating plans to meet the components of the two objectives, both structural and nonstructural measures shall be considered. A nonstructural measure (or measures) may in some cases offer a complete alternative to a traditional structural measure (or measures). In other cases, a nonstructural measure (or measures) may be combined with structural measures to formulate alternative plans that attain the planning objectives.

Suggestions as to the determination of the general nature and types of alternative plans which should be formulated and the number of alternatives which should be developed

within each general type are given below.

A first requirement is to determine the general types of alternatives to be developed under alternative assumptions concerning the level and magnitude of component needs in the future. Given alternative assumptions concerning future economic and demographic trends for the planning setting and the total range of component needs related thereto, a set of alternative plans should be prepared for each major assumption concerning the future. In those planning situations where there does not exist a strong linkage between water and land development and major shifts in economic and demographic trends, the Council's baseline projections will generally be used as a single set of assumptions about the future level of component needs required. Where the linkage is sufficiently strong so that water and land development may materially alter future economic or demographic trends, this relation should be reflected in alternative assumptions. Where the planning area may be unusually susceptible to other factors that could easily change in the future, it will be appropriate to establish a basis for a different set of alternative plans based on alternative assumptions concerning future change. In this instance, a sensitivity check should be made to ascertain the extent to which component needs will vary significantly given different assumptions concerning the future. If no significant variation is found, only one set of alternative plans will have to be developed.

Within a given set of assumptions concerning future change and the component needs associated thereto, the number and types of alternative plans to be developed will be determined by applying the following:

1. On a first approximation basis array component needs that are essentially complementary—that is, the satisfaction of one of these component needs does not preclude satisfaction of the other component needs or does not result in materially adding to the cost of satisfying the other component needs in the array; and

2. From the above approximation, it should be possible to group component needs and the elements of a plan to satisfy those needs that are essentially in harmony, each set representing the nucleus for an alternative plan.

At this step, relevant alternative means of meeting each of the component needs to be included in an alternative plan should be identified. All relevant means should be considered. An analysis should be made for each alternative means, including an identification of the beneficial and adverse consequences to other component needs. The assembly of information on alternative means of meeting the component needs will provide a basis for selecting the most effective means, or combination of means of *contributing to satisfaction of* all component needs.

The significance of this step is threefold: (1) It provides information on the effectiveness of alternative means of *contributing to satisfaction of* a component need; (2) it provides information on the extent of complementarity or conflict among component needs in relation to a particular means; and (3) it provides a basis for selecting alternative means for *contributing to satisfaction of* of a component need in the formulation of an alternative plan.

At this point, it should be posssible to formulate alternative plans built upon the set of complementary component needs and plan elements. These essentially are the building blocks for the formulation of alternative plans. In formulating a given alternative plan, initial consideration will be given to its orientation toward *contributing to* the component needs for one of the objectives. Further additions should be made for the component needs of the other objective, provided that their addition to a given plan does not significantly diminish the contributions of the overall plan to that objective toward which the plan is oriented. An analysis of the alternative plan, in terms of beneficial and adverse effects, will reveal the extent of any shortfalls against the other objective. The process is then reported until sufficient numbers of alternative plans have been formulated so that there is at least one plan that generally satisfies each specified component need of the objectives. This does not mean that there must be a plan for each objective that excludes plan elements that singificantly contribute to the component needs of the other objective nor does it mean that a given alternative plan cannot appropriately satisfy the component needs of both objectives. Additional alternative plans may be required where there are possible conflicts among the component needs within a given objective.

A precise number of alternative plans cannot be specified in advance but will be governed by the relevancy of the objectives to a given planning setting, the extent of component needs and their complementarity, the available alternative means, and the overall resource capabilities of the area under study.

A comprehensive range of alternative projects, programs and policies which, over time can balance water demanded for alternative purposes with water availability should be evaluated. An evaluation of alternatives should be considered in all water resources planning to serve needs including: water supply for municipal, industrial, and agricultural uses; recreation; hydroelectric power; navigation; flood hazard reduction; fish and wildlife; and others. Both nonstructural and structural alternatives should be considered. Structural alternatives may serve a single need or multiple needs and include dams, reservoirs, levees, channels, dikes (and drainage).

Nonstructural alternatives for municipal and industrial water supply include, but are not limited to:

(a) Reducing the level and/or altering the time pattern of demand by metering, leak detection and repair rate structure changes, regulations on use such as plumbing codes, education programs, drought contingency planning;

(b) Modifying management of existing water development and supplies by recycling, reuse, pressure reduction; and

(c) Increasing upstream watershed management and conjunctive utilization of ground and surface waters.

Nonstructural alternatives for irrigation water supply include, but are not limited to:

(a) Reducing the level and/or altering the time pattern of use through irrigation scheduling, modified water rate structures, leak detection and repair, recycling, and reuse;

(b) Modifying management of existing water development and supplies by tailway recovery and phreatophyte control.

Nonstructural alternatives for recreation and fish and wildlife include, but are not limited to, enhanced management of existing sites, and capacity management to distribute users of existing sites.

Nonstructural alternatives for hydroelectric power include, but are not limited to:

Reducing the level and/or time pattern of demand by time of day pricing, educational programs, inter-regional power transfers, and increased transmission efficiency.

Nonstructural alternatives for navigation include, but are not limited to, lockage charges to reduce congestion, improved scheduling of lock arrivals, use of switch boats for locking through tows.

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Nonstructural alternatives for flood hazard reduction include, but are not limited to:

(a) reducing susceptibility to flood damage by land use regulations, redevelopment and relocation policies, disaster preparedness, flood proofing, flood forecasting and warning systems, flood plain information;

(b) Reducing the adverse burden of flooding by flood insurance and flood emergency relief programs,

(c) On site detention of flood waters by protection of natural storage areas such as wetlands and in man-made areas such as building roofs and parking lots.

To facilitate comparisons and tradeoffs among alternative plans and comparisons of beneficial and adverse effects measured in non-monetary terms with beneficial and adverse effects measured in monetary terms, one alternative plan should be formulated in which optimum contributions are made to the component needs of the national economic development objective. Additionally, during the planning process at least one alternative plan will be formulated which emphasizes the contributions to the environmental quality objective. *In addition, a primarily nonstructural plan shall be prepared and included whenever structural project or program alternatives are considered.* Other alternative plans reflecting significant tradeoffs between the national economic development and environmental quality objectives may be formulated so as not to overlook a best overall plan.

In formulating alternative plans, tests of acceptability, effectiveness, efficiency, and completeness should be applied.

The acceptability test refers to the workability and viability of the plan in the sense of acceptance of the public and compatibility within known institutional constraints.

The effectiveness test refers to performance of the plan and the level of contribution to the components of the objectives.

(The remainder of this section is unchanged.)

E. Analysis of Alternative Plans (No change).

F. Reconsideration of Components and Alternative Plans (No Change).

G. Plan Selection (No change).

VI. Systems of Accounts (No change).

VII. Cost Allocation, Reimbursement, and Cost Sharing (No change).

VIII. National Program for Federal and Federally Assisted Activities (No change).

IX. Coordination and Review of Planning Studies (No change).

Dated: May 15, 1979.

Leo M. Eisel,

Director.

[FR Doc. 79-15631 Filed 5-23-79; 8:45 am]

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federal register

Thursday
May 24, 1979

Part III

Department of Housing and Urban Development

Office of the Secretary

Community Development Block Grant Programs; Environmental Review Procedures

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DEPARTMENT OF HOUSING AND URBAN DEVELOPMENT

Office of the Secretary

24 CFR Part 58

[Docket No. R-79-572]

Environmental Review Procedures; Community Development Block Grant Program

AGENCY: Department of Housing and Urban Development.

ACTION: Final rule.

SUMMARY: These amended regulations implement Section 104(h), Title I, of the Housing and Community Development Act of 1974 (Pub. L. 93-383, 42 U.S.C. 5301), as amended. The purpose of Part 58 is to set forth the regulations governing environmental review procedures to be undertaken by applicants for funds under the Community Development Block Grant Program. These regulations have been amended to reflect changes and additions to the environmental review responsibilities of applicants resulting from new legislation, executive orders and implementing regulations. In addition, the amendments clarify and reinforce the full authority and total responsibility of the applicant for decisionmaking and compliance with the National Environmental Policy Act of 1969, and with the related authorities expressly cited in these final rules. These amendments are also designed to simplify and expedite the authorized procedure and otherwise improve the quality of the environmental reviews performed by applicants on the basis of the operating experience gained in working with the process since the first publication of the regulation on January 7, 1975.

EFFECTIVE DATE: June 25, 1979.

FOR FURTHER INFORMATION CONTACT: Richard H. Broun, Office of Environmental Quality, Room 7274, Department of Housing and Urban Development, 451 Seventh Street, S.W., Washington, D.C. 20410; telephone: 202/755-6306.

SUPPLEMENTARY INFORMATION:

Background

On September 19, 1978, the Department of Housing and Urban Development published in the Federal Register proposed revisions and amendments to the existing regulations of Part 58 governing the environmental review responsibilities and procedures for the Community Development Block Grant (CDBG) Program, and invited public comments for a 30-day period. Generally based on the operational experience with the environmental review procedure since its inception in 1975, the proposed revisions and amendments were the result of public comments in response to an advance notice of propose rulemaking published in the Federal Register on May 16, 1977. The revised procedure also took into account the recommendations from the environmental staff of HUD; the findings and conclusions from audits carried out within the past four years by the HUD Inspector General's Office and the General Accounting Office (GAO); and the conclusions of the May 1977 report by the Council on Environmental Quality (CEQ) on "Community Development Block Grants and National Environmental Policy Act (NEPA)."

Some 93 responses have been received from the government and private sectors as a result of HUD's invitiation. Altogether there were approximately 500 comments from 48 cities and towns, 13 county governments and area-wide entities, and 3 state governments ant trust territories. Three Federal agencies and 12 HUD regional and area offices contributed to this effort as did the private sector with 14 responses from neighborhood service organizations, national professional associations and professional consultants from the environmental disciplines. HUD has considered the information and suggestions provided in the commentary, taking into account the particular positions and concerns, favorable and unfavorable, relative to the revisions and amendments proposed in September 1978. Technical and operational suggestions from Federal agencies and from the HUD regional and area offices were also reviewed. As a result, the Department is publishing these final amendments to its existing regulations, reflecting a number of changes based on the overall review and evaluation of the commentary received.

HUD Actions on Substantive Comments

Summary

The flow of the environmental review procedure delineated in the 1975 regulations remains unchanged in the final amendments. In response to expressed concerns and consensus of principal comments on the September 1978 revisions and amendments, the following actions have been taken and are reflected in the Final Amendments:

1. Deletion of the proposed changes to the existing procedure which would have required the use of HUD formats or the approval of HUD for other formats proposed by CDBG applicants;

2. Deletion of the provisions §§ 58.27(c) and 58.31(e)) in the proposed amendments of 1978 which would have had HUD assume approval, authority and extend the Department's responsibility to include its own objections on substantive environmental grounds in addition to the procedural objections that HUD may currently raise pursuant to the Part 58 regulations of 1975 now in effect;

3. Further clarification of the circumstances when prior environmental reviews can be used, removing the present imbalance of the proposed amendments of September 1978 toward the re-use of environmental impact statements and providing, in the final amendments, for the use of prior reviews with lower level findings of no significant effect on the environment;

4. Adoption in the final rules of an expanded list of additional activities and projects to be exempted from the environmental review requirements but not necessarily exempt from compliance with other statutory requirements as revised and updated in the final amendments;

5. Based also on the favorable comments received by HUD, adoption in the final rules of the variable thresholds developed in the 1978 proposed amendments to replace the fixed single threshold of the existing regulation and to establish an equivalent system for water and sewer thresholds;

6. Definition in the final rules of a new emphasis on early and comprehensive environmental reviews to be undertaken by CDBG applicants, preferably at the project application stage and in the development of three year CDBG Community Development and Housing Plan. This emphasis in the 1978 amendments was in the form of policy statements on timing, aggregation and cumulative impacts. Due note has been made of operational difficulties and the need for additional guidance noted in the commentary which welcomed the new provisions; and

7. Adoption of the proposed revisions and amendments which were widely supported in the commentary received and are generally designed to expedite the flow of the environmental review procedure, or to alleviate the environmental review workload of CDBG applicants. Included in the Final Amendments are the changes which:

—Define all time period requirements in term of calendar days and clarify the effective date which initiates the time requirement of a review action;

—Provide for the concurrent publications of the notice of findings of no significant effect and the notice of intent to request release of funds. The allowed use of equivalent formats by the applicant (see 1 above) may allow the combination of the two notices into one published notice as was requested by a substantial number of respondents;

—Delegate the authority and accountability for environmental review functions and responsibilities including signature authority to a "Certifying Officer" who may be the chief executive or another legally designated officer of the applicant.

Use of Hud Formats or Equivalent

(Section 58.11 and 58.15, 58.16, 58.17, 58.30)

Sections 58.11 had been revised by HUD, in the proposed amendments of September 1978, to require that applicants use the formats contained in HUD-399-CPD, Environmental Reviews at the Community Level, or other formats acceptable to HUD. The use of the HUD formats would have eliminated the need for the detailed specifications of the contents required in the existing regulations for the documentation of a project's environmental review record. Accordingly, the provisions of § 58.11 in the existing regulations would have been deleted. The purpose of the new requirements was not to create an additional approval checkpoint in the general flow of the environmental review procedure but to devise a discretionary measure which might prevent recurring patterns of defects, omissions and lack of uniformity in environmental review records observed during the past years of the CDBG program experience.

Nature of the Comments

Approximately 30 comments were addressed to this proposed change in 23 responses from 11 cities, one county, two state agencies, two HUD field offices and eight responses from the private sector. This commentary indicated a general concern with the following:

1. Rather than the intended discretionary measure, the proposed requirement could become an additional approval checkpoint requiring its own set of procedures for submittal, review and compliance of alternative formats proposed by applicants;

2. The revised requirement would be counter-productive to the stated intent of the overall amendments, delaying the environmental review procedure instead of expediting it, and adding to the workload of the applicants as well as of HUD rather than alleviating it;

3. The proposed change would not take into account the efforts made by applicants to develop formats more suited to their particular conditions; penalizing them for an initiative which, instead, should have been encouraged by HUD in view of the shortcomings of the HUD formats to which most of the comments were addressed in anticipation of HUD's retention of the requirement for the use of its formats.

4. Revisions to Format I were suggested by the commentators to remedy its shortcomings, noting in particular:

—The inadequate coverage of cited applicable authorities many of which would require their own checklist. One city, objecting to the extended procedure for historic preservation compliance, noted the inconsistencies of HUD Format I with the requirements of 36 CFR Part 800;

—The inapplicability of Format I to most Block Grant projects, to the special conditions of the small city applicants and to precedent setting cases or in environmentally controversial situations; and,

—Other technical shortcomings, omissions and redundancies of the present format.

5. The commentary further noted that the proposed requirement for the use of HUD formats by reference suggests their issuance as a proposed regulation with provisions for further public consultation and comment. Related to this was the need expressed for including in the regulations the standards that would be used by HUD in judging the adequacy or inadequacy of the alternative formats proposed by applicants.

HUD Action on Comments

In response to the concerns expressed in the above commentary, HUD reconsidered the amendments it had proposed in September 1978 prescribing the required use of HUD formats and implying an approval process for other formats proposed by CDBG applicants.

Section 58.11 of the existing regulations is retained in the Final Amendments to Part 58 but revised to provide for the optional use of the HUD formats contained in HUD-399-CPD or equivalent formats of the applicant without requiring approval by HUD and leaving to applicants the responsibility for the documentation of compliance with the environmental review requirements of NEPA and Part 58.

Sections 58.15, 58.16, 58.17 and 58.30 have been revised accordingly to reflect this optional use of HUD formats or equivalent formats of the applicant for the other environmental review documents also contained in HUD-399-CPD for Findings of No Significant Effect on the Environment (Format VI), Notices of Intent to Request Release of Funds (Format VII) and Notice of Intent to file an Environmental Impact Statement (Format V).

In addition, the detailed specification for the Environmental Review Record requirements of § 58.11 have been revised and updated to provide for the ERR coverage of the applicant's compliance with applicable statutory authorities newly cited in § 58.1(a)(3). Two new subsections have been added to § 58.11.

—58.11(n) relative to the documented compliance, when applicable, with Executive Order 11988 on floodplain management and Executive Order 11990 on the protection of wetlands including the notices required by § 58.23; and,

—58.11(o) emphasizing the required documentation with applicable authorities cited in § 58.5(a).

In a related action, HUD is undertaking a general revision of Format I contained in HUD-399-CPD. This action will take into account the commentary's expressed need for having HUD format models as guides for compliance with the environmental review requirements of Part 58, and the acknowledged usefulness of a consistent and uniform format in the flow of the environmental review proceedings and for public review. The forthcoming revisions to HUD Format I will seek to correct the shortcomings noted in the commentary and in the findings of audits and reviews evaluating the operational experience of the first three years of the program.

Role of HUD in Environmental Review at the Community Level

(Section 58.27(c), 58.31 and 58.17)

In the proposed amendments of 1978, a new subsection was added to § 58.27 of the existing regulations. The new provisions described HUD's role in commenting or otherwise responding to the environmental review process of applicants. They further specified that HUD could notify an applicant of defects in its environmental actions, make recommendations for correction and advise the applicant that its request for release of funds and certification might be rejected by HUD, unless the defects were remedied to HUD's satisfaction.

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Accordingly, in § 58.31, the permissible bases for HUD's objections to release of funds were expanded to include HUD initiated objections relative to an applicant's defective environmental review process or to projects considered by HUD to be environmentally unsound. Similarly, the proposed amendments provided for the receipt and review of environmental reviews (§ 58.16) and environmental impact statements (§ 58.17) in the same manner as for other Federal agencies.

Nature of the Comments

With the exception of the favorable response from certain neighborhood service organizations and Federal agencies, a substantial number of comments from 62 responses are critical of the proposed expansion of HUD's role as a reviewing and commenting agency with approval authority over environmental reviews of applicants. The consensus of the objections cites operational difficulties and issues that such a role would entail. Five respondents suggest better alternative approaches that could be used by HUD to achieve its objective and improve the quality of environmental reviews. However, the principal challenge to the increased HUD role is addressed to the one fundamental issue relative to the apparent conflict of this expanded role with the delegation of the legal liabilities and responsibilities to the applicant while withholding the decisionmaking authority.

All but five respondents were critical of the proposed addition to the regulation of § 58.27(c) describing the HUD role. Twenty-one comments noted in particular that the assumption of the review responsibility by the Department would be in conflict with the delegation of this authority to local units of government under Section 104(h) of Title I of the Housing and Community Development Act of 1974. They noted further that it would be inconsistent with the intent of the CDBG program. Objections were raised against what was considered as a "veto" power by HUD taking the decisionmaking away from localities. Doubt was also expressed as to the capability of HUD to effectively carry out such a role.

In voicing their objections, some respondents suggested nonregulatory and post approval intervention by HUD as a better alternative for improving the quality of environmental review (five respondents). Other methods also suggested included the current emphasis on comprehensive environmental reviews and reinforcing the role of citizen participation. It was further suggested that HUD assist the applicant in the performance of comprehensive environmental reviews of programs, projects and activities beyond the normal competence, jurisdiction and control of an applicant acting alone and to ensure the cooperation of other private and public agencies. Another important alternative suggested by the commentary was that HUD should provide policy guidance and technical assistance in the development and adoption of effective project management procedures including project inspection, monitoring and enforcement programs for approved projects.

Twenty one (21) of the 24 responses addressed to § 58.31 objected to the provisions of paragraph (e) which expanded the permissible bases for objection to include HUD initiated objections, on environmental grounds, to the release of CDBG funds to applicants with inadequate environmental reviews. As noted in the commentary relative to HUD formats, the standards used by HUD in evaluating the environmental reviews should be expressly stated in the regulations.

HUD Action in Final Rule

In response to the commentary received, HUD has reconsidered the proposed amendments and revisions which would have expanded its role in the environmental review procedure of the Block Grant program. In the Final rules of Part 58, the applicant retains the environmental review and decisionmaking responsibility for compliance with the requirements under NEPA and the other applicable cited authorities of § 58.1(a)(3) as revised. The Final Amendments reflect therefore changes to the proposed revisions and amendments of September 1978 which are as follows:

Section 58.27—Deletion of paragraph (c) which provided for the expanded review role of HUD as a commenting agency with the right to approve or determine the adequacy or inadequacy of an applicant's environmental review process and findings.

Section 58.31—Deletion of the paragraph (e) relative to the HUD initiated objections to release of funds and the references to it made in § 58.30. The permissible bases for HUD objections shall therefore be limited to those raised on procedural grounds as currently provided in the existing Part 58 regulations of 1975 and retained in § 58.31(b). When major objections are raised by other Federal agencies on an applicant's final EIS on substantive environmental issues, paragraphs (c) and (b)(7)(ii) require that such objections and issues be reviewed and resolved through direct consultations between the objecting Federal agency and the applicant. A new § 58.31(b)(7) provides for the exceptional cases when, after such consultations, particularly critical substantive or controversial issues remain unresolved in the applicant's final EIS. In such cases, the matter shall then be referred to the CEQ in accordance with current NEPA requirements and those in this section, pursuant to Section 309 of the Air Quality Act.

Due note was made by HUD of the alternatives suggested in the commentary relative to post-review functions of HUD in monitoring, guidance and technical assistance.

Use of Prior Environmental Reviews

(Section 58.19)

In the proposed revisions and amendments of 1978, § 58.19 had been retitled and amended to cover various circumstances when, in consideration of a proposed project level action, a prior environmental review may be used. The conditions under which a prior Environmental Impact Statement may be used in lieu of a new EIS were completely rewritten and moved from § 58.19(c) to § 58.19(b). The new subsection is consistent with proposed HUD environmental regulations applicable to programs other than CDBG.

Nature of the Comments

There was near unanimity in the commentary (15 of the 17 respondents) that § 58.19, as proposed, was almost entirely concerned with the use of prior environmental impact statements; subsections (a) and (b) being addressed to activities requiring an EIS while subsection (c) covered those cases where a prior EIS was considered inadequate. Only in this latter subsection is there a reference to environmental reviews with lower level findings but in the limited context of projects in which no environmental review had been completed. It was the sense of the comments that prior environmental reviews and findings of no significant effect should be specifically addressed in this section.

HUD Action on the Final Amendments

In response to the comments, § 58.19 has been revised to provide for the re-use of environmental reviews with findings of no significant effect. Due note was made of the questions raised in the commentary concerning the apparent permanence of environmental reviews and on the re-use of environmental impact statement for projects funded by sources other than the CDBG program. Paragraph (b) of § 58.19 provides for the re-use of all final environmental impact statements that have been listed in the **Federal Register** if they comply with the conditions specified in that section including a five year limitation for such re-use (subparagraph (3)(i)).

Exemption of Activities From Environmental Review

(Section 58.21)

Studies by CEQ, GAO, and HUD indicate that certain kinds of eligible block grant activities do not significantly affect the quality of the human environment. Therefore, HUD proposed to alter the current regulations which require the block grant applicant to complete the requirements of Part 58, including the time periods for comments and the release of funds, for all activities not specifically exempted in the statute. The proposed revision and amendment of September 1978 expanded the list of eligible block grant activities and projects exempt from environmental review requirements, but not necessarily exempt from compliance with other statutory requirements.

Nature of Comments

Forty-two responses containing approximately 60 comments were received.

a. Twenty-six of the forty-two respondents expressly stated their agreement and support for the expanded list of exempt activities in this section and suggested additional activities that could be exempted and further changes.

b. Dissenting opinions included four respondents who objected to one or more activities proposed for exempt status. A fifth respondent suggested deletion of § 58.21 in favor of the elaboration of a definitive list of only those activities which would require environmental review, all other activities being automatically exempt.

c. The other respondents requested further clarification and indicated the need for coordination and consistency. Particularly questioned were the conditions attached to some of the exempt activities, and the provisions for exemption of public services and rehabilitation (58.21(b)(3), (b)(4)), and public facilities (58.21(b)(1)). Other comments expressed regret that the exempt status from the environmental review requirements under NEPA did not automatically exempt these projects from compliance with other applicable authorities.

HUD Action on Comments

The revised section of the final rules exempts environmental studies, planning and design, administration, payments of urban renewal project loans, and payments for notes guaranteed under Section 108 of the Act from environmental review requirements. The following projects and activities are also exempt: projects consisting solely of acquisition, construction, reconstruction, or installation of certain types of public facilities; interim assistance for imminent threat to public health or safety; certain types of public services and certain types of rehabilitation of buildings which meet specific criteria. However, these projects must comply, as appropriate, with other applicable statutes and regulations cited in § 58.1(a)(3).

Projects Requiring an Environmental Impact Statement

(Section 58.25)

In the September 1978 revisions and amendments to Part 58, HUD proposed to expand § 58.25 in order to identify projects which because of their size or scale are automatically deemed to be major Federal actions significantly affecting the quality of the human environment and, therefore, requiring preparation of an EIS. The automatic thresholds in this section would augment but not replace qualitative factors which may lead an applicant, under § 58.15, to conclude that an EIS is required.

Nature of the Comments

There were 32 comments from 14 respondents generally favorable to and supporting the concept of variable thresholds. Of these responses, eight signified their acceptance while six criticized or hand certain reservations and questions. The latter were based on conceptual grounds, generally of a technical nature. Some comments questioned the conceptual basis of the system and the threshold values used, suggesting that additional indicators be taken into account (geographical extent, density, time factors). Operational questions were also raised based on the difficulties that might be experienced in defining the boundaries of the urbanizing belt.

HUD Action on Comments

In response to these comments, HUD wishes to indicate that the indices used for the variable thresholds and values implicity or explicitly included the factors mentioned in the commentary but that they had been simplified for the sake of clarity and easier application.

As the consensus of the response generally praised the new system for determining projects which require an environmental impact statement, § 58.25, of the final rule includes the variable thresholds proposed in the September 1978 amendments. A footnote has been added however to Table I providing for documented waivers that are prescribed in the existing regulations. (see § 58.11.)

Section 58.25(a) establishes a system of variable EIS thresholds applicable to various types of housing actions. The threshold system is the same as that proposed by HUD for its housing programs. The thresholds relate to certain projects which would remove, demolish or substantially rehabilitate existing housing, or provide sites for housing. For such projects located in non-SMSA counties, and for projects in SMSA counties but outside a defined urbanizing belt, the thresholds is 500 units. For projects located within the urbanizing belt, the thresholds vary from 500 to 2,500 units depending upon the total population of the SMSA county itself. The variable thresholds are presented in Table 1. They replace the single threshold of 500 units which HUD concluded did not distinguish among the size, population or density of development characteristics of various project areas in the United States and which did not recognize differences in the local ability to absorb and serve new or change development.

Section 58.25(b) states that in calculating the threshold for projects which provide sites for hospitals and nursing homes, the term "bed" shall be substituted for "housing unit".

Section 58.25(c) corrects some of the confusion which has ensued from the application of the 100 acre threshold for water and sewer projects in the 1975 version of § 58.25(b). It links this threshold with the residential threshold in § 58.25(a). In general, the new language provides that open land to be served by a new or enlarged water or sewer line shall be measured in equivalent housing units and this number applied to the thresholds of § 58.25(a) in order to determine whether an EIS will be required. The threshold will be calculated by the standard flows per unit and the increase in flow converted to the number of housing units.

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Comprehensive and Early Evaluation

(Section 58.5, 58.3 and 58.25)

The proposed revisions and amendments of 1978 emphasize that comprehensive environmental reviews should be undertaken by CDBG applicants early in the planning and programming of its Block Grant projects and activities. This emphasis was provided in the 1978 amendments in the form of policy statements in § 58.5(g) on timing, aggregation and cumulative impacts and included in the definitions of § 58.3 for "activities" and "projects". The purpose of comprehensive environmental reviews is to reduce the environmental workload and the number of environmental reviews of individual projects or activities. This approach would also improve the quality of the reviews which have tended to be inadequate because narrowly focused. In addition early reviews would be useful in the local decisions about project selection and design.

Nature of the Comments

Forty-two (42) responses supported the emphasis on comprehensive environmental reviews but expressed doubts about the capability of most applicants to undertake such reviews without assistance from HUD. There were approximately 90 comments, 30 of which addressed the definitions in § 58.3, 35 on the policy statements for aggregation and cumulative impact (§ 58.5g) and 25 responding to the timing requirements of § 58.5(g).

The definitions for activities and projects were questioned by seven commentators, the concern being that the comprehensive environmental reviews could be interpreted to include not only projects funded under Title I but also public and private projects funded from other sources. A second concern was the appearance that HUD would require environmental reviews of three year housing assistance plans.

Of the 25 comments generally addressed to the HUD effort to have early environmental reviews, five respondents based their objections on technical grounds. They suggested that the timing would be fundamentally counter-productive to the stated purposes of the section in view of the reprogramming which would be likely to occur (changes in project scope, size, location, cost, etc.), thus delaying rather than expediting the environmental review process. It would also discourage the proposal of projects which, although needed, would require environmental impact statements. Instead, applicants would favor other projects which do not require EIS's so as to avoid time and cost associated with these environmental reviews.

The opposition to the cumulative impact and aggregation requirements is that they may be construed, as they were by three respondents, to extend the environmental review responsibility of applicant communities over which they have no control (e.g., development activities of the private sectors, activities funded by other sources).

Seventeen of the 33 comments conveyed the reservations based on conceptual grounds and the others seeking clarification to procedural and operational questions. Three questions were raised relative to the actual capability of applicants to carry out the comprehensive environmental reviews pointing out the disadvantage of comprehensive reviews which would almost always lead to higher level findings and environmental impact statements, and the potential distortion of individually beneficial projects which could be found to have adverse consequences in a comprehensive assessment.

HUD Action on Comments

The final rules of Part 58 define the general orientation toward comprehensive and early evaluation as provided in §§ 58.5(g) and 58.3 in response to the generally favorable consensus in the commentary which was sympathetic to the purpose and objectives. From its review of the questions raised, HUD realizes that there would be operational and procedural questions which will have to be resolved in the course of the implementation of these new provisions. Technical guidance and assistance as well as an ongoing program of audits and evaluation are operational measures suggested by comments for refining comprehensive environmental reviews. Consideration was given by HUD to the question concerning the scope of the environmental reviews for projects which included actions other than these funded by the CDBG program. As a rule, comprehensive reviews should include those activities and actions known to the applicant and in particular those actions which have been designated by an applicant as part of its strategy for the treatment of a project area.

Other Amendments to Existing Regulations

The following revisions and amendments proposed in September 1978 are retained substantially unchanged in the Final Amendments with some revisions included for clarification or editorial purposes.

Authorities and Responsibilities— (58.1(a), 58.5 and 58.24)

The basic authorities listed in § 58.1(a)(3) have been revised to include Executive Orders 11990 on wetlands, and 11988 on flood plain management, both issued on May 24, 1977, the Safe Drinking Water Act of 1974 and the Endangered Species Act of 1973. The solid waste disposal authority has been added to the September 1978 listing at the request of the Environmental Protection Agency.

A new § 58.23 in the Final Amendments contains provisions for complying with the Executive Orders on Wetlands and flood plain management. Section 58.5 has been revised to make it clear that applicants' responsibilities include compliance with applicable laws and regulations pertaining to flood plain management and wetlands.

Time Periods (§ 58.3)

The revised section defines the time period requirements in term of calendar days. Based on numerous suggestions in the commentary received, HUD clarified the effective date which initiates the time requirement of a review action.

Concurrent Publication of Notices (§§ 58.16 and 58.30)

The final rule incorporates the changes and requirements proposed in September 1978 which provide for the concurrent publication, at the applicant's option, of the Notice of Intent to Request Release of Funds and the 15 day Notice of Finding of No Significant Effect.

The period for the Notice to Request Release of Funds has been changed from 5 business days to seven (7) calendar days. Thus, at the end of the 15-day period for comment on the Notice of Finding of No Significant Effect, the applicant, if its funding is unchallenged, may request the release of funds. Provisions requiring the use of HUD formats or HUD approved formats have been revised to give the applicant the option to use HUD-formats or equivalent ones without requiring the approval of HUD. This provision therefore may allow the combination of the two notices, as suggested by 17 responses, mostly from small cities, into one published notice.

Publication and Dissemination of Notices (§ 58.17)

In response to complaints that notices were being placed in obscure and little read legal or commercial journals, § 58.17(b) has been revised to indicate that a Notice of Intent To Request Release of Funds and Notice of Finding of No Significant Effect must be published at least once in a newspaper which is a source of general news used by the general public or published in some other manner most likely to inform residents.

The final rule incorporates these provisions and further clarifies the time requirement for receipt of comments on Draft EIS's from the date of publication in the Federal Register, normally on the Friday of the week following the one in which EPA received the notices.

Certifying Officer of Applicant (§ 58.3)

In response to the favorable consensus of the Commentary received, the Final Rule also retains the provisions delegating signature authority for purposes of environmental reviews and requests for release of funds to "certifying officer" in lieu of the chief executive. HUD recognizes that for a multi-activity CDBG program signatures by the chief executive officer may be required with unnecessary frequency. Therefore a definition of "Certifying Officer" has been supplied at § 58.3, and this officer is cited at relevant places in the revised regulation.

Conclusions

HUD has made a conscientious effort to accommodate all valid substantive comments in these final amendments. As discussed above, the environmental review procedure has been designed to take into account the various needs expressed by applicants and to simplify as well as reduce the workload the procedure imposes on the small cities. An effort was also made to improve the quality of the environmental reviews performed at the community level and to ensure the fulfillment of the environmental review and decision-making responsibilities delegated by the Secretary under Section 104(h) of Title I, Housing and Community Development Act of 1974.

The Department has determined that an Environmental Impact Statement under the National Environmental Policy Act is not required.

Title 24 CFR is amended by revising Part 58 to read as follows:

PART 58—ENVIRONMENTAL REVIEW PROCEDURES FOR THE COMMUNITY DEVELOPMENT BLOCK GRANT PROGRAM

Subpart A—General Policy and Responsibilities

Sec.

58.1 Purpose and authority.
58.2 Time periods.
58.3 Terminology.
58.4 [Reserved]
58.5 General policy.
58.6 [Reserved]

Subpart B—Environmental Reviews by Applicants Under Title I

58.7 [Reserved]
58.8 [Reserved]
58.9 Financial assistance for environmental review.
58.10 [Reserved]
58.11 Evironmental review record.
58.12 [Reserved]
58.13 [Reserved]
58.14 [Reserved]
58.15 Steps to commence environmental review process.
58.16 Steps to complete environmental review process where level of clearance finding is that the request for release of funds for project is not an action which may significantly affect the environment (no EIS).
58.17 Steps to complete environmental review process where level of clearance finding is that the request for release of funds is an action which may significantly affect the environment (EIS required).
58.18 Limitation on action pending clearance.
58.19 Use of prior environmental reviews.
58.20 Financial settlements of urban renewal projects.
58.21 Exempt activities.
58.22 [Reserved]
58.23 Floodplains and wetlands.
58.24 Historic preservation.
58.25 Projects requiring an EIS.
58.26 [Reserved]
58.27 Interaction of applicant with Federal agencies—lead agency role
58.28 [Reserved]
58.29 [Reserved]

Subpart C—Releases of Funds for Particular Projects.

58.30 Release of funds upon certification.
58.31 Objections to release of funds.
58.32 Effect of approval of certification.

Authority. Sec. 7(d), Department of Housing and Urban Development Act (42 U.S.C. 3535(d)).

Subpart A—General Policy and Responsibilities

§ 58.1 Purpose and authority.

(a) *Authority—(1) Basic law.* The National Environmental Policy Act of 1969 (Pub. L. 91–190, 42 U.S.C. 4321 et seq.; hereinafter "NEPA") establishes national policy, goals, and procedures for protecting and enhancing environmental quality. NEPA, as implemented by Executive Order 11514 and the Guidelines of the Council on Environmental Quality, 40 CFR Part 1500 (hereinafter "CEQ," as to the Council, and "CEQ Guidelines") requires in section 102(2)(c), in addition to other responsibilities, that all agencies of the Federal Government prepare detailed environmental impact statements on proposals for major Federal actions significantly affecting the quality of the human environment.

(2) *Section 104(h) of title I (of the Housing and Community Development Act of 1974* (Pub. L. 93–383, 42 U.S.C. 5301 et seq.); hereinafter "section 104(h)" and "Title I" respectively) authorizes a procedure under which applicants with approved applications for assistance under Title I assume for specific projects the environmental review and decisionmaking responsibilities that would apply to the HUD Secretary were he to undertake such projects as Federal projects. The procedure eliminates the necessity for Federal environmental impact statements at the time of the initial application. At the same time, however, the procedure is intended to assure that NEPA policies and protection of the environment continue undiminished. Under the procedure applicants are to certify prior to any commitment of Title I funds for particular projects (other than funds for general planning or environmental study purposes) that they have met all of their environmental responsibilities in accordance with regulations issued by HUD Secretary, after consultation with CEQ. Approval of such certification by the Secretary under section 104(h) discharges the responsibilities he may otherwise have had under NEPA with respect to the specific projects covered by the certification. The Secretary is to wait 15 days after receipt before acting upon such a certification, thus giving those who may wish to challenge a certification an opportunity to take appropriate action. That challenge can include suit against the certifying officer or applicant who for purposes of enforcing NEPA has consented to accept the jurisdiction of the Federal courts.

Such challenge may also include a request that the Secretary reject the certification. The Secretary will consider a request for rejection of the certification only if such request is grounded on certain bases, as set forth in § 58.31(b). Under section 104(h) cities, counties and other units of general local government assume only those

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responsibilities which would apply if the HUD Secretary were to undertake the projects proposed for assistance as Federal projects. Thus, these regulations neither expand nor contract the categories of actions that would be subject to environmental identification and review procedures.

(3) *Other applicable authority.* The environmental review process must also take into account, where applicable, the criteria, standards, policies and regulations under the subsections below. The process should also consider the relationship of a project funded under Title I and the requirements of these authorities, to anticipated requests for other Federal assistance, particularly housing, to which these authorities may apply. An explanation of how these authorities are taken into account and considered shall be documented in the environmental review record prior to the applicant's submission of the certification and request for release of funds required by § 58.30.

(i) *Historic properties.* The National Historic Preservation Act of 1966 (Pub. L. 89–665); Preservation of Historic and Archeological Data Act of 1974 (Pub. L. 93–291) and regulations which may hereafter be issued; Executive Order 11593, Protection and Enhancement of the Cultural Environment, 1971; Procedures for Protection of Historic and Cultural Properties, Advisory Council on Historic Preservation, 36 CFR Part 800.

(ii) *Noise.* HUD Handbook 1390.2, Noise Abatement and Control, Department Policy, Responsibilities and Standards, 1971.

(iii) *Flood plain.* Flood Disaster Protection Act of 1973 (Pub. L. 93–234) and implementing regulations; Title 24, Chapter X, Subchapter B, National Flood Insurance Program; Executive Order 11988 and applicable HUD implementing flood-plain management regulations.

(iv) *Coastal zones and wetlands.* Coastal Zone Management Act of 1972 (Pub. L. 92–583). Executive Order 11990 and applicable State legislation or regulations.

(v) *Air quality.* Clean Air Act (Pub. L. 90–148), as amended, and applicable U.S. Environmental Protection Agency implementing regulations.

(vi) *Water quality.* Federal Water Pollution Control Act (Pub. L. 92–500), the Safe Drinking Water Act of 1974 (Pub. L. 93–523) and applicable U.S. Environmental Protection Agency implementing regulations.

(vii) *Wildlife.* Fish and Wildlife Coordination Act (Pub. L. 85–624).

(viii) *Endangered species.* The Endangered Species Act of 1973 (Pub. L. 93–205) as amended by the Endangered Species Amendment Act of 1978 (Pub. L. 95–632, 16 U.S.C. 1536 et. seq.) and, applicable Department of the Interior and Department of Commerce implementing regulations.

(ix) *Solid waste disposal.* The Solid Waste Disposal Act as amended by the Resource Conservation and Recovery Act (Pub. L. 94–580) and applicable U.S. Environmental Protection Agency implementing regulations.

(b) *Purpose.* These regulations implement the requirements of section 104(h) which is intended to assure that the policies of NEPA are most effectively implemented in connection with the expenditure of funds under Title I, and to assure to the public undiminished protection of the environment. The policies of NEPA, in addition to other responsibilities set out in section 2 and Title I of NEPA, require the use of all practicable means, consistent with other essential considerations of national policy, to improve and coordinate Federal plans, functions, programs, and resources to the end that the Nation may—

(1) Fulfill the responsibilities of each generation as trustee of the environment for succeeding generations.

(2) Assure for all Americans safe, healthful, productive, and esthetically and culturally pleasing surroundings;

(3) Attain the widest range of beneficial uses of the environment without degradation, risk to health or safety, or other undesirable and unintended consequences;

(4) Preserve important historic, cultural, and natural aspects of our national heritage, and maintain, wherever possible, an environment which supports diversity and variety of individual choice;

(5) Achieve a balance between population and resource use which will permit high standards of living and a wide sharing of life's amenities, and

(6) Enhance the quality of renewable resources and approach the maximum attainable recycling of depletable resources.

§ 58.2 Time periods.

All time periods in this Part shall be counted in calendar days. The first day of a time period begins at 12:01 a.m. local time of the first day following the day of the action which initiates it.

For the purpose of this section, the term "action" means:

(a) Actual publication of the applicant's notices required by §§ 58.15, 58.16, 58.17 and 58.30;

(b) Actual publication in the Federal Register of the EPA announcement of its receipt of the applicant's notices;

(c) Receipt by the EPA of the final environmental impact statement.

§ 58.3 Terminology.

For the purposes of this part, the following terminology shall apply:

(a) *Actions which may significantly affect the quality of the human environment.* Those actions for which section 102(2)(c) of NEPA would require the preparation of an environmental impact statement (EIS). Applicants assuming NEPA responsibilities pursuant to Title I and these regulations shall review each project proposed for fund release under Title I in accordance with the environmental review process described in these regulations in order to determine whether the applicant's request to HUD for the release of Title I funds would constitute an action, were the applicant a Federal agency, which may significantly affect the quality of the human environment.

(b) *Activity.* As used in this Part, "activity" means both those actions funded or authorized to be funded with Title I assistance and those related actions which are not so funded or not authorized to be so funded but which are put forth by the applicant as part of its strategy for the treatment of a project area. In the context of environmental review, it is not the source of funds for an activity, but the nature of the activity and its relationship to other activities which is relevant. Where the term "eligible activity" is used in this part, it means an activity which is eligible for Title I assistance pursuant to 24 CFR Parts 570 and 571. See also § 58.21, Exempt Activities.

(c) *Applicant.* The applicant is the State or unit of general local government which makes application pursuant to the provisions of subpart D or subpart E of 24 CFR Part 570. One or more public agencies, including existing local public agencies, may be designated by the chief executive officer of a State or a unit of general local government to undertake a community development program in whole or in part, but only the State or unit of general local government may be the applicant under the subparts cited above, and under this Part 58. Upon execution of its grant agreement with HUD, an applicant becomes a "recipient" under 24 CFR Part 570. As used in this Part 58, the term "applicant" includes "recipient" under Part 570, where the context so requires.

(d) *Certifying officer.* The term "certifying officer" means the chief executive or another officer of the

applicant authorized, in accordance with applicable local law, to execute the certification and request for release of funds specified at § 58.30, to consent to assume the status of a responsible Federal official under the National Environmental Policy Act of 1969, and to consent on behalf of the applicant to accept the jurisdiction of the Federal courts for the enforcement of NEPA responsibilities as such official.

(e) *Environmental impact.* Any alteration of existing environmental conditions, or creation of a new set of environmental conditions, adverse or beneficial, caused or induced in whole or in part, directly or indirectly, by a proposed project under Title I.

(f) *Environmental impact statement* (EIS). A written statement, prepared in accordance with NEPA and CEQ guidelines, describing any alteration of environmental conditions or creation of a new set of environmental conditions, adverse or beneficial, caused or induced by the action or set of actions under consideration, and the alternatives to such action or group of actions. The statement should include a quantitative measure of magnitude and a qualitative measure of importance of the environmental impacts.

(g) *Environmental review and environmental review process.* The entire process for compliance by the applicant with NEPA under this Part with respect to a project funded under Title I.

(h) *Level of clearance finding.* The applicant's determination pursuant to § 58.15(d) as to which of the two levels of environmental clearance applies. (Revised and redesignated as paragraph (b))

(i) *Project.* The term "project", as used in this Part, means an activity or a group of integrally related activities, designed by the applicant to accomplish, in whole, or in part, a specific goal. Geographically or functionally related activities designed to accomplish a specific goal, irrespective of the funding sources of those activities, shall be grouped together for consideration as a single project. Because of the interrelationships of the activities comprising the project, the project as a whole shall be subject to a single environmental review in accordance with this part. A project may take a number of years to complete and may require funds in addition to the amount provided in a single program year.

(j) *SMSA.* A standard metropolitan statistical area as defined by the Office of Management and Budget.

(k) *SMSA county.* Within an SMSA, a county or county equivalent as listed in the P–25 series, with population estimates and projections, published by the Bureau of the Census.

(l) *Substantial completion.* As applied to an urban renewal project, this term means that:

(1) Ninety percent (90%) or more of site improvement work has been completed and the remainder is under contract;

(2) Ninety percent (90%) or more of demolition work has been completed and the remainder is under contract;

(3) Relocation of all occupants of at least ninety-eight percent (98%) of the housing units in the relocation workload, or of all but five (5) such housing units, whichever is the lesser, has been completed;

(4) Relocation for at least ninety-five percent (95%) of all cases in the nonresidential relocation workload, or for all but ten (10) such cases, whichever is the lesser, has been completed;

(5) At least ninety percent (90%), by estimated cost, of all relocation payments have been made;

(6) With respect to each park, playground, public building or other public facility to be provided as a noncash local grant-in-aid:

(i) All land necessary for the provision thereof has been conveyed to or is in the ownership of the providing entity or is covered by an unconditional purchase, or similar, agreement,

(ii) All necessary planning agency or other public body approvals have been obtained,

(iii) All, or virtually all, of the funds necessary for the provision thereof have been authorized by the governing body of the providing entity and all and any necessary bond referendums or other public approvals have been obtained,

(iv) Complete working drawings and specifications have been prepared for the construction thereof and firm supportable estimates of the costs incident to provision thereof have been developed, and

(v) A firm assurance exists of timely completion and in any event, of completion within five (5) years from the date of the assurance;

(7) With respect to dwelling units not to be demolished, at least ninety-five percent (95%) comply with applicable codes and at least seventy-five percent (75%) comply with applicable property rehabilitation standards established for the urban renewal project: *Provided,* that in any event, project activities may be deemed complete in regard to dwelling units not to be demolished where the following conditions exist:

(i) Area decline has been arrested and stability and self-generating renewal assured,

(ii) Public facilities and services have been and will continue to be, provided to support continued stability,

(iii) Local financial institutions are making property loans in the area, and

(iv) The community will continue an adequate level of code enforcement activities in the area;

(8) All project land acquisition has been completed; and

(9) An amount equal to the HUD approved land disposition value of all acquired project land has been credited to the urban renewal project account(s): *Provided,* that for all project land actually sold, the full sale price thereof shall be so credited and for all leased or unsold project land, the full amount of the HUD approved estimate of the disposition value thereof shall be so credited from community development block grants or local funding sources.

(m) *Urban renewal project.* A project as defined in section 110(c) of the Housing Act of 1949, as amended, or a neighborhood development program as defined in section 131(b) of the Housing Act of 1949, as amended.

(n) *Urbanizing belt.* Urbanizing belts are identified by the Bureau of the Census, plus a two-mile zone around the outer boundaries of such areas. In cases where this two-mile zone borders or includes a portion of an incorporated place lacking census tracts, or, when the two-mile zone borders or includes a portion of a census tract, the next outer boundary of such incorporated place or census tract may be used to delineate the outer limit of the urbanizing belt. An urbanizing belt may extend into the county of an adjacent SMSA, using the applicable threshold of that county but in no case shall the urbanizing belt extend beyond the SMSA boundary.

§ 58.4 [Reserved]

§ 58.5 General policy.

(a) *Applicants to assume environmental responsibilities.* Except as provided at paragraph (b) of this section, all applicants for assistance under Title I shall be required to assume responsibility for carrying out all of the provisions of NEPA relating to particular projects for which the release of funds is sought. This shall include assuming all applicable responsibilities relating to such projects for compliance with the National Historic Preservation Act of 1966, as amended; the Preservation of Historic and Archeological Data Act of 1974, as amended; Executive Order 11593, May 13, 1971, Protection and

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Enhancement of the Cultural Environment; Procedures for Protection of Historic and Cultural Properties, Advisory Council on Historic Preservation, 36 CFR Part 800; Executive Order 11988, May 24, 1977, relating to Floodplain Management; Executive Order 11990, May 24, 1977, relating to Protection of Wetlands; Section 1424(e) of the Safe Drinking Water Act of 1974; the Endangered Species Act of 1973; and other regulations and orders issued relative to any of the foregoing. In assuming such responsibility, the applicant's certifying officer shall carry out the responsibilities of the "responsible Federal official" as that term is used in NEPA and applicable regulations thereunder. Such responsibilities include, where applicable, the conduct of environmental reviews; decisionmaking and action as to environmental issues; preparation and circulation of draft and final EIS's; and assumption of lead agency responsibilities for preparation of such statements in behalf of Federal agencies when such agencies consent to such assumption. The certifying officer shall be subject to the jurisdiction of the Federal courts pursuant to section 104(h); such certifying officer of the applicant shall not be represented by the Department of Justice in court, but reasonable defense costs, including the fees of attorneys and experts, incurred in environmental litigation may be funded from the applicant's grant amounts.

The carrying out of all environmental review responsibilities shall be documented in the environmental review record prior to the applicant's submission of the certification and release of funds required by § 58.30.

The certification described at § 58.30 must be submitted to HUD by the applicant prior to the release of funds for any such project as evidence of the assumption of the responsibilities set forth above.

(b) *Exception.* (1) Each applicant shall, prior to submitting an application, review its legal capacity to assume and carry out the environmental responsibilities hereunder. If an applicant believes it may lack legal capacity to assume and carry out environmental review responsibilities hereunder, then it shall submit to the HUD official authorized to receive the application the legal opinion of its attorney in support of such claim and shall consult with said HUD official in order to obtain appropriate instructions. Such claim shall be made prior to submitting an entitlement or discretionary application. Discretionary applicants shall submit such claim to HUD with the preapplication, if a preapplication is required. HUD will review such claim and approve or disapprove it.

(2) If an applicant's claim of lack of legal capacity has been approved by HUD, then HUD will complete an environmental assessment, including an EIS if appropriate, pursuant to HUD Handbook 1390.1, as amended, before the application is approved, or in those cases where a preapplication is required, before the applicant is invited to submit a full application.

(3) Community associations, other applicants which are eligible for assistance pursuant to 24 CFR 570.403(b)(4) unless such applicant is also described in the first sentence of 24 CFR 570.3(v), and private developers approved under Title VII of the Housing and Urban Development Act of 1970 or Title IV of the HUD Act of 1968, are considered by HUD to lack the legal capacity to assume or carry out environmental review responsibilities.

(c) *Environmental review process.* The environmental review process consists of a study by the applicant of each project to identify any environmental impacts of actions proposed to be taken by the applicant which are to be supported, in whole or in part, by Title I funds.

(d) *Determination of impact.* In the evironmental review process, the applicant must arrive at a determination as to whether or not any proposed project will result in any environmental impact; or will itself be affected by the environment; the nature, magnitude and extent of any such impact; whether or not any changes could be made in the project as proposed, or alternatives to such project could be adopted, to eliminate or minimize adverse impacts; and the level of environmental clearance which is appropriate. Such determination is largely a matter of judgment on the part of the applicant, involving evaluation of available facts, pursuant to the procedures and guidelines contained in this Part.

(e) *Conditions and safeguards.* If the applicant's environmental review process reveals conditions or safeguards which should be implemented when the project is undertaken, in order to protect or enhance environmental quality or minimize adverse environmental impacts, then such conditions or safeguards shall be set forth in the environmental review record and the applicant shall use all appropriate means to assure that those conditions and safeguards are implemented.

(f) *Decision not to implement.* If, through the environmental review process, the applicant concludes that the proposed project should not be implemented in whole or in part, then the applicant may reprogram to another eligibile project, in accordance with the applicable provisions of 24 CFR 570.305.

(g) *Scope and timing of environmental reviews.* Applicants shall carry out their environmental review responsibilities for projects as defined at § 58.3 in accordance with the following:

(1) *Timing.* To the greatest extent possible, the environmental review of proposed projects shall be carried out concurrently with the formulation of the applicant's community development program and the preparation of the application for Title I funds. Environmental review shall commence at the earliest possible point in the development of a project. When a project is formulated, it shall be reviewed for environmental considerations in order to identify and evaluate expected or potential environmental impacts, to devise changes and modifications to eliminate or mitigate adverse impacts, and to explore alternatives. By developing and carrying out its environmental review as part of the overall program and application formulation process, the applicant can considerably shorten the time between program development and program implementation.

(2) *Cumulative impact and aggregation.* The cumulative effects of related activities must be considered together. Activities which are individually small may, in the aggregate, have cumulatively large effects on the environment, especially when a number of such activities will take place at or about the same general time and in the same general location. Also, a series of activities taking place over extended periods of time can, in the aggregate have a cumulative effect upon the environment much greater than the effect of each individual activity considered separately. All individual actions activities which are related either geographically or functionally, or are logical parts of a composite of contemplated actions, shall be grouped and shall be deemed by the applicant to be a project and must be evaluated as a whole in a single, comprehensive environmental review. The environmental review of a multi-year project shall encompass the entire multi-year scope of activities and shall not be limited to those activities scheduled for any given year. This subsection applies to all projects and activities, except that for exempt activities defined at §58.21(a)

the applicant may, but is not required to, apply these aggregation requirements.

(3) *Illustrations.* Where an applicant proposes to acquire a parcel of land, relocate its occupants, clear the site by demolition, then develop the site, or dispose of it for development by others, then all of these activities must be viewed as comprising a single project, for purposes of environmental review. Where an applicant proposes to undertake a number of small activities, such as street, water, and sewer improvements in a given neighborhood, the applicant shall aggregate all such geographically or functionally related activities and view them as a single project for environmental review purposes and shall evaluate their cumulative environmental impact. This applies even if the activities are to occur over a period of years and even if some of the activities are to be funded by other than Title I funds or carried out by someone other than the applicant.

§ 58.6 [Reserved]

Subpart B—Environmental Reviews by Applicants Under Title I

§ 58.7 [Reserved]

§ 58.8 [Reserved]

§ 58.9 Financial assistance for environmental review.

Applicants may utilize Federal financial assistance to enable them to carry out environmental review pursuant to this Part, in accordance with the provisions of 24 CFR 570.205, 570.206(h), 570.301 and 571.205 and 571.206(h). The costs of environmental reviews include any costs incurred in complying with any of the authorities mentioned at § 58.1(a)(3) of this Part.

§ 58.10 [Reserved]

§ 58.11 Environmental review record

Applicants shall prepare and maintain a written record of the environmental review pertaining to each project, which shall be designated the "Environmental Review Record", and shall be available for review as part of the project proposal at the request of interested agencies, groups or individuals. The environmental review record, using the appropriate formats contained in HUD 399–CPD, Environmental Reviews at the Community Level, or other equivalent formats used by the applicant, shall include as applicable:

(a) A description of the project to which it relates;

(b) Documentation showing that each step in the environmental review process set forth in § 58.15 has been performed, that the level of clearance finding required by 58.15(d) has been made, and is supported in the environmental review record;

(c) Documentation showing that each step in the environmental review process under § 58.16 or § 58.17, as the case may be, has been performed, and that the requirements of applicable subsections have been satisfied;

(d) A description of the existing environmental conditions, the environmental impacts identified and modifications and changes made to compensate for environmental impacts;

(e) A copy of any Draft EIS, and the comment, on it, and the Final EIS;

(f) Copies of historic preservation review analyses conducted under 36 CFR Part 800, showing satisfaction with each applicable step of such process and support for any conclusion reached in connection therewith;

(g) The written decision required by § 58.19(c) with respect to projects to which § 58.19(c) is applicable;

(h) A copy of the notice required by § 58.30(a), the request required by § 58.30(b), and the certification and accompanying statement required by § 58.30(c);

(i) A copy of any environmental objection received which pertains to the project;

(j) A copy of any request for a waiver, and any waiver that may be issued under § 58.25 (Table I note (2));

(k) Evidence of any determination of the "lead agency" under § 58.27;

(l) Copies of environmental analyses or reports, conducted under State or local law;

(m) Original counterparts or copies, as appropriate, of other documents appropriate in the judgment of the applicant for inclusion in the environmental review record;

(n) Documentation relative to compliance with Executive Order 11988 on Floodplain Management and Executive Order 11990 on Protection of Wetlands, including the notices required by § 58.23; and

(o) Documentation required to reflect compliance with related statutory authorities and legislation cited in § 58.5(a).

§ 58.12 [Reserved]

§ 58.13 [Reserved]

§ 58.14 [Reserved]

§ 58.15 Steps to commence environmental review process.

The manner in which the applicant carries out the environmental review process, including the concurrent historic preservation review, and other reviews required by the authorities set forth in § 58.1(a) and the responsibilities assumed pursuant to § 58.5(a), is largely within the discretion of the applicant. However, the process should start as early in the planning and program development process as possible, should be completed while alternatives can still reasonably be considered and action taken to enhance environmental quality. Unless an immediate decision is made that an EIS is required, the process will be reported in the HUD Format I or equivalent, and shall include the following steps:

(a) *Determine existing conditions.* Existing environmental conditions and trends which are likely to continue in the absence of the proposed project should be identified. Such information is an essential data base from which to assess and evaluate any effects of the project.

(b) *Identify environmental impacts.* The nature, magnitude, and extent of all environmental impacts of the project, whether beneficial or adverse, should be identified.

(c) *Examine identified impacts.* As to all environmental impacts of the proposed project which are identified:

(1) *Possible project modification.* Examine the project and consider ways in which the project or external factors relating to the project could be modified in order to eliminate or minimize any adverse environmental impacts and enhance environmental quality. The examination should include consideration in light of the policies set forth in § 58.1(b) of both positive and negative effects of any such modification in relation to design, use, location, cost, and timing of the proposed project and its implementation.

(2) *Alternatives.* Examine alternatives to the project itself which would eliminate or minimize environmental impacts or enhance environmental quality. The examination should include consideration of both positive and negative effects of any such alternatives in relation to design, use, location, cost, and timing, and consideration of the effect of no project.

(d) *Level of clearance finding.* Having completed each of the foregoing steps that may be applicable in the environmental review process, the applicant shall make one of the two level of clearance findings set forth below.

(1) *Finding that request for release of funds for project is not an action which may significantly affect the quality of human environment.* If the

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environmental review process of the applicant results in a finding by the applicant that the request for release of funds for the proposed project is not an action which may significantly affect the quality of the human environment, then a document stating this finding and the facts and reasons supporting the finding shall be prepared by the applicant and included in the environmental review record. The document shall set forth sufficient information to demonstrate that the applicant has complied with each step in the environmental review process.

(2) *Finding that request for release of funds for project is an action which may significantly affect the quality of the human environment.* If an EIS is required by § 58.25, or if the environmental review process of the applicant results in a finding by the applicant that the request for release of funds for the proposed project is an action which may significantly affect the quality of the human emvironment, then a document stating this finding shall be prepared by the applicant and included in the environmental review record. An EIS is required for each action which may have such significant effect.

§ 58.16 Steps to complete environmental review process where level of clearance finding is that the request for the release of funds for project is not an action which may significantly affect the environment (no EIS).

The following procedure shall be followed where the level of clearance finding is that specified in § 58.15(d)(1):

(a) *Notice of finding of no significant effect.* The applicant shall prepare a notice of finding of no significant effect on the environment using format VI of HUD–399–CPD, Environmental Reviews at the Community Level, or such other equivalent format as may be used by the applicant.

(b) *Publication and dissemination.* The notice of finding of no significant effect on the environment shall be published and disseminated in the same manner as a notice of intent to file an EIS, as described as § 58.17(b) and will provide at least 15 days after initial publication for public comment. The applicant may, at the same time of publication of the above notice, also publish the notice required by § 58.30(a). In such case, both notices shall be published and disseminated in the manner specified at § 58.17(b).

(c) *Completion.* Following publication and dissemination of the notice of finding of no significant effect on the environment and the expiration of any time fixed for comments, the environmental review process shall be complete, unless further proceedings are found by the applicant to be necessary, due to responses to such notice, or otherwise.

§ 58.17 Steps to complete environmental review process where level of clearance finding is that the request for the release of funds for project is an action which may significantly affect the environment (EIS required).

The following procedure shall be followed where the level of clearance finding is that specified in § 58.15(d)(2):

(a) *Notice of intent to file an EIS.* As soon as practicable, the applicant shall prepare a notice of intent to file an EIS using format V of HUD–399–CPD, Environmental Review at the Community Level, or such other equivalent format as may be used by the applicant.

(b) *Publication and dissemination.* Copies of the notice of intent to file an EIS shall be sent to the local news media, individuals and groups, including low- and moderate-income neighborhood groups, known to be interested in the applicant's activities, local, state, and Federal agencies, including the headquarters and appropriate Regional Office of the Environmental Protection Agency, the HUD Area Office, the appropriate A–95 clearinghouses, and others believed appropriate by the applicant. Such notice shall be published a least once in a newspaper of general circulation in the affected community. If such newspaper is of a type specializing in the publication of legal, real estate, commercial, or other notices, listings, and advertisements and is not of a type subscribed to and read by the general public as a source of news of general public interest, then such notice shall also be published at least once in easily readable type in the nonlegal section of a newspaper of general circulation, and where appropriate in a minority and non-English language newspaper of general circulation where such exists. The applicant also shall make reasonable efforts to provide the notices, in the form of press releases to neighborhood newspapers or periodicals serving low- and moderate-income neighborhoods.

(c) *Public hearings—Procedure.* Prior to the preparation and distribution of a draft EIS, the applicant shall determine whether or not it will conduct a hearing or hearings at which members of the public may be heard respecting the preparation and contents of the draft EIS. The applicant should also determine whether or not separate public hearings shall be held concerning the draft EIS, or whether such public hearings shall be combined with other public hearings pertaining to the application of the applicant. All such public hearings concerning a draft EIS shall be preceded by a notice of public hearing, which shall be published and disseminated in the same manner as a notice of intent to file an EIS as set forth in § 58.17(b), at least 15 days prior to such hearing, and which shall: (1) State the date, time, place, and purpose of the hearing; (2) describe the project, its estimated costs, and the project area; (3) state that persons desiring to be heard on environmental issues will be afforded the opportunity to be heard; (4) state the name and address of the applicant and the certifying officer of the applicant; and (5) state where the draft EIS can be obtained; whether in person or by mail, and any charges that may apply.

(d) *Public hearings—Factors to consider.* The determination of whether or not public hearings shall be held prior to distribution of a draft EIS or after such distribution, or at any other time during the environmental review process, shall be within the reasonable discretion of the applicant. In determining whether of not to hold such public hearings on environmental issues, either separately, or in combination with other proceedings relating to the application of the applicant, the following factors should be considered: (1) The magnitude of the projects, in terms of economic costs, the geographic area involved, and the uniqueness of size of commitment of the resources involved; (2) the degree of interest in or controversy concerning the projects, as evidenced by requests from the public, or from Federal, State, or local authorities, for information, or that a hearing be held; (3) the complexity of the issues and the likelihood that information will be presented at the hearing which will be of assistance to the applicant in carrying out its environmental responsibilities respecting the particular projects; (4) the extent to which public involvement has been achieved with respect to environmental concerns through other means, such as other public hearings, citizen participation in the development of the applicant's community development program and in formulation of its application, meeting with citizen representatives, and written comments on the particular projects.

(e) *Draft EIS.* A draft EIS shall be prepared in accordance with CEQ guidelines (40 CFR Part 1500). Copies of the draft EIS shall be sent by the applicant to:

(1) The Headquarters of the U.S. Environmental Protection Agency, Office of Federal Activities, Mail Code A–104, Room 537W, 401 M Street, SW., Washington, D.C. 20460. The applicant is required to file 5 copies of the draft EIS with the EPA headquarters in order to fulfill the official filing requirements as set forth in the CEQ guidelines. Upon filing of the draft EIS with EPA headquarters, a notice that the applicant has prepared a draft EIS will be published by EPA in the **Federal Register** which normally will be on the Friday of the week following the one in which EPA received the required number of copies. There shall be a minimum review period of 45 days for the draft EIS plus any extensions thereof initiated or granted by the applicant. A draft EIS must be on file with EPA at least 90 days prior to submission to HUD of a certification and request for release of funds for the particular project pursuant to § 58.30.

(2) Simultaneously with the official filing set forth in paragraph (e)(1) of this section, five (5) copies will be transmitted to the appropriate Regional Office of the U.S. Environmental Protection Agency in order to fulfill the requirements of § 309 of the Clean Air Act.

(3) Copies shall also be transmitted to Federal agencies whose areas of jurisdiction of law or special expertise are involved, to the applicable OMB-designated A–95 clearinghouses, to appropriate local agencies and entities, including local and area planning agencies, and groups or individuals known by the applicant to have an interest in the proposed action of the applicant.

(4) The appropriate HUD Area and Regional Office and to the HUD Headquarters Library, Eighth Floor, U.S. Department of Housing and Urban Development, Washington, D.C. 20410 (one copy each)

(5) Copies shall also be made available to the public at the offices of the applicant and at public libraries and either copies, or summaries, of the draft EIS, must be made available, upon request, to persons who request them.

(f) *Final EIS.* A final EIS shall be prepared in accordance with CEQ guidelines (40 CFR Part 1500). The final EIS must take into account and must respond to the comments received as the result of circulation of the draft EIS. The final EIS, including all comments received and the applicant's responses thereto, shall be filed with:

(1) The U.S. Environmental Protection Agency, Office of Federal Activities, Mail Code A–104, Room 537W, 401 M Street, SW., Washington, D.C. 20460. The applicant is required to file 5 copies of the final EIS with the EPA headquarters in order to fulfill the official filing requirements as set forth in the CEQ guidelines. Upon filing of the final EIS with EPA headquarters, a notice that the applicant has prepared a final EIS will be published by EPA in the **Federal Register.**

(2) Simultaneously with the official filing set forth in paragraph (f)(1) of this section, five (5) copies shall be transmitted by the applicant to the appropriate Regional Office of the U.S. Environmental Protection Agency in order to fulfill the requirements of section 309 of the Clean Air Act.

(3) Copies shall also be transmitted to all agencies and individuals who commented on the draft EIS, to A–95 clearinghouses, appropriate Federal, State, regional, and local agencies, and shall be made available to the public.

(4) The appropriate HUD Area and Regional Office and to the HUD Headquarters Library, Eighth Floor, U.S. Department of Housing and Urban Development, Washington, D.C. 20410 (one copy each).

(5) A final EIS must be on file with EPA not less than 30 days prior to submission to HUD of a certification and request for release of funds for the particular project pursuant to § 58.30. If the final EIS is filed within 90 days after publication by EPA in the **Federal Register** of notice of receipt of the draft EIS, then the minimum 30-day period for review of the final EIS, and the 90-day period provided for in § 58.17(e) will run concurrently, to the extent that they overlap.

(g) *Waivers from EIS time requirements.* Waivers from the time requirements specified for the draft and final EIS may be requested by the applicant. Requests should be submitted to the EPA Office of Federal Activities, Room 537W, Mail Code A–104, 401 M Street SW., Washington, D.C. 20460 accompanied by a justification for the request.

§ 58.18 Limitation on action pending clearance.

During the environmental review process and pending completion of the appropriate environmental clearance procedures, the applicant may not use any funds to take any action with respect to the project under review where such action might have an adverse environmental effect, would limit choices among competing alternatives, or might alter the environmental premises on which the pending clearance is based in such fashion that the validity of the conclusions to be reached would be affected.

Except as to exempt activities under § 58.21, no Title I funds will be released for a project until the Secretary shall approve said release of funds and the related certification. (See §§ 58.30, 58.31, and 58.32.) No Title I funds may be used to reimburse project costs subject to this part which have been incurred in advance of the Secretary's approval of the release of such funds and the related certification. Notwithstanding the foregoing sentence, on or after the effective date of the revised regulations of 24 CFR Part 42, relocation and acquisition costs may be reimbursed following the Secretary's approval of the release of funds and the related certification covering the project in connection with which such costs were incurred: *Provided,* That: (1) the payment of such costs is required by 24 CFR Part 42, and (2) such costs occurred during the two year period immediately prior to the date of the submission of an application for assistance under Title I which includes that project.

§ 58.19 Use of prior environmental reviews.

This section defines cases in which an EIS must be updated and cases in which an applicant may make use of a relevant published EIS for a new project activity; and it indicates cases of continuing activities in which a new environmental review is not required and cases in which they are required.

(a) *Procedures for updating EIS's.* The following procedures shall be followed when new information becomes available or circumstances change during the process of environmental reviews.

(1) If information arises after a draft EIS has been transmitted for circulation, but prior to the expiration date for receipt of comments, then a copy of any revision, amendment, addendum to the draft EIS, or other issuance, shall be transmitted to all parties to whom the draft EIS was transmitted, and to all parties who have commented thereon, and, where appropriate, the applicant shall extend the time for comment on the draft EIS.

(2) If the time for comments on the draft EIS has expired, but the final EIS has not been circulated, then any revision, amendment or addendum to the draft EIS shall be transmitted to all parties to whom the draft EIS was transmitted and to all parties who commented thereon, and a reasonable time for receipt of comments shall be fixed and allowed. The final EIS shall

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then reflect the additional factors and contain the comments and responses respecting them.

(3) If the final EIS has been circulated, then it shall be revised and reissued or an addendum thereto shall be prepared and distributed, as appropriate, to all parties to whom the final EIS was distributed and to others who have commented thereon. Such revision or addendum shall be subject to the same review and comment procedures, including those respecting time, as the final EIS which is being updated.

(b) *Use of prior environmental impact statements.* Where any final environmental impact statement has been listed in the **Federal Register** for a project or where an areawide or similar broad scale final EIS has been so listed and the EIS anticipated a subsequent project requiring an environmental clearance, then no new EIS is required for that subsequent project if the conditions set forth below in subparagraphs (1), (2), (3), and (4) are met.

(1) The environmental review record contains a decision based on a finding that the proposed project is not a new major Federal action significantly affecting the quality of the human environment.

(2) In addition to the content prescribed elsewhere in this section, the decision shall include:

(i) References to the prior EIS and its evaluation of the environmental factors affecting the proposed subsequent action subject to NEPA;

(ii) An evaluation of any environmental factors which may not have been previously assessed, or which may have significantly changed;

(iii) An analysis showing that the proposed project is consistent with the location, use, and density assumptions for the site and with the timing and capacity of the circulation, utility, and other supporting infrastructure assumptions in the prior environmental impact statement;

(iv) Documentation showing that where the previous EIS called for mitigating measures or other corrective action, these are completed to the extent reasonable given the current state of development.

(3) The prior final environmental impact statement has been kept current in the following ways:

(i) The EIS has been filed or updated within five (5) years; and

(ii) The EIS has been updated in accordance with significant revisions made to the underlying assumptions (covering at least those items in § 58.19(b)(2)(iii) above) as may be stated in the comprehensive plan or major elements thereof or other public policy revisions; and

(iii) The EIS has been updated to reflect new environmental issues and data or legislation and implementing regulations which the Department of Housing and Urban Development has determined to have significant environmental impact on the areas covered by the prior EIS.

(4) There is no litigation pending in connection with the prior EIS, and no final judicial finding of inadequacy of the prior EIS has been made.

(c) *Environmental review findings of no significant effect.*—(1) *No new environmental review.* A project which is a continuation of a previously commenced activity or activities for which environmental review or clearance has been completed and for which circumstances, including the availability of additional data or advances in technology, have not changed significantly, requires no new environmental review or clearance by virtue of such project's funding under Title I. The applicant shall prepare a written decision to that effect, which shall set forth the reasons therefor.

(2) *Requirement for new environmental review.* A project which is a continuation of a previously commenced activity or activities for which no environmental review has been completed or for which a prior EIS does not meet the requirements of § 58.19(b) must be subjected to an original or updated environmental review under this part. Such review shall be carried out with respect to the entire project to the extent that the entire project or portions of it could still be altered in light of environmental considerations.

§ 58.20 Financial settlement of urban renewal projects.

(a) *Project undertaken to facilitate early financial settlement.* If an applicant proposes to submit an application for financial settlement of an urban renewal project prior to substantial completion thereof pursuant to 24 CFR 570.804, which will be coupled with a proposal to use Title I grants pursuant to 24 CFR 570.801 for the purpose of facilitating such financial settlement, the latter proposal shall be deemed a project which is subject to the following additional requirements and conditions:

(1) Section 58.19(b) shall be inapplicable to such project;

(2) The environmental review for such project shall include an assessment of the environmental consequences of the financial settlement of the urban renewal project prior to substantial completion thereof;

(3) The applicant shall include the following sentence with the notice required by § 58.30(a):

Applicant will use the project to establish a financial basis, and will apply to the Secretary of HUD for financial settlement prior to substantial completion of the *(identify urban renewal project or NDP)* pursuant to 24 CFR 570.803 and 570.804.

(b) *Financial settlement prior to substantial completion of urban renewal project involving surplus of capital grant funds.* A financial settlement pursuant to 24 CFR 570.803 and 570.804 of an urban renewal project prior to substantial completion thereof which would result in a surplus of capital grant funds, $500 or more of which will be devoted to eligible Title I activities other than exempt activities under § 58.21 together with the proposed use(s) of the surplus shall be deemed a project and shall be subject to the following additional requirements and conditions:

(1) Section 58.19(b) shall be inapplicable to such project;

(2) The environmental review for such project shall include an assessment of the environmental consequences of the financial settlement of the urban renewal project prior to substantial completion thereof, and of the proposed use(s) of the surplus except any use(s) set forth in § 58.21;

(3) The application for financial settlement pursuant to 24 CFR 570.803 and 570.804 and use of the surplus resulting therefrom shall be treated as a request for release of funds and shall be subject to the requirements of Subpart C of this Part. However, the applicant shall use the following sentence in lieu of the first sentence set forth after the word "indicated" in § 58.30(a)(6):

(Name of applicant) will apply for financial settlement prior to substantial completion of *(identify urban renewal project or NDP)* and will undertake certain activities, all as described above, with surplus capital grant funds resulting from financial settlement.

(4) The surplus of capital grant funds resulting from such financial settlement may be used for a project which consists entirely of exempt activities under § 58.21 and/or activities which are subjected to environmental assessment pursuant to § 58.20(b) without further compliance with this Part.

(c) *HUD environmental review of certain financial settlements.* Prior to acting upon any application submitted pursuant to 24 CFR 570.803 and 570.804 for financial settlement of an urban renewal project which is not substantially completed and for which

the environmental consequences of financial settlement prior to substantial completion thereof have not been assessed by the applicant pursuant to § 58.20 (a) or (b), HUD shall itself conduct an assessment of the environmental consequences of the proposed financial settlement. However, if HUD finds that the applicant should have conducted an environmental assessment pursuant to § 58.20 (a) or (b) but failed to do so, the application for financial settlement shall be rejected and the applicant shall be required to comply with the environmental assessment requirements of § 58.20 (a) or (b) as appropriate, on a catchup basis, as a condition precedent to resubmission of its application.

(d) *Financial settlement after substantial completion of urban renewal project.* Notwithstanding any other provision of this part an assessment of the environmental consequences of financial settlement pursuant to 24 CFR 570.803 and/or 570.804, or an urban renewal project which is substantially completed, is not required. However, the applicant or HUD as appropriate, shall prepare and maintain in its records a written finding as to the substantial completion of the urban renewal project.

§ 58.21 Exempt activities.

(a) The following activities, to the extent eligible for assistance under Title I, are exempt from the requirements of this Part:

(1) Environmental studies or assessments.

(2) Activities authorized by section 105(a)(12) of Title I and 24 CFR 570.205 and 571.205.

(3) Administrative costs as provided by 24 CFR 570.206 and 571.206.

(4) The payment, under authority to section 105(a)(10) of Title I, of principal and interest on outstanding urban renewal project loans as defined in 24 CFR 570.800(b) where such payment is not covered by § 58.20 or where such payment is not associated with a change in the related urban renewal project.

(5) The payment, under authority of section 108 (c) of Title I, of principal and interest due on notes or other obligations guaranteed pursuant to section 108; and the repayment, under authority of section 108; and the repayment, under authority of section 108(e), due the United States as a result of guarantees made pursuant to section 108.

(b) Projects (see definition at § 58.3 and aggregation requirements of § 58.5(g)) which consist solely of the following kinds of activities shall also be exempt from the requirements of this Part:

(1) Acquistion, construction, reconstruction, rehabilitation, or installation of public facilities and improvements eligible under §§ 570.201(c) and 571.201(c) and economic development activities authorized pursuant to §§ 570.203 and 571.203, subject to the following limitations:

(i) Acquisition for continued use. The article to be acquired is in place and will be retained in the same use that existed at the time of acquisition, without change in size, capacity, or character.

(ii) Acquistion, construction, reconstruction, or installation for replacement or upgrading. The article will replace or upgrade a substantially identical original article, without more than a minimal change in its use, size, capacity, or location (e.g., replacement of water or sewer lines, reconstruction of curbs and sidewalks, repaving streets, and modification of buildings to provide access for elderly and handicapped persons).

(iii) Acquisition, construction, reconstruction, or installation to furnish or equip. The article will furnish or equip a site (other than furnishings and personal property prohibited by §§ 570.207(b)(2) and 571.207(b)(2)) where its placement and use is consistent with the use of that site and the action will not change the use, size, capacity, or character of the site (e.g., landscaping, street furniture, equipping established parks and playgrounds), and fire protection equipment consistent with the eligibility requirements prescribed by § 570.201(c)(6)(ii).

(2) Interim assistance eligible under § 570.201(f) and single purpose grants for imminent threats to public health or safety pursuant to§ 570.432.

(3) Public services which:

(i) Are in support of a neighborhood strategy area program which consists entirely of activities exempt under this part; or

(ii) Are a continuation of services after completion of concentrated physical development activities of a neighborhood strategy area program pursuant to § 570.201(e)(1); or

(iii) Are provided by nonprofit or simialr organizations in accordance with §§ 570.204(c)(4) and 571.204(c)(4) where the services are not part of a block grant funded physical development project.

(4) Rehablitation of buildings and improvements as set forth in §§ 570.202 and 571.202, except paragraph (f), provided that:

(i) Unit density is not increased more than 20 percent; or

(ii) The project does not involve changes in land use from residential to nonresidential use or from nonresidential to residential use, or from one class of residential use to another class of residential use; or

(iii) The estimated cost of rehabilitation is less than 75 percent of the total estimated cost of replacement after rehabilitation.

(5) Combinations of the above; activities.

(c) *Other program requirements not affected.* The exemption of activities or projects from environmental review procedures pursuant to this section, does not relieve the applicant from compliance with the historic preservation requirements of § 58.24, the flood plains and wetland requirements of § 58.23, other authorities set forth at § 58.1(a)(3), the responsibilities assumed pursuant to § 58.5(a), and other applicable program requirements set forth at 24 CFR Parts 570 and 571. Documentation of compliance with these other requirements shall be contained in the environmental review record.

§ 58.22 [Reserved]

§ 58.23 Floodplains and wetlands.

Applicants must comply with the requirements of section 2(a) of Executive Order 11988 on floodplain flood plain management and with sections 2 and 5 of Executive Order 11990 on protection of wetlands. In so doing, applicants shall use the flood plain management guidelines prepared by the U.S. Water Resources Council and published February 10, 1978, at 43 FR 6030. The following procedures apply where either of the Executive orders is applicable.

(a) *Early public review.* In carrying out the requirements of section 2(a)(4) of Executive Order 11988 and of section 2(b) of Executive Order 11990, applicants shall publish a notice providing opportunity for early public review as soon as it is determined that a project is proposed to be located in a floodplain or wetland as defined by the respective Executive order. Such notice may be brief, but shall: (1) Identify the affected project; (2) set forth the facts and reasons for such proposed project; (3) state that the applicant has additional information on the proposal available and where such information may be obtained; (4) indicate that comments may be submitted to the applicant until a certain date which shall not be less than 15 days following its first publication and dissemination; (5), state the name and address of the

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applicant and the certifying officer of the applicant; and (6) be dated as of the time it is first published and disseminated. Copies of this notice shall be published and disseminated in the same manner as a notice of intent to file an EIS as described at § 58.17(b).

(b) *Notice of explanation.* The notice of explanation of why a project is proposed to be located in a floodplain as required by section 2(a)(2)(ii) and 2(a)(3) of Executive Order 11988 may be published and distributed at the same time as the notice required by § 58.30(a). In such cases the notices shall be published and disseminated in the manner specified at § 58.17(b)..

(c) *Certification.* Submission by the applicant of the certification form required by § 58.30(c) shall also be considered certification that the requirements of Executive Orders 11988 and 11990 have been met by the applicant.

§ 58.24 Historic preservation.

Applicants must comply with the following requirements relating to the Preservation of Historic and Archeological Data Act of 1974, section 106 of the National Historic Preservation Act of 1966 and Executive Order 11593 whenever any property or district included in or found by the Secretary of the Interior pursuant to 36 CFR Part 800 to be eligible for inclusion in the National Register provided for by such Act, is in the boundaries, or within the vicinity of, a project which is to be funded, in whole or in part, by Title I funds.

(a) As part of the environmental review process each project shall be examined in accordance with the procedures for protection of historic and cultural properties (36 CFR Part 800) for the purpose of identifying any National Register and National Register-eligible properties and determining whether or not the project may affect the property. If the property is not affected by the project, the applicant shall so state, in the environmental review record.

(b) If the project will affect the property, the applicant, as part of the environmental review process, shall carry out the procedures set forth at 36 CFR Part 800.

§ 58.25 Projects requiring an EIS.

Preparation and dissemination of an EIS is required when the environmental review process, pursuant to § 58.15(d)(2), indicates that a project may have a significant environmental effect; and for the following types of projects:

(a) *Residential projects.* Residential projects which would remove, demolish, convert, or substantially rehabilitate existing housing units (but not including rehabilitation projects exempted under § 58.21(b)(4) of this Part), or which would construct or install housing units, or which would provide sites for housing units, in a quantity which equals or exceeds the applicable threshold as follows:

(1) Five hundred units for projects which are to be located outside a standard metropolitan statistical area (SMSA), or which are to be located within an SMSA county but beyond the urbanizing belt as defined in (3) below; or

(2) For projects which are to be located in the urbanizing belt of an SMSA county as defined in (3) below, the applicable threshold is that number in Table 1 opposite the population range that fits the SMSA county in which the project is to be located;

(3) Urbanizing belts are identified as the delineated urbanized areas, as defined by the Bureau of the Census, plus a 2-mile zone around the outer boundaries of such areas. In cases where this 2-mile zone borders or includes a portion of an incorporated place lacking census tracts, or, when the 2-mile zone borders or includes a portion of a census tract, the next outer boundary of such incorporated place or census tract, may be used to delineate the outer limit of the urbanizing belt. An urbanizing belt may extend into the county of an adjacent SMSA, using the applicable threshold of that county but in no case shall the urbanizing belt extend beyond the SMSA boundary.

Also, when an applicant can document that significant development has occurred beyond, but contiguous to, the defined urbanized area, HUD may approve redefinition of the urbanizing area plus a 2-mile belt beyond.

Table 1.—Automatic EIS Thresholds Applicable to Housing Projects

[For use in connection with § 58.25(a)]

SMSA county population range	Automatic threshold (units)
1,500,000 = plus	2,500
1,000,000 to 1,499,999	2,100
750,000 to 999,999	1,800
600,000 to 749,999	1,500
500,000 to 599,999	1,200
400,000 to 499,999	1,000
300,000 to 399,999	900
200,000 to 299,999	800
100,000 to 199,999	700
50,000 to 99,999	600
Under 50,000	500

Notes.—The thresholds are applied to population figures for an SMSA county or county equivalent (independent city) based on the latest Bureau of the Census population estimates published in the P–25 Series of Current Population Reports. Although the initial application of these thresholds will be to population data for 1975, revised figures may be used as they become available for subsequent years. Where the population estimate for a given SMSA county indicates that there has been a loss in population since the last decennial census, the census figures from that decennial census may be used.

(2) It is recognized that in high density areas size alone need not necessarily imply a significant impact on the quality of the human environment. Therefore the numerical threshold requirements of this section for an EIS do not apply and are automatically waived for projects in which the number of dwelling units to be removed, demolished, converted or emplaced exceed the numerical thresholds in Table 1 when:

(i) Typical densities in immediate adjacent areas of such projects exceed 50 units per acre (or equivalent); and,

(ii) The projects are otherwise assisted by HUD and HUD has waived the requirements for an EIS pursuant to the general environmental review regulations set forth in HUD Circular 1390.1 (38 FR 19182, July 18, 1973 as amended).

Areawide waivers may be granted for large dense urban areas or sectors thereof having such high densities and meeting criteria established on a case by case basis.

(b) *Hospitals and nursing homes.* Projects which provide a site or sites for hospitals and nursing homes shall utilize the thresholds set forth above in § 58.25(a) and Table 1 therein, except that the term "bed" shall be substituted for the term "housing unit."

(c) *Water and sewer projects.* Water and sewer projects capable of supporting additional residential development in partially developed and undeveloped areas at an estimated scale which meets the applicable thresholds in Table 1. For nonresidential or mixed used areas, that portion of the hydraulic capacity allocable to additional development shall be converted into the equivalent number of housing units, using standard flows per unit for design assumptions, and the results compared with Table 1 for determining whether the threshold is met or exceeded. In determining net potential development, the applicant shall consider the basic design assumptions used in determining the hydraulic capacity of the project and the land uses contemplated within the service area. Allowances may be made for significant factors such as standby water capacity for fire flow or the storm water of combined sewers which do not directly support new development, and for present development which is to be connected to or served by the project. However, the development potential of existing open areas along water or sewer lines as well as for the target service area must be included in the threshold calculation. The threshold calculation shall also be documented in the environmental review record.

(d) *Transitional EIS requirement.* The system of flexible EIS thresholds set forth in paragraph (a), (b), and (c) of this section is applicable upon the effective date of these regulations. However, since some environmental reviews will be in process when this change in thresholds becomes effective, the following transition rules shall apply to those situations where an EIS would have been required under the previous thresholds but will not be required under the new flexible thresholds.

(1) Where a draft EIS has been published for public comment, the EIS process, including the issuance of a final EIS, shall be completed or the termination process described in subparagraph (3) of this paragraph shall be completed before the release of funds actions prescribed by § 58.30 are taken.

(2) Where a notice of intent to file an EIS has been published pursuant to § 58.17(a) but a draft EIS has not been published for public comment, the EIS process shall be completed or the termination process described in subparagraph (3) of this paragraph shall be completed before the release of funds actions prescribed by § 58.30 are taken.

(3) Where an EIS already in process is to be terminated, as provided by subparagraph (1) or (2) of this paragraph, the applicant shall make the level of clearance finding set forth at § 58.15(d)(1) that a request for release of funds for the project is not an action which may significantly affect the quality of the human environment; shall give full consideration to all comments which may have been received in response to a notice of intent to file an EIS or in response to a draft EIS; shall comply with the requirements of § 58.16; and shall publish a notice of intent to terminate an EIS. Such notice shall be published and disseminated in the same manner as a notice of intent to file an EIS as described at § 58.17(b). However, if a draft EIS was published, EPA shall be requested to have such notice published in the Federal Register. The notice may be brief but shall identify the name, character, site, and location of the project for which further processing of an EIS is to be terminated, set forth the circumstances and reasons for discontinuing further EIS processing, indicate that the finding required by this subsection has been completed and indicate where and when it is available for public review, describe how any comments received in response to a notice of intent to file an EIS or in response to a draft EIS where considered, and state that the applicant proposes to submit the request for release of funds for the project under consideration in no less than fifteen (15) calendar days from the date the notice is published. This notice may be combined with the notices required by §§ 58.16(a) and by 58.30(a).

§ 58.26 [Reserved]

§ 58.27 Interaction of applicant with Federal agencies—Lead agency role.

(a) *Interaction with agencies other than HUD.* Where a project is to be jointly funded by one or more Federal agencies other than HUD and by HUD under Title I, and the preparation of an EIS is required by this part a single agency, either the applicant or the other Federal agency, should assume responsibility as the "lead agency" for the preparation and clearance of an EIS, with the other agencies providing assistance. In the event that the regulations of none of the Federal agencies other than HUD require an EIS for such project, but the applicant determines under this part that an EIS is required, then the applicant shall assume the "lead agency" role, or shall otherwise prepare an EIS, which shall comprehend the actions of the other Federal agency or agencies related to the project, as provided in the CEQ guidelines, 40 CFR 1500.7(b).

(b) *Joint reviews—Designation of lead agency.* All determinations respecting joint environmental review or designation of a "lead agency" to perform an environmental review shall be made and agreed upon between the applicant and any Federal agency involved, where practicable. In the event an applicant and a Federal agency are unable to reach such agreement, the applicant shall notify HUD, and HUD, with the advice and assistance of CEQ, will seek to obtain such agreement.

§§ 58.28–58.29 [Reserved]

§ 58.30 Release of funds upon certification.

An applicant which has completed all applicable environmental review and clearance requirements as provided in this Part with respect to a proposed project and which desires to submit a request to HUD for the release of Title I funds for the project, shall comply with the following:

(a) *Publication of notice.* An applicant, at least 7 calendar days prior to submitting the request for release of funds and certification, shall publish and disseminate, a notice to the public doing so in the same manner as a notice of intent to file an EIS, as described at § 58.17(b), using format VII of HUD–399–CPD, Environmental Reviews At The Community Level, or such other equivalent format as may be used by the applicant. An applicant may publish this notice at the same time as that required by § 58.16(b).

(b) *Request for release of funds.* A request for release of funds pursuant to this part shall be addressed to the HUD officer authorized to receive the application of applicant, shall be executed by the certifying officer and may be submitted with or as part of an application, or at any time after submittal of an application. Such request shall in all cases be accompanied by the certification of the applicant as stated at § 58.30(c) and shall:

(1) State the name and address of the applicant;

(2) State that the applicant requests the release of funds for particular projects, identify such projects; and

(3) Be accompanied by the certification described in paragraph (c) of this section.

(c) *Certification.* A certification pursuant to this part shall be addressed to the HUD officer authorized to receive the application of applicant, and shall:

(1) State the name and address of the applicant and be executed by the certifying officer;

(2) Specify that the applicant has fully carried out its responsibilities for environmental review decisionmaking and action pertaining to the projects named in the request for release of funds;

(3) Specify the levels of all environmental clearances carried out by the applicant in connection with each project pertaining to the certification;

(4) Specify the dates upon which any statutory or regulatory time period for review, comment, or other response or action in regard to each such environmental clearance commenced and has expired, or will expire, and that with the expiration of each statutory or regulatory time period the applicant is in compliance with the requirements of this Part;

(5) Specify that the certifying officer is authorized to consent to assume the status of a responsible Federal official, under NEPA, insofar as the provisions of NEPA apply to the HUD responsibilities for environmental review, decision

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making and action assumed and carried out by the applicant, and that the certifying officer by so consenting, such officer assumes the responsibilities, where applicable, for the conduct of environmental reviews, decision making, and action as to environmental issues; preparation and circulation of draft and final EIS's; and assumption of lead agency responsibilities for preparation of such statements on behalf of Federal agencies other than HUD when such agencies consent to such assumption;

(8) Specify that the certifying officer is authorized to consent, on behalf of the applicant, to accept the jurisdiction of the Federal courts, for the enforcement of all responsibilities referred to in § 58.30(c)(5); and that the certifying officer so consents on behalf of the applicant and himself in his official capacity only;

§ 58.31 Objections to release of funds.

HUD shall not approve the release of funds for any project until fifteen (15) calendar days have elapsed from the time HUD shall have received the applicant's request for the release of such funds and the certification pertaining thereto or the time specified in the notice published pursuant to § 58.30(a), whichever shall be the later time. Applicants shall not commit any funds which are the subject of any request for the release of funds to any project prior to HUD's approval of such request. Any person or agency may object to an applicant's request for the release of funds and the certification pertaining thereto, but HUD will consider such objections only if the conditions and procedures set forth in this section are satisfied. HUD can refuse the request and certification on any grounds set forth in paragraph (b) of this section. Any decision by HUD approving or disapproving the request for the release of funds and the certification pertaining thereto shall be final.

(a) *Time for objecting.* HUD must receive objections within fifteen (15) days from the time HUD shall have received the applicant's request for the release of funds and the certification pertaining thereto, or the time specified in the notice published pursuant to § 58.30(a), whichever shall be the later time.

(b) *Permissible bases.* (1) That the certification was not, in fact, executed by the certifying officer of the applicant;

(2) That the applicant has failed to make one of the two level of clearance findings pursuant to § 58.15(d), or to make the decision required by § 58.19(b), for the project, as applicable;

(3) That with regard to a project for which the level of clearance finding in § 58.15(d)(1) was made, the applicant has omitted one or more of the steps set forth at: § 58.15(a); § 58.15(b); § 58.15(c)(1); § 58.15(c)(2); § 58.16(a); or § 58.16(b);

(4) That with regard to a project for which the level of clearance finding in § 58.15(d)(2) was made, the applicant has omitted one or more of the steps set forth at: § 58.17(a); § 58.17(b); § 58.17(c) only if applicant has decided to conduct a public hearing as a part of its environmental review of the project; § 58.17(e); or § 58.17(f);

(5) That with respect to a property listed on the National Register of Historic Places, or found to be eligible by the Secretary of the Interior pursuant to 36 CFR Part 800 for inclusion in such Register, and which is affected by the project, no opportunity was given to the Advisory Council on Historic Preservation or its Executive Director to review the effect of the project on the property in accordance with the procedures set forth at 36 CFR Part 800; or

(6) That with respect to a project for which the applicant has decided that § 58.19(b) applies, the applicant has failed to include in the environmental review record the written decision required pursuant to § 58.19(b) or that the applicant's decision is not supported by facts specified by the objecting party; or,

(7) That another Federal agency, acting pursuant to Section 309 of the Clean Air Act, or Section 102(2)(C) of NEPA and implementing regulations, has submitted a written finding to HUD that an applicant's project is unsatisfactory from the standpoint of public health or welfare or environmental quality. This finding shall set forth at least the following:

(i) The Federal agency basis for stating that the applicant's project will have potentially adverse environmental impacts which would cause the violation of national environmental standards or policies or would be of such a severity, geographical scope, duration, or importance as precedent as to warrant HUD's disapproving the release of funds and the certification pertaining thereto;

(ii) The Federal agency's consultations with the applicant and the basis for failure to reach a satisfactory agreement;

(iii) Factual evidence that the project is environmentally unsound;

(iv) Recommendations for mitigation, alternatives, or other courses of action needed to make the project environmentally acceptable.

(c) *Public and agency objections.* The only bases upon which HUD will consider the objection of any person or agency to the certification of an applicant, or to the approval by HUD of such certification, are set forth at § 58.31(b). Other objections will not be considered by HUD; but may be addressed to the applicant, and the certifying officer of the applicant.

(d) *Procedure.* A person or agency objecting to an applicant's request for the release of funds and the certification pertaining thereto shall:

(1) Submit such objection in writing, to the HUD officer authorized to receive the application of the applicant;

(2) Specify the name, address, and telephone number of the person or agency submitting the objection, and be signed by the person or authorized official of the agency;

(3) Be dated when signed;

(4) Specify the bases for objection and the facts or legal authority relied upon in support of the objection;

(5) Indicate that a copy of the objections has been mailed or delivered to the chief executive officer of the applicant.

§ 58.32 Effect of approval of certification.

(a) *NEPA responsibilities of HUD.* The approval by HUD of the certification of an applicant is deemed to satisfy the responsibilities of the Secretary under NEPA insofar as those responsibilities relate to the applicant and releases of funds under Title I for projects which are covered by such certification.

(b) *Public and agency redress.* Persons and agencies seeking redress in relation to environmental assessments covered by an approved certification shall deal with the applicant and not with HUD. It shall be the policy of HUD, following the approval of a certification, not to respond to inquiries and complaints seeking such redress, and only to refer such inquiries and complaints to the applicant and the certifying officer of the applicant. Other remedies for noncompliance, in addition to those stated in this part, are set forth at 24 CFR 570.910–913.

(Sec. 7(d). Department of HUD Act (42 U.S.C. 3535(d)).)

Issued at Washington, D.C., May 17, 1979.

Patricia Roberts Harris,

Secretary of Housing and Urban Development.

[FR Doc. 79-16239 Filed 5-23-79; 8:45 am]

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federal register

Thursday
May 24, 1979

Part IV

Department of Energy

Loans for Small Hydroelectric Power Project Feasibility Studies and Related Licensing

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DEPARTMENT OF ENERGY

[10 CFR Part 797]

Loans for Small Hydroelectric Power Project Feasibility Studies and Related Licensing; Proposed Rulemaking; Public Hearing

AGENCY: Department of Energy.

ACTION: Notice of proposed rulemaking and public hearing.

SUMMARY: The Department of Energy (DOE) hereby gives notice of its proposed implementation of loans for small hydroelectric power project feasibility studies and related licensing as authorized by Title IV Small Hydroelectric Power Projects, under the Public Utility Regulatory Policies Act of 1978 (Pub. L. 95–617). Written comments are requested on these proposed regulations and public hearings will be held with respect to this proposal in accordance with Executive Order 12044 "Improving Government Regulations", 43 FR 12661 (1978), and DOE's implementing Order 2030.1, 44 FR 1032, Jan. 3, 1979.

The proposed regulation establishes the qualifications, criteria and procedures for obtaining a loan for the purpose of defraying up to 90 percent of the cost of a study to determine the feasibility of undertaking a small hydroelectric project at an existing dam and for preparing applications for a necessary license or other required approval.

DATES: Written comments by July 23, 1979 4:30 p.m.; requests to speak by June 11, 1979, 4:30 p.m.

Hearing dates: Boston, MA, July 2, 1979; Seattle, WA, June 25, 1979; Washington, D.C., June 28, 1979. Each meeting may extend an additional day if necessary.

ADDRESSES: All comments to:

Department of Energy, Farwell Smith, 12th and Pennsylvania Ave. NW., Room 7104, Washington, D.C. 20461.

Request to Speak: Boston hearing:

Harold J. Keohane, Analex Building, Room 700, 150 Causeway Street, Boston, MA 02114.

Seattle hearing:

Jack B. Robertson, 1900 Federal Building, 915 Second Ave., Seattle, WA 91874.

Washington Hearing:

Farwell Smith, 12th and Pennsylvania Ave. NW., Room 7104, Washington, D.C. 20461.

Hearing Locations:

Boston: One Federal Street, Conference Room—8th Floor, Boston, MA.

Seattle: Federal Building, 915, Second Avenue, Seattle, South Auditorium, 4th Floor.

Washington, D.C.: Forrestal Building, 1000 Independence Ave. SW., Room GE–086, Washington, D.C.

FOR FURTHER INFORMATION CONTACT:

Department of Energy, Farwell Smith (Office of Resource Applications), 12th and Pennsylvania Avenue, NW., Room 7104, Washington, D.C. 20461, 202–633–8910.

Department of Energy, George Samels, OGC, 12th and Pennsylvania Avenue, NW., Room 3001, Washington, D.C. 20461, 202–633–8435.

The information requirements specified in this notice have been approved by the Office of Management and Budget (OMB) in accordance with the Federal Reports Act. The OMB clearance number is 038–R–0414.

SUPPLEMENTARY INFORMATION:

I. Background.
II. Comment Procedures.

I. Background

Title IV—Small Hydroelectric Power Projects of the Public Utility Regulatory Policies Act of 1978, Public Law 95–617, (hereinafter, "Title IV") directs the Secretary of Energy to establish a program to encourage the development of small hydroelectric power projects at the site of existing dams which are not being used to generate electric power.

Title IV includes authority to the Secretary to provide direct loans for a percentage of the costs of performing feasibility studies and of obtaining the necessary licenses and permits for small hydroelectric projects. It includes, also, authority for simplified Federal Energy Regulatory Commission licensing and authority for Department of Energy loans for construction costs.

This proposed regulation implements the authority in Title IV as regards loans for feasibility studies and for acquiring necessary licenses and permits.

Title IV authorizes the Secretary to make loans to any municipality, electric cooperative, industrial development agency, nonprofit organization, or other person (broadly defined to include a variety of entities including, among others, individuals, partnerships, associations and corporations) to assist such person in defraying up to 90 percent of the costs of 1) studies to determine the feasibility of undertaking a small hydroelectric power project at an existing dam or dams and 2) preparing any application for a necessary license or other Federal, State and local approval respecting such a project at an existing dam or dams and in participation in any administrative proceeding regarding any such application. The Secretary may cancel the unpaid balance and any accrued interest on any of the above loans if he determines that the small hydroelectric power project would not be technically or economically feasible or environmentally acceptable.

The interest rate of loans will be the discount or interest rate used at the time the loan is made for water resources planning projects under Section 80 of the Water Resources Development Act of 1974. This rate has been established at 6⅞ percent for the Federal Government's 1979 fiscal year, ending September 30. The discount rate is presently permitted to change no more than ¼ percent, from one year to next. It is anticipated that the rate will increase by ¼ percent in FY 1980, and will probably increase in future years. The term of these loans may not exceed 10 years.

This proposed regulation establishes the procedure to apply for a loan, including matters of eligibility and the content of the application. Further, this regulation establishes criteria for approval of loan applications, specifies the requirements of the completed feasibility study and indicates general loan terms, including monitoring and repayment and, in certain cases, cancellation of the loan. Miscellaneous matters, such as confidentiality of information supplied in connection with a loan, are also covered. This proposed regulation sets out priority to be accorded licensing loan applicants over applicants for feasibility study loans; priority among licensing loan applicants; certain specified factors which may additionally affect the priority to be given an applicant; and, the percentage of allocation of available funds to licensing loans each fiscal year.

Title IV of the Act limits loans to projects which will have installed a maximum capacity of 15,000 kw or less. This proposed regulation further limits loans to projects which will have installed capacity of 100 kw or more.

Title IV further authorizes for each of Fiscal Years 1978, 1979, and 1980 $10,000,000 in loans for feasibility studies and for preparation of licensing applications, such funds to remain available until expended. Ten million dollars has been appropriated in fiscal year 1979 for such loans. Requests for loans will be considered after publication of final rulemaking. Requests for loans may be submitted prior to final rulemaking. However, when this regulation becomes final, the request must be updated to meet additional requirements, if any, of the final regulation. Any requests for loans should be sent to DOE Idaho, 550 Second Street, Room 107, Idaho Falls, Idaho 83401, Attention: Al Hymer (208–528–1456), or to one of the DOE Regional Representatives listed below.

Region I: Harold J. Keohane, Analex Bldg., Room 700, 150 Causeway St., Boston, MA 02114 (617) 223–3701.

Region II: Robert A. Low, 26 Federal Plaza, Room 3206, New York, NY 10007 (212) 264–1021.

Region III: Barnard Snyder (Acting), 1421 Cherry Street, 10th Floor, Philadelphia, PA 19102 (215) 597–3890.

Region IV: Roy Pettit (Acting), 1655 Peachtree St. NE, Atlanta, GA 30309 (404) 881–2838.

Region V: Robert H. Bauer, 175 West Jackson Blvd., Room A–333, Chicago, IL 60604 (312) 353–0540.

Region VI: Curtis E. Carlson, Jr. (Acting), P.O. Box 35228, 2626 West Mockingbird Lane, Dallas, TX 75235 (214) 749–7345.

Region VII: Mary O'Halloran, 324 East 11th Street, Kansas City, MO 64106 816–374–2061.

Region VIII: Charles F. Metzger, P.O. Box 26247 Belmar Br., 1075 South Yukon Street, Lakewood, CO 80226 303–234–2420.

Region IX: William C. Arntz, 111 Pine Street, Third Floor, San Francisco, CA 94111 415–566–7216.

Region X: Jack B. Robertson, 1992 Federal Building, 915 Second Avenue, Seattle, WA 98174 206–442–7280.

Title IV also provides for loans for hydroelectric project construction. These loans will be the subject of separate regulations, and are not covered in these proposed regulations. No funds have been appropriate in fiscal year 1979 for such construction loans.

II. Comment Procedures

A. Written Comments

You are invited to participate in this rulemaking by submitting data, views or arguments with respect to the proposals set forth in this notice. Written comments should be submitted by July 23, 1979, 4:30 p.m., e.d.t., to the address indicated in the "Addresses" section of this preamble and should be identified on the outside envelope and on the document with the designation "Loans For Feasibility Studies for Small Hydroelectric Power Projects." Ten copies should be submitted.

Any information submitted which you consider to be confidential must be so identified and submitted in writing, one copy only. We reserve the right to determine the confidential status of the information and to treat it according to our determination.

B. Public Hearings

1. *Procedure for Request to Make Oral Presentation.* The time and place for the hearing are indicated in the "Dates" and "Addresses" sections of this preamble.

If you have an interest in the proposed rulemaking issued today, or represent a group or class of persons that has an interest, you may make a written request for an opportunity to make oral presentation by June 11, 1979, 4:30 p.m. You should be prepared to describe the interest concerned and, if appropriate, to state why you are a proper representative of a group or class of persons that has such an interest, and to give a concise summary of the proposed oral presentation. You should also provide a phone number where you may be contacted through the day before the hearing.

If you are selected to be heard, you will be so notified before 4:30 p.m., June 14, 1979. Ten copies of your statement should be delivered to the appropriate "Request to Speak" address by the following dates: Boston, June 27; Seattle, June 22; Washington, D.C., June 22.

2. *Conduct of the Hearings.* We reserve the right to select the persons to be heard at this hearing, to schedule their respective presentations, and to establish the procedures governing the conduct of the hearing. The length of each presentation may be limited, based on the number of persons requesting to be heard.

An Office of Resource Applications official will be designated to preside at the hearing. This will not be a judicial or evidentiary-type hearing. Questions may be asked only by those conducting the hearing, and there will be no cross-examination of persons presenting statements. At the conclusion of all initial oral statements, each person who has made an oral statement will be given the opportunity to make a rebuttal statement. The rebuttal statements will be given in the order in which the initial statements were made and will be subject to time limitations.

You may submit questions to be asked of any person making a statement at the hearing to the address indicated above for requests to speak before 4:30 p.m., on the last business day preceeding the date of the hearing. If you wish to ask a question at the hearing, you may submit the question, in writing, to the presiding officer. The presiding officer will determine whether the question is relevant, and whether the time limitations permit it to be presented for answer.

Any further procedural rules needed for the proper conduct of the hearing will be announced by the presiding officer.

A transcript of the hearing will be made and the entire record of the hearing, including the transcript, will be retained by the Office of Resource Applications and made available for inspection at the DOE Freedom of Information Office, Room GB–145, 1000 Independence Avenue, SW., Washington, D.C., 20585 between the hours of 8 a.m. and 4:30 p.m., Monday through Friday. You may purchase a copy of the transcript from the reporter.

In accordance with DOE Order 2030.1 implementing Executive Order 12044, "Improving Government Regulations," the Assistant Secretary for Resource Applications has determined that this proposed regulation is significant, since it is related to the National Energy Act, but will not have major economic consequences nor a substantial effect on existing energy objectives or statutes, nor adversely affect competition.

Text of the Authorizing Legislation

For convenience, the text of Title IV Small Hydroelectric Power Projects under the Public Utility Regulatory Policies Act is printed below. Title IV includes both *Loans For Feasibility Studies*, which is the subject of this proposed rulemaking, and *Loans For Project Costs*, which will be covered in a subsequent rulemaking.

Sec. 401. Establishment of program.

The Secretary shall establish a program in accordance with this title to encourage municipalities, electric cooperatives, industrial development agencies, nonprofit organizations, and other persons to undertake the development of small hydroelectric power projects in connection with existing dams which are not being used to generate electric power.

Sec. 402. Loans for feasibility studies.

(a) Loan Authority.—The Secretary, after consultation with the [Federal Energy Regulatory] Commission, is authorized to make a loan to any municipality, electric cooperative, industrial development agency, nonprofit organization, or other person to assist such person in defraying up to 90 percent of the costs of—

(1) studies to determine the feasibility of undertaking a small hydroelectric power project at an existing dam or dams and

(2) preparing any application for a necessary license or other Federal, State, and local approval respecting such a project at an existing dam or dams and of participating in any administrative proceeding regarding any such application.

(b) Cancellation.—The Secretary may cancel the unpaid balance and any accrued interest on any loan granted pursuant to this section if he determines on the basis of the study that the small hydroelectric power

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project would not be technically or economically feasible.

Sec. 403. Loans for project costs.

(a) Authority.—The Secretary is authorized to make loans to any municipality, electric cooperative, industrial development agency, nonprofit organization, or other person of up to 75 percent of the project costs of a small hydroelectric power project. No such loan may be made unless the Secretary finds that—

(1) the project will be constructed in connection with an existing dam or dams,

(2) all licenses and other required Federal, State, and local approvals necessary for construction of the project have been issued,

(3) the project will have no significant adverse environmental effects, including significant adverse effects on fish and wildlife, on recreational use of water, and on stream flow, and

(4) the project will not have a significant adverse effect on any other use of the water used by such project.

The Secretary may make a commitment to make a loan under this subsection to an applicant who has not met the requirements of paragraph (2), pending compliance by such applicant with such requirements. Such commitment shall be for a period of not to exceed 3 years unless the Secretary, in consultation with the Commission, extends such period for good cause shown. Notwithstanding any such commitment, no such loan shall be made before such person has complied with such requirements.

(b) Preference.—The Secretary shall give preference to applicants under this section who do not have available alternative financing which the Secretary deems appropriate to carry out the project and whose projects will provide useful information as to the technical and economic feasibility of—

(1) the generation of electric energy by such projects, and

(2) the use of energy produced by such projects.

(c) Information.—Every applicant for a license for a small hydroelectric power project receiving loans pursuant to this section shall furnish the Secretary with such information as the Secretary may require regarding equipment and services proposed to be used in the design, construction, and operation of such project. The Secretary shall have the right to forbid the use in such project of any equipment or services he finds inappropriate for such project by reason of cost, performance, or failure to carry out the purposes of this section. The Secretary shall make information which he obtains under this subsection available to the public, other than information described as entitled to confidentiality under section 11(d) of the Energy Supply and Environmental Coordination Act of 1974, [Pub. L. 93–319; 88 Stat. 246].

(d) Joint Participation.—In making loans for small hydroelectric power projects under this section, the Secretary shall encourage joint participation, to the extent permitted by law, by applicants eligible to receive loans under this section with respect to the same project.

Sec. 404. Loan rates and repayment.

(a) Interest.—Each loan made pursuant to this title shall bear interest at the discount or interest rate used at the time the loan is made for water resources planning projects under section 80 of the Water Resources Development Act 1974 (42 U.S.C. 1962 [d] 17(a)). Each such loan shall be for such term, as the Secretary deems appropriate, but not in excess of—

(1) 10 years (in the case of a loan under section 402) or

(2) 30 years (in the case of a loan under section 403).

(b) Repayments.—Amounts repaid on loans made pursuant to this title shall be deposited into the United States Treasury as miscellaneous receipts.

Sec. 405. Simplified and expeditious licensing procedures.

(a) Establishment of Program.—The Commission shall establish, in such manner as the Commission deems appropriate, consistent with the applicable provisions of law, a program to use simple and expeditious licensing procedures under the Federal Power Act for small hydroelectric power projects in connection with existing dams.

(b) Prerequisites.—Before issuing any license under the Federal Power Act for the construction or operation of any small hydroelectric power project the Commission—

(1) Shall assess the safety of existing structures in any proposed project (including possible consequences associated with failure of such structures), and

(2) Shall provide an opportunity for consultation with the Council on Environmental Quality and the Environmental Protection Agency with respect to the environmental effects of such project.

Nothing in this subsection exempts any such project from any requirement applicable to any such project under the National Environmental Policy Act of 1969, the Fish and Wildlife Coordination Act, the Endangered Species Act, or any other provision of Federal law.

(c) Fish and Wildlife Facilities.—The Commission shall encourage applicants for licenses for small hydroelectric power projects to make use of public funds and other assistance for the design and construction of fish and wildlife facilities which may be required in connection with any development of such project.

Sec. 406. New Impoundments.

Nothing in this title authorizes (1) the loan of funds for construction of any new dam or other impoundment, or (2) the simple and expeditious licensing of any such new dam or other impoundment.

Sec. 407. Authorizations.

There are hereby authorized to be appropriated for each of the fiscal years ending September 30, 1978, September 30, 1979, and September 30, 1980, not to exceed $10,000,000 for loans to be made pursuant to section 402, such funds to remain available until expended. There are hereby authorized to be appropriated for each of the fiscal years ending September 30, 1978, September 30, 1979, September 30, 1980, not to exceed $100,000,000 for loans to be made pursuant to section 403, such funds to remain available until expended.

Sec. 408. Definitions.

For purposes of this title, the term—

(1) "Small hydroelectric power project" means any hyroelectric power project which is located at the site of any existing dam, which uses the water power potential of such dam, and which has not more than 15,000 kilowatts of installed capacity;

(2) "Electric cooperative" means any cooperative association eligible to receive loans under section 4 of the Rural Electrification Act of 1936 (7 U.S.C. 904);

(3) "Industrial development agency" means any agency which is permitted to issue obligations the interest on which is excludable from gross income under section 103 of the Internal Revenue Code of 1954;

(4) "Project costs" means the cost of acquisition or construction of all facilities and services and the cost of acquisition of all land and interests in land used in the design and construction and operation of a small hydroelectric power project;

(5) "Nonprofit organization" means any organization described in section 501(c)(3) or 501(c)(4) of the Internal Revenue Code of 1954 and exempt from tax under section 501(a) of such Code (but only with respect to a trade or business carried on by such organization which is not an unrelated trade or business, determined by applying section 513(a) to such organization);

(6) "Existing dam" means any dam, the construction of which was completed on or before April 20, 1977, and which does not require any construction or englargement of impoundment structures (other than repairs or reconstruction) in connection with the installation of any small hydroelectric power project;

(7) "Municipality" has the meaning provided in section 3 of the Federal Power Act; and

(8) "Person" has the meaning provided in section 3 of the Federal Power Act.

Issued in Washington, D.C., May 17, 1979.

George S. McIsaac,

Assistant Secretary, Resource Applicotions.

Accordingly, it is proposed to add a new Part 797 to Title 10, Code of Federal Regulations, as follows:

PART 797—LOANS FOR SMALL HYDROELECTRIC POWER PROJECT FEASIBILITY STUDIES AND RELATED LICENSING

Sec.

797.01 General purpose.
797.02 Priority considerations.
797.03 Definitions.
797.20 Eligibility requirements.
797.21 General application requirements.
797.30 Purpose of loans.
797.40 Approval procedure and requirements.
797.50 Loan agreement and terms.
797.60 Project monitoring and audit.
797.70 Assignment or transfer of loan.
797.80 Cancellation.
797.90 Default.
797.100 Disclosure.
797.200 Noninterference with Federal, State and Local requirements.
797.300 Overall program considerations.
797.400 Nondiscrimination in Federally assisted programs.

(Sec. 401 Public Utility Regulatory Policies Act of 1978, Pub. L. 95–617; 92 Stat 3117; 16 U.S.C. 2701 note; and Sec. 644, Department of Energy Organization Act, Pub. L. 95–91; 91 Stat 565; 42 U.S.C. 7101 et. seq.)

§ 797.01 General purpose.

The purpose of this regulation is to establish the application procedure for two kinds of loans. One is a loan to defray a percentage of the costs to study the feasibility of developing a small hydroelectric power project in connection with an existing dam which is not being used to generate electric power. The other is a loan to defray a percentage of the costs to prepare an application for a necessary license or other Federal, State or local approval respecting such a project and to participate in any administrative proceeding regarding such application. Additional purposes are to specify (a) the requirements of the feasibility study and of the licensing application, (b) the borrower's obligations under a loan, (c) when the Secretary may cancel the obligation to repay the loan, and (d) priorities to be accorded kinds of applications. The purpose of the direct loan program whose procedures and obligations are set forth in this regulation is to aid in the development of this Nation's energy resources.

§ 797.02 Priority considerations.

(a) The Secretary will give applications for licensing loans priority over applications for feasibility study loans, because licensing loan applications must be based on completed feasibility studies (see § 797.40(b)(1)(ii), below) and thus will be typically closer in time to achieving the goal of the small hydroelectric power projects program, which is to put power from qualified projects on line. Initial consideration will be given in the order received, but time required for complete processing of an application may vary from case to case.

(b) Among licensing loan applications pertaining to proposed project sites which are subject to Federal Energy Regulatory Commission (FERC) permit or license jurisdiction, the Secretary will give priority consideration to those applicants who already hold a preliminary permit for the project. Between applicants who have applied for, but not yet received, such permit, the Secretary may, other factors being substantially equal, accord priority in his discretion to the earlier applicant to FERC.

(c) Among licensing loan applications pertaining to proposed project sites which are not subject to FERC permit or license jurisdiction, the Secretary may accord priority to applicants whose projects, in his judgment, are likely to receive relatively expeditious State or local licensing or permitting approval.

(d) Feasibility study loan applications will be given initial consideration in the order received, subject to the general priority accorded licensing loan applications.

(e) In addition the Secretary may take into account other pertinent factors in determining the priority to be accorded a particular licensing or feasibility study loan application. These factors include, but are not limited to, the following; where one or more is present, it may be regarded as affecting the priority to be accorded a loan application.

(1) The potential of the hydroelectric power project to save oil or gas.

(2) Applicant's need for, and ability to consume, a substantial part of the hydroelectric power to be generated by the project.

(3) The likelihood that the project will be carried through to completion relatively expeditiously.

(4) Need for substantial revision of the application in order to achieve compliance with this regulation.

(5) Disparity between the size of the loan sought and the size of the contemplated project.

(6) Evident, substantial environmental implications.

(f) Thirty-five percent of the amount available for loans during a fiscal year will be allocated to licensing loans. The Secretary, at his discretion, may adjust the allocation so reserved, to provide additional funds for licensing loans or for feasibility study loans as may be appropriate to respond to developments in the small hydroelectric power project loan program.

§ 797.03 Definitions.

For purposes of this part.

(a) "small hydroelectric power project" means a proposed hydroelectric power project which will be located at the site of an existing dam, or dams in the United States, its territories or possessions, which is not being used to generate electric power, which will use the water power potential of such dam(s), and which, when completed, will have an installed capacity of not more than 15,000 kilowatts, nor less than 100 kilowatts;

(b) "electric cooperative" means any cooperative association eligible to receive loans under section 4 of the Rural Electrification Act of 1936 (7 U.S.C. 904);

(c) "industrial development agency" means any agency which is permitted to issue obligations the interest on which is excludable from gross income under section 103 of the Internal Revenue Code of 1954;

(d) "nonprofit organization" means any organization described in §§ 501(c)(3) or 501(c)(4) of the Internal Revenue Code of 1954 and exempt from tax under section 501(a) of such Code (but only with respect to a trade or business carried on by such organization which is not an unrelated trade or business, determined by applying section 513(a) to such organization);

(e) "existing dam" means any dam, the construction of which was completed on or before April 20, 1977, which does not require any construction or enlargement of impoundment structures (other than repairs or reconstruction) in connection with the installation of any small hydroelectric power project;

(f) "municipality" means a city, county, irrigation district, drainage district or other political subdivision or agency of a State competent under the laws thereof to carry on the business of developing, transmitting, utilizing or distributing power;

(g) "person" includes an individual, corporation, joint stock company, partnership, association, business trust, organized group of persons (whether incorporated or not), receiver or trustee of any of the foregoing;

(h) "Secretary" means Secretary of Energy or his designated representative.

(i) "statutory interest rate" means the discount or interest rate, used at the time the loan is made, for water resources planning projects under Section 80 of the Water Resources Development Act of 1974, 42 U.S.C. § 1962d–17(a);

(j) "feasibility study loan" means a loan for a study to determine the technical and economic feasibility and environmental acceptability of undertaking a small hydroelectric power project at an existing dam or dams;

(k) "licensing loan" means a loan for preparing an application for a necessary license or other Federal, State, and local approval respecting a small hydroelectric power project and participating in any administrative

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proceeding regarding any such application;

(l) "loan agreement" means a contractual instrument executed between the United States as lender and a borrower, which sets forth the terms and conditions for provision of funds by the United States to the borrower incidental to a feasibility study loan or a licensing loan and for repayment of the loan by the borrower;

(m) "Commission" means the Federal Energy Regulatory Commission [FERC].

§ 797.20 Eligibility requirements.

Applicants for any loan under this part, to be eligible to receive such a loan, may be a municipality, electric cooperative, industrial development agency, nonprofit organization, individual, corporation, joint stock company, partnership, association, business trust, organized group of persons (whether incorporated or not), receiver(s) or trustee(s) of any of the foregoing, or a combination of the foregoing. Applicants may not be Federal agencies. Applicants must meet any requirement of United States citizenship applicable because the proposed project site is subject to FERC permit or license jurisdiction or otherwise applicable as a permit or license requirement under State or local law.

§ 797.21 General application requirements.

(a) Applications for feasibility study loans and licensing loans shall include financial, scheduling and other background information in support of the application. This information will be used as the basis for the Secretary's determination whether the applicant is capable of successfully completing the feasibility study or undertaking the applicable licensing and permitting requirements and subsequently constructing and operating the proposed small hydroelectric power project. Information previously provided by a feasibility study loan applicant need not be repeated at the time of applying for a licensing loan if unchanged. Elements of required information include:

(1) A list of all key personnel and major contractors and consultants who are proposed to be involved in the feasibility study or licensing or permitting effort with their functions and responsibilities.

(2) A narrative description of the major tasks required to perform the study or obtain the license and a proposed schedule for the completion of the study or licensing process, including a schedule for the completion of individual major tasks. Information should be provided to show that adequate experience exists within the organization to meet the schedule and to work within the cost constraints of the loan.

(3) A description of any other Federal financial assistance (e.g., direct loans, guaranteed loans, grants) expected to be applied for or already applied for or obtained by the applicant in connection with the project.

(4) A current financial statement of the proposing entity. This should include a balance sheet (except in the case of individual applicants) and a source of revenue statement. A licensing loan applicant must further provide a CPA or equivalent certification of the financial statement.

(5) A proposed method of repaying the loan.

(6) A brief description of the proposing entity (or entities), including size, type of business, and history.

(7) A brief summary of estimated feasibility study or licensing application costs by major tasks and the estimated total cost.

(8) The amount of the loan being requested and a description of the applicant's proposed equity contribution.

(9) Affidavit(s) of the United States citizenship where applicable (see § 797.20).

(10) If the applicant is an association, a verified copy of its articles of association, and verification of its status, if any, as a nonprofit organization.

(11) If the applicant is a corporation, a copy of the charter or certificate and articles of incorporation, with all the amendments, duly certified by the Secretary of State of the State where organized, and a copy of the by-laws. If the small hydroelectric power project is located in a State other than that in which the corporation is organized, a certificate shall be included from the Secretary of State of the State in which the project is located showing compliance with the laws relating to foreign corporations. There shall also be included a copy of all minutes, resolutions of stockholders or directors or other representatives of the applicant, properly attested, authorizing the filing of the application.

(12) If the applicant is a State a copy of the laws under the authority of which the application is made.

(13) If the applicant is a municipality, a copy of its charter or other organization papers, duly certified by the Secretary of State of the State in which it is located, or other proper authority, with a copy of the State laws authorizing the operations contemplated by the application.

(14) The basis upon which the applicant has, or proposes to obtain, arrangements for access to the proposed project site adequate to perform the feasibility study, and rights of possession at, and rights of access to, the site (including easements and rights of way) necessary to construct and operate the project.

(15) The status of any permit or license application to FERC for the project at the proposed site (or a statement by FERC that the site is not subject to its jurisdiction) and of any other such application by the applicant to a State or local agency.

(b) Applications for *feasibility study loans* shall include the following:

(1) A narrative description of the proposed site to be studied which should address, but not necessarily be limited to, the following, to the extent that such information is reasonably available:

(i) the number, physical composition, dimension (including height of head), general configuration, age and condition, of any dams, spillways, penstocks, powerhouses, tailraces, or other structures, to be included as part of the project;

(ii) the number, surface area, storage capacity, and normal maximum surface elevation of any reservoirs to be included as part of the project;

(iii) the number, length, voltage, interconnections, age and condition, of any transmission lines to be included as part of the project;

(iv) a preliminary indication of capacity potential and average annual energy generation and the most likely customers for the power which would be produced.

(v) a preliminary estimate as to sale price of power;

(vi) stream characteristics (yearly flow patterns, downstream dependence on streamflows, etc.); and,

(vii) any other pertinent information which would aid the Secretary in understanding the setting in which the facility will be built, particularly those factors which may make the setting important or unique, including eligibility for or inclusion in the National Register of Historic Places of any structures or sites in the vicinity of the proposed project.

(2) Maps and pictures describing site characteristics, with particular reference to proximity of United States lands or of areas designated wilderness areas or otherwise restricted from development under Federal, State or local law.

(3) A report from the Corps of Engineers on the safety of the dam or dams at the project site if available.

(4) Substantial environmental implications known to the applicant including information covering the presence of any rare or endangered species in the area of the project and the possible need to accommodate migratory fish by installation of fish ladders.

(c) Applications for a *licensing loan* shall include in addition to the information specified in subsection (a), a copy of the completed feasibility study acceptable to the Secretary and conforming to the requirements indicated in section 797.30.

(d) In addition to the above required information the loan applicant shall supply such other information as the Secretary may deem necessary to fully consider the request for a loan.

§ 797.30 Purpose of loans.

(a) Feasibility Study Loans.

(1) The purpose of a feasibility study loan is to defray expenses to be incurred in preparing a study which should address, but is not limited to, the following items.

(i) Expected configuration and capacity of the proposed hydroelectric power facility.

(ii) Anticipated performance characteristics of the facility, including potential peak power production, and estimated average annual energy production.

(iii) Engineering acceptability of the site for hydroelectric power development.

(iv) Land and interests in land necessary to construct and operate the facility, and the availability and cost of acquisition of such land and interests in land.

(v) Initial assessment of the safety hazards, if any, introduced by the installation or rehabilitation of the power plant and appurtenances.

(vi) License requirements and other required Federal, State and local approvals necessary for construction and operation of the project, and a plan for fulfilling these requirements.

(vii) An assessment of the prospective environmental impact of the project including, particularly, impact on other water resource needs of the area and on current use, if any, of the reservoir. The assessment should also address other perceived social and institutional factors, as appropriate.

(viii) Availability of a suitable turbine(s), generator(s) and accessories required for the facility.

(ix) Plan for transmitting power from the project to intended user.

(x) Total estimated cost of the project and cost per kwh produced.

(xi) Anticipated annual operation and maintenance costs.

(xii) Schedule for putting power on line.

(xiii) Plan for marketing the power including description of present and prospective power user groups and estimated revenues or value to be derived from power produced.

(xiv) Anticipated project life.

(2) The goal of the feasibility study is to determine, through engineering and economic analysis and consideration of environmental and institutional requirements, whether the proposed small hydroelectric power project is technically and economically feasible and environmentally sound as a supplier to an existing power grid or as an independent contributor of power for local application or a combination of both.

(3) The study should include a benefit/cost analysis of the project. When applicable a plan should be presented for financing the project. This plan should use realistic assumptions regarding interest rates and debt amortization schedules and should indicate the ability of the project to meet these requirements and provide an adequate return on investment, when applicable. A cash flow statement covering at least the first 10 operating years of the project should be included as part of the study, when appropriate.

(4) The feasibility study should include an estimate itemizing the cost of pursuing an application for a necessary license or other Federal, State and local approval respecting the project, including participation in any administrative proceeding regarding any such application.

(b) Licensing Loans.

The purpose of a licensing loan is to defray expenses incurred in preparing an application for a license or other Federal, State and local approval required for a proposed small hydroelectric power project, and in participating in any administrative proceeding regarding such project.

§ 797.40 Approval procedure and requirements.

(a) Feasibility Study Loans.

(1) If a proposed project site is subject to FERC permit or license jurisdiction, the Secretary will consult with FERC before making a feasibility study loan, to determine whether any other applicant may be entitled to priority consideration by reason of the issuance by FERC of a preliminary permit under subchapter I of the Federal Power Act, 16 U.S.C. section 791a, and following. The Secretary shall take such priority into consideration in determining whether or not to make a feasibility study loan to the applicant.

(2) The Secretary will evaluate information provided in the loan application, or otherwise available, to determine whether the following conditions, which shall be required for issuance of a feasibility study loan, have been met, and will indicate his findings thereon:

(i) The applicant has, or is in process of obtaining, arrangements for access to the proposed project site sufficient for applicant to perform the study;

(ii) The Secretary has no reason to believe that the applicant cannot acquire lands and interest in lands necessary to construct and operate the proposed hydroelectric facility;

(iii) There exists a reasonable likelihood that the applicant or other person who will undertake the study is capable of performing it, that the applicant will repay the loan, and that the project may be found to be both technically and economically feasible and environmentally acceptable (such determination as to economic feasibility to include consideration of costs associated with environmental and safety factors); and,

(iv) All requirements of this regulation pertaining to the issuance of the feasibility study loan have been found to be satisfied.

(3) In cases where there are two or more proposed projects located upon the same waterway, the Secretary may approve one loan for a single feasibility study dealing with all such projects (in which the persons proposing the projects will jointly participate with rights and obligations hereunder exactly the same as if their participation were on a separate basis) even though such projects are proposed by different persons, if he finds that to do so would avoid unnecessary duplication of effort and costs and would provide adequate information to make a determination concerning the feasibility of all such projects.

(b) Licensing Loans.

(1) The Secretary will evaluate information provided in the loan application and accompanying feasibility study, or otherwise available, to determine whether the following conditions, which shall be required for issuance of a licensing loan, have been met, and will indicate his findings thereon:

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(i) If the proposed project site is subject to FERC permit or license jurisdiction, that the applicant has applied to FERC for a preliminary permit under subchapter I of the Federal Power Act, in which case the applicant may not receive a licensing loan for the project until the applicant holds such a preliminary permit for the project;

(ii) The applicant has submitted a feasibility study which conforms to the requirements and purpose indicated in § 797.30 and tends to establish that the proposed small hydroelectric power project is technically and economically feasible and environmentally acceptable (such determination as to economic feasibility to include consideration of costs associated with environmental and safety factors);

(iii) There exists a reasonable likelihood that the applicant will repay the loan; and,

(iv) All requirements of this regulation pertaining to the issuance of the licensing loan have been found to be satisfied.

(c) In determining whether or not to make a feasibility study loan or licensing loan, as well as in determing the percentage of costs such loan will defray, the Secretary may take into consideration the cost of the work as it relates to the size and output of the proposed hydroelectric power facility, and such other matters as, in his judgment, bear reasonably on the ultimate success or failure of the proposed small hydroelectric power project. See, also, section 797.50(d) regarding loan limits.

(d) In making the determinations referred to in this section, the Secretary may consider information provided by a visit to the proposed site by his representative.

§ 797.50 Loan agreement and terms.

(a) The loan agreement shall be in writing and shall provide that the borrower agrees to repay the loan, unless forgiven, and the Secretary agrees to make the loan.

(b) The loan agreement shall provide the following in addition to such other provisions as the Secretary may deem appropriate:

(1) The interest rate on the loan will be at the statutory interest rate.

(2) The loan may be repaid over a period of 10 years with the following specific requirements for payments:

(i) No payments of principal or interest are required for the first 3 years after disbursement.

(ii) Beginning on the 4th anniversary date, the accrued interest, which will include interest charged on unpaid interest, shall be added to the outstanding principal balance and ⅓ of that total shall be due at such time.

(iii) Each anniversary date thereafter, ⅓ of the total computed in subparagraph (ii) above shall be due plus all interest accrued in the previous year on the unpaid balance of the loan.

(iv) Prepayments may be made at any time without penalty.

(3) The provisions of subsection (2) above shall be altered, to the extent necessary, by the following circumstances:

(i) The Secretary forgives repayment of interest and principal as permitted in § 797.80.

(ii) Construction is undertaken on the proposed hydroelectric power project, in which event the cost of the study should be part of the financing for such project and the loan repaid out of the proceeds of any construction loan. To insure compliance with this provision, the loan agreement shall provide the Secretary with the option of accelerating the repayment of any loan made under this regulation and demanding payment in full any time after the expiration of 60 days from the date construction has begun on the project.

(4) The Secretary shall require that each loan be secured to the extent that the Secretary determines necessary and appropriate to offer a reasonable assurance of repayment to the Government.

(5) Payments required by the loan agreement, if not made when due, shall accrue interest at a rate specified in the loan agreement, but not less than 10 percent per annum.

(6) The loan may defray up to 90 percent of the costs of the feasibility study and of preparing any application for a necessary license or other Federal, State, and local approval respecting such a project and of participating in any administrative proceeding regarding such application. No part of the loan shall be used to defray any fee charged by any Federal, State or local agency as a condition of receiving a license or other approval nor any cost associated with a finder's fee. A loan may defray reasonable and customary costs directly related to the project and entailed in the engineering, financial, legal, environmental, social and institutional considerations necessary to the study and in the licensing endeavors of an applicant.

(7) The borrower will be required to make periodic reports as to the progress of the feasibility study or licensing application.

(c) Costs allowable under subsection (b)(6) and incurred by a borrower prior to signing the loan agreement will be credited toward the borrower's share of costs but in no case will such costs be reimbursable from proceeds of the loan.

(d) Except in unusual cases with good cause shown, loans will not exceed $50,000.

(e) Requests for disbursements at closing and thereafter shall be supported by such documents as the Secretary may require.

§ 797.60 Project monitoring and audit.

The loan agreement shall provide that the borrower keep such records concerning the small hydroelectric power project as may be necessary for an effective audit and performance evaluation of the project, and that the Secretary have access, for the purpose of audit and examination, to any pertinent records or other documents of the borrower during the regular business day.

§ 797.70 Assignment or transfer of loan.

The loan agreement shall provide that assignments of the loan and obligations contained thereunder may be made only with the written consent of the Secretary.

§ 797.80 Cancellation.

(a) The Secretary may cancel the unpaid balance and any accrued interest on any feasibility study loan if he determines on the basis of the study, or on the basis of any other information available to him, that the small hydroelectric power project would not be technically or economically feasible or environmentally acceptable. The Secretary's determination to cancel the loan may be made prior to the completion of the study or afterwards.

(b) The Secretary may cancel the unpaid balance and any accrued interest on any licensing loan if he determines, on the basis of information available to him, that the small hydroelectric power project would not be technically or economically feasible or environmentally acceptable.

(c) In determining economic feasibility the Secretary shall be guided by his determination of the ability of the proposed project to support financing appropriate to carry out the project and available to the applicant for the project under reasonable terms and conditions.

(d) The Secretary may cancel the unpaid balance and any accrued interest on a loan to a borrower who, in the Secretary's judgment, has been or will be unable to obtain a necessary license respecting the project, or any right necessary to construct and operate the project, for a reason beyond the borrower's control and despite borrower's good faith effort to do so.

(e) The Secretary will not cancel the unpaid balance or accrued interest on any feasibility study or licensing loan if he finds that the borrower, in applying for the loan, (1) failed to provide information reasonably available to such borrower which would have indicated that there was not a reasonable likelihood that the project would be found to be technically and economically feasible and environmentally acceptable, or (2) withheld information indicating that the borrower would be unable to obtain a license, approval or right necessary to the project.

(f) In the event of cancellation of unpaid balance or accrued interest under this section, 1) the Secretary's obligation to disburse funds under the loan agreement shall terminate; and 2) a feasibility study produced under a feasibility study loan made to the borrower pursuant to this regulation shall become property of the United States.

§ 797.90 Default.

(a) In the event that the borrower fails to perform the terms and conditions of the loan agreement or any related document, the borrower shall be in default and the Secretary shall have the right, at his option, to accelerate the indebtedness and demand full payment of all amounts outstanding, both principal and interest, under the loan.

(b) No failure on the part of the Secretary to make demand at any time shall constitute a waiver of the rights held by the Secretary.

(c) Upon demand by the Secretary, the borrower shall have a period of not more than 30 days from the date of the Secretary's demand to make payment in full because of default.

(d) In the event that the failure on the part of the borrower to perform the terms and conditions of the loan agreement, or related document, does not constitute an intentional act, but is brought about as a result of circumstances largely beyond the control of the borrower, the Secretary may elect, at his option, to waive the right to payment in full or restructure the repayment required by the loan agreement in any manner he determines.

(e) Should the borrower fail to pay after demand as provided in subparagraph (c), the Secretary shall undertake collection in accordance with the terms of the loan agreement and the applicable law.

(f) If during the term of a cancelled loan the borrower, or an entity in which the borrower has a substantial interest, starts construction of the small hydroelectric power project to which the loan pertained, unpaid principal and interest to date shall become due and payable.

§ 797.100 Disclosure.

(a) Subject to the requirements of law, and in accordance with DOE regulations concerning public disclosure, information such as trade secrets, commercial and financial information, and other information or data concerning the project which the applicant submits to DOE in writing during the preliminary discussions or at other times throughout the duration of the project, on a privileged or confidential basis, will not be disclosed by DOE without prior notification to the applicant. Any applicant asserting that the information is privileged or confidential shall appropriately identify and mark such information.

§ 797.200 Noninterference with Federal, State, and local requirements.

Nothing in this regulation shall be construed to modify requirements imposed on the borrower by Federal, State, and local government agencies in connection with permits, licenses, or other authorizations to construct or finance small hydroelectric power projects.

§ 797.300 Overall program considerations.

Nothing in these regulations shall be interpreted to restrict the Secretary, in making his various determinations, from taking into account considerations relating to the small hydroelectric power project loan program as a whole.

§ 797.400 Nondiscrimination in federally assisted programs.

(a) Applicants and recipients of Federal assistance from DOE are obligated to comply with civil rights requirements of the following public laws: Title VI of the Civil Rights Act of 1964; Title IX of the Higher Education Amendments of 1972; Section 16 of the Federal Energy Administration Act of 1974; Section 401; of the Energy Reorganization Act of 1974; Section 504 of the Rehabilitation Act of 1973; and the Age Discrimination Act of 1975.

(b) To be in compliance with civil rights requirements, an applicant/recipient, among other obligations, must:

(1) submit a written assurance that the program or activity will be operated in a manner which does not exclude from participation in or deny the benefits or services to individuals on the basis of race, color, national origin, sex, age, or handicap;

(2) designate a responsible employee to coordinate activities to carry out its civil rights compliance responsibilities; and

(3) take appropriate initial and continuing steps to notify participants, beneficiaries, applicants and employees that it does not discriminate on the basis of race, color, national origin, sex, age, or handicap.

[FR Doc. 79-16255 Filed 5-23-79; 8:45 am]

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Part V

Department of Defense

Corps of Engineers

Evaluation of National Economic Development Employment Benefits

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DEPARTMENT OF DEFENSE

Corps of Engineers

[33 CFR Part 344]

[ER 1105-2-354]

Evaluation of National Economic Development Employment Benefits; Proposed Policies and Procedures

AGENCY: Corps of Engineers, DOD.

ACTION: Proposed Rule.

SUMMARY: This regulation establishes evaluation procedures for projected employment as a result of the implementation of proposed water resources plans. This regulation is consistent with the planning requirements of the U.S. Water Resources Council (WRC) Principles and Standards (P&S) and related policies, and will be utilized by the U.S. Army Corps of Engineers in feasibility studies conducted as a part of the Civil Works program.

DATE: Submit comments on or before June 22, 1979.

ADDRESS: Send comments to: Department of the Army, Office of the Chief of Engineers, ATTN: DAEN-CWP-A, Washington, DC 20314.

FOR FURTHER INFORMATION CONTACT: Ed Cohn, Chief of Economic Social Section, Plan Formulation and Evaluation Branch, Planning Division, Directorate of Civil Works, (202-693-7320).

SUPPLEMENTARY INFORMATION: Employment benefits are not a planning objective, but these benefits can be used in the evaluation and selection of alternative projects formulated during the planning process. Any project located in an area officially identified by the WRC as containing unemployed, or underemployed, labor resources is eligible for employment benefits. The areas designated by the Economic Development Administration (EDA) will be used until the WRC makes its designations.

In his message to Congress of June 6, 1978 on water policy, the President directed the Water Resources Council to prepare a manual which will ensure that benefits and costs are calculated using the best techniques and will provide for consistent applicaiton of the Principles and Standards. This regulation will be revised, as required, to be consistent with the manual.

Note.—The Corps of Engineers has determined that this regulation does not contain a major proposal requiring preparation of an Inflation Impact Statement under Executive Order 11821 and OMB Circular A-107.

Dated: May 9, 1979.

For the Chief of Engineers.

Thorwald R. Peterson,

Colonel, Corps of Engineers, Executive Director, Executive Staff.

PART 344—EVALUATION OF NATIONAL ECONOMIC DEVELOPMENT EMPLOYMENT BENEFITS

Sec.

344.1 Purpose.
344.2 Applicability.
344.3 References.
344.4 Definitions.
344.5 Applicability of Planning Reports.
344.6 General Principles and Standards of Benefit Evaluation.
344.7 Evaluation Procedure and Benefit Measurement.

App. A—Occupational Tables

Authority: 38 FR 24778, September 10, 1973.

Source: ER 1105-2-354.

Evaluation of NED Employment Benefits

§ 344.1 Purpose.

This regulation prescribes principles, standards, procedures and measurement techniques for evaluating beneficial contributions to the National Economic Development (NED) objective for employment of unemployed or underemployed manpower in construction and installation of a proposed plan formulated under the Water Resources Council *Principles and Standards* (reference § 344.3(a)).

§ 344.2 Applicability.

This regulation is applicable to all OCE elements and all field operating agencies with Civil Works responsibilities.

§ 344.3 References.

(a) Water Resources Council (WRC) Principles and Standards for Planning Water and Related Land Resources, 38 FR 24778-24869. September 10, 1973.

(b) Water Resources Council, *Procedure 1 for Planning Water and Related Land Resources.* July 24, 1974.

(c) ER 1105-2-200.

(d) Area Trends in Employment and Unemployment, Manpower Administration, U.S. Department of Labor, Monthly Publication Employment & Training Administration (TPPL), 601 D Street, NW., Washington, DC 20213.

(e) Qualified Areas Under the Public Works and Economic Development Act of 1965 as amended, Economic Development Administration, U.S. Department of Commerce, Periodic Publication, U.S. Government Printing Office.

(f) An Evaluation of the Public Works Impact Program (PWIP), Economic Development Administration, U.S. Department of Commerce, January 1975 (NTIS #PB-263 098).

§ 344.4 Definitions.

(a) "Employment Benefit" means the NED benefit resulting from the use of otherwise unemployed or underemployed labor in the construction or implementation of a plan.

(b) "Designated Area" means an area which is designated as a Title IV area in reference § 344.3(e).

§ 344.5 Applicability to planning reports.

This regulation is applicable to all planning reports subject to WRC Principles and Standards for Planning (P&S) including those covered by § 344.3(b).

§ 344.6 General principles and standards of benefit evaluation.

(a) *National Economic Development (NED) Account.* Unemployment benefits are a special category of benefits and are a component of the NED account. As explained in the P&S, this component is conceptually an adjustment to the cost of a project, because there is no economic cost associated with the use of an otherwise unemployed resource, or full utilization of an otherwise underemployed resource. Due to measurement problems, benefits are limited to payments to unemployed and underemployed labor resources directly employed in the construction and installation of a plan.

(b) *Regional Development (RD) Account.* Operation and maintenance labor earnings over the life of the project are RD benefits. Other plan induced employment such as related to new commercial and industrial activities will also be included in the RD account.

(c) *Use of Employment Benefits.* Employment benefits are not a planning objective under the meaning of § 290.4(i) of this chapter. Employment benefits will not be used in the design and scaling of projects after formulation. The NED plan will be designated as the plan which maximizes NED benefits when employment benefits are included. Employment benefits are existing benefits.

(d) *Designated Areas.* The WRC Principles and Standards for planning (reference § 344.3 (a)) states that the WRC will designate planning regions which contain unemployed or underemployed labor resources. Until WRC makes its designations,

designations under Title IV of the Economic Development Administration (EDA), U.S. Department of Commerce, will be utilized for plan benefits. The portion of the project located in a designated county is eligible for employment benefits.

§ 344.7 Evaluation procedure and benefit measurement

(a) *Labor Availability.* If the proposed plan is located in a designated area, analysis of employment is required.

(1) Estimate number of employed (skilled and unskilled) and unemployed (skilled and unskilled) construction workers in the labor area. Construction labor pool data is usually available from local offices of state employment security agencies. The categories should be developed from Table II-E-6-A and B of § 344.3(f).

(2) Estimate briefly and deduct the number of construction workers that may be required for other construction projects proposed for the area.

(b) *Labor Requirements of Plan Implementation.*

(1) *Labor Cost.* Manpower requirements of water resource projects differ widely. Construction cost estimate data will provide percent of labor cost to total construction contract cost. Corps of Engineers design and administration costs, land cost and other nonconstruction related costs are deducted from total plan cost to arrive at construction costs.

(2) *Manpower Requirements.* Plan construction work force is analyzed to determine manpower requirements for skilled and unskilled categories of workers. This data should be converted to total construction wages by skilled and unskilled categories. In addition, the wage bill associated with "white collar" workers needed on the project will be estimated. (§ 344.3(f) Tables II-E-6 & 7 for definitions).

(c) *Potential Employment.* The manpower requirements of the project will be compared to labor availability in eligible areas. Where the availability is significantly in excess of requirements. proceed to the next step. Where availability is not significantly in excess of requirements, a reduction in the percents in the next step will be made. The reduction will be based upon one or more of the following: expert interviews, a careful match-up of requirements and availability for specific job types (e.g., carpenters), consideration of male-female components of labor force, unemployment rate above 4 percent, and the like.

(d) *NED Employment Benefits: Standard Method.* The following percentages were derived from § 344.3(f). While § 344.3(f) is not completely comparable to typical Corps projects, it does provide the only known empirical basis for deriving unemployment benefits. Case 1 covers situations where there is no "local hire" rule. It is taken directly from § 344.3(f); the Public Works Impact Program has no local hire rule. Case 2 covers situations where there is a "local hire" rule; § 344.3(f) data were modified to account for an 80 percent local hire by scaling up the actual local hires (for skilled and unskilled workers) to 80 percent, but retaining the distribution of local hires previously employed to local hires previously unemployed in § 344.3(f).

(1) *Case 1, NED Benefits, Present Worth.* The total wages including contingencies, determined by categories of workers (skilled, unskilled and other) will be multiplied by the following percentages to obtain the present worth of NED benefits. In addition, any interest during construction associated with wages to unemployed will be added as a benefit to the present worth of NED benefits obtained by applying the percentages:

Skilled	30
Unskilled	47
Other	35

(2) *Case 2, NED Benefits, Present Worth.* The following percentages, plus appropriate interest during construction, will be applied in case 2 situations. However, it must be remembered that the 80 percent local hire rule is only a goal, not a stringent requirement. Therefore, in case 2 situations, the following percentages represent a maximum number. Use of the maximum number must be supported by appropriate correspondence of experts or other data which indicates that the local hire goal is likely to be met. Where this is unlikely, the case 2 percentages will be reduced to intermediate percentages between case 1 and case 2, by prorating, based on total local hires of 50 percent for case 1 and 80 percent for case 2.

Skilled	43
Unskilled	58
Other	35

(3) *Annual NED Benefits.* The present worth NED benefits is placed on an average annual basis using the appropriate rate of interest to bring benefits to project year one and to amortize such benefits.

(e) *NED Employment Benefits. Alternative Methods.* The unemployed and underemployed percentages may be changed from § 344.3(f) if the report supports such change by a study which empirically (not theoretically) shows the use of unemployed and underemployed workers on a simmilar project or a segment of the same project. In utilizing this method, it may be necessary to vary the categorization of construction workers used in the standard method. It is emphasized that while the opinions of experts such as local state employment security agencies, local construction firms, Associations of Contractors, and labor unions should be used as support. these opinions cannot substitute for empirical data. Studies used to document alternative percentages for specific types or locations of projects will be cited or included in the report.

(f) *Indirect Effects.* The percentages from § 344.3(f) measure wages paid directly to previously unemployed and underemployed workers. Previously employed workers may vacate jobs which are then made available to unemployed workers. There is no empirical data to support a quantification of such indirect effects. Therefore, indirect effects cannot be claimed.

(g) *Update of Employment Benefits.* Employment, unemployment and underemployment conditions change over time. Where critical to project justification employment benefits will be updated by a reanalysis at each major stage of preconstruction reporting such as General Design Memo Phase I. Authorization and Funding for Construction. Otherwise, general index updating is acceptable.

Appendix A—Occupational Tables

Blue Collar Unskilled Occupations

Bricklayer Apprentice
Carpenter Apprentice
  Apprentice Carpenter
  Carpenter Helper
Chainman
Deck Hand
Electrician Apprentice
  Apprentice Electrician
  Apprentice Wireman
  Electrician Trainer
Iron Worker Apprentice
Laborer
  Asphalt Distributor
  Assistant Carpenter
  Bottom Laborer
  Brick Tender
  Carpenter Aid
  Carpenter Helper
  Chainsawman
  Common Laborer
  Concrete Braker
  Concrete Laborer
  Concrete Saw
  Construction laborer
  Ditch Laborer
  Drill Helper
  Flag Person

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Hod Carrier
Kettleman
Laborer
Laborer Apprentice 3rd
Laborer Group I
Laborer Group V
Labor Shop Man
Laborer Topman
Laborer Utilityman
Landscape Laborer
Mason Helper
Mason Laborer
Mason Tender
Mortarman
Mortarmixer
Pipe Layer
Pipe Helper
Pipe Fitter
Plasterer Tender
Powderman
Pusher
Rakeman
Reboundman
Road Laborer
Roof Helper
Sand Blaster
Set-up-man
Sprinkler Apprentice
Stake Setter
Tender
Termite Operator
Title Setter Operator
Vibrator Operator
Water Truckman
Lumberman and Nurseryman
Tree Thinner
Treeman
Treeplanter
Operating Engineer Apprentice
B.M. Apprentice
EO Group III
EO Group 222
Plumber Apprentice
Plumber Apprentice
Plumber Helper
Painter's Helper
Sheet Metal Apprentice
Vibrator Operator
Watchman
Night Watchman

Blue Collar Skilled Occupations

Blaster
Boilermaker
Boilermaker Foreman
Bricklayer
Block Layer
Truckpointer
Brick Mechanic
Bricklayer Foreman
Carpenter
Form Setter
Journeyman Carpenter
Soft Floor Layer
Carpenter Foreman
Carpenter Superintendent
Cement Mason
Finisher
Journeyman Finisher
Cement Mason Foreman
Diver
Driller
Drill Rig Operator
Electrician
Journeyman Electrician
Mechanical Electrician
Wireman
Journeyman Wireman
Electricial Foreman
General Foreman
General Labor Foreman
Project Foreman
Glazier
Iron Worker
Reinforcing Ironworker
Structural Ironworker
Steel Worker
Steel Erector
Steel Setter
Reinforcing Steel Worker
Iron Worker Foreman
Labor Foreman
Construction Foreman
Foreman
Job Foreman
Lead Foreman
Lather
Lather Foreman
Master Mechanic
Mechanic
Mechanic Welder
Repairman
Repairman Leadman
Oiler
Oiler Equipment Operator
Oiler Operator Group HI
Oiler Track Type
Operating Engineer
Asphalt Distributor Operator
Asphalt Heaterman
Backhog Operator
Blade Operator
Bobcat Operator
Bulldozer Operator
Case Operator
Class A Operator
Class C Operator
Crane Operator
Digger Operator
Distributor Operator
Dragline Operator
Equipment Operator
Equipment Operator Group III
Front End Lift Fork Operator
Heavy Equipment Operator
Hi-Lift Operator
Lift Fork Operator
Light Equipment Operator
Loader Operator
Maintenance Loadman
Motor Grader Operator
Operator Group III
Pan Operator
Park Equipment Operator
Power Drive Moister Operator
Power Equipment Operator
Pneumatic Tire Roller Operator
Pneumatic Tractor Operator
Roller Operator
Scraper Operator
Shovel Operator
Tractor Operator
Trayveyor Operator
Trenching Machine Operator
Truck Loader Operator
Operating Engineer Foreman
Leader Operator
Painter
Brush Painter
Roller Painter
Spray Painter
Painter Foreman
Pile Driver
Pipe Fitter
Sp. Box Man
Pipe Fitter Foreman
Sprinkler Foreman
Plasterer
Plasterer Foreman
Plumber
Pipe Layer
Plumber Foreman
Plumber General Foreman
Plumber Superintendent
Rigger Foreman
Roofer
Sheet Metal Worker
Journeyman Sheet Metal Worker
Sheet Metal Mechanic
Sheet Metal Operator
Sheet Metal Foreman
Steam Fitter
Tile Setter
Truck Driver
Axle Truck Driver
4 Axle Truck Driver
Dump Truck Driver
Road Truck Driver
Tandam Truck Driver
Truck Driver II
Truck Driver Highway
Waterproof Foreman
Welder

Construction Occupations, Except Blue Collar

Assistant Project Coordinator
Assistant Superintendent
Bookkeeper
Civil Engineer
Civil Engineer
Grand Setter
Party Chief
Project Engineer
Project Engineer and Coordinator
Rodman
Surveyor
Transit Man
Clerk
Clerk
Accountant Clerk
Clerk Typist
Typist
Construction Superintendent
Construction Superintendent
Job Superintendent
Project Supervisor
Superintendent
Draftsman
Draftsman
Draftsman Estimator
General Superintendent
Inspector
Project Coordinator
Project Coordinator
Project Foreman
Timekeeper

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Part VI

Department of Commerce

National Oceanic and Atmospheric Administration

Fishermen's Contingency Fund

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DEPARTMENT OF COMMERCE

National Oceanic and Atmospheric Administration

[50 CFR Part 296]

Fishermen's Contingency Fund

AGENCY: National Marine Fisheries Service, National Oceanic and Atmospheric Administration.

ACTION: Notice of Proposed Rulemaking.

SUMMARY: The National Marine Fisheries Service (NMFS) proposes regulations to implement Title IV of the Outer Continental Shelf Lands Act Amendments of 1978, 92 Stat. 629, Pub. L. 95–372, 43 U.S.C. Section 1841 *et seq.* (the Act). The Act establishes a Fishermen's Contingency Fund (the Fund) which pays for property or economic loss suffered by commercial fishermen as a result of obstructions related to oil and gas exploration, development, and production on the Outer Continental Shelf. Eligible losses are those resutling from damage to commercial fishing vessels or gear caused by obstructions which are not attributable to financially responsible parties.

DATE: Written comments on these proposed regulations will be accepted by the National Marine Fisheries Service until June 27, 1979. Comments received by the National Marine Fisheries Service will be available for review by interested parties.

ADDRESS: Comments should be sent to: Mr. Michael L. Grable, Chief, Financial Services Division, National Marine Fisheries Service, Washington, D.C. 20235.

Please mark "Title IV" on the envelope.

FOR FURTHER INFORMATION CONTACT: Ms. Kathryn Hensley, Financial Services Division, National Marine Fisheries Service, Washington, D.C. 20235, Telephone: area code (202) 634–7496.

SUPPLEMENTARY INFORMATION: On January 25, 1979, the National Marine Fisheries Service (NMFS) published an "Advance Notice of Proposed Rulemaking and Notice of Public Workshops" (44 FR 5165) to announce its intention to solicit public comments on a number of issues before proposing regulations to implement Title IV of the Act. Public workshops were held in New Orleans, Louisiana on February 9, 1979; Boston, Massachusetts on February 13, 1979; Anchorage, Alaska on February 21, 1979, and Los Angeles, California on February 23, 1979, to solicit public comment on nine issues which concern the program. Summaries of Title IV of the Act and these nine issues are contained in the "Advance Notice of Proposed Rulemaking and Notice of Public Workshops". A discussion of the nine issues, the major comments received on each, and their resolution in the proposed rules follows:

Issues

Issue No. One

Establishing the nature of obstructions which cause damage to fishing vessels or gear (Section 404 of the Act). Obstructions causing damage can be of at least three kinds: (a) natural obstructions; (b) man-made obstructions other than those resulting from oil and gas activities; or (c) man-made obstructions resulting from oil and gas exploration, development, and production on the federal Outer Continental Shelf. Only damage resulting from the third kind of obstruction is eligible for recovery from the Fund. The issue presented is whether some physical evidence of the obstruction should be obtained by the claimant and, in the absence of such evidence, what alternate methods would be available for the claimant to establish the eligible nature of the obstruction.

Section 404 of the Act can be interpreted as allowing a presumption of claim validity for a fisherman without identifying the specific obstruction which caused the damage to his gear. Offshore petroleum industry representatives, however, interpreted section 404 of the Act as requiring each fisherman to specifically identify the obstruction which caused the damage and to prove that the obstruction resulted from Outer Continental Shelf oil and gas activities, as opposed to natural obstructions or those resulting from other ocean users.

Fishing industry representives believed that it would often be impossible or impracticable to relocate and identify relatively small bottom obstructions and that, even where this was feasible, the costs incurred in identifying these obstructions could be prohibitive.

The proposed rules construe Section 404 as not requiring each fisherman to identify the specific obstruction which caused his gear loss or damage, if the loss occurred in an area affected by Outer Continental Shelf oil and gas activity and the other requirements of Section 404 are fulfilled. This interpretation of Section 404 of the Act is reflected in the proposed regulations because it is consistent with Congressional intent to facilitate compensation for the fisherman if the requirements of the presumption of validity are met.

Issue No. Two

Fixing the position of obstructions. All commenters agreed that an accurate location of the obstruction which caused the damage is important to:

1. Determine whether a claim is eligible;
2. Chart it, or publish it in Notices to Mariners, to avoid future damage caused by the same obstruction; and
3. Possibly relocate the object causing the damage in order to identify or remove it.

Representatives of the offshore petroleum industry position said that locations should be determined by Loran C bearings, radar range and compass bearings, and by marking obstruction sites with U.S. Coast Guard-approved buoys. Fishermen, on the other hand, felt that no claim should be disqualified because of the method used to identify the location of the obstruction site. Additionally, they felt that the best position-fixing equipment available on each vessel should suffice as the method to identify the obstruction site. Finally, they felt that marking obstruction sites with U.S. Coast Guard-approved buoys is impractical in most areas.

These proposed rules specify the available methods of locating the position of the obstruction site, ranked from most preferable to least preferable. The best method available to each vessel should be used in determining the location, and no claim will be disqualified if the only method available to a claimant is one that is less preferable than other methods.

Issue No. Three

Valuation of lost or damaged property. Two methods of valuing lost or damaged property were advocated by the commenters when the damaged property is not repairable: replacement cost (the "ceiling" on recovery from the Fund allowed by the Act) and depreciated replacement cost. Replacement cost was advocated by representatives of the fishing industry Fishermen commented that drag nets (the principal type of gear expected to be involved in program casualties) do not depreciate in a normal manner because portions of the net are continually being repaired or replaced until the whole net is either no longer usable or is lost or destroyed. Representatives of the offshore petroleum industry commented that normal practice is to reduce the acquisition cost of damaged property to reflect its age and condition at the time of damage.

The proposed rules use replacement cost, less salvage value, as a measure of damages, because this measure more accurately reflects the amount required to make a fisherman "whole" and allow the fisherman to continue to earn a livelihood.

Issue No. Four

Valuation of other economic loss. Several different methods of valuing lost fishing time were recommended by the commenters. Among these suggested were:

1. Prior year's income tax return;
2. Standard industry cost/earnings data;
3. Individual performance adjusted on a seasonal basis; and
4. An average of the preceding year's quarterly performance comparable to the current year quarter in which the casualty occurred.

Additionally, an issue arose concerning the inclusion of claimants' costs of pursuing claims in the measure of recovery.

The proposed rules allow the hearing examiner to consider the claimant's earnings from the preceding year's comparable quarter. This information could be established from the claimant's cost/income records for the previous 12 months, and may be modified by other relevant information (for example, income from trips immediately before and after the casualty). Additionally, all reasonable expenses of pursuing the claim will be included in the claimant's recovery.

Issue No. Five

Claimant's negligence. The Act requires that the claimant's recovery be reduced to the extent that damages were caused by the claimant's negligence. Several factors were submitted by commenters to be considered in determining whether a claimant was negligent. Among those submitted were:

1. Failure to abide by established rules of the road;
2. Failure to avoid charted obstructions or those noted in Notices to Mariners;
3. Failure to use proper care;
4. Failure to accurately fix position of obstructions; and
5. Failure to mitigate damages.

The proposed rules consider the following factors to constitute negligence on the part of a claimant:

1. Failure to remain outside of any navigation safety zone around oil and gas rigs and platforms;
2. Failure to avoid charted obstructions or those noted in Notices to Mariners; or
3. Failure to mitigate damages.

Issue No. Six

Settlement of claims prior to hearing. Some commenters suggested that quasi-judicial hearings with a hearing examiner are expensive and time-consuming. In order to avoid these problems, a pre-hearing decision process was recommended. Other commenters were concerned, however, that a negative pre-hearing decision would prejudice a subsequent disposition of the case by the hearing examiner. Additional comments suggested that prehearing settlements should be allowed only for claims involving less than $2,500.

The proposed rules contain a pre-hearing settlement procedure. Under this proposed procedure NMFS would make an agency review of all claims. If the claimant agrees with the agency conclusions, a recommended settlement would be forwarded to the hearing examiner. If the claimant disagrees with the agency conclusions, the conclusions would be forwarded to the hearing examiner as an agency recommendation which the hearing examiner may consider during a hearing. Under this procedure, a formal hearing can be triggered by:

(1) A claimant, who disagrees with the agency recommendation; or

(2) A hearing examiner, if the hearing examiner (i) does not agree with the recommended settlement or (ii) grants a request for a hearing submitted by an interested person in the offshore petroleum industry.

Issue No. Seven

Payment of hearing cost. The Act provides that, if a fisherman files a claim for damages, and is subsequently found to be responsible for the damages, the fisherman shall pay the costs of the proceedings with respect to the claim. Similarly, any oil or gas company who denies responsibility for damages with respect to which a claim is made and who is subsequently found to be responsible for such damages, shall pay the costs of the proceedings with respect to the claim. The proposed rules allow the hearing examiner or a court of law the discretion to determine when the claimant or an oil or gas related company is responsible for the damage and thus liable for the costs of the proceedings.

Issue No. Eight

Hearing examiner discretion. The issue presented is the amount of discretion the hearing examiner should have in adjudicating claims under section 405 of the Act. Some commenters favored very specific program rules in areas such as standard of proof, basis of compensation, and claimant negligence. This would tend to limit the hearing examiner's discretion because the examiner would have to evaluate the claim in accordance with specific criteria in the rules. Commenters favoring this approach felt it would have the advantages of treating everyone alike and putting claimants on notice, in advance, of the requirement for a successful claim recovery. Other commenters favored general program rules that would give each hearing examiner as much discretion as possible in adjudicating claims. Commenters favoring this approach felt it would have the advantage of giving each hearing examiner a great deal of flexibility in dealing with the facts of each case.

The proposed rules seek to balance these two interests by providing sufficient specificity so that interested persons would have advance notice of the requirements for a successful claim recovery, while still allowing the hearing examiner to exercise discretion in certain instances where the hearing examiner finds that the merits of an individual case justify the application of a different standard.

Issue No. Nine

Scope and amount of area accounts. The act provides for dividing the Fund into separate area accounts, each funded by oil and gas related companies within the geographic limits of the area account and liable for the casualties occurring within, or associated with, the same geographic area. The theory is that oil and gas operators in one area should not be penalized for the obstruction-related damage caused by oil and gas operators in other areas.

Some commenters preferred only three area accounts, one each for the Gulf of Mexico, Atlantic Ocean and the Pacific Ocean. Others recommended five area accounts for the Gulf of Mexico and from two to three area accounts each for the Atlantic and Pacific Oceans.

The proposed rules contain five area accounts for the Gulf of Mexico and one area account each for the North atlantic Ocean, the rest of the Atlantic, the waters off Alaska, and the rest of the Pacific Ocean. Five area accounts were selected for the Gulf of Mexico because

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of the frequency of conflict activity in that area. If conflict activity increases in either the Atlantic or the Pacific Oceans, additional area accounts can be established as needed for each Ocean, although it would be necessary to reduce the maximum capitalization of at least some area accounts if more than a total of ten (10) area accounts are established.

The proposed rules provide that each area account will be capitalized initially at the maximum level of $100,000.

The Assistant Administrator for Fisheries, NOAA has made an initial determination that these proposed regulations are not significant under Executive Order 12044.

Dated: May 21, 1979.

Winfred H. Meibohm,

Executive Director, National Marine Fisheries Service.

It is proposed that 50 CFR be amended as follows:

Add a new Part 296, Fishermen's Contingency Fund, as follows:

PART 296—FISHERMEN'S CONTINGENCY FUND

Sec.

296.1 Purpose.
296.2 Definitions.
296.3 Area Accounts.
296.4 Payments into the Fund.
296.5 Claims Eligible for Compensation.
296.6 Amount of Awards.
296.7 Instructions for Filing Claims.
296.8 NMFS Processing of Claims.
296.9 Proof.
296.10 Hearings.
296.11 Payment of Costs.
296.12 Appeals.
296.13 Payment of Award for Claim.
296.14 Subrogation.

Authority: 92 Stat. 629 (43 U.S.C. section 1841 *et seq.)*

§ 296.1 Purpose

These regulations implement Title IV of the Outer Continental Shelf Lands Act Amendments of 1978, 92 Stat. 629, Pub. L. 95–372, 43 U.S.C. section 1841 *et seq.* Title IV establishes a Fishermen's Contingency Fund to pay for damage to or loss of commercial fishing vessels and gear and any resulting economic loss suffered by commercial fishermen as a result of obstructions related to oil and gas exploration, development, and production activities on the Outer Continental Shelf. Eligible losses are those resulting from damage to commercial fishing vessels or gear caused by obstructions which are not attributable to a financially responsible party.

§ 296.2 Definitions.

Unless the context requires otherwise, the terms used in this part have the following meanings:

"Area account" means an account, within the Fishermen's Contingency Fund, for a specific area of the Outer Continental Shelf, as described in § 296.3 of this Part.

"Area affected by Outer Continental Shelf exploration, development, or production activities" means any area of the Outer Continental Shelf where oil and gas exploration, development, or production activities have taken place or are taking place. The term also includes any area landward of the Outer Continental Shelf where such activities have taken place or are taking place.

"Chief, Financial Services Division, NMFS" or "Chief, FSD" means the Chief of the Financial Services Division, National Marine Fisheries Service, National Oceanic and Atmospheric Administration, Department of Commerce, Washington, D.C.

"Citizen of the United States" means (1) any person who is a United States citizen by law, birth, or naturalization; (2) any State, any agency of a State, or a group of States; or (3) any corporation, partnership, or association organized under the laws of any State which has as its president or other chief executive officer and as its chairman of the board of directors, or holder of a similar office, a person who is a United States citizen by law, birth, or naturalization, and which has at least seventy-five percent (75%) of the interest of therein owned by citizens of the United States. Seventy-five percent of the interest in the corporation shall not be deemed to be owned by citizens of the United States if:

(a) The title of 75% of its stock is not vested in such citizens free from any trust or fiduciary obligation in favor of any person not a citizen of the United States;

(b) 75% of the voting power in such corporation is not vested in citizens of the United States;

(c) Through any contract or understanding it is so arranged that more than 25% of the voting power may be exercised, directly or indirectly, on behalf of any person who is not a citizen of the United States; or

(d) By any other means whatsoever control of any interest in the corporation in excess of 25% is conferred upon or permitted to be exercised by any person who is not a citizen of the United States.

"Claimant" means a commercial fisherman who files a claim under this Part, or any person acting on behalf of the commercial fisherman.

"Commercial fisherman" means any citizen of the United States who owns, operates, or derives income from being employed on a commercial fishing vessel.

"Commercial fishing vessel" means any vessel, boat, ship, or other craft which is (1) documented under the laws of the United States or, if under five net tons, registered under the laws of any State, and (2) used for, equipped to be used for, or of a type which is normally used for the catching, taking, or harvesting of fish or aiding or assisting at sea of any activity related to the catching, taking, or harvesting of fish, including, but not limited to, preparation, supply, storage, refrigeration, transportation, or processing.

"Easement" means a right of use or easement granted under 30 CFR 250.18(c).

"Exploration permit" means the "permit" defined in 30 CFR 251.3(i).

"Fish" means finfish, mollusks, crustaceans, and all other forms of marine animal and plant life other than marine mammals, birds, and highly migratory species.

"Fishing gear" means (1) any commercial fishing vessel, and (2) any equipment of such vessel, whether or not attached to such a vessel.

"Holder" means the record owner of each lease, exploration permit, easement, or right-of-way.

"Fund" means the Fisherman's Contingency Fund established under 43 U.S.C. 1842.

"Lease" means any form of authorization issued under section 8 or maintained under section 6 of the Outer Continental Shelf Lands Act.

"Natural obstruction" means any object or thing not made or caused by man which hinders or prevents the operation of fishing gear.

"NMFS" means the National Marine Fisheries Service, National Oceanic and Atmospheric Administration, Department of Commerce.

"NOS" means the National Ocean Survey, National Oceanic and Atmospheric Administration, Department of Commerce.

"Outer Continental Shelf" or "OCS" means the seabed and subsoil which (1) lie seaward of the seaward boundary of each coastal state, and (2) appertain to the United States and are subject to its jurisdiction and control.

"Outer Continental Shelf Lands Act" means 43 U.S.C. section 1331 *et seq.*, as amended.

"Respondent" means any person who (1) has engaged in activities associated with OCS energy activity in the vicinity

where the claimant's fishing gear was damaged or lost and (2) has been admitted by the hearing examiner under § 296.10(c)(3) of this Part as a party in a hearing.

"Right of way" means a right-of-way granted under section 5(e) of the Outer Continental Shelf Lands Act or under 43 CFR subpart 2883, including an "advance permission to commence construction" of a pipeline granted under 43 CFR section 2883.2–3.

"Secretary of the Interior" means (1) the Secretary of the Department of the Interior or (2) an individual to whom appropriate authority has been delegated.

"USGS" means the United States Geological Survey, Department of the Interior.

§ 296.3 Area accounts.

(a) *Description.* The following area accounts are established within the Fund:

(1) *North Atlantic Area Account.* This account is for the area of the OCS in the Atlantic Ocean which is bounded by the U.S.–Canadian boundary on the north, 39° N. latitude on the south, and 71° W. longitude on the west.

(2) *Mid-South Atlantic Area Account.* This account is for those areas of the OCS in the Atlantic Ocean which are:

(i) Both north of 39° N. latitude and west of 71° longitude;

(ii) South of 39° N. latitude and east of 80°15' W. longitude (off the southern coast of Florida); or

(iii) Adjacent to any U.S. territory, commonwealth, or possession in the Atlantic Ocean or the Caribbean Sea to which the Outer Continental Shelf Lands Act applies.

(3) *Pacific Area Account.* This account is for the area of the OCS adjacent to Washington, Oregon, California, Hawaii, or any U.S. territory, commonwealth, or possession in the Pacific Ocean to which the Outer Continental Shelf Lands Act applies.

(4) *Alaska Area Account.* This account is for the area of the OCS adjacent to Alaska.

(5) *Freeport Area Account.* This account is for the area of the OCS in the Gulf of Mexico as described in section A of Appendix I of this Part. This area is identical to USGS Freeport District.

(6) *Lake Charles Area Account.* This account is for the area of the OCS in the Guld of Mexico as described in section B of Appendix I of this Part. This area is identical to USGS Lake Charles District.

(7) *Lafayette Area Account.* This account is for the area of the OCS in the Gulf of Mexico as described in section C of Appendix I of this Part. This area is identical to USGS Lafayette District.

(8) *Houma Area Account.* This account is for the area of the OCS in the Gulf of Mexico as described in section D of Appendix I of this Part. This area is identical to USGS Houma District.

(9) *Metairie Area Account.* This account is for the area of the OCS in the Gulf of Mexico as described in section E of Appendix I of this Part. This area is identical to USGS Metairie District.

(b) *Exclusion.* The geographic area for each area account described in paragraph (a) of this section does not include any portion of the OCS which is recognized by the United States as being under the jurisdiction of any State under the Submerged Lands Act (43 U.S.C. section 1301 *et seq.*).

(c) *Amounts.* Amounts in area accounts may not exceed the following (although they may from time-to-time be replenished under section 296.4(b) of this Part):

Area Account and Amount	
North Atlantic	$100,000
Mid-South Atlantic	$100,000
Pacific	$100,000
Alaska	$100,000
Freeport, Gulf of Mexico	$100,000
Lake Charles, Gulf of Mexico	$100,000
Lafayette, Gulf of Mexico	$100,000
Houma, Gulf of Mexico	$100,000
Metairie, Gulf of Mexico	$100,000

§ 296.4, Payments into the fund.

(a) *Initial assessments.* Each lease issued or maintained under the Outer Continental Shelf Lands act for any tract in any geographical area for which there is an area account, each easement or right-of-way for the construction of a pipeline in such area, and each exploration permit in such area, which was in effect at any time on or after (date of publication), is assessed in accordance with paragraph (c) of this section so that $100,000 will be collected in each area account.

(b) *Assessments to maintain accounts.* (1) *When depleted.* If the total amount in any area account is less than one-half of the amount specified for that area account in § 296.3(c), the Chief, FSD, NMFS, may determine that the account is depleted. After making the determination, the Chief, FSD, NMFS, will publish in the **Federal Register** a notice of assessments to maintain the area account.

(2) *Amounts.* Each lease, permit, easement, and right-of-way which is both (i) in the geographical area for which there is a depleted area account (as determined under paragraph (b)(1) of this section) and (ii) in effect on the date an assessment is effective, shall be assessed such amount as is necessary to increase the total amount in the area account to the amount specified in section 296.3(c).

(c) *Calculation of amount.* (1) *Criteria.* The amount to be paid under paragraphs (a) and (b) of this section by each holder of a lease, exploration permit, easement and right-of-way in any geographical area for which there is an area account shall be determined as follows:

(i) Each exploration permit in effect at that time is assessed $25.00;

(ii) Leases, pipeline easements, and pipeline right-of-way are assessed equally on a per-unit basis based on the number of leases and pipeline segments in effect at that time.

(iii) New permits, leases, rights-of-way, or easements that originate after an assessment is made escape assessment until the next assessment at which time all permits, leases, rights-of-way, and easements in effect are assessed.

(iv) Pipeline rights-of-way and easements in the Gulf of Mexico are credited to the area account in which the pipeline segment originates;

(v) Pipeline easements to be assessed do not include flow or gathering lines within the confines of a single lease or group of contiguous leases under the unitized operation of a single operation.

(2) *By whom calculated.* The Secretary of the Interior will calculate the amounts to be paid by each holder.

(2) *Billing.* (1) The Chief, FSD, NMFS, will inform the Secretary of the Interior each time there is to be an assessment under this section.

(2) The Secretary of the Interior will notify each appropriate holder of the assessments and in what amount and where payable.

(e) *By whom and when payable.* Each assessment under this section shall be paid by the holder no later than 30 days after the Secretary of the Interior sends notice of the assessment under paragraph (d)(2) of this section.

(f) *Maximum payment.* No lease, exploration permit, easement, or right-of-way shall be assessed more than a total of $5,000 in any calendar year under this section.

§ 296.5 Claims eligible for compensation.

(a) *Claimants.* To be eligible for compensation under this Part, the damage or loss must be incurred by a commercial fisherman.

(b) *Damage or loss of fishing gear.* Except as provided in paragraph (c) of this section, any property or consequential damage (including loss of profits) due to damage to or loss of fishing gear caused by materials,

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equipment, tools, containers, or other items associated with oil and gas exploration, development, or production activities in a geographical area for which an area account has been established under section 296.3 is eligible for compensation under this Part. Damage or loss may be eligible for compensation even if it did not occur in the waters above the OCS, if the item causing the damage was associated with OCS oil and gas activities.

(c) *Exceptions.* Damages and lossses are not eligible for compensation under this Part if:

(1) They were caused by materials, equipment, tools, containers, or other items attributable to a financially responsible party;

(2) They were caused by a natural obstruction or an obstruction unrelated to OCS oil and gas activities;

(3) They were suffered before September 18, 1978; or

(4) The claim is not timely filed in accordance with § 296.7(d) and 296.8(b) and (c) of this Part.

§ 296.6 Amount of awards.

(a) *General.* Except as provided in§ 296.10(j) of this Part, the amount of the award under this Part is the total of the amounts under paragraphs (b), (c) and (d) of this section, minus any reductions under paragraphs (e) and (f) of this section.

(b) *Fishing gear.* If the fishing gear with respect to which the claim is filed can be repaired to a condition substantially similar to its condition immediately before the damage was suffered, at a cost less than its replacement cost minus its salvage value, then the amount of compensation is its repair cost. In all other cases (including loss of the fishing gear), the amount of compensation is the replacement cost minus the salvage value of the fishing gear.

(c) *Consequential damage.* (1) *Expenses.* The amount of an award under this Part will include compensation for any reasonable expenses incurred by the claimant to ascertain the cause and extent of the damage or loss incurred to fishing gear, and to pursue the claim. The hearing examiner will determine what expenses are reasonable and their amounts.

(2) *Loss of profits.* (i) The amount of an award under this Part will include compensation for any loss of profits due to damage to, or loss of, fishing gear with respect to which the claim is filed.

(ii) A claim for loss of profits due to loss of time spent in disengaging fishing gear from any item described in § 296.5(b) of this Part is eligible for compensation under this Part even if the fishing gear involved was not damaged or lost.

(iii) No award may be made under this Part for loss of profits (A) for any period in excess of 6 months from the date when the damage or loss of the fishing gear was discovered, and (B) unless such claim is supported by records with respect to the claimant's profits during the 12-month period immediately preceding the date of the discovery of the damage to or loss of the fishing gear (if the claimant was not a commercial fisherman for all of the 12-month period or if the fishery involved is a new one, estimates of profit may be based on NMFS statistics or other reliable evidence);

(iv) In determining the amount awarded under this section, § 296.6(c)(2), the hearing examiner may consider any evidence concerning:

(A) Profits from the corresponding quarter of the previous year,

(B) Profits from trips immediately before and after the loss or damage which is the subject of the claim,

(C) Such other evidence as the claimant may submit, and

(D) Such other factors as the hearing examiner may deem appropriate.

(v) The measure of compensation for loss of profits ordinarily is the net profits lost. If the hearing examiner determines that a different measure of compensation for loss of profits is appropriate because the facts of the claim are sufficiently extraordinary, and states the reasons for the determination, the hearing examiner may apply the measure of compensation which the hearing examiner deems to be most appropriate.

(3) *Other.* An award under this Part will include compensation for any other consequential damage resulting from the damage or loss of fishing gear (for example, compensation for personal injury resulting from damaged fishing gear).

(d) *Attorneys' fees.* An award under this Part will include compensation for any reasonable attorneys' fees incurred by the claimant in pursuing the claim.

(e) *Negligence of claimant.* (1) The amount of an award under this Part is reduced to the extent that the hearing examiner finds that the loss or damage (including consequential damages) was caused by the negligence or fault of the claimant. (For example, a claimant who sustained $10,000 in damages and whose negligence or fault was found to be responsible for 40% of the damage would receive $6,000 in compensation. If the same claimant were responsible for 99% of the negligence or fault that caused the damage, the claimant would receive $100 in compensation.)

(2) Negligence or fault of the claimant includes, but is not limited to, failure to:

(i) Remain outside of any navigation safety zone established around oil and gas rigs and platforms by any responsible Federal agency;

(ii) Avoid obstructions recorded on nautical charts or in the Notice to Mariners, or marked by a bouy or other surface marker; or

(iii) Attempt to mitigate, or to use due care in mitigating, the damage to, or loss of, the fishing gear and any resulting economic loss.

(f) *Insurance proceeds.* (1) The amount of any award under this Part will be reduced by the amount of any compensation the claimant received, or will receive, from insurance for the damage or loss with respect to which the claim against the Fund is filed.

(2) If the claimant has insurance which covers the damage, or any portion of it, the claimant must seek compensation from the insurance before an award will be made from the Fund.

§ 296.7 Instructions for filing of claims.

(a) *Five-day report required to gain presumption of validity.* (1) *General.* Under § 296.9(b) of this Part, claims are presumed to be valid if certain requirements are satisfied. One requirement is that a report on the location of the obstruction which caused the damage or loss, and the nature of the damage or loss, must be made within five days after the date when the damage or loss is discovered.

(2) *When and how to file five-day report.* (i) A five-day report under this § 296.7(a)(1) must be made within 5 days after the date the claimant discovered the loss or damage. Satisfaction of the five-day requirements is determined by postmark, if the report is mailed; by the date of receipt of a radiotelephone message, if the report is radiotelephoned; or, by the date of appearance, if the report is made in person at the nearest NMFS Regional Office.

(ii) Any report made by radiotelephone or otherwise orally communicated under § 296.7(a) (2)(i) must be confirmed in writing to the Chief, Financial Services Division, NMFS, Washington, D.C. 20235, not later than 5 days after the commercial fishing vessel involved next enters a port of the United States.

(3) *Where to radiotelephone file five-day report.*

NMFS Representatives and Phone

Chief, Financial Services Branch, Northeast Region, Gloucester, MA, (617) 281–3600
Chief, Fisheries Development Analysis Branch, Southeast Region, St. Petersburg, FL, (813) 893–3271
Chief, Fisheries Development Division, Southwest Region, Terminal Island, CA, (213) 548–2575
Chief, Financial Services Branch, Northwest Region, Seattle, WA 98109, (206) 442–5532
Chief, Fisheries Development, Alaska Region, Juneau, AK, (007) 586–7224

(4) *Contents of five-day report.* In order to be eligible for the presumption of validity, each five-day report must include the following:

(i) The name and address of claimant;

(ii) The name and identifying number of the commercial fishing vessel involved;

(iii) The location (loran C position readings, if available) of the obstruction which caused the damage or loss;

(iv) A description of the nature of the damage or loss;

(v) The date such damage or loss was discovered;

(vi) A description of the obstruction, if known; and

(vii) Whether or not a surface marker or lighted buoy was attached to or near the obstruction.

(b) *Aggregating claims.* If more than one commercial fisherman suffers loss or damage arising from the same incident (for example, when several members of the crew lost income due to loss of fishing time), the claims of all such fishermen shall be aggregated into one claim and the claim shall be submitted on their behalf by the owner or operator of the commercial fishing vessel involved.

(c) *Form of claim.* Claims must be in writing and include the information specified in paragraphs (e)(1) through (28) of this section. When available, claim forms may be obtained from any Regional Office, NMFS, or from the Chief, FSD.

(d) *Who must file, and when and where to file, claims.* Every claimant must file a claim (even those who filed five-day reports to gain the presumption of validity). Each claim must be filed with the Chief, Financial Services Division, NMFS, Department of Commerce, Washington, D.C. 20235, no later than 60 days after the date the claimant discovers the damage or loss with respect to which the claim is made. For the purpose of this section, the term "filed" means delivered in person, or mailed (as determined by the date of the postmark), to the Chief, Financial Services Division, NMFS, Washington, D.C. 20235. The claim may be mailed by registered or certified mail, return receipt requested.

(e) *Contents.* Each claim shall be signed by the claimant and shall accurately and completely provide the following information:

General Identification

(1) The name, mailing address, telephone number, citizenship, and occupational status (for example, vessel owner, operator, or crew member on a vessel) of each claimant;

(2) The name, address, and telephone number of each person (for example, an attorney) retained to act on behalf of any claimant in pursuing the claim;

(3) The name of the commercial fishing vessel involved in the damage or loss for which the claim is submitted;

(4) The vessel's U.S. Coast Guard documentation number (or State registration number, if the vessel is not documented under Federal law);

(5) The home port of the vessel;

(6) The date when the claim is written;

Type and Extent of Damage or Loss

(7) The type of commercial fishing vessel (for example: trawler; longliner), and type and quantity of fishing gear involved in the damage or loss;

(8) The nature and extent of the damage or loss suffered or expected;

(9) Photographs (when available) of any physical damage to fishing gear (including a commercial fishing vessel) which was not lost at sea;

(10) The amount, if any, claimed for physical damage to, or loss of, fishing gear. If an amount is claimed, the claim shall include:

(i) Proof that the claimant owns the fishing gear damaged or lost;

(ii) A list of all components of fishing gear damaged or lost, together with the size, type, grade, material of construction, age, and the estimated remaining useful economic life of each component;

(iii) The date, place, and cost of acquisition of all fishing gear damaged or lost;

(iv) Estimates, from two different commercial fishing gear repair or supply companies, of the present replacement cost of the fishing gear and the repair cost of the fishing gear (if it is repairable). If fishing gear of the type lost or damaged is usually made or repaired by the claimant, a detailed estimate prepared by the claimant identifying the repair or replacement cost of the fishing gear may be included in place of one of the estimates from commercial fishing gear repair or supply companies;

(v) If the fishing gear is repaired or replaced before an award is made under this Part, the invoice or receipt for the repair or replacement of the fishing gear; and

(vi) The estimated salvage value of the fishing gear, if it is not repairable;

(11) The amount, if any, claimed for loss of profits. If an amount is claimed, the claim shall include copies of all records, including catch logs, landing receipts, and Federal and state income tax returns, documenting the claimant's profits during the 12-month period immediately preceding the date when the damage or loss of the fishing gear was discovered. The claimant shall describe fully the basis upon which the amount claimed is calculated. The claimant should include whatever additional data might support, or be pertinent to, the amount claimed. Each claim shall contain a full statement of why the length of time claimed for loss of profits is justified and what actions, if any, the claimant took to mitigate the amount of lost fishing time;

(12) The amount, if any, claimed for consequential damages under § 296.6(c) (1 and 3) of this Part, together with a full description of what each amount claimed represents;

(13) A statement whether a claim has been, or will be, made against any insurance policy which may cover the damage or loss with respect to which the claim against the Fund is filed;

(14) The name and mailing address of each person, if any, to whom the claimant has given written notice that such person caused, or may have caused, the damage or loss;

Circumstances of the Damage or Loss

(15) The date and time of day, if known, when the damage or loss was suffered;

(16) The date when the damage was first discovered by the claimant;

(17) The depth of the water, if known, at the time and site where the damage or loss occurred;

(18) The visibility, if known, at the time and site the damage or loss occurred;

(19) The depth at which the fishing gear was being operated when the damage or loss occurred;

(20) The direction, speed, and activities of the claimant's fishing vessel immediately before, during, and after the damage or loss occurred (including a full description of both the deployment of any fishing gear which is the subject of the claim and all attempts at the retrieval of the gear);

(21) The amount and type of vessel traffic in the general vicinity at the time the damage or loss occurred;

(22) A full description (including any identification markings) of the item or obstruction which caused the damage or loss, if known. If the item or obstruction was physically recovered, it should be retained. If photographs of the item or obstruction are available, they should be submitted with the claim;

(23) A description of any lighted buoy or surface marker attached to or achored by the item or obstruction;

(24) A full statement of the claimant's reason for believing that the item or obstruction which caused the damage or loss is associated with oil and gas exploration, development, or production on the Federal OCS rather than with oil and gas activities within State waters, other ocean users, or natural causes;

(25) The names and addresses of all known witnesses to the occurrence which caused the damage or loss (statements from the witnesses may be submitted at the claimant's option);

(26) If applicable, a statement concerning when and how the claimant notified NMFS within 5 days of the damage or loss as provided in § 296.7(a) of this Part;

(27) The position of the commercial fishing vessel or fishing gear when the damage or loss occurred, and the position, of the obstruction causing the damage or loss (if, the obstruction were dragged, give positions for both before and after it was dragged), to be specified by using one or more of the following methods of position fixing. Claimants should use the most reliable method available aboard the vessel at the time of discovery of the damage or loss, such as: [1]

(i) Loran C values. If possible, provide position values obtained from using three or more different Loran C rates.

(ii) Distance (range) and direction (bearing) to fixed offshore objects such as lighthouses, light towers, and oil drilling or production platforms. Specify the name of each such object used (for example, Ambrose Light Tower, Shell Oil Platform No. 4281, etc.).

(iii) Distance (range) and direction (bearing) to fixed aids to navigation, and landmarks which are identified on National Ocean Survey charts, such as radio towers, jetty lights, etc.

(iv) Distance (range) and direction (bearing) to prominent landmarks which are not identified on National Ocean Survey charts, but readily identifiable for future reference.

(v) Loran A values. If possible, provide position values obtained from using three or more different Loran A rates.

(vi) Direction (bearing) to radio beacons using a radio direction finder. Give the station's identifying call letters.

(vii) Distance (range) and direction (bearing) to floating navigational aids, such as buoys. Identify any buoy by name, number, color and type; and

(28) Any other information which the claimant believes is relevant to the claim.

(f) *Other Evidence.* The hearing examiner may require the submission of additional information, affidavits, estimates, or other evidence.

(g) *Amendment of claims.* A claimant may amend the claim at any time before the claim is referred to the hearing examiner under this Part.

(h) *Criminal penalty for fraudulent claim.* Any person who files a fraudulent claim is subject to criminal prosecution under 18 U.S.C. sections 287 and 1001, each of which, upon conviction, impose a penalty of not more than a $10,000 fine and 5 years' imprisonment, or both.

§ 296.8 NMFS processing of claims.

(a) *Review of claims.* The Chief, FSD, will promptly review each claim filed under § 296.7 and determine whether it is properly completed under § 296.7(e) and timely filed within the 60-day period specified in § 296.7(d).

(b) *Untimely claims.* If the Chief, FSD determines that the claim was not timely filed, the Chief, FSD will notify the claimant in writing, that the claim is not eligible for compensation under this Part. The 60-day filing requirement of § 296.7(d) is satisfied by the filing of an improperly completed or incomplete claim.

(c) *Improperly completed or incomplete claims.* If the Chief, FSD, determines that the claim is not properly completed, the Chief, FSD, will send to the claimant a written notice stating the deficiency in the claim. If the claimant fails to correct the deficiency within 60 days after the date the notice of the deficiency is sent to the claimant, the claim is not eligible for compensation under this Part unless the Chief, FSD, for good reason extends the period for correcting deficiencies.

(d) *Public Notice of Claims.* (1) *Action by the Chief, Financial Services Division, NMFS.* After determining that the claim is properly completed and timely filed, the Chief, FSD, will promptly:

(i) Cause a hearing examiner to be assigned;

(ii) Transmit an abstract of the claim to the Secretary of the Interior; and

(iii) Publish notice of the claim in the Federal Register. Each Federal Register notice published under this paragraph (d)(1) will contain:

(A) a statement that the Chief, FSD, may seek a recommended settlement agreement under paragraph (e) of this section,

(b) a statement that interested persons may within thirty (30) days following publication of the notice in the Federal Register, submit to the Chief, FSD, any evidence concerning either the claim or a recommended settlement agreement, and

(C) the name and address of the hearing examiner.

(2) *Action by the Secretary of the Interior.* After receiving an abstract of the claim under paragraph (d)(1) of this section, the Secretary of the Interior will promptly send written notice of the claim to all persons known to have engaged in activities associated with OCS oil and gas exploration, development, or production in the vicinity where the damage or loss with respect to which the claim is filed occurred.

(3) *Responses to notice of claim.* (i) Any person who has engaged in activities associated with OCS energy activity in the vicinity where the claimant's fishing gear was damaged or lost may submit evidence at any hearing concerning a claim under this Part or concerning any settlement discussion under paragraph (e) of this section. Any such person who intends to submit evidence at a hearing or concerning any settlement discussion under paragraph (e) of this section must notify the Chief, FSD, and the hearing examiner in writing, not later than 30 days after publication of notice of the claim in the Federal Register under paragraph (d)(1) of this section, that such person intends to submit evidence.

(ii) Each person notified by the Secretary of the Interior under paragraph (d)(2) of this section shall, within thirty (30) days after the Secretary of the Interior sends the notice, notify the Chief, FSD, and the Secretary of the Interior as to whether that person admits or denies responsibility for the damages claimed.

(iii) Each person who is notified by the Secretary of the Interior under paragraph (d)(2) of this section and fails to give timely and proper notice of admission or denial of responsibility under paragraph (d)(3)(ii) of this section, shall be conclusively presumed for the purposes of § 296.11 of this Part to deny responsibility for the damages claimed.

(iv) If any person admits responsibility under paragraph (d)(3)(ii) of this section, the Chief, FSD, will so inform the claimant, and will not take any further action on the claim unless the claimant and the person admitting responsibility are unable to settle the matter.

(v) Any person who has engaged in activities associated with OCS energy activity in the vicinity where the claimant's fishing gear was damaged or lost may file with the hearing examiner a request to be admitted as a party to any hearing concerning the claim. Such request must be filed with the hearing examiner in writing, not later than thirty (30) days after publication of notice of the claim in the Federal Register under paragraph (d)(1) of this section. Such request will be ruled on by the hearing examiner under § 296.10(c)(3)(vii) of this Part.

(e) *Recommended settlement.* After determining that the claim is properly completed and timely filed, the Chief, FSD, may contact the claimant by telephone, telegram, or registered or certified mail, and initiate discussions concerning whether or not settlement of the claim can be recommended to the hearing examiner without conducting an evidentiary hearing under 5 U.S.C. section 554. If the Chief, FSD, and the claimant agree to a recommended settlement, the Chief, FSD, will file the recommended settlement with the hearing examiner for consideration in accordance with § 296.10(j) of this Part. The Chief, FSD, will not file any recommended settlement with the hearing examiner sooner than thity (30) days after publication of notice of the claim in the Federal Register under paragraph (d)(1) of this section.

(f) *Agency recommendation.* If a recommended settlement cannot be agreed upon, the Chief, FSD, may file an agency recommendation for consideration by the hearing examiner.

(g) *Objection to recommended settlement.* Any person who objects to a recommended settlement under paragraph (e) of this section may, within fifteen (15) days after the recommended settlement is filed with the hearing examiner, request the hearing examiner to conduct a hearing under 5 U.S.C. section 554 concerning the claim.

§ 296.9 Proof.

(a) *Burden of proof.* The claimant has the burden to establish, by the preponderance of the evidence, all facts necessary to demonstrate eligibility for, and the amount of, compensation under this Part, including but not limited to:

(1) The identity or nature of the item which caused the damage to or loss of the fishing gear which is the subject of the claim; and

(2) That the item described in paragraph (a)(1) of this section is associated with oil and gas exploration, development, or production on the Outer Continental Shelf.

(b) *Presumption.* Paragraph (a) of this section notwithstanding, damages or losses are presumed to be valid and caused by activities associated with oil and gas exploration, development, or production activities on the OCS if the claimant establishes that:

(1) the commercial fishing vessel was being used for fishing and was located in an area affected by OCS oil and gas exploration, development, or production activities (the damage or loss need not occur in one of the geographic areas described in section 296.3(a));

(2) A report on the location of the obstruction which caused such damage or loss, and the nature of such damage or loss, was properly made under section 296.7(a) of this Part within five days after the date when such damage or loss was discovered;

(30 There is no record on the most recent nautical charts issued by the National Ocean Survey, NOAA, or in any Local Notice to Mariners issued by the U.S. Cost Guard, or in any weekly Notice to Mariners issued by the Defense Mapping Agency, Hydrographic/Topographic Center, on or before the date such damage or loss was suffered, that an obstruction existed in such area; and

(4) There was no proper surface marker or lighted buoy attached or closely anchored to such obstruction.

§ 296.10 Hearings.

(a) *General.* Hearings on claims filed under this Part are governed by 5 U.S.C. 554 and this section.

(b) *Beginning the hearing process.* The Chief, FSD, institutes a hearing under this section by requesting a hearing examiner and referring the claim to the hearing examiner.

(c) *Hearing examiners.* (1) Who presides. All hearings shall be presided over by a hearing examiner appointed under 5 U.S.C. section 3105.

(2) *How assigned.* The Chief, FSD, will assure that a hearing examiner is designated.

(3) *Powers.* Hearing examiners have all powers necessary for the conduct of fair and impartial hearings, including the power to:

(i) Administer oaths and affirmations;

(ii) Issue subpoenas upon proper application as provided in paragraph (r) of this section;

(iii) Rule upon offers of proof and receive relevant evidence;

(iv) Take, or cause to be taken, depositions and to determine their scope;

(v) Regulate the course of the hearing and the conduct of the parties and their counsel therein;

(vi) Consider and rule upon requests submitted under § 296.8(g) of this Part to conduct a hearing under 5 U.S.C. section 554 concerning a claim;

(vii) Hold conferences for the settlement or simplification of the issues by consent of the parties;

(viii) Consider and rule upon motions, procedural requests, and similar matters;

(ix) Rule on a request to participate as a party in the proceedings;

(x) rule on discovery requests, and to take or cause depositions or interrogatories to be taken;

(xi) Examine and cross-examine witnesses;

(xii) Introduce documentary or other evidence into the record;

(xiii) Require the submittal of evidence, including, but not limited to, that described in section 296.7(f) of this Part;

(xiv) Make and file decisions in conformity with this Part; and

(xv) Take any action authorized by the rules in this Part or in conformance with 5 U.S.C. section 554.

(4) *Consultation.* a hearing examiner shall not consult with any person on any fact in issue unless upon notice and opportunity for all parties to participate.

(5) *Disqualification.* (i) If a hearing examiner deems himself/herself disqualified to preside in a hearing, then the hearing examiner shall withdraw

[1] The methods are listed in descending order of reliability.

Loran readings must include a statement as to whether or not the readings given are corrected or uncorrected. If corrected, include the uncorrected readings and all calculations used for arriving at the *corrected values.*

The use of dead reckoning, or running fixes, or both, to determine the vessel's position at the time of the damage or loss is acceptable only if no more reliable method were available.

Directions to shore and/or offshore objects should be visually observed and provided in degrees. The accuracy of the bearing shall be consistent with the equipment or instrumentation available aboard the vessel. Radar bearings are not considered to be acceptable. if the initial reading is done with a magnetic compass, then the reading must be converted to true using the CDMVT (compass, deviation, magnetic, variation, true) formula. The calculations, including all figures used, must accompany the claim. Bearings must be visual bearings and not radar bearings.

Brand name and model of all electronic and navigational equipment used in determining geographical position of the occurrence should be included.

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from the hearing by notice on the record directed to the Chief, FSD.

(ii) If any party believes that a hearing examiner should be disqualified to preside, or to continue to preside in a hearing, the party may file with the hearing examiner a motion that the hearing examiner be disqualified and withdrawn from the hearing.

(iii) If the hearing examiner denies the motion under § 296.10(c)(5)(ii), the party may file with the Chief, FSD, a motion to disqualify and remove the hearing examiner. The Chief, FSD, shall rule upon the motion.

(iv) Any motion filed under § 296.10(c)(5)(ii) or (iii) shall be supported by affidavits setting forth the alleged grounds for disqualification.

Prehearing Process

(d) *Notice of Intent to submit evidence.* Any person who (i) has engaged in activities associated with OCS energy activity in the vicinity where the claimant's fishing gear was damaged or lost and (ii) intends to submit evidence at any hearing conducted concerning the claim shall file notice with the hearing examiner within thirty (30) days after the date of the publication of notice of the filing of the claim in the **Federal Register** under § 296.8, that such person intends to submit evidence.

(e) *Location and Time of Hearing.* (1) Hearings under this section shall be conducted within the United States judicial district within which the matter giving rise to the claim occurred.

(2) If the matter occurred within two or more districts, the hearing shall be conducted in any of the affected districts, or, if the matter occurred outside of any district, in the nearest district.

(3) The hearing examiner shall determine the location and time of any hearing, after giving due regard to the convenience of all interested parties.

(f) *Notice of Hearing.* As soon as practicable after the claim is referred to the hearing examiner, the hearing examiner shall by registered or certified mail notify the claimant, the Chief, FSD, and all other interested parties of the time and place for, and the nature of, any hearing. The notice shall include the legal authority and jurisdiction under which the hearing is to be held, and shall describe the general substance of the matters of fact and law asserted.

(g) *Motions and Requests.* Motions or requests shall be filed in writing with the hearing examiner or shall be stated orally and made part of the hearing record. Each motion or request shall state the particular order, ruling, or action desired, and the grounds therefor. The hearing examiner is authorized to rule upon all motions or requests filed or made before the issuance of a decision.

(h) *Prehearing Conference.* (1) Upon the hearing examiner's own motion or the motion of any party, the hearing examiner may direct the parties or their counsel to meet in a prehearing conference to consider:

(i) Simplification of the issues;

(ii) Necessity or desirability of amendments to the claim or response for purposes of clarification, simplification, or limitation of the issues;

(iii) Stipulations, admissions of fact and of contents, and authenticity of documents;

(iv) Limitation of the number of expert witnesses; and

(v) Such other matters as may tend to expedite the disposition of the proceeding.

(2) The record shall show the matters disposed of by order and by agreement in such prehearing conferences.

(i) *Amendment of claims.* At any time before the close of the hearing, the hearing examiner, in his or her discretion and on such terms as he or she may approve, may allow the claimant to amend the claim. The 120-day decision period described in paragraph (m)(2)(ii) of this section shall begin on the date the amended claim is received by the hearing examiner.

(j) *Settlement.* (1) If a written agreement to settle the claim is signed by the claimant and the Chief, FSD, and filed with the hearing examiner before the hearing examiner issues a decision under paragraph (m)(2) of this section, then the hearing shall be suspended and the hearing examiner shall consider the recommended settlement. The hearing examiner shall not approve the recommended settlement sooner than 15 days after it is filed. Thereafter, the hearing examiner may certify an amount ot be paid by the Fund on the basis of the recommended settlement if the hearing examiner determines that there are no facts in evidence on the record of the hearing which clearly and convincingly would result in either:

(i) A bar (as specified in § 296.5(c) of this Part) to the payment of the claim; or

(ii) A limitation (as specified in §§ 296.5 and 296.6 of this Part) of the amount of the award to an amount which is less favorable to the claimant than is the amount specified in the recommended settlement agreement.

(2) An agreement between the claimant and any person to settle the claim, by means other than by payment from the Fund under this Part, if filed with the hearing examiner before the hearing examiner issues a decision under paragraph (m)(2) of this section shall, upon its filing, terminate the hearing proceeding. Upon receipt of the agreement, the hearing examiner shall dismiss the claim, and neither the claimant nor any party to such agreement shall be charged any costs under § 296.11 of this Part.

Hearings and Related Matters

(k) *Appearances.* (1) *Representation.* A party may appear at a hearing under this Part in person, by counsel, or by other representative.

(2) *Failure to oppeor.* Failure of a party to appear at a hearing (i) constitutes waiver of the right to a hearing under this Part; (ii) constitutes consent of the party to the making of a decision on the record of the hearing; but (iii) shall not be deemed to be a waiver of the right to be served with a copy of the hearing examiner's decision.

(l) *Hearing.* (1) *Order of presenting evidence.* Except as may be determined otherwise by the hearing examiner, the claimant shall present evidence first at the hearing.

(2) *Evidence.* (i) *Generol.* The testimony of witnesses shall be upon oath or affirmation administered by the hearing examainer and shall be subject to such cross-examination as may be required for a full and true disclosure of the facts. The hearing examiner shall exclude evidence which is immaterial, irrelevant, or unduly repetitious.

(ii) *Objections.* If a party objects to the admission or rejection of any evidence or to the limitation of the scope of any examination or cross-exmaniation or the failure to limit such scope, the party shall state briefly the grounds for such objection. Rulings on each objection shall appear in the record. Only objections made to the hearing examiner may be relied upon subsequently in the proceeding.

(iii) *Exceptions.* Formal exception to an adverse ruling is not required.

(iv) *Surveyed obstructions.* The hearing examiner shall consider evidence of any obstructions in the area concerned identified by a survey conducted by the National Ocean Survey under 43 U.S.C. section 1847.

(3) *Official notice.* Official notice may be taken of any material fact not appearing in evidence in the record, which is among the traditional matters of judicial notice or concerning which NOAA by reason of its functions is presumed to be expert. The parties shall be given adequate notice, at the hearing or otherwise, before the hearing examiner's decision, of the matters so noticed, and shall be given adequate opportunity to show the contrary.

(4) *Verbatim record.* The Chief, FSD, shall arrange for a verbatim record of the proceedings. A transcript will not be prepared unless either an appeal is taken under § 296.12 of this part or the hearing examiner specifically so orders. Any party may, however, obtain a transcript from the official reporter upon written request filed with the reporter and upon payment of the fees at the rate provided in the agreement between NMFS and the reporter.

Decision

(m) *Decision of the hearing examiner.* (1) *Proposed findings of fact, conclusions of law, and order.* Within ten (10) days after the hearing or within such additional time as the hearing examiner may allow, any party may file with the hearing examiner proposed findings of fact, conclusions of law, and order, together with a supporting brief expressing the reasons for such proposals. Such proposals and brief shall be served on all parties, and shall refer to all portions of the record and to all authorities relied upon in support of each proposal. Reply briefs must be submitted within ten (10) days after receipt of the proposed findings and conclusions to which they respond, unless the hearing examiner sets a different schedule.

(2) *Time of Decision.* (i) Within fifteen (15) days after the time allowed for the filing of proposed findings of fact, conclusions of law, and order, and reply briefs, the hearing examiner shall issue a written decision upon the record in the case, which shall become the final decision in the administrative process upon service thereof on the claimant, the Chief, FSD, and any other interested parties.

(ii) The hearing examiner shall issue a decision not later than one hundred twenty (120) days after the date the Chief, FSD referred the claim to the hearing examiner.

(3) *Contents of decision.* The decision of the hearing examiner shall state:

(i) The hearing examiner's findings and conclusions, and the reasons or basis therefor, on all material issues of fact, law, or discretion presented on the record. In determining the amount of an award, the hearing examiner shall state reasons in view of the applicable factors which must be considered, as set forth in §§ 296.5, 296.6, and 296.7 of this Part. The hearing examiner shall specify from which area account any award shall be made. The hearing examiner shall assess costs under § 296.11 of this Part if the hearing examiner finds that the claimant, or any other person who denies responsibility for damages with respect to which the claim is made, is responsible for the damage which is the subject of the claim;

(ii) The hearing examiner's reasons for rejecting the findings and conclusions proposed by the parties; and

(iii) Such other matters as the hearing examiner considers appropriate.

(4) *Transmittal of decision.* The hearing examiner shall transmit the decision to the Chief, FSD, and serve a copy on each party.

(n) *Transmittal of Record.* The hearing examiner shall transmit the record of the proceeding to the Chief, FSD. The record shall include: the pleadings, motions, and requests filed in written form, rulings thereon, the verbatim record of the testimony and proceedings taken at the hearing, together with the exhibits admitted in evidence, any documents or papers filed in connection with prehearing conferences, such proposed findings of fact, conclusions of law, orders, and supporting reasons, and reply briefs, as may have been filed, the hearing examiner's decision, and such exceptions, statements of objections, and briefs in support thereof, as may have been filed in the proceeding.

Miscellaneous

(o) *Service of documents.* (1) *Manner of service.* Service upon any party shall be made by delivering or mailing a copy to the last known address of the party. If a party is represented by counsel, the service shall be made upon the counsel.

(2) *Proof of service.* A certificate of the person serving the document by personal delivery or by mailing, setting forth the manner of said service, shall be proof of the service.

(p) *Witnesses and fees.* Witnesses subpoenaed by a party shall be paid the same fees and mileage, and in the same manner, as are paid for like services in the District Court of the United States for the district in which the hearing is located.

(q) *depositions.* (1) *application.* Any party desiring to take the deposition of a witness shall make application in writing to the hearing examiner, setting forth the reasons why such deposition should be taken; the time when, the place where, and the name and mailing address of the person before whom the deposition is requested to be taken; the name and address of each witness to appear for deposition; and the subject matter concerning which each witness is expected to testify.

(2) *How, and by whom taken.* Depositions may be taken orally or upon written interrogatories before any person ("the officer") designated by the hearing examiner and having power to administer oaths.

(3) *Notice.* Such notice as the hearing examiner shall order shall be given for the taking of a deposition, but this shall not be less than five (5) days' written notice when the deposition is to be taken within the United States and not less than twenty (20) days' written notice when the deposition is to be taken elsewhere.

(4) *taking and receiving in evidence.* Each witness testifying upon deposition shall be sworn, and any party shall have the right to cross-examine. The questions propounded and the answers thereto, together with all objections made, shall be reduced to writing, read to the witness, signed by the witness unless waived, and certified by the officer. Thereafter, the officer shall deliver or mail by registered or certified mail the same to the hearing examiner. Subject to such objections to the quesitons and answers as were noted at the time of taking the deposition and would be valid were the witness personally present and testifying, such deposition may be read and offered in evidence by any party taking it as against any party who was present or represented at the taking of the deposition or who had due notice thereof. No part of a deposition shall be admitted in evidence unless there is a showing that the reasons for the taking of the deposition in the first instance existed at the time of hearing.

(r) *Subpoenas.* A party may request the hearing examiner to issue a subpoena for the attendance and testimony of witnesses and for production of documentary or other evidence. All applications for subpoenas shall be in writing. Application for subpoenas for production of documents or other evidence shall specify as exactly as possible the documents or other evidence to be produced, showing their general relevance and reasonable scope.

(s) *Computation of time.* Saturdays, Sundays, and holidays shall be included in computing the time allowed for filing any document or paper under this section, but when such time expires on such a day, such period shall be extended to include the next following Federal Government working day.

(t) *Extension of time.* The time for the filing of any document under this section may be extended by the hearing examiner, if

(1) The request for the extension of time is made before or on the final date allowed for the filing, and

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(2) The hearing examiner, after giving notice to and considering the views of all other parties (when practicable), determines that there is good reason for the extension.

§ 296.11 Payment of costs.

(a) *By person denying responsibility for damage.* Any person who:

(1) Is notified by the Secretary of the Interior under § 296.8(d) of this Part, or who is notified in writing by the claimant that the person has caused, or is believed to have caused, damage with respect to which a claim is made;

(2) Denies, or fails to either affirm or deny, responsibility for such damage; and

(3) Is found by the hearing examiner or by a court of law to be responsible for the damage, shall pay the costs of the proceedings under this Part with respect to such claim.

(b) *By the claimant.* Any claimant who files a claim under this Part and is found by the hearing examiner or by a court of law to be responsible for such damage, shall pay the costs of the proceedings under this Part with respect to such claim.

§ 296.12 Appeals.

(a) *Time.* Any person who suffers legal wrong or who is adversely affected or aggrieved by the decision of a hearing examiner under this part may, no later than sixty (60) days after the hearing examiner issues a decision under § 296.10(m) of this Part, seek judicial review of such decision in the United States Court of Appeals for the Federal judicial circuit in which the damage occurred, or, if such damage occurred outside of any circuit, in the United States Court of Appeals for the nearest circuit.

(b) *Notice.* Any person who appeals a decision of a hearing examiner under this section shall so notify the claimant, any respondents, and the Chief, FSD, in writing at the same time the appellant files an appeal with the appropriate United States Court of Appeals.

§ 296.13 Payment of award for claim.

(a) *Amount.* The Chief, FSD, will pay the amount of the award certified in the decision of the hearing examiner under § 296.10(m) of this Part.

(b) *Area account.* The payment will be disbursed from the area account specified in the decision of the hearing examiner under § 296.10(m) of this Part.

(c) *Time of payment.* (1) No payment will be made under this section until the claimant has signed a subrogation agreement under § 296.14 of this Part.

(2) No payment will be made under this section if an appeal has been filed under section 296.12 of this Part.

§ 296.14 Subrogation.

(a) *Agreement.* Before receiving payment under this Part, a claimant shall sign a subrogation agreement in a form satisfactory to the Chief, Financial Services Division, NMFS, which:

(1) Assigns to the Fund all rights the claimant has, and might have, to proceed against any person for damages with respect to any part of the damage or loss for which the award is being made; and

(2) Provides that the claimant will assist the Fund in any reasonable way to pursue collection of the subrogated rights.

(b) *Collection of subrogated rights.* The Chief, FSD, shall refer all subrogated rights to the Department of Justice for collection in those instances in which it appears that a reasonable chance of successful collection exists.

Appendix 1

A. *Freeport District*—The U.S. Geological Survey's Freeport District incorporates all, or the indicated portions, of the OCS areas shown on the following official maps:

1. OCS Leasing Map, South Padre Island Area, Texas Map No. 1 (Approved July 16, 1954). That portion seaward of the 3-league line.
2. OCS Leasing Map, South Padre Island Area, East Addition, Texas Map No. 1A (Approved May 6, 1965).
3. OCS Leasing Map, North Padre Island Area, Texas Map No. 2 (Approved July 16, 1954). That portion seaward of the 3-league line.
4. OCS Leasing Map, North Padre Island Area, East Addition, Texas Map No. 2A (Approved May 6, 1965).
5. OCS Leasing Map, Mustang Island Area, Texas Map No. 3 (Approved July 16, 1954; Revised October 30, 1961). That portion seaward of the 3-league line.
6. OCS Leasing Map, Mustang Island Area, East Addition, Texas Map No. 3A (Approved January 23, 1967).
7. OCS Leasing Map, Matagorda Island Area, Texas Map No. 4 (Approved July 16, 1954). That portion seaward of the 3-league line.
8. OCS Leasing Map, Brazos Area, Texas Map No. 5 (Approved July 16, 1954). That portion seaward of the 3-league line.
9. OCS Leasing Map, Brazos Area, South Addition, Texas Map No. 5B (Approved September 24, 1959).
10. OCS Leasing Map, Galveston Area, Texas Map No. 6 (Approved July 16, 1954). That portion seaward of the 3-league line.
11. OCS Leasing Map, Galveston Area, South Addition, Texas Map No. 6A (Approved September 24, 1959).
12. OCS Leasing Map, High Island Area, Texas Map No. 7 (Approved July 16, 1954; Revised August 1955). That portion seaward of the 3-league line.
13. OCS Leasing Map, High Island Area, East Addition, Texas Map No. 7A (Approved January 23, 1967). That portion seaward of the 3-league line.
14. OCS Leasing Map, High Island Area, South Addition, Texas Map No. 7B (Approved September 24, 1959).
15. OCS Leasing Map, High Island Area, East Addition, South Extension, Texas Map No. 7C (Approved September 24, 1959).
16. OCS Leasing Map, Sabine Pass Area, Texas Map No. 8 (Approved March 7, 1977). That portion on the Texas side of the Texas-Louisiana Line thst is seaward of the 3-league line.
17. OCS Official Protraction Diagram, Corpus Christi NG 14–3 (Approved June 5, 1974; Revised January 27, 1976).
18. OCS Official Protraction Diagram, Port Isabel NG 14–6 (Approved June 5, 1974; Revised January 27, 1976).
19. OCS Official Protraction Diagram, East Breaks NG 15–1 (Approved June 8, 1973; Revised January 27, 1976).
20. OCS Official Protraction Diagram, Alaminos Canyon NG 15–4 (Approved June 5, 1974; Revised March 26, 1976).
21. OCS Official Protraction Diagram, Garden Banks NG 15–2 (Approved February 15, 1973; Revised December 2, 1976). That portion west of a north-south line formed by the east line of block 142 at the northeast corner and block 978 at the southeast corner.
22. OCS Official Protraction Diagram, Keathley Canyon NG 15–5 (Approved June 5, 1974; Revised December 2, 1976). That portion west of a north-south line formed by the east line of block 10 at the northeast corner and block 976 at the southeast corner.

B. *Lake Charles District*—The U.S. Geological Survey's Lake Charles District incorporates all, or the indicated portions, of the OCS areas shown on the following official maps:

1. OCS Leasing Map, West Cameron Area, Louisiana Map No. 1 (Approved June 8, 1954; Revised July 22, 1954). That portion more than three geographical miles seaward from the lines described in the supplemental decree of the United States Supreme Court, June 16, 1975 (U.S. versus Louisiana, 422 US 13)
2. OCS Leasing Map, West Cameron Area, West Addition, Louisiana Map No. 1A (Approved November 15, 1955; Revised January 30, 1957).
3. OCS Leasing Map, West Cameron Area, South Addition, Louisiana Map No. 1B (Approved September 8, 1959).
4. OCS Leasing Map, East Cameron Area, Louisiana Map No. 2 (Approved June 8, 1954; Revised August 1, 1973). That portion more than three geographical miles seaward from the line described in the supplemental decree of the United States Supreme Court, June 16, 1975 (U.S. versus Louisiana, 422 US 13).
5. OCS Leasing Map, East Cameron Area, South Addition, Louisiana Map No. 2A (Approved September 8, 1959).
6. OCS Leasing Map, Vermilion Area, Louisiana Map No. 3 (Approved June 8, 1954; Revised June 25, 1954; Revised July 22, 1954). That portion more than three geographical miles seaward from the line described in the supplemental decree of the United States

Supreme Court, June 16, 1975 (U.S. versus Louisiana, 422 US 13).

7. OCS Leasing Map, Vermilion Area, South Addition, Louisiana Map No. 3B.
8. OCS Leasing Map, Sabine Pass Area, Louisiana Map No. 12 (Approved March 7, 1977). That portion on the Louisiana side of the Texas-Louisiana line, more than three geographical miles seaward from the line described in the supplemental decree of the United States Supreme Court, June 16, 1975 (U.S. versus Louisiana, 422 US 13).
9. OCS Official Protraction Diagram, Garden Banks NG 15–2 (Approved February 15, 1973; Revised December 2, 1976). That portion bordered on the west by a north-south line formed by the west line of block 143 at the northwest corner and the west line of block 979 at the southwest corner and bordered on the east by a north-south line formed by the east line of block 80 at the northeast corner and the east line of block 1004 at the southeast corner.
10. OCS Official Protraction Diagram, Keathley Canyon NG 15–5 (Approved June 15, 1974; Revised December 2, 1976). That portion bordered on the west by a north-south line formed by the west line of block 11 at the northwest corner and the west line of block 979 at the southwest corner and bordered on the east by a north-south line formed by the east line of block 36 at the northeast corner and the east line of block 1004 at the southeast corner.

C. *LaFayette District*—The U.S. Geological Survey's Lafayette District incorporates all, or the indicated portions, of the OCS areas shown on the following official maps:

1. OCS Leasing Map, South Marsh Island Area, Louisiana Map No. 3A (Approved August 7, 1959).
2. OCS Leasing Map, South Marsh Island Area, South Addition, Louisiana Map No. 3C (Approved September 8, 1959).
3. OCS Leasing Map, South Marsh Island Area, North Addition, Lousiana Map No. 3D (Approved April 16, 1971; Revised Jenuary 18, 1972). That portion more than three geographical miles seaward from the line described in the supplemental decree of the United States Supreme Court, June 16, 1975 (U.S. versus Louisiana, 422 US 13).
4. OCS Leasing Map, Eugene Island Area, Louisiana Map No. 4 (Approved June 8, 1954; Revised July 22, 1954). That portion more than three geographical miles seaward from the line described in the supplemental decree of the United States Supreme Court, June 16, 1975 (U.S. versus Louisiana, 422 US 13).
5. OCS Leasing Map, Eugene Island Area, South Addition, Louisiana Map No. 4A (Approved September 8, 1959).
6. OCS Official Protraction Diagram, Ewing Bank NH 15–12 (Approved February 15, 1973; Revised December 2, 1976). That portion that consists of blocks 932, 933, 937, 938, 975, 976, 977, 978, 979, 981, 982.
7. OCS Official Protraction Diagram, Green Canyon NG 15–3 (Approved February 15, 1973; Revised December 2, 1976). That portion west of a north-south line formed by the east line of block 12 at the northeast corner and the east line of block 980 at the southeast corner.
8. OCS Official Protraction Diagram, Walker Ridge NG 15–6 (Approved June 5, 1974; Revised December 2, 1976). That portion west of a north-south line formed by the east line of block 12 at the northeast corner and the east line of block 980 at the southeast corner.
9. OCS Official Protraction Diagram, Garden Banks, NG 15–2 (Approved February 15, 1976; Revised December 2, 1976). That portion east of a north-south line formed by the west line of block 81 at the northwest corner and the west line of block 1005 at the southwest corner.
10. OCS Official Protraction Diagram, Keathley Canyon NG 15–5 (Approved June 5, 1974; Revised December 2, 1976). That portion east of a north-south line formed by the west line of block 37 at the northwest corner and the west line of block 1005 at the southwest corner.

D. *Houma District*—The U.S. Geological Survey's Houma District incorporates all, or the indicated portions, of the OCS areas shown on the following official maps:

1. OCS Leasing Map, Ship Shoal Area, Louisiana Map No. 5 (Approved June 8, 1954). That portion more than three geographical miles seaward from the line described in the supplemental decree of the United States Supreme Court, June 16, 1975 (U.S. versus Louisiana, 422 US 13).
2. OCS Leasing Map, Ship Shoal Area, South Addition, Louisiana Map No. 5A (Approved September 8, 1959).
3. OCS Leasing Map, South Pelto Area, Louisiana Map No. 6 (Approved June 8, 1954; Revised July 22, 1954; Revised December 9, 1954). That portion more than three geographical miles seaward from the line described in the supplemental decree of the United States Supreme Court, June 16, 1975 (U.S. versus Louisiana, 422 US 13).
4. OCS Leasing Map, Bay Marchand Area, Louisiana Map No. 6 (Approved June 8, 1954; Revised July 22, 1954; Revised December 9, 1954). That portion more than three geographical miles seaward from the line described in the supplemental decree of the United States Supreme Court, June 16, 1975 (U.S. versus Louisiana, 422 US 13).
5. OCS Leasing Map, South Timbalier Area, Louisiana Map No. 6 (Approved June 8, 1954; Revised July 22, 1954; Revised December 9, 1954). That portion more than three geographical miles seaward from the line described in the supplemental decree of the United States Supreme Court, June 16, 1975 (U.S. versus Louisiana, 422 US 13).
6. OCS Leasing Map, South Timbalier Area, South Addition, Louisiana Map No. 6A (Approved September 8, 1959; Revised July 22, 1968).
7. OCS Leasing Map, Grand Isle Area, Louisiana Map No. 7 (Approved June 8, 1954). That portion more than three geographical miles seaward from the line described in the supplemental decree of the United States Supreme Court, June 16, 1975 (U.S. versus Louisiana, 422 US 13).
8. OCS Leasing Map, Grand Isle Area, South Addition, Louisiana Map No. 7A (Approved September 8, 1959; Revised March 7, 1961).
9. OCS Official Protraction Diagram, Ewing Bank NH 15–12 (Approved February 15, 1973; Revised December 2, 1976). That portion that does not include blocks 932, 933, 937, 938, 975, 976, 977, 978, 979, 981, 982.
10. OCS Official Protraction Diagram, Green Canyon NG 15–3 (Approved February 15, 1973; Revised December 2, 1976). That portion east of a north-south line formed by the west line of block 13 at the northwest corner and the west line of block 981 at the southwest corner.
11. OCS Official Protraction Diagram, Walker Ridge NG 15–6 (Approved June 5, 1974; Revised December 2, 1976.) That portion east of a north-south line formed by the west line of block 13 at the northwest corner and the west line of block 981 at the southwest corner.

E. *Metairie District*—The U.S. Geological Survey's Metairie District incorporates all, or the indicated portions, of the OCS areas shown on the following official maps:

1. OCS Leasing Map, West Delta Area, Louisiana Map No. 8 (Approved June 8, 1954). That portion more than three geographical miles seaward from the line described in the supplemental decree of the United States Supreme Court, June 16, 1975 (U.S. versus Louisiana, 422 US 13).
2. OCS Leasing Map, West Delta Area, South Addition, Louisiana Map No. 8A (Approved September 8, 1959; Revised November 24, 1961).
3. OCS Leasing Map, South Pass Area, Louisiana Map No. 9 (Approved June 8, 1954; Revised July 22, 1954; Revised May 11, 1973). That portion more than three geographical miles seaward from the line described in the supplemental decree of the United States Supreme Court, June 16, 1975 (U.S. versus Louisiana, 422 US 13).
4. OCS Leasing Map, South Pass Area, South and East Addition, Louisiana Map No. 9A (Approved September 8, 1959).
5. OCS Leasing Map, Breton Sound Area, Louisiana Map No. 10 (Approved June 8, 1954; Revised July 22, 1954). That portion more than three geographical miles seaward from the line described in the supplemental decree of the United States Supreme Court, June 16, 1975 (U.S. versus Louisiana, 422 US 13).
6. OCS Leasing Map, Main Pass Area, Louisiana Map No. 10 (approved June 8, 1954; Revised July 22, 1954). That portion more than three geographical miles seaward from the line described in the supplemental decree of the United States Supreme Court, June 16, 1975 (U.S. versus Louisiana, 422 US 13).
7. OCS Leasing Map, Main Pass Area, South and East Addition, Louisiana Map No. 10A (Approved September 8, 1959).
8. OCS Leasing Map, Chandeleur Area, Louisiana Map No. 11 (Approved June 8, 1954; Revised July 22, 1954). That portion more than three geographical miles seaward from the line described in the supplemental decree of the United States Supreme Court, June 16, 1975 (U.S. versus Louisiana, 422 US 13).
9. OCS Leasing Map, Chandeleur Area, East Additiona, Louisiana Map No. 11A (Approved September 8, 1959).
10. OCS Official Protraction Diagram, NG 16–1 (Approved June 5, 1974; Revised December 2, 1976).

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11. OCS Official Protraction Diagram, NG 16–2 (Approved December 2, 1976).
12. OCS Official Protraction Diagram, The Elbow NG 16–3 (Approved October 10, 1972; Revised August 1, 1973; Revised December 2, 1976).
13. OCS Official Protraction Diagram, NG 16–4 (Approved December 2, 1976).
14. OCS Official Protraction Diagram, NG 16–5 (Approved December 2, 1976).
15. OCS Official Protraction Diagram, NG 16–6 (Approved June 5, 1974; Revised December 2, 1976).
16. OCS Official Protraction Diagram, St. Petersburg NG17–1 (Approved October 10, 1972; Revised December 2, 1976).
17. OCS Official Protraction Diagram, Charlotte Harbor NG17–4 (Approved October 10, 1972; Revised December 2, 1976).
18. OCS Official Protraction Diagram, Mobile NH 16–4 (Approved October 10, 1972; Revised December 21, 1977).
19. OCS Official Protraction Diagram, Pensacola NH 16–5 (Approved October 10, 1972; Revised December 2, 1976).
20. OCS Official Protraction Diagram, Viosca Knoll NH 16–7 (Approved October 10, 1972; Revised February 15, 1973; Revised August 1, 1973; revised December 2, 1976).
21. OCS Official Protraction Diagram, Destin Dome NH 16–8 (Approved October 10, 1972; Revised August 1, 1973; Revised December 2, 1976).
22. OCS Official Protraction Diagram, Apalachicola NH 16–9 (Approved October 10, 1972; Revised August 1, 1973; Revised January 15, 1976).
23. OCS Official Protraction Diagram, Mississippi Canyon NH 16–10 (Approved February 15, 1973; Revised December 2, 1976).
24. OCS Official Protraction Diagram, De Soto Canyon NH 16–11 (Approved June 5, 1974; Revised December 2, 1976).
25. OCS Official Protraction Diagram, Florida Middle Ground NH 16–12 (Approved October 10, 1972; Revised August 1, 1973; Revised December 2, 1976).
26. OCS Official Protraction Diagram, Gainesville, NH 17–7 (Approved October 10, 1972; Revised December 2, 1976).
27. OCS Official Protraction Diagram, Tarpon Spring NH 17–10 (Approved October 10, 1972; Revised December 2, 1976).

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Part VII

Environmental Protection Agency

Federal Responses to Radioactive Contamination From Specified Nuclear Detonations; Multiagency Memorandum of Understanding Among AF, DOE, EPA, FAA, FDA, NOAA, and NRC

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ENVIRONMENTAL PROTECTION AGENCY

[FRL 1231-4]

Federal Responses to Radioactive Contamination From Specified Foreign Nuclear Detonations; Multiagency Memorandum of Understanding Among AF, DOE, EPA, FAA, FDA, NOAA, and NRC

Background

The following agencies have complementary roles in responding to potential radioactive contamination due to specified foreign nuclear detonations during peacetime: Department of the Air Force (DAF); Department of Energy (DOE); Environmental Protection Agency (EPA); Department of Health, Education, and Welfare, Food and Drug Administration (FDA); Department of Commerce, National Oceanic and Atmospheric Administration (NOAA); Nuclear Regulatory Commission (NRC); and Department of Transportation, Federal Aviation Administration (FAA). At present, specified nuclear detonations consist of those atmospheric nuclear detonations which are announced by the DOE.

Two types of response conditions have been identified. The first deals with the movement of contaminated air masses over the United States and possible effects at ground level due to dry fallout or rainout of radioactive debris. The second type of response concerns civil aircraft which may pass through contaminated air masses at various altitudes.

Specific agency responsibilities under two types of response conditions are outlined below as Parts I and II, respectively, in this Memorandum of Understanding.

Purpose and Scope

The purpose of this Memorandum of Understanding is to assure coordination in the collection, analysis, and interpretation of data on environmental radiation levels attributed to radioactive contamination from foreign nuclear detonations during peacetime. EPA is the Federal agency responsible for advising the President and the general public on the potential health significance of such radioactive contamination. In this context, EPA is responsible for coordinating all Federal activities for public health protection and dissemination of information to the public. To effectively carry out these responsibilities, EPA needs the cooperation of several other Federal agencies. Therefore, EPA has taken the lead in developing this Memorandum of Understanding to assure coordination in the collection and dissemination of information regarding potential radioactive contamination from foreign nuclear detonations. The responsibilities of each agency as outlined below are within the scope of authorities already possessed by each agency.

Distribution of Information

Any unclassified information or data collected by any of the agencies who are part of this agreement shall be communicated to any of the other signatories of this agreement upon their request. All public announcements or press releases generated by any of the signatories shall be communicated to the other signatory agencies in as expeditious a manner as possible.

Part I.—Responses Regarding Movement of Contaminated Air Masses and Potential Ground Level Effects

A. *Department of the Air Force* (DAF).

1. Provides classified data to NOAA on nuclear debris samples to include location, time, altitude, and concentration of airborne samples. These data will be provided from sorties [illegible]

pertinent to fallout and reports these data to EPA and to other agencies upon request.

4. Will provide to NOAA any advisories released by its Atmospheric Release Advisory Capability Center at Livermore, Calif., including forecasts of radiation levels, and estimates of size and movement of radioactive clouds on a 12-hourly basis, with more frequent updates if appropriate.

C. *Environmental Protection Agency* (EPA). 1. Notifies State agencies with responsibility for environmental radiation monitoring of the possibility of radioactive fallout occurring. Keeps affected State agencies informed on the regional and national radiological picture as information develops.

2. Provides predictions from NOAA on pathways of contaminated air mass movements over the United States and areas of possible rainout of radioactive materials to Federal agencies and the general public.

3. Recommends radiation surveillance or protective actions to appropriate State agencies.

4. Activates the standby portions of the Environmental Radiation Ambient Monitoring System (ERAMS) and increases the frequency of sample collections in those parts of ERAMS which operate routinely in order to assess the national radiological fallout situation. The collection of pasteurized milk samples will be coordinated through the Food and Drug Administration, HEW.

5. Collects additional monitoring program information from State agencies, DOE, and NRC as necessary to further assess the national radiological situation.

6. Prepares regional and national radiological assessments including [illegible]

D. *Food and Drug Administration* (FDA). The Food and Drug Administration (FDA) of the Department of Health, Education, and Welfare is responsible for the enforcement of a number of public health laws including the Food, Drug, and Cosmetic Act (21 U.S.C. 301 et seq.). FDA's activities under the FD&C Act are directed toward the protection of public health of the Nation by assuring that foods, exclusive of water from domestic consumption, are safe and wholesome. This responsibility is accomplished in part through comprehensive scientific and medical evaluation of known and possible food and feed contaminants such as radioactive contamination. In exercising this responsibility with regard to radioactive food and feed contamination, FDA determines the public health significance of such contamination, and advises the States and public at large accordingly. Specifically, FDA:

1. Receives information from NOAA regarding the probable location of fallout contamination, and consults with EPA concerning radiation surveillance and protective actions.

2. At the request of EPA, FDA through its regional representatives will alert State and local agencies to increase or decrease the frequency of pasteurized milk sample collection, according to FDA's ongoing cooperative role in milk sampling for EPA's Environmental Radiation Ambient Monitoring System.

3. Collects and analyzes food and animal feed samples for radionuclides from fallout as deemed necessary.

4. Assists EPA in analysis of milk samples associated with a fallout incident when requested.

5. In consultation with EPA, provides guidance to State and local governments [illegible]

and forecasts provided by DOE, DAF, and other sources. NOAA will provide the official forecast to EPA and DOE routinely, and to other agencies upon request.

2. NOAA will provide information on predicted location and radioactivity concentration of contaminated air masses to the other agencies upon request.

3. Transmits the official EPA public announcements to its National Weather Service Forecast Offices over the NOAA Radar Report and Warning Coordination Teletypewriter Network (RAWARC) for dissemination by local forecast offices in answering local public or news media inquiries.

F. *Nuclear Regulatory Commission* (NRC). 1. Notifies appropriate NRC licensees of possibility of radioactive fallout as it deems necessary.

2. Reports to EPA any data obtained from NRC licensees relating to radioactive fallout. Upon special request by a signatory of this agreement, NRC will query appropriate licensees to obtain information which these licensees may possess regarding radioactive fallout and may request the voluntary assistance of licensees in conducting special sampling and analysis, as appropriate. NRC will not, however, routinely request licensee data or assistance.

3. Participate in the review and clearance of EPA press releases relative to the involvement of NRC licensees.

Part II.—Responses Regarding Civil Aircraft Flights Through Contaminated Air Masses

The Federal Aviation Administration (FAA) is responsible for the safety of air commerce in the event of the detonation of a nuclear device which [illegible]

noninterference basis with normal DAF missions as requested by FAA. If feasible, FAA requirements will be accomplished concurrently with Air Force requirements; if not, DAF is to be reimbursed for resources expended to meet FAA sampling requirements. Reimbursement procedures will be established in a separate memorandum.

2. Will provide data to FAA on atmospheric concentrations of nuclear debris in picocuries per cubic meter. Data will be provided every 12 hours and will include position of debris, and 12/24 hour forecast location. Copies will be provided to DOE and NOAA.

B. *Department of Energy*. 1. Will provide to FAA, through its Atmospheric Release Advisory Capability Center at Livermore, California, forecasts of radiation levels at flight altitudes, and estimates of size and movement of radioactive clouds on a 12-hour basis, with more frequent updates if appropriate; copies of such data will also be simultaneously forwarded to NOAA.

2. Will provide support to FAA in the form of radiological monitoring of aircraft at selected airports and in flight, as is compatible with DOE resources.

C. *Environmental Protection Agency*. 1. Will provide consultation and guidance to FAA on appropriate limits of exposure for aircraft passengers.

2. Will provide guidance to FAA on appropriate limits of surface contamination in situations not otherwise covered in existing FAA or Department of Transportation regulations.

3. Will work with FAA in its development and updating of appropriate standing operating procedures for radiological monitoring, radiation exposure record [illegible]

(4) The claim is not timely filed in accordance with § 296.7(d) and 296.8(b) and (c) of this Part.

§ 296.6 Amount of awards.

(a) *General.* Except as provided in § 296.10(j) of this Part, the amount of the award under this Part is the total of the amounts under paragraphs (b), (c) and (d) of this section, minus any reductions under paragraphs (e) and (f) of this section.

(b) *Fishing gear.* If the fishing gear with respect to which the claim is filed can be repaired to a condition substantially similar to its condition immediately before the damage was suffered, at a cost less than its replacement cost minus its salvage value, then the amount of compensation is its repair cost. In all other cases (including loss of the fishing gear), the amount of compensation is the replacement cost minus the salvage value of the fishing gear.

(c) *Consequential damage.* (1) *Expenses.* The amount of an award under this Part will include compensation for any reasonable expenses incurred by the claimant to ascertain the cause and extent of the damage or loss incurred to fishing gear, and to pursue the claim. The hearing examiner will determine what expenses are reasonable and their amounts.

(2) *Loss of profits.* (i) The amount of an award under this Part will include compensation for any loss of profits due to damage to, or loss of, fishing gear with respect to which the claim is filed.

(ii) A claim for loss of profits due to loss of time spent in disengaging fishing gear from any item described in § 296.5(b) of this Part is eligible for

quarter of the previous year;

(B) Profits from trips immediately before and after the loss or damage which is the subject of the claim;

(C) Such other evidence as the claimant may submit, and

(D) Such other factors as the hearing examiner may deem appropriate.

(v) The measure of compensation for loss of profits ordinarily is the net profits lost. If the hearing examiner determines that a different measure of compensation for loss of profits is appropriate because the facts of the claim are sufficiently extraordinary, and states the reasons for the determination, the hearing examiner may apply the measure of compensation which the hearing examiner deems to be most appropriate.

(3) *Other.* An award under this Part will include compensation for any other consequential damage resulting from the damage or loss of fishing gear (for example, compensation for personal injury resulting from damaged fishing gear).

(d) *Attorneys' fees.* An award under this Part will include compensation for any reasonable attorneys' fees incurred by the claimant in pursuing the claim.

(e) *Negligence of claimant.* (1) The amount of an award under this Part is reduced to the extent that the hearing examiner finds that the loss or damage (including consequential damages) was caused by the negligence or fault of the claimant. (For example, a claimant who sustained $10,000 in damages and whose negligence or fault was found to be responsible for 40% of the damage would receive $6,000 in compensation. If the same claimant were responsible for 99% of the negligence or fault that

(2) If the claimant has insurance which covers the damage, or any portion of it, the claimant must seek compensation from the insurance before an award will be made from the Fund.

§ 296.7 Instructions for filing of claims.

(a) *Five-day report required to gain presumption of validity.* (1) *General.* Under § 296.9(b) of this Part, claims are presumed to be valid if certain requirements are satisfied. One requirement is that a report on the location of the obstruction which caused the damage or loss, and the nature of the damage or loss, must be made within five days after the date when the damage or loss is discovered.

(2) *When and how to file five-day report.* (i) A five-day report under this § 296.7(a)(1) must be made within 5 days after the date the claimant discovered the loss or damage. Satisfaction of the five-day requirements is determined by postmark, if the report is mailed; by the date of receipt of a radiotelephone message, if the report is radiotelephoned; or, by the date of appearance, if the report is made in person at the nearest NMFS Regional Office.

(ii) Any report made by radiotelephone or otherwise orally communicated under § 296.7(a) (2)(i) must be confirmed in writing to the Chief, Financial Services Division, NMFS, Washington, D.C. 20235, not later than 5 days after the commercial fishing vessel involved next enters a port of the United States.

(3) *Where to radiotelephone file five-day report.*

damage or loss;

(v) The date such damage or loss was discovered;

(vi) A description of the obstruction, if known; and

(vii) Whether or not a surface marker or lighted buoy was attached to or near the obstruction.

(b) *Aggregating claims.* If more than one commercial fisherman suffers loss or damage arising from the same incident (for example, when several members of the crew lost income due to loss of fishing time), the claims of all such fishermen shall be aggregated into one claim and the claim shall be submitted on their behalf by the owner or operator of the commercial fishing vessel involved.

(c) *Form of claim.* Claims must be in writing and include the information specified in paragraphs (e)(1) through (28) of this section. When available, claim forms may be obtained from any Regional Office, NMFS, or from the Chief, FSD.

(d) *Who must file, and when and where to file, claims.* Every claimant must file a claim (even those who filed five-day reports to gain the presumption of validity). Each claim must be filed with the Chief, Financial Services Division, NMFS, Department of Commerce, Washington, D.C. 20235, no later than 60 days after the date the claimant discovers the damage or loss with respect to which the claim is made. For the purpose of this section, the term "filed" means delivered in person, or mailed (as determined by the date of the postmark), to the Chief, Financial Services Division, NMFS, Washington, D.C. 20235. The claim may be mailed by

(5) The home port of the vessel;

(6) The date when the claim is written;

Type and Extent of Damage or Loss

(7) The type of commercial fishing vessel (for example: trawler; longliner), and type and quantity of fishing gear involved in the damage or loss;

(8) The nature and extent of the damage or loss suffered or expected;

(9) Photographs (when available) of any physical damage to fishing gear (including a commercial fishing vessel) which was not lost at sea;

(10) The amount, if any, claimed for physical damage to, or loss of, fishing gear. If an amount is claimed, the claim shall include:

(i) Proof that the claimant owns the fishing gear damaged or lost;

(ii) A list of all components of fishing gear damaged or lost, together with the size, type, grade, material of construction, age, and the estimated remaining useful economic life of each component;

(iii) The date, place, and cost of acquisition of all fishing gear damaged or lost;

(iv) Estimates, from two different commercial fishing gear repair or supply companies, of the present replacement cost of the fishing gear and the repair cost of the fishing gear (if it is repairable). If fishing gear of the type lost or damaged is usually made or repaired by the claimant, a detailed estimate prepared by the claimant identifying the repair or replacement cost of the fishing gear may be included in place of one of the estimates from commercial fishing gear repair or supply companies;

of profits is justified and what actions, if any, the claimant took to mitigate the amount of lost fishing time;

(12) The amount, if any, claimed for consequential damages under § 296.6(c) (1 and 3) of this Part, together with a full description of what each amount claimed represents;

(13) A statement whether a claim has been, or will be, made against any insurance policy which may cover the damage or loss with respect to which the claim against the Fund is filed;

(14) The name and mailing address of each person, if any, to whom the claimant has given written notice that such person caused, or may have caused, the damage or loss;

Circumstances of the Damage or Loss

(15) The date and time of day, if known, when the damage or loss was suffered;

(16) The date when the damage was first discovered by the claimant;

(17) The depth of the water, if known, at the time and site where the damage or loss occurred;

(18) The visibility, if known, at the time and site the damage or loss occurred;

(19) The depth at which the fishing gear was being operated when the damage or loss occurred;

(20) The direction, speed, and activities of the claimant's fishing vessel immediately before, during, and after the damage or loss occurred (including a full description of both the deployment of any fishing gear which is the subject of the claim and all attempts at the retrieval of the gear);

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(21) The amount and type of vessel traffic in the general vicinity at the time the damage or loss occurred;

(22) A full description (including any identification markings) of the item or obstruction which caused the damage or loss, if known. If the item or obstruction was physically recovered, it should be retained. If photographs of the item or obstruction are available, they should be submitted with the claim;

(23) A description of any lighted buoy or surface marker attached to or achored by the item or obstruction;

(24) A full statement of the claimant's reason for believing that the item or obstruction which caused the damage or loss is associated with oil and gas exploration, development, or production on the Federal OCS rather than with oil and gas activities within State waters, other ocean users, or natural causes;

(25) The names and addresses of all known witnesses to the occurrence which caused the damage or loss (statements from the witnesses may be submitted at the claimant's option);

(26) If applicable, a statement concerning when and how the claimant notified NMFS within 5 days of the damage or loss as provided in § 296.7(a) of this Part;

(27) The position of the commercial fishing vessel or fishing gear when the damage or loss occurred, and the position, of the obstruction causing the damage or loss (if, the obstruction were dragged, give positions for both before and after it was dragged), to be specified by using one or more of the following methods of position fixing. Claimants should use the most reliable method available aboard the vessel at the time of discovery of the damage or loss, such as: [1]

(i) Loran C values. If possible, provide position values obtained from using three or more different Loran C rates.

(ii) Distance (range) and direction (bearing) to fixed offshore objects such as lighthouses, light towers, and oil drilling or production platforms. Specify the name of each such object used (for example, Ambrose Light Tower, Shell Oil Platform No. 4281, etc.).

(iii) Distance (range) and direction (bearing) to fixed aids to navigation, and landmarks which are identified on National Ocean Survey charts, such as radio towers, jetty lights, etc.

(iv) Distance (range) and direction (bearing) to prominent landmarks which are not identified on National Ocean Survey charts, but readily identifiable for future reference.

(v) Loran A values. If possible, provide position values obtained from using three or more different Loran A rates.

(vi) Direction (bearing) to radio beacons using a radio direction finder. Give the station's identifying call letters.

(vii) Distance (range) and direction (bearing) to floating navigational aids, such as buoys. Identify any buoy by name, number, color and type; and

(28) Any other information which the claimant believes is relevant to the claim.

(f) *Other Evidence.* The hearing examiner may require the submission of additional information, affidavits, estimates, or other evidence.

(g) *Amendment of claims.* A claimant may amend the claim at any time before the claim is referred to the hearing examiner under this Part.

(h) *Criminal penalty for fraudulent claim.* Any person who files a fraudulent claim is subject to criminal prosecution under 18 U.S.C. sections 287 and 1001, each of which, upon conviction, impose a penalty of not more than a $10,000 fine and 5 years' imprisonment, or both.

§ 296.8 NMFS processing of claims.

(a) *Review of claims.* The Chief, FSD, will promptly review each claim filed under § 296.7 and determine whether it is properly completed under § 296.7(e) and timely filed within the 60-day period specified in § 296.7(d).

(b) *Untimely claims.* If the Chief, FSD determines that the claim was not timely filed, the Chief, FSD v ill notify the claimant in writing, that the claim is not eligible for compensation under this Part. The 60-day filing requirement of § 296.7(d) is satisfied by the filing of an improperly completed or incomplete claim.

(c) *Improperly completed or incomplete claims.* If the Chief, FSD, determines that the claim is not properly completed, the Chief, FSD, will send to the claimant a written notice stating the deficiency in the claim. If the claimant fails to correct the deficiency within 60 days after the date the notice of the deficiency is sent to the claimant, the claim is not eligible for compensation under this Part unless the Chief, FSD, for good reason extends the period for correcting deficiencies.

(d) *Public Notice of Claims.* (1) *Action by the Chief, Financial Services Division, NMFS.* After determining that the claim is properly completed and timely filed, the Chief, FSD, will promptly:

(i) Cause a hearing examiner to be assigned;

(ii) Transmit an abstract of the claim to the Secretary of the Interior; and

(iii) Publish notice of the claim in the Federal Register. Each Federal Register notice published under this paragraph (d)(1) will contain:

(A) a statement that the Chief, FSD, may seek a recommended settlement agreement under paragraph (e) of this section,

(b) a statement that interested persons may within thirty (30) days following publication of the notice in the Federal Register, submit to the Chief, FSD, any evidence concerning either the claim or a recommended settlement agreement, and

(C) the name and address of the hearing examiner.

(2) *Action by the Secretary of the Interior.* After receiving an abstract of the claim under paragraph (d)(1) of this section, the Secretary of the Interior will promptly send written notice of the claim to all persons known to have engaged in activities associated with OCS oil and gas exploration, development, or production in the vicinity where the damage or loss with respect to which the claim is filed occurred.

(3) *Responses to notice of claim.* (i) Any person who has engaged in activities associated with OCS energy activity in the vicinity where the claimant's fishing gear was damaged or lost may submit evidence at any hearing concerning a claim under this Part or concerning any settlement discussion under paragraph (e) of this section. Any such person who intends to submit evidence at a hearing or concerning any settlement discussion under paragraph (e) of this section must notify the Chief, FSD, and the hearing examiner in writing, not later than 30 days after publication of notice of the claim in the Federal Register under paragraph (d)(1) of this section, that such person intends to submit evidence.

(ii) Each person notified by the Secretary of the Interior under paragraph (d)(2) of this section shall, within thirty (30) days after the Secretary of the Interior sends the notice, notify the Chief, FSD, and the Secretary of the Interior as to whether that person admits or denies responsibility for the damages claimed.

(iii) Each person who is notified by the Secretary of the Interior under paragraph (d)(2) of this section and fails to give timely and proper notice of admission or denial of responsibility under paragraph (d)(3)(ii) of this section, shall be conclusively presumed for the purposes of § 296.11 of this Part to deny responsibility for the damages claimed.

(iv) If any person admits responsibility under paragraph (d)(3)(ii) of this section, the Chief, FSD, will so inform the claimant, and will not take any further action on the claim unless the claimant and the person admitting responsibility are unable to settle the matter.

(v) Any person who has engaged in activities associated with OCS energy activity in the vicinity where the claimant's fishing gear was damaged or lost may file with the hearing examiner a request to be admitted as a party to any hearing concerning the claim. Such request must be filed with the hearing examiner in writing, not later than thirty (30) days after publication of notice of the claim in the Federal Register under paragraph (d)(1) of this section. Such request will be ruled on by the hearing examiner under § 296.10(c)(3)(vii) of this Part.

(e) *Recommended settlement.* After determining that the claim is properly completed and timely filed, the Chief, FSD, may contact the claimant by telephone, telegram, or registered or certified mail, and initiate discussions concerning whether or not settlement of the claim can be recommended to the hearing examiner without conducting an evidentiary hearing under 5 U.S.C. section 554. If the Chief, FSD, and the claimant agree to a recommended settlement, the Chief, FSD, will file the recommended settlement with the hearing examiner for consideration in accordance with § 296.10(j) of this Part. The Chief, FSD, will not file any recommended settlement with the hearing examiner sooner than thity (30) days after publication of notice of the claim in the Federal Register under paragraph (d)(1) of this section.

(f) *Agency recommendation.* If a recommended settlement cannot be agreed upon, the Chief, FSD, may file an agency recommendation for consideration by the hearing examiner.

(g) *Objection to recommended settlement.* Any person who objects to a recommended settlement under paragraph (e) of this section may, within fifteen (15) days after the recommended settlement is filed with the hearing examiner, request the hearing examiner to conduct a hearing under 5 U.S.C. section 554 concerning the claim.

§ 296.9 Proof.

(a) *Burden of proof.* The claimant has the burden to establish, by the preponderance of the evidence, all facts necessary to demonstrate eligibility for, and the amount of, compensation under this Part, including but not limited to:

(1) The identity or nature of the item which caused the damage to or loss of the fishing gear which is the subject of the claim; and

(2) That the item described in paragraph (a)(1) of this section is associated with oil and gas exploration, development, or production on the Outer Continental Shelf.

(b) *Presumption.* Paragraph (a) of this section notwithstanding, damages or losses are presumed to be valid and caused by activities associated with oil and gas exploration, development, or production activities on the OCS if the claimant establishes that:

(1) the commercial fishing vessel was being used for fishing and was located in an area affected by OCS oil and gas exploration, development, or production activities (the damage or loss need not occur in one of the geographic areas described in section 296.3(a));

(2) A report on the location of the obstruction which caused such damage or loss, and the nature of such damage or loss, was properly made under section 296.7(a) of this Part within five days after the date when such damage or loss was discovered;

(30 There is no record on the most recent nautical charts issued by the National Ocean Survey, NOAA, or in any Local Notice to Mariners issued by the U.S. Cost Guard, or in any weekly Notice to Mariners issued by the Defense Mapping Agency, Hydrographic/Topographic Center, on or before the date such damage or loss was suffered, that an obstruction existed in such area; and

(4) There was no proper surface marker or lighted buoy attached or closely anchored to such obstruction.

§ 296.10 Hearings.

(a) *General.* Hearings on claims filed under this Part are governed by 5 U.S.C. 554 and this section.

(b) *Beginning the hearing process.* The Chief, FSD, institutes a hearing under this section by requesting a hearing examiner and referring the claim to the hearing examiner.

(c) *Hearing examiners.* (1) Who presides. All hearings shall be presided over by a hearing examiner appointed under 5 U.S.C. section 3105.

(2) *How assigned.* The Chief, FSD, will assure that a hearing examiner is designated.

(3) *Powers.* Hearing examiners have all powers necessary for the conduct of fair and impartial hearings, including the power to:

(i) Administer oaths and affirmations;

(ii) Issue subpoenas upon proper application as provided in paragraph (r) of this section;

(iii) Rule upon offers of proof and receive relevant evidence;

(iv) Take, or cause to be taken, depositions and to determine their scope;

(v) Regulate the course of the hearing and the conduct of the parties and their counsel therein;

(vi) Consider and rule upon requests submitted under § 296.8(g) of this Part to conduct a hearing under 5 U.S.C. section 554 concerning a claim;

(vii) Hold conferences for the settlement or simplification of the issues by consent of the parties;

(viii) Consider and rule upon motions, procedural requests, and similar matters;

(ix) Rule on a request to participate as a party in the proceedings;

(x) rule on discovery requests, and to take or cause depositions or interrogatories to be taken;

(xi) Examine and cross-examine witnesses;

(xii) Introduce documentary or other evidence into the record;

(xiii) Require the submittal of evidence, including, but not limited to, that described in section 296.7(f) of this Part;

(xiv) Make and file decisions in conformity with this Part; and

(xv) Take any action authorized by the rules in this Part or in conformance with 5 U.S.C. section 554.

(4) *Consultation.* a hearing examiner shall not consult with any person on any fact in issue unless upon notice and opportunity for all parties to participate.

(5) *Disqualification.* (i) If a hearing examiner deems himself/herself disqualified to preside in a hearing, then the hearing examiner shall withdraw

[1] The methods are listed in descending order of reliability.

Loran readings must include a statement as to whether or not the readings given are corrected or uncorrected. If corrected, include the uncorrected readings and all calculations used for arriving at the *corrected values*.

The use of dead reckoning, or running fixes, or both, to determine the vessel's position at the time of the damage or loss is acceptable only if no more reliable method were available.

Directions to shore and/or offshore objects should be visually observed and provided in degrees. The accuracy of the bearing shall be consistent with the equipment or instrumentation available aboard the vessel. Radar bearings are not considered to be acceptable. if the initial reading is done with a magnetic compass, then the reading must be converted to true using the CDMVT (compass, deviation, magnetic, variation, true) formula. The calculations, including all figures used, must accompany the claim. Bearings must be visual bearings and not radar bearings.

Brand name and model of all electronic and navigational equipment used in determining geographical position of the occurrence should be included.

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from the hearing by notice on the record directed to the Chief, FSD.

(ii) If any party believes that a hearing examiner should be disqualified to preside, or to continue to preside in a hearing, the party may file with the hearing examiner a motion that the hearing examiner be disqualified and withdrawn from the hearing.

(iii) If the hearing examiner denies the motion under § 296.10(c)(5)(ii), the party may file with the Chief, FSD, a motion to disqualify and remove the hearing examiner. The Chief, FSD, shall rule upon the motion.

(iv) Any motion filed under § 296.10(c)(5)(ii) or (iii) shall be supported by affidavits setting forth the alleged grounds for disqualification.

Prehearing Process

(d) *Notice of Intent to submit evidence.* Any person who (i) has engaged in activities associated with OCS energy activity in the vicinity where the claimant's fishing gear was damaged or lost and (ii) intends to submit evidence at any hearing conducted concerning the claim shall file notice with the hearing examiner within thirty (30) days after the date of the publication of notice of the filing of the claim in the **Federal Register** under § 296.8, that such person intends to submit evidence.

(e) *Location and Time of Hearing.* (1) Hearings under this section shall be conducted within the United States judicial district within which the matter giving rise to the claim occurred.

(2) If the matter occurred within two or more districts, the hearing shall be conducted in any of the affected districts, or, if the matter occurred outside of any district, in the nearest district.

(3) The hearing examiner shall determine the location and time of any hearing, after giving due regard to the convenience of all interested parties.

(f) *Notice of Hearing.* As soon as practicable after the claim is referred to the hearing examiner, the hearing examiner shall by registered or certified mail notify the claimant, the Chief, FSD, and all other interested parties of the time and place for, and the nature of, any hearing. The notice shall include the legal authority and jurisdiction under which the hearing is to be held, and shall describe the general substance of the matters of fact and law asserted.

(g) *Motions and Requests.* Motions or requests shall be filed in writing with the hearing examiner or shall be stated orally and made part of the hearing record. Each motion or request shall state the particular order, ruling, or action desired, and the grounds therefor. The hearing examiner is authorized to rule upon all motions or requests filed or made before the issuance of a decision.

(h) *Prehearing Conference.* (1) Upon the hearing examiner's own motion or the motion of any party, the hearing examiner may direct the parties or their counsel to meet in a prehearing conference to consider:

(i) Simplification of the issues;

(ii) Necessity or desirability of amendments to the claim or response for purposes of clarification, simplification, or limitation of the issues;

(iii) Stipulations, admissions of fact and of contents, and authenticity of documents;

(iv) Limitation of the number of expert witnesses; and

(v) Such other matters as may tend to expedite the disposition of the proceeding.

(2) The record shall show the matters disposed of by order and by agreement in such prehearing conferences.

(i) *Amendment of claims.* At any time before the close of the hearing, the hearing examiner, in his or her discretion and on such terms as he or she may approve, may allow the claimant to amend the claim. The 120-day decision period described in paragraph (m)(2)(ii) of this section shall begin on the date the amended claim is received by the hearing examiner.

(j) *Settlement.* (1) If a written agreement to settle the claim is signed by the claimant and the Chief, FSD, and filed with the hearing examiner before the hearing examiner issues a decision under paragraph (m)(2) of this section, then the hearing shall be suspended and the hearing examiner shall consider the recommended settlement. The hearing examiner shall not approve the recommended settlement sooner than 15 days after it is filed. Thereafter, the hearing examiner may certify an amount ot be paid by the Fund on the basis of the recommended settlement if the hearing examiner determines that there are no facts in evidence on the record of the hearing which clearly and convincingly would result in either:

(i) A bar (as specified in § 296.5(c) of this Part) to the payment of the claim; or

(ii) A limitation (as specified in §§ 296.5 and 296.6 of this Part) of the amount of the award to an amount which is less favorable to the claimant than is the amount specified in the recommended settlement agreement.

(2) An agreement between the claimant and any person to settle the claim, by means other than by payment from the Fund under this Part, if filed with the hearing examiner before the hearing examiner issues a decision under paragraph (m)(2) of this section shall, upon its filing, terminate the hearing proceeding. Upon receipt of the agreement, the hearing examiner shall dismiss the claim, and neither the claimant nor any party to such agreement shall be charged any costs under § 296.11 of this Part.

Hearings and Related Matters

(k) *Appearances.* (1) *Representation.* A party may appear at a hearing under this Part in person, by counsel, or by other representative.

(2) *Failure to appear.* Failure of a party to appear at a hearing (i) constitutes waiver of the right to a hearing under this Part; (ii) constitutes consent of the party to the making of a decision on the record of the hearing; but (iii) shall not be deemed to be a waiver of the right to be served with a copy of the hearing examiner's decision.

(l) *Hearing.* (1) *Order of presenting evidence.* Except as may be determined otherwise by the hearing examiner, the claimant shall present evidence first at the hearing.

(2) *Evidence.* (i) *General.* The testimony of witnesses shall be upon oath or affirmation administered by the hearing examainer and shall be subject to such cross-examination as may be required for a full and true disclosure of the facts. The hearing examiner shall exclude evidence which is immaterial, irrelevant, or unduly repetitious.

(ii) *Objections.* If a party objects to the admission or rejection of any evidence or to the limitation of the scope of any examination or cross-exmaniation or the failure to limit such scope, the party shall state briefly the grounds for such objection. Rulings on each objection shall appear in the record. Only objections made to the hearing examiner may be relied upon subsequently in the proceeding.

(iii) *Exceptions.* Formal exception to an adverse ruling is not required.

(iv) *Surveyed obstructions.* The hearing examiner shall consider evidence of any obstructions in the area concerned identified by a survey conducted by the National Ocean Survey under 43 U.S.C. section 1847.

(3) *Official notice.* Official notice may be taken of any material fact not appearing in evidence in the record, which is among the traditional matters of judicial notice or concerning which NOAA by reason of its functions is presumed to be expert. The parties shall be given adequate notice, at the hearing or otherwise, before the hearing examiner's decision, of the matters so noticed, and shall be given adequate opportunity to show the contrary.

(4) *Verbatim record.* The Chief, FSD, shall arrange for a verbatim record of the proceedings. A transcript will not be prepared unless either an appeal is taken under § 296.12 of this part or the hearing examiner specifically so orders. Any party may, however, obtain a transcript from the official reporter upon written request filed with the reporter and upon payment of the fees at the rate provided in the agreement between NMFS and the reporter.

Decision

(m) *Decision of the hearing examiner.* (1) *Proposed findings of fact, conclusions of law, and order.* Within ten (10) days after the hearing or within such additional time as the hearing examiner may allow, any party may file with the hearing examiner proposed findings of fact, conclusions of law, and order, together with a supporting brief expressing the reasons for such proposals. Such proposals and brief shall be served on all parties, and shall refer to all portions of the record and to all authorities relied upon in support of each proposal. Reply briefs must be submitted within ten (10) days after receipt of the proposed findings and conclusions to which they respond, unless the hearing examiner sets a different schedule.

(2) *Time of Decision.* (i) Within fifteen (15) days after the time allowed for the filing of proposed findings of fact, conclusions of law, and order, and reply briefs, the hearing examiner shall issue a written decision upon the record in the case, which shall become the final decision in the administrative process upon service thereof on the claimant, the Chief, FSD, and any other interested parties.

(ii) The hearing examiner shall issue a decision not later than one hundred twenty (120) days after the date the Chief, FSD referred the claim to the hearing examiner.

(3) *Contents of decision.* The decision of the hearing examiner shall state:

(i) The hearing examiner's findings and conclusions, and the reasons or basis therefor, on all material issues of fact, law, or discretion presented on the record. In determining the amount of an award, the hearing examiner shall state reasons in view of the applicable factors which must be considered, as set forth in §§ 296.5, 296.6, and 296.7 of this Part. The hearing examiner shall specify from which area account any award shall be made. The hearing examiner shall assess costs under § 296.11 of this Part if the hearing examiner finds that the claimant, or any other person who denies responsibility for damages with respect to which the claim is made, is responsible for the damage which is the subject of the claim;

(ii) The hearing examiner's reasons for rejecting the findings and conclusions proposed by the parties; and

(iii) Such other matters as the hearing examiner considers appropriate.

(4) *Transmittal of decision.* The hearing examiner shall transmit the decision to the Chief, FSD, and serve a copy on each party.

(n) *Transmittal of Record.* The hearing examiner shall transmit the record of the proceeding to the Chief, FSD. The record shall include: the pleadings, motions, and requests filed in written form, rulings thereon, the verbatim record of the testimony and proceedings taken at the hearing, together with the exhibits admitted in evidence, any documents or papers filed in connection with prehearing conferences, such proposed findings of fact, conclusions of law, orders, and supporting reasons, and reply briefs, as may have been filed, the hearing examiner's decision, and such exceptions, statements of objections, and briefs in support thereof, as may have been filed in the proceeding.

Miscellaneous

(o) *Service of documents.* (1) *Manner of service.* Service upon any party shall be made by delivering or mailing a copy to the last known address of the party. If a party is represented by counsel, the service shall be made upon the counsel.

(2) *Proof of service.* A certificate of the person serving the document by personal delivery or by mailing, setting forth the manner of said service, shall be proof of the service.

(p) *Witnesses and fees.* Witnesses subpoenaed by a party shall be paid the same fees and mileage, and in the same manner, as are paid for like services in the District Court of the United States for the district in which the hearing is located.

(q) *depositions.* (1) *application.* Any party desiring to take the deposition of a witness shall make application in writing to the hearing examiner, setting forth the reasons why such deposition should be taken; the time when, the place where, and the name and mailing address of the person before whom the deposition is requested to be taken; the name and address of each witness to appear for deposition; and the subject matter concerning which each witness is expected to testify.

(2) *How, and by whom taken.* Depositions may be taken orally or upon written interrogatories before any person ("the officer") designated by the hearing examiner and having power to administer oaths.

(3) *Notice.* Such notice as the hearing examiner shall order shall be given for the taking of a deposition, but this shall not be less than five (5) days' written notice when the deposition is to be taken within the United States and not less than twenty (20) days' written notice when the deposition is to be taken elsewhere.

(4) *taking and receiving in evidence.* Each witness testifying upon deposition shall be sworn, and any party shall have the right to cross-examine. The questions propounded and the answers thereto, together with all objections made, shall be reduced to writing, read to the witness, signed by the witness unless waived, and certified by the officer. Thereafter, the officer shall deliver or mail by registered or certified mail the same to the hearing examiner. Subject to such objections to the quesitons and answers as were noted at the time of taking the deposition and would be valid were the witness personally present and testifying, such deposition may be read and offered in evidence by any party taking it as against any party who was present or represented at the taking of the deposition or who had due notice thereof. No part of a deposition shall be admitted in evidence unless there is a showing that the reasons for the taking of the deposition in the first instance existed at the time of hearing.

(r) *Subpoenas.* A party may request the hearing examiner to issue a subpoena for the attendance and testimony of witnesses and for production of documentary or other evidence. All applications for subpoenas shall be in writing. Application for subpoenas for production of documents or other evidence shall specify as exactly as possible the documents or other evidence to be produced, showing their general relevance and reasonable scope.

(s) *Computation of time.* Saturdays, Sundays, and holidays shall be included in computing the time allowed for filing any document or paper under this section, but when such time expires on such a day, such period shall be extended to include the next following Federal Government working day.

(t) *Extension of time.* The time for the filing of any document under this section may be extended by the hearing examiner, if

(1) The request for the extension of time is made before or on the final date allowed for the filing, and

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(2) The hearing examiner, after giving notice to and considering the views of all other parties (when practicable), determines that there is good reason for the extension.

§ 296.11 Payment of costs.

(a) *By person denying responsibility for damage.* Any person who:

(1) Is notified by the Secretary of the Interior under § 296.8(d) of this Part, or who is notified in writing by the claimant that the person has caused, or is believed to have caused, damage with respect to which a claim is made;

(2) Denies, or fails to either affirm or deny, responsibility for such damage; and

(3) Is found by the hearing examiner or by a court of law to be responsible for the damage, shall pay the costs of the proceedings under this Part with respect to such claim.

(b) *By the claimant.* Any claimant who files a claim under this Part and is found by the hearing examiner or by a court of law to be responsible for such damage, shall pay the costs of the proceedings under this Part with respect to such claim.

§ 296.12 Appeals.

(a) *Time.* Any person who suffers legal wrong or who is adversely affected or aggrieved by the decision of a hearing examiner under this part may, no later than sixty (60) days after the hearing examiner issues a decision under § 296.10(m) of this Part, seek judicial review of such decision in the United States Court of Appeals for the Federal judicial circuit in which the damage occurred, or, if such damage occurred outside of any circuit, in the United States Court of Appeals for the nearest circuit.

(b) *Notice.* Any person who appeals a decision of a hearing examiner under this section shall so notify the claimant, any respondents, and the Chief, FSD, in writing at the same time the appellant files an appeal with the appropriate United States Court of Appeals.

§ 296.13 Payment of award for claim.

(a) *Amount.* The Chief, FSD, will pay the amount of the award certified in the decision of the hearing examiner under § 296.10(m) of this Part.

(b) *Area account.* The payment will be disbursed from the area account specified in the decision of the hearing examiner under § 296.10(m) of this Part.

(c) *Time of payment.* (1) No payment will be made under this section until the claimant has signed a subrogation agreement under § 296.14 of this Part.

(2) No payment will be made under this section if an appeal has been filed under section 296.12 of this Part.

§ 296.14 Subrogation.

(a) *Agreement.* Before receiving payment under this Part, a claimant shall sign a subrogation agreement in a form satisfactory to the Chief, Financial Services Division, NMFS, which:

(1) Assigns to the Fund all rights the claimant has, and might have, to proceed against any person for damages with respect to any part of the damage or loss for which the award is being made; and

(2) Provides that the claimant will assist the Fund in any reasonable way to pursue collection of the subrogated rights.

(b) *Collection of subrogated rights.* The Chief, FSD, shall refer all subrogated rights to the Department of Justice for collection in those instances in which it appears that a reasonable chance of successful collection exists.

Appendix 1

A. *Freeport District*—The U.S. Geological Survey's Freeport District incorporates all, or the indicated portions, of the OCS areas shown on the following official maps:

1. OCS Leasing Map, South Padre Island Area, Texas Map No. 1 (Approved July 16, 1954). That portion seaward of the 3-league line.
2. OCS Leasing Map, South Padre Island Area, East Addition, Texas Map No. 1A (Approved May 6, 1965).
3. OCS Leasing Map, North Padre Island Area, Texas Map No. 2 (Approved July 16, 1954). That portion seaward of the 3-league line.
4. OCS Leasing Map, North Padre Island Area, East Addition, Texas Map No. 2A (Approved May 6, 1965).
5. OCS Leasing Map, Mustang Island Area, Texas Map No. 3 (Approved July 16, 1954; Revised October 30, 1961). That portion seaward of the 3-league line.
6. OCS Leasing Map, Mustang Island Area, East Addition, Texas Map No. 3A (Approved January 23, 1967).
7. OCS Leasing Map, Matagorda Island Area, Texas Map No. 4 (Approved July 16, 1954). That portion seaward of the 3-league line.
8. OCS Leasing Map, Brazos Area, Texas Map No. 5 (Approved July 16, 1954). That portion seaward of the 3-league line.
9. OCS Leasing Map, Brazos Area, South Addition, Texas Map No. 5B (Approved September 24, 1959).
10. OCS Leasing Map, Galveston Area, Texas Map No. 6 (Approved July 16, 1954). That portion seaward of the 3-league line.
11. OCS Leasing Map, Galveston Area, South Addition, Texas Map No. 6A (Approved September 24, 1959).
12. OCS Leasing Map, High Island Area, Texas Map No. 7 (Approved July 16, 1954; Revised August 1955). That portion seaward of the 3-league line.
13. OCS Leasing Map, High Island Area, East Addition, Texas Map No. 7A (Approved January 23, 1967). That portion seaward of the 3-league line.
14. OCS Leasing Map, High Island Area, South Addition, Texas Map No. 7B (Approved September 24, 1959).
15. OCS Leasing Map, High Island Area, East Addition, South Extension, Texas Map No. 7C (Approved September 24, 1959).
16. OCS Leasing Map, Sabine Pass Area, Texas Map No. 8 (Approved March 7, 1977). That portion on the Texas side of the Texas-Louisiana Line thst is seaward of the 3-league line.
17. OCS Official Protraction Diagram, Corpus Christi NG 14–3 (Approved June 5, 1974; Revised January 27, 1976).
18. OCS Official Protraction Diagram, Port Isabel NG 14–6 (Approved June 5, 1974; Revised January 27, 1976).
19. OCS Official Protraction Diagram, East Breaks NG 15–1 (Approved June 8, 1973; Revised January 27, 1976).
20. OCS Official Protraction Diagram, Alaminos Canyon NG 15–4 (Approved June 5, 1974; Revised March 26, 1976).
21. OCS Official Protraction Diagram, Garden Banks NG 15–2 (Approved February 15, 1973; Revised December 2, 1976). That portion west of a north-south line formed by the east line of block 142 at the northeast corner and block 978 at the southeast corner.
22. OCS Official Protraction Diagram, Keathley Canyon NG 15–5 (Approved June 5, 1974; Revised December 2, 1976). That portion west of a north-south line formed by the east line of block 10 at the northeast corner and block 978 at the southeast corner.

B. *Lake Charles District*—The U.S. Geological Survey's Lake Charles District incorporates all or the indicated portions, of the OCS areas shown on the following official maps:

1. OCS Leasing Map, West Cameron Area, Louisiana Map No. 1 (Approved June 8, 1954; Revised July 22, 1954). That portion more than three geographical miles seaward from the lines described in the supplemental decree of the United States Supreme Court, June 16, 1975 (U.S. versus Louisiana, 422 US 13)
2. OCS Leasing Map, West Cameron Area, West Addition, Louisiana Map No. 1A (Approved November 15, 1955; Revised January 30, 1957).
3. OCS Leasing Map, West Cameron Area, South Addition, Louisiana Map No. 1B (Approved September 8, 1959).
4. OCS Leasing Map, East Cameron Area, Louisiana Map No. 2 (Approved June 8, 1954; Revised August 1, 1973). That portion more than three geographical miles seaward from the line described in the supplemental decree of the United States Supreme Court, June 16, 1975 (U.S. versus Louisiana, 422 US 13).
5. OCS Leasing Map, East Cameron Area, South Addition, Louisiana Map No. 2A (Approved September 8, 1959).
6. OCS Leasing Map, Vermilion Area, Louisiana Map No. 3 (Approved June 8, 1954; Revised June 25, 1954; Revised July 22, 1954). That portion more than three geographical miles seaward from the line described in the supplemental decree of the United States

Supreme Court, June 16, 1975 (U.S. versus Louisiana, 422 US 13).

7. OCS Leasing Map, Vermilion Area, South Addition, Louisiana Map No. 3B.
8. OCS Leasing Map, Sabine Pass Area, Louisiana Map No. 12 (Approved March 7, 1977). That portion on the Louisiana side of the Texas-Louisiana line, more than three geographical miles seaward from the line described in the supplemental decree of the United States Supreme Court, June 16, 1975 (U.S. versus Louisiana, 422 US 13).
9. OCS Official Protraction Diagram, Garden Banks NG 15–2 (Approved February 15, 1973; Revised December 2, 1976). That portion bordered on the west by a north-south line formed by the west line of block 143 at the northwest corner and the west line of block 979 at the southwest corner and bordered on the east by a north-south line formed by the east line of block 80 at the northeast corner and the east line of block 1004 at the southeast corner.
10. OCS Official Protraction Diagram, Keathley Canyon NG 15–5 (Approved June 15, 1974; Revised December 2, 1976). That portion bordered on the west by a north-south line formed by the west line of block 11 at the northwest corner and the west line of block 979 at the southwest corner and bordered on the east by a north-south line formed by the east line of block 36 at the northeast corner and the east line of block 1004 at the southeast corner.

C. *LaFayette District*—The U.S. Geological Survey's Lafayette District incorporates all, or the indicated portions, of the OCS areas shown on the following official maps:

1. OCS Leasing Map, South Marsh Island Area, Louisiana Map No. 3A (Approved August 7, 1959).
2. OCS Leasing Map, South Marsh Island Area, South Addition, Louisiana Map No. 3C (Approved September 8, 1959).
3. OCS Leasing Map, South Marsh Island Area, North Addition, Lousiana Map No. 3D (Approved April 16, 1971; Revised January 18, 1972). That portion more than three geographical miles seaward from the line described in the supplemental decree of the United States Supreme Court, June 16, 1975 (U.S. versus Louisiana, 422 US 13).
4. OCS Leasing Map, Eugene Island Area, Louisiana Map No. 4 (Approved June 8, 1954: Revised July 22, 1954). That portion more than three geographical miles seaward from the line described in the supplemental decree of the United States Supreme Court, June 16, 1975 (U.S. versus Louisiana, 422 US 13).
5. OCS Leasing Map, Eugene Island Area, South Addition, Louisiana Map No. 4A (Approved September 8, 1959).
6. OCS Official Protraction Diagram, Ewing Bank NH 15–12 (Approved February 15, 1973; Revised December 2, 1976). That portion that consists of blocks 932, 933, 937, 938, 975, 976, 977, 978, 979, 981, 982.
7. OCS Official Protraction Diagram, Green Canyon NG 15–3 (Approved February 15, 1973; Revised December 2, 1976). That portion west of a north-south line formed by the east line of block 12 at the northeast corner and the east line of block 980 at the southeast corner.
8. OCS Official Protraction Diagram, Walker Ridge NG 15–6 (Approved June 5, 1974; Revised December 2, 1976). That portion west of a north-south line formed by the east line of block 12 at the northeast corner and the east line of block 980 at the southeast corner.
9. OCS Official Protraction Diagram, Garden Banks, NG 15–2 (Approved February 15, 1976; Revised December 2, 1976). That portion east of a north-south line formed by the west line of block 81 at the northwest corner and the west line of block 1005 at the southwest corner.
10. OCS Official Protraction Diagram, Keathley Canyon NG 15–5 (Approved June 5, 1974; Revised December 2, 1976). That portion east of a north-south line formed by the west line of block 37 at the northwest corner and the west line of block 1005 at the southwest corner.

D. *Houma District*—The U.S. Geological Survey's Houma District incorporates all, or the indicated portions, of the OCS areas shown on the following official maps:

1. OCS Leasing Map, Ship Shoal Area, Louisiana Map No. 5 (Approved June 8, 1954). That portion more than three geographical miles seaward from the line described in the supplemental decree of the United States Supreme Court, June 16, 1975 (U.S. versus Louisiana, 422 US 13).
2. OCS Leasing Map, Ship Shoal Area, South Addition, Louisiana Map No. 5A (Approved September 8, 1959).
3. OCS Leasing Map, South Pelto Area, Louisiana Map No. 6 (Approved June 8, 1954; Revised July 22, 1954; Revised December 9, 1954). That portion more than three geographical miles seaward from the line described in the supplemental decree of the United States Supreme Court, June 16, 1975 (U.S. versus Louisiana, 422 US 13).
4. OCS Leasing Map, Bay Marchand Area, Louisiana Map No. 6 (Approved June 8, 1954; Revised July 22, 1954; Revised December 9, 1954). That portion more than three geographical miles seaward from the line described in the supplemental decree of the United States Supreme Court, June 16, 1975 (U.S. versus Louisiana, 422 US 13).
5. OCS Leasing Map, South Timbalier Area, Louisiana Map No. 6 (Approved June 8, 1954; Revised July 22, 1954; Revised December 9, 1954). That portion more than three geographical miles seaward from the line described in the supplemental decree of the United States Supreme Court, June 16, 1975 (U.S. versus Louisiana, 422 US 13).
6. OCS Leasing Map, South Timbalier Area, South Addition, Louisiana Map No. 6A (Approved September 8, 1959; Revised July 22, 1968).
7. OCS Leasing Map, Grand Isle Area, Louisiana Map No. 7 (Approved June 8, 1954). That portion more than three geographical miles seaward from the line described in the supplemental decree of the United States Supreme Court, June 16, 1975 (U.S. versus Louisiana, 422 US 13).
8. OCS Leasing Map, Grand Isle Area, South Addition, Louisiana Map No. 7A (Approved September 8, 1959; Revised March 7, 1961).
9. OCS Official Protraction Diagram, Ewing Bank NH 15–12 (Approved February 15, 1973; Revised December 2, 1976). That portion that does not include blocks 932, 933, 937, 938, 975, 976, 977, 978, 979, 981, 982.
10. OCS Official Protraction Diagram, Green Canyon NG 15–3 (Approved February 15, 1973; Revised December 2, 1976). That portion east of a north-south line formed by the west line of block 13 at the northwest corner and the west line of block 981 at the southwest corner.
11. OCS Official Protraction Diagram, Walker Ridge NG 15–6 (Approved June 5, 1974; Revised December 2, 1976.) That portion east of a north-south line formed by the west line of block 13 at the northwest corner and the west line of block 981 at the southwest corner.

E. *Metairie District*—The U.S. Geological Survey's Metairie District incorporates all, or the indicated portions, of the OCS areas shown on the following official maps:

1. OCS Leasing Map, West Delta Area, Louisiana Map No. 8 (Approved June 8, 1954). That portion more than three geographical miles seaward from the line described in the supplemental decree of the United States Supreme Court, June 16, 1975 (U.S. versus Louisiana, 422 US 13).
2. OCS Leasing Map, West Delta Area, South Addition, Louisiana Map No. 8A (Approved September 8, 1959; Revised November 24, 1961).
3. OCS Leasing Map, South Pass Area, Louisiana Map No. 9 (Approved June 8, 1954; Revised July 22, 1954; Revised May 11, 1973). That portion more than three geographical miles seaward from the line described in the supplemental decree of the United States Supreme Court, June 16, 1975 (U.S. versus Louisiana, 422 US 13).
4. OCS Leasing Map, South Pass Area, South and East Addition, Louisiana Map No. 9A (Approved September 8, 1959).
5. OCS Leasing Map, Breton Sound Area, Louisiana Map No. 10 (Approved June 8, 1954; Revised July 22, 1954). That portion more than three geographical miles seaward from the line described in the supplemental decree of the United States Supreme Court, June 16, 1975 (U.S. versus Louisiana, 422 US 13).
6. OCS Leasing Map, Main Pass Area, Louisiana Map No. 10 (approved June 8, 1954; Revised July 22, 1954). That portion more than three geographical miles seaward from the line described in the supplemental decree of the United States Supreme Court, June 16, 1975 (U.S. versus Louisiana, 422 US 13).
7. OCS Leasing Map, Main Pass Area, South and East Addition, Louisiana Map No. 10A (Approved September 8, 1959).
8. OCS Leasing Map, Chandeleur Area, Louisiana Map No. 11 (Approved June 8, 1954; Revised July 22, 1954). That portion more than three geographical miles seaward from the line described in the supplemental decree of the United States Supreme Court, June 16, 1975 (U.S. versus Louisiana, 422 US 13).
9. OCS Leasing Map, Chandeleur Area, East Additiona, Louisiana Map No. 11A (Approved September 8, 1959).
10. OCS Official Protraction Diagram, NG 16–1 (Approved June 5, 1974; Revised December 2, 1976).

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11. OCS Official Protraction Diagram, NG 16–2 (Approved December 2, 1976).
12. OCS Official Protraction Diagram, The Elbow NG 16–3 (Approved October 10, 1972; Revised August 1, 1973; Revised December 2, 1976).
13. OCS Official Protraction Diagram, NG 16–4 (Approved December 2, 1976).
14. OCS Official Protraction Diagram, NG 16–5 (Approved December 2, 1976).
15. OCS Official Protraction Diagram, NG 16–6 (Approved June 5, 1974; Revised December 2, 1976).
16. OCS Official Protraction Diagram, St. Petersburg NG17–1 (Approved October 10, 1972; Revised December 2, 1976).
17. OCS Official Protraction Diagram, Charlotte Harbor NG17–4 (Approved October 10, 1972; Revised December 2, 1976).
18. OCS Official Protraction Diagram, Mobile NH 16–4 (Approved October 10, 1972; Revised December 21, 1977).
19. OCS Official Protraction Diagram, Pensacola NH 16–5 (Approved October 10, 1972; Revised December 2, 1976).
20. OCS Official Protraction Diagram, Viosca Knoll NH 16–7 (Approved October 10, 1972; Revised February 15, 1973; Revised August 1, 1973; revised December 2, 1976).
21. OCS Official Protraction Diagram, Destin Dome NH 16–8 (Approved October 10, 1972; Revised August 1, 1973; Revised December 2, 1976).
22. OCS Official Protraction Diagram, Apalachicola NH 16–9 (Approved October 10, 1972; Revised August 1, 1973; Revised January 15, 1976).
23. OCS Official Protraction Diagram, Mississippi Canyon NH 16–10 (Approved February 15, 1973; Revised December 2, 1976).
24. OCS Official Protraction Diagram, De Soto Canyon NH 16–11 (Approved June 5, 1974; Revised December 2, 1976).
25. OCS Official Protraction Diagram, Florida Middle Ground NH 16–12 (Approved October 10, 1972; Revised August 1, 1973; Revised December 2, 1976).
26. OCS Official Protraction Diagram, Gainesville, NH 17–7 (Approved October 10, 1972; Revised December 2, 1976).
27. OCS Official Protraction Diagram, Tarpon Spring NH 17–10 (Approved October 10, 1972; Revised December 2, 1976).

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Part VII

Environmental Protection Agency

Federal Responses to Radioactive Contamination From Specified Nuclear Detonations; Multiagency Memorandum of Understanding Among AF, DOE, EPA, FAA, FDA, NOAA, and NRC

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ENVIRONMENTAL PROTECTION AGENCY

[FRL 1231-4]

Federal Responses to Radioactive Contamination From Specified Foreign Nuclear Detonations; Multiagency Memorandum of Understanding Among AF, DOE, EPA, FAA, FDA, NOAA, and NRC

Background

The following agencies have complementary roles in responding to potential radioactive contamination due to specified foreign nuclear detonations during peacetime: Department of the Air Force (DAF); Department of Energy (DOE); Environmental Protection Agency (EPA); Department of Health, Education, and Welfare, Food and Drug Administration (FDA); Department of Commerce, National Oceanic and Atmospheric Administration (NOAA); Nuclear Regulatory Commission (NRC); and Department of Transportation, Federal Aviation Administration (FAA). At present, specified nuclear detonations consist of those atmospheric nuclear detonations which are announced by the DOE.

Two types of response conditions have been identified. The first deals with the movement of contaminated air masses over the United States and possible effects at ground level due to dry fallout or rainout of radioactive debris. The second type of response concerns civil aircraft which may pass through contaminated air masses at various altitudes.

Specific agency responsibilities under two types of response conditions are outlined below as Parts I and II, respectively, in this Memorandum of Understanding.

Purpose and Scope

The purpose of this Memorandum of Understanding is to identify responsibilities and interactions of Federal agencies concerned with monitoring radioactive contamination from foreign nuclear detonations and protecting the public from adverse effects of such contamination.

This Memorandum of Understanding formally outlines agreements regarding continuation of communications, policies and ongoing cooperative efforts to enable each agency to most effectively carry out its responsibilities, to make the most efficient use of Federal resources, and to protect the public health and safety and the environment.

Agency Responsibilities

Under Reorganization Plan No. 3 of 1970, the Environmental Protection Agency (EPA) has the overall Federal responsibility for national ambient radiation monitoring. This includes the collection, analysis, and interpretation of data on environmental radiation levels attributed to radioactive contamination from foreign nuclear detonations during peacetime. EPA is the Federal agency responsible for advising the President and the general public on the potential health significance of such radioactive contamination. In this context, EPA is responsible for coordinating all Federal activities for public health protection and dissemination of information to the public. To effectively carry out these responsibilities, EPA needs the cooperation of several other Federal agencies. Therefore, EPA has taken the lead in developing this Memorandum of Understanding to assure coordination in the collection and dissemination of information regarding potential radioactive contamination from foreign nuclear detonations. The responsibilities of each agency as outlined below are within the scope of authorities already possessed by each agency.

Distribution of Information

Any unclassified information or data collected by any of the agencies who are part of this agreement shall be communicated to any of the other signatories of this agreement upon their request. All public announcements or press releases generated by any of the signatories shall be communicated to the other signatory agencies in as expeditious a manner as possible.

Part I.—Responses Regarding Movement of Contaminated Air Masses and Potential Ground Level Effects

A. *Department of the Air Force* (DAF). 1. Provides classified data to NOAA on nuclear debris samples to include location, time, altitude, and concentration of airborne samples. These data will be provided from sorties satisfying DAF or FAA mission requirements. If NOAA has additional data requirements, DAF will be reimbursed for resources expended. Reimbursement procedures will be established in a separate DAF–NOAA memorandum. DOE will be provided a copy of the data.

2. Data will be provided as soon as possible after every sampling mission.

B. *Department of Energy* (DOE). 1. Gathers information on the nature of the nuclear detonation, i.e., location, time, yield, and height of detonation and reports this information to NOAA.

2. Makes public announcements on the occurrence of specified nuclear detonations and provides this information directly to the EPA, FDA, and NRC prior to such public release.

3. Collects data from radiation measurements made at DOE facilities, including national laboratories, that are pertinent to fallout and reports these data to EPA and to other agencies upon request.

4. Will provide to NOAA any advisories released by its Atmospheric Release Advisory Capability Center at Livermore, Calif., including forecasts of radiation levels, and estimates of size and movement of radioactive clouds on a 12-hourly basis, with more frequent updates if appropriate.

C. *Environmental Protection Agency* (EPA). 1. Notifies State agencies with responsibility for environmental radiation monitoring of the possibility of radioactive fallout occurring. Keeps affected State agencies informed on the regional and national radiological picture as information develops.

2. Provides predictions from NOAA on pathways of contaminated air mass movements over the United States and areas of possible rainout of radioactive materials to Federal agencies and the general public.

3. Recommends radiation surveillance or protective actions to appropriate State agencies.

4. Activates the standby portions of the Environmental Radiation Ambient Monitoring System (ERAMS) and increases the frequency of sample collections in those parts of ERAMS which operate routinely in order to assess the national radiological fallout situation. The collection of pasteurized milk samples will be coordinated through the Food and Drug Administration, HEW.

5. Collects additional monitoring program information from State agencies, DOE, and NRC as necessary to further assess the national radiological situation.

6. Prepares regional and national radiological assessments including interpretations of data relative to health impacts and issues this information as news releases. When news releases involve information relative to the direct concern of/or activities regulated by a signator of this agreement, such releases would be cleared with the interested agency prior to issuance, e.g., releases involving information on foods and animal feeds would be cleared with FDA. All signatory agencies would receive copies of press releases. The public will be advised of recommended protective actions in accordance with Federal radiation guidance and other appropriate radiation protection criteria as necessary.

7. Keeps other Federal agencies informed on regional and national radiological situations as appropriate to their mission. This includes routine information updatings to NOAA, DOE, FDA, and NRC, and information to others upon request.

D. *Food and Drug Administration* (FDA). The Food and Drug Administration (FDA) of the Department of Health, Education, and Welfare is responsible for the enforcement of a number of public health laws including the Food, Drug, and Cosmetic Act (21 U.S.C. 301 et seq.). FDA's activities under the FD&C Act are directed toward the protection of public health of the Nation by assuring that foods, exclusive of water from domestic consumption, are safe and wholesome. This responsibility is accomplished in part through comprehensive scientific and medical evaluation of known and possible food and feed contaminants such as radioactive contamination. In exercising this responsibility with regard to radioactive food and feed contamination, FDA determines the public health significance of such contamination, and advises the States and public at large accordingly. Specifically, FDA:

1. Receives information from NOAA regarding the probable location of fallout contamination, and consults with EPA concerning radiation surveillance and protective actions.

2. At the request of EPA, FDA through its regional representatives will alert State and local agencies to increase or decrease the frequency of pasteurized milk sample collection, according to FDA's ongoing cooperative role in milk sampling for EPA's Environmental Radiation Ambient Monitoring System.

3. Collects and analyzes food and animal feed samples for radionuclides from fallout as deemed necessary.

4. Assists EPA in analysis of milk samples associated with a fallout incident when requested.

5. In consultation with EPA, provides guidance to State and local governments in regard to appropriate responses necessary for evaluating and preventing hazardous radioactive contamination of foods and animal feeds and the control and use of such products should they become contaminated.

6. Cooperates with EPA in the exchange of all scientific and analytical data associated with a fallout incident.

7. Participates in the review and clearance of EPA press releases relative to food or animal feed contamination by radioactive fallout.

E. *National Oceanic and Atmospheric Administration* (NOAA). 1. The official NOAA forecast will be the basis for all public announcements by other agencies on the movement of airborne radioactivity and areas of potential rainout of nuclear debris. These forecasts will be identified as NOAA forecasts. In preparing these forecasts, NOAA will take into account all data and forecasts provided by DOE, DAF, and other sources. NOAA will provide the official forecast to EPA and DOE routinely, and to other agencies upon request.

2. NOAA will provide information on predicted location and radioactivity concentration of contaminated air masses to the other agencies upon request.

3. Transmits the official EPA public announcements to its National Weather Service Forecast Offices over the NOAA Radar Report and Warning Coordination Teletypewriter Network (RAWARC) for dissemination by local forecast offices in answering local public or news media inquiries.

F. *Nuclear Regulatory Commission* (NRC). 1. Notifies appropriate NRC licensees of possibility of radioactive fallout as it deems necessary.

2. Reports to EPA any data obtained from NRC licensees relating to radioactive fallout. Upon special request by a signatory of this agreement, NRC will query appropriate licensees to obtain information which these licensees may possess regarding radioactive fallout and may request the voluntary assistance of licensees in conducting special sampling and analysis, as appropriate. NRC will not, however, routinely request licensee data or assistance.

3. Participate in the review and clearance of EPA press releases relative to the involvement of NRC licensees.

Part II.—Responses Regarding Civil Aircraft Flights Through Contaminated Air Masses

The Federal Aviation Administration (FAA) is responsible for the safety of air commerce. In the event of the detonation of a nuclear device producing airborne radioactivity which presents a potential hazard to air commerce, the FAA will assemble an in-house task force to implement its standing operating procedures. Information on the activities of this task force will be disseminated to designated representatives of Department of the Air Force (DAF), Environmental Protection Agency (EPA), Department of Energy (DOE) and National Oceanic and Atmospheric Administration (NOAA). This task force will serve as the Federal focus of activities related to ensuring the protection of air commerce from hazards associated with airborne radioactivity. The responsibilities of each of the agencies in support of the activities of this task force are outlined below:

A. *Department of the Air Force*. 1. Will provide sampling aircraft for detection and measurement of debris concentrations at altitudes of civil aircraft flight (FL250–600), on a noninterference basis with normal DAF missions as requested by FAA. If feasible, FAA requirements will be accomplished concurrently with Air Force requirements; if not, DAF is to be reimbursed for resources expended to meet FAA sampling requirements. Reimbursement procedures will be established in a separate memorandum.

2. Will provide data to FAA on atmospheric concentrations of nuclear debris in picocuries per cubic meter. Data will be provided every 12 hours and will include position of debris, and 12/24 hour forecast location. Copies will be provided to DOE and NOAA.

B. *Department of Energy*. 1. Will provide to FAA, through its Atmospheric Release Advisory Capability Center at Livermore, California, forecasts of radiation levels at flight altitudes, and estimates of size and movement of radioactive clouds on a 12-hour basis, with more frequent updates if appropriate; copies of such data will also be simultaneously forwarded to NOAA.

2. Will provide support to FAA in the form of radiological monitoring of aircraft at selected airports and in flight, as is compatible with DOE resources.

C. *Environmental Protection Agency*. 1. Will provide consultation and guidance to FAA on appropriate limits of exposure for aircraft passengers.

2. Will provide guidance to FAA on appropriate limits of surface contamination in situations not otherwise covered in existing FAA or Department of Transportation regulations.

3. Will work with FAA in its development and updating of appropriate standing operating procedures for radiological monitoring, radiation exposure control, record keeping, and decontamination.

4. Will provide interpretation of radiological monitoring data and other radiological health-related material, as required.

5. Prepares regional and national radiological assessments including interpretations of data relative to health impacts and issues this information as news releases. When news releases involve information on civil aircraft they will have their specific language approved by FAA.

D. *Federal Aviation Administration*. 1. Will ensure that the best possible information is made expeditiously available to users, including appropriate air traffic control centers, airman's information centers and airlines, with respect to airspace which should be avoided due to potential or actual radioactive contamination.

2. Will ensure that appropriate

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radiological monitoring and record keeping procedures are instituted for air commerce, in accordance with the most recent FAA operating plans.

3. Will ensure the safety of air commerce by issuing appropriate regulations to the air transport industry.

4. Will provide the Department of the Air Force, Deputy Chief of Staff, Plans and Operations, Directorate of Operations and Readiness, Reconnaissance Division (AF/XOORZ) location, altitude, and required time of debris detection and measurement, and will advise the DAF when requirements are terminated.

5. Will act as principal Federal representative and focal point for all public and news media inquiries relative to aviation as it is or might be affected by radioactive debris.

6. Will establish and maintain through its communications center, proper coordination of Federal activities with regard to aviation with designated representatives of the agencies who have entered into Part II of this agreement.

E. *National Oceanic and Atmospheric Administration.* 1. The official NOAA forecast will be the basis for all public announcements by other agencies on the movement of airborne radioactivity and areas of potential rainout of nuclear debris. These forecasts will be identified as NOAA forecasts. In preparing these forecasts, NOAA will take into account all data and forecasts provided by DOE, DAF, and other sources. NOAA will provide the official forecasts to EPA, FAA and DOE routinely, and to other agencies upon request.

2. NOAA will provide information to FAA on predicted location and radioactivity concentration of contaminated air masses.

Public Information

DAF, DOE, EPA, FAA, NOAA, and NRC recognize the importance of providing timely and accurate information to the public regarding airborne radioactive contamination which may affect civil aircraft. Each agency further recognizes the potential disruption of national and international air commerce which could result from dissemination of inaccurate or misleading information on this subject. It is, therefore, agreed that during the time of concern over possible hazards to air commerce from airborne radioactive contamination, all inquiries from the public, news media, or industry regarding aviation as it is or might be affected by such contamination will be referred to the FAA, except that copies of official statements issued by FAA, or statements whose specific language has been approved by FAA, will be provided to EPA, and other agencies according to their needs, and may be disseminated by them in response to public and news media inquiries. FAA will also respond to general inquiries regarding DAF participation using information obtained in advance from the Secretary of the Air Force, Office of Information; for this purpose, direct interdepartmental public affairs contact is authorized. News media inquiries concerning DAF participation which cannot be answered within the context of predeveloped material will be referred to the Directorate for Defense Information, Office of the Assistant Secretary of Defense (Public Affairs).

Supplementary Agreements

This Memorandum of Understanding may be further implemented by supplementary agreements of the following types:

A. Authorized representatives of the signatory agencies may amplify or otherwise modify the policy or provisions in the memorandum or any of its supplements, provided that any material modification of the provisions in this memorandum or any of its supplements shall be subject to the approval of the authorized signators of this memorandum from each agency.

B. Supplementary agreements which affect fewer than the total number of agencies, and which are otherwise consistent with the purposes and provisions of the overall agreement, may be executed by only the parties concerned provided that advance copies of such supplementary agreements are made available to all signing agencies and the decision of other authorized signatories that they are affected and should be included in the supplementary agreement, shall be accepted by all.

Duration of Agreement

This Memorandum of Understanding shall take effect when accepted by all parties and shall endure for five years or until all but one of the parties have individually terminated it, whichever occurs first. The effective date of this agreement is April 15, 1979. This agreement may be renewed by review and approval of the parties after five years from acceptance, or earlier if terminated in accordance with the terms of the agreement.

Participation in this agreement may be terminated by any of the parties following 30 days advance written notice by that party to all of the other parties.

Supplementary agreements may be temporary and terminate on a certain date or upon completion, as provided.

The termination of any party's participation in this Memorandum of Understanding or any supplementary agreement does not render such agreements void to the other parties.

Implementing Agency Components

The following is a list of agency components with responsibilities for implementing the provisions of this Memorandum of Understanding. Each organizational component will designate specific personnel to be contacted on matters related to implementing this MOU. EPA shall provide each implementing component with an up-to-date list of these personnel semiannually or more frequently if EPA is notified of changes in personnel.

Department of the Air Force, Deputy Chief of Staff, Operations, Plans and Readiness, Directorate of operations and Readiness, Reconnaissance Division.

Department of Energy, Office of Assistant Secretary for Environment, Division of Operational and Environmental Safety.

Environmental Protection Agency, Office of Radiation Programs, Environmental Analysis Division.

Department of Health, Education, and Welfare, Food and Drug Administration, FDA Recall and Emergency Staff.

Department of Commerce, National Oceanic and Atmospheric Administration, Air Resources Laboratory.

Nuclear Regulatory Commission, Office of Inspection and Enforcement.

Department of Transportation, Federal Aviation Administration, Office of Environmental Quality.

Agreement Authority

This agreement is entered into under various provisions for interagency cooperation appearing in the legislative authorities of the signatory agencies.

For the Department of the Air Force.

Brig. Gen. Walter B. Ratliff,

Acting Director of Operations and Readiness.

For the Department of Energy.

Ruth C. Clusen,

Assistant Secretary for Environment.

For the Environmental Protection Agency.

Paul Stolpman,

Acting Assistant Administrator for Air, Noise, and Radiation.

For the Federal Aviation Administration.

Charles R. Foster,

Associate Administrator for Aviation Standards.

For the Food and Drug Adminstration.

Joseph P. Hile,

Associate Commissioner for Regulatory Affairs.

For the National Oceanic and Atmospheric Administration.

George S. Benton,

Associate Administrator.

For the Nuclear Regulatory Commission.

Lee V. Gossick,

Executive Director for Operations.

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AGENCY PUBLICATION ON ASSIGNED DAYS OF THE WEEK

The following agencies have agreed to publish all documents on two assigned days of the week (Monday/Thursday or Tuesday/Friday).

This is a voluntary program. (See OFR NOTICE FR 32914, August 6, 1976.)

Monday	Tuesday	Wednesday	Thursday	Friday
DOT/COAST GUARD	USDA/ASCS		DOT/COAST GUARD	USDA/ASCS
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	LABOR			LABOR
	HEW/FDA			HEW/FDA

Documents normally scheduled for publication on a day that will be a Federal holiday will be published the next work day following the holiday.

Comments on this program are still invited. Comments should be submitted to the Day-of-the-Week Program Coordinator, Office of the Federal Register, National Archives and Records Service, General Services Administration, Washington, D.C. 20408

***NOTE: As of January 1, 1979, the Merit Systems Protection Board (MSPB) and the Office of Personnel Management (OPM) will publish on the Tuesday/Friday schedule. (MSPB and OPM are successor agencies to the Civil Service Commission.)**

REMINDERS

The items in this list were editorially compiled as an aid to Federal Register users. Inclusion or exclusion from this list has no legal significance. Since this list is intended as a reminder, it does not include effective dates that occur within 14 days of publication.

Rules Going Into Effect Today

HOUSING AND URBAN DEVELOPMENT DEPARTMENT

26660 5–4–79 / Section 8 housing assistance payments program, special procedures for moderate rehabilitation program

Assistant Secretary for Housing—Federal Housing Commission—

26072 5–4–79 / Mortgage insurance on loans for fee title purchase; increase in maximum loan amounts

Office of the Secretary—

24053 4–24–79 / Fair market rents for new construction and substantial rehabilitation

List of Public Laws

Note: No public bills which have become law were received by the Office of the Federal Register for inclusion in today's **List of Public Laws.**

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